



# Subdivision Staff Report

**Meeting Body:** Magna Planning Commission

**Meeting Date:** March 12<sup>th</sup>, 2026

**File Number & Project Type:**  
SUB2025-001427

Wade Manor Subdivision, 7 Lots

**Address:**

7372 W 2820 S

**Planner:**

Gordon Bennett

**Applicant:**

Amy and Joel Cosby

**Staff Recommendation:**

Approval of subdivision application with the storm water retention managed by an HOA

**Exhibits:**

- A. Updated Preliminary Plat
- B. Conceptual Review Comments
- C. Water/Sewer Approval Letter
- D. Retention Pond Easement
- E. Retention Pond Easement Exhibit
- F. HOA Intent
- G. Right of Way Section
- H. Development Agreement

## PROJECT DESCRIPTION

The applicants, Joel and Amy and Joel Cosby, are looking to subdivide the parcel at 7372 W 2820 S into seven single family lots ranging from 9,635 to 14,965 square feet. This infill subdivision will reflect the layout and character of the surrounding area, which is primarily made up of single-family homes on 10,000 square feet lots.

## SITE MAP



## SITE VICINITY AND DESCRIPTION

The surrounding parcels that are north, south, east, and west, are all zoned A-1, which is defined by Magna Code as an Agricultural Zone with a minimum lot size of 1 acre as of December 10<sup>th</sup>, 2024. At the time the surrounding parcels were subdivided, which was prior to the previously listed date, the minimum lot size for an A-1 Zone was 10,000 square feet.

## BACKGROUND/HISTORY

Originally, the parcel at 7372 W 2820 S was part of the parcel with an existing home and detached garage owned by the Hulse household at 7440 W 2820 S. In October 2024, the Hulse household sold off approximately  $\frac{3}{4}$  of their parcel, which was all vacant land, to a developer. The developer worked with planning staff to subdivide the Hulse parcel into two parcels, thus establishing the address 7372 W 2820 S.

In the spring of 2025, the applicants of this subdivision purchased the parcel that is proposed to be subdivided and applied for a rezone later that summer. Because the current minimum lot size of an A-1 Zone was adopted into Magna Code at the time, staff advised the applicant to apply for a rezone for the parcel so that it may reflect the existing character of the surrounding parcels. In September of 2025, Magna City Council granted approval of the rezone of 7372 W 2820 S from an A-1 to an R-1-8 Zone. The R-1-8 Zone is defined by Magna Code as a Single-Family Residential Zone with a minimum lot size of 8,000 square feet.

## FINDINGS AS TO APPLICABLE STANDARDS

18.08.080.D: If the plat conforms with the standards and objectives of the applicable zone, all required standards and specifications, and this Title and has been approved by the culinary water authority and the sanitary sewer authority, or the Salt Lake County Health Department where culinary water or sanitary sewer services are not available, the administrative land use authority shall approve the preliminary plat.

1. The standards and objectives of the applicable zone:  
The zoning of the parcel of the proposed subdivision is R-1-8, and all the parcels meet the minimum square footage of at least 8,000 square feet, the minimum parcel width of 65 feet, and minimum parcel depth of 25 feet.
2. All required standards and specifications:  
All review agencies have found the preliminary plat satisfactory. Please note that despite the comments from Unified Fire Authority and Urban Hydrology cited in Exhibit B, the applicant has addressed these revisions, including implementing fire hydrant access, and has agreed to maintain an HOA (*See Exhibit F*) for the upkeep of the stormwater retention and the 7' park strip on the east side of the street.
3. Title 18 requirements:  
The latest preliminary plat as shown in Exhibit A shows all the necessary design standards as cited in Title 18 of Magna Code except for certain items addressed in the

development agreement. These include street improvements, curbs, gutters, sidewalks, flood control and storm drainage facilities. The items not complying with Magna Code include the curb radii at the point the street intersects with 2820 South, and the 7' park strip and lack of sidewalk on the east side of the street necessary to accommodate retaining infrastructure, are part of the development agreement.

4. Approval by the Water Authority and Sewer Authority:  
A water/sewer availability letter has been provided by the Magna Water District and the Salt Lake County Health Department has given the project preliminary approval (See Exhibits B and C).

## **SUMMARY AND RECOMMENDATION**

### **Summary of issues:**

Despite the concerns engineering staff had regarding stormwater retention, the applicant has agreed to implement a limited purpose HOA to mitigate and maintain stormwater retention as state in Exhibits D, E, and F. There were also concerns regarding the curb radius and intersection offset expressed by engineering staff. A development agreement (*Exhibit H*) will ensure that the applicant will maintain safe and compliant traffic engineering standards for both the right of way, and the improvements to be installed. Referring to the comments in Exhibit B, the required revisions have been addressed in the current, up-to-date preliminary plat (*Exhibit A*), and the review staff have expressed no opposition to bringing this subdivision application before the Magna Planning Commission.

