

# **REGULAR MEETING**

**AGENDA  
AND  
STAFF MEMO**

**HEBER CITY CORPORATION  
75 North Main Street  
Heber City, UT 84032  
City Council Regular Meeting  
November 5, 2015**

**7:00 p.m. Regular Meeting**

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

- I.** Call to Order
- II.** Pledge of Allegiance: Council Member Jeffery Bradshaw
- III.** Prayer/Thought: By Invitation (Default Mayor Alan McDonald)
- IV.** Minutes for Approval: October 1, 2015 Regular Meeting; and October 15, 2015 Work and Regular Meetings
- V.** Open Period for Public Comments
  - 1.** Ricardo Mena, Mazatlan Mexican Grill, Request Local Consent to Serve Alcohol located at 458 North Main Street
  - 2.** Approve Ordinance 2015-24, an Ordinance Amending the Heber City General Plan Designating All of Block 54 as Future Highway Commercial
  - 3.** Approve Ordinance 2015-25, an Ordinance Amending Heber City's Zoning Map for Property located at the Southwest Corner of 200 South and 100 East and Approximately 55 East 300 South
  - 4.** Approve Stone Creek Subdivision Modified Subdivision Agreement for Phases 1A and 1B
  - 5.** Approve Resolution 2015-15, a Resolution Allowing Potential Incentives the City May Offer to Encourage Development of Hotels
  - 6.** Approve Agreement with Sun Star, LLC, Regarding Water Connections from the Lindsay Hill Water Tank
  - 7.** Approve Land Purchase Agreements with Gifford Hickey and Fat Trout, LLC for Right-Of-Way property located at 650 South 1200 West

8. Closed Meeting as Needed

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

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

Posted on October 29, 2015, in the Heber City Municipal Building located at 75 North Main, Wasatch County Building, Wasatch County Community Development Building, Wasatch County Library, on the Heber City Website at [www.ci.heber.ut.us](http://www.ci.heber.ut.us), and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave on October 29, 2015.

# Memo

To: Mayor and City Council  
From: Mark K. Anderson  
Date: 10/29/2015  
Re: City Council Agenda Items for November 5, 2015

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## REGULAR MEETING

**Item 1 – Ricardo Mena, Mazatlan Mexican Grill, Request Local Consent to Serve Alcohol located at 458 North Main Street:** Ricardo Mena is coming before the Council to seek local consent to serve alcohol (on premise beer consumption) at 458 North Main. See enclosed staff report. Staff would recommend approval as the request meets City requirements and the owner has provided a clean background check.

**Item 2 – Approve Ordinance 2015-24, an Ordinance Amending the Heber City General Plan Designating All of Block 54 as Future Highway Commercial:** This item was continued from the October 1<sup>st</sup> meeting to allow the dealership to make changes to the lighting system to address the remaining concerns of neighbors. It is my understanding that Blake Allen has met with the neighbors and only one neighbor has some concern about the lighting when the leaves are off the trees. I expect a representative of the dealership will attend the meeting.

The Karl Malone Dodge dealership is requesting that all of Block 54 be designated as a commercial land use on the General Plan. Currently the properties fronting on 100 East and one property that fronts on 300 South are designed as high density residential. The Planning Commission has held a public hearing and the residential neighbors were concerned about property taxes increasing. It was noted that their property taxes would not increase unless they request a zone change that is approved. See enclosed staff report and proposed Ordinance. The Planning Commission is recommending approval. Staff would also recommend approval.

**Item 3 – Approve Ordinance 2015-25, an Ordinance Amending Heber City's Zoning Map for Property Located at the Southwest Corner of 200 South and 100 East and Approximately 55 East 300 South:** This proposed zone change is tied to the previous agenda item. The Karl Malone Dodge dealership is requesting that two parcels that they own on Block 54 be rezoned from R-3 Residential to C-2 Commercial. (See enclosed staff report and Ordinance) The homes that were on these parcels have been removed and

the dealership desires to use these properties for commercial purposes. The Planning Commission has reviewed the request and is recommending approval subject to the petitioner submitting a lighting plan to keep the lighting from shining on adjacent properties and from illuminating the sky.

Staff would recommend approval.

**Item 4 – Approve Stone Creek Subdivision Modified Subdivision Agreement for Phases 1A and 1B:** The City has not yet been successful in obtaining the waterline easement that we would like to have to serve the Stone Creek development and enhance water pressures in Valley Hills. Red Ledges drafted a proposal to provide the easement in exchange for an extension on the construction of the eastern bypass road. At this time, Red Ledges is not desirous to pursue this request with the City Council.

Bart Mumford, City Engineer, has been in discussions with Stone Creek and has evaluated the water pressures this development would have if they were only able to connect onto existing water lines on Millroad and 1300 East. At this time, Bart is comfortable with allowing Stone Creek to access water from these two sources rather than hold up the development of this property. To that end, staff has drafted a proposed amendment to the agreement that was approved by the City Council on October 1<sup>st</sup>. See enclosed redline/strikeout. Staff would recommend approval of the amended agreement, but would recommend that we still try to work with Red Ledges to obtain the easement before construction commences.

**Item 5 – Approve Resolution 2015-15, a Resolution Allowing Potential Incentives the City May Offer to Encourage Development of Hotels:** The Council reviewed the draft Resolution at their last meeting. Enclosed is a revised Resolution that incorporates the changes requested by the City Council.

FYI, the Best Western Hotel Group recently sought and obtained concept approval from the Planning Commission for a new site plan.

**Item 6 – Approve Agreement With Sun Star, LLC, Regarding Water Connections From the Lindsay Hill Water Tank:** This matter was discussed at the last City Council work meeting. Enclosed is proposed agreement with Sun Star, LLC providing clarity about who is responsible to provide water rights for the connections that were granted by the City when the Lindsay water tank property was acquired. The draft agreement was provided to Sun Star on October 26th, but no feedback from Sun Star has been received yet.

**Item 7 – Approve Land Purchase Agreements With Gifford Hickey and Fat Trout, LLC for Right-of-Way Property Located at 650 South 1200 West:** Mayor McDonald and I met with Gifford Hickey and Liz Lewis regarding the acquisition of right-of-way on 650 South and 1200 West for future roadway expansion. They were agreeable with the appraisal and they are currently reviewing the draft purchase agreements. I expect to

have their feedback on the agreements on October 30<sup>th</sup>. The draft purchase agreements will be provided early next week.

# MINUTES

1 Heber City Corporation  
2 City Council Meeting  
3 October 1, 2015  
4 7:00 p.m.  
5

6 REGULAR MEETING  
7

8 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on October 1, 2015,  
9 in the City Council Chambers in Heber City, Utah  
10

11 I. **Call to Order**  
12 **City Manager Memo**  
13

Present: Mayor Alan McDonald  
Council Member Robert Patterson (arrived 7:33 p.m.)  
Council Member Jeffery Bradshaw  
Council Member Erik Rowland  
Council Member Heidi Franco  
Council Member Kelleen Potter

Also Present: City Manager Mark Anderson  
City Recorder Michelle Kellogg  
City Engineer Bart Mumford  
City Planner Anthony Kohler  
Chief of Police Dave Booth

15 Others Present: Paul Boyer, Wes Bingham, Jeff Smith, Laurie Wynn, Ryan Starks, Bruce  
16 Heywood, Susan Brandt, Savannah Emmanuel, SkyJay Galli, Kole Richards, Scot W. Mathews,  
17 Don Taylor, Chris Covington, Alexa Bulkley, Deb Bulkley, Matthew Tate, Danny Goode, Brian  
18 Johnson, Rick McCloskey and others whose names were illegible.  
19  
20

21 II. **Pledge of Allegiance: Mayor Alan McDonald**  
22

23 III. **Prayer/Thought: Council Member Kelleen Potter**  
24

25 IV. **Minutes for Approval: September 3, 2015 Work and Regular Meeting Minutes**  
26 **September 3, 2015 Work Meeting Minutes**  
27 **September 3, 2015 Regular Meeting Minutes**  
28

29 Council Member Franco requested that the name of the committee be specified on Page 2, Line  
30 18, of the Work Meeting minutes.  
31

32 Council Member Bradshaw moved to approve the September 3, 2015 Work and Regular Meeting  
33 Minutes with the above mentioned modification. Council Member Potter made the second.  
34

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

3  
4 **V. Open Period for Public Comments**

5  
6 Mayor McDonald invited those who wished to come forward with comments not associated with  
7 any agenda items to do so at this time. No comments were given.

8  
9 **1. Ben Pike and Bruce Heywood, Approve Lot Line Adjustment for Sage Acres Subdivision**  
10 **Lot 5 and Lot 6, Located at 720 and 760 North Mill Road**  
11 **Staff Report re Sage Acres Lot Line Adjustment**

12  
13 Kohler reviewed that the property owner was asking to move the lot line 10 feet. The  
14 requirements, that each lot's frontage had to have a minimum of 100 feet and each lot needed a  
15 minimum total square footage of 10,000 feet, were met. It was noted the lots were 5 and 6 of  
16 Sage Acres Subdivision. Heywood stated the reason for the lot line adjustment was the lack of  
17 space to back out of his garage.

18  
19 Council Member Franco moved to approve the lot line adjustment for Sage Acres Subdivision  
20 Lot 5 and Lot 6. Council Member Bradshaw made the second.

21  
22 Voting Aye: Council Members Jeffery Bradshaw, Erik Rowland, Heidi Franco, and Kelleen  
23 Potter. Council Member Robert Patterson was excused.

24  
25 **2. Approve Appointment of Douglas Ahlstrom to the Employee Appeal Board**  
26 **Douglas Ahlstrom CV**  
27 **Article 12, Employee Appeal Board**

28  
29 Mayor McDonald explained the reason Douglas Ahlstrom was being appointed was to help with  
30 employee grievance appeals.

