

The Regular Meeting of the
Brian Head Planning Commission
Town Hall - 56 North Highway 143
Brian Head, UT 84719
Zoom Meetings ([click here](#))
Zoom Meeting ID# 820 7847 1161
TUESDAY, October 3, 2023 @ 1:00 PM

AGENDA

- A. CALL TO ORDER** **1:00PM**
B. PLEDGE OF ALLEGIANCE
C. DISCLOSURES
D. APPROVAL OF THE MINUTES:
 1. June 21, 2022 Planning Commission Meeting
 2. June 20, 2023 Planning Commission Meeting
 3. September 5, 2023 Planning Commission Meeting

E. PUBLIC INPUT/ REPORTS (Limited to three (3) minutes) Non-Agenda Items

F. AGENDA ITEMS:
 1. ACTION – PLAT AMENDMENT FOR UNITS A110 & A111 TIMBERBROOK VILLAGE CONDOMINIUMS PHASE 1. Lester Ross, Building & Planning Official. The Commission will review a minor plat amendment for a lot line vacation between units A110 and A11 in the Timberbrook Village Condominiums phase 1.
 2. DISCUSSION – SCHEMATIC PLAN REVIEW FOR THE HIDDEN SPRINGS SUBDIVISION. Lester Ross, Building & Planning Official. The commission will review the Schematic Plan proposed by Ammil Development for the Hidden Springs for a new multifamily townhome subdivision on Pine Tree way and provide additional comments and input to the applicant.
 3. ADMINISTRATIVE ACTION – DEVELOPMENT AGREEMENT WITH BRIAN HEAD BOARDWALK LLC. Bret Howser Town Manager. The commission will review the proposed development agreement and give a recommendation to the Town Council.

G. ADJOURNMENT

Date: September 29, 2023

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the Council may participate by means of a telephonic or telecommunications conference. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in two public and conspicuous places within the Town Limits of Brian Head; to wit, Town Hall and Post Office and have posted such copy on the Utah Meeting Notice Website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.



ITEM: PLAT AMENDMENT UNIT A110 & A111 TIMBERBROOK VILLAGE CONDOMINIUMS PHASE 1

AUTHOR: Lester Ross
DEPARTMENT: Administration
DATE: October 3, 2023
TYPE OF ITEM: Administrative Action

SUMMARY:

The Planning Commission will review a minor plat amendment for a lot line vacation between Unit A110 and A11 Timberbrook Village Condominiums Phase 1 at 464 N Hwy 143. Vacating the property line between Unit A110 and A111 combining the two properties in to one unit.

BACKGROUND:

On September 14, 2023, staff received an application for a minor plat amendment for a lot line vacation between Unit A110 and A11 in Timberbrook Village. The owner would like to combine the two properties to create one unit. Property owners within 300' of proposed property were sent public notice on September 19, 2023, notifying them of the proposed plat amendment.

ANALYSIS:

- The proposed subdivision and use conforms to the town general plan, zoning regulations, public works standards, design standards Title 9 Chapter 12 and other relevant sections in Title 9.
 - The lot is within an existing subdivision and no additional improvements will be required as part of the lot line vacation.
- The proposed method for fire protection complies with this title, and other regulations as applicable.
 - The Units already have the required fire protection at the time of construction
- The layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts and preservations of views.
 - The layout does not change any of the above.
- Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric, telecommunications, trails, transit, snow storage areas police and fire protection and recreation.
 - No changes to any of the public services
- Provide evidence to show that there is no encumbrance, lien or conveyance restriction the intended use of the lot.
 - There are no restrictions for the intended use of the lot.
- Provide evidence from the County Treasurer that all ad valorem taxes applicable to the property have been paid.
 - Provide a letter from the County Treasurer confirming that taxes have been paid.
- Provide signature block on the plat signed by representatives of public utilities which identify their approval.
 - This is an existing subdivision and is not required.
- Utah State Code 10-9a-606 Common area Parcels on a plat

- A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:
 - an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or
 - the conveyance or modification is approved under Subsection 5
- (5) Notwithstanding Subsection [\(2\)](#), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:
 - the local government;
 - for a common area that an association owns, 67% of the voting interests in the association; or
 - for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and
 - during the period of administrative control, the declarant
- The Applicant will need to work with the Homeowners association if the bylaw permit the association to act for the common area or they will need to get 67% of the owners of the units to sign and agree to the lot line vacation.

STAFF RECOMMENDATION:

Staff recommends table the amended plat eliminating the lot line between Units A110 and A111 in the Timberbrook Village Condominiums Phase 1 until they have the required approval from the other owners of the common area of Timberbrook

PROPOSED MOTION:

The Commission can deny, table, or approve the Plat amendment.

Recommended motion

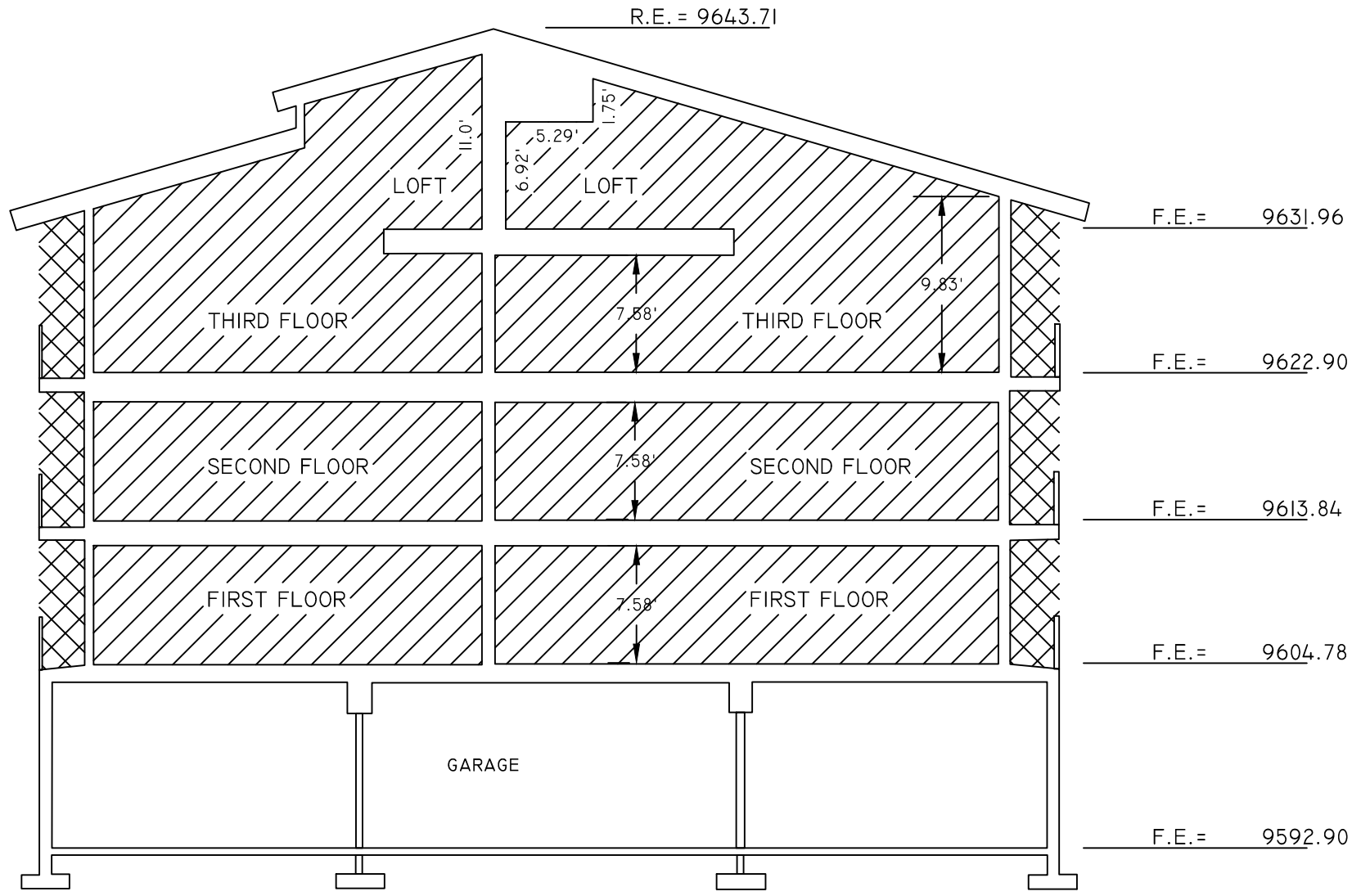
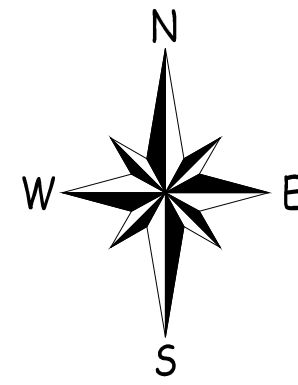
I move to Table the amended plat eliminating the lot line between Units A110 and A111 in the Timberbrook Village Condominiums Phase 1 until the applicant has the approval from the owners of the common area per State Law.

ATTACHMENTS:

- A – Proposed amended plat
- B – Existing plat
- C – Letter from Smith Knowles

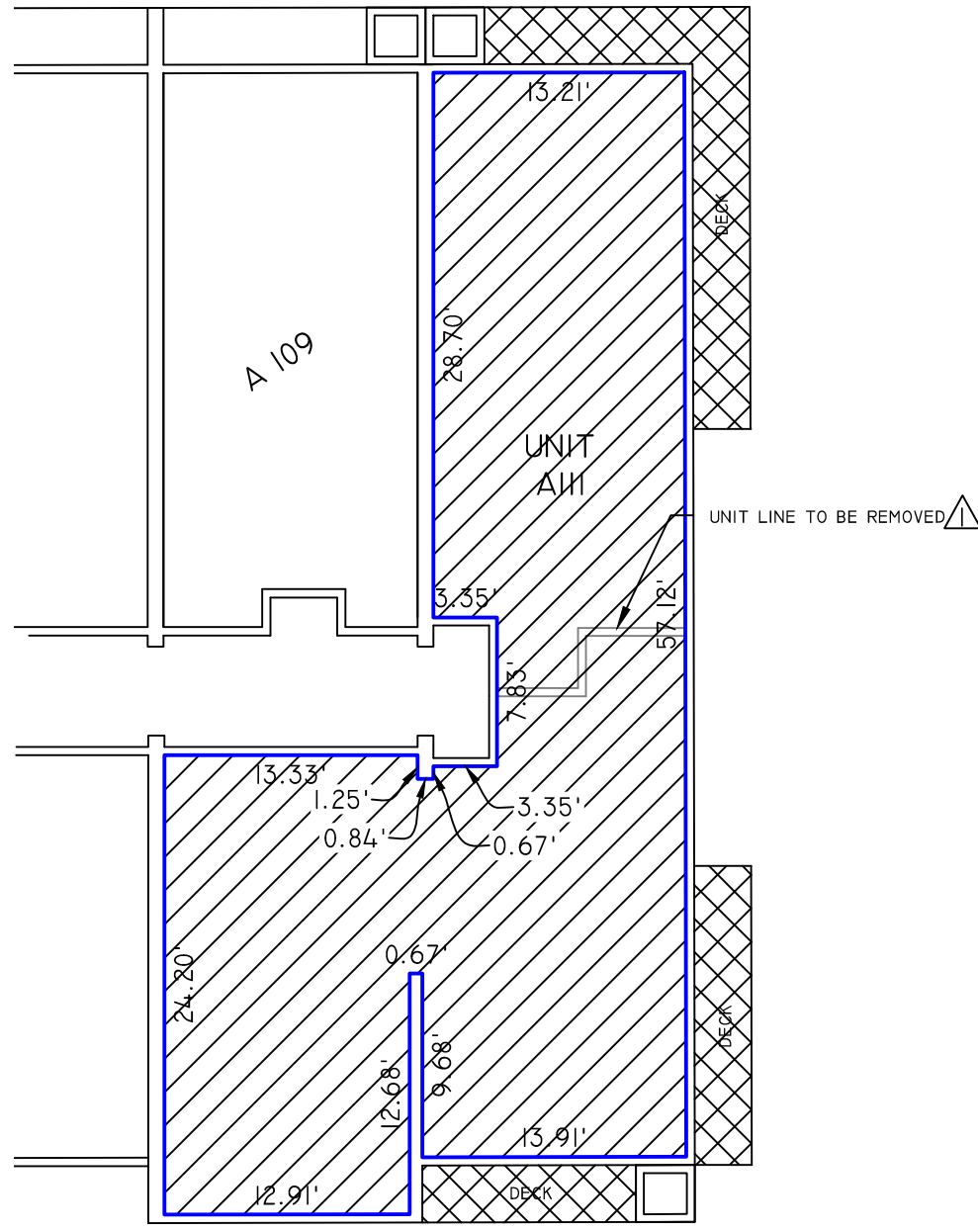
TIMBERBROOK VILLAGE CONDOMINIUMS PHASE I
UNIT AIII AMENDED

A COMBINATION OF UNITS AIII0 & AIII
LOCATED IN THE NW 1/4 SECTION 2, TOWNSHIP 36 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN



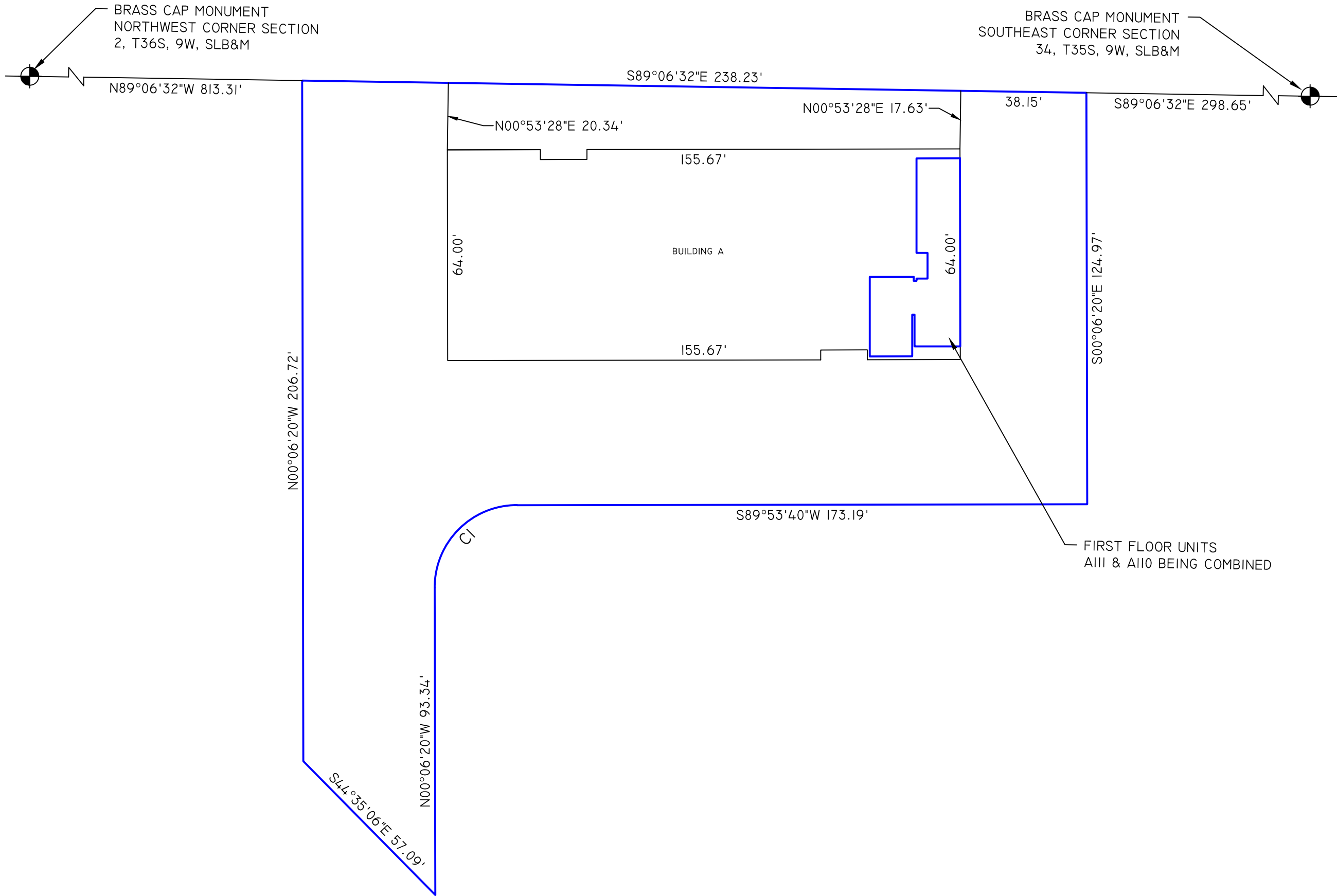
BUILDING SECTION

SCALE 1" = 10'



FIRST FLOOR

SCALE 1" = 10'



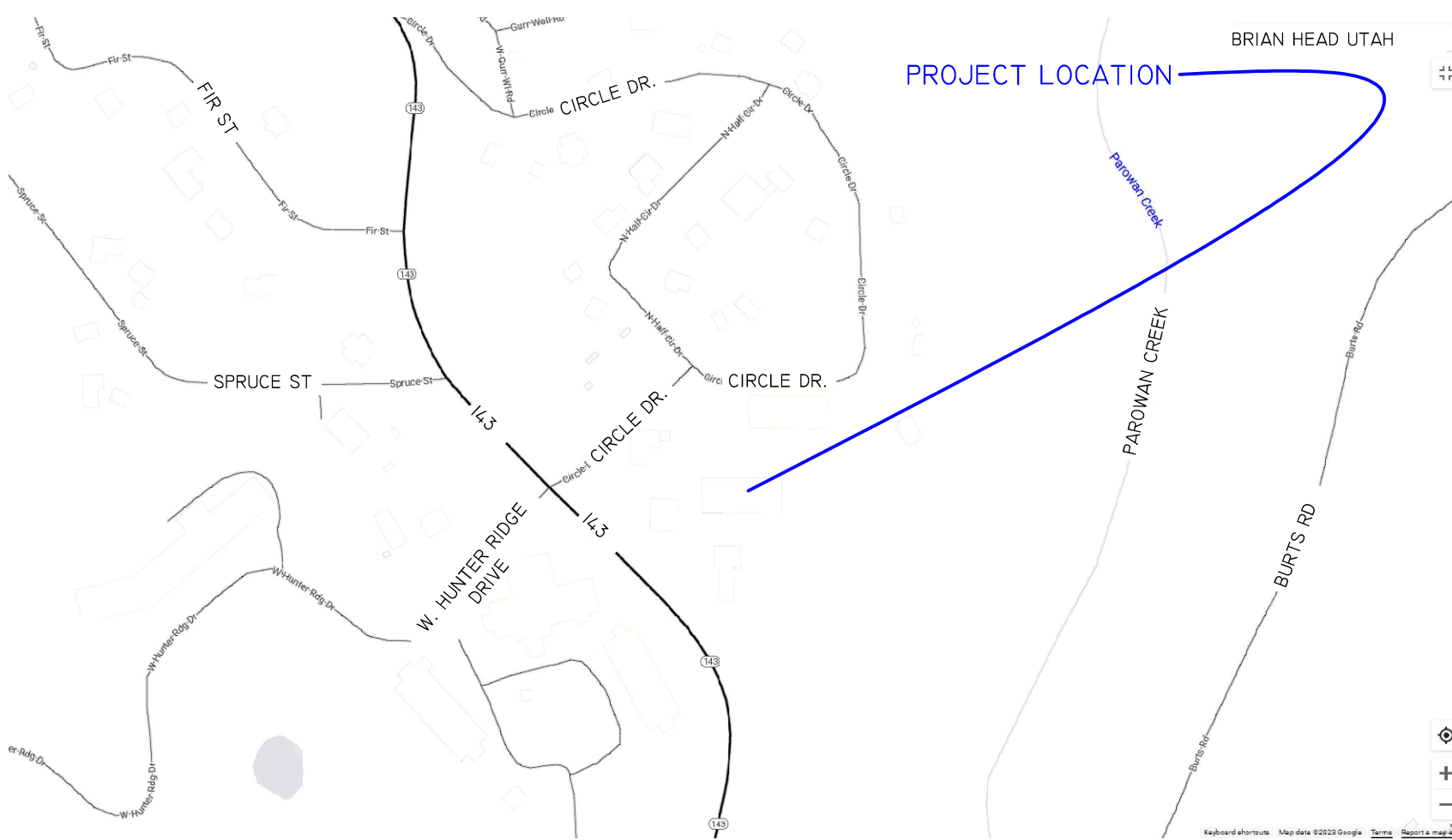
OVERALL BOUNDARY

SCALE 1" = 30'

AMENDMENT NOTE

THE PURPOSE OF THIS AMENDED PLAT IS TO COMBINE UNITS AIII0 & AIII1 INTO A SINGLE NEW UNIT AIII. NO OTHER CHANGES ARE INTENDED TO THE ORIGINAL PLAT OF TIMBERBROOK VILLAGE CONDOMINIUMS PHASE I AS RECORDED IN THE OFFICE OF THE IRON COUNTY RECORDER AS ENTRY NO. 249875

VICINITY MAP



BOUNDARY DESCRIPTION

ALL OF UNITS AIII0 & AIII1 OF THE TIMBERBROOK VILLAGE PHASE I SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, IRON COUNTY.
AREA = 1,063 SQUARE FEET
BASIS OF BEARINGS: N89°06'32"W BETWEEN MONUMENTS AS SHOWN HEREON, PER THE ORIGINAL PLAT.

SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-94-603 OF THE UTAH CODE, I, CHAD A. ANDERSON, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 7736336 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.

I FURTHER CERTIFY THAT THIS PLAT IS STRICTLY BASED ON THE ORIGINAL PLAT AND THERE WAS NO ON-SITE SURVEY PERFORMED IN THE PREPARATION OF THIS PLAT AMENDMENT.

CHAD A. ANDERSON
PROFESSIONAL LAND SURVEYOR

09/07/23
DATE

SURVEYOR'S SEAL

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT I (WE) THE UNDERSIGNED OWNER(S) OF THE TRACT(S) OF LAND SHOWN AND DESCRIBED ON THIS SUBDIVISION PLAT, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO ONE UNIT TO BE HEREAFTER KNOWN AS THE TIMBERBROOK VILLAGE CONDOMINIUMS PHASE I, UNIT AIII, AMENDED SUBDIVISION, DO HEREBY DEDICATE FOR THE PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF _____, 20____.

FEE OWNER (OR AGENT)

PRINTED NAME

DATE

FEE OWNER (OR AGENT)

PRINTED NAME

DATE

ACKNOWLEDGEMENT

STATE OF _____ } S.S.
COUNTY OF _____

ON THIS _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF _____, IN SAID STATE OF _____, THE SIGNER OF THE ABOVE OWNER'S DEDICATION, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSES MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

NOTARY PUBLIC

BRIAN HEAD TOWN ENGINEER'S APPROVAL

THE HEREON AMENDED PLAT HAS BEEN REVIEWED AND IS APPROVED IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE THIS _____ DAY OF _____, A.D. 20____.

BRIAN HEAD TOWN ENGINEER

DATE

APPROVAL AS TO FORM

APPROVED AS TO FORM THIS _____ DAY OF _____, 20____.

TOWN ATTORNEY BRIAN HEAD TOWN

PLANNING COMMISSION APPROVAL

I, _____, CHAIRPERSON OF THE BRIAN HEAD PLANNING COMMISSION, DO HEREBY CERTIFY THAT THIS AMENDED PLAT WAS APPROVED BY THE PLANNING COMMISSION ON THIS _____ DAY OF _____, A.D. 20____.

