

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

January 16, 2024

**4:30 p.m. OPMA Training
4:45 p.m. Closed Session
5:00 p.m. Work Meeting
6:00 p.m. Regular Meeting**

TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS

- I. COUNCIL TRAINING: OPEN AND PUBLIC MEETINGS ACT (OPMA) - 4:30 P.M.**
 - 1. Open and Public Meetings Act (OPMA) Annual Training (Jeremy Cook, City Attorney) - *15 min*
- II. CLOSED SESSION - 4:45 P.M.**
 - 1. Strategy session to discuss the purchase, exchange, or lease of real property (Matt Brower, City Manager)
- III. WORK MEETING - 5:00 P.M.**
 - 1. Possible Development Agreement to construct 8 town homes at 460 W 200 S (Jamie Baron, Planning Manager) - *20 min*
 - 2. Review Ordinance 2023-46 Master Development Agreement (MDA) for 22 South 100 West Clayton Vance (Jacob Roberts, Planner) - *20 min*
- IV. BREAK - 10 MIN**
- V. REGULAR MEETING - 6:00 P.M.**
 - 1. Call to Order - Mayor Franco
 - 2. Pledge of Allegiance (Sid Ostergaard, Council Member)
 - 3. Prayer/Thought by Invitation (Yvonne Barney, Council Member)
- VI. CONFLICT OF INTEREST DISCLOSURE:**
- VII. CONSENT AGENDA:**
 - 1. January 2, 2024, City Council Meeting Minutes (Trina Cooke, City Recorder)
 - 2. Planning Commissioner Nominations by Mayor (Heidi Franco, Mayor)
 - 3. Cancellation of March 5, 2024, City Council Meeting due to Utah State Legislative Caucus (Heidi Franco, Mayor)

4. Confirmation of Aaron Cheatwood Appointment to the City Audit Committee (Heidi Franco, Mayor)

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

IX. GENERAL BUSINESS ITEMS:

1. Historic Preservation Commission (Michael Moulton, Historical Chair) - *20 min*
2. Tree Committee (Melanie Funk, Tree Subcommittee Chair) - *10 min*
3. Audit Committee (Sara Nagel, Finance Manager) - *10 min*
4. Building Department SWOT Analysis (Wes Greenhalgh, Building Official) - *5 min*
5. Planning Department SWOT Analysis (Tony Kohler, Community Development Director) - *5 min*
6. Prosecutor's Office SWOT Analysis (J. Mark Smedley, Asst. City Manager) - *5 min*
7. Engineering Department SWOT Analysis (Russ Funk, City Engineer) - *5 min*
8. Airport SWOT Analysis (Travis Biggs, Airport Director) - *5 min*
9. Road Projects Status Update (Russ Funk, City Engineer) - *10 min*

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

1. Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone (Tony Kohler, Community Development Director) - *40 min*
2. Evans Property Acquisition (Russ Funk, City Engineer, Jeremy Cook, City Attorney) - *10 min*

XI. COMMUNICATION:

XII. ADJOURNMENT:

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Trina Cooke at the Heber City Offices 435.657.7886 at least eight hours prior to the meeting.

Posted on January 10, 2024, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at www.heberut.gov, and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave.



Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Open and Public Meetings Act (OPMA) Annual Training
RESPONSIBLE: Jeremy Cook
DEPARTMENT: City Council
STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

CONCLUSION

ALTERNATIVES

1. Approve as proposed
2. Approve as amended

- 3. Continue
 - 4. Deny
-

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: City Council
Staff member:

EXHIBITS

None



Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Possible Development Agreement to construct 8 town homes at 460 W 200 S
RESPONSIBLE: Jamie Baron
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community and Economic Development

SUMMARY

Matt Taylor is seeking a development agreement to redevelop the property at 460 W 200 S, changing the use from a single family home to 8 town homes. Staff is seeking comments from the Council on whether there is support to go through the MDA/Zone Change process for the development.

The Policy Questions include:

1. Should the City Amend the General Plan to permit the proposed development?
2. Should the City enter into a development agreement to permit the proposed development?

RECOMMENDATION

Staff is seeking input from the council on whether there is support to go through the MDA/Zone Change process on this property.

BACKGROUND

The property at 460 W 200 S has recently been purchased by Matt Taylor and his partners. The house was in poor shape and has been demolished. The property is vacant.

DISCUSSION

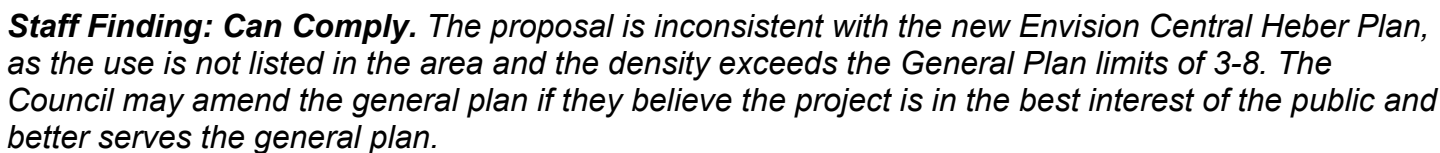
Envision Central Heber

The Envision Central Heber identifies the property as Central Neighborhoods, as outlined below.

Central Neighborhoods

- Residential: single family
- Open Space: neighborhood park
- Accessory Uses: home-based business, attached accessory dwelling units, detached accessory dwelling units with height equal to or lower than main home height, flag lots

District Type	Uses	Density Range / Scale (gross acreage)	Key Characteristics
Central Neighborhoods (CN)	Primary: SFDs on smaller lots, duplexes, triplexes, flexible infill Secondary: detached and attached ADUs, flag lots, home based businesses	3-8 units per acre 1-3 story height	A neighborhood emphasizing current residential pattern. Strong street connections to the downtown and the tourist center; bicycle and pedestrian friendly. Historic structures and homes enhanced.



Current Zoning

The Current zone on the property is R-2 Residential, which permits single family detached dwellings, with a 8,000 square foot lot minimum.

Proposed

The proposed development would include 8 two-story town homes on 0.45 acres (exhibit 1). This proposed density is 17.78 units per acre.

FISCAL IMPACT

N/A

CONCLUSION

Matt Taylor and partners would like to enter into a development agreement on the property at 460 W 200 S, to develop 8 town homes on 0.45 acres, with a density of 17.78 units per acre. The proposal is inconsistent with the newly adopted Envision Central Heber plan, due to uses and density. The council may amend the general plan. Staff and the applicant are seeking input from the Council on whether there is support to go through the legislative process.

ALTERNATIVES

Not an Action Item.

POTENTIAL MOTIONS

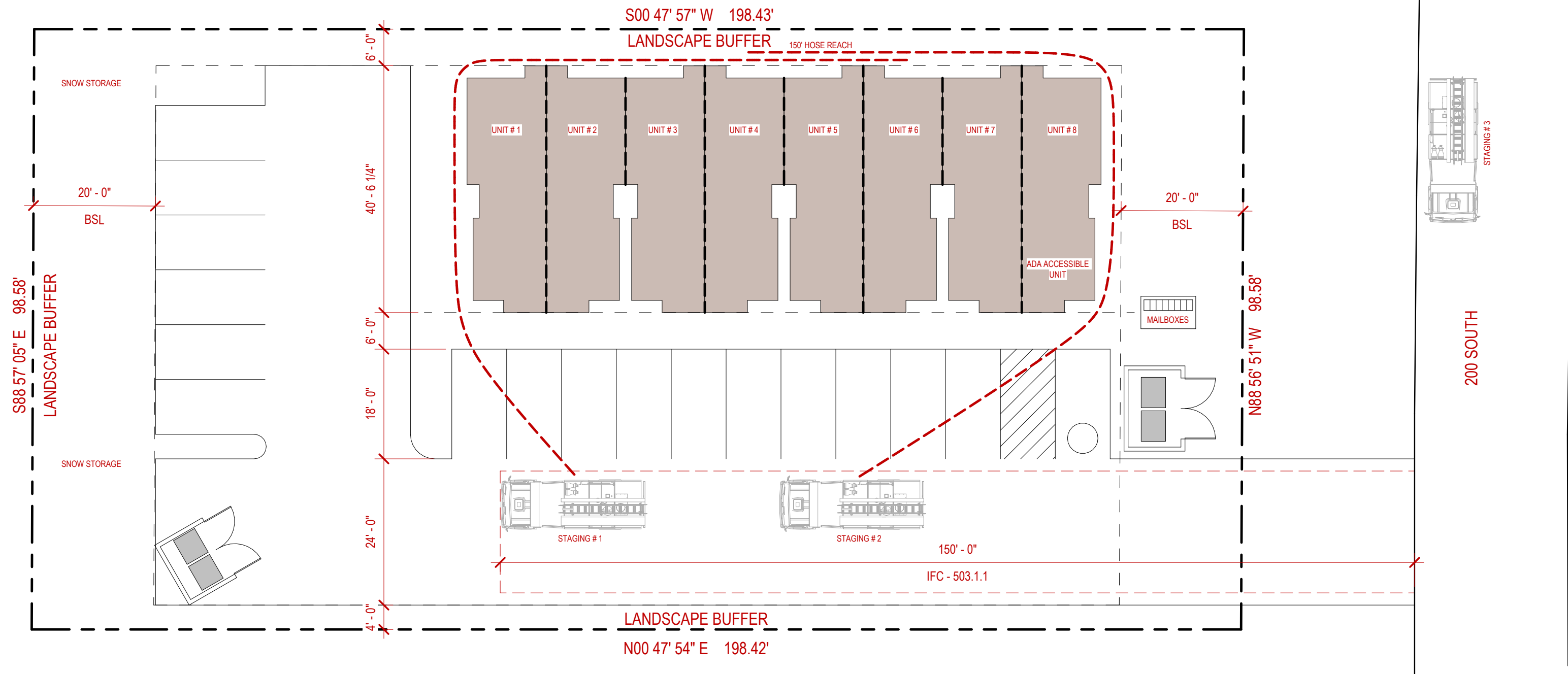
Not an Action Item.

ACCOUNTABILITY

Department: Planning
Staff member: Jamie Baron, Planning Manager

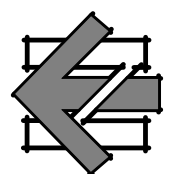
EXHIBITS

1. Site Plan
2. Elevations
3. Area Map
4. 1.16.23 CCWM PP - 460 W 200 S



- R-2 OCCUPANCY
- TWO (2) PARKING SPACES PER UNIT
- ONE (1) ACCESSIBLE (ADA) UNIT
- ONE (1) ACCESSIBLE PARKING SPACE.
- (8) TOWN HOMES
- TWO-STORY BUILDING - 30' MAX HEIGHT
- FIRE SPRINKLERS REQUIRED
- ALL PORTIONS OF FIRST FLOOR PERIMETER WITHIN 150' HOSE REACH FROM 150' FIRE ACCESS ROAD PER IFC 503.1.1

① SITE OPT. 4b
1/16" = 1'-0"

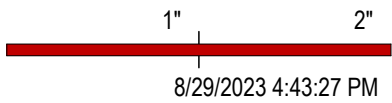


HEBER CITY 8

CLIENT:	Owner
JOB NO:	Project Number
ISSUE DATE:	Issue Date
STATUS:	Project Status

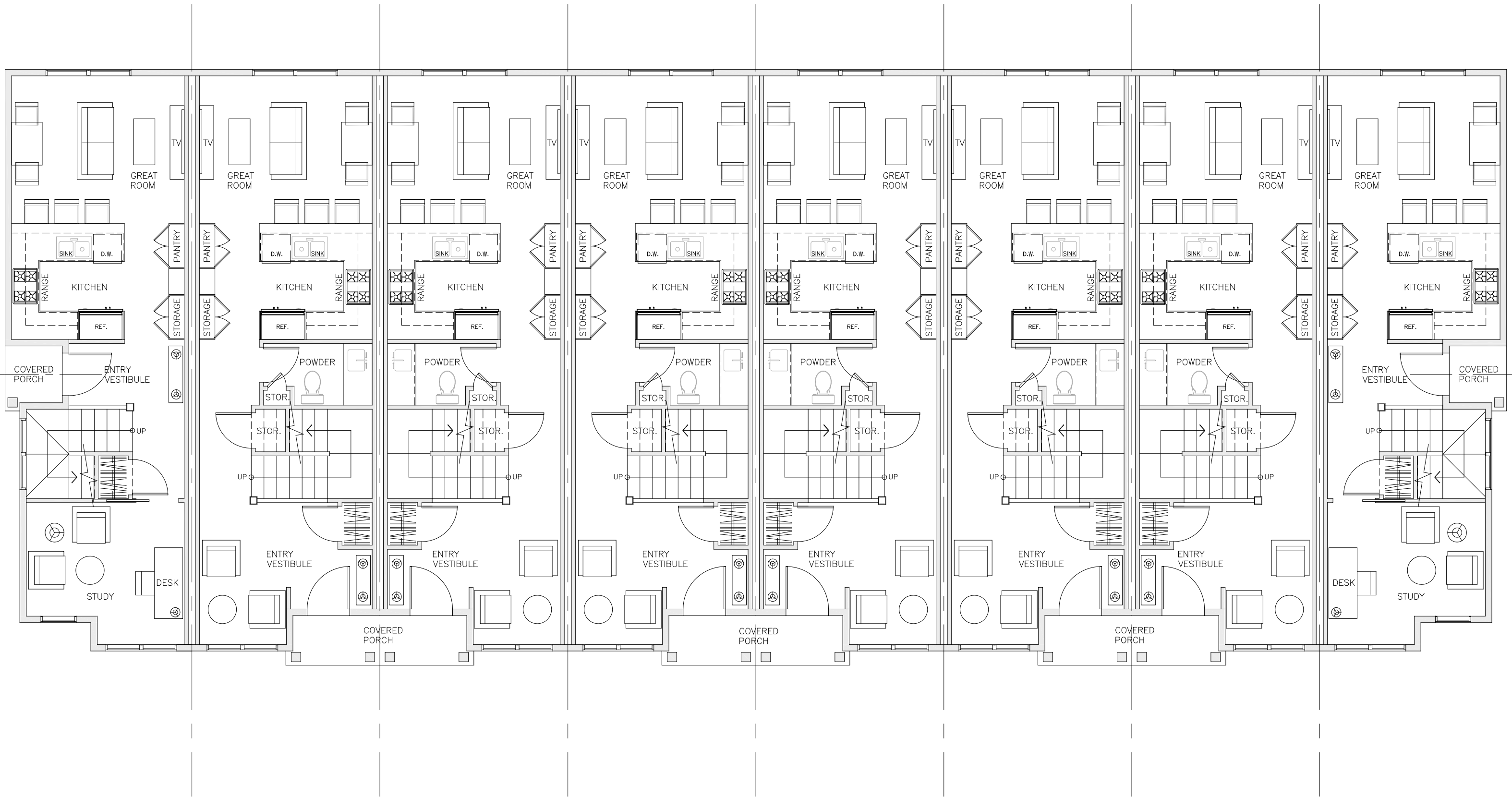
REVISIONS		
#	DESCRIPTION	DATE

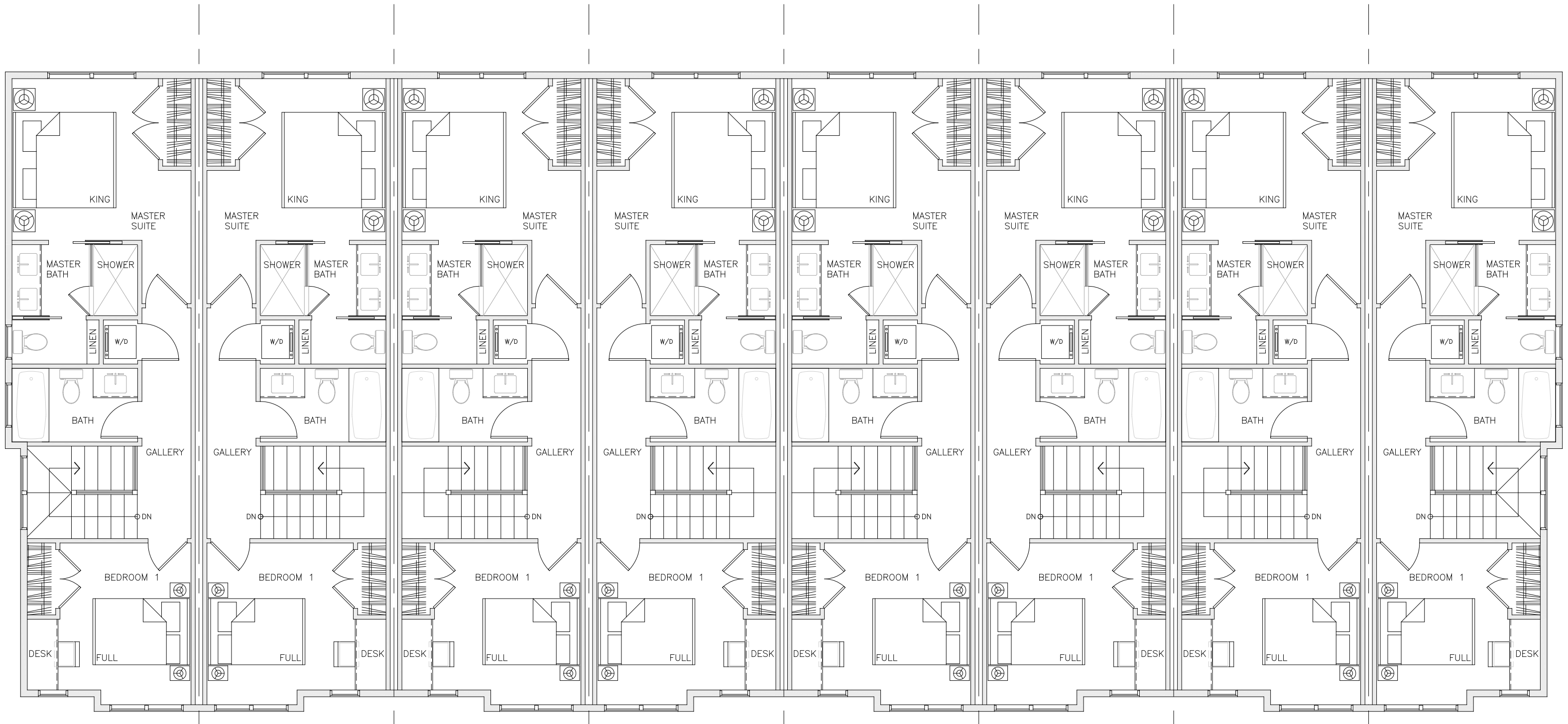
SITE OPT. 4 - TWO STORY TOWN HOMES



8/29/2023 4:43:27 PM

A1.4b





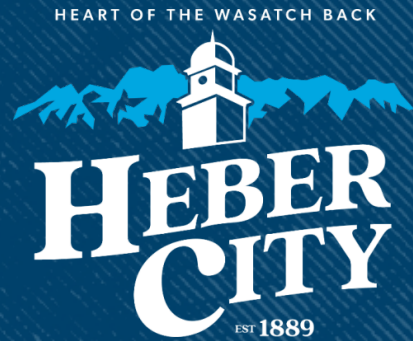




The boundary lines shown here have been generated for the internal use of Wasatch County and should only be used for general reference purposes.

