



LA VERKIN CITY PLANNING COMMISSION AGENDA

WORK MEETING

Wednesday, May 14, 2025, 6:00 pm.
Council Chambers, 111 South Main Street
La Verkin, Utah 84745

6:00 Work Meeting

1. Mixed Use Zone
2. Discussion regarding Interstate Rock Product Proposal to create a Critical Infrastructure Materials Protection Area.

Adjourn:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nancy Cline, City Recorder, (435) 635-2581, at least 48 hours in advance.

Certificate of Posting

The undersigned City Recorder does hereby certify that the agenda was sent to each member of the governing body, sent to the Spectrum newspaper, posted on the State website at <http://pmn.utah.gov>, posted on the La Verkin City website at www.laverkin.org, and at the city office buildings

111 S. Main and 435 N. Main on May 9, 2025

Nancy Cline, City Recorder

Blair Gardner

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Mountain Green, UT 84050

801-628-6363

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4/25/2025

La Verkin City Council

111 S. Main Street

La Verkin, UT 84745

Subject: Proposal and Support for Mixed-Use/Live-Work Zoning Overlay on Existing Commercial Zone (80 West Center Street - The Fields Flex Facility)

Dear Mayor Wilson and Members of the La Verkin City Council:

I am writing to respectfully express my enthusiastic support and formal request for La Verkin City to consider implementing a Mixed-Use/Live-Work Zoning Overlay on the existing commercial zoning for the property located at 80 West Center Street, known as The Fields Flex Facility.

This proposal would allow for flex-style live-work units, where businesses operate on the main level and residential living occurs above, a concept that offers a broad range of economic, social, and community benefits to the City of La Verkin.

Benefits to the City:

***Enhanced Tax Revenue:** Live-work units generate both **commercial property taxes** and **business license revenues**, while also increasing the **residential tax base** by allowing more population within the city limits.

***Economic Growth and Diversification:** These flexible units attract a **variety of small businesses**, entrepreneurs, artisans, and professional services, offering greater economic diversity and resilience for the city.

***Increased Population:** More residents translate into stronger support for local businesses, expanded use of city services, and increased sales at existing retail and service businesses.

***Vibrant Commercial Environment:** A live-work overlay promotes activity throughout the day and into the evening, improving safety, vitality, and the overall environment of the commercial district.

***Reduced Commuting and Environmental Benefits:** Residents who both live and work in the same space contribute to lower traffic congestion, reduced carbon emissions, and stronger community engagement.

***Efficient Use of Land:** The mixed-use model makes optimal use of valuable commercial properties, fostering sustainable development principles.

***Attraction of Young Professionals and Creative Industries:** Live-work environments are particularly attractive to startups, remote workers, and artists, encouraging cultural growth and innovation.

***Affordable Housing Solution:** The shortage and almost impossible version of affordable housing identifies that a mixed use live work environment allows people to be more financially successful due to the fact that their live environment and their work environment is under the same roof.

***Proven Concept:** This concept has been proven to be highly successful in other locations such with proven language that protects the city, the owners and the surrounding community.

***NO Overnight Rental Usage:** Nightly Rentals will absolutely be prohibited both in the CCR's as well as the current zoning and will be highly enforced and regulated by the homeowner/Commercial association.

***Professional Management:** A professional management company will be responsible for the oversight and enforcement of all rules and regulations

***City approved changes to the CC&Rs:** Any changes within the CC&Rs will be reviewed and agreed to by the city so that the city is in full compliance and aware of those modifications and changes.

***Parking Concerns:** Within the CC&Rs, as well as the Mixed Use/Live Work overlay zone will have specific and identified language, in terms of parking as to not negatively impact the community neighbors, and the overall development itself. A strict towing away enforcement shall be identified with signage so that anyone driving through the development understands the risks of parking in areas that are inappropriate.

Potential Challenge Addressed:

The only notable concern with a live-work overlay is a potential decrease in pure sales tax revenue, as some businesses may not be sales-focused (e.g., services, consulting, online enterprises).

However, by encouraging a wide range of flexible commercial uses and through proactive management with a development agreement and enforced CC&Rs the city can minimize this risk while still achieving a net positive impact through the cumulative taxation, licensing, and economic stimulation of the area.

Proposed Development Agreement:

To ensure the success and orderly operation of this concept, I propose that a **Development Agreement** be established between the City and the project developers. This agreement could include, but not be limited to:

- Requirement for all commercial occupants to obtain and maintain a City-issued Business License.
- Limitation on types of permitted businesses (favoring low-impact commercial uses with).
- Restrictions on parking can be controlled, specifically prohibiting excessive employee parking that would impede other unit owners and occupants. CC&Rs regulations along with owner acknowledgement affidavits are a few ways to accomplish this goal.
- Ongoing compliance with CC&Rs governing the aesthetic, functional, and community standards of the development.
- Annual City Inspections of the business premises (as needed) to ensure compliance with city standards and development conditions.
- Pre-approval or notification processes for new occupants and businesses, providing transparency and city oversight.

The implementation of these measures would allow La Verkin City to exercise oversight and control without impact to the city resources, ensuring that the live-work environment operates efficiently, attractively, and beneficially for the entire community.

In conclusion, I strongly encourage La Verkin City to adopt a Mixed-Use/Live-Work Zoning Overlay to the city and specifically for this site. This initiative aligns with the city's goals for smart growth, economic development, and community enhancement while maintaining a sense of strong community and unity.

I welcome the opportunity to meet with city staff, planning commissioners, and councilmembers to discuss this exciting opportunity further and work together to make this vision a reality.

Thank you for your time, consideration, and commitment to the future of La Verkin.

Sincerely,
Blair Gardner Fields Flex
Space
thelandguys.co@gmail.com

801-628-6363

What is mixed use?

Mixed-use developments, encompassing income housing, commercial, and industrial real estate, create a vibrant and interconnected community on a single, compact site. This innovative approach allows residents to enjoy the convenience of walking to work, markets, restaurants, and entertainment, all within easy reach of public transit options.

