



Ogden City

City Council

October 25, 2016

City Council Chambers

Municipal Building – Third Floor

2549 Washington Boulevard, Ogden, Utah 84401

AMENDED

3:30 p.m. Joint Work Session

City Council, also acting as the Redevelopment Agency
City Council Chambers and Work Room

The purpose of the work session includes presentations and discussions regarding:

- Weber State Debate Team;
- Acquisition and Demolition of Property at 503 26th Street;
- Vacation Rentals; and
- Council and Board Business.

Any items not fully addressed prior to the City Council and Special Redevelopment Agency meetings, which begin at 6:00 p.m., may be addressed immediately following those meetings.

6:00 p.m. City Council Meeting

Council Chambers

1. Roll Call.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Approval of Minutes: *(Voice vote)*
 - a. Work session of May 19, 2016 – *Vice Chair Blair*
 - b. Special meeting of June 14, 2016 – *Council member Nadolski*
 - c. Regular meeting of June 21, 2016 – *Council member Garner*
 - d. Work session of July 5, 2016 and the joint work session of July 26, 2016 – *Council member Hyer*
 - e. Work session of August 2, 2016 and the joint work session of August 16, 2016 – *Council member Lopez*
5. Common Consent: *(Voice vote)*
 - a. **Airport Advisory Committee.** Consideration of the appointment of Michael Nichols to the Airport Advisory Committee. *(Approve appointment)*
 - b. **Weber County Justice Court Nominating Commission.** Consideration of the appointments of Mike Ashment and Mara Brown to the Weber County Justice Court Nominating Commission. *(Approve appointments)*
6. Public Hearing:
 - a. **FY2017 Budget Amendment – Purchase of Fire Truck, Increase of Asset Area Control Budget, and Transfer of Funds to the Redevelopment Agency for Property Purchase.** Proposed Ordinance 2016-56 amending the budget for the Fiscal Year July 1, 2016 to June 30, 2017 by increasing the anticipated revenues and transfers for a gross increase of \$3,000,000. *(Adopt/not adopt ordinance – roll call vote)*

7. Public Comments. This is an opportunity to address the Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comments will be limited to three minutes per person. Participants are to state their name and address for the record. Comments which cannot be made within these limits should be submitted in writing to the City Council Office (citycouncil@ogdencity.com).

The Council encourages civil discourse for everyone who participates in our meetings. Comments pertaining to an agenda item that includes a public hearing or public input should be given during the meeting as that item is discussed.

8. Comments:
 - a. Mayor.
 - b. Council Members.
9. Adjournment.

*****Special Redevelopment Agency Meeting**
City Council Chambers

1. Roll Call.
2. Approval of Minutes:
 - a. Special meeting of June 21, 2016 and the joint work session of August 9, 2016 – *Board member Stephens*
3. Public Hearing:
 - a. **FY2017 Budget Amendment – Synchrony Bank Line of Credit Proceeds and Property Purchase.** Proposed Resolution 2016-18 amending the budget for the Fiscal Year July 1, 2016 to June 30, 2017 by increasing the anticipated revenues and transfers for a gross increase of \$3,795,000. (*Adopt/not adopt resolution – roll call vote*)
4. Reports from Administration:
 - a. **Acquisition and Demolition of Property at 503 26th Street.** Proposed Resolution 2016-20 approving and authorizing the acquisition and demolition of a property located at 503 26th Street. (*Receive input; adopt/not adopt resolution – roll call vote*)
 - b. *****Real Estate Purchase Contract for .22 Acres of Property at 660 West 24th Street.** Proposed Resolution 2016-21 approving and authorizing the Executive Director to execute the terms and conditions of a real estate purchase contract with Armstrong 1970 Trust for the purchase of .22 acres of property located at 660 West 24th Street. (*Adopt/not adopt resolution – roll call vote*)
5. Public Comments. This is an opportunity to address the Board regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comments will be limited to three minutes per person. Participants are to state their name and address for the record. Comments which cannot be made within these limits should be submitted in writing to the City Council Office (citycouncil@ogdencity.com).

The Board encourages civil discourse for everyone who participates in our meetings. Comments pertaining to an agenda item that includes a public hearing or public input should be given during the meeting as that item is discussed.

6. Comments:
 - a. Board Executive Director.
 - b. Board members.
7. Adjournment.

Continuation of Work Session if Necessary

Public meetings may be held electronically in accordance with Utah Code Annotated 52-4-207 to allow Council members to participate via teleconference. The anchor location for the meeting shall be on the 3rd Floor of the Ogden Municipal Building, 2549 Washington Blvd., Ogden Utah.

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the Management Services Department at 629-8701 (TDD # 629-8949) or by email: ADACompliance@ci.ogden.ut.us at least 48 hours in advance of the meeting.

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and/or agenda was posted in three public places within the Ogden City Limits on this 24th day of October, 2016. These public places being: 1) City Recorder's Office on the 2nd floor of the Municipal Building; 2) 2nd floor foyer of the Municipal Building; and 3) the Weber County Library. A copy was posted to the Utah State Public Notice Website and the Ogden City Website, as well as provided to the Standard-Examiner.

TRACY HANSEN, MMC
OGDEN CITY RECORDER

Visit the City Council Meetings page at: councilmeetings.ogdencity.com
Ogden City Council Agenda Information Line – 801-629-8159

WSU DEBATE TEAM

PURPOSE OF DISCUSSION:

To receive a presentation from the WSU Debate Team

Background

Each semester, the Weber State University (WSU) debate team provides a presentation to the City Council on a topic relative to the city. The Ogden-Clearfield metro area was recently recognized by US News for having the highest income equality in the nation:

<http://www.usnews.com/news/articles/2011/04/29/large-cities-have-the-greatest-income-inequality>

The discussion for this debate is focused on how the city's effort to improve quality housing options impacts income equality. The students will debate for approximately 45 minutes, and this will be followed by a discussion with Council Members.

PROPERTY ACQUISITION

- *Purchase of 503 26th Street -Tax ID No. 01-011-0023 (0.20 acres)*

PURPOSE OF

WORK SESSION: **To Review and Discuss the Proposed Purchase of
Property Located at 503 26th Street**

Executive Summary

The Board will review and discuss a proposal to purchase property located at 503 26th Street. The Administration is proposing the 18-unit apartment building located on the property be demolished and the property held for future development.

Background

October 18, 2016

The Board Office received an Administrative Transmittal requesting adoption of a Resolution authorizing the acquisition and demolition of properties located at 503 26th Street. The Administration requested that consideration of this matter be expedited to accommodate a closing date of October 28, 2016.

October 25, 2016

The Board will hold a work session to review and discuss the proposed purchase of property located at 503 26th Street.

If after the work session discussion the Board is comfortable moving forward, the Board will also consider a Resolution authorizing the purchase and demolition of the property in a special Redevelopment Agency meeting.

503 26th Street

The building located at 503 26th Street was built in 1899. It is a two-story, 13,542 sq. ft. building that currently has eighteen (18) apartment units. The building was originally built with eleven (11) units. Over the years, owners have modified the building to add the additional seven (7) units. Much of this work was completed without permits and does not meet health and safety standards. As

a result, an otherwise historic building has been deemed “Not Contributory” to the Ogden Central Bench Historic District.

Proposal

The Administration is proposing the purchase of property located at 503 26th Street to be held for future development. Code enforcement officers have been working for several years to get building owners to bring the property into code compliance. In addition, Weber County Health Department has had to remediate the property several times for drug contamination resulting from illegal drug activities.

CED staff have determined that renovation of the building is cost-prohibitive. Lack of on-site parking is also a barrier to renovation and reuse of the building. Demolition of the building is planned to occur as soon as possible. Total demolition costs for the property are estimated at \$100,000.

503 26th Street Real Estate Purchase Contract

CED staff have negotiated a Real Estate Purchase Contract with the following terms and conditions:

Description:	Tax ID # 01-011-0023 (0.20 acres)
Seller:	Ethane Investment Holdings, LLC (Roland Zhang, Manager)
Purchase Price:	\$450,000
Terms:	\$5,000 Earnest Money \$445,000 cash due at Closing
Closing Costs:	Buyer pays all Escrow fees and an additional \$8,000 towards Closing Costs, Seller pays remaining
Closing Date:	October 28, 2016

Other Pertinent terms:

- The Seller is not responsible for providing a Land Title Survey

- Section 10.8 – Compliance With Laws, has been struck from the Contract
- Section 14 – Pre-Closing Inspection, is struck from the Contract
- As of November 1, 2016, all occupied units have month-to-month leases except Units 9 and 13. These two leases will survive the Closing. Seller is not responsible to terminate the leases.
- Ogden City will not issue any violations citations, or fines during the negotiation and execution of the Contract
- At closing, Ogden City will terminate all code violations actions and waive all pending finds (\$1125).

Funding Sources

The total amount for the project is estimated to be \$558,000 as follows:

Purchase Price	\$450,000
Estimated Closing Costs	\$ 8,000
Estimated Demolition Costs	<u>\$100,000</u>
TOTAL	\$558,000

Funding for the property purchase will come from the Synchrony Bank Line of Credit approved by the Board August 16, 2016, via Resolution 2016-15. The City Council has pledged \$4 M over four years in BDO Lease Revenue funds as debt service for the Synchrony Bank LOC.

A public hearing on a corresponding FY2016 Budget Amendment authorizing the draw on the LOC will be considered at the same special Redevelopment Meeting.

Questions

1. Please review the proposed the terms of the real estate purchase contracts (REPC's).

2. Please explain when the City will terminate the existing leases. When do the leases for Units 9 and 13 terminate?
3. Please outline the purposes for the property purchase. Has a developer or development plan been identified?
4. Please explain the benefits to the City and/or Agency if this property purchase is approved.

Board Staff Contact: Janene Eller-Smith, (801)629-8165

RECEIVED

OCT 18 2016

OGDEN CITY COUNCIL OFFICE

OGDEN CITY REDEVELOPMENT AGENCY TRANSMITTAL

Date Received by Admin:

Mark Johnson, CAO: _____

Date Sent to Board: _____

DATE: October 11, 2016

TO: Ogden City Redevelopment Agency Board

FROM: Tom Christopoulos, CED Director _____

SUBJECT: **Real Estate Purchase Contract between Agency and Ethane Investment Holdings, LLC for the purchase of property at 503 26th Street.**

STAFF CONTACT: Ward Ogden, Community Development Manager _____

LEGAL CONTACT: Melven Smith, Assistant City Attorney _____

REQUESTED TIMELINE: October 25, 2016

RECOMMENDATION: Adopt Resolution approving Real Estate Purchase Contract

DOCUMENTS: Resolution, REPC

Background

The Redevelopment Agency has been successful in negotiating a real estate purchase contract for the acquisition of a property located at 503 26th Street. The proposed transaction is a critical step in the redevelopment of the Adams Avenue corridor since it removes a significant blight influence.

A summary of the Real Estate Purchase Contract is as follows:

- Seller: Ethane Investment Holdings, LLC
- Property: 503 26th Street. Parcel 01-011-0023.
- Size: 8,580 square feet
- Use: 18-Unit Apartment Building, known as New Life Apartments
- Purchase Price: \$450,000
- Earnest Money: \$5,000 (applicable to purchase price)
- Cash at Closing: \$445,000 (to be paid from Synchrony Bank loan, and repaid by Quality Neighborhood funds)
- Closing Costs: \$8,000
- Closing Date: October 28, 2016

Benefit

According to City staff, the Ogden Building Official, and Ogden City Police, this property is a significant contributor to blight in the neighborhood, and is not a safe and habitable place for tenants to occupy. The property is not feasible to renovate and re-use. It should be demolished and the land reserved for a use which will participate in the revitalization of the Adams Avenue corridor.

The 8,580 square foot property contains a two-story 13,542 square foot apartment building with 18 units. The building was constructed in 1899. It has suffered significant deterioration and alteration over the years, and is no longer a historic resource. The Ogden Central Bench Historic District survey found the building to be "Not Contributory" to the Historic District.

Originally, the building contained 11 legal apartment units, which use continued until the 1970's. Since then, owners have altered the interior to create illegal units, and enclosed second floor porches to create illegal living spaces. Now, a total of 18 units are identified. Some of the units lack emergency egress and proper fire separation. The Ogden City Building Official has determined this building to be a "dangerous building" according to Ogden City adopted building codes, due to egress and fire issues, as well as work done without permits and inspections. Unpermitted work includes alterations to the structure, as well as to the plumbing and electrical systems.

Code Enforcement staff have exerted significant efforts to bring the building into compliance over the past several years. An average of six major cases have been processed each year. Each case has taken months to process, and involved significant hours of labor. The types of issues faced by Code Enforcement include illegal, unpermitted units, illegal wiring, illegal plumbing, life safety issues, and illegal structural modifications. Efforts to solve the deficiencies have been marginally successful. Currently, several enforcement issues are outstanding, including the building code requirements noted in the paragraph above and the 7 illegal apartment units.

Weber County Health Department coordinates with Ogden Police and Code Enforcement to remediate illegal drug contamination on a routine basis. Units are required to be vacated as chemical contamination is found and subsequently cleaned. This occurs several times per year.

The Ogden Police Department has received 92 calls for service at this location over the past 7 months. That averages to about one call every other day. The nature of the calls varies widely and includes issues such as theft, noise, drugs, family disturbance, warrants, child neglect, and sex offences. This represents a significant drain on police resources. Furthermore, the nature of the illicit activities is noticeable to patrons and employees at adjacent businesses. As a result, the professional building east of New Life has had significant challenges in leasing space. Tenants and patrons of his building have reported being propositioned by prostitutes operating in the New Life Apartments. The owner reports that without a change to the illicit activities in the area, he will put the building on the auction block and take a loss.

The New Life Apartments are not feasible to renovate and re-use as apartments in a way which will contribute to the revitalization of the Adams Avenue corridor. \$40,000 per legal unit is an acceptable purchase price in this market for marginal quality units which can still be rented. The problem is that even if the units are consolidated from 18 to 11 units and the minimal repairs are completed to allow further occupancy, the same number and type of persons would still likely occupy the structure. Rents in this type of market can be charged per person, with multiple persons occupying a unit. Therefore, the existing owner, or another operator who may purchase at this price, could still achieve an acceptable cash flow after performing the minimum required work. The RDA must price its offer in competition with the other potential operators. In order to renovate the units to a standard which would contribute to the revitalization of the area, we would need to invest into renovation approximately \$55/square foot or \$745,000. With acquisition, the total cost would be \$1,195,000. Rents required to support this level of investment would need to be approximately \$1,200/month. This, combined with the challenge that there is no off-street parking, makes a renovation project infeasible.

Risk

Staff and neighborhood perception is that this property is at the root of the problems plaguing the neighborhood. This acquisition can be a catalyst to neighboring properties undergoing renovation and lease-up. The risk to the City is greater if it does not remove this blighting influence.

Fiscal Impact

Purchased Price: \$450,000
Closing Cost Estimate: \$8,000
Demolition Estimate: \$100,000
Total Estimated Cost: \$558,000

Funds will be borrowed from the Synchrony Bank equity loan and repaid with Quality Neighborhoods funds.

Recommendation

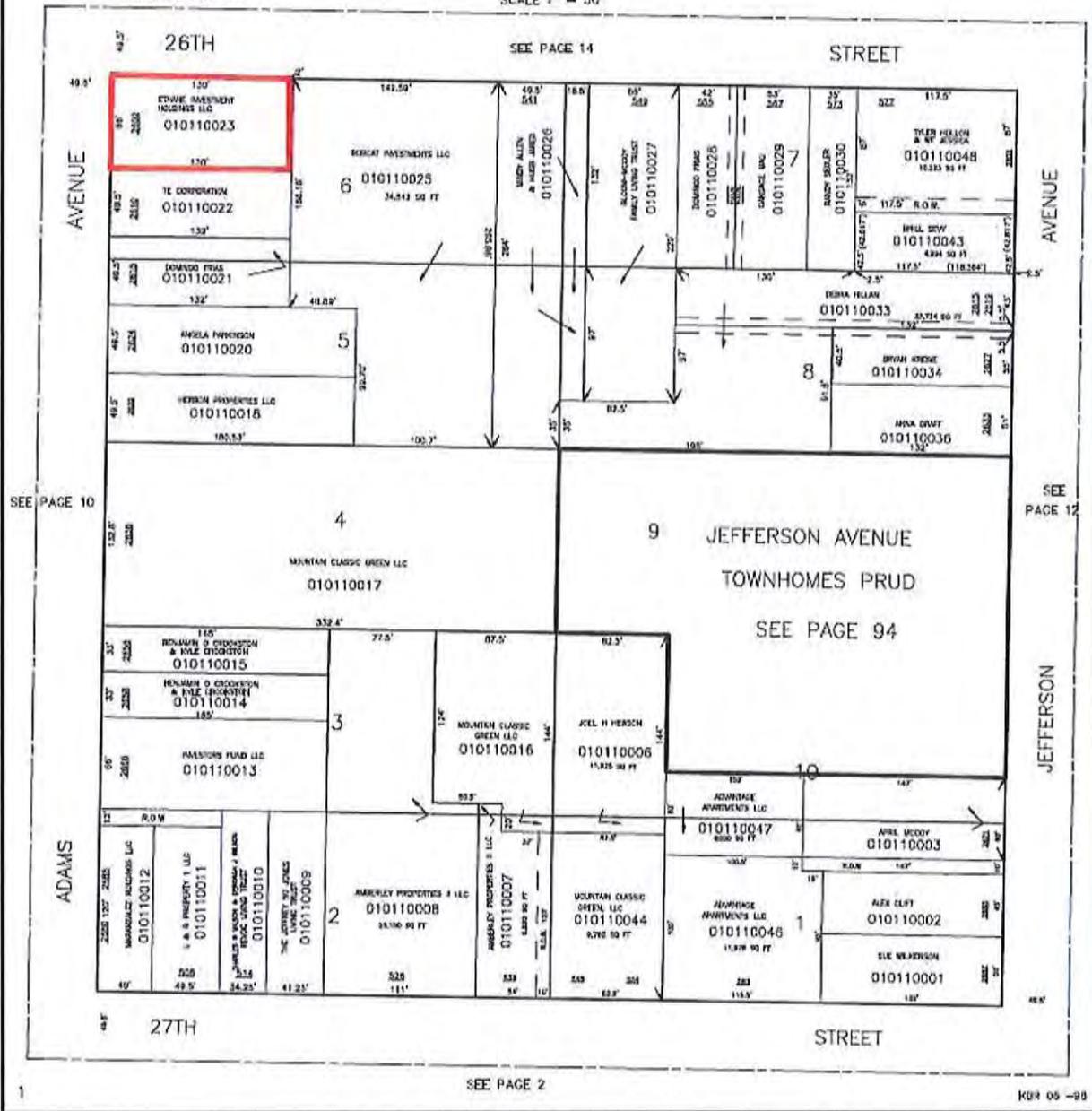
Administration recommends that the RDA Board adopt the attached resolution which authorizes the RDA Executive Director to acquire and demolish the property at 503 26th Street.

BLOCK 13 PLAT A

IN OGDEN CITY
SCALE 1" = 50'

TAXING UNIT: 25

11





503 26th Street – New Life Apartments



RESOLUTION NO. _____

**A RESOLUTION OF THE OGDEN CITY REDEVELOPMENT AGENCY BOARD
APPROVING AND AUTHORIZING THE ACQUISITION AND DEMOLITION OF A
PROPERTY LOCATED AT 503 26TH STREET, OGDEN, UTAH**

WHEREAS, the Ogden City Redevelopment Agency (“Agency”) is a separate body corporate and politic, duly and regularly created, established, and organized and existing under and by virtue of the Constitution and laws of the State of Utah; and

WHEREAS, the Agency operates and is authorized to transact business and exercise its powers under and pursuant to Limited Purpose Local Government Entities – Community Development and Renewal Agencies, Title 17C, Utah Code Annotated 1953, as amended (the “Act”), previously known as the Utah Redevelopment Agencies Act; and

WHEREAS, the Act provides that an Agency may exercise its powers for the purpose of urban renewal, economic development and community development as such terms are defined in the Act; and

WHEREAS, the Agency desires to purchase certain real property located at 503 26th Street, Ogden, Utah, in order to accommodate and facilitate future redevelopment activities in accordance with the Agency’s purposes and objectives; and

WHEREAS, the Agency and Ethane Investment Holdings, LLC have negotiated the terms and conditions of the Agency’s purchase of the real property as set forth in that certain Real Estate Purchase Contract, which is attached to and made part of this resolution as Attachment A (the “REPC”); and

WHEREAS, the Agency anticipates that it will use funds allocated under the Quality Neighborhoods Initiative or from other Agency accounts for the purpose of paying all or part of the purchase price and escrow payment due under the terms of the REPC, and for demolition and site clearance.

NOW, THEREFORE, the board of the Ogden City Redevelopment Agency hereby resolves:

1. That the terms of the Real Estate Purchase Contract, attached hereto as Attachment A are hereby approved; and
2. The Executive Director is hereby authorized to execute, deliver and carry out the terms and conditions of the REPC, as described in Attachment A. Any material change, as defined by Board leadership, staff, and legal counsel, in the terms of the REPC must be approved in advance by the Board.
3. The Executive Director is hereby authorized to enter into and execute contracts and agreements as necessary to carry out tenant relocation, and demolition and site clearance of the property.

Exhibit “A”

Real Estate Purchase Contract

THIS REAL ESTATE PURCHASE CONTRACT ("Contract") made and entered into on the _____ day of _____, 2016 ("**Effective Date**") is for the purchase of the Property described herein by and between **OGDEN CITY REDEVELOPMENT AGENCY**, a Utah political entity, (as the "**Buyer**"), and **ETHANE INVESTMENT HOLDINGS, LLC**, together with its successors or assigns, (as the "**Seller**"). Buyer and Seller are individually referred to herein as a "**Party**" and collectively referred to as the "**Parties**".

RECITALS

WHEREAS, Seller owns or shall own certain real property located at **503 26th Street** in Ogden, Utah as more particularly described in this Contract; and

WHEREAS, Buyer desires to purchase such real property under the terms and conditions set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual promises and considerations set forth below, the Parties agree to the following:

1. Description of Property.

1.1 **Real Property.** The real property which is the subject of this Contract is that property located at **503 26th Street, Weber County, Ogden, Utah (APN# 01-011-0023)**, as legally described under **Exhibit A – Property Description** which is attached to and made part of this Contract (the "**Property**" or "**Land**") excepting the Excluded Real Property as defined below.

1.2 **Included Items.** Unless excluded herein, sale of the Property includes any and all above grade and below grade improvements and fixtures presently attached to the Property.

1.3 **Excluded Real Property.** None

2. Purchase Price. Subject to the terms, covenants and conditions of this Contract, the total "**Purchase Price**" for the Property shall be **Four Hundred Fifty Thousand Dollars (\$450,000.00)** which shall be paid by Buyer to Seller as follows:

A. **Earnest Money Payment** to be paid to the Closing Agent within 3 days of the Effective Date. The Earnest Money Payment shall be applicable to the total Purchase Price according to the provisions of this Contract: **\$5000.00**

B. **Balance of Purchase Price at Closing.** **Four Hundred Forty Five Thousand Dollars (\$445,000.00)** payable to Seller in cash or other acceptable funds.

Seller: *H. Z.* 10/12/16
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3. **Contract Deadlines.**

Effective Date of Contract: October 14, 2016

Seller Disclosure Deadline: October 21, 2016

Due Diligence Deadline: October 26, 2016

Closing Date: October 28, 2016. Closing of this sale shall be held at the office of Lincoln Title Company 2225 Washington Blvd Suite 110, Ogden, UT 84401 (the "**Closing Agent**").

Closing-Extension Period(s). Buyer may, at Buyer's sole option, extend the Closing Date under this Contract a single thirty (30) day period ("**30 day Extension Period**") by payment in the amount of **One Thousand Dollars (\$1,000)** ("**Extension Payment**") for such 30 day Extension Period. The Parties mutually acknowledge and agree that such Extension Payment (a) shall be immediately released to the Seller by Closing Agent, and (b) shall not be applied towards the Purchase Price.

4. **Seller Disclosures.** On or before the Seller Disclosure Deadline, Seller shall deliver to Buyer the following documents which are collectively referred to as the "**Seller Disclosures**":

4.1 Commitment for Title Insurance. A preliminary report or commitment for title insurance (such report or commitment, as it may be amended, supplemented and updated, is referred to as the "**Preliminary Title Report**") in the full amount of the Purchase Price, with Buyer as the proposed insured, showing all matters affecting title to the Property including any and all exceptions, easements, restrictions, rights-of-way, covenants, reservations and other conditions or encumbrances affecting the Property (collectively, the "**Exceptions to Title**") together with legible copies of all recorded documents constituting or evidencing such Exceptions to Title.

4.2 Property Agreements. Copies of any and all written leases, tenancies, rental agreements, service contracts, licenses, management agreements, landscaping agreements, maintenance agreements, and any and all other agreements affecting the Property, and a full written description of any such agreements which are not written (collectively, the "**Property Agreement(s)**"). No later than five (5) business days following Buyer's receipt of any such Property Agreement, Buyer shall notify Seller in writing as to whether Buyer approves or disapproves of such Property Agreement. With respect to each such Property Agreement, Buyer may either direct Seller to assign Seller's interest under such Property Agreement to Buyer as of the Closing Date, or Buyer may direct Seller to terminate such

Property Agreement as of the Closing Date. In the event Buyer fails to provide Seller with any directions regarding a particular Property Agreement, Seller shall presume that such Property Agreement has not been accepted by Buyer, and Seller shall take all steps necessary to terminate such Property Agreement as of the Closing Date. Seller shall indemnify, defend and hold harmless Buyer from and against any obligation, claim, demand, loss, liability, cause of action, cost and expense (including reasonable attorneys'

Seller - H:Z 10/12/16
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fees) with respect to any Property Agreement that is terminated as of the Closing Date pursuant to this Subsection 4.2, including all termination and other similar fees.

4.3 Environmental Assessments. Copies in Seller's possession, if any, of any studies, assessments and/or reports which have previously been done on the Property including, without limitation, environmental reports, soils studies, site plans and surveys (collectively, "Environmental Assessments").

4.4 Building/Zoning Code Violations. Written notice of any claims and/or conditions known to Seller relating to Property building or zoning code violations.

4.4.5 Other Material Information. Written notice of any claims, conditions or information which may materially impact Buyer's decision to purchase the Property.

4.6 Failure to Deliver Seller Disclosures. If Seller is unable or unwilling to deliver to Buyer any of the Seller Disclosures, Buyer may immediately terminate this Contract. If Buyer so terminates this Contract, all monies paid by Buyer up to the time of termination shall be returned to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

~~5. ALTA/ACSM Land Title Survey. Seller shall provide, at Seller's expense, an ALTA/ACSM Land Title Survey ("Survey"). Buyer may review and request reasonable revision or object to the Survey or Buyer may opt to obtain an additional survey at Buyer's expense within ten (10) days of Buyer's receipt of the Survey. If after ten (10) days Seller has not received from Buyer any notice of revision or additional survey, Seller may presume that Buyer accepts the surveyed boundaries of the Property as contained in the Survey. If Buyer and Seller do not mutually approve a survey delineating the legal boundaries of the Property by the Due Diligence Deadline, this Contract shall be terminated and declared null and void on a non-default basis, by either Party providing notice to the other Party, and both Parties shall be relieved of any and all obligations and liabilities under this Contract and any monies paid shall be released from the Seller and returned to Buyer pursuant to this provision.~~

6. Inspection of Property. From the Due Diligence Date, and continuing through and including the date of the termination of this Contract or the Closing, Buyer and its representatives shall have the right to enter upon the Property to conduct any and all inspections and investigations as Buyer may desire to determine the condition and suitability of the Property for Buyer's intended use. Buyer, in the conduct of such investigations and inspections, shall not unreasonably interfere with any existing operations on the Property and Buyer shall indemnify and hold Seller harmless from and against any and all physical damage to the Property resulting from Buyer's investigation of the Property.

7. Buyer's Review and Approval of Seller Disclosures. From the Effective Date, and continuing until the Due Diligence Deadline, Buyer shall have the right to review and approve the Seller Disclosures and Preliminary Title Report as provided under this Section 7. If Buyer elects to terminate this Contract pursuant to this Section 7, all Earnest Money shall be returned to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

Seller: H. J. 10/12/16 Page 3 of 12

7.1 Unpermitted Exceptions. If Buyer objects to any Exceptions to Title appearing in the Preliminary Title Report (the "Unpermitted Exceptions") Buyer shall notify Seller of such objection in writing no later than five (5) days following Buyer's receipt of the Preliminary Title Report, and Seller shall make reasonable efforts to have such Unpermitted Exceptions removed from the Preliminary Title Report no later than fifteen (15) days after Seller has received from Buyer written notice of such Unpermitted Exceptions. If Seller is unable or unwilling to remove such Unpermitted Exceptions from the Preliminary Title Report within such time period, Buyer may terminate this Contract.

7.2 Property Agreements. If Buyer objects to any Property Agreement, Buyer shall notify Seller of such objection in writing no later than five (5) days following Buyer's receipt of such Property Agreement. If Seller is unable or unwilling to resolve Buyer's objections regarding any particular Property Agreement, Buyer may terminate this Contract and all parties shall be relieved of all liabilities under this Contract.

7.3 Environmental Assessments. In the event that Buyer determines, in Buyer's sole discretion, that any Environmental Assessment indicates the Property may not be appropriate, feasible, economically and/or environmentally viable for Buyer's planned use and/or development, Buyer may terminate this Contract and all parties shall be relieved of all liabilities under this Contract.

7.4 Building/Zoning Code Violations. In the event Buyer determines, in Buyer's sole discretion, that any claims and/or conditions relating to Property building or zoning code violations may adversely impact Buyer's planned use and/or development of the Property, Buyer may terminate this contract and all parties shall be relieved of all liabilities under this Contract.

7.5 Other Material Information. In the event Buyer determines, in Buyer's sole discretion, that any additional information provided by Seller or obtained by Buyer regarding the Property may adversely impact Buyer's planned use and/or development of the Property, Buyer may terminate this contract and all parties shall be relieved of all liabilities under this Contract.

7.6. Consequences of Review. Buyer's inspection, review or approval of the Property, documents or any other materials shall be solely for Buyer's own benefit, and shall not be deemed to be or to result in any warranty, representation or conclusion relative to the technical adequacy of the subject of such inspection, review or approval, the safety, soundness or quality of the Property or the Property's compliance with applicable law. No such inspection, review or approval shall not reduce or qualify, in any manner, any of Seller's representations or warranties that may be specifically set forth in this Agreement.

8. Buyer's Right to Cancel. Buyer's obligation to purchase the Property under this Contract is conditioned upon the following:

8.1 Buyer has inspected and approved the physical condition of the Property;

8.2 Buyer has reviewed and approved the content of any and all Seller Disclosures pursuant to Sections 4 and 7 of this Contract;

8.3 Buyer's receipt and approval of the Preliminary Title Report, assuring Buyer that Seller has and can deliver to Buyer good and marketable title to the Property at Closing,

Seller: H. Z. 10/12/16 Page 4 of 12

pursuant to the terms of this Contract.

8.4 Buyer obtaining all necessary final approvals for the purchase of the Property which are required by law, regulation, or public policy, or which must be obtained from any public entity or agency, including the Ogden City Council and/or the Ogden City Redevelopment Agency, according to such public entity's or agency's standard practices, procedures or requirements.

9. **Buyer's Due Diligence.** As used in this Contract, the term "**Buyer's Due Diligence**" collectively refers to Buyer's completion of each of the conditions set forth in Section 6 and 7. No later than the Due Diligence Deadline, Buyer shall complete all of Buyer's Due Diligence. If by the expiration of the Due Diligence Deadline (a) Buyer does not cancel this Contract as provided herein; or (b) Buyer does not deliver a written objection to Seller regarding any Buyer's Due Diligence; or (c) the Parties have not agreed in writing to extend the Due Diligence Deadline, it shall be deemed that Buyer has completed and/or approved each of the Buyer's Due Diligence; and the contingencies referenced in Section 6 and 7 shall be deemed as completely and unconditionally waived by Buyer.
10. **Seller's Warranties and Representations.** As of the Effective Date, Seller makes the representations and warranties listed below. **Such warranties and covenants shall not survive the Closing unless otherwise specifically stated below.** In the event of a breach of any of the representations and warranties specified below prior to the Closing, upon written notice by and at the election of Buyer, Buyer may terminate this Contract and neither Seller nor Buyer shall have any further rights or obligations under this Contract.

10.1 **Title.** Seller is the sole owner and is in exclusive possession of the Property. Seller holds good and marketable title to the Property in fee simple, and will convey good and marketable title to Buyer, including all of Seller's right, title, and interest in the Property at the Closing by warranty deed free and clear of all liens and encumbrances other than those Exceptions to Title and/or Property Agreements Buyer has accepted or otherwise failed to object to pursuant to this Contract. Buyer understands and agrees that, pursuant to Subsection 10.3 of this Agreement, Buyer must obtain a Final Title Policy to insure Buyer against any and all loss or damage resulting from defects or problems relating to the Buyer's ownership of the Property. As such, Seller makes no representations or warranties regarding title to the Property beyond the Closing.

10.2 **No Changes During Transaction.** Seller agrees that from the Effective Date and continuing until the Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the Property; or (d) incur any further financial encumbrances against the Property. Should Seller so encumber the Property after the Effective Date, then Seller shall be obligated to remove all such encumbrances on or prior to the Closing.

10.3 **Title Policy.** At the Closing, Seller shall obtain, inspect, approve and pay for a standard-coverage owner's policy of title insurance by a title insurance company in the total amount of the Purchase Price ("**Final Title Policy**") in order to adequately insure Buyer against any and all loss or damage resulting from defects or problems relating to the Buyer's ownership of the Property including, without limitation, the enforcement of liens that may exist against such Property. If title to the Property cannot be made insurable

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through an escrow agreement upon the Closing, the Seller shall return all Earnest Money to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

10.4 Seller Parties. The persons and entities comprising Seller represent all parties owning fee title to the Property as of the Effective Date. Seller is fully authorized to convey the Property pursuant to this Contract. The representations set forth in this Subsection 10.4 shall survive the Closing.

10.5 No Proceedings. As of the Effective Date, to the best of Seller's knowledge, there are no existing, pending or threatened condemnation proceedings, zoning or land use proceedings, utility moratoriums, use moratoriums, improvement moratoriums, or legal, administrative or other proceedings or assessments, formal or informal, affecting the Property, lawsuits by adjoining landowners or others, nor to the best knowledge and belief of Seller is any such lawsuit contemplated by any person, nor is any condemnation or assessment contemplated by any governmental authority. Buyer acknowledges and agrees that Buyer is solely responsible for performing any and all due diligence, as deemed necessary by Buyer, in order to determine whether or not the Property may, as of and following the Closing, be affected by any of the matters addressed under this Subsection 10.5.

10.6 No Leases. At the time of Closing the Property will not in whole or in part be subject to any leases tenancies or rental agreements other than those which Buyer has been made aware pursuant to Subsection 4.2 of this Agreement. The representations set forth in this Subsection 10.6 shall survive the Closing.

10.7 No Contracts. Seller has not and will not enter into any oral or written contracts, agreements, listings, or understandings affecting the Property which may become binding upon Buyer other than those which Buyer has been made aware pursuant to Subsection 4.2 of this Agreement. The representations set forth in this Subsection 10.7 shall survive the Closing.

~~10.8 Compliance With Laws. As of the Effective Date, Seller has complied with all applicable laws, ordinances, regulations, statutes and rules relating to the Property or any part thereof. The ownership, operation and use of the Property are in compliance with and do not violate any applicable federal, state or municipal law, ordinance, rule or regulation, including but not limited to, one relating to building, subdivision, zoning, health, the environment or disabled persons. In addition, Seller has no knowledge of any pending law ordinance, order, regulation or requirement that would affect the present use and operation of the Property. Buyer acknowledges and agrees that Buyer is solely responsible for performing any and all due diligence, as deemed necessary by Buyer, in order to determine whether or not the Property is suitable for Buyer's intended purposes, and determining whether or not the Property may, as of and following the Closing, be affected by any of the matters addressed under this Subsection 10.8.~~

10.9 Environmental. To the best of Seller's knowledge, during the period that Seller has owned the Property, there has been no storage, production, transportation, disposal, treatment or release of any solid waste, hazardous waste, toxic substance, mold, or any other pollutants or contaminants (hereinafter collectively referred to as "Pollutants") on or in the Property in violation of any applicable law, rule or ordinance. To the best of Seller's knowledge, Seller warrants that Seller has complied with all applicable local, state

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10.10 Other Commitments. No commitments relating to the Property have been made to any governmental authority, utility company, school board, church or other religious body, association or other organization, group or individual which would impose an obligation on Buyer or Buyer's successors or assigns to make, or which would establish as a condition to development or subdivision or any part of the Property the making of, any contribution or dedication of money or land or any improvements of a public or private nature on or off the Property. No governmental authority has imposed any requirement that any owner of the Property pays directly or indirectly any special fees or contributions or incurs any expenses or obligations in connection with the Property.

10.11 Other Agreements. No management agreement, landscaping or maintenance agreement, security agreement, assignment, ground lease, easement, employment agreement, licensing agreement, insurance policy, employee welfare plan, labor agreement or other contract or agreement exists, whether oral or written, affecting or relating to the Property, which will remain in effect after the Closing, except as have been disclosed in writing to and approved by Buyer. Each such agreement and contract is in full force and effect in accordance with its terms, is assignable without the necessity of consent of any third party and is cancellable, without cost or expense, on not more than thirty (30) days' notice. Each obligation of Seller and each other party under each such agreement and contract has been performed, no party to any such agreement or contract has asserted any claim of default or offset against Seller and no event has occurred or failed to occur, the occurrence or nonoccurrence of which would in any way affect the validity or enforceability of any such agreement or contract.