### **Recommendation:**

Staff recommends approval of the Wade Manor Subdivision preliminary plat with the following conditions:

1. The final plat will be approved by the Development Review Committee in accordance with Magna Code, Subsection 18.08.090. Submittal of the Final Plat, Engineering Drawings and Documents to the Development Review Committee for Final Plat Approval.
2. The Development Review Committee shall not approve the final plat until the Developer and the City have executed a Development Agreement. The executed Development Agreement shall be recorded along with the final subdivision plat.
3. The Municipal Engineer shall not allow the final subdivision plat to be recorded until the Developer has complied with the requirements in Magna Code, Subsection 18.08.110. Recording the Final Plat.

### **Subdivision:**

18.08.090.C: The administrative land use authority may:

1. Approve the preliminary plat;
2. Approve the preliminary plat with reasonable conditions intended to ensure compliance with the standards and objectives of the applicable zone and this Title;

3. Continue review of the preliminary plat, directing that changes be made to the preliminary plat so that it conforms with the standards and objectives of the applicable zone and this Title; or
4. Deny the preliminary plat because it does not meet the standards and objectives of the applicable zone and this Title.



Exhibit B



**Planning and Development Services**  
860 Levoy Drive, Suite 300  
Taylorsville, UT 84123  
Phone: (385) 910-5600  
www.msd.utah.gov

**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Planning Comments

Reviewer Name: **Gordon Bennett**

Phone Number: **385-459-3386**

Email Address: **gbennett@msd.utah.gov**

Date of Review: **9/12/2025**

**Comments on Conceptual Plans:**

Plans are conceptually O.K. A technical review will be required after approval from the Magna City Planning Commission.

**Comments and Items for Technical Review:**



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Phone: (385) 910-5600  
www.msd.utah.gov

SUB2025-001427

**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Geology Comments

Reviewer Name: Greta Hamilton, PG  
Phone Number: 801.554.1396  
Email Address: ghamilton@msd.utah.gov  
Date of Review: 09/22/2025

**Comments on Conceptual Plans:**

1)The site is located in a high liquefaction zone. The Geologic Hazards Disclosure form needs to be filled out and recorded at the County Recorder's office prior to land use approval. Please send a copy of the recorded document to ghamilton@msd.utah.gov.

2)Submit the geotech for technical review.

3) Add note "Footings excavations shall be inspected and approved in writing by a qualified Geotechnical Engineer prior to placement of concrete forms & rebar, where applicable."

**Comments and Items for Technical Review:**



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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Grading Comments

Reviewer Name: Taylor Stewart

Phone Number: 385.459.5843

Email Address: [tstewart@msd.utah.gov](mailto:tstewart@msd.utah.gov)

Date of Review: 09/25/2025

**Comments on Conceptual Plans:**

Plans are conceptually okay.

**Comments and Items for Technical Review:**

- The stormwater sump proposed is infiltrating and deeper than it is wide. This structure meets the requirements of a UIC well registration through DWQ. Please apply for the UIC well permits to be recorded and submit the documentation.
- Will need a sediment and erosion control plan



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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Urban Hydrology Comments

Reviewer Name: Francis Lokiru  
Phone Number: 385-522-9223  
Email Address: FLokiru@msd.utah.gov  
Date of Review: 9/26/2025

**Comments on Conceptual Plans:**

1. Water master must approve all drawings that show irrigation. Water master's approval is required as a signature block on the final irrigation drawings prior to approval.
2. See Sheet GP1 for comments. Sumps are not acceptable as public infrastructure.
3. According to USDA & NRCS soil classification these are class D soils which have poor infiltration capacity the retention ponds are not appropriate to use for each lot.

**Comments and Items for Technical Review:**

1. Please provide different drainage system including updated calculations.
2. Provide sizing calculations for the proposed retention basins on each lot.
3. Provide details of the proposed retention basin(s) including volume, side slope, High water mark and freeboard.
4. A SWMA will be required.



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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

**Traffic Comments**

Reviewer Name: **Ian Hartman, PE, PTOE**

Phone Number: **385-522-5725**

Email Address: **ihartman@msd.utah.gov**

Date of Review: **09/16/2025**

**Comments on Conceptual Plans:**

**See comments throughout "Wade manor subdivision prelim 06-06-25 (2).pdf"**

**Comments and Items for Technical Review:**



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Taylorsville, UT 84123  
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www.msd.utah.gov

**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Surveyor Comments

Reviewer Name: **Brandon Hoxer**

Phone Number: **(385)468-8261**

Email Address: **BHoxer@saltlakecounty.gov**

Date of Review: **October 10, 2025**

**Comments on Conceptual Plans:**

**Plans are conceptually ok.**

**Comments and Items for Technical Review:**

**Technical review required.**



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860 Levoy Drive, Suite 300  
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www.msd.utah.gov

**Circle as Applicable:**

Plans are Conceptually O.K.

**Revisions Required**

Additional Items Required

**Agency Review Comment Sheet**

Unified Fire Authority Comments

Reviewer Name: **Greg Bell, Area Fire Marshal**  
Phone Number: **385-556-9979**  
Email Address: **gbell@unifiedfireut.gov**  
Date of Review: **09/15/2025**

**Comments on Conceptual Plans:**

- 1-Provide a fire flow report for the project
- 2-Add fire hydrant on the corner of 7440 W 2820 S due to IFC section C103 fire hydrant spacing.

