

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

July 16, 2024

**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. Review of Heber City's Dark Sky Ordinance (Tony Kohler, Community Development Director) - *20 min*
2. Review Impact of City Policy upon the establishment of Day Care Facilities (Tony Kohler, Community Development Director) - *20 min*
3. Potential Donation of Historic Cabins (Jacob Roberts, Planner) - *20 min*
4. Amendment to Heber City Annexation Policy Plan (Tony Kohler, Community Development Director) - *50 min*

II. BREAK - 10 MIN

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

1. Call to Order
2. Pledge of Allegiance (Sid Ostergaard, Council Member)
3. Prayer/Thought by Invitation (Heidi Franco, Mayor)

IV. CONFLICT OF INTEREST DISCLOSURE:

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Mayors Award Presented to Mark Rounds

VI. CONSENT AGENDA:

1. Approval of June 18, 2024, City Council Meeting Minutes and July 2, 2024, Special City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Ordinance 2024-14 Update to City Sign Code Section 18.104.050 (Jacob Roberts, Planner)
3. Ordinance 2024-15 Vacating Fitzgerald Small Subdivision (Tony Kohler, Community Development Director)

4. Amended Civil Legal Services Agreement (Jeremy Cook, City Attorney)

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

VIII. GENERAL BUSINESS ITEMS:

1. Wasatch County Health Department Annual Report (Jonelle Fitzgerald) - *10 min*

2. Monthly Development Report (Jamie Baron, Planning Manager) - *10 min*

3. Discuss North Village Harvest Village (Crossings/Resort Annexation) (Jeremy Cook, City Attorney) - *30 min*

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

1. Letter of Support for UDOT's (Utah Department of Transportation) Environmental Impact Study (EIS) Process encompassing Heber Valley Corridor and Related Priority Outcomes (Scott Phillips, Council Member, Yvonne Barney, Council Member)

2. Community Reinvestment Agency Interlocal Agreement (Matt Brower, City Manager)

X. COMMUNICATION:

XI. CLOSED MEETING:

XII. 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 July 11, 2024, 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.



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Review of Heber City's Dark Sky Ordinance
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Council Annual Priority

SUMMARY

See attached powerpoint for item information

RECOMMENDATION

N/A

BACKGROUND

N/A

DISCUSSION

N/A

FISCAL IMPACT

N/A

CONCLUSION

N/A

ALTERNATIVES

N/A

POTENTIAL MOTIONS

N/A

ACCOUNTABILITY

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

EXHIBITS

1. Dark Sky Presentation



Heber City Dark Sky Code

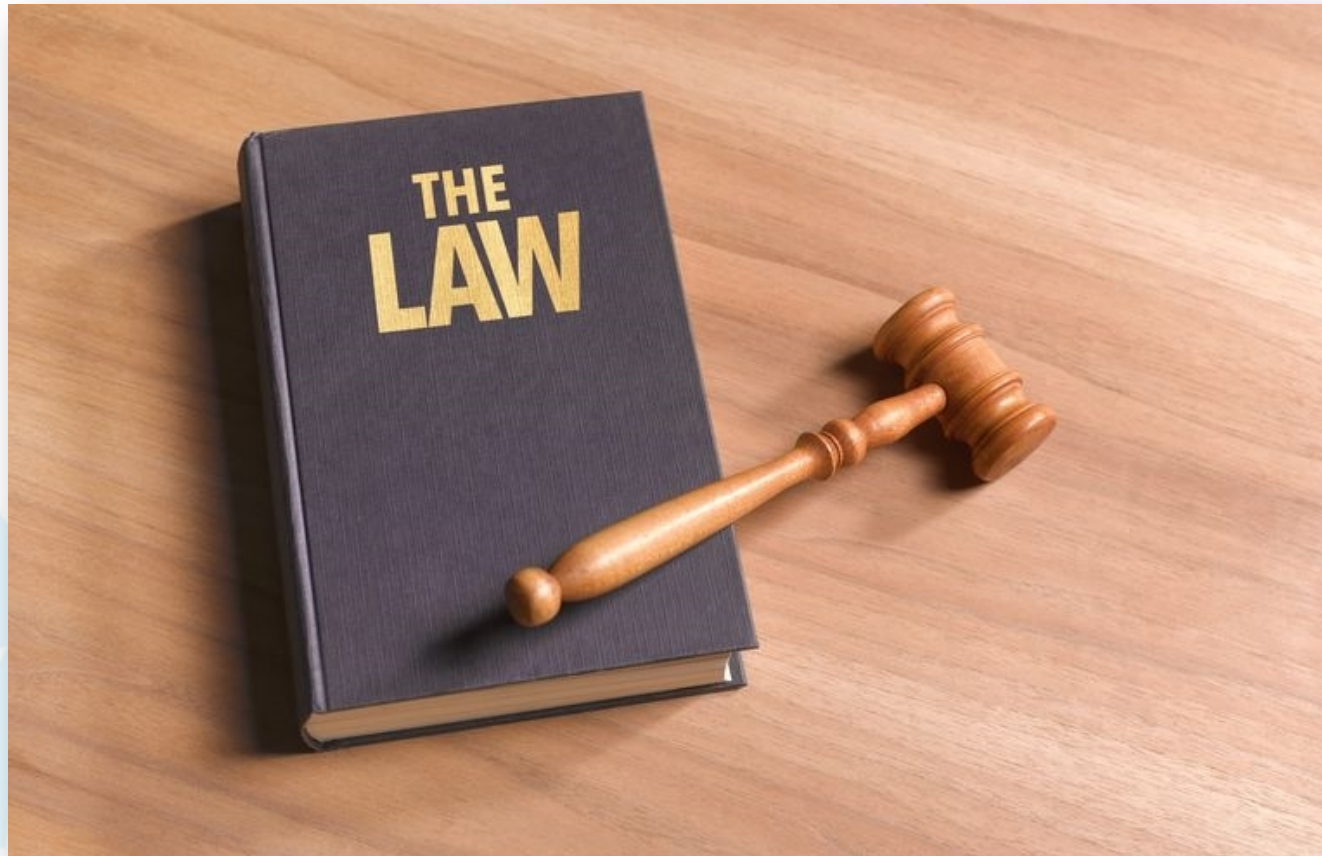
July 16, 2024

Council Priority for FY 2024 - 2025

- 1. Present overview of dark sky policy to Council**
2. Enforce adopted policies
3. Transition all City facilities to compliance
4. Work with local governments to incorporate strategies
5. Implement awareness campaign/incentives for private property

Section 18.78 Dark Sky Code

- Adopted August 3, 2021



6 Points of Dark Sky Code

1. LED Bulbs
2. Shielding
3. Color Temperature
4. Low Intensity
5. Timing
6. Exemptions



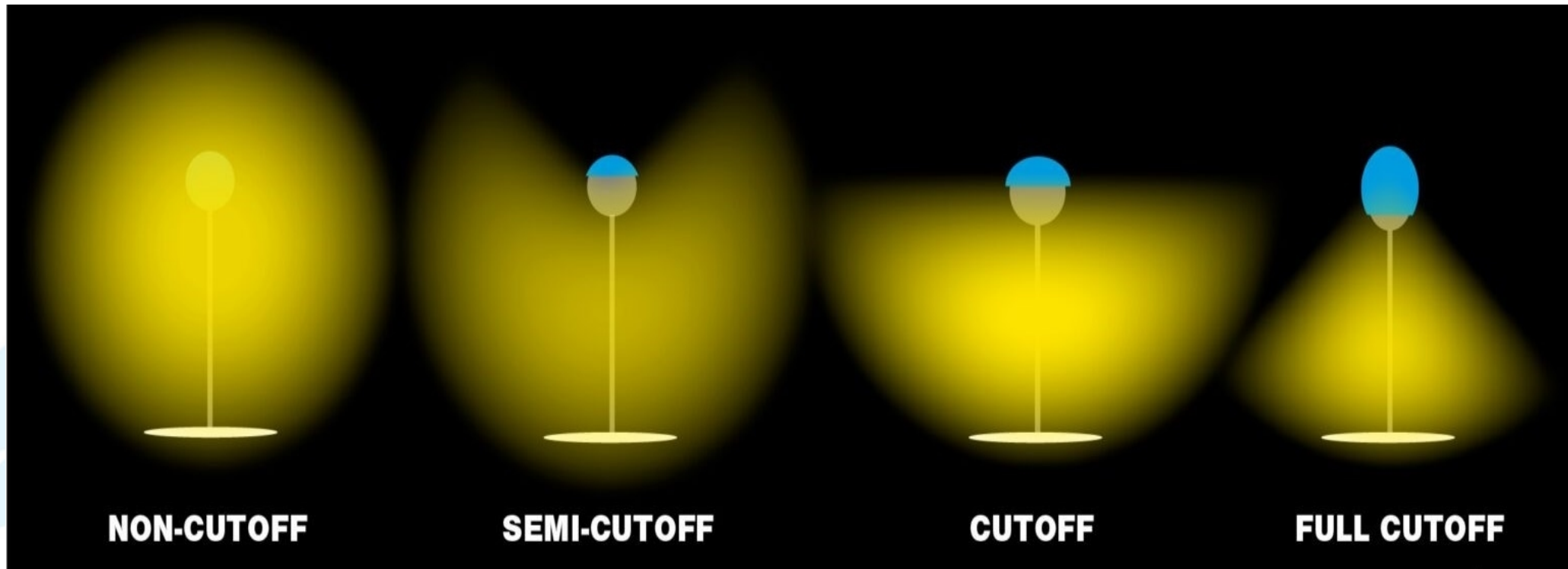
1. LED Bulbs

- All light bulbs must be Light Emitting Diode (LED) Bulbs



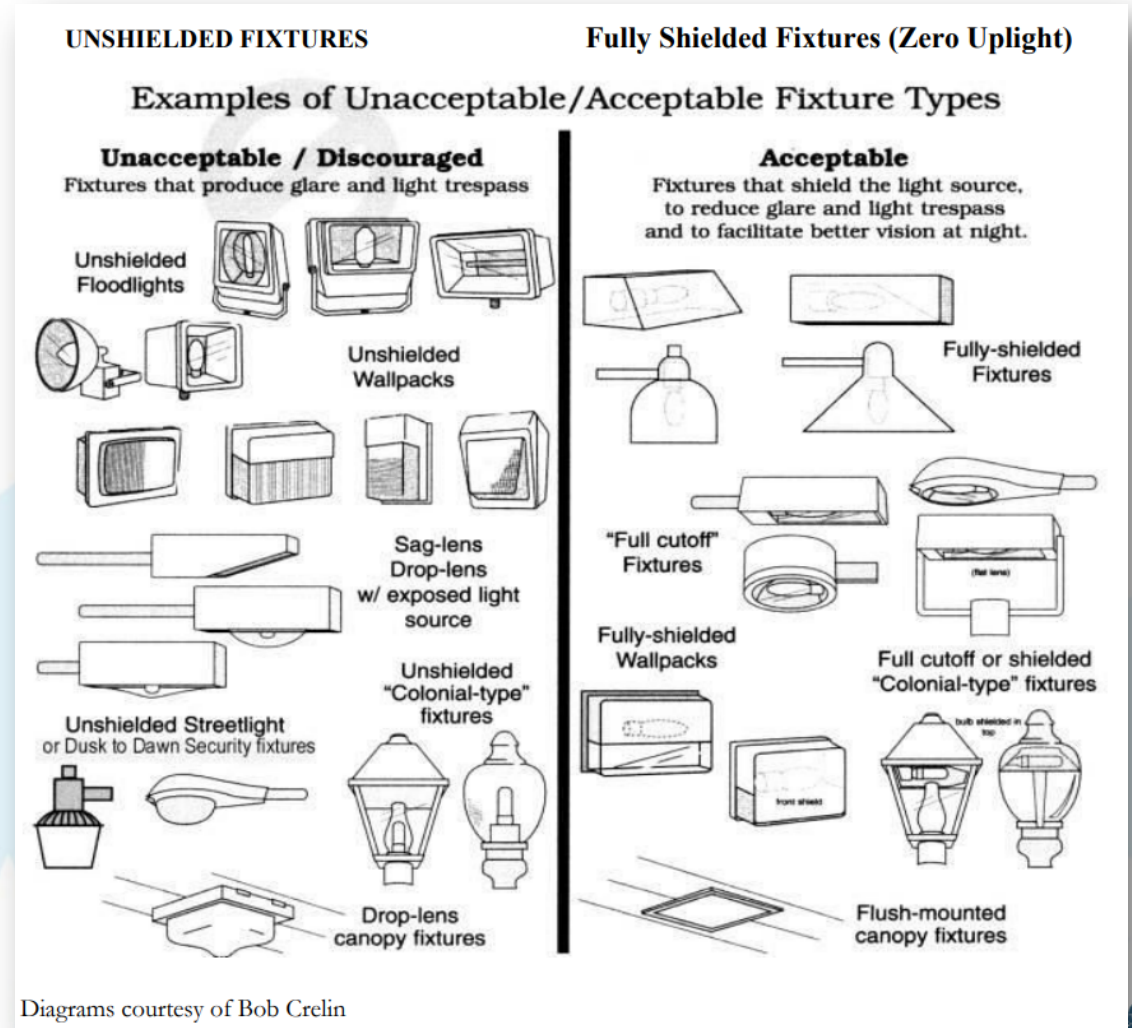
2.1 Shielding: Cutoff

- All lighting must be full cut-off and directed downward



2.2 Shielding: Bulb Visibility

- All bulbs must be fully shielded and not directly shine onto other properties



2.3 Shielding: Height

- All lighting must be mounted no higher than 16 feet



16' max height



16' max height

16' max height



3. Color Temperature

- All lighting must be 3000 K or less in color



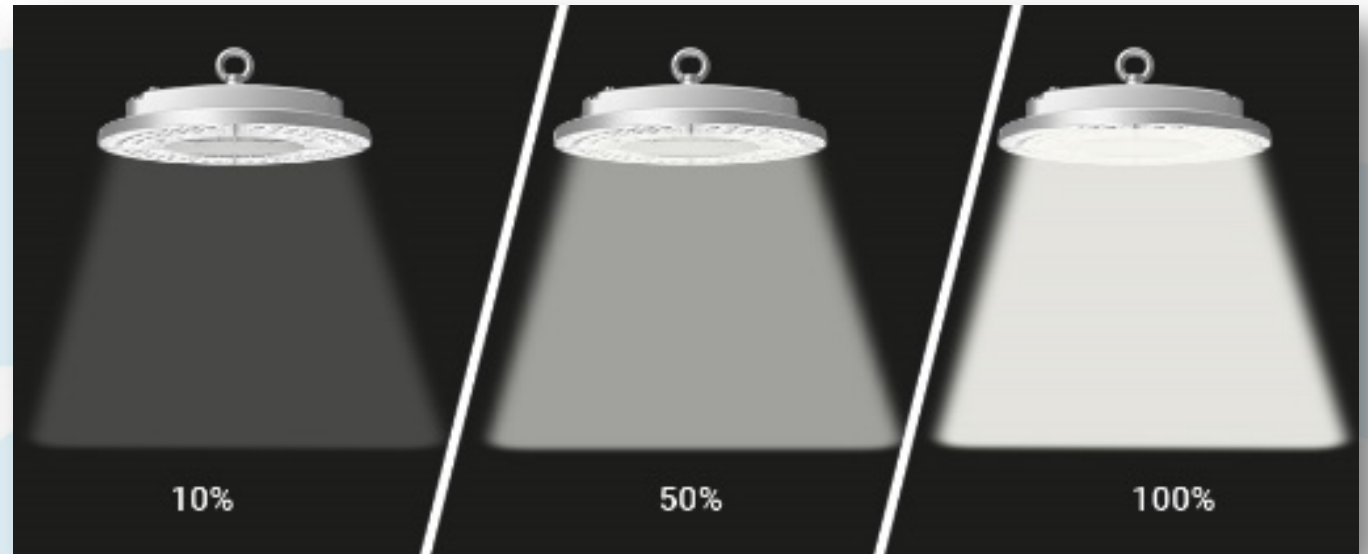
4. Low Intensity

- Only for non-residential/multi-family
- 100,000 lumens max per acre



5. Timing

- Only for non-residential/multi-family
- Must shut off exterior lighting during non-business hours
- Dimming permitted when essential to security



6. Exemptions

- Airport lighting
- Up-lit government flags
- Holiday lighting



Questions

1. LED Bulbs
2. Shielding
3. Color Temperature
4. Low Intensity
5. Timing
6. Exemptions





Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Review Impact of City Policy upon the establishment of Day Care Facilities
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

See attached powerpoint for item discussion.

RECOMMENDATION

N/A

BACKGROUND

N/A

DISCUSSION

N/A

FISCAL IMPACT

N/A

CONCLUSION

N/A

ALTERNATIVES

N/A

POTENTIAL MOTIONS

N/A

ACCOUNTABILITY

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

EXHIBITS

1. Licensing Process Review
2. Day Care Presentation
3. Ch 18.86

Child Care Licensing

Licensing process review

License types

Commercial and residential

4 commercial licenses

- Center
- Hourly
- Out of School Time
- Preschool

2 residential licenses

- Licensed Family
- Residential Certificate

Center-based comparisons

Age of children

Center	Preschool	Hourly	Out of School Time
• All children birth to 12 years old • Children 13-17 with a disability	• All children 2-5 years old	• All children birth to 12 years old • Children 13-17 with a disability	• All children 5-12 years old • Children 13-17 with a disability

Duration of care

Center	Preschool	Hourly	Out of School Time
• For each individual child for less than 24 hours a day • On an ongoing basis for 4 or more weeks in a year	• For each individual child for less than 4 hours per day • On an ongoing basis for more than 2 days a week and for 4 or more weeks in a year	• For 4 or more hours per day • For each individual child for less than 24 hours a day • No child is cared for on a regular schedule.	• For each individual child for less than 24 hours a day • On an ongoing basis, on 3 or more days a week and for 30 or more days in a calendar year

Outdoor play area

Center	Preschool	Hourly	Out of School Time
• Total square footage of the outdoor area accommodates at least $\frac{1}{3}$ of the approved capacity at one time or is at least 1,600 square feet. • Daily activities must include outdoor play as weather and air quality allow.	• An outdoor play area is not required, but if there is an outdoor play area, it must be in compliance with all rules.	• An outdoor play area is not required, but if there is an outdoor play area, it must be in compliance with all rules • If an outdoor area is available, daily activities must include outdoor play as weather and air quality allow.	• Total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time or is at least 1,600 square feet. • Daily activities must include outdoor play as weather and air quality allow.

Food and nutrition

Center	Preschool	Hourly	Out of School Time
Food may be served and prepared at the facility.	Food may be served but is <i>not</i> prepared at the facility.	Food may be served and prepared at the facility.	Food may be served and prepared at the facility.

Home-based comparisons

Capacity

Licensed family	Residential certificate
• May care for up to 16 children including provider's and caregiver's own children under age 4 with 2 caregivers. • May care for an additional 3 school age children beyond the capacity stated on the license.	• May care for up to 8 children including provider's and caregiver's own children under age 4. • May care for an additional 2 school age children beyond the capacity stated on the license.

Ratios

Licensed family	Residential certificate
● 1 caregiver for 1-8 children. Maximum group size: 12 ● 2 caregivers for 9-16 children. Maximum group size: 24 ● 1 caregiver may care for no more than 2 children under 18 months old in the group, and no more than 3 children under the age of 2.	● 1 caregiver for 1-8 children ● 1 caregiver may care for no more than 2 children under 18 months old in the group, and no more than 3 children under the age of 2.

Records and documents

Licensed family	Residential certificate
• Fire and disaster drills must be documented in writing. • A daily schedule of activities must be posted.	• It is not required to document fire and disaster drills. • A posted daily schedule is not required.

Training

Licensed family	Residential certificate
● At least 20 hours of training are required annually for the provider and each caregiver. ● 10 of the 20 hours must be interactive training.	● At least 10 hours of training are required annually for the provider. ● 5 of the 10 hours must be interactive training.

Outdoor play area

Licensed family	Residential certificate
• Must have an outdoor play area that is safely accessible and meets licensing rules. • Children must have a daily opportunity for outdoor play, weather permitting.	• Children may not play outside on premises unless the outdoor play area meets licensing rules. • A daily opportunity for outdoor play is encouraged, but not required.

From the Department of Workforce Services

Licensed family	Residential certificate
● State-funded child care reimbursements are paid at a higher rate. ● Possibly eligible for a start-up grant from Care About Childcare (CAC)	● State-funded child care reimbursements are paid at a lower rate. ● Possibly eligible for a start up grant from Care About Childcare (CAC)

Capacity

Commercial:

Indoor capacity is based on 35 square feet per child. Square footage cannot include kitchens, bathrooms, hallways, staff rooms or office space. Square footage can only include space used for children.

Outdoor capacity is based on 40 square feet per child and needs to accommodate at least $\frac{1}{3}$ of the indoor capacity. Outdoor area square footage is also a factor in determining the maximum capacity of a facility.

Residential:

Indoor capacity is based on 35 square feet per child including the provider's and caregiver's own children. Square footage cannot include, bathrooms, closets, hallways, lobbies and entryways.

Outdoor capacity: The outdoor space that will be used by the children ages 0-12 years old (including the provider's and employees' own children) must meet the square footage requirements of 40 square feet per child. Outdoor area square footage is also a factor in determining the maximum capacity of a facility.

IF an outdoor area is required, the outdoor area must be enclosed with at least a 4-foot high fence or barrier to protect children from danger.

Facility requirements for licensing

1. At least 1 working toilet and 1 working sink for each 25 children over the age of 2 years.
2. Adequate lighting
3. Proper ventilation
4. Bathroom privacy for school-aged children
5. Facility must be well maintained inside and outside.
6. Barriers on raised decks or balconies and open stairwells
7. Shade in the outdoor area to protect children
8. Infant and toddler rooms in commercial facilities need 2 sinks, one for handwashing and one for food preparation.

Please see Facility Specific requirements for each license type: [Rules - Section 9](#)

Requirements for licensing

1. **Fire inspection** from local fire department approving the location
2. **Kitchen inspection** from local health department approving facility
3. **Business license or receipt of payment** if city requires a license from us before issuing a business license
4. **Cleared background checks *and* fingerprints** from our department for all adults and caregivers who are 16 or 17 years old
5. **Cleared background checks** for all children who *reside* in the facility between the ages of 12 and 17.

1. **New provider** training for provider
 - a. [Link for online training](#)
2. **Preservice training** through the Office of Licensing for all caregivers
 - a. [Link for online training](#)
3. **New Center Director training** (centers)
 - a. [Link for schedule](#)
4. **Pre-License Inspection** for approval
5. **Payment** of all fees
 - a. [See fee schedule](#)

Additional information

- **Residential providers** may have up to 2 approved homes as long as the city will allow it and as long as they assign someone to be at the other home as a Provider Designee.
- **Ratios** for each license type are listed in the rules: [Licensing Rules](#)
- **All facilities** will have one **Announced inspection** each year and one **Unannounced** inspection each year. Some may get additional inspections for complaints or may have follow-up inspections based on noncompliances. [See Inspection checklists](#)
- Licenses are **renewed** on an annual basis.
- **Licensing rules** require fire drill and disaster drill practice at various times each year.
- A provider cannot **exceed the capacity** listed on their license.

Questions?