10.12 Judgment. No adverse or unpaid judgment is outstanding directly and solely against Seller relating to the Property or the operation of the Property that might affect the ability of Seller to perform Seller's obligations under this Agreement. The representations set forth in this Subsection 11.10 shall survive the Closing.

10.13 No Violation of Law by Seller. Seller is not in violation of, and the execution by Seller of this Agreement and the performance by Seller of Seller's obligations under this Agreement will not violate, any judicial order or governmental law, ordinance, rule or regulation in any respect which could have an adverse effect on the ability of Seller to perform Seller's obligations under this Agreement.

11. Closing Costs. Closing costs and prorations shall be prorated as follows:

11.1 Taxes and Utilities. All ad valorem and excise taxes and utilities shall be prorated to the date of Closing. If the current year's taxes are not known as of the date of Closing, the proration shall be based upon the previous year's taxes with an adjustment made between Seller and Buyer when the current year's taxes are known.

11.2 Prepayment Penalties. Seller shall pay all prepayment penalties and other amounts necessary to release all existing notes, liens and security interests against the Property, if any.

11.3 Fees. Any escrow fee charged by either Party's title company shall be borne by Buyer. Buyer shall pay the fee charged by the escrow/closing office for its services in the settlement/closing process. Each Party will pay its own attorney's fees. Buyer shall pay the

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cost of recording the Deed.

11.4 Other. All other bills or charges including other recording fees, any state or local documentary stamps, transfer taxes or fees, assessments for improvements completed or initiated prior to Closing, whether levied or not, pertaining to the Property as of the date of Closing shall be paid by Seller at or prior to Closing. All rents and other similar payments shall be prorated to the date of Closing.

12. **Default.**

12.1 Buyer Default. If Buyer defaults after Seller's satisfaction of all of its obligations hereunder, Seller's sole remedy shall be to cancel the Contract and retain any and all monies paid by Buyer up to the time of default as liquidated damages.

12.2 Seller Default. If Seller defaults after Buyer's satisfaction of all of its obligations hereunder, Buyer's sole remedy shall be to cancel the Contract, and require the return of the all monies paid by Buyer up to the time of default.

13. **Closing; Time of the Essence.** Unless extended by mutual agreement of the Parties, the sale contemplated by this Contract shall be closed no later than the Closing Date at the office of the Closing agent or a reasonable location mutually agreed upon by the Parties. Notwithstanding the previous sentence, Buyer may, at Buyer's sole discretion, elect to close this transaction prior to the end of the Due Diligence Deadline. In the event this sale cannot be closed by the Closing Date due to interruption of transport, strikes, fire, flood, extreme weather, governmental regulations, delays caused by lender, acts of God, or similar occurrences beyond the control of Buyer or Seller, then the Closing shall be extended seven (7) days beyond the cessation of such interruption or condition, but in no event more than fifteen (15) days beyond the Closing Date. Thereafter, time is of the essence. This provision relates only to the extension of the Closing. As used in this Contract, the term "**Closing**" shall mean (i) the balance of the purchase price has been delivered to Seller or to the escrow/closing office; and (ii) any and all documents necessary to complete the sale of the Property have been recorded in the office of the county recorder

14. **Final Pre-Closing Inspection.** Seller warrants that on the date Seller delivers physical possession to Buyer, the Property and improvements will be broom-clean and free of debris and personal belongings. Prior to the Closing, Buyer may conduct a final pre-closing inspection of the Property to determine that the condition of the Property is broom-clean and free of debris and personal belongings, and that the fixtures referenced in Subsection 1.2 of this Contract are present and in good condition.

15. **Authority of Signers.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller. The person or persons executing and delivering this Agreement on behalf of Seller have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement.

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16. **Real Estate Commissions.** Neither buyer and seller are represented by a real estate broker for this transaction. No real estate commission will be considered for this transaction..
17. **Exclusive.** Seller shall not rent, lease, sell, or enter into any such offer with any other party from the date of delivery of this Contract and until the Closing or termination of this Contract as provided herein.
18. **Attorney's Fees.** Both parties agree that should either Party default in any of the covenants or agreements herein contained, the defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing or terminating this Contract or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise.
19. **Entire Contract; Amendments.** This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the Parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or agreements between the Parties whether oral or written and whether made by either Party, or by anyone acting on behalf of either Party, all of which shall be deemed to be merged in this Contract and shall be of no further force or effect. No amendment, modification or change in this Contract shall be valid or binding unless reduced to writing and signed by all of the Parties.
20. **Risk of Loss.** All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the Closing.
21. **Assignment.** Buyer may transfer or assign this Contract and all rights created under this Contract to any person or entity, without the need for obtaining any consent or approval from Seller. In the event of assignment, this Contract shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto, and any entities resulting from the reorganization, consolidation or merger of either party hereto.
22. **Notices.** Any notices to be given hereunder shall be given by placing the notice or designation in the United States mail, certified or registered, properly stamped and addressed to the address shown below or such other address as the respective party may direct in writing to the other, or by personal delivery to such address by a party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received upon such placing in the mails or such delivery:

SELLER: Ethane Investment Holdings, LLC
1397 Skyview Dr
Salt Lake City, UT 84124

BUYER: Ogden City Redevelopment Agency
2549 Washington Blvd Suite #120
Ogden, Utah 84401
Attention: Ward Ogden

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SELLER: Ethane Investment Holdings, LLC
1397 Skyview Dr
Salt Lake City, UT 84124

BUYER: Ogden City Redevelopment Agency
2549 Washington Blvd Suite #120
Ogden, Utah 84401
Attention: Ward Ogden

WITH A COPY TO: Ogden City Attorney
2549 Washington Boulevard, Suite 840
Ogden, UT 84401

23. **Interpretation.** The provisions of this Contract shall be governed by and construed in accordance with the laws of the State of Utah. The section headings contained herein are for purposes of reference only and shall not limit, expand or otherwise affect the interpretation of any provision hereof. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include the masculine, feminine and neuter gender, and the term "person" shall include any individual, firm, partnership, joint venture, corporation, trust, association or other entity or association or any combination thereof. For purposes of this Contract, any references to the term "days" shall mean calendar days, exclusive of legal holidays. If any provision of this Contract or the application thereof shall be invalid or unenforceable to any extent, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by applicable law.
24. **Possession.** Buyer shall be entitled to possession of the Property at the Closing Date unless otherwise specified herein.
25. **Binding Effect.** The provisions of this Contract shall bind and inure to the benefit of the Parties and their respective successors and assigns. The Parties hereby agree for themselves, and for their successors and assigns, to execute any instruments and to perform any act, which may be necessary or proper to carry out the purposes of this Contract.
26. **Counterpart Signatures and Facsimile Copies Accepted.** This Agreement may be signed in counterparts, and electronic copies are accepted as originals.

SIGNATURES ON FOLLOWING PAGE

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IN WITNESS WHEREOF, each of the Parties has executed this Contract.

BUYER:

OGDEN CITY REDEVELOPMENT AGENCY,
a Utah political entity

By: _____
Michael P. Caldwell, Executive Director

ATTEST:

Ogden City Recorder

APPROVED AS TO FORM:

Agency Attorney

SELLER: Ethane Investment Holdings, LLC

By:  (with counter-offer)

Name: Roland Zhang

Title: Manager

EXHIBIT A
to
Real Estate Purchase Contract

Legal Description of Property

PART OF LOT 6, BLOCK 13, PLAT A, OGDEN CITY SURVEY; DESCRIBED AS
FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT AND RUNNING
THENCE EAST 130 FEET, THENCE SOUTH 66 FEET, THENCE WEST 130 FEET,
THENCE NORTH 66 FEET TO THE PLACE OF BEGINNING.
01-0110-0023

Exhibit A



ADDENDUM NO. 1

TO

REAL ESTATE PURCHASE CONTRACT



THIS IS AN [] ADDENDUM [X] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 10th day of October, 2016 including all prior addenda and counteroffers, between Ogden City Redevelopment Agency as Buyer, and Ethane Investment Holdings LLC as Seller, regarding the Property located at 503 EAST 26TH STREET, Ogden. The following terms are hereby incorporated as part of the REPC:

1. DISCLOSURE OF PRINCIPAL AS LICENSEE OR AS RELATIVE OF LICENSEE

1.1 Personal Interest. The [] Buyer [X] Seller is either: [] a relative of a real estate broker or sales agent participating in this transaction; or [X] a real estate broker or sales agent licensed as such under the laws of the State of Utah, who may share in the brokerage fee paid for this transaction.

1.2 Roland Zhang is seller's agent; Equity Real Estate -- Solid is seller's broker.

1.3 Section 16 is deleted.

2. Seller will close at the office of First American Title -- Foothill Branch (Jill Maddox).

3. Extension of any of the deadlines including closing deadline is possible only if both parties agree in writing.

4. Settlement Deadline is October 28th, 2016; closing date is October 31, 2016

5. All occupied units have month-to-month leases on November 1, 2016, except Unit 9 and Unit 13. These two leases shall survive the Closing. Seller is not responsible to terminate the leases.

6. Ogden City and any of its enforcement offices shall not issue any violations, citations, and fines related to the property during the negotiation and execution of this contract.

7. At the closing, Ogden City shall terminate all previous cases of code violations and citations and waiver previous fines related to the property, including a fine of \$750 on the case #20150832, and a fine of \$375 on the case #20161246.

8. Delete section 14.

9. In addition to subsection 11.3, Buyer pays \$8000 towards closing cost.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN THE REPC (CHECK APPLICABLE BOX): [X] REMAIN UNCHANGED [] ARE CHANGED AS FOLLOWS:

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. [] Seller [X] Buyer shall have until 5 : 00 [] AM [X] PM Mountain Time on October 14, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

 Oct 12, 16, 11:07AM
Page 1 of 2 Buyer's Initials _____ Seller's Initials EAZ 10/12/16 Addendum No. 1 to REPC

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____

(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

PROPOSED AMENDMENT TO ALLOW SHORT-TERM RESIDENTIAL VACATION RENTALS

PURPOSE OF WORK SESSION:

- 1. Allow the Council to review the proposed ordinance options,**
- 2. For the Council to indicate additional information needed, or**
- 3. For the Council to give direction for additional changes**

PLANNING COMMISSION

RECOMMENDATION: Approval of the ordinance (6-2)

Executive Summary

The Planning Department has been researching the issue of short-term vacation rentals, or the renting of a residential unit for a period of time less than 30 days, in Ogden as the popularity of this use has increased over last few years. The Planning Department developed a proposal and presented it to the Planning Commission which then provided a recommendation of approval to the Council. The proposed ordinance would provide regulations for vacation rentals with regard to spacing, occupancy, off-street parking, maintenance, garbage collection, appearance, signage, management, and other specifics related to a residential unit's use as a vacation rental.

Purpose of the October 25, 2016 Work Session

At the September 6, 2016 work session, the Council reviewed the proposed ordinance changes indicated from the August 18, 2015 work session and received a presentation on recent trends and developments around the country regarding short-term rentals. At the September 6th work session, the Council gave direction on changes it wanted regarding the August 18, 2015 work session changes. In addition, Administration provided an alternative recommendation from the Planning Commission's recommendation that the Council could consider. The alternative recommendation would allow short-term vacation rentals in single-family zones if the rentals were owner-occupied. There was only preliminary discussion among the Council about whether the Council should consider this option and limited discussion on what would actually constitute owner-occupancy. At the meeting, Council staff indicated that two

options, the original Planning Commission recommendation plus the option presented allowing owner-occupied rentals in single-family zones, would be placed on a future agenda for consideration.

As Planning, Legal, and Council staff reviewed the changes that resulted from the direction provided by Council at the September 6, 2016 work session, it became evident that there were policy issues that needed to be addressed in a work session setting prior to the Council's final consideration of the proposal. The purpose of the October 25, 2016 work session is to allow the Council to discuss policy issues related to the two options for consideration, defining owner-occupancy, impacts of allowing rentals in single-family residential zones, family definitions, and to review several other minor issues.

Two Options for Consideration

The Administration's alternative recommendation provided at the September 6, 2016 work session would allow short-term vacation rentals in single-family zones if they were owner-occupied. The first option is the option given a recommendation from the Planning Commission. This option would allow short-term vacation rentals in multi-family zones and in single-family zones only if the owner utilized a unit-reduction incentive that would remove additional dwelling units in larger, older homes. If a short-term rental were to take advantage of this option, the legal non-conforming status of that multi-unit home would be lost. The second, or alternative, option would allow short-term vacation rentals in multi-family zones as originally proposed, but would allow vacation rentals in any single-family zone if the rental was owner-occupied. In this case, there would be no unit-reduction incentive in single-family zones as contained in the first option.

Owner-occupancy Definition

The second option of allowing short-term rentals in single-family zones if owner-occupied was discussed only briefly at the September 6, 2016 work session. The discussion did not include a definitive definition of owner-occupancy. As staff looked at this issue, it was determined that the definition of an owner-occupied dwelling should be consistent with that of the City's recently adopted Accessory Dwelling Unit (ADU) definition. With ADUs, and as proposed in the residential vacation rental ordinance, a property is considered owner-occupied if the unit is the owner's primary place of residence for at least eight (8) months of the year.

Impact of Allowing Rentals in Single-family Zones

The option of allowing short-term vacation rentals in single-family zones is a departure from the initial recommendation from the Planning Commission of only allowing them in multi-family zones. Some of the main reasons for this initial recommendation were concerns over the impacts on the character of the neighborhood if vacation rentals were to be allowed, expectation of the use of property in single-family zones versus other zones, concern over the encroachment of a quasi-commercial use in otherwise residential areas, and the consistency with the general goals the City has established regarding single-family zones. In an effort to address these concerns and to expand the allowance of short-term vacation rentals, the alternative recommendation, or option two, is to allow short-term vacation rentals in single-family zones only if they are owner-occupied. The feeling here, as with ADUs, is that the restriction of requiring an owner to be present, or at least retaining the dwelling as the owner's primary residence, allows the owner to monitor and address any potential issues in a way a non-owner occupied rental may not.

Definition of Family

As staff worked to refine the changes to the proposals and ensure consistency with the City's other ordinances, the issue of the definition of family came up. The definition of family in the City's code allows individuals related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship or up to three unrelated individuals to live in a single nonprofit housekeeping unit. As the staff reviewed this definition as it relates to owner-occupied short-term vacation rentals, a clarification was included in the proposed ordinance that would limit the number of individuals in an owner-occupied unit to the maximum of three unrelated individuals. This was the basis for the limitation on the number of occupants for an Accessory Dwelling Unit as well. This restriction would not apply to a non-owner occupied short-term vacation unit as a non-owner occupied unit would not function as or be considered a primary residence.

Other Minor Updates and Clarifications

As staff worked on the ordinance, there were several other points of clarification that should be noted. First, a clarification of what constituted 'living space' was included. This clarification was based on what is considered living space in the building code. Second, a clarification was made that would provide standards for how a primary residence is proven. Third, a clarification was made for how often a rental unit must be inspected. As proposed, a non-owner occupied unit would need to be

inspected at least every two years while an owner-occupied unit would not need additional inspections beyond the initial inspection unless a violation has been reported. Fourth, a clarification has been proposed that would not require noticing and providing contact information to surrounding residents if the unit is owner-occupied.

Background

The leasing of a residential unit for a period of time less than 30 days is considered a short-term or residential vacation rental. Federal and state regulations prevent the City from prohibiting or substantially regulating the rental of a residential unit for the purpose of a primary residence for a period longer than 30 days. If a unit is leased for a month or longer, it is considered a long-term rental and is protected by federal and state housing laws. If a unit is rented for fewer than 30 days, it does not fall under those same restrictions and may be regulated or prohibited.

Residential vacation rentals have been around in many resort towns and other tourist destinations for quite some time. More recently, the use has increased in popularity in more traditionally residential areas. Many times and in many cities, these operations are not legally permitted but are done regardless. This often creates significant code enforcement and zoning issues in cities where residential vacation rentals operate but are not allowed. This situation exists in Ogden.

In response to the growing demand and popularity of residential vacation rentals, the Planning Department has performed considerable research on the topic to determine if short-term residential vacation rentals could be a viable, legal use in Ogden. The City's planners researched ways in which other communities have handled the issue and reviewed ordinances from these communities to glean the best practices from the communities wherein vacation rental operations are successful.

May 5, 2015

A work session was held on May 5, 2015 to review the proposal from the Planning Commission. Considerable discussion was had among the Council regarding the proposal. As a result of the discussion, several items were identified that the Council felt should be researched further. The Planning Staff has performed the research and drafted a memo (dated May 27, 2015) that addresses the issues identified. The issues identified in the memo include a comparison of other communities similar in size or character, updated language clarifying how violations will be determined, proposals for inclusion of vacation rentals in single-family residential

zones, and a discussion of how vacation rentals could impact the Quality Neighborhoods strategy.

June 9, 2015

At a work session on June 9, 2015, the Council reviewed the information it had requested at the May 5, 2016 work session. The Council reviewed the options presented but did not direct that any changes be made to the proposal at the work session.

June 23, 2015

A public input work session was held on June 23, 2015. A notice for the work session was sent to all of the known vacation rental properties in the City as well as all properties within 300 feet of each of the known vacation rentals. A total of eleven individuals spoke at the meeting. As this was a public input work session, no direction was given by the Council for any changes to the proposal. Planning Staff and Council Staff worked to gather issues raised at the work session and Planning Staff performed additional research to address the issues raised by the public and the Council.

August 18, 2015

A work session was held on August 18, 2015 to allow the Council to discuss the public comment received at the June 23, 2015 public input work session and to provide Staff with any direction desired by the Council regarding changes to the proposed ordinance.

Based on public input, Council discussions, and Staff review, Planning and Council Staff identified several issues that needed further discussion or direction. Planning Staff provided a memo (dated August 10, 2015) which provided further background and clarification on the issues. The issues included in the memo are:

1. Common elements among vacation rental ordinances,
2. The proposed unit reduction incentive for single-family zones,
3. Transient room taxation,
4. Planning Commission's due diligence,
5. Ceiling height disclosure requirements,
6. ADA requirements,
7. Unique elements of Ogden's proposed ordinance,
8. Relation of the Bed and Breakfast use versus the vacation rentals use, and
9. Review of vacation rental website listings and zone.

Council Staff had identified several other issues that the staff felt the Council needed to discuss at the August 18, 2015 meeting. These included:

1. Owner-occupied versus non-owner occupied vacation rentals,
2. Allowance in single-family residential (R-1) zones,
3. Proof of taxation, and
4. Clarification of other various regulations proposed such as ceiling height and proximity to group homes.

As a result of the Council's discussion on August 18, 2015, there were several changes the Council felt needed to be made to the proposal. First, the Council felt that there should not be a name listed on the outside of a short-term vacation rental. Rather, a notice with all pertinent information should be sent to surrounding property owners within 300 feet on an annual basis with the renewal of the business license. Second, the Council felt that the requirement that statements be included in the advertisement advising of low ceiling heights be eliminated. Third, the Council felt that the proximity restriction to group homes should be eliminated.

Council members also indicated that they would like additional research done on the impact of allowing short-term vacation rentals in single-family residential zones. Council members wished to know the number (or estimate) of existing vacation rentals in single-family zones to understand the impact of prohibiting them in these zones. Based on that request, further work sessions were not scheduled in order to allow Administrative Staff time to research the request.

January to April 2016

During the state legislative session between January and March of 2016, the City paused in its review and consideration of the short-term vacation rental ordinance due to pending state-wide legislation. The legislature discussed the issue during the session extensively; however, no bill was passed during the 2016 session that regulated short-term residential vacation rentals. As a compromise instead, the issue was to be studied by the Utah League of Cities and Towns and recommendations were to be brought forward after the study. Once the league's committee began studying the issue in April, Ogden City felt it was appropriate to once again bring the issue forward for consideration.

May 3, 2016

The May 3, 2016 work session was held to allow the Council to continue the process of reviewing all of the information that has been presented and to consider the recommendation forwarded by the Planning Commission. Administrative Staff presented the Planning Commission's recommendation and other information and research that had been performed since in the prior months.

September 6, 2016

The September 6, 2016 work session was held to review the changes proposed at the August 18, 2015 work session and to have the Council provide direction to staff on how to proceed with the consideration of the proposal.

Current Proposal There are now two proposals for consideration. The first is the Planning Commission's recommendation. This option does contain the changes and updates that are common to both proposals but includes specific language regarding the limitation of allowing short-term residential vacation rentals in single-family zones. The second option also contains recent changes and updates common to both proposals but includes language expanding the allowance of short-term vacation rentals into single-family zones if they are owner-occupied. Some of the more significant elements of the proposed ordinance are summarized below:

- The proposed ordinance includes penalties for advertising and operating a residential vacation rental without proper licensing. The proposed penalty is a \$500 fine for an initial violation, \$500 for an intermediate penalty, and \$500 as the maximum penalty.
- Definitions for several terms including the terms Agent, Net Living Space, Owner, and Owner-occupied. [CS Note: this has been added since the September 6, 2016 work session]
- Requirement that in order to prove a unit is owner-occupied the owner must show that the unit is taxed by Weber County as the owner's primary residence and that the owner must provide several other forms of ID that show that dwelling as the owner's primary residence. [CS Note: this has been added since the September 6, 2016 work session]
- Applications for vacation rentals require a floor plan of the unit, parking plan, copy of tax license, a statement clarifying if the unit is owner-occupied, and contact information.

- Renewal of a license includes the most recent transient room tax return, and a list showing details of the rentals over the previous year.
- Vacation rentals are required to comply with all building codes and standards for when a unit must be re-inspected. [CS Note: this has been updated since the September 6, 2016 work session]
- Only one residential vacation rental is allowed per linear block. The ordinance would prohibit a non-owner occupied [CS Note: clarified since the September 6, 2016 work session] vacation rental from being located on the same linear block as a residential facility for persons with a disability or a residential facility for elderly persons [CS Note: proposed for amendment at the August 18, 2015 Council work session but not changed based on the September 6, 2016 work session]. A vacation rental may continue to operate if such a facility is permitted after the vacation rental is licensed.
- The occupancy limits for non-owner occupied vacation rentals [CS Note: this has been clarified since the September 6, 2016 work session] include two persons per sleeping room plus two additional persons. These limits may be increased if additional off-street parking is available, if the total number of persons does not exceed one person per 200 square feet, and if any room with more than two persons occupying it has direct ingress/egress to the exterior.
- Owner-occupied vacation rental occupancy is limited to the definition of the family as set forth in the City's zoning ordinance [CS Note: this was added after the September 6, 2016 work session].
- A minimum of two off-street parking spaces are required for any vacation rental. No widening of the driveway or a side yard parking slab is permitted. For non-owner occupied units with more than four sleeping rooms, additional off-street parking is required at a rate of ½ parking space per sleeping room in addition to the first two required spaces. For owner-occupied units, ½ parking stall is required for each sleeping room in addition to the two initial spaces required. One-half parking stalls are rounded up to the nearest whole number.
- On-street parking may not be used to satisfy the parking requirement.

- Garbage cans and recycling cans must be provided and may not be kept in the front of the unit. Information about collection must be made available to the renters by the owner.
- If animals are allowed by the owner, the number is limited to that which would be allowed as a single-family residence and pets must be kept inside unless accompanied by an adult.
- Signage is limited to that of a home occupation.
- The name and contact information of a person responsible for the vacation rental must be ~~posted~~ mailed to surrounding property owners within 300 feet, except when the rental is owner-occupied. That individual must be able to be present at the unit within 30 minutes [CS Note: proposed for amendment at the August 18, 2015 Council work session and amended since the September 6, 2016 work session].
- Allowance for vacation rentals in single-family zones as clarified with the recommendation given at the September 6, 2016 work session:
 - Option One – Vacation rentals may not be permitted in a single-family residential zone unless the unit has existed as a legal non-conforming multi-family unit, and that the legal non-conforming status would be lost if converted into a vacation rental.
 - Option Two – No vacation rental may be permitted in a single-family residential zone unless the unit is owner-occupied.
- Any vacation rental advertisement must include the permit number, the number of sleeping rooms available, persons permitted, pet information, the number of off-street parking spaces available.
- Noncompliance with the ordinance or violation of noise, maintenance, or other non-permitted uses, or the entrance into a sham transaction shall be reviewed by a hearing officer. If found to be in violation, the following will apply:
 - Revocation of the permit with all rental and advertising to be terminated within 30 days; and
 - Prohibition of future rentals for a period of three (3) years.

- A sham transaction is a transaction that is meant to violate or which could result in violating or avoiding the city's zoning ordinances and can include:
 - The occupancy of a vacation rental for more than 30 consecutive nights; or
 - The occupancy of a vacation rental by a person or group who does not have a primary residence at another location.
- Initial filing period ending January 3, 2017 with clarification on how a rental is chosen if two rental permits are requested on the same block.

Planning Commission

The proposal was reviewed by the Planning Commission on March 4, 2015. At that meeting, the Commission forwarded a recommendation of approval to the Council with a vote of 6-2. The Commission found that the ordinance amendment is consistent with the General Plan in creating a source of housing types, promoting tourism, and strengthening neighborhoods through appropriate design and improvement.

Commissioner Schade voted against the recommendation based on his belief that the use is not appropriate for either the R-2 or R-2EC zones. Commissioner Southwick voted against the recommendation with the belief that the R-1 zone should be treated like the multi-family zones and felt that the limitation of one vacation rental per block was enough of a regulation and they not be denied the opportunity for the use.

Public Comment

The issue was discussed at several Planning Commission meetings. The formal public hearing was held on January 7, 2015 with an additional work session and regular meeting held after that. At the January 7, 2015 meeting, about a dozen residents and interested persons spoke. These comments have been summarized by the Planning Department and the summary has been included in the transmittal information. No citizens were present at the meeting at which the Commission took action on March 4, 2015.

ORDINANCE NO. _____

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY AMENDING SECTION 15-1-17 TO ADOPT A PENALTY FOR OPERATING A RESIDENTIAL VACATION RENTAL WITHOUT A PERMIT; AMENDING SECTION 15-2-19 TO DEFINE RESIDENTIAL VACATION RENTAL; AMENDING SUBSECTION 15-6-3.F TO SPECIFY THE TERMINATION OF A NON-CONFORMING USE WITH A RESIDENTIAL VACATION RENTAL PERMIT; AMENDING SECTION 15-13-28 TO REVISE NON-CONFORMING USE STANDARDS FOR TWO-FAMILY DWELLINGS AND DUPLEXES; AMENDING CHAPTER 13 OF TITLE 15 BY ADOPTING A NEW SECTION 38 ALLOWING RESIDENTIAL VACATION RENTALS IN OGDEN CITY; AMENDING SECTION 15-15-2 TO ALLOW CERTAIN RESIDENTIAL VACATION RENTALS AS A PERMITTED USE IN THE R-1 ZONES; AMENDING SECTION 15-16-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-2 ZONE; AMENDING SECTION 15-17-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-3 ZONE; AMENDING SECTION 15-18-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-4 ZONE; AMENDING SECTION 15-19-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-5 ZONE; AMENDING SECTION 15-35-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-2EC ZONE; AMENDING SECTION 15-36-2 TO ALLOW RESIDENTIAL VACATION RENTAL AS A PERMITTED USE IN THE R-3EC ZONE; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

SECTION 1. Section amended. Section 15-1-17 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-1-17: [PENALTIES; REMEDIES:]

- A. **[Complaints Regarding Violations:]** The director may investigate any complaint alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this section.
- B. **[Persons Liable:]** The owner, owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.
- C. **[Penalties And Remedies For Violations:]**
 - 1. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this title or failing to comply with any of its requirements shall be guilty of a class C misdemeanor and upon conviction shall be punishable as set forth in title 1, chapter 4, article A of this code.

2. This title may also be enforced by injunction, mandamus, abatement or any other appropriate judicial action in law or equity.
3. Failure to correct a violation of this title after written notice of violation and expiration of the warning period may be enforced by imposition of the following civil penalties pursuant to title 1, chapter 4, article B of this code:
 - a. The first civil citation issued after expiration of the warning period shall subject the person to the initial penalty as provided in subsection D of this section.
 - b. The second civil citation issued after expiration of the warning period and the prior imposition of the initial penalty shall subject the person to the intermediate penalty as provided in subsection D of this section.
 - c. Any subsequent civil citation issued after expiration of the warning period and the prior imposition of an intermediate penalty, or any reoccurring violation under section 1-4B-6 of this code, shall subject the person to the maximum penalty as provided in subsection D of this section.
4. Each day that any violation of this title is committed, maintained, continued or permitted shall be considered a separate offense or violation for purposes of the penalties and remedies available to the city.
5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of this title.

D. [Civil Penalties:]

1. Penalties Imposed: Violations of this title shall carry civil penalties pursuant to the following schedule:

<u>Violation Classification</u>	<u>Initial Penalty</u>	<u>Intermediate Penalty</u>	<u>Maximum Penalty</u>
a. Causing, permitting or maintaining any land use not allowed in the applicable zoning district	\$125.00	\$250.00	\$500.00
b. Constructing, installing, permitting or maintaining any building, structure or improvement, which violates yard, setback, height or other dimensional requirements, regarding the placement of buildings, structures or other site improvements, imposed	125.00	250.00	500.00

	under the provisions of this title			
c.	Violating any condition or requirement of a permitted or conditional use; noncompliance with conditions of an approved conditional use permit, variance, a site plan or any other development plan or permit issued in accordance with the provisions of this title (except violations under subsection D1b of this section)	125.00	250.00	500.00
d.	Allowing a vehicle to be parked at a location prohibited under the provisions of this title	25.00	50.00	100.00
e.	<u>Advertising, renting, or operating a residential vacation rental in violation of section 15-13-38</u>	<u>500.00</u>	<u>500.00</u>	<u>500.00</u>
f.	Any other violation not described above	125.00	250.00	500.00

SECTION 2. Section amended. Section 15-2-19 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

15-2-19: ["R" DEFINITIONS:]

REASONABLE ACCOMMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

Equal Opportunity: Achieving equal results as between a person with a disability and a nondisabled person.

Necessary: The applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

Reasonable: A requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

RECREATIONAL COACH: A vehicle such as a recreational trailer, tent camper trailer, truck camper, travel trailer, camp car or other vehicle with or without motive power, designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah motor vehicle code, and designed for the use of temporary human habitation.

RECREATIONAL COACH PARK: Any area or tract of land or a separate designated section within a manufactured home park where one or more spaces are rented or held out for rent to owners or users of recreational coaches for a temporary time not to exceed two (2) weeks.

RECREATIONAL COACH SPACE: A plot of ground within a manufactured home park designated and intended for the accommodation of one recreational coach.

RECYCLABLE MATERIALS: Reusable material, including, but not limited to, glass, plastics and synthetic materials, paper products such as newspaper, stationery, scrap paper, computer paper and corrugated cardboard, rubber, batteries, ferrous and nonferrous metals, concrete, asphalt, wood, building materials, or any "junk or salvage material", as defined herein, which are intended for reuse, remanufacture, or reconstitution for the purpose of using in altered form. Recyclable material does not include refuse or hazardous materials nor does it include coins, precious metals or commercial grade precious metals if they are the sole recyclable material.

RECYCLABLE MATERIALS, LIMITED: Aluminum cans, plastic, or scrap paper such as newspapers, stationery, computer paper, or magazines, but not including cardboard materials or boxes.

RECYCLING COLLECTION CENTER: A facility located in an enclosed building for the acceptance by donation, redemption, or purchase, of recyclable materials, which have been source separated by type by the person who last used the material. Such facility may allow limited compacting or crushing of recyclable materials and may allow temporary outdoor storage of such recyclable materials if stored in weather resistant containers.

RECYCLING DROP OFF STATION: A facility maintained in connection with another use consisting of reverse vending machines or unattended weather resistant containers that are provided for collection of limited recyclable materials which have been source separated by type by the person who last used the material. A recycling drop off station shall not include weather resistant containers located on a residential, commercial or manufacturing designated parcel used solely for the collection of recyclable material generated on the parcel.

RECYCLING PROCESSING CENTER: A facility that accepts, stores or processes recyclable materials, whether or not maintained in connection with another business. Processing includes baling, briquetting, crushing, compacting, grinding, shredding, sawing, shearing, and sorting of recyclable materials and the heat reduction or melting of such materials. Recycling processing center includes junk or salvage yards where processing of recyclable material is included, but does not include recycling drop off stations or recycling collection stations.

REHABILITATION/TREATMENT FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy and supervision of individuals (adults/juveniles) in order to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, or mental health. Associated education services may also be provided to juvenile occupants.

RESIDENCE, RESIDENTIAL FACILITY: Any building or portion thereof where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A dwelling unit that is either owned by one of the residents or by an immediate family member of one of the residents, or is a facility for which the title has been placed in trust for a resident; and is occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement, together with any incidental domestic staff. A "residential facility for elderly persons" shall not include any facility:

- A. Which is operated as a business; provided, that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;
- B. Where persons being treated for alcoholism or drug abuse are placed;
- C. Where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
- D. Which is a healthcare facility as defined by section 26-21-2 of the Utah code; or
- E. Which is a residential facility for persons with a disability.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence in which more than one person with a disability resides, together with any incidental domestic staff, and which is:

- A. Licensed or certified by the department of human services under title 62A, chapter 2, of the Utah code, licensure of programs and facilities; or
- B. Licensed or certified by the department of health under title 26, chapter 21, of the Utah code health care facility licensing and inspection act.

RESIDENTIAL GARAGE SALES OR YARD SALES: The occasional sale of surplus household goods or furnishings as a use accessory to a dwelling. Sales held more frequently than three (3) days in any one calendar quarter shall be considered a retail use and not "occasional" in nature, nor a use accessory to a dwelling. A residential garage sale or yard sale shall not include goods or property:

- A. Acquired for the purpose of resale, barter or exchange; or
- B. Manufactured or repaired for the purpose of sale as part of a home occupation.

RESIDENTIAL VACATION RENTAL: Use of a dwelling unit for temporary sojourn or transient visit for a period of up to thirty (30) consecutive days by a person or group of people whose primary residence is at another location; who provide compensation, in any form, in exchange for occupancy; and where meals or food are not provided.

RESTAURANT: A place of business where food and beverages are prepared, served and sold for human consumption. A restaurant shall not include the sale and consumption of alcoholic beverages unless licensed by the city and the state of Utah, nor shall it include entertainment for its patrons unless zoned for and licensed as a cabaret or adult live entertainment business.

RETAIL TOBACCO SPECIALTY BUSINESS: A commercial establishment in which:

- A. The sale of tobacco products accounts for more than thirty five percent (35%) of the total annual gross receipts for the establishment;
- B. Food and beverage products excluding gasoline sales, is less than forty five percent (45%) of the total annual gross receipts for the establishment; and
- C. The establishment is not licensed as a pharmacy under title 58, chapter 17b, pharmacy practice act of the Utah code.

Tobacco products for sale in a retail specialty business are defined as:

- A. Any cigar, cigarette or electronic cigarette as defined in section 76-10-101, Utah Code Annotated;
- B. A tobacco product as defined in section 59-14-102, Utah Code Annotated, including chewing tobacco or any substitute for a tobacco product including flavoring or additives to tobacco;
- C. Tobacco paraphernalia as defined in section 76-10-104.1, Utah Code Annotated;
- D. Liquid for producing vapor in electronic cigarettes, regardless of whether such liquid contains nicotine.

RETIREMENT HOME: A residential facility designed, occupied and intended for residents fifty (50) years of age or older, where common facilities for cooking and dining are available to all residents and independent facilities are provided for living, sleeping and sanitation.

REVERSE VENDING MACHINE: An automated mechanical device, maintained in connection with another use, which accepts at least one or more types of limited recyclable materials and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically; provided, that the entire process is enclosed within the machine.

SECTION 3. Subsection amended. Subsection 15-6-3.F of the Ogden Municipal Code

is hereby amended to read and provide as follows:

F. Loss Of Right:

1. A nonconforming use of a building or structure shall be terminated if the building or structure in which the use is located is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the nonconforming use shall be lost if the building or structure is not repaired or restored within six (6) months.
2. A nonconforming use of a building or structure shall be lost if the property owner voluntarily demolishes a majority of the building or structure that houses the nonconforming use.
3. The nonconforming use of a building, structure or tract of land that has been abandoned shall be terminated and the building or structure not occupied or used thereafter except in conformance with the present use regulations of the zone in which it is located. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
4. A use shall be presumed to be abandoned if:
 - a. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished;
 - b. The use has been discontinued for a continuous period of one year; or
 - c. The primary structure associated with the nonconforming use remains vacant for a continuous period of one year, excluding vacancies due to:
 - (1) Remodeling or renovation under a valid building permit, or
 - (2) Pending court actions which affect occupancy or possession of the property, i.e., probate, ownership disputes.
5. The property owner may rebut the presumption of abandonment under subsection F4 of this section and shall have the burden of establishing that any claimed abandonment has not in fact occurred.
6. The nonconforming status of a school district or charter school use or structure shall terminate when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a continuous period of one year. Such termination shall not prevent the reuse of such building or structure under the other provisions of this chapter.
7. The nonconforming status of a two-family or multi-family dwelling shall terminate, and notice of the termination shall be recorded with the office of the Weber County Recorder, if the property receives a permit for a residential vacation rental under Section 15-13-38.