**Comments and Items for Technical Review:**



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860 Levoy Drive, Suite 300  
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Phone: (385) 910-5600  
www.msd.utah.gov

**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Health Department Comments

Reviewer Name: Brad Johnson

Phone Number: 385-468-3898

Email Address: bradjohnson@saltlakecounty.gov

Date of Review: 9/12/2025

**Comments on Conceptual Plans:**

Concept OK. Water/Sewer availability letter meets requirements. It is recommended you update the Water/Sewer letter with the final subdivision name.

When you are ready please schedule the plat (mylar) signing by calling or emailing the Water Quality Bureau at 385-468-3862 or waterquality@saltlakecounty.gov.

**Comments and Items for Technical Review:**



**Planning and Development Services**  
860 Levoy Drive, Suite 300  
Taylorsville, UT 84123  
Phone: (385) 910-5600  
www.msd.utah.gov

**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Building Comments

Reviewer Name: **Lori Jessop**  
Phone Number: **801-678-1811**  
Email Address: **ljessop@msd.utah.gov**  
Date of Review: **9/22/25**

**Comments on Conceptual Plans:**

Plan review for code compliance will not be completed at this time. At the time of building permit application, please provide the following:

Fire flow verification and/or show how compliance is going to be made with any Unified Fire District Guidelines.

Documents that were approved during the Land Use process.

Plans that show compliance with current building code requirements. Plans must show how fire-resistance ratings will be met for any portion of the building (wall pop outs, eaves, etc) that project closer than 5 feet to the property line or fire separation distance line.

At the time of building permit application, plans must show how fire-resistance ratings and their listings on the plans.

The geotechnical report for this subdivision with each building permit application.

Survey certificates will be required to be provided at the footing inspection for buildings located 6' or less from a property line or 12' or less from another building.

Separate permits are required for any retaining walls over 4 feet in height or retaining walls of any height supporting a surcharge.

Separate permits are required for fences over 7 feet tall.

**Comments and Items for Technical Review:**



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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Public Works Operations Comments

Reviewer Name:

Phone Number:

Email Address:

Date of Review:

**Comments on Conceptual Plans:**

**Comments and Items for Technical Review:**



**Planning and Development Services**  
860 Levoy Drive, Suite 300  
Taylorsville, UT 84123  
Phone: (385) 910-5600  
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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

Public Utility Comments

Reviewer Name:

Phone Number:

Email Address:

Date of Review:

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**Comments on Conceptual Plans:**

**Comments and Items for Technical Review:**



**Planning and Development Services**  
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**Circle as Applicable:**

Plans are Conceptually O.K.

Revisions Required

Additional Items Required

**Agency Review Comment Sheet**

~~Addressing~~  
~~Other Comments~~

Reviewer Name: Marie Schleicher  
Phone Number: 801-678-2826  
Email Address: maschleicher@msd.utah.gov  
Date of Review: 10/01/2025

**Comments on Conceptual Plans:**

Please add in frontage numbers and intersections as per markup on page 3 of document WADE MANOR SUBDIVISION PRELIM 06-06-25.pdf, thank you.

**Comments and Items for Technical Review:**

Exhibit C



06/12/2025

Salt Lake County Health Department  
788 E Woodoak Lane  
Murray, Utah 84107  
healthwater@slco.org

Re:

**Hulse Subdivision**  
**7372 West 2820 South**  
**Magna UT, 84044**  
**single family residential**

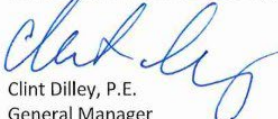
**Joel Cosby - W&C Investment LLC**  
**jdcosby21@gmail.com**  
**Nick Harper - 801-671-1871**  
**nickharper52@gmail.com**

Jessica Antezano,

This letter is to certify that based on the plans for the above reference project, Magna Water District, can furnish culinary water and sewer service to this project. Any revisions to said plans after this certification which affect water or sewer service in any way will invalidate this certification. To allow for timely progression of this project, the District requests that any such changes in the plans be promptly provided to the District by the developer so that re-certification may be made.

The District will be able to furnish at a minimum of 20 pounds pressure, culinary water which has been approved by the State Board of Health, if the developer and customer meet all the rules, regulations, and fees of the District. All water and sewer service lines and provisions of said services are subject to and governed by the current rules, regulations, and resolutions of the District.

For any additional information, please contact Magna Water District at (801) 250-2118.

