AMERICAN FORK CITY COUNCIL
OCTOBER 28, 2025
CITY COUNCIL AGENDA

Notice of Electronic Meeting
One or more City Council members may be physically absent from this meeting but may participate electronically.

The American Fork City Council will meet in a regular session on Tuesday, October 28, 2025, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m. The agenda shall be as follows:

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Holley; roll call.
2. Twenty-minute public comment period - limited to two minutes per person.
3. Presentation of the HERO Award to Greg Mecham.
4. City Administrator's Report
5. Council Reports
6. Mayor's Report

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the September 23, 2025, city council minutes.
2. Approval of the September 30, 2025, special session minutes.
3. Approval of the October 14, 2025, city council minutes.
4. Ratification of city payments (October 8, 2025, to October 21, 2025) and approval of purchase requests over $50,000.

ACTION ITEMS

1. Review and action an agreement with UDOT for a Statewide Utility License Agreement.
2. Consideration of the appeal by Dunn Construction LLC and Mike Dunn on the denial of a business license for Dunn Construction LLC.
3. Consideration and action to enter into a closed session to discuss items described in Utah State Code 52-4-204 and 52-4-205.
4. Adjournment.

Dated the 23rd day of October 2025.

/s/Terilyn Lurker, City Recorder

- In accordance with the Americans with Disabilities Act, the City of American Fork will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-763-3000 at least 48 hours in advance of the meeting.
- The order of agenda items may be changed to accommodate the needs of the City Council, staff, and the public.

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
OCTOBER 28, 2025

Department Recorder **Director Approval** *Terilyn Lurker*

AGENDA ITEM Review and action an agreement with UDOT for a Statewide Utility License Agreement.

SUMMARY RECOMMENDATION
Staff recommends approval of the agreement.

BACKGROUND
On September 22, 2020, the city council approved a Statewide Utility License Agreement (SULA) with UDOT. The SULA is a comprehensive agreement to allow the city to undergo utility work in UDOT right of way. The agreement expires every five years and UDOT has requested approval of a new agreement for an additional 5 year term. The city is also required to provide a surety bond related to this contract.

BUDGET IMPACT
NA

SUGGESTED MOTION
I move to approve the Statewide Utility License Agreement with UDOT and authorize city staff to execute the agreement.

SUPPORTING DOCUMENTS
UDOT Statewide Utility License Agreement American Fork City (PDF)

American Fork City
51 E. Main Street
American Fork, UT 84003
Federal ID No. 87-6000209

STATEWIDE UTILITY LICENSE AGREEMENT

NON-INTERSTATE

This **AGREEMENT** is made by and between the **Utah Department of Transportation**, ("UDOT") and **American Fork City** ("City"), a political subdivision of the State of Utah. Each as party ("Party") and together as parties ("Parties").

RECITALS

WHEREAS, the Parties desire to assist in expediting the approval of UDOT permits for operating, constructing, and maintaining utility lines and related facilities ("Facilities") within state highway rights-of-way; and excluding longitudinal installations within the interstate highway rights-of-way; and

WHEREAS, the terms of this agreement shall apply to all issued encroachment permits; and

WHEREAS, this agreement shall apply to approved location and encroachment permits on state highway rights-of-way in the State of Utah which are within the responsibility and jurisdiction of UDOT; and

WHEREAS, the Parties desire that this agreement supersedes all previous utility license agreements executed between the Parties.

AGREEMENT

NOW THEREFORE, the Parties agree as follows:

1. **LICENSE**: UDOT grants a non-exclusive license to the City for Facilities that have been granted or will be granted an encroachment permit pursuant to Utah Administrative Code R930-7.

2. **UDOT AGREEMENT TO REVIEW APPLICATIONS**: This agreement is not an encroachment permit or a guarantee of an encroachment permit. However, UDOT agrees to promptly review any application for an encroachment permit that the City files pursuant to the procedures established in this agreement and Utah Administrative Code R930-7.

3. **APPROVAL**: Unless otherwise stated herein, or in any particular encroachment permit or agreement, all permits executed pursuant hereto will be deemed to be governed by the provisions of this agreement. Encroachment permit applications shall be presented to the appropriate UDOT Region/District Permits Office. UDOT may apply special limitations for any work within the right-of-way. The issuance and approval of an encroachment permit enables the City to proceed with the utility construction and permitted use in accordance with the terms of the encroachment permit.

4. **RESERVATION AND SPECIAL PROVISIONS**: UDOT has the right to require an agreement or specific

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encroachment permit for any particular location and construction. Special provisions, as particular circumstances may dictate and as required by UDOT may be incorporated into any encroachment permit issued after this agreement is executed.

5. **INSPECTION**: UDOT may perform routine inspection of utility construction to monitor compliance with this agreement, encroachment permit, and with state and federal laws and regulations. UDOT's inspection does not relieve the City of its responsibilities in meeting the encroachment permit conditions and UDOT's specifications. The City is responsible for UDOT's inspection costs.

6. **COSTS**: The City shall pay the entire cost of the Facilities installation.

7. **BEGINNING CONSTRUCTION:** The City shall not begin any utility construction on UDOT right-of-way until UDOT issues the encroachment permit. The City shall complete the utility construction in accordance with UDOT requirements and within the allowable time period.

8. **TRAFFIC CONTROL**: The City shall conduct its utility construction and maintenance operations in compliance with UDOT's current Utah MUTCD or UDOT TC Series Drawings, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be performed to minimize closures of intersecting streets, road approaches, or other access points. The City shall submit in advance traffic control plans showing detours and signing operations to allow UDOT reasonable time to review the plans. The City shall not perform full or partial lane closure without prior approval of the UDOT Region/District Director or authorized representative. The City shall conform to UDOT approved traffic control plans and encroachment permit conditions.

9. **EXCAVATION, BACKFILL, COMPACTION, AND SITE RESTORATION**: The City shall perform all utility construction on UDOT right-of-way in compliance with R930-7, UDOT's then current Standard Specifications for Highway and Bridge Construction, UDOT's Permit Excavation Handbook, and all applicable state and federal laws and regulations.

10. **EMERGENCY WORK**: Emergency work may be done without prior encroachment permit if imminent danger of loss of life or significant damage to property exists. In emergency work situations where traffic lanes will be partially or fully blocked, the City or its representative will contact the UDOT Traffic Operations Center at (801) 887-3710 prior to establishing traffic control. In all emergency work situations, the City or its representative shall immediately contact UDOT on the first business day after the emergency and complete a formal encroachment permit application. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of this agreement and R930-7. At the discretion of the City, emergency work may be performed by a bonded contractor, public agency, or a utility

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company. In all cases the City shall comply with the state law requiring notification of all utility owners prior to excavation. None of the provisions of this agreement are waived for emergency work except for the requirement of a prior encroachment permit.

11. **RESTORATION OF TRAFFIC SIGNAL EQUIPMENT OR TRANSPORTATION FACILITIES**: Any traffic signal equipment or transportation facilities, which are disturbed or relocated as a result of the City's work, must be restored in accordance with plans approved by UDOT. Restoration of traffic signal equipment or transportation facilities must be done at the City's expense by a qualified electrical contractor experienced in signal installation or a qualified contractor experienced in restoring other transportation facilities, retained by the City and approved in advance by UDOT. Work shall be scheduled to ensure that disruption of any traffic signal or transportation facilities operation is kept to a minimum.

12. **ACCESS**: Access for Facilities installation on the UDOT right-of-way shall be allowed only by a permit issued by UDOT to the City. The City will obtain the permit and abide by all conditions for policing and other controls in conformance with Utah Administrative Codes R930-6 as amended.

13. **MAINTENANCE**: The City shall at all times maintain, repair, construct and operate its Facilities at its expense. The Facilities will be serviced without access from any interstate highway or ramp. If the City fails to maintain its Facilities, UDOT may notify the City of any required maintenance needs. If the City fails to comply with UDOT's notification and complete the needed maintenance, then UDOT reserves the right, without relieving the City of its obligations, to reconstruct or make repairs to the Facilities to protect the right-of-way, as it may consider necessary, and the City shall reimburse UDOT for its cost.

14. **LIABILITY**: The City is not required to post a continuous bond as long as the City is a current member of the Utah Local Governments Trust. If the City is not a current member, the City shall maintain continuous commercial general liability (CGL) insurance with UDOT as an additional insured, in the minimum amount of $1,000,000 per occurrence with a $2,000,000 general aggregate and $2,000,000 completed operations aggregate. The liability of the City shall not be limited to the amount of the insurance policy. The policy shall protect the City and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the City's operations in the right-of-way. The City shall notify UDOT immediately in writing at the address listed below if this insurance is planned to be terminated or is terminated.

Or the City shall be self-insured to the limits stated in the Governmental Immunity Act, Utah Code Section 63G-7-604(1). Evidence of self-insurance must be provided by a letter from the City's Attorney or Risk Department. The City shall require CGL insurance with the same limits as described above of all its contractors and subcontractors naming the City and UDOT as additional insureds. Such insurance shall protect the City and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from

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work or operations performed in the right-of-way by itself, contractors, subcontractors or anyone directly or indirectly employed by any of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations. This insurance coverage shall be maintained for a continuous period until the City's Facilities are removed from UDOT's right-of-way.

Statewide Utilities Director
Utah Department of Transportation
4501 South 2700 West
Salt Lake City, Utah 84114-8460

UDOT may require a bond from the City for encroachment permits issued under this agreement. Utah Administrative Code R930-7-6(6)(b). The amount of the bond will be set according to the permitted scope of work but not less than $10,000. UDOT may proceed against the bond to recover all expenses incurred by UDOT, its employees or representatives to restore the sections of roadway not completed or damaged by the City to UDOT standards. The liability of the City shall not be limited to the amount of the bond.

The City will indemnify, defend, and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from City's construction, maintenance, repair, or any other related operation during the utility construction or as a result of the work pursuant to permits issued under this agreement.

15. **CANCELLATION OF ENCROACHMENT PERMITS AND LICENSE AGREEMENT**: UDOT may cancel the encroachment permit or this agreement for the following: a) any failure on the part of the City to comply with the terms and conditions set forth in the license agreement or the encroachment permit; and b) the failure of the City to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the Facilities. UDOT also may remove the Facilities and restore the highway and right-of-way at the sole expense of the City. Prior to any cancellation, UDOT shall notify the City in writing, setting forth the violations, and will provide the City a reasonable time to correct the violations to the satisfaction of UDOT. This agreement does not limit UDOT's authority under Utah Administrative Code R930-7.

16. **ASSIGNMENT**: Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a license agreement.

17. **SUCCESSORS AND ASSIGNS**: All obligations and agreements herein contained shall be binding upon the parties, their successors and assigns.

18. **FACILITIES CLEARANCE REQUIREMENT**: Facilities must be installed both above ground and buried to the proper vertical and horizontal clearances and minimum depth of bury according to the encroachment permit and Utah Administrative Code R930-7 to avoid conflict with UDOT's normal and routine maintenance activities. The City

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shall avoid such conflicts by placing its Facilities in compliance with the required horizontal and vertical clearances and minimum depth of bury. If a variance in horizontal or vertical clearances or minimum depth of bury occurs in the field during utility construction, the City will seek a deviation approval from UDOT and amend the original encroachment permit to reflect the variance and deviation approval. UDOT's normal and routine maintenance operations are those not requiring excavations in excess of the minimum horizontal and vertical clearances and depth of bury.

In all cases the City shall protect, indemnify and hold harmless UDOT, its employees, and the State of Utah for damages because of the failure of the Facilities to meet the required horizontal and vertical clearances and minimum depth of bury. Any noncompliance to the above requirements may result in cancellation of the City's encroachment permit or this agreement. If the noncompliant Facilities need to be moved due to a UDOT project and there was no deviation granted by UDOT for the variance in horizontal or vertical clearances or minimum depth of bury less than minimum standards, the City must pay 100% of the relocation costs for that portion of the Facilities that were installed in violation of UDOT's required clearances at the time the encroachment permit was issued. If the City was granted a deviation, the City must provide the permit describing the deviation.

19. **TERMINATION OF LICENSE AGREEMENT**: This agreement will terminate in five years unless both Parties agree in writing within the five years to renew the agreement for an additional five years. However, this agreement may be terminated at any time by either party upon 30 days advance written notice to the other. Active encroachment permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement, permits and R930-7. The obligation to maintain the continuous commercial general liability (CGL) insurance as described in paragraph (14) above continues until City's Facilities are removed from UDOT's right-of-way. The indemnification obligations in this agreement shall survive termination of the agreement.

20. **MISCELLANEOUS:**

a. The permitted use and occupancy of right-of-way for non-highway purposes is subordinate to the primary and highest interest for transportation and safety of the traveling public.

b. The failure of either Party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either Party to exercise any rights or remedies provided in this agreement, or by law, will not release either Party from any obligations arising under this agreement.

c. Each Party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purpose of the Agreement at the request of the other Party.

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d. This Agreement does not create any type of agency relationship, joint venture, or partnership between UDOT and City.

e. This Agreement shall be deemed to be made under and shall be governed by the laws of the State of Utah in all respects. Each person signing this Agreement warrants that the person has full legal capacity, power and authority to execute this Agreement for and on behalf of the respective Party and to bind such Party.

f. If any provision or part of a provision of this agreement is held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision. Each provision shall be deemed to be enforceable to the fullest extent under applicable law.

g. This Agreement may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were made upon the same instrument. This Agreement may be delivered by facsimile or electronic mail.

h. This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by authorized representatives of each Party.

i. The date of this agreement is the date this agreement is signed by the last Party.

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IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

Approved by American Fork City

By: _____ _____
Signature Date

_____ _____
Name: (printed) Title

FOR THE UTAH DEPARTMENT OF TRANSPORTATION

By: _____ _____
Corey D. Nelson, PE, PTOE Date
Statewide Utilities Director

UDOT COMPTROLLER'S OFFICE

By: _____ _____
Contract Administrator Date

APPROVED AS TO FORM: This Form Agreement has been previously approved as to form by the office of the Legal Counsel for the Utah Department of Transportation on March 5, 2019.

Attachment: UDOT Statewide Utility License Agreement American Fork City (Statewide Utility License Agreement (SULA) - October 2025)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
OCTOBER 28, 2025

Department Recorder **Director Approval** *Terilyn Lurker*

AGENDA ITEM Consideration of the appeal by Dunn Construction LLC and Mike Dunn of the denial of a business license for Dunn Construction LLC.

BACKGROUND
Dunn Construction is appealing the City's denial on June 4, 2025, of a business license to Dunn Construction LLC. Supporting documentation can be found in the appeal and the denial letters.

This was originally discussed at the September 23, 2025, City Council meeting and is back before the council.

BUDGET IMPACT
N/A

SUGGESTED MOTION
I move to uphold the denial of the business license to Dunn Construction, LLC.

or

I move to approve the business license for Dunn Construction, LLC.

SUPPORTING DOCUMENTS

09.23.25 Appeal of Dunn Construction Business License denial (PDF)
Dunn Business License CA Appeal.6.4.2025.ExhA Included (PDF)
Exhibit B (PDF)
Exhibit C (PDF)
Exhibit D (PDF)
Prior applications (1) (PDF)
Additional Information for the Dunn Construction Business License Appeal (DOCX)
Lakeland Industrial Park Plat December 2020 (PDF)
Land disturbance permit (PDF)
Roderick judgment (PDF)
Ruling and Order (PDF)

D. DAVID LAMBERT (1872), and
LESLIE W. SLAUGH (3752), for:
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HLP File No. 30,568-5

Attorneys for Dunn Construction, LLC

AMERICAN FORK CITY COUNCIL

UTAH COUNTY, STATE OF UTAH

DUNN CONSTRUCTION, LLC, and MIKE DUNN, Appellants, vs. AMERICAN FORK CITY Appellee.	**NOTICE OF APPEAL**

Dunn Construction, LLC, and Mike Dunn (hereafter "Dunn") give notice of their appeal of the decision by the city administrator's designee dated June 4, 2025, to deny Dunn a business license. The appeal is made pursuant to American Fork City Code § 5.04.170.

OVERVIEW

Dunn owns approximately 10 acres of ground at 520 East 1700 South, American Fork, Utah.[1] Dunn intends to build improvements on approximately 3.77 acres at the north side of the property that has

[1]Michael Dunn holds title as trustee for his trust. Mr. Dunn is the managing member of Dunn Construction, LLC.

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

frontage on 1700 South. Conditional approval to build the improvements was previously granted by the City in 2024. The timing for building the improvements was delayed when the initial interested lessee withdrew from the proposed lease.

The acreage on the south side of the property is near the Utah County sewer treatment plant and borders Utah Lake. It is near/contiguous to a cement batch plant operated by American Eagle Ready Mix[2] (Parcel Nos. 45:749:0001 and 45:749:0002). It is also near/contiguous to a similar concrete processing operation owned and operated by R & D Excavating, LLC[3] (Parcel No. 13:078:0065). The Altaview Concrete[4] plant is also nearby (parcel no. 45:403:0013). A depiction of the positions of the nearby properties is attached. Dunn has been processing concrete on the south acreage and has been doing so since early 2019, when the acreage was in the unincorporated area of Utah County. The annexation into American Fork did not occur until December 2019.

Dunn's use of its property for concrete processing creates minimal dust and noise. Even a short visit to the property during business hours would inform the visitor that the adjacent and nearby properties that surround Dunn's property are used for activities that exceed the sound and dust levels associated with Dunn's operation. Unlike the sewage treatment plant that is very close to Dunn's property, Dunn's activities do not create an odor issue.

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[2]The land is owned by AE American Fork RE, LLC.

[3]The land is owned by Robert David Rogers and Valerie Denise Rogers, as trustees of Robert Rogers Family Revocable Trust dated September 3, 2013 and amended April 26, 2018.

[4]The land is owned by Kilgore Companies, LLC.

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Dunn's concrete processing operation in American Fork is part of its larger business operation that includes hazardous waste recycling and disposal in an area near Five-Mile Pass in Tooele County. Dunn has a Department of Environmental Quality permit for its operation at the Tooele County site. Sales of processed concrete produced at the American Fork property are included with the sales at the Five-Mile operation for purposes of paying sales taxes to the State of Utah.

RELIEF REQUESTED OF THE CITY COUNCIL

The American Fork City Council should allow Dunn a building permit on the basis that cement processing is a permitted use in the industrial zone. The product that is produced is an important component for construction of roads, commercial buildings, and any construction where engineered fill is needed. Testing by qualified industrial hygiene professionals proves that the operation does not violate the requirements of the ordinance as to noise, odor, or ambient particulate matter.

SUMMARY OF GROUNDS FOR APPEAL

Processing concrete at Dunn's property is a permitted use under American Fork zoning ordinances because it does not produce substantial noise or particulates and is consistent with the uses in the adjacent areas within the zone.

Dunn Construction was using the property to process concrete when the property was in the unincorporated area of Utah County. This use was a conforming use at the time, based on the permitted uses in the zone. Due to the legal conforming use of the property at the time of annexation of the property by American Fork in December 2019, the annexation could not make the use illegal. Whether a use is legal or not depends on the uses permitted in the zone, not whether a company possesses a business license.

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STATEMENT OF FACTS

1. The Applicant asserts that he has been processing concrete for reuse as road base and engineered fill generally (the "Activity") at 510 East 1700 South, American Fork, Utah, (the "Subject Property") since at least 2019.

2. The Subject Property is located in the I-1 Zone.

3. The I-1 Zone permits:

a. Light manufacturing, processing, warehousing and fabrication of goods and materials that have minimum conflict or deleterious effect on surrounding properties and uses and with a high degree of protection from encroachment of residential, retail commercial and other incompatible uses. Sec 17.4.503 I-1 Industrial Zone

b. Structures utilized for light manufacturing, fabrication, processing, storage, warehousing and wholesale distribution, under conditions which limit the generation of noise, vibration, smoke, odor, dust, fumes, or hazard from explosion.

c. Dunn's recycling operation falls within the scope of the language of the ordinance.

4. There are only four specifically prohibited uses in the I-1 zone, and none is similar to concrete recycling:

a. Automobile wrecking and salvage yards.

b. Junk storage or solid waste disposal sites.

c. Livestock and feed yards.

d. Bio-diesel production facilities.

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

5. Processing concrete generates minimal noise at the property as proven by the study performed by RMEC Environmental on July 9, 2025, and attached herewith as Exhibit 1. Given the minimal noise generation, the use should be considered light industrial.

6. Concrete processing generates minimal dust and airborne particulates as established by the RMEC study. Given the minimal particulate production, the use should be considered light industrial.

7. Dunn applied for a business license in March 2020 to "recycle concrete and other materials" on the Subject Property and that application was denied in September 2020 allegedly due to the absence of a site plan. There was no reason to have a site plan where the equipment is mobile and there are no permanent improvements associated with the processing of concrete materials.

8. In July 2024, the City approved a site plan for the front 3.77 acres of the Dunn property.

9. Dunn again applied for a business license from the City on April 1, 2025, and was denied. The stated basis for denial was that "Concrete crushing/recycling is not found within the permitted uses of the I-1 Zone."

10. For several years prior to 2019, Dunn had done concrete processing in Vineyard related to the prior use of the property in making steel. Mr. Dunn had a business license from Vineyard during that period.

11. In 2019 when it began operations at the property in question, Dunn was aware that the property was in the process of being annexed into American Fork so, instead of obtaining a business license from the county, Dunn applied for a business license with American Fork shortly after annexation. (See Exhibit 2).

12. Since 2019, there has been at least one crusher operating on the Subject Property.

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13. An additional crusher is now located at the Subject Property.

14. Adjacent and nearby businesses include the following:

    a. American Eagle Ready Mix

    b. R & D Excavating

    c. Altaview Concrete

    d. Warehouses and other businesses.

ARGUMENT IN SUPPORT OF APPEAL

I: DUNN CONSTRUCTION'S CONCRETE PROCESSING IS A PERMITTED USE.

A. Introduction.

Dunn Construction has a concrete processing plant in an area surrounded by industrial uses, including a concrete batch plant. Dunn's plant takes used concrete and processes it so that the component materials can be used again, rather than taking up space in a landfill or remaining as an eyesore or hazard on property. The principal uses for the processed concrete are road base for street and highway construction and engineered fill for construction generally. The concrete processing operation is consistent with the surrounding uses and is permitted by the American Fork ordinances.

The Dunn property is located in the I-1 zone. The permitted uses for that zone include "processing" of "goods and materials" so long as there is no deleterious effect on surrounding properties. Modern concrete processing satisfies those requirements. Testing of the operation confirms that it does not produce noise, dust, or other noxious output that would have any deleterious impact.

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Ordinances must be construed in favor of the property owner by law. Nothing in the American Fork code specifically prohibits concrete processing. The language of the ordinance is broad enough to permit that use. The use is therefore expressly permitted.

B. Concrete processing is permitted in the I-1 zone.

The issue is what uses are permitted in the I-1 zone. American Fork code 17.1.200 states: "Uses of land which are not expressly permitted within a zone are hereby declared to be expressly prohibited therein, except as may be permitted by action of the planning commission or city council, pursuant to express authority given under terms of this code." As noted below, however, this ordinance must be interpreted in light of the controlling statute, which states: "If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application." Utah Code § 10-9a-306(2). *See Hansen v. Eyre*, 2005 UT 29, ¶ 15, 116 P.3d 290, 293 ("It is well established that, where a city ordinance is in conflict with a state statute, the ordinance is invalid at its inception.").

American Fork code 17.4.503.B defines the uses expressly permitted in the I-1 zone. The ordinance gives a general definition of uses that are permitted. In addition, the ordinance specifies four uses that are not permitted and names 16 uses that are expressly permitted:

> B. Permitted and conditional uses. The following buildings, structures and uses of land shall be permitted upon compliance with the standards and requirements set forth in this code:
>
> (1) Structures and areas used for the manufacturing, compounding, processing[,] fabrication and warehousing of goods and materials, subject to the following conditions and exclusions:
>
> (a) None of the activities carried out on the premises shall produce any noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful to persons or which is

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernible from the public roads.

(b) Notwithstanding paragraph a. above the following uses are specifically excluded from the zone:
  (i) Automobile wrecking and salvage yards.
  (ii) Junk storage or solid waste disposal sites.
  (iii) Livestock and feed yards.
  (iv) Bio-diesel production facilities.

(2) Plant nurseries and greenhouses.
(3) Animal hospitals and veterinary clinics.
(4) Accessory advertising signs subject to the conditions of Section 17.5.128.
(5) Non-accessory advertising signs-billboards when situated within one hundred feet of the right-of-way of Interstate Highway 15 and subject to the conditions of Section 17.6.115.
(6) Caretaker dwellings.
(7) Truck terminals.
(8) Parking lots.
(9) Planned industrial parks subject to the applicable provisions of section 17.7.701.
(10) Office buildings when incidental to other permitted uses.
(11) Office/warehouse projects.
(12) Self service storage facilities (mini-warehouse), subject to compliance with the standards and criteria for design and operation of such uses set forth under Section 17.6.110 of this code.
(13) Low power radio service antenna facilities, subject to the provisions of Section 17.6.112 of this code.
(14) Wholesale warehouse.
(15) Outside storage.
(16) Vehicle impound yards.
(17) Sexually oriented businesses.

Concrete processing is NOT one of the expressly prohibited uses in 17.4.503.B.1.b. It is not an automobile wrecking yard, a junk storage site, a livestock feed yard, or a bioi-diesel production facility. Nor is concrete processing at all similar to any of those expressly prohibited uses.

The named permitted uses in subparagraphs 2 through 16 do not limit or inform the meaning of subparagraph 1, which is independent. Well established Utah law on the interpretation of ordinances

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applies to the American Fork ordinance in question. This is not a situation where the general language in subparagraph 1 is dependent on the other paragraphs for context and meaning. The doctrines of ejusdem generis[5] and noscitur a sociis[6] "apply where an ambiguous, general term has no meaning outside the context in which it is used." *State v. Chaney*, 1999 UT App 309, ¶ 46 n. 2, 989 P.2d 1091, 1100. Here, the provisions of subparagraph 1 have independent meaning and resort to context is not appropriate or required. For example, plant nurseries (subsection 2), caretaker buildings (subsection 6), and sexually oriented businesses (subsection 17) are permitted uses, but would not come within the general description in subsection 1. Subsection 1 therefore must be read by itself without any attempt to limit its meaning by reference to other permitted uses.

The issue, therefore, is whether concrete processing falls within the permitted uses described by subparagraph 1, which permits "the manufacturing, compounding, processing[,] fabrication and warehousing of goods and materials" subject to certain requirements. There can be no dispute that concrete processing involves the "processing" of "materials" and is therefore within the permitted scope of subparagraph 1, provided the conditions are satisfied. The conditions are:

> None of the activities carried out on the premises shall produce any noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful to persons or which is readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernible from the public roads.

---

[5]Ejusdem generis is a legal principle that means "of the same kind." It is used to interpret general or ambiguous terms in a statute by linking them to specific terms that precede them. This principle restricts the interpretation of general words to include only items of the same type as those specifically listed.

[6]Noscitur a sociis is a Latin phrase that translates to "it is known by its associates." The legal principle of noscitur a sociis means that the meaning of an unclear or ambiguous word or phrase can be determined by the context it is used in and the words surrounding it.

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This provision specifies that the point at which potentially harmful conditions are to be measured is at "the boundary of the zone." In this case, the closest zone boundaries are the east and north property lines of the Dunn property.

Submitted with this appeal is a study performed by RMEC Environmental, which has expertise in evaluating the conditions specified in the ordinance. The testing confirms that Dunn's operation meets the conditions specified in the ordinance. The American Fork ordinance does not give specific definitions for the terms used, so the report looked to other governmental standards. The silica standard set by the U.S. Occupational Safety and Health Administration (OSHA) is 0.025 mg/m^3. The testing showed levels of 0.005 to 0.008 mg/m^3, and noted that the concrete processing was not the only source of silica in the environment. With respect to dust, the RMEC study determined that the dust levels from the concrete processing were well below the National Ambient Air Quality Standard set by the United States Environmental Protection Agency. The dust standard is PM10 is 0.150 mg/m^3; the tests on the concrete processing showed levels of 0.037 and 0.038 mg/m^3. The noise levels were likewise below accepted standards. While American Fork does not have a specific noise standard, Salt Lake County has a limit of 75 dB, or 10 dB above ambient, for industrial property. The testing of the concrete processing indicated 71.9 and 67.5 dB, well below the 75 dB limit.

In denying Dunn's appeal, the City Administrator stated:

> The Activity is generally considered a heavy industrial use due to its noise generation, dust production and potential airborne particulates, visual impact, and heavy machinery use. These impacts conflict with § 17.4.503's stated goal of minimizing deleterious effects.

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This statement is labeled, however, as a "conclusion of law," meaning that it does not purport to be based on any evidence presented. The City Administrator's decision does not indicate that any evidence was presented to support that conclusion. It appears to be based on an assumption that concrete processing must be loud and dusty, but that is not true of modern concrete processing equipment such as that used by Dunn. As shown above, the evidence is contrary to the City Administrator's conclusion.

The City Council should determine that concrete processing is a permitted use in the I-1 zone. Dunn will present a site plan for approval even though his operation does not involve any permanent structures to be built. Submitting a proposed site plan at this juncture, however, would be a futile act because the existing decision of the development department is that the use is not permitted. Subject to approval of a site plan, however, the City Council should determine that concrete processing is a permitted use.

C. The American Fork ordinances must be construed in favor of the land-owner.

The discussion above shows that the American Fork City ordinance permits "processing" of "materials," which would include concrete processing. The ordinance is clear; however, to the extent the ordinance is viewed as unclear or ambiguous, it must be construed in Dunn's favor. There are at least two reasons the ordinance must be construed to permit Dunn's proposed use. First, Utah court decisions hold that zoning ordinances must be construed in favor of the landowner. Second, an interpretation that would completely prohibit a use is strongly disfavored. These principles are discussed below.

A landowner has a constitutionally protected right to "use" the land for "lawful purposes." *Terrace v. Thompson*, 263 U.S. 197, 215, 44 S. Ct. 15, 18, 68 L. Ed. 255 (1923). In Utah, that right is reflected

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in the Municipal Land Use, Development, and Management Act (MLUDMA), Utah Code §§ 10-9a-101 to -1005, which directs that "[i]f a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application." Utah Code § 10-9a-306(2). Utah case authority confirms that "because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner." *Patterson v. Utah Cnty. Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995). *Accord Ferre v. Salt Lake City*, 2019 UT App 94, ¶ 17, 444 P.3d 567, 572 (quoting *Patterson*).

This is consistent with the principle that ordinances must be construed in accordance with the words used. "We look first to the plain language of the statute to discern the legislative intent. Only when we find ambiguity in the statute's plain language need we seek guidance from the legislative history and relevant policy considerations." *Keene v. Bonser*, 2005 UT App 37, ¶ 10, 107 P.3d 693, 697 (cleaned up). Any privately held views of what the ordinance was intended to mean are not relevant. Here, the language of the ordinance clearly permits "processing" of "materials," which would include concrete processing.

Resolving doubts against a narrow reading of the ordinance is also required because a narrow reading would entirely prohibit concrete processing anywhere in the city. The outright ban of a legitimate use raises constitutional concerns. For example, one court held, "[t]he constitutionality of zoning ordinances which totally prohibit legitimate businesses such as quarrying from an entire community should be regarded with particular circumspection[.]" *Exton Quarries, Inc. v. Zoning Bd. of Adjustment of W. Whiteland Twp.*, 425 Pa. 43, 59, 228 A.2d 169, 179 (1967). *Accord Colorado Min. Ass'n v. Bd. of Cnty.*

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Comm'rs of Summit Cnty., 199 P.3d 718, 730 (Colo. 2009) ("Courts examine with particular scrutiny those zoning ordinances that ban certain land uses or activities instead of delineating appropriate areas for those uses or activities.").

There is no hint of anything improper about concrete processing. Potential concerns about dust and noise are already adequately addressed by the I-1 requirements. A modern concrete processing operation such as that conducted by Dunn Construction is relatively quiet and controls the emission of dust and other particulates. To totally exclude concrete processing anywhere in the city, while permitting other businesses in the same area that produce as much noise and emissions, would raise constitutional equal protection and due process concerns.

Dunn asserts that concrete processing is permitted in the I-1 zone. To the extent there is any doubt about the meaning of the ordinance, however, that doubt must be resolved in favor of allowing the requested use.

II: CONCRETE PROCESSING MUST BE ALLOWED AS A PRIOR NONCONFORMING USE.

Dunn's concrete processing operation predated the annexation into American Fork City. It was a permitted use, as evidenced by the surrounding concrete plants and other uses which also predated annexation. Because the use was a permitted use prior to annexation, Dunn must be permitted to continue the use. *See* American Fork Mun. Code 17.1.501 (owners may continue any use "to which it is lawfully devoted" prior to being subject to the American Fork zoning ordinances). *Accord* Utah Code § 10-9a-511(1)(a) (nonconforming prior uses may generally be continued).

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While Dunn had not yet obtained a business license from Utah County, that did not mean the prior use was not permitted. In *Harper v. Summit County*, 2001 UT 10, ¶ 24, 26 P.3d 193, 198, the Utah Supreme Court held that a use was still an "authorized use" even though no building permit had been obtained, because the lack of a permit could be remedied by subsequent issuance of a permit. Therefore, the absence of a Utah County business license does not negate the fact that the use was a permitted use.

Because concrete processing was a permitted use prior to annexation, Dunn must be permitted to continue that use.

CONCLUSION

Dunn's appeal should be granted and a business license should be issued, conditioned on submission of a site plan and meeting appropriate conditions that may be imposed after site plan review.

DATED: August 21, 2025.

/s/ D. David Lambert
D. DAVID LAMBERT, and
LESLIE W. SLAUGH, for:
HOWARD, LEWIS & PETERSEN, P.C.
Attorneys for Dunn Construction, LLC, and Mike Dunn

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

CERTIFICATE OF SERVICE

I certify that the foregoing was served on the following by email on August 21, 2025:

American Fork City Council, tlurker@americanfork.gov

American Fork City Attorney, hschriever@americanfork.gov

/s/ Marla Coomes
SECRETARY

J:\Dunn Construction Business 30568-5\AmFork business license\Appeal to City Council\Notice of appeal 2025-08-21 final.wpd

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)



Utah County Parcel Map

Parcel Map

1 inch equals 752.3 feet

Date: 8/21/2025

This cadastral map is generated from Utah County Recorder data. It is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations with an actual survey.

Utah County

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial

RMEC Environmental, Inc.
476 West 325 South
Bountiful, UT 84010

info@rmec.net
office: 801.467.3661
rmec.net

RMEC PJ25E-5254

July 11, 2025

Mike Dunn
Dunn Companies

Transmitted via email to: mike@dunnutah.com

SUBJECT: SUMMARY OF SAMPLING

Re: Concrete Recycling / Laydown Yard
1700 South 500 East
American Fork, Utah

Dear Mike:

RMEC Environmental, Inc. (RMEC) is pleased to provide you with the following summary regarding a limited fence line nuisance assessment at the Dunn Companies concrete recycling area in American Fork, Utah. RMEC performed visual inspections, noise monitoring, and air measurements at two property locations on July 9, 2025. The measurements for air and noise consisted of the following:

- Noise – A sound level meter was utilized to collect equivalent noise levels over a 2-hour period
- Particulate Matter – A real-time instrument was used to collect particulate measurements over a 2-hour period
- Respirable crystalline silica – A real-time instrument was used to collect respirable crystalline silica measurements over a 2-hour period

Description of Sampling

Essentially, RMEC was asked to collect measurements for the above referenced materials/conditions at two fence line locations. One location was on the southeast border near the concrete crushing operations, while the other was on the north fence line with 1700 south in the area that serves as a laydown yard for dumpsters. A rough map of the area is attached as Attachment 1.

The measurements at each of the two locations consisted of collecting a 15-20 minute background sample while no operations were running, and then also an approximately 2-hour sample while both of the Dunn concrete crushing operations were active. The following conditions were noted for the sampling event:

- The concrete crushing consisted of a loader moving crushed material, an excavator or loader loading concrete into the crushers, and a water truck performing wetting operations around the site and the two concrete crushing operations. RMEC was informed that this is normal operations.
- The wind was from the west, which the site operators informed RMEC was unusual, and would result in dust moving towards the east sampling location. The prevailing winds at the site are normally from either north or south. The afternoon winds (during east location sampling) seemed to prevail from the south.

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- The neighboring property operation to the west, a concrete batch plant, has extensive vehicle traffic in and out of its east entrance. In addition, there is a large soil excavation area directly to the west of the batch plant.
- Noise levels along the 1700 South road routinely exceeded 80 decibels A-scale (dBA) as vehicle traffic along that corridor consists mostly of heavy trucks, concrete mixers and the like.
- Environmental conditions on the day of the sampling were hot, dry, and with light winds from the west[1]. A brief rain shower occurred in the afternoon during the sampling at the east location.

Results of the Sampling

Air and noise measurements were performed at two locations at the site. Overall, measurements indicated low levels of dust or respirable silica at the two sampled locations. RMEC did not note any extended episodes of visible emissions of dust leaving the fenceline at either location. In addition, noise levels were measured the fencelines and RMEC noted that nearby industrial operations (subjectively) appeared to have similar noise levels as those generated by the concrete recycling operations. Results are tabulated into tables and are included as Attachment 2. Attachment 3 has calibration certificates for the sampling equipment.

Silica and Dust Monitoring

The respirable silica measurements were collected with a Trolex Air XS (SN:JB00835), which is a real-time particle analyzer that can distinguish respirable fraction silica and provide a concentration in milligrams per cubic meter of air (mg/m^3). There are currently no generally published public exposure limits for respirable silica. The U.S. Occupational Safety and Health Administration (OSHA) has a published action limit for employees of 0.025 mg/m^3 as an 8-hour time weighted average. Since occupational limits should not applied for the general public, this value is only provided as an example exposure limit. It should be noted that the operations associated with the concrete recycling plant are not the only source of silica in the environment. Wind can disturb soils from off-site, which also often contain silica. The sampling event indicated that average silica concentrations ranged from 0.005 mg/m^3 to 0.008 mg/m^3 during the 2-hour sampling periods at the north and east locations, respectively. Given that the crushing operations would normally only operate at most 6-hours per work day, average daily concentrations would be expected, using the worst-case measurement, to average only as 0.002 mg/m^3 over a 24 hour period assuming no exposures outside of the work day.

The total dust measurements were collected with a TSI Incorporated Dustrak DRX (SN 8534203303) which is a real-time particle analyzer that can distinguish different particle sizes and provide a concentration mg/m^3. RMEC reported particle concentrations for total measured particulates, as well as PM10, which is the weight of particles with a size of less than 10 microns per cubic meter of air. The U.S. EPA has a National Ambient Air Quality Standard (NAAQS) for PM10 of 0.150 mg/m^3 as a 24-hour average. On the day of the monitoring, 2-hour PM10 samples at the east and north locations averaged 0.037 mg/m^3 and 0.038 mg/m^3, respectively.

Noise Monitoring

The Noise measurements were collected with a Quest SoundPro DL integrating sound level meter (SN: BGU090004). Both 15-minute and 2-hour measurements were collected at the sampling locations. The city of American fork does not have a listed community noise standard that cites any decibel levels for

[1] https://www.wunderground.com/history/daily/us/ut/provo/KPVU/date/2025-7-9

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acceptable noise. Moreover, most larger municipalities, such as Salt Lake County[2], have a standard that cites allowable noise levels for specific neighboring properties and use, such as single-family residential, commercial, and industrial. For the industrial property use, Salt Lake County lists a daytime allowable limit of 75 dB or 10 decibels above ambient. The average equivalent sound pressure levels (Leq) measured over 2-hours at the east and north property lines were 71.9 dB and 67.4 dB, respectively. These are below the commonly cited 75 dB limits adopted by Salt Lake County and Provo, Utah[3].

CLOSING

Thank you for the opportunity to provide these services. Please feel free to contact me if you have any questions.

Sincerely,



Daniel E. Nye, MSPH, CIH
Vice-President and Senior Scientist
RMEC ENVIRONMENTAL, INC.

ATTACHMENTS:
Site Map (Google Earth)
Results Tables
Calibration Certificates

[2] https://www.saltlakecounty.gov/globalassets/1-site-files/health/regs/noise.pdf
[3] https://provo.municipal.codes/Code/9.06.030

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

Attachments

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)



Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

Respirable Crystalline Silica Direct Read

Wednesday, July 9, 2025

East Area 15-minute Sample		
Average	0.018	mg/m^3
Min	0	mg/m^3
Max	0.097	mg/m^3

North Area 15-minute Sample		
Average	0.005	mg/m^3
Min	0	mg/m^3
Max	0.025	mg/m^3

East Area 2-Hour Sample		
Average	0.008	mg/m^3
Min	0	mg/m^3
Max	0.127	mg/m^3

North Area 2-Hour Sample		
Average	0.008	mg/m^3
Min	0	mg/m^3
Max	0.076	mg/m^3

Footnote: no limit exists for community exposures to silica.

Noise Fenceline Data

Wednesday, July 9, 2025

East Area 15-minute Sample		
LEQ Average	66.5	dB A
Min	63.1	dB A
Max	71.3	dB A

North Area 15-minute Sample		
LEQ Average	67.7	dB A
Min	55.2	dB A
Max	80	dB A

East Area 2-Hour Sample		
LEQ Average	71.9	dB A
Min	57.8	dB A
Max	80.7	dB A

North Area 2-Hour Sample		
LEQ Average	67.400	dB A
Min	50.6	dB A
Max	85	dB A

Footnote: many communities use an LEQ value of 75 dB.

Total and PM10 Dust Direct Read

Wednesday, July 9, 2025

East Area 15-minute Sample		
PM10 Average	0.008	mg/m^3
Total Particulate Avg	0.011	mg/m^3
Max Total Part.	0.045	mg/m^3

North Area 15-minute Sample		
PM10 Average	-	mg/m^3
Total Particulate Avg	-	mg/m^3
Max Total Part.	-	mg/m^3

East Area 2-Hour Sample		
PM10 Average	0.037	mg/m^3
Total Particulate Avg	0.055	mg/m^3
Max Total Part.	1.07	mg/m^3

North Area 2-Hour Sample		
PM10 Average	0.038	mg/m^3
Total Particulate Avg	0.062	mg/m^3
Max Total Part.	0.933	mg/m^3

Footnote: The US EPA NAAQS 24-hr average PM10 limit is 0.15 mg/m^3

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

NISTLab/SAI
Wilner-Greene Engineering Services

Certificate of Calibration

ISO 9001 CERTIFIED

Order Number: 20243367
Certificate Number: 162569

Issued To: RAECO RENTS
14241 S REDWOOD RD
BLD A-STE B102
BLUFFDALE, UT 84065-5223

Date Received: 12/23/2024
Date Issued: 1/13/2025
Valid thru end of: Jan 2026

Equipment: Manufacturer: TSI
Model Number: 8534
SerialNumber: 8534203303
Control #:

Test Conditions :

Temperature:	20.2	C
Humidity:	36.6	%
Barometric Pressure:	1008.7	mBar

As Found:
FULLY FUNCTIONAL AND IN TOLERANCE.

As Returned:
FULLY FUNCTIONAL AND WITHIN TOLERANCE.

Special Conditions:
NONE

Work Performed:
ALIGNED AND CALIBRATED PER CALIBRATION PROCEDURE DM-001.

CALIBRATED TO: MANUFACTURERS SPECIFICATIONS

MeasurementUncertainties: DC VOLTAGE 0.1%, BAROMETRIC +/- 0.15 HPA, RH +/- 1%, TEMP +/- 0.05C, PARTICLE CONCENTRATION +/- 2% AS REFERENCED TO ARIZONA DUST A2 FINE, AIR FLOW RATE +/- 0.3%

Device, Description, Report Number, Date Due

Reference Standards:

9102, C-29, MICROBALANCE, 5523631030681305, 3/7/2025
9105, ML-800-44, PRIMARY VOLUMETRIC STANDARD, 170562-22072024, 7/31/2025
9150, FFVF 9500, AEROSOL CALIBRATION BENCH / 3650-00-116, 3650-00-116, 2/28/2025
9151, PDR-1000, SINGLE BEAM NEPHELOMETER., 20230618-154056, 3/31/2025
1042, PHOTOMETER, REAL TIME 90 DEGREE LIGHT SCATTERING PHOTOMETER, 300588681, 4/30/2025

Reviewed by: 1/13/2025

Authorized Signature: Brian Stanhope

This report certifies that all calibration equipment used in the test is traceable to the National Institue of Standards (NIST) , and applies only to the unit identified under "Equipment" above. This report must not be reproduced except in it's entirety without express written approval.

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

NISTLab/SAI
Wilner-Greene Engineering Services

Certificate of Calibration

ISO 9001 CERTIFIED

Order Number: 20252027
Certificate Number 168804

Issued To: RAECO RENTS,LLC
154 E FORD AVE
SUITE B
SALT LAKE CITY, UT 84115

Date Received: 6/9/2025
Date Issued: 6/26/2025
Valid thru end of: Jun 2026

Equipment:
Manufacturer: QUEST
Model Number: SP-DL-2
SerialNumber: BGU090004
Control #

Test Conditions :

Temperature:	20.2	C
Humidity:	36.6	%
Barometric Pressure:	1008.7	mBar

As Found:
FULLY FUNCTIONAL AND IN TOLERANCE.

As Returned:
FULLY FUNCTIONAL AND WITHIN TOLERANCE.

Special Conditions:
NONE

Work Performed:
CALIBRATED PER CALIBRATION PROCEDURE SL-008.

CALIBRATED TO: ANSI S1.4-1983 TYPE 2

MeasurementUncertainties: ACOUSTIC 1.0 DB, FREQUENCY +/- 0.1 HZ, DC VOLTAGE 0.1%, AC VOLTAGE 0.5%

Device, Description, Report Number, Date Due
Reference Standards:
1004, QUEST QE-4170, 1" PRECISION MICROPHONE, 20230618-148768, 10/24/2025
1009, 8903B, AUDIO GENERATOR, 1688688, 5/31/2026
1051, 1800, TYPE 1 SOUND LEVEL METER, 20242258-163826, 1/31/2026
1052, OB-100, 1:1 OCTAVE BAND FILTER, 20242258-163825, 1/31/2026
1053, Nor1525, NORSONIC TYPE NOR1525 IEC/ANSI CALIBRATION SYSTEM., 20242258-168957, 6/30/2026
9310, 34461A, Truevolt Digital Multimeter (6.5 Digit), 1695328, 4/30/2026

Reviewed by: 6/26/2025

Authorized Signature: Brian Stanhope

This report certifies that all calibration equipment used in the test is traceable to the National Institue of Standards (NIST) , and applies only to the unit identified under "Equipment" above. This report must not be reproduced except in it's entirety without express written approval.

Attachment: 09.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

NISTLab/SAI
Wilner-Greene Engineering Services

Certificate of Calibration

ISO 9001 CERTIFIED

Order Number: 20252027
Certificate Number 168805

Issued To: RAECO RENTS,LLC
154 E FORD AVE
SUITE B
SALT LAKE CITY, UT 84115

Date Received: 6/9/2025

Date Issued: 6/26/2025

Valid thru end of: Jun 2026

Equipment: Manufacturer: 3M

Model Number: AC-300

SerialNumber: AC300011199

Control #

Test Conditions :

Temperature: 20.2 C

Humidity: 36.6 %

Barometric Pressure: 1008.7 mBar

As Found:
FULLY FUNCTIONAL AND IN TOLERANCE.

As Returned:
FULLY FUNCTIONAL AND WITHIN TOLERANCE.

Special Conditions:
NONE

Work Performed:
CALIBRATED PER CALIBRATION PROCEDURE CN-005.

CALIBRATED TO: ANSI S1.40-1984

MeasurementUncertainties: ACOUSTIC +/- 0.15 DB, FREQUENCY +/- 0.1HZ, DC VOLTAGE 0.1%, AC VOLTAGE 0.5%

Device, Description, Report Number, Date Due

Reference Standards:

1004, QUEST QE-4170, 1" PRECISION MICROPHONE, 20230618-148768, 10/24/2025

1009, 8903B, AUDIO GENERATOR, 1688688, 5/31/2026

1053, Nor1525, NORSONIC TYPE NOR1525 IEC/ANSI CALIBRATION SYSTEM., 20242258-168957, 6/30/2026

9108, 4228, PISTONPHONE, HIGH PRESSURE, CLASS 1, 20242258-168954, 6/30/2026

9109, 4228, PISTONPHONE, HIGH PRESSURE, CLASS 1, 52469, 2/28/2026

9310, 34461A, Truevolt Digital Multimeter (6.5 Digit), 1695328, 4/30/2026

Reviewed by: 6/26/2025

Authorized Signature: Brian Stanhope

This report certifies that all calibration equipment used in the test is traceable to the National Institue of Standards (NIST) , and applies only to the unit identified under "Equipment" above. This report must not be reproduced except in it's entirety without express written approval.

Attachment: 08.23.25 Appeal of Dunn Construction Business License denial (Business License Denial Appeal - Dunn Construction)

Michael Dunn/Dunn Construction, LC
c/o David Lambert
Howard Lewis & Petersen PC
120 East 300 North
Provo, UT 84606

JUNE 4, 2025

RE: Business License Appeal American Fork City Code § 5.04.170 -- Dunn Construction, LC

Mr. Dunn and Mr. Lambert:

Included herein are the Findings of Fact and Conclusions or Law resolving Dunn Construction, LC/Michael Dunn's (collectively the "Applicant") appeal of the City's 2025 decision to deny the Applicant's business license application for the business operations located at 510 E. 1700 S., American Fork, Utah.

FINDINGS OF FACT

Applicant's Business Activities & Site Use

1. The Applicant asserts that he has been performing concrete crushing and recycling activities (the "Activity") at 510 East 1700 South, American Fork, Utah, (the "Subject Property") since at least 2019.
2. The Subject Property is located in the I-1 Zone.
3. The Applicant applied for a business license in March 2020 to "recycle concrete and other materials" on the Subject Property which was denied in September 2020 due to the absence of a site plan. *See* Exhibit D.
4. The Applicant did not apply again for a business license from the City until April 1, 2025.
5. The Applicant is unsure if he had a Utah County business license before the Subject Property was annexed into the City in 2019.
6. The Applicant has not provided any evidence of a Utah County business license to the City. A copy of the annexation ordinance is included herein as Exhibit E.
7. The Applicant had a Vineyard City business license for "recycling and trash services, concrete recycling" from 1/1/2022-12/31/2022. *See* Exhibit C.
8. The Subject Property was annexed into the City in 2019.

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

9. The Subject Property was transferred by Warranty Deed to the Applicant (specifically Mr. Dunn) on or about April 28, 2022. *See* Exhibit C.
10. The Applicant stated that since 2019, there has been at least one crusher operating on the Subject Property.
11. The Applicant stated that an additional crusher is now located at the Subject Property. According to the Applicant, the original crusher became obsolete, so a new crusher was brought to the Subject Property.
12. Aerial photographs of the Subject Property show that the Subject Property was mostly undeveloped as of 2019. The aerial photographs are attached hereto as Exhibit A.
13. The aerial photographs show significant expansion in the geographic use of the Subject Property after 2019.
14. In July 2024, the City approved a site plan for the Subject Property. The approved site plan did not include the Activity as an intended use at the Subject Property and no modification was approved to expand permitted uses to include the Activity. *See* Exhibit B.
15. While the Applicant contends he believed he could continue the Activity because others in the area did so, the record shows no formal City approval for the Activity on the Subject Property.

Business License Denial

16. The Applicant submitted a new business license application for review on April 1, 2025. The business license was denied on April 7, 2025, as the City's first review indicated that the business was located within Orem City. It was then re-evaluated after the Applicant modified its information on the license to clarify the business was operating in American Fork City limits.
17. On May 1, 2025, American Fork City denied the Company's business license application for the Activity at the Subject Property. The denial was based on American Fork City Code § 17.4.503 which governs the I-1 Industrial Zone and does not permit the Activity as a permitted use (the "Denial"). A copy of the Denial is attached hereto as Exhibit B.

Appeal & Arguments Presented by the Applicant

18. The Applicant appealed the Denial arguing: (1) that the Activity predates the 2019 annexation and therefore should be recognized as a pre-existing, grandfathered use; (2) that similar concrete crushing activities by others in the I-1 zone demonstrates that this use should be permitted for the Applicant as well; (3) that the Activity is considered "manufacturing and processing of materials" under American Fork City Code §17.4.503 I-1 Industrial Zone and should be permitted, and further that American Fork City requires crushed rock to be used for foundation stabilization under American Fork City Code § 15.01.1070.H. so persons developing land within the City should not be required to obtained those materials outside the City's boundaries.

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

Hearing

19. The Applicant's appeal was heard by the City Administrator in accordance with American Fork City Code § 5.04.170 on May 27, 2025.
20. The Applicant was present and represented by David Lambert. David Bunker (City Administrator), Patrick O'Brien (Development Services Director), and Heather Schriever (City Attorney) were also present.
21. At the hearing, the Applicant provided testimony and presented the City with a copy of the April 28, 2022 Warranty Deed and printouts of various parcels maps of the Subject Property. After the hearing, the Applicant (through his attorney) provided the City with a copy of the 2022 Vineyard Business License. *See* Exhibit C.

CONCLUSIONS OF LAW

1. American Fork City Code § 5.04.170.A. provides:

   > In cases where an applicant for a license is denied a license (including but not limited to those situations where the applicant applies for a business license where the business or manner of conducting such business does not readily appear to be covered by the provisions of this chapter), or where the applicant believes that (due to special circumstances) a particular provision herein works an undue hardship in his case, such applicant may appeal to, or request a hearing before, the city administrator, which appeal or hearing shall be granted within five working days from the date of appeal or request. The city administrator or his designate shall not have the authority to change or disregard a specific requirement of this chapter; but he shall and is hereby authorized to interpret the requirements and provisions of this chapter liberally so as to promote and ensure that the spirit and purposes of this chapter are carried out.

2. American Fork City Code § 17.4.503 provides:
   A. Intent. The I-1 light industrial zone has been established for the purpose of providing a place where firms engaged in the light manufacturing, processing, warehousing and fabrication of goods and materials can locate with minimum conflict or deleterious effect on surrounding properties and uses and with a high degree of protection from encroachment of residential, retail commercial and other incompatible uses.
   B. Permitted and conditional uses. The following buildings, structures and uses of land shall be permitted upon compliance with the standards and requirements set forth in this code:
      1. Structures and areas used for the manufacturing, compounding, processing fabrication and warehousing of goods and materials, subject to the following conditions and exclusions.
      2. None of the activities carried out on the premises shall produce any noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful to persons or which is readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernible from the public roads.
3. The Activity is not included as a permitted use in American Fork City Code § 17.4.503.B.

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

4. The Activity is generally considered a heavy industrial use due to its noise generation, dust production and potential airborne particulates, visual impact, and heavy machinery use. These impacts conflict with § 17.4.503's stated goal of minimizing deleterious effects.
5. The I-1 Zone prohibits any use that produces noxious odors, fumes, smoke, noise, vibration or anything discernable beyond the Subject Property. The Activity causes these byproducts. These characteristics—particularly the noise, dust, and visible equipment are inconsistent with the intended land use character of the I-1 zone as established in § 17.4.503.
6. The Applicant has not carried his burden to establish that the application of American Fork City Code § 17.4.503 to the Subject Property as the basis for the Denial works an undue hardship due to any special circumstances.
7. While § 5.04.170 requires the City Administrator to interpret the requirements of the chapter liberally to promote the spirit and purpose of the chapter, it explicitly bars disregarding or changing any specific requirement. The prohibition on the Activity in the I-1 Zone is a specific requirement of the code, not a minor procedural matter that could be waived. The City Administrator does not have the authority to disregard or change these requirements.
8. It is unclear whether the City Administrator, within the limited scope of a business license appeal, has the authority to make a land use determination concerning the Applicant's claim of a legal nonconforming use. To the extent the Applicant is relying on this argument to establish undue hardship or special circumstances under American Fork City Code § 5.04.170, the evidence presented and available to the City, does not establish that the Activity was a legal nonconforming use prior to the Subject Property's annexation. The Applicant has not presented any permits, prior licenses, photographs or other evidence to support the legal nonconforming use claim. Nor has the Applicant established there is an approved site plan for the Activity prior to or after the annexation. To demonstrate a legal nonconforming use, the Applicant must show that the activity was lawful under prior authority, was continuously conducted without significant interruption, and that it predated the annexation. No such evidence has been provided. The City's code and enforcement require pre-existing legal status, which the Applicant has not established here. *See* American Fork City Code § 17.1.500.

