



NORTH OGDEN CITY
— SETTLED 1851 —

**CITY COUNCIL MEETING
MAY 24, 2022
505 EAST 2600 NORTH
NORTH OGDEN, UT 84414**

AMENDED AGENDA

**OPEN HOUSE AT 5:30 PM
REGULAR SCHEDULED MEETING AT 6 PM**

PUBLIC CAN ATTEND:

In person OR

Click the link below to join the webinar: <https://us02web.zoom.us/j/87659734797> Webinar ID: 876 5973 4797

Or Telephone Dial: 1 346 248 7799 or 1 669 900 9128 or 1 253 215 8782

YouTube: <https://www.youtube.com/channel/UCrigbePBxTucXEzRr6fclhQ/videos>

OPEN HOUSE AT 5:30 PM – GENERAL PLAN LAND USE MAP

1. General Plan Land Use Map

Welcome: Mayor Berube

Invocation & Pledge of Allegiance: Council Member Dalpiaz

CONSENT AGENDA

2. Call for conflict of interest disclosure

ACTIVE AGENDA

3. Public Comments*

4. Discussion and/or action to consider approval of the General Plan Future Land Use Map
Presenter: Scott Hess, Planning Director

5. Discussion and/or action to consider a petition of Annexation for property located at approximately 3525 North 100 West
Presenter: Susan Nance, City Recorder

6. Discussion and/or action to consider an amendment to the Development Agreement for Village at Prominence Point located at approximately 1850 North 300 East
Presenter: Scott Hess, Planning Director and Jon Call, City Manager/Attorney

7. Discussion on possible Lease Agreement for land located at approximately 2904 North 450 East with Senaweve Communications
Presenter: Jon Call, City Manager/Attorney

8. Discussion and/or action to consider a Purchase Agreement for the sale of the detention basin property located at approximately 225 East 2550 North
Presenter: Jon Call, City Manager/Attorney

****Please see notes regarding Public Comments rules and procedure***

The Council at its discretion may rearrange the order of any item(s) on the agenda. Final action may be taken on any item on the agenda. In compliance with the American with Disabilities Act, needing special accommodation (including auxiliary communicative aids and service) during the meeting should notify the City Recorder at 801-782-7211 at least 48 hours prior to the meeting. In accordance with State Statute, City Ordinance, and Council Policy, one or more Council Members may be connected via speakerphone or may by two-thirds vote to go into a closed meeting

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the North Ogden City limits on this 23rd day of May, 2022 at North Ogden City Hall, on the City Hall Notice Board, on the Utah State Public Notice Website, and at <http://www.northogden.com>. The 2022 meeting schedule was also provided to the Standard Examiner on December 16, 2021. Susan L. Nance, CMC, City Recorder

9. Council Department Reports:
 - a. Council Member Barker – Parks and Recreation
 - b. Council Member Dalpiaz – Building and Planning
 - c. Council Member Swanson – Finance
 10. Public Comments*
 11. Mayor/Council/Staff Comments
 12. Discussion and/or action to enter a closed meeting for reasons related to Utah State Code §52- 4-205(1)(f) regarding deployment of security personnel, devices, or systems
 13. Adjournment
-

Public Comments/Questions

- a. Time is made available for anyone in the audience to address the Council and/or Mayor concerning matters pertaining to City business.
- b. When a member of the audience addresses the Mayor and/or Council, he or she will come to the podium and state his or her name and address.
- c. Citizens will be asked to limit their remarks/questions to five (5) minutes each.
- d. The Mayor shall have discretion as to who will respond to a comment/question.
- e. In all cases the criteria for response will be that comments/questions must be pertinent to City business, that there are no argumentative questions and no personal attacks.
- f. Some comments/questions may have to wait for a response until the next Regular Council Meeting.
- g. The Mayor will inform a citizen when he or she has used the allotted time.

DRAFT FUTURE LAND USE MAP



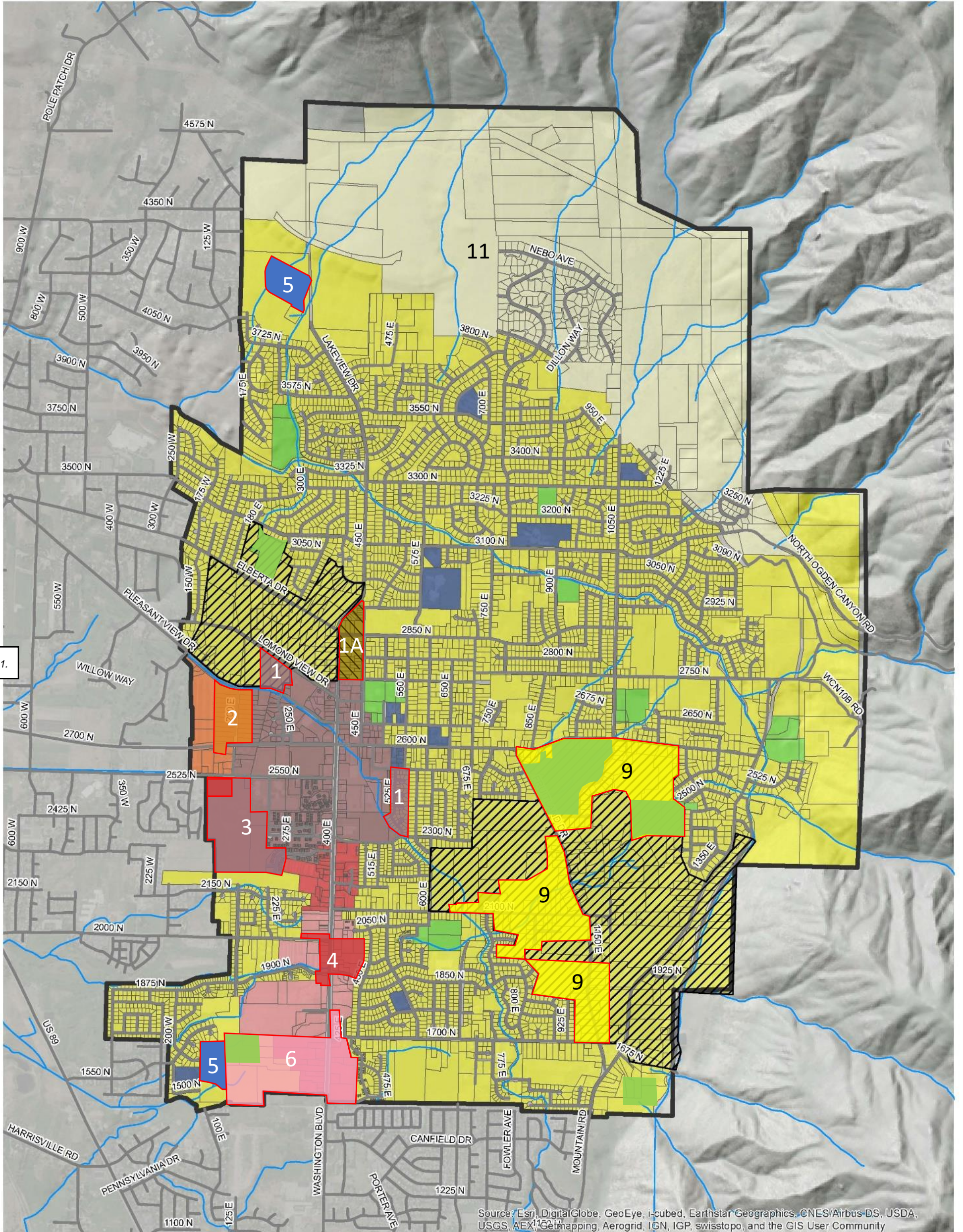
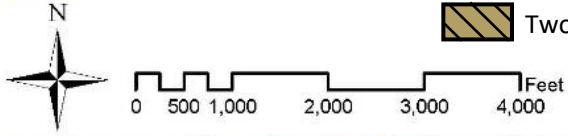
NORTH OGDEN CITY

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GENERAL PLAN UPDATE

Date: 4/20/2022

- | | |
|--|--|
| Potential Conservation Areas | Residential Medium Density |
| Streets | Parks |
| North Ogden Potential Boundary | Down Town Mixed Use - See Downtown Map |
| Streams/Canals | South Town Mixed Use - See Southtown Map |
| Future Land Use | |
| Residential Hillside | Mixed-Use/Multi-family/Commercial |
| Residential Low Density | Civic/Institutional |
| Proposed Land Use Boundary Adjustments | Two-Family Dwelling Transitional Overlay |



Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus-DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Staff Report to the North Ogden City Council

SYNOPSIS / APPLICATION INFORMATION

Application Request: Consideration, Open House, Discussion, and Action on the Draft 2021 General Plan Future Land Use Map.

Agenda Date: May 24, 2022

Applicant: Planning Department Staff

File Number: N/A

PUBLIC NOTICE:

Mailed Notice:
Newspaper:
City Website: April 21, 2022

STAFF INFORMATION

Scott A. Hess
shess@nogden.org
(801) 737-9841

BACKGROUND

The General Plan Advisory Committee (GPAC) met on October 27, 2021, to review proposed amendments to the Draft General Plan Future Land Use Map. The Committee provided specific direction to Staff on land uses and boundaries of the identified areas of change. The GPAC recommended approval of the Draft 2021 General Plan Future Land Use Map to the Planning Commission. The DRAFT 2021 General Plan Future Land Use Map (see Attachment A) is supported by this staff report including a numbered description of recommended map amendments.

Staff would like to reiterate that the majority of the 2021 General Plan Future Land Use Map is recommended to remain consistent with the 2015 Plan. The 2015 Plan is well thought out and preserves the character of the existing community in many areas of the city, with highly desirable housing options, excellent access to open space, and productive commercial areas. There are however areas of change and opportunity within the community. These four key areas are: Residential Hillside Cluster, Urban Agricultural Protection Area, South Town Mixed Use, and the North Ogden Downtown Area.

Future Land Use Map Amendments:

1. North Ogden Downtown Area: Include properties that abut the North Ogden City Shops as well as the 5,000 square foot lots south of City Hall.

- a. Zoning: RCC (with addition of Two-Family Dwellings), R-2, R-3, R-4, R-1-5
- 1A. Two-Family Dwelling Transitional Overlay from 2750 N. and 450 E. running north to Ben Lomond Cemetery.
- a. Zoning: RCC (with addition of Two-Family Dwellings), R-1-5
2. Remove the area along 200 E. from “North Ogden Downtown Area” as it is fully developed with large lot single-family homes. Retain the eastern rear portion of the west facing lots as future growth area in North Ogden Downtown Area if residents determine it in their best interest to combine and divide off portions of their existing rear lots.
3. North Ogden Downtown Area: Include undeveloped land west of Patriot Point from 2550 N to Montgomery Farms Subdivision.
- a. Zoning: C-2, R-4, MPC (with mixed use), the MPC area of Patriot Point includes Commercial on 2550 N.
4. South Town Center – Focus on historic aspects of The Cannery and Kirt’s Drive-in. Redevelopment area could include mix of uses, daylighting Cold Creek, and creating a unique gathering place, urban open space, commercial entryway into the city.
- a. Zoning: Future Mixed-Use Zone to permit housing along with walkable commercial
5. Weber County School District owned properties in the City changed to Civic/Institutional Use to reflect future school.
- a. Zoning: Civic/Institutional
6. South Town Mixed Use: Include property around 1700 N to 1500 N, west of Washington Boulevard.
- a. Zoning: C-2, R-4, MPC (with mixed use)
- ~~7. Potential future Neighborhood Commercial Nodes: Monroe Blvd. & 1700 N., 2600 N. & 1050 E., Canyon Road, Mountain Rd. & Lakeview Dr.~~
- ~~a. Zoning: Future Neighborhood Commercial – Develop wording in the General Plan document that would be permissive of future commercial, but no specific location determined. These areas focus on Major Collector Streets. Encourage the re-use and revitalization of historic buildings to be used in a Commercial context (barns, existing farm structures).~~

City Council Comment 4-26-2022: The Council discussed Neighborhood Commercial and determined that specific locations should not be identified at this time. References to small scale commercial located off of the main corridors have been removed from this version of the General Plan Map.

City Council Comment 12-14-2022: Based on the Council’s discussion on December 14, 2022 there will be a slide show presented with Neighborhood Commercial examples shown for the Council’s consideration.

PC Comment Item 7: The Planning Commission discussed the neighborhood commercial areas at length. There were concerns about the location at 1050 E. 2600 N. and its applicability to the restrictions of Barker Park land. There was also another location discussed at Mountain Road and 2750 N. at the gravel pit. In general the PC liked the idea of the *right neighborhood commercial in residential areas, but it came down to specifics and concerns about impacts to residents. The PC recommended that the General Plan include language that neighborhood commercial could be permitted so long as it is compatible with surrounding neighborhoods.

City Council Comment 03-29-2022

Remove Commercial Nodes east of Washington Boulevard.

- ~~8. Potential future low intensity Commercial at Mountain Rd. and 1700 N.~~
 - ~~a. Zoning: Future Neighborhood Commercial~~

City Council Comment 4-26-2022: Same comment as above.

PC Comment Item 8: The Planning Commission noted that the corner of Mountain Road and Fruitland should be an “entry point” for the City and that commercial does not help maintain a “country feel.” Again, it seemed that the right type or scale of commercial could be supported, but there were concerns about this location.

City Council Comment 03-29-2022

Remove Commercial Nodes east of Washington Boulevard.

- 9. Urban Agricultural Protection Area: Reduce the size of the “Potential Conservation Area” based on existing underlying land uses and developed park space which is not expected to change. Focus future potential on ways to preserve remaining open space through clustered subdivisions.
 - a. Zoning: RE-20, R-1-10 (with 30% land conservation)
 - b. Clustering Bonus Calculation Example: *Double the units per acre with land conservation
 - i. 10-acre parcel at RE-20 (20,000 sqft lots) = 21 lots
 - ii. 10-acre with 30% land preservation (7-acres remaining after preservation), apply R-10 zone approved with clustering bonus (10,000 sqft lots) = 30 lots
 - iii. Determine character standards for preserved space / specific assets to preserve in addition to percentage preserved.
 - iv. Revise Residential “R Zones” to require open space preservation in all single-family zones. Review Farmington City Ordinance for step up of zone density bonus based on underlying zoning.

- ~~10. Potential future low intensity Commercial at Fruitland Dr. and 2100 N.~~
 - ~~a. Zoning: Future Neighborhood Commercial~~

City Council Comment 4-26-2022: Same comment as above.

PC Comment Item 10: Same comment as Item 8. Concerns about commercial scale and type, and its ability to integrate into the community effectively.

City Council Comment 03-29-2022

Remove Commercial Nodes east of Washington Boulevard.

11. Residential Hillside Cluster: Retain underlying zoning but apply a density bonus for open space preservation.
 - a. Zoning: HP-1, HP-2, HP-3, Open Space Preservation: 50% clustering bonus for preservation of 30% of open space
 - b. Clustering Bonus Calculation Example:
 - i. 50-acre parcel at HP-3 (2-acre lots) = 25 lots
 - ii. 50-acre with 30% land reduction (35 acres remaining after preservation), apply 50% clustering increase to base zone) = 37 lots (overall size of lots becomes 0.94 acres on average)

STAFF RECOMMENDATION

Staff requests that the Planning Commission review the GPAC recommendation, hold a public hearing, and consider action to send the Land Use Map forward to the City Council.

The City Council reviewed this staff report on December 14, 2022, and tabled the item. Staff recommends the Council review the Draft Future Land Use Map, consider the Planning Commission's recommendation and previous discussion, and take action.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission has been an integral part of the General Plan Future Land Use Map creation. This includes members of PC attending and participating in the General Plan Advisory Committee, as well as attending the joint GPAC and PC meeting. The PC held a public hearing, discussed the Future Land Use Map, including each of the individually called out land use areas, and came to a recommendation to the City Council.

The Planning Commission made recommendations regarding future neighborhood commercial areas. They determined that neighborhood commercial that is the right scale and type could be integrated into neighborhoods, but there was an overall concern about locating these areas specifically on the Land Use Map. The City Council has considered whether areas of the City should be permitted as neighborhood commercial, or whether the General Plan itself should simply include permissive language for neighborhood commercial, and determined that specific locations for neighborhood commercial should not be indicated on this version of the General Plan Map. Staff has removed the proposed commercial nodes on the map to be consistent with the City Council's direction.

The Planning Commission made a recommendation for approval of the 2021 Draft General Plan Future Land Use Map with the change that neighborhood commercial areas be identified through permissive language in the General Plan text, and not located specifically on the map.