31  
32 Council Member Franco moved to approve the appointment of Douglas Ahlstrom to the  
33 Employee Appeal Board. Council Member Potter made the second.

34  
35 Voting Aye: Council Members Jeffery Bradshaw, Erik Rowland, Heidi Franco, and Kelleen  
36 Potter. Council Member Robert Patterson was excused.

37  
38 **4. Approve Ordinance 2015-24, an Ordinance Amending the Heber City General Plan**  
39 **Designating All of Block 54 as Future Highway Commercial**  
40 **Staff Memo re General Plan Amendment**  
41 **Ordinance 2015-24**

42  
43 Kohler stated this item had been delayed so the Council members could look at the parking lot  
44 lighting in order to make sure it was not a nuisance to the adjoining neighbors. Council Member  
45 Franco noted that she talked with David Spencer, neighbor of the dealership, and he requested  
46 the last two rows of lights be completely turned off. She asked if the auto dealership would turn

1 off those lights for a couple of weeks and see if there was sufficient lighting without those rows.  
2 Council Member Rowland stated he looked at others areas such as behind Wendys and Days  
3 Market and he did not want to be too invasive with this particular situation or other properties  
4 around town might begin to complain as well. Kohler stated when Wendys opened there were  
5 complaints about the lighting, but over time people adjusted.  
6

7 Kohler suggested telling the dealership what the City didn't want, and then let them determine  
8 the remedy: if they should adjust the wattage, turn off the lights, adjust the angle of the light, etc.  
9 Council Member Rowland suggested also making improvements to the code for similar  
10 situations that may occur in the future. Kohler noted the code did state that light couldn't shine  
11 onto residential properties. It was decided to let the dealership know that the light was  
12 unacceptable.

13  
14 Council Member Patterson arrived at 7:33 p.m.  
15

16 Council Member Rowland moved to continue Ordinance 2015-24, an ordinance amending the  
17 Heber City General Plan designating all of Block 54 as future Highway Commercial, and to  
18 continue Ordinance 2015-25, an ordinance amending Heber City's Zoning Map for property  
19 located at the southwest corner of 200 South and 100 East and approximately 55 East 300 South,  
20 and to have staff ask the dealership to alter the lighting further. Council Member Franco made  
21 the second.  
22

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

26 5. Approve Ordinance 2015-25, an Ordinance Amending Heber City's Zoning Map for  
27 Property located at the Southwest Corner of 200 South and 100 East and Approximately  
28 55 East 300 South  
29 Staff Memo re Zone Change  
30 Ordinance 2015-25  
31

32 This item was continued with the previous item.  
33

34 6. Adopt Resolution 2015-14, a Resolution Superseding Resolution No. 2015-11 Adopting  
35 Policy Regarding Non-Reversionary Hangar Lease Terms and Conditions  
36 Resolution 2015-14  
37

38 Council Member Franco moved to approve Resolution 2015-14, a resolution superseding  
39 Resolution No. 2015-11, Adopting Policy Regarding Non-Reversionary Hangar Lease Terms  
40 and Conditions. Council Member Rowland made the second.  
41

42 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,  
43 and Kelleen Potter.  
44

45 7. Approve Resolution 2015-12, a Resolution to Adopt the Boundaries of the State  
46 Sponsored Enterprise Zone in Heber City

1 [Resolution No. 2015-12](#)

2  
3 Kohler explained that a few years ago the Enterprise Zone was created and now it was hoped that  
4 all commercial areas could be incorporated into this zone. He noted there were no incentives for  
5 retail establishments in this zone, so the proposed hotel would not qualify for tax breaks from  
6 being in this zone.

7  
8 Council Member Franco moved to approve Resolution 2015-12, a resolution to adopt the  
9 boundaries of the state sponsored Enterprise Zone in Heber City along with an updated map.  
10 Council Member Patterson made the second.

11  
12 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,  
13 and Kelleen Potter.

14  
15 Starks indicated the Enterprise Zone resolution would be up for renewal every five years.  
16 Council Member Franco asked if it would be necessary to update the Enterprise Zone sooner  
17 than the five year renewal timeframe if the Master Plan was updated and it allowed for other  
18 commercial development. Starks responded that it could be renewed sooner if the Council so  
19 desired.

20  
21 [8. Approve Resolution 2015-13, a Resolution Requesting the Recertification of the Heber](#)  
22 [City Justice Court](#)  
23 [Resolution No. 2015-13](#)  
24 [Letter to Council](#)

25  
26 Council Member Rowland moved to approve Resolution 2015-13, a resolution requesting the  
27 recertification of the Heber City Justice Court. Council Member Patterson made the second.

28  
29 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,  
30 and Kelleen Potter.

31  
32 [9. Final Approval for Stone Creek Subdivision Phase 1 A and B, Located at 550 North 1400](#)  
33 [East and the Associated Subdivision Agreement](#)  
34 [Stone Creek Phase 1A and 1B Subdivision Agreement](#)

35  
36 Anderson stated when this subdivision was approved, it was determined the subdivision  
37 agreement needed to be updated. He referred to Paragraph K of the subdivision agreement, and  
38 explained that the right-of-way from Red Ledges had not yet been obtained. Rick McCloskey  
39 stated the developer wanted the City to get an easement from Red Ledges and now the City  
40 wanted to strike that language in the agreement. He didn't understand how he could get the  
41 easement when it was part of the bypass road. Council Member Franco asked if Red Ledges had  
42 requested a deferment to build the bypass road. Mumford stated there had been many verbal  
43 requests for deferment. Anderson indicated that at first, acquiring the easement did not seem to  
44 be a problem, but now it appeared to be more complicated. McCloskey stated that the addendum  
45 to the agreement with Red Ledges required that the bypass road would be brought to grade for  
46 the water line, and asked if this subdivision could hook up to water at another location. Mumford

1 indicated that the Red Ledges water line was needed for many subdivisions. Council Member  
2 Rowland stated if this water line would help the City, then the City needed to step in to ensure its  
3 construction. Mumford stated if the water line was not constructed, there would not be much  
4 water pressure in the surrounding homes. He asserted he had some discussions with Red Ledges,  
5 and they were considering granting an easement. It was noted that the City was working with  
6 these parties, but the City shouldn't be locked into this by the subdivision agreement in case  
7 permission was not granted.

8  
9 Anderson asked Smedley if the City needed language offering consideration for the easement.  
10 Smedley stated language referring to a monetary offer should not be included in the agreement,  
11 but language should be added that would state good efforts will be made to mediate a resolution  
12 for the easement. He noted the responsibility should be that of Red Ledges. Council Member  
13 Franco asked if money were offered to Red Ledges would this dispute be settled or was there  
14 political motivation involved. Mumford thought Red Ledges was not agreeing for both of those  
15 reasons. It was indicated that a legal description was needed before the bypass road could be  
16 graded. Smedley stated circumstances had changed since the original agreement in 2008. He  
17 cautioned putting language into an agreement that would tie the City when it was known there  
18 was conflict between Red Ledges and Stone Creek Developments. He also indicated the City  
19 wasn't in a capacity to secure the easement.

20  
21 McCloskey stated getting this water line should be a joint effort because it was important for the  
22 City as well as the developer. Smedley reiterated that he didn't want the entire responsibility to  
23 secure this easement to lie with the City. Susan Brandt asked if the City should get the water to  
24 where the developer could hook up to it. Smedley stated if the City acted as a heavy club  
25 everyone would come have the City fight their battles. After some discussion, the Council and  
26 Smedley agreed to change Paragraph K to read, "Developer will secure an easement or right-of-  
27 way for the construction of the off-site portion of the water line. The City will continue with  
28 good faith efforts to assist Stone Creek in obtaining said easement." It was also determined to  
29 insert "\$30,000" in the blank space in Paragraph G.

30  
31 Mumford also explained that the internal trails of Stone Creek Subdivision would be private.  
32 There was concern expressed over not having the trails accessible to the public. McCloskey  
33 asked if the City would maintain the trails if they were public, and thought if the HOA  
34 maintained the trails, they should be private. Council Member Rowland clarified that it was  
35 stated earlier that it was the developer's understanding that the community would be open and  
36 inclusive. Mumford indicated that if the trails were public, then it was the City's responsibility to  
37 maintain them. He noted there would be a cost and liability. If an HOA was liable for the trails,  
38 then they wanted to have control over them, and asserted the HOA normally wouldn't be kicking  
39 out users. He asserted that he was in favor of the City maintaining regional trails, but not every  
40 little trail within subdivisions.

41  
42 Don Taylor with the Alliance of Public Trails stated nobody he worked with had problems with  
43 public trails. He was concerned that the wording in the agreement gave discretion to the  
44 developer on whether the trails were public or not. Council Member Potter stated she would like  
45 all trails to be public.

1 Council Member Rowland moved to approve Stone Creek Subdivision Phase 1 A and B, and the  
2 Associated Subdivision Agreement with the cited changes which are to insert "\$30,000" in the  
3 blank space in Paragraph G, and to change Paragraph K to read, "Developer will secure an  
4 easement or right-of-way for the construction of the off-site portion of the water line. The City  
5 will continue with good faith efforts to assist Stone Creek in obtaining said easement." Council  
6 Member Potter made the second.

7  
8 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,  
9 and Kelleen Potter.

10  
11 **3. [Select Consultant for Planning Services for Visioning, Master Plan Update, Form Based](#)**  
12 **[Code Adoption and Design Criteria](#)**

13  
14 Council Member Rowland moved to enter Closed Session at 8:55 p.m. to evaluate the proposals  
15 for planning services and to discuss the acquisition of real estate. Council Member Potter made  
16 the second.

17  
18 Voting Aye: Council Members Robert Patterson, Jeffery Bradshaw, Erik Rowland, Heidi Franco,  
19 and Kelleen Potter.

20  
21 Upon adjournment of Closed Session at 9:20 p.m., Council Member Patterson moved to approve  
22 the selection of IBI Group for planning services for visioning, master plan update, form based  
23 code adoption and design criteria. Council Member Bradshaw made the second.