Please contact:
Kimberly Rice,
Licensing Manager
(385)232-0745 or email: krice@utah.gov



Day Care Facilities

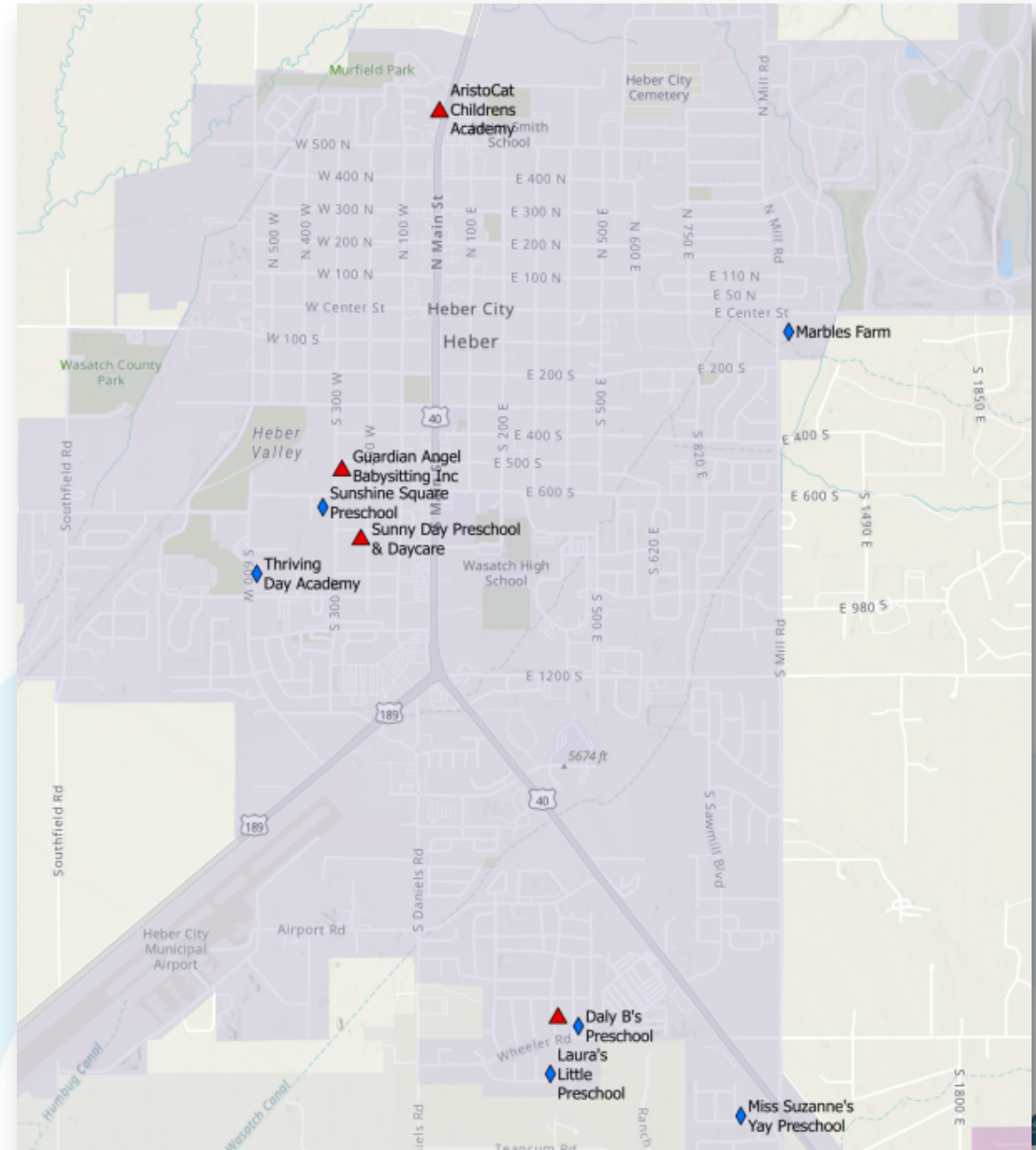
Council Priority for FY 2024 - 2025

- How is city policy is adversely impacting the establishment of day care facilities?



Child Care Facilities in Heber City

- 6 preschools
- 4 daycares



Permitted Locations

Zone	Type	Use
A-2, RA-1, RA-2, MCZ, R-1, R-2, R-3, UV, NOS, RR	Res	P
C-2, C-3, C-4	Res	P
	Com	C
I-1, I-2 ¹	Com	C
BMP, MURCZ	Com	P
CMP, PFZ, PC, RC, NV	Res, Com	NP

1 Only in support of primary activity

Res

= Residential Day Care

Com

= Commercial Day Care

P

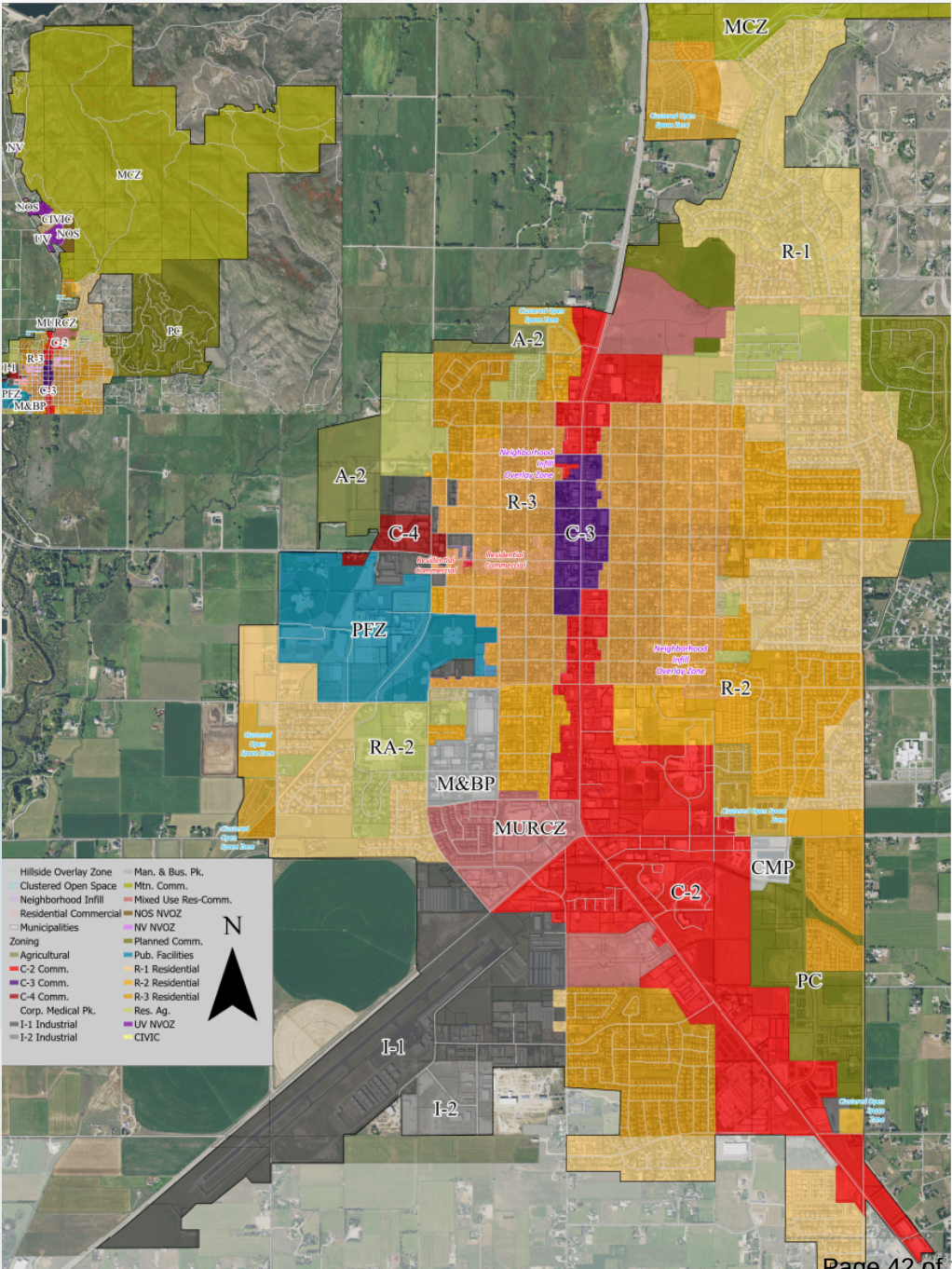
= Permitted Use

C

= Conditional Use

NP

= Not Permitted



Chapter 18.86 Day Care Summary

Issue	Standard
Outdoor Area	40* sf min per child (state = 40)*
Indoor Area	30** sf min per child (state = 35)*
Play Area Location	Not in front or side yard (state addresses proximity to danger)
Play Area Fence	5' fence with 6 or more children (state = 4' for all if near road)
R-1 Zone Limits	No day care employees in R-1 Zone (why?)
Residential Limits	<10 children under the age of 8 (conflicts with definitions & state)
Uses	Specifies type permitted by zone (outdated)
Parking	1 per employee & 1 loading/unloading space
Residential Streets	Prohibited location on a cul-de-sac
Background Check	Required (state requires as well)

*State doesn't require I/O areas for Preschools

**State excludes bathrooms, closets, hallways, lobbies and entryways



- **Commercial Day Care:** Commercial facility providing care for > 8 children
- **Nonregistered Home Day:** In-Home facility providing care for < 6* children
- **Registered Home Day Care or Preschool:** In-Home facility providing care or education for < 8* children < age 7
- **Other Terms Used in City Code**
 - Day Care, In-home day care, Nursery, Family Day Care, Mini Day Care, Preschool

***Conflict: Chapter 18.86 limits children to < 10 and < age of 8**

State Day Care Types



Center Based Providers (Commercial)

- **Licensed Center:** All ages, regular schedules
- **Licensed Hourly Center:** All ages, drop-in basis
- **Licensed Out of School Time Program:** Age 5 to 12, pre/post school
- **Licensed Commercial Preschool Program:** Ages 2 – 4, < 4 hours/day

Home-based Providers (Residential)

- **Licensed Family:** All ages, up to 16 children, regular schedules
- **Residential Certified:** All ages, up to 8 children, regular schedules

City Approval Process Summary

1. Site Plan/Conditional Use Permit (if applicable)
2. Business License Application
 - \$100 (\$115 commercial) city licensing fee
 - Background check (state requires also)
 - DBA registration
3. State Approval Process



Obstacles to Day Care establishment

- Conflicting city/state standards (# children, I/O areas, fence)
- Duplicatory city & state processes (background check)
- No provision for unlicensed smaller facilities (<4)
- Inconsistent use of terms
- Conditional Uses
- Not permitted in PC & NV Zone
- R-1 Zone prohibition on employees
- Continually changing state code



Suggestions to encourage day care

1. Simplify Chapter 18.86
2. Rely upon state regulation
3. Update terms
4. Permit all day care types in all zones
5. Minimize conditional uses
6. Eliminate local background check



Example of zoning that promotes daycare

Type	Children	Zone	Permit Type	Local License
Home Based Residential Certificate	Up to 8	All	P	No
Home Based Licensed Family	Up to 16	All	P	Yes
Commercial License	N/A	All	P	Yes

- **Thru-street.** All Locally Licensed Day Care Facilities shall be located upon a thru-street
- **Play Area.** Play area shall not be located within a front yard
- **Parking (existing).** Day Care Facilities shall have one (1) parking space for each employee plus one (1) loading/unloading space for every 20 people, or portion thereof enrolled. Loading space requirement may be eliminated if there is a circular drive-way.

Questions & Comments

18.86 Day Care Facilities And Nursery Schools

18.86.010 Requirements

18.86.020 Parking

18.86.010 Requirements

Before approval of an application for a Day Care Facility or a Nursery School by the Zoning Administrator, the following requirements must be met:

1. All outdoor play areas must be enclosed by a fence of at least 5 feet if there are more than 6 children enrolled;
2. The facilities must be located on a thru street at least as wide as a secondary street as designated in the Heber City specification, which is 60 feet;
3. Nursery Schools in residential zones must meet all home occupation requirements except the following: 18.108.020 M.3. which is: To involve no more than three people being at the home at any one time due to the home occupation, except those members of the family living in the home, or as regulated by the State Department of Social Services, Division of Family Services, Family Day Care Standards, November 1987. (Ord. 87-02 (part), Ord. 830998 SS1, 2, 1983.)
4. Nursery Schools in residential zones must meet the following requirements:
 1. No more than ten (10) children (including children under the age of eight (8) who are members of the family housed at the Nursery School permanently).
 2. Minimum requirements are based on the following formula:
Outside - minimum of 40 square feet of free space per child.
Inside - minimum of 30 square feet of free space per child.
5. None of the play areas in an all residential zone can be within the defined front or side yard set-back requirement space.
6. R-1 Zone - Day Care Facilities are allowed but must comply with the home occupation requirements.

18.86.020 Parking

Day Care/Nursery Facilities shall have one (1) parking space for each employee, plus one (1) loading, unloading space for every 20 people, or portion thereof enrolled. Loading space requirement may be eliminated if there is a circular driveway.

18.86.030 Zones In Which Nursery Schools And Day Care Facilities Are And Are Not Permitted

P = permitted

NP = not permitted

	A2	C2	C3	C4	I1	R&D1	R1	R2	R3	RA2	RC
Nursery School	P	P	P	P	NP	NP	P	P	P	P	P
Family Day Care	P	P	P	P	NP	NP	P	P	P	P	P
Mini-Day Care	P	P	P	P	NP	NP	P	P	P	P	P
Day Care Center	P	P	P	P	P	P	NP	NP	NP	NP	P



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Potential Donation of Historic Cabins
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Historic Preservation

SUMMARY

Mr. Loren Jensen has acquired several historic cabins from around the Heber Valley and Heber City and would potentially like to donate these cabins to the city as historic artifacts of the city's history to be preserved. These cabins are in various conditions, some having been refurbished and others remaining largely as they were when Mr. Jensen acquired the cabin. Mr. Jensen is hoping to donate these cabins as a group and is interested in offering them to the City.

RECOMMENDATION

Staff seeks feedback on the potential donation of multiple historic cabins by Mr. Loren Jensen.

BACKGROUND

Mr. Jensen has acquired numerous historic cabins and outbuildings from across the valley over the years, maintaining them on his property. Recently, he proposed donating these structures to the city for potential use in a park or other historical preservation projects. City staff inspected the cabins twice: once in early spring and again a week later accompanied by Utah Public Archaeologist Elizabeth Hora. During our assessment with Ms. Hora, it was noted that while the cabins could hold historical significance, their history is challenging to unravel due to multiple relocations.

Despite these challenges, there are several grant opportunities the city could pursue to preserve these cabins, including the Archeology Grant, Outdoor Recreation Grant, Utah Humanities Grant, and Eccles Foundation Grants. Each grant has specific criteria that could potentially support preservation efforts. City staff have begun exploring these options but have chosen to seek council approval before proceeding further.

DISCUSSION

The cabins on Mr. Jensen's property are primarily small, wooden structures, with several likely dating back to before 1900. While it's conceivable that some of these cabins originated from Fort Heber, their exact origins remain unverified due to multiple relocations over time. This history of relocation poses a challenge for securing grants, as many preservation funds require buildings to remain in their original locations.

One suggested preservation approach involves leveraging both an Archeology Grant, aimed at investigating the area of Mr. Jensen's property where a sawmill once stood, and an Outdoor Recreation Grant, which could fund placing the cabins in a park setting with interpretive elements. This combined strategy could potentially pave the way for the preservation of these buildings pending approval from the City Council.

FISCAL IMPACT

N/A

CONCLUSION

Mr. Jensen has acquired several historic cabins from Heber Valley and Heber City and wants to donate them to the city for preservation as artifacts of local history. These cabins vary in condition, with some refurbished and others unchanged. Mr. Jensen wishes to donate them as a group and has approached the city with this proposal.

City staff have visited the cabins, noting their potential historical significance despite being moved multiple times. Grants such as Archeology, Outdoor Recreation, Utah Humanities, and Eccles Foundation Grants could potentially fund preservation efforts, though some require the cabins to remain in their original locations.

The cabins, primarily small wooden structures likely built before 1900, may have originated from Fort Heber, though their exact history is unclear due to relocation. One proposed preservation plan involves using an Archeology Grant to study Jensen's property and an Outdoor Recreation Grant to place the cabins in a park with interpretive elements. This strategy awaits approval from the City Council.

ALTERNATIVES

POTENTIAL MOTIONS

Staff seeks guidance from the Council on the potential donation of multiple historic cabins and outbuildings by Mr. Loren Jensen.

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Historic Cabins Work Meeting Presentation



Potential Donation of Historic Cabins

Work Meeting

Date: 7/16/2024

Summary

- **Mr. Loren Jensen has acquired several historic cabins from around the Heber Valley and Heber City and would potentially like to donate these cabins to the city as historic artifacts of the city's history to be preserved. These cabins are in various conditions, some having been refurbished and others remaining largely as they were when Mr. Jensen acquired the cabin. Mr. Jensen is hoping to donate these cabins as a group and is interested in offering them to the City.**

Policy Questions

- Is the Council interested in accepting the donation of the cabins/outbuildings?
- If so, is the Council interested in pursuing grants to fund the preservation of these cabins/outbuildings?
- If the Council is interesting in acquiring the cabins/outbuildings, what should be done with them once the acquisition has taken place?

Historic Cabins / Outbuildings



Historic Cabins / Outbuildings



Available Grants

Archaeology Grant

Targets archeological sites. Money can be used to survey/discover, record, interpret, and protect sites. Could be used in conjunction with the sawmill site and stretched to cover adjacent cabins.

Outdoor Recreation Grant

Supports construction of infrastructure related to outdoor recreation (e.g. walking biking paths, campgrounds, toilets at trailheads, etc.).

Utah Humanities Grant

The Oral History grant can be used to gather information and interpret the experiences of people in Heber City.

Eccles Foundation Grants

Policy Questions

- Is the Council interested in accepting the donation of the cabins/outbuildings?
- If so, is the Council interested in pursuing grants to fund the preservation of these cabins/outbuildings?
- If the Council is interesting in acquiring the cabins/outbuildings, what should be done with them once the acquisition has taken place?



Potential Donation of Historic Cabins

Work Meeting

Date: 7/16/2024



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Amendment to Heber City Annexation Policy Plan
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

The City Council has asked the Planning Commission to provide a recommendation on a potential amendment to the City's Annexation Policy Plan by including the Wellberg Property as part of the Expansion Area Map. The Planning Commission held a Public Hearing on June 25 and invited the affected entities to comment, including Wasatch County and the Twin Creeks Special Service District. On July 9, the Planning Commission recommended approval of the amendment to the Expansion Area Map. Recently, Midway has been reviewing its Expansion Area Map to include the North Fields for the purpose of agricultural preservation, and Council may want to discuss the potential for Heber City to do this as well.

The Policy Questions for Council include:

- a. The State Code requires Council to hold a public hearing on this matter. Is Council ready for a public hearing to be held on August 6?
- b. Does Council want to proceed with updating the Expansion Area Map to include a portion or all of the North Fields, similar to that being considered by Midway for the purpose of agricultural preservation? If so, should that process proceed with a new and separate update to the Expansion Area Map?

RECOMMENDATION

Staff recommends Council hold a public hearing on the matter on August 6.

BACKGROUND

The City has accepted a petition for annexation of the Wellberg property (see exhibits). Currently, the City's Expansion Area Map which is part of the City's Annexation Policy Plan, does not include the Wellberg property. Utah State Code Section 10-2-401.5 (see exhibits) identifies the process for

amending this policy, which requires (1) a public meeting with the Planning Commission and Affected Entities (county, special districts, etc.); (2) a public hearing with the Planning Commission and Affected Entities; and (3) a public hearing with the City Council and Affected Entities. April 9 was the first meeting of the process to amend the Annexation Policy Plan, and its purpose, as per Utah State Code was to allow affected entities to examine the proposed addition to the Expansion Area Map and provide input on it. The Baum family reached out to the City and asked the City to add the remainder of their property to the Expansion Area Map (see attached maps). On June 25, the Planning Commission held a public hearing and invited the Affected Entities to comment. Thus far, no additional comments have been received from the County or the Twin Creeks/North Village Special Service. On July 9, the Planning Commission recommended approval of the proposal to update the Expansion Area Map to include the Wellberg and Baum properties.

On July 11, the Midway Planning Commission discussed adding the North Fields to their Expansion Area Map for the purpose of Agricultural Preservation (see attached Midway Staff report). Potentially, Heber City could consider such an option to help preserve the North Fields.

DISCUSSION

At the June 25 public hearing, the Planning Commission discussed a gentleman's agreement between the City and County about the City not expanding to the east of Mill Road. In 2018 when Heber City expanded its Annexation Policy Plan to include the Sorenson properties, the City and County discussed a gentleman's agreement, researched the issue, and found no agreement existed. This was the impetus for adopting a formal written agreement, the MOU (attached for reference) to address this issue and other issues between the City and County. Within this MOU, there is a provision whereby Heber City agrees to maintain the City's expansion area no further east than Mill Road (aka 1200 East), no further west than the bypass, and no further west than the eastern boundary of the Heber Valley Special Service District Sewer Fields.

It was generally assumed that expansion to the east meant any properties south of Center Street, given that Red Ledges is already east of Mill Road; however, that is not specified in the agreement. Doug Smith, Wasatch County Planning Director, reached out to the County Council during the week of July 8, and the County Council did not express concern with the City updating the map to include the Wellberg and Baum properties.

FISCAL IMPACT

None.

CONCLUSION

N/A

ALTERNATIVES

N/A

POTENTIAL MOTIONS

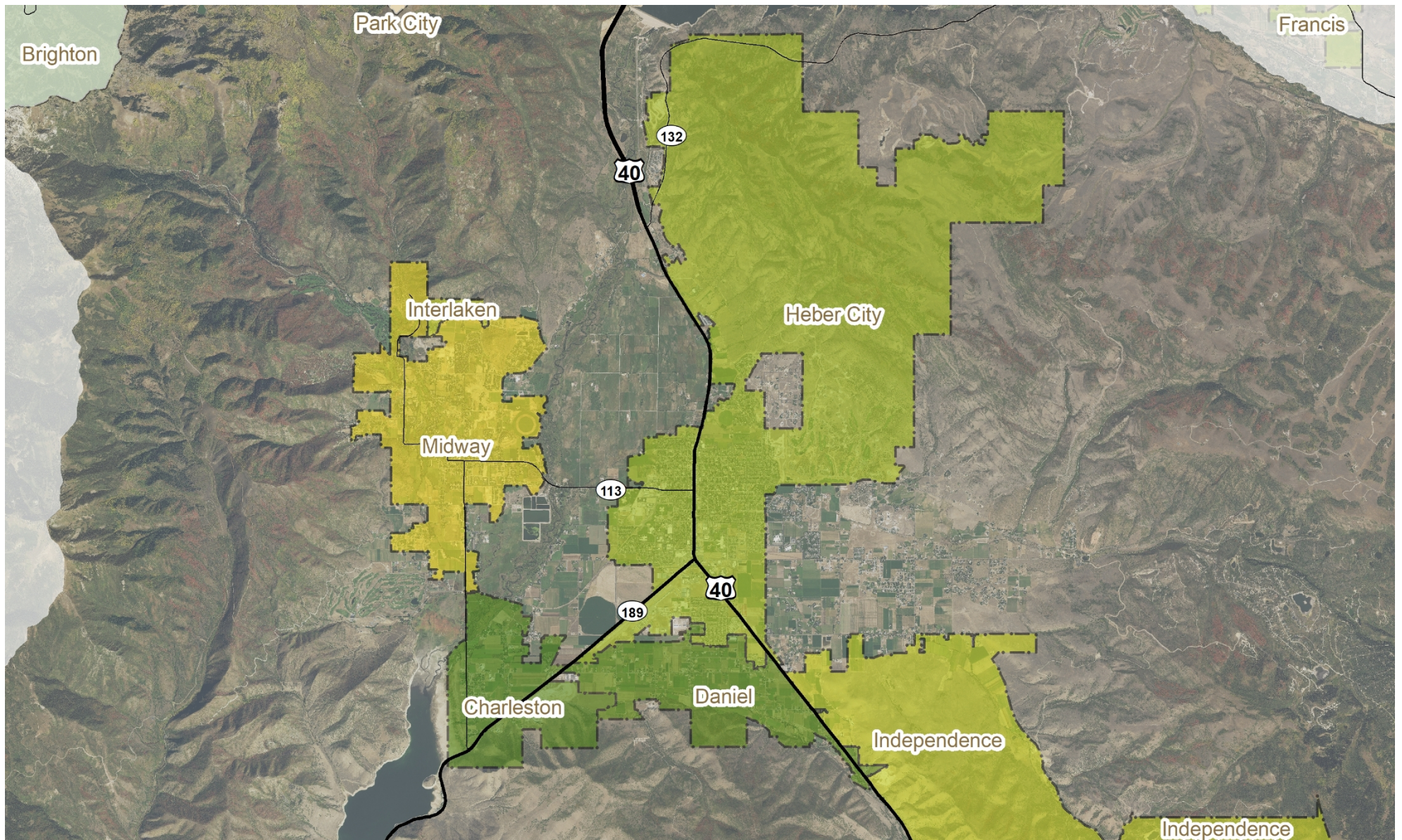
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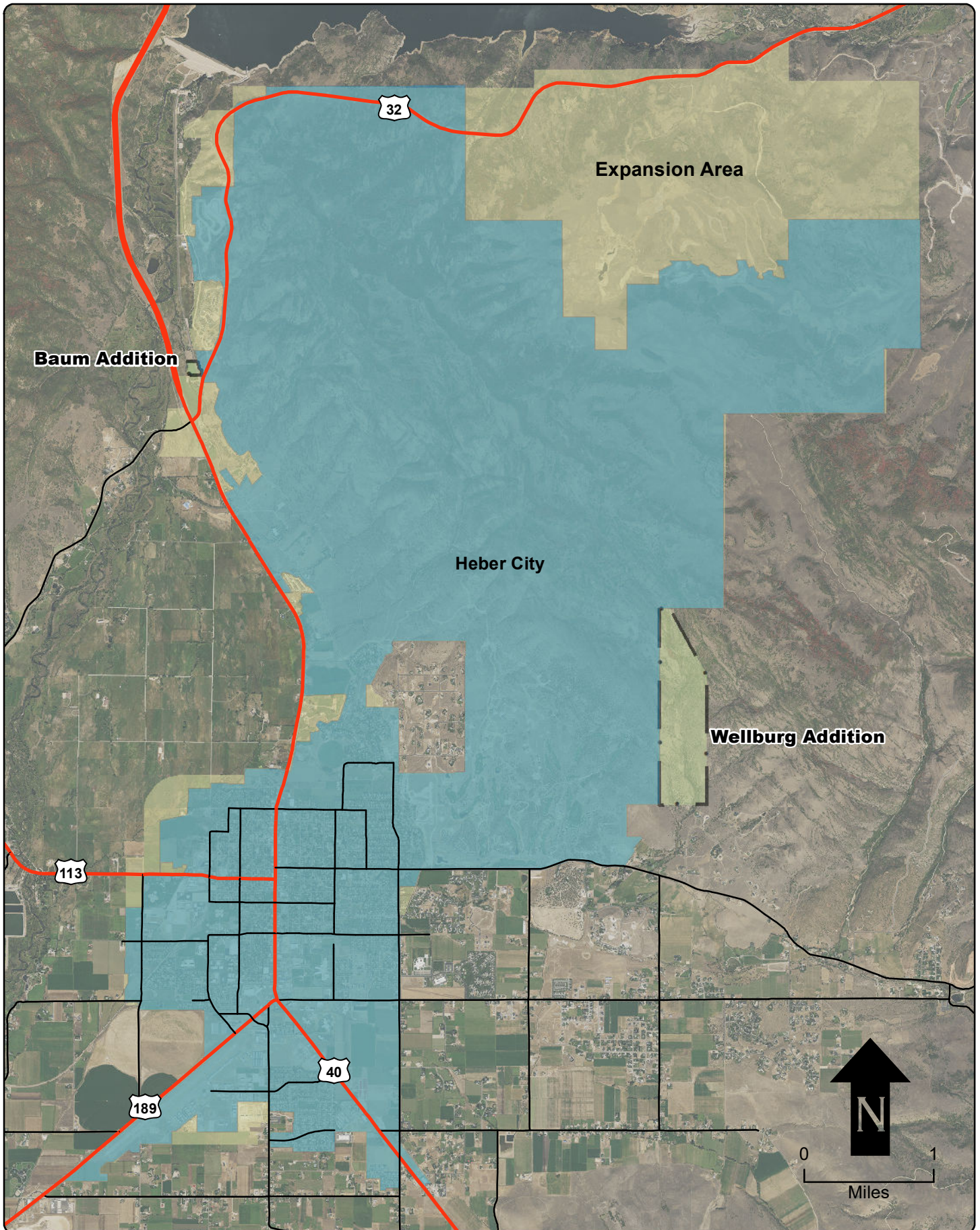
ACCOUNTABILITY

