HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting

November 7, 2023

4:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS

I. WORK MEETING - 4:00 P.M.

1. Ideas for the Development of Muirfield Park (Wesley Crump, Sandra and Russ Olsen) - *15 min*
2. Short Term Rentals (Jamie Baron, Planning Manager, Jacob Roberts, Planner) - *40 min*
3. Highlands Master Development Agreement (MDA) Amendment Presentation (Denna Woodbury, Planning Consultant) - *45 min*
4. Downtown Deer Mitigation Plan (Scott Phillips, Council Member) - *10 min*

II. BREAK - 10 MIN

III. REGULAR MEETING - 6:00 P.M.

1. Call to Order
2. Pledge of Allegiance (Yvonne Barney, Council Member)
3. Prayer/Thought by Invitation (Mike Johnston, Council Member)

IV. CONFLICT OF INTEREST DISCLOSURE:

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Swear-In New Police Officer Ty Cummings

VI. CONSENT AGENDA:

1. Approval of October 17, 2023, City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Ordinance 2023-37 Adopting Supplemental Zoning Code Update (Tony Kohler, Community Development Director)
3. Resolution 2023-19 Authorizing the Annexation and Withdrawal of Certain Property Into and Out Of the Jordanelle Ridge Public Infrastructure District No. 2 (Jeremy Cook, City Attorney)
4. Ordinance 2023-38 Wittco Master Development Agreement (Tony Kohler, Community

Development Director) -

VII. PUBLIC COMMENTS: (3 min per person/20 min max)

VIII. GENERAL BUSINESS ITEMS:

1. Monthly Development Report (Jamie Baron, Planning Manager) - *10 min*
2. Heritage Farms Parkway and General Roads Update (Russ Funk, City Engineer) - *10 min*

IX. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Ordinance 2023-32 College Downs Annexation (Tony Kohler, Community Development Director) - *30 min*
2. Resolution 2023-20 Implementing the Terms of the Predevelopment Agreement with OK3 Air and the Airport Master Plan and Rescinding Prior Moratoria (Matt Brower, City Manager, Jeremy Cook, City Attorney) - *10 min*
3. Finalize Main Street Park/200 South Bandshell Design and Architecture (Matt Brower, City Manager) - *10 min*
4. Converting two part-time positions into one full-time position in the Police Administrative office (Cherie Ashe, Human Resources Director, Jeremy Nelson, Deputy Chief) - *10 min*

X. COMMUNICATION:

XI. ADJOURNMENT:

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Trina Cooke at the Heber City Offices 435.657.7886 at least eight hours prior to the meeting.

Posted on November 1, 2023, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at www.heberut.gov, and on the Utah Public Notice Website at http://pmn.utah.gov. Notice provided to the Wasatch Wave.

Muirfield Park Proposal

Sandra Olsen: wildflowers4all@gmail.com
Wesley Crump: wesley.crump@usu.edu

Muirfield Park: A model community park with a purpose

- **Combines horticulture education for all ages, recreation, and space for animal-lovers, community events, and family gatherings.**

- **A community approach starting from design, to implementation, to use**

- **Educational aspects would promote a self-sufficient, environmentally responsible approach to horticulture in the Heber valley through *demonstration gardens*.**

Groups Interested in Participating (to date)

- **Heber Valley Self Reliance Group**
  - **Relatively new, grassroots group focused on increasing self reliance education within the communities in the Heber valley**

- **USU Extension (Horticulture)**
  - **Community partner focused on education in horticultural best-practices for the Heber valley**

- **Wasatch High School CAPS students**
  - **Local high school students involved in the Center for Advanced Professional Studies (CAPS) interested in helping design and implement real-world projects**

Establish Expectations

- **What this proposal *is*:**
  - **Collection of thoughts and suggestions from a cooperative group of community members regarding the potential use of Muirfield park**

- **What this proposal *is not*:**
  - **A statement of sufficient financial and/or physical means had by the presenters to implement these thoughts and suggestions**

A Modular Approach

- **In order to ensure successful implementation while working with community groups, a *phased approach* is suggested.**

- **As the funding entity, Heber City would decide what, if any, proposed areas/structures/projects are financed, and in what order.**

- **Heber City would supply fundamental upkeep services typical of other city parks**

- **Community groups (aforementioned) will help with maintenance of demonstrations/projects.**

Horticulture Education in the Heber Valley

Demonstration gardens for public education

Focus on aspects relevant to Heber Valley

- Season extension
- Plant selection
- Fruit and vegetable production

Community volunteers could help provide maintenance

- Master Gardeners
- HVSR group members
- Church groups
- Day of service activities
- etc.

Youth Involvement

- Designated youth vegetable gardens would allow for hands-on learning and instruction
  - 4-H, school groups, city programs, etc.
- Design, planning, and implementation of demonstrations could provide Wasatch High School CAPS students with valuable semester projects

Currently up at Muirfield Park

Spring Creek
Sagebrush And Spring Creek Canal
Sagebrush And Spring Creek Canal
Demonstration orchards & small fruit
(ADA Accessible)
Raised beds
Dog Park
Season Extension Demonstrations
Pavilion
Parking
Group-led garden plots
Cannery Park Playground
Splash pad
Native, water-wise plants demonstrations
W 750 N
200 W
Layers
Google

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NetZero GREENHOUSE

Net Zero Greenhouse
Size: about 30 x 50 feet
Complete Cost: About $120,000
Warranty:

Texan Teaching Greenhouse

CG-TP-TEX-08

1 review Ask a Question

$66,060.00

Supplies

ESTIMATE

BERTS RANCH
Hoophouses

mp
84032

Qty	Rate	Amount
1	$6,843.80	$6,843.80

Wind Protection for Roll up sides
Fasteners for steel components are included

Total $6,843.80

Plus lumber for end walls

(ADA Accessible)
Season Extension Demonstrations
Demonstration orchards & small fruit
Raised beds
Dog Park
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Parking
Group-led garden plots
Cannery Park Playground
Splash pad
Native, water-wise plants demonstrations
Spring Creek
Sagebrush And Spring Creek Canal
W 750 N
200 W
Google
Layers

Horticulture Education in the Heber Valley

Raised beds tall enough for ADA gardening.

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CLASSIC RECREATION SYSTEMS INC.

Cheyenne Pavillion
Size: 60 x 60 with 12 x 25 bump out
Complete Cost:
Warranty:

Cheyenne Pavillion
Size: 60 x 60
Complete Cost:
Warranty:

Sonntag Recreation, LLC

QUOTE

Sonntag Recreation

QUOTE #
DATE:8-30-23

4245 Panorama Cir, Salt Lake City, UT 84124
Phone 801-278-9797 Fax 801-278-9794
chris@sonntagrec.com

EXPIRATION DATE 12-31-2023

TO **Russ and Sandra Olsen**

SALESPERSON	JOB	PAYMENT TERMS	LEAD TIME
Chris	**Muirfield Park**	Due on receipt	

SALESPERSON	JOB	PAYMENT TERMS	LEAD TIME
Chris	Muirfield Park	Due on receipt	

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	**Custom Cheyenne, 3,900 sf**		**$342,765.00**
	Width 72', length 60', 2 tiers, 10 columns 25' x 12' Extended Dormer		
	Roof Pitch 6:12, Dormer, Cupolas and Verrado		
1	**Cheyenne Installation**		**119,000.00**
1	**Engineering and Structural Calculations**		**3,000.00**
	Less State Contract Discount		**-37,704.15**
	STATE CONTRACT DISCOUNT		
		SUBTOTAL	**$427,060.85**
		FREIGHT	**9,000.00**
		TOTAL	**$436,060.85**

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LANDSCAPE STRUCTURES PLAYGROUND

Local Contact
Chris Sonntag

Well-designed, inclusive parks and playspaces welcome children of all ages and abilities to play, learn, and grow together. Inclusive playgrounds should feature activities that are age and developmentally appropriate, sensory stimulating, and universally designed.

Cannery Park - Inclusive Community Playground (playlsi.com)

https://www.youtube.com/watch?v=5RqJDMKqnJM

Sonntag Recreation, LLC

QUOTE

Sonntag Recreation

QUOTE #
DATE:

4245 Panorama Cir, Salt Lake City, UT 84124
Phone 801-278-9797 Fax 801-278-9794
chris@sonntagrec.com

EXPIRATION DATE 6-30-2024

TO **Sandra**

SALESPERSON	JOB	PAYMENT TERMS	LEAD TIME
Chris	**Playground**	Due on receipt	

SALESPERSON	JOB	PAYMENT TERMS	LEAD TIME
Chris	Playground	Due on receipt	

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	Landscape Structures Cannery Design (2024 Pricing)		$436,159.50
	Less State Contract Discount	-34,892.76	-34,892.76
1	Installation of playground equipment		101,200.00
		SUBTOTAL	$502,466.74
		FREIGHT	23,600.00
		TOTAL	$526,066.74

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AquaSmart™ Package A | Aquatix (playlsi.com)

PACKAGE A

- HydroLogix® System
- RippleRun with Acrylic Medium Rung
- RocketStream (2)
- Tot WellSpring
- Arch Jets (2)
- Curvy Jet Manifold
- Sea Crawlers (2)

Product Specs

DimensionsTotal Area: 1,963 sq. ft.(182,37 sq. m.)

Splash Zone Wet Area: 1,256 sq. ft.(116,68 sq. m.)

Aqua Smart Design A **$62,397.00**

- **Shipping $6,500**
- **Installation $100,000**

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	Aquatix Aqua Smart Option A Splash Pad		$62,397.00
1	Installation of the equipment, excavation and hookups		74,900.00
1	Equipment Shipping Charges from Minnesota		4,900.00
1	Concrete: including Supply and compaction of gravel, rebar gridwork in all concrete, setting the features at correct heights and 2 separate concrete pours.		43,560.00
	Less State Contract Discount		-3,119.85
	Equipment prices are for a 2024 installation.		
		SUBTOTAL	$182,637.15
		SALES TAX	N/A
		TOTAL	$182,637.15

Muirfield Park

- A place of beauty
- A place of learning
- A place for community
- A place for families
- A place for children
- A place of purpose

Heber City Council Staff Report

MEETING DATE:	11/7/2023
SUBJECT:	Short Term Rentals
RESPONSIBLE:	Jamie Baron, Jacob Roberts
DEPARTMENT:	Planning
STRATEGIC RELEVANCE:	Community and Economic Development

SUMMARY

Per Council's request, staff has collected data on Short Term Rentals in Heber City and is seeking direction on potential changes, if any, to the Short Term Rental Code. Staff presents the following options.

1. Short Term Rental Overlay Zone
2. Proximity Regulations
3. Districting with limits of licenses
4. Prohibit Short Term Rentals in ADU's
5. Owner Occupancy Requirement
6. No changes

RECOMMENDATION

Staff is seeking council direction on Short Term Rental Code changes, if any.

BACKGROUND

In 2019 staff researched and proposed a STR code, including a STR Overlay zone. The new zone was recommended by the Planning Commission. At the end of 2019, the Council continued the discussion to the new year, as there were new council members that were elected. Following the election, the direction of the council changed, and staff was directed to put together an adhock committee comprising of members of the general public, local STR hosts, and staff. The recommendation of the committee was to adopt a revised version of the STR Overlay zone. The Council ultimately decided in 2020 to permit STR's in all Single Family Residential Zones, with a building permit.

75 N Main Street
Heber City, UT 84032

Phone: 435-654-4830
Fax: 435-657-2543

heberut.gov

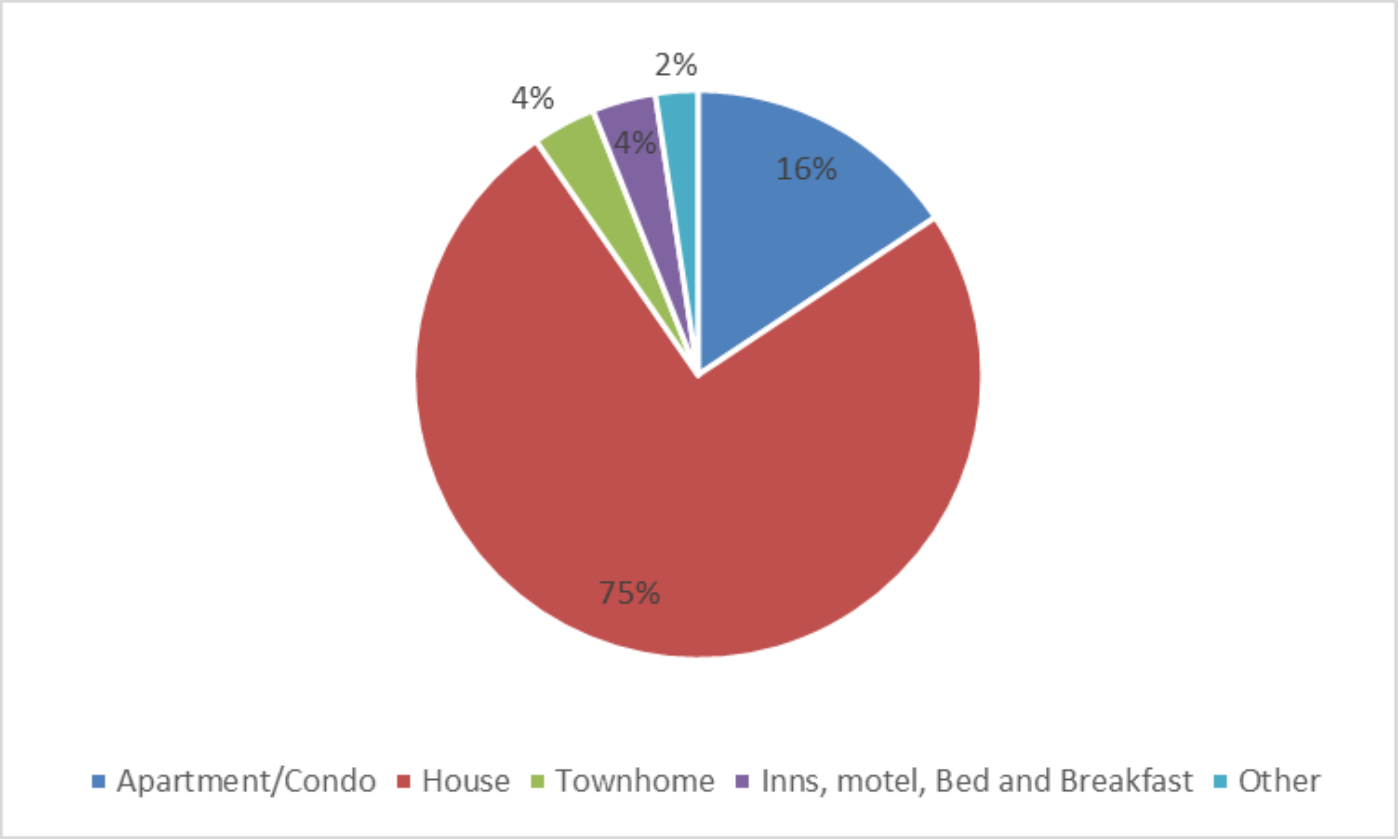
Recently, the Council has expressed some concern about STR's and asked staff to bring this ordinance back for review and discussion. Staff has received data from Wasatch County on the known STR's in the area.

DISCUSSION

Current Situation

The County provided a spread sheet that contains almost 1,000 records of STR listings County wide. Staff has analyzed the data and have made the following findings:

- In the last year, there have been 83 listings for STR's in Heber City.
- Currently, the City has issued 42 STR permits.
- Of the known STR's, most are within homes. A break down can be seen below. Staff has found some inconsistencies with the provided data. The following graph is representative of the data received and the real figures may be different.



Concerns

Council has expressed concerns over reports of STR's being located in town homes and apartments. At this time, the data is not consistent enough to determine if apartments and condo's are being used. Additionally, staff has received questions and complaints about the number of STR's in some of the neighborhoods.

Affordable housing is generally a concern in regards to STR's. On one hand, the STR's remove housing units and ADU's from the housing pool, with potential side effects of inflation to the housing costs in their area. On the other hand, the STR's, in some reported cases, have been good neighbors and can provide additional income to those who rent an ADU or portions of their home out for STR's.

The State has placed legislation that prevents the City from prohibiting STR listings, or using listings for code enforcement. In a later amendment, the state has made one exception to this rule for ADU's.ADU's are a large part of the legislature's plan at addressing affordable housing. The City should discuss whether or not to continue to allow ADU's to be used for STR's.

Options

1. Short Term Rental Overlay Zone - Require rezones for STR's, allow for defined portions of developments to be zoned for such use.
2. Proximity Regulations - STR's must be a minimum distance from each other (600' or 800').
3. Districting with limits of licenses - create districts or neighborhoods and set a limited number of permits for each district. This would not include proximity requirements.
4. Prohibit Short Term Rentals in ADU's - reserve these for affordable housing
5. Owner Occupancy Requirement - Remove vacation rentals from the current ordinance, only allowing for home rentals and room rentals
6. No changes

Staff recommends removing ADU's from STR use under all options, based on the state code changes. However, this is not a state requirement.

FISCAL IMPACT

N/A

CONCLUSION

ALTERNATIVES

Not an Action Item.

POTENTIAL MOTIONS

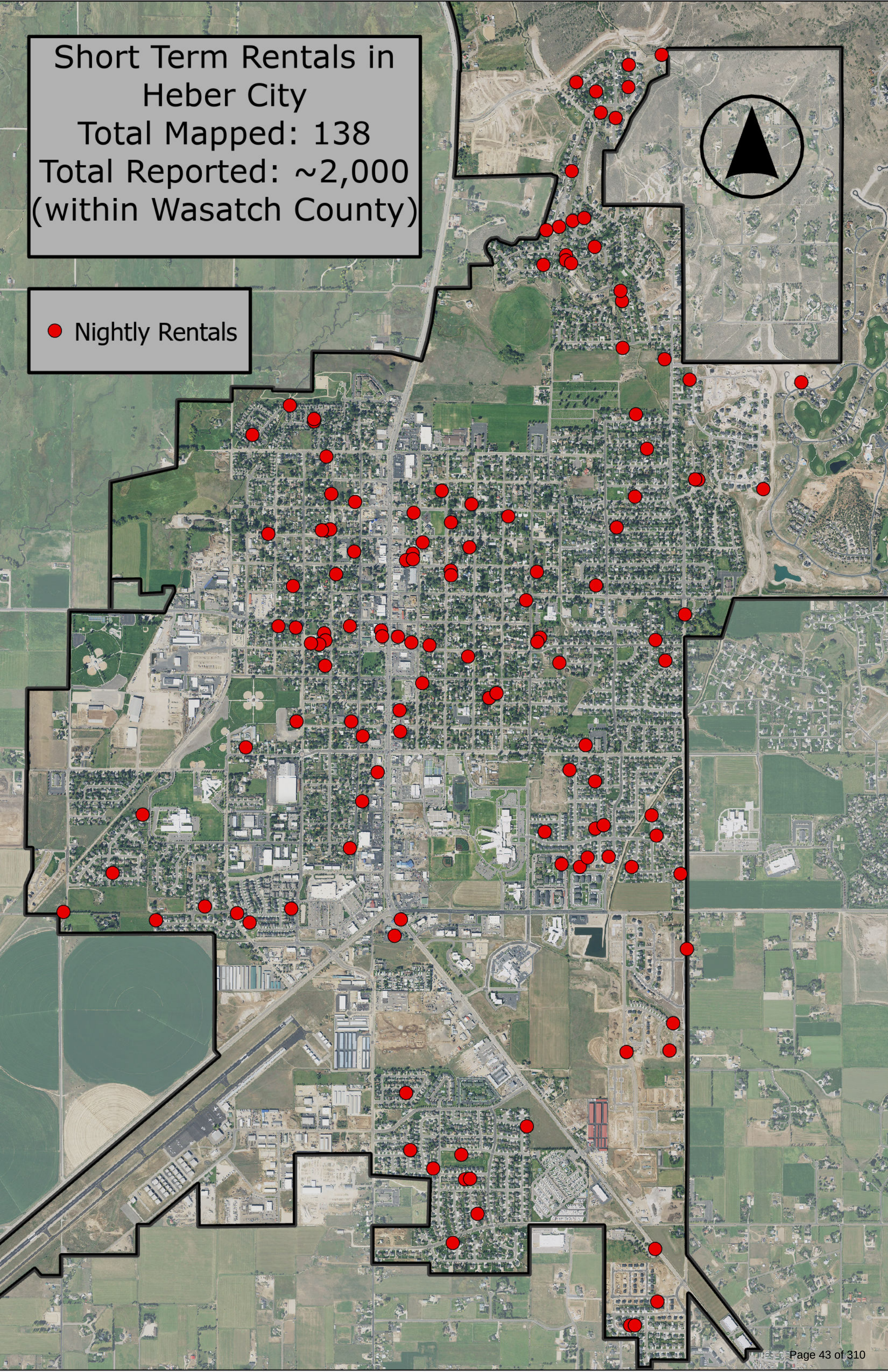
Not An Action Item.

ACCOUNTABILITY

Department: Planning
Staff member: Jamie Baron, Planning Manager

EXHIBITS

1. NightlyRentalsMap
2. Current STR Code


Short Term Rentals in
Heber City
Total Mapped: 138
Total Reported: ~2,000
(within Wasatch County)
Nightly Rentals

ORDINANCE NO. 2022-01

AN ORDINANCE AMENDING SECTION 5.26.030 LICENSES REQUIRED

WHEREAS, the Heber City Council amended the Dwelling definitions in 18.08.180, via Ordinance 2021-15.

WHEREAS, the Heber City Council finds it in the public interest to amend the Short Term Rental License codes to ensure consistency with the current dwelling definitions.

BE IT ORDAINED by the City Council of Heber City, Utah, that Section 5.26.030 Licenses Required is **AMENDED** as shown in Exhibit 1.

This Ordinance shall take effect immediately upon passage.

ADOPTED and PASSED by the City Council of Heber City, Utah this 1st day of February, 2022, by the following vote:

	AYE	NAY
Council Member Rachel Kahler	X	
Council Member Ryan Stack	X	
Council Member Mike Johnston	X	
Council Member Yvonne Barney	X	
Council Member Scott Phillips	X	

APPROVED:

HEBER CITY CORPORATE Seal WASATCH COUNTY, UTAH

Heidi Franco

Mayor Heidi Franco

ATTEST: Trina W Cooke

RECORDER

Date: 2/1/2022

Date of First Recording: _____

Exhibit 1

5.26.030 Licenses Required

It is unlawful to engage in a Short Term Rental business without first receiving a Business License from the City. All Short Term Rental Licenses shall comply with the following:

A. Rental owners shall be onsite or be managed by a rental manager located within 10 miles of the rental property. Contact information for said rental managers shall be on file with the City and the Heber City Police Department.

B. Rentals are subject to passing an inspection by the following:

1. Wasatch County Health Department
2. Wasatch County Fire District

C. Heber City and its departments maintain the right to inspect any Short-Tern Rental for the purpose of determining compliance with State, Local, Health, and Safety codes, upon the City's request.

D. Modifications to buildings that include, but are not limited to, remodels, basement finishes, pools, and accessory buildings, require a building permit.

E. Exterior signs associated with rentals are prohibited.

F. The following shall be posted inside the dwelling:

1. Heber City Business License
2. Fire and Health Department certifications
3. Rental Manager Contact information
4. Occupancy limit
5. Parking plan
6. Summary of Quiet Hours and Noise Restrictions as outlined in Section 9.22.020.

G. Commercial activities are prohibited.

H. Recreational Vehicles, Campers, or other travel trailers are prohibited.

I. Tents or other temporary structures intended sleeping are prohibited.

J. Room Rental. Room Rentals are permitted in any single family detached residential dwelling so long as the following provisions have been met.

1. Room Rentals are limited to no more than one reservation at a single time.
2. Room Rentals are limited to no more than two bedrooms in the dwelling.
3. Property owners shall be present during the hours of 10 PM – 7 AM for the entirety of the reservation period.
4. Lodgers shall be limited to no more than one vehicle.
5. Lodgers shall not park on the street. All cars shall be located in a garage, driveway, or permitted parking area.
6. Owner Occupied Accessory Apartments are considered a Room Rental and shall comply with these provisions. Occupancy of the apartment is as permitted in Section 18.108.110.

K. Home Rental. Home Rentals are permitted in any single family detached residential dwelling so long as the follow provisions have been met.

1. The entire dwelling shall be rented with a single reservation. Occupancy shall not exceed that of a Family as defined in Section 18.08.200, or 8 individuals, whichever is more.

2. Lodgers shall not park on the street. All cars shall be located in a garage, driveway, or permitted parking area.

3. Lodgers shall be limited to no more than 4 cars, based upon off street parking availability.

L. Vacation Rental. Vacation Rentals are permitted in any single family detached residential dwelling so long as the following provisions have been met.

1. The entire dwelling shall be rented with a single reservation. Occupancy shall be limited to 1 lodger per 200 square feet, not to exceed 12 lodgers.

2. Lodgers shall not park on the street. Garages shall be clear and available to patrons for parking. All cars shall be located in a garage, driveway, or permitted parking area.

3. Lodgers shall be limited to no more than 4 cars, based upon off street parking availability.

4. The following shall be posted on the exterior of the property:

a. Property Manager name, phone number, address, and email address

b. Business License number

Heber City Council Staff Report

MEETING DATE:	11/7/2023
SUBJECT:	Highlands Master Development Agreement (MDA) Amendment Presentation
RESPONSIBLE:	Denna Woodbury
DEPARTMENT:	Planning
STRATEGIC RELEVANCE:	Community Development

SUMMARY

Highlands and their potential home builder, DR Horton, have analyzed their home models in relation to the Highlands Master Plan and is asking for modification to the Highlands Master Development Agreement (MDA) to address some of the required zoning design elements (including those contained in the North Village Overlay Zone) for the proposed homes. The state code requires that the City go through the rezone process when considering development agreements that permit deviations from the requirements of the zoning ordinance and overlay zones. Highlands is requesting the City consider permitting 13 changes to their Master Development Agreement that relate to Design, Street Facade and Topography.

RECOMMENDATION

Staff recommends that City Council hears the presentation, discusses the item, and provides feedback on the requested amendment changes.

BACKGROUND

Earlier this year, Highlands submitted a request to amend its MDA, particularly addressing the City's transportation master plan. On July 18, 2023, the City Council accepted these amendments to be processed as Administrative Amendments to be approved by the Administrator, the City Manager. The application is still pending and has not yet been finalized due to the recent issues identified by the developer. A Public Hearing was held at the October 24, 2023 Planning Commission meeting.

The Highlands development group has reviewed the proposed development layout in context with DR Horton's home designs.
Several discussions have occurred with Staff, which have resulted in the developer modifying some of the homes, modifying the subdivision layout, and submitting a formal request to add the MDA

Design Guideline Amendment to the current MDA Amendment that is in process.

The issues remaining with the design and NVOZ Code are explained in the Discussion section below.

DISCUSSION

The North Village Overlay Zone Ordinance is the code for the Highlands Development and works with the MDA to guide the development of this Master Plan. The MDA is utilized to address situations that are unique to the development of the property. The Highlands has some challenging topography which makes it difficult to implement the NVOZ, and for this reason the request has been made to amend the Design Guidelines for the Highlands MDA.

The changes requested to the Design Guidelines relate to the design of the residential units and the physical location that is impacted by the topography. The requests are listed by section, with the developer's proposal and an explanation by staff is found below:

Design

1. Section 3.6. 2. Footnote 2. Townhome Green Courtyards. Page 19. Requirement for up to 3 of each 5 buildings to front upon a courtyard with a minimum width of 50 feet. Proposal: The developer is requesting to permit more than 3 out of 5 buildings to front on a courtyard and is asking for the 50-foot width minimum to be reduced.

The staff reviewed and found that the locations where this request would apply meet either a one to one ratio of height to distance separation, creating a room effect that the Design Guidelines are trying to achieve, or the average courtyard width exceeds the 50-foot minimum requirement. The locations where this request would apply also provide 20 foot driveways for each of the townhomes, in addition to the garages provided.

2. Section 3.6.1 Table Line a. Front Property Line Coverage 65% Page 19. Proposal: Lot coverage to allow 75% - 100% so long as it is deemed as common area/limited common area and maintained by an HOA.

The situations where this applies are adjacent to common area/limited common area and will be maintained.

3. Section 3.7. 2. Line i and Foot Note 5. Garage Façade Setback Page 21. Requirement for garages to be setback 5 feet further than living space. Proposal: The developer is asking for that living space to be reduced to 2 feet and be measured from the second story and include other design elements to reduce the visual impact of the garage.

This request provides housing products and variations that minimize the garage and provide a better street frontage than if the front porch and entryway are located in front of the garage.

4. Section 3.0 Buildings Page 25 – Craftsman, Farmhouse, Mountain Modern, North Village Natural/MDA Defined - Minimum Required Elements Front porch that addresses the street, either full or partial-width (60 square feet minimum). Proposal: The developer is requesting some of the porches be permitted to be less than 60 square feet.

In order to provide variation to the facade, the size of the porches need to vary. Each unit has at least 200 square feet of private open space.

5. Section 3.1. 5. Unique Architecture. Page 12 Requirement of no single-family buildings on the same block face may have the same street facing façade within a 400-foot distance. Proposal: The developer is seeking that it be based on the frontage distance of the lot adjacent and across the street within a 120-foot distance.

The proposed single-family lot sizes are smaller than a typical quarter acre lot, so the 400-foot distance would require 20 different facades. The 120-foot distance proposed would provide 6 different facades that would ensure that the homes next to you and across the street directly and to the corner, would not look the same.

6. Section 3.6 Figure 3.6 (5) Townhouse Building. Page 25 - Townhouses facing common greens, must also have three-sided architecture with wrapping porches and windows. Proposal: The developer is requesting that Townhouses facing common greens, must also have a three-sided architecture with windows and not include wrapping porches. Additional architectural elements that are cohesive with the architectural style.

In certain locations, the townhomes face each other and not the street. Staff will work with the applicant to include porch-like elements so the facade from the private streets is pleasing.

Street Façade Requirements

7. Section 3.2.4, page 12: 360-degree architecture, public right-of-way, parking lot, rear or interior side yards. Proposal: To be discussed with planning staff. 360-degree architecture conflicts with other sections of the NVOZ and within the same
paragraph.

The purpose of the 360-degree architecture is to ensure that there are not blank walls along the street frontages. The proposed products do not have blank walls. Staff will work with the applicant to ensure that the intent of the code is met.

8. Section 3.2.4 Table 3.4(1), item P, page 15: 25% transparency requirement per story. Proposal: Transparency requirements only apply to public street-facing facades, not rear or side facades. The transparency requirement does not apply to tuck-under garages and facades facing parking lots.

The stacked flat products contain tucked under garages that are accessed from internal parking lots and cannot be seen from the right of way. The buildings are street forward and provide a better street
presence.

9. Section 3.15.5, page 35 Building Variety & Adjacent Buildings: Proposal: Material and color variations may be used as the sole requirement to meet the building variety requirements of adjacent buildings.

Staff will work with the applicant to ensure a variety of colors, textures, and materials are used, including variation in singles to provide a varied roofline.

Topography

10. Section 3.2.2(d), page 11 Building Height**.** Proposal: The requirement only applies to adjacent buildings along the front property line which are facing a public street and on the same side of the street. The height variation requirement does not apply if the natural topography of the site enables a perceived height variation between adjacent buildings. 3 / 4 split buildings shall be treated as 3-story buildings with respect to height variation requirements.

The topography on the site creates a height variation and makes it challenging to meet the ADA requirements for stacked flats.

11.Table 3.4(1), item B, page 15 Front Build to Zone. Proposal: The front build-to-zone may be increased to accommodate topography or when the front property line curves such that a 10'-20' front build-to-zone is not reasonably achievable.

The buildings will be located as close to the street and as practically as possible, without having to create giant retaining walls.

12. Table 3.4(1) item A, page 15 Front Property Line Coverage (80%) Proposal: The front property line coverage may be reduced when site topography has unbuildable areas. Access drives from public streets shall be excluded from the front property line coverage calculation.

Due to the topography, to meet this standard, large retaining walls would need to be built to accommodate the stacked flats. By allowing less than 80% it provides a more open feel in between buildings.

13. Section 4.2.3.5 and Table 4.2(1) footnote 1, page 39 Maximum Block Perimeter: 2000 ft. Proposal: The block perimeter may be increased to accommodate topography which makes street connectivity requirements reasonably unachievable. Single parcel communities consisting of multiple buildings may substitute internal parking lots, pathways, and private access drives to achieve connectivity.

Due to the topography and the collector road, the 2000 block perimeter cannot be achieved. The applicant is providing pedestrian street connectivity so that residents have access to parks and trails.

FISCAL IMPACT

None.

CONCLUSION

The Highlands Master Plan has challenging topography which makes it difficult to meet some of the required zoning design elements (including those contained in the North Village Overlay Zone) for the proposed homes. The changes that are being proposed to the MDA address the unique topography challenges and provide design elements to meet the intent of the required zoning design elements.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue
I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:
Alternative 4 - Denial
I move to **deny** the item with the following findings.

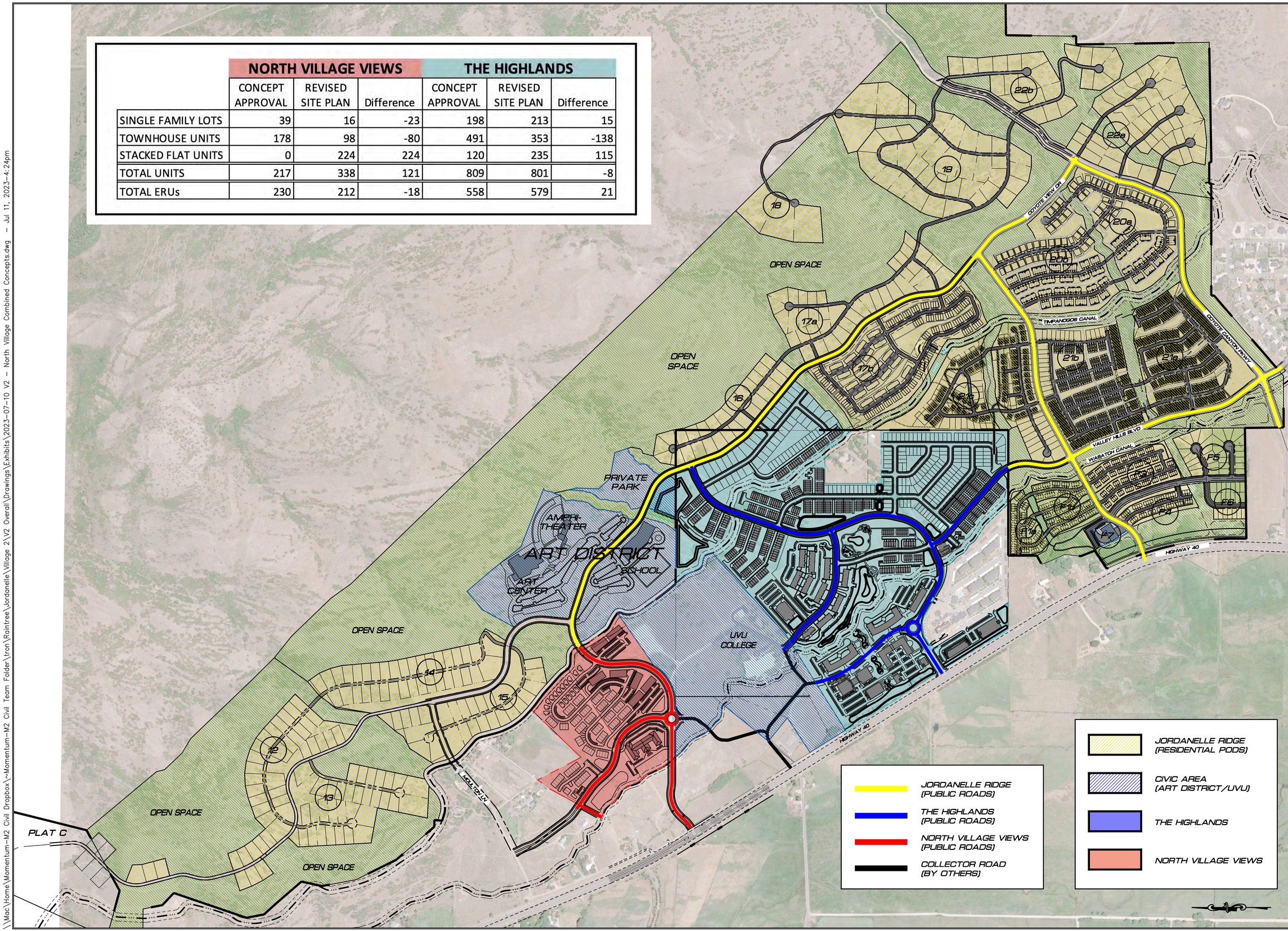
ACCOUNTABILITY

Department: Planning
Staff member: Denna Woodbury, Planning Consultant

EXHIBITS

1. Regional Map (1)
2. 2023-10-19 Highlands Proposed Base V11 B-EX-01
3. 201010_Creekside at Highlands MP Amendment Powerpoint
4. NVOZ 10-24-23

	NORTH VILLAGE VIEWS			THE HIGHLANDS		
	CONCEPT APPROVAL	REVISED SITE PLAN	Difference	CONCEPT APPROVAL	REVISED SITE PLAN	Difference
SINGLE FAMILY LOTS	39	16	-23	198	213	15
TOWNHOUSE UNITS	178	98	-80	491	353	-138
STACKED FLAT UNITS	0	224	224	120	235	115
TOTAL UNITS	217	338	121	809	801	-8
TOTAL ERUs	230	212	-18	558	579	21



PROJ. MGR: MBW DESIGNER: MBW

\\Mac\Home\Momentum-M2 Civil Dropbox\~Momentum-M2 Civil Team Folder\tron\Raintree\Jordanelle\Village 2\V2 Overall\Drawings\Exhibits\2023-07-10 V2 - North Village Combined Concepts.dwg - Jul 11, 2023-4:24pm

NO.	BY	DATE	REVISIONS

CAUTION

The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.

JORDANELLE RIDGE
NORTH VILLAGE COMBINED CONCEPTS

PREPARED FOR: RAINTREE

DATE SUBMITTED: 7/11/2023

MOMENTUM DEVELOPMENT GROUP
10421 S. JORDAN GATEWAY, SUITE 200, SOUTH JORDAN, UTAH 84095

SHEET NUMBER
1

SCALE
HORIZONTAL: 1"= 400'
VERTICAL: 1"= X'

JOB NUMBER
47-0117

DEVELOPMENT SUMMARY

TOTAL SITE ACREAGE = 114.458 AC.

DR HORTON	UNITS	ERUs/UNIT	ERUs
SINGLE FAMILY RESIDENTIAL ALTA LOTS (40.5x93)	111	0.75	83.25
SINGLE FAMILY RESIDENTIAL COTTAGE LOTS (46.5x93)	96	1.0	96.0
STACKED FLATS	235	N/A	104.6
TOWNHOMES - OLIVER	89	1.0	89.0
TOWNHOMES - MILLBROOK	119	0.75	89.25
TOWNHOMES - DALTON	156	0.75	117.0

TOTAL UNITS = 806 **TOTAL ERUs = 579**

EDITED 10/19/2023

N

200 0 200 400 600

Scale 1" = 200'

HIGHLANDS-CONCEPTUAL MASTER PLAN-V11B

CALL BEFORE YOU DIG.
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IT'S THE LAW
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208-2100
blue stakes of utah
811 before you dig

FILENAME O:\Highlands\Base\Working\2023-10-19 Highlands Proposed Base V11 B.dwg TAB EX-01 PLOT DATE AND TIME 10/19/2023 11:23 AM

HIGHLANDS
HEBER CITY, UT
PROPOSED BASE V11B

231 West 800 South Salt Lake City, Utah 84101
Ward Engineering Group
Planning • Engineering • Surveying
PH: 801 . 487 . 8040

CLIENT: D.R. HORTON
DWG: 2023-10-19 HIGHLANDS PROPOSED BASE V11 B.DWG
JOB No: 3885-DRH01-22
ALWAYS SCALE FROM DIMENSIONS. NO DRAWING SHALL BE REPRODUCED OR REUSED WITHOUT WRITTEN CONSENT.

DRAWN BY: WARD
DESIGN BY: WARD
CHECKED BY: AJS
DATE: 10/19/2023

REVISIONS

SHEET
EX-01

HIGHLANDS

CREEKSIDE AT HIGHLANDS

Master Plan Amendment

DATE: Tuesday September 20, 2022

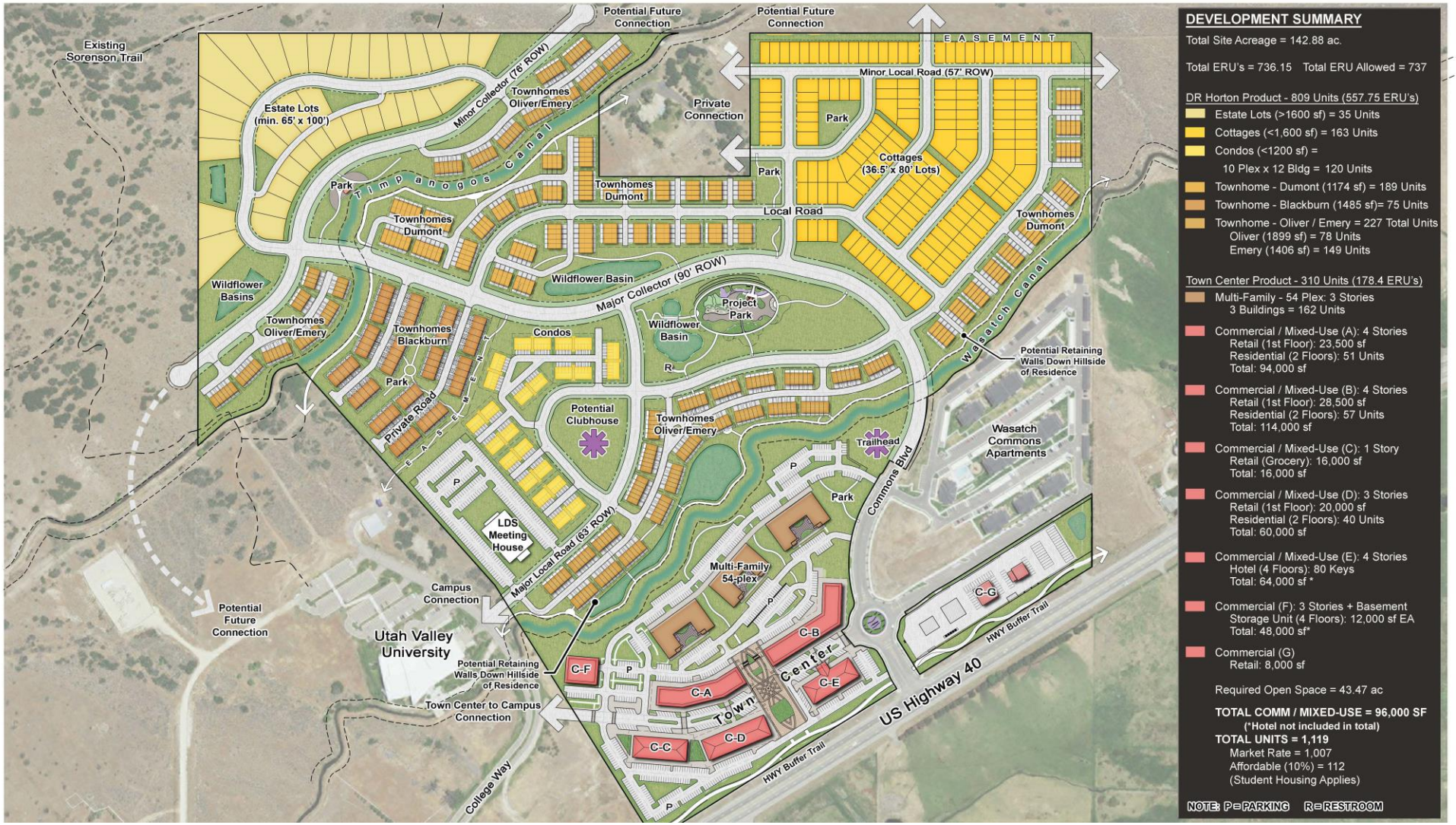
Highlands
HEBER CITY • UTAH

LAI DESIGN GROUP
Design for when it Matters

HIGHLANDS
ORIGINAL MASTER PLAN

Open Space Required = 43.47 ac
(For Illustrative Purposes Only. Acreages are approximate and subject to change. Master Development Agreement (MDA), Final Plat and NVOZ shall prevail)

737 TOTAL ERU ALLOWED
670 + 67 (10% Affordable Housing Credit)



DEVELOPMENT SUMMARY

Total Site Acreage = 142.88 ac.

Total ERU's = 736.15 Total ERU Allowed = 737

DR Horton Product - 809 Units (557.75 ERU's)
- Estate Lots (>1600 sf) = 35 Units
- Cottages (<1,600 sf) = 163 Units
- Condos (<1200 sf) =
  10 Plex x 12 Bldg = 120 Units
- Townhome - Dumont (1174 sf) = 189 Units
- Townhome - Blackburn (1485 sf)= 75 Units
- Townhome - Oliver / Emery = 227 Total Units
  Oliver (1899 sf) = 78 Units
  Emery (1406 sf) = 149 Units

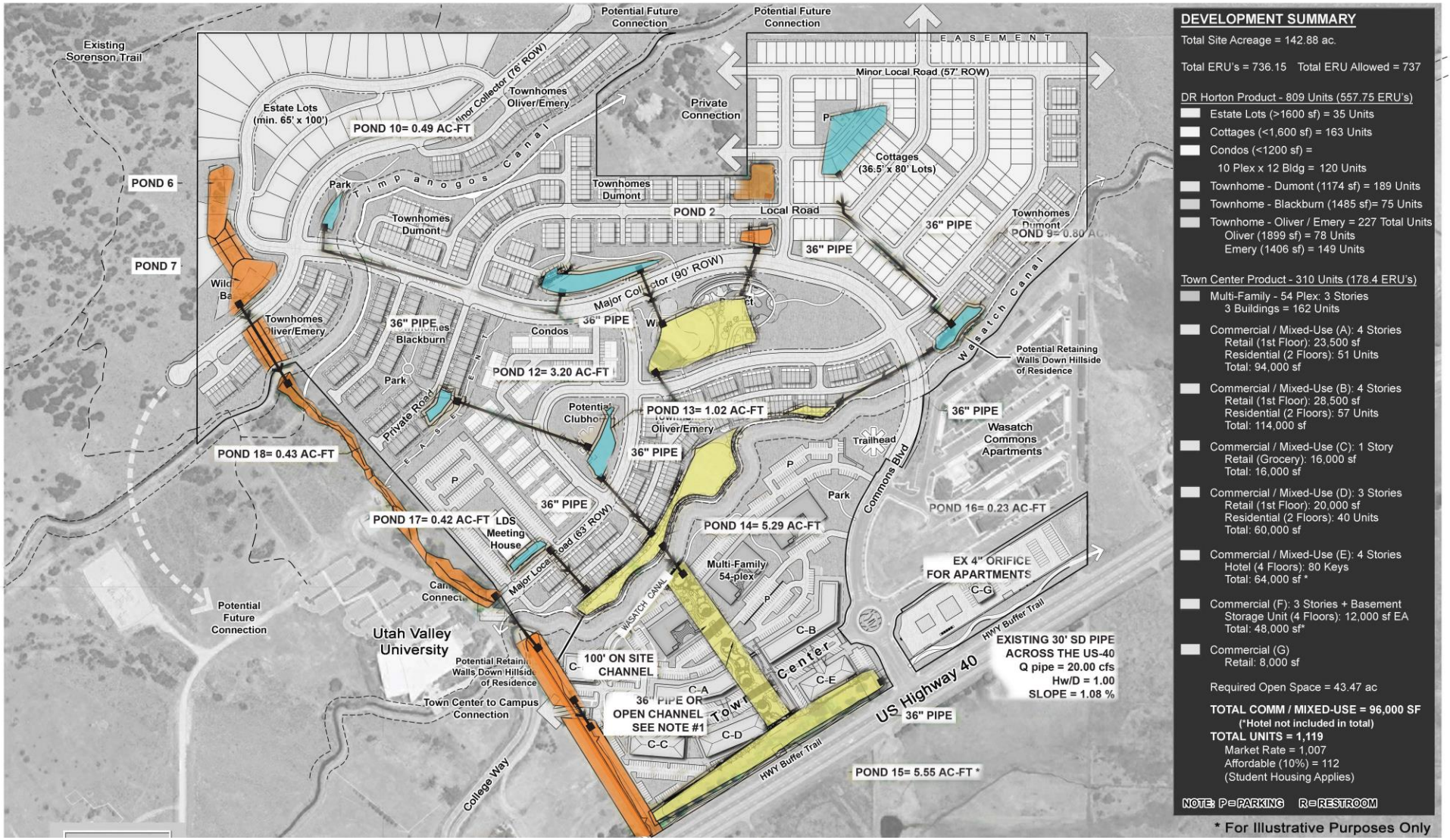
Town Center Product - 310 Units (178.4 ERU's)
- Multi-Family - 54 Plex: 3 Stories
  3 Buildings = 162 Units
- Commercial / Mixed-Use (A): 4 Stories
  Retail (1st Floor): 23,500 sf
  Residential (2 Floors): 51 Units
  Total: 94,000 sf
- Commercial / Mixed-Use (B): 4 Stories
  Retail (1st Floor): 28,500 sf
  Residential (2 Floors): 57 Units
  Total: 114,000 sf
- Commercial / Mixed-Use (C): 1 Story
  Retail (Grocery): 16,000 sf
  Total: 16,000 sf
- Commercial / Mixed-Use (D): 3 Stories
  Retail (1st Floor): 20,000 sf
  Residential (2 Floors): 40 Units
  Total: 60,000 sf
- Commercial / Mixed-Use (E): 4 Stories
  Hotel (4 Floors): 80 Keys
  Total: 64,000 sf *
- Commercial (F): 3 Stories + Basement
  Storage Unit (4 Floors): 12,000 sf EA
  Total: 48,000 sf*
- Commercial (G)
  Retail: 8,000 sf

Required Open Space = 43.47 ac

TOTAL COMM / MIXED-USE = 96,000 SF
(*Hotel not included in total)
TOTAL UNITS = 1,119
Market Rate = 1,007
Affordable (10%) = 112
(Student Housing Applies)

NOTE: P=PARKING R=RESTROOM

HIGHLANDS
ORIGINAL MASTER PLAN
ONSITE DRAINAGE OVERLAY



HIGHLANDS
ONSITE DRAINAGE PLAN

Scale 1" = 200'

LEGEND:

- ON SITE RETENTION POND
- OFF SITE RETENTION POND
- MIXED ONSITE / OFFSITE
- DETENTION POND FOR EXISTING ON SITE APARTMENTS

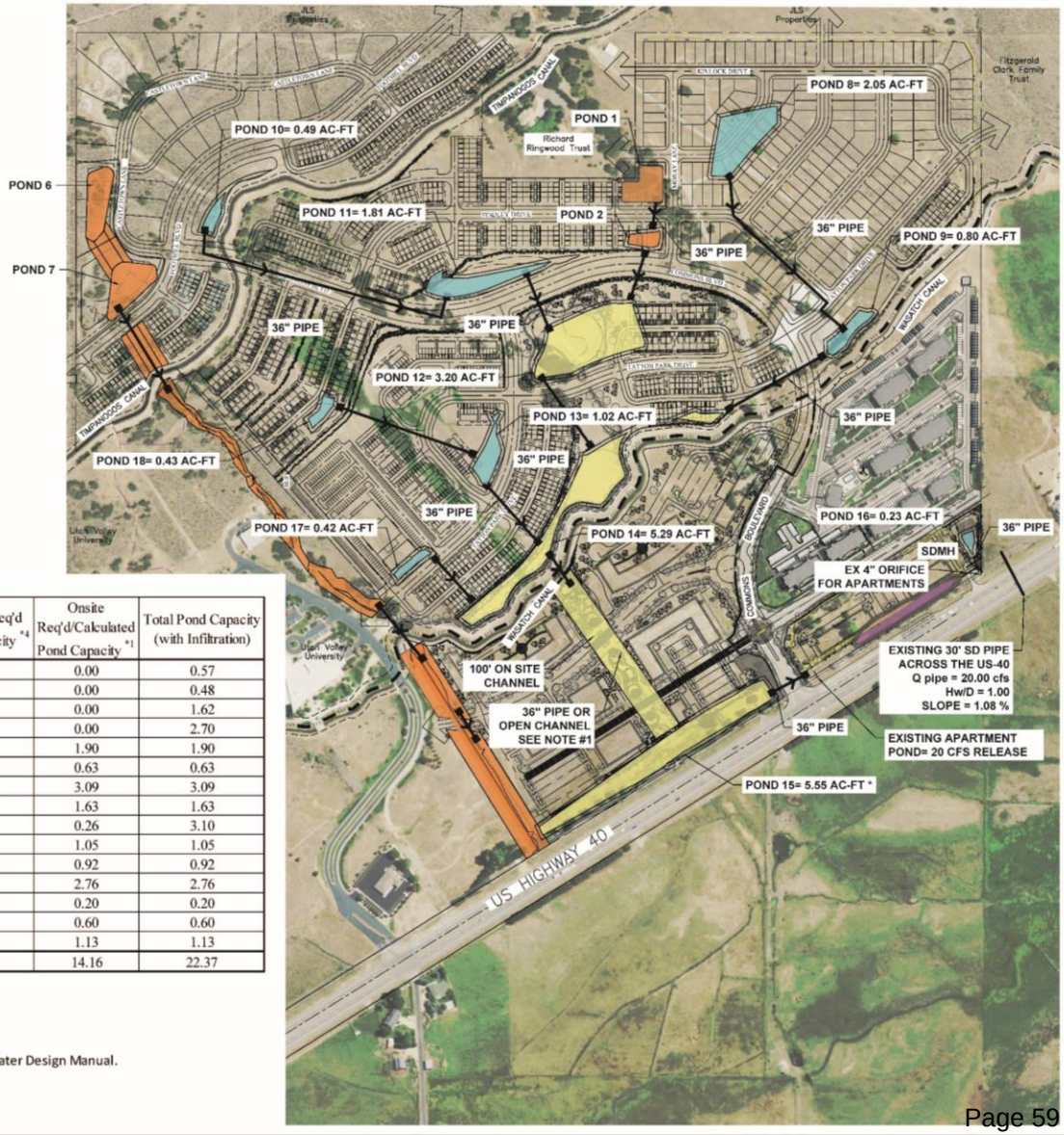
GENERAL NOTES:

1. THE PIPELINE SHOWN THROUGH THE TOWN CENTER CAN BE EITHER 36" PIPE OR AN OPEN CHANNEL TO BE DETERMINED THROUGH THE TOWN CENTER PLANNING ANALYSIS.

TABLE 1: POND ANALYSIS

Pond	Flow Criteria	Designed Pond Capacity (ACFT) *2	On-site/Off-site Total Pond Capacity (No Infiltration) *3	Infiltration Rate (in/hr)	Pond Infiltration (CFS)	Off-site Req'd Pond Capacity *4	Onsite Req'd/Calculated Pond Capacity *1	Total Pond Capacity (with Infiltration)
1	OFF-SITE	0.57	0.57	2.00	0.79	0.57	0.00	0.57
2	OFF-SITE	0.48	0.48	2.00	0.29	0.48	0.00	0.48
6	OFF-SITE	1.62	1.62	2.00	0.75	1.62	0.00	1.62
7	OFF-SITE	2.70	2.70	2.00	1.16	2.70	0.00	2.70
8	ON-SITE	2.05	2.70	2.00	1.33	0.00	1.90	1.90
9	ON-SITE	0.80	0.86	2.00	0.50	0.00	0.63	0.63
10	ON-SITE	0.49	3.11	2.00	0.27	0.00	3.09	3.09
11	ON-SITE	1.81	2.14	2.00	1.12	0.00	1.63	1.63
12	MIXED	3.20	0.74	2.00	2.10	2.84	0.26	3.10
13	ON-SITE	1.02	1.34	2.00	0.63	0.00	1.05	1.05
14	MIXED	5.29	1.68	2.00	3.08	0.00	0.92	0.92
15	MIXED	5.55	4.08	2.00	3.58	0.00	2.76	2.76
16	ON-SITE	0.23	0.66	2.00	0.14	0.00	0.20	0.20
17	ON-SITE	0.42	0.72	2.00	0.25	0.00	0.60	0.60
18	ON-SITE	0.43	1.22	2.00	0.26	0.00	1.13	1.13
TOTAL		26.66	24.61		16.26	8.21	14.16	22.37

*1. On-site required pond capacity calculated with an infiltration rate of 2 in/hr
*2. This is based on preliminary grading of Highlands.
*3. This is the required/calculated capacity of the pond based on a 100 year - 24 hour storm event.
*4. This is the off-site pond capacity required per the Heber City Master Plan North Village Storm Water Design Manual.



