

CITY OF SOUTH JORDAN
PLANNING COMMISSION MEETING AGENDA
CITY HALL
TUESDAY, APRIL 26, 2022 at 6:30 PM



Notice is hereby given that the South Jordan City Planning Commission will hold a Planning Commission Meeting on Tuesday, April 26, 2022, in the City Council Chambers, located at 1600 W. Towne Center Drive, South Jordan, Utah with an electronic option via Zoom phone and video conferencing. Persons with disabilities who may need assistance should contact the City Recorder at least 24 hours prior to this meeting.

In addition to in-person attendance, individuals may join via phone or video, using Zoom. Note, attendees joining virtually may make public comments through video conferencing, and participant must have their video on and working to speak. Attendees who wish to present photos or documents to the Planning Commission must attend in person. Those who join via phone may listen, but not comment.

In the event the electronic portion of the meeting is disrupted in any way that the City in its sole discretion deems inappropriate, the City reserves the right to immediately remove the individual(s) from the meeting and, if needed, end virtual access to the meeting. Reasons for removing an individual or ending virtual access to the meeting include but are not limited to the posting of offensive pictures, remarks, or making offensive statements, disrespectful statements or actions, and other any action deemed inappropriate.

Ability to participate virtually is dependent on an individual's internet connection. To ensure comments are received regardless of technical issues, please have them submitted in writing to Planner III, Damir Drozdek, at ddrozdek@sjc.utah.gov by 3:00 p.m. on the day of the meeting.

Instructions on how to join the meeting virtually are below.

Join South Jordan Planning Commission Electronic Meeting April 26, 2022 at 6:30 p.m.

- Join on any device that has internet capability.
- Zoom link, Meeting ID and Meeting Password will be provided 24 hours prior to meeting start time.
- Zoom instructions are posted <https://www.sjc.utah.gov/254/Planning-Commission>

THE MEETING WILL BEGIN AT 6:30 P.M. AND THE AGENDA IS AS FOLLOWS:

- A. **WELCOME AND ROLL CALL – Commission Chair Michele Hollist**
- B. **MOTION TO APPROVE AGENDA**
- C. **APPROVAL OF THE MINUTES**
 - [C.1.](#) April 12, 2022 Planning Commission Meeting
- D. **STAFF BUSINESS**
- E. **OTHER BUSINESS**

- [E.1.](#) **SOUTH JORDAN CITY PROPOSED ANNEXATION POLICY PLAN**
Discussion and Input - No action to be taken

F. **COMMENTS FROM PLANNING COMMISSION MEMBERS**

G. **SUMMARY ACTION**

H. **ACTION**

I. **ADMINISTRATIVE PUBLIC HEARINGS**

**I.1. DISTRICT HEIGHTS RESIDENTIAL PRELIMINARY SUBDIVISION PLAT
AND CONDITIONAL USE PERMIT AMENDMENT**

Location: 11210 S. River Heights Dr.

File No: PLPP202200009, PLCUP202100227

Applicant: Ashley Atkinson, Sequoia Development

J. **LEGISLATIVE PUBLIC HEARINGS**

ADJOURNMENT

CERTIFICATE OF POSTING

STATE OF UTAH)

: §

COUNTY OF SALT LAKE)

I, Cindy Valdez, certify that I am the duly appointed City Deputy Recorder of South Jordan City, State of Utah, and that the foregoing Planning Commission Agenda was faxed or emailed to the media at least 24 hours prior to such meeting, specifically the Deseret News, Salt Lake Tribune and the South Valley Journal. The Agenda was also posted at City Hall, on the City's website www.sjc.utah.gov and on the Utah Public Notice Website www.pmn.utah.gov.

Dated this 21st day of April, 2022.

Cindy Valdez

South Jordan City Deputy Recorder

**CITY OF SOUTH JORDAN
ELECTRONIC
PLANNING COMMISSION MEETING
COUNCIL CHAMBERS
April 12, 2022**

Present: Chair Michele Hollist, Commissioner Nathan Gedge, Commissioner Trevor Darby, Commissioner Steven Catmull, Commissioner Laurel Bevans, Assistant City Attorney Greg Simonsen, City Planner Greg Schindler, Deputy City Recorder Cindy Valdez, Deputy City Engineer Jeremy Nielson, Planner David Mann, Planner Damir Drozdek, Planner Ian Harris, Senior IS Tech Phill Brown, GIS Coordinator Matt Jarman, Meeting Transcriptionist Diana Baun

Others: mjb66, adamjohanson, Lynnette Larsen, Kathleen Joann Scott, iPhone, johnstillings, Luisa Echeverria, Sarah Duke, Kyle Asay, tlasay, Melissa Mitchell, Julie Tate, Kris Bevans, Tyler Heath, Gary Langston, Mark Sontag, Larry Solomon, Kris Nielson, Lori Vernon, Si Goodfellow, Deborah Richard, Glade Mumford, Carol Lee O'Connor, Bill Hahn, Jeff Curtis, Cecil Burk, Brandon Asay, Jay Balk, Will Monroe, Gary Godwin, Rebecka Porter, Neale Neelamessham, Pam & Lynn Brown, Dave Case, Steve McMullan, David Ewell, Larry Solomon, Duaine Rasmussen, Cem Lyman, Clint Olson, Gary Woodbury, Wendy Quilter, Thom Urie

**6:32 P.M.
REGULAR MEETING**

A. WELCOME AND ROLL CALL – *Commission Chair Michele Hollist*

Commission Chair Michele Hollist welcomed everyone to the Electronic Planning Commission Meeting.

B. MOTION TO APPROVE AGENDA

Commissioner Gedge moved to amend tonight's agenda to remove Item H.2., Sego Lily Day Spa Site Plan Application, and approve the rest of the April 12, 2022 Planning Commission Agenda as published. Chair Hollist seconded the motion; vote was unanimous in favor.

C. APPROVAL OF THE MINUTES

Commissioner Gedge motioned to approve the March 22, 2022 Planning Commission Meeting Minutes as published. Chair Hollist seconded the motion; vote was unanimous in favor.

D. STAFF BUSINESS - *None*

E. COMMENTS FROM PLANNING COMMISSION MEMBERS

Commissioner Nathan Gedge asked to have the two different kinds of hearings, administrative and legislative, explained for the public. Also, there was a lot of public comment received prior to tonight's meeting, and he wanted to discuss those who already sent in comments also getting three minutes to speak, essentially doubling their time. He asked for the commission's feelings on limiting their time to only items not included in their previously submitted emails, as many of those emails were lengthy and detailed.

Assistant City Attorney Greg Simonsen explained that an administrative hearing has different standards than a legislative hearing, and we have both on the agenda tonight. For administrative hearings, particularly the first item on the agenda which is a preliminary subdivision application for a permitted use that has already been zoned, the standard under our code is that it can only be denied if the project does not meet city ordinances or sanitary, sewer or culinary requirements. With respect to legislative hearings, in particular the three rezone applications we have tonight, this is just a recommending body. Under legislative matters, the commission can consider virtually any evidence or opinion, and make a positive or negative recommendation as long as it is reasonably debatable. The commission is much more limited on the administrative matters.

Commissioner Gedge addressed the public comments, he just wants to make sure we are fair to the people we cut off at three minutes, but other people who already emailed in all their concerns are then given time to expound on those in person. His recommendation is that those who have submitted previous emails be limited to possibly one minute, and request that they only give information that is not already included in their original email.

Chair Michele Hollist said that she and Commissioner Laurel Bevans spoke previously and checked with our Deputy City Recorder Cindy Valdez to ensure that those previously submitted emails are entered into public record. If those comments have been submitted to the commission and city staff, they will be included as part of our public record; she thinks that's an important point to make with what has been proposed. She then asked if Commissioner Gedge has a motion, or if there is any discussion on the matter.

Commissioner Laurel Bevans noted that since we have switched over to a new email system and some have had issues with email this last week or so, there may be emails they missed. At least for tonight, she suggests letting everyone speak because she may not have seen all the emails with those aforementioned email issues.

Chair Hollist noted she thinks that is potentially fair as well.

Commissioner Steve Catmull suggested we request, as a matter of courtesy, to try not to duplicate comments that may have been previously made. We do consider them, to the extent they can they read the emails as they come in. He would be more reluctant to make it a rule they try to enforce during this meeting and instead just keep it open to the three minutes, asking the public to please try not to duplicate.

Commissioner Bevans added there might be people who sent stuff in that they want to talk about in the meeting so it can be displayed, and that might be getting into some murky water by creating a hard rule.

Chair Michele Hollist asked if there is further discussion, if Commissioner Gedge would like to present a motion, or if he is satisfied with the discussion.

Commissioner Gedge said he is fine with the discussion, but he also brought up anyone claiming to represent a group to expand their time. It seems in their previous meeting there were several people representing a group, but there should only be a singular person representing a group of residents and not multiple people just to extend the time from three minutes. He wants to make sure everyone is following the same rules and no one is allowed to try and beat the system to get more time. He agrees that with the email system issues everyone should be allowed to talk, as long as they are aware that we have received and reviewed the previously sent emails and ask that they try to only present new information that may not have been already heard, or second what a previous commenter has said rather than repeating it.

Chair Hollist noted for the public's benefit that the reason this discussion has come up is because our last meeting went until 11:15 p.m. and they'd like to get themselves and everyone in attendance out sooner than that.

Commissioner Gedge said he will not make a motion, but suggested in the future that if they do have additional items and they feel people are abusing the system, they might reserve the right to amend their rules if needed.

Chair Hollist would be open to an email discussion after this meeting to further discuss so they have an opportunity to discuss everything with staff before making a rule change; the commission all agreed this was satisfactory.

F. SUMMARY ACTION – None

G. ACTION – None

H. ADMINISTRATIVE PUBLIC HEARINGS –

H.1. DAYBREAK VILLAGE 7 PLAT 5 PRELIMINARY SUBDIVISION

Location: Generally 11700 South 6165 West

File No: PLPP202200020

Applicant: LHM Real Estate

City Planner Greg Schindler reviewed background information from the Staff Report.

Chair Michele Hollist asked about the distance that gets notified from a site like this.

Planner Schindler answered they notify within 300 feet.

Chair Hollist asked if all of the homes within 300 feet were notified.

Planner Schindler said they should have been, and that he had a list of everyone a notification was sent to.

Chair Hollist noted that Planner Schindler commented that the density proposed this evening is similar to what's around it, and asked if he had the numbers of the density to the west.

Planner Schindler said he didn't remember those numbers exactly, the numbers for Village 7 Plat 4 he believes were similar to this and they were all single family lots as well.

Commissioner Nathan Gedge addressed the noticing as well and asked if the 300 feet radius was a state or city requirement.

Planner Schindler said that is a city requirement, there is no state requirement to even have a public hearing for subdivisions.

Commissioner Gedge asked if there is a different noticing requirement for Daybreak from the rest of the city.

Planner Schindler said no, our code for public hearings is the same throughout the entire city for subdivision site plans and rezoning; unless otherwise stated in the code the requirement is 300 feet.

Commissioner Gedge asked to confirm that the noticing can be letters by mail, signage placed at the property, possible postings to the Utah Public Notice Website, and asked if there are any other places we would post this information.

Planner Schindler said that for this item, it is either/or as it is not a requirement to post it, and usually the option for the 300 foot mail out is chosen since the other options aren't viewed by as many people. For rezones, they are required to post a notice and our code requires it to be posted on the state public notice website, as well as our website. Staff checked to make verify and the notice for this agenda was placed on March 31 on both the state and our city website.

Commissioner Gedge noted that if was posted on March 31, and today is April 12, that is within the allowed timeframe that the city has set as its standard.

Planner Schindler said 10 days' notice is required, they always post and mail the notices sooner than the 10 days to try and make sure things get there, usually they arrive within the 10 days.

Commissioner Trevor Darby asked to clarify that this is a village, which means it could be up to 25 units per acre.

Planner Schindler said it's designated in the Community Structural Plan as an area called a "Village Area." There is also "Town Center," "Village," "Research and Development," and there is another commercial type of area that they have.

Commissioner Darby asked to confirm that theoretically the "Village" would allow for 275 units to go into this area, but they are only proposing 85 units.

Planner Schindler said we haven't have anywhere in Daybreak yet, in a "Village" area, that has even approached the 25 max units; even the most dense townhomes are around 20 units per acre.

Chair Hollist asked if the applicant was present and had anything to add to the Staff Report.

Gary Langston (Consultant for Oakwood Homes with Third Cadence) Oakwood Homes has retained their law firm to help them manage the entitlements, engineering and construction for not only Village 7 Plat 5, but also Village 7 plat 4 which is under construction.

Chair Hollist opened the public comment portion of the hearing.

Mark Sontag (Resident) submitted written comments so will limit his remarks to one specific issue, that is two parts. Personally, he is not asking us to deny this application, that is not the reason he sent in his comments, nor is it the reason he is here tonight. What he is looking for is better information for the residents, as the information provided was inadequate. His home is directly adjacent, as shown in sheet two of six that was mailed out, to the proposed development. Next to his home right now, outside of his property line, is a green space, a sidewalk, some additional green space, and a temporary access road so they can access the alley. From the materials provided, it is absolutely impossible to tell what is happening to any or all of that space from the property line to the first house. Before he could even begin to comment about it, he would need much better detail. His request is, rather than rushing to approve this project, to give them better information. His other question has to do with the density that Mr. Schindler was talking about. Phase 4, where it is located, has are no homes existing within 300 feet of the project; the reason the commission heard nothing about density for that is because there was no one, unless they were looking through the websites as Mr. Schindler mentioned, who was aware that the project was coming up for approval. You now have residents that were notified, and there are a number of people here tonight, and their concerns would have been expressed about density. Not regarding the number of homes per acre, that is not their issue with the density; the issue is the number of roads that run north/south and east/west. If you have been out in that area, you know that Herriman High School is directly at the corner of 11800 South and Daybreak Parkway. He has a two story home, from the second floor they can see that intersection and unfortunately there is many a morning where there is a traffic accident there. He is concerned that with Phase 4 and Phase 5, all of that traffic from 212 homes, emptying out on to Kitty Hawk or Willow Walk, we are just asking for trouble because all of those intersections are uncontrolled. Again, his request is not to deny, that is not why he is here, he is just asking for the commission to ask the builder to provide the city and residents with greater information so they can clearly understand what is happening.

Larry Solomon (Resident) lives two houses from the proposed area, which is directly to the west of him on the same side of the street that he lives on. The main issue that he wanted to bring up, and he knows we aren't here to have questions answered, but the concern he has is that they are a senior community of 55 and over where many of the residents are 80 and older. His concern is for the safety of having only lanes in that whole development that run east to west, with one entry and exit point on each end east to west satisfying almost a quarter mile of track; that is a concern to him in the case of an emergency, evacuation, etc. The details of the drawings, he feels, were very inadequate to understand exactly what was being proposed; they couldn't see the numbers on each of the home lots. He heard more information here than he got from that drawing. He is also not asking it to be denied, he is asking for better information and for consideration of the fact that it is a senior area; this is not a family area, there are no kids in this area, these are seniors that may have special and medical needs.

Carol Lee O'Connor (Resident) is also one of the property owners that did submit email comments. Regarding the email comments, she suggested as we tighten that process up that we also put in there what size attachments can be added as hers got kicked back because the attachment she originally sent was too big and she had to resize it; she found that out eight minutes before the submission time was over. Backing up her fellow residents, she also is not here to ask for denial, but just to get more information. She piggybacked on to what Larry just said regarding safety, as a property owner who had to call 9-1-1 within the past three months and have the fire department show up, it would be very concerning when you have full residents there; getting through those long roadways, that is a big concern. Also, as Larry and Mark said, they really do need better drawings and better information. One thing they all had mentioned, and staff clarified about the notices going out, was that they had neighbors that did not get the notices and had to call to get them mailed. Her husband gave their copy of the notice to another neighbor who did not receive theirs, so that process needs to be tightened up and there needs to be a way to verify it. She is going to assume that if they send in comments, the council has read them, or will read them, before decisions are made. When she logged onto the site and saw the 129 pages of stuff for tonight's meeting she quickly scanned to what she was looking for, so she doesn't envy their jobs to read all 129 pages. She did go down to the sales office in their development to see if they had any information, and the representative she talked to there didn't even have the plan that was submitted here; she said Ms. O'Connor knew more than she did. We need better transparency and a map they can read.

William Hahn (Resident) said that on map, one of the things they promoted within their community was that there is green spaces. On the map, something is marked "P-135" but they haven't been able to get any information on what that means. Is that a green space, flat green space, possibly a water retention basin, or some people were confused that it might have been a parking lot called "Park 135;" they are somewhat interested in knowing what that means. They don't see any attempt at green space areas. If you look at the broader map of the community, there are passageways/walkways through different roads, and that doesn't seem to be something they are following through with on here.

Chair Hollist closed the public hearing. One concern brought up by several residents was more information. She asked staff what information the city provides residents, and what is required to be provided to them.

Planner Schindler said they are only required to give them notice of the hearing. By adding the location map we are going beyond what we are required to do, and adding the sample of the subdivision plat is still beyond. At the end of his notice, it says “please call the South Jordan Planning Department during regular business hours at ‘phone number’ or email city staff at the address above for additional information about the proposed.” So, if they felt like they didn’t get enough information in what he sent them, they had the opportunity to call or come in and look at it first-hand. Normally we don’t have too many things printed out anymore, but staff can definitely print information for them if they come in.

Chair Hollist asked how fixed what we are seeing tonight is; once this is approved, does it have to precisely follow what is being shown or be seen again.

Planner Schindler said they have to follow this, there are no changes that can be made as the commission has approved the preliminary plat; the final plat that comes in for recording has to match the preliminary plat.

Chair Hollist asked about things like the P-135 area, do they have to be the dimension/size currently shown.

Planner Schindler said yes, they will have to be that size. As far as he knows, that is considered a park lot; he doesn’t believe it is being used as a detention basin, but the applicant can verify that.

Chair Hollist asked about the concerns regarding the roads and traffic. There was concern about the density of the roads and she asked staff to clarify that what she is seeing on the map is a lane, and then a public road, and then a lane and a public road; roads would probably be for through traffic and lanes are just for people trying to get to their garages.

Deputy City Engineer Jeremy Nielson replied that is correct. Homes have the double frontage, so they will have lanes in the back and the roads in the front; from what he can tell, all of these appear to be double frontage, but the applicant can confirm that. The lanes are the narrow ones in the back, the major roads are the ones going east and west and they are in the front.

Chair Hollist asked regarding safety, which option would an emergency vehicles access; would they try to access via the lane, or would they access the home via the public road.

Engineer Nielson said they could access either way, but he lives on an alley and he has usually seen them use the main road in front for access to the homes.

Chair Hollist asked if the lanes are big enough for our emergency vehicles.

Engineer Nielson said yes, they are 16 feet wide.

Planner Schindler said that generally, if it’s a fire truck, they will fight it from the street because the fire trucks do take up a little more space, but they could get a fire truck down there too. Since they have two feet on either side, there may be only 16 feet of concrete back there, but there is also two extra feet on each side if they have to put down stabilizers or anything else for single or double story buildings, for taller buildings they would need more space.

Commissioner Gedge asked where the hydrants are located, are they on the main road or the lane.

Engineer Nielson said they are on the main road.

Commissioner Gedge noted that there wouldn't be a need for them to use the narrower road then, unless it was an ambulance or police officer, some other kind of emergency vehicle.

Engineer Nielson also noted that when you look at these lanes, the 90 degree bends, they are not very friendly for a large fire truck. He was more addressing how an ambulance or other emergency vehicle could navigate that.

Chair Hollist asked for a description of where the 55+ community is located, with relation to this development. Also, is this proposed development going to be a 55+ community.

Planner Schindler said this is called Springhouse Village. Everything north of it, up to Lake Avenue and east of it over to Kitty Hawk Drive, and then south to Daybreak Parkway and 11800 South is considered the Springhouse Village; their counterpart on the east side of Daybreak is Garden Park. They are different builders, but they are both 55+ communities. The area just to the east of this proposed plat is their community center with amenities; it is not open to the public or anyone else in Daybreak. This proposed development is part of that same community, same with Village 7 Plat 4 which is an extension of this as well.

Commissioner Steve Catmull asked staff how we determine the number of exits to put in a subdivision. Looking at Sunstone, it feels like 300-400, and it has three exits to 11800 S. He'd like to know how the decisions about numbers of exits are made.

Engineer Nielson said the good planning practice is to have multiple accesses, to spread traffic out and not concentrate it. By doing that, you keep your volumes lower on the streets. They look at level of service of the streets, and try to keep the highest level of service on the streets as possible. For example, on residential streets Level of Service A is up to about 300 vehicles per day. Providing the multiple accesses helps spread out that traffic and keep service levels high. As far as the city is concerned, we make sure our streets don't fall below Level of Service D. Ideally, the developer wants a quiet community as well so they're providing those multiple accesses to try and keep it a quiet street.

Commissioner Catmull said it looks like the exits on Willow Walk and Kitty Hawk are bounded between Lake Avenue and 11800 S, and both of those are lit intersections from what he remembers. He believes 11800 S is a collector street, which was confirmed by Engineer Nielson.

Engineer Nielson said most of the other streets in Daybreak like Kitty Hawk and Prosperity Road would be more like a residential collector street, but they are designed to carry higher volumes.

Mr. Langston said the P lot is not used for retention or detention, it will be generally flat and largely a lawn panel with trees and shrubs. It is meant to serve as an extension of the front yard of the homes adjacent to it, but it is a remnant open space that's leftover with mostly turf.

Chair Hollist noted there were some emails about concept maps. They have run into these before with Daybreak, but often these concept maps are marked and the one we were provided a hard copy of is also marked that the drawing is conceptual in nature and subject to change. From what she is seeing from the staff report and the zoning, it appears to meet what the area is zoned for and what is allowed.

Commissioner Catmull asked to address the email attachment issue, possibly give some guidance where the residents can go for more information.

Chair Hollist said that in the noticing there is a note that says information must be submitted by a certain time. She did make a note that the commission needs to discuss those email rules after this meeting, as well as the admission time; she thinks 5:00 p.m. is a little bit too late for them to be able to thoroughly review everything.

Commissioner Catmull just wanted to make sure that the resident who had issues with the size of her upload knows where to go to get help or guidance, to make sure she can submit what she wants to submit.

Planner Schindler is not sure what the limit is for the public. For staff, 10 MB is usually the maximum size we can email externally; internally we can email larger than that, but he believes external emails less than 10 MB have been successful. He will check on that and then add it to the notice.

Commissioner Gedge asked what the city council does, if they allow emails and/or attachments, or do they require physical evidence presented at the meeting in which they are hearing the item.

Planner Schindler said that Planning's notices are similar and the same as the ones for the council, they just go to a different body. He assumes they accept them through email since we have that same statement on the notices that the public can submit comment through email. He doesn't know how they're addressed at the council meetings.

Commissioner Gedge wanted to check on that before they have the discussion and get advice. He wants to make sure they are not setting a precedent different than the council.

Chair Hollist said she will be going to a City Council meeting next week, she will get some clarification then.

Planner Schindler noted that one of the residents had asked a question that hasn't been addressed yet. He said he lived two houses away from the end of the existing lane on the property, and had asked about the sidewalk and green space next his neighbor's house and the temporary access road. Mr. Solomon lives in the model home village for Village 7, and there is a lane that goes behind his home that will eventually turn to the south and come out on Sparrow View. The lot numbers 500 and 526 are adjacent to the former model home village, where there might still be some model homes. Where Mr. Solomon lives, his house fronts on to Folly Island Drive on the north side; his neighbor is adjacent to this subdivision that's being proposed. The narrow strip next to his neighbor's house has a sidewalk and a little bit of green space that connects between Folly Island and Sparrow View. Where lots 500 and 526 are shown, that is currently an asphalt

strip that connects the two lots, a temporary access for the people living on that lane now so they can get out of there because with just model homes there was no access to it. Prior to recording this plat, even though the commission is addressing the preliminary plat, we will not allow the plat to be recorded and those lots to become official until the lane is opened up on the east end and connects down to Sparrow View. That will be one entrance, then on Atherly Lane at the other end will be the other way out, that will be the connection for the entire lane. There will be two more homes over there, but we won't allow the plat to be recorded and nothing can be built until they finish that new lane and it's open at the other end.

Commissioner Gedge motioned to approve File No. PLPP202200020, Preliminary Subdivision, subject to all South Jordan City requirements being met prior to recording the plat. Commissioner Hollist seconded the motion. Roll Call vote was 5-0, unanimous in favor.

H.2. SEGO LILY DAY SPA SITE PLAN APPLICATION

Location: 10418 S Willow Valley Rd

File No: PLSPR202100204

Applicant: Johan VanZeben, VanZeben Architecture

Agenda was amended to remove this item tonight.

H.3. CRESCENT VISTA PRELIMINARY SUBDIVISION PLAT

Location: 11324 S. 445 W.

File No: PLPP202200005

Applicant Clint Olson

Planner Damir Drozdek reviewed background information from the Staff Report.

Chair Michele Hollist noted that our fencing requirements have recently changed to allow staff the decision of whether or not to waive those requirements in specific situations. She asked if staff is just notifying the commission of their decision for this project, rather than needing their input on the fencing issue.

Planner Drozdek said that is correct, the commission does not weigh in on the fencing issue for this project.

Chair Hollist asked if the road is currently set up to potentially go through to the properties on both sides in the future, and if that why the T-shape is there.

Planner Drozdek said yes, there are vacant properties to the north and south and the idea is to connect to those properties. Eventually, once the property to the south develops it will tie into Willow Creek Avenue at the south end and provide a type of second access to these properties that are vacant now.

Commissioner Nathan Gedge asked about the numbers for daily traffic on 445 West. He asked if the road is capable of handling current numbers, and if the addition of nine homes would cause traffic to exceed the daily load for that type of road.

Deputy City Engineer Jeremy Nielson said he counted about 15 lots that access 445 W. Single family homes usually generate about 10 trips a day, working out to about 150 trips a day currently which is within Level of Service A. As mentioned previously, we try to stay above Level of Service D, so the road still has plenty of capacity as the city sees it.

Commissioner Laurel Bevans asked for the total density right now in this neighborhood zone, and how close to the limit they are; will this allow other neighbors with larger lots to subdivide in the future, or will they have to rezone.

Planner Drozdek said no, they would not have to rezone; the ones to the north and south of the proposed project can subdivide on their own. In addition, these properties are not part of any subdivision.

Commissioner Steve Catmull asked about the corner at 11300 South, he believes it's a three way stop; he asked staff to confirm the number of stops at that sharp corner.

Engineer Nielson asked if he was talking about Brooke N Lance, where it exits onto 11400 South.

Commissioner Catmull responded that yes, that's the spot.

Engineer Nielson said he drove it just the other day and he thinks it's a two way stop, with Willow Creek having the stop and Brooke N Lance having the free movement.

Commissioner Catmull asked to confirm that there is enough traffic control at that intersection to attempt to mitigate accidents occurring there.

Engineer Nielson said that he did a search on accident data for this area, he didn't find any accidents in the last 10+ years, excluding anything on 11400 S.

Commissioner Catmull asked about the interior sidewalks. When you get to Willow Creek there are no sidewalks, are the sidewalks just because we have a standard and we want good interior flow in that area. He doesn't think anyone would be able to walk easily up Willow Creek Ave if they wanted to.

Engineer Nielson said the road is very quiet, he's sure residents probably walk up and down that road even though there is no sidewalk there.

Commissioner Catmull asked about vehicle and pedestrian accidents being included in the accident data that was referenced.

Engineer Nielson said yes, that information would definitely have been included as it is considered extremely important.

Chair Hollist asked if the applicant was present, and if they had anything to add to the Staff Report.

Clint Olson (Applicant) was present and willing to answer any questions.

Chair Hollist opened the public comment portion of the hearing.

Jay Balk (Resident) lives directly to the west of this project. He has some concerns about the west boundary line of this project, which backs up to his property. He currently has water rights to Willow Creek and has reservations on whether the creek itself is going to be diverted, running through a culvert or anything else that would limit his access to his water rights there. He also wanted to ask about fencing and the plans there, but he believes that was answered earlier with the comment that there will be no fence. His main question is if there will be any improvements to the creek. Also, on the County Assessor's website it shows a five foot gap between the project and his property, and three other properties that are adjacent to the north and south of him. On the County Surveyor's website there is no recorded survey, as it looks like the five foot strip has been included in the developer's property here and he is wondering if there is access to a survey that shows that was resolved properly.

Chair Hollist asked to confirm that he is located to the west of this project.

Mr. Balk responded that yes, he is directly to the west.

Steve McMullan (Resident) said the ground where the T goes concerns him, as it ties in to Vernon's zone and Leonard's zone, and wants to make sure that the T's accessing into it is not land locking a strip for those. There are existing sewer lines through the three lots down on the bottom. When 11400 South was widened, there was no sidewalk down Willow Creek because they made a variance for 445 W, the length of it was illegal and there was nothing else to do. Regarding accessing on to it, when they did 11400 S they were told by the city and UDOT that 445 W was built out and that's why there are no sidewalks down Willow Creek. The right turn when going down 445 W at 11400 S is a very tight turn and there are no stops, nothing there; There is just the stop up at the top where off 11400 S they go down Brooke N Lance.

Cem Lyman (Resident) is concerned that when 11400 S was built and developed, it was the city that signed off and said they didn't need a sidewalk. She thinks the reason there are no accidents there is because none of them are crazy enough to let their kids go there, or walk there; it is a very narrow street so she has major safety issues on that. When she spoke with city staff in the summer, they said that the 500 foot cul-de-sac limit would have to be approved by the fire marshall because it went through a lot while working on 11400 S to take care of the length of that cul-de-sac and how safe it was or was not. She is concerned about that just being decided, as it is up to the fire marshall and a variance that she assumes could continue, but if all of the other lots on the street are eligible to develop their property to the third acre amounts she wonders what type of traffic that would put on that corner. This is a quiet street unless you are sitting out front and actually see how much traffic does go by. If this plan is approved, will the other properties be approved for the same density, and does that meet the safety requirements.

Dave Case (Resident) has been there for 30+ years. This road went from eight to 16 homes, now you are talking about putting another nine homes on this road. Traffic, driving it every day, is a concern; it's a little road, there are no sidewalks. As has been said before, when they did 11400 S

and they extended their cul-de-sac down through the bottoms there is a 10-20 foot wall on one side which makes it pretty tight; that's a concern there to look at if the neighbors to the south ever decided to develop and take a road out there, it would be a big concern turning right as it practically goes right into a wall.

Chair Hollist closed the public hearing. She asked staff about creek water access, if someone can change how that creek flows or divert the water.

Engineer Nielson said the applicant can confirm it, but he is not aware of any changes being planned for the creek.

Chair Hollist asked specifically if they are allowed to make changes.

Engineer Nielson said they would need stream alteration permits, and quite a few other permits they would have to get, mostly through the county, to be able to make those alterations.

Chair Hollist asked staff about the five foot gap, and for the location.

Engineer Nielson said he sees the five foot gap on the county parcel map, but he is not a surveyor; that is something they would need to get a surveyor to interpret. It appears to be in the area where the creek is, right on the inside property line between Brooke N Lance and 445 West, based on what he's seeing.

Planner Drozdek said they have already received comments from the county recorder's office and it has to go to the surveyor's office before a plat can record. That is one of the issues that was brought up, that there is a five foot gap and that needs to be resolved; the county will not record the plat until this issue is taken care of,

Chair Hollist asked to confirm that, regardless of how they vote tonight, nothing happens until that gets resolved.

Planner Drozdek confirmed that yes, that's correct.

Chair Hollist asked about the open space next to lot 6.

Engineer Nielson said that it is a detention pond for their storm water.

Chair Hollist asked who owns and controls that.

Engineer Nielson said it is owned and maintained by the city, according to Planner Drozdek.

