

REGULAR MEETING

HEBER CITY CORPORATION
75 North Main Street
Heber, Utah, 84032
City Council Regular Meeting
November 20, 2014

7:00 p.m. Regular Meeting

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

- I.** Call to Order
- II.** Pledge of Allegiance: Council Member Kelleen Potter
- III.** Prayer/Thought: By Invitation (Default Jeffery Bradshaw)
- IV.** Minutes for Approval: November 6, 2014 Work and Regular Meetings
 - 1.** Patricia Mathis, Presentation of Heber City 125th Anniversary Quilt
 - 2.** Police Officer Ryan DeMille, Presentation of Patriotic Employer Award Recognizing Chief Dave Booth and Sergeant Jeremy Nelson for Supporting the Armed Forces
 - 3.** Approve Ordinance 2014-21, an Ordinance Amending the Heber City General Plan for 11.01 Acres from a Land Use Designation of High Density Residential to Highway Commercial and 2.09 Acres from a Land Use Designation of Low Density Residential to Highway Commercial located West of the Mountain Valley RV Resort, which is Located at 2120 South Highway 40
 - 4.** Approve Ordinance 2014-22, an Ordinance Amending the Heber City Zoning Map for 11.01 Acres of R-3 Residential Zone to C-2 Commercial Zone and 2.09 Acres R-1 Residential Zone to C-2 Commercial Zone Highway and 1.62 acres of R-1 Residential Zone in Future Collector Road Right-of-Way to Remain as R-1 Located West of the Mountain Valley RV Resort, Located at 2120 South Highway 40, and the Associated Conditional Zone Change Agreement
 - 5.** Approve Ordinance 2014-23, an Ordinance Abandoning Lot 34, Valley Hills Plat C Subdivision

6. Approve Valley Heights Subdivision Plat A and Plat B, a 28 Lot Subdivision Located at 1200 East and 1050 North, and the Associated Development Agreements
7. Approve Extension Request for Haack Subdivision, a Small Subdivision Located at Approximately 850 East Center Street
8. Approve 2014 Employee Christmas Bonuses
9. Approve 2015 Holiday Schedule
10. Open House for Comments from the Public
11. Closed Meeting as Needed

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Michelle Kellogg at the Heber City Offices (435) 654-0757 at least eight hours prior to the meeting.

Posted on November 13, 2014, in the Heber City Municipal Building located at 75 North Main, Wasatch County Building, Wasatch County Community Development Building, Wasatch County Library, on the Heber City Website at www.ci.heber.ut.us, and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave on November 13, 2014.

Memo

To: Mayor and City Council
From: Mark K. Anderson
Date: 11/13/2014
Re: City Council Agenda Items

REGULAR MEETING

APPOINTMENTS

Item 1 – Patricia Mathis, Presentation of Heber City 125th Anniversary Quilt: Patricia Mathis is coming before the Council to present the quilt that was made to celebrate the 125th Anniversary of Heber City. It is my understanding the Patricia and Deon Stott did all of the work on the quilt. The quilt is a true work of art that represents Heber City's heritage well.

Item 2 – Police Officer Ryan DeMille, Presentation of Patriotic Employer Award Recognizing Chief Dave Booth and Sergeant Jeremy Nelson for Supporting the Armed Forces: Officer Ryan Demille has asked to come before the Council to recognize Chief Booth and Sergeant Nelson for their support of the armed forces by presenting the Patriotic Employer Award. Officer Demille is an active member of the Utah National Guard.

ACTION ITEMS

Item 3 – Approve Ordinance 2014-21, an Ordinance Amending the Heber City General Plan for 11.01 Acres from a Land Use Designation of High Density Residential to Highway Commercial and 2.09 Acres from a Land Use Designation of Low Density Residential to Highway Commercial located West of the Mountain Valley RV Resort, which is Located at 2120 South Highway 40: At the last work meeting the Council reviewed this proposed amendment to the General Plan. It appears that owners of the property have met with the property owners on the west of the property and have their support for the proposed General Plan amendment/zone change. Daniel residents appear to still be concerned about the impact the road and RV Park will have on their quality of life and land value. (See attached email from Pam Skinner)

As a condition of the zone change, staff has prepared a Zone Change Agreement that spells out the conditions of the proposed zone change; the most significant issue being the dedication of the right-of-way for 2400 South and participation in the construction of the roadway. Other conditions contained in the agreement are intended to address the concerns of

the neighbors if the property is developed (as expected) as an expansion of the existing RV Park.

Before the zoning on the property can be changed, the Council must first amend the General Plan to make the proposed zone change compatible with the General Plan.

Staff believes the consideration being offered by Millstream to the City with regard to 2400 South is a fair offer and would recommend approval. We also believe that agreement protects important planned transportation corridors within the City and that it contains provisions that are intended to minimize any negative impacts the adjacent neighbors may experience if the property develops as proposed.

Item 4– Approve Ordinance 2014-22, an Ordinance Amending the Heber City Zoning Map for 11.01 Acres of R-3 Residential Zone to C-2 Commercial Zone and 2.09 Acres R-1 Residential Zone to C-2 Commercial Zone Highway and 1.62 acres of R-1 Residential Zone in Future Collector Road Right-of-Way to Remain as R-1 Located West of the Mountain Valley RV Resort, Located at 2120 South Highway 40, and the Associated Conditional Zone Change Agreement: This issue is tied to the prior agenda item. If the Council does not approve the amendment to the General Plan, adoption of this Ordinance should not be considered. Staff would recommend approval subject to the conditions contained in the Zone Change Agreement.

This Ordinance changes the zoning from R-3 and R-1 to C-2.

Item 5– Approve Ordinance 2014-23, an Ordinance Abandoning Lot 34, Valley Hills Plat C Subdivision: Adoption of this Ordinance allows for this lot to be removed from Valley Hills Plat C. The property would then be re-platted as part of the Valley Heights Subdivision. Staff would recommend approval.

Item 6 – Approve Valley Heights Subdivision Plat A and Plat B, a 28 Lot Subdivision Located at 1200 East and 1050 North, and the Associated Development Agreements: Alan and Deborah Anderson and Mountainwest Enterprises (Millstream) are seeking final plat approval for a 28 lot subdivision located at approximately 1200 East and 1050 North. The subdivision would be constructed in two phases. Phase A would contain 19 lots and Phase B would contain 9 lots. The Planning Commission has reviewed the proposed subdivision and is recommending approval. See enclosed staff report and plat maps. Assuming the Council abandons Lot #34 in Valley Hills Plat C, staff would recommend approval subject to the provisions in the subdivision agreements.

Item 7 – Approve Extension Request for Haack Subdivision, a Small Subdivision Located at Approximately 850 East Center Street: On November 21, 2013, the City Council approved the Haack subdivision. (See attached staff report and plat map) City Code provides that subdivision approvals are only valid for one year unless the Council grants an extension. Staff has no objection to the extension and would recommend approval. With the approval of the Broadhead Estates Phases II, III and IV, missing utilities will be made more readily available to this property as these subdivisions develop.

Item 8 – Approve 2014 Employee Christmas Bonuses: Annually the City Council has provided a bonus for City employees that is paid during early December. I have included a spreadsheet summarizing the cost of providing a bonus similar the bonus granted in 2013. The funds for a similar bonus have been budgeted.

Item 9 – Approve 2015 Holiday Schedule: Annually the City Council approves a holiday schedule for the coming year. Attached is a list of the proposed dates the City would observe for the various work schedules the City uses. Staff would recommend approval. FYI, the City has historically provided 104 hours of holiday pay.

Item 10 – Open House for Comments from the Public: The Council has asked that the public be invited to meet with the City Council on an informal one-on-one basis to gather feedback from citizens on issues of concern and importance. This part of the meeting is scheduled to begin at 8:00 p.m. and minutes will not be taken. Staff will provide light refreshments for this informal meeting.

MINUTES

1 Heber City Corporation
2 City Council Meeting
3 November 6, 2014
4 6:00 p.m.

5
6 WORK MEETING
7

8 The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on November 6,
9 2014, in the City Council Chambers in Heber City, Utah

10
11 I. Call to Order
12 City Manager's Memo
13

14 Present: Mayor Alan W. McDonald
15 Council Member Jeffery Bradshaw
16 Council Member Heidi Franco
17 Council Member Robert Patterson
18 Council Member Kelleen Potter
19 Council Member Erik Rowland
20

21 Also Present: City Manager Mark Anderson
22 City Planner Tony Kohler
23 City Engineer Bart Mumford
24 Police Chief Dave Booth
25 City Deputy Recorder Allison Lutes
26

27 Others Present: Valerie Kelson, Minod Kandar, Pam Skinner, Pepi Kelman, Brad Lyle, Paul
28 Berg, Linda Harmon, Paul Boyer, Wesley Bingham, Mark Smedley, Andrew Dedrickson,
29 Breanne Dedrickson, Marianne Allen, David Nelson, Ron Ririe, Tammy Thacker, Gabrielle
30 Thacker, Danny Thacker, Melaine Mainord, McKylee Mainord, Brandon Shopay, Ray Baeza,
31 Jared Rigby, Lisa Remund, Lynn Remund, Rachel Kahler, Mike Johnston, Gina Tuttle, Devin
32 McKrola, Cidnee Shopay, Jakob Kohler, Zac Webster, Isaac Ziereberg, Krew Rowland, Easton
33 Hall, Tanner Ritchie, Trevor Clyde, Bentley Rowland, Garrett Warbel, Wes Webster, Jeff Hill,
34 Rob Mills and others whose names were illegible.
35

36 Mayor McDonald opened the meeting and welcomed those in attendance.
37

38 1. Review Term Expirations for the Airport Advisory Board, Planning Commission and
39 Board of Adjustment and Give Suggestions for Names for These Positions
40 Board Members
41

42 Mayor McDonald noted that some positions on the boards and commissions would be opening
43 up and solicited the Council for any suggestions concerning applicants to fill those positions,
44 adding he would need any names by the first December meeting. One alternate position was
45 available on the Airport Board; the Planning Commission was seeking two alternates. Mayor
46 McDonald added that Kieth Rawlings wanted to remain on the Planning Commission and Mark
47 Webb requested that he be named an alternate, as he was having trouble attending all of the

1 meetings. Mayor McDonald added that he would talk to Webb to see what his time commitment
2 would be, but there would be at least one alternate position. Clayton Vance would likely move
3 to an alternate position, as he had trouble balancing his work schedule. Likewise, Jeff Mabbutt
4 on the Airport Board had had difficulty making meetings so they would need an alternate for that
5 board. At present, one name had been submitted for the Planning Commission.
6

7 2. [Review Proposal to Amend the Heber City General Plan for 11.01 Acres from a Land
8 Use Designation of High Density Residential to Highway Commercial and 2.09 Acres
9 from a Land Use Designation of Low Density Residential to Highway Commercial
10 located West of the Mountain Valley RV Resort, which is Located at 2120 South
11 Highway 40](#)

12 [Heber Valley RV Park Zoning Change Request](#)
13

14 Tony Kohler was not yet present to discuss this item. In the interim, Mayor McDonald invited
15 Valerie Kelson to present on her work on the Transitional Chalet. Kelson stated that her group
16 had identified an opportunity for a piece of property, and they were requesting a rezoning on the
17 property. Their purpose was to help single women transform their lives, with the assistance of
18 services available within the community. Transitional Chalet had been working with social and
19 human services, Baby My Baby, the Health Department, Wasatch County School District, UVU,
20 The Turning Point, and Children's Justice Center. Transitional Chalet would be providing
21 personalized care and transitional housing for homeless women and their children, as well as for
22 single pregnant women. Kelson stated that they attended the CDBG grant opportunity meeting
23 the week prior and requested that the City sponsor their application. She added that they were in
24 the process of forming a funding committee and were working on a business plan. Additionally,
25 Russ Watts was working on an estimate for the cost of the building, and others had donated
26 plans. Kelson noted that they had progressed quite a bit since the last meeting with the Interlocal
27 Advisory Board. She stated that they researched other similar homes in the state, but found
28 nothing in Utah like the Transitional Chalet. One of the most successful homes was located in
29 Iowa, named The House of Hope, which paralleled what they want to do for women in Utah.
30 The House of Hope was mostly funded by social services and the community as a whole.
31

32 Kelson stated they were seeking as much grant money as they could get, however Anderson
33 indicated the maximum was \$150,000.00, adding that nothing over that amount had been
34 awarded in the recent past. Kelson responded that three members from their group met with
35 CDBG, and they really liked what the Transitional Chalet proposed and would like to support
36 them. Mayor McDonald confirmed with Kelson that the Transitional Chalet was requesting that
37 the City sponsor their grant application and approve their zoning change request.
38

39 Council Member Franco asked whether the Transitional Chalet would be designated as a group
40 home with the proposed zoning change. Kohler responded that the closest term that would fit
41 within the City's current zoning ordinances would be "boarding house". He added that a couple
42 of the elements of that ordinance would have to be changed to address this particular land use,
43 particularly the requirement that the owner reside in the house. He stated that the Planning
44 Commission had discussed it. Kelson indicated that their dream location within the downtown
45 area had been identified, but no contract had been entered yet. Mayor McDonald requested that
46 Kelson prepare some details regarding their request for the Council's review prior to the next
47 meeting, specifically the amount of the grant for which they are seeking the City's sponsorship,

1 with a specific description and details of the zoning change request, so that they would be put on
2 the next agenda.

3
4 Anderson noted that historically there would be a public hearing as part of the CDBG grant
5 process that would allow the public to come and recommend projects for which the City should
6 solicit CDBG funding. He added that Tony Kohler had been attending the training. Kohler
7 indicated that in order to be considered as a CDBG project, they would have to amend the
8 Capital Facilities Plan submitted to Mountainlands a couple of weeks prior, then the Council
9 would adopt it and add it as a priority. Then, specific financial information would need to be
10 compiled to include in the grant proposal, after which a public hearing would be held in
11 December or January. If there weren't many comments resulting from the hearing, and if it was
12 the project the Council chose to go with, then they would prepare the grant application for
13 submission. Anderson asked whether Kelson had approached Wasatch County to see if it would
14 sponsor their application, and she responded they had not. Anderson indicated that the City
15 anticipated submitting a CDBG grant application to replace a water line on 5th South, and
16 encouraged Kelson to ask the County to submit the Transitional Chalet application on their
17 behalf so that the City could make their application as well.

18
19 Discussion resumed on Agenda Item 2. Anderson requested that the Council review the
20 November 4 letter from Berg Engineering that had been added to the meeting materials that
21 afternoon. Kohler projected a plat map showing the RV Park, and indicated that the white area
22 represented the existing park and the colored area indicated the proposed expansion, which was
23 in the R-3 Residential Zone. A strip of R-1 Zone would be in the future 2400 South expansion.
24 The Planning Commission had been debating this for the past couple of months during meetings
25 attended by adjoining property owners from Wheeler Park and Daniel. The Planning
26 Commission made a recommendation to the Council to re-zone this area to C-2, and asked the
27 developer to continue working with the Wheeler Park property owners with adjoining lots. The
28 developer worked out an agreement to sell twenty feet to the adjoining property owners and
29 amend the plat accordingly. Kohler added that for the most part, Wheeler Park residents seemed
30 satisfied with the agreement, however Daniels owners were not; their biggest concern was with
31 the 2400 South project.

32
33 Kohler met with Millstream within the week or two prior to this Council meeting. The November
34 4 letter from Berg explained the tentative agreement with Millstream regarding specifics and
35 timing of the project. Council Member Franco inquired whether any official agreement existed
36 with the landowners concerning the proposal. Kohler explained that Berg Engineering submitted
37 three options, which the Council was already aware of. The ultimate choice was to go with the
38 twenty-foot addition, and added that most, if not all property owners had entered contracts or
39 were proposed to enter contracts with Millstream. Additionally, the Planning Commission
40 received and was reviewing a petition to amend the lots to incorporate the agreed upon area.

41
42 Anderson added that the cost to each lot owner would be between \$5,400 and \$6,000, with lot
43 sizes ranging between 90 and 100 feet. In response to questioning from Council Member Franco
44 concerning noise ordinances, Kohler stated that there was a City nuisance ordinance that
45 provided a sleeping period between 10:30 p.m. and 7:30 a.m., during which heavy machinery
46 could not be operated, but there was no decibel level requirement. Council Member Franco
47 inquired whether lighting was shown on the map and whether it would affect the owners. Kohler

1 responded that the lighting would be similar to Phase One lighting, and believed it would not
2 present a problem to the owners. However, he added that since the present request related only
3 to a zoning request, the Planning Commission would be working out further details concerning
4 lighting and other details when they addressed entitlement issues. With respect to the noise
5 issue, Kohler indicated that the plan proposed a berm and evergreen trees, as well as an eight-
6 foot fence on top of a two foot retaining wall to address highway and RV noise. Regarding the
7 commencement of construction on 2400 South, Kohler indicated that the tentative verbal
8 agreement was to wait at least until Phases One and Two were completed. Paul Berg addressed
9 the Council to clarify the construction phases and timing of the project. Berg stated that the
10 expansion would be built in two phases, and an anticipated third overall phase would provide fire
11 access onto the road, if the Fire Marshall and the City felt it was necessary. Berg added that the
12 other provision they included in the letter was if the City were to obtain a right-of-way, or if it
13 was time for the road to extend to Highway 40 prior to the completion of the expansion, then
14 they would put the road in. Berg summarized their request, stating that the plan was to amend
15 the General Plan and the Zoning Map, then seek commercial concept approval, and lastly, final
16 approval.

17
18 Berg added that the RV Park owner and the City had previously entered discussions concerning
19 building apartments in the R-3 portion of the map, which provided for up to 132 apartment units
20 under the ordinance. He stated that in the year since the RV Park had opened, it had done well,
21 and was the only park in the state with a Good Sam "10-10-10" rating. Good Sam recommended
22 that the owners could probably double the size of the park and still sell out its spaces. Berg
23 added the RV Park had been a win for the owners and a win for the City. He pointed out that the
24 RV Park would not add traffic within Wheeler Park, and it would provide open spaces to buffer
25 the development. As to the Daniels residents, Berg stated it was difficult because they were
26 dealing with a City master planned road. During a meeting with the Daniels property owners, he
27 suggested that if their biggest concern was with the master planned road, then they should
28 approach the City and request that the City take it off the master plan, and he offered the
29 developer's support.

30
31 Mayor McDonald allowed Daniel residents to share some of their concerns. Pepi Kelman stated
32 that the map projected on the screen did not depict the current state of the development. People
33 already resided in areas that were not shown on the map. The two back lots would suffer the
34 most, and they would abut the collection road. Kelman added that there had been no traffic
35 studies conducted, and there was no plan for traffic flow. She expressed the residents' concern
36 for the noise and danger potential the road would bring. The road was currently being used for
37 construction traffic to the RV Park. Kelman stated that her property had been invaded, and her
38 fence was broken. She added that she went to the RV Park and observed mobile homes parking
39 there, which indicated it was no longer a camping place. Kelman stated that the RV property
40 was butting up against private homes, and she would like to see the RV area reduced and include
41 set backs on all sides from the residential area. Andrew Dedrickson, whose residence was
42 located on the park side, expressed his satisfaction in working with Millstream and Paul Berg.
43 He felt the agreement to purchase the property was the best use of the land and appreciated the
44 ability to buy 20 feet more. Dedrickson supported the approval of the zoning change. Pam
45 Skinner of Daniels Estates had lived there for 10 years, and was the longest resident there. The
46 RV Park would affect property values. Already she had observed people walking through her
47 property and she could already hear the noise from the current RV Park. If it were to be

1 expanded, the noise would increase. Skinner asked the Council to consider leaving the property
2 zoned R-1 as originally planned, because the change would definitely affect the value of their
3 property. Linda Harmond of Daniels Estates stated that she owned one of the lots to be impacted
4 most, and expressed her hope that the Council would consider how the RV development would
5 impact the Daniels Estates neighborhood.

6
7 Marianne Allen, who represented the property owners on 500 East, clarified that the price on the
8 land would go from \$5,900 to \$7,100, which was fair market value. The Residential Land
9 Purchase Agreements ("REPCs") would not be signed until after the zone change vote. She
10 expressed that they had a "gentleman's agreement," that everyone knew what they wanted to do,
11 but nothing was in writing yet, and added that everything had been negotiated in good faith. The
12 twelve affected property owners had comparative market analyses run and learned they would
13 realize an eight and one-half to ten percent drop in property value, and that was why they were
14 requesting the additional land as negotiated. Council Member Potter inquired about the price per
15 square foot for the land as cited in the letter and whether it was discounted. Allen responded the
16 resulting price was fair market value based on raw land. However, she stated that the property
17 owners were satisfied with the result of their negotiations. Regarding noise issues, Allen noted
18 that the developer worked with them to address their concerns and agreed to raise the vinyl fence
19 height and install landscaping, and added that the residents were appreciative of their efforts.

20
21 Berg stated that there were no long term stays or mobile homes at the resort, and in fact there
22 were some rules and restrictions in place prohibiting such use in Phase One that would carry over
23 to Phase Two. The maximum time someone could stay in the park was six months. The
24 developer made some improvements to the City infrastructure, such as the construction of a new
25 sewer line to the highway so commercial properties could access there instead of Wheeler Park,
26 which had potential capacity issues. Berg added that when the land price came up in one of their
27 initial meetings, they had heard \$7.50 per square foot, so they decided to set the price at \$3.00
28 per square foot, which seemed to have turned out to be fair market value.

29
30 Berg concluded by stating that the RV resort would have less than 100 new spaces. An
31 apartment complex could have 132 apartments which would impact the area more. He added that
32 the proposed RV resort would be better all around, as it would be seasonal, there would be more
33 landscaping, there would be a buffer, and it would include the 30-foot landscaping and dense
34 trees.

35
36 Council Member Potter presented a scenario whereby if a property owner had a complaint
37 concerning an RV Park visitor, they would contact the RV Park management, and the visitor
38 could be removed. She felt this scenario was a win when compared with a complaint concerning
39 an apartment resident. Berg agreed, and added they could also contact the police, but stated they
40 only had one police visit to the RV Park over the last summer.

41
42 Council Member Franco asked Berg to estimate the cost difference between a vinyl fence and a
43 cement fence for noise abatement. Berg estimated that it would probably double the cost, and
44 offered his opinion that the landscaping would be better, both visually and for noise impact
45 reduction. The collector road would include two things: the planter strip, which would be part
46 of the City right-of-way, and would be landscaped, then the fence, then there would be ten feet of
47 landscaping on their side, so it would look like a double row of trees with a fence in the middle.

1 Berg agreed with Franco's comment that it appeared there would be fewer trees along the
2 collector road, but said that could be modified. More trees along the Wheeler Park side were
3 proposed as part of their negotiations with the affected property owners. Council Member Franco
4 asked whether Berg would be willing to negotiate with Daniels property owners. Berg
5 responded that he was not certain what could be proposed with the Daniels owners and said the
6 main issue was the road. He also believed that any potential negotiations in light of the
7 comparatives and lower price, needed to be left between them and the property owners and not
8 involve a City Council decision, but said they'd be willing to talk with them. Franco felt they
9 needed to be exceedingly good neighbors with Daniels, and any more mitigation they could
10 provide on that side would be good business.

11
12 Anderson provided some feedback on the November 4 letter. He requested some further clarity
13 regarding item two, and Berg agreed that if items were missing, they would get together to
14 ensure everything was addressed. Anderson also asked for further clarity regarding maintenance
15 on the mow strip and who would be responsible for its maintenance. Further, Anderson felt they
16 needed to clarify the timing for the dedication of the right-of-way, which he thought was in
17 conjunction with either Phase Three or when the road was constructed, if sooner. Berg clarified
18 that in item one, when he noted they would dedicate the road, it would be in compliance with
19 item three, which included the two options mentioned by Anderson. Anderson also stated they
20 needed to confirm adequate capacity in the Wheeler Park storm drain. Berg stated that they had
21 the option to use part of the park area for retention.

22
23 Anderson offered his opinion that the offer to dedicate the right-of-way at no cost to the City and
24 to participate in the construction of the roadway is very generous and favorable for the City. He
25 added his recommendation, to which Berg agreed, that the conditions found in the November 4
26 letter be part of a conditional zone change, and as the development progressed, these items
27 would be locked down.

28
29 3. [Review Proposal to Amend the Heber City Zoning Map for 11.01 Acres of R-3
30 Residential Zone to C-2 Commercial Zone and 2.09 Acres R-1 Residential Zone to C-2
31 Commercial Zone Highway and 1.62 acres of R-1 Residential Zone in Future Collector
32 Road Right-of-Way to Remain as R-1 Located West of the Mountain Valley RV Resort,
33 Located at 2120 South Highway 40](#)

34
35 See discussion under Item 2.

36
37 With no further business, the meeting was adjourned.

38
39
40 _____
Allison Lutes, Deputy City Recorder

41
42
43
44

1 Heber City Corporation
2 City Council Meeting
3 November 6, 2014
4 7:00 p.m.

5
6 REGULAR MEETING
7

8 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on November 6,
9 2014, in the City Council Chambers in Heber City, Utah

10
11 I. Call to Order
12 **City Manager Memo**

13
14 Mayor McDonald opened the meeting and welcomed those in attendance.