CHAIRPERSON BRIAN HEAD TOWN

RECORDER

IRON COUNTY

LOCATED IN THE NW 1/4
OF SECTION 2, TOWNSHIP 36S,
RANGE 9W, SLB&M

TIMBERBROOK VILLAGE CONDOMINIUMS
PHASE I UNIT AIII AMENDED

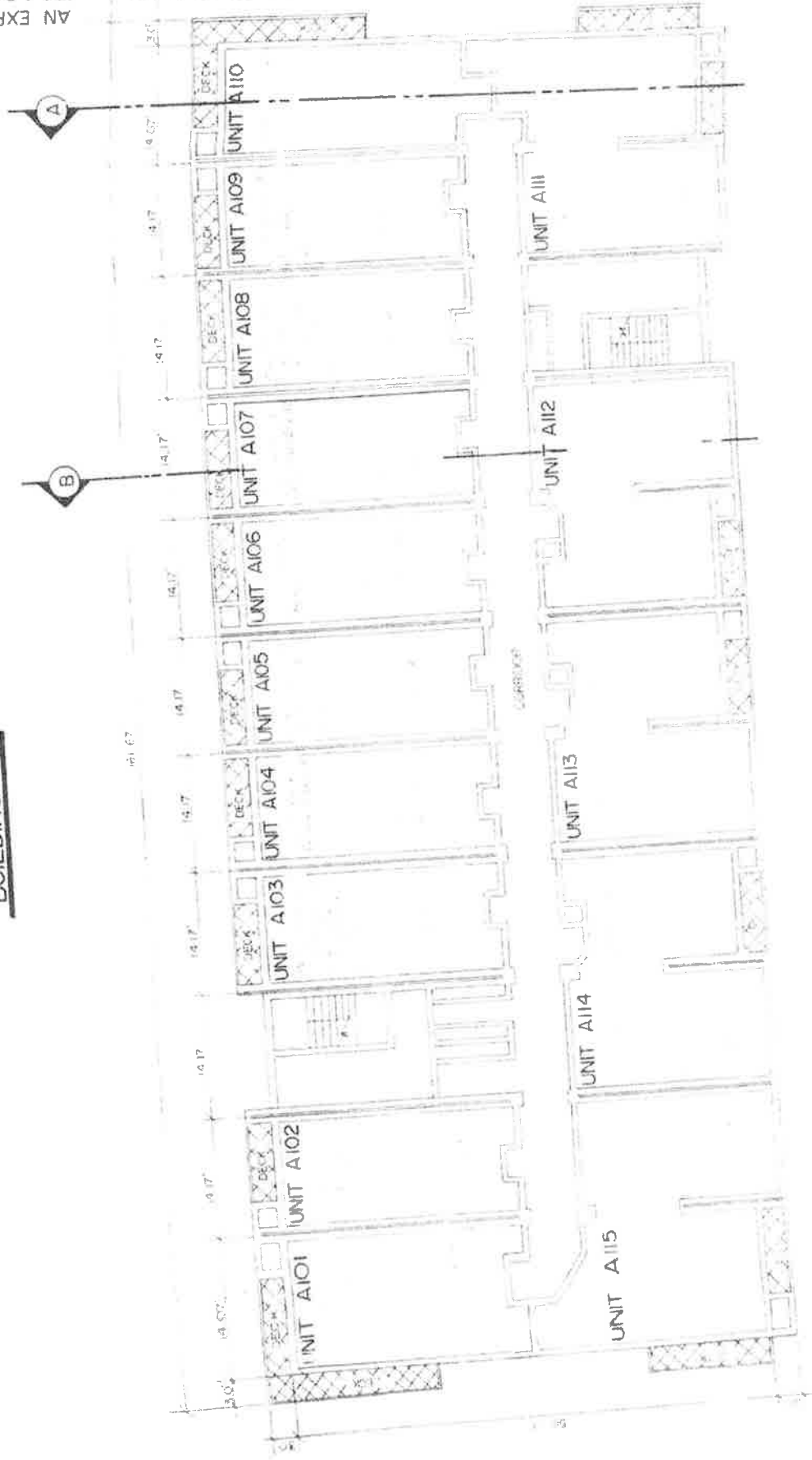
PROJECT NO.
23-08-270

COMBINATION OF UNITS AIII0 & AIII1

SHEET
1 OF 1

LAND SURVEYING
WWW.ELEMENTSURVEYING.COM
296 SOUTH 270 EAST, HEBER CITY, UT 84032
801-592-5975 & 801-657-8748

BUILDING "A"





Blake D. Johnson
bjohnson@smithknowles.com

September 27, 2023

SENT VIA EMAIL TO THE FOLLOWING:

Lester Ross
lesterross@bhtown.utah.gov
Building and Planning Official
Brian Head Town

Re: *Timberbrook Village Condominiums Phase 1*

Dear Mr. Ross:

I represent the Timberbrook Village Condominiums Owners Association ("Association") regarding the proposed plat amendment referenced in your letter dated September 19, 2023. Apparently there has been an application for the amendment of the Timberbrook Village Condominiums Phase 1 Plat ("Plat") with the intended goal of combining Units A110 and A111.

The Association Board is concerned about the proposed plan for several reasons. The Declaration of Condominium of Timberbrook Village Condominiums Phase 1 ("Declaration") does not expressly permit the combination of Units and language within the Declaration implies Units will not be combined. Further, the combination of the units in question was a structural alteration of the Units without Association permission, which is an issue for the Association to resolve with the owners.

More importantly, an amendment to the Plat would necessarily remove or eliminate certain elements of "common space", as that term is defined on the Plat and the Declaration. The attached Plat shows the dividing wall between the Units at issue constitutes an area of "Common Area", which is owned by each Unit owner as a 1/90th undivided interest. Utah Code 10-9a-606(5) requires any conveyance of common area must be approved by both the local government and 67% of unit owners.

While the Association would like to work with the owners of Units A110-A111, there are some steps the Association needs to take first in order to make sure any combination of Units complies with the Governing Documents and/or doesn't create a negative impact on the Association's operations. At this time the Association respectfully requests Brian Head Town not approve any plat amendment without working with the Association first and contingent on owner approval of the same.

Regards,

SMITH KNOWLES, P.C.

A handwritten signature in blue ink, appearing to read "B. Johnson", written over a light blue horizontal line.

Blake D. Johnson, JD
Attorney at Law

cc: Brian Head Town Clerk nleigh@bhtown.utah.gov



SURVEYORS CERTIFICATE:

I, NEIL L. RHODES, A REGISTERED LITAH LAND SURVEYOR HOLDING CERTIFICATE NO. 4100, UNDER THE LAWS OF THE STATE OF UTAH, HEREBY CERTIFY THAT BY AUTHORITY OF THE RECORD OWNER THEREOF, I HAVE SURVEYED THE TRACT OF LAND SHOWN ON THIS RECORD OF SURVEY MAP THE RECORD EXTERNAL BOUNDARY OF WHICH IS SET FORTH BELOW. I FURTHER CERTIFY THAT THE REFERENCE MARKERS SHOWN ON THIS RECORD OF SURVEY MAP ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO READILY RETRACE OR RE-ESTABLISH HEREON IS SUFFICIENT TO ESTABLISH ACCURATELY THE HORIZONTAL AND VERTICAL BOUNDARY OF THE BUILDING AND OF EACH UNIT LOCATED WITHIN SAID BUILDING ON THE HEREINETER DESCRIBED TRACT, AND THAT THIS SURVEY AND RECORD OF SURVEY MAP HAVE BEEN PREPARED PURSUANT TO AND IN ACCORDANCE WITH THE LITAH CONDOMINIUM OWNERSHIP ACT.

DATE: 12/24/83

NEIL L. RHODES
LITAH LAND SURVEYOR N-4100

PROPERTY DESCRIPTION:

BEGINNING N 89°06'32"E 298.65 FT. ALONG THE SECTION LINE FROM THE S.E. CORNER SECTION 34, T35S, R9W, S. 1/4; 1. THENCE S 0°06'20"E 124.97 FT.; THENCE S 89°53'40"W 173.19 FT.; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FT. A DISTANCE OF 39.27 FT.; THENCE S 0°06'20"E 93.34 FT.; THENCE N 44°35'00"W 57.09 FT. ALONG THE NEWLY RIV LINE OF HIGHWAY 41-43, THENCE N 0°06'20"W 200.72 FT.; THENCE S 89°06'32"E 238.65 FT. TO THE POINT OF BEGINNING, CONTAINING 0.188 ACRES OF LAND SUBJECT TO AN EASEMENT FOR ALL UTILITIES & AN EASEMENT IN FAVOR OF GRANTOR OR HIS ASSIGNS FOR RIGHTS OF RIGHT-OF-WAY, EGRESS AND PARKING DESCRIBED AS FOLLOWS:
BEGINNING N 89°06'32"E 298.65 FT. FROM THE S.E. CORNER SECTION 34, T35S, R9W, S. 1/4; 1. THENCE S 0°06'20"E 124.97 FT.; THENCE S 89°53'40"W 173.19 FT.; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FT. A DISTANCE OF 39.27 FT.; THENCE S 0°06'20"E 93.34 FT.; THENCE N 44°35'00"W 57.09 FT. ALONG THE NEWLY RIV LINE OF HIGHWAY 41-43, THENCE N 0°06'20"W 200.72 FT.; THENCE S 89°06'32"E 238.65 FT. TO THE POINT OF BEGINNING.

OWNERS CERTIFICATE OF CONSENT TO RECORD:

TIMBERBROOK VILLAGE LTD., A LITAH-LIMITED PARTNERSHIP AS OWNERS OF A PORTION OF THE PROPERTY DESCRIBED IN THE SURVEYORS CERTIFICATE DO HEREBY CONSENT TO THE RECORDED MAP OF THIS RECORD OF SURVEY MAP CONSISTING OF THREE SHEETS FOR TIMBERBROOK VILLAGE CONDOMINIUMS, PHASE I, AN EXPANDABLE CONDOMINIUM PROJECT, DATED THIS 23 DAY OF December, 1983.

BY: HEART MARKETING, AND DEVELOPMENT INC., GENERAL PARTNER

BARRY A. CHURCH, PRESIDENT
HEART MARKETING & DEV. INC.

Shanna Church
SHANNA L. CHURCH, SEC.
HEART MARKETING & DEV. INC.

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
ON THIS THE 23rd DAY OF December, 1983, PERSONALLY APPEARED BEFORE ME BARRY A. CHURCH, PRESIDENT AND SHANNA L. CHURCH (SECRETARY) OF HEART MARKETING AND DEVELOPMENT INC., GENERAL PARTNER OF TIMBERBROOK VILLAGE, LTD., AND THAT THE WITHIN OWNERS CERTIFICATE OF CONSENT TO RECORD WAS SIGNED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS AND SAID PERSONS FULLY ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME FOR AND ON BEHALF OF TIMBERBROOK VILLAGE LTD.
MY COMMISSION EXPIRES 11-7-87

NOTARY PUBLIC Janel K. Nelson

PREPARED BY:

BBI BULLOCH BROS. ENGINEERING INC.
36 NORTH 300 WEST CEDAR CITY UTAH 84202
(801) 644-7572
ENGINEERS & LAND SURVEYORS - LAND PLANNERS
SCALE: 1"=20' DRAWN BY: RIMERCER
DATE DEC. 1983 CHECKED: N.L.R. SHEET 1 of 3

NOTES APPLICABLE TO SHEET #1

- SHEET ONE SHOWS ONLY PROPERTY LINES, EASEMENTS AND EXTERIOR PERIMETERS OF BUILDING FOUNDATION AT GROUND LINE.
- HEAVIER DARK LINES INDICATE PROPERTY LINES.
- DIMENSIONS TAKE PREFERENCE OVER SCALE.
- PHASE I CONSISTS OF ONE BUILDING (BUILDING "A") HAVING A TOTAL OF 45 UNITS. UNIT NO. ARE AS FOLLOWS:
FIRST FLOOR: UNITS 101 THROUGH 141
SECOND FLOOR: UNITS 142 THROUGH 182
THIRD FLOOR: UNITS 183 THROUGH 223
THE BUILDING IS CONSTRUCTED OF REINFORCED CONCRETE FOUNDATION WALLS, WOOD FRAME, WOOD FLOORS, GYPSUM BOARD INTERIOR WALLS, WOOD SIDING, GLASS WOOD METAL DOORS AND ASPHALT SHINGLES.
- ALL COMMON AREAS ARE SUBJECT TO EASEMENTS FOR PUBLIC UTILITIES.
- SEE SHEETS 2 & 3 FOR NOTES APPLICABLE TO THOSE SHEETS.
- THIS IS AN EXPANDABLE CONDOMINIUM. SEE DECLARATION OF CONDOMINIUM FOR DESCRIPTION AND DETAILS, GENERALLY SPEAKING THE EXPANSION AREAS ARE DESIGNATED ON THIS SHEET AS "EXPANDABLE PROPERTY".