EXHIBITS

- A. DRAFT 2021 General Plan Future Land Use Map dated 04/20/2022

DRAFT FUTURE LAND USE MAP



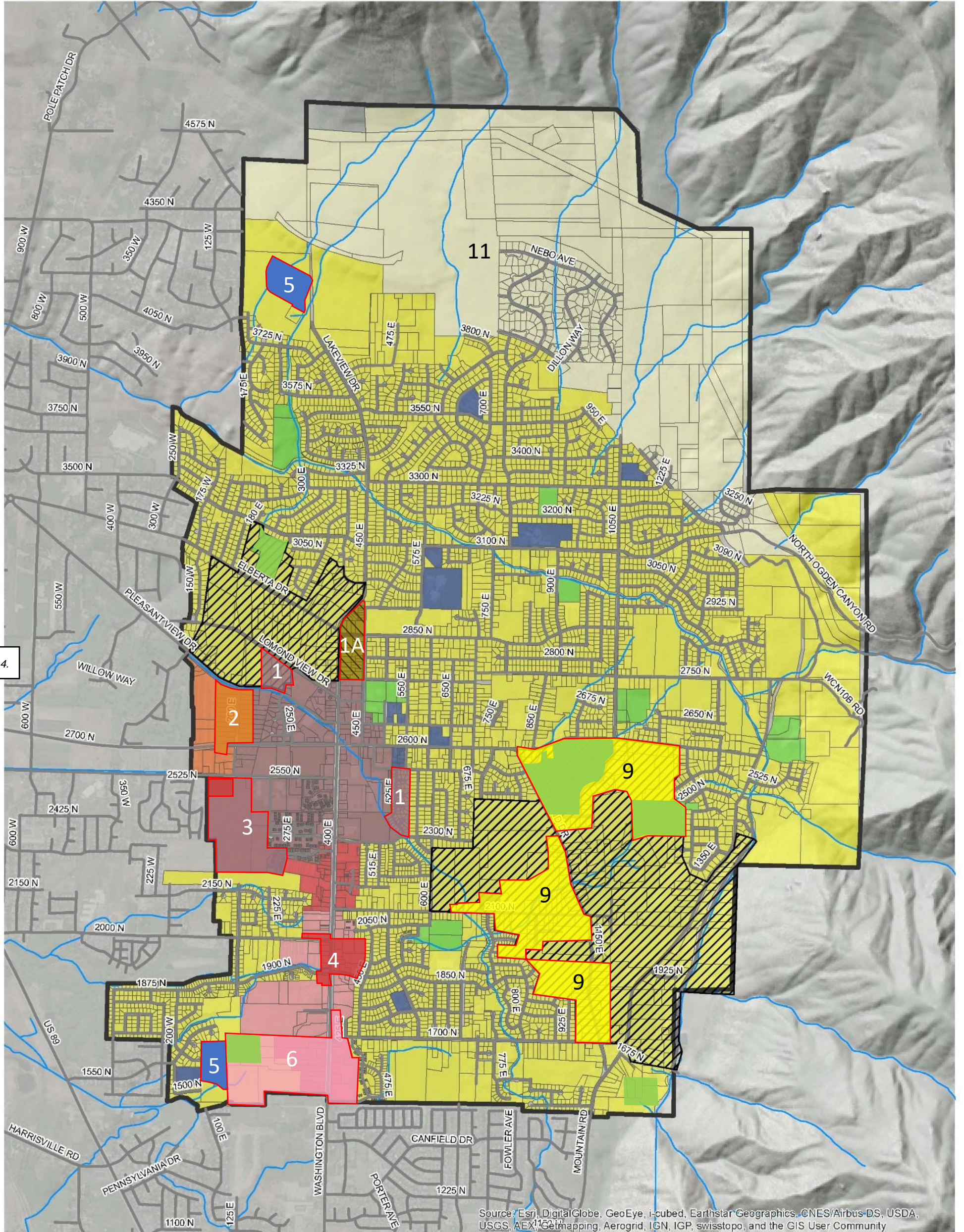
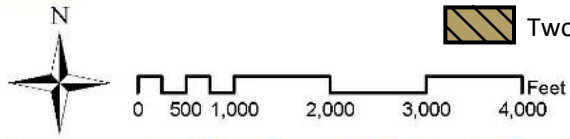
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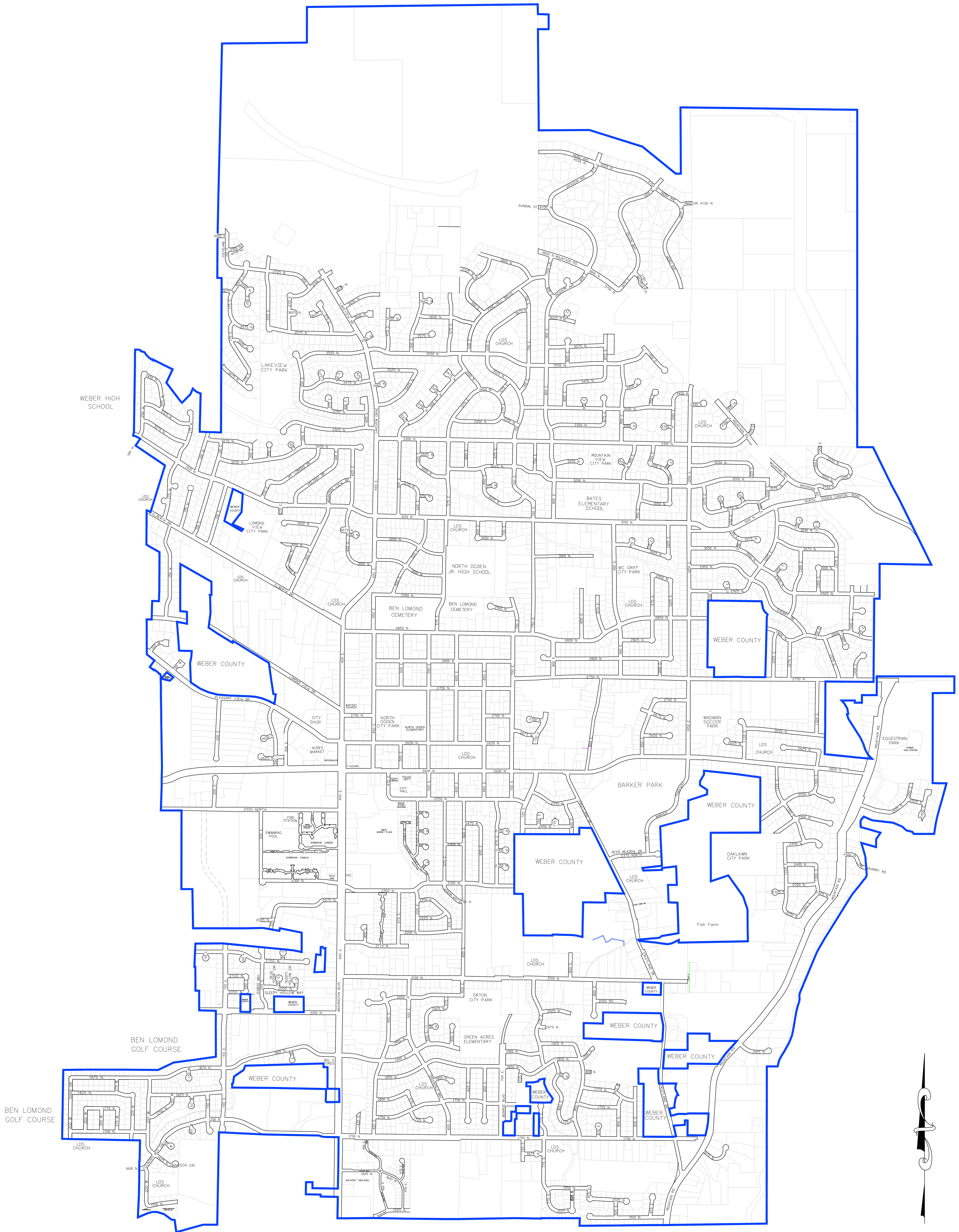


NORTH OGDEN CITY STAFF REPORT

TO: MAYOR AND CITY COUNCIL
FROM: SUSAN NANCE, CITY RECORDER
SUBJECT: RICK SCADDEN ANNEXATION
DATE: 5/18/2022

Rick Scadden has submitted an application for himself, as well as George Evans and Brett Johnston to petition for annexation of 9.93 Acres located at approximately 3525 North 100 West in Weber County, Utah. As required by Utah State Code the Weber County Surveyor has reviewed and given conditional approval of the annexation plat map to Landmark Surveying, Inc.

This annexation application was originally brought to the City in February for annexation and after review City staff found it to be a part of the Pleasant View City's annexation plan. Mr. Scadden has since gone through the process with Pleasant View City to amend their annexation plan and release this property. The property being proposed for annexation is not currently in any City's annexation plan. The Petitioner is requesting the RE-20 Zone, which the Planning Commission will review and make a recommendation to the City Council at a later date. The petitioner meets all the requirements to start the annexation process and it is recommended that the City Council accept the petition to start the annexation process.



ANNEXATION AREA
North Ogden City

SCALE: NONE

REVISED March 18, 2015

COPY ORDINANCE NO. 2003- 03

AN ORDINANCE ADOPTING THE NORTH OGDEN CITY ANNEXATION POLICY PLAN DATED JANUARY 28, 2003.

WHEREAS, The 2001 Utah Legislature required a city to adopt annexation policy plan before such city annexes any property after December 31, 2002; and

WHEREAS, The annexation *policy* plan requirements are contained in §§10-2-401.5 Utah Code; and

WHEREAS, North Ogden City developed an annexation policy plan in accordance with in §§10-2-401.5 Utah Code; and

WHEREAS, The North Ogden City Planning Commission, after meeting with the Harrisville and Pleasant View Planning Commissions, negotiated future annexation areas; and

WHEREAS, The North Ogden City Planning Commission advertised in the official newspaper of general circulation, *Standard Examiner*, on October 28, November 4, and 11, 2002, for a public hearing held on November 13, 2002; and

WHEREAS, The North Ogden City Planning Commission held a public hearing on November 13, 2002, and received no public comments; and

WHEREAS, The North Ogden City Planning Commission did not receive any written comments during the 10-day waiting period after the public hearing; and

WHEREAS, The North Ogden City Planning Commission recommended to the North Ogden City Council approval of the North Ogden City Annexation Policy Plan without any modifications;

WHEREAS, The North Ogden City Council advertised in the official newspaper of general circulation, *Standard Examiner*, on December 30, 2002, for a public hearing on the annexation policy plan to be held on January 14, 2003; and


IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF NORTH OGDEN CITY:

SECTION 1. The North Ogden City Annexation Policy Plan dated January 28, 2003 is hereby adopted.

PASSED AND ADOPTED this 28th day of January 2003.

FOR NORTH OGDEN CITY:

ATTEST:


Lynn C. Muirbrook, Mayor

53. fui. Spendlove
S. Annette Spendlove,
City Recorder

NORTH OGDEN CITY



ANNEXATION POLICY PLAN

January 28, 2003

NORTH OGDEN CITY

Annexation Policy Plan

I. Introduction.

The North Ogden City Annexation Policy Plan is developed in accordance with Utah Code §10-2-401.5. In developing this plan, the North Ogden City Planning Commission and the North Ogden City Council considered all unincorporated areas between the City corporate boundaries and its neighboring communities. This plan attempts to avoid any overlaps with the expansion areas of other municipalities. The Planning Commission met with Pleasant View Planning Commission on September 5, 2002 and met with the Harrisville Planning Commission on September 25, 2002.

In developing this Annexation Policy Plan, North Ogden City considered the population growth projections for the city and adjoining areas for the next 20 years. Consideration was also given to the current and projected costs of infrastructure, urban services, and public facilities necessary.

The North Ogden City Annexation Policy Plan is to facilitate full development of the area within the current city boundaries and to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area. This plan is developed in conjunction with the North Ogden City General Plan, and the need over the next 20 years for additional land suitable for residential, commercial, and industrial development. Included in this plan are the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in and around the city.

The proposed annexation boundaries are drawn, as practicable and feasible, along the boundaries of existing special 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. This plan is to eliminate islands and peninsulas of territory that are not receiving City services. The plan analyzed any overlapping functions to consider the consolidation of such functions so there is an efficient delivery of services and the City is equitable in its distribution of community resources and obligations.

II. Criteria For Granting Future Annexation Petitions.

A. Character of the Community.

Historically, North Ogden City was an agricultural community settled in the mid-1800s. The community had many fruit orchards, but as time has moved on either the farmers have tired of farming or their heirs do not desire to farm. As a result, the orchards have been sold for residential development and North Ogden has become a bedroom community with its residents being employed in various employment centers along the Wasatch Front.

Today, North Ogden City is an open-space suburb and community that provides housing for people of all income levels and styles of living. The City's housing stock is largely single-family detached housing, however there is adequate attached housing to meet affordable housing needs. The community has two senior single-family detached housing subdivisions, a senior twin-home development, and one senior multi-family housing project.

The City has a commercial core that provides retail services for the community's daily needs. However, clothing and large item purchases, such as furniture, appliances, new vehicles (an used car lot does exist in the city), recreational vehicles, etcetera, must take place out of the city.

North Ogden City has very little industrial activity. Only one industrial operation, Slik-Pak, exists in the city.

B. Municipal Services In Developed And Undeveloped Unincorporated Areas.

North Ogden City provides culinary water, sanitary sewage collection, solid waste collection, and storm water drainage infrastructure services. The City also provides public safety services through its own police department. Fire safety and emergency medical services are provided by the North View Fire Department, which is a three-city fire department governed by the mayors of Harrisville, North Ogden, and Pleasant View. North Ogden City has a parks and recreation system operated by its own parks and recreation department. North Ogden also provides land use planning and protection services through its Planning Department.

The expansion and extension of municipal services are based on the following standards:

1. Adequate culinary water pressure and storage capacity is required for development to take place.
2. Along with the culinary water pressure and storage demands, fire flow standards in accordance with the Uniform Fire Code must also be met.
3. North Ogden City requires all sanitary sewer collection to be gravity flow. Individual homeowner owned and operated pump stations are permitted, but the City's wastewater collection system is to be free of pumping or lift stations.
4. Every development must accommodate the storm drainage demands for a five-year storm.
5. Every subdivision must have a second-access when at least one of the following exists:
 - A. A residential lot is more than 1600-feet from a through street;

B. More than 60-single-family residential lots, or 60-residential units; or 100,000 square feet of commercial or industrial space, whichever is less, are platted or developed.

6. North Ogden City wants land use control of the land fronting all streets in its corporate boundaries.

C. Financing of Services.

The developer of the land pays for the new public infrastructure. Impact fees are collected on building permits for new structures to pay the proportionate share of the impact new development has on capital improvements. The expansion of public services, such as the law enforcement, fire, and emergency medical services, administrative, and parks, and community development are paid through the property taxation of the land.

D. An estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area.

North Ogden City has performed studies to identify the impact of new development on the City. As a result of these studies, the City Council has adopted impact fee schedules to avoid the financial impact of new development on the existing residents. The impact fee studies also assure that the new development impact fee funds do not subsidize existing development. The monthly fee schedules on culinary water, sanitary sewer, and storm water provides for the on-going replacement costs, system upgrades, and maintenance of the respective infrastructure systems.

III. Special District and Public Service Franchise Area Boundaries.

Special districts serving the North Ogden City area are:

1. Weber County School District.
2. Ben Lomond Cemetery District.
3. Weber County Mosquito Abatement District.
4. Pine View Water Systems District.
5. North View Fire Department.
6. Central Weber Sewer Improvement District.
7. Bona Vista Water Improvement District.

Public service companies serving North Ogden City are:

1. Utah Power Company for electrical power.

2. Questar Gas Company for natural gas service.
3. Qwest for telecommunications service.
4. AT&T Broadband for cable television and telecommunications service.

All but two of the public service providers and special districts serve North Ogden City and the areas it plans to annex in the next 20-years. The two agencies having boundaries that do not include all of the present North Ogden City jurisdictional boundaries and the areas the City plans to annex are the Ben Lomond Cemetery District and the Bona Vista Water Company.

The Ben Lomond Cemetery District covers all of North Ogden City and its intended annexation area, except the Silver Springs Subdivision located west of Mountain Road at the 1510 North Street and 1525 North Street. The Silver Springs Subdivision is already located in North Ogden City. Annexation plans do not conflict with the Ben Lomond Cemetery District.

The Bona Vista Water Improvement District serves the Harrisville area, but its storage facilities are located east of Mountain Road in North Ogden City. Some residents south of 1700 North Street in North Ogden City are connected to the Bona Vista waterline, but since 1990, all new developments in the Bona Vista Water Company service area that is located in North Ogden City, must be connected to the North Ogden City Culinary Water System.

Justification for excluding from the expansion area any area containing urban development within one-half mile of the city boundary.

No unincorporated area within one-half mile of the North Ogden City boundary and not located in another incorporated city, is proposed to be excluded from this annexation policy plan, except land owned by the United States Department of Agriculture – Forest Service located north and east of North Ogden City.

III. A statement addressing any comments made by affected entities at or within ten days after the public meeting.

On November 13, 2002, the North Ogden Planning Commission held its public hearing and no comments were received. During the 10-day written comment period Pleasant View City submitted its annexation policy plan. The Pleasant View Annexation Policy Plan is in harmony with the boundaries agreed upon by both planning commissions on September 5, 2002.

IV. Map of The Expansion Area.

Attached is a map showing the proposed annexation area for North Ogden City. A narrative explanation of each area is provided below. No area outside of Weber County is proposed for annexation.