  
Clint Dilley, P.E.  
General Manager  
Magna Water District

PO BOX 303, MAGNA, UT 84044-0303 • 801-250-2118 • WWW.MAGNAWATER.COM

Exhibit D

**WADE MANOR STORM WATER RETENTION POND EASEMENT**

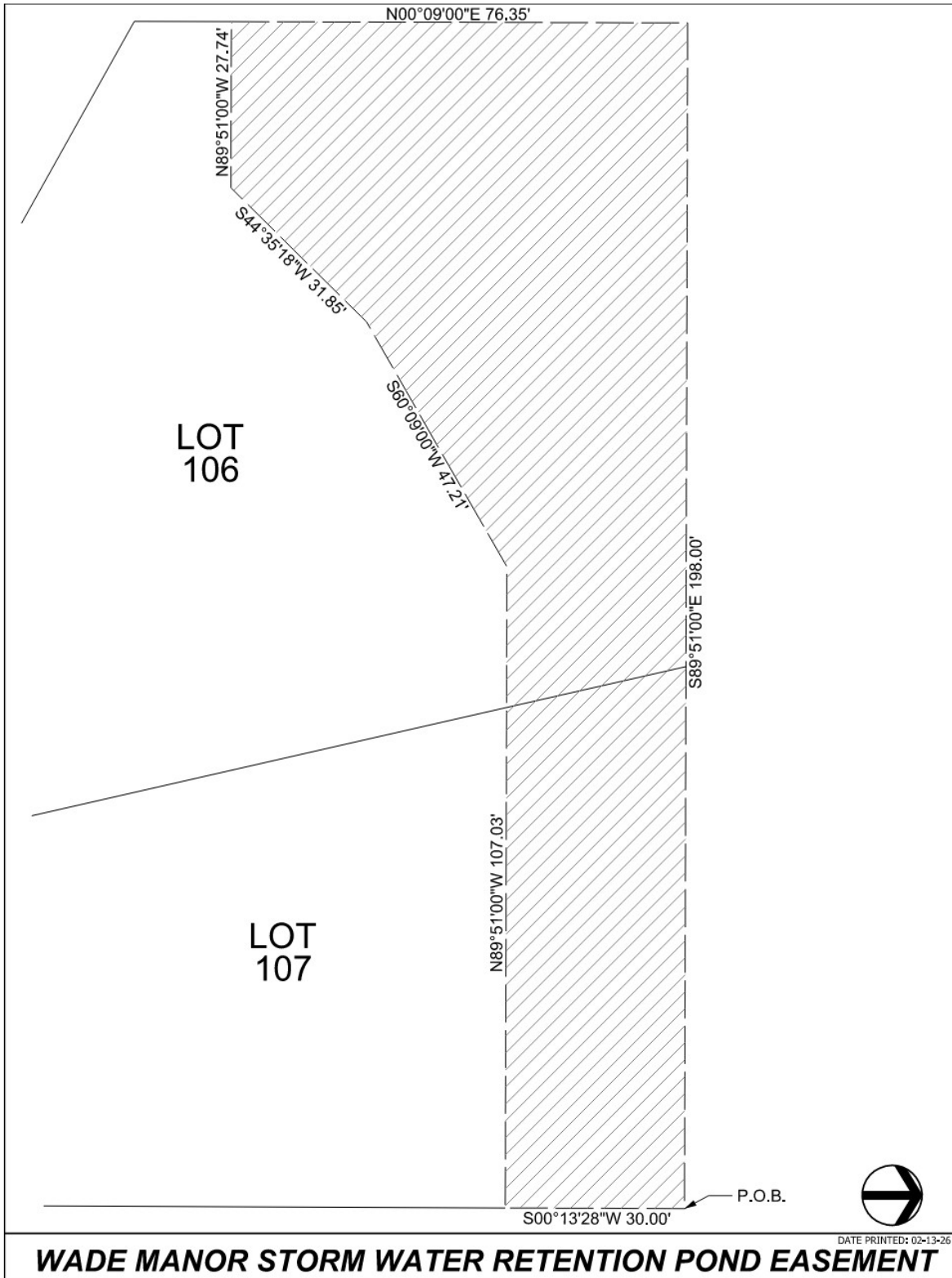
BEGINNING AT A POINT WHICH LIES NORTH 89°51'00" WEST 1122.00 FEET FROM THE NORTHEAST CORNER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE NORTHEAST CORNER OF LOT 2, HULSE SUBDIVISION, ON RECORD AT THE SALT LAKE COUNTY RECORDER OFFICE AS ENTRY #14357381, SAID POINT ALSO BEING THE NORTHWEST CORNER OF MARSHAL'S PARK SUBDIVISION ON RECORD AT THE SALT LAKE COUNTY RECORDER OFFICE AS ENTRY #7801762; THENCE ALONG THE EASTERLY LINE OF SAID LOT 2 SOUTH 00°13'28" WEST 30.00 FEET; THENCE NORTH 89°51'00" WEST 107.03 FEET; THENCE SOUTH 60°09'00" WEST 47.21 FEET; THENCE SOUTH 44°35'18" WEST 31.85 FEET; THENCE NORTH 89°51'00" WEST 27.74 FEET TO A POINT WHICH LIES ON THE WESTERLY LINE OF SAID LOT 2; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 2 THE REMAINING TWO COURSES: (1) NORTH 00°09'00" EAST 76.35 FEET, (2) SOUTH 89°51'00" EAST 198.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 8,483 SQ. FT., MORE OR LESS.

**REQUIREMENTS:**

1. OWNERS OF LOTS 106 & 107 WHERE THE POND IS LOCATED CANNOT INSTALL, GRADE OR INSTALL LANDSCAPING THAT WOULD INTERFERE WITH OR REDUCE THE POND'S FUNCTIONALITY OR VOLUME.
2. THE HOA IS RESPONSIBLE TO MAINTAIN THE POND. THIS IS NOT A PUBLICLY OWNED OR MAINTAINED POND ALTHOUGH IT DOES TAKE DRAINAGE FROM SOME PUBLIC AREAS.

