

**CITY OF SARATOGA SPRINGS  
CITY COUNCIL MEETING**

Tuesday, January 6, 2015

Meeting held at the City of Saratoga Springs City Offices  
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

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**CITY COUNCIL AGENDA**

Councilmembers may participate in this meeting electronically via video or telephonic conferencing.

**POLICY SESSION- Commencing at 7:00 p.m.**

- Call to Order.
- Roll Call.
- Invocation / Reverence.
- Pledge of Allegiance.
- Public Input - Time has been set aside for the public to express ideas, concerns, and comments. Please limit repetitive comments.
- Awards, Recognitions and Introductions.

**POLICY ITEMS**

1. Update from the Literacy Center Program.
2. Consent Calendar:
  - a. Approval of the Sunrise Meadows Storm Drain reimbursement agreement.
  - b. Approval of the Ironwood Plat 17 Sewer and Storm Drain reimbursement agreement.
  - c. Approval of the 2015 City Council meeting schedule.
  - d. Approval of the Dispatch Building Agreement between the City of Saratoga Springs and Utah County Dispatch Special Service District.
    - i. Resolution R15-1 (1-6-15): Approving the Dispatch Building Agreement Between the City of Saratoga Springs and Utah County Special Service District.
  - e. Resolution R15-2 (1-6-15): Encouraging the State of Utah to Address Comprehensive Transportation Funding.
  - f. Approval of minutes:
    - i. December 9, 2014.
    - ii. December 16, 2014.
3. Public Hearing: Possible Consideration and Approval for the Legacy Farms Master Development Agreement, and Village Plans 2, 3, 4, and 5 located at 400 South and Redwood Road, DR Horton, applicant.
4. Motion to enter into closed session for the purchase, exchange, or lease of property, pending or reasonably imminent litigation, the character, professional competence, or physical or mental health of an individual.
5. Adjournment.

**Notice to those in attendance:**

- Please be respectful to others and refrain from disruptions during the meeting.
- Please refrain from conversing with others in the audience as the microphones are sensitive and can pick up whispers in the back of the room.
- Keep comments constructive and not disruptive.
- Avoid verbal approval or dissatisfaction of the ongoing discussion (e.g., applauding or booing).
- Please silence all cell phones, tablets, beepers, pagers, or other noise making devices.
- Refrain from congregating near the doors to talk as it can be noisy and disruptive.

**City Council  
Staff Report**

**Author:** Jeremy D. Lapin, P.E., City Engineer  
**Subject:** Sunrise Meadows Storm Drain Outfall  
**Date:** January 6, 2015  
**Type of Item:** Reimbursement Agreement



**Description:**

**A. Topic:**

This item is for the approval of a Reimbursement Agreement with Edge Homes, LLC

**B. Background:**

Edge Homes has been working with the City to extend the Storm Drain being installed with Talus Ridge Plat A to the existing storm drain outfall at Sunrise Meadows, approximately 1,700 feet to the North. This extension was requested by the Staff because an opportunity was identified to address an existing deficiency at a reduced cost by piggy backing on the existing work being completed by Edge Homes in the same vicinity. The Existing Storm Drain outfall at Sunrise Meadows discharges on the east side of Foothill Blvd (800 W) onto the Church farm property. Storm Water then runs through an open ditch and eventually to the ULD Canal. The City has received some complaints from the operators of the Church farms that this ditch and stormwater is a nuisance that never should have been permitted to discharge onto their property. Staff is unaware of any official approvals or easements for the existing discharge location.

**C. Analysis:**

Edge Homes included the proposed Sunrise Meadows Storm Drain Outfall in their construction drawings and obtained a bid price from the Contractor, BD Bush Excavation, for the Work. Staff has reviewed the bid and feels it is competitive and reflects the savings anticipated by coordinating with the existing storm drain work already underway for the Talus Ridge Plat A project.

**Recommendation:** Staff recommends that the City Council approve the reimbursement agreement with Edge Homes, L.L.C. in the amount of \$172,539 to provide Developers a one-time lump sum payment as satisfaction in whole of any additional expenses incurred by Developers by installing a new 24-inch RCP pipeline approximately 1,700 feet along Foothill Blvd (800 West) from the Talus Ridge project to Sunrise Meadows.

**SUNRISE MEADOWS STORM DRAIN OUTFALL  
REIMBURSEMENT AGREEMENT  
AND RELEASE OF ALL CLAIMS**

This Reimbursement Agreement and Release of All Claims (hereinafter “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2014, by and between the City of Saratoga Springs, a political subdivision of the State of Utah (hereinafter “City”), and Edge Homes, LLC (“Developer”).

**RECITALS**

**WHEREAS**, Developer is the owner and developer of Plat A of Talus Ridge in Saratoga Springs, Utah; and

**WHEREAS**, the Talus Ridge development requires certain storm drain facilities and improvements including gravity storm drain lines, manholes, and other improvements; and

**WHEREAS**, City desires to connect the storm drain outfall from an existing subdivision, Sunrise Meadows, to the storm drain system being installed with Talus Ridge Plat A; and

**WHEREAS**, Developer has agreed to connect to the Sunrise Meadow Subdivision’s storm drain outfall which is approximate 1,700 feet north of the Talus Ridge development; and

**WHEREAS**, this new connection will result in additional storm drain pipes and manholes (“Storm Drain Improvements”) and City wishes to provide Developer a one-time lump sum payment as satisfaction in whole of any additional expenses incurred by Developers related to the Sunrise Meadows storm drain outfall;

**NOW THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Developers agree as follows:

**AGREEMENT**

**1. PAYMENT OF CONSIDERATION**

In consideration of the promises and covenants contained herein, and as a compromise and full settlement of all claims which Developers may have against the City, Developers agree that the settlement price in Section 2 satisfies any and all obligations that that the City may have to compensate, reserve capacity, or provide credits with regard to the Storm Drain Improvements and the City’s Storm Drain System.

**2. SETTLEMENT PRICE**

Developers and City hereby agree that the following table enumerates in full the estimated additional expenses (and as evidenced by Developer’s bid from BD Bush Excavation

included as Exhibit “A”) incurred by Developers to install the additional Storm Drain Improvements above and beyond that which Developer is responsible for:

**TABLE A**

<i>Item Description</i>	<i>Plan Quantity</i>	<i>Unit Price</i>	<i>Total Price</i>
Traffic Control	1	Lump sum	\$6,200
Connection to ex Manhole	1	Each	\$1,500
60” Storm Drain Manhole	7	Each	\$18,900
24” Class 3 RCP Storm Drain Pipe	1736	LF	\$63,364
Trench Import Material	1200	TON	\$13,200
Temporary 3” asphalt Patch	3500	SF	\$23,100
Remove Ex Asphalt	3500	SF	\$2,625
4” Permanent Asphalt Patch	3500	SF	\$12,775
2” mill and overlay of roadway including restriping	16250	SF	\$30,875
			<b>\$172,539</b>

Reimbursement shall be primarily based upon the unit prices and quantities specified in Table A. Table A represents plan quantities while final reimbursement shall be based on the actual quantities and measurements of work performed during the installation of Storm Drain Improvements as evidenced by material tickets and invoices. In no case shall the City be obligated to reimburse Developer for an item until sufficient evidence is provided as to the actual quantities and prices of the installed and accepted Storm Drain Improvements. In addition, in no case shall the City be obligated to reimburse Developer for expenses that exceed the total amount of \$172,539. Further, in no case shall City reimburse Developer for any labor, products, tools, equipment, plant, transportation, services, incidentals, erection, installation costs, overhead, or any item not listed in Table A above.

Amendments to the scope of work to install the Storm Drain Improvements, due to unforeseen and unanticipated project conditions, must be authorized in advance and in writing by the City. A summary showing the scope and compensation requested for such amendments shall be submitted to the City for written approval prior to commencement of work. The City shall not be obligated to reimburse Developer for costs incurred for work performed unless the City has agreed to additional costs and both parties have executed in advance and in writing a “Change Order” to the Storm Drain Improvements. Final payment for Storm Drain Improvements shall not be due until Developer has installed all of the Storm Drain Improvements in a manner satisfactory to City and in compliance with the City’s standards and specifications.

Upon City’s issuance of a check noted as “Final Payment,” and upon Developer’s depositing, cashing, or endorsing such check, Developer shall release, indemnify, and make no further claims against the City for any work performed by Developer or Developer’s subcontractors, assigns, and agents on the Storm Drain Improvements.

**3. GUARANTEE OF WORKMANSHIP AND WARRANTY BOND**

Upon completion of Storm Drain Improvements, and acceptance by the City of the same, Developer shall furnish a warranty bond and execute a warranty bond agreement in a type and format acceptable to the City in the amount of 10 percent of the final amount reimbursed to Developer as security for the faithful guarantee against defective work on the Storm Drain Improvements. This bond shall remain in effect for one year after the date of final acceptance of the Storm Drain Improvements in accordance with Saratoga Springs ordinances.

**4. MUTUAL RELEASE OF CLAIMS**

In return for the Lump Sum Payment, the receipt and sufficiency of which is hereby accepted, and for other good and valuable consideration, each party hereby fully and completely releases and forever discharges the other party, its elected officials, officers, agents, servants, employees, and former elected officials, officers, agents, servants, and employees from any and all claims, damages, and demands of every nature whatsoever which were asserted, could have been asserted, or will be asserted by either party arising out of and pertaining to each party's obligations for the Storm Drain Improvements, including but not limited to any claims for impact fee credits, illegal exactions, reimbursements, or credits because of Developers' installation of the additional improvements.

**5. AUTHORITY TO SETTLE; INDEMNIFICATION**

As an express condition of the City's Lump Sum Payment, Developers individually and together represents and warrants that they:

- 4.1 have the power to enter into and perform this Agreement;
- 4.2 are the lawful representatives of the Developers;
- 4.3 are the sole owners, assignees, heirs, obligors, beneficiaries, etc. of Talus Ridge Plat A;
- 4.4 have not transferred, assigned, or sold, or promised to transfer, assign, or sell their interest in Talus Ridge Plat A;
- 4.5 shall indemnify, defend, and hold harmless the City with respect to any future claim related to this agreement and with respect to any claim against the City for compensation, reimbursement, reservation of capacities, and credits for the installation of the Storm Drain Improvements brought against the City by any party, person, entity, corporation, homeowners association, government entity, third party, etc.

**6. PARTIES REPRESENTATIVES; NOTICES**

All notices, demands, and requests required or permitted to be given hereunder shall be in writing and shall be deemed duly given if delivered in person or after three business days if mailed by registered or certified mail, postage prepaid, addressed to the following:

Developers:                      Edge Homes, LLC

938 South Main St  
PO Box 225  
Pleasant Grove, UT 84062

City: Mark Christensen  
City Manager  
City of Saratoga Springs  
1307 North Commerce Drive, Suite 200  
Saratoga Springs, Utah 84045

Either party shall have the right to specify in writing another name or address to which subsequent notices to such party shall be given. Such notice shall be given as provided above.

## **7. COMPLETE AGREEMENT, MODIFICATION**

This Agreement, together with the attached exhibits, constitutes the entire agreement between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings, contracts, or agreements, whether written or oral, between the parties on all matters. This Agreement cannot be modified except by written agreement between the Parties.

## **8. SETTLEMENT**

The undersigned certifies that he or she has read this Agreement, that it:

- 7.1 voluntarily enters into it of its' own free will;
- 7.2 has had ample opportunity to review this Agreement with legal counsel;
- 7.3 is a legally incorporated entity,
- 7.4 has performed all corporate formalities to execute this Agreement; and
- 7.5 acceptance of the consideration set forth herein is in full accord and satisfaction of claims which it may have with respect to the subject matter.

## **9. ATTORNEY FEES**

Each party hereto shall bear its own attorneys' fees and costs arising from the actions of its own counsel in connection with this Agreement and the subject matter. In any action of any kind relating to this Agreement, the prevailing party shall be entitled to collect reasonable attorneys' fees and costs from the non-prevailing party in addition to any other recovery to which the prevailing party is entitled.

## **10. GOVERNMENTAL IMMUNITY**

Nothing in this Agreement shall adversely affect any immunity from suit, or any right, privilege, claim, or defense, which the City or its employees, officers, and directors may assert under state or federal law, including but not limited to The Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq., (the "Act"). All claims against the City or its employees,

officers, and directors are subject to the provisions of the Act, which Act controls all procedures and limitations in connection with any claim of liability.

**11. MISCELLANEOUS PROVISIONS**

10.1 If, after the date hereof, any provision of this Agreement is held to be invalid, illegal, or unenforceable under present or future law effective during its term, such provisions shall be fully severable. In lieu thereof, there shall be added a provision, as may be possible, that give effect to the original intent of this Agreement and is legal, valid, and enforceable.

10.2 The validity, construction, interpretation, and administration of this Agreement shall be governed by the laws of the State of Utah.

10.3 All titles, headings, and captions used in this Agreement have been included for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.

10.4 This Agreement and release given hereunder shall be effective upon execution by both parties.

**IN WITNESS WHEREOF**, the City and Developers have caused this Agreement to be executed hereunder by their respective officers having specific authority to enter into this Agreement and to bind respectively the City and Developers to its terms.

For Saratoga Springs:

\_\_\_\_\_  
Mark Christensen, City Manager

ATTEST:

\_\_\_\_\_  
Lori Yates, City Recorder

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Kevin Thurman, City Attorney

Edge Homes, LLC

By \_\_\_\_\_

It's \_\_\_\_\_

STATE OF \_\_\_\_\_ )

)ss.

CITY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

For Edge Homes:

By \_\_\_\_\_

It's \_\_\_\_\_

STATE OF \_\_\_\_\_ )

)ss.

CITY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**City Council  
Staff Report**

**Author: Jeremy D. Lapin, P.E., City Engineer**  
**Subject: Ironwood (SSD plat 17) Sewer and Storm Drain  
Reimbursement Agreement**  
**Date: January 6, 2015**  
**Type of Item: Settlement Agreement**



**Description:**

**A. Topic:**

This item is for the approval of a Settlement Agreement with Capital Assets Financial, LLC

**B. Background:**

Ironwood (Plat 17 in SSD) has been working with the City to ensure their Sanitary Sewer and Storm Drain designs not only serve their project needs but also address existing issues the City has identified in this area. There is an existing sewer main that was extended into the Plat 17 development from the pipeline that runs behind the lots along Centennial Blvd. This pipe extends between 2 lots and crosses Centennial Blvd. The City requested the developer not connect to, and abandon, this pipeline because Staff has identified long term maintenance issues with this pipe as well as the pipeline behind the homes along Centennial due to the difficulty of access and the proximity of the pipes to the adjacent homes. The Developer agreed to install a new pipeline in Centennial directly to the existing lift station approximate 950 feet to the North. This ensures existing issues with the sewer main behind the homes along Centennial are not exasperated and that a new issue is not created with the main that runs between lots 1325 and 1326.

The Ironwood Project is discharging their storm water at two locations along Centennial Blvd. The points of connection are existing inlet boxes that also collect storm water runoff from Centennial Blvd. The Developer has agreed that they are obligated to treat storm water runoff from their project however; the City has requested the developer upsize their storm water cleaning devices to treat both the existing and the new flows.

**C. Analysis:**

The Developers has agreed to abandon the existing sewer main that runs between lots 1325 and 1326 and install a new outfall approximate 950 feet in Centennial Boulevard. The Developer has also agreed to upsize the storm water treatment devices to treat existing stormwater flows along Centennial Blvd. The Developer has requested to be reimbursed the additional expenses incurred by installing a new sewer outfall and abandoning the existing main as well as for upsizing the stormwater treatment devices.

**Recommendation:** Staff recommends that the City Council approve the settlement agreement with Capital Assets Financial Services, L.L.C. in the amount of \$58,706.22 provide Developers a one-time lump sum payment as satisfaction in whole of any additional expenses incurred by Developers by abandoning the existing sewer main, installing a new sewer outfall in centennial Blvd. and for upsizing the two storm water cleaning devices to treat existing storm water flows.

**REIMBURSEMENT AGREEMENT AND GENERAL RELEASE  
OF ALL CLAIMS**

This Reimbursement Agreement and Release (hereinafter “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2015, by and between the City of Saratoga Springs, a political subdivision of the State of Utah (hereinafter “City”), and Capital Assets Financial Services, L.L.C. (“Developer”).

**RECITALS**

**WHEREAS**, Developer are the owners and Developer of Plat 17 of the Saratoga Springs Development in Saratoga Springs, Utah consisting of 40 single family lots otherwise known as Ironwood; and

**WHEREAS**, the Plat 17 development required certain sewer facilities and improvements included but not limited to gravity sewer lines, and manholes; and

**WHEREAS**, there is an existing sewer main extended into the Plat 17 development that Developer desired to connect to; and

**WHEREAS**, City desires to abandon this sewer main because it extends east from Plat 17 between and behind existing homes in a location that is difficult to access and maintain; and

**WHEREAS**, Developer have agreed to abandon this sewer main and install a new outfall in Centennial Boulevard; and

**WHEREAS**, this new sewer outfall will result in additional sewer pipes and manholes, (“Sewer Improvements”) and City wishes to provide Developer a one-time lump sum payment as satisfaction in whole of any additional expenses incurred by Developer by installing a new sewer outfall; and

**WHEREAS**, Developer are installing storm water cleaning devices (“Storm Drain Improvements”) on two storm water outfalls for the Plat 17 development and these outfalls will convey both existing stormwater from Centennial Boulevard as well as new storm water from the Plat 17 development; and

**WHEREAS**, the Storm Drain Improvements will be sized to treat both the existing and the new flows and the City wishes to provide Developer a one-time lump sum payment as satisfaction in whole of any additional expenses incurred by Developer by upsizing the Storm Drain Improvements;

**NOW THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

**AGREEMENT**

**1. PAYMENT OF CONSIDERATION**

In consideration of the promises and covenants contained herein, and as a compromise and full settlement of all claims which Developer may have against the City, Developer agree to withdraw with prejudice any and all claims it may have against the City for compensation, capacity reservations, and credits with regard to the Sewer Improvements, Storm Drain Improvements, the City’s Sanitary Sewer System, and the City’s Storm Drain System.

**2. SETTLEMENT PRICE**

Developer and City hereby agree that the following table enumerates in full the additional expenses incurred by Developer to install the additional Sewer Improvements that Developer’ project is not responsible for:

Connect to existing sewer with pour-in-place manhole	\$ (3,500.00)
8" PVC Sewer Main	\$ 13,170.00
48" Manhole	\$ 2,850.00
60" Manhole	\$ (3,250.00)
4" PVC Lateral	\$ -
Import material for trenches	\$ 16,329.65
Sewer pipe bedding	\$ 731.17
R & R asphalt utility trenches	\$ 10,536.64
Slurry Seal	\$ 1,198.80
<u>Abandon Existing Main with Flow Fill</u>	<u>\$ 2,500.00</u>
	<b>\$ 40,566.26</b>

Developer and City hereby agree that the following table enumerates in full the additional expenses incurred by Developer to install the additional Storm Drain Improvements that Developer’ project is not responsible for:

<b>North Treatment Device</b>	Acres	% Split	Cost
Total	1.697	100.00%	\$12,500.00
<u>Plat 17 (Developer)</u>	<u>0.197</u>	<u>11.61%</u>	<u>\$1,451.09</u>
<b>Existing Centennial (City)</b>	<b>1.500</b>	<b>88.39%</b>	<b>\$11,048.91</b>
<b>South Treatment Device</b>	Acres	% Split	Cost
Total	3.619	100.00%	\$12,500.00
<u>Plat 17 (Developer)</u>	<u>1.566</u>	<u>43.27%</u>	<u>\$5,408.95</u>
<b>Existing Centennial (City)</b>	<b>2.053</b>	<b>56.73%</b>	<b>\$7,091.05</b>

Developer agrees to accept the following compensation as satisfaction in whole of City’s obligations under this agreement:

***\$58,706.22 (“Lump Sum Payment”)***

**3. MUTUAL RELEASE OF CLAIMS**

In return for the Lump Sum Payment, the receipt and sufficiency of which is hereby accepted, and for other good and valuable consideration, each party hereby fully and completely releases and forever discharges the other party, its elected officials, officers, agents, servants, employees, and former elected officials, officers, agents, servants, and employees from any and all claims, damages, and demands of every nature whatsoever which were asserted, could have been asserted, or will be asserted by either party arising out of and pertaining to each party’s obligations for Sewer Improvements and the Storm Drain Improvements, including but not limited to any claims for impact fee credits, illegal exactions, reimbursements, or credits because of Developer’ installation of the additional improvements .

**4. AUTHORITY TO SETTLE; INDEMNIFICATION**

As an express condition of the City’s Lump Sum Payment, Developer individually and together represents and warrants that they:

- 4.1 have the power to enter into and perform this Agreement;
- 4.2 are the lawful representatives of the Developer
- 4.3 are the sole owners, assignees, heirs, obligors, beneficiaries, etc. of Plat 17;
- 4.4 have not transferred, assigned, or sold, or promised to transfer, assign, or sell their interest in Plat 17;
- 4.5 shall indemnify, defend, and hold harmless the City with respect to any future claim related to this agreement and with respect to any claim against the City for compensation, reimbursement, reservation of capacities, and credits for the installation of the Sewer Improvements and the Storm Drain Improvements brought against the City by any party, person, entity, corporation, homeowners association, government entity, third party, etc.

**5. PARTIES REPRESENTATIVES; NOTICES**

All notices, demands, and requests required or permitted to be given hereunder shall be in writing and shall be deemed duly given if delivered in person or after three business days if mailed by registered or certified mail, postage prepaid, addressed to the following:

Developer:	Rob Haertel, Manager Capital Assets Financial Services, L.L.C. 6000 South Fashion Blvd. #200 Murray, UT 84107
City:	Mark Christensen, City Manager City of Saratoga Springs 1307 North Commerce Drive, Suite 200 Saratoga Springs, Utah 84045

Either party shall have the right to specify in writing another name or address to which subsequent notices to such party shall be given. Such notice shall be given as provided above.

**6. COMPLETE AGREEMENT, MODIFICATION**

This Agreement, together with the attached exhibits, constitutes the entire agreement between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings, contracts, or agreements, whether written or oral, between the parties on all matters. This Agreement cannot be modified except by written agreement between the Parties.

**7. SETTLEMENT**

The undersigned certifies that he or she has read this Agreement, that it:

- 7.1 voluntarily enters into it of its’ own free will;
- 7.2 has had ample opportunity to review this Agreement with legal counsel;

7.3 is a legally incorporated entity,  
7.4 has performed all corporate formalities to execute this Agreement; and  
7.5 acceptance of the consideration set forth herein is in full accord and satisfaction of claims which it may have with respect to the subject matter.

**8. ATTORNEY FEES**

Each party hereto shall bear its own attorneys' fees and costs arising from the actions of its own counsel in connection with this Agreement and the subject matter. In any action of any kind relating to this Agreement, the prevailing party shall be entitled to collect reasonable attorneys' fees and costs from the non-prevailing party in addition to any other recovery to which the prevailing party is entitled.

**9. GOVERNMENTAL IMMUNITY**

Nothing in this Agreement shall adversely affect any immunity from suit, or any right, privilege, claim, or defense, which the City or its employees, officers, and directors may assert under state or federal law, including but not limited to The Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq., (the "Act"). All claims against the City or its employees, officers, and directors are subject to the provisions of the Act, which Act controls all procedures and limitations in connection with any claim of liability.

**10. MISCELLANEOUS PROVISIONS**

10.1 If, after the date hereof, any provision of this Agreement is held to be invalid, illegal, or unenforceable under present or future law effective during its term, such provisions shall be fully severable. In lieu thereof, there shall be added a provision, as may be possible, that give effect to the original intent of this Agreement and is legal, valid, and enforceable.

10.2 The validity, construction, interpretation, and administration of this Agreement shall be governed by the laws of the State of Utah.

10.3 All titles, headings, and captions used in this Agreement have been included for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.

10.4 This Agreement and release given hereunder shall be effective upon execution by both parties.

**IN WITNESS WHEREOF**, the City and Developer have caused this Agreement to be executed hereunder by their respective officers having specific authority to enter into this Agreement and to bind respectively the City and Developer to its terms.

FOR SARATOGA SPRINGS:

\_\_\_\_\_  
Mark Christensen, City Manager

ATTEST:

\_\_\_\_\_

Lori Yates, City Recorder

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Kevin Thurman, City Attorney

FOR CAPITAL ASSETS FINANCIAL SERVICE, L.L.C.:

By \_\_\_\_\_

It's \_\_\_\_\_

STATE OF \_\_\_\_\_ )

)ss.

CITY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by

\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**2015**

**Annual Notice of Regular Meeting Schedule for the City of Saratoga Springs**

**City Council**

Held at the City of Saratoga Springs City Hall located at 1307 North Commerce Drive,  
Suite 200, Saratoga Springs, Utah

Tuesday, January 6, 2015

Tuesday, January 20, 2015

Tuesday, February 3, 2015

Tuesday, February 17, 2015

Tuesday, March 3, 2015

Tuesday, March 17, 2015

Tuesday, April 7, 2015

Tuesday, April 21, 2015

Tuesday, May 5, 2015

Tuesday, May 19, 2015

Tuesday, June 2, 2015

Tuesday, June 16, 2015

Tuesday, July 7, 2015

Tuesday, July 21, 2015

Tuesday, August 4, 2015

Tuesday, August 18, 2015

Tuesday, September 1, 2015

Tuesday, September 15, 2015

Tuesday, October 6, 2015

Tuesday, October 20, 2015

Tuesday, November 10, 2015

Tuesday, December 1, 2015

**RESOLUTION NO. R15-1 (1-6-15)**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA SPRINGS, UTAH APPROVING THE DISPATCH BUILDING AGREEMENT BETWEEN THE CITY OF SARATOGA SPRINGS AND UTAH COUNTY DISPATCH SPECIAL SERVICE DISTRICT**

**WHEREAS**, the Utah County Dispatch Special Service District (“District”) was organized under the Special Service District Act, Title 17D Chapter 1, Utah Code Annotated 1953, as amended, as a separate legal entity to provide dispatch services to public safety entities located in Utah County; and

**WHEREAS**, the City of Saratoga Springs (“City”) is a member of the District; and

**WHEREAS**, in order to provide adequate dispatch services, given the current volume of calls, the District is undertaking the acquisition and construction of a new building to house dispatching equipment and personnel located in Spanish Fork City, Utah (“project”); and

**WHEREAS**, the District members have previously financed, or are willing to finance, their respective shares of the cost of construction of the project; and

**WHEREAS**, the City Council finds that the project will further the health, safety, and welfare of City residents and that the City should contribute its respective share of the costs of construction of the project.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Saratoga Springs, Utah as follows:

1. The Dispatch Building Agreement (“Agreement”), attached as Exhibit A, is hereby approved.
2. The Mayor of the City of Saratoga Springs, Utah is authorized to sign the Agreement.
3. The City Council authorizes the expenditure of \$246,874 pursuant to the Agreement and directs the City Manager to amend the City’s budget accordingly.