The Planning Commission reviewed the proposed annexation policy plan on September 24, 2002. Because Ogden City and North Ogden City have no unincorporated area between its

borders, a meeting between the two cities did not take place. The Pleasant View Planning Commission and the North Ogden Planning Commission met on September 5, 2002 and mutually agreed on what areas would be annexed into the respective cities. Because there are no cities north or east of North Ogden City within one-half mile of its current corporate boundaries, no other cities have been consulted.

Pleasant View City

The two areas of unincorporated property between North Ogden City and Pleasant View: (1) the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street; and (2) the area north of the power line. The Pleasant View City Planning Commission and the North Ogden City Planning Commission met on September 5, 2002. Both Planning Commissions agreed with the following:

1. North Ogden City will annex the portion of the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street, from the center of the canal, south. It is intended that Pleasant View City will annex north of the canal.
2. The second area of unincorporated land is located at the point where the two cities meet at the Utah Power Company power line parcel. Along with the Utah Power Company, there is private land located north of the power line parcel and south of the U.S. Forest Service land. North Ogden City plans to annex that area from its current northwest corner, north to the United States Department of Agriculture – Forest Service property, and east to the Forest Service property east of North Ogden City.

Harrisville City

Between Harrisville and North Ogden are two unincorporated areas. The first area is located along 2000 North Street and west of 400 East Street (Washington Boulevard). The second area is located west of 400 East Street at the 1500 North Street alignment north to approximately 200-feet south of 1900 North Street, and west to the 150 East Street alignments.

The Harrisville Planning Commission and North Ogden City Planning Commission met on September 25, 2002 to discuss the respective annexation policy plans. In the first area, North Ogden City intends to annex from the west of its present corporate boundaries as far west as the natural drainage will drain to the east. This area will be the area along the east and west of 150 East Street, from the Ben Lomond Golf Course to 2550 North Street.

In the second area, North Ogden City intends to annex all of the unincorporated area located west of 400 East Street, west to its present corporate border at the 150 East Street alignment, from approximately 1525 North Street, north to the present North Ogden City corporate boundaries south of 1900 North Street.

The North Ogden Planning Commission was unanimous on these areas intended for annexation. The North Ogden Planning Commission agreed with the Harrisville Planning Commission that any residential development in the area south of 1900 North Street, south

to the present Harrisville corporate boundary at approximately the 1500 North Street alignment, and from the 150 East Street alignment, east to 400 East Street should be commercial development and single-family residential lots with a minimum of 10,000 square foot lots. The North Ogden Planning Commission is recommending this stipulation if Harrisville City agrees to not place this area in its annexation policy plan.

Because there is no unincorporated private land between North Ogden City and Ogden City, there are no annexation plans between North Ogden City and Ogden City.

PROCESS

The North Ogden City Planning Commission held a public hearing on November 13, 2002 and provided notice by advertising for at least 14-days. This public hearing allowed Harrisville, Ogden, and Pleasant View and Weber County to examine this proposed annexation policy plan and provide input on it. No input was provided at the public hearing.

Following the public hearing, the North Ogden Planning Commission will accept and consider any additional written comments from affected entities until November 25, 2002. No comments were received during this written comment period, therefore no modifications were made and subsequent public hearing held. The Planning Commission recommended approval of the Annexation Policy Plan to the City Council.

On January 14, 2003, the City Council held a public hearing, after advertising for at least 14-days and notifying Harrisville, Ogden, Pleasant View, and Weber County, on the planning commission's recommended annexation policy plan. The City Council adopted this plan without modification on January 28, 2003 by adopting ordinance #2003-02.

North Ogden City submitted a copy of this annexation policy plan to the Weber County Board of Commissioners of this annexation policy plan January 29, 2003, which was within 30 days of adoption.



520 W Elberta Drive
Pleasant View, UT 84414
Main Office (801) 782-8529
www.pleasantviewcity.com

May 11, 2022

To Whom It May Concern:

Please advise that on Tuesday, May 10, 2022, the Pleasant View City Council took action to modify the City's Annexation Plan to remove property located in the south-east corner. This action was proposed by the property owner due to limitations and challenges in accessing utilities. This property is now eligible for inclusion in the annexation plan for North Ogden City if determined appropriate by that City's legislative body.

Please feel free to reach out to me if any additional clarification might be helpful regarding this matter. Additionally, the adopted resolution and annexation map amendment are attached for additional reference.

Best regards,

Amy Sue Mabey, MPA
City Administrator



City Council Staff Report

Annexation Plan Amendment May 10, 2022

BASIC INFORMATION

Applicant: Rick Scadden
Location: Pleasant View City Annexation Area 4

BACKGROUND

The City Council will consider a final action to modify the City's annexation plan to eliminate properties located at Pleasant View City Annexation Plan Area 4 – east of Weber High School. Mr. Scadden, the owner of these properties, has requested that the city consider this modification to allow North Ogden to revise its annexation plan to incorporate this land. The Planning Commission reviewed this proposal during its April 7 meeting and provided a unanimous recommendation for approval.

As per Utah Code § 10-2-401.5 and 10-2-402, this project is eligible for annexation in either Pleasant View or North Ogden based on its location and proximity to both cities. Nonetheless, in evaluating access to utilities and a desire to develop this property, the request has been made to annex this property into North Ogden.

This property is currently in unincorporated Weber County and within the Pleasant View City Annexation Plan. The applicant is requesting that this plan be modified to allow North Ogden to modify its plan to include this property and this would then allow the property owner to apply for annexation. The annexation process outlined by Utah Law requires that a property must be included in a city's annexation plan prior to annexation, and a property included in another City's annexation plan cannot be included until a modification occurs to the initial City's plan.

Pleasant View City Administration and the Public Works Director do not have concerns with this proposal.

STAFF CONTACT

Amy Mabey
amabey@pleasantviewcity.com
801-782-8529 Ext: 468

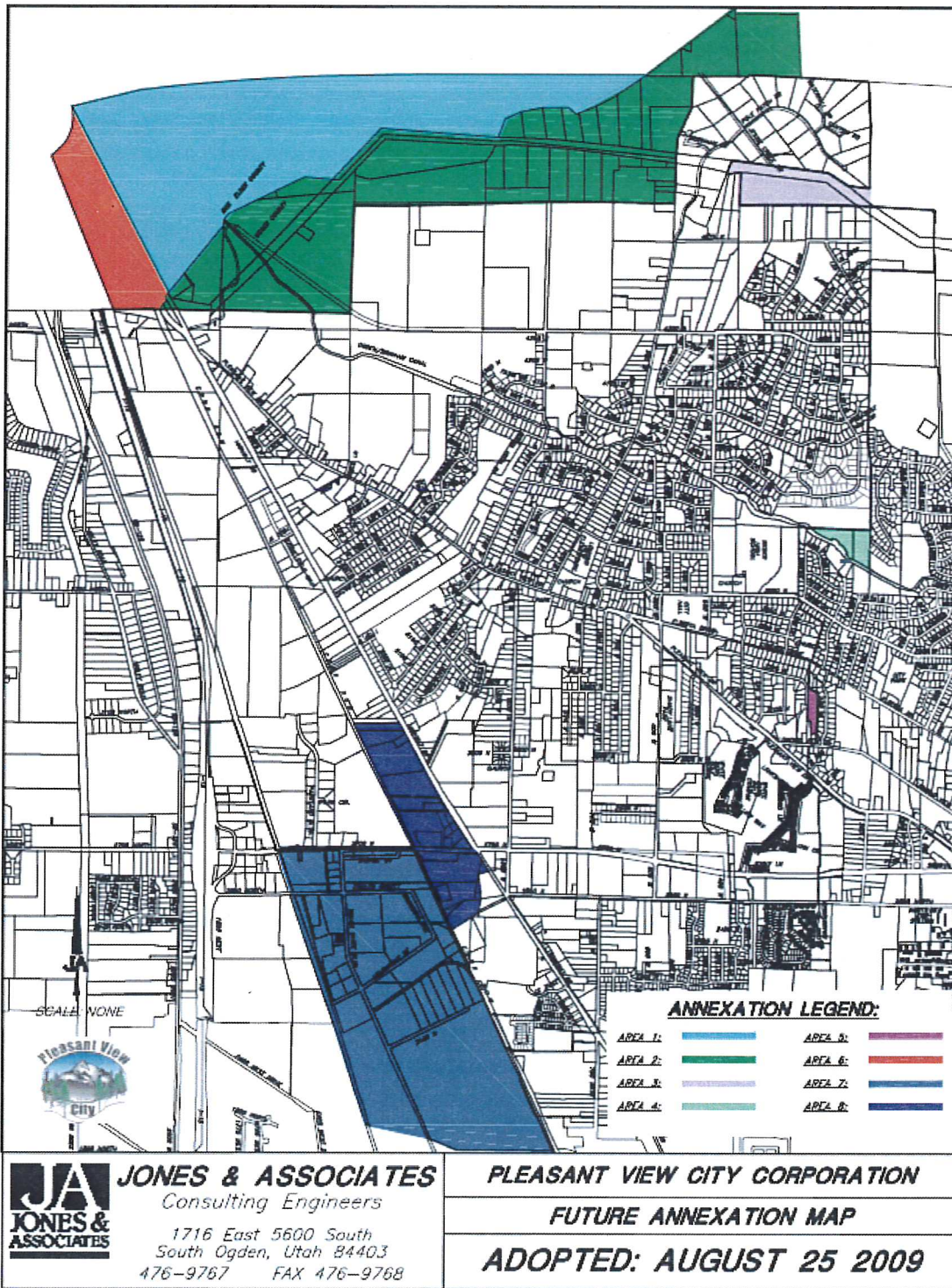
ATTACHMENTS

- 1) Vicinity Map
- 2) Future Annexation Plan Map

ATTACHMENT 1) Vicinity Map



ATTACHMENT 2) Future Annexation Plan Map



RESOLUTION 2022-F

A RESOLUTION OF THE PLEASANT VIEW CITY COUNCIL FOR THE AMENDMENT OF THE FUTURE ANNEXATION POLICY PLAN.

WHEREAS, Pleasant View City finds that a request to update to the Annexation Policy Plan can be accommodated; and

WHEREAS, Pleasant View City realizes that the development needs of the area requested can better be served by a neighboring city; and

WHEREAS, Section 10-2-401.5 of the Utah Code provides the process to amend an Annexation Policy Plan.

WHEREAS, Proper noticing has be given and the request has received a positive recommendation from the Planning Commission.

NOW THEREFORE, Be it hereby ordained that:

SECTION ONE: The Annexation Policy Plan of Pleasant View, Utah is hereby amended by removing 'Area 4' from the Future Annexation Map. 'Area 4' is located above the Brigham Canal at the eastern border of the Pleasant View City.

See attached Future Annexation Map, Adopted August 25, 2009 with the indication of 'Area 4' to be removed.

SECTION TWO: This resolution shall take effect immediately.

DATED this ____ day of _____, 2022.

PLEASANT VIEW CITY, UTAH

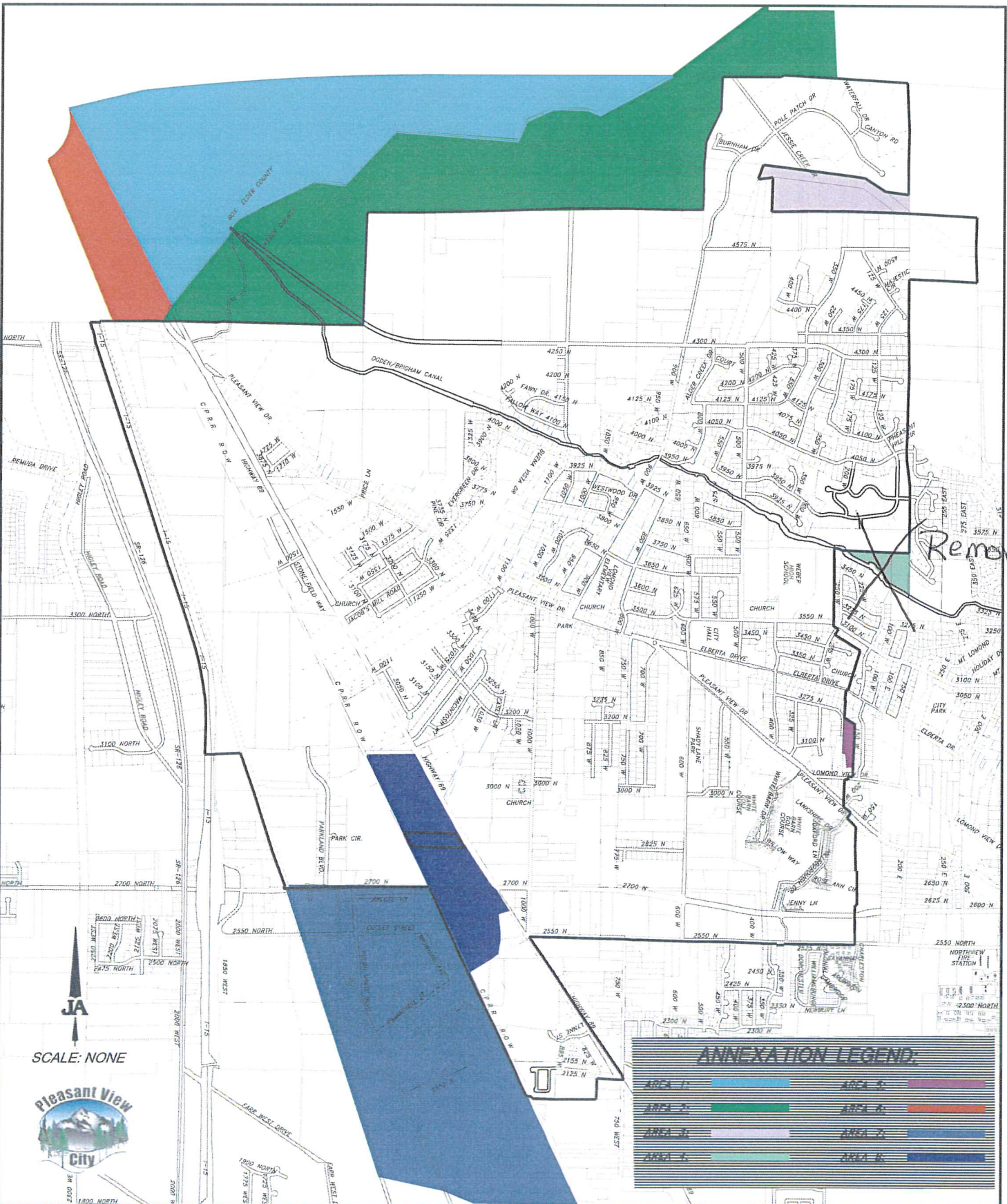
Leonard M. Call

ATTEST:

City Recorder

This ordinance has been approved by the following vote of the Pleasant View City Council:

CM Arrington _____
CM Bailey _____
CM Gibson _____
CM Marriott _____
CM Urry _____



Remove

ANNEXATION LEGEND:

AREA 1:	AREA 5:
AREA 2:	AREA 6:
AREA 3:	AREA 7:
AREA 4:	AREA 8:

JA
JONES & ASSOCIATES
 Consulting Engineers
 1716 East 5600 South
 South Ogden, Utah 84403
 476-9767 FAX 476-9768

PLEASANT VIEW CITY CORPORATION
FUTURE ANNEXATION MAP
ADOPTED: AUGUST 25 2000

Annexation to North Ogden City Ordinance No. ___

PART OF THE SW 1/4 OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN
Weber County, Utah, Prepared December 2021

CITY ACCEPTANCE
I hereby certify that this annexation to the corporate limits of North Ogden City has been accepted by the Mayor and the City Council by Ordinance passed on the ___ day of ___, 20__.

In witness hereof I hereby set my hand and affix the corporate seal of the City of North Ogden City.

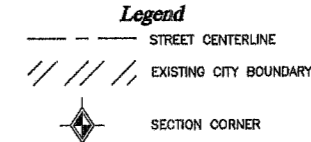
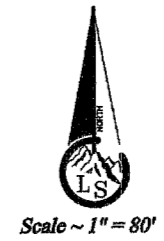
Approved this ___ day of ___, 20__.

Mayor _____

Attest: City Recorder _____

WEBER COUNTY SURVEYOR
This plat is hereby approved as a final local entity plat as required by UCA 17-23-20.
Approved this ___ day of ___, 20__.