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

27  
28 Mayor McDonald indicated he would like the City Council to meet with the County Council, and  
29 asked the Council members to let him know if there were items the Council wanted to discuss at  
30 that meeting. Council Member Franco indicated she would like to discuss the Heber Valley  
31 Historic Railroad with trails at that meeting. Anderson expressed that he wanted to present the  
32 traffic study to the combined group. Mayor McDonald also indicated he hoped to discuss sharing  
33 the cost of events that affect each other, and moving the Fair Days parade to an earlier time of  
34 day. It was also noted that updated annexation boundaries should also be discussed.

35  
36 Mumford reviewed that there was an open house on trails in the valley next Tuesday evening.  
37 The Council was in favor of striping bike lanes on Mill Road since no land would need to be  
38 acquired. Mumford suggested striping both sides of Mill Road (1200 East) eight feet wide and  
39 predicted the lanes would be open to bikes most of the time. The Council agreed to this project.  
40 Mumford noted the sidewalk would go to the curb on the east side.

41  
42 With no further business, the meeting was adjourned.

43  
44  
45  

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Michelle Kellogg, City Recorder

1 Heber City Corporation  
2 City Council Meeting  
3 October 15, 2015  
4 7:15 p.m.  
5

6 REGULAR MEETING  
7

8 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on October 15,  
9 2015, in the City Council Chambers in Heber City, Utah  
10

11 I. Call to Order  
12 City Manager Memo  
13

14 **Present:** Mayor Alan McDonald  
Council Member Jeffery Bradshaw  
Council Member Erik Rowland  
Council Member Heidi Franco  
Council Member Kelleen Potter

**Excused:** Council Member Robert Patterson

**Also Present:** City Manager Mark Anderson  
City Recorder Michelle Kellogg  
City Engineer Bart Mumford  
City Planner Tony Kohler  
Chief of Police Dave Booth

15  
16 **Others Present:** Steve Anderson, Ben Anderson, Merry Duggin, Mike Duggin, Ryan Pritchett,  
17 Jeff Smith, Tracy Taylor, Ryan Starks, Wesley Bingham, David Nelson, John Saldarriaga, Paul  
18 Boyer, Scott Keller, Vickie Keller, Thomas Eddington, Nick Lopez, and others whose names  
19 were illegible.  
20

21 II. Pledge of Allegiance: Council Member Heidi Council Member Franco  
22

23 III. Prayer/Thought: Council Member Kelleen Council Member Potter  
24

25 IV. Minutes for Approval: September 21, 2015 Special Meeting, October 1, 2015 Work Meeting  
26 September 21, 2015 Draft Special Meeting Minutes  
27 October 1, 2015 Draft Work Meeting Minutes  
28

29 Council Member Franco moved to approve the September 21, 2015 Special Meeting and October  
30 1, 2015 Work Meeting minutes. Council Member Bradshaw made the second. Voting Aye:  
31 Council Members Jeffery Bradshaw, Erik Rowland, Heidi Franco, and Kelleen Potter. Council  
32 Member Patterson was excused.  
33

1 V. Open Period for Public Comments

2  
3 Mayor McDonald asked those in the audience who wished to address the Council on items not  
4 listed on the agenda to do so at this time. No comments were given.

5  
6 1. Award Contract With IBI Group for Planning Services for Visioning, Master Plan  
7 Update, Form Based Code Adoption and Design Criteria  
8 Service Provider Contract

9  
10 Kohler stated the official agreement would be with IPD, and IBI would assist as a subcontractor.  
11 Mayor McDonald reviewed that IPD would do a Master Plan update, a form based code adoption  
12 and a new design criteria for the City.

13  
14 Anderson noted a couple of changes in the agreement. Item 10, Non-Publicity, was struck  
15 because under GRAMA laws, this project would be public information. Also, in the budget  
16 breakdown, the fees were updated with the total budget being \$110,000. Thomas Eddington gave  
17 a summary of the different aspects of the project budget and the weight given to each.

18  
19 Council Member Franco asked if residential design criteria would be included because it was not  
20 mentioned in the contract. Eddington stated it was included and he would add that language to  
21 the contract. Council Member Franco also asked if annexations that occurred during this study  
22 would be included. Eddington confirmed it would be part of the Master Plan. Kohler explained  
23 there was some discussion that the North Village could be annexed into the City, but that would  
24 not be included in the budget.

25  
26 Council Member Franco noted that the airport was part of the City and had its own Master Plan,  
27 and asked if it would be possible to touch on the airport to gauge public opinion when public  
28 meetings were held for the form based code. Kohler stated it would be fine to include questions  
29 about the airport in surveys, but as far as having the consultants delve into the airport, it could  
30 skew the purpose of the community visioning because of the emotion for the airport.

31  
32 Council Member Franco moved to approve the contract with IPD Group for planning services for  
33 visioning, Master Plan update, form based code adoption and design criteria with the  
34 aforementioned issues discussed with regard to the addition of residential code development and  
35 further discussions about potential annexations so it can be agreeable and integrated with  
36 connectivity. Council Member Potter made the second.

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

40  
41 2. Approve the Hosting Agreement with KPCW for Antenna Location on the Valley Hills  
42 Water Tank #2  
43 Hosting Agreement

44  
45 Council Member Potter moved to approve the Hosting Agreement with KPCW for antenna  
46 location on the Valley Hills Water Tank #2. Council Member Franco made the second.

1 Voting Aye: Council Members Jeffery Bradshaw, Erik Rowland, Heidi Franco, and Kelleen  
2 Potter. Council Member Patterson was excused.

3  
4 **3. Approve Ordinance 2015-28, an Ordinance Enacting a Temporary Land Use Regulation**  
5 **Regarding Residential Subdivisions**  
6 **Land Use Regulation Ordinance**  
7

8 Mayor McDonald stated there was a certain procedure the Council should adhere to with agenda  
9 items, especially with an ordinance. A few items were relegated back to the work meeting a few  
10 meetings ago for being on the regular meeting agenda without having been fully discussed. He  
11 recommended this item go back to the work meeting for a more thorough review. Council  
12 Member Franco asserted that if the City was going to spend \$110,000, it needed to reset while  
13 the process was being implemented. Mayor McDonald stated this should be fully discussed by  
14 the Council and should also go to the agenda preparation meeting for staff and the City attorney  
15 to discuss.  
16

17 Council Member Rowland felt this item should not be a surprise to the Council or staff because it  
18 was discussed a month ago that this would happen in October. He stated the ordinance was not  
19 complex, and thought this was an emergency since some developments could come through  
20 before the form based code was developed. Council Member Franco indicated this was a short  
21 time period to make sure the form based code would work. Council Member Potter thought if  
22 this ordinance went back to work meeting and took another month to discuss before enacting it,  
23 then developers outside the area might panic and push something through before the restriction  
24 was put in place.  
25

26 Kohler stated Smedley had reviewed the ordinance and made some changes, which included  
27 subdivisions that had made applications with the City were already vested and could not be  
28 denied from proceeding through the planning process. He indicated this ordinance would require  
29 that new subdivisions wait six months before applying for approval so the form based code could  
30 be in place at that time. Council Member Bradshaw was concerned that the developer would  
31 apply after the six month moratorium and the code would not yet be in place. Eddington stated  
32 he hoped to have the code in place within six months.  
33

34 Anderson stated there were no provisions for extensions after the six month freeze on residential  
35 development. Eddington indicated a temporary ordinance could be passed if the code was  
36 delayed past six months, which would cover the City until the official code was passed. He also  
37 hoped to have developers onboard during the six month moratorium by involving them during  
38 the form based code planning process. There was discussion on different possibilities regarding  
39 the inclusion of developers and property owners in this process. Mumford asked if this  
40 development restriction applied to commercial development as well. Kohler stated this only  
41 applied to residential development, and noted the new code might be able to repair areas that  
42 were half developed. Council Member Bradshaw felt the form based code would be a great step  
43 for the City and the City would be improved. He was also glad the contractor could accomplish  
44 this task in six months.  
45

1 Council Member Rowland moved to approve Ordinance 2015-28, an ordinance enacting a  
2 temporary land use regulation regarding residential subdivisions. Council Potter made the  
3 second.

4

5 Voting Aye: Council Members Jeffery Bradshaw, Erik Rowland, Heidi Franco, and Kelleen  
6 Potter. Council Member Patterson was excused.

7

8 With no further business, the meeting was adjourned.

9

10

11

12

Michelle Kellogg, City Recorder

DRAFT

1 Heber City Corporation  
2 City Council Meeting  
3 October 15, 2015  
4 6:00 p.m.  
5

6 WORK MEETING  
7

8 The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on October 15, 2015,  
9 in the City Council Chambers in Heber City, Utah  
10

11 I. Call to Order  
12 City Manager Memo  
13

14 **Present:** Mayor Alan McDonald  
Council Member Jeffery Bradshaw  
Council Member Erik Rowland  
Council Member Heidi Franco  
Council Member Kelleen Potter

**Excused:** Council Member Robert Patterson

**Also Present:** City Manager Mark Anderson  
City Recorder Michelle Kellogg  
City Engineer Bart Mumford  
City Planner Tony Kohler  
Chief of Police Dave Booth

15  
16 **Others Present:** Steve Anderson, Ben Anderson, Merry Duggin, Mike Duggin, Ryan Pritchett,  
17 Jeff Smith, Tracy Taylor, Ryan Starks, Wesley Bingham, David Nelson, John Saldarriaga, Paul  
18 Boyer, Scott Keller, Vickie Keller, Thomas Eddington, Nick Lopez and others whose names  
19 were illegible.  
20

21 1. Discuss Red Ledges Water Line Easement  
22 Red Ledges Interlocal Agreement  
23

24 Anderson stated that he and Mumford had talked, and were requesting that the Stone Creek  
25 Subdivision Agreement be amended. Mumford proposed that the subdivision be allowed to hook  
26 up to the water line on 1200 East since there were ongoing discussions on getting the easement  
27 located on Red Ledges' property. Anderson thought Phases 1A and 1B would have adequate  
28 pressure with the water line on 1200 East, though future phases would need to hook onto water  
29 from the easement that was now under negotiation. Council Member Franco asked if the water  
30 pressure would be too low. Mumford stated it would be lower than normal but not too low. It  
31 was decided to include revised language to the subdivision agreement as a backup, but have Red  
32 Ledges address the easement to see if an arrangement could be made so that this water line  
33 hookup on 1200 East would not be needed.