DECISION

Based on the above Findings of Fact and Conclusions of Law, the City Administrator **DENIES** the Applicant's appeal. The Activity is not a permitted use within the I-1 Industrial Zone under American Fork City Code § 17.4.503 and no minor requirement exists for the City Administrator to grant an exception. To the extent the Applicant is relying on the Subject Property's alleged status of a legal nonconforming use as a basis for the City Administrator to reconsider the Denial, the Activity does not qualify as a legal nonconforming use.

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

Appeal of the Decision

American Fork City Code § 5.04.170.B. In the event that the matter cannot be resolved with the city administrator or his designate, then—except in those situations where an appeal lies or is determined to lie with the city's board of adjustment—the applicant may appeal to the city council for a determination of the matter. He shall, in writing, indicate the substance of his appeal, summarize the determination made by the city administrator, furnish written proof and affidavits in support of his request, and request that the matter be heard by the city council; this written notice of appeal is filed by the applicant with the city recorder. The matter shall then be noticed to the public, and the city council shall hear said appeal within thirty days of the filing of the appeal with the city recorder. The city council may, after hearing, deny the appeal, grant a special exception to the applicant (by modifying or waiving one or more minor requirements of this chapter for the applicant), or take steps to amend by ordinance the provisions of this chapter to facilitate (or remove the barrier to) the matter appealed or requested. The council shall determine what constitutes a "minor" requirement for which a special exception may be granted.

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

EXHIBIT A

Subject Property



07/2019

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



05/2020

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



06/2020

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



09/2020

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



07/2021

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



08/2021

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



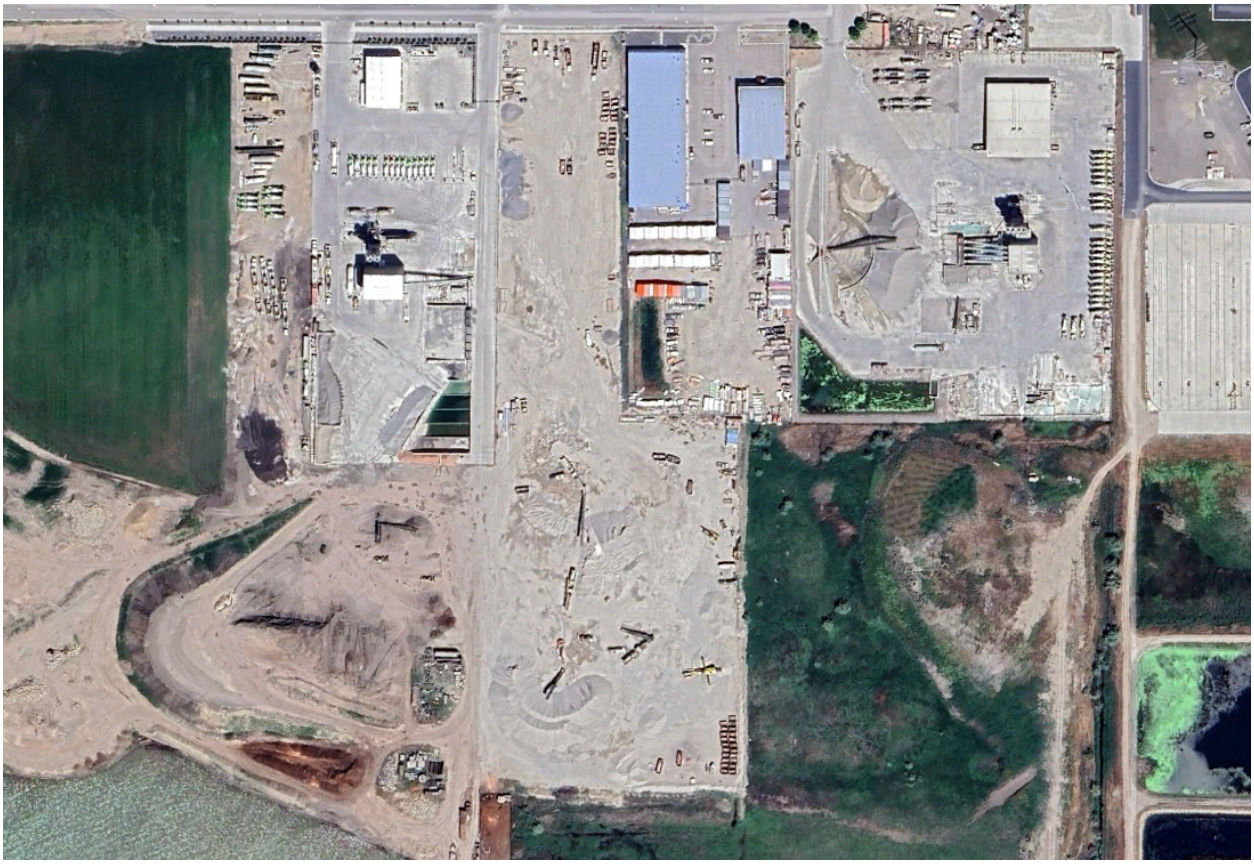
05/2022

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



06/2022

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



06/2023

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)



06/2024

Attachment: Dunn Business License CA Appeal.6.4.2025.ExhA Included (Business License Denial Appeal - Dunn Construction)

Notice of Action – Planning Commission

Development Services | 275 E 200 N, American Fork, UT 84003

AMERICAN FORK DEVELOPMENT SERVICES

July 23, 2024

Mike Dunn
Dunn Companies – Shoreline Industrial Park
mike@dunnutah.com

RE: Notice of Action for Shoreline Industrial Park – Commercial Site Plan

Mike Dunn,

On July 17, 2024, the American Fork City Planning Commission **APPROVED** of your application for a Commercial Site Plan located at approximately 540 East 1700 South, American Fork, UT 84003. For application P-2022-00263, the conditions were attached to your approval:

1. The necessary 30' Pressurized Irrigation easement and 20' Storm Drain Easement as shown on the plan set shall be conveyed as well as a 20' Culinary Waterline Easement for the looped culinary water line as shown on the plans.

As your application for a Commercial Site Plan has been approved by Planning Commission, you will be required to address all conditions of approval, mentioned above, and address all items associated with the City's Development Checklist before proceeding to the Building Department for permits. Expiration dates on the proposal approved by the Planning Commission will be as follows:

- Preliminary Plans – One (1) year from Planning Commission approval date
- Commercial Site Plans – Two (2) years from Planning Commission approval date
- Residential Accessory Structure Site Plan – Two (2) years from Planning Commission approval date

Please be aware that any recommendation of approval or final approval by American Fork City in no way exempts the property from complying with other regulations that may be in effect on the property such as CC&R's, zoning, subdivision, site plan, land disturbance, and building permit regulations, as applicable. It is the responsibility of the property owner to ensure compliance with these regulations.

Please retain this letter for your records, as it may be required as evidence of approval when submitting an application for building permits.

Respectfully,

American Fork City's Development Services Department

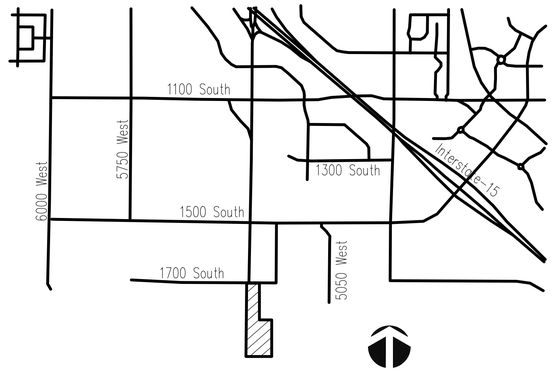
Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

Shoreline Industrial Park

American Fork City — 520 East 1700 South Street — Utah

Legend

Symbol	Description
	Proposed 8" Sanitary Sewer Main
	Existing Sanitary Sewer Main (size noted on plan)
	Proposed Culinary Water Main (size noted on plan)
	Existing Culinary Water Main (size noted on plan)
	Existing Storm Drain pipe (size noted on plan)
	Proposed Storm Drain pipe (size noted on plan)
CTV	Cable TV utility lines
P	Existing Power lines
P	New underground Power lines
	Outside Boundary line
	Existing surface improvements
	Existing Sidewalk
	Proposed Sidewalk
	Proposed 3' Waterway
4503	Existing Contour Elevation
4503	Finish Contour Elevation
4503.00	Finish Spot Elevation
	Drainage Flow Direction
	Water Meter (size noted on plan)
	Culinary Water Valve
	Fire Hydrant
S	Sanitary Sewer Manhole
D	Storm Drain Manhole
	Storm Drain Box
ta	top of asphalt
tw	top of sidewalk
boc	back of top of curb
bow	back of top of sidewalk
SSMH	Sanitary Sewer Manhole
SDMH	Storm Drain Manhole
WV	Water Valve
GV	Gas valve
WM	Water Meter
eo	edge of existing asphalt
PUE	Public Utility Easement



Vicinity Map

American Fork City Development Review Committee	
Planning and Zoning Reviewed copperman 07/03/2024	No comments
Fire Department Reviewed M. Sacco 07/01/2024	
Engineering Division Reviewed rburkhill 07/03/2024	No comments

Next Step:

Proceed to Planning Commission 07/17/2024

CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. the information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.



	Square Footage	Acreage	Percent of total
Total Area	164,411	3.77	100
Total Building / Pad Area	63,000	1.44	37
Total Hard Surface Area	95,846	2.20	58
Total Impervious Area	155,846	3.57	95
Total Landscaped Area	8,565	0.20	5

Tabulation Table Project Area

Property Description

Lot 3, Plat A, Lakeland Industrial Park Subdivision, American Fork, Utah, according to the official plat thereof on file in the Office of The Recorder, Utah County Utah

American Fork City Contacts

Company	Contact	Phone	Address
AF City Culinary Water	Jay Brems	801-763-3060	275 East 200 North American Fork, UT 84003
AF Pressurized Irrigation	Jay Brems	801-763-3060	275 East 200 North American Fork, UT 84003
AF Sanitary Sewer	Ashton Hardy	801-763-3060	275 East 200 North American Fork, UT 84003
AF Storm Drain Sewer	Ashton Hardy	801-763-3060	275 East 200 North American Fork, UT 84003
AF Fire Marshall	Mat Sacco	801-763-3040	96 North Center American Fork, UT 84003
AF Connect	Kyle Petersen	801-400-2933	714 East 50 South American Fork, UT 84003
AF Flood Irrigation Company	Ernie John	801-471-6576	475 West 700 North American Fork, UT 84003
Rocky Mountain Power	Teria Walker	801-756-1310	70 North 200 East American Fork, UT 84003
COMCAST	Elysia Valdez	801-201-0177	9602 South 300 West Sandy, Utah 84070
Timpanogos Special Service District	David Barlow	801-756-5231	6400 North 5050 West Utah County, UT 84003
Century Link	Melinda Duran	435-660-1719	1485 West 3100 South West Valley City, UT 84119
Dominion Energy	Greg Nielson	801-853-6522	1140 West 200 South Salt Lake City, UT 84119
AF SWPPP Manager	Tyler Mezenen	801-763-3060	275 East 200 North American Fork Utah 84003

1. The fire protection items (fire hydrant, water mains, access roads, etc..) shown on this site plan are preliminary only. Detailed fire protection plans shall be submitted with the building plans. Plan reviews by the fire Prevention Bureau shall be completed prior to the issuance of a building permit. The plan reviews by the Fire Prevention Bureau may identify additional fire protection requirements mandated by the International Fire Code. Fire hydrant foot valves shall be installed at the connection point with the main water lines.
2. All landscaped areas shall have an automatic, underground sprinkling system with a back-flow device to the building. Back-flow devices shall be installed and tested in accordance with the City Code. Water meters shall be located at the back of sidewalk or curb in an area that is accessible for reading and servicing. Water meters shall not be located within areas enclosed with fences or within 10 feet (10') of any existing or proposed structure.
3. If required by the City Code or by the applicant's permit for Industrial Wastewater Discharge, a sampling manhole and fat and oil separator/grease trap shall be installed I.A.W. City standards and specifications.
4. All signage shall comply with the requirements of the City Code.
5. All utilities, including water and sewer laterals, water and sewer mains, storm water drains, storm water sumps, sewer manholes, water valves, etc., shall not be located under covered parking areas and shall be installed according to the City Code.
6. All roof drainage shall be routed through on-site storm water management facilities.
7. At the time of construction, the City of American Fork may determine based on professional experience and judgment and at its sole discretion, the need for the Owner/Developer to pay for, remove, and replace any existing substandard improvements such as curbs, gutters, sidewalks, drive approaches, driveways, decorative concrete, wheelchair ramps, etc., or any unused drive approaches.
8. All construction shall conform to the City of American Fork construction standards and specifications unless the improvement is within the UDOT right-of-way, in which case the construction shall conform to UDOT construction standards and specifications.

FLOOD ZONE

The subject property lies in Zone AE which is defined as areas determined to be within the 1.0 percent annual chance flood hazard according to the FIRM Rate Map - panel No. 49049C0308F dated June 19, 2020. (Elev 4498.00 NAVD88 Elevation 4495.00 NGVD 29)

Elevation datum for this plan set is NGVD 29

Parking Data:

Building 1
Total Building Area = 21,000 SF
Office Area = 1388 SF
Warehouse Area = 19,612 SF

Building 2
Total Building Area = 42,000 SF
Office Area = 3,200 SF
Warehouse Area = 38,800 SF

Parking Required
Office = 4 Space per 1000 SF =19 Spaces
Warehouse = 1 Space per 1000 = 59 Spaces
Total Required = 78 Spaces
Total Provided = 81 Spaces

Sheet Index

1.0	Cover Sheet
1.1	General Notes
2.0	Site Plan
3.0	Utility Plan
4.0	Street Improvement Plan
5.0	PI Plan
6.0	Water Line Plan
7.0	Grading & Drainage Plan
8.0	SWPPP / Erosion Control Plan
9.0	BMP's
10.0	Details
11.0	Details
12.0	Details
12.1	Details
12.2	Details
12.3	Storm Drain Details
13.0	Landscaping Plan
14.0	ALTA Survey
15.0	Site Triangle Exhibit
16.0	Cross Section Details
A-1.1	Building Plan 21000 SF
A-1.2	Building Plan 21000 SF (2nd level)
A-2.1	Building Elevations 21000 SF
A-1.1	Building Plan 42000 SF
A-2.1	Building Elevations 42000 SF
L-1.0	Irrigation Plan
L-2.0	Irrigation Details

Developer:

Dunn Companies
426 East 1750 North Unit F
Vineyard Utah 84059
801 420-1464

Owner:

Phelon Lakeland LLC
731 North Coulson Drive
Lindon Utah 84042

Engineer:

Dudley and Associates, Inc.
353 East 1200 South
Orem, Utah 84058
801-224-1252

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH

3-21-2024

Site Data:
Project Area = 3.77 Acres
Zone = Industrial
Total Area Lot 3 Lakeland Industrial Park = 10.56 Acres
Total number of Lots = 1

Basis of bearing = South 89°29'06" East along the Section line. (NAD 27)
(South 89°30'51" East along the Section (NAD 83)

Benchmark information = RC N $\frac{1}{4}$ Corner Section 36, Township 5 South Range 1 East SLB&M Elev = 4503.54 (NGVD 29)
Elev = 4506.47 (NAVD 88)

Project information is based on NGVD 29

Sheet No.
C - 1.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

GENERAL NOTES

1. City of American Fork, A.P.W.A, Utah Chapter and Utah Department of Transportation Construction and Material Specifications, current editions, and any supplements thereto (hereafter referred to as Standard Specifications), shall govern all construction items unless otherwise noted. If a conflict between specifications is found, the more strict specification will apply as decided by the City Engineer. Item Numbers listed refer to City of American Fork Item Numbers unless otherwise noted.
2. The City Engineer will not be responsible for means, methods, procedures, techniques, or sequences of construction that are not specified herein. The City Engineer will not be responsible for safety on the work site, or for failure by the Contractor to perform work according to contract documents.
3. The Developer or Contractor shall be responsible to obtain all necessary permits including but not limited to Road Cut Permits and Notices of Intent (NOI), Building Permits, etc.
4. The Contractor shall notify the City of American Fork, Public Works Department in writing at least 7 working days prior to beginning construction and request a pre-construction meeting. Bond for public improvements and inspection fees must be paid in full prior to requesting a pre-construction meeting.
5. The Contractor shall be solely responsible for complying with all federal, state and local safety requirements including the Occupational Safety and Health Act of 1970. The Contractor shall exercise precaution always for the protection of persons (including employees) and property. It shall also be the sole responsibility of the Contractor to initiate, maintain and supervise all safety requirements, precautions and programs in connection with the work, including the requirements for confined spaces per 29 CFR 1910.146.
6. Following completion of construction of the site improvements and before requesting occupancy, a proof survey shall be provided to the City of American Fork, Public Works Department, that documents "as _ built" elevations, dimensions, slopes and alignments of all elements of this project. The proof survey shall be prepared, signed and submitted by the Professional Engineer who sealed the constructions drawings.
7. The Contractor shall restrict construction activity to public right_of_way and areas defined as permanent and/or temporary construction easements, unless otherwise authorized by the City Engineer.
8. The Contractor shall carefully preserve benchmarks, property corners, reference points, stakes and other survey reference monuments or markers. In cases of willful or careless destruction, the Contractor shall be responsible for restorations. Resetting of markers shall be performed by a License Utah Professional Surveyor as approved by the City Engineer.
9. Non_rubber tired vehicles shall not be moved on or across public streets or highways without the written permission of the City Engineer.
10. The Contractor shall restore all disturbed areas to equal or better condition than existed before construction. Drainage ditches or watercourses that are disturbed by construction shall be restored to the grades and cross_sections that existed before construction.
11. Tracking or spilling mud, dirt or debris upon streets, residential or commercial drives, sidewalks or bike paths is prohibited. Any such occurrence shall be cleaned up immediately by the Contractor at no cost to the City. If the Contractor fails to remove said mud, dirt, debris, or spillage, the City reserves the right to remove these materials and clean affected areas, the cost of which shall be the responsibility of the Contractor.
12. Disposal of excess excavation within Special Flood Hazard Areas (100-year floodplain) must be approved by the City Engineer.
13. All signs, landscaping, structures or other appurtenances within right-of-way disturbed or damaged during construction shall be replaced or repaired to the satisfaction of the City Engineer. The cost of this work shall be the responsibility of the Contractor.
14. All field tile broken or encountered during excavation shall be replaced or repaired and connected to the public storm sewer system as directed by the City Engineer. The cost of this work shall be the responsibility of the Contractor.
15. All precast concrete products shall be inspected at the location of manufacture. Approved precast concrete products will be stamped or have such identification noting that inspection has been conducted by the City of American Fork. Precast concrete products without proof of inspection shall not be approved for installation.
16. All trenches within public right-of-way shall be backfilled according to the approved construction drawings or securely plated during nonworking hours.
17. Trenches outside these areas shall be backfilled or shall be protected by approved temporary fencing or barricades during nonworking hours. Clean up shall follow closely behind the trenching operation.
18. All trees within the construction area not specifically designated for removal shall be preserved, whether shown or not shown on the approved construction drawings. Trees to be preserved shall be protected with high visibility fencing placed a minimum 15 feet from the tree trunk. Trees 6 – inches or greater at DBH (Diameter Breast Height) must be protected with fencing placed at the critical root zone or 15 feet, whichever is greater.
19. Trees not indicated on the approved construction drawings for removal may not be removed without prior approval of the Division of Engineering.
20. Permits to construct in the right-of-way of existing streets must be obtained from the City of American Fork, Public Works Department before commencing construction.
21. The Contractor shall be responsible for the condition of trenches within the right-of-way and public easements for a period of one year from the final acceptance of the work, and shall make any necessary repairs at no cost to the City.
22. Pavements shall be cut in neat, straight lines the full depth of the existing pavement, or as required by the City Engineer.
23. The replacement of driveways, handicapped ramps, sidewalks, bike paths, parking lot pavement, etc. shall be provided according to the approved construction drawings and the City of American Fork standard construction drawings.
24. Any modification to the work shown on drawings must have prior written approval by the City Engineer.
25. Traffic control and other regulatory signs shall comply with the Utah Department of Transportation Traffic Control guidelines and MUTCD Manual, current edition
26. Public street signs shall meet all City of American Fork specifications with lettering colored in white displayed over a green background.
27. Private street signs shall meet all City of American Fork specifications with lettering colored in white displayed over a blue background
28. Notify the City Engineer if rutting / pumping occurs during construction activity

UTILITIES

1. The following utilities are known to be located within the limits of this project:

COMPANY		CONTACT	PHONE
CENTURY LINK	– TELEPHONE	Melinda Duran	(435) 660-1719
PACIFIC CORP	– POWER	Teria Walker	(801) 756 1310
COMCAST	– CABLE	Elysia Valdez	(801) 201-0177
DOMINION ENERGY	– GAS	Greg Nielson	(801) 853-6522
AMERICAN FORK CITY	– WATER	Jay Brems	(801) 763-3060
AMERICAN FORK CITY	– SEWER	Ashton Hardy	(801) 763-3060
AMERICAN FORK CITY	– STORM	Ashton Hardy	(801) 763-3060
AMERICAN FORK CITY	– SWPPP	Harlan Nielson	(801) 763-3060
AMERICAN FORK CITY	– P.I.	Jay Brems	(801) 763-3060

2. The Contractor shall give notice of intent to construct to Blue Stake (telephone number 800_662-4111) at least 2 working days before start of construction.
3. The identity and locations of existing underground utilities in the construction area have been shown on the approved construction drawings as accurately as provided by the owner of the underground utility. The City of American Fork and the City Engineer assumes no responsibility for the accuracy or depths of underground facilities shown on the approved construction drawings. If damage is caused, the Contractor shall be responsible for repair of the same and for any resulting contingent damage.
4. Location, support, protection and restoration of all existing utilities and appurtenances, whether shown or not shown on the approved construction drawings, shall be the responsibility of the Contractor.
5. When unknown or incorrectly located underground utilities are encountered during construction, the Contractor shall immediately notify the owner and the City Engineer.

TRAFFIC CONTROL

1. Traffic control shall be furnished, erected, maintained, and removed by the Contractor according to Utah Department Of Transportation, Traffic Control guidelines or Manual of Uniform Traffic Control Devices, current edition.
2. All traffic lanes of public roadways shall be fully open to traffic from 7:00 AM to 9:00 AM and from 4:00 PM to 6:00 PM unless authorized differently by the City Engineer.
3. At all other hours the Contractor shall maintain minimum one _ lane two _ way traffic. Traffic circulation must be supervised by a Certified Flagger.
4. Steady _ burning, Type "C" lights shall be required on all barricades, drums, and similar traffic control devices in use at night.
5. Access from public roadways to all adjoining properties for existing residents or businesses shall be maintained throughout the duration of the project for mail, public water and sanitary sewer service, and emergency vehicles.
6. The Contractor shall provide a traffic control plan detailing the proposed maintenance of traffic procedures. The traffic control plan must incorporate any traffic control details contained herein.
7. The traffic control plan proposed by the Contractor must be approved by the City Engineer prior to construction.
8. Traffic Control requiring road closures and/ or detouring must be approved by the City Council.

EROSION AND SEDIMENT CONTROL

1. The Contractor or Developer is responsible for submitting a Notice of Intent (NOI) to be reviewed and approved by the Utah DWQ.
2. The NOI must be submitted to DWQ 45 days prior to the start of construction and may entitle coverage under the Utah DWQ General Permit for Storm Water Discharges associated with construction activity. A project location map must be submitted with the NOI.
3. A sediment and erosion control plan must be submitted to the City Engineer for approval if a sediment and erosion control plan has not already been included with the approved construction drawings. This plan must be made available at the project site at all times.
4. A UPDES Storm water Discharge Permit may be required. The Contractor shall be considered the Permittee.
5. The Contractor shall provide sediment control at all points where storm water runoff leaves the site, including waterways, overland sheet flow, and storm sewers.
6. Accepted methods of providing erosion/sediment control include but are not limited to: sediment basins, silt filter fence, aggregate check dams, and temporary ground cover. Hay or straw bales are not permitted.
7. The Contractor shall provide adequate drainage of the work area at all times consistent with erosion control practices.
8. Disturbed areas that will remain un-worked for 30 days or more shall be seeded or protected within seven calendar days of the disturbance.
9. Other sediment controls that are installed shall be maintained until vegetative growth has been established. The Contractor shall be responsible for the removal of all temporary sediment devices at the conclusion of construction but not before growth of permanent ground cover.

WATER LINE

1. All water line materials shall be provided and installed according to current specifications of the City of American Fork, Water Department.
2. All public water pipe with a diameter 3 inches to 8 inches shall be Ductile Iron, Class 53. Public water pipe 12 inches in diameter or larger shall be Ductile Iron, Class 54.
3. Only fire hydrants conforming to City of American Fork standards will be approved for use.
4. Public water lines shall be disinfected by the City of American Fork, Water Department. Requests for water line chlorination shall be made through the City of American Fork, Water Department. The cost for chlorination shall be paid for by the Contractor.
5. All water lines shall be disinfected according to City of American Fork Standard specifications. Special attention is directed to applicable sections of American Water Works Association specification C_651, particularly for flushing (Section 5) and for chlorinating valves and fire hydrants (Section 7).
6. Pressure testing shall be performed in accordance with the City of American Fork, Construction and Material Specifications. When water lines are ready for disinfection, the Contractor shall submit two (2) sets of "as-built" plans, and a letter stating that the water lines have been pressure tested and need to be disinfected, to the City of American Fork, Water Department.
7. The Contractor shall be responsible for all costs associated with the disinfection of all water lines construction per this plan. Pressure testing shall be performed in accordance with the City of American Fork, Construction and Material Specifications.
8. The Contractor shall paint all fire hydrants according to City of American Fork standards. The cost of painting fire hydrants shall be included in the contract unit price for fire hydrants.
9. No water taps or service connections (e.g., to curb stops or meter pits) may be issued until adjacent public water lines serving the construction site have been disinfected by the City of American Fork, Water Department and have been accepted by the Public Works Department.
10. The Contractor shall notify the City of American Fork, Water Department at (801) 763 3060 at least 24 hours before tapping into existing water lines.
11. All water main stationing shall be based on street centerline stationing.
12. All bends, joint deflections and fittings shall be backed with concrete per City of American Fork standards.
13. The Contractor shall give written notice to all affected property owners at least 1 working day but not more than 3 working days prior to any temporary interruption of water service. Interruption of water service shall be minimized and must be approved by the City Engineer.
14. All water lines shall be placed at a minimum depth of 4 feet measured from top of finished grade to top of water line. Water lines shall be set deeper at all points where necessary to clear existing or proposed utility lines or other underground restrictions by a minimum of 18 inches.

SANITARY SEWER

1. Sanitary sewage collection systems shall be constructed in accordance with the rules, regulations, standards and specifications of the City of American Fork, Public Works Department and the Utah Department of Health Code and Regulations.
2. The minimum requirements for sanitary sewer pipe with diameters 15 inches and smaller shall be reinforced concrete pipe ASTM C76 Class 3, or PVC sewer pipe ASTM D3034, SDR 35.
3. Pipe for 6-inch diameter house service lines shall be PVC pipe ASTM D3034, SDR 35. PVC pipe shall not be used at depths greater than 28 feet. Pipe materials and related structures shall be shop tested in accordance with City of American Fork Construction Inspection Division quality control requirements.
4. All manhole lids shall be provided with continuous self_sealing gaskets.
5. The approved construction drawings shall show where bolt_down lids are required.
6. Sanitary sewer manholes shall be precast concrete or as approved by the City Engineer and conform to the City of American Fork sanitary manhole standard drawing. Manhole lids shall include the word SEWER.
7. All PVC sewer pipes shall be deflection tested no less than 60 days after completion of backfilling operations.
7. At the determination of the City Engineer, the Contractor may be required to perform a TV inspection of the sanitary sewer system prior to final acceptance by the City. This work shall be completed by the Contractor at his expense.
8. Visible leaks or other defects observed or discovered during TV inspection shall be repaired to the satisfaction of the Engineer.
9. Roof drains, foundation drains, field tile or other clean water connections to the sanitary sewer system are strictly prohibited according to the American Fork Code of Ordinances.
10. All water lines shall be located at least 10 feet horizontally and 18 inches vertically, from sanitary sewers and storm sewers, to the greatest extent practicable.
11. Where sanitary sewers cross water mains or other sewers or other utilities, trench backfill shall be placed between the pipes crossing and shall be compacted granular material according to the city Standard Specifications. In the event that a water line must cross within 18 inches of a sanitary sewer, the sanitary sewer shall be concrete encased or consist of ductile iron pipe material.
12. Existing sanitary sewer flows shall be maintained at all times. Costs for pumping and bypassing shall be included in the Contractor's unit price bid for the related items.
13. The Contractor shall furnish all material, equipment, and labor to make connections to existing manholes.
14. All sewer lines shall be placed at a minimum depth of 4 feet measured from top of finished grade to top of sewer line.
15. All sanitary sewer mains and laterals must be inspected and approved by the city inspector before trench backing filling is completed.
16. All lateral connections shall insert-a-tee or WYE at ten o'clock positioning to the center of the main line and shall be encased in concrete after inspection is made

STORM SEWER

1. All storm water detention and retention areas and major flood routing swales shall be constructed to finish grade and hydro _ seeded and hydro _ mulched according to the City of American Fork Standard Specifications.
2. Where private storm sewers connect to public storm sewers, the last run of private storm sewer connecting to the public storm sewer shall be Reinforced Concrete Pipe conforming to ASTM Designation C76, Wall B, Class IV for pipe diameters 12 inches to 15 inches, Class III for 18 inches to 24 inch pipes, and 27 inches and larger pipe shall be Class II, unless otherwise shown on the approved construction drawings.
3. Granular backfill shall be compacted granular material according to American Fork City Standard Specifications.
4. All public storm sewers shall be Reinforced Concrete Pipe conforming to ASTM Designation C76, Wall B, Class IV for pipe diameters 12 inches to 15 inches, Class III for 18 inches to 24 inch pipes, and 27 inches and larger pipe shall be Class II, unless otherwise shown on the approved construction drawings.
5. Headwalls and end walls shall be required at all storm sewer inlets or outlets to and from storm water management facilities. Natural stone and/or brick approved by the City Engineer shall be provided on all visible headwalls and/or end walls surfaces.
6. Storm inlets or catch basins shall be channelized and have bicycle safe grates. Manhole lids shall include the word STORM.
7. Storm sewer outlets greater than 18 inches in diameter accessible from storm water management facilities or watercourses shall be provided with safety grates, as approved by the City Engineer.

STRIPING AND SIGNING

1. All striping must be done following Utah Department of Transportation guidelines and MUTCD Manual recommendations, current edition.
2. All signing must be done following MUTCD Manual recommendations, current edition.
3. Only sand-blasting is allowed for removal of existing striping.
4. Contractor is responsible for removal of conflicting existing striping.
5. Materials used for striping must comply with the Utah Department of Transportation standard specifications.

MAIL DELIVERY

1. The Contractor shall be responsible to ensure that US Mail delivery within the project limits is not disrupted by construction operations.
2. This responsibility is limited to relocation of mailboxes to a temporary location that will allow the completion of the work and shall also include the restoration of mailboxes to their original location or approved new location.
3. Any relocation of mailbox services must be first coordinated with the US Postal Service and the homeowner.
4. Before relocating any mailboxes, the Contractor shall contact the U.S. Postal Service and relocate mailboxes according to the requirements of the Postal Service.

USE OF FIRE HYDRANTS

1. The Contractor shall make proper arrangements with the American Fork City, Water Department for the use of fire hydrants when used for work performed under this project's approval.

Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South
Orem, Utah 84058
801-224-1252

Standard Notes

American Fork City Utah

REVISIONS

DATE	12-14-2018
SCALE	1"=30'
BY	BHT
TRACING NO.	L - 14436

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

SHEET No.
C - 1.1

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

Shoreline Industrial Park

American Fork City

Utah

NORTH
1" = 50'

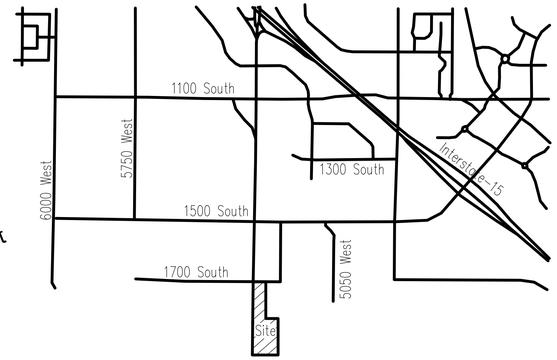
580 East Street

Existing Curb, Gutter & Sidewalk

Notify City Engineering if rutting/pumping occurs during construction activities.

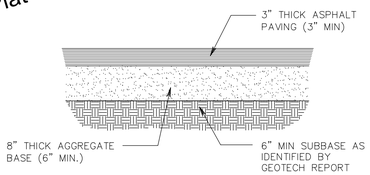
Timpanogos Special Service District

Lakeside Planned Industrial Park
Plat "B" Amended



Vicinity Map

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252



K ASPHALT PAVING
1" = 1'-0"

S 0°01'05" W 17.64'

S 89°58'46" W 2.79'

S 00°00'00" E 642.00'

Existing Fence

Lot 3
10.56 AC
460,023 sq.ft.

224.00'

N 90°00'00" E

Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.

N 90°00'00" E 38.1'

Install Dumpster Enclosure Per City standards 17.5.121. B

Install Curb Wall

Install 3' Waterway

Install Chain Link Fence

Install 2' Standard Curb & Gutter See detail Sheet C-10

Install 2' Curb & Gutter

S 00°00'02" W 659.26'

Phase 1 Limit Line

N 00°00'00" E 39.07'

Extend Berm to Basin

Install Rock Lined Detention Basin

465.14'

N 90°00'00" W

S 0°00'00" E 9.03'

N 90°00'00" E 105.46'

L = 61.87'
R = 1000.00'
Chord = 61.86'
Bearing = S 88°13'39" E

Install Curb Cut

Install Asphalt Surface

Install Dumpster Enclosure Per City standards 17.5.121. B

Proposed Building
175' x 120'
21,000 S.F.
FF 4497.00

Project Area
3.77 AC
164411 sq.ft.

Install Curbless Island

Install Crushed Concrete Surface

Temporary Retention Basin
Volume 75,193 cuft
Final Retention Basin
to be provided with phase 2
@ an alternate location.
Overflow will be directed to 40' Storm Drain & Access Easement & into Utah Lake

Phase 1 Limit Line

N 90°00'00" E 281.66'

Future Development

No Parking Area

Proposed Building
350' x 120'
42,000 S.F.
FF 4496.00

Install Wall Pack (Typical)

LOADING DOCK

Install 2' Curb & Gutter

Install 3' Waterway

Install 2' Fireaway Curb & Gutter See detail Sheet C-10

Install Asphalt Surface

Install Curbless Island

Construct Berm to Lead Water to Basin

Install Rock Lined Detention Basin

C1 Install Stop Sign

Install Section of Concrete

Existing Edge of Concrete

709.30'

622.03'

500 East Street

Existing Concrete Driveway

N 0°37'36" E 1331.42'

Existing Edge of Concrete

Road width will need to be completed for proper fire department access road width

S 86°27'18" E 24.04'

1700 South Street

American Eagle Ready Mix

Existing Building

Curve Data Table					
Curve	Radius	Length	Chord	Bearing	Delta
C1	100.50'	33.59'	33.44'	N 15°38'39" E	19°09'08"
C2	99.50'	30.92'	30.80'	S 16°19'03" W	17°48'20"

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Shoreline Industrial Park
Utah

Site Plan

American Fork City

Revisions
5-27-2024

Date	3-21-2024
Scale	1"=50'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 2.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

NORTH
1" = 50'

Note:
Proposed utilities below the historical groundwater elevation will require clay dams at 100' intervals to prevent the eventual erosion of the infrastructure and roadway due to groundwater flowing through backfill in our trenches.

Note:
All sanitary sewer mains and laterals must be inspected and approved by the city inspector before trench backfilling is completed

Note:
Project Benchmark: North $\frac{1}{4}$ Corner
Section 36 =4503.54 (Nad 27)
Northwest Corner Section 36= 4502.10

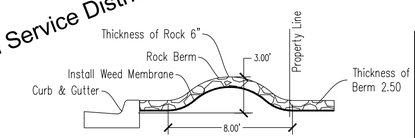
Notify City Engineering if rutting/pumping occurs during construction activities.

Note:
30" PI Ductile Iron with cathodic protection and V-Bio Wrap. All joints will be mechanical joints w/ appropriate type and connections. See detail Sheet C-12

Note:
No thrust blocks will be allowed in this location. Mechanical restraint joints are required at all joint/fittings where a thrust block would normally be installed for culinary and PI systems. See detail Sheet C-12

Note:
All sewer lateral connections shall be Insert-a-Tee or WYE at ten o'clock position to the center of the main line

Timpanogos Special Service District



Protection Berm Detail
Section "E-E"

Lakeside Planned Industrial Park
Plat "B" Amended

580 East Street

500 East Street

1700 South Street

American Eagle Ready Mix

Future Development

Existing Sewer Manhole
Rim 4496.44
Inv 4489.39

Existing Curb, Gutter & Sidewalk

Existing 8" Water Main

Existing SSMH
Rim 4494.70
FL IN = 4485.61
FL OUT = 4485.41

Existing Fire Hydrant

Existing SDMH
Rim 4494.42
FL 4490.92

Existing Street Light

Existing 267.71 LF 24" RCP @ 0.27%

Install 8" Topping TEE & Valve

Existing 8" PI Main

Existing 30" PI Main @ 0.40%

Existing 108.1 LF 8" PVC Sewer @ 0.40%

Install Ground Water Monitoring Station

Existing 1" Water Meter

Existing PI Box

Existing Fire Hydrant

Existing Catch Basin
Rim 4495.50
Inv 4492.50

Existing SDMH
Rim 4494.96
Inv 4491.88

Existing 30" PI Main

Existing Cross & Valves

Existing SDMH
Rim = 4496.71
FL IN = 4491.63

Existing SSMH #27
STA = 5+72.00
Rim = 4496.14
FL IN = 4487.13
FL IN = 4487.03
FL OUT = 4486.93

Existing 8x8 SD Box
STA = 5+86.18
STA 500 East 5+86.48
Rim = 4493.50
FL IN 60" = 4489.10
FL OUT 60" = 4489.10
FL In 15" 4492.00

Existing Fire Hydrant assembly

Existing Building

Install 3' Rock Berm See detail C-3, C-7

Install Dumpster Enclosure Per City standards 17.5.121. B

Install Curb Wall

Install 3' Waterway

Install Chain Link Fence

Install 2' Standard Curb & Gutter See detail Sheet C-10

Install 3' Rock Berm See detail C-3, C-7

Install 2' Curb & Gutter

Existing SDMH
Rim 4493.67
Inv 4488.73

10.00' P.U.E.

Install Curb Cut

Install 8" C-900 PVC Water Main

120.00'

Install Dumpster Enclosure Per City standards 17.5.121. B

Proposed Building
175' x 120'
21,000 S.F.

Install 12" Curb & Gutter

Install Wall Pack (Typical)

Install 3' Waterway

Install FDC

Install Fire Hydrant Assembly

Install 6" Water Main

Install 4" Sewer Lat. w/ Cleanout 5' Max. from foundation

Install 4" Fire Line

Existing Edge of Concrete

Existing 396.03 L.F. 8" PVC Pipe @ 0.40%

Existing Concrete Driveway

Existing 30" PI Main

Existing 60" Storm Drain Pipe

Install all Weather Drive Access

Existing 8x8 Concrete Box
STA = 9+88.11
Rim = 4495.00
FL IN = 4488.67
FL OUT = 4488.67

Install 8" Gate Valve See AF Standard detail #15.4 Sheet C-10

Existing Edge of Concrete

Existing 30" PI Main

Existing 4" & 6" PVC Conduit for PI System

Existing 8'x8' Concrete Box
STA = 12+91.87
Rim = 4494.46
FL IN = 4488.07
FL IN = 4488.07
FL OUT = 4488.07

Install 8" Gate Valve See AF Standard detail #15.4 Sheet C-10

Project Area
3.77 AC
164411 sq.ft.

Install 8" C-900 PVC Water Main

Existing 24" RCP Storm Drain Pipe to remain

No Parking Area

Install Wall Pack (Typical)

Proposed Building
350' x 120'
42,000 S.F.

Existing SSMH #26
STA = 9+72.03
Rim = 4496.12
FL IN = 4488.90
FL OUT = 4488.70

Install 2' Face-away Curb & Gutter See detail Sheet C-10

Install 4" Sewer Cleanout (Typ.)

Install 1" Water Meter (Typ.)

Install Fire Hydrant Assembly

20.00' SD Easement

Future 4" & 6" PVC Conduit for PI System

Install Crushed Concrete Surface

Install SSMH #28
STA = 12+55.48
Rim = 4494.90
FL OUT = 4490.02

Install 6" Water Main

Existing Fence

End of Future 30" PI Main

Future Cathodic Protection Station

10.00' P.U.E.

Lot 3
10.56 AC
460,023 sq.ft.

Future 30" PI Main (by others) w/ cathodic protection and Mechanical restraints (See details-sheet 11)

22.61'

7.39'

Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.

Install 3' Rock Berm See detail C-3, C-7

Extend Berm to Basin

Phase 1 Limit Line

Install Rock Lined Detention Basin

Install Nyoplast 3x3 Road & Highway Structure (See Detail Sheet 12.3)

Install Concrete Headwall w/ Trash Grate (See Detail Sheet 12.3)

Install Crushed Concrete Surface

Install Barracuda Max S4 (See Detail Sheet 12.3)

Temporary Retention Basin Volume 75,193 cuft Final Retention Basin to be provided with phase 2 @ an alternate location. Overflow will be directed to 40' Storm Drain & Access Easement & into Utah Lake

Future 30" PI Main (by others) w/ cathodic protection and Mechanical restraints (See details-sheet 11)

30" PI Easement

10.00' P.U.E.

Construct Berm to Lead Water to Basin

Install 30" TEE

End of Existing 30" PI Main

Existing Irrigation Valve

Existing 60" Storm Drain Pipe

Existing Edge of Concrete

Road width will need to be completed for proper fire department access road width

40.00 Storm Drain, PI, PUE & Access Easement in favor of Lot 1, Lot 2 and future Plot "B"

Existing 8x8 Concrete Box
STA = 16+92.72
Rim = 4493.28
FL IN = 4487.28
FL OUT = 4487.28

Install 2' Curb & Gutter

Existing 396.03 L.F. 8" PVC Pipe @ 0.40%

Existing 279.46 L.F. 8" Sewer PVC Pipe @ 0.40%

Install 4" Fire Line

Install C-900 8" Water Main

Existing 30" PI Main

Existing Edge of Concrete

Existing 30" PI Main

Existing 8x8 SD Box
STA = 5+86.18
STA 500 East 5+86.48
Rim = 4493.50
FL IN 60" = 4489.10
FL OUT 60" = 4489.10
FL In 15" 4492.00

Existing Fire Hydrant assembly

Curve Data Table

Curve	Radius	Length	Chord	Bearing	Delta
C1	100.50'	33.59'	33.44'	N 15°38'39" E	19°09'08"
C2	99.50'	30.92'	30.80'	S 16°19'03" W	17°48'20"

CAUTION!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. the information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.

Know what's below. 811
Call 811 before you dig.
BLUE STAKES OF UTAH
UTILITY NOTIFICATION CENTER, INC.
www.bluestakes.org
1-800-662-4111

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Shoreline Industrial Park

Utility Plan

American Fork City Utah

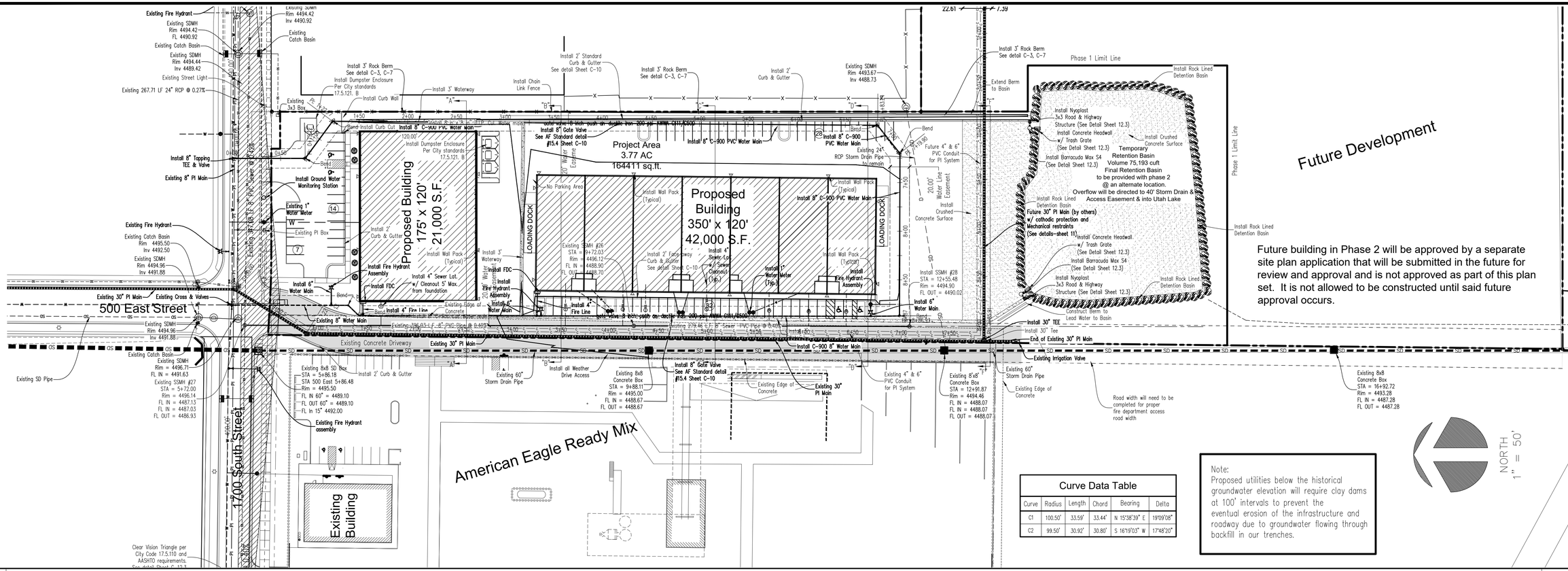
REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Revisions
5-27-2024

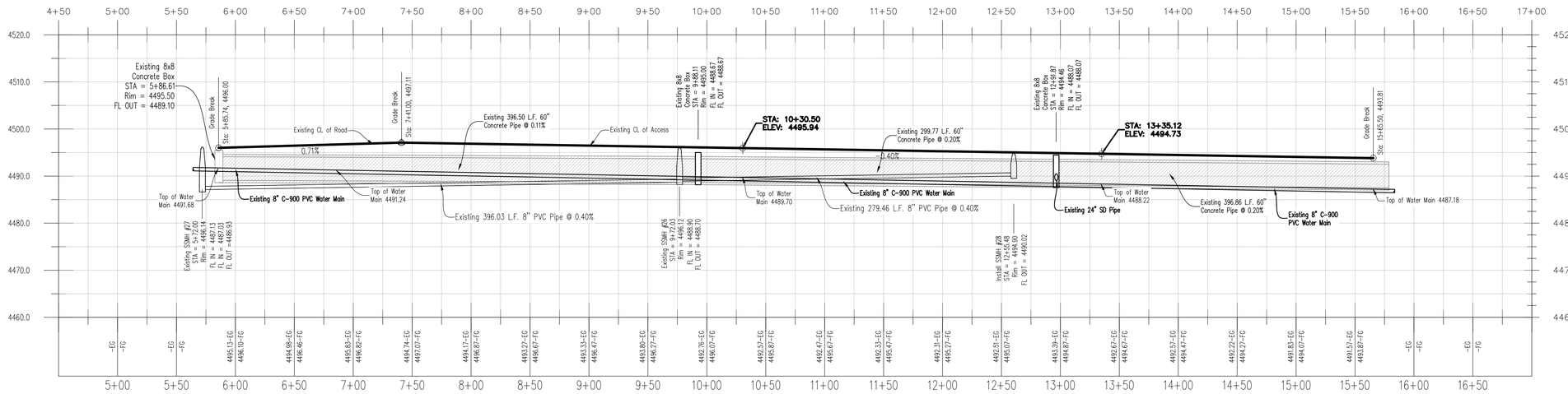
Date	3-21-2024
Scale	1"= 50'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 3.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



Culinary Water to maintain 4' cover from final grade



Know what's below. Call 811 before you dig.
BLUE STAKES OF UTAH
UTILITY NOTIFICATION CENTER, INC.
www.bluestakes.org
1-800-662-4111

CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. The information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.

GRAPHIC SCALE
50 0 25 50 100 200
(IN FEET)
1 inch = 50 ft.

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Shoreline Industrial Park

Street Improvement Plan
American Fork City Utah

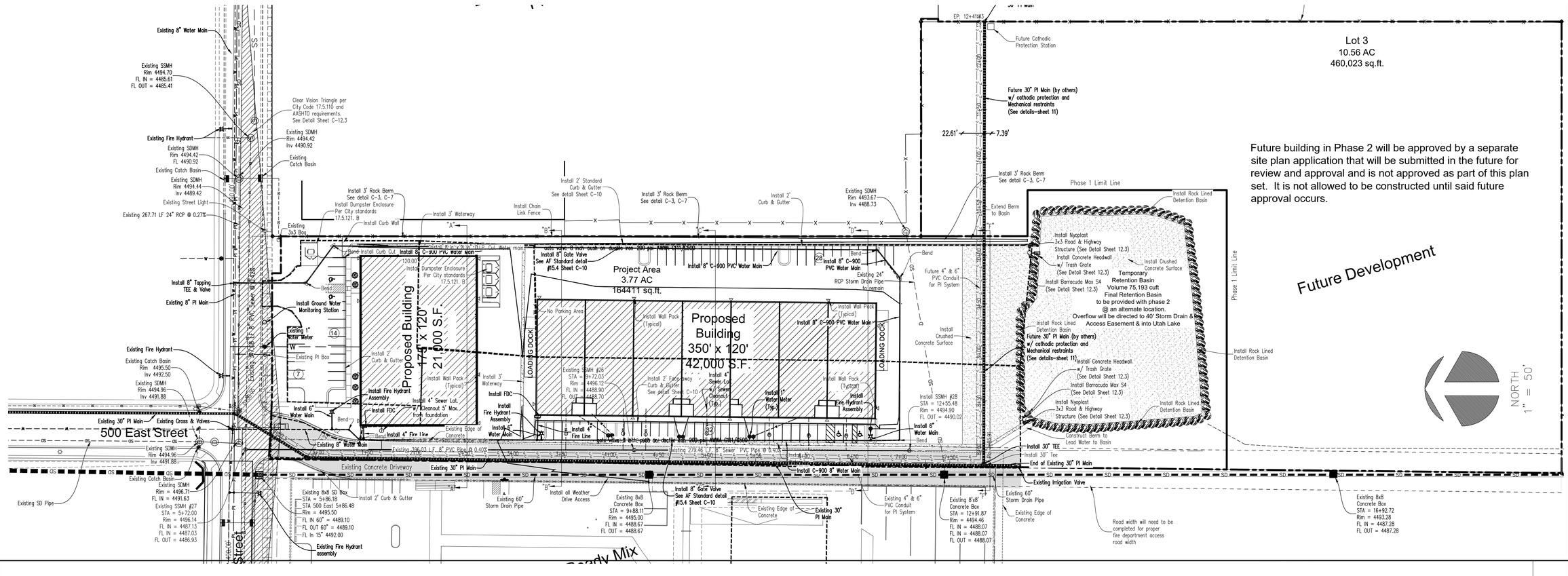
REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

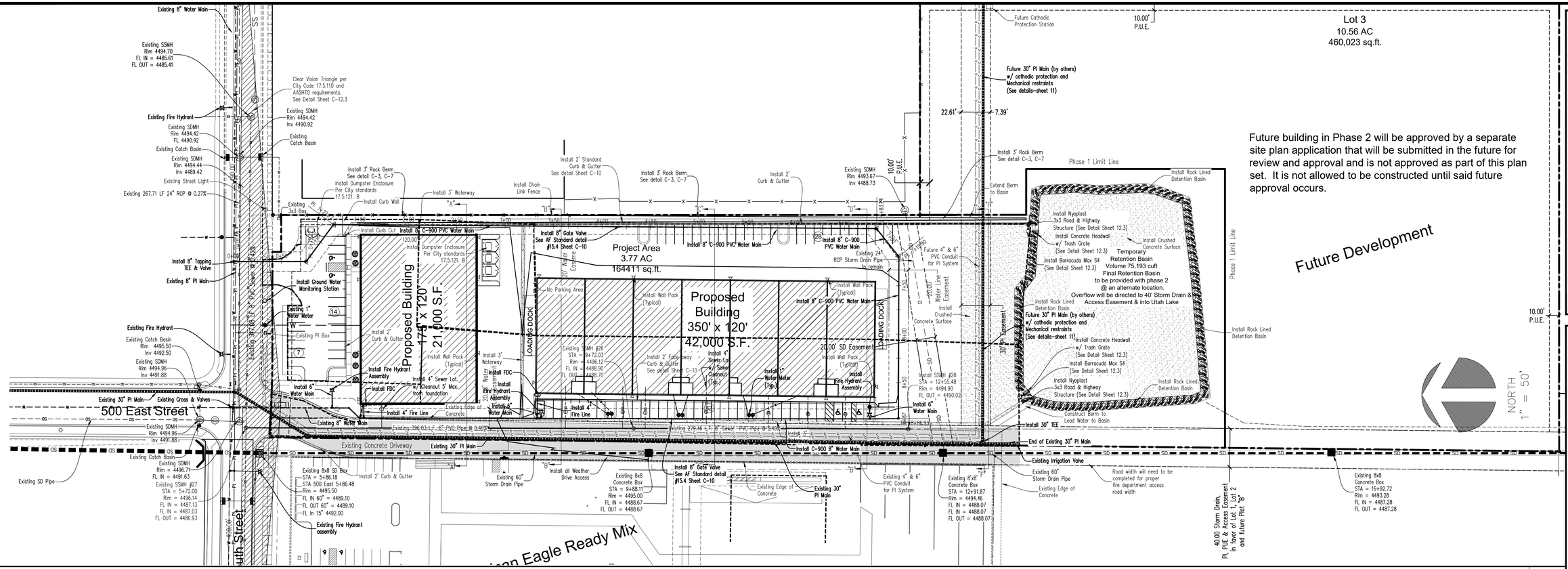
Revisions
5-27-2024

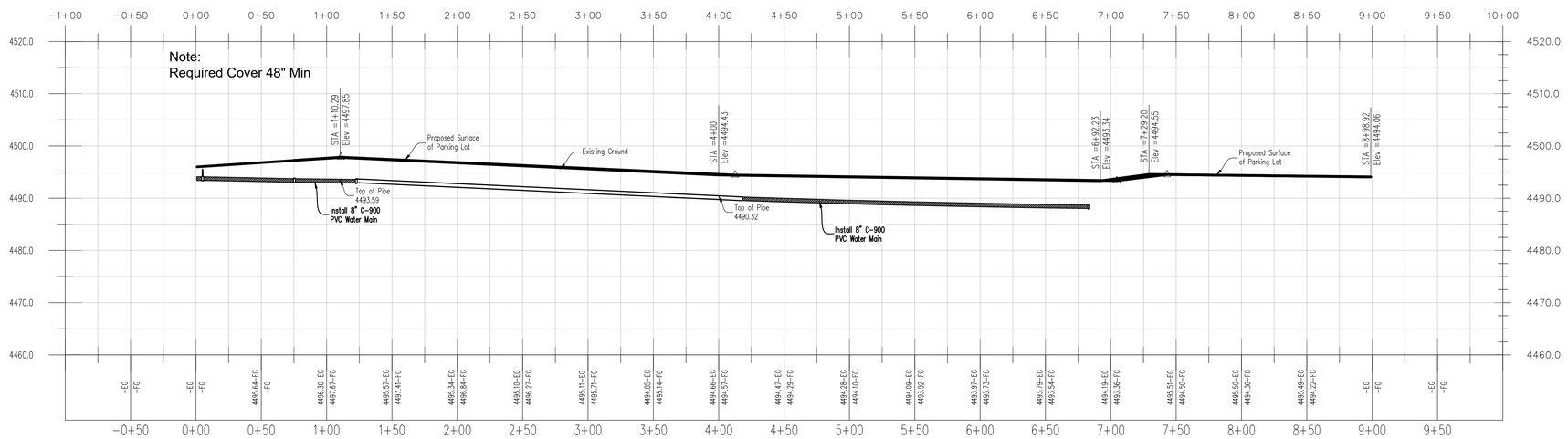
Date 3-21-2024
Scale 1"= 50'
By BHT
Tracing No. L - 14371

Sheet No. C - 4.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)


Existing 8" Water Main
Existing SSMH Rim 4494.70 FL IN = 4485.61 FL OUT = 4485.41
Clear Vision Triangle per City Code 17.5.110 and AASHTO requirements. See Detail Sheet C-12.3
Existing Fire Hydrant
Existing SSMH Rim 4494.42 Inv 4490.92
Existing Catch Basin
Existing SSMH Rim 4494.44 Inv 4489.42
Existing Street Light
Existing 267.71 LF 24" RCP @ 0.27%
Existing 3x3 Box
Install 3' Rock Berm See detail C-3, C-7
Install Dumpster Enclosure Per City standards 17.5.121. B
Install Curb Wall
Install 3' Waterway
Install Chain Link Fence
Install 2' Standard Curb & Gutter See detail Sheet C-10
Install 3' Rock Berm See detail C-3, C-7
Install 2' Curb & Gutter
Existing SSMH Rim 4493.67 Inv 4488.73
Future Cathodic Protection Station
EP: 12+41.83
Lot 3
10.56 AC
460,023 sq.ft.
Future 30" PI Main (by others) w/ cathodic protection and Mechanical restraints (See details-sheet 11)
22.61'
7.39'
Install 3' Rock Berm See detail C-3, C-7
Phase 1 Limit Line
Extend Berm to Basin
Install Rock Lined Detention Basin
Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.
Future Development
Install 8" Tapping TEE & Valve
Existing 8" PI Main
Install Ground Water Monitoring Station
Existing 1" Water Meter
Existing PI Box
Install 2' Curb & Gutter
Install Wall Pack (Typical)
Install Fire Hydrant Assembly
Install FDC
Install 4" Sewer Lat. Cleanout 5' Max. from foundation
Existing Edge of Concrete
Install 6" Water Main
Install 4" Fire Line
Proposed Building 174' x 120' 21,000 S.F.
Project Area 3.77 AC 164411 sq.ft.
Proposed Building 350' x 120' 42,000 S.F.
No Parking Area
LOADING DOCK
Install 8" C-900 PVC Water Main
Install 8" C-900 PVC Water Main
Existing SSMH #28 STA = 9+72.03 Rim = 4496.12 FL IN = 4488.90 FL OUT = 4488.70
Install 4" Sewer Lat. w/ Sewer Cleanout (Typ.)
Install 1" Water Meter (Typ.)
Install 4" Gate Valve-3 bolt-push on-ductile iron-200 psi-AWWA C515/C500
Existing 279.46 LF 8" Sewer PVC Pipe @ 0.40%
Existing 396.03 LF 8" PVC Pipe @ 0.40%
Existing 24" RCP Storm Drain Pipe to remain
Future 4" & 6" PVC Conduit for PI System
Install Crushed Concrete Surface
Install SSMH #28 STA = 12+55.48 Rim = 4494.90 FL OUT = 4490.02
Install 6" Water Main
Install Fire Hydrant Assembly
Install Nyoplast 3x3 Road & Highway Structure (See Detail Sheet 12.3)
Install Concrete Headwall w/ Trash Grate (See Detail Sheet 12.3)
Install Crushed Concrete Surface
Temporary Retention Basin Volume 75,193 cuft Final Retention Basin to be provided with phase 2 @ an alternate location. Overflow will be directed to 40' Storm Drain & Access Easement & into Utah Lake
Install Barracuda Mox S4 (See Detail Sheet 12.3)
Install Rock Lined Detention Basin
Future 30" PI Main (by others) w/ cathodic protection and Mechanical restraints (See details-sheet 11)
Construct Berm to Lead Water to Basin
Install 30" TEE
Install 30" Tee
End of Existing 30" PI Main
Existing Irrigation Valve
Existing 60" Storm Drain Pipe
Existing Edge of Concrete
Road width will need to be completed for proper fire department access road width
Existing 8x8 Concrete Box STA = 12+91.87 Rim = 4494.46 FL IN = 4488.07 FL IN = 4488.07 FL OUT = 4488.07
Existing 8x8 Concrete Box STA = 16+92.72 Rim = 4493.28 FL IN = 4487.28 FL OUT = 4487.28
Existing 30" PI Main
Existing 4" & 6" PVC Conduit for PI System
Existing 8" Water Main
Existing Cross & Valves
500 East Street
Existing SSMH Rim = 4496.71 FL IN = 4491.63
Existing SSMH #27 STA = 5+72.00 Rim = 4496.14 FL IN = 4487.13 FL IN = 4487.03 FL OUT = 4486.93
Existing SD Pipe
Existing Concrete Driveway
Existing 8x8 SD Box STA = 5+86.18 STA 500 East 5+86.48 Rim = 4495.50 FL IN 60" = 4489.10 FL OUT 60" = 4489.10 FL In 15" 4492.00
Existing Fire Hydrant assembly
Existing 60" Storm Drain Pipe
Install all Weather Drive Access
Existing 8x8 Concrete Box STA = 9+88.11 Rim = 4495.00 FL IN = 4488.67 FL OUT = 4488.67
Install 8" Gate Valve See AF Standard detail #15.4 Sheet C-10
Existing Edge of Concrete
Existing 30" PI Main
Existing Fire Hydrant
Existing Catch Basin
Existing SSMH Rim 4494.98 Inv 4491.88
Existing Catch Basin
Existing SSMH Rim 4495.50 Inv 4492.50
Existing SSMH Rim 4494.96 Inv 4491.88
Existing Fire Hydrant
Existing Catch Basin
Existing SSMH Rim 4494.96 Inv 4491.88
Existing 30" PI Main
Existing Cross & Valves
Existing 8" Water Main
Existing SSMH Rim = 4496.71 FL IN = 4491.63
Existing SSMH #27 STA = 5+72.00 Rim = 4496.14 FL IN = 4487.13 FL IN = 4487.03 FL OUT = 4486.93
Existing SD Pipe
Existing Concrete Driveway
Existing 30" PI Main
Existing 8x8 SD Box STA = 5+86.18 STA 500 East 5+86.48 Rim = 4495.50 FL IN 60" = 4489.10 FL OUT 60" = 4489.10 FL In 15" 4492.00
Existing Fire Hydrant assembly
Install 2' Curb & Gutter
Existing 60" Storm Drain Pipe
Install all Weather Drive Access
Existing 8x8 Concrete Box STA = 9+88.11 Rim = 4495.00 FL IN = 4488.67 FL OUT = 4488.67
Install 8" Gate Valve See AF Standard detail #15.4 Sheet C-10
Existing Edge of Concrete
Existing 30" PI Main
Existing 4" & 6" PVC Conduit for PI System
Existing 8" Water Main
Existing Cross & Valves
500 East Street





Note:
Proposed utilities below the historical groundwater elevation will require clay dams at 100' intervals to prevent the eventual erosion of the infrastructure and roadway due to groundwater flowing through backfill in our trenches.

