

NOTICE OF MEETING
PLANNING COMMISSION
CITY OF ST. GEORGE
WASHINGTON COUNTY, UTAH

Public Notice

Notice is hereby given that the Planning Commission of the City of St. George, Washington County, Utah, will hold a **Planning Commission** meeting in the City Council Chambers, 175 East 200 North, St George, Utah, on **Tuesday, November 28, 2023**, commencing at **5:00 p.m.**

The agenda for the meeting is as follows:

Call to Order

Flag Salute

1. **Tuscan Hills Phase 5 Preliminary Plat** – Rhett Beazer, representing Alpha Engineering is requesting approval of a Residential Preliminary Plat to develop thirty-two (32) lots on approximately 2.93 acres located generally west of Dixie Drive and south of Gap Canyon Pkwy. The applicant is Haskell Homes. **Case No. 2023-PP-046** (Staff – Mike Hadley)
2. **Fields at Mall drive Lot 5 Preliminary Plat** – Jake Woodard, representing JW Properties is requesting approval of a Commercial Preliminary Plat to develop three (3) lots on approximately 5.17 acres located on approximately 2700 East Mall Drive (North side of the street). The applicant is JW Properties. **Case No. 2023-PP-058** (Staff – Dan Boles)
3. **Les Schwab Offsite Improvements Preliminary Plat** – Dylan Hall and Jared Bates, representing Rosenberg and Associates is requesting approval of a Commercial Preliminary Plat to dedicate a private access road for future development. The property is located along Pioneer Road in the Sun River Commons area. The applicant is Sun River Commons LLC. **Case No. 2023-PP-043** (Staff – Mike Hadley)
4. **Dirt Road Ranch Preliminary Plat** – Mike Terry, representing DSG Civil is requesting approval of a Residential Preliminary Plat to develop one (1) lot on approximately 2.48 acres located on the south side of Seegmiller Drive at approximately 2650 East. The applicant is NJE Family LC. **Case No. 2023-PP-059** (Staff – Dan Boles)
5. **Planning Commission Training on Exactions and Impact Fees**
Deputy City Attorney Jami Brackin will present training on Exactions and Impact Fees.

6. **Minutes**

Consider a request to approve the meeting minutes from the November 14, 2023, meeting.

7. **City Council Items**

Carol Winner the Community Development Director will report on items heard at the November 16, 2023, City Council meeting.

1. 2022-HS-012 Divario PA – 3
2. 2023-PDA-021 Divario PA-3 Rillisante Villas
3. 2023-ZC-015 The Grove
4. 2023-PP-032 The Grove
5. 2023-ZC-014 Willow Bend Commercial

6. 2023-PP-035 Willow Bend 3 Lot Subdivision
 7. 2023-ZRA-003 Title10 remove mobile business permitted with standards
-

Brenda Hatch – Development Office Supervisor

Reasonable Accommodation: The City of St. George will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs. Please contact the City Human Resources Office at (435) 627-4674 at least 24 hours in advance if you have special needs.

PLANNING COMMISSION AGENDA REPORT: **11/28/2023**

Tuscan Hills Ph.5

Case No. 2023-PP-046

Request:	Consider a request for a thirty-two (32) lot preliminary plat known as Tuscan Hills Ph.5. This proposal includes Phase 5 of Tuscan Hills and the amenity area for the Tuscan Hills east side development. The property is 2.93 acres for the plat and 7.47 acres for the amenity area and is zoned PD-R (Planned Development Ph.5), located approximately west of Dixie Drive and south of Gap Canyon Pkwy. The applicant is Haskell Homes, and the representative is Rhett Beazer. Case No. 2023-PP-046 (Staff – Mike Hadley).
Location:	The property is generally located west of Dixie Drive and south of Gap Canyon Pkwy.
Property:	2.93 acres-Plat, 7.47 acres-Amenity Area.
Number of Lots:	32
Density:	10.9
Zoning:	PD-R (Planned Development Residential).
Adjacent zones:	This plat is surrounded by the following zones: North – M-1 (Manufacturing). South – R-1-10 (Single Family Residential). East – PD-C (Planned Development Commercial). West – R-1-10 (Single Family Residential), M&G (Mining & Grazing).
General Plan:	VLDR (Very Low Density Residential).
Applicant:	Haskell Homes.
Representative:	Rhett Beazer

Comments: GIS – Need CAD file of surrounding boundaries.

RECOMMENDATION PRELIMINARY PLAT:

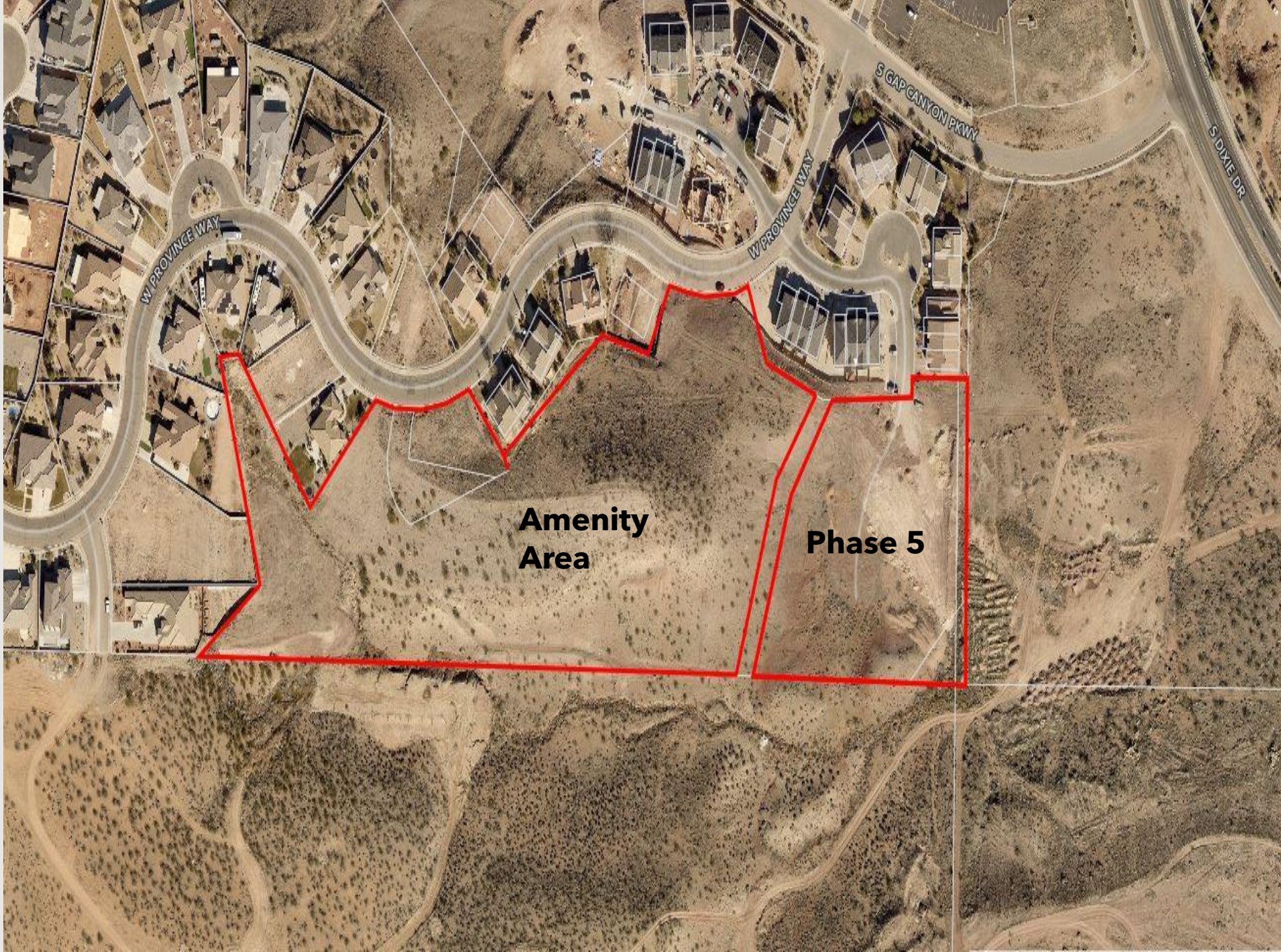
Staff recommends approval of the Preliminary Plat for Tuscan Hills Ph.5 with the following conditions:

1. The Final plat cannot be recorded until the amenity area and amenities are installed or the applicant has bonded for the improvements.

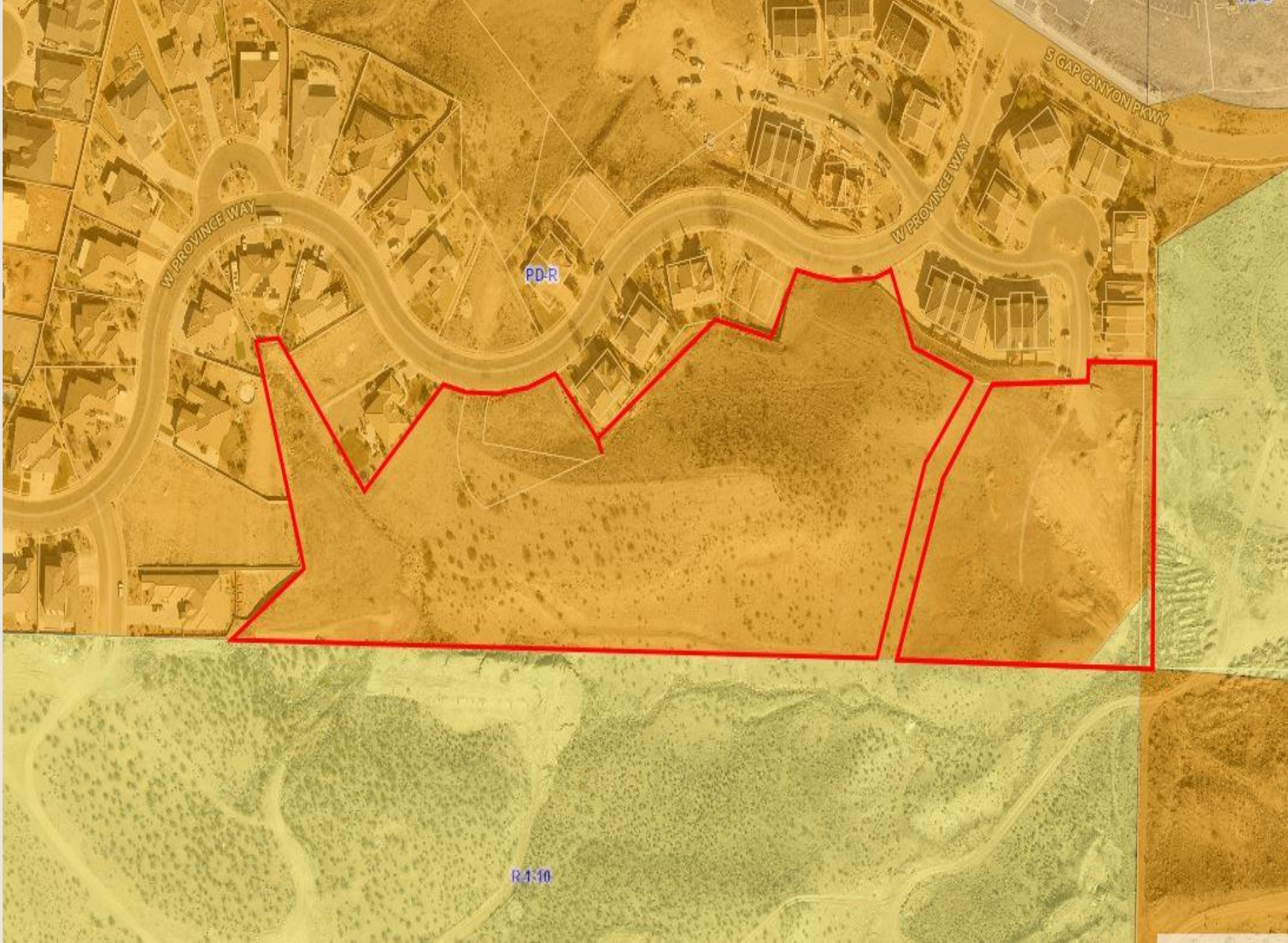
A photograph of the interior of Antelope Canyon, showing smooth, undulating sandstone walls in warm orange and red tones. Light enters from an opening in the distance, creating a bright glow and casting long, soft shadows. The rock surfaces have a wavy, sculpted appearance.