Layout of Mixed Use

Let's look at a mixed-use development example to help imagine what one could expect in a flex property. Many mixed-use developments follow the same general footprints: a lower level with either retail shopping or industrial space, such as a coffee shop or manufacturing shop, with residential properties in the upper levels. The residential spaces may be apartments or townhomes, depending on the developer, but all have quick and easy access to retail or workspaces nearby, or, often, just downstairs.

In some cases, a company may purchase a mixed-use property to house their manufacturing on the lower level with office spaces above. This allows for a reduction in their leasing needs, as they can keep all of their day-to-day business in one location.

Benefits of Mixed Use

- Promotes Alternate Forms of Transportation

For residents, the close proximity to shops, restaurants or even their workplace, promotes walking or biking instead of driving. A 2018 [study](#) illustrated just how much these developments promote alternative forms of getting around. The study found that residents in well-designed mixed-use developments drive half as much as those in outlying areas.

- Better Affordability

Residents in affordable housing mixed-use developments enjoy more than their suburban counterparts. This is because the available housing developments are often smaller than in the suburbs.

- Lower Monetary Risk

Developers can relax knowing the inherent monetary risks are spread out over several markets. If the residential market softens during the development projects of a mixed-use property, the commercial or industrial markets can buoy the project until the demand for housing returns.

- Happier Employees

Employers benefit from the synergy of the various uses. Employees can eat at the nearby restaurants, and business travelers can stay in hotels adjacent to the office space. Proximity to recreational activities or gyms can help keep employees healthy, happy, and productive.

- Higher Property and Sales Taxes for Municipalities

Even local governments can benefit from mixed-use developments. Studies show that mixed-use developments provide significantly higher returns to local governments through property and sales taxes.

- Boosts to Public Transportation

Local transportation can also benefit from mixed-use development. Instead of clogged highways filled with commuters, residents can turn to public transportation to not only ease congestion but also improve the environment with decreased emissions.

With these benefits in mind, it makes sense that many are interested in commercial property owners are looking to add flex properties to their portfolios.

- Consolidated use of infrastructure

Instead of designing and building independent systems, we can consolidate infrastructure and operations.

- Diversified Revenue Streams

Because mixed-use properties combine different uses within a single development, they represent multiple potential revenue sources. This includes rent from commercial spaces and residential units. From a commercial perspective, some specific examples might be office spaces, fitness facilities, and retail stores. On the other hand, regarding retail, a mixed-use development may have apartments, condominiums, or townhomes. As an investor, you won't have to worry about the risks that come with relying solely on one type of tenant

- Sense of Community

Physical proximity encourages the formation of social connections. Therefore, with mixed-use properties, residents, employees, and visitors who share common spaces have a greater opportunity for encounters. Having common gathering areas for community events or shared amenities also helps with this. Ultimately, diverse individuals are able to come together throughout the day to engage in numerous activities

- Sustainable Real Estate

Having a walkable development is a great way to make things more convenient. People living in or around the development are able to easily access amenities, services, and employment opportunities. This reduces our vehicular dependency because so many things are right around the corner. That translates into a reduction in traffic congestion, along with an improvement in air quality. If a mixed-use development were constructed with energy efficiency in mind, that sustainability increases tenfold.

- Maximizing Land Use

Given that mixed-use properties combine multiple functions within a single development, they enable higher density. They also optimize land use by sharing common areas and parking facilities. In urban areas that already have limited land availability, this is especially impactful. That is why you will find so many multi-story buildings when you go to a downtown area.

TITLE 10 - MIXED USE ZONE (MU) – LA VERKIN CITY

Section 1.0 Purpose

The intent of the Mixed Use (MU) zone is to provide for a mix of commercial uses (lower floor generally facing a public right -of-way) with multi-family residential uses (apartments, townhomes, condominiums, live/work residential units) above and possibly surrounding the commercial lower level area as a planned unit development. Mixed use development is intended to be high-quality urban development that is pedestrian friendly and complementary to the surrounding area. Commercial uses or live/work professional/artisan uses must be a part of the overall design of any development. All provisions of the La Verkin Municipal Code not specifically stated in this zoning section shall apply where applicable.

The primary focus must remain on commercial use. Allowing residential use should be viewed as an added benefit of having a thriving commercial operation. We should establish a connection between an active business license and the continuation of residential allowances. The city cannot afford to diminish its limited commercial zones by converting them to residential use. This is vital for our economic sustainability. the use of its limited commercial area to turn into residential use. The intent of the Mixed Use (MU) zone is to provide for a mix of commercial uses (lower floor facing a public right -of-way) with multi-family residential uses (apartments, townhomes, condominiums) above and possibly surrounding the commercial lower level area as a planned unit development. Mixed use development is intended to be high-quality urban development that is pedestrian friendly and complementary to the surrounding area. Commercial uses must be a part of the overall design of any development.

Commented [D11]: The primary focus must remain on commercial use. Allowing residential use should be viewed as an added benefit of having a thriving commercial operation. We should establish a connection between an active business license and the continuation of residential allowances. The city cannot afford to diminish its limited commercial zones by converting them to residential use. This is vital for our economic sustainability. the use of its limited commercial area to turn into residential use.

Section 1.0a Definition-Requirements Live/Work Units

Live/Work Residential-Business: Developments that combine residential and non-residential uses that are restricted in that they also require the owner of the business to reside at the property. A live/work unit shall be associated with the development of a live/work unit complex and shall not be a single family home, condominium or townhome. Uses allowed in a live/work unit generally consist of uses associated with artisans or professionals.

Live/Work Unit Requirements:

- A. A maximum of one employee other than the owner is permitted to work at a live/work unit.
- B. No portion of a live-work unit may be separately rented or sold.
- C. Client and customer visits to live/work units are permitted.
- D. A business license is required to be obtained from La Verkin City for the business portion of a live/work unit.
- E. The unit and especially the business portion of the unit shall meet fire/health/safety requirements as determined by the city.
- F. A two foot by three foot sign is allowed for each unit indicating the name of the business and hours of operation.
- G. Restaurants, industrial/manufacturing uses, retail and grocery stores are prohibited.