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Water Line Plan

Shoreline Industrial Park

American Fork City Utah

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Revisions
5-27-2024

Date 3-21-2024
Scale 1"= 50'
By BHT
Tracing No. L - 14371

Sheet No.
C - 6.0

GRAPHIC SCALE
50 0 25 50 100 200
(IN FEET)
1 inch = 50 ft.

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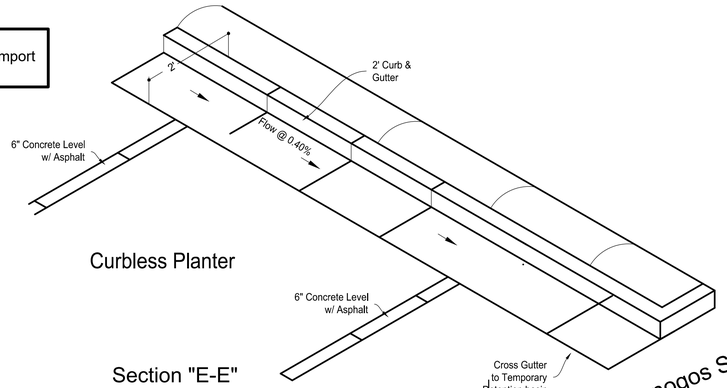
Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

Site grading as shown will require 46,721 cubic yards of import

All surface drainage will be contained on Site. Drainage disposal will be by percolation on site.

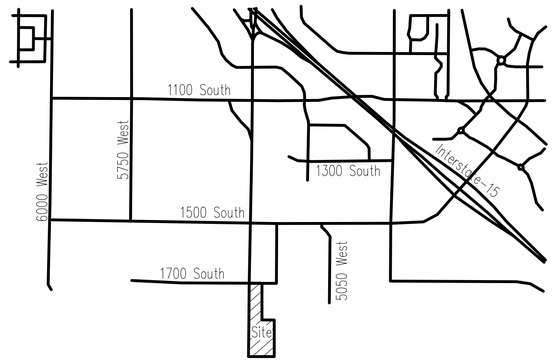
Note:
Proposed utilities below the historical groundwater elevation will require clay dams at 100' intervals to prevent the eventual erosion of the infrastructure and roadway due to groundwater flowing through backfill in our trenches.

NORTH
1" = 50'

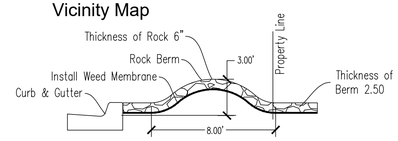


Curbless Planter

Section "E-E"



Vicinity Map



Protection Berm Detail
Section "E-E"

Timpanogos Special Service District

Lakeside Planned Industrial Park
Plat "B" Amended

580 East Street

500 East Street

1700 South Street

American Eagle Ready Mix

Existing Building

Proposed Building
175' x 120'
21,000 S.F.
FF 4497.00

Proposed Building
350' x 120'
42,000 S.F.
FF 4496.00

Project Area
3.77 AC
164411 sq.ft.

Lot 3
10.56 AC
460,023 sq.ft.

"Historic high groundwater elevation = 4488' (NGVD 29). See Geotechnical Study No. 12616 dated October 30, 2019." Calculations for the 100-year storm are in the drainage report.

Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.

Future Development

Sidewalls of pond and overflow on the Southwest side of pond shall tie into existing ground / contour elevations at time of construction.

Constructed berm will be constructed to ensure that 100 year storm event will be contained on subject property at time on construction

40.00 Storm Drain, PUE, & Access Easement in favor of Lot 1, Lot 2 and future Plat "B"

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Shoreline Industrial

Master Grading Plan

American Fork City Utah

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Revisions
5-27-2024

Date	3-21-2024
Scale	1"=50'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 7.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

NORTH
1" = 50'

Storm Water Pollution Prevention Plan-UPDES Permit Tracking Number UTR398714 & SWPPP template # UTH378714 under operator ESP Excavation, Inc. applies to this site.

Storm Water Management Note:

The disturbed area of the project = 10.56 Acres and therefore a State UPDES Storm Water General Permit from the Division of Water Quality is required. BMP's are required to be in place prior to any construction activity.

Construction within the 100-year flood plain requires a flood plain development permit.

Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.

A — Install Silt fencing or equivalent into existing downstream or recently installed storm drain inlet boxes and manholes to prevent silt build-up in the existing storm drain systems Refer to BMP IPC, IPE, IPG, IPS

B — Construct gravel stabilized construction entrance

C — Vehicle and equipment cleaning and concrete, drywall, etc. washdown area in sediment trap Refer to BMP: Vec and CWM

D — Portable Toilet Location

E — Install Earth Berm to protect adjacent property from runoff (Refer to BMP EB)

F — Excavated Material Location

NOTES:

This plan is to be used to control storm water runoff and reduce pollutants in storm water runoff until construction is complete and the subject site is in operation.

THE FOLLOWING BEST MANAGEMENT PRACTICES (BMP'S) ARE TO BE USED AS A PART OF THE CONSTRUCTION SITE STORM WATER MANAGEMENT PLAN FOR THIS SITE

1. Contaminated or Erodible Surface Areas (CESA) Prevent the discharge, pollutants, and storm water from contaminated or erodible surface areas by maintaining undisturbed site until construction of Phase II is completed.

2. Dust Controls (DC) Dust control measures including vegetation, seeding, etc. to stabilize site from wind erosion and reduce dust until site is completely developed.

3. Detention/Infiltration Device Maintenance (DIDM) Detention basin and accompanying facilities will be regularly maintained and corrected to promote effective storm drain pollutant removal for pond, piping, and boxes.

4. Material Storage (MS) Any hazardous, toxic, or chemical substances will be stored and controlled inside building areas. No control substances will be discharged into storm water or sewage systems.

5. Portable Toilets (PT) Temporary on site sanitary facilities will be furnished and maintained during all construction activity until on site facilities are constructed and usable.

6. Stabilized Construction Entrance and Wash Area (SCEWA) A stabilized pad of crushed stone located at the construction entrance as shown will be provided and maintained during all construction activities.

7. Spill Cleanup (SCU) All on site materials used in construction will be maintained on site to prevent harmful materials from entering off site receiving waters.

8. Silt Fencing (SF) placed on the perimeter of the project where there is potential runoff from site to adjacent streets, or properties.

Existing SDMH
Existing Catch Basin
Existing SDMH
Existing Catch Basin
Existing SDMH
Rim 4494.42
Inv 4490.92
Existing Catch Basin
Existing SDMH
Rim 4494.44
Inv 4489.42
Existing Street Light
Existing 3x3 Box
Not a construction entrance
Existing Building
Existing Catch Basin
Rim 4495.50
Inv 4492.50
Existing SDMH
Rim 4494.96
Inv 4491.88
Existing SDMH
Rim 4494.96
Inv 4491.88
Existing Catch Basin
Install all Weather Drive Access
LOADING DOCK
LOADING DOCK
20.00' SD Easement
30' PI Easement
10.00' P.U.E.
10.00' P.U.E.
10.00' P.U.E.
Lot 3
10.56 AC
460,023 sq.ft.
Install Nyoplast 3x3 Road & Highway Structure (See Detail Sheet 12.3)
Install Concrete Headwall w/ Trash Grate (See Detail Sheet 12.3)
Install Barracuda Max S4 (See Detail Sheet 12.3)
Temporary Retention Basin Volume 75-193 cuft Final Retention Basin to be provided with phase 2 @ an alternate location. Overflow will be directed to 40' Storm Drain & Access Easement & into Utah Lake
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Install Barracuda Max S4 (See Detail Sheet 12.3)
Install Nyoplast 3x3 Road & Highway Structure (See Detail Sheet 12.3)
40.00 Storm Drain, PI, PUE, & Access Easement in favor of Lot 1, Lot 2 and future Plat "B"

GRAPHIC SCALE
100 0 50 100 200 400
(IN FEET)
1 inch = 100 ft.

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Dunn Recycling
SWPPP / Erosion Control Plan
American Fork Utah

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

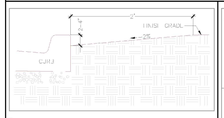
Revisions
5-27-2024

Date	3-21-2024
Scale	1" = 50'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 8.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

BMP: Curb Sedimentation Trap — CST



Description:
A temporary sediment trap formed by excavation behind the curb

Application:
- Interception of runoff containing sediment from the lot during construction
- Retain sediment on the lot during construction

Installation/Application Criteria:
- Excavate soil behind curb to a depth of 2-4 inches
- Create slope of 2% from finished grade to curb for a distance of approximately 2 feet

Limitations:
No limitations

Maintenance:
- Inspect after each rainfall event
- Remove accumulated sediment as it reaches 2/3 height of available storage

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☒ Control Internal Erosion

Dudley & Associates, Inc.
Engineers Planners Surveyors
353 East 1200 South
Orem, Utah

Targeted Pollutants
- ▣ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☑ Oil & Grease
- ☑ Floatable Materials
- ☐ Other Waste

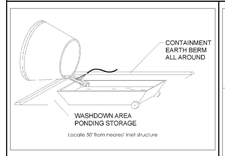
Pollutant Impact
- ▣ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual and Paradigm Engineering BMP Fact Sheet (Cut Back Curb)
Stormwater Discharge management from Construction Activities 2005

BMP: Concrete Waste Management — CWM



Description:
Prevent or reduce the discharge of pollutants to storm water from concrete waste by conducting washout off-site, performing on-site washout in a designated area, and training employees and subcontractors.

Application:
This technique is applicable to all types of sites.

Installation/Application Criteria:
- Store dry materials under cover, away from drainage areas.
- Minimize excess mixing of fresh concrete, mortar or cement on-site.
- Perform washout of concrete trucks off-site or in designated areas only.
- Do not wash out concrete trucks into storm drains, open ditches, streets, or streams.
- Do not allow excess concrete to be dumped on-site, except in designated areas.
- When washing concrete to remove fine particles and expose the aggregate, avoid creating runoff by draining the water within a bermed or level area. (See Earth Berm Barrier information sheet.)
- Train employees and subcontractors in proper concrete waste management.

Limitations:
- Off-site washout of concrete wastes may not always be possible.

Maintenance:
- Inspect subcontractors to ensure that concrete wastes are being properly managed.
- If using a temporary pit, dispose hardened concrete on a regular basis.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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353 East 1200 South
Orem, Utah

Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ▣ Other Waste

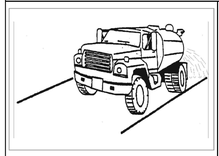
Pollutant Impact
- ▣ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Dust Controls — DC



Description:
Dust control measures are used to stabilize soil from wind erosion and reduce dust by construction activities.

Application:
Dust control is useful in any construction area where dust is generated. Street sweeping is limited to areas that are paved.

Installation/Application Criteria:
- Water may be sprayed on the ground surface to moisten dry soils, making it less susceptible to wind erosion. Repeat as needed. At no time should the site be irrigated to the point that runoff begins to flow.
- Two kinds of street sweepers are common: brush and vacuum. Vacuum sweepers are more efficient and work best when the area is dry.
- Mechanical equipment should be operated according to the manufacturers' recommendations and should be inspected regularly.

Limitations:
- Water sprayed from water trucks must be done at a rate such that the water is absorbed in the soil; if excessive amounts of water are used, it may run off, carrying soil with it.
- Street sweeping is labor and equipment intensive and may not be effective for all pollutants.

Maintenance:
- If excess water results from water spraying, dust-contaminated waters should not be allowed to run off site. Areas may need to be resprayed to keep dust from spreading.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☒ Minimize Disturbed Areas
- ☒ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Engineers Planners Surveyors
353 East 1200 South
Orem, Utah

Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

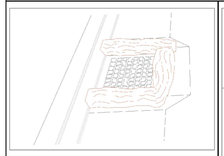
Pollutant Impact
- ▣ High Impact
- ☑ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Pleasant Grove City Stormwater Technical Manual and Best Management Practices
Stormwater Discharge management from Construction Activities 2005

BMP: Inlet Protection – Wattle — IP-W



Description:
Sediment barrier erected around storm drain inlet.

Application:
Construct at storm drainage inlets located down-gradient of areas to be disturbed by construction.

Installation/Application Criteria:
- Provide up-gradient sediment controls, such as silt fence during construction of inlet.
- When construction of curb and gutter and roadways is complete, install gravel filled or straw wattles around perimeter of inlet.

Limitations:
- Recommended maximum contributing drainage area of one acre
- Requires shallow slopes adjacent to inlet

Maintenance:
- Inspect inlet protection following storm event and at a minimum of once every 14 days
- Remove accumulated sediment when it reaches 4 inches in depth
- Look for bypassing or undercutting and repair or realign as needed

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control site Perimeter
- ☑ Control Internal Erosion

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Engineers Planners Surveyors
353 East 1200 South
Orem, Utah

Targeted Pollutants
- ▣ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☑ Oil & Grease
- ▣ Floatable Materials
- ☐ Other Waste

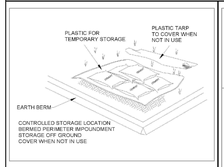
Pollutant Impact
- ☐ High Impact
- ☑ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Material Storage — MS



Description:
Controlled storage of on-site materials.

Application:
- Storage of hazardous, toxic, and all chemical substances.
- Any construction site with outside storage of materials.

Installation/Application Criteria:
- Designate a secured area with limited access as the storage location. Ensure no waterways or drainage paths are nearby.
- Construct compacted earthen berm (See Earth Berm Barrier Information Sheet), or similar perimeter containment around storage location for impoundment in the case of spills.
- Ensure all on-site personnel utilize designated storage area. Do not store excessive amounts of material that will not be utilized on site.
- For active use of materials away from the storage area ensure materials are not set directly on the ground and are covered when not in use. Protect storm drainage during use.

Limitations:
- Does not prevent contamination due to mishandling of products.
- Spill Prevention and Response Plan still required.
- Only effective if materials are actively stored in controlled location.

Maintenance:
- Inspect daily and repair any damage to perimeter impoundment or security fencing.
- Check materials are being correctly stored (i.e. standing upright, in labeled containers, tightly capped) and that no materials are being stored away from the designated location.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control site Perimeter
- ☐ Control Internal Erosion

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Engineers Planners Surveyors
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Orem, Utah

Targeted Pollutants
- ▣ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ▣ Other Waste

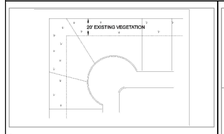
Pollutant Impact
- ▣ High Impact
- ☑ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Preservation of Existing Vegetation — PEV



Description:
Carefully planned preservation of existing vegetation minimizes the potential of removing or injuring existing trees, vines, shrubs and/or grasses that serve as erosion controls.

Application:
This technique is applicable to all types of sites. Areas where preserving vegetation can be particularly beneficial are floodplains, wetlands, stream banks, steep slopes, and other areas where erosion controls would be difficult to establish, install, or maintain.

Installation/Application Criteria:
- Clearly mark, flag or fence vegetation or areas where vegetation should be preserved.
- Prepare landscaping plans which include as much existing vegetation as possible and state proper care during and after construction.
- Define and protect with berms, fencing, signs, etc. a setback area from vegetation to be preserved.
- Propose landscaping plans which do not include plant species that compete with the existing vegetation.
- Do not locate construction traffic routes, spoil piles, etc. where significant adverse impact on existing vegetation may occur.

Limitations:
- Requires forward planning by the owner/developer, contractor and design staff.
- For sites with diverse topography, it is often difficult and expensive to save existing trees while grading the site satisfactorily for the planned development.
- May not be cost effective with high land costs.

Maintenance:
- Inspection and maintenance requirements for protection of vegetation are low.
- Maintenance of native trees or vegetation should conform to landscape plan specifications.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ▣ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

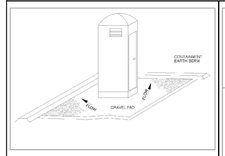
Pollutant Impact
- ▣ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Portable Toilets — PT



Description:
Temporary on-site sanitary facilities for construction personnel.

Application:
All sites with no permanent sanitary facilities or where permanent facility is too far from activities.

Installation/Application Criteria:
- Locate portable toilets in convenient locations throughout the site.
- Prepare level, gravel surface and provide clear access to the toilets for servicing and for on-site personnel.
- Construct earth berm perimeter (See Earth Berm Barrier Information Sheet), control for spill/protection leak.

Limitations:
- No limitations.

Maintenance:
- Portable toilets should be maintained in good working order by licensed service with daily observation for leak detection.
- Regular waste collection should be arranged with licensed service.
- All waste should be deposited in sanitary sewer system for treatment with appropriate agency approval.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ▣ Other Waste

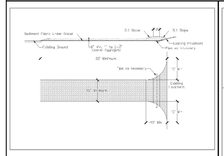
Pollutant Impact
- ▣ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Stabilized Construction Entrance — SCE



Description:
A stabilized pad of crushed stone located where construction traffic enters or leaves the site from or to paved surface.

Application:
At any point of ingress or egress at a construction site where adjacent traveled way is paved. Generally applies to sites over 2 acres unless special conditions exist.

Installation/Application Criteria:
- Clear and grub area and grade to provide maximum slope of 2%.
- Compact subgrade and place filter fabric if desired (recommended for entrances to remain for more than 3 months.
- Place coarse aggregate, 1 to 2-1/2 inches in size, to a minimum depth of 8 inches.

Limitations:
- Requires periodic top dressing with additional stones.
- Should be used in conjunction with street sweeping on adjacent public right-of-way.

Maintenance:
- Inspect daily for loss of gravel or sediment buildup.
- Inspect adjacent roadway for sediment deposit and clean by sweeping or shoveling.
- Repair entrance and replace gravel as required to maintain control in good working condition.
- Expand stabilized area as required to accommodate traffic and prevent erosion at driveways.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

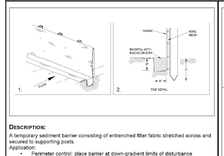
Pollutant Impact
- ☐ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Silt Fence — SF



Description:
A temporary sediment barrier consisting of entrenched filter fabric stretched across and secured to supporting posts.
Application:
- Perimeter control: place barrier at down-gradient limits of disturbance
- Sediment barrier: place barrier at toe of slope or soil stockpile
- Protection of existing waterways: place barrier at top of stream bank
- Inlet protection: place fence surrounding catchbasins

Installation/Application Criteria:
- Place posts 8 feet apart on center along contour (or use preassembled unit) and drive 2 feet minimum into ground. Excavate an anchor trench immediately up-gradient of posts.
- Attach filter fabric (14 gage min. with 6-inch openings) to upslope side of posts. Attach with heavy duty 1 inch long wire staples, tie wires or hog rings.
- Cut fabric to required width, unroll along length of barrier and drape over barrier. Secure fabric to mesh with twine, staples, or similar, with trailing edge extending into anchor trench.
- Backfill trench over filter fabric to anchor.

Limitations:
- Recommended maximum drainage area of 0.5 acre per 100 feet of fence
- Recommended maximum up-gradient slope length of 150 feet
- Recommended maximum uphill grade of 2:1 (50%)
- Recommended maximum flow rate of 0.5 cfs
- Ponding should not be allowed behind fence

Maintenance:
- Inspect immediately after any rainfall and at least daily during prolonged rainfall.
- Look for runoff bypassing ends of barriers or undercutting barriers.
- Repair or replace damaged areas of the barrier and remove accumulated sediment.
- Reanchor fence as necessary to prevent shortcutting.
- Remove accumulated sediment when it reaches ½ the height of the fence.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☒ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

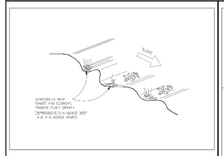
Pollutant Impact
- ☐ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Surface Roughening — SR



Description:
Rough preparation of working areas leaving depressions and uneven surface. Depressions should be done parallel to contours

Application:
Surface roughening is appropriate for all construction that will not be receiving impervious cover within 14 days and that will be exposed less than 60 days (seed areas to be open in excess of 60 days).

Installation/Application Criteria:
- Surface should be left in rough condition during initial earthwork activity.
- Surfaces that have become smoothed or compacted due to equipment traffic should be roughened by use of disks, spring harrows, teeth on front end loader, or similar, operating along the contours of the slope. Tracking (by crawler tractor driving up and down slope) may also be used to provide depressions parallel to contours.
- Avoid compaction of soils during roughening as this inhibits plant growth and promotes storm water runoff. Limit tracked machinery to sandy soil.
- Seed or mulch areas to be exposed in excess of 60 days.
- Employ dust controls. (See Dust Control Detail Sheet).

Limitations:
- Will not withstand heavy rainfall.
- Slopes steeper than 2:1 (50%) should be benched (see Benching Detail Sheet).

Maintenance:
- Inspect following any storm event and at a minimum of weekly.
- If erosion in the form of rills (small waterways formed by runoff) is evident, perform machine roughening of area.
- For vegetated slopes reseed areas that are bare or have been reworked.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

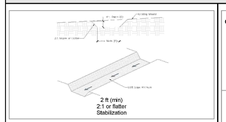
Pollutant Impact
- ☐ High Impact
- ☑ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Temporary Drains And Swales — TDS



Description:
Temporary drains and swales are used to divert off-site runoff around the construction site, divert runoff from stabilized areas around disturbed areas, and direct runoff into sediment.

Application:
Temporary drains and swales are appropriate for diverting any upslope runoff around unstabilized or disturbed areas of the construction site.
Prevent slope failures. Prevent damage to adjacent property. Prevents erosion and transport of sediments into water ways. Increases the potential for infiltration. Diverts sediment-laden runoff into sediment basins or traps.

Installation/Application Criteria:
- Temporary drainage swales will effectively convey runoff and avoid erosion if built properly
- Size temporary drainage swales using local drainage design criteria. A permanent drainage channel must be designed by a professional engineer (see the local drainage design criteria for proper design).
- At a minimum, the drainswale should conform to pre-development drainage patterns and capacities.
- Construct the drain/swale with an uninterrupted, positive grade to a stabilized outlet. Provide erosion protection or energy dissipation measures if the flow out of the drain or swale can reach an erosive velocity.

Limitations:
- Temporary drains and swales or any other diversion of runoff should not adversely impact upstream or downstream properties.
- Temporary drains and swales must conform to local floodplain management requirements.

Maintenance:
- Inspect weekly and after each rain.
- Repair any erosion immediately.
- Remove sediment which builds up in the swale and restricts its flow capacity.

Objectives:
- ☐ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☑ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☐ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

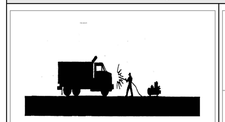
Pollutant Impact
- ☑ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $$$ Capital Costs
- $ O & M Costs
- $ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Vehicle And Equipment Cleaning — VEC



Description:
Prevent or reduce the discharge of pollutants to storm water from vehicle and equipment cleaning by using off-site facilities, washing in designated, contained areas only, eliminating discharges to the storm drain by infiltrating or recycling the wash water, and/or training employees and subcontractors.

Application:
•text here•

Installation/Application Criteria:
- Use off-site commercial washing businesses as much as possible. Washing vehicles and equipment outdoors or in areas where wash water flows onto paved surfaces or into drainage pathways can pollute storm water. If you wash a large number of vehicles or pieces of equipment, consider conducting this work at an off-site commercial business. These businesses are better equipped to handle and dispose of the wash waters properly. Performing this work off-site can also be economical by eliminating the need for a separate washing operation at your site.
- If washing must occur on-site, use designated, bermed wash areas to prevent wash water contact with storm water, creeks, rivers, and other water bodies. The wash area can be sloped for wash water collection and subsequent infiltration into the ground.
- Use as little water as possible to avoid having to install erosion and sediment controls for the wash area. Use phosphate-free biodegradable soaps. Educate employees and subcontractors on pollution prevention measures. Do not permit steam cleaning on-site. Steam cleaning can generate significant pollutant concentrations.

Limitations:
- Even phosphate-free, biodegradable soaps have been shown to be toxic to fish before the soap degrades.
- Sending vehicles/equipment off-site should be done in conjunction with Stabilized Construction Entrance.

Maintenance:
- Minimal, some berm repair may be necessary.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☒ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ▣ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

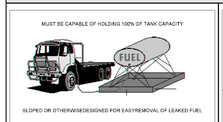
Pollutant Impact
- ☐ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $$$ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Vehicle And Equipment Fueling — VEF



Description:
Prevent fuel spills and leaks, and reduce their impacts to storm water by using off-site facilities, fueling in designated areas only, enclosing or covering stored fuel, implementing spill controls, and training employees and subcontractors.

Installation/Application Criteria:
- Use off-site fueling stations as much as possible. Fueling vehicles and equipment where fuel may spill/leak onto paved surfaces or into drainage pathways can pollute storm water. If you fuel a large number of vehicles or pieces of equipment, consider using an off-site fueling station. These businesses are better equipped to handle fuel and spills properly. Performing this work off-site can also be economical by eliminating the need for a separate fueling area at your site.
- If fueling must occur on-site, use designated areas, located away from drainage courses, to prevent the runon of storm water and the runoff of spills. Discourage topping-off of fuel tanks.
- Always use secondary containment, such as a drain pan or drop cloth, when fueling to catch spills/leaks. Place a stockpile of spill cleanup materials where it will be readily accessible. Use adsorbent materials on small spills rather than hosing down or burying the spill. Remove the adsorbent materials promptly and dispose of properly.
- Carry out all Federal and State requirements for any stationary above ground storage tanks.(40 CF Sub. J) Avoid mobile fueling of mobile construction equipment around the site; rather, transport the equipment to designated fueling areas. With the exception of tracked equipment such as bulldozers and perhaps forklifts, most vehicles should be able to travel to a designated area with little lost time. Train employees and subcontractors in proper fueling and cleanup procedures.

Limitations:
- Sending vehicles/equipment off-site should be done in conjunction with Stabilized Construction Entrance.

Maintenance:
- Keep ample supplies of spill cleanup materials on-site.
- Inspect fueling areas and storage tanks on a regular schedule.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ☑ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

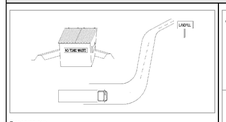
Pollutant Impact
- ☐ High Impact
- ☐ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $$$ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Waste Disposal — WD



Description:
Controlled storage and disposal of solid waste generated by construction activities.

Application:
All construction sites.

Installation/Application Criteria:
- Designate one or several waste collection areas with easy access for construction vehicles and personnel. Ensure no waterways or storm drainage inlets are located near the waste collection areas.
- Construct compacted earthen berm (See Earth Berm Barrier Information Sheet), or similar perimeter containment around collection area for impoundment in the case of spills and to trap any windblown trash.
- Use water tight containers with covers to remain closed when not in use. Provide separate containers for different waste types where appropriate and label clearly.
- Ensure all on site personnel are aware of and utilize designated waste collection areas properly and for intended use only (e.g. all toxic, hazardous or recyclable materials should be properly disposed of separately from general construction waste).
- Arrange for periodic pickup, transfer and disposal of collected waste at an authorized disposal location. Include regular Porto-potty service in waste management activities.

Limitations:
- On-site personnel are responsible for correct disposal of waste.

Maintenance:
- Discuss waste management procedures at progress meetings.
- Collect site trash daily and deposit in covered containers at designated collection areas.
- Check containers for leakage or inadequate covers and replace as needed.
- Randomly check disposed materials for any unauthorized waste (e.g. toxic materials).
- During daily site inspections check that waste is not being incorrectly disposed of on-site (e.g. burial, burning, surface discharge, discharge to storm drain) erosion at driveways.

Objectives:
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control Site Perimeter
- ☐ Control Internal Erosion

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Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ▣ Toxic Materials
- ☐ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

Pollutant Impact
- ▣ High Impact
- ☑ Medium Impact
- ☐ Low or Unknown Impact

Implementation Requirements
- $$$ Capital Costs
- $ O & M Costs
- $$ Maintenance
- $ Training

Relative Costs
- $$$ High
- $$ Medium
- $ Low

Adapted from Salt Lake County BMP Manual
Stormwater Discharge management from Construction Activities 2005

BMP: Spill Clean-Up — SCU



Description:
Practices to clean-up leak-ages/spillage of on-site materials that may be harmful to receiving waters.

Application:
All sites.

General:
- Store controlled materials within a storage area.
- Educate personnel on proper workhorse and clean-up techniques.
- Designate an Emergency Coordinator responsible for employing preventative practices and for providing spill response.
- Maintain a supply of clean-up equipment on-site and post a list of local response agencies with phone numbers.

Methods:
- Clean-up spills/leaks immediately and remediate cause.
- Use as little water as possible. NEVER HOSE DOWN OR BURY SPILL CONTAMINATED MATERIAL.
- Use rags or absorbent material for clean-up. Excavate contaminated soils. Dispose of clean-up material and soil as hazardous waste.
- Document all spills with date, location, substance, volume, actions taken and other pertinent data.
- Contact local Fire Department and State Division of Environmental Response and Remediation (Phone #801-536-4100) for any spill of reportable quantity.

Objectives
- ☒ Housekeeping Practices
- ☐ Contain Waste
- ☐ Minimize Disturbed Areas
- ☐ Stabilize Disturbed Areas
- ☐ Protect Slopes/Channels
- ☐ Control site Perimeter
- ☐ Control Internal Erosion

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Adapted from Salt Lake County BMP Fact Sheet

Targeted Pollutants
- ☐ Sediment
- ☐ Nutrients
- ■ Toxic Materials
- ☒ Oil & Grease
- ☐ Floatable Materials
- ☐ Other Waste

■ High Impact
☒ Medium Impact
☐ Low or Unknown Impact

Implementation Requirements
- $ Capital Costs
- $ O&M Costs
- $ Maintenance
- ■ Training

■ High ☒ Medium ☐ Low

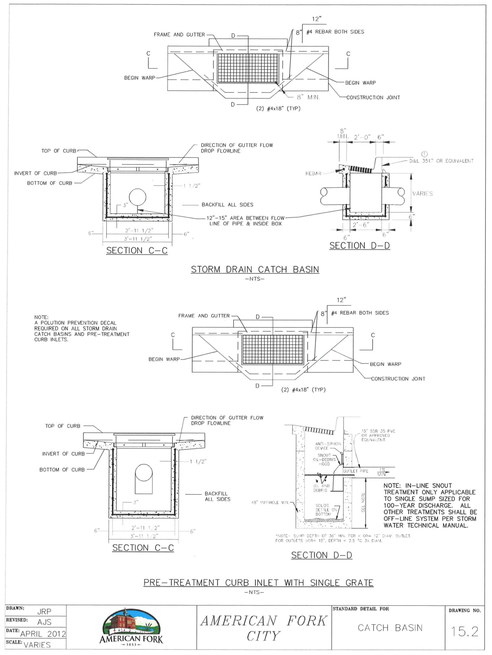
EROSION CONTROL NOTES:

1. CONTROLLING SEDIMENT TRANSPORT AND PREVENTING AND/OR CORRECTING PROBLEMS ASSOCIATED WITH EROSION AND RUNOFF PROCESSES THAT COULD OCCUR BOTH DURING AND AFTER PROJECT CONSTRUCTION WILL BE CLOSELY MONITORED. PERIODIC MAINTENANCE AND INSPECTION OF SEDIMENT CONTROL DEVICES WILL BE SCHEDULED. PARTICULAR ATTENTION SHALL BE GIVEN TO EXISTING DRAINAGE PATTERNS THAT RUN THROUGH DISTURBED AREAS AND OVER EXTREME SLOPES. THESE PATTERNS WILL BE IDENTIFIED TO ISOLATE PROBLEM AREAS WHERE WATER WILL CONCENTRATE. PROVISIONS SHALL BE MADE TO CHANNEL RUNOFF AWAY FROM NEW OR EXISTING IMPROVEMENTS TO PREVENT UNDERMINING AND GENERAL SITE EROSION. THESE PROVISIONS SHALL BE STABILIZED AND SHALL REMAIN IN PLACE UNTIL THE PERMANENT STORM DRAINAGE FACILITIES ARE INSTALLED AND FUNCTIONAL.

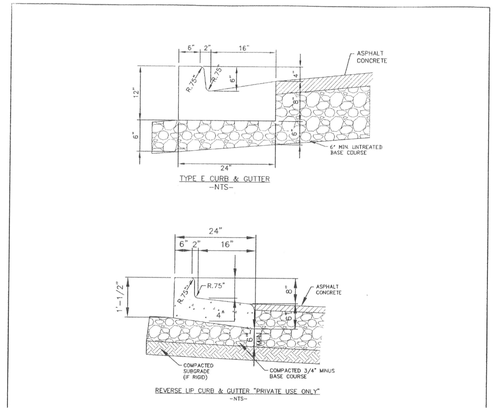
2. EROSION CONTROL - A STORMWATER POLLUTION PREVENTION PLAN (SWPPP) HAS BEEN PREPARED IN ACCORDANCE WITH THE UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMIT FOR CONSTRUCTION, OUTLINING HOW EROSION AND SILTATION WILL BE CONTROLLED. A NOTICE OF INTENT (NOI) HAS BEEN SUBMITTED TO OBTAIN THE UPDES CONSTRUCTION PERMIT. A COPY OF THE PLAN MUST BE ON SITE AT ALL TIMES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING THE PLAN AND INSTALLING AND MAINTAINING THE EROSION CONTROL FACILITIES WITH EACH PHASE OF WORK. SHOULD SILT LEAVE THE SITE OR EROSION OCCURS, IT WILL BE THE CONTRACTOR'S RESPONSIBILITY TO TAKE CORRECTIVE ACTION AND REPAIR ANY DAMAGE CAUSED BY THE SILT OR EROSION IMMEDIATELY. ALL COSTS ASSOCIATED WITH THE MODIFICATION AND APPROVAL OF THE PLAN WILL BE THE RESPONSIBILITY OF THE CONTRACTOR.

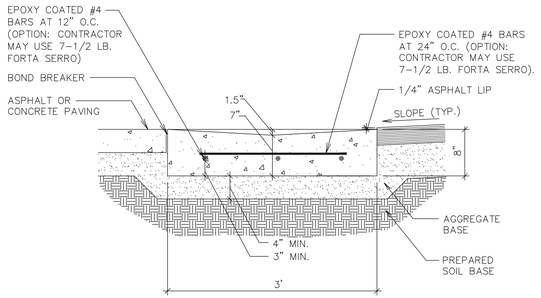
3. BEFORE CONSTRUCTION BEGINS, THE LIMITS OF DISTURBANCE (LOD) BOUNDARY SHALL BE STAKED ON SITE AND APPROVED BY THE OWNER'S REPRESENTATIVE AND THE ENGINEER.

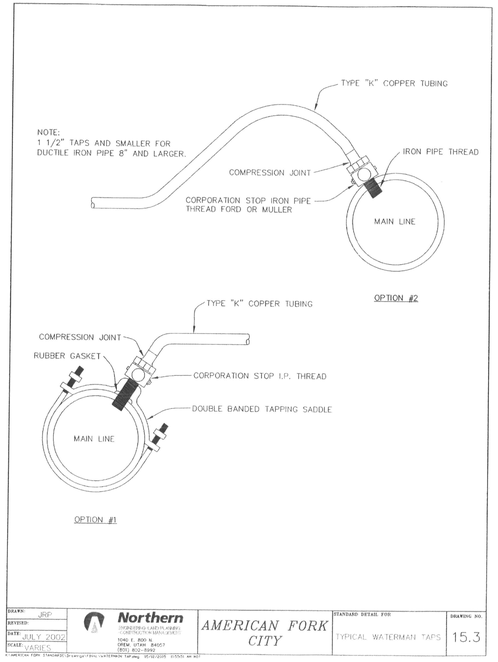
4. EXCAVATION AND EMBANKMENT OPERATIONS SHALL PROCEED IN SUCH A MANNER SO THAT FINISHING OF SLOPES, INCLUDING REVEGETATION SHALL BE ACCOMPLISHED AS SOON AS POSSIBLE AFTER ROUGH GRADING. ALL SLOPES 2:1 OR FLATTER SHALL BE SCARIFIED WITH HEAVY EQUIPMENT, LEAVING TRACKS PERPENDICULAR TO THE SLOPE. SLOPES OVER 1:



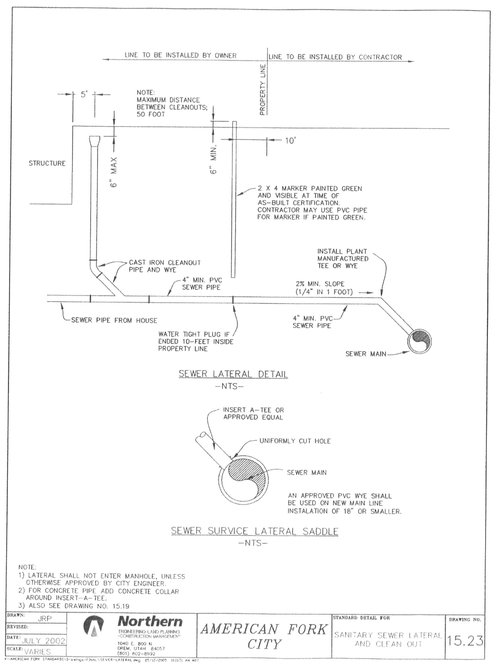
DRAWN: JRP	AMERICAN FORK CITY	STANDARD DETAIL FOR: CATCH BASIN	DRAWING NO. 15.2
REVISED: AJS			
DATE: APRIL 2012			
SCALE: VARIES			





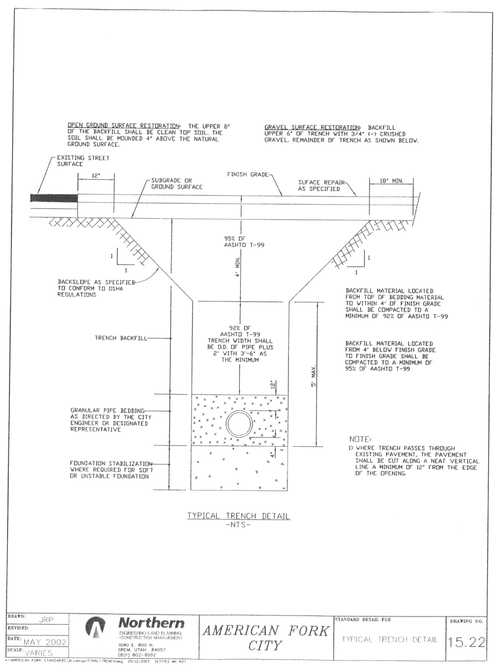


DRAWN: JRP	Northern	AMERICAN FORK CITY	STANDARD DETAIL FOR: TYPICAL WATERMAN TAPS	DRAWING NO. 15.3
REVISED:				
DATE: JULY 2002				
SCALE: VARIES				

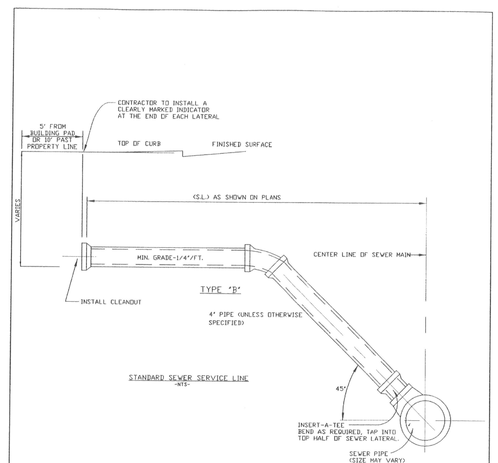


NOTE:
1) LATERAL SHALL NOT ENTER MANHOLE, UNLESS OTHERWISE APPROVED BY CITY ENGINEER.
2) FOR CONCRETE PIPE ADD CONCRETE COLLAR AROUND INSERT-A-TEE.
3) ALSO SEE DRAWING NO. 15.19

DRAWN: JRP	Northern	AMERICAN FORK CITY	STANDARD DETAIL FOR: SANITARY SEWER LATERAL AND CLEAN OUT	DRAWING NO. 15.23
REVISED:				
DATE: JULY 2002				
SCALE: VARIES				

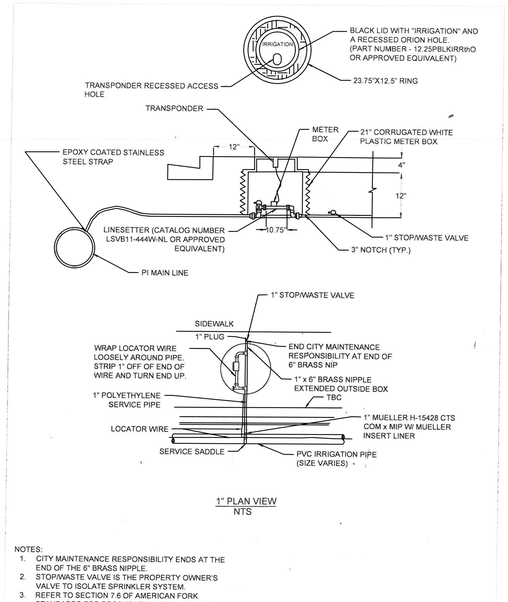


DRAWN: JRP	Northern	AMERICAN FORK CITY	STANDARD DETAIL FOR: TYPICAL TRENCH DETAIL	DRAWING NO. 15.22
REVISED:				
DATE: MAY 2002				
SCALE: VARIES				



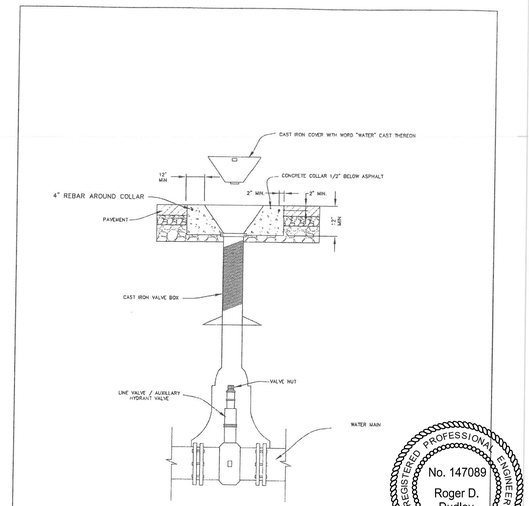
NOTE: ALSO SEE DRAWING NO. 15.23

DRAWN: JRP	Northern	AMERICAN FORK CITY	STANDARD DETAIL FOR: STANDARD SEWER SERVICE LINE	DRAWING NO. 15.19
REVISED:				
DATE: MAY 2002				
SCALE: VARIES				



NOTES:
1. CITY MAINTENANCE RESPONSIBILITY ENDS AT THE END OF THE 6" BRASS NIPPLE.
2. STOP/WASTE VALVE IS THE PROPERTY OWNER'S VALVE TO ISOLATE SPRINKLER SYSTEM.
3. REFER TO SECTION 7.6 OF AMERICAN FORK STANDARDS FOR SECONDARY WATER SERVICE LATERAL CONNECTION.

DRAWN: MVU	AMERICAN FORK CITY PUBLIC WORKS 275 EAST 200 NORTH (801) 763-9030	STANDARD DETAIL FOR: 1" PI METER PLACEMENT	DRAWING NO. 15.5D
REVISED:			
DATE: MAY 2019			
SCALE: VARIES			



DRAWN: JRP	Northern	AMERICAN FORK CITY	STANDARD DETAIL FOR: VALVE BOX DETAIL	DRAWING NO. 15.4
REVISED:				
DATE: JULY 2002				
SCALE: VARIES				

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South 801-224-1252
Orem, Utah 84058

Detail Sheet

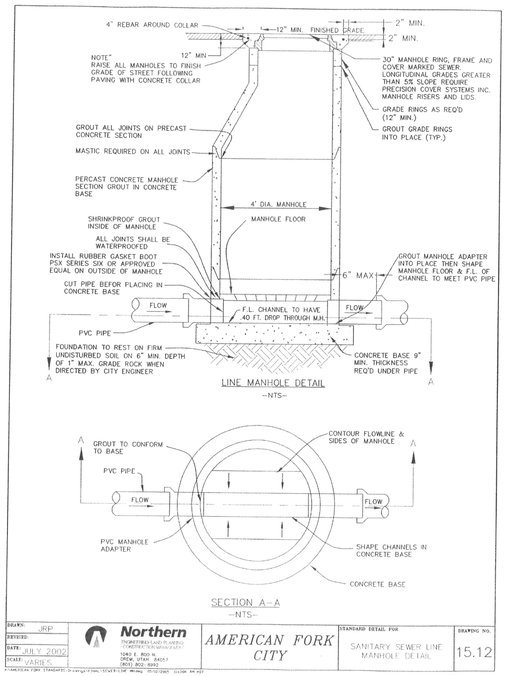
American Fork City Utah

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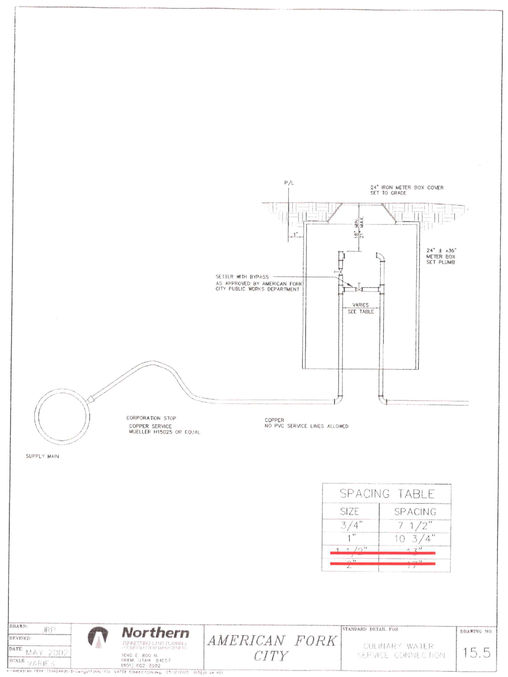
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TRACING NO.
L - 14371

SHEET No.
C - 10.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

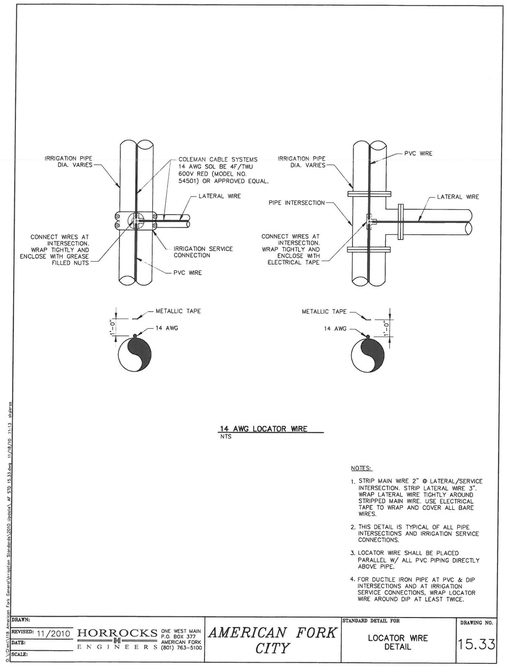


DRAWN: JRP	Northern Engineering Land Planning Construction Management 1040 E. 800 N. Orem, Utah 84057 (801) 802-8092	AMERICAN FORK CITY	STANDARD DETAIL FOR: SANITARY SEWER LINE MANHOLE DETAIL
REVISED:			DRAWING NO. 15.12
DATE: JULY 2002			
SCALE: VARIES			



SPACING TABLE	
SIZE	SPACING
3/4"	7 1/2"
1"	10 3/4"
1 1/2"	1'-4"
2"	1'-7"

DRAWN: JRP	Northern Engineering Land Planning Construction Management 1040 E. 800 N. Orem, Utah 84057 (801) 802-8092	AMERICAN FORK CITY	STANDARD DETAIL FOR: CULINARY WATER SERVICE CONNECTION
REVISED:			DRAWING NO. 15.5
DATE: MAY 2002			
SCALE: VARIES			

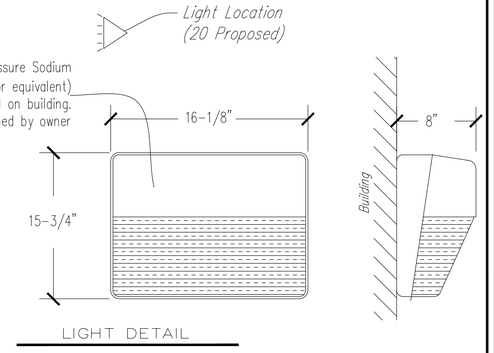


14 AWG LOCATOR WIRE
NTS

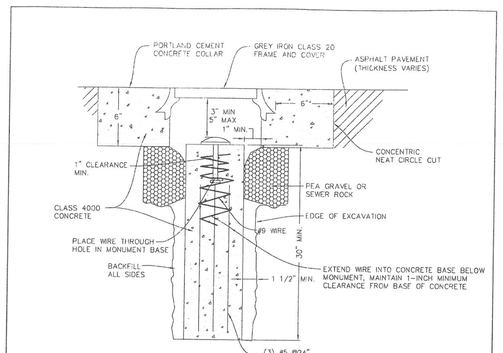
NOTES:

1. STRIP MAIN WIRE 2" Ø LATERAL/SERVICE INTERSECTION. STRIP LATERAL WIRE 3". WRAP LATERAL WIRE TIGHTLY AROUND STRIPPED MAIN WIRE. USE ELECTRICAL TAPE TO WRAP AND COVER ALL BARE WIRES.
2. THIS DETAIL IS TYPICAL OF ALL PIPE INTERSECTIONS AND IRRIGATION SERVICE CONNECTIONS.
3. LOCATOR WIRE SHALL BE PLACED PARALLEL W/ ALL PVC PIPING DIRECTLY ABOVE PIPE.
4. FOR DUCTILE IRON PIPE AT PVC & DIP INTERSECTIONS AND AT IRRIGATION SERVICE CONNECTIONS, WRAP LOCATOR WIRE AROUND DIP AT LEAST TWICE.