Exhibit E



## Exhibit F

### DRAFT – FOR MUNICIPAL REVIEW PURPOSES ONLY

Not Executed • Not Recorded • Preliminary Review Only

#### **Project Identification**

**Subdivision Name:** Wade Manor Subdivision

**Municipal Services District Application No.:** SUB2025-001427

**Property Address:** 7440 W 2820 S, Magna, Utah 84044

**Current Parcel No.:** 14-28-229-001

**Property Size:** 2.47 Acres

**Status:** Property is currently under review by Municipal Services District – Greater Salt Lake and is being prepared for presentation to the City of Magna Planning Commission. New parcel numbers will be assigned upon subdivision approval.

#### **Draft Declaration of Covenants, Conditions & Restrictions (CC&Rs)**

HOA & Retention Pond Responsibility

##### **1. Creation of Homeowners Association**

There is hereby created a homeowners association to be known as Wade Manor Homeowners Association (“Association”), which shall be a Utah nonprofit corporation. Membership in the Association shall be mandatory and shall be appurtenant to ownership of any Lot within the Wade Manor Subdivision.

##### **2. Declarant**

Declarant: J&C; Property Improvement LLC, 1330 E Rebecca Cir, Holladay, Utah 84117 (“Declarant”) shall be the initial Declarant and shall retain control of the Association until such time as control is transferred in accordance with the Association’s governing documents.

##### **3. Purpose of the Association**

The Association is formed for the purpose of owning, operating, maintaining, repairing, and replacing all Common Areas and Common Facilities within the subdivision, including but not limited to stormwater infrastructure and the retention pond.

##### **4. Common Areas**

The Common Areas shall include, without limitation, the retention pond and associated stormwater facilities as depicted on the approved subdivision plat for Wade Manor Subdivision, together with any drainage structures, piping, outfalls, and related improvements.

##### **5. Retention Pond Maintenance Responsibility**

The Association shall be solely and perpetually responsible for the operation, inspection, maintenance, repair, and replacement of the retention pond and all associated stormwater management facilities. Maintenance includes sediment removal, vegetation management, structural integrity, and ongoing stormwater compliance.

#### **6. Maintenance Company**

The Association shall contract with J&C; Property Management LLC as its maintenance and management company to perform routine and ongoing maintenance of the retention pond and associated facilities. The Association shall retain ultimate responsibility for compliance and performance.

#### **7. Funding of Maintenance**

The Association shall have the authority to levy regular and special assessments against Lot owners sufficient to fund all maintenance obligations, including reserves related to the retention pond and stormwater facilities.

#### **8. City Protection**

The retention pond and stormwater facilities shall not be accepted or maintained by the City of Magna. The City shall have no obligation for maintenance, repair, or replacement. In the event of failure by the Association, the City may perform necessary maintenance and assess costs as permitted by law.

#### **9. Duration**

These covenants shall run with the land and shall be binding in perpetuity unless amended in accordance with the governing documents and applicable law.

# HOA Implementation & Retention Pond Maintenance Memorandum

Prepared for Preliminary Subdivision Review

## Project Information

Project: Wade Manor Subdivision  
MSD Application No.: SUB2025-001427  
Location: 7440 W 2820 S, Magna, Utah 84044  
Parcel No.: 14-28-229-001 (new parcel numbers to be assigned upon approval)  
Acreage: 2.47 Acres  
Prepared by: Amy Cosby

## Purpose of Memorandum

This memorandum documents the intent and structure for establishment of a Homeowners Association ("HOA") and confirms long-term maintenance responsibility for the retention pond and associated stormwater facilities as part of the Wade Manor Subdivision.

## HOA Formation

The developer, J&C; Property Improvement LLC, 1330 E Rebecca Cir, Holladay, Utah 84117, intends to form Wade Manor Homeowners Association, a Utah nonprofit corporation, prior to final plat approval. J&C; Property Improvement LLC shall serve as the initial Declarant until turnover in accordance with the HOA governing documents.

## Governing Documents

The HOA shall be governed by Articles of Incorporation, Bylaws, and a Declaration of Covenants, Conditions & Restrictions (CC&Rs;). Draft CC&Rs; are provided for municipal review. Final executed and recorded CC&Rs; shall be recorded with the Salt Lake County Recorder prior to or concurrent with final plat approval.

## Retention Pond Ownership & Maintenance

The retention pond and associated stormwater facilities shall be designated as Common Areas owned and maintained by the HOA. The HOA shall be solely and perpetually responsible for operation, maintenance, repair, replacement, and stormwater compliance. The City of Magna shall have no maintenance responsibility.