SECTION 4. Section amended. Section 15-13-28 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-13-28: LEGAL CONFORMING TWO-FAMILY DWELLINGS OR DUPLEXES:

- A. Any two-family dwelling or duplex that was in legal existence prior to January 16, 2001, shall be considered legal conforming.
- B. Legal conforming status shall authorize alterations, extensions, additions, or replacement of the two-family dwelling or duplex, without having to comply with the requirements of chapter 6 of this title. When replacing a legal conforming two-family dwelling or duplex with a new two-family dwelling or duplex:
 - [A.] 1. There shall not be a square footage limitation on the replacement dwelling;
 - [B.] 2. The replacement structure shall not project into a required yard area beyond any encroachment established by the structure being replaced; and
 - [C.] 3. The number of new parking stalls provided shall be equal to or more than the number of parking stalls being replaced, provided that all parking stalls, and accesses to such stalls, shall be paved with an asphalt or concrete surface.
- C. A property with legal conforming status shall lose that status, and notice of the change in status shall be recorded with the office of the Weber County Recorder, if the property receives a permit for a residential vacation rental under Section 15-13-38.

SECTION 5. Section adopted. Chapter 13 of Title 15 of the Ogden Municipal Code is hereby amended by adopting a new Section 38 to read and provide as follows:

15-13-38: [RESIDENTIAL VACATION RENTAL:]

- A. The purpose of residential vacation rentals in Ogden City is to provide a short term rental option in residential zones for individuals who have a primary residence at another location. Special regulation of these rental uses is necessary to ensure that they will be compatible with surrounding residential uses and will not be detrimental to, or alter, the neighborhoods in which they are located.
- B. As used in this section, the following words shall have the meaning as defined in this Subsection:
 - 1. AGENT: A person or entity who contracts with an owner to manage or otherwise assist in the leasing or occupancy of real property as a residential vacation rental, except that it does not include a person or entity who solely provides software or internet services to list or market the owner’s property to potential renters.
 - 2. NET LIVING SPACE: Space within a residential vacation rental utilized for living, sleeping or eating, but not including space used for hallways, stairs, cooking, bathing, washing, or sanitation purposes.

3. OWNER: A person or entity who claims an ownership interest in real property, including any part owner, joint owner or tenant in common of the whole or of a part of such land.
 4. OWNER-OCCUPIED: A dwelling that is the owner's primary residence, in which the owner lives for at least 8 months each year, and for which title is in the owner's name appears or in the name of a living trust of which the owner is both the trustor and the beneficiary.
- C. Owners desiring to be recognized as an owner-occupant may establish that the property is their primary residence by showing that the property is taxed by Weber County as the person's primary residence and providing two of the following forms of evidence that match the address of the residence:
1. Either the address shown on the owner's driver's license or on the owner's vehicle registration;
 2. The address shown on the person's voter registration; or
 3. Either the address shown on the person's state or federal tax return.
- D. It is unlawful for an owner or the owner's agent to advertise or rent a dwelling as a residential vacation rental unless the owner or agent has a valid current Ogden City residential vacation rental permit and a rooming house business license under title 5 of this code.
- E. The issuance of a residential vacation rental permit may be conditioned on the owner or owner's agent also obtaining and completing other permits that may be necessary to bring the dwelling into compliance with the standards of this section. The applicant shall pay any required fee and submit as part of the initial application for a residential vacation rental permit:
1. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses;
 2. A drawing or other description as to how required legal off-street parking will be provided and the number of legal off-street parking spaces available;
 3. A copy of a state issued sales tax license;
 4. A statement affirming whether or not the vacation rental will be owner-occupied; and
 5. The name and contact information of the person described in subsection I.8.
- F. In order to renew a residential vacation permit, a person shall pay any required fee and provide:
1. A copy of the person's Utah transient room tax return for the prior year.
 2. A list from the prior year of the nights the residential vacation rental was occupied, the number of people in each rental to whom it was rented and the length of occupancy of each person or group of people.
- G. **[Compliance With Building Codes:]** A residential vacation rental shall be inspected upon initial application, upon any housing complaint filed with the city, and every two years for non-owner occupied dwellings, to verify that the structure:
1. Complies with the information contained in the application and with the requirements of this section;

2. Complies with all applicable local and state building, health, fire, safety and maintenance codes;
3. Complies with the current building code for egress window size and location in all sleeping rooms regardless of when the structure was built; and
4. Has a functioning interconnected fire alarm system.

H. **[Spacing of non-owner occupied residential vacation rentals:]** A non-owner occupied residential vacation rental may not be located on the same linear block as another non-owner occupied residential vacation rental, residential facility for persons with a disability or residential facility for elderly persons. A non-owner occupied residential vacation rental permit may be renewed if a residential facility for persons with a disability or residential facility for elderly persons is established on the same linear block after the original residential vacation permit was issued.

I. **[All residential vacation rentals must conform to the following standards:]**

1. Non-owner occupied occupancy limits: Occupancy of a residential vacation rental that is non-owner occupied is limited to no more than two people per sleeping room, as established by the inspection described in subsection E, plus two additional people. The number of allowed occupants may be increased if:
 - a. The minimum number of required off-street parking spaces are provided based on the number of sleeping rooms in the structure;
 - b. The total number of permitted occupants does not exceed one person for every 200 square feet of net living space, with the number of occupants rounded down to the nearest whole number; and
 - c. Any sleeping room designated or arranged for occupancy by more than two people has a code compliant door that exits directly to the exterior of the residential vacation rental.
2. Owner-occupied occupancy limits: Occupancy of an owner-occupied residential vacation rental is limited to the number of individuals permitted pursuant to the definition of a family under section 15-2-7.
 - a. If the owner-occupied dwelling is not being lived in by the owner-occupant or a person related to the owner at the time of the vacation rental, the owner-occupant and people related to the owner-occupant shall not be counted as part of the total allowed occupancy.
 - b. For the purposes of this section only, if the owner-occupied dwelling is being lived in by the owner-occupant or a person related to the owner-occupant at the time of the vacation rental, the owner-occupant and people related to the owner-occupant shall be counted as one unrelated individual as part of the total allowed occupancy.
3. Single Contract: The residential vacation rental may not be the subject of multiple rental contracts for the same night or nights.
4. Appearance: The appearance of the dwelling shall remain as the dwelling was originally constructed.
5. Off-Street Parking: A residential vacation rental shall provide no less than the two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling or have been established as legal non-conforming parking.

- a. No additional off street parking in the front or side yard of the residential vacation rental is allowed, such as a side yard parking slab or widened driveway, but tandem parking (1 vehicle behind another) in the driveway is allowed, provided the tandem parking does not extend over the property line or interfere with any public sidewalk.
- b. A non-owner occupied residential vacation rental with more than four sleeping rooms shall, in addition to the required two off street parking spaces, provide off street parking at the rate of one-half (1/2) parking space for each additional sleeping room recognized in the permit, rounded up to the nearest whole number.
- c. An owner-occupied residential vacation rental shall, in addition to the required two off street parking spaces, provide off street parking at the rate of one-half (1/2) parking space for each sleeping room recognized in the permit, rounded up to the nearest whole number.
- d. A residential vacation rental may not utilize a driveway shared with another parcel to provide access to parking unless the driveway was approved to serve a common development, such as in a planned unit development.
- 6. On-Street Parking: On street parking may not be used to satisfy the parking requirements for a residential vacation rental.
- 7. Garbage: Where a residential vacation rental receives garbage service from Ogden City, the owner shall provide the minimum one Ogden City garbage cart and one recycling cart.
 - a. Carts shall be placed at the side or rear of the dwelling and shall not be in public view except on collection days.
 - b. Information about allowed recycling materials and garbage collection dates shall be provided to the occupants of the residential vacation rental.
 - c. The owner is responsible to ensure that garbage or other material does not overflow the carts or accumulate outside of the carts.
- 8. Animals: If allowed by the owner, the number of household pets is limited to the number allowed for a single family home. Pets must be boarded inside the residence and may not be allowed outside unless accompanied by an adult.
- 9. Signage: Signage is limited to the same standards applicable to a home occupation, as contained in section 18-5-1 Appendix A.
- 10. Management: A responsible person shall be available at all times who is capable of personally responding to the residential vacation rental location within 30 minutes.
 - a. The contact person name and phone number shall be posted in a prominent place inside of the dwelling together with a copy of the residential vacation rental permit; and
 - b. The contact information shall also be mailed by the responsible person annually to the physical address of lots or parcels within 300 feet of the property line of the residential vacation rental, except that mailing is not required for an owner occupied residential vacation rental where the owner does not make the dwelling available for rental during the owner's absence.
- J. A residential vacation rental permit may not be issued for a dwelling in a single family residential zone unless:
 - 1. The dwelling has an existing valid non-conforming certificate or legal conforming certificate for two or more dwelling units on the property;
 - 2. The property owner agrees in writing to convert the building to a single family dwelling and to relinquish, upon receipt of a residential vacation rental permit, any non-conforming or legal right to maintain more than one dwelling; and

3. The property owner submits an acceptable plan for converting the building to a single family dwelling and applies for and obtains a final inspection for any building permits required to complete the conversion.
- K. An owner of property or the owner's agent who advertises or rents a residential vacation rental shall include the following information in every advertisement and in each rental contract:
1. The person's Ogden City residential vacation rental permit number;
 2. The number of sleeping rooms available for rental as allowed in the permit;
 3. The ceiling height of any basement sleeping room if the ceiling is between 6 feet 8 inches and 7 feet;
 4. The maximum number of people allowed to occupy the residential vacation rental as contained in the permit;
 5. Whether pets are allowed and the conditions associated with pets; and
 6. The number of legal off-street parking spaces recognized by the permit as allowed for use by the residential vacation rental.
- L. It is unlawful for an owner of property or the owner's agent to advertise, represent orally or in writing, or sign a rental contract for a residential vacation rental that:
1. Authorizes more people to occupy the residential vacation rental than is allowed in the permit;
 2. Allows the use of any portion of property outside of the residential vacation rental for sleeping purposes by pitching tents or otherwise;
 3. Authorizes or provides for more parking spaces, including on-street parking, than are authorized in the permit.
- M. Noncompliance with the standards of this section; allowing the property associated with the residential vacation rental permit to become a nuisance, such as through violations of the city noise ordinance or property maintenance standards; failure to maintain the original conditions that allowed the residential vacation rental permit to be issued; and entering into sham transactions shall each constitute just cause for the denial of an application or renewal, or revocation of a residential vacation rental permit.
1. Revocation shall be based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to title 5, chapter 1, article C of this code, as such provisions may be applicable.
 2. If the permit is revoked, the advertising and rental of the dwelling as a residential vacation rental shall terminate within thirty (30) days of the final determination.
 3. A dwelling whose residential vacation rental permit has been revoked is not eligible for use as a residential vacation rental for a period of three (3) years from the date of revocation.
 4. For purposes of this section, a sham transaction means any transaction which is meant to, or could result in, a violation or avoidance of other applicable zoning ordinances, including transactions:
 1. Where a residential vacation rental is occupied by a person or group of people for more than thirty consecutive nights, regardless of the term of any rental contract or contracts; or
 2. Where a residential vacation rental is occupied by a person or group of people, regardless of the number of nights of occupancy, who do not have a primary residence at another location.

- N. After review by the building services and fire divisions, the planning division shall approve or deny an application for a residential vacation rental based on compliance with these regulations and payment of the fee established in section 4-6-1 of this code.
- O. A residential vacation rental permit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership does not void the residential vacation rental permit if the new owner obtains an updated permit within the earlier of 90 days after acquiring title to the property or upon expiration of the existing permit.
- P. There is an initial filing period, ending at 5:00 pm on January 3, 2017, for individuals who desire to obtain a residential vacation rental permit to submit a permit application. If more than one application is submitted for a particular linear block on or before the deadline, the planning division shall hold a drawing between the applicants for the available permit. An individual who is successful in a drawing shall complete any requirements to obtain a permit within three months. If all requirements are not met, the next person in the drawing will be recognized as eligible for the permit subject to the same terms as the first successful applicant.

SECTION 6. Section amended. Section 15-15-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-15-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements), except within:

- A. The Mount Ogden Community Planning Area where accessory dwelling units are not allowed between Harrison Boulevard and Polk Avenue from 26th Street to the north side of 35th Street and between Polk Avenue and the eastern city limits from 26th Street to the north boundary line of lots on 36th Street; and
- B. The East Central Community Planning Area where accessory dwelling units are not allowed between Harrison Boulevard and Monroe Boulevard from 23rd Street to 18th Street and from 30th Street to 27th Street; between Harrison Boulevard and Quincy Avenue from 27th Street to 26th Street; and between Harrison Boulevard and Jackson Avenue from 26th Street to 25th Street.

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

SECTION 7. Section amended. Section 15-16-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-16-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards as contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 8. Section amended. Section 15-17-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-17-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 9. Section amended. Section 15-18-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-18-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;
- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests; and
- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 10. Section amended. Section 15-19-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-19-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;
- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests;

- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with forty nine (49) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with forty nine (49) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Private park, playground, recreation area, but not including privately owned commercial amusement businesses.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Retirement home.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 11. Section amended. Section 15-35-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-35-2: [PERMITTED USES:]

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Educational institution.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in

accordance with the standards contained in section 15-13-19 of this title.

Public building, public parks, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 12. Section amended. Section 15-36-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-36-2: [PERMITTED USES:]

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Retirement home.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 13. Effective date. This ordinance shall be effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City, Utah this
_____ day of _____, 2016.

CHAIR

ATTEST:

CITY RECORDER

TRANSMITTED TO THE MAYOR ON: _____

MAYOR'S ACTION: Approved Vetoed

MAYOR

ATTEST:

CITY RECORDER

POSTING DATE: _____

EFFECTIVE DATE: _____

APPROVED AS TO FORM: _____
Legal Date

* **The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.**

3. Failure to correct a violation of this title after written notice of violation and expiration of the warning period may be enforced by imposition of the following civil penalties pursuant to title 1, chapter 4, article B of this code:
 - a. The first civil citation issued after expiration of the warning period shall subject the person to the initial penalty as provided in subsection D of this section.
 - b. The second civil citation issued after expiration of the warning period and the prior imposition of the initial penalty shall subject the person to the intermediate penalty as provided in subsection D of this section.
 - c. Any subsequent civil citation issued after expiration of the warning period and the prior imposition of an intermediate penalty, or any reoccurring violation under section 1-4B-6 of this code, shall subject the person to the maximum penalty as provided in subsection D of this section.
4. Each day that any violation of this title is committed, maintained, continued or permitted shall be considered a separate offense or violation for purposes of the penalties and remedies available to the city.
5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of this title.

D. [Civil Penalties:]

1. Penalties Imposed: Violations of this title shall carry civil penalties pursuant to the following schedule:

<u>Violation Classification</u>	<u>Initial Penalty</u>	<u>Intermediate Penalty</u>	<u>Maximum Penalty</u>
a. Causing, permitting or maintaining any land use not allowed in the applicable zoning district	\$125.00	\$250.00	\$500.00
b. Constructing, installing, permitting or maintaining any building, structure or improvement, which violates yard, setback, height or other dimensional requirements, regarding the placement of buildings, structures or other site improvements, imposed under the provisions of this title	125.00	250.00	500.00
c. Violating any condition or requirement of a permitted or conditional use; noncompliance with conditions of	125.00	250.00	500.00

an approved conditional use permit, variance, a site plan or any other development plan or permit issued in accordance with the provisions of this title (except violations under subsection D1b of this section)

d.	Allowing a vehicle to be parked at a location prohibited under the provisions of this title	25.00	50.00	100.00
e.	<u>Advertising, renting, or operating a residential vacation rental in violation of section 15-13-38</u>	<u>500.00</u>	<u>500.00</u>	<u>500.00</u>
f.	Any other violation not described above	125.00	250.00	500.00

SECTION 2. Section amended. Section 15-2-19 of the Ogden Municipal Code is

hereby amended to read and provide as follows:

15-2-19: ["R" DEFINITIONS:]

REASONABLE ACCOMMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

Equal Opportunity: Achieving equal results as between a person with a disability and a nondisabled person.

Necessary: The applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

Reasonable: A requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

RECREATIONAL COACH: A vehicle such as a recreational trailer, tent camper trailer, truck camper, travel trailer, camp car or other vehicle with or without motive power, designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah motor vehicle code, and designed for the use of temporary human habitation.

RECREATIONAL COACH PARK: Any area or tract of land or a separate designated section within a manufactured home park where one or more spaces are rented or held out for rent to owners or users of recreational coaches for a temporary time not to exceed two (2) weeks.

RECREATIONAL COACH SPACE: A plot of ground within a manufactured home park designated and intended for the accommodation of one recreational coach.

RECYCLABLE MATERIALS: Reusable material, including, but not limited to, glass, plastics and synthetic materials, paper products such as newspaper, stationery, scrap paper, computer paper and corrugated cardboard, rubber, batteries, ferrous and nonferrous metals, concrete, asphalt, wood, building materials, or any "junk or salvage material", as defined herein, which are intended for reuse, remanufacture, or reconstitution for the purpose of using in altered form. Recyclable material does not include refuse or hazardous materials nor does it include coins, precious metals or commercial grade precious metals if they are the sole recyclable material.

RECYCLABLE MATERIALS, LIMITED: Aluminum cans, plastic, or scrap paper such as newspapers, stationery, computer paper, or magazines, but not including cardboard materials or boxes.

RECYCLING COLLECTION CENTER: A facility located in an enclosed building for the acceptance by donation, redemption, or purchase, of recyclable materials, which have been source separated by type by the person who last used the material. Such facility may allow limited compacting or crushing of recyclable materials and may allow temporary outdoor storage of such recyclable materials if stored in weather resistant containers.

RECYCLING DROP OFF STATION: A facility maintained in connection with another use consisting of reverse vending machines or unattended weather resistant containers that are provided for collection of limited recyclable materials which have been source separated by type by the person who last used the material. A recycling drop off station shall not include weather resistant containers located on a residential, commercial or manufacturing designated parcel used solely for the collection of recyclable material generated on the parcel.

RECYCLING PROCESSING CENTER: A facility that accepts, stores or processes recyclable materials, whether or not maintained in connection with another business. Processing includes baling, briquetting, crushing, compacting, grinding, shredding, sawing, shearing, and sorting of recyclable materials and the heat reduction or melting of such materials. Recycling processing center includes junk or salvage yards where processing of recyclable material is included, but does not include recycling drop off stations or recycling collection stations.

REHABILITATION/TREATMENT FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy and supervision of individuals (adults/juveniles) in order to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, or mental health. Associated education services may also be provided to juvenile occupants.

RESIDENCE, RESIDENTIAL FACILITY: Any building or portion thereof where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A dwelling unit that is either owned by one of the residents or by an immediate family member of one of the residents, or is a facility for which the title has been placed in trust for a resident; and is occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement, together with

any incidental domestic staff. A "residential facility for elderly persons" shall not include any facility:

- A. Which is operated as a business; provided, that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;
- B. Where persons being treated for alcoholism or drug abuse are placed;
- C. Where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
- D. Which is a healthcare facility as defined by section 26-21-2 of the Utah code; or
- E. Which is a residential facility for persons with a disability.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence in which more than one person with a disability resides, together with any incidental domestic staff, and which is:

- A. Licensed or certified by the department of human services under title 62A, chapter 2, of the Utah code, licensure of programs and facilities; or
- B. Licensed or certified by the department of health under title 26, chapter 21, of the Utah code health care facility licensing and inspection act.

RESIDENTIAL GARAGE SALES OR YARD SALES: The occasional sale of surplus household goods or furnishings as a use accessory to a dwelling. Sales held more frequently than three (3) days in any one calendar quarter shall be considered a retail use and not "occasional" in nature, nor a use accessory to a dwelling. A residential garage sale or yard sale shall not include goods or property:

- A. Acquired for the purpose of resale, barter or exchange; or
- B. Manufactured or repaired for the purpose of sale as part of a home occupation.

RESIDENTIAL VACATION RENTAL: Use of a dwelling unit for temporary sojourn or transient visit for a period of up to thirty (30) consecutive days by a person or group of people whose primary residence is at another location; who provide compensation, in any form, in exchange for occupancy; and where meals or food are not provided.

RESTAURANT: A place of business where food and beverages are prepared, served and sold for human consumption. A restaurant shall not include the sale and consumption of alcoholic beverages unless licensed by the city and the state of Utah, nor shall it include entertainment for its patrons unless zoned for and licensed as a cabaret or adult live entertainment business.

RETAIL TOBACCO SPECIALTY BUSINESS: A commercial establishment in which:

- A. The sale of tobacco products accounts for more than thirty five percent (35%) of the total annual gross receipts for the establishment;
- B. Food and beverage products excluding gasoline sales, is less than forty five percent (45%) of the total annual gross receipts for the establishment; and
- C. The establishment is not licensed as a pharmacy under title 58, chapter 17b, pharmacy practice act of the Utah code.

Tobacco products for sale in a retail specialty business are defined as:

- A. Any cigar, cigarette or electronic cigarette as defined in section 76-10-101, Utah Code Annotated;
- B. A tobacco product as defined in section 59-14-102, Utah Code Annotated, including chewing tobacco or any substitute for a tobacco product including flavoring or additives to tobacco;
- C. Tobacco paraphernalia as defined in section 76-10-104.1, Utah Code Annotated;
- D. Liquid for producing vapor in electronic cigarettes, regardless of whether such liquid contains nicotine.

RETIREMENT HOME: A residential facility designed, occupied and intended for residents fifty (50) years of age or older, where common facilities for cooking and dining are available to all residents and independent facilities are provided for living, sleeping and sanitation.

REVERSE VENDING MACHINE: An automated mechanical device, maintained in connection with another use, which accepts at least one or more types of limited recyclable materials and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically; provided, that the entire process is enclosed within the machine.

SECTION 3. Section adopted. Chapter 13 of Title 15 of the Ogden Municipal Code is hereby amended by adopting a new Section 38 to read and provide as follows:

15-13-38: [RESIDENTIAL VACATION RENTAL:]

- A. The purpose of residential vacation rentals in Ogden City is to provide a short term rental option in residential zones for individuals who have a primary residence at another location. Special regulation of these rental uses is necessary to ensure that they will be compatible with surrounding residential uses and will not be detrimental to, or alter, the neighborhoods in which they are located.

B. As used in this section, the following words shall have the meaning as defined in this Subsection:

1. AGENT: A person or entity who contracts with an owner to manage or otherwise assist in the leasing or occupancy of real property as a residential vacation rental, except that it does not include a person or entity who solely provides software or internet services to list or market the owner's property to potential renters.
2. NET LIVING SPACE: Space within a residential vacation rental utilized for living, sleeping or eating, but not including space used for hallways, stairs, cooking, bathing, washing or sanitation purposes.
3. OWNER: A person or entity who claims an ownership interest in real property, including any part owner, joint owner or tenant in common of the whole or of a part of such land.
4. OWNER-OCCUPIED: A dwelling that is the owner's primary residence, in which the owner lives for at least 8 months each year, and for which title is in the owner's name or in the name of a living trust of which the owner is both the trustor and the beneficiary.

C. Owners desiring to be recognized as an owner-occupant may establish that the property is their primary residence by showing that the property is taxed by Weber County as the person's primary residence and providing two of the following forms of evidence that match the address of the residence:

1. Either the address shown on the owner's driver's license or on the owner's vehicle registration;
2. The address shown on the person's voter registration; or
3. Either the address shown on the person's state or federal tax return.

D. It is unlawful for an owner or the owner's agent to advertise or rent a dwelling as a residential vacation rental unless the owner or agent has a valid current Ogden City residential vacation rental permit and a rooming house business license under title 5 of this code.

E. The issuance of a residential vacation rental permit may be conditioned on the owner or owner's agent also obtaining and completing other permits that may be necessary to bring the dwelling into compliance with the standards of this section. The applicant shall pay any required fee and submit as part of the initial application for a residential vacation rental permit:

1. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses;
2. A drawing or other description as to how required legal off-street parking will be provided and the number of legal off-street parking spaces available;
3. A copy of a state issued sales tax license;
4. A statement affirming whether or not the vacation rental will be owner-occupied; and
5. The name and contact information of the person described in subsection I.8.

F. In order to renew a residential vacation permit, a person shall pay any required fee and provide:

1. A copy of the person's Utah transient room tax return for the prior year.
2. A list from the prior year of the nights the residential vacation rental was occupied, the number of people in each rental to whom it was rented and the length of occupancy of each person or group of people.

G. **[Compliance With Building Codes:]** A residential vacation rental shall be inspected upon initial application, upon any housing complaint filed with the city, and every two years for non-owner occupied dwellings, to verify that the structure:

1. Complies with the information contained in the application and with the requirements of this section;
2. Complies with all applicable local and state building, health, fire, safety and maintenance codes;
3. Complies with the current building code for egress window size and location in all sleeping rooms regardless of when the structure was built; and
4. Has a functioning interconnected fire alarm system.

H. **[Spacing of non-owner occupied residential vacation rentals:]** A non-owner occupied residential vacation rental may not be located on the same linear block as another non-owner occupied residential vacation rental, residential facility for persons with a disability or residential facility for elderly persons. A non-owner occupied residential vacation rental permit may be renewed if a residential facility for persons with a disability or residential facility for elderly persons is established on the same linear block after the original residential vacation permit was issued.

I. **[All residential vacation rentals must conform to the following standards:]**

1. Non-owner occupied occupancy limits: Occupancy of a residential vacation rental that is non-owner occupied is limited to no more than two people per sleeping room, as established by the inspection described in subsection E, plus two additional people. The number of allowed occupants may be increased if:
 - a. The minimum number of required off-street parking spaces are provided based on the number of sleeping rooms in the structure;
 - b. The total number of permitted occupants does not exceed one person for every 200 square feet of net living space, with the number of occupants rounded down to the nearest whole number; and
 - c. Any sleeping room designated or arranged for occupancy by more than two people has a code compliant door that exits directly to the exterior of the residential vacation rental.

2. Owner-occupied occupancy limits: Occupancy of an owner-occupied residential vacation rental is limited to the number of individuals permitted pursuant to the definition of a family under section 15-2-7.
 - a. If the owner-occupied dwelling is not being lived in by the owner-occupant or a person related to the owner at the time of the vacation rental, the owner-occupant and people related to the owner-occupant shall not be counted as part of the total allowed occupancy.
 - b. For the purposes of this section only, if the owner-occupied dwelling is being lived in by the owner-occupant or a person related to the owner-occupant at the time of the vacation rental, the owner-occupant and people related to the owner-occupant shall be counted as one unrelated individual as part of the total allowed occupancy.
3. Single Contract: The residential vacation rental may not be the subject of multiple rental contracts for the same night or nights.
4. Appearance: The appearance of the dwelling shall remain as the dwelling was originally constructed.
5. Off-Street Parking: A residential vacation rental shall provide no less than the two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling or have been established as legal non-conforming parking.
 - a. No additional off street parking in the front or side yard of the residential vacation rental is allowed, such as a side yard parking slab or widened driveway, but tandem parking (1 vehicle behind another) in the driveway is allowed, provided the tandem parking does not extend over the property line or interfere with any public sidewalk.
 - b. A non-owner occupied residential vacation rental with more than four sleeping rooms shall, in addition to the required two off street parking spaces, provide off street parking at the rate of one-half (1/2) parking space for each additional sleeping room recognized in the permit, rounded up to the nearest whole number.
 - c. An owner-occupied residential vacation rental shall, in addition to the required two off street parking spaces, provide off street parking at the rate of one-half (1/2) parking space for each sleeping room recognized in the permit, rounded up to the nearest whole number.
 - d. A residential vacation rental may not utilize a driveway shared with another parcel to provide access to parking unless the driveway was approved to serve a common development, such as in a planned unit development.
6. On-Street Parking: On street parking may not be used to satisfy the parking requirements for a residential vacation rental.
7. Garbage: Where a residential vacation rental receives garbage service from Ogden City, the owner shall provide the minimum one Ogden City garbage cart and one recycling cart.

- a. Carts shall be placed at the side or rear of the dwelling and shall not be in public view except on collection days.
 - b. Information about allowed recycling materials and garbage collection dates shall be provided to the occupants of the residential vacation rental.
 - c. The owner is responsible to ensure that garbage or other material does not overflow the carts or accumulate outside of the carts.
8. Animals: If allowed by the owner, the number of household pets is limited to the number allowed for a single family home. Pets must be boarded inside the residence and may not be allowed outside unless accompanied by an adult.
9. Signage: Signage is limited to the same standards applicable to a home occupation, as contained in section 18-5-1 Appendix A.
10. Management: A responsible person shall be available at all times who is capable of personally responding to the residential vacation rental location within 30 minutes.
- a. The contact person name and phone number shall be posted in a prominent place inside of the dwelling together with a copy of the residential vacation rental permit; and
 - b. The contact information shall also be mailed by the responsible person annually to surrounding property owners within 300 feet of the property line of the residential vacation rental, except that mailing is not required for an owner occupied residential vacation rental where the owner does not make the dwelling available for rental during the owner's absence.
- J. A residential vacation rental permit may not be issued for a dwelling in a single family residential zone unless the dwelling is owner-occupied.
- K. An owner of property or the owner's agent who advertises or rents a residential vacation rental shall include the following information in every advertisement and in each rental contract:
- 1. The person's Ogden City residential vacation rental permit number;
 - 2. The number of sleeping rooms available for rental as allowed in the permit;
 - 3. The ceiling height of any basement sleeping room if the ceiling is between 6 feet 8 inches and 7 feet;
 - 4. The maximum number of people allowed to occupy the residential vacation rental as contained in the permit;
 - 5. Whether pets are allowed and the conditions associated with pets; and
 - 6. The number of legal off-street parking spaces recognized by the permit as allowed for use by the residential vacation rental.
- L. It is unlawful for an owner of property or the owner's agent to advertise, represent orally or in writing, or sign a rental contract for a residential vacation rental that:

1. Authorizes more people to occupy the residential vacation rental than is allowed in the permit;
 2. Allows the use of any portion of property outside of the residential vacation rental for sleeping purposes by pitching tents or otherwise;
 3. Authorizes or provides for more parking spaces, including on-street parking, than are authorized in the permit.
- M. Noncompliance with the standards of this section; allowing the property associated with the residential vacation rental permit to become a nuisance, such as through violations of the city noise ordinance or property maintenance standards; failure to maintain the original conditions that allowed the residential vacation rental permit to be issued; and entering into sham transactions shall each constitute just cause for the denial of an application or renewal, or revocation of a residential vacation rental permit.
1. Revocation shall be based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to title 5, chapter 1, article C of this code, as such provisions may be applicable.
 2. If the permit is revoked, the advertising and rental of the dwelling as a residential vacation rental shall terminate within thirty (30) days of the final determination.
 3. A dwelling whose residential vacation rental permit has been revoked is not eligible for use as a residential vacation rental for a period of three (3) years from the date of revocation.
 4. For purposes of this section, a sham transaction means any transaction which is meant to, or could result in, a violation or avoidance of other applicable zoning ordinances, including transactions:
 - a. Where a residential vacation rental is occupied by a person or group of people for more than thirty consecutive nights, regardless of the term of any rental contract or contracts; or
 - b. Where a residential vacation rental is occupied by a person or group of people, regardless of the number of nights of occupancy, who do not have a primary residence at another location.
- N. After review by the building services and fire divisions, the planning division shall approve or deny an application for a residential vacation rental based on compliance with these regulations and payment of the fee established in section 4-6-1 of this code.
- O. A residential vacation rental permit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership does not void the residential vacation rental permit if the new owner obtains an updated permit within the earlier of 90 days after acquiring title to the property or upon expiration of the existing permit.
- P. There is an initial filing period, ending at 5:00 pm on January 3, 2017, for individuals who desire to obtain a residential vacation rental permit to submit a permit application. If more than one application is submitted for a particular linear block on or before the deadline, the planning division shall hold a drawing between the applicants for the

available permit. An individual who is successful in a drawing shall complete any requirements to obtain a permit within three months. If all requirements are not met, the next person in the drawing will be recognized as eligible for the permit subject to the same terms as the first successful applicant.

SECTION 4. Section amended. Section 15-15-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-15-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements), except within:

- A. The Mount Ogden Community Planning Area where accessory dwelling units are not allowed between Harrison Boulevard and Polk Avenue from 26th Street to the north side of 35th Street and between Polk Avenue and the eastern city limits from 26th Street to the north boundary line of lots on 36th Street; and
- B. The East Central Community Planning Area where accessory dwelling units are not allowed between Harrison Boulevard and Monroe Boulevard from 23rd Street to 18th Street and from 30th Street to 27th Street; between Harrison Boulevard and Quincy Avenue from 27th Street to 26th Street; and between Harrison Boulevard and Jackson Avenue from 26th Street to 25th Street.

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

SECTION 5. Section amended. Section 15-16-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-16-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Daycare centers, provided the facility is located on the same site as an educational institution.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards as contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility

requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 6. Section amended. Section 15-17-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-17-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 7. Section amended. Section 15-18-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-18-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;
- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests; and
- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,

- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 8. Section amended. Section 15-19-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-19-2: [PERMITTED USES:]

Accessory buildings and uses customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Adult daycare.

Agriculture.

Bed and breakfast inn, subject to the following standards:

- A. Two (2) parking spaces shall be provided for the host family, plus one space for each guestroom;
- B. Proprietor or owner must occupy the property;
- C. Meals may only be served to overnight guests;
- D. Signs are limited to nameplate signs not exceeding two (2) square feet in residential zones. In addition, a freestanding identification sign not to exceed four (4) square feet is permitted. If illuminated, only indirect spotlighting is allowed, thus prohibiting backlighted signs.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or

E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Daycare center.

Educational institution.

Golf course, except miniature golf course.

Greenhouse, noncommercial only.

Group dwelling with forty nine (49) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with forty nine (49) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Private park, playground, recreation area, but not including privately owned commercial amusement businesses.

Protective housing facility lodging up to fifteen (15) individuals, excluding support staff.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Retirement home.

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon

the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 9. Section amended. Section 15-35-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-35-2: [PERMITTED USES:]

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Church, synagogue or similar permanent building used for regular religious worship.

Cluster subdivision, in accordance with chapter 9 of this title.

Educational institution.

Greenhouse, noncommercial only.

Home occupation.

Household pets.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public parks, recreation grounds and associated buildings.

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 10. Section amended. Section 15-36-2 of the Ogden Municipal Code is hereby amended to read and provide as follows:

15-36-2: [PERMITTED USES:]

Accessory buildings and use customarily incidental to any permitted use.

Accessory dwelling unit (see section 15-13-39 of this title for ADU requirements).

Agriculture.

Boarding and lodging house; provided that no boarding or lodging house shall be located within one thousand feet (1,000'), measured in a straight line between the closest property lines of the lots or parcels of any of the following similar facilities:

- A. Any other boarding or lodging house,
- B. A protective housing facility,
- C. A transitional housing or rehabilitation/treatment facility,
- D. A residential facility for persons with disability or residential facility for the elderly of more than five (5) people, or
- E. An assisted living facility.

Church, synagogue or similar permanent building used for regular religious worship.

Educational institution.

Greenhouse, noncommercial only.

Group dwelling with eight (8) or less dwelling units in accordance with chapter 10 of this title.

Home occupation.

Household pets.

Library or museum, public or nonprofit.

Multiple-family dwelling with eight (8) or less dwelling units, in accordance with the requirements of section 15-13-27 of this title.

Pigeon loft for the housing of racing pigeons (only allowed on single-family residential lots), in accordance with the standards contained in section 15-13-19 of this title.

Public building, public park, recreation grounds and associated buildings.

Rehabilitation/treatment facility (see section 15-13-26 of this title for facility requirements).

Residential facilities for elderly persons (see section 15-13-25 of this title for facility requirements).

Residential facility for persons with a disability (see section 15-13-15 of this title for facility requirements).

Residential garage sales or yard sales.

Retirement home.

Residential vacation rental (see section 15-13-38 of this title for requirements).

Single-family dwelling.

Temporary building for use incidental to construction work. Such building shall be removed upon the completion or abandonment of the construction work.

Transitional housing facility (see section 15-13-26 of this title for facility requirements).

Two-family dwelling, in accordance with the requirements of section 15-13-27 of this title.

SECTION 11. Effective date. This ordinance shall be effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City, Utah this _____ day of _____, 2016.

CHAIR

ATTEST:

CITY RECORDER

TRANSMITTED TO THE MAYOR ON: _____

MAYOR'S ACTION: Approved Vetoed

MAYOR

ATTEST:

CITY RECORDER

POSTING DATE: _____

EFFECTIVE DATE: _____

APPROVED AS TO FORM: _____
Legal Date

* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.

OGDEN CITY COUNCIL TRANSMITTAL

DATE: March 6, 2015

TO: Ogden City Council

THRU: Mark Johnson, CAO

FROM: Tom Christopulos, CED Director

RE: Consideration of a proposed ordinance to allow Vacation Rentals for less than 30 days in residential zones in Ogden City

STAFF CONTACT: Greg Montgomery, Planning Manager

REQUESTED TIMELINE: April 28, 2015

RECOMMENDATION: Approval of proposed ordinance amendment

DOCUMENTS: Ordinance, Staff Report

DISCUSSION:

The Ogden City Planning Staff began working on possible regulations of vacation rentals (short term rentals of residential properties in residential zones) in the summer of 2014 due to concerns of a new land use trend occurring in the residential zones. The research was to determine if this land use should be considered as a land use option for the City. Two work sessions were held with the Planning Commission to review current trends and to better understand the use. The work sessions were held in July and December of 2014. From those meetings the basic framework for the proposed ordinance emerged. Three options were brought forth.