15
16 Present: Mayor Alan McDonald
Council Member Robert Patterson
Council Member Jeffery Bradshaw
Council Member Erik Rowland
Council Member Heidi Franco
Council Member Kelleen Potter

Also Present: City Manager Mark Anderson
City Planner Tony Kohler
City Engineer Bart Mumford
Police Chief Dave Booth
City Deputy Recorder Allison Lutes

17 Others Present: Minod Kandar, Pam Skinner, Pepi Kelman, Linda Harmon, Paul Boyer, Wesley
18 Bingham, Mark Smedley, Marianne Allen, Ron Ririe, Tammy Thacker, Gabrielle Thacker,
19 Danny Thacker, Melaine Mainord, McKylee Mainord, Brandon Shopay, Ray Baeza, Jared
20 Rigby, Lisa Remund, Lynn Remund, Rachel Kahler, Mike Johnston, Gina Tuttle, Devin
21 McKrola, Cidnee Shopay, Jakob Kohler, Zac Webster, Isaac Ziereberg, Krew Rowland, Easton
22 Hall, Tanner Ritchie, Trevor Clyde, Bentley Rowland, Garrett Warbel, Wes Webster, Jeff Hill,
23 Rob Mills, Paul Cook, Doug Cook and others whose names were illegible.

24
25 II. **Pledge of Allegiance: Council Member Erik Rowland**

26
27 III. **Prayer/Thought: By Invitation (Default Heidi Franco)**

28
29 IV. **Minutes for Approval: October 16, 2014 Work and Regular Meetings**
30 **October 16, 2014 Work Meeting Minutes**
31 **October 16, 2014 Regular Meeting Minutes**
32

1 Council Member Heidi Franco moved to approve the Minutes for the October 16, 2014 Work
2 and Regular Meetings. Council Member Jeffery Bradshaw made the second.

3
4 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,
5 and Kelleen Potter.

6 7 V. Open Period for Public Comments

8
9 Mayor McDonald invited those wishing to address the Council to come forward.

10
11 Rachel Kayler submitted a petition requesting that the Council consider three options regarding
12 Main Street traffic in its upcoming discussion with UDOT: 1) Install a "Lower Your Speed" or
13 "Your Speed Is..." sign entering Heber City from the north on Highway 40 as well as at 600
14 South while entering the town from the South side. Kayler stated that the signs could be solar
15 powered, adding that she had seen a similar sign in Park City on Bonanza Drive; 2) consider
16 lowering the speed on Main Street by 5 miles; and 3) consider installing flashing yellow lights at
17 the cross walk at Dairy Keen and the Main Street Park. Kayler stressed that this would be
18 particularly important during the summer months, when residents and visitors would walk to and
19 from the park and the Farmers' Market, utilizing this crosswalk, one of the main crossings in the
20 City.

21
22 Mayor McDonald noted the presence of certain Boy Scouts in the audience and asked each to
23 stand up and introduce themselves. Each Scout stood and introduced themselves by name, age
24 and rank. Council Member Rowland thanked the Scout Leader for bringing the Scouts to the
25 meeting.

- 26
27 1. Mayor's Award-Recognizing Detective Ray Baeza, Detective Tammy Thacker, Officer
28 Eric Mainord, Officer Jared Rigby, and Sr. Officer Brandon Shopay for Outstanding
29 Service

30 31 Mayor's Award Recipients

32
33 Mayor McDonald recognized the above listed police officers for their outstanding service, and
34 invited Chief Booth to present the officers. Chief Booth related the stories pertaining to the
35 selection of each officer for their outstanding service, after which they were given a monetary
36 award from the City.

- 37
38 2. Approve Ichiban Sushi and Asian Bistro, Request for Local Consent to Sell Alcohol,
39 Located at 750 South Main Street
40 Ichiban Sushi Request for Local Consent

41
42 Mayor McDonald noted that with respect to this application, the background check resulted in a
43 favorable report, and all ordinances had been met.

44
45 Council Member Erik Rowland moved to approve the Ichiban Sushi and Asian Bistro, Request
46 for Local Consent to Sell Alcohol. Council Member Jeffery Bradshaw made the second.

1
2 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,
3 and Kelleen Potter.

4
5 3. Accept/Reject Annexation Petition for Sweat/Jeffer's Annexation, Containing 7.45 Acres,
6 Located at 2400 South Highway 40
7 Sweat/Jeffer's Annexation Petition

8
9 Kohler stated that the property was located on the corner of 2400 South and Highway 40, and
10 projected a map for the Council's reference. He noted that according to the City's General Plan,
11 the property was designated as part of the Business and Manufacturing Park Zone. Mayor
12 McDonald confirmed with Kohler that the application was simply to request that the petition go
13 to the Planning Commission, which would then make the recommendation as to whether the
14 property should come into the City and under what parameters.

15
16 Council Member Kelleen Potter moved to approve Annexation Petition for the Sweat/Jeffer's
17 Annexation, Containing 7.45 Acres, Located at 2400 South Highway 40. Council Member Erik
18 Rowland made the second.

19
20 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,
21 and Kelleen Potter.

22
23 4. Approve Subdivision Plat Amendment to the Valley Station Amended Plat which
24 amended Lots 10, 11, and 12 of Valley Station, Located at 1300 South Highway 189
25 Valley Station Subdivision Plat Amendment

26
27 Kohler summarized that the application related to three lots adjoining Highway 189 and
28 projected a map of the lots for the Council's reference. The application sought to combine Lots
29 10 and 11 and enlarge the adjoining lot. He added that the biggest issue was how to deal with
30 the existing water and sewer laterals, and pointed out an easement on the map for that purpose.
31 Kohler also stated that the Planning Commission recommended approving this petition. Kohler
32 confirmed for Council Member Franco that the setback from the highway was twenty feet.

33
34 Council Member Erik Rowland moved to approve the Subdivision Plat Amendment to the
35 Valley Station Amended Plat which amended Lots 10, 11, and 12 of Valley Station, Located at
36 1300 South Highway 189 Council Member Robert Patterson made the second.

37
38 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,
39 and Kelleen Potter.

40
41 5. Approve Heber Meadows Subdivision Phase 3, a 6 Lot Subdivision, located at
42 approximately 2880 South 1040 East
43 Heber Meadows Phase 3

1 Kohler reviewed the substance of the petition with the Council. The subdivision was located off
2 Mill Road and 3000 South. The southern road had been completed for five or six years. The
3 current proposal sought to plat the last six lots in the development.

4
5 Mumford noted for the record that this development was built pursuant to the standard in place at
6 the time. The City made an agreement with the developer concerning the water and sewer
7 services to the lots whereby if any homes had driveways over the water and sewer services, the
8 developer would need to upgrade them at their cost. If not, then it would be up to the City to
9 provide the upgrades at some point in the future.

10
11 Kohler confirmed that the lots were zoned R-1 and backed to Daniel. Council Member Franco
12 asked whether there were any concerns expressed by the Daniel neighbors concerning fencing or
13 other issues concerning those lots. Kohler responded that most of the lots in the phase were
14 bigger than the minimum 10,000 square feet, especially those that backed to Daniel Estates. He
15 added that the houses going in were better grade than the typical starter home. He explained
16 there were no common fences, and that property owners built them as needed. Anderson added
17 that all those issues were debated in 2007, and the rules of Wasatch County required property
18 owners to fence animals in.

19
20 Council Member Erik Rowland moved to approve the Heber Meadows Subdivision Phase 3, a 6
21 Lot Subdivision, located at approximately 2880 South 1040 East. Council Member Robert
22 Patterson made the second.

23
24 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,
25 and Kelleen Potter.

26
27 With no further business, the meeting was adjourned.
28
29
30

31 _____
Allison Lutes, Deputy City Recorder
32
33
34
35

TAB 3

Mark Anderson

From: Pam Skinner <sassypam@me.com>
Sent: Thursday, November 13, 2014 12:42 PM
To: erowland@ci.heber.ut.us; hfranco@ci.heber.ut.us; kpotter@ci.heber.ut.us; rpatterson@ci.heber.ut.us; jbradshaw@ci.heber.ut.us; amcdonald@ci.heber.ut.us; tkohler@ci.heber.ut.us; manderson@ci.heber.ut.us; chipturner@danielutah.org; Lynne Shindurling
Subject: proposed zone change for RV Park

All
When Daniel Utah became incorporated in 2006, many hours were spent to have a "buffer" between Heber City and Daniel. This was accomplished by having 1 acre lots on the north end of Daniel, to try and mitigate higher density zoning (Heber City) to RA-5 lots (Daniel). Now in 2014, we are running into proposed zoning changes that are trying to eliminate what was set up several years ago.
When we bought our home we were happy to know that others had thought through the "buffer" between "high density" and "commercial" that would fall against our RA-5 lots. In this spirit, you should maintain the previous zoning!!
In Heber City General Plan (July 3, 2003) there are 2 comments that I want to document for additional reasons to maintain the zoning between Daniel (north side) and proposed RV park.

OPEN SPACE

Vision

1. Heber City is committed to preserving open lands of regional and local significance. While the city is often viewed as the economic hub of the valley, Heber can also play a leading role in guiding the extent of and quality of open space preservation both within and adjacent to its current borders. Regionally significant locations include such features as the north and south fields, north and west of the city's borders, and several historic canals running through the city, which are slated to become key regional trail corridors. Hatch Springs and Red Ledges are among other notable spaces worth protection. While residents expect that real estate development will occur as population increases, they would like to see iconic open lands in the valley conserved for the enjoyment of future generations. In addition, residents envision open space amenities that are built into the fabric of urban neighborhoods that are developed, with such spaces as neighborhood squares, small play areas, and trails becoming form givers to new patterns of development even as the historic grid is largely maintained.

- I think this falls under your commitment to continue less density between Daniel (RA-5) and RV (commercial) area.

2. It is the intent of Heber City to maintain current zoning districts and expand into proposed annexation areas as established in the Annexation Policy Plan. unless they are proposed in a preferred development area and properly utilize city/county tools for obtaining increases in density. Rezone applications will only be contemplated where increased density is consistent with overall city goals as expressed in Heber's General Plan. Overall, keeping the zoning unchanged will preserve property rights while helping to maintain an open feel beyond current city boundaries.

-I don't think this needs any further clarification!

When I review the Heber City Zoning Map (June 2011) there is a strip of R-1 next to Daniel's border of RA-5 lots. This I believe should be maintained as a minimum buffer between the proposed RV park and Daniel. Obviously, a nice big buffer would be more ideal but at least sticking with the zoning map this should be the minimum!

I really would appreciate the council reviewing all information prior to making your decision on November 20th. I will be at the meeting for any and all feedback.

Sincerely,
Pam Skinner
2820 Ranch Drive

Heber City Council
Meeting date: November 20, 2014
Report by: Anthony L. Kohler

Re: General Plan Amendment and Zoning Change request for Heber Valley RV Park

GENERAL PLAN AMENDMENT

The petitioner is requesting an amendment to the General Plan to change 11.01 acres of High Density Residential to Highway Commercial and 2.09 acres of Low Density Residential to Highway Commercial.

ZONING MAP AMENDMENT

The petitioner is requesting an amendment to the Zoning Map to change 11.01 acres of R-3 Residential Zone to C-2 Commercial and 2.09 acres of R-1 Residential to C-2 Commercial.

ANALYSIS

Wheeler Road (2400 South), is identified as a future 72 foot wide Minor Collector Street with a future trail along the street. This future street traverses along the southern edge of the property and is intended to connect to Highway 40. The property located along Highway 40 is owned by a different property owner, the Sheltons. The city has an annexation agreement with that property owner that requires the dedication of 2400 South upon the city's request. Within Wheeler Park Subdivision, the street was dedicated at a width of 75 feet to accommodate wider sidewalks (5 feet) and landscaping along the street to implement the goal of the general plan to have a walking trail along 2400 South.

Two road stubs have been provided to the petitioner's property from the west within Wheeler Park Subdivision Phase 1 and 2, one at 2400 South, and one at 2110 South. 2110 South currently serves as a gated emergency access into the existing RV Park.

The General Plan identifies a strip of Low Density Residential along 2400 South, intended to establish a land use that is less intense as a transition into Daniels Town, which has two 5 acre lots in the Daniels Ranch Subdivision that would back up to the future 2400 South. The rear of 13 dwellings in the Wheeler Park Subdivision directly back up to the petitioner's property; these homes face 500 East.

The City's C-2 Design Criteria applies to any property that is Zoned C-2 Commercial. If the property is rezoned to the C-2 Commercial Zone, the applicable sections below would apply along the residential boundaries of Wheeler Park and Daniels Ranch Subdivisions. Chapter 18.96 "Recreational Vehicle Courts" would apply to the development of an RV Park on the property. That chapter prohibits an exit or entrance from a recreational vehicle court through a residential zone.

A development agreement exists between the petitioner and the city for development of the existing RV Park. At that time, the city expressed concern about not wanting the RV Park to migrate into a mobile home park, and the development agreement addresses that concern.

The Planning Commission held a public hearing on September 25, 2014. Comments from neighbors are shown in those attached minutes. Also attached is a letter from adjoining Daniel Town residents. The Planning Commission held a second public hearing on October 23, 2014 with additional public comments, and those minutes should be available next week for review.

RECOMMENDATION

On October 23, 2014, the Planning Commission recommended approval of the proposed amendment to the General Plan and Zone Map, conditional upon the attached Zone Change Agreement.

APPLICABLE CODES

C-2 & C-4 Design Criteria

Section 105: Residential Compatibility. Commercial development which adjoins residential zones or residential uses or is across the street from residential zones or uses shall give due consideration to site design that minimizes the impact of the commercial use on the residences. Loading zones, loading docks, utilities which create noise and vibration such as air conditioners, garbage bins, and other nuisance creating objects shall be setback from the residential property lines by at least fifteen feet (15'). Commercial lots adjoining residential zoned lots should be bounded with an eight foot (8') sight-obscuring fence of like materials and design of the building façade, and a six foot (6') landscaped area planted with dense evergreen shrubbery and/or evergreen trees along the residential lot lines (*See illustration detail C2B-3*). Rooftop utilities and antenna equipment shall be screened with parapet walls. Uses which emit noise, radiation, fumes, smoke, vapors or other deleterious effects shall be separated from residences by placing the use as far away from the residences as reasonably possible on the lot and preferably separated from the residences by another less intrusive commercial building or use.

SECTION 107 – PARKING INFRASTRUCTURE: Parking Lot Snow Storage and Removal: All parking lots shall be bounded along property lines and along street sidewalks with at least a ten foot landscaped area, bounded by curb, and containing shrubs, trees and landscaping or attractive stone. This landscaped area shall serve as a snow storage area along with ensuring that parked vehicles do not overhang onto the sidewalk or over property lines.

SECTION 109 – OUTDOOR STORAGE & TRASH ENCLOSURES: Trash Enclosures: All trash areas shall be screened on all four sides by 6' high walls and be hidden from public view. The walls shall be constructed of a similar material and style to compliment the main building architecture and details. Screened “gates” shall provide access to trash removal services. Trash enclosure location shall be located for convenient accessibility by trash removal services.

SECTION 202 – RIGHT of WAY LANDSCAPING: Planter strips shall be planted in grass and contain one street tree per 20 feet of street frontage. Choice of species for street trees must avoid evergreens, thorn and fruit bearing trees, and trees that grow large or have shallow roots. The trees may be clustered as appropriate but must be planted within the planter strip. Planter strips adjoining the streetscape may be broken up by periodic sections of pavers.

Chapter 18.96: Recreational Vehicle Courts

Section 18.96.010 Intent of Provisions.

The intent of this chapter is to promulgate minimum regulations which are designed to facilitate the development of safe and sanitary accommodations for short-term occupants. (Ord. 199 §02.1004.01, 1973)

Section 18.96.020 Permit and Plans Required.

Any person wishing to construct a recreational vehicle court shall prepare a plan therefor and submit the same to the planning and zoning administrator. Before a permit can be issued for any construction connected with a recreational vehicle court, the plans must be approved as set forth in this chapter. No construction connected with said vehicle court shall be commenced until a valid permit has been obtained therefor. (Ord. 199 §02.1004.02, 1973)

Section 18.96.030 Content of Plan.

The plan shall show the following information:

- A. The topography represented by contours shown at no greater intervals than two feet when required by the planning and zoning administrator;
- B. The proposed street and recreational vehicle court layout;
- C. Proposed reservations for parks, playgrounds and open spaces, if any;
- D. Size and character of service and recreation buildings and other structures associated with land and facilities to be used by the recreational vehicle court occupants;
- E. Proposed landscape planting plan, including type and location of plant material;
- F. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants and other improvements. (Ord. 199 §02.1004.03, 1973)

Section 18.96.040 Standards and Requirements.

The development of any recreational vehicle court shall conform to the following standards and requirements:

- A. The area shall be in one ownership and shall remain in one ownership and the same shall not be subdivided thereafter.;
- B. The plan must be prepared by an engineer, land surveyor, architect or landscape architect licensed to practice in the state;
- C. Yard Lighting. A minimum of two-tenths footcandles of light shall be required for protective yard lighting the full length of all driveways and walkways;
- D. All roadways shall be hard surfaced;
- E. All recreational vehicle courts shall abut upon a collector or arterial street as set forth in the comprehensive plan of the city;
- F. No exit or entrance from a recreational vehicle court shall be through a residential zone;
- G. All one-way roadways shall be at least sixteen feet in width and all two-way roadways shall be at least twenty-four feet in width;
- H. All recreational vehicle spaces shall be located at least twenty feet back from the right-of-way line of any public street and the resulting setback space must be landscaped with lawn and trees or shrubs as approved by the planning and zoning administrator except over permitted driveways;
- I. All areas within the court which are not occupied by buildings or hardsurfacing shall be landscaped and maintained with lawn, trees and shrubs designed to provide privacy and noise containment, and shall be equipped with adequate sprinkling devices as determined by the planning and zoning administrator;
- J. Each recreational vehicle space shall be at least twenty feet in width and at least forty feet in length;
- K. All recreational vehicles shall be served by a water system, a sewage disposal system and solid waste disposal facilities which have been approved by the State Health Department;
- L. All recreational vehicle courts shall be maintained in a tidy and sanitary condition, free at all times from debris, trash and deleterious objects and structures;
- M. Prerequisite to the occupancy of any recreational vehicle court shall be the obtaining of an annual license, which shall be issued only after inspection by the planning and zoning administrator. It shall be unlawful to operate a recreational vehicle court without first obtaining a license, and said license shall be refused or revoked upon failure of the owner and/or operator to maintain the park in accordance with the standards and requirements as set forth in this section;
- N. In addition to meeting the requirements of this section, all recreational vehicle courts shall also conform to the requirements set forth in the Code of Camp, Trailer Court, Hotel, Motel and Resort Sanitation Regulations, as adopted by the Utah State Board of Health. (Ord. 2000-21, 2000; Ord. 199 §02.1004.04, 1973) (2000-21, Amended, 08/17/2000)

ORDINANCE NO. 2014-21

AN ORDINANCE AMENDING HEBER CITY'S GENERAL PLAN

BE IT ORDAINED by the City Council of Heber City, Utah, that Heber City's Landuse Element of the General Plan be amended as shown in Exhibit 1.

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder and (c) a short summary of it has been published in the Wasatch Wave, but not prior to the _____ day of _____, 2014.

ADOPTED and PASSED by the City Council of Heber City, Utah this _____ day of _____, 2014, by the following vote:

	AYE	NAY
Council Member Robert L. Patterson	_____	_____
Council Member Jeffery Bradshaw	_____	_____
Council Member Erik Rowland	_____	_____
Council Member Heidi Franco	_____	_____
Council Member Kelleen Potter	_____	_____

APPROVED:

Mayor Alan W. McDonald

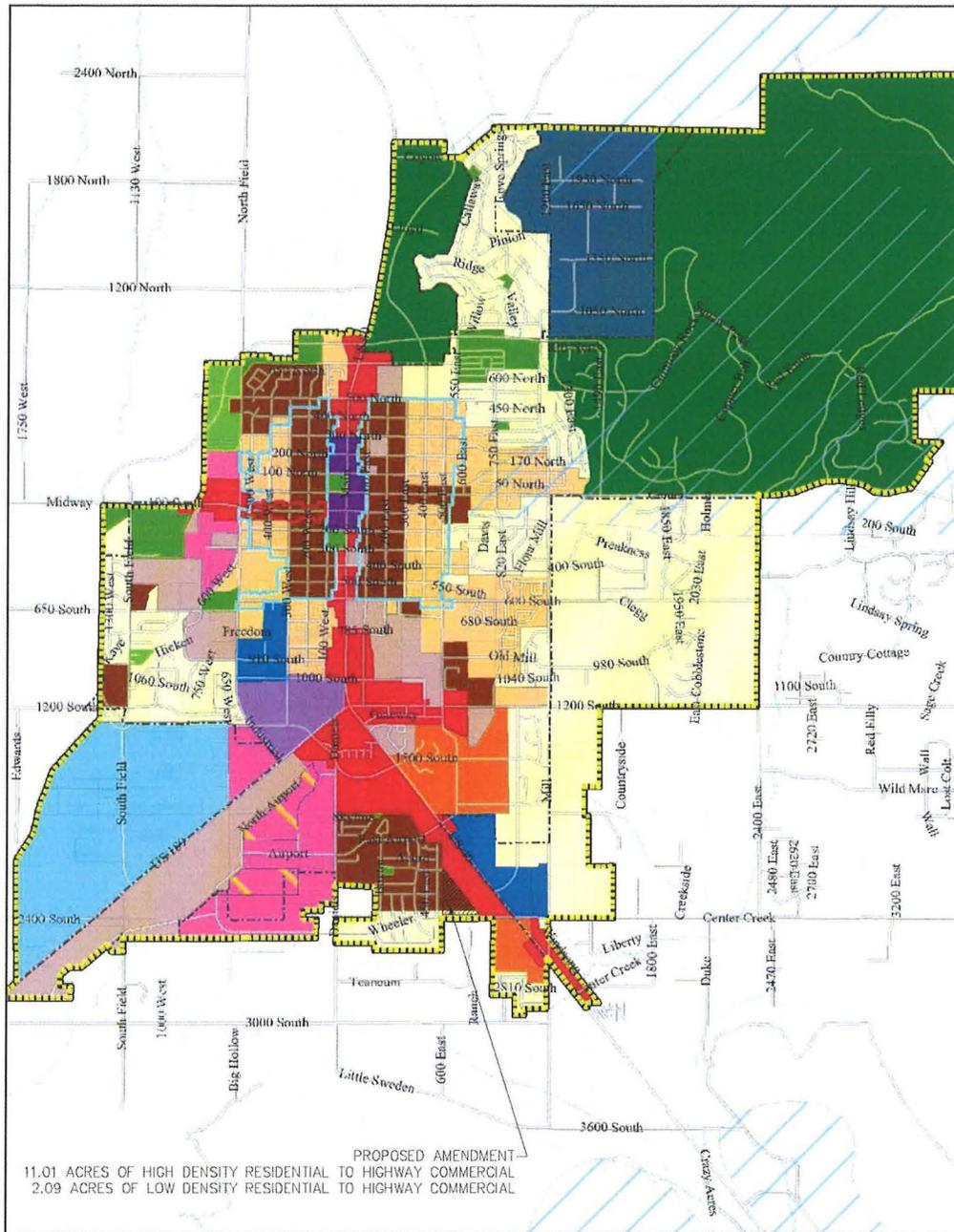
ATTEST:

RECORDER

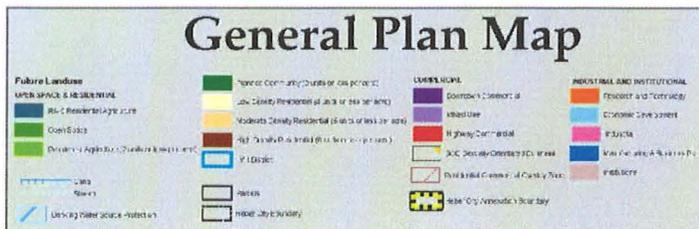
Date of First Publishing: _____

EXHIBIT 1: GENERAL PLAN LANDUSE AMENDMENT

HEBER CITY GENERAL PLAN MAP
PROPOSED AMENDMENT



Heber City General Plan Map



PROPOSED AMENDMENT TO GENERAL PLAN

EXHIBIT 1

Printed:
December 1, 2009



ZONE CHANGE AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
MOUNTAIN VALLEY RV PARK

THIS AGREEMENT is entered into this _____ day of _____, 2014, by and between Heber City (the “City”) and Millstream (the “Developer”).

WHEREAS, the Developer has proposed a zone change for certain property located in the City from Low Density Residential to Highway Commercial;

WHEREAS, the Developer has proposed a concept plan for the expansion of the Mountain Valley RV Park.