Questions concerning ownership boundary locations should be directed to a title company, attorney, or licensed land surveyor. Wasatch County makes no warranty as to the accuracy or usefulness of this information. The end user of this information assumes all responsibility concerning this information's appropriate use.





460 W 200 S

Possible Development Agreement

Date: Jan 16, 2023

Policy Questions

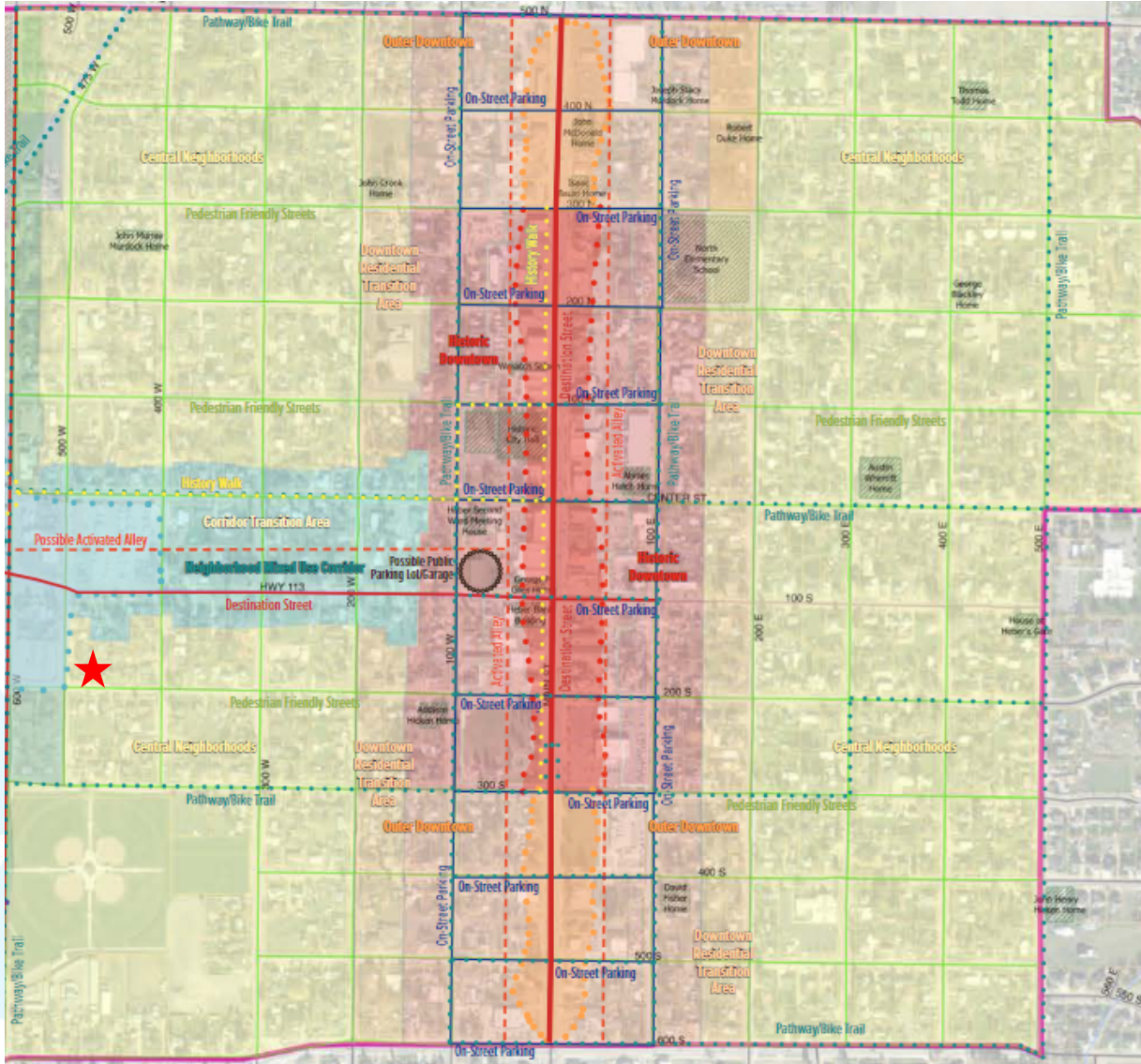
1. Should the City Amend the General Plan to permit the proposed development?
2. Should the City enter into a development agreement to permit the proposed development?

Background

- House was in poor condition and has been demolished by the new property owner.
- Current Zone is R-2



Envision Central Heber



Envision Central Heber

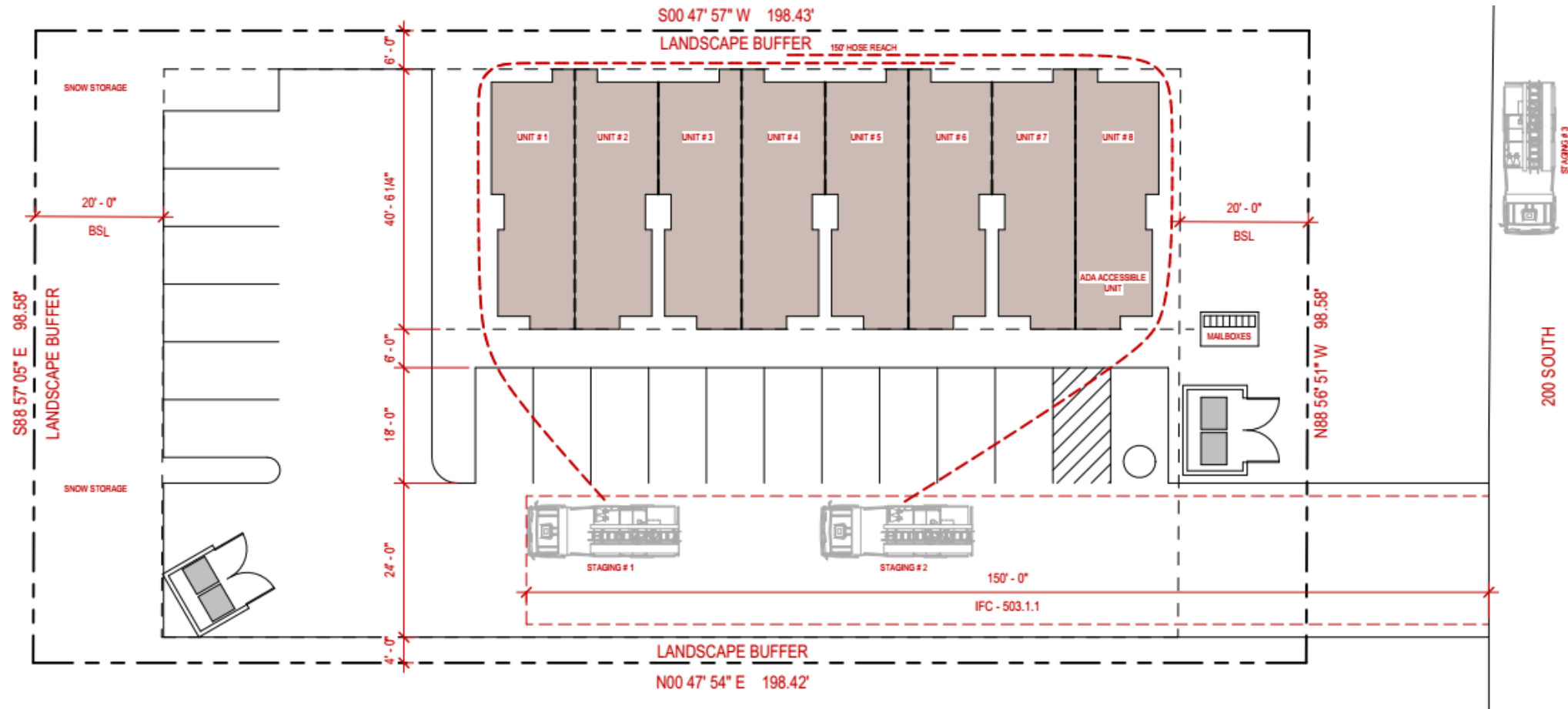
Central Neighborhoods

- Residential: **single family**
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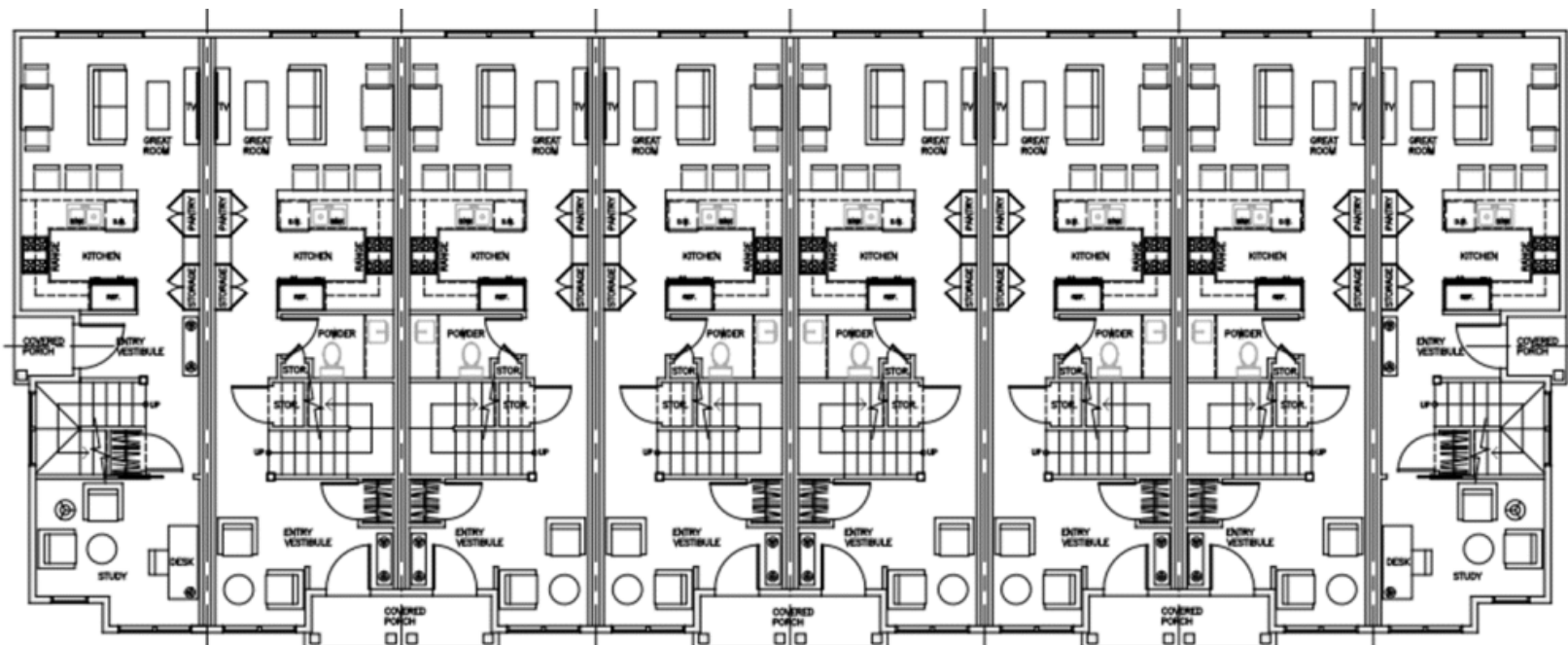
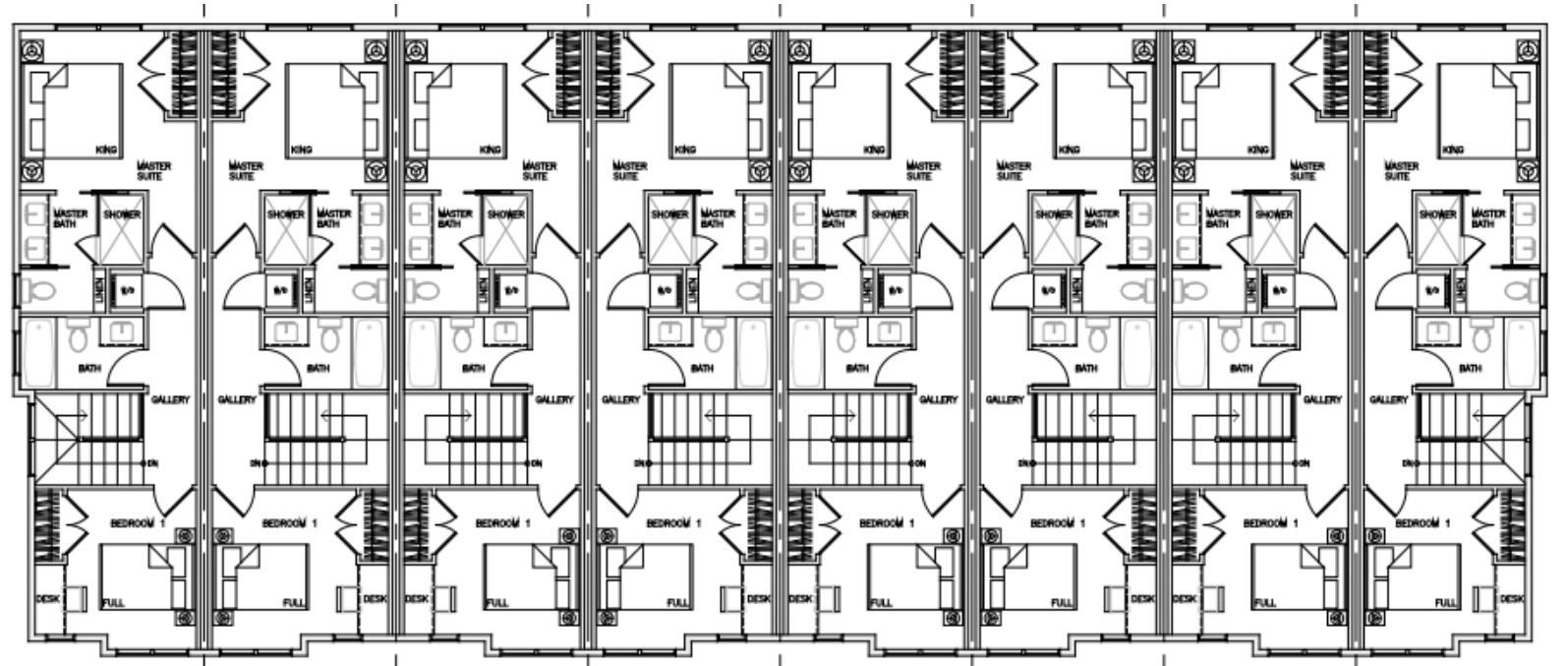
Proposal

- 8 Town Home units on 0.45 acres, 17.78 u/a density.



Proposal





Conclusion

- Not consistent with Envision Central Heber.
- General Plan can be amended

Policy Questions

1. Should the City Amend the General Plan to permit the proposed development?
2. Should the City enter into a development agreement to permit the proposed development?

Questions and Comments...



Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Review Ordinance 2023-46 Master Development Agreement (MDA) for 22 South 100 West Clayton Vance
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Vibrancy

SUMMARY

Clayton Vance is requesting to change the zoning on the property located at 22 South 100 West from the R-3 Residential Zone to C-3 Commercial Zone. The Planning Commission has reviewed the request and held a public hearing and provided a positive recommendation of approval for the zone change, along with a recommendation for a Master Development Agreement (MDA).

Policy questions include:

1. Should the City rezone the property to C-3 Commercial?
2. What conditions of approval should be included in the MDA?
3. Should the City require the dedication of an additional 5.25 feet of right of way along 100 West?
4. Should the City require the dedication of a 10 to 15 foot wide public utility easement?

RECOMMENDATION

Staff requests the City Councils feedback on the proposed Zone Change and proposed terms of the MDA.

BACKGROUND

Clayton Vance is requesting a zone change on the property located at 22 South 100 West. This would change the zoning from R-3 to C-3. The request is to facilitate the construction of a mixed-use building on the site. This building would include housing and office space.