Section 1.1. Permitted Uses

A. The following uses are permitted in the MU zone:

Accessories shop
Antique shop
Appliance sales, including electronics
Art school
Bakery products
Bank, savings and loan or other financial institution
Barber shop
Beauty and/or nail salon
Beauty school
Bicycle shop
Blueprinting and copying
Book and stationery store
Business college
Camera shop
Cards/gifts shop
Check cashing shop
Childcare center
Clothing and wearing apparel shop
Clothes cleaning
Computer/electronics store
Confectionery store
Convenience store
Cosmetics store
Crafts and supplies store
Custom dressmaking shop
Cutlery shop
Dance studio
Decorating or drapery shop
Delicatessen
Doughnut shop
Eyeglass and lens store
Fabric store
Fitness center
Flower shop
Food specialties store
Furniture store
General merchandise store
Gift shop
Grocery store - neighborhood
Hardware and appliance store
Health/nutrition store
Hobby shop
Home furnishings store
Home occupations subject to LVMC Section 10-7-17.
Indoor recreational facilities
Interior decorator

Jewelry store
 Kitchenware store
 Leather goods shop
 Library
 Live/Work Residential-Business subject to PUD overlay requirements.
 Locksmith
 Mail center
 Martial arts studio
 Medical office
 Medical supplies sales
 Microbrewery
 Music instruments shop
 Nursery or day care
 Offices, business or professional
 Office products and supply store
 Paint store
 Parking structures
 Party goods store
 Pet shop
 Post office and related services
 Printing, photocopying
 Radio, television and appliance store
 Residential (condominiums, apartments, townhomes). Must be associated with a bottom floor commercial component subject to PUD overlay requirements.
 Restaurant or other eating place, including ice cream, yogurt, cookies
 Retail sales
 Shoe store
 Sporting goods store
 Studio, art or music
 Supermarket
 Swimming pool/supplies store
 Tailor shop
 Thrift store
 Toys/hobbies store
 Variety store

B. Uses Subject to Conditions

1. Temporary office or trailers only during construction. Such a trailer is subject to an approved site plan addressing parking, fencing, lighting and signage. The trailer must be removed once construction is complete.
2. Temporary sales.
3. Live/Work businesses subject to PUD overlay requirements.

C. Uses subject to similar use finding

1. The planning commission, based on its own discretion, can find that other proposed uses similar with those listed above are consistent with the intent of this land use classification.
2. Live/Work: A similar use finding is required to be approved by the planning commission prior to the establishment of any business use associated with a live/work business unit. As part of the similar use finding, the applicant shall demonstrate that the proposed business use shall not have the potential to adversely affect others living in the development, that dust, heat, noise, glare, noxious fumes, odor, vibration or other business related impacts will not affect other residents or businesses in the development. The planning commission shall also have the authority to set and approve hours of operation for businesses.

Section 1.2 Application Requirements

Residential/commercial/live work developments in the MU zone shall comply with the following application requirements:

- A. **Precise Plan:** A precise plan application shall be submitted to the city for review and approval. A dimensioned site plan(s) showing the entire development under consideration including building location(s), setbacks, lot coverage, access locations, parking lot design, required parking calculations, perimeter wall(s) locations and design, loading spaces, lighting location and type, preliminary landscape plan trash enclosures design and locations, storage locations (if any), utilities plan (including fire hydrant locations), equipment locations and screening, phasing (if any) and any other pertinent design features or aspect of the development. The site plan shall provide the location of all existing and proposed main buildings and accessory buildings as well as distance and contemplated uses.
- B. **Architectural drawings:** Architectural drawings shall be included as part of the precise plan application. Plans shall consist of building elevation/façade renderings with exterior materials clearly depicted, proposed colors, identification of building massing and design and roof type and color, and any other design feature. Material and color palettes shall be included as part of the submission.
- C. **Studies:** The city may require studies to analyze the impact of a project. Studies may consist of traffic, noise, drainage, geotechnical or any other study the city requires in order to properly analyze the impact of the project.
- D. **Landscaping:** A landscape plan shall be reviewed at the time of precise plan approval. All landscaping shall be maintained by means of an automatic sprinkling system. The use of drought tolerant landscaping and sprinkler fixtures shall be incorporated into the landscape

plans. Compliance with Washington County Water Conservancy planting materials and guidelines is required.

E. Signage: A comprehensive sign plan shall be submitted and approved by the city at the time of precise plan approval. The comprehensive sign plan shall include and, where applicable, comply with the following:

1. Site plan: Site plans shall include locations, dimensions of the sign area and structure, building materials and colors, and sketches and elevations of the signs to scale showing the architectural detail and overall size of the proposed signage.
2. Sign structures: Sign structures shall incorporate the design theme, materials, colors and elements of the center's architecture.
3. Building signs: A ratio of 1.25 square feet of sign area for each linear foot of building or tenant space frontage is required.
4. Under canopy: Under canopy signs are allowed for tenant identification. The maximum size shall be eight square feet and be consistent with the design theme of the center.
5. Monument signs: Monument signs shall be permitted for shopping centers adjacent to a public street and be spaced 300 feet apart. The overall area of a sign shall not exceed forty-eight (48) square feet, and the overall height of the sign shall not exceed six (6) feet. All monument signs shall be placed outside of corner cut-off areas. Monument signs shall match the architecture of the center.
6. Pylon signs: Pylon signs are not permitted.
7. Temporary signs: Temporary signs are permitted but must be approved by the city and be consistent with the design standards of the sign program.
8. Signage for individual live/work units shall comply with Section 1.0a above.

F. Lighting: Lighting, including parking lot lights, security lights and illuminated signs shall be designed and directed in a manner to prevent glare on adjacent properties and into the sky. In order to more fully implement this requirement, a photometric lighting plan may be required to show that there will be no significant overflow lighting.

Section 1.3 Development Requirements/Standards

Unless otherwise stated, all requirements also apply to live/work developments.