TOWN ATTORNEY CERTIFICATE

I, WILLARD R. BISHOP, AS ATTORNEY FOR THE TOWN OF BRIANHEAD, UTAH, HAVE REVIEWED FOR THE TOWN OF BRIANHEAD THIS RECORD OF SURVEY MAP ON THIS THE 30th DAY OF December, 1983.

Willard R. Bishop
WILLARD R. BISHOP

CERTIFICATE OF ACCEPTANCE

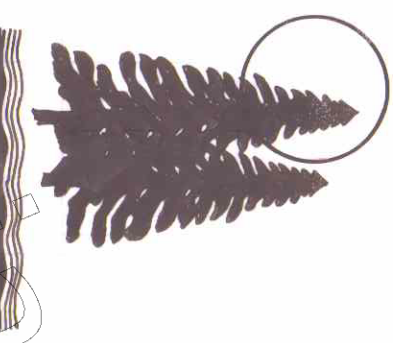
I, REX ENENEGGER, MAYOR OF THE TOWN OF BRIANHEAD, UTAH, A MUNICIPAL CORPORATION, DO HEREBY CERTIFY THAT THIS RECORD OF SURVEY MAP FOR TIMBERBROOK VILLAGE CONDOMINIUMS, PHASE I, A CONDOMINIUM PROJECT HAS BEEN APPROVED BY THE TOWN COUNCIL OF THE TOWN OF BRIANHEAD, UTAH, AND (S) HEREBY ORDERED FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER ON THIS THE 30 DAY OF December, 1983.

Rex Enenegger
ATTEST

Rex Enenegger
MAYOR

RECORD OF SURVEY MAP FOR

TIMBERBROOK VILLAGE CONDOMINIUMS
PHASE I
AN EXPANDABLE CONDOMINIUM PROJECT

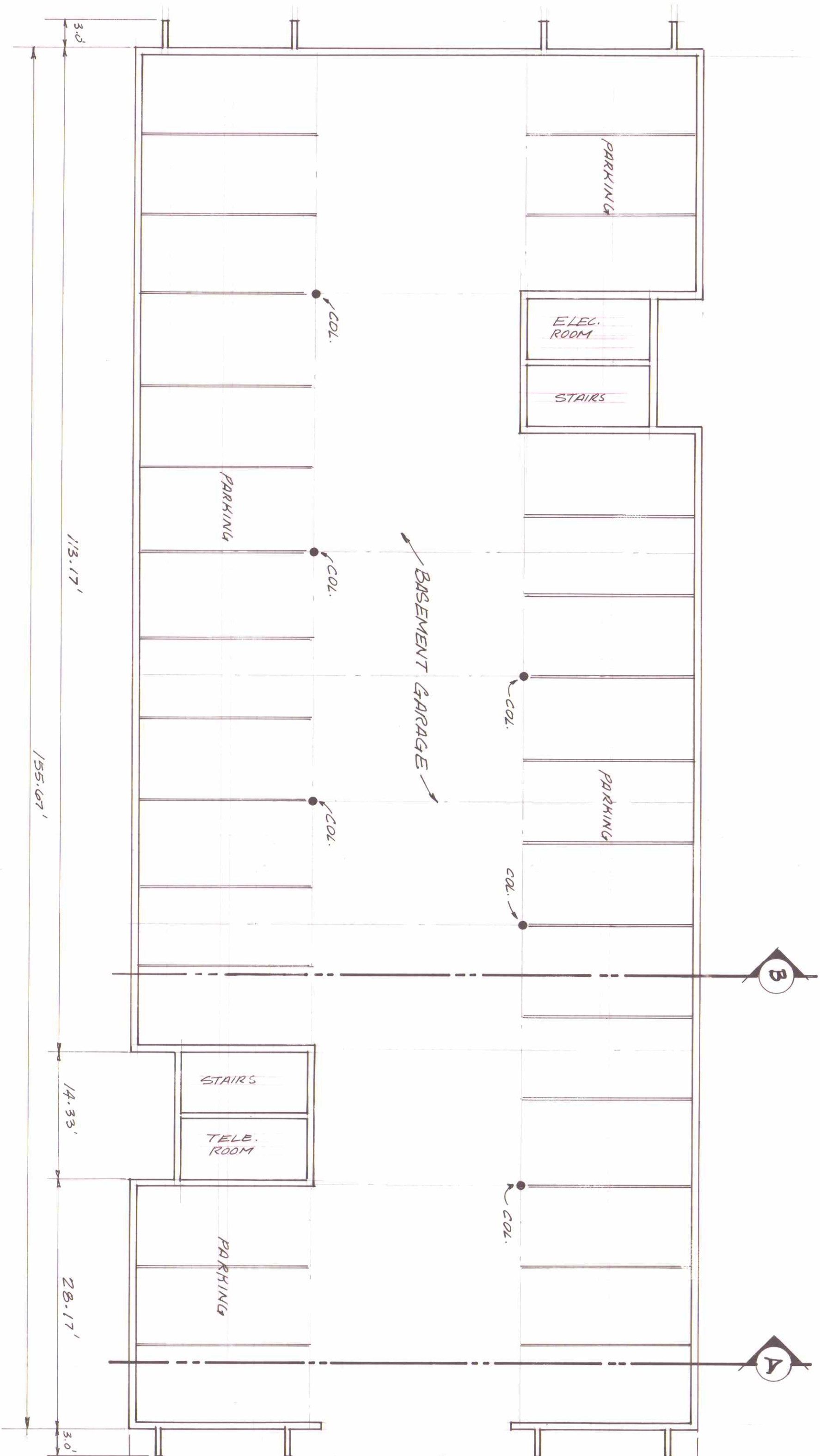


CERTIFICATE OF RECORDING

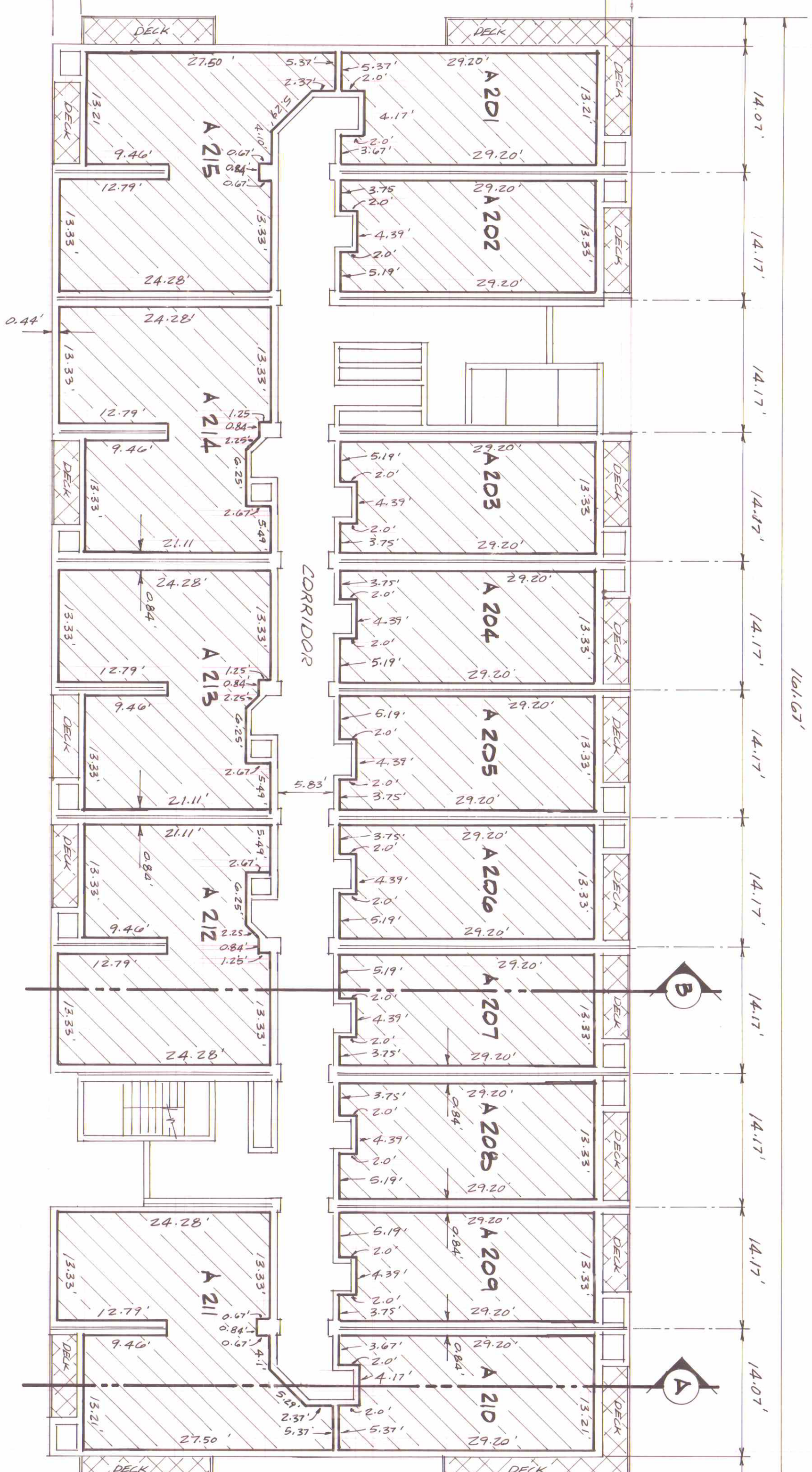
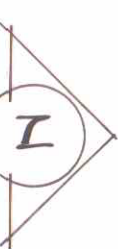
I, CORA J. HULETT, COUNTY RECORDER OF IRON COUNTY, UTAH, DO HEREBY CERTIFY THAT THIS RECORD OF SURVEY MAP, FOR TIMBERBROOK VILLAGE CONDOMINIUMS, PHASE I, CONSISTING OF THREE SHEETS WAS FILED FOR RECORD IN MY OFFICE ON THIS THE 30th DAY OF December, 1983 AT THE REQUEST OF *Bullloch Bros. Engineering Inc.*