- Option 1 was the allowance of vacation rentals in multiple family residential zones.
- Option 2 allowed for vacation rentals in all residential zones, but limited that only nonconforming uses in the R-1 zone could take advantage of the option, so long as the building was being returned to its original use as a single-family home (unit reduction)
- Option 3 was to make a determination that vacation rentals are not appropriate and make no change to the code, which means they remain illegal.

The Commission determined to explore options 1 and 2 feeling that with specific conditions there was a place for vacation rentals in the residential zones. There had been many letters sent to the Commission both for and against vacation rentals during the time of the work sessions. A public hearing on the proposed ordinance amendment was held in January of 2015. Staff presented the proposed ordinance and the Planning Commission discussed the ordinance. The Planning Commission also listened to public response from interested citizens at the

meeting. Many voiced concern, many voiced support, and some asked questions about the proposal.

Differing viewpoints were mentioned from the citizenry and additional questions surfaced regarding neighborhood character, parking and code compliance of health and safety issues. The Planning Commission tabled this item until March 4, 2015 to allow for an additional Planning Commission work session to consider input at the initial meeting. Those in attendance were notified that in addition to the continuation of the hearing to March 4 that the Commission would hold a work session on February 18 which they may also attend. Staff was asked to clearly define the health, safety and welfare sections of the Building Code which would be required to be complied with, the need for bi-yearly inspections, the density of distribution, the balance of the neighborhood connectivity, whether or not to extend the uses beyond the East Central Community, the effect of VRBO's on the existing community, and to involve owners of existing VRBO's in these discussions.

Staff met directly with the Trolley Neighborhood Council on February 12 to discuss and receive comment from the area that has a concentration of vacation rental uses. Another work session was then held on February 18 to discuss the comments that came up during the first public hearing and the meeting with the Trolley District group. Upon the conclusion of the work session certain refinements that were gleaned from these meetings were incorporated into the proposed Ordinance.

Staff explained at the March 4 meeting the key points of the proposed ordinance include the following:

1. Vacation rentals would be considered a permitted use in multi-family zones with no more than one per lineal block to avoid changing the character of the residential neighborhood.
2. Included in this proposal is the stipulation that there be legal parking for at least two cars and the basic ratio of .5 cars to each sleeping room (no additional off-street parking in the front or side yard setbacks is allowed unless it leads directly to legal parking, and parking cannot be installed which would eliminate required rear yard space.)
3. There shall be posted on the front of the building at all times a phone number of an individual who is responsible for activities on the premises and whom will be available at all times and can arrive at the property within 30 minutes.
4. Vacation rentals in single family zones would only be allowed in nonconforming buildings only when the owner through the use of vacation rental is returning the home back to the original use as a single family dwelling.
5. Garbage is to be managed by not having containers in public view, except on collection day. One general garbage canister and one recyclable canister shall be the minimum requirement.
6. Pets must be boarded inside all times unless the pets are on a leash when needing to go outside. The owner should provide this information to tenants.
7. Building must be in compliance with all building and fire codes and subject to inspection every two years.
8. The number allowed in a vacation rental is based on no more than two persons per bedroom, plus two additional people. This number may be increased if:
 - a. The number of occupants does not exceed one person per 200 square feet of living space and

- b. Any other room with more than two persons has direct access to the outside of the building.
- 9. Establish framework to ensure there is business licensing and transient occupancy tax collection.
- 10. Severe fines for violations, which includes advertising, when there is no permit for such use.
- 11. Signage is limited to the same standard as home occupations.
- 12. Appearance of the dwelling shall remain as the dwelling was originally constructed.

The Commission discussed issues of neighborhood character concerns, hotel occupancies, unanticipated concerns of crime (which was raised in the debate the day before this meeting) and whether vacation rentals should be allowed in all residential zones without the constraint of going through the unit reduction process. There was also discussion of the distinction between this use and Bed and Breakfast which is a permitted use in some zones now and why this use should extend beyond the limits of the bed and breakfast.

Even though these uses have been identified as presently existing in all zones it was noted that the creation of the ordinance needs to address what is the best neighborhood policy for the city when considering land use and not what someone has done illegally and is seeking to have continue. The Commission discussed that they would like to proceed with caution when opening up commercial activities into neighborhoods.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed this item on March 4, 2015. A motion was made and seconded to recommend approval of the ordinance as presented by Staff which sets certain standards and limits vacation rentals to the multi- family zones and only in a nonconforming use in single family zones. The motion was based upon the finding that this ordinance amendment is consistent with the General Plan in creating a source of housing types, promoting tourism, and strengthening neighborhoods through appropriate design and improvements. The motion passed by a vote of 6-2.

PLANNING COMMISSIONERS VOTES:	<u>Yes</u>	<u>No</u>
Atencio.....	X	
Blaisdell.....	X	
Herman.....	X	
Holman.....	X	
Orton.....	X	
Schade.....		X
Southwick.....		X
Wright.....	X	

Mr. Schade explained his “no” vote was based upon his belief that this use is not appropriate for either the R-2 or R-2EC zones.

Mr. Southwick explained his “no” vote was based upon his belief that the R-1 (single-family residential zones) should be treated like the multi-family residential zones and felt the one per lineal bloc was enough of a regulation and they not be denied the opportunity for the use.

CONCERNS OF CITIZENS – From the January 7, 2015 public hearing.

Mr. Kyle Sanders, 2560 Jefferson Avenue, indicated there has been no problem in this neighborhood from the existing vacation rentals. He stated the buildings are well maintained, there have been no trash or parking problems in the neighborhood, and felt the use is desirable as it would bring additional taxes into the City without burdening the school system. He felt the use should be allowed with no additional regulations.

Mr. Lora Wetzel, 2905 Taylor Avenue, stated she felt it would be short-sighted to restrict these from R-1 neighborhoods. She had stayed in a vacation rental previously and since chose to purchase a home in this neighborhood. She felt so long as these are licensed and appropriate fees and taxes are paid to the City, and the safety of tenants is regulated, there should be no additional restrictions. She also indicated the friends she had met while visiting were helpful to her as she transitioned into home ownership.

Ms. Sue Wilkerson, 2563 Jefferson Avenue, indicated she operates both long-term rentals and one vacation rental in the East Central neighborhood. She indicated the proposed ordinance is too restrictive, and felt additional study is warranted. She stated guests visiting vacation rentals typically have disposable income that comes into Ogden City in various ways as they may attend movies, sporting events and restaurants and are able to participate in other Ogden City activities. She stated both owners and tenants of vacation rentals take better care of their properties than do long-term renters. She felt long-term rentals are a bigger problem as there are many substandard residential units throughout the City. She stated vacation rentals are scheduled by website only, and owners are at the mercy of reviews by previous tenants. She felt the limit of one per lineal block is too restrictive and suggested two should be allowed. She stated most facilities require a \$500 cleaning deposit, and as they want their money back, they typically leave it in good condition. She also indicated streets in Ogden are public streets and there are no regulations as to who can and cannot park on the street in front of homes throughout the neighborhood, indicating there are often events at the Eccles Art Center where visitors park in front of homes in the neighborhood.

Ms. Tamera Anderson, 2520 Jefferson, stated she has operated a VRBO at this location since 2009. She stated tenants like the experience of staying in historic neighborhoods. She stated her clientele is better than long-term tenants as they care for and respect the home. The use generates \$2,000/year in sales tax as well as transient tax which is paid to the State. She stated she typically has families that come for reunions, weddings, funerals, sporting events or to ski. Other tenants might be as ports team with their coaches or business representatives that are being recruited to relocate in Ogden, or construction workers who might be here for a short time. Tenants like the experience of the historic neighborhood and its proximity to the downtown. She indicated she lives in the building and is available for both tenants and neighbors. She also participates in the good landlord program of the City. She felt it would be a threat to her security if her name and phone number were to be posted on the outside of the building. She feels it an honor to be a host to non-residents and show them the benefits of Ogden City. She expressed concern that there not be a requirement for all current building codes to be required, but those for safety such as egress windows only would be appropriate.

Ms. Pam Gardiol stated she has been involved in the Eccles Historic District and the planning process for the area for many years, and has learned that cities can go up or down one block at a time. She asked the Commission to be concerned about the type of neighborhoods they would like to have in the East Central Community, stating long term residents know each other and care for each other while short-term rentals create a disconnect within the neighborhood. She asked the Commission to consider what the historic neighborhood should represent, stating the ambiance of the Historic District is more than the architecture of the buildings, but is also the character of the residents. She asked that the historic character of the neighborhood be protected.

Ms. Shalae Larsen, 614 24th Street, stated vacation rentals provide a service to both tenants and to Ogden City. She has enjoyed getting to know vacationers and to introduce them to the community. She expressed concern that there are slum lords in the East Central Community and it is tenants in these units that are not invested or involved in the community. She suggested the market could dictate the number of units and felt it need not be regulated by Ordinance.

Mr. Jerry Spangler, 2529 Jackson, stated he has been operating a VRBO since 2010. This building has seven bedrooms, a grand room containing a pool table and other activities, and a TV room. The building is attractive for family reunions, and is typically occupied by three generations where cousins, aunts and uncles can play together and enjoy each other's company. He expressed concern with the limitation of two individuals per bedroom, and suggested that be changed to two adults per bedroom and allow cousins to stay together or small children to stay in the same room as their parents. He stated the VRBO use has allowed him to keep the historic character of the home. While he felt it important to provide as safe place for tenants, he felt to requirement to satisfy all current building code regulations would be cost prohibitive.

Mr. Ben Sugar, 2540 Jackson, stated while he does not operate a VRBO, he feels these are a positive influence on the neighborhoods and has no complaints from the local VRBO uses. He felt visitors can come to Ogden and attend sporting events or to ski. He felt parking on the street should be allowed. He stated there is no functional difference between the R-1 or R-2 zones in the historic district.

Ms. Priscilla McClain, 1344 Marilyn Drive, indicated she is not aware of a VRBO in the neighborhood. She felt there should be a middle ground whereby these are regulated, suggesting it would be acceptable to rent an apartment for either short-term or long-term. She stated the use of a portion of a home is more appropriate for rental than if an entire building were to be a short-term rental. She felt the ability for residents to stay in their home and make needed upgrades could be offset by renting a part of a home.

Ms. Deborah Hart, 1371 Marilyn Drive, stated she felt her VRBO is a benefit to the City and that she enjoys telling people places to go and things to do in Ogden City, indicating she often directs them to Ogden's Trail System. She felt these are a benefit to the neighborhood, indicating she had been told she could rent her apartment only to a non-family member.

Mr. Wade Gray Davis, 2508 Jackson, stated he purchased this property in 2013 and feels it is a privilege to showcase Ogden to his tenants. He stated while the building had been

a primary residence for many years, it has not been lived in for five years and the cost of its restoration has been a hardship for him. He stated he loves to share this historic home with visitors, to point them to restaurants, to trails, and to bring jobs into Ogden City. He stated these units are clean and well cared for, and that owners pay sales tax and hotel transient taxes. He feels vacationers like to stay in neighborhoods and experience the family-type atmosphere there rather than in hotels near the freeway where noise is common. He felt the funds from vacation rentals allows money to be put back into the property, thus increasing its value and tax base of the neighborhood. He stated he knew of a complaint registered with the police that families were playing badminton in the rear yard. He felt this would be a typical family activity in a neighborhood. He felt the rental is a good thing for the local economy, and felt responsible owners could operate a facility which is a benefit to both the local neighborhood and the surrounding community.

Ms. Millie Jones, 2580 Eccles, expressed she is not opposed to vacation rentals but is concerned about the increased density of these uses in the single-family neighborhood and the long-term effect the use would have on the fabric of the existing neighborhood.

Ms. Connie Cox, 2532 Eccles, stated while not opposed to VRBO's, there are many concerns with a transient use of homes in a neighborhood. She felt the best way to stabilize the East Central Community is to promote single-family, owner-occupied homes in the neighborhood. She felt the owner reduction should not be a means to allow vacation rentals. She indicated she has lived in the Eccles neighborhood for over 40 years and was involved with the City to change the zoning to R-1. She stated owners have purchased property in the community knowing it is a single-family neighborhood and they should be held to those standards. She stated the concept of vacation rentals opposes many of the goals of the City in promoting home ownership and owner occupancy. She stated downtown hotels are not filled, and allowing rentals in neighborhoods reduces the use of downtown amenities by vacationers.

(No citizens were present at the March 4th meeting)

SUBJECT: Public Hearing Consideration of a proposed ordinance to allow Vacation Rental (rental for less than 30 days) in residential zones in Ogden City.

PLANNING STAFF RECOMMENDATION:
Approve the proposed ordinance as submitted

FINDINGS FOR ACTION

In considering this request, the Planning Commission will need to determine if the Development Code text amendment(s) are consistent with the General Plan in creating a source of housing types, promoting tourism, strengthening neighborhoods through appropriate design and improvements.

CONTACTS

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Ogden City
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Ogden, UT 84403

Staff: John Mayer 801-629-8933
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APPLICABLE ORDINANCES

15-1-4 Changes and Amendments – this portion of the code deals with the procedure for amending the Zoning Code and the Zoning Map

APPLICABLE GENERAL PLAN PROVISIONS

4.D 3.H Encouraging owner occupancy of historic properties through the guidelines of grant programs and local incentives.

The allowance of a residential property, that was originally constructed as a single family home, but has since been converted to apartments could go through the unit reduction process and thus encourage owner occupancy.

5.D 5. Establish a long term effort to diversify the City’s economic base with a balanced mix of manufacturing, service, retail and tourism related industries. Vacation rentals located in the appropriate settings could be a small part of the “mix” in the diversification effort to grow services that relate directly to tourism.

5.D 7. Expand tourism and enhance the visitor experience. Vacation rentals can provide a valuable residential option for short time visitors.

5.D 7.D Encouraging the improvement of visitor attractions, activities and facilities including local directional signage and public parking. Vacation rentals are a type of facility that has the potential to enhance the visitor experience, and be available to small groups.

- 7.D **3.A Encouraging the building owner to live on the property to establish permanency and a sense of community.** This vision statement supports the concept of unit reduction. When a property goes from multi-family to single family, the potential that it will be owner occupied tends to increase.
- 7.D **5.A Encouraging and supporting development of various housing types and identifying area where these types might be appropriate.** Vacation rentals could be considered a different “housing type”. Vacation housing should be carefully located in areas that are appropriate in that they afford the visitor a quality experience with minimal negative impacts upon the neighborhood.
- 7.D **2.B Encouraging and working towards providing incentives to maintain and upgrade housing units.** The housing stock for vacation rentals is typically very good. It must maintain a certain standard to be attractive to the niche vacationer who comes to Ogden. This in itself upgrades homes where the owner is not present. Thus far these homes are well kept.
- 9.D **2 Strengthen neighborhood through appropriate design and improvements.** The incorporation of vacation rentals could be a method to encourage home owners to improve their properties to a level that would not be feasible otherwise. Property values do not always match up favorably for traditional rentals and the income that can be achieved. This is another option for landlords to employ.
- 9.D **2.A Creating design guidelines that protect the integrity of neighborhoods.** While not technically design guidelines, this vacation rental options give the city an opportunity to inspect and require code compliance on several levels i.e. building, fire, zoning and perhaps Landmarks for historic preservation when appropriate.
- 14.B **2.A Market the community as a place to live because of it urban identity , rich history, variety of housing and commercial uses within walking distance that draws comparisons to the trendy neighborhoods in other communities...**
The Community Identity section speaks to promotion of the neighborhood. This allowance provides an opportunity to showcase Ogden’s historic neighborhood(s) and be within walking distance to an emerging downtown.
- 14. B **9.B Create regulations for nonconforming multi-family unit in converted single family homes to convert back to a density more appropriate for the size of the building and the capacity of the lot.** The unit reduction aspect of this proposal directly addresses this “high priority” vision objective.

A. DESCRIPTION OF PROJECT

Vacation Rentals are defined in many ways with a wide spectrum of options available to the property owner and the renter as to location, type of housing and presence/management of the owner. For the purposes of this discussion, vacation rental (short term rental) will be defined as the rental of a single family or multiple family dwelling unit for less than 30 days in a residentially zoned neighborhood. These types of vacation rentals are different from other rental

accommodations such as hotels, motels, condominiums and time shares in that they may not have on-site ownership or management and in Ogden they are in residential zones. Some vacationers are looking for an alternative to those forms of short term residences in favor of something that can often accommodate larger groups at a reasonable cost. There is usually ownership or management readily available locally to address issues that might arise. This is a growing trend in desirable communities. It is especially attractive in areas that are rich in recreational or cultural resources. Since Ogden is now experiencing this growing phenomenon it is appropriate that it be addressed here.

On July 16, 2014 staff conducted a Planning Commission Work Session addressing the issue of Vacation Rentals. The clear consensus from that meeting was if this use was to be allowed in any residential zone, there should be certain restrictions in place to govern the potential impacts to a neighborhood. Part of the analysis for this consideration was to survey Jackson and Jefferson Avenues between 25th and 27th Streets. The recognized potential impacts of noise, parking and other traffic concerns along with the turnover of residents interrupted with periods of vacancy can ultimately contribute to the destabilization of an emerging residential neighborhood. At the same time the Planning Commission also stated the desire to capitalize on the positive perception of Ogden as a vacation destination. The promotion of Ogden as a tourist destination, and facilitating that sector of the economy is in chapter 5 of the General Plan. Therefore, there should be a mechanism for vacation rentals to exist in at least specific locations in certain residential zones. Part of the discussion was if there should be distance separations between the individual vacation rentals, in the same manner the development code governs group homes. The determination was that stringent regulations would sufficiently limit the proliferation of vacation rentals.

On December 17, 2014 staff conducted a second work session where options 1 and 2 were outlined in the Planning Commission Memo dated 12-17-14 (attached) were endorsed. Option 3 was also discussed. This would maintain the current stance and keep all vacation rentals, in residential zones illegal. This option was not endorsed.

In January of this year a public hearing of a prepared draft ordinance was held. The Planning Commission tabled action on the ordinance until March 4, 2015 to allow for an additional work session on February 18th to allow staff to answer some specific questions and meet with the community (Trolley Neighborhood Community Council) to field their questions. Staff met with this group on February 12th and discussed the issues surrounding vacation rentals. In this meeting, several individuals voiced their opinions. The clear consensus from this meeting was that whatever happens with regards to the ordinance, the residential character should be maintained.

SUMMARY OF ISSUES

- Will there be long term detrimental impacts to residential neighborhoods?
- Should vacation rentals be permitted and under what conditions?

B. STAFF ANALYSIS OF PROPOSAL

This proposal is to introduce into Ogden City two provisions (options 1 and 2) that allows vacation rentals to exist in areas that are in multi-family zones or allow for the unit reduction of single family homes that have been subdivided to be restored to their original use. Vacation rentals in this scenario allows for an alternative housing type that is a goal in Chapter 7.D.5.A of

the General Plan. Staff has met with proponents and opponents of short term rentals and has determined there are places where these uses are appropriate. A traditional single family residential community on a public street is not one of those areas. Utah communities such as Salt Lake City, Layton City, and Sandy City do not permit vacation rentals. (This does not mean they do not exist) Cottonwood Heights, Park City and St. George do allow vacation rentals in special nontraditional residential zones.

Staff has spoken to city officials from numerous cities in and outside of Utah. Certain common opinions have surfaced as to how to manage this growing trend. Just about every vacation community will admit they exist, even in those communities where they are not permitted at all. Municipalities have thus far dealt with them on a “nuisance” basis. The most common complaint is the excessive amount of cars parked along the street. However, if the cars are not blocking driveways and fire hydrants they are typically legally parked. More permanent residents do feel like they are being overrun when this occurs frequently. Noise can be a factor, but this is typically rare as a neighborhood impact.

The question remains as to which residential buildings and in which residential zones should be allowed to employ vacation rentals. Proponents can point to properties that have been maintained very nicely even during the recent economic down turn. There are homes that have helped the streetscape and brought additional tourist dollars into the community. Conversely, there are homes that have gone the wrong direction in their overall upkeep. Some homeowners have expressed a desire to keep the primarily single family residential neighborhoods free from this type of commercial activity (see attached letter from Pam Gardiol and Connie Cox). This is especially true in those neighborhoods that have made positive strides in recent years as they convert back to a more traditional residential neighborhood dominated by single family homes. Chapter 7.D.3.A of the General Plan speaks to the efforts that support the “sense of community” that could be degraded if vacation rentals were allowed to be in traditionally established communities. For that reason Option 1 establishes this use only in multi-family zones, where rentals are already prevalent.

Chapter 5.D of the General Plan speaks to enhancing the tourism and the visitor experience to Ogden City. The allowance of this vacation niche to be available under the requirements that have been set forth can further this goal.

As mentioned above, the one exception to the standard framework for vacation rentals would be to allow certain residential properties that are interested in restoring older homes that have since been divided into multiple units to be brought back to single family uses. The essence of option 2 is the allowance as a vacation rental would require the structure be brought back to its original single family use. After the necessary inspections, for code compliance the (new) single family dwelling could be considered for vacation rental status. This approach could be used in the multi-family as well as the single family residential zones. This would be especially helpful in the single family zones to remove that aspect of nonconformity. The conditions would include the restoration of the property to today’s code regarding health, safety, and parking. This could be a financial incentive for property owners who are currently unable to finance the needed improvements to their buildings to get additional income they are not able to realize today. Although this ordinance is not limited to historic homes, it is well known that the structural improvements and repairs to historic buildings can be more expensive than modern improvements. This concept may spark renewed interest in some of Ogden’s forgotten historic gems. An added benefit could be for city staff to work with these property owners to access

other historic preservation resources that may be available to them. This is the type of incentive encouraged by the General Plan in Chapter 4.D.

Chapter 7 of the General Plan is the “Housing” element of the General Plan. 7.D in particular promotes alternative housing options (for vacationers) and encourages the concept of “unit reduction” as a manner to induce greater likelihood of owner occupancy. Finally in Chapter 14.B the Community Identity section points to the unique and historic aspects of a neighborhood that is also close to a downtown. 14.B.4.G speaks to considering changes to the zoning ordinance that will contribute to the preservation of historic buildings. This was labeled “High Priority.” Vacation rentals can be a part of this effort by unit reduction and code upgrades that are required. These proposed zoning code amendments are supported by the Ogden City General Plan.

Since the Trolley Neighborhood Council meeting on Feb. 12 and the Planning Commission work session on Feb. 17, several issues stand out.

1. Should vacation rentals where the owner resides on the premises be treated differently than the more traditional vacation rental where the owner resides elsewhere? There was not a clear consensus on this issue. From a property tax standpoint, the owner occupant may still claim the home owners exemption with Weber County. Non owner occupied units are not eligible for the exemption. It appears there is not enough of a significant difference in the anticipated uses to regulate them differently other than the parking standard discussed below.
2. It is proposed that car parking be directed to be on-site and parked legally. It was proposed that the parking allowance would be .5 parking space per bedroom. So a house with a standard 2 car garage could support 4 sleeping rooms as that would translate to 2 cars in the garage. Regular B&B parking requires 2 for the host family plus 1 per bedroom. This formula is more realistic and easier to monitor. VR’s that are owner occupied will therefore have 2 legal spaces plus .5 per bedroom of legal parking spaces. Non-owner occupied VR’s will be held to .5 on-site parking space per bedroom.
3. Should vacation rentals be treated (and located) in the same zones as traditional Bed and Breakfast properties? Currently, traditional B&Bs are permitted in the R-4 and R-5. They are conditional in the R-3 and R-3EC. Although there are similarities, there are no active B&B’s in Ogden at this time. The currently proposed ordinance would open up VR’s to these same areas plus R-2 and R-2EC under option 1.

Currently, vacation rentals of less than 30 days are not permitted in the residential zones of Ogden City, yet they exist and seem to be addressing a growing niche market of persons who want an alternative to the conventional short term rental options mentioned above. Options 1 and 2 provide a framework for vacation rentals to exist and not impact neighborhoods negatively. For both of these options there are basic safeguards built into the ordinance to ensure potential impacts are mitigated. These safeguards are:

Below are the key points of the proposed ordinance:

1. These options would be to allow Vacation Rentals By Owner (VRBO's) in multi-family zones with no more than one per lineal block to avoid changing the character of the residential neighborhood.
2. Included in this proposal is the stipulation that there be legal parking for at least 2 cars with the basic ratio of .5 cars to each sleeping room (no additional off street parking in the front or side yard setbacks is allowed unless they lead directly to legal parking).
3. There shall also be posted on the front of the building at all times a phone number of an individual who is responsible for activities on the premises and whom will be available at all times and can arrive at the property within 30 minutes.
4. Additionally, there would be an option for owners of any single family home that has been divided internally and wishes to return the home to its original use.
5. Garbage is to be managed by not having containers in public view, except on collection day. One general garbage canister and one recyclable canister shall be the minimum requirement.
6. Pets must be boarded inside at all times and if outside an adult must be present.
7. All building and fire codes must be in compliance and subject to inspection every two years.
8. No more than two persons per bedroom, plus two additional people. This number may be increased if: the number of occupants does not exceed one person per 200 square feet of living space and any other room with more than two persons has direct access to the outside of the building.
9. Establish framework for business licensing and transient occupancy tax
10. Severe fines for violations, which includes advertising when there is no permit for such use.
11. Signage is limited to the same standard as home occupations.
12. Appearance of the dwelling shall remain as the dwelling was originally constructed.

Vacation rentals will be governed from the City standpoint by business license and subject to:

1. Business license renewal with a cost of \$82.00 which is consistent with the annual cost for a rental unit not participating in the Good Landlord Program.
2. Transient Occupancy Tax (TOT) could be collected on a per person basis.

Considerable analysis went into vacation rentals in residential zones. It should be noted that an approval of options 1 and 2 will require additional minor modifications to the zoning code for each of the residential zones. These are included in the second attachment section. The first attachment is the new code section to be placed into chapter 13 (Regulations Applicable to All Zones). Currently, vacation rentals in commercial zones are permitted as a form of hotel or motel. Any potential negative impacts associated with vacation rentals under the proposed ordinance could be quickly addressed by the revocation or non-renewal of the business license as well as severe fines.

C. ALTERNATIVE ACTIONS

- Deny the proposed ordinance
- Amend the text of the proposed ordinance

D. STAFF RECOMMENDATION

Approve the proposed ordinance as submitted.

ATTACHMENTS

1. Proposed Ordinance
2. Work session memos to the Planning Commission (1 and 2)
3. City zoning map
4. Letter from Pam Gardiol and Connie Cox
5. Review comments of draft ordinance by Sue Wilkerson

Planning Commission Memo

Date: 12-17-14

To: Planning Commission

Cc:

From: John Mayer, Planner III 

RE: Discussion of Vacation Rentals in residential zones

Vacation Rental Overview

Vacation Rentals are defined in many ways with a wide spectrum of options available to the property owner and the renter as to location, type of housing and presence/management by the owner. This could include motels condominiums and time shares are typical developments that have served this function. For the purposes of this discussion, vacation rental (short term rental) will be defined as the rental of a single family or multiple family dwelling in residential zones for less than 30 days in an area that is zoned residential. These would include the "Airb&b" model which would allow for the property owner/manager to reside on the premises during the vacationer's stay, a dwelling used solely for this type of activity or renting a house when the owner is away.

Vacation Rentals are a growing trend in Ogden though presently are not allowed in residential zones. In use, they are typically a single family home that is leased by individuals for a vacation stay that is less than 30 days. They can be advertised as places to stay for up to as much as 25 people in some advertisements. The sequence of ordinances that prohibits them in residential zones is that a permitted use is single family to multiple family dwellings in the residential Ogden City has determined that under the current ordinance they are illegal. The definition of dwelling is "any building or portion thereof containing one or more dwelling units occupied as a residence by one or more families"(15-2-5). In turn a residence is defined as "any building or portion thereof where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn, transient visit"(15-2-19). This definition is similar to the Webster New Collegiate Dictionary definition of residences where a distinction is made to a place where one lives versus the place where one resides during temporary sojourn. The ordinances as they exist make vacation rentals in residential zones illegal.

Since the idea of a vacation rental is temporary sojourn or transient visit as the main use in the building it does not meet the permitted use as a dwelling whether single family or multiple family. The only uses where transient visits in a residential zone as a permitted use are allowed in Ogden are: bed and breakfasts and boarding houses. These are allowed only in certain areas with specific conditions. The next question that comes is, what is a temporary sojourn or transient visit? If you own the dwelling and live in it, no matter how long, that is your

residence. If, however, you are staying in a place you do not completely own and are paying a fee to stay there, then that is a transient visit.

State law defines a rental dwelling as a residence for two or more persons to be rented out for a period of one month or longer (10-8-85.5 U.C.A.) This would be the general standard the city would use to consider that a home is being rented as a dwelling rather than a transient visit.

Vacation Rentals in Ogden City

Since the last work session on vacation rentals in July, where we educated ourselves as to what they were and what they look like in Ogden, the landscape of this potential land use has been somewhat clarified through further review of other city ordinances. Discussions with staff of these communities that administer these codes, local property owners and input from the Planning Commission have shaped the directions that are proposed below. In advance of discussing options, there is discussion of what we have learned, what may be appropriate and how Ogden differs from other communities, where vacation rental codes have been adopted.

What have we learned?

Vacation rentals in residential zones are in fact a commercial activity, not unlike a hotel or motel arrangement. The principle difference is that the tourist experience is in a residential neighborhood. This is in contrast to the more traditional higher density, higher intensity commercial orientation provided in the hotels motels, and comfort suites. Time share operators are now seeking out "Urban Chic" type destinations in commercial downtowns, where amenities such as kitchens are the norm. However, the experience that is being sought by the "residential" vacation renter is just that: residential. In Ogden, they are often families coming for a reunion, wedding, tournament or a skiing or mountain experience. Frequently they come and go without the neighbors even realizing they have been there. On occasion, large groups have occupied a large single family home, and negative impacts may become more conspicuous. The impacts which can be perceived or real usually are either traffic related (usually an abnormally large amount of vehicles parked up and down a particular street) or noise, typically from the festive atmosphere that such a gathering can yield. Usually, the issue here is amplified music and on occasion, shouts during the evening hours. Also, previously mentioned impacts of barking dogs and excessive build-up of garbage that is not properly managed can occur, but these are not common. Just because they are not common impacts to a neighborhood, does not mean they should not be anticipated and addressed.

In discussions with neighbors adjacent to some existing vacation rentals here in Ogden, the overall opinion of these uses was favorable. They did not view these uses as a negative impact. They reported no problems with noise or traffic, though others in the general neighborhood have. A remedy for the excessive parking problem would be to allow only one vacation rental property per lineal block. That combined with the allowance of no more than two persons per bedroom should keep street parking under control. It should be noted that the two persons per bedroom is a universal standard in municipalities where vacation rentals are permitted. However, there was also the concern (in the East Central) that this is an emerging neighborhood that is striving to change itself into a traditional residential neighborhood. The sentiment was: "Why introduce a use that

could interrupt that progress and taint the flavor that the city and its citizens are trying to attain". By that, they mean a pure, homogeneous single family neighborhood. Conversely, some neighbors may welcome the infusion of a variety of residential activities into a community.

One could just as easily ask "how does a vacation rental really upset the neighborhood dynamic. Some possible answers are lack of neighborhood involvement in things like local schools, neighborhood watch and their lack of vested interest in the community. Staff believes the problems surface when the intensity of the vacation rental is not managed properly.

Most cities do not permit vacation rentals in residential zones. This of course does not mean they do not exist. In those jurisdictions that do choose to allow vacation rentals, there is typically a severe fine (up to \$2500.00) when regulations are not adhered to. Virtually, every city that has tourism or is located near a tourist destination will have vacation rentals, as these are a rapidly growing niche for vacationers.

How other local cities treat vacation rental houses:

Salt Lake City – allowed in the commercial zones with a lease agreement, not in residential zones.

Layton City – treated as a normal rental. They do not differentiate long vs. short term rental.

Park City – allowed in certain residential zones, where the dominant housing type is multi-family. Not allowed in strictly single family detached zones. They are allowed in the historic district with a conditional use permit (CUP).

Sandy City – not allowed to rent out for <30 days. (there are 4 homes near the mouth of the canyons that are "grandfathered").

St. George City - allowed in PUD's, Resort overlay zones where the lot size is at least 2 ac. And in historic districts with a cond. use permit.

Cottonwood Heights – allowed in PUD's (group dwellings) in which there are areas with not less than 8 units on a private road. They require a business license and a conditional use permit.

Durango, CO – allowed in PUD's with at least 500 feet of physical separation between them. All parking must be contained on the property. No more than two persons per bedroom.

Ft. Collins, CO – not allowed to rent out for <30 days.

What type of housing is appropriate?

The cities that have approved vacation rentals (Cottonwood Heights, Park City, St. George, and Durango) tend to have several common traits:

1. They are permitted only in a planned unit development or condominium areas.
2. They are subject to specific conditions that can establish specific regulations that govern the behavior of the short term tenants, but is ultimately the responsibility of the property owner.

3. The vehicles of the overnight guests cannot remain on the street for extended periods, usually overnight.
4. Certain homes have been “grandfathered”, due to their long standing vacation rental use in the community.

Potential PROS and CONS

The issues associated with vacation rentals have not changed since the meeting in July. However, based upon recent reviews of ordinances, discussions, and feedback from you, there are certain concerns that must be addressed. Staff has presented three options to be considered. Regardless of which of the three options or any combination of them, the pros and cons listed below are constant.

Pros

1. Allows homeowners to maintain occupancy on a home that may otherwise be vacant. A vacant home can become an attractive nuisance in a neighborhood. It may invite criminal behavior. Also, vacancy or neglect often perpetuates a feeling of neighborhood apathy.
2. In order to rent the homes they generally are well maintained. Having a well maintained structure with the additional attention to landscaping is a positive example to neighbors who otherwise may not be so inclined to beautify their yards.
3. It raises the profile of a community. When tourists visit and have a positive experience, there is no better advertising for a community. Ogden has the history and architecture many communities covet. Blending that history with a positive residential component can only enhance one’s vacation experience, they are willing to share with friends and family.
4. It brings additional tax base in the form business licensing and transient tax collection and the spinoff of local spending in retail, restaurants, galleries, and sports activities.
5. Opportunity to ensure certain code compliance. The home would be inspected for health, safety and code compliance.
6. They may inject some life in what many may consider a dull neighborhood.

Cons

1. Noise can be a problem in the form of music played too loudly. Most people prefer the tranquil and quiet residential neighborhoods. Since, these are groups on vacation, there is a potential for “party” behavior. It should be noted, that incidents of noise from neighbors can happen with homeowners and traditional renters as well.
2. Excessive amounts of cars parked along the streets can be annoying, especially if they block driveways and inhibit public services and visitors. Blocking of driveways and parking in front of fire hydrants are already illegal, and should be enforced. Extra cars parked on the street four to five times a year do not rise to the level of a negative impact. If the amount of cars is excessive each and every weekend, then the neighborhood may suffer.
3. If garbage is not managed correctly, this could be a problem. In discussions with other cities, the problem arises when the pick-up day is miscalculated, which results in the containers are not picked up promptly or they are tipped over and garbage is spilled out.

Sometimes, there are not enough containers and or they are kept in areas of full view from the public street.

4. On occasion, people like to bring their pets along on vacation. Interestingly pets are actually very rarely a problem. Most often people are not inclined to bring their dogs to a family reunion or on a ski trip. However, if left alone they do tend to bark. Sometimes there is damage to the interior of a home. That is a consequence the owner will not want repeated and thus many managers do not permit animals on the premises.
5. Potential to change character of home to meet building codes of sleeping rooms since most homes do not have the legal bedrooms for the occupancy desired for a vacation rental.
6. A change in the character of a neighborhood could be affected if there were more than one or two of these "businesses" on a linear block. The nature of vacation rentals allows for short duration of intensive use followed by frequent times of vacancy. As discussed above extended periods of vacancy are counterproductive to a healthy neighborhood dynamic. A boom and bust type of character could set in as the weekends are lively but the weekdays become too quiet and desolate.

Below are three options to be considered for vacation rentals or Vacation Rental By Owner (VRBO's).

Option No. 1

A summary of the proposed option would be to allow Vacation Rentals only in multiple family zoned areas. These areas are already accustomed to a higher intensity of use, and the existence of a greater percentage of renters. This proposal would open up large portions of the East Central Community (R-2EC, R-3EC). The R-2, R-3 and R-4 zones in Ogden would open up other areas for vacation rentals.

Pros and Cons of Option 1

Pros

- May reduce the vacancy rates of units that are subject to extended periods without tenants (these are often 2nd homes for owners).
- Ensures better dog maintenance. Provides for rapid response if problems arise.
- There would be a small tax benefit to the city
- This would expand the options available into communities that are already heavily rented i.e. multi-family zones.
- It would place vacation rentals in the areas they are already predominantly used today.

Cons

- Since they are already often 2nd homes and vacationers are likely searching out a traditional neighborhood, the location eliminates entire neighborhoods.