APPROVED this 6<sup>th</sup> day of January, 2015.

City of Saratoga Springs

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Recorder

# DISPATCH BUILDING AGREEMENT

This Dispatch Building Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between Utah County Dispatch Special Service District, a political subdivision organized and existing under the laws of the State of Utah (Districts) and [member], a political subdivision of the State of Utah (the Participant).

## RECITALS:

WHEREAS, District was organized under the Special Service District Act, Title 17D Chapter 1, Utah Code Annotated 1953, as amended, as a separate legal entity to provide dispatch services to public safety entities located in Utah County; and

WHEREAS, in order to provide adequate dispatch services, given the current volume of calls, District is now undertaking the acquisition and construction of a new building to house dispatching equipment and personnel located in Spanish Fork City, Utah (the Project); and

WHEREAS, the Members have previously financed, or are willing to finance, their respective shares of the Cost of Construction of the Project; and

WHEREAS, in order to enable District to have the funds to proceed with the project, it is necessary that each Member enter a Dispatch Building Agreement which constitutes the legal, valid, and binding obligation of each respective Member; and

WHEREAS, District and the Members are duly authorized under applicable provisions of law to execute, deliver, and perform this Agreement and their respective governing bodies having jurisdiction have taken all necessary actions and given all necessary approvals in order to constitute this Agreement a legal, valid, and binding obligation of the parties hereto; and

WHEREAS, the Board has determined that District would spend \$1,800,000.00 of reserved funds toward the completion of the Project;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained,

it is agreed by and between the parties hereto as follows:

***Section 1. Definitions of Terms.***

As used herein, the following terms shall have these meanings:

*Annual Budget* means the fiscal year budget adopted by District.

*Authorized Officer of District* means the Chairman, Vice-Chairman, Secretary, or Treasurer of the Board, or the Executive Director of District when authorized to perform specific acts or duties under the Agreements by resolution duly adopted by the Board.

*Board* means the Board of Trustees of District.

*By-Laws* means the duly adopted by-laws of District.

*Capital Payment* means any payment or payments made to District by a Member pursuant to Section 4 of this Agreement and designated as a Capital Payment for the Project.

*Capital Payment Percentage* means the percentage obtained by dividing (1) the sum of all Capital Payments made by or credited to the Member, by (2) the sum of all Estimated Project Costs as determined and allocated to such computation by District, all as more fully provided in Section 4 hereof. The Member's initial Capital Payment Percentage shall be calculated by District and set forth on Exhibit A attached hereto and incorporated herein by this reference.

*Cost of Construction* means all costs and expenses heretofore or hereafter paid or incurred by District in connection with the acquisition, construction, and installation of the Project and placing the same in service, including all expenses preliminary and incidental thereto, and the cost of planning, designing, acquiring, constructing, and placing in operation any facilities related to the Project, including land costs, less the amount of reserved funds being used by District to pay toward the cost of the Project. Cost of Construction shall further include, but shall not be limited to, the following:

- (1) working capital and reserve requirements of the Project, including reserves for those items set forth in the definition of Operation and Maintenance Costs, as may be

determined from time to time by District;

- (2) planning and development costs, engineering fees, contractors fees, fiduciaries fees, auditors and accountants fees, costs of obtaining governmental and regulatory permits, rulings, licenses and approvals, the cost of real property, labor, materials, equipment, supplies, training and testing costs, insurance premiums, legal, and financial advisory costs, administrative and general costs, and all other costs properly allocable to the initial acquisition of the Project and placing the same in operation;
- (3) all costs relating to litigation, claims, or judgments not otherwise covered by insurance and arising out of the acquisition, construction, or operation of the Project;
- (4) payment to District or any Member to reimburse advances or payments made or incurred for costs preliminary or incidental to the acquisition and construction of the Project;
- (5) legally required or permitted federal, state, and local taxes relating to the Project incurred during the period of the acquisition or construction thereof; and
- (6) all other costs incurred by District and properly allocable to the acquisition of the Project.

*Date of Commercial Operation* means the date on which the Project is capable of operating reliably and continuously.

*Fiscal Year* means a period commencing on July 1 of each calendar year and ending on June 30 of the next succeeding calendar year.

*Facilities* means the Dispatch Building and all facilities, structures, improvements and all real and personal property acquired or constructed by District as part of the Project.

*Members* means each government entity which is a member of District, as identified on Exhibit "A".

*Member Representative* means the individual appointed to the Board by the Member.

*Project* means the acquisition of an interest in real estate and construction, including equipping,

of a new building to house dispatching equipment and personnel.

*Schedule of Members* means the schedule of Members and their respective Capital Payment Percentages, attached hereto as Exhibit A, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

### ***Section 2. Term of Contract***

This Building Agreement shall become effective upon the execution of Building Agreements by District and by all Members listed in Exhibit A hereto, and shall, continue until the date on which the Project has been fully completed and paid for.

### ***Section 3. Acquisition and Construction of Project***

- (a) District shall use its best efforts to construct the Project to meet its needs and to keep the costs within budget.
- (b) The contracts are required to be executed by December 31, 2014 in order to timely acquire an interest in real property and complete construction of the Project. Failure of any Member to timely execute the contract shall cause the Board to review and exercise sanctions as authorized by the District by-laws and resolutions creating the District.

### ***Section 4. Capital payments; Calculation of Capital Payment Percentage.***

- (a) Participant may elect to make one or two Capital Payments.
  - (i) If Participant elects to make one Capital Payment, the estimated payment shall be due to District by June 30, 2015.
  - (ii) If participant elects to make two Capital Payments, the first payment, representing one-half of the estimated Capital Cost shall be due on or before June 30, 2015, and the balance, including any true up cost, if known, shall be due by December 31, 2015.

The governing body of Participant shall determine whether to make one or two Capital Payments.

Participant shall give notice to District of the determination of its decision to make one or two Capital

Payments by December 31, 2014. In the event that Participant does not notify District of the determination of its governing body by December 15, 2014, Participant shall be deemed to have elected to make two Capital Payments.

(b) Upon substantial completion of the construction of the Project, District will give notice to each of the Members of the anticipated Date of Commercial Operation of the Project. District shall prepare and submit to the Members a final accounting of the Cost of Construction and Capital Payments. To the extent that such final accounting statement discloses that additional amounts are owed by some or all of the Members, then District shall seek Board approval to pay the balance from the District's fund balance, if funds are available, and if not to submit a billing statement to such Members. Participant shall pay an amount equal to its share of the final Cost of Construction of the Project.

(c) In connection with each Capital Payment that may be made by Participant pursuant to this Section, Participant acknowledges and agrees with District that:

- (1) the sum of the Capital Payment Percentages of all Members shall equal 100%
- (2) District shall have absolute and exclusive authority to establish escrow arrangements governing the deposit and disbursement of each Capital Payment and to determine and calculate from time to time the Estimated Project Costs and the Member=s Capital Payment Percentage, and all such determinations and calculations by District shall be conclusive and binding upon Participant.

(d) Estimated Project Costs shall be determined by District in its sole discretion based upon the items of the Cost of Construction. The amount of Estimated Project Costs shall be determined from time to time so as to provide for a proportional allocation of the Cost of Construction.

(e) Participant acknowledges and agrees that the estimated amount of the Capital Payment to be made by Participant will be subject to adjustment to reflect the actual cost of the various items included in Estimated Project Costs.

(f) Participant acknowledges that once payment is made, it is non-refundable, even in the event Participant leaves the District.

***Section 5. Construction Management.***

Construction of the Project shall be managed by District with the advice of the Operations Board. It is the intention of the Members and District that they will exercise a high degree of cooperation in the construction of the Project.

DATED this \_\_\_ day of \_\_\_\_\_, 2015

UTAH VALLEY DISPATCH SPECIAL  
SERVICE DISTRICT by:

\_\_\_\_\_  
David A. Oyler, Chair

Attest:

\_\_\_\_\_  
Deborah Mecham, Executive Director

[MEMBER] by:

\_\_\_\_\_  
Mayor/Commissioner

Attest:

\_\_\_\_\_  
City Recorder/County Clerk/

**EXHIBIT A**  
**SCHEDULE OF PARTICIPANTS 2015 FEE SHARE**  
**PERCENTAGE AND ESTIMATED CAPITAL PAYMENT**

MEMBERS	CAPITAL PAYMENT PERCENTAGE	ESTIMATED AMOUNT OF CAPITAL COST
Alpine City	2.72%	\$95,074
American Fork City	15.01%	\$525,455
City of Cedar Hills	1.78%	\$62,279
Cedar Fort	0.20%	\$7,151
Eagle Mountain	5.75%	\$201,118
Elk Ridge City	0.46%	\$16,203
Fairfield Town	0.10%	\$3,472
Genola City	0.30%	\$10,541
Goshen City	0.27%	\$9,546
Highland City	5.61%	\$196,397
Lehi City	17.39%	\$608,772
Payson City	8.11%	\$283,939
Salem City	2.34%	\$81,759
Santaquin City	3.49%	\$122,157
Saratoga Springs City	7.05%	\$246,874
Spanish Fork City	12.12%	\$424,340
Utah County	16.82%	\$588,830
Vineyard	0.24%	\$8,294
Woodland Hills	0.22%	\$7,798
Member Totals	99.98%	\$3,499,999

**RESOLUTION R15-2 (1-6-15)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA SPRINGS, UTAH, ENCOURAGING THE STATE OF UTAH TO ADDRESS COMPREHENSIVE TRANSPORTATION FUNDING.**

**WHEREAS**, a safe and efficient transportation system creates the foundation for economic growth and improved quality of life; and

**WHEREAS**, the creation and maintenance of transportation infrastructure is a core responsibility of State and local government; and

**WHEREAS**, Utah's population is expected to grow by 1 million residents by 2040; and

**WHEREAS**, Utah's residents demand new comprehensive transportation options such as bike lanes, multi-use paths, off-road trails and transit in addition to traditional roads; and

**WHEREAS**, research from the Utah Department of Transportation indicates that road maintenance efforts save cities from road rehabilitation that costs six times as much as maintenance, and saves cities from road reconstruction that costs ten times as much as maintenance, and

**WHEREAS**, investing in transportation results in tremendous economic development returns for both municipalities and the state; and

**WHEREAS**, improving comprehensive transportation in Utah will reduce private vehicle usage which will in turn lead to improved air quality; and

**WHEREAS**, poor air quality discourages economic development, business recruitment and tourism visits, and contributes to asthma and other health ailments; and

**WHEREAS**, nearly 1 in 10 Utah adults suffer from asthma and struggle to breathe during poor air quality days; and

**WHEREAS**, nearly 57% of Utah adults are overweight, approximately 200,000 Utahns have diabetes, and diabetes and obesity related health care costs in Utah exceed \$1 billion; and

**WHEREAS**, investing in safe and connected trails, bike lanes, sidewalks, and multi-use paths will encourage Utahns to be more active, spend more time with their families via active transportation, and result in improved personal and community health; and

**WHEREAS**, the current motor fuel tax of 24.5 cents and 1% local option sales tax are insufficient to satisfy current and future transportation needs; and

**WHEREAS**, Utah has led the nation in creating an Unified Transportation Plan to address these comprehensive transportation and quality of life issues and the City now asks the State and local governments to work together to find comprehensive funding solutions that will address transportation, economic development, air quality, and health needs.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF \_\_\_\_\_, UTAH:**

**SECTION 1. Comprehensive Transportation Funding.** The City Council supports

proposals which meet comprehensive local transportation needs, promote the Unified Transportation Plan, and provide for future growth. The City supports studying a transportation funding option which would allow for the statewide implementation of a quarter cent (\$0.0025) local options sales tax to be used for transportation. The City also supports studying motor fuel taxes, "B and C" road funding, and other transportation funding options. Motor fuel taxes are not equitably borne by road users with the advent of higher MPG vehicles, electric and hybrid vehicles, and other fuel-saving technologies. Additionally, since the motor fuel tax has not been adjusted since 1997 and is not indexed, the current purchasing power is inadequate. The City requests the Utah Legislature to carefully examine all funding options.

**SECTION 2. Comprehensive Transportation Options.** The City supports the expansion of the uses for which transportation funding can be spent to reflect the individual needs and discretion of local governments. Transportation, air quality, and public health can be enhanced when active transportation and transit are eligible for transportation funding. Examples of items that could be eligible may include trails, bike lanes, sidewalks, safety equipment, traffic calming, signage, and lighting. Investment in active transportation options will encourage residents to travel via walking, biking, and transit, result in a healthier population, reduced car emissions, decreased health care costs, and improved quality of life. The City supports additional funding mechanisms that will result in expanded active transportation infrastructure. The City also supports continued investment in public transit as outlined in Utah's Unified Transportation Plan. Transit can help relieve traffic, promote walkable communities, and improve air quality.

**SECTION 3. Coordinating Efforts.** The City encourages City staff to work with State elected officials, the Utah Transportation Coalition, and the Utah League of Cities and Towns.

**SECTION 4. Distribution of this Resolution.** A copy of this resolution shall be sent to the Governor, the President of the Utah State Senate, the Speaker of the Utah House of Representatives, the municipality's State Senators and State House Representatives, and the Executive Director of the Utah League of Cities and Towns.

**SECTION 5. Effective Date.** This Resolution shall become effective upon passage.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF SARATOGA SPRINGS, UTAH, ON THIS 6<sup>TH</sup> DAY OF JANUARY, 2015 BY THE FOLLOWING VOTE:**

	YES	NO	ABSTAIN	ABSENT
City Council Member McOmer	_____	_____	_____	_____
City Council Member Poduska	_____	_____	_____	_____
City Council Member Willden	_____	_____	_____	_____
City Council Member Baertsch	_____	_____	_____	_____
City Council Member Call	_____	_____	_____	_____

Mayor: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Recorder

Approved as to form:

\_\_\_\_\_  
 City Attorney

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**City of Saratoga Springs**  
**City Council Meeting**  
**December 9, 2014**

Regular Session held at the City of Saratoga Springs City Offices  
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

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**Policy Session Minutes**

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**Present:**

Mayor: Jim Miller

Council Members: Shellie Baertsch, Rebecca Call, Stephen Willden, Bud Poduska

Council Member Absent: Michael McOmber

Staff: Mark Christensen, Spencer Kyle, Kimber Gabryszak, Owen Jackson, Kevin Thurman, Jeremy Lapin,  
Lori Yates.

Others: Stefani Bailey, Jan Memmott, McKay Memmott, Jo Ann Richey, Sarah Dean, Neil Merklina, Drew  
Curley, Amber Davis, Erica Groneman, Travis Taylor, Corey McBride, Christian Quero, Jen Hanks,  
Tammy and Alex Payne, Bryan Flamm, Chris Porter, Chad Groneman, Phil Broeck, Zak and Heather  
Mackay, Shana Clark, Alicia Dean, Mica and Tamare Cain, Shandon Sears, Nikki Hurst, Sherri Weiner,  
Amanda Kemper, Brooke King, J.D. Taylor, Christy Taylor, Jamie Bohn, Jason Bohn, Heidi Balderree,  
Jessica Bell, Tony Bell, Justin Coole, Stephanie Follett, Melissa Brown, Shane Earling, Lori and Aaron,  
Jessica Enslow, Robert Enslow, Alyssa Lumley, Mario Comayo, Maurie Pyle.

**Call to Order** 6:03 p.m.

**Roll Call** - Quorum was present

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**1. Consideration**

Kimber Gabryszak provided a brief summary of the location and site of the annexation along with the acreage that would be considered. She then reviewed the proposed development for the property but advised that this is still being revised.

Kevin Thurman noted the agreement that was placed in the Council packet and on the City's website has been revised and would like to have the applicant explain those revisions.

Bruce Baird, counsel for Western States, provided a brief history of the property and the desire to be within the City of Saratoga Springs. We have been working with the City and staff because they have expressed that they didn't want a prison located here in the City. We will assure that the Council's concerns and issues will be addressed. There will be half acre lots buffering Camp Williams. A Master Development Agreement will be provided in the near future. We are sensitive to the needs and desires of the community. Bruce said that language in the annexation agreement has been added to address utilities and infrastructure. We have also changed the number of units from 1950 and 2350 to 1800 and 2200 units. The termination date was taken out and we would like to move quickly with the annexation process. We would be proud to have the agreement approved by the City Council. The best that we can do would be to write a letter to the Prison Commission to permanently withdraw us from consideration. If this agreement is executed this will occur tomorrow. The clients look forward to being a part of Saratoga Springs.

Councilman Poduska appreciates Western States cooperation with Saratoga Springs. He would like to see that the applicant is able to annex the land to accommodate our expansion of growth and to accommodate to the density and the reduction of units. He is please to know that the buffer zone with the City and Camp Williams has been addressed. The infrastructure might be a challenged but one that could be overcome. There isn't much being shown for trails and open space.

Bruce Baird indicated that the trails and open space will be shown at the time of the Concept Plan.

Councilman Poduska glad to see the deadline removed. He asked if the letter is sent to the Prison Relocation Commission and they for so reason decide not to remove this location from the list, then what will happen after that.

54 Kevin Thurman said that either way the State could acquire the land but we are hoping that since the applicant is  
55 sending the letter that this would withdraw Saratoga Springs.

56 Councilman Poduska if the City remains on the list would this delay the process of the annexation?

57 Kevin Thurman stated that the City would still move forward with the processing the annexation and Master  
58 Development Agreement.

59 Councilman Poduska has no problem with the annexation agreement.

60 Councilwoman Call appreciates the opportunity of being here this evening. She took a moment to talk about the  
61 process, we are not rushing through anything this is a little out of sort because it is pre-annexation agreement,  
62 but the document itself says that the annexation is not include with the Concept Plan and that the annexation  
63 will occur prior to and this is not stepping out of line with previous tactics. The allotted number of units  
64 needs to be changed from 1800 to 1500. There is no reason to limit the bottom number.

65 Bruce Baird said there is a need to keep the current unit numbers and would disagree with changing the numbers.  
66 This is quality for the development, 1799 would be the lowest they could go. We will provide a good plan  
67 and will work with the City.

68 Councilwoman Call is uncomfortable with the number and has seen lower unit numbers on this land from other  
69 plans. We care about the quality type and density; this development will not occur quickly and would like to  
70 see that those needs are addressed before development begins. She expressed the combination of both, the  
71 desire to provide what is needed for the city. One thing that she suggested the applicant do is to provide more  
72 business property. She is asking that the applicant operate in good faith with the overall density through the  
73 development. Uncomfortable with the deadline date being removed from the agreement and asked why was  
74 it taken out and why the attorney is comfortable with it being removed.

75 Kevin Thurman is unable to answer why the applicant removed the date and he is fine with the removal of the  
76 date. The annexation would go back to the County and the applicant could do what they wanted with their  
77 property. The annexation would not occur unless the agreement was signed.

78 Bruce Baird said that the annexation agreement is binding for all parties; both parties are getting what they have  
79 requested.

80 Councilwoman Call pointed out that no development will occur until the infrastructure has been completed. If  
81 the Council decides that this pre-annexation is acceptable she advised that the City also write a letter to the  
82 Prison Commission as well.

83 Councilwoman Baertsch asked Kimber Gabryszak to run us through the general difference with what will happen  
84 by adding this extra step with the pre-annexation agreement.

85 Kimber Gabryszak stated that the annexation will continue as required per State Code. Once the application is  
86 certified as compliant with State Code then it will notice will be published in the paper. There is a thirty day  
87 protest period for effected entities. If no protests are received then the Council will hold a public hearing and  
88 at that the Council is able to deny or approve the proposed annexation agreement.

89 Councilwoman Baertsch if something were to happen that wouldn't allow the City to annex this property. What  
90 would this do?

91 Kevin Thurman said if the property meets the requirements specified through the annexation law, there isn't  
92 much that could stop an annexation from taking place.

93 Councilwoman Baertsch with the ERU's for the commercial or tech type businesses would actually lower the  
94 numbers of residential units off the total numbers.

95 Bruce Baird stated that would be placed in the development agreement.

96 Councilwoman Baertsch we have had many residents who have requested larger lots and would like to see that  
97 occur along with seeing light manufacture use be added to the plan. She would like to see lower density.  
98 She is fine with the changes to the pre-annexation. She is looking forward to getting the City off the list for a  
99 prison.

100 Councilman Willden thanked the applicant for working with staff and highly appreciates the feedback from the  
101 applicant. He is fine with the density being 1799 units. The positive zoning that is requested. He too is  
102 pleased that the applicant is working with Camp Williams regarding their concerns and feathering the density  
103 and lowering the ERU's.

104 Councilwoman Call clarified that the proposed zoning as being R-4. We will be working diligently with  
105 applicant for creating the best product for the City. There is a wide democratic for individuals and

106 appreciates having the opportunity to work with the applicants. Saratoga Springs is not acceptable for a  
107 prison location.

108 Mayor Miller appreciates the attendance and echoes what has been addressed by the Council. He thanked the  
109 applicants for listening to the residents of both the City of Saratoga Springs and Eagle Mountain City. He  
110 looks forward to working with the applicants.

111  
112 **Motion by Councilwoman Call to approve the Consideration of the Pre-Annexation and Development**  
113 **Agreement for The Springs Annexation located west of the Wildflower project, approximately 1000**  
114 **North 1000 West, adjacent to the south border of Camp Williams, Western State Ventures, applicant**  
115 **and authorizing staff to write a letter of support in removing Saratoga Springs as consideration for the**  
116 **Prison Location Committee along with the official documents from the applicant. Seconded by**  
117 **Councilman Poduska**

118 **Aye: Councilman Willden, Councilwoman Baertsch, Councilwoman Call, Councilman Poduska.**  
119 **Motion passed unanimously.**

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121 **Policy Meeting Adjourned at 6:50 p.m.**

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Date of Approval

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Mayor Jim Miller

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131 Lori Yates, City Recorder

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**City of Saratoga Springs**  
**City Council Work Session**  
**December 16, 2014**

Work Session held at the City of Saratoga Springs City Offices  
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

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**Work Session Minutes**

**Present:**

Mayor: Jim Miller

Council Members: Michael McOmber, Shellie Baertsch, Rebecca Call, Stephen Willden, Bud Poduska

Staff: Mark Christensen, Kimber Gabryszak, Kyle Spencer, Kevin Thurman, Nicolette Fike

Others: Chris Porter, Travis Daley, Phil Cook, Jen Klingonsmith, Quinton Klingonsmith, Krisel Travis, Boyd Martin, Kevin Ballard, Greg Haws, Joe Kemmerer, Nathan Shipp

**Call to Order – 6:05 p.m.**

**1. Discussion of the Wildflower Rezone, General Plan Amendment, and Community Plan located 1 mile west of Redwood Road on SR73 and west of Harvest Hills Development, Dai/Nathan Shipp, applicant.**

Nathan Shipp introduced the project.

Phil Cook, a Real Estate appraiser, talked about how they valued the property when a government agency needs to acquire property. They follow the same rules as if they were looking at an eminent domain action with a before and after process. They went through as if there were no project (as a straight R3) State law says the agency acquiring the land has to pay at least the value of the land. There may also be severance damages, a value loss to the remaining land by reason of the project. There may also be benefits. One negative associated with this road is that there is no time set for construction. The property owner is going to incur costs up front that they may not have if the project was more eminent. A benefit may be if the density that is in this roadway area gets transferred to the remaining property. He noted that it's not fair for the government to pay for the added value, alternatively if value is depressed it isn't fair to sell it at a discount. They have to follow the scope of the project rule. Also as if it's a hypothetical buyer and seller.

Phil Cook helped answer questions about the costs from the Council members. He indicated that any benefit from a transfer of density in this corridor to the remaining property it could offset in whole or part the value of the severance damages.

Mark Christensen stated that the issue is, do we want to participate and help facilitate the costs to the state by transferring densities? If not, the state will need to purchase the property with the damages. What is your willingness to participate? Does some transfer make sense?

Councilman McOmber appreciates the clarifications. He clarified that by us transferring the densities, it helps offset the severance that UDOT would have to pay. The MVC land is getting paid for at market value, we are looking at offsetting the severance. He doesn't want to double dip on the corridor itself, but the corridor diminishes the value of the surrounding land, that is what we are looking at helping with. We are trying to figure out how we can help minimize the impact of the surrounding land.

Phil Cook they are not made whole unless they get paid for value of land and for the reduction in the value of the land they don't take.

Mark Christensen said if we are willing to participate than UDOT would be thrilled. If we don't participate than UDOT has to solve the issues of timing and where the corridor would go. There is a question of what level we participate.

Councilman McOmber asked what is the ERU severance to the surrounding area.

Phil Cook said conceptually there is not a 1-1 correlation. Higher density is worth more.

Councilman McOmber would like the numbers so they can make a clearer decision. They want to work well with UDOT.

54 Mark Christensen said fundamentally, are we willing to enter into the 3 way partnership, are we willing to take  
55 on some of those damages.

56 Councilman Poduska said we should work together in cooperative effort. He can see where UDOT benefits from  
57 a lower price. He can see where DAI would benefit from a higher density. The City will benefit from  
58 freeway access. He has some pushback on density, but the city would benefit from the number of rooftops  
59 allowing greater commercial to come in. He is in favor of some level of participation.