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

EXHIBITS

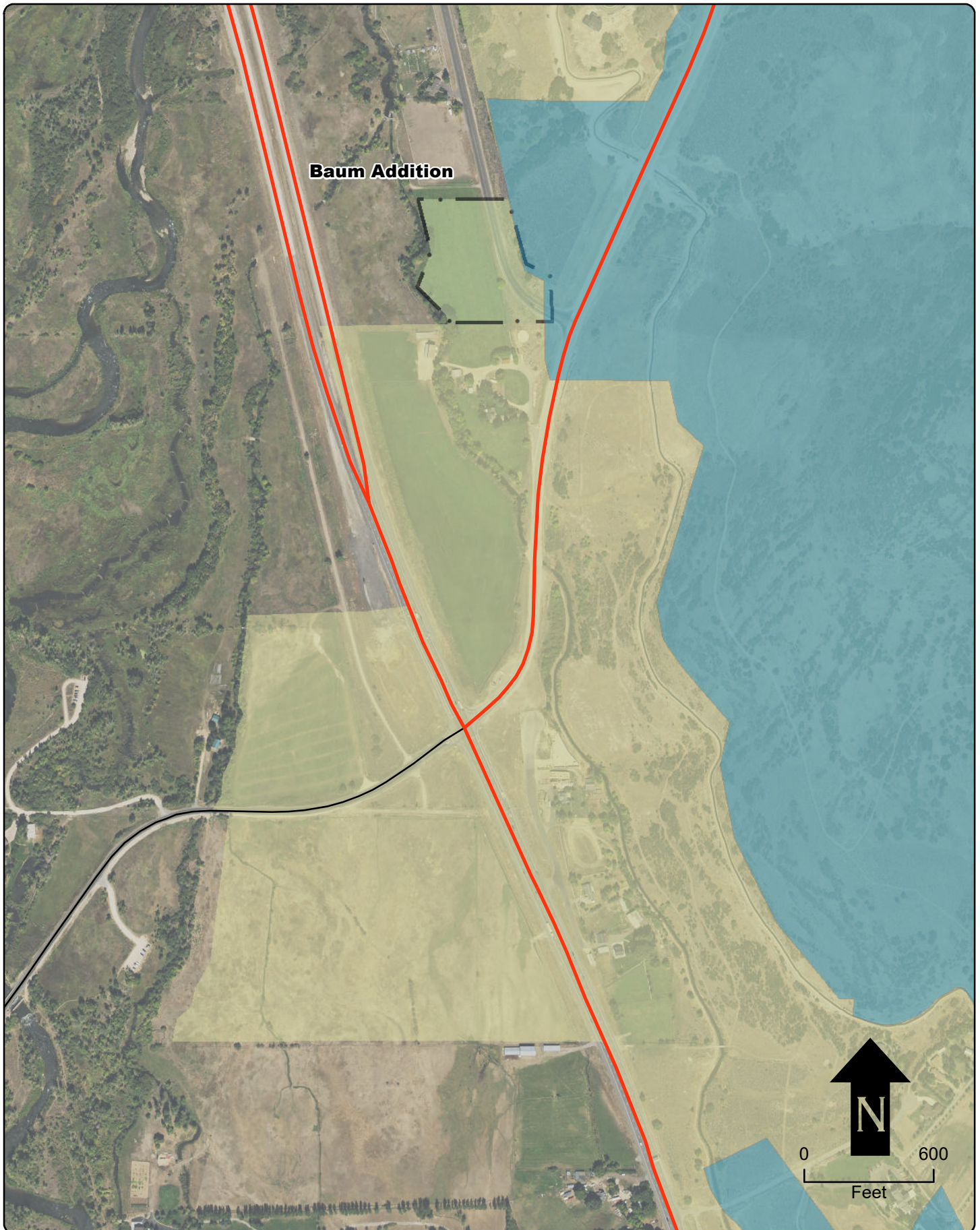
1. Municipalities
2. Annexation Policy Plan Amendment 2024
3. Baum Addition
4. Wellburg Addition
5. MOU
6. Adopted Annexation Policy Plan
7. PC-6-11-2024-Item-3-Midway-Growth-Boundary
8. 10-2 Utah Code Annexation Policy Plan





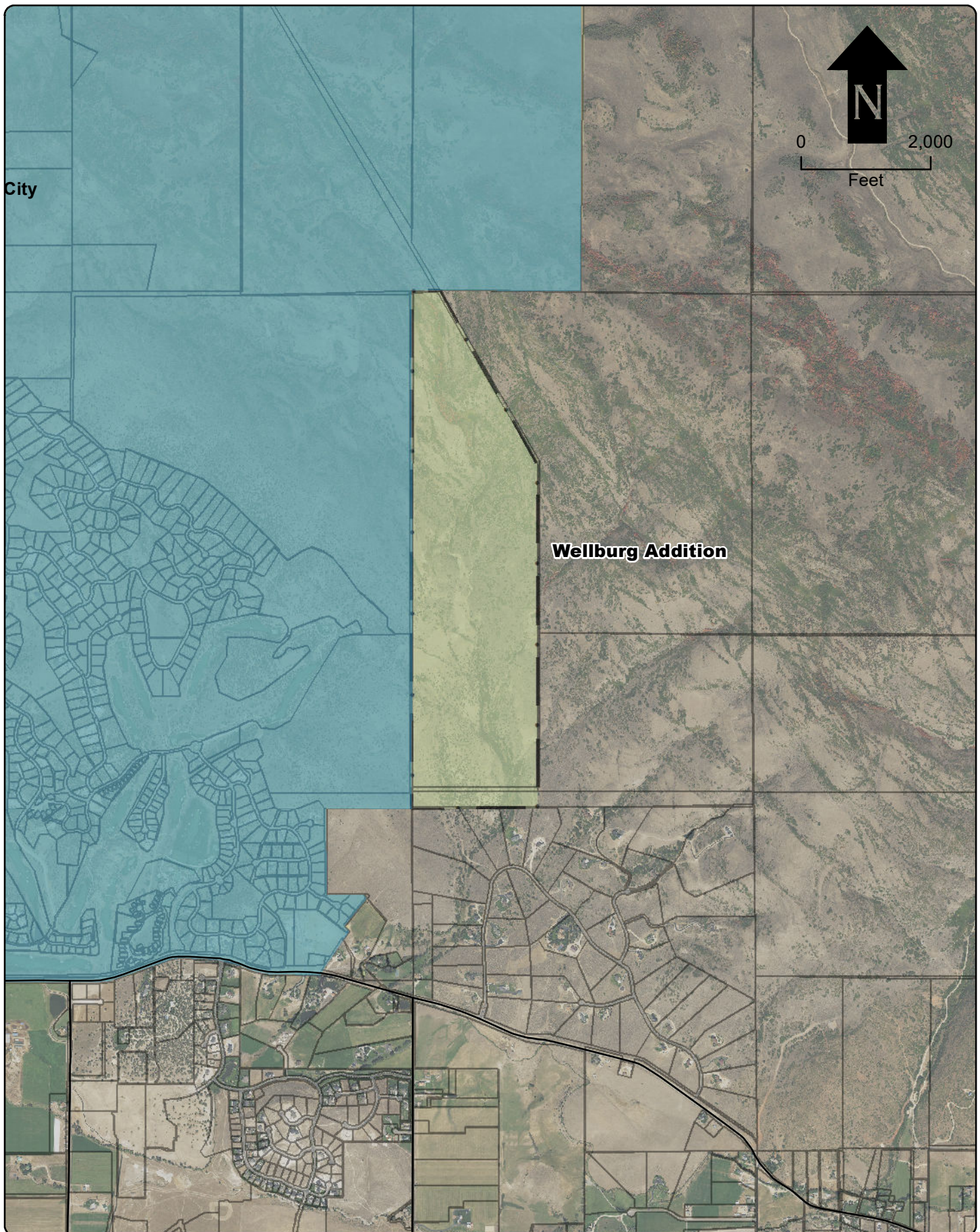
Heber City Annexation Policy Plan Amendment

April 9, 2024



Heber City Annexation Policy Plan Amendment

April 9, 2024



Heber City Annexation Policy Plan Amendment

April 9, 2024

HEBER CITY EXPANSION AREA MOU

MEMORANDUM OF UNDERSTANDING BETWEEN WASATCH COUNTY AND HEBER CITY

1. **Parties.** This Memorandum of Understanding (hereinafter referred to as “MOU”) is made and entered into by and between Wasatch County, whose address is 25 North Main Street, Heber City, Utah 84032, and Heber City Corporation, whose address is 75 North Main Street, Heber City, Utah 84032.
2. **Purpose.** The purpose of this MOU is to establish the terms and conditions under which Wasatch County and Heber City will implement multi-jurisdictional annexation, land use and utility service policies.
3. **Term of MOU.** This MOU is effective upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU and the governing bodies of the parties’ respective counties or municipalities and shall remain in full force and effect for not longer than 30 years. This MOU may be terminated, without cause, by either party upon 60 days written notice, which notice shall be delivered by hand or by certified mail to the address listed above.
4. **Responsibilities of Wasatch County.**
 - a. Invite Heber City Planning to Development Review Committee Meetings when urban development is proposed within the City’s Expansion Area as shown in Exhibit A.
 - b. Invite Heber City Planning Department to Public Hearings involved in amendments to zones, ordinances and standards affecting properties within the City’s Expansion Area.
 - c. The North Village Special Service District (NVSSD), Twin Creeks Special Service District (TCSSD) and Jordanelle Special Service District (JSSD) agree to provide and maintain all water, secondary water, and sewer service within their respective service areas, unless those districts and Heber City mutually agree at the time of development that these services should be provided in another manner.
 - d. Ask property owners proposing urban development within the City’s Expansion Area to first talk with Heber City regarding development in the City

- e. At the request of Heber City, agree to leave an unincorporated island for Wasatch View Estates through the annexation process if there are a significant number of property owners who object to being annexed into Heber City.
- f. Continue to accept open space dedications by Jordanelle Ridge, with the intent to maintain it as open space in perpetuity with the only allowed improvements being back country trails. County may enter into agreements with a third party open space holder.
- g. County will review all improvements outside of City and may or may not require dedication of roads. If streets are constructed and dedicated to County standards outside of City limits, the County will accept such dedication and maintain them.
- h. The Wasatch County Fire District will perform all fire inspections related to development in special service district areas, and will collect the same fire inspection fees that are assessed on a county-wide basis.

5. **Responsibilities of Heber City.**

- a. Invite Wasatch County Planning and its Special Service Districts and Fire District to all Development Review Committee Meetings when development is proposed within Special Service District areas as shown in Exhibit B.
- b. Invite Wasatch County Planning to Public Hearings involved in amendments to zones, ordinances and standards affecting properties within Special Service District areas.
- c. Involve Wasatch County in the review of annexations within Special Service District areas to analyze the following public service issues:
 - 1) Consideration for regional county park facilities and open space.
 - 2) Consideration for dedication of Fire Stations.
 - 3) Consideration for Sewer, water and irrigation.
 - 4) Consideration for dedication of elementary, middle, and high school sites.
 - 5) Consideration for other necessary public facilities provided by each of the parties.
- d. Require proposed development within special service district areas to be reviewed by the Wasatch County Water Board prior to granting of development approvals.
- e. Require receipt of payment for fire district and special service district fees prior to issuance of building permits.

- f. Require all final subdivision plats be signed by the appropriate special service district.
- g. Maintain entitlement requirements for projects annexed into the city including but not limited to requirements for open space, trails, architectural standards, landscaping, densities etc., unless both parties agree that such changes would be more beneficial to the County and City.
- h. Permitted residential densities within special service district areas shall be in accordance with vested rights and/or adopted codes.
- i. Involve Wasatch County in the review of proposed annexations and developments within special service district areas to ensure developers dedicate the appropriate required open space as part of their previously approved master plans. Specifically, Jordanelle Ridge (aka Sorenson Properties) has committed to dedicate a significant area of open space to Wasatch County. The development agreement with Jordanelle Ridge is still in force and requires dedication of open space with every plat recorded.
- j. Unless agreed to by the county and city, the city will maintain the City's expansion area no further east than Mill Road (aka 1200 East), no further west than the bypass, and no further west than the eastern boundary of the Heber Valley Special Service District sewer fields.

6. Mutual Responsibilities.

- a. Heber City and Wasatch County are each committed to maintaining the North Fields as an agricultural area. As such, zone changes, municipal annexation and extension of urban services into the North Fields should be avoided, though this is not intended to infringe upon the legislative discretion of either party.
- b. Development, and/or annexations along the future bypass will include the acquisition and/or dedication of bypass right of way at a width of 124 feet or current UDOT standards by the applicable entity.
- c. Wasatch County will establish a mechanism that provides Heber City with representation to key SSDs that allows input on critical water and sewer issues occurring within or potentially impacting the city.
- d. Explore avenues to partner for the purpose of optimizing water and sewer service delivery to achieve redundancy, operational efficiencies and cost savings/avoidance.
- e. Heber City and Wasatch County will continue to work on a common affordable housing agreement.

7. **Conflict Resolution.** In the event either party determines there is a conflict in the implementation of these responsibilities, either party may arrange for an interlocal board to be convened to review the matter. Such interlocal board should consist of 3 Wasatch County representatives, including a County Councilman, the County Manager and the County

Planner; and 3 Heber City representatives, including the Mayor, City Manager and the City Planner.

8. **Signatures.** In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last affixed to this page.

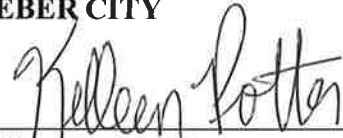
WASATCH COUNTY



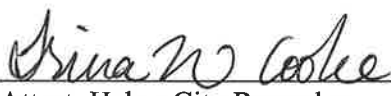
Greg McPhie, Council Chairman


Date 2/4/19

HEBER CITY



Kelleen Potter, Mayor
Date 2/8/19



Attest: Heber City Recorder
Date 2/4/2019



EXHIBIT A: HEBER CITY EXPANSION AREA

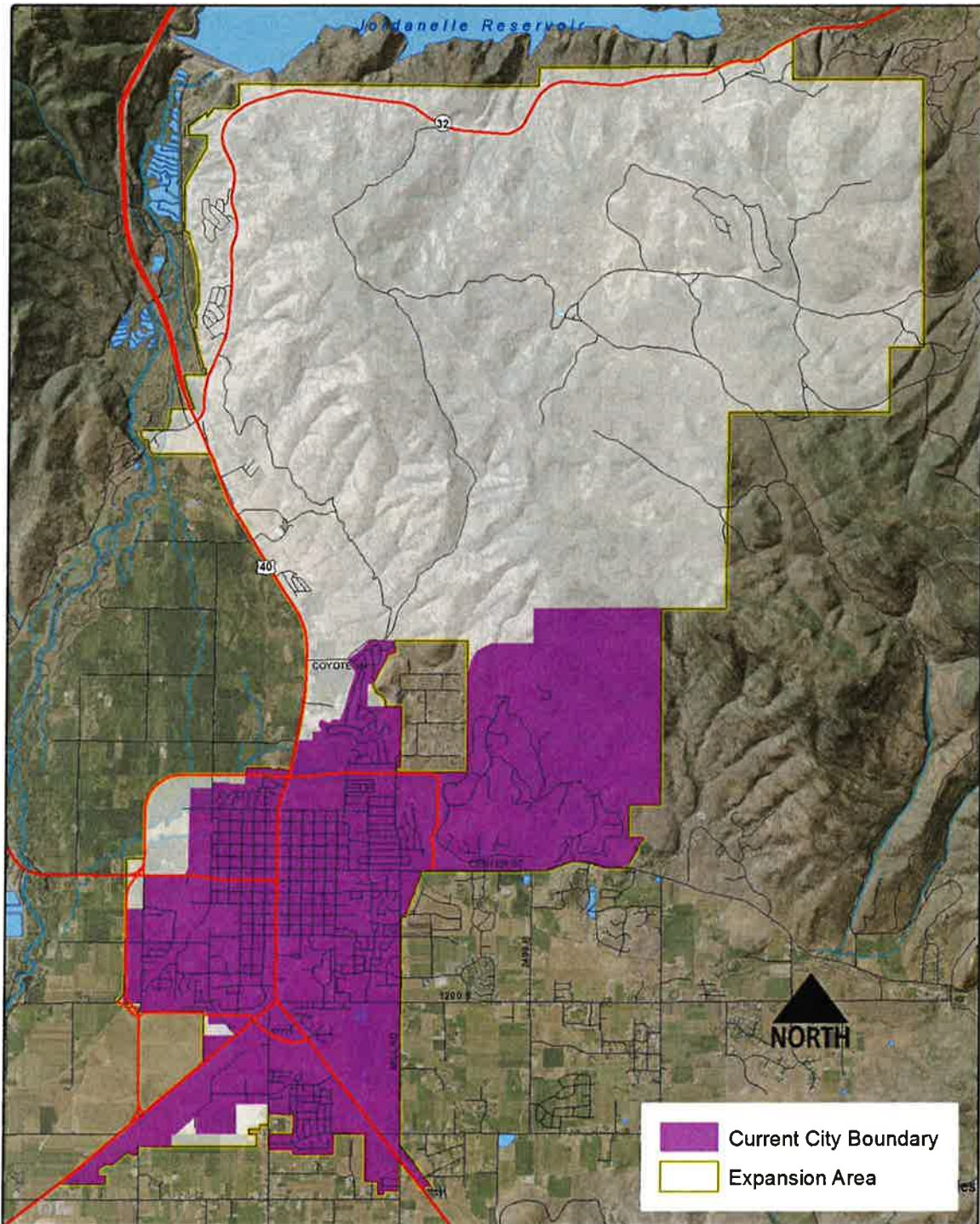
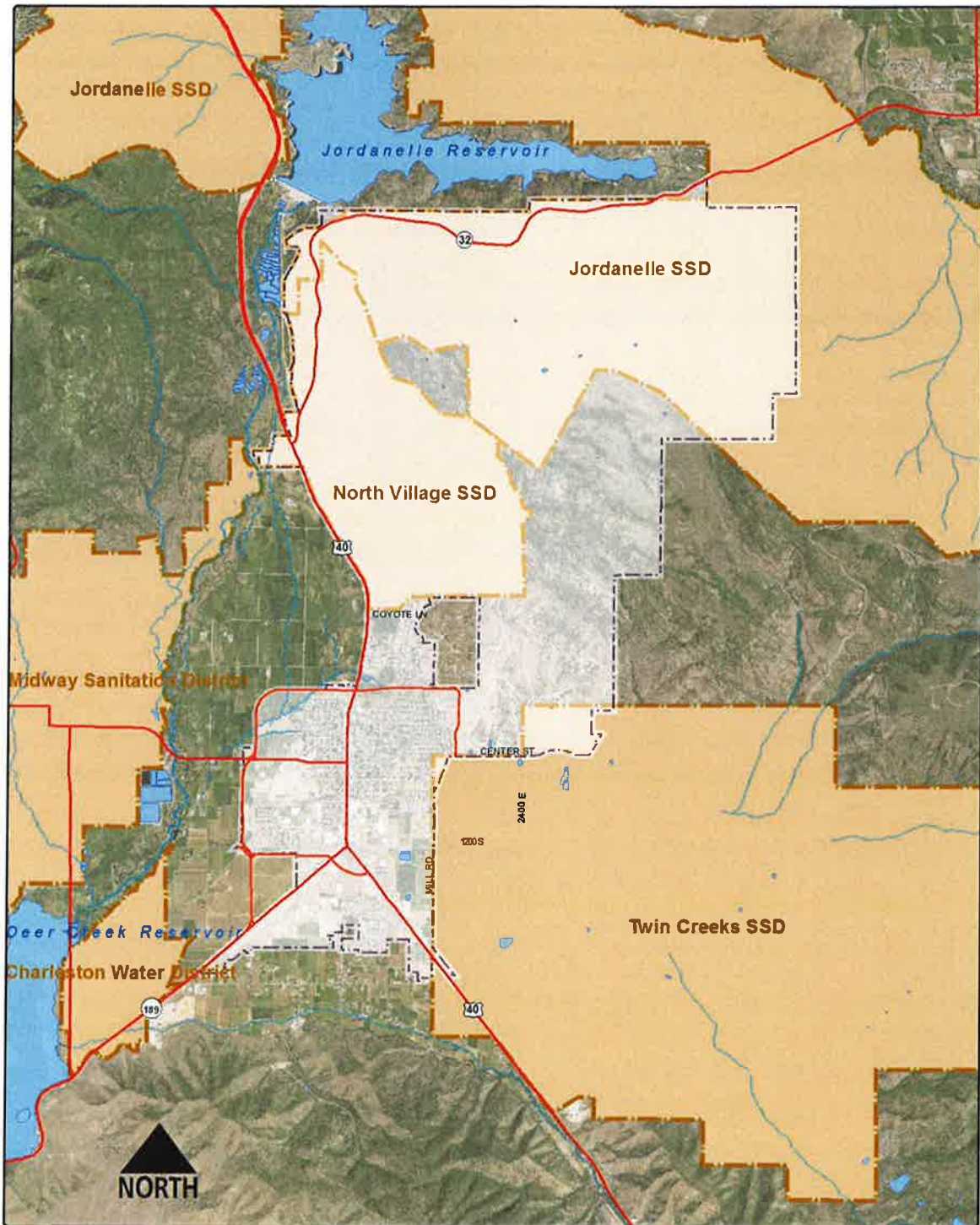


EXHIBIT B: SPECIAL SERVICE DISTRICT AREAS



Heber City Annexation Policy Plan

Adopted: September 4, 2018 by Ordinance 2018-42

Amended: July 6, 2021 by Ordinance 2021-21

Heber City Corporation

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INTRODUCTION

In accordance with the provisions of 10-2-4, Utah Code Annotated, all municipalities within the State are required to adopt an Annexation Policy Plan. In this Annexation Policy Plan, cities are required to develop an expansion area map and plan for the future growth of the community for the next 20 years.

The Annexation Policy Plan is intended to guide decision making regarding future annexations. It also helps the City plan for future expansion in conjunction with neighboring political entities. Open communication between the City and other political entities, particularly the County, is a priority in the process of developing the Annexation Policy Plan.

Heber City adopted its first Annexation Policy Plan over a decade ago. In 2017, several property owners requested Heber City consider amending the expansion area map to include their properties. The process for adopting the amendment in 2017 illustrated the need for the City to dramatically overhaul its Annexation Policy Plan to incorporate informal policy into writing. Additionally, the City identified a need to update relevant portions of the General Plan that are out of date.

EXPANSION AREA MAP

As per Utah Code, Section 10-2-401.5 (4) and 10-2-401.5 (3) (c), the City has considered the following six points in developing, considering, and adopting this Annexation Policy Plan as follows:

GAPS AND OVERLAPS

Heber City has attempted to avoid gaps between or overlaps with the expansion areas of other municipalities. However, overlaps do exist between Heber City and Charleston and between Heber City and Daniel Town.

Heber City has the municipal services that are necessary for industrial and retail development that both Charleston and Daniel Town lack. Heber City is desirous to attract industrial and retail development within its expansion area as designated on the General Plan and has therefore included these overlap areas within its Expansion Area Map. Additionally, these overlapping areas are near the Heber City Airport and/or are part of the HVSSD Sewer Fields, both of which Heber City has an interest in how they impact the City..