## Maintenance Provider

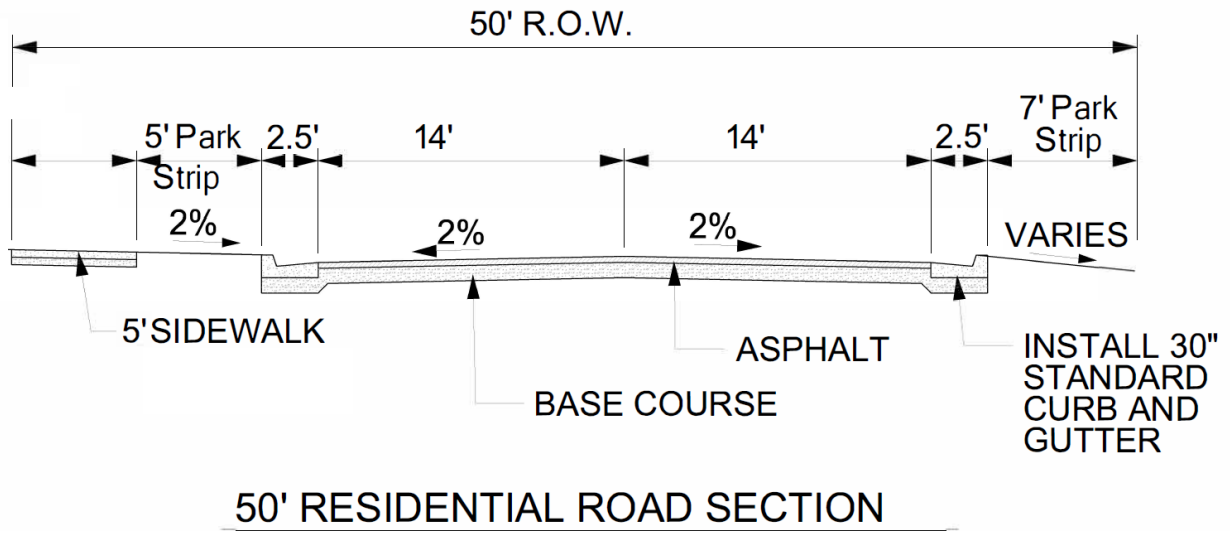
The HOA shall contract with J&C; Property Management LLC to perform ongoing maintenance of the retention pond and associated facilities. The HOA shall retain oversight responsibility.

## Funding

The HOA shall levy assessments sufficient to fund all maintenance obligations, including reserves for stormwater infrastructure.

**Recording & Final Approval**

Final HOA governing documents shall be executed, notarized, and recorded with the Salt Lake County Recorder following City approval and prior to final plat recordation.



**MAGNA CITY**  
**DEVELOPMENT AGREEMENT**  
**FOR**  
**WADE MANOR SUBDIVISION**

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered as of the \_\_\_\_\_ day of \_\_\_\_\_, 2026, (“**Effective Date**”) by and between Magna City, a Utah municipal corporation (the “**City**”) and [insert Developer name] (“**Developer**”), a [insert type of entity]. The City and Developer are each referred to as “**Party**” and collectively as “**Parties**” herein.

**RECITALS**

WHEREAS, the Developer seeks to develop property within the City (the “**Project**”). The property consists of approximately 2.47 acres/107,452 square feet, identified as Hulse Subdivision, Lot 2, County Parcel No. 14-28-229-013-0000 and incorporated herein by this reference (the “**Property**”); and

WHEREAS, the Developer is owner or authorized agent of the owner of the Property; and

WHEREAS, the Developer and the City desire for the Project to include certain terms and conditions that best accomplish the purposes of the City’s ordinances applicable to the Project; and

WHEREAS, those certain terms and conditions are set forth herein this Agreement; and

WHEREAS, it is in the best interests of both the Developer and the City that this Agreement be adopted and effective as a “development agreement” within the meaning, and subject to the provisions, of Utah Code Ann. Section 10-20-508 *et seq.* and to consent to all the terms of this Agreement as valid conditions of development of the Project.

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and accepted by both parties, the parties hereto mutually agree and covenant as follows:

**1. Term.**

- 1.1. This Agreement shall have a Term of four (4) years from the date the Project plat is recorded or until the earliest occurrence of: (i) such date as the Project is abandoned, defined as written notice from Developer to the City that it no longer intends to develop the Project; (ii) the use or active development is discontinued for a period of more than two (2) years; or (iii) the Developer defaults on any provision of this Agreement and the default is not resolved as specified in this Agreement..

## **2. Project Description.**

The Project is a 7- lot residential subdivision in an R-1-8 Zone and the preliminary subdivision plat attached as **Exhibit A**.

## **3. Development Standards.**

- 3.1. Development Standards. The site development standards are set forth in **Exhibit B** “Development Standards.” All development standards and other requirements under the City’s ordinances applicable to the Project not expressly modified by this Agreement, including the Utah Municipal Land Use Development and Management Act, remain in full force and effect. Together, Exhibit B standards and the remaining development standards in the City’s ordinances are the “**Development Standards**” for the Project.
- 3.2. Density; Maximum Units; Square Footage. The City does not, and may not, provide Developer with any guarantee of the number of units, density, or non-residential square footage which may be built in the Project. Developer assumes all responsibility for development and design of the Project within the Development Standards, which may result in fewer total unit than expected.
- 3.3. Fees. Nothing herein shall be construed to relieve Developer of the standard obligations to also pay application fees, impact fees, connection fees, and other City fees and charges, at the time of permit application or pulling permits, in the ordinary course, as part of the development process, as set forth in the existing City fee schedule. These costs will be paid pursuant to the completion assurance procedures and other procedures set forth in City ordinances and policies.