Tuscan Hills Ph.5
2023-PP-046

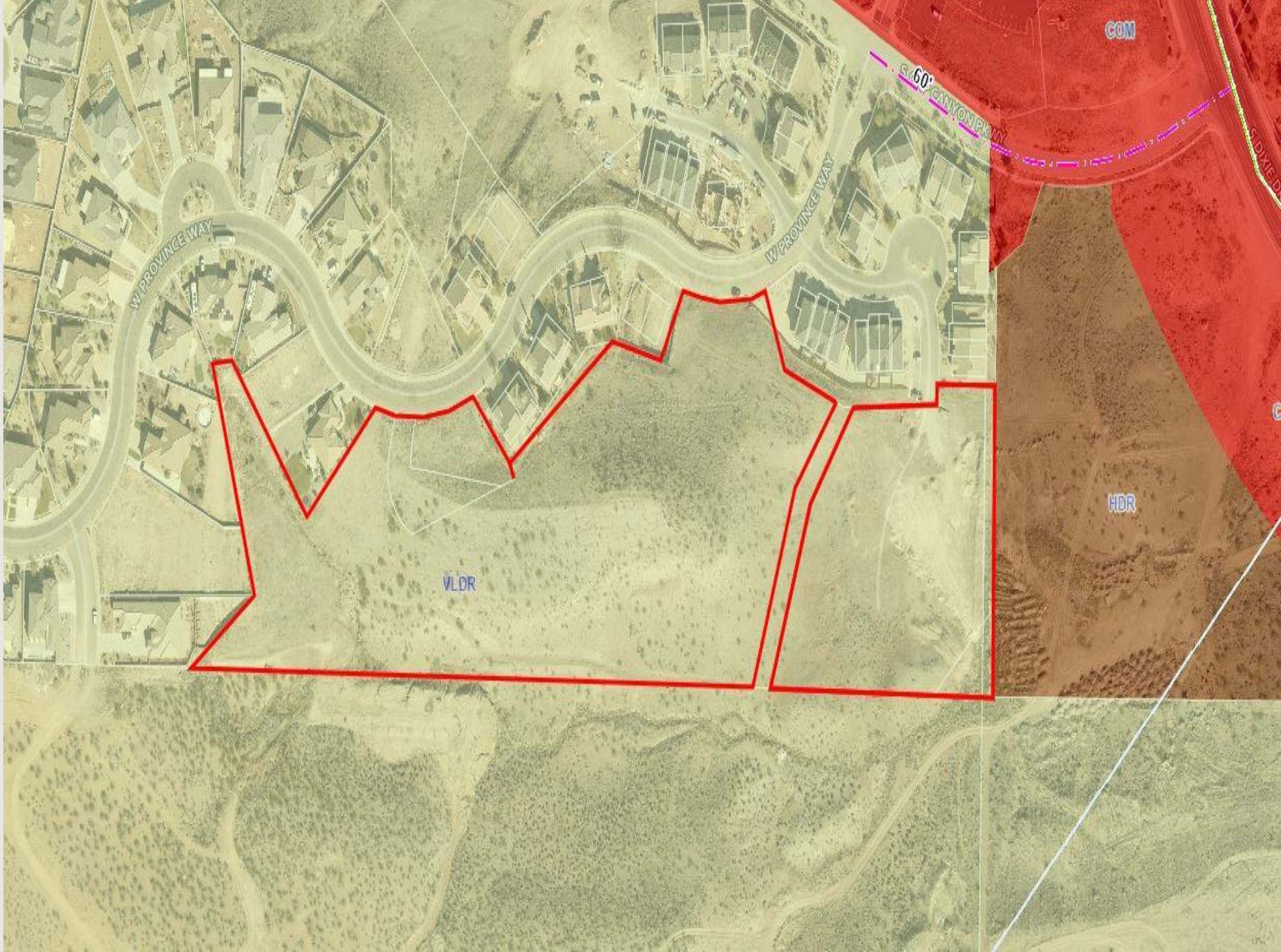
Vicinity Map



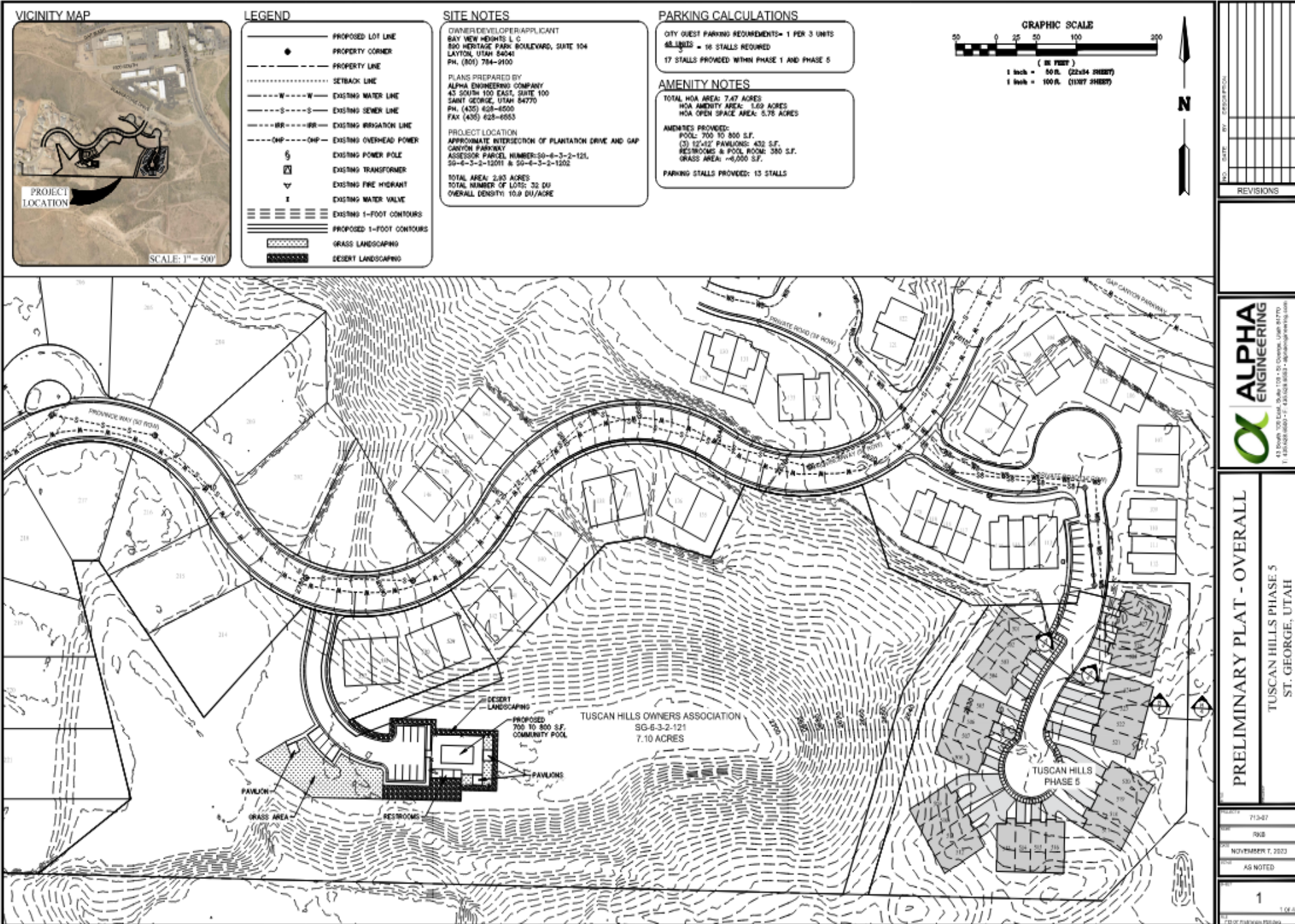
Zoning Map



General Plan Map



Preliminary Plat



PLANNING COMMISSION AGENDA REPORT: 11/28/2023

Preliminary Plat

Fields at Mall Drive Lot 5 Preliminary Plat

Case No. 2023-PP-058

Request: The applicant is requesting approval of a preliminary plat to divide the property into three lots. The purpose for this preliminary plat is to create three separate legal lots in the PD-C (Planned Development Commercial) zone.

Representative: Jake Woodward (JW Properties)

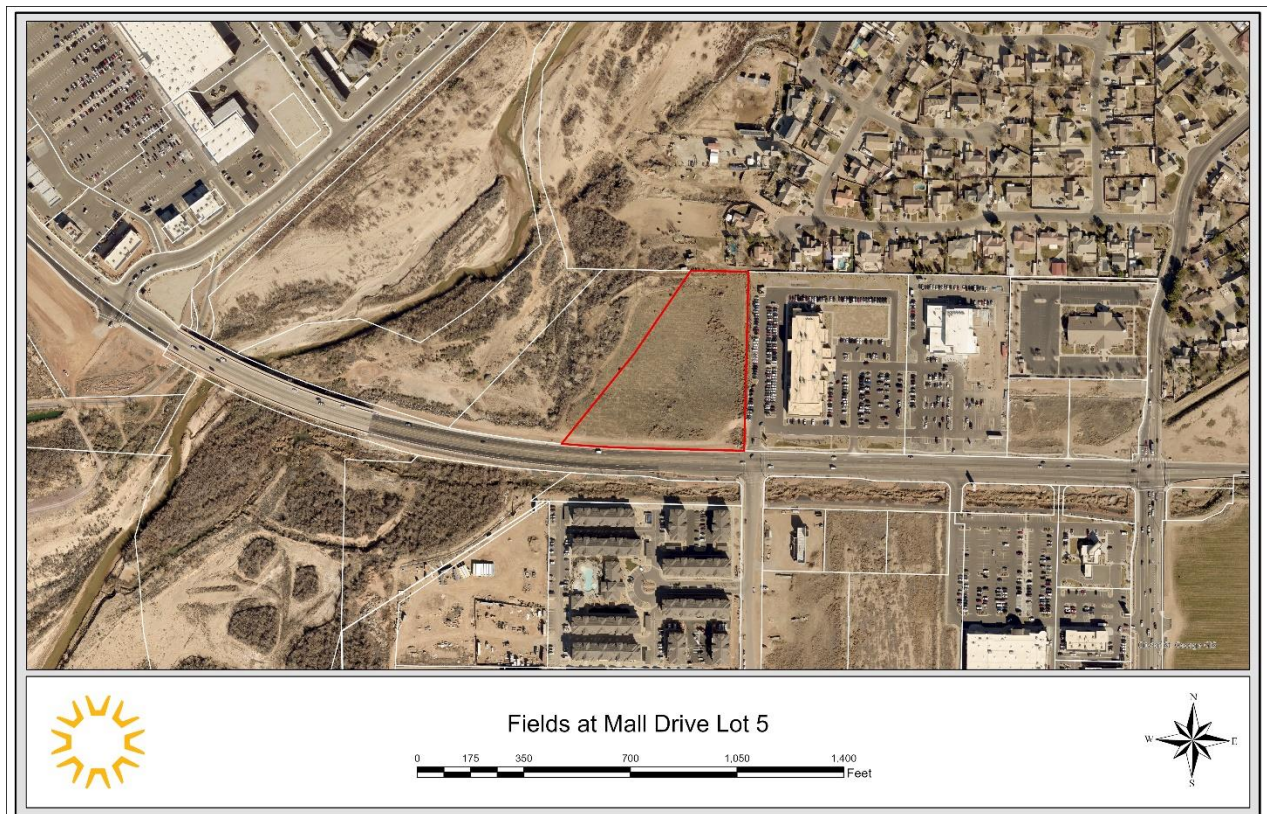
Parcel Number: SG-FMD-2-5

Location: The property is located at approximately 2700 E Mall Drive (North side of the street)

Total Acreage: Approximately 5.17 acres (225,205 ft²)

Existing Zoning: PD-C (Planned Development Commercial)

General Plan: PO (Professional Office)



Adjacent zones: North – Washington City (PUD-R – Residential)
 South – Agricultural, minimum lot size 20 acres (A-20)
 East – PD-C (Planned Development Commercial)
 West – Agricultural, minimum lot size 20 acres (A-20)

Background & Analysis: On October 5, 2023, a PD amendment was approved for a portion of this property which will allow Walgreens to be built. The PD affected the south east portion of the property which is the proposed lot one and is approximately 1.36 acres or 59,292 ft².

As previously stated, Lot one which is the Walgreens lot, will be 1.36 acres (59,292 ft²). Lot two and three are proposed to be 1.56 acres (67,989 ft²) and 2.25 acres (97,940 ft²) respectively. Each lot will be responsible for obtaining approval of PD amendments and site plan approvals as necessary.