Chair Hollist asked about sidewalks, if they are required with all new developments; will they be required here, and if the property is adjacent what about fencing fronting 445 W.

Engineer Nielson said yes, they will be required here and if the property is adjacent. He did not study the plan close enough to see if it will be required along 445 W. He knows there is no existing sidewalk, but there are no additional improvements planned on 445 W.

Chair Hollist asked if that was because the road is too narrow, and why there is an exception in this case.

Planner Drozdek said the road was built to an old standard, the city has no intentions of making any improvements on 445 W any time soon.

Chair Hollist asked about the concerns that properties will become landlocked by this development.

Planner Drozdek said they shouldn't be as both properties to the north and south have roads stubbed to them, so there should be adequate access to them and not landlocked in the future.

Mr. Olson responded regarding the creek, they are putting an easement in on the top of the bank, so nothing will be able to be changed unless it goes through the county.

Chair Hollist asked if he had any information about the five foot gap.

Mr. Olson said it came to his attention about a week ago, and that will be resolved through the county. He knows his property doesn't take any of that five feet, but it does have to be resolved before approval with the county.

Commissioner Gedge noted that some residents raised concerns regarding three of these potential parcels with the sewage line on it. He asked if the applicant will be relocating the sewer line, or is it fine where it stands.

Mr. Olson said he is keeping most of the sewer lines in place, and as is.

Commissioner Laurel Bevans said she understands the engineer waived the fencing requirements on the west end, due to the creek; will the homeowners be allowed to put in fencing if they would like, and where would those fence lines go as it looks like their lots include where the creek runs.

Planner Drozdek said he believes if they were to do any alterations to the creek, such as put a fence in, they would have to get it approved by the county.

Commissioner Bevans asked if they could put a fence in on the other side of that, just on their property line.

Planner Drozdek said yes, they could, so long as they are not interfering with the water flow.

Chair Hollist noted there was a comment related to zoning. Her understanding is that this entire area is zoned R-1.8, so anyone with a larger property with enough space to develop into smaller pieces would be afforded that same right if they went through the application process. However, she asked staff if what we are doing tonight only applies to what has been shown here with this one piece of land, not the others.

Planner Drozdek confirmed that yes, that is correct.

Commissioner Gedge noted that this is also not a rezone.

Assistant City Attorney Greg Simonsen asked about the five foot gap. As he understands it, that five foot gap is presently included on the drawings in front of us. The applicant has honestly said he doesn't own that five feet, but it will have to be corrected by the county before approval; Attorney Simonsen thinks that is true. However, his concern is that what we are approving tonight is a preliminary subdivision drawing, and that based on what he has heard there is a five foot error on it. He wants to make sure what he is hearing is correct.

Planner Drozdek said that his understanding is that it's a gap between two properties, it is not an overlap; the properties are not overlapping or intruding on each other.

Chair Hollist said that lot 6 is the smallest on that border. She asked if that lot were decreased by 5 feet on the back side, would that bring it below the minimum lot requirement.

Planner Drozdek said he can quickly calculate that.

Commissioner Gedge asked if they recommend approval and add a condition that the west boundary must be resolved, would that be satisfactory to address the error with the proposal.

Chair Hollist asked if Attorney Simonsen was asking for this to be tabled and resolved.

Attorney Simonsen said that as he reads the city code, it does have the word "condition" in it. However, he would not want to propose a condition without the applicant consenting. It sounds to him like the applicant is ready to concede that fight anyway because of what he said, this seems like a condition might be appropriate to keep the process moving.

Chair Hollist addressed the applicant, Mr. Olson, and said we have two options tonight. We can vote to move forward with the condition that the five feet is resolved, and keep the process moving. The other option is we can table it until it is resolved and the applicant will have clarity and can make sure he's happy with how the county rules.

Mr. Olson would like to proceed and then resolve that with the county; he is willing to give up that five feet if that's what it takes to get this done.

Chair Hollist asked staff to make sure that the one smaller lot referenced would still meet the minimum size requirement for this zone.

Mr. Olson said they have had the property surveyed and the five feet is beyond his boundary and what they had surveyed. Still, even if he had to give up another five feet he would be fine with that.

Commissioner Darby asked to confirm that the applicant's current drawings don't include that five feet.

Mr. Olson said yes.

Commissioner Darby then asked to confirm that there is five feet nobody is claiming on any drawings.

Mr. Olson said yes, that is his understanding.

Planner Drozdek said that, even if he was to give up five feet, it would not change his density on the project.

Chair Hollist asked what lot 6 would drop down to in terms of size.

Planner Schindler said it would be reduced by about 500 square feet; it is already 17,000 square feet so it would still be much larger than the minimum.

Commissioner Bevans noted that it looks like lot 5 has a 200 foot easement on that sewer line. She asked if that will affect the building envelope for that lot, and if the city has standards on the minimum building lot size.

Planner Drozdek said that it will affect it, but as long as they can meet the setback requirements on the side/rear then we have no other option but to approve it. They will not have as much flexibility with where they can put the house because of that easement, as obviously it has to be outside the easement.

Commissioner Bevans asked to confirm that the city has no requirement for building envelope sizes.

Planner Drozdek said there are requirements for lot sizes and setbacks, but not the envelope size.

Commissioner Gedge motioned to approve File No. PLPP202200005, Preliminary Subdivision plat, adding the condition that before final plat approval the west boundary five foot gap will be resolved with Salt Lake County as agreed upon with the applicant. Chair Hollist seconded the motion. Roll Call Vote was 5-0, unanimous in favor.

H.4. CURTIS DETACHED GARAGE CONDITIONAL USE PERMIT

Location: 10475 South 3010 West

File No: PLCUP202200042

Applicant: Jeffrey Curtis

Planner David Mann reviewed background information from the Staff Report.

Chair Michele Hollist thanked staff for including a section of the code on this specific issue, it is helpful when they are reviewing their staff packets. She asked if there is already a structure in the location where this is proposed to go.

Planner Mann said yes.

Chair Hollist asked if this will replace that current structure.

Planner Mann said that is correct.

Chair Hollist asked how big the current structure is.

Planner Mann said it's probably a little less than the footprint of the house, he doesn't think it's much bigger, but he could have the homeowner confirm that if they're here.

Chair Hollist asked if there are other structures in this area that exceed the size of the home footprint or height.

Planner Mann said you can see some to the west, across 3010 West, where there are some large structures with a smaller residential home. This subdivision is quite a bit older than some of the newer subdivisions, so the footprints of the homes are a little bit smaller with properties that are on average a little bit bigger than the typical third acre lot that you find in this zone. There aren't really a lot of examples of detached garages that would be similar when compared to the existing home, but as stated staff doesn't see any reason why this property couldn't easily contain the building being proposed without any significant impact.

Chair Hollist asked to confirm that all the zones around this are the same, R-1.8.

Planner Mann said that is correct.

Commissioner Steve Catmull asked if there is any limit on height for conditional use permits.

Chair Hollist said yes, it is 25 feet.

Commissioner Catmull noted that this is showing 21 feet now, with the conditional use they could tear this down in the future and build another one up to 25 feet.

Chair Hollist said they are only approving 21 feet tonight.

Planner Mann said this is being based on the submitted documents with their application. Also, with a height that would be taller than the current plans, the setback would have to increase.

Commissioner Catmull noted that all of those limitations are in the application itself, so it's documented.

Commissioner Nathan Gedge said that in the past few years they have had similar requests in this general part of South Jordan, where it was going to be used for a batting cage. He asked if they knew whether or not this property has any business licenses, he wants to make sure they won't be operating a business in this residential neighborhood; he wonder if it truly for storage.

Planner Mann said he hasn't heard any rumors as far as any commercial purposes associated with this proposal.

Chair Hollist asked if the applicant was here this evening and invited them up to answer some questions. She asked him about his intended use for the building.

Jeffrey Curtis (Applicant) responded that it is just to store recreational equipment. The height of it allows a motorhome to fit inside with a 14 foot garage, given the fact it is 42 feet in width it is 12' 2" in pitch; by the time you get to the center you are at 21 feet, starting with 16 foot eaves.

Chair Hollist asked to confirm that there don't appear to be any windows on the structure.

Mr. Curtis responded there are no windows, only one side door. It is a simple garage for parking a motorhome, a boat, a few Harleys and a few other things. He said there will be no commercial use, it's just a place to park stuff.

Chair Hollist asked the applicant to confirm that he is removing the structure on the property.

Mr. Curtis said the structure has already been removed. It was a small wooden structure barn, with a lot of junk on the property. They acquired the property about six months ago so they removed the structure and seven loads of garbage were hauled off, they cleaned up the property from what it was.

Chair Hollist asked the size of the footprint of the previous shed.

Mr. Curtis said it was 30 feet by roughly 28 feet, a little smaller than what they are currently planning; the new structure is a little bit bigger and taller.

Chair Hollist opened the public comment portion of the hearing. There were no comments and the hearing was closed.

Commissioner Catmull noted the lot is 0.44 acres, and assumes it can't be subdivided further based on the size.

Planner Mann confirmed that.

Chair Hollist doesn't tend to like exceptions, but based on the neighborhood and what's around it she is comfortable with granting this conditional use in this particular case. The stated use makes sense as far as the height needed.

Commissioner Darby motioned to approve File No. PLCUP202200042, for a detached garage located at the address above.

Commissioner Gedge asked if we need to reference that the height must be as contained in the application.

City Planner Greg Schindler said he doesn't believe it needs to be referenced, they are approving it according to the staff report.

Chair Hollist seconded the motion. Roll Call Vote was 5-0, unanimous in favor.

I. LEGISLATIVE PUBLIC HEARINGS

I.1. SHIELDS LANE REZONE FROM R-1.8/R-2.5 TO R-3

Location: 1379 W Shields Lane

File No: PLZBA202200034

Applicant: Hayley Pratt, Castlewood Development

Planner Ian Harris reviewed background information from the Staff Report.

Chair Michele Hollist asked if they were to rezone the entire piece as R-2.5, would that only allow four lots.

Planner Harris said there was some confusion early on about how many lots would be allowed on the acre, possibly because some of the property lines were messed up on the surveyor map. There was some back and forth with potential buyers of the site; we told them they could develop six parcels on the lot, but based on further review by staff it ended up only being five if it was rezoned to R-3, and that was corrected. He believes that is the reason why the applicant is applying for the rezone, to fit five lots. Five lots doesn't come close to that maximum of three units per acre, in fact it is closer to 2.6 or 2.7 units per acre.

Chair Hollist asked what minimum lot size is for the R-2.5 zone.

Planner Harris replied it is 12,000 square feet minimum. The minimum for R-3, which is what it would be rezoned to, is 10,000 square feet.

Chair Hollist asked, regarding lot 5, if there are any rules regarding little strips of land being part of a property.

Planner Harris said the discussion of that little strip has come up in meetings and emails. He believes the developer has established some kind of contact with the neighbor to the south, to begin the discussion of deeding that portion of land over to that homeowner. If that were to happen, he doesn't believe it would impact the density to an extent where it would fall out of line with city codes.

Chair Hollist noted that it was said the minimum lot size for R-2.5 zoning is 12,000 square feet. The smallest lot here is 11,946 square feet, she asked if there was a reason they wouldn't just slightly modify those lines and ask for the R-2.5 zoning.

Planner Harris said he believes it has to do with the density of the lots, with five lots on the size of this parcel at 0.9 acres it would be slightly over that 2.5 units per acre limit. It's not necessarily the square footage of the parcel that would be the problem, although that one is slightly under the limit, it is more the amount of lots on the parcel given the size of the area.

Commissioner Nathan Gedge said they have seen this property in the past few years, and know some of the history. He asked if when they saw this before it was the subdivision from the church lot, or was the rezone to the R-2.5 considered at that point.

Planner Harris said he is not sure, but it currently sits in a subdivision amendment titled “9800 South Church Subdivision Amendment 1.”

City Planner Greg Schindler believes it was zoned R-2.5 as far back as when the church subdivision was created, it was already zoned R-2.5 at that point.

Commissioner Gedge is just trying to figure out the difference between today and when this was last heard, is it just changing it from four lots to five lots. They had no concerns that he recalls from that conversation, he is just trying to figure out why this is back before them today.

Planner Schindler said it might be that it’s a different applicant.

Commissioner Steve Catmull asked staff if the property on the narrow strip was deeded, would it retain the same zone.

Planner Harris said the small strip on the east side is part of the rezone here that will go to City Council next. The proposal is to rezone that strip to R-3, and he believes the home that sits south of the strip is R-1.8, so it would be different. They were initially trying to work with the applicant to see if they could establish contact with that homeowner and gauge their interest before this rezone so things could be cleaned up, but he doesn’t believe they were able to do that before we scheduled the rezone to come before the commission. If it does end up being deeded to that homeowner, then it may be the address to the parcel with that strip of land sits in two separate zones, and obviously the city would like to see it as clean as possible; we just don’t know if that strip will be deeded before we move forward with the rezone.

Commissioner Catmull noted that it can be cleaned up later, he just wanted to make sure that would be okay, and if it was deeded there is no action that goes to the council or commission; it would just be a two zone property with the same address. There would be nothing actionable given the size from a structure perspective.

Planner Harris said he doesn’t believe it would present any issue.

Commissioner Trevor Darby knows we aren’t discussing the potential bulb, but if that were to be discussed, how far does it have to be from an intersection; is there a minimum distance.

Deputy City Engineer Jeremy Nielson said he is not aware of a minimum distance, just the radius of the bulb needs to allow for the fire apparatus to turn around and there are strict requirements about that.

Chair Hollist asked staff if the way this is drawn is a standard cul-de-sac.

Engineer Nielson said it looks like it, but he will check and get back to her.

Chair Hollist asked if the applicant or a representative was present this evening.

Duaine Rasmussen (Applicant) said his associate and partner, Hayley Pratt, couldn't be here this evening; she has had most of the interactions with the staff, and they both appreciate their involvement. He can answer a few questions, however there may be some lingering questions by the time they get done this evening. Regarding the little strip to the west, they did attempt to speak with the gentleman who owns the property on the corner. He doesn't believe the homeowner is very ambulatory, and he was not very welcoming of people knocking on his door so the applicant only tried once. The applicant knocked on his door with the idea that they wanted to give him that property, but he wouldn't even talk with them about it. Interestingly enough, yesterday afternoon he got a call from one of his daughters, and they may be in the audience but he wouldn't recognize them. It was a woman by the name of Ms. Rust, who lives out in Grantsville. She and her husband called the applicant back later and her initial discussion asked if they would be interested in acquiring some of the back part of the lot. Not that her dad would even consider it, but they asked if the applicant be interested. The applicant responded that he absolutely would be interested, either trading it or giving them frontage off of Shields Lane. When they finished up, there was no real conclusion to it, other than they wanted the applicant to approach the staff and city to say they have no use for that property and they don't want it to be a nuisance piece. The applicant said they could sell it with lot 5, with a recorded agreement that if and when that property on the corner develops they would be required to deed it over to whoever develops that property to avoid becoming a long nuisance strip. He is sure whoever they sell that lot to won't want to maintain it for very long either. That was an interesting question that came with this property, but it will need to be addressed. With regards to the rezone and their initial meetings with the DRC and staff, they felt like consolidating these two zones to what they have requested this evening was the best thing to do. They have gotten really close to the 12,000 square foot lots, they might be able to move some lines around but they don't know; they still have to abide by the cul-de-sac which has been designed to city standards and seems to match the other properties in the area in terms of developments. It made a lot of sense to them, and the DRC made it clear that they will need to submit a traffic study prior to actually platting this property, it doesn't come with the rezone. He knows the commission isn't considering the plat tonight, but they felt it was nice for them to have this information to see what they are considering on the front end.

Chair Hollist opened the public comment portion of the hearing.

Glade Mumford (Resident) said his concern and reason for being here is that he is one of the several people who owns water rights in the South Jordan Canal. Their ditch comes along the south end of this property, and his hope is that they can help the developer understand that this right of way has been there for probably 100 years or more; he has known it to have been there for over 43 years. It is an open ditch, and when the Church of Jesus Christ of Latter Day Saints built their building there, they elected to put a large concrete pipe and bury it with some clean-outs. He doesn't know what the developer is thinking here on how to address this, but it needs to be preserved and workable three days a week without exception. He has seen other areas where when there is an open ditch like this they just leave an area for it and that kind of makes for not a good atmosphere. Looking at the drawings, it would be very hard to maintain their access right of way to maintenance the ditch. It doesn't take a whole lot of maintenance, most of it is clearing the garbage

that the houses on the south throw over the wall and think nothing of. It's a long enough stretch of ditch that it would need probably two clean-outs they would need access to. If these homes are built the way the drawing is, they would be going through their private yards in order to take care of that situation. He wanted to make sure their rights as shareholders in that water are preserved.

Chair Hollist closed the public hearing. She reminded everyone that for the legislative public hearings, they become a body of recommendation; they are not the final decision makers on these items. These issues will be heard by the city council, with the commission's recommendations, and the city council will be the final deciders on these issues.

Chair Hollist asked staff about the water rights.

Deputy City Engineer Jeremy Nielson said the ditch would be private, but he has made a note to let the development engineer know that the ditch is there so he can make sure the engineers are addressing that in the design. They will need to get the ditchmaster's approval for any modifications to the ditch.

Chair Hollist asked about maintenance on the ditch, would the ditchmaster be allowed access on properties should maintenance or cleaning be required.

Engineer Nielson said that is part of the reason why they require the ditchmaster to approve of any modifications, to make sure that it's accessible to them and that they will be able to maintain it.

Chair Hollist asked if that would be akin to an easement.

Engineer Nielson said there probably isn't a recorded easement, but it's a prescribed right.

Assistant City Attorney Greg Simonsen said that if it has been there that long, there is not much question about their rights.

Commissioner Gedge said he is assuming that when the church was approved and put in, the concrete pipe had to be given approval from that ditchmaster; that would mean there is a precedent with them working with development to make sure the water can continue to flow through.

Engineer Nielson said that is the process they have followed as long as he has been working for the city. Sometimes it is a little tricky to find the ditchmaster, they don't realize they are the ditchmaster because these ditches have been around so long.

Commissioner Gedge said he assumes this would probably happen at the next phase, the actual preliminary site plan piece, and at that time they would address that formally.

Planner Schindler said that would not be addressed during a rezone, it would be when they want to develop; that would be at the public hearing for the subdivision.

Engineer Nielson responded to Chair Hollist's earlier question about the cul-de-sac, he was able to confirm that the cul-de-sac in question does meet our standards in terms of the radius.

Chair Hollist understands that these pieces of infill developments are sometimes hard to develop, and sometimes we see creative solutions. However, when it is possible to have something a little more standard she appreciates seeing it.

Commissioner Gedge said he is hoping there can be continued dialogue between the developer and property owner, regarding changing the property one way to make all parties happy. He is not opposed to forwarding a positive recommendation on this.

Chair Hollist sometimes gets concerned when they are asking for greater density than what's in the area, she does however appreciate that the minimum lot is very close to the R-2.5, as well that the density is pretty close, coming in at around 0.38 per acre instead of the 0.4. Since this is so close, and it creates an infill situation with a standard cul-de-sac, she is in favor of the zoning the applicant has requested.

Planner Schindler added that the subdivision directly south is also R-3, it has the same thing and these proposed lots are bigger than those existing lots.

Commissioner Darby motioned to forward a recommendation to approve File No. PLZBA202200034, proposed rezone from R-1.8 and R-2.5 to R-2. Chair Hollist seconded the motion. Roll Call Vote was 5-0, unanimous in favor.

Chair Hollist noted that this will be heard by the city council during their next meeting in one week's time.

I.2. HATT REZONE FROM A-5 TO R-2.5

Location: 1060 West 10290 South

File No: PLZBA202200026

Applicant: Stan Hatt

Planner David Mann reviewed background information from the Staff Report.

Chair Michele Hollist asked how many lots could be put on this land if the rezone goes through.

Planner Mann said there would be one lot with the existing structures, on the east side, and then another lot on the west side that would be roughly one-third acre. He believes the property line was included in the packet, but the proposed property line would be just west of the line coming up from 10290 South on the survey, about one-third of the property.

Chair Hollist asked if when developed, would they be required to turn over any land to the city for a public road in the future, or is that tied up in where the lines fall on the properties to the south.

Planner Mann said no, he doesn't think it would be required to have any roadway dedicated, they would all continue to be used privately. As mentioned, the property lines that extend across the 10290 S would have to be cleaned up with the county and any legal processes that need to happen.

Commissioner Nathan Gedge said this seems pretty straight forward. He has no concerns and is assuming it will generate little traffic, so he thinks it's a good fit. He is sad to see open agricultural space going, but there is a need for housing and he likes that it will be a larger lot similar to the homes nearby.

Commissioner Laurel Bevans noted that there are lot lines that need to be adjusted. Right now, it looks like those lots are A-5; when those lot lines are adjusted, will they have to rezone that tiny piece into the R-2.5 or will it be automatically included.

Planner Mann said that part of a rezone application would be a legal description, explaining the area being rezoned. Staff would make sure, if approved, the legal description describes the area that will be part of this subdivision.

Chair Hollist asked if the applicant was present, and if they had anything to add.

Kevin Tominey (Applicant) is representing Mr. Hatt, he is seated here in the audience as well. Things seem very straight forward, it is a very large lot and he is splitting it almost in half. He has an aged mother who lives with him in the existing home, he has a growing family and it looking to put another house on the lot for he and his family so his mother can stay in the existing home. The standing structure now that you are looking at is a shed located in the middle with a concrete driveway to it. The lot is large enough he could locate the property line on either side of that and still have plenty of space to meet the code. Zone R-2.5 matches nicely with what it's up against on the north, actually less dense than what it's up against on the east and south; it seems fairly straightforward and a good fit for the neighborhood. As previously discussed, that road has been there well in excess of 10 years and is a prescriptive road, it is open and anyone can utilize it so it doesn't look like there are any glitches or hang-ups there. The applicant does recognize that the offset in the property will have to be resolved, and they've talked about that, but that shouldn't affect the rezone, it just has to be resolved before they get to the plat stage.

Chair Hollist opened the public comment portion of the hearing.

Neale Neelamessham (Resident) he is from the Hindu Temple and has no problem with the rezoning. His only question is regarding the canal on the corner, between the private road and the property. If that will be rezoned from agriculture to residential, is there a plan to close the canal, what will happen to the people who might use it. He just wants to have information so they know what to do with their property.

Thom Urie (Resident) lives directly to the east of this property, and he is here to support the Hatts with this rezone.

Wendy Quilter (Resident) is directly south and deeded 18 feet to them for right of way, and they support this.

Chair Hollist closed the public hearing. She asked staff about water rights and the canal.

Deputy City Engineer Jeremy Nielson said that would need to be addressed as part of the detailed design, but at this point he has no information on what the plan will be there.

Chair Hollist asked to confirm that a more detailed plan will come in the future, tonight is just a rezone. Eventually another application will come before them to show the plan for the lot.

Engineer Nielson said that as part of any subdivision, the improvement plans would be provided at that point and that would show any modifications that are done on that ditch. Whoever has used the ditch in the past is still entitled to the water, so that conduit needs to be preserved.

Chair Hollist noted that we always appreciate comments from the community, especially when people show up in support as well as it helps us know what the feel in that area is for the development.

Commissioner Bevans motioned to forward recommendation of approval for File No. PLZBA202200026, Rezone Proposal. Chair Hollist seconded the motion. Roll Call Vote was 5-0, unanimous in favor.

Chair Hollist noted that this will be heard by the city council at the first meeting in May, the first Tuesday in May.

**I.3. ASAY & WOODBURY / SCOTT FARMS LAND USE
AMENDMENT AND REZONE**

Location: Approximately 10597 S. 1055 W.

File No: PLZBA202100127

Applicant: Brandon Asay

Planner Damir Drozdek reviewed background information from the Staff Report.

Chair Michele Hollist asked to confirm that a significant portion of this property is already zoned R-3.

Planner Drozdek said that is correct, they would essentially be expanding that zone onto the two adjacent properties.

Chair Hollist asked when that was zoned to R-3, and does he anticipate the remaining lands in that area requesting the same zone eventually.

Planner Drozdek said he believes it was rezoned back around 2007. There is a chance they may request the same zoning based on this, but having 1055 W there they will be looking to minimize traffic impacts because it's not designated to be widened or improved in any way; it is supposed to remain historic, so the amount of homes they add on to 1055 W will be minimal.

Commissioner Nathan Gedge asked about the eastern boundary, if that was an existing private lane that will access lots 11 and 12 and if it is wide enough for emergency services.

Planner Drozdek said they had some time to review the project, it does meet the minimum city code requirements at 20 feet which is the minimum. At the end of the lane they would have some

kind of turnaround to provide for emergency vehicles in the form of a bulb or hammerhead, etc., something that will meet the city code.

Commissioner Gedge said his other concerns would be that if this is approved by City Council, on 10550 South with the business to the north and traffic, and 1055 W during celebrations when that is busy, how they can protect those who potentially purchase homes here and make sure their driveways aren't blocked by people attending events.

Chair Hollist asked if the applicant was present, and if they had anything to add.

Brandon Asay (Applicant) is here with his co-applicant, Gary Woodbury. He believes the third owner, who owns the north lot currently zoned R-3, Joanne, is online. They have done a lot of work and he thanked the staff for their help and input here. They have tried really hard to accommodate and preserve the historical nature of the street. He personally moved there because he loves the open land, he loves the fact that it's a historic road, and they are trying their best to not impede that in any way. They feel like this is a tasteful way to add lots and homes to that corner of the neighborhood. They have worked with the development agreement to make sure they include some open space, and as Planner Drozdek mentioned, things like the brick and mortar will help add character to the neighborhood and not detract.

Gary Woodbury (Applicant) the perimeter of the community will have a masonry stone fence.

Mr. Asay said they have worked very closely with the planning and they intend to do their best to improve the neighborhood.

Mr. Woodbury said this is why they agreed to add porches and different things that are above and beyond. He has lived here for 43 years and he loves South Jordan, he wants to keep it as quaint and beautiful as they can.

Chair Hollist opened the public comment portion of the hearing.

Gary Godwin (Resident) noted that he owns the property on the road in blue with the potential easement and where there will be a turnaround in the backyard of the house, he has many concerns. There is a ditch in the back of that that needs to be addressed, it has water rights to his property and the one next door to it, and keeps going. Also, he has a cement wall there that is not that high and he does have agriculture like his farm equipment and other stuff, and it is a half acre property. If they raise the wall up so the new homeowners don't complain with horses and everything around there, usually new people don't like the smell but they love to see the horses. At one time he spoke with Gary Woodbury, who owns that whole road and the house at the end for the turnaround, Mr. Godwin doesn't know if there is enough room for the turnaround. They would have to put that in the back and move the house adjacent probably to make that happen. The little square lot in the front is vacant still, he is wondering if Jenkins can buy that and make it a lot. That property is R-3 right now, but when they have high profile services, that lot is literally filled from one end to the other, those cars are all up and down; he had to put a sign up asking people to please not park in front of his driveway. Jenkins and Soffee really need to have a lot there if there is a way to accommodate that, then they wouldn't be so congested; they would have to take out the strip, but he thought it would be great if they bought it and made it a parking lot. If you go to the end of the street, there is a light there but they didn't open it up to go to 10600 South to Kneaders. Had they opened that up, that would give them the right of way to go all the way over. They put the commercial in down below, one of the property owners sold the commercial. He wants highest and best use, many of the people next to him have been saving

their properties for years and they wanted that eventually. That could be commercial as they've already started at the very end, just the spot from there up to Jenkins because they already have buildings that could be possibly RM or C-2 since they are already commercial there with all that parking and a light that could be opened and just hasn't been made a through street yet with all the congestion. For years there has been a sewer problem, and you go down that road and it stinks because the sewers are really bad. Adding four more properties might matter and he wishes someone would address that because that is in the road and it stinks all the time. He thinks the highest and best use for zoning, with his property being right next to it, would be eventually commercial or light manufacturing.

Lynn Brown (Resident) lives just south of this property, he knows there is an open irrigation ditch along the property line and he doesn't know if this will interfere with that at all. He doesn't know if it would be an easement there or how they do things, but it is an open ditch. He doesn't know how property lines are established, in the old days you went by fence lines but he doesn't know how this is working now. He thinks as long as it doesn't interfere with the water rights, there would be no issue. He is not trying to stop anything, he just has concerns.

Luisa Echeverria (Resident) just wants to make sure this is going to remain single family use. She lives nearby so this will directly impact her and her neighbors. This is the first they have heard about this, they just happened to see it online. She is here basically asking questions because she hadn't heard anything about it. They had heard that at one point they were considering multi-family use, which they would be against. They just want to make sure it is going to remain like the maps shown, single family use. They share a lot of the concerns that have already been mentioned about the water rights and things like that. She also added that she is here tonight because her baby is buried at the cemetery. She was glad to hear the applicants grew up in South Jordan and are respectful that there are celebrations as a community at the cemetery; that was another reason she wanted to come tonight and hear what is happening.

Chair Hollist closed the public hearing. She asked staff about the ditch questions that were brought up.

Deputy City Engineer Jeremy Nielson noted that there is a ditch and will pass that onto the development engineers. It is a private ditch, but we will make sure they know about it and that they need to work around it.

Chair Hollist knows we are just talking about zoning, but asked to address the wall requirements between land and zone uses.

Planner Drozdek said the reason for the masonry fence is the conflict. With the R-3 zone they can't have any animals, while properties to the south and east are large enough and zoned for farm animals.

Chair Hollist asked what types of fencing are required for those zones.

Planner Drozdek said they would have to be a six foot minimum, decorative masonry wall.

A member of the audience asked if the fence could be higher, possibly six to eight feet.

Planner Drozdek said the city code requires a six foot minimum, but it will be up to applicant if he chooses to go more than six feet, up to eight feet, or it could be added as part of the agreement if both parties agree.

Chair Hollist asked about sewer issues, if the city is aware of any and any impacts these new homes might have on that.

Engineer Nielson is not aware of any issues, their analysis was that there was capacity. That is managed by the sewer district though, so if they are smelling things they should contact the sewer district and see if there is anything that can be done to mitigate that.

Chair Hollist asked how the property lines are established.

Engineer Nielson said all property lines are established by the Salt Lake County Surveyor's office, their Meets and Bounds descriptions are all based on a point in Salt Lake City. Many times, old surveys mention fence lines, but it also mentions how long the fence line is with other mathematical descriptions to figure out the property line.

Chair Hollist asked staff what this zone allows, she assumes it implies only single family use up to three lots per acre.

Planner Drozdek said that is correct, no attached housing would be allowed if the zoning is changed to R-3.

Commissioner Gedge said that he drives this road several times a day, and seeing road work that was done close by, there is definitely a sewage issue and he agrees with the staff recommendation to contact the sewer district to alleviate that.

Chair Hollist likes what they have been shown, that it uses a standard cul-de-sac and is accessing existing roads. She prefers that kind of an access, but she understands that sometimes infill is difficult.

Commissioner Gedge noted that this is a good fit based on what's proposed, and it will not overburden the neighborhood. They received some emails with concerns about multi-family housing, apartments and townhomes; he is glad Planner Drozdek confirmed that with the R-3 zone it only allows three lots per acre, so that will not be an issue.

Commissioner Steve Catmull noted, regarding the development agreement, it is a very specific definition of what can be done on the property; it is even more restrictive than a general rezone regarding what's allowed there. It can only be modified by reapplication, and both parties have to agree to the modifications.

Commissioner Darby motioned to recommend approval of Resolution R2022-24, approving the land use amendment, and Ordinance No. 2022-04-Z, approving the zone change.

Commissioner Bevans asked about possibly having two separate motions, can it be done in one motion.

Assistant City Attorney Greg Simonsen said he believes they are good with the one motion in this case.

Chair Hollist seconded the motion. Roll Call Vote was 5-0, unanimous in favor.

Chair Hollist noted that this will be heard May 3 by the city council.