Weber County Surveyor _____



BOUNDARY DESCRIPTION

A tract of land located in the Southwest Quarter of Section 20, Township 7 North, Range 1 West, Salt Lake Base and Meridian; said tract lying north of the Ogden Brigham Canal, said canal described and recorded in Book 122 page 385 and Book 122 page 551 in 1995 and 1996; described as follows:

- Commencing at a point located on the north line of the Ogden Brigham Canal and the Quarter Section line, said point being located North 00°03'16" East 53.48 feet, FROM the South Quarter corner of said Section 20; RUNNING thence the following twenty three (23) courses along said north line of the Ogden Brigham Canal;
- 1) North 53°29'56" West 2.90 feet;
 - 2) along the arc of a curve to the Left 43.23 feet, having a radius of 320.00 feet with a chord bearing and distance of North 57°22'10" West 43.20 feet (C1);
 - 3) North 61°14'00" West 281.50 feet;
 - 4) along the arc of a curve to the Left 53.76 feet, having a radius of 320.00 feet with a chord bearing and distance of North 65°02'46" West 53.70 feet (C2);
 - 5) North 70°52'00" West 37.90 feet;
 - 6) along the arc of a curve to the Right 55.36 feet, having a radius of 80.00 feet with a chord bearing and distance of North 51°02'32" West 54.26 feet (C3);
 - 7) North 31°14'00" West 76.01 feet;
 - 8) North 58°46'00" East 30.00 feet;
 - 9) North 31°14'00" West 116.80 feet;
 - 10) along the arc of a curve to the Left 66.45 feet, having a radius of 150.00 feet with a chord bearing and distance of North 45°55'28" West 65.91 feet (C4);
 - 11) North 56°37'00" West 49.20 feet;
 - 12) along the arc of a curve to the Right 22.95 feet, having a radius of 50.00 feet with a chord bearing and distance of North 45°28'02" West 22.75 feet (C5);
 - 13) North 30°22'00" West 20.41 feet;
 - 14) along the arc of a curve to the Left 154.50 feet, having a radius of 150.00 feet with a chord bearing and distance of North 59°50'26" West 147.76 feet (C6);
 - 15) North 89°22'00" West 18.62 feet;
 - 16) South 00°38'00" West 30.00 feet;
 - 17) along the arc of a curve to the Right 33.76 feet, having a radius of 80.00 feet with a chord bearing and distance of North 77°16'38" West 33.51 feet (C7);
 - 18) North 65°11'00" West 272.60 feet;
 - 19) along the arc of a curve to the Right 48.45 feet, having a radius of 380.00 feet with a chord bearing and distance of North 61°31'51" West 48.42 feet (C8);
 - 20) North 57°51'30" West 35.99 feet;
 - 21) North 32°08'30" East 10.00 feet;
 - 22) North 57°51'30" West 84.90 feet;
 - 23) along the arc of a curve to the Right 25.08 feet, having a radius of 70.00 feet with a chord bearing and distance of North 47°35'32" West 24.95 feet (C9), to a point on sixteenth section line being an old fence line;
- Thence South 88°39'11" East 1293.26 feet, along said sixteenth section line fence, to the center south sixteenth corner.
Thence South 00°37'46" West 768.84 feet, to the point of beginning.
Containing 9.93 acres, more or less.

NARRATIVE

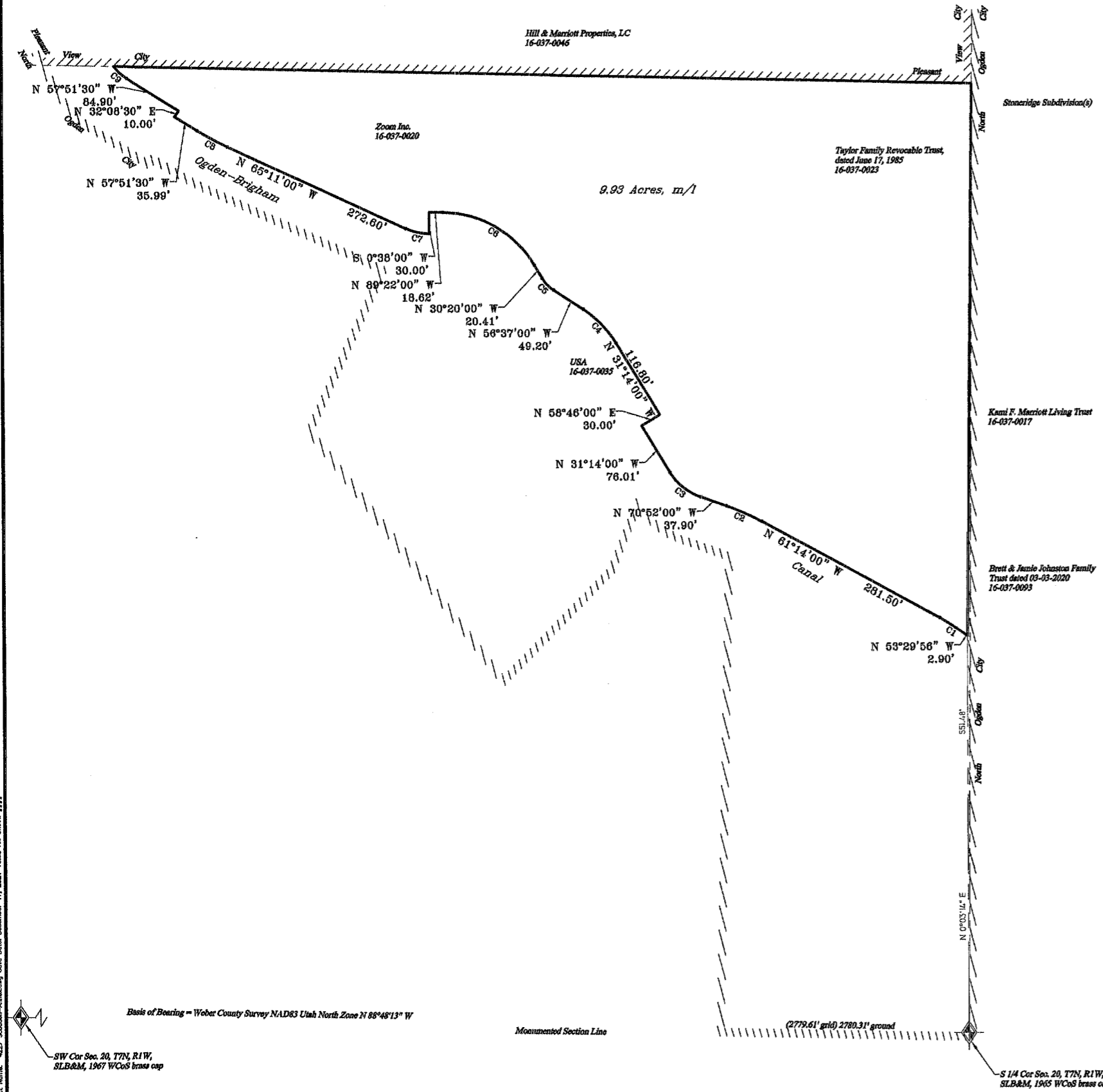
The purpose of this survey is to produce a plat for the annexation of the property shown. It should be noted that the basis of bearing for this survey is based on the physical monuments shown. The annexation is intended to include all of the land north of the Ogden-Brigham canal that is owned by Zoom, Inc. and the Taylor Family Revocable Trust dated June 17, 1985. The deeds for the properties identify the north and east boundaries as the sixteenth section line and quarter section line respectively. A record of survey filed as number 6397 shows that there is a fence line on the north of the property which was held as the boundary but did not hold the fence line on the east of the property and no reason for holding one but not the other was provided in the plat. The location of the canal is based on the same record of survey (6397) which indicates finding government monuments marking the north boundary.

SURVEYOR'S CERTIFICATE

I, Ernest D. Rowley, do hereby certify that I am a professional land surveyor in the State of Utah and hold certificate no. 171781-2201 in accordance with Title 58, Chapter 22 known as the Professional Engineers and Land Surveyor's Licensing Act. That I have prepared this plat in accordance with UCA 17-23-20. That this plat and the description hereon are sufficient to enable the county surveyor to establish the boundary on the ground and sufficient to enable the county recorder to identify, for tax purposes, each tract or parcel included within the boundary.



Curve Table					
Curve	Delta	Radius	Tangent	Length	Chord Bearing & Distance
C1	7°44'27"	320.000'	21.65'	43.23'	N 57°22'10" W 43.20'
C2	9°37'35"	320.000'	26.95'	53.76'	N 65°02'46" W 53.70'
C3	39°38'50"	80.000'	28.84'	55.36'	N 51°02'32" W 54.26'
C4	25°22'58"	150.000'	33.78'	66.45'	N 45°55'28" W 65.91'
C5	26°18'00"	50.000'	11.68'	22.95'	N 45°28'02" W 22.75'
C6	59°00'52"	150.000'	84.89'	154.50'	N 59°50'26" W 147.76'
C7	24°10'44"	80.000'	17.14'	33.76'	N 77°16'38" W 33.51'
C8	7°18'20"	380.000'	24.26'	48.45'	N 61°31'51" W 48.42'
C9	20°31'54"	70.000'	12.68'	25.08'	N 47°35'32" W 24.95'



Basis of Bearing = Weber County Survey NAD83 Utah North Zone N 88°48'13" W

Monumented Section Line

(2779.61' and) 2780.31' ground

S 1/4 Cor Sec. 20, T7N, R1W, SLB&M, 1965 WCoS brass cap

SW Cor Sec. 20, T7N, R1W, SLB&M, 1967 WCoS brass cap

<p>Landmark Surveying, Inc. A Complete Land Surveying Service www.LandmarkSurveyingUtah.com</p>	<p>4646 South 3200 West - #A-3 West Haven, UT 84401 801-731-4075</p>	<p>Weber County Recorder</p>
	<p>CLIENT: Address:</p>	<p>Entry no. _____ Fee paid _____ Filed for record and recorded _____ day of _____, 20__ at _____</p>
<p>Annexation in the SW 1/4 of Section 20, Township 7 North, Range 1 West, Salt Lake Base and Meridian.</p>		<p>In book _____ of official records, on page _____ County Recorder: Leann _____ By Deputy: _____</p>
<p>DRAWN BY: EDR CHECKED BY: ... DATE: December 17, 2021 FILE: 4227</p>	<p>Page 26</p>	

Staff Report to the North Ogden City Council

SYNOPSIS / APPLICATION INFORMATION

Application Request: Discussion, Consideration, and Action Regarding Development Agreement Amendments and Site Plan updates related to a potential transfer of ownership of the project Village at Prominence Point.

Agenda Date: May 24, 2022

Applicant: Greg Cronin and Steve Davies

File Number: N/A

PUBLIC NOTICE:

Mailed Notice:
City Website: May 19, 2022

PROPERTY INFORMATION

Address: 1850 N 300 E. Approximately

Project Area: 4.325 (remaining acres to be developed)

Current Zoning: Master Planned Community (MPC-VPP)

Proposed Land Use: Multi-Family Housing

Parcel ID: 11-437-0045, 11-014-0081 *Current Parcels (subject to change via subdivision plat)

STAFF INFORMATION

Scott A. Hess
Planning Director
shess@nogden.org
(801) 737-9841

APPLICABLE ORDINANCES

North Ogden Zoning Ordinance 11-17K Master Planned Community Zone MPC
Development Agreement – A29-2017 (Exhibit E)

BACKGROUND

The Village at Prominence Point was approved as a Master Planned mixed-use project in 2017. The developer has been working in phases to complete the build out of the project. Recently the project was listed for sale, and an interested party has placed the property under contract. The new Developers met with the City Manager and Planning Director to discuss potential amendments to the project, and the process those amendments would be considered. The Developer met with the City Council on April 26, 2022 to discuss the project with the City Council to obtain feedback prior to submitting amendments to the Development Agreement and Site Plans controlling the project. The applicant has taken the feedback

received from City Council and has developed the plans included in this Staff Report for the Council's consideration.

ANALYSIS

Mr. Cronin and Mr. Davies have the Village at Prominence Point project under contract. The current owner, Jack Barrett has indicated his support for the Council to move forward with amendments to the project so long as they happen after the sale is complete.

Staff recommends the Council review Exhibit C.a and C.b showing the proposed building orientations for the site.

The Development Agreement is proposed to be updated in the following core ways: *(Please see Exhibits A-D for a complete description of the proposed changes).*

Independent Living Facility:

- The Independent Living Facility (ILF) has been moved out of the northwest island parcel. Those units have been added to the apartment area.
- There is no longer proposed to be a standalone independent living facility component to the project, and the units will become market rate.
- Call outs to the Independent Living Facility have been removed altogether within the Redlined Development Agreement (See Exhibit A).

Island Parcel (Former ILF)

- In the place of the ILF, the Developer is proposing to build the first of two clubhouses as well as 12 additional townhomes. The clubhouse would primarily serve the townhomes and single-family cottage homes, with the additional clubhouse designed to serve the apartment area.
- The Redlined Development Agreement (Exhibit A) proposes that the first Clubhouse be completed prior to the fifth apartment building in phase one receiving its occupancy permit. The second clubhouse is proposed to be completed prior to the 200th apartment unit receiving occupancy. The Developer has indicated their willingness to construct the clubhouse as soon as practical upon closing on the property.
- The Developer is responsible for installing the trail connecting Cold Water Creek from the Lodge to 1900 N. as well as installing landscaping for the use of the residents in place of the three cottage lots that impact the creek corridor.

Apartment Area:

- The southern half of the apartment area has been reconfigured to have fewer total buildings with more apartment units per building. This results in two additional four-story buildings, moving the project from four to six four-story buildings. The building design is complementary to the existing architecture, but will have flat roofs, so the overall height of the structures will be comparable to the proposed gable roof apartments in the original Development Agreement. (See Exhibit E Apartment Elevations)
- The total number of apartments from 404 to 472 as the ILF units are folded into the final number.

Total Unit Count:

- 607 to 627 Total number of units to be 20 additional (build original 404 apartments, 68 ILF units, plus the additional townhome project units that were approved). Basically 20 additional townhomes...

Other Improvements:

- The City recommends that no dog park be indicated or installed in the detention basin south of 1700 N.
- The development includes the internal trail and sidewalk connectivity, as well as connected open spaces.
- The development provides additional parking totaling 2.13 parking stalls per residential unit.
- The Commercial uses remain as originally indicated in the existing Development Agreement.

The Developer is committed to the project and wants to make sure that this becomes a true amenity in North Ogden City. The housing units created at Village at Prominence Point are necessary to assist the City in meeting its goals for providing housing choice, and relatively more affordable housing for residents. In addition to meeting housing needs, the City desires the Village at Prominence Point project to be completed and built out with amenities in a timely fashion.

CONFORMANCE WITH THE GENERAL PLAN

The General Plan map shows this area as: “Mixed-Use/Multi-family/Commercial.” This project is consistent with that designation.

RECOMMENDATION

Staff is supportive of the proposal and amendments to the Development Agreement and Site Plan. Staff recommends the City Council review the plans in the Attachments below, host a discussion with the developer, and take action on the Amended Development Agreement.

EXHIBITS

- A. Redlined Development Agreement, dated April 20, 2022
- B. Site Plan Overlay (new design on top of original Site Plan)
- C. Site Plans
 - a. Site Plan Complete
 - b. Zoomed-in Updated Site Plan
- D. Project Net Sheet (explaining units, open space, parking, landscaping etc.)
- E. Building Elevations

**THE VILLAGE AT
PROMINENCE POINT
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT, hereinafter (“Agreement”), is made and entered into this ____ day of _____, 2022~~17~~, by and among Davies Design Build Meritage Companies, LLC, an Alaskan limited liability company (Alaska Entity #10014218) and Mountain Vista Trails, LLC, a Utah limited liability company (Utah Entity #10420822-0160), (hereinafter collectively “Developer”) is under contract to purchase and developas the owner and developer of certain real property located in North Ogden City, Weber County, Utah, at approximately 1750 North 200 East, and NORTH OGDEN CITY, (hereinafter “the City”), a Utah Municipal Corporation. Developer and the City shall hereinafter be collectively referred to as “Parties” and sometimes individually as a “Party”.

Commented [JC1]: Insert the correct name here

RECITALS:

A. Developer is the owner of under contract for approximately 34-18 +/- acres of real property (“Parcel A”) located in North Ogden City, Weber County, Utah, which it intends to develop as a Mixed Use Development. A legal description of the property is attached hereto as Exhibit “A”.

B. SITE INFORMATION

Tax Lots:	1101400 4548 , 1101400 8169 , 1101400 8470 , 110140071, 110140072, 110140016, 110140062, 110140066, 110140065, 110140064, 110170063
Current Zoning:	Commercial (C-2), County A1-A2 <u>AgriculturalMPC-VPP</u>
General Plan:	Southtown Mixed Use (SMU), County Mixed Use and Residential
Location:	The subject property is located within the North

Ogden City limits and in an unincorporated island of Weber County entirely surrounded by North Ogden City corporate limits. The proposed project is located on the west side of Washington Blvd, north of 1700 North.

The property is more specifically located within North Ogden City's general plan and identified as MU or mixed use. The existing zoning for the site is ~~C-2MPC-VPP~~ but the proposal is based upon a rezone to include MPC Masterplan Community Zone.

C. The subject property is zoned Master Plan Community by North Ogden City and ~~A1 A2 Agricultural by Weber County~~ and is designated as mixed use (MU) zone on the North Ogden City General Plan Map and mixed use and residential in the Weber County General Plan.

D. The subject property is bounded on the west by the R-4 ~~future~~ independent living, assisted living and memory care facility. The other adjacent lots are agricultural ~~and residential~~ in nature.

~~E. Developer also has acquired rights to purchase adjoining property currently owned by the Hales Trust which will be developed as part of Parcel A.~~

~~F.E.~~ The Parties jointly agree that the City will benefit from all aspects of this proposed development.

~~G.F.~~ The Parties desire to enter into terms relevant to Developer's proposed development as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and considerations as more fully set forth below, Developer and The City hereby agree as follows:

1. **Recitals.** The above recitals are incorporated herein by reference and made a part hereof.