Recommendation: Staff recommends approval of this preliminary plat.

Alternatives: 1. Recommend approval as presented.
 2. Recommend denial.
 3. Continue the proposed preliminary plat into the future.

Sample Motion: “I move that we forward a positive recommendation to the City Council for the Fields at Mall Drive Lot 5 Preliminary Plat request, application number 2023-PP-058, based on the findings and subject to the conditions noted in the staff report.”

Conditions: 1. The legend should show a cross access and utility easement through lots 1 and 2 for vehicle access and utility access for the project, see redline drawing. The easements will need to be shown on the final plat.
 2. The connection to the existing water main within the Revere Health property will need an easement from Revere Health to the city for maintenance of this water main through their property. The city will also require a municipal utility easement for the proposed water main that loops through the site so the city can own and maintain the water main and fire hydrants.
 3. Since the proposed detention basin located on proposed lot 2 appears to provide the location to provide storm runoff detention for the entire site, an easement will need to be granted over this proposed detention basin for all 3 lots as this is where their storm runoff will be detained.
 4. There is an existing irrigation main in Mall Drive. The preliminary plat does not show the existing irrigation line. With development of the property, the developer will be required to connect to the existing irrigation main in Mall Drive and extend an

irrigation line into the project to provide irrigation for the landscaping to be installed with the project.

5. As we have been discussing, the project will need an access easement from Revere Health for access from Mall Drive to the traffic signal as this is all on Revere Health's property.

Possible Findings:

1. That the plat is consistent with and compliant to the zoning on the property.
2. That the plat will not leave any remnant property unaccounted for.
3. That development in the plat is consistent with the PD amendment previously proposed by the applicant.

Exhibit A

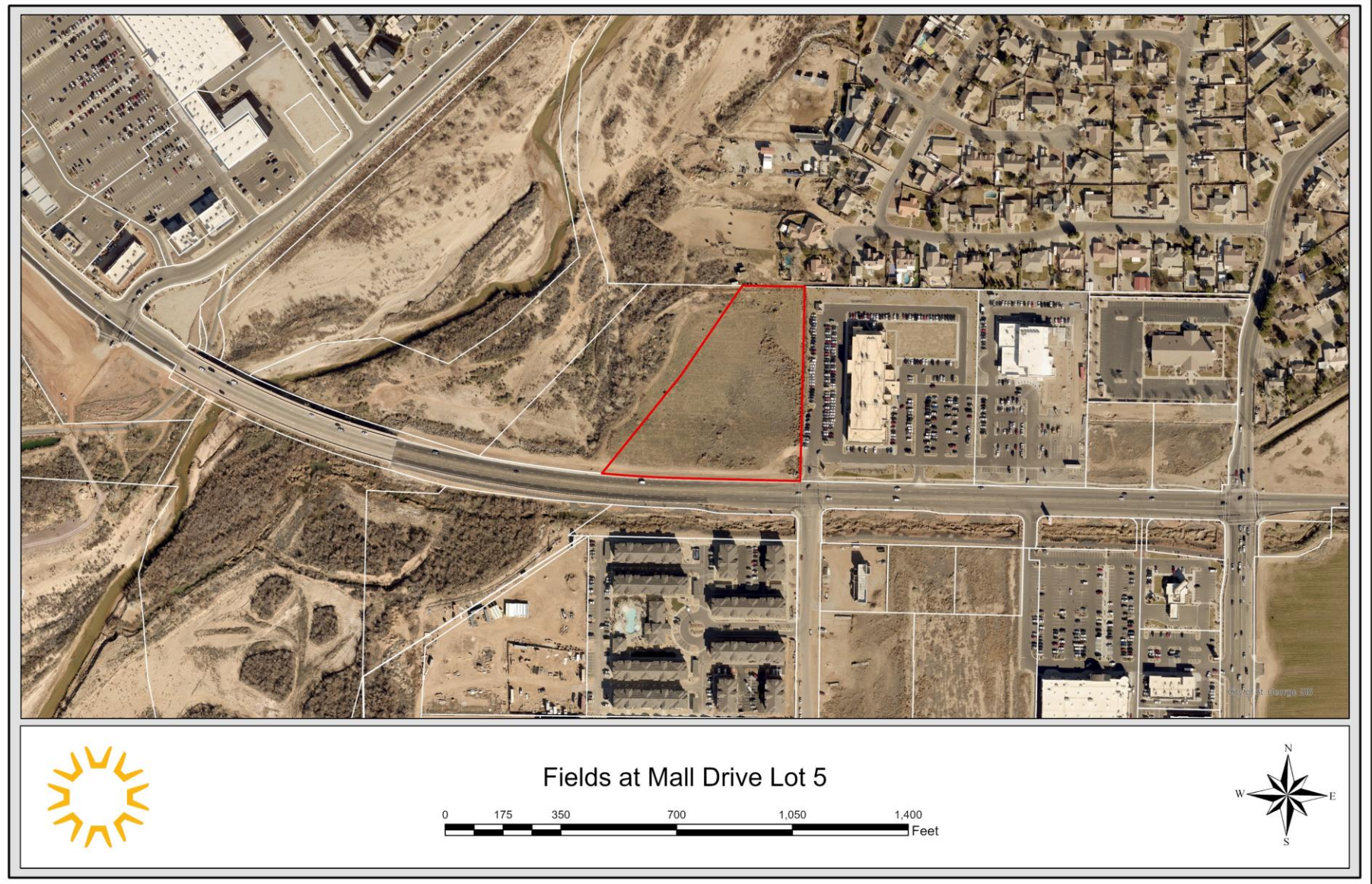
Presentation



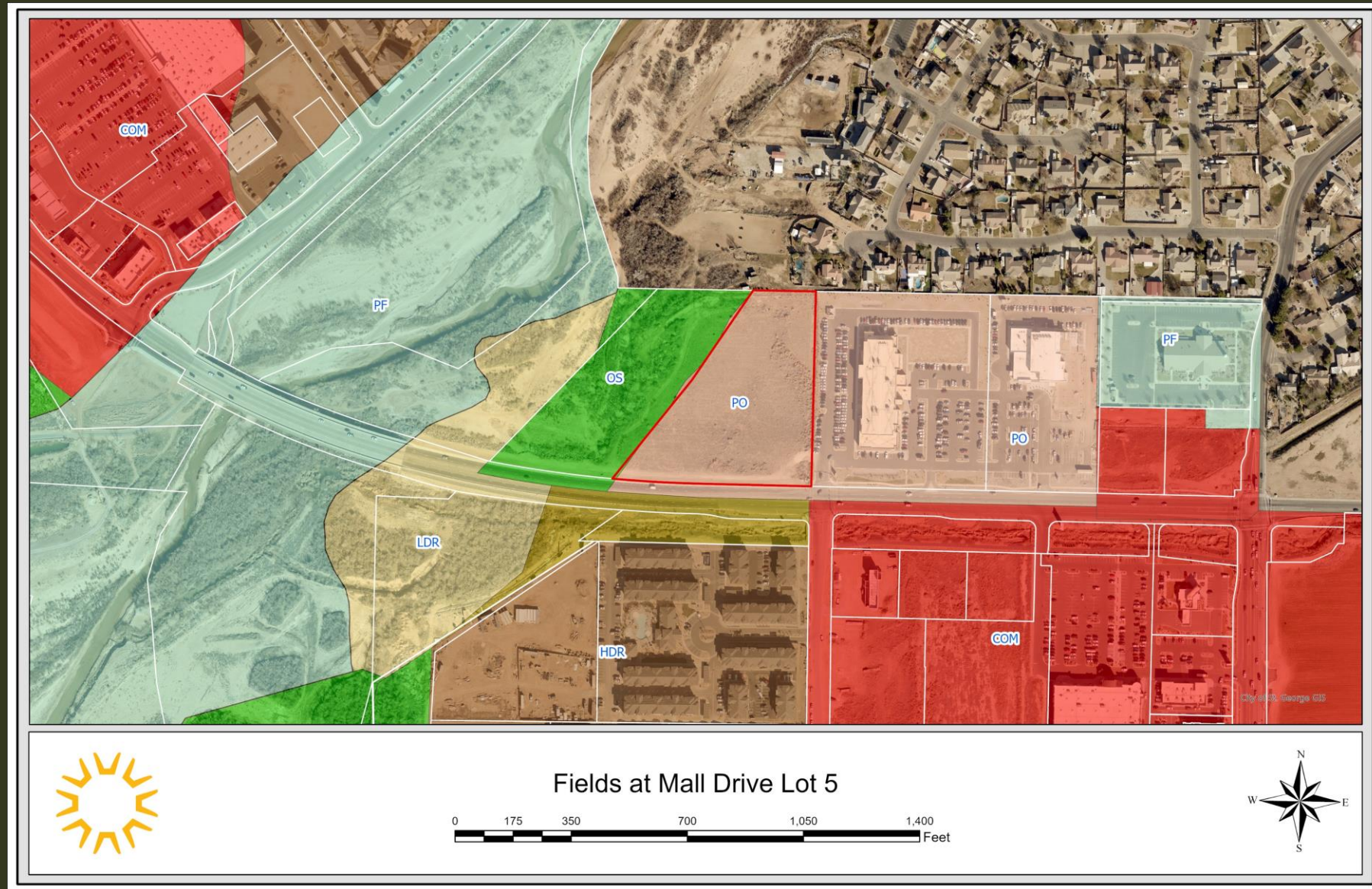
THE FIELDS AT
MALL DRIVE LOT 5

| *2023-PP-058*

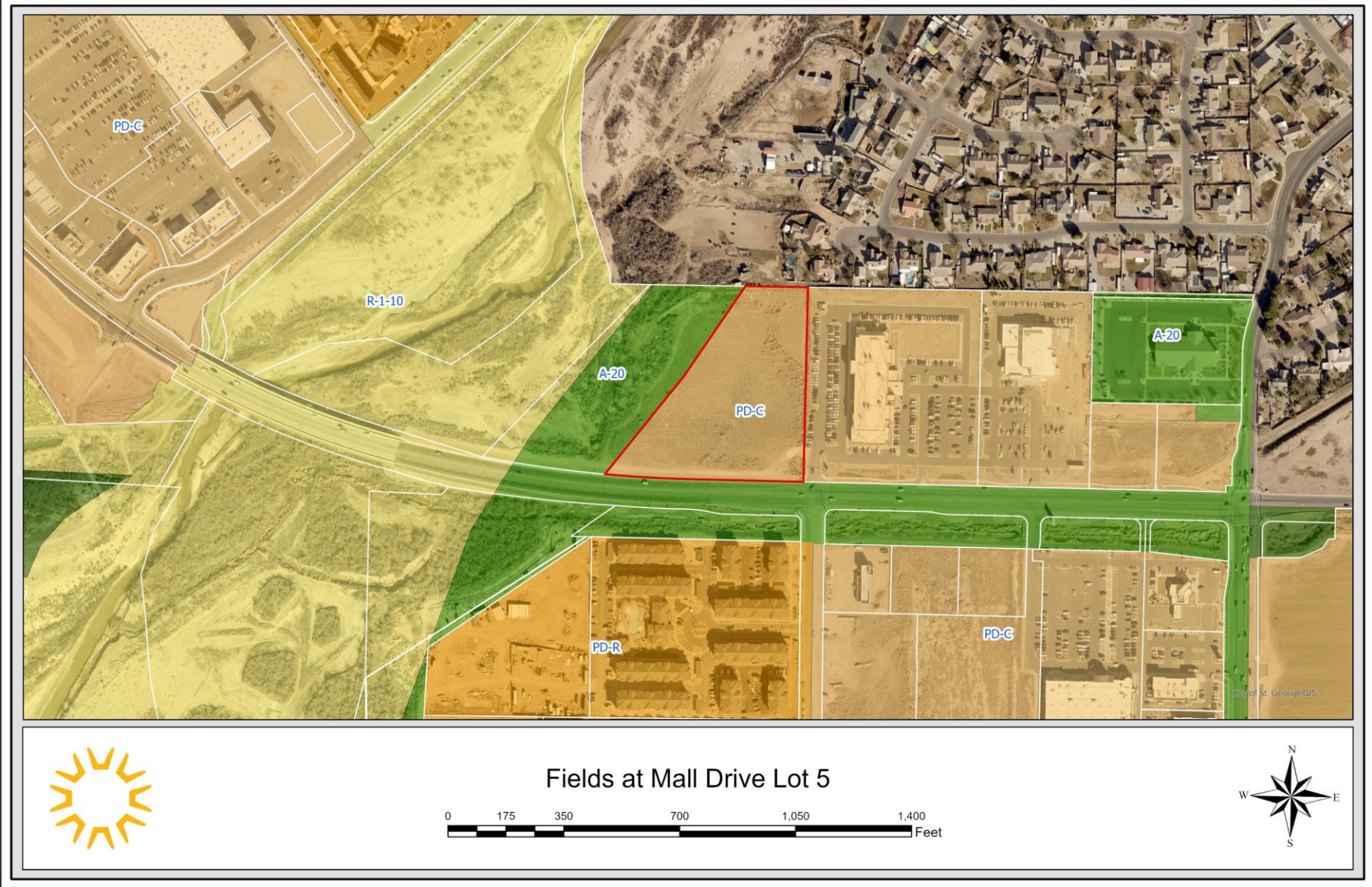
AERIAL MAP



LAND USE MAP



ZONING MAP



LEGEND

- BOUNDARY
- SECTIONAL LINE
- EXISTING
- RIGHT-OF-WAY LINE
- CONTINENTAL
- BUILDING TRACK
- EXISTING PROPERTY LINE
- SECTION MONUMENT (FOUND)
- STREET MONUMENT (TO BE SET)
- BOUNDARY MARKERS

PRINCE VINE ESTATES
PLOT 1 (AMENDED)
PLOT 2 (AMENDED)
PLOT 3 (AMENDED)
BOOK 1425 PAGE 133

N
S

GRAPHIC SCALE
1 INCH = 60 FT

VICINITY MAP
N.T.S.