20 YEAR POPULATION PROJECTIONS

Heber City has considered population growth projections for the municipality and adjoining areas for the next 20 years. Population projections by Mountainland Association of Governments (MAG) show Heber City will grow from 15,723 persons in 2017 to 25,321 persons in 2037. The current 4.7% annual growth rate is projected to drop to 2.26% after 2021, and to 1.66% after 2031.

20 Year Population Projections

Year	Annual Growth Rate	Population	Population Change	Residential Units
2017	4.70%	15,723	706	211
2018	4.70%	16,462	739	221
2019	4.70%	17,236	774	231
2020	4.70%	18,046	810	242
2021	2.26%	18,454	408	122
2022	2.26%	18,871	417	124
2023	2.26%	19,297	426	127
2024	2.26%	19,733	436	130
2025	2.26%	20,179	446	133
2026	2.26%	20,635	456	136
2027	2.26%	21,102	466	139
2028	2.26%	21,579	477	142
2029	2.26%	22,066	488	146
2030	2.26%	22,565	499	149
2031	1.66%	22,939	375	112
2032	1.66%	23,320	381	114
2033	1.66%	23,707	387	116
2034	1.66%	24,101	394	117
2035	1.66%	24,501	400	119
2036	1.66%	24,908	407	121
2037	1.66%	25,321	413	123
	Total	25,321	10,304	3076

CURRENT AND PROJECTED COSTS OF INFRASTRUCTURE AND SERVICES

Heber City, the North Village Special Service District (NVSSD), the Jordanelle Special Service District (JSSD), and the Twin Creeks Special Service Districts (TCSSD) have adopted Capital Facilities Plans that consider current and projected costs of infrastructure, urban services, and public facilities necessary to facilitate full development of the area within their respective jurisdictions. These plans identify the necessary infrastructure, services, and facilities in the City's expansion area.

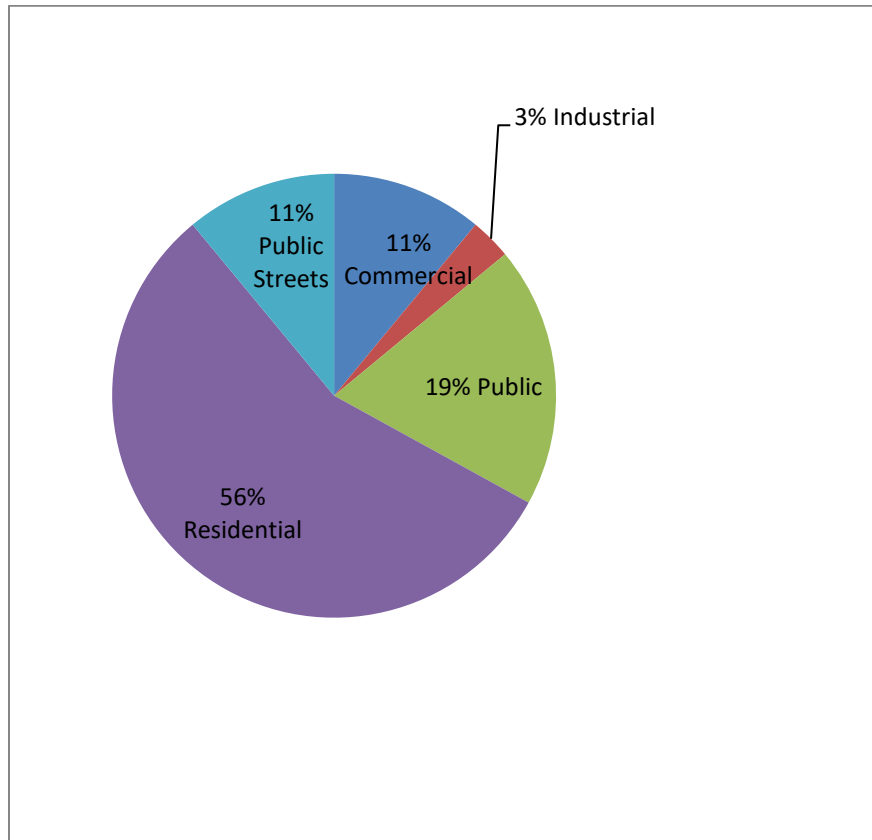
NEED FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL LAND

Heber City has considered, in conjunction with its General Plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development. As shown in the table below, the City needs an additional 3,449 acres (5.39 square miles) to accommodate growth for the next 20 years, based on the growth rates projected for the City. This area consists of 378 acres of Commercial Land, 112 acres of Industrial Land, 645 acres of Public Land, 1936 acres of Residential Land, and 378 acres for Public Streets.

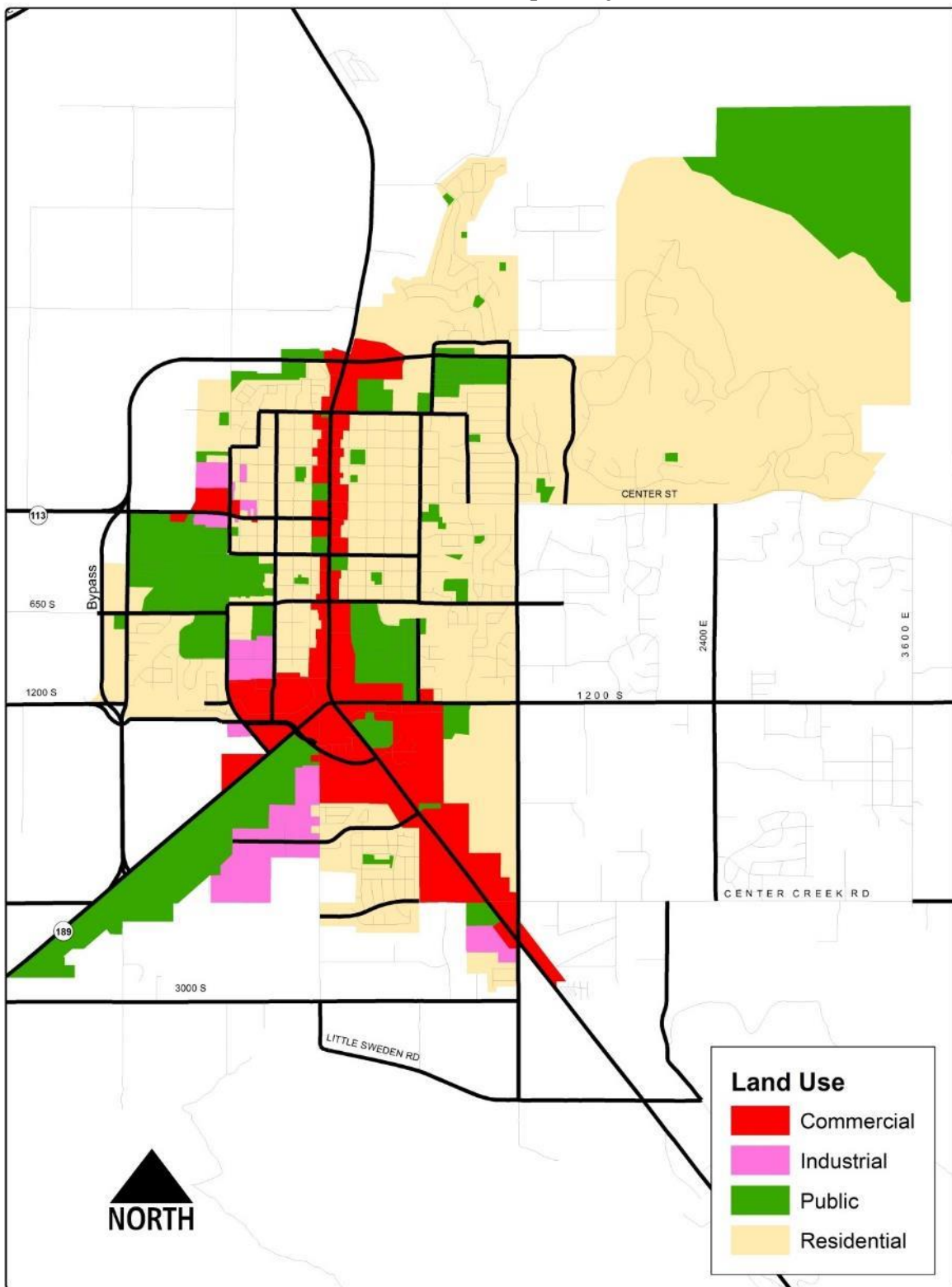
20 Year Land Needs

Land Use	2017 Area (sq. mi)	Additional 20 Year Land Need	Total 20 Year Land Need
Commercial	0.97 sq. mi. (11%)	0.59 sq. mi.	1.56 sq. mi.
Industrial	0.29 sq. mi. (3%)	0.16 sq. mi.	0.45 sq. mi.
Public	1.65 sq. mi. (19%)	1.01 sq. mi.	2.66 sq. mi.
Residential	4.95 sq. mi. (56%)	3.03 sq. mi.	7.98 sq. mi.
Public Streets	0.97 sq. mi. (11%)	0.59 sq. mi.	1.56 sq. mi.
Total	8.83 sq. mi.	5.38 sq. mi.	14.21 sq. mi.

2017 Land Use Analysis



2017 Land Use Map Analysis



REASONS FOR INCLUDING SENSITIVE LANDS IN EXPANSION AREA

Heber City's expansion area includes some agricultural lands and forested areas. Recreational and wildlife management areas are not part of the City's expansion area.

The agricultural lands are located in the Twin Creeks area east of 1200 East. The City also included an agricultural area on the northwest corner of Heber City from current boundaries up to the future highway bypass because the bypass serves as the City boundary elsewhere. It is the intention of Heber City to maintain agricultural zoning or a conservation type subdivision development pattern in these areas that preserve agriculture and open space.

Forested areas are included within the City's expansion area. Wasatch County has zoning that permits higher density master planned communities in the forested area with open space requirements. Heber City envisions significant amounts of open space in that forested area with densities no more than that planned by Wasatch County. The Cooperative Wildlife Management Unit (CWMU) designation in the area will likely be dissolved, whether it is developed by Wasatch County or Heber City.

JUSTIFICATION FOR EXCLUDING AREAS FROM EXPANSION AREA WITHIN ½ MILE OF CURRENT BOUNDARY

North Fields

Consistent with the General Plan, Heber City will not annex properties in the North Fields. It is the intent of Heber City to promote the North Fields to remain as an agricultural area, and the City opposes the extension of any municipal services into the area. The Expansion Area Map utilizes the future Main Street Bypass as the future north and northwest municipal boundary adjoining the North Fields. The City will only entertain annexations of property up to and including the bypass upon condition of dedication of the requisite right of way for the bypass according to current UDOT requirements. Additionally, annexation in that area should include efforts to preserve agriculture in the North Fields, such as Transfer of Development Rights, Purchase of Development Rights, Large Lot Agricultural Zoning, and/or Conservation Developments that preserve natural and agricultural areas.

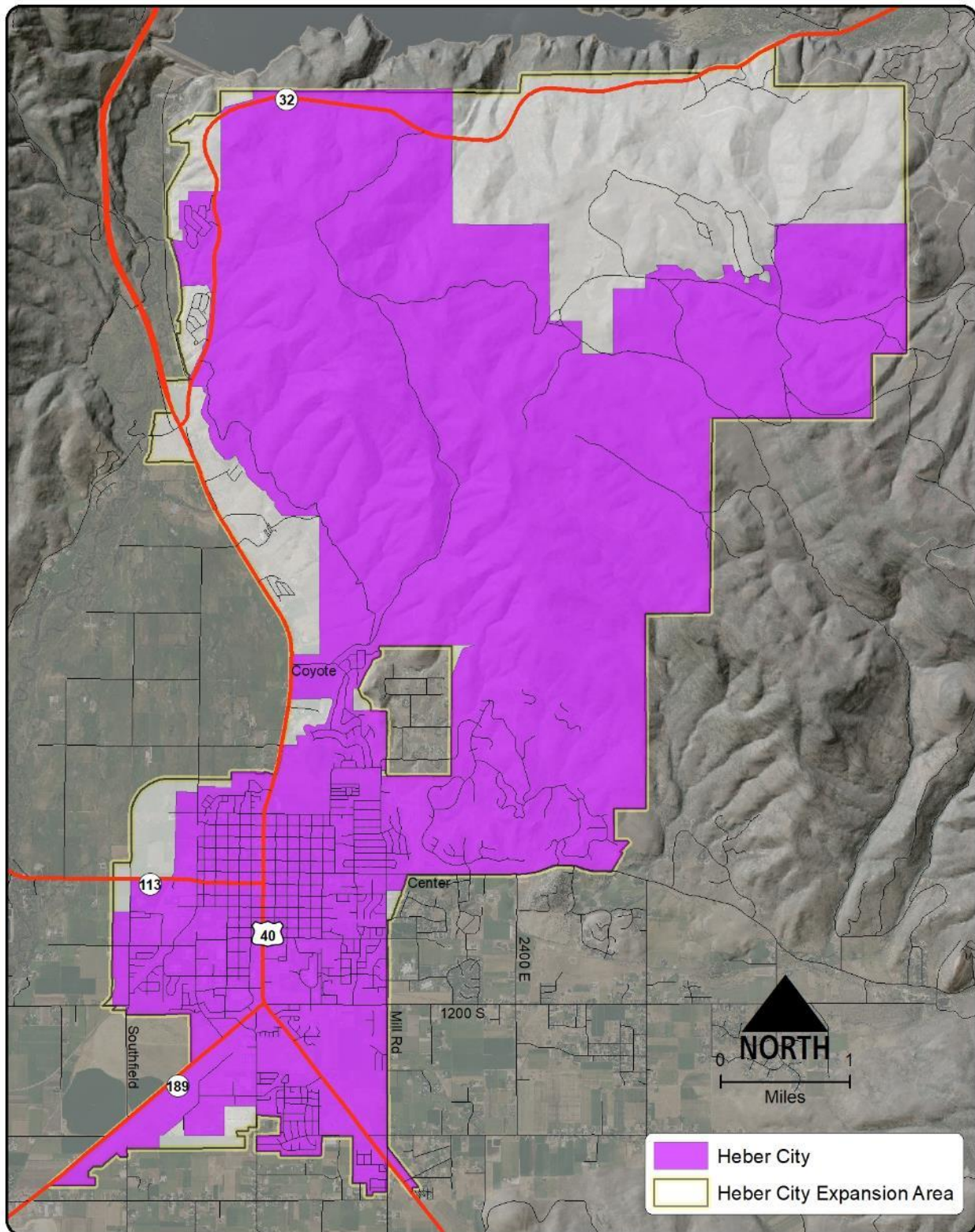
South Fields

Heber City desires a separation between itself and other municipalities with agricultural and/or open lands. The City supports keeping the land west of that canal as low density agricultural lands, either in Charleston Town or within the unincorporated area. The City opposes expansion of municipal services west of the canal.

Twin Creeks Area

The area between 1200 East 2400 East serves as a suburban transition zone to the lower agricultural densities envisioned east of 2400 East. A significant part of that area is contained within a master planned subdivision, the Crossings at Lake Creek. It is unlikely there would be any interest in annexing that area, as it is already developed. South of 1200 South, some large lot agricultural subdivisions exist that should remain as agricultural lots. East of the City's expansion area should remain as an agricultural area, decreasing in density as one travels away from the City. Greener Hills Subdivision exists to the east of Red Ledges and this area should remain at a lower density, as it has been developed. Much of the area east of 1200 East and North of 1200 South has already been developed in the unincorporated County at suburban style densities, and much of the area is therefore unlikely to be annexed into the City.

Expansion Area Map



CRITERIA FOR CONSIDERING ANNEXATIONS

The policy of the City Council is to ensure that proposals to annex territory to the City are based on compliance with Utah law, the General Plan, and the development policies as may be amended from time to time by the Council. The following criteria will be used to evaluate annexation proposals:

CONFORMANCE TO UTAH LAW AND LEGISLATIVE POLICY

1. A petition is to be submitted requesting annexation meeting the requirements established by the State Legislature.
2. The territory proposed for annexation shall be contiguous to corporate boundaries of Heber City and be a contiguous area.
3. The territory proposed for annexation will not leave or create an unincorporated island or unincorporated peninsula except as provided by Utah Code Subsection 10-2-418 (3) or unless the County and City have otherwise agreed.
4. The plat of the territory shall be drawn by a surveyor licensed to practice in the State of Utah.
5. Action to approve, approve with modifications, or deny an annexation shall be made in conformance with the provisions of Utah Code Title 10, Part 4.
6. The Council may add or delete territory from the annexation proposal to remove islands or unincorporated peninsulas created by the annexation.

CONFORMANCE TO CITY COUNCIL POLICY

The City Council establishes policies to ensure that annexations are added to the City in a systematic pattern that provides for logical expansion of City boundaries. The City Council recognizes that the Legislature from time to time may enact laws that are contrary to established practice and such laws shall supersede Council policy if conflict exists. Policies of the City Council follow:

1. The Council may accept territory proposed for annexation when the petitioned lands are located within a Township in order to protect the City's future growth options and programs.
2. Annexed territory shall be assessed to ensure that boundaries follow ownership, topography, natural features, and other readily defined boundaries.
3. To ensure efficient street and utility maintenance, the annexed area shall, whenever possible, include both sides of a street.
4. Arterial and collector roads should remain within one community for as great a distance as possible to ensure efficient street layout, control, and maintenance.
5. All major streets shall be as defined by the Heber City General Plan and Transportation Master Plan.
6. If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:
 - a. along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow City boundaries or school districts adjacent to

- school districts whose boundaries follow City boundaries, and along the boundaries of other taxing entities;
 - b. to eliminate islands and peninsulas of territory that is not receiving municipal-type services;
 - c. to facilitate the consolidation of overlapping functions of local government;
 - d. to promote the efficient delivery of services; and
 - e. to encourage the equitable distribution of community resources and obligations.
7. The annexation shall be in conformance with the provisions of the Annexation Policy and any future Annexation Elements of the General Plan and the Annexation Policy Plan and Capital Facilities Plan.
 8. The Council shall consider the fiscal impacts of development within the territory proposed for annexation, including both the cost of delivering services and the revenue stream generated by new development.
 9. For large Annexations that exceed 500 acres, the City will analyze the need for regional facilities such as parks, trails, fire stations, police stations etc., and will consider the need to request dedications from annexation petitioners.
 10. Annexation petitioners shall provide the following information:
 - a. Accurate map showing the territory as proposed for annexation. The Council may direct the Administration to require additional mapping information with submittal of petitions for annexation.
 - b. The Council shall require that a feasibility report be prepared by City staff when time and resources are available with costs paid by petitioners, or be submitted by a consultant of the City with costs paid by petitioner for the following:
 - i. Existing and proposed population density;
 - ii. Geology, geography, and topography of the area and its surroundings;
 - iii. Determination of islands or peninsulas remaining in the unincorporated area;
 - iv. Fiscal impact of the proposed annexation on the unincorporated area, other municipalities, other government entities, special districts, and school district;
 - v. Current and five year projections of demographic and economic base for the proposed annexation area and surrounding unincorporated area;
 - vi. Projected five year growth for the proposed annexation area and surrounding unincorporated area;
 - vii. Current and five year projections of the cost of government services for the proposed annexation area;
 - viii. Present and five year projection of revenue to be received by the City resulting from the annexation; and
 - ix. Projected tax impact the annexation will have for the next five years on affected property owners.
 11. The Council shall require an annexation agreement be recorded with the annexation plat, outlining specific circumstances relating to services, transportation corridors, zoning, and other issues identified by the City during the annexation process.
 12. The Planning Commission shall review and provide a recommendation on each annexation petition received by the City.
 13. Each Petition for Annexation shall include a concept plan. What is required in the concept plan at the time of filing the Petition for Annexation is limited to the best

knowledge of the Petitioner at the time of said filing. This requirement to submit a concept plan with the petition, shall in no way limit or restrict changes, amendments, alterations or modifications to said concept plan throughout the annexation and development process as may be desired either by the Petitioner, Developer, Planning Commission or City Council.

14. Within Special Service Districts, the City could offer services or temporary services to areas that contain existing homes or in areas where it is infeasible for a Special Service District to provide sanitary water, sewer, or irrigation service. However, the City will need to carefully coordinate such effort with the district to ensure that financing for the district is not harmed by the City providing that service. It is generally understood that the primary utility provider for districts areas will be the districts.
15. Heber City prefers to not extend its services beyond its boundaries. The City Council may extend municipal services to the unincorporated areas if they find that such expansion is consistent with the overall Annexation Policy Plan and General Plan, will not present barriers for future annexation, and is acceptable to a Special Service District, if applicable. The petitioner will be charged an impact fee and be required to pay 1 1/2 times the monthly service fee. Additionally, the petitioner for services will be required to enter into an agreement to annex when the City reaches the property or to not oppose an annexation if one occurs.

CHARACTER OF THE COMMUNITY

Heber City is located about 45 miles from Salt Lake City, 20 miles from Park City and 27 miles from the Orem/Provo area. Heber is a high-amenity mountain valley community which provides an excellent location for individuals and families interested in an outdoor lifestyle surrounded by a scenic environment.

Heber City has been and will continue to be Heber Valley's center of commerce, industry, education, and government. The community has taken the initiative to provide the services for supportive land uses. In addition, the City has taken the lead in providing diversified housing to meet the needs of all people without regard for social or economic status. Housing development needs to be supported by adequate commercial and industrial development to allow a City revenue base that is broad and diverse. Future annexations should be considered from this perspective.

Agriculture and open spaces, especially on the community's periphery, are important community pursuits. Community separation that exists between communities is a tradition in Heber Valley. Heber City reserves the right to maintain agricultural land and/or open space between its self and other municipalities and to protect agricultural lands and lands containing natural hazards where it is in the best interest of the community. Annexations that can help preserve open space will be considered, as will annexations that can provide a developed setting that is consistent with community goals.

Heber City's development patterns are somewhat unique from smaller communities that are not part of a suburban environment but are separated from major population centers. It is important that Heber City take a long-range view, at least 20 years, at its potential for expansion. At the same time, growth needs to be in areas where the City can efficiently extend municipal services and discourage leap frog and rural sprawl development which increases the costs and places a higher tax burden on the citizens.

The City has adopted a General Plan with Land Use, Open Space, Parks, and Transportation elements. This Plan identifies and defines community and neighborhood character. Heber City is a City of neighborhoods, and newly annexed areas are to be developed to either mesh with established neighborhoods or to create new neighborhoods.

It is the policy of the City to avoid development of wetlands, steep-slope, critical environmental habitat areas, shrink-swell soils or any other environmental conditions that threaten the integrity of the City infrastructure unless, in an annexation agreement, the developer can show how they will mitigate these issues in conformance with the City Ordinances, Code and Federal and State Regulations.

THE NEED FOR MUNICIPAL SERVICES IN DEVELOPED AND UNDEVELOPED UNINCORPORATED AREAS

In the past, Heber City has had limited extension of urban services in the unincorporated areas. A fundamental policy is that if someone desires urban services, they must be annexed into the City. In most of the residential areas, urban services have been extended. In the commercial area along Highway 40, there has been a limited amount of municipal services provided; however, full service needs to eventually be extended as the areas further develop and annexed.

SEWER

The valley's sewer treatment is addressed through two means. The Heber Valley Special Service District (HVSSD) provides waste water treatment to Heber City and Midway City. Those facilities are located near Midway on the west side of the Provo River. The district treats water through both mechanical means and through application of treated water to the Sewer Fields located along the north side of Highway 189.

Currently HVSSD also provides treatment for waste water from the Twin Creeks Special Service District (TCSSD), Jordanelle Special Service District (JSSD), and the North Village Special Service District (NVSSD). In the long term, these three SSD's intend to move some or all of their waste water treatment needs to the JSSD waste water treatment facility that is located along the old Highway 40 route, south of the Jordanelle Dam. This facility provides all of its treatment through mechanical means.

The County established a minimum five acre lot size many years ago for lots on septic tanks to protect the ground water in the valley. Any new lot less than five acres requires connection to a central sanitary sewer system. The City anticipates that all new growth occurring within the City will require central sewer service. Outside the City, sewer service availability and necessity depends upon location.

For the North Fields, an undeveloped area, County zoning requires 20 acres per lot. There is not a need for sanitary sewer service in that area, and there are no plans for the City or County to provide sewer in that area. Heber City has provided a handful of sewer connections to lots outside of the City that front Midway Lane in the North Fields, as the lots were within 300 feet of the sewer outfall line. There are numerous lots of record in the

North Fields that are less than five acres in size that are near the City's sewer outfall line. The City should not provide additional sanitary sewer services to the North Fields area.

For the South Fields, an undeveloped area, County zoning requires 20 acre minimum lot sizes in part of the area and five acre minimum lot sizes near the western edge of the City. There is not a need for sewer services in the area. A few non-conforming lots and homes exist on lots that are smaller than five acres.

The Sewer Fields, north of the Highway 189, are currently undeveloped and the city wishes them to remain so to protect the rural environment, provide a buffer zone between the city and surrounding cities/ and support lower sewer rates. If the sewer fields are not needed in the future, the City should consider annexation of this area and provide sanitary sewer service to the area. On the south western portion of the City's annexation expansion area, there may be a need to provide sanitary sewer service.