DISCUSSION

The zone change from R-3 to C-3 is in line with the General Plan. The General Plan anticipates mixed-use downtown style development along 100 West and 100 East. This zone change will be accompanied by an MDA. The draft terms of that MDA are currently as follows:

1. **Zoning.** The property shall be used and developed consistent with the requirements of the C-3 zone.
2. **Building Elevations.** Unless otherwise approved by the City, the building elevations shall be consistent with the Concept Elevations attached hereto as Exhibit C. The building height shall not exceed three stories.
3. **Driveway Access.** Access to the project shall consist of a single driveway entrance located along Center Street and placed near the north end of the Project.
4. **Units / Use of Building.** The total number of units of the Project shall not exceed 5 residential units. Development shall be consistent with uses permitted in the C-3 Zone.
5. **Landscaping.** Developer shall plant at least 5 street trees in planters that meet City standards.
6. **Lighting.** All lighting on the site shall be dark-sky complaint as per Heber City Zoning requirements.
7. **Permitting.** The lot shall be eligible for approval of a building permit upon final site plan approval by the planning and engineering departments.
8. **Right of Way Improvements.**
 1. Development shall include only one connection for Culinary Water and 1 Sewer connection.
 2. The power lines along 100 West shall be buried.
 3. Development shall include new curb, gutter and sidewalk, a bulb out that meets City standards as well as replacement of any damaged curb, gutter, and sidewalk along the street frontage of the lot. 100 West shall include 58 feet of asphalt, 2 feet of curb, 9 feet of park strip, and 6 feet of sidewalk. Developer shall dedicate an additional 5 & ¼ feet prior to issuance of a building permit.
 4. A 15-foot public utility easement shall be dedicated along all street property lines prior to issuance of building permit.

The standard road cross section for angled parking in the downtown requires an additional 5.25 feet to accommodate the cross section. The City Council expressed concern about this several months ago. This is part of a larger policy discussion about the appropriateness of requiring more right of way in the old part of town, where the City already has 82.5 feet of right of way. When discussed early, Council expressed concern that the additional 5.25 feet will be difficult to acquire from all property owners, making it unlikely to achieve the desired and adopted cross section. An alternative to this requirement is for the City to adopt a new standard cross section that doesn't require additional right of way.

Heber Light & Power has recently expressed a desire to have public utility easements (PUEs) along all front property lines. The standard PUE includes electrical, communications, and a gas line. The gas line is located at exactly the rear of the public utility easement, and the gas company does not want a building to be built within 5 feet of their gas line, which essentially makes the 10 foot wide public utility easement become a 15 foot wide public utility easement. within which are already located gas lines, electric lines and telecommunication lines. In the historic core of the City, many of the gas lines, communications lines and electric lines are already established within the right of way, reducing the need for a public utility easement. However, when power and telecommunication is buried, the utility companies don't want those utility lines buried under the asphalt or sidewalk, due to

the difficulty and cost of maintenance of those lines and accompanying asphalt and/or concrete replacement costs. Since the gas lines are already located within the right of way, and the historic core is already built out, the likelihood of acquiring 10 to 15 foot wide PUEs elsewhere seems unlikely.

Other Cities in the state and nation and world routinely accommodate narrower street cross sections with no utility easements, yet find a way to provide not only street services, but also a location for all wet and dry utilities within the street. Heber City Engineering, Public Works, and Heber Light & Power are very sensitive to this topic and feel strongly that the utilities all need to be separated, with all dry utilities located within a public utility easement on private property. Staff has had discussions with Brigham City and South Jordan to see how Day Break has dealt with this issue and will provide a report to Council on our findings.

It is also worth noting that as the historic core of the city is redeveloped the city will have the opportunity to shape the look and feel of new developments. Currently, the guidelines for the C3 Zone are contained within the Design Standards and Guidelines Ordinance. The architectural design of the buildings and public spaces/ amenities will greatly affect the feel of downtown as redevelopment moves forward.

FISCAL IMPACT

N/A

CONCLUSION

Staff is requesting feedback on the proposed zone change and proposed MDA in order to move forward.

ALTERNATIVES

Work Item

POTENTIAL MOTIONS

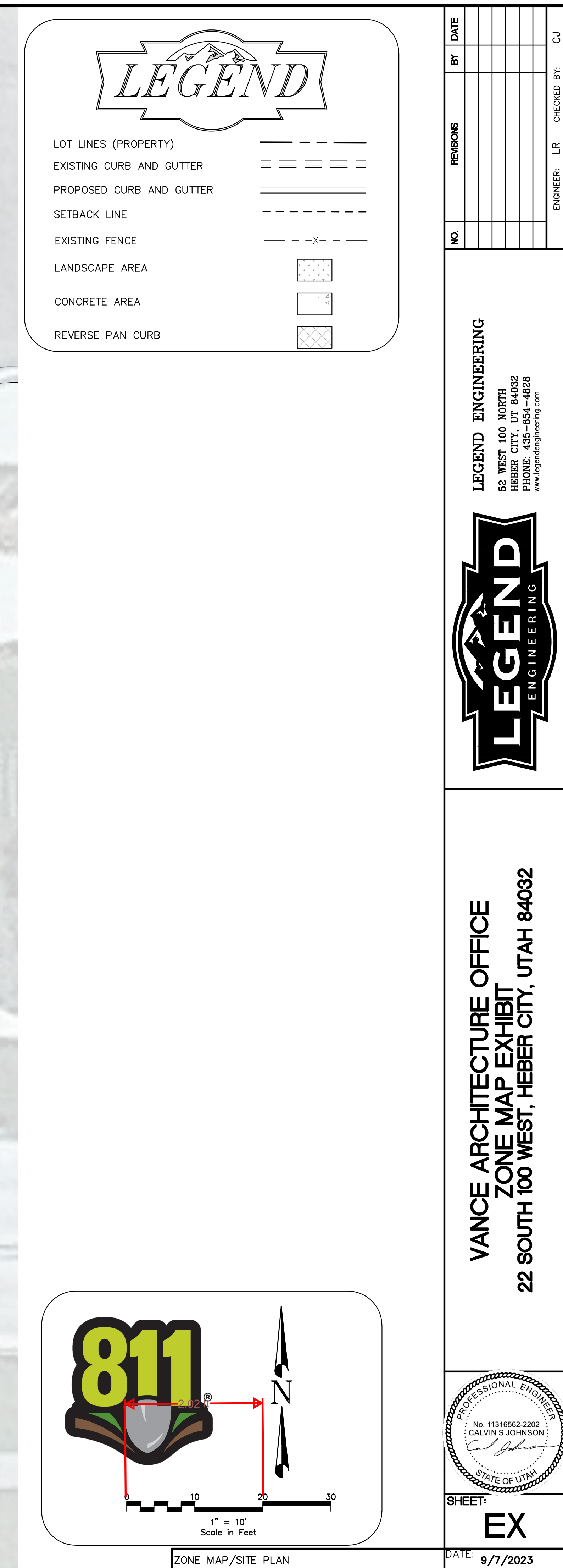
N/A

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Site Plan
2. Current Zoning as of 10.11.23
3. General Plan Designation Map
4. Proposed Zone Change Map
5. CLAYTON VANCE OFFICE - RENDERINGS
6. Affect of Easements Map
7. MDA



Current Zoning as
of 10/11/2023

R-3

C-3

CENTER ST

Clayton Vance
Property

HWY
113

100 S

200 S

C-2

300 S

MAIN ST

200 E

100 E

300 N

200 N

100 N

N

General Plan Future Land Use Designation



400-N

300-N

200-N

100-N

100-W

CENTER-ST

MAIN-ST

100-E

200-E

Wasatch
County
North School
Offices

HC HISTORIC
CORE

HC HISTORIC
CORE

DT DOWNTOWN

Clayton Vance
Property

HWY-113

100-S

200-S

300-S

400-S

TR TOURISM
RECREATIONAL

HC HISTORIC
CORE

Main Street Park

Central School Park

**Requested Zone
Change from R-3
to C-3**

R-3

C-3

CENTER ST

200 W

**Clayton Vance
Property**

HWY 113

100 S

200 E

200 S

MAIN ST

300 S

C-2

100 E

300 N

100 W

200 N

100 N

N



























CENTER ST

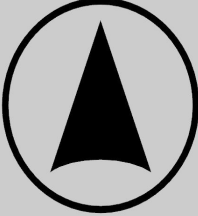
Clayton Vance Property




Buildable Area

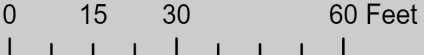
Requested Easement

100 W

Affect of Easements on Property



-  Clayton Vance Property
-  Buildable Area
-  Total Easements



When recorded return to:

Heber City Corporation
Attn: City Recorder
75 North Main Street
Heber City, UT 84032

Tax Parcel No. 00-0004-9267

DEVELOPMENT AGREEMENT (Clayton Vance Development)

THIS DEVELOPMENT AGREEMENT entered into as of the date last executed below, by and between **Heber City**, a Utah municipality (“City”) and **Clayton Vance**, an individual (“Developer”). Developer and City are, from time to time, hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Developer is the owner of an approximately 0.27 acre parcel of real property located at approximately 22 South 100 West, Heber City, Utah 84032 (the “Property”). A legal description of the Property is attached hereto as Exhibit A; and

WHEREAS, the City has reviewed the concept plan for the new residential/commercial building, which Concept Plan is attached hereto as Exhibit B (the “Concept Plan”) and concept building elevations (the “Concept Elevations”), which are attached as Exhibit C; and

WHEREAS, the City, acting pursuant to its authority under Utah Code Ann. §10-9a-101, *et. seq.*, in compliance with the Heber City Land Use Code, and in furtherance of its land use policies, goals, objectives, ordinances and regulations, has made certain determinations with respect to the Property, and therefore has elected to approve and enter into this Agreement to advance the policies, goals and objectives of the City, and to promote the health, safety and general welfare of the public.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

- 1. Zoning.** The property shall be used and developed consistent with the requirements of the C-3 zone.
- 2. Building Elevations.** Unless otherwise approved by the City, the building elevations shall be consistent with the Concept Elevations attached hereto as Exhibit C. The building height shall not exceed three stories.

3. **Driveway Access.** Access to the project shall consist of a single driveway entrance located along Center Street and placed near the north end of the Project.
4. **Units / Use of Building.** The total number of units of the Project shall not exceed 5 residential units. Development shall be consistent with uses permitted in the C-3 Zone.
5. **Landscaping.** Developer shall either plant at least 5 street trees in planters that meet City standards.
6. **Lighting.** All lighting on the site shall be dark-sky complaint as per Heber City Zoning requirements.
7. **Permitting.** The lot shall be eligible for approval of a building permit upon final site plan approval by the planning and engineering departments.
8. **Right of Way Improvements.**
 - a. Development shall include only one culinary water connection and one sewer connection for the project.
 - b. Developer shall be responsible for burying the power lines along 100 West.
 - c. Developer shall be responsible for installation of curb and gutter, sidewalks, parking strip improvements, asphalt street improvements and striping for angled parking along both Center Street and 100 West.
9. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the “Applicable Law”) shall be in accordance with those set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including City Ordinances and Resolutions, in force and effect on the date the City Council granted preliminary approval to Developer for the Project. Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of the City necessary for approval and recordation of the subdivision plat, including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of the City.
10. **Default.** Any failure by any party to perform any term or provision of this Agreement, which failure continues uncured for a period of ten (10) calendar days following the receipt of written notice of such failure from the other party shall constitute a “Default” under this Agreement.
 - 10.1 Notice. Any notice of default (“Default Notice”) shall: (1) specify the claimed event of Default; (2) identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in Default; (3) identify why the claimed Default is claimed to be material; and (4) specify the manner in which said failure may be satisfactorily cured.

10.2. Cure. Following receipt of a Default Notice, the defaulting Party shall have thirty (30) days in which to cure such claimed Default (the “Cure Period”). If more than 30 days is required for such cure, the defaulting Party shall have such additional time as is reasonably necessary under the circumstances in which to cure such Default so long as the defaulting Party commences such cure within the Cure Period and pursues such cure with reasonable diligence. City may, in City’s sole discretion, withhold permits or approvals during any Cure Period.

10.3. Developer’s Exclusive Remedy. Developer’s sole and exclusive remedy under this Agreement shall be specific performance of the rights granted in this Agreement and City’s obligations under this Agreement. **IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, OR ANY DEVELOPER, PROPERTY OWNER OR OTHER PARTIES UNDER THIS AGREEMENT, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.**

10.4 City’s Remedies Upon Default. In addition to all other remedies available at law or in equity, City shall have the right to withhold all further reviews, approvals, licenses, building permits and other permits for development of the Property in the case of a Default by Developer, until the Default has been cured. City shall further have the right to draw on any security posted or provided in connection with the Property and relating to remedying of the particular Default.

10.5 Emergency Defaults. Anything in this Agreement notwithstanding, if the Council finds on the record in a public meeting that a Default by Property Owners materially impairs a compelling, countervailing public interest and that any delays in imposing a remedy to such a Default would also impair a compelling, countervailing public interest, the City may impose the remedies of Section 10.4 without any further requirements or obligations to the Property Owners. The City shall give Notice to Property Owners of any public meeting at which an emergency Default is to be considered and Property Owners shall be allowed to attend such meeting and address the Council regarding the claimed emergency Default.

11. Fees. Developer shall be required to pay all permit fees, building permit fees, inspection fees, impact fees or other fees imposed by the City as set forth in the City Code and the City’s consolidated fee schedule.

12. Entire Agreement. This Agreement, including its Exhibits, contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and of the Developer.

- 13. Time is of the essence.** In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.
- 14. Term of Agreement.** The term of this Agreement shall commence on the Effective Date and continue for a period of five (5) years. Unless otherwise agreed between the City and the Developer, the Developer's vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement. Upon termination of this Agreement, the obligations of the Parties to each other hereunder shall terminate, but none of the dedications, easements, deed restrictions, licenses, building permits, or certificates of occupancy granted prior to the expiration of the term or termination of this Agreement shall be rescinded or limited in any manner. If Developer has not constructed the Project in accordance with the Concept Elevations prior to the expiration of this Agreement, the zoning of the Property shall automatically revert to **R-2** zoning upon expiration of this Agreement.
- 15. No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.
- 16. Recording.** This Agreement shall be recorded with the Wasatch County Recorder as soon as reasonably practicable after execution of this Agreement. The City Recorder shall cause to be recorded a fully executed copy of this Agreement in the Official Records of the County of Wasatch.
- 17. Notices.** Any notice or communication required hereunder between the City and the Developer must be in writing and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (1) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United State mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses as set forth below:

The City:

Heber City Manager
75 N Main Street

Heber City, UT 84032

Developer

Clayton Vance
345 West 600 South Suite 108
Heber City, UT 84032

- 18. Insurance and Indemnification.** Developer shall defend and hold the City and its officers, employees and consultants harmless for any and all claims, liability and damages arising out of the negligent actions or inactions of such Developer, its agents or employees pursuant to this Agreement, unless caused by the City's gross negligence or willful misconduct.
- 19. Bodily Injury and Property Damage Insurance.** Developer agrees to and shall indemnify and hold the City and its elected and appointed boards, officers, agents, employees, and consultants harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) rising from or as a result of the death of any person or any accident, injury, loss or damage to any person or property directly caused by any acts done or omissions of Developer or its agents, servants, employees or contractors in connection with this Agreement, except for willful misconduct or negligent acts or omissions of the City or its elected or appointed boards, officers, agents, employees or consultants.
- 20. Waiver of Rights Under Utah Code Section 10-9a-532.** The Parties have been represented by an attorney throughout this process or have had the opportunity to consult with an attorney. Developer acknowledges that this Agreement does not restrict any of Developer's rights under clearly established state law or that Developer has been advised in writing of any such rights being restricted. As an essential term of this Agreement, Developer hereby waives any claim that any term of this Agreement is void, illegal, invalid, or unenforceable as the result of any failure on the City's part to disclose in writing any rights being restricted by this Agreement. This Agreement shall automatically terminate and any and all vesting and rights associated with this Agreement shall terminate if Developer brings and claim or action against City asserting any claim, right or action under Utah Code Section 10-9a-532.
- 21. Binding Effect.** If Developer conveys any portion of the Property or buildings to one or more owners or sub-developers, the property so conveyed shall have the same rights, privileges, and shall be subject to the same limitations and rights of the City, applicable to such properties under this Agreement prior to such conveyance, without any required approval, review, or consent by the City, except as otherwise provided herein.
- 22. No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future date any such right or any other right it may have.

- 23. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.
- 24. Other Necessary Acts.** Each Party shall execute and deliver to the other Party any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.
- 25. Covenants Running with the Land and Manner of Enforcement.** The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of the individual lot in the Project shall have no right to bring any action under this Agreement as a third-party beneficiary. The City may look to the Developer, its successors and/or assigns, or the lot owners for performance of the provisions of this Agreement relative to the portions of the Projects owned or controlled by such party. The City may, but is not required to, perform any obligation of the Developer that the Developer fails adequately to perform. Any cost incurred by the City to perform or secure performance of the provisions of this Agreement shall constitute a valid lien on the Project, including prorated portions to the individual lots or units in the Project.
- 26. Amendment.** Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in the specific lot, or other portion of the Project. Each person or entity (other than the City and the Developer) that holds any beneficial, equitable, or other interests or encumbrances in all or any portion of the Property at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 32. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to, the City and/or the Developer.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this _____ day of _____, 2024.

HEBER CITY:

By: _____
Heidi Franco, Mayor

ATTEST:

Heber City Recorder

DATED this _____ day of _____, 2024.

CLAYTON VANCE

By: _____

Print Name: _____

Title: _____

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2024, personally appeared before me Clayton Vance, who duly acknowledged to me that he has authority to and did execute the foregoing.

NOTARY PUBLIC

Bonnie Vance

By: _____

Print Name: _____

Title: _____

STATE OF UTAH)

: ss.