2. Rezone Amend Development Agreement. The City and Developer agree that upon the acquisition of the property by Developers this Agreement goes into effect. Prior to acquisition by Developer, this agreement is non-transferrable without written consent from the City, which shall not be unreasonably withheld. ~~agrees to rezone only the subject property as described in the legal description in Exhibit "A" to Master Planned Community (MPC) zone.~~
3. **Intended Use**. The Developer agrees that only the proposed Mixed Use Development will be allowed or authorized under the terms of this Agreement or on Parcel A as approved by the City under the MPC zone.
4. **Development Terms**. The following constitutes terms for development of the Parcels.
 - a. Concept Approval. The North Ogden City Council has approved the Developer's proposed concept and has entered into this agreement to facilitate the Developer to develop the subject Property as proposed.
 - b. Compliance with Subdivision Standards. Developer agrees to comply with all of the conditions of approval, the ordinances, rules, regulations, requirements, and standards of the City with respect to the preparation, submission, and recording of the subdivision application. All preliminary and final plats, the construction and completion of said development, particularly to the installation and completion of all required subdivision improvements and the provision of the financial guarantee guaranteeing completion of such improvements (the "Subdivision Guarantee"), will be consistent with current City Ordinances.

c. Phasing and Project Division. The Parcels may be developed in any order or phasing as best seen fit by the Developer. However, all terms related to the completion of landscaping and commercial space remain in force as describe in other locations of this document. For purposes of this development agreement the project shall be divided into the following five development areas as shown on Exhibit B:

- i. Commercial Area, which is the area directly adjacent to Washington Blvd.
- ii. Apartment Area, which is the area directly west of the Commercial Area and includes all ~~24-17~~ individual apartment buildings.
- iii. Townhome Area, which is the area directly west and north of the Apartment Area and includes all 13607 townhome units.
- iv. ~~Age Restricted Cottages~~ Patio Home Area, which is the northwestern most corner of the project and includes ~~228~~ patio home units.
- ~~v. Independent Living Facility, which are one building containing four stories and 68 units.~~

Commented [JC2]: verify this number it should include the 12 additional

5. **Vesting.**

- a. The Developer shall have the vested right to develop Parcel A in accordance with the applicable land use ordinances of North Ogden City as established on the date of this Agreement as well as per the terms of this Agreement. Except as set forth in 5.b., the City's future laws are not

applicable to the Project.

b. Exceptions:

- i. The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 5(a) are subject to only the following exceptions:
- ii. Developer Agreement. City's Future Laws that Developer agrees in writing to the application thereof to the Project;
- iii. State and Federal Compliance. City's Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;
- iv. Building Codes. City's Future Laws and safety standards that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet countervailing public safety concerns related to public health, safety or welfare.
- v. Roads. Reasonable requirements for roadway grades, widths, access points, maintenance, and standards.

- vi. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.
- vii. Fees. Changes to the amounts of fees for the processing of Development Applications, or impact fees that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law. Developer is vested in the fees in place at the time a complete application is submitted. Specifically, Developer will only pay impact fees legally in place on the date a complete building permit application is submitted to the City.
- viii. Compelling, Countervailing Interest. Laws, rules, or regulations that the City's land use authority finds on the record are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code.

6. **Existing On-Site Conditions.**

- a. There are two distinct areas of the proposed project. They are as follows:
 - i. The 18.26 acre parcel "Southern Property" is largely undeveloped but is currently under construction with the proposed subdivision improvements with the construction of 1700 North. Smaller dilapidated structures along Washington Blvd. have been removed

and the property is within the corporate limits of North Ogden City.

- ii. The 14.8 + or – acres of largely ~~developed~~undeveloped ground “Northern Property” ~~where the townhomes and cottages are located, along with some apartment buildings and commercial.~~ ~~is currently in the process of being annexed into the North Ogden City Limits.~~
- b. The subject property slopes generally downhill from the northeast to the southwest at an average slope of about 1%. The vegetation present on the property includes native shrubs and grasses.

7. **Conformance with North Ogden General Plan.**

- a. Residential Density.
 - i. This proposal consists partly of multi-family housing, which is listed as a permitted use in the MPC zone. It is also consistent with the desire to provide increased density along Washington Blvd. and a mix of housing types. The multi-family housing complex will contain amenities for residences, including a clubhouse, pool, large greenspace, and associated smaller pocket parks. Developer will provide ~~for~~ at least one pathway with public access to connect to the public sidewalks on the north at 300 East and south at 1700 North, and east at Washington Blvd. and west at the assisted living facility.

- ii. The setbacks are approved as shown on the Preliminary Master Plan ~~for the individual buildings/groups of buildings which may be different than is currently anticipated in the MPC zone.~~ Preliminary Master Plan dated ~~10-3-174-19-22~~ attached as Exhibit L
- iii. The subject property is within the North Ogden Southtown area and is allowed as a MPC zone based upon satisfying the 5 acre minimum parcel development. The density in the amended MPC zone will result in ~~47204~~ apartment units in ~~24-17~~ multifamily buildings; ~~13607~~ Town Home units; ~~and 228~~ single family age restricted Patio Home lots; ~~and 68 units of Independent Living Facility resident units~~ as shown on Exhibit B, F, and L..
- iv. The density allowed shall not override the setbacks between buildings and property lines as approved on the Preliminary Master Plan dated ~~10-3-174-19-22~~ and attached as Exhibit L. Any unidentified setbacks and distances shall be rounded up to the closest ½ foot as measured on a 24x36 plan sheet.

8. **Conformance with MPC Requirements**

- a. The Development has been shown to be in compliance with the terms and conditions expressed in the MPC Zone under 11-7K-2. Any modifications to the MPC zone or any other development standards are clearly identified in this Agreement pursuant to 11-7K-5. Any standards which are not specifically waived by this Agreement, or subsequent

agreements, will be complied with by Developer and City. The modification of the standards is acceptable under the MPC zone to accommodate favorable design and other concessions of the Parties.

- b. The City Council has considered the items outlined in 11-7K-2 to assess the suitability of Parcel A to be zoned under the MPC zone and finds that the majority are in favor of this Project and Agreement moving forward.

9. **Building Height.**

- a. The subject property is within the MPC zone, an area that contains special height allowances based upon setbacks and separations. In the Apartment Area the Developer will build mostly three-story structures; however, some four-story end units have been included to provide variety in exterior elevation design. The building height of the three-story apartments is approximately 42' to the ridgeline. Four-story units have approximately 51' of overall height to the peak ridgeline. There will be a maximum number of ~~65~~ (five) 51' buildings.
- b. The maximum building height in the Townhome Area directly adjacent to the northern property line is ~~thirty-one~~ thirty-one ~~twenty-nine~~ twenty-nine (29) feet with a corresponding twenty (20) foot setback from the property line. All other Townhomes Areas are allowed to build to ~~forty-five~~ thirty-nine (39) feet with setbacks between buildings and property lines as shown on Exhibit L.
- c. The maximum building height in the Age Restricted Cottages is twenty-~~four~~ three (23) feet, or must comply with the one foot (1') additional

setback over twenty feet (20') for each one foot (1') in height up to a maximum of thirty five feet (35')

~~d. The maximum building height in the Independent Living Area is forty (40) feet for the western portion and fifty (50) feet for the eastern portion.~~

~~e.d.~~ The maximum building height in the Commercial Area is thirty-five (35) feet.

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10. **Architectural Design Standards.**

a. Commercial Area.

i. All site plans, landscape plans, and building elevations shall be approved by the City Council as identified in section 23.

b. Apartment Area.

i. All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces. Recesses (e.g., deck, patios, courtyards, entrances, or similar features) shall have a minimum depth of six feet. All building elevations adjacent to a public street right-of-way are provided with doors, porches, balconies, sidewalks, approaches, and/or windows to give the appearance of the building fronting on the public street. Unit entries are from breezeways typical on all units. All buildings have units that front facing units. There are no backyards or rear yards for ground floor units. Units that front

along 1700 North have front yards and may not have ground floor decks and/or enclosed ground floor patios.

- ii. The building design incorporates offsets, decks and windows. Larger building masses will be divided into varying heights and sizes by breaking up building sections, or by the use of such elements as variable planes, projections, bays, dormers, setbacks, roof canopies, and changes in the roofline. Each building elevation has been designed and approved as shown in Exhibit “E”. Building designs may be used in multiple locations throughout the Project; however, no two identical buildings shall be constructed next to each other unless clearly identified on Exhibit “B”.
- iii. Exterior materials, color, or textures on vertical surfaces shall be of cementitious siding and stone veneer, with the exceptions of windows and doors. Developer has provided material specifications identifying the grade of materials, a color palette has been submitted as shown on Exhibit “G”, and a detail of the maintenance set aside with the lending institution to the City. The building scale shall be broken down with vertical board and batten compendious panel on the second and third floors. The ground floor shall have cementitious siding combined with stone piers to help establish more permanence and offset and screen garage door locations.

- a. After installation, all stone veneer and similar products shall be sealed with a product designed for commercial application to prevent weathering and fading. Landscaping shall be consistent with section 15.
 - b. All cementitious siding and wood trim shall be primed on all six sides, or otherwise properly sealed, to provide for long lasting workmanship.
 - c. All roofing material shall be 30 year minimum warranty with an architectural tab.
- iv. Private open space areas shall be provided. These spaces will be enclosed with metal railings and all apartment housing units will have balconies or decks. The windows shall be Millguard Montecito or similar grade. All vents, or cavities in vertical surfaces shall be similar in color to the buildings and in no case shall be white.
- v. A preliminary signage plan is attached as Exhibit "T". Final signage shall be approved by the Planning Commission.
- c. Townhome Area.
- i. Exterior materials, on vertical surfaces shall be of cementitious siding, hardboard, and stone veneer, with the exceptions of windows and doors.
 - a. After installation, all stone veneer and similar products shall be sealed with a product designed for commercial

application to prevent weathering and fading. Natural stone is not required to be sealed. Landscaping shall be consistent with section 15.

- b. All cementitious siding and wood trim shall be primed on all six sides, or otherwise properly sealed, to provide for long lasting workmanship.
- c. All roofing material shall be 30 year minimum warranty with an architectural tab.
- ii. The building elevations, colors, and site plans shall be approved by the City Planner and Mayor, provided that all setbacks as shown on Exhibit L and outlined in Subsection 7 are maintained and the number of parking stalls is not reduced.
- d. Age Restricted Cottages.
 - i. Exterior materials, on vertical surfaces shall be of cementitious siding, hardboard, and stone veneer, with the exceptions of windows and doors.
 - a. After installation, all stone veneer and similar products shall be sealed with a product designed for commercial application to prevent weathering and fading. Natural stone is not required to be sealed. Landscaping shall be consistent with section 15.

- b. All cementitious siding and wood trim shall be primed on all six sides, or otherwise properly sealed, to provide for long lasting workmanship.
- c. All roofing material shall be 30 year minimum warranty with an architectural tab.
- ii. The building elevations, colors, and site plans shall be approved by the City Planner and Mayor, provided that all setbacks as shown on Exhibit L and outlined in Subsection 7 are maintained and the number of parking stalls is not reduced.

e. ~~Independent Living Area.~~

- i. ~~All site plans, landscape plans, and building elevations shall be approved by the City Council and shall utilize similar materials, colors, plants, and themes as identified in the Apartment Area.~~

11. **Density.** The maximum number of dwelling units shall be up to ~~61907~~ units as indicated in section 7 above. Buildings shall be laid out as identified on Exhibit L and as clarified under subsection 7 above. All Area Site Plans for phasing purposes shall comply with the standards and requirements of this Development Agreement and any subsequent amendments.
12. **Design.** Developer shall provide a variety and mixture of unit types and densities in a coordinated neighborhood layout. Developer shall install street, sidewalks, and building locations as outlined in the attached site plan to create streetscapes that are safe and accessible for all modes of transportation and to allow for convenient pedestrian and bicycle circulation to all trail connections. Trash

receptacles shall have lids and are located next to parking, and shall have walls of 7'-0" feet in height, and shall be screened on at least three sides with an evergreen hedge material. Receptacles will be located on the site for easy access by trash pick-up vehicles.

13. **Streets.** All streets are being improved in association with North Ogden City requirements. No public streets will be required internally in the development; however, 1700 North and Washington Boulevard provide public access to the development and private streets shall service the internal development needs. The North/South road which runs into 300 East will have a public access easement should a connection to 300 East ever be made. No private streets may be closed to access by the general public, or fire and emergency vehicles. Notwithstanding the foregoing developer may restrict access to the Cottage Development Area as approved by the First Marshal. The design shows a private road with 26 feet of pavement width and the dimension as shown on Exhibits "B" & "H". The final plat shall include language prohibiting the landowner from restricting the use of the private streets or sidewalks. Pedestrian right-of-ways that connect all building entrances within the development to one another shall be created. Developer shall connect to all parking areas, storage areas, recreational and common areas, and adjacent development to the building's entrances and exits throughout the development site, and connect to all future phases of development. Developer shall include public paths to connect the North/South and East/West property lines, along with a public park in the detention basin. Developer shall provide pedestrian facilities within developments that are safe,

accessible, reasonably direct, and convenient connections between primary building entrances and all adjacent streets that do not involve a significant amount of out-of-direction travel for users. Developer shall create bicycling and pedestrian routes that are free from hazards and safely designed by ensuring no hidden corners, sight-obscuring fences, dense vegetation or other unsafe conditions. All pedestrian access routes will comply with all applicable accessibility requirements. Where walkways are parallel and abut a driveway or street (public or private), they shall be raised six inches and curbed, or separated from the driveway/street by a five-foot minimum, landscaped strip.

14. **Access.** The proposal shall include a total 3 main road access points and one future secondary access point. All of the main access points are proposed on private local streets whose entry point begins at both 1700 North and Washington Boulevard which are both public roads. ~~The secondary access point may be provided via connection to 300 East, such that no structure shall be placed within twenty (20) feet of the proposed future connection point and a public easement for roadway purposes shall be recorded during the subdivision phase of the Townhome Area.~~ Private roads, parking, and access points shall be constructed according to necessary engineering standards as shown and approved in Exhibit M. The proposed access points are on internal private streets with public access and thus will not adversely impact the transportation system. Also, as designed, the access points are well spaced to accommodate the proposed development and (orientated across from one another) improve site circulation.

A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or an approved fire equipment access drive as measured around the building. A Fire Plan to be attached as Exhibit “H” shall be approved by the Technical Review Committee and Fire Marshal. Driveways, required parking areas, aisles, and turn-around shall be paved with asphalt, concrete, or comparable surfacing.

15. **Landscaping.**

- a. Plant selection and native vegetation shall be planted where practical. A combination of live deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. Ground-level areas for passive pedestrian use, such as sidewalks and plazas cover approximately 207,924 GSF or roughly 13 percent of the site area. Developer shall provide approximately 297,982 GSF of drivable surfaces or roughly 37.5% of the site area. Developer shall provide at least 20% of the site in landscaping as shown on the attached approved Preliminary Landscaping Plan as Exhibit “C”. A final Landscape Plan shall be approved by the Planning Commission which includes the number of plants, size, species, and other technical information for each phase and/or development area of the Project.
- b. All yards, parking lots, and required street tree planters landscaping shall provide erosion control, visual interest, buffering, privacy, open space and

pathway identification, shading and wind buffering based on the following standards. Based on the proposed use of the site, Developer shall provide visual screening and privacy within side and rear yards, while leaving front yards and building entrances mostly visible for security purposes.

- c. Developer shall include pedestrian pathways and open space areas with landscape materials and provide focal points within the development, such as signature trees (i.e., large or unique trees), hedges, and flowering plants. Developer shall use landscaping to generally screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales, and detention/retention ponds. The proposal will include a mix of native and nonnative vegetation, all of which can tolerate the harsh condition of the high desert environment. An irrigation system will be provided to accommodate the type and species of all planted areas, including ground covers.
- d. Preliminary tree species include:

1. Trees with Low Mature Tree Height (25 feet or less), for use in areas under power lines or in small planting areas:	
Amur Maple/Acer ginnala	Hawthorn/Crataegus 'variety'
Canada Red Cherry/Prunus virginiana 'Shubert'	Japanese Lilac Tree/Syringa reticulata
Eastern Redbud/Cercis canadensis	Serviceberry/Amelanchier
Flowering Crabapple/Malus 'variety'	
2. Trees with Medium Mature Tree Height (30 to 45 feet):	
American Hornbeam/Carpinus caroliniana	Hedge Maple/Acer campestre
Callery Pear/Pyrus calleryana	Mountain Ash/Sorbus acuparia 'variety'

3. Tall Mature Tree Height (50 feet or larger):	
Green Ash/ <i>Fraxinus pennsylvanica</i>	Pin Oak/ <i>Quercus palustris</i>
Honey Locust/ <i>Gleditsia tricanthos</i> 'variety'	Red Maple/ <i>Acer rubrum</i> 'variety'
Littleleaf Linden/ <i>Tilia cordata</i>	Red Oak/ <i>Quercus rubra</i>
Norway Maple/ <i>Acer platanoides</i> 'variety'	Pin Oak/ <i>Quercus palustris</i>
Green Ash/ <i>Fraxinus pennsylvanica</i>	

A refined species list shall be approved as part of the final Landscape Plan approved by the Planning Commission.