BOUNDARY DESCRIPTION

Lot 5, THE FIELDS AT MALL DRIVE PHASE 1, according to the official plat thereof, on file and of record in the office of the Washington County Recorder, State of Utah.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF ALL THE ABOVE DESCRIBED TRACT OF LAND, HAVING CALLED THE SAME TO BE SUBDIVIDED INTO LOTS AND EASEMENTS TO BE HEREINAFTER BE KNOWN AS:

THE FIELDS AT MALL DRIVE LOT 5 SPLIT
PRELIMINARY PLAT

FOR GOOD AND VALUABLE CONSIDERATION RECEIVED, DO HEREBY DEDICATE AND CONVEY TO THE CITY OF ST. GEORGE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS PUBLIC STREETS AND EASEMENTS AS SHOWN, ALL LOTS AND EASEMENTS ARE NOTED AS SHOWN, THE OWNERS DO HEREBY WARRANT TO THE CITY OF ST. GEORGE AND ITS SUCCESSORS AND ASSIGNS, TITLE TO ALL PROPERTY DEDICATED AND CONVEYED TO PUBLIC USE, HEREIN AGAINST THE CLAIMS OF ALL PERSONS, LOTS SHOWN ON THIS PLAT, ARE SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (CCAR), RECORDED CONCURRENTLY WITH THIS PLAT, SAID DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS IS HEREBY INCORPORATED AND MADE PART OF THIS PLAT.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS THIS ____ DAY OF ____ A.D. 20 ____

AGRICULTURAL LAND RESERVE INC. PROPERTY RESERVE INC.:

LIMITED LIABILITY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF ____

ON THE ____ DAY OF ____ A.D. 20 ____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY OF ____, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE ____ OF ____ L.L.C., A START-UP L.L.C. AND THAT HE/SHE SIGNED THE OWNERS DEDICATION TRULY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED.

MY COMMISSION EXPIRES: ____ A NOTARY PUBLIC COMMISSIONED IN ____ COUNTY

MY COMMISSION No. ____ PRINTED FULL NAME OF NOTARY

THE FIELDS AT MALL DRIVE LOT 5 SPLIT PRELIMINARY PLAT

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, T42N, R19W, S18M, SALT LAKE BASIN & MERRIDIAN, CITY OF ST. GEORGE, WASHINGTON COUNTY, UTAH

RECORDED NUMBER

APPROVAL AND ACCEPTANCE BY THE

APPROVAL OF THE PLANNING AND ZONING MANAGER	ENGINEER'S APPROVAL	APPROVAL AS TO FORM
THE PLANNING AND ZONING MANAGER FOR THE CITY OF ST. GEORGE, HAVING REVIEWED THE ABOVE SUBDIVISION FINAL PLAT AND RECOMMENDING THE SAME FOR ACCEPTANCE BY THE CITY OF ST. GEORGE, UT. _____ PLANNING AND ZONING MANAGER CITY OF ST. GEORGE	THE DESIGN PROFESSIONAL HAS REVIEWED THE INFORMATION ON FILE IN HIS OFFICE THIS ____ DAY OF ____ A.D. 20 ____. _____ ENGINEER CITY OF ST. GEORGE	APPROVED TO FORM, THIS THE ____ DAY OF ____ A.D. 20 ____. _____ CITY ATTORNEY CITY OF ST. GEORGE

APPROVAL AND ACCEPTANCE BY THE

APPROVAL OF THE PLANNING AND ZONING MANAGER	ENGINEER'S APPROVAL	APPROVAL AS TO FORM
ON THIS ____ DAY OF ____ A.D. 20 ____, THE PLANNING COMMISSION OF THE CITY OF ST. GEORGE, HAVING REVIEWED THE ABOVE SUBDIVISION FINAL PLAT AND HAVING FOUND THAT IT COMPLIES WITH THE REQUIREMENTS OF THE CITY'S PLANNING ORDINANCES, AND BY AUTHORITY OF SAID COMMISSION HEREBY APPROVED SAID SUBDIVISION FOR ACCEPTANCE BY THE CITY OF ST. GEORGE, UT. _____ CITY PLANNING COMMISSION CITY OF ST. GEORGE	WE, THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. GEORGE, UT, HAVE REVIEWED THE ABOVE SUBDIVISION FINAL PLAT AND BY AUTHORIZATION OF SAID CITY COUNCIL, RECORDED IN THE MINUTES OF ITS MEETING OF THE ____ DAY OF ____ A.D. 20 ____, HEREBY ACCEPT SAID FINAL PLAT WITH ALL COMMITMENTS AND OBLIGATIONS PERTAINING THERE TO. _____ CITY MAYOR CITY OF ST. GEORGE	WASHINGTON COUNTY TREASURER, CERTIFY ON THIS ____ DAY OF ____ A.D. 20 ____, THAT ALL TAXES SPECIFIC ASSESSMENTS, AND FEES DUE AND OWING ON THIS SUBDIVISION FINAL PLAT HAVE BEEN PAID IN FULL. _____ WASHINGTON COUNTY TREASURER

FOCUS ENGINEERING AND SURVEYING, LLC
400 S. HIGH TECH DRIVE SUITE 200
MIDVALE, UTAH 84047 PH: (801) 352-0875
www.focusms.com

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PLANNING COMMISSION AGENDA REPORT: **11/28/2023**

Les Schwab

Case No. 2023-PP-043

Request: Consider a request for a preliminary plat known as Les Schwab offsite Improvements, in Sun River Commons just off Pioneer Road. The purpose of this plat is to dedicate a private access road for future development. The property is currently zoned PD-C. The applicant is Sun River Commons LLC, and the representative is Dylan Hall/Jared Bates. Case No. 2023-PP-043 (Staff – Mike Hadley)

Location: The site is located along Pioneer Road in the Sun River Commons area.

Property: N/A

Number of Lots: 0

Density: N/A

Zoning: PD-C (Planned Development Commercial).

Adjacent zones: This plat is surrounded by the following zones:
North – PD-C (Planned Development Commercial).
South – PD-C (Planned Development Commercial).
East – PD-C (Planned Development Commercial).
West – PD-C (Planned Development Commercial).

General Plan: COM (Commercial).

Applicant: Sun River Commons LLC.

Representative: Dylan Hall/Jared Bates.

Comments: No Comments.

RECOMMENDATION PRELIMINARY PLAT:

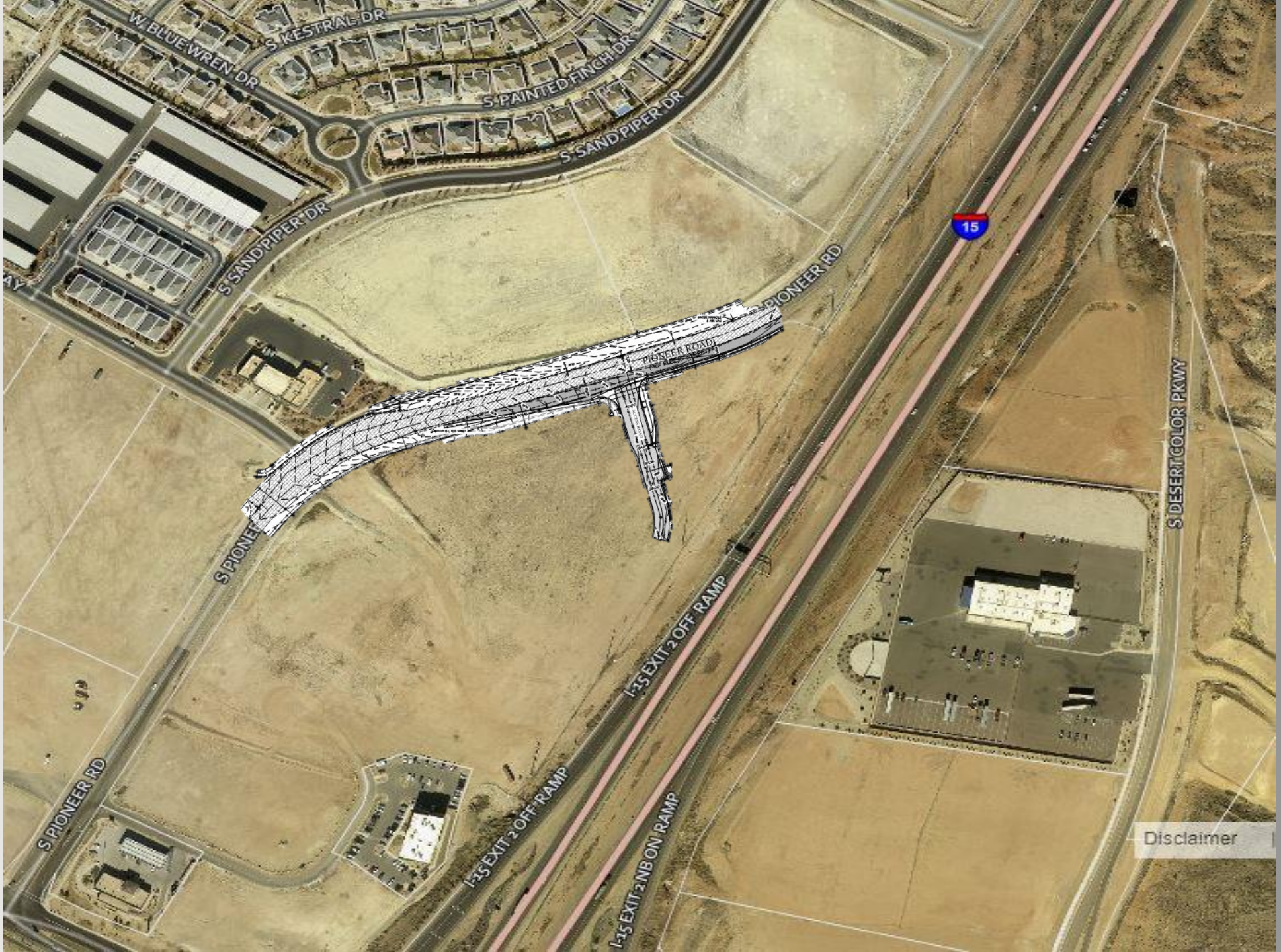
Staff recommend approval of the Preliminary Plat for the Les Schwab with no conditions.