NOW THEREFORE, the Parties hereby agree as follows:

1. **2400 South Dedication.** Developer will dedicate land and construct 2400 South as outlined within Berg Engineering’s letter dated November 4, 2014, as specified in Exhibit 4. Prior to constructing the road, Developer will provide City a copy of bid for review and approval as outlined in the letter.
2. **Planter Strip Landscaping and Maintenance.** Developer will landscape and maintain the planter strip along the north side of 2400 South.
3. **RV Park Use.** In the event the property is utilized as an RV Park, the following shall apply:
 - a. **Western Property Line Development.** In the event that the 20 foot strip of property along the western property edge is sold to adjoining property owners, development along the revised property line shall follow Option C as outlined within Berg Engineering’s letter dated October 20, 2014, as shown in Exhibit 3. Option C requires the proposed zone boundary to be moved 20 feet to the east. If the property sale does not occur, development along the property line shall follow Option B, as outlined within Berg Engineering’s letter dated October 20, 2014, as shown in Exhibit 3. In either case, the area of said property line development shall be planted with a mixture of evergreen trees and deciduous trees, with at least one 8-foot tall evergreen tree planted for each 20 feet on average.
 - b. **Southern Property Line Development.** Along the northern edge of the future 2400 South, an eight-foot tall sight-obscuring fence shall be constructed. At least 10 feet of landscaping shall be provided as shown on the concept plan planted with a mixture of evergreen and aspen trees, with at least 3 feet of landscaping located between the fence and the sidewalk. No RV pad or recreation area shall be placed closer than 40 feet to the northern edge of the future 2400 South as shown on the proposed concept. The area shall be planted with a mixture of evergreen trees and deciduous trees, with at least one 8-foot tall evergreen tree planted for each 20 feet on average.
 - c. **Lighting.** No lighting shall shine onto adjoining properties or into the sky.
 - d. **Noise.** No generators will be permitted to be operated within the park.

- e. **Access.** Access onto 2400 South and 2110 South shall be prohibited, with the exception of a gated secondary access into the RV Park, as may be required by the Fire Department.
 - f. **Open Space and Recreation Area.** Open space and amenities shall be provided for its occupants similar to that shown in the proposed concept plan shown in Exhibit 1, including a Clubhouse, Dog Park, Pavilion, Trail, and open landscaped areas.
 - g. **Visitation.** The intent of the RV Park is for short term and seasonal recreational visitors. Stays longer than 6 months are prohibited pursuant to this Ordinance and per the management and operations plans for the RV Park, violation of either may include revocation of the park business license.
 - h. **Onsite Management.** Petitioner will provide an onsite manager for the RV Park. The manager will have a full time residence living quarters in the upstairs of the office / recreation center building. In addition to the onsite manager, petitioner will also have 24 hour on call property management service available for the RV Park.
 - i. **Trash bin.** The existing trash bin shall be screened with 4 screening walls as required by Section 109 of the C-2 & C-4 Design criteria.
4. This Agreement shall be signed and recorded at the Wasatch County Recorder's Office prior to signing of the Zone Change Ordinance by the Heber City Mayor. This Agreement shall be effective as long as the property is developed and maintained as a commercial land use.
 5. This Agreement 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. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.
 6. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest.
 7. In the event there is a failure to perform under this Agreement and it becomes reasonably necessary for either party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable costs and expenses as are incurred in enforcing this Agreement.

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 _____, 2014.

HEBER CITY:

By: _____
Alan McDonald, Mayor

ATTEST:

Heber City Recorder

Millstream, Developer:

By: _____

STATE OF UTAH)

: ss.

COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Mountain Valley RV Park and executed the same as such.

NOTARY PUBLIC

EXHIBIT 2: LEGAL DESCRIPTION

PROPERTY SERIAL: OHE-1689-0-008-045
OHE-1688-0-008-045

Excepting the western 20 feet of the following described property:

PARCEL 1:

BEGINNING AT A POINT 100 RODS WEST OF THE SOUTHEAST CORNER OF SECTION 8, IN TOWNSHIP 4 SOUTH OF RANGE 5 EAST OF THE SALT LAKE MERIDIAN; AND RUNNING THENCE WEST 20 RODS; THENCE NORTH 80 RODS; THENCE EAST 6.10 RODS; THENCE SOUTH 37°50' EAST 22.66 RODS; THENCE SOUTH 62.11 RODS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION OF THE ABOVE LEGAL THAT MAY LIE WITHIN THE BOUNDARIES OF U.S. HIGHWAY 40.

PARCEL 2:

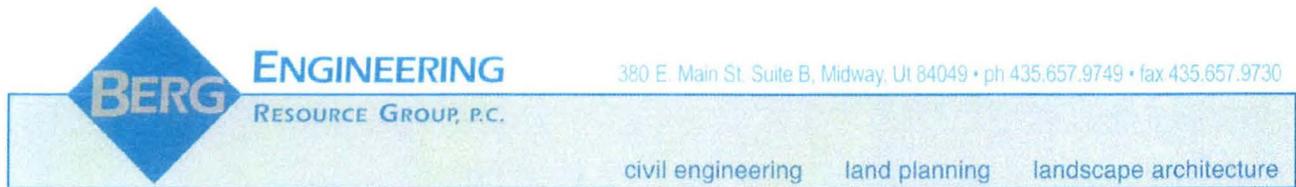
BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 8, IN TOWNSHIP 4 SOUTH OF RANGE 5 EAST OF THE SALT LAKE MERIDIAN; AND RUNNING THENCE EAST 10 CHAINS; THENCE NORTH 20 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 20 CHAINS TO THE PLACE OF BEGINNING.

LESS AND EXCEPTING THAT PORTION OF GROUND CONVEYED BY THAT CERTAIN BOUNDARY LINE AGREEMENT RECORDED SEPTEMBER 28, 2006 AS ENTRY NO. 308337 IN BOOK 895 AT PAGE 47 OF OFFICIAL RECORDS.

ALSO LESS AND EXCEPTING THAT PORTION OF GROUND CONVEYED BY THAT CERTAIN BOUNDARY LINE AGREEMENT RECORDED SEPTEMBER 11, 2007 AS ENTRY NO. 325804 IN BOOK 949 AT PAGE 1098 OF OFFICIAL RECORDS.

Subject to easements, restrictions and rights of way appearing of record or enforceable in law and equity and general property taxes for the year **2014** and thereafter.

EXHIBIT 3: DEVELOPMENT PROPOSAL



October 20, 2014

Tony Kohler
Heber City Planner
75 North Main
Heber City, Utah 84032

Re: Mountain Valley RV Resort Expansion
Proposal to Wheeler Park Properties

Dear Tony:

The following options have been offered to the Wheeler Park property owners that are adjacent to the proposed Mountain Valley RV Resort expansion. This proposal has been extended after meetings and phone calls with representatives of the property owners. A decision from the property owners is expected prior to the Planning Commission. If no decision is reached, we request that the Planning Commission consider Option A as they make a recommendation regarding the proposed zone change and general plan amendment.

Option A - 40' Setback

1. Provide a 40 foot setback from the existing property line with Wheeler Park to nearest RV pad or building.
2. Install an 8 foot solid vinyl fence on top of a 2 foot concrete retaining wall at the existing property line.
3. Install a berm with evergreen and aspen trees along the RV Resort side of the fence.
4. Relocate the trash dumpster, pavilions, fire pits and restroom buildings as shown on the revised concept plan.

Option B - 10' Land Gift and a 30' Setback

1. Gift 10 feet of land to the Wheeler Park lots adjacent to the RV Resort. Wheeler Park lot owners are responsible for the plat amendment and costs to include the land gift into their lot.
2. Provide a 30 foot setback from new property line to nearest RV pad or building.
3. Install an 8 foot solid vinyl fence on top of a 2 foot concrete retaining wall at the new property line.
4. Install a berm with evergreen and aspen trees along the RV Resort side of the fence.
5. Relocate the trash dumpster, pavilions, fire pits and restroom buildings as shown on the revised concept plan.

Option C - 20' Property Purchase and a 30' Setback

1. Allow Wheeler Park lot owners to purchase 20 feet of property at a discounted rate of \$3/sf (Wheeler Park owners valued their land at \$7/sf). Wheeler Park lot owners are responsible for the plat amendment and costs to include the purchase into their parcel. The entire property line shall be moved 20 feet or this option will be null and void. Wheeler Park lot owners shall place the funds to purchase the 20 foot strip of property in escrow by December 30, 2014 or this option is null and void.
2. Provide a 30 foot setback from the new property line to nearest RV pad or building.
3. Install an 8 foot solid vinyl fence on top of a 2 foot concrete retaining wall at the new property line.
4. Install a berm with evergreen and aspen trees along the RV Resort side of the fence.
5. Relocate the trash dumpster, pavilions, fire pits and restroom buildings as shown on the revised concept plan.

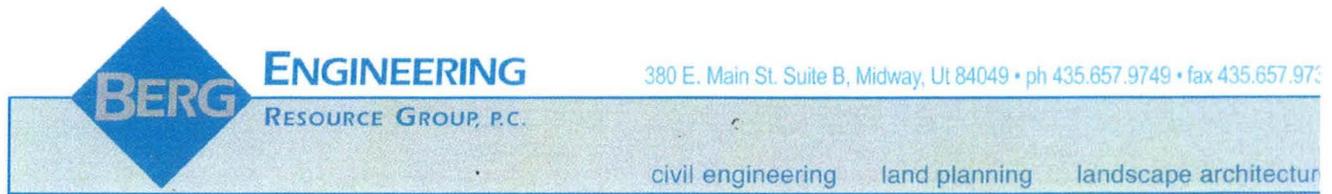
If you have any questions regarding the proposed options offer to Wheeler Park please call me at (435) 657-9749.

Respectfully,

A handwritten signature in blue ink that reads "Paul Berg". The signature is written in a cursive, flowing style.

Paul Berg, P.E.

EXHIBIT 4: 2400 SOUTH



November 4, 2014

Tony Kohler
Heber City Planner
75 North Main Street
Heber City, Utah 84032

Re: Mountain Valley RV Resort Expansion
2400 South Road Improvement Proposal

Dear Tony:

Representatives from Heber City and the Mountain Valley RV Resort met on November 3, 2014 to discuss the proposed resort expansion and the construction of 2400 South Street. Provided below is a summary of the road improvement proposal presented at the meeting.

1. The Mountain Valley RV Resort will dedicate a 72 foot right-of-way to Heber City for 2400 South Street along its southern property line. The road right-of-way will be dedicated to Heber City with construction of the roadway as outlined in Item 3.
2. The Mountain Valley RV Resort will participate in forty percent (40%) of the road construction costs for a local 36 foot wide road. Sewer, culinary water and pressurized irrigation improvements are already installed in the proposed road. Anticipated improvements include a 44 foot wide asphalt collector road, curb, gutter, sidewalk, storm drain, power for street lights and landscaping on the north side of road. Heber City is responsible for the 60% of the costs for the local road and the cost to upgrade the road to a collector road standard.
3. The portion of 2400 South Street adjacent to the Mountain Valley RV Resort will be constructed when one of the following occurs:
 - a. The segment of road between the Mountain Valley RV Resort and Highway 40 is under construction. Heber City shall notify the Mountain Valley RV Resort six (6) months prior to the beginning of construction for this segment of road.
 - b. As a condition of approval for the final phase of the Mountain Valley RV Park expansion, construction of 2400 South will be completed with the construction of the final phase of the RV Resort expansion.

4. The Mountain Valley RV Resort shall construct 2400 South Street. Heber City shall approve the bid amount for the road construction from the Mountain Valley RV Resort.
 - A construction and cost sharing agreement between Heber City and the Mountain Valley RV Resort will be completed prior to the commencement of work on the road.

We have appreciate working with Heber City on the proposed expansion of the Mountain Valley RV Resort. If you have any questions regarding the proposal to construct 2400 South Street, please call me at (435) 657-9749.

Respectfully,

A handwritten signature in blue ink that reads "Paul Berg". The signature is written in a cursive, flowing style.

Paul Berg, P.E.

TAB 4

ORDINANCE NO. 2014-22

AN ORDINANCE AMENDING HEBER CITY'S ZONING MAP.

BE IT ORDAINED by the City Council of Heber City, Utah, that property as described within Exhibit 2 be rezoned to C-2 Commercial as shown on Exhibit 1.

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder and (c) a short summary of it has been published in the Wasatch Wave, but not prior to the _____ day of _____, 2014.

ADOPTED and PASSED by the City Council of Heber City, Utah this _____ day of _____, 2014, by the following vote:

	AYE	NAY
Council Member Robert L. Patterson	_____	_____
Council Member Jeffery Bradshaw	_____	_____
Council Member Erik Rowland	_____	_____
Council Member Heidi Franco	_____	_____
Council Member Kelleen Potter	_____	_____

APPROVED:

Mayor Alan W. McDonald

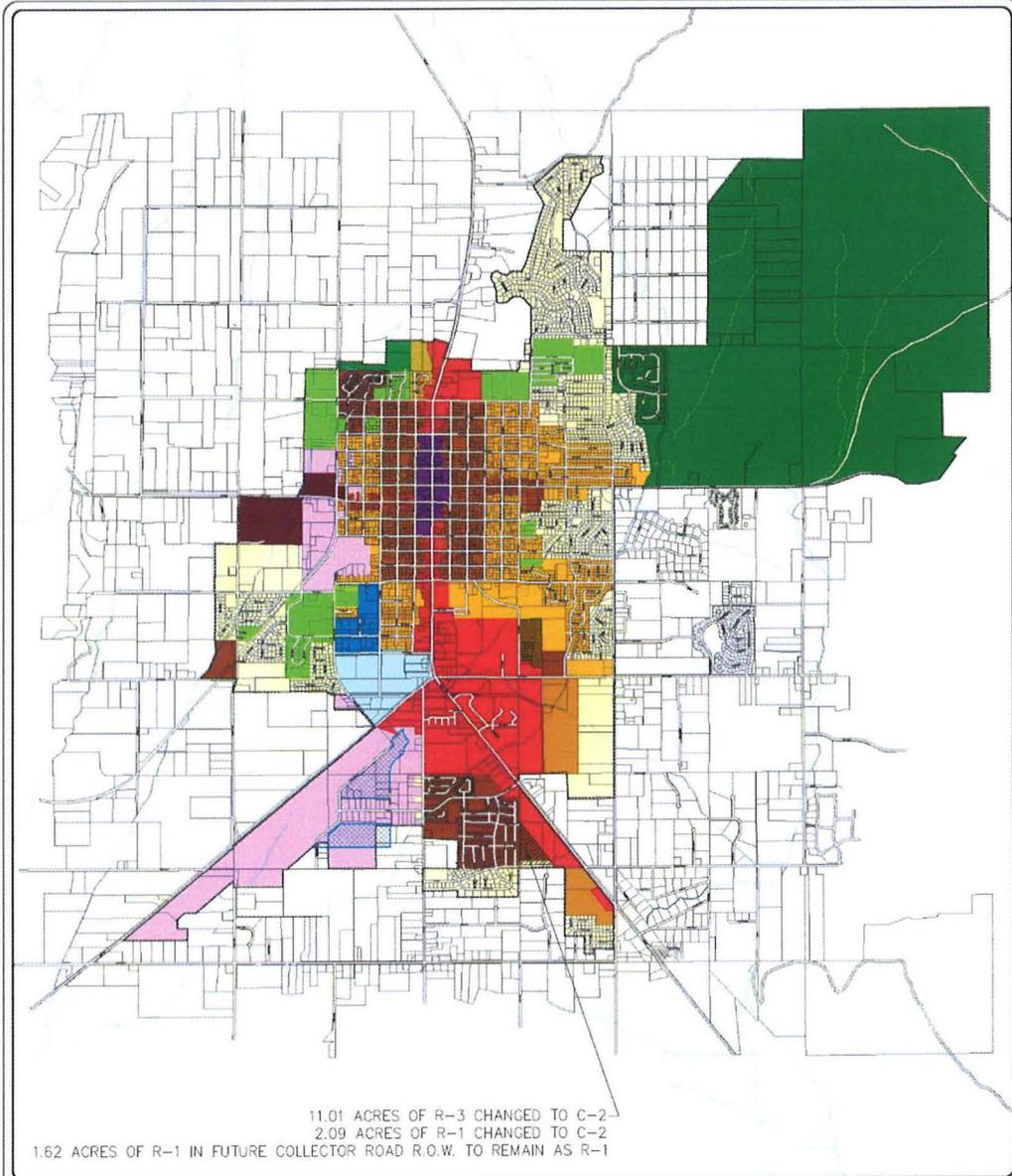
ATTEST:

RECORDER

Date of First Publishing: _____

EXHIBIT 1: ZONE MAP AMENDMENT

HEBER CITY ZONING MAP PROPOSED AMENDMENT



 PROPOSED REZONE TO C-2

EXHIBIT 2



Legend

Zoning	
	A-2 Agriculture
	AAOZ Accessory Apartment Overlay
	C-2 Commercial
	C-3 Commercial
	C-4 Commercial
	CMP Corporate Medical Park
	COSZ Clustered Open Space Overlay Zone
	I-1 Industrial
	M&BP Manufacturing & Business Park
	MURCZ Mixed Use Residential Commercial Zone
	NIOZ Neighborhood Infill Overlay Zone
	PC Planned Community
	R-1 Residential
	R-2 Residential
	R-3 Residential
	RA-2 Residential Agriculture
	RC Residential Commercial Overlay Zone
	SOB Sexually Oriented Business Zone

EXHIBIT 2: LEGAL DESCRIPTION

Excepting the western 20 feet of the following described property:

PARCEL 1:

BEGINNING AT A POINT 100 RODS WEST OF THE SOUTHEAST CORNER OF SECTION 8, IN TOWNSHIP 4 SOUTH OF RANGE 5 EAST OF THE SALT LAKE MERIDIAN; AND RUNNING THENCE WEST 20 RODS; THENCE NORTH 80 RODS; THENCE EAST 6.10 RODS; THENCE SOUTH 37°50' EAST 22.66 RODS; THENCE SOUTH 62.11 RODS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION OF THE ABOVE LEGAL THAT MAY LIE WITHIN THE BOUNDARIES OF U.S. HIGHWAY 40.

PARCEL 2:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 8, IN TOWNSHIP 4 SOUTH OF RANGE 5 EAST OF THE SALT LAKE MERIDIAN; AND RUNNING THENCE EAST 10 CHAINS; THENCE NORTH 20 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 20 CHAINS TO THE PLACE OF BEGINNING.

LESS AND EXCEPTING THAT PORTION OF GROUND CONVEYED BY THAT CERTAIN BOUNDARY LINE AGREEMENT RECORDED SEPTEMBER 28, 2006 AS ENTRY NO. 308337 IN BOOK 895 AT PAGE 47 OF OFFICIAL RECORDS.

ALSO LESS AND EXCEPTING THAT PORTION OF GROUND CONVEYED BY THAT CERTAIN BOUNDARY LINE AGREEMENT RECORDED SEPTEMBER 11, 2007 AS ENTRY NO. 325804 IN BOOK 949 AT PAGE 1098 OF OFFICIAL RECORDS.

Subject to easements, restrictions and rights of way appearing of record or enforceable in law and equity and general property taxes for the year **2014** and thereafter.

TAB 5

Heber City Council
Report by: Anthony L. Kohler
Meeting date: October 16, 2014

Re: Ordinance Vacating Lot 34 of Valley Hills Plat C

The Valley Heights Subdivision currently being considered by the city is located within the Public Facilities Area (aka Lot 34) of the Valley Hills Plat C Subdivision. The existing lot must be abandoned through an ordinance by the City Council before the new subdivision plats for Valley Heights Plat A and Plat B can be recorded at the Wasatch County Recorder's Office.

Utah State Code 10-9a-609 (3)

A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county record's office an ordinance describing the subdivision or the portion being vacated.

ORDINANCE NO. 2014-23

AN ORDINANCE ABANDONING LOT 34 OF THE VALLEY HILLS PLAT C SUBDIVISION.

BE IT ORDAINED by the City Council of Heber City, Utah, that pursuant to Utah State Code, Section 10-9a-609 (3), Lot 34 of the Valley Hills Plat C Subdivision is hereby abandoned.

Any subdivision requirements, development agreements, and obligations applicable to the development of Lot 34 of the Valley Hills Plat C Subdivision shall remain in full force and effect.

Legal Description: Public Facilities Area 34, Located in Valley Hills Subdivision, Plat C. Valley Station Subdivision

Tax ID Number: OHE-1186-7-032-035

This Ordinance shall take effect and be in force from and after its adoption.

ADOPTED and PASSED by the City Council of Heber City, Utah this ____ day of _____, 2014, by the following vote:

	AYE	NAY
Council Member Robert L. Patterson	_____	_____
Council Member Jeffery Bradshaw	_____	_____
Council Member Erik Rowland	_____	_____
Council Member Heidi Franco	_____	_____
Council Member Kelleen Potter	_____	_____

APPROVED:

Mayor Alan McDonald

ATTEST:

RECORDER

Date of First Publishing:

TAB 6

HEBER CITY COUNCIL

Staff Report by: Anthony L. Kohler

Meeting Date: November 20, 2014

Item: Valley Heights Subdivision

The petitioner is requesting Final Approval of the proposed Valley Heights Subdivision, a Single Family Home development consisting of 28 lots in the R-1 Residential Zone at approximately 1050 North Mill Road.

The proposed plan has common area to be maintained by a Home Owner's Association. Valley Heights Drive and Valley Heights Circle have grades that are at the maximum 10 percent allowed by the code. There will be a large cut into the hillside to accommodate the cul-de-sac (Valley Heights Circle), and a large fill along the curve on Valley Heights Boulevard. Valley Heights Circle will be constructed and dedicated as part of Plat A to provide access to Lot 24. The developer is acquiring land from the Jenkins family on the east corner of 1050 North and Mill Road to accommodate a full road to back of curb, minus sidewalk and planter strip. The developer is proposing offsite sidewalk on the west side of Mill Road to Valley Hills Drive to provide a connection for pedestrians from the subdivision, south to Valley Hills Drive, and east across Mill Road to the existing sidewalk.

The storm water basin should decrease drainage issues onto Valley Hills Boulevard, as it will stop most uphill drainage for small storm events; large storm events will still drain onto Valley Hills Boulevard and then into the canal to the south west. Sewer, pressurized irrigation, and culinary water will be provided to the small cul-de-sac through common area to Valley Hills Boulevard. Pressurized Irrigation is not available yet, unless a pump is provided at the canal or a major feed line is extended to the subdivision. Adequate culinary water pressure cannot be provided to Plat B until a water main is constructed through the Stone Creek/Red Ledges property to this area.

A geotechnical evaluation indicates shallow solid bedrock and expansive clay soils may exist on the site, and recommends that GSH, the Geotechnical Engineer, be consulted at the time of construction to verify suitable subgrade conditions have been exposed.

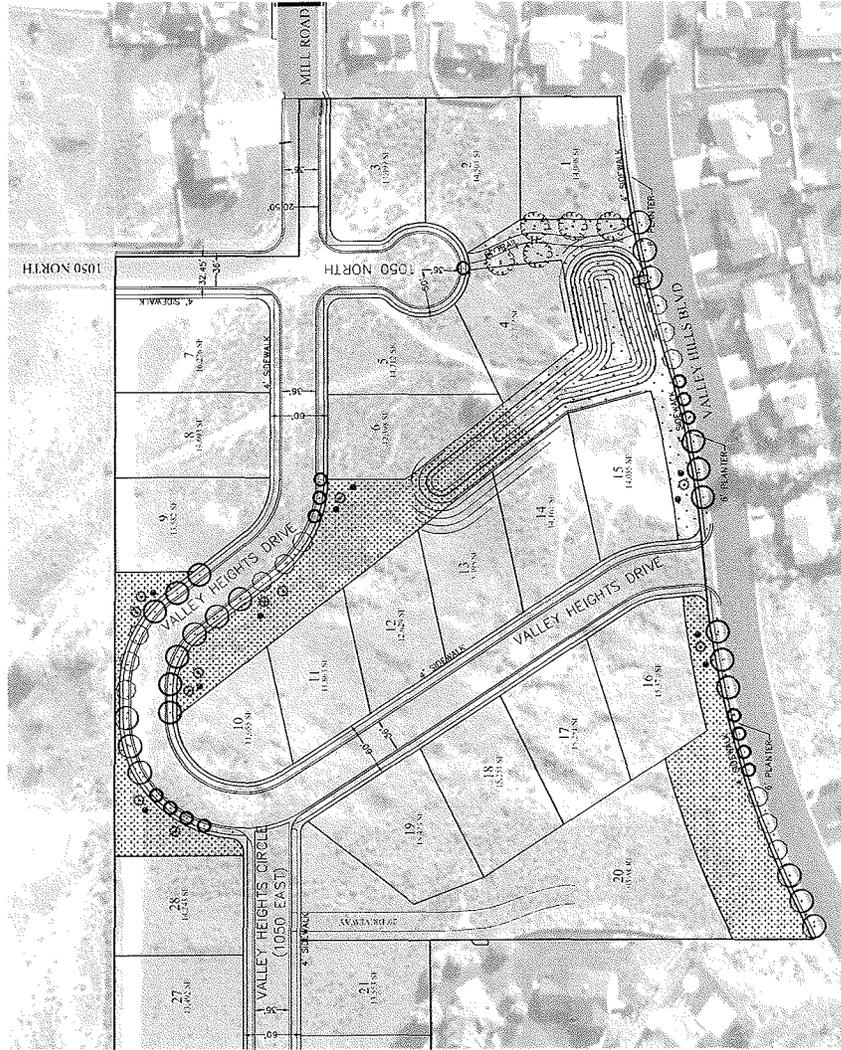
RECOMMENDATION

The Planning Commission approved the concept plan on April 24, 2014. The preliminary plan was approved by the Planning Commission on May 8, 2014, subject to conditional approval.