60 Councilwoman Call taking just the rest of the property without MVC it could have an impact on the Planned  
61 Community zone. If they include MVC in zoning than it could fall in a Planned Community, but if they don't  
62 than it couldn't. With density transfer itself, she appreciates effort to work with everyone to get the numbers.  
63 Her quick numbers at \$25,000 per unit would be just below 11 million dollars, she doesn't know if there is  
64 11 million dollars' worth of damages there. She doesn't think that is a number she is comfortable with,  
65 without the appraisals. She has hesitation with the way the density transfer lays out. She doesn't know if all  
66 of the open space would fit in open space definition for 30%. At this point she doesn't know enough  
67 information, she is willing to cooperate but doesn't know to what level she would be willing to compensate.  
68 Outside of the road, the density is too high, the numbers just don't work. The road does provide a regional  
69 benefit, not just to Saratoga Springs, so she doesn't think all the compensation needs to come from Saratoga  
70 Springs.

71 Councilman McOmber does believe in the cooperation and working together to make things happen. The MVC  
72 is in the ideal alignment but it does impact this development. When we figure out the amount he thinks they  
73 can work it out with the 3 entities. He does think this section benefits Saratoga Springs because it dead ends  
74 there. He is not interested in doing any additional value over the severance. He wants to see this development  
75 happen and to see the freeway come through. We can make this work together and make it a highlight in the  
76 City.

77 Joe Kemmerer for UDOT, said they are not trying to withhold information from the city, they have been working  
78 with DAI on property values and appraisals. They are getting close to having agreed values. When they get  
79 there they will share that information. They are looking forward to the Tri-party agreement.

80 Councilwoman Baertsch is amenable to a tri-party agreement but she would like to see the land exchange first.  
81 This is looking at our future growth. If that is not possible she is amenable to looking at the tri-party  
82 agreement. She asked if he is looking at just the value of the land or at severances also.

83 Joe Kemmerer said they have started with 7 properties and have come down to 3. In this case it would likely be  
84 in corridor preservation funds as they do not have eminent domain with a funded project yet. Historically 1/3  
85 of funds go to r/w acquisition, 1/3 to fund project, and 1/3 to design. If they had this piece it makes it more  
86 likely to move along a project.

87 Councilwoman Baertsch had the same question as Councilwoman Call as far as the PC zone and how that would  
88 work with the Code. She would be looking at transferring the densities to offset the severance, not the entire  
89 fee of the roadway. The proposed trail through open space to the school, it may not be feasible, it's a very  
90 steep hill. She still thinks he would be better at taking high density along the corridor rather than  
91 concentrated. She would like to see more of the larger lots. She would like to see more about the commercial  
92 area. If they are considering it a PC zone they need to see how that ties in. She is willing to do tri-party  
93 agreement if necessary but prefers UDOT to take care of it through land swap and it needs to be done on  
94 ERU's of severance and not the whole value of the Corridor.

95 Councilman Willden appreciates the explanations from tonight. He is willing to cooperate but doesn't think the  
96 city should foot the whole bill through density transfers. Our residents help foot UDOTs bill through taxes.  
97 We can participate but not at the whole 433 units. He is questioning if it really would be 433 units with the  
98 road cut out.

99 Kimber Gabryszak said it's based on the acreage; she didn't go through and count on the overlay.

100 Councilman Willden thinks they need to figure out what it would actually be, than figure out a percentage from  
101 there.

102 Councilman McOmber isn't willing to do any of the 433, just enough to offset the severance.

103 Kevin Thurman thinks they are saying that they are assuming this would be three units per acre. It may be  
104 overvalued.

105 Councilman Willden agreed with Councilman McOmber. We aren't at the right starting point yet. He is not ok to  
106 transferring density to the east side of the freeway at all.

107 Mayor Miller echoed a lot of the comments; he would be interested in the tri-partnership.  
108 Councilwoman Call stated that they would like to see the pre-severance and post severance appraisals and work  
109 from there.  
110 Mayor Miller would like Councilman Willden and Councilman McOmber to work with him and staff.  
111 Nathan Shipp had other components besides density he would like feedback on. He heard concern about where to  
112 place extra density. As they look at where they place it, he wanted feedback on where to put it. They met  
113 with Jeremy Lapin and discussed the Master Transportation plan and they can see the main road tying in to  
114 the west. They talked about where the tanks and water storage have gone and it will need to be amended they  
115 are proposing the road come through commercial to help facilitate that area, they have ended up with a major  
116 collector in the area where the town homes were to be located. It's splitting what was 400 units of town  
117 homes into three lots.  
118 Councilwoman Call would like to get a staff report to see how many units really could have fit with open space  
119 etc. in the MVC area. She is trying to understand on the 12 units per acre, if she is looking at 1500 sq.ft.  
120 living spaces she doesn't think they could fit that many town homes in that area and she is anxious that it  
121 would be converted to stacked condos.  
122 Nathan Shipp was willing to commit that it wouldn't go stacked.  
123 Councilwoman Call it's unfair to talk about where the density is going when they don't know what it will be for  
124 sure. They have discussed the brackets on sq. footages before.  
125 Nathan Shipp said they have shrunk the brackets and have made the lots larger, they will continue to work with  
126 the city on that. The table in the packet is not updated.  
127 Councilman McOmber appreciates that he is tightening up the brackets, which shows him they are willing to  
128 work with the Council. He likes the idea of the road and ravine breaking up the townhomes. He is happy they  
129 are willing to lock into no stacked condos. His concern is the created densities. With the 18 units per acre,  
130 whatever the negotiation is with the density, He thinks the best thing is to work those along the MVC and not  
131 have larger lots backing the freeway. There would be ways to make it work, keeping it on the west side.  
132 Councilwoman Call on the west side where there are amazing view lots. Don't compromise those lots with town  
133 homes.  
134 Applicant said they are working on those. They want those view lots on both sides of the road. They are also  
135 working with the typography of the land.  
136 Councilman McOmber feels they can figure it out but they don't know yet. They are willing to work in tri-party  
137 agreement  
138 Mark Christensen thinks they need to nail down what the numbers are before we get into design details.  
139 Councilwoman Call made some calculations; she was surprised by the numbers. It makes her feel a little more  
140 comfortable.  
141 Nathan Shipp said they have a meeting with Alpine School District for school sites.  
142 Mark Christensen noted he had spoken with the church site selectors and they are starting those conversations. It  
143 may be two to three stakes in the area. They do want to preserve several of those areas.  
144 Nathan Shipp they had looked at a closer view and noted there are areas where there are smaller open spaces  
145 needed. They have added language to the plan to better conform to existing city code. They have tightened  
146 larger ranges of lot sizes, and changed other things to conform to code. They take pride in the communities  
147 that they build. They have referenced a project in Bluffdale that the residents have been very happy with,  
148 especially with the parks. They want to do a great job here.  
149 Councilman McOmber said in terms of parks they would love to talk to the applicant about our visions for the  
150 City when it gets to that point.  
151 Mayor Miller thanked him for his time and letting them ask questions.  
152 Councilwoman Call asked if they had an estimated timeline to get proposals for severance appraisals. (He  
153 thought they could get back tomorrow with that.) They are looking forward to the road that will benefit our  
154 community. They appreciate the relationship they have had with UDOT.  
155

156 **2. The discussion of the Legacy Farms Village Plans 2, 3, 4, and 5 located at Redwood Road and 400**  
157 **South, DR Horton, Applicant.**  
158

159 Krisel Travis wanted to give the Council ample opportunity to see their plans. Tickville took longer to figure out  
160 and that has held them up. FEMA has acknowledged the receipt of their application. She showed where the  
161 Tickville wash was going to end up in the project and what it would consist of. They discussed the road work  
162 that would need to take place. They have submitted to FEMA and are waiting for the 90 day review period.  
163 That would put them at Feb. 24th 2015 then they can resubmit and get response for CLOMR hopefully by  
164 May 9th and then start construction. They hope to have those improvements by Nov. They hope to have the  
165 LOMR issued by March 2016 and have it all official by Sept 2016. They are hoping to start construction on  
166 the first phase this fall. The understanding is they can construct infrastructure along Redwood Rd. in the  
167 flood plain but not actual building permits. They are planning to start along Redwood Rd. They plan on  
168 bringing in several construction crews at the same time to help move things faster.

169 Mark Christensen noted that Jeremy Lapin had been working with them, they have to pull the infrastructure  
170 through the whole site at the beginning and so they really will be able to move quickly. They have submitted  
171 master plans to Jeremy based on all the plans.

172 Greg Haws shared the Village Plans. Vp2 estimating construction fall 2016 VP 3 fall 2016, VP 4 Fall 2017 They  
173 will not exceed a total maximum of 1,055 ERU's. He noted the consistency's among all the Plans. He  
174 reviewed the changes from VP1 in the new plans and revisions in the Village plans. He reviewed the changes  
175 with Village Plan 5, Leisure Villas. He explained the length of driveways and turn around areas for the  
176 Leisure villas products. This would be a sub association of Legacy Farms but they would have their own club  
177 house and would mainly be separate. They are still negotiating the extent of association.

178 Krisel Travis spoke about the fencing standard established previously in the approved Community Plan. They ask  
179 that notes be added that they will comply with the IRC. Anywhere where it references the Master  
180 Transportation or Master Parks plan that it also references the Master Development Agreement they are  
181 working on.

182  
183 Councilwoman Baertsch asked about the ERU's of the school area and church.

184 Kimber Gabryszak said the lower ERU's are the correct numbers.

185 Councilwoman Baertsch noted that T5 is not allowed in a traditional neighborhood. There should be no T5's in  
186 this project. That needs to be reviewed.

187 Greg Haws after review noted that it could be a T5R.

188 Councilwoman Call said with the planning director approval for extension, if it was 3 or 6 months she wouldn't  
189 have a problem with that, but a 12 month extension it should go through the legislative process.

190 Councilman Willden did not have any additional comments at this time.

191 Councilman McOmber appreciates the level of detail. He asked staff to email them if in fact the packets were  
192 really the same. He appreciates the Tickville wash plans and thinks it will solve some long term problems for  
193 the city. Some of these things that have changed are now getting back to the original plan. He likes the  
194 picture of the plan with open space with the trees and would like to have that to show residents that have  
195 questions. He appreciates that it is getting back to the original intent of the project.

196 Councilwoman Call would be ok with going vertical with trees while horizontal projects are taking place, so they  
197 have some time to grow.

198 Councilwoman Baertsch asked about the overall open space on the project, it is around 19%.

199 Kimber Gabryszak said the District Area plan has a different requirement, the 19% does comply.

200 Councilwoman Baertsch said that they require them to phase the open space along side of the development, and  
201 if they don't meet that requirement than they need to put money in escrow.

202 Kimber Gabryszak was not sure when they would hit that point but she believes they would be ahead when they  
203 got to the school point and they will watch it.

204 Krisel Travis thought VP3 would be the only one they might fall behind on.

205 Kimber Gabryszak noted that with a District Area Plan they can count additional items that aren't usually  
206 counted towards open space.

207 Councilwoman Call asked how they handled it when they have already approved a district area plan.

208 Kimber Gabryszak indicated that it's actually based on neighborhood type so some of the developments would  
209 end up having higher.

210 Kevin Thurman said there is also language in the Annexation and District Area Plan that says if it conflicts with  
211 19.26 than the District Plan and Annexation agreement take precedence.

212 Councilwoman Baertsch said we need to make sure we are reminded what those actual requirements are.  
213 Kimber Gabryszak said there is some language in the Planned Community zone that does allow for some  
214 exceptions if they are doing a District Area plan over 2000 acres.  
215 Councilman Poduska appreciated their work.  
216 Mayor Miller agreed that if there are no changes than he is fine with the extension by the Planning Director but  
217 any extension beyond that needs to come back to Planning Commission.  
218

219 **Adjourn 8:55pm**

220 \_\_\_\_\_  
221  
222  
223 Date of Approval

\_\_\_\_\_  
Lori Yates, City Recorder



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**Legacy Farms Master Development Agreement (MDA)**

**Legacy Farms Village Plans 2, 3, 4, and 5**

**Tuesday, January 6, 2015**

**Public Hearings**

Report Date:	Tuesday, December 30, 2014
Applicant:	D.R. Horton
Owner:	Corporation of Presiding Bishopric Church of Jesus Christ of LDS
Location:	SE corner intersection of Redwood and 400 south, extending to Saratoga Dr.
Major Street Access:	Redwood Road and 400 South
Parcel Number(s) & Size:	66:058:0007, 176.44 acres; 58:041:0185, 5.497 acres Total: 181.937 acres
Parcel Zoning:	Planned Community (PC)
Adjacent Zoning:	PC and Low Density Residential (R-3)
Current Use of Parcel:	Agriculture
Adjacent Uses:	Agriculture, Residential
Previous Meetings:	None
Previous Approvals:	Annexation Agreement (2010) Rezone to PC zone (2010) City Center District Area Plan (2010) Community Plan (2014 – PC 6/12/2014 and CC 7/1/2014)
Land Use Authority:	City Council
Future Routing:	City Council
Author:	Kimber Gabryszak, Planning Director

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**A. EXECUTIVE SUMMARY**

The applicants are requesting approval of the MDA for the Legacy Farms project. The MDA clarifies and finalizes the details of the project included when the Community Plan was approved on July 1, 2014.

The applicants are also requesting approval of Village Plans 2, 3, 4, and 5 (VP2, VP3, VP4, and VP5) of the Legacy Farms development, pursuant to Section 19.26 of the Land Development Code (Code) the City Center District Area Plan (DAP), and the Legacy Farms Community Plan (CP).

**Staff recommends that the City Council review the MDA and choose from the options in Section I of this report, including approval as proposed or with modification, or continuance pending changes.**

**Staff also recommends that the City Council conduct a public hearing on the four proposed Village Plans (VPs), take public comment, review and discuss the proposed VPs, and choose from the options in Section I of this report.** Options include approval of any or all of the VPs as proposed or with modifications, denial of any or all of the VPs, or continuance of any or all to another date with specific direction to the applicant on information or changes needed to make a decision.

**B. BACKGROUND**

The City Center District Area Plan (DAP) was approved in 2010 following annexation of just under 3000 acres into the City. As part of the annexation agreement and DAP, the 2883 acres is approved and vested for 16,000 residential units and 10,000,000 square feet of non-residential density:

**Land Use Table**

Type of Land Use	Quantity
Residential Housing	16,000 Units
Non-residential Area	10 million sq. ft.
Equivalent Residential Units	20,620 Units

(Note: the complete DAP can be found by visiting [www.saratogaspringscity.com/planning](http://www.saratogaspringscity.com/planning) then clicking on “Master Plans” and then “City Center District Area Plan.”)

1000 Equivalent Residential Units (ERUs) of residential density and 55 ERUs of non-residential density were approved and allocated to the Legacy Farms CP. Of the 1055 ERUs, a maximum of 341 residential units were approved within VP1.

The CP contains the broader guidelines for the development while VPs provide the specifics for the various phases of development. Form Based Code was approved as part of the CP, implementing specific standards for blocks, subzones, unit layout and type, transition of density, building setbacks, architecture, roadways, open space, landscaping, lighting, and other applicable standards.

Following an extensive review process, the CP and VP 1 were approved on July 1, 2014. The MDA, which accompanied the CP, has not yet been approved pending, among other items, the plans for Tickville Wash and road improvements. Now that these items have been settled, the MDA may be finalized.

The Planning Commission held a public hearing on VPs 2-5 on December 11, 2014, and voted 2:2 on a proposed positive recommendation. With a tie vote, the applications technically moved forward to the City Council with negative recommendations. Minutes and the report of action from the Commission meeting are attached.

**C. SPECIFIC REQUESTS**

MDA:

The MDA finalizes the various items discussed in and approved with the CP on July 1, 2014. Outstanding details concerning the location and design of Tickville Wash, timing and responsibility for improvements to 400 South, phasing and infrastructure, and other clarifications postponed the finalization of the MDA. Details have been finalized, and the MDA is now ready for approval. No items approved, agreed upon, or required in the original CP approval have been changed.

VILLAGE PLANS:

The five VPs for the entire Legacy Farms development are broken down below:

VP 1 <i>Approved</i>	48.94 acres	Max 341 ERUs	All Residential
VP 2	42.58 acres	Max 281 ERUs	239 Residential, ~41 Non-Residential (school, church)
VP 3	40.03 acres	Max 318 ERUs	304 Residential, ~14 Non-Residential (church)

VP 4	28.11 acres	Max 173 ERUs	All Residential
VP 5	22.27 acres	Max 131 ERUs	All Residential (age-restricted community)
Total:	181.93	1244*	1189 Residential*, ~55 Non-Residential

**\*Note: the maximum density total exceeds the approved 1055 ERUs to allow for flexibility within each VP to build up to or less than the maximum to meet market demands. Staff is also requiring a statement in each VP ensuring that the maximum density is subject to the overall approved density in the CP, and will monitor the running density total as development proceeds.**

The VPs each contain specific guidelines and standards for:

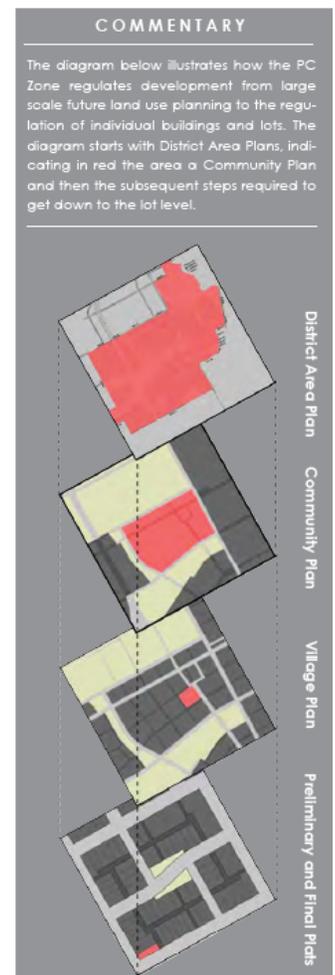
- Parking and snow storage
- Lot layout
- Lot frontages
- Setbacks
- Unit types
- Architecture and building materials
- Village-level street design and names
- Village-level open space and pedestrian plans
- Density transfers
- Phasing standards
- Village-level infrastructure

The contents of each VP have been reviewed against the CP, and also compared to the previously approved VP1. The contents, standards, and plans are consistent with the previously approved VP1 and comply with the standards of the CP.

#### D. PROCESS / HOW IT WORKS

Section 19.26 of the Code describes development in the PC zone, and the graphic to the right shows the hierarchy of the different plans:

1. For a large-scale planned community district, an overall governing document is first approved, known as the District Area Plan (Section 19.26.13).
  - *The City Center DAP was approved in 2010.*
2. A Community Plan is then proposed and approved (Sections 19.26.03-19.26.08). The Community Plan lays out the more specific guidelines for a sub-district within the DAP. A Master Development Agreement accompanies the CP.
  - *The Legacy Farms CP was approved for ~182 acres on July 1, 2014.*
  - *At the time of CP approval, MDAs were required to accompany the VPs instead of CPs. The Code has since been amended to require the MDA with CP, however this application predates this amendment. However, the MDA was provided early on and has been undergoing revision and finalization, and is now ready for approval.*



3. Following and / or concurrently with the Community Plan, a Village Plan is proposed and approved (Sections 19.26.09 – 19.26.10). The Village Plan is the final stage in the Planned Community process before final plats, addressing such details specific to the sub-phase as open space, road networks, and lots for a sub-phase of the Community Plan.
  - *VP1 was approved on July 1, 2014.*
  - *The proposed VPs 2-5 cover the remaining acreage in the CP.*

The approval process for VPs 2-5 includes:

1. A public hearing and recommendation by the Planning Commission
2. A public hearing and final decision by the City Council (19.26 states that the process is per Section 19.17, which is Code amendments / rezones, and requires hearings with the Council.)

**E. COMMUNITY REVIEW**

These items were noticed as public hearings in the *Daily Herald*; and mailed notice sent to all property owners within 300 feet. Public input was received during the hearing process for the CP and VP1; as of the date of this report, no public input has been received on VPs 2-5.

**F. REVIEW**

**Place Type**

The CP designates the entire ~182 acre Legacy Farms development as Traditional Neighborhood, which is described in the DAP as follows:

**TRADITIONAL NEIGHBORHOOD**

Range of Average Dwelling Units/Acre	5–32 du/ac
Range of Average FAR	0.47–1.04
Range of Open Space	18 - 24%

Open Space Types:

- Plaza
- Entrance park
- Pocket park
- Neighborhood park
- Community park
- Regional park
- School park
- Sports complex
- Special use
- Community garden
- Parkway (Boulevard)
- Greenway

Traditional neighborhoods in this district are medium-density residential areas typically comprised of many small lot single-family dwellings, some townhomes and small scale apartments. Houses in these neighborhoods are close enough to the street to encourage interaction among neighbors and create a “front porch” culture. Houses are closer together and on smaller lots than in a master planned subdivision. There are small neighborhood serving parks and connections to trails. Street connectivity is relatively favorable, allowing for a walkable environment and transit options. On-street parking slows traffic and creates a buffer between traffic and pedestrians on the sidewalks.

**Density**

The CP was approved with a maximum density of 1055 ERUs. The cumulative maximums of the VPs exceeds 1055, however the overall density is still subject to the 1055 limit. This allows flexibility within each VP.

**Unit Type**

The Legacy Farms CP approved a mixture of large-lot single-family homes, small-lot and cottage single-family homes, twin homes, and several types of townhomes. Each VP contains a conceptual lotting plan

showing the breakdown of unit type, with larger lots adjacent to existing residential development to the south, and smaller lots and townhomes appearing as development transitions to the north.

### **Traffic and Infrastructure**

The applicants have provided a traffic study and infrastructure plans, which were previously reviewed by the City Engineer.

### **Form Based Code / Development Standards**

The governing standards and principles of the project are contained in the CP, and built upon in the VPs.

The CP contains the general standards for the entire ~182 acre project:

- CP Process
- Place Type Designation
- Block Types
- Transition in density from existing residential development
- Equivalent Residential Unit (ERU) allocation
- Thoroughfare Plans (street / road standards)
  - Frontage Types
  - Utility Easements
  - Turning Radii
  - Pedestrian Crossings
  - Planting Information
- Parking
- Lighting Standards
- Architectural Styles
- Open Space types and conceptual layout
- Landscape Guidelines
- Signage Standards
- Fencing Standards
- Phasing
- Infrastructure
- Constraints
- Traffic Study
- Definitions

The VPs contain additional standards to implement the CP on each particular sub-phase. While these topics were addressed at a higher level in the CP, the information in each VP is more specific and applies only to that VP:

- VP Process
- Sub-districts
- Private Frontages
- Conceptual Lotting Plan (lot layout)
- Product types (10,000 sq.ft. lots, 8,000 sq.ft. lots, 6,000 sq.ft. lots, cottages and rear lane cottages, twin homes, and several townhome types)
- Thoroughfares
- Street Names
- Pedestrian Plan
- Architectural details / materials

- Color Palette
- Open space
- Phasing
- Infrastructure and Utilities

**Staff Review**

Staff identified a list of items for correction or clarification prior to final signature of the VPs. The majority of items have been corrected.

**More detail on the standards above are found in the proposed Legacy Farms Village Plans, which can be obtained by visiting [www.saratogaspringscity.com/planning](http://www.saratogaspringscity.com/planning), and clicking on “pending applications”.**

**G. GENERAL PLAN**

The General Plan Land Use map identifies this area as Planned Community, which states:

- k. **Planned Community.** The Planned Community designation includes large-scale properties within the City which exceed 500 acres in size. This area is characterized by a mixture of land uses and housing types. It is subject to an overall Community Plan that contains a set of regulations and guidelines that apply to a defined geographic area. Required Village Plans contain regulations that apply to blocks of land and provide specific development standards, design guidelines, infrastructure plans and other elements as appropriate. Development in these areas shall contain landscaping and recreational features as per the City’s Parks, Recreation, Trails, and Open Space Element of the General Plan.

The 2883 acre DAP was approved in 2010 in compliance with the General Plan and the intent of the Planned Community designation. Multi-family development was also approved as part of the DAP, and was therefore vested prior to Proposition 6, which limited some types of future multi-family housing.

The CP was approved in 2014 and found to be in compliance with the DAP; the CP includes trail connections and parks in compliance with the related master plans. Both are consistent with the General Plan.

**H. CODE CRITERIA**

The property is zoned PC, and is subject to the standards and requirements in Section 19.26 of the Code, and its several sub-sections.

**19.26.04 – Uses Permitted within a Planned Community District**

- The application includes multi-family and single family homes, school and church sites, parks, and trails. All of these uses are permitted in the PC zone.

**VP CODE REQUIREMENTS**

**19.26.03.2 – Additional Village Plan Requirements**

Additional requirements for a VP are summarized below:

- a. A detailed traffic study - **Provided.**
- b. A map and analysis of backbone infrastructure systems - **Provided.**

- c. Detailed architectural requirements and restrictions - **Provided**
- d. If applicable, details regarding the creation of an owners' association, master association, design review committee, or other governing body. - **Provided.**

### **19.26.09 – Village Plan Approval**

The criteria for a VP approval are summarized below:

- a. is consistent with the adopted Community Plan;  
***Staff finding: complies.** The VPs have been reviewed for compliance with the densities, uses, block types, conceptual layout, and standards of the CP. Language has been added to ensure that while ranges of densities are possible in each VP, the overall maximum of 1000 residential units cannot be exceeded.*
- b. does not exceed the total number of equivalent residential units dictated in the adopted Community Plan;  
***Staff finding: complies.** The proposed densities for the VPs fall within the density ranges contemplated in the CP for the Block Types in each VP. Regardless, in no case may the density in the entire CP exceed 1000 residential unit equivalents, 1055 including the nonresidential portion. Staff has recommended a condition to provide clarity and future guarantees that this will be met.*
- c. for an individual phase, does not exceed the total number of equivalent residential units dictated in the adopted Community Plan unless transferred per the provisions of the Community Plan;  
***Staff finding: complies.** The densities within the phases also comply with the density ranges for the Block Types of each phase.*
- d. is consistent with the utility, infrastructure, and circulation plans of the Community Plan; includes adequately sized utilities, services, and roadway networks to meet demands; and mitigates the fair-share of off-site impacts;  
***Staff finding: complies.** The street layouts and utility plans are consistent with the plans provided in the CP.*
- e. properly integrates utility, infrastructure, open spaces, pedestrian and bicycle systems, and amenities with adjacent properties; and  
***Staff finding: complies.** The projects properly integrate utility and infrastructure; discussion was held on pedestrian and bicycle systems and the integration of such systems with adjacent properties and they were found to be consistent. Most parks and open spaces are intended for the Legacy Farms community and are not public.*
- f. contains the required elements as dictated in Section 19.26.10.  
***Staff finding: Complies.** See below.*

### **19.26.10 – Contents of a Village Plan**

The required contents of a VP are summarized below:

1. Legal Description - **Provided**
2. Detailed Use Map - **Provided**

3. Detailed Buildout Allocation - **Provided**
4. Detailed Development Standards - **Provided**
5. Design Guidelines - **Provided**
6. Owners' / Governing Associations - **Provided**
7. Phasing Plan - **Provided**
8. Lotting Map - **Provided**
9. Landscaping Plan - **Provided**
10. Utility Plan - **Provided**
11. Vehicular Plan - **Provided**
12. Pedestrian and Bicycle Plan - **Provided**
13. Additional Detailed Plans. Other elements as necessary (grading plans, storm water drainage plans, wildlife mitigation plans, open space management plans, sensitive lands protection plans, hazardous materials remediation plans, and fire protection plans) - **Provided as necessary**
14. Site Characteristics - **Provided**
15. Findings Statement - **Provided**
16. Mitigation Plans. (Protection and mitigation of significant environmental issues) - **Provided**
17. Offsite Utilities - **Provided**
18. Development Agreement – **Provided**; currently required to accompany the CP, but the Code at time of CP approval required the DA with the VP instead.