II. OTHER BUSINESS - *None*

City Planner Greg Schindler noted that their next meeting shouldn't be quite as long, he doesn't believe there are any rezones. He will not be here that night, the other planners with projects on the agenda will be in attendance.

ADJOURNMENT

Chair Hollist motioned to adjourn the April 12, 2022 Planning Commission meeting. Commissioner Gedge seconded the motion; vote was unanimous in favor.

The April 12, 2022 Planning Commission Meeting adjourned at 9:06 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez

UNAPPROVED

CITY OF SOUTH JORDAN

ANNEXATION POLICY PLAN

PURPOSE

This Annexation Policy Plan (“Plan”) was prepared in accordance with the requirements of Utah Code § 10-2-401.5, which requires all municipalities to adopt an annexation policy plan before annexing an unincorporated area. The purpose of this Plan is to:

1. Guide decisions regarding future annexations and South Jordan’s long-range planning objective contained in the City’s General Plan.
2. Prepare for orderly expansion of the City into contiguous adjacent unincorporated areas with future development that is characterized by effective delivery of services, efficient connection to existing infrastructure networks and that strives to protect the public health, safety and welfare of the City’s existing and future inhabitants.
3. Identify the areas of potential annexation and establish the specific standards and criteria that will guide the City’s decision whether or not to grant future annexation petitions in those areas.

EXPANSION AREA MAP

This Plan includes the City of South Jordan Expansion Area Map (“Map”) (Exhibit A), which shows the City’s proposed future expansion areas. This Map represents the City’s growth boundaries and includes areas outside, but adjacent to, its incorporated borders that may be annexed into the City. Areas to be annexed must fall within the areas designated as proposed future expansion areas. Although properties may be within an expansion area, this Plan and Map are not a guarantee that the City will approve an annexation request.

The drawing of the Map and its expansion area boundaries was guided by principles set forth in Utah Code § 10-2-403(5). Specifically, the Map was drawn:

1. along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;
2. to eliminate islands and peninsulas of territory that is not receiving municipal-type services;
3. to facilitate the consolidation of overlapping functions of local government;
4. to promote the efficient delivery of services; and
5. to encourage the equitable distribution of community resources and obligations.

ANNEXATION CRITERIA

This section of the Plan outlines the specific criteria that will guide the City's decision whether or not to grant future annexation requests. All future requests for annexation will be evaluated against the following criteria:

1. General Criteria

- a. Any annexed area must be a contiguous area.
- b. Any annexed area must be contiguous to the City's corporate limit when the annexation request is submitted to the City.
- c. The City will attempt to avoid gaps between or overlaps with expansion areas of other municipalities.
- d. If the annexation is by petition, the proposed annexation area cannot create an unincorporated island or peninsula.
- e. Annexation requests cannot propose the annexation of all or part of an area proposed for annexation in a previously filed petition that is still pending approval, denial or rejection.
- f. The City encourages existing unincorporated islands and peninsulas located within the City to annex into the City.

2. State Mandated Review Criteria

a. Character of the Community

The City of South Jordan is located in the southwest Salt Lake Valley, about 16 miles from Utah's capital, Salt Lake City. Settled in 1859, South Jordan was a primarily rural farming community, with irrigation ditches stemming off the Jordan River. The City incorporated in 1935 and by 1960, the population was 1,354. By 1990, the population had grown to 13,106, and housing developments began to replace farmland at an even greater pace. Today South Jordan's population is more than 83,000.

South Jordan is now home to many major regional employers and commercial centers, three prominent religious temples, and many community and regional parks, trails and other recreational and entertainment attractions. South Jordan is well connected regionally through public transportation, a major freeway, two highways that will both be converted to freeways and a multi-use trail that connects the Great Salt Lake to Utah Lake and beyond.

The City strives to preserve its unique and diverse character while preparing for the future growth and opportunities to enhance the quality of life for its residents. The eastern portion of South Jordan is known for its larger single-family lots, quiet neighborhoods, and easy access to major commercial and employment centers. About 40% of the City is zoned for single-family residential (including 12% zoned for agricultural and rural residential).

One-third of the City, roughly 4,201 acres on the City's west side, is currently zoned "Planned Community" and is home to a new urbanist, master planned community known as Daybreak. The Daybreak Town Center, currently underway, will provide new employment, dining, retail, entertainment and regional attractions that are connected to the region by the Mountain View Corridor highway and TRAX light rail.

b. Municipal Services

All areas included in the Plan will need municipal services. Annexation will allow residents and developers of annexed property access to culinary water, sewer and electric power services provided they meet all City specifications and comply with all applicable development ordinances.

c. Extension of Municipal Services

Where municipal services are not presently extended, services will be extended on an as-needed basis at the cost of the developer. All extensions of municipal services must comply with all ordinance and policy criteria and the individual developer or property owner will pay for necessary extensions. The plan and time frame for the extension of municipal services will be determined by the interest of the property owners to subdivide and develop their ground.

d. Service Financing

Municipal services in newly annexed areas will be financed by the developer installing the improvements and by impact fees. Property taxes with increased valuation of property and sales tax will also contribute to the general fund to help defray any added expenses the City may incur by annexing new properties.

e. Estimate of Tax Consequences

The annexation area within South Jordan's area is limited to unincorporated Salt Lake County properties. Other taxing entities including but not limited to schools, county, library, sewer, water conservancy, and mosquito abatement already cover the potential annexation area.

South Jordan's combined property tax rate is 0.012040 which includes the City's property tax rate of 0.001628 to provide municipal services such as public safety (i.e. police, animal control and fire), public works (i.e. parks, streets, cemetery, and fleet), development services (i.e. engineering, building and planning), administrative services (i.e. recreation, courts, facilities, and information technology) and other general government functions (city recorder, economic development, human resources, city manager and city attorney).

Salt Lake County's unincorporated areas' combined tax rate is 0.012907 which includes the same taxing entities listed above, except for South Jordan, but includes:

- i. Salt Lake County's municipal service district with a tax rate of 0.000051 and provides services including public works, animal services, planning and development, engineering, parks, justice courts, municipal prosecution and indigent legal services;

- ii. Unified Fire Service Area with a tax rate of 0.001594 to pay for a full-service fire agency that provides fire suppression, advanced life support, first response and transport, rescue, hazardous materials, bomb response, fire investigation, code enforcement, hazardous materials inspections and emergency management; and
- iii. Salt Lake Valley Law Enforcement District with a tax rate of 0.001973 and provides law enforcement services managed by the Salt Lake County Sheriff.

If annexed into South Jordan, residents in an expansion area would recognize a tax rate decrease of 0.001990, and South Jordan residents would maintain their current tax rate.

This information is based on current tax rates of all applicable taxing entities recognizing that tax rates may be adjusted by any of the respective taxing entities.

f. Interests of “Affected” Entities

- i. Adjacent Municipalities—South Jordan shares a common boundary with both Herriman City and West Jordan City, which are within a half mile of the expansion area.
- ii. Jordan School District—it is anticipated that Jordan School District will provide school service to the expansion areas.
- iii. Jordan Valley Water Conservancy District—South Jordan is a wholesale member agency with JVVCD and it is anticipated that JVVCD will provide water service to the expansion area.
- iv. Salt Lake County—recent updates to Salt Lake County’s general plan anticipates that unincorporated areas on the west side of the county will become planned communities and annex into adjacent municipalities.

ANNEXATION POLICY PLAN CONSIDERATIONS

1. Attempt to avoid gaps between or overlaps with the expansion areas of other municipalities.

The expansion areas shown on the Map that overlap with other municipalities have been included in the City’s past annexation maps for many years, and generally new overlaps are not being created. These overlap areas are also owned by one owner, Kennecott Utah Copper Corporation.

2. Consider population growth projections for the City and adjoining areas for the next 20 years.

Because the vast majority of unincorporated land in Salt Lake County is on the county’s west side, the population growth projections for Salt Lake County’s west-side cities are the most relevant:

City	2020 Census	2030	2040	2050
Herriman ¹	55,144	93,465	108,668	120,037
South Jordan²	77, 487	110,697	143,919	177,141³
West Jordan ⁴	116,961	122,119	129,429	136,077
West Valley	140,230	152,336	158,978	165,982

3. **Consider current and projected costs of infrastructure, urban services, and public facilities necessary to facilitate full development of the area within the City; and to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area.**

The projected backbone infrastructure costs area estimated to be \$100,600,000.00 to service the area identified in the Map r for potential annexation with water, roads, and storm drainage.

4. **Consider, in conjunction with the General Plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development.**

The City of South Jordan has been among the nation's fastest growing communities for many years, and residential development, particularly on the City's west side, has continued to fuel that growth. Because the entitlement for Daybreak was negotiated in early 2000 and is more dynamic than traditional land entitlements elsewhere in the City, the growth on the City's west side will continue at a rapid pace. The healthy regional economy and the planned expansion of regional transportation networks will also continue to fuel growth on the west side of Salt Lake County.

Based on the City's experience with the master-planned community Daybreak, the City anticipates that land entitlements in potential annexation expansion areas shown on the Map will have similar characteristics to Daybreak's entitlements. Master-planned communities also seem likely because one owner owns most of the land. The entitlement process for a master-planned community will allow the City to easily implement the goals of the General Plan and

¹ Source: Herriman City

² Source: City of South Jordan Planning Department

³ This projection is based on projected growth rates and assumes annexation of additional land areas into South Jordan.

⁴ Source for West Jordan and West Valley: WFRG.org. The WFRG projections seem low and will likely be adjusted as areas are annexed into West Jordan and West Valley.

require a healthy mix of residential, commercial, industrial, recreational and open space development.

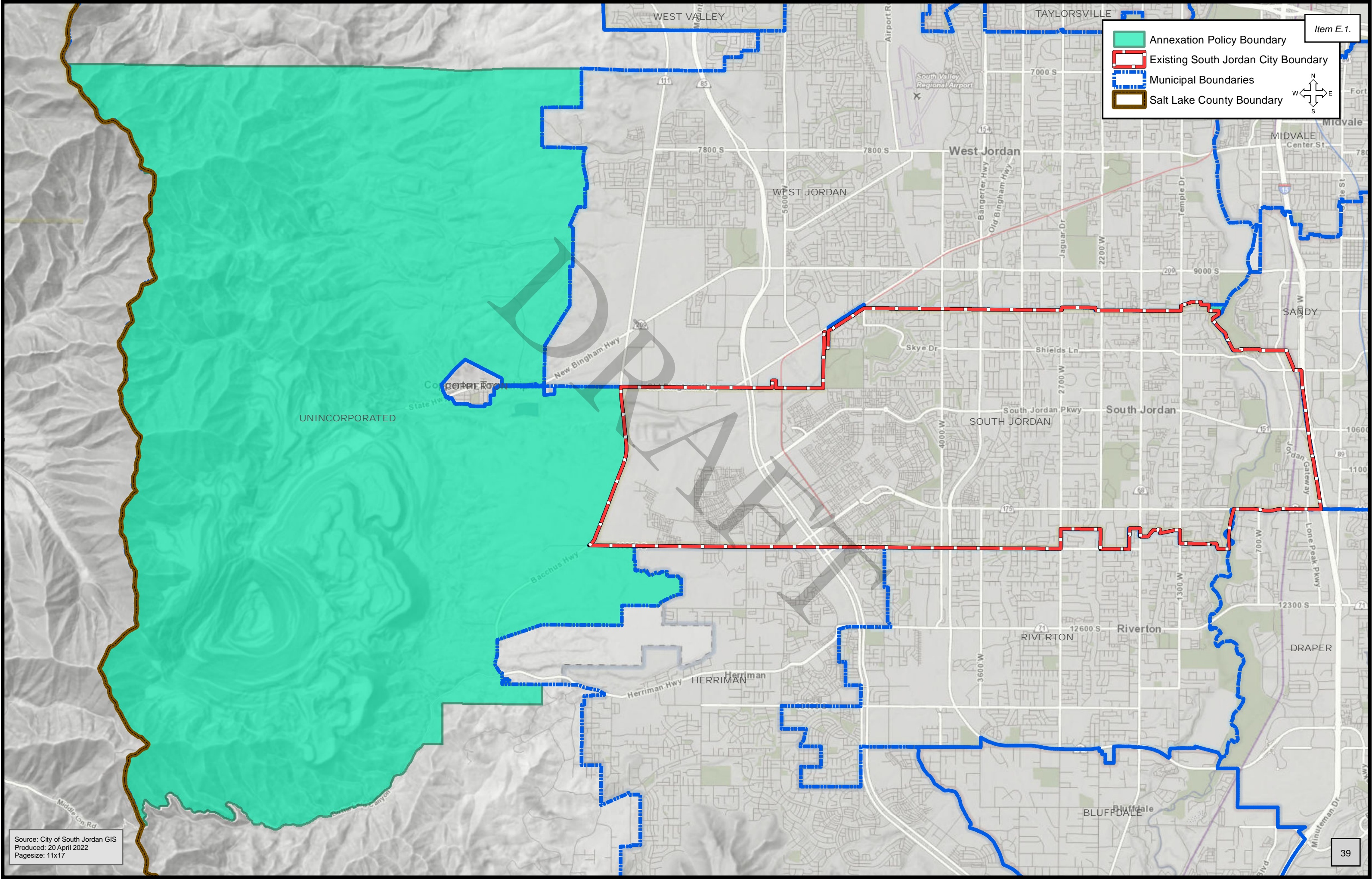
5. Consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the City.

The Map includes mountainous areas traditionally used for or connected to mining activities by Kennecott and Rio Tinto where access is currently limited or restricted. Once mining activities end, the forests and foothill areas in the Oquirrh Mountains will likely become more accessible. Annexing those properties into the City would allow the City to ensure appropriate development and protect important opportunities and resources the Oquirrh Mountains can provide to the City and its residents.

DRAFT

EXHIBIT A
CITY OF SOUTH JORDAN EXPANSION AREA MAP

DRAFT



SOUTH JORDAN CITY PLANNING COMMISSION REPORT

Meeting Date: 04/26/2022

Issue: DISTRICT HEIGHTS RESIDENTIAL
PRELIMINARY SUBDIVISION PLAT AND CONDITIONAL USE
PERMIT AMENDEMENT

Address: 11210 S. River Heights Dr.

File No: PLPP202200009
PLCUP202100227

Applicant: Ashley Atkinson, Sequoia Development

Submitted by: Damir Drozdek, Planner III
Shane Greenwood, Supervising Senior Engineer

Staff Recommendation (Motion Ready): I move that the Planning Commission **approve** application:

- PLPP202200009 to allow for division of land to create a multi-family residential subdivison; and
- To amend PLCUP202100227 to allow for slight reduction in project density and a change to the site layout;

ACREAGE:	Approximately 4 acres
CURRENT ZONE:	BH-MU (Bangerter Highway – Mixed Use) Zone
CURRENT USE:	Undeveloped and raw land
FUTURE LAND USE PLAN:	EIO (Economic Infill Opportunity)
NEIGHBORING ZONES/USES:	North – BH-MU / ICO District Apartments
	South – BH-MU / Medical Office Building
	West – R-M-6 / Bangerter Highway
	East – BH-MU / River Heights Dr.

CONDITIONAL USE REVIEW:

A use is conditional because it may have unique characteristics that detrimentally affect the zone and therefore are not compatible with other uses in the zone, but could be compatible if certain conditions are required that mitigate the detrimental effect.

To impose a condition on a use, the detrimental effect must be identified and be based on upon substantial evidence, not simply a suspicion or unfounded concern. Any condition must be the least restrictive method to mitigate the detrimental effect.

The Planning Commission shall approve a conditional use permit application if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed conditional use in accordance with applicable standards.

The Planning Commission may deny a conditional use permit application if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards. Further, City Code § 17.18.050 provides:

I. COMPLIANCE AND REVOCATION:

1. A conditional use may be commenced and operated only upon:
 - a. compliance with all conditions of an applicable conditional use permit;
 - b. observance of all requirements of this title relating to maintenance of improvements and conduct of the use or business as approved; and
 - c. compliance with all applicable local, state, and federal laws.
2. A conditional use permit may be revoked by the City Council at any time due to the permittee's failure to commence or operate the conditional use in accordance with the requirements of subsection A of this section.

STANDARD OF REVIEW:

Once all application requirements have been met, redline corrections made, revised plans and plat submitted and City staff approval given, the preliminary subdivision plat application will be scheduled on the Planning Commission agenda for a public hearing at which public comment will be taken. Notice of the public hearing shall be provided in accordance with chapter 16.04 of this title. The Planning Commission shall receive public comment at the public hearing regarding the proposed subdivision. The Planning Commission may approve, approve with conditions or if the project does not meet City ordinances or sanitary sewer or culinary water requirements, deny the preliminary subdivision plat application. (Ord. 2007-01, 1-16-2007)

City Code § 16.10.060

BACKGROUND:

The proposed development was reviewed and approved for conditional use permit in October of 2021. As part of the review process and approval, the applicant was required to submit a design book that included a concept site plan, elevations and design features. The design book was approved with the conditional use permit. Between then and now, the applicant has made a couple of minor changes to the concept site plan in order to provide for a better and more efficient site design. The number of units was reduced from 62 to 60, and the central project area was changed to eliminate the small open space from the previous design. Decision to eliminate the common open space was to provide for larger private spaces and also to reduce the need to water the lawn in the common open space area. There will be no lawn in the project.

Building design, features, fencing and all other elements from the design book have not changed since the approval of the conditional use permit. The project will be accessed off River Heights via two drive approaches. The approach at the south end is existing and will not be modified. The approach at the north end will be constructed with the project. River Heights Dr. is a fully improved city street and no improvements are required to be made with this project.

Most of the improvements being made on site are private that the City will not have to maintain. Storm water will be retained on site and slowly released into the system in River Heights. The only infrastructure for the City to maintain will be the water meters and fire hydrants. Everything else will be private including the interior drives, lighting, fences and the landscaping.

Landscaping will consist of various decorative grasses, shrubs and trees throughout the site. There will be no sod in the project. The ground cover will consist of rock mulch of different colors and sizes. As for the landscaping in the parkstrip on River Heights Dr., that will remain as is. Existing trees and sod will be preserved with the project.

There will be a 12' UDOT sound wall installed along Bangerter Highway. A 6' privacy vinyl fence is existing along the north boundary and will remain as is. No fencing will be installed along the south boundary or along River Heights Dr.

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATION:

Findings:

- The project is located in the BH-MU Zone. It meets the Planning and Zoning, as well as the Subdivision and Development Code requirements of the Municipal Code.
- It conforms to all provisions of the development agreement from 2010 pertaining to land development in this specific area.

Conclusion:

- The proposed project will meet the requirements of the Subdivision and Development (Title 16) and the Planning and Zoning (Title 17) Codes. The proposed use does not appear to violate any health, safety or welfare standards. In addition, staff was not able to identify any detrimental effects to the adjacent properties. Therefore the planning staff recommends approval of the application.

Recommendation:

- Based on the Findings and Conclusions listed above, Staff recommends that the Planning Commission take comments at the public hearing and **approve** the Application, unless, during the hearing, facts are presented that contradict these findings or new facts are presented, either of which would warrant further investigation by Staff.

ALTERNATIVES:

- Approve an amended Application.
- Deny the Application.
- Schedule the Application for a decision at some future date.

SUPPORT MATERIALS:

- Aerial Map
- Zoning Map
- Subdivision Plat
- Site Plan
- Utility Plan
- Grading Plan
- Drainage Plan
- Landscape Plan
- CUP Letter
- CUP Staff Report
- Development Agreement

Damir Drozdek

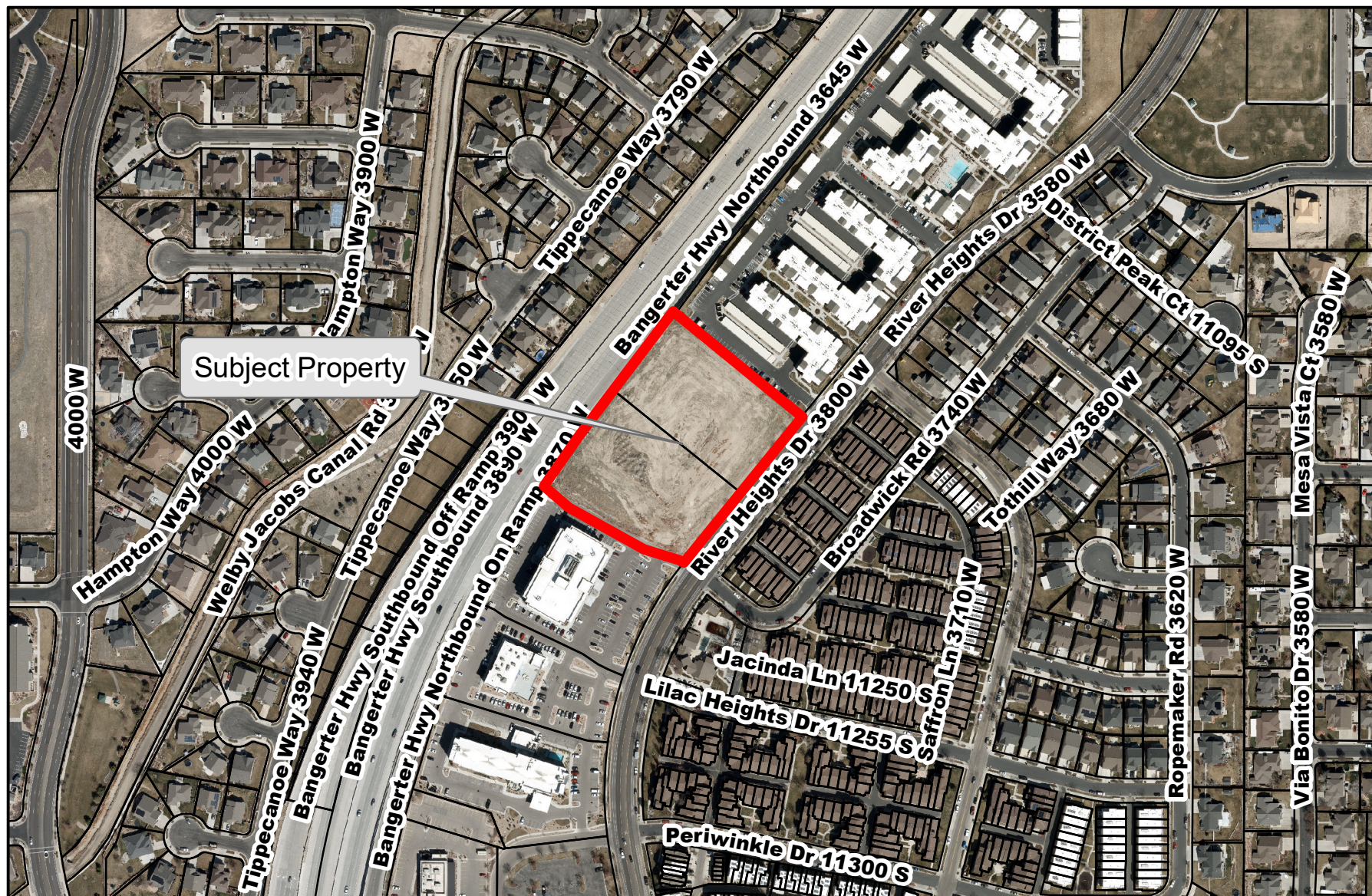
Damir Drozdek (Apr 18, 2022 15:00 MDT)


Damir Drozdek, AICP
Planner III, Planning Department

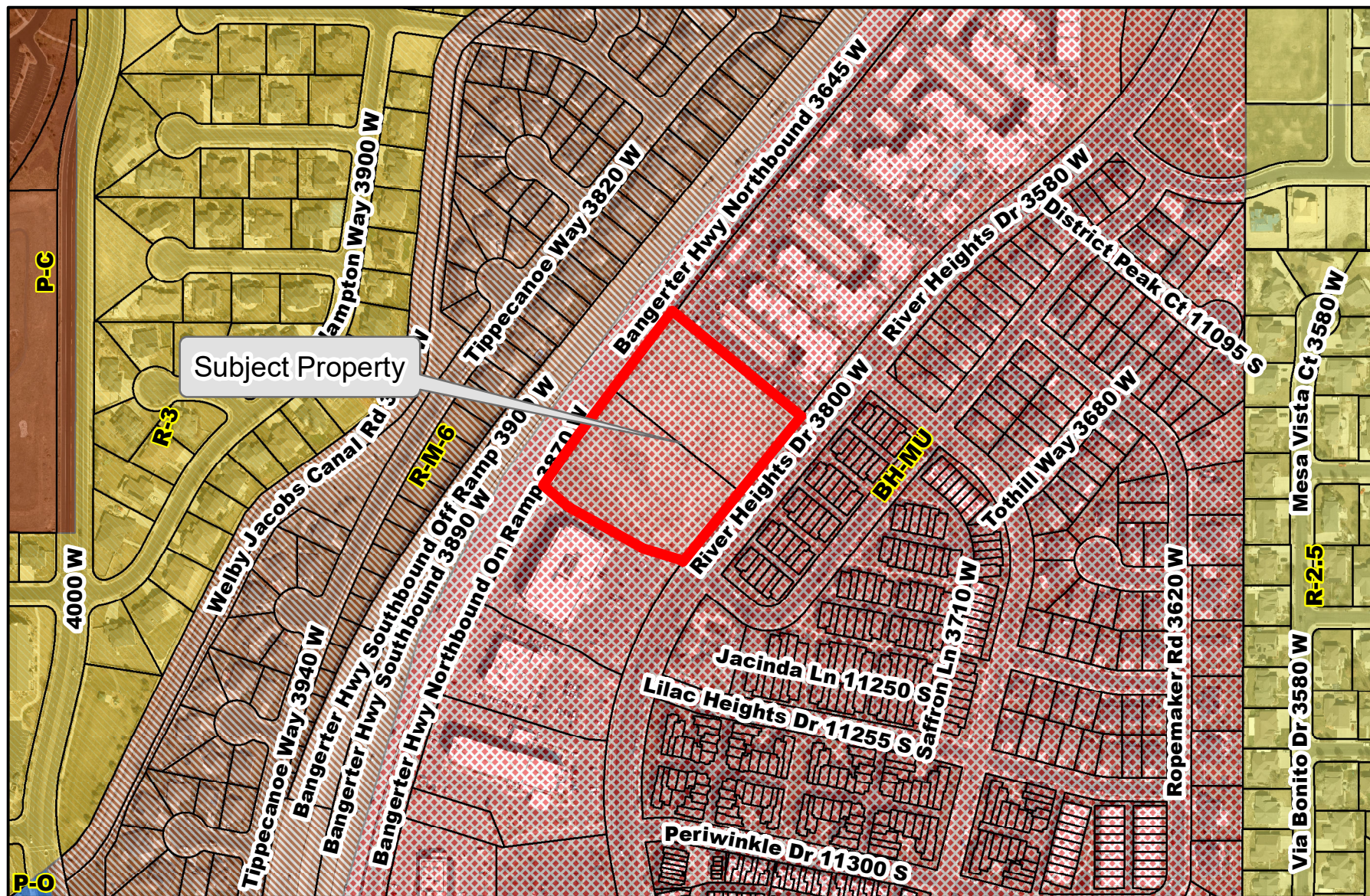
Brad Klavano


Brad Klavano (Apr 18, 2022 15:09 MDT)

Brad Klavano, P.E.
Director of Engineering Services

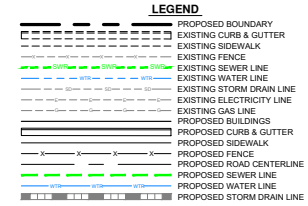
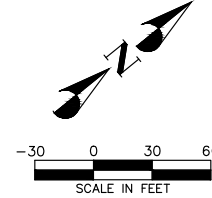


<p>Legend</p> <p>STREETS</p> <p>PARCELS</p>	<h2>Aerial Map</h2> <h3>City of South Jordan</h3>	<p>0 105 210 420 630 840 Feet</p> <p>Aerial Imagery 2021</p> 
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<p>Legend</p> <p>STREETS</p> <p>PARCELS</p>	<h2>Zoning Map</h2> <h3>City of South Jordan</h3>	<p>0 105 210 420 630 840 Feet</p> <p>Aerial Imagery 2021</p> 
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- CULINARY WATER LINE CONNECTION REQUIREMENTS:
- CULINARY WATER LATERAL TAPS MUST HAVE A 3' SEPARATION AT THE WATER MAIN.
 - WATER METER BARRELS MUST MAINTAIN AT LEAST 8'-10" BETWEEN EACH OTHER.
 - AFTER WATER METERS, LATERAL LINES MAY BE PLACED IN THE SAME TRENCH WITH 8" SEPARATION MINIMUM.
 - WHERE POSSIBLE MAINTAIN 5' SEPARATION FROM ALL BUILDINGS, FIXED OBJECTS, AC UNITS OR ABOVE GROUND UTILITIES.



- UTILITY & DRAINAGE NOTES**
- ALL WORK SHALL BE DONE IN ACCORDANCE WITH GOVERNING AGENCY STANDARDS AND SPECIFICATIONS. IN THE ABSENCE OF PROJECT STANDARD AND SPECIFICATIONS APPLICABLE STANDARD AND SPECIFICATIONS SHALL GOVERN.
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 - IF DURING THE CONSTRUCTION PROCESS, CONDITIONS ARE ENCOUNTERED WHICH INDICATE AN UNIDENTIFIED SITUATION IS PRESENT, THE CONTRACTOR SHALL CONTACT THE OWNER AND ENGINEER IMMEDIATELY.
 - DIMENSIONS FOR LAYOUT AND CONSTRUCTION ARE NOT TO BE SCALED FROM ANY DRAWING. IF PERTINENT DIMENSIONS ARE NOT SHOWN CONTACT THE ENGINEER FOR CLARIFICATION.
 - ALL UTILITY SERVICE ENTRY POINTS SHOWN ARE APPROXIMATE LOCATIONS ONLY. SEE ARCHITECT PLANS FOR EXACT LOCATIONS AT BUILDING.
 - CONTRACTOR SHALL PROVIDE AND MAINTAIN AT ALL TIMES ADEQUATE MEANS AND DEVICES WITH WHICH TO REMOVE PROMPTLY AND TO PROPERLY DISPOSE OF ALL WATER ENTERING THE TRENCH EXCAVATION.
 - CONTRACTOR SHALL INSTALL THRUST BLOCKING AT ALL WATERLINE ANGLE POINTS AND TEES.