COUNTY OF WASATCH)

On this _____ day of _____, 2023, personally appeared before me
_____, who duly acknowledged to me that (s)he has authority to and did
execute the foregoing on behalf of Bonnie Vance.

NOTARY PUBLIC

Exhibit A

Legal Description

Parcel 1: 00-0004-9267

BEGINNING at the Northeast CORNER of Lot 4, BLOCK 80, HEBER CITY SURVEY of Building Lots; and running thence South .00 DEGREES 48' West .118.33Feet; Thence North .88DEGREES 58' West .99.32FT; thence North .00 DEGREES 48' East.118.33FT; thence South .88 DEGREES 58'E.99.32FT; TO THE point of beginning.

AREA: 0.2698 ACRES

PARCEL #: 00-0004-9267

Concept Plan

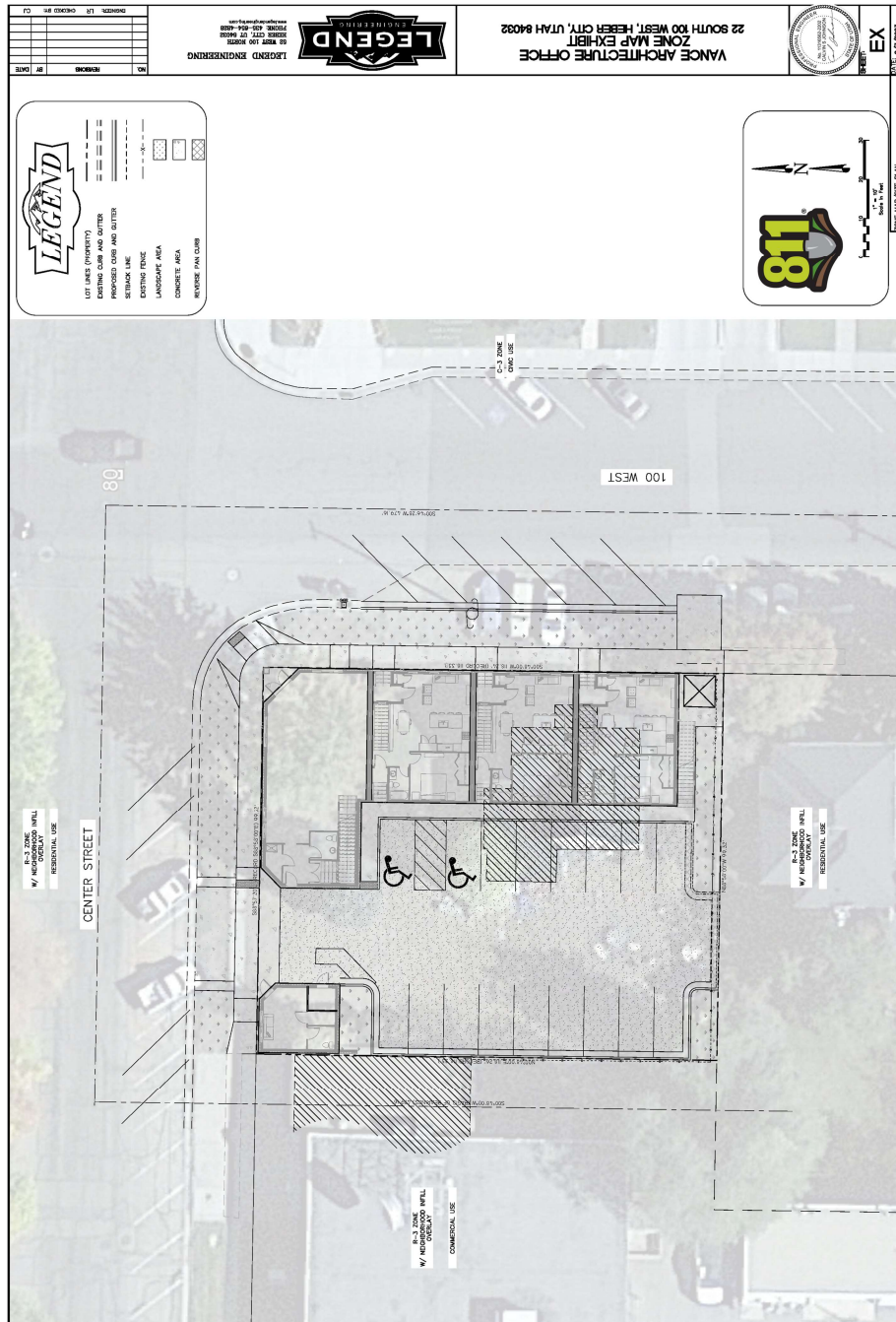


Exhibit C

Concept Building Elevations





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

DRAFT Minutes

4:00 p.m. Council Member Oath of Office
4:30 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. OATH of OFFICE for THREE CITY COUNCIL SEATS - 4:00 P.M.

Mayor Franco called the meeting to order at 4:02 p.m.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard
Council Member Scott Phillips

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
Planning Manager Jamie Baron
City Engineer Russ Funk
City Attorney Jeremy Cook
Building Official Wes Greenhalgh
Parks and Cemetery Director Mark Rounds
City Recorder Trina Cooke

Staff Participating Remotely: IT Specialist Anthon Beales, Engineering Technician Desiree Muheim, Planning Manager Jamie Baron, Engineer Kyle Turnbow, Public Works Director Matthew Kennard, Assistant City Manager J. Mark Smedley, Planning Administrative Assistant Meshelle Kijanen, Deputy Recorder Robin Raines-Bond, Engineering GIS Technician Shiona Howard, and Accounts Payable Technician Wendy Anderson.

Also Present: Lauri Wynn - Wave, Terry Diehl, Sheila Johnston, Matt Johnston, Grace Doerfler, Jen Ostergaard, Ashley Farrell, Armand Johansen, Robert McConnell, Tori Broughton, and others who did not sign in or whose writing was illegible.

Also Attending Remotely: (Names listed are shown as signed-in online) Nah, B, Brock M, Grace, Kelli, and Shorty5.

1. Swearing in of Three Newly-Elected City Council Members: Mike Johnston, Aaron Cheatwood, and Sid Ostergaard for Four-Year Term 2024-2028 (Trina Cooke, City Recorder)

City Recorder Trina Cooke swore in the newly elected Council Members to the three City Council Seats:

Seat one: Mike Johnston (re-elected to 2nd term)
Seat two: Aaron Cheatwood
Seat three: Sid Ostergaard

2. Reception

The newly elected Council Members Mike Johnston, Aaron Cheatwood, Sid Ostergaard, each shared a few words. A short reception followed.

II. WORK MEETING - 4:30 P.M.

Mayor Franco called the Work Meeting to order at 4:32 p.m., welcomed everyone present, and introduced the newly elected Council Members.

1. Ordinance 2024-01 Highlands MDA Amendment (Denna Woodbury, Planning Consultant) - *50 min*

Planning Consultant Denna Woodbury reviewed the changes to the agreement that had been made at the direction of Council. She explained the hillside topography was creating difficulties for the builder to comply with the North Village Overlay Zone.

Adam Loser, representative of DR Horton and the Highland's development, introduced his colleagues, Craig Haws and Terry Diehl, who were present as well. He shared a PowerPoint and noted there were some conflicts within the City's code. He reviewed their concerns and proposed solutions. Community Development Director Tony Kohler filled in additional details for design concerns within the proposed plan.

Council Member Johnston expressed appreciation for the presentation proposing solutions for the specific challenges faced in the development. Council provided additional feedback and discussion continued.

2. POSTT (Parks, Open Space, Trails, and Trees) Presentation (Scott House, POSTT Co-Chair, Ashley Farrell, POSTT Co-Chair) - *30 min*

Scott House and Ashley Farrell, Parks, Open Space, Trails, and Trees (POSTT) Committee co-chairs, were present to review the committee's work, progress, and past successes for 2023. Mr. House shared the committee's focus and goals for 2024. He shared that the average cost of maintenance for trails was approximately \$1,500 per mile annually.

Council Member Barney asked the Committee to work with Public Works when considering maintenance needs. Mayor Franco asked the Committee to reach out to the City's PIO and create informative videos for the community. She proposed helmet stickers for the bike fair. Council Member Cheatwood referred to the City of Hurricane's trail sponsor partnerships with bicycle shops and other retailers.

III. BREAK - 10 MIN

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

1. Call to Order

Mayor Franco called the Regular City Council Meeting to order at 6:13 p.m. and welcomed everyone present. She wished everyone a Happy New Year and introduced the three newly elected Council Members.

2. Pledge of Allegiance (Scott Phillips, Council Member)

Council Member Phillips led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Heidi Franco, Mayor)

Mayor Franco shared a prayer.

V. CONFLICT OF INTEREST DISCLOSURE:

Council Member Ostergaard recused himself from Action Item 2.

VI. CONSENT AGENDA:

1. Approval of December 19, 2023, City Council Meeting Minutes (Trina Cooke, City Recorder)

2. City Council Board Appointments (Heidi Franco, Mayor)

Motion: Council Member Philips moved to approve the Consent Agenda. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Phillips, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** none. The **Motion Passed unanimously, 5-0.**

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

There were no public comments.

VIII. GENERAL BUSINESS ITEMS:

1. Planning Commission Presentation (Tony Kohler, Community Development Director) - *20 min*

Community Development Director Tony Kohler provided the Planning Commission Report. Commissioners Dave Richards, Derek Slagowski, Phil Jordan, and Robert Wilson were present. Mr. Kohler reviewed the Planning Commissioner's focus and recommendations. Council discussed a potential downtown parking structure. The Commissioners expressed a desire to meet with the Council more regularly.

2. Airport Advisory Board Presentation (Jason Talley) - *20 min*

Airport Advisory Board (AAB) Chair Jason Talley provided an update of the work and progress of the AAB for 2023. He reviewed the purpose of the AAB and the objectives as included in the attached presentation. City Manager Matt Brower shared an update for the ongoing environmental study and rate fee study at the Airport.

3. Public Works SWOT Analysis (Matt Kennard, Public Works Director) - *5 min*

Public Works Director Matthew Kennard presented the SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis for the Public Works Department as attached to the meeting materials.

4. Police Department SWOT Analysis (Parker Sever, Chief of Police) - *5 min*

Chief of Police Parker Sever presented the SWOT analysis for the Police Department as attached to the meeting materials.

5. Parks and Cemetery SWOT Analysis (Mark Rounds, Parks and Cemetery Director) - *5 min*

Parks and Cemetery Director Mark Rounds presented the SWOT analysis for the Parks and Cemetery Department as attached to the meeting materials.

6. Human Resources SWOT Analysis (Cherie Ashe, Human Resources Director) - *5 min*

Human Resources Department Manager Cherie Ashe presented the SWOT analysis for the Human Resource department as attached to the meeting materials.

7. Finance Department SWOT Analysis (Sara Nagel, Finance Manager) - *5 min*

Finance Director Sara Jane Nagel presented the SWOT analysis for the Finance Department as attached to the meeting materials.

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

1. Legislative Report from Mountainlands Association of Governments (MAG) Contracted Lobbyist (Dave Stewart) - *15 min*

MAG (Mountainlands Association of Governments) contracted lobbyist for Heber City, Dave Stewart, provided a legislative update. He reviewed the UDOT (Utah Department of Transportation) projects, airports, land use, developers, initiatives, and PIDs (Public Infrastructure Districts). He shared that the State and County election office filing for candidates would take place the first week in January 2024. Mayor Franco described Heber's struggle to provide affordable housing and highlighted issues that she felt the City could use assistance from the State Legislature. Council Member Barney questioned the high volume of water used by golf courses while the State continued to struggle with drought conditions.

2. Ordinance 2024-01 Highlands MDA Amendment (Denna Woodbury, Planning Consultant) - *10 min*

Motion: Council Member Johnston moved to adopt Ordinance 2024-01 as presented with the additional conditions: to require windows on the garage doors of single-family detached homes and the garage doors be varying architectural styles; in the single-family small-lot subdivisions, designate the streets as private; and connectivity of the sidewalks to the buildings specifically in the town-homes. **Second:** Council Member Phillips made the second. **Voting Yes:** Council Members Johnston, Cheatwood, Barney, and Phillips. **Voting No:** None. Council Member Ostergaard abstained from voting. The **Motion Passed Unanimously, 4-0.**

3. Agreements for T-hangar Development at the Heber Valley Airport (Steve Osit) - *40 min*

Steve Osit, Airport Counsel, presented background and information for the proposed T-hangar development at the Airport, as included in the attached Staff Report. The proposal had been put before Council four years previously but had been on hold until the airport Master Plan had been approved. Council Member Phillips asked why the proposed leases were non-reversionary rather than reversionary. Petitioner Jeff Peterson explained that non-reversionary leased hangars were better maintained and thereby retained their value better. Council Member Phillips explained to the Council that the current airport hangars were being used for storage other than airplanes and the T-hangar style would be very difficult to store anything more than an airplane. Discussion continued.

Motion: Council Member Phillips moved to approve the lease and project as presented. **Second:** Council Member Johnston made the second. **Voting Yes:** Council Members Johnston, Ostergaard, Cheatwood, Barney, and Phillips. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

Mayor Franco asked Mr. Peterson for a verbal agreement to provide vehicular access in the parking lot on the east side of the T-hangar construction location.

4. ITN for Sale of Parcel in the Commerce Park (Industrial Lot) (J. Mark Smedley, Asst. City Manager) - 20 min

Assistant City Manager Mark Smedley presented the ITN (Invitation to Negotiate) responses for the option to negotiate the sale of approximately 1.5 acres of City-owned land in the industrial park area. The City had received two proposals as attached to the meeting materials.

Motion: Council Member Barney moved to proceed with negotiations with Utah Peaks, LLC and instruct Staff to return to Council once negotiated. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Johnston, Ostergaard, Cheatwood, Barney, and Phillips. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

5. Jordanelle Ridge Bond Agreement (Jeremy Cook, City Attorney) - 15 min

City Attorney Jeremy Cook reviewed the proposed agreement with Jordanelle Ridge. The Agreement was intended to streamline the administrative process of the developer bonding with the City on each individual construction project in the development. It offered a single blanket bond process for the entire development rather than many individual project bonds and releases. Mr. Cook explained the agreement would be beneficial to the City as well as the development project. He further described the bonding process.

Motion: Council Member Phillips moved to approve contingent upon the City's Legal and Engineering Staffs review of the exhibits. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Johnston, Ostergaard, Cheatwood, Barney, and Phillips. **Voting No:** None. The **Motion Passed Unanimously, 5-0.**

X. COMMUNICATION:

City Manager Matt Brower welcomed Sid Ostergaard and Aaron Cheatwood aboard. He reminded the Council of the 2024 Annual Retreat dates: Thursday, January 18 at 5:00 p.m. and Saturday, January 20 at 8:30 a.m. He noted that grant writer Nancy O'Toole had emailed him to notify him the City had been awarded a quarter million dollar grant for Muirfield Park.

Mayor Franco asked Staff to discover the dates for the annual Irrigation Board meetings.

XI. ADJOURNMENT:

Motion: Council Member Phillips made the motion to adjourn. **Second:** Council Member Barney made the second. The meeting adjourned at 9:42 p.m.

Trina Cooke, City Recorder



Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Confirmation of Aaron Cheatwood Appointment to the City Audit Committee
RESPONSIBLE: Heidi Franco
DEPARTMENT: Administrative
STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

CONCLUSION

ALTERNATIVES

1. Approve as proposed
 2. Approve as amended
 3. Continue
 4. Deny
-

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue

I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Administrative
Staff member:

EXHIBITS

None

Heber City Historic Preservation Commission

2024 Project Priorities

2024 Budget Request

Old Rio Grande Heber Creeper Depot Restoration and Center Street Historic District



Proposal: Totally Rebuild the original Depot building—Move the Corrine Depot—Create a Living History Site/Visitors Center

Budget Request: \$50,000 to provide earnest money to purchase buildings from current owner

Heber Valley Heritage Foundation will Facilitate this project with partners

In years past it was said that if you wanted to go anywhere, you went down Center Street to the Depot. We would like to build on that.



Proposal: As part of Heber City Historic Preservation Master Plan, memorialize this iconic street as a Historic District, walking lead way to Main Street with parking

London Springs Historic Site

- Working in Conjunction with Heber City Historic Commission, and Michael Bradshaw developer, the Heber Valley Historic Preservation Foundation will initiate a project to create a Living History site on the location of this first settlement in Heber Valley.