1 Council Member Potter asked if a compromise could be reached with regard to the bypass.  
2 Mumford stated that was a possibility, but the most pressing issue was the water line easement.  
3 He indicated that the 1200 East option for water access allowed Stone Creek to proceed with its  
4 development while negotiations with Red Ledges continued.

5  
6 Tracy Taylor asked if Stone Creek tying onto the 1200 East water line would lower her pressure  
7 since she lived on 1300 East. She also encouraged the Council to enforce the bypass road with  
8 Red Ledges while the housing market was good. It was determined that this item would be  
9 brought to the next regular meeting.

10  
11 2. Discuss Resolution 2015-15, a Resolution Allowing Potential Incentives the City May  
12 Offer to Encourage Development of Hotels  
13 Resolution 2015-15  
14

15 Council Members Bradshaw and Rowland stated they were comfortable moving this item to the  
16 next regular meeting. Mayor McDonald explained the incentives set out in the resolution.  
17 Council Member Franco asked what method would be used to calculate the market value of  
18 water rights. She requested that language be added to clarify the type of method that would be  
19 used, and also asked that the economic analysis be performed by a "City approved" independent  
20 third party. This item was moved to the next regular meeting.

21  
22 3. Review Proposed Five-Year Capital Improvement Plan for the Heber City Airport/Russ  
23 McDonald Field  
24 Email from Kristin Brownson  
25 Gas Station Site Plan with Overlay  
26 Avigation Easement Parcel 7  
27 Avigation Easement Parcel 46A  
28 Five-Year Capital Improvement Plan  
29

30 Anderson reviewed the Capital Improvement Plan, and noted the upcoming projects. He also  
31 talked about land east of the airport that was being purchased by Maverik gas station, and  
32 reported that the FAA's position was that it preferred to purchase the land whether or not the  
33 airport was ever upgraded. With regard to the land acquisition, Council Member Franco  
34 expressed concern with the large amount of funds the City would need to expend.

35  
36 Mayor McDonald asked that the FAA present on BII and CII airports at the November 5<sup>th</sup>  
37 meeting. Then on November 19<sup>th</sup>, he would like to hold a public hearing on the possible  
38 expansion of the airport so the Council would be able to gauge public sentiment. He then  
39 proposed that on December 3<sup>rd</sup>, this item would be on the regular meeting agenda for the Council  
40 to decide the future of the airport. Anderson thought the presentation by the FAA would focus  
41 mostly on safety. Council Member Rowland felt this issue being rushed. He noted that other  
42 items were discussed for months and years, and this timeframe was not allowing the Council  
43 enough time to weigh the different aspects, considering the impact of the decision.

44  
45 Council Member Franco stated the City would be hiring a consultant to develop a new airport  
46 Master Plan, and it would also be gathering input from the public in conjunction with the

1 visioning process. These projects would be taking place over several months, and she preferred  
2 to integrate that discussion along with the Master Plan update and visioning process. Council  
3 Member Bradshaw stated he did not want to get involved in the expansion discussion until 2016,  
4 as was planned. Council Member Potter felt the land purchase to the east of the airport was  
5 pushing this issue to be discussed prior to 2016. Council Member Bradshaw indicated that if the  
6 FAA felt strongly about acquiring the land whether or not the airport ever became a CII airport,  
7 then it didn't affect these expansion discussions. Council Member Rowland felt this should wait  
8 until after the election so the new Council members could be involved in the presentations.  
9 Mayor McDonald noted he wanted to get the airport expansion information to the Council, and  
10 indicated the vote could be delayed until the Council felt comfortable. Council Member Rowland  
11 asserted the airport was a very complicated matter. Mayor McDonald asked that the City Council  
12 candidates be invited to the airport discussions that would be held prior to January, 2016.  
13 Anderson stated the updated Master Plan would be essential to knowing the impact of the airport  
14 on the City. Council Member Franco asked that the FBO lease be renegotiated so that the FAA  
15 grant matches wouldn't continue to come out of the General Fund.

#### 16 17 4. Discuss Leasing of an Excavator 18 Equipment Lease Estimate

19  
20 Anderson indicated that the budget allowed for the lease of backhoes. Steve Tozier, Public  
21 Works Director, brought a new program to Anderson's attention that would allow the City to  
22 lease three backhoes instead of two and would also be able to lease an excavator without going  
23 over budget. It would be a five year lease agreement, and because this was a City government,  
24 there was a clause that would allow the City to break the lease prior to five years if the City so  
25 desired. The Council agreed to allow Tozier to proceed with the new lease.

#### 26 27 5. Review Agreement with Sun Star, LLC Regarding Water Connections from the Lindsay 28 Hill Water Tank 29 Real Estate Contract

30  
31 Anderson explained that the City purchased this water tank site in 2009. Part of the agreement  
32 allowed four connections to come off the tank as long as Sun Star paid the associated impact fees  
33 and dealt with the low pressure because of the close proximity of the tank. Sun Star was now  
34 ready to develop, but the agreement did not specify if the water rights would be required by the  
35 developer or covered by the City. The developer offered to provide the needed outdoor water  
36 rights in return for the City providing the indoor water rights. Mayor McDonald asked if the  
37 homeowners would pay 1.5 times the water rate since they were located outside the City limits.  
38 Anderson indicated that was correct. He also noted the developer might want to have Twin  
39 Creeks Special Service District provide the service since they now had a water line there. If that  
40 was the case, the City would transfer the appropriate water rights to Twin Creeks.

41  
42 Council Member Franco expressed concern with the City giving away water rights. Anderson  
43 thought this was a good compromise since the agreement was silent on that fact. Mumford stated  
44 it would be a good thing if the City could facilitate the service with Twin Creeks because of the  
45 problems with booster pumps. Council Member Franco requested that the agreement should

1 specify that the City would not service the fourth lot. This item was moved to the next regular  
2 meeting.

3  
4 **6. Revisit the Striping of 1200 East From Center Street to 1200 South**  
5 **Email From Council Member Council Member Potter re 1200 East Striping**  
6 **Mill Road Map**

7  
8 Council Member Potter requested that both lanes on Mill Road (1200 East) have bike lanes  
9 instead of parking lanes. She noted this would be a positive influence in the trail plan. Mumford  
10 explained the two lane options for 1200 East; one option being parking lanes on both sides; the  
11 other being parking lane on one side. The Council agreed that the parking lane on the west side  
12 would be best.

13  
14 **7. Identify Persons to Represent the City in the Proposed Amendment of the Fixed Base**  
15 **Operator (FBO) Lease**

16  
17 Council Member Franco and Mayor McDonald indicated they were willing to represent the City  
18 as it negotiated an amendment to the Fixed Base Operator (FBO) lease.

19  
20 **8. Other Items as Needed**

21  
22 Anderson asked if the Council had the desire to acquire the property by the airport. Council  
23 Member Franco asked why the bus garage was not considered a risk since it stored fuel like a gas  
24 station. Anderson noted the FAA felt that was used only a few hours per day unlike a gas station  
25 that would be busy 24 hours a day. Council Member Franco asked if there were other parcels  
26 surrounding the airport that were a potential issue. Anderson stated he didn't think so. With  
27 regard to funding the purchase of the land, Anderson indicated the money intended for the Public  
28 Works building addition could be fronted, and then when the FAA reimbursed the City, that  
29 money would go back into the fund set aside for the addition. Council Member Franco asked if  
30 hangars could be constructed on the land. Anderson stated he could ask the FAA, and noted it  
31 could be used for anything compatible with airport use. A time frame was discussed for the  
32 evaluation of the airport expansion. Anderson stated that within the last two days, two gentlemen  
33 in the community expressed interest in building hangars. It was decided to leave the land  
34 purchase in the Airport Development Plan. Anderson indicated he would inquire what purposes  
35 the land could be used for if purchased and what process the FAA would want the City to follow  
36 to proceed with the next step.

37  
38 Anderson also indicated that Stone Creek requested that the Council act on the modified  
39 subdivision agreement. He asked if the Council would be willing to meet next week to approve  
40 the contract if it was critical for Stone Creek, and indicated he would notify the Council if a  
41 meeting was necessary.

42  
43 With no further business, the meeting was adjourned.

44  
45  
46 

---

Michelle Kellogg, City Recorder

# TAB 1



COPY

HEBER CITY CORPORATION  
BUSINESS LICENSE DIVISION  
75 North Main, Heber City, Utah 84032  
(435) 654-4830

(Nov. 5)

**APPLICATION for LOCAL CONSENT:  
BEER, WINE AND ALCOHOL ESTABLISHMENTS**

To appear before the City Council, please file this application with the City Recorder's Office.