- KEYNOTE LEGEND**
- | | |
|---|--|
| 1 | FIRE HYDRANT ASSEMBLY RECD (SEE DETAIL-3 ON SHEET C8.0) |
| 2 | 4x4 ELECTRICAL TRANSFORMER |
| 3 | ELECTRICAL PEDESTAL |
| 4 | ASPHALT REPAIR TO FOLLOW SOUTH JORDAN STREET REPAIR AND REPAVING POLICY STANDARD RECD (SEE DETAIL 1 ON SHEET C8.0) |
| 5 | 3/4" WATER METER AND LATERALS |

PRELIMINARY PLANS

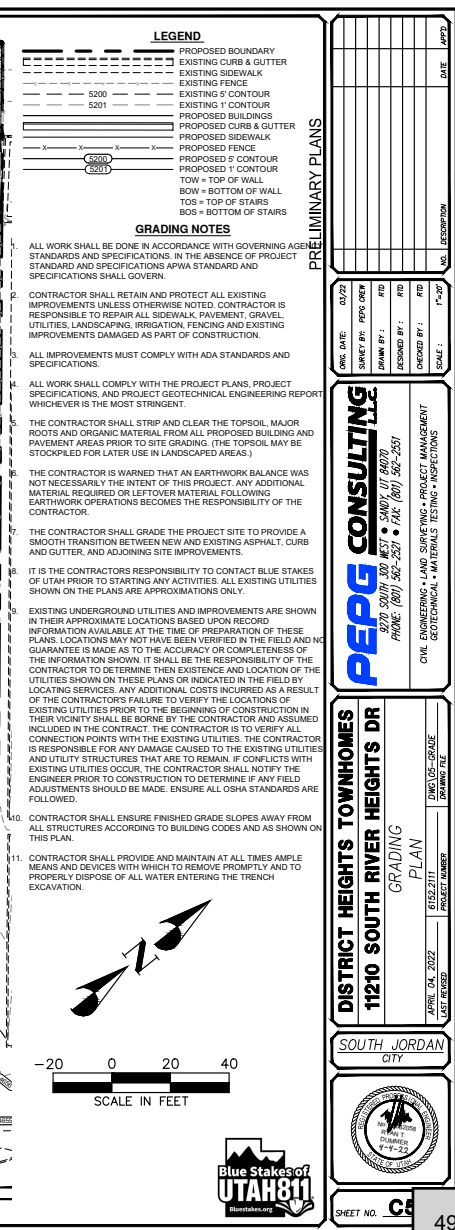
PERG CONSULTING
 12120 SOUTH RIVER HEIGHTS DR
 SALT LAKE CITY, UT 84127
 PHONE: (801) 562-2521 • FAX: (801) 562-2551
 CIVIL ENGINEERING • LAND SURVEYING • PROJECT MANAGEMENT
 GEOTECHNICAL • MATERIALS TESTING • INSPECTIONS

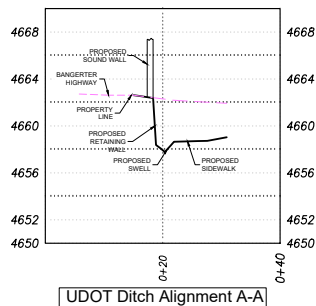
DISTRICT HEIGHTS TOWNHOMES
 12120 SOUTH RIVER HEIGHTS DR
 UTILITY PLAN
 PROJECT NUMBER: 6152-2111
 DATE: APRIL 04, 2023
 LAST REVISED: DRAWING TITLE: UTILITY PLAN

SOUTH JORDAN CITY

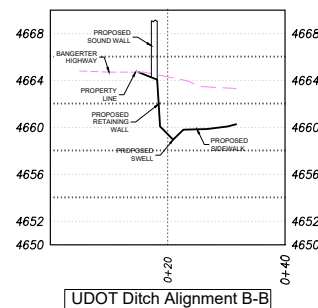


SHEET NO. **C8**





UDOT Ditch Alignment A-A



UDOT Ditch Alignment B-B

- ### GRADING NOTES

ALL WORK SHALL BE DONE IN ACCORDANCE WITH GOVERNING AGENCY STANDARDS AND SPECIFICATIONS. IN THE ABSENCE OF PROJECT STANDARD AND SPECIFICATIONS APWA STANDARD AND SPECIFICATIONS SHALL GOVERN

2. CONTRACTOR SHALL RETAIN AND PROTECT ALL EXISTING IMPROVEMENTS UNLESS OTHERWISE NOTED. CONTRACTOR RESPONSIBLE TO REPAIR ALL SIDEWALK, PAVEMENT, GRAV UTILITIES, LANDSCAPING, IRRIGATION, FENCING AND EXIST IMPROVEMENTS DAMAGED AS PART OF CONSTRUCTION.

3. ALL IMPROVEMENTS MUST COMPLY WITH ADA STANDARDS AND SPECIFICATIONS.

4. ALL WORK SHALL COMPLY WITH THE PROJECT PLANS, PROJECT SPECIFICATIONS, AND PROJECT GEOTECHNICAL ENGINEERING REPORT WHICHEVER IS THE MOST STRINGENT.

5. THE CONTRACTOR SHALL STRIP AND CLEAR THE TOPSOIL, MAJOR ROOTS AND ORGANIC MATERIAL FROM ALL PROPOSED BUILDING AND PAVEMENT AREAS PRIOR TO SITE GRADING. (THE TOPSOIL MAY BE STOCKPILED FOR LATER USE IN LANDSCAPED AREAS.)

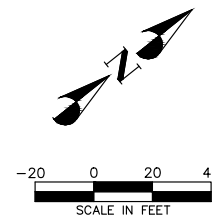
8. THE CONTRACTOR IS WARNED THAT AN EARTHWORK BALANCE WAS NOT NECESSARILY THE INTENT OF THIS PROJECT. ANY ADDITIONAL MATERIAL REQUIRED OR LEFTOVER MATERIAL FOLLOWING EARTHWORK OPERATIONS BECOMES THE RESPONSIBILITY OF THE CONTRACTOR.

7. THE CONTRACTOR SHALL GRADE THE PROJECT SITE TO PROVIDE A SMOOTH TRANSITION BETWEEN NEW AND EXISTING ASPHALT, CURB AND GUTTER, AND ADJOINING SITE IMPROVEMENTS.

8. IT IS THE CONTRACTORS RESPONSIBILITY TO CONTACT BLUE STAKES OF UTAH PRIOR TO STARTING ANY ACTIVITIES. ALL EXISTING UTILITIES SHOWN ON THE PLANS ARE APPROXIMATIONS ONLY.

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10. CONTRACTOR SHALL ENSURE FINISHED GRADE SLOPES AWAY FROM ALL STRUCTURES ACCORDING TO BUILDING CODES AND AS SHOWN ON THIS PLAN.
11. CONTRACTOR SHALL PROVIDE AND MAINTAIN AT ALL TIMES AMPLE MEANS AND DEVICES WITH WHICH TO REMOVE PROMPTLY AND TO PROPERLY DISPOSE OF ALL WATER ENTERING THE TRENCH EXCAVATION.



Blue Stakes of
UTAH811
bluestakes.org

pepg CONSULTING LLC

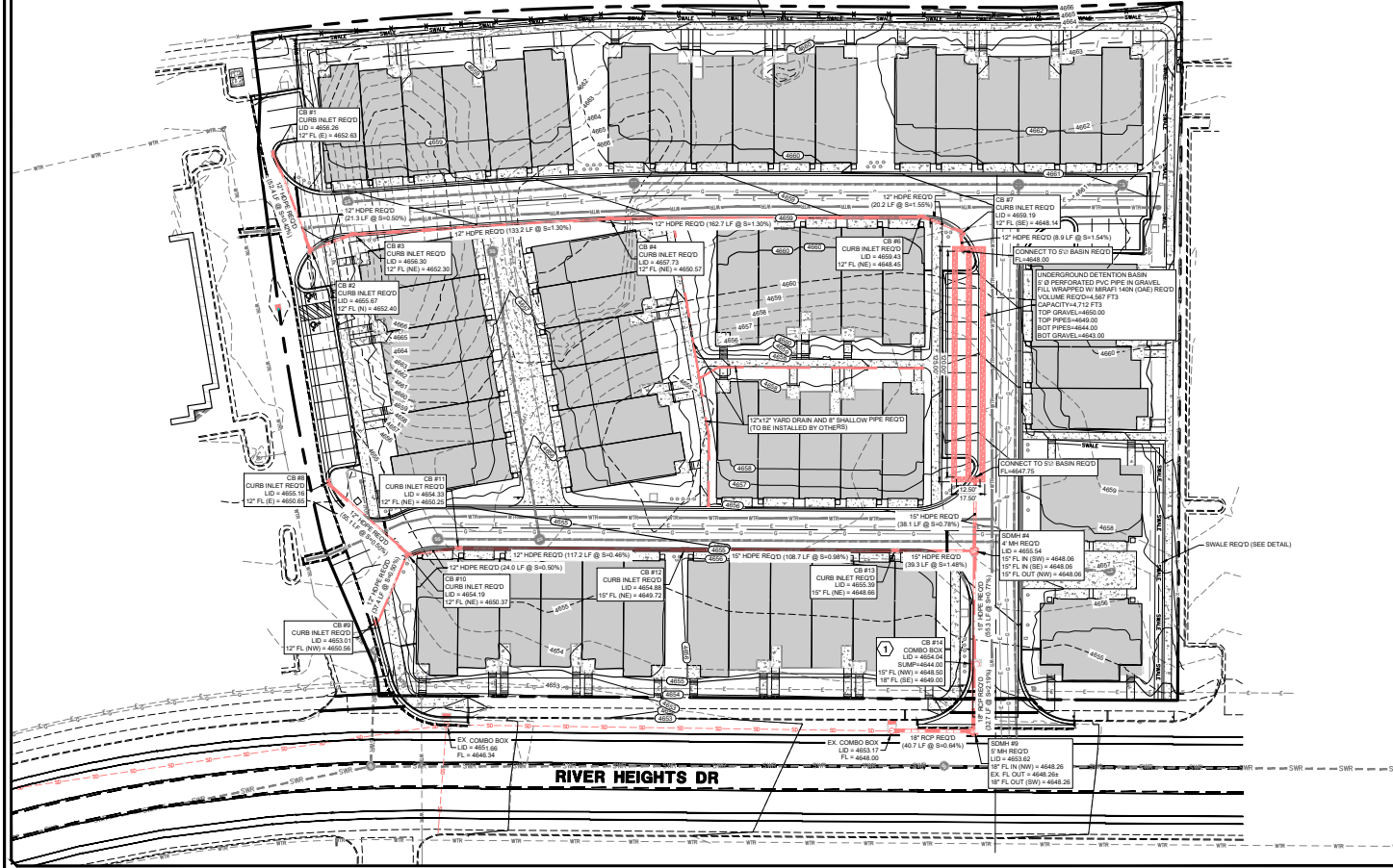
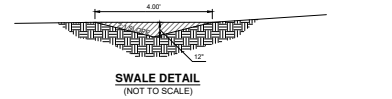
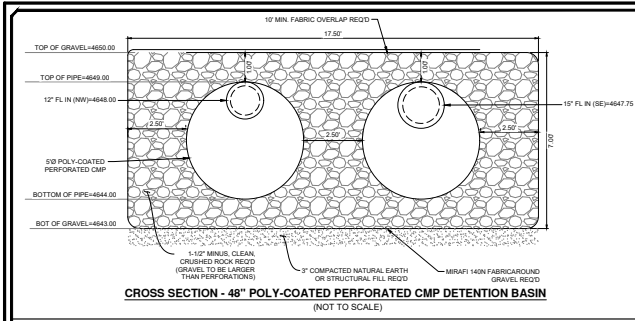
DISTRICT HEIGHTS TOWNHOMES
11210 SOUTH RIVER HEIGHTS DR

SOUTH JORDAN
CITY



SHEET NO. **C5**

50



LEGEND

---	PROPOSED BOUNDARY
---	EXISTING CURB & GUTTER
---	EXISTING SIDEWALK
---	EXISTING FENCE
---	EXISTING 5' CONTOUR
---	EXISTING 1' CONTOUR
---	PROPOSED BUILDINGS
---	PROPOSED CURB & GUTTER
---	PROPOSED SIDEWALK
---	PROPOSED STORM DRAIN LINE
---	PROPOSED 5' CONTOUR
---	PROPOSED 1' CONTOUR

- DRAINAGE NOTES**
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KEYNOTE LEGEND

① 24\"/>

PRELIMINARY PLANS

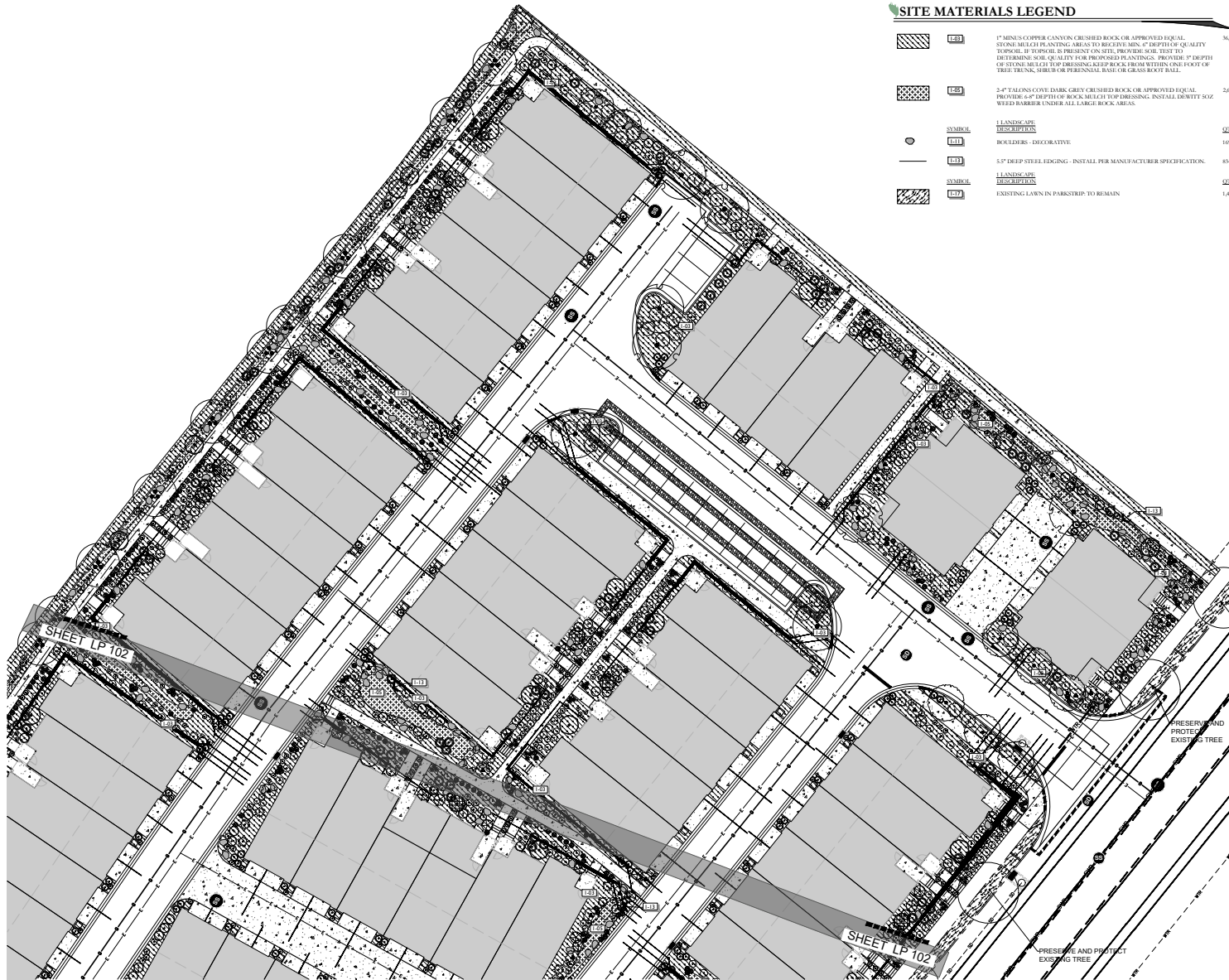
PEEG CONSULTING
 1210 SOUTH RIVER HEIGHTS DR
 SALT LAKE CITY, UT 84107
 PHONE: (801) 582-2521 • FAX: (801) 582-2531







DISTRICT HEIGHTS TOWNHOMES
1210 SOUTH RIVER HEIGHTS DR
DRAINAGE PLAN
 APRIL 04, 2023
 PROJECT NUMBER: 6152-2111
 DRAWING NAME: DWD-04-DRAIN
 DRAWING FILE: DWD-04-DRAIN

SOUTH JORDAN CITY

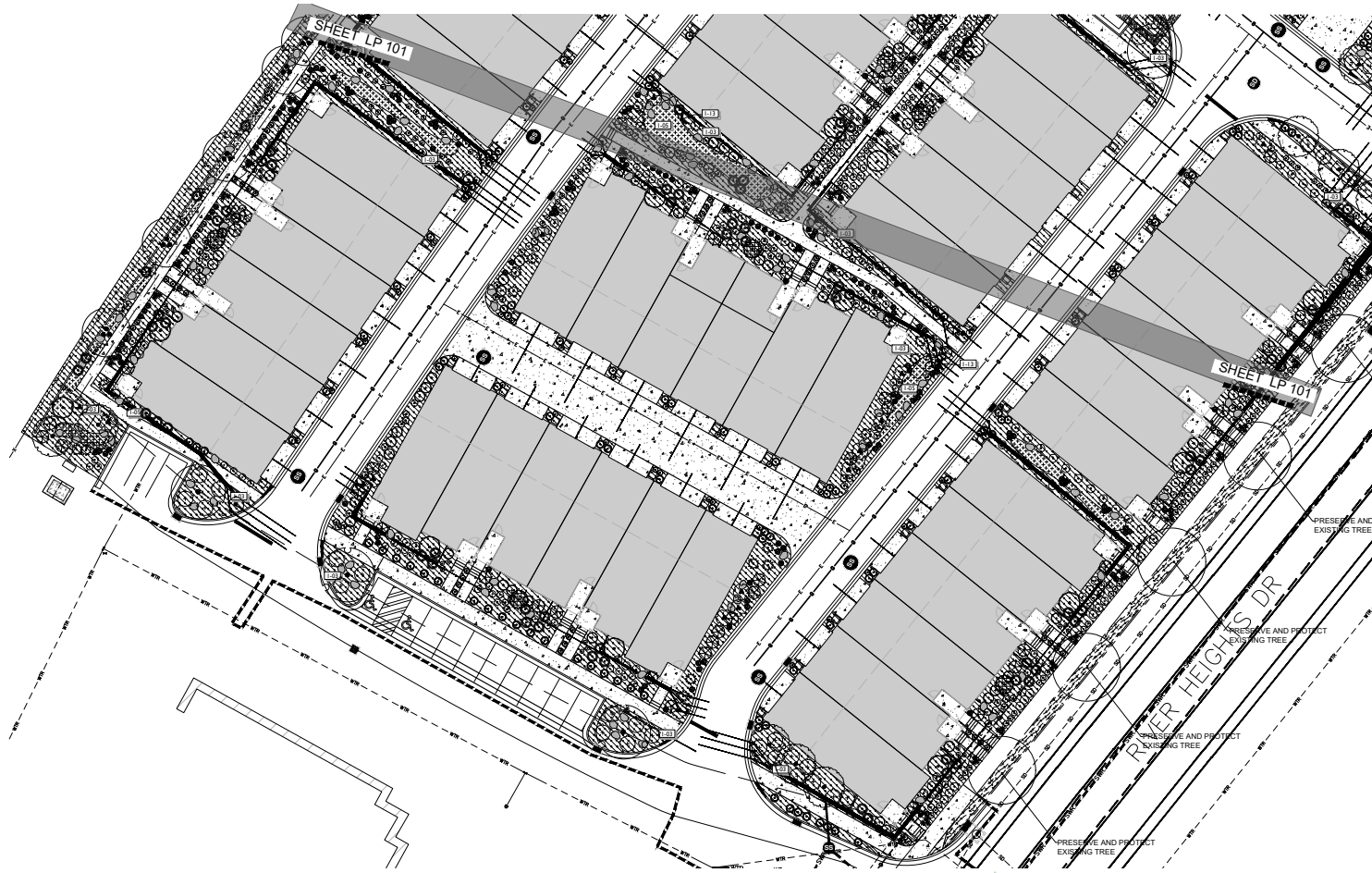


SHEET NO. **C**



PLANT LEGEND						
CONIFERS	CODE	QTY	BOTANICAL / COMMON NAME	COUNT	CAL	SIZE
	CAF	7	<i>Calluna alberta</i> 'Fragans' Columnar Blue Atlas Cedar			
	JSM	9	<i>Juniperus scopulorum</i> 'Moenchii' Moenchii Juniper			
	JSW	15	<i>Juniperus scopulorum</i> 'Woodhead' Woodhead Columnar Juniper	B & B		7'
<div>Item 1.1.</div>						
DECIDUOUS TREES	CODE	QTY	BOTANICAL / COMMON NAME	COUNT	CAL	SIZE
	ACPT	9	<i>Acer glabrum</i> Paperbark Maple	B & B		27" Cal
	ATG	13	<i>Acer truncatum</i> 'Guthrie' Hot Wings Yucca Maple	B & B		27" Cal
	GBP	13	<i>Ginkgo biloba</i> 'Pinnatum Henry' Pinnatum Henry Ginkgo	B & B		27" Cal
	MRS	27	<i>Malus x JFS KW2100X</i> TM Raspberry Spire Crabapple	B & B		27" Cal
	MPF	3	<i>Malus x Pinnatifida</i> Pinnatifida Crabapple	B & B		27" Cal
DECIDUOUS SHRUBS	CODE	QTY	BOTANICAL / COMMON NAME	COUNT		
	AMH	179	<i>Artemisia ludoviciana</i> 'Low Spine Hedge' Low Spine Hedge Cholla	5 gal		
	BTC	68	<i>Berberis thunbergii</i> 'Candicans' Candicans Japanese Barberry	5 gal		
	BPA	72	<i>Buddleia x 'SNIPER'</i> Purpurea America Dwarf Butterfly Bush	5 gal		
	CBA	203	<i>Caragana x chrysantha</i> 'CF-9-12' TM Beyond Midnight Bluebell	5 gal		
	CMT	17	<i>Chamaelirium liliifolium</i> Fireweed	5 gal		
	CSM	1	<i>Cytisus scopulorum</i> 'Moonlight' Moonlight Broomrape	5 gal		
	PVD	83	<i>Physocarpus opulifolius</i> 'Fire Eaters' 'Thomas May' Little David Nandina	5 gal		
	PPF	63	<i>Prunus laurocerasus</i> 'PILUS' TM Prunus laurocerasus 'PILUS'	5 gal		
	RFR	30	<i>Rhus typhina</i> 'Rosa Williams' Fine Line Fine Line Redbud	5 gal		
	RTT	31	<i>Rhus typhina</i> 'Tiger Eyes' Tiger Eyes Sumac	5 gal		
EVERGREEN SHRUBS	CODE	QTY	BOTANICAL / COMMON NAME	COUNT		
	BPG	30	<i>Buxus sempervirens</i> 'Graham Blandy' Graham Blandy English Boxwood	5 gal		
	HPP	111	<i>Hamamelis mollis</i> 'Purpurea' TM Brinkley Red Yucca	5 gal		
	JCD	70	<i>Juniperus chinensis</i> 'Daiichi x Fernald' Daiichi x Fernald Juniper	5 gal		
	JCS	34	<i>Juniperus chinensis</i> 'Spartea' Spartea Juniper	5 gal		
GRASSES	CODE	QTY	BOTANICAL / COMMON NAME	COUNT		
	CAG	112	<i>Calamagrostis x acutiflora</i> 'Karl Foerster' Feather Reed Grass	1 gal		
	FMA	28	<i>Festuca miniata</i> Atlas Fescue	1 gal		
	HSS	253	<i>Holcus lanatus</i> 'Supremacy' Sapphire Blue Oat Grass	1 gal		
	MML	134	<i>Miscanthus sinensis</i> 'Morning Light' Morning Light Maiden Grass	2 gal		
	PERENNIALS	CODE	QTY	BOTANICAL / COMMON NAME	COUNT	
	ELK	36	<i>Eriogonum umbellatum</i> 'Kamiah Creek' Kamiah Creek Sulphur Flower	1 gal		
	GWB	104	<i>Gaura bicolor</i> 'Whisper Butterflies' Whisper Butterflies Wandflower	1 gal		
	SAP	74	<i>Sedum x 'Autumn Fire'</i> Autumn Fire	1 gal		

Item 1.1.



SITE MATERIALS LEGEND

	101	1\"/>	36.01 sf
	102	2\"/>	2,625 sf
	103	1\"/>	100
	104	1\"/>	834 sf
	105	1\"/>	1,679 sf

PLANT LEGEND

COMMON NAME	QTY	BOTANICAL / COMMON NAME	CONT
CAV	7	Calceolaria sp. 'Fragrant'	
JSM	9	Juniperus scopulorum 'Mounglow'	
JSM	15	Juniperus scopulorum 'Woodland'	
ACGP	9	Acer glabrum	
AVL	15	Acer rubrum 'Variegata'	
GWP	15	Ginkgo biloba 'Pendula'	
MRS	27	Malus x 'JFS KW2/MSX' TM	
MPE	3	Malus x 'Pendula'	
AMH	179	Artemisia tridentata 'Low Spine Hedge'	
BVC	66	Berberis thunbergii 'Compacta'	
BPA	72	Buddleia x 'SNIPER'	
CBA	205	Caragana arborescens 'CF-9-12' TM	
CMT	17	Chamaecrista nictitans	
CSM	1	Cytisus scopulorum 'Mounglow'	
PVD	85	Physocarpus opulifolius 'Dioscorea May'	
PPP	65	Prunus laurocerasus 'Purpurea'	
RFR	30	Rosa rugosa 'New Dawn'	
RFT	31	Rosa rugosa 'Tiger Eye'	
BYG	30	Baccharis confertifolia 'Gambel'	
HPP	111	Hesperis matronalis 'Purple'	
JCS	70	Juniperus chinensis 'Dwarf'	
JCS	34	Juniperus chinensis 'Spartea'	
CAK	112	Calamagrostis canadensis 'Karl Foerster'	
FMA	26	Festuca miniata	
HSS	255	Hesperis matronalis 'Purple'	
MMI	134	Monarda mollis 'Mounglow'	
ELK	36	Eriogonum umbellatum 'Kamiah Creek'	
GWB	104	Gaura bicolorata 'Whispering Bells'	
SAP	74	Sedum x 'Autumn Fire'	

Item 1.1.



Re: Approved Conditional Use Permit at 11210 and 11220 South River Heights Drive

Dear South Jordan City Planning Department,

This letter is in reference to the Conditional Use Permit for 11210 South and 11220 South River Heights Drive (File No. PLCUP202100227) for a multi-family residential project that was unanimously approved by the Planning Commission on October 26, 2021.

This approval is based on a Development Agreement that was entered into by South Jordan City and Boyer Company in 2010 (attached hereto). The Conditional Use granted per the Development Agreement is "Single-family residential and integrated multi-family residential (projects with more than one housing land use type with 'village' style design, building height and architecture), maximum eight (8) units per acre of the gross acreage of the Master Development Plan. Additional dwelling units exceeding eight (8) units per acre may be approved by the City Council as an amendment to the Master Development Plan (MDP).

A preliminary site plan and a design book were submitted as part of the required application for the Conditional Use Permit. **All elements of the design book and the preliminary site plan as required in the above conditional use description have remained unchanged.** As the project has progressed through architectural and engineering drawings, some adjustments to the site plan were made. The adjustments were made to create architectural facades throughout the project more in line with the original intent of the design book. To create more depth and dimension on the interior units, the site plan had to be slightly adjusted. This adjustment did alter the greenspace in the interior of the project, but in turn, it created larger private outdoor spaces for the individual units, which we believe is more beneficial for this type of housing. We also believe that the trend toward water conservation warrants this change. The alteration in the site plan decreased density of the project and the intent was to create a better project (architecturally and functionally for future homeowners).

We believe that our adjustment in the site plan does not alter the Conditional Use Permit granted on October 26, 2021, as each of the elements of the Conditional Use have been met and remain unchanged from the original approval.

Sincerely,

Ashley Atkinson
Sequoia Development
9055 South 1300 East #104
Sandy, Utah 84094
(435) 659-1906

Attachments: 2010 Development Agreement

9055 South 1300 East, Suite 104, Sandy, UT 84094 (p) 801-944-4469 (f) 801-944-4947
www.sequoiadevelopment.com

SOUTH JORDAN CITY PLANNING COMMISSION REPORT

Meeting Date: 10/26/2021

Issue: DISTRICT HEIGHTS RESIDENTIAL DEVELOPMENT
CONDITIONAL USE PERMIT
Address: 11210 S. River Heights Dr.
File No: PLCUP202100227
Applicant: Ashley Atkinson, Sequoia Development

Submitted by: Damir Drozdek, Planner III

Staff Recommendation (Motion Ready): I move that the Planning Commission **approve** application PLCUP202100227 to allow a multi-family residential project on property generally located at 11210 S. River Heights Dr. in conjunction with the applicable design book and a concept plan.

ACREAGE:	Approximately 4 acres
CURRENT ZONE:	BH-MU (Bangerter Highway - Mixed Use) Zone
CURRENT USE:	Vacant Properties
FUTURE LAND USE PLAN:	EO (Economic Opportunity)
NEIGHBORING ZONES/USES:	North – BH-MU / ICO District Apartments South – BH-MU / Office building West – R-M-6 / Bangerter Highway East – BH-MU / River Heights Dr.

CONDITIONAL USE REVIEW:

A use is conditional because it may have unique characteristics that detrimentally affect the zone and therefore are not compatible with other uses in the zone, but could be compatible if certain conditions are required that mitigate the detrimental effect.

To impose a condition on a use, the detrimental effect must be identified and be based on upon substantial evidence, not simply a suspicion or unfounded concern. Any condition must be the least restrictive method to mitigate the detrimental effect.

The Planning Commission shall approve a conditional use permit application if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed conditional use in accordance with applicable standards.

The Planning Commission may deny a conditional use permit application if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards. Further, City Code § 17.18.050 provides:

I. COMPLIANCE AND REVOCATION:

1. A conditional use may be commenced and operated only upon:
 - a. compliance with all conditions of an applicable conditional use permit;
 - b. observance of all requirements of this title relating to maintenance of improvements and conduct of the use or business as approved; and
 - c. compliance with all applicable local, state, and federal laws.
2. A conditional use permit may be revoked by the City Council at any time due to the permittee's failure to commence or operate the conditional use in accordance with the requirements of subsection A of this section.

BACKGROUND:

The applicant is requesting that the Planning Commission review and approve a Conditional Use Permit for a multi-family residential project generally located at 11210 S. River Heights Dr. As proposed, the project will consist of 58 townhome units and four twin home units (two twin homes). Townhome buildings will be two stories while the twin home buildings may vary between two and three story structures. Most buildings will have a variety of exterior finishes and materials differentiating one building from the next.

There will be one access to the project off River Heights Dr. All drives within the project will be privately owned, and will tie into the office development to the south providing another access to the development. All units will be rear loaded. Guest parking will be provided at three different locations within the project, two at the north end and one at the south end.

All townhome units located at the periphery of the project will be facing outwards towards the project boundaries. Townhomes on River Heights will face the street, and townhomes nearest to Bangerter Highway will face the highway. The central portion of the project will have townhome units face each other with a green/open space in between the buildings. Areas between the townhomes and the project boundaries will all be landscaped.

A sound wall will be installed along Bangerter Highway. The applicant is still working with UDOT on the exact placement and the type of sound wall to be installed. Those details should be worked out by the time this application is heard before the Planning Commission. As for the north boundary, there is an existing six-foot vinyl fence that is proposed to remain in place. There is no existing fencing along the south or the east project boundary. No new fencing is proposed along those two boundaries either.

Staff remains concerned about the townhomes that face Bangerter Highway and asserts there are alternative layouts or other housing designs that would better integrate those townhomes into the rest of the community. Facing the townhomes towards the highway places front doors and porches away from the rest of the community and very close to the noise of a busy highway and potentially a large sound wall. Although the applicant has stated that they are willing to look at alternative layouts, the applicant has not provided an alternative layout.

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATION:

Findings:

- The subject property is located in the BH-MU zone.
- Although multi-family or single-family attached housing are currently prohibited in the Uses Chapter (City Code § 17.18), housing in the BH-MU zone is governed by a previously adopted development agreement. The development agreement lists multi-family projects as conditional use, and designates the location, type and number of possible housing units in the zone. The agreement is attached to this report.
- Multi-family projects are required to have at least two housing types per the agreement. The project contains townhomes and two twin homes.
- As part of the approval process, the applicant is required to submit a design book and a concept site plan with the application for Planning Commission review and approval. Amendments or changes to the approved design book may be approved by the Planning Commission after another review and public hearing.
- Staff has not identified any potential detrimental effects to the zone that the proposed use/project may cause.
- On October 13, 2021, the Architectural Review Committee reviewed the proposed architecture and recommended approval of the architecture described in the design book.