ENTRY 249875
BOOK 313
PAGE 266
FEE \$ 52.50
TIME 2:00 PM

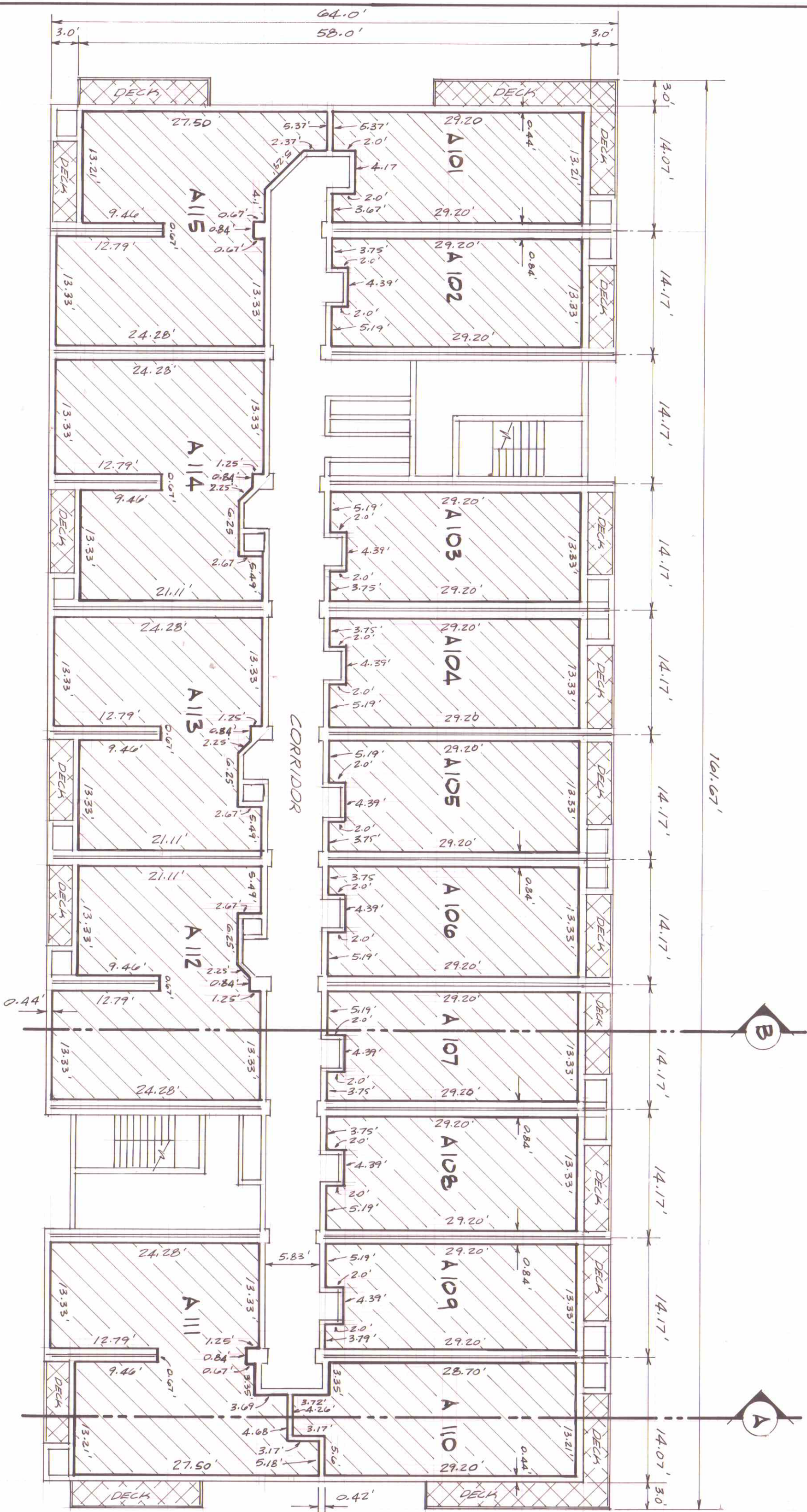
Cora J. Hulett
COUNTY RECORDER
Cora J. Hulett



BASEMENT GARAGE FLOOR PLAN



SECOND FLOOR PLAN



FIRST FLOOR PLAN



NOTES APPLICABLE TO SHEETS 2 & 3

1. HEAVIER DASH LINES INDICATE HORIZONTAL OR VERTICAL PERIMETER OF UNITS.

2. NUMBERS A101 THROUGH A115, A201 THROUGH A215 ARE UNIT NUMBERS.

3. UNLESS OTHERWISE SHOWN ALL INTERIOR DIMENSIONS ARE TO THE INTERIOR SURFACE OF THE CEILING, FLOOR OR WALL.

4. SECTIONS "A" & "B" ARE CROSS SECTION VIEWS AT THE POINT INDICATED BY CORRESPONDING LETTERS ON THE RESPECTIVE FLOOR PLANS. SECTIONS SHOW ONLY FLOOR, CEILING AND ROOF ELEVATIONS.

5. DIMENSIONS TAKE PREFERENCE OVER SCALE.

6. ALL ELEVATIONS ARE PER OFFICIAL U.S.G.S. DATUM (BENCHMARK = U.S.G.S. BM #23, BRASS CAP) LOCATED AT INTERSECTION OF UTAH HIGHWAY 143 AND ROAD TO TWISTED FOREST ELEVATION = 9977'.

7. DISTINCTIVE AREAS ARE DESIGNATED AS FOLLOWS:

- PRIVATE UNITS
- LIMITED COMMON AREA
- COMMON AREA

8. RE. DENOTES ROOF ELEVATION (TO EXTERIOR SURFACE)

C.E. DENOTES CEILING ELEVATION

F.E. DENOTES FLOOR ELEVATION

9. UNLESS OTHERWISE SHOWN ALL EXTERIOR WALLS OF THE BUILDING ARE 0.44 FEET THICK AND ALL INTERIOR WALLS OF THE BUILDING ARE 0.42 FEET THICK EXCEPT INTERIOR WALLS BETWEEN CONTIGUOUS UNITS ARE 0.84 FEET THICK.

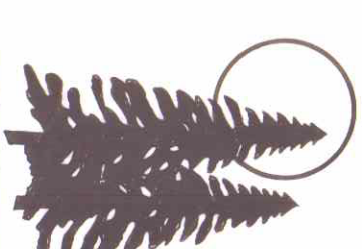
10. ALL ANGLES OF WALLS ALONG THE INTERIOR OF BUILDING ARE EITHER 90° OR 45° AS SHOWN

11. DOORS AND WINDOWS APPLICANT TO EACH APARTMENT UNIT ARE A PART OF THAT UNIT AND SHALL NOT BE CONSIDERED COMMON AREA OF FACILITIES.

12. EACH AREA ON THE LOFT FLOOR PLAN DESIGNATED "OPEN" IS PART OF THE TWO STORY UNIT IDENTIFIED BY THE ADJACENT UNIT NUMBER AND SUCH AREA IS OPEN TO THE SECOND FLOOR.

13. EACH AREA LABELED "DECK" IS A LIMITED COMMON AREA APPLICANT TO THE UNIT WITH WHICH IT IS CONTIGUOUS.

14. ALL COMMON AREAS ARE SUBJECT TO EASEMENTS FOR PUBLIC UTILITY.



**RECORD OF SURVEY MAP FOR
TIMBERBROOK VILLAGE CONDOMINIUMS
PHASE I**

AN EXPANDABLE CONDOMINIUM PROJECT

PREPARED BY:

BBI BULLDOCH BROTHERS ENGINEERING INC.
350 NORTH 300 WEST CEDAR CITY, UTAH 84202
ENGINEERS - LAND SURVEYORS - LAND PLANNERS
I-801-586-4592

SCALE: 1" = 10'
DATE: DEC. 1993
DRAWN BY: R. MESSER
CHECKED: N.L.B.
SHEET 2 OF 3



ITEM: HIDDEN SPRINGS SCHEMATIC PLAN REVIEW

AUTHOR: Lester Ross
DEPARTMENT: Administration
DATE: October 3, 2023
TYPE OF ITEM: Discussion

SUMMARY:

The Planning Commission will review the Schematic Plan proposed by Ammil Development for the Hidden Springs for a new multi family townhome subdivision on Pine Tree way and provide additional comments and input to assist the applicant in preparing the preliminary plat application.

BACKGROUND:

On September 14, 2023, staff received an application for a Schematic Plan review for a new subdivision on four unsubdivided parcels on Pine tree way between Copper Chase, Elevate and Pine Tree Condos and along the east side of Pine Tree Way. These parcels are currently zoned R-3 Multi-Family Residential.

ANALYSIS:

The following are the Standards for Review for a Schematic Plan:

1. The proposed subdivision conforms to the town general plan, zoning regulations, public works standards, design standards (chapter 12 of this title) and other relevant sections of this title.
 - a. The proposed subdivision (Townhomes and multi-family) is consistent with the existing zoning R 3 and the underlying General plan map and provisions.
 - b. Zoning Regulations – The proposal seems consistent with the provisions of R 3 zone in Chapter 9-7-3 of the LMC with the following exceptions:
 - i. Front setbacks along Pine Tree way need to be a minimum of 25'
 - ii. Maximum building coverage plans don't clearly call out Building coverage, although it appears to not exceed maximum of 40%
 - iii. Minimum landscaping, measurements not shown, although it appears to meet minimum of 40%
 - iv. Phase 1 lot units 39 through 46 in the development report the applicant wants to not include them in the HOA but sell them as single-family units. Lots will need to meet the minimum standards with 45' frontage for each lot and lots will need to be sized to meet minimum setbacks of 25' front and 20' sides and rear on each lot. Each lot will need to have 2 off-street parking areas.
 - c. Desing Standards – The proposal seems consistent with the provisions in Chapter 9-12 of the LMC with the following exceptions:
 - i. Drainage – drainage is not address for phase 2 and 3 additional drainage from parking, roads, driveways and other hard serves

will need to be address a retention or detention area may be required.

1. Centrally Located Facilities – the development does not appear to have any recreation facilities in the project. The shared parking areas are not centrally located and the parking for units 39 through 46 needs to be addressed the closest off-street parking is over 400' away from the furthers unit along Pine Tree way and is in Phase 2.
 - ii. Trails and open space Access – in the development report there is talk about trails but no trails are shown on the plan.
- d. Public Works Standards
 - i. Roads
 1. Pine Tree way will need to be improved and paved to meet the Town Asphalt road standards from Ridge View to west side of the property at Pine Tree condos.
 2. Road A needs to have a turnaround area of a 50' radius
 - ii. UDOT- Town will need sign off from UDOT prior to approving preliminary plat. UDOT will require a Traffic study and may require a Drainage study.
 - iii. Snow Storage- Snow storage is not showing on plan. Need to show snow storage areas of 20% of all driveways, roads and hard surfaces
 - iv. Trash Enclosures – The project needs to show the location of trash enclosures.
 - v. Public utilities – water metering 1 master meter and water plans will need to be approved by public works.
2. The proposed water source is connected to the town's water distribution system and has adequate supply, capacity and method of distribution within the subdivision.
 - a. The water infrastructure running from Ridge View to the Pine Tree condos running through the property appears to be sufficient for the proposed development but will require further evaluation by the Town Engineer during the preliminary plat phase to ensure sufficient capacity. The applicant has not proposed to supply the Town with water rights for the development and would be seeking to draw on the pool of water rights available from the Town via a Development Agreement per 9-9-6 of the Town LMC. The number of acre feet will be determined by the development agreement.
3. The proposed sewage system is connected to the town's sewer system and meets state and town standards and regulations.
 - a. Development is proposing a privet sewer system that will connect to the Sewer line on Hwy 143. Plans will be reviewed and approved by the Towns engineer during the preliminary plat phase.
4. The proposed method for fire protection complies with this title, and other regulations as applicable.
 - a. Fire protection is not shown on plans. Will need to have fire hydrants located to meet the 300' minimum requirement. Road A will need to have a cul-de-sac for fire apparatus to turn around.

5. The proposed uses for the property are appropriate to the zone district and the layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts and preservation of views.
 - a. The proposed development has considered the layout of the units to work with the topography, soils water course and flood plain. The Visual impacts may affect Copper Chase and the future owners of Elevate with 3 story town homes proposed on the site.
6. Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric, telecommunications, trails, transit, snow storage areas, mail, police and fire protection, schools and recreation. If adequate services do not exist at the time of application, provision must be made for expansion of services concurrent to the subdivision development at the expense of the subdivider.
 - a. Roads – the improvements to Pine Tree way will need to be included as part of the subdivision. A traffic study will need to be done and submitted to the Town and UDOT for approval before the preliminary plat.
 - b. Water – There are 2 existing water lines in the proposed subdivision that they may be able to tie on to. The applicant has submitted a rough layout of the water system. The layout and design of the water system will be reviewed by the town’s engineer and public works before and as part of the Preliminary plat.
 - c. Sewer – The development has a rough layout of sewer that will connect to the existing sewer lines in HWY 143. The layout and design for the sewer system will be reviewed by the town’s engineers and public works before and as part of the Preliminary plat.
 - d. Storm water – Storm water and drainage needs to be addressed a drainage and storm water plan will need to be included in the Preliminary plat.
 - e. Gas and electric, and telecommunications - Applicant should submit preliminary plat to Rocky Mtn Power and Dominion Energy to ensure sufficient service from those entities.
 - f. Snow storage areas – Plans need to show snow storage areas.
 - g. Mail, Police/Fire and Recreation services all appear to be sufficient for the proposal.