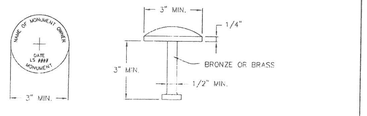
DRAWN:	HORROCKS ENGINEERS ONE WEST MAIN P.O. BOX 377 AMERICAN FORK (801) 763-5100	AMERICAN FORK CITY	STANDARD DETAIL FOR: LOCATOR WIRE DETAIL
REVISED: 11/2010			DRAWING NO. 15.33
DATE:			
SCALE:			



LIGHT DETAIL



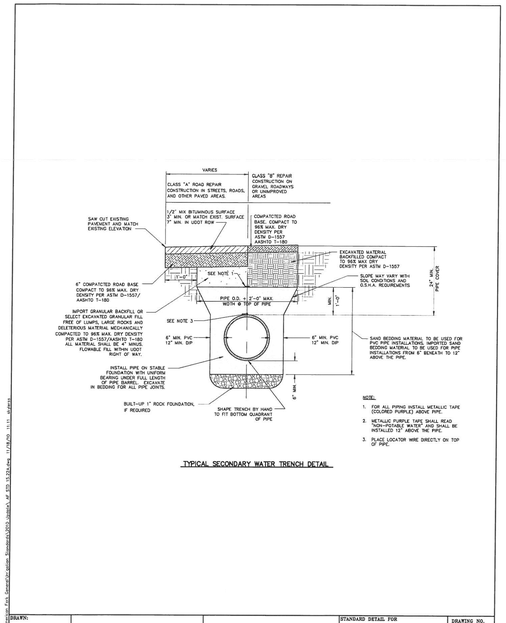
NOTE: A MINIMUM OF TWO (2) SUBDIVISION MONUMENTS ARE REQUIRED ON EACH SUBDIVISION PLAT. THE LINE OF SIGHT BETWEEN EACH SUBDIVISION MONUMENT SHALL NOT BE OBSTRUCTED WITH PROPOSED BUILDINGS OR BUILDING ENVELOPES.



CAP PLAN
-NTS-

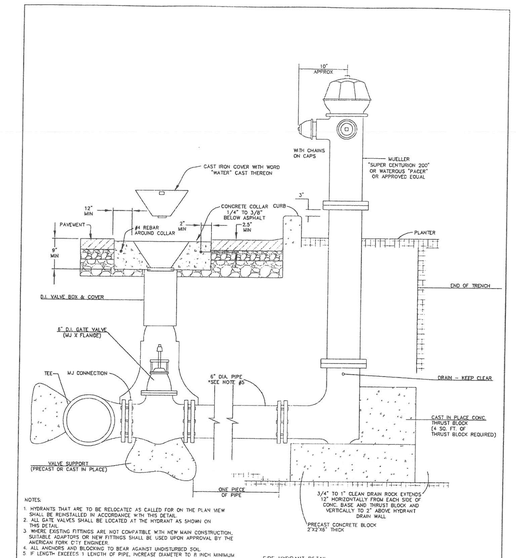
CAP SECTION
-NTS-

DRAWN: JRP	Northern Engineering Land Planning Construction Management 1040 E. 800 N. Orem, Utah 84057 (801) 802-8092	AMERICAN FORK CITY	STANDARD DETAIL FOR: TYPE "A" MONUMENT CAP AND BASE
REVISED:			DRAWING NO. 15.28
DATE: MAY 2002			
SCALE: VARIES			



TYPICAL SECONDARY WATER TRENCH DETAIL

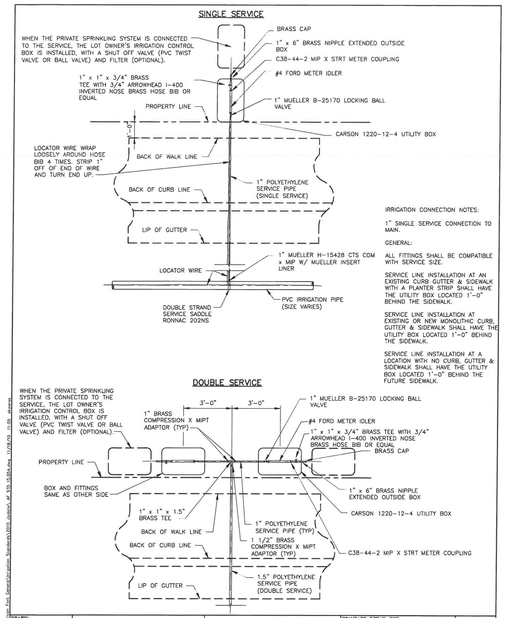
DRAWN:	HORROCKS ENGINEERS ONE WEST MAIN P.O. BOX 377 AMERICAN FORK (801) 763-5100	AMERICAN FORK CITY	STANDARD DETAIL FOR: TYPICAL SECONDARY WATER TRENCH DETAIL
REVISED: 11/2010			DRAWING NO. 15.22A
DATE:			
SCALE:			



NOTES:
1. HYDRANTS THAT ARE TO BE RELOCATED AS CALLED FOR ON THE PLAN VIEW SHALL BE REINSTALLED IN ACCORDANCE WITH THIS DETAIL.
2. ALL GATE VALVES SHALL BE LOCATED AT THE HYDRANT AS SHOWN ON THIS DETAIL.
3. WHERE EXISTING FITTINGS ARE NOT COMPATIBLE WITH NEW MAIN CONSTRUCTION, SUITABLE ADAPTORS OR NEW FITTINGS SHALL BE USED UPON APPROVAL BY THE AMERICAN FORK CITY ENGINEER.
4. ALL ANTHORPS AND BLOCKING TO BEAR AGAINST UNDISTURBED SOIL.
5. IF LENGTH EXCEEDS 1 LENGTH OF PIPE, INCREASE DIAMETER TO 8 INCH MINIMUM

FIRE HYDRANT DETAIL
-NTS-

DRAWN: JRP	Northern Engineering Land Planning Construction Management 1040 E. 800 N. Orem, Utah 84057 (801) 802-8092	AMERICAN FORK CITY	STANDARD DETAIL FOR: FIRE HYDRANT
REVISED:			DRAWING NO. 15.6
DATE: MAY 2002			
SCALE: VARIES			



DRAWN:	HORROCKS ENGINEERS ONE WEST MAIN P.O. BOX 377 AMERICAN FORK (801) 763-5100	AMERICAN FORK CITY	STANDARD DETAIL FOR: SINGLE/DOUBLE SERVICE CONNECTION FOR SECONDARY WATER
REVISED: 11/2010			DRAWING NO. 15.5A
DATE:			
SCALE:			

Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South
Orem, Utah 84058
801-224-1252

Detail Sheet

American Fork City Utah

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L - 14371

SHEET No.
C - 11.0

No. 147089
Roger D. Dudley
REGISTERED PROFESSIONAL ENGINEER
STATE OF UTAH
3-21-2024

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

dipra Ductile Iron Pipe Research Association

Strength and **Durability** for Life®

EMAIL SIGN UP

Thrust Restraint Design for Ductile Iron Pipe

Type of Fitting: Cross

Diameter of Run: 30 in.

Diameter of Branch: 30 in.

Run Length (first joints): 18 ft.

Laying Condition: Type 3

Soil Designation: Silt 2

Depth Cover: 4 ft.

Design Pressure: 165 psi

Safety Factor: 1.5

Tee
Unit Frictional Force: 947 lbs/ft
Unit Bearing Resistance: 2,216 lbs/ft
Required restrained length for Tee Branch:
L = 190 ft
Polyethylene Encased L = 271 ft

Thrust Restraint Spec. 30" PI

dipra Ductile Iron Pipe Research Association

Strength and **Durability** for Life®

EMAIL SIGN UP

Thrust Restraint Design for Ductile Iron Pipe

Type of Fitting: Tee

Diameter of Run: 8 in.

Diameter of Branch: 8 in.

Run Length (first joints): 18 ft.

Laying Condition: Type 3

Soil Designation: Silt 2

Depth Cover: 4 ft.

Design Pressure: 165 psi

Safety Factor: 1.5

Tee
Unit Frictional Force: 234 lbs/ft
Unit Bearing Resistance: 510 lbs/ft
Required restrained length for Tee Branch:
L = 49 ft
Polyethylene Encased L = 69 ft

Thrust Restraint Spec. 8" PI & Culinary

Installation

As with any corrosion-protection system, proper installation is important to the success of V-Bio® Enhanced Polyethylene Encasement. Care taken during installation is as important as the installation method itself. The ANSI/AWWA C105/A21.5 Standard outlines four methods for installing polyethylene sleeving. Modified Method A, Methods A and B use polyethylene tubes, and Method C uses polyethylene sheets.



Method A

In this method one length of polyethylene tube, overlapped at the joints, is used for each length of pipe.



Method B

A length of polyethylene tube is used for the barrel of the pipe and separate lengths of polyethylene tube or sheets are used for the joints.



Modified Method A

This is a modification of Method A, which uses one length of polyethylene tube for each length of pipe. In this modified method, one end of the tube is secured to the spigot prior to making the joint. The 12-inch overlap is achieved when bringing the remaining film over the joint from the previous length of pipe.



Method C

Each section of pipe is completely wrapped with a flat polyethylene sheet. When installing polyethylene, be sure to repair all small rips, tears, or other tube damage with adhesive tape.

If the polyethylene is badly damaged, repair the area with a sheet of polyethylene and seal the edges of the repair with adhesive tape. Carefully backfill the pipe according to the procedures found in the AWWA C600 standard for the installation of Ductile Iron Pipe. To prevent damage during backfilling, allow adequate slack in the tube at the joint. Backfill should be free of cinders, rocks, boulders, nails, sticks, or other damaging materials.

V -Bio Encasement Detail

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

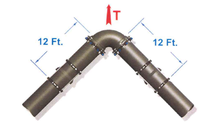
Project Name: Lakeland Industrial
Project Notes:

EBAA IRON
Built Stronger, Lasts Longer.
www.ebaa.com • contact@ebaa.com • 800.433.1716

RESTRAINT LENGTH VALUES

Fitting Type	Pipe Material	Soil Type	Safety Factor	Trench Type	Depth of Bury	Test Pressure	Nominal Size	Bend Angle	Branch Size	Length Along Run	Reduced Size	Lowside Depth	Restraint Length	Restraint Length 2
Horizontal Bend	Ductile Iron	GM	1.5	3	4 Ft.	30 PSI	30 In.	90°					12 Ft.	

Site Name: AF
Site Notes:



ALL JOINTS WITHIN THE CALCULATED LENGTH MUST BE RESTRAINED.
IF YOUR DISTANCE BETWEEN FITTINGS IS LESS THAN OR EQUAL TO THE CALCULATED RESTRAINT LENGTH, RESTRAIN ALL JOINTS BETWEEN THOSE FITTINGS.

Defined Variables

H =	4	Depth of Bury
S_f =	1.5	Safety Factor
P =	30	Internal Pressure
θ =	90	Bend Angle

Pipe Derived Variables

A =	804.25	Cross Sec. Area of Pipe
D =	2.67	Outside Pipe Diameter
W_p =	123	Weight of Pipe
W_w =	329	Weight of Water in Pipe

Defined Variables

f_c =	0.00	Cohesion Modifier Coefficient
c =	0	Cohesion of Soil
$f_ø$ =	1.00	Friction Angle Modifier
Φ =	30	Internal Friction Angle of Soil
γ =	110	Soil Density
K_m =	0.60	Trench Compaction Modifier

Calculations for Horizontal Bend

$W_f = \gamma \cdot D \cdot H =$	1174.800	Normal Force Due to Soil
$W = 2W_f + W_p + W_w =$	2801.600	Normal Force Acting on Pipeline
$K_p = \tan^2(\pi / 180) \cdot (45 + (\Phi / 2)) =$	3.000	Rankin Passive Pressure Coeff
$H_c = H + (D / 2) =$	5.335	Depth From Surface to Pipe Center
$\sigma_p = \gamma \cdot H_c \cdot K_p + 2c\sqrt{K_p} =$	1760.550	Horizontal Passive Soil Pressure
$A_c = \pi \cdot (D / 2) =$	4.194	Area Based on Half of Circumference
$R_p = K_m \cdot \sigma_p \cdot D =$	2820.401	Bearing Resistance of Pipelines
$F_r = A_c \cdot (f_c \cdot c + W \cdot \tan(\pi / 180) \cdot f_ø \cdot \Phi) =$	1617.505	Frictional Resitance
$L = (S_f \cdot P \cdot A \cdot \tan(\pi / 180) \cdot (\theta / 2)) / (F_r + (R_p / 2)) =$	11.953	Minimum Restrained Length

Note:
30" PI Ductile Iron with cathodic protection and V-Bio Wrap. All joints will be mechanical joints w/ appropriate type and connections.

Note:
No thrust blocks will be allowed in this location. Mechanical restraint joints are required at all joint/fittings where a thrust block would normally be installed for culinary and PI systems.

HARCO JOINT RESTRAINT
SELECTION GUIDE

Tables below list number of adjacent pipe joints to be restrained for basic fitting configurations. These were calculated using the joint restraint calculator available at www.harcofittings.com for a set of assumptions that will envelop many applications. Check that the assumptions listed below meet or exceed your application. If your situation is not covered by the assumptions or a more refined restraint scheme is desired, use the restraint calculator at www.harcofittings.com.

Bends, Reducers, Caps, and Valves

Size	Bends				Reductions			Dead Ends
	11¼	22½	45	90	1	2	3	
2	—	—	—	—	—	—	—	—
2½	—	—	—	—	—	—	—	1
3	—	—	—	—	—	—	1	1
4	—	—	—	—	—	1	1	2
6	—	—	—	1	1	2	2	3
8	—	—	—	1	1	3	3	4
10	—	—	—	1	1	2	3	4
12	—	—	—	1	2	2	3	4
14	—	—	—	1	1	2	3	4
16	—	—	—	2	1	2	3	5

Bends & Caps/Dead Ends: Restrain all bells and the adjacent joints listed in table (both directions for bends).



Reducers: Restrain large bell and adjacent joints listed in table.

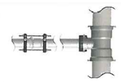


Valves: Treat as Dead End. Use Valve Restraint and restrain adjacent upstream joints listed in table. If closed valve can have pressure from either side, restrain adjacent joints both sides per table.



Restraint Calculation Assumptions:
Maximum pressure: 125psi
Restrained Lengths: Each restraint connects 20' length of pipe
Soil Type: Type GM, gravel-sand-silt mixture
Minimum Burial Depths: 2"–2½", 18" cover; 3"–8", 24" cover; 10"–12", 30" cover; 14"-16", 36" cover
Trench Type: 3, pipe bedded in 4 inches minimum loose soil. Backfill lightly consolidated to top of the pipe.
Safety Factor: 1.5

Tees - Branch bell only restrained: Use joint restraints ONLY on branch. Number below is number of 20' joints to be restrained with pipe to pipe restraints



Run Size	Tees (Branch Size)									
	2	2½	3	4	6	8	10	12	14	16
2										
2½										
3										
4	—									
6	—	1	1							
8	—	1	1							
10	—	—	1	1						
12	—	—	1	1						
14	—	—	1	1	1					
16	—	—	1	1	1					

Use chart below for more economical method

Tees - Branch bell only restrained: Use joint restraint on ALL three branches of tee. Number below is number of 20' joints to be restrained with pipe to pipe restraints in branch only direction



Run Size	Tees (Branch Size)									
	2	2½	3	4	6	8	10	12	14	16
2	—	—	—	1						
2½	—	—	—	—						
3	—	—	—	—						
4		—	—	—	—					
6				—	—	1	1			
8				—	—	—	—	2	2	3
10				—	—	—	1	1	1	2
12				—	—	—	—	1	1	2
14					—	—	—	—	—	1
16					—	—	—	—	—	1

Use Joint Restraint Calculator

Use chart above

Tees - With Run Reductions: Restrain all bells and adjacent branch joints noted. Treat run reduction as a reducer. Restrain as noted adjacent joints to large bell per reducer table.



HARRINGTON CORPORATION • P.O. BOX 10335 • LYNCHBURG, VIRGINIA 24506-0335
PHONE: 434-845-7094 • FAX: 434-845-8562 • E-MAIL: sales@harcofittings.com • WEB: www.harcofittings.com

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Engineers Planners Land Surveyors
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Orem, Utah 84058
801-224-1252

Detail Sheet

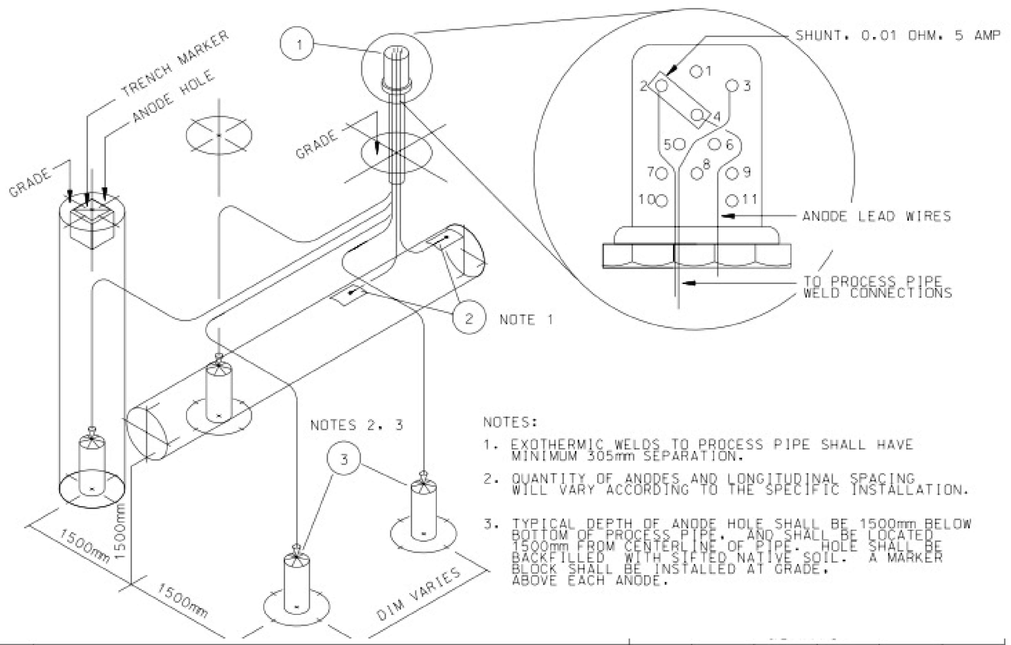
American Fork City Utah

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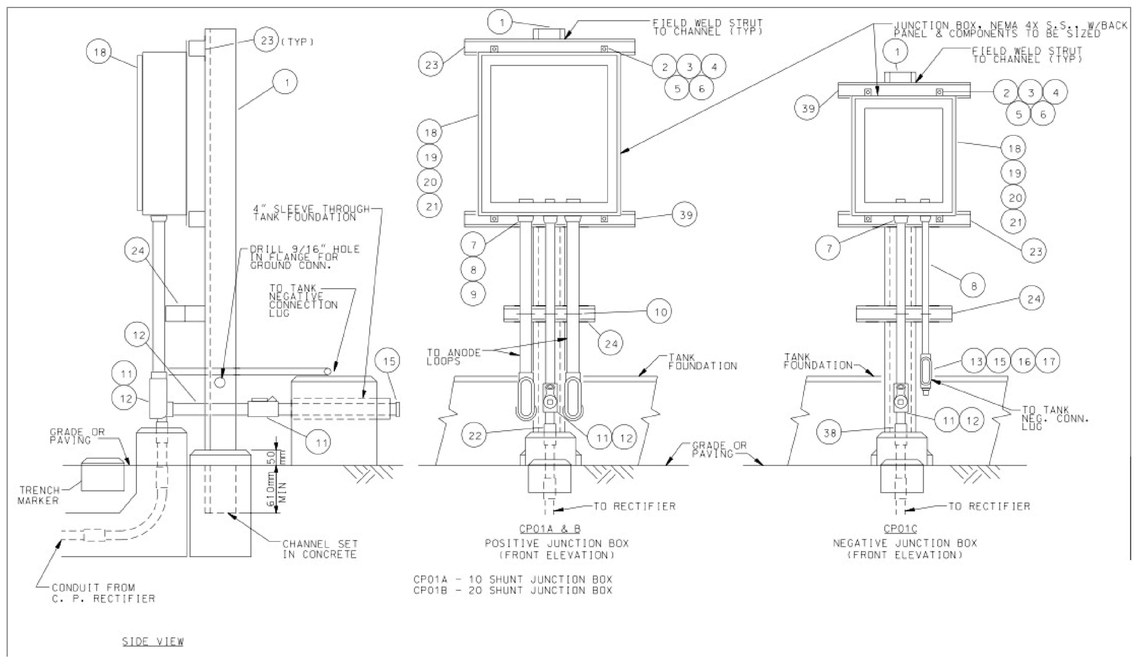
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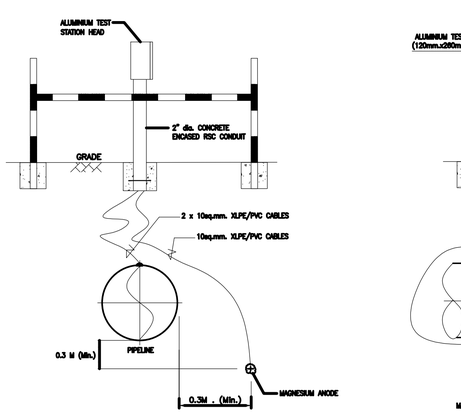
NOTES:

1. EXOTHERMIC WELDS TO PROCESS PIPE SHALL HAVE MINIMUM 305mm SEPARATION.
2. QUANTITY OF ANODES AND LONGITUDINAL SPACING WILL VARY ACCORDING TO THE SPECIFIC INSTALLATION.
3. TYPICAL DEPTH OF ANODE HOLE SHALL BE 1500mm BELOW BOTTOM OF PROCESS PIPE, AND SHALL BE LOCATED 1500mm FROM CENTERLINE OF PIPE. HOLE SHALL BE BACKFILLED WITH SIFTED NATIVE SOIL. A MARKER BLOCK SHALL BE INSTALLED AT GRADE, ABOVE EACH ANODE.

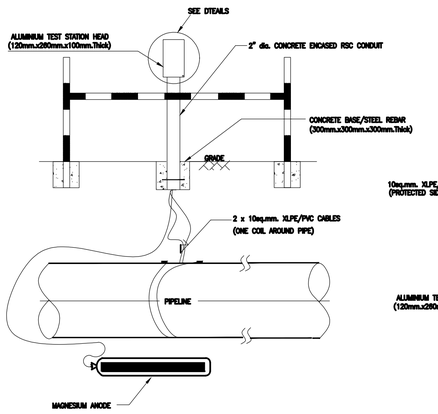
ITEM	DESCRIPTION	CP02A	CP02B	CP02C	CP02D	CP02E
1	CATHODIC PROTECTION TEST STATION, FOR PIPING ANODES	1	1	1	1	1
2	DETAIL# CP07A, EXOTHERMIC WELD TO PROCESS PIPING	2	2	2	2	2
3	PACKAGED ANODE W/ LEAD WIRE, 120 LB, SACRIFICIAL GALVOMAG TYPE	1	2	4	6	8



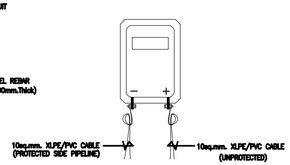
ITEM	DESCRIPTION	QUANTITY CP01A	CP01B	CP01C
1	CHANNEL, GALVANIZED STEEL, C5 x 6.7	2100mm	2100mm	1800mm
2	SPRING NUT, 3/8" - 16, STAINLESS STEEL	4	4	4
3	BOLT, HEX, 3/8" - 16 X 1 1/2", STAINLESS STEEL	4	4	4
4	LOCKWASHER, 3/8", STAINLESS STEEL	4	4	4
5	WASHER, 3/8" X 1", STAINLESS STEEL	4	4	4
6	WASHER, 1 5/8" SQUARE, 3/8" HOLE, STAINLESS STEEL	4	4	4
7	GROUNDING HUB, SIZE AS REQ'D	3	3	2
8	CONDUIT, SIZE AS REQD, RIGID GALVANIZED STEEL	9144mm	9144mm	9144mm
9	CONDUIT BODY W/ COVER & GASKET, TYP "LB", SIZE AS REQ'D	2	2	-
10	CONDUIT CLAMP, UNISTRUT TYP, STAINLESS STEEL, SIZE AS REQ'D	3	3	2
11	SEALING FITTING, UNIVERSAL, SIZE AS REQ'D	3	3	1
12	CONDUIT NIPPLE, RIGID GALVANIZED STEEL, SIZE AS REQ'D	3	3	1
13	CONDUIT BODY W/ COVER & GASKET, TYP "TB", SIZE AS REQ'D	-	-	1
14	DELETED	-	-	-
15	GROUNDING BUSHING, SIZE AS REQ'D	2	2	1
16	REDUCING BUSHING, SIZE AS REQ'D	-	-	1
17	BREATHER/DRAIN FITTING, SIZE AS REQ'D	-	-	1
18	CATHODIC PROTECTION J-BOX ASSEMBLY	1	1	1
19	SERVIT POST, (2) 6mm^2 - 35mm^2 , BURNDY# K2C22B1	1	1	1
20	LOCKWASHER, 3/8" , SILICON BRONZE	1	1	1
21	HEX NUT, 3/8" - 16 , SILICON BRONZE	1	1	1
22	CONDUIT, COUPLING, RIGID GALVANIZED STEEL, SIZE AS REQ'D	1	1	1
23	STRUT, 1 5/8" x 1 5/8"	1829mm	1829mm	1524mm
24	STRUT, 3 1/4" x 1 5/8"	305mm	305mm	305mm



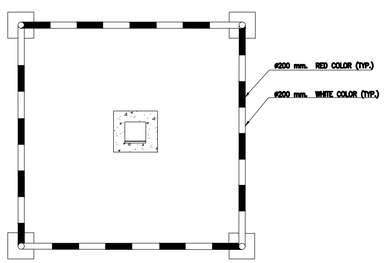
SIDE VIEW



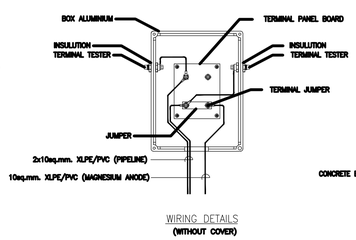
FRONT VIEW



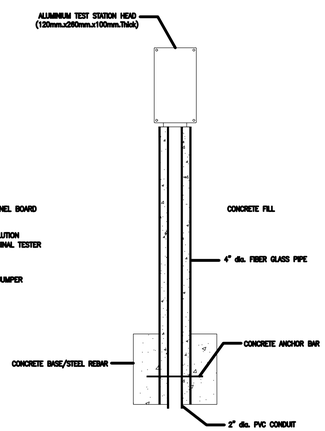
POLARIZATION CELL



PLAN VIEW



WIRING DETAILS
(WITHOUT COVER)



DETAIL 1

TYPICAL SACRIFICIAL ANODE DETAILS

Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South
Orem, Utah 84058
801-224-1252

Detail Sheet

American Fork City Utah

REVISIONS
5-27-2024

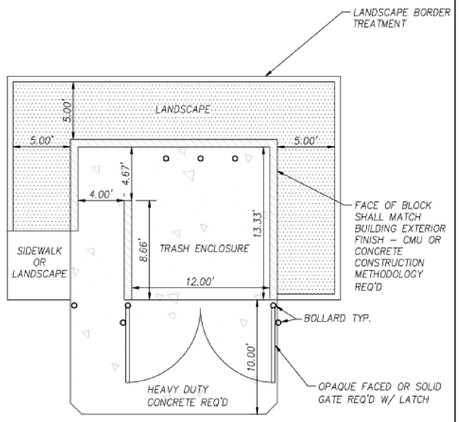
DATE 3-21-2024
SCALE not to scale
BY BHT
TRACING NO. L - 14371

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

SHEET No.
C - 12.1

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

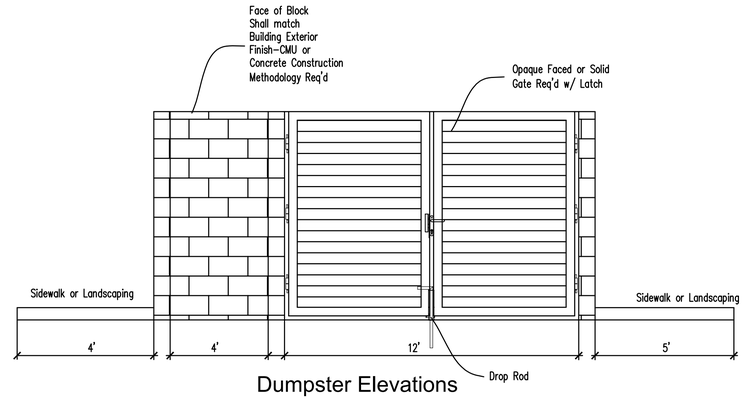
CITY STANDARD - DUMPSTER/ TRASH ENCLOSURE
STANDARD 17.5.121.B



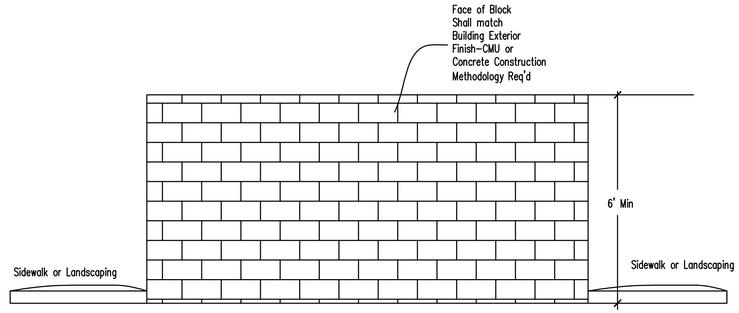
NOTES:
1. LANDSCAPE SHALL INCLUDE COMBINATION OF TREES AND SHRUBBERY TO CREATE A LANDSCAPE SCREEN FOR THE ENCLOSURE
2. ENCLOSURE SHALL BE 6' TALL MIN.
3. ENCLOSURE EXTERIOR FINISH SHALL MATCH THE EXTERIOR OF THE BUILDING FOR WHICH IT SUPPORTS.
3. LANDSCAPE DIMENSIONS SHOWN ARE MINIMUMS.
4. ENCLOSURE DIMENSIONS MAY VARY DEPENDING UPON INTENDED USE, AS SUCH, CITY ENGINEER/CITY PLANNER SHALL HAVE THE ABILITY TO REVIEW AND RECOMMEND APPROPRIATE SIZE OF A GIVEN ENCLOSURE FOR A SPECIFIC USE.
5. A VARIANCE FROM THE REQUIREMENT OF AN ENCLOSURE CAN BE GRANTED BY THE LAND USE AUTHORITY FOR A GIVEN ZONE IF IT CAN BE DEMONSTRATED THAT THE USE FOR THE SITE DOES NOT REQUIRE MORE THAN A TRADITIONAL CURB SIDE PICK UP CONTAINER. CURB SIDE CONTAINER MUST BE AVAILABLE IN THAT AREA TO QUALIFY FOR THIS EXCEPTION.

I:\JD-PROJECTS-AF-CITY-STANDARDS\DUMPSTER.DWG
DATE: NOV. 16, 2010

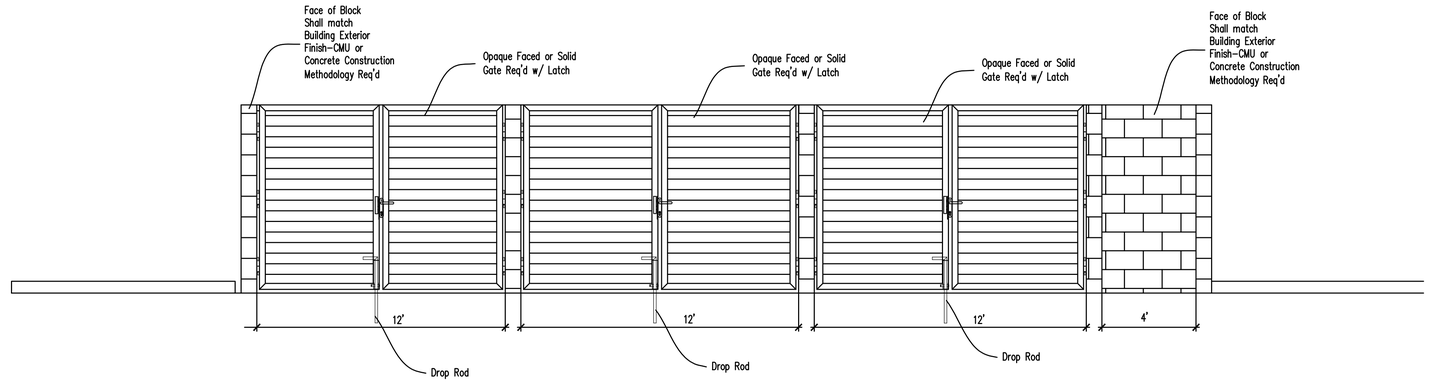
AMERICAN FORK — 1853 —

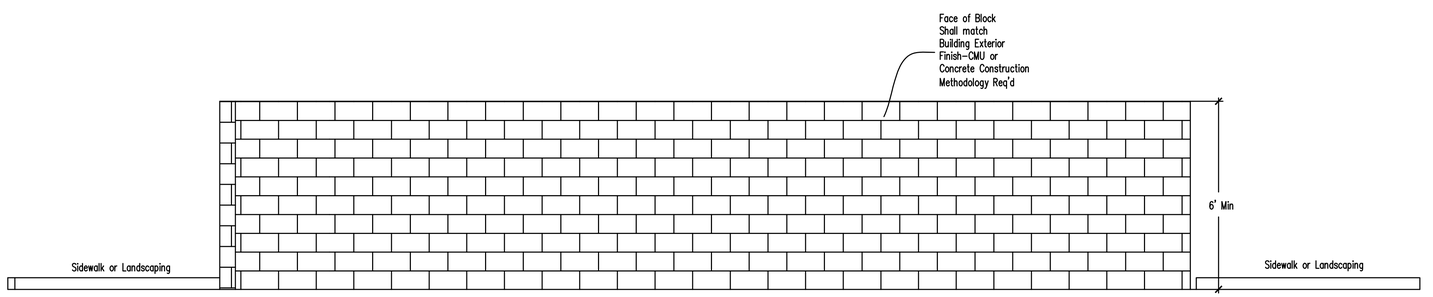


Dumpster Elevations



Dumpster Elevations





Dumpster Elevations

Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South
Orem, Utah 84058
801-224-1252

Detail Sheet

American Fork City Utah

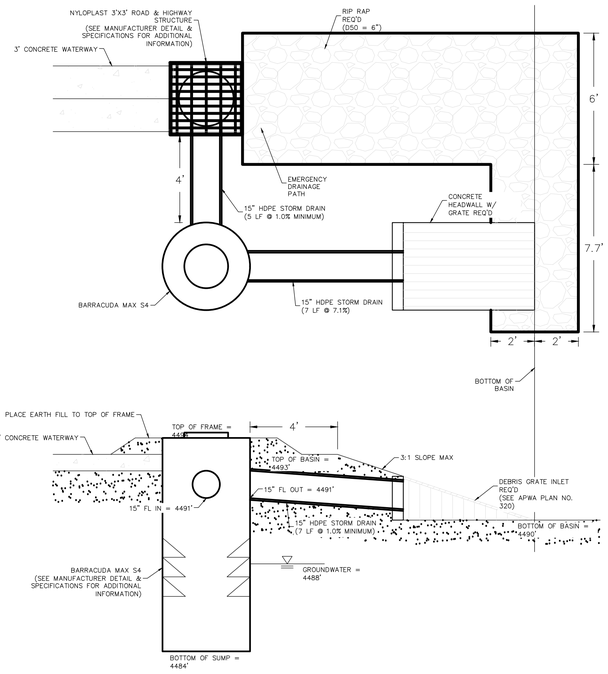
REVISIONS
5-27-2024

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

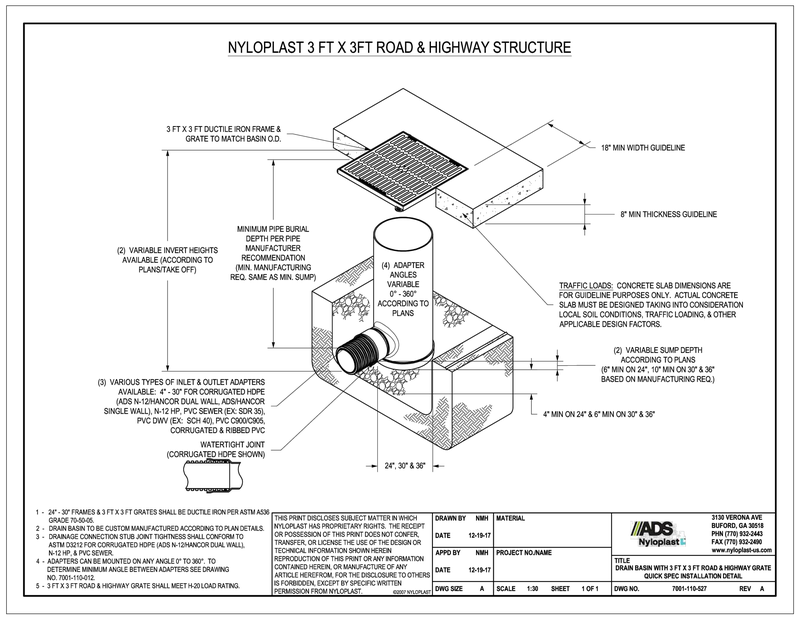
DATE	3-21-2024
SCALE	not to scale
BY	BHT
TRACING NO.	L - 14371

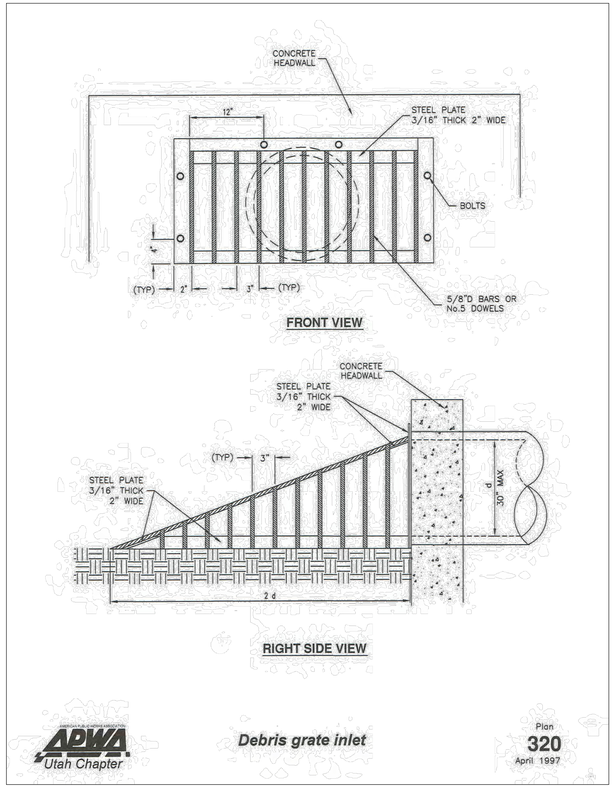
SHEET No.
C - 12.2

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



Treatment Detail





Dudley and Associates, Inc.
Engineers Planners Land Surveyors
353 East 1200 South
Orem, Utah 84058
801-224-1252

Detail Sheet

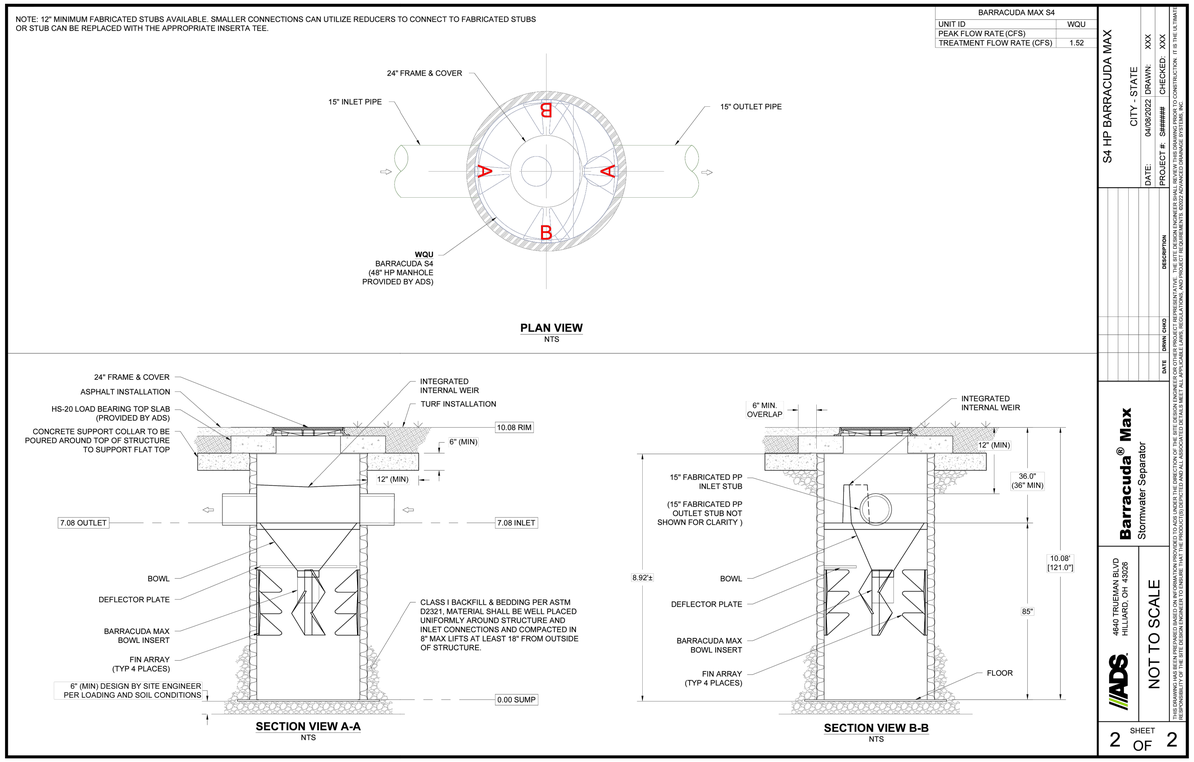
Utah

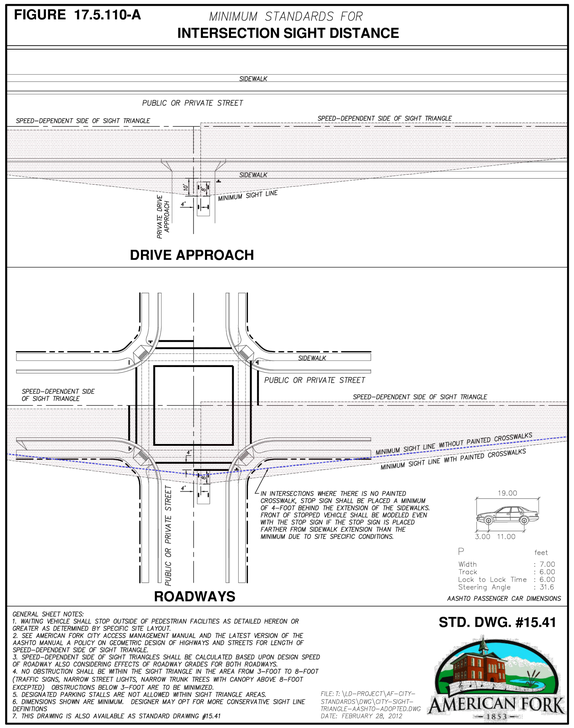
American Fork City

REVISIONS
5-27-2024

DATE
3-21-2024
SCALE
not to scale
BY
BHT
TRACING NO.
L - 14371

SHEET No.
C - 12.3







3-21-2024

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

NORTH
1" = 50'

1700 South Street

500 East Street

Existing Building

LOADING DOCK

LOADING DOCK

Temporary
Retention Basin
Volume 75,193 cuft
Final Retention Basin
to be provided with phase 2
@ an alternate location.
Overflow will be directed to 40' Storm Drain &
Access Easement & into Utah Lake

Future building in Phase 2 will be approved by a separate site plan application that will be submitted in the future for review and approval and is not approved as part of this plan set. It is not allowed to be constructed until said future approval occurs.

PLANTING SCHEDULE

SYMBOL	SPECIES		SIZE	CONDITION	SPACING
	EVERGREEN TREES				
(2)	Austrian Pine	12%	12' HT (EQUAL MIX)	B & B	
	DECIDUOUS TREES				
(4)	Aspen Tree	22%	2" CAL.	B & B	
(4)	Flowering Plum	22%	2" CAL.	B & B	
(4)	Lavalle Hawthorn	22%	2" CAL.	B & B	
(4)	Tatarian Maple	22%	2" CAL.	B & B	
	SHRUBS				
(11)	Cytisus scaparus Moonlight Moonlight Broom	13%	1 Gal.	Cont.	
(11)	Cinquefoil or Equal Potentilla Fruiticosa "Abbottswood"	13%	1 Gal.	Cont.	
(11)	Daylilly Hemercallis Hybrids "Stella D Oro"	13%	1 Gal.	Cont.	
(9)	Lena Brown Cytisus x Lena	10%	1 Gal.	Cont.	
(11)	Silvermound Sage Artemesia schmidtiana	14%	1 Gal.	Cont.	
(10)	Black Sage Artemesia nova	12%	1 Gal.	Cont.	
(11)	Creeping Potentilla Potentilla neumanniana	13%	1 Gal.	Cont.	
(11)	Dwarf Mugo Pine Pinus mugo mops	13%	1 Gal.	Cont.	
(5)	Sand Cherry Prunus Pesseyi "Pawnee Buttes"	5%	1 Gal.	Cont.	

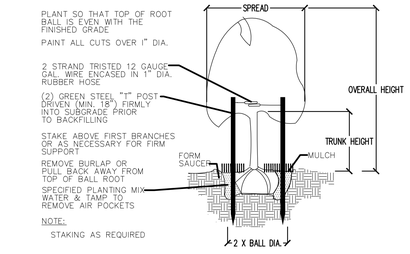
Landscaping Notes:

All common area shall be permanently landscaped with trees, shrubs, or ground cover and maintianed in accordance with good landscaping practice.

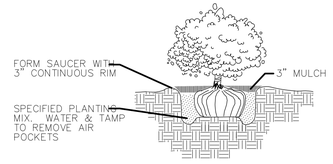
All area not coverd by buildings or driveways shal be landscaped and watered with an automatic sprinkling system.

All Evergreen trees provided = 2" Caliper in size. 2 are provided.
All Deciduous trees provided = 2" Caliper in size. 16 are provided.
All shrubs provided = 5 gallon in size. 78 Shrubs are required. 90 are provided

All trees and shrubs placed near any entrance shall be of the nature not to obstruct the sight onto the street.



1 TREE PLANTING – VERTICAL STAKES
SCALE: NOT TO SCALE



2 SHRUB PLANTING
SCALE: NOT TO SCALE

Curve Data Table					
Curve	Radius	Length	Chord	Bearing	Delta
C1	100.50'	33.59'	33.44'	N 15°38'39" E	19°09'08"
C2	99.50'	30.92'	30.80'	S 16°19'03" W	17°48'20"

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Shoreline Industrial Park

Landscaping Plan

American Fork City Utah

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

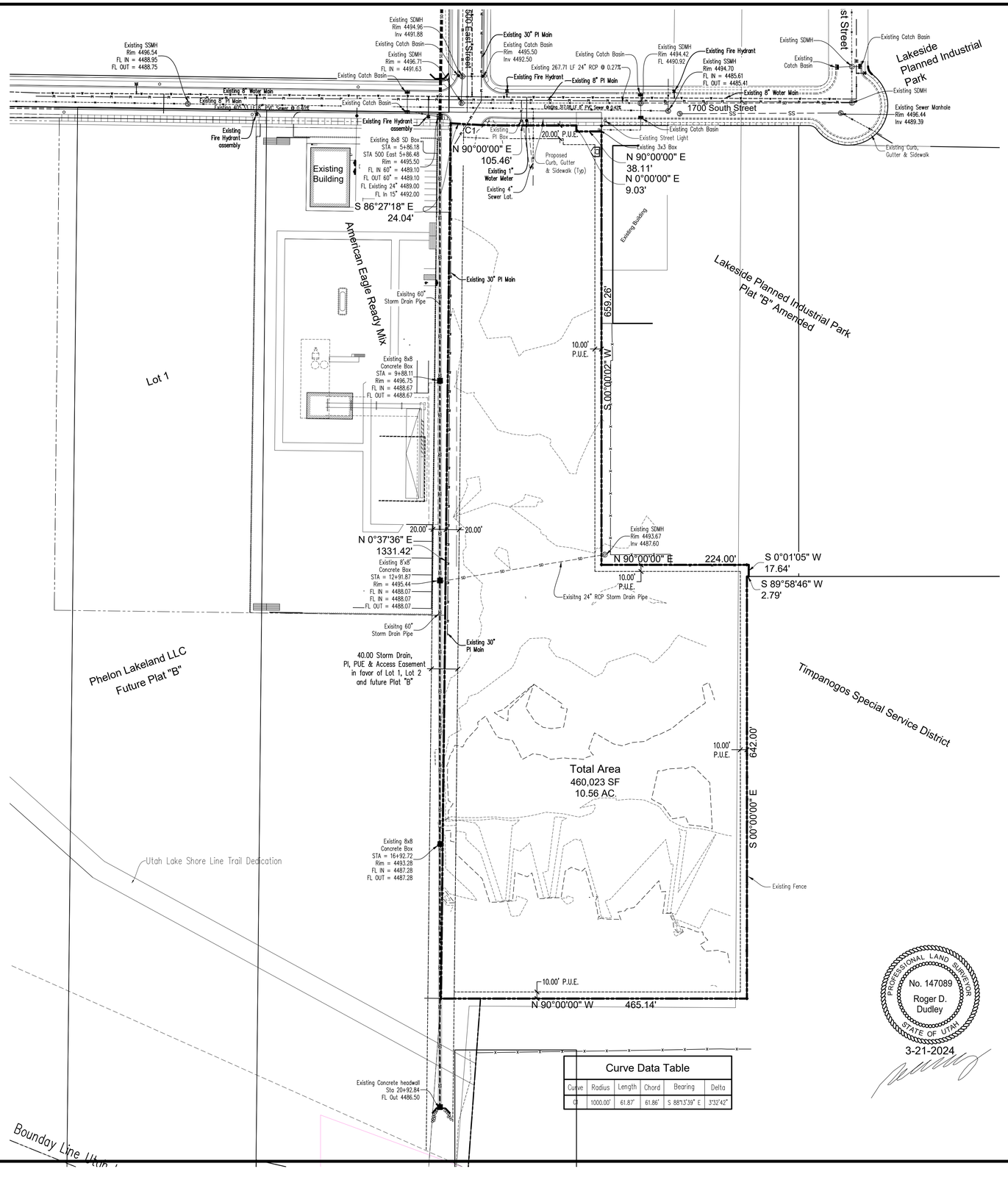
Revisions
5-27-2024

Date	3-21-2024
Scale	1"=50'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 13.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

NORTH
1" = 80



Curve Data Table					
Curve	Radius	Length	Chord	Bearing	Delta
C1	1000.00'	61.87'	61.86'	S 88°13'39" E	3°32'42"

DEED DESCRIPTION

Lot 3, Plat "A", Lakeland Industrial Park Subdivision, according to the official plat thereof on file and of record in the Office of the Utah County Recorder.

SURVEYOR'S CERTIFICATE

This survey is made for the benefit of: NO TRUST, LLC, and FIDELITY NATIONAL TITLE INSURANCE COMPANY, together with its successors and assigns:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(a), 8, 11(a),13, 14, 16, 18, and 19 of Table A thereof.

Date of Plat or Map: August 25, 2021

_____
Roger D. Dudley, PLS #147089

SURVEYORS NOTES

1. This survey is referenced to a title commitment by Fidelity National Title Insurance Company, Commitment No. 82066 dated January 8, 2021.

2. The boundary is marked with an iron pin with a yellow plastic cap – Identification No. PLS 147089, or PK nail in asphalt.

3. The address of the property is approximately 520 East 1700 South – American Fork, Utah, 84003.

4. Said described property is located within an area having a Zone Designation "AE" by the Secretary of Housing and Urban Development, on Flood Insurance Rate Map No. 49049C0308F, dated June 19, 2020, for Community Number 490152, in Utah County, State of Utah which is the current Flood Insurance Rate Map for the community in which said property is situated.

5. The gross land area is 10.53 acres.

6. The current zoning classification is I1.

7. There is observed evidence that the site is presently being filled with granular material to raise the existing elevation of the subject property.

8. There are no observed wetland areas on the subject site.

EXCEPTIONS

Exceptions 1 – 7. Not survey related and not shown.

Exceptions 8 – 23. Not survey related and not shown.

Exception 24. Easements, notes and restrictions as shown on the recorded subdivision plat as Entry No. 20844:2021 and recorded February 3, 2021 are shown as recorded.

PROFESSIONAL LAND SURVEYOR
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

GRAPHIC SCALE
80 0 40 80 160 240
(IN FEET)
1 inch = 80 ft.

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

ALTA/NSPS Land Title Survey

American Fork City Utah

Revisions

Date	3-21-2024
Scale	1"=80'
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 14.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

NORTH
1" = 50'

1700 South Street

500 East Street

580 East Street

Lakeside Planned Industrial Park Plat "B" Amended

Clear Vision Triangle per City Code 17.5.110 and AASHTO requirements. See detail Sheet C-12.3

490.00'

Existing Building

Install 2' Curb & Gutter

Existing Concrete Driveway

Install Stop Sign

Install 2' Curb & Gutter

Proposed Building
175' x 120'
21,000 S.F.

Existing Edge of Concrete

Install Dumpster Enclosure Per City standards 17.5.121. B

Install Curb

Install Curb Wall

Existing Building

Install 3" Waterway

Install Chain Link Fence

LOADING DOCK

No Parking Area

American Eagle Ready Mix

Lot 1

Project Area
3.77 AC
164411 sq.ft.

Proposed Building
350' x 120'
42,000 S.F.

20.00' SD Easement

Install 2' Face away Curb & Gutter See detail Sheet C-10

Install 2' Standard Curb & Gutter See detail Sheet C-10

Install 2' Curb & Gutter

10.00' P.U.E.

Existing Curb, Gutter & Sidewalk

Install Crushed Concrete Surface

Extend Berm to Basin

30' PI Easement

Install Rock Lined Detention Basin

Construct Berm to

Curve	Radius	Delta
C1	100.00'	90°
C2		

Timpa

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Shoreline Industrial Park

Site Triangle Exhibit

American Fork City Utah

Revisions
5-27-2024

Date	3-21-2024
Scale	1"=50'
By	BHT
Tracing No.	L - 14371

REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Sheet No.
C - 15.0

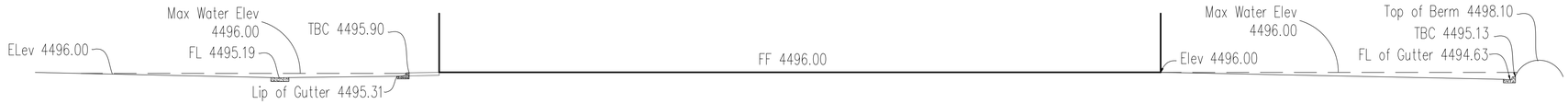
Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



Cross Section Area =30 SF

Section "A-A"

Cross Section Area =13 SF



Cross Section Area =23 SF

Section "B-B"

Cross Section Area =35 SF



Cross Section Area =39 SF

Section "C-C"

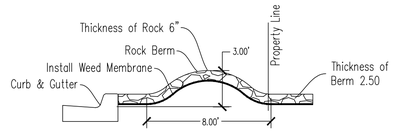
Cross Section Area =55 SF



Cross Section Area =61 SF

Section "D-D"

Cross Section Area =73 SF



Protection Berm Detail
Section "E-E"



Cross Section Area =21 SF

Section "F-F"

Cross Section Area =86 SF

CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. the information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.