East of Mill Road, the County has formed the Twin Creeks Special Service District to provide sanitary sewer service. The zoning in the unincorporated County in the area permits lots of 1 acre in size and larger. The area has a mixture of lot sizes and has some non-conforming lots less than five acres in size that are serviced with septic tanks and drain fields. Given availability of the Twin Creek's Special Service District (TCSSD) sewer system, Heber City will not need to provide sanitary sewer service for the area. The City is capable in servicing portions of the TCSSD. The City could offer service to areas that contain existing homes or in areas where it is infeasible for the TCSSD to provide sanitary sewer service. However, the City will need to carefully coordinate such effort with the TCSSD to ensure that financing for the district is not harmed by providing that service. It is generally understood that the primary sewer provider for this area will be the TCSSD.

North of Coyote Lane and north of existing City limits, Wasatch County has formed the North Village Special Service District (NVSSD), and Jordanelle Special Service District (JSSD) which will be capable of providing sanitary sewer service to the North Village and southern portion of the Jordanelle Planning Area. The area is planned to have densities that necessitate sanitary sewer service. Similar to the TCSSD area, the City is capable in servicing portions of the NVSSD. The City could offer services or temporary services to areas that contain existing homes or in areas where it is infeasible for the NVSSD to provide sanitary sewer service. However, the City will need to carefully coordinate such effort with the NVSSD to ensure that financing for the district is not harmed by the City providing that service. It is generally understood that the primary sanitary sewer provider for this area will be the NVSSD.

WATER

Residential Densities in the North Fields and South Fields are low enough that homes will not need access to a central water supply for culinary or fire protection uses. Most, if not all existing homes in the area are serviced with individual culinary wells. Heber City does not intend to provide, and opposes extension of culinary water into these areas.

The Sewer Fields are currently undeveloped and the city wishes them to remain so to protect the rural environment, provide a buffer zone between the city and surrounding cities, and support lower sewer rates. If the sewer fields are not needed in the future, the City should consider annexation of this area and provide central culinary water service to

the area. On the south western portion of the City's annexation expansion area, there may be a more urgent need to provide water for culinary and fire protection purposes.

The TCSSD, JSSD, and NVSSD provide culinary water to the Twin Creeks area east of Mill Road, and much of the area north of Coyote Lane and the current City limits. The residential densities in the Twin Creeks area are about 1 unit per acre and generally require central culinary water. In the NVSSD and JSSD, densities exceed one unit per acre, and can approach 20 to 30 units per acre, necessitating culinary water service as well. The City is capable in servicing portions of the NVSSD, TCCSSD, and JSSD, but the overall demand and topography exceeds the City's ability to provide water service. The City could offer water services or temporary services to areas that contain existing homes or in areas where it is infeasible for the districts to provide culinary water service. However, the City will need to carefully coordinate such effort with the districts to ensure that financing for the district is not harmed by the City providing that service. It is generally understood that the primary culinary water provider for these areas will be the NVSSD, TCSSD, and the JSSD.

PRESSURIZED IRRIGATION

Pressurized irrigation is offered by Heber City, Special Service Districts, and the Central Utah Project (CUP) in many areas of the City's expansion area and unincorporated areas. In the unincorporated areas, irrigation is provided by a combination of canals, ditches and pressurized irrigation. In the North Fields, South Fields, TCSSD, NVSSD, and JVSSD, it is anticipated the CUP and/or Special Service Districts will provide irrigation water services. Heber City has its own pressurized irrigation system that relies on CUP facilities for access to irrigation water. Heber City will not offer irrigation services outside of its boundaries. As properties are annexed into the City, Heber City anticipates offering PI to properties as they develop, or having the Special Service District provide that service if the district provides that service. Consultation with districts, canal companies and the CUP will be necessary to determine how irrigation service will be provided.

POLICE AND ANIMAL SERVICES

Heber City has a Police Department that is responsible for police protection within its borders. Given Heber City's central location in the valley, Heber City Police often serve as the first responder outside of Heber City limits, particularly to higher density housing in the North Village and to commercial areas along Highway 40.

Heber City is unique in that many tourists pass through the City as they are enroute to nearby tourist destinations such as Strawberry Reservoir, Jordanelle Reservoir, Wasatch Mountain State Park, and Park City Ski Resorts. The primary transportation route from areas along the Wasatch Front to these destinations is Highway 40, which passes right through the middle of the City, and Heber City receives the tax benefits, as well as the crime and traffic that accompany the tourist visits.

Animal Services is provided by the Police Department. The Police Department also oversees various volunteer organizations such as CERT and VIPS that assist with emergency management and event management.

JUSTICE COURT.

Heber City provides a Justice Court that serves the needs for civil cases and non-felony crimes. Increases in population in and around the City, as well as increases to tourism in the valley, impact the Justice Court similar to the Police Department.

PARKS AND CEMETERY

Heber City's Parks and Cemetery Department provides maintenance services to City owned neighborhood parks, trails, cemetery, City buildings and grounds, downtown trees and planter strips, entrance features and other open spaces. Access to these facilities is open to the public, including residents of the unincorporated area. Heber City has a policy requiring at least 1.5 acres for any new City owned park. The City collects impact fees for parks and trails, based upon the Parks and Trails Component of the Heber City Capital Facilities Plan. As properties are annexed, the City should analyze the need for neighborhood parks in those areas, as well as the potential need for privately owned parks.

COMMUNITY DEVELOPMENT SERVICES

Heber City provides planning services through the staff of the Planning Department. The Building Department provides inspection to ensure compliance of all construction with the adopted International Building Code. The City's Engineer ensures compliance of new development with City Standards and Specifications.

PUBLIC WORKS

Heber City Public Works has responsibility for flood control, street, water, sewer, irrigation, storm drainage, street plowing and ditch and canal maintenance, excluding JSSD and NVSSD infrastructure.

PLANS FOR EXTENSION OF MUNICIPAL SERVICES

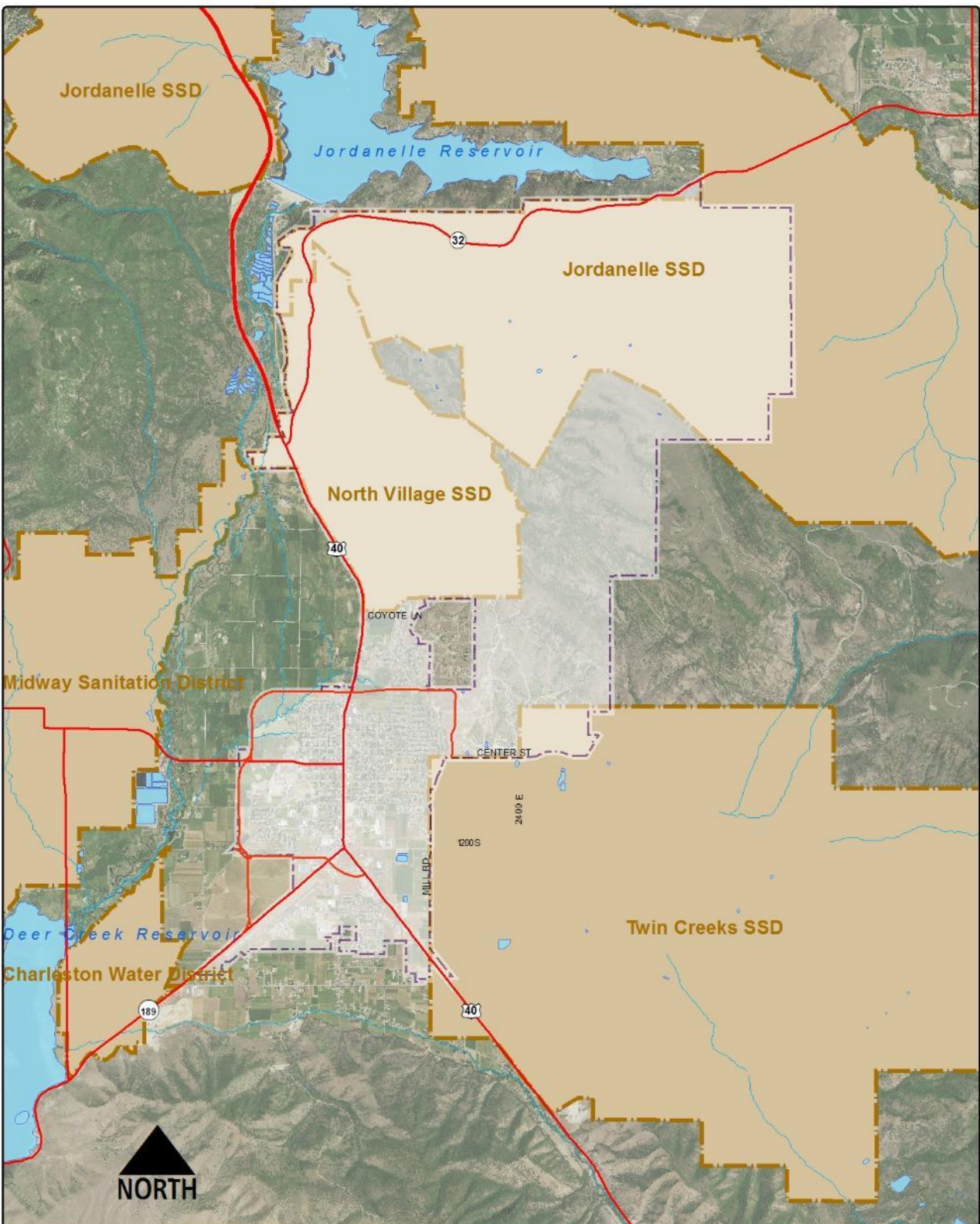
The plan for extension of municipal services is represented in the General Plan and the Capital Facilities Plan. This policy document is developed around the General Plan's Land Use Map. An important component of this extension of municipal services is the ability of the City to effectively serve these areas; therefore, development should be consistent with the General Plan, notwithstanding it may be amended from time to time. The Capital Facilities Plan is comprehensive in its analysis of utility needs, extension and financing of those facilities; therefore, a brief summary of its philosophy will suffice for the Annexation Policy Plan.

The City requires development to construct and dedicate all new public facilities needed for a new development. Heber City collects impact fees that upsize sewer, water, irrigation, and street facilities to meet the needs of development. As a condition of annexation, developments may be required to extend streets, water and sewer, and other vital public facilities consistent with the Heber City Public Facilities Master Plan. It is the policy of Heber City to extend a high quality of municipal services delivered efficiently

throughout the City, including areas of annexation. Such services may be provided directly by Heber City, through inter-local cooperative service agreements, or through creation of such special improvement districts as determined by Heber City to be in the best public interest of its citizens.

For areas located within a special service district, Heber City will rely upon the district to provide water, sewer, and irrigation services. The districts extend services when the services are needed or requested and do so in different ways. Developers often extend services, though the district has extended services as well.

Special Service District Locations



HOW MUNICIPAL SERVICES WILL BE FINANCED

Financing of services in the expansion area will be accomplished in the same manner as financing of infrastructure and services within the corporate limits. Infrastructure needed to service developed properties is installed at the expense of developers. Upon dedication to, and acceptance of the infrastructure by the City, maintenance is provided by the City with costs of operation and maintenance offset by a combination of property tax and sales tax revenues, class B and C road funds, and utility franchise fees. In addition the City will impose impact fees to offset the impact of offsite infrastructure systems needed for new development.

Heber City has adopted a Capital Facilities Plan that addresses future services for parks, trails, sewer, water, irrigation, and streets. The document identifies services that need to be addressed in order to accommodate growth areas at a level of service provided to current residents. This document serves as the basis for determining impact fee amounts and also the location and size of planned facilities such as streets, water, sewer and parks and trails. The Capital Facilities Plan is comprehensive in its analysis of utility needs and financing of those facilities; therefore, a brief summary of its philosophy will suffice for this Annexation Policy Plan.

New development is required to install the base sized facilities needed for their development. Impact fees are then used to upsize some of those facilities to accommodate new growth and development.

Upon an annexation petition, the City may require a developer to install offsite facilities as a condition of annexation. When a developer installs an offsite facility such as a road, waterline, or sewer line, the City, at the request of the developer, can put reimbursement agreements in place so that future development that benefits from those new services must pay their proportionate share back to the original developer.

The City requires all new development to provide water rights of the type and quantity as determined by the State Engineer that can be utilized for the City's culinary water supply and secondary irrigation system. Water rights are required to be conveyed to the City (or applicable Special Service District) prior to recording a subdivision plat, or prior to approval of a non-residential or multi-family residential building permit.

Another financing mechanism available to the City is the creation of a Special Improvement District or the creation of an Economic Development Area. The City should consider these options when a proposed development furthers the economic development or transportation goals of the City's General Plan, but these mechanisms should be used sparingly. A potential consideration could be an SID for 500 East between 1200 South and Highway 40, which provides a necessary transportation link in the City, but where the cooperation of several property owners is necessary to see that street constructed.

The Twin Creeks Special Service District, North Village Special Service District, and the Jordanelle Special Service District have plans for servicing their respective areas, separate from Heber City's water, irrigation, and sewer plans. The districts have adopted capital facility plans that specify necessary infrastructure to accommodate growth. The districts collect impact fees based on those plans to help pay for future infrastructure.

These impact fees are used to oversize facilities for future growth as well as pay for the extension of necessary infrastructure.

The districts have financed and extended infrastructure in various ways. In the past assessments on various properties were used to finance infrastructure. Currently the district relies more on impact fees. Developers usually install and dedicate the required infrastructure to the Special Service District, and the district can reimburse developers or put reimbursement agreements in place. Once constructed, the county Special Service Districts will operate and maintain such dedicated infrastructure. Developers can also prepay impact fees to move a planned Capital Facility Project forward sooner to accommodate a proposed development. If an area within a Special Service District is developed in the City, Heber City will need to ensure that impact fees are collected by the district prior to issuing a permit.

The Special Service Districts have limited capacities. Any development proposed within the City, within those respective districts, should closely consult with the SSDs to ensure service availability and available capacity to provide services. New developments should have a density near those planned for in the unincorporated area.

Between the three Special Service Districts, several different water rights may be used. The water rights and system is complex, and Wasatch County has established a Water Board to review water related issues for proposed developments. Wasatch County's water right process differs from Heber City's process in that the Water Board must review all developments prior to the developments receiving entitlements (see figure below). Heber City should establish a policy whereby City development located within a Special Service District should comply with established County Water Board processes. The City should consider requiring annexation petitioners to complete the first steps during the annexation process so the City can place conditions of annexation within an annexation agreement.

The Special Service Districts have differing definitions of Equivalent Residential Units (ERUs) for sewer versus water. Water right requirements vary between the various districts. Differences may exist between district and City water right and ERU definitions.

Wasatch County Water Board Process for Development

Development Path		
COUNTY	DEVELOPER	DISTRICT
		1. "Water Supply" Review
		2. Feasibility Letter (not a will serve letter)
3. Development Water Review Panel (Action Plan) Chapter 10.01		
4. Master Plan Chapter 16		
		5. Draft Will Serve Letter
6. Preliminary Approval		
		7. Source, Delivery, Treatment, Storage - Development Agreement - Applicable Fees and Associated Costs - Account Current = Proceed - Not Current = Stop
		8. Will Serve Letter
9. Final Approval		

ESTIMATE OF TAX CONSEQUENCES TO RESIDENTS BOTH CURRENTLY WITHIN THE CITY AND IN THE EXPANSION AREA

Annexing into any municipality will increase the tax liability for property owners. Table 1 below illustrates the tax implications for primary homes, secondary homes, and businesses. Current state law levies taxes on the full property value for secondary homes and non-residential land. Property taxes on primary homes are levied against 55% of the assessed value. The added annual tax for the owner of a primary home in the City valued at \$300,000 would be \$220.28. The added annual tax for a business in the City valued at \$500,000 would be \$667.50.

Property Tax Consequences (2016)

Type	Value	Unincorporated Tax Amount (1.1460%)	Incorporated Tax Amount (1.2795%)	Difference
Primary Dwelling	\$300,000	\$1,890.90	\$2,111.18	\$220.28
Business or Secondary Dwelling	\$500,000	\$5,730	\$6,397.50	\$667.50

Heber City does not intend to raise property taxes for the City as a result of annexation of any specific properties within the proposed annexation area. In considering proposed annexations, Heber City will assess the existing capacity of services, along with the additional demand for services that will be required of the City as a result of the annexation. Additional service demands from unincorporated areas will be weighed against potential revenues and other benefits that can be expected to accrue to the City as a result of the proposed annexation. The potential revenue and benefits may include 1) Property tax; 2) Sales tax; 3) Utility hookup fees; 4) Utility Franchise Fees; 5) Impact fees; and 6) exaction or related fees based on rough proportionality to city and county costs; 7) Intangible benefits that accomplish a stated goal of the General Plan or other City planning document. The City Council will weigh these factors in determining whether or not to grant a petition for annexation.

INTERESTS OF AFFECTED ENTITIES

The affected entities are municipalities, the school district, special service districts and County government. It is important that the affected entities be involved during the annexation process

The school district should coordinate their future development and facility needs consistent with the growth plans for the City. The County should have growth policies that reinforce and are complementary to the City's growth policies so that a cooperative and coordinated development within the County and City occur.

The effect of annexation on the tax base of the County will be either neutral or positive. Annexed properties will continue to pay Wasatch County property tax assessments. It is likely that the value of these properties will increase when improved by municipal services resulting in a net increase in tax revenue to Wasatch County. Wasatch County also benefits from annexations by reduced cost of service to annexed properties.

The Wasatch County School District serves the entire County and benefits from annexation by receiving additional tax revenue as property values increase. New residential development obligates the District to educate new students. New commercial and industrial development will be a windfall increase in tax revenue to the District.

Heber Light & Power (HLP) is not an affected entity, but is impacted by Heber City annexations. HLP is required to provide power service within Heber City Limits. If an annexation includes customers being served by another power provider, Utah law would require HLP to reimburse the other power provider "for the value of each facility used to serve each electric customer within the annexed area . . . [and] dedicated to provide service to the annexed area." *Utah Code Ann.* §10-2-421(2). The "value" or purchase price is based on data and costs provided to HLP by the other power provider. The annexation agreement shall provide: (1) that the parties seeking annexation shall pay HLP for its cost of acquiring the other provider's facilities required to serve the customers in the annexed area and (2) that these costs not be borne by Heber City and its residents or by HLP and its customers.

STATEMENTS MADE BY AFFECTED ENTITIES AT APRIL 27, 2017 PUBLIC MEETING

On April 27, 2017, the Heber City Planning Commission hosted a public meeting with Affected Entities to receive comments on the proposed amendment to the City's Annexation Policy Plan. Ron Phillips, Director of the Special Service Districts, submitted a letter listing the concerns of the SSDs in relation to the City's potential adoption of an amended expansion that includes portions of the SSDs, shown below.

Subsequent to that meeting, Heber City and Wasatch County discussed various issues additional concerns pertaining to services, utilities, transportation and zoning that have illustrated the need to update the plan and the General Plan.

Special Service District Written Concerns (page 1 of 3)



Jordanelle Special Service District

P.O. Box 519
Heber City, UT 84032
OFFICE: (435) 654-9233
FAX: (435) 657-9582

May 8, 2017

Heber City Planning Commission
Attn: Keith Rawlings, Chairman
75 North Main Street
Heber City, UT 84032

RE: Comments on the Proposed Heber City Annexation Policy Plan

Mr. Rawlings:

Thank you for the opportunity to provide comments on Heber City's proposed amendment to its Annexation Policy Plan (the "Annexation Plan"). The Wasatch County Council, acting as the Governing Board of the Jordanelle Special Service District ("JSSD"), the North Village Special Service District ("NVSSD"), and the Twin Creeks Special Service District ("TCSSD"), has asked me to submit these comments as the Annexation Plan includes land within the existing boundaries of JSSD, NVSSD, and TCSSD. JSSD, NVSSD, and TCSSD are separate legal entities, but are managed in coordination with each other, sharing costs of staff and overhead to provide greater efficiency to the public. I serve as the General Manager of the three Districts, and submit these comments on behalf of the Governing Board each of the three Districts.

As an initial matter, it is important to comment on what is *not* in the Annexation Plan posted for public review in advance of the April 27, 2017 Planning Commission meeting. Utah law requires that each annexation policy plan include the following, along with a map of the expansion area:

- A statement of the specific criteria that will guide future decisions on annexation petitions, addressing:
 - The character of the community;
 - The need for municipal services in undeveloped and developed unincorporated areas;
 - The municipality's plans for extension of municipal services;
 - How the services will be financed;
 - An estimate of the tax consequences to residents already within the municipal boundaries and in the expansion area;
 - The interests of all affected entities, such as special service districts; and
- A justification for excluding from the expansion areas containing urban development within ½ mile of the municipality's boundary

Wasatch County's SSD Written Concerns (page 2 of 3)

As far as the Districts can tell from documents posted for public review, the Annexation Plan consists of an old Annexation Policy Plan, dated June 1, 2006 (the "2006 Plan"), coupled with a new map (the "2017 Map"). The 2006 Plan contains only very generalized statements regarding the criteria listed above, which do not provide the Districts — or the general public — with enough information to assess the ramifications of annexation of unincorporated areas. As just one example, in addressing the tax consequences of annexation for current and future residents, the 2006 Plan simply states that: "It is anticipated that areas annexed into the City will increase in value, and the tax assessment on newly developed areas, along with impact fees, development fees, and additional revenue assessments will generate revenue to help support the new services." 2006 Plan, at p. 7. The Districts find this statement to be unhelpfully vague. If revenues from annexed areas merely "help support" the new services, will current residents of Heber City need to fund the balance of the cost of services? Furthermore, it is not clear why the City believes that land will automatically increase in value upon annexation into the City, especially when the land already has access to water and sewer services from the Districts. In short, the Districts do not believe the general statements in the 2006 Plan — which are now over a decade out of date — adequately address the specific criteria required by Utah law.

Moreover, the 2017 Map encompasses large swaths of additional land that were not considered by the 2006 Plan. Nothing in the 2006 Plan addresses the factors listed above with respect to the area encompassed by the 2017 Map, which contemplates annexing areas far removed from the City's existing infrastructure, and already served by infrastructure owned and operated by the Districts. For instance, NVSSD owns extensive culinary water infrastructure in the proposed annexation area, as well as extensive water rights necessary to serve those areas. The City's Annexation Plan does not even acknowledge these facts, let alone explain why it is necessary or prudent, in the City's view, to annex areas that already have access to municipal services. The District believes that the City must address the factors listed above as they apply to the new areas proposed to be included in the new expansion areas.

In addition, Utah law requires the City to consider the following:

- Population growth projections for the city and adjoining areas for the next 20 years;
- Current and projected costs of infrastructure, urban services, and public facilities necessary to facilitate full development within the city and to expand infrastructure, services, and facilities into the expansion area;
- The need for additional land over the next 20 years for additional land for residential, commercial, and industrial development;
- The reasons for including agricultural lands, forests, recreational lands, and wildlife management areas in the municipality;

Again, the Annexation Plan put forward by Heber City consists solely of the 2017 Map showing new areas eligible for annexation, coupled with the 2006 Plan. Both the 2017 Map and the 2006 Plan are completely silent as to the four factors listed above. There are no population growth projections, no projected costs of infrastructure, and no explanation why the City needs the vast amount of land encompassed by the 2017 Map.

Wasatch County's SSD Written Concerns (page 3 of 3)

Finally, Utah law requires the Planning Commission to be guided by certain factors as it develops, considers, and adopts an annexation policy plan. Specifically, if practical and feasible, the boundaries of areas proposed for annexation must be drawn:

- Along the boundaries of existing special service districts;
- To eliminate islands and peninsulas of territory that are not receiving municipal-type services;
- To facilitate the consolidation of overlapping functions of local government;
- To promote the efficient delivery of services; and
- To encourage the equitable distribution of community resources and obligations.

The Annexation Plan is again silent on all of these matters. There is no explanation as to why it is not practical or feasible to draw the annexation area along the boundaries of the three Districts, rather than swallowing up large portions of all three. There is no analysis as to how annexing the areas within the expansion area will promote efficient delivery of services. Nor is there any discussion of how the City intends to encourage the equitable distribution of community resources and obligations.

Given all these omissions, the Districts object to the adoption of the Annexation Plan in its current form. Moreover, even if the City amends the Annexation Plan to address the omissions described above, the Districts are fundamentally concerned about annexation of any land within their defined service areas. The Districts acquired water rights and designed infrastructure based on anticipated densities in unincorporated areas. If the City annexes areas within the Districts' service areas and increases allowable densities, the Districts may not have enough water to serve the new residents, and existing infrastructure may not have the required capacities.

Finally, the TCSSD specifically objects to the annexation of areas east of Mill Road and the Wasatch/Humbug Canal. As Heber City staff acknowledged at the April 27, 2017 Planning Commission meeting, there has been a "gentlemen's agreement" between the City and Wasatch County that the City would not annex that area. TCSSD requests that the City honor that agreement and remove that area from its annexation expansion area.