A. Setbacks

1. Front or street: A minimum 15-foot wide landscape area between the property line and any improvements (i.e., buildings, courtyards, parking spaces, paving, etc.).
2. Side: Ten (10) feet landscaped. If located adjacent to a residential area, a 20-foot wide landscape setback (buffer) is required. Building setbacks adjacent to residentially zoned areas shall be 60 feet.
3. Rear: Ten (10) feet landscaped. If located adjacent to residential areas, a 20-foot wide landscape setback (buffer) is required. Building setbacks adjacent to residentially zoned areas shall be 60 feet.

- B. Lot coverage:** Structures on a lot shall not exceed 75% of the total lot area.
- C. Density:** The maximum residential density shall be 14 residential dwelling units per acre.
- D. Height:** Maximum building height shall be four stories. For live/work units, the maximum building height shall be two stories. The residential portion of the live/work unit shall be located on the top floor with the business portion of the unit located on the bottom floor.
- E. Residences:** Minimum dwelling unit square footage shall be 600 feet.
- F. Block wall:** A six-foot high decorative block wall shall be required around the perimeter of the property if adjacent to residentially zoned areas.
- G. Vehicular access/parking:** All facilities/uses shall have driveways, points of vehicular ingress and egress and parking. The parking requirement shall be one 9-by-18 foot parking space for every 200 square feet of commercial floor area. One 9-by-18 foot parking space for each 3.5 seats or one parking space for 100 square feet of restaurant floor area (excluding kitchen, storage, etc.), whichever is greater. All drive aisles shall be a minimum of 25 feet in width. Each residential dwelling unit shall have a minimum of two dedicated parking spaces per unit with one being covered or enclosed. One additional 9-by-18 foot parking space shall be required for every three dwelling units for guest parking. Live/work units shall have a two car garage. The two car garage for live/work units can be used for business purposes. Two exterior parking spaces for customers shall be provided in front of the two car garage. The two exterior parking stalls shall be a total of 18-by-36 feet in size. The guest parking space requirement of one parking space for every three dwelling units shall also apply to live/work developments.
- H. Buildings:** All buildings shall front a street unless determined otherwise by the city.
- I. Open space:** Two hundred (200) square feet of active open space is required per dwelling unit. One hundred (100) square feet shall be in a private patio area for the exclusive use of each dwelling unit occupant. One hundred (100) square feet shall be provided in a common recreation area. One hundred (100) square feet of private patio open space shall be provided per live/work unit. No active common open space shall be required for live/work developments.
- J. Common recreation area:** Amenities in the common recreation area may consist of a pool, play area, tennis courts, barbeque areas, canopies, enclosed gym and workout areas, recreation rooms or any combination of the aforementioned and/or alternatives as approved by the city.
- K. Storage areas:** If no enclosed garage is provided for each unit, 250 square feet of enclosed storage shall be provided per unit. This storage is in addition to room closets, coat closets, water heater closets, etc.
- L. Loading areas:** Loading spaces shall be provided at a ratio of one for every 15,000 square feet of commercial floor area, or as determined by the city. Loading space size shall be 10 feet by 20 feet. One dedicated and marked 10 foot by 20 foot loading space shall be required for every 15 dwelling units and live/work units. This loading space requirement is in

addition to the resident/tenant parking requirement outlined in the parking requirement above.

- M. **Trash enclosures:** One trash dumpster bin (four yard minimum) located in a decorative enclosure shall be provided for every 20 dwelling units. Additional trash bins shall be required for commercial uses as determined by the city.
- N. **Development agreement:** A development agreement is required for review and approval in the MU zone (Reference LVMC Section 10-6G3-7). The development agreement for live/work developments shall specifically state that the purpose of a live/work development is to provide for residential and non-residential uses that are restricted and that units can always be used for live/work purposes.
- O. **Homeowner's association – for sale housing/Property Owners Association:** Establishment of a homeowner's association/property owner's association is required for attached, townhome, condominium housing and live/work units. The homeowner's association documentation for live/work developments shall specifically state that the purpose of a live/work development is to provide for residential and non-residential uses that are restricted and that units can always be used for live/work purposes.
- P. **Streets:** All streets in or adjacent to the MU zone shall meet the requirements of the city's construction and development standards, including curb, gutter and sidewalk.
- Q. **Curb, gutter, sidewalk and paving:** All facilities/uses shall have curb, gutter and sidewalk, and shall have asphalt paving from the curb and gutter out to any existing street asphalt subject to city approval.
- R. **Bicycle Racks:** E.V. ready bicycle parking racks (one bicycle parking space for each unit) shall be provided at a centralized location. Bicycle racks are not required for live/work developments.
- S. **Easements:** All lots shall have easements on side and rear property lines of a minimum of seven and one-half feet (7 1/2') and on a street side property line of ten feet (10') minimum, to be used for utilities and drainage. (Ord. 2024-03, 2-21-2024)



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Continued on next page

DURABANO GROUP

**ZION CROSSING -
HOTEL**

560 NORTH STATE STREET, LA VERGNE, UT
84745

Year	Population	Population	Population
1990	100	100	100
2000	100	100	100
2010	100	100	100
2020	100	100	100
2030	100	100	100
2040	100	100	100
2050	100	100	100
2060	100	100	100
2070	100	100	100
2080	100	100	100
2090	100	100	100
2100	100	100	100

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PRELIMINARY
FOR CONSTRUCTION