The proposed subdivision is located within an existing subdivision lot, Lot 34 of Valley Hills Estates Plat C. During the Planning Commission approvals, the petitioner committed to surrounding neighbors to establish restrictive covenants similar to those existing in Valley Hills Estates Plat C, especially relating to building size and building height.

On September 25, 2014, the Planning Commission recommended approval of the proposed final subdivision application as consistent with Chapter 18.52 R-1 Residential Zone, Chapter 17.20.030 Final Plans, and Chapter 17.40 Improvements, Chapter 17.28 Block Design Standards, Section 18.68.175 Open Space, and the Anderson Annexation Agreement, conditional upon the following conditions:

1. A development agreement be implemented as shown; and
2. Prior to recording the plat, developer provide the following:
 - a) An updated title report;
 - b) A vicinity map on Plat A.
 - c) A tax clearance from county assessor;
 - d) Right of way widths on each plat;
 - e) A street name for the small cul-de-sac; and
 - f) Final addresses on each of the plats.



PLANT SCHEDULE

TREES	QTY	COMMON NAME / BOTANICAL NAME	CONT	CAL	SIZE
	12	Alumina Purple Ash - <i>Fraxinus americana</i> Autumn Purple	3 & 8	2' Cal	2' Cal
	5	Green Ash / <i>Fraxinus pennsylvanica</i>	3 & 8	2' Cal	2' Cal
	16	Japanese Pagoda Tree / <i>Schubertiana palmata</i> Spring Pink	3 & 8	2' Cal	2' Cal
	12	Japanese Pagoda Tree / <i>Schubertiana palmata</i>	3 & 8	2' Cal	2' Cal
	12	L. Honey Locust / <i>Leucaena glauca</i>	3 & 8	2' Cal	2' Cal
EVERGREEN TREES	QTY	COMMON NAME / BOTANICAL NAME	CONT	CAL	SIZE
	11	Bluen Blue Spruce / <i>Picea pungens</i> Golden Globe	3 & 8	6" x 3	6" x 3
	10	White Blue Spruce / <i>Picea pungens</i> Golden Globe	3 & 8	6" x 3	6" x 3
GROUND COVERS	QTY	COMMON NAME / BOTANICAL NAME	CONT	CAL	SIZE
	34,595 sq ft	Kentucky Bluegrass / <i>Poa pratensis</i>	34,595	1/2"	5'
	16,542 sq ft	Blue Cranes / <i>Yucca glauca</i> Mx	16,542	1/2"	5'

NOTES:
 1. All trees to be planted in 12" x 12" holes.
 2. All trees to be planted in 12" x 12" holes.
 3. All trees to be planted in 12" x 12" holes.
 4. All trees to be planted in 12" x 12" holes.



ALL DIMENSIONS IN FEET UNLESS OTHERWISE NOTED.
 ALL DIMENSIONS TO FACE UNLESS OTHERWISE NOTED.
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MILLSIDE PROPERTIES
 VALLEY HEIGHTS SUBDIVISION
 LANDSCAPE PLAN

berg
 ARCHITECTS

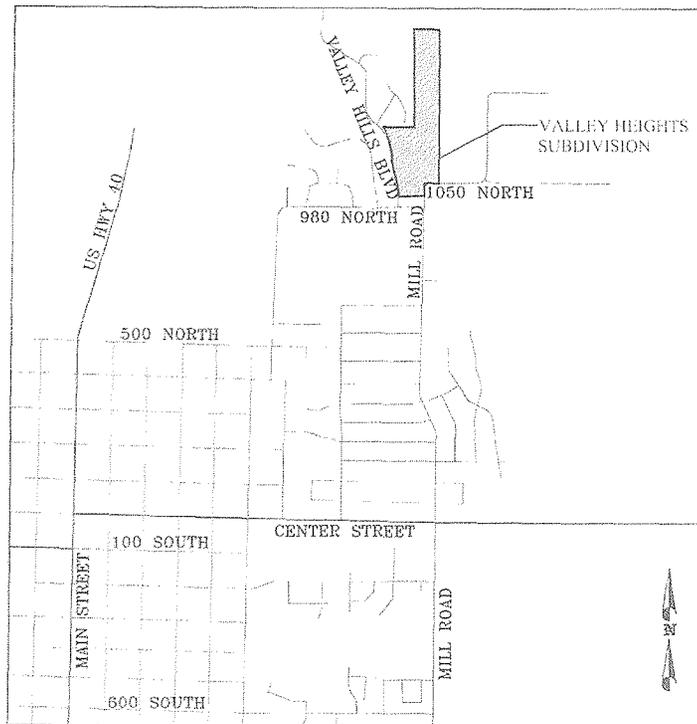
1000 N. BROADWAY, SUITE 100
 METairie, LA 70002
 PHONE: 504.885.9999
 FAX: 504.885.9999

DATE: 08/11/17
 DRAWING NO: 17-01-01
 SHEET NO: 32

VALLEY HEIGHTS SUBDIVISION

FINAL APPLICATION

SHEET INDEX



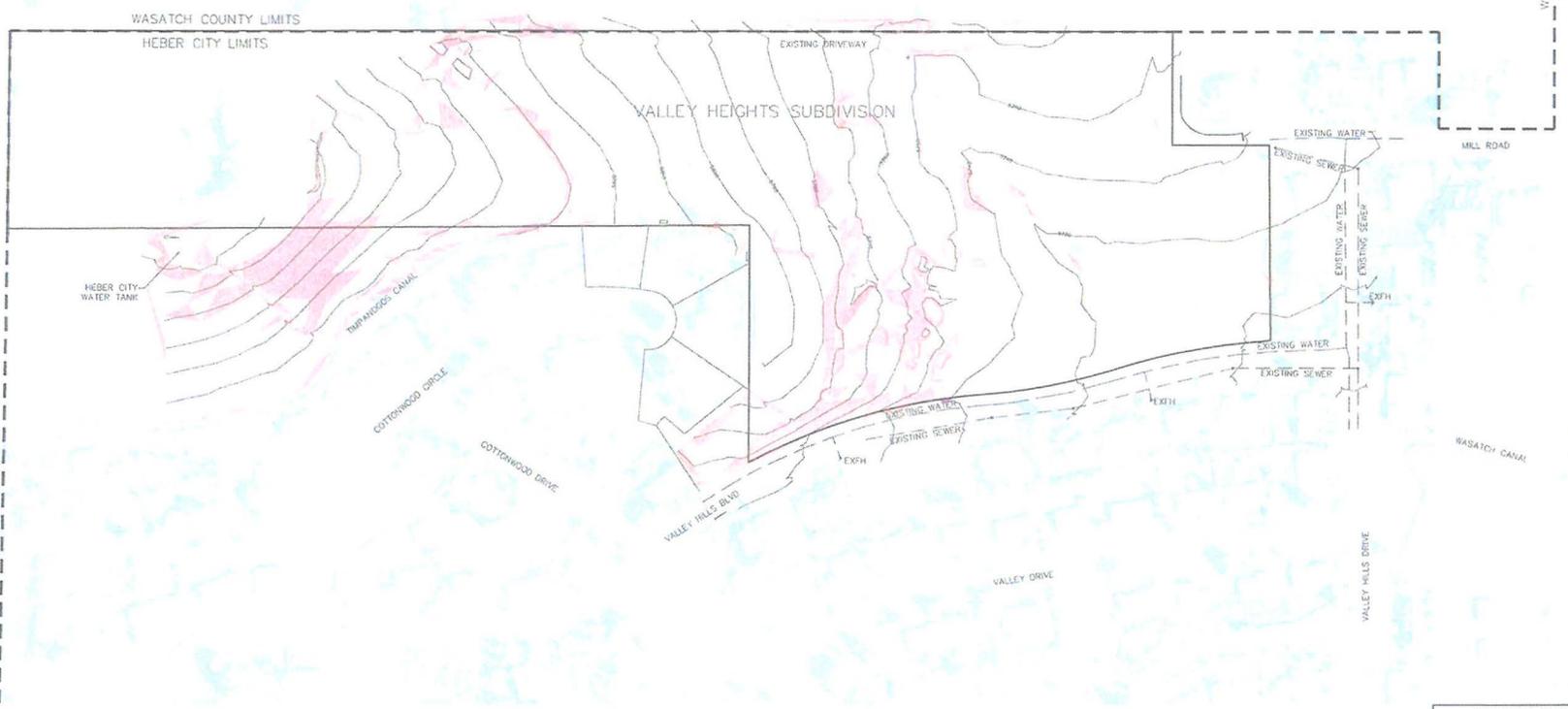
VICINITY MAP

1. VICINITY MAP
2. EXISTING CONDITIONS MAP
3. MASTER PLAN
4. VALLEY HEIGHTS SUBDIVISION PHASE 1 PLAT
5. VALLEY HEIGHTS SUBDIVISION PHASE 2 PLAT
6. VALLEY HEIGHTS DRIVE PLAN & PROFILE STA 0+00 - 10+00
7. VALLEY HEIGHTS DRIVE PLAN & PROFILE STA 10+00 - 12+85.01
8. VALLEY HEIGHTS CIRCLE PLAN & PROFILE
9. 1050 NORTH PLAN & PROFILE
10. MILL ROAD PLAN & PROFILE
11. VALLEY HILLS BLVD SIDEWALK IMPROVEMENTS
12. ROAD CONSTRUCTION DETAILS
13. GRADING PLAN
14. UTILITY PLAN
15. VALLEY HEIGHTS DRIVE SEWER PLAN & PROFILE STA 0+00 - 10+00
16. VALLEY HEIGHTS DRIVE SEWER PLAN & PROFILE STA 10+00 - 12+85.01
17. VALLEY HEIGHTS CIRCLE SEWER PLAN & PROFILE
18. 1050 NORTH SEWER PLAN & PROFILE
19. SEWER CONSTRUCTION DETAILS
20. WATER AND IRRIGATION PLAN
21. CULINARY WATER DETAILS
22. PRESSURIZED IRRIGATION DETAILS
23. STORM DRAIN PLAN
24. VALLEY HEIGHTS DRIVE STORM DRAIN PLAN & PROFILE STA 0+00 - 10+00
25. VALLEY HEIGHTS DRIVE STORM DRAIN PLAN & PROFILE STA 10+00 - 12+85.01
26. 1050 NORTH STORM DRAIN PLAN & PROFILE
27. STORM DRAIN CONSTRUCTION DETAILS - SHEET 1
28. STORM DRAIN CONSTRUCTION DETAILS - SHEET 2
29. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)
30. STREET LIGHTING & TRAFFIC SIGNAGE PLAN
31. ROAD RIGHT-OF-WAY ACQUISITION FROM JENKINS

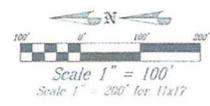
THIS DOCUMENT IS PRELIMINARY
AND IS RELEASED UNOFFICIALLY
FOR INFORMATION ONLY. IT IS
NOT BEING FOR CONSTRUCTION
PURPOSES OR SHALL BE USED.

DATE: 08/28/2014
DRAWN BY: J. J. JONES
CHECKED BY: J. J. JONES

MILL STREET AND PROPERTIES	
VALLEY HEIGHTS SUBDIVISION	
COVER SHEET	
	
Resouner Group, P.C. 3007 Main St. Suite 100 Ridgely, GA 30077 PH: (404) 652-2742	
DESIGNED BY: PROJECT NO.: 140	DATE: 08/28/2014 SHEET: 0

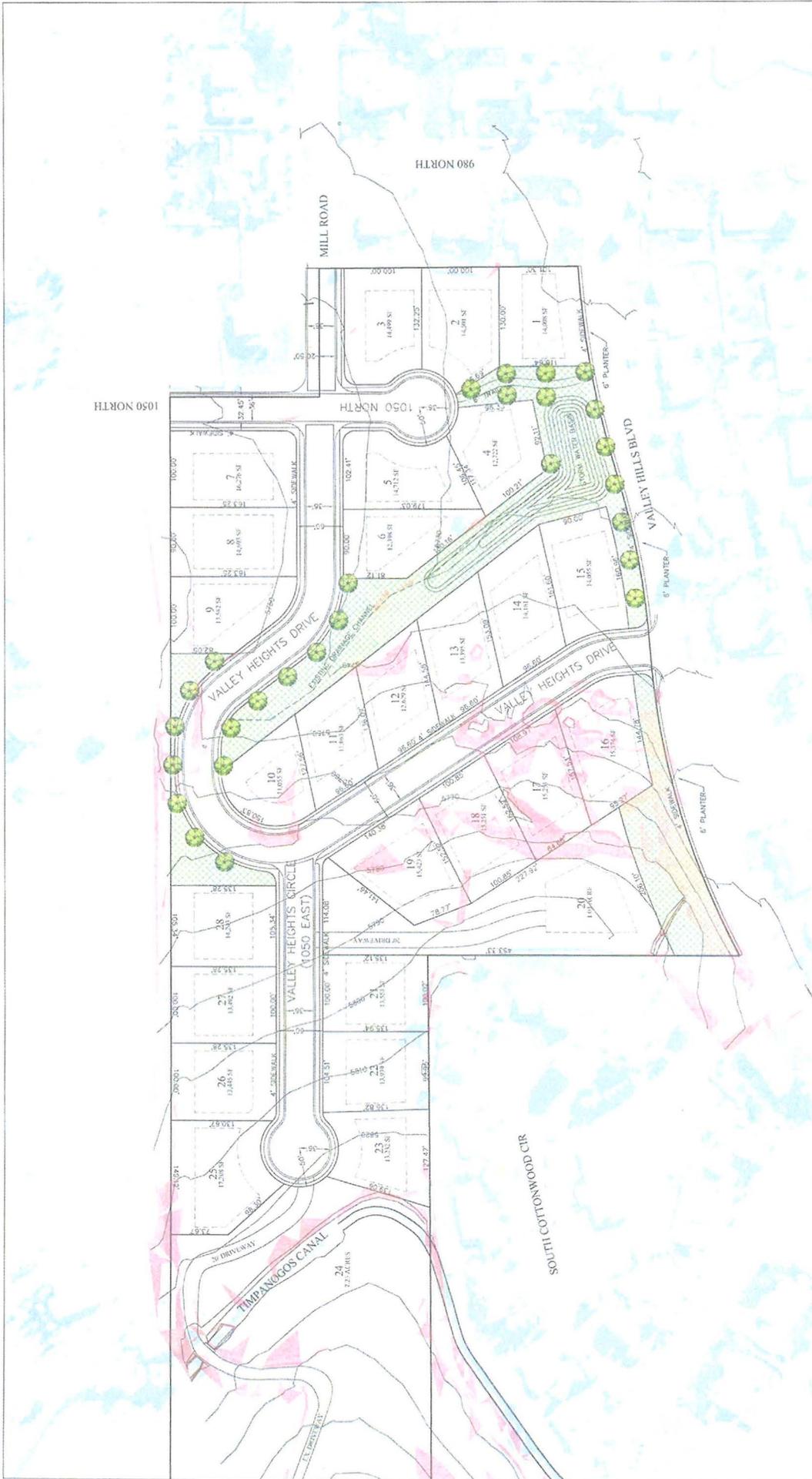


LEGEND
 SLOPES 25% OR GREATER



THIS DOCUMENT IS INCOMPLETE AND IS RELEASED TEMPORARILY FOR INTERIM REVIEW ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION, RECORDING, OR PLANNING PURPOSES.
 PAUL D. BIRCH P.E.
 SERIAL NO. 202552
 DATE 28 AUG 2014

MILLSTREAM PROPERTIES	
VALLEY HEIGHTS SUBDIVISION	
EXISTING CONDITIONS MAP	
RESOURCE GROUP, P.C. 380 E MAIN ST. SUITE 204 PROVO, UT 84601 PH: (435) 657-9749	
DESIGN BY: PDB	DATE: 28 AUG 2014
DRAWN BY: CNB	REV: 2



MILLSTREAM PROPERTIES
VALLEY HEIGHTS SUBDIVISION

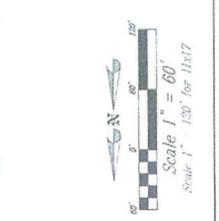
MASTER PLAN

BERG ENGINEERING
 Resource Group P.C.
 10000 N. 10th Ave., Suite 204
 Denver, CO 80231
 PH: 303.555.9999

DENVER, CO PER DATE: 23 AUG 2014
 DRAWN BY: CMB REV: 3

THIS PLAN IS A PRELIMINARY
 AND IS NOT TO BE USED FOR
 CONSTRUCTION OR FOR ANY
 OTHER PURPOSES WITHOUT THE
 WRITTEN CONSENT OF BERG
 ENGINEERING.

SCALE: 1" = 120' for 1st 17'
 SCALE: 1" = 200' for 2nd 28'



LEGEND

LAND USE ZONES:
 R-1 RESIDENTIAL
 28 LOTS
 1.05 ACRES (9.05A)
 PHASING:
 PHASE 1
 PHASE 2

LOT 1-19
 LOT 20-28

SLOPES 25% OR GREATER
 OPEN SPACE
 PROPOSED INLETS

ACCESS EASEMENT FOR W/PT TO ACCESS TAMPAGOGOS CANAL
 -LOT 24 DRIVEWAY IS AN ACCESS EASEMENT FOR NEIGH CITY TO ACCESS WATER BANK
 -LOT 24 DRIVEWAY IS AN ACCESS EASEMENT FOR NEIGH CITY TO ACCESS WATER BANK



RESIDENTIAL LOCAL

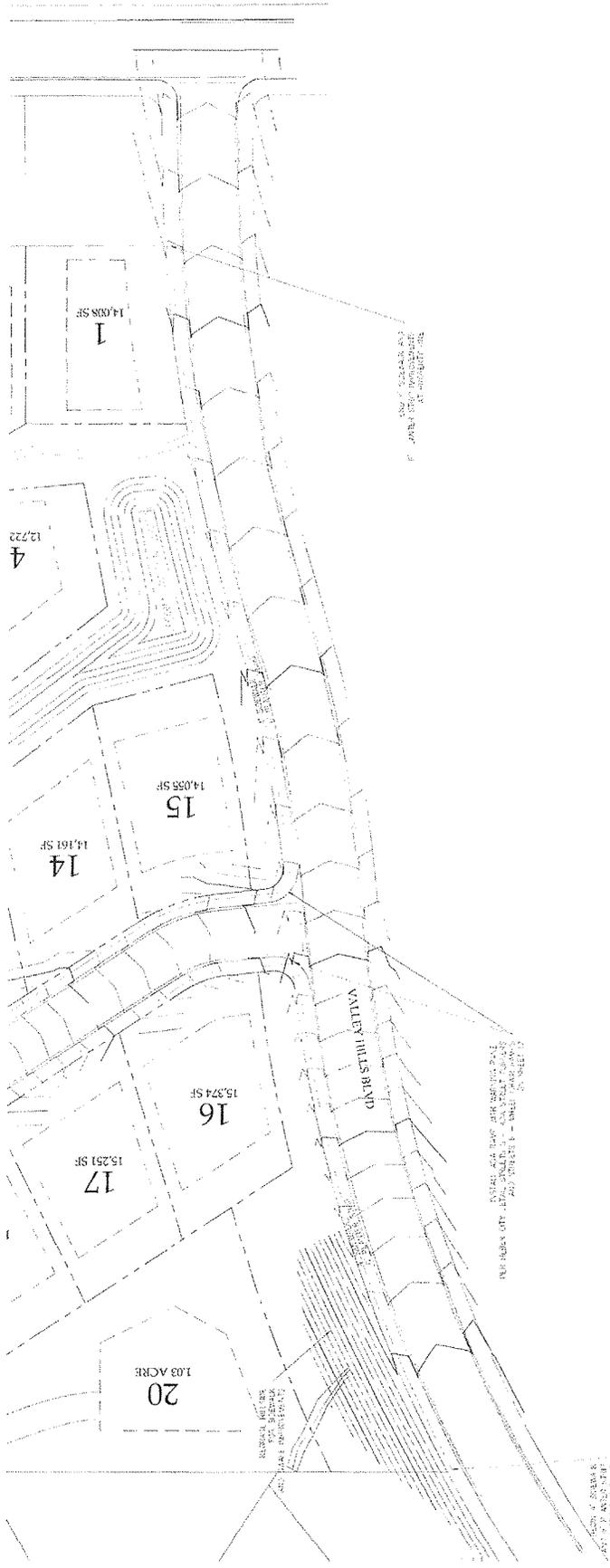
STANDARD CHANGING

NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

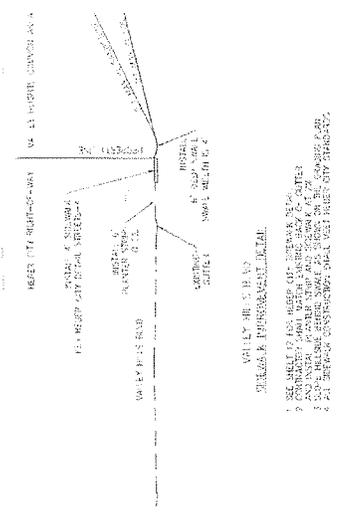


Scale 1" = 40'

Sheet 1 of 66 for 11.177



THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT. THE LOCAL GOVERNMENT SHALL HAVE THE FINAL SAY IN THE MATTER OF THE PLAN'S APPROVAL. THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION OF ANY STRUCTURE OR IMPROVEMENT WITHOUT THE WRITTEN APPROVAL OF THE LOCAL GOVERNMENT.



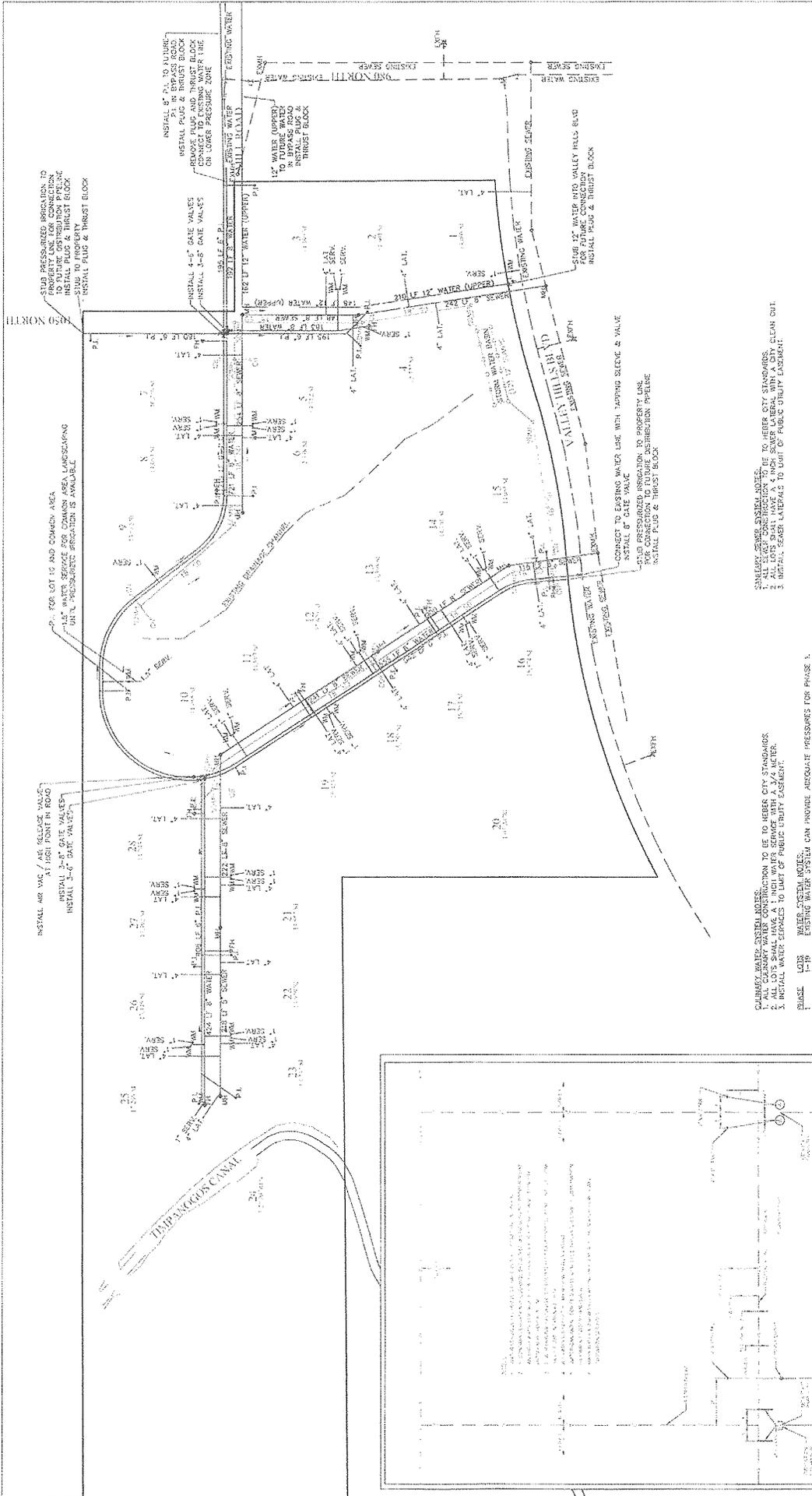
THE APPROVAL OF THIS PLAN IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT. THE LOCAL GOVERNMENT SHALL HAVE THE FINAL SAY IN THE MATTER OF THE PLAN'S APPROVAL. THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION OF ANY STRUCTURE OR IMPROVEMENT WITHOUT THE WRITTEN APPROVAL OF THE LOCAL GOVERNMENT.