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e. Growth Characteristics: Trees shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance to provide a broad canopy tree variety unless limited by overhead clearance. Developer shall use narrow or "columnar" trees where awnings, other building features, or narrow sidewalks limit growth, or where greater visibility is desired between buildings and the street. Developer shall avoid using trees that are highly susceptible to insect damage, and using trees that produce excessive seeds or fruit. Developer will use deciduous trees for summer shade and winter sun and will select trees for their seasonal color, as desired.

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f. Street trees shall be selected and planted according to current City ordinances and shall be planted within existing and proposed planting strips or in City-approved sidewalk tree wells on streets without planting strips. Small stature trees shall be planted no closer to the curb or

sidewalk than three feet; medium trees – three feet; and large trees – four feet.

- g. All irrigation shall be designed to eliminate overspray on structures, fences, or other vertical materials. Drip irrigation shall be used in any areas which are directly adjacent to vertical materials to avoid discoloration.
- h. All final landscape plans shall be approved by the group or persons authorized to approve the building elevations in Subsection 10.

16. **Vehicle Parking, Loading, and Bicycle Parking.**

- a. Parking spaces in the project may include spaces in garages, carports, parking lots, private side streets, and/or driveways so long as vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), and meet the minimum size required by North Ogden City code of nine (9) feet by nineteen (19) feet. This will be verified during the site plan review process for each of the Development Areas and approved by those authorized to approve the site plan in this Agreement.
- b. Vehicle parking is allowed only on approved streets, within garages, carports, and other structures; or on driveways or parking lots that have been developed.
- c. Although the proposal includes a clubhouse, a pool, and green space; these uses are accessory and only intended for residents of the complex unless otherwise designated, thus additional traffic and associated parking will not be generated from them.

- d. The project shall provide 1204 residential parking spaces and 148 commercial parking spaces on site as shown on the Site Plan on Exhibit B & F. The foregoing parking spaces include 19 commercial spaces along Washington Blvd. ADA Accessible Parking Spaces. Accessible parking shall be provided for disabled persons, in conformance with the Federal Americans with Disabilities Act (ADA). Accessible parking is included in the total minimum number of required parking spaces. Accessible parking facilities shall comply with the design requirements of the current building code as adopted by the State of Utah.
- e. A snow removal plan shall be approved by those authorized to approve the site plan.

17. **Bicycle Parking.**

- a. Each required bicycle parking space shall be on asphaltic concrete, Portland cement, or similar hard surface material and each space shall be at least two feet wide by six feet long.
- b. The location of the rack and subsequent parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions. Customer spaces may or may not be sheltered. When provided, sheltered parking (within a building or under an eave, overhang, or similar structure) shall be provided at a rate of one space per 10 employees, with a minimum of one space per use.

- c. Bicycle parking will be conveniently located to both the street right-of-way and at least one building entrance. Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage. There will be at least 43 bike parking stalls, 35 near apartments and an estimated 8 near retail. Every residential building will be within 100 feet of bicycle parking. The number of commercial bike parking will be reviewed as part of the commercial site plans and be consistent with 11-7K-5 (J).

18. **Transportation Improvement Standards.**

- a. Washington Blvd. will be improved in accordance with the Utah Transportation Authority (UTA) and approved UDOT access points.
- b. All new and/or existing streets and alleys shall be paved according to North Ogden City Standards and Specifications. Sewers and Water mains are required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications as described in the pre-application meeting. The City shall be granted easements for any publicly owned utilities which run through the development.

19. **Storm Drainage Improvements.**

- a. Drainage facilities shall be designed and constructed to accommodate increased runoff so that discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will

not occur as a result of the proposed land disturbance or development activity.

- b. Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will channel to the new park existing drainage facilities, appropriate new facilities shall be installed by Developer to maintain existing discharge rates from this project.
- c. The detention basin on the parcel identified in Exhibit “K” shall be improved by Developer as a public park for the benefit of all residents, in addition to any park impact fees to be paid. Developer acknowledges that this park and the improvements are satisfying the City’s concerns related to the quality of the project and open space requirements and not to offset the burden of new residents moving into the City. A final site plan shall be reviewed and approved by the Planning Commission.

Commented [JC3]: This is the detention basin on the South side of 1700 north. It is a project basin, not a regional basin that jack started but never finished since he wasn't required to until the apartments came in.

- 20. **Site Lighting.** All outdoor lighting fixtures subject to this section shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties. A Lighting Plan shall be approved by the Planning Commission prior to construction.
- 21. **Preliminary Grading and Drainage Plan.** A preliminary grading and drainage plan will be prepared by a registered professional engineer. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization

proposals, and location and height of retaining walls, if proposed. This plan shall be reviewed by and be subject to approval of the City Engineer.

22. **Building Permits.** The City will process building permits in accordance with established policy. The City shall not unreasonably delay issuance of building permits.

a. Building Permits. Building permits will only be issued after completion of any necessary subdivisions and final plat recording as approved by the Planning Commission in a regularly scheduled meeting.

b. A Technical Review Committee is required for all phases/Development Areas of the Project. All utility designs shall be approved by the City Engineer prior to issuance of a building permit.

23. **Commercial Development.** The Developer is not required to complete any commercial development prior to the completion of the residential portion of this Project. However, within one (1) year after the completion of all phases of the residential portion of the Project, Developer shall landscape and maintain all vacant portions of the commercial property in accordance with City standards regardless of whether or not the area will eventually become a commercial space or parking lot. The City envisions that the Commercial Development will be the southerly entrance to North Ogden with a prominent “gateway building” at the northeast corner of 1700 N and Washington Blvd. Conceptual commercial building elevations are provided in Exhibit “J”, though the ultimate design will be determined by Developer at the time suitable tenants are located. The Mayor shall determine if the proposed commercial elevations are significantly modified

enough to require an amendment to this Agreement.

- a. **Uses to be allowed in the commercial area:** Developer agrees to the list of uses which are considered “Permitted Uses” in the North Ogden C-2 zone and which are entirely contained within the building in which the use occurs. No outdoor storage or other uses are allowed except for outdoor seating associated with a café, restaurant, or other similar eating establishment.
- b. **Uses not allowed in the commercial area.** The uses not allowed in the commercial area of this development despite being listed as a “permitted use” in the C-2 zone:

- Adult themed stores
- Agricultural use
- Auto Sales or Repair
- Bail Bond Companies
- Bars or Taverns except as associated with a restaurant.
- Bed and Breakfast
- Boarding Houses
- Boat/Recreational Vehicle Sales and Service
- Bowling Alley
- Christmas Tree Sales
- Drive-in Refreshment Stands
- Drive-thru businesses where the drive-thru lane is located between the building and the public street
- Educational Institutions similar to K-12 public schools
- Hotel/Motel
- Heavy Equipment Sales/Repair
- Medical Supply/Sales
- Monument/Mortuary Services
- Pawn shop
- Temporary Businesses
- Thrift stores
- Used Restaurant Supply store

Any other use that is not specifically permitted under the current C-2 zoning designation, with the exception of allowing the existing car wash and auto fueling stations.

Commented [JC4]: Would you want this removed? Council would likely consider allowing sit down restaurants to have a drivethru. (not mcdonalds, but maybe a café rio or habit, or tai food restaurant)

24. **Construction.** Developer shall provide the contact name and number of the on-site foreman for the project to respond to issues and concerns immediately. During construction of the Project the Developer will following the approved SWPPP Plan. Additionally, Developer agrees to fully comply with landscape maintenance standards and mow or remove any weeds or plants which grow taller than twelve (12) inches, which are not designed and/or planted to do so, within fourteen (14) days of being notified in writing by the code enforcement officer. Any failure to meet these requirements will expose Developer to abatement remedies available under City and State codes.
25. **Technical Review.** Developer shall be required to address any technical requirements related to engineering and building standards which are typically addressed during the technical review process in the City. The Parties have not yet made the required determinations for design of facilities including, but not limited to, water, sewer, electrical, storm drain, fire suppression, etc.
26. **Other Conditions.** If any condition, covenant, or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be modified in writing by both parties to conform to the law. Should the parties be unable to agree upon a modification of the condition, covenant, or provision the contract becomes voidable by either party.
- a. Management of Property. The Developer shall establish a Home Owners Association or other entity to maintain and manage on behalf of ownership of all common areas and collect dues for the maintenance of all landscaping, exterior building treatments, private streets, parking,

snow removal, underground utilities, sidewalks, plazas, and other similar improvements. The Mayor and City Planner shall verify the CC&R's are in place prior to final approval of the Development Areas.

b. The first clubhouse in the northwest corner of the project shall be completed prior to the 5th apartment building receiving its occupancy permit.

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c. the second clubhouse shall be completed prior to the 200th apartment unit receiving occupancy.

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a-d. Near Coldwater Creek in the northwest corner Developer shall completed the public trail access contemplated in the original agreements and subdivisions as well as landscaped area for members of the development to access the trail where three cottage lots were originally contemplated.

27. **Successors and Assigns.**

a. Binding Effect. This Agreement shall be binding on the successors and assigns of Developer in the ownership or development of any portion of the Project.

Assignment. Neither this Agreement nor any of the provisions, terms, or conditions hereof can be assigned to any other party, individual, or entity without assigning the rights as well as the responsibilities under this Agreement, and without the prior written consent of the City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior

written consent of the City may also be evidenced by letter from the Mayor of the City to Developer or its successors or assigns. This restriction on assignment is not intended to prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Agreement.

28. **General Terms and Conditions.**

- a. Term. This Agreement shall be in effect until December 31, 2025.
- b. No Joint Venture, Partnership or Third Party Rights. This Development Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the parties hereto, nor any rights or benefits to third parties.
- c. Severability. If any part or provision of this Agreement shall be determined to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid, or unenforceable. If any condition, covenant or other provision of this Agreement 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.
- d. Attorney's Fees. If this Development Agreement or any of the Exhibits hereto are breached, the party at fault agrees to pay the attorney's fees and all costs of enforcement of the non-breeching party.

- e. Counterparts. This Agreement and any originals of Exhibits referred to herein may be executed in any number of duplicate originals or counterparts, each of which (when the original signatures are affixed) shall be an original, but all of which shall constitute one and the same instrument.

29. **General Terms and Conditions.**

- a. Construction of Agreement. This Agreement shall be construed so as to effectuate the public purpose of implementing long-range planning objectives, obtaining public benefits, and protecting any compelling countervailing public interest.
- b. State/Federal Law. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be amended in writing by both parties. Should the parties be unable to agree upon a modification of the condition, covenant, or provision the contract becomes voidable by either party.
- c. Relationship of Parties and No Third-Party Rights. This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the parties hereto; nor, unless otherwise stated, create any rights or benefits to third parties.
- d. Laws of General Applicability. Where this Agreement refers to laws of

general applicability to the Project, this Agreement shall be deemed to refer to other laws of North Ogden City and the State of Utah.

- e. Integration. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto.
- f. Applicable Law. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the laws of the State of Utah.
- g. Arbitration. All disputes under this Agreement shall be resolved through binding Arbitration. If the City and Developer are unable to resolve an issue through discussions, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator, they shall each within ten (10) business days appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Developer shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator and consideration of

such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's position was not only incorrect but was also maintained unreasonably and not in good-faith, then the arbitrator may order the City to pay the arbitrator's fees.

- h. Notices. Any notices, requests, or demands required or desired to be given hereunder shall be in writing and shall either be delivered personally, by certified mail, or express courier delivery to the parties at the following addresses:

If to the City:

North Ogden City
~~S. Annette Spendlove~~, City Recorder
505 E. 2600 N.
North Ogden, Utah 84414

Developer

Davies Design Build

If to Meritage Companies, LLC

~~e/o Jack Barrett~~
~~34806 North 80th Way~~
~~Scottsdale, AZ 85266~~

If to Mountain Vista Trails, LLC

~~e/o Dawn Barrett~~
~~4144 North 250 West~~
~~Pleasant View, UT 84414~~

WITH A COPY TO:

~~M. Darin Hammond~~
~~SMITH KNOWLES, P.C.~~

2225 Washington Blvd., Suite 200
Ogden, UT 84401

Any party may change their address by giving written notice to the other party in accordance with the provisions of this section.

DATED this _____ day of _____, 2022~~17~~.

~~MERITAGE COMPANIES, LLC~~
~~DAVIES~~
~~DESIGN BUILD~~

By: _____
Its: _____

DATED this _____ day of _____, 2017.

~~MOUNTAIN VISTA TRAILS, LLC~~

By: _____
Its: _____

DATED this _____ day of _____, 2017.

~~NORTH OGDEN CITY~~

By: _____
Its: _____

Attest: ~~Susan Nance~~
~~S. Annette Spendlove~~

TABLE OF CONTENTS FOR EXHIBITS

- A: Legal Description – Included.**
- B: Preliminary Site Plan – Included.**
- C: Preliminary Landscape Plan – Included with specific plans to be approved by planning commission as presented prior to building permit approval.**
- D: Floor Plans – Included for Apartment Area and not required for other development areas as outlined above.**
- E: Building Elevations – Included for Apartment Area. Individual development area approvals are provided as outlined above.**
- F: Site Data – Included.**
- G: Color Palette and Building material board.**
- H: Fire Plan to be approved by Fire Marshal during technical review of the development.**
- I: Signage – to be approved by Planning Commission at a later public meeting.**
- J: Commercial Elevations – to be approved by City Council at a later public meeting.**
- K: Detention Basin Park – to be approved by Parks Department at a later date.**
- L: Preliminary Master Plan – Included.**
- M: Private Street Cross section – Included.**

EXHIBIT F
Village at Prominence Point
Site Data

Total Site Area Calculations

Roads, Parking and Driveways	447,183	GSF	31.25%
Sidewalks and Patios	161,529	GSF	11.27%
Building Foot Prints	351,883	GSF	24.55%
Landscaping	472,746	GSF	32.99%

Apartments			472
Town Homes			133
Cottages			22
Total Units			<u>627</u>

Units per Acre(32.9 Acres) 19

Parking

Retail	36,000	Sq Ft
	148	Spaces
	Space/1,000	4.13

Residential

Underground		80
Garages		324
Covered		238
Driveways		289
Open Spaces		305
Shared Retail (35%)		51
Parallel Parking on 1700 North		50
Total Parking Spaces		<u>1,337</u>
Parking Spaces per Unit		2.13

Apartments

Total Site Area Calculations

Building Foot Prints			
17 Plexes (2)	6,350	GSF	12,700
18 Plexes (3)	6,350	GSF	19,050
24 Plexes (4)	8,200	GSF	32,800
48 Plexes (6)	10,124	GSF	60,741
			125,291
			125,291
Number of Buildings			15
Units per Acre	15.52	Acres	40

Total Site Area Calculations

Roads, Parking and Driveways	201,371	GSF	29.79%
Sidewalks and Patios	101,638	GSF	15.04%
Building Foot Prints	153,332	GSF	22.69%
Landscaping	219,800	GSF	32.48%

Parking

Underground/Garages	80
Garages	6
Covered	200
Driveways	12
Open Spaces	320
Shared Retail (35%)	51
Parallel Parking on 1700 North	50
Total Parking Spaces	719
Parking Spaces per Unit	1.52

Town Home/Park Area

Total Site Area Calculations

Building Foot Prints			
7 Plex	7,200	GSF	7,200
5 Plex	5,130	GSF	5,130
Club House	1,500	GSF	1,500
			13,830
Number of Units			13
Units per Acre	1.85	Acres	7

Total Site Area Calculations

Roads, Parking and Driveways	N/A	GSF	0.00%
Sidewalks, Patios & Decking	14,800	GSF	18.37%
Building Foot Prints	13,830	GSF	17.16%
Landscaping	51,956	GSF	64.47%

Parking

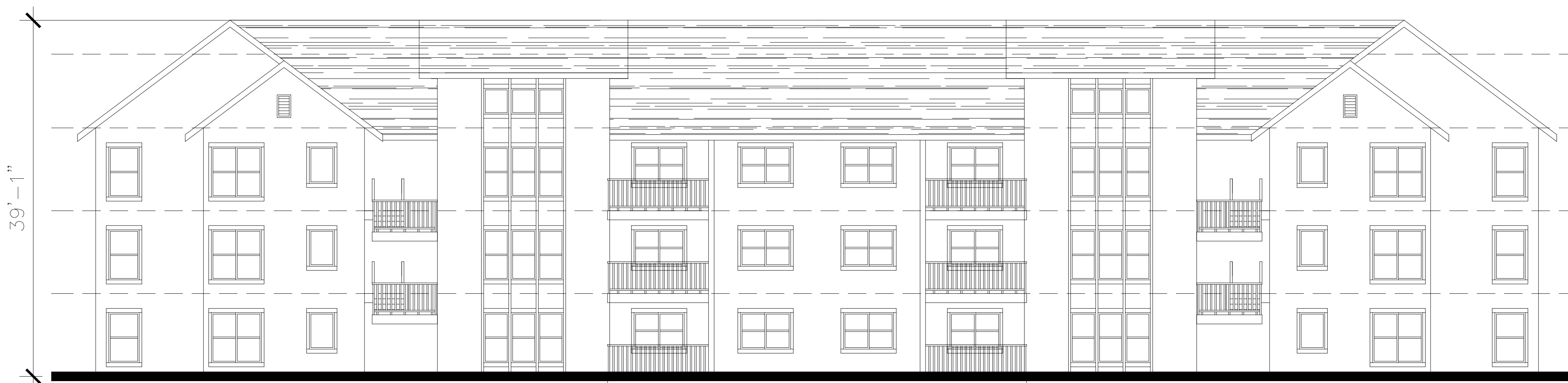
Garages			12
Driveways			12
Open Spaces			18
Total Parking Spaces			42
Parking Spaces per Unit			3.50