PROPOSED MOTION:

No motion is necessary. The Planning Commission should review and note any issues with the schematic plan. The applicant will then make adjustments prior to submitting a preliminary plat.

ATTACHMENTS:

A – Schematic Plan

B – Vicinity Map

C – Development Report

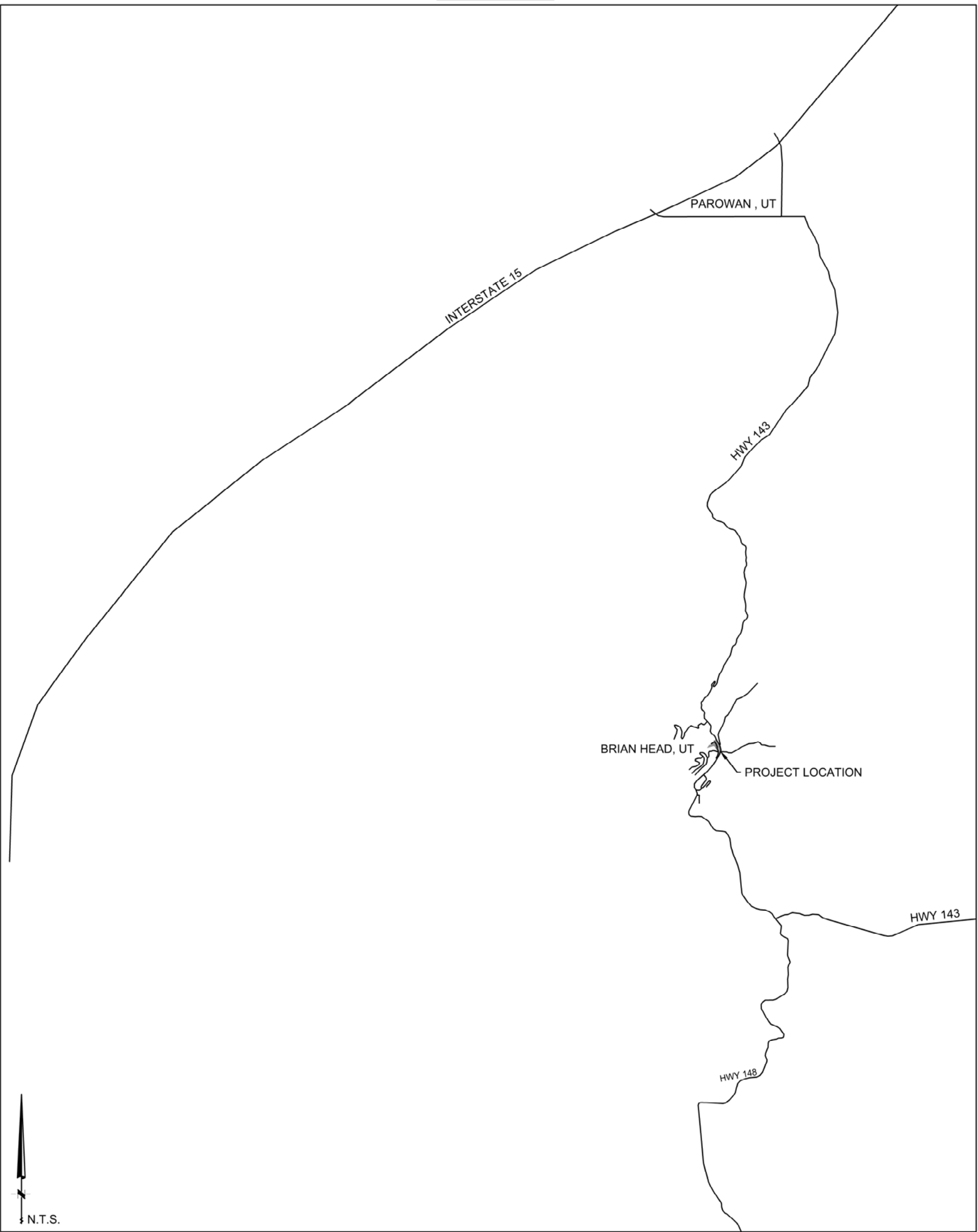
B&G PROJECT NUMBER 231008

HIDDEN SPRINGS

SCHEMATIC PLAN REVIEW LOCATED IN BRIAN HEAD, UTAH

WEST 1/4 CORNER OF SECTION 2, T 36S, R 9 W, SLM
PARCEL # A-1150-0005-0005, A-1144-0001-0012, A-1144-0001-0012-02, A-1150-5-7
1 RIDGEVIEW STREET, BRAIN HEAD, UTAH 84719

VICINITY MAP



SHEET NO.	DESCRIPTION
1	COVER SHEET
2	EXISTING CONDITIONS
3	SLOPE ANALYSIS
4	SCHEMATIC SITE PLAN

GENERAL NOTES

- 1) CONTRACTOR IS RESPONSIBLE TO VERIFY LOCATIONS OF ALL UTILITIES PRIOR TO COMMENCEMENT OF WORK IN ANY ZONE.
- 2) ALL WORK AND MATERIALS SHALL COMPLY WITH BRIAN HEAD STANDARD SPECIFICATIONS.
- 3) PROJECTS SHALL INSTALL AN INFORMATIONAL SIGN ON SITE BEFORE CONSTRUCTION BEGINS. THIS SIGN WILL HAVE A MINIMUM SIZE, PLACEMENT LOCATION AND CONTENT INFORMATION WITH THE COMPANY NAME, PHONE CONTACT AND GRADING PERMIT NUMBER.
- 4) PROJECTS SHALL SUBMIT A DUST CONTROL PLAN WITH DETAILS ON EQUIPMENT, SCHEDULING AND REPORTING OF DUST CONTROL ACTIVITIES.
- 5) A MANDATORY PRE-CONSTRUCTION MEETING WILL BE REQUIRED ON ALL PROJECTS PRIOR TO ANY GRUBBING, GRADING OR CONSTRUCTION ACTIVITIES. THE PERMIT HOLDER WILL BE REQUIRED TO NOTIFY ALL DEVELOPMENT SERVICE INSPECTORS.
- 6) FOLLOW APPENDIX J STANDARDS FOUND IN THE IBC.
- 7) ALL OBJECTS SHALL BE KEPT OUT OF THE SIGHT DISTANCE CORRIDORS THAT MAY OBSTRUCT THE DRIVER'S VIEW.

DUST CONTROL

THESE DUST CONTROL MEASURES MUST BE OBSERVED AT ALL TIMES:

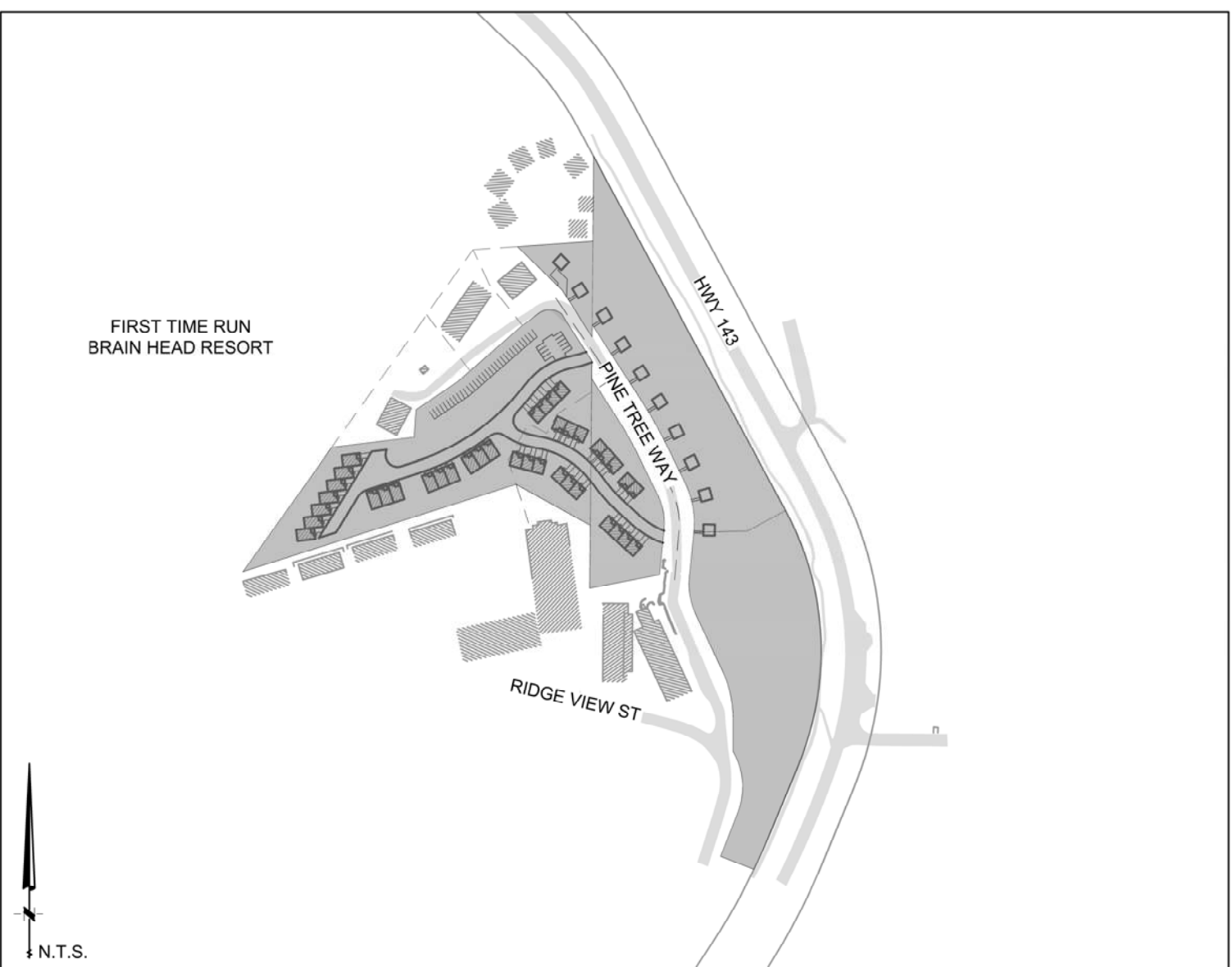
EARTH MOVING ACTIVITIES:

- 1) APPLY WATER BY MEANS OF TRUCKS, HOSES AND/OR SPRINKLERS AT SUFFICIENT FREQUENCY AND QUANTITY, PRIOR TO CONDUCTING, DURING AND AFTER EARTHMOVING ACTIVITIES.
- 2) PRE-APPLY WATER TO THE DEPTH OF THE PROPOSED CUTS OR EQUIPMENT PENETRATION.
- 3) APPLY WATER AS NECESSARY AND PRIOR TO EXPECTED WIND EVENTS.
- 4) OPERATE HAUL VEHICLES APPROPRIATELY IN ORDER TO MINIMIZE FUGITIVE DUST AND APPLY WATER AS NECESSARY DURING LOADING OPERATIONS.