Option No. 2

In addition to the more open allowance concept (Proposal No. 1) the city could entertain the concept of vacation rentals as an incentive to achieve unit reduction where appropriate. The East Central community still contains numerous single family homes that since WWII have been converted to multi-family dwellings. This option could be employed in the single family zones where the home is non-conforming due to density or other code issues. Typically these would be those homes that were constructed as single family residences, but are either illegal non-conforming as to density, parking and or open space. These properties are likely to be substandard rentals anyway. Why not allow the property owner to make available to vacationers an upgraded property and building that meets the underlying zoning standards, rather than continuing the rental cycle of a substandard one. In some cases the zoning and building compliance would result in a single family home in the multi-family zone, due to existing lot size, setbacks or parking capacities. Conversely, some properties may realize minimal reduction in units, but there would still be a high incentive to bring the other aspects of the building and zoning codes into compliance. Typically the required improvements followed by inspection would need to be done prior to issuance of a business license.

Pros and Cons of Option 2

Pros

- In addition to the pros cited in option 1, this would expand the vacation rental options available to multi-family homes that wish to return to their original use as a single family home and or become zoning compliant.
- Reduce the number of renters.
- Provide a means to restore larger homes that have been neglected

Cons

- In addition to the cons cited in option 1, there is no guarantee that the property owner would allow his property to fall back into disrepair.

Option No. 3 (Status Quo)

This proposal is to continue to prohibit vacation rental. As is evident, that is not preventing them from occurring. The city could choose to enforce the current code, or not.

Pros and Cons of Option 3

Pros

- The residential land use would be preserved.

Cons

- The opportunity for additional tax base would be lost.
- Many properties would likely stay rentals.
- Many of these rentals would continue to be a burden to developing neighborhoods and slow the progress that has occurred over the last 15 years.
- They could be subject to even more "dis-investment" and neglect, especially if the city takes a proactive approach to enforcement.
- Some vacationers may choose to go to another community whereupon Ogden City would have lost an opportunity to show off the progress that is being made.

Summary

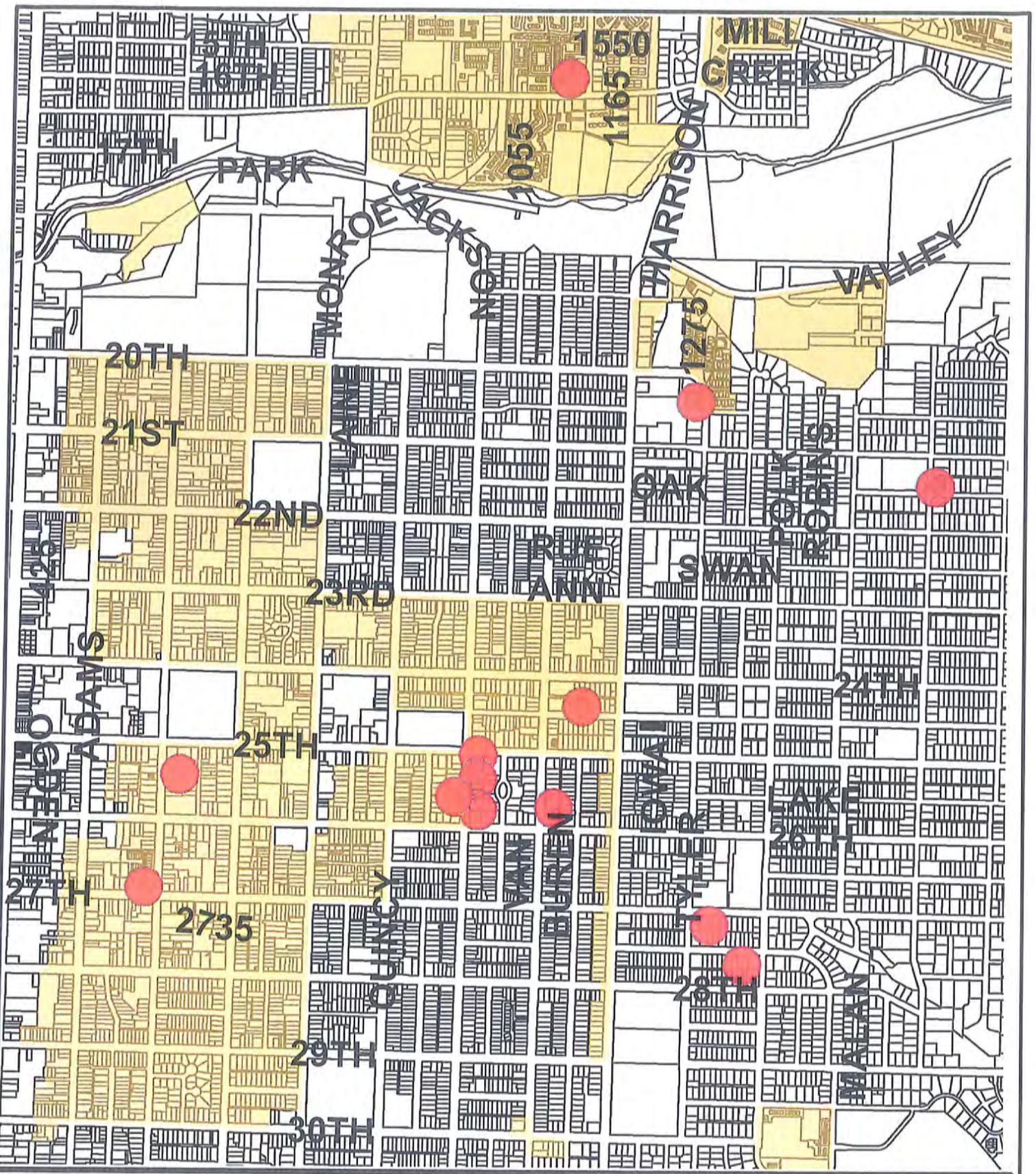
If the city decides to adopt an ordinance that permits vacation rentals in a residential zone or a variation of that, certain safeguards should be employed.

1. That there would only be one vacation rental per lineal block.
2. There be posted on the front of the building and at a prominent place inside at all times a phone number of an individual who is responsible for activities on the premises and whom will be available at all times and lives in the Ogden area.
3. Garbage is to be managed by not having containers in public view, except on collection day.
4. Dogs at a residence must be accompanied by an adult at all times.
5. All building and fire codes must be in compliance and subject to inspection every two years.
6. No more than two persons per bedroom.
7. Establish framework for business licensing and transient occupancy tax
8. Severe fines for violations

Options 1 or 2 would allow a mechanism for property owners to upgrade properties and bring investment into areas of the city that have not received the attention of other areas. Options 1 and 2 are consistent with the East Central Community Plan as they provide a mechanism to bring nonconforming multi-family units in converted homes to a more appropriate (lower) density (14.B.9.B). Of the five known vacation rentals in the multi-family zones, four are in the East Central Community. This allows Ogden to showcase its tourist friendly assets and provide an alternative to the commercially oriented hotel/motel land use that is relatively close to Ogden's emerging downtown. It can offer a more relaxed "residential" feel versus the urban hotel or "freeway" motel experience. Staff chose not to recommend vacation rentals in the single family zoned parts of the community. The reason for this is that already there are a higher concentration of dwelling units with a variety of densities in the multi-family zones than in the single family zones of the city. As expected, the density is higher in the multi-family zones and thus a greater amount of rentals. Therefore, these neighborhoods are more familiar with the different residential types. The homes in the single family neighborhoods are less inclined to be rentals as there is a higher percentage of owner occupancy. Option 3 would be the "do nothing" option.

Attachments:

1. Map of known vacation rentals in Ogden
2. Known vacation rentals in the Multi-family and Single Family homes



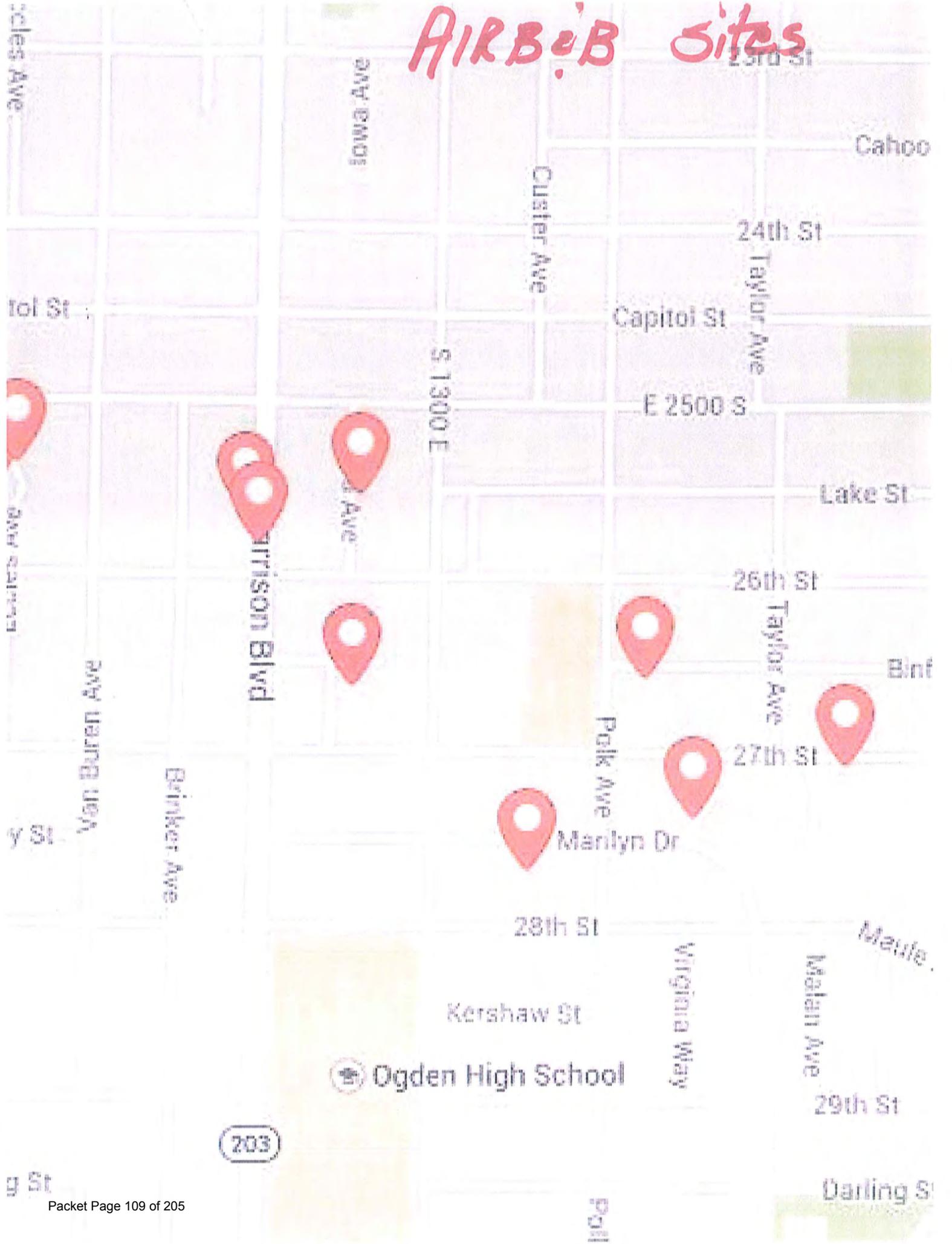
Vacation Rentals in Residential Zones



- Vacation Rentals
- Multi-family Zones



AIRB&B Sites



****KNOWN RESIDENTIAL
VACATION RENTALS BY ZONING**

Vacation Rentals in the **multi-family** zones

1. 2520 Jefferson
2. 2687 Jefferson
3. 2529 Jackson
4. 1142 Capitol
5. 2025 Tyler #1
6. 1078 E. 1550 S.

Vacation Rentals in **single** family zones

1. 2508 Jackson
2. 2548 Jackson
3. 2536 Jackson
4. 2558-2564 Van Buren
5. 1286 27th St.
6. 1371 Marilyn
7. 2132 Fillmore

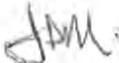
*** The addresses above are associated with the VRBO organization**

**** This list is not inclusive of the homes registered under the Airb&b organization.**

Planning Commission Memo

Date: 2-18-15

To: Planning Commission

From: John Mayer, Planner III 

RE: Discussion of Vacation Rentals in residential zones II

Vacation Rental Discussion II

In our last work session we reviewed extensively the pros and cons of vacation rentals (VR's) in a residential neighborhood and we explained in detail the two avenues (options 1 and 2) that we are pursuing in finding a place for this type of use. An ordinance was proposed and public comment received on that proposal. The Planning Commission table action on the ordinance and asked staff to prepare a work session to discuss the concerns raised at that meeting. From that meeting there was both direction and questions regarding this proposal.

Option 1 summary

The proposed option would be to allow Vacation Rentals (VR's) only in multiple family zoned areas. These areas are already accustomed to a higher intensity of use, and the existence of a greater percentage of renters. This proposal would open up large portions of the East Central Community (R-2EC, R-3EC) where the current crop of vacation rentals are located. The R-2, R-3, R-4 and R-5 zones in Ogden would also open up areas for vacation rentals. There would only be one allowed per lineal block and parking would be determined by legal parking on the site plus frontage on the street. The basic rule of occupancy would be 2 per sleeping room plus 2. Additional persons could be allowed under special safeguards pertaining to health and safety discussed below.

Option 2 summary

In addition to the more open allowance concept (Proposal No. 1) the city could entertain the concept of vacation rentals (VR's) as an incentive to achieve unit reduction where appropriate. The East Central community still contains numerous single family homes that since WWII have been converted to multi-family dwellings. The same standards would apply, however, this could be employed in any single family zone where a home has been converted to multiple units. This option could be employed in the single family zones throughout the city where the home is non-conforming due to density. Typically these would be those homes that were constructed as single family residences, but have since been divided internally into multiple apartments. These properties are likely to be substandard rentals anyway. Why not allow the property owner to make available to vacationers an upgraded property and building that meets the underlying zoning standards, rather than continuing the rental cycle of a substandard one. In some cases the zoning and building compliance would result in a single family home in the multi-family zone, due to existing lot size, setbacks or parking capacities. There are lots that were created prior to 1951 that may not meet today's standards. Conversely, some properties may realize minimal reduction in units, but there would still be a high incentive to bring the other aspects of the building and zoning codes into

compliance. Typically the required improvements followed by inspection would need to be done prior to issuance of a business license.

Upon conclusion of the presentation several questions emerged from the Commission and subsequently concerned citizens as to the functioning of the vacation rental. Below staff has attempted to address the questions.

1. How do we handle parking and traffic concerns (which seem to be the primary concern of vacation rentals in a residential community)?

The proposed code would require that each unit have at least 2 legal parking spaces on-site (illegal parking, other than tandem parking would not be allowed, so long as it is completely on the property). **On street parking would be calculated by allowing 1 car per every 20 linear feet of frontage for the property.** For example a 60' wide interior lot would provide for 3 on street parking spaces, but not necessarily along the frontage. We acknowledge that the streets are public domain. However, the city wants to strike a balance between what could reasonably be expected by residents entertaining and what a VR would do. Staff believes 2-4 large gatherings a month is not unreasonable. This issue only serves to support the concept of 1 VR per linear block.

2. How would this be monitored?

This would be difficult, but the monitoring of the advertising is the first step. We are also mindful that anyone is allowed to have large gatherings at their residence. **If it became a repetitive complaint, such a more than 3 times a month, the city may consider corrective action. The city may want to consider ultimately "permitting" as is done around Weber State.**

3. Does more than one VR's per lineal block matter?

Staff believes this will go a long way to: controlling parking, safeguarding the residential nature of the neighborhood, provide for the upgrade of at least one house per block to a higher standard than what may already be there. One VR per block should not upset the residential fabric. **We may want to consider establishing a set number of cars that can be associated with the property.**

4. How do we treat several buildings on the same block seeking the unit reduction option?

The proposed code provides for a lottery system, whereupon a property would be selected and then pursue the process to obtain a business license. We would review their applications on a first come first served basis. Under the currently proposed code, this is not as yet an issue.

5. What is the tipping point between a stable residential neighborhood versus the proliferation of VR's in a neighborhood?

This goes directly to the allowance of only one per linear block. The rationale is that permitting only one per block would not generate enough of a transient element so as to disrupt the residential character. Also, a neighborhood with multi-family zoning is likely to be more transient in that renters will typically come and go more often than home owners will

sell and move away. It has been argued that the owner of a VR with all the improvements may actually be more community minded than the landlord of a rental or even some tenant whose plan is to stay temporarily. It could also be argued that having a VR on your block is preferable to a continually vacant residence.

6. The comment was made that the unit reduction incentive (option 2) is not sufficient to induce landlords to make the dramatic tenant improvements to restore the property to its original use.

That will likely be true in many cases. However, if the number of landlords that do take advantage of this option is very few, even one restored home is beneficial to the neighborhood.

7. What exactly are the required codes that must be complied with?

As stated in the last meeting the code compliance would be related to health and safety.

Staff has recently met on this issue, and the codes that are to be complied with are:

- a. Any sleeping room that is less than 7' high, must be advertised as such and no sleeping rooms will be authorized if the ceiling is less than 6'8" high.
- b. Interconnected smoke alarms are required.
- c. Every sleeping room to have a minimum 5.7 square foot "openable" window or direct access (doorway) out of the building.
- d. If more than 2 persons are in a sleeping room, it must have direct access out.

8. Taxes

How does the state tax these homes?

Just like a hotel, these properties would be subject to a 4.25% transient occupancy tax from Weber County. The city has opted for the additional 1% on the transient room taxes. What this means is for a three night stay at \$275.00 per night, the city receives \$8.25 in tax revenue. Currently, only two of the known VR properties have reported to the state.

How does the county tax these homes?

Thus far, they do not. All the known VR's in Ogden City still claim the resident exemption, which is appropriate for owner occupants, but not for those owners who live off site. This presents another potential question; Should VR's where the owner lives on the site be treated differently? From a use standpoint there are some subtle differences. For the purpose of discussion I will call the traditional vacation rental VRBO. Where an owner is present on site will be referred to as AirB&B.

VRBO's are typically functions oriented and the guests may not want the intrusion of the owner during their stay. Family gatherings, team functions and retreats are commonplace. AirB&B may appeal to the more transient shorter stay types. For some there is added comfort in knowing the owner is on the premises.

9. Will tax credits or city funds be available to incentivize unit reduction?

The city program for unit reduction is geared to get owner occupancy. So it is unlikely these funds would be available to piggy back onto the unit reduction process.

10. Will the city require two garbage cans?

Because there may be two groups come into the home without a garbage pick up time, the city would still require 2 canisters. There could be some discussion on this issue. Perhaps the VR property could opt for a single canister (plus one for recycling) so long as the canister is the large 90 gallon type. If they have 60 gallon containers then two are probably best. The current practitioners of VR have not indicated that garbage is a problem. This is the type of issue that a landlord would stay on top of. One owner has indicated to me that garbage is checked almost daily.

Current cost breakdown:

For 1 cannister (90 gallon) plus the recycling	\$19.01 per month
For 2 cannisters (90 gallon) plus recycling	\$35.06 per month
For 2 cannisters (60 gallon) plus recycling	\$31.78 per month

11. Why aren't regular rentals held to the same standards that are being proposed for VR's?

For health and safety they are held to the same standard. However, it is hard to regulate numbers of beds in basements, or basement heights if they are never invited inside. State law defines a rental dwelling as a residence for two or more persons to be rented out for a period of one month or longer (10-8-85.5 U.C.A.) This would be the general standard the city would use to consider that a home is being rented as a dwelling rather than a transient visit. We define a family as up to 3 unrelated individuals, and that definition ties directly into traditional renting and home ownership.

Our current laws (state) only allow building officials to come into the home if there is a specific complaint by the tenant. At that time the building or zoning official may commence enforcement proceedings.

12. Why have contact information on the exterior of the building?

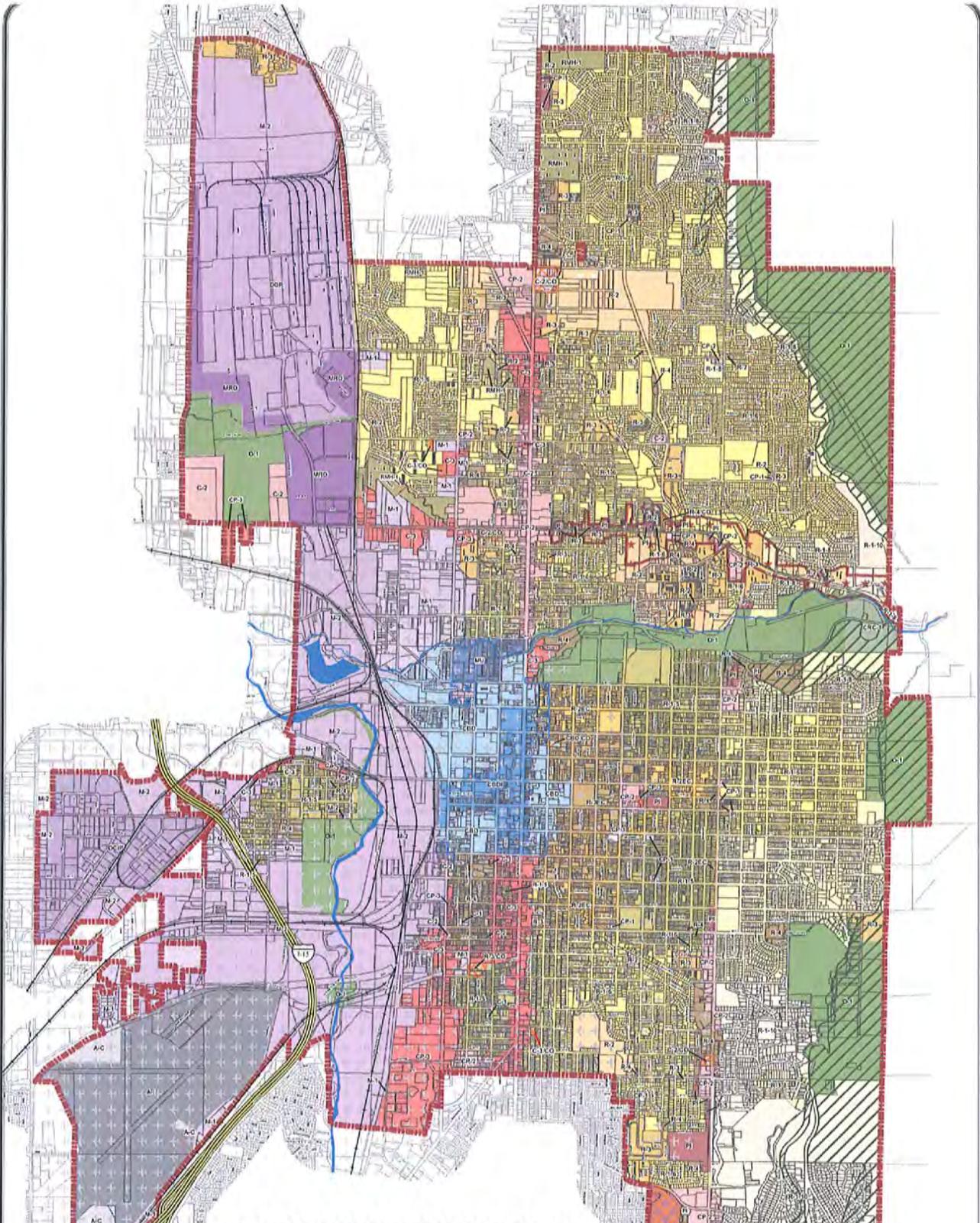
This is a standard practice in the VR world. Usually, there is a listing on the interior. In the case where the owner lives in the building, this may not be necessary.

13. The proposed code states that a dwelling that has had its permit revoked shall lose the VR option for 3 years. What if there is new ownership?

This could be reviewed on a case by case basis. If so, we would need to change the language.

City staff has met with the Convention and Visitors Bureau. They receive inquiries about VR's all the time, especially surrounding the numerous events that Ogden is currently hosting such as the Marathon, Xterra, bike races, Sundance, Harvest Moon etc. This is evidence of a growing trend. Their concerns deal primarily with tourism. Although she does not represent the hotels, the concerns are that these VR's pay their taxes as hotels do and that they comply with all established rules and regulations.

1. Is there a better alternative to posting of owners name on the front door?
2. What about a VR that is attached to a commercial use in the residential zone?
3. Should they be allowed where there are shared driveways?



OGDEN CITY ZONING MAP

Zoning Use Districts

City Boundary

<p>Single Family Residential</p> <ul style="list-style-type: none"> R-1-10 R-1-8 R-1-6 R-1-5 RMH-1 <p>Recreation</p> <ul style="list-style-type: none"> CRC-1 O-1 	<p>Multiple Family Residential</p> <ul style="list-style-type: none"> R-2 R-2EC R-3 R-3EC R-4 R-5 <p>Airport</p> <ul style="list-style-type: none"> A-C A-1 	<p>Manufacturing</p> <ul style="list-style-type: none"> M-1 M-2 DDR OCIP MRD <p>Central Business</p> <ul style="list-style-type: none"> CBD CBDI MU 	<p>Commercial</p> <ul style="list-style-type: none"> CP-1 C-2/CP-2 C-3/CP-3 PI <p>Overlays</p> <ul style="list-style-type: none"> 12th Street Corridor Conditional Downtown Buffer Sensitive Area Airport
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February 2, 2015

Ogden City Council and Ogden City Planning Commission

2549 Washington Boulevard

Ogden, Utah 84401

Council and Commission members,

You are currently looking at the Vacation Rental by Owner (VRBO) issue. Please consider the following as you make your decision.

- 1. What do you want neighborhoods in Ogden to look like? What is the quality of life the citizens should be able to expect in Ogden?** Neighborhoods are a collection of people drawn together by geography, architecture, common interests, and life chapters. Neighborhoods are places where people identify with each other. Neighborhoods are not sterile environments where people drive to one spot without some idea of who lives around them. Neighborhoods are places where people find reasons to connect with each other.

Sterile environments created by transient use of neighborhood property isolates people; neighborhoods create communities within communities. In today's world, the draw of isolation is constantly reinforced. Societies and communities need forums that enable people to have dialogue. Architectural facades and transient visitors don't lead to connection, identity or dialogue; neighborhoods do.

- 2. What is the best way to stabilize the East Central neighborhood?** The East Central neighborhood's historic housing stock has frequently been seen as a source for exploitation. For years, historic homes were deemed more as places to be subdivided or commercialized for profit rather than invested in as part of the rich heritage of the City. The current situation of historic inventory abuse is the result of this short-sighted thinking of others in decision-making positions who considered their own neighborhoods valuable, but East Central as expendable. It seems that history may be repeating itself.

Ogden has long demonstrated ambiguity about who it is. There has been pride in the people who helped shape not only Ogden, but national and international events, while allowing the destruction of the homes in which they carried out their notable contributions to the common good. Ogden has much to learn from other communities both in the United States, and internationally where there are strict guidelines on what can be done with historic structures. The intent in these other places is to protect not only the architectural element of the structures, but the fabric and context of the surroundings. Facades protect neither fabric nor context. They are a shadow of the history, and they do not perpetuate the higher elements of the history of a place.

Ogden must make difficult choices to do what is necessary to demonstrate more than peripheral commitment to its historic treasures, while, at the same time, it holds the owners of these properties hostage while the City grants practices that undermine the very things that make these properties significant. The efforts the City has taken to create programs to build up the East Central neighborhood are undermined when the prominent historic inventory and contributing homes are used for purposes other than those that reinforce a sense of place, a sense of neighborhood, a sense of stability.

- 3. Bifurcation of what is deemed a good neighborhood in Ogden.** There has been a long-held belief that to find a good neighborhood, one should "not live below Harrison Boulevard". Would VRBO's be considered "above Harrison Boulevard"? Does this mean that some neighborhoods are expendable, and to be used more for income than for a part of the community? Does a community only consist of people who are "just like me" No matter what the zone designation, the question should be what are the practices that will bring neighborhoods together, not foster deterioration of them.

Not everyone chooses to live "above Harrison Boulevard", but every Ogden citizen should be able to trust that the City supports their right to have a stable place to live. We encourage you to plan for a hundred years from now, and to secure neighborhoods in the East Central district, rather than undermine them with transient uses.


2529 Eccles

Connie Cox
2532 Eccles Ave

CHAPTER 37

VACATION RENTALS
IN RESIDENTIAL
ZONES

SECTION 1:

15-2-19:

Residential Vacation Rental: Use of a dwelling unit for temporary sojourn or transient visit for a period of thirty (30) nights or less by a person or group of people whose primary residence is at another location and who provide compensation, in any form, in exchange for occupancy.

Commented [SW1]: SHOULD NOT BE A REQUIREMENT.

SECTION 2: Create a New Section

Section 15-13-38

- A. The purpose of residential vacation rentals in Ogden City is to provide a short term rental option in residential zones for individuals who have a primary residence at another location. Special regulation of these rental uses is necessary to ensure that they will be compatible with surrounding residential uses and will not be detrimental to or alter the neighborhoods in which they are located.
- B. It is unlawful to advertise or rent a dwelling as a residential vacation rental unless the property owner has a valid current Ogden City residential vacation rental permit.
- C. A residential vacation rental permit shall be in addition to any building permits that may be necessary to meet the standards of this section. The applicant shall pay any required fee and submit as part of the initial application for a residential vacation rental permit:
 - 1. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses;
 - 2. The width of the lot, less any space used for access or where parking is not allowed; and
 - 3. A copy of a state issued sales tax license.
- D. In order to renew a residential vacation permit, a person shall pay any required fee and provide:
 - 1. A copy of the person's most recent transient room tax return.
- E. Compliance With Building Codes: The residential vacation rental unit shall be inspected upon initial application, every two years thereafter, and upon any housing complaint filed with the city to verify that the structure:
 - 1. Complies with the information contained in the application and with the requirements of this section;
 - 2. Complies with all applicable local and state building, health, fire, safety and maintenance codes;
 - 3. Complies with the current building code for egress window size and location in all sleeping rooms regardless of when the structure was built;
 - 4. Has a functioning interconnected fire alarm system.
- F. Spacing of residential vacation rentals: A residential vacation rental may not be located on the same linear block as another residential vacation rental, residential facility for persons with a disability or residential facility for elderly persons. A person with a residential vacation rental permit may renew the permit if a residential facility for persons with a disability or residential facility for elderly persons is established on the same linear block after the original residential vacation permit was issued.

Commented [SW2]: There needs to be better language than this

Commented [SW3]: This is not done for OCGLL houses or more importantly, for those NOT covered by ordinance.

Commented [SW4]: If the city wants this information, it is on the county web site.

Commented [SW5]: Deleted Section 2. Not necessary for the city to know who our tenants are. Normal landlords do NOT provide this. VRBO's do not need to either.

Commented [SW6]: Delete ALL. If regular rentals are not subject to this, neither should be VRBO homes.

Commented [SW7]: Delete this entire segment. The market will truly control this, and since there are NOT restrictions on regular rentals, neither should there be on vacation rentals. It is a discriminatory practice to treat these as if they are a detriment to the neighborhood, when in fact they bring money, economic life, free advertising for the awesomeness of Ogden and much more.

Current Update from Sterling

Title 15

Chapter Page

Sue Wilkerson's Review of Draft Ordinance

G. All residential vacation rentals must conform to the following standards:

1. Occupancy: The residential vacation rental may be occupied by no more than two people per sleeping room, as established by the inspection described in subsection E, plus two additional people. The number of allowed occupants may be increased if:
 - a. The total number of occupants does not exceed one person for every 200 square feet of living space, with the number of occupants rounded down to the nearest whole number; and
 - b. Any sleeping room designated or arranged for occupancy by more than two people has a code compliant door that exits directly to the exterior of the residential vacation rental.
2. Appearance: The appearance of the dwelling shall remain as the dwelling was originally constructed.
3. Off-Street Parking: A residential vacation rental shall have in existence the required two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling. No additional off street parking in the front or side yard for the residential vacation rental is allowed, such as a side yard parking slab or widened driveway, unless grandfathered in and pre-existing; but tandem parking (1 vehicle behind another) in the driveway is allowed provided the tandem parking does not extend over the property line and the public sidewalk.
4. On-Street Parking: On street parking is calculated based on the legal parking space available in front of the lot where the dwelling is located.
5. Garbage: Where a residential vacation rental receives garbage service from Ogden City, the owner shall provide at least two Ogden City garbage carts and one recycling cart. Should the amount of garbage require more carts, the owner shall be responsible to provide that. Carts shall be to the side or rear of the dwelling and shall not be in public view except on collection days. Information about allowed recycling materials and garbage collection dates shall be provided to the occupants of the residential vacation rental.
6. Animals: If allowed by the owner, the number of household pets is limited to the number allowed for a single family home. Pets must be boarded inside the residence and may not remain outside unless an adult is present.
7. Signage: Signage is limited to the same standards applicable to a home occupation, as contained in section 18-5-1 Appendix A.
8. Management: A responsible person shall be available at all times in the Ogden Area who is capable of responding to the residential vacation rental within 30 minutes.
 - a. The contact person name and phone number shall be posted in a prominent place inside of the dwelling together with a copy of the residential vacation rental permit; and
 - b. The contact information shall also be posted on the front of the residential vacation rental unless the contact person's residence is on the same parcel or lot as the residential vacation rental.

Commented [SW8]: The number of persons that can comfortably occupy the home in a vacation mode. These are NOT long term rentals. These residents are here to vacation and fraternize. They are not HUD approved rentals.

Commented [SW9]: If the parking is already poured, it is a hardship to be removed. It was permitted at some point, and the city cannot require removal if the additional parking was already there. Two off street parking is sufficient.

Commented [SW10]: Public streets are public streets. There is no restriction on public street parking other than longevity ordinance, as enforced by OPD parking (ie cars must be licensed and running)

Commented [SW11]: One can is sufficient in a smaller rental.

H. A person who advertises or rents a residential vacation rental shall include the following information in every advertisement and in each rental contract:

1. The person's Ogden City residential vacation rental permit number;
2. The number of rooms available for rental as contained in the permit;
3. The ceiling height of any basement sleeping room if the ceiling is between 6 feet 8 inches and 7 feet.

Commented [SW12]: The contact person shall be on file with Ogden City, should there be an emergency. As with Portland's recent ordinance, all neighbors within 4 houses from rental shall be notified of the number of the contact person. In the case of an apartment building neighbor, the manager of that complex shall be sufficient. Since many of the owners and operators of VRBOs are women, it is a matter of safety.

Commented [SW13]: Persons, not rooms.

Commented [SW14]: ??? Refer to THIS IS NOT A HUD RENTAL.

4. The number of people allowed to occupy the residential vacation rental as contained in the permit;
 5. Whether pets are allowed and the conditions associated with pets; and
 6. The number of vehicles recognized by the permit as allowed for both off-street and on-street parking.
- I. Noncompliance with the standards of this section, or entering into sham transactions, shall be just cause for the denial of an application or revocation of a residential vacation rental permit if the original conditions are not maintained that allowed the residential vacation rental.
1. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to [title 5, chapter 1, article C](#) of this code, as such provisions may be applicable.
 2. If the permit is revoked, the advertising and rental of the dwelling as a residential vacation rental shall terminate within thirty (30) days of the final determination.
 3. A dwelling whose residential vacation rental permit has been revoked is not eligible for use as a residential vacation rental for a period of three (3) years from the date of revocation.
 4. For purposes of this section, a sham transaction means any transaction which is meant to, or could result in, a violation or avoidance of other applicable zoning ordinances, including transactions:
 - a. Where a residential vacation rental is occupied by a person or group of people for more than thirty consecutive nights, regardless of the term of any rental contract or contracts; or
 - b. Where a residential vacation rental is occupied by a person or group of people, regardless of the number of nights of occupancy, who do not have a primary residence at another location.
- J. A residential vacation rental permit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership does not void the residential vacation rental permit, but the new owner must obtain an updated permit within the earlier of 90 days after acquiring title to the property, or upon expiration of the existing permit.
- K. A residential vacation permit may not be issued for a dwelling in a single family residential zone unless:
1. The dwelling has a valid non-conforming certificate or legal conforming certificate for two or more dwelling units on the property;
 2. The property owner agrees in writing to convert the building to a single family dwelling and to relinquish, through a document recorded with the Weber County Recorder, any right to maintain more than one dwelling; and
 3. The property owner submits an acceptable plan for converting the building to a single family dwelling and applies for and obtains a final inspection for any building permits required to complete the conversion.

Commented [SW15]: This is contained in the contract. It is not necessary unless the person renting is concerned about these items. It just adds confusion to the listing.

Commented [SW16]: If the ownership changes?

Commented [SW17]: If the rental is longer than 30 days, it falls into compliance with city ordinance...

Commented [SW18]: ? Delete. Ridiculous. I have a tenant transferring from England to HAFB. They want a place to stay while they search for their house

Commented [SW19]: Biennial. Just like OCGLL

Commented [SW20]: Delete. Permitted in SFR zones

SECTION 3: Amend Existing Section

15-1-17: PENALTIES; REMEDIES:

Current Update from Sterling	Title 15	Chapter	Page
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Commented [SW21]: Who?

A. Complaints Regarding Violations: The director may investigate any complaint alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this section.