HIGHLANDS
WASATCH COUNTY, UTAH
ON SITE RETENTION

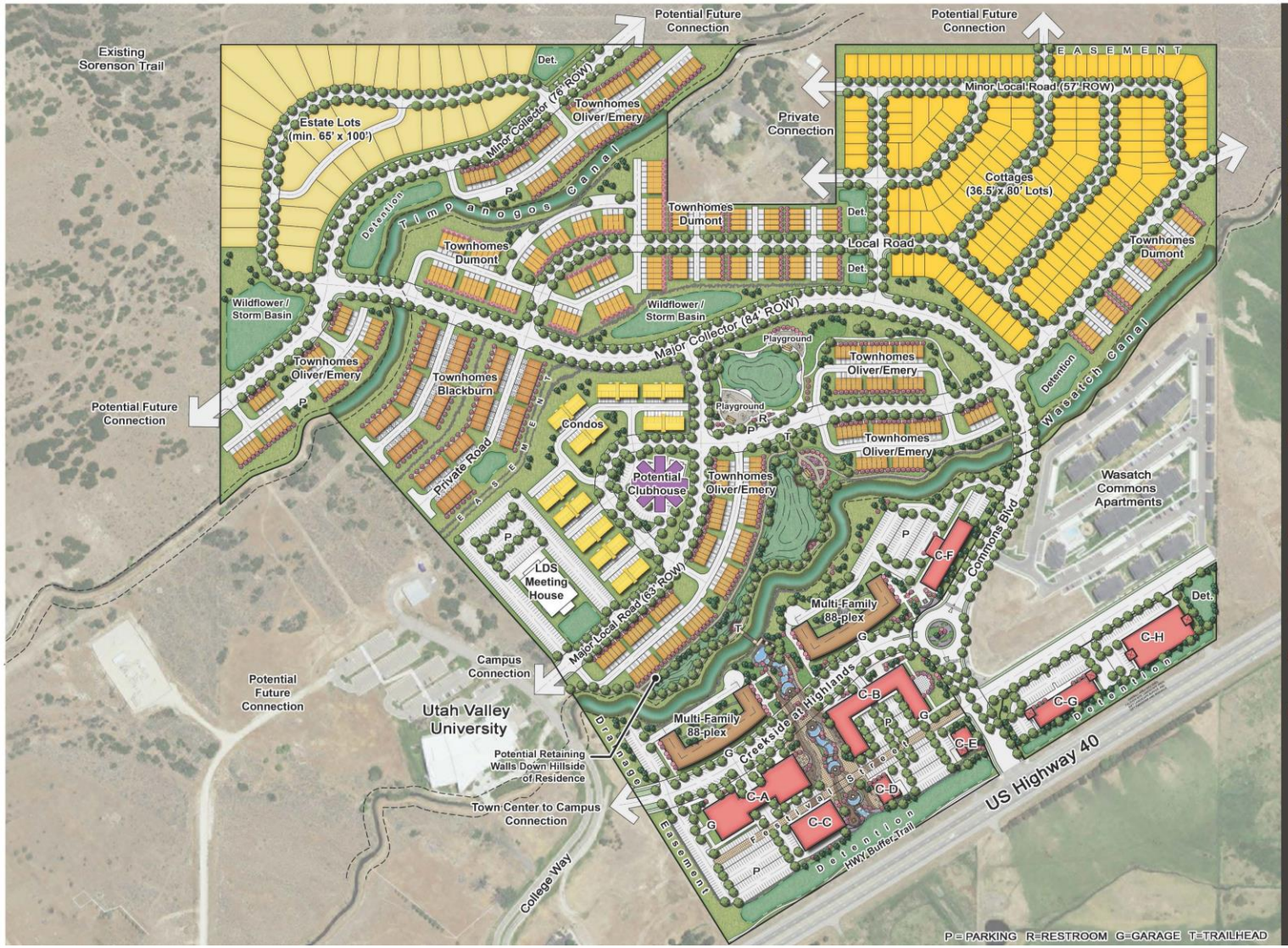
Ward Engineering Group
Planning Engineering Surveying
231 West 800 South Salt Lake City, Utah 84101
PH: 801 487 9649

CLIENT: CARDINAL FUNDING
DWG: PROPOSED BASE-ONSITE
JOB No: XXX
DRAWN BY: KP
DESIGN BY: XXX
CHECKED BY: JMT
DATE: 08/26/2022

REVISIONS

SHEET
EX-01B

HIGHLANDS
MASTER PLAN AMENDMENT



DEVELOPMENT SUMMARY

Total Site Acreage = 142.88 ac.
Total ERU's = 736.89 Total ERU Allowed = 737

DR Horton Product - 798 Units (566 ERU's)

- Estate Lots (>1600 sf) = 36 Units
- Cottages (<1,600 sf) = 178 Units
- Condos (<1200 sf) =
  10 Plex x 10 Bldg = 100 Units
- Townhome - Dumont (1174 sf) = 156 Units
- Townhome - Blackburn (1485 sf)= 70 Units
- Townhome - Oliver / Emery = 258 Total Units
  Oliver (1899 sf) = 90 Units
  Emery (1406 sf) = 168 Units

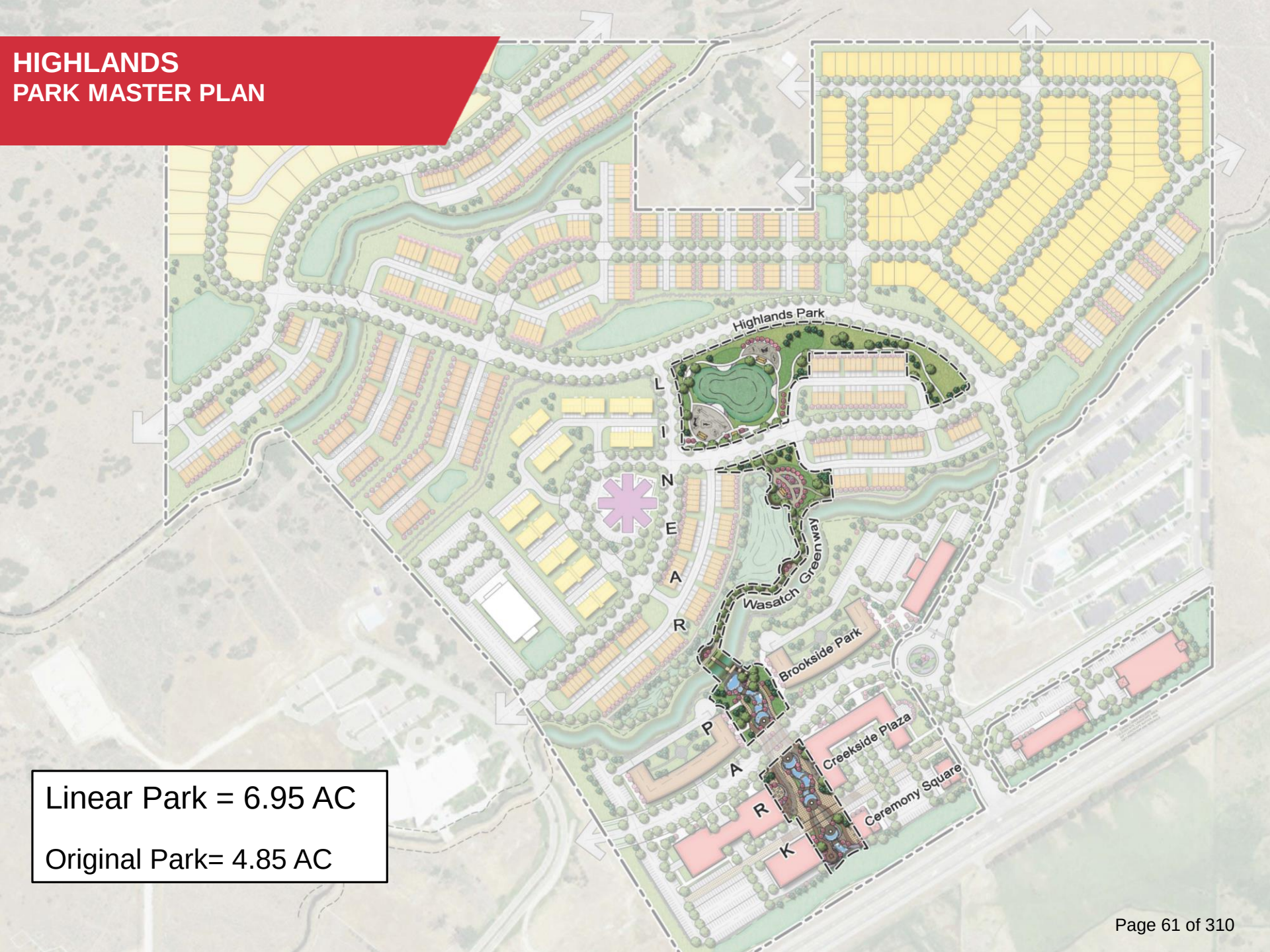
Town Center Product - 276 Units (171 ERU's)

- Multi-Family - 88 Plex: 4 Stories + Garage
  2 Buildings = 176 Units
  Garage Parking = 264 Spaces (1.5/Unit)
- Commercial / Mixed-Use (C-A): 4 Stories + Garage
  Retail (1st Floor): 28,000 sf
  Residential (3 Floors): 40 Units (Student Housing)
  Garage Parking = 200 Spaces
  - Commercial = 140 spaces (5/1000 sf)
  - Residential = 60 Spaces (1.5/Unit)
- Commercial / Mixed-Use (C-B): 4 Stories + Garage
  Retail (1st Floor): 27,000 sf
  Residential (3 Floors): 60 Units
  Garage Parking = 225 Spaces
  - Commercial = 135 Spaces (5/1000 sf)
  - Residential = 90 Spaces (1.5/Unit)
- Commercial (C-C): 1 Story
  Retail (Grocery): 16,000 sf
- Commercial (C-D): 1 Story
  Restaurant (1st Floor): 5,000 sf
- Commercial (C-E): 1 Story
  Restaurant (1st Floor): 5,000 sf
- Commercial (C-F): 4 Stories
  Hotel (4 Floors): 135 Keys
  Total: 60,000 sf * (15,000 / Floor)
- Commercial (C-G): 1 Story
  Gym (1st Floor): 15,000 sf
- Commercial (CH): 3 Stories + Basement
  Storage Unit (4 Floors): 25,000 sf EA
  Total: 100,000 sf*

LINEAR PARK = 6.95 AC

TOTAL COMM / MIXED-USE = 96,000 SF
(Storage Unit not included in total per DA)
TOTAL UNITS = 1,074
Market Rate = 966
Affordable (10%) = 108 (Student Housing Applies)
TOTAL GARAGE PARKING = 689 SPACES
Commercial = 275 Spaces (5/1000 sf)
Residential = 414 Spaces (1.5/Unit)

HIGHLANDS
PARK MASTER PLAN



Linear Park = 6.95 AC

Original Park= 4.85 AC

HIGHLANDS
LINEAR PARK RENDERING

HIGHLANDS
LINEAR PARK ENLARGEMENT

HIGHLANDS
LINEAR PARK – 5 PARK ELEMENTS

Linear Park
- **6.95 acres of the required 43.47** acres per the Master Development Agreement. Original Neighborhood Park = 4.85 acres
- Pursuant to the standards outlined in *Section 5.0 Parks, Trails & Natural Lands Preservation* of the NVOZ
- **Exact layout of following elements is subject to change.**

Highlands Park
- Adventure Park (6-10 years old)
- Tot Lot (2-6 years old)
- Active Lawn Play
- Restrooms
- Pavilions
- Wildflower, Butterfly, & Hummingbird Basins
- Overlooks with Interpretive/Informational Signage
- Trailhead

Wasatch Greenway
- Trailhead(s)
- Water Filling Stations
- Crusher Fines Trail
- Arbors
- Reading Nooks
- Sensory/Music Gardens
- Pavilion

Brookside Park
- Water Wall
- Pedestrian Bridge
- Shade Shelter
- Cascading Water Feature w/ Check Dams
- Overlook Platform
- Sculptures
- Passive Lawn Area
- Landscape Steps
- Specialty Paving

Creekside Plaza
- Cascading Water Features w/ Check Dams
- Overlook Platform
- Specialty Paving
- Sculptures
- Pedestrian Bridges
- Plaza
- Ample Seating and Gathering Space

Ceremony Plaza
- Flagpoles
- Monument Signs
- Cascading Water Features w/ Check Dams
- Overlook Platform
- Specialty Paving
- Sculptures
- Pedestrian Bridges
- Plaza
- Waterfall

Note: For illustrative purposes only. Final design is subject to change.

HIGHLANDS
NVOZ BASIC AMENITY LIST

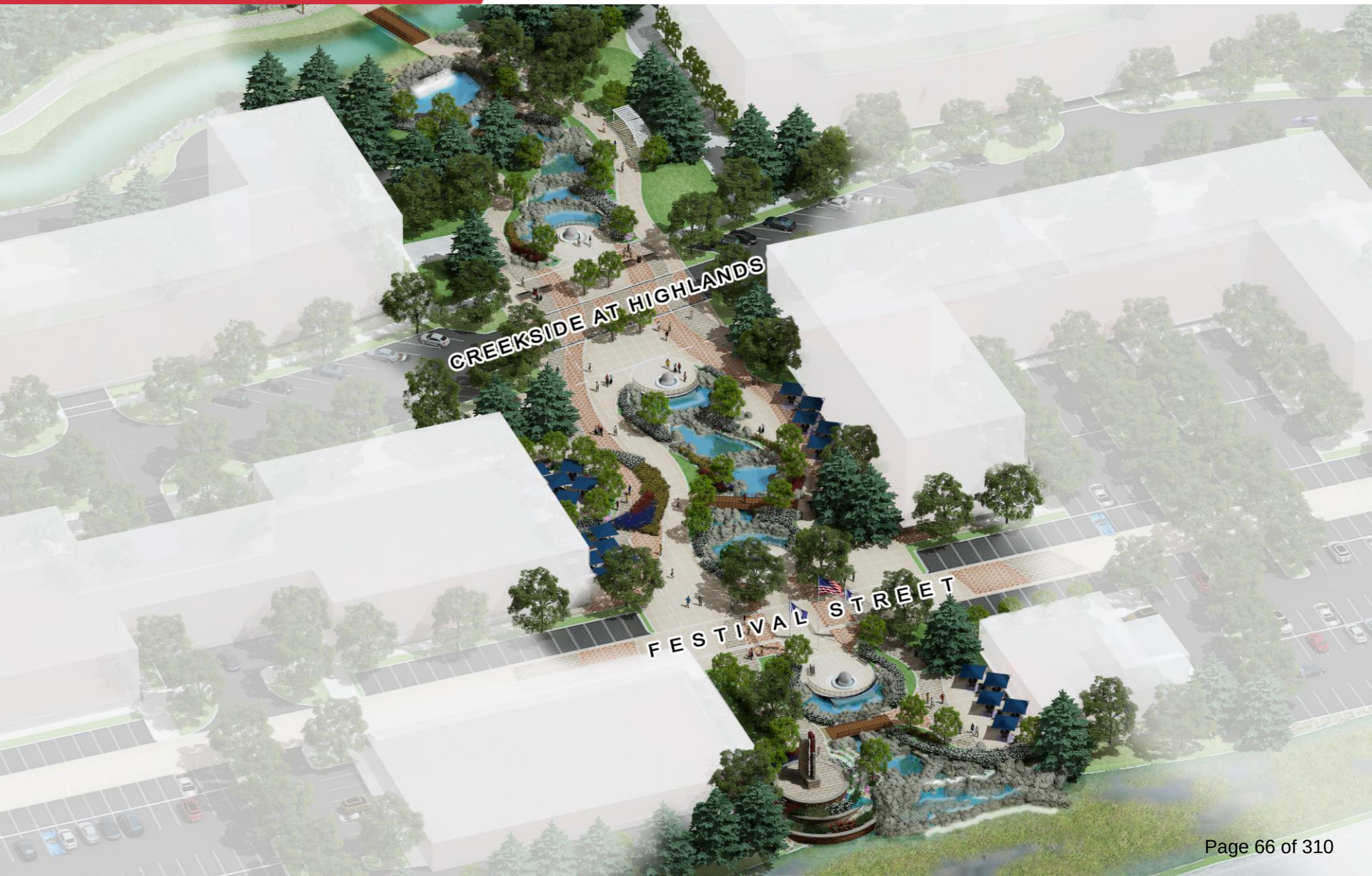
PARK AND OPEN SPACE AMENITIES	
BASIC AMENITY	**REQUIREMENTS**
Park Bench	1 per 1/4 mile of paved or gravel trail. 4 per first 1/2 acre and 2 additional per acre for Urban Gathering Places, Local, and larger parks
Water Stations	Minimum 1 per Urban Gathering Places. 1 per park amenity node(pavillions, bathrooms, etc.) for larger parks
Pavilion	Minimum one per Plaza, Square, Local Parks (15 person size), 2 per 3 acres of park for Neighborhood/Community Parks (30 person)
Playground	Minimum one per Local and 1 per 10 acres for larger parks
Picnic Area	Minimum 1 per Local and larger parks. Minimum 4 tables, 2 barbeques, shade, hard surfacing
Restrooms	1 per Neighborhood and larger parks (interior &exterior lighting)
Amenity Options	
Baseball Field	1 baseball field
Softball Field	1 softball field
Passive Lawn	Well graded 1/2 acre of turf grass lawn with 5-10 large park trees per acre
Sports field	1 multi sport field (soccer lacrosse, rugby, etc)
Tennis courts	2 Tennis Courts
Pickleball courts	4 Pickleball Courts
Outdoor Basketball	1 Outdoor Concrete Basketball Court
Outdoor Pool	1 Outdoor Pool
Rec Center	1 Recreation Center
Community Center	1 Community Center
Trail Options	See Parks and Trails Master Plan for standards
Trail Head	1 Trailhead Sign and 10 Parking Stalls. 1 water station to include equestrian water access.
Fitness system nodes	1 per 1/4 mile includes a combination of physical/active stations and activity signs
On Trail Sign	Trail directional sign at all trail intersections

Table 5.1 (1). Area Park Open Space Requirements by Sub-District

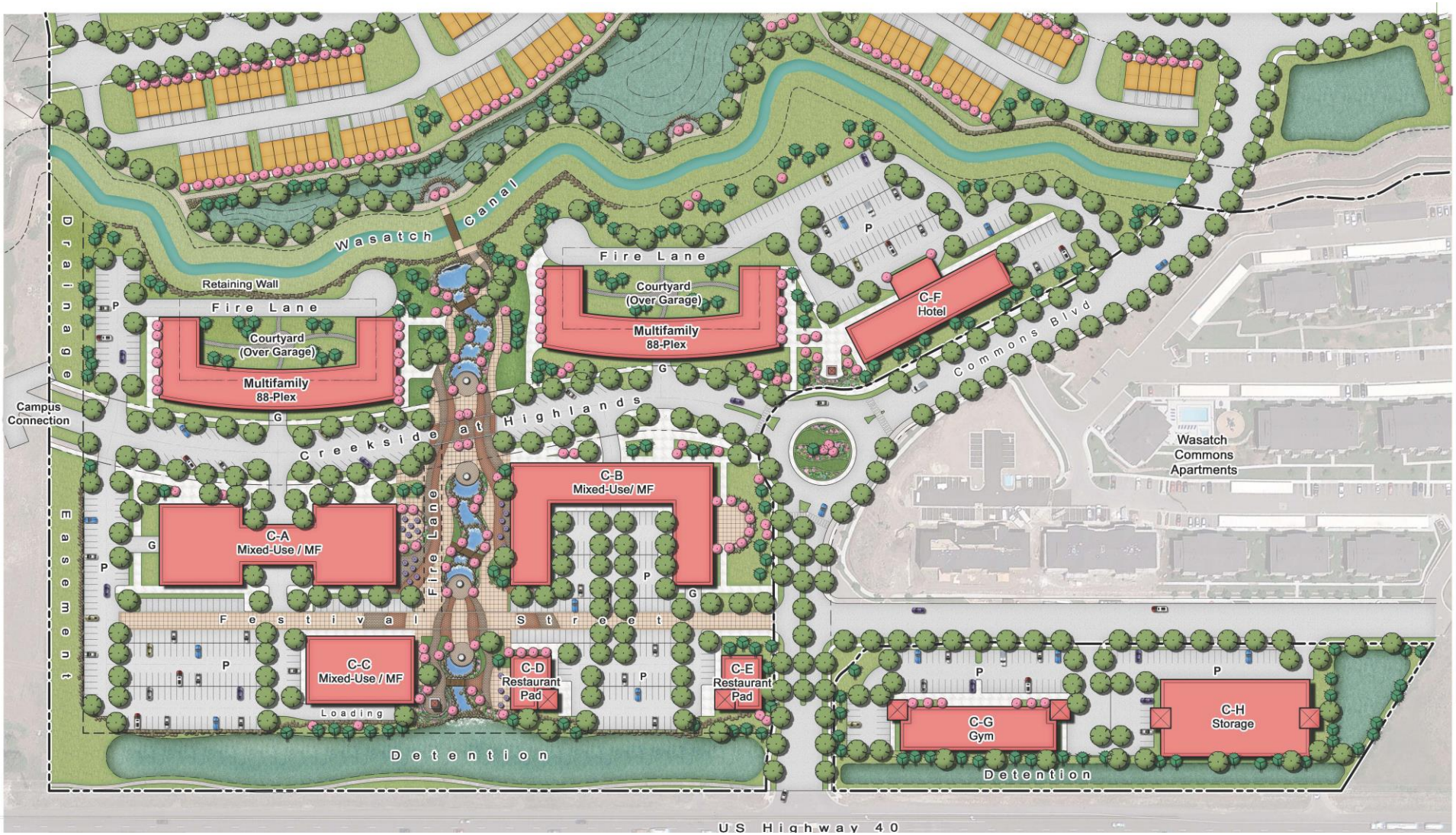
Qualifying Uses for Parks and Open Space		
Use	**Meets Park Requirements**	**Meets Open Space Requirements**
Trails within Parks	Yes	Yes
Trails in Open Space	No	Yes
Ball Courts	Yes	Yes
Farm or Agricultural Lands	No	Yes
Stormwater for Parks [a]	Yes	Yes
Stormwater for Development [a]	No	Yes
Stormwater in Common Areas [a]	No	Yes
Parking for Parks	Yes	Yes
Plazas, Courtyard, Park	Yes	Yes
Pocket Park,Community Park	Yes	Yes
Landscape around Private Buildings	No	Yes See #14
Recreation Center Buildings	Yes	Yes
Agriculture Buildings	No	No
Rooftop Gardens [b]	Partial	Partial
Playgrounds	Yes	Yes
Common Areas for Developments	Yes	Yes
Amphitheater	Yes	Yes
Sports fields	Yes	Yes
Community pools & pool areas	Yes	Yes
Sensitive Lands Preserved [c]	Yes	Yes
Recreation Center	Yes	Yes

Note: For illustrative purposes only. Final design is subject to change.

HIGHLANDS
CREEKSIDE ENLARGEMENT



HIGHLANDS
TOWN CENTER ENLARGEMENT



HIGHLANDS
TOWN CENTER SECTION

HIGHLANDS
PEDESTRIAN PLAZAS

HIGHLANDS
PARKS & SHELTERS

HIGHLANDS
PARK FEATURES

HIGHLANDS
PUBLIC ART

HIGHLANDS
NATIVE LANDSCAPE PLANTINGS

LAI DESIGN GROUP
Design for when it Matters

88 Inverness Circle East Building J, Suite 101 - Englewood, CO 80012
T: 303.734.1777
E: info@LAIdesigngroup.com

Architecture ▪ Planning & Entitlements ▪ Visual Media ▪ Landscape Architecture ▪ Real Estate Advisory

North Village Overlay Zone

NVOZ CHAPTER 18.21

Heber City Planning Commission
October 24, 2023

PURPOSE:

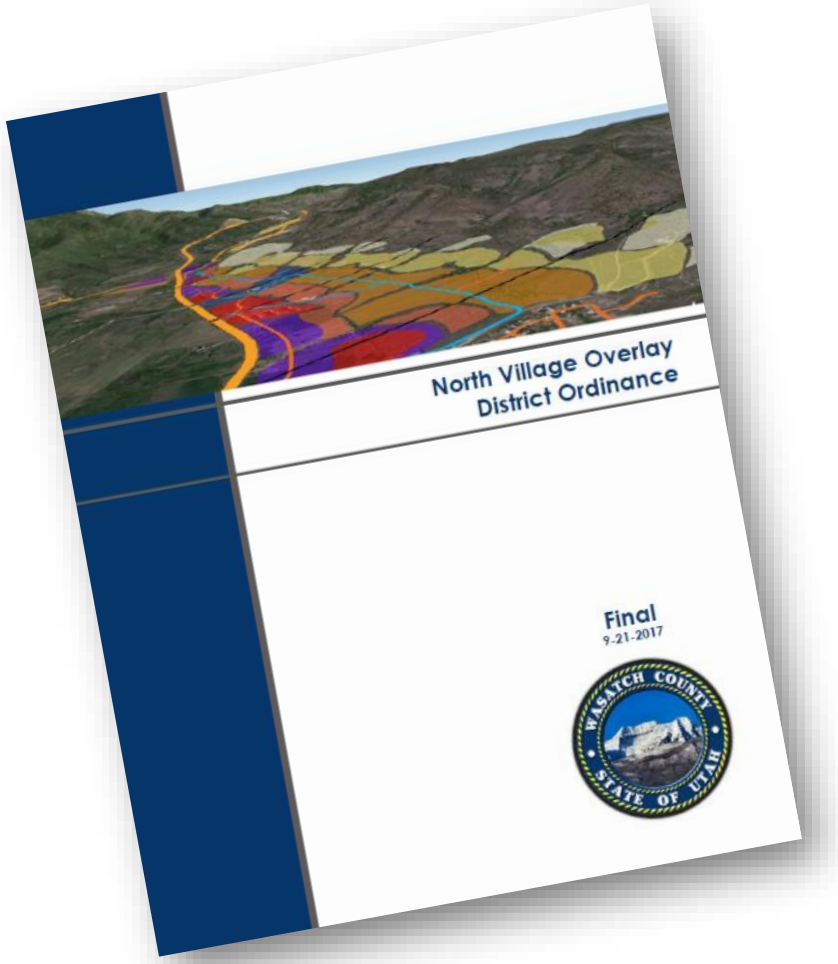
- DR Horton is requesting changes to the Development Agreement due to topographic conditions and proposed site grading that preclude our ability to comply with some of the NVOZ design standards.

- DR Horton is also seeking clarification regarding urban design principles contained in the current code and how to correctly apply them within the master plan.

NVOZ CHAPTER 18.21

HISTORY:

- Began writing NVOD Ordinance in 2015
- Adopted in 2017



NVOZ CHAPTER 18.21

Heber City Planning Commission
October 24, 2023

3.6 Townhouse Building

1. Description and Intent

The Townhouse Building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This Townhouse Type may be organized as townhouses, duplexes, or row houses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard (alley loaded) and may be incorporated either into a detached garage or in an attached garaged accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is

active.

2. Regulations

Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

[2] Each building shall meet the front property line coverage requirement, except three buildings of five units each may front a courtyard with a minimum width of 50 feet (building to building, including sidewalks on all three sides). The green courtyard shall be defined on two-three sides by buildings. See figure 3.6(1).

[3] Rear yard setback on alleys is 5 feet.

[4] When the Mixed-use entrance type is utilized, the maximum ground story transparency for the unit is 55% as measured between 2 feet and 8 feet above grade.

[6] In conjunction with a planned community, single story townhouses may be constructed for up to 25% of the community.

[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

Building Type		Permitted Sub-Districts			
Townhouse		NV	NOS	UV	RR
	Permitted	yes [7]	yes	yes [7]	yes
	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1 and 6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
	Occupation of Corner	required	no	required	no
b	Front Build to Zone	10' to 20'	10' to 20'	10' to 20'	10' to 20'
c	Corner Build to Zone	10' to 15'	10' to 15'	10' to 15'	10' to 15'
d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
g	intentionally blank				
h	intentionally blank				
i	Parking	rear yard	rear yard	rear yard	rear yard
j	Vehicular Access	from alley			
	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [5]	2 story [5]	2 story [5]	2 story [5]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u	Principal Entrance Location per Unit	front			front
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

[2] Each building shall meet the front property line coverage requirement, except three buildings of five units each may front a courtyard with a minimum width of 50 feet (building to building, including sidewalks on all three sides). The green courtyard shall be defined on two-three sides by buildings. See figure 3.6(1).

Figure 3.6 (1). Townhouse Green Courtyard

3.6 Townhouse Building

1. Description and Intent

The Townhouse Building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This Townhouse Type may be organized as townhouses, duplexes, or row houses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard (alley loaded) and may be incorporated either into a detached garage or in an attached garaged accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is

active.

2. Regulations

Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

[2] Each building shall meet the front property line coverage requirement, except three buildings of five units each may front a courtyard with a minimum width of 50 feet (building to building, including sidewalks on all three sides). The green courtyard shall be defined on two-three sides by buildings. See figure 3.6(1).

[3] Rear yard setback on alleys is 5 feet.

[4] When the Mixed-use entrance type is utilized, the maximum ground story transparency for the unit is 55% as measured between 2 feet and 8 feet above grade.

[6] In conjunction with a planned community, single story townhouses may be constructed for up to 25% of the community.

[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

	Building Type	Permitted Sub-Districts			
	Townhouse	NV	NOS	UV	RR
	Permitted	yes [7]	yes	yes [7]	yes
	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1and6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
	Occupation of Corner	required	no	required	no
b	Front Build to Zone	10' to 20'	10' to 20'	10' to 20'	10' to 20'
c	Corner Build to Zone	10' to 15'	10' to 15'	10' to 15'	10' to 15'
d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
g	intentionally blank				
h	intentionally blank				
i	Parking	rear yard	rear yard	rear yard	rear yard
j	Vehicular Access	from alley			
	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [5]	2 story [5]	2 story [5]	2 story [5]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u	Principal Entrance Location per Unit	front			front
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

CONCERN

- Site plan exceeds 3 building rule
- Narrowest point is 45'

3.6 Townhouse Building

1. Description and Intent

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[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

Building Type	Permitted Sub-Districts			
Townhouse	NV	NOS	UV	RR
Permitted	yes [7]	yes	yes [7]	yes
(1) Building Siting Refer to Figure 3.6 (1).				
Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1and6]	permitted [1]
a Front Property Line Coverage	65%[2]	65%[2]	65%[2]	65%[2]
(3) Uses Refer to 2.0 Uses for permitted uses.				
n Ground Story	live/work	residential	live/work	residential
o Upper Story		residential		residential
p Parking	permitted behind buildings in garage and driveways			
q Required Occupied Space	15' deep on all full floors from the front facade			
(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r Minimum Transparency per each Story	15%	15%	15%	15%
s Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u Principal Entrance Location per Unit	front			front
v Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
(5) Roof Type Requirements Refer to 3.12				
Permitted Roof Types	parapet, pitched, flat, green/vegetative			
Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

CONCERN

- Site plan exceeds 3 building rule
- Narrowest point is 45'

- Proposal: Allow the 100'+ average spacing between building facades in the courtyard to compensate for the 45' pinch point

3.6 Townhouse Building

1. Description and Intent

The Townhouse Building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This Townhouse Type may be organized as townhouses, duplexes, or row houses, or it could also incorporate live/work units where uses are permitted.

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Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

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[6] In conjunction with a planned community, single story townhouses may be constructed for up to 25% of the community.

[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

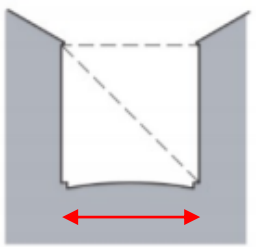
	Building Type	Permitted Sub-Districts			
	Townhouse	NV	NOS	UV	RR
	Permitted	yes [7]	yes	yes [7]	yes
	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1and6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
	Occupation of Corner	required	no	required	no
b	Front Build to Zone	10' to 20'	10' to 20'	10' to 20'	10' to 20'
c	Corner Build to Zone	10' to 15'	10' to 15'	10' to 15'	10' to 15'
d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
g	intentionally blank				
h	intentionally blank				
i	Parking	rear yard	rear yard	rear yard	rear yard
j	Vehicular Access	from alley			
	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [5]	2 story [5]	2 story [5]	2 story [5]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u	Principal Entrance Location per Unit	front			front
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

k	Minimum Overall Height	2 story [5]	2 story [5]	2 story [5]	2 story [5]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories

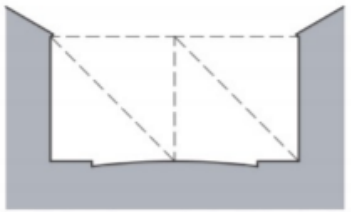
MAX. **MIN.**

42'



1:1

50'



Spatial enclosure by building height

28'

50'

- Code seeks to create an urban/suburban environment with defined spatial volumes between 1:1 to 1:2

3.6 Townhouse Building

1. Description and Intent

The Townhouse Building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This Townhouse Type may be organized as townhouses, duplexes, or row houses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard (alley loaded) and may be incorporated either into a detached garage or in an attached garaged accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is

active.

2. Regulations

Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

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[3] Rear yard setback on alleys is 5 feet.

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[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

	Building Type	Permitted Sub-Districts			
	Townhouse	NV	NOS	UV	RR
	Permitted	yes [7]	yes	yes [7]	yes
	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1 and 6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
	Occupation of Corner	required	no	required	no
b	Front Build to Zone	10' to 20'	10' to 20'	10' to 20'	10' to 20'
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d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
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	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [6]	2 story [6]	2 story [6]	2 story [6]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
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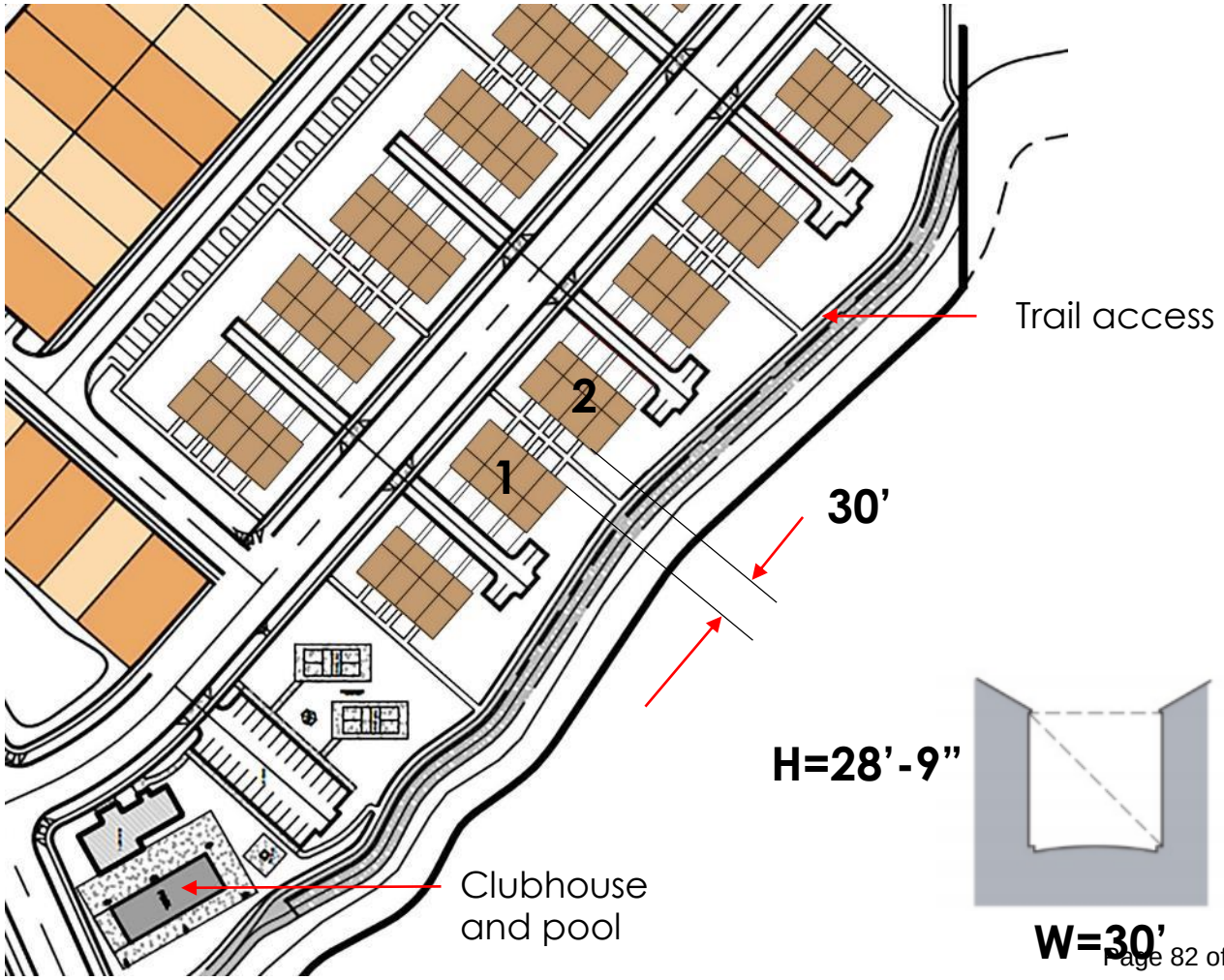
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

CONCERN

- Greenway width between building facades is 30' (less than 50' min.)
- Spatial enclosure ratio of Greenway is 1:1 (consistent with urban design principle)



- Proposal: Allow pedestrian greenways that are compliant with the spatial containment ratios (1:1) prescribed by the existing urban design standards contained in the code.

3.6 Townhouse Building

1. Description and Intent

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active.

2. Regulations

Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

[2] Each building shall meet the front property line coverage requirement, except three buildings of five units each may front a courtyard with a minimum width of 50 feet (building to building, including sidewalks on all three sides). The green courtyard shall be defined on two-three sides by buildings. See figure 3.6(1).

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Figure 3.6 (1). Townhouse Green Courtyard

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Townhouse		NV	NOS	UV	RR
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	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1 and 6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
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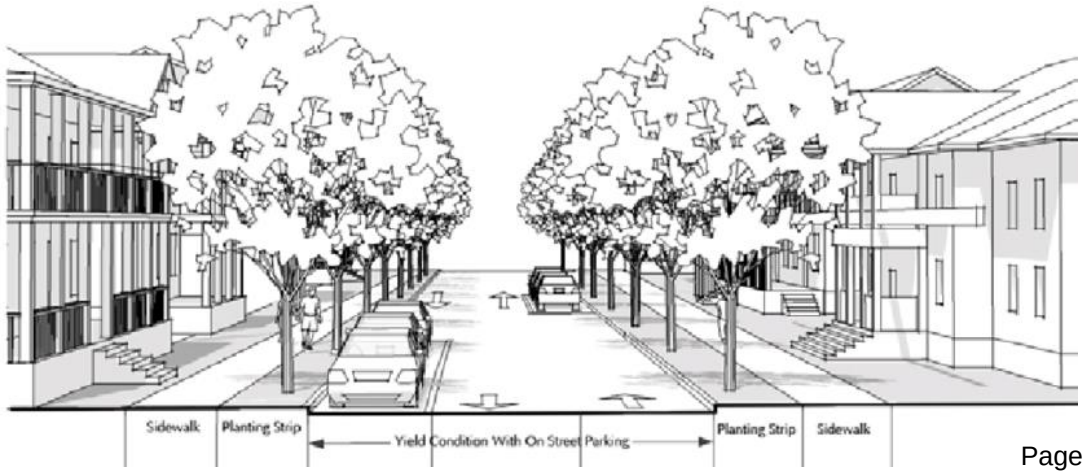
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

URBAN DESIGN PRINCIPLES

- Front property line coverage is designed to regulate the efficiency of a street to contain space
- Powerful streets have both a motorist and pedestrian function, and the primary role of architectural expression along the street is to define the quality and flavor of that spatial volume
- As property line coverage percentage increases the urban character of the street increases



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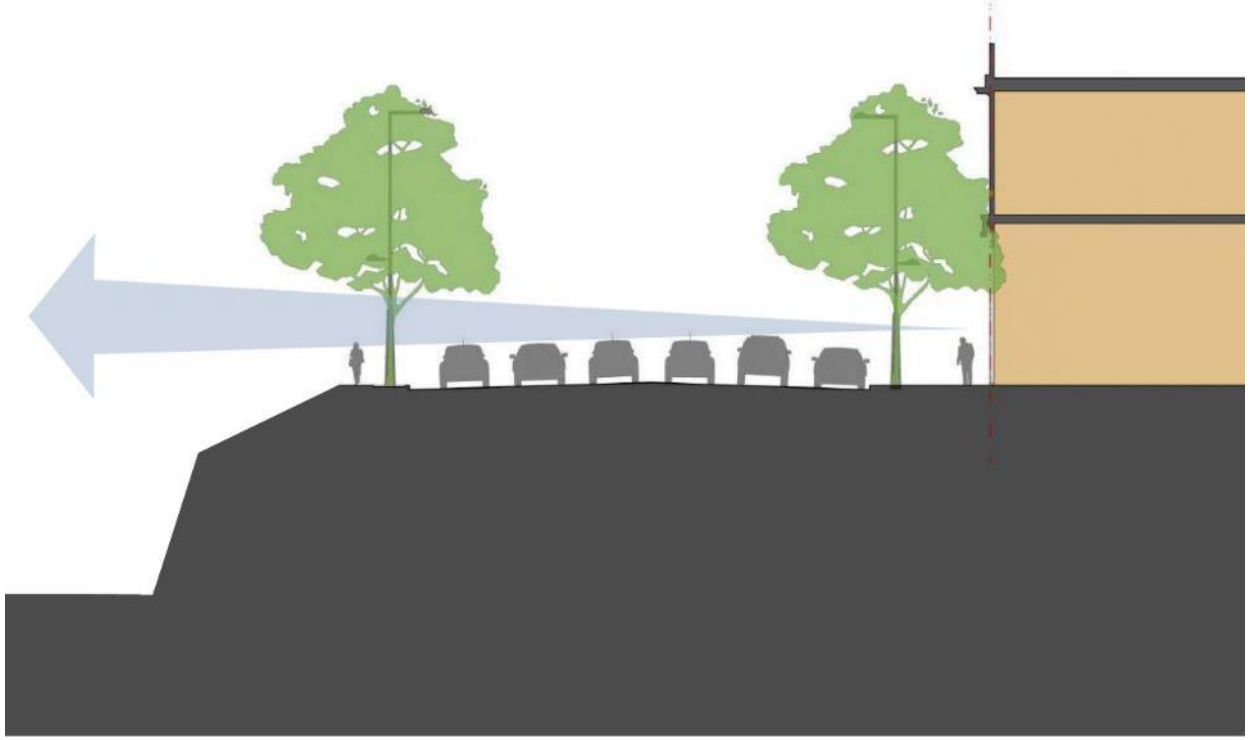
d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
g	intentionally blank				
h	intentionally blank				
i	Parking	rear yard	rear yard	rear yard	rear yard
j	Vehicular Access	from alley			
	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [6]	2 story [6]	2 story [6]	2 story [6]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u	Principal Entrance Location per Unit	front			front
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

URBAN DESIGN PRINCIPLES

- Topography has a powerful impact on a street's ability to contain space
- Architectural wall on the upslope side of the street helps frame/maximize downslope viewshed



3.6 Townhouse Building

1. Description and Intent

The Townhouse Building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This Townhouse Type may be organized as townhouses, duplexes, or row houses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard (alley loaded) and may be incorporated either into a detached garage or in an attached garaged accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is

active.

2. Regulations

Footnotes

[1] For the purposes of the townhouse building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type and shall conform to a building style as per section 3.0. A maximum of six units per building.

[2] Each building shall meet the front property line coverage requirement, except three buildings of five units each may front a courtyard with a minimum width of 50 feet (building to building, including sidewalks on all three sides). The green courtyard shall be defined on two-three sides by buildings. See figure 3.6(1).

[3] Rear yard setback on alleys is 5 feet.

[4] When the Mixed-use entrance type is utilized, the maximum ground story transparency for the unit is 55% as measured between 2 feet and 8 feet above grade.

[6] In conjunction with a planned community, single story townhouses may be constructed for up to 25% of the community.

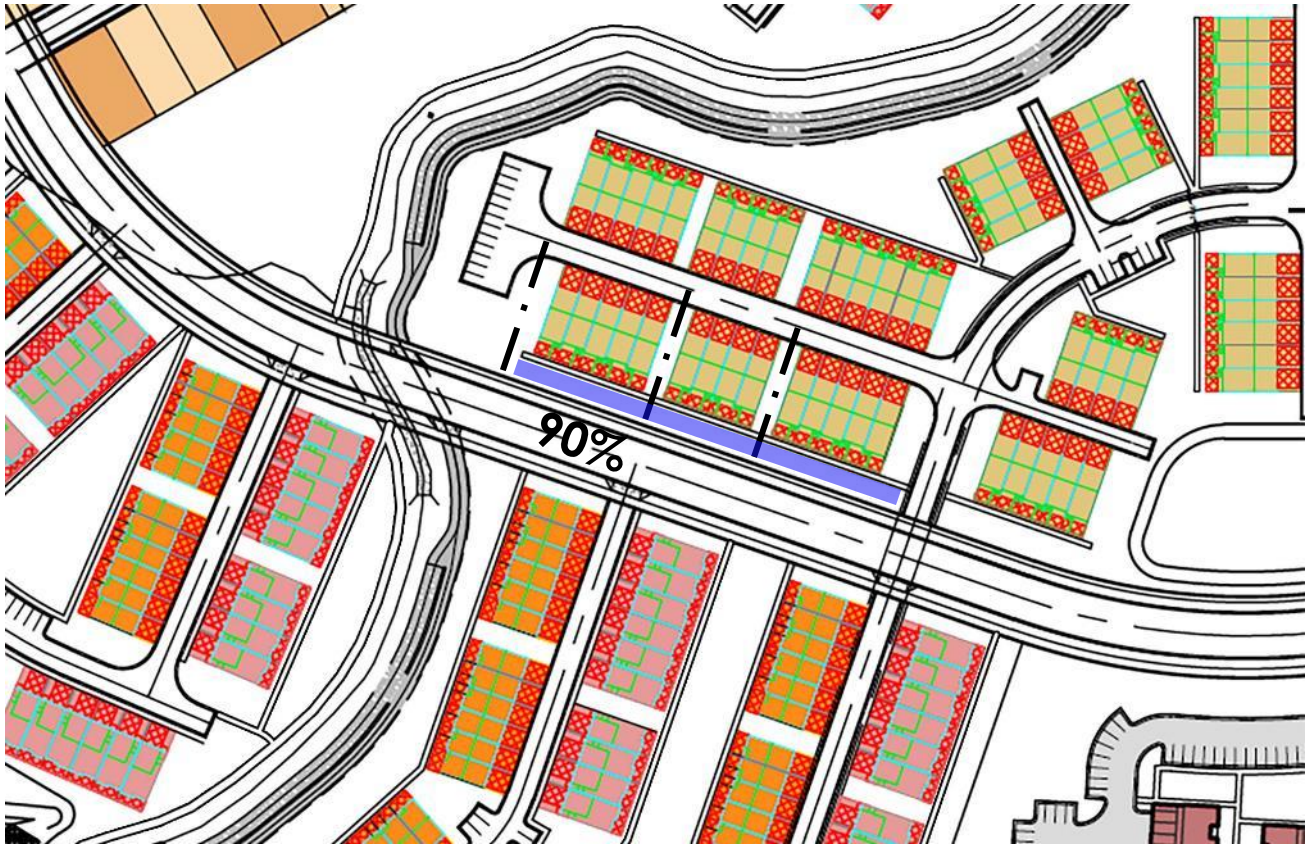
[7] In the NV and UV zone Townhouses shall be located behind commercial buildings and not occupy the commercial street frontage.

Figure 3.6 (1). Townhouse Green Courtyard

Building Type		Permitted Sub-Districts			
Townhouse		NV	NOS	UV	RR
	Permitted	yes [7]	yes	yes [7]	yes
	(1) Building Siting Refer to Figure 3.6 (1).				
	Multiple Principal Buildings	permitted [1 and 6]	permitted [1]	permitted [1 and 6]	permitted [1]
a	Front Property Line Coverage	65% [2]	65% [2]	65% [2]	65% [2]
	Occupation of Corner	required	no	required	no
b	Front Build to Zone	10' to 20'	10' to 20'	10' to 20'	10' to 20'
c	Corner Build to Zone	10' to 15'	10' to 15'	10' to 15'	10' to 15'
d	Minimum Side Yard Setback	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings	0' per unit; 15' between buildings
e	Minimum Rear Yard Setback	15' [3]	15' [3]	15' [3]	15' [3]
f	Minimum Unit Width Maximum Building Width	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building	20' per unit maximum of 6 units per building
g	intentionally blank				
h	intentionally blank				
i	Parking	rear yard	rear yard	rear yard	rear yard
j	Vehicular Access	from alley			
	(2) Height Refer to Figure 3.6 (2).				
k	Minimum Overall Height	2 story [5]	2 story [5]	2 story [5]	2 story [5]
l	Maximum Overall Height (42')	3 stories	3 stories	3 stories	3 stories
m	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'	9' 14'	9' 14'
	(3) Uses Refer to 2.0 Uses for permitted uses.				
n	Ground Story	live/work	residential	live/work	residential
o	Upper Story		residential		residential
p	Parking	permitted behind buildings in garage and driveways			
q	Required Occupied Space	15' deep on all full floors from the front facade			
	(4) Street Facade Requirements Refer to Figure 3.6 (3).				
r	Minimum Transparency per each Story	15%	15%	15%	15%
s	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
t	Front Facade Permitted Entrance Type	stoop, porch	stoop, porch	stoop, porch	stoop, porch
u	Principal Entrance Location per Unit	front			front
v	Vertical Facade Divisions	each townhouse unit shall have a vertical division with materials per unit			
w	Horizontal Facade Divisions	required within 3' of the top of any visible basement or ground story			
	(5) Roof Type Requirements Refer to 3.12				
	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
	Tower	permitted	permitted	permitted	permitted

Table 3.6 (1). Townhouse Building Table: see letters on left and corresponding Figures 3.6(2)-(4).

- Proposal: Front property line coverage to allow 75% - 100% so long as it is deemed as common area/limited common area and maintained by an HOA



3.4 Stacked Residential Building

1. Description and Intent

The stacked residential building type is limited in terms of uses by the district within which it is located, generally housing and/or residential uses. The stacked residential building is intended to be built close to the front and corner property lines, allowing easy access to passing pedestrians and transit riders. Parking may be provided in the rear of the lot, internally in the building, or, in some cases, one double-loaded aisle of parking is permitted in the interior or the side yard at the front property line.

2. Regulations

Regulations for the stacked residential type are defined in the adjacent table.

Footnotes:

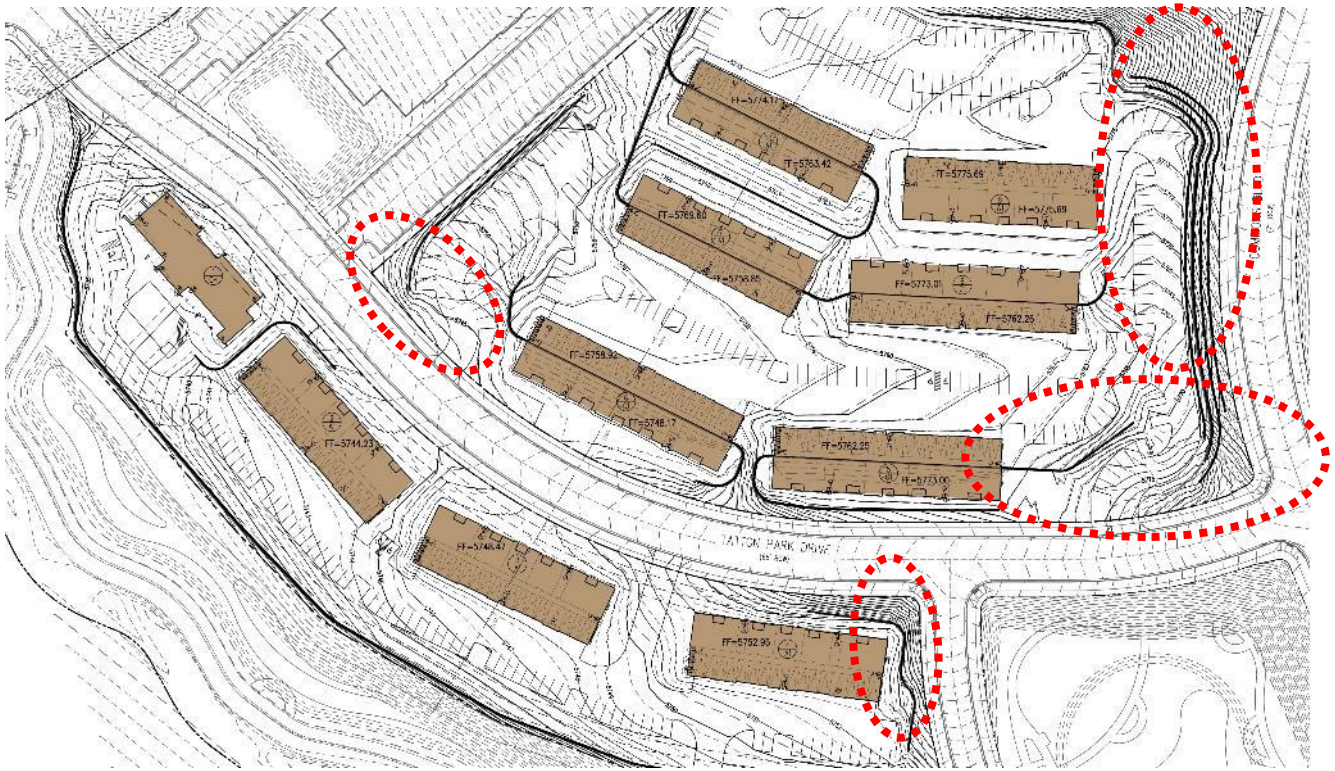
[1] A courtyard covering up to 35% of the front facade is permitted and may contribute to the front lot line coverage requirement.
[2] Lots wider than 140 feet permit one double-loaded aisle of parking (maximum width of 72 feet) located perpendicular to the front property line, which is exempt from front property line coverage.
[3] Buildings taller than three stories shall have a step back of a minimum 10 feet, which is located in between top of first story to the top of the third story. The step back is required on street frontage sides only. As a substitute for a stepback, a combination of 1' to 2' facade depth variations, balconies, overhangs, and decks are permitted. Height variation required, as per 3.2 (2) d
[4] Ground floor up to 20' shall count as one story
[5] Buildings facing Village & Neighborhood Connector streets are permitted.

Building Type		Permitted Sub-Districts			
Stacked Residential		NV	NOS	UV	RR
	(1) Building Siting Refer to Figure 3.4 (1).				
	Permitted Building Type	yes	yes with clustering [4, 5]	yes	no
	Multiple Principal Buildings	permitted	permitted		
a	Front Property Line Coverage	80% [1]	80% [1]		
	Occupation of Corner	required	required		
b	Front Build to Zone	0' to 10'	10' to 20'		
c	Corner Build to Zone	10' to 20'	10' to 20'		
d	Minimum Side Yard Setback	0'	0'		
e	Minimum Rear Yard Setback	5'	5'		
f	Minimum Lot Width Maximum Lot Width	70' none [2]	70' none [2]		
g	Parking and Loading Location	rear or side yard	rear or side yard		
h	Intentionally Blank				
i	Vehicular Access	maximum 1 per 200' frontage or UDOT requirement	maximum 1 per 200' frontage or UDOT requirement		
	(2) Height Refer to Figure 3.4 (2).				
j	Minimum Overall Height	2 story	2 story		
k	Maximum Overall Height (56')	4 stories [3, 4]	3 stories NOS, UV 4 stories [3, 4]		
l	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'		
	(3) Uses Refer to 3.0 Uses for permitted uses.				
m	All Stories	residential			
n	Balcony	minimum 5' depth and 60 square feet, minimum of 50% of all units are required to have balconies			
o	Parking within Building	permitted fully in basement and may partially protrude above grade. Allowed in rear of upper floors			
	(4) Street Facade Requirements Refer to Figure 3.4 (3).				
p	Minimum Transparency per Each Story	25%	25%		
q	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
r	Front Facade Entrance Type	stoop, porch	stoop, porch		
	Principal Entrance Location	front facade	front facade		
s	Required Number of Street Entrances	1 per each 30' of front facade	1 per each 100' of front facade		
t	Vertical Facade Divisions	minimum every 30' of facade width			
u	Horizontal Facade Divisions	required within 3' of the top of any visible basement and of the ground story, and the top of 3rd story			
v	Building Stepback	minimum horizontal distance 10 feet required at top of 3rd story			
	(5) Roof Type Requirements Refer to Figure 3.14				
w	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
x	Tower	permitted			

Table 3.4(1). Stacked Residential Building Table: see letters on left and corresponding Figures 3.4(1)-(3)4.

	Multiple Principal Buildings	permitted	permitted
a	Front Property Line Coverage	80% [1]	80% [1]
	Occupation of Corner	required	required

- Proposal: The front property line coverage may be reduced when site topography has unbuildable areas. Access drives from public streets shall be excluded from the front property line coverage calculation.



3.7 Single Family Building

1. Description and Intent

The single family building is a residential building incorporating a landscaped yard surrounding all sides of the building. The single family building typically includes one unit per building, but may include one ADU.

2. Regulations

Regulations for the single family building type are defined in the adjacent table. No more than 2 adjacent single family dwellings shall be built at the same setback and lot width. Setback variance is a minimum of 3' and lot width variance is a minimum of 5 feet. In addition, driveway maximum width is 20' for 35' to 40' wide lots, 24' for lots up to 100 and 36' for over 100' wide lots.

Footnotes:

[1] Each building shall meet all requirements of the single family building type.

[2] When multiple buildings are located on a single lot, each building shall meet the front property line coverage requirement.

[3] Rear yard setback for detached garages on alleys is 5 feet.

[4] Street facing garage width is measured as the maximum percentage of total lot width

[5] Garages shall be a minimum setback from front of building (not including porch or stoop).

	Building Type Single Family	Permitted Sub-Districts			
		NV	NOS	UV	RR
	Permitted	no	yes	yes, using NOS standards	yes
	(1) Building Siting Refer to Figure 3.7 (1).				
	Multiple Principal Buildings		not permitted		not permitted
a	Front Property Line Coverage		65% [2]		35% [2]
	Occupation of Corner		recommended		recommended
b	Front Setback Minimum		10'		20'
b	Front Setback Maximum		25'		35'
c	Minimum Side Yard Setback		4' total 10'		5' total 15'
d	Minimum Rear Yard Setback		15' [3]		10' [3]
e	Minimum Lot Width		35'		45'
f	Minimum Lot Depth		70'		80'
g	Parking Location		rear yard/side on arterials/ collectors		rear yard/side on arterials/ collectors
h	Garage Door Maximum Width		50% [4]		40% [4]
i	Garage Setback (from Facade)		5 [5]		5 [5]
	Garage Door Setback Minimum		25'		25'
j	Vehicular Access	from alley; if no alley exists, 1 driveway(max 22' width) per street frontage			
	(2) Height Refer to Figure 3.8 (2).				
k	Minimum Overall Height		2 story [1]		1 story [1]
l	Maximum Overall Height		3 stories		3 stories
m	All Stories: Minimum Height / Maximum Height		9' / 14'		9' / 14'
	(3) Uses Refer to 3.0 Uses for permitted uses.				
n	All Stories	residential only			
	(4) Street Facade Requirements Refer to Figure 3.7 (3).				
o	Minimum Transparency per each Story	15%			
p	Blank Wall Limitations	required as per 3.2.4 (2)			
q	Front Facade Entrance Type	stoop, porch			
q	Principal Entrance Location per Unit	front, corner, or corner side facade			
q	Required Number of Street Entrances	1 per building			
	(5) Roof Type Requirements Refer to 5.12				
s	Permitted Roof Types	sloped, pitched, flat, green/vegetative			

Table 3.7 (1). Mixed-use Building Table: see letters on left and corresponding Figures 3.7(1)-(3).

URBAN DESIGN PRINCIPLES

- Minimize visual dominance of the garage door by incorporating other architectural features on the primary façade
- Typical solutions promote living spaces/entry in front of the garage plane
- Other solutions incorporate a variety of architectural elements on the façade that are visually prominent and command more attention than the garage door

i	Garage Setback (from Facade)		5 [5]	5 [5]

3.7 Single Family Building

1. Description and Intent

The single family building is a residential building incorporating a landscaped yard surrounding all sides of the building. The single family building typically includes one unit per building, but may include one ADU.

2. Regulations

Regulations for the single family building type are defined in the adjacent table. No more than 2 adjacent single family dwellings shall be built at the same setback and lot width. Setback variance is a minimum of 3' and lot width variance is a minimum of 5 feet. In addition, driveway maximum width is 20' for 35' to 40' wide lots, 24' for lots up to 100 and 36' for over 100' wide lots.

Footnotes:

[1] Each building shall meet all requirements of the single family building type.

[2] When multiple buildings are located on a single lot, each building shall meet the front property line coverage requirement.

[3] Rear yard setback for detached garages on alleys is 5 feet.

[4] Street facing garage width is measured as the maximum percentage of total lot width

[5] Garages shall be a minimum setback from front of building (not including porch or stoop).

Building Type Single Family		Permitted Sub-Districts			
		NV	NOS	UV	RR
	Permitted	no	yes	yes, using NOS standards	yes
	(1) Building Siting Refer to Figure 3.7 (1).				
	Multiple Principal Buildings		not permitted		not permitted
a	Front Property Line Coverage		65% [2]		35% [2]
	Occupation of Corner		recommended		recommended
b	Front Setback Minimum		10'		20'
b	Front Setback Maximum		25'		35'
c	Minimum Side Yard Setback		4' total 10'		5' total 15'
d	Minimum Rear Yard Setback		15' [3]		10' [3]
e	Minimum Lot Width		35'		45'
f	Minimum Lot Depth		70'		80'
g	Parking Location		rear yard/side on arterials/ collectors		rear yard/side on arterials/ collectors
h	Garage Door Maximum Width		50% [4]		40% [4]
i	Garage Setback (from Facade)		5 [5]		5 [5]
	Garage Door Setback Minimum		22'		25'
j	Vehicular Access	from alley; if no alley exists, 1 driveway(max 22' width) per street frontage			
	(2) Height Refer to Figure 3.8 (2).				
k	Minimum Overall Height		2 story [4]		1 story [4]
l	Maximum Overall Height		3 stories		3 stories
m	All Stories: Minimum Height / Maximum Height		9' / 14'		9' / 14'
	(3) Uses Refer to 3.0 Uses for permitted uses.				
n	All Stories	residential only			
	(4) Street Facade Requirements Refer to Figure 3.7 (3).				
o	Minimum Transparency per each Story	15%			
p	Blank Wall Limitations	required as per 3.2.4 (2)			
q	Front Facade Entrance Type	stoop, porch			
q	Principal Entrance Location per Unit	front, corner, or corner side facade			
q	Required Number of Street Entrances	1 per building			
	(5) Roof Type Requirements Refer to 5.12				
s	Permitted Roof Types	sloped, pitched, flat, green/vegetative			

Table 3.7 (1). Mixed-use Building Table: see letters on left and corresponding Figures 3.7(1)-(3).

CONCERN

- Recessed garage requirements on small lot (< 45') single family product create unbalanced entrance massing and awkward interior spaces

i	Garage Setback (from Facade)		5 [5]	5 [5]

3.7 Single Family Building

1. Description and Intent

The single family building is a residential building incorporating a landscaped yard surrounding all sides of the building. The single family building typically includes one unit per building, but may include one ADU.

2. Regulations

Regulations for the single family building type are defined in the adjacent table. No more than 2 adjacent single family dwellings shall be built at the same setback and lot width. Setback variance is a minimum of 3' and lot width variance is a minimum of 5 feet. In addition, driveway maximum width is 20' for 35' to 40' wide lots, 24' for lots up to 100 and 36' for over 100' wide lots.

Footnotes:

[1] Each building shall meet all requirements of the single family building type.

[2] When multiple buildings are located on a single lot, each building shall meet the front property line coverage requirement.

[3] Rear yard setback for detached garages on alleys is 5 feet.

[4] Street facing garage width is measured as the maximum percentage of total lot width

[5] Garages shall be a minimum setback from front of building (not including porch or stoop).

	Building Type Single Family	Permitted Sub-Districts			
		NV	NOS	UV	RR
	Permitted	no	yes	yes, using NOS standards	yes
	(1) Building Siting Refer to Figure 3.7 (1).				
	Multiple Principal Buildings		not permitted		not permitted
a	Front Property Line Coverage		65% [2]		35% [2]
	Occupation of Corner		recommended		recommended
b	Front Setback Minimum		10'		20'
b	Front Setback Maximum		25'		35'
c	Minimum Side Yard Setback		4' total 10'		5' total 15'
d	Minimum Rear Yard Setback		15' [3]		10' [3]
e	Minimum Lot Width		35'		45'
f	Minimum Lot Depth		70'		80'
g	Parking Location		rear yard/side on arterials/ collectors		rear yard/side on arterials/ collectors
h	Garage Door Maximum Width		50% [4]		40% [4]
i	Garage Setback (from Facade)		5 [5]		5 [5]
	Garage Door Setback Minimum		22'		25'
j	Vehicular Access	from alley; if no alley exists, 1 driveway(max 22' width) per street frontage			
	(2) Height Refer to Figure 3.8 (2).				
k	Minimum Overall Height		2 story [4]		1 story [4]
l	Maximum Overall Height		3 stories		3 stories
m	All Stories: Minimum Height / Maximum Height		9' / 14'		9' / 14'
	(3) Uses Refer to 3.0 Uses for permitted uses.				
n	All Stories	residential only			
	(4) Street Facade Requirements Refer to Figure 3.7 (3).				
o	Minimum Transparency per each Story	15%			
p	Blank Wall Limitations	required as per 3.2.4 (2)			
q	Front Facade Entrance Type	stoop, porch			
q	Principal Entrance Location per Unit	front, corner, or corner side facade			
q	Required Number of Street Entrances	1 per building			
	(5) Roof Type Requirements Refer to 5.12				
s	Permitted Roof Types	sloped, pitched, flat, green/vegetative			

Table 3.7 (1). Mixed-use Building Table: see letters on left and corresponding Figures 3.7(1)-(3).