DISTURBED SURFACE AREAS OR INACTIVE CONSTRUCTION SITES:

- 1) WHEN ACTIVE CONSTRUCTION OPERATIONS HAVE CEASED, APPLY WATER AT SUFFICIENT FREQUENCY AND QUANTITY TO DEVELOP A SURFACE CRUST AND PRIOR TO EXPECTED WIND EVENTS.
- 2) INSTALL FENCE BARRIER AND/OR "NO TRESPASSING" SIGNS TO PREVENT ACCESS TO DISTURBED SURFACE AREAS.

PROJECT MAP



SEPTEMBER 2023
BUSH & GUDGELL, INC.
Engineers - Planners - Surveyors

205 East Tabernacle #4
St. George, Utah 84770
Phone (435) 673-2337



OWNER / DEVELOPER

AMMIL DEVELOPMENT LLC
CHELSEA CURCURI
chelseac@ammildvelopment.com
(774) 454-9404
5725 S. VALLEY VIEW BLVD
LAS VEGAS, NV 89118

ENGINEERING CONTACT

BUSH AND GUDGELL, INC.
205 EAST TABERNACLE #4
ST. GEORGE, UT 84770
RICK MEYER - PROJECT MANAGER
(435)-673-2337



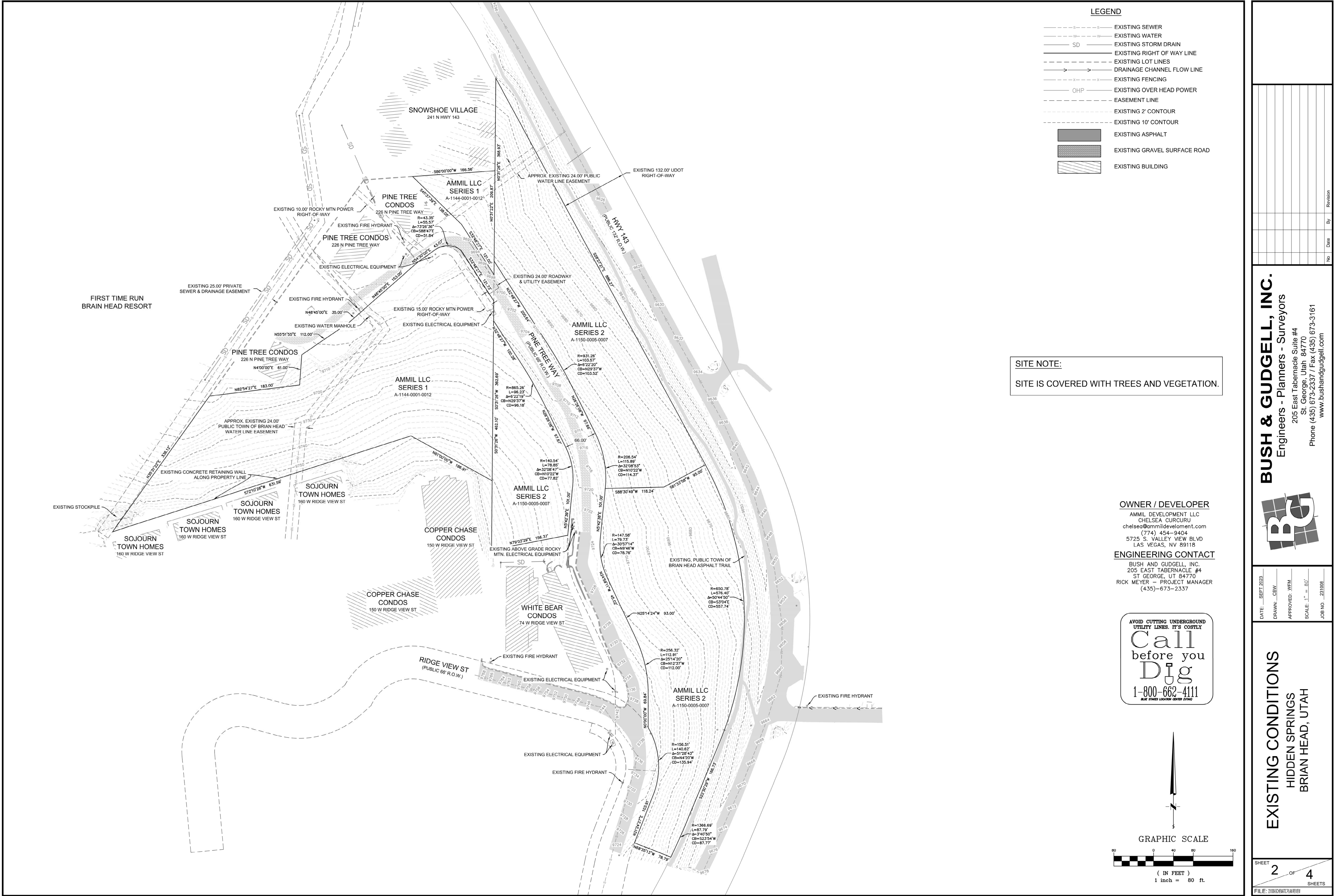
BUSH & GUDGELL, INC.
Engineers - Planners - Surveyors



DATE: SEPT 2023
DRAWN: CEW
APPROVED: WFM
SCALE: NOTED
JOB NO: 231008

COVER SHEET
HIDDEN SPRINGS
BRIAN HEAD, UTAH

SHEET 1 OF 4 SHEETS
FILE: \\BUSHGUDGELL\B&G\231008 - Brianhead Multi-Family Due Diligence\Drawings\Schematic Plan\Hidden Springs Schematic Plan Review.dwg



SNOW REMOVAL REQUIREMENTS

1. FROM NOVEMBER 1 TO APRIL 30 SNOW RESTRICTIONS ARE IN PLACE.
2. PUBLIC WORKS WILL BE ON ROADWAYS AS SOON AS SNOW DEPTH REACHES 4".
3. HWY 143 IS UDOT'S RESPONSIBILITY.
4. MAJOR STREETS WILL BE CLEARED FIRST THEN MOVE TO SECONDARY AND SIDE STREETS ASAP.
5. NO PARKING OR PLACING ANY OBJECT THAT INTERFERES WITH SNOW PLOWING OR REMOVAL EFFORTS ON TOWN STREETS.
6. TOWN STORAGE FOR SNOW EXTENDS 5'-10' BEHIND CURB.
7. SNOW REMOVED FROM YOUR PROPERTY REMAINS ON YOUR PROPERTY. SHOVELING, PLOWING OR BLOWING SNOW BACK INTO STREET IS PROHIBITED AND COULD BE FINED.
8. KEEP DUMPSTER AND HYDRANT AREAS CLEAR.

PARKING REQUIREMENTS

1. VEHICLES ARE NOT ALLOWED TO BE PARKED IN THE PUBLIC RIGHT-OF-WAY.
2. PARKING ON NARROW STREETS PROHIBITED: MINIMUM OF 14' FOR PASSING.
3. NON-MOTORIZED PARKING PROHIBITED.
4. NO OVERSIZE VEHICLES MEASURING 8' WIDE AND 26' LONG, EXCEPT CONSTRUCTION, DELIVERY AND EMERGENCY VEHICLES.
5. UNLAWFUL TO PARK ON STREETS NOV 1 TO APRIL 30 DURING WINTER SEASON.

SITE NOTE:

SITE IS COVERED WITH TREES AND VEGETATION.

LEGEND

- EXISTING SEWER
- EXISTING WATER
- EXISTING STORM DRAIN
- EXISTING RIGHT OF WAY LINE
- EXISTING LOT LINES
- DRAINAGE CHANNEL FLOW LINE
- EXISTING FENCING
- EXISTING OVER HEAD POWER
- EASEMENT LINE
- EXISTING 2' CONTOUR
- EXISTING 10' CONTOUR
- RIGHT-OF-WAY LINE
- LOT SETBACK LINE
- CENTER LINE
- EXISTING ASPHALT
- EXISTING GRAVEL SURFACE ROAD
- EXISTING BUILDING

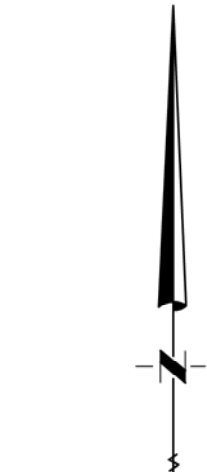
OWNER / DEVELOPER

AMMIL DEVELOPMENT LLC
CHELSEA CURCURI
chelsea@ammildevelopment.com
(774) 454-9404

ENGINEERING CONTACT

BUSH AND GUDGELL, INC.
205 EAST TABERNALE #4
ST. GEORGE, UT 84770
RICK MEYER - PROJECT MANAGER
(435)-673-2337

AVOID CUTTING UNDERGROUND UTILITY LINES. IT'S COSTLY
Call before you Dig
1-800-662-4111
BLUE STAVES LOCATE CENTER (STW)



GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

BUSH & GUDGELL, INC.
Engineers - Planners - Surveyors

205 East Tabernacle Suite #4
St. George, Utah 84770
Phone (435) 673-2337 / Fax (435) 673-3161
www.bushandgudgell.com



SCHEMATIC SITE PLAN
HIDDEN SPRINGS
BRIAN HEAD, UTAH

SHEET 4 OF 4
SHEETS

FILE: HIDDEN SPRINGS

The applicant will provide a narrative statement detailing the following:

An explanation of the purpose of the proposed action and proposed land use, including building descriptions, variation in building setbacks, parking, height, or other requirements that are being sought.

The proposed development intends to develop three parcels (A-1144-0001-0012-020, A-1144-0001-0012, and A-1150-0005-0007) within the standards of their designated R-3 zoning classification. All intended units on this development are for residential occupancy, meeting all current zoning requirements. The proposed project will consist of two separate and distinct residential products within two different developments.

Along the East side of Pine Tree Way, parcels -020 and -0007 will be the construction of two-story A-frame units of 1000 or less total SQFT. These units are well below the limit of R-3 zoning. The proposed site plan reflects the required setback of 20' from the ROW, however, the developer requests the current condition of the public Pine Tree Way be reviewed to establish any improvements, by any party at any time, and consider the optimal setback for the final condition of the right of way and the future units. The request is to review a reduced setback of 10' from the existing Pine Tree Way ROW if the existing grading is not modified for future and final accommodations. The topography of the parcel is such that driveways cannot be achieved at several locations and as a result dedicated parking will be as proposed on the site plan in a parking lot and reviewed with the town.

The West side of Pine Tree Way will consist of a new community, approximately 40 three story townhomes along 2 new proposed private streets (Street A and B on the submitted site plan). The townhomes will be in compliance with R-3 zoning and two variances are being sought. First, the intent of the community is to provide ski in/out capability and as such we are asking the town to consider the allocation of the trail in lieu of a traditional curb adjacent (or off-set) sidewalk.

The second variance asks the town to consider a reduction in the minimum width and length of the driveways on select units, as depicted on the site plan submitted, which are meeting parking requirements within the garages allocated spaces. The requested variances are with the intent of reducing the need for maintenance of the units and overall community and reducing burden on future homeowners and HOA, as well as mitigating any potential damage to persons or property from falling snow and ice along the roofline. Architectural plans can be provided for elaboration and review. The requested variances also further lessen the total hardscape throughout the community, allowing for reduced grading and the ability to retain a higher number of trees across the site. Preservation of trees allows for privacy between units and neighbors, maintenance of soil integrity throughout the seasons, and preservation of the intimate relationship with nature on the mountain.

Hidden Hills & Hidden Springs Development
Town of Brian Head – Schematic Plat Submittal
Development Report
September 11, 2023
Owner/Developer: Chelsea Curcuru-Chafkin

A development schedule indicating the approximate date of the development or stages of the development with expected completion dates.

All dates are weather dependent. Projections we have assumed a start of spring in May and end of season in November. Interior construction and finishes may continue through the ‘off-season’ months. The project is anticipated to be constructed in 3 phases, which lengthens each individual milestone while also creating overlap.

- Logging and Tree Clearing: September 2023 – November 2025
- Grading and Excavation (All Phases): May 2024 – November 2026
- Foundations (Phase 1): July 2025 – November 2026
- Foundations (Phase 2 – 4): May 2026 – November 2026
- Vertical Construction (Phase 1): May 2026 - November 2027
- Vertical Construction (Phase 2 – 4): May 2027 – November 2029

Assessment of the availability and capacity of public infrastructure (utilities, roads, trails, etc.) to serve the proposed use.