Sincerely,



Ron Phillips
General Manager of JSSD, NVSSD, and
TCSSD

cc: Mayor Alan McDonald
Mark Anderson, City Manager

Responses to Special Service District May 8, 2017 Letter

Concern	Response
The draft Annexation Policy Plan lacks detail for the 8 points required by Utah Code, Section 10-2-401.5 (3)	The text of the draft Annexation Policy Plan has been modified to specifically address the required 8 points of Utah State Code, Section 10-2-401.5 (3) (b), and the 5 points of Utah State Code, Section 10-2-401.5 (4).
The draft Annexation Policy Plan lacks detail for the 5 points required by Utah Code, Section 10-2-401.5 (4)	
Why don't the annexation boundaries follow SSD Lines?	The map has been modified to follow JSSD and TCSSD boundaries.
The Districts are fundamentally concerned about annexation of any land within their defined service area. If the City annexes areas...and increases densities, the Districts may not have....capacities.	It is the intent of the City to establish land uses in the General Plan that have densities no more than envisioned by Wasatch County within the district areas so district capacity will not be an issue. A General Plan Amendment to the Land Use Plan will be adopted in conjunction with the Annexation Policy Plan that solidifies this commitment.
TCSSD...objects to the annexation of areas east of Mill Road and the Wasatch/Humbug Canal.	The area east of Mill Road has been removed from the expansion area map.
Utah law requires the [City] to be guided by certain factors.....the Annexation Plan is silent on all of these matters.	The Annexation Policy Plan incorporated the guidance of Utah Code, Section 10-2-403 (6) into the Annexation Policy Plan.
Why is it...necessary and prudent to annex areas that already have municipal services?	By state statute, the City as a normal course of business cannot annex properties on its own, annexations occur through petition of private property owners. The expansion area gives property owners the choice of services between Heber City or Wasatch County.



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING:	June 11, 2024
NAME OF PROJECT:	Midway Growth Boundary Expansion
NAME OF APPLICANT:	Midway City
AGENDA ITEM:	Land Use Map Amendment
LOCATION OF ITEM:	North and South Fields
ZONING DESIGNATION:	A-20, PF, and RA-5
PROPOSED ZONING:	Inclusion in the Transient Rental Overlay District

ITEM: 3

Midway City is proposing an amendment to the City's Land Use map. The proposal is to extend the Midway Growth Boundary which would allow potential annexation of the area into Midway. The expansion area would generally follow the east bank of the Provo River into the North Fields from State Route 113 to the River Meadows Ranch area. The proposed extension boundary may also include areas south of State Route 113 along the east side of the Provo River south to the Caspersville Road area.

BACKGROUND:

During the last revision of the General Plan during 2022 and 2023, there was much discussion regarding open space in and around Midway and how best to preserve open areas. The discussion focused on the North Fields for several reasons that discussion included preserving agricultural land, preserving the Provo River corridor, and maintaining open areas between Midway and surrounding cities and towns. It was determined that one of the best ways to do this is to allow the

properties to annex into Midway and for that to be possible, those properties must be in the Midway Growth Boundary. State law requires that a city establish a growth boundary (annexation declaration) so that a property may be considered for annexation. Simply, if a property is not in the growth boundary, a city may not consider annexation of that property.

This discussion started in the Land Use committee that was formed to review and make recommendations for possible revisions to the land use chapter of the General Plan. The committee recommended to the Planning Commission language that included expanding Midway's growth boundary to the east. The Planning Commission reviewed that recommendation and recommended to the City Council to also adopt language into the General Plan. The City Council then reviewed those recommendations and adopted the following language into the 2022 Midway General Plan on page 14:

Land Area and Annexation

Midway is bounded on the north and west by mountains, on the east by the Provo River and on the south by Deer Creek Reservoir. Much of the land within that area is already part of the City. **Midway should consider increasing its growth boundary, including areas adjacent to the North Fields and the area along River Road to the Hwy 40 intersection.** Key to annexation decisions is the impacts on existing land uses, particularly water resources. For more information, please see the Midway City Annexation Policy Plan.

ANALYSIS:

There are several reasons why the General Plan contains this language which include the following:

- The current open space bond can only be considered in areas that are located within Midway's growth boundary area. By including more land in the growth boundary, Midway can consider contributing funding to those areas which support goals in the General Plan such as securing more open areas between Midway and surrounding communities. Including these areas in the growth boundary could help Midway reach this goal. Midway has considered a second open space bond, and if the language for that bond is the same as for the first bond, extending the growth boundary would make it possible for the City Council to consider more property for preservation than is currently possible.
- The growth boundary helps create a buffer from surrounding communities which is a goal stated in the General Plan. State Code does not prohibit, but it does discourage the overlapping of growth boundaries of different cities. If Midway's boundary is expanded, it's less likely that surrounding communities will include those areas in their growth boundaries.

- Midway gains control over the land use laws in the areas that are annexed into the City. Currently lands in the North Fields are in Wasatch County's jurisdiction and the county's land use laws govern the area. If those properties are annexed into Midway, Midway determines the land use laws that will control land use and those laws will support the vision and goals in the Midway General Plan.

Staff are seeking direction from the Planning Commission that will help us as we commence the process to consider increasing the growth boundary. One of the requirements in the State Code regarding increasing the boundary includes noticing of affected entities. Staff would like to know the approximate location of the proposed boundary so we can determine which entities will receive notice.

A second item that will be considered is the proposed zoning that will be designated by Midway of any property that is included in the expanded growth boundary area. Currently the County has three zones in this area. The first is the Public Facilities zone (PF) which includes federally owned property along the Provo River. The second is the A-20 zone which includes the privately owned property in the North Fields and South Fields. Some of the property in the North Fields is also designated as Agricultural Protection Areas. A third zone that might be included, depending on how far south the City expands the boundary, is the RA-5 zone which is a residential-agricultural zone with a minimum area of five acres. It's unlikely that Midway will want to designate the areas in the proposed expansion with any of the zones that Midway currently has because of their relatively high density. It will be necessary to create new zones that more closely match the current County zoning. These new zones will need to be adopted into the Land Use Code before the growth boundary is extended.

Attached is a copy of the City's current Land Use Map to this report and a copy of the County's Zoning Map also.

Staff has created three options to consider regarding expanding Midway's growth boundary. The Planning Commission may choose to recommend to the City Council one of the three options or a modified version of any of the options.

POSSIBLE FINDINGS:

- Midway's General Plan encourages expanding the City's growth boundary to the east side of the Provo River.
- If the growth boundary is expanded, Midway may consider using open space bond funds in the expanded area.
- An expanded growth boundary will help Midway match the vision described in the General Plan of preserving open space and preserving open areas between Midway and surrounding communities.

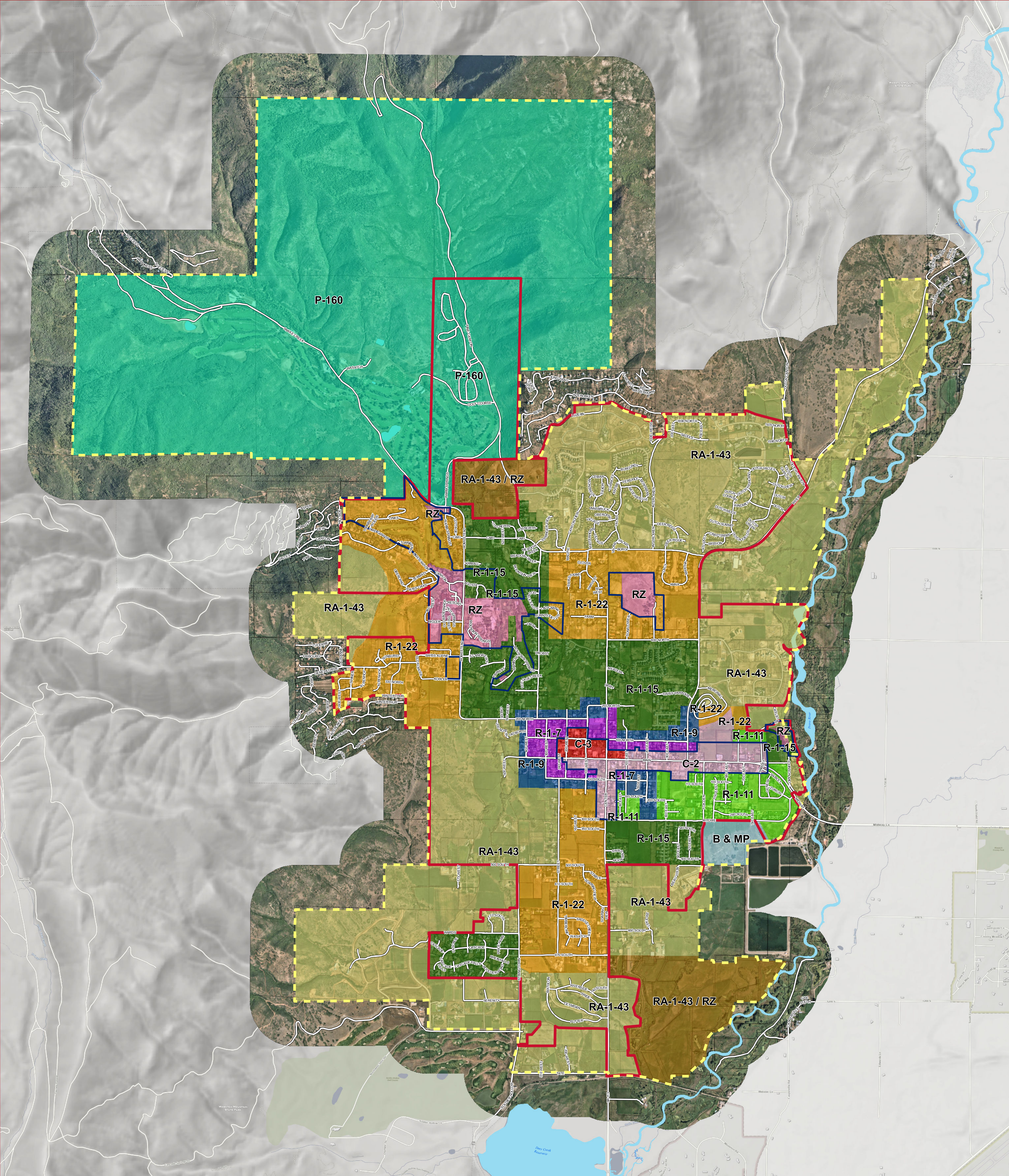
- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval (conditional). This action can be taken if the Planning Commission finds proposal is acceptable and is in the community's best interest.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the Planning Commission finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Recommendation of Denial. This action can be taken if the Planning Commission finds that the request is not acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

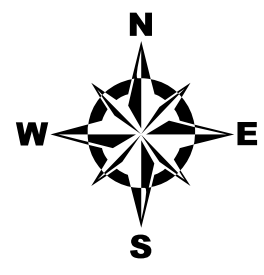
Midway, Utah - Land Use

2/22/2022



Legend Zoning

B & MP	R-1-15	RA-1-43	Midway City Boundary
C-2	R-1-22	RA-1-43 / RZ	Midway Growth Boundary
C-3	R-1-7	RZ	TROD
R-1-11	R-1-9	P-160	Roads

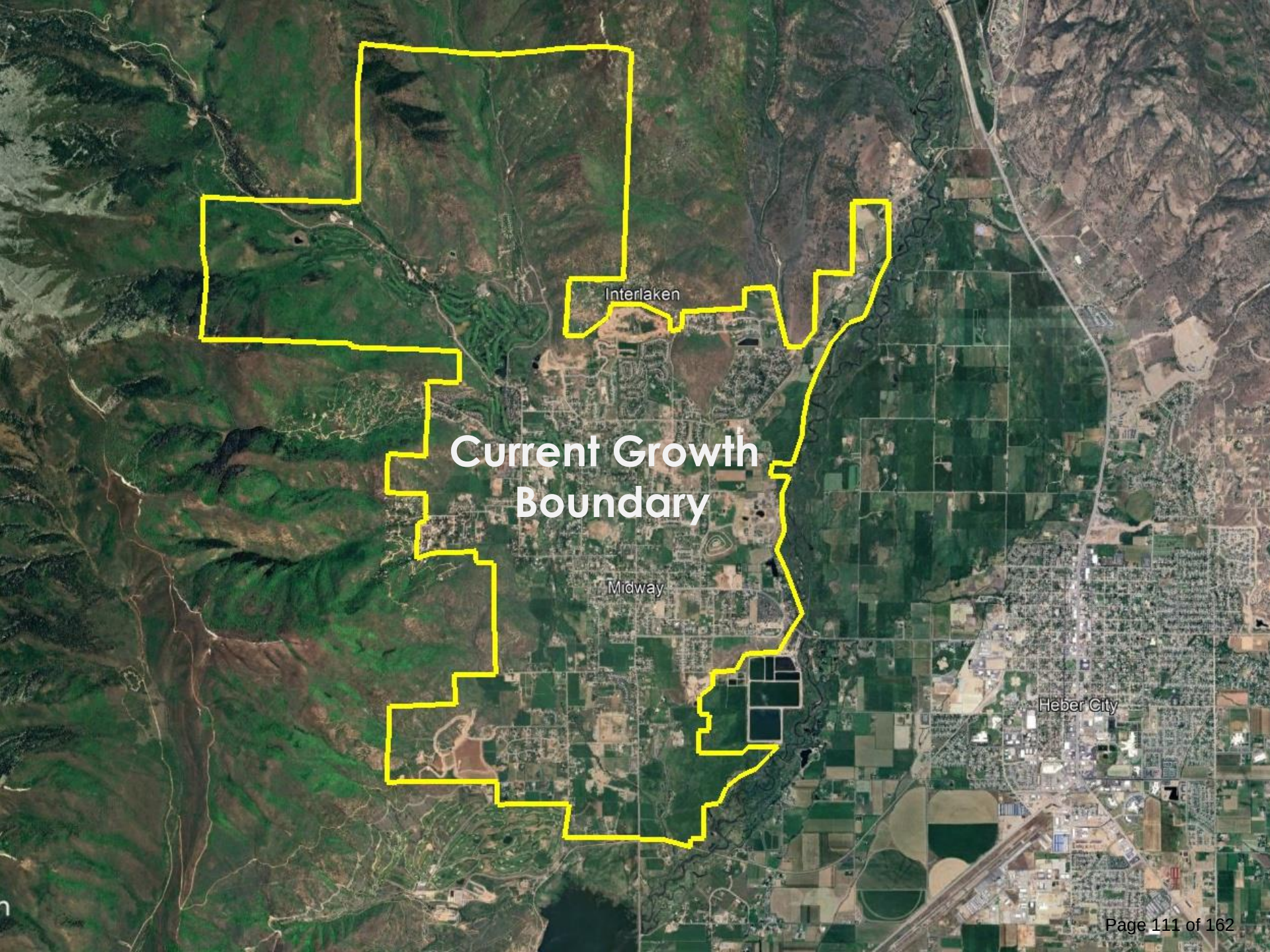


0 0.125 0.25 0.5 0.75 1 Miles



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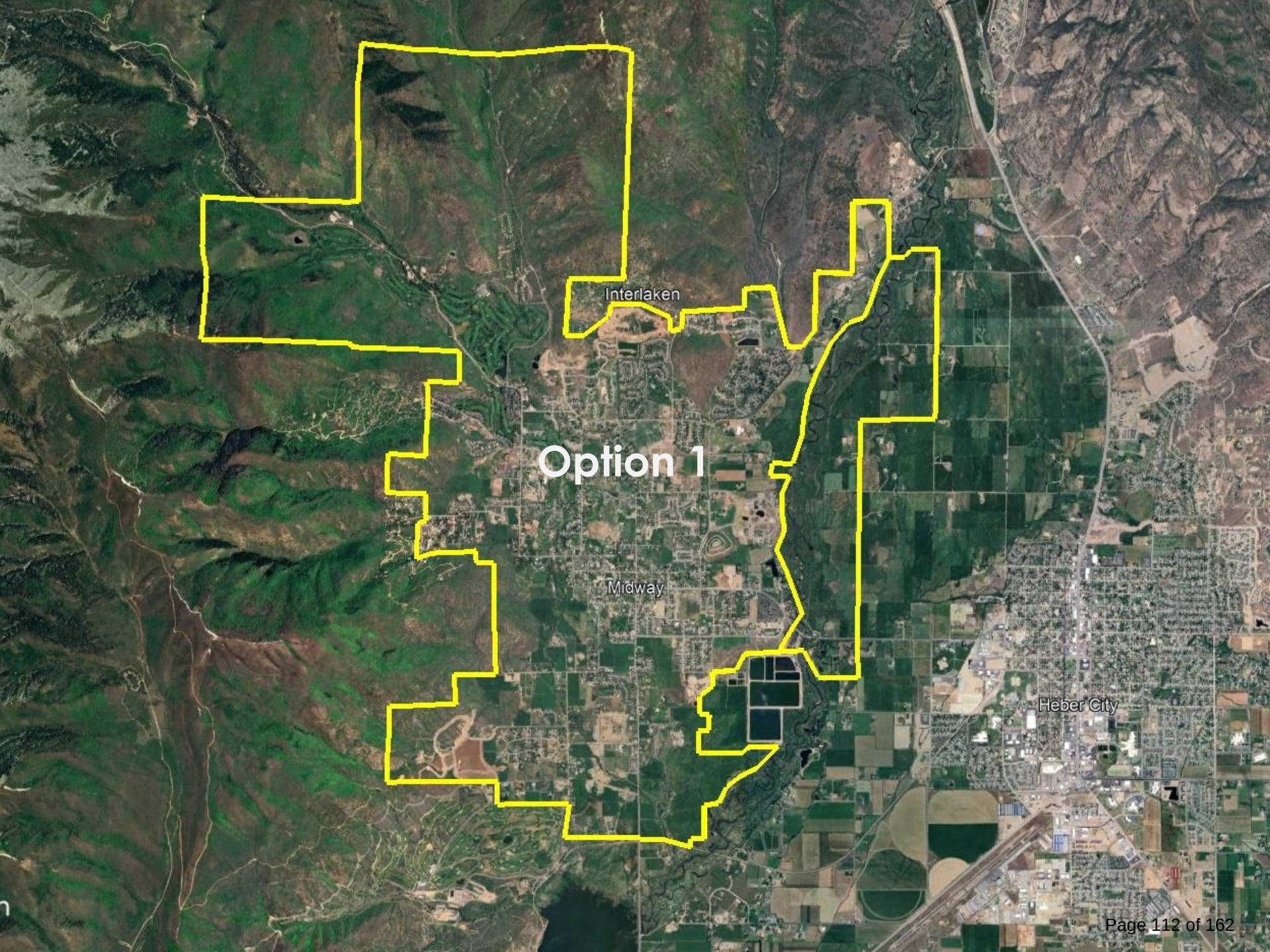


Interlaken

**Current Growth
Boundary**

Midway

Heber City

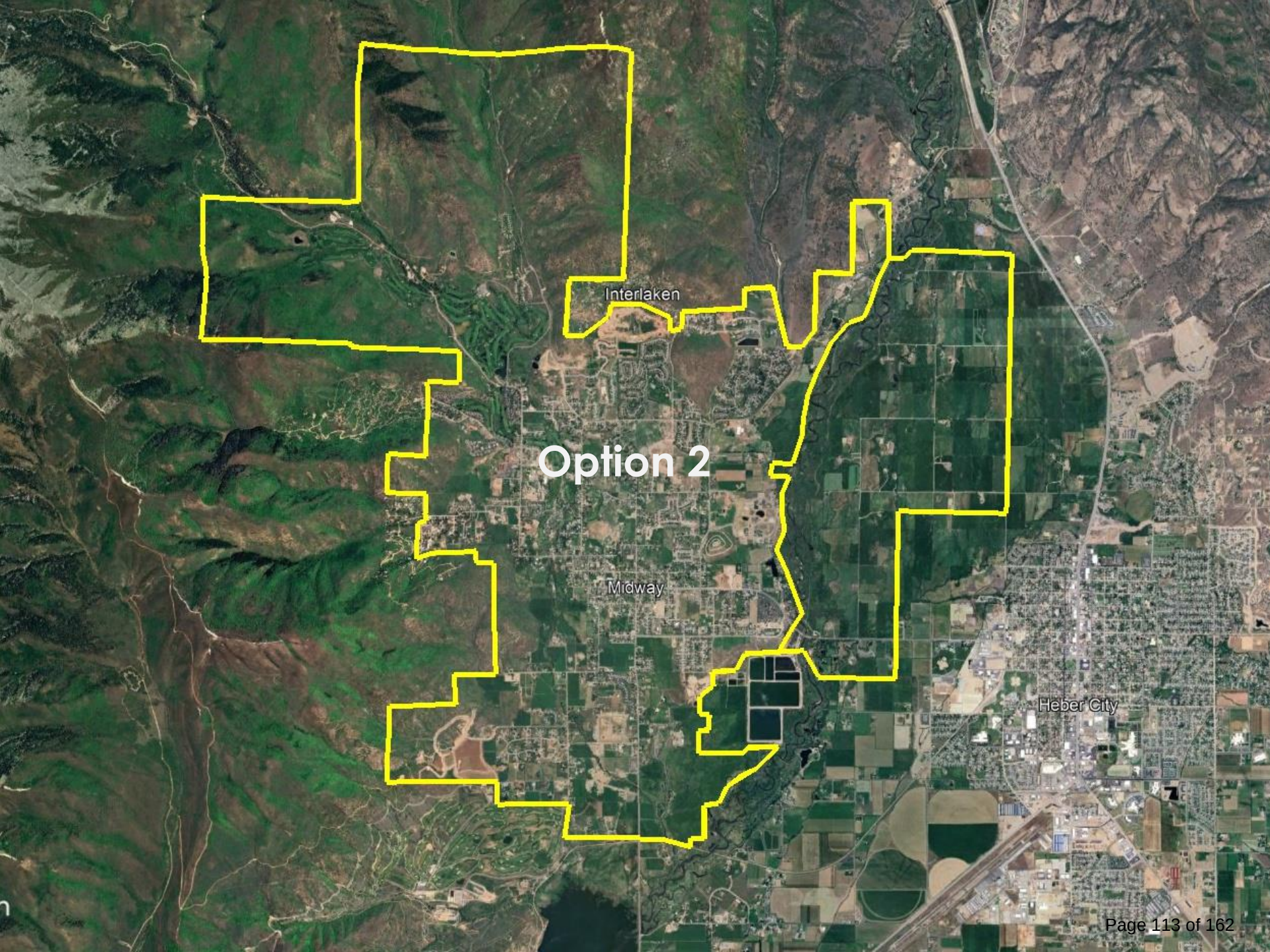


Interlaken

Option 1

Midway

Heber City

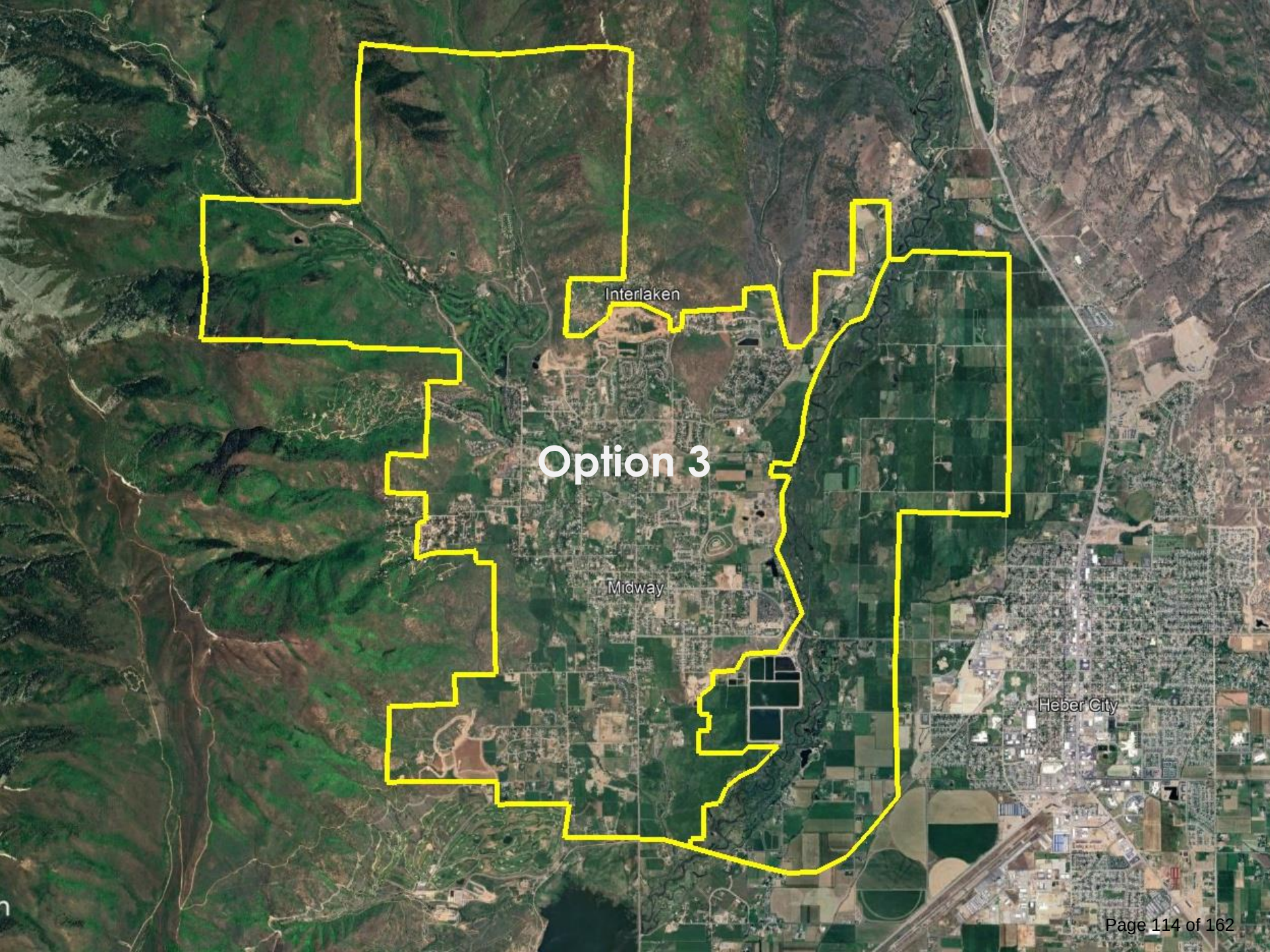


Option 2

Interlaken

Midway

Heber City



Option 3

Interlaken

Midway

Heber City

10-2-401.5. Annexation policy plan.