Conclusion:

- The proposed use does not appear to violate any health, safety or welfare standards. In addition, Staff was not able to identify any detrimental effects to the zone. Therefore Staff recommends approval of the application.

Recommendation:

- Based on the Findings and Conclusions listed above, Staff recommends that the Planning Commission take comments at the public hearing and **approve** the Application, unless, during the hearing, facts are presented that contradict these findings or new facts are presented, either of which would warrant further investigation by Staff.

ALTERNATIVES:

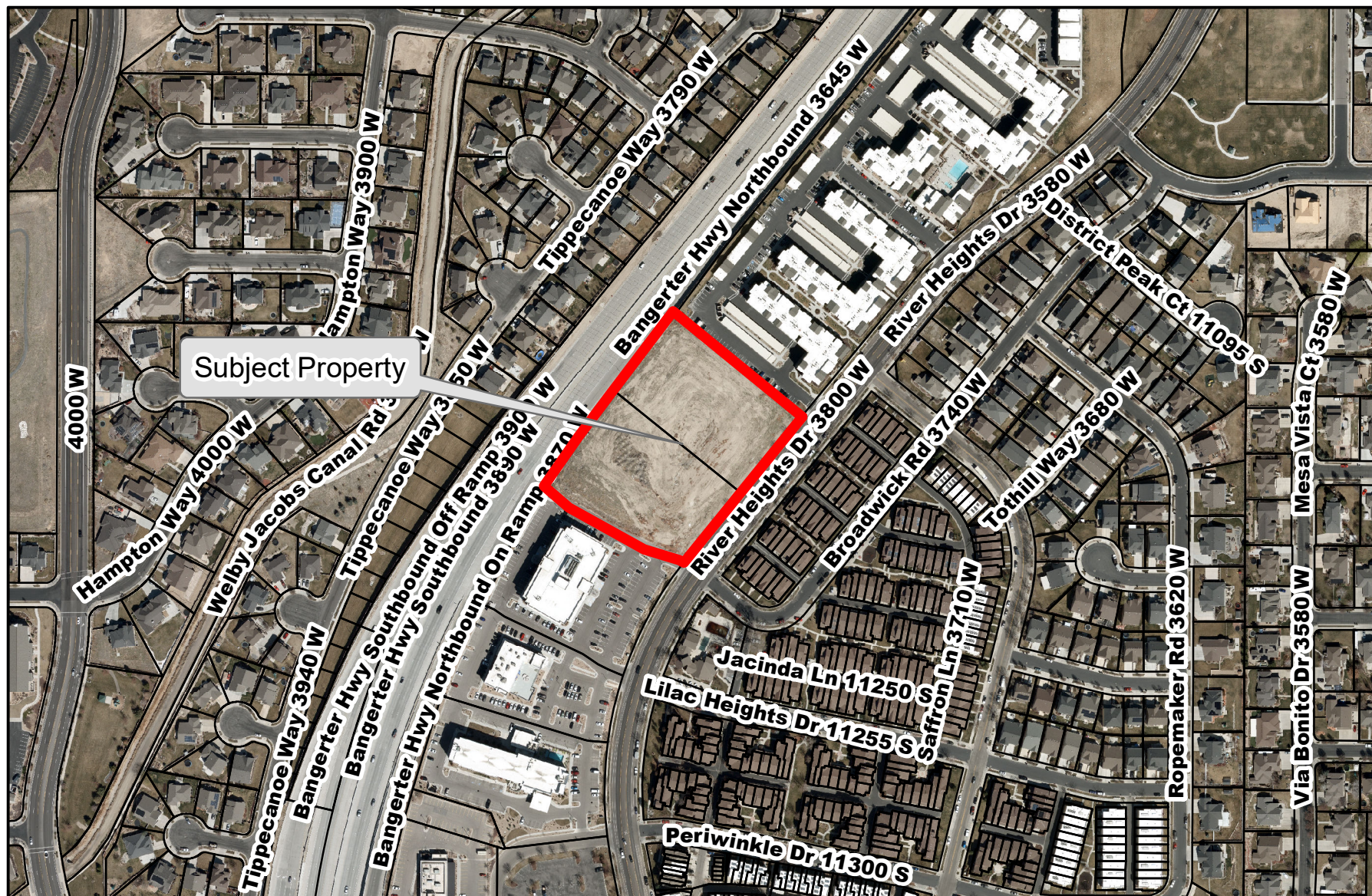
- Approve the Application with conditions.
- Deny the Application.
- Schedule the Application for a decision at some future date.


SUPPORT MATERIALS:

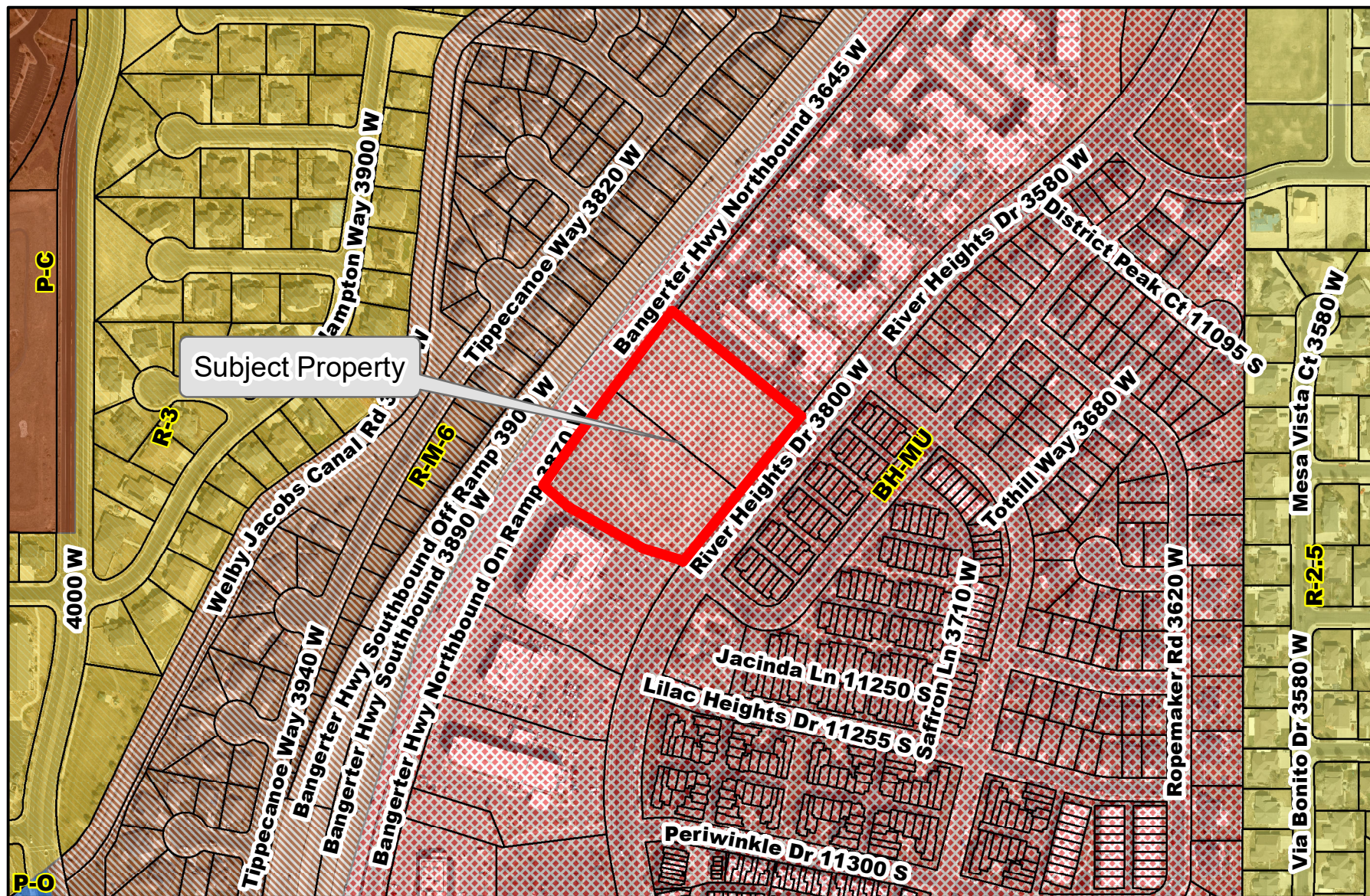
- Aerial Map
- Zoning Map
- District Heights Design Book
- District Heights Concept Site Plan
- Development Agreement



Damir Drozdek, AICP
Planner III, Planning Department



<p>Legend</p> <p>STREETS</p> <p>PARCELS</p>	<h2>Aerial Map</h2> <h3>City of South Jordan</h3>	<p>0 105 210 420 630 840 Feet</p> <p>Aerial Imagery 2021</p> 
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Legend

STREETS

PARCELS

Zoning Map

City of South Jordan

0 105 210 420 630 840 Feet

Aerial Imagery 2021

SOJO ROW AT DISTRICT HEIGHTS

DESIGN GUIDELINES FOR TOWN HOME AND TWIN HOME PROJECT

AT 11220 – 11210 SOUTH RIVERHEIGHTS DRIVE



TABLE OF CONTENTS – SOJO ROW DESIGN GUIDELINES

Townhome units..... Page 3

Twinhome units..... Page 4

Residential style book..... Page 5

TOWNHOME UNITS

OF PROPOSED UNITS: 58



Housing Type: Townhomes

Orientation: Rear Load

Parking: Project parking will meet or exceed 2.5 stalls/3+ bedroom unit requirement.

Garages: Garage size to be a minimum of 20 x 20.

Driveway/Drive Aisles: Drive aisles will not allow for any parking in front of garages. Drive aisles will be a minimum of 24' in width between buildings under 32' in height. Any drive aisles accessing buildings of 32' or higher will be a minimum of 26' in width.

Exterior Materials: Townhomes will be primarily cement composite siding and brick.

Single Material: No more than 20% of townhomes will be a cement board only. Remaining 80% of townhomes shall consist of a combination of at least two of the specified exterior materials.

Colors: Natural earth tones and colors within this Design Book.

Height: 2 stories

Repetition: No identical townhome buildings shall be placed next to each other. Individual townhome buildings shall have enough architectural, or material and color, variation to appear as separately recognizable structures.

Home Style: See stylebook below.

Home Size: Townhomes shall have a minimum finished square footage of 1,600 square feet per dwelling.

Safety: Architectural design and site layout shall be compliant with the basic principles of CPTED (crime prevention through environmental design), i.e., natural surveillance, natural access control, territoriality, and maintenance.

TWIN HOMES

OF PROPOSED UNITS: 4



Housing Type: Rowhomes (attached or detached)

Orientation: Rear Load

Parking: Project parking will meet or exceed 2.5 stalls/3+ bedroom unit requirement

Garages: Garage size to be a minimum of 20 x 20.

Driveway/Drive Aisles: Drive aisles will not allow for any parking in front of garages. Drive aisles will be a minimum of 24' in width between buildings under 32' in height. Any drive aisles accessing buildings of 32' or higher will be a minimum of 26' in width.

Exterior Materials: Twin homes will be primarily cement composite siding, cultured stone, or brick.

Single Material: No Twin home will be a single material.

Colors: Natural earth tones and colors within this Design Book.

Height: 2-3 Stories

Home Style: See stylebook below.

Home Size: Row homes shall have a minimum square footage of 1,800 square feet per dwelling.

Safety: Architectural design and site layout shall be compliant with the basic principles of CPTED (crime prevention through environmental design), i.e., natural surveillance, natural access control, territoriality, and maintenance.

RESIDENTIAL STYLE BOOK

TRADITIONAL/FARMHOUSE ARCHITECTURE



Key Characteristics:

- Primarily Cement Board Siding and Brick materials
- Traditional Window Trim
- Soft contrast of materials
- Traditional Gable Roofs
- Accented/Contrasted Roofs, Facia, Soffit, and Front Doors
- Welcoming entrance/front porches



TOWNHOME VARIATIONS/COLOR PALLETS

*All Siding is Cement Composite Board

Scheme 1

							
Siding/Board & Bat Extra White	Trim Extra White	Front Door Peppercorn	Brick Extra White	Roof Moire Black	Garage Door White	Soffit & Fascia Black	Windows White


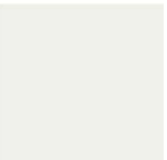



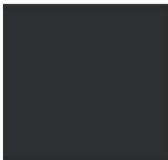

Scheme 2

							
Siding/Board & Bat Repose Gray	Trim Extra White	Front Door Extra White	Brick Manganese	Roof Moire Black	Garage Door White	Soffit & Fascia Black	Windows White

Scheme 3

							
Siding/Board & Bat Gauntlet Gray	Trim Extra White	Front Door Extra White	Brick Boston Mill	Roof Moire Black	Garage Door White	Soffit & Fascia White	Windows White

Scheme 4

						
Siding/Board & Bat Extra White	Trim Extra White	Front Door Peppercorn	Roof Moire Black	Garage Door White	Soffit & Fascia Black	Windows White



Site Summary

Site Area	4.04 Ac
Total Units	62
Total Surface Sp	25
Total Garages	128
Total Parking	153

Building Types

Zion Building	58 Units
Duplex	4 Units
Total	62 Units
Total Shared Parking	200+

RESOLUTION NO. R2010-07

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SOUTH JORDAN,
COUNTY OF SALT LAKE, UTAH, EXECUTING THE FIRST AMENDMENT TO THE
AGREEMENT FOR THE DEVELOPMENT OF THE KUNKLER TRUST PROPERTY BY THE
BOYER COMPANY, L.C. A LIMITED LIABILITY COMPANY.

WHEREAS, Boyer Company, L.C., a Utah Limited Liability Company
("Developer") and the City of South Jordan, a Utah municipal corporation ("City"),
entered into an agreement dated February, 21, 2006, entitled, "DEVELOPMENT
AGREEMENT" ("Agreement") to develop the Kunkler Trust Property ("Property"); and

WHEREAS, the Developer has proposed to the City, an amendment to the
Agreement ("Amendment"); and

WHEREAS, the Mayor and City Council of the City find that the Amendment is
in the interest of health, safety, and general welfare of the citizens of the City

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE
CITY OF SOUTH JORDAN, AS FOLLOWS:

Section 1. The Amendment is hereby approved and adopted; and

Section 2. The City Manager is hereby authorized to execute the Amendment on
behalf of the City of South Jordan.

PASSED AND APPROVED this 18th day of May, 2010.

ATTEST:

By: Anna M. West
Anna West, City Recorder

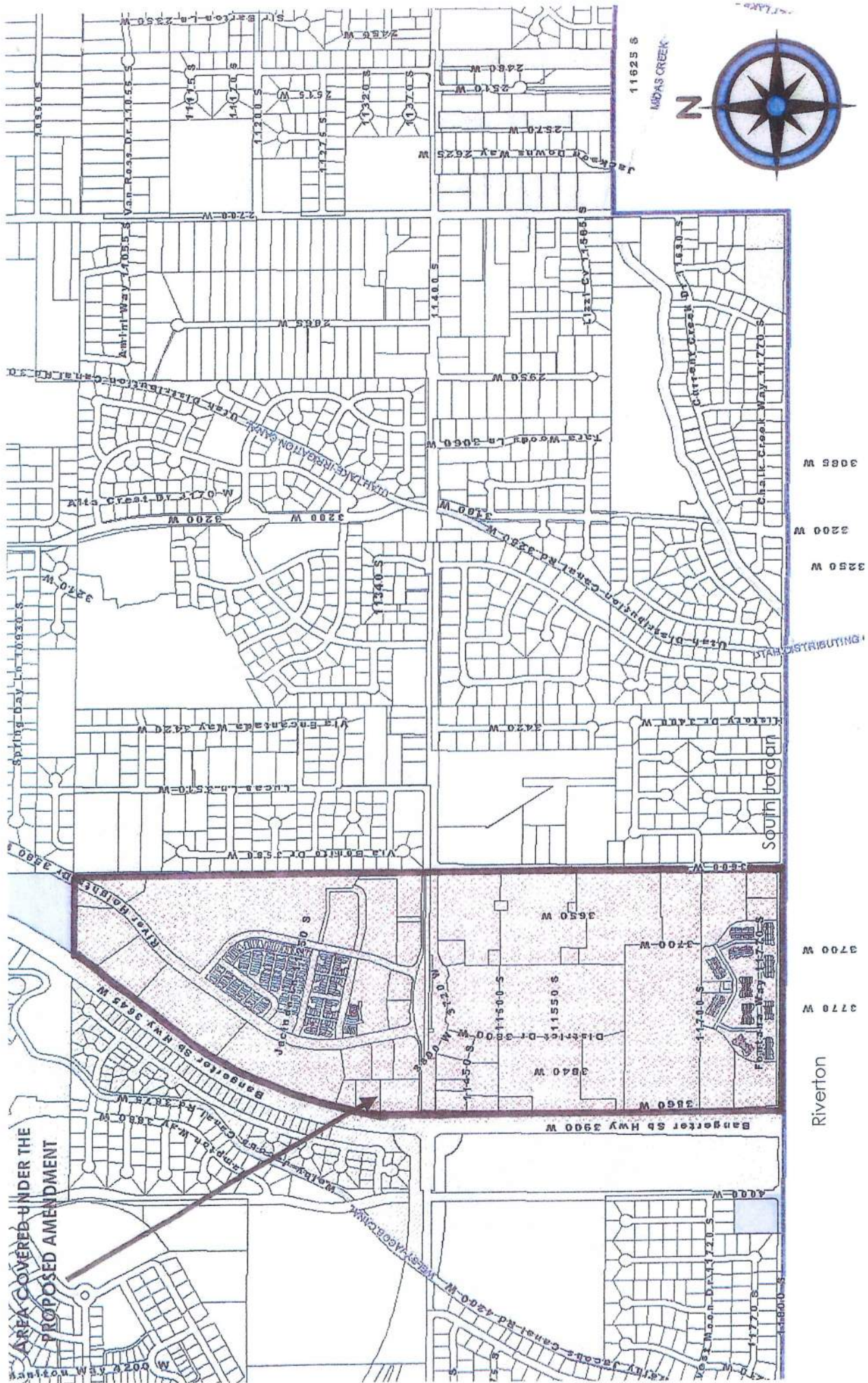


W. Kent Money
W. Kent Money, Mayor

APPROVED AS TO FORM:

By: Robert J. Ott
Attorney for South Jordan City

10968593
06/10/2010 10:14 AM \$0.00
Book - 9832 Pg - 1357-1392
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SOUTH JORDAN
1600 W TOWNE CENTER DR
SOUTH JORDAN UT 84095-8265
BY: ARG, DEPUTY - WI 36 P.



Location Map

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("Amendment") is entered into this 18th day of May, 2010 by and between the City of South Jordan, a Utah municipal corporation ("City") and The Boyer Company, L.C. a Utah Limited Liability Company ("Developer"). The City and the Developer are jointly referred to as the "Parties".

RECITALS

- A. The City and the Developer entered into an agreement entitled, "Development Agreement" ("Agreement") dated February 21, 2006, a copy of which is attached to this Amendment as Exhibit 1, to facilitate the development of property commonly known as the Kunkler property.
- B. A portion of the Kunkler property has become commonly know as the North District.
- C. The Developer has requested certain amendments to the Agreement with respect to the development of the North District.
- D. The City Council has reviewed the amendments requested by the Developer and concluded that the amendments will result in planning and economic benefits to the City and its residents and will provide certainty useful to the Developer and the City in ongoing future communications and relations with respect to the development of the North District.

NOW, THEREFORE, the Agreement is hereby amended as follows:

- 1. Section III. Paragraph A. is amended to read as follows:

A. Permitted Uses the permitted uses for the Property shall be those uses specifically listed in Sections 17.40 (R-3 Zone), 17.48.020 (RM-6 Zone), and 17.70.020 (BH-MU Zone) of the City of South Jordan Zoning Ordinance, a copy of said sections is attached hereto as Exhibit "B" and Exhibit "D" and incorporated herein by this reference. Any changes made to these Sections by the City of South Jordan shall be binding on the Property, except as inconsistent with section VI below.
- 2. Section III. Paragraph C. is amended to read as follows:

C. Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer with respect to use under the zoning designations as referenced in Section 3.1 above under the terms of this Agreement based on the policies, facts, and circumstances meeting the compelling, countervailing public interest exception

to the vested right doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the City; and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

3. Section V. is amended to read as follows:

V. City's Obligations

A. The City assures that should the Zoning be approved as requested and shown on Exhibit "C", the City Shall allow the Developer to construct a single-family residential development on Assessor's Parcel Numbers 2720100003 and 2719200003 consistent with the map attached to this Agreement as Appendix "C", with the terms of this Agreement, and with the R-3, RM-6, and BH-MU Sections of the City of South Jordan Zoning Ordinance, except as is inconsistent with Section VI below.

B. The Developer shall not be required to construct or install sidewalk improvements on the west side of 40th West Street. In the event the City determines that sidewalk improvements are to be constructed or installed on the west side of 40th West Street, the City shall require the owner/developer of the property on the west side of 40th West Street to construct or install said side walk.

4. Section VI. paragraph B. is amended to read as follows:

B. Developer agrees to the types of development on the BH-MU Zone Property, as described in the BHMU Zone Master Development Plan found in Attachment "D", including but not limited to:

1. Neighborhood Commercial uses as described in Sections 17.56.020 and 17.56.030 of the current zoning ordinance or as amended) in the commercial area immediately surrounding the "Round-a-Bout" on 11400 South Street (see Attachment "D"); and
2. Creating a buffer between the residential & other development on the Property and the Lucas Dell residential development to the east as follows:
 - a. Not build a road along the west boundary of the "Lucas Dell" subdivision.
 - b. Create 1/3 acre or larger lots along the west boundary of the "Lucas Dell" and increase the residential density, in a manner approved by the City at the plat approval process, as the development goes west towards Bangerter Highway.

5. The heading **BH-MU Zone** and the text listed under the heading **BH-MU Zone**, entitled, "17.70.020: PERMITTED USES", found in Exhibit "B", is deleted
6. The rights and obligations of this Amendment shall inure to the benefit of and be valid and binding upon the Parties, only upon adoption by the City Council of the City of South Jordan of Ordinance No. 2010.04, dated May 18, 2010 entitled, "AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTEER HIGHWAY MIXED USE ZONE (B"H-MU)" including also the adoption of the BH-MU Zone Master Development Plan included with said Ordinance.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

CITY OF SOUTH JORDAN
a Utah municipal corporation

ATTEST:

By: *John H. Geilmann*
John H. Geilmann, City Manager



By: *Anna M. West*
City Recorder

APPROVED AS TO FORM:

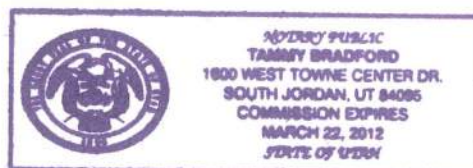
By: *[Signature]*
Attorney for South Jordan City

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On June 1, 2010 personally appeared before me, a Notary Public, John H. Geilmann, the City Manager of the City of South Jordan personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he/she executed the above instrument on behalf of and with authority from the City of South Jordan.

WITNESS my hand and official Seal.

Tammy Bradford
Notary Public



The Boyer Company, L.C., a Utah Limited Liability Company

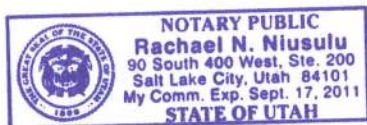
By: See

Title: Manager

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On May 25, 2010, 2010 personally appeared before me, a Notary Public, Seven B. Oster, the Manager of The Boyer Company, L.C., a Utah Limited Liability Company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he/she executed the above instrument on behalf of and with authority from The Boyer Company.

WITNESS my hand and official Seal.



Rachael Winters
Notary Public

Exhibit 1

**(to *FIRST AMENDMENT TO DEVELOPMENT AGREEMENT* between the City of South Jordan,
a Utah municipal corporation and The Boyer Company, L.C.)**

("Development Agreement" dated February 21, 2006
between The Boyer Company, L.L.C. and the City of South Jordan)

DEVELOPMENT AGREEMENT

This Agreement, regarding the redevelopment and improvement of the Kunkler Trust Property, is entered into this 21 day of February, 20006 by and between the City of South Jordan, an Utah municipal corporation, hereafter referred to as "City" and The Boyer Company, L.C. a Utah limited liability company hereafter referred to as "Developer"

RECITALS

A. South Jordan City, acting pursuant to its authority under Utah Code Annotated 10-9a-102 (2) *et seq.*, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the proposed Kunkler Trust Properties and, in exercise of its legislative discretion, has elected to enter into this Agreement.

B. Developer desires to be the owner of certain real property known as Assessor's Parcel Numbers 2720100003 and 2719200003 hereafter referred to as the "Property". This property is legally described on Exhibit "A" attached hereto and incorporated herein by reference.

C. The property is subject to the City of South Jordan Zoning Ordinance and is currently zoned "A-5 & A-1" and designated on the future land use map as High Density Residential, Commercial, Bangerter Highway Mixed Use and Open Space. Developer and City desire to allow Developer to make improvements to the property. Developer desires a period of time in which to develop the property.

D. The improvements and changes to be made to the Property shall be consistent with the current Zoning Ordinance of the City of South Jordan, or any future changes to the Zoning Ordinance of the City of South Jordan, and the City of South Jordan General Plan.

E. Developer and City acknowledge and agree that the development and improvement of the "Property" pursuant to this Agreement will result in planning and economic benefits to the City and its residents, and will provide certainty useful to the Property and the City in ongoing future communications and relations with the community.

F. The City's governing body has authorized execution of this Agreement by Resolution No. 2005-10, to which this Agreement is attached.

G. The City has authorized the negotiation of and adoption of development Agreements under appropriate circumstances where proposed development contains outstanding features that advance the policies, goals and objectives of the South Jordan City General Plan and contributes to capital improvements that substantially benefit the City.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

I. Recitals. The recitals set forth above are incorporated herein by this reference.

II. Conditions Precedent. City and Developer agree, understand and acknowledge that this development Agreement is in anticipation of the acquisition of the real property described herein by Developer. Developer understands, acknowledges and agrees that any of the terms, conditions or benefits conferred by this Development Agreement is not intended to be of any benefit to the current owner or any prospective lender or any party that is not a signator of this Agreement. Reliance upon this Agreement by any third party is at risk and the City makes absolutely no representation that the benefits herein are assignable or are for the benefit of any third party without the expressed written approval of the Mayor and Council of the City of South Jordan.

III. Permitted Uses, Vested Rights and Reserved Legislative Powers.

A. Permitted Uses the permitted uses for the Property shall be those uses specifically listed in Sections 17.40.020 (R-3 Zone), 17.48.020 (RM-6 Zone), and 17.70.020 (BH-MU Zone) of the City of South Jordan Zoning Ordinance, a copy of said sections is attached hereto as Exhibit "B" and incorporated herein by this reference. Any changes made to these Sections by the City of South Jordan shall be binding on the Property, except as inconsistent with section VI below.

B. Vested Rights. Developer shall have the vested right to develop and construct the Project in accordance with the zoning designations approved by the City pursuant to this Agreement, subject to compliance with the terms and conditions of this Agreement and the other applicable ordinances and regulations of the City. Developer agrees to a maximum overall single family residential density limit of not to exceed 3 units per acre in Phase I and 6 units per acre in Phase 2 (Phase I is comprised of the property west of canal; Phase II is comprised of the property between Bangerter and canal; Phase III is comprised of the property on the east side of the Bangerter Highway) The Developer shall not allow mobile homes in the Project. Multi-family, interval ownership/time share units and other similar uses shall be part of the single-family residential dwelling count.

Provided Developer meets the residential density as outlined above, and lot sizes must be as allowed by ordinance. The City and Developer acknowledge that the property west of Bangerter is bisected by a canal. Provided Developer improves or landscapes this area, the land covered by the canal may be used for purposes of determining residential density and open space requirements.

The Developer is responsible for building that portion of 40th west that accesses the residential development from 114th south street north for a distance of approximately 1125 feet to the point where 40th west is partially located on the Kennecott parcel. Once the right of way reaches the Kennecott parcel those who benefit from the road from that point will be responsible for construction of the road and any cost for such construction. Developer will agree to dedicate ½ width of 40th west from the point such street reaches the Kennecott parcel to the northern boundary of Developer's parcel. All curb, gutter, crib walls and sidewalks will be located within said dedicated right of way, and Developer will not be required to dedicate any property for sidewalks or slope easements to be located on the east side of 40th west.

Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer with respect to use under the zoning designations as referenced in Section 3.1 above under the terms of this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the City; and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

IV. Term. This Agreement shall be effective as of the date of recordation and shall run with the land and continue in full force and effect until all obligations hereunder have been fully performed and all rights hereunder fully exercised. In the event the obligations hereunder have not been fully satisfied, and upon mutual agreement of the Developer and the City, this agreement may be terminated and upon termination the City at its sole discretion may initiate a rezoning process to rezone the property.

V. City's Obligations

The City assures that should the Zoning be approved as requested and shown on Exhibit "C", to allow the Developer to construct a single-family residential development on Assessor's Parcel Numbers 2720100003 and 2719200003 consistent with the map attached to this Agreement as Appendix "C". that complies with Section VII of this Agreement and with the R-3, RM-6, and BH-MU Sections of the City of South Jordan Zoning Ordinance except as is inconsistent with Section VII below.

The Developer shall not be required to construct or install sidewalk improvements on the west side of 40th West Street. In the event the City determines that sidewalk improvements are to be constructed or installed on the west side of 40th West Street, the City shall require the owner/developer of the property on the west side of 40th West Street to construct or install said side walk.

VI. Developer's Obligations

- A. Developer agrees to use Developer's good faith efforts to create a mixed use development that may include Research and Development Park and Park housing, office and limited retail uses atmosphere on the Parcel zoned "BH-MU". In addition, Developer agrees to provide the City of South Jordan periodic updates relating to the status of its pre-design and design review committee determinations.
- B. Developer agrees to the types of commercial development on the BH-MU Zone Property, as described in Attachment "C", including, but not limited to:
 1. Neighborhood Commercial uses as described in Sections 17.56.020 and 17.56.030 of the current zoning ordinance or as amended) in the commercial area immediately surrounding the "Round-a-Bout" on 114th South Street (see Attachment "C").
 2. Create a buffer between the residential & other development on the Property and the Lucas Dell residential development to the east as follows:
 - a. Not build a road along the west boundary of the "Lucas Dell" subdivision.
 - b. Create 1/3 acre or larger lots along the west boundary of the "Lucas Dell" and increase the residential density, in a manner approved by the City at the plat approval process, as the development goes to the west towards Bangerter Highway.
- C. Developer agrees to limit the types of residential development on RM-6 Zoned Property as described in Attachment "C", to single family ownership with no apartment buildings.
- D. The Developer agrees and understands that Developer will supply plans and obtain any and all required permits under City, County, State or Federal regulations before commencing any redevelopment or improvements and that the Developer will pay all applicable fees as required.

VII. General Provisions.

A. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by U.S. Postal Service mail, postage prepaid to:

If to City: The City of South Jordan
 1600 West Towne Center Drive
 South Jordan City, Utah 84095

Attention: City Manager

If to Developer: Wade S. Williams
90 South 400 West, Suite 200
Salt Lake City, Utah 84101

or to such other addresses as either party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least ten (10) days before the date on which the change is to become effective.

B. Mailing Effective. Notices given by mail shall be deemed delivered seventy-two (72) hours following deposit with the U.S. Postal Service in the manner set forth above.

C. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same of any other provision of this Agreement.

D. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any provision this Agreement.

E. Authority. The parties to this Agreement represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Developer represents and warrants that its company is fully formed and validly exists under the Laws of the State of Utah, and is duly qualified to do business in the State of Utah and is in good standing under applicable state laws. The Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the parties on whose behalf each individual is signing. Developer represents to the City that by entering into this Agreement, Developer has bound the property and all persons and entities having a legal or equitable interest to the terms of the Agreement.