Know what's below. 811
Call 811 before you dig.
BLUE STAKES OF UTAH
UTILITY NOTIFICATION CENTER, INC.
www.bluestakes.org
1-800-662-4111

DUDLEY AND ASSOCIATES
ENGINEERS PLANNERS SURVEYORS
353 EAST 1200 SOUTH, OREM, UTAH
801-224-1252

Shoreline Industrial

Cross Sections

American Fork City Utah

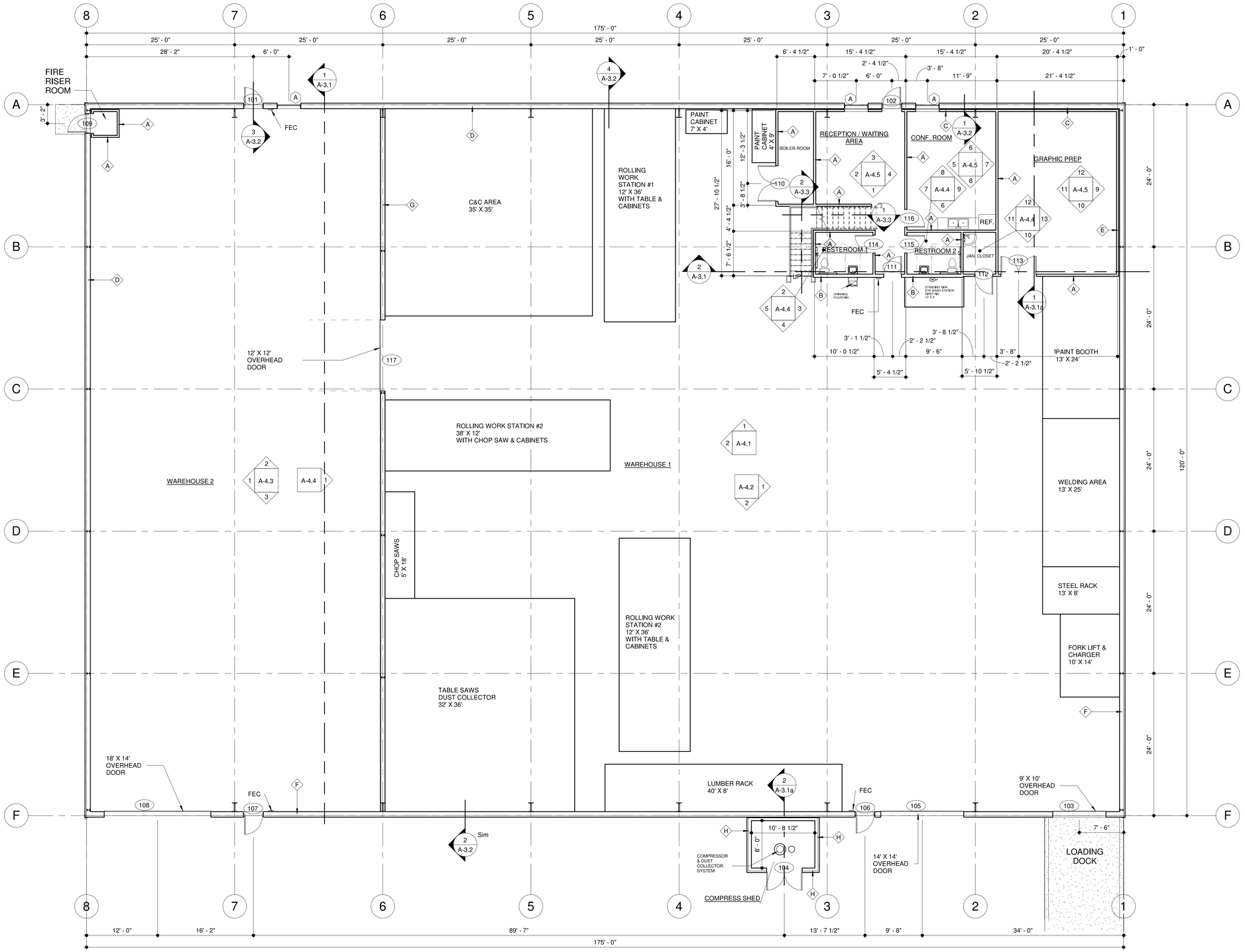
REGISTERED PROFESSIONAL ENGINEER
No. 147089
Roger D. Dudley
STATE OF UTAH
3-21-2024

Revisions
5-27-2024

Date	5-27-2024
Scale	None
By	BHT
Tracing No.	L - 14371

Sheet No.
C - 16.0

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



FIRST FLOOR PLAN

SCALE 1/8" = 1'-0" 21,000 SF

NORTH

SEE SHEET A-5.1 FOR DOOR SCHEDULE

SEE SHEET A-5.1 FOR WINDOW SCHEDULE

SEE SHEET A-6.2 FOR WALL TYPE DETAILS

REVISIONS
DATE
1
2
3
4

ARCHITECTURAL COALITION
962 WEST 800 N, OREM UT, 84057 PH: 801-491-0275

PRELIMINARY NOT FOR CONSTRUCTION

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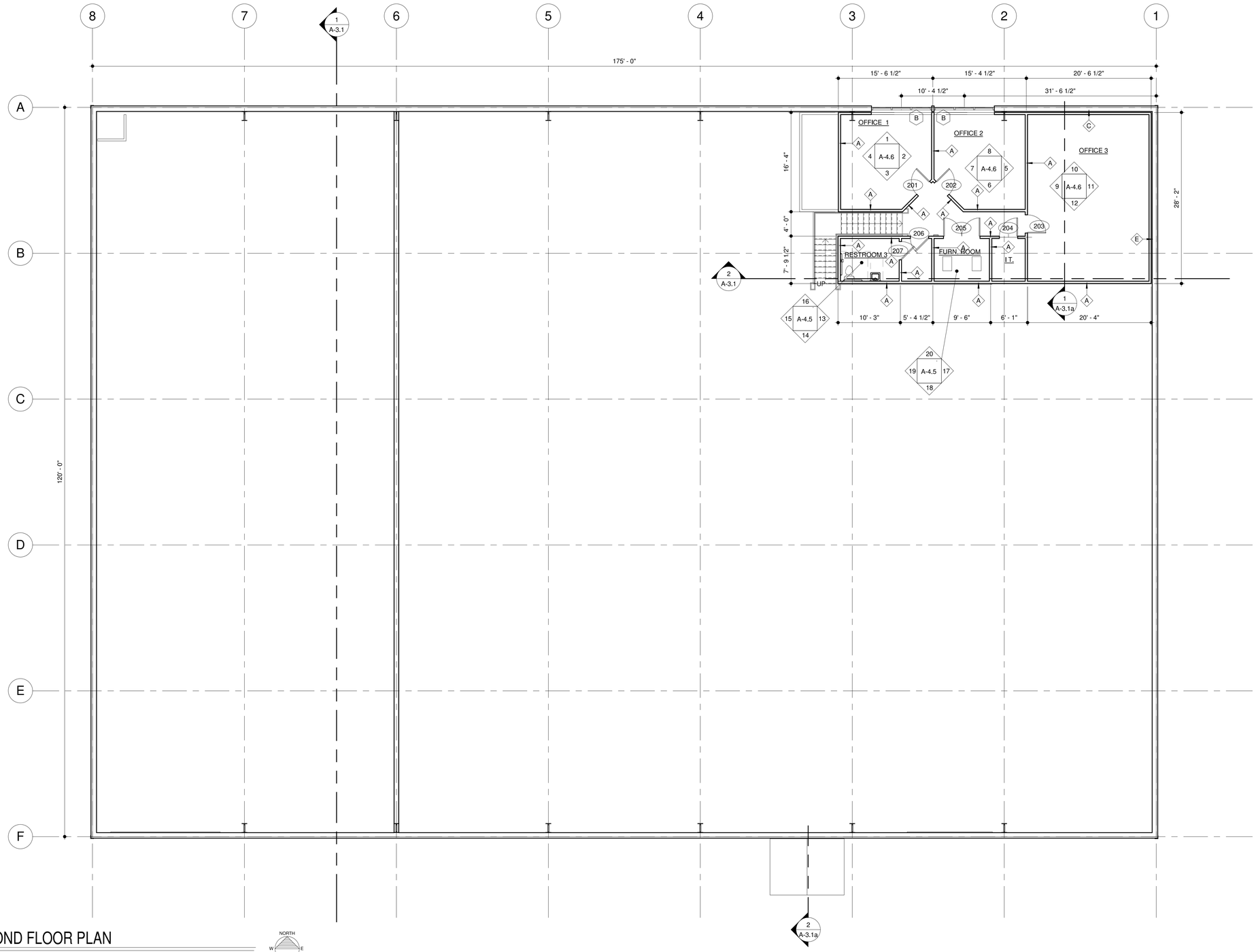
SXS SITE
SXS – NEW FORGE
520 E 1700 S, AMERICAN FORK, UTAH

SHEET NO.
A–1.1

DATE
Issue Date

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

2/22/2022 10:15:50 AM Z:\Drawings 2021\2021-019 SXS Site\SXS New Forge Building windows YH.rvt



SECOND FLOOR PLAN

SCALE 1/8" = 1'-0" 1450 SF

NORTH

ARCHITECTURAL COALITION
1991 South State Road Springville, UT 84663 PH: 801-491-0275

REVISIONS
DATE
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SXS SITE

SXS - NEW FORGE

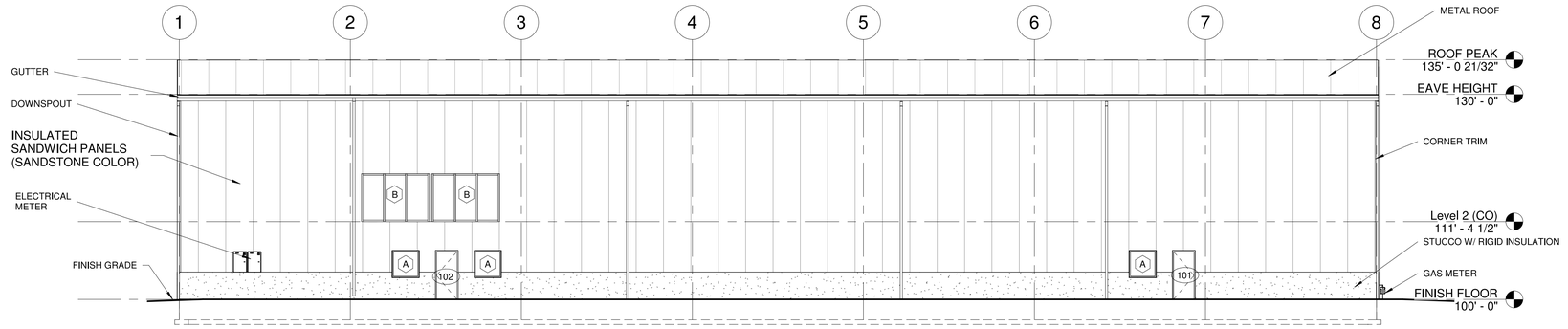
520 E 1700 S, AMERICAN FORK, UTAH

SHEET NO.
A-1.2

DATE
Issue Date

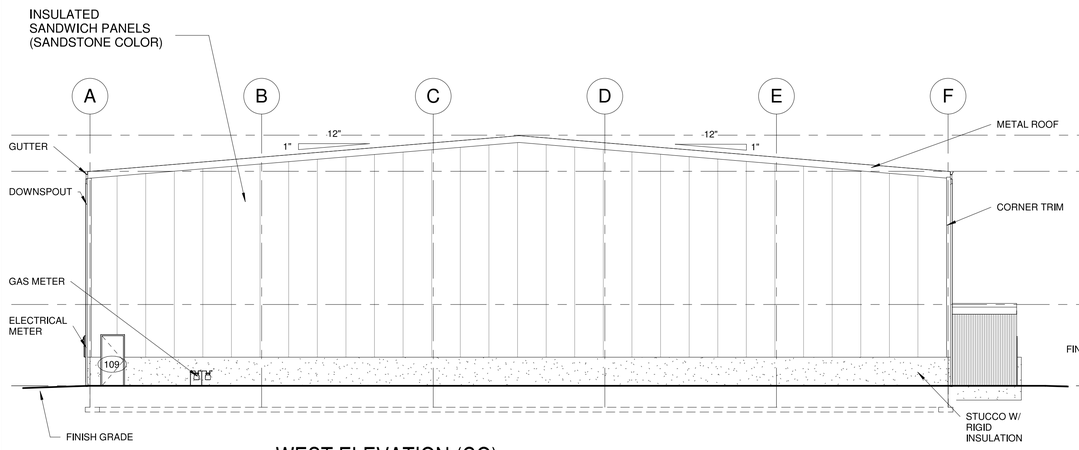
Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

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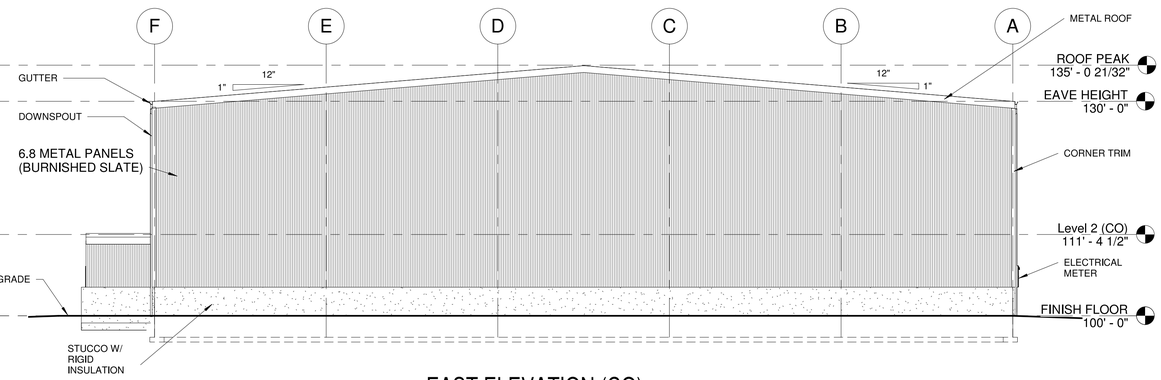
NORTH ELEVATION (CO)

SCALE 1" = 10'-0"



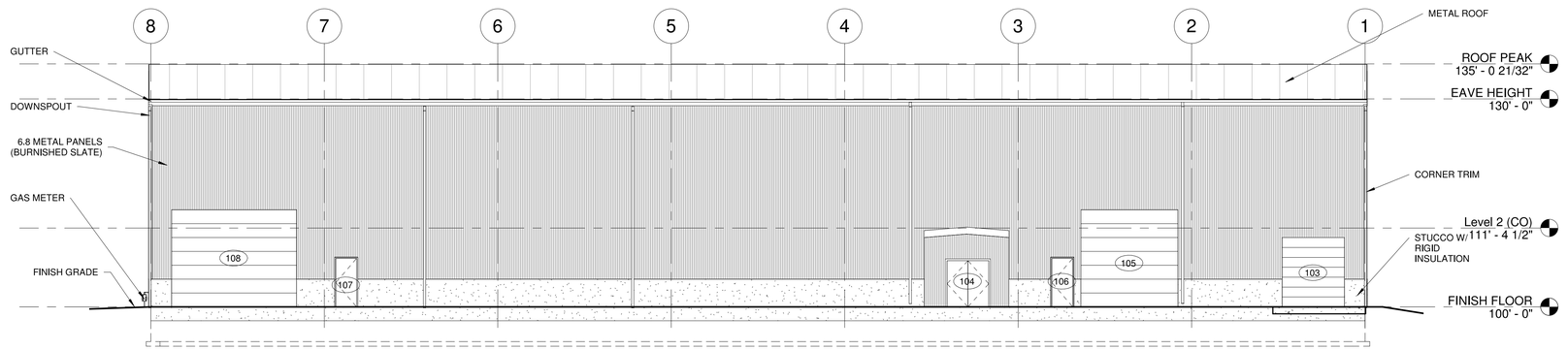
WEST ELEVATION (CO)

SCALE 1" = 10'-0"



EAST ELEVATION (CO)

SCALE 1" = 10'-0"



SOUTH ELEVATION (CO)

SCALE 1" = 10'-0"

ARCHITECTURAL COALITION
962 WEST 800 N, OREM UT, 84057 PH: 801-491-0275

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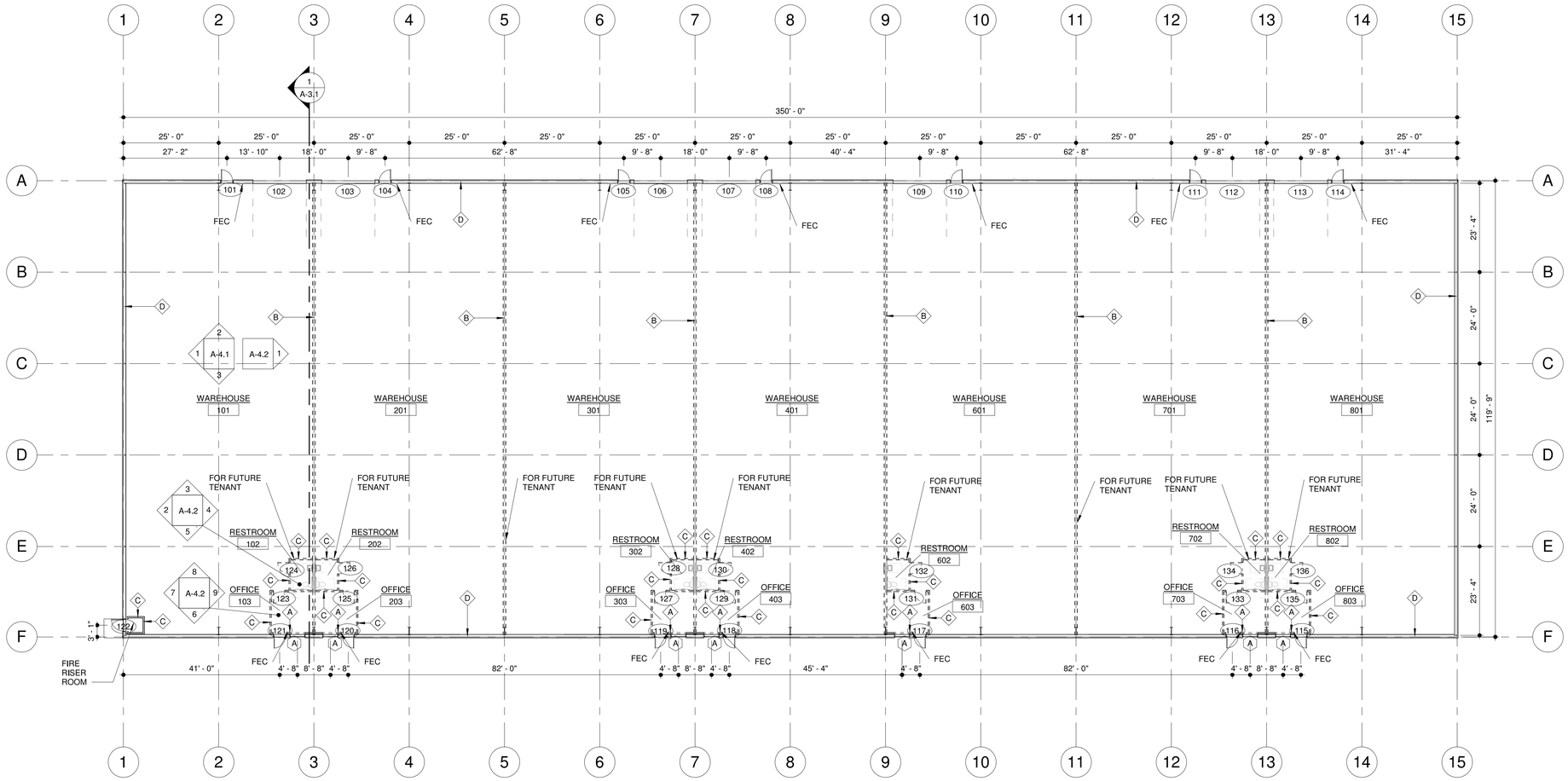
SXS SITE
SXS – NEW FORGE
520 E 1700 S, AMERICAN FORK, UTAH

SHEET NO.
A-2.1

DATE
Issue Date

2/22/2022 10:15:53 AM Z:\Drawings 2021\2021-019 SXS Site\SXS New Forge Building windows YH.rvt

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



MAIN FLOOR

SCALE 1/16" = 1'-0"

42,000 SF

SEE SHEET A-5.1 FOR DOOR SCHEDULE

SEE SHEET A-5.1 FOR WINDOW SCHEDULE

SEE SHEET A-6.3 FOR WALL TYPE DETAILS

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SXS SITE

SXS - 42000 SF BUILDING

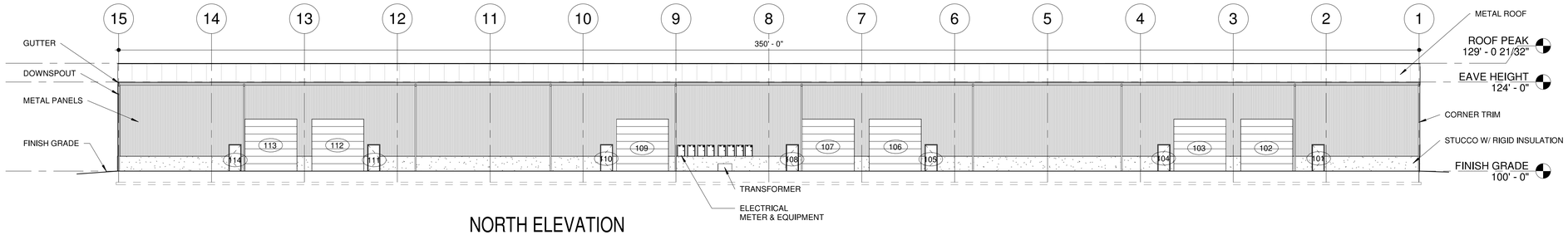
520 E 1700 S, AMERICAN FORK, UTAH

SHEET NO.
A-1.1

DATE
Issue Date

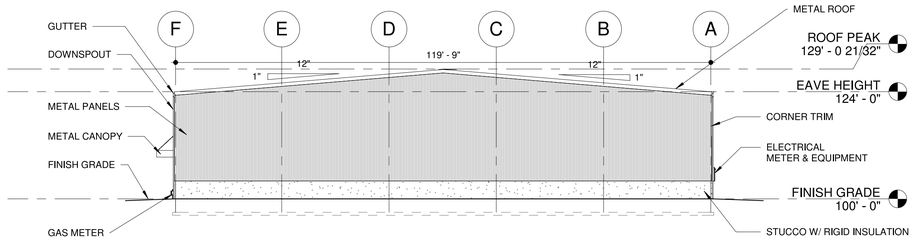
Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

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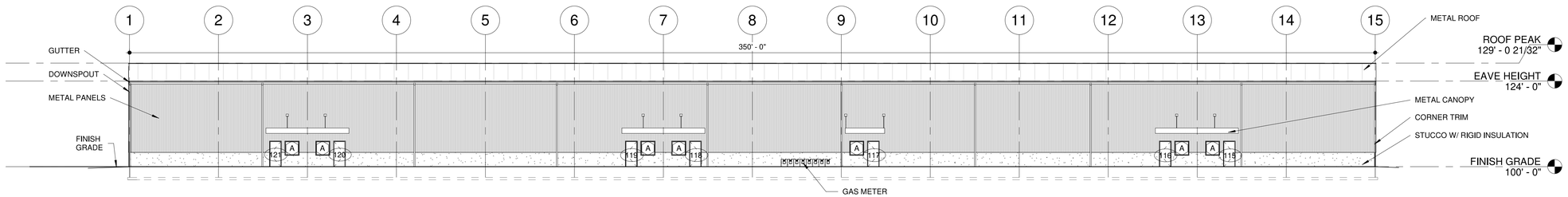
NORTH ELEVATION

SCALE 1/16" = 1'-0"



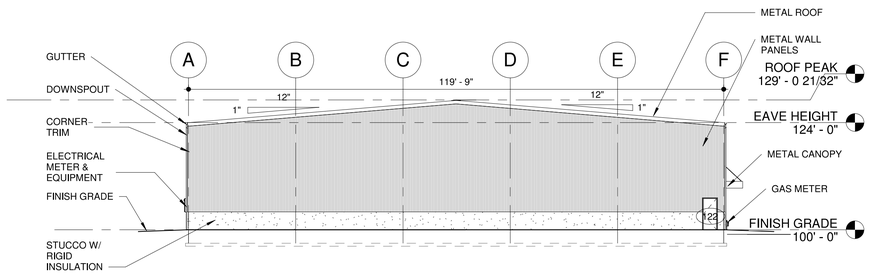
EAST ELEVATION

SCALE 1/16" = 1'-0"



SOUTH ELEVATION

SCALE 1/16" = 1'-0"



WEST ELEVATION

SCALE 1/16" = 1'-0"

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SXS SITE
SXS - 42000 SF BUILDING
520 E 1700 S, AMERICAN FORK, UTAH

SHEET NO.
A-2.1

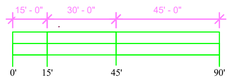
DATE
Issue Date

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

2/22/2022 10:13:57 AM Z:\Drawings 2021\2021-019 SXS Site\SXS Building 42000 - B doors and windows YH.rvt

IRRIGATION PLAN

SCALE : 1" = 30'



N



LEGEND:

- POINT OF CONNECTION (P.O.C.)
- WATER METER
- STOP WASTE VALVE
- BACK FLOW PREVENTION DEVICE DOUBLE CHECK VALVE
- 1 1/4" ISOLATION SHUT OFF VALVE
- 1 1/4" Y FILTER RAIN BIRD PESB SCRUBBER VALVE (AUTOMATIC FLUSH CYLCLES ELIMINATING NEED TO MANUALLY CLEAN FILTER
- ACTION MANIFOLD
- FILTER
- CONTROL VALVE
- PRESSURE REGULATOR
- CITY WATER LINE (PRESSURIZED IRRIGATION)
- PVC MAIN LINE SCHEDULE 40
- 4" PVC CONDUIT
- 1" PVC LATERAL LINES SCHEDULE 40
- 3/4" XT800100 - XT - 800 XERI TUBE DISTRIBUTION TUBING
- TUBING END CLOSURE WITH DRAIN
- COMPRESSION OR INSERT FITTING (TEE)
- COMPRESSION OR INSERT FITTING (90° ELLBOW)
- TRANSITION POINT FROM PVC TO POLY COMPRESSION FITTING
- SCHEDULE 40 SS PVC ELLBOW
- SCHEDULE 40 SSS PVC TEE

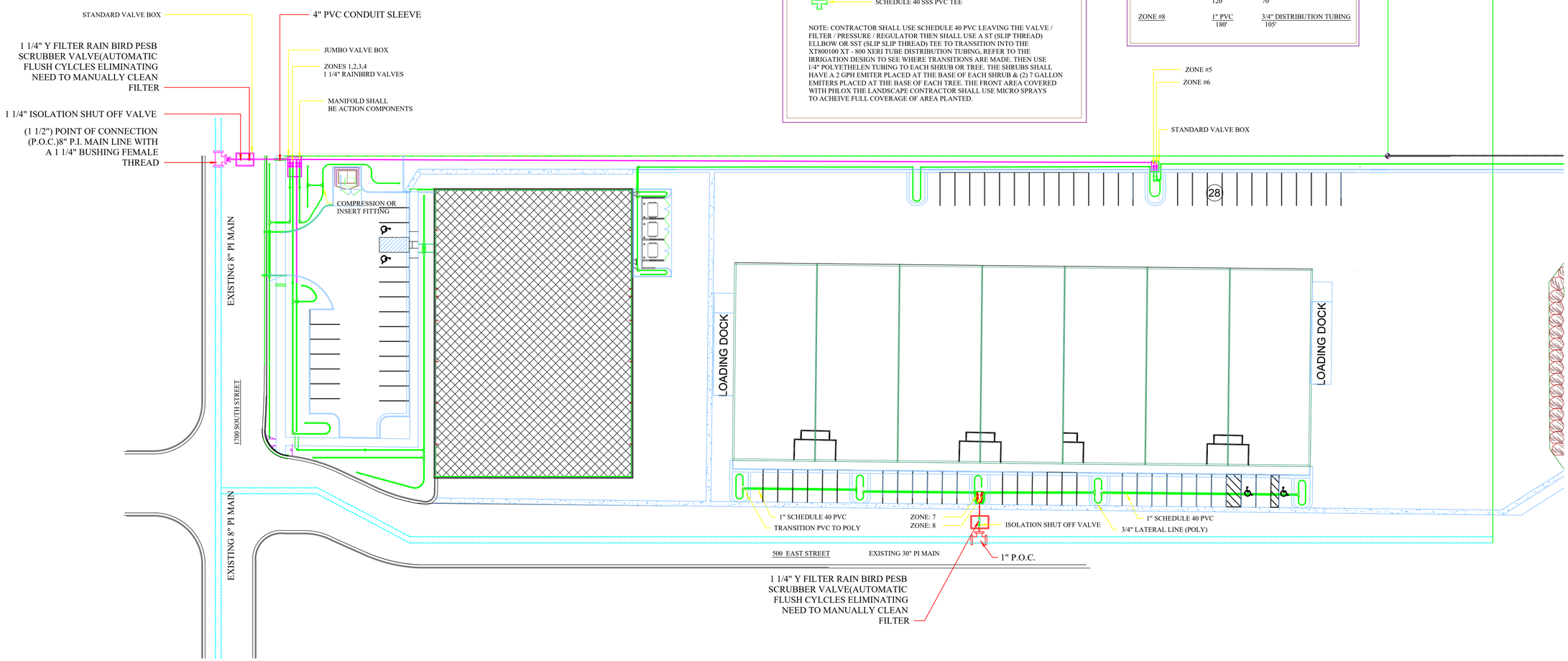
NOTE: CONTRACTOR SHALL USE SCHEDULE 40 PVC LEAVING THE VALVE / FILTER / PRESSURE / REGULATOR THEN SHALL USE A ST (SLIP THREAD) ELLBOW OR SST (SLIP SLIP THREAD) TEE TO TRANSITION INTO THE XT800100 XT - 800 XERI TUBE DISTRIBUTION TUBING, REFER TO THE IRRIGATION DESIGN TO SEE WHERE TRANSITIONS ARE MADE. THEN USE 1/4" POLYETHELEN TUBING TO EACH SHRUB OR TREE. THE SHRUBS SHALL HAVE A 2 GPH EMITER PLACED AT THE BASE OF EACH SHRUB & (2) 7 GALLON EMITERS PLACED AT THE BASE OF EACH TREE. THE FRONT AREA COVERED WITH PHLOX THE LANDSCAPE CONTRACTOR SHALL USE MICRO SPRAYS TO ACHEIVE FULL COVERAGE OF AREA PLANTED.

MINIMUM FILTRATION REQUIREMENTS: EACH OF OUR ZONES REQUIRE MORE THAN 1GPH SO THE MIN. IS 150 MESH ALLOWING 200 MICRONS

MEASUREMENTS FOR PIPE PER ZONE:

NOTES: ALL MEASUREMENTS SHALL BE CONFIRMED BY CONTRACTOR.

ZONE #1	1" PVC 11' - 6"	3/4" DISTRIBUTION TUBING 195'
ZONE #2	1" PVC 70'	3/4" DISTRIBUTION TUBING 140'
ZONE #3	1 1/4" PVC 140' 1" PVC	3/4" DISTRIBUTION TUBING 262' 35'
ZONE #4	1" PVC 11' - 6"	3/4" DISTRIBUTION TUBING 115'
ZONE #5	1" PVC 5'	3/4" DISTRIBUTION TUBING 210'
ZONE #6	1" PVC 130'	3/4" DISTRIBUTION TUBING 75'
ZONE #7	1" PVC 120'	3/4" DISTRIBUTION TUBING 70'
ZONE #8	1" PVC 180'	3/4" DISTRIBUTION TUBING 105'



6/14/2024 10:39:44 AM C:\RODGER DUDLEY\R ZONE IRRIGATION SYSTEM FOR SXS.rvt

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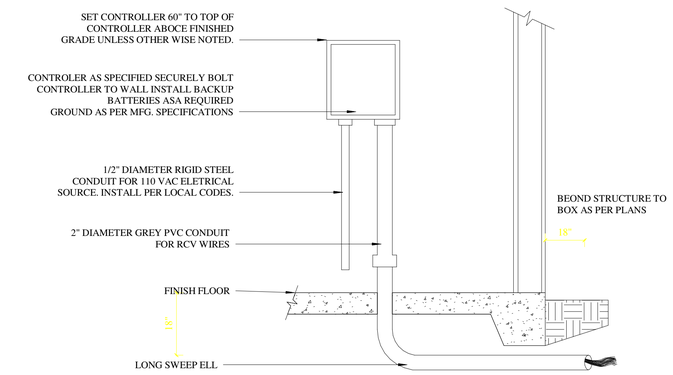
LICENSED ARCHITECT
NO. 123134
GUILFORD A. DANN
8/11/23
STATE OF UTAH

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SXS
MIKE DUNN
1700 SOUTH 500 EAST PROVO, UT

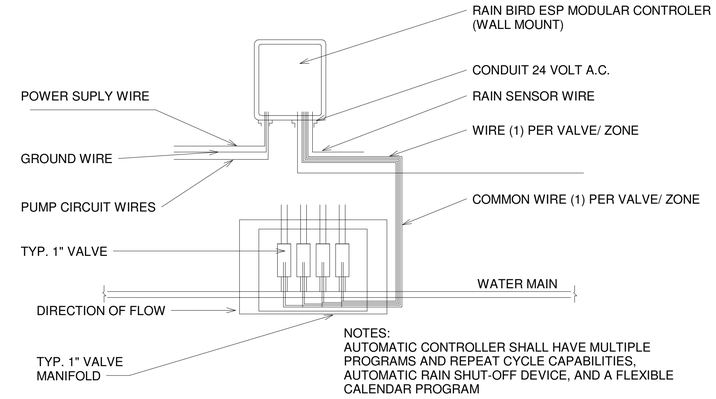
SHEET NO.
sxs
Irrigation Plan
L-1
8/11/23

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)



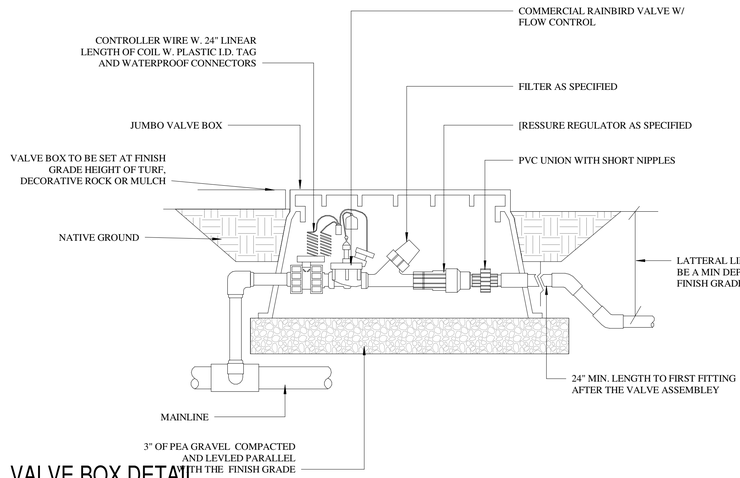
1 CLOCK DETAIL

SCALE 1/4" = 1'-0"



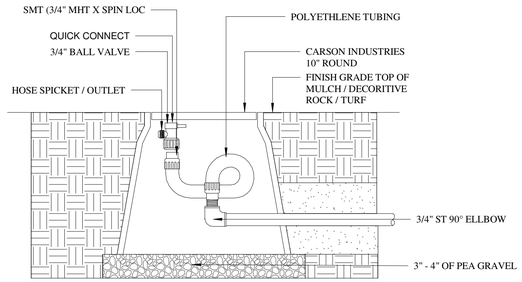
2 CLOCK COMPONENT DETAIL

SCALE 1/4" = 1'-0"



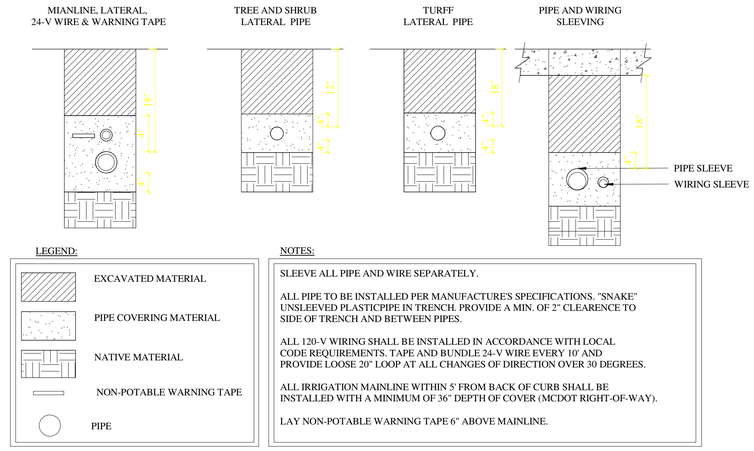
4 VALVE BOX DETAIL

SCALE 1/4" = 1'-0"



5 HOSE TAP / QUICK CONECT

SCALE 1" = 30'-0"



6 PIPING DEAIL

SCALE 1" = 20'-0"

1. THIS IRRIGATION DESIGNS DIAGRAMMATIC. IT IS DESIGNED USING AN ASSUMED MINIMUM PRESSURE AT THE POINT OF CONNECTION OF 75 PSI. THE CONTRACTOR SHALL VERIFY THE PRESSURE PRIOR TO CONSTRUCTION AND INFORM OWNER IF PRESSURE IS LOWER THAN DESIGN PRESSURE.
2. DRIP LATERAL LINES ARE NOT SHOWN GOING TO EVERY PLANT FOR DESIGN CLARIFICATION ONLY. THE CONTRACTOR SHALL ENSURE ALL PLANTS RECEIVE DRIP IRRIGATION. EQUIPMENT, PIPING AND VALVES, ETC. SHOWN WITHIN PAVED AREAS ARE SHOWN FOR DESIGN CLARIFICATION ONLY AND SHALL BE INSTALLED WITHIN THE PLANTING AREAS. LOCATE VALVES AND BFPS WITHING SHRUB AREAS SO THAT THEY ARE VISUALLY UNOBTRUSIVE.
3. ALL PVC PIPE SHALL HAVE A MINIMUM PRESSURE RATING OF 200 P.S.I. ALL POLYETHLENE PIPE TO BE MANUFACTURED BY RAINBIRD.
4. ALL CONDUIT/SLEEVES SHALL BE A MIMIMUM OF TWO TIMES THE DIAMETER OF THE LINE SIZE. REFER TO LONG SWEEP NOTE.
5. CONTROLLER WIRES THAT ARE DIRECT BURIED SHALL BE BUNDLED AND TIED OR WRAPPED EVERY TEN FEET DURING INSTALLATION WIRES SHALL HAVE A 24" LOOP TIED AT ALL DIRECTION CHANGES GREATER THAN 30 DEGREES AND BE UNTIED PRIOR TO TRENCH FILL IN.
6. FLUSH CAPS SHALL BE PLACED IN A VALVE BOX AT THE END OF ALL LANDSCAPE LATERALS.
7. ALL VALVES, PRESSURE REFULATORS AND OTHER DEVICES SHALL BE PLACED IN AN APPROPRIATELY SIZED VALVE BOX WITH A MINIMUM OF 3" OF PEA GRAVEL.
8. THESE NOTES ARE TO BE USED FOR GENERAL REFERENCE IN CONJUNCTION WITH, AND AS A SUPPLEMNT TO THE WRITTEN SPECIFICATIONS, APPROVEDD ADDENDA, AND CHANGE ORDERS ASSOCIATED WITH THESE LANDSCAPE IMPROVEMENT DOCUMENTS.
9. A QUALIFIED SUPERVISOR SHALL BE PRESENT ON SITE AT ALL TIMES DURING CONSTRUCTION.
10. BEFORE WORK BEGINS ON THE PROJECT THE IRRIGATION CONTRACTOR SHALL REVIEW THE PROJECT WITH THE OWNER'S AUTHORIZED REPRESENTATIVE AND/OR OWNER.
11. IRRIGATION CONTRACTORS SHALL INSPECT WITH THE OWNER'S AUTHORIZED REPRESENTATIVE AND / OR OWNER. ALL EXISTING CONDITIONS PRIOR TO THE START OF ANY WORK THE CONTRACTOR SHALL BE RESPONSIBLE UNDER THIS CONTRACT TO REPAIR AND OR REPLACE AT THEIR EXPENSE, ANY STRUCTURES, FENCES, WALLS, PLANT MATERIAL, OR OTHER ITEMS ARE AS WILL BE RESTORED TO THEIR ORIGINAL CONDITION TO THE SATISFACTION OF THE OWNER'SAUTHORIZED REPRESENTATIVE AND / OR OWNER.
12. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE ALL IRRIGATION LOCATIONS WITH OTHER TRADES PRIOR TO INSTALLATION. THE CONTRACTOR SHALL FAMILARIZE THEMSELVES WITH THE LOCATIONS OF EXISTING AND FUTURE UNDERGROUND SERVICES AND IMPROVEMENTS WHICH MAY CONFLICT WITH THE WORK TO BE DONE. PRIOR TO THE START OF WORK ALL UNDERGROUND UTILITIES ARE TO BE LOCATED AND PROTECTED. THE INITIAL CALL AND FUTURE UPDATES TO BLUE STAKES AT 811.
13. ALL HARDSCAPE, WALLS AND SIGNAGE MUST BE STAKED AND APPROVED BY THE OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO CONSTRUCTION.
14. VERIFY CRITICAL DIMENSIONS, REFERENCE POINT LOCATIONS AND CONSTRUCTION CONDITIONS PRIOR TO INITIATING CONSTRUCTION. NOTIFY THE OWNER AND LANDSCAPE ARCHITECT SHOULD CONFLICTS ARISE.
15. IRRIGATION CONTRACTOR SHALL PROCIDE BARRICADES AND TRAFFIC CONTROL ALONG PUBLIC STREETS IF REQUIRED DURING CONSTRUCTION.

7 SPECIFICATIONS

SCALE 1" = 1'-0"

ARCHITECTURAL COALITION
962 West 800 North, Orem Utah, 84057
PH: 801-491-0275

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LICENSED ARCHITECT
NO. 123134
GUILFORD A. BAND
05/1/2023
STATE OF UTAH

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SXS
MIKE DUNN
1700 SOUTH 500 EAST AMERICAN FORK

SHEET NO.
L-2.0
DATE
05/1/2023

Attachment: Exhibit B (Business License Denial Appeal - Dunn Construction)

7/11/2023 11:37:31 AM C:\Arch Coalition\PHILLIP LANDSCAPING\MORENO'S LANDSCAPE FINAL SUBMITION.rvt

Mail Tax notice to:
Grantee
426 East 1750 North Unit F
Orem, UT 84059
MNT File No.: 82066
Tax ID No.: 13:078:0062

ENT 53803:2022 PG 1 of 2
Andrea Allen
Utah County Recorder
2022 Apr 29 02:36 PM FEE 40.00 BY CS
RECORDED FOR Metro National Title
ELECTRONICALLY RECORDED

WARRANTY DEED

Phelon Lakeland LLC

GRANTOR of American Fork, State of Utah, hereby CONVEYS and WARRANTS TO:

Michael Steven Dunn, as Trustee of The NO Trust, dated September 10, 2019

GRANTEE of 426 East 1750 North Unit F, Orem, UT 84059 for the sum of TEN AND 00/100'S DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract of land in Utah County, State of Utah:

Parcel 1:

Lot 3, Plat "A", LAKELAND INDUSTRIAL PARK SUBDIVISION, according to the official plat thereof on file and of record in the office of the Utah County Recorder.

Parcel 1A:

A perpetual non-exclusive easement for the purpose of vehicular and pedestrian ingress and egress, as created and defined in that Declaration of Access Easements (Grant of easements and agreement to construct and maintain), recorded June 18, 2021, as Entry No. 110716:2021, of Official Records.

SUBJECT TO: County and/or City Taxes not delinquent; Bonds and/or Special Assessments not delinquent and Covenants, Conditions, Restrictions, Rights-of-Way, Easements, Leases and Reservations now of Record.

Attachment: Exhibit C (Business License Denial Appeal - Dunn Construction)

WITNESS, the hand(s) of said grantor(s), 28th day of April, 2022.

Phelon Lakeland LLC

By: _____
Martha Phelon, Manager

By: _____
Stephen W. Phelon, Manager

State of Utah, County of Utah) ss:

On this date, April 28, 2022, personally appeared before me Martha S. Phelon and Stephen W. Phelon, who being by me duly sworn did say that they are the Managers of Phelon Lakeland LLC, the limited liability company that executed the above and foregoing instrument and that said instrument was signed on behalf of said company by authority of its Articles of Organization and/or Operating Agreement and said Martha S. Phelon and Stephen W. Phelon acknowledged to me that said limited liability company executed same.

_____
Notary Public

CHARLES J STUART
NOTARY PUBLIC - STATE OF UTAH
My Commission Expires June 6, 2025
COMMISSION NUMBER 719182

Attachment: Exhibit C (Business License Denial Appeal - Dunn Construction)

Utah County Parcel Map

Utah County - This online map is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations from an actual survey.

Attachment: Exhibit C (Business License Denial Appeal - Dunn Construction)

Utah County Parcel Map

Parcel ID - 45:749:0003

Serial:	45:749:0003
Owner:	DUNN, MICHAEL STEVEN (ET AL)
Address:	520 E 1700 SOUTH, AMERICAN FORK, UT 84003
Subdivision:	LAKELAND INDUSTRIAL PARK PLAT A
Acreage:	10.5274
Value:	$2,454,000
Tax District:	060 - AMERICAN FORK CITY
Detail:	Property Information
Aerial Image:	View EagleView Aerial Image

Add Map Graphic for Print Zoom to

Powered by Esri

Utah County - This online map is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations from an actual survey.

Attachment: Exhibit C (Business License Denial Appeal - Dunn Construction)

Utah County Parcel Map



Parcel ID - 45:749:0003

Serial:	45:749:0003
Owner:	DUNN, MICHAEL STEVEN (ET AL)
Address:	520 E 1700 SOUTH, AMERICAN FORK, UT 84003
Subdivision:	LAKELAND INDUSTRIAL PARK, PLAT A
Acreage:	10.5274
Value:	$2,454,000
Tax District:	060 - AMERICAN FORK CITY
Detail:	Property Information
Aerial Image:	View EagleView Aerial Image

Add Map Graphic for Print Zoom to

Powered by Esri

Utah County - This online map is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations from an actual survey.

VINEYARD
125 S MAIN STREET
VINEYARD, UT 84059

BUSINESS LICENSE #3416

EFFECTIVE 01/01/22 TO 12/31/22

The below named person or firm is hereby granted a license to do business as stated herein in Vineyard, Utah for the period indicated, subject to the provisions of the Vineyard Municipal Code, and applicable state or federal regulations.

BUSINESS TYPE: Recycling and trash services, concrete recycling
LICENSE TYPE: Industrial, Manufacturing & Distribution License
BUSINESS LOCATION: 426 E 1750 N Unit F

BUSINESS OWNER: Michael S Dunn

NAME: Dunn Construction, LC
MAILING ADDRESS:
426 E 1750 N Unit F
Vineyard, UT 84059

VINEYARD Seal UTAH

City Recorder

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE - NON-TRANSFERABLE

BUSINESS LICENSE RECEIPT

No. 3416

NAME : Michael S Dunn
MAILING ADDRESS: 426 E 1750 N Unit F
FEE PAID: $25.00

EFFECTIVE DATE: 01/01/22
EXPIRATION DATE: 12/31/22
BUSINESS TYPE: Recycling and trash services, concrete recycling
BUSINESS LOCATION: 426 E 1750 N Unit F

American Fork

Printed: 06/04/2025

Dunn Construction, LC

03/17/2020 - 12/31/2020

7922129

Commercial Business License

General

f011e410-6878-11ea-a13e-d1d88c9e3b5e

Denied

Inactive

Application Review Status

Pre-Review	Approved	
Fire Department	Not Reviewed	03/17/2020
Zoning Department	Denied	09/21/2020
Building Department	Not Reviewed	
TSSD	Approved	

No further contact needed at this time.

Final-Review Denied

Fees

New Commercial Application Fee	$200.00
Subtotal	**$200.00**
Amount Paid	**$0.00**

Payments

There are no payments

Application Form Data

(Empty fields are not included)

Business Name

Dunn Construction, LC

DBA (If this applies)

Dunn Recycling

Local Business Phone

(801) 221-9001

Corporate Business Phone

(801) 221-9001

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

Business Activity
Other

If other, please specify
Recycle concrete and other materials

Business Email (remove this email)
brad@dunnutah.com

Is this a Nonprofit?
No

Reason For Application
New Application

Applicant First Name
Michael

Applicant Last Name
Dunn

Phone Number

Business Email Address
brad@dunnutah.com

Business Address (Street)
510 East 1700 South

City
American Fork

State
UT

Zip
84003

Mailing Address Attn
Dunn Recycling

Mailing Address (Street)
426 East 1750 North, Unit F

City
Vineyard

State
UT

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

Zip
84059

Ownership Type
LLC

State Sales Tax No. *(Required if you are selling anything)
12462023-002-STC

Federal EIN
84-0573114

Business/Entity Registration No.
2043267-0160

Employer Withholding No.
N/A

Please upload a copy of Utah County Assessor Form
Utah County Pers Prop Tax 2019.pdf

Provide a FULL DETAILED description of the business you are applying for
Recycling concrete into different products for resale.

Short description of your business (This will print on your license)
Concrete Recycling Plant

Name	Title	Contact Name	Phone Number	Email Address	Home Address	Drivers License Number
Michael Dunn	Manager	Michael Dunn	[redacted]	brad@dunnutah.com	[redacted]	[redacted]

Please upload a Pretreatment Survey for Timpanogos Special Services District (this pertains to all commercial business license applications)
Pretreatment Survey.pdf

Signature

I/we hereby agree to conduct said business strictly in accordance with all American Fork City codes governing such business, and swear under penalty of law that the information contained herein is true and correct. I/we also understand that to falsify any information on this application is grounds for denial and/or revocation of this license and other penalties as provided by law. No business license shall be transferred from one person to another, nor from one location to another.

Brad Bateman - 03/17/2020 11:58 am

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

Messages

A site plan will be needed if this is a new site.

Comments:

Upon approval of the site plan the application will be reconsidered.

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

Internal Notes

This is currently in the Technical Review process and will need to receive final approval by the Planning Commission before the zoning clearance can be issued. Other departments.

Other departments may need to issue further permits.

@{{user||5e30d8c0ff3c00002a785037||Wendelin Knobloch}} do you know if they are still working on this?

I don't believe so. We have not seen any activity on the site plan for several months.

These are the minutes from Planning Commission and City Council for the Site Plan located on this property. The Site Plan is for American Eagle Ready Mix, but this address is located on American Eagle Ready Mix.

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

Attachment: Exhibit D (Business License Denial Appeal - Dunn Construction)

AMERICAN FORK CITY – Public Works Department
275 EAST 200 NORTH, AMERICAN FORK UT 84003
Phone: 801-763-3060 Fax: 801-763-3005 www.afcity.org

Technical Review Committee Submittal Form (yellow)

Submittal Type: ☐ Subdivision Preliminary Plat ☐ Subdivision Final Plat ☒ Commercial Site Plan
If applying for preliminary and final subdivision plats concurrently, mark both boxes.

Project Name: Dunn Ranch

Location: 1700 S SR 73 American Fork

Utah County Parcel No(s): 13-079-0062, 13-028-0089

Property Owner Name: Dunn Industrial LLC

Property Owner Signature:

Property Owner or Authorized Representative Contact Information: (By indicating an authorized representative, all communication from the City regarding the project will be directed to your authorized representative.)

Name:

Address:

Telephone: Fax:

Email:

My application meets the requirements of the I-1 zone.

Submit the following to Public Works Dept, 275 East 200 North

1. One paper submittal including plans (sized 11" x 17") and all reports (sized 8.5" x 11")
2. Electronic submittal on a flash drive (where conflicts between paper and electronic submittals exist, electronic submittals will override paper submittals):
   a. a full plan set in one (1) single pdf
   b. an electronic design file AutoCAD 2009 format (N.A.D. 83 Coordinates)
   c. reports (drainage, geotechnical, title) each in a separate pdf
3. Fees listed and zoning fees can be found at ... as determined at time of application
   a. Subdivision Preliminary Plat: $500.00
   b. Subdivision Final Plat: $250.00
   c. Subdivision Preliminary & Final Plats $750.00
   d. Commercial Site Plan: $500.00
4. Engineer Stamp and Signature – Required from each Professional Engineer stamping and signing submitted documents.
5. Engineering Review Fees – **Development review and inspection fees are billed per hour during the course of the project review and construction** (see Fee Schedule). These fees include time for city personnel as well as 3rd party consultants that complete plat reviews, water rights transfers and reviews, engineering reviews, utility modeling, field inspections, recording fees, permit fees, street light cost and all other applicable fees which are billed as they occur.

As the Applicant, I understand that I am responsible to submit a complete application including all required documents. I acknowledge that this application will not be accepted or reviewed until deemed complete by the City. I also accept responsibility for all fees and costs associated with my development as detailed above. I authorize American Fork City personnel to enter the property for the purposes of evaluating this application.

Applicant Signature: Date:

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

When Recorded Mail To:
American Fork City
51 East Main
American Fork UT 84003

NOTICE OF INTEREST, HIGH GROUNDWATER INDEMNIFICATION

In conformance with the American Fork Sensitive Lands Ordinance (S.L.O.) 6-2-2, the owners as undersigned of each lot within the property described in Exhibit A for Pheton Lakeland LLC do hereby agree to indemnify and hold harmless American Fork City against any and all liabilities, claims, suits, losses, costs and legal fees cause by, arising out of, or resulting from flooding in a high water table area. This liability waiver shall run with each lot within Pheton Lakeland LLC and be binding upon the heirs, assigns, and successors in interest of the undersigned.

LIST OF ATTACHED EXHIBITS:

Exhibit A – Legal Description of Property

Dated this 29 day of January, 2020.

OWNER(S):

(Signature) (Signature)

Stephen W Phelon (Printed Name)

General Partner (Title)

(Printed Name)

(Title)

STATE OF UTAH)
§
COUNTY OF UTAH)

On 29 the day of January, 2020, personally appeared before me Stephen Phelon and Michael Dunn, Owner(s) of said Property, as (individuals and or authorized representatives of a company), and acknowledged to me that such individuals or company executed the within instrument freely of their own volition and pursuant to the articles of organization where applicable.

DAVID P KUHNI
NOTARY PUBLIC • STATE OF UTAH
My Commission Expires March 30, 2023
COMMISSION NUMBER 705482

Notary Public
My Commission Expires:

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

When Recorded Mail To:
American Fork City
51 East Main
American Fork UT 84003

NOTICE OF INTEREST, BUILDING REQUIREMENTS, AND ESTABLISHMENT OF RESTRICTIVE COVENANTS

This Notice is recorded to bind the attached Geotechnical Study dated May 14, 2019 along with the site grading plan to the property generally located at 3500 E 690 E (address), American Fork, UT 84003 and therefore mandating that all construction be in compliance with said Geotechnical Study and site grading plan per the requirements of American Fork City ordinances and standards and specification including specifically Ordinance 07-10-47, Section 6-5, Restrictive Covenant Required and 6-2-4, Liquefiable Soils. Said Sections require establishment of a restrictive covenant and notice to property owners of liquefiable soils or other unique soil conditions and construction methods associated with the property.

Exhibit A – Legal Description of Property
Exhibit B – Geotechnical Study
Exhibit C – Site Grading Plan

Dated this 24 day of January, 2020.

OWNER(S):

(Signature)

(Signature)

Stephen W Phelps
(Printed Name)

(Printed Name)

General Partner
(Title)

(Title)

STATE OF UTAH)
§
COUNTY OF Utah)

On the 31 day of January, 2020, personally appeared before me Stephen W Phelps and _____, Owner(s) of said Property, as (individuals and/or authorized representatives of a company), and acknowledged to me that such individuals or company executed the within instrument freely of their own volition and pursuant to the articles of organization where applicable.