- (1) No municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.
- (2) To adopt an annexation policy plan:
 - (a) the planning commission shall:
 - (i) prepare a proposed annexation policy plan that complies with Subsection (3);
 - (ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;
 - (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;
 - (iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);
 - (v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);
 - (vi) hold a public hearing on the proposed annexation policy plan;
 - (vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;
 - (viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and
 - (ix) submit the planning commission's recommended annexation policy plan to the municipal legislative body; and
 - (b) the municipal legislative body shall:
 - (i) hold a public hearing on the annexation policy plan recommended by the planning commission;
 - (ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;
 - (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and
 - (iv) adopt the recommended annexation policy plan, with or without modifications.
- (3) Each annexation policy plan shall include:
 - (a) a map of the expansion area which may include territory located outside the county in which the municipality is located;
 - (b) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:
 - (i) the character of the community;
 - (ii) the need for municipal services in developed and undeveloped unincorporated areas;
 - (iii) the municipality's plans for extension of municipal services;
 - (iv) how the services will be financed;
 - (v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and
 - (vi) the interests of all affected entities;
 - (c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and

- (d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).
- (4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:
 - (a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;
 - (b) consider population growth projections for the municipality and adjoining areas for the next 20 years;
 - (c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:
 - (i) to facilitate full development of the area within the municipality; and
 - (ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;
 - (d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;
 - (e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and
 - (f) be guided by the principles set forth in Subsection 10-2-403(5).
- (5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.
- (6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.



Dear Mayor Heidi Franco,

I wholeheartedly recommend Mark Rounds for his exceptional dedication and tireless efforts in overseeing the Parks remodeling and water feature beautification projects. As the Director of Parks & Cemetery, Mark has consistently demonstrated his commitment to enhancing our community spaces.

Mark's leadership has been instrumental in transforming our parks into vibrant, welcoming environments. His vision and attention to detail have resulted in the well-received water feature that not only beautifies our city but also provide a sense of tranquility for residents and visitors alike.

Furthermore, Mark's ability to manage resources efficiently and collaborate with various stakeholders has been commendable. He understands the importance of balancing aesthetics, functionality, and sustainability in park design, ensuring that our green spaces remain accessible and enjoyable for everyone.

As a long-time resident of Heber City, Mark actively seeks input from residents, listens to their ideas, incorporates their feedback, and then communicates with the City Council about park improvements. His inclusive approach fosters a sense of ownership and pride among Heber City residents.

Overall, Mark Rounds has significantly contributed to the betterment of our community. His passion for creating beautiful, well-maintained parks and his unwavering commitment to excellence make him an asset to Heber City.

Sincerely,

Cherie Ashe
Human Resources Manager
Heber City

Nominator:

Cherie Ashe

Nominee:

Mark Rounds

Date:

06/20/2024

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
June 18, 2024

DRAFT Minutes

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

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

Mayor Pro Tem Aaron Cheatwood called the meeting to order at 4:00 p.m. and welcomed everyone present.

City Council Present: Council Member Yvonne Barney - arrived 4:05 p.m.
Council Member Aaron Cheatwood - Mayor Pro Tem
Council Member Mike Johnston
Council Member Sid Ostergaard
Council Member Scott Phillips

City Council Absent: Mayor Heidi Franco

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
Finance Manager Sara Jane Nagel
Planning Manager Jamie Baron
Planner Jacob Roberts
City Engineer Russ Funk
Public Works Director Matthew Kennard
City Attorney Jeremy Cook
City Recorder Trina Cooke

Staff Participating Remotely: IT Director Anthon Beales, Community Development Director Tony Kohler, Engineering Administrative Assistant Desiree Muheim, Assistant City Manager Mark Smedley, Public Works Director Matthew Kennard, Deputy City Recorder Robin Raines-Bond, City Engineer Russ Funk, Engineer Ross Hanson, and Finance Director Sara Nagel.

Also Present: Kent Shelton, Alison Kudlow, Shellie Barrus, Jason Glidden, Megan McKenna, Angelica Espinoza, Lori Haslem, Brian Balls, Greg Whitehead, Beau Thompson, Scott Dosch, Tracy Stratton, Russell Skousen, Rachel Kahler, Kendall Crittenden, Si Hutt, Jeremy Smith, Cortney Smith, Spencer Coleman, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (names are shown as signed in online) Neil Goldman, Oscar Covarrubias, ALK, Andrew, Andy Dorobek, Bingo, cf, Chloe, Cw, Denna Computer, DW, Grace Doerfler, J, Julie M, Justin Keys, Kelli, Mark, oscar, RSkousen, S, and the Wasatch County Library.

1. Housing Presentation by Steve Waldrip, Utah State Senior Advisor for Housing Strategy and Innovation (Tony Kohler, Community Development Director) - 55 min

Community Development Director Tony Kohler introduced the specialists present to participate in the first annual Heber Valley Housing Forum. Steve Waldrip, Senior Advisor to the Governor for Housing Strategy and Innovation for the State of Utah, provided background on the housing challenges faced locally, across the State, and Federally. He shared options to assist with solutions, as included in the attached presentation. He invited the Council to reach out to him with any questions or to share suggestions and comments.

Council discussion followed regarding the benefits of deed restriction as well as possible solutions to address the affordable housing need locally.

2. Mountainlands Community Housing Trust: Managing deed restrictions for affordable housing (Tony Kohler, Community Development Director) - 55 min

Mountainlands Community Housing Trust was present to speak about their organization, deed restrictions, and other services offered by their organization. Executive Director Jason Glidden explained the business model to provide housing for people, not for profit. They were a developer that had partnered with Wasatch County Housing Authority and Summit County to provide affordable housing in the communities. He shared a presentation as attached in the meeting materials, containing information of services they provided, reviewed ongoing projects, and shared examples of past projects completed.

Megan McKenna was the Housing Advocate for the Housing Resource Center within Mountainlands. She was a former school teacher in Summit County who found herself unable to afford the purchase of a home in the community in which she worked. Angelica Espinoza was the Housing Navigator at the Housing Resource Center. She described how deed restrictions helped to preserve the affordable housing inventory. They shared the methods used in their Advocate and Navigator roles. Mr. Glidden shared challenges faced to continue providing the product they offered. Council discussion followed.

II. BREAK - 10 MIN

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

1. Call to Order

Mayor Pro Tem Aaron Cheatwood called the meeting to order at 6:20 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Mike Johnston, Council Member)

Council Member Mike Johnston led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Aaron Cheatwood, Council Member)

Council Member Cheatwood shared a prayer.

IV. CONFLICT OF INTEREST DISCLOSURE:

Council Member Ostergaard disclosed he had worked with Philo in the past but he was not under contract nor did he have any association with the current project.

Council Member Johnston disclosed that his company was working with Philo on the project but he was unassociated. He added that his only interest was Heber City.

V. CONSENT AGENDA:

Motion: Council Member Phillips moved to accept the Consent Agenda as presented. **Second:** Council Member Johnston made the second.

Discussion: City Manager Matt Brower asked Council to allow City Attorney Jeremy Cook the opportunity to speak to the Council about item two on the Consent Agenda regarding the Harvest Hills Annexation MOU (memorandum of understanding) with the County.

New Motion: Council Member Phillips moved to remove item two from the Consent Agenda and place it fourth on the Action Items agenda. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

1. Approval of June 4, 2024, City Council Meeting Minutes (Trina Cooke, City Recorder)

Motion: Council Member Phillips moved to accept the minutes from the last meeting. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

2. Harvest Hills Annexation MOU (Memorandum of Understanding) with the County (Jeremy Cook, City Attorney)

The meeting returned to this agenda item for discussion after Action Item five.

City Attorney Jeremy Cook explained the MOU (Memorandum of Understanding) with the County was needed because the proposed annexation would create an island in the City. He added that the annexation might conflict with the bypass route. Mr. Cook recalled that the Council had previously voted to keep all bypass options open. The Council had also voted to allow the proposed annexation to proceed with negotiations with the City. He felt the two decisions conflicted and asked for clarification. Council discussion followed regarding the potential bypass route, the benefits of annexing the area into Heber City rather than leaving it in the County with the existing entitlements, and development possibilities for the land. General consensus of the Council was to approve the MOU but not approve development agreements until a bypass route was confirmed.

Neil Goldman, representing Harvest Village, expressed agreement with the need for a bypass and the preservation of the North Fields. His concern was that development would be postponed indefinitely if required to await the determination of a bypass route. He proposed an end-time for the route to be established in order to allow development to proceed at some point.

Council Member Barney wanted to be clear that she would not approve any annexation into the City.

Motion: Council Member Johnston moved to approve the Harvest Village Crossings Annexation Memorandum of Understanding with Wasatch County which provides a framework and scope of work and terms and conditions to leave an unincorporated island. **Second:** Council Member Phillips made the second.

Discussion: Council Member Phillips wished to remind everyone that the County had approved a water-park for the location.

Vote: Voting Yes: Council Members Phillips, Ostergaard, Cheatwood, and Johnston. **Voting No:** Council Member Barney. The **Motion Passed 4-1.**

The meeting returned to the Action Items agenda item four for discussion.

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

No one from the public came forward to comment.

VII. GENERAL BUSINESS ITEMS:

1. Habitat for Humanity Presentation (Tony Kohler, Community Development Director) - *20 min*

Shelly Barrus and Parry Harrison representing Habitat for Humanity for Summit and Wasatch Counties described an ongoing project locally as well as other ongoing projects in surrounding areas. The program could offer homes that could serve 30-60% AMI (area median income) by offering 80% AMI homes as well. Ms. Barrus explained that deed restrictions ensured affordability for generations and shared a presentation as included in the meeting materials. The community could find volunteer opportunities by visiting habitat-utah.org. Council discussion followed.

2. Discussing Potential Updates to the Sign Code regarding the Amount of Required Landscaping around Free-Standing Monument Signs (Jacob Roberts, Planner) - *20 min*

Planner Jacob Roberts presented the request to lessen the landscaping requirement around a sign for a new building on Main Street. Staff recommended that the City sponsor a code update to change the requirement permanently. General consensus of Council was for Staff to proceed with the appropriate process to change the landscaping requirement surrounding a sign in the current code from the six-foot requirement currently listed to three feet.

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

1. Public Hearing for FY24 Final Amendment and Budget Resolution 2024-07 (Sara Nagel, Finance Manager) -

Finance Director Sara Nagel explained that the budget amendment was administrative housekeeping. She reviewed the proposed amendments as included in the attached meeting materials.

Mayor Pro Tem opened the public hearing at 7:07 p.m. With no one from the public coming forward to comment, the public hearing was closed at 7:08 p.m.

Motion: Council Member Johnston moved to approve Budget Resolution 2024-07. **Second:** Council Member Phillips made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

2. Public Hearing on Consolidated Fee Schedule and Consolidated Fee Schedule Adoption Ordinance 2024-13 (Sara Nagel, Finance Manager) -

Finance Director Sara Nagel explained that the Consolidated Fee Schedule needed to be adopted by ordinance rather than resolution this year because it was being done independently from the budget. In previous years, updates to the Consolidated Fee Schedule were approved within the budget resolution adoption. As the Consolidated Fee Schedule was in the City Code, it was determined it needed to be approved by ordinance for codification purposes. She reviewed the proposed updates to the Fee Schedule as included in the attached meeting materials.

Mayor Pro Tem Aaron Cheatwood opened the Public Hearing at 7:12 p.m. With no one from the public coming forward to comment, the Public Hearing was closed at 7:13 p.m.

Planning Manager Jamie Baron explained the changes to the planning fees would eliminate the escrow fee and increase the administrative fee. The proposed change was due to the amount of time the Planning Administrative Assistant had to spend on the accounting payment breakdown for developers. Discussion followed.

Motion: Council Member Johnston move to adopt Ordinance 2024-13 for the Consolidated Fee Schedule. **Second:** Council Member Phillips made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

3. Public Hearing for Interfund Loans and Resolution Approving Interfund Loans 2024-12 (Sara Nagel, Finance Manager, Matt Brower, City Manager) -

Finance Manager Sara Nagel explained the State Code requirement for the City to process an interfund loan by resolution. The purpose for the interfund loan was to lend money internally from one City fund to another in order to allow the construction of the new Cemetery Admin Building. Repayment of the loans would come from revenue received from the sale of the niches in the planned columbariums.

Mayor ProTem opened the public hearing at 7:21 p.m. With no one from the public coming forward to comment, the public hearing was closed at 7:22 p.m.

Motion: Council Member Johnston moved to accept Resolution 2024-12 approving the interfund loans as presented. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

The meeting discussion moved ahead to item 5 regarding fireworks restrictions.

4. Presentation on State Trust Lands Administration property (Tony Kohler, Community Development Director) - 40 min

Philo Ventures had contracted with SITLA (Utah State Institutional Land Administration) to develop property east of Heber City (see map in exhibits). SITLA managed state lands for the purpose of generating revenue for public schools and other state institutions. The state had determined the SITLA land should be developed. The intention of the agenda item was to educate Council about the SITLA property and proposed development and determine whether the City would consider annexing the property. The Christensen family land was included in the proposal.

Greg Whitehead with Philo Ventures development group introduced himself and noted that he was chairman of the housing authority in Washington County. Tracy Stratton, Vice President of Land Development and Operations with Philo, introduced himself and shared his credentials. Beau Thompson was present representing the Christensen Family property that had been in his family for generations. The Christensen land had been used for sheep running. Mr. Whitehead shared a presentation as included in the meeting materials with images mapping the area being discussed. He described possible development projects for the area. A vegetation study had been performed to ensure no sensitive lands were affected by the proposed development. 71% of the area would remain undeveloped. Development and amenities in the proposal included the following:

- over 50% of the land would remain dedicated as open space
- trails and trail-heads
- mountain bike trails throughout
- ski and inner-tube trails
- equestrian trails
- zip-lining
- kayaking and paddle-boarding
- an amphitheater
- shepherding competitions and sheep education programs honoring the legacy of the land
- mixed-use commercial and residential with varying levels of housing size and price ranges

Council discussion ensued regarding access, traffic, services, provision of utilities, and affordable housing. Council Member Phillips shared the City's contribution requirement of \$2,500 per unit to be dedicated to the North Fields preservation fund. Mr. Stratton reminded Council and Staff of the invitation to tour the land that Friday, June 21. General consensus of Council was to proceed with the appropriate next steps for consideration to annex.

5. Resolution 2024-13 Fireworks Restrictions for Wildland Urban Interface (Clint Neerings, Assistant Chief/Fire Marshal) - 10 min

Fire Martial Clint Neerings shared that the Wasatch County Fire District was recommending that Heber City approve the proposed Resolution 2024-13 to restrict fireworks for the season. Council discussion included the possibility of extending the restrictions and the boundary map.

City Attorney Jeremy Cook advised the Council that the map provided was based on the historical map from previous years and it was too late to change the map for this fireworks season. He recommended the Council make the wanted changes to the boundary map next year prior to the May 1 deadline established by State Code.

Motion: Council Member Phillips moved to approve Resolution 2024-13 enacting firework restrictions in the map provided. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

Council determined to return the meeting to item two on the Consent Agenda to discuss the proposed Harvest Hills Annexation MOU (memorandum of understanding) with the County.

IX. CLOSED EXECUTIVE SESSION

Motion: Council Member Phillips made the motion to enter Closed Executive Session for the purpose of discussing the purchase of property. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The meeting entered Closed Session at 8:58 p.m.

City Council Present:

Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard
Council Member Scott Phillips

City Council Absent:

Mayor Heidi Franco

Staff Present:

City Manager Matt Brower
City Attorney Jeremy Cook
City Recorder Trina Cooke

1. Discuss the Purchase, Exchange, or Lease of Real Property (Scott Phillips, Council Member)

Motion: Council Member Phillips moved to adjourn the Closed Executive Session and return to the open public meeting. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The meeting returned to open session at 9:30 p.m.

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

1. Authorization to Purchase Real Estate in Heber City (Scott Phillips, Council Member)

There was no additional discussion or action taken for this agenda item.

XI. COMMUNICATION:

There were no communication items.

XII. ADJOURNMENT:

Motion: Council Member Phillips moved to adjourn. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. The meeting adjourned at 9:30 p.m.

Trina Cooke, City Recorder

**HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
July 2, 2024**

DRAFT Minutes

5:00 p.m. Special City Council Meeting

I. REGULAR MEETING - 5:00 P.M.

City Council Present:

Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Sid Ostergaard
Council Member Scott Phillips

City Council Absent:

Council Member Mike Johnston

Staff Present:

City Manager Matt Brower
City Engineer Russ Funk
City Recorder Trina Cooke

Staff Participating Remotely: Public Works Director Matthew Kennard

Also Present: Grace Doerfler

Also Attending Remotely: Grace Doerfler

1. Call to Order

Mayor Heidi Franco called the meeting to order at 5:19 p.m. and welcomed everyone present.

II. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts of interest disclosed.

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

1. Central Heber Replacements Project – Modified Phase 1C – Construction Contract and GMP Approval (Russ Funk, City Engineer) - 15 min

City Engineer Russ Funk explained that due to inflationary factors, there was a budget shortfall of just under \$10.8 Million to complete the entire Phase 1 scope of work for the Central Heber water and sewer lines replacement project. He reviewed the currently budgeted line items and offered the Council three options, including the cost of each option, to complete the project as outlined in the attached Staff Report. Staff recommended option two with a modified scope of work at an additional cost of \$2,286,642 and approval of the guaranteed maximum price (GMP) of \$9,757,952.46.

Motion: Council Member Phillips moved to approve the completion of option two to phase 1C with a budget shortfall of approximately \$2,286,642 and approve the proposed GMP (Guaranteed Maximum Price) of \$9,757,952.46. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, and Barney. **Voting No:** None. Council Member Johnston was absent. The **Motion Passed 4-0.**

IV. COMMUNICATION ITEMS:

City Manager Matt Brower invited everyone to the Fourth of July Red, White, and Blue Festival on Thursday and outlined the schedule for the day's activities.

V. ADJOURNMENT:

Motion: City Council Member Phillips moved to adjourn. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney. **Voting No:** none. Council Member Johnston was absent. The meeting adjourned at 5:41 p.m.

Trina Cooke, City Recorder



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Ordinance 2024-14 Update to City Sign Code Section 18.104.050
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

Staff has investigated reducing the required landscaping surrounding a monument sign from 6 feet along major thoroughfares to the standard 3 feet for all monument signs. Following positive discussions with the Council, staff proposed this adjustment to the Planning Commission. Subsequently, after a public hearing, the Planning Commission voted unanimously (5-0) in favor of the change.

RECOMMENDATION

Staff recommends approval of the code change after having held a public hearing with the Planning Commission and having received a favorable recommendation.

BACKGROUND

Jeremy Smith and Spencer Coleman are currently in the process of receiving approval for a monument sign located at 5th & Main. The applicant is aiming to keep the building facade sign free by using a modest monument sign on the property. As the code stands, 6 feet of landscaping is required around this sign. The landscaping requirement is increased from the standard 3 feet because of the sign's location on a major city thoroughfare. Because of the nature of the building and its setbacks, it is very challenging to accommodate a 6-foot landscaping buffer around the proposed monument sign.

DISCUSSION

The proposed code change would simply eliminate the increased landscaping requirement and maintain a requirement of 3 feet of landscaping around all monument signs in the city. No other change is recommended. This change is prudent for this specific project, but also clears up a contradiction in the code. The Municipal Code requires a 3-foot setback for all monument signs. This

setback is effectively increased to 6 feet along major thoroughfares due to the increase in landscaping. The code is written in such a way that this requirement is unclear and therefore difficult to plan for in the preliminary plans for the building. The de-facto 6-foot setback also creates difficulty when attempting to decrease building setbacks along Main Street and other roads in the commercial districts of the city, as 6 feet of landscaping is required around the circumference of the sign, greatly increasing the required square footage for the sign and accompanying landscaping.

FISCAL IMPACT

N/A

CONCLUSION

Staff has explored a potential change to the sign code prompted by issues with a monument sign at 500 South Main Street. The proposal would allow more flexibility for monument signs along major thoroughfares by changing the code to reduce the required landscaping from 6 feet to 3 feet. Jeremy Smith and Spencer Coleman are seeking approval for a monument sign at 5th & Main, aiming to forgo major building facade signage. The current code's 6-foot landscaping requirement is challenging due to building setbacks, prompting the recommended change to clarify and simplify regulations while accommodating specific project needs and eliminating a code contradiction. Staff recommends approval of the proposed code change.

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: Jacob Roberts, Planner

EXHIBITS

1. Ord 2024.14 Monument Landscape Signs

ORDINANCE NO. 2024-14

**AN ORDINANCE ADOPTING UPDATES TO SIGNS section 18.104.050
Monument/Landscape Signs.**

BE IT ORDAINED by the City Council of Heber City, Utah, that Heber City Municipal Code Chapter 18.104.050 SIGNS is amended and is adopted as set forth in Exhibit A, attached hereto and incorporated herein.

WHEREAS, The City Council of Heber City, Utah recognizes the need to modify the landscape requirements for monument signs as outlined in the Heber City Municipal Code, aiming to reduce the regulatory burden on business owners concerning mandatory landscaping around monument signs.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

If any provisions of the Heber City Code heretofore adopted are inconsistent herewith they are hereby repealed.

To the extent that any ordinances, resolutions, or policies of Heber City materially conflict with the provisions of this Ordinance, they are hereby amended to comply with the provisions hereof.

This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2024.

	AYE	NAY	ABSENT	ABSTAIN
Yvonne Barney	_____	_____	_____	_____
Aaron Cheatwood	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Sid Ostergaard	_____	_____	_____	_____
D. Scott Phillips	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

RECORDER

Date: _____

Exhibit A

18.104.050 Monument/Landscape Signs

Sign Type	Configuration	Components	Where Allowed
Low Profile/Monument types: Shall be complementary to the adjacent building(s) in material and color. All monument signs must include a masonry (or stone) base (between 1'0" and 2'0" in height). One for every 200' of frontage	Height and width: The sign must not exceed 10' in height from its site grade or from the nearest public right of way. Location: The sign shall be placed in a minimum of 3'0" from the public right of way, with a minimum of 100' between monument signs. Signs shall be set back at least their height or width (whichever is greater) from any adjoining side property line. May include physically changeable copy and such signs are subject to clear view provisions (see D (2))	Context and setting: Monument signs shall have a minimum of 3'0" of landscaping (a minimum of 6'0" if along a major thoroughfare) around the base of the sign, including shrubs, flowers, and ground cover. Structural support poles shall be concealed, unless used as a decorative element of the sign.. The maximum square footage of the sign (not including the masonry base) shall not exceed 30% of the street frontage length (example: 100 linear feet x 30% = 30 sq. ft.), with a maximum of 100 sq. ft. Lighting: Monument signs shall be externally illuminated, without glare to passersby and downward directed and shielded to prevent light spillage onto the roadway or use individually constructed letters with internal lighting (all wiring, mounting brackets, bolts, tracks, etc., shall not be visible).	C-2, C-4, I-1, I-2, BMP, CMP, PF, MURCZ, MCZ, RC, PC, NVOZ Permitted in all residential zones as part of the subdivision approval process when utilized for a neighborhood identification sign and for existing neighborhoods with a known identity, except height shall be limited to 6'.



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Ordinance 2024-15 Vacating Fitzgerald Small Subdivision
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

Within the planned area for the Fitzgerald Farms development, an existing one lot subdivision exists for a 5.4 acre lot which was created in 1995 to accommodate a home for the Fitzgerald family. The home was recently demolished. The lot sits just to the south of the new Fitzgerald Road, and is no longer needed. The owner has asked the City to vacate the lot so entitlements and title work on the property can continue moving forward for the new planned development. Utah State Code, Section 10-9a-609 (3) (a) indicates the Council must pass an ordinance in order to vacate a subdivision plat.

RECOMMENDATION

Staff recommends approval of Ordinance 2024-15 vacating the Fitzgerald Small Subdivision.

BACKGROUND

The County Recorder recently indicated the existing subdivision plat needs to be vacated in order to record documents on the property and needs to be vacated to accommodate the new planned subdivision.