- Proposal: The second story to be utilized as the required feature that protrudes in front of the garage on some of the single-family dwellings; living space protrude in front of the garage by 2 feet instead of 5 feet

i	Garage Setback (from Facade)	~~5~~ [5] **2'**	~~5~~ [5] **2'**

CURRENT

Garage door remains most dominant visual plane

Awkward 5’ architectural appendage for front door

Porch feels exposed

Increased square footage is contained in a corridor

PROPOSED

Garage door becomes a subservient visual plane

Second story 2’ cantilever massing with columns becomes focal point

Porch feels enclosed

Increased square footage is contained in a bedroom

3.9 Craftsman

(1) The Craftsman style is characterized by simplicity, the expression of certain structural members, and attention to wood joinery, especially at porches. Craftsman homes feature moderate-pitched gable roofs with wide overhangs and large porches with substantial columns and bases.

(2) The principal features of the Craftsman style are low- to moderate-pitched gable roofs with wide overhangs, exposed rafters at porches, and, wherever feasible, generous porches with substantial columns and bases. Dormers are typical on 1½-story designs. Symmetry is optional and depends on the orientation of the principal roof.

(3) Ornamentation is restrained. Details that are characteristic of the style include exposed rafter tails, tapered columns and trim elements, and diagonal knee braces at gable ends. Wall materials may include stone, brick, limited stucco (not to exceed 20% of facade), shingles, and siding (no vinyl).

(4) Massing

- A side gable, center gable facing the street, or cross gable with dormers is typical for the primary roof form.
- One-story and 1½-story massing compositions are permitted, although two-story compositions can also be acceptable.
- Dormers are typical in 1½-story designs.
- Emphasis should be on horizontal rather than vertical lines.

(5) Roofs

- Low-sloping gable roofs with wide overhangs are typical.
- Shed or pitched dormers are common.
- Generously sized eaves with exposed decorative rafters are characteristic of the style, but not required.
- Main roof pitches: 6:12 to 8:12. Secondary hip or shed roof pitches: 3:12 to 6:12.
- Roof overhangs: 12-30 inches at rakes and eaves

(6) Windows and Doors

- Individual windows are typically square or vertically oriented.
- Windows are often mulled together in pairs or threes.
- Double-hung windows with divided panes in upper sashes only, usually in a three-over-one configuration, are typical.
- Limited use of small accent windows and angled bays is encouraged. A single, rectilinear door is typical.
- Large panes in doors are common and are often divided to match the windows.
- Wide trim (5 to 6 inches) with head trim extending past the jamb is typical for doors and windows.
- Tapered side trims are typical.

(7) Porch/Entry

- Porches facing the street are common.
- Porch columns typically sit on wider bases or low walls.
- Tapered or double-columns with header and base details are common.

(8) Details

- Expression of structural members and attention to wood joinery is characteristic of the style.
- Beams, knee braces, and brackets are often found at gable ends.
- Extended lintels over door and porch openings are common.
- Tapered elements, including trim work and columns, are common.

(9) Minimum Required Elements

- ☐ Front porch that addresses the street, either full or partial-width (60 square-foot minimum)
- ☐ Square columns (tapered or straight), stone or brick plinths, structural or decorative beams or braces under gables,
- ☐ Decorative trim (5 to 6-inch width) around windows with emphasis on top and bottom (no stucco)
- ☐ Stone or brick on all street facing facades (20% minimum), lap siding or batt and board siding (no vinyl) on all four sides of the structure
- ☐ Main roof pitches 6:12 to 8:12, wide eave overhangs (12-inch minimum)
- ☐ Recessed (2-foot minimum from front facade), decorative garage door with small pane windows
- ☐ Brick or stone to follow finished grade within 12 inches
- ☐ Complimentary veneered or textured/colored foundations, where exposed to view

Figure 3.9 (1). Photo examples

CONCERN

- Check boxes for craftsman and mountain modern architectural styles require 60 square-foot minimum front porches
- Proposed townhome elevations have small covered porched on some of the entrances to maintain architectural purity and balance

(9) Minimum Required Elements

☐ Front porch that addresses the street, either full or partial-width (60 square-foot minimum)

3.9 Craftsman

(1) The Craftsman style is characterized by simplicity, the expression of certain structural members, and attention to wood joinery, especially at porches. Craftsman homes feature moderate-pitched gable roofs with wide overhangs and large porches with substantial columns and bases.

(2) The principal features of the Craftsman style are low- to moderate-pitched gable roofs with wide overhangs, exposed rafters at porches, and, wherever feasible, generous porches with substantial columns and bases. Dormers are typical on 1½-story designs. Symmetry is optional and depends on the orientation of the principal roof.

(3) Ornamentation is restrained. Details that are characteristic of the style include exposed rafter tails, tapered columns and trim elements, and diagonal knee braces at gable ends. Wall materials may include stone, brick, limited stucco (not to exceed 20% of facade), shingles, and siding (no vinyl).

(4) Massing

- A side gable, center gable facing the street, or cross gable with dormers is typical for the primary roof form.
- One-story and 1½-story massing compositions are permitted, although two-story compositions can also be acceptable.
- Dormers are typical in 1½-story designs.
- Emphasis should be on horizontal rather than vertical lines.

(5) Roofs

- Low-sloping gable roofs with wide overhangs are typical.
- Shed or pitched dormers are common.
- Generously sized eaves with exposed decorative rafters are characteristic of the style, but not required.
- Main roof pitches: 6:12 to 8:12. Secondary hip or shed roof pitches: 3:12 to 6:12.
- Roof overhangs: 12-30 inches at rakes and eaves

(6) Windows and Doors

- Individual windows are typically square or vertically oriented.
- Windows are often mulled together in pairs or threes.
- Double-hung windows with divided panes in upper sashes only, usually in a three-over-one configuration, are typical.
- Limited use of small accent windows and angled bays is encouraged. A single, rectilinear door is typical.
- Large panes in doors are common and are often divided to match the windows.
- Wide trim (5 to 6 inches) with head trim extending past the jamb is typical for doors and windows.
- Tapered side trims are typical.

(7) Porch/Entry

- Porches facing the street are common.
- Porch columns typically sit on wider bases or low walls.
- Tapered or double-columns with header and base details are common.

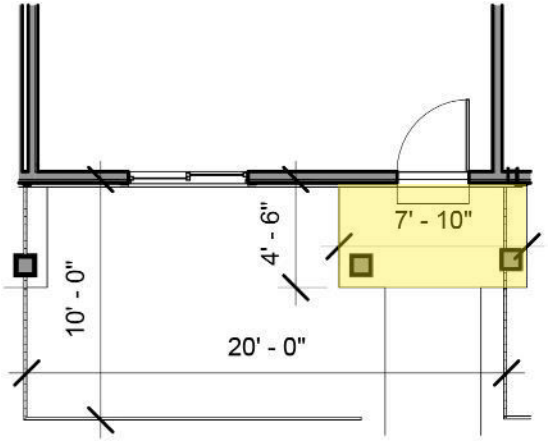
(8) Details

- Expression of structural members and attention to wood joinery is characteristic of the style.
- Beams, knee braces, and brackets are often found at gable ends.
- Extended lintels over door and porch openings are common.
- Tapered elements, including trim work and columns, are common.

(9) Minimum Required Elements

- ☐ Front porch that addresses the street, either full or partial-width (60 square-foot minimum)
- ☐ Square columns (tapered or straight), stone or brick plinths, structural or decorative beams or braces under gables,
- ☐ Decorative trim (5 to 6-inch width) around windows with emphasis on top and bottom (no stucco)
- ☐ Stone or brick on all street facing facades (20% minimum), lap siding or batt and board siding (no vinyl) on all four sides of the structure
- ☐ Main roof pitches 6:12 to 8:12, wide eave overhangs (12-inch minimum)
- ☐ Recessed (2-foot minimum from front facade), decorative garage door with small pane windows
- ☐ Brick or stone to follow finished grade within 12 inches
- ☐ Complimentary veneered or textured/colored foundations, where exposed to view

Figure 3.9 (1). Photo examples



35 sf. (porch)

200 sf. (enclosed courtyard)

Dalton (alley-load)

(7) Minimum Required Elements

- ☐ For residential use, front door/porch addresses the street and incorporates timber columns with stone plinths/bases and timber trusses that present a focused entry to the building
- ☐ Exposed timber beams or braces under gables
- ☐ Stone (including cultured stone) on front and visible sides of the building (20% minimum), with stonework continuing to the ground where there are exposed foundations
- ☐ Complimentary veneered or textured/colored foundations, where exposed to view, in addition to any stonework as required above
- ☐ Lap siding or batt and board siding (no vinyl) on all four sides of the structure
- ☐ Wide eave overhangs (18-inch minimum)
- ☐ Metal and wood simulating architectural shingles accenting varied pitched roofs
- ☐ Recessed decorative wood or wood-like garage doors with small pane windows and wood accents. Such doors shall be recessed (2-foot minimum from the front façade) from the front plane of the building, and preferably turned away from the street
- ☐ Multifamily structures shall incorporate stone or brick on the ground floor (20% minimum on each street facing elevation), include a private outdoor space or balcony of 60-square-foot minimum for each unit, and a covered front porch for each unit to address the street or common area
- ☐ Commercial and mixed use buildings shall incorporate stone or brick on the ground floor (20% minimum on each street facing elevation), balconies of 60-square-foot minimum for residential uses, and metal roofed shed roof/awnings(minimum 6-foot depth) to protect pedestrians from inclement weather in building entrance areas

- Proposal: Allow the multifamily structures language "a private outdoor space or balcony of 60-square feet minimum" from the check box to be applied on all architectural styles (see section 3.10.7, 3.11.7, 3.12.7)

Dalton (alley-load)

Oliver (Alley-load)

Oliver (Alley-load)

Millbrook (Front-load)

Millbrook (Front-load)

Millbrook (Front-load)

Millbrook (Front-load)

3. Uses

The following explains the line item requirements for each building. Refer to Section 2.0 for uses. The requirements in this section of the Building Type Tables may limit uses within a specific building type.

(1) Ground and Upper Story. The uses or category of uses which may occupy the ground and/or upper story of a building.

(2) Parking Within Building. The area(s) of a building in which parking is permitted within the structure.

(3) Required Occupied Space. The area(s) of a building that shall be designed as occupied space, defined as interior building space regularly occupied by the building users. It does not include storage areas, utility space, or parking.

4. Street Facade Requirements

Street facade requirements apply only to facades facing a public or private right-of-way, including a parking lot. 360 degree architecture is required with no blank walls. The rear or interior side yard facades are not required to meet these standards unless otherwise stated. Large format store fronts are to be designed and built to represent a main street-like appearance with smaller storefronts.

(1) Minimum Ground Story and Upper Floor Transparency/Measuring Transparency per Facade. The minimum amount of transparency required on street facades with street frontage.
- (a) Transparency is any glass in windows and/or doors, including any mullions, that is highly transparent with low reflectance.
- (i) Ground story transparency, when defined separately from the overall minimum transparency, shall be measured between 2 feet and 8 feet from the average grade at the base of the front facade.
- (ii) A general minimum transparency requirement shall be measured from floor to floor of each story.

(2) Blank Wall Limitations. A restriction of the amount of windowless area permitted on a facade with street frontage. If required, the following shall both be met for each story:
- (a) No rectangular area greater than 30% of a story's facade, as measured from floor to floor, may be windowless.
- (b) No horizontal segment of a story's facade greater than 15 feet in width may be windowless.

(3) Entrance Type. The entrance type(s) permitted for the entrance(s) of a given building type.

(4) Principal Entrance Location. The facade on which the primary building entrance is to be located. No front facades are anticipated along US 40. Front facades may access parking lots where sidewalk dining opportunities and or plazas are designed next to the buildings.

(5) Required Number of Street Entrances. The minimum number of and maximum spacing between entrances on the ground floor building facade with street frontage.

(6) Vertical Facade Divisions. The use of a vertically oriented expression line or form to divide the facade into increments no greater than the dimension shown, as measured along the base of the facade. Elements may include a column, pilaster, or other continuous vertical ornamentation that is a minimum of one and a half inch depth.

(7) Horizontal Facade Divisions. The use of a horizontally oriented expression line or form to divide portions of the facade into horizontal divisions. Elements may include a cornice, belt course, molding, string courses, or other continuous horizontal ornamentation a minimum of one and a half inch depth.

5. Unique Architecture

All development within NVOZ is intended to have a unique sense of place and custom architecture. Multiple requirements are found throughout this ordinance which require custom design for each building.

No single family buildings on the same block face (on both sides of the street) may have the same street facing facade within a 400-foot distance. Building facade design must distinctly vary three of the following five elements:

- Color
- Roof Line
- Materials
- Window Locations and Door Locations
- Exterior Wall Changes (to Create Shadow Patterns).

6. Roof Type

The following explains the roof requirements for each building:

(1) Permitted Roof Type. The roof type(s) permitted for a given building type. Refer to 3.14. Roof Types for more specific requirements.

(2) Tower. A vertical building extension that may be permitted in conjunction with another roof type on certain building types. Refer to 3.14. Roof Types.

5. Unique Architecture

All development within NVOZ is intended to have a unique sense of place and custom architecture. Multiple requirements are found throughout this ordinance which require custom design for each building.

No single family buildings on the same block face (on both sides of the street) may have the same street facing facade within a 400-foot distance. Building facade design must distinctly vary three of the following five elements:

- Color
- Roof Line
- Materials
- Window Locations and Door Locations
- Exterior Wall Changes (to Create Shadow Patterns).

CONCERN

- 400' distance appropriate for 1/4 – acre lots
- Propose repetition language for small SFD lots

- Proposal: The same elevation consisting of the architectural style, color, or material package shall not be built on lots directly across or diagonally across the street, or within 120' on the same side of the street.

Aspen (Craftsman Elevation)

Aspen (Farmhouse Elevation)

Aspen (Mountain Modern Elevation)

Aspen (North Village Natural Elevation)

Beechwood (Farmhouse Elevation)

Beechwood (Mountain Modern Elevation)

Beechwood (North Village Natural Elevation)

Clover (Farmhouse Elevation)

Clover (Mountain Modern Elevation)

Clover (North Village Natural Elevation)

Brighton (Craftsman Elevation)

Brighton (Farmhouse Elevation)

Brighton (Mountain Modern Elevation)

Brighton (North Village Natural Elevation)

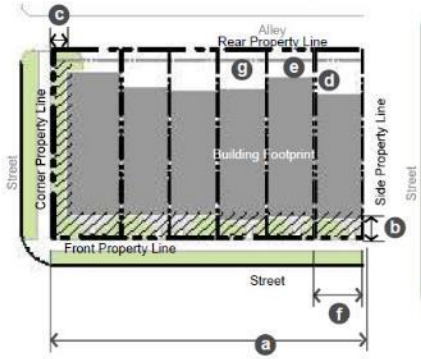
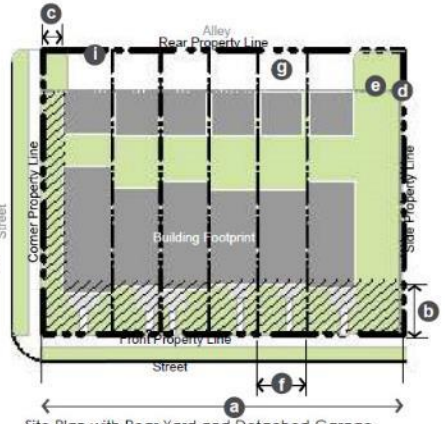


Figure 3.6 (2) Townhouse



Site Plan with Rear Yard and Detached Garage

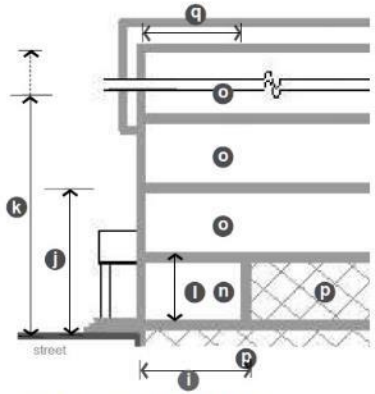


Figure 3.6 (3). Townhouse Building: Height and Use Requirements

Figure 3.6 (4). Townhouse Building: Street Facade Requirements

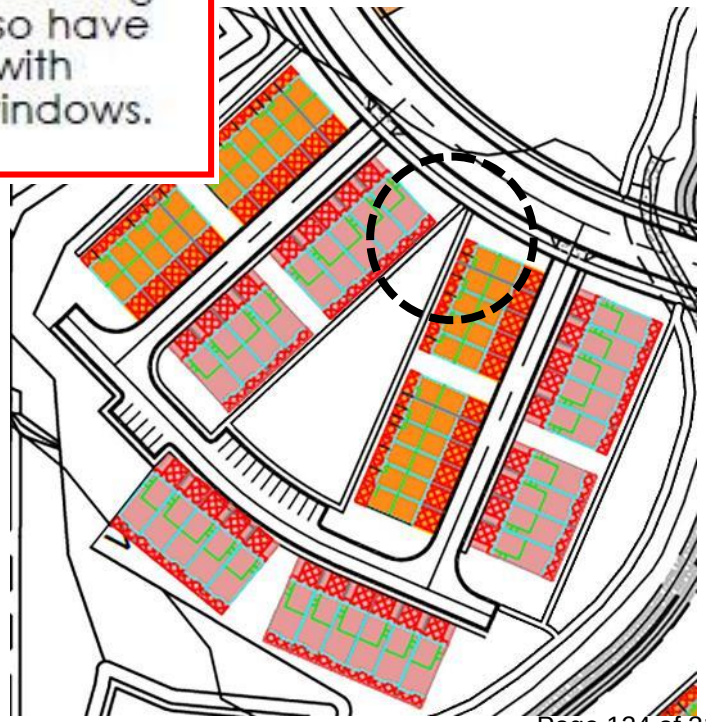
Figure 3.6 (5). Townhouses facing common greens, must also have three-sided architecture with wrapping porches and windows.

Figure 3.6 (6). Photo examples

CONCERN

- Porch wrapping requirement
- Porched facing the street concept is repeated in the architectural style checklists
- We agree that architectural detail and fenestration should wrap that side of the building

Figure 3.6 (5). Townhouses facing common greens, must also have three-sided architecture with wrapping porches and windows.



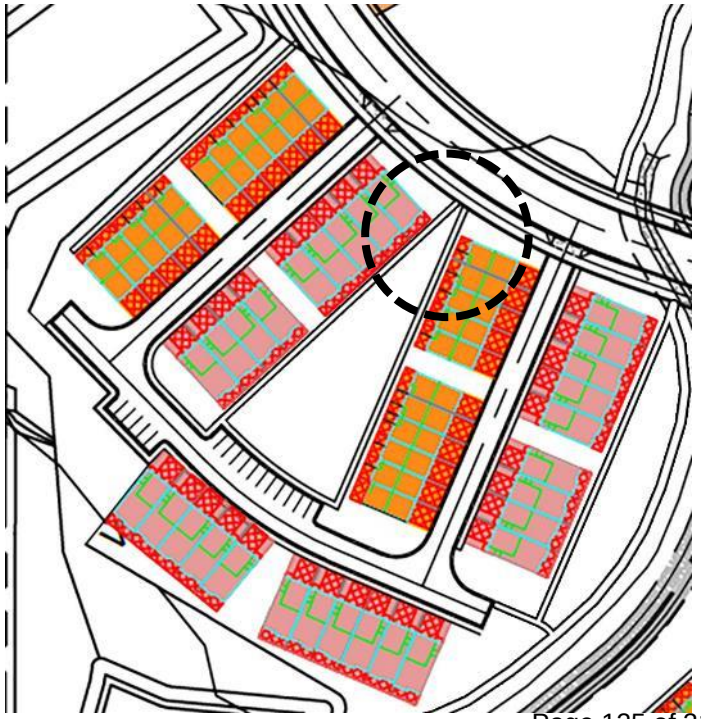
3.11.7

(7) Minimum Required Elements

- ☐ For residential use, front door/porch addresses the street and incorporates timber columns with stone plinths/bases and timber trusses that present a focused entry to the building
- ☐ Exposed timber beams or braces under gables
- ☐ Stone (including cultured stone) on front and visible sides of the building (20% minimum), with stonework continuing to the ground where there are exposed foundations
- ☐ Complimentary veneered or textured/colored foundations, where exposed to view, in addition to any stonework as required above
- ☐ Lap siding or batt and board siding (no vinyl) on all four sides of the structure
- ☐ Wide eave overhangs (18-inch minimum)
- ☐ Metal and wood simulating architectural shingles accenting varied pitched roofs
- ☐ Recessed decorative wood or wood-like garage doors with small pane windows and wood accents. Such doors shall be recessed (2-foot minimum from the front façade) from the front plane of the building, and preferably turned away from the street
- ☐ Multifamily structures shall incorporate stone or brick on the ground floor (20% minimum on each street facing elevation), include a private outdoor space or balcony of 60-square-foot minimum for each unit, and a covered front porch for each unit to address the street or common area
- ☐ Commercial and mixed use buildings shall incorporate stone or brick on the ground floor (20% minimum on each street facing elevation), balconies of 60-square-foot minimum for residential uses, and metal roofed shed roof/awnings(minimum 6-foot depth) to protect pedestrians from inclement weather in building entrance areas

CONCERN

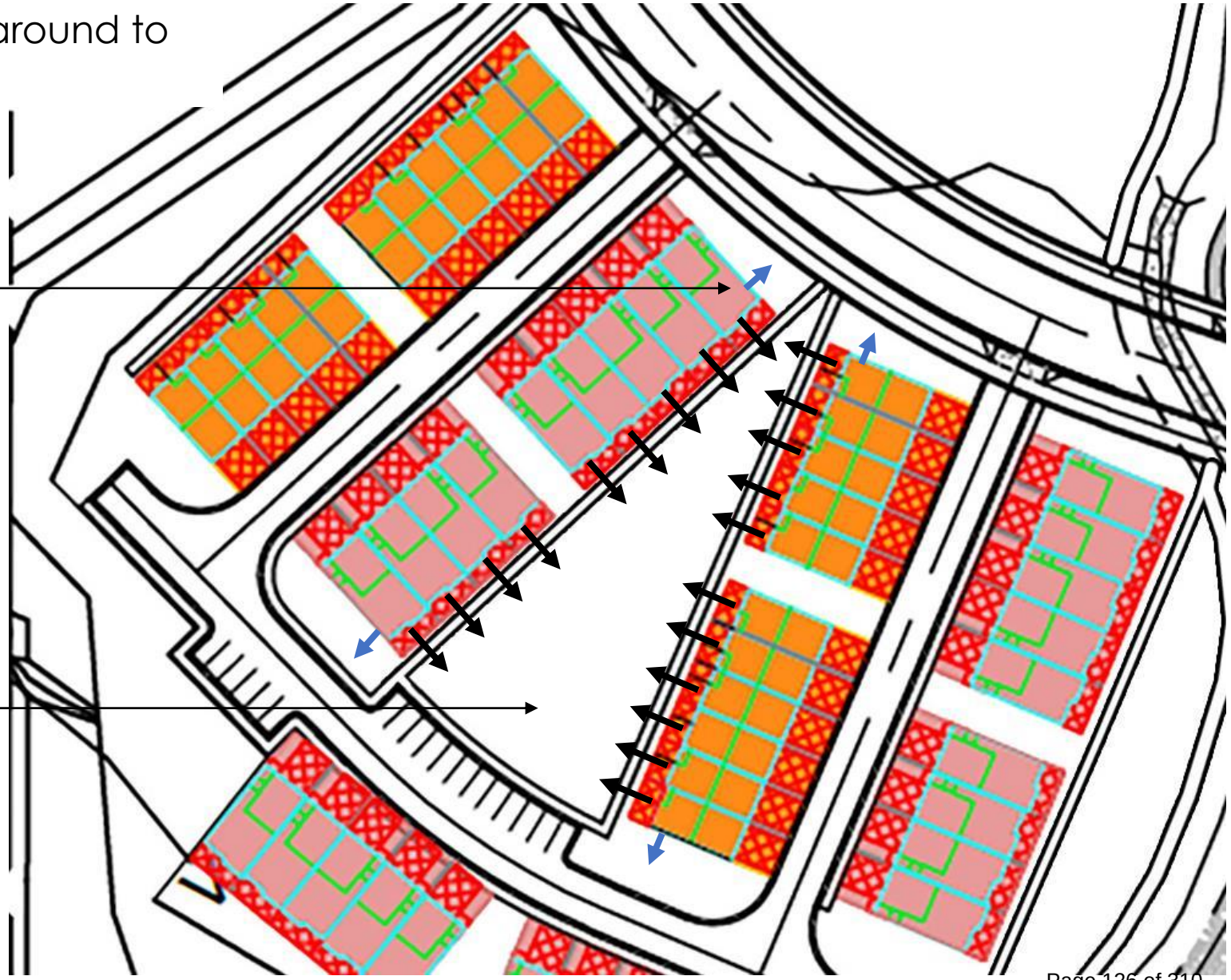
- Porch wrapping requirement
- Porched facing the street concept is repeated in the architectural style checklists
- We agree that architectural detail and fenestration should wrap that side of the building



- Proposal: Remove wrapping porch requirement. Porches will face courtyard space. Windows and architectural style elements will wrap around to street side.

Avoid “orphaned porches” on the end units by requiring them to be oriented to the street

The courtyard becomes the primary pedestrian space (not the street)



3.4 Stacked Residential Building

1. Description and Intent

The stacked residential building type is limited in terms of uses by the district within which it is located, generally housing and/or residential uses. The stacked residential building is intended to be built close to the front and corner property lines, allowing easy access to passing pedestrians and transit riders. Parking may be provided in the rear of the lot, internally in the building, or, in some cases, one double-loaded aisle of parking is permitted in the interior or the side yard at the front property line.

2. Regulations

Regulations for the stacked residential type are defined in the adjacent table.

Footnotes:

[1] A courtyard covering up to 35% of the front facade is permitted and may contribute to the front lot line coverage requirement.
[2] Lots wider than 140 feet permit one double-loaded aisle of parking (maximum width of 72 feet) located perpendicular to the front property line, which is exempt from front property line coverage.
[3] Buildings taller than three stories shall have a step back of a minimum 10 feet, which is located in between top of first story to the top of the third story. The step back is required on street frontage sides only. As a substitute for a stepback, a combination of 1' to 2' facade depth variations, balconies, overhangs, and decks are permitted. Height variation required, as per 3.2 (2) d
[4] Ground floor up to 20' shall count as one story
[5] Buildings facing Village & Neighborhood Connector streets are permitted.

Building Type		Permitted Sub-Districts			
Stacked Residential		NV	NOS	UV	RR
	(1) Building Siting Refer to Figure 3.4 (1).				
	Permitted Building Type	yes	yes with clustering [4,5]	yes	no
	Multiple Principal Buildings	permitted	permitted		
a	Front Property Line Coverage	80% [1]	80% [1]		
	Occupation of Corner	required	required		
b	Front Build to Zone	0' to 10'	10' to 20'		
c	Corner Build to Zone	10' to 20'	10' to 20'		
d	Minimum Side Yard Setback	0'	0'		
e	Minimum Rear Yard Setback	5'	5'		
f	Minimum Lot Width Maximum Lot Width	70' none [2]	70' none [2]		
g	Parking and Loading Location	rear or side yard	rear or side yard		
h	Intentionally Blank				
i	Vehicular Access	maximum 1 per 200' frontage or UDOT requirement	maximum 1 per 200' frontage or UDOT requirement		
	(2) Height Refer to Figure 3.4 (2).				
j	Minimum Overall Height	2 story	2 story		
k	Maximum Overall Height (56')	4 stories [3,4]	3 stories NOS, UV 4 stories [3,4]		
l	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'		
	(3) Uses Refer to 3.0 Uses for permitted uses.				
m	All Stories	residential			
n	Balcony	minimum 5' depth and 60 square feet, minimum of 50% of all units are required to have balconies			
o	Parking within Building	permitted fully in basement and may partially protrude above grade. Allowed in rear of upper floors			
	(4) Street Facade Requirements Refer to Figure 3.4 (2).				
p	Minimum Transparency per Each Story	25%	25%		
q	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
r	Front Facade Entrance Type	stoop, porch	stoop, porch		
	Principal Entrance Location	front facade	front facade		
s	Required Number of Street Entrances	1 per each 30' of front facade	1 per each 100' of front facade		
t	Vertical Facade Divisions	minimum every 30' of facade width			
u	Horizontal Facade Divisions	required within 3' of the top of any visible basement and of the ground story, and the top of 3rd story			
v	Building Stepback	minimum horizontal distance 10 feet required at top of 3rd story			
	(5) Roof Type Requirements Refer to Figure 3.14				
w	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
x	Tower	permitted			

Table 3.4(1). Stacked Residential Building Table: see letters on left and corresponding Figures 3.4(1)-(3)4.

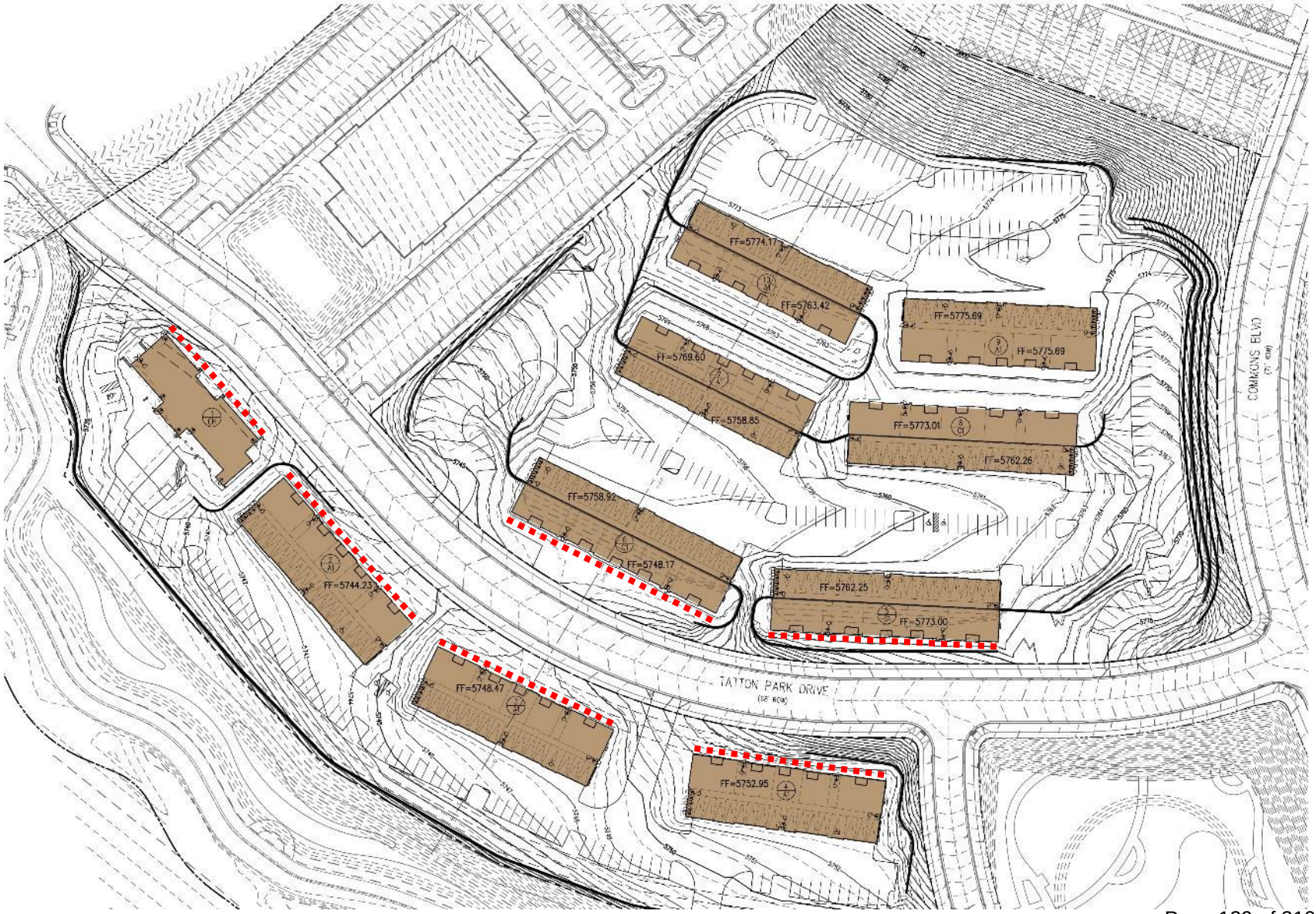
CONCERN

- Transparency requirement activates exterior elevations that will not be seen by the general public and provides fenestration into garages and other non-active spaces

p	Minimum Transparency per Each Story	25%	25%

- Proposal: Transparency requirements only apply to public street facing facades, not rear or side facades. Transparency requirement does not apply to tuck-under garages and facades facing parking lots.

- Proposal: Transparency requirements only apply to public street facing facades, not rear or side facades. Transparency requirement does not apply to tuck-under garages and facades facing parking lots.



3. Balconies

The following applies in all locations where balconies are incorporated into the facade design facing any street or parking lot. Refer to Figure 3.15 (5).

(1) Size. Balconies shall have minimum dimensions of 6 feet deep and 8 feet wide, with a total square footage of not less than 60 square feet. Balconies are required for a minimum of 50% of the units in stacked residential and mixed-use buildings. Balconies may substitute for the required facade variation on rear and side facades.

(2) Connection to Building. Balconies that are not integral to the facade shall be independently secured and unconnected to other balconies.

4. Treatments at Terminal Vistas

When a street terminates at a parcel, the parcel shall be occupied by one of the following:

(1) If the parcel is open space, any open space type with the exception of the pocket park shall be utilized and a vertical element shall terminate the view. Acceptable vertical elements include a stand or grid of trees, a sculpture, or a fountain.

(2) If the parcel is not utilized as an open space type, the front or corner side of a building, whether fronting a primary street or not, shall terminate the view. The building shall incorporate one of the following treatments to terminate the view: a mountain peak, a tower, a bay, or a courtyard. Refer to Figure 3.15 (6) for one illustration of this requirement.

Figure 3.15 (5). Balconies Integral to Facade

5. Building Variety

Building design shall vary between vertical facade divisions, where required per the building types, and from adjacent buildings by the type of dominant material or color, scale, or orientation of that material and at least two of the following:

(1) The proportion of recesses and projections.

(2) The location of the entrance and window placement, unless mixed-uses are utilized.

(3) Roof type, plane, or material, unless otherwise stated in the building type requirements.

Figure 3.15 (6). Terminal Vista of Mountain Peak

Figure 3.15 (6). Building Variety

5. Building Variety

Building design shall vary between vertical facade divisions, where required per the building types, and from adjacent buildings by the type of dominant material or color, scale, or orientation of that material and at least two of the following:

(1) The proportion of recesses and projections.

(2) The location of the entrance and window placement, unless mixed-uses are utilized.

(3) Roof type, plane, or material, unless otherwise stated in the building type requirements.

- Proposal: Material and color variations may be used as the sole requirement to meet the building variety requirements of adjacent buildings.

FRONT ELEVATION

LEFT ELEVATION

REAR ELEVATION

RIGHT ELEVATION

HIGHLAND APARTMENTS

HEBER CITY, UTAH

Building A Elevation

Oct. 23, 2023

Architecture Belgique, Inc.

FRONT ELEVATION

LEFT ELEVATION

REAR ELEVATION

RIGHT ELEVATION

HIGHLAND APARTMENTS

HEBER CITY, UTAH

Building C Elevation

Oct. 23, 2023

Architecture Belgique, Inc.

3.2 Explanation of Building Standards

The following explains and further defines the standards outlined on the tables for each building type.

1. Building Siting

The following explains the line item requirements within the first section of each building type table entitled "Building Siting." Setbacks are measured from the street ROW line or from the edge of the scenic buffer.

(1) Multiple Principal Structures. The allowance of more than one principal structure on a lot.

(2) Front Property Line Coverage/Measuring Front Property Line Coverage. Measurement defining the minimum percentage of street wall or building facade required along the street. The width of the principal structure(s) (as measured within the front build-to zone) shall be divided by the maximum width of the front build-to zone.
- (a) Certain buildings have this number set to also allow the development of a courtyard along the front property line.

(3) Occupation of Corner. Occupying the intersection of the front and corner build-to zones with a principal structure.

(4) Front Build-To Zone. The build-to zone or setback parallel to the front property line. Building components, such as awnings or signage, are permitted to extend beyond the build-to zone.
- (a) All build-To zone and setback areas not covered by building must contain either landscape, patio space, or sidewalk space.

(5) Corner Build-To Zone. The build-to zone or setback parallel to the corner property line.
- (a) All build-to zone and setback areas not covered by building must contain either landscape, patio space, or sidewalk space.
- (b) Corner build to zones do not apply to corner lots adjacent to the Highway 40/Scenic buffer.

(6) Additional Semi-Pervious Coverage. The additional percentage of a lot beyond the maximum impervious coverage, which may be surfaced in a semi-pervious material, including a green roof or pavers.

(7) Parking, Loading Location, and Parking Structure. The yard or structure in which a parking lot, detached garage, attached garage door access, loading and unloading, and associated drive is permitted.

(8) Vehicular Access. The permitted means of vehicular ingress and egress to the lot.
- (a) Alleys, when present, shall always be the primary means of vehicular access.
- (b) When alleys are not present, a driveway may be permitted per building type and, if an alternative is available, shall not be located off a major or minor collector.
- (c) Driveways widths in residential zones shall not exceed 24 feet. Driveways in the villages, and for multi-family developments, shall be appropriately sized to allow for stacked right turns (flared).

(9) Required transitions and buffering for existing residential development, A 30' landscaped buffer, that includes an undulating 4' berm planted with evergreen trees and shrubs, is required between existing residential use and the nearest new building, measured from the property line. In addition, no new building may exceed 2 stories (28') at that setback, but may increase in height by one foot with a corresponding one foot increase in setback, until the buildng type maximums are met.

2. Height

The following explains the line item requirements for each building type.

(1) Minimum Overall Height. The minimum overall height for the building shall be located within the build-to zone; stories above the required minimum height may be stepped back from the facade.

(2) Maximum Overall Height. The sum of a building's total number of stories.
- (a) Habitable stories located either completely within a pitched roof structure with dormers or in a visible basement exposed a maximum of one-half story above grade, shall be counted as half stories.
- (b) To enhance skyline appearance, mixed use building heights in the UV sub-district may increase to five stories within an 800' radius of UVU campus, as long as an average of four stories is achieved through lowered building heights, see D below.
- (c) Some building types require a building facade to step back as its height increases. If required, the upper stories of any building facade with street frontage shall be setback a designated amount beyond the building facade of the lower stories.
- (d) Height variations - maximum heights for mixed use, stacked residential, and commercial buildings shall vary with no more than 3 adjacent buildings at the same or very similar height. To meet this requirement, height variation by at least 10' is required.

(3) Ground Story and Upper Story Minimum and Maximum Height (Measuring Height). Each frontage type includes a permitted range of height in feet for each story. Additional information is as follows:
- (a) Floor height is measured in feet between the floor of a story to the floor of the story above it.
- (b) Floor height requirements apply only to street facing facades.
- (c) For single story buildings and the uppermost story of a multiple story building, floor to floor height shall be measured from the floor of the story to the tallest point of the ceiling.

4. Public Utility Easements shall be located along street frontages unless rear lot lines are considered and approved by Engineering.

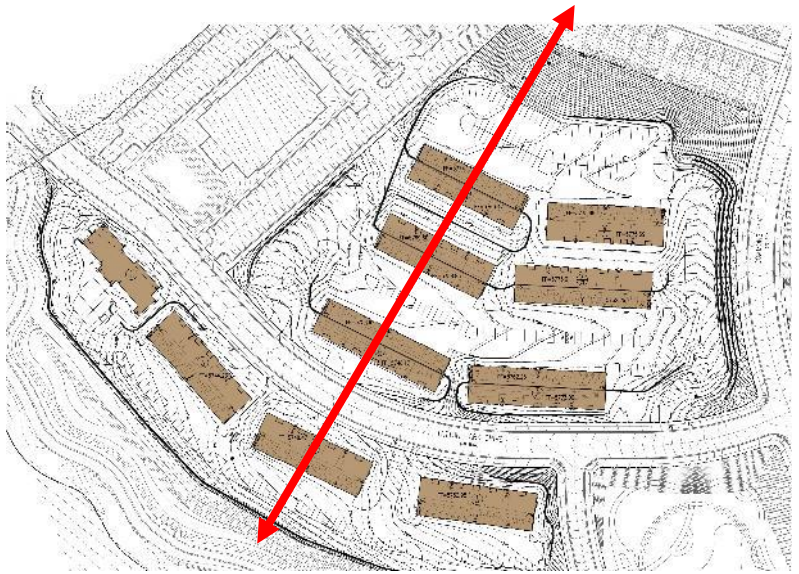
5. All utilities shall be placed underground.

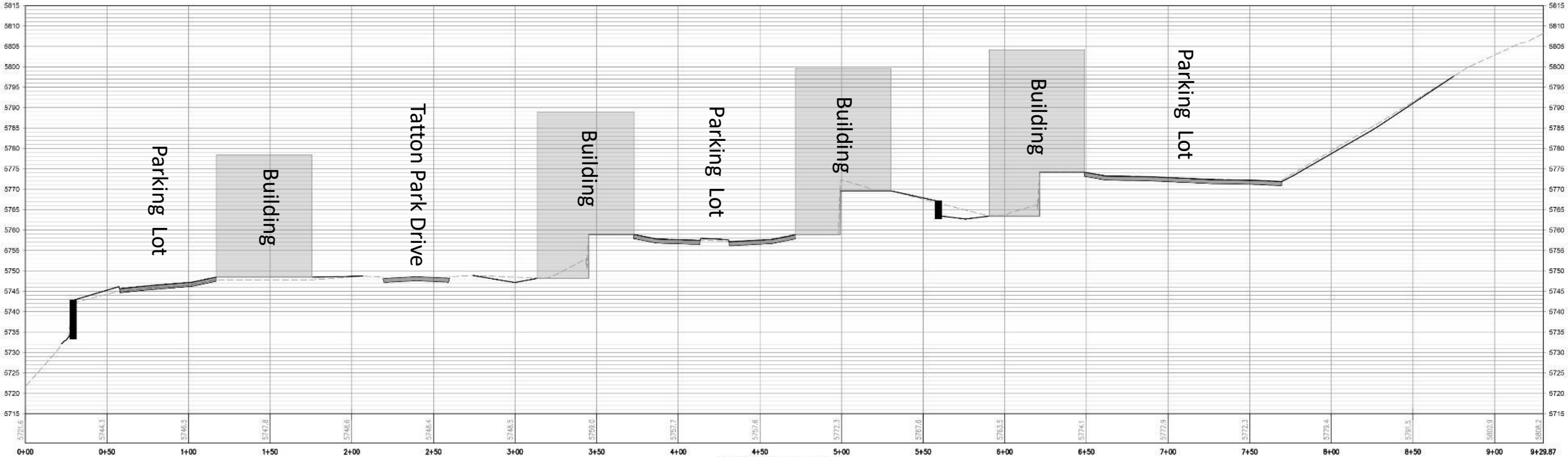
Additional ordinance definitions can be accessed in Chapter 18.08

(d) Height variations - maximum heights for mixed use, stacked residential, and commercial buildings shall vary with no more than 3 adjacent buildings at the same or very similar height. To meet this requirement, height variation by at least 10' is required.

- Proposal: Requirement only applies to adjacent buildings along the front property line which are facing a public street and on the same side of the street.

- Proposal: The height variation requirement does not apply if the natural topography of the site enables a perceived height variation between adjacent buildings. 3 / 4 split buildings shall be treated as a 3-story buildings with respect to height variation requirements.





SITE SECTION PROFILE

HORIZONTAL SCALE: 1" = 30'
VERTICAL SCALE: 1" = 12'

3.4 Stacked Residential Building

1. Description and Intent

The stacked residential building type is limited in terms of uses by the district within which it is located, generally housing and/or residential uses. The stacked residential building is intended to be built close to the front and corner property lines, allowing easy access to passing pedestrians and transit riders. Parking may be provided in the rear of the lot, internally in the building, or, in some cases, one double-loaded aisle of parking is permitted in the interior or the side yard at the front property line.

2. Regulations

Regulations for the stacked residential type are defined in the adjacent table.

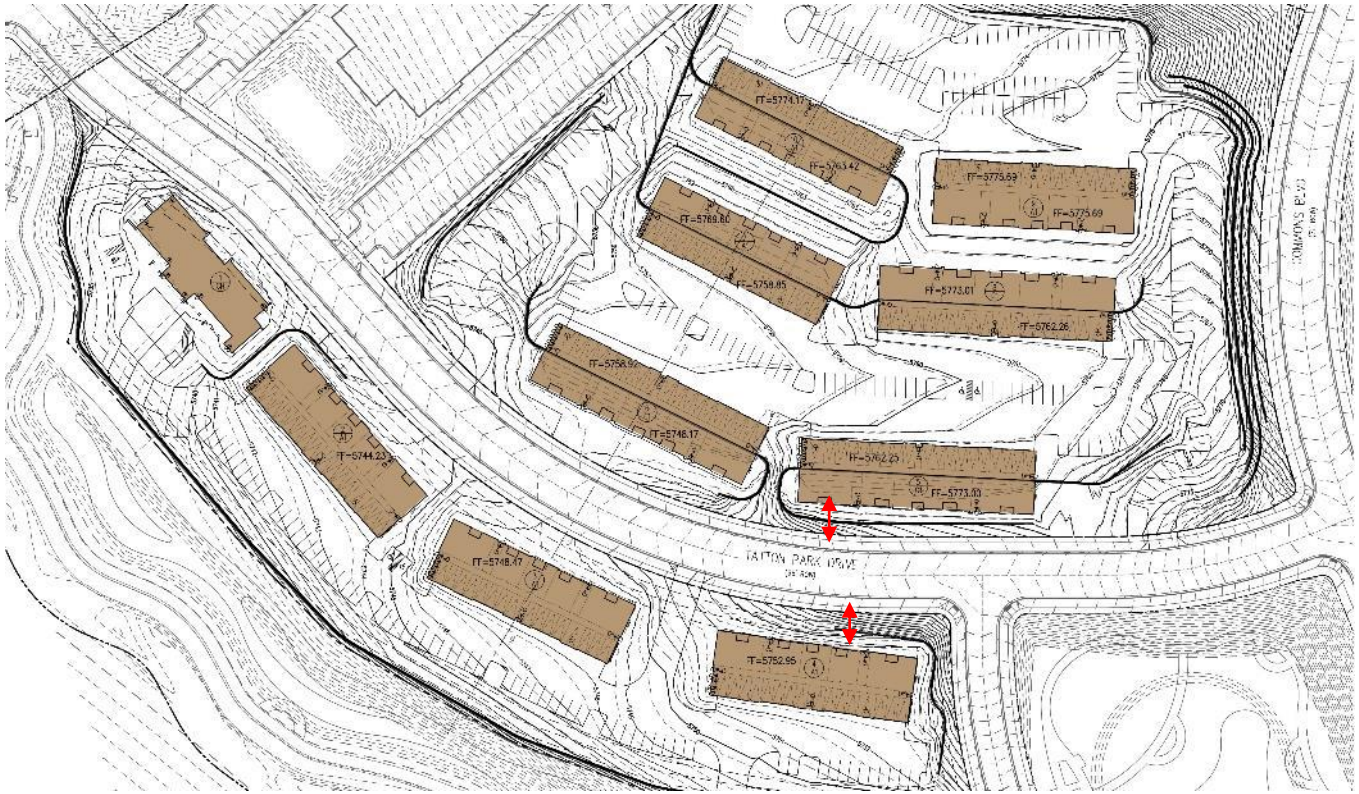
Footnotes:

[1] A courtyard covering up to 35% of the front facade is permitted and may contribute to the front lot line coverage requirement.
[2] Lots wider than 140 feet permit one double-loaded aisle of parking (maximum width of 72 feet) located perpendicular to the front property line, which is exempt from front property line coverage.
[3] Buildings taller than three stories shall have a step back of a minimum 10 feet, which is located in between top of first story to the top of the third story. The step back is required on street frontage sides only. As a substitute for a stepback, a combination of 1' to 2' facade depth variations, balconies, overhangs, and decks are permitted. Height variation required, as per 3.2 (2) d
[4] Ground floor up to 20' shall count as one story
[5] Buildings facing Village & Neighborhood Connector streets are permitted.

Building Type		Permitted Sub-Districts			
Stacked Residential		NV	NOS	UV	RR
	(1) Building Siting Refer to Figure 3.4 (1).				
	Permitted Building Type	yes	yes with clustering [4,5]	yes	no
	Multiple Principal Buildings	permitted	permitted		
a	Front Property Line Coverage	80% [1]	80% [1]		
	Occupation of Corner	required	required		
b	Front Build to Zone	0' to 10'	10' to 20'		
c	Corner Build to Zone	10' to 20'	10' to 20'		
d	Minimum Side Yard Setback	0'	0'		
e	Minimum Rear Yard Setback	5'	5'		
f	Minimum Lot Width Maximum Lot Width	70' none [2]	70' none [2]		
g	Parking and Loading Location	rear or side yard	rear or side yard		
h	Intentionally Blank				
i	Vehicular Access	maximum 1 per 200' frontage or UDOT requirement	maximum 1 per 200' frontage or UDOT requirement		
	(2) Height Refer to Figure 3.4 (2).				
j	Minimum Overall Height	2 story	2 story		
k	Maximum Overall Height (56')	4 stories [3,4]	3 stories NOS, UV 4 stories [3,4]		
l	All Stories: Minimum Height Maximum Height	9' 14'	9' 14'		
	(3) Uses Refer to 3.0 Uses for permitted uses.				
m	All Stories	residential			
n	Balcony	minimum 5' depth and 60 square feet, minimum of 50% of all units are required to have balconies			
o	Parking within Building	permitted fully in basement and may partially protrude above grade. Allowed in rear of upper floors			
	(4) Street Facade Requirements Refer to Figure 3.4 (3).				
p	Minimum Transparency per Each Story	25%	25%		
q	Blank Wall Limitations	required per floor refer to 3.2.4 (2)			
r	Front Facade Entrance Type	stoop, porch	stoop, porch		
	Principal Entrance Location	front facade	front facade		
s	Required Number of Street Entrances	1 per each 30' of front facade	1 per each 100' of front facade		
t	Vertical Facade Divisions	minimum every 30' of facade width			
u	Horizontal Facade Divisions	required within 3' of the top of any visible basement and of the ground story, and the top of 3rd story			
v	Building Stepback	minimum horizontal distance 10 feet required at top of 3rd story			
	(5) Roof Type Requirements Refer to Figure 3.14				
w	Permitted Roof Types	parapet, pitched, flat, green/vegetative			
x	Tower	permitted			

Table 3.4(1). Stacked Residential Building Table: see letters on left and corresponding Figures 3.4(1)-(3)4.

b	Front Build to Zone	0' to 10'	10' to 20'



- Proposal: The front build to zone may be increased to accommodate topography or when the front property line curves such that a 10' – 20' front build to zone in not reasonably achievable

3. Requirements

(1) Maximum Block Length. Requires that street connections occur frequently enough. No block length within the sub-district should be longer than the value listed in Table 4.2(1), except when the terrain requires adaptations.

(2) Maximum Block Perimeter. Requires that street connections occur frequently enough. No maximum block perimeter within the sub-district should be longer than the value listed in Table 4.2(1).

(3) Maximum Pedestrian Pathway Spacing. Requires that pedestrian pathways occur frequently enough. No pedestrian pathway spacing should be longer than the value listed in Table 4.2 for the corresponding sub-district.

(4) Maximum cul-de-sac length. Requires that cul-de-sacs are limited in length. Calculated by measuring or estimating the distance from the street intersection to the opening of the cul-de-sac bulb and ensuring it is generally no longer than the maximum listed in Table 4.2., as demonstrated in Figure 4.3(1). Increases in length may be considered depending upon terrain. Cul-de-sacs are allowed in the following conditions:

- Site hindrances including: steep slopes (greater than 15%), canals, gullies, or other topographical features that prevent connected streets.
- Cul-de-sacs must be approved by both the zoning administrator and city engineer.
- Pedestrian pathways are provided from the cul-de-sac, connecting to adjacent streets, destinations, and the trail system.

(5) Street Connectivity Plan. Street connectivity will be reviewed as part of the concept plan application process and/or MDA. The street connectivity map/plan shall show streets, sidewalks, pathways/trails, and distances for all blocks, maximum block perimeters, pathways and cul-de-sacs (if allowed).

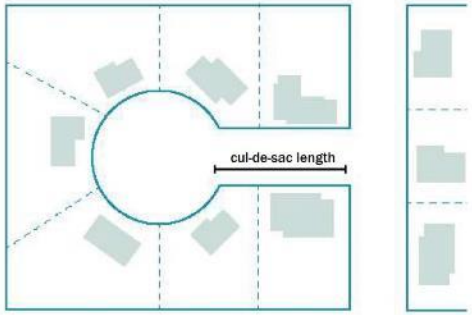


Fig. 4.3 (1). Cul-de-sac Length

Fig. 4.3 (2). Mid-block Trail/ Pathway

Street Connectivity Requirements

Sub-District	Maximum Block Length (feet)	Maximum Block Perimeter (feet)	Maximum Pathway Spacing (feet)	Cul-De-Sac Maximum Length (feet)[1]
NV	500	2000	NA	Not Allowed[1]
NOS	800	2000 [1]	500 [2]	300 [3]
UV	500	2000 [1]	NA	300 [3]
RR	1000	3000 [1]	600 [2]	400 [3]

Table 4.2 (1). Street Connectivity Requirements

Footnotes:

[1] When existing slopes are steeper than 15%, maximum block perimeter may be increased by 0-20% based on criteria provided by both the zoning administrator and city engineer.

[2] When a block is longer than the distances in Table 4.2(1), mid-block crossings with sidewalks or trails are required. Crossings are to be located as close to center of the block as possible.

[3] See conditions of allowed cul-de-sac in 3.(4).

URBAN DESIGN PRINCIPLE

- Maximize pedestrian connectivity by increasing points of connection between origins and destinations
- Topography complicates walkability

Street Connectivity Requirements

Sub-District	Maximum Block Length (feet)	Maximum Block Perimeter (feet)	Maximum Pathway Spacing (feet)	Cul-De-Sac Maximum Length (feet)[1]
NV	500	2000	NA	Not Allowed[1]
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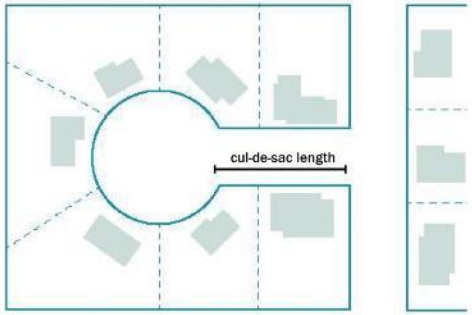

Fig. 4.3 (1). Cul-de-sac Length

Fig. 4.3 (2). Mid-block Trail/ Pathway

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[2] When a block is longer than the distances in Table 4.2(1), mid-block crossings with sidewalks or trails are required. Crossings are to be located as close to center of the block as possible.

[3] See conditions of allowed cul-de-sac in 3.(4).

- Proposal: The block perimeter may be increased to accommodate topography which makes street connectivity requirements reasonably achievable. Single parcel communities consisting of multiple buildings may substitute internal parking lots, pathways, and private access drives to achieve connectivity.

Street Connectivity Requirements

Sub-District	Maximum Block Length (feet)	Maximum Block Perimeter (feet)	Maximum Pathway Spacing (feet)	Cul-De-Sac Maximum Length (feet)[1]
NV	500	2000	NA	Not Allowed[1]
NOS	800	2000 [1]	500 [2]	300 [3]
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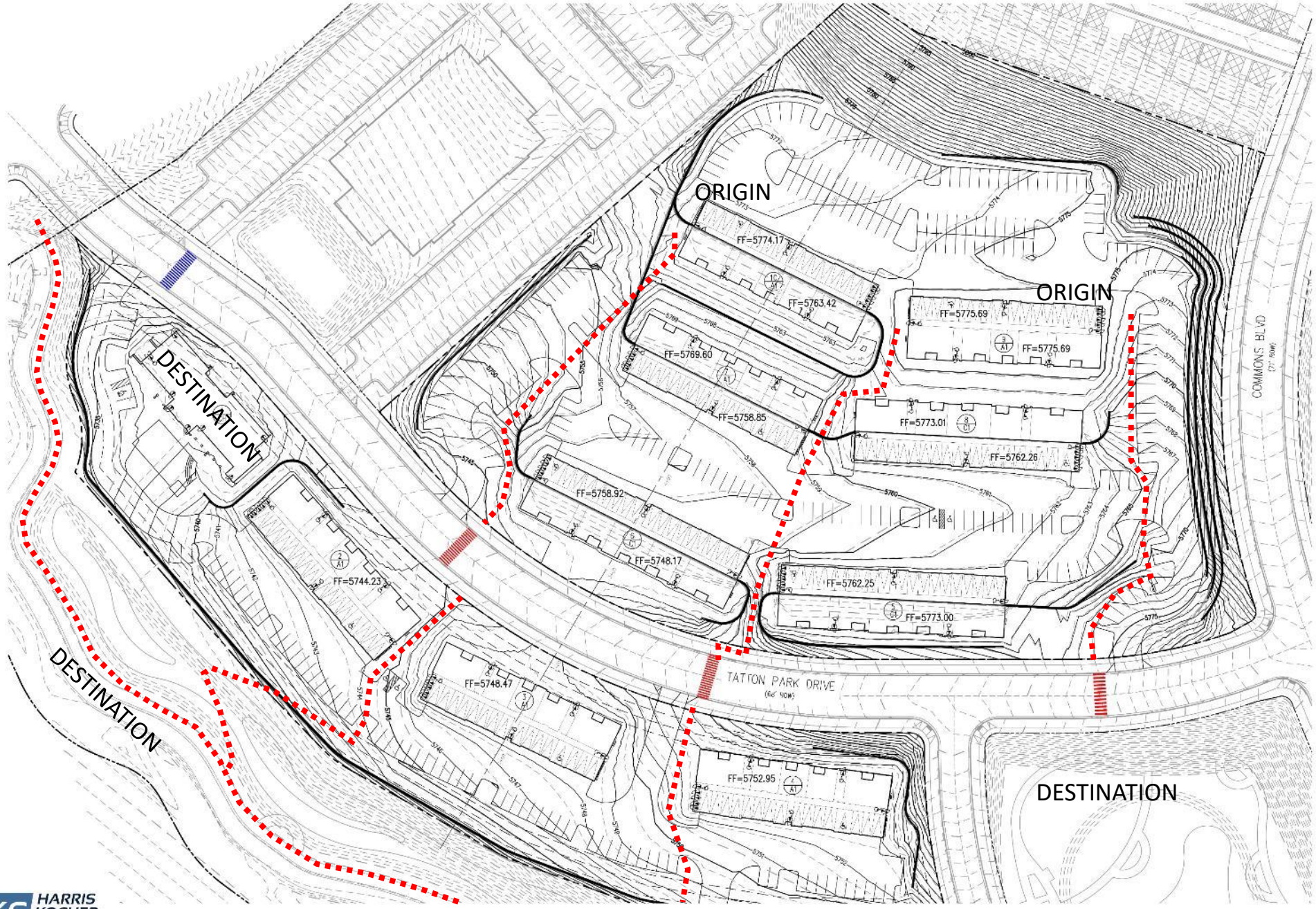


SITE SECTION PLAN VIEW

HARRIS KOCHER SMITH

North Village Overlay Zone

NVOZ CHAPTER 18.21

Heber City Planning Commission
October 24, 2023

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
October 17, 2023

DRAFT Minutes

5:30 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. WORK MEETING - 5:30 P.M.

Mayor Franco called the meeting to order at 5:55 p.m. and welcomed everyone present. The meeting start time was delayed due to audio technical difficulties.

City Council Present:	Mayor Heidi Franco Council Member Yvonne Barney Council Member Mike Johnston Council Member Scott Phillips
Absent:	Council Member Rachel Kahler Council Member Ryan Stack
Staff Present:	City Manager Matt Brower Assistant City Manager Mark Smedley Community Development Director Tony Kohler Planning Manager Jamie Baron City Engineering Assistant Kyle Turnbow City Attorney Jeremy Cook City Recorder Trina Cooke

Also Present: Carl Grimm, Thomas Tripodi, Crista Bazoian, Marilyn Sever, Landon Sever, Jayden Sever, Pamela Sever, Nikki Gibbons, Eric Gibbons, Kassidi Gibbons, Danny Hill, Tori Broughton, and others who did not sign in or whose names were illegible.

Staff Participating Remotely: IT Director Anthon Beales, Public Works Director Matthew Kennard, Deputy City Recorder Robin Raines-Bond, Assistant City Manager Mark Smedley, and Accounting Technician Wendy Anderson.