Further Budget Requests

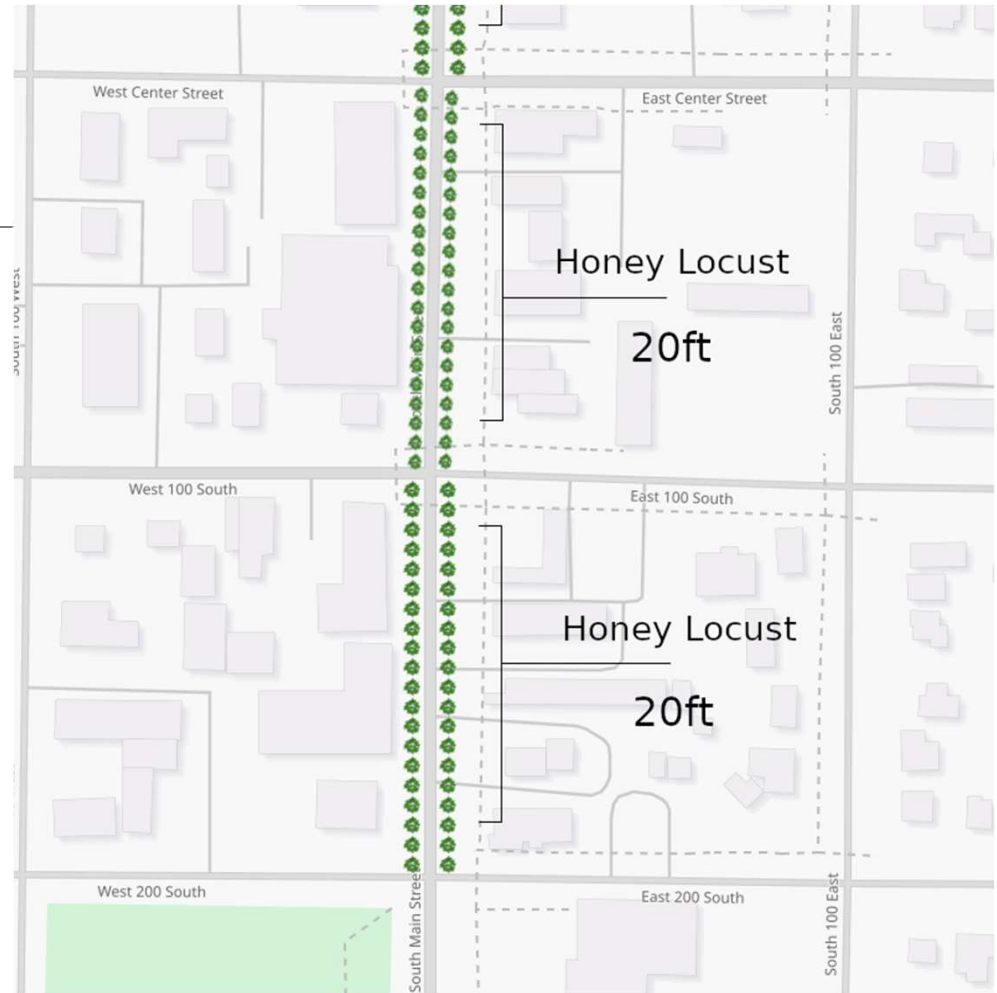
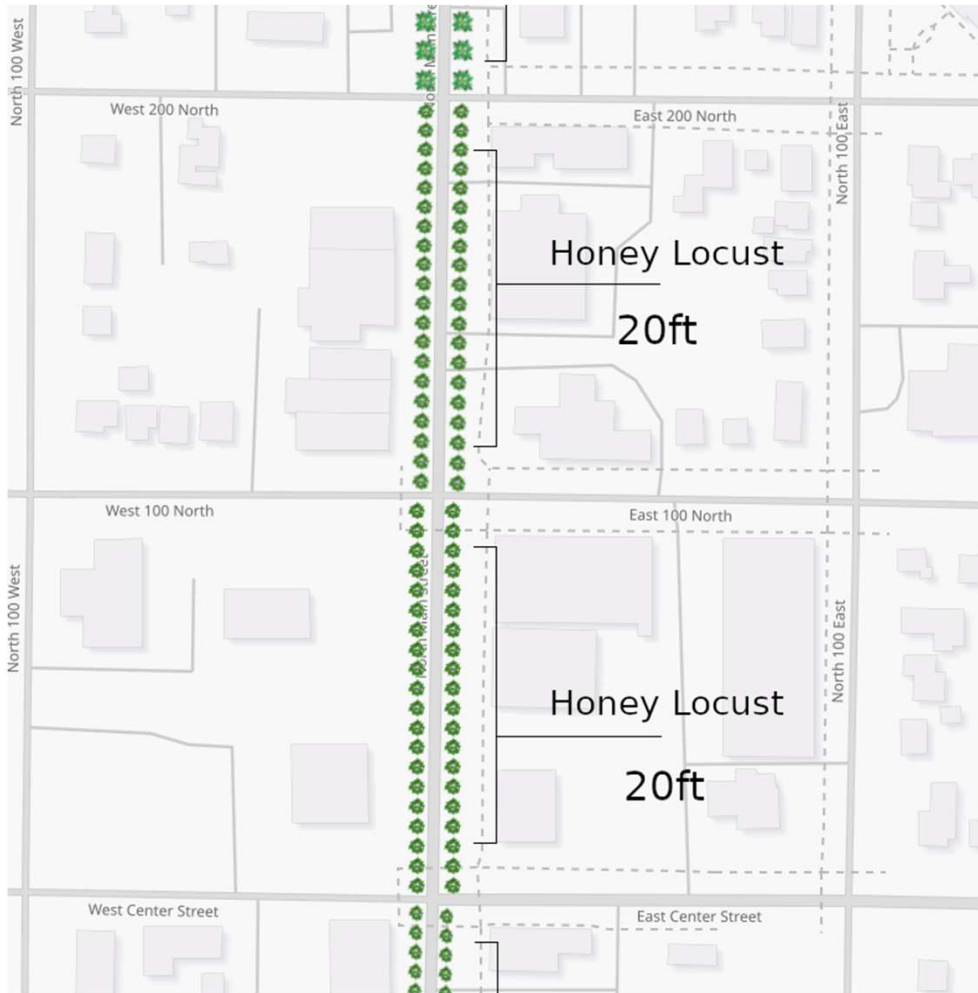
- \$20,000 for Phase Two memorial signage
- \$30,000 for Reconnaissance Level Survey and Historic Preservation Master Plan
- \$10,000 for Historic and Heritage Preservation special events and celebrations.

Heber City Tree Committee Presentation to City Council

EVALUATION OF OUR CITY FORESTS



















Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Audit Committee
RESPONSIBLE: Sara Nagel
DEPARTMENT: Finance
STRATEGIC RELEVANCE:

SUMMARY

RECOMMENDATION

BACKGROUND

DISCUSSION

FISCAL IMPACT

CONCLUSION

ALTERNATIVES

1. Approve as proposed
2. Approve as amended

- 3. Continue
 - 4. Deny
-

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: Finance
Staff member:

EXHIBITS

None

BUILDING DEPARTMENT SWOT ANALYSIS

2023

<p>STRENGTHS:</p> <ol style="list-style-type: none"> 1. Very Knowledgeable Staff with ongoing education. 2. Get along well and work together as a team. 3. Strive to meet the needs of the contractors to keep projects moving forward. Good relations with Builders 4. Consistent code enforcement between inspectors. 5. Automated permit submittal, review, and inspections. 6. Historically building permit revenue has exceeded the building department expenditures. 	<p>OPPORTUNITIES:</p> <ol style="list-style-type: none"> 1. Working with Local Home Builders Association to better educate governmental leaders of challenges. 2. Reach out to State Legislators to promote changes to benefit easier enforcement of building codes and easing challenges for builders. 3. Opportunity to educate new council members of the value of safe buildings and the staff to ensure it.
<p>WEAKNESSES:</p> <ol style="list-style-type: none"> 1. Lack of manpower prohibits all inspections being given specific time which would make us a remarkable department. 2. If one of our staff is sick, we have limited in house backup. 3. Very limited short notice third party help available. 4. Interdepartmental delays in permit issuance can put us at odds with state mandates. 	<p>THREATS:</p> <ol style="list-style-type: none"> 1. State Legislature regulation is making it harder for us. 2. Statewide shortage of qualified building inspectors. 3. Adopting more regulation and expecting department to enforce without additional staff. 4. Economic downturns in industry can lower building activity. 5. Allocations of building permit revenue away from building department needs.

Planning Division SWOT 2023

STRENGTHS:

- Knowledge, Skills & Abilities
- Team work mentality

OPPORTUNITIES:

- 2034 Olympics
- Bypass
- Envision Central Heber Phase 3
- Economic Dev/CRA
- Implementation of Long Range Planning

WEAKNESSES:

- Losing Institutional Knowledge
- Org. Capacity: LOS, Division of duties (current vs long range)

THREATS:

- **Missed Opportunities**
- Yearly State Code Changes

SWOT Analysis of Prosecution and City Administration Departments

City Council Presentation January 2024

One of the Gate Keepers

Strengths

- Consistent, day to day, face to face interaction with the community; interaction that is experienced, respected, and established. These interactions offer substantive, dependable relationships with individual citizens in the city, county and state; and other local and state entities, and governmental and law enforcement agencies. This transcends to a collective trust throughout those local and state political communities.
- With the increase in criminal case filings and reviews, improved efficient system for processing and enforcing criminal justice court cases.
- A spirit of positivity and can-do attitude that affords seasoned and critical review of criminal, and some administrative and legal issues. Supportive group thinking participation on most all aspects within the City. Yet also, the ability to advise, when applicable, between what is legal, and what is right and appropriate.
- Developed good relationships with most all other City departments. This increases substantive help with committees and City administration.

Challenges/ Weaknesses

- Time management of the unexpected issues that arise and challenge the different departments, and time to review and respond, meet deadlines. Management of the increasing meetings. The ability to attend virtually to most of these meetings has been so helpful, efficient and a time saver.
- Keeping Grant Management process running smoothly.
- Committee support and administration.

Threats

- Competing development and political agendas between entities and organizations, individuals, state and local private, and governmental agencies.
- The ever-increasing social trend of “Us” vs. “Them” mentality between government, private citizens and property owners.
- Changes in our population demographics, our aging population, combined with substantive increased incomes, creates difficulty in establishing uniform policies and identifying new directives economically, culturally and politically.

Opportunities

- Continue to develop and foster relationships with support staff of the other state and county agencies and citizens by interacting with them on a day to day basis and expressing interest and concern in their day-to-day lives as their issues relate to local government. Our departments act as the gate keeper and steward of the first and sometimes daily interaction of citizens with their home town and its agencies, *(family, business, neighborhood, services, entertainment, animals, civic, environment, contracts and agreements, policy application, enforcement, zoning and land use, criminal, and city administration)*.

Opportunities, Cont.

- Increasing requests to present at the various Attorney's Associations of which I am a member.
- Utah Prosecutor's Association (UMPA), of which I am serving as President.
- Member of the Utah Municipal Attorney's Association (UMAA).
- Member of the Utah City Managers Association.

SWOT ANALYSIS – ENGINEERING

January 2024

STRENGTHS: Team <ul style="list-style-type: none">- New GIS Administrator- Work Well Together / Understand Roles Expertise/Competency <ul style="list-style-type: none">- Experienced Staff- Municipal, Storm Water, Water Rights, Etc New Standards <ul style="list-style-type: none">- Provides Clarity on Expectations Customer Service	OPPORTUNITIES: CityWorks / GIS <ul style="list-style-type: none">- Permit & Development Process Tracking- Dashboards / Reporting- Asset Management Tools Public Involvement/Communication <ul style="list-style-type: none">- Utilize PIO- Provide Consistent Project Updates- Public Maps City Web Page <ul style="list-style-type: none">- Resources & Tools for Developers
WEAKNESSES: Process Tracking <ul style="list-style-type: none">- Spreadsheets & File System Not Adequate Work Space <ul style="list-style-type: none">- Office Layout is Problematic- Space Constraints Communication with Public <ul style="list-style-type: none">- Good on some Projects- Generally Needs Improvement NFIP (National Flood Insurance Program)	THREATS: Growth <ul style="list-style-type: none">- Keeping up with Work Load Social Media <ul style="list-style-type: none">- Current Culture- 18,000 Opinions Process Consistency <ul style="list-style-type: none">- MDA's with Special Processes & Requirements State Legislation <ul style="list-style-type: none">- LUDMA Changes

HEBER VALLEY AIRPORT SWOT ANALYSIS

<p><i>STRENGTHS:</i></p> <ul style="list-style-type: none"> • Nice, Clean, Easily Accessible, Self-Sufficient Airport • Well attended Community Events • Pilots, users, and tenants are respectful of and love the community • Strong Economic Driver (Hotels, Rental Cars, Shuttles, Restaurants, Recreation, Employees, and Secondary homes with higher rate of taxes) • Great Clubs Balloons, Gliders, Bush planes, EAA, Museum 	<p><i>OPPORTUNITIES:</i></p> <ul style="list-style-type: none"> • Increase number and quality of public activities/events • Increase in local Jobs and Business Opportunities • Airport Beautification, landscaping, buildings, fencing, signage etc. • More opportunities for our youth; career paths, High school/UVU classes, CAPS projects etc. • Dedicate remaining available space without significantly increasing the number or size of aircraft • Electric Aircraft, Taxi Drones, flight schools • Monthly Radio Interviews
<p><i>WEAKNESSES:</i></p> <ul style="list-style-type: none"> • Misunderstandings/Misinformation about the Airport and its vision and goals • Lack of education regarding how and why the airport operates the way it does • Needed Separation between Jets, small planes, vehicles etc. 	<p><i>THREATS:</i></p> <ul style="list-style-type: none"> • Potential conflicts with Airport users and tenants/FAA or State Aeronautics • Misinformation being spread through community/social media • Overall growth in the area. Increases in the number and value of homes causes an increase in air traffic.



Heber City Council Staff Report

MEETING DATE: 1/16/2024
SUBJECT: Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

With the Envision Central Heber Vision adopted on September 5th, it provides guidance for several implementation efforts. The Vision suggests amending key zoning policies for implementation including the C-3 Zone Purpose and Objectives, C-3 Zone Uses and C-3 Zone Design Criteria. Other Vision suggested implementation zoning strategies will be addressed in 2024 as a follow up such as C-2 and C-4 zone updates, residential transition zone (a new zone) and infill strategies.

Recent discussions have also suggested eliminating the parking requirement for retail and restaurant uses and to establish a lower parking requirement for residential uses in the Downtown/C-3 zone.

In the City Council meeting on December 5, 2023, setbacks in relationship to Public Utility Easements (PUEs), for the C-3 zone (and other zones too, but those are not C-3 zone issues) were discussed by the Power Company and Public Works. Staff was asked to do some research in other communities that have dealt with this issue for some time. That research is included in this staff report and has resulted in slight changes to the proposed ordinance, and future changes to emphasize utility plans being conceptualized up front in the Permitted and Conditional Use Application Requirements chapter and the Subdivision ordinance.

This staff report is essentially the same, except for the discussion of utilities. Slight modifications to the draft are included to address the utility issue.

The Policy Question for Council is as follows: Should the City Council approve Ordinance 2024-02?

RECOMMENDATION

Staff recommends approval of Ordinance 2024-02, adopting the update to the C-3 Zone and Parking Code with the suggested changes.

BACKGROUND

The Envision Heber 2050 general plan was adopted a few years ago. It covers the downtown area but not in the detail needed for developing priorities/steps for the City to consider in implementation. Updates to the C-3 and parking chapters are being presented concurrently with the General Plan updates. In addition, People+Place will be trying to wrap up the general on-going ordinance updates by the end of the year.

Anticipated future ordinance work during 2024, includes:

1. Review the Flag Lots requirements and Frontage/Areas to increase housing flexibility for Central Neighborhoods
2. Review and update the Midway Lane Overlay District Update
3. Create a Downtown Transition Zone Overlay District
4. C-2 and C-4 Zone Uses/Design Standards Districts Update
5. Potential map changes to conform the zoning with the Vision
6. Potential Rezone of I-1 Zoned areas around 600 West

In a previous update the three zones C-2, C-3, C-4 were combined into one chapter. Uses were updated including no additional car/RV sales in the C-3 zone. This new draft continues that update and adds a series of design standards covering materials, a build-to line, height restrictions near City-owned property, and an emphasis on historic design.

The historic design section is based on Lane Lythgoe's sketch, currently housed in your "Design Guidelines". The concept promoted here allows the developer some design discretion/choices, except for the storefront requirements along Main Street, while assuring that the end result reflects historic design. From the many features shown in the sketch, the developer needs to pick at least 4. This is a staff suggested reduction after the input received in the Planning Commission's public hearing. This allows some flexibility and choice for the developer after incorporating storefront designs along Main Street.

The changes are limited to the C-3 zone. Partially this is due to the new noticing requirements (hopefully changing in the 2024 Legislative session) that require a mailed notice to all of the property owners in the C-3 zone. If we included the C-2 and C-4 zones in the proposed changes, the mailout would be huge/costly and the main priority of addressing what needs to be done in the C-3 zone could be highly watered down, by other issues presented in the other two zones. With an intent to complete the C-3 updates by the end of the year, this seemed counterproductive. We will get back to those updates next year.

Summary changes in the C-3 zone

1. Slight expansion of the chapter purpose
2. Added arts type uses, no drive-ins allowed (no policy change there), added Hotels back as CUP, restricted commercial parking so that private paid parking lots don't front on Main, dropped hospitals out of the C-3, residential use on first floor not allowed on Main, corner plazas.
3. Build-to line as opposed to zero front setback allows flexibility for outdoor dining – setback not allowed to include vehicular traffic/parking aisle drive through accesses. The build-to-line is suggested to be 5' to 15' and creates a little more flexibility for utilities also with the 5' setback for the building from the sidewalk.
4. Many design features required covering storefront windows, awnings, main entrance doors, building length
5. Building materials are limited
6. Historic design features based on the sketch
7. Adaptive reuse covered with some incentives. Removal of false facades required.
8. Residential use open space requirements or a payment in lieu
9. Height – 3 stories unless a stepback is included then can go to 4 and limits height around publicly owned land (City Park and City Hall areas)

Parking chapter change

Eliminated the parking requirement for commercial uses with just 1 space required for residential units, and provided on-street striping for a corresponding number of spaces, the normally required parking spaces, on the adjacent blocks. Residential uses are required to have one on-site parking space per unit. See Exhibit 2.