MILLSTREAM PROPERTIES
 VALLEY HEIGHTS SUBDIVISION
 VALLEY HILLS BLVD.
 SIDEWALK IMPROVEMENTS

BERG
 ENGINEERING
 PROJECT GROUP PC
 390 FARMER'S BLVD., SUITE 204
 WILSON, N.C. 27157
 PHONE: 704.261.1111
 FAX: 704.261.1112

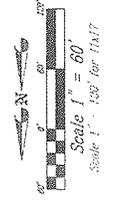
DESIGNED BY: RAY S. GILGON
 DRAWN BY: RBY

SHEET 11



WHESTER ENGINEERING
 VALLEY HEIGHTS SUBDIVISION
 UTILITY PLAN

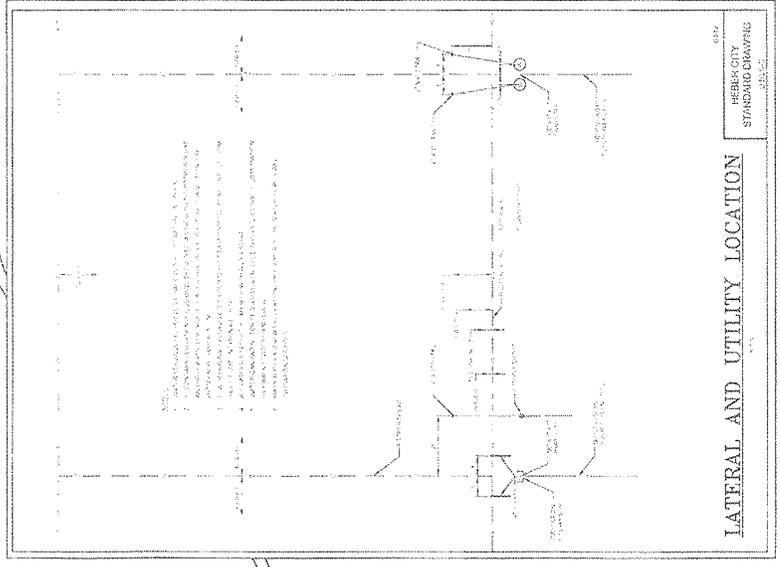
THE ENGINEER'S OFFICE
 1000 N. 10TH ST.
 DENVER, CO 80202
 PHONE: 303.733.1111
 FAX: 303.733.1112
 WWW: WWW.WHESTER.COM



- GENERAL NOTES:**
1. ALL CONSTRUCTION TO BE TO HEER CITY STANDARDS.
 2. ALL LOTS SHALL HAVE A 1" HIGH IRIGATION SERVICE.
 3. METAL SEWER LATERALS TO LIMIT OF PUBLIC UTILITY CURBLINE.

- WATER SYSTEM NOTES:**
1. EXISTING WATER SYSTEM CAN ONLY PROVIDE TO PHASE 2 WHICH IS ADEQUATE FOR FIRE PROTECTION BUT NOT FOR TYPICAL HOUSEHOLD USES. CONNECTION TO THE UPPER PRESSURE ZONE WILL BE AVAILABLE ONCE THE WATER PHASE 2 MUST BE ON UPPER PRESSURE ZONE BEFORE PLAT IS RECORDED.
 2. ALL OF THE SUBDIVISION TO BE ON THE UPPER PRESSURE ZONE ONCE AVAILABLE.

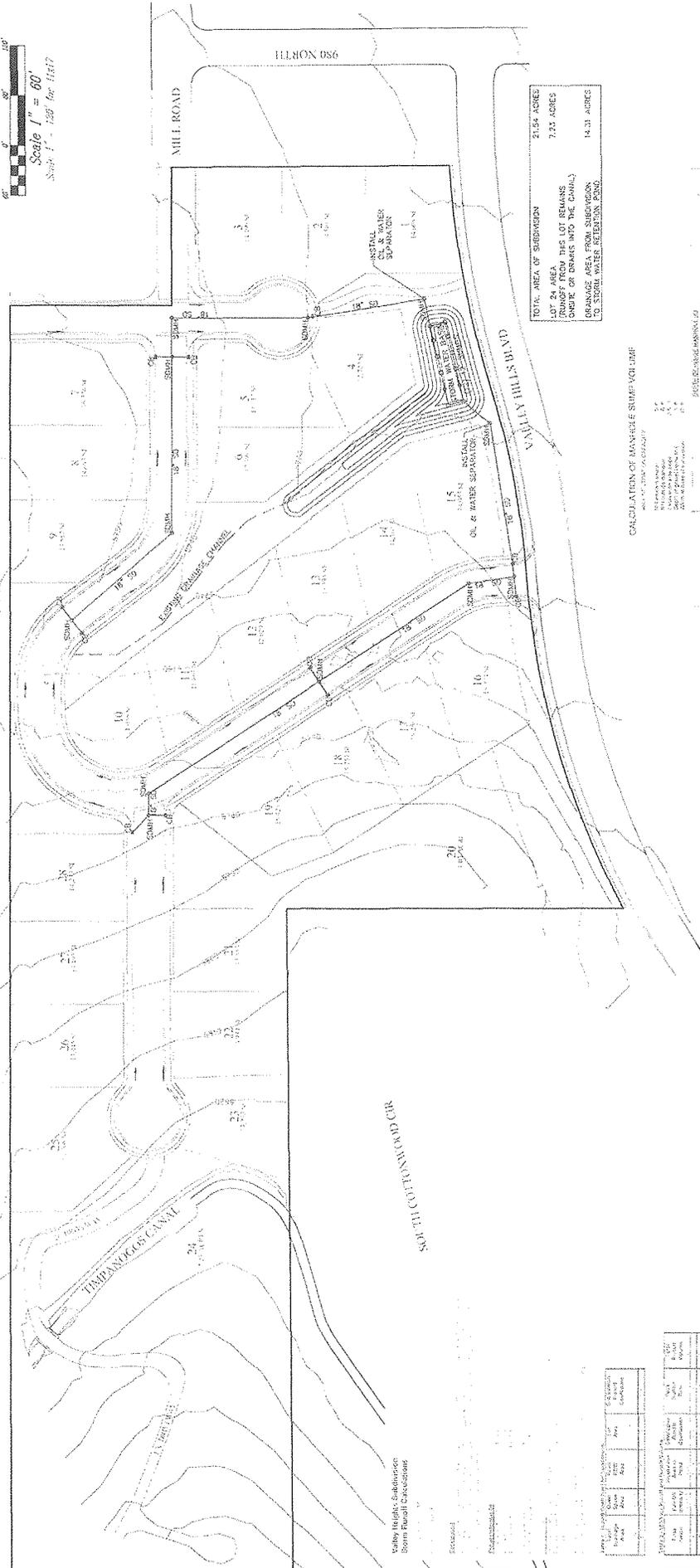
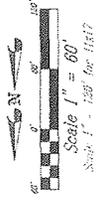
- PRESSURIZED IRRIGATION NOTES:**
1. ALL PRESSURIZED IRRIGATION CONSTRUCTION TO BE TO HEER CITY STANDARDS.
 2. ALL LOTS SHALL HAVE A 1" HIGH IRRIGATION SERVICE.
 3. METAL SEWER LATERALS TO BE INSTALLED SO THAT SERVICE IS AVAILABLE ONCE DISTRIBUTION LINES TO THE SUBDIVISION ARE CONSTRUCTED.



LATERAL AND UTILITY LOCATION

HEER CITY STANDARDS

1050 NORTH



TOTAL AREA OF SUBDIVISION 21.54 ACRES
 LOT 24 AREA (RUNOFF FROM THIS LOT REMAINS ON SITE OR DRAINS INTO THE CANAL) 7.22 ACRES
 DRAINAGE AREA FROM SUBDIVISION TO STORM WATER RETENTION POND 14.31 ACRES

CALCULATION OF MANHOLE SUMMIT VOLUMES

MANHOLE NO.	MANHOLE ELEVATION	MANHOLE TYPE	MANHOLE VOLUME (CU FT)	MANHOLE VOLUME (CU YD)
1	10.00	18" DIA	1.00	0.04
2	10.00	18" DIA	1.00	0.04
3	10.00	18" DIA	1.00	0.04
4	10.00	18" DIA	1.00	0.04
5	10.00	18" DIA	1.00	0.04
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98	10.00	18" DIA	1.00	0.04
99	10.00	18" DIA	1.00	0.04
100	10.00	18" DIA	1.00	0.04

MILSBY CAMPBELL
 VALLEY HEIGHTS SUBDIVISION
 STORM DRAIN PLAN

BEIG
 ENGINEERING
 ROBERT G. BEIG, P.E.
 10000 N. 100TH ST., SUITE 100
 EDMONTON, ALBERTA T5A 1K6
 TEL: 780.443.2222
 FAX: 780.443.2222

DATE: 20.09.2014

PROJECT NO.: 14-01
 SHEET NO.: 23

Valley Heights Subdivision
 Storm Drainage Calculations

Prepared by: [Name]
 Checked by: [Name]
 Date: [Date]

Manhole No.	Manhole Elevation	Manhole Type	Manhole Volume (CU FT)	Manhole Volume (CU YD)
1	10.00	18" DIA	1.00	0.04
2	10.00	18" DIA	1.00	0.04
3	10.00	18" DIA	1.00	0.04
4	10.00	18" DIA	1.00	0.04
5	10.00	18" DIA	1.00	0.04
6	10.00	18" DIA	1.00	0.04
7	10.00	18" DIA	1.00	0.04
8	10.00	18" DIA	1.00	0.04
9	10.00	18" DIA	1.00	0.04
10	10.00	18" DIA	1.00	0.04
11	10.00	18" DIA	1.00	0.04
12	10.00	18" DIA	1.00	0.04
13	10.00	18" DIA	1.00	0.04
14	10.00	18" DIA	1.00	0.04
15	10.00	18" DIA	1.00	0.04
16	10.00	18" DIA	1.00	0.04
17	10.00	18" DIA	1.00	0.04
18	10.00	18" DIA	1.00	0.04
19	10.00	18" DIA	1.00	0.04
20	10.00	18" DIA	1.00	0.04
21	10.00	18" DIA	1.00	0.04
22	10.00	18" DIA	1.00	0.04
23	10.00	18" DIA	1.00	0.04
24	10.00	18" DIA	1.00	0.04
25	10.00	18" DIA	1.00	0.04
26	10.00	18" DIA	1.00	0.04
27	10.00	18" DIA	1.00	0.04
28	10.00	18" DIA	1.00	0.04
29	10.00	18" DIA	1.00	0.04
30	10.00	18" DIA	1.00	0.04
31	10.00	18" DIA	1.00	0.04
32	10.00	18" DIA	1.00	0.04
33	10.00	18" DIA	1.00	0.04
34	10.00	18" DIA	1.00	0.04
35	10.00	18" DIA	1.00	0.04
36	10.00	18" DIA	1.00	0.04
37	10.00	18" DIA	1.00	0.04
38	10.00	18" DIA	1.00	0.04
39	10.00	18" DIA	1.00	0.04
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52	10.00	18" DIA	1.00	0.04
53	10.00	18" DIA	1.00	0.04
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55	10.00	18" DIA	1.00	0.04
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57	10.00	18" DIA	1.00	0.04
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61	10.00	18" DIA	1.00	0.04
62	10.00	18" DIA	1.00	0.04
63	10.00	18" DIA	1.00	0.04
64	10.00	18" DIA	1.00	0.04
65	10.00	18" DIA	1.00	0.04
66	10.00	18" DIA	1.00	0.04
67	10.00	18" DIA	1.00	0.04
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69	10.00	18" DIA	1.00	0.04
70	10.00	18" DIA	1.00	0.04
71	10.00	18" DIA	1.00	0.04
72	10.00	18" DIA	1.00	0.04
73	10.00	18" DIA	1.00	0.04
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75	10.00	18" DIA	1.00	0.04
76	10.00	18" DIA	1.00	0.04
77	10.00	18" DIA	1.00	0.04
78	10.00	18" DIA	1.00	0.04
79	10.00	18" DIA	1.00	0.04
80	10.00	18" DIA	1.00	0.04
81	10.00	18" DIA	1.00	0.04
82	10.00	18" DIA	1.00	0.04
83	10.00	18" DIA	1.00	0.04
84	10.00	18" DIA	1.00	0.04
85	10.00	18" DIA	1.00	0.04
86	10.00	18" DIA	1.00	0.04
87	10.00	18" DIA	1.00	0.04
88	10.00	18" DIA	1.00	0.04
89	10.00	18" DIA	1.00	0.04
90	10.00	18" DIA	1.00	0.04
91	10.00	18" DIA	1.00	0.04
92	10.00	18" DIA	1.00	0.04
93	10.00	18" DIA	1.00	0.04
94	10.00	18" DIA	1.00	0.04
95	10.00	18" DIA	1.00	0.04
96	10.00	18" DIA	1.00	0.04
97	10.00	18" DIA	1.00	0.04
98	10.00	18" DIA	1.00	0.04
99	10.00	18" DIA	1.00	0.04
100	10.00	18" DIA	1.00	0.04

1180N NORTH



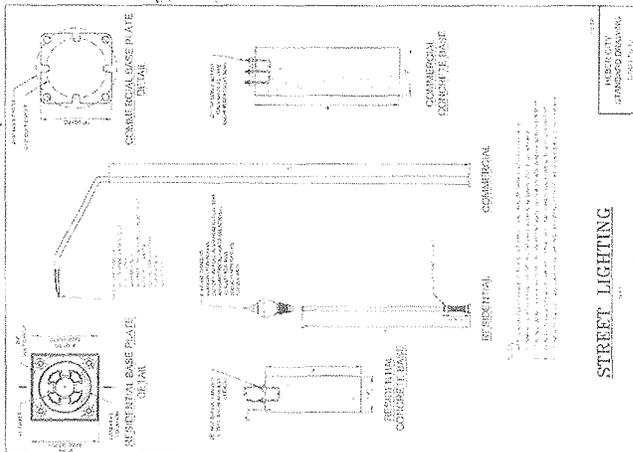
LEGEND
 STOP SIGN TO BE INSTALLED
 STREET LIGHT TO BE INSTALLED

NOTE:
 INSTALL ADDRESSING SIGNS AT ALL INTERSECTIONS IN ACCORDANCE WITH NEBRASKA CITY OF NEBRASKA STREET-10.

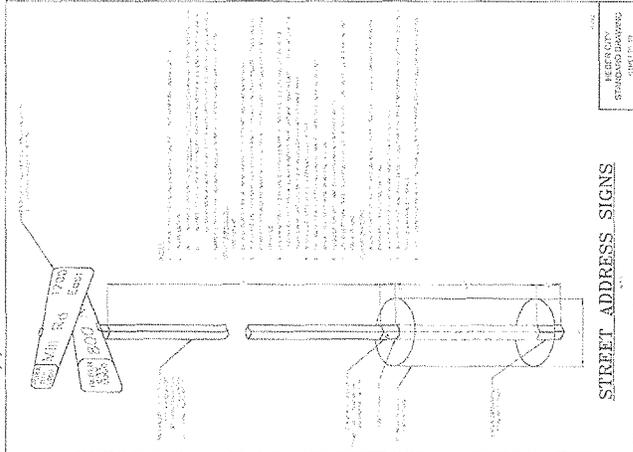
BERG ENGINEERING
 200 E. Main St., Suite 202
 Omaha, NE 68102
 Phone: 402.476.1111
 Fax: 402.476.1112
 Email: info@bergeng.com

VALLEY HEIGHTS SUBDIVISION
 STREET LIGHTING &
 TRAFFIC SIGNAGE PLAN

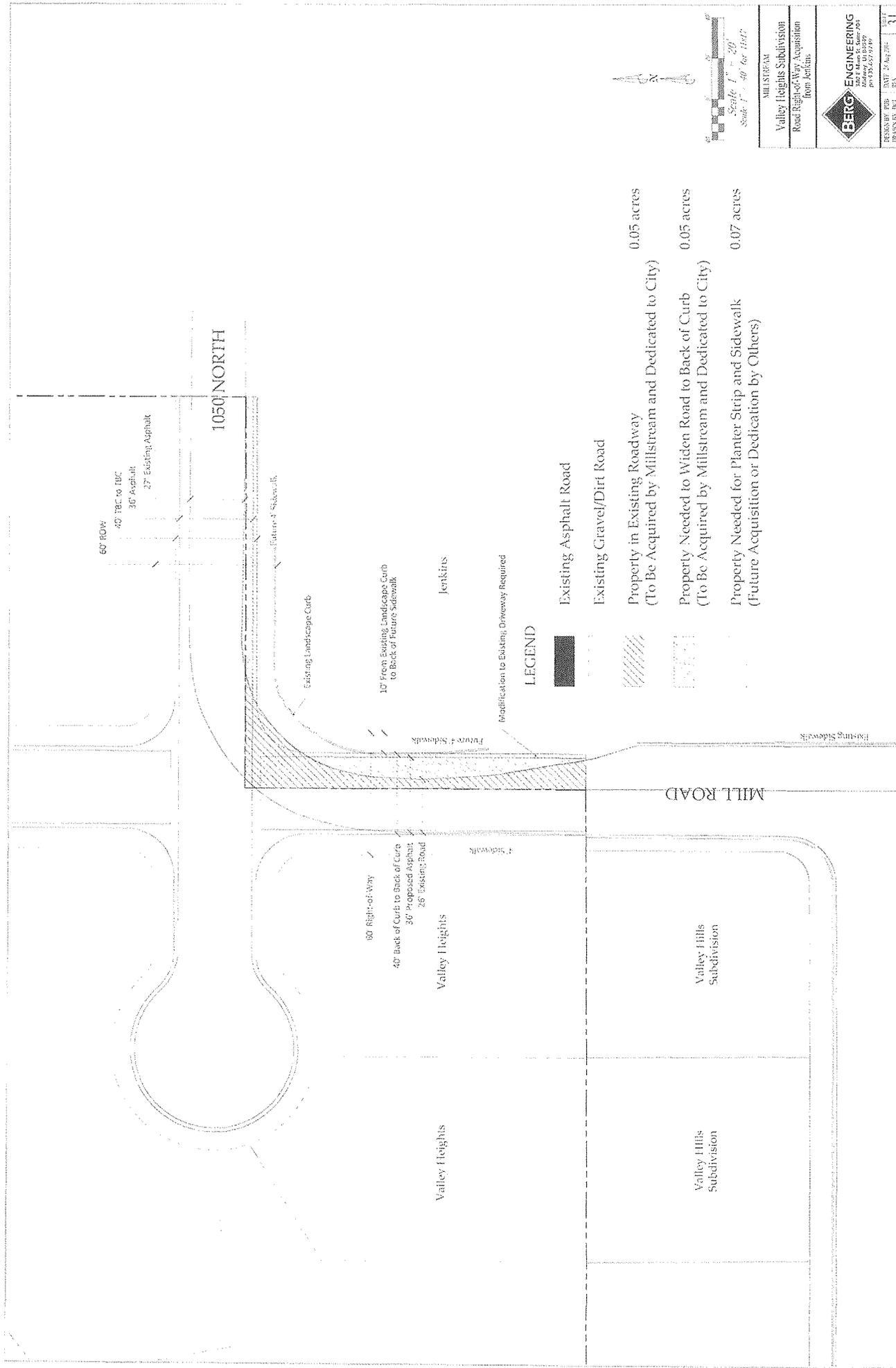
PROJECT NO.	2017-001	SHEET NO.	30
DATE	08/14/17	BY	EA



STREET LIGHTING



STREET ADDRESS SIGNS



60' ROW
 40' TBC to RBC
 36' Asphalt
 27' Existing Asphalt

1050 NORTH

80' Right-of-Way
 40' Back of Curb to Back of Curb
 36' Proposed Asphalt
 26' Existing Road

Valley Heights

15' From Existing Landscape Curb
 to Back of Future Sidewalk

Jenkins

Modification to Existing Driveway Required

LEGEND

-  Existing Asphalt Road
-  Existing Gravel/Dirt Road
-  Property in Existing Roadway
(To Be Acquired by Millstream and Dedicated to City) 0.05 acres
-  Property Needed to Widen Road to Back of Curb
(To Be Acquired by Millstream and Dedicated to City) 0.05 acres
-  Property Needed for Planter Strip and Sidewalk
(Future Acquisition or Dedication by Others) 0.07 acres



Scale 1" = 20'
 Scale 1" = 40' for 1050N

MILLSTREAM
 Valley Heights Subdivision
 Road Right-of-Way Acquisition
 from Jenkins



BERG ENGINEERING
 2807 Main St. Suite 203
 Phoenix, AZ 85029
 PH: 602.998.1999
 FAX: 602.998.1995

REVISION NO. DATE BY
 DRAWN BY: RJA
 31

SUBDIVISION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
(Valley Heights Subdivision Plat A)

THIS AGREEMENT is entered into this _____ day of _____, 2014, by and between Heber City (the "City") and Mountain West Enterprises and Alan and Deborah Anderson (the "Developer").

WHEREAS, the Developer has proposed a plat for a 19 lot subdivision, Valley Heights Subdivision Plat A in the R-1 Residential Zone in Heber City;

NOW, THEREFORE, the Parties hereby agree as follows:

1. With respect to Exhibit A (the approved final subdivision plat), the developer shall, prior to recordation of the subdivision plat, transfer to the City all required diversion water rights necessary for development of this phase.
2. A note shall be placed on each plat as follows: "A geotechnical study was conducted on this property, which is available in the Heber City Planning Department. The study identified solid shallow bedrock and expansive soils as potential hazards on the site, and recommends installation of perimeter foundation subdrains to address the potential for groundwater seepage through shallow bedrock, and recommends consulting with a geotechnical engineer at the time of construction to determine if suitable subgrade conditions for development have been exposed."
3. Developer shall provide a swale along Valley Hills Boulevard east of the sidewalk, four feet or more wide, to catch potential hillside cut debris;
4. Street lights shall be installed per Heber City standards.
5. Developer shall establish a Home Owner's Association to collect dues to maintain the designated common areas, storm drain basin, drainage channel, landscaping, temporary irrigation supply, and retaining wall; it is intended the common area be provided as perpetual permanent open space to be held in common among the lot owners in the subdivision; such common area may include typical recreational facilities such as a playground or pavilion, etc.; prior to recording the plat, developer will provide to the city evidence of documents that creates a Home Owner's Association. The City shall assume no responsibilities or obligations associated

with the collection of any such fees of or associated with the Home Owner's Association.

6. Developer shall establish restrictive covenants requiring consistent fencing color and material in the subdivision along the open space.
7. Prior to recording the plat, developer shall provide a landscaping plan for the common area; developer shall install landscaping, topsoil, and irrigation consistent with that plan.
8. Plat A shall designate an easement to the benefit of Heber City within the Common Area for access to and maintenance of the water, sewer, irrigation and utilities located within the common area, in a format acceptable to the City Engineer.
9. Plat A shall provide a note as follows: "Lot 15 and Lot 16 are prohibited from establishing a driveway to Valley Hills Boulevard; Lot 3 and Lot 5 are prohibited from establishing a driveway to Mill Road; and Lot 7 is prohibited from establishing a driveway to 1050 North."
10. Developer shall overlay the existing asphalt in the development's frontage along Mill Road and 1050 North with a 2 inch asphalt overlay.
11. Developer shall install the necessary pressurized irrigation mains and laterals within the subdivision, and extend an 8-inch irrigation line to approximately 900 North Mill Road for future connection to the irrigation pressure zone. Until future connection is available Developer will construct temporary facilities to supply the system from the Timpanogos Canal as approved by WCWEP.
12. Developer shall install the necessary culinary water mains and services within the subdivision, and extend a 12-inch water line to approximately 900 North Mill Road for future connection to the higher water pressure zone. City will reimburse developer for the cost of oversizing the line from 8-inches to 12-inches based on the actual cost of the work. Reimbursement will be due and payable upon final acceptance of the subdivision by the City.
13. Developer shall provide either (1) an offsite sidewalk along the west side of Mill Road connecting the subdivision to Valley Hills Drive and install new ADA curb returns on each side of Mill Road; or (2) a sidewalk connecting 1050 North to the existing sidewalk on the east side of Mill Road and install a new ADA curb return on the corner of Mill Road and

Valley Hills Drive.

14. Developer shall acquire land for, and construct and dedicate street improvements to the back of curb along the south side of 1050 North and the east side of Valley Heights Drive. The improvements will also be designed to accommodate a future 5 foot sidewalk between the new curb and the existing concrete curb on the property located at 990 North, Mill Road.
15. Infrastructure improvement costs shall be paid by, and be the sole responsibility of, the Developer, their assigns, transferees or successors as owners or developers except as outlined above.
16. Developer shall execute a performance agreement and provide a cash bond or letter of credit acceptable to the City to guarantee completion of the City's public improvements.
17. Developer shall provide City with a noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording the subdivision plats and implement approved measures prior to project acceptance by the City.
18. Upon the full and complete performance of all of the terms and conditions of this Agreement by the Developer, their assigns, transferees or successors, and upon the City's approval of the improvements and acceptance of the subdivision as complete, which shall not be unreasonably withheld, the City agrees to take over and assume responsibility for those areas shown on the recorded subdivision plats as dedicated to the public and begin issuing building permits. Nothing contained herein shall be construed in any way to render the City liable for any charges, costs, or debts for material, labor, or other expenses incurred in the initial making of these public improvements.
19. This Agreement 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. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.
20. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.
21. In the event there is a failure to perform under this Agreement and it becomes reasonably necessary for either

party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable costs and expenses as are incurred in enforcing this Agreement.