Also Attending Remotely: (names are shown as signed in) Pam Sever, Davie, Wasatch Wave, J, Grace KPCW, and Aubrey Larsen.

1. Park Standards and Specifications (Aubrey Larsen , Planning Consultant) - *30 min*

City Planning consultant Aubrey Larsen presented the information as included in the attached Staff Report. She reviewed the Park Standards being proposed, including the Parks Standards goal, three project components, and the project timeline. Planning Manager Jamie Baron reviewed four of the existing City parks and the amenities offered by each. He explained a point system that was proposed in the new standards to rate the service levels of the parks and amenities needed to meet those levels. Mr. Baron was seeking Council feedback in order to proceed.

Council Member Johnston preferred to see more pocket parks added throughout the community with fewer amenities. He wanted to have more places to gather and did not think restrooms and drinking fountains were needed at every park. Council Member Phillips agreed. Council asked for more time to review the document provided. Parks and Cemetery Director Mark Rounds commented on the necessity of restrooms at parks and noted the amount of vandalism and the difficulty maintaining public restrooms at parks. Staff agreed to return to a future meeting with an updated proposal implementing Council's suggestions.

II. REGULAR MEETING - 6:00 P.M.

1. Call to Order

Mayor Franco called the meeting to order at 6:24 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Heidi Franco, Mayor)

Mayor Franco led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Yvonne Barney, Council Member)

Jayden Sever came forward to share a prayer.

III. CONFLICT OF INTEREST DISCLOSURE:

There were no conficts of interest disclosed.

IV. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Oath of Office for the New Chief of Police Parker Sever and Formal Address (Heidi Franco, Mayor, Trina Cooke, City Recorder) - *10 min*

City Recorder Trina Cooke swore in the new Chief of Police, Parker Sever. Chief Sever briefly shared his background and stated that he looked forward to serving Heber City and integrating as a member of the community.

V. CONSENT AGENDA:

Mayor Franco introduced the nominees to the newly established Advisory Arts Committee.

Council Member Phillips asked for a correction to the October 3, 2023, Meeting Minutes. He had stated that his father was associated with Action Agenda item 6 but he did not have a conflict and that he had not recused himself from the vote for the item but had been absent as he had lost the connection.

Motion: Council Member Phillips moved to approve the Consent Agenda with the clarification mentioned. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Johnston, Barney, and Phillips. **Voting No:** None. Council Members Kahler and Stack were absent. The **Motion Passed 3-0.**

1. October 3, 2023, City Council Meeting Minutes (Trina Cooke, City Recorder)

2. Mayoral Nominations for Arts Advisory Committee Members: Missy Maughan, Crista Bazoian, and Jessica Christensen (Heidi Franco, Mayor)

VI. PUBLIC COMMENTS: (3 min per person/20 min max)

No one from the public came forward to comment.

VII. GENERAL BUSINESS ITEMS:

1. Big Brothers Big Sisters: Resources available to Heber City Residents (Thomas Tripodi) - *10 min*

Big Brothers Big Sisters representatives Thomas Tripoli and Carl Grimm shared information regarding the mentoring program and the services provided. He encouraged volunteering as a mentor as well as enrollment in the program for eligible-aged kids in need.

2. Central Heber Replacement Project Update (Kyle Turnbow, Engineer) - *10 min*

Engineer Kyle Turnbow presented the status of the ongoing Central Heber Replacements project. He detailed the construction progress and provided a timeline for completion which he emphasized was weather-dependent. Council Member Barney asked that the construction crews better communicate to the residents when the water would be turned off. City Manager Matt Brower suggested Staff use the off-season to recognize errors made and how to correct or minimize them moving forward.

VIII. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Sawmill MDA (Master Development Agreement) Design Standards Amendment (Tony Kohler, Community Development Director) - *20 min*

Community Development Director Tony Kohler and Planning Manager Jamie Baron shared the purpose for the requested amendment to the roofline pitch in the Sawmill Master Development Agreement (MDA) design guideline. The existing guideline indicated there would be an 8:12 roof pitch and the builder wished to construct a 4:12 pitch. They shared images of the roofline with both pitches. Petitioner Eric Gibbons further explained the request to implement a modern farmhouse design.

Motion: Council Member Phillips moved to approve the item as presented. **Second:** Council Member Barney seconded the motion. **Voting Yes:** Council Members Johnston, Barney, and Phillips. **Voting No:** None. Council Members Kahler and Stack were absent. The **Motion Passed 3-0.**

2. Envision Heber Phase 3 Code Updates: 18.04 General Provisions, 18.08 Definitions, 18.12 Administration, 18.16 Zones Generally, and repeal Sections 2.38 and 2.48 of Heber City Code (Tony Kohler, Community Development Director) - *75 min*

Planning consultant Meg Ryan presented an overview of proposed changes to the City's zoning code.

The Mayor felt section 18.12.105 needed to specify an eligibility requirement for Planning Commissioners to be Heber City residents. Council Member Johnston proposed the following changes to section 18.08 Definitions:

- 18.08.08: remove the Wasatch County Housing Authority from the affordable housing agreement requirement as they did not wish to be included
- 18.08.09: correct Area Median Income (AMI) percentages listed for the affordable and moderate housing thresholds
- 18.08.09: strike the housing preference for residents and change it to people who worked in the City and County, as he did not wish to see people encouraged to live in Heber and work elsewhere
- 18.08.09: reorder the qualification priorities
- 18.08.09: add hospital and special service district workers to the eligible list
- 18.08.035: clarify the definition of basement
- 18.08.051: clarify buildable area
- 18.08.091: clarify the language is intended for non-residential buildings only
- 18.08.200: align with State Code
- 18.08.270: change to: "the greatest distance from any point on a proposed roof to the natural grade" and strike "or finish" where referring to the grade, and strike both places reading "including but not limited to the roofing material"
- 18.08.370: align definition of a "Lot" and "Lot of Record" with State Code

- 18.08.556: separate "Private Schools" from "Charter Schools"

Council discussion turned to Accessory Dwelling Units (ADUs) and tiny-home restrictions and requirements as well as where they should or should not be located or allowed.

Mayor Franco opened the discussion for public comment.

Resident Tori Broughton stated there was a difference between chronic homelessness and people in need of a home. She felt Heber City was not facing a homelessness issue but rather a problem housing workers. She shared the mutual benefit of affordability for both the homeowner and an ADU inhabitant on the homeowner's property. She suspected there were several RVs and Tuff-sheds in her neighborhood that had inhabitants.

IX. COMMUNICATION:

Heber City Manager Matt Brower reminded everyone of the upcoming Heber Halloween Fest on Friday, October 27, 2023, from 4:00 - 7:00 p.m. The Old Fashioned Christmas would be held on Friday, December 1, 2023, from 6:00 - 8:00 p.m.

Mr. Brower had received the official conditional approval from the FAA (Federal Aviation Association) for the Airport Master Plan.

The City Staff level All-Hands conference would be held in two sessions on Wednesday, November 15, 2023.

The Wasatch County School Board had invited Mr. Brower to present information regarding the City's Downtown Envision Heber and the CRA (Community Reinvestment Agency) during their next Board Meeting on Tuesday, October 24, 2023, at 5:00 p.m. He was working on establishing a follow-up meeting, after the CRA presentation, on November 4, 2023, with members of the School Board and the City and County Councils.

The Heber Leadership Academy would be hosting a candidate forum on Thursday, October 19, 2023, between 1:00 p.m. and 3:00 p.m. It would be live-broadcasted and recorded to be posted on the City's website.

Council Member Phillips felt the Engineering Department could post the Central Heber Replacements Project updates as a YouTube video to be posted on the City's website and available for everyone, rather than taking time at the City Council Meetings. Council Member Barney wanted residents affected by the project to receive communications by flyer.

Mayor Franco reminded everyone that Election Day would be on November 21, 2023.

The last day to register to vote and receive a mail-in ballot would be November 10th at 5:00 p.m. or in person when the voting location was open by provisional ballot.

X. ADJOURNMENT:

Motion: Council Member Phillips moved to adjourn. **Second:** Council Member Barney seconded the motion. The Heber City Council Meeting adjourned at 8:28 p.m.

_____

Trina Cooke, City Recorder

Heber City Council Staff Report

MEETING DATE: 11/7/2023
SUBJECT: Ordinance 2023-37 Adopting Supplemental Zoning Code Update
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

As part of the Phase 3 Envision Heber Code Update, the City is reviewing the entire Code and Subdivision Ordinance. The Supplementary, Administrative, General Provisions and Definitions Chapters are the final chapters left for the City to update in this process this year. After these chapters are adopted a final cleanup of the updated code will occur to rectify all citations and new terminology in all sections.

The Planning Commission reviewed this item at the March 28, 2023 meeting and made some minor language changes to the draft. On April 25, 2023 they held a public hearing and forwarded a positive recommendation to the City Council for review and adoption. On June 20th, 2023 the City Council held a work session on this proposed draft.

The Chapter has been updated to reflect current state law, changes made to other Chapter sections and has included some new provisions. Council discussed this Chapter on June 20th and October 3. The City Council moved to approve updates to Chapter 18.68 at the October 3, 2023 meeting. Changes made at that meeting were made and the provisions were converted into final ordinance form.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance 2023-37, approving the amendment to the Supplemental Chapter.

BACKGROUND

75 N Main Street
Heber City, UT 84032
Phone: 435-654-4830
Fax: 435-657-2543
heberut.gov

The Supplementary Chapter included provisions that relate to many specific zoning districts and has been designed to provide these regulations in one chapter. The current chapter has been updated to reflect state law, incorporate sections that were moved from other chapters, deleted sections that were moved to other chapters and had new regulations added or updated. The chapter has not been updated for some time and many of the provisions were out of compliance with the law or were not reflective of practices in the Planning Division.

DISCUSSION

N/A

FISCAL IMPACT

There is no fiscal impact to the adoption of this ordinance.

CONCLUSION

Updates would provide a more functional updated chapter and codify policies practiced in the Planning Department.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Staff Recommended Option – Approve

I move to approve Ordinance 2023-37 with the findings and conditions as presented in the conclusion above.

Alternative 2 – Approve as Amended

I move to approve Ordinance 2023-37, with the findings and conditions as presented in the conclusion above, with the following changes:
_____
_____

Alternative 3 – Continue

I move to continue Ordinance 2023-37 to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:
_____
_____
__

Alternative 4 – Deny

I move to deny Ordinance 2023-37.

ACCOUNTABILITY

Department: Planning
Staff member:

EXHIBITS

1. Ord 2023-37 Supplemental

ORDINANCE NO. 2023-37

AN ORDINANCE AMENDING THE ZONE 18.68 SUPPLEMENTARY REGULATIONS

BE IT ORDAINED by the City Council of Heber City, Utah, Heber City Municipal Code, Chapters 18.68 Supplementary Regulations is hereby Amended and Adopted to read as follows:

18.68 Supplementary Regulations

18.68.010 Intent of Provisions
18.68.015 Frontage for Dwellings
18.68.020 Yard Space for One Building Only
18.68.030 One Dwelling and One Internal and External Accessory Dwelling Unit per Lot
18.68.040 Sale or Lease of Required Space Prohibited
18.68.050 Obstruction of Required Yard Space Prohibited
18.68.060 Accessory Building
18.68.075 Shipping Containers
18.68.090 Residential Zones - Commercial Vehicle Parking Restricted
18.68.100 Residential Zones -- Property Maintenance Standards
18.68.110 Building Height Measurement and Allowable Projections above the Maximum Height Limit
18.68.120 Heights of Fences and Walls
18.68.122 Deer Suppression Netting
18.68.125 Chickens In Residential Zones
18.68.130 Barn Location Restrictions
18.68.135 Grazing Animals in Non-Agricultural Zones
18.68.140 Surface Water Drainage
18.68.150 Intersection -- Visibility Triangle
18.68.155 Driveway Visibility Triangle
18.68.160 Yards -- Planning For Future Development
18.68.170 Front Yard Setback Flexibility
18.68.172 Rural Highway Setbacks
18.68.190 Domestic Sewage Disposal Facilities -- Approval Required
18.68.200 Gasoline Pump Island Location
18.68.220 Pollution Prevention
18.68.230 Private Schools in Residential Zones
18.68.601 Group Care Facilities
18.68.606 Temporary Use and Structures 18.68.608 Mobile Food Vendors 18.68.609 Home Occupations
18.68.610 Bed And Breakfast Homes and Boarding Houses, Lodging Houses, And Rooming Houses

18.68.611 Accessory Dwelling Units (ADUs) 18.68.612 Child Day Care Facilities 18.68.613 Recreational Vehicle Courts
18.68.614 Reasonable Accommodation Provisions

18.68.010 Intent of Provisions

The intent of this section is to accumulate in one chapter, regulations which apply to two or more zones, rather than to repeat them several times.

18.68.015 Frontage for Dwellings

Except as otherwise provided for in this title, at least one side of lot used as a dwelling site shall abut upon a street which has been designated or dedicated to the public for street purposes and the length of such abutting side measured at the setback line shall be at least as great as the width required for dwelling sites in the zone in which such building site is located.

18.68.020 Yard Space for One Building Only

No required yard or other open space around an existing building or which is hereafter provided around any building, which is needed to comply with the provisions of this title, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on the lot whereon a building is to be erected or established.

18.68.030 One Dwelling and One Internal or one External Accessory Dwelling Unit per Residentially Zoned Lot

Only one Single Family dwelling, and one internal accessory dwelling unit or one external accessory dwelling unit shall be located and maintained on a "R" zoning lot as defined in this title, except for dwellings within a planned unit development, mobile home park or and large multiple-family dwelling projects.

18.68.040 Sale or Lease Of Required Space Prohibited

No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold from such lot or building unless other space so complying is provided.

18.68.050 Obstruction of Required Yard Space Prohibited

Every part of a required yard shall be open to the sky and unobstructed except for permitted accessory buildings and except for ordinary and customary projection of sills, bay or box windows, belt courses, cornices and other ornamental features and unenclosed steps and unwalled stoops, porches, and carports, which may project up to three feet into a required yard.

18.68.060 Accessory Buildings

Accessory buildings such as detached garages, sheds, barns and external accessory dwelling units in residential zones are subject to the following:

A. No accessory buildings shall be located in the front yard.
B. No accessory buildings shall be located between the street and the main building.
C. Accessory Building Setbacks:
    1. Rear: 5 feet from property line
    2. Side: 5 feet from property line
    3. Street Corner Side: 10 feet from property line
D. Accessory Buildings over 200 total square feet shall require a building permit and;
    1. Shall meet all setbacks for accessory buildings.
    2. Shall not exceed a maximum of 27' in height.
    3. Shall be placed in the rear yard.
        a. A garage may be placed within the side yard if all requirements of this ordinance are met.
E. Accessory Buildings less than 200 total square feet:
    1. May encroach within the required accessory building setbacks if:
        a. The building is no larger than 120 total square feet.
        b. The building is no taller than 8 feet.
        c. The building is movable, except as permitted in 18.68.060(I).
        d. The building complies with 18.68.060(J).
    2. No such building shall be taller than 12 feet.
    3. No permit is required, unless required by the building code.
F. Accessory Buildings less than 50 total square feet and no taller than 6 feet are exempt from all requirements other than 18.68.060(A).
G. Square footage is calculated to the outside of the structure's exterior walls.
H. Accessory buildings in any residential zone shall cover not more than twenty-five percent of the rear yard.
I. Separation from other Structures. Accessory buildings shall be a minimum of 12 feet from any dwelling or other main building and not less than 8 feet from any other
J. Accessory Building over Easements. Accessory buildings may be constructed (attached to a foundation as required by the building code) over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.
K. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least 5 feet from the property line.

18.68.075 Shipping Containers

A. Shipping Container shall mean "A large metal box used for the transportation of goods".
B. The keeping of shipping containers is prohibited in all residential zones.
    1. Exceptions. A shipping container may be located on a residential property when:
        a. The container is being used to store personal property in conjunction with a move to or from said property, not to exceed 2 weeks; or

   b. The container is being used for the storage of construction equipment with an active building permit.
2. Shipping containers may be kept in Commercial and Mixed-Use zones upon the approval of a Conditional Use Permit consistent with Section 18.108.120, or a Temporary Use Permit consistent with 18.68.606.
3. Shipping Containers may be kept in Manufacturing and Industrial zones when the following standards are met.
   a. Containers shall not be placed in a required setback or landscaping area.
   b. Containers shall not be placed between a building and the street.
4. In no case shall any containers by stacked.
5. In no case shall any containers be placed in the public right of way.

18.68.090 Residential Zones - Commercial Vehicle Parking Restricted

The storage and/or continuous parking of trucks having a rated capacity of one and one-half tons or greater and construction equipment such as bulldozers, graders, compressors, etc., shall not be permitted in any residential zone, provided that construction equipment may be stored on a lot during construction of a building thereon, but not to exceed one year.

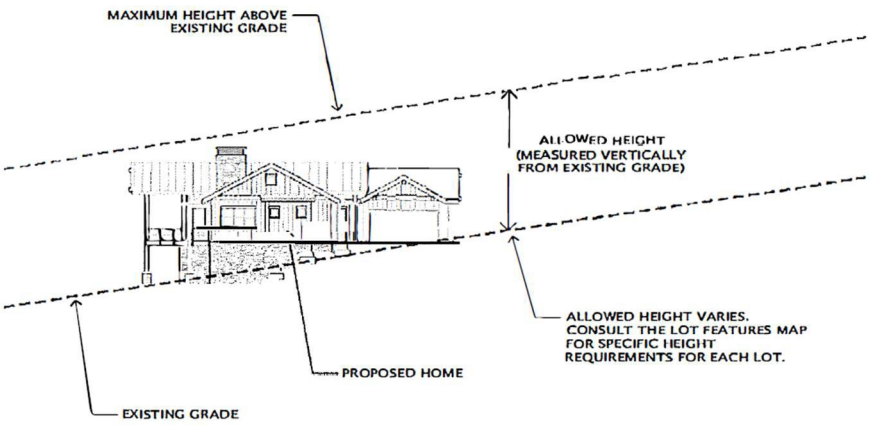
18.68.100 Residential Zones -- Property Maintenance Standards

No yard or other open space surrounding an existing building in any residential zone, or which is hereafter provided around any building in any residential zone, shall be used for the storage of junk, debris or obsolete vehicles; and no land shall be used for such purposes, except as specifically permitted in this title. Title 8.08 of the Heber City Municipal Code Weed and Refuse Abatement also applies to this Section.

18.68.110 Building Height Measurement and Allowable Projections Above The Maximum Height Limit

A. Measurement:

The height of buildings shall be measured using the graphic below. The inten of the height guideline is to present a human-scaled roofscape, one which steps with the contours of the terrain and recalls the natural setting.



Submitted plans shall include:

- Roof ridgeline plan
- Existing topography shown below the roof areas
- Multiple spot locations shown on the roof plan stating roof elevation, existing grade elevation, finished grade elevation, and the differences in feet, rounded to the nearest 3″ (0.25′) from the roof elevation. The spot locations on the roof shall include roof peak ends, several in the center of the roof, and the maximum height points.

B. Allowable Projections: Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, theater lofts, or similar structures, may be erected above the height limits prescribed in this title, but no space above the height limit shall be allowed for the purpose of providing additional floor space. All HVAC equipment and stacks/piping shall be located at least 10’ from the edge of flat roofed buildings and located on the opposite side of the street facing façade for a pitched roof building. Pitched roof buildings that extend perpendicular from the adjacent street shall not locate HVAC equipment on the roof.

18.68.120 Heights of Fences And Walls

A. Fences and Walls in Residential Zones. No fence or wall shall be constructed to a height greater than four (4) feet in any front yard. Any fence or wall along a side yard or rear yard shall be not be constructed to a height greater than six (6) feet. However, a fence along a side or a rear property line of a residential lot, which side or rear property line borders a non-residential zone, may be constructed to the height allowed in the non-residential zone. The "thirty foot" front yard setback may be reduced to the front wall line for legally non-conforming homes which are closer than thirty feet to the street right-of-way line.

B. Fences and Walls in Non-Residential Zones. No fence or wall shall be constructed to a height of greater than eight (8) feet in any non-residential zone.
C. The provisions of 18.68.150 shall apply to all fences on all corner lots.
D. Outdoor swimming pools shall be completely enclosed by a six (6) foot tall fence or wall with a secure gate or as otherwise regulated by State code.
E. All private fences, regardless of fence height or property zoning classification, shall be constructed upon private property and not within the street right-of-way.
F. No fence shall be constructed near any driveway which would interfere with the visibility triangle required in Section 18.68.155.
G. Fences and walls may be extended to eight (8) feet in height with the top two (2) feet constructed of barb-wire in the following institutional use areas: around culinary wells and springs, pump houses, airport, sewer facilities and electrical transmission and telecommunication facilities. When institutional fences are adjacent to residential zones, residential fences immediately adjacent to an institutional fence may be extended to eight (8) feet in height. However, no part of an institutional fence may hang over a residential lot.
H. Any fence constructed on top of or along a retaining wall, which is legitimately retaining, shall have their regulated height measured from the highest point of the top of the retaining wall. However, any fence constructed within a driveway visibility triangle or street visibility triangle as regulated by Section 18.68.155 and 18.68.150 shall not exceed the height limits for those respective code sections, with such height measured along street grade for street visibility triangles and driveway grade for driveway visibility triangles.
I. All fences constructed prior to May 19, 2011, which conform to Sections 18.68.155 and 18.68.150, shall be considered legal.

18.68.122 Deer Suppression Netting

Deer suppression netting may be installed in any zone to protect gardens and landscaping, provided it:

A. Is constructed with an open mesh material that allows a clear view through the mesh for any material placed at a height over 6 feet, and is not composed of the following prohibited materials:
    1. Contractor Sand/Snow fence (Usually orange);
    2. Chain Link;
    3. Poultry netting;
B. Does not result in a total structure height over 8 feet; and
C. Is not located within any front yard, and on corner lots is not located closer to the street than the dwelling.

18.68.125 Chickens in Residential Zones

Chickens may be kept within the Residential “R” Zones, on any detached single family dwelling lot, subject to the following:

A. Hens (females) of any chicken species may be kept. However, roosters (males) are prohibited.

B. Chickens shall be kept for personal family use only. Commercial uses (the selling of chicken products) of chickens are prohibited.
C. Chickens shall be kept controlled on the property at all times.
D. Coops shall not be located within the front yard, and shall be located at least twenty-five (25) feet from any neighboring dwellings, and shall be located at least twenty (20) feet from the edge of any open waterway that drains into a natural stream. Surface drainage from coops shall not be permitted to drain into a waterway that drains into a natural stream.
E. Up to three (3) chickens may be kept on a detached single-family home lot which contains at least 5,000 square feet. One (1) additional chicken may be kept for each 1,000 square feet of lot area above the 5,000 square foot minimum, for a maximum of eight (8) chickens permitted on each lot.
F. The premises upon which chickens are kept shall be maintained in a clean, sanitary, and reasonably odor-free condition.
G. Definitions.
    1. "Coop" means a cage, pen, enclosure, or building for the sheltering of chickens.
H. The provisions of this Section (Section 18.68.125) do not impair, enhance, or otherwise regulate the uses of other zones which expressly permit the keeping of chickens.

18.68.130 Barn Location Restrictions

No barn, barn for keeping of animals or corral shall be constructed closer than one hundred feet from any existing dwelling or public street, nor shall any corral or pen be constructed or maintained closer than twenty feet to any open waterway that drains into a natural stream. Surface drainage from corrals or coops shall not be permitted to drain into a waterway that drains into a natural stream.

18.68.135 Grazing Animals in Non-Agricultural Zones

A. Intent. The intent of this Section is to:
    1. Promote well landscaped properties in the City;
    2. Provide an alternative means for owners of larger properties in the city to maintain and control vegetation on their property through the pasturing of grazing animals; and
    3. Promote a green pastoral and rural town lifestyle.
B. The raising, care and keeping of animals for personal family use and consumption is permitted in all zones. Animals are limited to only those specified:
    1. Large animals: horses, cows, llamas, alpacas, or ostriches, but not including pigs;
    2. Medium animals: sheep and goats, but not including pigs.
C. Animals shall not be kept within the front yard of any dwelling or main building and shall be kept at least 20 feet from the rear of the dwelling or main building, and at least 10 feet from the side of the dwelling or main building. Barns and corrals shall be located as per Section 18.68.130. Animals shall not be permitted to wallow within or access a stream or canal.
D. At least 34,000 square feet of green landscaped pasture area shall be maintained for each large animal, and at least 9,000 square feet of green landscaped pasture area shall be maintained for each medium animal.

E. The premises upon which animals are kept shall be maintained in a clean, sanitary, and reasonably odor-free condition, and animals shall be kept controlled on the property at all times.
F. The property upon which the animals are kept is required to be maintained in a green pastoral condition. In the event a pasture becomes overgrazed, the number of animals on a property shall be reduced. Overgrazing occurs when animals are permitted to graze vegetative cover excessively to the detriment of the vegetation, often characterized by soil erosion, dusty or muddy conditions, soil compaction, increased water runoff, noxious weed invasion, trampled vegetation, or a lack of grazing (i.e. hay or alfalfa) vegetation. A green pastoral condition exists when the land is not overgrazed, often characterized by the existence of healthy, non-trampled, green and growing vegetation (or dormant vegetation in non-growing months), healthy non-compacted soils, along with minimal dust, mud and weeds.
G. The provisions of this Section do not impair, enhance, or otherwise regulate non-conforming animal uses, or the uses of zones which expressly permit the keeping of animals.
H. Animals which create noise that disturbs neighbors shall be considered a public nuisance pursuant to Chapter 8.04 of this code.

18.68.140 Surface Water Drainage

Surface water from roof tops, impervious surfaces, lots or irrigation ditches shall not be allowed to drain onto adjacent except after written agreement between the parties involved. Low impact development techniques are required by the Heber City Standards and Specifications.

18.68.150 Intersection -- Visibility Triangle

In all zones which require a front yard, no obstruction, living or inanimate, which will obscure the view of automobile drivers shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at a point forty-five feet from the intersection of the street lines.

18.68.155 Driveway Visibility Triangle

In all zones which require a front yard, no fence, wall, hedge, landscaping, or other material or structure that will obstruct vision between a height of three (3) feet and eight (8) feet shall be erected, placed or maintained within a triangular area formed by the intersection of a driveway line and a street property line and a line connecting them at a point 15 feet from their point of intersection.

18.68.160 Yards -- Planning for Future Development

Whenever a front or side yard is required for a building, which building abuts on a proposed street which has not been constructed but which is shown in the General Plan as a future street, or represents a needed or likely connection to adjacent or future development, or has been

designated by the planning commission as a future street, the depth of such front or side yard shall be measured from the planned street lines.

18.68.170 Front Yard Setback Flexibility

In residential zones, the setback from the street for any dwelling situated between two existing dwellings (a) on the same side of the street, (b) located within 150 feet of each other, and (c) located less than thirty feet from the front property line may be reduced to 20 feet or the same as the average for said two existing dwellings, whichever is the greater setback distance, as demonstrated by the permittee to the Community Development Director or designee.

18.68.172 Rural Highway Setbacks

Along any state and federal highway between 850 North to Coyote Lane, all buildings and structures shall be setback from the edge of the highway right of way at least 150' for residential buildings and 50' for non-residential buildings.

18.68.190 Domestic Sewage Disposal Facilities -- Approval Required

Where domestic sewage disposal facilities are used which are not connected to a public sewer, approval of such facilities shall be obtained from the health department before a building permit shall be issued therefore.

18.68.220 Pollution Prevention

Any use which emits or discharges gases, fumes, dust, glare, noise or other pollutants into the atmosphere in amounts which exceed the standards as prescribed by State Law, the Utah State Air Conservation Board or the Board of Health and any use which emits or discharges liquids or solid material onto the soil or water in amounts which results in pollutants entering groundwater in amounts exceeding the standards prescribed in State or Federal Law or policies or by the Utah State Water Pollution Control Board of the Board of Health, shall be prohibited.

18.68.230 Private Schools in Residential Zones

Private schools in residential zones shall be reviewed by the Community Development Director and approved if the application meets the following standards.

A. Building and Health Codes. The site shall comply with applicable health, building and fire codes.
B. Licenses. The private school shall obtain applicable state and local business licenses.
C. Site size. The site shall contain at least 1 acre.
D. Street Access. The site shall front upon and directly access a Collector or Major Collector Street.
E. Parking. See Parking Chapter 18.72.
F. Building setbacks. Building setbacks shall meet the requirements of the underlying zone.
G. Height. Building height shall not exceed 30’ above grade.

H. Loading and unloading. 1 off-street loading/unloading space for every 20 people, or portion thereof enrolled. Loading space requirement may be eliminated if there is a circular drive-way.
I. Lot Coverage. No more than 30 percent of the lot shall be covered by buildings.
J. Common Areas. The site shall provide landscaped outdoor common area for use by students, covering a minimum of 20% of the site.
K. Screening and Fencing. Evergreen trees and shrubbery shall be planted along property lines shared with adjoining residential subdivisions.

18.68.601 Group Care Facilities

A. Intent. It is the intent of this ordinance to accommodate individuals with a bona fide disability as defined by the ADA, HUD, and the Utah Fair Housing Act. This ordinance shall not be used to circumvent other requirements of the Heber City Zoning Ordinance.
B. Group Care Facilities as Permitted Use. Each facility is a permitted use within any Zone where residential dwellings are permitted. The granting of a permit to operate a facility rests with the Community Development Director or designee, with appeals going to the Appeal Authority. The following standards shall be used in the Community Development Director's review of applications:
    1. All facilities shall have adequate off-street parking space provided per Chapter 18.68.
    2. All facilities shall be capable of use as a group care facility without exterior structural or landscaping alterations that would change the structure's residential character.
    3. The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a group care facility or if the structure fails to comply with the requirements.
    4. The minimum site development standards for group care facility for elderly persons shall be the same as those required for a single-family dwelling in the zone in which the facility is to be located.
    5. All setback areas not occupied by buildings or parking shall be landscaped and properly maintained.
    6. No Group Care facility shall be established, operated or maintained within the City without a valid license or operating contract issued by the Utah state division of licensing or department of corrections or other appropriate state agency, and without obtaining a Heber City business license. For types of uses that do not require a state license, the applicant shall provide evidence from the state of Utah indicating that the state does not require a license for the facility.

18.68.606 Temporary Uses and Structures

A. Uses and structures may be permitted for a period of time outlined in this section, with no use or structure exceeding six (6) months.
B. Permit. A temporary use permit is required for all temporary uses and structures.
    1. Permit applications shall be submitted to the Planning Department and include the following:
        a. Proposed use and time frame of use or structure.

b. Site plan outlining the size and location of the use or structure and any required parking and site improvements.

2. Temporary use permits are reviewed and approved the Planning Department.
3. Certain uses may require a building permit in addition to the temporary use permit.

C. Uses and structures not listed in this section are not permitted as temporary uses or structures.

D. The following uses and structures are permitted on a temporary basis upon compliance with the standards associated with the use or structure as reviewed and permitted by the Community Development Director.

1. Construction Office
   a. Construction Offices may be permitted as a temporary use in any zone.
   b. Structures shall not be placed in any right of way that has been dedicated and accepted by the City, or open for public use.
   c. A temporary use permit may be extended when associated with a commercial building permit.
   d. Separate permits may be obtained for developments with multiple phases.
   e. All temporary offices shall be removed within fourteen (14) days of the issuance of a Certificate of Occupancy or acceptance of the public infrastructure of the associated phase of a subdivision or development.
2. Onsite Real Estate Sales Office
   a. Onsite Sales Offices may be permitted as a temporary use in residential zones as reviewed and permitted by the Community Development Director. Sales Offices located within a model home do not require a temporary use permit.
   b. Sales Offices shall be placed on private property.
   c. An off street parking area adjacent to the sales office shall be provided. Said parking area shall be constructed of compacted gravel or road base and provide for a minimum of 3 parking spaces.
   d. All sales offices shall be accessible to persons with disabilities.
   e. Sales Offices shall be removed upon the establishment of a sales office within a model home, clubhouse, or other permanent structure.

18.68.608 Mobile Food Vendors

A. Definitions: Mobile Food Vendors are comprised of the following:

1. Ice Cream Truck: A fully encased food service establishment on a motor vehicle from which a vendor, from within the frame of the vehicle, serves ice cream; that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and that may stop to serve ice cream at the signal of a patron.
2. Food Truck: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.
3. Food Cart: "Food cart" means a cart that is not motorized; and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

B. General Requirements
   1. All Mobile Food Vendors shall have a Business License and comply with the requirements of Section 5.04.160 of the Heber Municipal Code.
   2. All requirements of the Health Department shall be met.
   3. A building permit shall be required for any electrical connections.
C. Ice Cream Truck
   1. Retail sales are permitted in all zones and:
      a. Shall not sell any goods to individuals standing in the street.
      b. Shall not be allowed to sell goods from a motorized vehicle while in the right of way on the following streets:
         1) Main Street
         2) Hwy 40
         3) Hwy 189
         4) Center Street
         5) 100 South (Midway Lane)
         6) 1200 South
      c. Are prohibited from pulling any type of trailer with a motorized vehicle during business operation.
      d. Shall not stop or be located within an area that would block an intersection or driveway clear site triangle or obstruct the view of traffic.
D. Food Trucks
   1. Retail sales are restricted to Commercial, Industrial, and Manufacturing Zones and shall:
      a. Only be permitted at an existing brick and mortar business location, with the property owner's written permission.
      b. Provide, maintain, and remove trash receptacles for the duration of sales and/or event.
      c. Provide sanitation services for employees and patrons. An agreement with the hosting business may satisfy this requirement.
      d. Exceptions: Retail sales are permitted on public and private school property with written permission of the school district or property owner, regardless of the zone.
      e. Retail sales are permitted at parks or on public property as part of a Civic, Recreation, or Special Event with written permission of the property owner, regardless of the zone.
   2. Dining areas are only permitted when approved by the property owner and shall be set up and taken down with each occurrence.
   3. Food Trucks shall not be parked at a sales location overnight without written permission from the property owner. Food Trucks shall not be parked overnight on public property or within a public right of way.
E. Food Cart
   1. Food Carts are prohibited outside of Civic, Recreation, or Special Events and;
      a. Must have written permission from the property owner and event coordinator.
      b. Shall obtain an Event Vendor Business License.
      c. Shall not be located in the public right of way.
      d. Shall not be located in an intersection or driveway clear site triangle.

2. Dining areas are only permitted when approved by the property owner and shall be set up and taken down with each occurrence.
3. Food Carts are not permitted to be located at a sales location overnight, unless approved with the associated event.

F. Signs
1. All images, text, and wraps that do not project from a motorized or non-motorized vehicle that solely advertise for the Mobile Food Vendor business are permitted.
2. Ice Cream Trucks are only permitted signage that does not project from the vehicle and solely advertises for the associated business.
3. Food Trucks are permitted two A-Frame signs.
4. Food Carts are permitted one A-Frame sign.
5. A-Frame signs shall not exceed four feet in height and twelve square feet of sign copy area and include weights to prevent movement due to windy conditions.
6. Signs are not permitted in the public right of way.
7. Signs that exceed three feet in height shall not be placed in either an intersection or driveway clear sight triangle.
8. Off-premise signs are prohibited.

G. Process
1. Ice Cream Truck: The following shall be submitted for review with the business license application.
   a. Picture of the vehicle.
2. Food Trucks: The following shall be submitted for review with the business license application.
   a. A Permitted Use application including a site plan for each location.
   b. Any proposed signage.
   c. Letter of consent by hosting property owner.
   d. Proof of sanitation facilities or agreement with hosting business/property owner.
3. Food Carts: The following shall be submitted for review with the business license application.
   a. Site Plan for each location
   b. Any proposed signage
   c. Letter of consent from property owner and event coordinator

18.68.609 Home Occupations

A. Purpose. The purpose of this section is to permit the establishment of home occupations in all zoning districts in a manner that is compatible with the district in which they are located, with minimal negative impacts to surrounding residential areas. Home occupations are intended to promote local and sustainable economic growth and development.

B. The Community Development Director or designee may grant a permit for a home occupation subject to the following conditions:
1. The home occupation shall be carried on offsite or entirely within a building onsite;
2. The business licensee must reside at the site that contains the business. Short-term rental occupants (those found in nightly rentals, hotels, motels, bed & breakfast, Air BnB, etc.), do not qualify for a license for a home occupation;

3. Signs used in conjunction with a home occupation shall not be illuminated and shall not exceed one sign that is no more than 2 square feet in area;
4. The home occupation shall not involve the use of any yard space or carport space for storage or other business related activities, unless specifically stored within a trailer or a building;
5. No commercial vehicles shall be used onsite in connection with the home occupation except passenger motor vehicles. This subsection does not prevent deliveries to the home by parcel or letter carrier mail service vehicles typically employed for residential deliveries. No deliveries by semi-tractor/trailer trucks are permitted in connection with a home occupation. Deliveries shall not be made to or from the site between the hours of 10:00 pm and 7:00 A.M.;
6. Each site is permitted to park on the premises one commercial vehicle that has a rated capacity not to exceed one ton and one trailer not exceeding a length of 27 feet, excluding the tongue, provided:
   a. Materials and equipment shall not be stored outside of the vehicle/ trailer;
   b. The vehicle/trailer shall not be parked upon the street right of way or between the street and home; and
   c. The vehicle/trailer must be well maintained.
7. The home occupation shall be clearly incidental to the primary use of the dwelling for dwelling purposes and shall not change the character of the building from that of a dwelling or alter the residential character of the surrounding neighborhood;
8. The home occupation activity shall be conducted entirely within the home or an enclosed accessory building or garage. The total permissible square footage to be used for the home occupation shall not exceed twenty-five percent of the total ground floor square footage of the house, or one room, whichever is greater. Where an accessory building or garage is used, no more than twenty-five percent of the total ground floor square footage of the house or six hundred square feet in area, whichever is less, shall be devoted to the home occupation;
9. The home occupation shall be registered with the proper licensing agencies or City and State departments;
10. The physical appearance, traffic and other activities incidental to the home occupation shall not be contrary to the objectives and characteristics of the zone in which the home occupation is located;
11. The home occupation shall not generate vehicular traffic or parking around the dwelling unit or other external evidence of the home occupation not normally associated with a residential use;
12. In connection with the operation of the home occupation, it shall not be permitted:
    a. to have exterior displays or a display of goods visible from the outside,
    b. to produce offensive noise (not to exceed fifty-five (55) decibels), vibration, fumes, smoke, gas, light, dust or other particulate matter, odor, heat, humidity, glare, magnetic or electrical interference or other objectionable impacts extending beyond the property line of the lot where the occupation is located,
    c. to involve more than three people (total of employees and clients) being at the home at any one time due to the home occupation, except those members of the family living in the home. An unlimited number of employees may be employed offsite; or

d. to occupy on-street parking beyond the extent of the property's street frontage;

13. Home occupations involving visitations from pedestrian or vehicular traffic shall only be conducted between the hours of eight o'clock (8:00) A.M. and seven o-clock (7:00) P.M.
14. The following businesses, regardless of their conformance with the standards for Home Occupations, are prohibited:
    a. Auto repairs;
    b. Welding shops or machine shops;
    c. Large appliance/electronics or equipment repair or service (washers, dryers, refrigerators and other appliances or equipment that are too large to be carried in 1 individual's arms);
    d. Industrial assembly;
    e. Truck hauling;
    f. Kennels; and
    g. Stables.

18.68.611 Accessory Dwelling Units (ADUs)

The Community Development Director may grant a permit for an Accessory Dwelling Unit subject to the following conditions:

A. No more than one ADU may be permitted accompanying each Single Family Detached.
B. Either the ADU or the principal residence shall be occupied by the owner of the property except for temporary bona fide absences.
C. ADUs are permitted only in owner-occupied single-family dwellings or owner-occupied Single Family Detached.
D. There shall be no external evidence of occupancy by more than one family. The ADU shall be clearly incidental to the primary use of the dwelling for dwelling purposes and shall not change the character of the building from that of a dwelling.
E. Each unit shall have the same address as the main structure. Homes with an ADU may designate mail to its renters by Apartment Number, to wit, Apartment #1 or Apartment #2.
F. A Single Family Detached with an ADU shall provide at least two (2) off-street parking spaces for the principal dwelling, and at least one (1) off-street parking space for the ADU.
    1. The required ADU off-street parking spaces are required to be hard surfaced with concrete or asphalt.
    2. Garage or car port spaces do count as approved spaces.
    3. Required ADU parking stalls may be located within a front, rear or side yard setback area, provided such placement does not displace required landscaping.
G. A Single Family Detached with an ADU shall have one but no more than two (2) meters for each water, and gas service. Each meter shall be in the property owner's name. There shall only be one (1) electric meter per building.
H. All construction and remodeling to accommodate the ADU shall be in accordance with both the International Residential and Building Codes, as amended, in effect at the time of construction or remodeling.
I. Landscaping:

1. The lot on which the ADU is located shall have a landscaped yard in accordance with Chapter 18.76.020.
2. The lot on which the ADU is located shall have street trees in accordance with Chapter 12.20.

J. ADU size requirements are:
1. Minimum size: no minimum size.
2. Maximum size: no maximum size for ADUs located within a main building; ADUs located within an accessory building shall not exceed 1,500 square feet and shall comply with Section 18.68.060.

K. ADUs must include the following:
1. A kitchen separate from the main dwelling.
2. Sanitation facilities (full bathroom) separate from the main dwelling.

L. A person desiring an ADU shall:
1. Obtain a Building Permit from the City and include the following in addition to standard submittal requirements for a permit:
   a. Site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings or additions, dimensions from buildings or additions to property line, and the location of parking stalls, and utility meters.
   b. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.
2. For ADUs that are rented, obtain a City business license. ADUs licensed within the City may be inspected annually as part of the business license renewal for compliance with building, fire, and health codes by any appropriate department of the City or other governmental agency to ensure compliance with building, fire and health and safety codes. No ADU shall be approved without all such required inspections and approval of the City Building Department. ADUs that were constructed legally previous to the adoption of this Code shall meet the building and safety codes required at the time of construction. No ADU business license shall be granted without providing evidence of a Certificate of Occupancy.
3. Record Notice of Compliance Agreement at time of building permit application and/or business licensure.

M. Prior Uses: No ADU existing prior to the enactment of this Section shall be "grandfathered", or considered legal solely because they were previously used as such.

N. Other Apartments Prohibited: There shall be no other type of accessory apartment allowed except as provided in this Section. Any portion of a home or dwelling unit that has been sectioned off so that any occupant in the dwelling does not have access to any portion of the home, and contains separate living quarters and/or a kitchen, regardless of the relationship of the occupants, shall be prohibited unless it meets all of the requirements and standards of this Section, and an application has been made pursuant to the requirements and conditions of this Section.

O. Decisions of the Community Development Director for an ADU are appealable to the Appeal Authority.

P. The ownership of an ADU shall not be separated from a principal dwelling.

18.68.612 Child Daycare Facilities

Child daycare shall be permitted pursuant to the following provisions:

A. Nonregistered Home Daycare.
   1. Nonregistered home daycare, limited to no more than six (6) children, excluding the provider's own children, is permitted in the home of the care provider as set forth in the Zoning District Chapters of this title and within legal conforming single-family, duplex, and multi-family dwellings within commercial and nonresidential districts. A business revenue license or home occupation permit approval shall not be required.
B. Registered Home Daycare or Registered Home Preschool.
   1. A registered home daycare or registered home preschool may be allowed as a conditional use Chapter 18.108. Registered home day cares shall be considered administrative conditional uses and be eligible for administrative approval under that section. The principal place of residence is only to be used to provide educational or daycare opportunities for children under age seven (7) in small groups. The group size at any given time shall not exceed eight (8), including the provider's own children under age seven (7). The applicant shall also obtain appropriate licensing where applicable from the State pursuant to the Utah Code.
C. Permit Application: An application for a residential home daycare or preschool must be submitted to the Planning Director. As a part of the application, the applicant must submit the following documentation:
   1. The number of children and employees; both total for the day and the expected maximum number to be on the premises at any given time;
   2. The hours and days of operation; and
   3. Proof of appropriate licensing from the State, where applicable, or basis upon which exemption therefrom is claimed.
D. Additional Standard of Review: All residential home daycare or preschools shall be subject to the following specific standards:
   1. The applicant resides at the home in which the business will be conducted;
   2. At no time shall the applicant provide home daycare or home preschool services for a group of children exceeding the maximum specified for such facility;
   3. The outdoor play area for the home daycare or home preschool shall be located in the rear or side yards of the home for the protection and safety of the children and for the protection of the neighborhood;
   4. The use of the home for the services of providing childcare shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the home or the neighborhood;
   5. The care and supervision of the children shall be conducted in a manner which is not a public nuisance to the neighborhood;
   6. There shall be no advertising of such occupation, business or service, no window or other signs or displays;
   7. No employees other than persons lawfully living in the dwelling;
   8. Dwellings that front upon a culdesac are prohibited from operating such facilities;
   9. Parking standards per Chapter 18.72 of this title;
   10. No play or yard equipment located in the front yard; and
   11. It is unlawful for any person to engage in a "registered home daycare or registered home preschool" as defined without first obtaining a license pursuant to the provisions of the Heber City code. Prior to issuance of said license, the criteria set

forth in this title must be satisfied and all applicable fees shall be paid. All home occupation business licenses shall be valid for one year, and may be renewed annually, provided there have been no reported violations of the issued permit.

E. Commercial Child Daycare Center and/or Preschool Facility:
   1. Conditional Use Standards: A Child Daycare Center and/or Preschool Facility providing care and maintenance to nine (9) or more children at any one time of any age separated from their parents or guardians is allowed as a conditional use pursuant to the provisions of Chapter 18.108 of this title.

18.68.613 Recreational Vehicle Courts

A. Intent of Provisions. The intent of this chapter is to promulgate minimum regulations which are designed to facilitate the development of safe and sanitary accommodations for short-term occupants.
B. Permit And Plans Required. Any person wishing to construct a recreational vehicle court shall prepare a plan therefor and submit the same to the Community Development Director. Before a permit can be issued for any construction connected with a recreational vehicle court, the plans must be approved as set forth in this chapter. No construction connected with said vehicle court shall be commenced until a valid permit has been obtained therefore.
C. Content Of Plan. The plan shall show the following information:
   1. The topography represented by contours shown at no greater intervals than two feet when required by the Community Development Director;
   2. The proposed street and recreational vehicle court layout;
   3. Proposed reservations for parks, playgrounds and open spaces, if any;
   4. Size and character of service and recreation buildings and other structures associated with land and facilities to be used by the recreational vehicle court occupants;
   5. Proposed landscape planting plan, including type and location of plant material;
   6. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants and other improvements.

18.68.614 Reasonable Accommodation Provisions

A. Applicability. Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations of Heber City or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.
   An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulations of Heber City acts as a barrier to fair housing opportunities.

B. Requesting Reasonable Accommodation. In order to make housing available to an individual with a disability, any eligible person as defined in Section A may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures. Requests for reasonable accommodation shall be in writing and provide the following information:
   1. Name and address of the individual(s) requesting reasonable accommodation.
   2. Name and address of the property owner(s).
   3. Address of the property for which accommodation is requested.
   4. Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and
   5. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.

C. Request for accommodation. A request for reasonable accommodation in regulations of Heber City may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.

D. Reviewing Authority. Requests for reasonable accommodation shall be reviewed by the Community Development Director using the criteria set forth in Section E. The Community Development Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth in Section

E. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. If a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

F. Required Findings. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with Federal and State fair housing laws and based on the following factors:
   1. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
   2. Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
   3. Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
   4. Whether the requested accommodation would require a fundamental alteration in the nature of Heber City's land use and zoning or building ordinances.

G. Written Decision on the Request for Reasonable Accommodation. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Community Development Director's findings on the criteria set forth in Section E. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process. The notice of decision

shall be sent to the applicant by certified mail. The written decision of the Community Development Director shall be final unless an applicant appeals to the Appeal Authority. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

This Ordinance shall take effect immediately upon approval.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2023.

	AYE	NAY	ABSENT	ABSTAIN
Michael Johnston	_____	_____	_____	_____
Rachel Kahler	_____	_____	_____	_____
Ryan Stack	_____	_____	_____	_____
D. Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

_____
Mayor Heidi Franco

ATTEST:

_____ Date: _____
RECORDER

Heber City Council Staff Report

MEETING DATE: 11/7/2023

SUBJECT: Resolution 2023-19 Authorizing the Annexation and Withdrawal of Certain Property Into and Out Of the Jordanelle Ridge Public Infrastructure District No. 2

RESPONSIBLE: Jeremy Cook

DEPARTMENT: Administrative

STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

After approval of the Jordanelle Ridge Public Infrastructure No. 2, the developers of the project acquired a small portion of property outside the original annexation boundaries of the PID. The PID desires to include that property within the PID so that all similar situated property within the development will be subject to the same requirements.

DISCUSSION

FISCAL IMPACT

None

CONCLUSION

Staff recommends approval of the Resolution No. 2023-19

75 N Main Street
Heber City, UT 84032

Phone: 435-654-4830
Fax: 435-657-2543

heberut.gov

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue
I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:
Alternative 4 - Denial
I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Administrative
Staff member: Jeremy Cook, City Attorney

EXHIBITS

1. Annexation Resolution - Heber City - 4855-5352-0778 - 1
2. PID ROS_2 south revised-additon_reduction parcels - 4875-5717-5179 - 1
3. 2023-10-03 VILLAGE 2 - PID South Boundary-Amendment - 4861-0063-7579 - 1

RESOLUTION NO. 2023-19

A RESOLUTION OF HEBER CITY AUTHORIZING THE ANNEXATION AND WITHDRAWAL OF CERTAIN PROPERTY INTO AND OUT OF THE JORDANELLE RIDGE PUBLIC INFRASTRUCTURE DISTRICT NO. 2.

WHEREAS, the Jordanelle Ridge Public Infrastructure District No. 2 (the "District") is a public infrastructure district and a political subdivision and body corporate and politic duly organized and existing under the Constitution and laws of the State of Utah (the "State"), including particularly Title 17B, Chapter 1 and Title 17D, Chapter 4 (collectively, the "PID Act"), Utah Code Annotated 1953, as amended Utah Code; and

WHEREAS, on March 1, 2022, the City Council of Heber City, Utah (the "City") adopted Resolution 2022-03 (the "Creation Resolution") authorizing the creation of the District, approving a Governing Document for the District (the "Governing Document") and appointing the Board; and

WHEREAS, in accordance with Utah Code Ann. §§ 17D-4-201(3)(a) and 4(a), an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district, and area may be withdrawn from the public infrastructure district, upon adoption of resolutions of the District board and Heber City, which is the creating entity; and

WHEREAS, the District desires to annex a small portion of property that is adjacent to the District but was not within the boundaries of the City when the District was established, and approve the withdrawal of portion of property currently within the District that will not have development lots.

NOW, THEREFORE, it is hereby resolved by Heber City as follows:

Section 1. Heber City hereby authorizes the annexation and withdrawal of certain real property from the Jordanelle Ridge Public Infrastructure District No. 2 South Boundary (the "Subject Property"), as identified in the legal description and map attached hereto Exhibit A, into and out of the District. The change to the boundaries of the Jordanelle Ridge Public Infrastructure District No. 2 North Boundary shall not change.

Section 2. The City hereby authorizes the Mayor to execute such documents and take such actions as may be necessary to complete the annexation and withdrawal, including amendments or changes to satisfy changes to the legal description by the Wasatch County Surveyor, or the office of the Lieutenant Governor.

Section 3. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 4. All acts, orders and resolutions, and parts thereof in conflict with this Resolution be, and the same are hereby, rescinded.

Section 5. This resolution shall take upon approval and execution of the final local entity plat by Heber City and the Wasatch County Surveyor.

APPROVED AND ADOPTED this November 7, 2023.

(SEAL)

By:_____
Heidi Franco, Mayor

ATTEST:

By:_____
City Recorder

EXHIBIT A

SUBJECT PROPERTY

Jordanelle Ridge – Village 2 PID South Boundary
A description of a tract of land completely contained within Township 3 South, Range 5 East, Salt Lake and Base and Meridian. All sections called to and along within this description are within said Township and Range.

Beginning at a point being South 00°41’38” East 518.02 feet along the North-South Quarter section line from the South Quarter Corner of Section 20, and running

thence North 19°13'48" West 272.96 feet;
thence Northwesterly 176.87 feet along the arc of a 1,034.00 foot radius curve to the left (center bears South 70°54'05" West and the chord bears North 23°59'56" West 176.65 feet with a central angle of 09°48'02");
thence North 28°53'57" West 229.57 feet;
thence North 28°55'45" West 31.50 feet;
thence Northwesterly 205.84 feet along the arc of a 316.00 foot radius curve to the right (center bears North 61°09'30" East and the chord bears North 10°10'52" West 202.22 feet with a central angle of 37°19'17");
thence North 08°28'46" East 105.39 feet;
thence Northwesterly 242.26 feet along the arc of a 384.00 foot radius curve to the left (center bears North 81°31'14" West and the chord bears North 09°35'39" West 238.26 feet with a central angle of 36°08'50");
thence South 89°59'23" East 341.60 feet to the North-South Quarter section line;
thence North 00°00'09" East 1,550.78 feet along the North-South Quarter section line;
thence North 53°35'28" East 351.75 feet;
thence North 42°38'38" East 443.03 feet;
thence North 50°47'07" West 752.70 feet to the North-South Quarter section line;;
thence North 00°00'09" East 741.95 feet along the North-South Quarter section line;
thence North 89°59'32" West 399.95 feet;
thence North 24°22'32" West 113.62 feet;
thence North 45°45'31" East 1,484.43 feet;
thence South 44°14'29" East 4,517.61 feet;
thence North 89°14'34" East 149.38 feet;
thence South 00°09'12" East 1,185.14 feet to the Northwest Corner of Wasatch County Parcel Number 00-0021-5051 found at Entry Number 355558;
thence South 00°46'51" West 697.33 feet along said Parcel Number 00-0021-5051;
thence North 89°36'20" West 82.51 feet;
thence South 00°56'33" East 1,322.25 feet;
thence South 88°58'53" West 1,148.61 feet;
thence West 42.95 feet;
thence North 00°47'55" West 20.57 feet;
thence South 89°49'39" West 210.60 feet;
thence South 00°10'21" East 19.93 feet to the Northeast Corner of Cove Estates Phase 2 as recorded in the Wasatch County Recorder’s Office as Entry Number 294870 in Book 820 at Pages 176-185;

thence West 1,112.50 feet along the North line of said Cove Estates Phase 2, to and along the Northerly line of Cove Estates Phase 1 as recorded in the Wasatch County Recorder's Office as Entry Number 294869 in Book 820 at Pages 166-175;

thence South 00°10'21" East 26.98 feet;

thence South 49°09'39" West 1,056.00 feet;

thence South 89°49'39" West 512.35 feet to the North-South Quarter section line of Section 29;

thence North 00°41'38" West 1,549.71 feet along the North-South Quarter section line to the point of beginning.

Contains 20,152,893 Square Feet or 462.647 Acres

Less and Excepting any portion of Parcel Number 00-0021-5048 found at Entry Number 325869 being more particularly described as follows:

All of a certain parcel of land, designated as Wasatch Commons Tank site, said parcel located in the north half of Section 20, Township 3 South, Range 5 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Commencing at the East corner of above mentioned Section 20 (Basis of Bearing South 00°42'24" West – 2663.75 feet between the East quarter corner and the South east corner of said Section 20); thence South 00°42'24" West along the east line of said section for 103.13 feet; thence North 89°17'36" West perpendicular to said east line for 331.83 feet to the POINT OF BEGINNING; thence South 88°55'25" West for 468.50 feet; North 13°06'56" East for 644.72 feet; South 84°07'24" East for 343.15 feet; South 01°53'10" West for 584.28 feet to the POINT OF BEGINNING. Contains 246,424 sq.ft or 5.653 Acres.

Net Area Contains 19,906,469 Square Feet or 456.990 Acres

SURVEYOR'S NARRATIVE

I, PATRICK M. HARRIS, do hereby state that I am a Registered Professional Land Surveyor and that I hold Certificate No. 286882 as prescribed by the laws of the State of Utah and represent that I have made a survey of the following described property. The purpose of this survey is to provide a Boundary survey to our client. The Basis of Bearing is the line between the Northwest Corner and the West Quarter Corner of Section 17, Township 3 South, Range 5 East, Salt Base and Meridian, said line measuring South 0°18"29' East 2625.08 feet.

Village 2 PID South Boundary

Addition Parcel No. 1

A description of a tract of land completely contained within Township 3 South, Range 5 East, Salt Lake and Base and Meridian. All sections called to and along within this description are within said Township and Range.

Beginning at the South Quarter Corner of Section 20, and running

thence South 00°41'38" East 518.02 feet along the North-South Quarter section line;
thence Northerly 49.60 feet along the arc of a 1,966.00 foot radius curve to the right (center bears North 69°27'21" East and the chord bears North 19°49'17" West 49.60 feet with a central angle of 01°26'44");
thence North 19°05'55" West 223.36 feet;
thence Northwesterly 176.87 feet along the arc of a 1,034.00 foot radius curve to the left (center bears South 70°54'05" West and the chord bears North 23°59'56" West 176.65 feet with a central angle of 09°48'02");
thence North 28°53'57" West 229.57 feet;
thence North 28°55'45" West 31.50 feet;
thence Northerly 205.84 feet along the arc of a 316.00 foot radius curve to the right (center bears North 61°09'30" East and the chord bears North 10°10'52" West 202.22 feet with a central angle of 37°19'17");
thence North 08°28'46" East 105.39 feet;
thence Northerly 242.26 feet along the arc of a 384.00 foot radius curve to the left (center bears North 81°31'14" West and the chord bears North 09°35'39" West 238.26 feet with a central angle of 36°08'50");
thence South 89°59'23" East 341.60 feet to the North-South Quarter section line;
thence South 00°00'09" West 667.82 feet along the North-South Quarter section line to the point of beginning.

Contains 247,167 Square Feet or 5.674 Acres

Addition Parcel No. 2

A description of a tract of land completely contained within Township 3 South, Range 5 East, Salt Lake and Base and Meridian. All sections called to and along within this description are within said Township and Range.

Beginning at a point being North 00°00'09" East 3,971.09 feet along the North-South Quarter section line from the South Quarter Corner of Section 20, and running

thence North 89°59'32" West 399.95 feet;
thence North 24°22'32" West 113.62 feet;
thence North 45°45'31" East 1,484.43 feet;
thence South 44°14'29" East 385.93 feet;
thence South 45°45'31" West 1,236.56 feet to the point of beginning.

Contains 545,749 Square Feet or 12.529 Acres

Addition Parcel No. 3

A description of a tract of land completely contained within Township 3 South, Range 5 East, Salt Lake and Base and Meridian. All sections called to and along within this description are within said Township and Range.

Beginning at a point being North 00°00'09" East 1,866.57 feet along the North-South Quarter section line and East 3,216.96 feet from the South Quarter Corner of Section 20, and running

thence North 00°09'12" West 575.28 feet;
thence South 44°14'29" East 792.83 feet;
thence South 89°14'34" West 551.65 feet to the point of beginning.

Contains 158,669 Square Feet or 3.643 Acres

Reduction Parcel

A description of a tract of land completely contained within Township 3 South, Range 5 East, Salt Lake and Base and Meridian. All sections called to and along within this description are within said Township and Range.

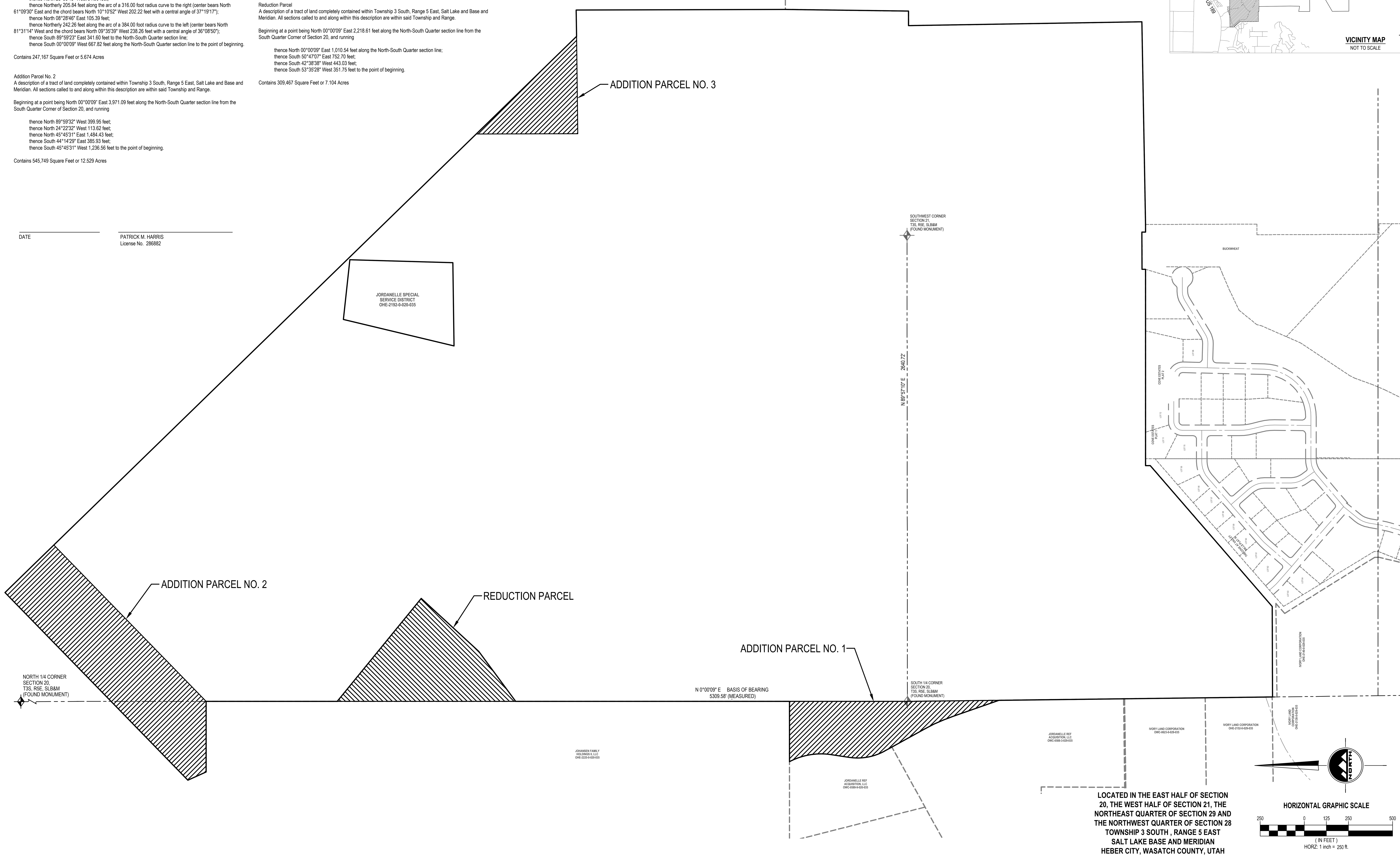
Beginning at a point being North 00°00'09" East 2,218.61 feet along the North-South Quarter section line from the South Quarter Corner of Section 20, and running

thence North 00°00'09" East 1,010.54 feet along the North-South Quarter section line;
thence South 50°47'07" East 752.70 feet;
thence South 42°38'38" West 443.03 feet;
thence South 53°35'28" West 351.75 feet to the point of beginning.