## **4. Infrastructure Improvements.**

- 4.1. Subdivision Improvement Plans. City and Developer agree to submit and review subdivision improvement plans for compliance prior to, and if necessary subsequent to the land use authority taking action on the preliminary subdivision plat. The final subdivision plat will be recorded in accordance with Magna Code 18.08.110.
- 4.2. Infrastructure Improvements. Developer agrees to construct and/or dedicate project improvements as reasonably directed by the City in the ordinary course, including but not limited to roads, driveways, water, sewer, and other utilities as shown on the approved final plans and in accordance with current City standards. Developer shall satisfactorily complete construction of all Project improvements in a good and workmanlike manner, no later than two (2) years after the recording of the Project plat, subject to reasonable delays due to events of force majeure. Developer shall comply with all completion assurance and bonding requirements of the City in accordance with **Exhibit C**.

## **5. Homeowners Association.**

A Homeowners Association (“HOA”) shall be created as part of the Project, which shall hold a drainage easement for a detention pond located on Lots 106 and 107. The HOA shall be responsible for the maintenance and operation of the detention pond and shall enact rules and regulations to accomplish this purpose. If the HOA later becomes insolvent or fails to maintain proper documentation and filings with the State of Utah and loses its authority to operate and transact business as a property owners association in the State of Utah, then the City shall have the right to, but is not obligated to, enforce the HOA’s rules and regulations as well as maintain and operate the detention pond. The City shall have all authority granted to the HOA by virtue of this document and related HOA articles, bylaws, and recorded covenants, conditions, and restrictions, or similar documents, including but not limited to, the authority to impose and collect maintenance fees and other necessary fees and/or assessments as deemed necessary by the City.

**6. Recording.**

The responsibilities and commitments of Developer and the City as detailed in this document, when executed shall constitute a covenant and restriction running with the land and shall be binding upon the Developer/Owner of the Property, their assignees and successors in interest and this Agreement or a notice thereof shall be recorded in the Office of the Salt Lake County Recorder by City at Developer’s cost.

**7. Default.**

7.1. Notice. If the Developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a default has occurred shall provide a written “**Notice of Default**” to the other Party

7.2. Contents of the Notice of Default. The Notice of Default shall:

7.2.1. Specify the claimed event of default;

7.2.2. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in default; and

7.2.3. If the City chooses, in its discretion, it may propose a method and time for curing the default which shall be of no less than thirty (30) days duration, if weather conditions permit.

7.3. Remedies. Upon the occurrence of any default, and after notice as required above, then the parties may have the following remedies:

7.3.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

7.3.2. Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular default.

7.3.3. Future Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Developer until the default has been cured.

7.4. Default of Assignee. A default of any obligations expressly assumed by an assignee shall be deemed a default of Developer.

7.5. Limitation on Recovery for Default – No Damages against the City. Anything in this Agreement notwithstanding Developer may not be entitled to any claim for any monetary damages as a result of any breach of this Agreement and Developer waives any claims thereto. The sole remedy available to Developer and any assignee shall be that of specific performance.

## **8. Vesting**

Upon the Effective Date of this Agreement the Developer's right to construct the Project, under the terms and conditions of this Agreement shall be vested to the fullest extent allowable under law. Except as expressly and mutually agreed in writing by the Parties, all development of the Project, including any later phases, shall be governed by the applicable law in effect on the Effective Date of this Agreement. Nothing in this Agreement will limit the future exercise of the police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the City to enact such legislation under its police power, such legislation will not modify Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine recognized under state or federal law.

## **9. Notices**

Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally, sent by a nationally recognized overnight courier service, or sent by email. Notice by email shall be effective upon receipt of electronic confirmation of delivery. Notices to the parties shall be sent to the addresses set forth below or such other address as a party may designate by notice to the other Party:

**CITY**

**DEVELOPER**

## **10. General Provisions**

- 10.1. As a governmental entity, the City is subject to the governmental immunity protections pursuant to Utah Code Annotated § 63G-7-101 et. seq. as well as the records management provisions set forth in Utah Code Annotated § 63G-2-101 et. seq. To the extent applicable, this Agreement is subject to the foregoing statutes.
- 10.2. The recitals contained in this Agreement, the introductory paragraph preceding the Recitals, and all Exhibits to this Agreement are hereby incorporated into this Agreement as if fully set forth herein.
- 10.3. This Agreement may be amended only in writing signed by the Parties hereto.
- 10.4. In the event that legal action is required in order to enforce the terms of this Agreement, the prevailing party shall be entitled to receive from the faulting party any costs and attorney's fees incurred in enforcing this Agreement from the defaulting party.
- 10.5. This Agreement constitutes the entire agreement between the parties. No changes or modifications may be made in this Agreement except in writing signed by both parties.
- 10.6. The requirements, obligations and conditions contained within this Agreement shall be binding upon Developer, its successors and assigns, and if different than Developer, the legal title holders and any ground lessors. All rights granted hereunder to Developer shall ensure to the benefit of the Developer's successors and assigns, and if different than Developer, the legal title holder and any ground lessors.
- 10.7. This Agreement does not create a joint venture relationship, partnership or agency relationship or fiduciary relationship between the City, or Developer. Except as specifically set forth herein, the parties do not intend this Agreement to create any third-party beneficiary rights.
- 10.8. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, will continue in full force and effect unless amended or modified by mutual consent of the Parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable by the final order of a court of competent jurisdiction, either Party to this Agreement may, in its sole and absolute discretion, terminate this Agreement by providing written notice of such termination to the other Party.
- 10.9. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of

- the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.
- 10.10. The singular will include the plural; the masculine gender will include the feminine; “will” and “shall” are mandatory; “may” is permissive.
  - 10.11. Each Party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against any Party based on which Party drafted any particular portion of this Agreement.
  - 10.12. This Agreement shall be recorded against the Property senior to any respective covenants and any debt security instruments encumbering the Property.
  - 10.13. This Agreement is entered into in Tooele County in the State of Utah and shall be construed under the laws of the State of Utah, irrespective of Utah’s choice of law rules, and the parties hereto intend that Utah law shall apply to the interpretation thereof.
  - 10.14. Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.
  - 10.15. No action taken by any Party may be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement will not operate or be construed as a waiver by such Party of any subsequent breach.
  - 10.16. Each party represents and warrants that it has the respective power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated and to execute, deliver, and perform its obligations under this Agreement. Specifically, on behalf of the City, the signature of the City Manager or Mayor of the City is affixed to this Agreement lawfully binding the City pursuant to the Approval Ordinance indicated on the Cover Sheet.
  - 10.17. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the parties, notwithstanding that each of the parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by email shall be deemed originally signed copies of this Agreement.
  - 10.18. The undersigned certifies that it is not currently engaged in a boycott of the State of Israel and agrees not to engage in a boycott of the State of Israel during the term of this Agreement. The undersigned further acknowledges that its engagement in a boycott of the State of Israel would be in violation of Utah Code Ann. Section 63G-27-201 and could result in termination of this Agreement.

10.19. Except as expressly modified by this Agreement, any statute or municipal code referred to in this Agreement shall be deemed to include that statute as amended, restated, and/or replaced from time to time, and any successor legislation to the same general intent and effect.

IN WITNESS WHEREOF, the parties hereto, having been duly authorized, have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY ACCEPTANCE**

\_\_\_\_\_  
Magna City  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest:

Approval as to Form:

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

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

**DEVELOPER ACCEPTANCE**

\_\_\_\_\_  
Developer  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF UTAH                    )  
  :ss.  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, who being by me duly sworn, did say that he/she is the [POSITION TITLE] of [DEVELOPER], a [STATE] [LLC/Corporation/Individual] and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

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

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

DRAFT



**Exhibit B**

*Development Standards*

1. The curb returns may make use of a ten foot (10') radii rather than the required twenty foot (20') radii.
2. Vertical grades shall not exceed a maximum of ten percent (10%). Retaining walls used to comply with this standard must have provisions for maintenance access.
3. The right-of-way shall not exceed fifty feet (50') width. This right of way shall include:
  - a. A twenty-eight foot (28') wide paved surface, base course, and subgrade in accordance with Magna's adopted Engineering Standards and Drawings.
  - b. Curb and gutter on each side of the paved surface per APWA Standard Plan 205.
  - c. On the west side of the road, a five-foot (5') sidewalk with a five-foot (5') park strip between the roadway edge of sidewalk and the back of the curb in accordance with Magna Code 14.12.060. This park strip shall be landscaped in accordance with Magna Code 19.50.060., Landscaping of Park Strips. This park strip shall include one (1) deciduous tree for every twenty-five linear feet (25') of frontage in accordance with Magna Code 19.50.060.G., Trees in Park Strips.
  - d. In order to comply with Magna City Code Section 18.12.030, which requires that intersecting streets not be offset by more than fifteen feet (15'), the requirement for a five-foot (5') park strip and five-foot (5') sidewalk on the east side of the road is waived subject to subsection 2.e.
  - e. On the east side of the road, in lieu of the typical park strip and sidewalk, a 7' park strip to accommodate the retaining wall necessary for road construction. In addition to the necessary retaining wall, this park strip will have a weed barrier covered by not less than four inches (4") of  $\frac{3}{4}$  inch gravel mulch. The HOA shall be responsible for maintaining this park strip and keeping it free of weeds.
4. A storm water detention pond shall be established on Lots 106 and 107. Drainage easements for the stormwater detention pond shall be conveyed in favor of the HOA, as set forth in Section 5 of the Agreement.

**Exhibit C**

***Public Infrastructure and Bonding Requirements***

1. The Developer is responsible for constructing, at the Developer's cost, a 50' public right of way, approximately 553' long from the center of 2820 South to the center of a 51' radius cul-de-sac at the north end of the right of way. The Developer will construct that right of way in accordance with Magna City's adopted Standards and Drawings and Magna Code except as provided for in Exhibit B.
2. The Developer shall establish, at the Developer's cost, a storm water retention pond adequately sized to retain storm water in accordance with Magna City's adopted Standards and Drawings and Magna Code.
3. The Developer shall file Performance Bonds and Durability Bonds in accordance with Chapter 18.16 of Magna Code.
4. The Developer shall construct, at the Developer's cost, infrastructure required to provide culinary water, sanitary sewer, pressurized irrigation, electrical power, natural gas, and other service infrastructure necessary to provide each lot within the subdivision with adequate services in accordance with Magna Code, applicable building and fire codes, and Utah Code.