**I. Recommendation and Alternatives:**

Staff recommends that the City Council conduct public hearings, take public comment, review and discuss the MDA and proposed VPs, and choose from the options below for each item. A separate motion will be needed for the MDA and the VPs; if different actions are taken on the VPs, separate motions for the VPs will also be necessary.

**Option 1 – Approval(s)**

“I move to **approve** the Legacy Farms Master Development Agreement with the Findings and Conditions in the Staff Report:”

**Findings**

1. The MDA is consistent with the approval of the Legacy Farms CP. Specifically, the density, unit types, block types, thoroughfares, road improvements, open space management, and other standards are expressly as contained in the CP.

**Conditions:**

1. All requirements of the City Engineer shall be met.
2. The MDA shall be edited as directed by the Council: \_\_\_\_\_
3. Any other conditions as articulated by the Council \_\_\_\_\_.

“I also move to **approve** the Legacy Farms Village Plans [2, 3, 4, 5] with the Findings and Conditions in the Staff Report:”

**Findings**

1. The application is consistent with the guiding standards in the Legacy Farms CP. Specifically, the density, unit types, block types, thoroughfares, and other standards are expressly as contained in the CP.

2. The application complies with the criteria in section 19.26.09 of the Development Code, as articulated in Section H of the Staff report, which section is incorporated by reference herein. Particularly:
  - a. With appropriate modifications, each application is consistent with the adopted CP;
  - b. The range of density in each application does not exceed the total number of equivalent residential units dictated in the adopted CP;
  - c. For an individual phase, the density will not exceed the total number of equivalent residential units dictated in the adopted CP unless transferred per the provisions of the CP;
  - d. Each application is consistent with the utility, infrastructure, and circulation plans of the CP; includes adequately sized utilities, services, and roadway networks to meet demands; and mitigates the fair-share of off-site impacts.
  - e. Each application properly integrates utility, infrastructure, open spaces, pedestrian and bicycle systems, and amenities with adjacent properties; and
  - f. Each application contains the required elements as dictated in Section 19.26.10.

**Conditions:**

1. All requirements of the City Engineer, including but not limited to those in the Staff Report in Exhibit 1, shall be met.
2. All requirements of FEMA shall be met.
3. All requirements of the Fire Chief shall be met.
4. The VP(s) shall be amended as directed by the City Council, including correction of typos as identified by Staff.
5. All buildings with setbacks five feet or less must be built with 1-hour fire rated materials.
6. All buildings over 35' in height must be fully sprinkled and meet all additional Fire and Building Department requirements.
7. Combined minimum of 24' backing space shall be provided in VP 5 shared driveways.
8. Density shall not transfer into Block Type 1.
9. T5 areas shall be replaced with T5R.
10. Director approved extensions of VP approvals shall be limited to 6 months; additional extensions shall be limited, and reviewed and approved at the discretion of the City Council.
11. Any other conditions as articulated by the Council \_\_\_\_\_.

**Option 2 - Continuance**

"I move to **continue** the Legacy Farms MDA to another meeting on [DATE] with direction to the applicant and Staff on information and / or changes needed to render a decision, as follows:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

"I also move to **continue** VP [2, 3, 4, 5] to another meeting on [DATE], with direction to the applicant and Staff on information and / or changes needed to render a decision, as follows:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**Option 3 – Denial(s)**

"I move to **deny** the Legacy Farms MDA with the Findings below:

1. The MDA does not comply with the adopted CP, as articulated by the Council: \_\_\_\_\_  
\_\_\_\_\_.

“I move to **deny** Legacy Farms VP [2, 3, 4, 5] with the Findings below:

1. The VP does not comply with the adopted CP, as articulated by the Council: \_\_\_\_\_  
\_\_\_\_\_.
2. The VP does not comply with Section 19.26 of the Code, as articulated by the Council: \_\_\_\_\_  
\_\_\_\_\_.
3. \_\_\_\_\_

I also move to continue the final decision(s) to a future meeting, on [DATE], and direct Staff to return with official Findings as outlined in my motion.”

**J. Attachments:**

1. City Engineer’s Report dated December 4, 2014 (pages 11-14)
2. Location & Zone Map (page 15)
3. Aerial Photo (page 16)
4. Approved CP Layout (page 17)
5. VP 2 Layout & Conceptual Lotting Plan (pages 18-19)
6. VP 3 Layout & Conceptual Lotting Plan (pages 20-21)
7. VP 4 Layout & Conceptual Lotting Plan (pages 22-23)
8. VP 5 Layout & Conceptual Lotting Plan (pages 24-25)
9. December 11, 2014 PC Report of Action (pages 26-30)
10. December 11, 2014 PC DRAFT Minutes (pages 31-35)
11. December 16, 2014 CC Work Session DRAFT Minutes (pages 36-38)
12. Legacy Farms Draft MDA (pages 39-73)
13. Complete CP: [www.saratogaspringscity.com/planning](http://www.saratogaspringscity.com/planning), then  
“Pending Applications” (Under “Recently Finalized”)
14. Complete VPs: [www.saratogaspringscity.com/planning](http://www.saratogaspringscity.com/planning), then “Pending Applications”

## City Council Staff Report

**Author:** Jeremy D. Lapin, City Engineer  
**Subject:** Legacy Farms Village Plans 2-5  
**Date:** December 11, 2014  
**Type of Item:** Village Plan Approval



### Description:

**A. Topic:** The Applicant has submitted a community plan application. Staff has reviewed the submittal and provides the following recommendations.

### B. Background:

*Applicant:* D.R. Horton  
*Request:* Community and Village Plan Approval  
*Location:* Area east of Redwood Road and South 400 South  
*Acreage:* VP #2 – 42.58 ac, VP #3 – 40.03 ac, VP #4 – 28.11 ac, VP #5 – 22.27 ac

**C. Recommendation:** Staff recommends the approval of community plan subject to the following findings and conditions:

- 1) The Village Plans shall be consistent with the Community Plan as well as the City's existing Master Plans including the Transportation Master Plan, the Parks, Trails, and Open Space Master Plan, as well as the City's utility master plans including the Culinary Water, Secondary Water, Sewer, and Storm Drain Master Plans.
- 2) Each Village plan shall have a utility phasing plan specific to that phase that is consistent with the Community Plan and the City's Master Plans.
- 3) The adoptions of the Village plans do not represent a reservation of capacity in any of the systems. Capacity is available on a first come, first serve basis and final verification of system capacity will need to be determined prior to the recordation of plats. At the time of plat recordation, Developer shall be responsible for the installation and dedication to City of all onsite and offsite improvements sufficient for the development of Developers' Property in accordance with the current City regulations. While the anticipated improvements required for the entire Property are set out in the community plan, that is only the City's and Developers best estimate at this time as to the required improvements and is not intended to be an exhaustive list. The required improvements for each plat shall be determined by the City Engineer at the time of plat submittal and shall primarily be based on the

exhibits in the Village Plan but may be adjusted in accordance with current City regulations.

- 4) Developer shall complete the half-width improvements along 400 South (Collector) as per the City's Transportation Master Plan (TMP) and Engineering standards and specifications.
- 5) Developer shall complete all recommendations of the submitted Traffic Impact study prepared by Hales Engineering.
- 6) Provide sufficient ROW for adequate queuing and turn lanes at all intersections internal to the project as at other points of access along 400 South and Saratoga Road as identified in the Traffic study and as per the City's transportation master plan and standards and specifications. The TIS specifically indicates all access points onto 400 South will need to be flared to allow for separate left and right turn egress lanes. Flared approaches shall be a minimum of 50-ft long plus taper or longer if recommended in the TIS.
- 7) The proposed location of the elementary school may require improvements to the adjacent roads beyond their standard cross sections to accommodate ingress, egress, and queuing. These modifications shall be based on Existing and future traffic studies and the final site layout of the school.
- 8) The project shall comply with the recommendations of the Traffic Study Memorandum from Hales Engineering dates 4-2-2014 and Addendum #1 dated June 17, 2014 including providing left turn lanes for the elementary school. If the road is to be constructed before the location of the accesses are known, a left turn lane shall be provided for the entire primary frontage and extend a sufficient distance past the frontage to provide adequate queuing lengths.
- 9) A map revision will be required through FEMA before any lots can be recorded in any area currently shown within the FEMA 100-yr flood plain including Zone "A" which is identified as those areas having a 1% annual chance flood event with no defined base flood elevation.
- 10) The developer shall obtain an Army Corp of Engineers (ACOE) 404 permit for any portion of the project that may disturb wetlands or fall under the ACOE jurisdiction prior to beginning construction and must comply with all local, state, and federal laws.
- 11) Developer shall bury and/or relocate all overhead distribution power lines that are alongside or within this project.
- 12) Developer shall provide a geotechnical report and hydrologic/hydraulic storm drainage calculations for the overall project. Detention areas and volumes shall be identified as well as all proposed outfall locations. The project shall comply with all

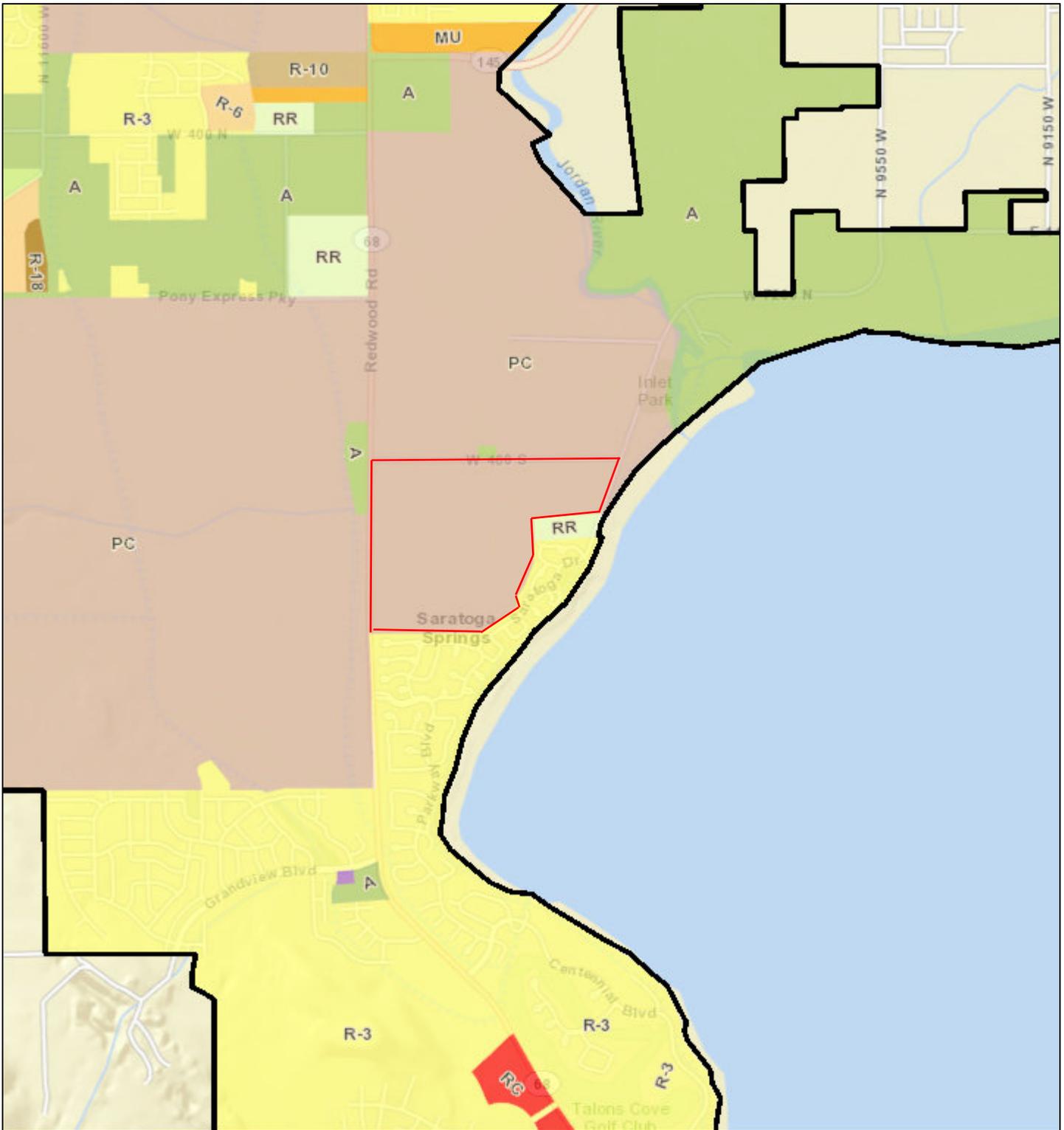
City, UPDES and NPDES storm water pollution prevention requirements. Storm water release shall not exceed 0.2 cfs/acre and must be cleaned to remove 80% of Total Suspended Solids and all hydrocarbons and floatables.

- 13) All roads shall comply with the City's TMP be designed and constructed to City and AASHTO standards, and shall incorporate all geotechnical recommendations as per the applicable soils report. Road cross sections shall match either the ones in the City's adopted Engineering Standards and Specifications or the Community Plan and must also comply with international fire code requirements. Intersection spacing along 400 south and on all internal roads shall comply with the spacing standards identified in the City's adopted TMP. The Village Plan shall include the required South in the Thoroughfare network plan as per the TMP and the City's engineering standards and specifications. 400 south shall be widened along the frontage of each phase plus additional length as necessary to provide a left turn lane in the northern access points a minimum of 50-ft. or longer if recommended in the TIS.
- 14) Road names and coordinates shall comply with current city ordinances and standards.
- 15) Project shall comply with the City's adopted Parks, Recreation, Trails, and Open Space Master Plan. Trail and open space designs shall comply with all City standards and specifications.
- 16) Park strips less than 9' in width shall only be planted with trees appropriate for narrow areas and that will not damage the sidewalk as they grow.
- 17) Open Space areas that will maintained by the City must be designed in accordance with City Standards and the City's Engineering Standards and Specifications.
- 18) Developer shall prepare and submit signed easements for all public facilities not located in the public right-of-way. Sewer and storm drains shall be provided with a minimum of 20' wide easements and water and irrigation lines a minimum of 10' wide easements centered on the facility. Utility lines may not be closer than 10' apart from each other or from any structure. Developer shall provide 12' paved access roads and 20' wide access easements to any location where access is required outside the ROW such as sewer or storm drain manholes. Utility mains outside of the ROW shall be located in common or dedicated open space acres and shall not be located in private lots and must be a minimum of 20' from any building or structure.
- 19) All street lighting and any other lighting proposed to be dedicated to and maintained by the City shall comply with the current City standards and specifications. All lighting shall be full-cutoff style and meet all other City and IESNA standards.
- 20) Project shall comply with all ADA standards and requirements.

- 21) Utilities including water, irrigation, sewer and storm drain and shall not be located within any lot residential lot boundary (except for laterals).
- 22) Lots shall not contain any sensitive lands; all sensitive lands must be placed in protected open space.
- 23) Phasing plan within the Village Plans shall illustrate the phasing of the frontage improvements along 400 south and Redwood Road.
- 24) Secondary and Culinary Water Rights must be secured from or dedicated to the City with each plat proposed for recordation compliant with current City Code. Prior to acceptance of water rights proposed for dedication, the City shall evaluate the rights proposed for conveyance and may refuse to accept any right that it determines to be insufficient in annual quantity or rate of flow or has not been approved for change to municipal purposes within the City or has not been approved for diversion from City-owned waterworks by the State Engineer.
- 25) The developer shall ensure that any open space dedicated to the City will meet all City landscaping and irrigation design standards as well as meet all City and industry standards for amenities and play equipment.
- 26) Structures in excess of 3 stories may be required to install a fire sprinkler system if and as directed by the Fire Chief.
- 27) No parking stalls are permitted in the Public ROW. On street parking parallel to the roadway/curb may be permitted where not specifically prohibited but any parking area constructed adjacent to the public ROW may only install a drive approach within the public ROW with all portions of the parking area and stalls completely outside of the ROW.

# Zoning & Planning

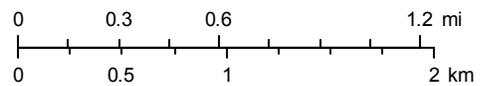
Exhibit 2  
Location



February 11, 2014

1:36,112

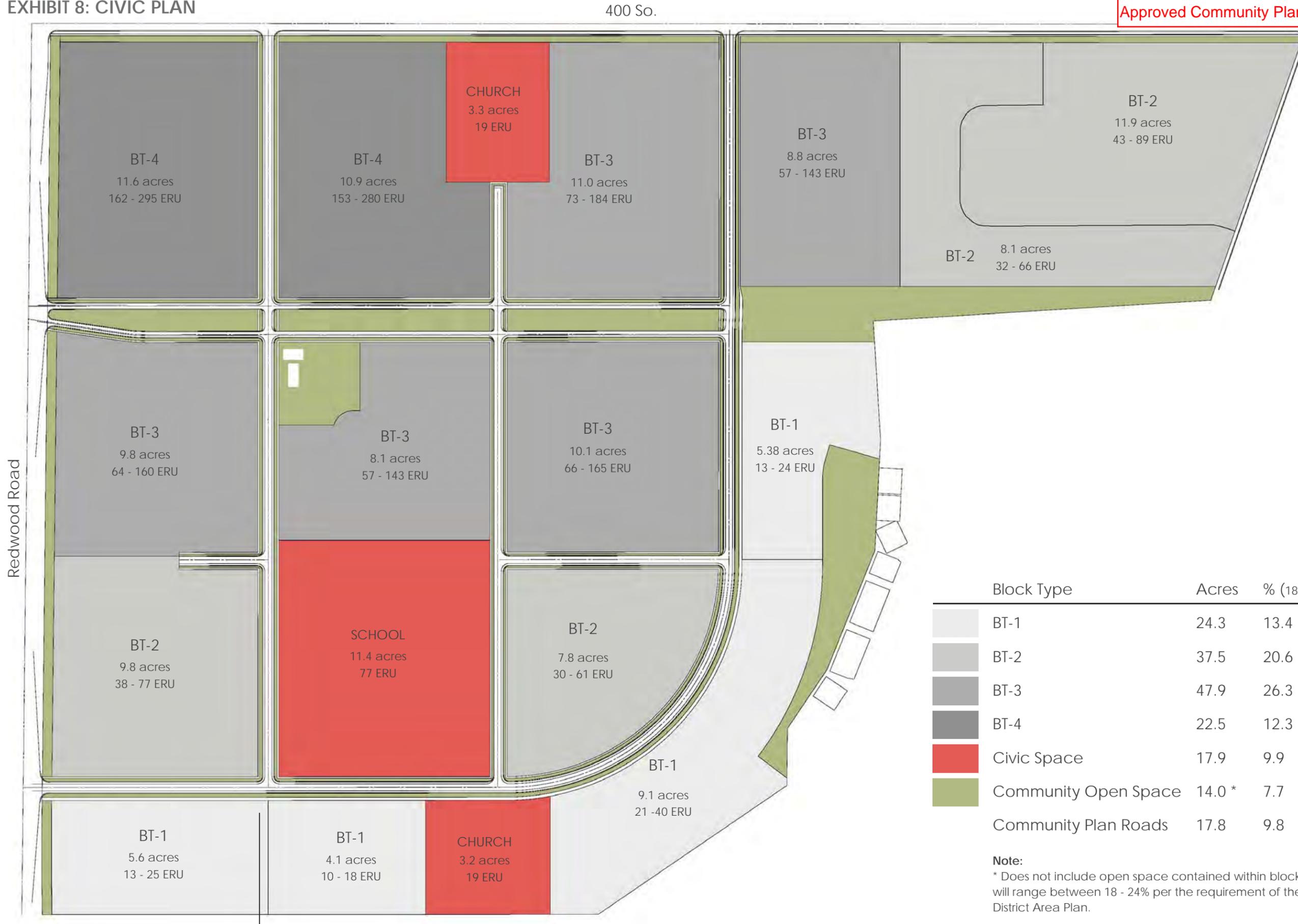
 City Boundary



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

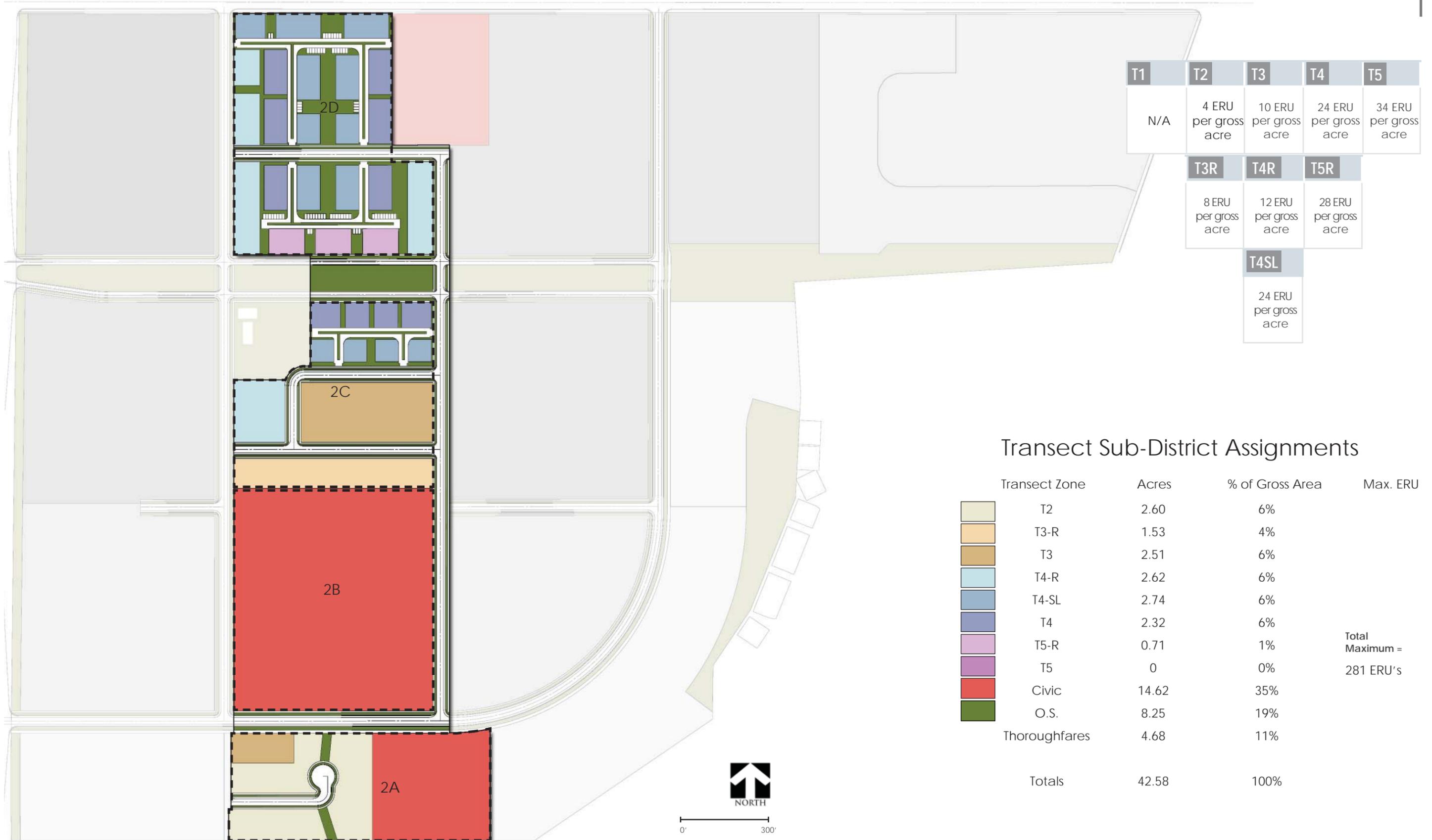


Exhibit 4  
Approved Community Plan



Block Type	Acres	% (181.9 ac.)	ERU's
BT-1	24.3	13.4	1,000 (Residential) 55 (Non-Residential)  Total Maximum = 1,055 ERUs
BT-2	37.5	20.6	
BT-3	47.9	26.3	
BT-4	22.5	12.3	
Civic Space	17.9	9.9	
Community Open Space	14.0 *	7.7	
Community Plan Roads	17.8	9.8	

**Note:**  
\* Does not include open space contained within block types. Overall open space will range between 18 - 24% per the requirement of the Saratoga Springs City Center District Area Plan.