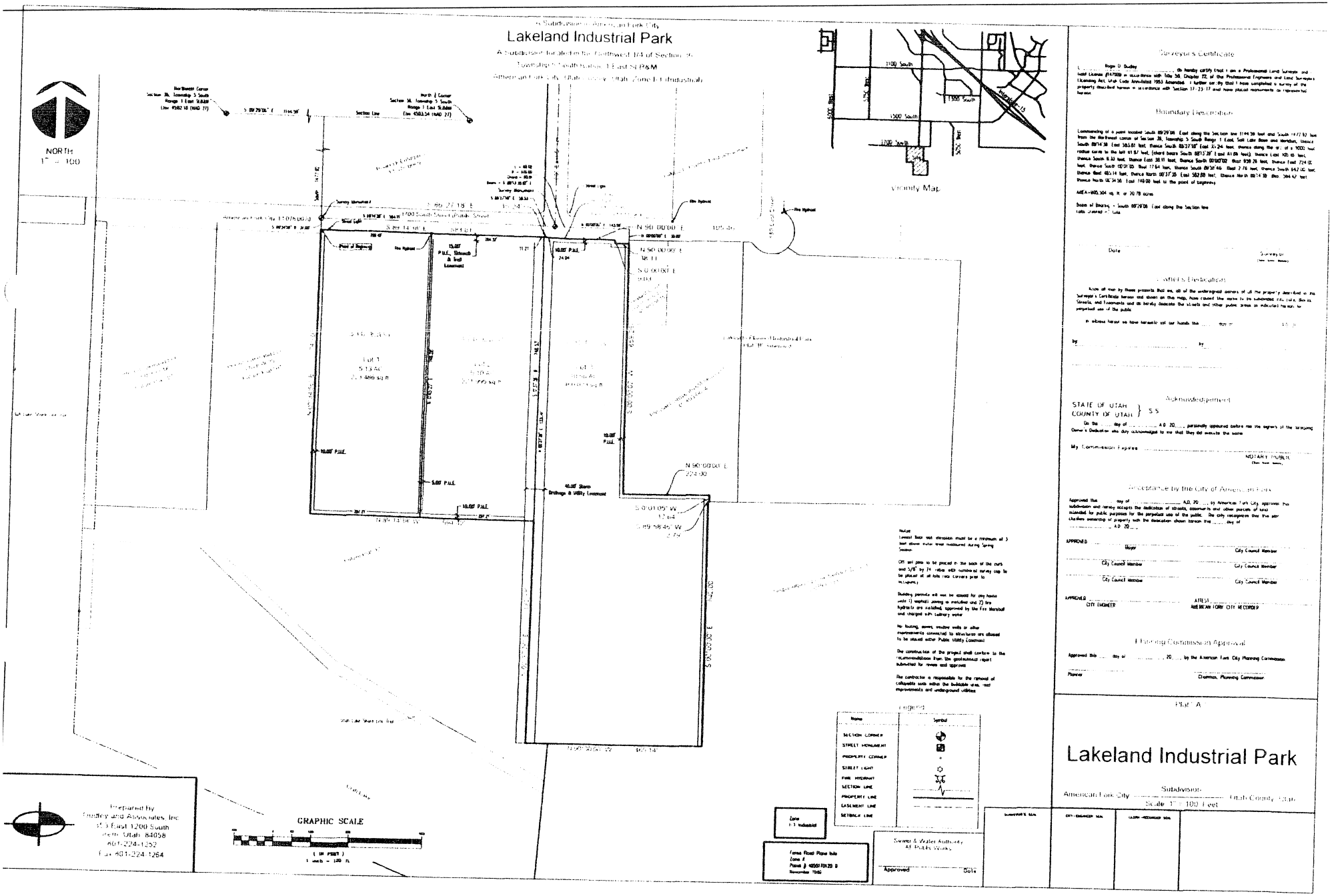
DAVID P KUHNI
NOTARY PUBLIC • STATE OF UTAH
My Commission Expires March 30, 2023
COMMISSION NUMBER 705482

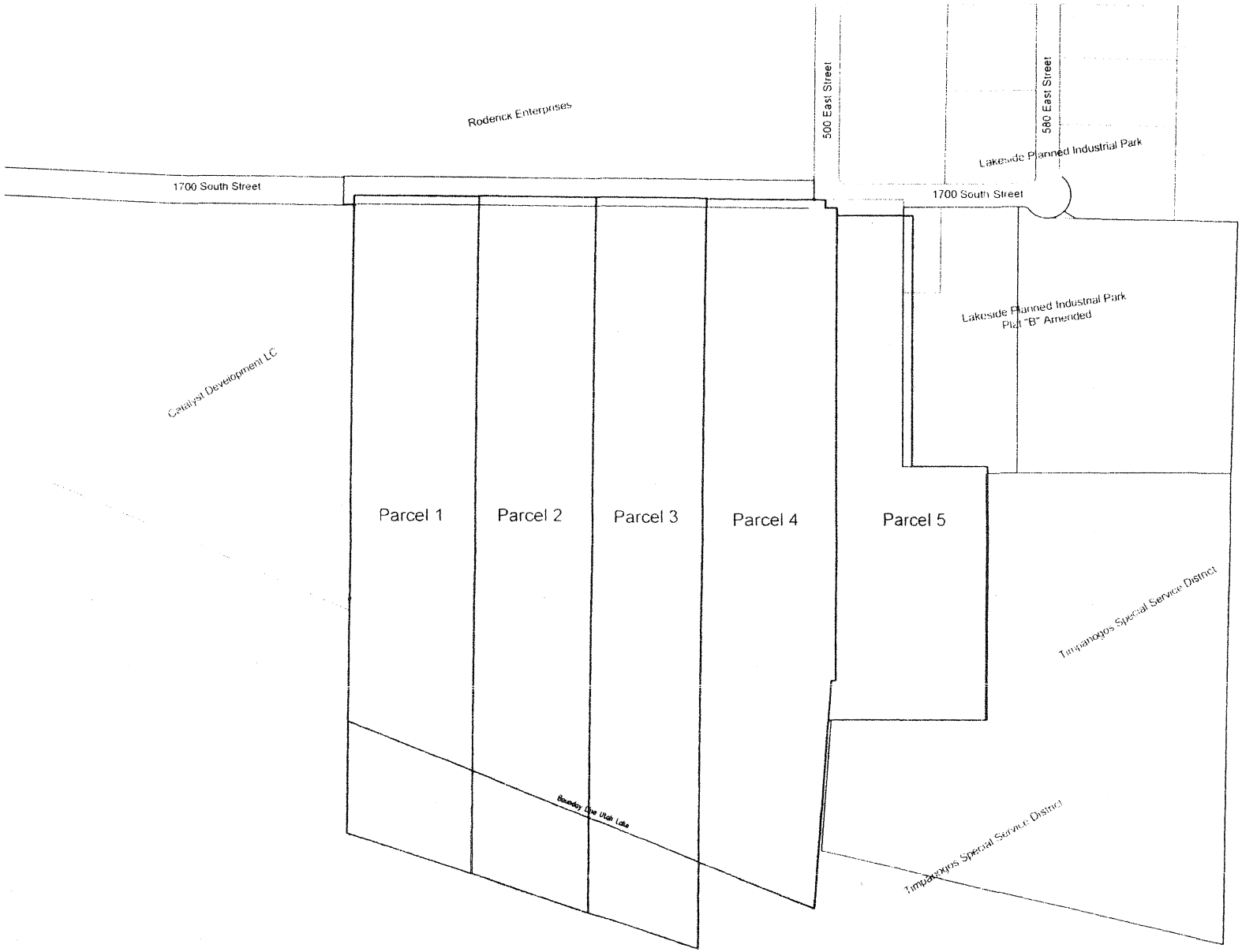
Notary Public
My Commission Expires: _____

Approved as to form: American Fork City Attorney

Rev. 12/4/18

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)


Lakeland Industrial Park
Vicinity Map
Surveyor's Certificate
Boundary Description
Owner's Dedication
Acknowledgement
Acceptance by the City of American Fork
Planning Commission Approval
PLAT A
Lakeland Industrial Park
Subdivision
American Fork City
Utah County, Utah
Scale 1" = 100 Feet
Prepared by
Dudley and Associates, Inc.
GRAPHIC SCALE
NORTH
1" = 100'
1100 South
1500 South
1700 South
Interstate-15
LEGEND
SECTION CORNER
STREET MONUMENT
PROPERTY CORNER
STREET LIGHT
FIRE HYDRANT
SECTION LINE
PROPERTY LINE
EASEMENT LINE
SETBACK LINE
Sewer & Water Authority
As Built Review
Approved
Date


Roderick Enterprises
500 East Street
580 East Street
Lakeside Planned Industrial Park
1700 South Street
1700 South Street
Lakeside Planned Industrial Park
Plat "B" Amended
Catalyst Development LC
Parcel 1
Parcel 2
Parcel 3
Parcel 4
Parcel 5
Timpanogos Special Service District
Boundary Line Utah Lake
Timpanogos Special Service District

AMERICAN FORK
1853

Technical Review Committee Submittal Form (yellow)

Submittal Type: ☐ Subdivision Preliminary Plat ☐ Subdivision Final Plat ☒ Commercial Site Plan
If applying for preliminary and final subdivision plats concurrently, mark both boxes.

Project Name: Dunn Recycle

Location: 170050 500 E American Fork

Utah County Parcel No(s): 13:078:0062, 13:078:0083

Property Owner Name: Phelan Lakeland LLC

Property Owner Signature:

Property Owner or Authorized Representative Contact Information: (By indicating an authorized representative, all communication from the City regarding the project will be directed to your authorized representative.)

Name: Michael Dunn

Address: 426 E 1750 N. Unit F Vineyard Utah 84059

Telephone: Fax: 801-221-9002

Email: Mike@Dunnutah.com

My application meets the requirements of the I-1 zone.

Submit the following to Public Works Dept, 275 East 200 North.

1. One paper submittal including plans (sized 11" x 17") and all reports (sized 8.5" x 11")
2. Electronic submittal on a flash drive (where conflicts between paper and electronic submittals exist, electronic submittals will override paper submittals):
   a. a full plan set in one (1) single pdf
   b. an electronic design file AutoCAD 2009 format (N.A.D. 83 Coordinates)
   c. reports (drainage, geotechnical, title) each in a separate pdf
3. Planning and Zoning Division Review Fee as determined at time of application
   a. Subdivision Preliminary Plat: $500.00
   b. Subdivision Final Plat: $250.00
   c. Subdivision Preliminary & Final Plats $750.00
   d. Commercial Site Plan: $500.00
4. Engineer Affirmation Statement – Required from each Professional Engineer stamping and signing submitted documents.
5. Engineering Division Review Fees – **Development review and inspection fees are billed per hour during the course of the project review and construction** (see Resolution No. 2018-05-18R). These fees include time for city personnel as well as 3rd party consultants that complete plat reviews, water rights transfers and reviews, engineering reviews, utility modeling, field inspections, recording fees, permit fees, street light cost, and all other applicable fees which are billed as they occur.

As the Applicant, I understand that I am responsible to submit a complete application including all required documents. I acknowledge that this application will not be accepted or reviewed until deemed complete by the City. I also accept responsibility for all fees and costs associated with my development as detailed above. I authorize American Fork City personnel to enter the property for the purposes of evaluating this application.

Applicant Signature: Date: 1-30-20

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

The following table summarizes the items required for each application type in order to be deemed a complete application. **By acknowledging and initialing the following items, Applicant certifies that the application is complete and meets American Fork City requirements.**

Preliminary Plat	Final Plat	Commercial Site Plan	Item for Completion (Section 17.7/8.202)	Applicant Acknowledgement (Initial)	Staff Verification (Initial by City Staff)
☒	☒	☒	**ALTA Survey (identify Geodetic Datum used)**		
☒	☒	☒	**American Fork Standard Details**		
☒	☒	☒	**Application Fees**		
☐	☐	☒	**Building Elevations (with dimension height) and Renderings**		
☒	☒	☒	**Cover Sheet**		
☒	☒	☒	**Drainage Report**		
☒	☒	☒	**Erosion Control Plan**		
☒	☒	☒	**General Notes**		
☒	☒	☒	**Geotechnical Report**		
☒	☒	☒	**Grading and Drainage Plan**		
☐	☐	☒	**Landscaping Plan**		
☐	☒	☒	**Plan and Profile (all new public infrastructure)**		
☐	☐	☒	**Site Lighting Plan**		
☐	☐	☒	**Site Plan**		
☒	☒	☐	**Subdivision Plat**		
☐	☐	☒	**Timpanogos Special Service District Form**		
☒	☒	☒	**Title Report**		
☒	☒	☒	**Traffic Impact Study** As required by City Engineer or as follows: Residential>100 Units Office>80,000 s.f. Retail>25,000 s.f. Industrial>100,000 s.f.		
☒	☒	☒	**Utility Plan (including Street Lights)**		
Depending on site location, these items may also be required:					
☒	☒	☒	Is any portion of the project accessing a UDOT road? ☐ Yes ☒ No If Yes, provide UDOT details as applicable.		
☒	☒	☒	Does any existing building ~~fall under Historic Preservation Requirements~~? ☐ Yes ☐ No If Yes, provide Historic Preservation Form.		

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

American Fork City
Public Works
Phone: (801)763-3060 • Fax: (801)763-3005

AMERICAN FORK
– 1853 –
PUBLIC WORKS

Date: 2/3/2020
Receipt: 8574

Sold To: Dunn Recycling

Check # 3435

Last 4 of CC

		Amount		Total
1	Site Plan Fee - Dunn Recycling	$500.00	$	500.00
			$	-
			$	-
			$	-
			$	-
			$	-
			$	-
			$	-
			$	-
		TOTAL		$500.00

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

DUNN RECYCL
679 NORTH 1500 WE
OREM, UT 84057
(801) 221-9001

PAY Five Hundred and No/100 Dollars

TO THE ORDER OF

DATE 01/30/2020

AMOUNT $500.00

American Fork City
275 East 200 North
American Fork, UT 84003

Account: Dunn Recycling

DUNN RECYCLING

34

Account: Dunn Recycling

Check Date	01/30/2020	Check Number	

Invoice #	Date	Description	Gross	Not Paid	Disc / Ret	Net Amou
Jan 2020	01/30/20	Commercial Site Plan	$500.00			$500.0
(693) American Fork City			$500.00	$0.00	$0.00	$500.0

DUNN RECYCLING

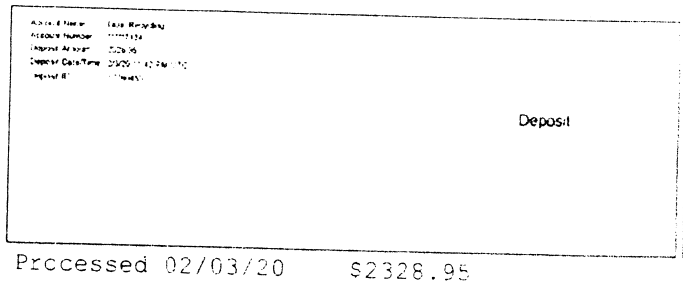
34

Account: Dunn Recycling

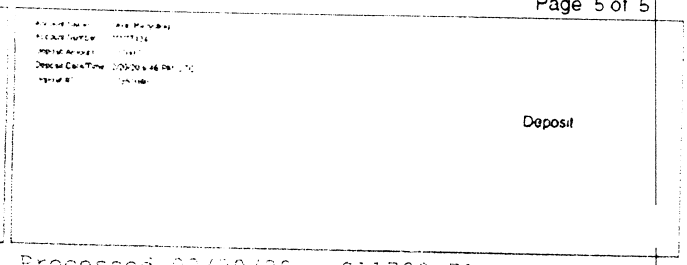
Check Date	01/30/2020	Check Number	3435

Invoice #	Date	Description	Gross	Not Paid	Disc / Ret	Net Amou
Jan 2020	01/30/20	Commercial Site Plan	$500.00			$500.0
(693) American Fork City			$500.00	$0.00	$0.00	$500.00

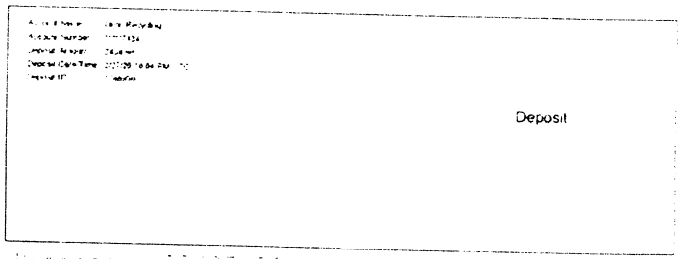
Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)


Deposit

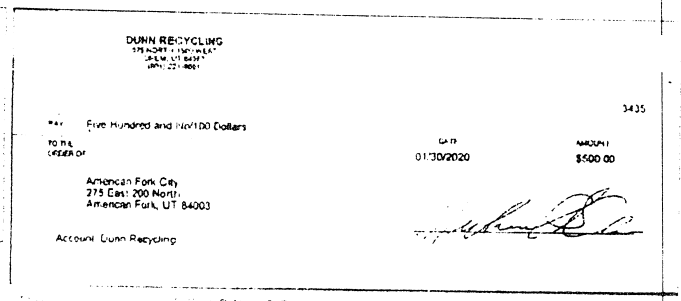
Prccessed 02/03/20 $2328.95


Deposit

Processed 02/20/20 $11700.71


Deposit

Processed 02/07/20 $2,450.50


DUNN RECYCLING

3435

PAY Five Hundred and No/100 Dollars

TO THE ORDER OF

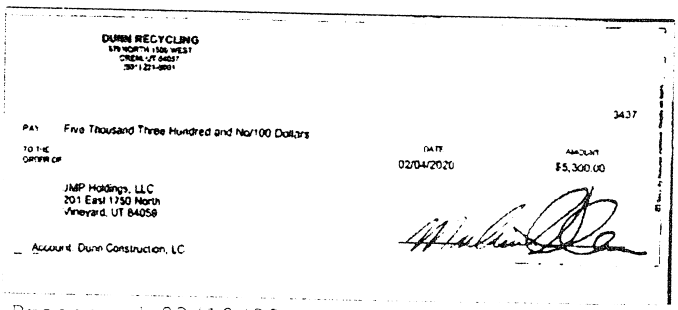
DATE 01/30/2020

AMOUNT $500.00

American Fork City
275 East 200 North
American Fork, UT 84003

Account: Dunn Recycling

Processed 02/05/20 $500.00 Ch# 3435


DUNN RECYCLING

3437

PAY Five Thousand Three Hundred and No/100 Dollars

TO THE ORDER OF

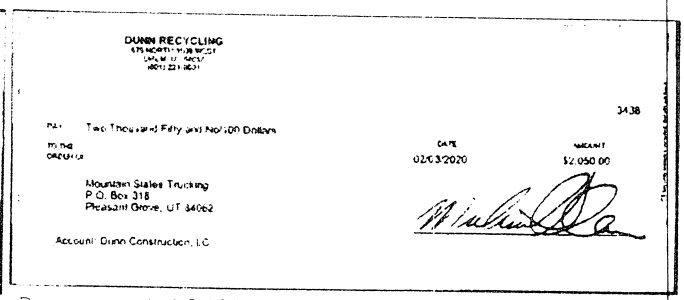
DATE 02/04/2020

AMOUNT $5,300.00

JMP Holdings, LLC
201 East 1750 North
Vineyard, UT 84058

Account: Dunn Construction, LC

Processed 02/10/20 $5300.00 Ch# 3437


DUNN RECYCLING

3438

PAY Two Thousand Fifty and No/100 Dollars

TO THE ORDER OF

DATE 02/03/2020

AMOUNT $2,050.00

Mountain States Trucking
P.O. Box 318
Pleasant Grove, UT 84062

Account: Dunn Construction, LC

Processed 02/07/20 $2050.00 Ch# 3438

Attachment: Prior applications (1) (Business License Denial Appeal - Dunn Construction)

Attachment: Additional Information for the Dunn Construction Business License Appeal (Business License Denial Appeal - Dunn Construction)

Additional Information from Dunn Construction LLC

The original site plan that was approved in 2024 includes the following:

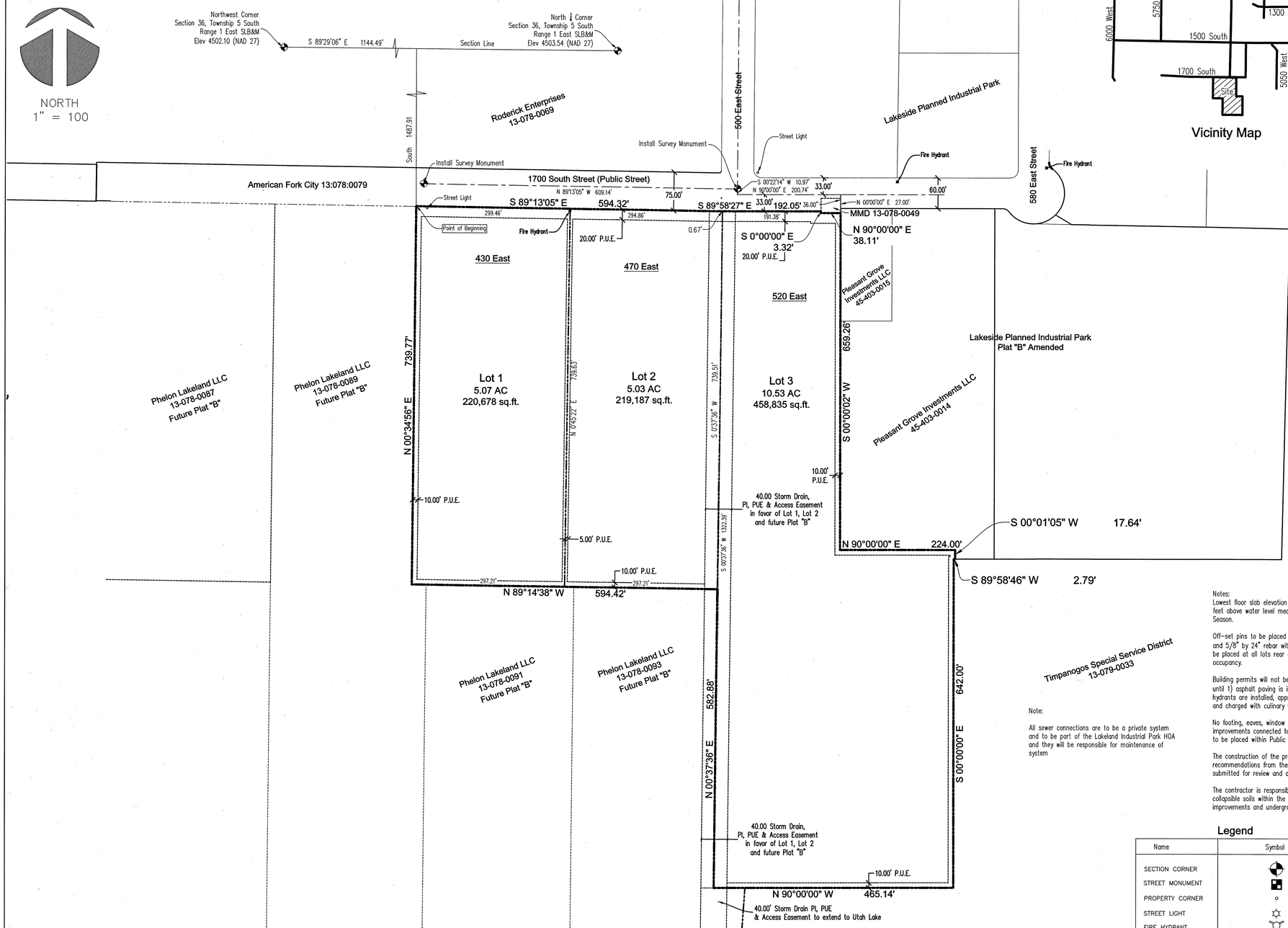
- Building improvements to be constructed
- Water, sewer and storm drain infrastructure
- A retention pond
- Landscaping plans
- Existing perimeter fences on two sides

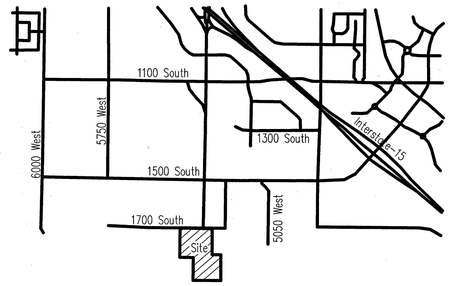
The amended site plan that has been submitted only adds some perimeter fencing, additional landscaping, and the locations for mobile equipment and processed material. In other words, the changes are minimal. Yet, it appears that the city staff is going to treat the new site plan as something where the whole process has to start over, resulting in months of delay.

A Subdivision in American Fork City

Lakeland Industrial Park

A Subdivision located in the Northwest 1/4 of Section 36,
Township 5 South Range 1 East SLB&M
American Fork City, Utah County, Utah, Zone I-1 (Industrial)





Vicinity Map

Note:

All sewer connections are to be a private system and to be part of the Lakeland Industrial Park HOA and they will be responsible for maintenance of system

Notes:
Lowest floor slab elevation must be a minimum of 3 feet above water level measured during Spring Season.

Off-set pins to be placed in the back of the curb and 5/8" by 24" rebar with numbered survey cap to be placed at all lots rear corners prior to occupancy.

Building permits will not be issued for any home until 1) asphalt paving is installed and 2) fire hydrants are installed, approved by the Fire Marshall and charged with culinary water.

No footing, eaves, window wells or other improvements connected to structures are allowed to be placed within Public Utility Easement.

The construction of the project shall conform to the recommendations from the geotechnical report submitted for review and approval.

The contractor is responsible for the removal of collapsible soils within the buildable area, road improvements and underground utilities.

Legend

Name	Symbol
SECTION CORNER	
STREET MONUMENT	
PROPERTY CORNER	
STREET LIGHT	
FIRE HYDRANT	
SECTION LINE	
PROPERTY LINE	
EASEMENT LINE	
SETBACK LINE	

Zone
I-1 Industrial

Ferna Flood Plane Info
Zone X
Panel # 4955170120 B
November 1980

Sewer & Water Authority
AF Public Works
Approved 12-17-2020 Date

GRAPHIC SCALE
100 0 50 100 200 400
(IN FEET)
1 inch = 100 ft.

Prepared By:
Dudley and Associates, Inc.
353 East 1200 South
Orem, Utah 84058
801-224-1252
Fax 801-224-1264

17515

Surveyor's Certificate

I, Roger D. Dudley do hereby certify that I am a Professional Land Surveyor and I hold License #147089 in accordance with Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Licensing Act, Utah Code Annotated 1953 Amended. I further certify that I have completed a survey of the property described hereon in accordance with Section 17-23-17 and have placed monuments as represented hereon.

Boundary Description

Commencing at a point located South 89°29'06" East along the Section line 1144.49 feet and South 1487.91 feet from the Northwest corner of Section 36, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 89°13'05" East 594.32 feet; thence South 89°58'27" East 192.05 feet; thence South 3.32 feet; thence East 38.11 feet; thence South 00°00'02" West along Lakeside Planned Industrial Park Subdivision 659.26 feet; thence East along said subdivision 224.00 feet; thence South 00°01'05" West along said subdivision 17.64 feet; thence South 89°58'46" West 2.79 feet; thence South 642.00 feet; thence West 465.14 feet; thence North 00°37'36" East 582.88 feet; thence North 89°14'38" West 594.42 feet; thence North 00°34'56" East 739.77 feet to the point of beginning.

AREA=898,700 sq. ft. or 20.63 acres

Basis of Bearing = South 89°29'06" East along the Section line
Lots created =3 Lots

DEC. 11, 2020
Date

Surveyor
(See Seal Below)

Owner's Dedication

Know all men by these presents that we, all of the undersigned owners of all the property described in the Surveyor's Certificate hereon and shown on this map, have caused the same to be subdivided into Lots, Blocks, Streets, and Easements and do hereby dedicate the streets and other public areas as indicated hereon for perpetual use of the public.

In witness hereof we have hereunto set our hands this 11th day of DEC., A.D. 2020

by:
Phelon Lakeland LLC — Steve Phelon (Manager)

Acknowledgement

STATE OF UTAH } S.S.
COUNTY OF UTAH }

On the 11th day of DEC, A.D. 2020 personally appeared before me the signers of the foregoing Owner's Dedication who duly acknowledged to me that they did execute the same.

My Commission Expires 3-1-2024
NOTARY PUBLIC
(See Seal Below)

Acceptance by the City of American Fork

Approved this 28 day of April, A.D. 2021 by American Fork City, approves this subdivision and hereby accepts the dedication of streets, easements and other parcels of land intended for public purposes for the perpetual use of the public. The city recognizes that this plat clarifies ownership of property with the dedication shown hereon this ____day of _____, A.D. 20___.

APPROVED
Mayor

City Council Member
Barbara Christensen
City Council Member
Kevin J. Bunnell
City Council Member
City Council Member
Clark D. Taylor
City Council Member

APPROVED Rebecca Arnoldus
CITY ENGINEER

ATTEST Evelyn Lustro
AMERICAN FORK CITY RECORDER

Planning Commission Approval

Approved this 8 day of April, 2021, by the American Fork City Planning Commission.

Planner

John H. Wolfinden Jr. P.G.
Chairman, Planning Commission

Plat " A "

Lakeland Industrial Park

American Fork City, Subdivision Utah County, Utah
Scale: 1" = 100 Feet

SURVEYOR'S SEAL

CITY-ENGINEER SEAL

CLERK-RECORDER SEAL

ENT 20844:2021 Map # 17515
ANDREA ALLEN
UTAH COUNTY RECORDER
2021 Feb 03 11:01 am FEE 56.00 BY MA
RECORDED FOR AMERICAN FORK CITY

SEC 36 T5S R1E TOMO DG

Attachment: Lakeland Industrial Park Plat December 2020 (Business License Denial Appeal - Dunn Construction)

2019-049

American Fork City | Public Works Department | Storm Drain Division

LAND DISTURBANCE PERMIT
STORMWATER POLLUTION PREVENTION
CONSTRUCTION ACTIVITY

PERMIT #: AF-1810
Effective Date: 2/11/20
Expiration Date: 2/11/21

Submission of this Land Disturbance Permit constitutes notice that the party(s) identified on Section I of this form intends to be authorized by American Fork City and UPDES General Permit No. UTRC00000 issued for storm water discharges associates with construction activity in the State of Utah. Becoming a Permittee obligates such discharger to comply with the terms and conditions of the permit.

ISSUANCE OF THIS PERMIT IS ONLY FOR THE PURPOSES OF BRINGING IN FILL MATERIALS TO THE SITE AND/OR CLEARING AND GRUBBING PURPOSES. CONSTRUCTION OF INFRASTRUCTURE IS NOT PERMITTED.

Section I. Site Operator's Information

Name: ESP Excavation Inc.
Application Date: 01/10/2020
Address: PO BOX 1090
City: American Fork
State: Utah
Zip Code: 84003
Phone:
Email: steve@espexcavation.com

Section II. Facility Site / Location Information

Project's name: Lakeland Industrial Park
Project's address: Approx. 350 east- 550 east 1700 south
Property size (in acres): 57
Disturbed area (in acres): 20
Type of construction: ☐ RESIDENTIAL X INDUSTRIAL ☐ COMMERCIAL ☐ LANDSCAPING
(Check all that apply) ☐ BRIDGE ☐ UTILITY X ROAD X OTHER site dirt import
Start construction date: 01-22-2020
Completion date: Open
Volume of fill to be brought on-site: 100,000yds Volume of cut to be removed: 20,000 yards
Quantity and frequency of truckloads: 10,000 20 per hour Hours trucks operating: 6am-9pm

If area of disturbance is over ONE acre, then a UPDES Permit Notice Of Intent number will need to be acquired with the submittal of a Notice Of Intent (NOI) that can be obtained from the following link: http://www.waterquality.utah.gov/UPDES/stormwater.htm.

A Storm Water Pollution Prevention Plan has been prepared for this site in compliance with the State and/or Local Sediment and Erosion Control requirements. X YES ☐ No

NOI Number: UTR 398714
Effective date: 01/17/20
Expiration date: 01/17/21

Section III. Best Management Practices – AF City Ordinance 2010-06-16 Section 4

These are Mandatory conditions of approval. NON COMPLIANCE may cause suspension or termination of this permit. Please initial to show understanding of the requirement.

No dirt or debris place on sidewalk / road	swp	No dirt or debris placed on the gutter	swp
SWPPP inspection logs on site	swp	Portable toilets placed on pervious surfaces	swp
Portable toilets staked down	swp	SWPPP information board on site	swp
SWPPP plan located on site	swp	No hazardous materials on site	swp

*** A haul route illustration indicating where driver is coming from and going to must be provided before permit is issued. X

Identify proposed Best Management Practices (BMPs) to reduce pollutants in storm water discharges:

Structural BMPs (Check all that apply)

SWPPP Information Board	X YES	☐ No	Construction Entrance / Exit	X YES	☐ No
Silt Fence	☐ YES	X No	Temporary environmental fence	☐ YES	X No
Storm drain inlet protection	x YES	No	De-silting basin	x YES	☐ No
Detention basin	☐ YES	X No	Retention basin	☐ YES	x No
Erosion control blankets	☐ YES	X No	Straw bale check dams	☐ YES	x No

Attachment: Land disturbance permit (Business License Denial Appeal - Dunn Construction)

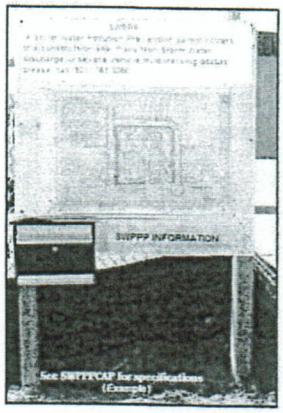
American Fork City — Public Works Department — Storm Drain Division

Concrete wash-out pad	x YES ☐ No	Material storage designated area	☐ YES X No
Equipment storage designated area	☐ YES X No	Portable toilet	X YES ☐ No

Permittee must post a SWPPP Board on site. The sign must be placed on the construction site in a visible area. The permit, SWPPP, site maps, inspection logs, etc. must be accessible to the inspector.

SWPPP sign Technical Specifications

Exterior grade ¾ inch plywood	X YES ☐ No
White background	X YES ☐ No
4 foot by 4 foot dimensions	X YES ☐ No
Red letters	X YES ☐ No
SWPPP plan display area	X YES ☐ No
Inspection log box / container	x YES ☐ No
Copy of this permit display area	x YES ☐ No



Following note: **"SWPPP (on top) – A Storm Water Pollution Prevention permit covers this construction site. If any Non-Storm Water discharge or severe vehicle mud tracking occurs, please call on-site contractor 24/7. Contact numbers for on-site contractor and hauling vehicles: 801-592-7766 Liz**

Section IV. Enforcement Actions and Penalties – AF City Ordinance 2010-06-16 Section 9 and 10

Corrective Action Notice

Whenever the City finds a Site Operator has violated a prohibition or failed to comply with a requirement of this permit, the Storm Drain Representative will order compliance by a written Corrective Action Notice to the responsible person.

Notice of Violation

A Notice of Violation will be issued by the Storm Drain Representative whenever the City finds a person has failed to comply with the requirements set on the Corrective Action Notice.

Stop Work Order

A Stop Work Order will be issued by the City whenever the City finds a Site Operator failed to comply with the Notice of Violation within the specified time and/or if there is Hazardous Material polluting the storm drain system or a spill.

Violation and Enforcement

Under the authority provided in the Utah Code, American Fork City declares that any person violating the provisions of this ordinance may be assessed a Class C Misdemeanor by the City Storm Drain Representative upon direction from the City Council or not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each violation. Each day of violation shall constitute a separate violation. AF City Ord 2010-06-16 Section 10. (1)

Section V. Certification Statement

I understand that this SWPPP permit is required and will remain in effect until the entire project is stabilized, including re-vegetation and the Notice of Termination (NOT) has been filed and accepted by the City or the Utah State Division of Water Quality (DWQ). By signing this form, I am fully aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for known violations.
I understand that I will be subjected to random SWPPP inspections and that my responsibility for compliance with the terms of this Permit will extend until a Notice of Termination is submitted to the City and/or Utah State DWQ.

Site Operator's signature: _____ Date: 01/21/2020

Print name: Stephen W Phelon Site Operator Title: ☐ Contractor x Developer

A copy of this permit must remain on the construction site at all times.

OFFICIAL USE ONLY

Permit Authorization: TANIA UYEMA (print name) Staff Signature: _____ Date: 2/11/20

Title: ☐ City Engineer ☒ Engineering Associate

Attachment: Land disturbance permit (Business License Denial Appeal - Dunn Construction)

The Order of the Court is stated below:
Dated: April 20, 2023 07:36:01 AM
/s/ JARED ELDRIDGE
District Court Judge

Proposed and submitted by:

Douglas P. Farr (13208)
Dallis N. Rohde (9537)
BUCHALTER, P.C.
60 E. South Temple St., Suite 1200
Salt Lake City, Utah 84111
Telephone: (801) 401-8688
Email: dfarr@buchalter.com
drohde@buchalter.com

Attorneys for Defendant American Eagle Ready Mix Utah, LLC

IN THE FOURTH DISTRICT COURT, UTAH COUNTY, STATE OF UTAH, SPANISH FORK DEPARTMENT

RODERICK ENTERPRISES, LP, a Utah limited partnership, Plaintiff, vs. AMERICAN FORK CITY COUNCIL in its capacity as the appeal authority and in its legislative capacity; AMERICAN FORK CITY, a Utah municipal corporation and a political subdivision of the State of Utah; BRAD FROST in his capacity as the Mayor of American Fork City, a Utah municipal corporation; and AMERICAN EAGLE READY MIX UTAH, LLC, a foreign limited liability company; PHELON LAKELAND LLC, a Utah limited liability company; MMD PROPERTY MANAGEMENT, LC, a Utah	**JUDGMENT** Case No. 200300106 Judge Jared Eldridge

Attachment: Roderick judgment (Business License Denial Appeal - Dunn Construction)

limited liability company; UTAH COUNTY, a political subdivision of the State of Utah; and DOES 1-10, unknown persons or entities, Defendants.	

This Court having issued its Ruling and Order, dated March 30, 2023, wherein the Court GRANTED (i) AERM's and City Defendants' Cross Motion for Summary Judgment as to Plaintiff's Petition Claims, dated May 16, 2022 (Dkt. No. 254); and (ii) AERM's and City Defendants' Motion for Summary Judgment as to Plaintiff's First, Fourth, Fifth, and Sixth Causes of Action in the Amended Complaint and Petition, dated May 16, 2022 (Dkt. No. 256), and DENIED Plaintiff's Motion for Summary Judgment on Plaintiff's Second and Third Claims for Relief, dated May 16, 2022 (Dkt. No. 259), JUDGMENT is hereby entered in favor of Defendants pursuant to Rule 58A of the Utah Rules of Civil Procedure. Accordingly, each of Plaintiff Roderick Enterprises, LP's claims is hereby DISMISSED with prejudice and on the merits.

END OF ORDER
Pursuant to Rule 10(e) of the Utah Rules of Civil Procedure, this Judgment will be entered by the Court's signature at the top of the first page.

Approved as to form:

/s/ Daniel J. McDonald
(signed by filing attorney with permission)
Daniel J. McDonald
Attorney for Roderick Enterprises, LP

/s/ Cherylyn M. Egner

Attachment: Roderick judgment (Business License Denial Appeal - Dunn Construction)

(signed by filing attorney with permission)
Cherylyn M. Egner
Attorney for City Defendants

/s/ George L. Chingas, Jr.
(signed by filing attorney with permission)
George L. Chingas, Jr.
Attorney for Phelon Lakeland LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of April, 2023, pursuant to Rule 58A(c)(1) of the Utah Rules of Civil Procedure, I served the foregoing **JUDGMENT** on the following via email.

/s/ Douglas P. Farr

Dan McDonald
McDonald Fielding, PLLC
P.O. Box 1184
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dan@mcdonaldfielding.com
Attorney for Roderick Enterprises, LP

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Attorney for American Fork City Council; American Fork City; and Brad Frost

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george@mhmlawoffices.com

Attachment: Roderick judgment (Business License Denial Appeal - Dunn Construction)

Attorney for Phelon Lakeland LLC

Attachment: Roderick judgment (Business License Denial Appeal - Dunn Construction)

IN THE FOURTH JUDICIAL DISTRICT COURT, STATE OF UTAH

UTAH COUNTY, SPANISH FORK DEPARTMENT

RODERICK ENTERPRISES, a Utah limited partnership, Plaintiff, v. AMERICAN FORK CITY COUNCIL in its capacity as the appeal authority and in its legislative capacity; AMERICAN FORK CITY, a Utah municipal corporation and political subdivision of the State of Utah; BRAD FROST in his capacity as the Mayor of American Fork City, a Utah municipal corporation; and AMERICAN EAGLE READY MIX UTAH, LLC, a foreign limited liability company; PHELON LAKEDLAND, LLC, a Utah limited liability company; MMD PROPERTY MANAGEMENT, LC, a Utah limited liability company; UTAH COUNTY, a political subdivision of the State of Utah; and DOES 1-10, unknown persons or entities who may have or claim an interest which would be affected, Defendants.	**Ruling and Order re:** **Defendant AERM/City Motion for Summary Judgment as to Roderick's Non-Petition Claims (1st, 4th, 5th, 6th Causes of Action)** GRANTED; **Roderick's Motion for Summary Judgment on Petition Claims (2nd and 3rd Claims for Relief);** DENIED; **Defendant AERM/City Motion for Summary Judgment as to Roderick's Petition Claims (2nd and 3rd Claims for Relief)** GRANTED. Case no. 200300106 Judge Jared Eldridge

INTRODUCTION

This matter came before the Court pursuant to the above captioned parties filing the relevant papers referenced in the caption. *See* Docket. Hereafter, the Court will refer to the

Attachment: Ruling and Order (Business License Denial Appeal - Dunn Construction)

parties as Plaintiff Roderick Enterprises ("Roderick"); Defendant American Fork City Council ("City Council" or "Council"); Defendant American Fork City ("City"); Defendant American Eagle Ready Mix Utah, LLC ("AERM"); Defendant Phelon Lakeland, LLC ("Phelon"); all others (including the above defendants, as "Defendants").

The Court heard oral argument on the motions on July 26, 2022.

The Court, having considered the briefing and the arguments, and being familiar with the relevant governing law and rules, now enters the following ruling granting and denying the relief as described in the caption. The Court's reasoning follows below.

FACTS

The Court edited the parties' facts to clarify the issues. *See Franco v. The Church of Jesus Christ of Latter-day Saints*, 2001 UT 25, ¶ 26, 21 P.3d 198 *abrogated on other grounds by Williams v. Kingdom Hall of Jehovah's Witnesses*, 2021 UT 18, 491 P.3d 852 (citing *Ellefsen v. Roberts*, 526 P.2d 912, 915 (Utah 1974) (the "sufficiency of [a party's] pleadings must be determined by the facts pleaded rather than the conclusions stated")); *see also Commonwealth Prop. Advocs., LLC v. Mortg. Elec. Registration Sys., Inc.*, 2011 UT App 232, ¶ 16, 263 P.3d 397 (stating "mere conclusory allegations in a pleading, unsupported by a recitation of relevant surrounding facts, are insufficient to preclude dismissal or summary judgment" and "the court is not bound by a complaint's legal conclusions, deductions, and opinions couched as facts" (citations omitted)).

Attachment: Ruling and Order (Business License Denial Appeal - Dunn Construction)

FACTS PERTINENT TO: AERM/CITY MOTION FOR SUMMARY JUDGMENT AS TO RODERICK'S 1ST, 4TH, 5TH, 6TH CAUSES OF ACTION (NON-PETITION CLAIMS).

The Annexation process and claims.

1. **January 8, 2019**: The City Council began an annexation process for the Phelon Property. The City approved Resolution 2019-01-04R, which demonstrated its intent to annex this property and land owned by the Defendant MMD Property Management, LC (adjacent to the Phelon Property). *See* Ex. 8 to the City's Opposition to Plaintiff's Motion for Partial Summary Judgment, 10/22/21, Dkt. 132.
2. The City provided municipal services—primarily fire and police services—to the Annexed Property prior to the Annexation. *See* Exs. 9 and 10 to City's Opp'n, Dkt. 132.
3. The property to be annexed consisted of an island or peninsula of land. *See* Ex. 3 and 11 to City's Opp'n, Dkts. 132 and 135.
4. **September 24, 2019:** At a City Council meeting, the Council stated its reasoning for the annexation was "so as not to leave an island of [Utah] County property surrounded by City property." *See* Ex. 5 to Plaintiff's Motion for Partial Summary Judgment, 8/24/21, Dkt. 57.
5. **January 14, 2019:** The City sent a Notice of Intent to Annex to the Deseret News for publication; it also provided notice to the required affected entities. *See* Exs. 9 and 10 to City's Opp'n, Dkt. 132.
6. **March 26, 2019:** The Council considered whether to approve the annexation agreement. *See* Ex. 16 to City's Opp'n, Dkt. 136. Michael Roderick, President of Roderick, was

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present at the Council meeting; he addressed the Council regarding the proposed annexation. *See id.* Mr. Roderick provided the Council with a handout documenting his concerns with the intended I-1 zoning designation for portions of the Annexed Property. *See* Exs. 16 and 17 to City's Opp'n, Dkts. 136 and 137.

7. **March 26, 2019:** The Council unanimously approved the Annexation and the I-1 Industrial Zone ("I-1 zone") for portions of the property to be annexed, including the Phelon Property. *See* Ex. 16 to City's Opp'n, Dkt. 136.

8. **September 24, 2019:** The Council approved an Ordinance of Annexation. *See* Ex. 18 to City's Opp'n, Dkt. 138.

9. **October 29, 2019:** The City Recorder sent the Notice of Impending Boundary Adjustment to the Lt. Governor's Office. However, the City did not receive a Certificate of Annexation in return. *See* Ex. 6 to City's Opp'n, Dkt. 132.

10. More than 60 days after the adoption of the September annexation ordinance, the City Recorder realized that a Certificate of Annexation had not been received. *Id.*

11. **December 17, 2019:** The City repealed the September annexation ordinance and adopted Ordinance 2019-12-84. It did so to cure a recording error, as the City had not received the Certificate of Annexation from the Lt. Governor's Office. *Id.*

12. **December 18, 2019:** The Lt. Governor's Office approved the Certificate of Annexation. *See* Ex. 2 to City's Opp'n, Dkt. 132.

AERM's application.

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13. **On or about January 29, 2020:** Following the Council's approval of the Annexation, AERM submitted the Application for a concrete batch plant on the Phelon Property in the City's I-1 Zone. *See* Am. Admin. Record, Dkt. Nos. 202–06, 211–14, 219–223, 229–232, 237–241, 247–48.

14. **March 16, 2020:** Roderick sent the City's Planning Commission ("Commission") a letter. The subject matter of the letter purported to explain, among other things, Roderick's position that AERM's batch plant would be incompatible with the I-1 Zone for the Annexed Property. *See* Am. Admin Record at 1–245.

15. **April 6, 2020:** Roderick sent a second letter to the Commission. It contained the following. It had a description purporting to show Roderick's work in developing the 1.2 million square-foot Business Park. It asserted that when Roderick purchased its land in 2015, the Annexed Property was master-planned as shoreline protection land. It communicated Roderick's disappointment at the City rezoning the annexed area, and requested that the Commission deny AERM's application. *See* Am. Admin. Record at 247–54.

16. **April 16, 2020:** AERM sent two letters to the Commission and City Senior Planner Adam Olsen. One responded to Roderick's April 6, 2020 letter. The second addressed the Commission's concerns. The letter also confirmed AERM had done some work on the property prior to the Annexation approval. *See* Am. Admin. Record at 1772–86.

17. **April 29, 2020:** AERM sent yet another letter to the Commission. In this letter AERM claimed to have acted in reliance upon the Annexation approval, and asserted that it had

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worked with the City to comply with the City's I-1 Zone regulations. *See* Am. Admin. Record at 1391–1430.

18. **May 6, 2020:** The Commission stated the annexation had been completed. It stated that many of Roderick's arguments to the Commission opposing AERM's application should have been raised before the annexation had been completed. *See* Am. Admin. Record at 1447:40–41 ("The Annexed P]roperty was recently annexed."); *see also id.* at 1448 ("Last year [AERM] worked with city staff to be annexed, with the clear understanding of what the appropriate use would be. Some concerns were raised about another batch plan[t] in the area, but city staff annexed and rezoned for this purpose and use. Roderick recently made arguments that should have been made before a zoning and annexation [approval] took place. After annexation there is an expectation [that the] activity [that was] approved [is proper for] the zone [designation which was approved/altered]")).

19. The Commission made similar references to the recent annexation approval at a meeting on April 8, 2020. *See* Am. Admin. Record at 923: 41–42.

20. The Council found that a portion of the annexed property is located in the I-1 Zone. *See* Am. Admin Record at 2077.

21. **July 30, 2020:** Roderick filed its Complaint. *See* Dkt. No. 1; as amended, Dkt. No. 33.

22. Roderick's initial disclosures acknowledged that the City's decision to approve the Annexation is a "'land use regulation' within the meaning of Utah Code Ann. 10-9a-102(32)(a)." *See* Pl.'s Initial Disclosures, at 5 (Ex. "A").

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Roderick's additional facts.

1. Roderick's incorporates by reference its statement of undisputed material facts in its August 24, 2021 motion for partial summary judgment.

2. Roderick's expert witness observed in a report submitted in opposition to the site plan that:

> On March 19, 2020 I made a visit to the site and observed the progress which the ready mix company has made. I was quite surprised to find a ***near complete*** new ready mix plant.

See R. at 257 (emphasis added by Roderick). Roderick also cited R. 279-80, 328 (demonstrative photographs).

3. AERM has admitted and apologized on the record repeatedly for violations of the law by constructing a batch plant prior to obtaining site plan approval and/or a building permit. *See* R. at 344 (last ¶ 2); R. at 345 (last ¶ 2); 347 (last ¶ 1); R. at 362 (admission and apology in last two paragraphs); R. at 425, ¶ 2; R at 426, ¶¶ 2-3; R. at 959 (counsel's apology); R. at 2085 (counsel admitting that AERM "had to be stopped until appropriate approvals can be obtained").

4. According to AERM, the plant consists of personal equipment that is "bolted together" and therefore, not permanent improvements. *See* R. at 344 (last paragraph, last sentence); R. 345 (second ¶ 2); R. 347, ¶ 1; R. 362 (last sentence); R. 1774 (last paragraph, last sentence); R. 1775 (second ¶ 2); R. 1777 (last paragraph, last sentence).

5. The City admits "there was never a duly and properly noticed public hearing before the American Fork City Planning Commission on amendment of the zoning map and/or the

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adoption of the I-1 zoning designation for the real property that was purportedly annexed by Ordinance No. 2019-12-84 recorded as Entry No. 524:2020 in the Office of the Utah County Recorder." *See* Roderick's August 24, 2021 Motion for Partial Summary Judgment – Invalidity of the Annexation and Zoning, Ex. 1 at p. 4, RFA No. 3.

The Court's ruling on Roderick's objections.

1. Roderick objects to the Declaration of Adam Ellison. As grounds, Roderick argues that Ellison was not properly and timely disclosed as a witness in this matter under the discovery rules, in either the AERM's/City's initial disclosures or discovery responses and therefore this declaration should be excluded. *See* Utah R. Civ. P. 26(a)(1). Roderick also argues Ellison's Declaration lacks "adequate foundation or explanation to be probative" because it does not define with adequate particularity and specificity coordinates defining its referenced "Phelon Vicinity" on a map. Roderick argues this makes it "impossible" to determine whether police services were "in fact" provided to the annexed property as described by Ellison. Roderick also raises objections to the declaration's relevance (*see* Utah R. Evid. 402), and to it generally as prejudicial (*see* Utah R. Evid. 403 (prejudicial than probative)). The Court rules the declaration is relevant. It also rules that it is not persuaded there are sufficient grounds to exclude it under Rule 403. Merely because evidence may be damaging to a party's case because of its "legitimate probative force" does not qualify as unfair prejudice meriting exclusion. *See Woods v. Zeluff*, 2007 UT App 84, ¶ 7, 158 P.3d 552 (citing *United States v. Bonds*,

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12 F.3d 540, 567 (6th Cir.1993)). To the degree that Roderick argues the declaration is not probative of the issue of provision of services for lack of adequate specificity as to where police services were provided, the Court disagrees. As to adequate disclosure under the discovery rules, the Court is not persuaded that Roderick has articulated sufficient grounds to exclude. *See infra* (the Court's applies its reasoning not to exclude (failure to mitigate, lack of articulable unfair prejudice, etc.) as described in its rulings on Roderick's objections as to City's Exhibit D, and to the Declaration of the Utah County Treasurer (Jackson)).

2. Roderick objects to the relevance of the Court considering the surrounding circumstances of the first set of the City's notice and hearing compliance pursuant to statute regarding the first annexation ordinance (*see* Utah Code § 10-9a-205) and Roderick's actual presence at various meetings regarding the passage of the first annexation ordinance that was later repealed for the Council to then pass a second ordinance to correct a technical defect in a land description contained in the first. The Court is not persuaded that the circumstances are irrelevant and will not exclude the facts related to the circumstances of the passage of the first ordinance. Objection overruled.

3. Roderick objects to the Court considering as material the alleged statements of AERM's legal counsel Wade Budge made in the planning commission that annexation had been completed or was proper. Roderick argues that statements or legal conclusion of counsel are not evidence. The Court agrees that counsel's arguments are not evidence, and will

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follow the rules of evidence regarding the proper consideration of legal argument/statements of counsel. The Court will consider Budge's statement as argument.

4. Roderick objects to the Court considering the Declaration of Doug Clements referenced in the City's argument, but not included in the City's statements of fact. In that Declaration, Mr. Clements asserts that AERM invested millions of dollars in its project in reliance upon the City's Annexation approval. Roderick's objection relies upon several legal grounds. Roderick argues that Mr. Clements' declaration lacks foundation, is conclusory, and is conjectural because it does not provide a basis (including a calculation or schedule) for its reliance conclusion. As context, Roderick argues the timing of any investment by AERM premised upon reliance on City action is at issue since Roderick contends that the plant was constructed, in large part, before rather than after the proper approvals were received. Therefore AERM could not reasonably rely upon the City's Annexation approval in "investing" in the plant via construction. In this regard, Roderick argues this objection is relevant and material to AERM's arguments as to estoppel. Roderick also cites Utah R. Evid. 403 (evidence may be excluded where it is more prejudicial than probative) as providing a basis to exclude Mr. Clements' declaration because the amounts calculated or represented to be AERM's reliance costs on the City's annexation decision are not sufficiently precise or are improperly vague. Roderick also argues the declaration is inadequately founded in admissible evidence. For example, Roderick argues that paragraph 5 of the declaration and Exhibit 1 (the spreadsheet of alleged costs/expenditures) contains inadmissible hearsay. *See* Utah R. Evid. 801; 802.

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The Court rules as follows. Roderick's arguments over timing, reasonable reliance, and so forth address what weight the Court should give to the declaration as evidence and not any relevant legal objection to exclude. And to the extent that reliance was not "reasonable" based on timing, the Court finds Roderick's argument as to timing to be conclusory in that Roderick's argument is itself a bald conclusion. The burden is on Roderick to show its timing argument; mere argument is insufficient. Also, the Court does not consider Roderick's hearsay objections well-developed sufficient to exclude. Based upon the Court's review, Mr. Clements has personal knowledge of the facts asserted. That the calculations are not sufficiently particularized or specific to Roderick's satisfaction are not sufficient reason to exclude. And as to purported prejudice as to Utah R. Evid. 403 pertaining to the declaration, the Court is also not persuaded. Rule 403 implies an improper basis as grounds for unfair prejudice to then exclude evidence. Merely because evidence may be damaging to a party's case because of its "legitimate probative force" does not qualify as unfair prejudice meriting exclusion. *See Woods v. Zeluff*, 2007 UT App 84, ¶ 7, 158 P.3d 552 (citing *United States v. Bonds*, 12 F.3d 540, 567 (6th Cir.1993)).

5. Roderick objects to the City's Exhibit D. Roderick argues Exhibit D was not recited in the fact portion of the City's motion, and there is no clear indication of which arguments it is meant to address, other by inference given context. Roderick concludes the exhibit relates to the City's arguments as to Utah Code § 10-2-422 (annexations presumptively valid where municipality levied taxes for more than one year following purported

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annexation, and no resident has sought to contest annexation judicially during that year). Roderick objects that the exhibit lacks foundation because Exhibit D has no adequate explanation of its origin. Roderick also argues that the exhibit lacks authentication under Utah R. Evid. 901(a), and 901(b)(7). Additionally, Roderick argues Exhibit D was never produced by AERM or the City in initial disclosures or in response to discovery requests. *See* Utah R. Civ. P. 26(d)(4). The City argues that Exhibit D is admissible because it is a record of the taxes paid for more than one year upon the annexed property, and "should have been filed as an attachment to the declaration of Kim T. Jackson, the Utah County Treasurer." The Court rules that Exhibit D is admissible. Roderick put the issue of whether municipal services had been provided by the City to the property to be annexed before the Court. *See* Am. Compl. at ¶ 130. Therefore any prejudice to him for lack of timely disclosure was lessened. The Court does not find Roderick's authentication objections persuasive and overrules them in light of the fact that the Court considers the exhibit together with the declaration of the Utah County Treasurer Kim T. Jackson. Jackson is competent to establish the necessary foundation for Exhibit D. Roderick has not persuasively articulated how it would be unfairly prejudiced by the inclusion of Exhibit D. Upon review of the docket, as best the Court can tell Roderick never took any action to mitigate any possible harm arising from any discovery violation. *See SFR, Inc. v. Comtrol, Inc.*, 2008 UT App 31, ¶ 16, 177 P.3d 629 (stating in light of a discovery violation that "[n]otwithstanding [a party's] conclusory assertion of harm, [a party] did nothing to mitigate any such harm by seeking a continuance [to evaluate late productions]

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or requesting an opportunity to conduct further discovery"). The Court also rules to admit Exhibit D given precedent interpreting and applying Utah Code § 10-2-422. *See Davis v. Provo City Corp.*, 2008 UT 59, ¶¶10-12, 193 P.3d 86. *Davis* describes Section 422 as establishing a "conclusive presumption" of validity for annexations that have been shown to meet the requirements of statute. *Id.* Our supreme court explained that such presumptions are the equivalent of a "substantive rule of law" when shown. *Id.* Therefore Roderick's Exhibit D objections (and other similar objections addressing the requirements of Section 422 (the Jackson Declaration objection)) are not well taken inasmuch as they rely upon discovery violations and sanctions to attack what the City has shown to be a fact (the annexation is presumed conclusively to be valid) established with the force of a substantive rule of law. Therefore, given the conclusive presumption that the annexation was valid has force as a matter of law, and that presumption is "irrebutable." *See id.* at ¶ 21. The Court in these circumstances does not find the sanction of exclusion warranted, as is within its discretion, despite the fact that the City did not produce the Section 422 Exhibit D in initial discovery responses, etc. *See SFR, Inc.* at ¶ 13 (describing the Court's "broad discretion" in deciding possible sanctions for discovery violations (citation omitted)).