Public Open House input (October 11th)

An open house was held to allow for public input concerning the updates to the C-3 zone. Every property owner was sent a notice for the open house and for the public hearing on the 24th. Attendance was mostly from potential candidates for the upcoming election, planning commission members, the Mayor, and several property owners. General comments were supportive but focused on the following:

- The need for a parking garage to allow for more on-site development – an options analysis is in process from Zions Public Finance
- Should 100 East and West become one-way streets?
- Continue to allow the drive-up restaurants but the drive-up window not facing Main Street is reasonable
- Concerns about the chain store prohibitions, although the flexibility in the definition is greater than some other communities. Even with a more restrictive ordinance in Park City, one meeting participant said he sees many national/international chains on the PC Main Street.
- Will the requirement for at least 6 historic features (now changed to 4) from the Lane Lythgoe sketch (6 of 14 shown on the sketch) be enough to provide the historic flavor for new buildings

within the C-3 zone? We may get some input from the State Historic Preservation Office, prior to the meeting.

DISCUSSION

The Planning Commission held a public hearing on October 24, 2023, and continued the discussion of the C-3 zone updates. The priority issues for discussion included: parking, materials, historic features, and chain store prohibitions. The following is intended to discuss those issues that the PC discussed in greater depth to provide an understanding of their concerns, and the basis for their recommendation.

Parking

As previously discussed, the Parking ordinance is suggested to be amended to eliminate parking requirements for commercial uses and lower the requirements for residential use to one on-site parking space per unit. This suggestion is based on input from Roger Brooks so that more of the space on a lot can be devoted to buildings instead of parking lots. It is intended to be an incentive for development to occur in the Downtown.

An alternative was offered that places some burden on the development community to assist the City with the parking issue. Each development would be required to stripe an equal amount of parking, equal to what they normally would have been required, but limited to the block they face. The striping would occur on the adjacent street and would need to include street improvements where none exist (only the one side of the block). The Central Heber Vision did suggest that on-street parking could temporarily address the parking needs for development Downtown.

Longer term needs for an off-street surface parking lot or a parking structure are not actually a zoning responsibility. Recent contact with Zions Public Finance provided these financing options, for your information:

1. Best source, and most commonly used source for parking garages is tax increment (CRA generated).
2. City could issue sales tax bonds and make payments with parking garage fees
3. City could create a Special Assessment Area (SAA) but this is not likely as many property owners would likely object. The legal threshold to enact is having at least 60% of the property owners agreeing. If 40 percent object, it can't be created. Most City Councils would be hesitant to create a SAA if there were considerable objections (10%-20% perhaps)
4. Local Districts – Jonathan and I don't think you can legally create one for the purpose of building a parking garage. The State Code section (17B-1-202) describes the services allowed under a District. Our guess is that parking garages are not included because they aren't considered a "legitimate public service".
5. P3 partnership – a public entity can contract with a private entity to construct and maintain a particular service but the revenues would have to be sufficient to make it attractive to a private entity. I've seen this done with fiber, toll roads, hospitals, but haven't seen it done with a parking garage.
6. Business Improvement Districts – these are purely voluntary groups and have no legal powers to issue bonds or to require member payments from year to year.

Materials

The following text is from the draft and includes some amendments since the hearing based on comments at the hearing:

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on an the side upper floor of a building or on the side or rear or upper floors façade. Where used they shall be sculpted to resemble brick, and/or sandstone blocks.

The above changes would assure the integrity of storefront design on the first floor and allow more flexibility on upper floors. The updated draft includes the above language.

Historic Features

Historic features are insured in two ways. The first is a basic requirement for first floor storefront design along Main Street. This includes windows at 50% of that first floor face, transom windows above, and a bulkhead below. The second means of assuring historic design, is to choose 4 features from the Lane Lithgow sketch, not including the three required items above. This provides the developer the ability to choose the features that they want to incorporate into the building, instead of dictating everything. The 4 feature requirement is a reduction from the previous draft where 6 were suggested.

Chain Stores

Again, this is Roger Brooks' suggestion. The definition that was reviewed is a more flexible version of Park City's chain store definition. Several have noted that Park City may not have been following this definition in recent years. Checking on Midway, it appears that their architectural design requirements have prevented most chains from locating there. A "chain store" definition is not found in their definitions chapter.

One could imply from the above that if we have the historic design, that in and of itself could prevent or limit chain stores from locating there. There are also arguments to be made that some chain stores can benefit the community and the prohibition could prevent some desired stores from locating in Heber. It may be logical to postpone the chain store decision for a future discussion. The Planning Commission recommended letting the historic design requirements control the chain store interest in locating in Downtown.

Just making "chain stores" a conditional use is **not an option**. Conditional uses are administrative uses and if they meet the standards of your ordinances, and mitigate any actual detrimental effects, they should be approved.

Restaurants with Drive-up windows

As this draft has progressed, the idea of allowing restaurants with drive-up windows has been debated back and forth. The current adopted version of the C-3 zone does not allow them and that policy is maintained in the attached draft. Drive-ups would be allowed in the other "C" zones.

Utilities/Public Utility Easements

Although there are issues with where to place the required utilities in other zones in the City, the C-3

zone, which is the historic downtown zone, has the most complexity. The recently adopted Vision suggests the buildings be located as they have been historically, up close to the right-of-way (ROW). This causes some difficulties in placing utilities in convenient locations within the ROW, where major excavations may be needed in the case of repairs, maintenance, or service upgrades. This is a common issue for most downtowns that usually have a similar form, with buildings located adjacent to the ROW.

The City Council asked the staff to do some research on how other communities handle their utilities. We communicated with the planning and engineering staff at Daybreak, Brigham City, and with the Planning Director in Logan. Summaries of those conversations are provided below:

Daybreak – a “new” community with essentially one property owner in their Soda Row downtown.

- Soda Row: utilities can be placed in rear alleys. Alleys and parking lots are excellent locations for utilities
- Soda Row: has 5-10' setbacks which create some utility flexibility but was designed for overhangs and door swings to occur on private property
- Gas company lines are under sidewalk. Gas must be 10' from any structure
- Power: spacing 5' from any structure
- Gas and power must be spaced from each other
- Downtown context requires more thought for box placement – due to the ownership situation, many above ground boxes are back in parking lots
- Residential: varies a lot
- No underground vaults – with their flexible locations they are not needed
- Road cuts: pavement index condition: mill and overlay
- City doesn't want or allow the big boxes (and developer) doesn't want boxes along street – pushed to interior locations
- Development in Daybreak has a lot of flexibility; communication is key to solutions

Brigham City – UDOT owned Main Street but side streets in their historic downtown include buildings up next to the ROW

- Case by case utility placement decisions in their historic downtown. No standardized system – need creative solutions.
- Utilities permitted in right of way but prefer to not be under asphalt.
- Main Street-flexibility with utilities. Look for other locations, especially alleys of which they have quite a few. Their alleys have easements but are generally private.
- Back alleys can have overhead power. Some areas with utilities are not really alleys – just parking lots in the back of buildings. This includes some of the government properties.
- Residential zones are moving toward a 15' PUE.

Logan – Discussed the Main Street historic area, including Center Street, a destination street with many activities. The emphasis in Logan is on form - getting the downtown design the best it can be with buildings adjacent to the ROW and wide sidewalks, street furniture, landscaping, lighting.

- No above ground utilities allowed
- All utilities are in the ROW and that is their preferred location

- Vaults are used extensively
- Center street has very wide sidewalks (about 20') and only one lane in each direction with diagonal parking on both sides of the street that shifts to parallel parking at intersections
- They prioritize the form (downtown design) they want to achieve over the convenience of utility placement

Conclusions

1. Gas can go underneath the sidewalk. Don't allow utilities in the street pavement.
2. Put power in the back as often as possible or to the side of buildings, not out front
3. May need a requirement for recessed door – some historic designs create an alcove around the door to prevent doors swinging out over the sidewalk
4. Use back alleys for overhead power or underground power whenever possible
5. Power can be overhead in some cases
6. Need flexibility in the core downtown area and seek flexible solutions including the use of alleys, parking lots, side yard easements, underground, etc.
7. Don't allow utility boxes between street and buildings. Place in locations out of the ROW or underground. Keep the above ground "boxes" out of the clear view areas for intersections and driveways
8. Involve power company and other utilities at the concept plan stage to assess needs for upgrades and determine what infrastructure will be needed.
9. Modify the build-to line to 5' minimum setback instead of 3'
10. Review front setbacks in other zones in the City to assure more convenient, consistent utility locations. The C-3 historic downtown area is more complicated for utilities than other areas of the community.
11. Update the Permitted and Conditional Use Application chapter, Subdivision ordinance, and Standard Specifications (engineering) to address PUEs more clearly

To some extent this conversation suggests that emphasizing the establishment of the alleys as suggested in the Vision, should be a priority in the C-3 area.

FISCAL IMPACT

Potential to incentivize growth in the Downtown. Funds for processing and drafting are already available from the Downtown and ordinance update processes. Zoning ordinance updates are only one part of the Vision – there are many capital projects needed to meet the Vision.

CONCLUSION

These basic ordinance updates would help implement the Central Heber Vision in the C-3 zone.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended

- 3. Continue
 - 4. Deny
-

POTENTIAL MOTIONS

Alternative 1

I move to **approve** Ordinance 2024-02 adopting the proposed C-3 Zone Updates and the changes to the Parking requirements in the C-3 zone, with the findings and conditions as presented in this staff report.

Alternative 2 – Approve as Amended from discussions in the meeting

I move to **approve** Ordinance 2024-02 adopting the proposed C-3 Zone Updates and the changes to the Parking requirements in the C-3 zone, with the findings and conditions as presented in this staff report, with the following changes:

Alternative 3 – Continue

I move to **continue** the item to another meeting on , with direction to Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 – Deny

I move to **deny** Ordinance 2024-02 adopting the C-3 Zone Updates with the following findings.

ACCOUNTABILITY

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

EXHIBITS

1. Ordinance 2024-02 C-3 Updates
2. Redline C-3 Update

ORDINANCE NO. 2024-02

**AN ORDINANCE ADOPTING UPDATES TO THE C-3 COMMERCIAL ZONE, C-3
DESIGN CRITERIA AND PARKING REGULATIONS WITHIN THE C-3 ZONE.**

BE IT ORDAINED by the City Council of Heber City, Utah, that Heber City Municipal Code Chapter 18.28 C-3 Commercial Zone is amended and Section 18.72.100 is adopted as set forth in Exhibit A, attached hereto and incorporated herein.

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

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

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

This Ordinance shall take effect immediately upon passage.

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

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

APPROVED:

Mayor Heidi Franco

ATTEST:

Recorder
Date: _____

Exhibit A

18.72.100 Parking Requirements in the C-3 Zone

In the C-3 zone no on-site parking is required for any commercial use or an expansion of a commercial use, but the adjacent block that the use fronts on, shall install stall striping in the public ROW, corresponding to the required parking spaces for the use as shown in 18.72.30 A as part of the permitted or conditional use approval process, unless the block is fully striped already. Complete street improvements are required, that may include pavement, curbs, gutters and sidewalks, as per the Standards and Specification. Residential uses, whether configured in mixed-use buildings or single purpose buildings, shall provide at least 1 off-street parking space per unit.

18.28 Commercial Zones

18.28.010	Purpose and Objectives
18.28.020	Application Requirements
18.28.030	Permitted and Conditional Uses
18.28.040	Development Standards
18.28.050	Additional Regulations
18.28.060	Gross Floor Area of Buildings Limitations for Retail Business
18.28.070	Gasoline Pump Island Locations and Lighting
18.28.080	Related Provisions

18.28.010 Purpose and Objectives

- A. The C-2 commercial zone has been established to facilitate the development of attractive entrances to the City. To reduce the conflict between commercial and residential uses along principal highways and streets adjacent to the central commercial districts and to facilitate the orderly expansion of commercial uses out from the central commercial districts. Incorporating some of the historical architectural styles evident on Main Street is suggested for development in the C-2 zone.
- B. The C-3 central commercial zone has been established as a district in which the primary use of the land is for business, a mixture of uses, and community activities. The area covered by this zone is the historical core area encompassing Main Street and adjacent blocks, which acts as the dominant shopping, community gathering place, and financial center for the City and surrounding territory. For this reason, the zone has been located in the central part of the City, where the street pattern makes the variety of uses readily accessible to all parts of the City and surrounding region and where business, shopping, and engaging activities can be carried on with maximum convenience. The C-3 zone is characterized by wide, clean, well-lighted streets and ample pedestrian ways for the convenience and safety of the public. It is the historic core of the City with an historic architectural style and variety, that is distinct from the rest of the City.
- C. The C-4 general commercial zone has been established as a district in which the primary use of the land is for business, recreation, and hospitality purposes.

18.28.020 Application Requirements

All permitted, and conditional uses are required to submit a site plan as part of an application available online and at the City offices.

18.28.030 Permitted and Conditional Uses

The following chart describes the uses that are appropriate in each commercial zone:

- A. Symbol definitions: **P** = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved when and if they meet the ordinance standards. **C** = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required. Blank means prohibited.
- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table that require a building permit shall also require a site plan application.

Commercial Zones Permitted Use Table

LAND USES	C-2	C-3	C-4	Limitations
Arts and arts-related uses, including the crafting of products for sale		P		
Caretaker dwelling	P	P	P	
Kennels, if located more than 400' from a residential zone	C			
Home Occupations	P	P	P	
In-Home Daycare/Pre-School	P	P	P	
Mixed uses within a building	C	C	C	The Main Street-facing ground floor is required to be non-residential
Bed and Breakfast Inns	P	P	P	As regulated by Section 18.108.034
Religious institutions, schools (public and private), and other public buildings	P	P	P	
Commercial Day Care Center and/or Pre-School	C	C	C	
Group Homes	P	P	P	
Fraternity/non-profit buildings, clubs, lodges	P	P	P	
Funeral establishments, mortuaries, and wedding chapels;	P	P	P	
New and Used car lots	C			No car lots permitted north of 600 South
Gymnasium/physical fitness /Spa establishments (may include massage)	P	P	P	
Pawn shops, tattoo, massage, smoke and vape shops, cash stores				Prohibited in all commercial zones
Recreation vehicle courts	C		C	As regulated by Section 18.96
Utility buildings, transmission lines, and structures, Electric substations	C	C	C	
Small Cell Installations	C	C	C	
Telecommunication towers	C		C	See Telecommunication Ordinance 18.110. Towers

LAND USES	C-2	C-3	C-4	Limitations
				shall incorporate a stealth design
Public Utilities, Shops and Storage Yards, and Public Buildings	P	P	P	
Public Water Reservoir/ Public Storage Tank	P	P	P	
Gas/convenience store with or w/o car wash	C		C	
Car Wash	C			
Retail Shops/Services	P	P	P	
Big Box Retail (60,000 square feet and larger)	C			
Financial Institutions	P	P	P	Excludes check cashing and loan stores
Sit Down Restaurants	P	P	P	
Restaurants with drive-thru facilities	P		P	No drive-thru windows facing the street
Professional offices, Business Medical/Dental/Optical Office/Clinics and Laboratories	P	P	P	
Private Instructional Studio - Artist, Photography, Dance, Music, Drama, Health, Exercise	P	P	P	May include retail sales
Commercial Complex	C		C	
Hotels	C	C	C	See section 18.28.040 for additional standards
Commercial parking lots and/or parking structures as a singular use	C	C	C	Not allowed within 100' of Main Street in the C-3 zone
Craftsman Industrial style Light Manufacturing	C	C	C	Within an enclosed building and including a retail component
Manufacturing and processing	C			Within an enclosed building
Indoor and outdoor welding and sheet metal shops	C		C	Only allowed south of 1200 South in the C-2 zone. Only artistic welding in the C-4 zone (no sheet metal shops).
Warehouses, trucking, and associated storage buildings	C			Truck parking and outside storage are not allowed within 60 feet of any public street
Hospitals	C		C	
Enclosed Temperature Controlled Storage Units	C			Shall include commercial uses unrelated to the storage function on the street-facing facade
Wholesale establishments with stock on-premises and a retail/office component/ store but not a storage warehouse	C			
Attached Residential Developments (3 units and up)		P		Shall not occupy ground floor facing Main Street except for residential entrances and amenities.

18.28.040 Development Standards

- A. In the C-2 and C-4 Commercial Zones, there shall be no area, width, and location requirements except that all buildings and structures in the C-2 and C-4 zones shall conform to the requirements of the adopted Heber City C-2 and C-4 Design Standards and Guidelines. In the C-3 zone a build-to front setback line is required ranging from 5 feet to 15 feet. This means a building can be placed anywhere within that 5 feet to 15 feet area. This is established to encourage outdoor dining space and options for utility placement. The five foot (5') setback area shall not include signs, other than temporary A-frames, and shall be finished with a combination of the following:
- Pavers
 - Low water demand landscaping suitable to a pedestrian environment (no thorns and a mature plant size that would not encroach on the sidewalk)
 - Landscape containers/planters
 - Benches
 - And in the case of an outdoor dining area having a larger building setback, dining related furnishings.
- B. **Dry Utilities (power, communication, gas).** In the C-3 Zone where an intentional street wall is suggested, dry utility placement faces many obstacles. Flexible dry utility placement within a Public Utility Easement (PUE) can occur via the prescribed setbacks or via recessed locations in side yards/parking lots or the building face, or in alleys, or underground. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No dry utilities shall be placed under public/city street pavement. No above ground utilities, especially utility boxes shall be placed in the clear view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.
- C. **Entrances and Windows C-3 Zone.** Entrances to the first floor of buildings shall front a public street, plaza or courtyard. Main entrances shall be covered or recessed using angular side walls to create a larger opening into the first-floor use. On double or triple-frontage lots, main doors are required where the greatest amount of pedestrian traffic is anticipated. When facing Main Street or within 100' of Main Street on a perpendicular street, all windows shall constitute at least 50% of first-floor street-facing facades, and 25 percent of all upper-story street facing facades. First-floor windows shall include transom and bulkhead features to assure historical complementary design. Windows shall be at least 50 percent transparent. Street facing windows that are not on the same façade as the main building entrance, may cover the first-floor windows with non-advertising window films using a mountain (including flora and fauna), mill, orchard, pioneers, agricultural, or mountain-related sports theme. Living screens may replace up to 50% of the window requirement for the lowest anticipated pedestrian traffic frontage. Mirrored windows are not allowed.
- For residential units, balconies shall be required for at least 50% of the units. In no case shall any balconies have a separation from an opposing balcony of less than 10 feet. Windows above the first floor in the C-3 zone shall conform to the standards described in the sketch in Section F, including sills, windowpanes, and a sash.
- D. **Building Materials.** One or more of the following exterior materials of a durable or resilient nature, such as brick, stone, composite materials, metal accents, or other materials of similar quality, hardness, and low maintenance characteristics, are required in the C-3 zones.