T1	T2	T3	T4	T5
N/A	4 ERU per gross acre	10 ERU per gross acre	24 ERU per gross acre	34 ERU per gross acre
T3R	T4R	T5R		
8 ERU per gross acre	12 ERU per gross acre	28 ERU per gross acre		
T4SL				
24 ERU per gross acre				

Transect Sub-District Assignments

Transect Zone	Acres	% of Gross Area	Max. ERU
T2	2.60	6%	
T3-R	1.53	4%	
T3	2.51	6%	
T4-R	2.62	6%	
T4-SL	2.74	6%	
T4	2.32	6%	
T5-R	0.71	1%	
T5	0	0%	
Civic	14.62	35%	
O.S.	8.25	19%	
Thoroughfares	4.68	11%	
Totals	42.58	100%	

Total Maximum = 281 ERU's

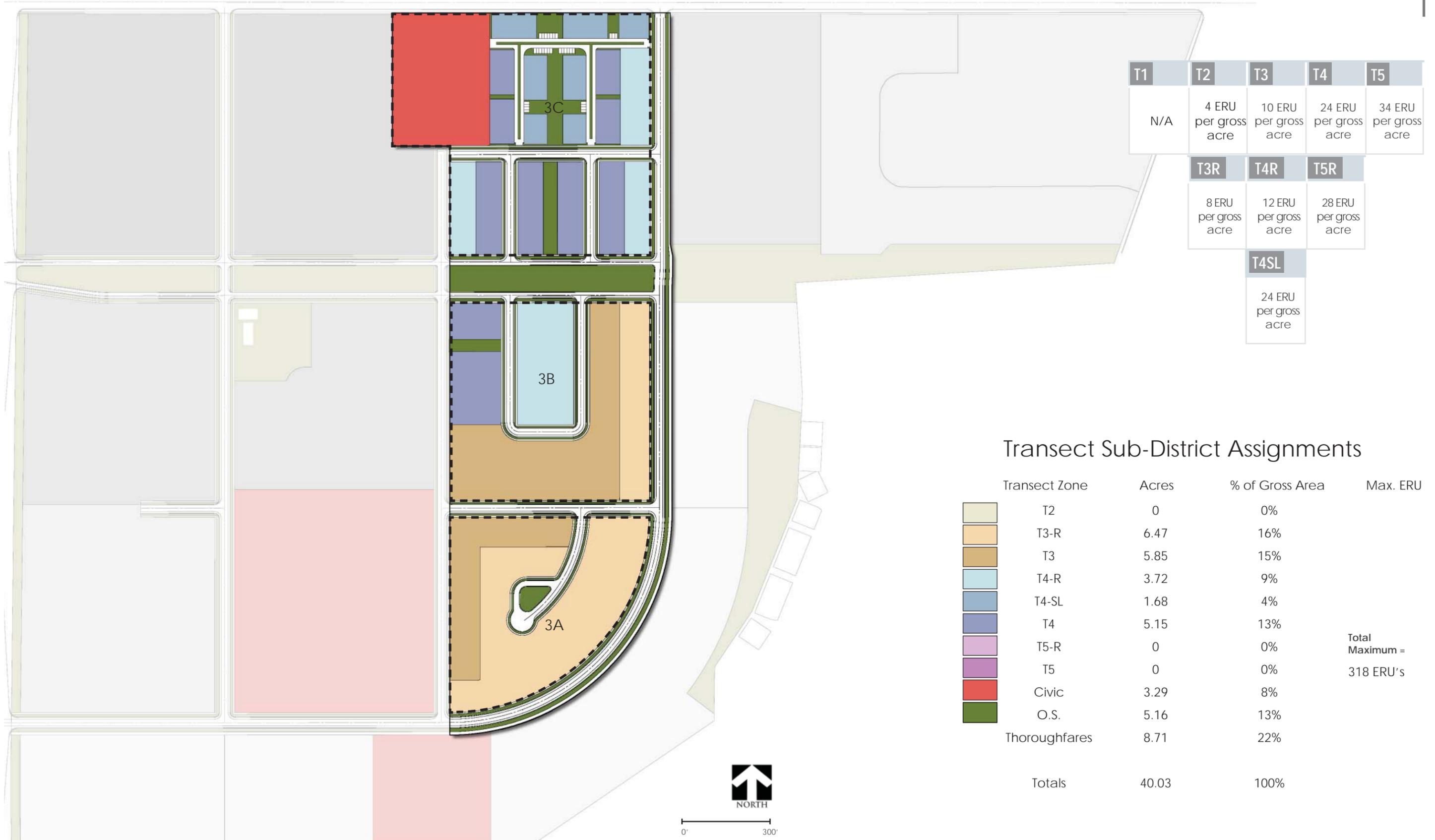
## CONCEPTUAL LOTTING PLAN

- Product
- 10,000 s.f. lots
  - 8,000 s.f. lots
  - 6,000 s.f. lots
  - Cottage
  - Front-Load Cottage
  - Twin Homes
  - Townhomes
  - Rear-Loaded Towns



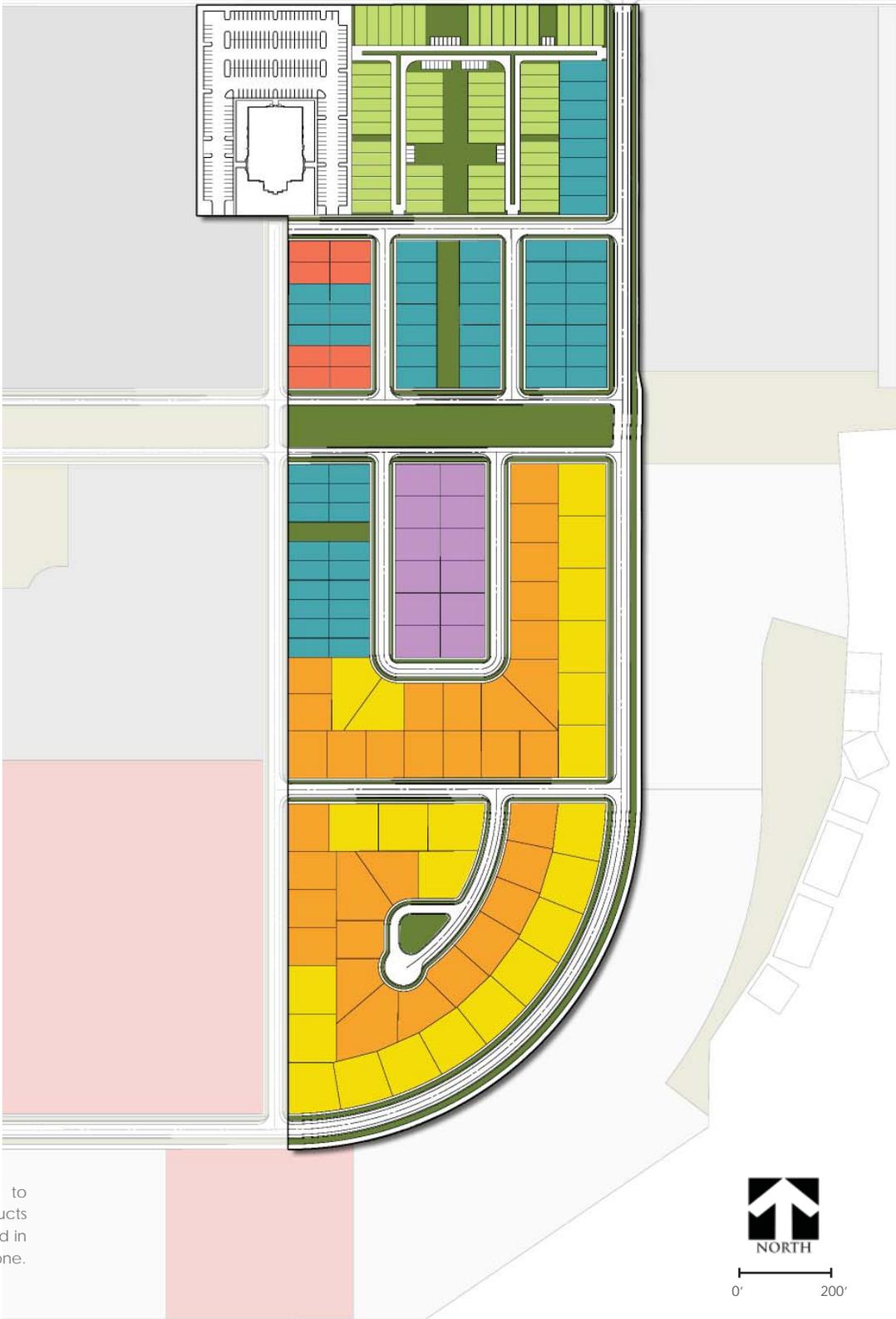
The lotting diagram on this page is conceptual in nature and subject to change. Changes in residential products must comply with the criteria established in each designated transect sub-district zone.

### EXHIBIT 6



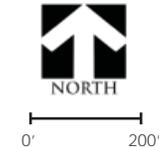
## CONCEPTUAL LOTTING PLAN

- Product
- 10,000 s.f. lots
  - 8,000 s.f. lots
  - 6,000 s.f. lots
  - Cottage
  - Front-Load Cottage
  - Twin Homes
  - Townhomes



The lotting diagram on this page is conceptual in nature and subject to change. Changes in residential products must comply with the criteria established in each designated transect sub-district zone.

### EXHIBIT 6





T1	T2	T3	T4	T5
N/A	4 ERU per gross acre	10 ERU per gross acre	24 ERU per gross acre	34 ERU per gross acre
T3R	T4R	T5R		
8 ERU per gross acre	12 ERU per gross acre	28 ERU per gross acre		
	T4SL			
	24 ERU per gross acre			

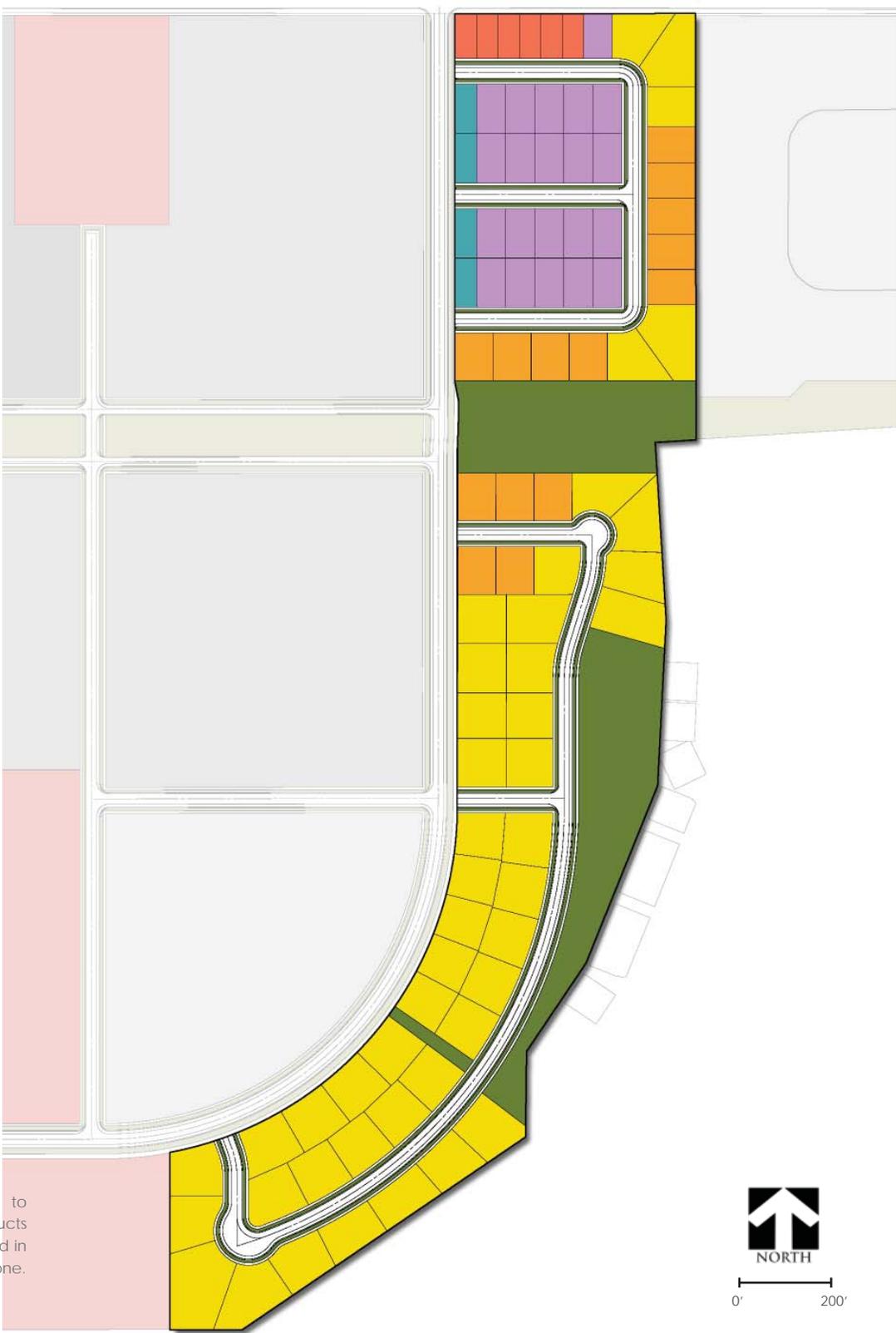
Transect Sub-District Assignments

Transect Zone	Acres	% of Gross Area	Max. ERU
T2	4.58	16%	
T3-R	3.56	13%	
T3	5.90	21%	
T4-R	1.67	6%	
T4-SL	0	0%	
T4	2.38	9%	
T5-R	0	0%	
T5	0	0%	
Civic	0	0%	
O.S.	6.01	21%	
Thoroughfares	4.01	14%	
Totals	28.11	100%	

Total Maximum = 173 ERU's

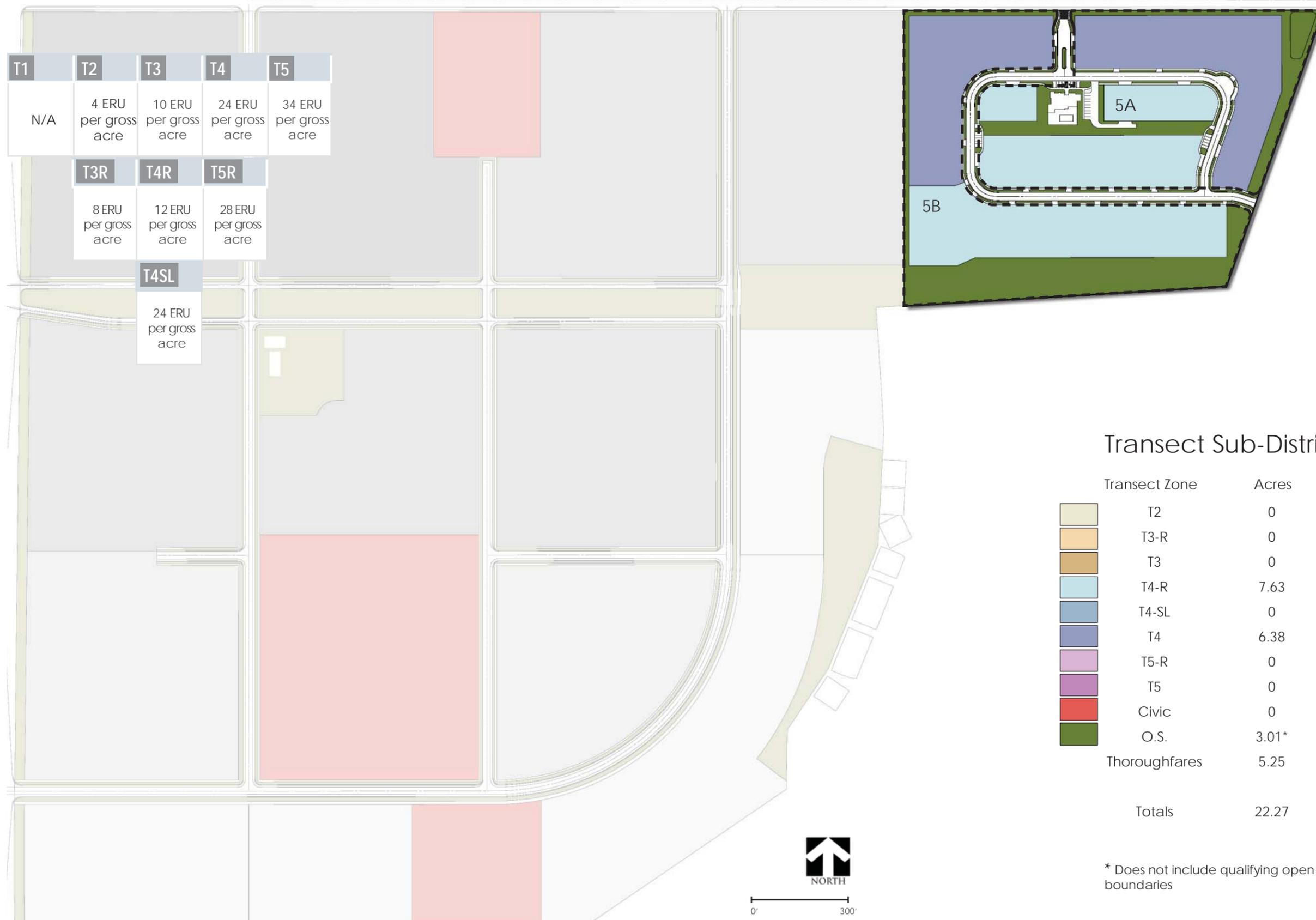
## CONCEPTUAL LOTTING PLAN

- Product
- 10,000 s.f. lots
  - 8,000 s.f. lots
  - 6,000 s.f. lots
  - Cottage
  - Front-Load Cottage
  - Twin Homes
  - Townhomes
  - Rear-Loaded Towns



The lotting diagram on this page is conceptual in nature and subject to change. Changes in residential products must comply with the criteria established in each designated transect sub-district zone.

### EXHIBIT 6



<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>	<b>T5</b>
N/A	4 ERU per gross acre	10 ERU per gross acre	24 ERU per gross acre	34 ERU per gross acre
	<b>T3R</b>	<b>T4R</b>	<b>T5R</b>	
	8 ERU per gross acre	12 ERU per gross acre	28 ERU per gross acre	
		<b>T4SL</b>		
		24 ERU per gross acre		

Transect Sub-District Assignments

Transect Zone	Acres	% of Gross Area	Max. ERU
T2	0	0%	
T3-R	0	0%	
T3	0	0%	
T4-R	7.63	34%	
T4-SL	0	0%	
T4	6.38	28%	
T5-R	0	0%	
T5	0	0%	
Civic	0	0%	
O.S.	3.01*	14%	
Thoroughfares	5.25	24%	
<b>Totals</b>	<b>22.27</b>	<b>100%</b>	<b>Total Maximum = 131 ERU's</b>

\* Does not include qualifying open space within transect sub-district boundaries

## CONCEPTUAL LOTTING PLAN

Product



Leisure Villas Townhomes



The lotting diagram on this page is conceptual in nature and subject to change. Changes in residential products must comply with the criteria established in each designated transect sub-district zone.



0' 200'

### EXHIBIT 6

Saratoga Springs City  
Planning Commission

# Report of Action

<u>TYPE OF ITEM</u>	
Concept Discussion	_____
Preliminary Plat	_____
For Discussion Only	_____
Site Plan	_____
Rezone	_____
Ordinance	_____
General Plan	_____
Code Amendment	_____
Plat Amendment	_____
Road Vacation	_____
Conditional Use	_____
Development Agmt.	_____
Minor Subdivision	_____
Other (Village Plan)	_____ <b>X</b> _____

**Meeting Date:** December 11, 2014

**ITEM #6.** Legacy Farms Village Plans 2, 3, 4, 5

Jeff Cochran was present as Chair.

**ACTION OF PLANNING COMMISSION**

The following action was taken by the Planning Commission on the above-described item:

**Tie (Negative Recommendation)**

**STAFF PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- See Staff Report
- Conditions removed: 4, 5, 6, 7, 8, 9
- Answered public questions on 400 S improvements, Tickville Wash, unit type mixtures, open space types, product types,

**CONCERNS RAISED BY PUBLIC**

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in verbal comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Nancy Hart, 324 Pavillion Circle
  - Still some of the same issues, lot size of 3800 and 3400 sq.ft. for cottages, with 0-5' setbacks.
  - Traffic outlet to Redwood Road is to have a light but not until 2020.
  - Water issue with Tickville Wash still not resolved, and have they met with Laura Ault from Utah Lake?
  - Still showing community gardens even though no green space for it.
  - Village Plan 2 and 4 have a mishmash of unit types next to each other. 6000 sq.ft. lots next to 3800 sq.ft. lots, need to stay with one kind or the other.
  - Gravel instead of grass in the drainage a change in VP 4's park, with potential storm drain, not a green space.

- Revised VP5 was presented to Commission before meeting, but not made public. Also doesn't show if Leisure Villas is going to be two story, three, what kind of building it will be.
- School is still not there according to the school district.
- Same issues as before, but have not been changed or corrected.
- Some of the street names are really dumb.
- Jim Parker, 380 Brita? Circle?
  - Plan for 400 South, putting a lot of traffic onto it, and does the City have a plan to address it?
  - 12' driveway to a twin home, pretty doggone narrow, especially when alternative was for 18' wide for a 4-plex. Seems really narrow. Living and working and making home there, really cutting it close and creating a slum.

### APPLICANT PRESENTATION

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Went over final Tickville Wash pipe solution, and timeframe, Hopes to have plats approved by March and begin construction in the summer.
- Went over changes to Village Plans since first submitted.
- Answered public questions on community gardens, landscaping, school district, 12' and 18' driveways, gravel drainage,

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Jarred Henline - absent
- Kara North - absent
- Sandra Steele
  - VP 5
    - Concerned that if holding Leisure Villas to the same standards, will end up with a patchwork quilt. Likes what have done in Lehi, and they are all the same. Discussed that flexibility in CP will work.
    - Fencing along perimeter. (*Applicant: optional fencing, developer is aware of concerns.*)
    - Parking in front of their clubhouse, and parking backs out onto street. (*Applicant: will address at time of plat.*)
    - Length of 12' driveway? Concern with narrow driveways is just backing, and with 36' backing, it's addressed. Recommend a combined minimum of 24' to give flexibility.
    - Feel that VP 5 is premature, since no matter what, it's going to change.
  - In general, concern with all plans is that applicant has flexibility to amend plan, but City doesn't have same flexibility. Comment made by someone during VP 1 was that we could see how it worked, then make changes in later VPs. Now, all being approved, it takes away ability for City to make changes. Until Tickville CLOMAR is in hand, things can still change. Have some reluctance to approve anything more than what has been approved in VP 1. Question the rush. Would like to slow it down to at least have time to go through it more thoroughly.
  - Thanks for twin home elevation Asked questions about side by side elevation; applicant states that only occurs three times in entire plan.
  - VP 2 – also premature due to school.
  - Still concerned about snow stacking. That's one thing the City should see how it works before approving more phases. (*Applicant: only snow stacking in non-required parking spaces, not*

*required guest parking. It's extra parking.) Clarified potential issues with snow winding up in medians and inhibiting turning, getting people stuck in.*

- *5' fencing (Applicant: showed fencing diagram in CP showing fencing between units.) Please just consider.*
- *Have you met with Utah Lake? (Yes, has been coordinating.) (Jeremy: will have to get approval from FFSL, and may or may not need a permit from USACE.)*
- *Requested to consider landscaping in the detention basin to compromise with neighbors.*
- *Don't need to worry about need to close with the Church; entitled to density through Community Plan. Don't need to rush Village Plans. Commission doesn't feel comfortable being rushed. Have a good start now with VP1, would be nice to have time, and ability to tweak if needed. Asking to approve next five years without seeing how any of it works out.*
- **Hayden Williamson**
  - *Echo Commissioner Steele's comments on green space, recalls it being put in place to be a green space for the neighbors. (Applicant: will still be sodded and have street trees, not all gravel. Will be addressed at time of plat.)*
  - *Taking away the meandering trails and rock walls; those were things that gave unique character to development.*
  - *Leisure Villas: is there an ERU difference between senior living and townhomes? (Staff: no. Discussed that townhomes would be permitted either way, so lower impact Leisure Villas is a nice bonus but not required.)*
  - *South side of development: trail and fencing? (Still semi-private fencing with gates for connectivity.)*
- **Kirk Wilkins**
  - *Asked about the Tickville pipe, grated, accesses, etc.? (Because it is FEMA and handles large volume, not permitted to have grate. Also went over manhole locations and access.)*
  - *Fencing on south side of Leisure Villas, double fences, Code prohibits?*
  - *VP5, one point of access? (Showed two)*
  - *What is benefit of approving VP 5, and what happens if tabled? (Gives confidence in finalization of purchase from the Church, and finalization of contract with Leisure Villas.)*
  - *Would gravel in the green space affect the green space calculation? (No.)*
- **Jeff Cochran**
  - *Every time this project comes, feels overwhelmed. Big, complex, different from our Code.*
  - *1200 units, what is rush to approve this much tonight? Hard for someone on Commission, or public, to digest in one night. Why so much so quick? Easier to process 2, not 2 and 3 and 4 and 5. (Applicant: can't exceed 1000 though concepts allow more. Lotting 856 lots in different product types. Verbiage in VP 1 is consistent with VP 2, 3, 4, 5 except locations highlighted tonight. Wish that process allowed more time to review. 856 as approved in CP. Also, must have the Village Plans approved in order to close with the Church.)*
  - *Densities, prefer to see lower densities, but given what allowed, products look good, a lot of thought put in to.*
  - *Why weren't changes tonight included in packet? (Staff: because they were not provided until this week.)*
  - *FEMA, what happens if floodplain is not changed? (Discussed density transfer, CP amendments needed to increase density elsewhere.)*
  - *Church sites look really small (Those plans came from the Church, and lot sizes were even increased.)*

- The Commission also discussed whether to move forward or wait for more time.
  - Wilkins: don't want to be a hindrance, but also feel too rushed.
  - Williamson: also feeling rushed, and agree with Commissioner Steele that it is a problem to be locked in without ability to make changes down the road if something goes wrong.
  - Cochran: repeat, feeling rushed. Concerned that not enough time to review the plans.
  - Steele: recommends continuing to give more time just to review and get information to public.
  - Applicant, Boyd Martin: understands rushed, but also doesn't feel comfortable spending tens of millions of dollars without assurance of entitlements. Density alone doesn't give a lot. Spent a million so far and haven't been able to close on property. More opportunity down the road with plats.