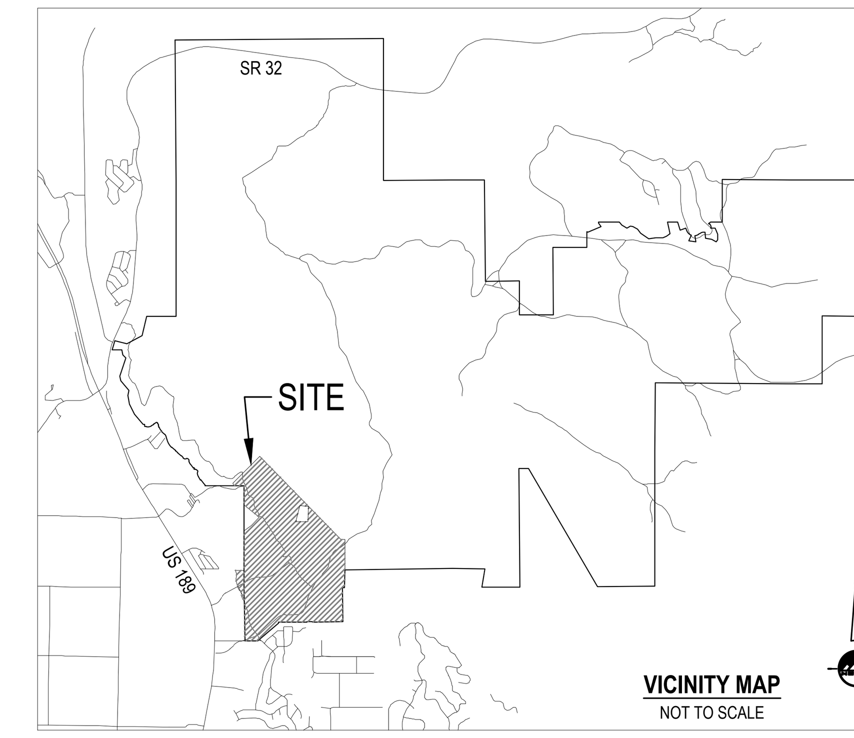
Contains 309,467 Square Feet or 7.104 Acres

DATE

PATRICK M. HARRIS
License No. 286882



LOCATED IN THE EAST HALF OF SECTION 20, THE WEST HALF OF SECTION 21, THE NORTHEAST QUARTER OF SECTION 29 AND THE NORTHWEST QUARTER OF SECTION 28 TOWNSHIP 3 SOUTH , RANGE 5 EAST SALT LAKE BASE AND MERIDIAN HEBER CITY, WASATCH COUNTY, UTAH



ENSIGN
THE STANDARD IN ENGINEERING

SALT LAKE CITY
45 W. 10000 S., Suite 500
Sandy, UT 84070
Phone: 801.255.0529

LAYTON
Phone: 801.547.1100

TOOELE
Phone: 435.843.3590

CEDAR CITY
Phone: 435.865.1453

RICHFIELD
Phone: 435.896.2983

WWW.ENSIGNENG.COM

FOR:
MOMENTUM DEVELOPMENT GROUP, LLC
10421 S. JORDAN GATEWAY, STE 200
SOUTH JORDAN, UTAH 84095
CONTACT:
PHONE: 801.316.3251

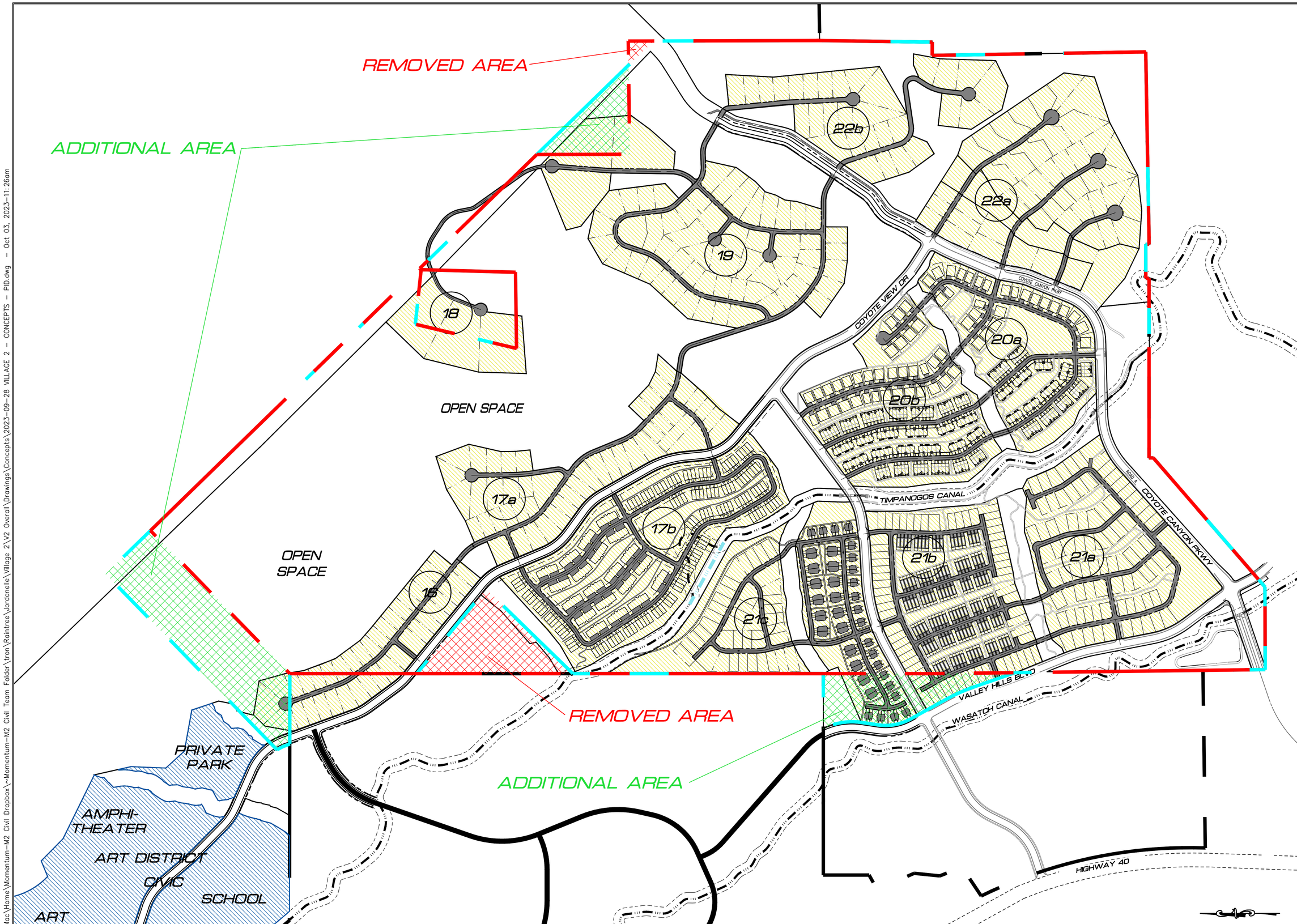
JORDANELLE RIDGE PID NO. 2 SOUTH
BOUNDARY SURVEY
700 COYOTE LANE
HEBER CITY, UTAH

PROFESSIONAL LAND SURVEYOR
No. 286882
PATRICK M. HARRIS
STATE OF UTAH

VILLAGE 2 SOUTH PID PARCEL BOUNDARY SURVEY - ADDITION AND REDUCTION PARCELS

PROJECT NUMBER 10229M
PRINT DATE 10/9/23
DRAWN BY S. LEWIS
CHECKED BY P. HARRIS
PROJECT MANAGER P. HARRIS

1 OF 1



PROJ. MGR: MBW DESIGNER: MBW

\\Mac\Home\Momentum-M2 Civil Dropbox\~Momentum-M2 Civil Team Folder\tron\Raintree\Jordanelle\Village 2\V2 Overall\Drawings\Concepts\2023-09-28 VILLAGE 2 - CONCEPTS - PID.dwg - Oct 03, 2023-11:26am

NO.	BY	DATE	REVISIONS

CAUTION

The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.

JORDANELLE RIDGE
VILLAGE 2 - PID
SOUTH BOUNDARY AMENDMENT

DATE SUBMITTED: 10/3/2023

PREPARED FOR: RAINTREE

MOMENTUM DEVELOPMENT GROUP
10421 S. JORDAN GATEWAY, SUITE 200, SOUTH JORDAN, UTAH 84095

SHEET NUMBER
1

SCALE
HORIZONTAL: 1"= NTS
VERTICAL: 1"= X'

JOB NUMBER
47-0117

Heber City Council Staff Report

MEETING DATE:	11/7/2023
SUBJECT:	Ordinance 2023-38 Wittco Master Development Agreement
RESPONSIBLE:	Tony Kohler
DEPARTMENT:	Planning
STRATEGIC RELEVANCE:	Community Development

SUMMARY

Ben Witt, owner of two existing duplexes at approximately 801 South 100 West, has approached the City about rezoning the property to permit a new mixed-use building to replace the two existing duplexes.

The policy questions include the following:

1. Should Council approve Ordinance 2023-38?

RECOMMENDATION

Staff recommends approval of Ordinance 2023-38.

BACKGROUND

Council discussed the proposed MDA at the October 3 meeting and provided some feedback on the proposed MDA terms. Staff has updated the MDA as per Council's direction.

DISCUSSION

Pros to approving the proposed MDA/Zone Change include:

- Promoting affordable and workforce housing
- Promoting economic development
- Preservation of an easement for a future street

75 N Main Street
Heber City, UT 84032

Phone: 435-654-4830
Fax: 435-657-2543

heberut.gov

Cons to approving the proposed MDA/Zone Change include:

- None identified

FISCAL IMPACT

The proposed zone change will not impact the City's budget.

CONCLUSION

The proposed development preserves an easement for a future street, promotes redevelopment of tired buildings, promotes redevelopment in area walkable to shopping facilities and is consistent with the uses and vision of the General Plan.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

I move to **ADOPT Ordinance 2023-38,** approving the Wittco Zone Change and associated MDA as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 – Approve as Amended

I move to **ADOPT Ordinance 2023-38**, approving the Wittco Zone Change and associated MDA with the findings and conditions as presented in the conclusion above, with the following changes:

_____

_____

Alternative 3 – Continue

I move to **CONTINUE Ordinance 2023-38** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

_____

_____

Alternative 4 – Deny

I move to **DENY Ordinance 2023-38** with the following findings.

_____

_____

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. Ord 2023-38 Wittco MDA
2. Wittco Agreement 11-07-23
3. 6 CC-10-03-23-wittco-alk

ORDINANCE NO. 2023-38

AN ORDINANCE APPROVING THE WITTCO ZONE CHANGE/MDA LOCATED AT APPROXIMATELY 801 SOUTH 100 WEST.

BE IT ORDAINED by the City Council of Heber City, Utah, the properties described in Exhibit A, are hereby rezoned to C-2 Commercial.

This Ordinance shall take effect immediately upon passage, but not prior to the execution of the Master Development Agreement illustrated in Exhibit A.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2023.

	AYE	NAY	ABSENT	ABSTAIN
Rachel Kahler	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Ryan Stack	_____	_____	_____	_____
Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

_____
Mayor Heidi Franco

ATTEST:

_____ Date: _____
RECORDER

EXHIBIT A

When recorded return to:

Heber City Corporation
Attn: City Recorder
75 North Main Street
Heber City, UT 84032

Parcel Nos. 00-0000-9477
00-0000-9485

DEVELOPMENT AGREEMENT
(Wittco Subdivision)

THIS DEVELOPMENT AGREEMENT entered into this _____ day of _____, 2023, by and between **Heber City**, a Utah municipality ("City"), and the **Benjamin Witt**, an individual, and **Wittco Ventures, LLC,** a Utah limited liability company (collectively "Developer" or "Owner"). Developer and City are, from time to time, hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Developer is the owner of an approximately .67 acres of real property located at approximately 1921 Keystone Ct., Heber City, Utah 84032 (the "Property"). A legal description of the Property is attached hereto as Exhibit A; and

WHEREAS, the Developer desires to combine two existing lots to create one lot with a single residential/commercial building consisting of multiple units (the "Project"); and

WHEREAS, the City has reviewed the concept plan for the new residential/commercial building, which Concept Plan is attached hereto as Exhibit B (the "Concept Plan") and concept building elevations (the "Concept Elevations"), which are attached as Exhibit C; and

WHEREAS, the City, acting pursuant to its authority under Utah Code Ann. §10-9a-101, *et. seq.,* in compliance with the Heber City Land Use Code, and in furtherance of its land use policies, goals, objectives, ordinances and regulations, has made certain determinations with respect to the Property, and therefore has elected to approve and enter into this Agreement in order to advance the policies, goals and objectives of the City, and to promote the health, safety and general welfare of the public.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

1. **Zoning**. The property shall be used and developed consistent with the requirements of the C-2 zone, except as characterized by the approved Concept Plan and elevations shown in Exhibit B.

2. **Building Elevations.** Unless otherwise approved by the City, the building elevations shall be consistent with the Concept Elevations attached hereto as Exhibit C. The building height shall not exceed three stories.

3. **Driveway Access.** Access to the project shall consist of a single driveway entrance located along 100 West and placed near the north end of the Project to avoid conflicts with a potential future intersection on the southwest corner of the Project.

4. **Density / Use of Building.** The total density of the Project shall not exceed 22 residential units. Developer may, in Developer's discretion, utilize some or all of the first floor of the Project for commercial uses that are approved in the C-2 zone. Developer agrees that all floors other than the first floor shall be residential.

5. **Low Income Housing.** Developer shall construct not less than 2 dwelling units as Low Income Housing. Low Income Housing shall be sold or rented, as applicable, to individuals or families with an income of 60% or less of the average median income (AMI) in Wasatch County, Utah and the monthly cost shall not be more than 30% of a household's income. Low Income Housing units shall be deed restricted to maintain the same level of affordability in perpetuity.

6. **Landscaping**. Developer shall either preserve or replace the evergreen trees along the west side of the site.

7. **Lighting**. All lighting on the site shall be dark-sky complaint as per Heber City Zoning requirements.

8. **Permitting**. Each lot shall be eligible for approval of a building permit upon final site plan approval by the planning and engineering departments.

9. **Dedication of Easement**. Prior to obtaining a building permit for the project, Developer shall dedicate to the City an approximately 17'-5'' wide easement and right-of-way as shown on the Concept Plan. The Easement shall grant to the City the right to remove any improvements within the easement area and construct a future road over the easement area. Developer shall not be allowed to meet any parking requirements or other improvement requirements based on any improvements within the easement area.

10. **Applicable Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the "Applicable Law") shall be in accordance with those set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including City Ordinances and Resolutions, in force and effect on the date the City Council granted preliminary approval to Developer

for the Project. Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of the City necessary for approval and recordation of the subdivision plat, including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of the City.

11. **Default**. Any failure by any party to perform any term or provision of this Agreement, which failure continues uncured for a period of ten (10) calendar days following the receipt of written notice of such failure from the other party shall constitute a "Default" under this Agreement.

10.1 Notice. Any notice of default ("Default Notice") shall: (1) specify the claimed event of Default; (2) identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in Default; (3) identify why the claimed Default is claimed to be material; and (4) specify the manner in which said failure may be satisfactorily cured.

10.2. Cure. Following receipt of a Default Notice, the defaulting Party shall have thirty (30) days in which to cure such claimed Default (the "Cure Period"). If more than 30 days is required for such cure, the defaulting Party shall have such additional time as is reasonably necessary under the circumstances in which to cure such Default so long as the defaulting Party commences such cure within the Cure Period and pursues such cure with reasonable diligence. City may, in City's sole discretion, withhold permits or approvals during any Cure Period.

10.3. Developer's Exclusive Remedy. Developer's sole and exclusive remedy under this Agreement shall be specific performance of the rights granted in this Agreement and City's obligations under this Agreement. **IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, OR ANY DEVELOPER, PROPERTY OWNER OR OTHER PARTIES UNDER THIS AGREEMENT, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES**.

10.4 City's Remedies Upon Default. In addition to all other remedies available at law or in equity, City shall have the right to withhold all further reviews, approvals, licenses, building permits and other permits for development of the Property in the case of a Default by Developer, until the Default has been cured. City shall further have the right to draw on any security posted or provided in connection with the Property and relating to remedying of the particular Default.

10.5 Emergency Defaults. Anything in this Agreement notwithstanding, if the Council finds on the record in a public meeting that a Default by Property Owners materially impairs a compelling, countervailing public interest and that any delays in imposing a remedy to such a Default would also impair a compelling, countervailing public interest, the City may impose the remedies of Section 10.4 without any further requirements or

obligations to the Property Owners. The City shall give Notice to Property Owners of any public meeting at which an emergency Default is to be considered and Property Owners shall be allowed to attend such meeting and address the Council regarding the claimed emergency Default.

12. **Fees.** Developer shall be required to pay all permit fees, building permit fees, inspection fees, impact fees or other fees imposed by the City as set forth in the City Code and the City's consolidated fee schedule.

13. **Entire Agreement**. This Agreement, including its Exhibits, contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and of the Developer.

14. **Time is of the essence**. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.

15. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and continue for a period of fifteen (15) years. Unless otherwise agreed between the City and the Developer, the Developer's vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement. Upon termination of this Agreement, the obligations of the Parties to each other hereunder shall terminate, but none of the dedications, easements, deed restrictions, licenses, building permits, or certificates of occupancy granted prior to the expiration of the term or termination of this Agreement shall be rescinded or limited in any manner. If Developer has not constructed the Project in accordance with the Concept Elevations prior to the expiration of this Agreement, the zoning of the Property shall automatically revert to R-2 zoning upon expiration of this Agreement.

16. **No Third-Party Beneficiary Rights**. This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

17. **Recording.** This Agreement shall be recorded with the Wasatch County Recorder as soon as reasonably practicable after execution of this Agreement. The City Recorder shall cause to be recorded a fully executed copy of this Agreement in the Official Records of the County of Wasatch.

18. **Notices.** Any notice or communication required hereunder between the City and the Developer must be in writing and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of

(1) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United State mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses as set forth below:

The City:

Heber City Manager
75 N Main Street
Heber City, UT 84032

Developer

Benjamin Witt
1921 Keystone Ct.
Heber City, UT 84032

19. **Insurance and Indemnification.** Developer shall defend and hold the City and its officers, employees and consultants harmless for any and all claims, liability and damages arising out of the negligent actions or inactions of such Developer, its agents or employees pursuant to this Agreement, unless caused by the City's gross negligence or willful misconduct.

20. **Bodily Injury and Property Damage Insurance**. Developer agrees to and shall indemnify and hold the City and its elected and appointed boards, officers, agents, employees, and consultants harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) rising from or as a result of the death of any person or any accident, injury, loss or damage to any person or property directly caused by any acts done or omissions of Developer or its agents, servants, employees or contractors in connection with this Agreement, except for willful misconduct or negligent acts or omissions of the City or its elected or appointed boards, officers, agents, employees or consultants.

21. **Waiver of Rights Under Utah Code Section 10-9a-532**. The Parties have been represented by an attorney throughout this process or have had the opportunity to consult with an attorney. Developer acknowledges that this Agreement does not restrict any of Developer's rights under clearly established state law or that Developer has been advised in writing of any such rights being restricted. As an essential term of this Agreement, Developer hereby waives any claim that any term of this Agreement is void, illegal, invalid, or unenforceable as the result of any failure on the City's part to disclose in writing any rights being restricted by this Agreement.

22. **Binding Effect.** If Developer conveys any portion of the Property or buildings to one or more owners or sub-developers, the property so conveyed shall have the same rights, privileges, and shall be subject to the same limitations and rights of the City, applicable to such properties under this Agreement prior to such conveyance, without any required approval, review, or consent by the City, except as otherwise provided herein.

23. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future date any such right or any other right it may have.

24. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

25. **Other Necessary Acts**. Each Party shall execute and deliver to the other Party any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

26. **Covenants Running with the Land and Manner of Enforcement**. The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of the individual lot in the Project shall have no right to bring any action under this Agreement as a third-party beneficiary. The City may look to the Developer, its successors and/or assigns, or the lot owners for performance of the provisions of this Agreement relative to the portions of the Projects owned or controlled by such party. The City may, but is not required to, perform any obligation of the Developer that the Developer fails adequately to perform. Any cost incurred by the City to perform or secure performance of the provisions of this Agreement shall constitute a valid lien on the Project, including prorated portions to the individual lots or units in the Project.

27. **Amendment**. Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in the specific lot, or other portion of the Project. Each person or entity (other than the City and the Developer) that holds any beneficial, equitable, or other interests or encumbrances in all or any portion of the Property at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 32. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to, the City and/or the Developer.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this _____ day of _____, 2023.

HEBER CITY:

By:_____
Heidi Franco, Mayor

ATTEST:

_____
Heber City Recorder

DATED this _____ day of _____, 2023.

By: _____
Benjamin Witt

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2023, personally appeared before me **Benjamin Witt,** who duly acknowledged to me that he executed the foregoing document.

_____
NOTARY PUBLIC

DATED this _____ day of _____, 2023.

WITTCO VENTURES, LLC

4861-8064-1925, v. 1

By: _____

Print Name: _____

Title: _____

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2023, personally appeared before me _____, who duly acknowledged to me that (s)he has authority to and did execute the foregoing on behalf of Wittco Ventures, LLC.

_____
NOTARY PUBLIC

Exhibit A

Legal Description

Parcel 1:

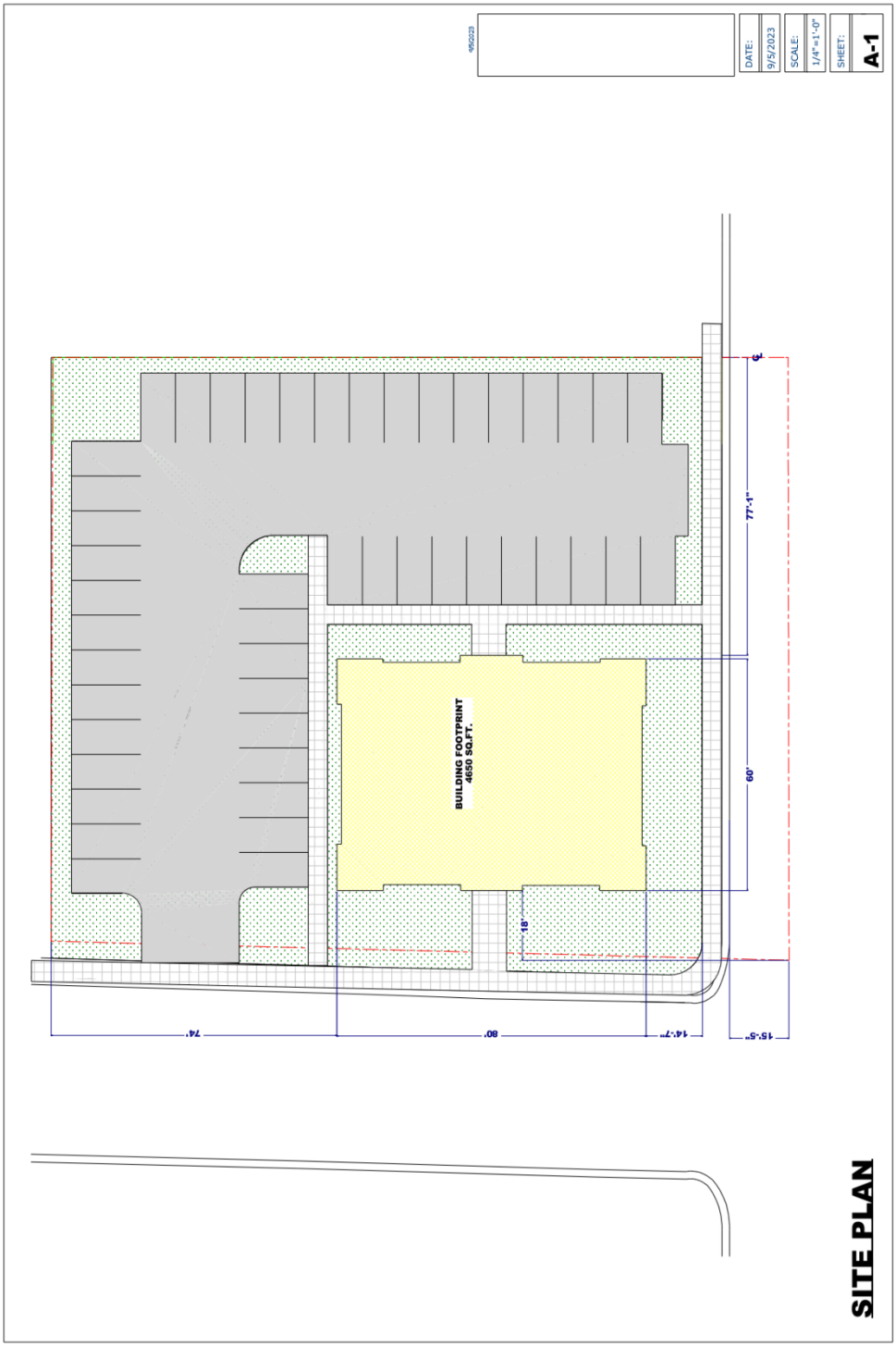
LOT 6, HAWBROOK LANE PLAT A, according to the official plat thereof recorded in the office of the Wasatch County Recorder.

Parcel 2:

LOT 5, HAWBROOK LANE PLAT A, according to the official plat thereof recorded in the office of the Wasatch County Recorder.

Exhibit B

Concept Plan



4861-8064-1925, v. 1

Exhibit C

Concept Building Elevations

FRONT VIEW

REAR VIEW

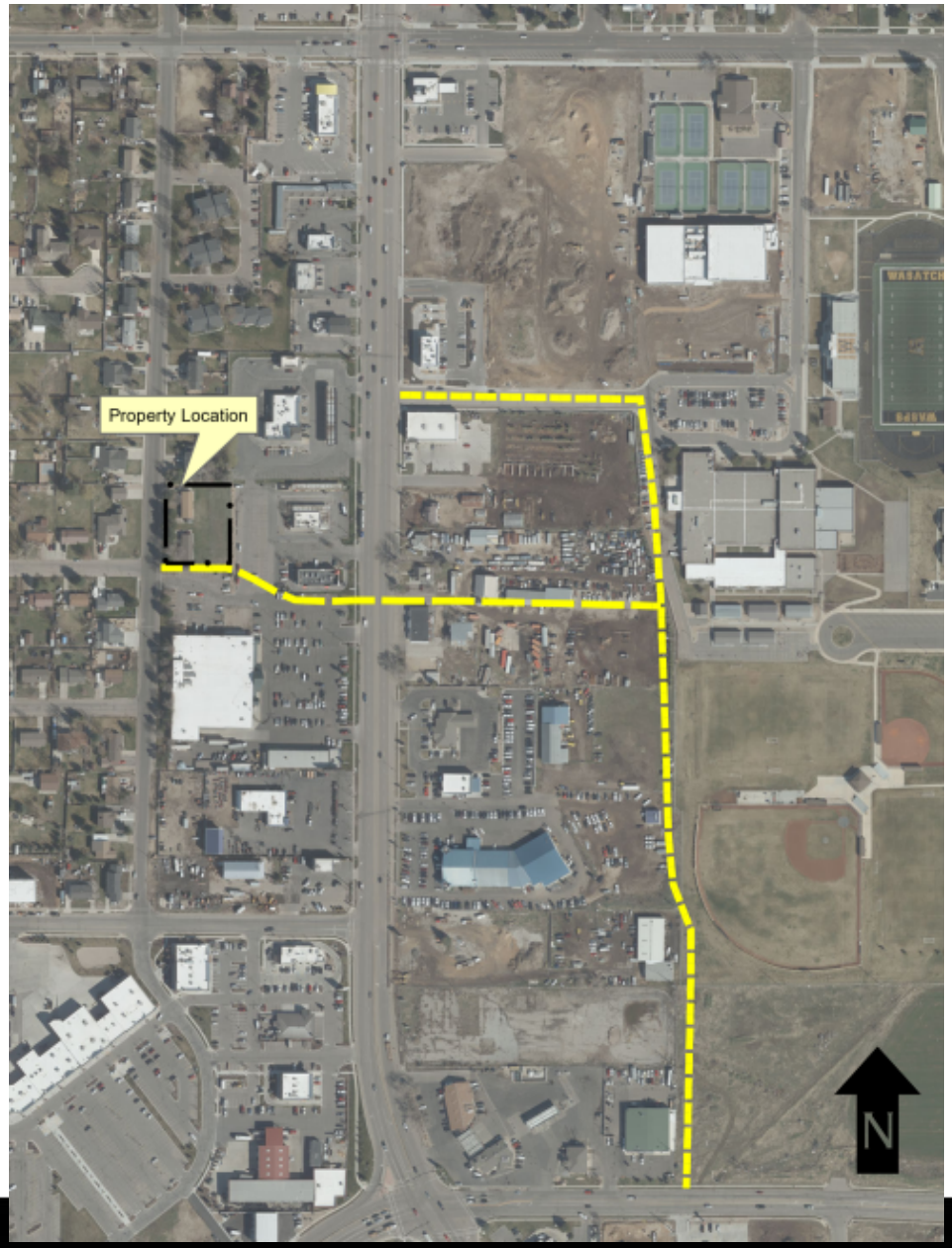
4861-8064-1925, v. 1

Wittco Rezone

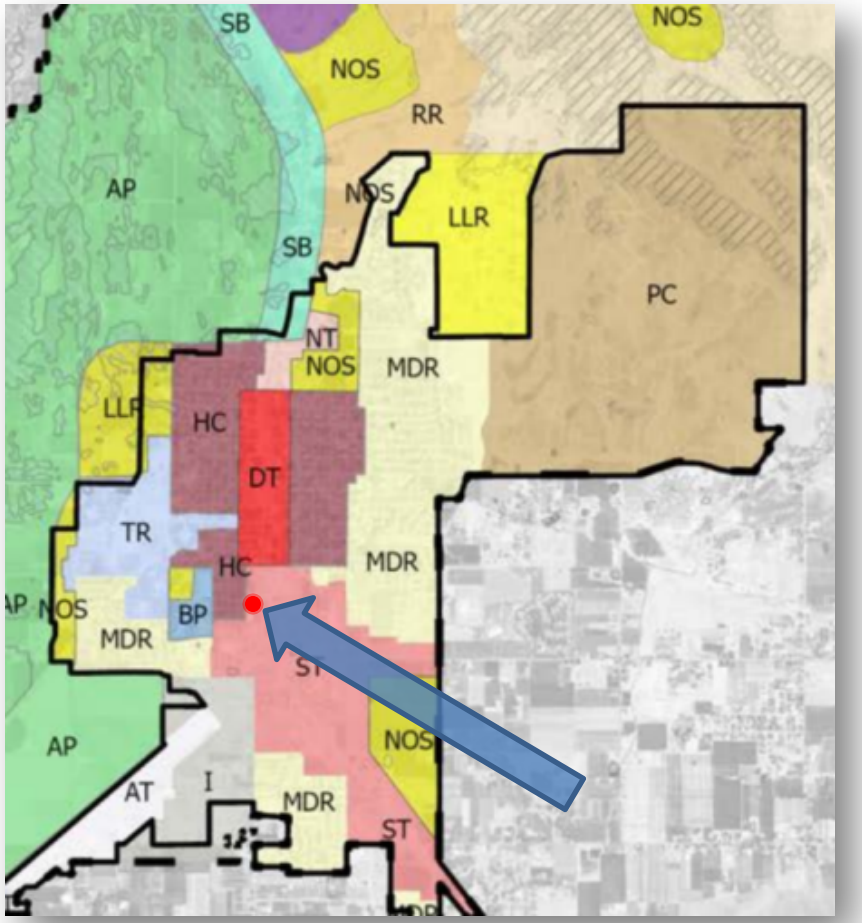
October 3, 2023

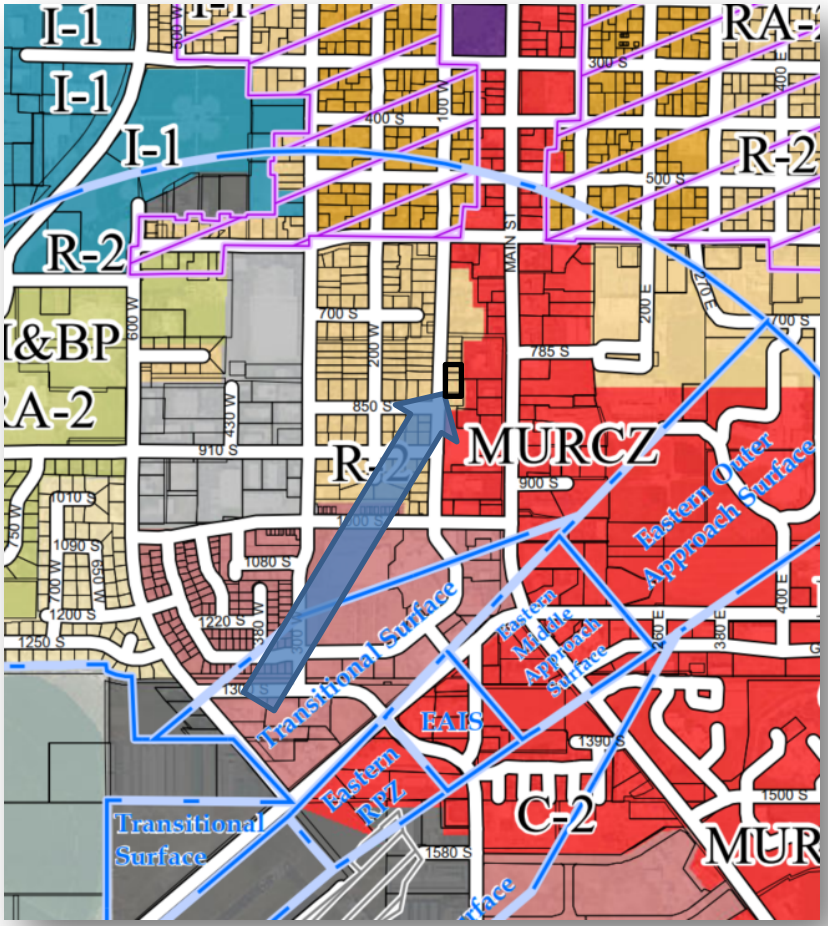
Petitioner: Ben Witt

Vicinity Map

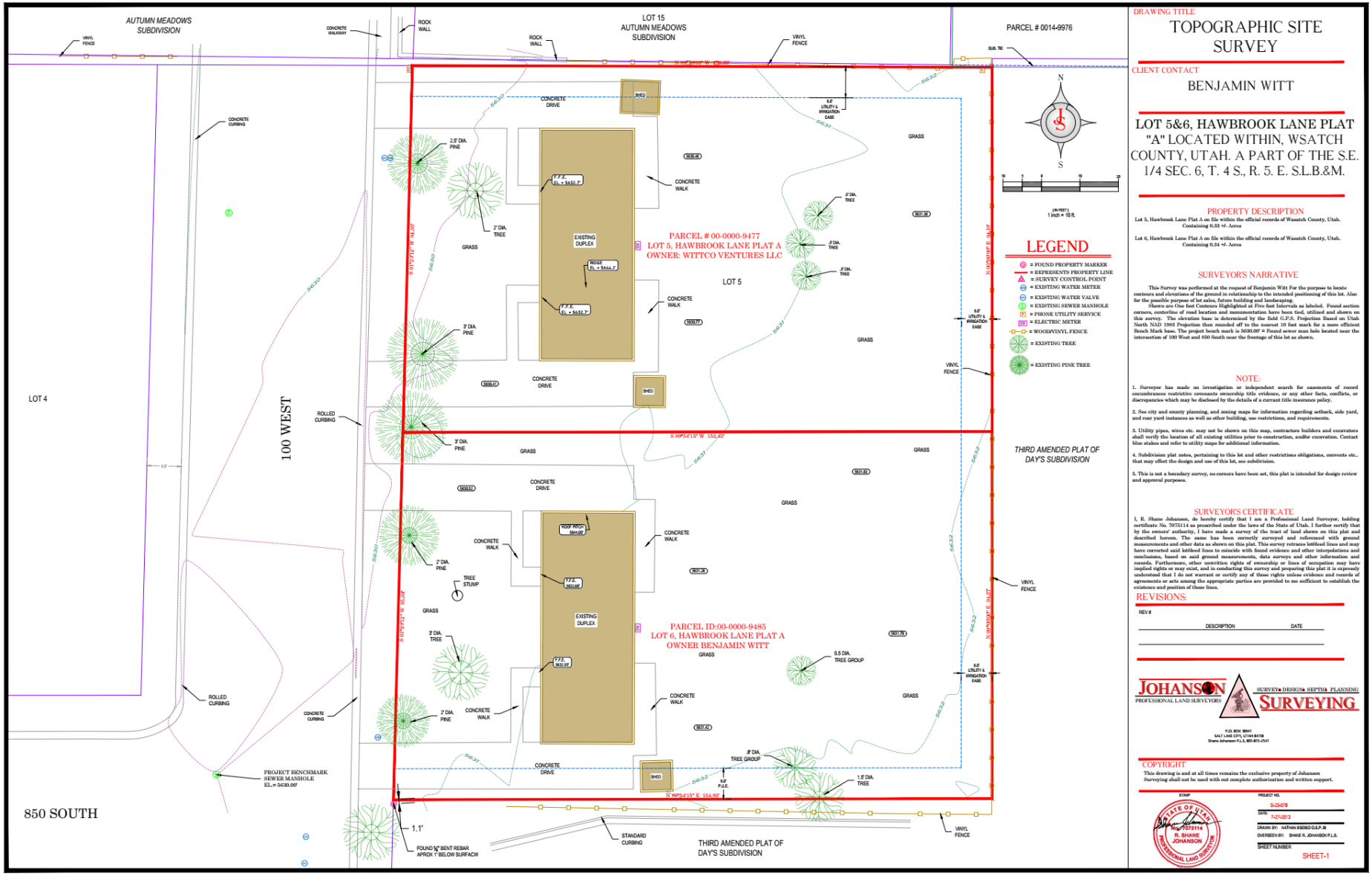


General Plan & Zoning Map

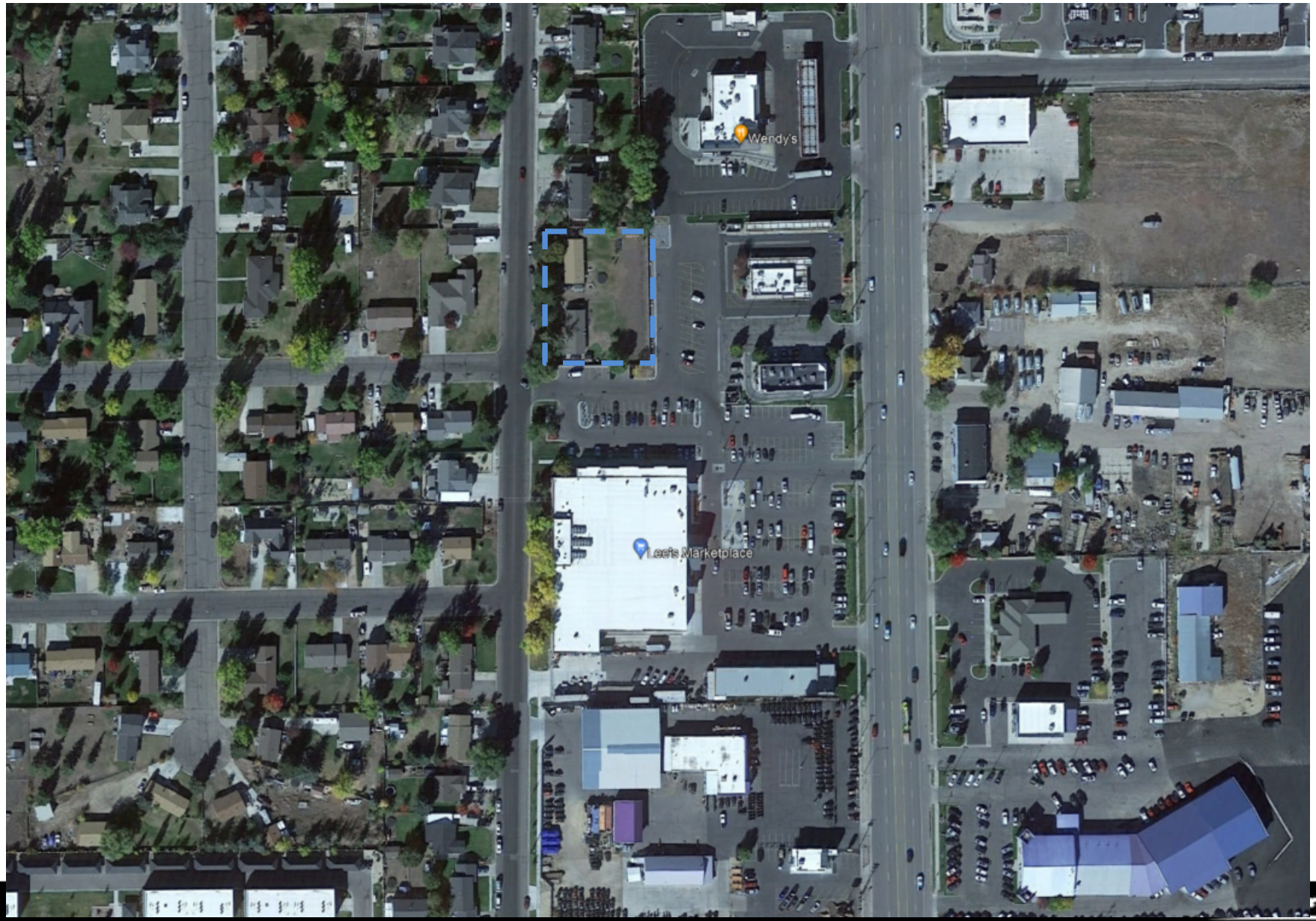




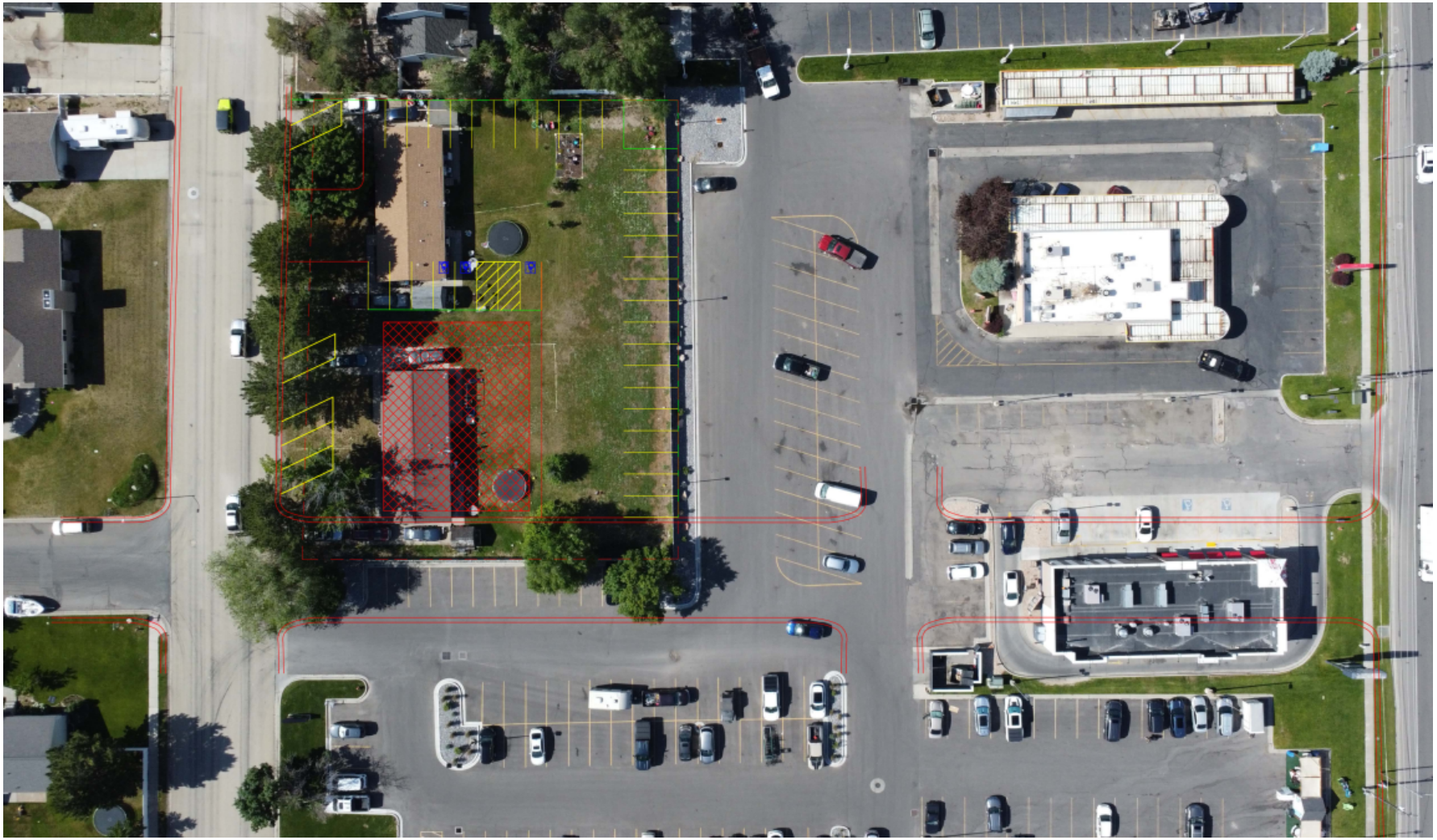
Existing Improvements



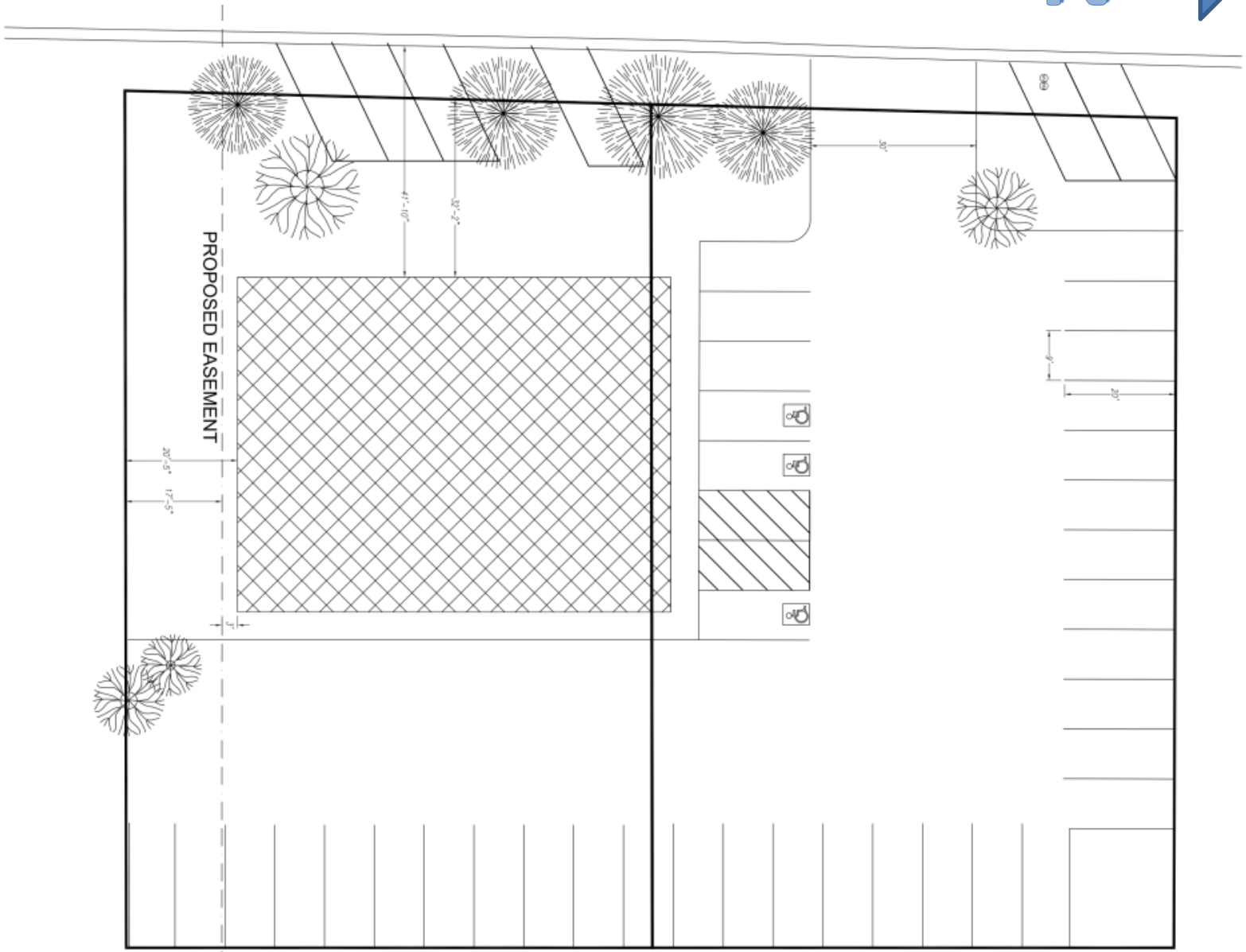
Aerial Photo



Aerial Photo Concept



Concept



Proposed Development Details

- Area: 0.67 acres
- Current Density: 6 DU/acre
- Proposed Density: 18-30 DU/acre
- **<u>Current Zone: R-2 Residential</u>**
  - 8,000 sf min
  - 80’ frontage min
  - 4.1 DU/acre max
- **<u>General Plan: ST District</u>**
  - Commercial, Residential
  - 14 to 20 DU/acre

Conclusion

The proposed development gives the opportunity for the City to acquire right of way for a needed future street connection to Main Street, promotes redevelopment of tired buildings, promotes redevelopment in area walkable to shopping facilities and is consistent with the uses and vision of the General Plan.

Recommended Conditions

1. Right of way dedication should line up with northern right of way line of 850 South. Right of way should be dedicated at the time of permit for the new development.
2. Driveway accessing 100 West should be placed as far north on the property as possible as shown on the site plan to avoid conflict with the intersection.
3. The site should not access the future road due to proximity to the intersection.
4. Building should not exceed 3 stories.

Recommendation

- Staff recommends Council discuss the MDA terms and provide feedback to staff for the preparation of an MDA at the next Council meeting.

Policy Questions

1. Should the City rezone the property to permit the proposed development?
2. If so, what conditions should accompany the zone change?

Monthly Development Report

NOV 23’ – PLANNING DEP.