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on an upper floor of a building or on the side or rear façade. Where used they shall be sculpted to resemble brick, and/or sandstone blocks. Other materials may be considered by the Planning Director for soffits or as accents or unique architectural features. Twenty-five-year guarantee architectural shingles or other long-lasting materials are required for sloped roofs.

- E. **Building Length and Facades.** For the C-3 zone, no new street-facing building elevation may exceed 50 feet in length without at least a 3-foot variation in the depth of the façade along the public right of way and a 2-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 200 feet in length. Where buildings are proposed of that length, a separation between that building and the next building of a minimum of ten feet is required, creating a passageway to interior spaces. Such passageways shall be downward-lighted, provide a safe pedestrian space and include vegetation in boxes every 30 feet of length. At minimum, building facades shall provide pedestrian plazas every 200 feet of building length to break up long building façades along public rights-of-way. Streetside outdoor dining areas may substitute for such plazas. Top floors shall have architectural differentiation from the other floors of the building, and rooflines shall vary at least every 100 feet, at a minimum. For first-floor uses in mixed use buildings, the appearance of small shops/storefronts with variation in the first-floor façade at least every 30 feet is required. If buildings fronting on Main Street include a permanent awning, it shall extend at least 7 feet from the storefront/façade to provide shade and refuge from inclement weather. Awnings shall be cantilevered from the front façade of the building. Such awnings shall be provided in colors that reflect colors incorporated as part of the exterior of the building.
- F. **Building Design Features.** From the sketch below (Figure 1: Anatomy of a Main Street Building), to obtain a permitted use or conditional use permit, choose and incorporate within the building design:
1. C-3 Zone. At least 4 of the historic features, over and above any required features.
 2. Storefront, Bulkhead, and Transom Windows are required as per section B above.

ANATOMY OF A MAIN STREET BUILDING:

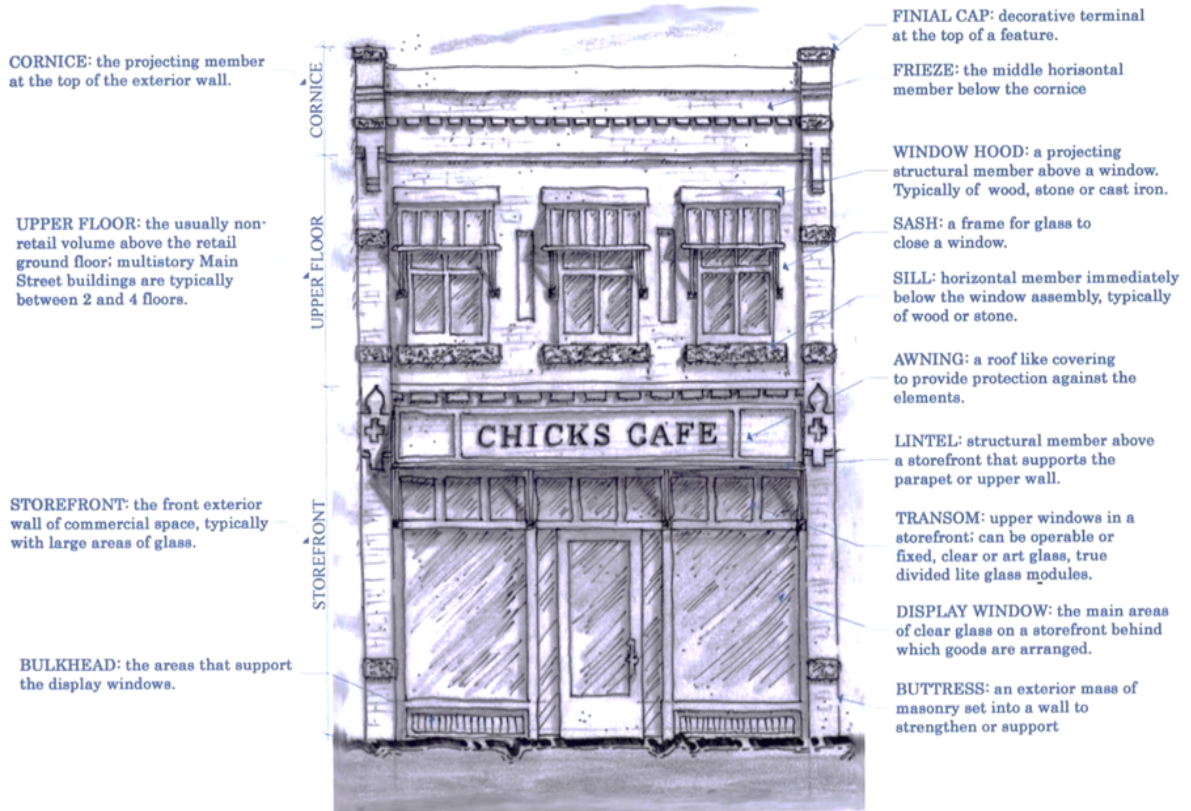


Figure 1 Sketch courtesy of Lane Lythgoe

- G. **C-3 Zone Adaptive Reuse.** There are several existing buildings within the C-3 zone that could be reworked into a new use. The following general requirements are required:
1. If the character of the existing building is deemed historic or historically significant, either by Federal programs or by the Historic Master Plan or by individual application to the City, due to its age (50 plus years minimum) or displays a unique architectural style or unique features, as determined by the Planning Director, then reconstruction shall attempt to retain as much of that character as possible. False facades shall be removed to reveal the original finish materials, which shall be rehabilitated, as per industry best practices for historic buildings.
 2. The ground floor facing a public ROW shall encompass retail or restaurant uses to a minimum depth of 20'
 3. The maximum height in the zone may be exceeded by up to 12' to accommodate architectural features or an additional story. No transitional height requirement is imposed.
 4. A change of use to any use allowed in the zone, permitted or conditional, is allowed. Although a change of use may occur, no additional parking is required.
 5. Exterior additions shall be reflective of the historical character/style of the original building.
 6. All adaptive reuse proposals shall be processed as permitted uses.
- H. **C-3 Zone Site Furnishings.** Each development shall incorporate site furnishings into the site including benches facing Main Street. One additional site furnishing shall be included from this list: a patio/seating area, pedestrian plaza with benches, play areas, kiosk area, water feature, clock tower, sculpture, bike racks, and public art.
- I. **Private Outdoor Lighting and Outdoor Dining.** In the C-3 Zone, lighting for streets and parking lots on the interior of the development is required. All lighting shall be dark

sky compliant as required by Chapter 18.78 of Heber City Municipal Code. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian/vehicular safety. Pedestrian lighting may include bollards and all lighting shall follow established themes.

Outdoor seating and dining may be partially or fully covered to extend the outdoor dining experience through the spring and fall months. Outdoor patio heaters and misters are permitted. Restaurant tables and chairs may be movable or permanent and should be reflected on the site plan. If alcohol is served, the restaurant will need to provide signage and decorative fencing per the health department code. Fencing materials shall be limited to metal picket fencing. Any accommodation for dogs shall be subject to the Wasatch County Health Department regulations.

Access Between Uses. In the C-3 zone, vehicular and pedestrian access is required between uses and does not force vehicles/pedestrians out to the adjacent streets.

- J. **Open Space and Plazas.** For residential development in the C-3 zone, that includes residential mixed uses, the open space requirement is 20% of the gross area of the site.
1. This open space requirement shall be fulfilled through rooftops, terraces for general resident use, plazas and pocket parks. The required common open space shall be privately maintained for general use by the residents of the building and/or the public and be usable land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curb-gutter-sidewalk, driveways, or alleys and shall be accessible by all residents of the development. For the purposes of this Chapter, gross site area is defined as the total area of the development excluding anything in the public right of way. For development or redevelopment involving sites that are one acre in size or greater, at least 40 percent of required open space must be in the form of a plaza that is located at the front, corner or side of the building along a street, and open and accessible to the public at all times. The following requirements must be met:
 - a. At least 50% of the plaza's perimeter that does not front on vehicular right-of-way shall be lined by building frontages.
 - b. Fully enclosed permanent structures are not permitted.
 - c. Playgrounds are not permitted.
 - d. Minimum pervious surface = 30%
 - e. Must include seating, shade structures, and one tree (2-inch caliper minimum) per 800 sf of plaza area
 - f. Special features such as fountains and for sale public art installations are encouraged. Active features, that give visitors something to do, shall be incorporated into the plaza.
 2. **On-site open space/park substitution.** In-lieu Substitutions in the C-3 zone. The open space/park requirement may be modified through potential substitutions for any development within the C-3 zone. Such in-lieu substitutions are intended to enhance existing parks with features or improve park land. The three parks on Main Street and the regional facilities near 600 West are the signature open spaces in the Central Heber area and are a benefit to all development in the area. In-lieu substitutions are encouraged for the benefit of the Main Street parks and 600 West parks by application to the City Council or City Manager, under the following circumstances:
 3. **Cash in-lieu.** The City may determine that in certain situations, accepting cash as an in-lieu substitution, where it can be shown that acceptance of those funds, is more effective by creating park improvements as opposed to smaller on-site private parks. Cash in-lieu payments shall not be accepted without a qualified appraisal process, managed by the City. The City shall be obligated, in a timely manner, to use the in-lieu funds within the C-3 zone for land purchases, open space, pedestrian system

- enhancements, the daylighting of streams, and/or traditional park related improvements.
4. Any land which has been already dedicated, set aside, platted, or otherwise approved as park or open space, may not be substituted or used for any purpose other than those allowed by this chapter.
 5. In-lieu substitutions shall be reviewed by the City Council and/or City Manager, through an application, however, final approval of the in-lieu substitution rests with the City Council. Such approvals shall occur as part of an MDA, or prior to issuance of Final Site Plan approval or a building permit.
- K. Where buildings are located on a corner in the C-3 zone that addresses Main Street, a corner plaza creating a 10' by 10' triangle outside but adjacent to the ROW is required. Such plazas shall include street furniture that allows for seating, as a minimum.
- L. In the C-3 zone, height shall be a maximum of three stories without a stepback, and shall not exceed 46 feet or the three stories but may be raised another 12'/one additional story, if the building includes a stepback with a minimum of 10' depth, above the first story.
- M. In the C-3 zone, buildings over two stories shall include stepbacks between the second and third stories when adjacent to publicly owned properties.
- N. In the areas on the west side of 100 West and the east side of 100 East, no building shall be taller than three stories.
- O. In the C-2 and C-4 zones, height may be increased to 4 stories, not to exceed 55 feet if all of the following standards are met:
1. The application includes at least 10% percent affordable housing, available to persons at 60% of the current County Average Median Income (AMI) or below that threshold.
 2. If it is a mixed-use building.
 3. If the building design includes a step back of a least ten feet between the second and third stories.
- P. In the C-2 zone, buildings may be increased to 5 stories with a stepback included and affordable housing is included.
- Q. Any use on a parcel larger than 1 acre in a C-3 or C-4 zone or any use with a building footprint larger than 30,000 square feet, shall become a conditional use.
- R. Any use on a parcel larger than 5 acres and any use with a building footprint larger than 60,000 square feet in the C-2 zone shall become a conditional use.

18.28.050 Additional Regulations

The following provisions apply within the Commercial Zones

- A. For buildings within the C-2 and C-4 zone, a strip of land at least fifteen feet in width adjacent to all public streets shall be landscaped as set forth in Chapter 18.76 of this title except for permitted driveways, except as required by the Heber City C-2 and C-4 Zone Design Standards and Guidelines.
- B. No dust, odors, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises except for normal traffic movement.
- C. Storage of all merchandise, material and products shall be carried on within a building or within an area enclosed with a sight-obscuring fence or wall except for licensed vehicles in running order.
- D. All off-street parking shall be hard-surfaced as regulated by Chapter 18.72, except within the C-3 zone where some parking requirements have been reduced.
- E. All buildings located adjacent to major streets shall have at least one entrance way facing onto said street.
- F. Sale material may be displayed on business premises during normal working hours.

G. See 18.76.050 for building setbacks adjacent to residential use.

18.28.060 Gross Floor Area of Buildings Limitations for Retail Business

- A. **C-2 Zone.** No floor area limitation.
- B. **C-3 Zone.** Retail establishments shall not exceed 60,000 square feet of gross first floor area, considered the building footprint, within the C-3 Zone. As per section 18.28.040 (4), all buildings in the C-3 zone that exceed a 30,000 square foot footprint, be a conditional use
- C. **C-4 Zone.** No floor area limitation.

18.28.070 Gasoline Pump Island Location and Lighting

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two standard sized vehicles defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. Any above ground fuel tanks such as propane tanks shall be located with a minimum setback from the ROW as per the IBC or 30' whichever is greater. See the Lighting Chapter 18.78, for lighting standards.

18.28.080 Related Provisions

- Chapter 18.12 Administration
- Chapter 18.08 Definitions
- Chapter 18.68 Supplementary Regulations
- Chapter 18.108 Conditional Use Permits
- Chapter 18.72 Off Street Parking and Loading
- Chapter 18.103 Sign Regulations
- Chapter 18.78 Lighting
- Chapter 18.174 Enforcement
- Chapter 17 Subdivisions
- Heber City C-2 and C-4 Zone Design Standards and Guidelines
- Heber City C-3 Zone Design Standards and Guidelines

18.28 Commercial Zones

18.28.010	Purpose and Objectives
18.28.020	Application Requirements
18.28.030	Permitted and Conditional Uses
18.28.040	Development Standards
18.28.050	Additional Regulations
18.28.060	Gross Floor Area of Buildings Limitations for Retail Business
18.28.070	Gasoline Pump Island Locations and Lighting
18.28.080	Related Provisions

18.28.010 Purpose and Objectives

- A. The C-2 commercial zone has been established to facilitate the development of attractive entrances to the City. To reduce the conflict between commercial and residential uses along principal highways and streets adjacent to the central commercial districts and to facilitate the orderly expansion of commercial uses out from the central commercial districts. Incorporating some of the historical architectural styles evident on Main Street is suggested for development in the C-2 zone.
- B. The C-3 central commercial zone has been established as a district in which the primary use of the land is for business, a mixture of uses, and community activities purposes. The area covered by this zone is the historical core area encompassing Main Street and adjacent blocks, which acts as the dominant shopping, community gathering place, and financial center for the City and surrounding territory. For this reason, the zone has been located in the central part of the City, where the street pattern makes the ~~business buildings~~ variety of uses readily accessible to all parts of the City and surrounding region and where business and shopping, and engaging activities can be carried on with maximum convenience. The C-3 zone is characterized by wide, clean, well-lighted streets and ample pedestrian ways for the convenience and safety of the public. It is the historic core of the City with an historic architectural style and variety, that is distinct from the rest of the City.
- C. The C-4 general commercial zone has been established as a district in which the primary use of the land is for business, recreation, and hospitality purposes.

18.28.020 Application Requirements

All permitted, and conditional uses are required to submit a site plan as part of an application available online and at the City offices.

18.28.030 Permitted and Conditional Uses

The following chart describes the uses that are appropriate in each commercial zone:

- A. Symbol definitions: **P** = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved when and if they meet the ordinance standards. **C** = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required. Blank means prohibited.
- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table that require a building permit shall also require a site plan application.