A 17 PLEX ELEVATION



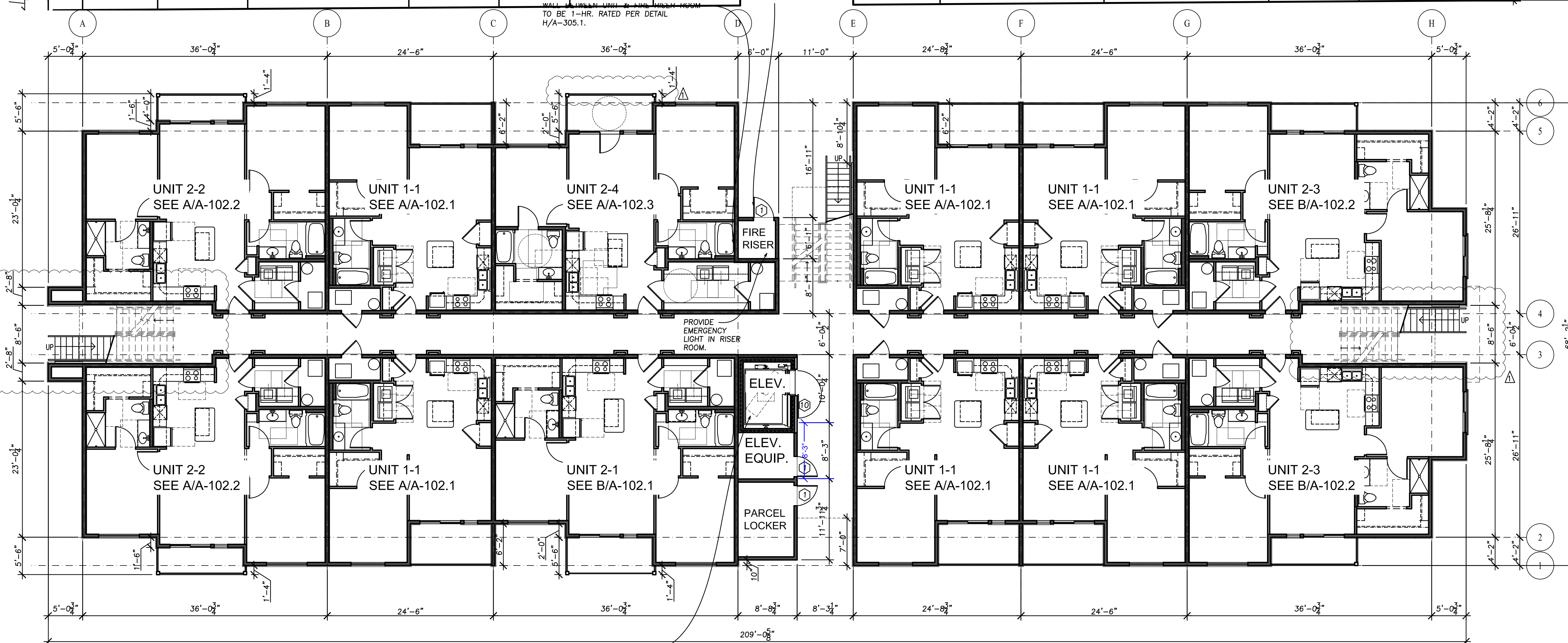
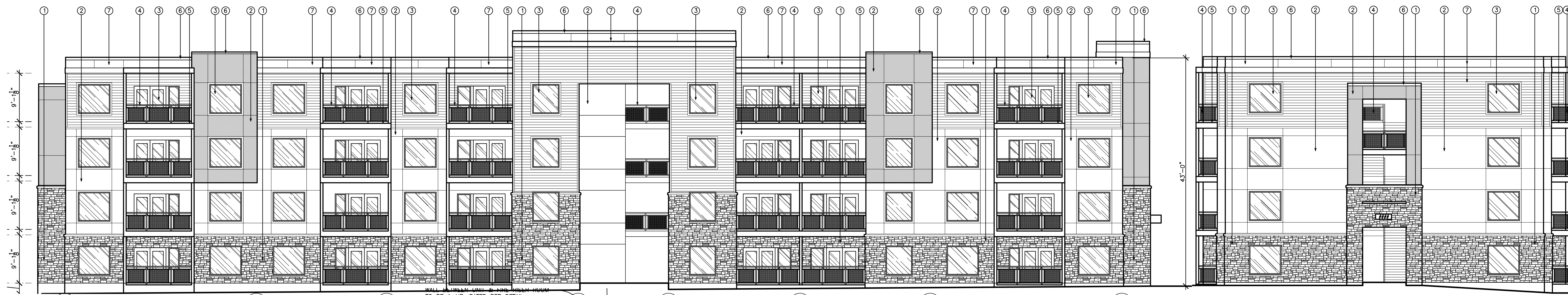
B 18 PLEX ELEVATION



C 24 PLEX ELEVATION

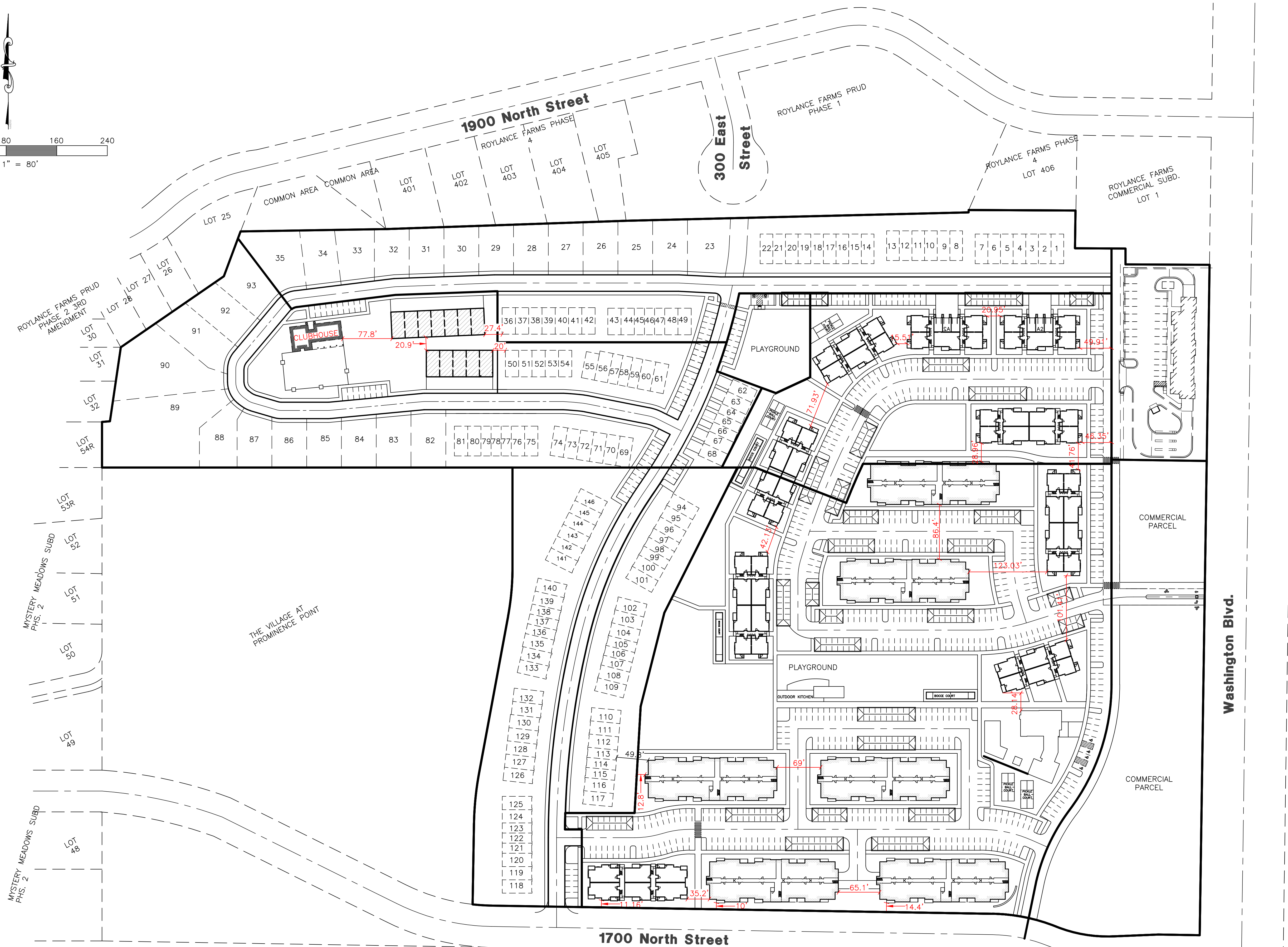
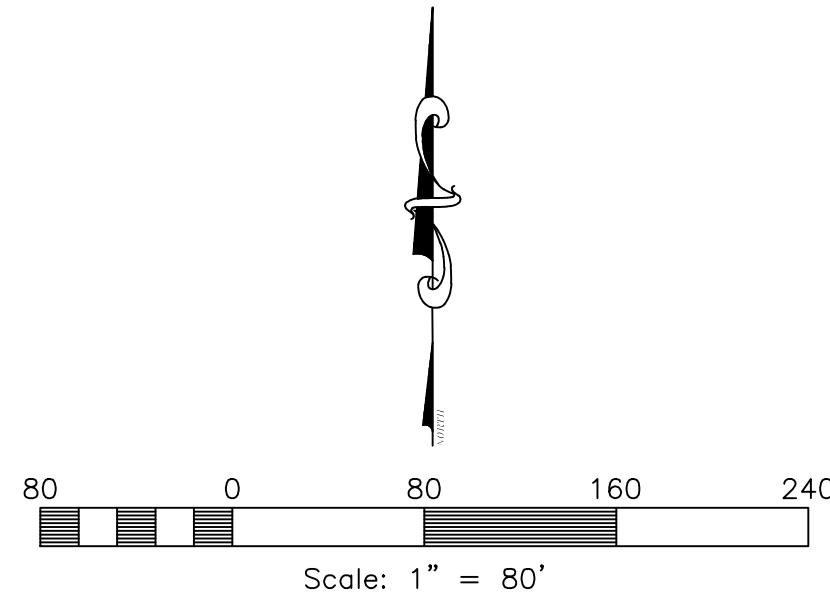


D 48 PLEX ELEVATION



ELEVATOR CAR TO ACCOMMODATE A 24"x84" AMBULANCE STRETCHER IN THE HORIZONTAL, OPEN POSITION AND SHALL BE IDENTIFIED BY THE INTERNATIONAL SYMBOL FOR EMERGENCY MEDICAL SERVICES. (STAR OF LIFE)

NORTH
 1ST LEVEL
 1/8" = 1'-0"



Village at Prominence Point

North Ogden, Weber County, Utah



Reeve & Associates, Inc.
 5160 S. 1500 W., RIVERDALE, UTAH 84405
 TEL: (801) 621-2100 FAX: (801) 621-2666 www.reeve-assoc.com
 LAND PLANNERS • CIVIL ENGINEERS • LAND SURVEYORS
 TRAFFIC ENGINEERS • STRUCTURAL ENGINEERS • LANDSCAPE ARCHITECTS

REVISIONS	DESCRIPTION

Village at Prominence Point
 NORTH OGDEN, WEBER COUNTY, UTAH

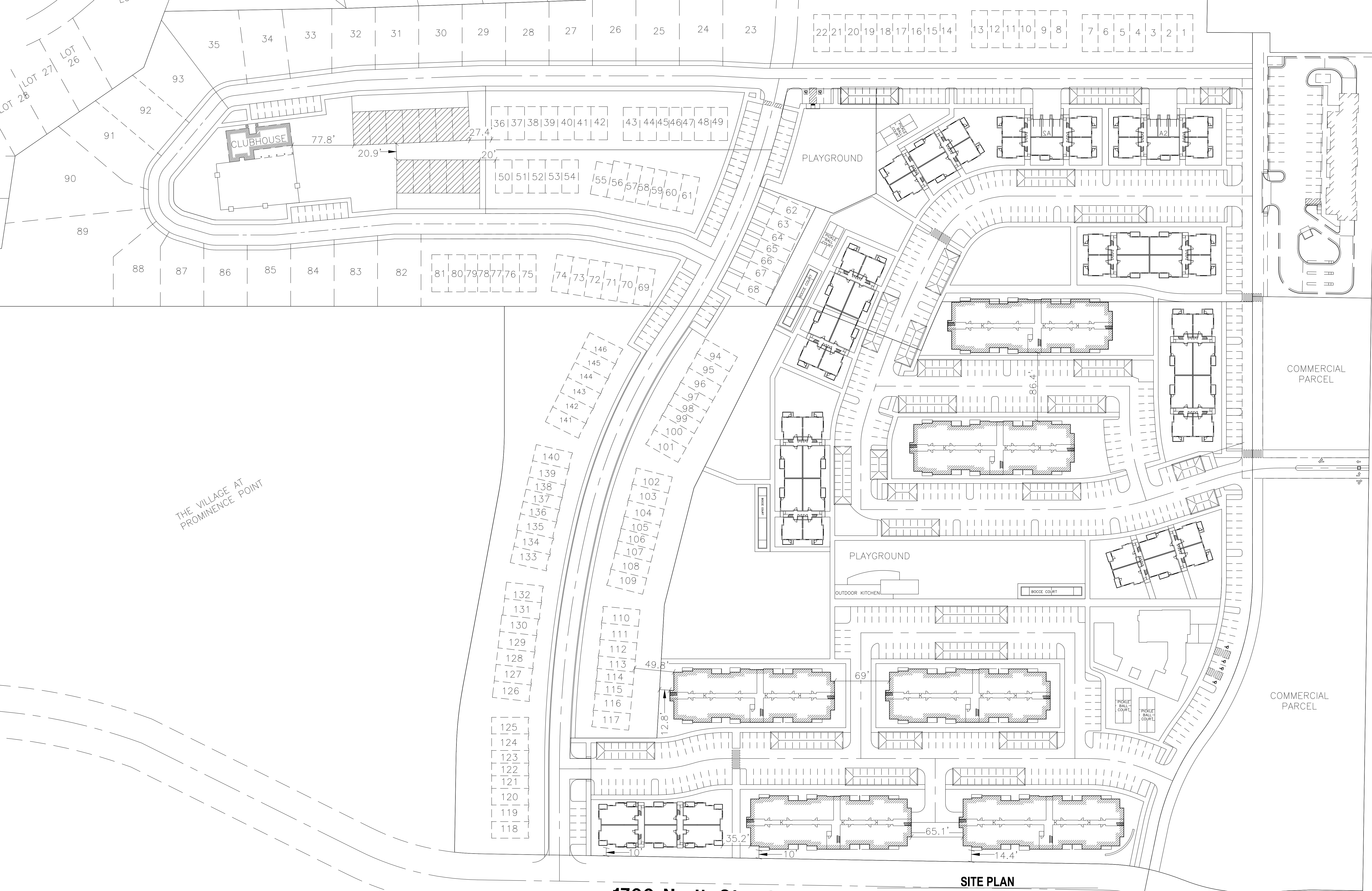
Exhibit L

Revised: May 18, 2022

Project Info.