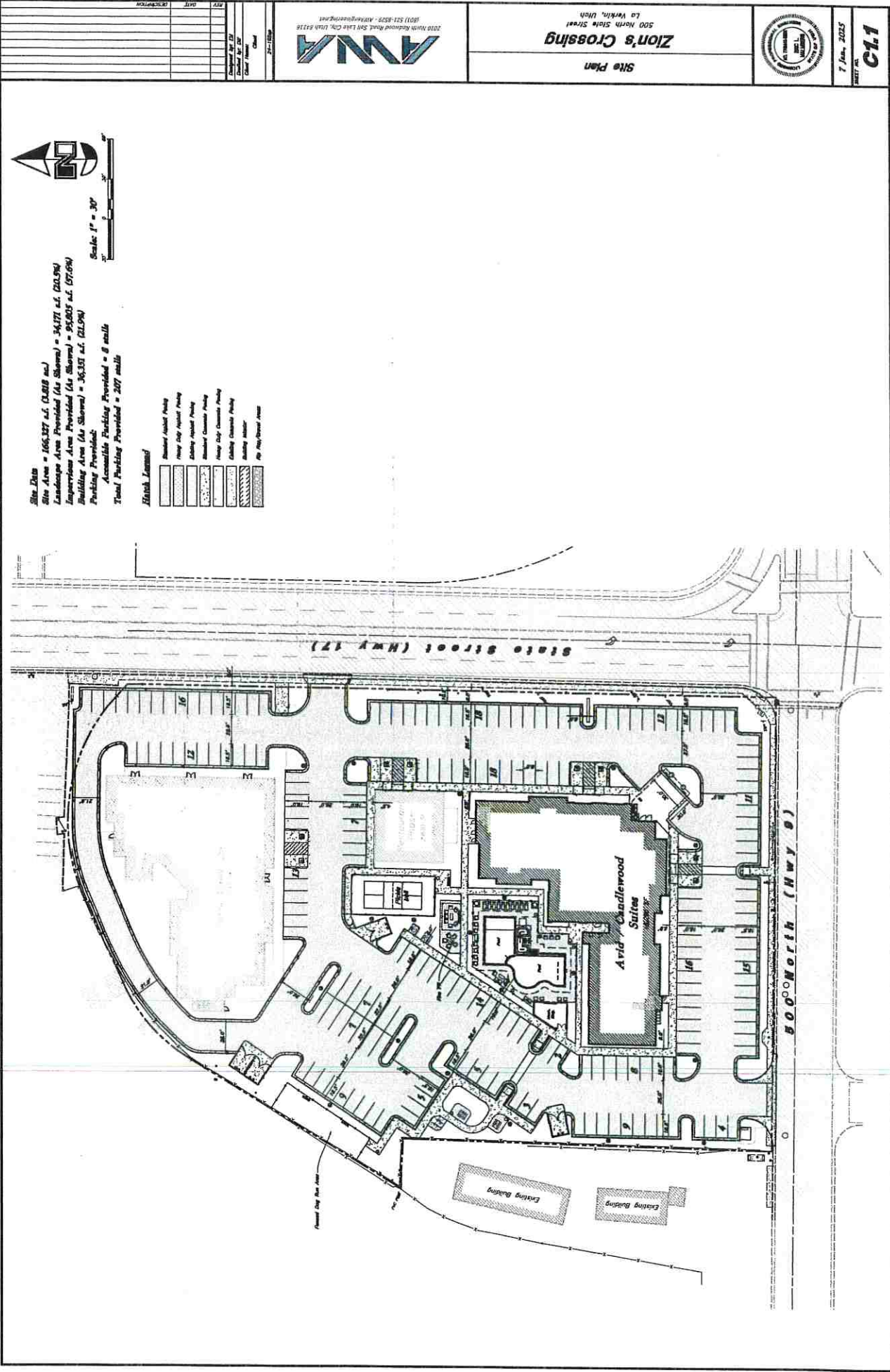
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COVER

and, therefore, the authors of the present study.

G000





Memo

To: Mayor Wilson, Kyle Gubler, Derek Imlay and Alan Bice

Date: May 7, 2025

From: Fay Reber

Re: Interstate Rock Application for Critical Infrastructure Materials Protection Area

As you know, Interstate Rock has submitted an application pursuant to Utah Code §17-41-101 et. seq. for approval of a Critical Infrastructure Materials Protection Area. As a technical matter, it's important to note that this application has nothing to do with "mining operations." Under Utah Code §40-8-4, a mining use is defined as "the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit." But, according to Utah Code §40-8-4(9) and Utah Administrative Code R647-1-106, a mineral deposit does not include sand, gravel and rock aggregate. Consequently, under Utah Administrative Code R647-1-106, a "mining operation" does not include the extraction of sand, gravel, rock aggregate and boulders. As a technical matter, therefore, Interstate Rock's application for creation of a Critical Infrastructure Materials Protection Area (CIMPA) does not include mining activities.

The application is now being studied by the County Advisory Board and the LaVerkin Planning Commission, who have 45 days to submit a recommendation to the City Council based on the following criteria set forth in Utah Code §17-41-305, as follows:

1. whether or not the land is currently being used for critical infrastructure materials operations,
2. whether or not the land is zoned for critical infrastructure materials operations,
3. whether or not the land is viable for critical infrastructure materials operations,
4. the extent and nature of existing or proposed improvements to or expansion of critical infrastructure materials operations.
5. anticipated trends in technological conditions applicable to the critical infrastructure materials operations of the land in question.

When that recommendation from the County Advisory Board and Planning Commission is received, the City Council is required to hold a public hearing before making a determination on whether to approve, approve with conditions, or deny the application. As stated by Utah Code §17-41-301(1)(b), the "creation of a critical infrastructure materials protection area is a legislative act" - which means that any

decision made by the LaVerkin City Council will be upheld by the courts as long as such decision is reasonably debatable and not arbitrary and capricious.

If the application for a CIMPA is approved, Interstate Rock will have the following protections described in Utah Code §17-41-402 and 403:

1. The City is required to “encourage the continuity, development, and viability of critical infrastructure materials operations, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict critical infrastructure materials extraction operations.”
2. The City may not adopt, enact, or amend an existing land use regulation, ordinance or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations, including vested critical infrastructure materials operations as defined in Utah Code §10-9a-903. (see below)
3. The City shall ensure that “any of the City’s laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.”
4. For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations.”

5. Imposition of additional hurdles to jump before exercising the right of eminent domain with respect to property within a protection area.

6. No change in zoning of the area within a CIMPA without written consent of all critical infrastructure materials operators operating within the protection area.

Meanwhile, the rights granted to a critical infrastructure materials operator have been expanded by the Utah State Legislature's passage of HB 355, which takes effect today, May 7, 2025. This legislation was passed specifically to afford more protection to critical infrastructure materials extraction operations along the Wasatch Front, but it is equally applicable to similar operations in Southern Utah, and, more to the point, here in LaVerkin.