B. Persons Liable: The owner, owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

C. Penalties And Remedies For Violations:

- 1. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this title or failing to comply with any of its requirements shall be guilty of a class C misdemeanor and upon conviction shall be punishable as set forth in [title 1, chapter 4, article A](#) of this code.
- 2. This title may also be enforced by injunction, mandamus, abatement or any other appropriate judicial action in law or equity.
- 3. Failure to correct a violation of this title after written notice of violation and expiration of the warning period may be enforced by imposition of the following civil penalties pursuant to [title 1, chapter 4, article B](#) of this code:
 - a. The first civil citation issued after expiration of the warning period shall subject the person to the initial penalty as provided in subsection D of this section.
 - b. The second civil citation issued after expiration of the warning period and the prior imposition of the initial penalty shall subject the person to the intermediate penalty as provided in subsection D of this section.
 - c. Any subsequent civil citation issued after expiration of the warning period and the prior imposition of an intermediate penalty, or any reoccurring violation under section [1-4B-6](#) of this code, shall subject the person to the maximum penalty as provided in subsection D of this section.
- 4. Each day that any violation of this title is committed, maintained, continued or permitted shall be considered a separate offense or violation for purposes of the penalties and remedies available to the city.
- 5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of this title.

D. Civil Penalties:

I. Penalties Imposed: Violations of this title shall carry civil penalties pursuant to the following schedule:

<u>Violation Classification</u>	<u>Initial Penalty</u>	<u>Intermediate Penalty</u>	<u>Maximum Penalty</u>
a. Causing, permitting or maintaining any land use not allowed in the applicable zoning district	\$125.00	\$250.00	\$500.00
b. Constructing, installing, permitting or maintaining any building, structure or improvement, which violates	125.00	250.00	500.00

Current Update from Sterling Title 15 Chapter Page

yard, setback, height or other dimensional requirements, regarding the placement of buildings, structures or other site improvements, imposed under the provisions of this title

c.	Violating any condition or requirement of a permitted or conditional use; noncompliance with conditions of an approved conditional use permit, variance, a site plan or any other development plan or permit issued in accordance with the provisions of this title (except violations under subsection D1b of this section)	125.00	250.00	500.00
d.	Allowing a vehicle to be parked at a location prohibited under the provisions of this title	25.00	50.00	100.00
e.	<u>Advertising, renting, or operating a residential vacation rental in violation of section _____.</u>	<u>500.00</u>	<u>500.00</u>	<u>500.00</u>
f.	Any other violation not described above	125.00	250.00	500.00

Section 4. There is an initial filing period of 45 days after the date this ordinance is effective for individuals who desire to obtain a residential vacation rental permit to submit a permit application. If there is more than one application for a particular block, the planning department shall hold a lottery between the applicants for the available permit. An individual who is successful in a lottery shall complete any requirements to obtain a permit within three months. If all requirements are not met, the next person in the lottery will be recognized as eligible for the permit.

Commented [SW22]: There should NOT be a restriction on how many units per block.

CHAPTER 37

VACATION RENTALS IN RESIDENTIAL ZONES

SECTION 1:

15-2-19:

Residential Vacation Rental: Use of a dwelling unit for temporary sojourn or transient visit for a period of thirty (30) nights or less by a person or group of people whose primary residence is at another location and who provide compensation, in any form, in exchange for occupancy.

SECTION 2: Create a New Section

Section 15-13-38

- A. The purpose of residential vacation rentals in Ogden City is to provide a short term rental option in residential zones for individuals who have a primary residence at another location. Special regulation of these rental uses is necessary to ensure that they will be compatible with surrounding residential uses and will not be detrimental to or alter the neighborhoods in which they are located.
- B. It is unlawful to advertise or rent a dwelling as a residential vacation rental unless the property owner has a valid current Ogden City residential vacation rental permit.
- C. A residential vacation rental permit shall be in addition to any building permits that may be necessary to meet the standards of this section. The applicant shall pay any required fee and submit as part of the initial application for a residential vacation rental permit:
 1. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses;
 2. A drawing or other description as to how required legal off-street parking will be provided and the number of legal off-street parking spaces available; and
 3. A copy of a state issued sales tax license
 4. A statement affirming whether the vacation rental will be owner occupied.
- D. In order to renew a residential vacation permit, a person shall pay any required fee and provide:
 1. A copy of the person's most recent transient room tax return.
 2. A list from the prior year of the nights the residential vacation rental was occupied, the number of people in each rental to whom it was rented and the length of occupancy of each person or group of people.
- E. Compliance With Building Codes: The residential vacation rental unit shall be inspected upon initial application, every two years thereafter, and upon any housing complaint filed with the city to verify that the structure:
 1. Complies with the information contained in the application and with the requirements of this section;
 2. Complies with all applicable local and state building, health, fire, safety and maintenance codes;
 3. Complies with the current building code for egress window size and location in all sleeping rooms regardless of when the structure was built;
 4. Has a functioning interconnected fire alarm system.

- F. Spacing of residential vacation rentals: A residential vacation rental may not be located on the same linear block as another residential vacation rental, residential facility for persons with a disability or residential facility for elderly persons. A person with a residential vacation rental permit may renew the permit if a residential facility for persons with a disability or residential facility for elderly persons is established on the same linear block after the original residential vacation permit was issued.
- G. All residential vacation rentals must conform to the following standards:
1. Occupancy: The residential vacation rental may be occupied by no more than two people per sleeping room, as established by the inspection described in subsection E, plus two additional people. The number of allowed occupants may be increased if:
 - a. The minimum number of required off-street parking spaces are provided based on the number of sleeping rooms in the structure;
 - b. The total number of occupants does not exceed one person for every 200 square feet of living space, with the number of occupants rounded down to the nearest whole number; and
 - c. Any sleeping room designated or arranged for occupancy by more than two people has a code compliant door that exits directly to the exterior of the residential vacation rental.
 2. Appearance: The appearance of the dwelling shall remain as the dwelling was originally constructed.
 3. Off-Street Parking: A residential vacation rental shall have in existence no less than the required two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling.
 - a. No additional off street parking in the front or side yard for the residential vacation rental is allowed, such as a side yard parking slab or widened driveway, but tandem parking (1 vehicle behind another) in the driveway is allowed, provided the tandem parking does not extend over the property line and the public sidewalk.
 - b. A non-owner occupied residential vacation rental with more than four sleeping rooms shall provide off street parking at the rate of one-half (1/2) parking space for each additional sleeping room recognized in the permit, rounded up to the nearest whole number, in addition to the required two off street parking spaces.
 - c. An owner-occupied residential vacation rental shall provide off street parking at the rate of one-half (1/2) parking space for each sleeping room recognized in the permit, rounded up to the nearest whole number, in addition to the required two off street parking spaces.
 - d. A residential vacation rental may not utilize a driveway shared with another parcel to provide access to parking unless the driveway was approved to serve a common development, such as in a planned unit development.
 4. On-Street Parking: On street parking may not be used to satisfy the parking requirements for a residential vacation rental.
 5. Garbage: Where a residential vacation rental receives garbage service from Ogden City, the owner shall provide the minimum one Ogden City garbage carts and one recycling cart.
 - a. Carts shall be to the side or rear of the dwelling and shall not be in public view except on collection days.

- b. Information about allowed recycling materials and garbage collection dates shall be provided to the occupants of the residential vacation rental.
 - c. The owner is responsible to ensure that garbage does not overflow the carts or accumulate outside of the carts.
 - 6. Animals: If allowed by the owner, the number of household pets is limited to the number allowed for a single family home. Pets must be boarded inside the residence and may not remain outside unless an adult is present.
 - 7. Signage: Signage is limited to the same standards applicable to a home occupation, as contained in section 18-5-1 Appendix A.
 - 8. Management: A responsible person shall be available at all times in the Ogden Area who is capable of responding to the residential vacation rental within 30 minutes.
 - a. The contact person name and phone number shall be posted in a prominent place inside of the dwelling together with a copy of the residential vacation rental permit; and
 - b. The contact information shall also be posted on the front of the residential vacation rental unless the contact person's residence is on the same parcel or lot as the residential vacation rental.
- H. A person who advertises or rents a residential vacation rental shall include the following information in every advertisement and in each rental contract:
 - 1. The person's Ogden City residential vacation rental permit number;
 - 2. The number of rooms available for rental as contained in the permit;
 - 3. The ceiling height of any basement sleeping room if the ceiling is between 6 feet 8 inches and 7 feet;
 - 4. The number of people allowed to occupy the residential vacation rental as contained in the permit;
 - 5. Whether pets are allowed and the conditions associated with pets; and
 - 6. The number of legal off-street parking spaces recognized by the permit as allowed for use by the residential vacation rental.
- I. It is unlawful for a person to advertise, represent orally or in writing, or sign a rental contract for a residential vacation rental that:
 - 1. Authorizes more people to occupy the residential vacation rental than is provided in the permit;
 - 2. Allows the use of any portion of property outside of the residential vacation rental for sleeping purposes by pitching tents or otherwise;
 - 3. Authorizes or provides for more parking spaces, including on-street parking, than are authorized in the permit.
- J. Noncompliance with the standards of this section, allowing the property associated with the residential vacation rental permit to become a nuisance, such as through violations of the city noise ordinance, property maintenance standards, or repeated instances of the property being used in a way that is not in compliance with this section, failure to maintain the original conditions that allowed the residential vacation rental permit to be issued, and entering into sham transactions shall each constitute just cause for the denial of an application or renewal, or revocation of a residential vacation rental permit.

1. Revocation shall be based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to title 5, chapter 1, article C of this code, as such provisions may be applicable.
 2. If the permit is revoked, the advertising and rental of the dwelling as a residential vacation rental shall terminate within thirty (30) days of the final determination.
 3. A dwelling whose residential vacation rental permit has been revoked is not eligible for use as a residential vacation rental for a period of three (3) years from the date of revocation.
 4. For purposes of this section, a sham transaction means any transaction which is meant to, or could result in, a violation or avoidance of other applicable zoning ordinances, including transactions:
 - a. Where a residential vacation rental is occupied by a person or group of people for more than thirty consecutive nights, regardless of the term of any rental contract or contracts; or
 - b. Where a residential vacation rental is occupied by a person or group of people, regardless of the number of nights of occupancy, who do not have a primary residence at another location.
- K. A residential vacation rental permit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership does not void the residential vacation rental permit, but the new owner must obtain an updated permit within the earlier of 90 days after acquiring title to the property, or upon expiration of the existing permit.
- L. A residential vacation permit may not be issued for a dwelling in a single family residential zone unless:
1. The dwelling has a valid non-conforming certificate or legal conforming certificate for two or more dwelling units on the property;
 2. The property owner agrees in writing to convert the building to a single family dwelling and to relinquish, through a document recorded with the Weber County Recorder, any right to maintain more than one dwelling; and
 3. The property owner submits an acceptable plan for converting the building to a single family dwelling and applies for and obtains a final inspection for any building permits required to complete the conversion.

SECTION 3: Amend Existing Section

15-1-17: PENALTIES; REMEDIES:

- A. Complaints Regarding Violations: The director, or the director's designee, may investigate any complaint alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this section.
- B. Persons Liable: The owner, owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

C. Penalties And Remedies For Violations:

1. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this title or failing to comply with any of its requirements shall be guilty of a class C misdemeanor and upon conviction shall be punishable as set forth in [title 1, chapter 4, article A](#) of this code.
2. This title may also be enforced by injunction, mandamus, abatement or any other appropriate judicial action in law or equity.
3. Failure to correct a violation of this title after written notice of violation and expiration of the warning period may be enforced by imposition of the following civil penalties pursuant to [title 1, chapter 4, article B](#) of this code:
 - a. The first civil citation issued after expiration of the warning period shall subject the person to the initial penalty as provided in subsection D of this section.
 - b. The second civil citation issued after expiration of the warning period and the prior imposition of the initial penalty shall subject the person to the intermediate penalty as provided in subsection D of this section.
 - c. Any subsequent civil citation issued after expiration of the warning period and the prior imposition of an intermediate penalty, or any reoccurring violation under section [1-4B-6](#) of this code, shall subject the person to the maximum penalty as provided in subsection D of this section.
4. Each day that any violation of this title is committed, maintained, continued or permitted shall be considered a separate offense or violation for purposes of the penalties and remedies available to the city.
5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of this title.

D. Civil Penalties:

1. Penalties Imposed: Violations of this title shall carry civil penalties pursuant to the following schedule:

<u>Violation Classification</u>	<u>Initial Penalty</u>	<u>Intermediate Penalty</u>	<u>Maximum Penalty</u>
a. Causing, permitting or maintaining any land use not allowed in the applicable zoning district	\$125.00	\$250.00	\$500.00
b. Constructing, installing, permitting or maintaining any building, structure or improvement, which violates yard, setback, height or other dimensional requirements, regarding the placement of buildings, structures or other site improvements, imposed under the provisions of this title	125.00	250.00	500.00

c.	Violating any condition or requirement of a permitted or conditional use; noncompliance with conditions of an approved conditional use permit, variance, a site plan or any other development plan or permit issued in accordance with the provisions of this title (except violations under subsection D1b of this section)	125.00	250.00	500.00
d.	Allowing a vehicle to be parked at a location prohibited under the provisions of this title	25.00	50.00	100.00
e.	<u>Advertising, renting, or operating a residential vacation rental in violation of section _____.</u>	<u>500.00</u>	<u>500.00</u>	<u>500.00</u>
f.	Any other violation not described above	125.00	250.00	500.00

Section 4. There is an initial filing period of 45 days after the date this ordinance is effective for individuals who desire to obtain a residential vacation rental permit to submit a permit application. If there is more than one application for a particular block, the planning department shall hold a lottery between the applicants for the available permit. An individual who is successful in a lottery shall complete any requirements to obtain a permit within three months. If all requirements are not met, the next person in the lottery will be recognized as eligible for the permit.



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OCT 04 2016

OGDEN CITY COUNCIL

Office of the Mayor
Mike Caldwell

September 23, 2016

Chair Marcia L. White and
Members of the Ogden City Council
2549 Washington Boulevard
Ogden, UT 84401

Re: Advice and Consent Consideration of Appointment to the Airport Advisory Committee

Chair White and City Council Members:

I respectfully recommend the following individual be appointed to the Airport Advisory Committee:

APPOINTMENT

Michael Nichols – 3603 King Hill Drive, Ogden, Utah – Mr. Nichols would be replacing Dave Young, whose term has expired and does not wish to continue serving. Mr. Nichols' term would expire March 30, 2018.

Your favorable consideration is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Caldwell". The signature is fluid and cursive, with a large loop at the end.

Mike Caldwell
Mayor of Ogden



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OCT 11 2016
OGDEN CITY COUNCIL

RECEIVED
OCT 10 2016
OGDEN CITY
COUNCIL OFFICE

Office of the Mayor
Mike Caldwell

September 28, 2016

Chair Marcia White and
Members of the Ogden City Council
2549 Washington Boulevard
Ogden, UT 84401

Re: Advice and Consent Consideration for Appointments to the Weber County Justice
Court Nominating Commission

Dear Chair White and City Council Members:

In anticipation of filling an upcoming judicial vacancy in the Ogden City Justice Court, I respectfully recommend the following individuals be appointed to the Weber County Justice Court Nominating Commission:

APPOINTMENT

Mike Ashment, Ogden City Police Chief

Mara Brown, Deputy City Attorney

Chief Ashment brings valuable insight from the perspective of the Ogden Police Department, which has a critical role in the appropriate functioning of the Justice Court. Ms. Brown previously served on the Weber County Justice Court Nominating Commission and has experience with the judicial nominating process. I anticipate both of these appointments will be able to represent the City's best interests.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Caldwell".

Mike Caldwell
Mayor of Ogden

FY2017 BUDGET AMENDMENT (\$3,000,000)

– Revenue

- **Medical Services - Retained Earnings (\$500,000)**
- **Fleet and Facilities (\$500,000)**
- **Major Grant Fund – Asset Area Control Program (\$2,000,000)**

– Appropriations

- **Medical Services Capital (\$500,000)**
- **Fleet Equipment Replacement (\$500,000)**
- **Asset Area Control Program (\$2,000,000)**

– Transfers

- **Critical Project Contingency to RDA (\$85,000)**

DETERMINATION: **Adopt or Not Adopt Ordinance**

***Executive
Summary***

The Council will consider an Ordinance that amends the FY2017 Budget to provide funding for a new quint fire truck (\$500,000), increase the budget for the Asset Area Control Program (\$2,000,000), and transfer funds to the RDA for a future property purchase (\$85,000).

Background

During the fiscal year, the Council entertains requests for budget adjustments to allow for the following:

1. Entering grant or other special purpose revenues into the budget prior to expenditure.
2. Making mid-course corrections to avoid budget overruns.
3. Forwarding encumbrances from the previous fiscal year.
4. Other items dealing with special circumstances or opportunities.

The Uniform Fiscal Procedures Act for Utah Cities requires that a public hearing be held on all budget adjustments where the budget of one or more funds is increased. (Utah Code Ann. §10-6-127.) Notice of the public hearing must be given seven (7) days prior to the hearing. (Utah Code Ann. §10-6-113.) For year-end adjustments, the hearing must be held before June 30.

2007 Fire Management Study

In 2007, the City Council commissioned a management study of the Fire Department. The study identified fifteen (15) recommendations to improve the services provided by the Department. The City has been working to implement those recommendations as funding and other resources have become available. Chief Mike Mathieu has provided a progress report on the Department's efforts to complete the recommendations during the yearly budget process every year since 2008

During the FY2017 budget process, Chief Mathieu provided the following information regarding Recommendation #12:

Recommendation #12:

Ogden should commit more funding to establish a funded fire apparatus replacement plan that both accelerates the replacement of current high mileage equipment and also establishes a clearly identified and funded year of replacement for each vehicle. Replacement can then be postponed if equipment condition warrants, but funding is available if replacement is needed as scheduled.

1. Fleet Changes:
 - a. Replaced one fire pumper (1991 pumper) which was a front-line engine located at station #2 (1185 East 21st Street). A new pumper was placed in service in the fall of 2008.
 - b. Replaced one fire pumper (1990 pumper) which was a front-line engine located at station #3 (340 Washington Blvd.) A new 2010 pumper was placed in service 09/2010.
 - c. An order and delivery for a third new pumper identified in the audit has occurred. The 2011 pumper has been placed in service at station #5 3450 Harrison Blvd.
 - d. Replaced one fire pumper (1991 pumper) which was a reserve with a 2007 front line unit that had been located at station #2. A 2013 pumper was placed into service at Station #2 in the first quarter of 2014.

2. At the completion of the audit our first line fleet average age was **10.6** years. Best practices suggest first line apparatus life expectancy of 15 years, and 5 years of reserve status. Our first line

fleet average age after delivery of the latest pumper is **8.1** years old. (St #1 2004, #2 2013, #3, 2010, #4 2001, and #5 2011). The average age of our 2 reserve pumpers is **15** years (2007 and 1995).

3. We are looking at funding options to replace the 2001 Quint located at station #4 over the next year as this is the most pressing front line unit. It has had 15 years of front line service and per NFPA recommendations should be in reserve status its last 5 years of service life.

Asset Area Control Program

The City's Asset Area Control (AAC) program is managed by the Neighborhood Development Division in the Community and Economic Development Department. This HUD program is used to rehabilitate substandard properties in the East Central and River Project Neighborhoods. Under the program, HUD sells foreclosed homes located in special revitalization areas to local governments at a discount. The discounted purchase price helps provide equity to cover the cost of repairs. The homes are purchased and repaired by the City and then sold to owner-occupants. All of the purchased homes must be sold within 18 months of purchase.

The City has also expanded the AAC program to include additional infill projects using non-HUD funds for the construction of new homes. A bank line of credit is used to fund construction costs and then the line of credit is repaid upon sale of the home. This project has been self-sustaining for several years.

October 4, 2016

The Council office received an Administrative Transmittal requesting an amendment to the FY2017 budget.

October 11, 2016

The Council held a work session to review and discuss the proposed budget amendment.

The Council also set a public hearing on the budget amendment in a special meeting.

Proposal

The Administration is proposing to transfer \$500,000 from Retained Earnings in the Medical Services Fund to the Fleet and Facilities Fund for purchase of a new quint (ladder/pumper) fire truck. The \$500,000 will be combined with existing fleet replacement funds for a total of \$940,000 which should cover the cost of the quint.

The Administration is also requesting an increase in the Neighborhood Development Division’s budget to accommodate the additional activity in the infill program. The amount approved in the FY2017 budget was \$1,578,800 of which \$1,229,029 has already been spent. The Division needs the increased budget approved in order to complete all of the projects currently underway which include housing projects on Fowler, Gramercy, Eccles, Quincy, Brinker and Madison. Note that the additional \$2M does not represent additional City funds. Because this project is self-funding, the additional \$2M budget will allow for additional activity in the program. Funding will continue to come from the Synchrony Bank line of credit and the sale of properties.

A summary of the revenues and appropriations is as follows:

Summary of Revenues			Notes
Fund/ Source	Amount	Total	
Medical Services			
Retained Earnings	\$ 5,000,000		Transfer to Fleet
Sub-Total		\$ 500,000	
Fleet and Facilities			
Transfer from Medical Services	\$ 500,000		For New Quint
Sub-Total		\$ 500,000	
Major Grants Fund			
Asset Area Control Program	\$ 2,000,000		Increased Budget (Funded with Line of Credit)
Sub-Total		\$ 2,000,000	
TOTAL		\$ 3,000,000	

Summary of Appropriations			Notes
Fund/ Source	Amount	Total	
CIP Fund			
Critical Project Contingency	\$ (85,000)		Transfer Out
Interagency Transfer	\$ 85,000		Transfer to RDA
Sub-Total		\$ -	
Medical Services			
Transfer to Other Funds - Capital	\$ 500,000		Transfer to Fleet
Sub-Total		\$ 500,000	
Fleet and Facilities			
Equipment Replacement	\$ 500,000		For New Quint
Sub-Total		\$ 500,000	
Major Grants Fund			
Asset Area Control Program	\$ 2,000,000		For Infill
Sub-Total		\$ 2,000,000	
TOTAL		\$ 3,000,000	

Questions

1. Please review the proposed budget amendment.
2. Please review how the funding for the Asset Area Control Program works (access to Synchrony line of credit, etc.).

Council Staff Contact: Janene Eller-Smith, (801)629-8165

RECEIVED

OCT 04 2016

**OGDEN CITY
COUNCIL OFFICE**

OGDEN CITY TRANSMITTAL

Date: September 29, 2016
To: Ogden City Council
From: Lisa Stout, Comptroller
RE: BUDGET OPENING – FY 2017 TRANSFER TO RDA, FIRE TRUCK TRANSFER AND ACA PROGRAM FUNDING

Staff Contact: Lisa Stout, Comptroller, ext. 8713 
Recommendation: Set public hearing and adopt ordinance
Documents: - Fire Department Transmittal
- Ordinance
- Schedule A (Revenue)
- Revenue Detail Schedule
- Schedule B (Appropriations)
- Appropriation Detail Schedule

Executive Summary

This proposed action is to recognize the appropriations of new revenue or expected activities by Ogden City.

City Administration is proposing the Council set a public hearing for this budget opening on October 11th and hold a public hearing for this budget opening on October 25th.

In the FY2017 Budget the City appropriated \$100,000 in the CIP Fund in the critical project contingency account. The City is proposing to reappropriate \$85,000 to be transferred to the Redevelopment Agency. The \$85,000 will be used by the Redevelopment Agency for the purchase of property. This is a reappropriation and does not increase the overall budget, but reappropriates these funds from critical project contingency to an interagency transfer. If this transfer is approved there will be a budget of \$15,000 remaining in the critical project contingency account.

In the Fleet and Facilities Fund the replacement program currently has \$440,000 reserved toward the purchase of a quint (ladder/pumper) fire truck. The City is proposing an appropriation of Medical Services Retained Earnings in the amount of \$500,000 as a transfer to the Fleet and Facilities Fund. The transfer is proposed to be appropriated in the Fleet and Facilities Fund and with the \$440,000 already available in Fleet and Facilities, it is expected the \$950,000 will fund the entire cost of the new quint fire truck. Please see the transmittal, included in this packet, from the City Fire Chief to the City Council outlining the need for the purchase of a Quint Fire Truck. This transfer will increase the budget in the Medical Services Fund by \$500,000 and will increase the budget in Fleet and Facilities by \$500,000.

The Asset Area Control (AAC) program is managed by the Neighborhood Development Division and accounts for activities related the rehabilitation of homes and new construction of homes in Ogden City. Originally this program consisted of only homes that were purchased by the City from HUD at a discounted purchase price. In recent years these rehabilitated and constructed homes have included additional focus areas such as Oak Den and Fowler infill projects. Due to the increase in number of homes purchased,

constructed, rehabilitated and sold, the budget in this program will not be sufficient. The expenditure appropriation accounts for investments into these properties, while the revenue appropriation accounts for sales proceeds as these properties are sold.

A Synchrony Bank line of credit of \$1.4M is used in connection with this program to help fund the purchase and the reinvestment into these properties up front. When the properties are sold, the revenue from those sales is used to pay off the line of credit. This line of credit is authorized by the Council. As of June 30, 2016 the outstanding balance on the line of credit was \$257,955. The Community Development Manager has requested an additional appropriation of \$2M for FY2017 to cover the revenue and expenditures expected in the AAC Program. The original budget approved in FY2017 was \$1,578,800, of which \$1,229,029 has been spent as of September 28, 2016. These expenditures relate to approximately 12 properties; 3 of these properties are on Fowler. This also includes properties on Gramercy, Eccles, Quincy, Brinker and Madison.

The AAC program has been self-sustaining through sales revenue sufficient to cover the expenditures related to rehabilitation and construction. No additional City funds will be needed to cover the increase to the AAC budget.

Background

Council action is required to appropriate.

Proposal

Review and adopt ordinance.

Fiscal Impact

An increase to the City Budget of \$3,000,000.

Ogden City Council Transmittal

Date: September 22, 2016
To: Ogden City Council
From: Mike Mathieu, Fire Chief
Re: Request for Budget Opening Consideration (Medical Fund)

Executive Summary There is a desire to continue to look for methods fund needs within fleet replacement due to an overall underfunded system. Through the Fire Department Management Audit vehicle replacement for very expensive pumpers/ladder trucks was identified. We are currently in the need to replace a front-line ladder truck (Quint), which we have half the funding for from the fleet replacement fund. We are asking for \$500,000 from the medical fund to complete the funds needed to replace our quint located at station #4 in West Ogden.

Background Fire Department pumper and ladder trucks are very expensive vehicles ranging from \$450,000 to \$950,000 for a single unit. These vehicles are recommended for a life span of 15-years front line and 5-years reserve life.

The current ladder truck commonly referred to as a "quint" (combination ladder/pumper) in front line status at station #4 is in its 16th year of front line status, and should be placed in reserve. More importantly, the reserve unit that currently goes into service when replacing any of our front-line units is a 1995 Pumper/Ambulance that has become mechanically challenging and is not worth significant investments for repairs. At any time this unit could cost significant funds (\$10,000-\$30,000) to repair an engine, transmission, or pump failure.

Replacing the front line quint at station #4 now would allow the 16-year old quint to become a reserve unit for the fire front line vehicles for 4-5 years with reasonable dependability. Surplussing the 1995 or 21 year old engine/ambulance is recommended after many years of high use with over 200,000 miles on the unit. The National Fire Protection Association recommends replacement of pumpers after 20-years with consideration of use and maintenance history. The use on this unit, since it has doubled as our first transport ambulance engine, has very high mileage and significant engine, pump, and transmission repair costs due to its unique rear engine design.

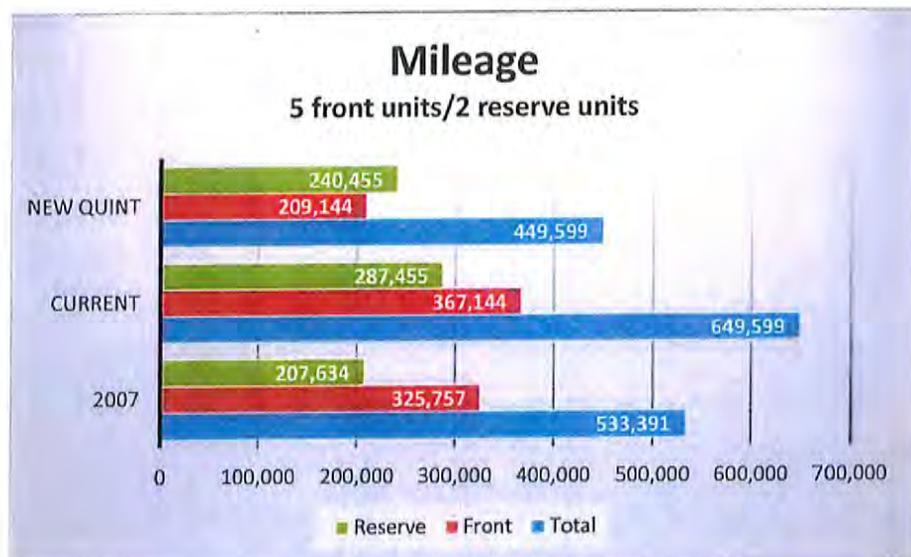
Proposal

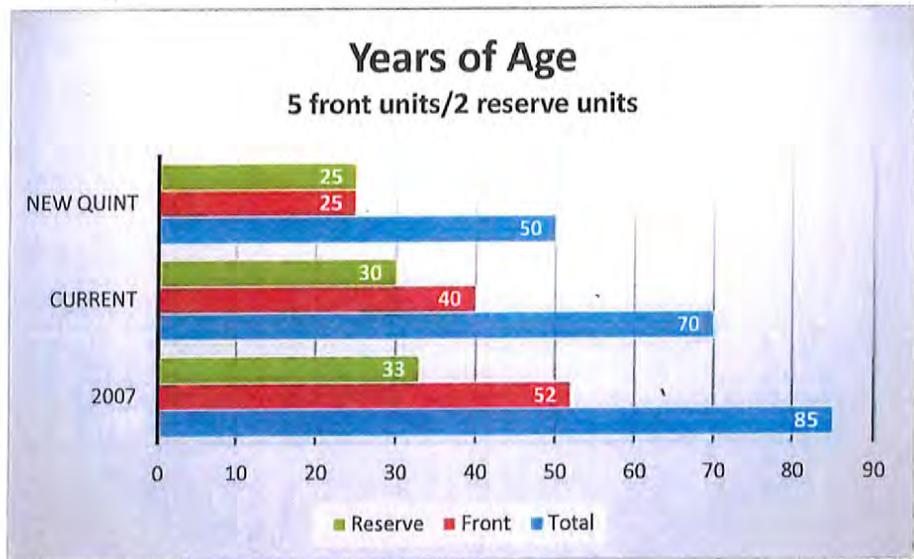
The current fleet replacement program has \$440,000 assigned to pumper replacement. The cost of a new quint (ladder/pumper) is between \$900,000-\$950,000. The request for \$500,000 from the medical fund to assist this purchase is supported by the delivery of first response medical services that all of our fire pumpers and ladder trucks provide. Essentially 75% of all emergency calls are medical in nature. When the medical fund can support the purchase of these vehicles, I believe it is an appropriate use of funds.

CIP projects FI016 and FI033 (station#3 and Station#3 land acquisition are near closing. An estimated amount of \$80,000 will be returned to medical fund balance from these projects. As of 6-30-15 there was \$1,066,409 in the medical fund. The unaudited amount of \$1,100,000 of revenue above expenses for FY16 is projected. Although recent raises that have occurred effective July 2016 for medical fund employees will annually be \$350,000, I believe using \$500,000 one time for this need still leaves adequate balances for ongoing and other unforeseen expenses.

If approved, it could take 3-12 months to acquire a replacement quint unit depending on purchasing process, vendor unit availability, or build time frame. Through technological advances in weight management there are 100' quint ladder trucks that can be safely built on single rear axles. This translates to greater maneuverability with less cost per miles operating cost. Aerial ladder functionality has improved allowing the vehicle more versatility and application during emergencies.

In comparison of the fire fleet status during the 2007 audit, today, and if we replace the quint, see below:





Conclusion

I would request the provision to allocate \$500,000 from the medical fund to combine with the current fleet replacement amount of \$440,000 to complete the purchase and replacement of the pumper/ladder (quint) currently in front-line service at station #4. The current quint located at station #4 would move to reserve status with fleet charged with the surplus of the 21-year old reserve pumper. Thank you for your consideration.

For further information contact Chief Mathieu at (801)629-8068.

ORDINANCE NO. 2016-56

AN ORDINANCE OF OGDEN CITY AMENDING THE BUDGET FOR THE FISCAL YEAR JULY 1, 2016 TO JUNE 30, 2017 BY INCREASING THE ANTICIPATED REVENUES FOR A GROSS INCREASE OF \$3,000,000 FROM SOURCES AS DETAILED IN THE BODY OF THIS ORDINANCE; AND INCREASING THE APPROPRIATIONS FOR A GROSS INCREASE OF \$3,000,000 AS DETAILED IN THE BODY OF THIS ORDINANCE; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

WHEREAS, after due consideration, the Council of Ogden City has approved the proposed modifications as described herein.

The Council of Ogden City hereby ordains:

SECTION 1. Anticipated revenues, transfers and adjustments for the 2016-2017 budget altered, increased and decreased. The anticipated revenues, transfers and adjustments for the various funds of the 2016-2017 budget are hereby changed as hereinafter set forth, with net adjustments of \$3,000,000, as detailed in Schedule "A", which is attached hereto and made a part by reference.

SECTION 2. Appropriations from the 2016-2017 budget altered, increased and decreased. The appropriations for various funds of the 2016-2017 budget are herein altered, increased and decreased by net adjustments of \$3,000,000, as follows:

Appropriations increased since June 30, 2016 as detailed in Schedule "B", which is attached hereto and made a part hereof by reference.

SECTION 3. Effective date. This ordinance shall become effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED by the Council of Ogden City, Utah, this ____ day of _____, 2016.

CHAIR

ATTEST:

Tracy Hansen, City Recorder

Transmitted to the Mayor on _____

Mayor's Action: ____ Approved ____ Vetoed

Michael P. Caldwell, Mayor

ATTEST:

Tracy Hansen, City Recorder

Posting Date: _____

Effective Date: _____

Approved as to Form: MAO 9/29/16
Legal Date

OGDEN CITY
 BUDGET OPENING - FY 2017 TRANSFER TO RDA, FIRE TRUCK TRANSFER AND ACA PROGRAM FUNDING
 REVENUE SCHEDULE
 SCHEDULE "A"

<u>Account Title</u>	<u>Account Number</u>	<u>Amount</u>
<u>MEDICAL SERVICES FUNDS</u>		
USE OF RETAINED EARN - CAPITAL	5200-1-83002	\$ 500,000
SUB TOTAL MEDICAL SERVICES FUND		<u>\$ 500,000</u>
<u>FLEET AND FACILITIES FUND</u>		
TRANSFERS FROM OTHER FUNDS	6100-1-84002	\$ 500,000
SUB TOTAL FLEET AND FACILITIES FUND		<u>\$ 500,000</u>
<u>MAJOR GRANTS FUND</u>		
ASSET AREA CONTROL PROGRAM	7130-1-44103	\$ 2,000,000
SUB TOTAL MAJOR GRANTS FUND		<u>\$ 2,000,000</u>
TOTAL REVENUE BUDGET		<u><u>\$ 3,000,000</u></u>

OGDEN CITY
 BUDGET OPENING - FY 2017 TRANSFER TO RDA, FIRE TRUCK TRANSFER AND ACA PROGRAM FUNDING
 REVENUE DETAIL SCHEDULE

<u>Item Title</u>	<u>Description</u>	<u>Amount</u>
<u>MEDICAL SERVICES FUNDS</u>		
USE OF RETAINED EARN - CAPITAL	Medical Services has sufficient retained earnings available to help with the cost to purchase a new quint (ladder/pumper) fire truck.	\$ 500,000
SUB TOTAL MEDICAL SERVICES FUND		\$ 500,000
<u>FLEET AND FACILITIES FUND</u>		
TRANSFERS FROM OTHER FUNDS	Transfer in from Medical Services to Fleet and Facilities to help fund the replacement of a new quint (ladder/pumper) fire truck. The replacement program already has \$440,000 to help replace this truck, this transfer in will cover the additional costs.	\$ 500,000
SUB TOTAL FLEET AND FACILITIES FUND		\$ 500,000
<u>MAJOR GRANTS FUND</u>		
ASSET AREA CONTROL PROGRAM	The Asset Area Control records activities with HUD rehabilitated homes and construction in approved areas. The expenditures account for investments into these properties through revolving loan funds. The activity accounted for in this program increased significantly due to the Oak Den and Lincoln projects being completed by Neighborhood Development.	\$ 2,000,000
SUB TOTAL MAJOR GRANTS FUND		\$ 2,000,000
TOTAL REVENUE BUDGET		\$ 3,000,000

OGDEN CITY
 BUDGET OPENING - FY 2017 TRANSFER TO RDA, FIRE TRUCK TRANSFER AND ACA PROGRAM FUNDING
 APPROPRIATION SCHEDULE
 SCHEDULE "B"

<u>Account Title</u>	<u>Account Number</u>	<u>CIP #</u>	<u>Amount</u>
<u>CIP FUND</u>			
CRITICAL PROJECT CONTINGENCY	4100-1-01-300300-14415		\$ (85,000)
INTERAGENCY TRANSFER	4100-1-09-300200-52000		<u>\$ 85,000</u>
SUB TOTAL CIP FUND			<u>\$ -</u>
<u>MEDICAL SERVICES FUNDS</u>			
TRANSFER TO OTHER FUNDS-CAPITAL	5200-1-09-400500-41001		<u>\$ 500,000</u>
SUB TOTAL MEDICAL SERVICES FUND			<u>\$ 500,000</u>
<u>FLEET AND FACILITIES FUND</u>			
EQUIPMENT REPLACEMENT	6100-1-01-200901-34002		<u>\$ 500,000</u>
SUB TOTAL FLEET AND FACILITIES FUND			<u>\$ 500,000</u>
<u>MAJOR GRANTS FUND</u>			
ASSET AREA CONTROL PROGRAM	7130-1-06-550421-14601		<u>\$ 2,000,000</u>
SUB TOTAL MAJOR GRANTS FUND			<u>\$ 2,000,000</u>
TOTAL APPROPRIATIONS			<u><u>\$ 3,000,000</u></u>

OGDEN CITY
BUDGET OPENING - FY 2017 TRANSFER TO RDA, FIRE TRUCK TRANSFER AND ACA PROGRAM FUNDING
APPROPRIATION DETAIL SCHEDULE

<u>Item Title</u>	<u>Description</u>	<u>Amount</u>
CIP FUND		
Non-Departmental	CRITICAL PROJECT CONTINGENCY	The City has appropriated \$100,000 in the CIP Fund for critical project contingency. The City is proposing a reappropriation of \$85,000 from this account as a transfer to the Redevelopment Agency to purchase property.
		\$ (85,000)
Non-Departmental	INTERAGENCY TRANSFER	The City has appropriated \$100,000 in the CIP Fund for critical project contingency. The City is proposing a transfer of \$85,000 to the Redevelopment Agency for to be used for the purchase of property.
		\$ 85,000
SUB TOTAL CIP FUND		\$ -
MEDICAL SERVICES FUNDS		
Fire	TRANSFER TO OTHER FUNDS-CAPITAL	The Medical Services Fund has sufficient retained earnings available to help with the purchase of quint (ladder/pumper) fire truck. These funds are being proposed to be transferred to the Fleet Fund.
		\$ 500,000
SUB TOTAL MEDICAL SERVICES FUND		\$ 500,000
FLEET AND FACILITIES FUND		
Management Services	EQUIPMENT REPLACEMENT	The fleet replacement program has \$440,000 set aside to purchase a quint (ladder/pumper) fire truck. The additional \$500,000 being appropriated is a transfer from Medical Services Retained Earnings. This will fund the entire cost of the new truck.
		\$ 500,000
SUB TOTAL FLEET AND FACILITIES FUND		\$ 500,000
MAJOR GRANTS FUND		
Community and Economic Development	ASSET AREA CONTROL PROGRAM	The Asset Area Control records activities with HUD rehabilitated homes and construction in approved areas. The expenditures account for investments into these properties through revolving loan funds. The activity accounted for in this program increased significantly due to the Oak Den and Lincoln projects being completed by Neighborhood Development.
		\$ 2,000,000
SUB TOTAL MAJOR GRANTS FUND		\$ 2,000,000
TOTAL APPROPRIATIONS		\$ 3,000,000

FY2017 BUDGET AMENDMENT (\$3,795,000)

- *Revenues*
 - *Transfer from City (\$85,000)*
 - *Line of Credit Proceeds(\$3,710,000)*
- *Appropriations*
 - *Property Purchase (\$85,000)*
 - *Quality Neighborhoods Debt Funded (\$3,710,000)*

DETERMINATION: Adopt or Not Adopt Resolution

***Executive
Summary***

The Board will consider a Resolution amending the FY2017 Budget to increase the budget by \$3,795,000. The budget amendment recognizes revenue from the City (\$85,000) and line of credit proceeds (\$3,710,000). These funds will be used for a future property purchase and implementing strategies outlined in the Quality Neighborhoods Initiative.