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 _____, 2014.

HEBER CITY:

By: _____
Alan McDonald, Mayor

ATTEST:

Heber City Recorder

Mountain West Enterprises, LLC, Developer:

By: _____
Mountain West Enterprises, LLC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat A and executed the same as such.

NOTARY PUBLIC

Alan and Deborah Anderson, Developer:

By: _____
Alan Anderson

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat A and executed the same as such.

NOTARY PUBLIC

By: _____
Deborah Anderson

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat A and executed the same as such.

NOTARY PUBLIC

BOUNDARY DESCRIPTION

BEGINNING AT THE FOUND BRASS CORNER MONUMENT FOR THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE SOUTH 40.00 FEET; THENCE SOUTH 636.23 FEET; THENCE WEST 193.25 FEET; THENCE SOUTH 166.86 FEET; THENCE SOUTH 89°38'48"W 333.80 FEET; THENCE ALONG THE ARC OF A 1180.00 FOOT RADIUS CURVE TO THE LEFT 276.79 FEET (CENTRAL ANGLE OF 13°26'24" AND A CHORD BEARING NORTH 10°16'48" WEST 276.16 FEET); THENCE ALONG THE ARC OF A 1000.00 FOOT RADIUS CURVE TO THE RIGHT 226.89 FEET (CENTRAL ANGLE OF 12°59'59" AND A CHORD BEARING NORTH 10°30'00" WEST 226.40 FEET); THENCE ALONG THE ARC OF A 1000.00 FOOT RADIUS CURVE TO THE LEFT 420.10 FEET (CENTRAL ANGLE OF 24°04'11" AND A CHORD BEARING NORTH 16°02'06" WEST 417.01 FEET); THENCE EAST 84.18 FEET; THENCE EAST 318.20 FEET; THENCE NORTH 0°27'53"W 327.44 FEET; THENCE NORTH 0°27'53"W 946.42 FEET; THENCE SOUTH 89°37'00"E 336.61 FEET; THENCE SOUTH 00°18'19"E 775.79 FEET; THENCE SOUTH 131.31 FEET; THENCE SOUTH 414.46 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING 3.93 ACRES

THENCE SOUTH 40.00 FEET; THENCE WEST 135.28 FEET; THENCE SOUTH 18.00 FEET; THENCE ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT 70.68 FEET (CHORD BEARING SOUTH 74°17'58" WEST 69.82 FEET); THENCE NORTH 51°24'27" WEST 141.46 FEET; THENCE SOUTH 68°48'44" WEST 78.77 FEET; THENCE SOUTH 56°32'26" WEST 227.92 FEET; THENCE ALONG THE ARC OF A 1075.00 RADIUS CURVE TO THE LEFT 206.07 FEET (CHORD BEARING NORTH 20°27'58" WEST 205.76 FEET); THENCE EAST 318.20; THENCE NORTH 00°27'53" WEST 327.44 FEET; THENCE SOUTH 73°20'43" WEST 139.06 FEET; THENCE ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT 58.13 FEET (CHORD BEARING NORTH 79°35'15" EAST 54.91 FEET); THENCE NORTH 47°13'54" EAST 98.30 FEET; THENCE NORTH 89°49'15" EAST 73.67; THENCE SOUTH 414.46 FEET TO THE POINT OF BEGINNING.

CONTAINING: 17.63 ACRES

SUBDIVISION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
(Valley Heights Subdivision Plat B)

THIS AGREEMENT is entered into this _____ day of _____, 2014, by and between Heber City (the "City"), Mountain West Enterprises and Alan and Deborah Anderson(the "Developer").

WHEREAS, the Developer has proposed a plat for a 9 lot subdivision, Valley Heights Subdivision Plat B in the R-1 Residential Zone in Heber City;

NOW, THEREFORE, the Parties hereby agree as follows:

1. With respect to Exhibit A (the approved final subdivision plat), the developer shall, prior to recordation of the subdivision plat, transfer to the City all required diversion water rights necessary for development of this phase.
2. A note shall be placed on each plat as follows: "A geotechnical study was conducted on this property, which is available in the Heber City Planning Department. The study identified solid shallow bedrock and expansive soils as potential hazards on the site, and recommends installation of perimeter foundation subdrains to address the potential for groundwater seepage through shallow bedrock, and recommends consulting with a geotechnical engineer at the time of construction to determine if suitable subgrade conditions for development have been exposed."
3. Conditions within the Subdivision Agreement applicable to Valley Heights Plat A shall be completed prior to recording Valley Heights Plat B, or concurrent with improvements applicable to Valley Heights Plat B;
4. Street lights shall be installed per Heber City standards.
5. Developer establish a Home Owner's Association to collect dues to maintain the designated common areas, storm drain basin, drainage channel, landscaping, temporary irrigation supply, and retaining wall; it is intended the common area be provided as perpetual permanent open space to be held in common among the lot owners in the subdivision; such common area may include typical recreational facilities such as a playground or pavilion, etc.; prior to recording the plat, developer will provide to the city evidence of documents that include Valley Heights Plat B within the established Home Owner's Association for Valley Heights Plat A. The City shall assume no

responsibilities or obligations associated with the collection of any such fees of or associated with the Home Owner's Association.

6. Developer shall establish restrictive covenants requiring consistent fencing color and material in the subdivision along the open space.
7. Developer shall install the necessary pressurized irrigation mains and laterals within the subdivision, and extend an 8-inch irrigation line to approximately 900 North Mill Road for future connection to the irrigation pressure zone; Until future connection is available, Developer will construct temporary facilities to supply the irrigation system from the Timpanogos Canal through Plat B as approved by WCWEP.
8. Plat B shall not be recorded until the 12-inch culinary water main to approximately 900 North Mill Road is connected to the higher water pressure zone.
9. Developer shall provide and delineate a 20-foot wide access easement dedicated to Heber City upon the subdivision plat for access to the Valley Hills 1 water tank on Plat B.
10. Infrastructure improvement costs shall be paid by, and be the sole responsibility of, the Developer, their assigns, transferees or successors as owners or developers except as outlined above.
11. Developer shall execute a performance agreement and provide a cash bond or letter of credit acceptable to the City to guarantee completion of the City's public improvements.
12. Developer shall provide City with a noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording the subdivision plats and implement approved measures prior to project acceptance by the City.
13. Upon the full and complete performance of all of the terms and conditions of this Agreement by the Developer, their assigns, transferees or successors, and upon the City's approval of the improvements and acceptance of the subdivision as complete, which shall not be unreasonably withheld, the City agrees to take over and assume responsibility for those areas shown on the recorded subdivision plats as dedicated to the public and begin issuing building permits. The City agrees to maintain such public improvements without assessment for the construction of improvements as set out in the plans and specifications. Nothing contained herein shall be construed in any way to render the City liable for any charges, costs, or

debts for material, labor, or other expenses incurred in the initial making of these public improvements.

14. This Agreement 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. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.
15. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.
16. In the event there is a failure to perform under this Agreement and it becomes reasonably necessary for either party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable costs and expenses as are incurred in enforcing this Agreement.

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 _____, 2014.

HEBER CITY:

By: _____
Alan McDonald, Mayor

ATTEST:

Heber City Recorder

Mountain West Enterprises, LLC, Developer:

By: _____

Mountain West Enterprises, LLC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat B and executed the same as such.

NOTARY PUBLIC

Alan and Deborah Anderson, Developer:

By: _____
 Alan Anderson

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat B and executed the same as such.

NOTARY PUBLIC

By: _____
Deborah Anderson

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Valley Heights Plat B and executed the same as such.

NOTARY PUBLIC

BOUNDARY DESCRIPTION

BEGINNING AT THE FOUND BRASS CORNER MONUMENT FOR THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE SOUTH 50.00 FEET; THENCE WEST 135.28 FEET; THENCE SOUTH 18.00 FEET; THENCE ALONG THE ARC OF A 130.00 FOOT RADIUS CURVE TO THE LEFT 70.68 FEET (CHORD BEARING SOUTH 74°17'58" WEST 69.82 FEET); THENCE NORTH 51°24'27" WEST 141.46 FEET; THENCE SOUTH 68°48'44" WEST 78.77 FEET; THENCE SOUTH 56°32'26" WEST 227.92 FEET; THENCE ALONG THE ARC OF A 1075.00 RADIUS CURVE TO THE LEFT 206.07 FEET (CHORD BEARING NORTH 20°27'58" WEST 205.76 FEET); THENCE EAST 318.20; THENCE NORTH 00°27'53" WEST 327.44 FEET; THENCE SOUTH 73°20'43" WEST 139.06 FEET; THENCE ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT 58.13 FEET (CHORD BEARING NORTH 79°35'15" EAST 54.91 FEET); THENCE NORTH 47°13'54" EAST 98.30 FEET; THENCE NORTH 89°49'15" EAST 73.67; THENCE SOUTH 414.46 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3.93 ACRES

DRAFT

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
VALLEY HEIGHTS SUBDIVISION HEBER CITY, UTAH 84032

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, AND
RESERVATION OF EASEMENTS FOR
VALLEY HEIGHTS SUBDIVISION HEBER CITY, UTAH 84032**

This Declaration of Covenants, Conditions, and Restrictions, and Reservations of Easements for Valley Heights Subdivision (the "Declaration") is made and executed by MWE Valley Heights LLC of 380 E. Main St., Building B, 2nd Floor, Midway, Utah 84049 (the "Declarant")

RECITALS

- 1) By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.
- 2) This Declaration affects that certain real property located in Wasatch County, Utah described with particularity in Exhibit A.
- 3) Declarant is the Owner of the Tract.
- 4) Declarant will construct upon the Tract improvements in accordance with the Heber City Planning Development Agreement, as the plans contained in the Final Plat approved by Heber City.
- 5) Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, together with an appurtenant ownership interest in the Association.
- 6) Since the completion of the Project may be in phases, the completed Project will consist of Phase 1 and any subsequent phases.
- 7) Declarant desires, by filing this Declaration, to submit the next phase of the Project and all improvements now or hereafter constructed thereon to this Declaration.
- 8) The Project will continue to be known as "Valley Heights Subdivision."

**VALLEY HEIGHTS SUBDIVISION COVENANTS, CONDITIONS AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS**

NOW, THEREFORE, for the reasons recited above, the Declarant hereby makes the following covenants, conditions and restrictions, and reservations of easement.

ARTICLE 1 DEFFINITIONS

The following definitions shall apply to the declaration:

- 1) The term Accessory Building shall mean and refer to any structure which:
 - a) Is not the preliminary structure;
 - b) Contains at least 120 feet;
 - c) Requires a building permit;
 - d) Is not a shed, shack or other out-building (for which a building permit is not required), and
 - e) Qualifies as such under the totality of the circumstances in the sole opinion of the Association.
- 2) The Terms Assessment shall mean and refer to any mean and refer to any amount imposed upon, assessed, or charged to an Owner.
- 3) The Association shall mean and refer the association of Lot owners acting or taken as a group accordance with the declaration.
- 4) The term Board of Directors shall mean and refer to the governing board of the Association.
- 5) The term Bylaws shall mean and refer to the code of rules for the administration of the Association. See Exhibit "B" attached hereto and incorporated herein by this reference.
- 6) The term City shall mean and refer to Heber City in Wasatch County, Utah.
- 7) Common Areas shall mean and refer to all real property in the Project owned or controlled by the Association, including no limited to the following items:
 - a) The real property and interests in real property submitted hereby including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots.
 - b) All Common Areas and Facilities designated as such in the final plat;
 - c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners, such as power, gas, water and sewer;
 - d) Storm Retention Pond;
 - e) The common secondary water system;
 - f) The Project's common landscaping and open space;
 - g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance safety, operation or management of the Property owned or

controlled by the Association for the common benefit of its Members. Utility installations such as power, gas, water, and sewer may be dedicated to the City and, if so, this definition shall not be construed to allow the Association to exclude the City from the ownership and control of the utility systems so dedicated.

- 8) Common Expense shall mean and refer to:
 - a) All sums lawfully assessed against the Owners;
 - b) Expenses of administration, insurance, maintenance, repair or replacement of the Common Area and Facilities;
 - c) Expenses allocated by the Association among the Owners;
 - d) Expenses agreed upon as common expenses by the Association; and
 - e) Expenses declared common expenses by the Declaration.
- 9) The term Declaration shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Valley Heights Subdivision.
- 10) The term Dedicated Streets shall mean and refer to those streets, roads, and cul-de-sacs within the Project formally dedicated to the City or any other municipal or governmental body politic, entity, or agency. It is anticipated that the streets in the Project will be public.
- 11) The term Declarant shall mean and include MWE Valley Heights, LLC and any person or persons who might acquire title from it to all or some of the unsold Lots through purchase, assignment, or other transfer including foreclosure; or, in the deed in lieu of foreclosure; or, in the situation where any person purchases all or some of the remaining Lots in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Declarant and by its successor in interest as the new Declarant, and notice will be sent to each property owner by certified mail.
- 12) The term Default Assessment shall mean and refer to an Assessment against an Owner or a Lot for failure to perform an obligation under the Project Documents or because the Association has incurred an expense on behalf of the Owner under the Declaration.
- 13) The term Design Guidelines shall mean and refer to the design guidelines for the Project.
- 14) The term Design Review Committee (the "DRC") shall mean the person or persons appointed to review the designs, plans and specifications for the Homes and landscaping, including by way of illustration but not limitation, the architecture, elevations, construction materials, fencing, landscaping, grading and drainage, and other physical improvements within the Project.
- 15) The term Developmental Rights shall mean and refer to the right granted hereunder to the

Declarant, its agents, representatives, employees, successors and assigns to develop and improve the Property.

- 16) Term Eligible Grantor shall mean and refer to governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from Design Review Committee in accordance with the Declaration.
- 17) The term Eligible Insurer shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.
- 18) The Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.
- 19) The Term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Owners. A vote which is for any reason suspended is not an 'eligible vote'.
- 20) The term Final Plat shall mean and refer to the recorded Valley Heights subdivision on file in the Office of the County Recorder.
- 21) The term Governing Documents shall mean and refer to the Declaration, Bylaws, Articles of Incorporation, and Rules and Regulation.
- 22) The term Guest shall mean and refer to a guest, visitor, vendor or invitee of an Owner.
- 23) The term Home shall mean and refer to a dwelling, residence or home constructed upon a Lot.
- 24) The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.
- 25) The term Individual Charge shall mean and refer to a charge levied against an Owner for all expenses resulting from the act or omission of such Person, excepting the Owner's failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner including:
 - a) The cost of repair any damage to any portion of the Property on account loss or damage caused by such person; or
 - b) The cost to satisfy any expense to on other Owner, the Association or Design Review Committee due to any intentional or negligent act or omission of such Person, or resulting from the breach by such Person of any provisions of the Project Documents;
 - c) Default Assessment; or
 - d) Fine lien or Individual charges may be secured by a lien against the Owner's interest in the property and the Association also shall have all other collection remedies, legal and equitable, available under Utah law and this Declaration.

- 26) The term Land shall mean and refer to the Property.
- 27) The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, and like improvements located within the Property as well as the appurtenant sprinkling and irrigation systems.
- 28) The term Lender shall mean and refer to a Mortgagee.
- 29) The term Lot shall mean and refer to a lot as shown on the Final Plat. Each Lot shall be assigned a separate "parcel" or tax identification number by the appropriate governmental agency.
- 30) The term Lot Number shall mean and refer to the number, letter, or combination thereof designating a particular Lot as identified on the Final Plat.
- 31) The term Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.
- 32) The term Manager shall mean and refer to the Person appointed or hired by the Design Review Committee to manage and operate the Property.
- 33) The term Map shall mean and refer to the Final Plat.
- 34) The term Mortgage shall mean and refer to any mortgage, deed of trust, or other security instrument (including the seller's rights under a contract for deed) by which a Lot or any part thereof or interest therein is encumbered. A first Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Lot, or any part thereof or interest therein.
- 35) The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Wasatch County, Utah.
- 36) The term Owner shall mean and refer to a Person who is the Owner of a fee or an undivided fee interest in a Lot, excluding a Mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement proceeding in lieu thereof.
- 37) The term Period of time Declarant's Control shall mean and refer to the period of time during which the Declarant has the legal right to appoint the directors of the Association.
- 38) The term Permitee shall mean a Guest, renter or other natural person permitted onto the Property by an Owner or resident, including family member's contractors or vendors.
- 39) The term Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability Company, or other legal entity.
- 40) The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of improvement, or alterations, modification, changes, additions and the like thereto, including without limitation, all documents indicating the size, shape, configuration and/or materials to be incorporated; all site plans, excavations and grading

plans, elevation drawings, floor plans, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

- 41) The term Private Street, Road, Cul-de-sac, Way or Drive shall mean and refer to those streets, roads, cul-de-sacs, ways, drives, or turnabouts within the Project dedicated to the City or county, or other governmental body politic, entity or agency. It is anticipated that the road or roads in the Project will be public.
- 42) The term Project shall mean and refer to Valley Heights Subdivision.
- 43) The term Project Documents shall mean and refer to this Declaration, Bylaws, Articles of Incorporation, and rules and regulations.
- 44) The term Property shall mean and refer to all of the land or real estate, improvements, and appurtenances comprising the Project submitted to this Declaration.
- 45) The term Recreational, Oversized, or Commercial Vehicle shall mean and refer to any recreational, commercial, or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper trailer, boat or watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.
- 46) The term Residence Number shall mean and refer to the number, letter, or combination of name, numbers and letters that identifies a Lot.
- 47) The term Resident shall mean and refer to any person living or staying at the Project. This includes but is not limited to any and all natural persons residing in a Lot.
- 48) The term Single Family shall mean and refer to one of the Following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (c) a group of not more than three (3) unrelated persons who maintain a common household, to be distinguished from a group occupying a boarding house, club, fraternity or hotel. The Single Family may include an additional person or additional persons approved in writing by the Design Review Committee, such as a caretaker or as domestic help.
- 49) The term Single Family Residence shall mean and refer to;
 - a) Both the architectural style of a Lot and
 - b) The nature of the residential use permitted therein.
- 50) The term Street Tree Guide shall mean and refer to Exhibit "C" attached hereto and incorporated herein by this reference.
- 51) The term Total Votes shall mean and refer to the total number of Eligible Votes appertaining to all Lots at the Project.
- 52) The term Tract shall mean and refer to a home or if the land or real estate submitted to this declaration.
- 53) The term Unit shall mean and refer to a Home or if the context clearly requires, a Lot.

- 54) The term Use Restrictions shall mean and refer to the restrictions and limitations
- 55) The term Visible from a Neighboring Property shall mean with respect to any object that such object is or would be visible to an individual six feet (6') tall standing at ground level on any portion of the Neighboring property.

ARTICLE 2 GENERAL PROVISIONS

- 1) Description of the Project and the Association
- a) It is intended that in the initial phase of the Project there will be Twenty Seven (27) lots, a culinary water system, a storm retention/park, common secondary water system, open space and other improvements of a less significant nature. Living in a subdivision with protective covenants is not like living in a typical subdivision. All of the Owners will share common elements and facilities. Because of this sharing protective covenants are not only worthwhile, they are absolutely necessary for everyone's comfort and enjoyment. The covenants include the obligation to pay for the common Expenses.
 - b) It is intended that the Association have a corporate status and that it is properly registered with the State of Utah. The Board of Directors may unilaterally re-file the articles of incorporation of the Association if its status has been suspended or dissolved, and adopt the prior Bylaws.
- 2) Single Family Residences. Only single family residences are allowed in the Project.
- 3) Area of Application, Annexation and Expansion. This Declaration shall apply to all of the Property. The Declarant shall have the unilateral right to expand the application of this Declaration to other property by written supplement or amendment to this Declaration duly recorded, and without additional Owner approval required.
- 4) Easements. Easements are hereby reserved throughout the Property as may be required for utility and other services.
- a) Construction Easement. The Declarant hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Property, including the Common Area, for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project. The Owners do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their property until all improvements are complete. The Owners do hereby waive any right to object to such construction activity. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.
 - b) Location of Facilities Easement. Declarant hereby reserves for itself and its affiliates and assignees a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities,

including but not limited to roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities over, across, and through all other Common Area and Facilities of the Project in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in a form satisfactory to the Declarant, and any assignee of its rights hereunder.

- c) Easements for the Entry and Entry Monument. Declarant hereby reserves for itself and its affiliates and assignees easements for the Entry and Entry Monument, and corresponding easements for the utility, drainage and irrigation systems and facilities. No Owner or resident may do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of such improvements, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Declarant and/or the Association expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass.
- d) Reciprocal Easements. All conveyances of a Unit hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall effect to this Declaration, even though no specific reference to such easements appears in any such conveyance.
- e) Access Easements and Right of Way. A non-exclusive easement over, across, though, above and under the Lots and any common area for purposes of access, installation of construction, operation, regulation, inspection, maintenance, repair, replacement, and related services of the land drain system and facilities.
- f) Easements for Utilities Drainage and Irrigation. Easements for utilities, the common secondary water system with, filter and pump station, the drainage systems and facilities, and irrigation are reserved hereby and on the recorded Final Plat. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of such utilities, facilities, systems and patterns, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the established channels in the easements and rights of way. If any such improvements, facilities, systems or patterns are altered by an Owner, the Declarant and/or the Design Review Committee expressly reserve the right to enter onto the property

to restore the area at the cost of the Owner, and without being guilty of a trespass. In addition, the easement and right of way area of or on each Lot, including by way of illustration but not limitation, the Entry Monument, in whole or in part, utilities, drainage systems and facilities, and irrigation, and all improvements within said area shall be maintained continuously by the Owner of the property, at his sole expense, excepting those improvements for which a public authority or utility company is expressly responsible.

g) Slope and Drainage Control. No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels.

i) The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible.

ii) It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Declarant, and the City.

iii) For purposes of this subsection, the term "established drainage pattern" shall mean the drainage pattern, facilities, and improvements in existence at the time a Lot is conveyed to a home purchaser by the Declarant, its successor or assign.

iv) Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by the Owner, excepting those improvements for which a public authority or utility company is expressly responsible.

v) Each Owner shall be responsible to develop, improve, and landscape his Lot in a manner consistent with the land drain system and the established drainage pattern, and so as not to detract from, interfere with, or impair or the land drain system or the established drainage pattern on any other Lot within the Project. No changes to the land drain system or the established drainage pattern on any Lot shall be permitted without the prior written consent of the City.

vi) Each Owner shall be strictly liable for any loss, damage or claim caused to person or property in the Project caused by his negligence or carelessness.

5) Encroachment. If any part of a Lot encroaches or shall hereafter encroach upon another Lot or Lots, an easement for such encroachment and for the maintenance of the same shall

and does exist. Such encroachments shall not be considered to be encumbrances. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Final Plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

- 6) Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the project.
- 7) Architectural Issues. Declarant reserves to itself and is hereby granted the sole right and exclusive authority to resolve all architectural issues in this Project in order to insure the harmony of design and quality of construction and materials. All architectural designs, plans, fencing, specifications and construction materials must be reviewed and approved by the Declarant in writing, and must be consistent with, in congruity with and not in conflict with the Development Agreement with the City. In the event of any conflict, inconsistency or incongruity, the provisions of the Development Agreement shall in all respect govern and control.
- 8) Design, Plans and Specification. Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the DRC for review and approval. Information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction should be submitted if applicable. Designs submitted for approval shall be limited to those prepared by architects or by qualified residential designers licensed in Utah whose previous work may be reviewed as part of the approval process.
- 9) Review Considerations Generally. In reviewing each submission, the DRC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things.
- 10) Aesthetics. Decisions of the DRC may be based on purely aesthetic considerations. Each Owner, by virtue of his acceptance of a deed to a Lot or other document of conveyance, acknowledges that opinions on aesthetics matters are subjective and may vary as DRC member change over time.
- 11) Minimum Requirements for a Home. No home shall be constructed or altered unless it meets the following minimum requirements:
 - a) All Homes shall be single-family dwellings with no more than Two Stories above the natural grade and no less than two garages.
 - b) The height of any home shall not exceed 35' feet above the natural grade ground level.
 - c) All Homes shall have at least 1,710 square feet of finished ground floor living space above grade exclusive of garages; basements do not qualify as ground floor living space.
 - d) Home exteriors must consist of at least two (2) types of approved construction materials.

Only real stone, brick, hardi-board and stucco are allowed. Stucco is only allowed on the back ½ of the home and cannot exceed 50% of the stucco area, although enhancements will be required on corner lots. All exterior finishes shall comply with the elevation provided by the Development Agreement. In the event of a dispute, the decision of the DRC shall be final, binding and conclusive.

e) The goal of the placement and location of home on the following setback are required.

i) Front Yard Setbacks

The minimum front yard setback from any street is thirty (30') feet.

ii) Side Yard Setbacks

The minimum side yard setback is ten (10') feet.

iii) Rear Yard Setbacks.