Sun River Commons

2023-PP-043



Vicinity Map

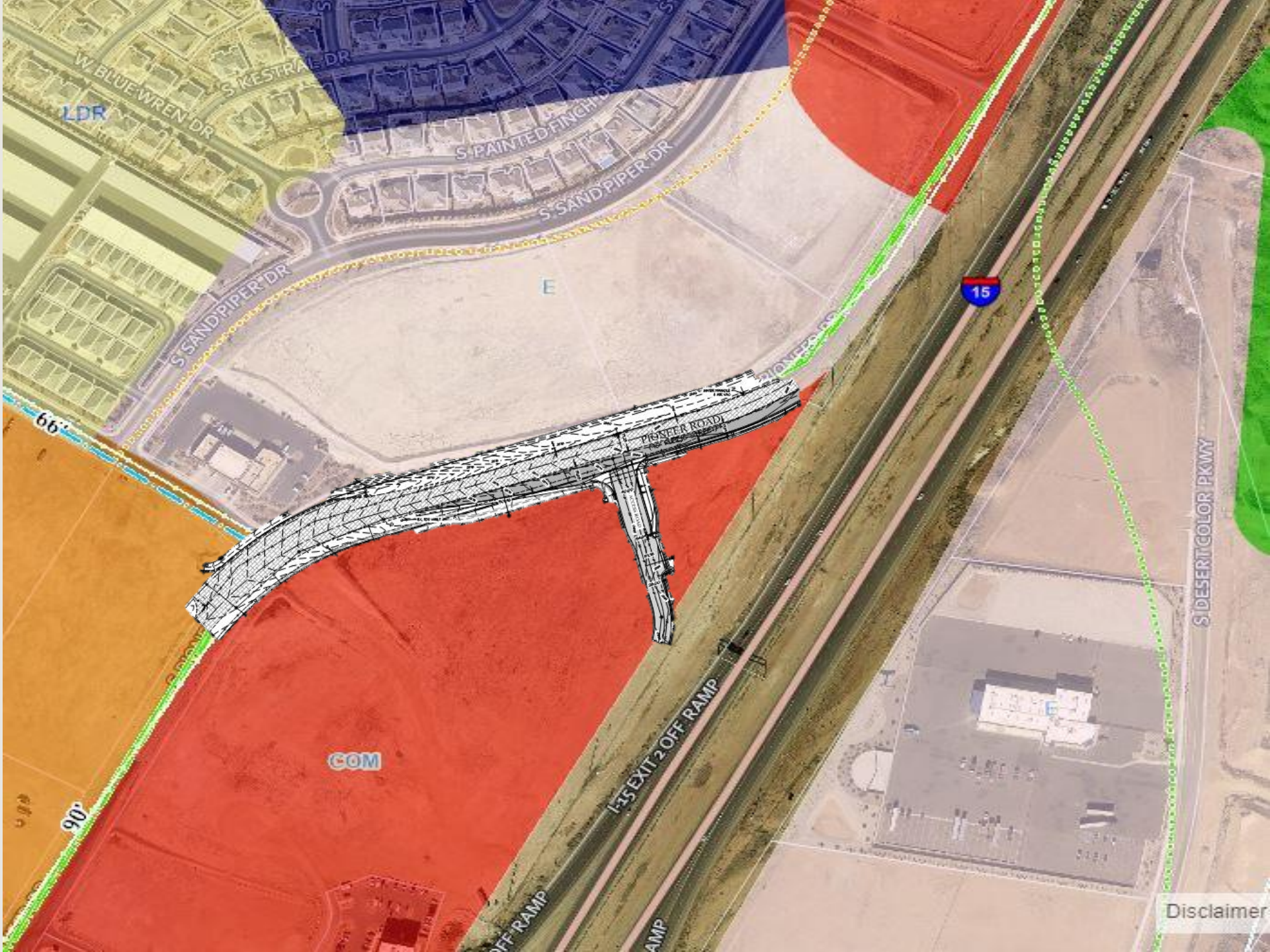


Disclaimer

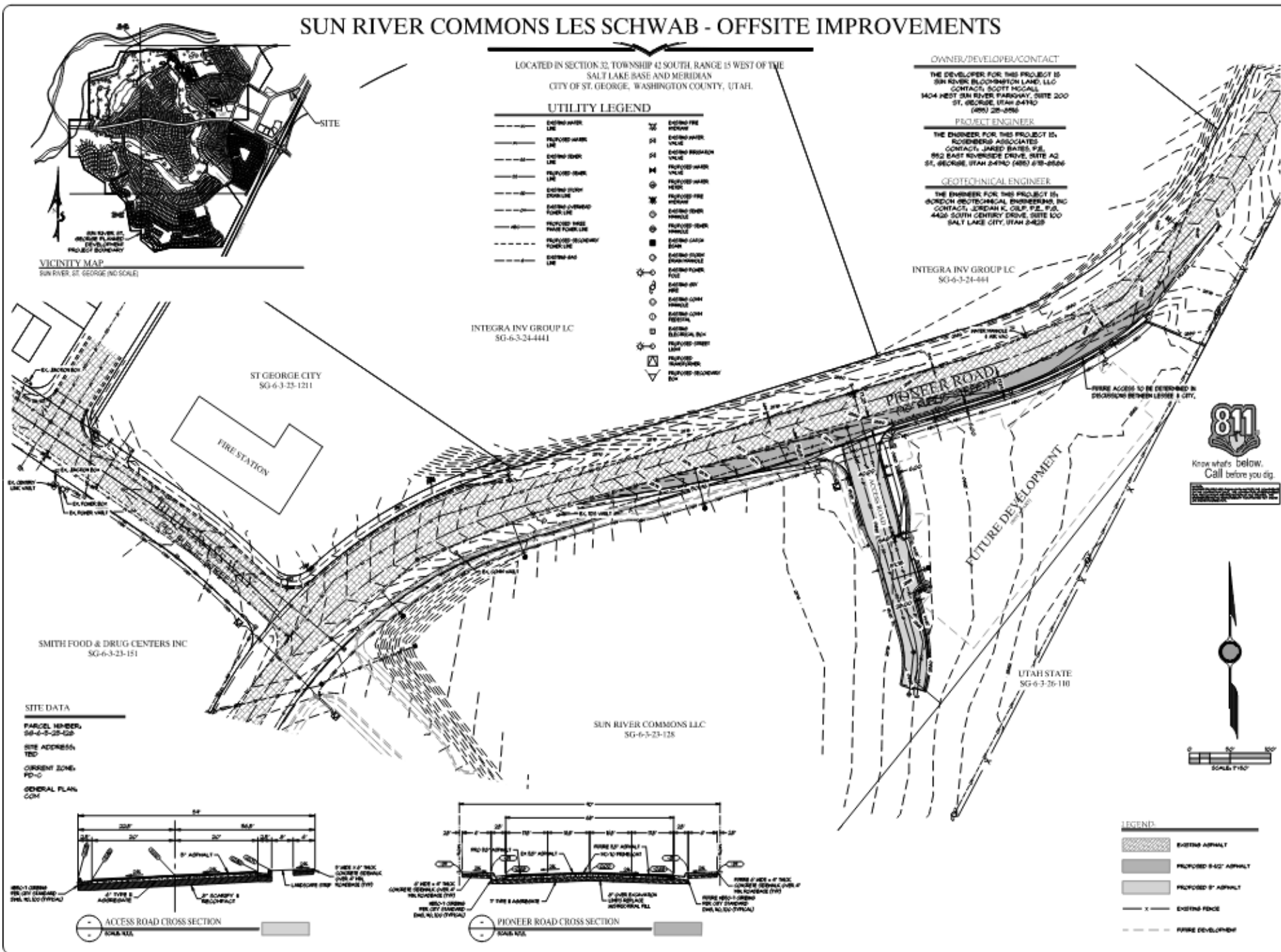
Zoning Map



General Plan Map

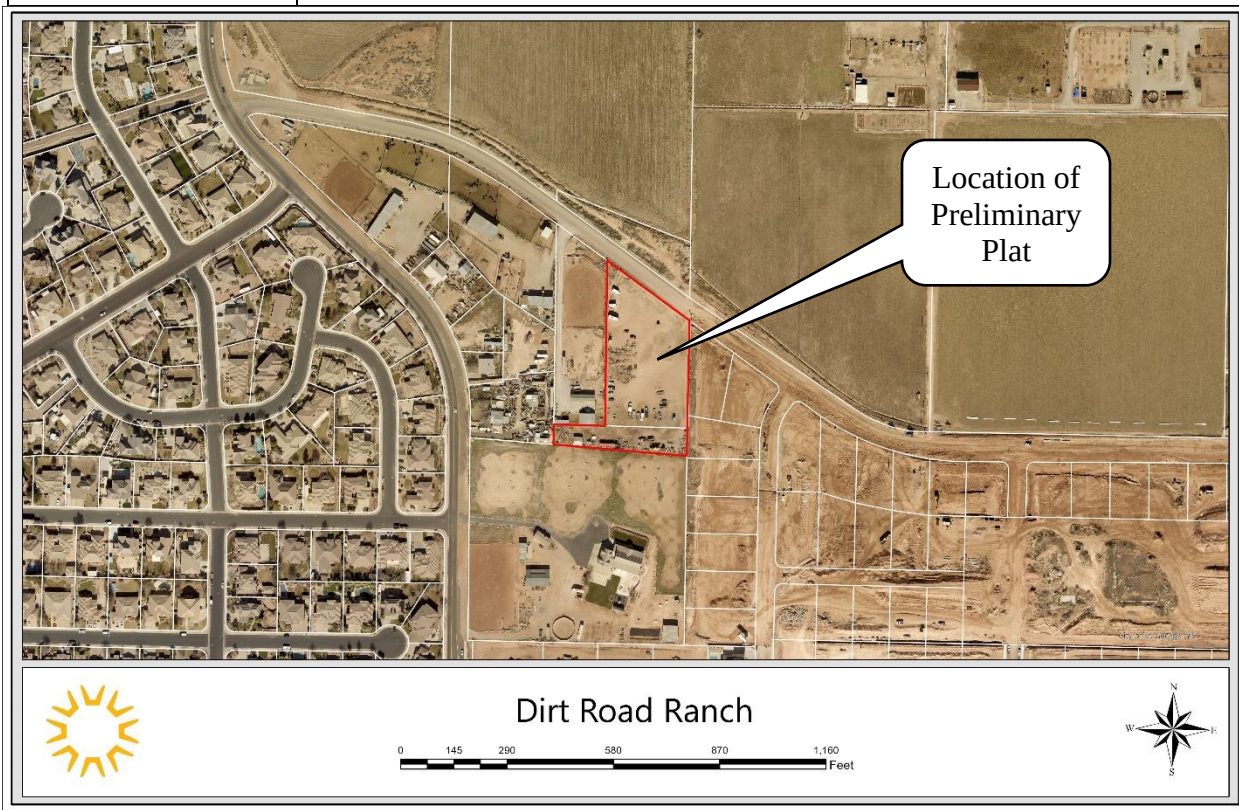


Preliminary Plat



PLANNING COMMISSION AGENDA REPORT: 11/28/2023

Dirt Road Ranch Preliminary Plat (Case No. 2023-PP-059)	
Request:	The applicant is requesting approval of a single lot residential preliminary plat to be called Dirt Road Ranch.
Applicant:	NJE Family LC
Representative:	Mike Terry
Location:	Located on the south side of Seegmiller Drive at approximately 2650 East.
General Plan:	LDR (Low Density Residential)
Existing Zoning:	A-1 (Agriculture 1 acre minimum lot size)
Land Area:	Approximately 2.48 acres



BACKGROUND & REQUEST:

On November 2, 2023, the City Council approved a zone change which fixed a split zoning issue on the property. The property is now entirely zoned A-1 (Agricultural, one acre minimum lot size). The property actually consists of two parcels, one 1.79 acres and one 0.69 acres in size. The request is now to plat the property to combine both parcels and create a single 2.48 acre parcel in order to build a home on the property.

RECOMMENDATION:

Staff recommends approval of this preliminary plat.

ALTERNATIVES:

1. Recommend approval as presented.
2. Recommend approval with conditions.
3. Recommend denial.
4. Continue the proposed preliminary plat to a later date.

POSSIBLE MOTION:

"I move that we approve the Dirt Road Ranch preliminary plat request, application number 2023-PP-059, based on the findings noted in the staff report."

FINDINGS FOR APPROVAL:

1. The proposed Preliminary Plat meets the requirements found in Section 10-25C-3 of the Subdivision Regulations.
2. The proposed project meets the lot size requirements found in Section 10-5-3 of the St. George City Code.