Background

During the fiscal year, the Board entertains requests for budget adjustments to allow for the following:

1. Entering grant or other special purpose revenues into the budget prior to expenditure.
2. Making mid-course corrections to avoid budget overruns.
3. Forwarding encumbrances from the previous fiscal year.
4. Other items dealing with special circumstances or opportunities.

The Uniform Fiscal Procedures Act for Utah Cities requires that a public hearing be held on all budget adjustments where the budget of one or more funds is increased. (Utah Code Ann. §10-6-127.) Notice of the public hearing must be given seven (7) days prior to the hearing. (Utah Code Ann. §10-6-113.)

August 16, 2016

The Board approved Resolution 2016-15 authorizing a line of credit with Synchrony Bank to cover the costs of land acquisition

and demolition for projects associated with the Quality Neighborhoods Initiative.

Terms of the proposed line of credit are as follows:

Loan Type:	Line of Credit
Amount	\$5,000,000
Term:	Four (4) years, Eighteen month draw period
Interest Rate:	Variable, LIBOR plus 1.75% (as of 6/23/16 – 2.3901%), paid quarterly
Security:	Real Property (Project by Project)
Eligible Projects:	Properties within the Quality Neighborhood Area (20 th to 30 th , Washington to Harrison)
Disbursements/ Repayments:	Disbursed Project by Project; repaid upon refinance or disposition, after three (3) years or at the expiration of the Loan, whichever is soonest
Debt Service Source:	Sale of property or BDO Lease Revenue (Annual \$1M QNI disbursement – Total \$5M beginning in FY17)

October 4, 2016

A transmittal outlining the Administration’s request for an amendment to the FY2017 Budget was received.

October 11, 2016

The RDA Board held a work session to review and discuss the proposed budget amendment.

The Board also set a public hearing on the proposed budget amendment for October 25, 2016 in the regular meeting.

Proposal

The Administration is proposing a FY2017 budget amendment that transfers \$85,000 from the City’s Critical Contingency CIP account to the RDA for future property purchase. The Administration is also proposing that the Synchrony Bank Line of Credit be drawn on in the amount of \$3,710,000. The City

Council has previously pledged \$1M of BDO Lease Revenue annually for five years beginning in FY2017 towards the Quality Neighborhoods Initiative for a total of \$5,000,000. The FY2017 funds of \$1M have been committed to another project leaving \$4M for debt service on the Synchrony line of credit.

Using an estimated interest rate per the terms of the loan, the Comptroller has calculated how much could be drawn down and be repaid with the \$4M of pledged BDO lease revenue in the four year time period. It was determined that \$3,710,000 in principal could be repaid.

A summary of the revenues and expenditures follows:

Summary of Revenues			Notes
Fund/ Source	Amount	Total	
RDA			
Transfer from City	\$ 85,000		From Critical Contingency Funds
Sub-Total		\$ 85,000	
Housing Fund			
Line of Credit Loan Proceeds	\$ 3,710,000		Repaid with QNI BDD Lease Rev.
Sub-Total		\$3,710,000	
TOTAL		\$3,795,000	
Summary of Appropriations			Notes
Fund/ Source	Amount	Total	
RDA			
Capital Outlay - Lan	\$ 85,000		Future Land Purchase
Sub-Total		\$ 85,000	
Housing Fund			
QNI Debt Funded	\$ 3,710,000		For QNI Projects
Sub-Total		\$3,710,000	
TOTAL		\$3,795,000	

Questions

Please review the proposed budget adjustment to the FY2017 Budget.

Board Staff Contact: Janene Eller-Smith, (801) 629-8165

RECEIVED

OCT 04 2016

OGDEN CITY
COUNCIL OFFICE

REDEVELOPMENT AGENCY TRANSMITTAL

Date: September 29, 2016
To: Ogden City Redevelopment Agency Board
From: Lisa Stout, Comptroller
RE: Budget Opening – FY17 INTERAGENCY TRANSFER AND LOC LOAN PROCEEDS

Staff Contact: Lisa Stout, Comptroller, ext. 8713 
Recommendation: Set public hearing and adopt resolution and ordinance
Documents: - Resolution
- Schedule A (Revenue)
- Revenue Detail Schedule
- Schedule B (Appropriations)
- Appropriation Detail Schedule

Executive Summary

The purpose of this proposed resolution is for the appropriation for new revenue or expected activities in the Redevelopment Agency.

Administration is proposing the Agency Board set a public hearing for this budget opening on October 11th and hold a public hearing for this budget opening on October 25th.

Included is a proposed Interagency transfer of \$85,000 from Ogden City to the RDA general fund for the purchase of property in the West Ogden area of the City.

On August 16th, 2016 the RDA Board adopted Resolution 2016-15 authorizing the Agency to enter into a loan agreement with Synchrony Bank to provide funds up to \$5,000,000 for community development projects. This is a budget opening proposing the recognition of those loan proceeds in the amount of \$3,710,000, which represents the principal portion available for investment into community development projects.

The commitment from the Council to the Quality Neighborhoods program is an allocation of City funds of \$1,000,000 a year for 5 years. When the line of credit was authorized, it was understood that the City funds allocated each year will be used as the repayment source for the line of credit.

Council commitment to Quality Neighborhoods

Fiscal Year 2017	\$ 1,000,000
Fiscal Year 2018	\$ 1,000,000
Fiscal Year 2019	\$ 1,000,000
Fiscal Year 2020	\$ 1,000,000
Fiscal Year 2021	\$ 1,000,000
Total	\$ 5,000,000

The fiscal year 2017 allocation to Quality Neighborhoods has been programed for current year expenditures. This leaves \$4,000,000 for debt repayment on the Synchrony debt.

To ensure funds are not draw from the line of credit in excess of the \$4,000,000 available for debt repayment an amortization schedule was prepared to determine how much principal would be available.

The proposal is to recognize a budget opening of \$3,710,000, which represents the maximum principal that should be drawn from the line of credit to allow for repayment of the line of credit (principal and interest) not to exceed \$4,000,000.

The Synchrony line of credit will not be drawn all at once, hence the estimated interest expense of \$290,000 may be too high, but can be adjusted each year based on how much of the line of credit has been drawn. The repayment schedule will be budgeted as follows over the next 4 years:

	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021
Debt Principal	\$ 888,700	\$ 915,361	\$ 942,822	\$ 934,224
Debt Interest	\$ 111,300	\$ 84,639	\$ 57,178	\$ 28,894
Total Debt Service	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 963,118

Any changes to these estimated repayment schedule shown above will be brought to Council during the budget process each year.

Background

Board action is required to appropriate fund.

Proposal

Review and adopt resolution.

Fiscal Impact

Increases the RDA budget by \$3,795,000.

RESOLUTION NO. 2016-18

A RESOLUTION OF OGDEN CITY REDEVELOPMENT AGENCY AMENDING THE BUDGET FOR THE FISCAL YEAR JULY 1, 2016 TO JUNE 30, 2017 BY INCREASING THE ANTICIPATED REVENUES AND TRANSFERS FOR A GROSS INCREASE OF \$3,795,000 FROM SOURCES AS DETAILED IN THE BODY OF THIS RESOLUTION; AND INCREASING THE APPROPRIATIONS FOR A GROSS INCREASE OF \$3,795,000 AS DETAILED IN THE BODY OF THIS RESOLUTION.

WHEREAS, additional revenue is available to the Agency and is hereby appropriated.

The Ogden City Redevelopment Agency hereby resolves:

SECTION 1. Anticipated revenues, transfers and adjustments for the 2016-2017 budget altered, increased and decreased. The anticipated revenues, transfers and adjustments for the various funds of the 2016-2017 budget are hereby changed as hereinafter set forth, with net adjustments of \$3,795,000 as detailed in Schedule "A", which is attached hereto and made a part by reference.

SECTION 2. Appropriations from the 2016-2017 budget altered, increased and decreased. The appropriations for various funds of the 2016-2017 budget are herein altered, increased and decreased by net adjustments of \$3,795,000 as detailed in Schedule "B", attached hereto and made a part hereof by reference.

APPROVED AND ADOPTED, this _____ day of _____, 2016.

CHAIR

ATTEST:

Tracy Hansen, City Recorder

Approved as to Form: MAG

Legal

9/29/16

Date

OGDEN CITY REDEVELOPMENT AGENCY
BUDGET OPENING - FY17 INTERAGENCY TRANSFER AND LOC LOAN PROCEEDS
REVENUE SCHEDULE
SCHEDULE "A"

Account Title	Account Number	Amount
<u>Ogden Redevelopment Agency</u>		
TRANSFER FROM OGDEN CITY	3120-2-84005	\$ <u>85,000</u>
SUB TOTAL OGDEN REDEVELOPMENT AGENCY		\$ <u>85,000</u>
<u>Ogden Redevelopment Agency-Housing Fund</u>		
LINE OF CREDIT LOAN PROCEEDS	3900-2-82000	\$ <u>3,710,000</u>
SUB TOTAL OGDEN REDEVELOPMENT AGENCY		\$ <u>3,710,000</u>
TOTAL REVENUE		\$ <u><u>3,795,000</u></u>

OGDEN CITY REDEVELOPMENT AGENCY

BUDGET OPENING - FY17 INTERAGENCY TRANSFER AND LOC LOAN PROCEEDS
REVENUE DETAIL SCHEDULE

District	Item Title	Description	Amount
Ogden Redevelopment Agency	TRANSFER FROM OGDEN CITY	Interagency transfer from Ogden City to the RDA general fund for the purchase of property.	\$ 85,000
Ogden Redevelopment Agency - Housing Fund	LINE OF CREDIT LOAN PROCEEDS	Appropriation of the maximum draw proceeds from the Synchrony Line of Credit. Repayment on these loan proceeds will be made from future allocations of Quality Neighborhoods \$1,000,000 starting in Fiscal Year 2018.	\$ 3,710,000
TOTAL REVENUE			\$ 3,795,000

OGDEN CITY REDEVELOPMENT AGENCY

BUDGET OPENING - FY17 INTERAGENCY TRANSFER AND LOC LOAN PROCEEDS
APPROPRIATION SCHEDULE
SCHEDULE "B"

Account Title	Account Number	Amount
<u>Ogden Redevelopment Agency</u>		
CAPITAL OUTLAY - LAND	3120-2-06-800100-31000	\$ <u>85,000</u>
SUB TOTAL OGDEN REDEVELOPMENT AGENCY		\$ <u>85,000</u>
<u>Ogden Redevelopment Agency-Housing Fund</u>		
QUALITY NEIGHBORHOODS DEBT FUNDED	3900-2-06-800100-33003	\$ <u>3,710,000</u>
SUB TOTAL OGDEN REDEVELOPMENT AGENCY		\$ <u>3,710,000</u>
TOTAL APPROPRIATIONS		\$ <u>3,795,000</u>

OGDEN CITY REDEVELOPMENT AGENCY

BUDGET OPENING - FY17 INTERAGENCY TRANSFER AND LOC LOAN PROCEEDS
 APPROPRIATION DETAIL SCHEDULE

District	Item Title	Description	Amount
Ogden Redevelopment Agency	CAPITAL OUTLAY - LAND	Interagency transfer from Ogden City to the RDA general fund for the purchase of property.	\$ 85,000
Ogden Redevelopment Agency - Housing Funds	QUALITY NEIGHBORHOODS DEBT FUNDED	Appropriation of the maximum draw proceeds from the Synchrony Line of Credit. Repayment on these loan proceeds will be made from future allocations of Quality Neighborhoods \$1,000,000 starting in Fiscal Year 2018.	\$ 3,710,000
TOTAL APPROPRIATIONS			\$ 3,795,000

PROPERTY ACQUISITION

- *Purchase of 503 26th Street -Tax ID No. 01-011-0023 (0.20 acres)*

DETERMINATION: **Adopt or Not Adopt Resolution**

Executive Summary

The Board will consider a Resolution authorizing the purchase of property located at 503 26th Street. The 18-unit apartment building located on the property will be demolished and the property held for future development.

Background

October 18, 2016

The Board Office received an Administrative Transmittal requesting adoption of a Resolution authorizing the acquisition and demolition of properties located at 503 26th Street. The Administration requested that consideration of this matter be expedited to accommodate a closing date of October 28, 2016.

October 25, 2016

The Board will hold a work session to review and discuss the proposed purchase of property located at 503 26th Street.

If after the work session discussion the Board is comfortable moving forward, the Board will also consider a Resolution authorizing the purchase and demolition of the property in a special Redevelopment Agency meeting.

503 26th Street

The building located at 503 26th Street was built in 1899. It is a two-story, 13,542 sq. ft. building that currently has eighteen (18) apartment units. The building was originally built with eleven (11) units. Over the years, owners have modified the building to add the additional seven (7) units. Much of this work was completed without permits and does not meet health and safety standards. As a result, an otherwise historic building has been deemed “Not Contributory” to the Ogden Central Bench Historic District.

Proposal

The Administration is proposing the purchase of property located at 503 26th Street to be held for future development. Code enforcement officers have been working for several years to get building owners to bring the property into code compliance. In addition, Weber County Health Department has had to remediate the property several times for drug contamination resulting from illegal drug activities.

CED staff have determined that renovation of the building is cost-prohibitive. Lack of on-site parking is also a barrier to renovation and reuse of the building. Demolition of the building is planned to occur as soon as possible. Total demolition costs for the property are estimated at \$100,000.

503 26th Street Real Estate Purchase Contract

CED staff have negotiated a Real Estate Purchase Contract with the following terms and conditions:

Description:	Tax ID # 01-011-0023 (0.20 acres)
Seller:	Ethane Investment Holdings, LLC (Roland Zhang, Manager)
Purchase Price:	\$450,000
Terms:	\$5,000 Earnest Money \$445,000 cash due at Closing
Closing Costs:	Buyer pays all Escrow fees and an additional \$8,000 towards Closing Costs, Seller pays remaining
Closing Date:	October 28, 2016

Other Pertinent terms:

- The Seller is not responsible for providing a Land Title Survey
- Section 10.8 – Compliance With Laws, has been struck from the Contract
- Section 14 – Pre-Closing Inspection, is struck from the Contract

- As of November 1, 2016, all occupied units have month-to-month leases except Units 9 and 13. These two leases will survive the Closing. Seller is not responsible to terminate the leases.
- Ogden City will not issue any violations citations, or fines during the negotiation and execution of the Contract
- At closing, Ogden City will terminate all code violations actions and waive all pending finds (\$1125).

Funding Sources

The total amount for the project is estimated to be \$558,000 as follows:

Purchase Price	\$450,000
Estimated Closing Costs	\$ 8,000
Estimated Demolition Costs	<u>\$100,000</u>
TOTAL	\$558,000

Funding for the property purchase will come from the Synchrony Bank Line of Credit approved by the Board August 16, 2016, via Resolution 2016-15. The City Council has pledged \$4 M over four years from BDO Lease Revenue funds as debt service for the Synchrony Bank LOC.

A public hearing on a corresponding FY2016 Budget Amendment authorizing the draw on the LOC will be considered at the same special Redevelopment Meeting.

Questions

1. Please review the proposed the terms of the real estate purchase contracts (REPC's).
2. Please explain when the City will terminate the existing leases. When do the leases for Units 9 and 13 terminate?
3. Please outline the purposes for the property purchase. Has a developer or development plan been identified?

4. Please explain the benefits to the City and/or Agency if this property purchase is approved.

Board Staff Contact: Janene Eller-Smith, (801)629-8165

RECEIVED

OCT 18 2016

OGDEN CITY
COUNCIL OFFICE

OGDEN CITY REDEVELOPMENT AGENCY TRANSMITTAL

Date Received by Admin: _____

Mark Johnson, CAO: _____

Date Sent to Board: _____

DATE: October 11, 2016
TO: Ogden City Redevelopment Agency Board
FROM: Tom Christopoulos, CED Director _____
SUBJECT: **Real Estate Purchase Contract between Agency and Ethane Investment Holdings, LLC for the purchase of property at 503 26th Street.**
STAFF CONTACT: Ward Ogden, Community Development Manager _____
LEGAL CONTACT: Melven Smith, Assistant City Attorney _____
REQUESTED TIMELINE: October 25, 2016
RECOMMENDATION: Adopt Resolution approving Real Estate Purchase Contract
DOCUMENTS: Resolution, REPC

Background

The Redevelopment Agency has been successful in negotiating a real estate purchase contract for the acquisition of a property located at 503 26th Street. The proposed transaction is a critical step in the redevelopment of the Adams Avenue corridor since it removes a significant blight influence.

A summary of the Real Estate Purchase Contract is as follows:

- Seller: Ethane Investment Holdings, LLC
- Property: 503 26th Street. Parcel 01-011-0023.
- Size: 8,580 square feet
- Use: 18-Unit Apartment Building, known as New Life Apartments
- Purchase Price: \$450,000
- Earnest Money: \$5,000 (applicable to purchase price)
- Cash at Closing: \$445,000 (to be paid from Synchrony Bank loan, and repaid by Quality Neighborhood funds)
- Closing Costs: \$8,000
- Closing Date: October 28, 2016

Benefit

According to City staff, the Ogden Building Official, and Ogden City Police, this property is a significant contributor to blight in the neighborhood, and is not a safe and habitable place for tenants to occupy. The property is not feasible to renovate and re-use. It should be demolished and the land reserved for a use which will participate in the revitalization of the Adams Avenue corridor.

The 8,580 square foot property contains a two-story 13,542 square foot apartment building with 18 units. The building was constructed in 1899. It has suffered significant deterioration and alteration over the years, and is no longer a historic resource. The Ogden Central Bench Historic District survey found the building to be "Not Contributory" to the Historic District.

Originally, the building contained 11 legal apartment units, which use continued until the 1970's. Since then, owners have altered the interior to create illegal units, and enclosed second floor porches to create illegal living spaces. Now, a total of 18 units are identified. Some of the units lack emergency egress and proper fire separation. The Ogden City Building Official has determined this building to be a "dangerous building" according to Ogden City adopted building codes, due to egress and fire issues, as well as work done without permits and inspections. Unpermitted work includes alterations to the structure, as well as to the plumbing and electrical systems.

Code Enforcement staff have exerted significant efforts to bring the building into compliance over the past several years. An average of six major cases have been processed each year. Each case has taken months to process, and involved significant hours of labor. The types of issues faced by Code Enforcement include illegal, unpermitted units, illegal wiring, illegal plumbing, life safety issues, and illegal structural modifications. Efforts to solve the deficiencies have been marginally successful. Currently, several enforcement issues are outstanding, including the building code requirements noted in the paragraph above and the 7 illegal apartment units.

Weber County Health Department coordinates with Ogden Police and Code Enforcement to remediate illegal drug contamination on a routine basis. Units are required to be vacated as chemical contamination is found and subsequently cleaned. This occurs several times per year.

The Ogden Police Department has received 92 calls for service at this location over the past 7 months. That averages to about one call every other day. The nature of the calls varies widely and includes issues such as theft, noise, drugs, family disturbance, warrants, child neglect, and sex offences. This represents a significant drain on police resources. Furthermore, the nature of the illicit activities is noticeable to patrons and employees at adjacent businesses. As a result, the professional building east of New Life has had significant challenges in leasing space. Tenants and patrons of his building have reported being propositioned by prostitutes operating in the New Life Apartments. The owner reports that without a change to the illicit activities in the area, he will put the building on the auction block and take a loss.

The New Life Apartments are not feasible to renovate and re-use as apartments in a way which will contribute to the revitalization of the Adams Avenue corridor. \$40,000 per legal unit is an acceptable purchase price in this market for marginal quality units which can still be rented. The problem is that even if the units are consolidated from 18 to 11 units and the minimal repairs are completed to allow further occupancy, the same number and type of persons would still likely occupy the structure. Rents in this type of market can be charged per person, with multiple persons occupying a unit. Therefore, the existing owner, or another operator who may purchase at this price, could still achieve an acceptable cash flow after performing the minimum required work. The RDA must price its offer in competition with the other potential operators. In order to renovate the units to a standard which would contribute to the revitalization of the area, we would need to invest into renovation approximately \$55/square foot or \$745,000. With acquisition, the total cost would be \$1,195,000. Rents required to support this level of investment would need to be approximately \$1,200/month. This, combined with the challenge that there is no off-street parking, makes a renovation project infeasible.

Risk

Staff and neighborhood perception is that this property is at the root of the problems plaguing the neighborhood. This acquisition can be a catalyst to neighboring properties undergoing renovation and lease-up. The risk to the City is greater if it does not remove this blighting influence.

Fiscal Impact

Purchased Price: \$450,000
Closing Cost Estimate: \$8,000
Demolition Estimate: \$100,000
Total Estimated Cost: \$558,000

Funds will be borrowed from the Synchrony Bank equity loan and repaid with Quality Neighborhoods funds.

Recommendation

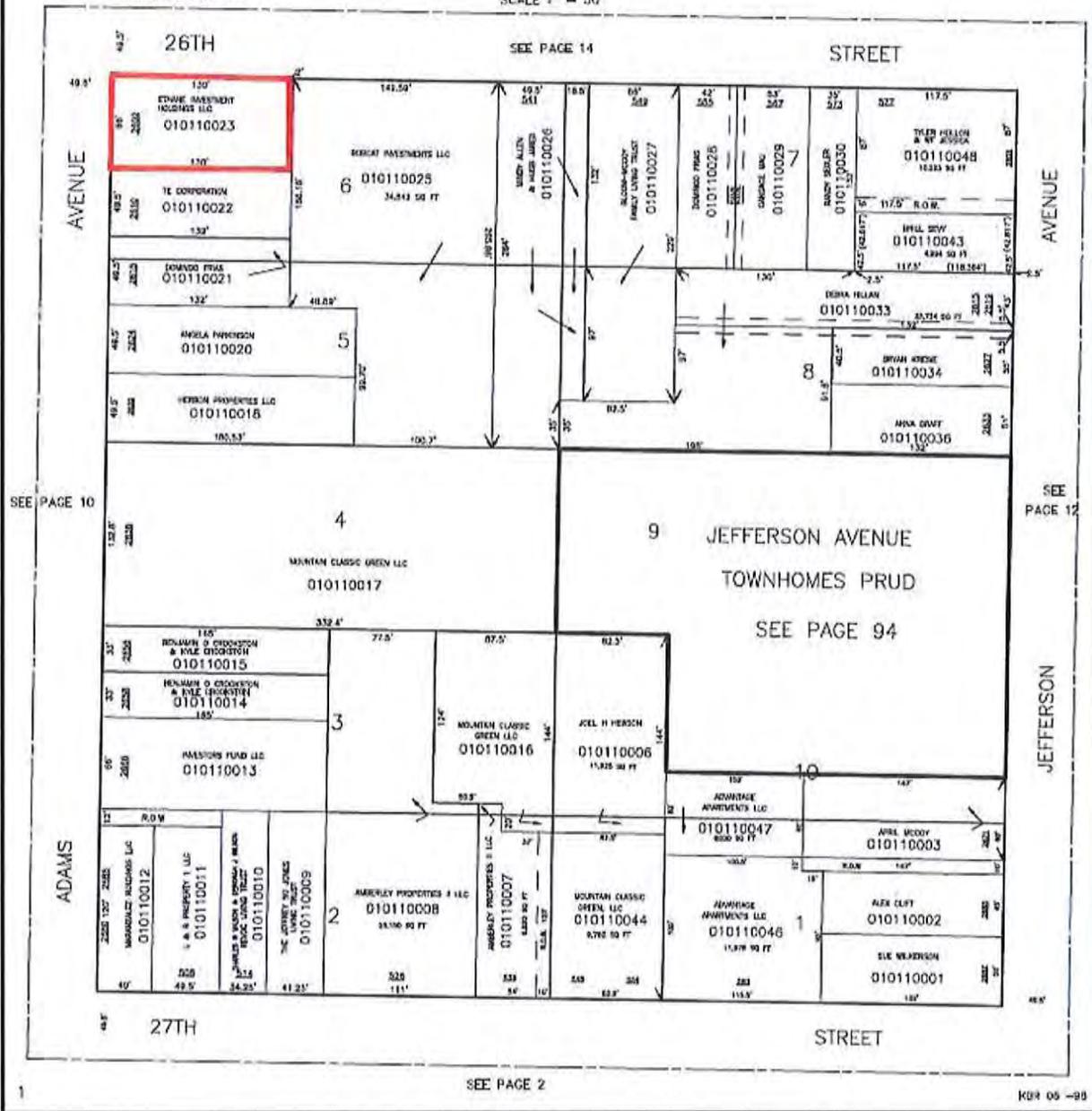
Administration recommends that the RDA Board adopt the attached resolution which authorizes the RDA Executive Director to acquire and demolish the property at 503 26th Street.

BLOCK 13 PLAT A

IN OGDEN CITY
SCALE 1" = 50'

TAXING UNIT: 25

11



KOR 05 -99



503 26th Street – New Life Apartments



RESOLUTION NO. _____

**A RESOLUTION OF THE OGDEN CITY REDEVELOPMENT AGENCY BOARD
APPROVING AND AUTHORIZING THE ACQUISITION AND DEMOLITION OF A
PROPERTY LOCATED AT 503 26TH STREET, OGDEN, UTAH**

WHEREAS, the Ogden City Redevelopment Agency (“Agency”) is a separate body corporate and politic, duly and regularly created, established, and organized and existing under and by virtue of the Constitution and laws of the State of Utah; and

WHEREAS, the Agency operates and is authorized to transact business and exercise its powers under and pursuant to Limited Purpose Local Government Entities – Community Development and Renewal Agencies, Title 17C, Utah Code Annotated 1953, as amended (the “Act”), previously known as the Utah Redevelopment Agencies Act; and

WHEREAS, the Act provides that an Agency may exercise its powers for the purpose of urban renewal, economic development and community development as such terms are defined in the Act; and

WHEREAS, the Agency desires to purchase certain real property located at 503 26th Street, Ogden, Utah, in order to accommodate and facilitate future redevelopment activities in accordance with the Agency’s purposes and objectives; and

WHEREAS, the Agency and Ethane Investment Holdings, LLC have negotiated the terms and conditions of the Agency’s purchase of the real property as set forth in that certain Real Estate Purchase Contract, which is attached to and made part of this resolution as Attachment A (the “REPC”); and

WHEREAS, the Agency anticipates that it will use funds allocated under the Quality Neighborhoods Initiative or from other Agency accounts for the purpose of paying all or part of the purchase price and escrow payment due under the terms of the REPC, and for demolition and site clearance.

NOW, THEREFORE, the board of the Ogden City Redevelopment Agency hereby resolves:

1. That the terms of the Real Estate Purchase Contract, attached hereto as Attachment A are hereby approved; and
2. The Executive Director is hereby authorized to execute, deliver and carry out the terms and conditions of the REPC, as described in Attachment A. Any material change, as defined by Board leadership, staff, and legal counsel, in the terms of the REPC must be approved in advance by the Board.
3. The Executive Director is hereby authorized to enter into and execute contracts and agreements as necessary to carry out tenant relocation, and demolition and site clearance of the property.

Exhibit “A”

Real Estate Purchase Contract

THIS REAL ESTATE PURCHASE CONTRACT ("Contract") made and entered into on the _____ day of _____, 2016 ("**Effective Date**") is for the purchase of the Property described herein by and between **OGDEN CITY REDEVELOPMENT AGENCY**, a Utah political entity, (as the "**Buyer**"), and **ETHANE INVESTMENT HOLDINGS, LLC**, together with its successors or assigns, (as the "**Seller**"). Buyer and Seller are individually referred to herein as a "**Party**" and collectively referred to as the "**Parties**".

RECITALS

WHEREAS, Seller owns or shall own certain real property located at **503 26th Street** in Ogden, Utah as more particularly described in this Contract; and

WHEREAS, Buyer desires to purchase such real property under the terms and conditions set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual promises and considerations set forth below, the Parties agree to the following:

1. Description of Property.

1.1 **Real Property.** The real property which is the subject of this Contract is that property located at **503 26th Street, Weber County, Ogden, Utah (APN# 01-011-0023)**, as legally described under **Exhibit A – Property Description** which is attached to and made part of this Contract (the "**Property**" or "**Land**") excepting the Excluded Real Property as defined below.

1.2 **Included Items.** Unless excluded herein, sale of the Property includes any and all above grade and below grade improvements and fixtures presently attached to the Property.

1.3 **Excluded Real Property.** None

2. Purchase Price. Subject to the terms, covenants and conditions of this Contract, the total "**Purchase Price**" for the Property shall be **Four Hundred Fifty Thousand Dollars (\$450,000.00)** which shall be paid by Buyer to Seller as follows:

A. **Earnest Money Payment** to be paid to the Closing Agent within 3 days of the Effective Date. The Earnest Money Payment shall be applicable to the total Purchase Price according to the provisions of this Contract: **\$5000.00**

B. **Balance of Purchase Price at Closing.** **Four Hundred Forty Five Thousand Dollars (\$445,000.00)** payable to Seller in cash or other acceptable funds.

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3. **Contract Deadlines.**

Effective Date of Contract: October 14, 2016

Seller Disclosure Deadline: October 21, 2016

Due Diligence Deadline: October 26, 2016

Closing Date: October 28, 2016. Closing of this sale shall be held at the office of Lincoln Title Company 2225 Washington Blvd Suite 110, Ogden, UT 84401 (the "**Closing Agent**").

Closing-Extension Period(s). Buyer may, at Buyer's sole option, extend the Closing Date under this Contract a single thirty (30) day period ("**30 day Extension Period**") by payment in the amount of **One Thousand Dollars (\$1,000)** ("**Extension Payment**") for such 30 day Extension Period. The Parties mutually acknowledge and agree that such Extension Payment (a) shall be immediately released to the Seller by Closing Agent, and (b) shall not be applied towards the Purchase Price.

4. **Seller Disclosures.** On or before the Seller Disclosure Deadline, Seller shall deliver to Buyer the following documents which are collectively referred to as the "**Seller Disclosures**":

4.1 Commitment for Title Insurance. A preliminary report or commitment for title insurance (such report or commitment, as it may be amended, supplemented and updated, is referred to as the "**Preliminary Title Report**") in the full amount of the Purchase Price, with Buyer as the proposed insured, showing all matters affecting title to the Property including any and all exceptions, easements, restrictions, rights-of-way, covenants, reservations and other conditions or encumbrances affecting the Property (collectively, the "**Exceptions to Title**") together with legible copies of all recorded documents constituting or evidencing such Exceptions to Title.

4.2 Property Agreements. Copies of any and all written leases, tenancies, rental agreements, service contracts, licenses, management agreements, landscaping agreements, maintenance agreements, and any and all other agreements affecting the Property, and a full written description of any such agreements which are not written (collectively, the "**Property Agreement(s)**"). No later than five (5) business days following Buyer's receipt of any such Property Agreement, Buyer shall notify Seller in writing as to whether Buyer approves or disapproves of such Property Agreement. With respect to each such Property Agreement, Buyer may either direct Seller to assign Seller's interest under such Property Agreement to Buyer as of the Closing Date, or Buyer may direct Seller to terminate such

Property Agreement as of the Closing Date. In the event Buyer fails to provide Seller with any directions regarding a particular Property Agreement, Seller shall presume that such Property Agreement has not been accepted by Buyer, and Seller shall take all steps necessary to terminate such Property Agreement as of the Closing Date. Seller shall indemnify, defend and hold harmless Buyer from and against any obligation, claim, demand, loss, liability, cause of action, cost and expense (including reasonable attorneys'

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fees) with respect to any Property Agreement that is terminated as of the Closing Date pursuant to this Subsection 4.2, including all termination and other similar fees.

4.3 Environmental Assessments. Copies in Seller's possession, if any, of any studies, assessments and/or reports which have previously been done on the Property including, without limitation, environmental reports, soils studies, site plans and surveys (collectively, "Environmental Assessments").

4.4 Building/Zoning Code Violations. Written notice of any claims and/or conditions known to Seller relating to Property building or zoning code violations.

4.4.5 Other Material Information. Written notice of any claims, conditions or information which may materially impact Buyer's decision to purchase the Property.

4.6 Failure to Deliver Seller Disclosures. If Seller is unable or unwilling to deliver to Buyer any of the Seller Disclosures, Buyer may immediately terminate this Contract. If Buyer so terminates this Contract, all monies paid by Buyer up to the time of termination shall be returned to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

~~5. ALTA/ACSM Land Title Survey. Seller shall provide, at Seller's expense, an ALTA/ACSM Land Title Survey ("Survey"). Buyer may review and request reasonable revision or object to the Survey or Buyer may opt to obtain an additional survey at Buyer's expense within ten (10) days of Buyer's receipt of the Survey. If after ten (10) days Seller has not received from Buyer any notice of revision or additional survey, Seller may presume that Buyer accepts the surveyed boundaries of the Property as contained in the Survey. If Buyer and Seller do not mutually approve a survey delineating the legal boundaries of the Property by the Due Diligence Deadline, this Contract shall be terminated and declared null and void on a non-default basis, by either Party providing notice to the other Party, and both Parties shall be relieved of any and all obligations and liabilities under this Contract and any monies paid shall be released from the Seller and returned to Buyer pursuant to this provision.~~

6. Inspection of Property. From the Due Diligence Date, and continuing through and including the date of the termination of this Contract or the Closing, Buyer and its representatives shall have the right to enter upon the Property to conduct any and all inspections and investigations as Buyer may desire to determine the condition and suitability of the Property for Buyer's intended use. Buyer, in the conduct of such investigations and inspections, shall not unreasonably interfere with any existing operations on the Property and Buyer shall indemnify and hold Seller harmless from and against any and all physical damage to the Property resulting from Buyer's investigation of the Property.

7. Buyer's Review and Approval of Seller Disclosures. From the Effective Date, and continuing until the Due Diligence Deadline, Buyer shall have the right to review and approve the Seller Disclosures and Preliminary Title Report as provided under this Section 7. If Buyer elects to terminate this Contract pursuant to this Section 7, all Earnest Money shall be returned to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

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7.1 Unpermitted Exceptions. If Buyer objects to any Exceptions to Title appearing in the Preliminary Title Report (the "Unpermitted Exceptions") Buyer shall notify Seller of such objection in writing no later than five (5) days following Buyer's receipt of the Preliminary Title Report, and Seller shall make reasonable efforts to have such Unpermitted Exceptions removed from the Preliminary Title Report no later than fifteen (15) days after Seller has received from Buyer written notice of such Unpermitted Exceptions. If Seller is unable or unwilling to remove such Unpermitted Exceptions from the Preliminary Title Report within such time period, Buyer may terminate this Contract.