F. Entire Agreement. This Agreement, including exhibits, constitutes the entire Agreement between the parties.

G. Amendment of this Agreement. This Agreement may be amended in whole or in part with respect to all or any portion of the Property by the mutual written consent of the parties to this Agreement or by their successors in interest or assigns. Any such amendment of this Agreement shall be recorded in the official records of the Salt Lake County Recorder's Office.

H. Severability. If any of the provisions of this Agreement are declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect, provided that the fundamental purpose of this Agreement and the Developer's ability to complete the project is not defeated by such severance.

I. Governing Law. The laws of the State of Utah shall govern the interpretation and enforcement of the Agreement. The parties shall agree that the venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Salt Lake County, Utah, and the Parties hereby waive any right to object to such venue.

J. Remedies. If any party to this Agreement breaches any provision of this Agreement, the non-defaulting party shall be entitled to all remedies available at both law and in equity.

K. Attorney's Fee and Costs. If any party brings legal action either because of a breach of the Agreement or to enforce a provision of the Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

L. Binding Effect. The benefits and burdens of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors in interest and assigns. This Agreement shall be incorporated by reference in any instrument purporting to convey an interest in the Property.

M. Assignment. The rights of the Developer under this Agreement may not be transferred or assigned, in whole or in part except by written approval of the City. Developer shall give notice to the City of any proposed or requested assignment at least thirty (30) days prior to the effective date of the assignment. City shall not unreasonably withhold its consent to assignment.

N. Third Parties. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

O. No Agency Created. Nothing contained in the Agreement shall create any partnership, joint venture, or agency relationship between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written:

ATTEST:

By: Anna West
Anna West, City Recorder



CITY OF SOUTH JORDAN
a Utah municipal corporation

By: Ricky A. Horst
Ricky A. Horst, City Manager

APPROVED AS TO FORM:

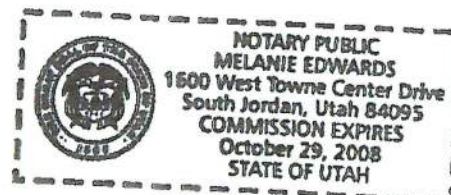
By: John H. Geilmann
John H. Geilmann, City Attorney

STATE OF UTAH)
)ss
County of Salt Lake)

The foregoing instrument was acknowledged before me this 17 day of March 2000, by, on behalf of John H. Geilmann + Ricky A. Horst

Melanie Edwards Notary Public

My Commission Expires: Oct 29, 2008



The Boyer Company, L.C., a Utah Limited
Liability Company

By: [Signature]

Title: Manager

STATE OF UTAH)

)ss

County of Salt Lake)

The foregoing instrument was acknowledged before me this 10th day of
2006, by Damon M. Glenn, on behalf of The Boyer Company, L.C.

Rachael N. Nussulu Notary Public

My Commission Expires: 8-20-07

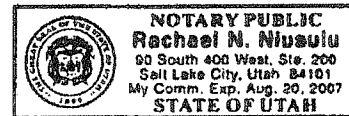


Exhibit "A"

To be verified by the Developer before execution of the Agreement.

Legal Description:

THE NW 1/4 OF SEC 20, T 3S, R 1W, S L M. LESS CANAL & BANGERTER HWY. 144.05 AC M OR L.

AND

THE SE 1/4 OF NE 1/4 SEC 19 T 3S R 1W S L M. LESS CANAL 38.26 AC

Exhibit "B"*Copies of current Zoning Ordinance sections referred to in Development Agreement.***R-3 Zone**

17.40.020: PERMITTED USES:

The following uses may be conducted in the R-3 zone as limited herein:

Home occupations according to city ordinances.

Household pets not exceeding two (2) per species over the age of four (4) months per dwelling.

Residential accessory buildings, the footprints of which do not exceed the footprint area of the dwelling.

Residential accessory uses.

Residential facility for disabled persons as required by state law.

Single-family dwelling, detached, maximum one per lot or parcel. (2003 Code § 17.40.020)

RM-6 Zone

17.48.020: PERMITTED USES:

The following uses may be conducted in the R-M zone as limited herein:

Home occupations according to city ordinances.

Household pets not exceeding two (2) per species over the age of four (4) months per dwelling.

Residential accessory buildings, the footprints of which do not exceed the footprint area of the dwelling.

Residential accessory uses.

Residential facility for disabled or elderly persons as required by state law.

Single-family dwelling, detached, maximum one per lot or parcel. (Ord. 2004-06, 5-18-2004)

BH-MU Zone

17.70.020: PERMITTED USES:

The following uses are permitted in the BH-MU zone:

Auto and equipment parts retailing.
 Banks, credit unions, financial institutions.
 Beauty, health and fitness centers.
 Books, videos, media, photography, copies, art and drafting supplies, office supplies, stationery retail.
 Department, discount and food stores.
 Furniture, electronics, appliances and home furnishings retailing.
 Hardware and home improvement retailing.
 Health, beauty and medical products retailing; prescription drugs retailing.
 Hobbies and crafts retailing.
 Hotels and motels.
 Household goods retailing.
 Medical, dental, health services.
 Miscellaneous retail sales.
 Movie theaters, concert halls.
 Office uses.
 Pharmacy.
 Restaurants, eating establishments.
 Sewing supplies, apparel, footwear retailing.
 Shopping centers and malls.
 Sporting goods, toy retailing. (Ord. 2004-05, 5-4-2004)

CN Zone

17.56.020: PERMITTED USES:

The following uses may be conducted in the C-N zone:

Retail sales and services, excluding auto services such as lube, stand alone car wash, tune up, tires, repairs. (2003 Code § 17.56.020)

17.56.030: CONDITIONAL USES:

A conditional use permit may be issued for the following uses in the C-N zone:

Banks, credit unions.
 Bed and breakfast inn.

Drive-through establishments such as fast food, financial institution, pharmacy, but excluding auto services such as lube, stand alone car wash, tune up, tires, repairs.

Gas stations/convenience stores.

Office, no larger than three thousand (3,000) square foot building.

Restaurants. (2003 Code § 17.56.030)

Exhibit "C"

Proposed Conceptual Plan

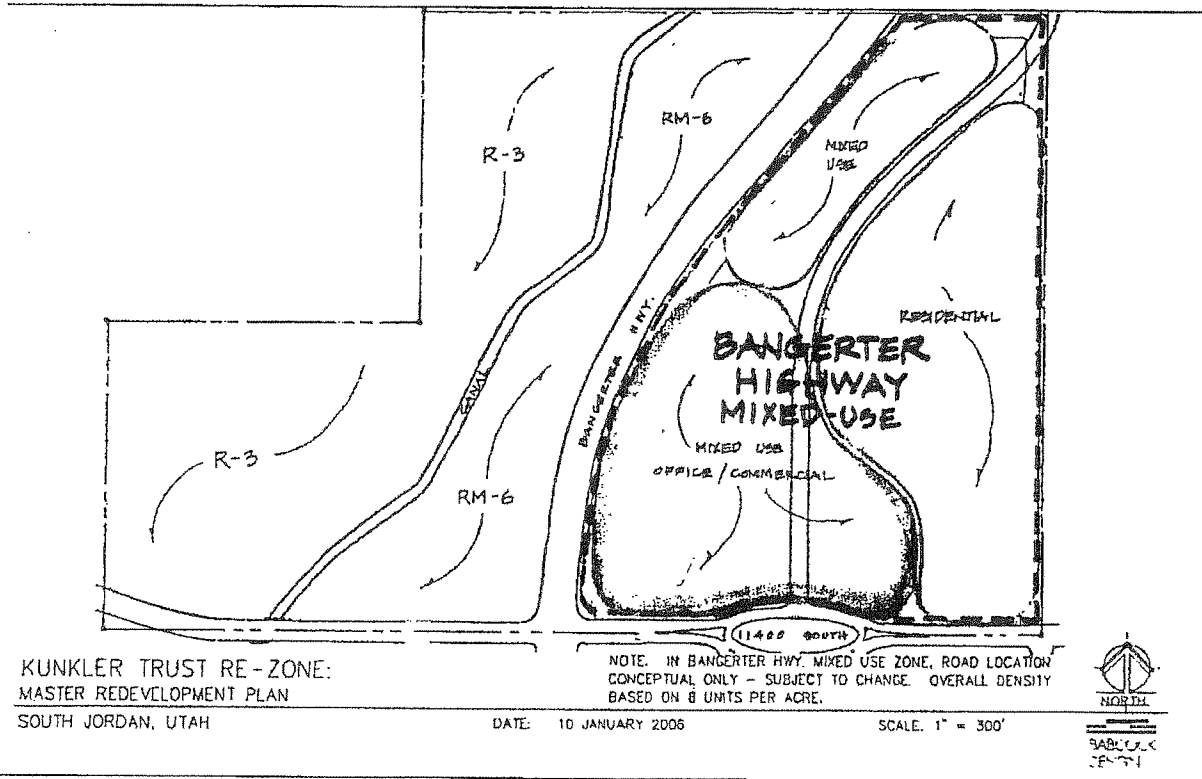


Exhibit D
(to Development Agreement dated February 21, 2006)

BHMU Zone Text Amendments and BHMU Zone Master Development Plan
as adopted by the South Jordan City Council 5/18/10

ORDINANCE NO. 2010.04

AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTER HIGHWAY MIXED USE ZONE (BH-MU)

WHEREAS, the South Jordan City Council has previously adopted Section 17.70 of the South Jordan City Municipal Code, which determine the uses allowed and regulations for the Bangerter Highway Mixed Use zone; and

WHEREAS, the South Jordan Planning Commission, after holding a public hearing, has reviewed the proposed text amendments to Section 17.70; and

WHEREAS, the City Council has held a public hearing and has reviewed the proposed amendments and considered the recommendation of the Planning Commission regarding the proposed amendment; and

WHEREAS, in accordance with principles of sound municipal planning, the City Staff, the City Planning Commission, and the City Council have taken into account the impact the proposed amendment will or may have on existing or future development projects, and to the extent legally permissible or practical, the City Staff, Planning Commission and Council have taken reasonable steps to ensure that the proposed amendment meets the purposes and objectives of the Planning and Land Use Code; and

WHEREAS, the City Council desires to amend the Development Code as proposed; and

WHEREAS, the City Council has found and determined that the proposed amendments to Section 17.70 of the South Jordan Municipal Code will support the best interests of the City and will promote the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Chapter 17.70 Title 17, "Planning and Land Use Code", of the South Jordan Municipal Code is hereby amended as follows:

Chapter 17.70

BANGERTER HIGHWAY MIXED USE (BH-MU) ZONE

17.70.010: PURPOSE:

The Bangerter Highway ~~Mmixed Use Zone~~ may be cited as the "BH-MU ~~Z~~zone" and may be established along the east side of Bangerter Highway to provide areas for higher density, mixed use development. Such development will be compatible with a major arterial highway corridor and ~~s~~would discourage low density single-family residential development near the highway.

It is intended that a variety of retail, office, entertainment and residential uses be combined to create a self-contained environment for workers, shoppers, residents and visitors in a pedestrian oriented unified manner while accommodating automobile traffic to regional services dependent upon a major transportation facility.

The BH-MU Zzone will encourage orderly, aesthetically pleasing development and a balance of uses while discouraging strip commercial with its attendant congestion, pollution and visual blight. (Ord. 2007-02, 1-16-2007) **Buildings shall be designed to have architectural and access orientation to the street.**

17.70.020: PERMITTED USES:

The following uses are permitted in the BH-MU Zzone:

Auto and equipment parts retailing.

Banks, credit unions, financial institutions.

Beauty, health and fitness centers.

Books, videos, media, photography, copies, art and drafting supplies, office supplies, stationery retail.

Department, discount and food stores.

Furniture, electronics, appliances and home furnishings retailing.

Hardware and home improvement retailing.

Health, beauty and medical products retailing; prescription drugs retailing.

Hobbies and crafts retailing.

Hotels and motels.

Household goods retailing.

Medical, dental, health services.

Miscellaneous retail sales.

Movie theaters, concert halls.

Office uses.

Outdoor Kiosks.

Pharmacy.

Restaurants, eating establishments.

Sewing supplies, apparel, footwear retailing.

Shopping centers and malls.

Sporting goods, toy retailing. (Ord. 2007-02, 1-16-2007)

17.70.030: CONDITIONAL USES:

A conditional use permit may be issued for the following uses in the BH-MU ~~Z~~zone:

Assisted living centers.

Indoor/underground ~~a~~Automobile sales, new and ancillary used, maximum three (3) acres per business, no closer than four hundred feet (400') from residential development.

~~Automobile sales, used; minimum eight thousand (8,000) square foot building required, maximum three (3) acres per business, no closer than four hundred feet (400') from residential development.~~

Automotive services enclosed within a building, including lube, tune up, automatic wash, inspection, tires, mufflers, minor repairs.

Bed and breakfast inn.

Convention, arena, reception and assembly facilities.

Cultural exhibits and activities.

Daycare center.

Drive-through facilities, **visually buffered**, for allowed uses.

Entertainment, amusement, recreational activities.

Equipment and appliance light repairs and service enclosed within a building.

Fast food.

Gas stations, convenience stores.

Golf courses and ranges.

Hospitals.

Laundry.

Live/Work Units.

Lumber, building material and landscaping retail sales yards.

Nature or zoological exhibits.

Office buildings.

Parks.

Public or quasi-public facilities.

Recreational vehicle and boat sales, new and ancillary used.

Religious activities.

Retail Nurseries, Lawn and Garden Supply Stores

Schools, educational and training activities.

Single-family residential-PUD or condominium **and integrated multi-family residential (projects with more than one housing land use type with 'village' style design, building height and architecture), maximum eight (8) units per acre of the gross acreage of the Master Development Plan. Additional dwelling units exceeding eight (8) units per acre may be approved by the City Council as an amendment to the Master Development Plan (MDP).**

Street vendors.

Upper floor residential ~~condominium~~ combined with commercial and/or office use on the main floor in the same building. (Ord. 2008-19, 11-18-2008)

17.70.040: USE REGULATIONS:

Uses may be conducted in BH-MU zones only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in BH-MU **Z**ones. ~~Residential uses (not including upper floor residential) in a BH-MU zone may not exceed twenty percent (20%) of the gross land area in the zone.~~ A conditional use permit must be obtained prior to the establishment of a conditional use. Sexually oriented business is prohibited in **the** BH-MU **Z**ones.

- B. All uses in BH-MU **Z**zones shall be conducted within completely enclosed buildings, unless otherwise allowed in this chapter, except **outdoor kiosks, vendor carts, and** those temporary uses customarily conducted in the outdoors, including Christmas tree lots, fireworks stands and parking lot sales associated with an approved use on the property. Parking lot sales may be conducted up to four (4) 1-week periods per year.
- C. Accessory uses **may be conducted and accessory** buildings may be ~~conducted~~ **constructed** in BH-MU **Z**zones only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, parking lots and terraces, properly screened utility and loading areas and other buildings and activities which are incidental and subordinate to the principal permitted or conditional use on the premises.
- D. There shall be no open storage of trash, debris, used, wrecked or neglected materials, equipment or vehicles in BH-MU **Z**zones. No commercial materials, goods or inventory may be stored in open areas in BH-MU **Z**zones, except for temporary display items which are removed daily and which may be located only on private property no closer than ten feet (10') from any public right of way. No more than twelve (12) small party balloons and six (6) weatherproof placards, each not exceeding two feet (2') square, per business may be attached to the displays and shall be removed daily with the displays. All other signs and devices are prohibited. Outdoor storage of inventory or products such as firewood, water softener salt, garden supplies including plants and other landscaping materials and building materials is permitted only in screened areas approved for such purpose with site plan review.
- E. No vehicle, boat or trailer, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, attended or not, may be parked or stored in BH-MU **Z**zones for longer than seventy two (72) hours unless stored within a completely enclosed building.
- F. No commercial vehicles such as earthmoving or material handling equipment, semi-trucks or trailers or any commercial truck, trailer or vehicle may be stored in the BH-MU **Z**zone for longer than seventy two (72) hours, except in conjunction with an approved use, or approved development or construction activities on the property.
- G. Utility trailers and recreational vehicles such as motor homes, travel trailers, watercraft, campers and all-terrain vehicles, may not be stored in any area in BH-MU **Z**zones, except in conjunction with a single-family dwelling. Said trailers and vehicles shall be stored within lawfully constructed buildings or behind the front line of the dwelling, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may

not be occupied as living quarters in the BH-MU **Z**zone, except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year.

H. Home occupations may be licensed in any residence in BH-MU **Z**zones according to provisions of **chapter 17.98** of this title. (Ord. 2007-02, 1-16-2007)

17.70.050: ZONE ESTABLISHMENT:

Each proposed BH-MU **Z**zone shall be contiguous to the Bangerter Highway right of way. Each proposed BH-MU **Z**zone shall be accompanied by a master development plan ("MDP") which specifies land use areas and residential densities **including the total number of residential units**. Retail, office, residential ~~8~~, mixed use (~~containing upper floor residential~~), open space and public/quasi-public land use areas will be shown on the MDP. The MDP shall be adopted as an exhibit to the ordinance establishing the BH-MU **Z**zone in which it is proposed. The MDP shall ~~may be amended~~ **adopted** by the City Council after the establishment of the BH-MU **Z**zone by following standard rezoning procedures of **chapter 17.22** of this title. **The Planning Commission City Council shall review and may approve necessary amendments to the MDP based upon appropriate changes to the land use mix and market conditions.** (Ord. 2007-02, 1-16-2007)

17.70.060: DEVELOPMENT REVIEW:

All uses proposed in **the** BH-MU **Z**zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in **the** BH-MU **Z**zones. All uses shall be conducted according to the approved plan or plat and any conditions of approval. Plans or plats may not be altered without prior approval of the city, except as allowed under state law. The following procedure shall be used for site plan review of projects in the BH-MU **Z**zone:

- A. The developer shall prepare and submit a concept plan as described in section **16.24.030** of this code.
- B. The developer shall prepare and submit a design book with the concept plan containing typical renderings of cross sections and plan views of the following:
 1. Existing and proposed public street curb, gutter, sidewalk, park strip, landscaping, streetlights and pavement.
 2. Yard areas between buildings and public streets, including trees, grass, shrubs, ground cover, signs and screen walls.

3. Parking areas, walkways, driveways, landscaped areas and storm detention/retention areas.

4. Architectural features, including materials and colors, of buildings, freestanding and wall mounted signs and light fixtures, trash enclosures, utility and loading area screen walls, pedestrian furniture and artwork.

5. Other improvements as required by city staff.

- C. The city staff shall review the concept plan and design book and provide comments to the developer who will make needed revisions to the documents. Upon final review and approval of city staff, the concept plan and design book for the development will be scheduled on the Planning Commission agenda for a public hearing. **Amendments or changes to the approved design book may be approved by the Planning Commission subsequent to their review and a public hearing to hear comments regarding the proposed amendments or changes.**
- D. Upon approval of the concept plan and design book by the Planning Commission, site plans for all or portions of the BH-MU Zone may be prepared according to section **16.24.040** of this code and submitted to city staff for review. City staff may approve, approve with conditions, or deny the site plans for the proposed development.
- E. A decision of the city staff regarding site plans in the BH-MU Zone may be appealed according to procedures set forth in section **16.04.370** of this code. (Ord. 2007-02, 1-16-2007)

17.70.070: LOT WIDTH AND FRONTAGE:

No minimum lot width is required in the BH-MU Zone except as established with development approval. Each lot or parcel in BH-MU Zones must front on or have legal access to a public street. (Ord. 2007-02, 1-16-2007)

17.70.080: AREA REQUIREMENTS:

The following area requirements shall apply in the BH-MU zone:

- A. Minimum Zone Area: The minimum area of a BH-MU Zone shall be one hundred (100) acres.
- B. Minimum Project Area: "Project" shall be defined as any development in BH-MU Zones for which preliminary plat or site plan approval has been proposed or granted. The minimum area of any project in BH-MU Zones shall be one **quarter** acre.
- C. Minimum Lot Area: There shall be no minimum lot area in BH-MU Zones, except as established with development approval.

~~D. Maximum Residential Area: Maximum residential use area in BH-MU zones is twenty percent (20%) of the gross land area in the zone. (Ord. 2007-02, 1-16-2007)~~

17.70.090: PRIOR CREATED LOTS:

Nonconforming lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the establishment of a BH-MU **Z**zone shall be brought into conformance with the requirements of this chapter prior to **new** development. (Ord. 2007-02, 1-16-2007)

17.70.100: YARD REQUIREMENTS:

Yard requirements in the BH-MU **Z**zone shall be determined with site plan, subdivision and/or condominium review by the **P**lanning **C**ommission. Non-single-family residential buildings shall be separated from single-family residential lot lines by a minimum distance of thirty feet (30'), of which ten feet (10') adjacent to the property line shall be landscaped, ~~unless said uses are contained in the same building.~~ (Ord. 2007-02, 1-16-2007)

17.70.110: PROJECTIONS INTO YARDS:

The following may be erected on or projected into any required yard space in BH-MU zones:

- A. Fences and walls in conformance with city codes and ordinances.
- B. Landscape elements, including trees, shrubs and other plants.
- C. Utility or irrigation equipment or facilities.
- D. **Single family detached residential** ~~D~~decks not more than two feet (2') in height.
- E. **Single family detached residential** ~~E~~cornices, eaves, sills, planter boxes, stairways, landings, porches, decks or similar architectural features attached to the building extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard.
- F. **Single family detached residential** ~~F~~chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building not exceeding eight feet (8') wide and extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard. (Ord. 2007-02, 1-16-2007)

17.70.120: PARKING AND ACCESS:

Parking areas and access in BH-MU **Z**zones shall meet requirements of **chapter 16.26** of this code. **In order to enhance pedestrian access and walkability, site**

design should focus on orienting buildings to streets and driveways with parking placed to the rear or side of structures.

A reduction in required parking may be granted by the Planning Commission upon recommendation by the Community Development Director and City Engineer, when justification for such can be made. Shared parking and mixed use site plan design shall be considered in determining parking reduction. Strategies for walkable commercial development as suggested by "Envision Utah's Urban Planning For Quality Growth" shall be implemented where appropriate. (Ord. 2007-02, 1-16-2007)

17.70.130: FENCING, SCREENING AND CLEAR VISION:

The following fencing, screening and clear vision requirements shall apply in BH-MU zones:

- A. All mechanical equipment, antennas (where possible), loading and utility areas and trash receptacles shall be screened from view **from a public street** with architectural features or walls consistent with materials used in the associated buildings.
- B. The boundary of a BH-MU **Z**zone which is not in or adjacent to a street and which is adjacent to a single-family residential or agricultural zone shall be fenced with a six foot (6'), decorative precast concrete panel or masonry fence as determined with development approval. Six foot (6') solid vinyl boundary fencing may be allowed in unusual circumstances such as adjacent to property which is master planned for nonresidential uses. A higher fence may be required or allowed by the city in unusual circumstances. A building permit is required for fences and walls over six feet (6') high. Other fencing or landscaping techniques may be used to buffer waterways, trails, parks, open spaces or other uses as determined with development approval.
- C. No wall, fence or screening material shall be erected between a street and a front or street side building line in BH-MU **Z**zones, except for **single family residential developments, and** as required in subsection A of this section.
- D. Landscape materials, except for mature trees which are pruned at least seven feet (7') above the ground, and fences shall not exceed two feet (2') in height within a ten foot (10') triangular area formed by the edge of a driveway and a street right of way line or within a thirty foot (30') triangular area formed by the right of way lines of intersecting streets. (Ord. 2007-02, 1-16-2007)

17.70.140: ARCHITECTURAL STANDARDS:

The following architectural standards are required in BH-MU **Z**zones:

- A. Architectural drawings and elevations, exterior materials and colors of all buildings shall be submitted in conjunction with development review. An architectural theme governing the project shall be submitted for review.
- B. All building materials shall be high quality, durable and low maintenance.
- C. **Building materials for structures**, Single-family residential and townhome dwellings, **including garages**, shall ~~use~~ be constructed with brick, or stone, or cement fiber products (i.e. Hardie Board) in combinations that create aesthetically pleasing architecture. Stucco products, if used, shall clearly be used in minimal amounts and as a contrast or accent to other building materials, i.e. gables. Both vertical and horizontal elements should be used, as appropriate, to enrich and give a variety to the architectural theme. Individual buildings shall have enough architectural variation to be recognizable as separately recognizable structures. ~~in the minimum amount of three feet (3') times (x) the perimeter of the foundation (including garage);~~
- D. **Except for flat or shed-style roofed structures approved by the Planning Commission through design book review**, a minimum ~~six~~ eight to twelve (68:12) roof pitch **shall be required** and a minimum two (2) car garage (minimum ~~202~~ feet by ~~202~~ feet, or the square footage ~~approximate approved equivalent for tandem parking approved by the Planning Commission in conjunction with a site plan, subdivision plat or condominium map for the development.~~
- ED. Exterior walls of buildings, in excess of sixty feet (60') in length, shall have relief features at least four inches (4") deep at planned intervals. All sides of buildings shall receive design consideration.
- FE. Signs shall meet requirements of **chapter 16.36** of this code and shall be constructed of materials which complement the buildings which they identify.
- GF. Maximum building height in BH-MU zones shall be four (4) stories, **unless otherwise approved by the City Council**, except that the maximum height shall be two (2) stories within four hundred feet (400') of any single-family residential zone.
- HG. The exteriors of buildings in the BH-MU Zzone shall be properly maintained by the owners. (Ord. 2007-02, 1-16-2007)
- I. **Architectural design and site layout shall be compliant with the basic principles of C.P.T.E.D. (Crime Prevention Through Environmental Design), i.e. natural surveillance, natural access control, territoriality, and maintenance.**

17.70.150: LANDSCAPING:

The following landscaping requirements and standards shall apply in the BH-MU **Z**zone:

- A. The front, side and rear yards of lots in BH-MU **Z**zones shall be landscaped and properly maintained with grass, trees and other plant **and/or permeable landscape** material.
- B. All areas of lots in BH-MU **Z**zones not approved for parking, buildings or other hard surfacing shall be landscaped and properly maintained with **ground covers that may include turfgrass**, deciduous and evergreen trees and other plant **and/or permeable landscape** material **(including properly designed xeriscape)**, approved in conjunction with a site plan, plat or record of survey map for the development. **Drought resistant plant materials are encouraged.**
- C. A minimum of one tree per five hundred (500) square feet, or part thereof, of required landscaped yard areas is required in BH-MU **Z**zones in addition to other trees required in this section. A minimum of thirty percent (30%) of required yard area trees shall be minimum seven foot (7') evergreens. Deciduous trees shall be minimum two inch (2") caliper. Deciduous and evergreen trees required in this section shall be dispersed throughout the required yard areas on the site.
- D. ~~All collector street and other public and private~~ **P**park strips **(planting area between streets/driveways and sidewalks) are required** in BH-MU **Z**zones **and** shall be improved **with street trees with appropriate ground covers** and maintained by the adjoining owners according to specifications adopted by the city unless otherwise allowed with development approval. **Park strips shall be of sufficient width to accommodate the root zone of the approved street tree species, i.e. at least five feet (5') for ornamental trees.**
- E. Trees may not be topped nor may any landscape material be removed in BH-MU **Z**zones without city approval. Any dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan, plat or map approval.
- F. The following landscaping requirements shall apply in parking areas in BH-MU **Z**zones:
 - 1. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of parking rows. Planters shall be at least five feet (5') wide.
 - 2. Shade trees shall be planted between double parking rows at minimum intervals of six (6) stalls and along single parking rows at minimum intervals of three (3) stalls and no farther than six feet (6') from the parking area. Shade trees are not required in parking rows which are adjacent to buildings **only if parking is adjacent to a covered sidewalk.**

3. All landscaped areas adjacent to parking areas shall be curbed.

- G. A minimum twenty foot (20') wide landscaped **planting area** ~~planter~~ shall be required along the Bangerter Highway right of way on lots and parcels in the BH-MU zone which adjoin the highway right of way. This area may be counted toward any minimum yard area that would otherwise be required adjacent to the highway right of way. These areas shall be planted with trees and other plant/**landscape** materials approved with the development.
- H. Developments which are contiguous to canals, streams or drainage areas shall make reasonable efforts to include banks and rights of way in the landscaping of the project and the urban trails system. Any areas so included and perpetually preserved may be counted toward required yard space for the development. If approved by the city engineer, waterways which traverse developments may be left open if properly landscaped and maintained by the adjacent owners. Waterways may not be altered without written approval of any entity or agency having jurisdiction over said waterways.
- I. All required landscaping in BH-MU **Z**zones, shall be installed (or escrowed due to season) prior to occupancy.
- J. All landscaped areas, including adjoining public right of way areas, shall be properly irrigated and maintained by the owners. (Ord. 2007-02, 1-16-2007)

17.70.160: LIGHTING:

The following lighting requirements shall apply in BH-MU **Z**zones:

- A. A lighting plan shall be submitted with all new developments in BH-MU **Z**zones. Site lighting shall not exceed forty feet (40') in height. Site and street lighting shall not exceed twenty feet (20') in height within three hundred feet (300') of any single-family residential zone or in public park strips.
- B. Lighting for commercial uses which is within three hundred feet (300') of residential lots shall be shielded to prevent glare on said residential lots.
- C. All lighting fixtures shall **evoke a 'village' feel to the development and** be architectural grade consistent with the architectural theme of the **project development**. Lighting fixture detail will be submitted for approval with the development. (Ord. 2007-02, 1-16-2007)

17.70.170: OTHER REQUIREMENTS:

The following provisions shall apply in BH-MU **Z**zones:

- A. Private Covenants: The developer of a condominium project or PUD in a BH-MU **Z**zone shall submit a proposed declaration of covenants to the city attorney for

review, including an opinion of legal counsel licensed to practice law in the state that the condominium meets requirements of state law, and record the covenants with the condominium map or subdivision plat for the project.

- B. Grading and Drainage: All developments in BH-MU Zzones shall be graded according to the city engineering and building requirements to provide adequate drainage on and off the property. Buildings shall be equipped with facilities for the discharge of all roof drainage onto the subject lot or parcel.
- C. Easements: Buildings may not be located within public easements without written approval from the affected parties.
- D. Maintenance: All developments shall be properly maintained by the owners.
- E. Phasing Plan: A project phasing plan shall be submitted for review at the time of preliminary plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the city. (Ord. 2007-02, 1-16-2007)

Section 2. Amendment. The development plan included as Exhibit A to this Ordinance is hereby adopted as the amended and revised Master Development Plan("MDP") for the BH-MU Zone.

Section 3. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 4. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, ON THIS 18th DAY OF May, 2010 BY THE FOLLOWING VOTE.