A. **Business Name** Mazatlan Mexican Grill  
Proposed local business address: 458 North Main

B. **Ownership Type:**  Corporation  Partnership  Proprietorship  LLC  
If Corporation list Corp. name Rosarito Mexican Food  
(Attach a copy of Certificate of Incorporation)

C. **Information on:**  President  General Partner  Sole Proprietor  
Name Ricardo Mena Home Phone 701-651-7288  
Home Address 447 W. 400 N. Heber UT 84032  
Mailing Address same  
(Street Number) (City) (State) (Zip)

D. **Information on:**  Local Manager  Partner  Representative Responsible for Business  
Name \_\_\_\_\_ Home Phone \_\_\_\_\_  
Home Address \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
(Street Number) (City) (State) (Zip)  
Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

*A Bureau of Identification criminal background check may be required for each local manager as part of the application approval process*

E. **Give a brief description of the proposed establishment and alcohol license requested, and check the appropriate box or boxes.** Beer

- Restaurant License
- Tavern License
- Package Agency
- Single Event Permit
- Temporary Special Event Beer Permit
- Limited Restaurant License
- Private Club License
- On-premise Banquet License
- Manufacturers and Wholesale Facilities
- Off-premise Beer Retailer's License
- State Store
- Special Use Permit
- Liquor Warehousing License
- On-premise Beer Retailer License

F. **Attach a copy of a plat map from the County Recorder's office showing the proposed facility, as well as all other properties within 500 feet of the proposed facility.**

G. **Attach a certified Bureau of Criminal Identification background check of the applicant current within 30 days.**

**H. Verification of Accuracy - Acknowledgment of Responsibility**

I hereby consent to grant an irrevocable license to the City permitting any authorized representative of the City or any law enforcement officer unrestricted right to enter and inspect the premises. I verify by oath that I am the executive officer or the person specifically authorized by the corporation, business or association to sign this application, and have attached written evidence of said authority.

[Signature]  
Authorized Business Owner

10-15-15  
Date

**Re: On-Premise Beer License at 458 North Main Street**

The petitioner, Mr. Ricardo Mena, is requesting an on premise beer license to sell beer for consumption on-site within the Mazatlan Mexican Grill at 458 North Main Street, former location of Taqueria Los Hermanos. Nearby alcohol selling facilities include Canton City, Spin Café, Maverik, and Smiths. The proposed restaurant is 706 feet away from JR Smith, exceeding the 600 foot separation from a school.

Staff recommends approval of the request for local consent as meeting the standards for an on premise alcohol license. The petitioner has a clean background check. At the time of licensure, the petitioner will need to post the required \$2,000 bond to the City. Additionally, the petitioner will also need approval from the State Department of Alcohol Beverage Control.

**Section 18.508.060 M. On-Premise Beer Retailer Licenses.**

1. The holder of an On-Premise Beer Retailer License may only sell beer at retail for consumption upon the premises. Premises as used in this section is limited to the open room area surrounding the restaurant facilities and shall not include any isolated areas or other areas segregated by partitions, walls, or other barriers. On-Premise Beer Retailer Licenses will only be issued to a holder of and in connection with a valid restaurant license.

2. On-Premise Beer Retailer Licenses may be permitted in the C-2, C-3, C-4, or MURCZ Zones.

**Section 5.08.050 Restrictions on Location**

A. No alcohol license shall be granted to any facility for on-premise consumption of alcohol if such facility is located within 600 feet of any public or private school, church, public library, public playground, or park, as measured from the nearest entrance of the facility by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, or park.

B. No alcohol license shall be granted to any facility for on-premise consumption of alcohol if such facility is located within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the facility to the nearest property boundary of the public or private school, church, public library, public playground, or park.

C. The City Council may consider the proximity of the facility to any educational, religious, and recreational facility, including nursery schools, infant day care centers, trade and technical schools, and teen/youth facilities or other relevant factors in reaching a decision on whether to issue an alcohol license for on-premise or off-premise consumption.

**Section 5.08.100 Bond-Amounts Designated**

Every licensee shall be required to post a cash bond or a corporate bond with a surety acceptable to the City in the amount of two thousand dollars, which sum shall be forfeited to the City upon the violation of this Chapter by the licensee. The amount of the bond may be changed from time to time by Resolution of the City Council.

# Location



### Alcohol Establishments in Heber City

	<b>Establishment</b>	<b>Location</b>	<b>Type</b>
1	Days Market	890 South Main Street	Off Premise Beer
2	Mountainland One Stop	1175 South Main	Off Premise Beer
3	K & T's Last Stop LLC	1590 South Hwy 40	Off Premise Beer
4	Maverik	435 North Main	Off Premise Beer
5	7-11	215 North Main Street	Off Premise Beer
6	Smith's Food & Drug	550 North Main	Off Premise Beer
7	Wal-Mart	1274 South Hwy 189	Off Premise Beer
8	Walgreens	560 South Main Street	Off Premise Beer
9	7-11	800 South Main	Off Premise Beer
10	Mini Market	37 West 100 South	Off Premise Beer
11	Mazatlan Mexican Grill (pending)	458 North Main Street	On Premise Beer
12	Holiday Lanes	565 North Main	On Premise Beer
13	Red Ledges Club	205 N Red Ledges Blvd	Private Club
14	Canton City Restaurant	281 North Main	Restaurant
15	Claim Jumper Steak House	1267 South Main Street	Restaurant
16	Don Pedro's Mexican Restaurant	1050 South Main	Restaurant
17	Tony's Tacos Mexican Restaurant	461 South Main	Restaurant
18	Wasatch Back Grill & Deli	550 West 100 South	Restaurant
19	La Fountain Mexican Restaurant	734 West 100 South	Restaurant
20	Spin Café	220 North Main Street	Restaurant
21	The Junction	315 North Main	Restaurant
22	Snake Creek Grille	650 West 100 South	Restaurant
23	Vito's Italian Restaurant	139 North Main	Restaurant
24	Ichiban Sushi and Asian Bistro	750 South Main Street	Restaurant
25	Sidetrack Cafe & Grill	98 South Main Street	Social Club
26	Timpanogos Tavern, Inc.	1320 South Daniel Road	Tavern
27	Black Calf Brewery	544 West Airport Road	Brewery

# TAB 2

STONE CREEK PHASE 1A and 1B  
SUBDIVISION AGREEMENT

This agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between Blackstone Creek, LLC (Developer) and Heber City (City) as required by Section 18.61.060.001.E of the P.C. Zone.

WHEREAS, the Developer has proposed two plats for a 37 lot subdivision, Stone Creek Phases 1A and 1B in the Planned Community Mixed Use Zone (PCMU) in Heber City;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Area Description. Stone Creek is a phased planned community development (Development) located at approximately 1300 East and 700 North, Heber City, Utah, and described in Exhibit A.
2. Compliance with Master Plan. The Development shall comply with the approved Master Plan (Exhibit B) and Master Plan Agreement, in regard to total number of units, density, general configuration, phasing, open space requirements and uses, and improvements, and shall develop the property pursuant to these provisions as well as all other agreements, provisions or requirements associated but not in conflict with this Agreement and Development. The approved master plan for Stone Creek consists of 60 Acres, 125 residential units, and minimum of 30% total open space, pursuant to the PC Zone Amendment, Section 18.61.090 D.8. The 125 unit calculation derives from an allowable density of 2 units per acre, or 120 units total, plus 5 permitted bonus lots pursuant to Section 18.61.020 E.3.
3. The parties hereby agree as follows:
  - a. Developer and Owner shall be given five (5) bonus residential units, for a total of 125 residential.
  - b. Developer shall, prior to recording each phase of the Phase 1 Subdivision Plat, transfer to the City all required water rights necessary for that phase.
  - c. Developer shall bear the cost for and install, prior to Phase 1A acceptance, the connection to the stub road on 1300 East and 675 North. Developer shall arrange and be responsible for connecting to the 320 North stub when the adjacent phase is developed.

- d. Developer shall bear the cost for and install the planned road improvements to connect 1240 East to the North Connector/Bypass road at the time the Connector road is constructed. Improvements shall also include enhanced landscaping at Mill Road as agreed upon with the neighboring property owners (Wilcox and Piscitelli) to the north and south of Sage Acres Lot 1, per separate letter agreements dated October 25, 2007 and April 18, 2008 respectively.
- e. City shall provide a 66-foot right of way access to the development through Sage Acres Lot 1 for Phase 1 of the development.
- f. All storm drainage facilities within and serving the development shall be private and maintained by the SCHOA, including swales, ponds, berms, pipes, manholes, street inlet boxes, etc.
- g. SCHOA will create an impound account, prior to acceptance of Phase 1A, for road and storm drain maintenance within the development, with an initial amount of \$30,000 deposited in the account for the entire subdivision. SCHOA will include a specific amount in the monthly HOA fee for each homeowner that will be contributed to the impound account for ongoing road maintenance.
- h. City will operate and maintain all irrigation, culinary water, and sewer facilities within the private development, up to and including the water meter vaults, irrigation boxes, and sewer cleanouts on the road right of way line serving each lot per City Standards and Code.
- i. City shall have unrestricted easements and the right of travel along all city utilities for operation, maintenance, and replacement of said utilities. The City shall not be liable for any damages to private structures resulting from lack of maintenance or plowing of private streets which would prohibit City's timely repair of damaged utilities. The City agrees that all repair work will conform to city standards including street repairs. The Developer and SCHOA agree not to charge the City a fee for access, maintenance, and repair of said utilities, such as a road cut fee.

- j. Developer and SCHOA will prohibit structures, fencing, and grade changes along or across all utility easements without written City approval.
- k. ~~For future phases subsequent to Phases 1A and 1B, Developer Developer is will be responsible, as part of the Phase 1A construction,~~ to design and install a 16-inch master planned water line within the alignment of the eastern portion of the Bypass Road, and coordinate the offsite water line construction with the Bypass grading by Red Ledges. ~~Prior to recording the Phase 1A and 1B plat, Developer will secure an easement or right of way for the construction of the off-site portion of the water line. The City will continue with good faith efforts to assist Stone Creek in obtaining said easement.~~ Developer will connect the water system in the development to the City's existing system in Lake Creek Road and Mill Road. City will reimburse Developer for over sizing the waterline from 8-inches to 16-inches, payable upon final acceptance and upon receiving invoices demonstrating actual cost incurred by the developer to install the improvements.
- l. Developer and SCHOA shall disclose to prospective purchasers and include on each recorded plat the following soils information. "A geotechnical report for the subdivision is available in the Heber City Planning Office. This report provides recommendations for construction to address specific soils in the area. Builders are advised to review this report and follow those recommendations, and to consult with a geotechnical engineer if soil conditions are different than described in the report."
- m. Development shall provide City with a noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording the Phase 1A subdivision plat and implement approved measures prior to project acceptance by the City.
- n. Developer shall, prior to issuance of building permits on Phase 1A, provide a sign at the Mill Road entry way with contact information for access to the subdivision.
- o. Landscaping of open space within each phase of the development shall be constructed as shown on the landscaping improvement plans, including top soil, ground cover, irrigation systems, and trees. Landscaping

of the open space shall be completed for each phase by the developer prior to issuing more than 50 percent of the building permits for said phase.