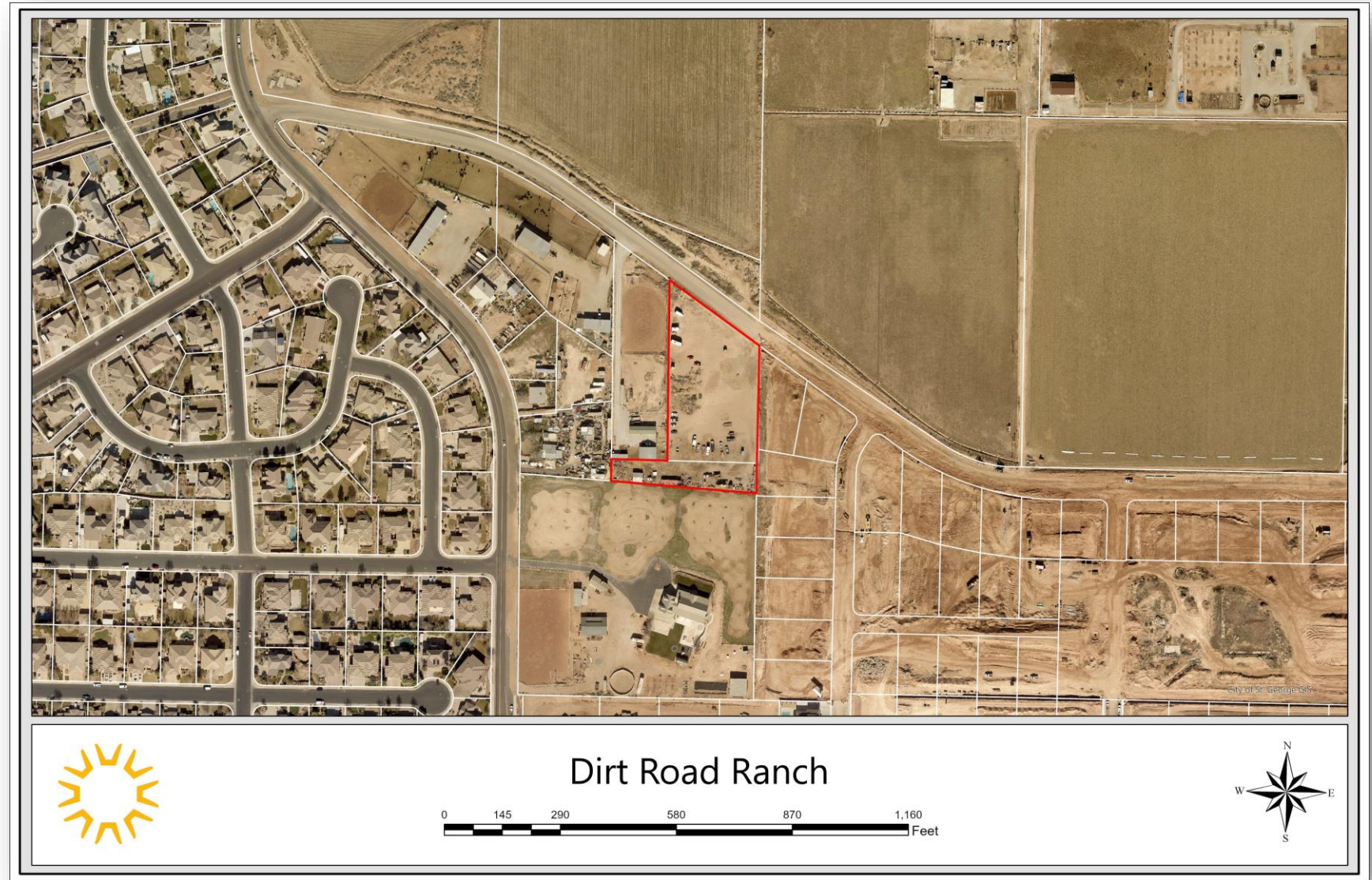
EXHIBIT A
PowerPoint Presentation



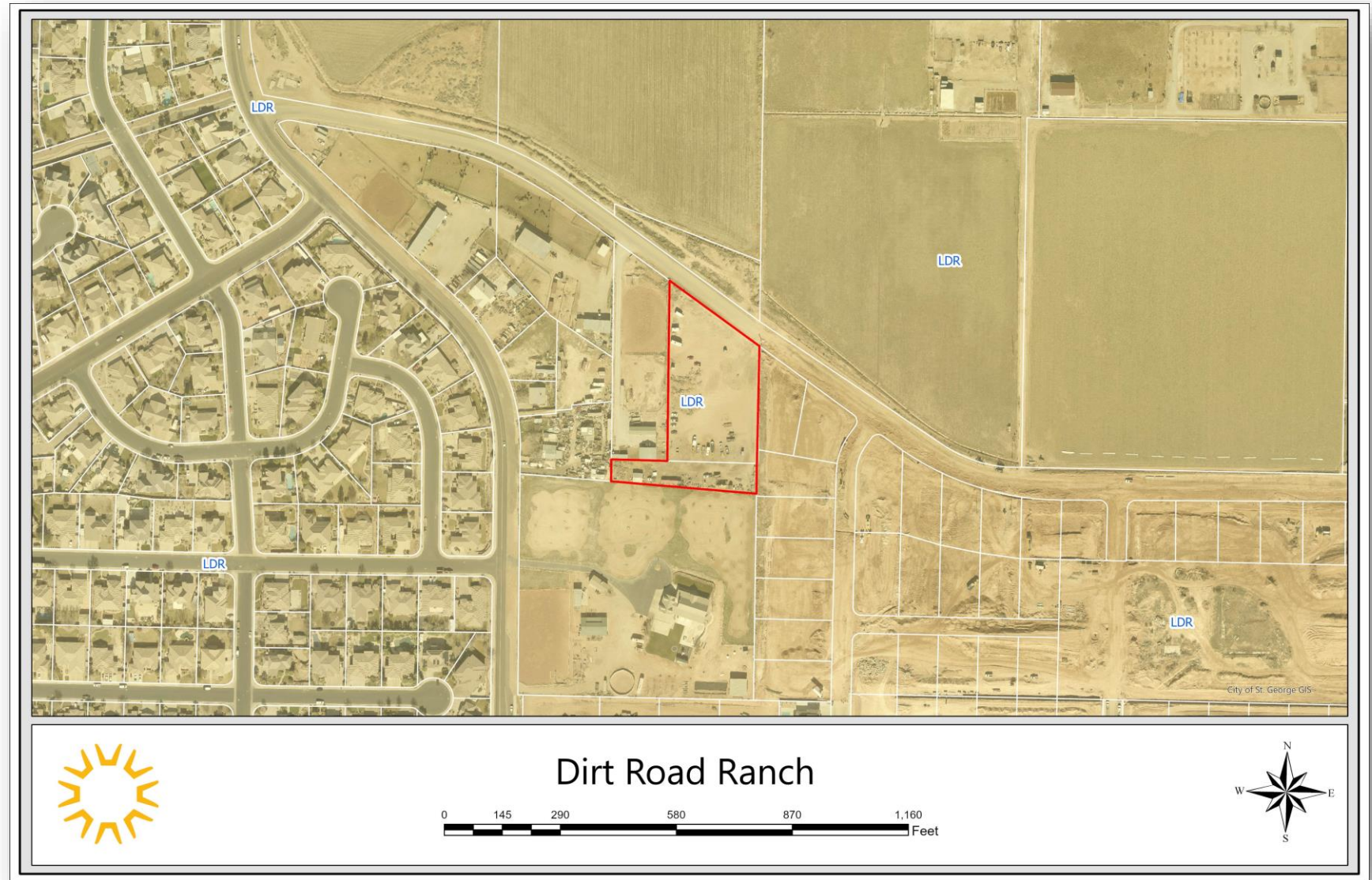
Dirt Road Ranch

2023-PP-059

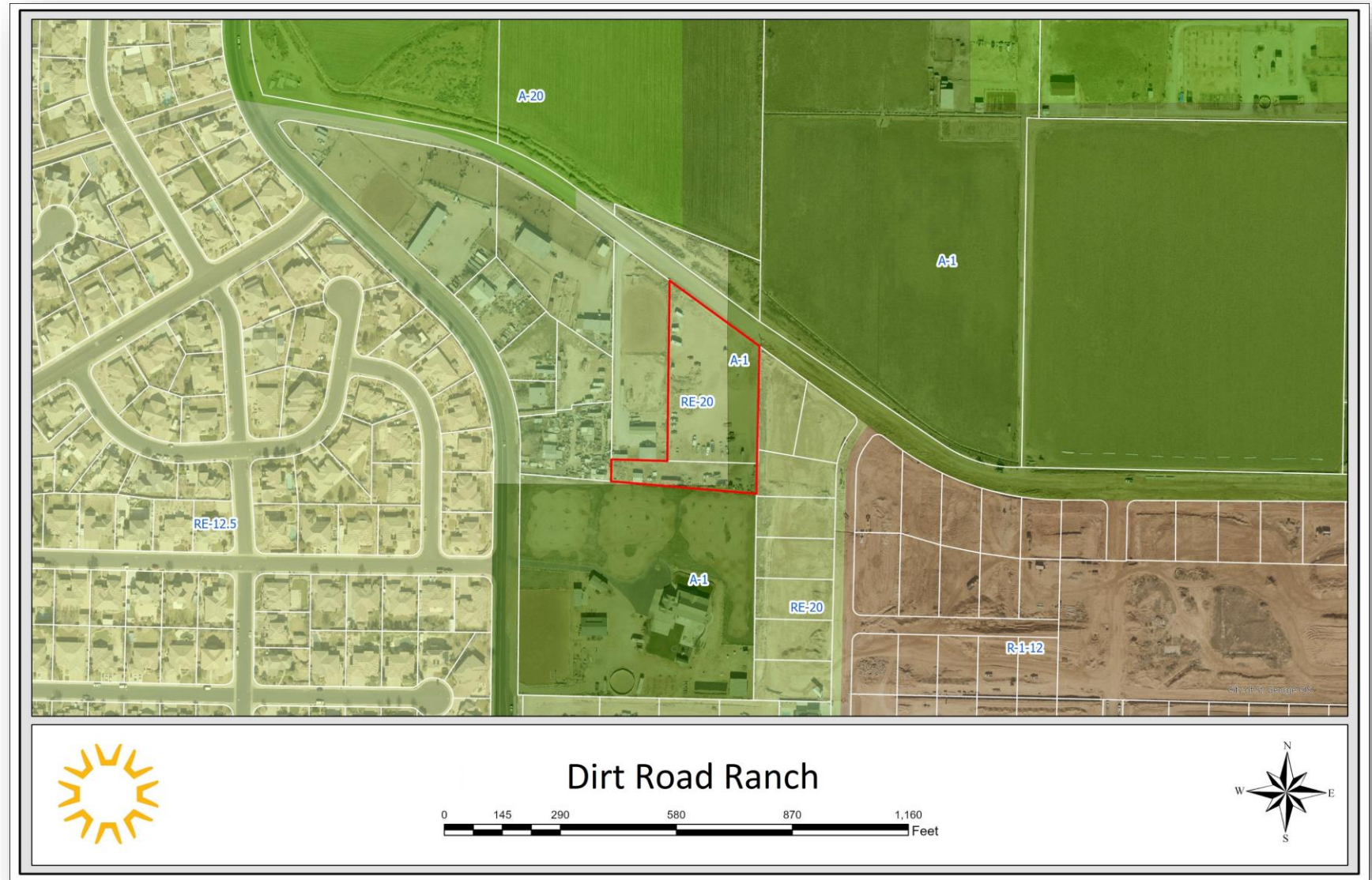
Aerial Map



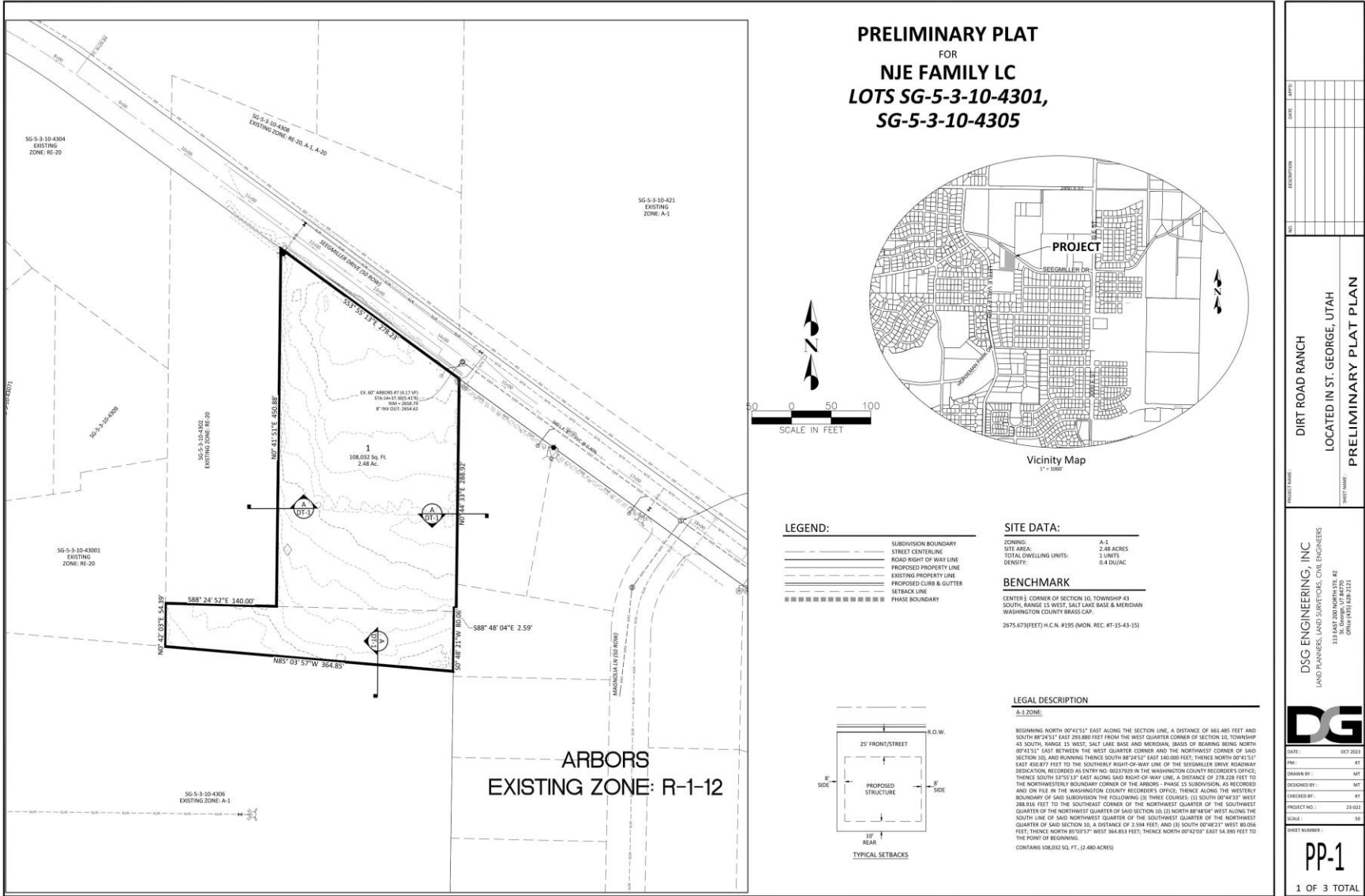
Land Use Map



Zoning Map



Proposed Plat



IMPACT FEES & EXACTIONS

OVERVIEW

The ultimate question for any city is:

“How to we pay for the infrastructure needed for new growth”?

OPTIONS

1. Performance (incentive) zoning
2. Impact fees
3. Exactions
4. Extortion?

Traditional vs Performance

STGCC §10-4-1: CITYWIDE ZONING

All property within the city is subject to the city's zoning districts. If such zoning is invalidated for any reason, no building permit, subdivision, or approval for any development activity may be applied for until the city establishes valid zoning for the property.

Agricultural Zones
Gravel & Grazing Zone
Residential Zones
Commercial Zones
Manufacturing Zones
Planned Development Zones
Airport Vicinity Zones
Open Space Zones
Overlay Zones

Performance (Incentive) Zoning

“Base” density is granted per a zoning map then additional density may be granted (without a rezone) if the developer meets or exceeds certain criteria.

Performance zoning

Example: In the R-1-10 zone

Base density is 1 unit (house) per $\frac{1}{4}$ acre, but you can get 2 (or more) units per $\frac{1}{4}$ acre if you:

- Cluster the density; or
- Contribute meaningful open space; or
- Donate and construct trail connections; or
- Provide affordable housing units; or
- Donate and construct public parks or amenities; etc.

IMPACT FEES

"Impact fees are sums of money `imposed upon development activity as a condition of development approval.'"

Heideman v. Washington City, 2007 UT App 11 ¶ 2, fn 2.

"Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public facilities.

Utah Code Ann. § 11-36-102(8)(a)

IMPACT FEE ACT

Exact processes must be followed

Utah Code Ann. Title 11, Chapter 36

School Impact Fees prohibited

Utah Code Ann. § 53A-20-100.5



TYPES OF IMPACT FEES

Impact Fees may only be used for “public facilities” as defined:

- (a) water rights and water supply, treatment, storage, and distribution facilities;
- (b) wastewater collection and treatment facilities;
- (c) storm water, drainage, and flood control facilities;
- (d) municipal power facilities;
- (e) roadway facilities;
- (f) parks, recreation facilities, open space, and trails;
- (g) public safety facilities;
- (h) environmental mitigation as provided in Section 11-36a-205; or
- (i) municipal natural gas facilities.

USE OF FUNDS

A City may only expend impact fees for a “system improvement” that is:

1. Identified in the facilities plan; and
2. For the specific facility type for which the fee was collected.

REFUNDING FEES

Fees must be refunded if:

1. The developer does not build and requests a refund; or
2. The fee was not spent or incumbered within the time-period; or
3. No impact has resulted.

Exactions

“Exactions are conditions imposed by governmental entities on developers for the issuance of a building permit or subdivision plat approval.”

B.A.M. Development L.L.C. v. Salt Lake County, 2006 UT 2, ¶ 34 *citing* Salt Lake County v. Bd. Of Educ., 808 P.2d 1056, 1058 (Utah 1991).



Exactions

“They may ‘serve more than a single development’ and ‘may take the form of:

- (1) mandatory dedication of land for roads, schools or parks, as a condition to plat approval,
- (2) fees-in-lieu of mandatory dedication,
- (3) water or sewage connection fees, and
- (4) (4) impact fees.”

B.A.M. Development L.L.C. v. Salt Lake County, 2006 UT 2, ¶ 34 *quoting* Salt Lake County v. Bd. Of Educ., 808 P.2d 1056, 1058 (Utah 1991).

EXACTIONS

UTAH CODE §10-9a-508

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

EXACTIONS

- Water exactions
- Residential road exactions
- Land exactions

Exactions and the Nollan/Dolan Test

A city may impose an exaction or exactions on development proposed in a land use application provided that:

(1) an essential link exists between a legitimate governmental interest and each exaction; and

(2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

Nollan v. Cal. Coastal Comm'n, 483 U.S. 825 (1987)

Dolan v. City of Tigard, 512 U.S. 374, 386 (1994)

Utah Code Ann. § 17-27a-507 (2005)

EXTORTION?



Criminal act

The **Hobbs Act** defines extortion as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right."

18 U.S.C. § 1951(b)(2).

Robbins v. Wilkie, 300 F.3d 1208 (10th Cir 2002)

Ranch owner brought Racketeer Influenced and Corrupt Organizations Act (RICO) and Bivens claims against Bureau of Land Management (BLM) alleging that BLM employees indulged in various forms of extortion in an attempt to force ranch owner to grant an easement to BLM. The United States District Court for the District of Wyoming, Clarence A. Brimmer, Jr., J., dismissed ranch owner's claims, and ranch owner appealed. The Court of Appeals, McKay, Circuit Judge, held that: (1) ranch owner had standing to bring RICO claim; (2) allegations were sufficient to state Bivens claim; (3) Bivens claim was not precluded by Federal Tort Claims Act (FTCA).

(overturned by Wilkie v Robbins, 551 U.S. 537 (2007))

***Gillmor v. Thomas et. al.*, 490
F.3d 791, 794 (10th Cir 2006)**

Landowners brought suit against several County Officials alleging that their administration of Summit County's zoning ordinances constitutes a pattern of extortion in violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1962. Concluding that County Officials had committed no illegal predicate acts as required to support a RICO claim, the district court granted summary judgment against Landowners and dismissed their case. We AFFIRM

Wilkie v Robbins, 551 U.S. 537, 539-540 (2007)