The main impact of HB 355 is to amend Utah Code §10-9a-901(8) by defining a vested critical infrastructure materials use "as a critical infrastructure materials use by a critical infrastructure materials operator that is an existing legal use." The term "existing legal use" is defined by §10-9a-901(6) as "a critical infrastructure materials use that has operated in accordance with a legal non-conforming use that has not been abandoned..., or a permit issued by the applicable political subdivision." Finally, the new legislation amends Utah Code §10-9a-903(1) by conferring on a critical infrastructure materials operator with a vested critical infrastructure materials use certain rights, *regardless of whether a CIMPA is approved*, including the right to:

1. progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025
2. expand, after notice and hearing, the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land, unless the City finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety and welfare
3. Use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025.
4. On any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:
 - a. increase production or volume

- b. alter the method of extracting or processing , including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt, and
- c. extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land.

Taken together, here's what I think approval of a CIMPA for Interstate Rock means in terms of the protections given to a vested critical infrastructure materials use by HB 355:

- To the extent that Interstate Rock's use of the property constitutes "an existing legal use" within the meaning of Utah Code §10-9a-901(6), Interstate Rock will be a critical infrastructure materials operator with a vested critical infrastructure materials use and shall have those rights specified in paragraphs 1-4 above, irrespective of the City's decision whether to approve a CIMPA.
- One of the main concerns of residents in the area is that approval of the proposed CIMPA will grant Interstate Rock the right to open a concrete and asphalt batch plant. However, because operation of a concrete batch or asphalt plant is not an "existing legal use" (i.e., no permit has been granted for such use and no use of the property for such purpose has been made as a valid non-conforming use), the use of the property for a concrete batch or asphalt plant is not a vested use and is not subject to that portion of Utah Code §17-41-402, which was amended as part of HB 355 and states that: "the city, or town may not adopt, enact, or amend an existing land use regulation, ordinance or regulation that would prohibit, restrict, regulate or otherwise limit critical infrastructure materials operations including vested critical infrastructure materials operations as defined in Utah Code §10-9a-903"- which does include a concrete or asphalt batch plant.
- Most of the objections expressed by surrounding property owners will, to a large extent, be swallowed up by the new legislation and the rights specifically granted to Interstate Rock as a vested critical infrastructure materials operator.
- The only effect of the City's approval of the CIMPA will be to give Interstate Rock the *additional* rights specified in paragraphs 1-6 above.

Memo

To: LaVerkin Planning Commission, LaVerkin City Council, Kyle Gubler and Derek Imlay

From: Fay Reber

Date: May 14, 2025

Issue: Does Approval of a Critical Infrastructure Materials Protection Area Include Approval of a Concrete and Asphalt Batch Plant?

Despite assurances to the contrary, many persons who have filed a written objection to the City's approval of Interstate Rock's application for creation of a Critical Infrastructure Materials Protection Area (CIMPA) have expressed a fear that approval of the CIMPA would include the right to establish a concrete and asphalt batch plant. As stated by one concerned resident, "I have been doing research on why Interstate would want this approval and I believe that it's because they are wanting to do an asphalt plant, as I am sure the City of LaVerkin knows this as well. I do not want this to be approved for them! In Utah, a Critical Infrastructure Materials Protection Area does allow for the establishment of an asphalt plant. Specifically, Utah law grants the right to "recycle and to batch and mix concrete and asphalt within such areas."

The purpose of this memo, therefore, is to explain why the above statement is not correct and why approval of a CIMPA does not grant Interstate Rock the right to establish a concrete and asphalt batch plant.

To begin, in an earlier memo dated May 7, 2025, I attempted to explain how the provisions of the Utah Code §17-41-101 et. seq. dealing with approval of a CIMPA relate to new amendments to Utah Code §10-9a-901 et. seq. defining and describing a vested critical infrastructure materials use. In simple terms, these are 2 different parts of the Utah code. One outlines the procedure for creating a CIMPA and the protections afforded to such areas. The other defines and describes vested rights granted by state law to a critical infrastructure materials operator whether or not included in a CIMPA.

Confusion is created, however, by §10-9a-903(1)(d) which contains a reference to concrete and asphalt batch plants, stating in pertinent part as follows:

"Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials use adopted after the establishment of the critical infrastructure materials use, the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use include with respect to

that existing legal use the right to: on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025 (i) increase production or volume, and (ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to *batch and mix concrete and asphalt.*”

So... by the terms of the statute quoted above, in order for the language regarding batching and mixing of concrete and asphalt to apply, 2 conditions must be met:

1. The use must be a “vested critical infrastructure materials use” which, according to §10-9a-901(8), means “a critical infrastructure materials use by a critical infrastructure materials operator that is an existing legal use.”
2. The use must be an “existing legal use” which is defined by §10-9a-901(6) as “a critical infrastructure materials use that has operated in accordance with a legal non-conforming use that has not been abandoned for more than 24 consecutive months or a permit issued by the applicable political subdivision.”

In the case of Interstate Rock’s operations, they do not now operate, nor have they ever operated, a concrete batch plant or asphalt plant on the property sought to be included in the CIMPA, which means that such a use is not an existing legal use and is not a vested critical infrastructure materials use within the meaning of the Utah Code.

Having established that a concrete or asphalt batch plant on the Interstate Rock property is not an existing legal use and therefore not a vested critical infrastructure materials use, the remaining question is, how is this affected by approval of a CIMPA? The answer is that approval of a CIMPA confers no additional right on Interstate Rock to establish a concrete or asphalt batch plant. There is no mention anywhere about non-existent concrete or asphalt batch plants, and, according to the Utah Code §§17-41-402 through 405, the only protections afforded a CIMPA are as follows:

1. The City is required to “encourage the continuity, development, and viability of critical infrastructure materials operations, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict critical infrastructure materials extraction operations.”
2. The City may not adopt, enact, or amend an existing land use regulation, ordinance or regulation that would prohibit, restrict, regulate, or otherwise limit

critical infrastructure materials operations, including vested critical infrastructure materials operations as defined in Utah Code §10-9a-903. (see below)

3. The City shall ensure that “any of the City’s laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.”
4. For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."