New Applications

Concept – 0

Site Plan/Amendments – 2

Subdivision Concept – 0

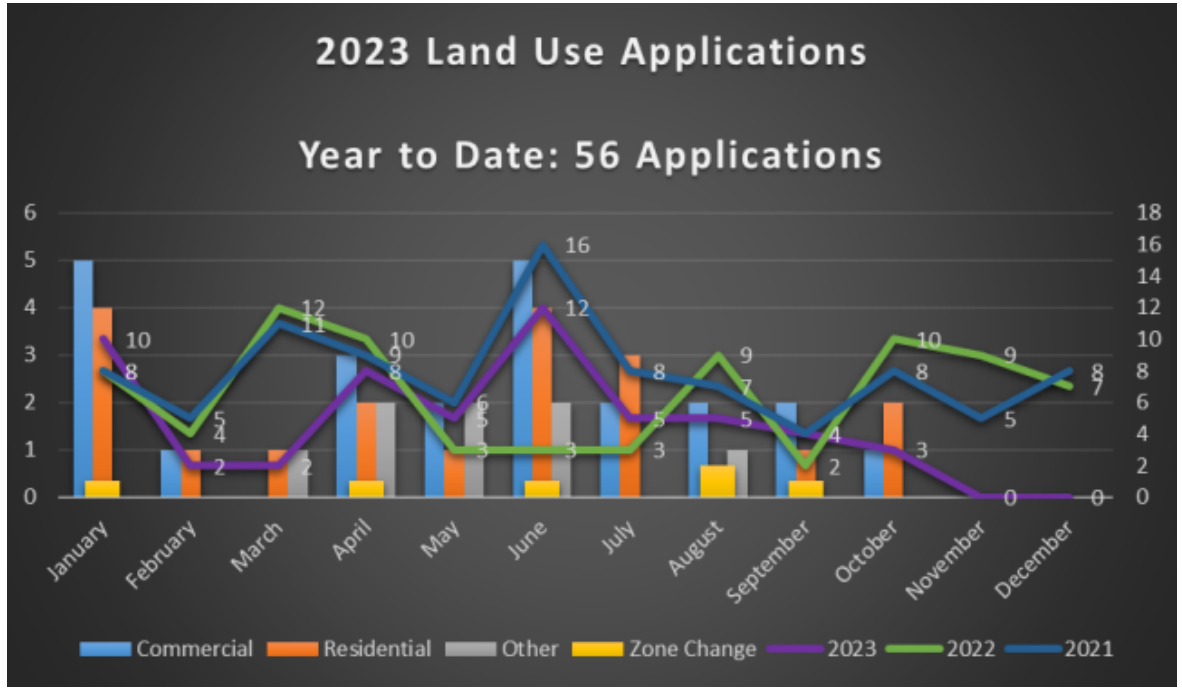
Preliminary Plat – 0

Final Plat – 0

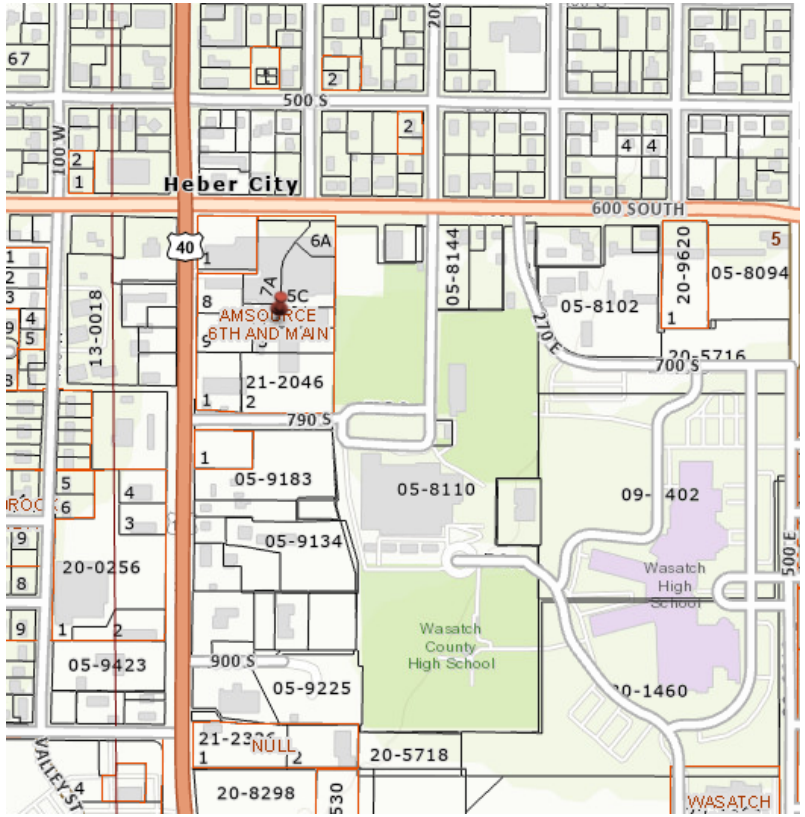
Zone Change/MDA – 0

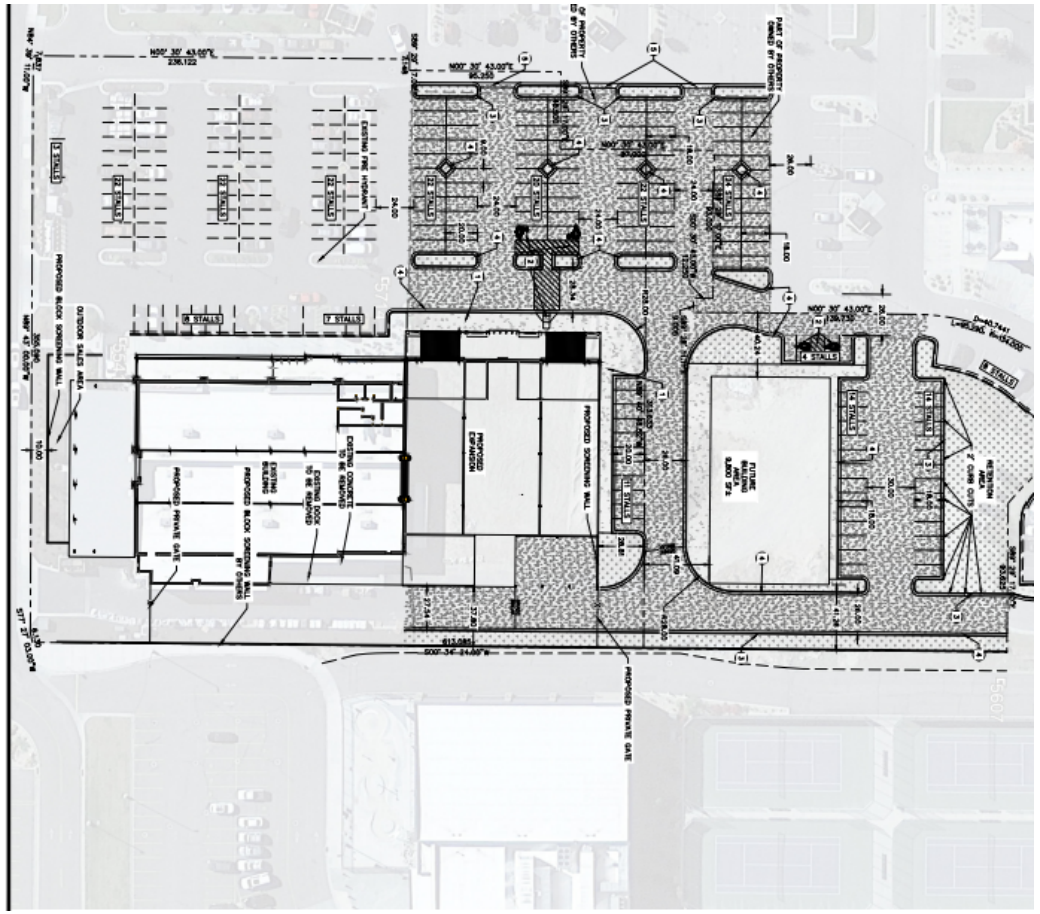
Other (Plat Amendments, Lot Line Adjustments, etc.) – 2

Year to Date Applications		
2023	2022	2021
56	64	82



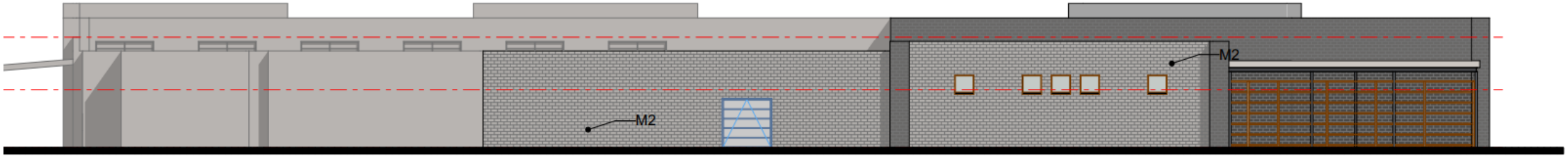
Site Plan – Timberline Ace





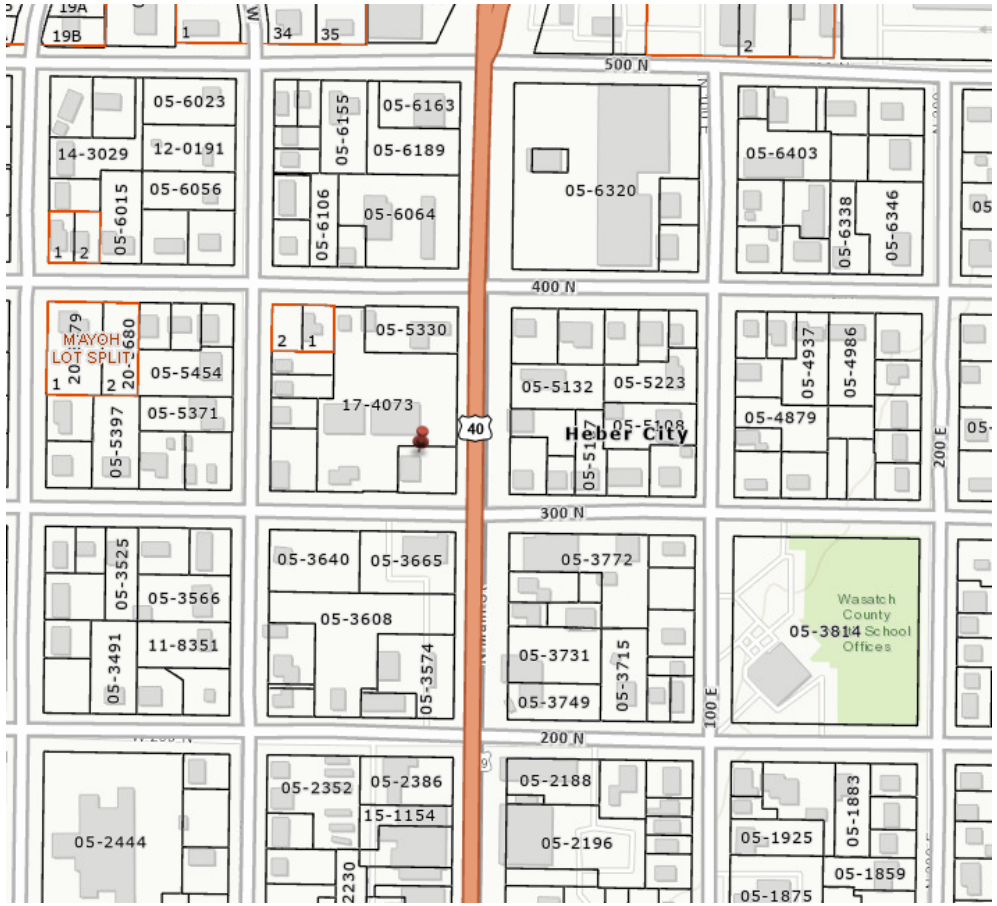
2A A9 I EE1 I FRONT ELEVATION (COLOR)
scale 3/32" = 1'-0"

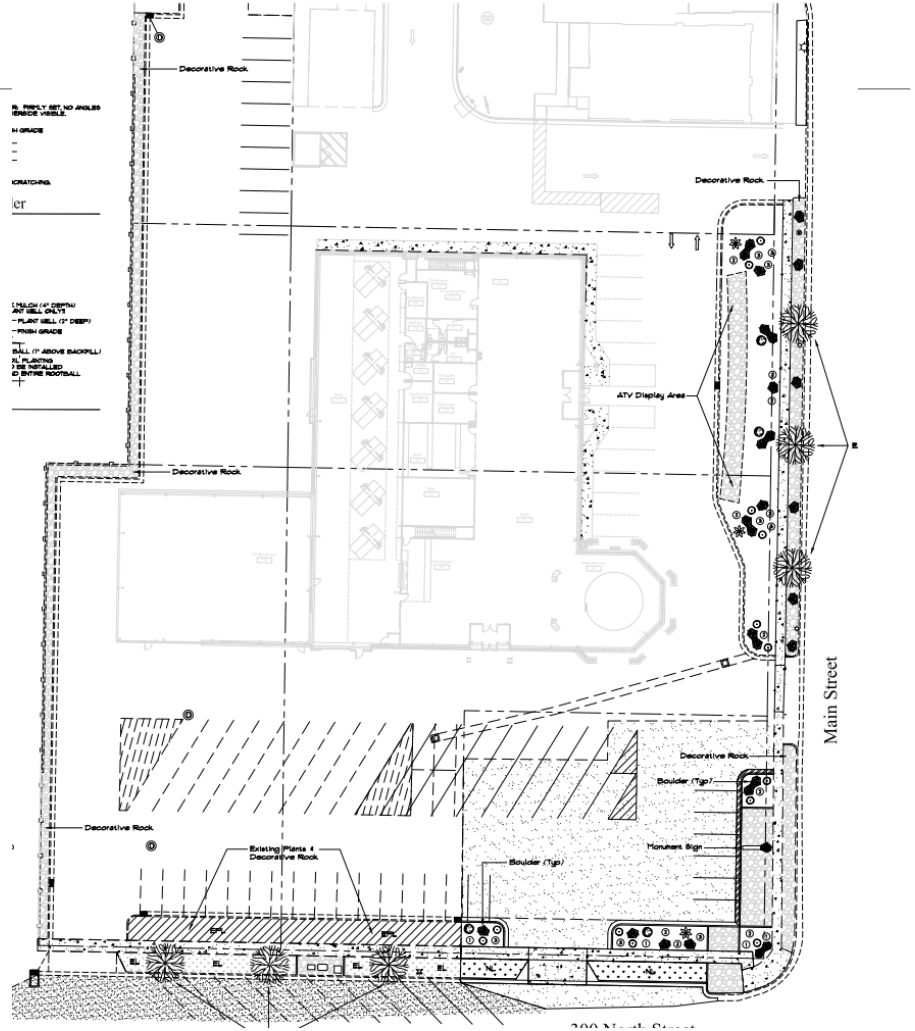
0 8' 16' 24'



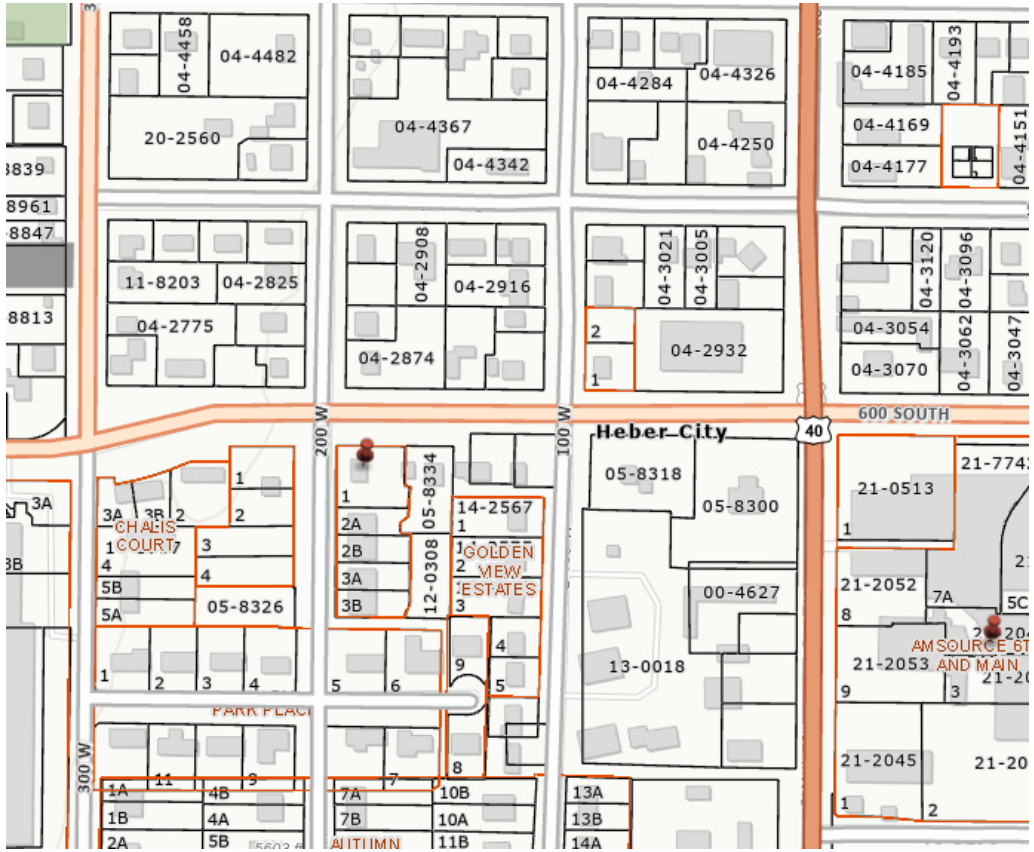
4A A9 I EE3 I REAR ELEVATION (COLOR)
SCALE: 3/32" = 1'-0"

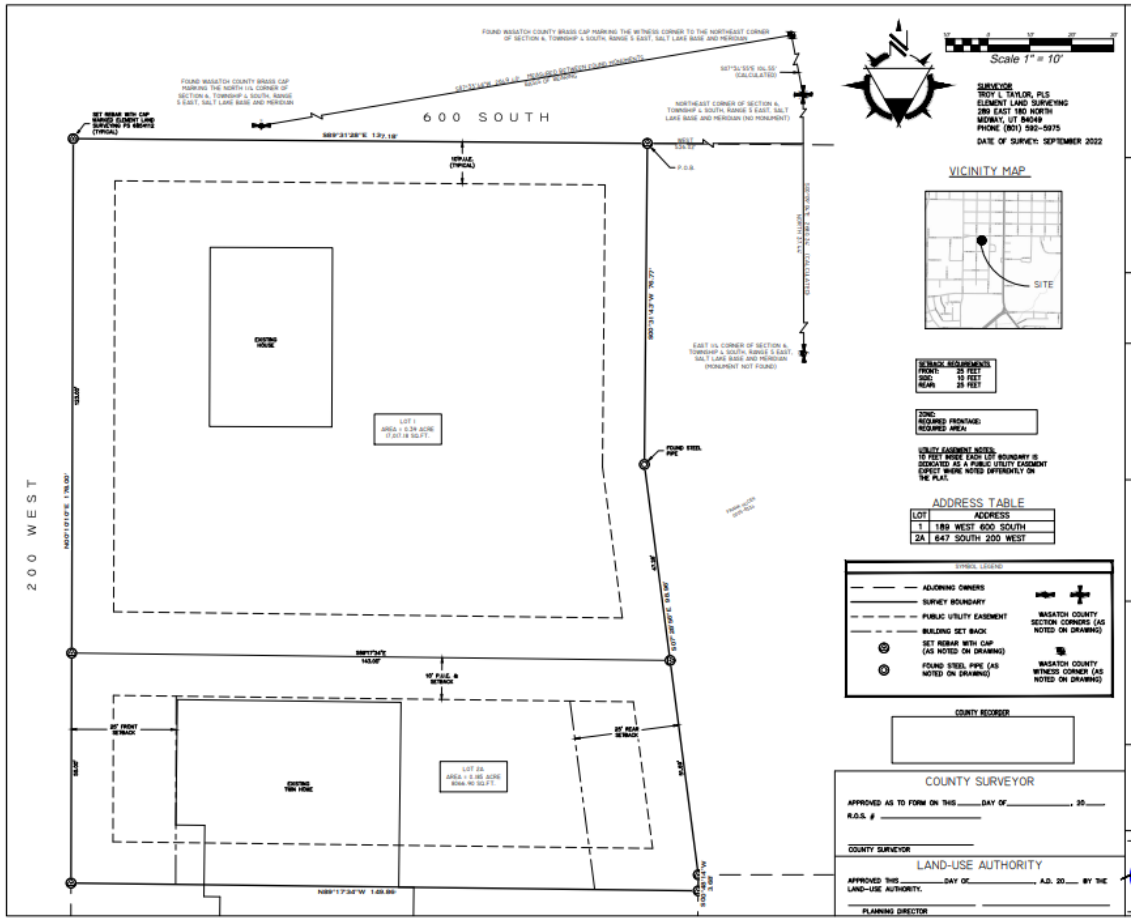
Site Plan Amendment – Karl Malone Honda



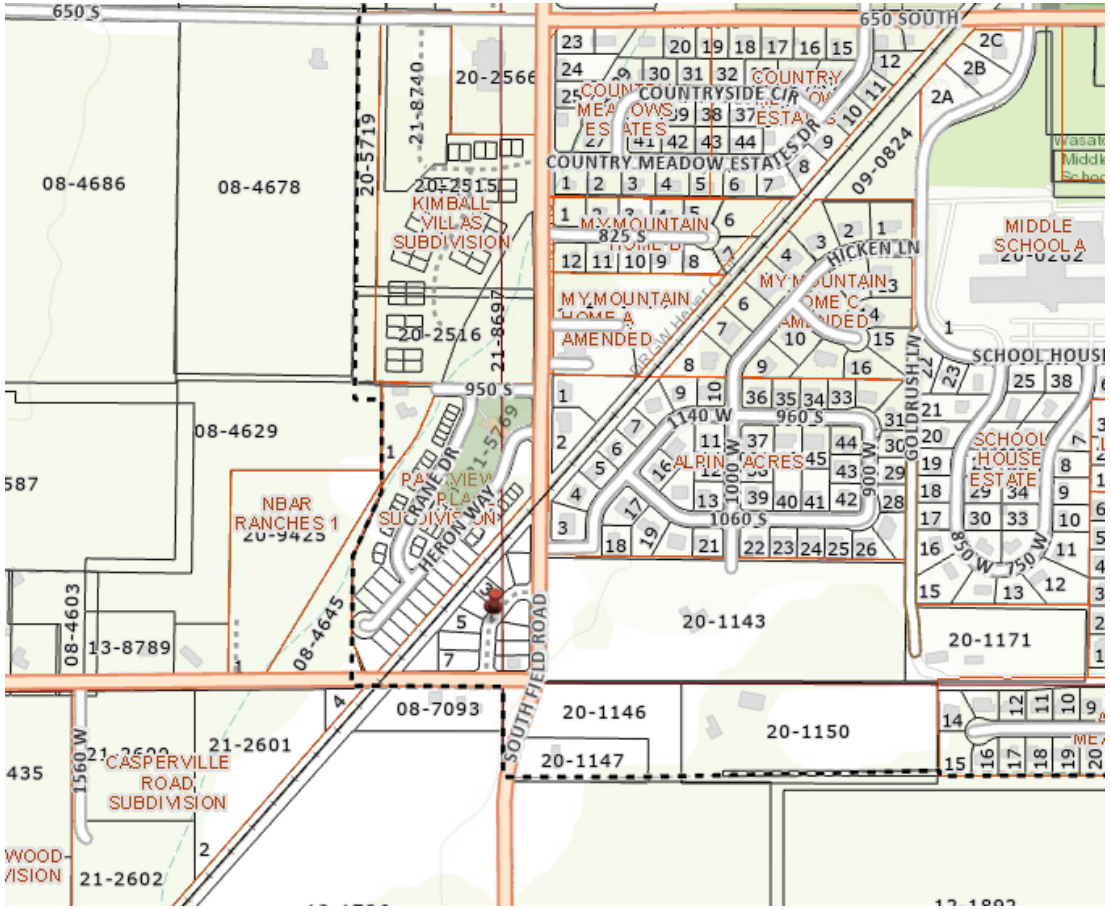


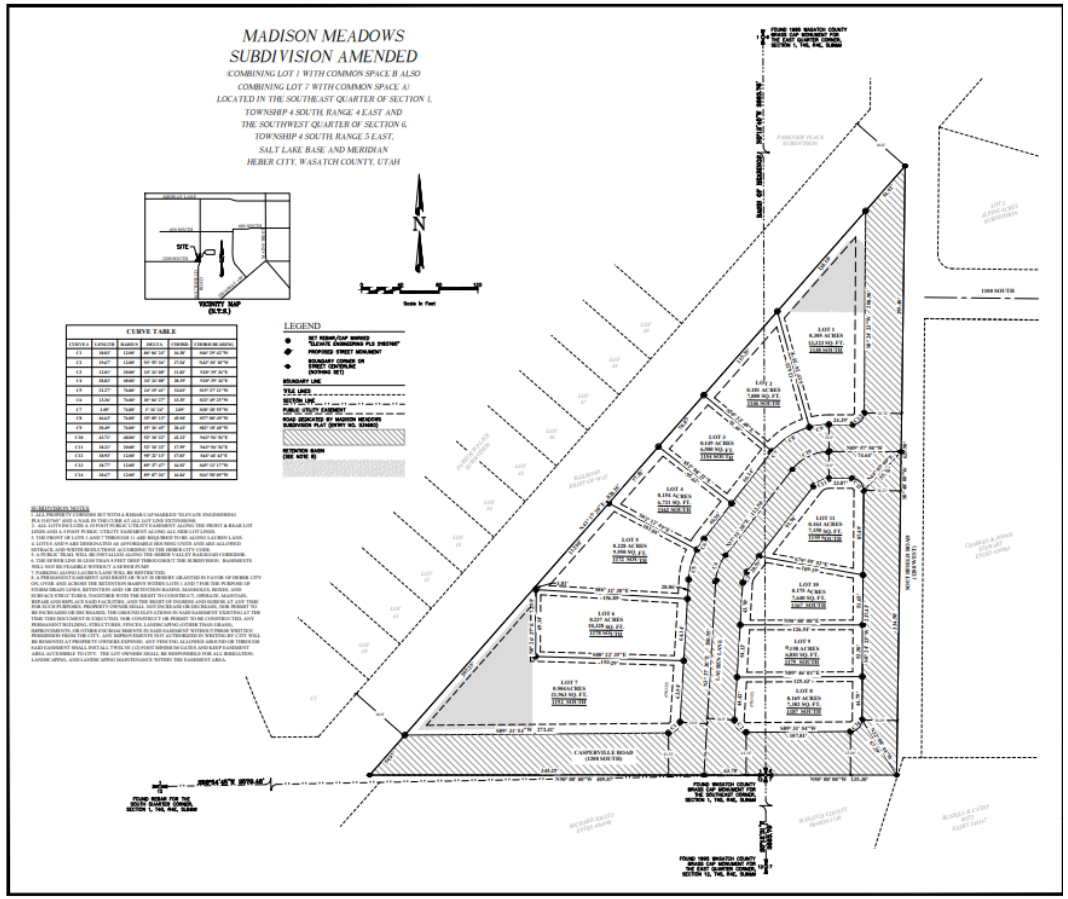
Plat Amendment – 189 W 600 S





Plat Amendment – Madison Meadows





Planning Commission Meetings

- 10/10
  - Amateur Farms Site Plan
- 10/24
  - Public Hearing on Design Guideline Amendments for Highlands MDA
  - Public Hearing on MDA for Wasatch County Event Center
  - Public Hearing on Downtown C-3 Commercial Text Amendments
  - Public Hearing on zone change/MDA for Clayton Vance at 22 S 100 W

Discussion

& Next Steps

Heber City Council Staff Report

MEETING DATE: 11/7/2023
SUBJECT: Ordinance 2023-32 College Downs Annexation
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

The City received a petition for the College Downs Annexation on February 4, 2022. The proposed annexation contains 20.35 acres, encompassing the petitioner's property (18.53 acres and a small sliver of UVU's property (1.82 acres). The proposed annexation is contiguous to the City limits, bounding the North Village Annexation to the North, East and South.

The Planning Commission reviewed the proposed annexation on June 14, 2022 and provided a recommendation of approval to the City Council. Council has been reviewing the annexation since August 2, 2022 in a series of work meetings. The next step for the annexation is a City Council public hearing noticed for at least 7 days and adoption of an ordinance approving the annexation.
On September 5, 2023, Council held a public hearing on the proposed development as required by the State Code for annexations. A motion of approval did not pass at that meeting. The developer has suggested some changes to the MDA, including prioritizing commercial buildings and limiting height along the Highway to 3 stories, in hopes of obtaining Council approval.

The policy questions include the following:

- Is the MDA and annexation ready for approval?

RECOMMENDATION

Staff recommends Council hold the public hearing, discuss the proposed MDA and adopt Ordinance 2023-32, approving the College Downs Annexation and associated MDA.

BACKGROUND

The process thus for the annexation includes the following:

1. January 14, 2022: Notice of Intent to submit annexation petition
2. February 4, 2022: Annexation Petition submitted.
3. March 1, 2022: City Council acceptance of annexation petition.
4. March 14, 2022: Petition Certification by City Recorder.
5. March 14 - April 14, 2022: Protest Period.
6. May 12, 2022: Development Review Committee.
7. June 14, 2022: Planning Commission Review
8. August 2, 2022 City Council Work Meeting
9. October 18, 2022 City Council Work Meeting
10. March 21, 2023 City Council Work Meeting
11. May 16, 2023 City Council Work Meeting
12. September 5, 2023 City Council Public Hearing
13. November 7, 2023 City Council Approval

DISCUSSION

The City's General Plan Land Use Map identifies the future land use of the property as UV Village, a high intensity mixed use zone surrounding and including the UVU Campus.

With Wasatch County, the development contained 11.12 ERUs per acre, as the development was approved with a development agreement and recorded subdivision plat years ago under the County's original North Village Overlay Zone that permits higher densities than current County Zoning. The County's current zoning of the property is Town Core and Village Center, both of which permit 6 ERUs per acre, much less than the approved plan. The City's UV zoning permits 6 ERUs per acre. The developer is proposing 7.18 ERUs per acre, which is less than the proposed development in the County and less than originally proposed by the petitioner to the City.

Pros to approving the proposed annexation include: 1) less density than proposed in the county; 2) assurance of implementing the City's Transportation, Storm Water, North Village Overlay Zone and General Plan; 3) financial benefits; 4) job and housing creation for the UVU campus; and 5) Heber City controlling land uses along its primary entrance.

Cons: none identified.

FISCAL IMPACT

The proposed development will create jobs, and provide commercial property tax and sales tax, resulting in a positive impact to the City's budget of $219,604 per year to the City's budget.

CONCLUSION

College Downs Annexation is:

- Part of North Village Town Center;

- Consistent with Annexation Policy Plan;
- Consistent with Envision Heber 2050; &
- Consistent with NVOZ.

College Downs furthers General Plan by:

- Promoting quality neighborhoods;
- Promoting the town center;
- Promoting recreation, parks & trails;
- Promoting affordable housing; &
- Promoting economic development.

The MDA requires developer to go above minimum code requirements for:

- Providing Affordable Housing @ 60% AMI;
- Prohibiting short term rentals;
- Requiring Restrictive Covenants (CCRs);
- Compliance with UDOT standards;
- Timing of commercial properties;
- 20 ERUs must be commercial;
- Preservation Fee of $2,500/ERU;
- Max Height of 3 stories along Hwy 40;
- Limits density to less than County;
- Participation in Fiber Optic Service.
- Compliance with open space, trails, storm water & street master plans; &
- Conformance to NVSSD water policy.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Staff Recommended Option – Approve

I move to **ADOPT Ordinance 2023-32,** approving the College Downs Annexation and associated MDA as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 – Approve as Amended

I move to **ADOPT Ordinance 2023-32**, approving the College Downs Annexation and associated MDA with the findings and conditions as presented in the conclusion above, with the following changes:

_____

_____

Alternative 3 – Continue

I move to **CONTINUE Ordinance 2023-32** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

_____

_____

Alternative 4 – Deny

I move to **DENY Ordinance 2023-32** with the following findings.

_____

_____

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. Ord 2023-32 College Downs Annexation
2. College Downs MDA Revised - 24oct2023 - 4888-0216-2059 - 1
3. College Downs Presentation 09-05-23
4. Concept Plan 3July2023

ORDINANCE NO. 2023-32

AN ORDINANCE APPROVING THE COLLEGE DOWNS ANNEXATION LOCATED AT APPROXIMATELY 2800 NORTH HIGHWAY 40.

BE IT ORDAINED by the City Council of Heber City, Utah, the properties described in Exhibit A, as illustrated in Exhibit B, are hereby annexed into the City of Heber City, Utah, and the properties contained therein shall initially have the zoning designation of North Village Overlay Zone (NVOZ).

This Ordinance shall take effect immediately upon passage, but not prior to the execution of the Master Development Agreements illustrated in Exhibit C.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2023.

	AYE	NAY	ABSENT	ABSTAIN
Rachel Kahler	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Ryan Stack	_____	_____	_____	_____
Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

_____
Mayor Heidi Franco

ATTEST:

_____ Date: _____
RECORDER

EXHIBIT A: LEGAL DESCRIPTION

DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 00°30'00" WEST ALONG THE SECTION LINE 132.85 FEET AND WEST 654.07 FEET FROM THE FOUND WASATCH COUNTY ALUMINUM CAP MARKING EH EAST 1/4 CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 32°00'23" WEST 1201.64 FEET TO THE HEBER CITY BOUNDARY AS SHOWN ON THE NORTH VILLAGE ANNEXATION PLAT; THENCE ALONG SAID HEBER CITY BOUNDARY AND THE NORTH VILLAGE ANNEXATION PLAT THE FOLLOWING 22 (TWENTY TWO) CALLS: 1. NORTH 42°02'19" EAST 253.96 FEET, 2. NORTH 89°51'56" EAST 493.00 FEET, 3. SOUTH 42°15'26" EAST 71.50 FEET, 4. ALONG THE ARC OF A 463.93 FOOT RADIUS CURVE TO THE LEFT 66.76 FEET (CHORD BEARS SOUTH 46°22'46" EAST 66.70 FEET), 5. SOUTH 50°30'06" EAST 70.63 FEET, 6. ALONG THE ARC OF A 226.74 FOOT RADIUS CURVE TO THE RIGHT 97.65 FEET (CHORD BEARS SOUTH 38°09'48" EAST 96.90 FEET), 7. SOUTH 25°49'31" EAST 80.79 FEET, 8. ALONG THE ARC OF A 234.73 FOOT RADIUS CURVE TO THE LEFT 109.51 FEET (CHORD BEARS SOUTH 39°1126" EAST 108.52 FEET), 9. SOUTH 52°33'20" EAST 46.06 FEET, 10. ALONG THE ARC OF A 95.72 FOOT RADIUS CURVE TO THE RIGHT 27.55 FEET (CHORD BEARS SOUTH 44°18'34" EAST 27.46 FEET), 11. SOUTH 36°03'49" EAST 17.11 FEET, 12. ALONG THE ARC OF A 84.88 FOOT RADIUS CURVE TO THE LEFT 74.84 FEET (CHORD BEARS SOUTH 61°19'17" EAST 72.44 FEET), 13. SOUTH 86°34'45" EAST 55.03 FEET, 14. ALONG THE ARC OF A 70.00 FOOT RADIUS CURVE TO THE RIGHT 41.05 FEET (CHORD BEAR SOUTH 69°46'38" EAST 40.47 FEET), 15. NORTH 39°00'43" EAST 134.19 FEET, 16. SOUTH 00°28'04" EAST 215.78 FEET, 17. SOUTH 22°22'27" WEST 568.62 FEET, 18. NORTH 50°59'17" WEST 229.73 FEET, 19. ALONG THE ARC OF A 138.00 FOOT RADIUS CURVE TO THE LEFT 109.61 FEET (CHORD BEARS SOUTH 61°40'19" WEST 106.75 FEET), 20. SOUTH 39°00'43" WEST 127.93 FEET, 21. ALONG THE ARC OF A 248.00 FOOT RADIUS CURVE TO THE RIGHT 39.75 FEET (CHORD BEARS SOUTH 43°36'15" WEST 39.71 FEET), AND 22. SOUTH 48°11'46" WEST 70.25 FEET TO THE POINT OF BEGINNING.

AREA = 20.35 ACRES

PARCELS

00-0020-8333
00-0020-8335
00-0020-8334

EXHIBIT B: ANNEXATION PLAT

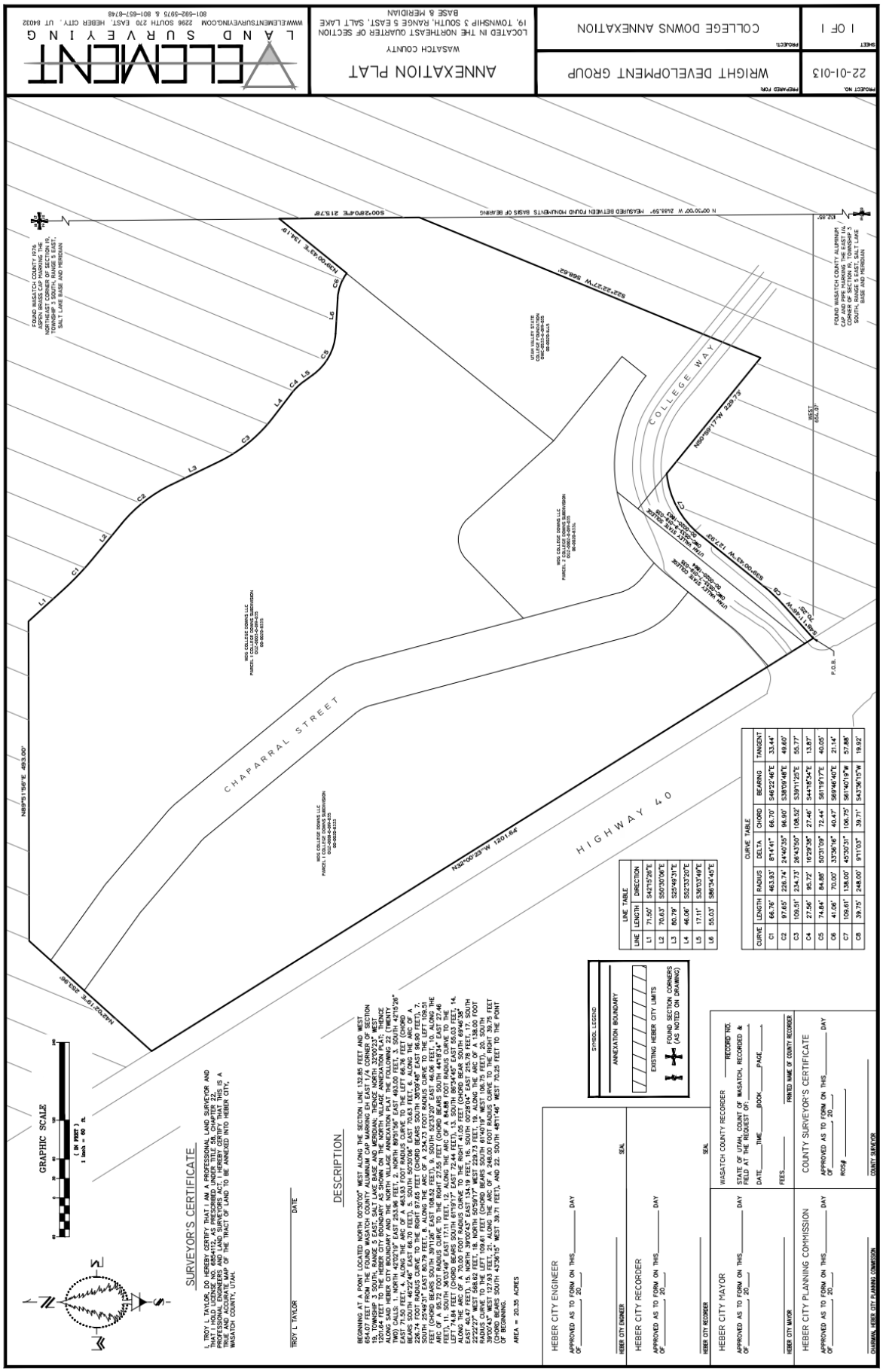


EXHIBIT C: MASTER DEVELOPMENT AGREEMENT

WHEN RECORDED, RETURN TO:

Heber City
Attention: City Recorder
75 North Main Street
Heber City, Utah 84032

Tax Parcel Nos.: 00-0020-8333, 00-0020-8335 and 00-0020-8334

(Space above for Recorder's use only.)

DEVELOPMENT AGREEMENT
FOR THE
COLLEGE DOWNS MIXED USE DEVELOPMENT

THIS DEVELOPMENT AGREEMENT FOR THE COLLEGE DOWNS MIXED USE DEVELOPMENT (this "**Agreement**") is made and entered into as of the _____ day of _____, 2023, by and between HEBER CITY, a political subdivision of the State of Utah (the "**City**"), and WDG COLLEGE DOWNS LLC, a Utah limited liability company ("**WDG**"). Each of WDG and the City are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. WDG is the owner of approximately 17 acres (including Chaparral Street) of undeveloped real property located between University Ave and College Way on the east side of Hwy 40 (Parcel Nos. 00-0020-8333, 00-0020-8335 and 00-0020-8334) in Wasatch County, State of Utah (the "**Property**"). A legal description of the Property is attached hereto as **Exhibit A**.

B. On _____, 2023, the City approved and adopted a Conceptual Site Plan for the Project (the "**Site Plan**"), subject to the Parties entering into this Agreement and the agreeing to annexation of the Property into the City.

C. The Site Plan for the Property provides for a mixed-use development, including recreational and open space uses. All such uses shall be consistent with the permitted uses in the North Village Overlay Zone ("NVOZ").

D. This Agreement and the Site Plan meets the intent of, and is guided by, the Envision 2050 Heber General Plan.

E. The Parties now desire to enter into this Agreement to establish and set forth the rights and responsibilities of WDG and its successors in interest, including but not limited to, those developers, sub-developers and builders who will develop the Property as a mixed-use project in

accordance with the terms hereof, and to establish the rights and responsibilities of the City to annex the Property into the boundaries of Heber City and to authorize and regulate such development pursuant to the requirements of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and WDG hereby agree to the following:

TERMS

1. **Incorporation of Recitals and Exhibits/ Definitions. Incorporation.** The foregoing Recitals and **Exhibits A** through **D** are hereby incorporated into this Agreement.

1.2 **Definitions**Any capitalized term or phrase used in this Agreement has the meaning given to it below or in the section where the definition of such term is given.

1.2.1 **Act** means the Municipal Land Use, Development, and Management Act, Utah Code Ann. §§ 10-9a-101, *et seq.* (2023), as amended.

1.2.2 **Administrative Action** means and includes any amendment to the Exhibits to this Agreement or other action that may be approved by the Administrator as provided in Section 17.

1.2.3 **Administrator** means the Person designated by the City as the Administrator of this Agreement.

1.2.4 **Agreement** has the meaning set forth in the preamble and includes all Exhibits attached hereto.

1.2.5 **Public Gathering Areas** means any public owned area or public park identified on the Site Plan that is intended to provide services to the community at large.

1.2.6 **Applicant** means a Person submitting a Development Application, a Modification Application or a request for an Administrative Action.

1.2.7 **Backbone Improvements** means those improvements shown as such in the Infrastructure Plan and which are, generally, infrastructure improvements that are intended to support the overall development of the Property and not merely a part of the development of any particular Subdivision. Backbone Improvements are generally considered to be in the nature of "System Improvements," as defined in Utah Code Ann. § 11-36a-101, *et seq.* (2023).

1.2.8 **Building Permit** means a permit issued by the City to allow construction, erection or structural alteration of any building, structure, private or public infrastructure, On-Site Infrastructure on any portion of the Project, or to construct any Off-Site Infrastructure.

1.2.9 **CC&Rs** means one or more declarations of conditions, covenants and restrictions regarding certain aspects of design and construction on the Property recorded or to be recorded with regard to the Property or any part thereof, as amended from time to time.

1.2.10 **Capital Facilities Plan** means a plan adopted or to be adopted by the City in the future to substantiate the collection of Impact Fees as required by State law.

1.2.11 **City** means the City of Heber, a political subdivision of the State of Utah.

1.2.12 **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage to review certain aspects of the development of the Project.

1.2.13 **City Updated North Village Street Master Plan** shall mean the City's Street Master Plan and Street Capital Facilities Plan.

1.2.14 **City Updated North Village Stormwater Master Plan** shall have the meaning provided in Paragraph 12.3.

1.2.15 **City's Future Laws** means the ordinances, policies, standards, procedures and processing fee schedules of the City that will be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and that may, in accordance with the provisions of this Agreement, be applicable to the Development Application.

1.2.16 **City's Vested Laws** means the ordinances, policies, standards, procedures and processing fee schedules of the City related to zoning, subdivisions, development, public improvements and other similar or related matters that are in effect as of the Effective Date.

1.2.17 **Council** means the elected City Council of the City.

1.2.18 **Default** shall have the meaning provided in Paragraph 14.

1.2.19 **Design Guidelines** means the design guidelines referenced in the North Village Over Lay Zone.

1.2.20 **Developer** shall have the meaning provided in Paragraph 22.

1.2.21 **Development Application** means an application to the City for development of a portion of the Project, a Building Permit, improvement plans or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.22 **Development Property** shall have the meaning provided in Section 22.1.

1.2.23 **Development Report** means a report containing the information specified in Section 3.4 submitted to the City by WDG or any successor for the sale of any Parcel to a Developer, Sub-developer or Builder or the submittal of a Development Application by a Developer, Sub-developer or Builder pursuant to an assignment from WDG.

1.2.24 **Development Unit** means either a commercial or residential use of property with respect to which an ERU calculation can be applied in accordance with this Agreement.

1.2.25 **Effective Date** means the date on which the later of both the following shall have occurred: the Parties have executed this Agreement and the City's annexation of the Property has been completed and takes effect pursuant to Utah Code Ann. §10-2-425.

1.2.26 **Development Entitlements** shall have the meaning provided in Section 3.1 of this Agreement.

1.2.27 **Equivalent Residential Unit (ERU)** means the residential density allocated to: (a) any given Residential Unit when measured against a single-family dwelling unit, which measure shall be determined pursuant to Section 18.21.020.2.2(2) of the City's Vested Laws; and (b) commercial ERUs will be calculated as provided in Section 18.21.020.2.2(2) of the City's Vested Laws. For purposes of clarity, the Parties agree that no ERUs shall be allocated to schools and churches.

1.2.28 **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.29 **Highway 40** means a "state highway" type transportation corridor maintained by the Utah Department of Transportation and referred to as U.S. Highway 40.

1.2.30 **Homeowners' Association(s)** means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

1.2.31 **Impact Fees** means those fees, assessments, exactions or payments of money imposed by the City as a condition on development activity as specified in Utah Code Ann. §§ 11-36a-101, *et seq.* (2023), as amended.

1.2.32 **Infrastructure Plan** means the conceptual infrastructure plan, including culinary water, secondary water, storm water, sanitary sewer and private roads, as amended from time to time.

1.2.33 **Intended Uses** means the use of all or portions of the Project for open spaces, parks, trails and other uses permitted in the Zoning Ordinance, Design Guidelines and as shown on the Site Plan.

1.2.34 **Modification Application** means an application to amend this Agreement (but not including those changes which may be made by Administrative Action).

1.2.35 **Mortgage** means (1) any mortgage or deed of trust or other instrument or transaction in which the Property, or a portion thereof or a direct or indirect ownership or other interest therein, or any improvements thereon, is conveyed or pledged as security, or (2) a sale and leaseback arrangement in which the Property, or a portion thereof, or any improvements thereon, is sold and leased back concurrently therewith.

1.2.36 **Mortgagee** means any holder of a lender's beneficial or security interest (or the owner and landlord in the case of any sale and leaseback arrangement) under a Mortgage.

1.2.37 **Non-City Agency** means a governmental or quasi-governmental entity, other than those of the City, which has jurisdiction over the approval of an aspect of the Project.

1.2.38 **North Fields** means that certain real property located generally west of the Property and generally depicted on **Exhibit C** attached hereto.

1.2.39 **Notice** means any notice to or from any Party to this Agreement that is either required or permitted to be given to another Party.

1.2.40 **Off-Site Infrastructure** means the off-site public or private infrastructure, such as roads and utilities, specified in the Infrastructure Plan that is necessary for development of the Property but is not located on the portion of the Property that is subject to a Development Application.

1.2.41 **On-Site Infrastructure** means the on-site public or private infrastructure, such as roads or utilities, specified in the Infrastructure Plan that is necessary for development of the Property and is located on that portion of the Property that is subject to a Development Application.

1.2.42 **On-Site Retention/Detention** shall mean a storm drain facility that is provided on-site upon private property within the development.

1.2.43 **Open Space** means the following: all parks (regardless of size or type); pedestrian, bicycle, and equestrian trails and pathways; passive open spaces, water features, and natural habitat areas; parkways and commonly maintained natural or landscaped areas; sidewalks, street tree plantings and medians; ballfields and recreational spaces (including, without limitation, any such facilities provided by or upon a school or church site, excepting areas within building footprints other than community gardens); drains and detention basins and swells, canals, protected slope areas, and any other quasi-public area that the City determines to be Open Space as a part of the approval of a Development Application. Open Space includes, but is not limited to, those areas identified as Open Space in the Site Plan.

1.2.44 **Outsourcing** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application, as is more fully set out in this Agreement.

1.2.45 **Parcel** means an area identified on the Site Plan with a specific land use designation that is intended to be further subdivided for future development.

1.2.46 **Person** means any natural person, corporation, Limited Liability Company, trust, joint venture, association, company, partnership, limited partnership, governmental authority or other entity.

1.2.47 **Phase** means the development of a portion of the Project.

1.2.48 **Planning Commission** means the City's Planning Commission.

1.2.49 **Project** means the mixed-used Site Plan to be developed on the Property in accordance with this Agreement, including, without limitation, all associated public and private facilities, Intended Uses, Phases and all of the other aspects approved as part of this Agreement and the Site Plan.

1.2.50 **Property Owner or Property Owners** means WDG and any other successor-in-interest to WDG as an owner of the Property or any portion

thereof, including but not limited to, Developers, Sub-developers and builders.

1.2.51 **Site Plan** means the Site Plan attached as **Exhibit B**.

1.2.52 **Sub-developer** means any Person that obtains title to a Parcel from a Developer for development.

1.2.53 **Subdivision** means the division of any portion of the Project into a subdivision pursuant to State Law and/or the Zoning Ordinance.

1.2.54 **System Improvement** means those elements of infrastructure that fall within the definition of System Improvements pursuant to Utah Code Ann. § 11-36a-102(21). System Improvements shall be defined as set out in the North Village Capital Facilities Plans and Master Plans.

1.2.55 **Zone** means the City's North Village Overlay District Zone.

1.2.56 **Zoning Ordinance** means the City's Land Use and Development Ordinance adopted pursuant to the Act that is in effect as of the Effective Date.

2. **Development of the Project.** Development of the Project shall be in accordance with this Agreement, the City's Vested Laws and the City's Future Laws as expressly set forth in this Agreement. The Parties acknowledge and agree that if there is a conflict with this Agreement and the City's Vested Laws or the City's Future Laws, then this Agreement shall supersede and take precedence.

3. **Development of the Property in Compliance with the Site Plan.**

3.1 **Project Density.** Property Owners shall be entitled to and are vested with the right to develop and construct up to 107 residential ERUs and up to 20 commercial ERUs on the Property consistent with the Intended Uses specified in the Zoning Ordinance and generally identified on the Site Plan (collectively, the "**Density Entitlements**"). The Density Entitlements include the 5 residential ERUs of the Low Income Housing as detailed in Section 3.6 of this Agreement.

3.2 **Intended Uses by Parcel and Densities.** Intended Uses and Densities currently contemplated for each Parcel are shown on the Site Plan for the Property, which plan has been prepared in compliance with the requirements of the Heber City ordinances set forth in Chapter 17.20 Plans of the City's Vested Laws. The street configurations, building types and locations, and general layout shall comply with Site Plan.

3.3 **Use of Density.** Notwithstanding the maximum gross density permitted under the Zone, WDG may allocate the Development Entitlements among any Subdivision within the Project;

3.4 **Accounting for Density for Parcels Sold to Sub-developers.** In connection with the sale of any Parcel sold by WDG to a Developer or Sub-developer, WDG shall provide the City with a written document specifying the identity of the Person to whom the Parcel is sold, the allocation, if any, of any Development ERUs associated with such Parcel, and the Open Space requirements and/or obligations associated with such Parcel. In connection with the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Developer or Sub-developer, WDG shall provide the City Recorder with a development report (a "**Development Report**") identifying the Parcel(s) sold, the Residential Development ERU and/or other type of use or Development Unit allocated with the Parcel(s), the Development ERU remaining with WDG and any material effects of the sale on the Site Plan.

3.4.1 Return of Unused Density. If a Developer or Sub-developer cannot or does not utilize all of the Development ERU allocated to it in connection with the transfer of one or more Parcels at the time the Developer or Sub-developer receives approval for the final Development Application for such transferred Parcel(s), the unused Development ERU shall automatically revert back to WDG. Such Development ERU shall be accounted for in any subsequent Development Report that WDG, or any of its successors in interest may be required to file with the City Recorder.

3.5 **Parcel Sales.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the sale of a Parcel.

3.6 **Low Income Housing Requirements.** Developer shall construct not less than 5 ERUs of Low Income Housing within the Development. Low Income or Affordable Housing shall be sold or rented, as applicable, to individuals or families with an income of 60% or less of the average median income (AMI) in Wasatch County, Utah and the monthly cost shall not be more than 30% of a household's income. Low Income Housing units shall be deed restricted to maintain the same level of affordability in perpetuity. WDG shall reasonably disperse the Low Income Housing units throughout the Project. WDG shall also be entitled to allocate any such Low Income Housing requirements to Developers and/or Sub developers as WDG may elect. The Low Income Housing ERUs shall be developed on a proportional basis with the development. Developer and the City shall follow and comply with any deed restrictions as outlined in Chapter 18.102 of the City's

Vested Laws. WDG may not pay a fee in lieu to fulfill the requirements of the Low Income Housing unless specifically agreed to by the City.

3.6.1 Allocation of Low Income Housing. At least one half of the required affordable housing (ERUs) shall be sold to parties that shall be required to reside in the units as their primary residence, with a specific restriction on any units that are sold that prevent such units from being rented. ERUs constructed as Low Income Housing in the Project shall be deed restricted and preserved in perpetuity for those income qualified at 60% or less of the Average Medium Income for Wasatch County, Utah.

3.6.2 Rights of First Offer. Heber City, or its designee, shall have the first right to purchase any all affordable dwelling units that are offered for sale on an individual basis (a.k.a. AMI deed restricted properties, or affordable deed restricted units) ("City ROFR"). Such City ROFR shall not apply to the sale of the entire Project by WDG or its then current owner. If Heber City does not exercise or execute on its City ROFR, then WDG, and its successors, shall grant or cause the applicable Developers and/or Sub-developers to grant employees of the following entities, in descending order of priority, a right to purchase Low Income Housing constructed, operated and offered for sale on an individual basis as affordable housing and available within the Project and that are offered for sale on an individual basis to income qualifying households otherwise meeting the requirements of this Agreement: the **City**, the Wasatch County School District (the "**District**") and Wasatch County (the "**County**"). If employees of the City, the District, and the County do not exercise their respective first rights, the applicable Low Income Housing Units may be sold, as the case may be, to members of the general public meeting the income qualification requirements, employed in Wasatch County and living or desiring to live in Wasatch County.

3.6.3 Deed Restrictions Protecting the Affordability and Sustainability of the Affordable Homes.

a. Prior to transfer of ownership from Developer/ Owner of any Affordable Housing Units/ Homes, Developer/ Owner shall negotiate and enter into with the City a **Deed Restrictions Covenant** (which shall be recorded with the Wasatch County Recorder) that shall serve as a Covenant Running With the Land to protect the affordability and sustainability of the Affordable Units/homes. Some of the terms of such a Covenant should include, but shall not be limited to the following:

1. The Covenant is to provide and articulate terms, conditions, and restrictions. The Covenant shall be enforceable by

the City and, upon its execution and recording in the public records of the County Recorder of Wasatch County, Utah, shall run with the land, enforceable against the Owners; each Unit Owner, and each Unit Owner's successors interest, assignees, heirs, devisees, mortgagees, lessees, trustees, beneficiaries, executors, administrators, personal representatives; any subsequent owners; and any other parties claiming an interest in the Property. In addition to the recording of this Covenant, Developer/Owner shall cause that any deed or plat map associated with any affordable housing properties or units shall reference said Covenant.

2. The City shall forever retain the right to purchase any and all Affordable housing units that are offered for sale to individual owners, in perpetuity, pursuant to such a Covenant running with the land and units. Such City ROFR shall not apply to a sale of the entire Project.

3. The City shall have the right to enforce the terms of such a Covenant and may enforce its terms as it deems administratively proper through its employees, administrative offices, agents, or assigns. The Heber City Police Department shall be authorized to investigate certain affordable housing violations and to issue citations pursuant to applicable City Code and State Statute. The City may enforce this Covenant by any appropriate legal or equitable action including but not limited to specific performance, injunction, abatement, damages and such other remedies and penalties as may be specified in this Covenant. This Covenant shall inure to the benefit of the City and nothing herein shall be construed as creating a general scheme to the enforced by Unit Owners against each other.

4. At least 50% of the required affordable ERUs shall be Owner/Renter-Occupied unless a Unit Owner/Renter shall receive prior written consent of the City, in its sole and absolute discretion, for an exception. Each of these Unit Owners/Renter shall occupy the Unit as a Primary Residence. Unless the City gives its prior written consent, each Unit Owner shall not obtain, purchase, or otherwise acquire any other direct or indirect interest in real property while the Unit owner is a Unit Owner; neither the Unit Owner nor any person in the Unit Owner's Household shall establish a trust of which the Unit Owner is a beneficiary if such trust's corpus contains any other real property.

5. The Unit Owner shall send Notice to the City of such Unit Owner's intent to sell the unit (the date of such Unit Owner's Notice to the City shall be the "Offer Date") and shall not Sell any interest in such Unit without written consent of the City.

3.6.4 **Off-site Low Income Housing.** The Developer and City may enter into a separate agreement to allow some or all of the affordable housing units to be constructed off site on property owned by the City, third parties or other entities.

3.6.5 **Timing.** At least 50% of the required Low Income Housing units shall be constructed no later than the construction of the first 30% of the Market Rate units. The full Low Income Housing requirement shall be completed no later than construction of the first 60% of the Market Rate units.

3.7. **Non-Residential Development Timing.** Notwithstanding anything herein to the contrary, the City shall not issue a residential building permit for the Project unless and until the City has issued a commercial building permit for the Project. ~~Any~~ All other commercial areas shown ~~upon~~ in the Master Plan for the development shall be rough graded and provided with access to adequate utilities to serve the land uses no later than the construction of 60% of the residential units within the development.

4. **Zoning and Vested Rights.**

4.1 **Compliance with City Requirements and Standards.** Developer and Owners expressly acknowledge that nothing in this Agreement shall be deemed to relieve Developer or any Continuing or Successor Owner from its obligations to comply with all applicable requirements of the City necessary for approval and recordation of subdivision plats and site plans for the Project, which are in place at the time of a complete and approved application, including the payment of unpaid fees, the approval of subdivision plats and site plans, the approval of building permits and construction permits, and compliance with all applicable ordinances, resolutions, policies and procedures of the City except as otherwise provided in this Agreement. Specifically, Developer and Owner acknowledge and agree that the Project must adhere to the City Updated North Village Storm Water and the North Village Street Master Plans.

4.2 **Current Zoning.** Concurrently with its execution of this Agreement, the City has annexed the Project to the City and zoned the Property under the North Village Overlay District Zone. The North Village Overlay District Zone (Section 18.21.010 and Section 18.21.060 of the Heber City Code) was approved by the Council on March 16, 2021.

4.3 **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and continue either for a period of ten (10) years, or the day upon which the final certificate of occupancy is approved and granted, whichever first occurs, (the "**Term**"), unless it is terminated in accordance with Section 26. The Term may, at WDG's option, be extended for one (1) additional five (5) year period, provided WDG is not in material default of any provisions of this Agreement and after providing the City with written notice not less than six (6) months prior to the scheduled expiration date. Unless otherwise agreed between the Parties, WDG's vested rights and interests set forth in the Agreement shall expire at the end of the Term, or as the Term may be extended by mutual agreement of the Parties. Upon termination of this Agreement for any reason, the obligations of the Parties to each other created under this Agreement shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to the expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner, nor will any rights or obligations of Property Owners or the City intended to run with the land be terminated.

5. **Approval Processes for Development Applications.**

5.1 **Phasing.** The City acknowledges that WDG, Developers, and Sub-developers who have purchased Parcels of the Property may submit multiple applications from time to time to develop and/or construct portions of the Project in phases.

6. **Open Space, Improved Public Parks, and Trails Requirements**

6.1 **Development Timing: Open Space, Neighborhood Parks, and Trails**. Neighborhood Parks and Trails shall be constructed and developed concurrently with the respective development within which said trails are located. The City shall not be obligated to make final approval and place into warranty any public improvements located within or constructed in conjunction with the development of a particular Phase until the parks and trails located within such Phase have been constructed, or the City has received an improvement completion assurance in the form of either a cash escrow deposit, a letter of credit or such other form of completion assurance as may then be accepted by the City with respect to such parks and trails meeting the requirements of Utah Code § 10-9a-604.5. Open space, parks and trails shall comply with the requirements of the NVOZ.

6.2 **Dedication of Open Space or Trails**. Property within the canal easements shall be granted and dedicated by the Property Owner to the City, or other public entity as determined by the City. Dedication of Trails to the City shall be by plat recordation or by dedication by deed from the applicable Property Owner which shall be without any financial encumbrance or other encumbrance (including easements) which unreasonably interferes with the use of the property for Open

Space and/or Trails. If trails are established solely for the internal use by Homeowners' Association, no public easement shall be granted by WDG or any other Property Owner. Construction and dedication of the Highway 40 trail shall occur within the first phase of development.

6.3 **Maintenance of Open Space/or Trails**. Except as otherwise specifically provided in this Agreement, upon acceptance by the City of Trails and after formal possession, the City shall be responsible for maintaining the Public Trail after final inspection and acceptance of the applicable improvements included therein, if any. If the Trails are dedicated to an entity other than the City, the dedication shall provide for the maintenance of the applicable Trails. Unless approved by, and dedicated to the City, any associated landscaping with such Trails shall be maintained by the respective property owners association.

6.4 **Tax Benefits**. The City acknowledges that Property Owners may seek to qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring Open Space and/or Trails to the City or to a charitable organization. Property Owners shall have the sole responsibility to claim and qualify for any tax benefits sought by Property Owners by reason of the foregoing. The City shall reasonably cooperate with Property Owners to the maximum extent allowable under law to allow Property Owners to take advantage of any such tax benefits.

6.5 **North Fields Preservation**. WDG, for itself and with respect to each subsequent Owner of the Property, agrees that upon issuance of a building permit for a Development Unit, the Owner of such Development Unit shall pay to the City a fee equal to $2,500 per ERU or partial ERU attributable to such Development Unit (the "**North Fields Preservation Fee**"). The City shall utilize funds collected pursuant to the North Fields Preservation Fee solely for the purpose of preserving open space in the North Fields, including purchase of development rights. The City agrees that the North Fields Preservation Fee shall not be charged for Development Units constructed and operated as Low Income Housing Units.

7. **Public Improvements.**

7.1 **Utilities and On-Site Infrastructure.** WDG shall prepare an Infrastructure Plan (a/k/a Civil Drawings). The Parties acknowledge that there will be a Capital Facilities Plan for the Public Infrastructure approved and adopted by the City. The Property Owners shall have the responsibility and obligation, to construct and fund, or cause to be constructed and installed, in phases, the On-Site and Off-Site Infrastructure according to the Capital Facilities Plan that is necessary to support the development proposed within a specific Development Application. If any Property Owners elect to construct any On-Site Infrastructure or Off-Site Infrastructure required by the Capital Faculties Plan as a condition of approval of a Development Application, the Property Owner shall pay the cost thereof, subject to

its reimbursement rights set forth in Section 7.2. The City shall comply with the statutory processes and all other applicable laws, rules, and regulations governing such work. Parties contemplate that each Phase will be served by sanitary sewer, culinary water and secondary irrigation systems provided by others.

7.2 **Excess Improvements/Upsizing.** Any infrastructure requested by the Developer or required by the Development shall be the responsibility of the Developer. The City and WDG acknowledge and agree that, as a part of the Capital Facilities Plan, certain portions of the infrastructure improvements shown on the Capital Facilities Plan (including both On and Off-site Infrastructure) may need to be enlarged, increased or otherwise "upsized" or upgraded (collectively, the "**Excess Improvements**") at the request of the City or other responsible Non-City Agency to serve, directly or indirectly, developments or future developments on land areas outside of the Project's boundaries or owned by parties other than Property Owners (collectively, the "**Benefitted Property**"). In recognition of the foregoing, and as a material inducement to the execution of this Agreement by WDG:

7.2.1 **Reimbursements**. The City agrees that it shall reimburse the applicable Property Owners for, or to the extent permissible under then-applicable law and as identified in the approved Capital Facilities Plan, costs incurred by the applicable Property Owners in the construction of Excess Improvements. Subject to the City's approval, Property Owners may, from time to time, oversize and/or install and construct portions of the infrastructure specified in the Infrastructure Plan that are System Improvements. The City shall ensure that Property Owners, as applicable, are reimbursed for actual costs from Impact Fees for oversizing. City shall also make available reimbursement/pioneering agreements to reimburse Property owners-for installing Off-site System Improvements to serve their property as required by State law. Said pioneering agreements shall have a maximum duration of 10 years from the date of City's acceptance of associated improvements.

7.2.2 **Building Fee and Impact Fee Credits.** To the extent that any reimbursements paid to a Property Owner pursuant to the Reimbursement Procedures do not fully reimburse Property Owners for the amounts expended or costs incurred by the Property Owner in the construction of the Excess Improvements, City shall credit the applicable Property Owner up to the value of such deficiency against the Impact Fees applicable to the Project.

7.2.3 **Backbone Improvements.** Property Owners shall not be compensated for any "upsizing" of the Backbone Improvements that are

not included as System Improvements in the approved Capital Facilities Plan.

7.3. **Variations between Infrastructure Plan, Capital Facilities Plan and any City's Future Capital Facilities Plan.** The Parties acknowledge that the City may adopt a new or amended Capital Facilities Plan. Additionally, the City may adopt new or amended Impact Fee ordinances as permitted by State Law for the collection of Impact Fees to pay for the construction of parts or all of the Backbone Improvements. The new Capital Facilities Plan shall in no way change any land uses or permitted uses of the Project; limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner so long as all applicable requirements of this Agreement and relevant sections of the Zoning Ordinance are satisfied. The Capital Facilities Plan and any future Capital Facilities Plan may differ from the Infrastructure Plan. As a part of the approval of a Development Application, the City may require Property Owners to build portions of the Backbone Improvements as shown on the Capital Facilities Plan (after it is adopted) instead of as shown on the Infrastructure Plan. Notwithstanding the above, nothing herein obligates the City to pay for the minimum backbone infrastructure needed for the Project.

7.5 **No Additional Off-Site Infrastructure Requirements.** Notwithstanding anything to the contrary in the City's Vested Laws, the City shall not, directly or indirectly, charge Developers or Sub-developers, or any of their respective affiliates or successors, any development fees, impact fees, water hookup fees, or any similar fees, charges, assessments or exactions for Off-Site Infrastructure not contemplated in the Capital Facilities Plan, or subsequent updates to said Plan. However, any and all such development fees, impact fees, water hookup fees, or any similar fees, charges, assessments or exactions for On-Site Infrastructure, shall be borne by Developers and Sub-developers, or any of their respective affiliates or successors, or residents, regardless of whether they are off-site or on-site, pursuant to the Capital Facilities Plan. If Developer or Sub-developer is required to build Off-Site Infrastructure, and subject to the aforementioned 10 year limited duration, in the event pioneering agreements are used, the City would collect a pro-rata share from future, benefitting developers.

7.6. **Modifications of Infrastructure Locations and the Boundaries of the Development Areas.** The City acknowledges that the exact locations of On and Off-Site Infrastructure and the boundaries of the Parcels are conceptual in nature and that additional surveying, engineering and similar studies are needed to finalize lot locations, road and utility alignments as well as road and utility sizing. Therefore, Parcel boundaries, road and utility alignments and, subject to the requirements of this Agreement, infrastructure sizing may be further modified and revised upon the City's approval of subsequent Development Applications in accordance with subsequent subarea infrastructure Site Plans that will be prepared

by Developer for each Phase, and the City's Vested Laws, all subject to City final approval.

7.7 **Utilities Provided by the North Village Special Service District (NVSSD) and the Jordanelle Special Service District (JSSD).** The Parties acknowledge that the Project is currently served by the NVSSD and the JSSD for sewer and water, including secondary water. It is the intent by both Parties that the NVSSD and the JSSD shall continue to serve the project for these utilities through such service districts as long as they have capacity and are capable of serving. The Developer shall provide Commitment Letters from JSSD and NVSSD for the plat and/or phase being served before final approval for that particular plat is granted. Water for phases and all amenities shall be dedicated up front. If at any time it is deemed unfeasible to have JSSD or NVSSD serve the Project, the Developer shall secure other service providers. The City shall not be liable or responsible to provide such services.

7.8. **Water Rights.** Developers shall be required to comply with the JSSD and NVSSD water policies generally applicable to all NVSSD customers.

7.9. **Streets.** Street frontage shall be improved in compliance with the City's Standards and Specifications and the NVOZ.

Developers shall obtain UDOT access approval for any accesses onto a state highway, and shall comply with the Highway 40 Access Management Agreement.

~~At the time of development, a transportation hub (area with a bus stop bench and bus turnout), will provided to the satisfaction of the City Engineer within each development, at a location that is central to the transportation network and convenient for access to the center of density within the development.~~

7.10 **Off-Site Connectivity**. All trails, canals, ditches and roads shall connect with existing and internal trails, canals, ditches and roads located immediately adjacent to the Project such that there is consistent, smooth linkage and connectivity with any and all municipal systems.