6. Roderick objects to the Declaration of Kim T. Jackson. Roderick argues that although the June 3, 2022 declaration of Jackson (Utah County Treasurer) filed by AERM was not referenced by AERM in its motion, Roderick anticipates it being used to correct Exhibit D defects given Roderick's objection on those grounds. Roderick argues Jackson was

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never disclosed as a witness, and therefore her testimony is inadmissible. *See* Utah R. Civ. P. 26(d)(4). Roderick also argues the City may not use documents attached to her declaration because they were likewise never produced by either AERM or the City in initial disclosures or in response to discovery requests. The Court rules that Jackson's declaration is admissible for the same reasons as its ruling regarding Exhibit D.

7. Roderick objects to evidence regarding the City's argument that it provided municipal services to the annexed property. Roderick cites as grounds Utah R. Evid. 402 (irrelevant because does not establish what was asserted) and 403 (exclusion of evidence more prejudicial than probative), and Utah R. Civ. P. 26 (failure to disclose). The Court is not persuaded these are adequate grounds to exclude. It does so for the same reasons given in its ruling on Exhibit D, and the declaration of Jackson. In the Court's view, the evidence is relevant. And, the Court is not persuaded that a party has suffered Rule 403 prejudice under the rules merely because it must otherwise address evidence that is damaging to its case because of its "legitimate probative force." *See Woods v. Zeluff*, 2007 UT App 84, ¶ 7, 158 P.3d 552 (citing *United States v. Bonds*, 12 F.3d 540, 567 (6th Cir.1993)). Objections overruled.

The Court's ruling on the City's objections/Roderick's response.

1. The City makes a relevance objection to the Court considering AERM's actions that led to the City red flagging AERM's project. The Court finds the fact asserted relevant to the zoning estoppel analysis and for that reason overrules the objection.

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2. The City objects to the Court considering as admitted its response to the following request for admission:

> Admit that there was never a duly and properly noticed public hearing before the American Fork City Planning Commission on amendment of the zoning map and/or of the I-1 zoning designation for the real property that was purportedly annexed by Ordinance no. 2019-12-84 as recorded as Entry no. 524:2020 in the Office of the Utah County Recorder.

The City stated in response: "Admit"; the City then asserted that there was no amendment to the zoning map. The Court finds the statement admitted under Utah R. Civ. P. 36(d), as well as additional argument posited by the City regarding characterization of amendment of the zoning map.

FACTS PERTINENT TO: RODERICK MOTION FOR SUMMARY JUDGMENT ON ITS SECOND AND THIRD CLAIMS FOR RELIEF (PETITION CLAIMS).

1. Roderick owns a real estate project that will include nine Class A commercial buildings totaling over 1.2 million square feet. This project is located immediately north of and across the street from the concrete batching plant proposed by AERM. *See* RECORD 11-15, 247-65, 1536-40.

2. Roderick first became aware of AERM's project when it noticed that AERM had excavated the Property, installed concrete footings, and began erecting concrete batching equipment without first obtaining any land disturbance/excavation permit or building permit from the City. Roderick complained to the City, which red-tagged AERM and ordered it to halt its operations. AERM admitted it had begun work without approval, and apologized. *See* Ex. 19 (RECORD 257, ¶ 2 ("surprised to find a near complete new ready

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mix plant"); 259 ("majority of the batch plant had been constructed"; 328 (minutes – "improvements initial constructed without formal site plan approval"); 344 (last ¶ 2); 345 (last ¶ 2); 347 (last ¶ 1); 362 (admission and apology in last two paragraphs); 425, ¶ 2; 426, ¶¶ 2-3; 959 (counsel apology); 2085 (counsel admission AERM "had to be stopped until appropriate approvals can be obtained")).

3. AERM applied for site plan approval to operate its concrete batching plant under the City's I-1 light industrial zoning regulations. Its application consisted of 6 pages, and included: a site plan drawing (see RECORD 320-27), specifications showing the heavy industrial equipment AERM would use in its operations (RECORD 325), a picture of AERM's proposed concrete perimeter fence (RECORD 326), and pictures of the type of office building it proposed for the site (RECORD 327).

4. Roderick filed a written objection to the application on March 16, 2020, pointing out deficiencies in AERM's site plan application. Roderick's objection cited "hundreds of pages of documentary and scholarly evidence" to support its arguments that concrete batching plants were not a "light" industrial use. These documents were offered to support Roderick's arguments that such plants create noise, powerful vibrations, and fugitive dust and how they disseminate silica, particulate matter, and other harmful substances into the air. *See* RECORD 1-245.

5. Roderick introduced Exhibits 16-18; these purport to be evidence of the structures that AERM had constructed on the Property before getting the required permits and site plan approval. *See* Exs. 16-18 (RECORD 243-245).

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6. Exhibits 12-18 of Roderick's opposition purport to show that AERM's operation has large, open stockpiles of raw materials and that it uses heavy industrial equipment in its operations. *See* RECORD 239-45. Roderick argues these exhibits also show the "adverse visual impact readily discernible from the public roads" that is either prohibited by City Code, or a factor to be considered by code. *See* City Code § 17.4.503.B.1.a. As an example, Roderick argues AERM's 92' silo is "very prominent" and can be seen from a significant distance. *See* RECORD 243.

7. Roderick's General Manager, Michael W. Roderick, separately submitted written objections; these objections list adverse effects of a concrete batch plant. *See* RECORD 0247-0254; RECORD 404-15.

8. Roderick also submitted Exhibits 19-21 (RECORD 255-314). These include expert opinions and CVs of Roderick's construction/concrete experts Roy Bosley and Keith Sorensen. *See* Ex. 20-21 (RECORD 0313-314).

9. Roderick asserts that its experts inspected the site of AERM's operation, reviewed AERM's submissions, and AERM's DAQ applications. They testified that AERM's plant was "near complete" before the site plan application had been approved. Ex. 19 (RECORD 257, 259 ("the majority of the batch plant had been constructed")).

10. After inspecting the site and reviewing the record Roderick experts opined that the plant is a heavy rather a light industrial use for various reasons including noise, dust/pollution, and use impacts (vibrations, traffic). *See* Ex. 19 (RECORD 258-59; *id.* at 261-62; *id.* at 264-66). They also opined that the operation will have a "negative" visual impact. *See id.*

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(RECORD 0262, 265 (¶¶ 4-5)). Roderick's experts photographed the site. *See id.* (RECORD 279-283); (RECORD 258-59, 265-66).

11. Roderick's experts "uncovered" the fact that to obtain a small source exemption from DAQ regulation, AERM represented to the Utah DAQ that its hourly production rate was just "30 cubic yards per hour with an annual production rate of 120,000 cubic yards per year." Ex. 19 (RECORD 260); *see also id.* (RECORD 285, 296, 302-05, 310)[1].

12. Roderick's experts opined that the thirty-yards-per-hour batching represented to the Utah DEQ to obtain an exemption is not enough in their view to run a profitable plant, and based upon their review, AERM's plant is capable of batching 285-366 yards per hour. Therefore they opined that the plant will operate at higher levels than was represented to Utah DEQ. *Id.*; *see also id.* (RECORD 312); (RECORD 260-64).

13. Roderick asserts that AERM did not submit any of its own expert testimony. Instead, it submitted letters of AERM employee Doug Clements. Clements stated in that letter that the City Manager had represented to AERM that its project would be allowed in this zone (RECORD 342, 344, 362), that its plant meets the requirements of the City Code, that it is similar to the neighboring concrete plant operated by Altaview Concrete ("Altaview"); Clements also attempted to dispute Roderick's experts' conclusions/opinions. *See* RECORD 342-51.

[1] Roderick posits that taking this at face value, i.e., that AERM would operate at "M-S - +- 12 hours per day" Ex. 19 (RECORD at 289), that the plant would produce 112,320 cubic yards per year with a maximum annual production rate of 120,000 cubic yards.

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14. In its written submission to the Planning Commission, AERM disclosed that its site use would exceed the thirty yards' production it had represented to Utah DEQ, stating that it would expect "180 cyph." *See* RECORD 0346, ¶ 2. Roderick also cited Clements as providing a figure ranging from 50-60, but as much as 100 yards-per-hour production at the site. *See* RECORD 331. Roderick represented that AERM's attorneys later contradicted these statements, which Roderick asserts occurred before AERM retained counsel, stating to the Planning Commission that "It has always been AERM's intention to operate at or below 120,000 cubic yards per year …" *See* RECORD 955, n.4.

15. As previously noted, Roderick cites AERM as admitting it set in place plant footings/construction "prior to the annexation into American Fork City." *See* RECORD 345, 347. Roderick notes that AERM admitted "[b]olting together our machinery is the work that has taken place since the annexation" and apologized for its preauthorization construction and represented they would not proceed without necessary approvals. *See* RECORD 362. But, at that time the plant was "near complete." Ex. 19 (RECORD 257, ¶ 2 ("surprised to find a near complete new ready mix plant"); 259 ("majority of the batch plant had been constructed"). The City/AERM characterize the "apology" as referencing miscommunication regarding what was or was not permitted, and also argue that as footing construction occurred before annexation the City did not have jurisdiction over it, and also objected to the characterization that bolting equipment together is "vertical construction" or that the site project was "near complete."

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16. Roderick submitted a written reply to AERM's written materials identifying numerous deficiencies. This included Roderick's experts' rebuttal to AERM's contentions. *See* RECORD 416-523; *see also* Exhibit 22.

17. Roderick represents its experts identified numerous deficiencies in AERM's representations to the Planning Commission. *See* Ex. 22 (RECORD 424-427). Roderick claims these deficiencies include the following in comparison between an already permitted plant Altaview, and AERM's proposed site: alleged zoning differences between AERM's site and Altaview's, visibility, degree of closure, sufficiency of regulatory oversight given size in light of presuming correct Roderick's conclusion the plant will operate in excess of the permitted use, etc. *See* Ex. 22 (RECORD 417, RECORD 505); Ex. 19 (RECORD 417); *see also* Ex. 29 (RECORD 2106:5-20); Ex. 22 (RECORD 421, 423); *id.* (RECORD 421-24, 430-31); Ex. 22 (RECORD 420-27); Ex. 19 (RECORD 285-89 (AERM's small source exemption from the DAQ); Ex. 22 RECORD 433-502 (Altaview's DAQ Approval Order and application materials); *see also* Record 2106-07 (discussion of historical zoning regulations applicable when Altaview site approved). The City also notes that the City Planner Olsen clarified that the historical regulations applicable to Altaview were not substantively different from the present requirements. *See* Record 2107:3-4.[2]

[2] The Court notes that there has been some argument regarding the significance of Olsen's statement as pertaining to the historicity of the zoning regulations as regards Roderick's motion for summary judgment. *See* Roderick Reply at 16. The Court does not find the disagreement to be material and will consider the differences of opinion here as argument.

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18. Roderick represented that its experts reviewed Altaview/AERM materials regarding DAQ application and noted numerous differences between the facilities. *See* Ex. 22 (RECORD 422-24)). Roderick's experts opined that Altaview was subject to regulation requiring mitigation technology to abate various negative externalities inherent to operation. *See* Ex. 22 (RECORD 421-22, 455, 458).

19. Roderick represents that AERM's attorneys submitted a letter/brief to the Planning Commission raising various arguments. *See* RECORD 952-91.

20. Roderick characterizes as "very troubling" AERM's statement that the City Council had deliberately annexed the property with AERM's operation in mind. *See* RECORD 953. The City in response characterizes this same fact as AERM working in good faith with the City through the annexation and approval process.

21. As AERM's brief to the Planning Commission stated:

> AERM's Operation at the Property was not done by happenstance. Instead, the Property was selected through both AERM and City representatives' [sic], including among others, Dave Bunker, collective efforts to bring the Operation to the Property, including going through the annexation process with the Operation, among others, in mind. As such, AERM has relied upon the City's representations that the Operation is permitted within the I-1. AERM has spent significant time, effort, and resources based upon those representations.

See RECORD 953.

22. Roderick asserts that the record and staff report were transmitted to the Commission (*see, e.g.*, RECORD 992-1430), and that body held a hearing on May 6, 2020. There, Roderick's counsel was allowed to make a power point presentation as part of oral

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arguments. *See* Exhibit 23 (RODERICK 1431-46) (Roderick's counsel's powerpoint offered at that meeting); Exhibit 24 (minutes of that meeting, including Record 1452); Exhibit 25 (transcript).

23. At the conclusion of the meeting, the Commission voted to deny AERM's site plan application. *See* Ex. 24 (RECORD 1452-53).

24. Whether AERM's site was enclosed, effects of approval of the project upon air quality, and mitigation efforts were discussed as factors in the denial. *See* Ex. 24 (RECORD 1450:29-32); Ex. 25 (RECORD 2108:25 – 2109:17); *id.* (RECORD 2115:21–2116:7); *id.* (RECORD 2119:24 – 2120:15); Ex. 24 (RECORD 1451-53 (approved minutes)).

25. Adverse visual impact of the site (pursuant to City Code § 17.4.503.B.1.a) was discussed as a factor in denial. *See* Ex. 25 (RECORD 2108:6-8); *id.* (RECORD 2108:9-15; RECORD 2107:21-24); Ex. 24 (RECORD 1451:7-14); Ex. 25 (RECORD 2110:6-8; RECORD 1451:15).

26. Discussion also included differences between AERM's project and the Altaview project. *See* Ex. 25 (RECORD 2105:17 – 2106:20; 2107:15 – 2108:2).

27. The Commission was concerned that AERM's site plan was incomplete/that the submission did not show sufficient detail. *See* Ex. 25 (RECORD 2111:1-11; 2118:4-9); *id.* (RECORD 2111:1-11).

28. The Commission also identified as a concerning issue that AERM did not adequately address ready mix/concrete haul back. *See id.* (RECORD 2116:12 – 2117:13); Ex. 24 (RECORD 1452:1-4).

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29. Roderick represented that AERM denied any crushing activities occurring at the site (RECORD 337, 344-0345), but also noted its experts testified they "witnessed" crushing and crushers at the site. *See* Ex. 19 (RECORD 257, 259, 283, 284); Ex. 22 (RECORD 426-27). Roderick noted the Commission was aware of that haul back processing is inherent in running a batch plant. *See* Ex. 24 (RECORD 1452:1-10); Ex. 25 (RECORD 2118:19 – 2119:10). AERM had stated previously (including before represented by counsel) that it would engage in recycling haul back and crushing/processing haul back at their project site, and that recycling of haul back was essential to its operation. *See, e.g.*, Ex. 25 (RECORD 2117:9-12); (RECORD 338); (RECORD at 344-45); (Record 1004) (AERM Site plan shows an area for "RECYCLED CONC. BLOCKS"). The City in response to this fact notes that one of the assertions cited is incorrect, because it shows that the crushing at the site occurred not under AERM, but under ESP Excavations, the Property owner. *See* Record at 336-337.

30. In this regard, the Commission expressed concerns regarding the lack of a concrete base, dust-generation problems, and the lack of dust-mitigation measures provided in the site plan. *See generally*, Ex. 25 (RECORD 2104-24).

31. AERM timely appealed the Commission's denial of its site plan to the City Council, which is the appeal authority for site plan denials pursuant to City Code.

32. AERM submitted a written brief to the City Council. (RECORD 1455, 1466-84, 1519). Roderick did not respond to AERM's written brief, as the City required simultaneous

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briefs. *See* RECORD 1456, 1465. Roderick filed a written objection to the simultaneous briefing process. *See* RECORD 1457-61; 1462-64.

33. Roderick submitted an appellee brief to the City Council. (RECORD 1485-98).

34. The record was transmitted to the City Council (RECORD 1516-1969); however, Roderick's original expert report was omitted from the record and only its experts' rebuttal report was included. *See* RECORD 1804-12. Also as part of its appeal, AERM presented new exhibits and evidence to the City Council that had not been presented to the Commission. *See* RECORD 1984-97. The City admits these facts, but contests their materiality, as in its view, no "meaningful" information was excluded, and also contests that any new information was presented.

35. The City Council held an appeal hearing on June 30, 2020. AERM's attorney presented its case via power point (RECORD 2020). The presentation included evidence not presented to the Planning Commission. *See* RECORD 2023-26, 2029, 2062. Roderick objected to the Council considering this evidence, and that objection was overruled. *See* RECORD 2032, 2043, 2151 p. 52:9-14; 2154 p. 62.

36. Roderick's counsel then presented its case via power point. *See* Exhibit 27; *id.* (RECORD 2031-52).

37. The City Council then held a discussion on the record. *See* Exhibits 28, 29.

38. The Council voted to approve AERM's site. Ex. 28 (RECORD 2064-66).

39. The City Council's approval included conditions to be fulfilled by AERM to address noise, vibration, dust, visual impact, water issues. *See* Ex. 28 (RECORD 2064-65).

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40. The City Council did not specify with particularity the basis for their conclusion that these conditions would sufficiently offset the identified concerns. *See* Ex. 28 (RECORD 2062-66); Ex. 29 (RECORD 2155-65).

41. Roderick asserts that the record is "clear" that the City Council had prejudged AERM's application with the intent of approving it regardless of what Roderick produced in opposition. In support, Roderick cites AERM's statement that the Council had annexed the relevant site property specifically with AERM's operation in mind. *See* RECORD 953. Roderick also points to the Council's decision not to permit it equal time respond to questions the Council directed to AERM, and argues that the Council and Mayor acted unprofessionally in denying Roderick's counsel's request for respond or in managing the meeting. *See generally* Ex. 29 (RECORD 2146, p. 31:23 – RECORD 2154, p. 62:7); *see also* Ex. 29 (RECORD 2146, p. 31:23 – RECORD 2154, p. 62:7) (31 pages of record exchanges between AERM counsel and the Council); Ex. 29 (RECORD 2147); Ex. 29 (RECORD 2153); Ex. 29 (RECORD p. 62:5-7); (Ex. 29 (RECORD 2154 p. 65:11-20); Ex. 29 (RECORD 2160, p. 88:5-16). The City disputes that it merely rubber stamped an approval without deliberative process.

42. Subsequent to its approval, the Council issued findings of fact and conclusions of law. *See* Exhibit 30 (RECORD 2075-79). The Council's mitigation conditions for approval were included. *See* Record 2076-77.

43. Roderick timely sought judicial review of the Council's approval before this Court.

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City's additional facts.

The Court omits these, as they are an admitted abbreviation of the City's factual assertions in the City's cross motion seeking summary judgment that are edited and included below.

The Court's ruling upon the City's Objections.

1. The Court does not find the City's objections to Roderick's motion, other than its Utah R. Evid. 702 objection require extended treatment given the body of the Court's ruling as well as the Court's editing of the facts. As to the issue of whether Roderick's experts are sufficiently qualified pursuant to the rules of evidence, the Court overrules the objection. The Court takes this approach because these "experts" testimony was before the authorities below and it does not appear the objection was preserved. And in addition, based on review of the totality of the record, the authorities considered the evidence and gave it what weight they felt was appropriate. The Court under the relevant standards as described in this ruling cannot second guess that weighing. And the Court in any case is inclined to consider the testimony as necessary.

FACTS PERTINENT TO: AERM/CITY'S CROSS MOTION FOR SUMMARY JUDGMENT AS TO RODERICK'S SECOND AND THIRD CLAIMS FOR RELIEF (PETITION CLAIMS).

As above, the Court also edited these facts.

1. **On or about January 29, 2020:** AERM submitted its Application for a Plant on the Phelon Property within the City's I-1 zone. *See* Admin. Record at Dkt. nos. 100–04, 109–11, 114, 117–18, at 525.

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Roderick's opposition to AERM's application.

2. Roderick does not own land within the Annexed Property but instead "owns the Catalyst Business Park consisting of nine Class A buildings totaling over 1.2 million square feet located immediately north and across the street" from the AERM Plant ("Business Park"). *See* Am. Admin. Record at Dkt. nos. 202–06, 211–14, 219–223, 229–232, 237–241, 247–48, at 1.

3. **March 16, 2020:** Roderick opposed AERM's Application in a lengthy letter, including exhibits sent to the American Fork City Planning Commission. *See* Am. Admin. Record at 1–245. Roderick argued that a concrete batch plant violates the intent of the I-1 Zone because it is not a light manufacturing use and because of the size of adverse impacts (noise, vibrations, smoke, odor, dust, and fumes). Roderick argued AERM's plant lacks express authorization in I-1 Zone regulations as a permitted or conditional use under City Code. Roderick argued that AERM's project lacked sufficient mitigation (i.e., enclosure) for impacts, and therefore that approving the site would violate the intent of the I-1 regulations. Roderick argued also that the plant would impact Roderick's Business Park and Roderick's attempt to attract businesses due to adverse impacts proximate to Roderick (characterizations that the operation would be dirty, a hazard, and a visual eyesore). Finally, Roderick argued AERM lacked credibility/was unreliable that it would implement sufficient mitigation, because AERM had constructed parts of its project at the site without City authorization (building permit/zoning clearance). Am. Admin. Record at 1–8.

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4. Roderick's letter contained 18 exhibits (236 pages). These included: a map of the site, US EPA regulations, OSHA regulations governing concrete production; academic literature regarding concrete production hazards; photos of an AERM plant not the subject of the current application; and photos of AERM's current site. *See* Am. Admin. Record at 10–245.

5. **March 18, 2020:** Commission staff member Olsen provided the Commission with a staff report addressing AERM's application and AERM's proposed mitigation efforts to address noxious odors, fumes, smoke, noise, adverse visual impacts from public roads, and landscaping. *See* Admin. Record at 692–94.

6. Also on March 18, the City Engineering Division provided the Commission with a staff report that summarized standard conditions of approval and recommended the Commission approve AERM's Application so long as the City committed to build more water main lines. *See* Admin. Record at 696.

7. **April 6, 2020:** In a letter on this date addressed to the Commission, Roderick communicated the following. Roderick had undergone significant efforts to develop the 1.2 million square foot Business Park. Explained that when it purchased its land in 2015, the Annexed Property was master planned as shoreline protection land. Expressed disappointment that the City would rezone the Annexed Property, and requested that the Commission reject AERM's application. *See* Admin. Record at 247–54.

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The Commission's first review of AERM's application.

8. The Commission issued a Notice of Electronic Meeting for its regularly scheduled April 8, 2020, meeting. AERM's application was listed as the second item on the agenda. *See* Admin. Record at 690.

9. According to the Approved Minutes for the April 8, 2020 Commission meeting, the Commission discussed the following. The language of the City Code is broad and therefore AERM's proposed use was possibly permissible under its terms. But the Commission wanted more information from AERM to address dust and noise. The Commission Chair opined that AERM's application was lacking, especially as to operations and containment. There was also some discussion of the concerns raised in Roderick's April 6 Letter. *See* Admin. Record at 923–28.

10. A motion to approve AERM's application failed. The Commission voted to pause its consideration of the application until "landscaping and other concerns have been resolved" passed. *See* Admin. Record at 929.

AERM, and others, provide additional details.

11. **On April 15, 2020:** Elizabeth Phelon, the General Manager of ESP Excavation, Inc. and one of the owners of the Phelon Property, sent a letter to the Commission. *See* Admin. Record at 1247–50.

12. In her letter, Ms. Phelon challenged many of Roderick's claims in Roderick's April 6 letter. The letter raised the following arguments. Roderick's claims about the amount of property taxes it paid related to the Business Park was inaccurate. The letter addressed

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the number of people employed at the Business Park. The letter described Roderick's involvement in improvements around the Business Park. The letter addressed Roderick's arguments regarding AERM's alleged disregard for the City Code. The letter addressed potential pollution caused by AERM's proposed use, and discussed the nature of concrete recycling. *See* Admin Record at 1247–50.

13. **April 16, 2020:** AERM sent the Commission a letter in response to Roderick's April 6 letter; this addressed the following. The letter discussed the purpose of the City's Master Plan as regards the I-1 Zone. The letter described AERM's discussions with City representatives regarding a concrete plant on the Annexed Property. The letter addressed Roderick's previous attempts to persuade or "bully" certain businesses to leave the area. Am. Admin. Record at 1772–81.

14. Also on April 16, AERM sent a separate letter to the Commission with updated information and an updated Application addressing the Commission's concerns. It addressed: AERM's dust mitigation plans, the amount of anticipated production at the site and estimated numbers/frequency of truck traffic at the plant, discussed adverse visual aspects of the plant, discussed how its proposal fit within the City's Master Plan, and discussed its failure to obtain City approval before taking some actions at the site. *See* Am. Admin. Record at 1782–86.

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Roderick's continued opposition.

15. **April 21, 2020**: Roderick sent another letter on this date to the Commission; this one responsive to Ms. Phelon's April 15 Letter. *See* Am. Admin. Am. Admin. Record at 404–15.

16. Also on April 21, Roderick sent another letter to the Commission, arguing the following. Roderick argued that comparisons between AERM's proposal and another nearby plant (Altaview) were not relevant based upon a report prepared by Project Management Consultants, LLC, and attached the report to its letter. Roderick argued AERM's application did not comply with the City Code's air quality/wastewater requirements. Roderick argued that if the Commission were to approve AERM's application, this would be arbitrary, capricious, and contrary to Utah law. *See* Am. Admin. Record at 416–523.

AERM's updated application and the Commission's denial.

17. **April 22, 2020:** The Commission returned to AERM's Application for a second time, following its decision to pause consideration of it on April 8, 2020. AERM requested the Commission further postpone review to provide AERM time to supplement its application. *See* Am. Admin. Record at 949–50.

18. **April 29, 2020:** AERM sent the Commission another letter. In this letter AERM argued the following. AERM's proposal is a permitted use under the I-1 Zone pursuant to City Code. AERM's plan mitigates adverse impacts identified in the City Code. AERM's operation is consistent with the intent of the I-1 Zone and the City's general plan. And

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finally, Roderick/its experts' opinions are unreliable. *See* Am. Admin. Record at 1391–1430.

19. **May 6, 2020:** At a meeting held on this date, the Commission denied the application, after it had heard from AERM and Roderick via counsel. *See* Am. Admin. Record at 1447–53.

AERM's appeal and the City's land use appeal procedures.

20. **May 15, 2020:** AERM timely appealed the Commission's denial to the American Fork City Council via letter to Olsen and the City Attorney Cherylyn Egner; AERM requested de novo review. *See* Am. Admin. Record at 1454–55.

21. **June 3, 2020**: The City Attorney sent an email to Roderick and AERM to notify them that the Council would consider AERM's appeal. That email also set procedures for evidentiary submissions, stating: "As for supplemental materials, any materials either side wishes to provide to Council must be provided to the City Recorder, Terilyn Lurker, by 5:00 p.m. on June 16, 2020." *See* Am. Admin. Record at 1456.

22. **June 5, 2020:** Roderick sent Olsen/City Attorney a letter, arguing that the Council's review should be limited to the record before the Commission, and also arguing that simultaneous briefing with a deadline of June 16 would deny Roderick due process of law. *See* Am. Admin. Record at 1457.

23. **June 12, 2020:** AERM responded to Roderick's June 5 letter; AERM argued that Roderick's objection to simultaneous supplemental briefing lacked a legal basis under LUDMA. AERM argued the act provides certain guidelines, but also permits

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municipalities to act with some "flexibility" (*see* Am. Admin. Record at 1462–64); this position in effect grants the City discretion to "designate the scope of review of factual matters for appeals of land use authority decisions" although if a standard is not articulated, pursuant to statute the standard is to be considered to be "de novo, without deference to the land use authority's determination of factual matters." *See* Am. Admin. Record at 1462–63 (quoting Utah Code § 10-9a-707(1)-(2)).

24. AERM's letter also argued Roderick had not been denied due process, as Roderick had already provided significant briefing materials to the Commission, and would have the same opportunity to present briefing/argument to the Council as AERM. *See* Am. Admin. Record at 1462–64.

25. **June 19, 2020:** AERM submitted its appeal brief to the Council. It included the following arguments. Under LUDMA, the Council should review the matter de novo, without deference to the Commission's decision below. If the Council affirmed the Commission this would perpetuate the Commission's error in finding AERM's application did not comply with City Code standards, and asserting that the application was compliant. If the Council affirmed the Commission's denial, this would be contrary to law because the Commission applied an incorrect interpretation of a land use regulation. *See* Am. Admin. Record at 1466–84.

26. Also on June 19, Roderick submitted its appeal brief to the Council. It included the following arguments. The Council's review should be limited to the record before the Commission below. For disputed factual questions, it argued that "the City Council's role

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is limited by state law to 'determin[ing] whether the record on appeal includes substantial evidence for each essential finding of fact' made by the Planning Commission." Roderick argued the Commission was correct to deny AERM's application, since it did not meet City Code requirements for various reasons (noise, dust, and vibrations) and because the proposed use did not qualify as a light manufacturing use under the I-1 Zone. *See* Am. Admin. Record at 1485–1515.

The Council's review and approval of AERM's application.

27. **June 30, 2020:** In a meeting on this date, Olsen submitted a Request for Council action on behalf of the City's Planning Department; this brought AERM's appeal of the Commission's denial of its application before the Council for review. *See* Am. Admin. Record at 1518.

28. At the June 30 meeting, the Council took up review of AERM's appeal. *See* Am. Admin. Record at 2053–66.

29. AERM and Roderick addressed the Council; each was granted 15 minutes to present, with an additional 5 minutes reserved for AERM.

30. These presentations included PowerPoint and oral argument; the substantive content matched each's June 19 submissions to the Council. *See* Am. Admin. Record at 2020–66.

31. The Council then approved AERM's application, reversing the Commission. *See* Am. Admin. Record at 2065–66.

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The Council's written findings and conclusions.

32. The City in approving AERM's application issued written Findings and Fact, and Conclusions of Law. *See* Am. Admin. Record at 2075–79.

33. **On or near January 29, 2020:** AERM filed its application, and paid the required site-plan application fee necessary to complete a concrete ready-mix facility at the Phelon Property. *See* Am. Admin. Record at 2075.

34. Such an operation (concrete ready-mix facility) was a permitted use in the I-1 Zone, subject to City Code 17.4.503 conditions. *See* Am. Admin Record at 2075 (relying on City Code §17.4.503 (describing intent of the I-1 zone, and providing a list of "representative" uses the legislative authority had in mind for that zone as "structures utilized for light manufacturing, fabrication, processing, storage, warehousing and wholesale distribution, under conditions which limit the generation of noise, vibration, smoke, odor, dust, fumes, or hazard from explosion"… and also stating express permitted uses included "[s]tructures and areas used for the manufacturing, compounding, processing fabrication and warehousing of goods and materials" subject to conditions forbidding nuisance-like negative externalities as effects for those uses as described in another list as "noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful…readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernable from the public roads").

35. **March 6, 2020**: AERM submitted all materials necessary for the Commission to review its application at its March 18, 2020 meeting. *See* Am. Admin. Record at 2075.

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36. **April 8, 2020:** The Commission reviewed AERM's application (via online Zoom meeting). The Commission, acting as the land use authority, then directed AERM to work with City staff to modify to the site plan to address concerning issues (landscaping, parking, setbacks). *See* Am. Admin. Record at 2075.

37. Following the April 8 meeting, AERM supplemented its application; the application was then placed on the Commission's May 6, 2020 meeting agenda. *See* Am. Admin. Record at 2075.

38. **May 6, 2020:** At the Commission's meeting, AERM advocated in favor of approval of its application, and Roderick against. *See* Am. Admin. Record at 2075.

39. The Commission denied AERM's application because it was not persuaded that it sufficiently complied with the requirements of City Code § 17.4.503(B)(1)(a). *See* Am. Admin. Record at 2075.

40. AERM timely appealed the Commission's decision, as per City Code § 17.6.101(C). *See* Am. Admin. Record at 2076.

41. **June 30, 2020:** The Council conducted a de novo review AERM's application following the Commission's decision. *See* Am. Admin. Record at 2076. As before the Commission, AERM was permitted to advocate in favor of approval of its application, and Roderick against. *Id.*

42. The Council concluded that the Phelon Property is located in the I-1 Zone. *See* Am. Admin. Record at 2077. It also concluded that AERM's proposed use is permissible subject to conditions in City Code 17.4.503(B)(1). *See id.* And, as per Utah statute (*see*

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Utah Code Ann. §10-9a-707(4)(b)), the Council considered the application under the presumption favoring the approval of applications unless they are plainly restricted by land use regulation. *See id.* The Council concluded AERM's proposed use (as per its supplemented application) was not in its view plainly restricted by City Code. *Id.* The Council also concluded that (as per supplement) the application met performance standards of City Code § 17.4.503(B)(1)(a), as long as AERM complied with certain enhancements. *See* Am. Admin. Record at 2077–78. The Council's decision and order constituted a written, final decision on AERM's application under Utah Code Ann. § 10-9a-708. *See* Am. Admin. Record at 2078. AERM's application was also approved subject to AERM's compliance (in final documents) with the "Standard Conditions of Approval" and items listed in the March 18, 2020 Engineering Division Staff Report. *See* Am. Admin. Record at 2078–79.

43. **July 30, 2020:** Roderick sought judicial review of the Council's decision by filing a petition in district court. *See* Dkt. No. 1; as amended, Dkt. No. 33.

Roderick Response to AERM/City's asserted facts.

Roderick's response is identical to its response to the City's statement of additional material facts in response to its prior motion. The Court will therefore not reproduce it here.

Roderick's statement of additional material facts as to AERM/City Cross Motion.

Roderick also incorporates by reference its citation of relevant facts in the administrative record as set forth in its own May 16, 2022 motion seeking summary judgment as per the

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Plaintiff's Second and Third Claims for Relief. The City in reply did the same. The Court will therefore not reproduce those responses here.

DISCUSSION

I. Legal Standard.

The respective motions before the Court seek summary judgment. Summary judgment requires the movant to show both lack of a genuine dispute as to any material fact, and entitlement to judgment as a matter of law. *See* Utah R. Civ. P. 56(a).

This case involves two standards. First, the Court reviews whether the City is entitled to summary judgment on Roderick's nonpetition claims. In so doing, the Court must determine whether there is no genuine disputed material fact, and then whether AERM/the City as movant has shown entitlement to judgment as a matter of law given those facts. The standard requires the Court to view the facts in the light most favorable to the nonmovant, including granting the nonmovant all favorable inferences. *See Christensen & Jensen, P.C. v. Barrett & Daines*, 2008 UT 64, ¶ 19, 194 P.3d 931 (citing *Surety Underwriters v. E&C Trucking, Inc.*, 2000 UT 71, ¶ 15, 10 P.3d 338 (stating the standard applicable to the nonmovant at summary judgment)).

Secondly, assessing the remaining claims requires the Court to provide judicial review of a final administrative land use decision by the City. *See* Utah Code § 10-9a-102 (Purposes—General land use authority). That is, whether the City Council's decision as the land use authority that approved AERM's application was adequately supported by substantial evidence, and was not contrary to law. The standard is set by statute, which provides:

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(3)(a) A court shall:

> (i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and
>
> (ii) determine only whether:
>
> > (A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and
> >
> > (B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(3)(b) A court shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is:

> (i) arbitrary and capricious; or
>
> (ii) illegal.

(3)(c)

> (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.
>
> (ii) A land use decision is illegal if the land use decision:
>
> > (A) is based on an incorrect interpretation of a land use regulation;
> >
> > (B) conflicts with the authority granted by this title; or
> >
> > (C) is contrary to law.

See Utah Code § 10-9a-801(3)(a)-(c); *see also Petersen v. Riverton City*, 2010 UT 58, ¶ 9, 243 P.3d 1261 (citing Section 801).

A court providing judicial review of such a petition "may not accept or consider any evidence outside the record of the land use authority or appeal authority." *See* Utah Code 10-9a-801(8)(a)(ii). In addition, the substantial evidence standard mentioned in Section 801, as cited

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above, has been defined by our court of appeals as "that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion." *Pacific West Communities, Inc. v. Grantsville City*, 2009 UT App 291, ¶ 22, 221 P.3d 280. The court also stated that in reviewing the application of the substantial evidence standard as applied to land use decisions, "we will consider all the evidence in the record, both favorable and contrary…and determine whether a reasonable mind could reach the same conclusion as the [land use authority]." *Id.* (cleaned up) (citations omitted).

In review of land use decisions, our court of appeals has also stated that "[t]he laws of this state and the jurisprudence of our Supreme Court accord a municipality's land use decisions a great deal of dereference." *Baker v. Park City Municipal Corp.*, 2017 UT App 190, ¶ 16, 405 P.3d 962 (citation omitted). And, in assessing the illegality standard pursuant to Section 801, our court of appeals has said this requires a reviewing court to determine "that the decision violates a law, statute, or ordinance in effect at the time the decision was made." *Id.* at ¶ 28 (cleaned up) (citation omitted).

Finally, a challenger seeking to overturn a land use authority's decision "has the burden of proving that the land use authority erred." *See* Utah Code § 10-9a-705 (Burden of Proof).

RULING AS TO AERM/CITY MSJ AS TO RODERICK CLAIMS 1, 4, 5, 6 (NON-PETITION CLAIMS).

II. Roderick's nonpetition claims are not properly before the Court procedurally.

AERM/City argue that Roderick's nonpetition claims run afoul of the requirements of statute and case law governing petitions for judicial review of administrative decisions under LUDMA, which are limited to the record below. They cite to Utah Code § 10-9-801(8)(a)(i).

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Section 801(8)(a)(i) states that "if there is a record [below in LUDMA review petitions], the district court is limited to the record." The City then cites *Petersen v. Riverton City*, 2010 UT 58, ¶ 26, 243 P.3d 1261 for the proposition that there are only two exceptions to the rule referenced in the above-quoted statute that limits the district court to the record below in petitions for review under LUDMA. First, the district court may consider "improperly excluded" evidence, and second, where the record below is totally absent the district court may "call witnesses and take evidence." *Id.*

The City further relies on *Petersen's* explanation that challenges governed by LUDMA offer an aggrieved party a choice between two options, each exclusive of the other: (1) by seeking LUDMA review, or by (2) filing a complaint against the land use authority to raise "a variety of claims, including constitutional claims." *Petersen* at ¶ 27.

In *Petersen*, an aggrieved landowning party sought to challenge a city council's decision to zone their property in a manner that prevented development. They filed a petition seeking review under LUDMA but also raised claims asserting violations of their constitutional rights. *Id.* at ¶¶ 2-4.

The district court denied the relief sought, and that ruling was affirmed by the Utah Supreme Court. *Id.* at ¶¶ 5, 30. As noted above, our supreme court in *Petersen* explained that challenges to land use decisions under LUDMA require injured parties to choose between two mutually exclusive avenues for relief (judicial review under LUDMA, or an independent action against the land-use authority).

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The City argues that Roderick has just like in *Petersen* improperly raised claims by both challenging the City's annexation decision and seeking a LUDMA-type review of the City's zoning decision approving AERM's application. Roderick's argues that *Petersen* does not obstruct its suit, since Roderick has sought to challenge the City's annexation decision, a legislative act not governed by the Utah Code § 10-9-801(8). The Court ultimately finds this an interesting and novel argument but not a persuasive one. In reaching this decision, the Court finds Roderick persuasive that its annexation challenge is not governed by Section 801. Yet the Court finds it to be nevertheless barred by *Petersen's* broad language which Roderick reads too narrowly. That is, Roderick is unpersuasive that *Peterson* can only be construed to mean that a party "cannot challenge the same action [a land use decision] both ways [an administrative appeal and in a complaint] in the same case."

To expand, Roderick has challenged the City's annexation decision as a legislative rather than an administrative appeal, and is persuasive that the restrictive review standards of Section 801[3] do not apply to challenges to legislative acts. *See Petersen*, 2010 UT 58, ¶ 10 ("the enactment and amendment of zoning ordinances is fundamentally a legislative act"); *see also Toone v. Weber County*, 2002 UT 103, ¶¶ 9, 14-15, 57 P.3d 1079 (stating that a 30-day limitation period to challenge a land-use decision does not apply "where a party seeks relief from a

[3] The City argues that Roderick's claims are barred because Roderick did not appeal Ordinance No. 2019-12-84 as a "land use decision" governed by LUDMA Utah Code § 10-9a-801(2)(a); *id.* at 801(6) (land use decision challenges must be brought within 30 days of when the decision is final). But for the reasons discussed elsewhere in this ruling and order, the Court finds Roderick persuasive that the annexation is not a land use decision under LUDMA and is not barred for that reason. *Also cf.* Utah Code § 10-9a-103(29) (defining land use decision as "administrative decision of a land use or appeal authority); Utah Code § 10-9a-103(31) (defining land use regulation under LUDMA as "a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule" including "adoption or amendment of a zoning map or the text of the zoning code"). The Court is likewise not persuaded that there is an exhaustion requirement to mount a challenge to a legislative act—i.e., annexation.

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[government actor's] violations of the procedures mandated by CLUDMA because [the government actor's] failure to follow the procedures mandated by CLUDMA is not a "land use decision" made under CLUDMA" and also stating that procedural defects may render potential land sales void); *Suarez v. Grand Cnty.*, 2012 UT 72, ¶ 19, 296 P.3d 688 (describing an analysis to determine the difference between legislative and administrative acts; the annexation decision appears to fit case law definitions of a legislative act as "the promulgation of laws of general applicability" and "is based on the weighing of broad, competing policy considerations").

Yet, Roderick (together with the annexation legislative challenge) has also petitioned the district court for LUDMA-type judicial review of the City's actions in a land-use decision. The Court finds Roderick's effort improper under *Petersen*. The Court views *Petersen* as seeking to achieve the purpose of simplifying and streamlining land use decision challenges. In so doing, a court of review should not be faced with multiple attacks on a land use decision and left to try to discern how these relate to each other, where some are governed by restrictive Section 801 standards and others are not, guised however they may be.

In other words, Roderick attempts to evade *Petersen* by arguing it has properly sought judicial review of the City's land use decision (administrative appeal), while also challenging the City's land use regulation (legislative annexation act). Roderick argues it has not impermissibly challenged the City's a land use decision in more than one way (Roderick's view of *Petersen's* holding as barring such "hybrid" actions). This is sleight-of-hand. Roderick's challenges are challenges to the land use decision. *See Petersen*, 2010 UT 58, ¶ 27 (stating that "[p]arties"… "have two options when confronted with an unfavorable municipal land use decision"…either

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file a petition for review pursuant to [LUDMA], or they may file a complaint against the land use authority, which ***may include a variety of claims***, including [i.e., not limited to] constitutional claims" (emphasis added by this Court)).

The Court reads this language—and in the light of the totality of *Petersen*—as directing that an aggrieved land use decision litigant cannot evade the purposes of limited Section 801 administrative appeal review by pursuing an appeal, while at the same time through creative lawyering raising a collateral attack on a land use decision. That the collateral attack may be otherwise colorable as a separate and independent action does not permit it to be heard at the same time as the appeal. Under *Petersen* litigants must choose between an administrative appeal or a complaint raising similar subject matter type claims with substantive effect on the decision against the land use authority. Roderick is also unpersuasive that cases applying *Petersen* in this manner are unpersuasive, distinguishable, or only involve decisions by the courts concerned making docket management decisions. *See* Judge Hyde's order (Opp'n Ex. A).

For these reasons, the Court finds that Roderick's nonpetition claims are improperly before the Court. The Court therefore will sever and dismiss those claims. The Court takes this action since in the Court's view Roderick has indicated a preference to challenge the City's land use decision (Section 801 administrative decision) over pursuit of its nonpetition claims by the quantity and quality of its briefing addressing the appeal.

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III. Even if Roderick's claims were not procedurally improper, the City is entitled to summary judgment on Roderick's claims that the annexation should be set aside.

A. Adequacy of notice and public hearing requirements as pertains to the second annexation ordinance.

As described above, Roderick has raised a claim that the City repealed the ordinance of annexation, before then passing a second ordinance of annexation without complying with notice and public hearing requirements (*see* Utah Code § 10-9a-205) for the second ordinance. *See* Opp'n at 22 (citing *Call v. City of West Jordan*, 727 P.2d 180, 181, 183 (Utah 1986) (lack of notice and public hearing invalidates ordinances); *Toone v. Weber County*, 2002 UT 103, ¶¶ 9, 14-15, 57 P.3d 1079 (same, but speaking to county action); *Wallingford v. Moab City*, 2020 UT App 12, ¶¶ 27-31, 459 P.3d 1039 (same).

Roderick argues that the City cannot rely upon the first ordinance's notice and public hearing compliance for the second annexation ordinance, and also that it is "irrelevant" that Roderick/its president was present for meetings regarding the first ordinance. The City argues that the repeal of the first ordinance and the passing of a second without notice and a public hearing was necessary and permissible to correct a minor technicality in a land description required to obtain the a certificate from the lieutenant governor's office to finalize the annexation.

The Court finds the City to be more persuasive. Roderick as an affected party, and other affected parties, had adequate notice and ability to comment on the subject matter of both ordinances. This includes commenting on related issues arising from the first, like the possibility of minor foreseeable technical boundary alterations. Roderick's arguments about the significance

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of its presence at the meetings regarding the first ordinances as "irrelevant" are not well taken. *See Naylor v. Salt Lake City*, 410 P.2d 764, 766 (Utah 1966) (explaining in affirming a notice challenge to an ordinance that "[plaintiffs as an aggrieved party] suffered no disadvantage [to a reviewing court considering notice to be adequate] because they had actual notice and participated in the hearings"). Roderick, like the plaintiffs in *Naylor*, "suffered no disadvantage" because it had "actual notice and participated in the hearings" regarding the relevant act its related subject matter. Additionally, it is undisputed that the City adequately complied with statutory notice and hearing requirements as to the first ordinance.

Roderick further argues that by repealing the first ordinance, the City undid its notice and public hearing compliance. *See* Opp'n at 22 (citing *Lagoon Jockey Club v. Davis County*, 72 UT 405, 410-11, 270 P. 543 (1928) (Under the common law the repeal of a legislative enactment wiped out the act for all purposes). Roderick may have correctly cited to such a common law principle, but this is not in the Court's view sufficient to set aside the annexation. *See Suarez v. Grand County*, 2012 UT 72, ¶ 67, 296 P.3d 688. In *Suarez*, our supreme court analyzed at some depth notice and hearing requirements as they apply to acts of municipal authorities. It explained:

> We have defined adequate notice as notice reasonably calculated to apprise a person of an action, proceeding, or motion...and sufficient to permit an objection or defense. We have said that this is an important, but relatively low, threshold to satisfy. Indeed, we have held that due process does not require municipalities to inundate residents with information about every possible detail of a given action or to foretell all potential consequences of that action. Accordingly, we have found that government bodies have given adequate notice when they have complied with statutory requirements.
>
> *Id.* (cleaned up) (citations omitted).

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Further, the *Suarez* court also expressly adopted a more flexible standard than the one advocated by Roderick.

> We have not had the opportunity to consider what constitutes adequate notice in the context of a subject-matter notice provisions like [certain code provisions]. The Supreme Court of Colorado, however, has applied a "reasonable relation" standard to a subject-matter notice provision similar to the provisions at issue here.
>
> ...
>
> The Colorado Supreme Court...adopted a flexible standard that would take into account the interest in providing access to a broad range of meetings at which public business is considered, as well as the public body's need to conduct its business in a reasonable matter. Accordingly, the court found that notice is sufficient as long as the items actually considered at the meeting are reasonably related to the subject matter indicated by the notice.
>
> We find the Colorado Supreme Court's reasoning persuasive and apply its "reasonable relation" standard here.
>
> *Id.* at ¶¶ 73-75 (cleaned up) (citations omitted).

The *Suarez* court then went on to apply that standard to find that a city council's notice that generically described major changes about a development was sufficient to put the public on notice of zoning changes and amendments, including boundary changes and so forth. *Id.* at ¶ 76.

This is in the Court's view substantively similar to Roderick's case. And again, like in *Naylor* and contrary to Roderick's arguments, our supreme court in *Suarez* focused on whether aggrieved parties would suffer disadvantage given the surrounding context should a reviewing court find no defect in notice. *Suarez* found that because the record indisputably showed that citizens individually and through counsel participated in voicing

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objections and comments "the Council's notice was clearly sufficient to make [affected parties] aware of the proceedings and provide them the opportunity to present objections both in person and in writing." *See id.* at ¶ 77. This is substantively similar to Roderick's case.

Therefore applying *Suarez* and *Naylor*, the Court does not find the City's action as to the annexation improper, or that there are grounds to unwind it or set it aside.

B. The City has shown entitlement to relief via the conclusive irrebuttable presumption of annexation validity provided by statute at Utah Code § 10-2-422.

The Court incorporates its ruling and reasoning overruling Roderick's objections as to Exhibit D, and the Jackson Declaration relating to Utah Code § 10-2-422. Under Section 422, annexations may be deemed presumptively and conclusively valid. The effect of this presumption is weighty, since it endows the presumption with the force of a rule of law that is irrebuttable. *See Davis* v. *Provo City Corp.*, 2008 UT 59, ¶¶ 10-12, 193 P.3d 86 (so stating).

Section 422 provides:

> An area annexed to a municipality under this part shall be conclusively presumed to have been validly annexed if:
>
> (1) the municipality has levied and the taxpayers within the area have paid property taxes for more than one year after annexation; and
>
> (2) no resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

Utah Code § 10-2-422.

The City has shown through the Declaration of Jackson and Exhibit D, and other exhibits, that the requirements of Section 422 have been met. That is, the City levied and taxpayers have

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paid property taxes on property in the annexed area for more than one year after the annexation and no resident has contested the annexation in a court of proper jurisdiction during the year following annexation. The Court will not repeat its analysis of Roderick's objections in this regard, but does find them insufficient for the reasons given in that ruling. The effective date of the annexation under Utah Code § 10-2-418 is the date the Lt. Governor issued the certificate of annexation. Here this is December 18, 2019. *See also* Utah Code § 10-2-425 (b). There has been no showing that there was a challenge to the annexation decision in the year following in a court of competent jurisdiction.

Therefore the City is also entitled to summary judgment on this alternate ground.

C. The City's argument that zoning estoppel bars Roderick's challenge to annexation is persuasive as an alternative ground.

The City argues that the principles of zoning estoppel apply to bar Roderick's challenge to annexation. The Court finds the City persuasive as to its analysis and application of the zoning estoppel doctrine.

The doctrine of zoning estoppel has been described by our court of appeals as:

> [The doctrine] estops a government entity from exercising its zoning powers to prohibit a proposed land use when a property owner, relying reasonably and in good faith on some governmental act or omission, has made a substantial change in position or incurred such extensive obligations or expenses that it would be highly inequitable to deprive the owner of his right to complete his proposed development.

Checketts v. Providence City, 2018 UT App 48, ¶ 21, 420 P.3d 71 (quoting *Fox v. Park City*, 2008 UT 85, ¶ 35, 200 P.3d 182 (cleaned up)). "The zoning estoppel doctrine does not apply unless the government entity committed an act or omission upon which the developer

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could rely in good faith and the action upon which the developer claims reliance must be of a clear, definite and affirmative nature." *Id.* (quoting *Fox* at ¶ 35 (cleaned up)). "Finally, exceptional circumstances must be present, such as the intentional discriminatory application of the ordinance, before zoning estoppel will apply to preclude government action." *Id.* (quoting *Utah County v. Baxter*, 635 P.2d 61, 65 (Utah 1981)).

The Court finds that the City has shown that the doctrine should apply, because the City Council "acted" in a manner (the annexation ordinance) inducing reliance by AERM as developer to seek approval for a concrete batching plant on annexed property through necessary steps by working with the City. It was reasonable for AERM to rely on the City's acts, which created some form of settled expectation for AERM's permit to be considered in good faith, despite AERM allegedly being aware of opposition legal action by Roderick. Should the annexation ordinance be set aside, this action would constitute an "intentional discriminatory application" of the law harming AERM, and should be estopped. Indeed, the Court considers setting aside an annexation given all of its analysis in this ruling and order to be a tremendously difficult proposition, especially in light of applicable authorities, both statutory and case law. *See Loyal Order of Moose, #259 v. County Bd. of Equalization*, 657 P.2d 257, 265 (Utah 1982) (describing how alterations in the law could impose "unreasonable burden[s] upon all those organizations and governmental bodies" associated with changes).

As support for its decision as to zoning estoppel, the Court considered material the evidence introduced as the Clements Declaration and its exhibits. These show costs and expenses incurred by AERM in reliance on the City's annexation ordinance. Roderick is unpersuasive in

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its attack on these as unreliable as noted in the Court's ruling on its objection to this evidence. Upon review, it is evident that AERM and the City worked through a significant process to ensure AERM's proposed use would comply with City requirements. Such applications are to be favored pursuant to statute. *See* Utah Code Ann. §10-9a-707(4)(b)).

Roderick argues that zoning estoppel should not apply because the record/facts either show or establish by reasonable inference that AERM began to incur its expenses (read its reliance claims) before it had permission from the City (building permits etc.). Roderick argues as material facts that AERM was flagged by the City, Roderick's experts investigating the site concluded that most of AERM's proposed use batching plant was constructed before rather than after City permissions and actions.

In this circumstance, Roderick argues any reliance was not reasonable given the timing, and AERM's actual knowledge of Roderick's litigation. But the Court is not persuaded that Roderick has substantiated or adequately supported this argument. It is also asking an inference to do too much work fill in the gaps. For example, it is not clear as a question of "fact"—despite Roderick's experts' testimony—that the majority of AERM's plant was constructed before City actions. It is not clear as a question of fact that AERM expenses and costs as related in the Clements materials can be characterized, as Roderick argues, as insufficient to show reasonable reliance because they were not expended at the right time. The burden was on Roderick to show they did not, and Roderick did not carry that burden.

For these reasons, the Court finds the City entitled to summary judgment as to zoning estoppel barring Roderick's effort to unwind or set aside the City's annexation decision.

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The Council's written findings and conclusions.

32. The City in approving AERM's application issued written Findings and Fact, and Conclusions of Law. *See* Am. Admin. Record at 2075–79.

33. **On or near January 29, 2020:** AERM filed its application, and paid the required site-plan application fee necessary to complete a concrete ready-mix facility at the Phelon Property. *See* Am. Admin. Record at 2075.

34. Such an operation (concrete ready-mix facility) was a permitted use in the I-1 Zone, subject to City Code 17.4.503 conditions. *See* Am. Admin Record at 2075 (relying on City Code §17.4.503 (describing intent of the I-1 zone, and providing a list of "representative" uses the legislative authority had in mind for that zone as "structures utilized for light manufacturing, fabrication, processing, storage, warehousing and wholesale distribution, under conditions which limit the generation of noise, vibration, smoke, odor, dust, fumes, or hazard from explosion"… and also stating express permitted uses included "[s]tructures and areas used for the manufacturing, compounding, processing fabrication and warehousing of goods and materials" subject to conditions forbidding nuisance-like negative externalities as effects for those uses as described in another list as "noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful…readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernable from the public roads").

35. **March 6, 2020**: AERM submitted all materials necessary for the Commission to review its application at its March 18, 2020 meeting. *See* Am. Admin. Record at 2075.

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36. **April 8, 2020:** The Commission reviewed AERM's application (via online Zoom meeting). The Commission, acting as the land use authority, then directed AERM to work with City staff to modify to the site plan to address concerning issues (landscaping, parking, setbacks). *See* Am. Admin. Record at 2075.

37. Following the April 8 meeting, AERM supplemented its application; the application was then placed on the Commission's May 6, 2020 meeting agenda. *See* Am. Admin. Record at 2075.