5. Imposition of additional hurdles to jump before exercising the right of eminent domain with respect to property within a protection area.
6. No change in zoning of the area within a CIMPA without written consent of all critical infrastructure materials operators operating with the protection area.

What it all boils down to is this: If Interstate Rock was currently operating a concrete and asphalt batch plant, it could continue such operations as a vested critical infrastructure materials use under §10-9a-903(1)(d) regardless of whether the City approves or disapproves the creation of the CIMPA. If the City approves the CIMPA, the only protections granted to Interstate Rock will be those listed in paragraphs 1-6 above, which does not include establishment of a concrete and asphalt batch plant.

PROPOSAL TO CREATE CRITICAL INFRASTRUCTURE MATERIALS PROTECTION AREA

Proposal Sponsor, Interstate Rock Products, Inc., a Utah corporation (hereinafter "Sponsor"), by and through its undersigned attorneys and pursuant to the provisions of the Utah Protection Areas Act, Title 17, Chapter 41, Utah Code Ann. ("Act"), hereby proposes that the LaVerkin City ("City") create a Critical Infrastructure Materials Protection Area ("Protected Area") as set forth below and, in support of the Proposal, Sponsor states as follows:

1. Sand, gravel, and rock aggregate are critical infrastructure materials, as defined at §17-41-101(6) of the Act.

2. Sponsor currently operates and has for a period in excess of twenty (20) years on Parcels No. LV-160-A-N-SA, LV-3-1-13-4200, LV-174-A-5, LV-174-A-4 a gravel pit wherein Sponsor extracts, excavates, processes, and reprocesses sand, gravel, rock aggregate, and landscape rock in commercial quantities ("Property") consisting of 116.13 acres. See Exhibit A hereto. The Property was used as a gravel pit for more than ten (10) years prior to Sponsor purchasing it.

3. Sponsor is a Critical Infrastructure Materials Operator, as defined at §17-41-101(8) of the Act, in that Sponsor is an organization which owns, controls, and manages a critical infrastructure materials operation.

4. LaVerkin City is a municipality, as that term is defined at §17-41-101(17)(b) of the Act, the Proposal is properly before the City pursuant to §17-41-301(1)(a)(ii) of the Act, and the City has authority to create the Protected Area pursuant to §17-41-301(1)(b) of the Act.

5. Sponsor is the sole owner of the Property and thus has the authority to sponsor the Proposal pursuant to §17-41-301(1)(c)(i) of the Act.

6. The boundaries of the Property, which is the land proposed to become part of the Protected Area, are identified in the map attached hereto as Exhibit A.

7. The critical infrastructure materials operations on the Property have been conducted in conformance with the City's zoning requirements and there are no limits on the type of critical infrastructure materials operations located on the Property.

8. There remain critical infrastructure materials on the Property to support the critical infrastructure materials operations of Sponsor for a considerable period into the future, given the trends in technological conditions applicable to the critical infrastructure materials operations on the Property.

9. Located on the Property are an aggregate wash plant, office building, multiple crushers and aggregate processing equipment which Sponsor maintains those production and accounting functions associated with the critical infrastructure materials operations and a scale house used to weigh critical infrastructure materials produced on the Property.

10. Sponsor requests that the City give notice of the Proposal to the Public and that it submits the Proposal to the Washington County Critical Infrastructure Materials Protection Areas Advisory Board for review and recommendations pursuant to §17-41-303 of the Act.

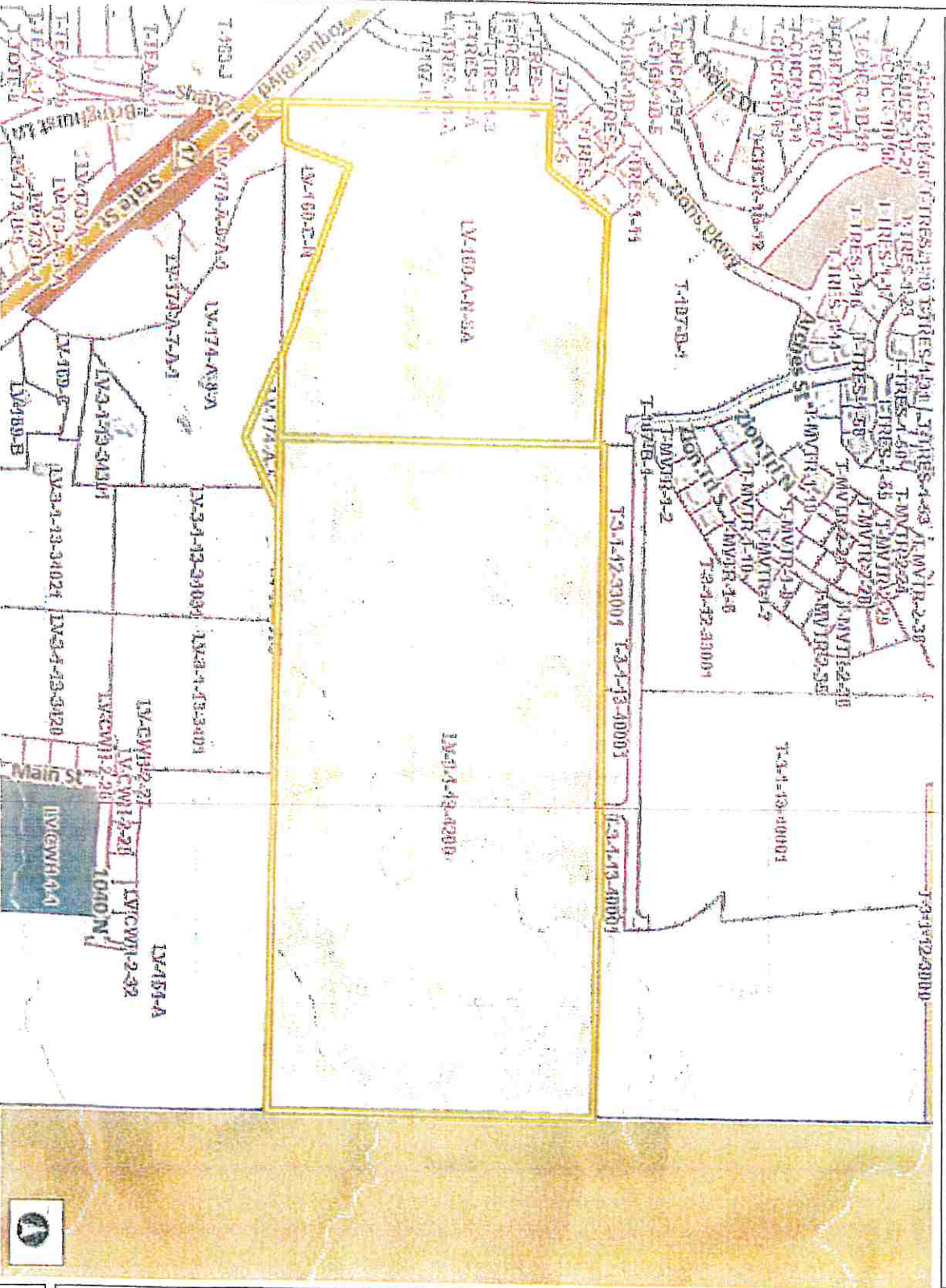
Respectfully Submitted this 4th day of April 2025.