**MOTION**

Commissioner Wilkins made the following motion: "I move to forward a positive recommendation to the City Council for the Legacy Farms Village Plan 2, 3, 4, and 5 with the Findings and Conditions in the Staff Report:"

**Findings**

1. The application is consistent with the guiding standards in the Legacy Farms Community Plan. Specifically, the density, unit types, block types, thoroughfares, and other standards are expressly as contained in the Community Plan.
2. The application complies with the criteria in section 19.26.09 of the Development Code, as articulated in Section H of the Staff report, which section is incorporated by reference herein. Particularly:
  - a. With appropriate modifications, the application is consistent with the adopted Community Plan;
  - b. The range of density in the application does not exceed the total number of equivalent residential units dictated in the adopted Community Plan;
  - c. For an individual phase, the density will not exceed the total number of equivalent residential units dictated in the adopted Community Plan unless transferred per the provisions of the Community Plan;
  - d. The application is consistent with the utility, infrastructure, and circulation plans of the Community Plan; includes adequately sized utilities, services, and roadway networks to meet demands; and mitigates the fair-share of off-site impacts.
  - e. The application properly integrates utility, infrastructure, open spaces, pedestrian and bicycle systems, and amenities with adjacent properties; and
  - f. The application contains the required elements as dictated in Section 19.26.10.

**Conditions:**

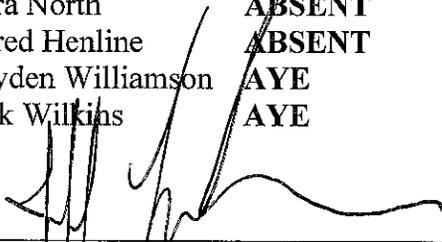
1. All requirements of the City Engineer, including but not limited to those in the Staff Report in Exhibit 1, shall be met.
2. All requirements of FEMA shall be met.
3. All requirements of the Fire Chief shall be met.
4. ~~This statement shall be added to density references: "as also limited by the cumulative total ERUs permitted in the Community Plan."~~
5. ~~Where side setbacks are five feet or less, fencing shall be prohibited in side yards between buildings.~~
6. ~~T-zones shall be modified to match the zones permitted in each block type. Particularly, Village Plans 2 and 3 have T-zone T3-R in Block-Type 3, which is not permitted.~~
7. ~~The Village Plan shall be amended to provide consistency between references to product types. Particularly, references to Cottages and Townhomes shall be clarified.~~

- ~~8. The thoroughfare network shall be amended to match the thoroughfare types in the CP, or a new local thoroughfare shall be added to the Village Plans.~~
- ~~9. Conceptual elevations for twin-home products shall be provided.~~
10. The Village Plan shall be amended as directed by the Planning Commission, including correction of typos as identified by Staff.
11. All buildings with setbacks five feet or less must be built with 1-hour fire rated materials.
12. All buildings over 35' in height must be fully sprinkled and meet all additional Fire and Building Department requirements.
13. Combined minimum 24' backing space in Village Plan 5.
14. Density does not transfer into Block Type 1
15. Any other conditions as articulated by the Commission \_\_\_\_\_.

Commissioner Williamson seconded the motion.

VOTE (2 TO 2)

Jeff Cochran	NAY
Sandra Steele	NAY
Kara North	ABSENT
Jarred Henline	ABSENT
Hayden Williamson	AYE
Kirk Wilkins	AYE




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Saratoga Springs City Planning Commission - Chairman

Exhibit 1: Staff Report Dated December 11, 2014

Ken Watson said they are meeting those requirements.

Sandra Steele didn't have more concerns with connectivity. She thinks before it goes to council it should have the finalized color palettes and elevations and everything so they know what they are sending forward.

Ken Watson feels they have provided those.

Sandra Steele would like to see what they come forward with, if they come up with more stone or brick for instance. She has concerns with approving something when they are not exactly sure what they are getting.

Hayden Williamson feels they meet code, there are some good suggestions made but he doesn't have to sell the product. Ivory Homes has a good reputation. He thinks the product and layout look good and doesn't have any concerns.

Kirk Wilkins asked why there was a suggestion to flip the units.

Kimber Gabryszak replied that there a concern that they would be facing back yards.

Ken Watson noted that there was a solid vinyl fence and a grade change and a remote chance that would be able to see into neighbors back yards.

Kirk Wilkins would rather see the Dual car garage. He reviewed some of the UDC comments.

Ken Watson responded that he was fine with wrapping brick, opposed to flipping units, and semi-private fence on 400 E. was fine. He is fine with colors submitted and can submit another, and they don't want gates.

There was still some disagreement whether the elevations in the packet matched the product that would be built here.

Kirk Wilkins said he would like to see the plans be consistent and correct.

Jeff Cochran thanked the applicant for being here tonight. He clarified with staff that the Code doesn't prohibit the direction of the units. The UDC tries to ensure quality without micro-managing. He is opposed to the units not facing the street. He suggested that they could flip those units and keep the two car garage by sacrificing a few of the units. He asked if there was parking by the basketball court. He noted that parking is a problem in dense developments.

Kimber Gabryszak noted that they are meeting their parking requirement and along the basketball court was a City road and they don't typically allow parking along there.

Jeff Cochran asked about the elevations and suggested staggering units to break up the garage wall.

Ken Watson said architecturally that was not possible.

Kevin Thurman noted that we don't have architectural standards for residential units; the Code is more about quality materials. We cannot require things in a condition that are not part of the Land Development Code.

Jeff Cochran said for the most part they do meet Code requirements. He does agree with an additional color palette needed.

Discussion was held as to what direction the Planning Commission would like to take with a recommendation.

**Motion made by Hayden Williamson to forward a positive recommendation to the City Council for the Jordan View Landing Preliminary Plat/Site Plan on parcels 58:032:0102, 58:032:0100, and 58:032:0101 as located in Exhibit 2 and detailed in Exhibits 5 and 6, with the Findings and Conditions in the staff report; with the additional conditions that floor plans and elevations match and be consistent prior to City Council meeting, and color palettes be consistent prior to City Council meeting. In addition, brick treatment shall be added to rear elevations, to ensure consistency of all elevations; Side elevations facing streets shall be treated similarly to the front elevations; the fencing along 400 E. shall be semi-private; and Four total color palettes shall be provided. Second from Kirk Wilkins.**

**Aye: Hayden Williamson, Jeffrey Cochran, Kirk Wilkins. Nay: Sandra Steele Motion passed 3-1.**

Sandra Steele voted no because the renderings they had been given have never been what they were supposed to get, never been correct.

**6. Public Hearing and Possible Recommendation: Legacy Farms Village Plans 2, 3, 4 and 5 located at approximately 400 South and Redwood Road, DR Horton, applicant.**

Kimber Gabryszak presented the Village Plans for Legacy Farms. She reviewed the staff report and recommendations and conditions. Village Plan 1 was approved in July this year. She noted the maximum

density total exceeds the approved 1055 ERUs to allow for flexibility within each Village Plan to build up to or less than the maximum to meet market demands. However; once they reach 1055 units they are done. They have removed conditions 6, 7, 8, 11 and 12 4, 5, and 9.

Krisel Travis went over the time frame they hoped could happen for this project. She showed the current plan for Tickville wash pipe and noted it had taken some extra time. They home to have approvals by March. Greg Haws went over several changes that were just recently sent to the Planning Commission in response to City comments, including language regarding the extension in all the plans.

#### **Public Hearing Open** by Jeff Cochran

Nancy Hart was concerned with lot sizes of 3800 and 3400 sq.ft. with 0-5' setbacks. She noted that the traffic outlet to Redwood Road was not to have a light until 2020. She thought the issue with Tickville wash was still not resolved and asked if they had met with Laura Ault from the Utah Lake. She wondered about community gardens where no green space was shown for it on the plan. She felt VP 2 and 4 had a mish mash of styles and it didn't feel like a neighborhood. Large and smaller lots mixed together. She noted the gravel in the VP 4 drainage ditch and it was no longer having grass. She noticed the revised plan was presented to the commission but not to the public ahead of time. There is not picture or plan of what is going to go into Leisure Villas, whether it's multiple levels or twin homes etc. She assumes there are two club houses and pool. She mentioned the school district has not committed to a school yet. The same issues seem to be there still from before. She does not like some of the street names.

Jim Parker asked what the plan on 400 South was, if it was to be widened or how it would handle the traffic. He asked about the 12' driveways to twin homes and thought it was too narrow.

#### **Public Hearing Closed** by Jeff Cochran

Jeremy Lapin responded that they had a plan on 400 S. to widen it to three lanes. D.R. Horton will provide ingress and egress and the city will coordinate to finish missing segments. The developer will be doing curb & gutter on the south side. They will install a light at the 400 S. Redwood Road. intersection when the traffic warrants it. Tickville drainage has conditions in the staff report that they will not be allowed to build in the flood plain until the FEMA maps are amended. There are portions not in the flood plain that are not affected on that. He noted they are also building Riverside drive between 400 S. and Pioneer crossing in the near future that will take away some congestion going to Redwood road.

Krisel Travis addressed the small lots and transitions, the lots were actually 4000 to 4500 sq.ft. They comply with the community plan. The Community gardens are not required to be shown, they could be put it into an open space if the product around that wanted to have that. The bigger detail will come with the individual plats. The 0 lot lines were removed, everything has a 5' setback now. The school district has been presented with the contract for the school. They want to orient it to the west and they would like to be open in the fall of 2017. The 12' driveways in the past have not had any problems. The Fire Chief did not express any concern. The gravel drainage in the landscape area; the grass makes a mucky area and breeding ground for mosquitoes the gravel allows it to drain better. The final plats will have more details and we will be able to address those things better at that time.

Sandra Steele didn't like getting new information walking in the door, she feels it's only fair that they and the public get that information ahead of time so that the public can come and comment on it if they need to. She started with concerns on VP 5 and was concerned about the elevations and thinks it may end up a patchwork quilt. She wonders if we need to look at it closer and have them stick to the same standards. She likes what they have done in Lehi where they are all the same.

Krisel Travis said they have said they can't have the same product right across or right next door, but they could on the corners.

Sandra Steele asked about a trail going through the village area and the safety issues, it needs some sort of fencing.

Krisel Travis said they want to make it secured but they like the open feel, more than likely there would be a fence but maybe some pass-throughs.

Sandra Steele asked about parking near the clubhouse; she feels the safety of that needs to be looked at when it comes to the plat process. She asked about the length of the driveways, her concern is maneuverability but with two together, 36', it seems ok. She would like to see a minimum of 24'. Her concern with all of these Village Plans is that they have the flexibility to amend their plans but the city doesn't have the same flexibility. She would like to see what does and doesn't work with the first plan and see if something needs to be tweaked with the next plan. She feels that has been taken away from the city. She knows things can change and she is uncomfortable approving anything past what they did in plan 1. Until the Tickville wash CLOMAR is in their hand things will still change. She questions the rush and would like to see us slow it down and look through it more carefully. She feels especially VP 5 will likely change. She asked about the twin house elevations and the around the corner setting and if they were all like that.

Krisel Travis said there are only 3 cases where it's not that way.

Sandra Steele complimented that on village 4 the snow stacking doesn't seem to be a problem. On Village 2, if the school isn't ready than that plan may be premature as well.

Krisel Travis noted that the Village plan doesn't need to note orientation now, that is detail that would come with the final plats.

Sandra Steele is still concerned about snow stacking where it is, she would like to see how it actually works.

Krisel Travis said the snow stacking areas would be additional parking, not part of the required and they would not allow parking from Nov. to March. They will be marked on the final plats.

Sandra Steele clarified that she was concerned about snow piling up and blocking maneuverability and people getting stuck. She asked on the rear loaded townhomes, if they were still there on Victoria Ln. in VP 2.

Krisel Travis said they have a 20' two car drive and 12' travel lane to back out on to.

Sandra Steele asked on the cottage lots.

Krisel Travis said it's only in village plan 1, the other plans are shown only as an option.

Sandra Steele asked about the 5' fencing and where you would place things like air conditioning units. They can be too close, especially so emergency crews cannot get past them. She asked them to consider putting the fences just in the back and not the side.

Krisel Travis noted where in the plan it noted the fence layout and noted Commissioner Steele's suggestion.

Sandra Steele asked if they have met with the Utah lake Commission.

Krisel Travis said they have and they have coordinated with them for what is required for discharge.

Jeremy Lapin said they will have to get a permit from FFSL and they only would need it from the Army Corps if it was within their jurisdiction.

Sandra Steele asked about the detention basin, if the bottom was left in gravel, what would be the depth that the water would be there for great periods of time.

Krisel Travis said the pond is being designed to hold about 1.8 ac./ft.

Sandra Steele is wondering if there could be a compromise with some grass.

Krisel Travis said that would be in the plats when they come. For the most part they will be grass.

Jeremy Lapin said they have several detention ponds throughout the city where the sod is not an issue but sometimes if it happens it's more of a workmanship issue.

Sandra Steele would like Jeremy Lapin to work with D.R. Horton to get the best product.

Hayden Williamson agrees that the detention basin was expected to be more green space from previous discussions.

Krisel Travis said the gravel would be minimal; most of it would still have grass and trees. It has always been a detention basin in the plans. Those plans will come forward with final plats. They understand it's a sensitive issue

Hayden Williamson said he was impressed with a previous plan for meandering trails and rock walls. He asked what the difference was between townhomes or senior living ERU's. (none.) He thought that lower impact there would be advisable. He asked about a trail on the south west side and if there was a fence between the trail and the community.

Krisel Travis said there would be gated connections with semi-private fences.

Kirk Wilkins asked about the underground pipes and the safety to block people from getting in.

Krisel Travis said FEMA conditions are that it needs to be open with manholes for maintenance. The trail will be widened in a section to help vehicles get to areas for maintenance.

Jeremy Lapin said it's inaccessible unless someone was climbing a fence, on the west side it's 150 ft. off of the road, the access road will have a gate. They have taken reasonable precautions to keep people out. They also don't anticipate flooding issues due to the large capacity.

Kirk Wilkins asked about the code for the double fencing.

Kimber Gabryszak responded that they drafted an amendment but it was tabled so there is nothing prohibiting that.

Kirk Wilkins asked what the benefit was to approve plan 5 now.

Krisel Travis said it gives the ability and confidence to proceed with the Church and purchasing, if not it would delay the process and take away entitlements.

Kirk Wilkins asked if the gravel would change the greenspace requirement.

Krisel Travis said no, it did not.

Jeff Cochran said the project is overwhelming. They are looking at 1200-1500 units tonight, why the rush to approve all these plans tonight. He sees that they have done a thorough job and it looks great, the products look good, but it's a ton of information, why so much so quick?

Krisel Travis they approved a community plan that they couldn't do more than 1000 units, the lotting concepts have not changed from the Community Plan. The same verbiage in Village Plan 1 is the same as these Village plans except for the few small changes they highlighted tonight. She wished the process allowed them more time to review it, but its 856 lots, that hasn't changed. The reason for the rush is to get the project going in the city and give them the entitlements to close with the Church. Village plan 1 does not give them enough entitlements to purchase the plan. They have to have at least the village plans approves to vest their densities.

Jeff Cochran asked why the new changes were not included in the packet.

Kimber Gabryszak said they weren't done until this week.

Jeff Cochran asked how FEMA affected the village plans and if there was any reason that it would restrict them from approving the plans tonight.

Jeremy Lapin said there are several restrictions where they could build. The worst case scenario is they would lose those areas to develop. His understanding was that these layouts would be locked unless they brought a new plan. If they had so many units and some of the area was unbuildable they could transfer a little but it would need an amendment for bigger changes.

Kimber Gabryszak said there are some provisions for transfer of density out of the flood plain, but without an amendment they could not shift very much. Anything more than a minor shift would require an amendment.

Jeff Cochran asked if next to single family homes, are those densities locked in?

Kimber Gabryszak said in some areas the lot types are locked in.

Jeff Cochran asked if we could lock the density in some of the areas.

Kimber Gabryszak said there still is a requirement to transfer some density away from existing neighborhoods.

You could possibly recommend that there not be a density transfer allowed in a specific block.

Krisel Travis said as long as it gives them the same product ranges in Block type they are fine with that. She thinks it's pretty tight and already restricted. It would be pretty impossible.

Kirk Wilkins asked how close they were to the maximum.

Krisel Travis said they are pretty close to the maximum now.

Jeff Cochran thought it would be nice to have a condition there.

Kimber Gabryszak thought it might already be covered.

Jeff Cochran thought the church sites were small

Krisel Travis said that came from the church, she said they had even increased them a bit.

Sandra Steele said their density is already written in stone with the community plan. She is not sure that we need to be worried about it. She feels they are rushing us along where we don't feel comfortable.

Krisel Travis indicated that by passing the plans tonight it gives us the confidence to go forward with the purchase. It lays out the roadways and infrastructure. She apologized for the uncomfortableness of the speed at which they felt they needed to move. She appreciated their efforts in Village Plan 1 and the Community Plan. She is not asking them to approve the final plats those still have to come in later. This is just the view of what this could look like.

Sandra Steele asked if they could change the shared lanes during the plat process

Kimber Gabryszak said no, unless there was a health and safety issue that came along that superseded it like from the Fire Chief.

Hayden Williamson said given that they can't move forward and purchase the property until they get this plan he would like to move forward.

Kirk Wilkins did feel like they were rushing this along, it gives them certainty but it does take away our flexibility. Jeff Cochran understands the need to move forward but feels they are in a difficult situation tonight.

Sandra Steele thinks they need to table it so that the public has a chance to look over what they have been given tonight.

Kevin Thurman said they could take comment from the public if they so choose. He doesn't recommend that they open public hearing again but just take public comment at a future point. If they continue this there needs to be some sort of code finding that they say they need additional information to see if it's met.

Boyd Martin said he knew it was hard with a lot of information at this time. There is still a lot of detail to come with the final plats. He doesn't want to spend millions of dollars and then go through this process with every single Village Plan. He feels they are good to go on this and he wants to close. He needs some level of comfort that he can move forward with these conceptual Village Plans.

**Motion from Kirk Wilkins to forward a positive recommendation to the City Council for the Legacy Farms Village Plan [2, 3, 4, 5] with the Findings and Conditions in the Staff Report; with the additional condition that there be combined minimum of 24 ft. (driveways) backing space; and that they remove conditions 4, 5, 6, 7, 8, and 9 and that density does not transfer into block type 1. Second from Hayden Williamson.**

Hayden Williamson thought they determined that they didn't need the condition of the density transfer.

Kimber Gabryszak thought it was still necessary but they didn't need to identify the density because it's already called out. Also on the combined minimum 24', could they change that to backing space because it's not the driveway, and could it be just village plan 5?

Sandra Steele thought it was a concern everywhere.

Kirk Wilkins revised the condition of the Motion that **with the 24'** driveway that it is with **backing space**.

**Aye Kirk Wilkins, Hayden Williamson. Nay: Sandra Steele, Jeff Cochran. Motion tied.**

**7. Approval of Reports of Action.**

Kimber Gabryszak went over the reports of Action for Legacy Farms. It moved forward with a negative recommendation with a tie vote.

**Motion by Sandra Steele to approve the Report of Action and have our Chair sign it. Second from Hayden Williamson. Aye Kirk Wilkins, Hayden Williamson, Sandra Steele, Jeff Cochran. Motion passed.**

Kimber Gabryszak reviewed the Jordan View Landing Report. It received a positive recommendation.

**Motion made by Hayden Williamson to approve the Report of Action for Jordan View Landing. Second made by Kirk Wilkins. Aye Kirk Wilkins, Hayden Williamson, Sandra Steele, Jeff Cochran. Motion passed.**

**8. Approval of Minutes:**

**1. November 13, 2014.**

Motion by Sandra Steele to accept the minutes as corrected. Seconded by Hayden Williamson

**9. Commission Comments.**

No comments.

07 Mayor Miller echoed a lot of the comments; he would be interested in the tri-partnership.  
08 Councilwoman Call stated that they would like to see the pre-severance and post severance appraisals and work  
09 from there.  
10 Mayor Miller would like Councilman Willden and Councilman McOmber to work with him and staff.  
11 Nathan Shipp had other components besides density he would like feedback on. He heard concern about where to  
12 place extra density. As they look at where they place it, he wanted feedback on where to put it. They met  
13 with Jeremy Lapin and discussed the Master Transportation plan and they can see the main road tying in to  
14 the west. They talked about where the tanks and water storage have gone and it will need to be amended they  
15 are proposing the road come through commercial to help facilitate that area, they have ended up with a major  
16 collector in the area where the town homes were to be located. It's splitting what was 400 units of town  
17 homes into three lots.  
18 Councilwoman Call would like to get a staff report to see how many units really could have fit with open space  
19 etc. in the MVC area. She is trying to understand on the 12 units per acre, if she is looking at 1500 sq.ft.  
20 living spaces she doesn't think they could fit that many town homes in that area and she is anxious that it  
21 would be converted to stacked condos.  
22 Nathan Shipp was willing to commit that it wouldn't go stacked.  
23 Councilwoman Call it's unfair to talk about where the density is going when they don't know what it will be for  
24 sure. They have discussed the brackets on sq. footages before.  
25 Nathan Shipp said they have shrunk the brackets and have made the lots larger, they will continue to work with  
26 the city on that. The table in the packet is not updated.  
27 Councilman McOmber appreciates that he is tightening up the brackets, which shows him they are willing to  
28 work with the Council. He likes the idea of the road and ravine breaking up the townhomes. He is happy they  
29 are willing to lock into no stacked condos. His concern is the created densities. With the 18 units per acre,  
30 whatever the negotiation is with the density, He thinks the best thing is to work those along the MVC and not  
31 have larger lots backing the freeway. There would be ways to make it work, keeping it on the west side.  
32 Councilwoman Call on the west side where there are amazing view lots. Don't compromise those lots with town  
33 homes.  
34 Applicant said they are working on those. They want those view lots on both sides of the road. They are also  
35 working with the typography of the land.  
36 Councilman McOmber feels they can figure it out but they don't know yet. They are willing to work in tri-party  
37 agreement  
38 Mark Christensen thinks they need to nail down what the numbers are before we get into design details.  
39 Councilwoman Call made some calculations; she was surprised by the numbers. It makes her feel a little more  
40 comfortable.  
41 Nathan Shipp said they have a meeting with Alpine School District for school sites.  
42 Mark Christensen noted he had spoken with the church site selectors and they are starting those conversations. It  
43 may be two to three stakes in the area. They do want to preserve several of those areas.  
44 Nathan Shipp they had looked at a closer view and noted there are areas where there are smaller open spaces  
45 needed. They have added language to the plan to better conform to existing city code. They have tightened  
46 larger ranges of lot sizes, and changed other things to conform to code. They take pride in the communities  
47 that they build. They have referenced a project in Bluffdale that the residents have been very happy with,  
48 especially with the parks. They want to do a great job here.  
49 Councilman McOmber said in terms of parks they would love to talk to the applicant about our visions for the  
50 City when it gets to that point.  
51 Mayor Miller thanked him for his time and letting them ask questions.  
52 Councilwoman Call asked if they had an estimated timeline to get proposals for severance appraisals. (He  
53 thought they could get back tomorrow with that.) They are looking forward to the road that will benefit our  
54 community. They appreciate the relationship they have had with UDOT.

56 **2. The discussion of the Legacy Farms Village Plans 2, 3, 4, and 5 located at Redwood Road and 400**  
57 **South, DR Horton, Applicant.**  
58

59 Krisel Travis wanted to give the Council ample opportunity to see their plans. Tickville took longer to figure out  
60 and that has held them up. FEMA has acknowledged the receipt of their application. She showed where the  
61 Tickville wash was going to end up in the project and what it would consist of. They discussed the road work  
62 that would need to take place. They have submitted to FEMA and are waiting for the 90 day review period.  
63 That would put them at Feb. 24th 2015 then they can resubmit and get response for CLOMR hopefully by  
64 May 9th and then start construction. They hope to have those improvements by Nov. They hope to have the  
65 LOMR issued by March 2016 and have it all official by Sept 2016. They are hoping to start construction on  
66 the first phase this fall. The understanding is they can construct infrastructure along Redwood Rd. in the  
67 flood plain but not actual building permits. They are planning to start along Redwood Rd. They plan on  
68 bringing in several construction crews at the same time to help move things faster.

59 Mark Christensen noted that Jeremy Lapin had been working with them, they have to pull the infrastructure  
70 through the whole site at the beginning and so they really will be able to move quickly. They have submitted  
71 master plans to Jeremy based on all the plans.

72 Greg Haws shared the Village Plans. Vp2 estimating construction fall 2016 VP 3 fall 2016, VP 4 Fall 2017 They  
73 will not exceed a total maximum of 1,055 ERU's. He noted the consistency's among all the Plans. He  
74 reviewed the changes from VP1 in the new plans and revisions in the Village plans. He reviewed the changes  
75 with Village Plan 5, Leisure Villas. He explained the length of driveways and turn around areas for the  
76 Leisure villas products. This would be a sub association of Legacy Farms but they would have their own club  
77 house and would mainly be separate. They are still negotiating the extent of association.

78 Krisel Travis spoke about the fencing standard established previously in the approved Community Plan. They ask  
79 that notes be added that they will comply with the IRC. Anywhere where it references the Master  
80 Transportation or Master Parks plan that it also references the Master Development Agreement they are  
81 working on.

33 Councilwoman Baertsch asked about the ERU's of the school area and church.

34 Kimber Gabryszak said the lower ERU's are the correct numbers.

35 Councilwoman Baertsch noted that T5 is not allowed in a traditional neighborhood. There should be no T5's in  
36 this project. That needs to be reviewed.

37 Greg Haws after review noted that it could be a T5R.

38 Councilwoman Call said with the planning director approval for extension, if it was 3 or 6 months she wouldn't  
39 have a problem with that, but a 12 month extension it should go through the legislative process.