- p. SCHOA shall maintain its designated trails within the subdivision, and have the right to make its trail system open for public use at its discretion.
  - q. If agreed to by Red Ledges, primary access during construction of the subdivision shall be through the Red Ledges Bypass road at 580 North on the east side of the subdivision, with secondary access through the 675 North stub road. Developer shall inform contractors and subcontractors of the construction access locations, and place appropriate construction access signs at these entrances; a "construction access prohibited" sign shall be placed at the north end of 1300 East.
  - r. Developer shall repay, prior to starting Phase 1A, an outstanding balance of \$1,952.94 owed to the City for inspection and other construction services performed in the past on this subdivision.
4. The parties agree that the Phase 1A plat (Exhibit C) will be constructed prior to or at the same time as Phase 1B (Exhibit D), and that no building permits shall be issued for each phase until all improvements are completed and the phase is accepted by the City.
  5. Infrastructure improvement costs shall be paid by, and be the sole responsibility of, the Developer, their assigns, transferees or successors as owners or developers except as outlined above.
  6. Developer shall execute a performance agreement and provide a cash bond or letter of credit acceptable to the City to guarantee completion of the City's public improvements prior to recording a plat.
  7. Upon the full and complete performance of all of the terms and conditions of this Agreement by the Developer, their assigns, transferees or successors, and upon the City's approval of the public improvements identified in paragraph 3.h, and acceptance of the subdivision as complete, which shall not be unreasonably withheld, the City agrees to take over and assume responsibility for those improvements and begin issuing building permits. Nothing contained herein

shall be construed in any way to render the City liable for any charges, costs, or debts for material, labor, or other expenses incurred in the initial making of these public improvements.

8. This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.
9. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.
10. In the event there is a failure to perform under this Agreement and it becomes reasonably necessary for either party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable costs and expenses as are incurred in enforcing this Agreement.

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

HEBER CITY, UTAH

By: \_\_\_\_\_  
ALAN MCDONALD, Mayor

ATTEST:

By: \_\_\_\_\_  
Heber City Recorder

BLACKSTONE CREEK, LLC

By: \_\_\_\_\_  
Rich Hansen - Vice President



## EXHIBIT A: LEGAL DESCRIPTION

### BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 2666.17 FEET ALONG A SECTION LINE AND EAST 441.20 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE NORTH 00°32'29" EAST 527.33 FEET; THENCE NORTH 00°41'27" WEST 804.50 FEET; THENCE NORTH 89°58'44" EAST 252.13 FEET; THENCE SOUTH 00°47'00" EAST 65.57 FEET; THENCE NORTH 89°59'13" EAST 90.18 FEET; THENCE SOUTH 00°01'17" EAST 174.58 FEET; THENCE SOUTH 05°48'38" EAST 50.00' FEET; THENCE SOUTH 03°08'08" WEST 462.87 FEET; THENCE SOUTH 02°36'38" EAST 84.55 FEET; THENCE SOUTH 39°49'09" EAST 127.43 FEET; THENCE SOUTH 09°59'24" EAST 93.99 FEET; THENCE SOUTH 51°22'52" EAST 77.57 FEET; THENCE SOUTH 63°40'24" EAST 72.31 FEET; THENCE SOUTH 20°59'19" WEST 135.01 FEET; THENCE ALONG THE ARC OF 485.00 FOOT RADIUS CURVE 97.95 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 11°34'17" AND A CHORD BEARING SOUTH 75°13'25" EAST 97.78 FEET); THENCE SOUTH 16°25'19" WEST 50.00 FEET; THENCE ALONG THE ARC OF 15.50 FOOT RADIUS CURVE 27.53 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 101°45'28" AND A CHORD BEARING SOUTH 55°32'35" WEST 24.05 FEET); THENCE ALONG THE ARC OF 37.50 FOOT RADIUS CURVE 25.43 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 38°51'34" AND A CHORD BEARING SOUTH 24°05'38" WEST 24.95 FEET); THENCE ALONG THE ARC OF 20.00 FOOT RADIUS CURVE 4.39 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 12°33'47" AND A CHORD BEARING SOUTH 37°14'31" WEST 4.38 FEET); THENCE WEST 693.99 FEET TO THE POINT OF BEGINNING.

CONTAINING: 11.42 ACRES

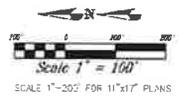
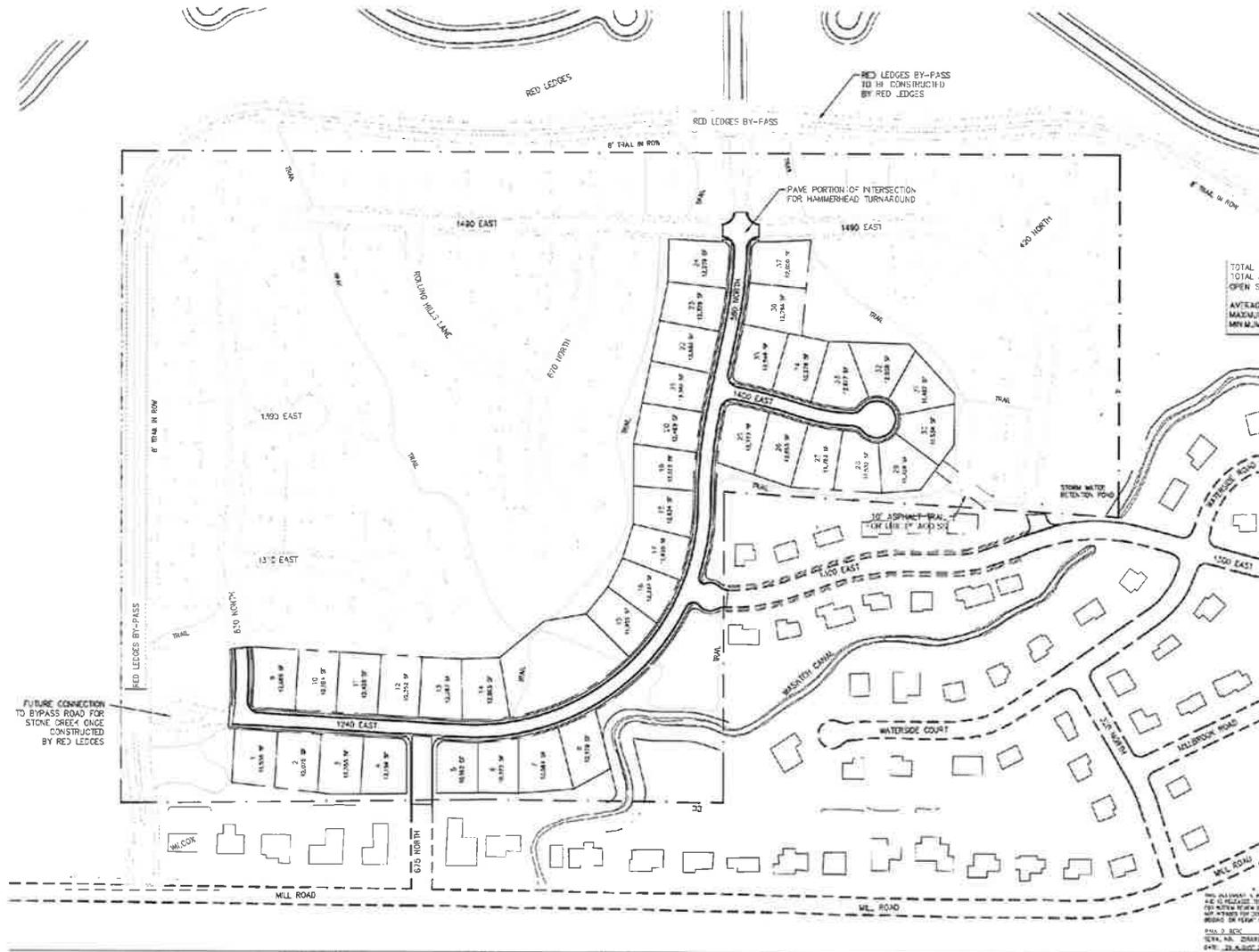
### BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 2666.17 FEET ALONG A SECTION LINE AND EAST 494.97 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE ALONG THE ARC OF 20.00 FOOT RADIUS CURVE 4.39 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 12°33'47" AND A CHORD BEARING SOUTH 37°14'31" WEST 4.38 FEET); THENCE ALONG THE ARC OF A 37.50 FOOT RADIUS CURVE TO THE RIGHT 25.43 FEET (CURVE HAS A CENTRAL ANGLE OF 38°51'34" AND A CHORD BEARING SOUTH 24°05'38" WEST 24.95 FEET); THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 27.53 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 101°45'28" AND A CHORD BEARING SOUTH 55°32'35" WEST 24.05 FEET); THENCE NORTH 16°25'19" EAST 77.57 FEET; THENCE ALONG THE ARC OF A 485.00 FOOT RADIUS CURVE 35.05 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 4°08'25" AND A CHORD BEARING NORTH 71°30'29" WEST 35.04 FEET); THENCE NORTH 20°59'19" EAST 135.01 FEET; THENCE SOUTH 72°33'22" EAST 80.07 FEET; THENCE EAST 178.94 FEET; THENCE SOUTH 78°16'11" EAST 369.97 FEET; THENCE SOUTH 89°12'37" EAST 95.30 FEET; THENCE SOUTH 02°54'21" WEST 62.46 FEET; THENCE ALONG THE ARC OF A 2025.00 FOOT RADIUS CURVE 57.23 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 01°37'09" AND A CHORD BEARING NORTH 02°05'46" EAST 21.94 FEET); THENCE NORTH 89°09'43" EAST 50.04 FEET; THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 24.44 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 90°20'33" AND A CHORD BEARING SOUTH 43°49'52" EAST 21.99 FEET; THENCE SOUTH 00°01'41" EAST 50.04 FEET; THENCE ALONG THE ARC OF A 15.50 FOOT RADIUS CURVE 24.60 FEET TO THE RIGHT (CURVE HAS A CENTRAL ANGLE OF 90°56'04" AND A CHORD BEARING SOUTH 44°26'16" WEST 22.10 FEET); THENCE NORTH 89°22'15" WEST 50.02 FEET; THENCE ALONG THE ARC OF A 2025.00 FOOT RADIUS CURVE 46.20 FEET TO THE LEFT (CURVE HAS A CENTRAL ANGLE OF 01°18'26" AND A CHORD BEARING NORTH 01°38'32" WEST 46.20 FEET); THENCE SOUTH 02°17'45" EAST 250.59 FEET; THENCE SOUTH 87°42'15" WEST 135.00 FEET; THENCE SOUTH 47°48'58" WEST 220.62 FEET; THENCE SOUTH 89°29'53" WEST 227.52 FEET; THENCE SOUTH 36°36'52" WEST 84.03 FEET; THENCE SOUTH 03°33'41" WEST 80.78 FEET; THENCE SOUTH 68°04'28" WEST 33.23 FEET; THENCE NORTH 03°33'41" EAST 685.47 FEET; THENCE WEST 211.43 FEET TO THE POINT OF BEGINNING. CONTAINING: 9.48 ACRES