38. **May 6, 2020:** At the Commission's meeting, AERM advocated in favor of approval of its application, and Roderick against. *See* Am. Admin. Record at 2075.

39. The Commission denied AERM's application because it was not persuaded that it sufficiently complied with the requirements of City Code § 17.4.503(B)(1)(a). *See* Am. Admin. Record at 2075.

40. AERM timely appealed the Commission's decision, as per City Code § 17.6.101(C). *See* Am. Admin. Record at 2076.

41. **June 30, 2020:** The Council conducted a de novo review AERM's application following the Commission's decision. *See* Am. Admin. Record at 2076. As before the Commission, AERM was permitted to advocate in favor of approval of its application, and Roderick against. *Id.*

42. The Council concluded that the Phelon Property is located in the I-1 Zone. *See* Am. Admin. Record at 2077. It also concluded that AERM's proposed use is permissible subject to conditions in City Code 17.4.503(B)(1). *See id.* And, as per Utah statute (*see*

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Utah Code Ann. §10-9a-707(4)(b)), the Council considered the application under the presumption favoring the approval of applications unless they are plainly restricted by land use regulation. *See id.* The Council concluded AERM's proposed use (as per its supplemented application) was not in its view plainly restricted by City Code. *Id.* The Council also concluded that (as per supplement) the application met performance standards of City Code § 17.4.503(B)(1)(a), as long as AERM complied with certain enhancements. *See* Am. Admin. Record at 2077–78. The Council's decision and order constituted a written, final decision on AERM's application under Utah Code Ann. § 10-9a-708. *See* Am. Admin. Record at 2078. AERM's application was also approved subject to AERM's compliance (in final documents) with the "Standard Conditions of Approval" and items listed in the March 18, 2020 Engineering Division Staff Report. *See* Am. Admin. Record at 2078–79.

43. **July 30, 2020:** Roderick sought judicial review of the Council's decision by filing a petition in district court. *See* Dkt. No. 1; as amended, Dkt. No. 33.

Roderick Response to AERM/City's asserted facts.

Roderick's response is identical to its response to the City's statement of additional material facts in response to its prior motion. The Court will therefore not reproduce it here.

Roderick's statement of additional material facts as to AERM/City Cross Motion.

Roderick also incorporates by reference its citation of relevant facts in the administrative record as set forth in its own May 16, 2022 motion seeking summary judgment as per the

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Plaintiff's Second and Third Claims for Relief. The City in reply did the same. The Court will therefore not reproduce those responses here.

DISCUSSION

I. Legal Standard.

The respective motions before the Court seek summary judgment. Summary judgment requires the movant to show both lack of a genuine dispute as to any material fact, and entitlement to judgment as a matter of law. *See* Utah R. Civ. P. 56(a).

This case involves two standards. First, the Court reviews whether the City is entitled to summary judgment on Roderick's nonpetition claims. In so doing, the Court must determine whether there is no genuine disputed material fact, and then whether AERM/the City as movant has shown entitlement to judgment as a matter of law given those facts. The standard requires the Court to view the facts in the light most favorable to the nonmovant, including granting the nonmovant all favorable inferences. *See Christensen & Jensen, P.C. v. Barrett & Daines*, 2008 UT 64, ¶ 19, 194 P.3d 931 (citing *Surety Underwriters v. E&C Trucking, Inc.*, 2000 UT 71, ¶ 15, 10 P.3d 338 (stating the standard applicable to the nonmovant at summary judgment)).

Secondly, assessing the remaining claims requires the Court to provide judicial review of a final administrative land use decision by the City. *See* Utah Code § 10-9a-102 (Purposes—General land use authority). That is, whether the City Council's decision as the land use authority that approved AERM's application was adequately supported by substantial evidence, and was not contrary to law. The standard is set by statute, which provides:

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(3)(a) A court shall:

> (i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and
>
> (ii) determine only whether:
>
> > (A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and
> >
> > (B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(3)(b) A court shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is:

> (i) arbitrary and capricious; or
>
> (ii) illegal.

(3)(c)

> (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.
>
> (ii) A land use decision is illegal if the land use decision:
>
> > (A) is based on an incorrect interpretation of a land use regulation;
> >
> > (B) conflicts with the authority granted by this title; or
> >
> > (C) is contrary to law.

See Utah Code § 10-9a-801(3)(a)-(c); *see also Petersen v. Riverton City*, 2010 UT 58, ¶ 9, 243 P.3d 1261 (citing Section 801).

A court providing judicial review of such a petition "may not accept or consider any evidence outside the record of the land use authority or appeal authority." *See* Utah Code 10-9a-801(8)(a)(ii). In addition, the substantial evidence standard mentioned in Section 801, as cited

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above, has been defined by our court of appeals as "that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion." *Pacific West Communities, Inc. v. Grantsville City*, 2009 UT App 291, ¶ 22, 221 P.3d 280. The court also stated that in reviewing the application of the substantial evidence standard as applied to land use decisions, "we will consider all the evidence in the record, both favorable and contrary…and determine whether a reasonable mind could reach the same conclusion as the [land use authority]." *Id.* (cleaned up) (citations omitted).

In review of land use decisions, our court of appeals has also stated that "[t]he laws of this state and the jurisprudence of our Supreme Court accord a municipality's land use decisions a great deal of dereference." *Baker v. Park City Municipal Corp.*, 2017 UT App 190, ¶ 16, 405 P.3d 962 (citation omitted). And, in assessing the illegality standard pursuant to Section 801, our court of appeals has said this requires a reviewing court to determine "that the decision violates a law, statute, or ordinance in effect at the time the decision was made." *Id.* at ¶ 28 (cleaned up) (citation omitted).

Finally, a challenger seeking to overturn a land use authority's decision "has the burden of proving that the land use authority erred." *See* Utah Code § 10-9a-705 (Burden of Proof).

RULING AS TO AERM/CITY MSJ AS TO RODERICK CLAIMS 1, 4, 5, 6 (NON-PETITION CLAIMS).

II. Roderick's nonpetition claims are not properly before the Court procedurally.

AERM/City argue that Roderick's nonpetition claims run afoul of the requirements of statute and case law governing petitions for judicial review of administrative decisions under LUDMA, which are limited to the record below. They cite to Utah Code § 10-9-801(8)(a)(i).

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Section 801(8)(a)(i) states that "if there is a record [below in LUDMA review petitions], the district court is limited to the record." The City then cites *Petersen v. Riverton City*, 2010 UT 58, ¶ 26, 243 P.3d 1261 for the proposition that there are only two exceptions to the rule referenced in the above-quoted statute that limits the district court to the record below in petitions for review under LUDMA. First, the district court may consider "improperly excluded" evidence, and second, where the record below is totally absent the district court may "call witnesses and take evidence." *Id.*

The City further relies on *Petersen's* explanation that challenges governed by LUDMA offer an aggrieved party a choice between two options, each exclusive of the other: (1) by seeking LUDMA review, or by (2) filing a complaint against the land use authority to raise "a variety of claims, including constitutional claims." *Petersen* at ¶ 27.

In *Petersen*, an aggrieved landowning party sought to challenge a city council's decision to zone their property in a manner that prevented development. They filed a petition seeking review under LUDMA but also raised claims asserting violations of their constitutional rights. *Id.* at ¶¶ 2-4.

The district court denied the relief sought, and that ruling was affirmed by the Utah Supreme Court. *Id.* at ¶¶ 5, 30. As noted above, our supreme court in *Petersen* explained that challenges to land use decisions under LUDMA require injured parties to choose between two mutually exclusive avenues for relief (judicial review under LUDMA, or an independent action against the land-use authority).

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The City argues that Roderick has just like in *Petersen* improperly raised claims by both challenging the City's annexation decision and seeking a LUDMA-type review of the City's zoning decision approving AERM's application. Roderick's argues that *Petersen* does not obstruct its suit, since Roderick has sought to challenge the City's annexation decision, a legislative act not governed by the Utah Code § 10-9-801(8). The Court ultimately finds this an interesting and novel argument but not a persuasive one. In reaching this decision, the Court finds Roderick persuasive that its annexation challenge is not governed by Section 801. Yet the Court finds it to be nevertheless barred by *Petersen's* broad language which Roderick reads too narrowly. That is, Roderick is unpersuasive that *Peterson* can only be construed to mean that a party "cannot challenge the same action [a land use decision] both ways [an administrative appeal and in a complaint] in the same case."

To expand, Roderick has challenged the City's annexation decision as a legislative rather than an administrative appeal, and is persuasive that the restrictive review standards of Section 801[3] do not apply to challenges to legislative acts. *See Petersen*, 2010 UT 58, ¶ 10 ("the enactment and amendment of zoning ordinances is fundamentally a legislative act"); *see also Toone v. Weber County*, 2002 UT 103, ¶¶ 9, 14-15, 57 P.3d 1079 (stating that a 30-day limitation period to challenge a land-use decision does not apply "where a party seeks relief from a

[3] The City argues that Roderick's claims are barred because Roderick did not appeal Ordinance No. 2019-12-84 as a "land use decision" governed by LUDMA Utah Code § 10-9a-801(2)(a); *id.* at 801(6) (land use decision challenges must be brought within 30 days of when the decision is final). But for the reasons discussed elsewhere in this ruling and order, the Court finds Roderick persuasive that the annexation is not a land use decision under LUDMA and is not barred for that reason. *Also cf.* Utah Code § 10-9a-103(29) (defining land use decision as "administrative decision of a land use or appeal authority); Utah Code § 10-9a-103(31) (defining land use regulation under LUDMA as "a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule" including "adoption or amendment of a zoning map or the text of the zoning code"). The Court is likewise not persuaded that there is an exhaustion requirement to mount a challenge to a legislative act—i.e., annexation.

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[government actor's] violations of the procedures mandated by CLUDMA because [the government actor's] failure to follow the procedures mandated by CLUDMA is not a "land use decision" made under CLUDMA" and also stating that procedural defects may render potential land sales void); *Suarez v. Grand Cnty.*, 2012 UT 72, ¶ 19, 296 P.3d 688 (describing an analysis to determine the difference between legislative and administrative acts; the annexation decision appears to fit case law definitions of a legislative act as "the promulgation of laws of general applicability" and "is based on the weighing of broad, competing policy considerations").

Yet, Roderick (together with the annexation legislative challenge) has also petitioned the district court for LUDMA-type judicial review of the City's actions in a land-use decision. The Court finds Roderick's effort improper under *Petersen*. The Court views *Petersen* as seeking to achieve the purpose of simplifying and streamlining land use decision challenges. In so doing, a court of review should not be faced with multiple attacks on a land use decision and left to try to discern how these relate to each other, where some are governed by restrictive Section 801 standards and others are not, guised however they may be.

In other words, Roderick attempts to evade *Petersen* by arguing it has properly sought judicial review of the City's land use decision (administrative appeal), while also challenging the City's land use regulation (legislative annexation act). Roderick argues it has not impermissibly challenged the City's a land use decision in more than one way (Roderick's view of *Petersen's* holding as barring such "hybrid" actions). This is sleight-of-hand. Roderick's challenges are challenges to the land use decision. *See Petersen*, 2010 UT 58, ¶ 27 (stating that "[p]arties"… "have two options when confronted with an unfavorable municipal land use decision"…either

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file a petition for review pursuant to [LUDMA], or they may file a complaint against the land use authority, which ***may include a variety of claims***, including [i.e., not limited to] constitutional claims" (emphasis added by this Court)).

The Court reads this language—and in the light of the totality of *Petersen*—as directing that an aggrieved land use decision litigant cannot evade the purposes of limited Section 801 administrative appeal review by pursuing an appeal, while at the same time through creative lawyering raising a collateral attack on a land use decision. That the collateral attack may be otherwise colorable as a separate and independent action does not permit it to be heard at the same time as the appeal. Under *Petersen* litigants must choose between an administrative appeal or a complaint raising similar subject matter type claims with substantive effect on the decision against the land use authority. Roderick is also unpersuasive that cases applying *Petersen* in this manner are unpersuasive, distinguishable, or only involve decisions by the courts concerned making docket management decisions. *See* Judge Hyde's order (Opp'n Ex. A).

For these reasons, the Court finds that Roderick's nonpetition claims are improperly before the Court. The Court therefore will sever and dismiss those claims. The Court takes this action since in the Court's view Roderick has indicated a preference to challenge the City's land use decision (Section 801 administrative decision) over pursuit of its nonpetition claims by the quantity and quality of its briefing addressing the appeal.

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III. *Even if Roderick's claims were not procedurally improper, the City is entitled to summary judgment on Roderick's claims that the annexation should be set aside.*

A. Adequacy of notice and public hearing requirements as pertains to the second annexation ordinance.

As described above, Roderick has raised a claim that the City repealed the ordinance of annexation, before then passing a second ordinance of annexation without complying with notice and public hearing requirements (*see* Utah Code § 10-9a-205) for the second ordinance. *See* Opp'n at 22 (citing *Call v. City of West Jordan*, 727 P.2d 180, 181, 183 (Utah 1986) (lack of notice and public hearing invalidates ordinances); *Toone v. Weber County*, 2002 UT 103, ¶¶ 9, 14-15, 57 P.3d 1079 (same, but speaking to county action); *Wallingford v. Moab City*, 2020 UT App 12, ¶¶ 27-31, 459 P.3d 1039 (same).

Roderick argues that the City cannot rely upon the first ordinance's notice and public hearing compliance for the second annexation ordinance, and also that it is "irrelevant" that Roderick/its president was present for meetings regarding the first ordinance. The City argues that the repeal of the first ordinance and the passing of a second without notice and a public hearing was necessary and permissible to correct a minor technicality in a land description required to obtain the a certificate from the lieutenant governor's office to finalize the annexation.

The Court finds the City to be more persuasive. Roderick as an affected party, and other affected parties, had adequate notice and ability to comment on the subject matter of both ordinances. This includes commenting on related issues arising from the first, like the possibility of minor foreseeable technical boundary alterations. Roderick's arguments about the significance

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of its presence at the meetings regarding the first ordinances as "irrelevant" are not well taken. *See Naylor v. Salt Lake City*, 410 P.2d 764, 766 (Utah 1966) (explaining in affirming a notice challenge to an ordinance that "[plaintiffs as an aggrieved party] suffered no disadvantage [to a reviewing court considering notice to be adequate] because they had actual notice and participated in the hearings"). Roderick, like the plaintiffs in *Naylor*, "suffered no disadvantage" because it had "actual notice and participated in the hearings" regarding the relevant act its related subject matter. Additionally, it is undisputed that the City adequately complied with statutory notice and hearing requirements as to the first ordinance.

Roderick further argues that by repealing the first ordinance, the City undid its notice and public hearing compliance. *See* Opp'n at 22 (citing *Lagoon Jockey Club v. Davis County*, 72 UT 405, 410-11, 270 P. 543 (1928) (Under the common law the repeal of a legislative enactment wiped out the act for all purposes). Roderick may have correctly cited to such a common law principle, but this is not in the Court's view sufficient to set aside the annexation. *See Suarez v. Grand County*, 2012 UT 72, ¶ 67, 296 P.3d 688. In *Suarez*, our supreme court analyzed at some depth notice and hearing requirements as they apply to acts of municipal authorities. It explained:

> We have defined adequate notice as notice reasonably calculated to apprise a person of an action, proceeding, or motion…and sufficient to permit an objection or defense. We have said that this is an important, but relatively low, threshold to satisfy. Indeed, we have held that due process does not require municipalities to inundate residents with information about every possible detail of a given action or to foretell all potential consequences of that action. Accordingly, we have found that government bodies have given adequate notice when they have complied with statutory requirements.
>
> *Id.* (cleaned up) (citations omitted).

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Further, the *Suarez* court also expressly adopted a more flexible standard than the one advocated by Roderick.

> We have not had the opportunity to consider what constitutes adequate notice in the context of a subject-matter notice provisions like [certain code provisions]. The Supreme Court of Colorado, however, has applied a "reasonable relation" standard to a subject-matter notice provision similar to the provisions at issue here.
>
> ...
>
> The Colorado Supreme Court...adopted a flexible standard that would take into account the interest in providing access to a broad range of meetings at which public business is considered, as well as the public body's need to conduct its business in a reasonable matter. Accordingly, the court found that notice is sufficient as long as the items actually considered at the meeting are reasonably related to the subject matter indicated by the notice.
>
> We find the Colorado Supreme Court's reasoning persuasive and apply its "reasonable relation" standard here.
>
> *Id.* at ¶¶ 73-75 (cleaned up) (citations omitted).

The *Suarez* court then went on to apply that standard to find that a city council's notice that generically described major changes about a development was sufficient to put the public on notice of zoning changes and amendments, including boundary changes and so forth. *Id.* at ¶ 76.

This is in the Court's view substantively similar to Roderick's case. And again, like in *Naylor* and contrary to Roderick's arguments, our supreme court in *Suarez* focused on whether aggrieved parties would suffer disadvantage given the surrounding context should a reviewing court find no defect in notice. *Suarez* found that because the record indisputably showed that citizens individually and through counsel participated in voicing

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objections and comments "the Council's notice was clearly sufficient to make [affected parties] aware of the proceedings and provide them the opportunity to present objections both in person and in writing." *See id.* at ¶ 77. This is substantively similar to Roderick's case.

Therefore applying *Suarez* and *Naylor*, the Court does not find the City's action as to the annexation improper, or that there are grounds to unwind it or set it aside.

B. The City has shown entitlement to relief via the conclusive irrebuttable presumption of annexation validity provided by statute at Utah Code § 10-2-422.

The Court incorporates its ruling and reasoning overruling Roderick's objections as to Exhibit D, and the Jackson Declaration relating to Utah Code § 10-2-422. Under Section 422, annexations may be deemed presumptively and conclusively valid. The effect of this presumption is weighty, since it endows the presumption with the force of a rule of law that is irrebuttable. *See Davis v. Provo City Corp.*, 2008 UT 59, ¶¶ 10-12, 193 P.3d 86 (so stating).

Section 422 provides:

> An area annexed to a municipality under this part shall be conclusively presumed to have been validly annexed if:
>
> (1) the municipality has levied and the taxpayers within the area have paid property taxes for more than one year after annexation; and
>
> (2) no resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

Utah Code § 10-2-422.

The City has shown through the Declaration of Jackson and Exhibit D, and other exhibits, that the requirements of Section 422 have been met. That is, the City levied and taxpayers have

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paid property taxes on property in the annexed area for more than one year after the annexation and no resident has contested the annexation in a court of proper jurisdiction during the year following annexation. The Court will not repeat its analysis of Roderick's objections in this regard, but does find them insufficient for the reasons given in that ruling. The effective date of the annexation under Utah Code § 10-2-418 is the date the Lt. Governor issued the certificate of annexation. Here this is December 18, 2019. *See also* Utah Code § 10-2-425 (b). There has been no showing that there was a challenge to the annexation decision in the year following in a court of competent jurisdiction.

Therefore the City is also entitled to summary judgment on this alternate ground.

C. The City's argument that zoning estoppel bars Roderick's challenge to annexation is persuasive as an alternative ground.

The City argues that the principles of zoning estoppel apply to bar Roderick's challenge to annexation. The Court finds the City persuasive as to its analysis and application of the zoning estoppel doctrine.

The doctrine of zoning estoppel has been described by our court of appeals as:

> [The doctrine] estops a government entity from exercising its zoning powers to prohibit a proposed land use when a property owner, relying reasonably and in good faith on some governmental act or omission, has made a substantial change in position or incurred such extensive obligations or expenses that it would be highly inequitable to deprive the owner of his right to complete his proposed development.

Checketts v. Providence City, 2018 UT App 48, ¶ 21, 420 P.3d 71 (quoting *Fox v. Park City*, 2008 UT 85, ¶ 35, 200 P.3d 182 (cleaned up)). "The zoning estoppel doctrine does not apply unless the government entity committed an act or omission upon which the developer

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could rely in good faith and the action upon which the developer claims reliance must be of a clear, definite and affirmative nature." *Id.* (quoting *Fox* at ¶ 35 (cleaned up)). "Finally, exceptional circumstances must be present, such as the intentional discriminatory application of the ordinance, before zoning estoppel will apply to preclude government action." *Id.* (quoting *Utah County v. Baxter*, 635 P.2d 61, 65 (Utah 1981)).

The Court finds that the City has shown that the doctrine should apply, because the City Council "acted" in a manner (the annexation ordinance) inducing reliance by AERM as developer to seek approval for a concrete batching plant on annexed property through necessary steps by working with the City. It was reasonable for AERM to rely on the City's acts, which created some form of settled expectation for AERM's permit to be considered in good faith, despite AERM allegedly being aware of opposition legal action by Roderick. Should the annexation ordinance be set aside, this action would constitute an "intentional discriminatory application" of the law harming AERM, and should be estopped. Indeed, the Court considers setting aside an annexation given all of its analysis in this ruling and order to be a tremendously difficult proposition, especially in light of applicable authorities, both statutory and case law. *See Loyal Order of Moose, #259 v. County Bd. of Equalization*, 657 P.2d 257, 265 (Utah 1982) (describing how alterations in the law could impose "unreasonable burden[s] upon all those organizations and governmental bodies" associated with changes).

As support for its decision as to zoning estoppel, the Court considered material the evidence introduced as the Clements Declaration and its exhibits. These show costs and expenses incurred by AERM in reliance on the City's annexation ordinance. Roderick is unpersuasive in

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its attack on these as unreliable as noted in the Court's ruling on its objection to this evidence. Upon review, it is evident that AERM and the City worked through a significant process to ensure AERM's proposed use would comply with City requirements. Such applications are to be favored pursuant to statute. *See* Utah Code Ann. §10-9a-707(4)(b)).

Roderick argues that zoning estoppel should not apply because the record/facts either show or establish by reasonable inference that AERM began to incur its expenses (read its reliance claims) before it had permission from the City (building permits etc.). Roderick argues as material facts that AERM was flagged by the City, Roderick's experts investigating the site concluded that most of AERM's proposed use batching plant was constructed before rather than after City permissions and actions.

In this circumstance, Roderick argues any reliance was not reasonable given the timing, and AERM's actual knowledge of Roderick's litigation. But the Court is not persuaded that Roderick has substantiated or adequately supported this argument. It is also asking an inference to do too much work fill in the gaps. For example, it is not clear as a question of "fact"—despite Roderick's experts' testimony—that the majority of AERM's plant was constructed before City actions. It is not clear as a question of fact that AERM expenses and costs as related in the Clements materials can be characterized, as Roderick argues, as insufficient to show reasonable reliance because they were not expended at the right time. The burden was on Roderick to show they did not, and Roderick did not carry that burden.

For these reasons, the Court finds the City entitled to summary judgment as to zoning estoppel barring Roderick's effort to unwind or set aside the City's annexation decision.

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RULING AS TO RODERICK'S 2ND and 3RD CLAIMS (PETITION CLAIMS).

IV. Roderick is unpersuasive that it is entitled to summary judgment on its second claim (i.e., that the City approval of AERM's application was arbitrary and capricious, and otherwise contrary to law).

A land use authority's land use decision is arbitrary and capricious if it is not supported by substantial record evidence. *See* Utah Code § 10-9a-801(3)(c)(i). Roderick argues that the Council's decision fails this standard for various reasons, in particular challenging the adequacy of the findings of fact supporting the Council's decision to override the Planning Commission and approve AERM's application.

A. The adequacy of the Council's findings.

Roderick attacks the Council's findings as inadequate pursuant to *McElhaney v. City of Moab*, 2017 UT 65, ¶ 36, 423 P.3d 1284. Our supreme court in that case said "[w]e have recognized that without sufficiently detailed findings that disclose the steps by which an administrative agency reaches its ultimate factual conclusions, this court cannot perform its duty of reviewing the order in accordance with established legal principles and of protecting the parties from arbitrary and capricious administrative action." *Id.* (cleaned up) (quoting *Milne Truck Lines, Inc. v. Pub. Serv. Comm'n*, 720 P.2d 1373, 1380 (Utah 1986)).

Our supreme court also said in *City of Moab* that a decision can be arbitrary where the reasons given for the decision are "legally sufficient" yet are lacking in "sufficient factual basis." *Id.* at ¶ 37 (citing *Davis County v. Clearfield City*, 756 P.2d 704, 711 (Utah Ct.App.1988)). This is so because in actuality the reasons given may lack substantiation (e.g., a permitted use may not be approved legally if it may constitute a nuisance, but such a denial is arbitrary without a showing

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the proposed use would be a nuisance in fact/grounded in evidence). *Id.* (citing *Ralph L. Wadsworth Construction, Inc. v. West Jordan City*, 2000 UT App 49, ¶¶ 16-18, 999 P.2d 1240).

Roderick argues the Council's decision fails under these standards because the decision does not demonstrate adequate steps for how it arrived at its conclusions. Roderick also argues the Council's findings of fact are flawed because they lack sufficient evidence as foundation (especially as regards sufficiency of mitigation). Roderick argues too that the findings are flawed because often there is no finding addressing sufficiency of mitigation at all.

The Court is not persuaded by these arguments after reviewing and considering them. The Court will address each. While the Council's findings do lack detail in some instances, the Court is persuaded that the Council considered the sufficiency of mitigation for issues spotted by the Planning Commission by contextual inference when considering the totality of the record. The Court reaches this conclusion because the findings are not required to show "evidence" for their sufficiency because the sufficiency is presumable to be beyond reasonable dispute, much like judicial notice may be taken of certain adjudicative facts under Utah R. Evid. 201 (e.g., it is a reasonable inference not requiring exhaustive evidence that trees and fences will mitigate a visual impact, or that washing will reduce fugitive dust, or that covering operations reduce impacts, and so forth).

(i) AERM's use was "light" within the meaning of the I-1 zone as described by the City Code.

Roderick argues there was "substantial evidence" before the Commission that demonstrated AERM's use was not "light" within the underlying land's zoned use. *See* City Code

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§ 17.4.503.A. This section defines light under a generalizable standard of "light manufacturing, processing, warehousing and fabrication" and "storage and wholesale distribution." *Id.*

Roderick argues the Council's conclusion that AERM's approved use qualifies as "light" is incorrect, because the proposed volume of material that will be generated AERM's plant. *See* Roderick Motion at 31, n. 7 (describing the plant's output in terms of poundage which Roderick characterizes as *per se* not a light use).

Roderick also makes a plain meaning argument that the Council's decision was errant because a concrete plant cannot be characterized as light use where historically concrete plants traditionally have been recognized as a heavy industry. *See Carrier v. Salt Lake County*, 2004 UT 98, ¶ 30, 104 P.3d 1208, *abrogated on other grounds by Outfront Media, LLC v. Salt Lake City Corporation*, 2017 UT 74, 416 P.3d 389 (ordinances are to be construed under the plain meaning of their language that requires engaging with the text).

The Court finds this plain meaning argument in the various forms raised by Roderick unpersuasive. It does so because it finds the argument conclusory. The argument also relies upon hasty or overbroad generalizations and assumptions. For instance, Roderick argues the City did not show via a technical analysis that AERM's proposed use qualified as "light" within the plain meaning of the code. Some form of this argument is repeated throughout Roderick's papers. This argument assumes its conclusion. That is, that the City was required to engage in some form of proving up in precisely the manner Roderick describes.

But a "heavy" concrete use in one context may be a "light" in another. And it is not reasonable to assume that to permit a light use that may in other circumstances qualify as heavy

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that the City must engage in a detailed, lengthy technical exegesis. For instance, a heavy use may be under plain meaning a light one if the volume of production does not exceed certain parameters, and if there are certain mitigation measures in place, and so on. Necessarily this calls for exercises in discretionary judgment by the Council that the Court will not second guess. Those judgments are not unreasonable when considering the totality of the record.

Such a "size" judgment impliedly underlies the Utah's Division of Air Quality (DAQ) granting the plant a small source exemption. Roderick argues the DAQ permit/exemption should not be determinative because AERM will use the site for greater production than disclosed to DAQ. This is argument is not well taken. It is speculative and conclusory. Roderick does not stand in the shoes of the DAQ as regulator and may not second-guess its discretionary decisions, and neither the City nor AERM is required to take actions based on Roderick's conjectural interpretations about future use of the site as if Roderick were the regulator.

In this regard, Roderick claims AERM is either mistaken or has made inconsistent statements about the scope of the project to Council/Commission (as evinced in the facts, where Roderick draws the Court's attention to statements made before AERM was represented by counsel). Roderick argues these statements show that AERM in fact intends to operate the plant at a higher level than what its exemption permits. This is unpersuasive for the reasons just given.

(ii.) Roderick's is unpersuasive it is entitled to summary judgment on its claims because the Council's decision to approve AERM's use adequately considered impacts raised by Roderick.

Roderick quotes the applicable City Code use provisions for light uses as providing for "light manufacturing, processing, warehousing and fabrication of goods and materials" where

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those uses "can [be] locate[d] with minimum conflict or deleterious effect on surrounding properties and uses …." *See* City Code § 17.4.503.A.

Roderick also quotes code provisions stating that these uses must operate "under conditions which limit the generation of noise, vibration, smoke, odor, dust, fumes, or hazard from explosion." *Id.* Under the I-1 zoning regulations, "[n]one of the activities carried out on the premises shall produce any noxious odor or any fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful to persons or which is readily discernible beyond the boundary of the zone or create an adverse visual impact readily discernible from the public roads." *See* City Code § 17.4.503.B.1.a.

Roderick argues these standards have not been shown to have been adequately applied in AERM's case by adequate mitigation findings for AERM's use that are in turn supported by adequate evidence. This is not persuasive.

Roderick's arguments rely upon its experts' testimony that there cannot be a complete elimination of dust at AERM's site. But this is merely a truism or a tautological statement about concrete plants generally and otherwise mischaracterizes the requirements of the code. Roderick's experts are not persuasive that the Council's judgment lacks sufficient well-founded evidentiary findings or adequate mitigation in this regard.

The Court finds Roderick's arguments lack persuasive force for these same reasons as applied to Roderick's argument that there were no proposed mitigation measures for the 92-foot tower at the plant. The tower does not appear to be substantively material to any argument of heavy uses of the site, other than an implied argument as to its visual impact. Roderick's argument invites

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the Court to second-guess the Council's judgment as to whether the use is an acceptable one in the I-1 zone. The Court will not, and cannot, accept that invitation.

Roderick's arguments as to noise levels generated by trucks using the site are of this same type, and are for the same reasons unpersuasive. So are Roderick's arguments about dust and particulate matter. In this regard, Roderick cites the applicable City Code standards as requiring that "[a]ll uses shall be conducted entirely within a fully enclosed building, except those uses deemed by the city to be customarily and appropriately conducted in the open." City Code § 17.4.503.I.1. Roderick argues there was no finding by the City Council as to how AERM met the requirement that "[a]ll materials and vehicles used in the conduct of the business activity shall be stored within an enclosed building or within an area designated for such use as shown on the approved site plan." *See* City Code § 17.4.503.I.2. Roderick also cites the code for the notion that "[n]one of the activities carried out on the premises shall produce any … fumes, smoke, noise, vapor, vibration, glare or similar condition which is harmful to persons ….." City Code § 17.4.503.B.1.a.

But again, as applied, Roderick has not persuasively shown that the Council's judgment on these matters is inadequate. The Court reaches this conclusion because among other arguments, Roderick's experts' opinions are largely conclusory *ipse dixit* statements that AERM's mitigation "will do little to nothing" to contain particulate matter. This judgement appears to contradict state agency expertise given DAQ issuing a permit. To the extent Roderick's experts statements are more than mere appeals to authority the Court finds them unpersuasive or not entitled to substantial weight. These arguments also lack merit because they do not engage with the code which provides

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the City with discretion to permit open-air uses in certain circumstances. Additionally, the Council has required mitigation conditions as necessary for approval, and already weighed this evidence. The Court will not second guess the Council's judgments.

Roderick also argues there was no sufficient evidence before the Council showing that AERM has complied with City Code § 17.6.101.B.4 which required as part of the site plan application, "[p]reliminary elevations of main buildings showing the general appearance and types of external materials to be used." *Id.* Roderick argues that the only preliminary elevations of main buildings showing the general appearance were provided for the first time on appeal before the City Council and should have been excluded as part of the authorized record upon which the City Council could make its decision. But this is not persuasive, since the applicable standard permits the Council to take new evidence. *See* Utah Code § 10-9a-707(1)-(2a).

Next, Roderick argues that the AERM/the City's decision did not adequately show that the City Code standards governing unsightly uses were met. Those standards state that proposed uses "shall not create an adverse visual impact readily discernible from the public roads[.]" City Code § 17.4.503.B.1.a. Relatedly, Roderick asks the Court to second-guess the Council's judgment regarding adverse visual impacts, and lack of sufficient mitigation for AERM's use in the I-1 zone. In this regard, Roderick points to a statement by one member of the Council in the minutes or at the hearing that the 92-foot tower at the site is unsightly. But this argument assumes the conclusion that because a 92-foot tower is or was aesthetically unpleasing to one councilman, that the relevant standard has not been met, or that an objective standard absent the Council's exercise of discretion built into the code provision compels a conclusion that it is so unsightly that it is an obstacle to

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site approval for the I-1 zone. The Council weighed these visual impact concerns and required enhancements such as trees and fences and otherwise concluded the visual impact was acceptable. The Court will not second guess its judgment.

Given the above, the Court does not find Roderick has shown the Council's site approval decision is not adequately supported by the record.

(iii.) The evidence supporting Council approval conditions is adequate.

Roderick argues that the Council improperly approved the site by setting 11 enhancement conditions for approval where AERM's project did not clearly meet these standards at the time of application. *See* Roderick Mot. Ex. 30 (Record 2076-77, ¶ 12 a-k) (setting conditions with the language approving the use prospectively "so long as the following enhancements to the site were included"). The purpose of these conditions is to mitigate various impacts.

The Court does not find the conditions or approval improper. It does so because it is not persuaded that the permitted use would not be proper even absent the conditions. The Commission in its decision as seen in the facts initially stated that the language of the code was broad enough to support the use, but wanted more information about AERM's application for prudential reasons.

As seen in review of the record, AERM's alleged deficiencies as attacked by Roderick were weighed by the Council. The Council's action in approving AERM's use is colorable in many instances as a "belt-and-suspenders" approach to make doubly sure of compliance with the zone code conditions that the Commission itself acknowledged was broad enough to support the use. The Council's conditions also provided guidance to AERM as applicant where the Council considered the matter *de novo* and it is not clear to the Court that the Council's approach in granting

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a conditional approval in these circumstances is impermissible. *See Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (citing *Contracts Funding and Mortgage Exchange v. Maynes*, 527 P.2d 1073) (describing a conditional approval)).

Roderick argues it is incorrect to premise approval of AERM's applications upon it fulfilling enhancements as prospective future conditions, when code requires substantial evidence to underlie approval of a permitted use. But merely because a conditioned approval (i.e., no approval or operation of the site unless and until conditions met) has been granted does not mean that it logically follows that the conditions necessary for approval are insufficiently supported by substantial evidence that the conditions would bring a proposed use into code compliance.

As examples of deficiencies with conditions, Roderick notes that the Council did not find that conveyor belts were covered as a condition, but conditioned site approval on them being so. Roderick makes a similar argument for truck washing stations that were not included in the plan, but which the Council required as an enhancement, including that they be set aside in an area different from a "ready" area. But for the reasons given above, this is unpersuasive.

Roderick also argues that the sufficiency of the mitigation is lacking. In this vein, Roderick argues there was no evidence that the Council mitigation would sufficiently address the impacts of noise, water and air quality, vibrations, fences/trees to mitigate visual impacts, sufficiency of requiring prewashed aggregate, and so forth. And Roderick makes the same sorts of arguments for the sufficiency of wash stations of trucks as mitigation, and for cattle grates. As noted in the introduction to this section, the Council's decision adequately addressed this genre of issues that the Commission identified as problematic.

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Roderick argues that the sufficiency of these conditions to offset impacts is not evident in the Council's findings of fact. But the Court is not persuaded that *per se* the evidentiary significance of these conditions as adequate mitigation is not evident in the record via inference. In these circumstances the findings of fact, when taken in context with the totality of the record, are not so deficient that the Court should set aside the Council's decision.

Roderick's arguments otherwise raise un-redressable complaints. This is not the standard. That is, Roderick argues that there are no reasonable mitigation measures to adequately completely suppress or offset the negative externalities the code is meant to prevent that Roderick identifies in a cost efficient way as applied to AERM's proposal. This applies an impossibly high standard. The plain meaning of "mitigation" does not support an interpretation of that term to require a "complete" abatement of an adverse condition. *See* MITIGATE, *Black's Law Dictionary*, (11th ed. 2019) ("To make less severe or intense; to make less harmful, unpleasant, or seriously bad"). Mitigation indicates offsets of negative impacts to achieve permissible levels in a permitted zone. Roderick appreciates this is the case, as it cites a City Code provision describing a "light" use as one that creates a "***minimum*** conflict or [**minimum**] deleterious effect on surrounding properties." City Code § 17.5.503.A (emphasis added by the Court).

The Court also finds Roderick's arguments unpersuasive where Roderick argues that it has not called for the Court to reweigh evidence that the Council had heard, contrary to governing law. *See LJ Mascaro Inc., v. Herriman City*, 2018 UT App 127, ¶ 21, 428 P.3d 4. But in fact the Court is persuaded that this is what Roderick has repeatedly requested in the arguments referenced within this section, including in its arguments regarding "enhancements" as conditions. Roderick's

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attempts to distinguish its actions from those barred in *Mascaro* by characterizing its efforts as merely asking the Court to consider the totality of the record and evidence that was in its view not properly considered below. This is unpersuasive because it is simply not supported by the record.

For these reasons, the Court is persuaded that the Council's decision was adequately supported by sufficient findings of fact and by sufficient evidence.

B. Roderick is not persuasive that the Council's decision was contrary to law.

Under Utah Code § 10-9a-801(3), a decision is illegal if the decision is based on an incorrect interpretation of a land use regulation or is contrary to law. The land use authority is bound by the terms of its own ordinances. *See Outfront Media, LLC v. Salt Lake City Corporation*, 2017 UT 74, 416 P.3d 389.

(i.) Standard of review.

Roderick argues the Council's decision is illegal because it applied the wrong standard of review. In so doing, Roderick argues that the Council impermissibly acted to override the Commission by adding many new requirements and conditions. The Court has already ruled Roderick fails to persuasively challenge the sufficiency of these as adequate mitigation.

Roderick's concedes that the standard of review applicable to the Council's decision is de novo. *See* Utah Code § 10-9a-707(2). De novo means "anew." *See* DE NOVO, *Black's Law Dictionary*, (11th ed. 2019). Notwithstanding this concession, Roderick argues the Council was limited to the record below and did not have the discretion to hear new evidence or allow any party to supplement the record with materials that were not available to the Commission.

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Roderick cites as support *Salt Lake City Corporation v. Jordan River Restoration Network*, 2018 UT 62, 435 P.3d 179. *Jordan River* discusses two possible meanings of de novo in the context of judicial review of administrative action. Our supreme court held that a statute permitted the district court taking new evidence relating to an administrative proceeding because the statute did not bar it from doing so by use of an exclusive "only" to limit the record. *Id.* at ¶ 67. *Jordan River* further explained that in certain instances de novo can indicate merely a record review of a lower tribunal rather than a full blown new proceeding where supplement of the record is permitted. *See id.* at ¶ 69.

Roderick argues the more restrictive interpretation applies. If controlling, the Council should not have taken new evidence, but relied solely upon the record before the Commission. But this interpretation relies upon *Jordan River* and therefore presumes that the Council sat as a judicial authority reviewing an administrative action and that the Commission is also a judicial "tribunal" below. Neither assumption is warranted, despite the statute's characterization of the appeal authority's land use decision as a "quasi-judicial" act. *See* Utah Code § 10-9a-707(5). Neither the Commission nor the Council is a judicial body. The Commission is a land use authority, and the Council an appeal authority/land use authority.

In addition, like the statute in *Jordan River*, Section 707 does not contain express language disallowing the taking of new evidence (as in using "only"). The Council could choose at its discretion to narrow the scope of its review pursuant to statute via ordinance but where it does not do so, the standard is de novo and in the context of an appeal authority there is no deference on "factual matters" to the lower land use authority's decisions. *See* Utah Code § 10-9a-707(1)-(2).

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The Court finds it significant that the language "factual matters" is itself a broad term susceptible to a meaning that the appeal authority on de novo review may take additional evidence. The legislature uses words in statutes advisedly, and the Court therefore presumes this broad language to have been intentional. *See Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 14, 267 P.3d 863 ("we assume"… "the legislature used each term advisedly" in exercises of interpreting statutes).

The other cases cited by Roderick are unpersuasive because again they discuss its preferred reading of de novo in the context of judicial review interpreting standards different from those at issue here. *See Phledger v. Cox*, 626 P.2d 415, 416-17 (Utah 1981); *Denver & R.G.W.R. Co. v. Public Service Commission*, 100 P.2d 552 (Utah 1940); *Baker v. Park City Municipal Corporation*, 2017 UT App 190, 405 P.3d 962; *Devore v. IHC Hosps.*, 884 P.2d 1246, 1256 (Utah 1994).

For these reasons the Court reads the Section 707 to permit the Council to hear the matter anew and to allow parties to supplement the factual record. The Council thus applied the correct standard.

Roderick is also unpersuasive as to arguments made that the Council applied an incorrect standard on appeal under LUDMA. He cites to Utah Code § 10-9a-707(4)(b) as applicable and requiring:

> [t]he appeal authority shall[] … determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulation; and … interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application."
>
> *See* Utah Code § 10-9a-707(4)(b).

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Roderick argues that the City Council "did the latter but not the former" because it didn't determine whether the decision below was correct or not before proceeding to interpreting and applying land use regulations to favor a proposed use. This argument's reasoning is flawed because it assumes its conclusion without warrant. The Court finds a fair reading of the record yields the conclusion that the Council found that the Commission had been incorrect (*see* R. at 2075-77) then on de novo review with the benefit of a supplemented record, the Council interpreted and applied the land use regulation much as had the Commission, but also included additional conditions that would mitigate or assuage the identified concerns. In some part it appears the Council even agreed with concerns of the Commission, but addressed these with new conditions for approval.

The Court for these reasons does not find Roderick persuasive that the standard of review or its application were incorrect and therefore that the decision was contrary to law.

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C. The I-1 zone and Roderick's argument that the City's action violated the intent and plain language of the designating provision that it be used for "light" industrial uses is not persuasive.

(i). Intent of the "light" zone designation.

Roderick argues that the City impermissibly granted AERM's application in a way that contravened its own ordinances, and that this is unlawful. A zoning authority is bound by its ordinances. *See Outfront Media, LLC v. Salt Lake City Corporation*, 2017 UT 74, 416 P.3d 389.

The Court does not find Roderick's arguments persuasive. It does so because it is mindful of our supreme court's instruction in *Hughes General Contractors, Inc. v. Utah Labor Com'n*, 2014 UT 3, ¶ 29, 322 P.3d 712. There, the court stated that "the interpretive function for us [courts of review] is not to divine and implement the statutory purpose, broadly defined." *Id.* "It is to construe its language. Where, as here, that language dictates an answer to the question presented, we are not at liberty to adopt a different one because we think it might better advance the legislature's purpose as we understand it." *Id.*

As specific arguments, Roderick cites the intent of the zone as described by the City Code as follows:

> The I-1 light industrial zone has been established for the purpose of providing a place where firms engaged in the light manufacturing, processing, warehousing and fabrication of goods and materials can locate with minimum conflict or deleterious effect on surrounding properties and uses and with a high degree of protection from encroachment of residential, retail commercial and other incompatible uses....
>
> ....
>
> Representative of the uses within the zone are structures utilized for light manufacturing, fabrication, processing, storage, warehousing and wholesale distribution, under conditions which limit the generation of noise, vibration, smoke, odor, dust, fumes, or hazard from explosion.

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City Code § 17.4.503.A.

Under these standards, Roderick argues the Council misinterpreted both "the intent and plain language" of the light industrial use zone given plain meaning of the text of the ordinances and Roderick's interpretations of them as permitting only "light" industrial uses as not permitting a concrete batch plant.

But the Court finds this argument unpersuasive for the same reasons the Court gave previously. It is reasonable for the Council to have concluded (*see* R. at 2075) that AERM's use that may have been a heavy one in certain circumstances qualified as light in the I-1 zone where limited in scope and volume, and given adequate mitigation. And as directed in *Hughes*, the Court finds that the use of language in the ordinance is broadly worded enough when considering the Council's action that the Council's decision to approve AERM's use was within a reasonable interpretation of the code.

(ii). AERM's use was not contrary to the plain language of the zoning provisions.

Roderick takes issue with the Council's conclusions that AERM's proposed use was lawful because "[t]he proposed use is a permitted use subject to the conditions set forth in City [Code] 17.4.503(B)(1)" and that "[t]he proposed use in the Application and supplemental information is not plainly restricted by City Code[.]" *See* Ex. 30 (Record 2077, ¶¶ B, D). Roderick argues instead that not only does the code fail to expressly permit AERM's proposed use (a concrete plant), it forbids it.

> Roderick cites the following:
> [Pursuant to code][u]ses of land which are not expressly permitted within a zone are hereby declared to be expressly prohibited therein, except as may be permitted

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> by action of the planning commission or city council, pursuant to express authority given under terms of this code.

See City Code § 17.1.200.

The Court does not find this citation to support Roderick's arguments, as it contains a plain carve out for the Council's/Commission's discretion to approve certain nonconforming uses under the code. In addition, the provision cited above, City Code § 17.4.503.A., permits certain light industrial uses, and for the reasons already given repeatedly by the Court, the Court finds that the Council's interpretation of the code as applied to its permitted use to be a reasonable construction of the language of those terms.

Specifically, the Council issued findings and conclusions after reviewing all available evidence and concluded that a batch plant was a permissible use subject to the conditions in Section 17.4.503(B)(1). This includes meeting required mitigation conditions. *See* R. at 2077-78.

The City is also persuasive, despite Roderick's argument that context alters the nature of the quotation, that an enumerated list of prohibited uses in the code does not list concrete plants and that this is significant. *Compare* City Code § 17.4.503B(1)(b) (enumerated prohibited uses) *with id.* at B.1.a.; *see also* Hon. Antonin Scalia & Bryan A. Garner, Reading Law, 93 (Thomson/West 2012) (stating the canon of statutory interpretation that "[n]othing is to be added to what the text states or reasonably implies"... "That is, a matter not covered is to be treated as not covered").

For these reasons, the Court does not find that AERM's use violates the express zoning provisions. It is thus not illegal or contrary to law for the Council to have approved it under those terms.

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D. Roderick's argument that the City was improperly motivated to rubber stamp AERM's application without proper legal basis or adequate procedure, regardless of Roderick's efforts lacks merit.

Roderick argues that the City's efforts as regards AERM's proposed use have been mere *pro forma* going through the motions, where the City was intent all along in approving AERM's application regardless of any opposition. The Court does not find these allegations, given its assessment of the record, to be well taken. The process established for development, including as described in statute, has a presumption favoring approval of applications for development where appropriate. Utah Code §10-9a-707(4)(b).

The City has explained that it had discussions with AERM about its proposed use and its application at various times, and this can be seen by various citations to the record. But talks are not evidence of improper motive, unfair process, or chicanery sufficient to cause the Court concern. And the Court did not find Roderick's arguments as to generalized fairness in the process (sufficient opportunity to be heard at council meetings) to be persuasive. As best the Court can tell, Roderick was permitted to comment at various meetings. That Roderick was not permitted to have "equal" time to AERM as applicant or that Roderick takes issue with how City officials managed their meetings is noted but not material. It is not for the Court to superintend government officials' management of their meetings. In the Court's view Roderick has not been denied due process of law based on the record submitted.

Based upon the Court's review of the record in its totality, the City assessed AERM's application at significant depth. Evidence of improprieties as alleged by Roderick is not in evidence. Those cited, such as AERM's anticipatory construction and alleged inconsistent

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statements about the site, are not enough. The Commission initially identified various concerns which were the result of discussion. The Council took additional information to supplement the application. Further briefing and argument were heard. The Council's approval required significant and costly mitigation. *See* R. at 2077.

For these reasons, the Court finds Roderick's arguments of improper motive to not be well taken.

V. Roderick has not provided sufficient evidence of prejudice to show entitlement to the relief sought on its third claim (injunctive relief or relief via mandamus and/or abatement).

The Court will not provide a lengthy treatment of these issues, given its prior analysis. But shortly, Roderick's assertion of various harms and prejudice is unpersuasive and speculative, given AERM's approved use, the placement of the use within the I-1 zone generally, and the mitigation conditions imposed upon the use.

Roderick's arguments in this regard appear to be nothing more than threadbare recitals supported by mere conclusory statements purporting to show entitlement to relief under case law or statute. *See Potter v. South Salt Lake City*, 2018 UT 21, 422 P.3d 803; Utah Code § 10-9a-802(1)(a); 802(i). In the Court's view, Roderick's arguments are insufficient. They lack adequate development as reasoned legal argument to show the requirements of authority and how the facts as shown by sufficient evidence entitle Roderick to relief under requirements of that authority. Therefore, Roderick has not persuasively shown entitlement to relief under *Potter*, or Utah Code § 10-9a-802(1)(a) and 802(i).

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RULING AS TO AERM/CITY CROSS MSJ AS TO RODERICK'S 2ND AND 3RD CLAIMS (PETITION CLAIMS).

VI. The Court finds the City entitled to judgment as a matter of law, since it has shown that the City zoning site approval of AEMC's project was not arbitrary, capricious or contrary to law.

The Court notes that this ruling necessarily treats with subjects that overlap with its previous analysis and reasoning addressing Roderick's motion seeking summary judgment on its second and third claims. The Court adopts it here, and will not repeat its analysis for issues already disposed of in those rulings.

As provided in the legal standard section at the beginning of this ruling, the Court's review is limited to the record before the land use authority below. *See* Utah Code § 10-9a-801(8)(a)(i); *id.* at 801(8)(a)(ii) (no extrinsic evidence permitted a court performing judicial review of land authority agency action); *id.* at 8001(3)(b) (presumption of validity attaches to land use authority decision).

A. The City's decision and the substantial evidence standard.

The Court finds that the City's land use decision was permitted under its land use regulations. *See* Utah Code § 10-9a-306(1). In so doing, the Court applied the caution of our supreme court in *Hughes General Contractors, Inc. v. Utah Labor Com'n*, 2014 UT 3, ¶ 29, 322 P.3d 712 (stating "the interpretive function for us is not to divine and implement the statutory purpose, broadly defined. It is to construe its language. Where…that language dictates an answer to the question presented, we are not at liberty to adopt a different one because we think it might better advance the [legislating authority's] purpose as we understand it").

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As in the Court's analysis of Roderick's motion, the Court finds that the City's decision to approve AEMC's site was appropriate under City Code as a light industrial use. The relevant code provisions are broadly drafted and thus susceptible to broad interpretation permitting certain industrial uses as "light" if they fit within certain parameters and meet certain mitigation conditions to offset detrimental impacts that may result from operation of the site. *See* City Code § 17.4.503 (outlining "light" industrial zoned property requirements).

The City is persuasive that development and zoning/site approvals that pass muster under land use regulations are permissible under Utah law. *LJ Mascaro Inc. v. Herriman City*, 2018 UT App 127, 428 P.3d 4. Without repeating its analysis as it pertains to the Court's ruling addressing Roderick's motion, the Court finds the City persuasive that its decision is supported by adequate findings and substantial evidence.

Roderick has contested this conclusion, arguing that City findings were inadequate, nonexistent in certain instances, and where extant were not supported by sufficient evidence or necessary expert testimony. Roderick also argues that the City rejected its experts' testimony, where its experts were the only qualified experts and therefore the only experts whose testimony should have been given any weight. Apart from the fact that Clements appears to be significantly experienced in his own right, as noted in the Court's ruling as to Roderick's motion, the Court does not find Roderick's argument to be persuasive for the reasons it gave there. Roderick's experts' testimony was before the Council, and considered it for what weight they thought appropriate and the Court will not second guess their decision. In addition, as stated previously,

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Roderick's experts and Roderick's arguments relied upon conclusory *ipse dixit* statements and appeals to authority.

The City argues that Roderick has asked the Court to impermissibly reweigh evidence before the Council, an argument it raised in its previous opposition. Like there, here the Court finds this argument to be persuasive. *See LJ Mascaro Inc., v. Herriman City*, 2018 UT App 127, ¶ 21, 428 P.3d 4; *see also Kilgore Cos. V. Utah Cty. Bd. of Adjustment*, 2019 UT App 20, 438 P.3d 1025 (directing that a land use authority consider a proposed applicant's use with necessary consideration).

In response to the City's citation and argument under *Kilgore*, Roderick argues that case is distinguishable because here we only have two "blustery" letters from the plant owner, and conclusory legal argument improperly couched as evidence (statements by AERM's counsel that a similar facility (Altaview) has been permitted). Roderick argues that in *Kilgore* there was testimony from the plant manager about approving an additional amount of space for a plant extension, and an expert report supporting the plant manager's testimony.

Roderick's attempt to distinguish *Kilgore* is not persuasive. The Court finds that despite Roderick's characterization of letters and AERM's counsel's statements, they have merit. In the Court's view this is the case as they direct the Court's attention to Altaview as a similar permitted facility (subject to mitigation) in the I-1 zone that is material and relevant to an analysis of AERM's use under *Kilgore*.

The Court notes that, of course, the Altaview facility has differences from AERM's site (e.g., set back distance from the road; "closed" status)). However, the Court finds the Altaview

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facility material and relevant inasmuch as it provides context for the Council's decision that a near functional equivalent to AERM's proposed use existed in the I-1 zone. It is reasonable to infer from the record before the Court that the Council approved AERM's use in the context of an already permitted facility, with adequate mitigation conditions to minimize material differences between the two.

Roderick argues two letters sent by AERM to the City that the City relies upon in the record below as evidence in its findings are not adequate. Roderick argues these are unreliable because Roderick claims they show the City was improperly motivated to approve AERM's project regardless of opposition, facts, evidence, or contrary argument. In this regard, Roderick cites portions of letters that indicates the AEMC as a pre-applicant had been working with the City in some fashion for some time, and that some of the footings at the AEMC site had been preinstalled prior to annexation of the relevant parcel. Roderick also cites to various portions of the record regarding AERM's use of the site being inconsistent with its representations to the Council (e.g., volume of material produced would be greater than represented, and that accordingly impacts would be greater (i.e., dust, noise, odors, vibrations, recycling of concrete, visual impacts, etc.)). The Court previously considered these arguments and rejects them for the same reasons.

Roderick also argues that there is no sufficient evidence to show the adequacy or effectiveness proposed mitigation to remedy detrimental impacts. Again, for the same reasons given in the Court's previous analysis, this argument is unpersuasive.

Roderick also argues that some of the "evidence" cited by the City is mere conclusory legal argument from AERM's counsel Wade Budge, which echoed comments in the letters that were

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authored by AEMC's owner Mr. Clements. Yet again, the Court does not find that Roderick's arguments to be well taken for the reasons given in its previous ruling. These matters were before the Council, as well as contrary evidence presented by Roderick, and the Council weighed that evidence and reached a result. Its decision is not lacking the support of substantial evidence.

B. The City's decision to approve AEMC's application was not contrary to law.

As in its ruling upon Roderick's motion, the Court is persuaded that the City's action was not contrary to law under the applicable standard. *See* Utah Code Ann. § 10-9a-801(3)(c)(ii). Roderick's arguments to the contrary are not persuasive for the same reasons given previously.

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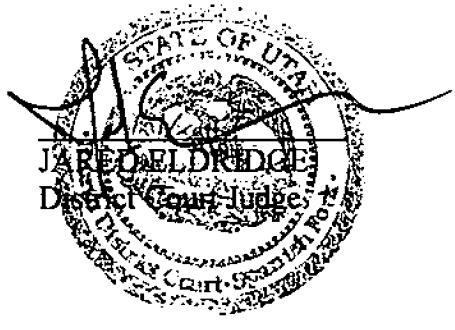
ORDER

For the above reasons, the Court ORDERS the following:

- Defendant AERM/City Motion for Summary Judgment as to Roderick's 1st, 4th, 5th and 6th Causes of Action (Non-Petition Claims) is GRANTED. The Court severs and dismisses these claims and in the alternative finds on the merits the City has shown entitlement to summary judgment.
- Roderick's Motion for Summary Judgment as to their 2nd and 3rd Claims for Relief (Petition Claims) is DENIED.
- Defendant AERM/City Motion for Summary Judgment as to Roderick's 2nd and 3rd Claims for Relief (Petition Claims) is GRANTED.

DATED this the 30th day of March, 2023.

BY THE COURT:



JARED ELDRIDGE
District Court Judge

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