8. **Cable/Fiber Optic Service.** Subject to all applicable federal and state laws, as well as the City's authorization and capacity to timely install in a reasonable manner all required infrastructure and provide such service, WDG agrees that the City shall be the sole cable/fiber optic network provider for the Development. The City shall install or cause to be installed all underground conduits necessary to make available a minimum of one cable service/fiber optic communication provider, or other comparable information and communication service provider, within the Project. WDG shall cooperate and reasonably accommodate the City's installation and development of said cable service/fiber optic network, (CFON). Notwithstanding the foregoing, Property Owners may contract with any cable TV/fiber optic and other communication provider of their own choice and grant an exclusive right of access and/or easement to such provider to

furnish cable TV/fiber optic and other communication services for those dwelling units or other uses on such Property Owner's real property so long as the property is private and not dedicated to the public. The City may charge and collect all taxes and fees with respect to cable, fiber optic and other communication lines as allowed under an applicable City ordinance or state law.

9. **CC&Rs.** As more fully set forth in the CC&Rs, Property Owners shall create and establish one or more Property Owners' Associations, which shall be responsible for the implementation and enforcement of the CC&Rs and the Design Guidelines, including but not limited to architectural reviews, water efficiency, wildfire education, open space, and private street and storm water system maintenance. The CC&R's shall contain a blanket provision that prohibits the nightly rental of any residential unit located on the Property and indicate that the nightly rental prohibition was a condition of development approval and may not be amended without the permission of the City. Recordation of the CC&Rs and creation of such Property Owners' Associations shall be required at the time of Final Plat review and approval. The City shall not be responsible for the implementation and/or enforcement of any such CC&Rs and Design Guidelines.

10. **Fees & Bonding.**

10.1 **General Requirement of Payment of Fees.** The City acknowledges its fees are subject to applicable State law. The City's impact fee requirements will be set forth in the City's approved Capital Facilities Plan for the Project area to be developed subsequent to this Agreement and incorporated herein.

10.2 **Bonding.** Property Owners, Developers or Sub-developers, as applicable, shall provide performance or warranty bonds, per the Heber City Code, for any on-site or off-site, publicly dedicated infrastructure or similar improvements for the Project (the "**Security**"), including, without limitation, roads, curb and gutter, storm drains, sewer, water, street lighting, signs, sidewalks, landscaping within public rights of way, public open space, public parks and trails.

11. **Construction Standards and Requirements.**

11.1 **Building Permits.** No buildings or other structures that require permits, shall be constructed within the Project without the Developer or Sub-developer first obtaining building permits in accordance with the City's Vested Laws. Developers and Sub-developers may apply for and obtain a grading permit following Preliminary Site Plan approval if the Developers or Sub-developers, as applicable, have submitted and received approval of a site-grading plan and SWPPP and subject to a Land Disturbance Permit issued pursuant to Section 12 below.

11.2 **City and Other Governmental Agency Permits.** Before commencement of construction or development of any buildings, structures or other work or improvements upon any portion of the Project, a Developer or Sub-developer shall, at their expense, secure, or cause to be secured, any and all permits which may be

required by the City under the City's Vested Laws or any other governmental entity having jurisdiction over the work. The City shall reasonably cooperate with Developers Sub-developers in seeking to secure such permits from other governmental entities.

11.3 **Limitation to Four Stories.** No structure in the Project shall exceed three stories along Highway 40 ~~four (4) stories in height~~ unless approved by the City Council.

12. **Grading, On-Site Processing of Natural Materials; Storm Water Management.**

12.1 **On-Site Processing of Natural Materials**. Property Owners may use the natural materials located on the Project, including, without limitation, sand, gravel and rock, and subject to City's Vested Laws, may process such natural materials into construction materials, including, without limitation, aggregate or topsoil, for use in the construction of On and Off-Site Infrastructure, commercial buildings, residential structures, or other buildings or improvements located in the Project and other locations outside the Project. Property Owner shall remediate any damage to trails, infrastructure, drainage or natural water features caused by such use. Notwithstanding this provision, this does not permit the construction of any subdivision or site-specific improvements prior to the requisite Final Plat review and approval for such improvements. Any such uses shall not be considered gravel pits.

12.2 **Storm Water Management**. The Parties acknowledge that the City is presently contemplating a future regional storm water master plan (as finalized and adopted by the City, the "**City Updated North Village Stormwater Master Plan**"). Concurrent with Provision 4.1 above, WDG shall be required to comply with all future policies and standards of the North Village Stormwater Master Plan and associated Stormwater Design Manual, yet to be adopted, and all standards and requirements of any and all exhibits attached and incorporated into this Agreement, including but not limited to the Engineering Review Letter.

12.2.1 As a condition of annexation, as outlined in the **City Updated North Village Storm water Master Plan**, Developer and Property Owner shall restore or replace the historic, natural drainage channels downstream of the existing irrigation canals, as outlined and contemplated in the above referenced Master Plan.

12.3. **Future Transportation Plan.** The Parties acknowledge that the City is presently contemplating a future Updated North Village Transportation Plan (as finalized and adopted by the City, the (when finalized and adopted by the City, the "**City Updated North Village Transportation Plan**"). Concurrent with Provision 4.1 above, WDG shall be required to comply with all future policies and standards

of the North Village Transportation Plan, yet to be adopted, and all standards and requirements of any and all exhibits attached and incorporated into this Agreement, including but not limited to the Engineering Review Letter.

13. **Provision of Municipal Services.** The City shall provide all City services to the Project that it provides from time to time to other residents and properties within the City including, but not limited to, development services and inspections, road and streetlight maintenance on public streets, police, and other emergency services. Such services shall be provided to the Project at the same levels of service, and on the same terms and rates as provided to other residents and properties in the City, unless such services are provided by other entities, or, because of the unique topography, location or other special or unique circumstances in the area covered by this Agreement, the cost to provide such services is higher than the like property rate throughout the City, and the City is able to demonstrate by empirical evidence, that such costs are a result of substantive additional or increased costs of municipal services, or financial burden to the City, then such additional costs, including but not limited to those required for additional special fire or police services, may be passed on to the Property Owners by way of special municipal service zonal fees, or some other equivalent of such fees. The City may charge such increased rate fees to Property Owners with respect to the Project, Phase, or sections of a Phase proportionate to their share of the increased cost.

14. **Default.** Any failure by any party to perform any term or provision of this Agreement, which failure continues uncured for a period of ten (10) calendar days following the receipt of written notice of such failure from the other party shall constitute a **"Default"** under this Agreement.

14.1 **Notice**. Any notice of default (**"Default Notice"**) shall: (1) specify the claimed event of Default; (2) identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in Default; (3) identify why the claimed Default is claimed to be material; and (4) specify the manner in which said failure may be satisfactorily cured.

14.2. **Cure.** Following receipt of a Default Notice, the defaulting Party shall have thirty (30) days in which to cure such claimed Default (the "**Cure Period**"). If more than 30 days is required for such cure, the defaulting Party shall have such additional time as is reasonably necessary under the circumstances in which to cure such Default so long as the defaulting Party commences such cure within the Cure Period and pursues such cure with reasonable diligence. City may, in City's sole discretion, withhold permits or approvals during any Cure Period.

14.3. **Developer's Exclusive Remedy**. Developer's sole and exclusive remedy under this Agreement shall be specific performance of the rights granted in this Agreement and City's obligations under this Agreement. IN NO EVENT SHALL CITY BE LIABLE TO WDG, ITS SUCCESSORS OR ASSIGNS, OR ANY DEVELOPER, PROPERTY OWNER OR OTHER PARTIES UNDER THIS

AGREEMENT, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.

14.4 **City's Remedies Upon Default.** In addition to all other remedies available at law or in equity, City shall have the right to withhold all further reviews, approvals, licenses, building permits and other permits for development of the Property in the case of a Default by Developer, until the Default has been cured. City shall further have the right to draw on any security posted or provided in connection with the Property and relating to remedying of the particular Default.

14.5. **Emergency Defaults.** Anything in this Agreement notwithstanding, if the Council finds on the record in a public meeting that a Default by Property Owners materially impairs a compelling, countervailing public interest and that any delays in imposing a remedy to such a Default would also impair a compelling, countervailing public interest, the City may impose the remedies of Section 14.4 without any further requirements or obligations to the Property Owners. The City shall give Notice to Property Owners in accordance with the City's Vested Laws of any public meeting at which an emergency Default is to be considered and Property Owners shall be allowed to attend such meeting and address the Council regarding the claimed emergency Default.

14.6. **Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

15. **Notices.** All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Property Owners:

WDG COLLEGE DOWNS LLC
Attn: Spencer Wright
1178 West Legacy Crossing Blvd
Centerville, UT 84014

To the City:

City of Heber
Attn: City Recorder
25 North Main Street
Heber, Utah 84032

15.1 **Effectiveness of Notice.** Except as otherwise provided in this Agreement, each Notice shall be effective and shall be deemed delivered on the earlier of:

15.1.1 **Physical Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile, provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending Party has confirmation of transmission receipt of the Notice.

15.1.2 **Electronic Delivery.** Its actual receipt if delivered electronically by email, provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending Party has an electronic receipt of the delivery of the Notice.

15.1.3 **Mail Delivery.** On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail.

15.1.4 **Change of Notice Address.** Any Party may change its address for Notice under this Agreement by giving written Notice to the other Party in accordance with the provisions of this Section.

16. **Administrative Amendments.**16.1 **Allowable Administrative Applications:** The following modifications to this Agreement may be considered and approved by the Administrator.

16.1.1 **Infrastructure.** Modification of the location and/or sizing of the infrastructure for the Project that does not materially change the functionality of the infrastructure.

16.1.2 **Design Guidelines.** Modifications of the Design Guidelines.

16.1.3 **Development Unit Allocations.** Any allocation of Development Unit densities to be made by WDG or its successors.

16.1.4 **Minor Amendment.** Any other modifications deemed to be minor modifications by the Administrator.

16.2 **Application to Administrator.** Applications for Administrative Amendments shall be filed with the Administrator.16.2.1 **Referral by Administrator.** If the Administrator determines for any reason that it would be inappropriate for the Administrator to determine any Administrative Amendment, the Administrator may require the Administrative Amendment to be processed as a Modification Application.

16.2.2 **Administrator's Review of Administrative Amendment.** The Administrator shall consider and decide upon the Administrative

Amendment within a reasonable time not to exceed forty-five (45) days from the date of submission of a complete application for an Administrative Amendment. Applicant must provide all documents in their completed form and pay any required fee in accordance with State law.

16.2.3 **Notification Regarding Application and Administrator's Approval.** Within ten (10) days of receiving a complete application for an Administrative Amendment, the Administrator shall notify the Council in writing. Unless the Administrator receives a notice pursuant to these Sections, requiring that the proposed Administrative Amendment be considered by the Council as a Modification Application, the Administrator shall review the application for an Administrative Amendment and approve or deny the same within the 45-day period set forth in Section 16.2.2. If the Administrator approves the Administrative Amendment, the Administrator shall notify the Council in writing of the proposed approval and such approval of the Administrative Amendment by the Administrator shall be conclusively deemed binding on the City. A notice of such approval shall be recorded against the applicable portion of the Property in the official City records.

16.2.4 **City Council Requirement of Modification Application Processing.** If the Council requires the proposed Administrative Amendment to be considered by the Council as a Modification Application, it shall, within two (2) business days after the first Council meeting following notification by the Administrator pursuant to Section 16.2.3 above, notify the Administrator that the Administrative Amendment must be processed as a Modification Application, and that the Council shall be the final determining body for any and all Modification Applications.

16.2.5 **Appeal of Administrator's Denial of Administrative Amendment.** If the Administrator denies any proposed Administrative Amendment, the Applicant may process the proposed Administrative Amendment to the Council for final adjudication. The Council shall be the final determining body for any and all Modification Applications.

17. **Amendment.** Except for Administrative Amendments, any future amendments to this Agreement shall be considered as Modification Applications subject to the following processes:

17.1 **Submissions of Modification Applications.** Only the City or WDG or an assignee of WDG, approved in writing by the City, and one that succeeds to all of the rights and obligations of WDG under this Agreement may submit a Modification Application.

17.2 **Modification Application Contents.** Modification Applications shall:

17.2.1 **Identification of Property.** Identify the property or properties affected by the Modification Application.

17.2.2 **Description of Effect.** Describe the effect of the Modification Application on the affected portions of the Project.

17.2.3 **Identification of Non-City Agencies.** Identify any Non-City agencies potentially having jurisdiction over the Modification Application.

17.2.4 **Map.** Provide a map of any affected property and all property within three hundred feet (300') showing the present or Intended Use and density of all such properties.

17.2.5 **Fee.** Modification Applications shall be accompanied by a fee in an amount reasonably estimated by the City to cover the costs of processing the Modification Application.

17.3. **Mutual Cooperation in Processing Modification Applications.** Both the City and Applicants shall cooperate reasonably in promptly and fairly processing Modification Applications.

17.4 **Planning Commission Review of Modification Applications.**

17.4.1 **Review.** All aspects of a Modification Application required by law to be reviewed by the Planning Commission shall be considered by the Planning Commission as soon as reasonably possible in accordance with the City's Vested Laws in light of the nature and/or complexity of the Modification Application. The City shall not be required to begin its review of any application unless and until the Applicant has submitted a complete application.

17.4.2 **Recommendation.** The Planning Commission's vote on the Modification Application shall be only a recommendation.

17.5 **Council Review of Modification Application.** After the Planning Commission, if required by law, has made or been deemed to have made its recommendation of the Modification Application, the Council shall consider the Modification Application.

17.6 **Council's Objections to Modification Applications.** If the Council objects to the Modification Application, the Council shall provide a written determination advising the Applicant of the reasons for denial, including specifying the reasons the City believes that the Modification Application is not consistent with the intent of this Agreement and/or the City's Vested Laws (or, only to the extent permissible under this Agreement, the City's Future Laws).

17.7 **Mediation of Council's Objections to Modification Applications.** If the Council and Property Owners are unable to resolve a dispute regarding a Modification Application, the Parties shall attempt within seven (7) days to appoint a mutually acceptable expert in land planning or such other discipline as may be appropriate. If the Parties are unable to agree on a single acceptable mediator, each shall, within seven (7) days, appoint its own individual appropriate expert. These two experts shall, between them, choose the single mediator. Property Owners shall pay the fees of the chosen mediator. The chosen mediator shall within fourteen (14) days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties.

17.8 **Amendments by WDG**. Notwithstanding any other provision in this Agreement to the contrary, WDG may propose and if approved by the City, execute any amendment or other modification of this Agreement or the Site Plan, without the consent of any Property Owner provided that such amendments, modifications, land uses and density allocations: (a) are consistent with the requirements of the City's Vested Laws; and (b) shall not alter the ERU density allocated to such Property Owner identified in a duly executed Development Report or assignment from WDG or otherwise affect any development rights associated with such Property Owner's Development Property set forth in a property specific development agreement with the City pertaining to such Development Property or a recorded Subdivision Plat specific to such Development Property and no other portion of the Project. For avoidance of doubt, neither the City nor WDG shall be required to obtain the consent of any Property Owner or any subsequent owner of a portion of the Project in order to amend this Agreement pursuant to this Section 17.

18. **Estoppel Certificate**. Upon twenty (20) days prior written request by a Property Owner, the City will execute an estoppel certificate to any third party certifying that this Agreement has not been amended or altered (except as described in the certificate) and remains in full force and effect, and that such Property Owner is not in default of the terms of this Agreement (except as described in the certificate), and such other matters as may be reasonably requested by the Property Owner. The City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

19. **Entire Agreement.** Unless expressly provided herein, nothing in this Agreement shall be interpreted to conflict with, replace or waive any requirements, obligations, standards, duties, rights and enforcements afforded to the Parties, provided by and through the NVOZ Zone and Ordinance, and shall be interpreted and presumed by the Parties to be consistent, in harmony with, and incorporated herein with this Agreement. This Agreement and all Exhibits hereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

20. **Headings.** The captions used in this Agreement are for convenience only and a not

intended to be substantive provisions or evidences of intent.

21. **No Third-Party Rights/No Joint Venture.** This Agreement does not create a joint venture relationship, partnership or agency relationship between the City and Property Owner. Further, the Parties do not intend this Agreement to create any third-party beneficiary rights. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for or duty to any third parties, including but not limited to JSSD or NVSSD, concerning any improvements to the Property unless the City has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the City's.

22. **Assignability.**

22.1 **Transfer to Developers and Sub-developers.** Notwithstanding anything to the contrary in this Agreement, WDG or its successor may sell any portion of the Property to one or more parties (each a "**Developer**" or "**Sub-developer**") at any time from and after the Effective Date. Each such transferred portion of the Property (each, a "**Development Property**") shall be developed by the Developer and/or Sub-developer in accordance with and subject to the terms hereof, including, without limitation, the following:

22.1.1 Developer or Sub-developer shall assume in writing for the benefit of the City and Property Owners all of the obligations and liabilities of Property Owners hereunder with respect to the Development Property;

22.1.2 Developer and Sub-developer shall be afforded the rights of Property Owners granted hereunder in respect of the applicable Development Property only, including, without limitation, any rights of Property Owners in and the impact fee credits and/or reimbursements pertaining to such Development Property; provided, however, that unless WDG otherwise agrees in writing, Developer and/or Sub-developer shall not, in each case without the prior written consent of WDG, which may be granted or withheld in WDG's sole discretion:

(ii) submit any design guidelines to the City in respect to the Development Property and/or propose any amendments, modifications or other alterations to the Design Guidelines or any other design guidelines previously submitted by WDG Owners to the City in respect of the Development Property;

(iii) process any Final Plats, site plans or Development Applications for the Development Property and/or propose any amendments, modifications or other alterations of any approved

Final Plats, site plans, and/or Development Applications procured by WDG for the Development Property; or

(iv) propose or oppose any amendments, modifications or other alterations to this Agreement.

22.1.3 The City agrees not to accept or process any of the foregoing matters from a Developer and/or Sub-developer unless the matter has been approved by the owner of the Development Property.

22.1.4 WDG shall not amend, modify or alter this Agreement or the Design Guidelines, or any Final Plats, Development Agreements and/or site plans approved for the Development Property in a manner that would materially interfere with Developer and/or Sub-developer's rights hereunder in respect of such Development Property, in each case without Developer and/or Sub-developer's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

23. **Effect of Breach.** Notwithstanding any other provision of this Agreement, no breach or default hereunder, by any Person succeeding to any portion of a Property Owner's obligations under this Agreement shall be attributed to Property Owner. Nor may a Property Owner's rights hereunder be canceled or diminished in any way by any breach or default by any such Person. No breach or default hereunder by a Property Owner shall be attributed to any Person succeeding to any portion of such Property Owner's rights or obligations under this Agreement, nor shall such transferee's rights be canceled or diminished in any way by any breach or default by such Property Owner. During the development of the Project, until final approval of and dedication to the City, Developer, Owners or Owners, and their assigns, transferees, and sub - developers shall maintain the City as an additional named insured where reasonably possible, and without adding unreasonable cost, on any relevant or applicable liability insurance associated with the Project.

24. **Mortgagee Protection.** This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any such Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any Person that acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Notwithstanding the provisions of this Section, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion. If the City receives a written notice from a Mortgagee requesting a copy of any notice of default given to a Property Owner or a Sub-developer and specifying the address for service thereof, then the City shall deliver to such Mortgagee, concurrently with service thereon to the Property Owner or a Sub-developer, as applicable, any notice of default or determination of noncompliance given to the Property Owner

or such Sub-developer. Each Mortgagee shall have the right (but not the obligation) for a period of 90 days after the receipt of such notice from the City to cure or remedy the default claimed or the areas of noncompliance set forth in the City's notice. If such default or noncompliance is of a nature that it can only be cured or remedied by such a Mortgagee upon obtaining possession of the Property, then such Mortgagee may seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall within 90 days after obtaining possession cure or remedy such default or noncompliance. If such default or noncompliance cannot with diligence be cured or remedied within either such 90 -day period, then such Mortgagee shall have such additional time as may be reasonably necessary to cure or remedy such default or noncompliance if such Mortgagee commences such cure or remedy during such 90 -day period and thereafter diligently pursues completion of such cure or remedy to the extent possible.

25. **Termination.**

25.1 This Agreement shall be terminated and of no further effect upon the occurrence of any of the following events:

(i) Expiration of the Term of this Agreement, unless extended as provided in Section 4.3;

(ii) Completion of the Project in accordance with the Development Entitlements and the City's issuance of all required occupancy permits and acceptance of all dedications and improvements required under the Development Entitlements and this Agreement;

(iii) Except for the payment of applicable fees and assessments, as for any specific residential dwelling or other structure within the Project, this Agreement shall be terminated for such dwelling or other structure upon the issuance by City of a certificate of occupancy therefore;

(iv) Entry of final judgment (with no further right of appeal) or issuance of a final order (with no further right of appeal) directing City to set aside, withdraw, or abrogate City's approval of this Agreement,

(v) The effective date of a party's election to terminate the Agreement as specifically provided in this Agreement, or

(vi) in the event that Developer or the project are in default, or where material, contractual and developmental obligations are not met, or any deadlines and conditions of this Agreement, and relevant State and Federal Laws not fulfilled or are violated, after appropriate default notices and cure provisions of this Agreement.

25.2 **Notice of Termination.** City shall, upon written request made by Developer or Developer's successor(s) or assign(s) or any Owner to City's Planning Director, determine if the Agreement has terminated with respect to any parcel or lot at the Property, and shall not unreasonably withhold, condition, or delay termination as to that lot or parcel. Upon termination of this Agreement as to any lot or parcel, City shall upon Developer or Developer's successor(s) or assign(s) or any Owner's request record a notice of termination that the Agreement has been terminated. The aforesaid notice may specify, and Developer or Developer's successor(s) or assign(s) and Owners agree, that termination shall not affect in any manner any continuing obligation to pay any item specified by this Agreement. Termination of the Agreement as to any parcel or lot at the Property shall not affect Developer or Developer's successor(s) or assign(s) or any Owner's rights or obligations under any of the Development Entitlements and Subsequent Entitlements, including but not limited to, the General Plan, Specific Plan, Zoning Ordinance and all other City policies, regulations, and ordinances applicable to the Project at the Property. City may charge a reasonable fee for the preparation and recordation of any notice(s) of termination requested by Developer or Developer's successor(s) or assign(s) or any Owner.

25.3 **Partial Termination.** In the event of a termination of this Agreement with respect of any portion of the Property, any then-existing rights and obligations of the parties with respect to such portion of the Property shall automatically terminate and be of no further force, effect or operation. However, no termination of this Agreement with respect to any portion of the Property or the Project shall affect in any way the parties' rights and obligations hereunder with respect to any other portion of the Property or Project not subject to the termination. Subject to the provisions of the Default Paragraph 14, the expiration or termination of this Agreement shall not result in any expiration or termination of any Entitlement then in existence, without further action of City.

26. **Insurance and Indemnification.** Each Property Owner shall defend and hold the City and its officers, employees and consultants harmless for any and all claims, liability and damages arising out of the negligent actions or inactions of such Property Owner, its agents or employees pursuant to this Agreement, unless caused by the City's negligence or willful misconduct.

27. **Hazardous, Toxic, and/or Contaminating Materials.** Each Owner shall defend and hold the City and its elected and/or appointed boards, officers, agents, employees and consultants harmless from any and all claims, liabilities, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence and removal, or caused by the introduction of hazardous, toxic and/or contaminating materials by such Property Owner on the Project or arising out of action or inactions of Developer, except where such claims, liability costs, fines, penalties and charges are due to the actions of the City or its elected or appointed boards, officers, agents, employees or consultants.

28. **Binding Effect.** If WDG or another Property Owner conveys any portion of the Property to one or more Sub-developers, the property so conveyed shall have the same rights, privileges, Intended Uses and configurations, and shall be subject to the same limitations and rights of the City, applicable to such property under this Agreement prior to such conveyance, without any required approval, review, or consent by the City, except as otherwise provided herein.

29. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future date any such right or any other right it may have.

30. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

31. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, inclement weather, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

32. **Time is of the Essence.** Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

33. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this Agreement, the City and WDG each shall designate and appoint a representative to act as a liaison between the City and its various departments and WDG. The initial representative for the City shall be City Manager, or his designee and the initial representatives for WDG shall be Spencer Wright. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Agreement and the development of the Project.

34. **Mutual Drafting.** Each Party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either Party based on which Party drafted any particular portion of this Agreement.

35. **Applicable Law.** This Agreement is entered into in the City in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

36. **Recordation and Running with the Land.** This Agreement shall be recorded in the office of the Wasatch County Recorder. Copies of the City's Vested Laws, **Exhibit D**, shall not be recorded. A secure copy of **Exhibit D** shall be filed with the City Recorder and each Party shall also have an identical copy. The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits hereof shall bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto. All successors in interest shall succeed only to those benefits and burdens of this Agreement which pertain to the portion of the Project Area to which the successor holds title. Such titleholder is not a third party beneficiary of the remainder of this Agreement or to zoning classifications and benefits relating to other portions of the Project Area. The obligations of Property Owners hereunder are enforceable by the City, and no other Person shall or may be a third party beneficiary of such obligations unless specifically provided herein.

37. **Authority.** The parties to this Agreement each warrant that they have all of the necessary authority to execute this Agreement. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this Agreement lawfully binding the City pursuant to City Policy. This Agreement is approved as to form and is further certified as having been lawfully adopted by the City by the signature of the City Attorney.

38. **Covenant of Good Faith and Fair Dealing.** No party shall do anything which shall have the effect of injuring the right of another party to receive the benefits of this Agreement or do anything which would render its performance under his agreement impossible. Each party shall perform all acts contemplated by this Agreement to accomplish the objectives and purposes of this Agreement.

39. **Further Actions and Instruments.** The Parties agree to provide reasonable assistance to the other and cooperate to carry out the intent and fulfill the provisions of the Agreement. Each of the parties shall promptly execute and deliver all documents and perform all acts as necessary to carry out the matters contemplated by this Agreement.

40. **Partial Invalidity Due to Governmental Action.** In the event state or federal laws or regulations enacted after the Execution Date of this Agreement, or formal action of any governmental jurisdiction other than City, prevent compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified extended or suspended only to the minimum extent necessary to comply with such laws or regulations.

41. **Waiver of Rights Under Utah Code Section 10-9a-532**. Developer acknowledges and agrees that Developer has been represented by an attorney throughout this process. Developer acknowledges that this Agreement does not restrict any of Developer's rights under clearly established state law or that Developer has been advised in writing of any such rights being restricted. As an essential term of this Agreement, Developer hereby waives any claim that any term of this Agreement is void, illegal, invalid, or unenforceable as the result of any failure on

the City's part to disclose in writing any rights being restricted by this Agreement. Developer agrees that if Developer makes any claim that any portion of this Agreement is void because the City failed to disclose that this Agreement restricts any of Developer's rights under Utah Code § 10-9a-532, any vesting of density in this Agreement shall immediately terminate.

[Signatures appear on the following two pages.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

PROPERTY OWNER

WDG COLLEGE DOWNS LLC
Utah limited liability company

By: _____
Name: Spencer Wright
Title: Manager

PROPERTY OWNER ACKNOWLEDGMENT

STATE OF UTAH)
:§.
CITY OF SALT LAKE)

On the _____ day of _____, 2023, personally appeared before me Spencer Wright, who being by me duly sworn, did say that he is the Manager of WDG COLLEGE DOWNS LLC, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

_____
NOTARY PUBLIC

CITY

Heber City, a political subdivision of the State of Utah

By:_____
Name:
Its:_____

Approved as to form and legality:

City Attorney

By:_____

Attest:

City Recorder

By:_____

EXHIBIT A

TO DEVELOPMENT AGREEMENT FOR COLLEGE DOWNS MIXED USE RESIDENTIAL DEVELOPMENT

Legal Description

BEGINNING AT A POINT LOCATED NORTH 00°30'00" WEST ALONG THE SECTION LINE 132.85 FEET AND WEST654.07 FEET FROM THE FOUND WASATCH COUNTY ALUMINUM CAP MARKING EH EAST 1/4 CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 32°00'23" WEST1201.64 FEET TO THE HEBER CITY BOUNDARY AS SHOWN ON THE NORTH VILLAGE ANNEXATION PLAT; THENCE ALONG SAID HEBER CITY BOUNDARY AND THE NORTH VILLAGE ANNEXATION PLAT THE FOLLOWING 22 (TWENTY TWO) CALLS: 1. NORTH 42°02'19" EAST 253.96 FEET, 2. NORTH 89°51'56" EAST 493.00 FEET, 3. SOUTH 42°15'26"EAST 71.50 FEET, 4. ALONG THE ARC OF A 463.93 FOOT RADIUS CURVE TO THE LEFT 66.76 FEET (CHORD BEARS SOUTH 46°22'46" EAST 66.70 FEET), 5. SOUTH 50°30'06" EAST 70.63 FEET, 6. ALONG THE ARC OF A226.74 FOOT RADIUS CURVE TO THE RIGHT 97.65 FEET (CHORD BEARS SOUTH 38°09'48" EAST 96.90 FEET), 7.SOUTH 25°49'31" EAST 80.79 FEET, 8. ALONG THE ARC OF A 234.73 FOOT RADIUS CURVE TO THE LEFT 109.51FEET (CHORD BEARS SOUTH 39°1126" EAST 108.52 FEET), 9. SOUTH 52°33'20" EAST 46.06 FEET, 10. ALONG THEARC OF A 95.72 FOOT RADIUS CURVE TO THE RIGHT 27.55 FEET (CHORD BEARS SOUTH 44°18'34" EAST 27.46FEET), 11. SOUTH 36°03'49" EAST 17.11 FEET, 12. ALONG THE ARC OF A 84.88 FOOT RADIUS CURVE TO THELEFT 74.84 FEET (CHORD BEARS SOUTH 61°19'17" EAST 72.44 FEET), 13. SOUTH 86°34'45" EAST 55.03 FEET, 14.ALONG THE ARC OF A 70.00 FOOT RADIUS CURVE TO THE RIGHT 41.05 FEET (CHORD BEAR SOUTH 69°46'38"EAST 40.47 FEET), 15. NORTH 39°00'43" EAST 134.19 FEET, 16. SOUTH 00°28'04" EAST 215.78 FEET, 17. SOUTH22°22'27" WEST 568.62 FEET, 18. NORTH 50°59'17" WEST 229.73 FEET, 19. ALONG THE ARC OF A 138.00 FOOTRADIUS CURVE TO THE LEFT 109.61 FEET (CHORD BEARS SOUTH 61°40'19" WEST 106.75 FEET), 20. SOUTH39°00'43" WEST 127.93 FEET, 21. ALONG THE ARC OF A 248.00 FOOT RADIUS CURVE TO THE RIGHT 39.75 FEET(CHORD BEARS SOUTH 43°36'15" WEST 39.71 FEET), AND 22. SOUTH 48°11'46" WEST 70.25 FEET TO THE POINTOF BEGINNING. AREA = 20.35 ACRES

EXHIBIT B
TO DEVELOPMENT AGREEMENT FOR COLLEGE DOWNS MIXED USE RESIDENTIAL DEVELOPMENT
Site Plan

EXHIBIT C
TO DEVELOPMENT AGREEMENT FOR COLLEGE DOWNS MIXED USE RESIDENTIAL DEVELOPMENT
North Fields

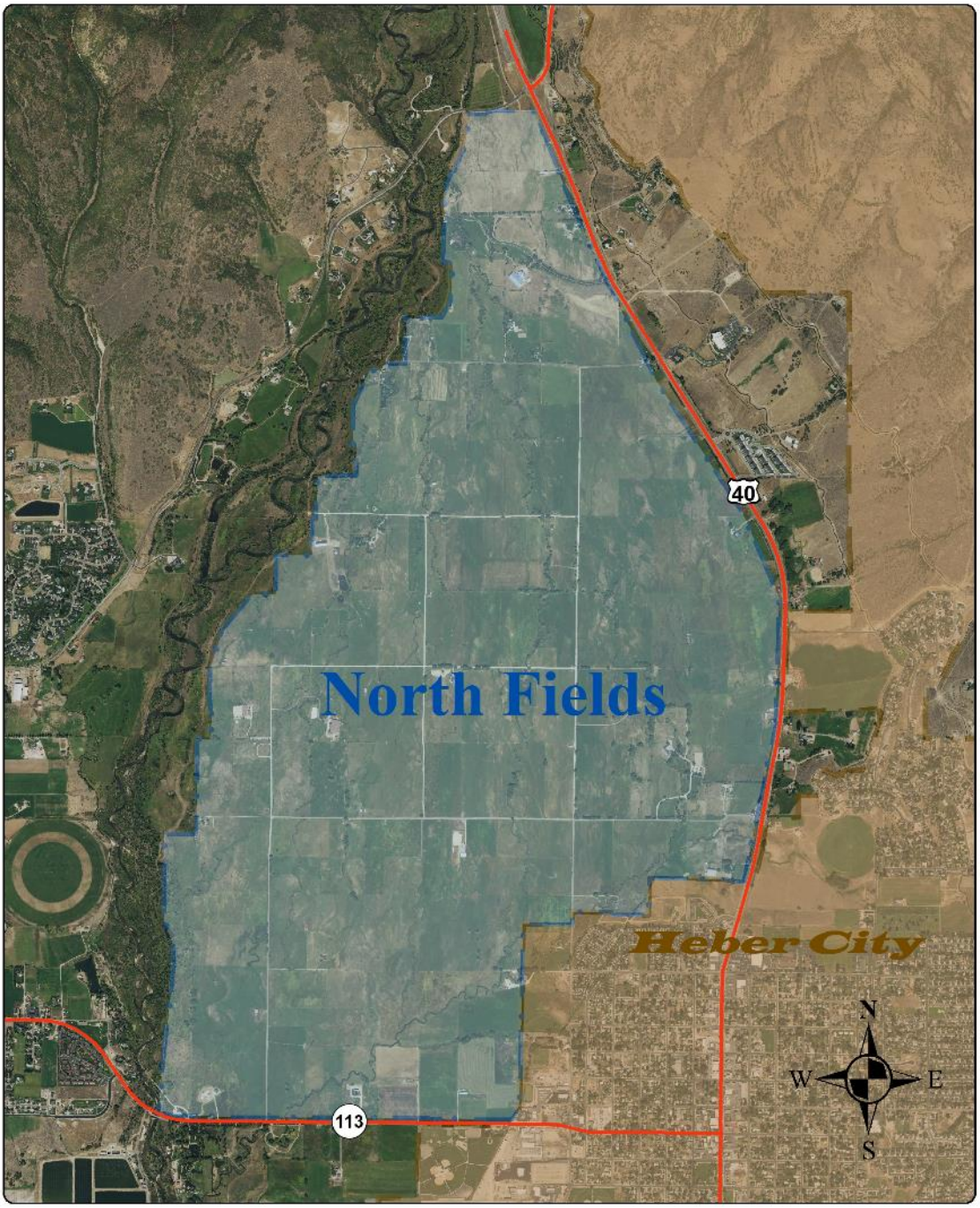


EXHIBIT D
TO DEVELOPMENT AGREEMENT FOR COLLEGE DOWNS MIXED USE RESIDENTIAL DEVELOPMENT

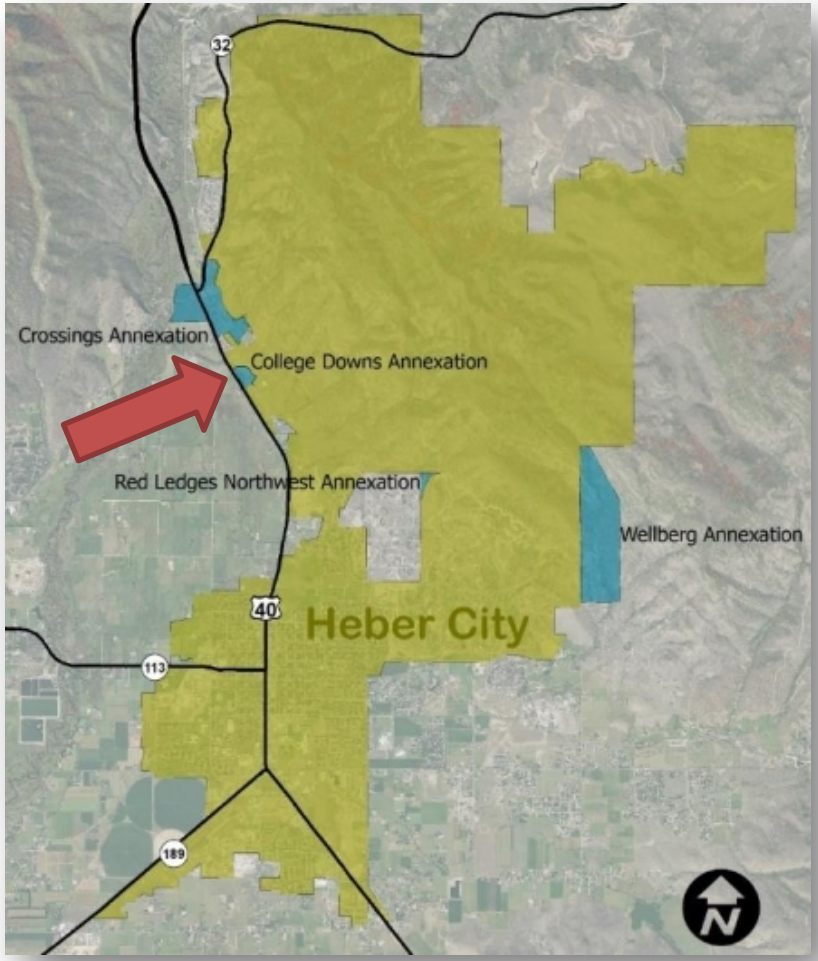
City's Vested Laws

For the City's Vested Laws, reference the North Village Overlay Zone (NVOZ), adopted by the City Council of Heber City, Utah, in Chapter 18.81 of Heber Municipal Code on March 16, 2021.

College Downs Annexation

September 5, 2023

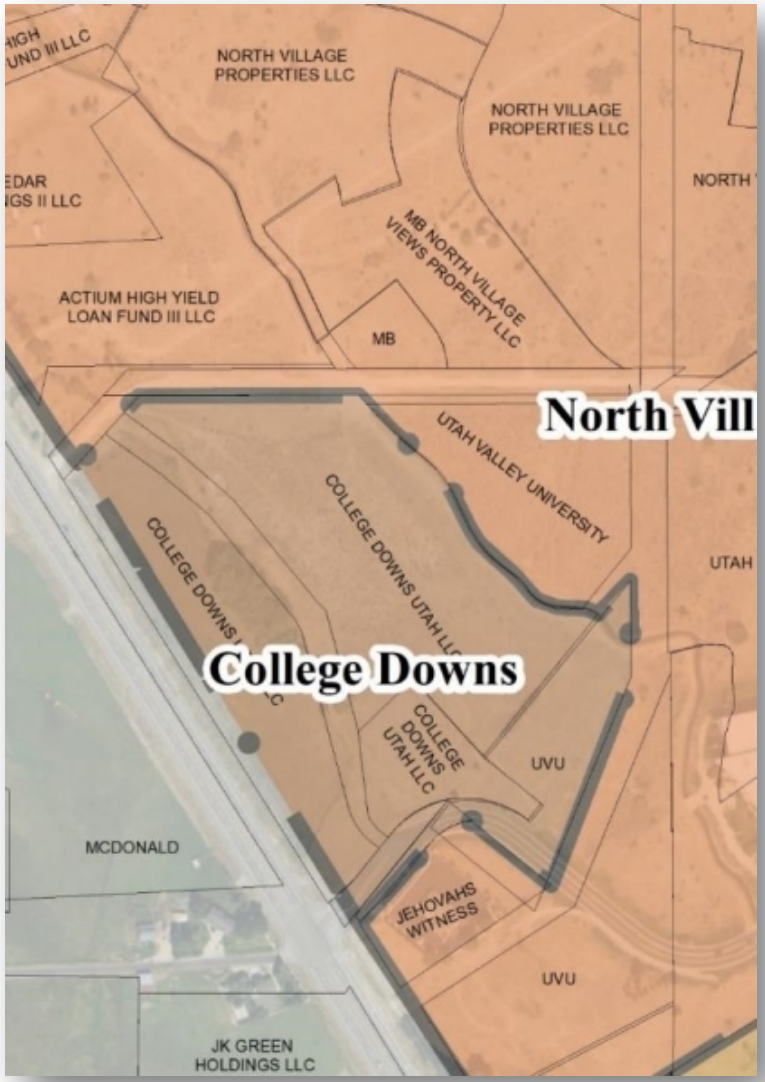
Wright Development Group



Annexation Process

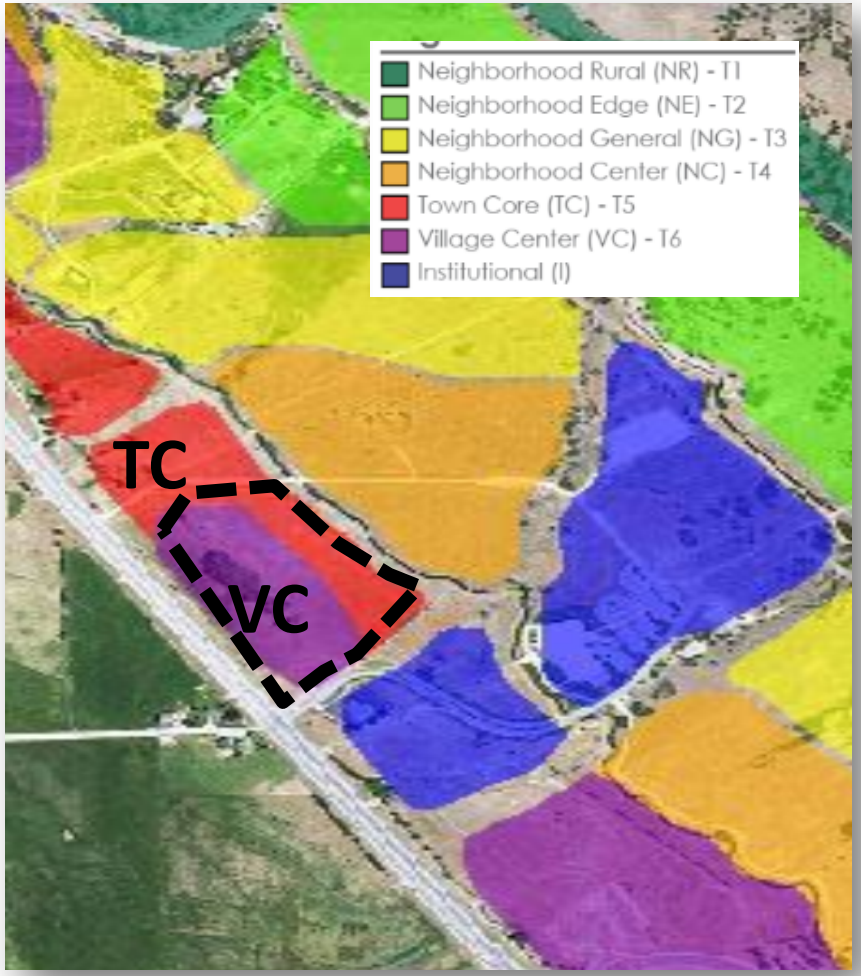
Date	Process	Time Frame 8 - 24 Months
01-14-22	Notice of Intent	
02-04-22	Submittal	
03-01-22	Acceptance	
03-14-22	Certification	
04-14-22	Protest Period Ends	
05-12-22	DRC	
06-14-22	PC Review	
07-29-22	CC Review	
08-02-22	CC Review	
10-18-22	CC Review	
03-21-23	CC Review	
05-16-23	CC Review	
09-05-23	CC Review	
09-05-23	Public Hearing	
09-05-23	CC Approval	
TBD	Lieutenant Governor	
TBD	Record Plat	

Surrounding Properties

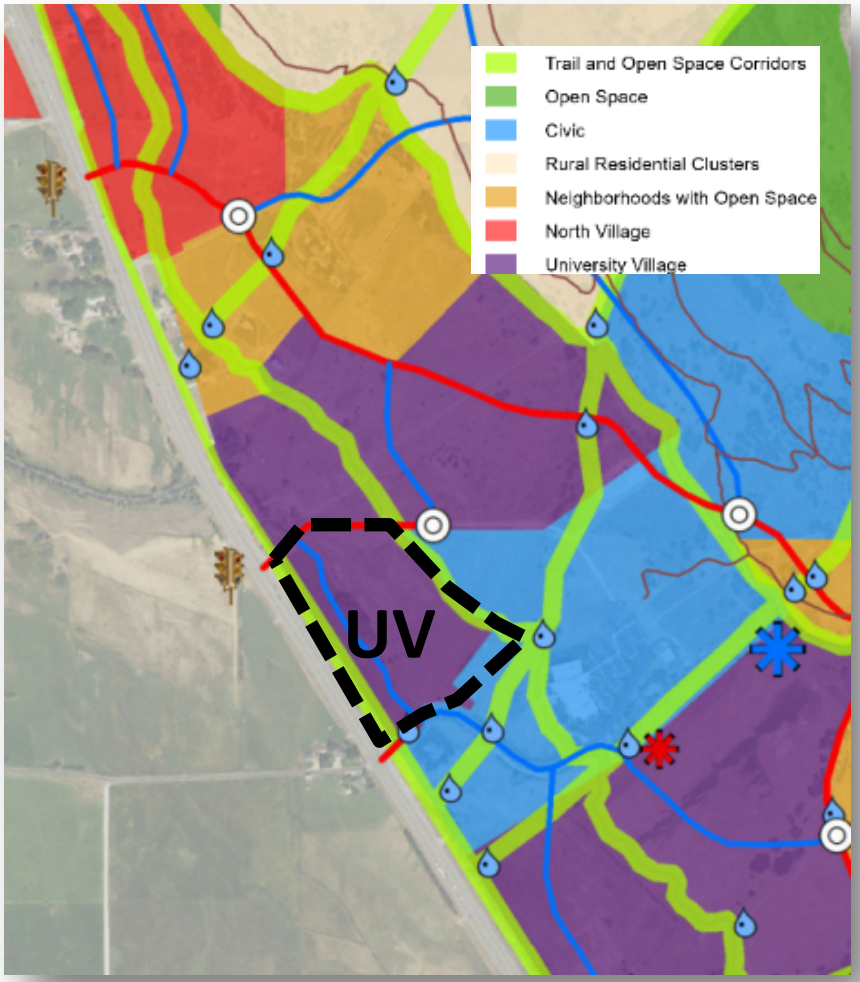


County vs City NVOZ

County NVOD



City NVOZ



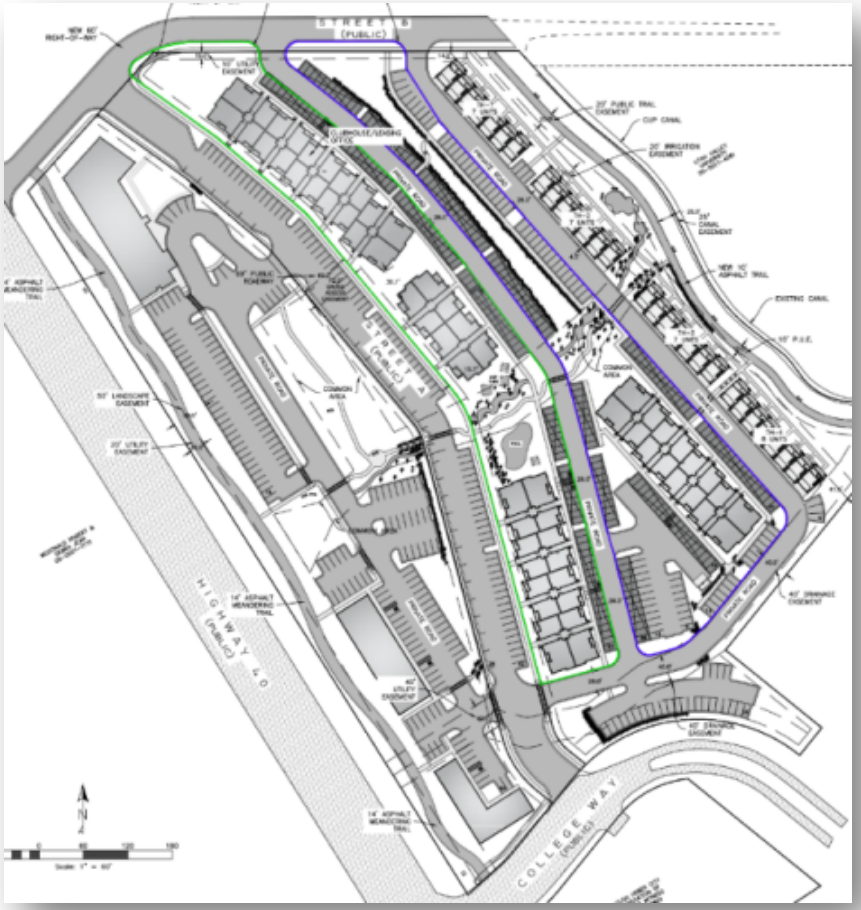
Zoning Details

Issue	Value
Area	17.005 acres
Open Space	32.6% (215,638 sf)
County Zoning	102 ERU (6 ERU/acre), TC & VC
City Zoning	102 residential ERU (6 ERU/acre), UV Zone
County MDA Density	189 ERU (11.12 ERU/acre)
Proposed Density	122 ERU (102 residential ERU, 20 commercial ERU) (7.18 ERU total, 6/ERU acre residential)
Proposed Uses	Commercial, stacked flats & townhomes
Studies completed	financial, geotechnical, physical constraints, storm drain analysis, wetlands

Concept Plan

County vs City Plans

County



City

Summary of Key MDA Terms

Issue	Section
Short-term rental	1.2.10
ERU Count	3.1
Affordable Housing	3.6
Commercial timing	3.6.5
MDA Term	4.3
Preservation Fee	6.5
Fiber Optic Service	8
Max Building Height	11.3
Transportation & access	12.5

Policy Question

- What comments does the public have regarding the proposed annexation?
- Is the MDA and annexation ready for approval?

Findings

College Downs Annexation is:

- Part of North Village Town Center;
- Consistent with Annexation Policy Plan;
- Consistent with Envision Heber 2050; &
- Consistent with NVOZ.

College Downs furthers General Plan by:

- Promoting quality neighborhoods;
- Promoting the town center;
- Promoting recreation, parks & trails;
- Promoting affordable housing; &
- Promoting economic development.

The MDA requires developer to go above minimum code requirements for:

- Providing Affordable Housing @ 60% AMI;
- Prohibiting short term rentals;
- Requiring Restrictive Covenants (CCRs);
- Compliance with UDOT standards;
- Timing of commercial properties;
- 20 ERUs must be commercial;
- Preservation Fee of $2,500/ERU;
- Max Height of 3 stories along Hwy 40;
- Limits density to less than County;
- Participation in Fiber Optic Service.
- Compliance with open space, trails, storm water & street master plans; &
- Conformance to NVSSD water policy.

Recommendation

- Adopt Ordinance 2023-32, approving the College Downs Annexation and associated MDA.

WRIGHT DEVELOPMENT GROUP

COLLEGE DOWNS - CONCEPT SITE PLAN

EAG
ENVISION ARCHITECTURAL GROUP

Heber City Council Staff Report

MEETING DATE:	11/7/2023
SUBJECT:	Resolution 2023-20 Implementing the Terms of the Predevelopment Agreement with OK3 Air and the Airport Master Plan and Rescinding Prior Moratoria
RESPONSIBLE:	Matt Brower, Jeremy Cook
DEPARTMENT:	Administrative
STRATEGIC RELEVANCE:	Necessary Administrative Action

SUMMARY

Through Resolution 2019-09, the City Council suspended all airport development pending completion of the Airport Master Plan. Now that the Airport Master Plan has been completed and the Airport Layout Plan (ALP) has been conditionally approved by the FAA, it is appropriate to rescind Resolution 2019-09. Under the terms of the Predevelopment Agreement with OK3 AIR, the City is still obligated to maintain a development moratorium on the North and South FBO Campuses until such time that environmental study is complete and OK3 AIR has chosen, in accordance with the Predevelopment Agreement, to develop and relocate its operations to either the North or South FBO Campus.

RECOMMENDATION

City staff recommends the City Council adopt Proposed Resolution 2023-20, cancelling Resolution 2019-09 and maintaining a development moratorium on the North and South FBO Campuses.

BACKGROUND

On April 2, 2019, the City Council adopted Resolution 2019-09. Resolution 2019-09 suspended consideration of all commercial or non-commercial airport development pending completion of the Airport Master Plan. Resolution 2019-09 also suspended consideration of any application to conduct new commercial aeronautical activities and the Investment Term Adjustment provisions of the Lease/Rates & Charges Policy.

On June 20, 2023, the City Council approved the Airport Master Plan and directed Airport staff to submit the Airport Layout Plan (ALP) to the FAA for approval. On the same date, the City Council approved a comprehensive settlement with OK3 AIR, the City's fixed-based operator, resolving

several years of litigation between the City and OK3 AIR. As part of such settlement, the City entered into a Predevelopment Agreement with OK3 AIR, which provides OK3 AIR with the opportunity to relocate its operations to replacement facilities in advance of the City's planned modification to the Airport runway and taxiways in order to satisfy C-II airport design standards. The Predevelopment Agreement requires that the City maintain a moratorium on the North and South FBO Campuses (identified on the attachment to proposed Resolution 2023-20) until such time that OK3 AIR elects to develop either the North or South FBO Campus, in accordance with the terms of the Predevelopment Agreement.

Proposed Resolution 2023-20 would cancel Resolution 2019-09 but maintain a moratorium on the development of the North and South FBO Campuses in accordance with the Predevelopment Agreement. Proposed Resolution 2023-20 would also direct Airport staff to proceed expeditiously to commence required environmental studies within the next three (3) years, also in accordance with the Predevelopment Agreement.

The City intends to commence a review and update to the Minimum Standards. Airport staff believes that applications to conduct commercial aeronautical activities may be considered on a case-by-case basis; however, Airport staff intends to ensure that any permitted activities will comply with the Minimum Standards once they are updated.

Airport staff recommends the City continue to suspend application of the Investment Term Adjustments until such time that the City can comprehensively review the Lease/Rates & Charges Policy and seek further advise from business and legal consultants.

DISCUSSION

FISCAL IMPACT

Proposed Resolution 2023-20 will allow the City to consider proposals for the development of Airport property outside of the North and South FBO Campuses, including the area designated for T-Hangar development at the northernmost end of the Airport. The City will obtain market rates for any authorized development of Airport property. Proposed Resolution 2023-20 requires the City to expeditiously complete the environmental studies necessary to obtain AIP funding for the projects identified in the Airport Master Plan. The projected local match for such environmental studies is approximately $33,000.00.

CONCLUSION

Adopt Resolution 2023-20, cancelling Resolution 2019-09 and maintaining a development moratorium on the North and South FBO Campuses pursuant to the terms of the Predevelopment Agreement with OK3 AIR.

ALTERNATIVES

1. Direct staff to revise Resolution 2023-20.

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve Resolution 2023-20** cancelling Resolution 2019-09 and maintaining a development moratorium on the North and South FBO Campuses pursuant to the terms of the Predevelopment Agreement with OK3 AIR as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows:

Alternative 3 - Continue
I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:
Alternative 4 - Denial
I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department:	Administrative
Staff member:	Steve Osit Matt Brower, City Manager Jeremy Cook, City Attorney

EXHIBITS

1. Resolution 2023-20
2. Ex A - Resolution 2023-20 (2030033.1)
3. 4. 2019-09 Resolution Suspending Airport Development (1197225.1)
4. 2023-06-30 - Predevelopment Agreement (Fully Executed) (1770817.23)

RESOLUTION NO. 2023-20

A RESOLUTION IMPLEMENTING THE TERMS OF THE PREDEVELOPMENT AGREEMENT WITH OK3 AIR AND THE AIRPORT MASTER PLAN AND RESCINDING PRIOR MORATORIA

WHEREAS, on April 2, 2019, the City Council of Heber City, Utah, adopted Resolution 2019-09, which suspended certain airport development and consideration of new commercial activities pending the completion of an Airport Master Plan study for the Heber Valley Airport;

WHEREAS, on June 20, 2023, the City Council of Heber City, Utah, approved and adopted the Airport Master Plan study and its associated Airport Layout Plan ("ALP");

WHEREAS, on October 12, 2023, the Federal Aviation Administration ("FAA") issued its conditional approval of the ALP (Case No. 2023-ANM-3701-NRA);

WHEREAS, on June 29, 2023, the City Council of Heber City, Utah, approved and executed a Predevelopment Agreement with AH Aero Service, Inc. d/b/a OK3 AIR, through which the City agreed to afford OK3 AIR the opportunity to develop either the South FBO Campus or the North FBO Campus, in accordance with the provisions therein, to ensure the relocation of OK3 AIR's operations to adequate alternative facilities in furtherance of the approved Airport Master Plan and the conditionally approved ALP.

WHEREAS, the City intends to maintain a moratorium on the development of the South FBO Campus and the North FBO Campus until such time that OK3 AIR elects to develop either FBO Campus, in accordance with the terms of the Predevelopment Agreement.

WHEREAS, the City intends to review its Minimum Standards and other governing documents to ensure they support and advance the goals set forth in the Master Plan;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Heber City, Utah, that:

1. The City shall suspend consideration of any development of the South FBO Campus and/or the North FBO Campus, as the South FBO Campus and the North FBO Campus is depicted on Exhibit A hereto, until such time that OK3 AIR has made a Final Site Notification in accordance with the Predevelopment Agreement, or as otherwise provided by the Predevelopment Agreement, or upon the expiration or earlier termination thereof.

2. Subject to the availability of federal grant funds and matching local funds, the City shall proceed expeditiously and in close coordination with the FAA to initiate within the next three (3) years all environmental studies required under the National Environmental Policy Act ("NEPA") to obtain environmental clearance and secure funding eligibility for the grant-eligible projects identified on the Airport Master Plan.

3. The City shall continue to suspend the application of the Investment Term Adjustment provisions of the Lease / Rates & Charges Policy, including the authority of the

Airport Advisory Board to "conceptually approve" an Investment Term Adjustment, pending the City's further review of the Minimum Standards and other governing documents.

4. Except as noted in the foregoing numbered paragraphs, this Resolution shall cancel and supersede Resolution 2019-09.

This Resolution shall take effect and be in force from and after its adoption.

ADOPTED and PASSED by the City Council of Heber City, Utah, this ___ day of _____, 2023, by the following vote:

	AYE	NAY
Council Member Ryan Stack	_____	_____
Council Member Rachel Kahler	_____	_____
Council Member Mike Johnston	_____	_____
Council Member Scott Phillips	_____	_____
Council Member Yvonne Barney	_____	_____

APPROVED:

_____
Mayor Heidi Franco

ATTEST:

_____
City Recorder

Exhibit A - Resolution 2023-20

The preparation of this document may have been supported, in part, through the Airport Improvement Program financial assistance from the Federal Aviation Administration (Project Number AIP 3-49-001-031-2019) as provided under title 49 U.S.C., section 47104. The contents do not necessarily reflect the official views or policy of the FAA. Acceptance of this report by the FAA does not in any way constitute a commitment on the part of the United States to participate in any development depicted therein nor does it indicate that the proposed development is environmentally acceptable or would have justification in accordance with appropriate public laws.