Aaron D. Randall

Aaron D. Randall
Thompson, Randall & Mellen
Attorneys for Sponsor

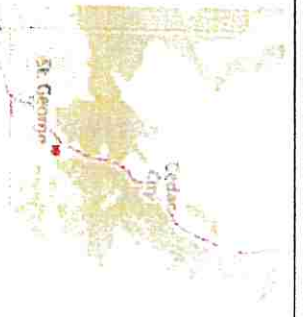


EXHIBIT "A"



1,504.7
0
752.33
1,504.7 Feet

DISCLAIMER: The information shown on this map was compiled from different GIS sources. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Washington County, Utah will not be held responsible for any claims, losses or damages resulting from the use of this map.



Legend

☐ Parcels

Ownership

- ☐ U.S. Forest Service
- ☐ U.S. Forest Service Wilderness
- ☐ Bureau of Land Management
- ☐ Bureau of Land Management W
- ☐ National Park Service
- ☐ Shilwits Reservation
- ☐ Utah Division of Wildlife Resourc
- ☐ Utah Division of Transportation
- ☐ State Park
- ☐ State of Utah
- ☐ Washington County
- ☐ Municipally Owned
- ☐ School District
- ☐ Privately Owned
- ☐ Water
- ☐ Water Conservancy District
- ☐ State Assessed Oil and Gas
- ☐ Mining Claim

Notes

Notice of Proposal for Creation of Critical Infrastructure Materials Protection Area

The City of LaVerkin has received a proposal for the creation of a critical infrastructure materials protection area for the following described property and as shown on Exhibit A:

Parcel LV-160-A-N-SA

S: 14 T: 41 S R: 13 W

BEG 1320 FT S NE COR SEC 14 T41S R13W TH S 1320 FT M/L TO SE COR SE1/4 NE1/4; TH W 1320 FT; TH N 1193 FT M/L; TH S 86*36' E 242.5 FT; TH N 36*25' E 300 FT; TH E 900 FT TO BEG. LESS: 3.17 AC DEEDED TO WILSON

Parcel LV-3-1-13-4200

S: 13 T: 41 S R: 13 W 1/2 NW1/4 SEC 13 T41S R13W

Parcel LV-174-A-5

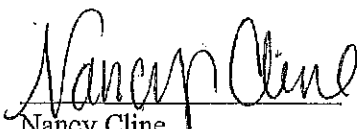
S: 14 T: 41 S R: 13 W BEG AT PT S 88*57'18" E ALG 1/4 SEC/L 1002.29 FT FM NW COR NE1/4 SE1/4 SEC 14 T41S R13W TH S 54*21'11" E 50 FT; TH S 67*07'17" E 300.01 FT TO PT ON E SEC/L SEC 14 PT BEING 139.97 FT S 0*21'42" W ALG SEC/L FM E1/4 COR SEC 14; TH N 65*13'42" E 320.53 FT TO PT ON 1/4 SEC/L; TH S 88*52'54" E ALG 1/4 SEC/L 322.11 FT; TH S 82*30'03" E 113.24 FT; TH N 02*10'46" E 12.59 FT TO PT ON 1/4 SEC/L SEC 13; TH N 88*52'54" W ALG 1/4 SEC/L 725.09 FT TO 1/4 COR BTW SECS 13 & 14; TH N 88*57'18" W ALG 1/4 SEC/L 317.98 FT TO POB

Parcel LV-174-A-4

S: 14 T: 41 S R: 13 W BEG NW COR NE1/4 SE1/4 SEC 14 T41S R13W TH S 88*57'18" E ALG 1/4 SEC/L 50 FT; TH S 0*15'33" W 105.85 FT TO NLY R/W LN HWY U-17; TH N 39*19'03" W ALG HWY R/W LN 78.47 FT TO INT SEC WITH 1/16 LN; TH N 0*15'33" E ALG 1/16 LN 46.05 FT TO POB

The proposal will be open to public inspection at the LaVerkin City office located at 435 N. Main Street, LaVerkin, Utah. Any person affected by the establishment of the protection area may, within 15 days of the date of this notice, file with the City of LaVerkin a written objection to the proposal, or a written request to modify the proposal to exclude land from or add land to the proposed protection area. At the expiration of said 15-day period, the City of LaVerkin will submit the proposal and any objections and proposed modifications to the proposal to the LaVerkin City Planning Commission and County Advisory Board for review and recommendations. After receipt of a written report from the planning commission and the advisory board, or after the expiration of 45 days, whichever first occurs, the LaVerkin City Council will schedule a public hearing to discuss and hear public comment on the proposal to create the critical infrastructure materials protection area, the recommendations of the planning commission and advisory board, and any requests for modification of the proposal and any objections to the proposal. Notice of the public hearing will be given in the manner provided for by Utah law.

Dated this 15th day of April, 2025.


Nancy Cline
LaVerkin City Recorder