40 Councilman Willden did not have any additional comments at this time.

41 Councilman McOmber appreciates the level of detail. He asked staff to email them if in fact the packets were  
42 really the same. He appreciates the Tickville wash plans and thinks it will solve some long term problems for  
43 the city. Some of these things that have changed are now getting back to the original plan. He likes the  
44 picture of the plan with open space with the trees and would like to have that to show residents that have  
45 questions. He appreciates that it is getting back to the original intent of the project.

46 Councilwoman Call would be ok with going vertical with trees while horizontal projects are taking place, so they  
47 have some time to grow.

48 Councilwoman Baertsch asked about the overall open space on the project, it is around 19%.

49 Kimber Gabryszak said the District Area plan has a different requirement, the 19% does comply.

50 Councilwoman Baertsch said that they require them to phase the open space along side of the development, and  
51 if they don't meet that requirement than they need to put money in escrow.

52 Kimber Gabryszak was not sure when they would hit that point but she believes they would be ahead when they  
53 got to the school point and they will watch it.

54 Krisel Travis thought VP3 would be the only one they might fall behind on.

55 Kimber Gabryszak noted that with a District Area Plan they can count additional items that aren't usually  
56 counted towards open space.

57 Councilwoman Call asked how they handled it when they have already approved a district area plan.

58 Kimber Gabryszak indicated that it's actually based on neighborhood type so some of the developments would  
59 end up having higher.

60 Kevin Thurman said there is also language in the Annexation and District Area Plan that says if it conflicts with  
61 19.26 than the District Plan and Annexation agreement take precedence.

12 Councilwoman Baertsch said we need to make sure we are reminded what those actual requirements are.  
13 Kimber Gabryszak said there is some language in the Planned Community zone that does allow for some  
14 exceptions if they are doing a District Area plan over 2000 acres.  
15 Councilman Poduska appreciated their work.  
16 Mayor Miller agreed that if there are no changes than he is fine with the extension by the Planning Director but  
17 any extension beyond that needs to come back to Planning Commission.  
18

19 **Adjourn 8:55pm**  
20  
21

22 \_\_\_\_\_  
23 Date of Approval

\_\_\_\_\_  
Lori Yates, City Recorder

**MASTER DEVELOPMENT AGREEMENT  
FOR LEGACY FARMS**

THIS MASTER DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into on \_\_\_\_\_, 2014, by and between the City of Saratoga Springs, Utah, a Utah municipal corporation (“City”) and D.R. Horton, Inc., a Delaware Corporation (“Developer”). The City and Developer are sometimes collectively referred to herein as the "Parties."

**RECITALS:**

**WHEREAS**, Developer is under contract to purchase 181.93 acres of property from Suburban Land Reserve, Inc. (“SLR”) with vested development rights in the development known as Legacy Farms in Saratoga Springs, Utah (“Property”), which is more fully described in Exhibit A attached hereto and incorporated herein; and

**WHEREAS**, the Property is part of approximately 2,910 acres of property previously or currently owned by Corporation of the Presiding Bishopric of The Church of Jesus Christ of Latter-day Saints (“CPB”), which larger parcel(s) has been granted vested development rights as further stated in these recitals; said 2,910 acres shall be referred to hereinafter as the “CPB Property”; and

**WHEREAS**, on August 31, 2010, the City passed Ordinances Nos. 10-12, 10-13, 10-14, and 10-15 (“Ordinances”), which pertained to the CPB Property and which granted vested development rights to the CPB Property; and

**WHEREAS**, the CPB Property included 1,803 acres of property that was annexed into the City of Saratoga Springs concurrently with Ord. 10-15 as well as 1,107 acres of property that was already within the incorporated limits of the City of Saratoga Springs; and

**WHEREAS**, Ordinance No. 10-15 also approved the Saratoga West Annexation Agreement (“Annexation Agreement”); and

**WHEREAS**, the Annexation Agreement governs the CPB Property, grants development rights to all of the CPB Property, and was recorded with the Utah County Recorder’s Office on January 19, 2011 as Entry Number 5778:2001; and

**WHEREAS**, the Annexation Agreement grants CPB the rights to develop 16,000 residential dwelling units and 10 million square feet of non-residential space on the entire CPB Property, which collectively equals 20,620 equivalent residential units; and

**WHEREAS**, Ord. No 10-15 approved the Saratoga Springs City Center District Area Plan (“District Area Plan”), attached as Exhibit B, which specifies that CPB is entitled to build 16,000 residential units and 20,620 equivalent residential units on the CPB Property; and

**WHEREAS**, the District Area Plan lists approved place types, which describe combinations of land uses in which planning principles are applied in a certain way to achieve a particular community character, are meant to be used as a guideline for future development, and cover a range of uses and building types; the Place Type approved in this Agreement for the Property is Traditional Neighborhood; and

**WHEREAS**, concurrent with the adoption of Ord. No. 10-15 and approval of the Annexation Agreement, the City Council passed Ord. No. 10-12, which gave the CPB Property the designation of Planned Community Zone; and

**WHEREAS**, in passing the Ordinances, the City acted pursuant to its legislative authority under Utah Code § 10-9a-102, which gives municipalities authority to “enact all ordinances, resolutions, and rules” and to “enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements”; and

**WHEREAS**, Section 19.26.05 of the City Code requires properties that have been designated as a Planned Community Zone be part of an approved community plan; and

**WHEREAS**, Developer has submitted the Legacy Farms Community Plan (“Community Plan”), attached as Exhibit C; and

**WHEREAS**, the Planning Commission, after a duly-noticed public hearing, has considered the Community Plan and this Agreement and has forwarded a positive recommendation to the City Council on both, subject to the findings and conditions listed in the minutes attached hereto as Exhibit D and Report of Action and adopted findings and conditions in the staff report attached as Exhibit F; and

**WHEREAS**, the City Council, after a duly-noticed public meeting, and after consideration of the Planning Commission recommendation as well public comment received by the Planning Commission, has approved the Community Plan and this Agreement, subject to the findings and conditions listed in the minutes attached hereto as Exhibit E and Report of Action and adopted findings and conditions in the staff report attached as Exhibit F; and

**WHEREAS**, per Section 19.26.01 of the City’s Land Development Code, the Planned Community Zone provides for a “diversity of uses to meet the life cycle of residents, including a range of housing types” and for a “variety of development and use standards, including a range of heights, setbacks, densities, and lot sizes, to achieve innovative design patterns.” The City Council finds that the proposed Community Plan meets the intent of Section 19.26.01 by providing a diversity and variety of housing types to meet the life cycle and needs of the residents; and

**WHEREAS**, the Planning Commission and City Council, pursuant to Section 19.26.05(3) of the City Code, find that the Community Plan submitted: (a) is consistent with the goals, objectives, and policies of the City’s General Plan (the “General Plan”), with particular emphasis on community identity, distinctive qualities in communities and neighborhoods, diversity of housing, integration of uses, pedestrian and transit design, and environmental protection; (b) complies with the General Plan regarding the number of equivalent residential units and square footage of nonresidential uses of the General Plan; (c) contains sufficient standards to guide the creation of innovative design that responds to unique conditions; (d) is compatible with surrounding development and properly integrates land uses and infrastructure with adjacent properties; (e) includes adequate provisions for utilities, services, roadway networks, and emergency vehicle access and public safety service demands will not exceed the capacity of existing and planned systems without adequate mitigation; (f) is consistent with the guiding standards listed in Section 19.26.06 of the City Code; and (g) contains the required elements as dictated in Section 19.26.07 of the City Code; and

**WHEREAS**, said Community Plan is consistent with the legislative policies set previously by the City Council through adoption of the Ordinances, approval and execution of the Annexation Agreement, and adoption of Chapter 19.26, “Planned Community Zone” by the City’s legislative body; and

**WHEREAS**, through approving the Community Plan, the City Council is applying the Ordinances, Annexation Agreement, and Chapter 19.26 of the Land Development Code to the Property and is acting as the land use authority pursuant to the City’s Land Development Code; and

**WHEREAS**, the City desires to enter into this Agreement to promote the health, safety, welfare, convenience, and economic prosperity of the inhabitants of the City through the establishment and administration of conditions and regulations concerning the use and development of the Property; and

**WHEREAS**, the City desires to enter into this Agreement because this Agreement establishes planning principles, standards, and procedures to eliminate uncertainty in planning and to guide the orderly development of the Property consistent with the City General Plan, the City Code, and the conditions imposed by the Planning Commission and City Council. Developer desires to enter into this Agreement to confirm its development rights and to obtain clarity regarding the improvements it shall construct and the applicable reimbursements and credits; and

**WHEREAS**, Developer and City desire to voluntarily enter into this Agreement, which sets forth the processes and standards whereby Developer may develop the Property; and

**WHEREAS**, this Agreement and its exhibits, including but not limited to the Community Plan, constitute the Master Development Plan, as provided for in City Code § 19.13.08, and the Master Development Agreement, as provided for in City Code Chapter 19.26; this Agreement

identifies the land uses, densities, obligations for construction of utilities, improvements, and infrastructure, and general phasing of the development; and

**WHEREAS**, to allow development of the Property for the benefit of Developer and to ensure that the development of the Property will conform to applicable ordinances, regulations, and standards, Developer and City are each willing to voluntarily abide by the terms and conditions set forth herein; and

**WHEREAS**, acting as the land use authority, and after all required public notice and hearings, the City Council has determined that entering into this Agreement furthers the purposes of the Utah Municipal Land Use, Development, and Management Act, the City's General Plan, and the City Code (collectively, the "Public Purposes"), and implements, executes, and administers the legislative policies set pursuant to the Ordinances, Annexation Agreement, and Chapter 19.26 of the Land Development Code. As a result of such determination, City has elected to authorize the development thereunder in accordance with the provisions of this Agreement, and the City has concluded that the terms and conditions set forth in this Agreement accomplish the Public Purposes referenced above and implement legislative policies previously set by the legislative body.

#### **AGREEMENT:**

Now, therefore, in consideration of the recitals above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

1. Effective Date. This Agreement shall become effective on the date it is recorded in the Utah County Recorder's Office after being executed by Developer and the City (the "Effective Date").
2. Affected Property. The Property Ownership Map, Vicinity Map, and Legal Descriptions for the Property are attached as Exhibit A. This Agreement shall be recorded against the Property as provided in Section 29(b) below. No other property may be added to or removed from this Agreement except by written amendment to this Agreement executed and approved by Developer and City. If there is any portion of the Property not owned by Developer when this Agreement is signed, the owner(s) of record of such portion(s) of the Property shall execute the consent provision set forth beneath the Parties' signature blocks at the end of this Agreement.
3. Zone Classification and Permitted Uses. According to the Ordinances and Annexation Agreement, the zoning classification on the Property is the Planned Community Zone ("PC Zone"). Except as otherwise provided in this Agreement, the City shall not unilaterally change the zoning designation on the Property during the term of this Agreement or any extension. Land uses in these zoning designations shall be governed by the Community Plan and the approved Village Plan(s). If a land use issue is not

addressed by the Community Plan or an approved Village Plan, then, by default, the land use issue shall be determined by the provisions of Chapter 19.26 of the City Code as constituted on the Effective Date of this Agreement. Attached hereto as Exhibit "I" is a copy of Chapter 19.26 of the City Code as constituted on the Effective Date of this Agreement. In the event of a conflict between other chapters of Title 19 and Chapter 19.26, Chapter 19.26 shall take precedence. In the event of a conflict between this Agreement, Chapter 19.26, the Community Plan, or any Village Plan(s) submitted pursuant to paragraph 18 of this Agreement or Chapter 19.26 of the City Code, the provisions in the Community Plan and the approved Village Plans shall take precedence. If Chapter 19.26 of the City Code is amended in the future in a manner deemed by Developer and the City (i.e., by the applicable land use authority of the City) to be favorable to the Project, Developer and the City can mutually agree to comply with the future amendment, as opposed to the version of the Code as constituted on the Effective Date of this Agreement, without the need to amend this Agreement.

4. Applicable Code Provisions. The development and use of the Property shall be governed by the Community Plan and the approved Village Plans. If an issue is not addressed by the Community Plan or an approved Village Plan, the provisions of Title 19 of the City Code as constituted on the Effective Date of this Agreement shall be applicable, but only to the extent they are not inconsistent with this Agreement, the Community Plan or the approved Village Plan(s). The parties acknowledge that in order to proceed with development of the Property, Developer shall comply with the requirements of this Agreement, Title 19 of the City Code, and other requirements generally applicable to development in the City at the time of preliminary plat application so long as they are not inconsistent with the Community Plan or the approved Village Plan(s). In the event of a conflict between other chapters of Title 19 and Chapter 19.26, Chapter 19.26 shall take precedence. In the event of a conflict between Chapter 19.26, the Community Plan, a Village Plan(s), Ordinances 10-12—10-15, the Annexation Agreement, or this Agreement, the provisions of the Community Plan and approved Village Plan(s) shall take precedence.
5. Reserved Powers. Except as otherwise provided in this Agreement, this Agreement shall not limit the future exercise of the police powers of City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation, and other land use plans, policies, ordinances, and regulations after the date of this Agreement. Notwithstanding the retained power of City to enact such legislation under its police powers, such legislation shall not modify Developer's vested rights as set forth herein unless facts and circumstances are present that meet the compelling, countervailing public interest exception to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1988), or successor case law or statute. Any such proposed change affecting Developer's vested rights shall be of general applicability to all development activity in City. Unless City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Property.

6. Rights and Obligations under Master Development Agreement. Subject to the terms and conditions of this Agreement, Developer shall have the vested right under this Agreement to develop in accordance with the District Area Plan, Community Plan, approved Village Plan(s) and Chapter 19.26 of the Land Development Code. Developer shall be required to apply for and obtain approval for each subdivision or site plan provided for in any Village Plan submitted pursuant to Chapter 19.26 and Section 18 below. Developer's vested right of development of the Property is expressly subject to and based upon compliance with and performance by Developer of all of the terms, conditions, and obligations of Developer under the District Area Plan, Community Plan, and approved Village Plan(s) submitted in accordance with Section 18 below, Chapter 19.26 of the Land Development Code, this Agreement, and the Exhibits attached to this Agreement.

7. Densities and Approved Uses.

- a. The Property shall be entitled to a maximum of 1,055 equivalent residential units (ERUs) (comprised of 1,000 residential ERUs and 55 civic ERUs), which is consistent with the pro rata share of ERUs for the Property as calculated by determining the percentage of acreage of the Property as compared to the entire CPB Property and multiplying that same percentage by the total number of entitled ERUs under the District Area Plan and Annexation Agreement. ERUs shall be calculated in accordance with the provisions of the approved Community Plan and applicable Village Plan(s). The District Area Plan establishes an overall entitlement of 20,620 ERUs on the entire CPB Property. The Property, 182 acres, constitutes approximately 6.3% of the total acreage of the entire 2,910 acres of CPB Property covered by the District Area Plan. The proportionate number of ERUs, using the same percentage, for the Property is 1,299 ERUs. The 1,055 ERUs for the Property are less than the pro rata share of ERUs for the entire CPB Property. The Village Plans submitted pursuant to paragraph 18 herein shall not collectively exceed 1,055 ERUs.
- b. The approved uses of the project shall be those uses designated as Traditional Neighborhood as defined in the District Area Plan except that apartments shall not be allowed. All uses shall be consistent with the provisions in the District Area Plan pertaining to Traditional Neighborhood. The City shall have the right to approve accessory uses.

8. Water Infrastructure, Dedications, and Fees.

- a. Water. The City has already received sufficient culinary water rights from CPB (or its affiliate) for the intended development of the Property, in exchange for which CPB has "water credits" with the City. On a plat-by-plat basis, as development occurs, Developer shall arrange for CPB to assign sufficient culinary water credits to Developer to satisfy the culinary water requirements for each plat

according to City ordinances, resolutions, and standards (hereinafter “City regulations”) in effect at the time of plat recordation. A notarized letter from CPB transferring the water credits for each plat of the Project will be sufficient. Water rights to meet culinary and secondary water requirements must be approved for municipal use with approved sources from City owned wells or other sources at locations approved by the City, which approval shall not be unreasonably withheld. Prior to acceptance of the water rights from Developer, the City shall evaluate the water rights proposed for conveyance and may refuse to accept any right that the City determines to be insufficient in annual quantity or rate of flow, that has not been approved for change to municipal purposes within the City or for diversion from City owned wells by the Utah State Engineer, or that does not meet City regulations. The City acknowledges that the water credits pertain to water sources that are adequate to serve the culinary water requirements for development of the Property. CPB does not have secondary water right credits with the City; accordingly, Developer shall arrange for CPB to transfer adequate secondary water rights to the City (from Utah Lake Distributing or otherwise) for the purpose of providing the Project with sufficient secondary water rights on a plat-by-plat basis for the intended development of the Property.

- b. Water Facilities for Development. At the time of plat recordation for each phase, Developer shall be responsible for the installation and dedication to City of all onsite and offsite culinary and secondary water improvements, including water sources and storage and distribution facilities, sufficient for the development of the property depicted on the plat in accordance with the City regulations and this Agreement. The anticipated water improvements are set out in the Community Plan and, if applicable, Village Plans submitted pursuant to paragraph 18 of this Agreement. Said list of improvements is the City’s best estimate as to the required improvements and is not intended to be an exhaustive list. The required improvements for each plat shall be determined by the City Engineer at the time of plat submittal and shall primarily be based on the Community Plan and any Village Plan (if applicable) but may be adjusted in accordance with current City regulations and this Agreement.
- c. City Service. City shall provide public culinary and secondary water service to the Property and maintain the water system improvements intended to be public upon Developer’s installation of such improvements, Developer’s dedication of the improvements to the City, and acceptance in writing by the City at the end of the warranty period so long as the improvements meet City regulations and the requirements of any applicable special service district.

9. Sewer, Storm Water, and Roads.

- a. At the time of plat recordation for each phase, Developer shall be responsible for the installation and dedication to City of all onsite and offsite sewer, storm

drainage, and road improvements sufficient for the development of the portion of the property depicted on the plat in accordance with the City regulations and this Agreement. The anticipated improvements are set out in the Community Plan and, if applicable, Village Plans submitted pursuant to paragraph 18 of this Agreement. Said list of improvements is the City's best estimate as to the required improvements and is not intended to be an exhaustive list. The required improvements for each plat shall be determined by the City Engineer at the time of plat submittal and shall primarily be based on the Community Plan and any Village Plan (if applicable), but may be adjusted in accordance with current City regulations and this Agreement.

- b. Storm water runoff for each plat must be detained and treated to meet City, State, and Federal codes and regulations. Developer is responsible for complying with UPDES and NPDES requirements during and after construction and shall obtain an NOI permit prior to commencing any construction activities. Natural drainages shall be left unimproved and no lot boundary shall contain any portion of land that is at or below the 100-year storm event high water elevation or is within the 100-yr floodplain as defined by NOAA. All trails and home finish floor elevations shall be a minimum of 1-foot above the 100-year high water mark of any adjacent drainage, lake, or waterway.
- c. The parties acknowledge and agree that the design, construction, and maintenance of the Tickville Wash improvements will be set forth in, and governed by, a separate written agreement by and among the City, Developer, SLR, and/or CPB (the "Tickville Wash Agreement"). Ownership, maintenance, and appropriate reimbursements of Tickville Wash improvements will be specified in the Tickville Wash Agreement. The terms and provisions of the Tickville Wash Agreement shall be consistent with the development approvals granted by the City for the approved Community Plan and approved Village Plan(s).
- d. Except for the roads identified as private roads on the plat(s), all other roadways within the Property shall be public roadways, which shall be constructed in accordance with the approved Village Plans, approved subdivision plats, and approved construction drawings. The cross-sections of all roadways within the Property shall be constructed in accordance with the Community Plan and approved Village Plan(s).
- e. City shall provide all public services to the Property (including, without limitation, sewer service, storm drain, road maintenance, snow removal, garbage removal etc.) and maintain the related improvements, including roads, that are specifically intended to be public upon dedication to the City and acceptance in writing by the City at the end of the warranty period, so long as the improvements meet the standards set forth in the approved Community Plan and Village Plan(s) for such improvements. If the standards for the subject improvements are not

specified in the approved Community Plan or Village Plan(s), then, by default, the improvements shall comply with the applicable standards set forth in the City regulations and approved construction drawings. Notwithstanding anything to the contrary in this subsection (e), the City shall not be required to maintain the private areas or private improvements that are specifically required by the approved Community Plan or Village Plan(s) to be maintained by a homeowners association.

10. Parks, Trails, and Open Space Improvements.

- a. Per the requirements of the District Area Plan, Community Plan, and any Village Plans submitted pursuant to paragraph 18 below or Chapter 19.26, Developer shall be responsible to develop and, in some cases, dedicate to public use (subject to the provisions in Section 21 below) certain parks, trails, and open space in an amount and in the location as specified in the Community Plan and any subsequent Village Plans. Subsequent Village Plans shall be consistent with the Community Plan.
- b. Subsequent Village Plans shall specify maintenance obligations of the parks, trails, and open space. For open space that City is not specifically required to maintain per the applicable Village Plan, Developer shall ensure that a homeowners association assumes maintenance and operation responsibilities of such parks, trails, and open space, and Developer shall provide written documentation to City of such. If Developer is unable to immediately provide such documentation, Developer shall maintain the parks, trails, and open space and post a maintenance bond in a form approved by the City to guarantee continued maintenance until assumption by a homeowners association.
- c. As set forth in the approved Community Plan, some of the required parks, trails, and open space improvements are intended to be accessed by the public but installed by Developer and maintained by and dedicated to a homeowners association. For these improvements, Developer will be required to grant public access easements. With respect to the private trail systems and other private areas that are not shown as "public" or as "public access easements" on the approved Community Plan, Developer will not be required to grant public access easements. The City will be required to maintain the improvements and areas shown in the approved Community Plan to be maintained by the City.

11. Street Lighting SID. At the time of plat recordation, the Property shall be added to the City's Street Lighting Special Improvement District ("SID") for the maintenance of street lighting, unless the City Council finds that inclusion of the property within each plat will adversely affect the owners of properties already within the SID. Developer shall consent to the Property being included in the SID as a condition to final plat approval. The SID is not responsible for the installation of street lights but is

responsible for the maintenance of all streetlights built in accordance with City standards. In all cases, Developer shall be responsible for installation of street light improvements. In addition, should the Property be included in the SID, Developer shall be responsible for dedication to the City of the street lighting improvements, after which the City shall maintain the improvements. The City shall not refuse to accept dedication of the street lighting improvements so long as they are constructed and installed in accordance with current City standards and the Property is included in the SID.

12. Performance and Warranty Bonds. For any improvement required to be installed pursuant to this Agreement and City regulations, Developer shall be required—in accordance with Section 19.26 of the City Code—to post a performance and warranty bond and sign a bond agreement on forms approved by the City to guarantee installation and good workmanship of the improvements. Each bond shall be posted prior to or concurrently with recordation of each plat. Each bond agreement shall be recorded against the portion of the Property to which it applies.
13. Capacity Reservations. Any reservations by the City of capacities in any facilities built or otherwise provided to the City by or for Developer shall be determined at the time of plat recordation in accordance with City regulations.
14. Title – Easement for Improvements. Developer shall acquire, improve, dedicate, and convey to the City all land, rights of way, easements, and improvements for the public facilities and improvements required to be installed by Developer pursuant to the District Area Plan, Community Plan, Village Plan(s), and this Agreement, subject to the standards set forth in Section 21. The City Engineer shall approve the alignment of all roads and utility lines and shall approve all descriptions of land, rights of way, and easements to be dedicated and conveyed to the City. Developer shall also be responsible for paying all property taxes including rollback taxes prior to dedication or conveyance and prior to acceptance by City. Developer shall acquire and provide to the City, for review and approval, a title report from a qualified title insurance company covering such land, rights of way, and easements. Developer shall consult with the City Attorney and obtain the City Attorney’s approval, pursuant to Section 20 below, of all instruments to convey and dedicate the land, rights of way, and easements hereunder to the City.
15. Sewer Fees. Timpanogos Special Service District (“TSSD”) requires payment of a Capital Facilities Charge, which is subject to change from time to time. The Capital Facilities Charge is currently collected by the City but may hereafter be collected directly by TSSD and may hereafter be collected as a Capital Facilities Charge or an impact fee by the City. Developer acknowledges and agrees that said Capital Facilities Charge or impact fee by TSSD is separate from and in addition to sewer connection fees and sewer impact fees imposed by the City and that payment of the Capital Facilities Charge and the impact and connection fee imposed by the City for

each connection is a condition to the providing of sewer service to the lots, residences, or other development covered by this Agreement.

16. Other Fees. The City may charge other fees that are generally applicable to development in the City, including but not limited to subdivision, site plan, and building permit review fees, connection fees, impact fees, taxes, service charges and fees, and assessments.
17. Community Plan Approval. Developer has submitted the Legacy Farms Community Plan. The Planning Commission has reviewed the Community Plan, held a public hearing, and submitted a recommendation to the City Council. The City Council has approved the Community Plan and finds that the Community Plan: (a) is consistent with the goals, objectives, and policies of the General Plan, with particular emphasis on community identity, distinctive qualities in communities and neighborhoods, diversity of housing, integration of uses, pedestrian and transit design, and environmental protection; (b) does not exceed the number of equivalent residential units and square footage of nonresidential uses of the General Plan; (c) contains sufficient standards to guide the creation of innovative design that responds to unique conditions; (d) is compatible with surrounding development and properly integrates land uses and infrastructure with adjacent properties; (e) includes adequate provisions for utilities, services, roadway networks, and emergency vehicle access; and public safety service demands will not exceed the capacity of existing and planned systems without adequate mitigation; (f) is consistent with the guiding standards listed in Section 19.26.06; and (g) contains the required elements as dictated in Section 19.26.07. More specific findings are contained in the written minutes and adopted findings and conditions of the Planning Commission attached hereto as Exhibit D; the written minutes and adopted findings and conditions of the City Council attached hereto as Exhibit E; and in the Report of Action and staff reports collectively attached hereto as Exhibit F. Development of the Property shall be consistent with the Community Plan as adopted with the conditions of approval in Exhibits D, E and F.
18. Village Plan Approval. Pursuant to Chapter 19.26 of the Land Development Code, Developer shall be required to submit Village Plan(s) regarding development of the Property to be approved by the City Council after a recommendation from the Planning Commission. The City Council shall determine whether each Village Plan: (a) is consistent with the adopted Community Plan; (b) does not exceed the total number of equivalent residential units dictated in the adopted Community Plan; (c) for an individual plat, does not exceed the total number of equivalent residential units dictated in the adopted Community Plan unless transferred per the provisions of the Community Plan; (d) is consistent with the utility, infrastructure, and circulation plans of the Community Plan; includes adequately sized utilities, services, and roadway networks to meet demands; and mitigates the fair-share of off-site impacts; (e) properly integrates utility, infrastructure, open spaces, pedestrian and bicycle systems, and amenities with adjacent properties; (f) contains the required elements as dictated in Chapter 19.26; and (g)

contains the required application materials in Chapter 19.26. If the Village Plan meets these standards and the requirements in this Agreement, it shall be approved. Each Village Plan shall be recorded against the portion of the Property so affected.