Commercial Zones Permitted Use Table

LAND USES	C-2	C-3	C-4	Limitations
<u>Arts and arts-related uses, including the crafting of products for sale</u>		<u>P</u>		
Caretaker dwelling	P	<u>P</u>	P	
Kennels, if located more than 400' from a residential zone	C			
Home Occupations	P	P	P	
In-Home Daycare/Pre-School	P	P	P	
Mixed uses within a building	C	C	C	<i>The Main Street-facing ground floor is required to be non-residential</i>
Bed and Breakfast Inns	P	P	P	As regulated by Section 18.108.034
Religious institutions, schools (public and private), and other public buildings	P	P	P	
Commercial Day Care Center and/or Pre-School	C	C	C	
Group Homes	P	P	P	
Fraternity/non-profit buildings, clubs, lodges	P	P	P	
Funeral establishments, mortuaries, and wedding chapels;	P	P	P	
New and Used car lots	C			No car lots permitted north of 600 South
Gymnasium/physical fitness /Spa establishments (may include massage)	P	P	P	
Pawn shops, tattoo, massage, smoke and vape shops, cash stores				Prohibited in all commercial zones
Recreation vehicle courts	C		C	As regulated by Section 18.96
Utility buildings, transmission lines, and structures, Electric substations	C	C	C	
Small Cell Installations	C	C	C	
Telecommunication towers	C		C	See Telecommunication Ordinance 18.110. Towers shall incorporate a stealth design
Public Utilities, Shops and Storage Yards, and Public Buildings	P	P	P	
Public Water Reservoir/ Public Storage Tank	P	P	P	

LAND USES	C-2	C-3	C-4	Limitations
Gas/convenience store with or w/o car wash	C		C	
Car Wash	C			
Retail Shops/Services	P	P	P	
Big Box Retail (60,000 square feet and larger)	C			
Financial Institutions	P	P	P	Excludes check cashing and loan stores
Sit Down Restaurants	P	P	P	
Restaurants with drive-thru facilities	P		P	No drive-thru windows facing the street
Professional offices, Business Medical/Dental/Optical Office/Clinics and Laboratories	P	P	P	
Private Instructional Studio - Artist, Photography, Dance, Music, Drama, Health, Exercise	P	P	P	May include retail sales
Commercial Complex	C		C	
Hotels	C	<u>C</u>	C	See section 18.28.040 for additional standards
Commercial parking lots and/or parking structures as a singular use	C	C	C	<u>Not allowed within 100' of Main Street in the C-3 zone</u>
Craftsman Industrial style Light Manufacturing	C	C	C	<i>Within an enclosed building and including a retail component</i>
Manufacturing and processing	C			<i>Within an enclosed building</i>
Indoor and outdoor welding and sheet metal shops	C		C	Only allowed south of 1200 South in the C-2 zone. Only artistic welding in the C-4 zone (no sheet metal shops).
Warehouses, trucking, and associated storage buildings	C			<i>Truck parking and outside storage are not allowed within 60 feet of any public street</i>
Hospitals	C	<u>€</u>	C	
Enclosed Temperature Controlled Storage Units	C			Shall include commercial uses unrelated to the storage function on the street-facing facade
Wholesale establishments with stock on-premises and a retail/office component/store but not a storage warehouse	C			
<u>Attached Residential Developments (3 units and up)</u>		<u>P</u>		<u>Shall not occupy ground floor facing Main Street except for residential entrances and amenities.</u>

18.28.40 Development Standards

- A. In the C-2 and C-4 Commercial Zones, there shall be no area, width, and location requirements except that all buildings and structures in the C-2 and C-4 zones shall conform to the requirements of the adopted Heber City C-2 and C-4, ~~and C-3~~ Design Standards and Guidelines. In the C-3 zone a build-to front setback line is required ranging from 3' 5' to 15'. This means a building can be placed anywhere within that 3' 5' to 15' area. This is established to encourage outdoor dining space and options for utility placement. The five foot (5') setback area shall not include signs, other than temporary A-frames, and shall be finished with a combination of the following:
- Pavers
 - Low water demand landscaping suitable to a pedestrian environment (no thorns and a mature plant size that would not encroach on the sidewalk
 - Landscape containers/planters
 - Benches
 - And in the case of an outdoor dining area having a larger building setback, dining related furnishings.
- B. **Dry Utilities (power, communication, gas):** In the C-3 zone where an intentional street wall is suggested, dry utility placement faces many obstacles. Flexible dry utility placement within a PUE can occur via the prescribed setbacks or via recessed locations in side yards/parking lots or the building face, or in alleys, or underground. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No dry utilities shall be placed under public/City street pavement. No above ground utilities, especially utility boxes shall be placed in the clear view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.

C. Entrances and Windows

C-3 zone - entrances to the first floor of buildings shall front a public street, plaza or courtyard. Main entrances shall be covered or recessed using angular side walls to create a larger opening into the first-floor use. On double or triple-frontage lots, main doors are required where the greatest amount of pedestrian traffic is anticipated. When facing Main Street or within 100' of Main Street on a perpendicular street, all windows shall constitute at least 50% of first-floor street-facing facades, and 25 percent of all upper-story street facing facades. First-floor windows shall include transom and bulkhead features to assure historical complementary design. Windows shall be at least 50 percent transparent. Street facing windows that are not on the same façade as the main building entrance, may cover the first-floor windows with non-advertising window films using a mountain (including flora and fauna), mill, orchard, pioneers, agricultural, or mountain-related sports theme. Living screens may replace up to 50% of the window requirement for the lowest anticipated pedestrian traffic frontage. Mirrored windows are not allowed.

For residential units, balconies shall be required for at least 50% of the units. In no case shall any balconies have a separation from an opposing balcony of less than 10 feet.

Windows above the first floor in the C-3 zone shall conform to the standards described in the sketch in section D, including sills, windowpanes, and a sash.

D. Building Materials

One or more of the following exterior materials of a durable or resilient nature, such as brick, stone, composite materials, metal accents, or other materials of similar quality, hardness, and low maintenance characteristics, are required in the C-3 zones.

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on an upper floor of a building or on the side or rear façade. Where used they shall be sculpted to resemble brick, and/or sandstone blocks. Other materials may be considered by the Planning Director for soffits or as accents or unique architectural features. Twenty-five-year guarantee architectural shingles or other long-lasting materials are required for sloped roofs.

E. Building Length and Facades

For the C-3 zone, no new street-facing building elevation may exceed 50 feet in length without at least a 3-foot variation in the depth of the façade along the public right of way and a 2-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 200 feet in length. Where buildings are proposed of that length, a separation between that building and the next building of a minimum of ten feet is required, creating a passageway to interior spaces. Such passageways shall be downward-lighted, provide a safe pedestrian space and include vegetation in boxes every 30 feet of length. At minimum, building facades shall provide pedestrian plazas every 200 feet of building length to break up long building façades along public rights-of-way. Streetside outdoor dining areas may substitute for such plazas. Top floors shall have architectural differentiation from the other floors of the building, and rooflines shall vary at least every 100 feet, at a minimum. For first-floor uses in mixed use buildings, the appearance of small shops/storefronts with variation in the first-floor façade at least every 30 feet is required. If buildings fronting on Main Street include a permanent awning, it shall extend at least 7 feet from the storefront/façade to provide shade and refuge from inclement weather. Awnings shall be cantilevered from the front façade of the building. Such awnings shall be provided in colors that reflect colors incorporated as part of the exterior of the building.

E. Building Design Features. From the sketch below (Figure 1:Anatomy of a Main Street Building), to obtain a permitted use or conditional use permit, choose and incorporate within the building design:

C-3 zone – at least 4 of the historic features, over and above any required features.

ANATOMY OF A MAIN STREET BUILDING:

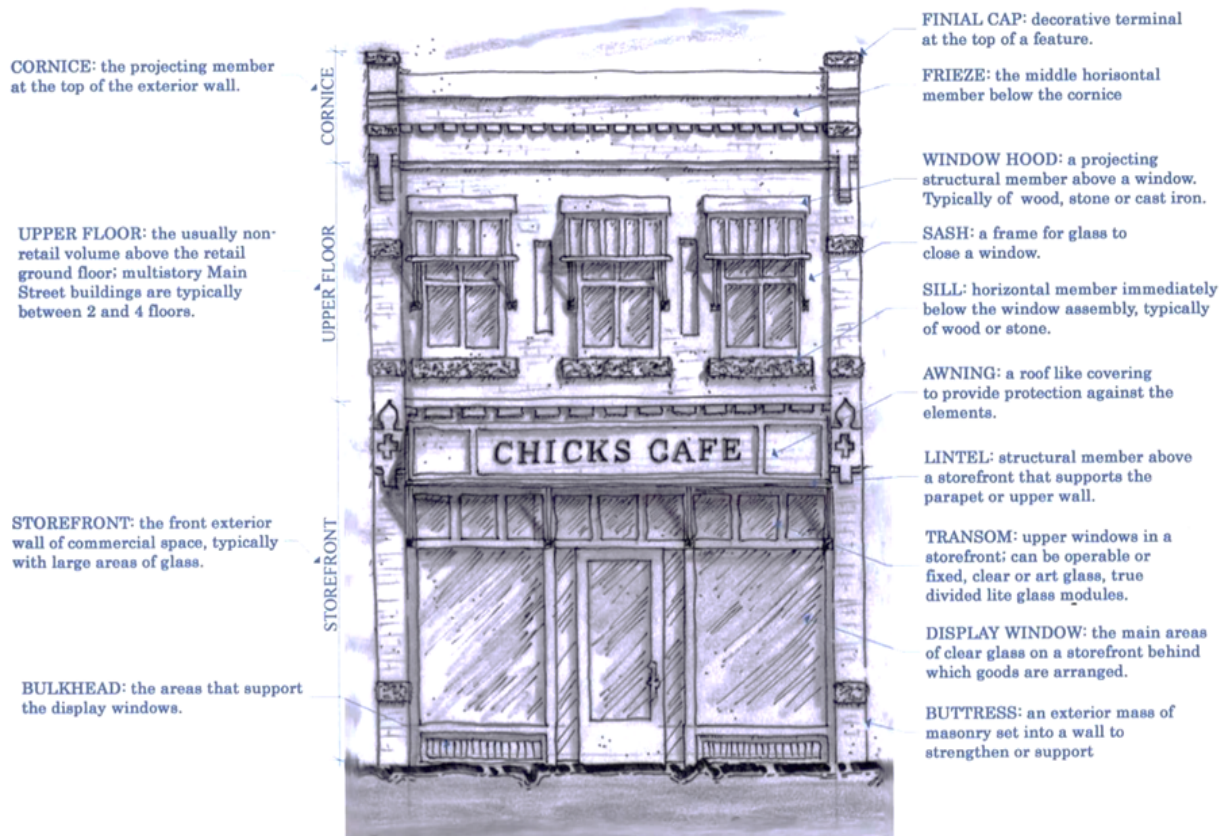


Figure 1 Sketch courtesy of Lane Lythgoe

Storefront, Bulkhead, and Transom Windows are required as per section B above.

F. C-3 Zone Adaptive Reuse – There are several existing buildings within the C-3 zone that could be reworked into a new use. The following general requirements are required:

- a. If the character of the existing building is deemed historic or historically significant, either by Federal programs or by the Historic Master Plan or by individual application to the City, due to its age (50 plus years minimum) or displays a unique architectural style or unique features, as determined by the Planning Director, then reconstruction shall attempt to retain as much of that character as possible. False facades shall be removed to reveal the original finish materials, which shall be rehabilitated, as per industry best practices for historic buildings.
- b. The ground floor facing a public ROW shall encompass retail or restaurant uses to a minimum depth of 20'
- c. The maximum height in the zone may be exceeded by up to 12' to accommodate architectural features or an additional story. No transitional height requirement is imposed.

- d. A change of use to any use allowed in the zone, permitted or conditional, is allowed. Although a change of use may occur, no additional parking is required.
- e. Exterior additions shall be reflective of the historical character/style of the original building.
- f. All adaptive reuse proposals shall be processed as permitted uses.

G. C-3 Zone Site Furnishings: Site Furnishings: Each development shall incorporate site furnishings into the site including benches facing Main Street. One additional site furnishing shall be included from this list: a patio/seating area, pedestrian plaza with benches, play areas, kiosk area, water feature, clock tower, sculpture, bike racks, and public art.

H. Private Outdoor Lighting and Outdoor Dining

In the C-3 zone, lighting for streets and parking lots on the interior of the development is required. All lighting shall be dark sky compliant as required by Chapter 18.78 of Heber City Municipal Code. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian/vehicular safety. Pedestrian lighting may include bollards and all lighting shall follow established themes described in subsection W of this section.

Outdoor seating and dining may be partially or fully covered to extend the outdoor dining experience through the spring and fall months. Outdoor patio heaters and misters are permitted. Restaurant tables and chairs may be movable or permanent and should be reflected on the site plan. If alcohol is served, the restaurant will need to provide signage and decorative fencing per the health department code. Fencing materials shall be limited to metal picket fencing. Any accommodation for dogs shall be subject to the Wasatch County Health Department regulations.

I. Access Between Uses

In the C-3 zone, vehicular and pedestrian access is required between uses and does not force vehicles/pedestrians out to the adjacent streets.

J. Open Space and Plazas

a. For residential development in the C-3 zone, that includes residential mixed uses, the open space requirement is 20% of the gross area of the site. This open space requirement shall be fulfilled through rooftops, terraces for general resident use, plazas and pocket parks. The required common open space shall be privately maintained for general use by the residents of the building and/or the public and be usable land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curb-gutter-sidewalk, driveways, or alleys and shall be accessible by all residents of the development. For the purposes of this chapter, gross site area is defined as the total area of the development excluding anything in the public right of way. For development or redevelopment involving sites that are one acre in size or greater, at least 40 percent of required open space must be in the form of a plaza that is located at the front, corner or side of the building along a street, and open and accessible to the public at all times. The following requirements must be met:

1. At least 50% of the plaza's perimeter that does not front on vehicular right-of-way shall be lined by building frontages.
2. Fully enclosed permanent structures are not permitted.
3. Playgrounds are not permitted.
4. Minimum pervious surface = 30%
5. Must include seating, shade structures, and one tree (2-inch caliper minimum) per 800 sf of plaza area
6. Special features such as fountains and for sale public art installations are encouraged. Active features, that give visitors something to do, shall be incorporated into the plaza.

a. On-site open space/park substitution – in-lieu Substitutions in the C-3 zone

The open space/park requirement may be modified through potential substitutions for any development within the C-3 zone. Such in-lieu substitutions are intended to enhance existing parks with features or improve park land. The three parks on Main Street and the regional facilities near 600 West are the signature open spaces in the Central Heber area and are a benefit to all development in the area.

In-lieu substitutions are encouraged for the benefit of the Main Street parks and 600 West parks by application to the City Council or City Manager, under the following circumstances:

1. Cash in-lieu: the City may determine that in certain situations, accepting cash as an in-lieu substitution, where it can be shown that acceptance of those funds, is more effective by creating park improvements as opposed to smaller on-site private parks. Cash in-lieu payments shall not be accepted without a qualified appraisal process, managed by the City. The City shall be obligated, in a timely manner, to use the in-lieu funds within the C-3 zone for land purchases, open space, pedestrian system enhancements, the daylighting of streams, and/or traditional park related improvements.

2. Any land which has been already dedicated, set aside, platted, or otherwise approved as park or open space, may not be substituted or used for any purpose other than those allowed by this chapter.

3. In-lieu substitutions shall be reviewed by the City Council and/or City Manager, through an application, however, final approval of the in-lieu substitution rests with the City Council. Such approvals shall occur as part of an MDA, or prior to issuance of Final Site Plan approval or a building permit.

K. Where buildings are located on a corner in the C-3 zone that addresses Main Street, a corner plaza creating a 10' by 10' triangle outside but adjacent to the ROW is required. Such plazas shall include street furniture that allows for seating, as a minimum.

L. In the C-3 zone, height shall be a maximum of three stories ~~without a stepback~~, and shall not ~~to exceed 46 feet for the C-3 zone~~ or the three stories but may be raised another 12' / one additional story, if the building includes a stepback with a minimum of 10' depth, above the first story.

M. In the C-3 zone, buildings over two stories shall include stepbacks between the second and third stories when adjacent to publicly owned properties.

N. In the areas on the west side of 100 West and the east side of 100 East, no building shall be taller than three stories.

O. In the C-2 and C-4 zones, height may be increased to 4 stories, not to exceed 55 feet if all of the following standards are met:

- a. The application includes at least 10% percent affordable housing, available to persons at 60% of the current County Average Median Income (AMI) or below that threshold.
- b. If it is a mixed-use building.
- c. If the building design includes a step back of a least ten feet between the second and third stories.

P. In the C-2 zone, buildings may be increased to 5 stories with a stepback included and affordable housing is included.

Q. Any use on a parcel larger than 1 acre in a C-3 or C-4 zone or any use with a building footprint larger than 30,000 square feet, shall become a conditional use.

R. Any use on a parcel larger than 5 acres and any use with a building footprint larger than 60,000 square feet in the C-2 zone shall become a conditional use.

18.28.050 Additional Regulations

The following provisions apply within the Commercial Zones

- A. For buildings within the C-2 and C-4 zone, a strip of land at least fifteen feet in width adjacent to all public streets shall be landscaped as set forth in Chapter 18.76 of this title except for permitted driveways, except as required by the Heber City C-2 and C-4 Zone Design Standards and Guidelines.
- B. No dust, odors, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises except for normal traffic movement.
- C. Storage of all merchandise, material and products shall be carried on within a building or within an area enclosed with a sight-obscuring fence or wall except for licensed vehicles in running order.
- D. All off-street parking shall be hard-surfaced as regulated by Chapter 18.72, except within the C-3 zone where some parking requirements have been reduced.
- E. All buildings located adjacent to major streets shall have at least one entrance way facing onto said street.
- F. Sale material may be displayed on business premises during normal working hours.
- G. See 18.76.050 for building setbacks adjacent to residential use

18.28.060 Gross Floor Area of Buildings Limitations for Retail Business

- A. **C-2 Zone.** No floor area limitation.
- B. **C-3 Zone.** Retail establishments shall not exceed 60,000 square feet of gross first floor area, considered the building footprint, within the C-3 Zone. As per section 18.28.040

(4), all buildings in the C-3 zone that exceed a 30,000 square foot footprint, be a conditional use

C. **C-4 Zone.** No floor area limitation.

18.28.070 Gasoline Pump Island Location and Lighting

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two standard sized vehicles defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. Any above ground fuel tanks such as propane tanks shall be located with a minimum setback from the ROW as per the IBC or 30' whichever is greater. See the Lighting Chapter 18.78, for lighting standards.

18.28.080 Related Provisions

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- Heber City C-2 and C-4 Zone Design Standards and Guidelines
- Heber City C-3 Zone Design Standards and Guidelines

18.72.100 ~~Reserved~~ Parking Requirements in the C-3 Zone

In the C-3 zone no on-site parking is required for any commercial use or an expansion of a commercial use, but the adjacent block that the use fronts on, shall install stall striping in the public ROW, corresponding to the required parking spaces for the use as shown in 18.72.30 A as part of the permitted or conditional use approval process, unless the block is fully striped already. Complete street improvements are required, that may include pavement, curbs, gutters and sidewalks, as per the Standards and Specification. Residential uses, whether configured in mixed-use buildings or single purpose buildings, shall provide at least 1 off-street parking space per unit.