RICO does not give Robbins a claim against defendants in their individual capacities. Robbins argues that the predicate act for his RICO claim is a violation of the Hobbs Act, which criminalizes interference with interstate commerce by extortion, along with attempts or conspiracies, 18 U.S.C. § 1951(a), and defines extortion as “the obtaining of property from another, with his consent ... under color of official right,” § 1951(b)(2). Robbins's claim fails because the Hobbs Act does not apply when the National Government is the intended beneficiary of allegedly extortionate acts.

QUESTIONS?

NOTICE OF MEETING
PLANNING COMMISSION
CITY OF ST. GEORGE
WASHINGTON COUNTY, UTAH

Public Notice

Notice is hereby given that the Planning Commission of the City of St. George, Washington County, Utah, will hold a **Planning Commission** meeting in the City Council Chambers, 175 East 200 North, St George, Utah, on **Tuesday, November 14, 2023**, commencing at **5:00 p.m.**

PRESENT: Chair Steve Kemp
Commissioner Emily Andrus
Commissioner Rogers
Commissioner Nathan Fisher
Commissioner Austin Anderson
Commissioner Terri Draper

CITY STAFF: Community Development Director Carol Winner
Deputy City Attorney Jami Brackin
Planner III Dan Boles
Planner III Mike Hadley
Development Office Supervisor Brenda Hatch

EXCUSED: Commissioner Lori Chapman

Chair Kemp opened the meeting. Commissioner Draper led us in the Pledge of Allegiance.

1. **Factory Powersports Addition Planned Development Amendment and Development Agreement** – Russell Key, representing General Properties LLC, is requesting approval of an amendment to the Factory Powersports PD (Planned Development) and adopt a development agreement. The amendment and development agreement would allow the applicant to add a 6,900 square foot addition to an existing building. The property is approximately 2.23 acres and is located at 1685 East Red Hills Parkway. The applicant is General Properties LLC. (Staff – Carol Winner)

Carol Winner presented the following:

Carol Winner – I will go over this briefly, we are returning because we have a development agreement to go with this planned development amendment. The addition is going to be two story, but it will look like a one story except from the back. We are doing a development agreement because 15 ft of landscape is required along Red Hills Pkwy, the applicants don't quite meet that. They will be dedicating land for a 10 ft trail and landscape 5 ft on each side of the trail. If you add the two 5 ft landscaped areas along the trail then it would equal 15 ft along Red Hills Pkwy. One of the issues they are having is on they are trying to get the deliveries away from the residential areas and move them to the commercial areas.

Commissioner Andrus – Basically the development agreement is about the landscape and the trail?

Carol Winner – Yes.

Russell Key – Carol presented it really well. Essentially we want to expand the business and bring the delivery trucks away from the residential.

Chair Kemp opened the public hearing.

Chair Kemp Closed the public hearing.

- a. **PUBLIC HEARING:** Consider a request for a Development Agreement that will allow the landscape strip along Red Hills Parkway to be reduced in size to accommodate a City trail that will run through the property. **Case No. 2023-DA-006**

MOTION: Commissioner Draper made a motion to recommend approval of Item 1a.

SECOND: Commissioner Anderson

ROLL CALL VOTE:

AYES (5)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

NAYS (0)

Motion Carries Unanimous Vote

- b. **PUBLIC HEARING:** Consider a request for a Planned Development Amendment to allow the applicant to add a 6,900 square foot addition to the existing building. **Case No. 2023-PDA-019**

MOTION: Commissioner Fisher made a motion to recommend approval of Item 1b to City Council.

SECOND: Commissioner Anderson

ROLL CALL VOTE:

AYES (5)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

NAYS (0)

Motion Carries Unanimous Vote

2. **River Crossing Planned Development Amendment** – **PUBLIC HEARING:** Trevor Einerson and Steve Crandall, representing RCSG LLC, is requesting approval of an amendment to the elevations on eleven of the pads in the development. This project is located on the southeast corner of River Road and George Washington Parkway and the various buildings are scattered throughout the project. The overall River Crossing development is approximately 18 acres. **Case No. 2023-PDA-022** (Staff – Dan Boles)

Dan Boles presented the following:

Dan Boles – As you have seen these in the past you have seen them come in phases, this is the overall plan. We will talk briefly about this but the building elevations on the southern end is not going to change at all. Pad A will come in later. Pad B is not a part of this application. There is a parking analysis in your packet now that they know the square footage and what is going to go in here, they are exceeding the required parking by 100 stalls. The buildings are really similar in height they are about 27 ft in height. Dan showed the buildings what was previously approved and what they would like to change them to, all the elevations are included in the packet. Dan showed a landscape exhibit that is included in the packet. There will be modifications on some buildings, approval on others. The last thing they are asking for is a legislative exception for the block wall between the project and the residential to be waived because of the elevation difference and the block wall would not make any difference because the homes sit so much higher than this project. There is also a portion that must stay open because of an access issue to a lot that must be maintained by the City.