	YES	NO	ABSTAIN	ABSENT
Brian Butters	<u>X</u>	___	___	___
Kathie L. Johnson	<u>X</u>	___	___	___
Larry Short	<u>X</u>	___	___	___
Aleta A. Taylor	<u>X</u>	___	___	___
Leona Winger	<u>X</u>	___	___	___

ATTEST: Anna M. West
Anna M. West, City Recorder

W. Kent Money
W. Kent Money Mayor



Exhibit A

[to Ordinance 2010.04 AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTER HIGHWAY MIXED USE ZONE (BHMU) passed and adopted by the South Jordan City Council, May 18, 2010]

BH-MU Master Development Plan (4 Pages)

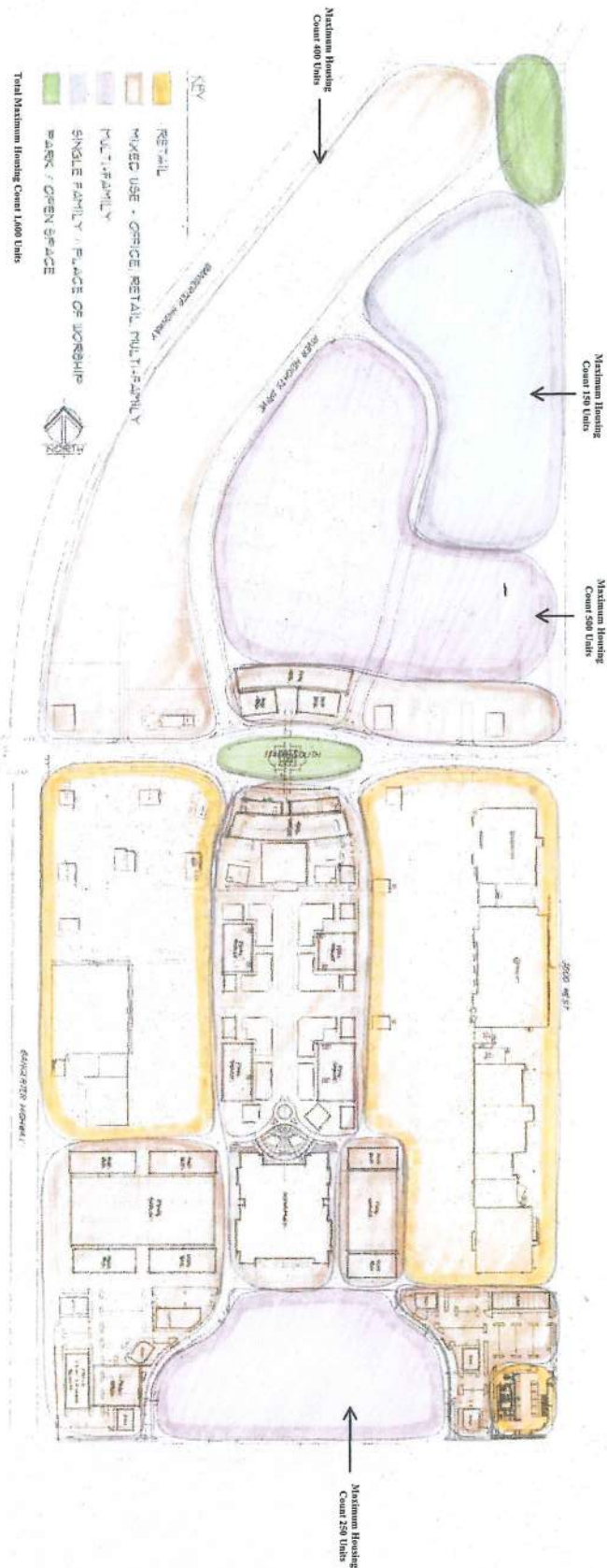
EXHIBIT A

BH-MU Zone Master Development Plan (4 Pages)

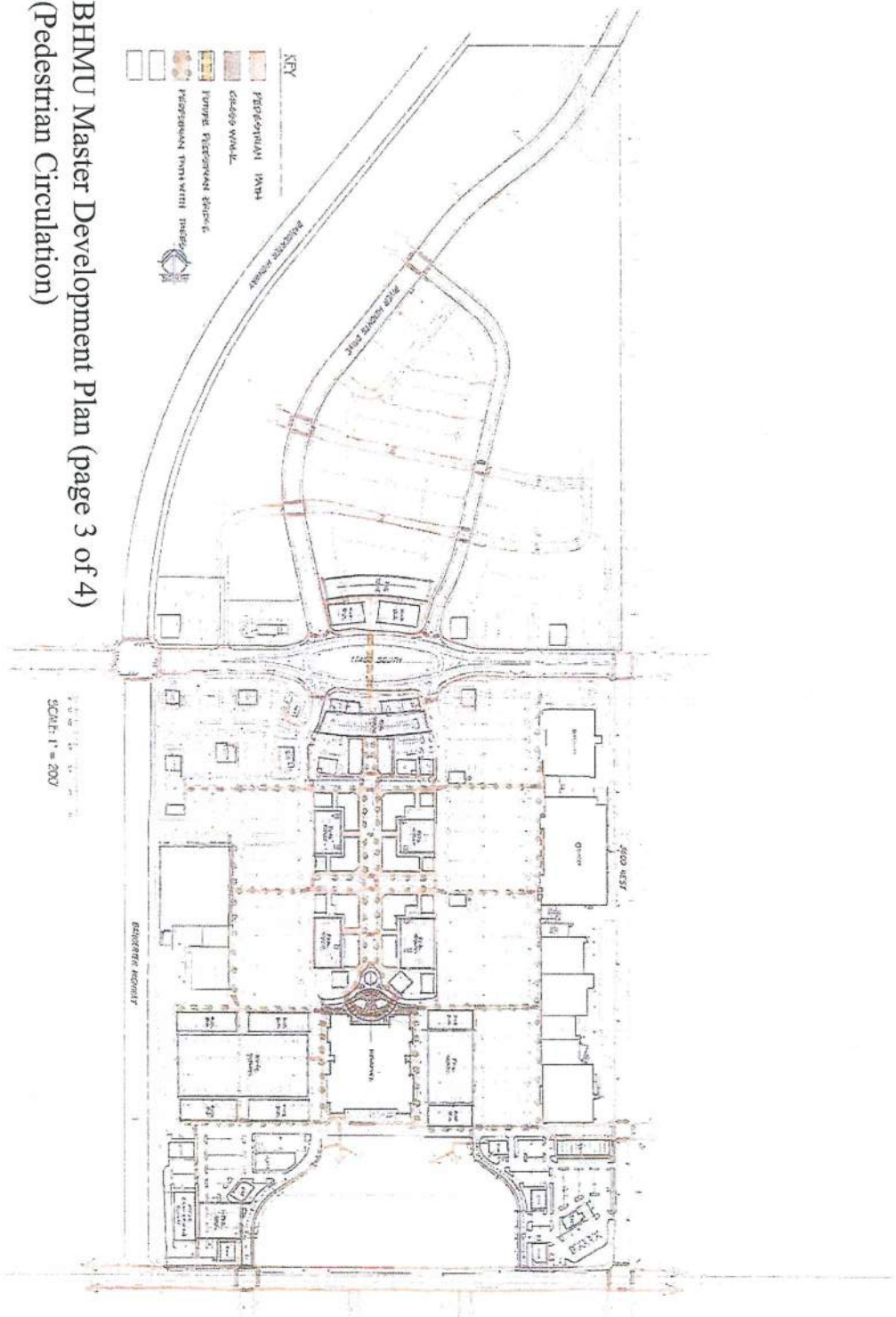
Adopted 18 May 2010

Item I.1.

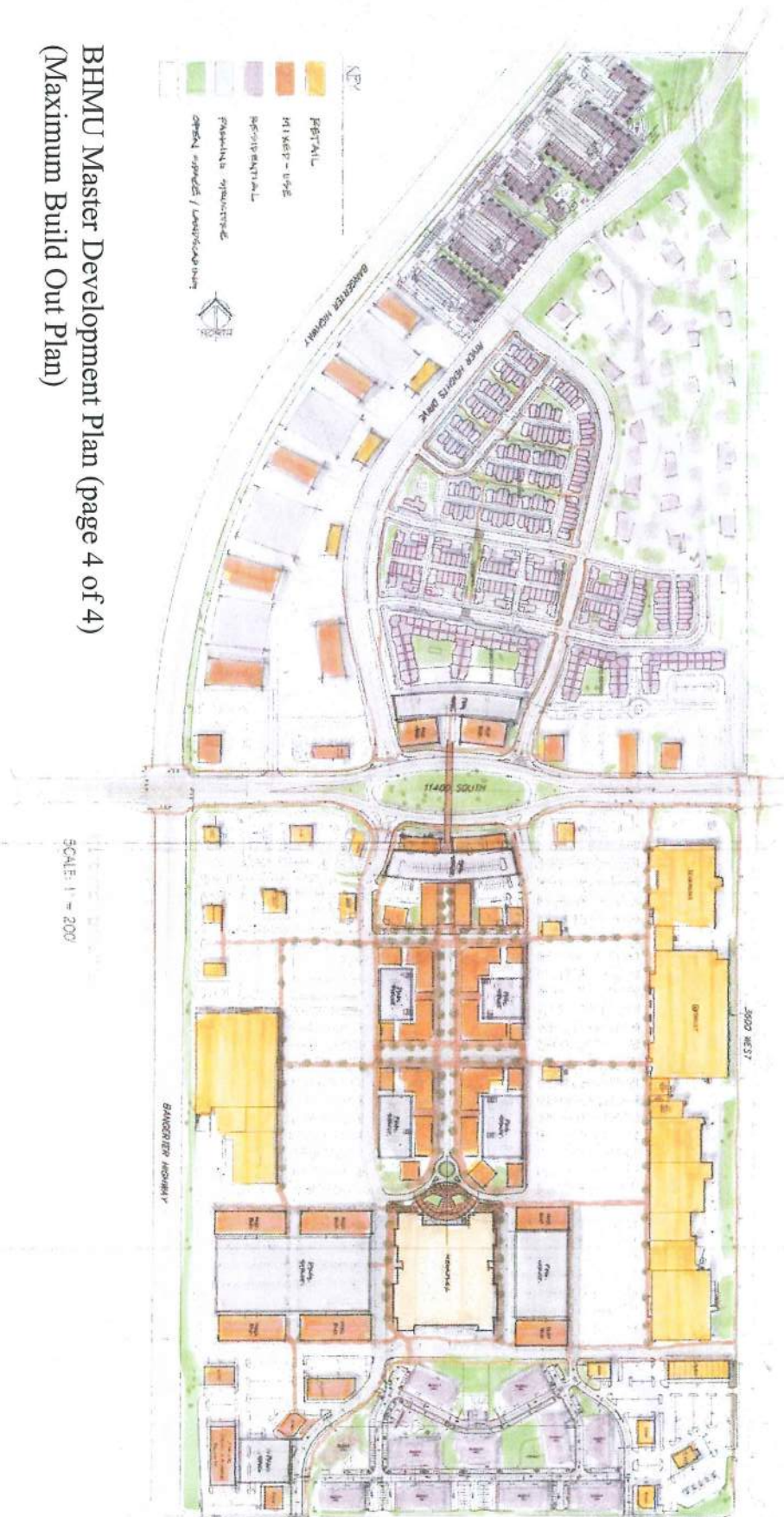
BH-MU Master Development Plan (page 1 of 4) (Land Use Plan)



BHMU Master Development Plan (page 3 of 4)
(Pedestrian Circulation)



BHMU Master Development Plan (page 4 of 4)
(Maximum Build Out Plan)



RESOLUTION NO. R2010-07

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SOUTH JORDAN,
COUNTY OF SALT LAKE, UTAH, EXECUTING THE FIRST AMENDMENT TO THE
AGREEMENT FOR THE DEVELOPMENT OF THE KUNKLER TRUST PROPERTY BY THE
BOYER COMPANY, L.C. A LIMITED LIABILITY COMPANY.

WHEREAS, Boyer Company, L.C., a Utah Limited Liability Company
("Developer") and the City of South Jordan, a Utah municipal corporation ("City"),
entered into an agreement dated February, 21, 2006, entitled, "DEVELOPMENT
AGREEMENT" ("Agreement") to develop the Kunkler Trust Property ("Property"); and

WHEREAS, the Developer has proposed to the City, an amendment to the
Agreement ("Amendment"); and

WHEREAS, the Mayor and City Council of the City find that the Amendment is
in the interest of health, safety, and general welfare of the citizens of the City

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE
CITY OF SOUTH JORDAN, AS FOLLOWS:

Section 1. The Amendment is hereby approved and adopted; and

Section 2. The City Manager is hereby authorized to execute the Amendment on
behalf of the City of South Jordan.

PASSED AND APPROVED this 18th day of May, 2010.

ATTEST:

By: Anna M. West
Anna West, City Recorder



W. Kent Money
W. Kent Money, Mayor

APPROVED AS TO FORM:

By: Robert J. Ott
Attorney for South Jordan City

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06/10/2010 10:14 AM \$0.00
Book - 9832 Pg - 1357-1392
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SOUTH JORDAN
1600 W TOWNE CENTER DR
SOUTH JORDAN UT 84095-8265
BY: ARG, DEPUTY - WI 36 P.



FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("Amendment") is entered into this 18th day of May, 2010 by and between the City of South Jordan, a Utah municipal corporation ("City") and The Boyer Company, L.C. a Utah Limited Liability Company ("Developer"). The City and the Developer are jointly referred to as the "Parties".

RECITALS

- A. The City and the Developer entered into an agreement entitled, "Development Agreement" ("Agreement") dated February 21, 2006, a copy of which is attached to this Amendment as Exhibit 1, to facilitate the development of property commonly known as the Kunkler property.
- B. A portion of the Kunkler property has become commonly know as the North District.
- C. The Developer has requested certain amendments to the Agreement with respect to the development of the North District.
- D. The City Council has reviewed the amendments requested by the Developer and concluded that the amendments will result in planning and economic benefits to the City and its residents and will provide certainty useful to the Developer and the City in ongoing future communications and relations with respect to the development of the North District.

NOW, THEREFORE, the Agreement is hereby amended as follows:

1. Section III. Paragraph A. is amended to read as follows:

A. Permitted Uses the permitted uses for the Property shall be those uses specifically listed in Sections 17.40 (R-3 Zone), 17.48.020 (RM-6 Zone), and 17.70.020 (BH-MU Zone) of the City of South Jordan Zoning Ordinance, a copy of said sections is attached hereto as Exhibit "B" and Exhibit "D" and incorporated herein by this reference. Any changes made to these Sections by the City of South Jordan shall be binding on the Property, except as inconsistent with section VI below.
2. Section III. Paragraph C. is amended to read as follows:

C. Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer with respect to use under the zoning designations as referenced in Section 3.1 above under the terms of this Agreement based on the policies, facts, and circumstances meeting the compelling, countervailing public interest exception

to the vested right doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the City; and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

3. Section V. is amended to read as follows:

V. City's Obligations

A. The City assures that should the Zoning be approved as requested and shown on Exhibit "C", the City Shall allow the Developer to construct a single-family residential development on Assessor's Parcel Numbers 2720100003 and 2719200003 consistent with the map attached to this Agreement as Appendix "C", with the terms of this Agreement, and with the R-3, RM-6, and BH-MU Sections of the City of South Jordan Zoning Ordinance, except as is inconsistent with Section VI below.

B. The Developer shall not be required to construct or install sidewalk improvements on the west side of 40th West Street. In the event the City determines that sidewalk improvements are to be constructed or installed on the west side of 40th West Street, the City shall require the owner/developer of the property on the west side of 40th West Street to construct or install said side walk.

4. Section VI. paragraph B. is amended to read as follows:

B. Developer agrees to the types of development on the BH-MU Zone Property, as described in the BHMU Zone Master Development Plan found in Attachment "D", including but not limited to:

1. Neighborhood Commercial uses as described in Sections 17.56.020 and 17.56.030 of the current zoning ordinance or as amended) in the commercial area immediately surrounding the "Round-a-Bout" on 11400 South Street (see Attachment "D"); and
2. Creating a buffer between the residential & other development on the Property and the Lucas Dell residential development to the east as follows:
 - a. Not build a road along the west boundary of the "Lucas Dell" subdivision.
 - b. Create 1/3 acre or larger lots along the west boundary of the "Lucas Dell" and increase the residential density, in a manner approved by the City at the plat approval process, as the development goes west towards Bangerter Highway.

5. The heading **BH-MU Zone** and the text listed under the heading **BH-MU Zone**, entitled, "17.70.020: PERMITTED USES", found in Exhibit "B", is deleted
6. The rights and obligations of this Amendment shall inure to the benefit of and be valid and binding upon the Parties, only upon adoption by the City Council of the City of South Jordan of Ordinance No. 2010.04, dated May 18, 2010 entitled, "AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTER HIGHWAY MIXED USE ZONE (B"H-MU)" including also the adoption of the BH-MU Zone Master Development Plan included with said Ordinance.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

CITY OF SOUTH JORDAN
a Utah municipal corporation

ATTEST:

By: *John H. Geilmann*
John H. Geilmann, City Manager



By: *Anna M. West*
City Recorder

APPROVED AS TO FORM:

By: *[Signature]*
Attorney for South Jordan City

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On June 1, 2010 personally appeared before me, a Notary Public, John H. Geilmann, the City Manager of the City of South Jordan personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he/she executed the above instrument on behalf of and with authority from the City of South Jordan.

WITNESS my hand and official Seal.

Tammy Bradford
Notary Public



The Boyer Company, L.C., a Utah Limited Liability Company

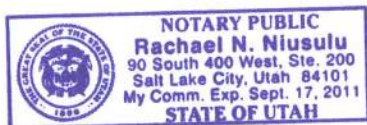
By: See

Title: Manager

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On May 25, 2010, 2010 personally appeared before me, a Notary Public, Seven B. Oster, the Manager of The Boyer Company, L.C., a Utah Limited Liability Company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he/she executed the above instrument on behalf of and with authority from The Boyer Company.

WITNESS my hand and official Seal.



Rachael Winters
Notary Public

Exhibit 1

**(to *FIRST AMENDMENT TO DEVELOPMENT AGREEMENT* between the City of South Jordan,
a Utah municipal corporation and The Boyer Company, L.C.)**

("Development Agreement" dated February 21, 2006
between The Boyer Company, L.L.C. and the City of South Jordan)

DEVELOPMENT AGREEMENT

This Agreement, regarding the redevelopment and improvement of the Kunkler Trust Property, is entered into this 21 day of February, 2006 by and between the City of South Jordan, an Utah municipal corporation, hereafter referred to as "City" and The Boyer Company, L.C. a Utah limited liability company hereafter referred to as "Developer"

RECITALS

A. South Jordan City, acting pursuant to its authority under Utah Code Annotated 10-9a-102 (2) *et seq.*, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the proposed Kunkler Trust Properties and, in exercise of its legislative discretion, has elected to enter into this Agreement.

B. Developer desires to be the owner of certain real property known as Assessor's Parcel Numbers 2720100003 and 2719200003 hereafter referred to as the "Property". This property is legally described on Exhibit "A" attached hereto and incorporated herein by reference.

C. The property is subject to the City of South Jordan Zoning Ordinance and is currently zoned "A-5 & A-1" and designated on the future land use map as High Density Residential, Commercial, Bangerter Highway Mixed Use and Open Space. Developer and City desire to allow Developer to make improvements to the property. Developer desires a period of time in which to develop the property.

D. The improvements and changes to be made to the Property shall be consistent with the current Zoning Ordinance of the City of South Jordan, or any future changes to the Zoning Ordinance of the City of South Jordan, and the City of South Jordan General Plan.

E. Developer and City acknowledge and agree that the development and improvement of the "Property" pursuant to this Agreement will result in planning and economic benefits to the City and its residents, and will provide certainty useful to the Property and the City in ongoing future communications and relations with the community.

F. The City's governing body has authorized execution of this Agreement by Resolution No. 2005-10, to which this Agreement is attached.

G. The City has authorized the negotiation of and adoption of development Agreements under appropriate circumstances where proposed development contains outstanding features that advance the policies, goals and objectives of the South Jordan City General Plan and contributes to capital improvements that substantially benefit the City.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

I. Recitals. The recitals set forth above are incorporated herein by this reference.

II. Conditions Precedent. City and Developer agree, understand and acknowledge that this development Agreement is in anticipation of the acquisition of the real property described herein by Developer. Developer understands, acknowledges and agrees that any of the terms, conditions or benefits conferred by this Development Agreement is not intended to be of any benefit to the current owner or any prospective lender or any party that is not a signator of this Agreement. Reliance upon this Agreement by any third party is at risk and the City makes absolutely no representation that the benefits herein are assignable or are for the benefit of any third party without the expressed written approval of the Mayor and Council of the City of South Jordan.

III. Permitted Uses, Vested Rights and Reserved Legislative Powers.

A. Permitted Uses The permitted uses for the Property shall be those uses specifically listed in Sections 17.40.020 (R-3 Zone), 17.48.020 (RM-6 Zone), and 17.70.020 (BH-MU Zone) of the City of South Jordan Zoning Ordinance, a copy of said sections is attached hereto as Exhibit "B" and incorporated herein by this reference. Any changes made to these Sections by the City of South Jordan shall be binding on the Property, except as inconsistent with section VI below.

B. Vested Rights Developer shall have the vested right to develop and construct the Project in accordance with the zoning designations approved by the City pursuant to this Agreement, subject to compliance with the terms and conditions of this Agreement and the other applicable ordinances and regulations of the City. Developer agrees to a maximum overall single family residential density limit of not to exceed 3 units per acre in Phase I and 6 units per acre in Phase 2 (Phase I is comprised of the property west of canal; Phase II is comprised of the property between Bangerter and canal; Phase III is comprised of the property on the east side of the Bangerter Highway) The Developer shall not allow mobile homes in the Project. Multi-family, interval ownership/time share units and other similar uses shall be part of the single-family residential dwelling count.

Provided Developer meets the residential density as outlined above, and lot sizes must be as allowed by ordinance. The City and Developer acknowledge that the property west of Bangerter is bisected by a canal. Provided Developer improves or landscapes this area, the land covered by the canal may be used for purposes of determining residential density and open space requirements.

The Developer is responsible for building that portion of 40th west that accesses the residential development from 114th south street north for a distance of approximately 1125 feet to the point where 40th west is partially located on the Kennecott parcel. Once the right of way reaches the Kennecott parcel those who benefit from the road from that point will be responsible for construction of the road and any cost for such construction. Developer will agree to dedicate ½ width of 40th west from the point such street reaches the Kennecott parcel to the northern boundary of Developer's parcel. All curb, gutter, curb walls and sidewalks will be located within said dedicated right of way, and Developer will not be required to dedicate any property for sidewalks or slope easements to be located on the east side of 40th west.

Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer with respect to use under the zoning designations as referenced in Section 3.1 above under the terms of this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the City; and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

IV. Term. This Agreement shall be effective as of the date of recordation and shall run with the land and continue in full force and effect until all obligations hereunder have been fully performed and all rights hereunder fully exercised. In the event the obligations hereunder have not been fully satisfied, and upon mutual agreement of the Developer and the City, this agreement may be terminated and upon termination the City at its sole discretion may initiate a rezoning process to rezone the property.

V. City's Obligations

The City assures that should the Zoning be approved as requested and shown on Exhibit "C", to allow the Developer to construct a single-family residential development on Assessor's Parcel Numbers 2720100003 and 2719200003 consistent with the map attached to this Agreement as Appendix "C". that complies with Section VII of this Agreement and with the R-3, RM-6, and BH-MU Sections of the City of South Jordan Zoning Ordinance except as is inconsistent with Section VII below.

The Developer shall not be required to construct or install sidewalk improvements on the west side of 40th West Street. In the event the City determines that sidewalk improvements are to be constructed or installed on the west side of 40th West Street, the City shall require the owner/developer of the property on the west side of 40th West Street to construct or install said side walk.

VI. Developer's Obligations

- A. Developer agrees to use Developer's good faith efforts to create a mixed use development that may include Research and Development Park and Park housing, office and limited retail uses atmosphere on the Parcel zoned "BH-MU". In addition, Developer agrees to provide the City of South Jordan periodic updates relating to the status of its pre-design and design review committee determinations.
- B. Developer agrees to the types of commercial development on the BH-MU Zone Property, as described in Attachment "C", including, but not limited to:
 1. Neighborhood Commercial uses as described in Sections 17.56.020 and 17.56.030 of the current zoning ordinance or as amended) in the commercial area immediately surrounding the "Round-a-Bout" on 114th South Street (see Attachment "C").
 2. Create a buffer between the residential & other development on the Property and the Lucas Dell residential development to the east as follows:
 - a. Not build a road along the west boundary of the "Lucas Dell" subdivision.
 - b. Create 1/3 acre or larger lots along the west boundary of the "Lucas Dell" and increase the residential density, in a manner approved by the City at the plat approval process, as the development goes to the west towards Bangerter Highway.
- C. Developer agrees to limit the types of residential development on RM-6 Zoned Property as described in Attachment "C", to single family ownership with no apartment buildings.
- D. The Developer agrees and understands that Developer will supply plans and obtain any and all required permits under City, County, State or Federal regulations before commencing any redevelopment or improvements and that the Developer will pay all applicable fees as required.

VII. General Provisions.

A. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by U.S. Postal Service mail, postage prepaid to:

If to City: The City of South Jordan
 1600 West Towne Center Drive
 South Jordan City, Utah 84095

Attention: City Manager

If to Developer: Wade S. Williams
90 South 400 West, Suite 200
Salt Lake City, Utah 84101

or to such other addresses as either party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least ten (10) days before the date on which the change is to become effective.

B. Mailing Effective. Notices given by mail shall be deemed delivered seventy-two (72) hours following deposit with the U.S. Postal Service in the manner set forth above.

C. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same of any other provision of this Agreement.

D. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any provision this Agreement.

E. Authority. The parties to this Agreement represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Developer represents and warrants that its company is fully formed and validly exists under the Laws of the State of Utah, and is duly qualified to do business in the State of Utah and is in good standing under applicable state laws. The Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the parties on whose behalf each individual is signing. Developer represents to the City that by entering into this Agreement, Developer has bound the property and all persons and entities having a legal or equitable interest to the terms of the Agreement.

F. Entire Agreement. This Agreement, including exhibits, constitutes the entire Agreement between the parties.

G. Amendment of this Agreement. This Agreement may be amended in whole or in part with respect to all or any portion of the Property by the mutual written consent of the parties to this Agreement or by their successors in interest or assigns. Any such amendment of this Agreement shall be recorded in the official records of the Salt Lake County Recorder's Office.

H. Severability. If any of the provisions of this Agreement are declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect, provided that the fundamental purpose of this Agreement and the Developer's ability to complete the project is not defeated by such severance.

I. Governing Law. The laws of the State of Utah shall govern the interpretation and enforcement of the Agreement. The parties shall agree that the venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Salt Lake County, Utah, and the Parties hereby waive any right to object to such venue.

J. Remedies. If any party to this Agreement breaches any provision of this Agreement, the non-defaulting party shall be entitled to all remedies available at both law and in equity.

K. Attorney's Fee and Costs. If any party brings legal action either because of a breach of the Agreement or to enforce a provision of the Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

L. Binding Effect. The benefits and burdens of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors in interest and assigns. This Agreement shall be incorporated by reference in any instrument purporting to convey an interest in the Property.

M. Assignment. The rights of the Developer under this Agreement may not be transferred or assigned, in whole or in part except by written approval of the City. Developer shall give notice to the City of any proposed or requested assignment at least thirty (30) days prior to the effective date of the assignment. City shall not unreasonably withhold its consent to assignment.

N. Third Parties. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

O. No Agency Created. Nothing contained in the Agreement shall create any partnership, joint venture, or agency relationship between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written:

ATTEST:

By: Anna West
Anna West, City Recorder



CITY OF SOUTH JORDAN
a Utah municipal corporation

By: Ricky A. Horst
Ricky A. Horst, City Manager

APPROVED AS TO FORM:

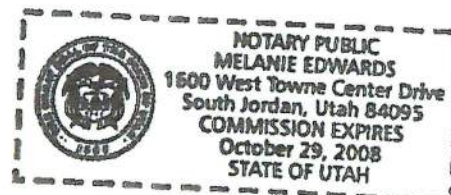
By: John H. Geilmann
John H. Geilmann, City Attorney

STATE OF UTAH)
)ss
County of Salt Lake)

The foregoing instrument was acknowledged before me this 17 day of March 2000, by, on behalf of John H. Geilmann + Ricky A. Horst

Melanie Edwards Notary Public

My Commission Expires: Oct 29, 2008



The Boyer Company, L.C., a Utah Limited
Liability Company

By: [Signature]

Title: Manager

STATE OF UTAH)

)ss

County of Salt Lake)

The foregoing instrument was acknowledged before me this 10th day of
2006, by Damon M. Gleason, on behalf of The Boyer Company, L.C.

Rachael N. Nussulu Notary Public

My Commission Expires: 8-20-07

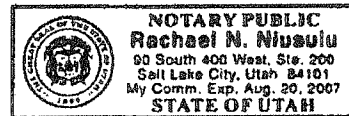


Exhibit "A"

To be verified by the Developer before execution of the Agreement.

Legal Description:

THE NW 1/4 OF SEC 20, T 3S, R 1W, S L M. LESS CANAL & BANGERTE HWY. 144.05 AC M OR L.

AND

THE SE 1/4 OF NE 1/4 SEC 19 T 3S R 1W S L M. LESS CANAL 38.26 AC

Exhibit "B"*Copies of current Zoning Ordinance sections referred to in Development Agreement.***R-3 Zone**

17.40.020: PERMITTED USES:

The following uses may be conducted in the R-3 zone as limited herein:

Home occupations according to city ordinances.

Household pets not exceeding two (2) per species over the age of four (4) months per dwelling.

Residential accessory buildings, the footprints of which do not exceed the footprint area of the dwelling.

Residential accessory uses.

Residential facility for disabled persons as required by state law.

Single-family dwelling, detached, maximum one per lot or parcel. (2003 Code § 17.40.020)

RM-6 Zone

17.48.020: PERMITTED USES:

The following uses may be conducted in the R-M zone as limited herein:

Home occupations according to city ordinances.

Household pets not exceeding two (2) per species over the age of four (4) months per dwelling.

Residential accessory buildings, the footprints of which do not exceed the footprint area of the dwelling.

Residential accessory uses.

Residential facility for disabled or elderly persons as required by state law.

Single-family dwelling, detached, maximum one per lot or parcel. (Ord. 2004-06, 5-18-2004)

BH-MU Zone

17.70.020: PERMITTED USES:

The following uses are permitted in the BH-MU zone:

Auto and equipment parts retailing.
 Banks, credit unions, financial institutions.
 Beauty, health and fitness centers.
 Books, videos, media, photography, copies, art and drafting supplies, office supplies, stationery retail.
 Department, discount and food stores.
 Furniture, electronics, appliances and home furnishings retailing.
 Hardware and home improvement retailing.
 Health, beauty and medical products retailing; prescription drugs retailing.
 Hobbies and crafts retailing.
 Hotels and motels.
 Household goods retailing.
 Medical, dental, health services.
 Miscellaneous retail sales.
 Movie theaters, concert halls.
 Office uses.
 Pharmacy.
 Restaurants, eating establishments.
 Sewing supplies, apparel, footwear retailing.
 Shopping centers and malls.
 Sporting goods, toy retailing. (Ord. 2004-05, 5-4-2004)

CN Zone

17.56.020: PERMITTED USES:

The following uses may be conducted in the C-N zone:

Retail sales and services, excluding auto services such as lube, stand alone car wash, tune up, tires, repairs. (2003 Code § 17.56.020)

17.56.030: CONDITIONAL USES:

A conditional use permit may be issued for the following uses in the C-N zone:

Banks, credit unions.
 Bed and breakfast inn.

Drive-through establishments such as fast food, financial institution, pharmacy, but excluding auto services such as lube, stand alone car wash, tune up, tires, repairs.

Gas stations/convenience stores.

Office, no larger than three thousand (3,000) square foot building.