PARCEL SERIAL NUMBER: OHE-1988-0-033-035

## EXHIBIT B: STONE CREEK MASTERPLAN



PHASING NOTE:  
1. PHASE 1 INDICATES LOTS 1-34

LAND USE CALCS

TOTAL AREA	80 ACRES
TOTAL LOTS	329 LOTS
OPEN SPACE	18.67 AC (31.11%)
AVERAGE LOT SIZE	12,440 SF
MAXIMUM LOT SIZE	14,259 SF
MINIMUM LOT SIZE	10,162 SF

— PHASE 1  
- - - FUTURE PHASES

LOTS 45 & 46 HAVE BEEN REMOVED FROM THE MASTER PLAN TO ALLOW FOR A STORM WATER RETENTION POND. FUTURE PHASES MAY BE RECONFIGURED TO RELOCATE THESE LOTS.

HEBER CITY ENGINEER APPROVAL  
DATE: 08/20/2013

BLAISHIPS CREEK LLC  
STONE CREEK SUBDIVISION  
MASTER PLAN



THIS DRAWING IS PROVIDED AS A GUIDE ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

CHECKED BY: JGG DATE: 08/20/2013  
DRAWN BY: JGG DATE: 08/20/2013



LOCATED IN THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

STONE CREEK PHASE 1 - JUNE 11, 2015

ADDRESS TABLE

LOT	ADDRESS	LOT	ADDRESS
1	803 NORTH 1240 EAST	9	814 NORTH 1240 EAST
2	781 NORTH 1240 EAST	1256	EAST 830 NORTH
3	761 NORTH 1240 EAST	10	788 NORTH 1240 EAST
4	743 NORTH 1240 EAST	11	772 NORTH 1240 EAST
5	725 NORTH 1240 EAST	12	754 NORTH 1240 EAST
6	705 NORTH 1240 EAST	13	728 NORTH 1240 EAST
7	687 NORTH 1240 EAST	14	712 NORTH 1240 EAST
8	671 NORTH 1240 EAST	15	816 NORTH 1240 EAST
		16	588 NORTH 1240 EAST

CURVE TABLE											
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING
C1	30.05	485.00	34.00°28'	30.04'	S71°30'21"W	C19	97.89	825.00	08°56'46"	97.89'	S89°23'45"E
C2	273.57	15.50	107°45'28"	74.00'	S45°32'30"W	C20	24.35	15.50	90°00'00"	21.92'	S48°08'08"W
C3	24.53	32.00	148°31'24"	24.50'	S24°02'39"W	C21	106.86	485.00	12°23'20"	106.87'	S07°20'41"E
C4	4.36	20.00	123°14'47"	4.36'	S72°14'57"W	C22	306.24	485.00	35°11'42"	306.84'	S27°20'07"E
C5	31.53	333.00	62°32'20"	31.51'	N04°30'04"W	C23	97.70	485.00	13°30'41"	97.53'	S00°41'02"E
C6	68.92	500.00	07°54'19"	68.93'	N00°20'24"W	C24	308.50	485.00	12°32'36"	308.77'	S67°26'58"E
C7	4.47	533.00	05°28'49"	4.47'	N82°28'29"W	C25	832.08	500.00	02°28'46"	834.45'	S32°26'42"E
C8	93.26	467.00	07°00'33"	93.14'	N89°02'43"E	C26	193.47	800.00	27°11'07"	196.24'	S72°10'02"E
C9	24.74	15.50	91°27'32"	22.20'	S45°09'43"E	C27	44.58	125.00	20°25'05"	44.31'	N11°07'51"E
C10	76.04	225.00	18°21'44"	75.87'	S09°06'48"E	C28	10.46	30.00	28°57'25"	10.34'	N16°08'05"W
C11	65.52	186.00	20°12'11"	70.26'	S27°49'48"E	C29	45.72	38.50	88°53'24"	42.84'	S02°49'53"E
C12	44.82	1000.00	02°34'00"	44.82'	S03°10'00"W	C30	72.85	15.50	101°45'25"	74.00'	N12°20'10"W
C13	24.19	15.50	89°25'00"	21.81'	S45°18'58"W	C31	306.75	535.00	12°44'40"	307.61'	S46°16'34"E
C14	83.67	225.00	21°08'38"	82.54'	S11°08'27"W	C32	91.87	535.00	08°05'03"	91.72'	S52°11'27"E
C15	23.45	173.00	07°46'37"	23.43'	S17°52'27"W	C33	99.39	535.00	09°49'50"	99.29'	S12°28'45"E
C16	22.26	15.50	100°51'54"	22.00'	S02°14'14"W	C34	90.50	500.00	02°45'00"	90.46'	S08°21'77"E
C17	69.78	375.00	08°36'46"	69.69'	N86°39'45"E	C35	39.12	535.00	04°12'32"	38.89'	S01°02'46"W
C18	93.69	500.00	06°36'46"	93.59'	N88°39'45"E	C36	3.67	186.00	01°43'37"	3.61'	S02°16'18"W
						C37	23.50	15.50	27°10'08"	23.31'	S48°14'04"W
						C38	29.25	15.50	93°05'08"	27.31'	S44°22'58"E

NOTES AND CONDITIONS:

PRIVATE STREETS ARE OWNED AND MAINTAINED BY THE STONE CREEK HOME OWNERS ASSOCIATION.

AN EASEMENT ON ALL PRIVATE STREETS IS DEDICATED TO HEBER CITY FOR THE PURPOSES OF OPERATING, MAINTAINING, INSPECTING, REPAIRING AND REPLACING WATER, SEWER, PRESSURIZED IRRIGATION AND STORM DRAIN UTILITIES.

ALL COMMON AREAS SHALL BE MAINTAINED BY THE STONE CREEK HOME OWNERS ASSOCIATION. COMMON AREAS ARE GOVERNED BY THE COVENANTS, CONDITIONS AND RESTRICTIONS OF THE STONE CREEK HOME OWNERS ASSOCIATION.

LOT OWNERS SHALL COMPLY WITH THE COVENANTS, CONDITIONS AND RESTRICTIONS OF THE STONE CREEK HOME OWNERS ASSOCIATION.

USE OF THE PRIVATE ROADS WITH STONE CREEK IS LIMITED TO LOT OWNERS, THEIR GUESTS AND INVITEES, EMERGENCY SERVICES, HEBER CITY, WASATCH COUNTY PUBLIC WORKS (TRASH COLLECTION) AND PUBLIC UTILITY COMPANIES. THE STONE CREEK HOME OWNERS ASSOCIATION RESERVES THE RIGHT TO CONTROL THE USE OF PRIVATE ROADS WITHIN THE DEVELOPMENT.

COMMON AREAS ARE ALSO DEDICATED AS STORM DRAIN EASEMENT.

A GEOTECHNICAL REPORT FOR THE SUBDIVISION IS AVAILABLE IN THE HEBER CITY PLANNING OFFICE. THIS REPORT PROVIDES RECOMMENDATIONS FOR CONSTRUCTION TO ADDRESS SPECIFIC SOILS IN THE AREA. BUILDERS ARE ADVISED TO REVIEW THIS REPORT AND FOLLOW THOSE RECOMMENDATIONS, AND TO CONSULT WITH A GEOTECHNICAL ENGINEER IF SOIL CONDITIONS DIFFER FROM THOSE REPORTED IN THE REPORT.