Electric – Confirmed by Rocky Mountain to be located along the West side of Pine Tree Way. Existing conditions map depicts above ground equipment.

Gas – Confirmed by Dominion Energy to be located within Pine Tree Way

Telecommunications – to be determined.

Water – Existing public water line running through parcels as shown per submitted plat map

Sewer – Existing adjacent sewer lines are private. Nearest manhole in HWY 143 NW of site

Roadway – Existing public street Pine Tree Way and Ridgeview Street as show on plat

Trails – The intent is to create and formalize trails through the proposed site to allow for pedestrian navigation that is ski in and ski out friendly. There appears evidence the parcels are already being use for access to the adjacent ski run informally. The existing trail in parallel with Highway 143 is outside of the parcel. The topography appears too steep to provide pedestrian access from the parcels, but it can be considered if there is a desire to do so from the town.

Hidden Hills & Hidden Springs Development
Town of Brian Head – Schematic Plat Submittal
Development Report
September 11, 2023
Owner/Developer: Chelsea Curcuru-Chafkin

Capacity for Gas and Electric will be determined during the engineering and design phase. However, to date the existing infrastructure appears adequate based on preliminary conversations and maps shared with each utility company. Intent to obtain water rights through purchase of available pool from Town of Brian Head.

Any special agreements, conveyances, restrictions or covenants, which will govern the use, maintenance and continue protection of the development and any of its common areas.

Only the community located on the west side of Pine Tree Way (Hidden Springs) will be drafted into an HOA community in order to maintain the private streets, community area and any future amenities. The single-family dwellings (Hidden Hills) on the East side of Pine Tree Way will not be formed into an HOA unless there is a requirement to do so. The intent is to deed each as a single-family home.

A draft of the complete CC&R's will be submitted for review by the Town of Brian Head prior to plan approvals and recordation. The CC&R's will cover include guidelines regarding the following: community overview, permitted uses and restrictions, easements, parking, general provisions HOA guidelines and voting rights, assessments and fees, maintenance, insurance, damage, condemnation and mortgage requirements. Overall, the CC&R's will be typical to that of neighboring communities and refer to the current governing jurisdictions as applicable.

Any questions or clarifications can be made to Chelsea@ammildevelopment.com.

Best,
Chelsea Curcuru-Chafkin
Owner/Developer
Ammil Development LLC



AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: October 3, 2023
TYPE OF ITEM: Administrative Action

SUMMARY:

The Planning Commission will review the proposed development agreement and give a recommendation to the Town Council.

BACKGROUND:

Brian Head Boardwalk LLC, which owns the commercial and residential mixed use development on Village Way (the "Mall"), has requested a development agreement with the Town.

When the Town recently moved to exercise a claim of Village Way (which is currently owned by a defunct corporation) through legal means, Brian Head Boardwalk LLC disputed the claim. Following negotiation with staff and discussion with the Town Council, the attached development agreement was proposed.

ANALYSIS:

Pursuant to §9-11-5 of the Town Code, a developer may request a development agreement, which is defined in state statute as: "written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land." Following a staff review and Planning Commission recommendation, Town Council may elect to adopt the development agreement. No standards for review are identified for this item, as it is completely at the discretion of the Town Council to approve or not approve.

Based on discussion with both the Town Council and Brian Head Boardwalk LLC, staff had the following points incorporated into the attached agreement.

- 1) Brian Head Boardwalk would be entitled to zero parking requirement for the existing building, the currently proposed expansion of that building, the existing ice rink, and the proposed new building (description/scope forthcoming)
- 2) Brian Head Boardwalk will not dispute the Town on any claim we make on road or meadow property
- 3) Brian Head Boardwalk would have vested rights to develop that new building under our existing code through 2027
- 4) Agreement is transferable through assignment agreement
- 5) This agreement supersedes any other agreement which may or may not exist on this property (Ice Rink CUP excepted)

STAFF RECOMMENDATION:

Staff has reviewed the requirements of state statute as they pertain to adoption of development agreements and has found that the proposed development agreement does not conflict with the same.

PROPOSED MOTION:

I move that we recommend approval of the Brian Head Boardwalk LLC Development Agreement as presented.

ATTACHMENTS:

A – Brian Head Boardwalk LLC Development Agreement

MUTUAL DEVELOPMENT AGREEMENT AND WAIVER OF CLAIMS

THIS MUTUAL DEVELOPMENT AGREEMENT AND WAIVER OF CLAIMS (this “Agreement”) is made and entered into this ____ day of _____, 2023 by and between the Town of Brian Head, a political subdivision of the state of Utah (“Town”) and _____ Brian Head Boardwalk, LLC (“Boardwalk” and collectively with the Town, the “Parties”).

WHEREAS, the Boardwalk own the properties described in Exhibit A (the “Subject Property”) in the Town; and

WHEREAS, the Town’s records include a letter referencing an agreement from 1979 (“1979 Agreement”) showing that the Town was involved in negotiations regarding certain development rights and obligations involving the prior owners of certain properties, including the Subject Property now owned by the Boardwalk that may have been finalized and agreed upon; and

WHEREAS, an executed or final version of the proposed 1979 Agreement cannot be located and certain terms in the proposed 1979 Agreement appear to not have been fulfilled by all of the parties thereto, whereas current conditions seem to indicate that other proposed terms may have been acted upon; and

WHEREAS, given the uncertainty related to the proposed 1979 Agreement, including the extended interval between 1979 and the present during which the prior proposal may have expired, the Parties acknowledge that it is in the best interests of both Parties to mutually agree on certain development rights that will more clearly define the rights and obligation of the Parties going forward:

NOW THEREFORE, the Parties hereby mutually agree and covenant as follows:

AGREEMENT

1. **COVENANTS OF THE TOWN**. The Town hereby covenants and agrees as follows:

(a) The Town shall not impose any minimum parking requirements on the Boardwalk for (i) the existing building on the Subject Property, or (ii) for the existing ice rink, or (iii) for a proposed expansion of the existing building, or (iv) for a proposed new building to be located on the Subject Property which is within the scope described in Exhibit B. This means that there will be zero minimum parking requirements for the Boardwalk for any of the improvements identified above in this paragraph on the Subject Property.

(b) The Town agrees that the Boardwalk shall have vested rights to develop or expand the existing building and vested rights to develop the proposed new building on the Subject Property under the Town’s existing land use code, or under any provision of the Town’s

land use code as it may be amended based on any currently advertised and noticed amendment, through December 31, 2027.

(c) The Town acknowledges Boardwalk's covenants are good, sufficient and valuable consideration for the promises, releases, and waivers contained in this Agreement. The Town agrees that this consideration is accepted as the full and final resolution of all matters related to the Subject Property, the adjacent road or the meadow with Boardwalk.

2. COVENANTS OF BOARDWALK. Boardwalk hereby covenant and agree as follows:

(a) Boardwalk acknowledge the Town's rights to the road and right-of-way adjacent to the Subject Property and to the adjoining meadow as shown in Exhibit C, and they forfeit and forsake all potential claims of right to any interest in such road or meadow.

(b) Boardwalk agree that, other than the matter of parking that is addressed herein, to adhere to and follow the Town's land use management code (as provided in paragraph 1(b) above) with respect to any expansion of the exiting building or the development of a proposed building on the Subject Property.

(c) Boardwalk acknowledges the Town's covenants are good, sufficient and valuable consideration for the promises, releases, and waivers contained in this Agreement. Boardwalk agrees that this consideration is accepted as the full and final resolution of all matters related to the Subject Property, the adjacent road, or the meadow with the Town.

3. TERM OF AGREEMENT. The term of this Agreement shall be 15 years, meaning that it shall expire on _____ day of _____ month in 2038. Any development rights approved herein that have not been exercised prior to the termination of this Agreement shall expire as of the termination of this Agreement.

4. Release of Claims. Boardwalk agree that the foregoing consideration represents settlement in full of all outstanding obligations owed to it by the Town. Boardwalk, on behalf of itself and its respective heirs, family members, executors and assigns, hereby fully and forever releases the Town and its parent corporations, sister corporations and subsidiaries, affiliates, operating units, officers, directors, employees and former employees, investors, shareholders, administrators, partners, divisions, predecessor and successor corporations, and assigns, from, and agrees not to sue concerning, any and all claims, demands, actions, judgments, orders, duties, obligations, causes of action, damages, liabilities, costs, expenses of any kind, and liability of any kind or nature, whether in law or equity, relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that it may possess arising from any omissions, acts or facts (i) that are related or unrelated in any way to the Subject Property, the adjacent road, the meadow, or with the Town, or (ii) that have occurred up until and including the Effective Date of this Agreement including, without limitation, any and all attorney's fees. This Paragraph 4 shall receive the broadest possible interpretation as a general and complete release as of the Effective Date of this Agreement. Boardwalk hereby agrees that the release set forth in this Paragraph 4 shall be and remain in effect in all respects as a complete general release as to the matters released.

5. No Pending or Future Lawsuits. Boardwalk represents that it has no lawsuits, claims, or actions pending in his name, or on behalf of any other person or entity, against the Town or any other person or entity referred to herein. Boardwalk further represents that it does not intend to bring any claims on its own behalf or on behalf of any other person or entity against the Town or any other person or entity referred to herein. Boardwalk agrees that in any Utah Property Rights Ombudsman administrative investigation and/or proceeding, Boardwalk shall not be entitled to recover any individual monetary relief or other individual remedies.

6. Town No Pending or Future Lawsuits. Town represents that it has no lawsuits, claims, or actions pending in its name, or on behalf of any other person or entity, against the Boardwalk or any other person or entity referred to herein. Town further represents that it does not intend to bring any claims on its own behalf or on behalf of any other person or entity against the Boardwalk or any other person or entity referred to herein.

7. No Admission of Liability. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties hereto, or either of them, either previously or in connection with this Agreement shall be deemed or construed to be an acknowledgment or admission by either party of any fault or liability whatsoever to the other party or to any third party.

8. Costs. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with this Agreement.

9. Authority. The Town represents and warrants that the undersigned has the authority to act on behalf of the Town and to bind the Town and all who may claim through it to the terms and conditions of this Agreement. Boardwalk represents and warrants that it has the capacity to act on its own behalf and on behalf of all who might claim through it to bind it to the terms and conditions of this Agreement. Boardwalk warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein.

10. No Representations. Boardwalk represents that he has had the opportunity to consult with an attorney regarding this Agreement and has carefully read and understands the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

11. Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, the remainder of this Agreement shall continue in full force and effect without said provision.

12. Entire Agreement. This Agreement, and any agreements referenced herein, represent the entire agreement and understanding between the Town and Boardwalk concerning Boardwalk's Subject Property, the adjacent road or the meadow and this Agreement supersedes and replaces any and all prior agreements and understandings concerning Boardwalk's Subject Property, the adjacent road or the meadow.

13. No Oral Modification. This Agreement may only be amended in writing signed by Boardwalk and the Town. No oral modification of this Agreement is allowed.

14. Governing Law. This Agreement shall be governed by the laws of the state of Utah.

15. Attorneys' Fees. Should an action be brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in prosecuting such an action.

16. Mediation. If any disagreement or problem arises with respect to this Agreement, the Parties agree to first submit such a disagreement or problem to mediation before a qualified mediator practicing in Utah.

17. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

18. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or on behalf of the Parties hereto, with the full intent of releasing all claims. The Parties acknowledge that they have read this Agreement, have been represented or had the opportunity to be represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel, understand the terms and consequences of this Agreement and of the releases it contains, and are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

TOWN OF BRIAN HEAD

BRIAN HEAD BOARDWALK, LLC

By: _____
Its: Town Manager
DATE: _____

[Signature]

[Date]

ATTEST:

By: _____
Its: Town Clerk

(TOWN SEAL)