UAV AERIAL FLOWN SEPT 2019

MAGNETIC DECLINATION 10°45' E JAN 2023

0 400 800 Feet

CFR PART 77 APPROACH (F) 500' X 3,500' X 10,000' @34:1

THRESHOLD SITING SURFACE SURFACE #4 (F) (PENETRATION)

RUNWAY END 4 (F) LAT: 40°28' 27.08" N LONG: 111°26' 23.35" W ELEV: 5582.0' RWY LP

UAV AERIAL IMAGERY EXTENT FLOWN SEP 2019

RUNWAY OBSTACLE FREE ZONE (F) 200' BEYOND RUNWAY END 400' WIDE

RUNWAY 4 (F) TDZE: 5607.2' STA: 30+00

ARP (F) LAT: 40°28'49.09" N LONG: 111°25'49.27" W

RUNWAY SAFETY AREA (F) 1000' BEYOND RUNWAY END 500' WIDE

RUNWAY OBJECT FREE AREA (F) 1000' BEYOND RUNWAY END 800' WIDE

WIND CONE (E) (F) AND SEGMENTED CIRCLE

RUNWAY END 22 (F) STA: 68+98 LAT: 40°29' 11.09" N LONG: 111° 25' 15.19" W ELEV: 5640.8' TDZ: RWY HP

THRESHOLD SITING SURFACE SURFACE #4 (F) (PENETRATION)

RUNWAY PROTECTION ZONE (F) 200' BEYOND RUNWAY END INNER WIDTH: 500' OUTER WIDTH: 1,010' LENGTH: 1700'

RUNWAY 4/22 6,898' X 100' (F) TRUE BEARING 49° 46' 35.05"

1317' 1187' 920' 1160' 693' 1584'

295' 283' 275' 322' 49' 553' 478' 670' 700'

500' 500'

SOUTH FBO CAMPUS

NORTH FBO CAMPUS

RUNWAY PROTECTION ZONE (F) 200' BEYOND RUNWAY END INNER WIDTH: 500' OUTER WIDTH: 1,010' LENGTH: 1700'

AWOS (F)

15' BRL (F) 380' FROM RUNWAY CL

25' BRL (F) 430' FROM RUNWAY CL

35' BRL (F) 500' FROM RUNWAY CL

TAXIWAY WIDTH 35'

AWOS (E) TO BE REMOVED

TAXIWAY SAFETY AREA (F) 79' WIDE

TAXIWAY EDGE SAFETY MARGIN (F) 7.5' FROM TAXIWAY EDGE

TAXIWAY OBJECT FREE AREA (F) 131' WIDE

FBO FUEL FARM (F) (LOCATION TO BE DETERMINED)

PARKING LOT (E) TO BE REMOVED FROM FUTURE FBO AREA

ACCESS GATE

TAXILANE OBJECT FREE AREA (F) 115' WIDE

APRON (F) (40,375 SQ FT)

TAXIWAY HOLDING POSITION (F) 239' FROM RUNWAY CL

APRON (F) (140,450 SQ FT)

ACCESS GATE (E)

230' TAXIWAY SEPARATION

PAPI (F)

APRON (F) (440,915 SQ FT)

ACCESS GATE (E) TO BE WIDENED

PROPOSED FUEL FARM AND SELF SERVE (F) (TO BE DETERMINED)

ACCESS GATE (F)

ACCESS GATE (F)

SNOW STORAGE AND MIXED AERONAUTICAL/ NON-AERONAUTICAL USE

ACCESS GATE (E) TO BE REMOVED

APRON (F) (269,530 SQ FT)

CFR PART 77 APPROACH (F) 500' X 3,500' X 10,000' @34:1

ABBREVIATIONS

AP	AIRPORT
ARP	AIRPORT REFERENCE POINT
BRL	BUILDING RESTRICTION LINE
CL	CENTER LINE
ELEV	ELEVATION
(E)	EXISTING
(F)	FUTURE (MID-PHASE)
FAA	FEDERAL AVIATION ADMINISTRATION
HP	HIGH POINT
LP	LOW POINT
NPI	NONPRECISION INSTRUMENT
ROFA	RUNWAY OBJECT FREE AREA
ROFZ	RUNWAY OBSTACLE FREE ZONE
RPZ	RUNWAY PROTECTION ZONE
RSA	RUNWAY SAFETY AREA
RVZ	RUNWAY VISIBILITY ZONE
RWY	RUNWAY
STA	STATION
TEMA	TAXIWAY EDGE SAFETY MARGIN
TOFA	TAXIWAY OBJECT FREE AREA
TSA	TAXIWAY SAFETY AREA
TDZ	TOUCH DOWN ZONE
TYP	TYPICAL
UH	ULTIMATE (LONG-TERM)
VIS	VISUAL

CITY OF HEBER CITY MAYOR DATE

FAA CONDITIONAL APPROVAL

SUBJECT TO LETTER DATED:

FEDERAL AVIATION ADMINISTRATION DENVER AIRPORTS DISTRICT OFFICE

DATE: _____

AIRSPACE CASE NO.: _____

LEGEND

ITEM EXISTING	ITEM FUTURE	DESCRIPTION	ITEM EXISTING	ITEM FUTURE	DESCRIPTION	ITEM FUTURE	DESCRIPTION
BUILDING			**NAVAIDS**			**MARKING LINE**	
		HANGAR TO BE REMOVED			AWOS		RUNWAY CENTERLINE
		HANGAR			AWOS PROTECTION		TAXIWAY CENTERLINE
FENCE					BEACON		TAXIWAY HOLDING POSITIION
		CHAINLINK FENCE (7')	X		PAPI		TIE DOWN
		FENCE TO BE REMOVED	X		THRESHOLD LIGHT	**SAFETY AREAS**	
		WIRE FENCE (8')			WIND CONE		RUNWAY SAFETY AREA (RSA)
		GATE			SEGMENTED CIRCLE		RUNWAY OBJECT FREE AREA (ROFA)
PART 77 SURFACE			**PAVEMENT**				RUNWAY PROTECTION ZONE (RPZ)
X		CFR PART 77 APPROACH	X		APRON		RUNWAY OBSTACLE FREE ZONE (ROFZ)
X		THRESHOLD SITING SURFACE			DRIVEWAY		TAXIWAY EDGE SAFETY MARGIN (TESM)
MISCELLANEOUS					PARKING LOT		TAXIWAY OBJECT FREE AREA (TOFA)
		AIRPORT BOUNDARY			ROAD		TAXIWAY SAFETY AREA (TSA)
X		AIRPORT REFERENCE POINT (ARP)	X		RUNWAY		15' BUILDING RESTRICTION LINE (BRL)
X		FBO AREA			TAXIWAY		25' BUILDING RESTRICTION LINE (BRL)
X		SNOW STORAGE	X		FUEL		35' BUILDING RESTRICTION LINE (BRL)
X		AIRPORT VIEW AREA	X		FUTURE PARKING		
X		GUEST AREA			ROAD TO BE REMOVED		

BORDER SIZE 11"X17"
DESIGNED DRAFT
DRAWN BRC
CHECKED BWC
APPROVED JLM

REVISIONS

NO.	DESCRIPTION	DATE

ARDURRA
2175 W. 3000 S., SUITE 200
HEBER CITY, UT 84032
PHONE: 435.315.6168
WWW.ARDURRA.COM

A.I.P NO.: 3-49-001-031-2019

AIRPORT LAYOUT PLAN
FUTURE
HEBER VALLEY AIRPORT

DATE: XXX XX, XXXX
PROJECT # 190036
SHEET: 3B
1 OF 21

RESOLUTION NO. 2019-09

A RESOLUTION SUSPENDING CONSIDERATION OF CERTAIN AIRPORT DEVELOPMENT AND COMMERCIAL ACTIVITIES PENDING COMPLETION OF THE AIRPORT MASTER PLAN

WHEREAS, in conjunction with Heber City's "Envision Heber 2050" Vision and General Plan, and with the strong encouragement of the Federal Aviation Administration, Heber City will soon commence an Airport Master Plan study for the Heber Valley Airport;

WHEREAS, the City intends that the Airport Master Plan will identify short-, medium-, and long-term goals for the Airport given forecast demand based on the robust participation of Airport stakeholders, assess the ability of the existing airport to support those goals, and develop alternatives for meeting those goals;

WHEREAS, a meaningful alternatives analysis requires that the City not pre-judge components of the Master Plan by making ad hoc decisions during and in advance of the Master Plan process about Airport development in isolation that are better reviewed comprehensively;

WHEREAS, the Federal Aviation Administration recommends that sponsors of federally obligated airports prepare a Master Plan to guide future airport development, and often supports the temporary suspension of new development while a Master Plan is being prepared;

WHEREAS, the City has received applications and letters of interest from parties proposing various commercial and non-commercial development, and believes a decision on such proposals is best deferred until such time that the Master Plan identifies priorities and objectives for the orderly development of Airport property;

WHEREAS, the City intends to review its Minimum Standards and Lease/Rates & Charges Policy in connection with development of the Master Plan to assure that the City's Minimum Standards and Lease/Rates & Charges Policy support and advance the goals set forth in the Master Plan, and to require compliance therewith by any new commercial or non-commercial development at the Airport;

WHEREAS, the City's outside airport legal counsel has communicated with the Federal Aviation Administration and obtained the Federal Aviation Administration's support for the suspension of new development while a Master Plan is being prepared;

WHEREAS, City Council desires to eliminate or reduce recent disputes regarding proposed development and new commercial aeronautical activities at the Airport in order to ensure a meaningful, transparent, and robust Master Plan process;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Heber City, Utah, that the Heber City and Airport Staff shall:

1. Suspend consideration of any commercial or non-commercial airport development that is not proposed in the current FAA-approved Airport Layout Plan (ALP);

2. Suspend consideration of any application to engage in new commercial activities (including, for example, new FBOs or SASOs), except for the construction by private parties of hangars proposed in the current ALP for lease to non-commercial tenants; and

3. Suspend application of the Investment Term Adjustment provisions of the Lease / Rates & Charges Policy, including the authority of the Airport Advisory Board to "conceptually approve" an Investment Term Adjustment; *provided*, however, that such suspension shall not impact Investment Term Adjustments for which the Airport Manager and Airport Advisory Board have already granted conceptual approval.

4. Subject to the availability of federal grant funds and matching local funds, proceed expeditiously and in close coordination with the Federal Aviation Administration to commence the Master Plan and conclude the Master Plan process within 18-24 months.

5. Promptly inform the City Council of any undue hardship created by the suspension ordered herein, so that the City Council may consider appropriate relief.

6. Inform airport stakeholders, including individuals that have recently submitted an application or letter of interest for commercial or non-commercial development at the Airport, of the measures ordered by the City Council herein.

This Resolution shall take effect and be in force from and after its adoption.

ADOPTED and PASSED by the City Council of Heber City, Utah, this 2 day of April, 2019, by the following vote:

	AYE	NAY
Council Member Jeffery M. Bradshaw	X	
Council Member Heidi Franco	X	

Council Member Wayne Hardman	X	
Council Member Jeffrey Smith	X	
Council Member Ronald Crittenden	X	

APPROVED:

Kelleen Potter

Mayor Kelleen Potter

ATTEST:

Trina Webber

City Recorder

HEBER CITY CORPORATE Seal WASATCH COUNTY, UTAH

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PREDEVELOPMENT AGREEMENT

Between

HEBER CITY CORPORATION ("City")

And

AH AERO SERVICE, INC. d/b/a OK3 AIR ("OK3 AIR")

DocuSign Envelope ID: AD08F86F-B29C-4F26-BE69-0EA0D07A8B5B

PRE-DEVELOPMENT AGREEMENT

THIS PRE-DEVELOPMENT AGREEMENT (this "Agreement") is made as of this 29th day of June, 2023 (the "Effective Date"), by and between HEBER CITY CORPORATION ("City") and AH Aero Service, Inc. d/b/a OK3 AIR ("OK3 AIR"). The City and OK3 AIR are referred to individually as a "Party" and together as the "Parties".

Recitals

A. The City is the owner, operator, and legal sponsor for the purposes of the Federal Aviation Administration ("FAA") matters of the Heber Valley Airport (the "Airport").

B. OK3 AIR is a full-service fixed base operator located on the Airport, providing aircraft maintenance, ramp parking, fueling, de-icing, overnight hangar services, and other services pursuant to that certain Amended Agreement dated January 8, 1995, originally between the City and High City Aviation, Inc., and later assigned to OK3 AIR, and as amended by the Addendum to Amended 1995 Airport Agreement dated May 8, 2012, the Addendum to 1995 Airport Agreement dated January 26, 2015, and the Addendum to the 1995 Airport Agreement dated contemporaneously herewith (the "FBO Lease Addendum" and, collectively, the "FBO Lease").

C. OK3 AIR leases certain property from the City pursuant to the FBO Lease and certain other written agreements, including ground leases for those premises known as Hangar A, Hangar E, and Daniel Hangar 1 and the New Hangar (the "Hangar Leases").

D. At its regular meeting on February 21, 2023, the Heber City Council (the "City Council") approved an Airport Layout Plan (the "Draft ALP" attached as Exhibit A). The Draft ALP will be submitted to the FAA for approval upon the completion of a Master Plan (the "Master Plan") for the Airport, reflecting the upgrade of the Airport to meet C-II airfield design standards. Among other items, the Draft ALP provides for a shift in the Airport runway to the south and east, which will impact property leased by OK3 AIR under the FBO Lease and Hangar Leases.

E. Contemporaneously with this Agreement, OK3 AIR and the City have entered into that Settlement Agreement and Mutual Release, which resolves certain claims and potential claims among the parties (the "Settlement Agreement"). Among other items, the Settlement Agreement contemplates that the Parties will enter a Predevelopment Agreement addressing, among other items, the relocation and expansion of OK3 AIR's leased property as a result of the Airport upgrades proposed in the ALP and Master Plan. This Agreement is the Predevelopment Agreement contemplated in the Settlement Agreement.

F. The Settlement Agreement also contemplates that the City and OK3 AIR will enter into an amended and restated FBO lease agreement (such lease or, if such lease is not entered into for any reason, the FBO Lease, the "Current Lease").

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Agreement

NOW THEREFORE, in consideration of the foregoing recitals (which are incorporated into this Agreement by reference), and the mutual promises herein contained, and intending to be legally bound hereby, the Parties hereto agree as follows:

I. Term. The "Term" of this Agreement shall commence on the Effective Date and shall terminate on the earlier of (1) the date upon which all areas of the Selected Campus, as defined below, have been leased by OK3 AIR in accordance with the provisions hereof; or (2) the termination date of the Current Lease, in accordance with the terms of the Current Lease.

II. General Cooperation. The Parties acknowledge that there are a number of steps that need to be accomplished to complete the Master Plan and achieve the upgrade of the Airport to meet C-II airfield and design standards, as reflected on the Draft ALP. Accordingly, from and after the Effective Date, the Parties shall work together cooperatively and shall execute such additional documents as may reasonably be necessary to accomplish the tasks described in Paragraphs III through VIII below.

III. Master Plan and ALP Submission

A. The City shall, at its cost, diligently complete the Master Plan and submit the Draft ALP for approval by the FAA. The Master Plan shall show the reservation of space for an approximately 17.8-acre new leasehold in the southwest portion of the Airport (the "South FBO Campus") and an approximately 9-acre new leasehold in the northwest portion of the Airport (the "North FBO Campus" and, collectively, the "FBO Areas"). In addition, the Master Plan shall include various improvements eligible for Airport Improvement Program or other federal grant funding administered by the FAA's Office of Airports (the "Federal Grant Programs"), including but not limited to, the relocation of the runway, various taxiways, aircraft parking ramp, and various demolition and remediation requirements (collectively, the "Grant Funded Projects").

B. Upon completion of the Master Plan, the City shall submit the Master Plan and Draft ALP for FAA acceptance of the Master Plan and conditional approval of the Draft ALP (together, the "FAA Approvals"). The City shall make all reasonable and necessary efforts to obtain the FAA Approvals. In the event that the FAA requires any changes to the Draft ALP that would materially affect the size, location, access to, or economic feasibility of the FBO Areas shown on the Draft ALP or the ability of the City to implement the Master Plan as submitted to the FAA (the "Required ALP Changes"), the City shall review the Required ALP Changes with OK3 AIR. The City shall consult with OK3 AIR regarding the Required ALP Changes, and shall address the Required ALP Changes with the FAA in a manner that preserves, to the greatest extent possible, the development opportunities reflected on the Draft ALP, including, without limitation, the opportunity for OK3 AIR to develop either FBO Area and construct the Minimum Program Requirements, as defined in Section IV.B, below, in accordance with the Minimum Standards. The City shall resubmit an ALP addressing the Required ALP Changes to the FAA for conditional approval. In the event the City is unable to reasonably address the Required ALP Changes to the FAA's satisfaction in a manner that preserves the material benefits provided to OK3 AIR hereunder, OK3 AIR may in its discretion terminate this Agreement and, in the event of OK3

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AIR's election to terminate this Agreement under this paragraph, the City shall not be liable to OK3 AIR as a result thereof as long as the City has complied with this Section III.B.

C. Upon receipt of the FAA Approvals, the City shall promptly provide written notice of the FAA Approvals to OK3 AIR, and the date of such notice shall be referred to herein as the "ALP Approval Date".

IV. Site Selection

A. Upon execution of this Agreement, OK3 AIR and the City shall diligently work together to conduct a Phase II Environmental Site Assessment of the South FBO Campus (the "Phase II ESA"). OK3 AIR and the City shall share equally in the costs incurred in conducting the Phase II ESA, which the Parties understand will not be eligible for federal funding. Upon completion of the Phase II ESA, the City will diligently pursue an appropriate mitigation plan with the Utah Department of Environmental Quality and/or other agency(ies) with jurisdiction to permit the closure of the former landfill. The City will thereafter conduct preliminary soil sampling and other analyses necessary to determine the general suitability of the South FBO Campus for the construction of improvements on the South FBO Campus, in accordance with the approved mitigation plan. OK3 AIR and the City shall share equally in the costs incurred in such sampling and analyses. The City will work with OK3 AIR and the FAA to seek funding from the FAA to reimburse the City and OK3 AIR for the costs incurred pursuant to this Section IV.A. The City and OK3 AIR will comply with any applicable law, regulation, or policies to ensure that such costs incurred are reimbursable through the Federal Grant Programs to the greatest extent possible.

B. Within ninety (90) days after completion of such sampling and analyses, OK3 AIR shall submit a preliminary site plan for the South FBO Campus (the "Preliminary Site Plan"). The Preliminary Site Plan shall include at a minimum (a) 12,000 square feet of office space; (b) 70,000 square feet of hangar space; (c) at least 13 acres of contiguous ramp space; (d) a ground support equipment structure not to exceed 10,000 square feet, which ground support structure may be used to maintain and store OK3 AIR's equipment, including but not limited to fuel trucks, tugs, deicers and snow removal equipment; and (e) a modern fuel farm (collectively, the "Minimum Program Requirements"). The Preliminary Site Plan shall be for the purposes of facilitating the Environmental Studies, described below, and shall not be binding on OK3 AIR.

C. As soon as practical, but no greater than three (3) years from the ALP Approval Date, the City shall make all reasonable and necessary efforts to initiate with the FAA those environmental studies required under the National Environmental Policy Act (NEPA) (the "Environmental Studies") to obtain environmental clearance and secure funding eligibility for the Grant Funded Projects, and the City shall be required to pay the Local Match associated with funding under the Federal Grant Programs relating to the Environmental Studies; provided, however, that the City shall not be obligated to initiate the Environmental Studies unless and until the FAA agrees to provide funding under the Federal Grant Programs for the Environmental Studies.

D. Once initiated, the City shall diligently pursue the Environmental Studies in cooperation with the FAA, and promptly submit the completed Environmental Studies to the FAA. The City shall promptly notify OK3 AIR of the FAA's approval of the Environmental Studies, issuance of a Record of Decision or other final determination under NEPA (the "Final Environmental Determination").

E. Within ninety (90) days following the Final Environmental Determination, OK3 AIR shall provide the City with a South FBO Campus Site Plan. The City shall review and approve or provide comments to the South FBO Campus Site Plan within thirty (30) days. The City's review shall be limited to confirming that the South FBO Campus Site Plan conforms to the Master Plan, ALP, and the Minimum Standards, and such approval shall not be unreasonably withheld, conditioned or delayed. Should the City determine the South FBO Campus Site Plan is not approved because it does not conform to the Master Plan, FAA-approved ALP, or Minimum Standards, the City shall provide comments to OK3 AIR, and the Parties shall diligently cooperate to adjust the South FBO Campus Site Plan to address the City's comments so that the City is able to approve the South FBO Campus Site Plan as quickly as possible. In making adjustments to the South FBO Campus Site Plan, the City's approval shall not be unreasonably conditioned, withheld or delayed.

F. Not less than six (6) months after the City's written approval of the South FBO Campus Site Plan (the "Site Selection Period") OK3 AIR shall notify the City in writing (the "Final Site Notification") of its election to either (a) lease the South FBO Campus, (b) lease the North FBO Campus; or (c) terminate this Agreement (OK3 AIR's elected site, the "Selected Campus"). During the Site Selection Period, the City and OK3 AIR shall cooperate with each other and coordinate with the FAA to determine the general feasibility of developing the South FBO Campus and the likely extent and timing of funding under the Federal Grant Programs for the Grant Funded Projects associated with the South FBO Campus. Upon OK3 AIR's request, the City will extend the Site Selection Period by additional three (3) month intervals if (i) OK3 AIR reasonably determines that it lacks sufficient information to determine the general feasibility of developing the South FBO Campus and the likely extent and timing of AIP funding for the Grant Funded Projects associated with the South FBO Campus; and (ii) the FAA does not object to the extension. For the purposes of the foregoing sentence, the FAA will be deemed to have objected to the extension if any representative of the FAA indicates, in writing or verbally, that the FAA objects to the extension; provided, however, that any such indication by verbal communication must be made to both parties simultaneously and memorialized by written notice from the City to OK3 AIR in accordance with Section XII.H; and provided further that the foregoing provision shall not prohibit either party from seeking a review of the objection by the Manager of the Denver Airports District Office or more senior official within ten (10) business days thereof. OK3 AIR understands and acknowledges it may be required to make its Final Site Notification prior to any determination regarding the FAA's willingness to fund the Grant Funded Projects.

G. In the event OK3 AIR elects in the Final Site Notification to lease the South FBO Campus, the City shall, within one hundred and eighty (180) days after the Final Site Notification issue a Request for Proposals ("RFP") for the development on the North FBO Campus

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of hangars and a light general aviation FBO consistent with the FAA-approved ALP, the terms of the Minimum Standards as amended, and the Settlement Agreement. Upon the issuance of said RFP, OK3 AIR shall have no further rights to the North FBO Campus.

H. In the event OK3 AIR elects in the Final Site Notification to lease the North FBO Campus, OK3 AIR shall have no further rights to the South FBO Campus. OK3 AIR shall then provide the City with a revised Preliminary Site Plan for the North FBO Campus within ninety (90) days after the Final Site Notification that will include the Minimum Program Requirements, to the extent such can be accommodated. Within one hundred and eighty (180) days of its receipt of a revised Preliminary Site Plan, the City shall make all reasonable and necessary efforts to amend the ALP in accordance with the revised Preliminary Site Plan and obtain FAA approval and environmental clearance thereof. In the event the FAA requires any changes to the ALP that would materially affect the Preliminary Site Plan, the City and OK3 AIR will proceed as provided in Section III.B. To the extent there is sufficient developable space available on the South FBO Campus, the City shall within one hundred and eighty (180) days after the Final Site Notification issue an RFP for the development on the South FBO Campus of hangars and a light general aviation FBO consistent with the terms of the Minimum Standards as amended and the Settlement Agreement.

V. Project Execution

A. The Parties acknowledge the City's obligation to preserve those rights and powers necessary to comply with the terms of all existing agreements between the City and the United States of America relative to the operation or maintenance of the Airport. To the extent permissible under such agreements, the City agrees to prioritize those Grant Funded Projects associated with the Selected Campus and any necessary enabling projects, prior to seeking funding under the Federal Grant Programs for other Grant Funded Projects and agrees that it will not seek funding under the Federal Grant Programs to relocate the runway or condemn or purchase any of OK3 AIR's existing facilities without also seeking funding under the Federal Grant Programs for Grant Funded Projects on the Selected Campus. Notwithstanding the foregoing, this provision shall not prohibit the City from applying for and/or accepting a grant under the Federal Grant Programs for any Grant Funded Project reasonably necessary to maintain the safety of the Airport, nor shall this provision prohibit the City from applying for and/or accepting a grant under the Federal Grant Programs for any Grant Funded Project that would not delay the FAA funding of the Granted Funded Projects associated with the Selected Campus. Without limiting the foregoing, OK3 AIR understands and agrees that the City intends to pursue the following Grant Funded Projects prior to making any application for funding of the Grant Funded Projects associated with the Selected Campus, and waives any right under this Agreement to challenge the same: (i) the upgrade and relocation of the AWOS; (ii) the Environmental Studies; (iii) the acquisition of snow removal equipment; (iv) the acquisition of property or easements necessary to facilitate the relocation of the runway and parallel taxiway in accordance with FAA standards; and (v) relocation of the access road along the southern boundary of the South FBO Campus.

B. The City shall be responsible for, and its liability to fund the Grant Funded Projects hereunder will be limited to, the local match associated with these Grant Funded Projects

(the "Local Match"). The City will not be obligated to complete the Grant Funded Projects on the Selected Campus unless and until the FAA issues a grant under the Federal Grant Programs covering not less than 90 percent of the cost of the Grant Funded Projects. The Local Match shall be paid by the City. The City shall only be obligated to pay the Local Match out of the City's Airport Special Revenue Fund, and not from the City's General Fund; provided, however, that nothing herein shall be construed as preventing the City from making payments from the City's General Fund, in the City's sole discretion. The Parties further acknowledge that the timing and availability of funding for the Grant Funded Projects is partially outside the City's control, and, to that extent, cannot be specifically determined, and except as provided in Section IV.C, the City shall not be in default of its obligations hereunder as a result of its failure to timely raise the Local Match throughout the term of this Agreement, subject to the provisions of this Section V.

VI. Leasehold Interest

A. At any time after providing the City with its Final Site Notification, OK3 AIR may provide written notice to the City of its intent to lease all or a portion of the Selected Campus (each such notice a "Notice of Intent to Lease"). Each Notice of Intent to Lease shall specify the location and approximate square footage of the area to be leased and its intended use, which shall be consistent with the approved Site Plan for the Selected Campus. Not later than sixty (60) days following the receipt of a Notice of Intent to Lease, the City shall:

1. In the case of an area to be used for the development of vehicle parking or aircraft parking ramp/apron, the Current Lease shall be amended to include the area specified in the Notice of Intent to Lease. The City shall prepare and execute a lease addendum to memorialize the addition of the area specified in the Notice of Intent to Lease as a ministerial function, which addendum shall not be subject to City Council approval except as required by law. The terms of the Current Lease shall apply to the area; however, the rental rate shall be initially established at fifteen cents ($0.15) per square foot. The rental rate shall thereafter be annually adjusted by a percentage equal to the increase in the Mountain-Plains Consumer Price Index through January 31 of the then-current year, as calculated by the U.S. Bureau of Labor Statistics or any successor agency; provided, that no annual increase in the rental rate shall exceed three percent (3%); and provided further, that the rental rate shall not decrease. Notwithstanding the foregoing, the rental rate shall increase to twenty-five cents ($0.25) per square foot on the fifth anniversary of the addendum to include the area specified in the Notice of Intent to Lease, and thereafter adjusted for inflation as provided in the preceding sentence; and the rental rate shall be reset to the City's then-current rental rate for comparable uses of airport property on the thirty-fifth anniversary of the addendum to include the area specified in the Notice of Intent to Lease, and thereafter adjusted for inflation as provided in the preceding sentence.

2. In the case of an area to be used for the development of fuel farm facilities, the City shall prepare a lease for the area specified in the Notice of Intent to Lease on such form then in effect for the lease of airport property for comparable uses. The rental rate shall be initially established at fifteen cents ($0.15) per square foot. The rental rate shall thereafter be annually adjusted by a percentage equal to the increase in the Mountain-Plains Consumer Price Index through January 31 of the then-current year, as calculated by the

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U.S. Bureau of Labor Statistics or any successor agency; provided, that no annual increase in the rental rate shall exceed three percent (3%); and provided further, that the rental rate shall not decrease. Notwithstanding the foregoing, the rental rate shall increase to twenty-five cents ($0.25) per square foot on the fifth anniversary of the lease of the area to be used for the development of fuel farm facilities, and thereafter adjusted for inflation as provided in the preceding sentence; and the rental rate shall be reset to the City's then-current rental rate for comparable uses of airport property on the thirty-fifth anniversary of the lease of the area to be used for the development of fuel farm facilities, and thereafter adjusted for inflation as provided in the preceding sentence. OK3 AIR shall pay ten percent (10%) of the rental rate for the area to be used for the development of fuel farm facilities until such time that the fuel farm is operational. The term of such lease will be coextensive with the Current Lease and contain those cross-default provisions contained in the Current Lease.

3. In the case of an area to be used for the development of any facility other than described in paragraphs VI.A.1 and VI.A.2, the City shall prepare a lease for the area specified in the Notice of Intent to Lease on such form then in effect for the lease of airport property for comparable uses, and at the City's then-current rental rate for comparable uses of airport property. The term of such lease will be coextensive with the Current Lease and contain those cross-default provisions contained in the Current Lease.

B. Upon the City's completion of the Grant Funded Projects associated with the Selected Campus, the City shall provide written notice to OK3 AIR (the date of such notice, the "Grant Funded Projects Completion Date"). Not less than thirty (30) days after the Grant Funded Projects Completion Date, the OK3 AIR shall submit one or more Notice(s) of Intent to Lease all remaining area on the Selected Campus not already under lease. The City shall process the Notice(s) of Intent to Lease as provided in Section VI.A; provided, however:

1. OK3 AIR shall pay ten percent (10%) of the rental rate for the areas identified in such Notice(s) of Intent to Lease until such time that it commences FBO operations from the Selected Campus; and

2. The term of the Current Lease and all other leases on the Selected Campus shall be reset to an initial period of thirty five (35) years and automatically extended for an additional fifteen (15) years when OK3 AIR provides the City's Airport Manager with written certification that it has completed the Minimum Program Requirements, or made a minimum capital investment of five million ($5,000,000) in Adjusted Dollars in the facilities that contribute to the operation of the FBO, including but not limited to hangars, ramp and fuel farm, whichever happens earlier; provided, however, that if the lease term of the Current Lease has already been extended to fifty (50) years pursuant to the terms of the FBO Lease Addendum, the term shall be reset to initial period of fifty (50) years. For the purposes of this Agreement, "Adjusted Dollars" shall mean the dollar amount indicated in this Agreement multiplied by that fraction the numerator of which is the revised Bureau of Labor Statistics Mountain-Plains Consumer Price Index (the "Index") for December of the preceding year and the denominator of which is the Index for December 2022.

C. OK3 AIR understands and agrees that the City's construction of the Grant Funded Projects on the Selected Campus is in furtherance of the Master Plan, which shall require OK3 AIR to relocate its operations to the Selected Campus. Accordingly, OK3 AIR shall in good faith coordinate the timing of its commencement of FBO operations on the Selected Campus in accordance with the Minimum Standards with the City and the FAA. Notwithstanding the foregoing, OK3 AIR agrees to complete the Minimum Program Requirements and commence FBO operations on the Selected Campus no later than ten (10) years after the Grant Funded Projects Completion Date; or, in the event the City notifies OK3 AIR that the City reasonably anticipates demolishing a portion of OK3 AIR's existing leasehold to facilitate the Grant Funded Projects in less than ten (10) years after the Grant Funded Projects Completion Date, and such earlier date is indicated in an FAA-approved Capital Improvement Program submitted by the City, OK3 AIR shall complete those Minimum Program Requirements sufficient to commence FBO operations in accordance with the Minimum Standards on the Selected Campus no later than three (3) years after the City's notice thereof, and shall complete any remaining Minimum Program Requirements within ten (10) years of the Grant Funded Projects Completion Date. Notwithstanding the foregoing, if OK3 AIR's completion of the Minimum Program Requirements and commencement of FBO operations on the Selected Campus is delayed due to factors beyond OK3 AIR's control, such delay will not constitute a failure on OK3 AIR's part to comply with this Section, provided OK3 AIR gives timely notice to the City pursuant to Section IX.E.

VII. Moratorium; Obligation to Defend. This Agreement is intended to provide OK3 AIR with the opportunity to develop either the South FBO Campus or the North FBO Campus, in accordance with the provisions herein, in order to ensure the relocation OK3 AIR's operations to adequate alternative facilities in furtherance of the Master Plan. Accordingly, until such time as OK3 AIR provides a Final Site Notification to the City, the City will maintain a moratorium on the development of both FBO Areas. In the event the City receives a request to lease or develop any portion of either FBO Area prior to its receipt of the Final Site Notification, or a request to lease or develop any portion of the Selected Campus (other than a Notice of Intent to Lease) after Final Site Selection, then the City shall reject such request and defend OK3 AIR's rights under this Agreement against any alleged grant assurance violation. OK3 AIR's rights in either the South FBO Campus or North FBO Campus shall only be terminated at the request of OK3 AIR, to comply with a final agency action of the FAA, or upon the termination of this Agreement by the City as set forth in Section VIII.C below.

VIII. Defaults and Remedies

A. Event of Default. It shall be an "Event of Default" by either Party hereunder that such Party has defaulted in the performance of any of the terms, covenants, and conditions required under this Agreement and has failed to cure such default within thirty (30) days of receipt by such Party of a Default Notice, as defined below; or, if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following such Party's receipt of a Default Notice, such Party fails to commence the remedying of such default within thirty (30) days following its receipt of a Default Notice, or having so commenced, fails thereafter to continue with diligence to cure such default. The defaulting Party shall have the burden of proof to demonstrate (i) the default cannot be cured within thirty (30) days and (ii) it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time.

B. Default Notice. If a default in the performance of any of the terms, covenants, and conditions required under this Agreement occurs, the non-defaulting Party shall deliver written notice ("Default Notice") to the Party in default, specifying the nature of the alleged default. The Parties shall first attempt to resolve the alleged default, or any dispute arising out of, relating to, or in connection with this Agreement as set forth in the Dispute Resolution Protocol attached hereto as Exhibit B (the "Dispute Resolution Protocol"). The non-defaulting Party shall have no right to exercise any remedy for an Event of Default without delivering the Default Notice as provided herein and as set forth in the Dispute Resolution Protocol.

C. Remedies. Upon the occurrence of an Event of Default, completion of the Dispute Resolution Protocol, and the expiration of any applicable notice and cure periods, the non-defaulting Party shall have the right to terminate this Agreement for cause by giving written notice to the defaulting Party of such termination but shall have no other remedies at law or in equity except as expressly set forth in this Section.

1. With respect to an Event of Default by the City not constituting a Total Breach by the City (as defined in Section VIII.C.3 below), OK3 AIR shall be entitled only to its remedies in equity, including specific performance of this Agreement and injunctive relief; and the City and its officers, elected representatives, agents, employees, and volunteers shall not be liable to OK3 AIR for any loss of profits, expectation, consequential, incidental, indirect, special, punitive, or any other monetary damages arising from an Event of Default not constituting a Total Breach by the City.

2. With respect to an Event of Default by the City determined by a final non-appealable determination of a court of competent jurisdiction to constitute a Total Breach by the City (as defined below), except as provided below in this Section VIII.C.2, OK3 AIR shall be entitled only to its remedies in equity, including specific performance of this Agreement and injunctive relief. Notwithstanding the foregoing, at OK3 AIR's election, or in the event a court denies OK3 AIR's request for specific performance or injunctive relief for any reason (other than on the merits), then OK3 AIR may seek monetary damages against the City subject to a cap in the total aggregate amount of three million dollars ($3,000,000.00). For the avoidance of doubt, any monetary penalties assessed by a court of competent jurisdiction for the City's failure to comply with an order of specific performance or other equitable relief shall not be subject to the foregoing monetary damages cap, and OK3 AIR's pursuit of such penalties shall not be deemed an election to seek monetary damages against the City. If OK3 AIR elects and is awarded a judgment for monetary damages resulting from a Total Breach by the City, both the City and OK3 AIR shall be relieved of any further obligations or liabilities under this Agreement and, upon the satisfaction of such judgment for monetary damages, this Agreement shall automatically terminate. The City shall in good faith endeavor to satisfy any judgment for monetary damages resulting from a Total Breach by the City in the fiscal year in which such judgment is awarded, if there are adequate City funds then available. Should the City determine in its sole discretion that it would be unable to satisfy such judgment for monetary damages in a single lump sum payment and meet its other financial obligations, then, notwithstanding any other law, the City shall have the right to divide such payment into not more than five (5) equal, annual installments, or over such longer period to which the Parties may mutually agree in writing. Nothing herein shall require OK3 AIR to bring

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a separate cause of action to seek monetary damages in the event of a Total Breach by the City.

3. For the purposes of this Section, a "Total Breach by the City" shall mean an Event of Default constituting a failure or refusal to perform a material obligation under this Agreement through which the City has manifested an unequivocal intent to no longer be bound by the provisions of this Agreement that require performance in the future, or a failure or refusal to comply with a Court-ordered injunction or award of specific performance. Such failure or refusal to perform shall be further limited to official actions of the City as approved by a majority vote of the City Council or those official actions taken by employees of the City pursuant to authority expressly delegated by law or by the City Council (an "Official Action"), and shall in no way be construed to apply to limit the speech, advocacy, or actions of City officials, elected representatives, employees, or members of the Airport Advisory Board in their individual capacities or to their expression of views during the course of official public proceedings of the City Council or in the performance of their public duties, unless such speech or action constitutes an Official Action. OK3 AIR shall have the burden of proof to demonstrate a Total Breach by the City.

4. This Section is only intended to limit the Parties' remedies for an Event of Default arising under this Agreement, and is not intended to waive or limit the remedies for any other claims or causes of action between the Parties, including those claims arising from any other agreement between the Parties, including the Settlement Agreement and the various leases between the Parties that currently exist or may exist in the future and any action brought by the City for the condemnation thereof. This Section also does not modify, waive or limit in any way either Parties' right to seek any remedy, compensation or corrective action that may be available through the FAA.

D. The Parties acknowledge that the provisions of this Section VIII, *Defaults and Remedies*, are material and bargained-for terms of this Agreement and the Settlement Agreement, including without limitation the limitation of OK3 AIR's remedies in the event of a default by the City and the cap on aggregate damages that may be awarded only in the event of a Total Breach by the City of this Agreement, and hereby waive any right to challenge the same.

IX. General Provisions

A. Assignment. OK3 AIR shall have the right to assign this Agreement with the City's prior written approval, provided the Current Lease is assigned to the same assignee, in accordance with the provisions thereof. The City's approval shall not be unreasonably withheld, conditioned or delayed provided that OK3 AIR demonstrates that the proposed assignee has financial means and operating capacity that are substantially equivalent to the financial means and operating capacity of OK3 AIR. Any such assignment shall release OK3 AIR from its obligations under this Agreement, provided that the assignee acknowledges in writing that it shall be subject to the terms and conditions of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including assignees.

B. Amendments and Changes. Except where otherwise provided herein, any amendments changes, or modifications to this Agreement or any of its Exhibits must be in writing and executed by authorized agents or representatives of City and OK3 AIR, or their respective successors or assigns.

C. Severability. If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, or in conflict with any State or Federal laws or regulations, it is agreed that the remainder of the Agreement shall remain in full force and effect as if such invalid or inconsistent provision was not included.

D. Waiver. No delay or omission in the exercise of any right or remedy of either Party on any default by either Party shall impair such a right or remedy or be construed as a waiver. Any waiver by either Party of any Event of Default on the part of the other must be in writing and shall not be a waiver of any other Event of Default concerning the same or any other provision of the Agreement.

E. Force Majeure. Neither Party shall be in violation of this Agreement by reason of failure to perform any of its obligations by reason of strikes, boycotts, labor disputes, embargoes, unforeseen shortages of materials, acts of God, acts of public enemy, substantial non-temporary flight restrictions, extraordinary and unforeseeable weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible and which are not within its control (each, an event of "Force Majeure"). The non-performing Party shall notify the other Party of such Force Majeure within ten (10) business days after such occurrence by giving written notice to the other Party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing Party shall use commercially reasonable efforts to remedy its inability to perform. Upon the cessation or removal of the Force Majeure, the Party so excused from its obligation shall perform as required under this Agreement.

F. Entire Agreement. This Agreement embodies the entire agreement and understanding among the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings related to such subject matter, and it is agreed that there are no terms, understandings, representations, or warranties, express or implied, relating to such subject matter other than those set forth herein.

G. Captions. The descriptive headings of the sections of this Agreement are inserted for convenience only. They are not intended to and shall not be construed to limit, enlarge, or affect the scope or intent of this Agreement or the meaning of any provision hereof.

H. Notices. All notices, consents, waivers, directions, requests, or communications shall be in writing, and shall be deemed properly given if sent (i) by e-mail to the e-mail address provided by the receiving Party, provided that notices alleging a breach or default may not be given by e-mail, (ii) by hand delivery, (iii) by reputable next business day courier, or (iv) by registered or certified U.S. mail, return receipt requested, postage prepaid, addressed as follows:

If to OK3 AIR:

Nadim Abuhaidar
1980 Airport Road
Heber City, Utah 84032

With copies via email to:
Nadim Abuhaidar at nabuhaidar@ok3air.com
Maggie Abuhaidar at legal@ok3air.com
Craig Hoggan at choggan@dadlaw.net

If to City:

City Manager
75 North Main Street
Heber City, Utah 84032
Phone: 435-654-0757

and

Jeremy R. Cook
Cohne | Kinghorn
111 East Broadway, 11th Floor
Salt Lake City, Utah 84111
Phone: 801-363-4300

or to such other address as a Party may from time to time designate in writing to the other Party as provided above. Notices shall be deemed given upon receipt or refusal of delivery.

I. Rules of Construction. References to numbered or lettered articles, sections, and subsections refer to articles, sections, and subsections of this Agreement unless otherwise expressly stated. The words "herein," "hereof," "hereunder," "hereby," "this Agreement," and other similar references shall be construed to mean and include this Agreement and all amendments and supplements hereto unless the context shall clearly indicate or require otherwise. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person may in the context require. Any reference to statutes or laws shall include all amendments, modifications, or replacements of the specific sections and provisions concerned.

J. Governing Law. With respect to an action to enforce the terms and conditions of this Agreement only, the Parties consent to the exercise of jurisdiction of the U.S. District Court for District of Utah and hereby agree that the venue of any action with respect to the enforcement of the terms and conditions of this Agreement shall be properly placed before this same court. This Agreement shall be interpreted under the laws of the State of Utah.

K. Attorney's Fees. In the event of any dispute, claim, litigation, arbitration or mediation arising out of or in any way related to a Party's failure to fulfill any of its obligations

under this Agreement, the prevailing Party shall be entitled to recover all reasonable costs and attorney's fees from the other Party.

L. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

M. Subordination to FAA Grant Assurances. This Agreement is subject and subordinate to the provisions of any existing or future agreements between the City and the United States of America relative to the operation or maintenance of the Airport (such provisions the "Grant Assurances"), the terms and execution of which have been or may be required as a condition precedent to the expenditure by or reimbursement to the City of federal funds for the development of the Airport. OK3 AIR acknowledges that it has had an opportunity to review the material terms of this Agreement with the FAA and neither party is aware of any FAA objection. Notwithstanding the foregoing sentence, however, in the event the U.S. Department of Transportation, the Federal Aviation Administration, or a court of competent jurisdiction makes a final non-appealable determination that the City's ability to perform any obligations under this Agreement would violate the Grant Assurances, the City shall be immediately excused from performing such obligation (subject to the limitations set forth below) and shall in good faith negotiate a lawful resolution to the mutual satisfaction of the Parties hereto; provided, however, that if the Parties are unable to resolve the conflict or violation within ninety (90) days, the City shall unilaterally amend this Agreement in the least material manner necessary to comply with the decision of the Court or agency and the remaining provisions hereof will continue in full force and effect and will be construed as if the invalid provision had not been a part of this Agreement.

N. Required Federal Clauses. OK3 AIR acknowledges that City is required by the FAA under the terms of its Grant Assurances to include in this Agreement certain required contract provisions, included as Exhibit C attached hereto and incorporated herein (the "Federal Clauses"). OK3 AIR further acknowledges that the FAA may from time to time amend or augment the Federal Clauses. In such event, City may provide OK3 AIR with a substitute Exhibit C reflecting such amendment or augmentation, and such substitute Exhibit C shall be effective and binding as if originally annexed hereto. OK3 AIR agrees to comply with the Federal Clauses and, where applicable, include the Federal Clauses in each of its subcontracts without limitation or alteration. OK3 AIR acknowledges that a failure to comply with the Federal Clauses constitutes an Event of Default.

O. Non-Circumvention. The Parties, and their respective successors, assigns, heirs, transferees, and affiliates, agree to not directly or indirectly take any actions, make any attempts, fail to act, act in concert with any person, agent, representative, associate, advisor, and/or entity who takes an action or fails to take any action intended to, or such that the resulting effect is to, materially undermine, frustrate, and/or circumvent the purposes of the effectiveness of the material provisions of this Agreement. For the avoidance of doubt, this provision shall apply to the City with respect only to its official actions approved by a majority vote of the City Council or those official actions taken by employees of the City pursuant to the authority expressly delegated by law or by the City Council, and shall in no way limit the speech, advocacy, or actions of City officials, employees or members of the Airport Advisory Board in their individual capacities. The Parties acknowledge that this provision is a material and bargained-for term of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

OK3 AIR:

AH Aero Service, Inc. d/b/a OK3 AIR

By: DocuSigned by: Nadim Abukaidar 6C4AE81973F245F...

Title: Owner

Attest: DocuSigned by: Maggie Abukaidar 90A8E00EFBEE438...

CITY:

Heber City Corporation

By: DocuSigned by: Matt Brower 044245F9CDB24BE...

Title: City Manager

Attest: DocuSigned by: Trina Cooke CB019A1A3164422...

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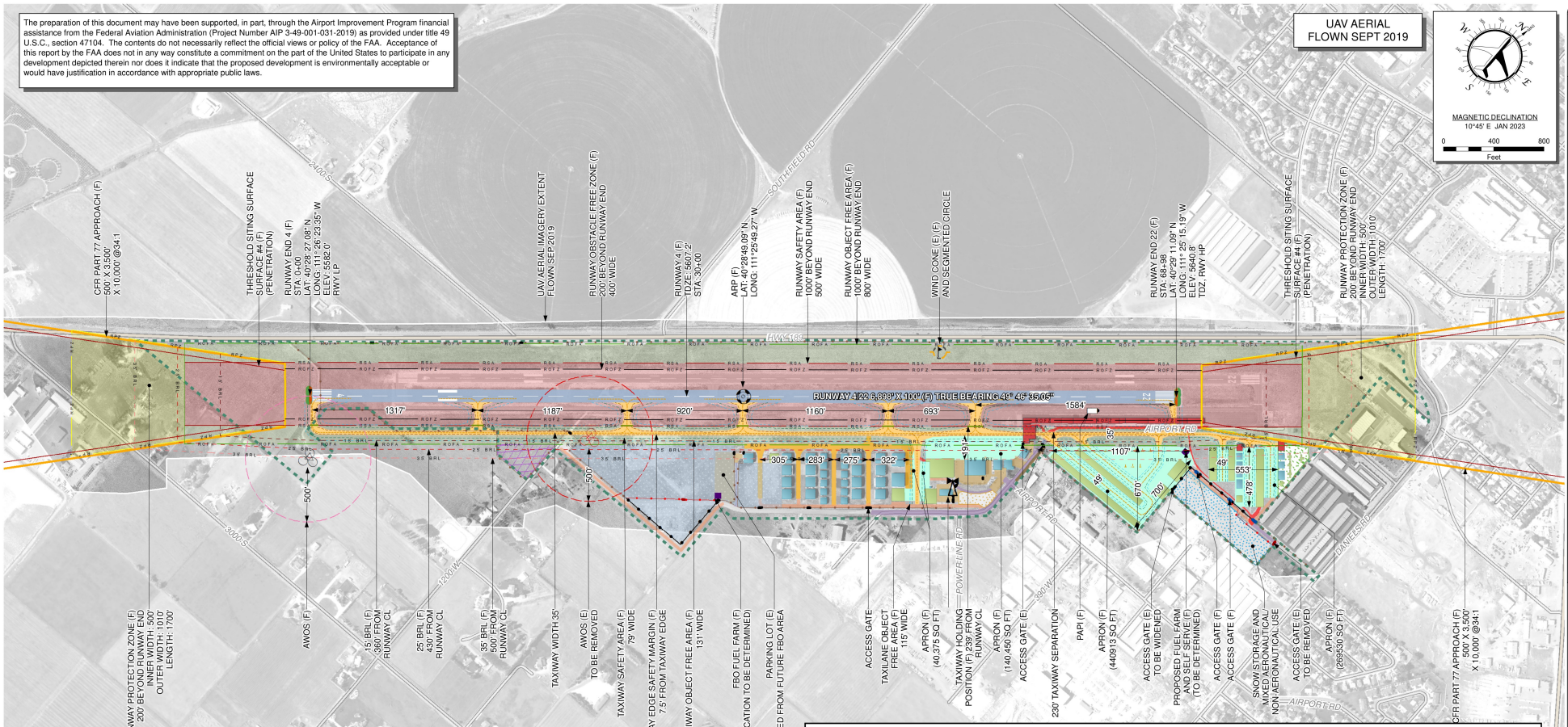
EXHIBIT A

DRAFT AIRPORT LAYOUT PLAN

The preparation of this document may have been supported, in part, through the Airport Improvement Program financial assistance from the Federal Aviation Administration (Project Number AIP 3-49-001-031-2019) as provided under title 49 U.S.C., section 47104. The contents do not necessarily reflect the official views or policy of the FAA. Acceptance of this report by the FAA does not in any way constitute a commitment on the part of the United States to participate in any development depicted therein nor does it indicate that the proposed development is environmentally acceptable or would have justification in accordance with appropriate public laws.



ABBREVIATIONS

AP	AIRPORT
ARP	AIRPORT REFERENCE POINT
BRL	BUILDING RESTRICTION LINE
CL	CENTER LINE
ELEV	ELEVATION
(E)	EXISTING
(F)	FUTURE (MID-PHASE)
FAA	FEDERAL AVIATION ADMINISTRATION
HP	HIGH POINT
LP	LOW POINT
NPI	NONPRECISION INSTRUMENT
ROFA	RUNWAY OBJECT FREE AREA
ROFZ	RUNWAY OBSTACLE FREE ZONE
RPZ	RUNWAY PROTECTION ZONE
RSA	RUNWAY SAFETY AREA
RVZ	RUNWAY VISIBILITY ZONE
RWY	RUNWAY
STA	STATION
TESM	TAXIWAY EDGE SAFETY MARGIN
TOFA	TAXIWAY OBJECT FREE AREA
TSA	TAXIWAY SAFETY AREA
TDZ	TOUCH DOWN ZONE
TYP	TYPICAL
(U)	ULTIMATE (LONG-TERM)
VIS	VISUAL

CITY OF HEBER CITY MAYOR — DATE

FAA CONDITIONAL APPROVAL

SUBJECT TO LETTER DATED: _____

FEDERAL AVIATION ADMINISTRATION
DENVER AIRPORTS DISTRICT OFFICE

DATE : _____

AIRSPACE CASE NO : _____

LEGEND

ITEM EXISTING	ITEM FUTURE	DESCRIPTION	ITEM EXISTING	ITEM FUTURE	DESCRIPTION	ITEM FUTURE	DESCRIPTION
BUILDING			**NAVAIDS**			**MARKING LINE**	
		HANGAR TO BE REMOVED			AWOS		RUNWAY CENTERLINE
		HANGAR			AWOS PROTECTION		TAXIWAY CENTERLINE
FENCE					BEACON		TAXIWAY HOLDING POSITIION
		CHAINLINK FENCE (7')	X		PAPI		TIE DOWN
		FENCE TO BE REMOVED	X		THRESHOLD LIGHT	**SAFETY AREAS**	
		WIRE FENCE (8')			WIND CONE		RUNWAY SAFETY AREA (RSA)
		GATE			SEGMENTED CIRCLE		RUNWAY OBJECT FREE AREA (ROFA)
PART 77 SURFACE			**PAVEMENT**				RUNWAY PROTECTION ZONE (RPZ)
X		CFR PART 77 APPROACH	X		APRON		RUNWAY OBSTACLE FREE ZONE (ROFZ)
X		THRESHOLD SITING SURFACE			DRIVEWAY		TAXIWAY EDGE SAFETY MARGIN (TESM)
MISCELLANEOUS					PARKING LOT		TAXIWAY OBJECT FREE AREA (TOFA)
		AIRPORT BOUNDARY			ROAD		TAXIWAY SAFETY AREA (TSA)
X		AIRPORT REFERENCE POINT (ARP)	X		RUNWAY		15' BUILDING RESTRICTION LINE (BRL)
X		FBO AREA			TAXIWAY		25' BUILDING RESTRICTION LINE (BRL)
X		SNOW STORAGE	X		FUEL		35' BUILDING RESTRICTION LINE (BRL)
X		AIRPORT VIEW AREA	X		ELECTRIC PLANE PARKING		
X		GLIDER AREA			ROAD TO BE REMOVED		

BORDER SIZE 11"X17"
DESIGNED DRAFT
DRAWN BRC
CHECKED BWC
APPROVED JLM

REVISIONS

NO.	DESCRIPTION	DATE:

ARDURRA
2175 W. 3000 S., SUITE 200
HEBER CITY, UT 84032
PHONE: 435.315.6168 WWW.ARDURRA.COM

A.I.P NO.: 3-49-001-031-2019

AIRPORT LAYOUT PLAN FUTURE
HEBER VALLEY AIRPORT

DATE: XXX XX, XXXX
PROJECT # 190036
SHEET: 3B
4 OF 21

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EXHIBIT B

DISPUTE RESOLUTION PROTOCOL

A. NOTICE AND OPPORTUNITY TO CURE. Unless a shorter cure period or right to immediate termination is expressly provided in this Agreement, no Party shall be considered in default of any provision of this Agreement, or any covenant or obligation pertaining to the use or occupancy of Airport property, and no right of termination shall arise, unless and until the counter-Party has provided such Party with written notice of default and not less than thirty (30) days to cure such default or, if the default is not capable of cure within thirty (30) days, such Party has within thirty (30) days commenced, and thereafter diligently proceeds to complete, those actions reasonably necessary to cure such Party's default.

B. INFORMAL DISPUTE RESOLUTION. The Parties agree that, at all times, they will attempt in good faith to resolve all disputes that may arise under this Agreement. Upon receipt of written notice of a dispute from a Party, the Parties agree to refer the dispute to the City Manager, for the City, and the Chief Executive Officer, for Lessee (collectively, "***Designated Persons***"). The Designated Persons shall within fifteen (15) days of such written notice meet and negotiate in good faith to resolve the dispute, conferring thereafter as often as they deem reasonably necessary, and shall gather and in good faith furnish to each other any information pertinent to the dispute. All communications between the Designated Persons during the dispute resolution procedures set forth in this Paragraph shall be deemed confidential and treated as compromise and settlement negotiations and shall not be admissible in evidence by any proceeding without the mutual consent of the Parties.

C. MEDIATION. Mediation of a dispute arising under this Agreement may not be commenced until the earlier of: (i) such time as both of the Designated Persons, after following the procedures set forth in Paragraph A and B hereof, conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely or (ii) fifteen (15) days after the date of the notice referring the dispute to the Designated Persons. If, after such time period, the dispute remains unresolved, the Parties shall attempt to resolve the dispute through mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures. The place of mediation shall be in Heber City, Utah, unless the parties agree otherwise. Mediation under this paragraph shall be a necessary prerequisite to any judicial action to enforce the terms and conditions of this Agreement, unless waived in writing with the mutual consent of both Parties.

D. JURISDICTION, VENUE AND APPLICABLE LAW. With respect to an action to enforce the terms and conditions of this Agreement only, the Parties consent to the exercise of jurisdiction of Fourth Judicial District, Wasatch County, District Court and hereby agree that the venue of any action with respect to the enforcement of the terms and conditions of this Agreement shall be properly placed before this same court. This Agreement shall be interpreted under the laws of the State of Utah.

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E. Emergency Relief. No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and is not otherwise available under this Agreement.

F. Tolling. If a Party receiving a notice of default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this Exhibit, any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award.

G. FAA Disputes. The Parties understand and acknowledge the FAA's exclusive jurisdiction to determine the City's compliance with its federal Grant Assurance obligations (a "***Compliance Dispute***"), and that any remedies which may be imposed by the FAA for noncompliance therewith are exclusive. Accordingly, in the event of a Compliance Dispute, and after exhausting the procedures described in Paragraphs A and B hereof, either Party may initiate an informal or formal complaint proceeding with the FAA in accordance with 14 C.F.R. Parts 13 and 16 or similar succeeding provisions, without regard to the other provisions hereof.

EXHIBIT C

REQUIRED FEDERAL CLAUSES

A. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, OK3 AIR, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "OK3 AIR") agrees as follows:

1. **Compliance with Regulations:** OK3 AIR will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

2. **Non-discrimination:** OK3 AIR, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. OK3 AIR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by OK3 AIR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by OK3 AIR of OK3 AIR's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** OK3 AIR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts Authorities and instructions. Where any information required of OK3 AIR is in the exclusive possession of another who fails or refuses to furnish the information, OK3 AIR will so certify to City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of OK3 AIR's noncompliance with the Non-discrimination provisions of this Contract, City will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** OK3 AIR will include the provisions of paragraphs one through six of this Exhibit A, Section (A) in every contract, including

procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. OK3 AIR will take action with respect to any contract or procurement as City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if OK3 AIR becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, OK3 AIR may request City to enter into any litigation to protect the interests of City. In addition, OK3 AIR may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. OK3 AIR for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, OK3 AIR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. OK3 AIR for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that OK3 AIR will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.

D. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, OK3 AIR, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

ii. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

iii. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

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iv. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

v. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

vi. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);

vii. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

viii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

ix. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;

x. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

xi. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

xii. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and

xiii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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E. General Civil Rights Provision. OK3 AIR agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If OK3 AIR transfers its obligation to another, the transferee is obligated in the same manner as OK3 AIR. This provision obligates OK3 AIR for the period during which the property is owned, used, or possessed by OK3 AIR and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, City will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. OK3 AIR agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which OK3 AIR grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

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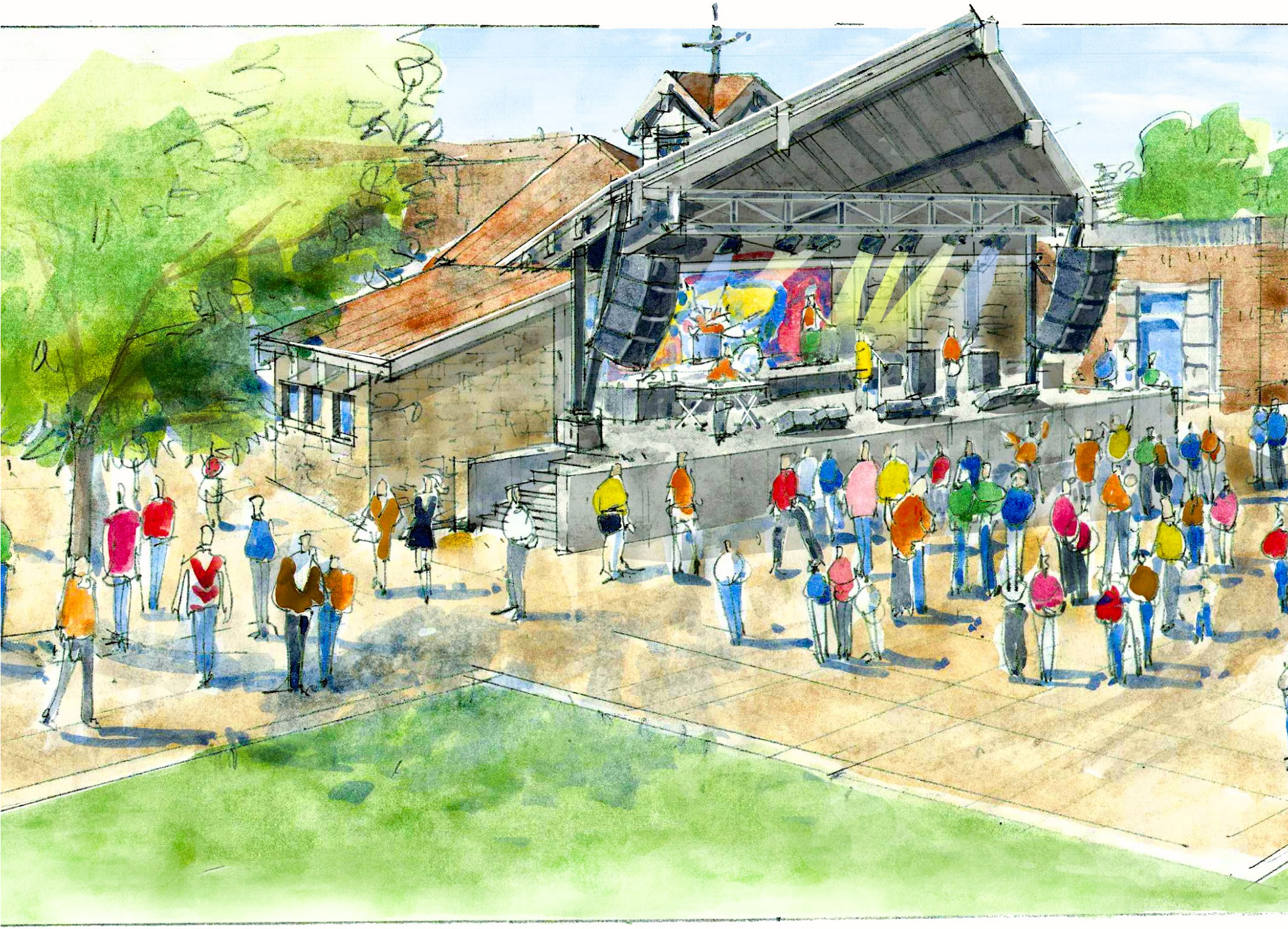

Heber City Council Staff Report

MEETING DATE: 11/7/2023

SUBJECT: Converting two part-time positions into one full-time position in the Police Administrative office

RESPONSIBLE: Cherie Ashe, Jeremy Nelson

DEPARTMENT: Human Resources

STRATEGIC RELEVANCE:

SUMMARY

Two existing part-time positions that currently receive partial sick leave & vacation hours as well as URS benefits to become one full-time regular position.

RECOMMENDATION

Approve position

BACKGROUND

Providing more stability and regular office coverage to the Police front desk area.

DISCUSSION

Headcount will not increase. Benefit costs have a vacancy factor since August 1, 2023.

FISCAL IMPACT

Health benefits are to be added at $1,695.74 monthly for the remaining seven months of fiscal year 24 = $11,870.18
HSA contribution for Q1 and Q2 = $1,500
Dental & Vision contributions for seven months of FY24 = $855.05
Total = $14,225.23

CONCLUSION

75 N Main Street
Heber City, UT 84032

Phone: 435-654-4830
Fax: 435-657-2543

heberut.gov

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue
I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:
Alternative 4 - Denial
I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Human Resources
Staff member: Cherie Ashe, Human Resources Director

EXHIBITS

None