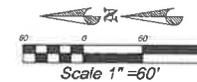
LINE TABLE		
LINE	LENGTH	BEARING
L1	13.00'	N00°04'11"W
L2	119.00'	N88°06'44"E
L3	38.84'	S21°20'26"W

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

ROSE \_\_\_\_\_

COUNTY SURVEYOR \_\_\_\_\_



LEGEND

- SEWER EASEMENT TO HEBER CITY
- SURVEY MONUMENT

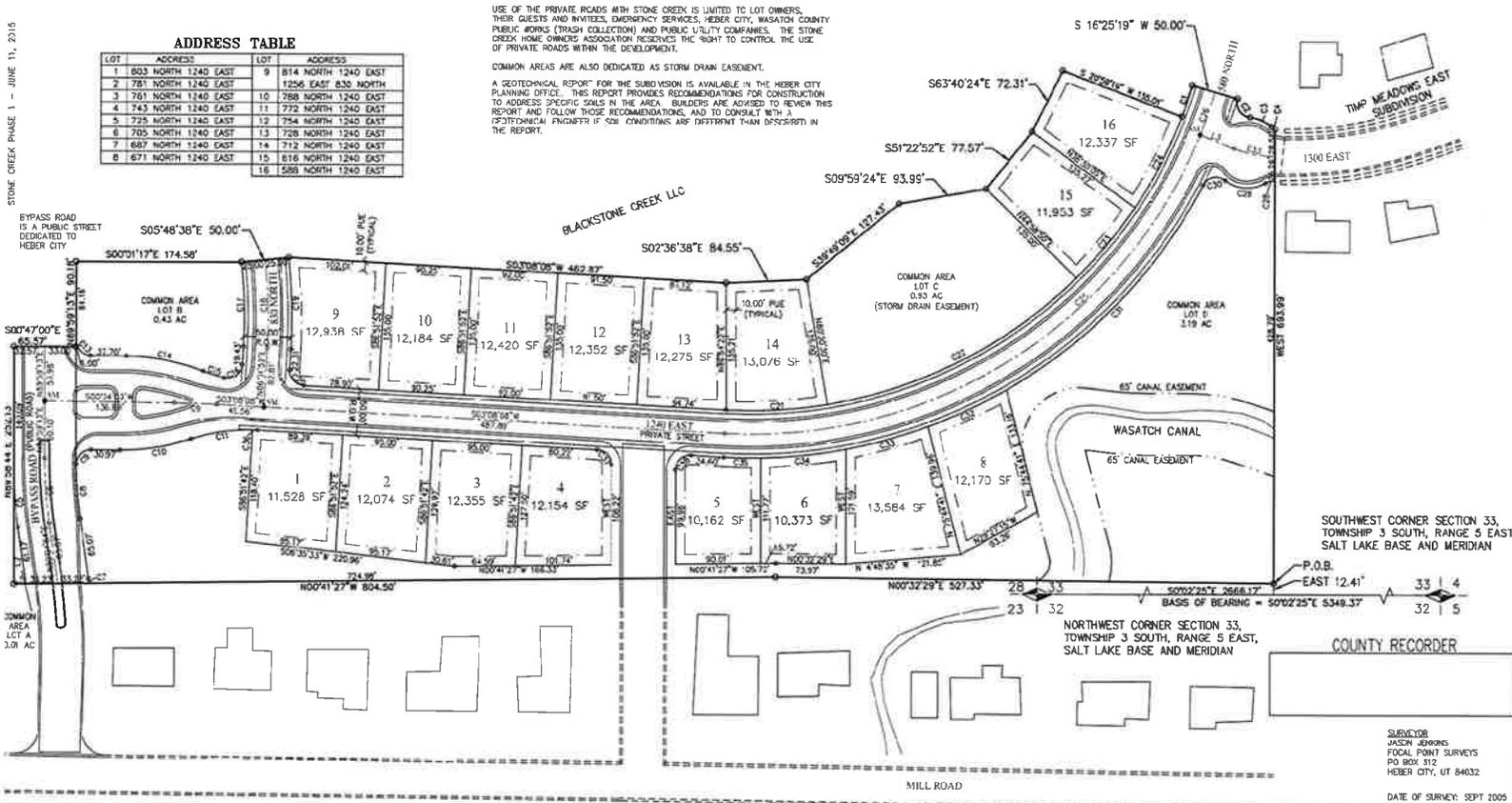


EXHIBIT C: PHASE 1A

SURVEYOR  
JASON EDWARDS  
FOCAL POINT SURVEYS  
PO BOX 312  
HEBER CITY, UT 84032  
DATE OF SURVEY: SEPT 2005



**TAB 3**

## RESOLUTION NO. 2015-15

### RESOLUTION OF CONDITIONS AND INCENTIVES TO ATTRACT INITIAL HOTELS TO THE CITY

WHEREAS, pursuant to the desires of the Heber City Council to attract reputable Hotels to Heber City, and

WHEREAS, the Council desires such an establishment to have a certain high level of standard in its quality, amenities, organization and atmosphere, the following conditions and incentives are intended to be memorialized by resolution, and

WHEREAS, inasmuch as the Council believes the City may be underserved by hotels in the City and as a body is desirous to offer incentives to attract hotels, staff has recommended that such incentives be limited to a specific period of time or to a certain number of hotels, and

WHEREAS, such a recommendation takes into consideration that the City has limited surplus water rights, and that attracting too many hotels may create a financially challenging environment if there is too much competition for limited customers, and

WHEREAS, in identifying such incentives, in conversation with interested parties, the incentives that appear most critical to are those that defer upfront costs as such a hotel may take a few years to become profitable, and

WHEREAS, additionally, in the event such incentives and conditions are considered for a specific project, City Staff and the Council should determine how the market rate of water rights will be determined. One option could be that such data be obtained from Wasatch and Timpanogos Irrigation from up to date, most recent sales from sellers/purchasers, if such information is available and willingly shared. As of the time of adoption of this Resolution, the City Council has considered a discounted rate for water rights at approximately \$6,000 per acre foot. The approved method to establish the value of the water rights will be to gather data from recent water share sales from Wasatch and Timpanogos Irrigation companies, and use the same in a comparative calculation.

NOW, THEREFORE, it is hereby resolved by the City Council of Heber City, Wasatch County, Utah, that Heber City hereby adopts the following conditions and incentives as suggested policy when considering attracting of, and approval for a hotel. Such incentivized policy shall be limited in duration to the next twenty four (24) months, or the establishment of two hotels, whichever comes first, following adoption of this Resolution.

The specific, **suggested conditions** required for consideration hereto, are as follows:

- That the hotel have 60 or more rooms
- That the hotel have a hotel rating of three or more stars,
- That the hotel contain 1,000 sq. feet or more of conference/meeting space
- That 90% of the rooms not be offered for stays beyond 30 days
- That an economic/financial analysis of the fiscal impact the hotel would have on the City be provided by a City approved independent party to show that the benefits the City will receive are equal to, or greater than any incentive offered. ~~(This should be prepared at the expense of the hotel by an independent third party)~~

Here listed are some specific, suggested incentives to be considered. The Council does not adopt such incentives by ordinance, nor intend to bind itself or any future City legislative body to these incentives, but so memorializes the following as a temporary suggested policy, for a limited duration to help identify incentives to assist in the consideration process.

The specific **suggested incentives** are as follows:

- Offering water rights at a discounted rate if paid in full up front, prior to occupancy
- Offering water rights at a market rate if payment for said shares is extended beyond occupancy (not to exceed 3 years)
- Offering to rebate the 1% Transient Room Tax (TRT) for sales in excess of \$1,000,000 for a period not to exceed 5 years

ADOPTED AND PASSED by the City Council of Heber City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

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

APPROVED:

\_\_\_\_\_  
Mayor Alan McDonald

ATTEST:

\_\_\_\_\_  
RECORDER

Date of First Publishing: \_\_\_\_\_

# TAB 4

SUN STAR AND POLLOCK *AMENDED* REAL ESTATE CONTRACT

This Amended Real Estate Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between Heber City as *Buyer*; and Sun Star, L. C.; and Kris Orrin Pollock and Christine Pollock, husband and wife, as *Sellers*.

It is intended that this Amended Agreement will amend that certain Real Estate Contract, dated February 2, 1999, specifically to clarify terms of paragraph 3 of said Contract.

Said paragraph 3 is amended as follows:

3. Upon completion of the water tank and supporting system the City will make available to Sellers or their assigns up to three (3) residential water connections to serve the property referred to in the October 20, 1998 Certificate of Zoning Compliance of Sun Star, et al., with Sellers or assigns being responsible for the prevailing connection fees and user rates- resident or non-resident as the case may be. Subject to the provisions below, Sellers will also be responsible for obtaining and providing whatever water pressure is needed to service such residences.

3.1. The City will provide adequate water rights to Sellers, to satisfy indoor/culinary requirements. The City will provide said rights at the same rate that the City would require of residential lots. In this particular instance, said rate is .58 acre feet per lot. This water right will be provided for and limited to 3 lots, for a total of 1.74 acre feet of water.

3.2. The City will allow for the transfer of said indoor/culinary water rights to Twin Creeks Special Service District at the request of the Seller to accommodate Sellers' use and development of their real property, however, the Sellers shall be responsible to make and process said transfer.

3.3. Sellers will be responsible to obtain and provide adequate water rights to the property for pressurized, outdoor irrigation use and purposes, as required by the City, Lake Creek Irrigation Company or Twin Creeks Special Service District.

This Amendment amends, and shall be incorporated and made a part of the original February 2, 1999 Contract. Except as herein specifically amended, said February 2, 1999 Real Estate Contract shall remain in full force and effect, and this amendment in no way releases any of the parties of the said February 2, 1999 Real Estate Contract from their respective obligations under said Contract.

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

**Sellers:**  
Sun Star, L.C.

Address:

By: \_\_\_\_\_  
Kris Orrin Pollock, Owner, President and  
Managing Member, LLC  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Kris Orrin Pollock

\_\_\_\_\_  
Christine Pollock

STATE OF UTAH                    )  
  : ss.  
COUNTY OF WASATCH         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared before me Kris Orrin Pollock and Christine Pollock, husband and Wife, two of the Seller signers of the above instrument, who duly acknowledged to me that they executed the same.

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

**Buyer:**  
Heber City Corporation

By: Mark K. Anderson, City Manager

Address:

75 North Main  
Heber City, Utah 84032

# TAB 5