19. Plat, Site Plan, or Development Plan Approval. Upon approval of a Village Plan and once the Developer is ready to proceed with preliminary plat or site plan submittal and approval for the subject phase/plat, Developer shall submit preliminary plat or site plan applications for portions of the Property covered by a Village Plan. Such applications shall include project plans and specifications (including site and building design plans) (referred to in this Section 19 as “Plans”) for the portion of the Property being developed.
  - a. In particular, such Plans shall meet the following requirements:
    - i. be in sufficient detail, as reasonably determined by City, to enable City to ascertain whether the project will be consistent with the Community Plan and applicable Village Plan(s) and in accordance with the terms and conditions of this Agreement;
    - ii. comply with all City standards and requirements applicable to drainage, utilities, traffic, etc.;
    - iii. comply with conditions imposed on the project by the Planning Commission and the City Council during the plat and site plan approval process as set forth in adopted staff reports and official written minutes;
    - iv. comply with all City codes, ordinances, regulations, and standards that are not inconsistent with or superseded by the Community Plan or the approved Village Plan(s); and
    - v. comply with the District Area Plan, Community Plan, and this Agreement including exhibits.
  - b. Developer shall:
    - i. comply with the District Area Plan, Community Plan, Village Plan(s), this Agreement including exhibits, and any conditions of approval set forth in Exhibits D and E;
    - ii. comply with all City codes, ordinances, regulations, specifications, and standards that are not inconsistent with or superseded by the Community Plan or the approved Village Plan(s);
    - iii. record Covenants, Conditions, and Restrictions that substantially meet the requirements in Exhibit H;
    - iv. provide other information as City may reasonably request; and
    - v. note any requirement herein on all final plans and final plats for the project on the body of the plan or plat along with all other notes required by City; provided, however, that a condition need not be placed on a final plan or plat as a note if such plan clearly illustrates the substance and requirements of the condition.

- c. Standards for Approval; Conditions of Plat Approval. The City shall approve the Plans if such Plans meet the standards and requirements enumerated herein and if, as determined by City, the Plans are consistent with commitments made to City that the project will be consistent with the Community Plan and applicable Village Plan(s) and conform with City regulations and, in particular, conforms to the design guidelines set forth in Exhibits B, C, F, and G of this Agreement. With respect to open space requirements, each plat/phase shall be approved so long as it conforms with the overall open space requirements of the Community Plan and Village Plan(s). Developer shall be required to proceed through the approval process as required in Title 19 of the City Code, record a Final Plat with the Utah County Recorder, pay all recording fees, and comply with all City regulations. To the extent any conditions of plat approval are imposed by the City, and they are not challenged by Developer, such conditions of approval shall be deemed to be supplements to this Agreement without the need to amend this Agreement. If Developer challenges any conditions of plat approval, the conditions will not apply if Developer prevails, but the conditions will apply if the City prevails.
- d. Project Phasing and Timing. Upon approval of the Plans, subject to the provisions of this Agreement and exhibits attached hereto, Developer may proceed by constructing the project all at one time or in phases as allowed in the approved Village Plans.
- e. Changes to Project. Any amendments or modifications to the approved Community Plan or Village Plan(s) shall comply with the amendment process set forth in the Planned Community Zoning ordinance (see, e.g., Section 19.26.09(2) of the Land Development Code). To the extent Developer seeks to modify the Plans, and such modification does not require an amendment to the Village Plan, the following standards shall apply: No material modifications to the Plans shall be made after approval by City without City's written approval of such modification. Developer may request approval of material modifications to the Plans from time to time as Developer may determine necessary or appropriate. For purposes of this Agreement, a material modification shall mean any modification which: (i) increases the total perimeter size (footprint) of building area to be constructed on the portion of the Property being developed by more than ten (10) percent; or (ii) substantially changes the exterior appearance of the project; or (iii) reduces the total percentage of open space areas and public improvements by any amount that is not de minimis; or (iv) increases the overall density within 300 feet of then-existing residential development outside of the Community Plan; or (v) changes the block type or transect-zone to a higher category of block type or transect-zone; or (vi) changes the functional design of the project in such a way that materially and negatively affects traffic, drainage, or other design characteristics; or (vii) violates City regulations. Modifications to the Plans which do not constitute material modifications may be made without the consent of the City Council. The decision of whether a modification to the Plans

is “material” shall be made by the City’s Planning Director (with input from the City Engineer). In the event of a dispute between Developer and City as to whether a proposed modification is “material,” no modification shall be made without express City approval. Modifications shall be approved by City staff if such proposed modifications are consistent with the City’s then applicable rules and regulations for projects in the zone where the Property is located and are otherwise consistent with the standards for approval set forth herein.

20. Time of Approval. Any approval required by this Agreement shall not be unreasonably withheld, conditioned, or delayed, and shall be made in accordance with procedures applicable to the City’s Land Development Code, Community Plan, Village Plan(s), and City regulations.
21. Public Improvements; Proportionality Assessments. For the purpose of avoiding unlawful exactions, all improvements that are constructed by Developer and are intended to be dedicated to, and accepted by, the City shall be governed by the following standards regarding payment and reimbursement:
  - a. Except for the Tickville Wash improvements (which will be governed by the separate Tickville Wash Agreement, as explained above), all on-site utilities and improvements that are not “system improvements” will be paid for by Developer without any rights of reimbursement. For purposes of this Agreement, the term "system improvements" shall mean and include improvements that are the subject of an impact fee facility plan, and any other improvement that is designed to provide service or capacity in excess of the minimum requirements necessary for this Project (i.e., designed to provide service or capacity to more than just this Project).
  - b. All internal roadways within the project shall be paid for by Developer without any rights of reimbursement.
  - c. To the extent the City requires Developer to construct any system improvements (such as, without limitation, culinary waterlines or sewer lines with capacity in excess of what is required to provide service to the Property), the City shall be responsible to pay the incremental costs of the oversized improvements (e.g., all amounts in excess of what the Developer would pay to construct improvements with capacity sufficient only for the Property) in accordance with applicable State law. Developer shall reasonably mitigate the impacts of its development activities in accordance with the applicable standards of State law.
  - d. Prior to the construction of any system improvements, Developer and City shall enter into a reimbursement agreement addressing the amount, method and timing for the City to reimburse Developer for the City's portion of the expenses for the system improvements. To the extent necessary, the City shall amend its Impact

Fee Facilities Plans (the "IFFPs") to incorporate such system improvements as part of a funding plan if the improvements are not already the subject of the City's IFFPs. The term of each reimbursement agreement shall be set forth in the reimbursement agreement, and Developer's rights of reimbursement thereunder shall survive any termination or expiration of this Agreement. Developer shall not be required to construct any system improvements without a mutually-acceptable reimbursement agreement in place for such system improvements or mutually-acceptable impact fee credits. Reimbursements and impact fee credits shall be based on actual costs incurred for the subject system improvements, not on estimates or bids. If the parties cannot agree on the terms of a reimbursement agreement, Developer shall be allowed to proceed with construction of "project" sized improvements (i.e., minimum improvements necessary for this Project only) so that the Project will not be delayed.

- e. Developer will construct and install the open space/trail improvements and landscaping along Redwood Road. Following completion, the improved trail shall be dedicated to, and maintained by, the City. The landscaped areas along Redwood Road will be maintained by the homeowner association (not by the City) even if they are located within the public right of way.
- f. With respect to the 400 South roadway adjacent to the north end of the Project, the City and Developer have reached a negotiated agreement regarding improvements to be made to 400 South and reimbursements to be provided to the Developer. The agreement fairly accounts for the Project's reasonably anticipated impacts on 400 South, as well as the nature of 400 South as a system improvement that is part of the City's master transportation plan. The agreement for 400 South includes the following points:
  - (i) Developer will be responsible for the improvements and expenses itemized in "Option #3 - Local Road" as shown in Exhibit J attached hereto;
  - (ii) Developer, however, will construct, install and perform all of the improvements and construction work itemized in "Option #4 - Collector Half-Width" as shown in Exhibit J hereto;
  - (iii) The City will reimburse Developer for the difference between the costs of Option #3 (less expensive) and the costs of Option #4 (more expensive) based on the actual costs and expenses incurred, not based on the estimates depicted for these options in Exhibit J. The reimbursement to Developer shall be satisfied by payment of cash, by dollar-for-dollar credits against impact fees when building permits are issued for homes in this Project, or by a combination of both methods. The City shall have the sole right to determine which of these methods of reimbursement it elects to use; provided, however, that Developer shall receive the benefit of using the credits against impact fees as soon as building permits are

ready to be issued for homes in this Project (but only to the extent of the unpaid balance of the City's reimbursement obligation).

The provisions of this Section 21 shall be interpreted and administered in compliance with the standards for lawful exactions as set forth in Utah Code Ann. §10-9a-508 and applicable Utah case law. The provisions of this Section 21 shall be administered and implemented by the City's staff with input and approval from the City engineer, the City attorney and the City manager. The determinations of the size and design of improvements to be constructed, cost-sharing, or reimbursement for the same, and applicability of the standards described in this Section 21, shall be made on a plat-by-plat basis at the time of plat approval.

22. Termination of Agreement. The term of this Agreement shall commence on the Effective Date of this Agreement and shall continue in full force and effect until the earlier of the following events: (i) certificates of occupancy have been issued for all units to be constructed in the Project, or (ii) ten (10) years from the date on which this Agreement is recorded with the Utah County Recorder's Office; provided, however, that this Agreement shall be automatically extended for an additional period of five (5) years so long as there are no existing defaults or breaches of this Agreement when the initial 10-year period expires. When public improvements have been constructed and accepted by City (after the expiration of applicable warranty periods), Developer shall be released from and have no continuing obligations with respect to such improvements. The City and Developer may, but shall not be obligated to, execute a "Notice of Termination" to be recorded against such portion of the Property to which this Agreement no longer applies.

23. Successors and Assigns.

a. Change in Developer. This Agreement shall be binding on the successors and assigns of Developer. If any portion of the Property is transferred ("Transfer") to a third party ("Transferee"), the Developer and the Transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such Transfer Developer provides to City a letter from Transferee acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by the Transferee, notarized, and delivered to City prior to the Transfer. Upon execution of the letter described above, the Transferee shall be substituted as Developer under this Agreement and the persons and/or entities executing this Agreement as Developer of the transferred property shall be released from any further obligations under this Agreement as to the transferred property. In all events, this Agreement shall run with and benefit the Property as more fully set forth below in subsection 29.s.

b. Individual Lot or Unit Sales. Notwithstanding the provisions of subsection 23.a., a transfer by Developer of a lot or condominium dwelling unit located on the

Property within a City approved and recorded plat shall not be deemed a Transfer as set forth above so long as the Developer's obligations with respect to such lot or dwelling unit have been completed. In such event, the Developer shall be released from any further obligations under this Agreement pertaining to such lot or dwelling unit.

24. Default.

- a. Events of Default. Upon the happening of one or more of the following events or conditions the Developer or City, as applicable, shall be in default ("Default") under this Agreement:
- i. a warranty, representation, or statement made or furnished by Developer under this Agreement or exhibits is intentionally false or misleading in any material respect when it was made;
  - ii. a determination by City made upon the basis of substantial evidence that Developer has not complied in good faith with one or more of the material terms or conditions of this Agreement; or
  - iii. any other event, condition, act, or omission, either by City or Developer that violates the terms of, or materially interferes with, the intent and objectives of this Agreement.
- b. Procedure Upon Default.
- i. Upon the occurrence of Default, the non-defaulting party shall give the other party thirty days written notice specifying the nature of the alleged Default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event the Default cannot reasonably be cured within thirty days, the defaulting party shall have such additional time as may be necessary to cure such Default so long as the defaulting party takes significant action to begin curing such Default within such thirty day period and thereafter proceeds diligently to cure the Default. After proper notice and expiration of said thirty day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in subsection 24.c. herein. Failure or delay in giving notice of Default shall not constitute a waiver of any Default.
  - ii. Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the

performance by such party for a period equal to the period during which any such event prevented, delayed, or stopped any required performance or effort to cure a Default.

- c. Breach of Agreement. Upon Default as set forth in subsections 24.a. and 24.b. above, City may declare the Developer to be in breach of this Agreement and City, until the breach has been cured by the Developer, may do any of the following: (i) refuse to process or approve any application for subdivision or site plan approval; (ii) withhold approval of any or all building permits or certificates of occupancy applied for in the Property, but not yet issued; (iii) refuse to approve or to issue any additional building permits or certificates of occupancy for any building within the Property; and (iv) refuse to honor any obligation in this Agreement. In addition to such remedies, City or Developer may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.
  
25. Rights of Access. The City Engineer and other representatives of the City shall have a reasonable right of access to the Property, and all areas of development or construction done pursuant to this Agreement during development and construction, to inspect or observe the work on the improvements and to make such inspections and tests as are allowed or required under the City regulations.
  
26. Entire Agreement. Except for the Annexation Agreement, Ordinances, District Area Plan and Tickville Wash Agreement, this Agreement shall supersede all prior agreements with respect to the development of the Property including but not limited to development agreements, site plan agreements, subdivision agreements, and reimbursement agreements not incorporated herein, and all prior agreements and understandings are merged, integrated, and superseded by this Agreement.
  
27. Exhibits. The following exhibits are attached to this Agreement and incorporated herein for all purposes:
  - a. Exhibit A Property Description
  - b. Exhibit B District Area Plan
  - c. Exhibit C Community Plan
  - d. Exhibit D Planning Commission Written Minutes with Adopted Findings and Conditions
  - e. Exhibit E City Council Written Minutes with Adopted Findings and Conditions
  - f. Exhibit F Report of Action (with Staff Reports)
  - g. Exhibit G Design Guidelines

- h. Exhibit H                   Covenants, Conditions, and Restrictions
- i. Exhibit I                   Copy of Section 19.26 of the City Code as of the Effective Date
- j. Exhibit J                   400 South Roadway Options

28. Federal and State Requirements. The Property may be located in areas with sensitive lands that are regulated by state and federal laws and covered by certain agreements between Developer and state/federal entities. Development of the Property shall comply with all such regulations, which pertain to issues including but not limited to wetlands, sovereign lands, sensitive lands, historical preservation, flood plains, and high-water tables. City has the option, but not the obligation, to enforce such regulations.

29. General Terms and Conditions.

- a. Incorporation of Recitals. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.
- b. Recording of Agreement. This Agreement shall be recorded at Developer's expense to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof. Developer shall be responsible for ensuring that this Agreement is recorded and shall not hold the City liable for failure to record.
- c. Severability. Each and every provision of this Agreement shall be separate, severable, and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provision shall not affect the enforceability of any other provision hereof.
- d. Time of Performance. Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties, each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.
- e. Construction of Agreement. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect the health, safety, and welfare of the citizens of City.
- f. State and Federal Law; Invalidity. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's

approval of the Project is held invalid by a court of competent jurisdiction this Agreement shall be null and void.

- g. Enforcement. The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Developer violates the rules, policies, regulations, or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation within such thirty days and is continuing to use its reasonable best efforts to cure such violation), take such actions as are appropriate under law until such conditions have been rectified by Developer. City shall be free from any liability arising out of the lawful exercise of its rights under this section.
- h. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official, or agent of City has the power to amend, modify, or alter this Agreement or waive any of its conditions as to bind City by making any promise or representation not contained herein.
- i. Amendment of Agreement. This Agreement shall not be amended except in written form mutually agreed to and signed by both parties. No change shall be made to any provision of this Agreement or any condition set forth in any exhibit hereto unless this Agreement or exhibit are amended pursuant to a vote of the City Council taken with the same formality as the vote approving this Agreement.
- j. Attorney Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief, or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein. If either party utilizes in-house counsel in its representation thereto, the attorneys' fees shall be determined by the average hourly rate of attorneys in the same jurisdiction with the same level of expertise and experience.

- k. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be deemed to have been sufficiently given or served for all purposes when presented personally or, if mailed, upon (i) actual receipt if sent by registered or certified mail, or (ii) four days after sending if sent via regular U.S. Mail. Said notice shall be sent or delivered to the following (unless specifically changed by the either party in writing):

To the Developer(s):           D.R. Horton, Inc.  
12351 South Gateway Park Place  
Suite D-100  
Draper, UT 84020

With a copy to:                 William Mayer  
Regional General Counsel-West  
Region  
501 W. Broadway, Suite 1200  
San Diego, CA 92101

To the City:                     Mark Christensen  
City Manager  
1307 N. Commerce Drive, Suite 200  
Saratoga Springs, UT 84045

- l. Applicable Law. This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder are to be construed and enforced in accordance with the laws of the State of Utah.
- m. Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed in counterpart form and delivered by facsimile or email (pdf format), then an original shall be provided to the other party within seven days.
- n. Hold Harmless and Indemnification. Developer agrees to defend, indemnify, and hold harmless City and its elected officials, officers, agents, employees, consultants, special counsel, and representatives from liability for claims, damages, or any judicial or equitable relief which may arise from or are related to Developer's activities connected with the Property, the direct or indirect operations of Developer or its contractors, subcontractors, agents, employees, or other persons acting on Developer's behalf which relates to the Project, or which arises out of claims for personal injury, including health, and claims for property damage caused by Developer. This includes any claims or suits related to the existence of hazardous, toxic, and/or contaminating materials on the Property and geological hazards. The foregoing provisions shall not apply with respect to any claims, damages, injuries or losses caused by the City or its employees or agents.

Nothing in this Agreement shall be construed to mean that Developer shall defend, indemnify, or hold the City or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from: (i) the willful misconduct or negligent acts or omissions of the City, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the City of improvements that have been offered for dedication and accepted in writing by the City for maintenance.

- o. Relationship of Parties. The contractual relationship between City and Developer arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Developer; (ii) development of the Property is private development; (iii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.
- p. Annual Review. City may review progress pursuant to this Agreement at least once every twelve months to determine if Developer has complied with the terms of this Agreement. If City finds, on the basis of substantial evidence, that Developer has failed to comply with the terms hereof, City may declare Developer (or any one of them) to be in Default as provided in section 23 herein. City's failure to review at least annually Developer's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a Default under this Agreement by Developer or City.
- q. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any Default or breach, to specifically enforce any covenants or agreements set forth in this Agreement, to enjoin any threatened or attempted violation of this Agreement, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth Judicial District Court, State of Utah.
- r. Title and Authority. Developer expressly warrants and represents to City that Developer (i) owns all rights, title, and interest in and to the Property, or (ii) has the exclusive right to acquire such interest, and (iii) that prior to the execution of this Agreement no right, title or interest in the Property has been sold, assigned or otherwise transferred to any entity or individual other than to SLR or Developer. Developer further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind. Developer warrants that the undersigned individuals have full power and authority to enter into this

Agreement on behalf of Developer. Developer understands that City is relying on these representations and warranties in executing this Agreement.

- s. Obligations Run With the Land. The agreements, rights and obligations contained in this Agreement shall: (i) inure to the benefit of the City and burden the Developer; (ii) be binding upon parties and their respective successors, successors-in-title, heirs and assigns; and (iii) run with the Property.
- t. Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by City and by a duly authorized representative of Developer as of the date first written above.

Attest:

City of Saratoga Springs, a political subdivision of the State of Utah

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor

DEVELOPER:

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of Utah  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2014 by \_\_\_\_\_ of D.R. Horton, Inc.

\_\_\_\_\_  
Notary Public

**OWNER'S CONSENT**

Suburban Land Reserve, Inc. ("SLR"), as the owner of record of a portion of the real property described in Exhibit "A" hereto, consents to the recording of this Agreement against the real property described in Exhibit "A," understanding that this Agreement will run with the land according to the terms and provisions set forth in this Agreement.

Suburban Land Reserve, Inc.:

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of Utah  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2014 by \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

### Exhibit Summary

- a. Exhibit A           Property Description
- b. Exhibit B           District Area Plan
- c. Exhibit C           Community Plan
- d. Exhibit D           Planning Commission Written  
Minutes with Adopted Findings and Conditions
- e. Exhibit E           City Council Written Minutes  
with Adopted Findings and Conditions
- f. Exhibit F           Report of Action (with Staff Reports)
- g. Exhibit G           Design Guidelines
- h. Exhibit H           Covenants, Conditions, and Restrictions
- i. Exhibit I           Chapter 19.26 of the City Code
- j. Exhibit J           400 South Roadway Options

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**EXHIBIT A**  
**Property Description**

ALL OF THAT REAL PROPERTY KNOWN AS PARCEL #2, SARATOGA DRIVE CHURCH SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER AS ENTRY NO. 140578:2004, MAP NO. 10844 TOGETHER WITH THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 72399:1994 IN THE OFFICIAL RECORDS OF UTAH COUNTY, LESS THAT REAL PROPERTY DESCRIBED IN DEED ENTRY NO. 91623:2009 IN THE OFFICIAL RECORDS OF UTAH COUNTY LOCATED IN SECTIONS 25 & 26, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, SARATOGA SPRINGS, UTAH COUNTY, UTAH, AS SURVEYED AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF PARCEL #2, SARATOGA DRIVE CHURCH SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER AS ENTRY NO. 140578:2004, MAP NO. 10844 LOCATED S0°33'18"W ALONG THE SECTION LINE 33.94 FEET FROM THE EAST 1/4 CORNER OF SECTION 26, T5S, R1W, S.L.B. & M.; THENCE ALONG SAID PARCEL #2 THE FOLLOWING NINE (9) COURSES: N89°56'07"E 1,352.69 FEET; THENCE S19°21'26"W 886.43 FEET; THENCE S86°28'54"W 1,066.18 FEET; THENCE S3°31'06"E 374.34 FEET; THENCE S2°54'37"W 348.75 FEET; THENCE S21°58'07"W 403.00 FEET; THENCE S34°00'07"W 223.27 FEET; THENCE S0°41'07"W 180.00 FEET; THENCE S55°45'07"W 719.98 FEET TO THE NORTH LINE OF SARATOGA SPRINGS NO. 3 SUBDIVISION; THENCE S89°57'59"W ALONG THE NORTH LINE OF SARATOGA SPRINGS NO. 3 AND NO. 2 SUBDIVISIONS 1,751.96 FEET TO THE INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF REDWOOD ROAD (SR-68) ACCORDING TO THE OFFICIAL MAPS THEREOF AND AS DESCRIBED IN DEED ENTRY NO. 91623:2009 IN THE OFFICIAL RECORDS OF UTAH COUNTY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: NORTHWESTERLY ALONG THE ARC OF A 9,940.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N88°51'47"E) 307.55 FEET THROUGH A CENTRAL ANGLE OF 1°46'22" (CHORD: N0°15'02"W 307.54 FEET); THENCE N0°38'09"E 2,456.88 FEET TO THE NORTH LINE OF SAID PARCEL #2; THENCE N89°56'07"E ALONG SAID NORTH LINE 2,598.98 FEET TO THE POINT OF BEGINNING.  
CONTAINS: ±181.93 ACRES

**EXHIBIT B**  
**District Area Plan**

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**EXHIBIT C**  
**Community Plan**

**EXHIBIT D**  
**Planning Commission**  
**Written Minutes with Adopted Findings and Conditions**

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**EXHIBIT E**  
**City Council Written Minutes with Adopted Findings and Conditions**

**EXHIBIT F**  
**Report of Action (with Staff Reports)**

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**EXHIBIT G**  
**Design Guidelines**

The Legacy Farms Community Plan contains general architectural and design standards, and the Village Plans contain specific unit styles with additional requirements in order to implement the standards of the Community Plan. All homes shall be subject to the design standards and guidelines outlined in the Community Plan and approved Village Plan(s).

Compliance with these standards will be verified by the Planning Department prior to issuance of a building permit.

## **Exhibit H Covenants, Conditions, and Restrictions**

Concurrent with plat recordation or issuance of any building permit, covenants, conditions, and restrictions (“CCRs”) shall be recorded for the project which shall run with the land, unless such CCRs have already been recorded and meet the requirements of this exhibit. City shall approve the CCRs, which approval shall not be unreasonably withheld, to determine compliance with the within Agreement and this Special Condition. The CCRs shall include provisions that:

- A. establish a property owners association for the project;
- B. require the property owners associations to manage common areas within the project, including the collection of necessary management fees;
- C. limit occupancy in the project to one family per dwelling unit as such term is defined in Section 19.02.02 of the City code, as amended;
- D. require Developer, property owners associations, and any subsequent owners of the Property or any portion thereof to notify potential owners and occupants within the project of the foregoing parking and occupancy limitations prior to any purchase or lease of any portion of the property, including any dwelling unit within the project;
- E. require adoption of an enforcement policy that:
  - i. requires strict adherence to the occupancy and parking provisions included in these Special Conditions and the policies of the property owners associations, and
  - ii. has penalties for non-compliance

The special conditions set forth in this exhibit shall run with the land and shall survive the within Master Development Agreement, provided, however, that the parties to the within Agreement, or their successors or assigns, may mutually elect to modify or remove the foregoing conditions on the Property. Modification or removal of any condition herein shall be in written form mutually agreed to and executed by each of the parties and shall constitute an amendment to the within Agreement.

**Exhibit I**

**Chapter 19.26 of the City Code**

**Exhibit J**

**400 South Roadway Options**

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