The Minimum rear yard setback is thirty (30') feet.

iv) In the event of dispute over a setback, the decision of the DRC shall be final, binding and conclusive.

12) An Accessory Building that houses animals or poultry shall be located no less than fifty feet (50') from any Home.

13) All Homes shall be constructed with 30-year architectural or superior grade shingles. All roof pitches must be within a range of 4/4 to a 12/12.

14) Any detached accessory building must conform in design and materials with the primary residential Home and comply with subsection (g) below.

15) No tin sheds are allowed.

16) Any and all plans and specifications must be submitted, reviewed and approved in writing in advance.

17) All Lots shall be fully landscaped in accordance with subsection (f) and Section 9 set forth below.

18) All Lot fencing installed or constructed by an Owner must be expressly approved in writing by the DRC. This includes the location, construction materials, colors, dimensions, etc. A request may be denied. No fence or similar structure shall be placed in any front yard by an Owner. No fence or similar structure shall be placed in any side or rear yard in excess of six (6') feet in height. Chain link fencing is strictly prohibited. If there is a dispute about fencing, the decision of the DRC shall be final, binding and conclusive.

19) Conditional uses may be allowed for a swimming pool, cabana, equipment building, and outdoor recreational activities, such as an athletic court, tennis courts, basketball court and so forth. To obtain permission for a conditional use, the Owner shall submit a written

application to the DRC with plans and specifications. The DRC will review the application and submit a written acceptance or denial. Conditions may be imposed The DCR may charge an application and review fee. The DRC may require samples of proposed construction materials. Any application not expressly approved in writing shall be considered denied and any such unapproved improvements shall be considered non-conforming and the Owner may be required to remove the improvements and restore the property to its prior condition at his sole cost and expense.

20) Each Owner is responsible at his sole expense to install and maintain an adequate yard light or lights, a mail box and newspaper receptacle. If masonry is used to build mail box enclosure, then it must match the masonry exterior on the Home.

21) Preliminary Architectural Drawings, Plans and Specification. The DRC may require, as minimum, the following additional items be submitted **before** lot owner submits plans to Heber City for a building permit.

- a) Plot plan to scale of entire site with buildings located and elevation of floors shown above or below a designed point on the street.
- b) Floor plans of each floor level to scale.
- c) Elevations to scale of all sides of the Home.
- d) One major section through Home.
- e) Specifications of all outside materials to be used on the exterior of the Home

22) Final Plans and Specifications and Working Drawings. The DRC may also require, as a minimum, the following:

- a) Plot plans to scale showing the entire site, building, garages, walks, drives, fence, carriage lights, retaining walls, with elevations of the existing and finished grade and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated point on the street.
- b) Detailed floor plans.
- c) Detailed elevations, indicating all materials and showing existing and finished grades.
- d) Detailed sections, cross and longitudinal.
- e) Details of cornices, porches, windows, doors, garages, garden walls steps, patios, fences, carriage lights, etc. Specifications shall give complete descriptions of materials to be used with supplements, addend or riders noting the colors of materials to be used on the exterior of the Home.

23) Landscaping. All Lot landscaping, grading, and drainage is subject to the following

covenants, conditions, restrictions and easements, and shall be completed strictly in accordance with the Landscaping Guidelines adopted by the Declarant or the DRC and so as to comply with and not impair all applicable ordinances and flood control requirements.

- a) Each Owner is obligated to install landscaping on his lot at his sole expense, unless otherwise expressly noted.
- b) All Lot landscaping must be completed within nine (9) months of the date of closing. Buyer must notify Association in writing if Buyer is going to immediately commence construction. Regardless, Buyer is going to begin paying lot maintenance fee thirty (30) days following the date of closing.
- c) Landscaping shall include by way of illustration but not limitation the planting of a lawn and/or other appropriate ground cover, planting beds, appropriate bushes and shrubs, and the planting of trees.
- d) Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured, maintained and replaced by the Owner.
- e) Any weeds or diseased or dead lawn, trees, ground cover, bushes or shrubs shall be removed and replaced.
- f) All replacement trees must also satisfy the requirements of the Street Tree Planting Plan.
- g) The landscaping of a Lot may not adversely affect the value or use of any other property or detract from the original design scheme and appearance of the Project.
- h) No concrete, cement or masonry products, pavers, brick, stone, cobblestone, tile, terrazzo, slabs, slate, rocks, pebbles, gravel, permeable pavements and so forth or other artificial or impermeable surfaces (collectively "controlled surfaces") may be installed or constructed as landscaping in the front, side or rear yards of a Lot without the express prior written consent of the DRC.
- i) Front, side or rear yards constructed primarily or substantially of controlled surfaces are prohibited.
- j) Should any Owner fail to comply with the provisions of this paragraph, the Declarant or the DRC shall have the right to seek an order from a court of proper jurisdiction requiring specific performance to comply with the provisions hereof or to recover damages, or both, and shall also have the authority but not the obligation to complete the landscaping or restore the property to its original condition without being guilty of a trespass, and require the Lot Owner to pay the cost of labor and materials.
- k) The costs and expenses incurred, including a reasonable attorney's fee, whether or not a lawsuit is filed, shall be considered the personal obligation of the Lot Owner and shall constitute a lien on the interest of the Owner in such property, enforceable at law or equity, until payment is made.

- 24) Accessory Buildings. Accessory Buildings are considered “conditional uses” which require the approval of the City and the DRC. Each application to construct or install an Accessory Building will be evaluated separately by the DRC and approved or disapproved on a case-by-case basis, subject to the following guidelines.
- a) Any detached Accessory Building must conform in design and construction materials with the primary residential Home.
 - b) The maximum height of an Accessory Building shall be twenty-five feet (25’)
 - c) If there is a dispute of any kind whatsoever, such as whether a structure is an Accessory Building, the decision of the Declarant, or upon the termination of the Period of Declarant’s Control, the Design Review Committee, shall be final, conclusive and binding.
- 25) Open Space. Several parcels on the Final Plat have been designated as open space for the Property. The following improvements and activities shall be permitted: pasture, unimproved land, open area, landscaping, and green space. The following improvements and activities shall be prohibited: temporary or permanent buildings or building-type structures or any kind, impervious surfaces other than those used only for activities expressly permitted hereby, operation, parking or storage of motorized vehicles of any kind except those used for landscaping maintenance, machinery which is affixed to the property and which can be seen or heard from adjacent property, noxious or offensive activities of any kind, any activity which is or which may become a nuisance, and dumping or storage of refuse, garbage or other waste.
- 26) Approval. In the event that the DRC fails to disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application shall be considered approved, subject to the minimum requirements as set forth herein.
- 27) No Waiver of Future Approvals. The approval of the DRC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.
- 28) Variance. The DRC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require but only in accordance with its duly adopted rules and regulations, and prior written consent of the City Board of Adjustment. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) to stop the DRC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.
- 29) Limitation of Liability. Neither the Declarant nor the DRC, or any of their employees, agents, representatives or consultants shall be responsible in any way for any defects in any

plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Declarant and the DRC, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, actions, costs, expenses, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

- 30) Enforcement of Architectural Guidelines. Any construction, alteration, or other work done in violation of this Declaration shall be considered to be nonconforming. Upon written request from the DRC an Owner shall at his own cost and expense remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the DRC shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser.
- 31) Contractors. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the DRC from the Project, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the DRC or the Declarant, nor their employees, agents, representatives nor consultants shall be held liable to any person for exercising the rights granted by this Section.
- 32) Operation, Maintenance and Alterations. The Property shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:
 - a) Minimum Standard for Condition of Property. The property shall be maintained in a usable, clean, functional, safe, sanitary, attractive and good condition consistent with Community Standards.
 - b) Landscaping.
 - i) Each owner is responsible to maintain the landscaping on his lot.
 - ii) All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of the design and quality originally established by Declarant and in accordance with any City landscaping maintenance plans or ordinances.
 - iii) All landscaping shall be maintained in a safe, sanitary aesthetic and orderly condition.
 - iv) Any weeds or diseased or dead lawn trees ground cover, shrubbery or other plantings shall be removed.
 - v) All lawn areas shall be regularly mowed and edged.

- vi) All trees, shrubs and bushes shall be regularly pruned and trimmed.
 - vii) No landscaping shall adversely affect the value or use of any other lot, or detract from design scheme and appearance of the Project established by Declarant.
 - viii) Anything to the contrary notwithstanding, all landscaping must abide by and strictly comply with all soil report recommendations and City requirements.
 - ix) Specific additional written guidelines, standards, controls and restrictions on landscaping may be adopted by the Board of Directors from time to time.
 - x) In the event of a dispute the DRC shall be final, binding and conclusive.
- c) Area of Common Responsibility. The Association is responsible to maintain the Common Area and Facilities. The Association shall not allow the Common Area to detract from the health, safety or uniform appearance or design of the Project.
- d) Area of Personal Responsibility. Each Owner is responsible to maintain his Lot. Each Owner is responsible to pay the "Lot Maintenance Assessment" if construction does not immediately follow the Lot purchase. Each Owner shall remove all ice and snow accumulations.
- e) Default Provisions. If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Association, or Board of Directors may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The term "emergency" as used here means a situation or condition in which there is a threat of imminent and substantial harm to person or property. The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. A lien may be filed by the Association against the Owner's interest in the Property to secure payment.
- f) Architectural Controls. No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior express written approval of the Board of Directors or any Committee established by the Board of Directors for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors, geothermal products, wind turbines or other alternate energy resources, shade screens, awnings, window coating or tinting, decorative alterations, and other work that in any way alters the exterior appearance of the Property. The Board of Directors, or Design Review Committee established by the Board of Directors for that purpose, may designate the

design, style, model and manufacturer of any exterior improvement or alteration that is acceptable to the Board of Directors. Such designations shall be for the purpose of achieving uniformity of appearance and preservation and enhancement of property values.

- g) Alterations to the Common Area. The Declarant may make changes to the design and construction of the improvements located in or on the Common Areas without additional approval required, including without limitation the consent of the Board of Directors or Members of the Association; provided, however, no Owner may make any structural alterations to the Common Area (including the Limited Common Area), without the express prior written consent of the Board of Directors.
- h) Certain Work Prohibited. No Lot Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Lot Owners being first had and obtained.
- i) Power and Gas Easements/Disclaimer of Liability. By acceptance of a deed or other document of conveyance to one of said Lots or any other portion of the Property, or by entering said property, each Owner for himself and his Permittees acknowledges the existence of such utilities and agrees to contact the power and gas companies regarding the easements, including questions regarding excavation and digging. In addition, Owners and Permittees hereby assume all risks, dangers, hazards and perils inherent in living on or visiting property with gas and power easements, and further waive any and all claims against the Declarant and/or the Association for loss, damage or harm to his person, including death, or property arising out of or caused by said utility easements, and further releases the Declarant and/or Association from any and all liability for any loss, damage or harm to person, including death, or property arising out of said utility easements, including negligence and death, and hereby covenants not to sue for such claims.
- j) Common Irrigation and Water/Sprinkler Systems: Pump, Filters, Etc. No Owner shall permit or do any work or make any alterations or changes which would jeopardize the soundness or safety of the common irrigation or water/sprinkler system (or its component parts pump, filters, distribution lines, etc.), reduce its utility, effectiveness or value, or otherwise damage, obstruct, block, impair or interfere with said system.
- k) Use Restrictions and Nature of the Project. No Lot shall be used except for residential purposes.
- l) Home Occupation Guidelines. No resident may operate a commercial trade or business in or from his Unit with employees of any kind or with customers who are not residents of the Project, or which create or maintain a nuisance. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Unit. No commercial trade or business may be conducted in or from a Unit unless;

- i) The business activity conforms to all home occupation and zoning requirements governing the Project;
 - ii) The operator has a city issued business license;
 - iii) The business activity satisfies the Home Occupation Guidelines adopted by the DRC, as they may be modified from time to time; and
 - iv) The resident has obtained the prior written consent of the DRC. Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.
- m) Motor Vehicles. The driving, parking, standing, and storing of motor vehicles in, on or about the Project shall be governed and regulated by the parking rules and regulations adopted by the Board of Directors, as they may be from time to time. All garages shall be used primarily for the parking and storage of vehicles. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. Except for purposes of loading or unloading passengers or supplies, for a period of time not to exceed twenty-four (24) hours, all Recreational, Commercial, and Oversized Vehicles may only be stored on a Parking Pad inside Owners garage. Anything to the contrary notwithstanding, eighteen-wheeled semi-trailers and similar oversized or commercial transportation devices are not allowed. WITHOUT ANY FURTHER NOTICE, vehicles parked in violation of the Project Documents may be (a) immobilized, (b) towed, and/or (c) impounded by the DRC or its designee, and at the owner's sole (1) risk and (2) expense.
- n) Garbage and Refuse Disposal. No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.
- o) Aerials, Antennas, and Satellite Systems. All exterior aerials, antenna and satellite dishes (collectively "antenna") must be positioned so that they are screened from view from the street. No antenna shall be erected, maintained or used in, on or about any Home, outdoors and above ground, whether attached to or on top of any building, structure, Home, or otherwise, within the Project without the prior written consent of the Declarant or DRC, which shall not be unreasonably withheld. Anything to the contrary notwithstanding, if there is a conflict between this subsection and the FCC guidelines, the latter shall in all respects govern and control. In making its decisions, the Declarant and/or DRC shall abide by and be subject to all relevant local, state and federal laws, including but not limited to all FCC guidelines, rules and regulations as they may be or supplemented from time to time.

33) Animals and Pets.

- a) Commercial Breeding. No pets, animals, livestock, or poultry of any kind may be commercially bred at the Project.
- b) Domestic or Household Pets. Up to two (2) domestic pets as that term is defined by local ordinance per Lot are allowed; provided, however, pets must be properly licensed and registered.
- c) Nuisance. Animals, fowl and pets may not create a nuisance. The following acts or behaviors by way of illustration but not limitation shall be considered a nuisance:
 - i) Causing damage to the property of anyone other than the pet owner;
 - ii) Causing unreasonable fouling of the air by odors;
 - iii) Causing unsanitary conditions;
 - iv) Running loose throughout the Project and not in a cage or on a leash and under the control of a responsible person;
 - v) Barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion;
 - vi) Molesting or harassing passersby by lunging at them or chasing passing vehicles;
 - vii) Attacking or threatening to attack people or other domestic animals;
 - viii) Otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property;
 - ix) Violation of City pet ordinance; and
 - x) The mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents.
- 34) Laws. Nothing shall be done or kept in, on or about any Lot or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
- 35) Damage or Waste. Each Owner shall repair any damage he or any other residents, guests, or invitees of his Lot may cause to another Owner, Lot, or Home, and promptly restore the property to its original condition.
 - a) Signs No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot except for a single sign with a maximum size of 2' x 2' for specific purpose of advertising the sale of a Home; provided, however, this restriction does not apply to and is not binding upon the Declarant, who may

use whatever signs it deems appropriate to market its Lots. "For Rent" or "For Lease" signs in the Common Area, on a Lot, or showing from a Home are strictly prohibited.

- b) The Association may not prohibit the display of a U.S. flag inside a Dwelling, Unit, Lot or Limited Common Area, if the care of the flag and display is consistent with federal law. The Association may control and restrict the display of a flag in the Common Area. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

36) Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Project land use and buildings.

37) Nuisances. No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

38) Temporary Structures. No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, and barn or other out-building shall be used on any Lot at any time as a residence.

39) Entry Monument. If an Owner purchases a Lot which includes a common improvement, including by way of illustration but not limitation an Entry, Entry Monument, planter, planter box, planter strip, perimeter fence, wall, street light, exterior lighting or other landscaping treatment of any kind, shall, at his sole expense, maintain such common elements in good condition, and may not improve his property or place any plant, hedge, tree, bush, shrub or object, natural or artificial, behind, to the side or in front of such improvement or feature or so as to impair, obstruct, block or impede the view or purpose of the Entry, Entry Monument or other improvement, planter box, landscaping strip, or any such special landscaping feature.

40) Leases. Each Owner agrees, by the acceptance of a deed or other document of conveyance to a Lot, that in order to maintain the value of the purchased property and the Project, the leasing and renting of Homes is subject to the following:

- a) Renting rules and regulations adopted by the Board of Directors, as they may be from time to time.
- b) No Owner shall be permitted to lease his Home for short term, transient, hotel, vacation, seasonal or corporate-use purposes. For purposes of this section the term "short term" shall be considered to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are expressly prohibited. No Owner may lease individual rooms to separate Persons or less than his entire Home, including by way of illustration but not

limitation letting a room to domestic help or a caretaker, without the prior express written consent of the Design Review Committee.

- c) "For Rent" or "For Lease" signs are prohibited.
- d) The Design Review Committee must approve in writing all lease and rental agreements as to form. Any lease or rental agreement not approved or in violation of the Project Documents shall be considered "non-conforming" and, as such, voidable by the Design Review Committee.
- e) The Design Review Committee may require that Owners use lease forms, addenda, such as the Crime Free Addendum, or approved provisions, such as "the renter is subject to and bound by the Project Documents"; and the DRC may impose a review, transfer, impact or administration fee on the lease or transfer of any Lot.
- f) Other than as stated in this section 40, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to his Home.

41) Common Expenses.

- a) Declarant. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Lots owned by it until such time as:
 - i) The physical structures are substantially completed and
 - ii) Certificates of permanent occupancy are issued and the Lots are sold or rented, or
 - iii) Declarant elects in writing to pay the Assessments.
- b) Purpose of Common Area Expenses. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Board of Directors.
- c) Creation of Assessments. Since the Assessments shall pay for the common expenses of the Association, as shall be determined by the Board of Directors from time to time, each Owner, by acceptance of a deed to a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay the Association in a timely manner all Assessments assessed by the Board of Directors Budget. At least thirty (30) prior to the Annual Meeting of the Association, the Board of Directors shall prepare and deliver to the Owners a proposed Budget which:
 - i) Itemization. Shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1.
 - ii) Basis. Shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of all estimated expenses growing out of or

connected with the maintenance and operation of the Common Areas and regulation of the Association, which estimate shall include but is not limited to expenses of management, irrigation water, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board of Directors is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Board of Directors employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

- iii) Apportionment. The voting rights shall be distributed among and the Common Expenses shall be charged equally and uniformly to all of the Lot Owners.
- d) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved by the Owners. The Owners may call a special meeting within forty-five (45) days of the meeting providing the proposed Budget to vote to disapprove the Budget, although to set it aside and to reject a proposed Budget requires the affirmative written consent of at least a majority of total ownership. If the new budget is disapproved, then the prior year's budget continues.

42) Assessments and Payoffs.

- a) The time and method of payment shall be determined by the Board of Directors.
- b) The Association may charge a fee for providing Association payoff needed in connection with the closing of a Unit Owner's financing, refinancing, or sale of the Owner's Unit (the "Payoff Fee"). The Association may not require that the Payoff Fee be paid before closing and the Payoff Fee may not exceed the statutory limit without a change in the statute. If the Association fails to provide the payoff information requested within five (5) business days after the closing agent requests the information may not enforce a lien against that Unit for money due to the association at closing; provided, however, a request shall not be considered effective unless the request is conveyed in writing to the designated contact person for the Association on record with the State of Utah and contains:
 - i) The name, telephone number, and address of the person making the request; and
 - ii) The facsimile number or email address for delivery of the payoff information; and
 - iii) Is accompanied by a written consent for the release of the payoff information;
 - iv) Identifying the person requesting the information as a person to whom the payoff information may be released; and
 - v) Signed and dated by an Owner of the Unit for which the payoff information is requested.

- c) Additional Services. The Board of Directors may provide individual services for a fee.
- d) Personal Obligation of Owners. All Owners (unless expressly excluded) are liable to pay all Assessments and their share of the Common Expenses; provided, however, no first mortgagee or beneficiary under a first deed trust (but not the Seller under a Uniform real estate contract land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for more than six (6) months of unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to:
 - i) The Owner of both the legal and equitable interest in any Lot;
 - ii) The Owner of record in the offices of the County Recorder of Wasatch County, Utah; and
 - iii) Both the Buyer and Seller under any executory sales contract or other similar instrument.
- e) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board of Directors may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days written notice of any changes.
- f) Re-Assessments. With at least thirty (30) days prior written notice, the Board of Directors may elect to re-assess among all of the Owners any delinquent and unpaid Assessments.
- g) Reserve Analysis and Fund. The Board of Directors shall prepare and update a Reserve Analysis (and present them to the Owners) and fund a Reserve Account in accordance with the requirements of Utah law.
- h) Acceleration. The Board of Directors may but is not obligated to accelerate the entire annual Assessment of a delinquent Owner who has not cured his default within thirty (30) days after written notice.
- i) Statement of Assessments Due. Upon written request, the Board of Directors shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within ten (10) days after a written request is received by the Secretary shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed the statutory limit for the issuance of such certificate.
- j) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which insofar as it adversely affects the Association's lien for unpaid Assessments and each Owner, by accepting a deed or other document of conveyance to a

Lot, waives his right to claim his homestead exemption has priority.

- k) Suspension of Right to Vote for Non-Payment. At the discretion of the Board of Directors, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

43) Special Assessments. In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:

- a) Board of Directors Based Assessment. So long as the special assessment does not exceed the sum of Five Hundred and 00/100th Dollars (\$500.00) per Lot in any one fiscal year (the "Special Assessment Limit"), the Board of Directors may impose the special assessment without any additional approval.
- b) Association Approval. Any special assessment which would exceed the Special Assessment Limit shall be effective only if approved by a majority of the members of the Association. The Board of Directors in its discretion may allow any special assessment to be paid in installments.

44) Benefit Assessments. If an Owner has the choice to accept or reject the benefit, then the Board of Directors shall have the power and authority to assess an Owner in a particular area as follows:

- a) Benefit only To Specific Lot. If the expense benefits less than all of the Lots, then those Lots benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Lots according to the benefit received.
- b) Unequal or Disproportionate Benefit. If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Lots according to the benefit received. Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors' right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Section.

45) Individual Charges. Individual Charges may be levied by the Board of Directors against a lot and its owner and shall be due not earlier than (30) days after written notice.

46) Collection of Assessments. The Owners must pay their Assessments in a timely manner. Payments are due in advance on the first of the month. Payments are late if received after the 10th day of the month in which they were due.

- a) Delinquent Assessments. Any Assessment not paid when due shall be deemed delinquent and a lien securing the obligation shall automatically attach to the Lot, regardless of whether a written notice is recorded.
- b) Late Fees. A late fee in a sum to be determined by the Board of Directors shall be assessed on all late payments. A payment received by the Board of Directors ten (10) days or more after its due date shall be considered late for purposes of this subsection.
- c) Default Interest. Default interest in a sum to be determined by the Board of Directors shall accrue on all delinquent accounts.
- d) Lien. If any Lot Owner fails or refuses to make any payment of any Assessment or his portion of the Common Expenses when due, that and it shall constitute a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the Manager, Board of Directors or their designee it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except:
 - i) Tax and special assessment liens on the Lot in favor of any assessing Lot or special improvement district; and
 - ii) Encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.
- e) Foreclosure of Lien and/or Collection Action. If the Assessments remain unpaid, the Association may, as determined by the Board of Directors, institute suit to collect the amounts due and/or to foreclose the lien.
- f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.
- g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Lot.
- h) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board of Directors to take some action or perform some function required to be taken or performed by the Association or Board of Directors With this Declaration or the ByLaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.
- i) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Assessments and Current Assessments.

- j) Foreclosure of Lien as Mortgage or Trust Deed. The Lien for nonpayment of Assessments may be enforced by sale or judicial or nonjudicial foreclosure of the Owner's interest therein by the Board of Directors. The sale or judicial or nonjudicial foreclosure shall be conducted in the same manner as foreclosures in deed of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Directors may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.
- k) Appointment of Trustee. If the Board of Directors elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the lot hereby irrevocably appoints the attorney of the Association, provided they a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein. The Association shall record in the office of the county recorder a written Notice of Appointment of Trustee.
- l) Attorney in Fact. Each Owner by accepting a deed to a Lot hereby irrevocably appoint the Association as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is delinquent in the payment of his Assessments.
- m) Lenders, Foreclosures and Unpaid Assessments. Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorney's fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trust or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trust or mortgagor the amounts paid by the grantee.
- n) Termination of Utilities and Right to use Amenities for Non-Payment of Assessments.
- i) If an Owner fails or refuses to pay any assessment when due, the Board of Directors may
- (1) Terminate the Owner's right to receive utility services paid as a common expense; and
 - (2) Terminate the Owner's right of access and use of recreational facilities, after giving

notice of opportunity to be heard.

- ii) Before terminating utility services or right of access and use recreational facilities, the manager or Board of Directors shall give written notice to the Owner in the manner provided in the Declaration, Bylaws, or Association rules. The notice shall state: Utility services or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within the time provided in the declaration, Bylaws, or association rules, which time shall be stated and be at least 48 hours;
 - (1) The amount of the assessment due, including any interest or late payment fee and
 - (2) The right to request a hearing.
 - iii) An Owner who is given may request an informal hearing to dispute the assessment by submitting a written request to the Board of Directors within 14 days from the date the notice is received. A notice shall be considered received on the date
 - (1) It is hand delivered.
 - (2) It is delivered by certified mail, return receipt requested, or
 - (3) Five (5) days after it is deposited in the U.S. Mail, postage prepaid, addressed to the Owner's last known address on the books and records of the Association
 - iv) The hearing shall be conducted in accordance with the standards provided in the Declaration, Bylaws, or association rules.
 - v) If a hearing is requested, utility services or right of access and use of recreational facilities any not be terminated until after the hearing has been conducted and final decision has been entered.
 - vi) Upon payment of the assessment due, including any interest or late payment fee, the manager or Board of Directors shall immediately take action to reinstate the terminated utility services to the Lot and right to use recreational facilities.
- o) Assignment of Rents.
- i) If the Owner of a Lot who is leasing the Lot fails to pay any assessment for a period of more than sixty (60) days after it is due and payable, the Board of Directors may demand the tenant to pay to the association all future lease payments due the Owner, commencing with the next monthly or other periodic payment, until the amount due to the association is paid; provided, however, the manager or Board of Directors must give the Owner written notice, in accordance with the Declaration, Bylaws, or association rules, of its intent to demand full payment from the tenant. This notice shall;
 - (1) Provide notice to the tenant that full payment of remaining lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in the Declaration, Bylaws, or association

rules;

(2) State the amount of the assessment due, including any interest or late payment;

(3) State that any costs of collection, not to exceed \$150, and assessment that become due may be added to the total amount due; and

(4) Provide the requirements and rights described herein.

ii) If the owner fails to pay the amount of the assessment due by the date specified in the notice, the manager or Board of Directors may deliver written notice to the tenant, in accordance with the Declaration, Bylaws, or association rules, that demands future payments due to the Owner be paid to the association pursuant hereto. A copy of the notice must be mailed to the Owner at his last known address shown on the books and records of the Association. The notice provided to the tenant must state;

(1) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the Board of Directors's intent to collect all lease payments due to the association pursuant hereto.

(2) that until notification by the association that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the Owner are to be paid to the association; and

(3) Payment by the tenant to the association in compliance herewith will not constitute a default under the terms of the lease agreement. If payment is in compliance with this Subsection (6) suit or other action may not be initiated by the Owner against the tenant for failure to pay.

iii) All funds paid to the to the association pursuant hereto shall be deposited in a separate account and disbursed to the association until the assessment due, together with any cost of administration which may not exceed the statutory limit, is paid in full. Any remaining balance must be paid to the Owner within five business days of payment in full to the association.

iv) Within five business days of payment in full of the assessment, including any interest or late payment fee, the manager or Board of Directors must notify the tenant in writing that future lease payments are no longer due to the association. A copy of this notification.

v) As used in this section, the terms "lease" or "leasing" shall mean and refer to regular, exclusive occupancy of a Lot by any person or persons, other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

47) Fee. The buyer or seller of a lot shall pay to the Association at the time of closing or settlement of the sale of a Lot a Reinvestment Fee in a sum to be determined by the Board of Directors, not to exceed the statutory limit. The Declarant is not required to pay this Fee. This section may not be amended without the express consent of Declarant.

48) Working Capital Fund. A Working Capital fund shall be established by the Declarant equal to or greater than two (2) months' Assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Board of Directors at the time of closing of the sale of each Lot by Declarant. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Lot shall be paid to the Board of Directors at the time such Lot is first occupied for residential purposes or a certificate of permanent occupancy is issued, whichever first occurs. With respect to each Lot for which the Declarant pays the contribution to the working capital fund, the Declarant shall be reimbursed for such contribution by the buyer of such Lot at the time of closing. The purpose of the working capital fund is to insure that the Board of Directors will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Project. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Common Expenses. Thereafter, the Board of Directors may continue the working capital fund by charging a reasonable transfer or impact fee when Lots are sold or rented.

49) View Impairment. Neither the Declarant or the DRC guarantees or represents that any view over and across any property, including any lot or Building will be preserved without any view over and across any property, including any Lot or building will be preserved without impairment. Neither the Declarant nor the DRC shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are here by expressly declaimed.

50) Common Utilities.

- a) If there is a master water meter, then the Declarant hereby reserves to itself and hereby grants to the Association the right without the obligation to sub-meter the water to the Owners.
- b) In addition, Declarant may provide water and power utility services to the Entry, Entry Monument and other common elements at its expense (the "Entry Utility Service"). Entry, Entry Monument and other common elements at its expense (the "Entry Utility Service"). Such Common Utility Service shall be maintained and paid for by the Association as a Common Expense; provided, however, the Declarant (or the Association) may elect to provide such Entry Utility Services through a meter or meters on an individual Lot or Lots and, if so, each such Owner agrees, by accepting a deed or other document of conveyance to such Lot, to provide, and not terminate, delay or interrupt, those Entry Utility Services to the Entry, Entry Monument or other common elements not separately metered and billed to the Association by the provider, although in such circumstance the Owner of each such Lot shall be entitled to the following credits:
 - a) A monthly credit an amount equal to the difference between the water bill for each such Lot and the average water bill for all of the other Lots in the Project; and
 - b) A monthly credit in an amount equal to the greater than an amount recommended as "fair" by Rocky Mountain Power, its successors and assign.

51) Declarant's Sales Program. Anything to the contrary notwithstanding, for so long as Declarant continues to own a Lot in the Project the following provisions shall be deemed to be in full force and effect. No Owner or occupant shall interfere or attempt to interfere with

the completion of improvements, promotion and/or sale of Lots owned by Declarant or Homes constructed thereon. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Homes at any one time. Such office and/or models may be one or more of the Homes owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Buildings in the Project title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

52) Insurance. The Association shall obtain adequate public liability insurance, fire and extended coverage, directors and officers insurance, a fidelity bond, and worker's compensation. Each Owner shall obtain adequate public liability insurance, fire and extended coverage, and other insurance recommended by his independent insurance agent.

53) Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The term *shall* is mandatory and the term *may* is permissive. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity of the remainder hereof.

54) Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, the Project or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

55) Enforcement and Right to Recover Attorney's Fees.

a) Should the Declarant, Design Review Committee or an aggrieved Owner be required to

take action to interpret or enforce the Project Documents or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover his reasonable attorney's fees, costs and expenses which may arise or accrue, regardless of whether a lawsuit is filed.

- b) The Board of Directors may exercise its business judgment in deciding whether to impose sanctions or pursue legal action against violators and shall consider common concerns when taking or deciding not to take formal action, such as a weak legal position, conflict with current law, technical violations, minor or collateral issue, and whether or not it is in Association's best interests to pursue the matter and, if so, to what extent.

56) Limitation of Liability. This Declaration of covenants, conditions and restrictions is established for the benefit of the Property and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Declarant or its agents, representatives and employees shall be exempt from any civil claim or action, including an action for negligence, brought by any person owning or having an interest in any Lot.

57) Indemnification of Design Review Committee. By acceptance of a deed or other document of conveyance to a Lot, each Owner hereby agrees to and shall save, indemnify and hold those neighbors volunteering and serving on the Design Review Committee harmless from any and all liability, loss or damage they may suffer as a result of claims, demands, costs, judgments or awards against them arising from their service on the Design Review Committee, including negligence. This indemnity is not intended to cover intentional misconduct.

58) Mortgagee Projection Nothing. herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value.

- a) If any proposed action which would require the consent of a specified percentage of Mortgagees, then if proper notice (as required by statute or government regulation) is given to a Mortgagee or other creditor, a legal presumption is created that the Mortgagee and/or creditor consented, absent the delivery of a written objection.

59) Allocation of Profits, Losses and Voting Rights.

- a) Voting rights (subject to the exceptions set forth in subsection (b) below) shall be distributed among the Lots equally. The voting interest of each Lot shall have a permanent character and shall not be altered without the express affirmative consent of at least two-thirds (2/3) of the Lots memorialized in an amendment to the Declaration duly recorded.
- b) The Project shall initially have two (2) classes of voting memberships, known as Class A and Class B memberships. The memberships are described more

particularly as follows:

i) Class A Members shall be all Owners with the exception of the Class B Members, if any. Class A Members shall be entitled to vote on all issues before the Project as follows:

(1) Each Lot shall have one (1) vote;

(2) No vote shall be cast or counted for any Lot not subject to assessment;

(3) When more than one person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Owners prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one person or entity seeks to exercise it; and

(4) Any Owner who has leased his Lot may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Owners prior to any meeting.

ii) The Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to three (3) votes per Lot owned. The Class B voting membership and the Period of Declarant's Control or Class B Control Period shall terminate, and Class B voting membership shall convert to Class A voting membership upon the happening of the earlier of the following (which is hereinafter referred to as the "Event" or "Events"):

(1) After all of the Lots have been sold or

(2) When, in its sole discretion, Declarant so determines and records a written "Notice of Termination of Class B Control Period", whichever first occurs. From and after the happening of these Events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned.

60) Amendment of this Declaration.

a) General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Declaration shall require the affirmative written vote or consent of at least sixty- seven percent (67%) of the Total Votes cast either in person or by proxy at a meeting duly called for such

purpose or otherwise approved in writing by such Owners without a meeting. Any amendment authorized pursuant to this section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the legal representative of the Owners. In such instrument the legal representative shall certify that the vote required by this section for amendment has occurred.

- b) Initial Declarant Right to Amend. The Declarant may unilaterally amend or terminate this Declaration so long as it owns any of the proper.
- c) Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be unilaterally at any time and from time to time by Declarant if such Amendment is
 - i) Necessary to correct typographical errors or inadvertent omissions;
 - ii) Necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or
 - iii) Reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing.
- d) Declarant's Right to Amend Unilaterally Prior to Termination of Declarant's Right to Control. Prior to the expiration of the Period of Declarant's Control, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.
- e) To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Lots, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of a written Amendment duly signed by the Declarant, specifying the federal, state or local governmental

agency or the federally chartered lending institution requesting the amendment and setting forth the change, modification or amendment requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots and all persons having an interest therein. It is the desire of Declarant to retain control of the Project and its activities during the anticipated period of planning and development if any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Declaration to restore such control.

f) Declarant's Rights. No provision of this Declaration reserving or granting to Declarant the Developmental Rights shall be without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.

61) Registered Agent. The initial Registered Agent is David M. Nelson or Michael T. Nelson and the initial office of the Registered Agent is 380 E. Main St., Bldg. B, 2nd Floor, Midway, Utah, 84049.

62) Managing Member. During the Period of Declarant's Control, the Board of Directors and Design Review Committee shall have a Managing Member. The initial Managing Member shall be David M. Nelson or Michael T. Nelson. The Managing Member is hereby appointed the agent of the Board of Directors and the Design Review Committee, and is hereby granted the right, power and authority to act unilaterally on their behalf, anything to the contrary notwithstanding. This office and agency shall expire automatically upon the termination of the Period of Declarant's Control.

63) Duration. The covenants and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

64) Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Wasatch County, Utah.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this
_____ day of November, 2014.

DECLARANT:
MWE VALLEY HEIGHTS, LLC

BY: _____

Tab 7

Re: Haack Small Subdivision

Mr. Haack is proposing a one lot subdivision at approximately 850 East Center. This and adjoining properties were annexed into the city about 8 years ago with the Mill Road Estates property to the south. This property was purchased by Nelsen Carter, who successfully rezoned the property to the R-2 Zone and subsequently received approval for a 4 lot single family subdivision. The current parcel being considered for a one-lot subdivision approval consists of Lots 2, 3, 4, and the road of the original Center Pointe Subdivision proposed by Mr. Carter. Mr. Haack is proposing to build one home on his property rather than 3 new building lots as originally proposed.

Sometime between 2009 and 2012, the home which fronts upon Center Street and the remainder of the property (this parcel) were separated without subdivision approval by the city. Today both parcels are considered to be an illegal subdivision of property. Mr. Haack is approaching the city with a proposal to make his portion of the illegal split "legal" by getting the required subdivision approval from the city. The existing home is on a separate parcel owned by others and will still be considered an illegal lot. That property owner has been notified by the city about this issue. A notice has been recorded on that property about the illegal split and the need for subdivision approval.

The proposed parcel is 63.33 feet wide and 1.06 acres in size. The R-2 Zone requires 80 feet of street frontage width for each lot and 8,000 square feet of area for each lot. To promote the infill of homes on larger lots, the city adopted an infill provision in 1998 in Section 18.12.200 that permits a lot to be split into 2 lots if the original lot is at least 1.8 times the area and 1.8 times the width required for a lot. This would require at least 144 feet of frontage and 14,400 square feet of area for the original lot. The original lot had 169 feet of frontage and about 1.3 acres, exceeding the requirements of the infill ordinance. The ordinance permits the city to place conditions upon the subdivision to maintain the characteristics and values of the area. One suggestion may be to require larger setbacks than required by the R-2 Zone (30 feet front, 6 feet and 8 feet side, and 25 feet rear setback minimums).

A fire hydrant exists across Center Street, placing the lot within the required 250 feet spacing. In similar subdivisions where curb and sidewalk are not adjoining a subdivision, the city has required deed restrictions requiring sidewalk, curb, gutter, and asphalt to be installed at a future date when such improvements are built nearby. The nearest sewer line is available in 750 East about 400 feet away. The property owner could therefore elect to utilize a septic tank, but would have to hook up onto sewer when sewer is brought within 300 feet of the property, which will occur when Broadhead Estates 2 is constructed to the south and west of this property. Water and secondary irrigation exists within Center Street in front of the property.

Recommendation

The City Council approved the proposed subdivision on November 21, 2013. Subdivision approvals are good for one year. The petitioner is requesting an extension of the approval, pursuant to Section 17.16.010 I. of the city code, which permits one, one year extension. Any required bonds will need to be updated to reflect current costs.

The proposed one-lot split is consistent with Heber City Code, Section 18.12.200 Small Lot Splits, Chapter 18.56 R-2 Residential Zone, and Title 17 Subdivisions, conditional upon the following:

1. A deed restriction be placed on the property requiring the property owner to pay for and/or install curb, gutter, sidewalk, and asphalt improvements along the lot's street frontage at request of the city.
2. The future home be situated so the front door faces Center Street and be setback at least 30 feet from the property line to the north.
3. The driveway to the future home be constructed to meet the requirements of the fire code.
4. Any home constructed on the property be required to bond and connect to water and irrigation in Center Street, and sewer when a sewer line is constructed within 300 feet of the property.

On August 8, 2013, Commissioner Zane moved that we recommend approval for the Haack Subdivision located at approximately 850 East Center Street contingent upon they meet all the requirements of the staff and city

engineer and that they deed restrict that curb, gutter, and sidewalk. Commissioner Glissmeyer seconded the motion. Commissioner Webb asked if they were willing to add the other suggested motions of approval from staff (from the staff report); he then noted this was obvious. Voting Aye: Commissioners Zane, Glissmeyer, Thurber, Rawlings, Vance, Webb, and Richards. Voting Nay: none. The motion passed.

Section 18.12.200 Small Lot Splits

A. Where a parcel of land at the time of adoption of the ordinance codified in this Title is at least one and eight-tenths times as wide and one and eight-tenths times as large in area as required for a lot in the zone, the planning commission may permit the division of a parcel into two lots provided:

1. Such division will not cause undue concentration of buildings;
2. The characteristics of the zone in which the lot is located will be maintained;
3. In the opinion of the planning commission, values in the area will be safeguarded;
4. To meet and preserve the requirements of 1, 2, 3, the Planning Commission may impose

certain restrictions. Those restrictions will constitute a covenant running with the land and shall be approved in writing by the owner and recorded against the property in the Wasatch County Recorder's Office.

B. Neighborhood Infill lots shall not be eligible for consideration pursuant to this Section. All Neighborhood Infill lots shall meet the minimum requirements of Section 18.83.040.

Section 17.16.010 Required Procedures for Approval

I. **Recordation of Final Plat.** Applicant records plat in office of County Recorder within one year and before selling or conveying any lots within the subdivision. Final plats not recorded within one year from approval by the City Council shall be null and void. One, one year extension may be granted by the City Council for special cases; however, if an extension is granted, the bond or other assurance shall be reevaluated and upgraded if necessary.

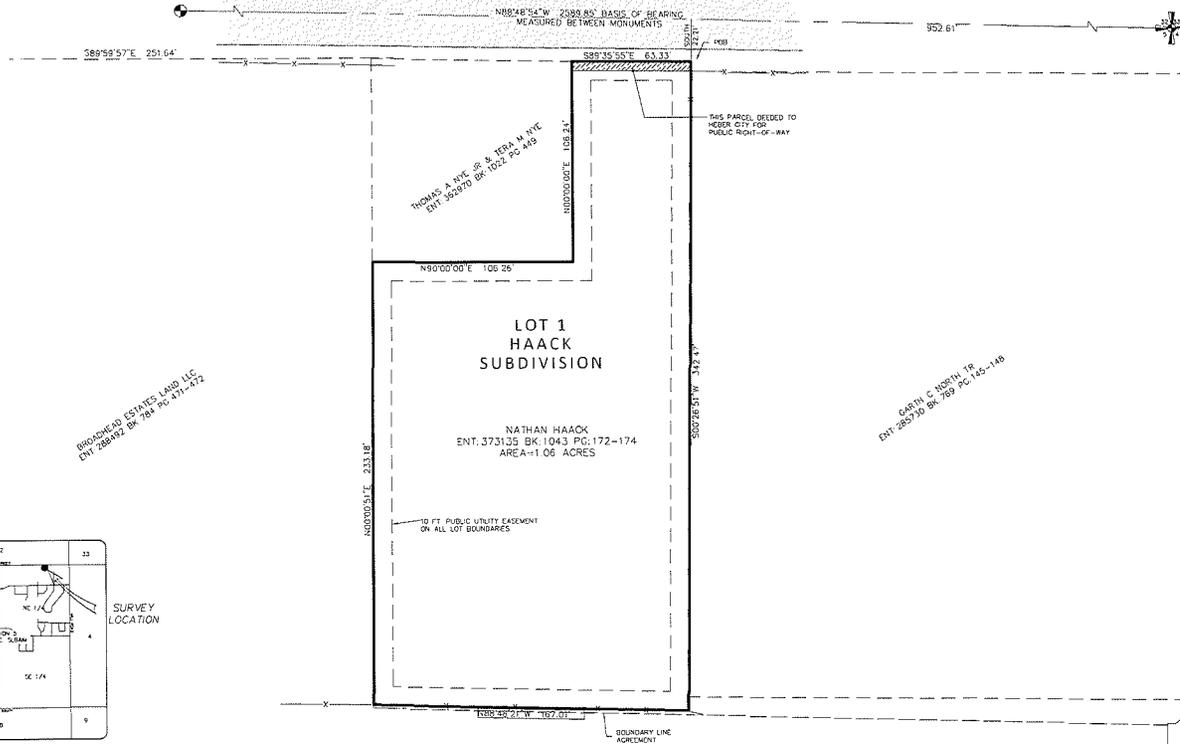
Vicinity Map and Original Subdivision Concept



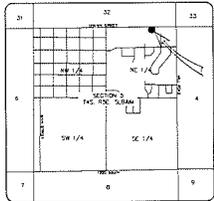
FOUND HEBER CITY MONUMENT AT THE INTERSECTION OF CENTER STREET AND 500 EAST STREET

FOUND WASATCH COUNTY MONUMENT AT THE NORTHEAST CORNER SECTION 5 TOWNSHIP 4 SOUTH RANGE 5 EAST SALT LAKE BASE AND MERIDIAN

CENTER STREET

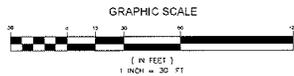


BROADHEAD ESTATES LAND LLC ENT. 288492 BK. 84 PG. 171-172



SURVEY LOCATION

BROADHEAD ESTATES LAND LLC ENT. 288492 BK. 78 PG. 411-412



SURVEYOR'S CERTIFICATE

I, LING CHRISTENSEN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 145760 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, THAT I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS.

LING CHRISTENSEN

DATE

BOUNDARY DESCRIPTION

BEGINNING AT A POINT ON A FENCE LINE EXTENDED, SAID POINT BEING 252.61 FEET N89°52'57\"/>

BASIS OF BEARINGS

BASIS OF BEARINGS FOR THIS PLAT IS N89°45'4\"/>

OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF ALL THE REAL PROPERTY DEPICTED ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE ON THIS PLAT, HAVE CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE DIVIDED INTO LOTS, STREETS, EASEMENTS, AND OTHER PUBLIC USES AS DESIGNATED ON THIS PLAT, AND NOW DO HEREBY DEDICATE UNDER THE PROVISIONS OF 10-9-807 UTAH CODE, WITHOUT CONDITION, RESTRICTION, OR RESERVATION, TO HEBER CITY, UTAH, ALL STREETS, WATERS, SEWERS, AND OTHER UTILITY IMPROVEMENTS, PUBLIC OPEN SPACES, PARKS, EASEMENTS, AND ALL OTHER PLACES OF PUBLIC USE, TOGETHER WITH ALL IMPROVEMENTS REQUIRED BY THE DEVELOPMENT AGREEMENT BETWEEN THE UNDERSIGNED AND HEBER CITY FOR THE BENEFIT OF THE CITY AND THE INHABITANTS THEREOF.

NAME

DATE

NAME

DATE

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASATCH

ON THIS _____ DAY OF _____, A.D. 2013, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, THE SIGNER(S) OF THE ABOVE OWNERS DEDICATION, WHO DULY ACKNOWLEDGED TO ME THAT HE (THEY) SIGNED IT FREELY AND VOLUNTARILY AND FOR THE USES AND PURPOSES THEREIN MENTIONED.

NOTARY PUBLIC

MY COMMISSION EXPIRES

ACCEPTANCE BY LEGISLATIVE BODY

THE CITY COUNCIL OF HEBER CITY, WASATCH COUNTY, UTAH, APPROVES THIS SUBDIVISION SUBJECT TO THE CONDITIONS AND RESTRICTIONS STATED HEREON, AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS, EASEMENTS AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS _____ DAY OF _____, A.D. 20____.

WATER

CLEAN - RECORD

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____, BY THE PLANNING COMMISSION OF HEBER CITY.

CHAIRMAN, PLANNING COMMISSION

WASATCH COUNTY RECORDER

PROJECT: L13-054
SHEET: 1 OF 1
PREPARED FOR: NATHAN HAACK
PROJECT: HAACK SUBDIVISION

Summit Engineering Group Inc.
Suzanne - Civil - Surveyors
50 WEST CENTER - SUITE 100
HEBER CITY, UTAH 84302
PHONE: 435-899-1177 FAX: 435-899-1229

HAACK SUBDIVISION
LOCATED BY THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SUBSEAM
HEBER CITY, WASATCH COUNTY, UTAH

HEBER CITY ENGINEER APPROVAL
CITY ENGINEER _____ DATE _____

Tab 8

Heber City Corporation
 Estimated Christmas Bonus Cost Based on 2013 Bonus
 13-Nov-14

Employee Type	Current Number	2013 Bonus	Net Check	Employee FICA @7.65%	Total
Full-time	56	350	\$ 19,600.00	\$ 1,622.88	\$ 21,222.88
Part-time >10 Hours week	12	150	\$ 1,800.00	\$ 149.04	\$ 1,949.04
Part-time <10 hours week	20	75	\$ 1,500.00	\$ 124.20	\$ 1,624.20
City Council	6	250	\$ 1,500.00	\$ 124.20	\$ 1,624.20
Planning Commission	8	75	\$ 600.00		\$ 635.93
Board of Adjustment	6	75	\$ 450.00		\$ 476.95
Airport Board	5	75	\$ 375.00		\$ 397.46
Total			<u>\$ 25,825.00</u>		<u>\$ 27,930.65</u>

Tab 9

Heber City Corporation
 Summary of Holidays
 Year 2015 (Proposed)

Holidays Taken	Proposed Observance	10 & 12 Hours Shifts	8 & 10 Hours Shifts	Tu - Sat 8 Hour Shift	Justice Court	Actual Holiday
New Years	Thursday, Jan 1	10	8	8	9	Thursday
Civil Rights	Monday, Jan 19	10	8	8	9	Monday
Presidents Day	Monday, Feb 16	10	8	8	9	Monday
Memorial Day	Monday, May 25	10	10	8	9	Monday
July 4th	Friday, July 3	0	0	8	4	Saturday
July 24th	Thursday, July 23	10	10			Friday
July 24th	Friday, July 24			8	4	Friday
Labor Day	Monday, Sept 7	10	10	8	9	Monday
Columbus Day	Monday, Oct 12	10	10	8	9	Monday
Veterans Day	Wednesday, Nov 11	10	8	8	9	Monday
Thanksgiving	Thursday, Nov 26	10	8	8	9	Thursday
Day After Thanksgiving	Friday, Nov 27	0	8	8	0	Friday
Christmas Eve	Thursday, Dec 24	10	8	8	9	Thursday
Christmas Day	Friday, Dec 25	10	8	8	4	Friday
	Total Hours	110	104	104	93	

Office & Police will give up the day after Thanksgiving and July 4th and forfeit six hours of vacation - For the Christmas Day Holiday, employees are to schedule another day off during the same week, while still providing basic services.

Justice Court Employees will give up the day after Thanksgiving and receive 11 additional hours of vacation

July 24th will be observed by 8, 10 and 12 hour shifts on Thursday, July 23 and on Friday by Animal Control (Tuesday - Sat) and Justice Court

*If a holiday falls on a day that is not a normal work day, the employee working 8 hours shifts Tuesday - Saturday will need to schedule another day off during the same work week