Restaurants. (2003 Code § 17.56.030)

Exhibit "C"

Proposed Conceptual Plan

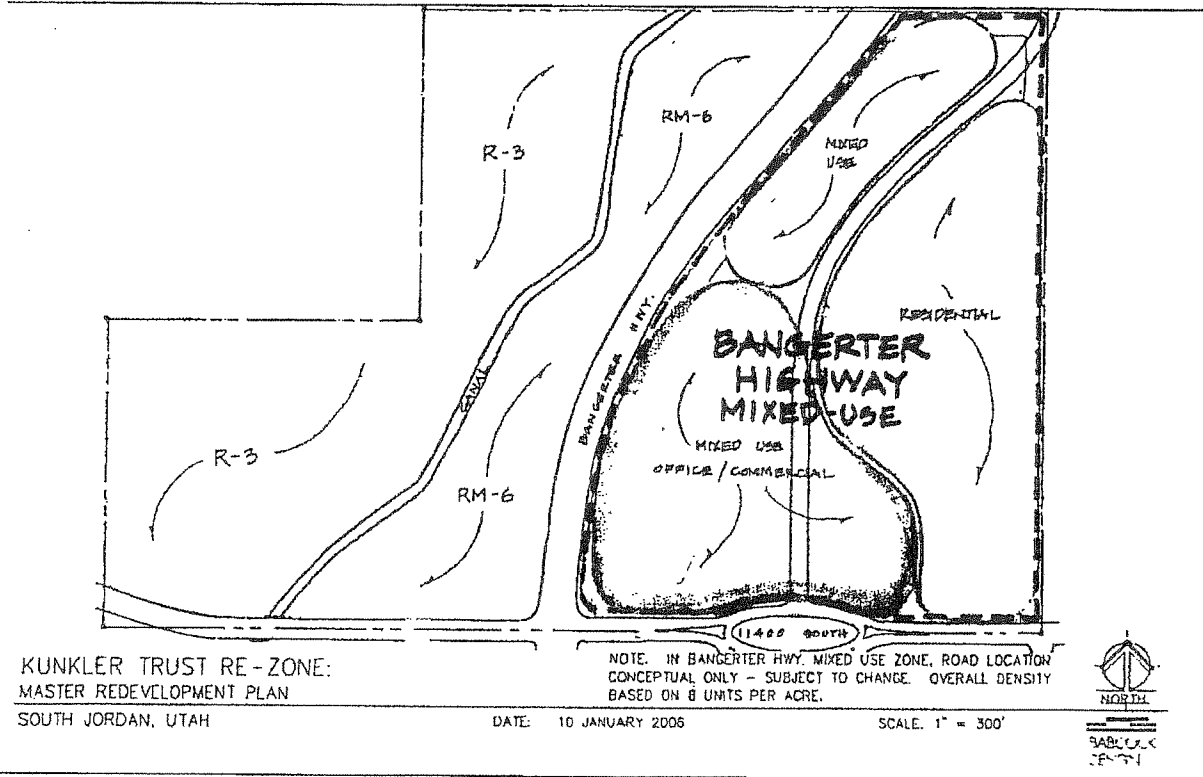


Exhibit D
(to Development Agreement dated February 21, 2006)

BHMU Zone Text Amendments and BHMU Zone Master Development Plan
as adopted by the South Jordan City Council 5/18/10

ORDINANCE NO. 2010.04

AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTER HIGHWAY MIXED USE ZONE (BH-MU)

WHEREAS, the South Jordan City Council has previously adopted Section 17.70 of the South Jordan City Municipal Code, which determine the uses allowed and regulations for the Bangerter Highway Mixed Use zone; and

WHEREAS, the South Jordan Planning Commission, after holding a public hearing, has reviewed the proposed text amendments to Section 17.70; and

WHEREAS, the City Council has held a public hearing and has reviewed the proposed amendments and considered the recommendation of the Planning Commission regarding the proposed amendment; and

WHEREAS, in accordance with principles of sound municipal planning, the City Staff, the City Planning Commission, and the City Council have taken into account the impact the proposed amendment will or may have on existing or future development projects, and to the extent legally permissible or practical, the City Staff, Planning Commission and Council have taken reasonable steps to ensure that the proposed amendment meets the purposes and objectives of the Planning and Land Use Code; and

WHEREAS, the City Council desires to amend the Development Code as proposed; and

WHEREAS, the City Council has found and determined that the proposed amendments to Section 17.70 of the South Jordan Municipal Code will support the best interests of the City and will promote the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Chapter 17.70 Title 17, "Planning and Land Use Code", of the South Jordan Municipal Code is hereby amended as follows:

Chapter 17.70

BANGERTER HIGHWAY MIXED USE (BH-MU) ZONE

17.70.010: PURPOSE:

The Bangerter Highway ~~Mmixed Use Zone~~ may be cited as the "BH-MU ~~Z~~zone" and may be established along the east side of Bangerter Highway to provide areas for higher density, mixed use development. Such development will be compatible with a major arterial highway corridor and ~~s~~would discourage low density single-family residential development near the highway.

It is intended that a variety of retail, office, entertainment and residential uses be combined to create a self-contained environment for workers, shoppers, residents and visitors in a pedestrian oriented unified manner while accommodating automobile traffic to regional services dependent upon a major transportation facility.

The BH-MU Zzone will encourage orderly, aesthetically pleasing development and a balance of uses while discouraging strip commercial with its attendant congestion, pollution and visual blight. (Ord. 2007-02, 1-16-2007) **Buildings shall be designed to have architectural and access orientation to the street.**

17.70.020: PERMITTED USES:

The following uses are permitted in the BH-MU Zzone:

Auto and equipment parts retailing.

Banks, credit unions, financial institutions.

Beauty, health and fitness centers.

Books, videos, media, photography, copies, art and drafting supplies, office supplies, stationery retail.

Department, discount and food stores.

Furniture, electronics, appliances and home furnishings retailing.

Hardware and home improvement retailing.

Health, beauty and medical products retailing; prescription drugs retailing.

Hobbies and crafts retailing.

Hotels and motels.

Household goods retailing.

Medical, dental, health services.

Miscellaneous retail sales.

Movie theaters, concert halls.

Office uses.

Outdoor Kiosks.

Pharmacy.

Restaurants, eating establishments.

Sewing supplies, apparel, footwear retailing.

Shopping centers and malls.

Sporting goods, toy retailing. (Ord. 2007-02, 1-16-2007)

17.70.030: CONDITIONAL USES:

A conditional use permit may be issued for the following uses in the BH-MU ~~Z~~zone:

Assisted living centers.

Indoor/underground ~~a~~Automobile sales, new and ancillary used, maximum three (3) acres per business, no closer than four hundred feet (400') from residential development.

~~Automobile sales, used; minimum eight thousand (8,000) square foot building required, maximum three (3) acres per business, no closer than four hundred feet (400') from residential development.~~

Automotive services enclosed within a building, including lube, tune up, automatic wash, inspection, tires, mufflers, minor repairs.

Bed and breakfast inn.

Convention, arena, reception and assembly facilities.

Cultural exhibits and activities.

Daycare center.

Drive-through facilities, **visually buffered**, for allowed uses.

Entertainment, amusement, recreational activities.

Equipment and appliance light repairs and service enclosed within a building.

Fast food.

Gas stations, convenience stores.

Golf courses and ranges.

Hospitals.

Laundry.

Live/Work Units.

Lumber, building material and landscaping retail sales yards.

Nature or zoological exhibits.

Office buildings.

Parks.

Public or quasi-public facilities.

Recreational vehicle and boat sales, new and ancillary used.

Religious activities.

Retail Nurseries, Lawn and Garden Supply Stores

Schools, educational and training activities.

Single-family residential-PUD or condominium **and integrated multi-family residential (projects with more than one housing land use type with 'village' style design, building height and architecture), maximum eight (8) units per acre of the gross acreage of the Master Development Plan. Additional dwelling units exceeding eight (8) units per acre may be approved by the City Council as an amendment to the Master Development Plan (MDP).**

Street vendors.

Upper floor residential ~~condominium~~ combined with commercial and/or office use on the main floor in the same building. (Ord. 2008-19, 11-18-2008)

17.70.040: USE REGULATIONS:

Uses may be conducted in BH-MU zones only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in BH-MU **Z**ones. ~~Residential uses (not including upper floor residential) in a BH-MU zone may not exceed twenty percent (20%) of the gross land area in the zone.~~ A conditional use permit must be obtained prior to the establishment of a conditional use. Sexually oriented business is prohibited in **the** BH-MU **Z**ones.

- B. All uses in BH-MU **Z**zones shall be conducted within completely enclosed buildings, unless otherwise allowed in this chapter, except **outdoor kiosks, vendor carts, and** those temporary uses customarily conducted in the outdoors, including Christmas tree lots, fireworks stands and parking lot sales associated with an approved use on the property. Parking lot sales may be conducted up to four (4) 1-week periods per year.
- C. Accessory uses **may be conducted and accessory** buildings may be ~~conducted~~ **constructed** in BH-MU **Z**zones only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, parking lots and terraces, properly screened utility and loading areas and other buildings and activities which are incidental and subordinate to the principal permitted or conditional use on the premises.
- D. There shall be no open storage of trash, debris, used, wrecked or neglected materials, equipment or vehicles in BH-MU **Z**zones. No commercial materials, goods or inventory may be stored in open areas in BH-MU **Z**zones, except for temporary display items which are removed daily and which may be located only on private property no closer than ten feet (10') from any public right of way. No more than twelve (12) small party balloons and six (6) weatherproof placards, each not exceeding two feet (2') square, per business may be attached to the displays and shall be removed daily with the displays. All other signs and devices are prohibited. Outdoor storage of inventory or products such as firewood, water softener salt, garden supplies including plants and other landscaping materials and building materials is permitted only in screened areas approved for such purpose with site plan review.
- E. No vehicle, boat or trailer, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, attended or not, may be parked or stored in BH-MU **Z**zones for longer than seventy two (72) hours unless stored within a completely enclosed building.
- F. No commercial vehicles such as earthmoving or material handling equipment, semi-trucks or trailers or any commercial truck, trailer or vehicle may be stored in the BH-MU **Z**zone for longer than seventy two (72) hours, except in conjunction with an approved use, or approved development or construction activities on the property.
- G. Utility trailers and recreational vehicles such as motor homes, travel trailers, watercraft, campers and all-terrain vehicles, may not be stored in any area in BH-MU **Z**zones, except in conjunction with a single-family dwelling. Said trailers and vehicles shall be stored within lawfully constructed buildings or behind the front line of the dwelling, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may

not be occupied as living quarters in the BH-MU **Z**zone, except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year.

H. Home occupations may be licensed in any residence in BH-MU **Z**zones according to provisions of **chapter 17.98** of this title. (Ord. 2007-02, 1-16-2007)

17.70.050: ZONE ESTABLISHMENT:

Each proposed BH-MU **Z**zone shall be contiguous to the Bangerter Highway right of way. Each proposed BH-MU **Z**zone shall be accompanied by a master development plan ("MDP") which specifies land use areas and residential densities **including the total number of residential units**. Retail, office, residential ~~8~~, mixed use (~~containing upper floor residential~~), open space and public/quasi-public land use areas will be shown on the MDP. The MDP shall be adopted as an exhibit to the ordinance establishing the BH-MU **Z**zone in which it is proposed. The MDP shall ~~may be amended~~ **adopted** by the City Council after the establishment of the BH-MU **Z**zone by following standard rezoning procedures of **chapter 17.22** of this title. **The Planning Commission City Council shall review and may approve necessary amendments to the MDP based upon appropriate changes to the land use mix and market conditions.** (Ord. 2007-02, 1-16-2007)

17.70.060: DEVELOPMENT REVIEW:

All uses proposed in **the** BH-MU **Z**zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in **the** BH-MU **Z**zones. All uses shall be conducted according to the approved plan or plat and any conditions of approval. Plans or plats may not be altered without prior approval of the city, except as allowed under state law. The following procedure shall be used for site plan review of projects in the BH-MU **Z**zone:

- A. The developer shall prepare and submit a concept plan as described in section **16.24.030** of this code.
- B. The developer shall prepare and submit a design book with the concept plan containing typical renderings of cross sections and plan views of the following:
 1. Existing and proposed public street curb, gutter, sidewalk, park strip, landscaping, streetlights and pavement.
 2. Yard areas between buildings and public streets, including trees, grass, shrubs, ground cover, signs and screen walls.

3. Parking areas, walkways, driveways, landscaped areas and storm detention/retention areas.

4. Architectural features, including materials and colors, of buildings, freestanding and wall mounted signs and light fixtures, trash enclosures, utility and loading area screen walls, pedestrian furniture and artwork.

5. Other improvements as required by city staff.

- C. The city staff shall review the concept plan and design book and provide comments to the developer who will make needed revisions to the documents. Upon final review and approval of city staff, the concept plan and design book for the development will be scheduled on the Planning Commission agenda for a public hearing. **Amendments or changes to the approved design book may be approved by the Planning Commission subsequent to their review and a public hearing to hear comments regarding the proposed amendments or changes.**
- D. Upon approval of the concept plan and design book by the Planning Commission, site plans for all or portions of the BH-MU Zone may be prepared according to section **16.24.040** of this code and submitted to city staff for review. City staff may approve, approve with conditions, or deny the site plans for the proposed development.
- E. A decision of the city staff regarding site plans in the BH-MU Zone may be appealed according to procedures set forth in section **16.04.370** of this code. (Ord. 2007-02, 1-16-2007)

17.70.070: LOT WIDTH AND FRONTAGE:

No minimum lot width is required in the BH-MU Zone except as established with development approval. Each lot or parcel in BH-MU Zones must front on or have legal access to a public street. (Ord. 2007-02, 1-16-2007)

17.70.080: AREA REQUIREMENTS:

The following area requirements shall apply in the BH-MU zone:

- A. Minimum Zone Area: The minimum area of a BH-MU Zone shall be one hundred (100) acres.
- B. Minimum Project Area: "Project" shall be defined as any development in BH-MU Zones for which preliminary plat or site plan approval has been proposed or granted. The minimum area of any project in BH-MU Zones shall be one **quarter** acre.
- C. Minimum Lot Area: There shall be no minimum lot area in BH-MU Zones, except as established with development approval.

~~D. Maximum Residential Area: Maximum residential use area in BH-MU zones is twenty percent (20%) of the gross land area in the zone. (Ord. 2007-02, 1-16-2007)~~

17.70.090: PRIOR CREATED LOTS:

Nonconforming lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the establishment of a BH-MU **Z**zone shall be brought into conformance with the requirements of this chapter prior to **new** development. (Ord. 2007-02, 1-16-2007)

17.70.100: YARD REQUIREMENTS:

Yard requirements in the BH-MU **Z**zone shall be determined with site plan, subdivision and/or condominium review by the **P**lanning **C**ommission. Non-single-family residential buildings shall be separated from single-family residential lot lines by a minimum distance of thirty feet (30'), of which ten feet (10') adjacent to the property line shall be landscaped, ~~unless said uses are contained in the same building.~~ (Ord. 2007-02, 1-16-2007)

17.70.110: PROJECTIONS INTO YARDS:

The following may be erected on or projected into any required yard space in BH-MU zones:

- A. Fences and walls in conformance with city codes and ordinances.
- B. Landscape elements, including trees, shrubs and other plants.
- C. Utility or irrigation equipment or facilities.
- D. **Single family detached residential** ~~D~~decks not more than two feet (2') in height.
- E. **Single family detached residential** ~~E~~cornices, eaves, sills, planter boxes, stairways, landings, porches, decks or similar architectural features attached to the building extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard.
- F. **Single family detached residential** ~~F~~chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building not exceeding eight feet (8') wide and extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard. (Ord. 2007-02, 1-16-2007)

17.70.120: PARKING AND ACCESS:

Parking areas and access in BH-MU **Z**zones shall meet requirements of **chapter 16.26** of this code. **In order to enhance pedestrian access and walkability, site**

design should focus on orienting buildings to streets and driveways with parking placed to the rear or side of structures.

A reduction in required parking may be granted by the Planning Commission upon recommendation by the Community Development Director and City Engineer, when justification for such can be made. Shared parking and mixed use site plan design shall be considered in determining parking reduction. Strategies for walkable commercial development as suggested by "Envision Utah's Urban Planning For Quality Growth" shall be implemented where appropriate. (Ord. 2007-02, 1-16-2007)

17.70.130: FENCING, SCREENING AND CLEAR VISION:

The following fencing, screening and clear vision requirements shall apply in BH-MU zones:

- A. All mechanical equipment, antennas (where possible), loading and utility areas and trash receptacles shall be screened from view **from a public street** with architectural features or walls consistent with materials used in the associated buildings.
- B. The boundary of a BH-MU **Z**zone which is not in or adjacent to a street and which is adjacent to a single-family residential or agricultural zone shall be fenced with a six foot (6'), decorative precast concrete panel or masonry fence as determined with development approval. Six foot (6') solid vinyl boundary fencing may be allowed in unusual circumstances such as adjacent to property which is master planned for nonresidential uses. A higher fence may be required or allowed by the city in unusual circumstances. A building permit is required for fences and walls over six feet (6') high. Other fencing or landscaping techniques may be used to buffer waterways, trails, parks, open spaces or other uses as determined with development approval.
- C. No wall, fence or screening material shall be erected between a street and a front or street side building line in BH-MU **Z**zones, except for **single family residential developments, and** as required in subsection A of this section.
- D. Landscape materials, except for mature trees which are pruned at least seven feet (7') above the ground, and fences shall not exceed two feet (2') in height within a ten foot (10') triangular area formed by the edge of a driveway and a street right of way line or within a thirty foot (30') triangular area formed by the right of way lines of intersecting streets. (Ord. 2007-02, 1-16-2007)

17.70.140: ARCHITECTURAL STANDARDS:

The following architectural standards are required in BH-MU **Z**zones:

- A. Architectural drawings and elevations, exterior materials and colors of all buildings shall be submitted in conjunction with development review. An architectural theme governing the project shall be submitted for review.
- B. All building materials shall be high quality, durable and low maintenance.
- C. **Building materials for structures**, Single-family residential and townhome dwellings, **including garages**, shall ~~use~~ be constructed with brick, or stone, or cement fiber products (i.e. Hardie Board) in combinations that create aesthetically pleasing architecture. Stucco products, if used, shall clearly be used in minimal amounts and as a contrast or accent to other building materials, i.e. gables. Both vertical and horizontal elements should be used, as appropriate, to enrich and give a variety to the architectural theme. Individual buildings shall have enough architectural variation to be recognizable as separately recognizable structures. ~~in the minimum amount of three feet (3') times (x) the perimeter of the foundation (including garage);~~
- D. **Except for flat or shed-style roofed structures approved by the Planning Commission through design book review**, a minimum ~~six~~ eight to twelve (68:12) roof pitch **shall be required** and a minimum two (2) car garage (minimum ~~202~~ feet by ~~202~~ feet, or the square footage ~~approximate approved equivalent for tandem parking approved by the Planning Commission in conjunction with a site plan, subdivision plat or condominium map for the development.~~
- ED. Exterior walls of buildings, in excess of sixty feet (60') in length, shall have relief features at least four inches (4") deep at planned intervals. All sides of buildings shall receive design consideration.
- FE. Signs shall meet requirements of **chapter 16.36** of this code and shall be constructed of materials which complement the buildings which they identify.
- GF. Maximum building height in BH-MU zones shall be four (4) stories, **unless otherwise approved by the City Council**, except that the maximum height shall be two (2) stories within four hundred feet (400') of any single-family residential zone.
- HG. The exteriors of buildings in the BH-MU Zzone shall be properly maintained by the owners. (Ord. 2007-02, 1-16-2007)
- I. **Architectural design and site layout shall be compliant with the basic principles of C.P.T.E.D. (Crime Prevention Through Environmental Design), i.e. natural surveillance, natural access control, territoriality, and maintenance.**

17.70.150: LANDSCAPING:

The following landscaping requirements and standards shall apply in the BH-MU Zzone:

- A. The front, side and rear yards of lots in BH-MU Zzones shall be landscaped and properly maintained with grass, trees and other plant **and/or permeable landscape** material.
- B. All areas of lots in BH-MU Zzones not approved for parking, buildings or other hard surfacing shall be landscaped and properly maintained with **ground covers that may include turfgrass**, deciduous and evergreen trees and other plant **and/or permeable landscape material (including properly designed xeriscape)**, approved in conjunction with a site plan, plat or record of survey map for the development. **Drought resistant plant materials are encouraged.**
- C. A minimum of one tree per five hundred (500) square feet, or part thereof, of required landscaped yard areas is required in BH-MU Zzones in addition to other trees required in this section. A minimum of thirty percent (30%) of required yard area trees shall be minimum seven foot (7') evergreens. Deciduous trees shall be minimum two inch (2") caliper. Deciduous and evergreen trees required in this section shall be dispersed throughout the required yard areas on the site.
- D. ~~All collector street and other public and private~~ **Ppark strips (planting area between streets/driveways and sidewalks) are required** in BH-MU Zzones and shall be improved **with street trees with appropriate ground covers** and maintained by the adjoining owners according to specifications adopted by the city unless otherwise allowed with development approval. **Park strips shall be of sufficient width to accommodate the root zone of the approved street tree species, i.e. at least five feet (5') for ornamental trees.**
- E. Trees may not be topped nor may any landscape material be removed in BH-MU Zzones without city approval. Any dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan, plat or map approval.
- F. The following landscaping requirements shall apply in parking areas in BH-MU Zzones:
 1. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of parking rows. Planters shall be at least five feet (5') wide.
 2. Shade trees shall be planted between double parking rows at minimum intervals of six (6) stalls and along single parking rows at minimum intervals of three (3) stalls and no farther than six feet (6') from the parking area. Shade trees are not required in parking rows which are adjacent to buildings **only if parking is adjacent to a covered sidewalk.**

3. All landscaped areas adjacent to parking areas shall be curbed.

- G. A minimum twenty foot (20') wide landscaped **planting area** ~~planter~~ shall be required along the Bangerter Highway right of way on lots and parcels in the BH-MU zone which adjoin the highway right of way. This area may be counted toward any minimum yard area that would otherwise be required adjacent to the highway right of way. These areas shall be planted with trees and other plant/**landscape** materials approved with the development.
- H. Developments which are contiguous to canals, streams or drainage areas shall make reasonable efforts to include banks and rights of way in the landscaping of the project and the urban trails system. Any areas so included and perpetually preserved may be counted toward required yard space for the development. If approved by the city engineer, waterways which traverse developments may be left open if properly landscaped and maintained by the adjacent owners. Waterways may not be altered without written approval of any entity or agency having jurisdiction over said waterways.
- I. All required landscaping in BH-MU **Z**zones, shall be installed (or escrowed due to season) prior to occupancy.
- J. All landscaped areas, including adjoining public right of way areas, shall be properly irrigated and maintained by the owners. (Ord. 2007-02, 1-16-2007)

17.70.160: LIGHTING:

The following lighting requirements shall apply in BH-MU **Z**zones:

- A. A lighting plan shall be submitted with all new developments in BH-MU **Z**zones. Site lighting shall not exceed forty feet (40') in height. Site and street lighting shall not exceed twenty feet (20') in height within three hundred feet (300') of any single-family residential zone or in public park strips.
- B. Lighting for commercial uses which is within three hundred feet (300') of residential lots shall be shielded to prevent glare on said residential lots.
- C. All lighting fixtures shall **evoke a 'village' feel to the development and** be architectural grade consistent with the architectural theme of the **project** development. Lighting fixture detail will be submitted for approval with the development. (Ord. 2007-02, 1-16-2007)

17.70.170: OTHER REQUIREMENTS:

The following provisions shall apply in BH-MU **Z**zones:

- A. Private Covenants: The developer of a condominium project or PUD in a BH-MU **Z**zone shall submit a proposed declaration of covenants to the city attorney for

review, including an opinion of legal counsel licensed to practice law in the state that the condominium meets requirements of state law, and record the covenants with the condominium map or subdivision plat for the project.

- B. Grading and Drainage: All developments in BH-MU Zzones shall be graded according to the city engineering and building requirements to provide adequate drainage on and off the property. Buildings shall be equipped with facilities for the discharge of all roof drainage onto the subject lot or parcel.
- C. Easements: Buildings may not be located within public easements without written approval from the affected parties.
- D. Maintenance: All developments shall be properly maintained by the owners.
- E. Phasing Plan: A project phasing plan shall be submitted for review at the time of preliminary plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the city. (Ord. 2007-02, 1-16-2007)

Section 2. Amendment. The development plan included as Exhibit A to this Ordinance is hereby adopted as the amended and revised Master Development Plan("MDP") for the BH-MU Zone.

Section 3. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 4. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, ON THIS 18th DAY OF May, 2010 BY THE FOLLOWING VOTE.

	YES	NO	ABSTAIN	ABSENT
Brian Butters	<u>X</u>	___	___	___
Kathie L. Johnson	<u>X</u>	___	___	___
Larry Short	<u>X</u>	___	___	___
Aleta A. Taylor	<u>X</u>	___	___	___
Leona Winger	<u>X</u>	___	___	___

ATTEST: Anna M. West
Anna M. West, City Recorder

W. Kent Money
W. Kent Money Mayor



Exhibit A

[to Ordinance 2010.04 AN ORDINANCE AMENDING SECTION 17.70 OF TITLE 17 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO THE BANGERTER HIGHWAY MIXED USE ZONE (BHMU) passed and adopted by the South Jordan City Council, May 18, 2010]

BH-MU Master Development Plan (4 Pages)

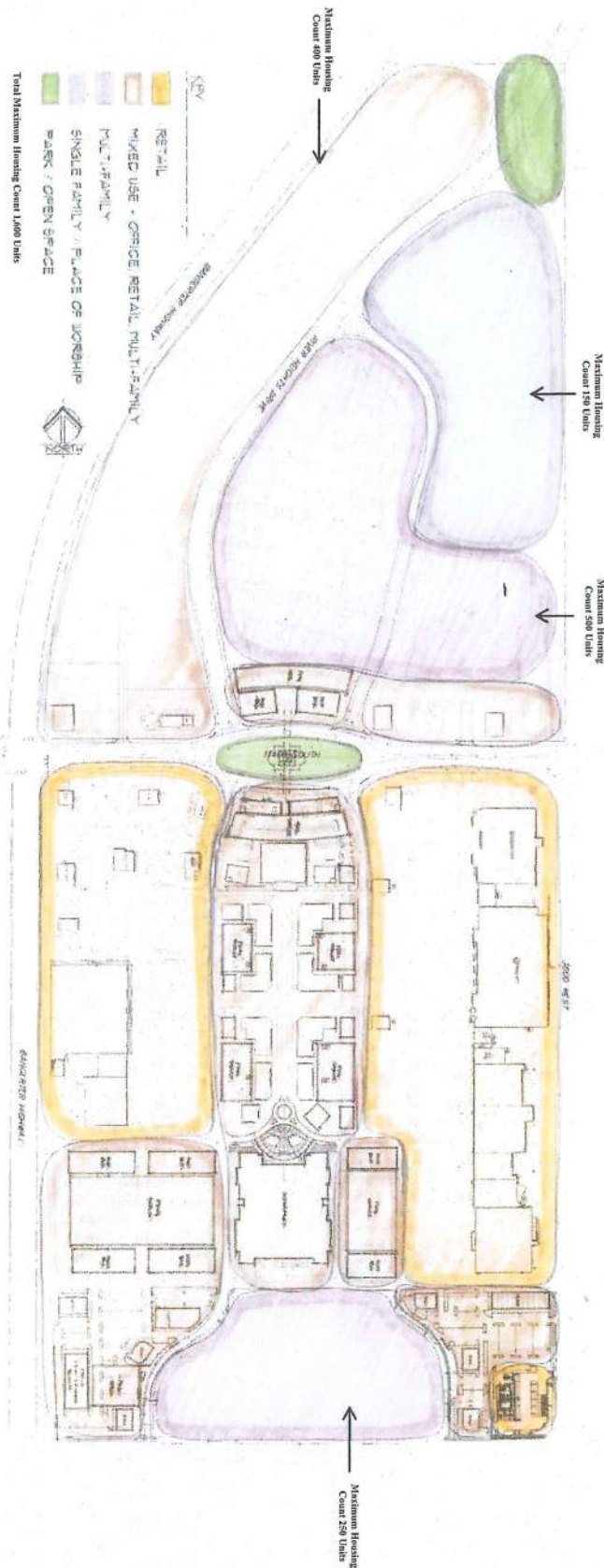
EXHIBIT A

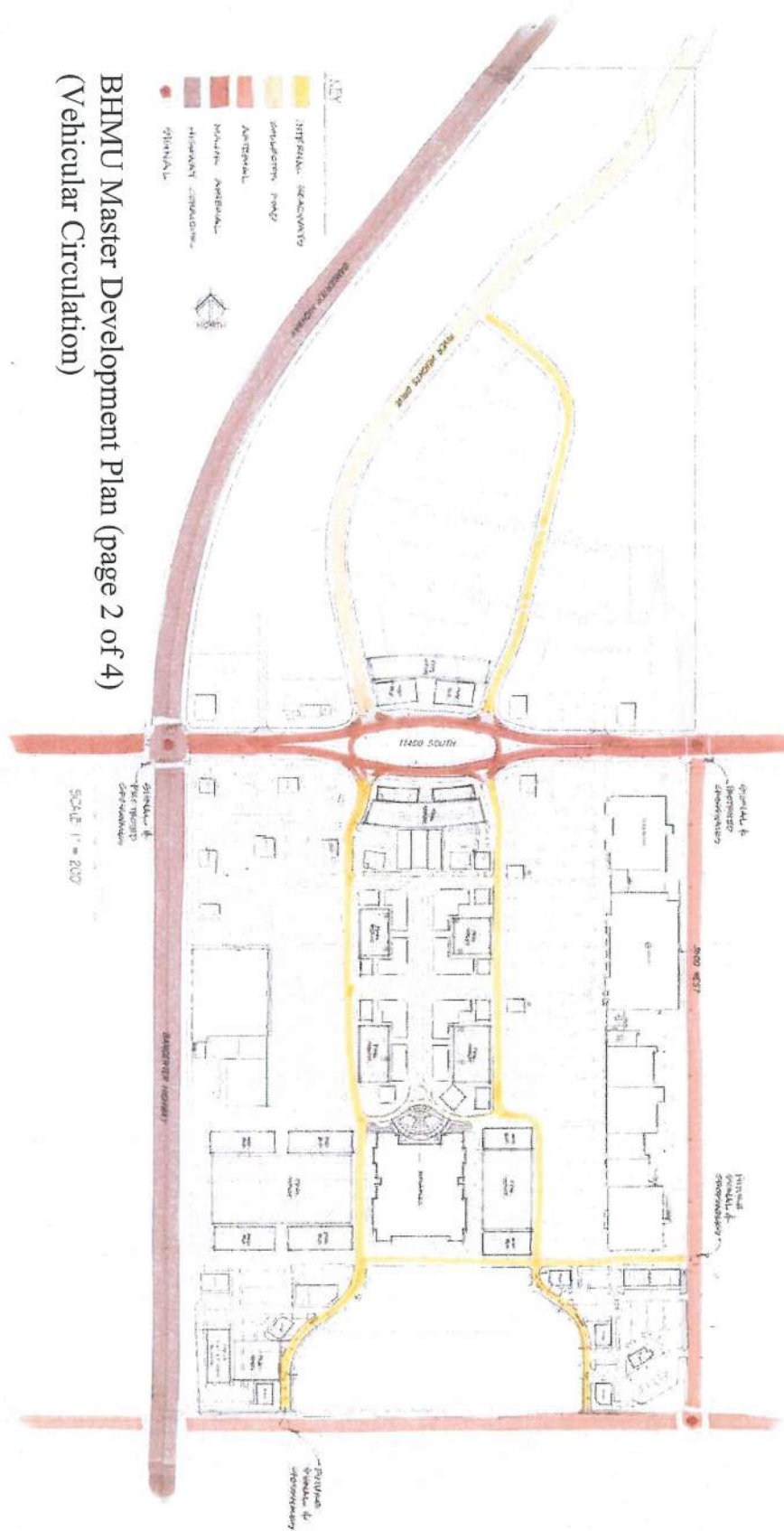
BH-MU Zone Master Development Plan (4 Pages)

Adopted 18 May 2010

Item I.1.

BH-MU Master Development Plan (page 1 of 4) (Land Use Plan)





BHMU Master Development Plan (page 2 of 4)
(Vehicular Circulation)

BHMU Master Development Plan (page 3 of 4)
(Pedestrian Circulation)