DISCUSSION

Vacating the subdivision plat will result in the property becoming an unsubdivided, metes and bounds described parcel, which will soon be replaced with a new subdivision plat.

FISCAL IMPACT

None.

CONCLUSION

Vacating the existing Fitzgerald Small Subdivision permits the planned new development to proceed with necessary title work and entitlements, particularly the recording of documents at the County Recorder's Office.

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: Tony Kohler, Community Development Director

EXHIBITS

1. Fitzgerald Small Subdivision Lot Vacation Ordinance 24-15
2. Jaffa Petition to Vacate Subdivision
3. Utah Code
4. 2022-07-21 V2 - Fitzgerald - Concept Exhibit

ORDINANCE NO. 2024-15

AN ORDINANCE VACATING THE FITZGERALD SMALL SUBDIVISION.

BE IT ORDAINED by the City Council of Heber City, Utah, the Fitzgerald Small Subdivision, as described herein and illustrated in Exhibit A is hereby vacated.

This Ordinance shall take effect immediately upon approval.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2024.

	AYE	NAY	ABSENT	ABSTAIN
Yvonne Barney	_____	_____	_____	_____
Aaron Cheatwood	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Sid Ostergaard	_____	_____	_____	_____
D. Scott Phillips	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

RECORDER

Date: _____

EXHIBIT A

Parcel ID: 00-0013-3327

Legal Description

COMMENCING AT THE NORTHWEST CORNER OF SECTION 29, T3S, R5E, SLB&M; THENCE SOUTH A DISTANCE OF 917.71 FEET AND EAST A DISTANCE OF 1503.15 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 13°53'15" WEST A DISTANCE OF 312.69 FEET;

THENCE SOUTH 89°45'22" EAST A DISTANCE OF 664.00 FEET;

THENCE SOUTH 00°14'38" WEST A DISTANCE OF 480.00 FEET;

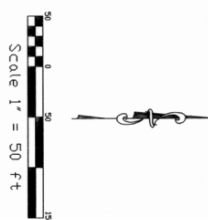
THENCE NORTH 89°44'20" WEST A DISTANCE OF 262.85 FEET;

THENCE NORTH 14°28'27" WEST A DISTANCE OF 219.97 FEET;

THENCE SOUTH 82°36'20" WEST A DISTANCE OF 271.33 FEET TO THE POINT OF BEGINNING. CONTAINS 5.4 ACRES.

Vicinity Map





NOTES:

THIS SUBDIVISION IS NOT IN A FLOOD PLAIN.

THIS SUBDIVISION WILL USE AN INDIVIDUAL WELL FOR CULINARY WATER USE.

THIS SUBDIVISION WILL USE AN INDIVIDUAL SEPTIC SINKER SYSTEM.

EACH LOT HAS A 10' PUBLIC UTILITY EASEMENT ALONG ROAD RIGHT-OF-WAY AND ALONG EACH PROPERTY LINE.

DEVOTES VACUANT AREAS PER COUNTY STANDARD W/BRASS CAP STAMPED "16S-145796"

SET 1' PROPERTY CORNERS AS INDICATED.

M²C²M ENGINEERING, INC.
CIVIL/STRUCTURAL/LAND SURVEYING
P.O. BOX 189
HEBER, UT 84032
(801) 654-0939

DATE: 2/14/95

FILE NO.: C:\ACAD\84289\423085

PREPARED FOR
BEN FITZGERALD

FITZGERALD SMALL SUBDIVISION

SMALL SUBDIVISION PLAT 1
THE NW 1/4 OF SEC 29, T3S, R5E, SLB&M OF

PITKAMP S&L, S&L DIVISION

SUPERVISOR'S CERTIFICATE

I, BING CHENKESON, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR HOLDING CERTIFICATE NO. 145396 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STATED ON THE DEDUCTION AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.

Journal of Management Education 36(8)

PARCEL 1

THE POINT OF BEGINNING:
THENCE NORTH 135°15' WEST A DISTANCE OF 312.69 FEET;
THENCE SOUTH 69°45'22" EAST A DISTANCE OF 664.00 FEET;
THENCE SOUTH 00°41'38" WEST A DISTANCE OF 480.00 FEET;
THENCE NORTH 69°44'30" EAST A DISTANCE OF 265.85 FEET;
THENCE NORTH 42°58'27" WEST A DISTANCE OF 219.97 FEET;
THENCE SOUTH 82°26'30" WEST A DISTANCE OF 271.33 FEET TO THE POINT OF BEGINNING, CONTAINS 5.4 ACRES.

BASES OF THE AFFINITY

THE BASIS FOR THIS SURVEY WAS ESTABLISHED FROM THE STATE COORDINATE AND DEPENDENT RESERVE OF PORTIONS OF TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN" OF THE WASATCH COUNTY RECORDS. ALL DRAININGS SHOWN ARE RELATIVE TO GRID NORTH IN CONFORMANCE WITH THE WASATCH COUNTY COORDINATE SYSTEM.

SURVIVOR'S NARRATIVE

THIS SURVEY WAS PERFORMED FOR THE PURPOSE OF DETERMINING THE PHYSICAL LOCATION OF SPECIAL WARRANTY DEED ENTRY #117172, BOOK 127, PAGE 300.

DATE _____

OWNER'S DEDICATION

KNOWN BY ALL MEN BY THESE PRESENTS THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THIS SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SQUADDED INTO A LOT AND A COUNTY EMINENT AS SHOWN ON THIS MAP IN WITNESS WHEREOF WE HAVE HERETOBY SET OUR HANDS THIS

14th DAY OF Feb., 1995

1

ON THE 4th DAY OF Feb., 1995 PERSONALLY APPEARED
BEFORE ME THE SIGNERS OF THE FOREGOING DECLARATION WHO DULY
ACKNOWLEDGED TO ME THAT THEY DO EXECUTE THE SAME.

MY COMMISSION EXPIRES 2-14-03

ACCEPTANCE BY WASATCH COUNTY COMMISSION

____ DAY OF _____, 1995.

CHAIRMAN

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS

Washita City - County Health Department
Box 1000 South

FIRST NEXT APPENDIX

Chris Ziller

PLANNING COMMISSION

APPROVED THIS 20th DAY OF July

Robert C. Morkin
DIRECTOR - SECRETARY

SMALL SUBDIVISION

THE NW 1/4 OF SEC 28, T22N, R10E,

Jaffa Lynch Investor Group
4490 N Forestdale Dr.
Park City, UT 84098

July 9, 2024

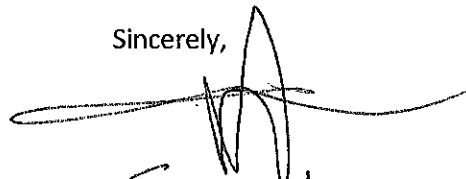
Tony Kohler
Heber City

RE: Jordanelle Ridge Fitzgerald – Small Subdivision Vacation

Dear Mr. Kohler,

As the property owners of parcel 00-0013-3327, located at 2150 N. Highway 40, I am requesting the vacation of the Fitzgerald Small Subdivision recorded as entry no. 178214 on March 22nd, 1995. This property is now included within the approved preliminary plat of Jordanelle Ridge Village 2 Fitzgerald Preliminary.

Sincerely,



SCOTT JAFFA
MANAGER

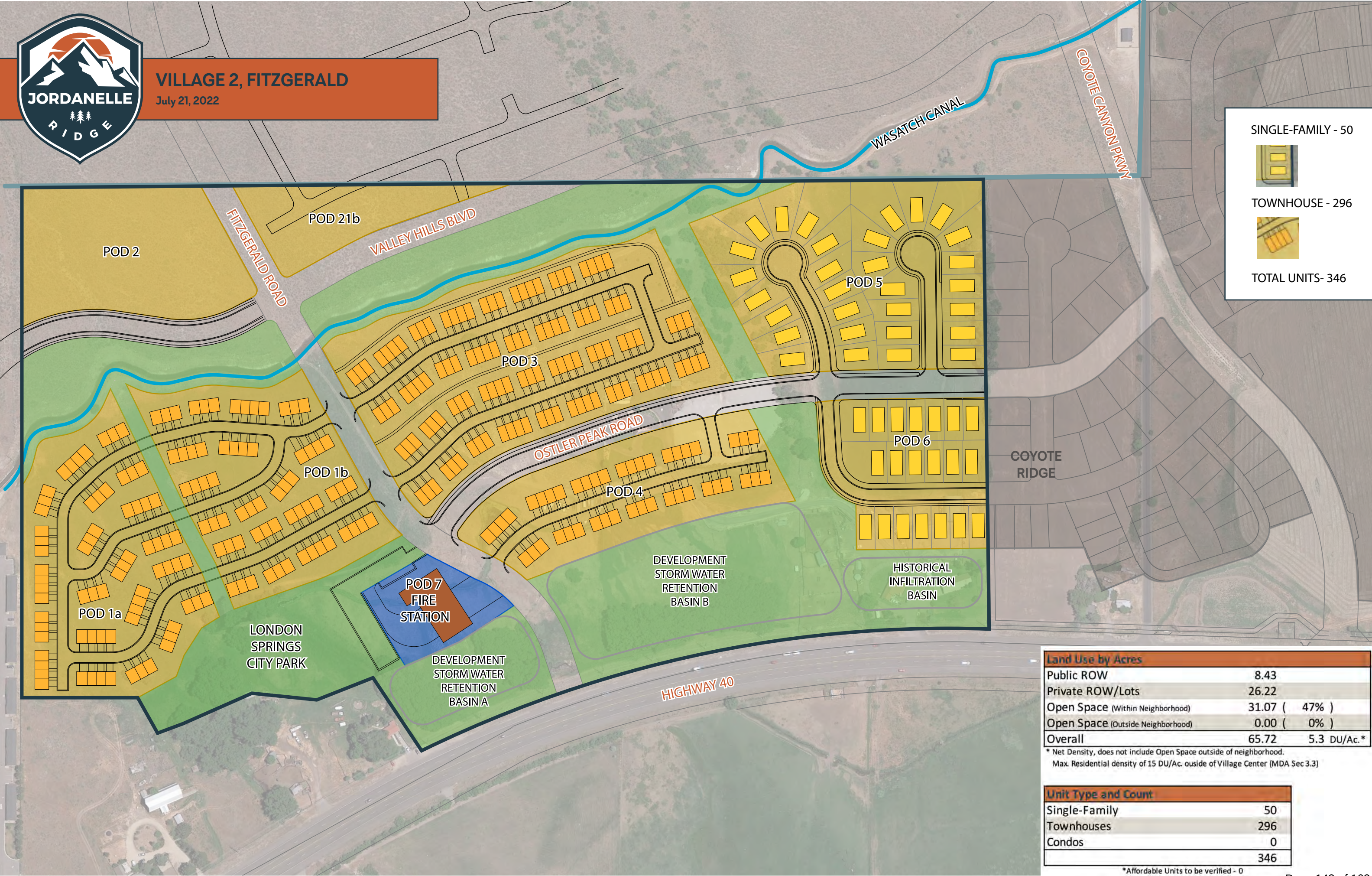
10-9a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street or municipal utility easement has been vacated or amended.
- (2)
 - (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)
 - (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.



VILLAGE 2, FITZGERALD

July 21, 2022





Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Amended Civil Legal Services Agreement
RESPONSIBLE: Jeremy Cook
DEPARTMENT: Administrative
STRATEGIC RELEVANCE:

SUMMARY

The City entered into a Civil Legal Service Agreement in December 2022 for legal services from Cohne Kinghorn. The Agreement contemplated that fees would be reviewed and updated each year. The amendment updates the hourly rate and fees to be charged for legal services provided to the City.

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

The City has amended the fee structure for development fees and staff has been working on ways to decrease the amount of time for legal work, so it is anticipated that the overall fiscal impact will decrease.

CONCLUSION

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:

EXHIBITS

1. Amended Heber City Civil Legal Services Agreement - 7.24 - 4873-1958-7021 - 1

AMENDED CIVIL LEGAL SERVICES AGREEMENT

THIS CIVIL LEGAL SERVICES AGREEMENT (this “**Agreement**”) is entered into effective July 1, 2024, by and between **HEBER CITY**, a Utah municipality (“**Heber City**”) and **COHNE KINGHORN**, a professional corporation (“**Cohne Kinghorn**”). This Agreement supersedes all prior agreements between Heber City and Cohne Kinghorn.

RECITALS:

- A. Jeremy R. Cook (“**Mr. Cook**”) is a shareholder at Cohne Kinghorn.
- B. Cohne Kinghorn is in the business of providing legal services, including municipal related legal services.
- C. Heber City is in need of such legal services.
- D. Heber City desires to enter into this Agreement with Cohne Kinghorn to provide legal services to Heber City and to appoint Mr. Cook as the “City Attorney” for Heber City.
- E. The parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, mutual covenants, and undertakings, the parties hereby agree as follows:

1. **Scope of Services to Be Provided.** Cohne Kinghorn agrees to furnish civil legal services requested by Heber City and accepted by Cohne Kinghorn during the term of this Agreement. It is anticipated that Cohne Kinghorn will provided legal representation in the following areas: Utah’s Land Use, Development and Management Act (LUDMA); Government & Administration; Administrative Law; Public Financing (excluding bond council); Codification of Ordinances; Election Laws; Open / Public Meetings; Public Records (GRAMA Requests); State Ethics Law; Contracts; General Business Law; Water Law; Environmental Law; Public Private Partnerships Employment Law; Construction Law; Real Property Transaction; and Employment/Personnel. At the request of the City Manager, Mr. Cook shall have not less than two full-time office days at the City each month, which office days shall generally correspond with City Council meetings.

2. **Fees for Legal Services.** Heber City shall pay Cohne Kinghorn for services based on hourly rates. The hourly rates shall be as follows:

- Mr. Cook’s rate shall be \$305.00 per hour.
- Mr. Cook will only charge 50% of his travel time for two City Council meetings per month.

- Paralegal services shall be \$90.00 an hour. Paralegal services shall include only services typically performed by paralegals and Cohne Kinghorn shall not charge for regular secretarial services.
- Other partners at Cohne Kinghorn shall bill at such attorney's regular billing rates, not to exceed \$475 per hour, unless otherwise agreed to by the parties.

3. **Annual Review of Fees.** If requested, the fees set forth in paragraph 2 shall be reviewed by the City Council at least one time per year and may be adjusted by mutual agreement of the parties, generally effective on July 1 of each successive year. The City Manager may approve an increase in billing rate not to exceed 5% in any calendar year period without the approval of the City Council, generally effective on January 1 of each successive year.

4. **Costs and Expenses.** Heber City shall pay Cohne Kinghorn for expenses incurred on behalf of Heber City, such as long-distance telephone calls, telecopier transmissions, printing, postage, messengers, and computerized research. In charging for such costs and expenses, Cohne Kinghorn shall recover an amount that reasonably reflects the actual cost incurred by Cohne Kinghorn. Cohne Kinghorn shall not charge mileage for travel in addition to travel time.

5. **Third Party Expenses.** Heber City recognizes that Cohne Kinghorn may obtain the services of third-parties and may pay other expenses or fees related to work performed by Cohne Kinghorn on behalf of Heber City. These expenses and fees may include such items as title reports, appraisals, expert witness fees, water right filing fees, court filing fees, recording fees and runner fees. Cohne Kinghorn shall have authority to engage such services up to \$2,500 without prior written approval of Heber City. Any services in excess of \$2,500 shall be approved in writing by Heber City.

6. **Bond Opinions.** Cohne Kinghorn may charge a fee of up to \$5,000 or .03% of the bond issuance, whichever is greater, for any opinion letter in connection with a bond offering (the "Opinion Letter Fee"). The Opinion Letter Fee shall be in addition to any other fees related to issuance of the bonds.

7. **Term.** This Agreement shall be effective as of the date hereof and be effective until terminated by the parties.

8. **Termination.** This Agreement may be terminated by either party at any time for any reason by providing written notice of such termination to the other party. If Heber City terminates the Agreement, Heber City shall immediately pay all past due and owing fees and expenses, together with any additional costs and expenses necessary to transfer documents and information to Heber City. If Cohne Kinghorn terminates this Agreement, Cohne Kinghorn shall take such steps as are reasonably practicable to protect Heber City's interest in accordance with the applicable rules of professional conduct. Subject to the foregoing, both parties shall make all reasonable effort to provide not less than 30 days-notice prior to termination.

Unless previously terminated, Cohne Kinghorn's representation will terminate upon sending Heber City a final statement for services. Following such termination, any otherwise non-public information supplied to Cohne Kinghorn will be kept confidential in accordance with

applicable rules of professional conduct. Upon request, any documents that may be subject to GRAMA or that are the property of Heber City and requested by Heber City will be returned promptly to Heber City. Cohne Kinghorn's own files, including lawyer work product pertaining to the matter, will be retained by Cohne Kinghorn. All such documents retained by Cohne Kinghorn will be transferred to the person responsible for administering our records retention program. It is the intent of the parties that any documents subject to GRAMA would not be retained by Cohne Kinghorn. For various reasons, including the minimization of unnecessary storage expenses, Cohne Kinghorn reserves the right to destroy or otherwise dispose of any such documents or other materials retained by Cohne Kinghorn within a reasonable time after the termination of the engagement. Accordingly, Heber City agrees that Cohne Kinghorn will have no obligation to retain any documents or files or other items pertaining to Heber City's affairs for more than one (1) year following the completion of the work on the matter involved, and may have the documents and items destroyed without prior notice to Heber City.

9. **Billing and Payment.** Cohne Kinghorn shall provide a statement each month which will describe all of the services completed for that month and the fees for those services. Cohne Kinghorn shall bill all time in six-minute increments and invoices shall clearly state person billing the time, the billing rate, and amount of time expended by Cohne Kinghorn. Heber City acknowledges and agrees that billing descriptions may lump multiple issues or work product in a single description or charge. Heber City shall be responsible for timely paying the charges.

10. **Malpractice Insurance.** Cohne Kinghorn shall at his own cost maintain professional liability insurance covering the acts and omissions of Cohne Kinghorn in the performance of its professional duties in an amount of not less than five million dollars (\$5,000,000), and shall disclose a copy of the malpractice insurance annually to Heber City.

11. **Independent Contractor.** Cohne Kinghorn, and any employees of Cohne Kinghorn, shall be independent contractors and shall not be entitled to any benefits from Heber City. Cohne Kinghorn shall maintain workers compensation insurance, automobile insurance and liability insurance on behalf of all employees of Cohne Kinghorn that are performing work for Heber City pursuant to this Agreement.

12. **Notice.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below.

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

Cohne Kinghorn: Jeremy R. Cook
111 E. Broadway, 11th Floor
Salt Lake City, Utah 84111

13. **Applicable Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the state of Utah.

14. **Survival.** All agreements, covenants, representations, and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

15. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation, or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

16. **Severability.** If any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

17. **General Conflicts of Interest.** In undertaking this representation, Cohne Kinghorn's objective is to represent Heber City to the best of its ability without forfeiting the continuing representation of its other clients. Cohne Kinghorn has represented, and continues to represent, many different entities and individuals with various business interests in numerous industries. It is possible that, during the time Cohne Kinghorn is representing Heber City's interests, Heber City may become involved in transactions and/or disputes in which Heber City's interests are adverse to those of one of Cohne Kinghorn's other present or future clients. If such a conflict were to arise between Heber City's interests and those of another present or future client of the Cohne Kinghorn, Cohne Kinghorn shall apprise Heber City of that fact, but reserves the right to represent the interests of the other client with respect to that particular matter.

Therefore, as a specific condition to Cohne Kinghorn entering into this Agreement, Heber City understands and agrees that Cohne Kinghorn may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially factually related to Cohne Kinghorn's work for Heber City, even if the interests of such clients in those other matters are directly adverse to Heber City's interest; provided that Heber City's prospective consent to conflicting representation shall not apply in any instance where, as a result of Cohne Kinghorn's representation of Heber City, Cohne Kinghorn has obtained proprietary or other confidential information of a nonpublic nature, that, if known to another client, could be used in any such other matter by such client to Heber City's material disadvantage.

18. **Waiver of Conflict of Interest.** Heber City acknowledges and agrees that Cohne Kinghorn and Mr. Cook currently represent Jordanelle Ridge Public Infrastructure Districts No 1-5 (collectively "**JRPID**"). Heber City's interests may conflict with the interest of JRPID and

Cohne Kinghorn's representation of JRPID may not be in Heber City's best interest. Heber City represents that Heber City has consulted with Heber City's current city attorney with respect to the conflict of interest and Heber City consents to and waives the conflict of interest. If Cohne Kinghorn determines that its continued representation of JRPID materially impacts its ability to represent Heber City, Cohne Kinghorn shall either advise Heber City to retain separate legal counsel with respect to matters involving JRPID or Cohne Kinghorn shall withdraw from its representation of JRPID.

IN WITNESS WHEREOF, Heber City has caused this Agreement to be signed by its mayor and attested by its clerk and delivered, and Cohne Kinghorn has caused the same to be signed and delivered.

HEBER CITY

By: _____
Heidi Franco, Mayor
Date signed: _____

ATTEST:

City Recorder

COHNE KINGHORN

Jeremy R. Cook
Date signed: _____



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Wasatch County Health Department Annual Report
RESPONSIBLE: Jonelle Fitzgerald
DEPARTMENT: Administrative
STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

CONCLUSION

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:

EXHIBITS

None



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Monthly Development Report
RESPONSIBLE: Jamie Baron
DEPARTMENT: Planning
STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

CONCLUSION

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:

EXHIBITS

None



Heber City Council Staff Report

MEETING DATE: 7/16/2024
SUBJECT: Discuss North Village Harvest Village (Crossings/Resort Annexation)
RESPONSIBLE: Jeremy Cook
DEPARTMENT: Planning
STRATEGIC RELEVANCE:

SUMMARY

The proposed annexation consists of the Harvest Village development, the Crossing development and the Heiner property. Staff has been working with the different groups to draft development agreements that would be approved as part of the annexation. On June 18, the City Council had a discussion regarding the possible impact of the Harvest Village development on the US-40 bypass road options. Staff is planning to provide some information regarding feedback from UDOT and wants to have additional discussions regarding what conditions the City Council and developer may be willing to accept as part of an approval.

RECOMMENDATION

Staff does not have a recommendation, but is simply hoping to have a discussion on obtain additional direction from the City Council.

BACKGROUND

DISCUSSION

FISCAL IMPACT

None

CONCLUSION

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:

EXHIBITS

None



July 9, 2024

Carlos Braceras, P.E., Executive Director
Utah Department of Transportation (UDOT)
P.O. Box 141265
SLC, UT 84114-1265

Re: Letter of Support for UDOT's Environmental Impact Study (EIS) Process encompassing Heber Valley Corridor and Related Priority Outcomes

Dear Mr. Braceras:

On behalf of Wasatch County, Heber City, Midway City and Wasatch County School District, we write in support of UDOT's EIS process for the Heber Valley Corridor and the work UDOT is completing on our behalf to improve regional and local mobility on U.S. 40 from S.R. 32 to U.S. 189 through 2050 while allowing Heber to achieve its vision for the City's historic downtown center.

We are unified and committed to working with UDOT to achieve a functional corridor alignment while remaining focused on the following five (5) related priority outcomes:

- 1) The Heber Valley Corridor alignment should preserve open space in the North Fields, to the greatest extent possible, as a paramount priority for our community, and as a defining attribute of our Valley;
- 2) The Corridor alignment should maximize quality of life (i.e. preservation of the view shed over Heber Valley, reduction of commute times, and traffic congestion) and improve safety for our citizens;
- 3) The Corridor alignment should emphasize and maximize movement of traffic through the Valley by limiting access points;
- 4) The Corridor alignment should consider and seek to support and contribute to the vitality and success of Heber City's downtown and its Envision Central Heber goals of transitioning the downtown into an economically vibrant destination location for Wasatch County citizens and visitors; and
- 5) The Corridor design should maintain and contribute to the beauty of Heber Valley and minimize environmental impacts, by incorporating landscaping, trees, berms, and other proven means to screen traffic movements, reduce noise, preserve the area's water shed and Provo River water quality.

We look forward to working with you, and UDOT Region 3 representatives, as you bring forward the results of the EIS and make recommendations to finalize a Corridor alignment that achieves the five priority outcomes listed above.

Most sincerely,

Heber City
Midway City
Wasatch County
Wasatch County School District

cc: Rob Clayton, Region 3 Director
Craig Hancock, Region 3 Project Manager

Heber City

Mayor Heidi Franco

Council Member Yvonne Barney

Council Member Aaron Cheatwood

Council Member Mike Johnston

Council Member Sid Ostergaard

Council Member D. Scott Phillips

Attest: City Recorder

Midway City

Mayor Celeste Johnson

Council Member Jeff Drury

Council Member Lisa Orme

Council Member Kevin Payne

Council Member Craig Simons

Council Member JC Simonsen

Attest: City Recorder

Wasatch County

Council Chair Spencer Park

Council Vice-Chair Karl McMillan

Council Member Kendall Crittenden

Council Member Steve Farrell

Council Member Mark Nelson

Council Member Eric Rowland

Council Member Luke Searle

Attest: County Clerk

Wasatch County School Board

Board President Tyler Bluth

Board Vice-President Kim Dickerson

Board Member Marianne B Allen

Board Member Tom Hansen

Board Member Cory Holmes

Attest: