



Notice of Wasatch County Planning Commission Meeting

Thursday, October 8, 2026, at 6:00 PM

Public Notice is hereby given that the Wasatch County Planning Commission will hold a regular session on Thursday, October 8, 2026 at 6:00 PM in the Council Chambers in the Wasatch County Administration Building, 25 North Main, Heber City, Utah.

The public is welcome to attend and participate in this meeting real-time either in-person or by joining the Zoom Webinar at <https://wasatchcounty.gov/openmeeting>. A recording of the meeting may also be viewed afterwards at <https://wasatchcount.portal.civicclerk.com>.

Agenda

Order of agenda items subject to change without notice

Work Meeting 5:30 PM

This work meeting is for discussion purposes only. The public is welcome to attend, however formal presentation of items, public comment and actions will be reserved for the public hearing at 6:00 PM.

Regular Meeting 6:00 PM

1. Prayer/Remarks
2. Pledge of Allegiance

Business Items

1. Approval of Minutes from the September 10, 2026 Meeting

Regular Agenda

1. Consideration of Ordinance 26-15, proposed code amendments to 16.21.17 regarding Residential Facilities for Persons with Disabilities, amending 16.36.01 and 16.36.05 clarifying that land use designations for “Transient lodgings” and “Special transient lodgings” under 1500 – 1519 and that “Medical and other health services” under 6510 – 6519 do not include the facilities in 16.21.17, and an amendment to 16.04 adding a definition for “Disabled Persons”. A summary of the amendments can be found on the county website (<https://wasatchcount.portal.civicclerk.com/event/1560/files>) or be made available upon request from the Planning Department. **If forwarded, the recommendation by the Planning Commission on this item will be considered by the County Council as the Legislative Body at a Public Hearing on October 21, 2026* – Doug Smith and Alex Stoedter
2. Dominion Engineering, representing Tebo Jackson Fork LLC, requests a revision to the final plat approval granted on November 13, 2025, to move units from the approved locations to new locations in order to comply with ridgeline regulations that were a condition of final approval. The proposal is located at 2966 Highway 32 in the Jordanelle Basin Overlay Zone (JBOZ). (PLANMisc-26-001) – Doug Smith
3. Dominion Engineering, representing Tebo Jackson Fork LLC., requests a 90-day extension to their final plat approval which will expire on November 13, 2026. The proposal is located at 2966 Highway 32 in the Jordanelle Basin Overlay Zone (JBOZ). (PLANMisc-26-002) – Doug Smith
4. Jaeson Roundy, representing Michelle and Nate Hanks, requests a Conditional Use Permit for a 6,293sqft detached accessory building with a 995sqft Guest ADU located at 971 S Slide Hollow Way in the Residential Agricultural 1 (RA-1) zone. (PLANCUP-ADU-26-003) – Katie Henneuse

9:30 PM Approval of Motions

Commission/Director Comments

Adjournment

The Public Is Invited to Participate in All County Planning Commission Meetings.

*County Council Public Hearings will be held at 6:00 PM in the County Council Chambers located at 25 N. Main Street, Heber City, Utah on the date specified.

In compliance with the American with Disabilities Act, individuals needing special accommodations during this meeting should notify the Planning Department at 435-657-3205 at least one day prior to the meeting.



WASATCH COUNTY PLANNING COMMISSION MINUTES

SEPTEMBER 10, 2026

MEETING TIME: 6:00 P.M.
MEETING PLACE: Wasatch County Administration Bldg., 25 North Main, Heber City, Utah
COMMISSIONERS PRESENT: Chair Charles Zuercher, Scott Brubaker, Daniel Lyman, David Thacker, Harold Wilson (Assoc)
EXCUSED: Commissioners Kimberly Cook and Mark Hendricks
STAFF PRESENT: Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner; Jon Woodard, Assistant Wasatch County Attorney
PRAYER: Commissioner Scott Brubaker
PLEDGE OF ALLEGIANCE: Led by Commissioner Daniel Lyman and repeated by everyone

BUSINESS ITEMS

❖ APPROVAL OF THE MINUTES FROM THE AUGUST 13, 2026 MEETING

MOTION

- Commissioner Brubaker made a motion to approve the minutes of the August 13, 2026 meeting as written.
- Commissioner Thacker seconded the motion.

VOTE (5 TO 0)

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
David Thacker	<u>AYE</u>	NAY	ABSTAIN	Daniel Lyman	<u>AYE</u>	NAY	ABSTAIN
Harold Wilson	<u>AYE</u>	NAY	ABSTAIN				

REGULAR AGENDA ITEMS

ITEM #1 A PROPOSED CODE AMENDMENT TO 16.21.17(B,3) REGARDING RESIDENTIAL FACILITIES FOR PERSONS WITH DISABILITIES AND AN AMENDMENT TO 16.04 ADDING A DEFINITION FOR "DISABLED PERSONS".

****IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY AT A PUBLIC HEARING ON SEPTEMBER 16, 2026 (DOUG SMITH AND ALEX STOEDTER)***

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

- Staff has requested that this item be continued to the October 8, 2026 meeting.

MOTION

- **Commissioner Lyman made a motion to continue Item 1 to the October 8, 2026 meeting.**
- **Commissioner Brubaker seconded the motion.**

VOTE **(5 TO 0)**

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
David Thacker	<u>AYE</u>	NAY	ABSTAIN	Daniel Lyman	<u>AYE</u>	NAY	ABSTAIN
Harold Wilson	<u>AYE</u>	NAY	ABSTAIN				

ITEM #2 PAUL BERG, REPRESENTING KEW CONSULTING LLC, REQUESTS PRELIMINARY APPROVAL FOR HERITAGE HILLS, A 23–LOT CONSERVATION SUBDIVISION WITH 2 ADDITIONAL LOTS THAT ARE CONSIDERED LOTS OF RECORD. THE SUBDIVISION IS LOCATED IN SECTIONS 5 & 8, TOWNSHIP 4S, AND RANGE 6E IN THE RESIDENTIAL AGRICULTURE 1 (RA–1) AND MOUNTAIN (M) ZONES. THE PROPOSAL ALSO INCLUDES A COUNTY INITIATED REQUEST TO AMEND THE MASTER TRAIL PLAN TO CHANGE THE TRAIL ON LAKE CREEK ROAD EAST OF 6400 EAST FROM THE NORTH SIDE OF LAKE CREEK ROAD TO THE SOUTH SIDE OF LAKE CREEK ROAD. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LAND USE AUTHORITY, AT A PUBLIC HEARING ON SEPTEMBER 16, 2026 (PLAN–PRELIM–26–003; DOUG SMITH)*

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

- Doug Smith presented the staff report.

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

- Paul Berg, applicant, asked if the Commission had any questions.

PLANNING COMMISSION DISCUSSION – Key points discussed by the Planning Commission included the following:

- Commissioner Brubaker asked for further details about the topography on the lots that are being clustered. Mr. Berg, showing an image from the PowerPoint presentation, noted the building pads that are shown on any lots that have constraints on them.

- Commissioner Wilson asked where the location of the 20-foot trail easement is determined. Mr. Berg replied that it is determined by the flood channel and has been surveyed.
- Commissioner Brubaker asked about moving Lots of Record. Jon Woodard replied that this isn't standard practice, but due to the unique circumstances of the property being platted as a whole, the silence of the code allows this to take place. If it were simply attempting to move a Lot of Record, the answer would not be the same.
- Commissioner Lyman noted finding #6 specifically that this project seems to be doing this very well.

MOTION

- **Commissioner Lyman made a motion to recommend approval of item #2 consistent with the findings and subject to the conditions in the staff report as well as a recommendation for the Council to consider an amendment to the trails master plan in November.**
- **Commissioner Thacker seconded the motion.**

VOTE **(5 TO 0)**

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
David Thacker	<u>AYE</u>	NAY	ABSTAIN	Daniel Lyman	<u>AYE</u>	NAY	ABSTAIN
Harold Wilson	<u>AYE</u>	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. This proposal was granted master plan approval on December 17, 2025.
2. The development has two land use zones M (Mountain) and RA-1.
3. The RA-1 portion of the development cannot be part of the conservation development but will be processed as part of the large-scale development.
4. The road that is part of the RA-1 portion of the development provides access to two lots in the M zone.
5. The M zone portion of the development is proposed to be developed as a conservation subdivision.
6. The Legislative body must determine that the proposal meets the purpose and intent statements of the conservation ordinance by determining that the proposal accomplishes the intent of the Conservation development code by maintaining the rural character, protecting scenic views, providing greater design flexibility and efficiency, decreasing the amount of disturbance, encouraging active and passive recreation, reduces erosion and sedimentation, creates an attitude of stewardship, provides for safer circulation in a wildland area, reduces exposure to natural hazards, minimizes the threat and damage from wildfires and protects large tracts of land from development in perpetuity.
7. The proposal meets the density requirements for the conservation development.
8. The proposal complies with the code requirements for the RA-1 zone.
9. The proposal provides 305.05 acres of open space with access to public trails and surrounded by other open space parcels in other developments.
10. The open space will need to be dedicated with the first phase.
11. All lots will be serviced by Twin Creeks for both water and sewer.
12. Changes to the Master Trial Plan, which is part of the County General Plan, will need to be made within the time frame and noticing requirements of State and County codes.
13. This is a recommendation to the County Council. The Planning Commission is not the approving body.

CONDITIONS

1. As per code section 16.27.6.5(C, II) the open space is required to be dedicated with the first phase. This must be worked out prior to final approval.
2. The County Council will need to approve an amendment to the master trail plan if the 8' asphalt trail is on the south side of Lake Creek Road and comply with State and County codes regarding the amendment.
3. At final any lots with building envelopes greater than 25% will need site specific soils reports.
4. All conditions and requirements of the DRC shall be complied with.

ITEM #3 RILEY STREIT, REPRESENTING CANNON DEVELOPMENT COMPANY, LLC, REQUESTS FINAL SITE PLAN AND CONDITIONAL USE PERMIT REVIEW FOR A CLUBHOUSE, POOL, AND PICKLEBALL COURTS FOR THE CROSSINGS AT LAKE CREEK LOCATED AT 2822 EAST COTTAGE LAKE ROAD IN THE RESIDENTIAL AGRICULTURAL 1 (RA-1) ZONE. (CUP-26-003; AUSTIN CORRY)

STAFF PRESENTATION – The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

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

- Cole Cannon, applicant representative, addressed the commission and stated that they are excited about building the clubhouse. Mr. Cannon mentioned that they have received a letter of support from the HOA for the clubhouse.
- Mr. Cannon addressed the commission about timing and the building permit and bonding. He noted he wants to ask for changes to Addendum 6.

PLANNING COMMISSION DISCUSSION – Key points discussed by the Planning Commission included the following:

- Commissioner Lyman asked about condition number 5 and how that condition, regarding lighting, would be verified. Mr. Corry replied that their building permit would need to include any exterior lighting plans, but that the application documents state there will be no exterior lighting except for two street lights in the parking lot.
- Questions were asked about the expiration date of the plat for 6A. It was explained that if an engineering permit has been issued, it extends the plat expiration to the expiration date of the engineering permit.
- Commissioner Lyman asked about the number of ERU's and the limits on what can be platted. Mr. Corry explained that the number of approved ERUs exceeds the trigger in Addendum 6, so no more plats will be recorded until they proceed with construction of the clubhouse.
- Commissioner Lyman asked about how long it would be when they hit 501 ERU's. Mr. Corry replied that timing is determined by the applicant for how quickly they want to proceed with submitting.
- Jon Woodard mentioned addendum 6 and that is not the subject of the item on the agenda today.

MOTION

- **Commissioner Brubaker made a motion to approve Item 3 conditional use permit and site plan subject to the conditions of approval in the staff report and the findings and timing.**
- **Commissioner Lyman seconded the motion.**

VOTE **(5 TO 0)**

Charles Zuercher **AYE** NAY ABSTAIN
David Thacker **AYE** NAY ABSTAIN
Harold Wilson **AYE** NAY ABSTAIN

Scott Brubaker **AYE** NAY ABSTAIN
Daniel Lyman **AYE** NAY ABSTAIN

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The proposal is for a non-commercial clubhouse in the Crossings at Lake Creek development.
2. The subject property operates under a vested land use entitlement established in a settlement agreement executed in 2002 that has an expiration date of October 2027.
3. Since the execution of the settlement agreement in 2002, development of the property has proceeded gradually over multiple phases across more than two decades, with remaining phases and important amenities still pending as the project approaches its vested expiration date.
4. Wasatch County has continuously processed development applications, phase approvals, and site-specific requests submitted by the applicant in a timely manner consistent with applicable code provisions and executed agreements and that overall development timelines and phasing schedules have been established and controlled by the applicant.
5. Community amenities, including a central clubhouse and associated recreational facilities were fundamental components of the preliminary plan and served as key considerations for the density approved under the 1997 Planned Residential Development code.
6. In response to applicant-proposed modifications to remaining phases, the County and the developer entered into Addendum 6 to the Development Agreement in 2022. This agreement aimed to clarify outstanding developer obligations, preserve master plan consistency, and establish enforceable schedule for delivering long-promised community amenities.
7. Addendum 6 created binding ERU triggers tying final plat recordation to amenity construction milestones, specifically requiring commencement of the clubhouse prior to recording 379 total ERUs and completion prior to 501 total ERUs.
8. During approval of Phase 9 in April 2026, the total project ERUs approved reached 385 ERUs. Because this exceeded the 279 ERU threshold, the County appropriately conditioned the approval to withhold plat recordation until the clubhouse approvals and construction milestones were actively pursued.
9. The Conditional Use Permit and Site Plan approval for the clubhouse represents the initial formal step by the applicant toward satisfying the ERU amenity triggers established under Addendum 6.
10. The proposed clubhouse is situation within a proposed Phase 6A, which was approved in April 2025, but remains unrecorded at the applicant's discretion.
11. The staff analysis indicates the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses.
12. Notice has been sent to neighboring property owners within 500 feet of the property.
13. There are no known zoning violations on the property at this time.
14. The Development Review Committee has reviewed the project and believes the conditional use permit is generally consistent with the preliminary approvals; however, full compliance requires the satisfaction of all underlying land use, site plan, and platting pre-requisites prior to building permit issuance.

CONDITIONS

1. Any necessary permitting from state and federal agencies for grading or construction within the floodplain must be obtained by the applicant prior to Wasatch County permits being issued.
2. If the LOMR process reveals additional constraints that were not presented by the application documents, the applicant is required to immediately notify the county and proposed mitigation measures to address the issues.
3. At building permit, the Base Flood Elevation will need to be noted in relation to the pickleball courts, any electrical, and any other work done in the zone AE.
4. All required infrastructure and platting conditions for Phase 6A must be satisfied and the Phase 6A plat recorded prior to application for a building permit for the clubhouse facility.
5. Per the application commitments, all exterior lighting shall be full-cutoff, dark sky compliant lighting and limited to only the amount and locations necessary for safety.

ADJOURNMENT

MOTION

- **Commissioner Lyman made a motion to adjourn.**
- **Chair Zuercher seconded the motion.**

VOTE **(5 TO 0)**

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
David Thacker	<u>AYE</u>	NAY	ABSTAIN	Daniel Lyman	<u>AYE</u>	NAY	ABSTAIN
Harold Wilson	<u>AYE</u>	NAY	ABSTAIN				

Meeting adjourned at 7:00 p.m.

CHARLES ZUERCHER/CHAIRMAN

Meeting Date: October 8, 2026
Presenter: Doug Smith and Alex Stoedter
Requested Time:
Department: Planning
Applicant:

Item Title:

Consideration of Ordinance 26-15, proposed code amendments to 16.21.17 regarding Residential Facilities for Persons with Disabilities, amending 16.36.01 and 16.36.05 clarifying that land use designations for “Transient lodgings” and “Special transient lodgings” under 1500 – 1519 and that “Medical and other health services” under 6510 – 6519 do not include the facilities in 16.21.17, and an amendment to 16.04 adding a definition for “Disabled Persons”. A summary of the amendments can be found on the county website (<https://wasatchcount.portal.civicclerk.com/event/1560/files>) or be made available upon request from the Planning Department. **If forwarded, the recommendation by the Planning Commission on this item will be considered by the County Council as the Legislative Body at a Public Hearing on October 21, 2026*

Issue:

Whether or not code sections 16.04, 16.21.17, 16.36.01 and 16.36.05 should be amended to update and clarify sections of the code regarding regulations for Residential Facilities for Persons with Disabilities. This determination is a legislative decision to be made by the Wasatch County Council after receiving a recommendation from the Planning Commission.

Background:

The proposed amendments are intended to clarify and update the County’s regulations governing Residential Facilities for Persons with Disabilities. The amendments respond in part to the Utah Court of Appeals’ decision in *Sidwell v. Wasatch County*, 2026 UT App 67, which addressed the meaning and application of the existing language in WCC § 16.21.17. The proposed amendments are prospective legislative changes intended to provide clearer and more predictable regulations for these facilities going forward.

Proposed Motion:

Move to forward a Recommendation for Approval to the County Council for item 1 consistent with the findings and recommended modifications presented in the staff report.

Impact:

N/A

Attachments:

1. Ordinance 26-15 Summary
2. PC Staff Report 10-08-2026 - Item 1 - Ord. 25-15
3. PC - Item 1 - Ord. 26-15 - Cascade_Brief
4. PC - Item 1 - Ord. 26-15 - Public Comment1_
5. PC - Item 1 - Ord. 26-15 - Public Comment2_

SUMMARY OF ORDINANCE 26-15

This ordinance codifies changes that mostly responded to a recent decision by the Utah Court of Appeals, *Sidwell v. Wasatch County*, 2026 UT App 67. The following is a summary of the effect of the proposed modifications to the text of the code designed to be understood by a lay person.

1. Clarifies the meaning of “residential facility for persons with disabilities”

- The amendments clarify that the terms “residential facility for persons with disabilities” will be “residential facility for persons with disabilities or handicaps” to clarify that the facility in WCC 16.21.to the same type of residential use under the County Code.
- The amendments add terminology addressing handicapped persons to make the County Code consistent with terminology already used elsewhere in the zoning code and with terminology used in federal law.
- The amendments are intended to eliminate uncertainty about whether different terms in different portions of the County Code describe different types of facilities.

2. Clarifies that residential facilities for persons with disabilities/handicaps are allowed in RA-1 as a conditional use

- The amendments clarify that residential facilities for persons with disabilities are a conditional use that may be located in the RA-1 zoning district, subject to the applicable requirements of Section 16.21.17.
- The amendments clarify the terminology used to describe these facilities so that the County Code consistently addresses residential facilities for persons with disabilities and handicapped persons.
- The amendments are intended to make clear that the County’s regulations apply to facilities serving persons who meet the applicable federal definitions of disability or handicapped.

3. Clarifies licensing and contracting requirements

- The amendments clarify that a residential facility for persons with disabilities may satisfy the applicable Department of Health and Human Services (“DHHS”) requirement by being licensed by DHHS or operated under a contract with DHHS.
- This change responds to the distinction recognized in *Sidwell* between a state license and a contractual relationship with DHHS.

4. Adds and updates definitions concerning persons with disabilities

- The amendments add a definition of “Disabled Persons” to the County Code.
- The definition is intended to be consistent with the terminology and concepts used in federal disability laws, including the Fair Housing Act (“FHA”) and the Americans with Disabilities Act (“ADA”).

- The amendments also clarify the relationship between the terms “disabled persons” and “handicapped persons” as those terms are used in the County Code.

5. Clarifies the distinction between residential facilities and medical or treatment uses

- The amendments clarify that a residential facility for persons with disabilities is not automatically classified as a medical, health-care, or treatment facility merely because it provides services or support to its residents.
- The amendments clarify the scope of the County’s 6510-series professional services and related land-use classifications, including uses involving medical, health-care, and treatment services.
- The purpose is to distinguish a facility whose primary use is residential from a facility whose primary use is the provision of medical, clinical, or other treatment services.
- This clarification is intended to make the County’s land-use classifications easier to understand and to reduce uncertainty about which zoning requirements apply to a particular facility.

6. Clarifies that residential facilities for persons with disabilities may operate as a business

- The amendments clarify that the fact that a residential facility for persons with disabilities that operate as a business does not, by itself, change the facility’s residential land-use classification.
- A facility may provide services to residents and operate as a business while still being regulated as a residential facility under Section 16.21.17, provided that it meets the applicable requirements of the County Code.

7. Clarifies that special transient lodging uses do not include residential facilities for persons with disabilities or handicaps.

- The amendments clarify that land-use designations for special transient lodgings do not include residential facilities for persons with disabilities or handicaps regulated under Section 16.21.17.
- This is intended to prevent facilities regulated under Section 16.21.17 from being inadvertently classified under a different land-use category simply because residents may stay at the facility for a limited or transitional period.
- In practical terms, a facility that meets the requirements for a residential facility for persons with disabilities or handicaps under Section 16.21.17 remains classified and regulated as that residential use, rather than as a special transit lodging use.

8. licensing requirements remain applicable

- Facilities must continue to comply with the applicable requirements of Section 16.21.17 and licensing requirements.
- The practical effect is to clarify that a residential facility for persons with disabilities or handicaps may be located in an RA-1 residential zone, as a conditional use, when it satisfies the applicable requirements of the County Code.



Item 1 – Ordinance 26-15 an amendment to 16.21.17 regarding Residential Facilities for Persons with Disabilities, amending sections 16.04 Definitions, and adding clarifying language to 16.36.01, and 16.36.05

Project: Code amendment | Residential facilities for persons with disabilities, definitions section and land use sections of the code

Meeting Date: 8 October 2026

Report Date: 1 October 2026

Report Author: Doug Smith, Alex Stoedter

Council Action Required: Yes

Type of Action: Legislative

Applicant: County

Affected Code Section(s): 16.21.17, 16.04, 16.36.01 and 16.36.05

DETERMINATION ISSUE

Whether or not code sections 16.04, 16.21.17, 16.36.01 and 16.36.05 should be amended to update and clarify sections of the code regarding regulations for Residential Facilities for Persons with Disabilities. This determination is a legislative decision to be made by the Wasatch County Council after receiving a recommendation from the Planning Commission.

RECOMMENDATION

Based on the analysis and findings in this staff report, Planning Staff is of the opinion that the code amendment is in the best interest of the general welfare of the county. Therefore, it is recommended that the Planning Commission forward a POSITIVE RECOMMENDATION of the proposed code text amendment based on the findings included in the staff report.

BACKGROUND

The proposed amendments are intended to clarify and update the County's regulations governing Residential Facilities for Persons with Disabilities. The amendments respond in part to the Utah Court of Appeals' decision in *Sidwell v. Wasatch County*, 2026 UT App 67, which addressed the meaning and application of the existing language in WCC § 16.21.17. The proposed amendments are prospective legislative changes intended to provide clearer and more predictable regulations for these facilities going forward.

The County's existing code already provides for Residential Facilities for Persons with Disabilities as a conditional residential use in the RA-1 zoning district (it is also a permitted use in the RA-5 and the JBOZ). The purpose of the proposed amendments is not to create a new category of use, but to make the existing regulatory framework clearer and more internally consistent. For example, handicapped person was defined in the county code, but disabled person was not.

The amendments address several areas of the County Code. They clarify the terminology used for residential facilities serving persons with disabilities or handicaps by changing the title of the facility listed currently in 16.21.17(B) from a Residential Facility for Persons with Disabilities ("RFPD") to a Residential Facility for Person with Disabilities or Handicaps ("RFPDH"); by making the corresponding changes in the code to ensure clarity in the land use classifications for this facility e.g., amending living areas land use classification 1292 from "Handicapped (residential facility for handicapped persons)" to RFPDH; clarify that an RFPDH is a use that may be located in the RA-1 zoning district as a conditional use when the requirements of § 16.21.17(B) are satisfied; clarify that the applicable DHHS requirement may be satisfied through a license or a contract; add a definition of "Disabled Persons"; clarify the distinction between an RFPDH and medical, health-care, treatment, or special transit lodging uses; and clarify that RFPDHs may operate as a business.

The proposed amendment updates Use Classification 1292 in Section 16.36.01 to expressly identify RFPDH is a clarification and connects the use identified in the County's land-use table with the residential facility regulated under Section 16.21.17. The amendment is intended to eliminate uncertainty about whether the use described in the land-use table is the same use regulated by Section 16.21.17.

The proposed amendment to Section 16.36.05 clarifies that a RFPDS is not classified as a 6510 medical and other health services are used merely because the facility provides services, supervision, counseling, health-related support, or other assistance to its residents. The purpose of this amendment is to distinguish the nature of the land use from the services that may be provided to persons living at the facility. A residential facility regulated under Section 16.21.17 remains a residential use when its primary function is providing a place for residents to live, even though the facility may provide services to those residents. Conversely, facilities whose primary use is the provision of medical, clinical, or treatment services remain regulated under the applicable medical and health services classifications.

The amendments benefit the County and property owners by reducing uncertainty about how a proposed facility should be classified and which standards apply. Clearer classifications allow applicants, neighboring property owners, Planning Commission, staff, and the County Council to evaluate future proposals under a more understandable and predictable set of rules.

The proposed amendments retain the requirement that an RFPDH comply with the applicable standards in WCC § 16.21.17(B) and with other applicable zoning, building, safety, health, and licensing requirements. The amendments therefore clarify the type of use that may be located as a conditional use in an RA-1 district without eliminating the standards that regulate that use.

The amendments also clarify that a facility may operate as a business without losing its residential land-use classification. Whether an entity operates for profit, provides services to residents, or employs professional or support staff does not, by itself, determine that the underlying land use is not residential. The classification is instead based on the primary use of the property and the allowances provided by the code for operation of a facility in the zone.

Under the Fair Housing Act (“FHA”) and Americans with Disabilities Act (“ADA”), a disabled or handicapped person must be allowed equal opportunity to use and enjoy a dwelling” See 42 U.S.C §3604(f)(3)(B). The federal government requires local governments to comply with federal fair housing requirements and allow housing for protected classes. Federal law defines handicapped or disabled individuals. Handicap and disabled individuals in this context essentially means the same thing, as those who suffer from a mental impairment which substantially limits a major life activity. Major life activities include the ability to interact with others, learning, reading, concentrating, etc. See 28 CFR § 35.108(c)(1)..

The FHA and ADA requirements apply to the County's administration of its land-use regulations, including regulations affecting housing for persons with disabilities or handicaps. The proposed amendments are intended to provide clear, consistent, and nondiscriminatory standards for RFPDHs while preserving the County's applicable zoning, building, safety, health, and licensing requirements. The policy making body for the County, the County Council, has previously decided to allow for this type of facility within a residential area as a conditional use when the original RFPD code was adopted.

The conditional use would still be required to mitigate any impacts for the use, but the use would have to be allowed. RFPDHs are required to comply with the requirements in Wasatch County Code 16.21.17(B).

The proposed amendments were prompted in part by the issues addressed in *Sidwell v. Wasatch County*, 2026 UT App 67. In *Sidwell*, the Utah Court of Appeals interpreted the existing language of WCC § 16.21.17(B)(3) and concluded that the phrase “operated by or operated under contract with” the Department of Health and Human Services required an actual contractual relationship; the Court did not treat a state license as satisfying that separate requirement.

The proposed ordinance responds to that interpretation by prospectively clarifying that an RFPDH may satisfy the applicable DHHS requirement through a valid license or through a contract with DHHS. The amendment does not redefine a license as a contract. Rather, it establishes two alternative ways for a facility to satisfy the County’s requirement.

For context, Cascade Academy applied for a conditional use under the County code for persons with disabilities (WCC 16.21.17). The use is located in a neighborhood in a RA-1 zoning district where facilities for persons with disabilities is, as mentioned, a conditional use which requires compliance with a number of findings and approval by the planning commission under code section 16.23.07. The conditional use was heard and approved by the planning commission on May 11, 2023. After the approval the neighboring property owners appealed the decision to the Board of Adjustment. On August 15, 2023, the Board of Adjustment upheld the decision made by the planning commission. The property owners appealed the approval to district court. District court upheld the approval by the planning commission and board of adjustment. The determination by district court was then appealed to the appeals court. The appeals court overturned the County approval on April 30, 2026, based on a finding that a provision in the code required a Contract with the Department of Human Services (DHHS) and the applicant did not have a contract.

Below is a snip from the court of appeals judgment:

¶3 Appellants now appeal that decision, arguing that Cascade House does not meet the pertinent requirements of the WCC. In particular, and among other things, Appellants point out that the WCC requires Cascade House—in order to be allowed to operate inside the RA-1 zone as a residential facility for persons with disabilities—to “[b]e operated by or operated under contract with” the Utah Department of Health and Human Services, and they assert that Cascade House does not meet this requirement. On this point, we agree with Appellants, and on that basis we reverse the order dismissing Appellants’ petition and remand this case to the district court for entry of an order granting the petition.

The court ruled that the plain language of the code must be enforced and that having a license with DHHS did not satisfy our county code’s contract requirement in 16.21.17(B)(3). The code amendments address this issue by clarifying that a RFPDH may either be contracted with or licensed by DHHS. The proposed ordinance also addresses other ambiguities identified through the litigation and review of the existing code. In particular, it clarifies the relationship between RFPDHs and other land-use classifications, including medical and health services and special transient lodgings.

The Court’s decision highlighted the importance of clear ordinance language and applying the requirements of the County Code as written. The proposed amendments use that experience to clarify the County’s prospective regulations so that applicants and the County can more readily determine which standards apply to an RFPDH.

SUMMARY OF MAJOR ISSUES

- **Federal fair housing law protects persons with disabilities** and prohibits discrimination in housing based on disability. Federal law also contains requirements concerning reasonable accommodations and the use and enjoyment of dwellings.
- **Federal law defines who is considered a person with a disability.** Generally, this includes a person with a physical or mental impairment that substantially limits one or more major life activities, a person with a record of such an impairment, or a person regarded as having such an impairment.
- **Wasatch County Code already provides a regulatory framework for Residential Facilities for Persons with Disabilities (“RFPDs”).** Section 16.21.17(B) establishes requirements for these facilities and identifies where they may operate.
- **The County's existing code requires an RFPD to be “operated by or operated under contract with” the Department of Human Services.**
- **The Court of Appeals interpreted that language according to its plain meaning and concluded that a license is not the same as a contract.** Accordingly, under the existing language, a facility that is licensed by the State but does not have the required contract does not satisfy Section 16.21.17(B)(3).
- **The State licensing framework provides for licensure of facilities and programs serving persons with disabilities.** Licensure and state contracting are separate mechanisms.
- **The proposed amendment would change Section 16.21.17(B)(3) to recognize either a contract or a license with the Department of Health and Human Services.**
- **Without an amendment to Section 16.21.17(B)(3), a facility that is licensed but does not have a qualifying state contract would be unable to satisfy the County's existing code requirement.**

- **The practical consequence of leaving the code unchanged could be significant for an existing facility.** If the facility cannot satisfy Section 16.21.17(B)(3), the County would remain obligated to enforce its existing code, potentially resulting in enforcement proceedings or closure depending on the circumstances and any order entered by the District Court.
- **The proposed amendment therefore presents a policy choice about how the County's zoning requirements should interact with the State's licensing framework and applicable federal fair-housing requirements.** The amendment does not eliminate the other requirements of Section 16.21.17(B) or otherwise exempt an RFPD from applicable zoning, building, health, safety, or licensing requirements.

GENERAL PLAN LANGUAGE

The General Plan is reviewed to determine whether the proposed code amendment is consistent with the County's adopted land-use policies. The proposed amendments clarify the treatment of a residential use that the County Code already recognizes as a conditional use in the RA-1 zone, and a permitted use in the RA-5 and JBOZ. They also clarify the distinction between RFPDHs and other land-use categories, including medical, health-care, treatment, and special transit lodging uses.

The amendments also ensure that our code is in compliance with state and federal law. These clarifications to our code support the General Plan by making the County's land-use classifications compliant with the FHA and ADA and more predictable and easier to administer. The amendments do not eliminate the County's ability to apply the applicable conditional-use standards or other health, safety, building, and zoning requirements to a particular facility.

KEY ISSUES TO CONSIDER

- Will the code amendments allow a use for a protected class to be able to receive approvals from the County and comply with the code requirements?
- Will the proposed amendments make the County's regulations for RFPDHs clearer and more predictable for applicants, neighboring property owners, staff, and decision-makers?
- Will the proposed definition of "Disabled Persons" provide a clear and consistent basis for applying the County's regulations and align with the terminology and concepts used in applicable federal disability laws?
- Is the definition added to the code for "Disabled person" appropriate and in conformance with Federal Definitions?
- Will the proposed amendments appropriately distinguish RFPDHs from medical, health-care, treatment, and special transit lodging uses, while making clear that a RFPDHs may provide services to its residents and operate as a business without changing its residential land-use classification?
- Will the amendments make the code easier for applicants, property owners, County staff, and land-use decision makers to understand and administer?

IMPACTS OF THE CHANGE

- The proposed amendments clarify that an RFPDH may satisfy the applicable DHHS requirement through a valid license or a contract with DHHS. This provides a clear, prospective standard consistent with the distinction between licensing and contracting recognized in *Sidwell*.
- The proposed code amendment will allow facilities with a license to be in compliance with the County code.
- The amendment adds a definition of "Disabled Persons" and clarifies related terminology concerning disabled and handicapped persons. This provides a more consistent framework for interpreting the County's residential-facility regulations and aligns the terminology with applicable federal disability laws.
- The code will clarify that a RFPDH is not the same as "transient lodgings" or "medical and other health services".

- The amendments clarify the boundary between an RFPDH and other land-use classifications. A facility whose primary use is residential is not automatically converted into a medical, health-care, treatment, or special transit lodging use merely because it provides services, support, or other assistance to residents. Conversely, a facility whose primary function is a medical, clinical, or other treatment use remains subject to the applicable land-use classification for that use.
- Clearer rules for applicants and property owners by identifying when a facility is regulated as an RFPDH and when a different land-use classification applies.
- More predictable administration by reducing uncertainty concerning the meaning of “disabled,” “handicapped,” residential use, medical or treatment use, and special transit lodging.
A clear prospective licensing standard that recognizes both a DHHS license and a DHHS contract as alternative methods of satisfying the applicable County requirement.
- Preservation of the County’s ability to apply the substantive standards governing RFPDHs and the conditional-use process to protect health, safety, and neighborhood compatibility.

RECOMMENDED MOTION

Move to forward a Recommendation for Approval to the County Council for item 1 consistent with the findings and recommended modifications presented in the staff report.

– FINDINGS –

1. Federal fair housing laws apply to the County's administration of its land-use regulations, including regulations affecting housing for persons with disabilities or handicaps. The proposed amendments are intended to provide clear, consistent, and nondiscriminatory standards for residential facilities for persons with disabilities while preserving the County's applicable zoning, building, safety, health, and licensing requirements.
2. Federal law defines handicapped or disabled individuals as those who suffer from a mental impairment which substantially limits a major life activity.
3. The proposed amendments are legislative changes to the County’s zoning regulations governing RFPDHs and are intended to clarify the County Code for future applications.
4. WCC § 16.21.17 already establishes requirements for RFPDs. The proposed amendments clarify terminology and the relationship between that use and other land-use classifications.
5. The WCC already provides for a definition of “Handicapped Person” in 16.04.
6. Major life activities include the ability to interact with others, learning, reading, concentrating, etc. See 28 CFR § 35.108(c)(1).
7. The proposed amendments clarify that a RFPDH is the same residential land-use category for purposes of the County Code.
8. The proposed amendments clarify that RFPDHs are a conditional residential use in the RA-1 zoning district, subject to the applicable requirements of WCC §§ 16.21.17 and 16.23.07.
9. The proposed definition for “Disabled Person” is intended to be consistent with the terminology and concepts used in applicable federal disability laws, including the FHA and ADA. The proposed definition of “Disabled Person” provides a consistent definition for purposes of the County Code and is intended to align the County's terminology with the concepts used in applicable federal disability laws. A uniform definition provides greater predictability for applicants, property owners, County staff, and land-use decision makers when determining whether Section 16.21.17 applies to a proposed facility
10. The 16.21.17(B) code is intended to provide a built-in reasonable accommodation for a protected class because they meet the definition of “handicapped” under the FHA or “disabled” under the ADA.
11. The proposed amendment does not treat a license as a contract; rather, it establishes that having a license from DHHS or a contract with DHHS is sufficient to comply with 16.21.17’s applicable requirement.
12. The proposed amendments clarify that an RFPDH may satisfy the applicable DHHS requirement through a valid

license or through a contract with DHHS.

13. The proposed amendments clarify that the fact that an RFPDH operates as a business, employs staff, or provides services to residents does not, by itself, change the residential character of the land use.
14. The proposed amendments clarify the distinction between RFPDHs and the County's medical, health-care, treatment, and related land-use classifications, including the 6510-series uses.
15. The proposed amendments clarify the distinction between RFPDHs and the County's transient and special transient lodgings, and related land-use classifications, including the 1510-series uses.
16. The proposed amendments to update use classification 1292 in WCC 16.36.01 to be RFPDH makes the relationship between the land use table and WCC 16.21.17 clearer for property owners, applicants, County staff, and land-use decision makers.
17. The FHA and ADA protects persons with disabilities from discrimination in housing and imposes requirements concerning reasonable accommodation and land-use decisions affecting housing. The County has adopted Section 16.21.17(B) as its regulatory framework for Residential Facilities for Persons with Disabilities, including requirements governing their operation and location
18. The policy making body for the County, the County Council, has previously decided to allow for RFPDs within a residential area as a conditional use. (WCC 16.21.17 and 16.23.07).
19. The court of appeals overturned the previous approvals due to the plain language in the code requiring a "contract" with the Department of Human services.
20. Cascade Home did not have a "contract" with the State Department of Human Services (DHHS).
21. The proposed amendment changes the language to comply with the findings of the appeals court.
22. The proposed ordinance also adds a definition for "Disabled Person"
23. The proposed amendments clarify that special transit lodging designations do not include RFPDHs regulated under WCC § 16.21.17.
24. The proposed code amendments are intended to provide a clearer distinction between a facility whose primary use is residential and a facility whose primary function is medical, clinical, or other treatment services while also making it clear that the medical, clinical, or other treatment services uses do not include RFPDHs regulated under WCC § 16.21.17. The proposed amendments are intended to provide a clearer distinction between a facility whose primary use is residential and a facility whose primary function is medical, clinical, or other treatment services.
25. The proposed amendments are intended to prevent an RFPDH from being classified as a different land-use category merely because residents may have temporary or transitional occupancy.
26. The proposed amendments do not eliminate the County's existing conditional-use review process or the applicable standards for evaluating the impacts of a conditional use.
27. The proposed amendments respond, in part, to the Utah Court of Appeals' decision in *Sidwell v. Wasatch County*, 2026 UT App 67, by clarifying the licensing and contracting language in WCC § 16.21.17.
28. The proposed amendments are intended to provide clearer and more predictable regulations for future applications for RFPDHs.
29. The proposed amendments further the general welfare by reducing uncertainty concerning the classification, regulation, and applicable standards for RFPDHs.
30. The proposed amendments create a more coherent regulatory framework by using consistent terminology for RFPDHs throughout Title 16 and by identifying the relationship between those facilities and the County's residential, transient lodging, and medical and health services classifications. This will make the Code easier for applicants and property owners to understand and easier for County staff and land-use decision makers to administer consistently.

POSSIBLE ACTIONS

The following is a list of possible motions the Planning Commission can make. If the action taken is inconsistent with the recommended findings listed in the staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the General Plan and proposed amendments are consistent and compatible. ****This action would be consistent with the staff analysis. ****
2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved through conditions or modifications to the proposed text.
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommendation for Denial. This action may be taken if the Planning Commission finds that the proposed code amendment is not appropriate at this time and/or is not supported by the General Plan.

EXHIBITS

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Exhibit A – Proposed Code Text Amendment

ORDINANCE NO. 26-15

Proposed code amendments to 16.21.17 regarding Residential Facilities for Persons with Disabilities, amending 16.36.01 and 16.36.05 adding clarifying language to those land use designations and an amendment to 16.04 adding a definition for "Disabled Persons".

RECITALS

WHEREAS, the federal government requires local governments to comply with federal fair housing requirements and allow housing for protected classes; and

WHEREAS, Wasatch County has a code that regulates facilities for persons with disabilities; and

WHEREAS, the code has been used for the approval of said facilities; and

WHEREAS, The County has a particular facility that the County approved. Said approval was appealed to the appeals court, and the approval was overturned due to the determination that the County was not enforcing the specific language in the code; and

WHEREAS, the proposed code amends the language so that the Facilities for persons with disabilities can comply with the code; and

WHEREAS, the code also updates and clarifies other portions of the land use code; and

WHEREAS, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required; and

WHEREAS, the County Legislative Body, having considered all of the evidence provided to be in the best interest of the health, general welfare, and safety of the inhabitants of Wasatch County;

NOW THEREFORE, the County Legislative Body of Wasatch County ordains that the Wasatch County Code be amended as follows:

SECTION I: Enactment. The following amendments, additions, and deletions to Title 16, are hereby enacted: *See attached Exhibit A.*

SECTION II: Repealer. If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

SECTION III: Amendment of Conflicting Ordinances. To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV: Effective Date. This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statutes.

SECTION V: Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: Public Notice. The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-64-502, Utah Code Annotated, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and PASSED this _____ day of _____, 2026.

Attest:

WASATCH COUNTY COUNCIL:

Joey Granger
Wasatch County Clerk / Auditor

Erik Rowland, Chair
Wasatch County Council

VOTE

Erik Rowland, Chair _____
Spencer Park _____
Luke Searle, Vice Chair _____
Coleen Bonner _____
Michael Murphy _____
Kendall Crittenden _____
Mark Nelson _____

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)
): ss.
COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section, Utah Code Annotated by:

[] (a) Causing this ordinance to be entered at length in the ordinance book;

[1] (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;

[1] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this day of , 2026.

Joey Granger
Wasatch County Clerk / Auditor

SUBSCRIBED AND SWORN to me, a Notary Public, this day of , 2026.

Notary Public

Residing in:
My commission expires:

EXHIBIT A – AMENDMENT

...

16.04 Disabled Person: A person who has a physical or mental impairment that substantially limits one or more life activities; or has a history or record of an impairment; or is regarded as having such an impairment by others even if the individual does not actually have a disability.

...

16.21.17(B) Residential Facility For Persons With Disabilities or Handicaps: A residential facility for persons with disabilities or handicaps, may operate as a business, shall be consistent with all applicable federal and state laws, and the existing zoning of the desired location, and is a permitted use in the RA-5 zone, the JBOZ, and is a conditional use in the RA-1 zone, and shall:

1. Be occupied on a twenty-four (24) hour per day basis by eight (8) or fewer persons with disabilities, in a family type arrangement under the supervision of a house family or manager;
2. Conform to all applicable standards and requirements of the department of human services;
3. Be operated under contract with the Department of Health and Human Services or be operated under license with the Department of Health and Human Services. ~~operated by or operated under contract with that department;~~
4. Meet all county building, safety and health ordinances applicable to similar dwellings;
5. Provide assurances that the residents of the facility will be properly supervised on a twenty-four (24) hour basis;
6. Establish a county advisory committee through which all complaints and concerns of neighbors may be addressed;
7. Provide adequate off-street parking space, as required under this title. See section 16.33.13, "Parking Computation", parking computation matrix, of this title;
8. Be capable of use as a residential facility for persons with disabilities or handicaps without structural or landscaping alterations that would change the structure's residential character;
9. Not be established or maintained within one mile of another residential facility for the elderly or persons with disabilities or handicaps;
10. Not allow treatment for alcoholism or drug abuse to be performed on the premises of a residential facility for persons with disabilities or handicaps. This shall not preclude the residence from being used for temporary housing for persons who are being treated for such disabilities on an outpatient basis at an approved facility for such treatment;

11. Not allow a person who is violent to be placed in a residential facility for persons with disabilities or handicaps; and
12. Require that placement in a residential facility for persons with disabilities or handicaps be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation or treatment in a correctional facility.

16.36.01: LIVING AREAS, 1000

This major category applies to structures on the land and corresponding area used primarily as places to live, whether on a temporary (e.g., transient lodging, hotel), semi-permanent (e.g., hotel, fraternity, sorority) or permanent (e.g., home or apartment) basis. This category may also include structures on parcels and corresponding area that are used for two (2) or more activities, yet the dominant use of the structure is for living purposes. An example of dual use of a structure where living is secondary might be a convalescent home. Since medical service is the primary use of the property, convalescent home is coded under services 6516. This section does not include as "transient lodging" Residential Facilities for Persons with Disabilities or handicaps.

1290 ~~Other~~ Group Quarters

1292 ~~Handicapped (residential facility for handicapped persons)~~ Residential Facility for persons with disabilities or handicaps

1500 Transient lodgings (not to include Residential Facilities for Persons with Disabilities or handicaps)

1510 Special transient lodgings (not to include Residential Facilities for Persons with Disabilities or handicaps, which are a permitted use in the RA-5 zone and the JBOZ, and a conditional use in the RA-1 zone.)

1511 Hotels

1512 Motels and motor hotels (off street parking provided)

1513 Tourist or cabin courts (off street parking provided. Includes auto courts and auto camps.)

1515 Transient apartments rented by day or week

1516 Bed and breakfast

1517 Seasonal overflow housing

1518 Accessory dwelling for nonresidential use

71 1519 Group transient lodging

72 ...

73 16.36.05: SERVICES, 6000

74 6510 Medical and other health services [\(not to include Residential Facilities for Persons](#)
75 [with Disabilities or handicaps, which are a permitted use in the RA-5 zone and the JBOZ, and](#)
76 [a conditional use in the RA-1 zone\)](#)

77 6511 Physicians offices and services in single offices or medical centers,
78 but not including medical clinics (includes chiropractors, gynecologists,
79 neurologists, obstetricians, etc.)

80 6512 Dental offices and services (if dentist is in a medical center, use 6511)

81 6513 Hospitals (private, organization, military, veterans, etc., but does not
82 include small medical clinics)

83 6514 Medical and dental laboratory services, excluding manufacturing
84 (biological, chemistry, X-ray services, etc.)

85 6515 Behavior drug and alcohol treatment centers

86 6516 Sanitariums, convalescent and rest home services (lodging and meals
87 offered with full-time medical staff. Includes asylums, drug abuse, substance
88 abuse.)

89 6517 Medical clinics (includes outpatient services)

90 6518 Blood banks

91 6519 Other medical and health services, NEC (includes abortion clinics,
92 birth control clinics, chiropodists, dieticians, medical photography,
93 naturopaths, optometrists, licensed massage therapists, physical therapists,
94 podiatrists, psychiatric clinics, home health and nursing services, blood
95 banks, mental telepathy, hypnotherapists, hypnotists, etc.)

96 ...

Exhibit B – Court of Appeals Ruling

THE UTAH COURT OF APPEALS

DUSTIN SIDWELL, MARIE SHELTON, AND BRIAN MYERS,
Appellants,

v.

WASATCH COUNTY, WASATCH COUNTY BOARD OF ADJUSTMENT,
AND WASATCH COUNTY PLANNING COMMISSION,
Appellees.

ULA, LLC,
Intervenor-Appellee.

Opinion
No. 20240911-CA
Filed April 30, 2026

Fourth District Court, Heber Department
The Honorable Jennifer A. Mabey
No. 230500107

J. Craig Smith, Clayton H. Preece, and
Jay L. Springer, Attorneys for Appellants
Scott H. Sweat and Alex D. Stoedter,
Attorneys for Appellees

David L. Mortensen, Melanie R. Clark, and
Elise M. Carter, Attorneys for Intervenor-Appellee

JUDGE RYAN M. HARRIS authored this Opinion, in which
JUDGES GREGORY K. ORME and JOHN D. LUTHY concurred.

HARRIS, Judge:

¶1 ULA, LLC—an entity doing business as Cascade Academy (Cascade)—wants to operate Cascade House, which it describes as a residential treatment facility designed for up to eight teenage girls living with various mental health disorders. What’s notable here is *where* Cascade wants to operate Cascade House: in Wasatch County, on property located inside the residential-

agricultural (RA-1) zone. Under the Wasatch County Code (WCC), land use within the RA-1 zone is restricted, but “residential facilit[ies]” for “persons with disabilities” may be conditionally permitted.

¶2 Cascade submitted an application for a conditional use permit to operate Cascade House within the RA-1 zone, and that application was approved—over objection from Dustin Sidwell, Marie Shelton, and Brian Myers (collectively, Appellants)—first by the Wasatch County Planning Commission (the Planning Commission) and then by the Wasatch County Board of Adjustment (the Board). Appellants petitioned for judicial review of the Board’s decision in the district court. There, both sides filed cross-motions for summary disposition, and after briefing and oral argument, the court dismissed Appellants’ petition, upholding the Board’s determination that Cascade House meets the WCC’s conditional use requirements regarding residential facilities for persons with disabilities in the RA-1 zone.

¶3 Appellants now appeal that decision, arguing that Cascade House does not meet the pertinent requirements of the WCC. In particular, and among other things, Appellants point out that the WCC requires Cascade House—in order to be allowed to operate inside the RA-1 zone as a residential facility for persons with disabilities—to “[b]e operated by or operated under contract with” the Utah Department of Health and Human Services, and they assert that Cascade House does not meet this requirement. On this point, we agree with Appellants, and on that basis we reverse the order dismissing Appellants’ petition and remand this case to the district court for entry of an order granting the petition.

BACKGROUND

¶4 Cascade wishes to “open a small 8-bed residential treatment center” known as Cascade House that will house up to eight unrelated “girls between the ages of 13–18 with severe

anxiety disorders with specialized treatment for Obsessive-Compulsive Disorder.” The “average length of stay” is expected to be “45–90 days with 24-hour supervision.” As Cascade describes it, the goal of Cascade House “is to create a transitional environment for residents receiving care that will fit in with a residential neighborhood.”

¶5 Cascade proposes that Cascade House be located on property in Wasatch County that is within the RA-1 zone. The purpose of this particular zone is to “allow[] residential development near the incorporated areas, while maintaining the rural atmosphere of Wasatch County.” WCC § 16.08.01(A). “The intent of the zone is to increase lot sizes as development moves away from incorporated areas as a means of facilitating a transitional development area and to maintain, as much as possible, the rural character of the [c]ounty.” *Id.* Inside this zone, “[e]ach lot or parcel must be a minimum of five (5) acres,” *id.* § 16.08.04(A), and must meet strict requirements regarding things like maximum density, lot width, lot frontage, setbacks, and building height, *see id.* §§ 16.08.04(A), 16.08.05, 16.08.06, 16.08.08, 16.08.09. While certain uses are permitted inside the zone without a conditional use permit (CUP), *see id.* § 16.08.02, other uses are allowed only with such a permit, *see id.* § 16.08.03. And uses not listed as “permitted” or “conditional” are not allowed. *See id.* § 16.08.02 (stating that the uses “listed herein, and no others, are permitted” inside the RA-1 zone (emphasis added)).

¶6 One use that is conditionally allowed within the RA-1 zone is a “[r]esidential facility for handicapped persons.” *Id.* § 16.08.03. Elsewhere in the WCC, requirements for “residential facilit[ies] for persons with disabilities” are set forth. *Id.* § 16.21.17(B). All parties to this appeal agree that the RA-1 zone’s conditional-use reference (in section 16.08.03) to a “residential facility for handicapped persons” is intended to direct the reader to the requirements (in section 16.21.17(B)) applicable to a “residential facility for persons with disabilities.”

¶7 In 2023, Cascade submitted an application for a CUP, seeking approval to operate Cascade House, within the RA-1 zone, as a residential facility for persons with disabilities. Members of Wasatch County’s planning staff (county staff) prepared a report for the Planning Commission to consider in connection with Cascade’s application. In that report, county staff noted that the intended residents of Cascade House were members of “a protected class” under both the federal Americans with Disabilities Act (the ADA) and the federal Fair Housing Act (the FHA). But county staff also noted that Cascade wasn’t requesting “a reasonable accommodation” under the federal statutes, because such an accommodation wasn’t “necessary since there is already a built-in accommodation within [the] WCC” in the form of the code’s specific requirements for facilities for persons with disabilities. Thus, county staff framed the question not as whether the ADA or the FHA compelled a grant of Cascade’s request but, instead, as whether the specific requirements of the WCC regarding facilities for persons with disabilities were met.

¶8 And on that point, county staff concluded that Cascade’s proposal was “in compliance with [s]ection 16.21.17 of the [WCC] regarding persons with disabilities.” With regard to the specific requirement that Cascade “[c]onform to all applicable standards and requirements of” the Utah Department of Health and Human Services (DHHS), county staff noted that Cascade House “will be required to have a license” from DHHS similar to the one that an affiliated facility would have. And with regard to the requirement that Cascade House “[b]e operated by or operated under contract with” DHHS, county staff acknowledged that “DHHS does not refer clients to Cascade [House] or pay for clients to be in Cascade [House]”; county staff reiterated that Cascade House “is licensed by DHHS, not contracted with [DHHS].”

¶9 The Planning Commission held a hearing on Cascade’s application; at that hearing, public comment was taken and many

community members—including Appellants—spoke out against Cascade’s application. As a result of the opposition, the Planning Commission tabled the matter and scheduled a second hearing to give Cascade time to consider and address “all the challenges and objections of concern” that community members had raised and to “give confidence to the Planning Commission and the community that [Cascade’s application was] in compliance with” applicable zoning requirements.

¶10 At the second hearing, Cascade and county staff made presentations to the Planning Commission. First, a county staff member addressed each criterion that Cascade needed to meet for approval of its requested CUP. Next, an attorney from the Wasatch County Attorney’s Office recommended that Cascade’s “application be approved based on everything . . . presented.” Lastly, a representative from Cascade advocated for the approval of Cascade’s application, asserting that Cascade met the legal requirements and that “reasonable conditions [could] be imposed to mitigate any detrimental effect.”

¶11 At the conclusion of the presentations, the Planning Commission approved Cascade’s application, determining that it complied with both the specific requirements (found in section 16.21.17(B)) that the WCC imposes on residential facilities for persons with disabilities, as well as the general requirements (found in section 16.23.07) that the WCC imposes on all CUPs. The Planning Commission recognized that there had “been a large number of concerns regarding this application,” but it ultimately determined to approve the application, subject to conditions.

¶12 Later, Appellants appealed the Planning Commission’s decision to the Board. Among other things, they argued that the Planning Commission had erred in determining that Cascade House was a “residential” facility rather than a “treatment” facility. And they asserted that the Planning Commission had erred in concluding that Cascade House met all of the WCC’s

requirements for approval of the application, including the specific requirements for facilities for persons with disabilities.

¶13 In response to Appellants' administrative appeal, county staff created a report summarizing the issues and providing a recommendation to the Board. In that report, county staff offered their view that Cascade's proposal met all relevant requirements in the WCC, including the specific requirements for facilities for persons with disabilities, and they recommended that the Board affirm the Planning Commission's decision. With regard to the contract-with-DHHS issue, county staff again noted—as they had in connection with the Planning Commission's hearing—that Cascade House was “licensed by” DHHS but “not contracted with” DHHS, and that DHHS “does not refer clients to Cascade [House] or pay for clients to be in Cascade [House].” But county staff nevertheless believed that this requirement was met because Cascade House was at least licensed by DHHS.

¶14 The Board held a public hearing to consider Appellants' appeal, and the interested parties made presentations to the Board. During their presentation, Appellants asserted that Cascade House was not a “residential” facility but was, instead, a “treatment” facility, a type of use not permitted in the RA-1 zone. Appellants also asserted that Cascade could not meet all of the specific requirements of the WCC, including the requirement that it be “operated by or operated under contract with” DHHS.

¶15 After discussion, the Board voted to uphold the Planning Commission's determination to approve Cascade's application and grant the requested CUP. In so doing, the Board made findings and conclusions supporting its decision. Among other things, it concluded that Cascade House would be “providing housing for a protected class as defined by the ADA and the FHA.” Next, it found that Cascade was “in compliance with” the WCC's requirements for “[r]esidential facilities for persons with disabilities,” in section 16.21.17(B) of the WCC. In particular, it

stated that “[t]he residents of the residential facility will primarily be performing residential activities, while receiving treatment.” Finally, the Board determined that Cascade was also in compliance with the general conditional use requirements found in section 16.23.07 of the WCC.

¶16 After that, Appellants filed a petition in district court seeking judicial review of the Board’s decision. *See* Utah Code § 17-79-1009.¹ Appellants also filed a motion seeking summary disposition of their petition in their favor. Among other things, Appellants pointed out that, under the WCC, facilities for persons with disabilities may not be operated by private parties inside the RA-1 zone “without a contract with” DHHS. (Citing WCC § 16.21.17(B)(3).) From this premise, Appellants argued that Cascade House could not meet all of the relevant requirements and that therefore the Board’s decision to approve Cascade’s application was arbitrary, capricious, or illegal “because it [was] based on an incorrect interpretation of a land use regulation.”

¶17 In response, Cascade filed a motion—joined by Wasatch County—asking the court to summarily affirm the Board’s decision. In that motion, Cascade defended the Board’s decision, asserting that its application had in fact met all of the WCC’s relevant requirements; in particular, it asserted that “the license under which Cascade [House] will operate is a contract between Cascade” and DHHS.

¶18 After full briefing and oral argument, the district court granted Cascade’s motion and dismissed Appellants’ petition. The court concluded that there was “substantial, relevant

1. The parties cite section 17-27a-801 of the Utah Code, but that section has since been renumbered as section 17-79-1009. *See* Title 17 Recodification County Programs and Related Provisions, ch. 14, § 254, 2025 Utah Laws 1st Spec. Sess. We cite the renumbered version since no material changes have been made.

evidence . . . to support the Board’s determinations” that Cascade House constituted a “[r]esidential [u]se” of Cascade’s property and that Cascade met all of the relevant requirements of the WCC, including those for residential facilities for persons with disabilities. The court also concluded that the “FHA and ADA were appropriately applied” by the Board in considering Cascade’s application.

¶19 With regard to the contract-with-DHHS issue, the court concluded that the WCC’s requirement—that residential facilities for persons with disabilities located inside the RA-1 zone “[b]e operated by or operated under contract with” DHHS—was inconsistent with state licensing statutes, which contain no such requirement. And the court seemed to defer, at least to some degree, to Wasatch County’s interpretation of the WCC, noting that Wasatch County was taking the position that having a license from DHHS satisfied the relevant WCC requirement, and further noting that Appellants were “asking the [c]ourt to disregard” Wasatch County’s interpretation. Ultimately, the court concluded that Appellants’ reading of the relevant WCC provision was “too narrow,” and it accepted Cascade’s assertion that DHHS licensure was sufficient to satisfy the requirement that Cascade House be “operated under contract with” DHHS.

ISSUES AND STANDARDS OF REVIEW

¶20 Appellants now appeal the district court’s order dismissing their petition. They assert that the Board’s decision was arbitrary, capricious, or illegal and that the court should not have dismissed their petition. In this procedural posture, when we are reviewing a district court’s decision in an appeal from an administrative decision, “[w]e afford no deference to the intermediate court’s decision and apply the statutorily defined standard to determine whether the court correctly determined whether the administrative decision was arbitrary, capricious, or illegal.” *McElhaney v. City of Moab*, 2017 UT 65, ¶ 26, 423 P.3d 1284.

Under that standard, “[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.” Utah Code § 17-79-1009(3)(b). “A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.” *Id.* § 17-79-1009(3)(c)(i). And “[a] land use decision is illegal” if it is “based on an incorrect interpretation of a land use regulation,” “conflicts with the authority granted by” state statutes governing counties, or is generally “contrary to law.” *Id.* § 17-79-1009(3)(c)(ii). We review a county’s (or municipality’s) interpretation of its own ordinances for correctness. *See Outfront Media, LLC v. Salt Lake City Corp.*, 2017 UT 74, ¶ 12 & n.13, 416 P.3d 389.

ANALYSIS

¶21 Utah’s County Land Use Development and Management Act (CLUDMA) governs land use regulation by counties and empowers counties to “enact all ordinances, resolutions, and rules” “necessary or appropriate for the use and development of land” within the county. Utah Code § 17-79-101(b). CLUDMA authorizes counties to “adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance,” so long as no requirement in that ordinance “conflicts with a provision of [CLUDMA] or other state or federal law.” *Id.* § 17-79-506(1).

¶22 In this instance, Wasatch County exercised its statutory authority to adopt a land use ordinance that controls the sorts of development that may occur in the RA-1 zone. As framed by county staff, the operative question is not whether federal statutes require Wasatch County to grant Cascade’s application but, instead, whether Cascade’s application satisfies the specific requirements of the WCC regarding residential facilities for persons with disabilities. We agree with this framing, and we

proceed to consider whether the district court correctly concluded that Cascade’s application meets the relevant requirements. And because Cascade must meet *all* of the requirements, a failure on Cascade’s part to meet any of the requirements will render its application infirm.

¶23 Those requirements include both factual and legal prerequisites. *See* WCC § 16.21.17(B). On the factual side, the WCC requires, for instance, that the proposed facility be “residential”² and that it be occupied around the clock in a supervised family-type arrangement. *See id.* § 16.21.17(B)(1). And it is also something of a factual inquiry, at root, to determine whether the proposed facility is “operated by or operated under contract” with DHHS. *See id.* § 16.21.17(B)(3). To the extent the Board made factual findings on these issues, we would disturb them only if we determined that they were arbitrary and capricious.

¶24 But the contract-with-DHHS issue, as presented here, is not a factual one, because the facts associated with this issue are entirely undisputed: all parties agree that Cascade is licensed by DHHS but that, aside from its license, Cascade has no contractual relationship with DHHS. Thus, the question the parties bring for our resolution is entirely legal and concerns the definition of the term “contract,” as used in the WCC’s requirement that Cascade

2. One of the arguments advanced by Appellants is that Cascade House is not a residential facility. They even assert that the Board failed to make a finding that Cascade House’s primary use was residential. Although we need not reach this argument given our conclusion on the contract-with-DHHS issue, we note that the Board *did* make a clear finding that Cascade House’s primary use was residential. Specifically, it found that the “residents of [Cascade House] will *primarily* be performing residential activities, while receiving treatment.” (Emphasis added.)

“[b]e operated by or operated under *contract* with” DHHS.³ *Id.* (emphasis added). Cascade posits that its possession of a license with DHHS satisfies this requirement. Appellants, on the other hand, contend that a license and a contract are entirely different legal concepts and that the WCC necessarily contemplates more than simple licensure in this context.⁴

¶25 Questions of ordinance interpretation present questions of illegality, because “[a] land use decision is illegal” if it is “based on an incorrect interpretation of a land use regulation.” Utah Code § 17-79-1009(3)(c)(ii)(A). And as noted, we interpret county (or municipal) ordinances just as we do statutes: for correctness, with no deference provided to either the county’s or the lower court’s interpretation. *See, e.g., Outfront Media, LLC v. Salt Lake City Corp.*, 2017 UT 74, ¶ 12 & n.13, 416 P.3d 389 (“We review the interpretation of ordinances for correctness.”).

3. Although section 16.21.17(B)(3) requires that a residential facility for persons with disabilities “[b]e operated by” or “operated under contract” with DHHS, *see* WCC § 16.21.17(B)(3), no party contends that Cascade House is “operated by” DHHS. So we need only address whether Cascade House will be “operated under contract with” DHHS. *See id.*

4. At one point in its brief, Cascade asserts that Appellants failed to properly preserve the contract-with-DHHS issue for judicial review. But even Cascade acknowledges that this issue was raised “during Appellants’ oral argument before the Board.” And in this context, raising the issue at the Board level is sufficient to preserve it. *See A1 Pioneer Moving v. Labor Comm’n*, 2021 UT App 115, ¶ 12 n.6, 502 P.3d 305 (noting, in the administrative context, that where the Board had “fact-finding authority,” a matter raised for the first time at the Board level—and not raised at the lower administrative law judge level—was sufficiently preserved for judicial review).

¶26 When considering a question of statutory, rule, or ordinance interpretation, we must keep in mind that “our primary goal is to evince the true intent and purpose of” the drafters of the provision in question. *Marion Energy, Inc. v. KFJ Ranch P’ship*, 2011 UT 50, ¶ 14, 267 P.3d 863 (cleaned up). And the best evidence of that intent is the language the drafters used to express that intent. See *Hertzske v. Snyder*, 2017 UT 4, ¶ 10, 390 P.3d 307 (“The best indicator of legislative intent is the plain language of the statutes themselves.”). So we first look “to the plain language” of the provision, “presuming that the [drafters] used each word advisedly, and when we can ascertain the intent of the [drafters] from the statutory terms alone, no other interpretive tools are needed, and our task . . . is typically at an end.” *Dole v. Dole*, 2018 UT App 195, ¶ 15, 437 P.3d 464 (cleaned up). However, we must not view the provision at issue in isolation; instead, the inquiry “requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.” *State v. Hatfield*, 2020 UT 1, ¶ 16, 462 P.3d 330 (cleaned up). Thus, “we give effect to every word of a statute [or ordinance], avoiding any interpretation which renders parts or words in a statute [or ordinance] inoperative or superfluous.” *Bountiful City v. Baize*, 2021 UT 9, ¶ 42, 487 P.3d 71 (cleaned up).

¶27 The plain language of section 16.21.17(B)(3) requires that residential facilities for persons with disabilities operating within the RA-1 zone “[b]e operated . . . under contract with” DHHS. And in our view, the drafters’ choice to use the word “contract” — rather than the word “license” — is meaningful here. After all, “contract” and “license” are legal terms of art that have materially different meanings. Definitionally, a license is a “privilege granted by a state or city upon the payment of a fee, the recipient of the privilege then being authorized to do some act or series of acts that would otherwise be impermissible.” *License*, Black’s Law Dictionary (12th ed. 2024). A contract, by contrast, is defined as an “agreement between two or more parties creating obligations that

are enforceable or otherwise recognizable at law.” *Contract*, Black’s Law Dictionary (12th ed. 2024).

¶28 Legally, these two concepts “are distinct.” See *Slora v. Sun ‘n Fun Fly-In, Inc.*, 173 So. 3d 1099, 1103 (Fla. Dist. Ct. App. 2015). A license is “issued by government agencies to allow the . . . license holder to engage in activity that would otherwise be prohibited or restricted by law or regulation.” *Id.* A contract, by contrast, is a “bargained-for agreement[] created through a manifestation of mutual assent, typically through offer and acceptance, supported by the exchange of consideration.” *Id.* A license “facilitates the government’s regulation of an activity in the public interest, while a contract facilitates an exchange of promises between two or more parties for some mutually beneficial purpose.” *Id.* Indeed, a license “does not have the elements of a contract,” because it is “generally enforced through regulatory or criminal action,” while “a contract is generally enforced through a suit for damages or specific performance.” *Id.*; see also *WMS Gaming, Inc. v. Sullivan*, 6 A.3d 1104, 1111 (R.I. 2010) (stating that a license “is a mere privilege or permission and in no sense a contract or property” (cleaned up)); *US Ecology, Inc. v. State*, 111 Cal. Rptr. 2d 689, 702 (Ct. App. 2001) (“A license merely permits an entity to pursue a regulated activity, and has none of the elements of a contract.” (cleaned up)); 53 C.J.S. *Licenses* § 3 (2026) (“A license is not a contract or obligation between the authority—federal, state, or municipal—granting it and the person to whom it is granted.”).

¶29 Indeed, we have held that “a license does not create any vested rights in its holder because *a license is not a contract.*” *Bourgeois v. Department of Com.*, 2002 UT App 5, ¶ 14, 41 P.3d 461 (emphasis added). And we have stated that a license is not the same as a contract because—unlike a party to a contractual relationship—the licensing entity retains “free latitude . . . to impose new or additional burdens on the licensee, or to alter the

license, or to revoke or annul it.” *Id.* (cleaned up); accord *Riggins v. District Court*, 51 P.2d 645, 658 (Utah 1935).

¶30 Moreover, in addition to these contrasting dictionary definitions and compelling legal authorities, the structure of the relevant WCC provisions also weighs strongly in favor of a conclusion that the term “contract” should not be construed as coextensive with the term “license.” First, an entire subsection of WCC section 16.21.17(B) would be rendered superfluous if we interpreted “contract” to mean “license,” because subsection (2)—which requires Cascade House to “[c]onform to all applicable standards and requirements of” DHHS—already encompasses any licensure requirement. *See* WCC § 16.21.17(B)(2). In other words, subsection (2) already requires Cascade House to have a license, and if we read subsection (3) to require nothing more than that, the subsections would be duplicative. Such an interpretation would not “give effect to every word” in the ordinance. *See Baize*, 2021 UT 9, ¶ 42 (cleaned up).

¶31 Second, this interpretation also seems to run counter to the drafters’ overall intentions for the RA-1 zone. As noted already, Wasatch County’s stated intent was to “allow[] residential development near the incorporated areas, while maintaining the rural atmosphere of Wasatch County.” WCC § 16.08.01(A). Similarly, although the RA-1 zone was “a means of facilitating a transitional development area,” the drafters wanted “to maintain, as much as possible, the rural character of the [c]ounty.” *Id.* As applied to residential facilities for elderly persons and persons with disabilities within the RA-1 zone, Wasatch County has adopted something of an anti-business stance: residential facilities for elderly persons “may not operate as a business” at all, *see id.* § 16.21.17(A), and similar facilities for persons with disabilities may only operate as businesses if they are “operated by or operated under contract with” DHHS, *see id.* § 16.21.17(B). Interpreting “contract,” as used in subsection (3), to mean something more than a mere license is in keeping with what we

perceive to be the overall structure and purpose of the relevant section of the WCC.

¶32 For all of these reasons, we conclude that Cascade’s licensure with DHHS is not the equivalent of Cascade House being “operated under contract” with DHHS, *see id.* § 16.21.17(B)(3), and on that basis we conclude that Cascade has not met all of the necessary prerequisites set forth in the WCC for a CUP for a residential facility for persons with disabilities.

¶33 Cascade resists this conclusion in three ways. First, it claims that, as a factual matter, DHHS does not actually enter into the sort of contracts that subsection (3) contemplates—contracts by which DHHS will refer patients to a facility or pay for patients to be housed in a facility—and from this premise, it asserts that the term “contract” must therefore be construed to include mere licenses. But no party presented any evidence on this issue to the Planning Commission, the Board, or the district court. Thus, there is no evidence in the record to support Cascade’s contention that DHHS does not currently enter into such contracts with residential facilities for persons with disabilities. Indeed, when preparing their reports for the Planning Commission and the Board, county staff didn’t seem to be under the impression that such contracts weren’t an option, noting in that report, without comment about the availability of such contracts, that “DHHS does not refer clients to Cascade [House] or pay for clients to be in Cascade [House].”

¶34 Moreover, the WCC provision in question—the one that requires residential facilities for persons with disabilities to “[b]e operated by or operated under contract with” DHHS—was enacted in 2002 and was last amended in 2006. *See id.* Thus, to the extent it matters to our interpretive analysis—in which we are trying to ascertain the intent of the drafters of the relevant provision—whether DHHS actually does offer such contracts, the relevant date for such an inquiry would be 2002 or 2006, not 2026.

And no party provided any information to any decisionmaker at any point in this process about whether DHHS offered such contracts in 2002 or 2006.

¶35 In the end, the word “contract” must be given its plain meaning, regardless of whether DHHS does or does not currently offer the sort of contracts described in subsection (3). Cascade’s remedy, if it believes the unavailability of such contracts is a problem, is to advocate for Wasatch County to amend its code to account for the realities Cascade believes to exist.

¶36 Second, Cascade contends that interpreting subsection (3) to impose an additional requirement beyond mere licensure “conflicts with Utah law,” which Cascade contends “expressly permit[s] operation only through licensure.” The district court found this argument persuasive. Both Cascade and the district court refer to several state statutes, all of which indicate that facilities similar to Cascade House must have a license from DHHS to operate. *See, e.g.*, Utah Code § 26B-2-105(1) (stating that a business “may not establish, conduct, or maintain a human services program in this state without a valid and current license” from DHHS); *id.* § 26B-2-206(1)(a) (stating that “[a] person . . . may not establish, conduct, or maintain a health care facility in this state without receiving a license from” DHHS); *id.* § 17E-7-201(2) (“The responsibility to license local programs or entities that operate a residential facility for persons with a disability . . . shall rest with [DHHS] . . .”).⁵ But while these statutes all require

5. In supplemental briefing submitted after oral argument, Cascade cites additional provisions of Utah law that, in its view, support its assertion that “Utah law specifically permits facilities like Cascade House to operate through a license.” *See, e.g.*, Utah Code §§ 26B-2-103, -104, -117; Utah Admin. Code R501-19-1. These additional sections likewise simply require that facilities like Cascade House have a license in order to operate, and they
(continued...)

facilities like Cascade House to have a license in order to operate, none of them has anything to say about whether counties or municipalities are (or are not) allowed to impose *additional* requirements upon such facilities in order for them to operate within particular zones. And as a matter of simple logic, the imposition of such additional requirements is not necessarily inconsistent with the state statutory licensure requirement, at least as long as the relevant ordinances do not attempt to countermand the licensure requirement (which the WCC does not, *see* WCC § 16.21.17(B)(2) (stating that residential facilities for persons with disabilities shall “[c]onform to all applicable standards and requirements” of DHHS)). Indeed, a “municipal ordinance need not be identical to the controlling state statute to be consistent with it.” *Richfield City v. Walker*, 790 P.2d 87, 90 (Utah Ct. App. 1990); *see also* *Salt Lake City v. Newman*, 2006 UT 69, ¶ 10, 148 P.3d 931 (“We cannot simply assume that, by its silence, the legislature intended to permit conduct made punishable under an ordinance.” (cleaned up)); *Layton City v. Glines*, 616 P.2d 588, 589 (Utah 1980) (“Although the scope of the municipal ordinance is more limited than the state statute, the provisions common to both are consistent and lawfully enforceable by the municipality.”). Here, section 16.21.17(B) of the WCC is certainly not identical to state statutes that require only DHHS licensure, but it nonetheless remains consistent with those statutes because it does not “forbid[] that which the statute permits.” *Salt Lake City v. Newman*, 2005 UT App 191, ¶ 11, 113 P.3d 1007 (cleaned up), *aff’d*, 2006 UT 69, 148 P.3d 931. The section simply requires both licensure *and* a contractual relationship with DHHS. Accordingly, Wasatch County’s decision to impose additional requirements,

likewise do not prohibit municipalities from imposing additional requirements on such facilities in particular zones. Thus, while these additional citations do address DHHS licensing, they do not address DHHS contracts and thus do not affect our analysis in any meaningful way.

beyond those imposed by statute, for certain facilities to be able to operate within the RA-1 zone is not inconsistent with state law.

¶37 Finally, Cascade invokes the ADA and the FHA—federal statutes that prohibit discrimination, in housing matters and in other contexts—against various groups of individuals, including persons with disabilities. Cascade asserts—correctly, as far as we are aware—that the potential residents of Cascade House would be considered protected parties under these federal statutes. But Cascade’s additional arguments on this point are somewhat diffuse; it appears to assert, without much in the way of specifics, that “the denial of its CUP . . . would have been discriminatory” and “in violation of federal law.”

¶38 That may or may not be the case. But that question isn’t before us in this appeal. No party has asserted a cause of action under the ADA or the FHA, and no party has identified a particular provision of either of those federal statutes that could conceivably bar Wasatch County from denying Cascade’s CUP application if the requirements of the WCC are not met. And Cascade acknowledges—in at least two points in its appellate brief—that “this is not an accommodation case” under the federal statutes and that it at no point asked Wasatch County to make a reasonable accommodation for Cascade House. County staff understood this from the outset of the case, noting in their initial report that Cascade wasn’t requesting “a reasonable accommodation” under the federal statutes because such an accommodation wasn’t “necessary since there is already a built-in accommodation within [the] WCC” in the form of the WCC’s specific requirements for facilities for persons with disabilities. Thus, county staff framed the question not as whether the ADA or the FHA compelled a grant of Cascade’s request but, instead, as whether the specific requirements of the WCC regarding facilities for persons with disabilities were met. Following county staff’s lead, the parties presented their case to the Board and to the district court in the same way.

¶39 The question presented below and on appeal is simply whether Cascade’s CUP application meets the requirements of the WCC. For the reasons already set forth, it does not. And there our inquiry must end. If Cascade believes that a denial of its CUP application—on the ground that it can’t meet the requirements of subsection (3) because it doesn’t have a contract with DHHS—somehow violates the ADA or the FHA, it may attempt to present and litigate that question later. We offer no opinion on whether such an attempt would be procedurally or substantively proper.

CONCLUSION

¶40 To qualify for a CUP, Cascade needed to meet all of the WCC’s requirements for the RA-1 zone. Cascade cannot meet one of those requirements: the one in subsection (3) that requires all residential facilities for persons with disabilities located within that zone to “[b]e operated by or operated under contract with” DHHS. While Cascade has a valid license with DHHS that would allow Cascade House to operate, it does not have any other contractual relationship with DHHS, and Cascade House would therefore not “operate[] under contract with” DHHS. Thus, the Board’s and the district court’s interpretation of subsection (3)—that a license satisfied the contract-with-DHHS requirement—was incorrect, rendering the Board’s land use decision illegal.

¶41 On that basis, we reverse the district court’s order granting Cascade’s motion and dismissing Appellants’ petition, and we remand this case to the district court with instructions to grant Appellants’ petition and to send this matter back to the Board for issuance of an order denying Cascade’s CUP application.

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of April, 2026, a true and correct copy of the attached OPINION was sent by standard or electronic mail to be delivered to:

SCOTT H. SWEAT
ALEX D STOEDTER
WASATCH COUNTY ATTORNEY
SSWEAT@WASATCH.UTAH.GOV
ASTOEDTER@SLCO.ORG

J. CRAIG SMITH
JAY L. SPRINGER
CLAYTON H PREECE
SMITH HARTVIGSEN PLLC
JCSMITH@SHUTAH.LAW
JAY@MERIDIANLAND.LAW
CPREECE@SHUTAH.LAW

DAVID L. MORTENSEN
MELANIE R. CLARK
ELISE M CARTER
FOLEY & LARDNER LLP
DMORTENSEN@FOLEY.COM
MCLARK@FOLEY.COM
ELISE.CARTER@FOLEY.COM

HONORABLE JENNIFER A. MABEY
FOURTH DISTRICT, HEBER DEPT

FOURTH DISTRICT, HEBER DEPT
ATTN: BRIDGETTE BLONQUIST
heberinfo@utcourts.gov, bridgetteb@utcourts.gov


Judicial Secretary

TRIAL COURT: FOURTH DISTRICT, HEBER DEPT, 230500107
APPEALS CASE NO.: 20240911-CA

Wasatch County Planning Commission

Report of Action

09-March-2023

Commissioner Zuercher was present as Chair.

ITEM #5 – Brad Gerrard, representing ULA LLC, requests a Conditional Use Permit for Cascade Academy, a proposal to convert a single family residential home to an eight bed residential facility for persons with disabilities, located at 1374 Red Filly Road in the Residential Agriculture I (RA-1) zone. (DEV-6850; Nathan Rosvall)

STAFF PRESENTATION -

- Doug Smith stated that there were unresolved issues with the DRC and that the item shouldn't have been put on an agenda because it wasn't ready yet.

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

- There was open discussion allowed by the chair in an attempt to decide if the Commission should continue the item without any kind of presentation or whether the public in attendance would like to have a basic overview given before the Commission continues it.

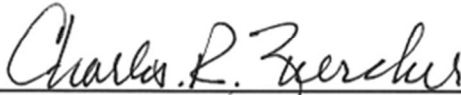
PLANNING COMMISSION DISCUSSION - None

MOTION

Commissioner Brubaker made a motion to continue this item to the April 13, 2023 meeting.
Commissioner Grandquis seconded the motion.

VOTE (6 TO 0)

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Doug Grandquis	<u>AYE</u>	NAY	ABSTAIN
Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN	Doug Hronek	<u>AYE</u>	NAY	ABSTAIN



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

Wasatch County Planning Commission

Report of Action

13-April-2023

Commissioner Wendell Rigby was present as Chair.

ITEM #3 – Brad Gerrard, representing ULA LLC, requests a Conditional Use Permit for Cascade Home, a proposal to convert a single family residential home to an eight bed residential facility for persons with disabilities, located at 1374 Red Filly Road in the Residential Agriculture I (RA-I) zone. (DEV-6850; Nathan Rosvall)

STAFF PRESENTATION - The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

Nathan Rosvall went through a power point presentation.

Alex Stodter went through some of the legal issues regarding the application and the reasonable accommodation issue.

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

- Brad Gerrard director of operations and the co-founder of Cascade academy spoke to the commission and stated that this has been continued and they have obtained the water needed.
- Caleb Cottle co-founder of Cascade Academy explained what the purpose of cascade academy does. They opened in 2020 and have helped 74 families. A video was shown about the proposal.
- Rebecca Schuler employee, talked about the programs that will be done at the home and the illness that the girls that use their home has. OCD, anxiety etc. Some of the members of the planning commission asked questions.
- Audra Sidwell lives across the street from the proposed site and states that she did not receive a notice about the meeting.
- Marie Shelton Physician for IHC says she is very aware about the disability requirements.
- Julie Schwartz read a prepared statement objecting to the proposal
- Ginny Tuite read a comment from Erik Asarian who lives behind the facility in Midway stated that there have been problems regarding the Cascade Home in Midway. Ginny mentioned that these are great programs but that the applicant should have received the permit prior to closing on the home. Felt like this is changing the definition of family.
- Dave Hadley felt that it was misleading to say that these kids don't have sexual or alcohol problems. He stated that for reasonable accommodation in a neighborhood to be made the home has to be owned by the disabled people themselves not a corporation.
- Jill Johnson Stated that the WCC code does not allow for a residential home because it only allows for category 1000. She felt that this disqualifies Cascade home from being allowed.
- Brian Myers felt that safety is an issue and that it is not the appropriate place for it. How are you going to mitigate safety?
- Michael Fiser has concerns about safety and parking. He believes that there is not enough parking. The plan does not show the size of the parking stalls. He spaces do not seem to be 9x20'. He quoted the parking code and that they were not in compliance with the code. He stated that parking cannot be in the front yards or areas that are intended to be landscaped. 16.33.12 stated that fencing and a buffer is required. He also stated that 50% of the parking needs to be covered. He stated that there is at least 20 spaces and handicap accessible.
- Wade Frisby 16.21.17B states that this shall be consistent with state and federal laws. He felt that this is a for profit business and cannot fit into the neighborhood.
- Ben Jones wanted the planning commission to consider 16.23.07 and cannot comply with the requirements of the conditional use permit. He went through all the items required for the planning commission to determine if a conditional use can be issued. He also stated that this cannot comply with the requirements of the General Plan which states that this area should be low density residential. The impacts have not been mitigated.
- Kristen Brown said she did not get notice. She feels safety is an issue. This type of use should be on a large property not in a neighborhood.
- Elaina Gillespie adjacent property owner. Feels that there is no research showing that this use is more successful in a neighborhood then in a commercial area. They need to be held to a higher standard.
- Tom Latimer stated that there is 14 staff members on the site. Patients and family members on the site. This is a lot of traffic in the neighborhood. This also requires delivery of food and medical supplies and increased garbage pick-up. Felt there was a safety concern with traffic.
- Harold Nicol lives directly across the street. Believes the proposal does not comply with the CC&R's. This does not comply with the CC&R's that state that this is a single family neighborhood. The group has not voted to change the CC&R's.
- Rodney Earnshaw felt that this would decrease their property values.

- Margaret Nadauld stated that this is a for profit business and should be located in a zone that allows for adequate parking and can deal with the traffic.

PLANNING COMMISSION DISCUSSION - Key points discussed by the Planning Commission included the following:

- Commissioner Cook asked how people find your home. Usually referrals.
- Commissioner Hendricks asked how they are diagnosed such that they are a protected class. Medical professionals diagnose the residents.
- Commissioner Hendricks asked about any complaints to existing facility. No complaints.
- Vice Chair Rigby asked why they picked this site. It was mentioned that they want to have a community feeling.
- Vice Chair Rigby asked how many staff and how to address parking. Total staff is around 20. Peak staff is 10 during a shift change. It was stated that they have the necessary off-street parking.
- Commissioner Brubaker asked about the submittal deadline for a 31 page document.
- Vice Chair Rigby asked Nathan if he would address the commission regarding the parking and other issues that were brought up.
- Commissioner Grandquis stated that he feels that this is a for profit business and should not be in a neighborhood.
- Brad Gerrard addressed the commission and mentioned that this will have a residential garbage can. There will be sufficient parking provided. There is not a grocery truck to deliver groceries. It was stated that the house is 5440 sf.
- Commissioner Hendricks asked if students were forced or at-will. Brad Gerrard – assigned by parents.
- Commissioner Hronek asked if they were aware of HOA. Brad Gerrard – no.
- Commissioner Hronek asked about the CC&R's and who enforces those. Jon Woodard stated that we do not enforce them.
- Commissioner Hendricks stated that there are federal laws that supersede the local laws.
- Jon Woodard stated that we do not enforce CC&R's and he would strongly recommend that we not deny an application based on a violation of CC&R's.
- Commissioner Brubaker stated that the use is needed and some laws may require us to approve it. He stated that he was concerned about safety and traffic. How does this comply with conditional use requirements.
- Commissioner Cook felt that we need to comply with the codes and are we violating any codes.
- Commissioner Grandquis mentioned that he is not in favor but there may be federal laws that require us to approve this.
- Commissioner Hendricks stated that there are federal laws that supersede local laws.
- Commissioner Hendricks stated that this needs to comply with the definition of disability. Does this comply with the ADA for temporary treatment. Does the facility need to be owned by the residents? Does the parking comply 9x20, fencing, landscaping, lighting is motion sensors, make sure they keep to the highest standards.
- Commissioner Grandquis stated that he feels that this changes the atmosphere of the neighborhood.
- Commissioner Brubaker felt that this should be continued.

MOTION

Commissioner Grandquis made a motion for denial which dies for a lack of a second.

Commissioner Hendricks made a motion to continue item 3 to May 11th and encourage all the challenges and objections and see if they can adequately address those and be in compliance with the legal issues.

Commissioner Cook seconded the motion.

VOTE (5 TO 1)

Doug Grandquis	AYE	<u>NAY</u>	ABSTAIN	Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN
Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN	Mark Hendricks	<u>AYE</u>	NAY	ABSTAIN
Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN	Doug Hronek	<u>AYE</u>	NAY	ABSTAIN

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

1. The staff analysis indicates the proposal complies with Section §16.23.07 of the current Wasatch County Code related to Conditional Uses.
2. Notice has been sent to neighboring property owners within 500 feet of the property.
3. There have been multiple concerns regarding this application and these concerns have been forwarded to the Planning Commission.
4. There are no known zoning violations on the property at this time.
5. The proposal will be in compliance with Section §16.21.17 of the Wasatch County Code regarding persons with disabilities.
6. Residents will be identified as a protected class by the Americans with Disabilities Act of 1990. Under The Fair Housing Act from the Department of Housing and Urban Development individuals with disabilities have the right to live independently in

the community with any supports they need, such as health care services, a care-giver or live in aide, or other short or long-term services or supports.

7. The Development Review Committee has reviewed the project and has provided a favorable recommendation of approval.

CONDITIONS

1. All issues raised by the DRC, as noted in the DRC report dated January 19, 2023, shall be resolved to the satisfaction of the applicable review department.
2. The Applicant shall, at all times, only operate a "Recovery residence for girls with anxiety with emphasis on OCD" within the meaning of Utah Code Ann. § 62A-2-101(33). No other programs or services shall be delivered or occur at the Property, including those licensed under the Utah Human Services Code.
3. Pursuant to 42 U.S.C. § 3604(f)(9), the Applicant shall not allow any registered sex offenders or any resident convicted of a violent crime or sex offense to reside at the Property and shall otherwise ensure that no resident imposes a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others within the meaning of 42 U.S.C. § 3604(f)(9).
4. The Applicant shall, at all times, comply with all applicable rules and regulations for recovery residences, including, but not limited to, regulations promulgated under the authority of Utah Code Ann. § 62A-2-108.2 and set forth in Utah Admin. Code R501, including the Core Rules contained in Rule 501-2.
5. The Applicant shall comply with 16.21.16 of the Wasatch County Code regarding outdoor lighting.
6. The Applicant shall promptly notify the County of any material change in the information required by Utah Code Ann. § 62A-2-108.2, any change or material departure from the description of its program, and any suspension, alteration, or revocation of its licensure under the Utah Human Services Code.
7. Any suspension, alteration, or revocation of the Applicant's licensure under the Utah Human Services Code shall be grounds for terminating the reasonable accommodation/conditional use granted.
8. The Applicant shall comply with all other applicable provisions of the Wasatch County Code, including, without limitation, its zoning regulations and all applicable fire, safety and building codes.
9. Failure to comply with the conditions set forth in the written accommodation from the County shall result in revocation of the reasonable accommodation / conditional use permit.
10. The reasonable accommodation / conditional use permit shall be particular to this Property only and this use only.



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

Wasatch County Planning Commission

Report of Action

11-May-2023

Commissioner Chuck Zuercher was present as Chair.

ITEM #2 – Brad Gerrard, representing ULA LLC, requests a Conditional Use Permit for Cascade Home, a proposal for an eight bed residential facility for handicapped persons, located at 1374 Red Filly Road in the Residential Agriculture 1 (RA-1) zone. (DEV-6850; Doug Smith)

STAFF PRESENTATION - The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

- Along with the presentation by staff member Doug Smith Alex Stoedter from the Wasatch County Attorney's Office commented.

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

- Melanie Clark, Applicant's attorney, went through a power point presentation.
- Although the item was not open to public comment there were comments from the public about parking in the street and who would enforce this.
- It was stated that the planning department and the state, who issues the license, would enforce the conditions.

PLANNING COMMISSION DISCUSSION - Key points discussed by the Planning Commission included the following:

- The Chair, Chuck Zuercher, stated that there was extensive public comment at the April 13th meeting and the public comment was closed at that time. This item tonight would not be opened up for public comment.
- Chairman Zuercher mentioned that due to this being a federal law that he did not see that the planning commission had the ability to deny the proposal.
- Commissioner Hendricks stated that if there are problems and they are in violation of the CUP then the CUP and business license can be pulled.

MOTION

Commissioner Hendricks made a motion to approve the proposal in light of the findings and the public input and concerns and subject to all of the conditions outlined in the staff report.
Commissioner Cook seconded the motion.

VOTE (5 TO 1)

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Doug Grandquis	AYE	<u>NAY</u>	ABSTAIN
Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN				
Mark Hendricks	<u>AYE</u>	NAY	ABSTAIN				

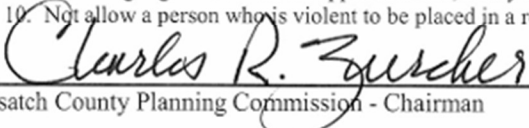
FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

- The proposal is providing housing for a protected class as defined by the ADA and the FHA.
- The county code allows uses for protected classes.
- The girls living at the facility are a protected class because they meet the definition of "handicapped" under the Fair Housing Act.
- The WCC provides for "Residential facilities for persons with disabilities" in section 16.21.17.
- By the stated use names of "Residential Facility for Handicapped Persons" (16.08.03) and "Residential facilities for persons with disabilities" (16.21.17) and land use number 1292 under the larger heading of "Living Areas" the County Council has already determined that this use is a residential use allowed in residential areas.
- Land use 1292 is considered a conditional use in the RA-1 zone. The code, adopted by the legislative body, has already made a determination that a "Residential facility for handicapped persons" is allowed in the RA-1 zone but may require conditions to mitigate negative effects. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii).

7. The proposal is for 8 or fewer residents in the home in compliance with the code and does not require a reasonable accommodation.
8. Due to Federal Legislation, from a zoning standpoint, except for the express requirements in Wasatch County Code Sect. 16.21.17, this home must be treated the same as any other residential home, otherwise it would be illegal discrimination.
9. The proposal, in staffs opinion, is in compliance with Section §16.23.07 of the current Wasatch County Code related to Conditional Uses as long as the conditions stated are required.
10. Notice has been sent to neighboring property owners within 500 feet of the property.
11. There have been a larger number of concerns regarding this application and these concerns have been stated in a public meeting.
12. The proposal, in staffs opinion, is in compliance with Section §16.21.17 of the Wasatch County Code regarding persons with disabilities.
13. Under The Fair Housing Act from the Department of Housing and Urban Development individuals with disabilities have the right to live independently in the community with any supports they need, such as health care services, a care-giver or live in aide, or other short or long-term services or supports.
14. The Development Review Committee has reviewed the project and has provided a favorable recommendation of approval.

CONDITIONS

1. A total of 10 parking stalls including 3 in the garage. Stalls must be a minimum of 9'x18' if the front of the car can pull over landscaping otherwise parking must be 9'x20'. Required parking must be behind the front façade of the home. The stall closest to the road must be removed so that all stalls are behind the front façade.
2. A solid fence/wall that starts behind the facade of the home to buffer the parking stalls from the neighboring property must be installed.
3. All issues raised by the DRC, as noted in the DRC report dated March 29, 2023, shall be resolved to the satisfaction of the applicable review department.
4. The Applicant shall, at all times, only operate a "Recovery residence for girls with anxiety with emphasis on OCD" within the meaning of Utah Code Ann. § 62A-2-101(33). No other programs or services shall be delivered or occur at the Property, including those licensed under the Utah Human Services Code.
5. Pursuant to 42 U.S.C. § 3604(f)(9), the Applicant shall not allow any registered sex offenders or any resident convicted of a violent crime or sex offense to reside at the Property and shall otherwise ensure that no resident imposes a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others within the meaning of 42 U.S.C. § 3604(f)(9).
6. The Applicant shall, at all times, comply with all applicable rules and regulations for recovery residences, including, but not limited to, regulations promulgated under the authority of Utah Code Ann. § 62A-2-108.2 and set forth in Utah Admin. Code R501, including the Core Rules contained in Rule 501-2.
7. The Applicant shall promptly notify the County of any material change in the information required by Utah Code Ann. § 62A-2-108.2, any change or material departure from the description of its program, and any suspension, alteration, or revocation of its licensure under the Utah Human Services Code.
8. Any suspension, alteration, or revocation of the Applicant's licensure under the Utah Human Services Code shall be grounds for terminating the conditional use and business license.
9. The Applicant shall comply with all other applicable provisions of the Wasatch County Code, including, without limitation, its zoning regulations and all applicable fire, safety and building codes.
10. Not allow a person who is violent to be placed in a residential facility for persons with disabilities.


 Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

Wasatch County Board of Adjustment

Report of Action

15-August-2023

Board Member Merry Duggin was present as Chair.

ITEM #1 – Jay Springer, representing Dustin Sidwell, Marie Shelton, and Brian Myers, citing the provisions of UCA §17-27a-103(2)(b) and WCC §16.02.09(A), appeal the Land Use Decision rendered by the Wasatch County Planning Commission to approve a Conditional Use Permit for Cascade Academy, granted on May 11, 2023 for an eight bed residential facility for persons with disabilities to be located at 1374 Red Filly Road. (DEV-8072; Doug Smith)

STAFF PRESENTATION – The Staff Report to the Board of Adjustment provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

- Doug Smith presented the substance of the staff report.
- Alex Stodter provided some context to local, state, and federal law. Mr. Stodter mentioned the federal laws that are important to keep in mind regarding protections against discrimination. The County is required to apply code consistent with federal law. Staff was not persuaded by the appellant that the Planning Commission erred.

APPELLANT AND PUBLIC COMMENT – Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Board of Adjustment. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Jay Springer, attorney for the appellant, stated that there is not an application that could approve this because the use is not residential. Mr. Springer presented a case that the CUP was improperly processed, the FHA and ADA protections are not applicable, and that the proposed conditions do not mitigate the reasonably anticipated negative effects of a business operation in the zone and neighborhood.
- Mr. Springer asserted the facility is an intensive treatment center and not a few hours of care a day. He shared some of the aspects of the proposal such as number of vehicles, staff members, shift timing, etc.
- Melanie Clark, applicant attorney, addressed the board and reiterated that they are applying for a conditional use permit for a residential facility for persons with disabilities. This facility is not the same as Cascade Academy in Midway.
- Ms. Clark presented some citations from Wasatch County Code and Utah Code. Ms. Clark asserted that interpreting the code the way the appellant suggests would become discriminatory. Ms. Clark noted that a denial places the burden of proof on the land use authority.
- Rebecca Schuler, local resident and employee of Cascade Academy, spoke in favor of the services the facility will provide.
- Marie Shelton, resident, stated there is a concern for the safety of these individuals and believe there are facilities that can serve them. This particular use is a medical facility. To be residential it needs to be long-term or permanent.
- Jill Johnson, resident, shared her experiences of working in a residential facility for persons with disabilities and stated her belief that this facility is not the same. Restricting the ability of their resident to come and go disqualifies this as a voluntary facility.

BOARD OF ADJUSTMENT DISCUSSION – Key points discussed by the Board of Adjustment included the following:

- Member Eckersley asked for clarification on the potential conditions in the staff recommendation, specifically those tied to the creation of a county advisory committee to take complaints.
- Member Eckersley asked if the transcripts of the public comment were provided. Chair Duggin replied that the Planning Commission minutes were in the packet starting on page 47.
- Member Riding asked if the occupants can have their own vehicle. Mr. Smith replied that it is his understanding that they will not have vehicles. Mr. Riding asked again if they could come and go if they please. Mr. Stodter replied no, but they are voluntarily placed in the facility by their legal guardians.
- Member Wardell asked if this facility is comparable to Daniels Academy.
- Member Wardell asked about traffic concerns. Mr. Smith replied that the current road standard and the ADT generated by the facility are well within the standards without a need to improve the road.
- Member Riding asked if this facility could change and start taking on other individuals with different disabilities or needing treatment. Mr. Stodter noted that would violate the conditions of the permit. They are limited to this specific request, including the 8 residents.
- Member Riding asked the applicant if they had any issues with the conditions imposed by the Planning Commission. Ms. Clark replied they are ready to go and have no issues with any of them.
- Member Eckersley commended all parties for the presentations and significant written comments. He stated he does not believe this is about law, but about location. There is a difference of opinion about what this is.

- Member Eckersley holds five points as critical: 1) Summit Meadows is a neighborhood and Cascade is an outpatient treatment facility; 2) This is not discrimination of residential protections because this is a commercial use; 3) Short-term outpatient treatment is not long-term residential; 4) Summit Meadows as a neighborhood is the appellant because it is a beautiful neighborhood that provides housing for all walks of life; and 5) Cascade Academy is a for-profit venture with good revenues. Competitors for this business all are limited to commercial areas. Because of these, I intend to vote no.
- Chair Duggin asked how to interpret the Council having allowed the use in the zone. Member Eckersley replied he agrees with the appellant's arguments that this is miscategorized.
- Chair Duggin stated that she believes often times individuals anticipate problems that often don't end up occurring. However, if problems do occur, this is a conditional use permit and can be revisited if new information or issues come up.
- Member Wardell shared that she has a disabled child and comes from that perspective. Ms. Wardell raised concerns about traffic and CC&Rs is unresolved in her mind.
- Member Riding sympathizes with the appellants, but also respects that there are rules that govern what we can and can't do. In reading the staff analysis, he did not see any errors in the interpretations. I can see the neighborhood concerns. When making decisions, it can't be about feelings, but it has to be about the law.
- Member Giles asked if they were hear to determine whether the Planning Commission made a mistake or are we making a new decision? Chair Duggin replied it is de novo so it is starting all over. Member Eckersley added that he believes the Planning Commission erred in getting distracted by the discrimination discussions. He does not believe this is about housing at all.
- Member McPhie stated that this is tough. He does believe that the County Council, Planning Commission, and staff have applied the code correctly, but that perhaps commercial uses shouldn't have been allowed in the code.

MOTION

Board Member Riding made a motion to uphold the Planning Commission approval with the conditions stated in the staff report with the addition of a condition #11 for having a county advisory committee created.

Board Member Giles seconded the motion.

VOTE

(4 TO 2)

Merry Duggin	<u>AYE</u>	NAY	ABSTAIN	Jay Eckersley	<u>AYE</u>	<u>NAY</u>	ABSTAIN
Greg McPhie	<u>AYE</u>	NAY	ABSTAIN	Rhett Riding	<u>AYE</u>	NAY	ABSTAIN
Anissa Wardell	<u>AYE</u>	<u>NAY</u>	ABSTAIN	Ernie Giles	<u>AYE</u>	NAY	ABSTAIN

FINDINGS / BASIS OF BOARD OF ADJUSTMENT DETERMINATION

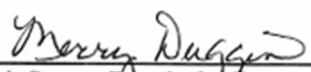
The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Board of Adjustment determination is generally consistent with the Staff analysis and determination.

1. The planning Commission, acting as the land use authority, approved the conditional use on May 11, 2023 and included all the findings and conditions in the staff report.
2. The appellant applied to reverse the planning commission decision on June 13, 2023.
3. The proposal is in an existing home in the RA-1 zone in a residential neighborhood.
4. The proposal is providing housing for a protected class as defined by the ADA and the FHA.
5. The county code allows uses for protected classes.
6. All the girls living at the facility are a protected class because they meet the definition of "handicapped" under the Fair Housing Act and will be diagnosed as such. Any resident must be diagnosed with a mental disorder, as listed in the DSM (Diagnostic and Statistical Manual of Mental Disorders), that impairs a major life activity.
7. The home will be used for treatment of girls with severe anxieties as well as OCD. Both handicaps are considered a protected classes.
8. The WCC provides for "Residential facilities for persons with disabilities" in section 16.21.17(B) and the proposal is in compliance with this section of code.
9. By the stated use names of "Residential Facility for Handicapped Persons" (16.08.03) and "Residential facilities for persons with disabilities" (16.21.17) and land use number 1292 under the larger heading of "Living Areas" the County Council has already determined that this use is a residential use allowed in residential areas.
10. The proposal is a residential facility for handicapped persons. A residential facility for handicapped persons can provide treatment to its residents. The residents of the residential facility will primarily be performing residential activities, while receiving treatment.
11. Land use 1292 is considered a conditional use in the RA-1 zone. The code, adopted by the legislative body, has already made a determination that a "Residential facility for handicapped persons" is allowed in the RA-1 zone but may require conditions to mitigate negative effects. Utah Code states that a land use authority shall approve a conditional use if reasonable conditions are proposed to mitigate anticipated detrimental effects. See Utah Code 17-27a-506(2)(a)(ii).
12. The proposal is for 8 or fewer residents in the home in compliance with the code. Since there is a built-in accommodation within WCC, there is no reasonable accommodation needed or requested.
13. The use in an existing residential home. The only exterior changes that will be made to the home is a fence and 7 additional parking stalls behind the front façade.

14. Each individual that will be staying at Cascade Home will be diagnosed by a medical professional as having either OCD or anxiety and is unable to function normally in daily life.
15. WCC 16.04 defines a handicapped person as someone who "...requires a combination or sequence of special interdisciplinary or generic care, treatment or other services that are individually planned or coordinated to allow the person to function in, and contribute to, a residential neighborhood."
16. Due to Federal Legislation, from a zoning standpoint, except for the express requirements in Wasatch County Code Sect. 16.21.17(B), this home must be treated the same as any other residential home, otherwise it would be illegal discrimination.
17. The proposal, in the opinion of the planning commission, based on their findings and motion, is in compliance with Section §16.23.07 Conditional Uses. In the opinion of the planning commission the conditions required mitigated any negative effects and they determined that the use is not incompatible with the surrounding uses.
18. Notice was sent to neighboring property owners within 500 feet of the property for the public hearings with the planning commission.
19. There were a larger number of concerns regarding this application and these concerns have been stated in a public meeting.
20. The proposal, in the opinion of the planning commission, is in compliance with Section §16.21.17(B) of the Wasatch County Code regarding persons with disabilities. The Planning Commission did not err in their determination of the approval regarding this section of the code and found that all aspects of this section of the code were met.
21. Under the FHA, individuals with disabilities have the right to live independently in the community with any supports they need, such as health care services, a care-giver or live in aide, or other short or long-term services or supports.
22. The Development Review Committee has reviewed the project and has provided a favorable recommendation of approval.
23. The General plan states that, "lot sizes of permitted development shall increase as the distance from population centers increase. This statement does not refer to density or limiting number of occupants in a home."
24. The proposal complies with the parking requirements as part of the conditional use approval and as required by code for size and number based on employees at the highest work shift.
25. The building official has provided a positive recommendation of the proposal and has stated that the structure can and will comply with the IBC requirements for the intended use.

CONDITIONS

1. A total of 10 parking stalls including 3 in the garage. Stalls must be a minimum of 9'x18' if the front of the car can pull over landscaping otherwise parking must be 9'x20'. Required parking must be behind the front façade of the home. The stall closest to the road must be removed so that all stalls are behind the front façade.
2. A solid fence/wall that starts behind the facade of the home to buffer the parking stalls from the neighboring property must be installed.
3. All issues raised by the DRC, as noted in the DRC report dated March 29, 2023, shall be resolved to the satisfaction of the applicable review department.
4. The Applicant shall, at all times, only operate a "Recovery residence for girls with anxiety with emphasis on OCD" within the meaning of Utah Code Ann. § 62A-2-101(33). No other programs or services shall be delivered or occur at the Property, including those licensed under the Utah Human Services Code.
5. Pursuant to 42 U.S.C. § 3604(f)(9), the Applicant shall not allow any registered sex offenders or any resident convicted of a violent crime or sex offense to reside at the Property and shall otherwise ensure that no resident imposes a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others within the meaning of 42 U.S.C. § 3604(f)(9).
6. The Applicant shall, at all times, comply with all applicable rules and regulations for recovery residences, including, but not limited to, regulations promulgated under the authority of Utah Code Ann. § 62A-2-108.2 and set forth in Utah Admin. Code R501, including the Core Rules contained in Rule 501-2.
7. The Applicant shall promptly notify the County of any material change in the information required by Utah Code Ann. § 62A-2-108.2, any change or material departure from the description of its program, and any suspension, alteration, or revocation of its licensure under the Utah Human Services Code.
8. Any suspension, alteration, or revocation of the Applicant's licensure under the Utah Human Services Code shall be grounds for terminating the conditional use and business license.
9. The Applicant shall comply with all other applicable provisions of the Wasatch County Code, including, without limitation, its zoning regulations and all applicable fire, safety and building codes.
10. Not allow a person who is violent to be placed in a residential facility for persons with disabilities.
11. That the county will establish a county advisory committee through which all complaints and concerns of neighbors may be addressed.


 Wasatch County Board of Adjustment - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Board of Adjustment differ from findings of Staff, those will be noted in this Report of Action. Official action of the Board of Adjustment on this item is subject to the approved minutes.

Ordinance 26-15 and Sidwell v. Wasatch County

Background, Land-Use History, Legal Proceedings, and Issues for Consideration

Prepared for the Wasatch County Planning Commission

October 8, 2026 — Agenda Item No. 1

Purpose. This brief provides a concise history of the Cascade Academy matter, the resulting litigation, and context for considering proposed Ordinance 26-15. It is intended to distinguish the legal questions already resolved by the courts from the prospective land-use policy questions now before the Commission.

I. Executive Summary

In 2023, ULA, LLC, doing business as Cascade Academy, applied for a conditional use permit (“CUP”) to operate “Cascade House,” an eight-bed residential treatment facility for girls ages 13–18, at 1374 Red Filly Road in Wasatch County’s Residential Agricultural 1 (“RA-1”) zone. Cascade described an expected average stay of approximately 45–90 days with 24-hour supervision.

Wasatch County Code permits residential facilities for persons with disabilities as a conditional use in RA-1, subject to the requirements of §16.21.17(B). Among those requirements, the facility must “[b]e operated by or operated under contract with” the Utah Department of Health and Human Services (“DHHS”).

During the original CUP review, County staff acknowledged that Cascade was licensed by DHHS but was not operated by or under contract with DHHS, and that DHHS did not refer residents to Cascade or pay for their care. Staff nevertheless concluded that the ordinance was satisfied, and the Planning Commission approved the CUP subject to conditions.

Three neighboring residents — Dustin Sidwell, Marie Shelton, and Brian Myers — appealed. The Board of Adjustment upheld the approval, and the Fourth District Court later upheld the Board.

On April 30, 2026, a unanimous Utah Court of Appeals reversed. The court held that a DHHS license and a contract with DHHS are legally distinct and that Cascade therefore did not satisfy §16.21.17(B)(3). The court directed the district court to return the matter to the Board of Adjustment for issuance of an order denying Cascade’s CUP application. See *Sidwell v. Wasatch County*, 2026 UT App 67.

Cascade and the County parties then sought review by the Utah Supreme Court. A Petition for Writ of Certiorari was filed July 1, 2026. On August 24, 2026, the Utah Supreme Court denied that petition. A denial of certiorari does not constitute an endorsement of the Court of Appeals’ reasoning, but it left the published Court of Appeals decision undisturbed as the final appellate disposition of this case.

Importantly, neither appellate court decided whether enforcement of the existing contract requirement would violate the federal Fair Housing Act (“FHA”) or Americans with Disabilities Act (“ADA”). Cascade had not requested a reasonable accommodation under those statutes, and the Court of Appeals expressly declined to decide a federal claim that was not before it.

The County’s own summary states that Ordinance 26-15 “mostly responded to” Sidwell. The proposed ordinance would change several provisions implicated by the litigation. Most significantly, a facility could satisfy §16.21.17 by being licensed by DHHS OR operated under contract with DHHS. It would also clarify the treatment of business operation, medical/treatment classification, transient lodging, and disability-related terminology.

The question before the Commission is therefore broader than whether Cascade should be permitted at one location. Ordinance 26-15 would establish rules that apply prospectively to qualifying facilities throughout Wasatch County.

II. Existing Land-Use Framework

The RA-1 zone is intended to accommodate residential development while maintaining Wasatch County's rural atmosphere and character. Residential facilities for persons with disabilities are permitted conditionally in RA-1, provided they satisfy §16.21.17(B).

Two requirements became particularly important in Sidwell:

- Subsection (B)(2) requires a facility to conform to applicable DHHS standards and requirements, including licensure.
- Subsection (B)(3) separately requires the facility to “[b]e operated by or operated under contract with” DHHS.

The Court of Appeals concluded that interpreting “contract” to mean merely “license” would make subsection (B)(3) largely duplicative of subsection (B)(2). It therefore held that the contract requirement must have independent meaning.

The court also held that Utah licensing law does not prevent a county from imposing additional land-use requirements governing where a licensed facility may operate. In that respect, the contract requirement supplemented state licensing law rather than conflicted with it.

III. Cascade Academy and the County Proceedings

Cascade applied in 2023 to convert a single-family residence into an eight-bed facility for teenage girls with mental-health conditions. County staff recognized that the intended residents constitute a class protected by the FHA and ADA.

County staff also stated that Cascade was not seeking a separate reasonable accommodation under federal law. Staff described the County Code as containing a “built-in accommodation” specifically allowing qualifying residential facilities for persons with disabilities in RA-1.

The issue was therefore presented as whether Cascade satisfied the requirements of the existing County Code. Regarding §16.21.17(B)(3), staff acknowledged that Cascade was licensed by DHHS, was not contracted with DHHS, and that DHHS did not refer or pay for Cascade's residents. Staff nevertheless interpreted licensure as sufficient to satisfy the provision.

Following public hearings and substantial public comment, the Planning Commission approved the CUP subject to conditions. Sidwell, Shelton, and Myers appealed to the Wasatch County Board of Adjustment, which upheld the Planning Commission. The residents then petitioned the Fourth District Court for judicial review. The district court upheld the Board's interpretation, and the residents appealed.

IV. Sidwell v. Wasatch County

On April 30, 2026, the Utah Court of Appeals issued a unanimous published decision in *Sidwell v. Wasatch County*, 2026 UT App 67. The Court resolved the appeal on the DHHS contract issue.

A license and a contract are different.

The Court held that a government license and a contractual relationship are distinct legal concepts. Because it was undisputed that Cascade had a DHHS license but no separate contractual relationship with DHHS, Cascade did not meet §16.21.17(B)(3).

The contract provision must have independent meaning.

The Court noted that subsection (B)(2) already requires compliance with DHHS requirements, including licensure. If subsection (B)(3) also meant nothing more than licensure, the provisions would substantially duplicate one another. The Court declined to interpret the ordinance in a way that rendered the contract language superfluous.

The requirement does not conflict with Utah licensing law.

Cascade argued that because state law requires licensure but does not separately require a DHHS contract, the County's additional requirement conflicted with Utah law. The Court rejected that argument and concluded that state law does not prohibit counties from imposing additional land-use requirements governing where a licensed facility may operate.

The record contained no evidence that DHHS contracts were unavailable.

Cascade also argued that DHHS does not enter into the type of contracts contemplated by the ordinance. The Court specifically noted that no evidence supporting that assertion had been presented to the Planning Commission, Board of Adjustment, or district court. The Court further observed that the contract requirement had existed since 2002 and was last amended in 2006, making the historical purpose and practices at the time of adoption relevant to interpretation.

The Court stated that if Cascade believed the unavailability of contracts presented a policy problem, its remedy was to ask Wasatch County to amend its Code.

Result.

The Court concluded that Cascade did not meet all prerequisites for the CUP and that the County's interpretation treating the license as a contract was incorrect. It reversed the district court and directed that the case ultimately be returned to the Board for issuance of an order denying Cascade's CUP application.

V. Utah Supreme Court Proceedings

Following the Court of Appeals decision, the Petitioners sought discretionary review from the Utah Supreme Court. The Petition for Writ of Certiorari was filed on July 1, 2026, Supreme Court No. 20260863-SC.

On August 24, 2026, the Utah Supreme Court entered an order stating: "IT IS HEREBY ORDERED that the Petition for Writ of Certiorari is denied."

A denial of certiorari should not be interpreted as the Utah Supreme Court independently approving every aspect of the Court of Appeals' reasoning. It means the Supreme Court declined to review the case, leaving the published Court of Appeals decision undisturbed.

VI. What the Courts Did Not Decide: FHA and ADA

The federal-law issue deserves separate treatment because it is relevant to the County's current policy discussion.

The Court of Appeals did not hold that the existing County Code complies with every possible application of the FHA or ADA. It also did not hold that the existing Code violates those statutes.

No FHA or ADA cause of action was before the Court. Cascade acknowledged during the appeal that "this is not an accommodation case," and it had not asked Wasatch County to waive the contract requirement as a reasonable accommodation.

The Court therefore expressly left open whether a future denial based on the DHHS contract requirement could support an FHA or ADA claim under a different factual and procedural record. Federal fair-housing risk is therefore a legitimate consideration for the County, but Sidwell itself does not establish that the County must amend §16.21.17 to comply with federal law.

VII. Federal Fair-Housing Context

Federal law protects housing opportunities for persons with disabilities and may require local governments to make reasonable accommodations in otherwise applicable land-use rules when necessary to provide equal housing opportunity. At the same time, courts have recognized that these protections do not automatically eliminate legitimate local zoning requirements.

Cinnamon Hills Youth Crisis Center v. Saint George City, 685 F.3d 917 (10th Cir. 2012).

This Utah case involved a youth residential treatment provider serving individuals with mental and emotional disorders. The Tenth Circuit rejected the provider’s federal discrimination claims and emphasized that reasonable accommodation is intended to provide equal housing opportunity, not necessarily a housing opportunity unavailable to comparable non-disabled uses.

Courage to Change Ranches Holding Co. v. El Paso County, 73 F.4th 1175 (10th Cir. 2023).

This more recent Tenth Circuit decision illustrates the other side of the analysis. The court held that disability-specific zoning provisions can raise federal discrimination concerns when they treat protected housing differently from appropriate comparable uses. Although the case arose in Colorado, Tenth Circuit precedent governs federal cases in Utah as well.

Recovery Land Holdings, LLC v. City of South Ogden (D. Utah 2019).

This Utah federal litigation involved a residential treatment provider seeking accommodation from local zoning limitations. The district court rejected the provider’s reasonable-accommodation claim and also rejected a disparate-impact theory, illustrating that the FHA inquiry depends on the particular rule, comparators, necessity, and the scope of the requested relief.

Taken together, these cases demonstrate that fair-housing analysis is fact-specific. Neither the identity of residents as a protected class nor the existence of a zoning restriction determines the outcome by itself. Courts examine the nature of the regulation, appropriate comparators, whether the requested accommodation is necessary to provide equal opportunity, and whether the requested relief would fundamentally alter the applicable land-use framework.

VIII. Wasatch County’s Prior Approach to Reasonable Accommodation

We understand that Wasatch County previously addressed a similar issue in connection with Wasatch Crest Treatment Services in 2019.

Based on the records presently available to us, County staff appears to have treated §16.21.17 as a “built-in accommodation” for residential facilities serving persons with disabilities and separately evaluated whether an additional accommodation was necessary under federal fair-housing law.

We further understand that the applicant sought approval for ten residents and that the County ultimately approved eight residents under the existing framework.

Because we do not currently have the complete underlying 2019 staff record, we do not offer this history as a definitive description of that proceeding. However, if confirmed by County records, it may provide useful context regarding how Wasatch County has previously reconciled its zoning requirements with individualized reasonable-accommodation requests.

The Commission may wish to ask staff or counsel to confirm that history as part of its consideration of Ordinance 26-15.

IX. What Ordinance 26-15 Would Change

The County's official summary identifies several changes. Some primarily update terminology. Others materially alter provisions implicated by Sidwell.

Issue	Existing Framework	Ordinance 26-15	Policy Effect / Question Raised
DHHS relationship	Facility must be operated by or under contract with DHHS; licensure is separately required.	DHHS license OR contract would satisfy the requirement.	Does licensure serve the same oversight or policy function the County originally intended the contract requirement to provide?
Business operation	Existing structure limits when certain business-operated facilities qualify in RA-1.	Operating as a business would not by itself change residential classification.	What level of commercial operation remains compatible with the purposes of RA-1?
Medical / treatment classification	Existing classifications generated dispute over whether Cascade was primarily residential or treatment-related; the Court did not reach that issue.	Qualifying facilities would not automatically be classified as medical/treatment uses merely because services or support are provided.	What factors should determine when treatment becomes the primary land use?
Transient lodging	Limited-duration stays can raise classification questions.	\$16.21.17 facilities would be excluded from specified transient-lodging classifications.	Should length of stay or resident turnover ever affect land-use classification?
Terminology / definitions	Code uses differing disability-related terminology.	Definitions and terminology would be standardized.	These changes appear principally definitional and can be evaluated independently of the substantive land-use changes.

X. Questions for the Planning Commission

1. Is Ordinance 26-15 addressing a demonstrated countywide land-use need, or primarily responding to the outcome of one application and its litigation?

The County's own summary states that Ordinance 26-15 "mostly responded to" Sidwell. That makes it reasonable to ask whether the policy rationale for each substantive change extends beyond Cascade and has been evaluated based on its effect on future applicants throughout Wasatch County.

2. What evidence demonstrates that the existing DHHS contract requirement is no longer workable or useful?

The Court of Appeals specifically noted that no evidence had been presented showing that DHHS contracts are unavailable. Before eliminating that distinction, the Commission may wish to understand whether DHHS currently enters into relevant contractual or provider relationships, whether it did so when the ordinance was adopted or amended, what additional oversight or accountability a contract provides beyond licensure, and why the County originally included both licensing compliance and a separate contract requirement.

Public DHHS procurement records also show that the Department currently enters into client-service contracts with private providers, including providers of residential and treatment-related services. One current solicitation, DHHS91266 (Residential Small Group Home), states that its purpose is to contract with qualified providers to provide intensive support in residential small-group settings for DHHS youth with severe behavioral or emotional needs or disabilities. DHHS also publishes a Human Service Solicitation Matrix identifying numerous active client-service contracts across residential, treatment, foster-care, disability, and behavioral-health programs.

These records do not establish that Cascade Academy would qualify for any particular DHHS contract, or that a contract matching Cascade's current business model is available. They do establish, however,

that contractual relationships between DHHS and private residential or treatment providers continue to exist. Before eliminating the contract requirement, the Commission may wish to ask DHHS directly whether a provider serving adolescent girls with behavioral or mental-health needs could qualify for an existing contracting pathway, and what additional oversight or accountability such a contractual relationship provides beyond licensure.

3. Does the proposed amendment go farther than necessary to address the issue decided in Sidwell?

Sidwell was resolved on the difference between a license and a contract. Ordinance 26-15 also addresses business operation, medical/treatment classifications, and transient lodging. The Commission may wish to determine whether each of those additional changes has an independent countywide planning justification or whether some issues would benefit from separate consideration.

4. What are the prospective consequences throughout RA-1?

The amendment is not specific to the Red Filly Road property. The Commission may wish to evaluate what types of currently licensed facilities could qualify to seek approval in RA-1 under the revised standard, and whether occupancy, staffing, treatment intensity, average length of stay, resident turnover, and commercial operation should play a role in future land-use decisions.

5. Is a countywide change necessary to manage federal reasonable-accommodation obligations?

Federal law already provides a mechanism for an applicant to request a reasonable accommodation where a generally applicable rule prevents equal housing opportunity because of disability. The Commission may wish to consider whether individualized accommodation review, the existing §16.21.17 pathway, broader code amendments, or some combination provides the most appropriate framework.

6. Would a broader review produce a more durable policy?

If Wasatch County concludes that its regulations governing residential treatment and disability-related housing are outdated, a broader review could consider facility type, intensity of services, staffing, occupancy, length of residency, commercial operation, neighborhood compatibility, state oversight, and federal accommodation requirements together. The policy ultimately adopted will likely govern applicants and neighborhoods well beyond the facts of Cascade Academy.

XI. Key Chronology

Date	Event
2002	County adopts the relevant DHHS contract requirement.
2006	Provision is last amended before the Cascade proceedings.
2023	Cascade Academy applies for a CUP for an eight-bed facility at 1374 Red Filly Road in RA-1.
2023	Planning Commission approves the CUP subject to conditions.
2023	Sidwell, Shelton, and Myers appeal; Board of Adjustment affirms.
2023–2024	Residents seek judicial review; Fourth District Court upholds the County's decision.
April 30, 2026	Utah Court of Appeals unanimously reverses in Sidwell v. Wasatch County, 2026 UT App 67, and directs that the case ultimately be returned to the Board for an order denying the CUP.
July 1, 2026	Petition for Writ of Certiorari filed with the Utah Supreme Court.
August 24, 2026	Utah Supreme Court denies certiorari, Supreme Court No. 20260863-SC.
September 10, 2026	Planning Commission considers proposed amendments; matter is continued.
October 8, 2026	Planning Commission considers Ordinance 26-15 as Agenda Item No. 1.
October 21, 2026	If forwarded, the County Council is scheduled to consider Ordinance 26-15 at public hearing.

XII. Conclusion

The Cascade matter has proceeded through the County's administrative process, the Fourth District Court, the Utah Court of Appeals, and a petition for review by the Utah Supreme Court.

The judicial process established what the existing ordinance requires: a DHHS license is not the same as the separate contractual relationship required by §16.21.17(B)(3), and Cascade did not satisfy that requirement.

The courts did not decide whether federal law could require a reasonable accommodation in another case or under a different factual record.

Ordinance 26-15 therefore presents a prospective policy question rather than an unresolved question of ordinance interpretation. In considering that policy, the Planning Commission has an opportunity to evaluate not only the circumstances that produced the Cascade litigation, but also the purpose of the existing requirements, the evidence supporting their modification, federal fair-housing obligations, and the consequences of the proposed changes for future applicants and RA-1 neighborhoods throughout Wasatch County.

Principal Authorities and Source Materials

- Sidwell v. Wasatch County, 2026 UT App 67 (Utah Ct. App. Apr. 30, 2026).
- Utah Supreme Court, Order Denying Petition for Writ of Certiorari, Supreme Court No. 20260863-SC (Aug. 24, 2026).
- Wasatch County Planning Commission, October 8, 2026 Notice and Agenda, Agenda Item No. 1.
- Wasatch County, Summary of Ordinance 26-15.
- Wasatch County Code §§16.08 and 16.21.17.
- Cinnamon Hills Youth Crisis Center, Inc. v. Saint George City, 685 F.3d 917 (10th Cir. 2012).
- Courage to Change Ranches Holding Co. v. El Paso County, 73 F.4th 1175 (10th Cir. 2023).
- Recovery Land Holdings, LLC v. City of South Ogden, No. 1:17-cv-152 (D. Utah 2019).
- Wasatch County records concerning Wasatch Crest Treatment Services (2019) — cited in this brief only as an understood prior practice and subject to confirmation from the County's underlying record.

Utah Department of Health and Human Services, DHHS Purchasing, Residential Small Group Home (DHHS91266).

Utah Department of Health and Human Services, Human Service Solicitation Matrix (current contracts as of September 15, 2026).

Note on scope: This document is intended as a factual background and policy-context brief. It does not purport to provide legal advice to the Planning Commission or predict the outcome of any future FHA or ADA claim.

Sherry Lawrence

From: Ben Jones [REDACTED]
Sent: Wednesday, September 30, 2026 8:30 PM
To: Planning Commission
Subject: October 8th, Agenda Item #1 - Amendments to 16.21.17

[REDACTED]

Dear Members of the Wasatch County Planning Commission,

I am writing regarding the proposed amendment to Wasatch County Code 16.21.17(B)(3). I respectfully ask the Planning Commission to recommend leaving the existing code unchanged.

After nearly three years of debate and litigation, I believe the question before the Commission should be a simple one:

What countywide land-use problem are we trying to solve?

The existing code allows residential facilities for persons with disabilities in the RA-1 zone, subject to specific requirements. One of those requirements is that the facility be operated by or under contract with the Utah Department of Health and Human Services.

The Utah Court of Appeals has now interpreted that language and determined that a DHHS license is not the same as the contract required by the ordinance. The Court concluded that Cascade does not meet that requirement and directed that its CUP application be denied.

That decision does not prevent the County from changing its code. But before doing so, I believe there should be a compelling policy reason that applies broadly across Wasatch County—not simply a desire to create a different outcome for one applicant after the existing ordinance produced an unfavorable result.

Residents make long-term decisions about where to live, build and invest based in part on the uses the County has determined are appropriate within each zone. Those rules can certainly evolve, but changes should be deliberate, prospective and grounded in sound countywide land-use policy.

I also understand the concern regarding the Fair Housing Act and Americans with Disabilities Act. The County should fully comply with both. But protecting the rights of individuals with disabilities does not necessarily require eliminating an otherwise valid zoning requirement for every future applicant. If an applicant believes a reasonable accommodation from the County's land-use requirements is necessary under federal law, the County has a process to evaluate that request based on the specific facts and accommodation sought. That is a more thoughtful approach than rewriting the underlying ordinance because an accommodation might someday be required.

There is also an important governance issue here. Residents followed the process available to them, participated in public hearings, appealed the County's interpretation and ultimately obtained a unanimous appellate decision holding that the CUP did not comply with the ordinance.

The County has every right to reconsider its policies. But changing the rule immediately after a court has determined that a particular applicant does not meet it risks undermining confidence that land-use rules will be applied consistently.

I would therefore ask the County to do two things:

First, complete the remand process and take the actions necessary to bring the Cascade CUP into compliance with the Court of Appeals' decision.

Second, leave 16.21.17(B)(3) unchanged unless and until the County identifies a broader land-use reason for changing it. If the County believes its regulatory framework for residential treatment facilities is outdated, then undertake that review comprehensively—consider appropriate locations, facility types and intensities, impacts on surrounding uses, and federal accommodation requirements—and develop a policy designed for Wasatch County's future.

Changing one provision in response to one case is not that process.

Thank you for your service to our community and for thoughtfully considering this issue.

Sincerely,

Ben

Ben D. Jones



Sherry Lawrence

From: Brittney Jones [REDACTED]
Sent: Thursday, October 1, 2026 7:50 AM
To: Planning Commission
Subject: Subject: October 8th, Agenda Item #1 - amendments to 16.21.17

[REDACTED]
Subject: October 8th, Agenda Item #1 - amendments to 16.21.17

Dear Members of the Wasatch County Planning Commission,

My name is Brittney Jones, and I am writing to ask you to please leave the current code as it is.

I am a kindergarten para-professional, a mom, and a long-time member of this community. I care deeply about Wasatch County and the kind of place we are building for our children and families.

To me, this issue comes down to something pretty simple: rules should matter.

Families make big decisions about where to live, raise their children, and invest in a home based on the rules our community has put in place. We understand that rules can change over time, but those changes should happen because there is a real need for the whole community, not because one situation did not work out the way someone had hoped.

I also want to be clear that I believe people who need help, care, and treatment deserve compassion and support. This is not about whether those services are important. They are.

But we can care about people who need help while also caring about our neighborhoods and the rules that protect them. Those two things do not have to be in conflict.

Our family and many of our neighbors have spent years following this process. People have attended meetings, asked questions, and trusted the system to work the way it is supposed to work. When residents follow the rules and the process, I believe the County should do the same.

If the County truly believes the current rules are no longer right for Wasatch County, then I hope it will take the time to look at the whole issue carefully. Talk about where these types of facilities belong, how large they should be, how they fit into neighborhoods, and what is best for the community in the long run.

But, changing one part of the code because of one specific situation does not feel like the right way to make an important decision.

As an educator, I spend a lot of time teaching young children that rules need to be clear, fair, and applied consistently. I think adults need that same trust in their local government.

Please leave the current code in place and take the time to make any future changes through a thoughtful process that looks at what is best for Wasatch County as a whole.

Thank you for listening and for the time you give to our community.

Sincerely,

Brittney Jones

Meeting Date: October 8, 2026**Presenter:** Doug Smith**Department:** Planning**Applicant:** Dominion Engineering, Tebo
Jackson Fork LLC**Requested Time:****Item Title:**

Dominion Engineering, representing Tebo Jackson Fork LLC, requests a revision to the final plat approval granted on November 13, 2025, to move units from the approved locations to new locations in order to comply with ridgeline regulations that were a condition of final approval. The proposal is located at 2966 Highway 32 in the Jordanelle Basin Overlay Zone (JBOZ). (PLANMisc-26-001)

Issue:

If the proposed changes to the final approval comply with ridgeline requirements and if there are any other code requirements that need to be met that have been caused by moving the units. This determination is an administrative decision to be made by the Wasatch County Planning Commission.

Background:

This proposal received final approval in November of 2025. Master Plan and density for the project was received in April 2007. Final approval was granted with a condition that when a construction grading permit is applied for if ridgeline issues are discovered those would need to be corrected. After further review by the applicant, it was found that 14 units had varying degrees of ridgeline violations.

Proposed Motion:

Move to Approve item 2 consistent with the findings and subject to the conditions presented in the staff report.

Impact:

N/A

Attachments:

1. PC Staff Report 10-08-2026 – Item 2 – Jackson Fork amended plat



Item 2 – Jackson Fork, review of final plat changes to address a condition of approval. Jackson Fork is a residential development with 152 ERU's on 153.92 acres in the JBOZ.

Project: PLANMisc 26-001 Jackson Fork Final
Meeting Date: 9 October 2026
Report Date: 1 October 2026
Report Author: Doug Smith, Planning Director
Council Action Required: No
Type of Action: Administrative
Applicant: Dominion Engineering

Location: South Side of Highway 32 West of Benloch Ranch
Acreage: 153.92 acres/101 acres or 66.04% open space
Proposed Density: 152 ERU's
Zoning Designation: JBOZ
Related Applications: Master Plan, density determination, overall preliminary, final

DETERMINATION ISSUE

If the proposed changes to the final approval comply with ridgeline requirements and if there are any other code requirements that need to be met that have been caused by moving the units. This determination is an administrative decision to be made by the Wasatch County Planning Commission.

RECOMMENDATION

Based on the analysis in this staff report, it appears that the proposal can comply with applicable laws subject to conditions that are not expected to constitute a materially substantive change. Therefore, it is recommended that the Planning Commission APPROVE the proposed final amended subdivision.



BACKGROUND

This proposal received final approval in November of 2025. Master Plan and density for the project was received in April 2007. Final approval was granted with a condition that when a construction grading permit is applied for if ridgeline issues are discovered those would need to be corrected. After further review by the applicant, it was found that 14 units had varying degrees of ridgeline violations.

The applicant has worked with the county to resolve these issues however it was determined that the changes were more significant than what the planning director was comfortable approving himself.

KEY ISSUES TO CONSIDER

- Are the units being moved in compliance with other aspects of the code?
- Can the drainage in front of the units be managed and historic flows maintained?
- Density remains the same as the previous final approval.

STAFF ANALYSIS

– LOTS AND BUILDING ENVELOPES –

All 14 units being moved are PUD units with common area around them not lots. 10 of the units are detached and 4 are attached. It appears that units can be out of 30% slope areas, however there is a drainage which will need to have culverts installed for driveways. The drainage should be maintained and culverts placed to handle flows under driveways.

As a condition of approval, the engineering department required that the applicant would need to provide the calculations for the culverts under the driveways at the time of the subdivision construction permit.

– BUILDING HEIGHT –

Title 16 only allows for a building height of 35' for dwellings. The height is measured from each side of the building from existing natural grade (prior to excavation and cuts and fills) to the highest point of the structure. If there are areas with substantial fill the buildings will be required to be lower, for example, if a lot has 10' of fill only a 25' tall home can be built on the site since height is measured from pre-graded contours. Also, as mentioned, some lots may need to have lower heights if affected by a ridgeline.

– RIDGELINE ANALYSIS –

The condition of approval required that further analysis be done with the construction development permit. As mentioned, 14 units were found to be on a ridgeline when viewed from mile marker 6. The code requires an analysis from the 4 closest viewing platforms, which are mile markers 5, 6 and 8 and 7487 East Highway 32. The applicant has done an analysis and has found that the only violations were from Mile marker 6.

According to the applicant they used ballons at a height of 35' from the building pad sites and viewed them from the 4 closest viewing platforms. According to the applicant the only platform where units broke the ridgeline was from mile marker 6. All 14 units that violated the ridgeline have been moved off the ridge.

– ENVIRONMENTAL CONSTRAINTS ANALYSIS –

Each unit is required to be on an area less than 30% slope. The proposal accomplishes this but there are portions of the units that will be on slopes between 25-30%. These units will require a site-specific soils report to be submitted with building permits for units 116, 118, 119, 120, 122, 123, 124, and 125. There should be a note on the plat stating this. Where these are PUD units I suspect they will be built by the developer or at least by the same builder making it easier to enforce.

– SEWER & WATER –

The JSSD will need to review the proposal for sewer and water to ensure they can provide service to the newly located units.

DEVELOPMENT REVIEW COMMITTEE

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has forwarded the item for the Land Use Authority to render a decision.

RECOMMENDED MOTION

Move to Approve item 2 consistent with the findings and subject to the conditions presented in the staff report.

– FINDINGS –

1. The subject property is 153.92 acres per the applicant survey.
2. The proposal contains 152 ERU's.
3. The project received master plan approval on April 4, 2007.
4. The proposal received final approval November 2025.
5. A condition of final approval was that further ridgeline review may be required with the issuance of a subdivision construction permit.
6. The applicant performed an evaluation from the 4 closest viewing platforms.
7. The applicant found ridgeline violations from mile marker 6 which are proposed to be corrected by moving 14 units off the ridge as proposed with this amended plat.
8. The Development Review Committee has reviewed the technical requirements of the proposed project and determined the project is ready for decision by the Land Use Authority.

– CONDITIONS –

1. Include notes on the plat for moved units that require a site-specific soils report for units with footprints in areas over 25% slope.

POSSIBLE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the recommended findings listed in the staff report, the Planning Commission should state new findings.

1. Approve. This action may be taken if the Planning Commission finds that the Final amended Subdivision request is compliant as proposed with Wasatch County Code and all other applicable laws.
2. Approve with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved prior to final approval. ****This action would be consistent with the staff analysis.****
3. Continue. This action can be taken if the Planning Commission needs additional information before rendering a decision, if there are issues that have not been resolved, or if the application is not complete.
4. Deny. This action can only be taken if the Planning Commission finds that the proposal does not meet the ordinance or that the application is insufficient to comply with applicable law.

NEXT STEPS

If the requested final subdivision is approved, the applicant will need to comply with any conditions imposed on the approval. Permits to construct the subdivision infrastructure will be required to be obtained through the Wasatch County Engineering department prior to any construction activities on the subject property. The applicant will have two options for official recording of the mylar plat. The applicant may either withhold recording of the plat until all subdivision infrastructure improvements have been completed, or the applicant may record the plat prior to completion of the infrastructure by posting a bond ensuring their completion. Per WCC 16.27.14 the lots may not be sold, advertised

for sale or offered for sale in any manner until after the plat has been recorded.

If the requested subdivision is denied, the applicant would not be allowed to develop the property as proposed. If the applicant desires to request an alternative plan for approval, it will need to be made as a new application.

Any person adversely affected by a final decision made by the Land Use Authority can be appealed under the provisions outlined in Wasatch County Code 2.02.02.

EXHIBITS

Exhibit A - Vicinity Map.....6

Exhibit B – New location of units off riddgeline.....7

Exhibit C – Slope Analysis with new units8

Exhibit D – PC report of action with condition.....130

Exhibit E – Ridgeline Analysis**Error! Bookmark not defined.**3

Exhibit F - AGECE soils report.....14

Exhibit G - IGES soils report.....16

Exhibit H - DRC Report.....20

Exhibit A – Vicinity Plan



Exhibit B – New locations of units off ridgeline

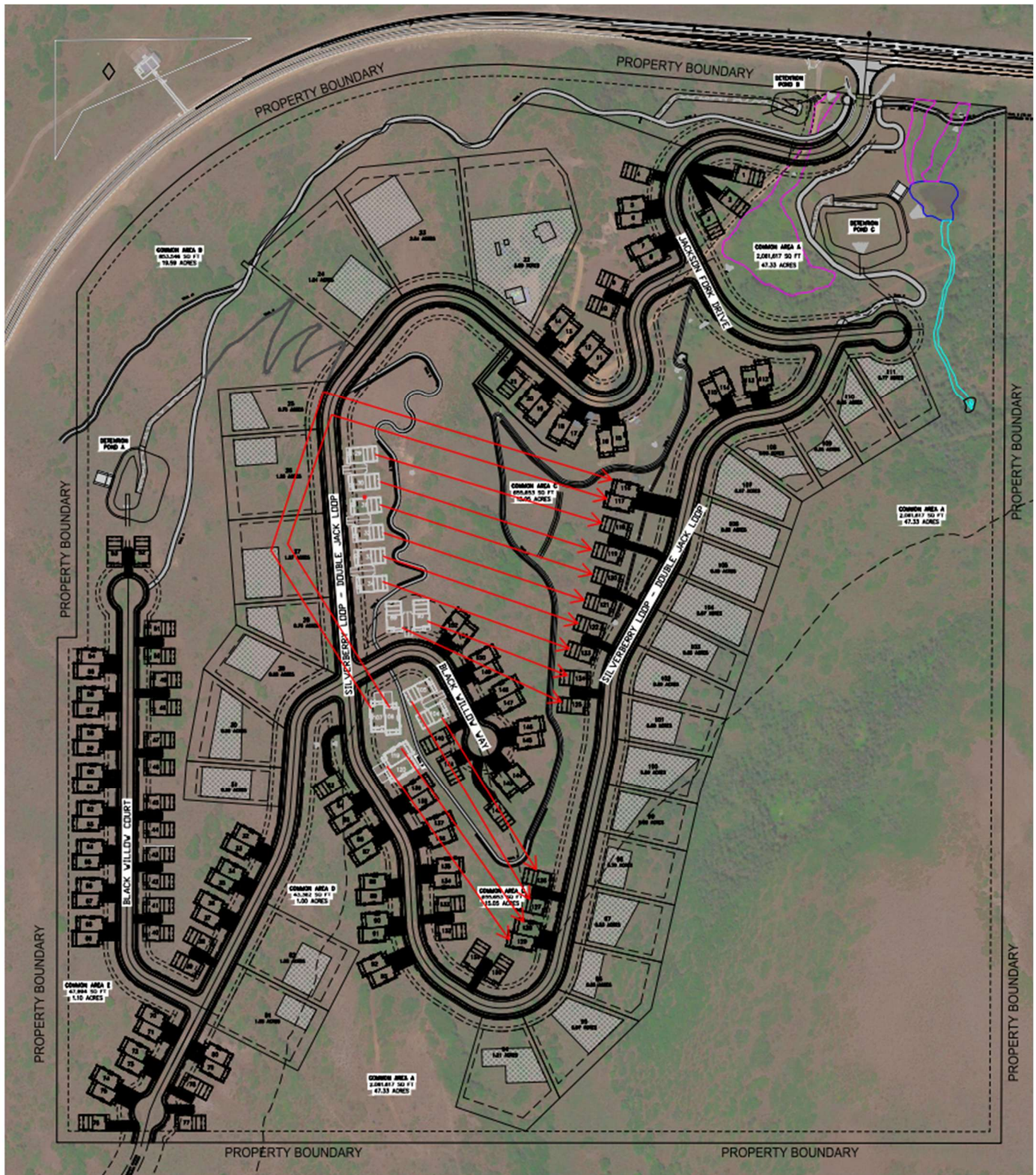
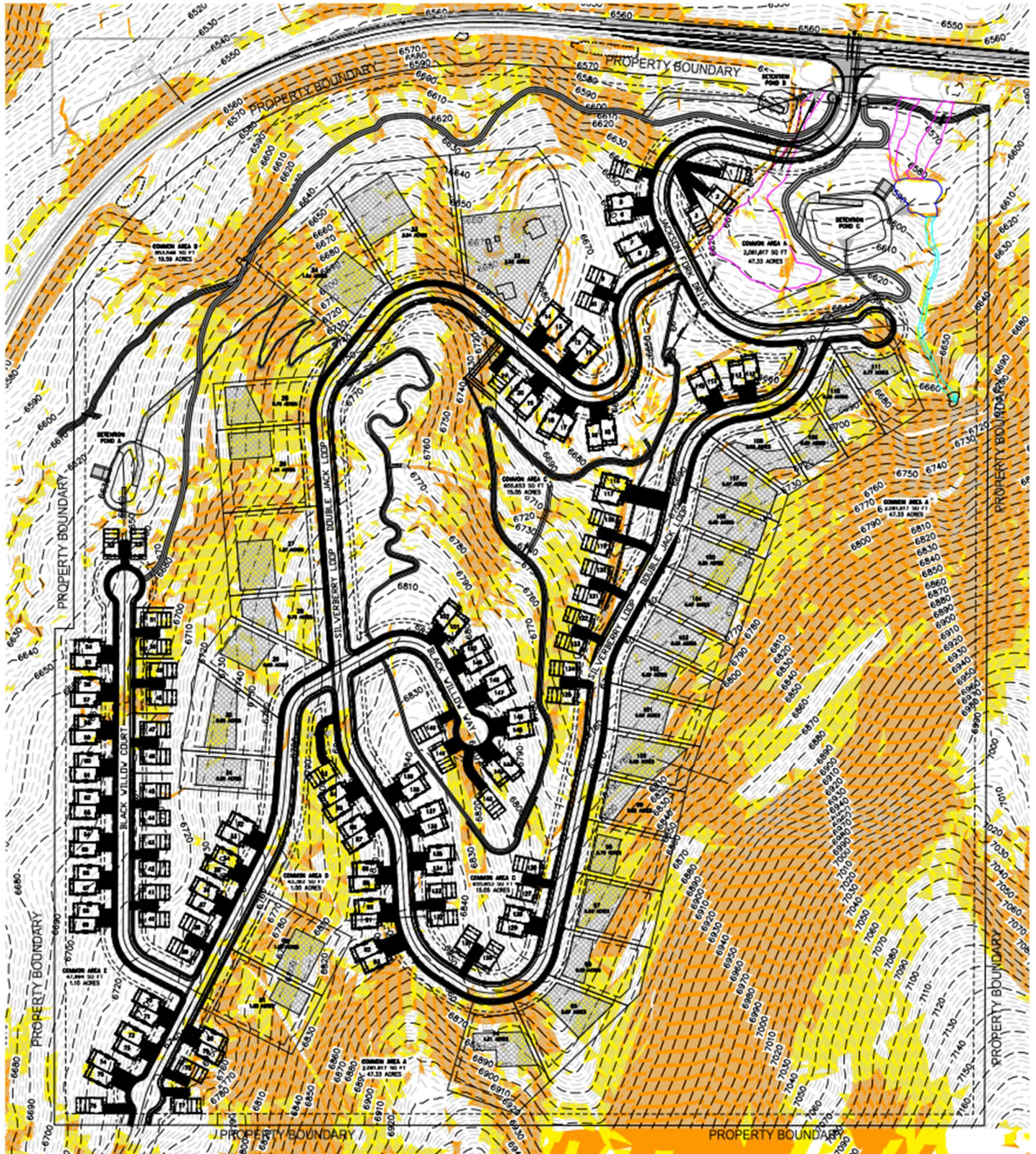


Exhibit C – Slope analysis with new units







Wasatch County Planning Commission

Report of Action

13-November-2025

Commissioner Charles Zuercher present as Chair

ITEM #5 – Dominion Engineering, representing Mike Verhoogen, requests Large Scale Final Subdivision approval for ARC Jackson Fork Subdivision, a proposed residential subdivision consisting of 44 single PUD units, 84 duplex units, and 24 single-family lots (152 ERUs) on 153.92 acres located at 2966 East Hwy 32 in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-8688; Doug Smith)

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

- Preliminary approval of project had a number of conditions.
- Developments in the Jordanelle are becoming more difficult on properties with more physical constraints.
- This project is in an area with a number of landslide scarps.
- The landslide scarps will be excavated to bedrock and material removed under the supervision of the applicant's geotechnical engineer.
- The remediation of the scarps has been approved by the County Geotechnical Reviewer.
- There is an extensive trail plan open to the public.
- The ridgeline analysis and the viewing platforms provided by the applicant were reviewed and discussed as part of the power point. Viewpoint 4 at approximately mile marker 4.6 was discussed because it showed no infractions with height limitations.
- There are areas of the project that will require further ridgeline analysis.

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

- Farley Eskelson, Dominion Engineering- spoke about getting access from the waterline that will pump into the Benloch Tank from the secondary access.
- There were inconsistencies with the geotechnical report and the numbering of the lots for lots with slopes between 25-30% that need to be worked out and corrected with the plat.
- The ridgelines can be addressed by adjusting the maximum building height per lot depending on location and slope through notes on the plats.
- Josh Bouthillier- Will change lot numbers in accordance to geotechnical report for site specific analysis so the report and lot numbers are consistent.
- The applicant identified the ridgeline areas that allow the 35' height issues through the ridgeline analysis process.
- There was no public comment.

PLANNING COMMISSION DISCUSSION – Key points discussed by the Planning Commission included the following:

- The road to the west, being built by Momentum, will be the formal access to the golf course in the area.
- Daniel Lyman asked who reviews the ridgeline view analysis? (Doug) There is overlap in this case. Planning and engineering reviewed the ridgeline analysis. Ardurra the County's review engineer, at the time, provided a "heat map" of the 4 closest viewing platforms. More platforms were not explored because the applicant had provided an analysis from mile marker 4.6 that did not show any infractions.

Several of the code required platforms in Ardurra's heat map were not applicable because the project was not visible from those platforms. There were no additional platforms requested by staff based on the analysis provided by the applicant, because viewpoint 4 did not show any infractions.

- Daniel Lyman asked about how and when ridgeline issues, if further explored, would be done. Doug explained the permitting process.
- The ridgeline analysis was discussed more, and it was noted that staff felt like there could be infractions even though the analysis provided by the applicant did not show any. This is more specifically concerning viewpoint 4 from the applicant's analysis.

MOTION

Commissioner Daniel Lyman made a motion to approve with findings and conditions including condition number 9.

Commissioner Doug Hronek seconded the motion.

VOTE (7 TO 0)

Charles Zuercher	AYE	NAY	ABSTAIN	Scott Brubaker	AYE	NAY	ABSTAIN
Michael Murphy	AYE	NAY	ABSTAIN	Doug Hronek	AYE	NAY	ABSTAIN
Kimberly Cook	AYE	NAY	ABSTAIN	David Thacker	AYE	NAY	ABSTAIN
Daniel Lyman	AYE	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The subject property is 153.92 acres per the applicant survey.
2. The proposal contains 152 ERU's.
3. The project received master plan approval on April 4, 2007 with a substantially similar layout.
4. The property has been bifurcated since that time and due to a foreclosure by the JSSD. The property was cut in half as well as the ERU numbers.
5. The project received overall preliminary approval on January 18, 2023.
6. The master plan, final and preliminary are substantially similar.
7. There were a number of conditions that needed to be resolved prior to final approval being granted including a resolution of the landslide scarps.
8. The developer is proposing to excavate the landslide scarp areas and any potentially unstable material down to bedrock, with supervision by their geotechnical engineer IGES.
9. The proposal contains 66% open space.
10. A ridgeline analysis was done on highway 32. The proposal does not violate the code according to the analysis done by the applicant.
11. The application includes connections to public sewer and public water through the Jordanelle Special Service District (JSSD).
12. The proposed subdivision will have all private roads.
13. A second access will be provided with a connection to the road currently being built by Momentum development to the west of the development site.
14. The public trails in the project are required to be maintained by the HOA as indicated in the proposed development agreement.
15. Wasatch County Code 16.21.06 requires specific ownership and maintenance responsibilities for open space parcels.
16. The applicant has offered a 10% affordable housing obligation proposed to be paid by a fee-in-lieu included as part of the application consideration. The obligation would total \$425,600 to be paid to the Wasatch County Housing Authority prior to plat recording.

17. The Development Review Committee has reviewed the technical requirements of the proposed project and determined the project is ready for decision by the Land Use Authority.

CONDITIONS

1. IGES will have on-site review of all excavations and remediation of scarps.
2. Refining of notes on the plat in regard to building heights on fill.
3. Coordinate with Benloch Ranch on the trail connection at the northeast corner of the development.
4. The lots stated in the geotechnical report and the note 6 on the plat are inconsistent. Provide an updated geotechnical report that includes all lots with envelopes over 25% grade and a note on the plat referring to the date of the report and the report uploaded into the portal.
5. A 60' access and utility easement with a potential 24' wide road as depicted in the document recorded entry #495949 similar to the alignment of the preliminary approval to the Benloch property line to provide for potential secondary access for Benloch and Jackson Fork.
6. Lots 23-26 need to have some additional work to see if the envelopes can be more regular.
7. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review department in accordance with applicable standards.
8. The open space parcels shall include dedication to the HOA and an open space easement in favor of Wasatch County or other options as available under WCC 16.21.06.
9. Verification of ridgelines may be required as construction commences with the subdivision development permit.



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

FIGURE 1:
MM 6 TOWNHOMES FIELD PHOTOS AND RENDERING DEPICTING OLD TOWNHOMES LOCATIONS ON RIDGELINE





September 30, 2026

Wasatch County Planning
55 South 500 East
Heber City, Utah 84032

Attention: Doug Smith
EMAIL: dsmith@wasatch.utah.gov

Subject: Townhome Relocation
Jackson Fork Residential Development
South of Highway 32
Wasatch County, Utah
Project No. 1211127

Mr. Smith:

Applied Geotechnical Engineering Consultants, Inc. was requested to review the plan to relocate 10 proposed townhomes from the west-central portion of the Jackson Fork Residential Development to the east-central portion of the property. The proposed townhome locations move from near a ridgeline to a drainage.

We have provided reviews for Wasatch County Planning of geologic and geotechnical studies prepared by IGES for the Jackson Fork Residential Development. The original response letter from IGES is dated September 26, 2022. Second and third response letters from IGES are dated December 9, 2022 and May 13, 2024. The original report reviewed is dated October 12, 2021 with Project No. 03736-002. Comments from our review of the report are presented in a letter dated December 14, 2021. A revised report dated May 27, 2022 with Project No. 03736-003 from IGES was reviewed and our comments provided in a letter dated July 18, 2022. Second, third and fourth review letters dated October 21, 2022, December 22, 2022 and June 3, 2024 were provided for the additional responses from IGES.

We were provided with a set of plans prepared by Dominion Engineering showing the proposed townhome relocation. The plans range in date from January to April 2026. The grading plans show primarily filling the drainage to accommodate the construction of the townhomes. We received no comments from IGES concerning the proposed relocation of the 10 townhomes.

REVIEW COMMENTS

Based on review of the IGES geotechnical update and supplemental geologic hazards investigation dated May 27, 2022, the area for the proposed townhomes is mapped by IGES to consist predominantly of alluvial and colluvial deposits. The two test pits IGES logged for this area shows there was fat clay to bottom of the test pits. Thus, expansive soil and possibly slope stability could be concerns for the proposed buildings. IGES shows no landslides in this area. Three building lots were planned for this area at the time of the 2022 study.

In our professional opinion, IGES should be consulted to determine the suitability of this area for the proposed 10 townhomes since they performed the geotechnical and geologic hazards study for the site and would be best suited to address geotechnical and geologic hazard concerns for the site.

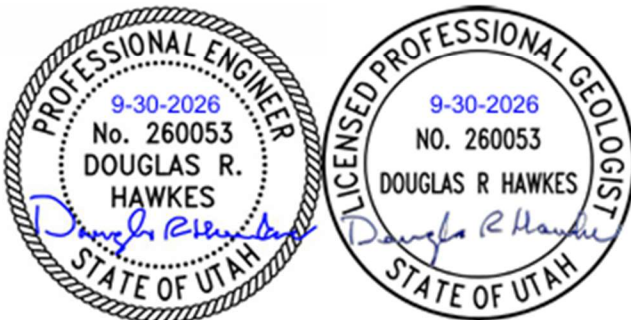
LIMITATIONS

Our review comments are based on the information provided, our professional experience and opinions and our understanding of the proposed construction. The review is performed in accordance with generally accepted geologic and geotechnical practices in the area.

If you have questions or if we can be of further service, please call.

Sincerely,

APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC.



Douglas R. Hawkes, P.E., P.G.

Reviewed by JRM, P.E.
DRH/rs

Exhibit F – IGES Report



Intermountain GeoEnvironmental Services, Inc.
12429 South 300 East, Ste 100, Draper, UT 84020
~ T: (801) 748-4044 www.igesinc.com

October 1, 2026

Tebo Jackson Fork, LLC
3111 28th Street
Boulder, Colorado 80301
Attn: Mr. Mike Verhoogen

Project No. 05159-001

**Subject: Response to Geotechnical Engineering Comment
Regarding Townhome Relocation, Units 116 - 125**
Jackson Fork Residential Development
South of Highway 32
Wasatch County, Utah

Mr. Verhoogen:

As requested, IGES has prepared the following response to a review comment regarding the potential for expansive soils and slope stability impacting a townhome development within the greater Jackson Fork Development; we understand that 10 townhome units (116 through 125) have been recently moved from the west-central portion of the development to the east-central portion. We understand that the change has moved the townhomes from near a ridgeline to the west side of a drainage (near, but not within, the bottom).

The review comment was presented in a review submittal by AGEC (2026), dated September 30, 2026. For convenience, the review comment from AGEC is presented first in italics, followed by our response.

AGEC Comment

Based on review of the IGES geotechnical update and supplemental geologic hazards investigation dated May 27, 2022, the area for the proposed townhomes is mapped by IGES to consist predominantly of alluvial and colluvial deposits. The two test pits IGES logged for this area shows there was fat clay to bottom of the test pits. Thus, expansive soil and possibly slope stability could be concerns for the proposed buildings. IGES shows no landslides in this area. Three building lots were planned for this area at the time of the 2022 study.

In our professional opinion, IGES should be consulted to determine the suitability of this area for the proposed 10 townhomes since they performed the geotechnical and geologic hazards study for the site and would be best suited to access geotechnical and geologic hazard concerns for the site.

IGES Response

Expansive Soils

With respect to expansive soil, we anticipate that IGES will be engaged to conduct a foundation subgrade observation prior to setting up forms for foundations. As a part of our foundation subgrade observation, IGES will assess whether potentially expansive soils are present. If clay soils that appear to be classified as fat clay (CH) are identified on the foundation subgrade, IGES will recommend one of the following two options:

Option 1 – over-excavate the suspected expansive soils to non-expansive earth materials (expected to be Tkcc bedrock in this area, or possibly sandy/gravelly Qac). If the over-excavation option is selected, the minimum over-excavation is two feet below all foundation elements; however, the over-excavation need not exceed four feet below the bottom of foundations. Once the over-excavation is complete, the contractor may bring the over-excavated area up to foundation grade with granular structural fill as defined in our geotechnical report (IGES, 2022).

Option 2 – if suspected expansive soils are identified on the foundation subgrade, IGES will obtain several representative samples of the subgrade to test in our laboratory to assess the expansive potential of these earth materials (minimum of four soil specimens per structure). Testing will include gradation, Atterberg Limits, Expansion Index, and/or possibly “load to prevent swell”. If testing substantiates that the earth materials exhibit a low or negligible expansion potential, then no further remedial grading will be necessary. If testing indicates a relatively high risk of expansive soils (e.g., Expansion Index greater than 50, indicating “medium” or higher expansion potential), then IGES will recommend that the over-excavation recommendations detailed in Option 1 be implemented.

Slope Stability

Upon examination of the *Geotechnical and Local Geology Map* (Figure 2a from IGES, 2026), the townhomes are located at the base of a natural northeast-facing slope; this slope ranges in height from approximately 40 to 90 feet, and exhibits gradients ranging from approximate 3.5H:1V to 5H:1V, although the slope is steeper locally arising from the past construction of a trail or two-track road on the slope. The slope exposes bedrock consisting of the *Volcanic Mudflow Breccia of Coyote Canyon* (map symbol Tkcc).

A geologic cross section and corresponding slope stability analysis was not performed on this specific slope, since this slope is not considered a “critical” slope within the development; in general, our slope stability assessment for the greater Jackson Fork development focused on the most critical engineered slopes (the tallest/steepest fill slopes and cut slopes) and the most critical natural slopes (tallest/steepest). For example, Section 2-2’ assessed a proposed cut slope exposing the Tkcc unit, approximately 80 feet in height, with a slope gradient of approximately 2.3H:1V. Since Section 2-2’ is shown to be stable under static and seismic conditions, it is reasonable to conclude that the flatter



slopes near the subject townhomes, exposing the same geologic unit, will be similarly stable.

Regardless, as a part of our foundation subgrade observation, IGES engineering geologists will assess the exposed subgrade and exposures on the foundation excavation walls for evidence of landslides; if evidence of landslide is observed, IGES will at that time provide recommendations for remedial grading or other measures to mitigate the risk of landslides to impact the townhome development.

Closure

We appreciate the opportunity to be of service on this project. Should you have any questions regarding the report or wish to discuss additional services, please contact the undersigned at (801) 748-4044.

Respectfully submitted,
IGES, Inc.



David A. Glass, P.E.
Associate

Attachments

-References and Citations of Related Submittals

REFERENCES

- AGEC, 2024, Geologic and Geotechnical Fourth Review, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, AGECE Project No. 1211127, dated June 3, 2024 (review of IGES, 2024).
- AGEC, 2026, Townhome Relocation, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, Project No. 1211127, dated September 30, 2026.
- IGES, 2021, Preliminary Geotechnical and Geologic Hazards Investigation, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, IGES Project No. 03736-002, dated October 12, 2021, prepared for ARC Development.
- IGES, 2022, Geotechnical Update and Supplemental Geologic Hazards Investigation-Rev. 1, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, Project No. 03736-003, dated May 27, 2022 (original version dated February 16, 2022), prepared for ARC Development.
- IGES, 2024, Third Response to Geotechnical Review Comments, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, IGES Project No. 03736-006, dated May 13, 2024, prepared for ARC Development (letter responding to AGECE comments presented in a submittal dated December 22, 2022).
- IGES, 2026, Final Grading Plan Review, Jackson Fork Residential Development, South of Highway 32, Wasatch County, Utah, Project No. 05159-001, dated May 29, 2026, prepared for Tebo Jackson Fork, LLC (review of the grading plans prepared by Dominion dated October 3, 2025).

PLAN REVIEW REPORT

PLANMisc-26-001

Permit #: PLANMisc-26-001 / 2966 East Hwy 32

Miscellaneous Service

Design Team			
Applicant: Dominion Engineering Contact Name: Address: , , Phone: (801) 713-3000 Email: josh@dominioneng.net			

Engineering			
Item	Date Approved	Approval	Final Comments
Other	09/01/26	App W/Cond	09/01/26 - Devin Earl - App W/Cond - see additional notes

Planning			
Item	Date Approved	Approval	Final Comments
Other	09/17/26	Approved	09/08/26 - Doug Smith - Rejected 09/15/26 - Joshua Bouthillier - Updated 09/17/26 - Doug Smith - Approved - see additional notes - Slope Map Attached

Health Department			
Item	Date Approved	Approval	Final Comments
Other	09/04/26	Approved	09/04/26 - Tracy Richardson - Approved

SSD			
Item	Date Approved	Approval	Final Comments
Other	09/09/26	App W/Cond	09/09/26 - Clayton Riding - App W/Cond - see additional notes

AGEC			
Item	Date Approved	Approval	Final Comments
Other		Pending	- Pending

Fire Department			
Item	Date Approved	Approval	Final Comments
Other	08/24/26	Approved	08/24/26 - Clint Neerings - Approved

GIS Department			
Item	Date Approved	Approval	Final Comments

GIS Department			
Other	09/25/26	Approved	08/25/26 - Claire Ashcraft - Rejected 09/15/26 - Joshua Bouthillier - Updated 09/15/26 - Joshua Bouthillier - Updated 09/23/26 - Claire Ashcraft - Rejected 09/25/26 - Claire Ashcraft - Approved
			- see additional notes - see additional notes - see additional notes - Please upload plat with final addresses/roads. - New plat emailed to me on 9/24 looks good.
Public Works			
Item	Date Approved	Approval	Final Comments
Other	08/27/26	N/A	08/27/26 - Terry Ekker - N/A
Recorder			
Item	Date Approved	Approval	Final Comments
Other	08/27/26	N/A	08/27/26 - Marcy Murray - N/A
Surveyor			
Item	Date Approved	Approval	Final Comments
Other	08/24/26	Approved	08/24/26 - Jim Kaiserman - Approved
Administration			
Item	Date Approved	Approval	Final Comments
Owner Authorization.	08/21/26	Approved	08/21/26 - Amy Graves - Approved

Additional Comments

PLANMisc-26-001

Application #: PLANMisc-26-001 / 2966 East Hwy 32

Engineering	
Item	Comments
Other	09/01/26 - Devin Earl - App W/Cond - see additional notes
We will need calculations/sizing for the culverts or piping under the driveways that are crossing the drainage when you submit for the Subdivision Construction Permit	
Planning	
Item	Comments
Other	09/08/26 - Doug Smith - Rejected - 1. Can you please provide a slope map to make sure - See additional Notes
1. Can you please provide a slope map to make sure than none of the new building envelopes are over 30% natural slope and that slopes over 30% will not be created? 2. Some of the new building envelopes are in areas that will require 10' of fill if I am looking at the drawings correctly. This will require that the units are no more than 25' in height. 3. Calculations will need to be provided showing that the flows in the drainage can be contained in the culverts proposed. 4. The drainage does not meet the definition of a stream, therefore setbacks as required for streams do not apply however it must be determined what flows will be. 5. Was there an analysis for MM 5?	
SSD	
Item	Comments
Other	09/09/26 - Clayton Riding - App W/Cond - see additional notes
Continue plan review with district engineer and staff on plan approval.	
GIS Department	
Item	Comments
Other	08/25/26 - Claire Ashcraft - Rejected - The plat will need to list the addresses of all lo - See additional Notes
The plat will need to list the addresses of all lots involved, and the lots that move will need new addresses. Please upload a copy of the plat pdf & dwg. Additionally, send an email to gis@wasatch.utah.gov listing the name and email address of the person to whom the addressing invoice should be sent.	

Meeting Date: October 8, 2026**Presenter:** Doug Smith**Department:** Planning**Applicant:** Dominion Engineering, Tebo
Jackson Fork LLC**Requested Time:****Item Title:**

Dominion Engineering, representing Tebo Jackson Fork LLC., requests a 90-day extension to their final plat approval which will expire on November 13, 2026. The proposal is located at 2966 Highway 32 in the Jordanelle Basin Overlay Zone (JBOZ). (PLANMisc-26-002)

Issue:

Jackson Fork received final plat approval in November 2025. One of the conditions of final approval was further review of the ridgelines. Further reviews showed that 14 units violated the ridgeline. Since the needed correction was to move 14 units, planning staff felt that the change from the approved plan was too great to approve administratively. The ridgeline analysis as well as completing the other conditions that were part of the final approval has taken longer than intended. The final plat will expire next month unless there is a 90-day extension. The applicant will either need to record a plat or have a subdivision construction permit through the engineering department before February 13, 2027, if the planning commission agrees to grant the extension.

Background:

See Issue.

Proposed Motion:

The Planning Commission will need to state findings as part of any motion made on this item. If the Commission chooses to approve the extension request, the applicant's justification criteria provided in the attached letter may be considered the findings for approval.

Impact:

N/A

Attachments:

1. PC Staff Report 10-08-2026 – Item 3 – Jackson Fork Extension

COUNTY MANAGER

Dustin A. Grabau

COUNTY PLANNERS

Doug G. Smith, Director
 Austin Corry, Assistant Director
 Katie Henneuse, Planner
 Nicolas Cristiano, Planner

**COUNTY COUNCIL**

Colleen Bonner
 Kendall Crittenden
 Michael Murphy
 Mark Nelson
 Spencer Park
 Erik Rowland
 Luke Searle

MEMORANDUM

To: Wasatch County Planning Commission**From:** Doug Smith**Date:** 1 October 2026**Re:** Extension request for Jackson Fork

Commissioners,

Jackson Fork Received final plat approval in November 2025. One of the conditions of final approval was further review of the ridgelines. Further reviews showed that 14 units violated the ridgeline. Since the needed correction was to move 14 units, planning staff felt that the change from the approved plan was too great to approve administratively. The ridgeline analysis as well as completing the other conditions that were part of the final approval has taken longer than intended. The final plat will expire next month unless there is a 90-day extension. The applicant will either need to record a plat or have a subdivision construction permit through the engineering department before February 13, 2027, if the planning commission agrees to grant the extension.

Per Wasatch County Code 16.01.16:

F. Upon written request of an applicant, the expiration date of an application or its approval, as the case may be, may be extended for ninety (90) days beyond the expiration date provided that:

1. *an application for an extension of time is submitted prior to the expiration date; and*
2. *the Planning Commission or its designee finds, based on substantial evidence placed in the record:*
 - a. *Substantial progress is being made toward obtaining approval of the application, or the exercise of development rights authorized by an approved application, as the case may be;*
 - b. *In the case of an unapproved application, no changes to this Title have occurred or are being considered that may affect the application; and*
 - c. *In the case of an approved application, any conditions of approval are still viable based on currently applicable requirements of the Wasatch County Code.*

3. *In no case shall the time period be extended for more than twelve (12) months from the original expiration.*

Attached is the applicant's request and the status of each of the conditions from their final approval. The Planning Commission will need to state findings as part of any motion made on this item. If the Commission chooses to approve the extension request, the applicant's justification criteria provided in the attached letter may be considered the findings for approval.



September 22, 2026

Doug Smith
Wasatch County Planning Director

Heber, Utah

RE: 16.01.16: Expiration of Applications of Approvals
Request for 1 Year Plat Recordation Extension
List of Substantial Progress

Dear Mr. Smith,

This letter is to respectfully request a 1 year plat recordation extension of the approved Tebo Jackson Fork Subdivision DEV-8688. The motion to approve through Wasatch County Planning Commission was granted on November 13, 2025 with conditions, and needed to have the plat recorded by November 13, 2026. In order to either record the plat or pull and engineering construction permit, the following conditions needed to be met. Below is the list and the progress made on these thus far:

- 1) IGES will have an on-site review of all excavations and remediation scarps
This is understood and has been agreed upon with IGES.
- 2) Refining on notes on the plat in regard to buildings heights on fill
This has been addressed as part of the updated planset submittal. The planset will be submitted in an engineering permit once certain conditions on this list have been met.
- 3) Coordinate with Benloch Ranch on the trail connection at the northeast corner of the development.
This is currently ongoing and is part of this extension request.
- 4) The lots stated in the geotechnical report and the note 6 are inconsistent. Provide and updated geotechnical report that includes all lots with envelopes over 25% graded and a not on the plat referring to the date of the report and the report uploaded to the portal.
Lots have been shifted to account for condition 9. The plat has been updated to reflect this and the updated geotechnical report shows this as well.
- 5) A 60' access and utility easement with a potential 24' wide road as depicted in the document recorded entry #495949 similar to the alignment of the preliminary approval to the Benloch property line to provide for potential secondary access for Benloch Ranch and Jackson Fork.
This is currently ongoing and is part of this extension request.

5684 S. Green Street ● Murray, Utah 84123 ● (801)713-3000 ● Fax: (801) 713-3030



- 6) Lots 23-26 need to have some additional work to see if the envelopes can be more regular.
This has been addressed. See updated plat.
- 7) All issues raised by the DRC shall be resolved to the satisfaction of the applicable review department in accordance with applicable standards.
Plan updates have been made according to the Review Cycle #6. These plans were uploaded to the old Wasatch County Portal system and will be uploaded again with the pulling of an engineering permit as per discussions with Wasatch County Planning and Engineering Departments.
- 8) The open space parcels shall include dedication to the HOA and an open space easement in favor of Wasatch County or other options as available under WCC 16.21.06.
See plat and updated development agreement.
- 9) Verification of ridgelines may be required as construction commences with subdivision development permit.
This analysis has been completed and lots have been moved to accommodate. A separate planning application has been submitted and is currently under review.

Please let me know if more information is requested to make the extension determination.

Thank you for your consideration.

Sincerely,

DOMINION ENGINEERING ASSOCIATES, LC

E. Farley Eskelson, P.E.

Principal

Jackson Fork Project Manager

Copies: Mike Verhoogen, TEBO Properties

5684 S. Green Street • Murray, Utah 84123 • (801)713-3000 • Fax: (801) 713-3030

Meeting Date: October 8, 2026**Presenter:** Katie Henneuse**Department:** Planning**Applicant:** Jaeson Roundy, Michelle and
Nate Hanks**Requested Time:****Item Title:**

Jaeson Roundy, representing Michelle and Nate Hanks, requests a Conditional Use Permit for a 6,293sqft detached accessory building with a 995sqft Guest ADU located at 971 S Slide Hollow Way in the Residential Agricultural 1 (RA-1) zone. (PLANCUP-ADU-26-003)

Issue:

Whether the application meets the standards required by Wasatch County Code 16.21.08 and 16.21.46 for a Conditional Use Permit (CUP) to be granted to allow an accessory building with a guest accessory dwelling unit (ADU) to be located on the subject property. This CUP is an administrative decision made by the Planning Commission per the authority provisions of WCC 16.01.05.

Background:

The subject property is located at 971 S Slide Hollow Way. It is lot 4A in The Highlands at Soldier Hollow Amended subdivision and is 6.89 acres. The property currently includes a single-family home and pool. The applicant would like to construct an accessory structure on the property which will include a garage and a guest accessory dwelling unit. Wasatch County Code requires a CUP for a guest ADU and an accessory structure over 5,000 sf on a lot of this size.

Proposed Motion:

Move to Approve item 4 consistent with the findings and subject to the conditions presented in the staff report.

Impact:

N/A

Attachments:

1. PC Staff Report 10-08-2026 – Item 4 – Hanks ADU Barn Staff Report Final



Item 4 – Hanks Barn/Guest ADU Conditional Use Permit

Project: CUP-ADU-26-003 | Hanks Barn/Guest ADU
Meeting Date: 1 October 2026
Report Date: 8 October 2026
Report Author: Katie Henneuse, Planner
Council Action Required: No
Type of Action: Administrative

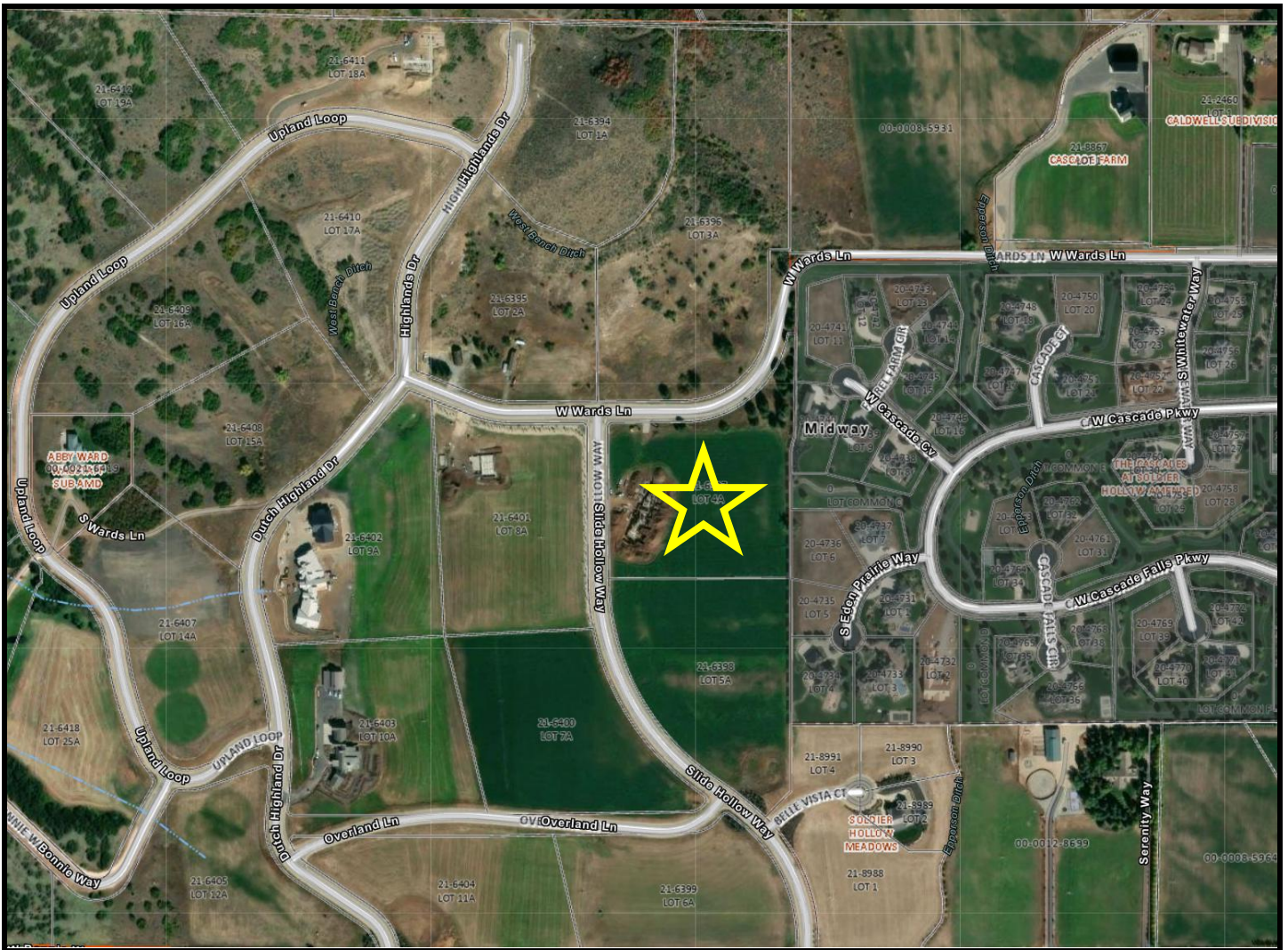
Applicant: Jaeson Roundy
Address: 971 S Slide Hollow Way
Parcel No: 00-0021-6397
Acreage: 6.89 acres
Zoning Designation: RA-1
Land Use Number(s): 1907 – Guest ADU

DETERMINATION ISSUE

Whether the application meets the standards required by Wasatch County Code 16.21.08 and 16.21.46 for a Conditional Use Permit (CUP) to be granted to allow an accessory building with a guest accessory dwelling unit (ADU) to be located on the subject property. This CUP is an administrative decision made by the Planning Commission per the authority provisions of WCC 16.01.05.

RECOMMENDATION

Based on the analysis in this staff report, Planning Staff recommend that the Planning Commission APPROVE the Conditional Use Permit based on the findings and conditions included in the staff report.



BACKGROUND

The subject property is located at 971 S Slide Hollow Way. It is lot 4A in The Highlands at Soldier Hollow Amended subdivision and is 6.89 acres. The property currently includes a single-family home and pool. The applicant would like to construct an accessory structure on the property which will include a garage and a guest accessory dwelling unit. Wasatch County Code requires a CUP for a guest ADU and an accessory structure over 5,000 sf on a lot of this size.

Wasatch County requires that notice be sent to all property owners within 500 feet of the proposed CUP. As of the writing of this report, one objection was sent to the Planning Department regarding this application on 31 August 2026. The objection letter is attached to this report as Exhibit G.

Without the objection, the proposal would have been able to be approved administratively.

PURPOSE AND INTENT

The subject property is in the RA-1 zone. Accessory buildings are listed as a permitted accessory use and Guest ADUs, land use 1907, are listed as a conditional use in the zone (16.08.03). The purpose outlined in the RA-1 zone is quoted below:

16.08.01: PURPOSE

- A. *The residential-agricultural zone (RA-1) is established to preserve the high quality of life for the citizens of Wasatch County by allowing residential development near the incorporated areas, while maintaining the rural atmosphere of Wasatch County. The intent of the zone is to increase lot sizes as development moves away from incorporated areas as a means of facilitating a transitional development area and to maintain, as much as possible, the rural character of the County.*
- B. *The development options provided in the residential-agricultural zone (RA-1) are to promote the protection of natural resource areas, prominent features of the site, farmland and other large areas of open land, while permitting residential development at densities appropriate for the context of the area. Specific objectives are as follows:*
- 1. Provide a place in the county where residential dwellings may be constructed as a transition from population centers to more rural agricultural uses.*
 - 2. Facilitate the provision of essential services needed by the residents within urbanizing areas of the county, particularly sewage and culinary water service, through the instrumentality of a special service district.*
 - 3. Provide services to residential development for street maintenance, fire and police protection, and health and sanitation services, and other available services.*
 - 4. Provide a zone where residents can have farm animals in reasonable numbers and conduct agricultural activities with provisions that protect the rights of farmers and ranchers from complaints regarding noise, odors, length of working hours and general operation from surrounding non-agricultural neighbors.*
 - 5. To maintain and protect Wasatch County's rural character by providing development options that can preserve important elements, including those areas containing unique and environmentally sensitive natural features. Subdivision design shall preserve natural or prominent features of the site first, and laying out the lots after the portions of the site worth preserving are addressed.*
 - 6. To provide the option in specified areas for the development of varied lot sizes in clustered, single-family, low density residential uses, allowing for large areas of permanently protected open space for active or passive use by residents of the development or by the public.*
-

KEY ISSUES TO CONSIDER

- Neighborhood compatibility and impact.
- Compliance with zoning requirements, including conditional use standards.

STAFF ANALYSIS

– Accessory Building Requirements –

Wasatch County Code 16.08.02(C)(1) lists accessory buildings such as garages as a permitted accessory use in the RA-1 zone. The maximum square footage, location requirements, maximum lot coverage, and maximum building height for accessory buildings are identified in Wasatch County Code section 16.21.08(F). A property with an area of 5 – 9.99 acres requires a CUP for an accessory building with a square footage of 5,001 – 15,000 sf. The proposed structure requires a CUP because the total square footage is 6,293 sf. No other accessory structures are planned on the lot.

The proposed location of the structure meets county code location requirements of being in the “rear or side yard”. The guest ADU must also comply with the setbacks of the main dwelling with a 30-ft rear yard setback, 30-ft side street setback, and 10-ft side yard setback. The proposed structure is in the side yard, approximately 200 ft from the front property line, 300 ft from the rear property line, 58 ft from the north street side property line, and 315 ft from the south side property line. The structure is approximately 320 feet from the nearest neighbor’s home and over 500 feet from the objector’s property. The site plan is attached as Exhibit B.

The proposed structure complies with maximum building height requirement for an accessory building. The maximum height of the building is 31 ft 10 in. The maximum building height for an accessory structure on a lot this size is 25 ft; however, structures can go one additional foot in height for every two feet of additional setback from the required setbacks for a maximum of 10 feet. The additional height of the proposed structure above 25 ft adds 14 ft to each of the setback requirements. The structure placement complies with the increased setback requirements for the additional building height. The building elevation plans are attached as Exhibit D.

– Guest Accessory Dwelling Unit –

Wasatch County Code 16.08.03 lists Guest Accessory Dwelling Units (Guest ADUs), land use 1907, as a conditional use in the RA-1 zone. Guest ADUs are defined as, “Living space that is either attached to or detached from the main residence, subordinate in size and use and is intended only for housing temporary guests of the primary occupant of the main residence.”

County staff have reviewed the application to verify that the proposed structure meets all the requirements in Wasatch County Code 16.21.46(D). These standards, the applicant’s response, and a staff analysis of whether the application complies with these standards follows:

1. *Guest ADU's are only allowed upon issuance of a CUP.*

Staff Analysis: The applicant will be compliant with this standard if the CUP is approved.

2. *A detached guest ADU may be a maximum of (1,000) square feet or if placed within a larger accessory structure (such as a garage, barn, or arena) the living space of the guest ADU shall be limited to one thousand (1,000) square feet in size.*

Applicant Response: Complies. The guest ADU living area is 995 sf, located on the lower level of the accessory structure. The remaining areas of the building are garage (3,593 sf main level garage/sport court and 417 sf lower level garage), recreation support areas (kitchenette, bathroom, and powder room serving the indoor recreation space), and mechanical/storage areas, none of which constitute guest living quarters.

Staff Analysis: The Guest ADU portion of the barn is 995 sf which complies with this requirement. The floor plan is attached as Exhibit C. The deed restriction prohibits the owner from expanding the ADU. The deed restriction will be recorded before the certificate of occupancy is issued.

3. *A guest ADU shall not be rented.*

Applicant Response: Complies. The guest ADU will not be rented. The recorded deed restriction (07 - Deed Restriction) will prohibit rental.

Staff Analysis: The applicant submitted a draft deed restriction and agreed that the unit will not be rented and is for personal use only. The deed restriction will be recorded before the certificate of occupancy is issued.

4. *No more than one guest ADU may be permitted on a single lot or parcel, the parcel may not have an IADU or a caretaker ADU.*

Applicant Response: Complies. This is the only accessory dwelling proposed or existing on the parcel. There is no IADU or caretaker ADU on the property.

Staff Analysis: No other ADUs have been approved or proposed for the property. This restriction will be recorded against the property in the deed restriction.

5. *A guest ADU shall not be allowed on any parcel or subdivision that is considered non-conforming for any reason or lots that are considered non-conforming lots of record.*

Applicant Response: Complies. The property is a legal, conforming lot within the recorded plat of The Highlands at Soldier Hollow AMD. A copy of the recorded plat accompanies this application.

Staff Analysis: The property and The Highlands at Soldier Hollow subdivision are legal and conforming.

6. *The minimum lot size for a guest ADU is one acre if on sewer and 5-acres if on septic unless the underlying zone requires a larger acreage.*

Applicant Response: Complies. The property is connected to public sewer and the lot is 6.89 acres, exceeding the one acre minimum and meeting the requirements of the underlying RA-1 zone.

Staff Analysis: The property is 6.89 acres and is connected to public sewer.

7. *Height of structure, setbacks, and location on property shall conform to all applicable county zoning codes.*

Applicant Response: Complies. The structure meets all height, setback, and locational standards of the underlying zone, as dimensioned on the accompanying site plan and elevations.

Staff Analysis: The height, setbacks, and location of the building comply with WCC 16.21.08 as discussed in more detail in the previous section.

8. *A guest ADU must be connected to a public sewer system or an on-site septic system if 5-acres or more.*

Applicant Response: Complies. The structure will connect to the public sewer system serving the property.

Staff Analysis: The proposed ADU is on 6.89 acres and will tie into the existing public sewer system that serves the main dwelling.

9. *Required utilities (water, sewer, power) shall be connected through the same connections and hookups as the main residence. No separate meters are allowed.*

Applicant Response: Complies. All utilities will be connected through the same connections and hookups as the main residence. No separate meters will be installed.

Staff Analysis: All required utilities (water, sewer, power) will be connected through the same connections and hookups as the main residence. No separate meters will be installed. This restriction will be recorded against the property in the deed restriction.

10. *The guest ADU may not be sold or separated from the entire property unless the property is legally subdivided with official approval of the county.*

Applicant Response: Complies. The owners have no intent to separate the unit, and the recorded deed restriction will prohibit sale or separation.

Staff Analysis: The applicant submitted a draft deed restriction and declared that the lot will not be reduced to smaller than 1 acre. The deed restriction will be recorded before the certificate of occupancy is issued. County code requires that changes to an existing subdivision lot be approved through the plat amendment process.

11. *A deed restriction shall be filed by the applicant on a form provided by the county that prohibits the rental, sale, condominiumization, subdivision, or separation of the guest ADU as a separate parcel of property (an illegal subdivision of property). The applicant must provide the recorded deed restriction on a form provided by the County to the planning department prior to occupancy being granted.*

Applicant Response: Complies. A draft of the County's standard deed restriction accompanies this application and will be recorded prior to certificate of occupancy.

Staff Analysis: A draft deed restriction on a form provided by the County was submitted. See Exhibit E. This deed restriction must be signed, notarized, and recorded with the Wasatch County Recorder's Office prior to the building receiving a certificate of occupancy.

12. *All parking for the guest ADU shall be provided on the property, and not on the public road.*

Applicant Response: Complies. The building itself contains substantial garage parking, and additional parking is available on the driveway and auto court areas of the property. No parking will occur on the public road.

Staff Analysis: The site plan shows that sufficient parking is provided.

13. *Applicants must provide a letter of approval from the state engineer (for a private well) or public water provider (for public system) for additional water requirements.*

Applicant Response: Complies. The property is served by a private well that has been approved for the additional water requirement. Documentation of approval accompanies this application.

Staff Analysis: The property is served by an approved private well. The applicant provided documentation from the state engineer stating that additional water does not need to be provided for the ADU since it will be used for guest use only.

14. *A building permit issued by Wasatch County is required for any guest ADU.*

Applicant Response: Complies. The applicant will obtain a Wasatch County building permit prior to construction.

Staff Analysis: The applicant has already applied for a building permit for this structure. The building permit will receive planning department approval, pending any conditions, if this CUP is approved.

15. *Applications for detached guest ADUs on a lot within a subdivision regulated by a homeowners' or property owners' association shall submit official written notice from said POA or HOA stating that the proposed guest ADU is allowed by subdivision regulations, covenants, and also submit approval from the HOA architectural committee if required.*

Applicant Response: Complies. Written approval from The Highlands at Soldier Hollow owners association is being obtained and will be submitted with this application.

Staff Analysis: The applicant submitted an approval letter from The Highlands at Soldier Hollow HOA Architectural Review Committee. It is attached as Exhibit F.

16. *The exterior appearance of a newly constructed ADU shall fit in with the neighborhood aesthetically and comply with detached single family home requirements and any other applicable code requirements, and shall be structurally built using materials and designs similar to existing dwellings on the parcel though more modern materials may be used in the event that the materials used on existing dwellings cannot meet building code requirements.*

Applicant Response: Complies. The structure will be built with exterior materials, colors, and architectural forms consistent with the existing dwelling on the parcel and the surrounding neighborhood, as shown in the accompanying architectural drawings.

Staff Analysis: The applicant submitted an approval letter from The Highlands at Soldier Hollow HOA Architectural Review Committee which verifies that the structure will aesthetically fit into the neighborhood. The structure's architectural design is cohesive with the main dwelling. The colors and materials match the main dwelling. The building elevation plans are attached as Exhibit D. The structure complies with detached single family home requirements and other applicable requirements.

– *CONDITIONAL USE PROCEDURE* –

Wasatch County Code 16.23.07(F) outlines the findings that are required for the Land Use Authority to approve a CUP. The required findings, the applicant's response, and a staff analysis of whether the application complies with these regulations follows:

16.23.07 GENERAL STANDARDS AND FINDINGS REQUIRED

These standards shall be in addition to any standards set forth in this land use ordinance for the zoning district wherein the proposed conditional use will be established. If there is a conflict between these standards and those set forth for the appropriate zoning district, the more specific standard control. The county shall not issue a conditional use permit unless the issuing department or commission finds:

- A. *The application complies with all requirements of this title;*

Applicant Response: The proposal complies with all applicable requirements of Title 16, including the Guest ADU standards of WCC 16.21.46(D) as detailed in Part 2 of this report, the height, setback, and locational standards of the underlying zone as shown on the accompanying site plan and architectural drawings.

Staff Analysis: County Staff have reviewed the application and have determined that the application complies with Title 16 requirements

- B. *The business shall maintain a business license, if required;*

Applicant Response: Not applicable. The proposed use is a residential accessory use. No business is proposed, and WCC 16.21.46(D)(2) prohibits rental of a guest ADU. No business license is required

Staff Analysis: Not applicable.

- C. *The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;*

Applicant Response: The structure is a residential accessory building on a lot within The Highlands at Soldier Hollow, a subdivision characterized by large custom single family residences with substantial accessory improvements. The building's exterior materials, forms, and design will match and complement the existing dwelling on the parcel, consistent with WCC 16.21.46(D)(15). The building is sited to meet all setbacks of the underlying zone, uses the existing residential access, and does not alter pedestrian or vehicular circulation in the neighborhood.

Staff Analysis: The proposed barn complies with County Code requirements for location, size, and height.

- D. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions;*

Applicant Response: Visual impacts are mitigated through architecture consistent with the primary dwelling and neighborhood, conforming building height, and dark sky compliant exterior lighting per WCC 16.21.16. The structure introduces no safety impacts; it will be constructed under a Wasatch County building permit to the adopted building codes.

Staff Analysis: The proposed barn complies with County Code requirements for location, size, and height. The County Code does not provide any additional options for the county to further restrict the buildings' location, size and height. The visual impact of the proposed barn is mitigated by the placement of the barn more than 300 ft from existing dwellings in the adjacent neighborhood. The barn's mountain modern architecture is cohesive with the main dwelling in design, colors, and materials. The barn is designed with garage space predominately on the main level with the ADU being constructed on the lower level with a walkout patio. See Exhibit D for renderings that demonstrate the visual impact of the proposed structure.

- E. The use is consistent with the Wasatch County general plan;*

Applicant Response: The proposal preserves the single family residential character of the neighborhood consistent with the General Plan's goal of preserving the rural character of Wasatch County. The guest ADU is secondary and incidental to the primary dwelling, adds no permanent density, will not be rented, and remains in common ownership with the primary residence, consistent with the stated purpose of WCC 16.21.46(A).

Staff Analysis: The Wasatch County General Plan encourages a wider range of attainable housing options, including ADUs. Policy 4.3.2 states, "Consider expanding the use of Accessory Dwelling Units (ADUs) by owner-occupants in single-family residential zones to provide supplemental income that supports mortgage affordability for the primary homeowner as well as flexible housing options for extended families, caregivers, or renters.

- F. The effects of any future expansion in use or scale can be and will be mitigated through conditions;*

Applicant Response: No expansion is proposed. The guest living quarters are limited by ordinance to 1,000 sf, and any future expansion or change of use would require a new or amended conditional use approval and building permit review. The recorded deed restriction will further limit the use of the unit.

Staff Analysis: The deed restriction submitted with the application will control future expansions in use or scale.

- G. All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations have been adequately mitigated through conditions;*

Applicant Response: Exterior lighting will comply with WCC 16.21.16. All parking is provided on site; no parking will occur on public roads. The use is intermittent occupancy by temporary guests of the primary occupants and generates negligible additional traffic on adjacent streets. Site grading and drainage will be engineered and reviewed through the building permit process, and construction best management practices will control dust and erosion. The use generates no odor, noise, or vibration beyond that of a typical single family residential property.

Staff Analysis: The proposed structure is compliant with ancillary uses allowed for a main dwelling. The barn is predominately garage space and ADU living space. The applicant has shown that the proposed

building complies with County Code requirements for lighting, parking, location, use, traffic, and environmental factors.

- H. *The use will not place an unreasonable financial burden on the county or place significant impacts on the county or surrounding properties, without adequate mitigation of those impacts;*

Applicant Response: The structure will be privately owned and maintained. It connects to public sewer and to the property's approved private well through the main residence connections, with no separate meters. The use places no financial burden on the County and no significant impacts on surrounding properties.

Staff Analysis: The proposed use complies with Wasatch County Code. This use is not anticipated to create a financial burden on the county.

- I. *The use will not adversely affect the health, safety or welfare of the residents and visitors of Wasatch County; and*

Applicant Response: The guest ADU provides temporary accommodation for family and guests of the property owners. It will be constructed to adopted building codes under a County building permit, will not be rented, and will not adversely affect the health, safety, or welfare of residents or visitors of Wasatch County.

Staff Analysis: There are no anticipated impacts to health, safety, or welfare from this use.

- J. *Any land uses requiring a building permit shall conform to the international uniform building code standard.*

Applicant Response: Acknowledged. The applicant will obtain a Wasatch County building permit, and the structure will be designed and constructed in conformance with the adopted International Building Code standards.

Staff Analysis: Building code requirements will be enforced with the review of the building permit application.

DEVELOPMENT REVIEW COMMITTEE

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. The DRC Report is attached as Exhibit H. The Committee has forwarded the item for the Land Use Authority to render a decision.

RECOMMENDED MOTION

Move to Approve item 4 consistent with the findings and subject to the conditions presented in the staff report.

– FINDINGS –

1. The proposal is a conditional use for the size of the structure (6,293 sf) as well as the guest ADU.
2. Wasatch County Code requires that neighbors within 500 ft of the property be notified of conditional uses.
3. The proposal could be approved administratively but for an objection received within the 10 day time frame from a neighboring property owner.
4. The proposed barn is more than 500 feet from the common property line with the objector.
5. The proposed barn is 30 ft 10 in tall at the highest point and complies with the code for height and setback.

6. The staff analysis indicates the proposal complies with all requirements of the RA-1 zone and the accessory structure code, found in Sections 16.08 and 16.21.08, respectively of the current Wasatch County Code.
7. The staff analysis indicates the proposal complies with all requirements for a Guest ADU found in Section 16.21.46 of the current Wasatch County Code.
8. The staff analysis indicates the proposal complies with Section 16.23.07 of the Wasatch County Code related to Conditional Uses.
9. There are no known zoning violations on the property at this time.
10. The Development Review Committee has reviewed the project and has forwarded the item for the Land Use Authority to render a decision.

– *Conditions* –

1. The accessory structure will be built in accordance with the plans submitted with the application.
2. The property owner(s) will sign and notarize the draft deed restriction and record the document prior to issuance of a certificate of occupancy.

POSSIBLE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the recommended findings listed in the staff report, the Land Use Authority should state new findings.

1. Approve. This action may be taken if the Planning Commission finds that the Conditional Use request is compliant as proposed with Wasatch County Code and all other applicable laws. ****This action would be consistent with the staff analysis.****
2. Approve with Conditions. This action can be taken if the Planning Commission feels that impacts of the Conditional Use request can be mitigated through conditions to be compliant with applicable laws.
3. Continue. This action can be taken if the Planning Commission needs additional information before rendering a decision, if there are issues that have not been resolved, or if the application is not complete.
4. Deny. This action can only be taken if the Planning Commission finds that the proposal does not meet the ordinance and that impacts of the proposal cannot be reasonably mitigated.

NEXT STEPS

If the requested CUP is approved, the applicant will be required to comply with the conditions of approval and could proceed with any building permits necessary. Failure to adhere to the conditions of approval will subject CUP to revocation under the provisions of WCC 16.23.06.

If the requested CUP is denied, the applicant would not be allowed to construct a Guest ADU at this site.

Any person adversely affected by a final decision made by the Planning Commission can be appealed under the provisions outlined in Wasatch County Code 2.02.02.

EXHIBITS

Exhibit A – Applicant Request 12

Exhibit B – Site Plan 14

Exhibit C – Floor Plans 15

Exhibit D – Elevation Plans 16

Exhibit E – Draft Deed Restriction 19

Exhibit F – HOA Approval 21

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Exhibit A – Applicant Request

01 - PROJECT DESCRIPTION

Conditional Use Permit - Detached Guest Accessory Dwelling Unit

Hanks Residence, 971 S Slide Hollow Way, Midway, Utah 84049

Property Owner	Michelle M Hanks Trust (Nate and Michelle Hanks)
Applicant / Agent	Grove Homes, LLC (General Contractor), Alpine, Utah
Property Address	971 S Slide Hollow Way, Midway, UT 84049
Parcel Number	00-0021-6397 (Serial OYH-0004-0-004-044)
Subdivision	The Highlands at Soldier Hollow AMD
Lot Size / Zoning	6 acres / [INSERT ZONING DISTRICT]
Sewer / Water	Public sewer; private well (approved for the additional use)

Type of Conditional Use Permit Requested

The applicant requests a Conditional Use Permit for a detached Guest Accessory Dwelling Unit (Guest ADU) pursuant to Wasatch County Code 16.21.46(D). The guest living space will be located within a larger detached accessory structure that also contains garage and indoor recreation space, as expressly contemplated by WCC 16.21.46(D)(1).

Description of the Proposed Use

The proposed structure is a detached accessory building of approximately 6,293 square feet of interior area on two levels, accessory to the existing single family dwelling on the property. The building is comprised of the following areas:

Main Level (4,178 sf interior)

- Garage / indoor sport court: 3,593 sf
- Kitchenette and bathroom serving the recreation area: 309 sf
- Kitchen support / powder room: 187 sf
- Mechanical / storage: 89 sf

Lower Level (2,115 sf interior)

- Guest ADU living area: 995 sf
- Backyard garage: 417 sf
- Mechanical / storage: 703 sf

Exterior areas include a deck (748 sf), patio (448 sf), and a walk-out patio (597 sf).

The guest living quarters total 995 square feet, which is below the 1,000 square foot maximum permitted for a guest ADU placed within a larger accessory structure under WCC 16.21.46(D)(1). The remainder of the building consists of garage, recreation, mechanical, and storage areas that are accessory uses to the primary residence and do not constitute dwelling space.

Hours of Operation

Not applicable. The proposed use is residential and accessory to the primary single family dwelling. No commercial activity, business operation, or rental use is proposed or permitted.

Seasonal Timeframe

Not applicable. The guest ADU will be used intermittently throughout the year for temporary guests of the property owners.

Extent and Need for the Conditional Use

The property owners host extended family visits and family gatherings at the property. The guest ADU will provide temporary overnight accommodations for visiting family members and guests of the primary occupants, and the recreation areas of the building will support those family gatherings. The use is secondary and clearly incidental to the primary single family residence. Consistent with the purpose statement of WCC 16.21.46(A), the use will not increase density, traffic, or utility impacts to the neighborhood on a permanent basis: the unit will not be rented, will house only temporary guests, and will remain under common ownership with the primary dwelling.

Proposed Efforts to Mitigate Impacts of the Use

- No rental. The guest ADU will not be rented on a short term or long term basis. The owners will record the County's standard deed restriction prohibiting rental, sale, condominiumization, subdivision, or separation of the guest ADU from the property prior to receiving a certificate of occupancy.
- Single unit. Only one guest ADU is proposed. The property does not contain and will not contain an IADU or caretaker ADU.
- Shared utilities. All required utilities (water, sewer, power) will be connected through the same connections and hookups as the main residence. No separate meters will be installed.
- On-site parking. All parking for the guest ADU and recreation areas will be provided on the property within the garage and driveway areas. No parking will occur on the public road.
- Compatible design. The exterior materials, forms, and design of the structure will match and complement the existing dwelling on the parcel and the character of The Highlands at Soldier Hollow neighborhood, and will comply with applicable single family design standards.
- Lighting. Exterior lighting will comply with the County's dark sky exterior lighting regulations (WCC 16.21.16).
- Height and setbacks. The structure will conform to all applicable height, setback, and locational requirements of the underlying zone, as shown on the accompanying site plan (03 - Site Plan).
- HOA approval. Written approval from the homeowners association confirming the guest ADU is permitted under the subdivision covenants is being obtained and will be submitted (06 - HOA Approval).
- Water and sewer capacity. The building will connect to public sewer. The property is served by an approved private well; documentation of state engineer approval for the additional water requirement accompanies this application.

Exhibit B – Site Plan



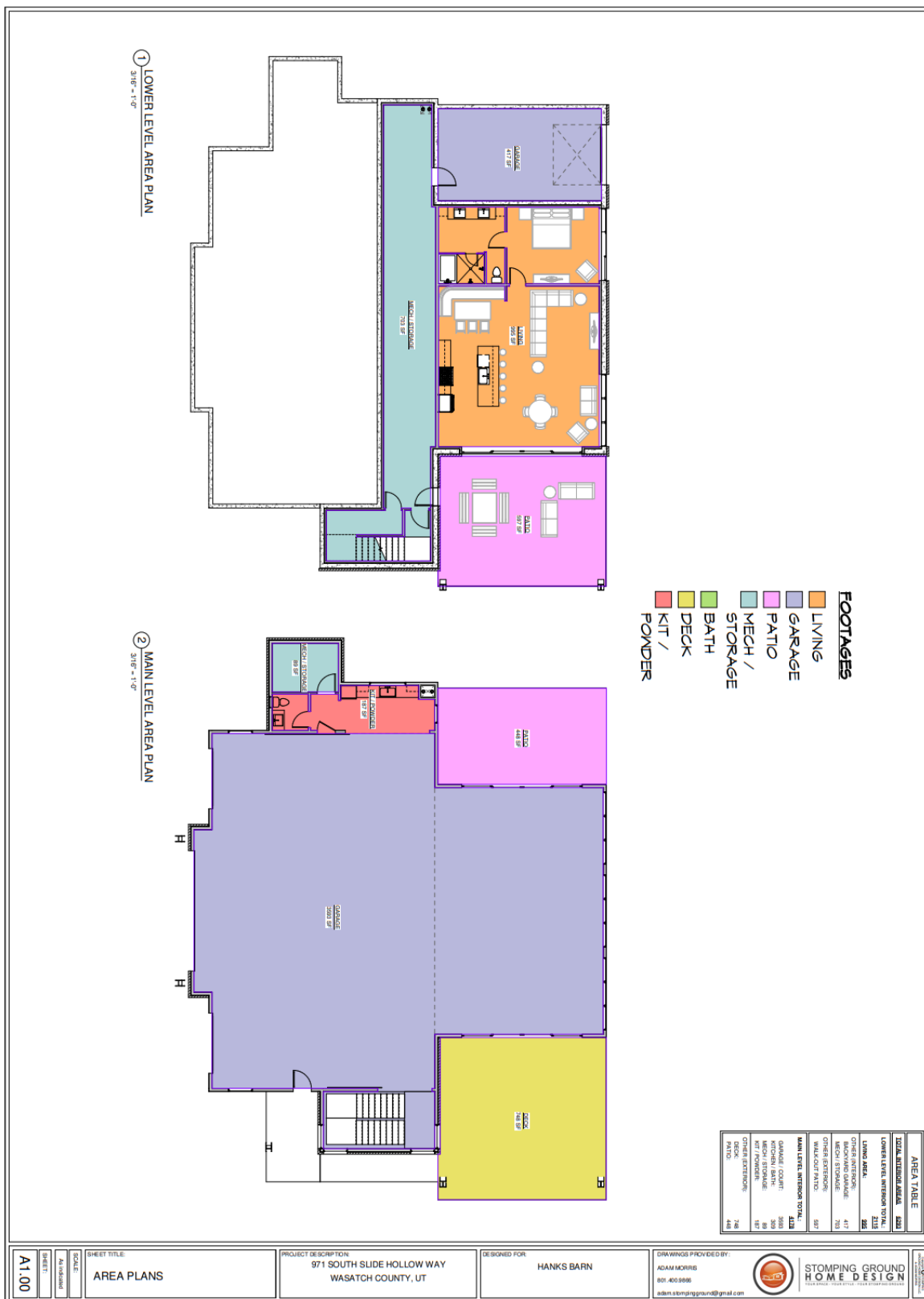
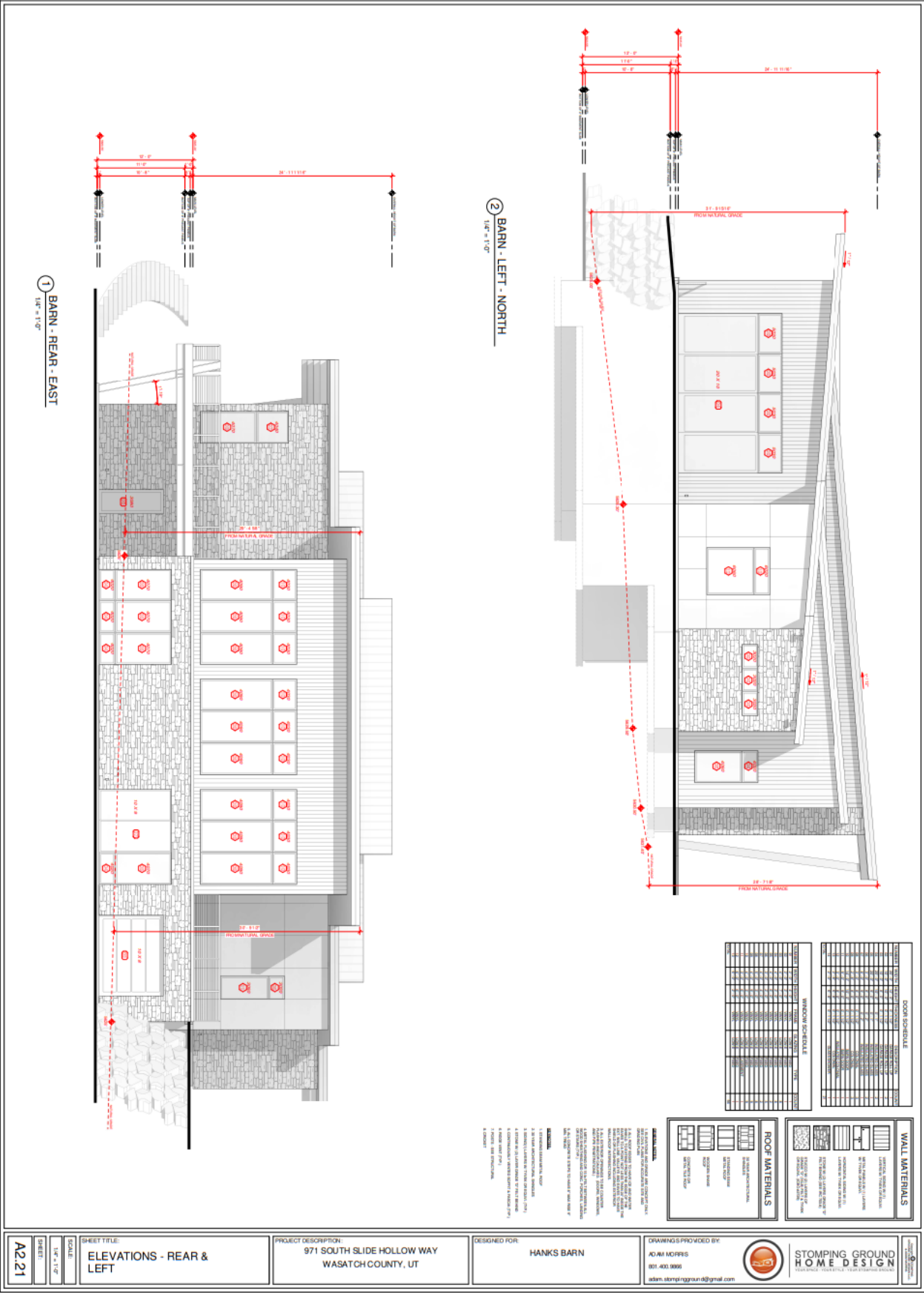


Exhibit D – Elevation Plans





RESTRICTIVE USE COVENANT FOR THE BENEFIT OF WASATCH COUNTY UTAH

This instrument is made and entered into as of the ____ day of _____, 20__ by
Michelle and Nate Hanks (Owner), in favor of Wasatch
County, Utah.

Whereas, the undersigned is the owner of certain real property, parcel 00-0021-6397 in Wasatch
County, Utah, said real property being more particularly described in the attached legal description,
and with a street address of 971 S. Slide Hollow Way, Midway UT 84049; and

Whereas the Owner desires to construct a **Guest Accessory Dwelling Unit** on the parcel, consisting of
995 square feet in size with 1 bedrooms; and

Whereas, in order to obtain a Building Permit from the building Department of Wasatch County, Utah
for the improvements constructed upon the Property, Wasatch County has required and the Owners
have agreed to place certain restrictions on the Property.

Now, therefore, in consideration of the issuance of the Building Permit and/or Certificate of
Occupancy, the Owners hereby agree to conform to the requirements of Wasatch County Code
16.21.46 (2023) and as follows:

1. The accessory dwelling unit may not be sold separately from the sale of the entire property,
including the primary residence.
2. The Accessory Dwelling Unit use shall be consistent with the following definition:
Guest ADU's are attached or detached dwellings used on a part time basis not intended to be
permanent residents for guests of the main dwelling and not short or long term rentals, and is
only for housing temporary guests of the primary occupant of the main residence.
3. The Owner hereby declares that the unit will not be rented and is for personal use only.
4. No separate meters are allowed for utilities including water, sewer, gas, and power.
5. The accessory dwelling unit shall not be expanded in size or use from what was approved by
Wasatch County for the property owners Guest Accessory Dwelling Unit. See Attachment A for
details.
6. The property owner may not have, or be approved for an IADU or caretaker ADU in the future.
7. The lot may not be reduced to smaller than 1 acre if on sewer, or 5 acres, if not on sewer.
8. All parking associated with the Guest ADU shall be provided on the property, and not on the
road.
9. This restriction shall burden the property and run with the land in perpetuity unless removed by
Wasatch County.
10. This restriction shall be binding upon and inure to the benefit of the parties, their successors
and assigns.
11. Legal Description:

IN WITNESS WHEREOF the undersigned has executed this instrument as of the day and year first written.

By: _____
Owner

By: _____
Owner

ACKNOWLEDGEMENT

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20____, before me personally appeared _____, who did state upon their oath that they are the owners of the above described real property in Wasatch County, Utah, and that the forgoing instrument was acknowledged before me.

NOTARY PUBLIC _____

My commission expires _____

Attachments: Attachment A – Approved Guest ADU



August 17, 2026

Hanks Barn

971 S. Slide Hollow
Midway, Utah

Regarding: – Lot 4 – 971 South Slide Hollow Way

Dear Mr. Barton:

The Architectural Review Committee, also known as the Reviewer, pursuant to the CC&Rs & Design Guidelines, has granted written approval on your application for Hanks Detached Barn as outlined in the plans submitted subject to the following conditions:

Approval applies only to structures and improvements that are fully shown and detailed in the submitted plans. Any structure or improvement that is not fully detailed must be submitted separately for review and approval before construction.

Please remember that any mud, rocks, or debris tracked onto the roadway must be cleaned daily. The property owner and/or contractor shall regularly inspect the site and access roadways and shall perform whatever cleanup and maintenance is necessary to maintain these areas in a clean, orderly condition.

If you have any questions, please contact us through the community website at www.highlandsatsoldierhollowhoa.com.

Thank you for your submission and best wishes,

The Highlands at Soldier Hollow HOA
Advanced Community Services

Susan Skinner
Authorized Representative of HOA

Date 8/17/2026

Community Manager, ACS
Authorizing Position

Office Phone: 877-844-4227 Website: www.highlandsatsoldierhollowhoa.com Email: info@acs-hoa.com

Exhibit G – Objection Letter

From: Dave Nelson <dnelson889@gmail.com>

Sent: Wednesday, September 2, 2026 3:47 PM

To: Katie Henneuse <khenneuse@wasatch.utah.gov>; Rain Nelson <rainnelson1@gmail.com>

Subject: 971 S Slide Hollow Way: Objection to construction proposal

Katie,

Again, thank you so much for the information you provided. And thanks also to the applicant. A structure having a "nice" appearance is subjective of course, and this looks nice to us and matches the design of the home well. |

We have 2 remaining concerns, but believe there is a mutually agreeable solution that would preserve the views of the homes within viewing distance from our neighborhood.

I traced crude copies of the structures from the site plan you sent, and overlaid it on a google map of the area. It is attached. That image is overlaid with triangles that show the obstruction of the view caused by the primary and accessory structures. Red shows the current plan that maximizes the obstruction, and Green shows our suggested new location for the barn. As you can see, moving the barn to the right will reduce the obstruction significantly for some, and won't make it worse for any of the neighbors. I estimate the distance to move into the more desirable location to be about 95'.

Second, the barn appears to have a motorhome sized garage door. Estimating the height of that kind of door and seeing that there is a second floor, and taking the topography shown on the site plan, it looks like our view would be of a large, 2 story building, rather than a mountainside. We request that the height of the accessory building not obstruct the view any more than the primary home. We suspect it will need to be shorter than proposed.

We appreciate your helpfulness. Thank you.

David & Rain





From: Dave Nelson <dnelson889@gmail.com>

Sent: Friday, August 28, 2026 6:49 PM

To: Amy Graves <AGraves@wasatch.utah.gov>; Rain Nelson <rainnelson1@gmail.com>

Subject: 971 S Slide Hollow Way: Objection to construction proposal

We received a letter informing us that Jaeson Roundy, representing Michelle and Nate Hanks is requesting a Conditional Use Permit for a 6000+ sqft accessory building and a 900 sqft+ ADU at 971 S Slide Hollow Way in the Residential Agricultural 1 (RA-1) zone.

We were given 10 days to object and have insufficient information about the issue to make an informed objection. We are objecting until such information is presented.

Questions: Is the Conditional Use Permit a waiver to a rule or law? Is building in a RA-1 zone against the rules? If so, what is the rule that it violates, and the reason the rule was established? If it isn't contrary to a rule or law, why was a letter sent soliciting objections to the building. Will the structure be above ground? Is building an ADU permitted on RA-1 zoned land? Why was that land zoned RA-1? What does the plan look like for the construction?

Because of a lack of information, and a tight timeline for objecting, We must object, at least until further information is received. We object for several reasons:

1. We are unsure that building an ADU or accessory building on RA-1 zone land is permissible. If it isn't or requires a waiver, then we object based on zoning.
2. One of the beautiful things about that area is the natural, undisturbed farm land and the unobstructed views. The proposed structures combined are more than twice the size of the average home in Midway. We are unsure that this construction wouldn't detract from that natural surrounds, and presume that the zoning was put in place for the purpose of protecting against such detractions. Based on the circumstances, if zoning changes or waivers are required, we object for the purpose of preserving views and natural, undisturbed farm land, and wider open spaces, especially if the structure is above ground.
3. The letter we received didn't include any justification for the construction of the proposed structures. We object on the basis that the justification for these buildings is unknown and doesn't deserve approval without convincing justification.

The onus for making this case should lie with the requestors. Only after presenting convincing justification should the neighbors (us) be polled for objections. Overall, at this time, we object to the construction of both the ADU and the accessory building based on existing rules, and lack of justification for changing them to allow the construction, and because of degradation to the natural environment and views.

David and Rain Nelson, 661 902-9087m
829 W Cascade Cove
Midway, UT 84049

PLAN REVIEW REPORT #1.5

Michelle Hanks Trust Michelle and Nate Hanks

HOLDCUP-ADU-26-003

Permit #: HOLDCUP-ADU-26-003 / 971 S SLIDE HOLLOW WAY

Conditional Use Permit - Accessory Dwelling Unit

Design Team

Applicant: Grove Homes LLC

Contact Name:

Address: , ,

Phone: (801) 921-0378

Email: jaeson@grovehomesutah.com

Engineering

Item	Date Approved	Approval	Final Comments
Architectural Plans	08/21/26	Approved	08/21/26 - Dan Fechner - Approved
Letter of Request	09/01/26	Approved	08/21/26 - Dan Fechner - Needs Corrections - Applicant must provide a letter of approval from t - See additional Notes 09/01/26 - Dan Fechner - Approved
Other	08/21/26	Approved	08/21/26 - Dan Fechner - Approved
Review Response	08/21/26	N/A	08/21/26 - Dan Fechner - N/A
Site Plan.	08/21/26	App W/Cond	08/21/26 - Dan Fechner - App W/Cond - see additional notes
Water Action Report	09/01/26	Approved	09/01/26 - Dan Fechner - Approved

Planning

Item	Date Approved	Approval	Final Comments
Architectural Plans	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Building Safety Report	08/21/26	N/A	08/21/26 - Katie Henneuse - N/A
Existing Plat	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Findings Report	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
HOA Approval	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Letter of Request	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Noticing Addresses	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Other	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Review Response	08/21/26	N/A	08/21/26 - Katie Henneuse - N/A
Site Plan.	09/25/26	Approved	08/21/26 - Katie Henneuse - Needs Corrections 09/01/26 - Katie Henneuse - Needs Corrections - Applicant provided a site plan that shows almost t - See additional Notes 09/25/26 - Jaeson Roundy - Updated 09/25/26 - Katie Henneuse - Approved
Water Action Report	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved

Planning			
Deed Restriction	08/21/26	Approved	08/21/26 - Katie Henneuse - Approved
Health Department			
Item	Date Approved	Approval	Final Comments
Architectural Plans	08/19/26	Approved	08/19/26 - Tracy Richardson - Approved
Letter of Request	08/19/26	Approved	08/19/26 - Tracy Richardson - Approved
Other	08/19/26	N/A	08/19/26 - Tracy Richardson - N/A
Review Response	08/19/26	N/A	08/19/26 - Tracy Richardson - N/A
Site Plan.	08/19/26	Approved	08/19/26 - Tracy Richardson - Approved
Water Action Report	08/19/26	Approved	08/19/26 - Tracy Richardson - Approved
Administration			
Item	Date Approved	Approval	Final Comments
Noticing Addresses	08/20/26	Approved	08/20/26 - Amy Graves - Approved
Unsealed Self Adhesive	08/26/26	Approved	08/20/26 - Amy Graves - - Waiting on Documents 08/26/26 - Amy Graves - Approved
Fire Department			
Item	Date Approved	Approval	Final Comments
Architectural Plans	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Building Safety Report	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Letter of Request	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Other	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Review Response	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Site Plan.	08/18/26	Approved	08/18/26 - Clint Neerings - Approved
Public Works			
Item	Date Approved	Approval	Final Comments
Letter of Request	08/20/26	Approved	08/20/26 - Terry Ekker - Approved
Other	08/20/26	Approved	08/20/26 - Terry Ekker - Approved
Review Response	08/20/26	Approved	08/20/26 - Terry Ekker - Approved
Site Plan.	08/20/26	Approved	08/20/26 - Terry Ekker - Approved
Recorder			
Item	Date Approved	Approval	Final Comments
Letter of Request	08/27/26	Approved	08/27/26 - Marcy Murray - Approved
Other	08/27/26	Approved	08/27/26 - Marcy Murray - Approved
Review Response	08/27/26	N/A	08/27/26 - Marcy Murray - N/A
Deed Restriction	08/27/26	Approved	08/27/26 - Marcy Murray - Approved
Surveyor			
Item	Date Approved	Approval	Final Comments
Letter of Request	08/24/26	Approved	08/24/26 - Jim Kaiserman - Approved
Other	08/24/26	Approved	08/24/26 - Jim Kaiserman - Approved
Review Response	08/24/26	Approved	08/24/26 - Jim Kaiserman - Approved

Date of Final Approval: 09/25/26 Approved By: Katie Henneuse

Additional Comments

Michelle Hanks Trust Michelle and Nate Hanks

HOLDCUP-ADU-26-003

Application #: HOLDCUP-ADU-26-003 / 971 S SLIDE HOLLOW WAY

Engineering	
Item	Comments
Letter of Request	08/21/26 - Dan Fechner - Needs Corrections - Applicant must provide a letter of approval from the state engineer for a private well. WCC 16.21.46.D.12. This was referenced in the project description but was not included with the submittal. t - See additional Notes
Site Plan.	08/21/26 - Dan Fechner - App W/Cond - see additional notes
Retaining walls over 4' tall will need to be designed by a structural engineer and approved with the building permit application.	
Planning	
Item	Comments
Site Plan.	08/21/26 - Katie Henneuse - Needs Corrections
1. Please submit a site plan that shows the boundaries for the entire property. 2. ?Demonstrate on the site plan that the property complies with the 20% accessory building max lot coverage requirement found in the table in Wasatch County Code section 16.21.08.	
Site Plan.	09/01/26 - Katie Henneuse - Needs Corrections - Applicant provided a site plan that shows almost the entire lot. Demonstrate on the site plan that the property complies with the 20% accessory building max lot coverage requirement found in the table in Wasatch County Code section 16.21.08. t - See additional Notes