Engineer:	N. Reeve
Planner:	C. Cove
Designer:	E. Roche
Date:	4-19-22
Name:	PROMINENCE POINT EXHIBIT L
Number:	7952-01

Sheet	1
1	Sheets



THE VILLAGE AT
PROMINENCE POINT

COMMERCIAL
PARCEL

COMMERCIAL
PARCEL

1700 North Street

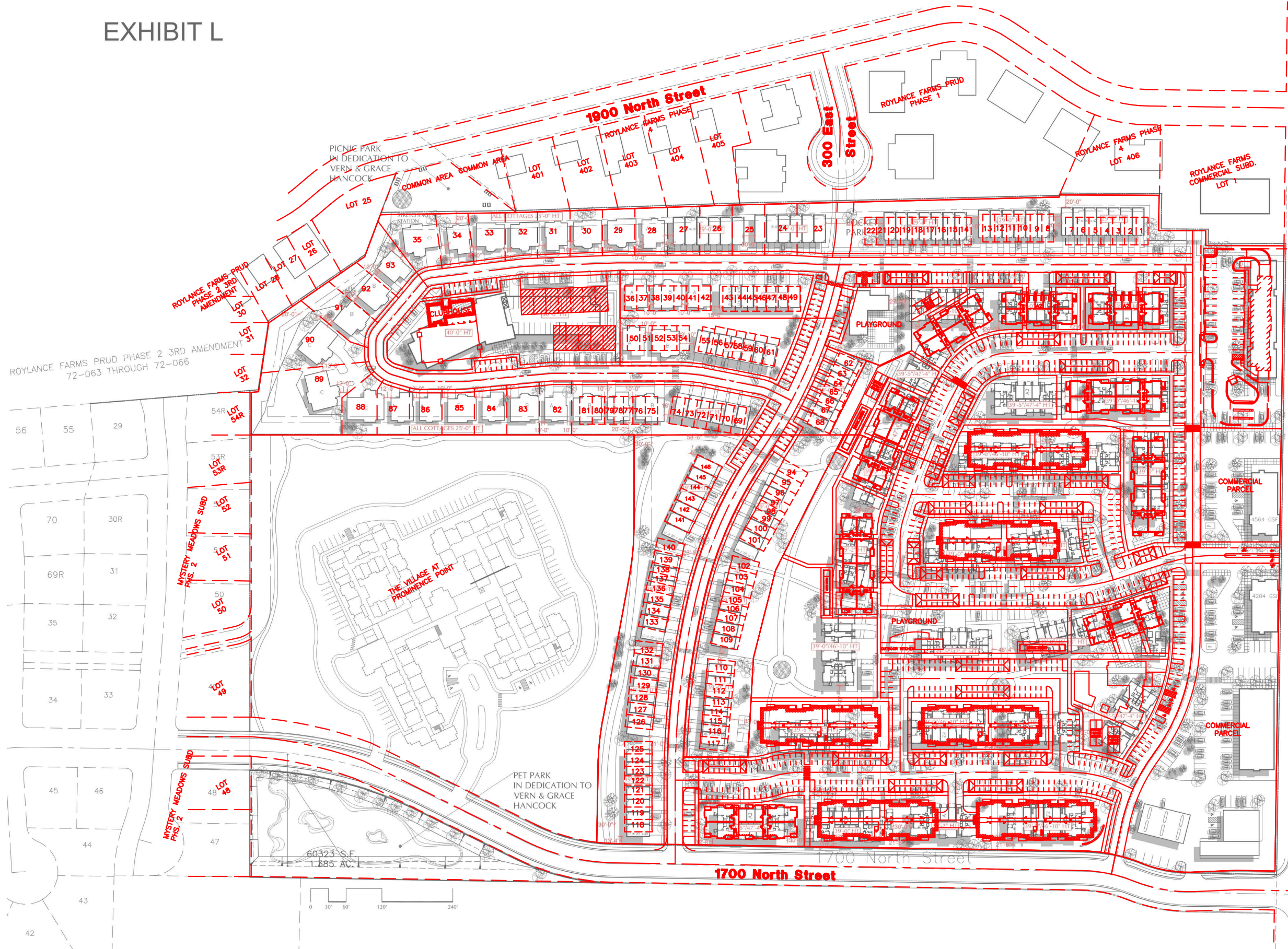
SITE PLAN

SCALE: 1" = 50'-0"

472 UNITS
268 COVERED PARKING STALLS
441 UNCOVERED PARKING STALLS
709 TOTAL PARKING

Washington Blvd.

EXHIBIT L



Washington Blvd.
Washington Boulevard

Revised: May 18, 2022

VILLAGE AT PROMINENCE POINT PRELIMINARY MASTER PLAN 10.03.2017
NORTH OGDEN, UTAH



The Church of Jesus Christ of Latter...

Paul Crezee Construction

Ben Lomond Cemetery

Google



COMMERCIAL REAL ESTATE PURCHASE CONTRACT

This is a form modeled after the Utah Division of Real Estate Real Estate Purchase Contract that has been edited by legal counsel to address commercial real estate transactions. This form is not the Utah Division of Real Estate Real Estate Purchase Contract. This is a legally binding contract. Parties to this Commercial Real Estate Contract ("Contract") may agree, in writing, to alter or delete provisions of this Contract. Seek advice from your attorney or tax advisor before entering into a binding contract.

EARNEST MONEY RECEIPT

On this 9th day of May, 2022 ("Offer Reference Date") Ryan Forsyth and/or Assigns ("Buyer") offers to purchase from North Ogden City Corp. ("Seller") the *Property* described below and hereby delivers to the Brokerage or Title/Escrow Company, as *Earnest Money*, the amount of \$10,000.00 in the form of check/wire transfer which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Brokerage or Title/Escrow Company _____ Address _____

Received by: _____ on _____ (Date)
(signature above acknowledged receipt of Earnest Money)

OFFER TO PURCHASE

1. PROPERTY (General Description): 6.66 Acres of Land

Address: 224 East 2625 North City: North Ogden

County: Weber State of Utah, ZIP 84414

County Tax I.D. # 18-048-0028 (the "*Property*") For a legal description (**Check Applicable Box**):

SEE ADDENDUM # **COMMITMENT FOR TITLE INSURANCE** as provided in Section 7(b).

INCLUDED ITEMS. Unless excluded herein, this sale includes all fixtures presently attached to the *Property*. The following personal property shall also be included in this sale and conveyed under separate *Bill of Sale* with warranties as to title: None

Excluded Items. These items are excluded from this sale: None

2. PURCHASE PRICE The Purchase Price for the *Property* is \$ Fair Market Value

The Purchase Price will be paid as follows:

\$10,000.00 (a) **Earnest Money Deposit.**

\$ (b) **New Loan.** Buyer will apply for one or more of the following loans: **Conventional**
 SBA **Other** (Specify) _____ Buyer shall have the right to approve
the terms and conditions of the new loan as provided in *Section 8 (f)*.

\$ (c) **Loan Assumption Addendum** (see attached *Assumption Addendum*) if applicable.

\$ (d) **Seller Financing.** (See attached *Seller Financing Addendum* if applicable)

\$ (e) **Other (specify)** _____

\$ (f) **Balance of Purchase Price in Cash at Settlement**

\$Fair Market Value **PURCHASE PRICE. Total of lines (a) through (f)**

3. SETTLEMENT AND CLOSING. Settlement shall take place on the Settlement Deadline referenced in *Section 24(c)*, or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when **all** of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the lender, by written escrow instructions or by applicable law; (b) any monies

required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered to Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Tenant deposits (including, but not limited to, security deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in *Section 24(c)*, unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. For purposes of this Contract, "Closing" means that: (i) Settlement has been completed; (ii) the proceeds of any new loan have been delivered by the lender to Seller or to the escrow/closing office; and (iii) the applicable Closing documents have been recorded in the office of the county recorder.

4. POSSESSION. Seller shall deliver physical possession to Buyer within **HOURS AFTER CLOSING;** **DAYS AFTER CLOSING;** **OTHER (SPECIFY)** Upon Closing . Any rental of the *Property* prior to or after Closing, between Buyer and Seller, shall be by separate written agreement.

5. CONFIRMATION OF BROKERAGE FEES & AGENCY DISCLOSURE. Buyer and Seller acknowledge prior receipt of written agency disclosure provided by their respective Buyer's Agent or Seller's Agent that has disclosed the agency relationships that are confirmed below. Buyer and Seller further acknowledge that Brokerage Fees due as a result of this transaction are being paid based upon the terms of a separate written agreement. At the signing of this Contract:

Seller's Agent, None, represents Seller Buyer both Buyer and Seller as a Limited Agent;

Seller's Brokerage, None, represents Seller Buyer both Buyer and Seller as a Limited Agent;

Buyer's Agent, Adam Hawkes, represents Seller Buyer both Buyer and Seller as a Limited Agent;

Buyer's Brokerage, Mountain West Comm RE, represents Seller Buyer both Buyer and Seller as a Limited Agent;

6. TITLE TO PROPERTY & TITLE INSURANCE.

- a. Seller represents that Seller has fee simple title to the Property and will convey good and marketable title to Buyer at closing by: **GENERAL WARRANTY DEED** **SPECIAL WARRANTY DEED**, free of financial encumbrances except as provided under *Section 10.1*.
- b. At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. The title policy shall conform with Seller's obligations under *Section 10.1* and with the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*.
- c. **BUYER ELECTS TO OBTAIN A FULL-COVERAGE EXTENDED ALTA POLICY OF TITLE INSURANCE.** The cost of this coverage (including the ALTA survey), above that of the standard-coverage Owner's policy, shall be paid for at Settlement by: **BUYER** **SELLER** **[OTHER]** _____

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in *Section 24(a)*, Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":

- a. a Seller property condition disclosure for the *Property*, signed and dated by Seller;
- b. a *Commitment for Title Insurance* on the *Property*;
- c. a copy of all leases and rental agreements now in effect with regard to the *Property* together with a current rent roll;
- d. operating statements of the *Property* for its last 3 full fiscal years of operation plus the current fiscal year through _____ certified by the Seller or by an independent auditor;
- e. copies in Seller's possession, if any, of any studies and/or reports which have previously been done on the *Property*, including without limitation, environmental reports, soils studies, site plans and surveys;

- f. written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
- g. Other (specify) _____

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (**check applicable boxes**):

- a. IS IS NOT conditioned upon Buyer's approval of the content of all the *Seller Disclosures* referenced in *Section 7*;
- b. IS IS NOT conditioned upon Buyer's approval of a physical condition inspection of the *Property*;
- c. IS IS NOT conditioned upon Buyer's approval of a survey of the *Property* by a licensed surveyor ("Survey");
- d. IS IS NOT conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the *Property*; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the *Property*;
- e. IS IS NOT conditioned upon the *Property* appraising for not less than the Purchase Price;
- f. IS IS NOT conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in *Section 2*;
- g. IS IS NOT conditioned upon Buyer's approval of the following tests and evaluations of the *Property*; (specify) _____

Upon written notice from the Buyer to the Seller on or prior to the expiration of the Due Diligence Period set forth in paragraph 24 that the Buyer elects to cancel this Agreement in accordance with this paragraph 8, the Earnest Money, together with any and all interest earned thereon, shall be disbursed immediately to the Buyer by the Escrow Agent.

9. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addendum No. 1 Seller Financing Addendum Assumption Addendum Lead-Based Disclosure & Acknowledgement Other (specify): _____

10. SELLER'S WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Buyer agrees to accept title to the *Property* subject to the contents of the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*. Buyer also agrees to take the *Property* subject to existing leases affecting the *Property* and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, association fees and dues, utilities, and other services provided to the *Property* after Closing. Except for any loans(s) specifically assumed by Buyer under *Section 2*, Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause all assessments to be paid current by Closing.

10.2 Condition of Property. Seller warrants that **ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER**, the *Property* and improvements will be broom-clean and free of debris and personal belongings, and in the same general condition as they were on the date of *Acceptance*.

10.3 Other Seller Warranties. Seller further warrants that, to the best of Seller's knowledge, each of the following statements is true: (a) the consummation of the transactions contemplated by this Contract will not constitute a default or result in the breach of any term or provision of any contract or agreement to which Seller is a party so as to adversely affect the consummation of such transactions; (b) there is no action, suit, legal proceeding or other proceeding pending or threatened against Seller and/or the *Property* which may adversely affect the transactions contemplated by this Contract, in any court or before any arbitrator of any kind or before or by any governmental body which may adversely affect the transactions contemplated by this Contract; (c) all work which will be performed in, on or about the *Property* or materials furnished thereto which might in any circumstances give rise to a mechanic's lien or materialman's lien, will be paid and all necessary waivers of rights to a mechanic's or materialman's lien for such work will be obtained; (d) Seller has not received any written notice indicating that the *Property* is in violation of any Federal, State or local Environmental

Law; (4) there are no Hazardous Substances on, under, or about the *Property*, nor has Seller undertaken, permitted, authorized or suffered, and will not undertake, permit, authorize or suffer the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the *Property*, of any Hazardous Substances, or the transportation to or from the *Property*, of any Hazardous Substances. As used herein, "Hazardous Substance" shall mean any substance, material or matter that may give rise to liability under any Federal, State, or local Environmental Laws; and (f) Seller is not a "foreign person" as that term is defined in Section 1445 of the U.S. Internal Revenue Code of 1986, as amended. (In that regard, Seller shall deposit into Escrow, at or prior to Closing, an affidavit in such form as may be required by the U.S. Internal Revenue Service, setting forth seller's full name, address and taxpayer identification number and stating under penalty of perjury that seller is not a "foreign person" as so defined).

11. FINAL PRE-CLOSING INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a final pre-closing inspection of the *Property* to determine **only** that the *Property* is "as represented," meaning that the items referenced in *Sections 1.1, 8 and 10.2 and 10.3* ("the items") are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at settlement to provide for the same. The failure to conduct a final pre-closing inspection or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the *Property*; or (d) incur any further financial encumbrances against the *Property*.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller.

14. COMPLETE CONTRACT/ASSIGNMENT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties. This Contract **SHALL** **SHALL NOT** be assignable by Buyer. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representative, successors and assigns of the parties.

15. MEDIATION. Any dispute relating to this Contract that arises prior to or after Closing: **SHALL** **MAY AT THE OPTION OF THE PARTIES**

first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved **THIRTY (30) CALENDAR DAYS** from the date written notice requesting mediation is sent by one party to the other(s). If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this *Section 15* shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under *Section 15*.

18. NOTICES. Except as provided in *Section 23*, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of *Sections 10.1, 10.3, 15 and 17* and any other express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS. All risk of loss to the *Property*, including physical damage or destruction to the *Property* or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by seller until Closing.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (i.e., Acceptance, etc.). If the performance date falls on a Saturday, Sunday, State or Federal legal holiday, performance shall be required on the next business day. Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as otherwise agreed to in writing by such non-party.

22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to this Contract:

- a. Seller Disclosure Deadline 15 Days after Acceptance
- b. Due Diligence Deadline Per Addendum #1
- c. Settlement Deadline 30 days following the Due Diligence Deadline

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the *Property* on the above terms and conditions. If Seller does not accept this offer by _____ [] AM [] PM Mountain Time on _____ (Date), this offer shall lapse; and the Brokerage or Title/Escrow Company shall return the *Earnest Money Deposit* to Buyer.

(Buyer's Signature) (Title, if any) (Date) (Time)

(Buyer's Signature) (Title, if any) (Date) (Time)

(Buyers' Names) (PLEASE PRINT) Address Zip Phone Fax

(Buyers' Names) (PLEASE PRINT) Address Zip Phone Fax

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE OF OFFER TO PURCHASE: Seller Accepts the foregoing offer on the terms and conditions specified above.

COUNTEROFFER: Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. _____

(Seller's Signature) (Date) (Time)

(Seller's Signature) (Date) (Time)

(Sellers' Names) (**PLEASE PRINT**) Address Zip Phone Fax

(Sellers' Names) (**PLEASE PRINT**) Address Zip Phone Fax

REJECTION: Seller rejects the foregoing offer.

(Seller's Signature) (Date) (Time)

DOCUMENT RECEIPT

State law requires Broker to furnish Buyer and seller with copies of this Contract bearing all signatures. (Fill in applicable section below.)

A. I acknowledge receipt of a final copy of the foregoing Contract bearing all signatures.

(Buyer's Signature) (Date) (Buyer's Signature) (Date)

(Seller's Signature) (Date) (Seller's Signature) (Date)

B. I personally caused a final copy of the foregoing Contract bearing all signatures to be **faxed** **mailed** **hand delivered** on _____ (Date), postage prepaid, to the **Seller** **Buyer**.

Sent/Delivered by (specify) _____



ADDENDUM NO. 1

TO
REAL ESTATE PURCHASE CONTRACT

THIS IS AN ADDENDUM (hereinafter referred to as the "ADDENDUM") to that certain REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of May , 2022 , including all prior addenda and counteroffers, between Ryan Forsyth and/or assigns, as Buyer, and North Ogden City Corp, as Seller, regarding Property located at 224 East 2625 North, North Ogden, UT 84414. The following terms are hereby incorporated as part of the REPC:

- 1. Seller reserves the right to terminate this contract if an entity that is NOT related to Buyer develops the parcel to the east, meaning parcel # 181610008.
2. Buyer has the right to market the property for lease and for build to suit.
3. Buyer shall not flip the entire parcel to another developer without the consent of the Seller
4. Seller shall move / reconstruct the pond.
5. Due Diligence deadline shall be the date of substantial completion of Seller's obligations relating to the pond movement and reconstruction. Seller shall notify Buyer when aforementioned obligation is completed.

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, the terms of this ADDENDUM shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM or previous addenda or counteroffers shall remain the same. Buyer shall have until 5:00 PM Mountain Time on _____, to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth and/or confirmed in this ADDENDUM shall lapse.

Sellers' Signatures

Buyer's Signature

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

[] ACCEPTANCE: [] Seller [] Buyer hereby accepts the terms of this ADDENDUM.

[] COUNTEROFFER: [] Seller [] Buyer presents as a counteroffer to the terms of ADDENDUM No. __

Signature (Time) (Date) (Time)

Signature (Date)

REJECTION: Seller Buyer rejects the foregoing **ADDENDUM.**

Signature (Time) (Date) (Time)

Signature (Date)