Commissioner Rogers – Do the residences on the south already have a wall?

Dan Boles – Some of them do, some don't.

Chair Kemp – When that building was approved, they met with the residents and they approved of it, didn't they?

Dan Boles – Yes.

Chair Kemp – Yes, they agreed to a two story because they were going with PD-AP, and they only had four uses. But doesn't the fence have to go with that building?

Dan – Yes, but when they came through with this change they wanted to ask for the wall change.

Chair Kemp – I think the benefit of the 6 ft wall is negated by the 25-foot elevation change.

Commissioner Fisher – I suggest we do the public hearing and then speak about it.

Chair Kemp opened the public hearing.

Chair Kemp closed the public hearing.

Chair Kemp – Can you confirm that this was noticed?

Brenda Hatch – Yes.

Dan Boles – And I did receive some feedback, phone calls from the neighbors. There was some confusion, they were more concerned about height.

Commissioner Rogers – My concern is the exception for the wall because that often acts as a blind or the screen.

Commissioner Fisher – On that large, big box, it might be nice to see some more relief, my suggestion would be to add a condition to add more relief to those 3 sides to dress it up a bit more.

Commissioner Anderson – I agree with what Ben said on the wall, I think it makes sense.

Chair Kemp – Personally, I think if you're 25 ft above the wall is a moot point.

Commissioner Fisher – If a portion of the wall is not going to be installed, it's not going to keep kids out, so we need to know if it would accomplish the other functions.

Commissioner Draper – Could we look at a map that shows the elevation change? If it is 25 ft I don't think it would make sense to have the wall.

Steve Crandall – I have talked to the four neighbors that back up to that, they actually said they don't want the wall there.

MOTION: Commissioner Anderson made a motion to recommend approval of item 2 with a condition of more relief on building J, the big box store and with staff comments and conditions.

SECOND: Commissioner Andrus

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

3. **Tech Ridge Southeast Slope/Ridgeline Mitigation Hillside Development Permit** – Mike Bradshaw, representing Alliance Consulting, is requesting approval of a Hillside Development Permit to make modifications to the ridgeline along the southeast slope of the Tech Ridge Development. The applicant is Isaac Barlow. **Case No. 2023-HS-002** (Staff – Carol Winner)

Carol Winner presented the following:

Carol Winner – Both this item and the next item are dealing with the east side, the southeast area. The applicant is trying to develop Tech Ridge, they noticed along this side we have a prominent ridgeline and then it peters out to nothing then it extends then peters out. There isn't a consistent ridgeline that goes around the edge. They want to add some retaining walls to make it more stable so they can use the area. I believe you are all familiar with the trail that goes around the ridgeline of Tech Ridge, they want to bring the trail above the road so that it continues all the way around Tech Ridge. The Hillside Committee recommended approval. They wanted to make sure it looks like they way they did Cloud Drive, that was their recommendation. Carol showed a video of the ridgeline, you can see where it's nonexistent and they are just trying to build it up a bit.

Mike Bradshaw – The steepest portion is I believe 12% and then it flattens out dramatically after that in order to mitigate the road as much as possible, we had to steepen that up.

Commissioner Andrus – Do you know what Cloud Drive is?

Mike Bradshaw – Cloud Drive, the steepest on Cloud Drive I believe is like 8.5%. The 12 is really just the short segment as you come around this curb and come up.

Commissioner Fisher – If you didn't cut down and create a bridge there it would actually be steeper, right?

Mike Bradshaw – It would be, and that is part of what this mitigation does.

Commissioner Fisher – Good video by the way Mike, that was well done.

Mike Bradshaw – What it does is, it creates this ridgeline. What it does is that when you put a building up there the ridgeline creates this necessary setback. A one-story building will be 50 ft back and a two-story building will be 100 ft back and so we are creating this artificial ridgeline, but it creates how the property will be utilized.

Commissioner Kemp – You're also solving the problem we have been dealing with on Foremaster about trying to figure out where the ridgeline is.

Commissioner Fisher – And they are following the ordinance as far as the setback, there is no deviation from that.

Mike Bradshaw – Yes as soon as we build this then we will set back the buildings to the standard ordinance distances. On top of that the trail will be in there so everyone will be able to appreciate and walk that trail and participate with the scenery on the exterior.

MOTION: Commissioner Anderson made a motion to recommend approval of Item 3 the ridgeline mitigation hillside development permit.

SECOND: Commissioner Fisher

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

4. **Tech Ridge Southeast Access Road** – Mike Bradshaw, representing Alliance Consulting, is requesting approval of a hillside development permit to construct the southeast access road from 250 West St. to the Tech Ridge Development. The applicant is Isaac Barlow. **Case No. 2023-HS-003** (Staff – Carol Winner)

Carol Winner presented the following:

Carol Winner – This is the access road, same location. Both these items were held over to another hillside meeting because they requested more information. The hillside made their recommendations based on the letter that was written on September 8, 2023, that was done in response to that request. They are no longer putting the water bearing utilities in the road.

Chair Kemp – Are we going to be redoing 250 West?

Wes Jenkins – I don't know if we have that in the budget. One thing we talked about was eliminating the water line, we are making the connection on Indian Hills Drive. We will have AGECC update the letter to reflect that there will be no pressurized water in the road. There will be sewer and storm drain but the pipes will be fused and closed.

Chair Kemp – Has the access for this been acquired already?

Jami Brackin – We have started condemnation proceedings; we do have right of access and we are getting a hearing set.

MOTION: Commissioner Rogers made a motion to recommend approval of the Tech Ridge Southeast Access Road with staff recommendations.

SECOND: Commissioner Fisher

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

5. **Tech Ridge Area 1.6 Subdivision Preliminary Plat** – Mike Bradshaw representing Alliance Consulting is requesting approval of a Preliminary Plat to develop fifteen (15) lots on approximately 17.78 acres located generally at 650 South Tech Ridge Parkway. The applicant is Isaac Barlow. **Case No. 2023-PP-040** (Staff – Carol Winner)

Carol Winner presented the following:

Carol Winner – This is an area where the elevations and the locations of the buildings have already been approved. This is on the west side of the hill along the old runway. There are 15 lots and a few parcels, some of them are for parking. All of the parking is shared and owned by Tech Ridge. The buildings can be owned but all the parking is owned by Tech Ridge and shared.

Commissioner Andrus – Is the parking for lot 1 part of this as well or is it over by it?

Mike Bradshaw – The parking for lot 1 and lot 2 will be a shared parking garage that is not shown on this.

Commissioner Andrus – Is it included in the parking totals?

Mike Bradshaw – No.

Chair Kemp – I’m trying to understand what is going on behind lot 14 and 15.

Mike Bradshaw – That will probably be a two-story parking structure that will come through at a later date.

Chair Kemp – How big of buildings do you anticipate for lots 14 and 15?

Mike Bradshaw – I don’t know.

Isaac Barlow – The sizes will be restricted by the parking that will be there.

MOTION: Commissioner Roger made a motion to recommend approval of Item 5 a preliminary plat for Tech Ridge area 1.6.

SECOND: Commissioner Draper

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

6. **Desert Color Pickleball Courts Preliminary Plat** – Ryan Lay, representing Bush and Gudgell is requesting approval of a Preliminary Plat to develop one (1) lot on approximately 1.49 acres located to the south of the Desert Color clubhouse between Lagoon Parkway and Akoya Pearl Rd. The applicant is Desert Color St George LLC. **Case No. 2023-PP-036** (Staff – Dan Boles)

Dan Boles presented the following:

Dan Boles – This parcel came in last year and was approved for the uses, they are simply proposing to create the lot.

Chair Kemp – How many pickleball courts?

Dan Boles – Six.

MOTION: Commissioner Fisher made a motion to recommend approval of item 6 a preliminary plat.

SECOND: Commissioner Rogers

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

7. **Red Industrial Preliminary Plat** – Eric McFadden, representing Premier Design is requesting approval of a Preliminary Plat to develop three (3) lots on approximately 20.00 acres located at approximately 1630 E Commerce Drive in Fort Pierce Industrial Park. The applicants are Kenneth and Patricia Ann Blake. **Case No. 2023-PP-041** (Staff – Mike Hadley)

Mike Hadley presented the following:

Mike Hadley – The applicant wants to divide this into 3 lots. There is a cell tower that they lease which will be located on lot 3. There is one condition that the applicant improves along Commerce Drive.

Chair Kemp – And by improve you mean curb, gutter, and sidewalk?

Mike Hadley – Yes.

Commissioner Anderson – Hasn't the applicant passed away?

Mike Hadley – Yes, it's actually the daughter of the applicant that is coming in and family who is coming through.

Commissioner Fisher – Is it in a trust, do we know?

Michael Blake – I am the son; I would ask that we put this on hold until everything is resolved.

Commissioner Fisher – Are you a representative of the applicant wanting this to go forward or are you opposed to it?

Michael Blake – No, I'm opposed to it. I don't want it to go forward.

Chair Kemp – Who is the applicant? Mr. Nasal, would you please come forward?

Dave Nasal – The property, as it was mentioned, the parents are passed away, the property is in the family trust. The signers, executors, of the trust have decided to sell the property. I am under contract to purchase the property. The reason for the split has to do with just the cleanup of the property. In order to sell the property, we need to subdivide it while it is cleaned up. The daughters who are the signers of the trust are the ones who signed the application.

Chair Kemp – Is that something we need to verify, with a copy of the trust?

Jami Brackin – Only if it is challenged. Basically, they are going to have to notarize and attest to it on the plat.

Chair Kemp – In order for them to sell the property, the trust documents that govern the property the trust documents will have to be reviewed. The title company will require insurance on the property with who is listed on the trust. That will need to be verified.

Commissioner Anderson – But we are confident that the trustees made the application?

Mike Hadley – Yes.

MOTION: Commissioner Fisher made a motion to recommend approval of item number 7 the preliminary plat of a 3-lot subdivision with all the conditions and comments from the staff.

SECOND: Commissioner Anderson

ROLL CALL VOTE:

AYES (5)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

NAYS (1)

Commissioner Rogers

Motion Carries Unanimous Vote

8. **Rustic Estates Preliminary Plat** – Ryan Lay, representing Bush & Gudgell is requesting approval of a Preliminary Plat to develop four (4) lots on approximately 2.26 acres located on the south-east corner of Rustic Drive and River Road. The applicants are Bush and Gudgell. **Case No. 2023-PP-034** (Staff – Dan Boles)

Dan Boles presented the following:

Dan Boles - The smallest lot will be just under 14,000 sq ft. the largest will be approximately 54,000 sq ft or 1.24 acres that is lot 3. A 6-lot version of this was approved two years ago that has since expired, so they are coming forward with this proposal. Staff is recommending approval.

Chair Kemp – Why is there that narrow T strip and how wide is it?

Dan Boles – It is different ownership and it's about 10 ft. I would prefer if it was part of lot 4 but it is different ownership.

Rick Myer – The 10 ft strip is for drainage, to get the drainage out to the street. The lots kind of slope back to the south there.

Chair Kemp – Will it be used for vehicle access?

Rick Myer – No, not at all.

Chair Kemp – Is lot 4 owned by a different party?

Dan Boles – Yes, but it will be a part of this application.

Chair Kemp – They will sign the plat?

Dan Boles – Yes.

MOTION: Commissioner Draper made a motion to move forward with a positive recommendation to City Council for a preliminary plat for Rustic Estates.

SECOND: Commissioner Anderson

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

9. Minutes

Consider a request to approve the meeting minutes from the October 24, 2023, meeting.

MOTION: Commissioner Andrus made a motion to approve the minutes.

SECOND: Commissioner Anderson

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote

10. City Council Items

Carol Winner the Community Development Director will report on items heard at the November 2, 2023, City Council meeting.

1. 2023-PP-037 Trilogy Estates
2. 2023-PP-038 Desert Canyons Business Park Phase 1 Amended
3. 2023-PP-039 Venture Park Subdivision
4. 2023-ZC-016 St George Fire Station 1
5. 2023-PDA-020 Tuscan Hills
6. 2023-ZC-013 NJE Family LC
7. 2023-GPA-006 Riverside Dr Property

11. Adjourn

MOTION: Commissioner Rogers made a motion to adjourn at 6:22

SECOND: Commissioner Andrus

ROLL CALL VOTE:

AYES (6)

Commissioner Andrus

Commissioner Fisher

Commissioner Anderson

Commissioner Draper

Chair Kemp

Commissioner Rogers

NAYS (0)

Motion Carries Unanimous Vote