7.2 Property Agreements. If Buyer objects to any Property Agreement, Buyer shall notify Seller of such objection in writing no later than five (5) days following Buyer's receipt of such Property Agreement. If Seller is unable or unwilling to resolve Buyer's objections regarding any particular Property Agreement, Buyer may terminate this Contract and all parties shall be relieved of all liabilities under this Contract.

7.3 Environmental Assessments. In the event that Buyer determines, in Buyer's sole discretion, that any Environmental Assessment indicates the Property may not be appropriate, feasible, economically and/or environmentally viable for Buyer's planned use and/or development, Buyer may terminate this Contract and all parties shall be relieved of all liabilities under this Contract.

7.4 Building/Zoning Code Violations. In the event Buyer determines, in Buyer's sole discretion, that any claims and/or conditions relating to Property building or zoning code violations may adversely impact Buyer's planned use and/or development of the Property, Buyer may terminate this contract and all parties shall be relieved of all liabilities under this Contract.

7.5 Other Material Information. In the event Buyer determines, in Buyer's sole discretion, that any additional information provided by Seller or obtained by Buyer regarding the Property may adversely impact Buyer's planned use and/or development of the Property, Buyer may terminate this contract and all parties shall be relieved of all liabilities under this Contract.

7.6. Consequences of Review. Buyer's inspection, review or approval of the Property, documents or any other materials shall be solely for Buyer's own benefit, and shall not be deemed to be or to result in any warranty, representation or conclusion relative to the technical adequacy of the subject of such inspection, review or approval, the safety, soundness or quality of the Property or the Property's compliance with applicable law. No such inspection, review or approval shall not reduce or qualify, in any manner, any of Seller's representations or warranties that may be specifically set forth in this Agreement.

8. Buyer's Right to Cancel. Buyer's obligation to purchase the Property under this Contract is conditioned upon the following:

8.1 Buyer has inspected and approved the physical condition of the Property;

8.2 Buyer has reviewed and approved the content of any and all Seller Disclosures pursuant to Sections 4 and 7 of this Contract;

8.3 Buyer's receipt and approval of the Preliminary Title Report, assuring Buyer that Seller has and can deliver to Buyer good and marketable title to the Property at Closing,

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pursuant to the terms of this Contract.

8.4 Buyer obtaining all necessary final approvals for the purchase of the Property which are required by law, regulation, or public policy, or which must be obtained from any public entity or agency, including the Ogden City Council and/or the Ogden City Redevelopment Agency, according to such public entity's or agency's standard practices, procedures or requirements.

9. **Buyer's Due Diligence.** As used in this Contract, the term "**Buyer's Due Diligence**" collectively refers to Buyer's completion of each of the conditions set forth in Section 6 and 7. No later than the Due Diligence Deadline, Buyer shall complete all of Buyer's Due Diligence. If by the expiration of the Due Diligence Deadline (a) Buyer does not cancel this Contract as provided herein; or (b) Buyer does not deliver a written objection to Seller regarding any Buyer's Due Diligence; or (c) the Parties have not agreed in writing to extend the Due Diligence Deadline, it shall be deemed that Buyer has completed and/or approved each of the Buyer's Due Diligence; and the contingencies referenced in Section 6 and 7 shall be deemed as completely and unconditionally waived by Buyer.
10. **Seller's Warranties and Representations.** As of the Effective Date, Seller makes the representations and warranties listed below. **Such warranties and covenants shall not survive the Closing unless otherwise specifically stated below.** In the event of a breach of any of the representations and warranties specified below prior to the Closing, upon written notice by and at the election of Buyer, Buyer may terminate this Contract and neither Seller nor Buyer shall have any further rights or obligations under this Contract.

10.1 **Title.** Seller is the sole owner and is in exclusive possession of the Property. Seller holds good and marketable title to the Property in fee simple, and will convey good and marketable title to Buyer, including all of Seller's right, title, and interest in the Property at the Closing by warranty deed free and clear of all liens and encumbrances other than those Exceptions to Title and/or Property Agreements Buyer has accepted or otherwise failed to object to pursuant to this Contract. Buyer understands and agrees that, pursuant to Subsection 10.3 of this Agreement, Buyer must obtain a Final Title Policy to insure Buyer against any and all loss or damage resulting from defects or problems relating to the Buyer's ownership of the Property. As such, Seller makes no representations or warranties regarding title to the Property beyond the Closing.

10.2 **No Changes During Transaction.** Seller agrees that from the Effective Date and continuing until the Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the Property; or (d) incur any further financial encumbrances against the Property. Should Seller so encumber the Property after the Effective Date, then Seller shall be obligated to remove all such encumbrances on or prior to the Closing.

10.3 **Title Policy.** At the Closing, Seller shall obtain, inspect, approve and pay for a standard-coverage owner's policy of title insurance by a title insurance company in the total amount of the Purchase Price ("**Final Title Policy**") in order to adequately insure Buyer against any and all loss or damage resulting from defects or problems relating to the Buyer's ownership of the Property including, without limitation, the enforcement of liens that may exist against such Property. If title to the Property cannot be made insurable

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through an escrow agreement upon the Closing, the Seller shall return all Earnest Money to Buyer, this Contract shall be null and void, and the Parties shall have no further obligations to one another whatsoever.

10.4 Seller Parties. The persons and entities comprising Seller represent all parties owning fee title to the Property as of the Effective Date. Seller is fully authorized to convey the Property pursuant to this Contract. The representations set forth in this Subsection 10.4 shall survive the Closing.

10.5 No Proceedings. As of the Effective Date, to the best of Seller's knowledge, there are no existing, pending or threatened condemnation proceedings, zoning or land use proceedings, utility moratoriums, use moratoriums, improvement moratoriums, or legal, administrative or other proceedings or assessments, formal or informal, affecting the Property, lawsuits by adjoining landowners or others, nor to the best knowledge and belief of Seller is any such lawsuit contemplated by any person, nor is any condemnation or assessment contemplated by any governmental authority. Buyer acknowledges and agrees that Buyer is solely responsible for performing any and all due diligence, as deemed necessary by Buyer, in order to determine whether or not the Property may, as of and following the Closing, be affected by any of the matters addressed under this Subsection 10.5.

10.6 No Leases. At the time of Closing the Property will not in whole or in part be subject to any leases tenancies or rental agreements other than those which Buyer has been made aware pursuant to Subsection 4.2 of this Agreement. The representations set forth in this Subsection 10.6 shall survive the Closing.

10.7 No Contracts. Seller has not and will not enter into any oral or written contracts, agreements, listings, or understandings affecting the Property which may become binding upon Buyer other than those which Buyer has been made aware pursuant to Subsection 4.2 of this Agreement. The representations set forth in this Subsection 10.7 shall survive the Closing.

~~10.8 Compliance With Laws. As of the Effective Date, Seller has complied with all applicable laws, ordinances, regulations, statutes and rules relating to the Property or any part thereof. The ownership, operation and use of the Property are in compliance with and do not violate any applicable federal, state or municipal law, ordinance, rule or regulation, including but not limited to, one relating to building, subdivision, zoning, health, the environment or disabled persons. In addition, Seller has no knowledge of any pending law ordinance, order, regulation or requirement that would affect the present use and operation of the Property. Buyer acknowledges and agrees that Buyer is solely responsible for performing any and all due diligence, as deemed necessary by Buyer, in order to determine whether or not the Property is suitable for Buyer's intended purposes, and determining whether or not the Property may, as of and following the Closing, be affected by any of the matters addressed under this Subsection 10.8.~~

10.9 Environmental. To the best of Seller's knowledge, during the period that Seller has owned the Property, there has been no storage, production, transportation, disposal, treatment or release of any solid waste, hazardous waste, toxic substance, mold, or any other pollutants or contaminants (hereinafter collectively referred to as "Pollutants") on or in the Property in violation of any applicable law, rule or ordinance. To the best of Seller's knowledge, Seller warrants that Seller has complied with all applicable local, state

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10.10 Other Commitments. No commitments relating to the Property have been made to any governmental authority, utility company, school board, church or other religious body, association or other organization, group or individual which would impose an obligation on Buyer or Buyer's successors or assigns to make, or which would establish as a condition to development or subdivision or any part of the Property the making of, any contribution or dedication of money or land or any improvements of a public or private nature on or off the Property. No governmental authority has imposed any requirement that any owner of the Property pays directly or indirectly any special fees or contributions or incurs any expenses or obligations in connection with the Property.

10.11 Other Agreements. No management agreement, landscaping or maintenance agreement, security agreement, assignment, ground lease, easement, employment agreement, licensing agreement, insurance policy, employee welfare plan, labor agreement or other contract or agreement exists, whether oral or written, affecting or relating to the Property, which will remain in effect after the Closing, except as have been disclosed in writing to and approved by Buyer. Each such agreement and contract is in full force and effect in accordance with its terms, is assignable without the necessity of consent of any third party and is cancellable, without cost or expense, on not more than thirty (30) days' notice. Each obligation of Seller and each other party under each such agreement and contract has been performed, no party to any such agreement or contract has asserted any claim of default or offset against Seller and no event has occurred or failed to occur, the occurrence or nonoccurrence of which would in any way affect the validity or enforceability of any such agreement or contract.

10.12 Judgment. No adverse or unpaid judgment is outstanding directly and solely against Seller relating to the Property or the operation of the Property that might affect the ability of Seller to perform Seller's obligations under this Agreement. The representations set forth in this Subsection 11.10 shall survive the Closing.

10.13 No Violation of Law by Seller. Seller is not in violation of, and the execution by Seller of this Agreement and the performance by Seller of Seller's obligations under this Agreement will not violate, any judicial order or governmental law, ordinance, rule or regulation in any respect which could have an adverse effect on the ability of Seller to perform Seller's obligations under this Agreement.

11. Closing Costs. Closing costs and prorations shall be prorated as follows:

11.1 Taxes and Utilities. All ad valorem and excise taxes and utilities shall be prorated to the date of Closing. If the current year's taxes are not known as of the date of Closing, the proration shall be based upon the previous year's taxes with an adjustment made between Seller and Buyer when the current year's taxes are known.

11.2 Prepayment Penalties. Seller shall pay all prepayment penalties and other amounts necessary to release all existing notes, liens and security interests against the Property, if any.

11.3 Fees. Any escrow fee charged by either Party's title company shall be borne by Buyer. Buyer shall pay the fee charged by the escrow/closing office for its services in the settlement/closing process. Each Party will pay its own attorney's fees. Buyer shall pay the

Seller: H. Z 10/12/16

cost of recording the Deed.

11.4 Other. All other bills or charges including other recording fees, any state or local documentary stamps, transfer taxes or fees, assessments for improvements completed or initiated prior to Closing, whether levied or not, pertaining to the Property as of the date of Closing shall be paid by Seller at or prior to Closing. All rents and other similar payments shall be prorated to the date of Closing.

12. **Default.**

12.1 Buyer Default. If Buyer defaults after Seller's satisfaction of all of its obligations hereunder, Seller's sole remedy shall be to cancel the Contract and retain any and all monies paid by Buyer up to the time of default as liquidated damages.

12.2 Seller Default. If Seller defaults after Buyer's satisfaction of all of its obligations hereunder, Buyer's sole remedy shall be to cancel the Contract, and require the return of the all monies paid by Buyer up to the time of default.

13. **Closing; Time of the Essence.** Unless extended by mutual agreement of the Parties, the sale contemplated by this Contract shall be closed no later than the Closing Date at the office of the Closing agent or a reasonable location mutually agreed upon by the Parties. Notwithstanding the previous sentence, Buyer may, at Buyer's sole discretion, elect to close this transaction prior to the end of the Due Diligence Deadline. In the event this sale cannot be closed by the Closing Date due to interruption of transport, strikes, fire, flood, extreme weather, governmental regulations, delays caused by lender, acts of God, or similar occurrences beyond the control of Buyer or Seller, then the Closing shall be extended seven (7) days beyond the cessation of such interruption or condition, but in no event more than fifteen (15) days beyond the Closing Date. Thereafter, time is of the essence. This provision relates only to the extension of the Closing. As used in this Contract, the term "**Closing**" shall mean (i) the balance of the purchase price has been delivered to Seller or to the escrow/closing office; and (ii) any and all documents necessary to complete the sale of the Property have been recorded in the office of the county recorder

14. **Final Pre-Closing Inspection.** Seller warrants that on the date Seller delivers physical possession to Buyer, the Property and improvements will be broom-clean and free of debris and personal belongings. Prior to the Closing, Buyer may conduct a final pre-closing inspection of the Property to determine that the condition of the Property is broom-clean and free of debris and personal belongings, and that the fixtures referenced in Subsection 1.2 of this Contract are present and in good condition.

15. **Authority of Signers.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller. The person or persons executing and delivering this Agreement on behalf of Seller have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement.

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16. **Real Estate Commissions.** Neither buyer and seller are represented by a real estate broker for this transaction. No real estate commission will be considered for this transaction..
17. **Exclusive.** Seller shall not rent, lease, sell, or enter into any such offer with any other party from the date of delivery of this Contract and until the Closing or termination of this Contract as provided herein.
18. **Attorney's Fees.** Both parties agree that should either Party default in any of the covenants or agreements herein contained, the defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing or terminating this Contract or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise.
19. **Entire Contract; Amendments.** This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the Parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or agreements between the Parties whether oral or written and whether made by either Party, or by anyone acting on behalf of either Party, all of which shall be deemed to be merged in this Contract and shall be of no further force or effect. No amendment, modification or change in this Contract shall be valid or binding unless reduced to writing and signed by all of the Parties.
20. **Risk of Loss.** All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the Closing.
21. **Assignment.** Buyer may transfer or assign this Contract and all rights created under this Contract to any person or entity, without the need for obtaining any consent or approval from Seller. In the event of assignment, this Contract shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto, and any entities resulting from the reorganization, consolidation or merger of either party hereto.
22. **Notices.** Any notices to be given hereunder shall be given by placing the notice or designation in the United States mail, certified or registered, properly stamped and addressed to the address shown below or such other address as the respective party may direct in writing to the other, or by personal delivery to such address by a party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received upon such placing in the mails or such delivery:

SELLER: Ethane Investment Holdings, LLC
1397 Skyview Dr
Salt Lake City, UT 84124

BUYER: Ogden City Redevelopment Agency
2549 Washington Blvd Suite #120
Ogden, Utah 84401
Attention: Ward Ogden

Seller: H. F. 10/12/16 Page 9 of 12

SELLER: Ethane Investment Holdings, LLC
1397 Skyview Dr
Salt Lake City, UT 84124

BUYER: Ogden City Redevelopment Agency
2549 Washington Blvd Suite #120
Ogden, Utah 84401
Attention: Ward Ogden

WITH A COPY TO: Ogden City Attorney
2549 Washington Boulevard, Suite 840
Ogden, UT 84401

23. **Interpretation.** The provisions of this Contract shall be governed by and construed in accordance with the laws of the State of Utah. The section headings contained herein are for purposes of reference only and shall not limit, expand or otherwise affect the interpretation of any provision hereof. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include the masculine, feminine and neuter gender, and the term "person" shall include any individual, firm, partnership, joint venture, corporation, trust, association or other entity or association or any combination thereof. For purposes of this Contract, any references to the term "days" shall mean calendar days, exclusive of legal holidays. If any provision of this Contract or the application thereof shall be invalid or unenforceable to any extent, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by applicable law.
24. **Possession.** Buyer shall be entitled to possession of the Property at the Closing Date unless otherwise specified herein.
25. **Binding Effect.** The provisions of this Contract shall bind and inure to the benefit of the Parties and their respective successors and assigns. The Parties hereby agree for themselves, and for their successors and assigns, to execute any instruments and to perform any act, which may be necessary or proper to carry out the purposes of this Contract.
26. **Counterpart Signatures and Facsimile Copies Accepted.** This Agreement may be signed in counterparts, and electronic copies are accepted as originals.

SIGNATURES ON FOLLOWING PAGE

Seller: H/B. 10/12/16

Page 10 of 12

IN WITNESS WHEREOF, each of the Parties has executed this Contract.

BUYER:

OGDEN CITY REDEVELOPMENT AGENCY,
a Utah political entity

By: _____
Michael P. Caldwell, Executive Director

ATTEST:

Ogden City Recorder

APPROVED AS TO FORM:

Agency Attorney

SELLER: Ethane Investment Holdings, LLC

By:  (with counter-offer)

Name: Roland Zhang

Title: Manager

EXHIBIT A
to
Real Estate Purchase Contract

Legal Description of Property

PART OF LOT 6, BLOCK 13, PLAT A, OGDEN CITY SURVEY; DESCRIBED AS
FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT AND RUNNING
THENCE EAST 130 FEET, THENCE SOUTH 66 FEET, THENCE WEST 130 FEET,
THENCE NORTH 66 FEET TO THE PLACE OF BEGINNING.
01-0110-0023

Exhibit A



ADDENDUM NO. 1

TO

REAL ESTATE PURCHASE CONTRACT



THIS IS AN [] ADDENDUM [X] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 10th day of October, 2016 including all prior addenda and counteroffers, between Ogden City Redevelopment Agency as Buyer, and Ethane Investment Holdings LLC as Seller, regarding the Property located at 503 EAST 26TH STREET, Ogden. The following terms are hereby incorporated as part of the REPC:

1. DISCLOSURE OF PRINCIPAL AS LICENSEE OR AS RELATIVE OF LICENSEE

1.1 Personal Interest. The [] Buyer [X] Seller is either: [] a relative of a real estate broker or sales agent participating in this transaction; or [X] a real estate broker or sales agent licensed as such under the laws of the State of Utah, who may share in the brokerage fee paid for this transaction.

1.2 Roland Zhang is seller's agent; Equity Real Estate -- Solid is seller's broker.

1.3 Section 16 is deleted.

2. Seller will close at the office of First American Title -- Foothill Branch (Jill Maddox).

3. Extension of any of the deadlines including closing deadline is possible only if both parties agree in writing.

4. Settlement Deadline is October 28th, 2016; closing date is October 31, 2016

5. All occupied units have month-to-month leases on November 1, 2016, except Unit 9 and Unit 13. These two leases shall survive the Closing. Seller is not responsible to terminate the leases.

6. Ogden City and any of its enforcement offices shall not issue any violations, citations, and fines related to the property during the negotiation and execution of this contract.

7. At the closing, Ogden City shall terminate all previous cases of code violations and citations and waiver previous fines related to the property, including a fine of \$750 on the case #20150832, and a fine of \$375 on the case #20161246.

8. Delete section 14.

9. In addition to subsection 11.3, Buyer pays \$8000 towards closing cost.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN THE REPC (CHECK APPLICABLE BOX): [X] REMAIN UNCHANGED [] ARE CHANGED AS FOLLOWS:

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. [] Seller [X] Buyer shall have until 5 : 00 [] AM [X] PM Mountain Time on October 14, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

 Oct 12, 16, 11:07AM
Page 1 of 2 Buyer's Initials _____ Seller's Initials EAZ 10/12/16 Addendum No. 1 to REPC

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____

(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

**THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL,
EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.**



Redevelopment Agency Meeting BOARD STAFF REVIEW

TRACKLINE ECONOMIC DEVELOPMENT AREA

- *Real Estate Purchase Contract- 660 W 24th Street (Tax ID #14-018-0006
0.22 Acres)*

DETERMINATION:

Adopt or Not Adopt Resolution

Executive

Summary

The Board will consider a Resolution approving a Real Estate Purchase Contract with Armstrong 1970 Trust for purchase of property located at 660 W 24th Street (\$85,000).

Background

April 23, 2013

The Board adopted Resolution 2013-7 terminating the Golden Spike Redevelopment Area and 2013-8 authorizing creation of the Trackline Economic Development Area.

A map identifying the Trackline EDA Project Area is attached.

September 13, 2016

The Board Office received an Administrative Transmittal requesting approval of a Real Estate Purchase Contract (REPC) with Armstrong 1970 Trust for the purchase of 0.22 acres of property located at 660 W 24th Street.

Proposal

The Administrative staff is proposing the purchase of property located at 660 W 24th Street (on the northwest corner of 24th and D Avenue). The lot has one vacant building and a small portion of undeveloped property.

Nate Harbertson of Uinta Homes, Inc. and Armstrong 1970 Trust/Property Source Utah, Inc. have negotiated a REPC with the following terms:



Redevelopment Agency Meeting BOARD STAFF REVIEW

Armstrong 1970 Trust/Property Source Utah, Inc. (Seller)

Description: Tax ID # 14-018-0006 (0.22 acres)
Purchase Price: \$85,000
Terms: \$5,500 Earnest Money (applicable to Purchase Price)
Effective Date: July 12, 2016
Seller Disclosure: Ten (10) Days from Effective Date
Extension: Two thirty (30) day extensions upon payment of \$5,000 (Included in Earnest Money, not refundable but applicable to Purchase Price)
Closing Costs: Each party pays half
Closing Date: November 3, 2016

Mr. Harbertson has executed as Acceptance of Assignment of Real Estate Purchase Contract assigning the right to purchase the property to the Agency.

Staff estimates the cost of demolition of the building to be \$25,000. A \$10,000 contingency has been included in the project cost for a total of \$120,000 for the project.

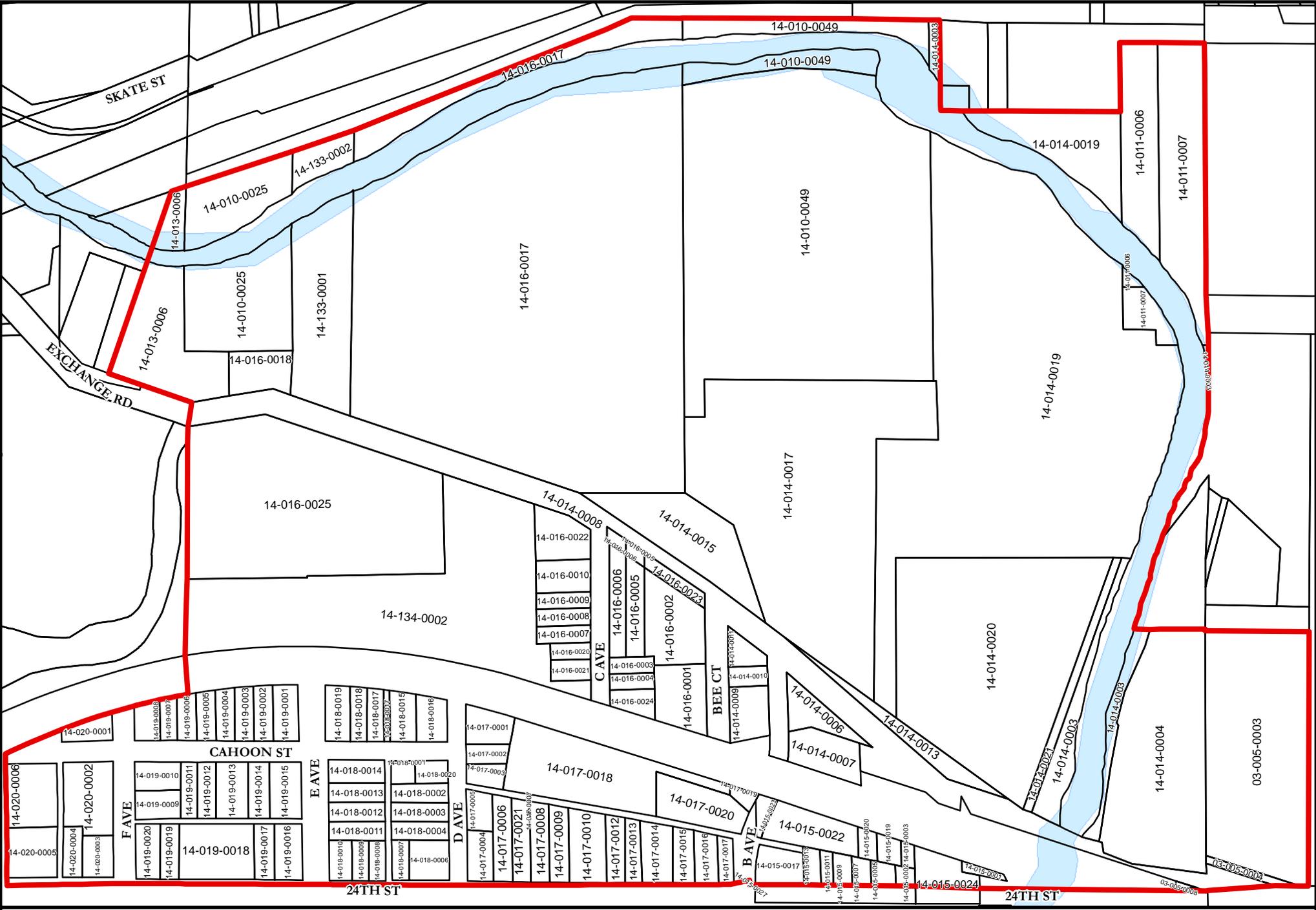
Attachments

Map - Trackline EDA
Plat Map – 660 W. 24th Street
Google Street View – 660 W 24th Street

Questions

1. What funds will be used to purchase the property and complete the demolition?
2. Please explain why the Addenda have a different Seller name than the original REPC.
3. Will the Seller be paying the back taxes (\$3,617.33) at closing?

Board Staff Contact: Janene Eller-Smith, (801)629-8165



Trackline Economic Development Area



PART OF THE S.E. 1/4, SEC. 30, T.6N., R.1W., S.L.B. & M.

BROOKLYN ADDITION

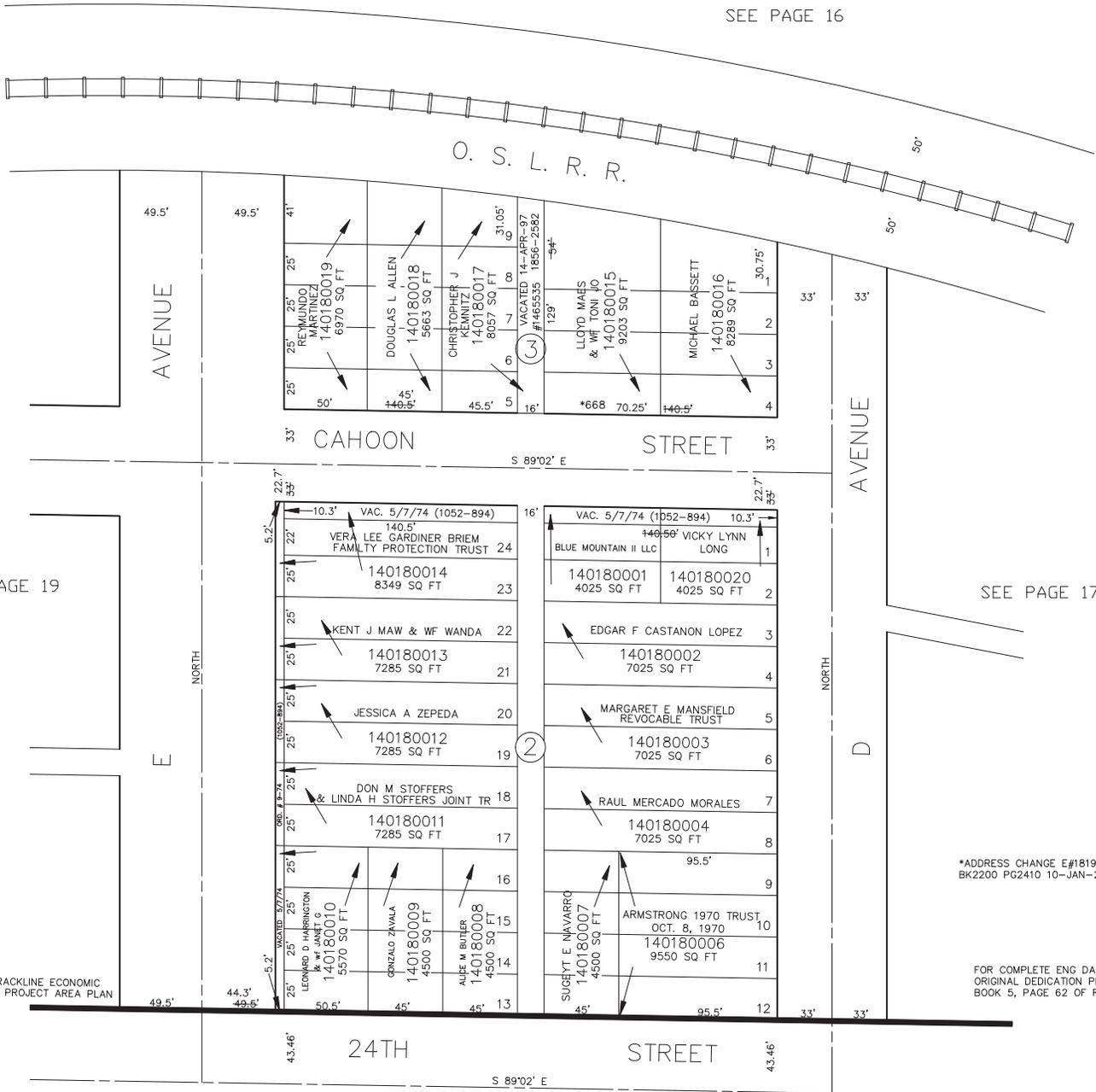
BLOCKS 2 & 3

IN OGDEN CITY

SCALE 1" = 50'

TAXING UNIT: 487

SEE PAGE 16



SEE PAGE 19

SEE PAGE 17

SEE PAGE 26

DATA FROM OGDEN CITY ENG. DEPT. PLATS

659 UT-53
Ogden, Utah
Street View - Jun 2016



OGDEN CITY REDEVELOPMENT AGENCY TRANSMITTAL SEP 13 2016

Mark Johnson, CAO

Date Received by Admin:

Date Sent to Board:

OGDEN CITY COUNCIL OFFICE

DATE: September 8, 2016

TO: Ogden City Redevelopment Agency Board

FROM: Tom Christopoulos, *CED Director* _____ TC

SUBJECT: **Real Estate Purchase Contract between Agency and Armstrong 1970 Trust for the purchase of .22 acres located at 660 W. 24th Street**

STAFF CONTACT: Brandon Cooper, *CED Deputy Director*  BC

LEGAL CONTACT: Melven Smith, *Assistant City Attorney* _____ MS

REQUESTED TIMELINE: See below

RECOMMENDATION: Administration recommends approval of the terms and conditions of the REPC by resolution

DOCUMENTS: REPC; Resolution

Background

The Redevelopment Agency has been successful in negotiating a real estate purchase contract for approximately .22 acres located at 660 W. 24th Street. The proposed transaction provides an opportunity for the Agency to bring about development that will reduce existing blight/vacancy and have a significant impact to the West Ogden neighborhood.

A summary of the Real Estate Purchase Contract is as follows:

- **Seller** – Armstrong 1970 Trust
- **Property** – 14-018-0006
- **Size** – .22 acres
- **Purchase Price** – \$85,000
- **Earnest Money** – \$5,500 (applicable to Purchase Price)
- **Cash at Closing** - \$79,500
- **Closing Date** – October 3, 2016 (with allowable extensions)

Benefit

There is currently one building upon the property that has been vacant for 4-5 years. The remainder of the land is unpaved surface (dirt) that receives marginal maintenance. This property is along the 24th Street Corridor, the main entrance into the downtown, and presents a poor image of the city and the West Ogden neighborhood because of its vacancy and unsightliness. The property is proposed to be rezoned from R-1-5 to MU (mixed-use) in the West Ogden Community Plan.

The current owner is a willing seller, but is unwilling to perform any significant upgrades to the property or pursue other desirable development options. RDA control through property acquisition is a crucial strategy in the effort to recruit and support the appropriate development team and drive development that is in harmony with the overall plans and objectives of the Community Plan. Although zoning ordinances would help drive future development, they alone are not sufficient to ensure a compatible and desirable plan.

Proposed Timeline

Closed Session	September 20, 2016
Set Public Hearing for Budget Opening	September 20, 2016
Public Hearing for Budget Opening	October 4, 2016
Board Consideration of REPC	October 4, 2016
Closing Date	October 5, 2016

Risk

If the Agency were to purchase the property subject to the terms of the attached REPC the Agency will be responsible for either the disposition the property through a re-sale and accepting the outcomes thereof or for the development of the property using Agency and City resources. This would require additional investment beyond the amount stated herein.

Fiscal Impact

The purchase price of the property is \$85,000 plus closing costs. The estimated cost of demolition to remove the buildings is \$25,000. There is also a budgeted contingency of \$10,000 for unforeseen conditions with demolition and/or environmental conditions.

Recommendation

Due to the significant beneficial impact that would come from controlling the future development options and potential of the subject property, the Administration recommends the Board approve the resolution for the purchase of the property located at 660 W. 24th Street.

For further information, please contact Brandon Cooper at (801) 629-8947.

RESOLUTION NO. 2016-21

A RESOLUTION OF THE OGDEN CITY REDEVELOPMENT AGENCY APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE THE TERMS AND CONDITIONS OF A REAL ESTATE PURCHASE CONTRACT WITH ARMSTRONG 1970 TRUST FOR THE PURCHASE OF .22 ACRES OF REAL PROPERTY LOCATED AT 660 W. 24TH STREET, OGDEN, UTAH.

WHEREAS, the Ogden City Redevelopment Agency (“**Agency**”) is a separate body corporate and politic, duly and regularly created, established, organized and existing under and by virtue of the Constitution and laws of the State of Utah; and

WHEREAS, the Agency operates and is authorized to transact business and exercise its powers under and pursuant to Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Title 17C, Utah Code Annotated 1953, as amended (the “**Act**”); and

WHEREAS, the Act provides that an Agency may exercise its powers for the purpose of developing and implementing a community reinvestment plan as such term is defined in the Act; and

WHEREAS, the Agency desires to purchase certain real property located at 660 W. 24th Street, Ogden, Utah, in order to accommodate and facilitate future reinvestment and development activities in accordance with the Agency’s purposes and objectives; and

WHEREAS, the Agency and Armstrong 1970 Trust have negotiated the terms and conditions of the Agency’s purchase of the real property as set forth in that certain Commercial Real Estate Purchase Contract, which is attached to and made part of this Resolution as Attachment A – Armstrong Purchase (the “**REPC**”); and

NOW, THEREFORE, the board of the Ogden City Redevelopment Agency hereby resolves:

1. That the terms of the Real Estate Purchase Contracts, attached hereto as Attachment A are hereby approved; and
2. The Executive Director is hereby authorized to execute and deliver any and all documents reasonably necessary to carry out the terms and conditions of the REPC, as described in Attachment A. Any material change, as defined by Board leadership, staff, and legal counsel, in the terms of the REPC must be approved in advance by the Board before closing.

APPROVED AND ADOPTED this _____ day of _____, 2016.

CHAIR

ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

LEGAL

DATE

ACCEPTANCE OF ASSIGNMENT OF REAL ESATE PURCHASE CONTRACT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, the undersigned ("Assignor") hereby assigns to the Ogden City Redevelopment Agency ("Assignee") all of Assignor's right, title and interest in and to the Commercial Real Estate Contract dated July 12, 2016 between Armstrong 1970 Trust, as Seller, and Uintah Homes, Inc, as Buyer and Assignor, as modified by Addendum 1, Addendum 2, and Addendum 3 (collectively, the "Purchase Agreement").

Assignor represents and warrants to Assignee that (1) Exhibit A attached to this Acceptance is a true and complete copy of the Purchase Agreement, (2) the Purchase Agreement is in full force and effect and has not been modified in any way (other than by any amendment or modification referred to in the definition of Purchase Agreement above), (3) Assignor's interest in the Purchase Agreement is free and clear of any prior assignment and of any lien or security interest, (4) Assignor has good right and lawful authority to execute and deliver this Acceptance and to assign to Assignee all of Assignor's interest in the Purchase Agreement, and (5) no party to the Purchase Agreement is presently in default with respect to the performance of such party's obligations under the Purchase Agreement.

By accepting this Acceptance of Assignment, Assignee assumes and agrees to perform all of the obligations of the Buyer under the Purchase Agreement, including but not limited to any obligations to be performed after closing thereunder, and to indemnify Assignor against any loss, claim, damage or expense Assignor may incur by reason of Assignee's failure to perform the assumed obligations on a timely basis.

IN WITNESS WHEREOF, each of the parties has executed this Assignment.

ASSIGNOR:

UINTAH HOMES, INC

Name: Nate Halbertson
Its: President



ASSIGNEE:

OGDEN CITY REDEVELOPMENT AGENCY,
a Utah political entity

By: [Signature]
Michael P. Caldwell, Executive Director

ATTEST:

[Signature]
Agency Secretary - Chief Deputy Recorder

APPROVED AS TO FORM:

[Signature]
Agency Attorney

EXHIBIT A
to
ASSIGNMENT OF CONTRACT TO BUY AND SELL REAL ESTATE
[Copy of Purchase Agreement, including any modifications]



COMMERCIAL REAL ESTATE PURCHASE CONTRACT



This is a legally binding contract. It has been prepared by the Utah Association of REALTORS® for the use of its members only, in their transactions with clients and customers. Parties to this Commercial Real Estate Contract ("Contract") may agree, in writing, to alter or delete provisions of this Contract. Seek advice from your attorney or tax advisor before entering into a binding contract.

EARNEST MONEY RECEIPT

On this 12th day of July, 2016 ("Offer Reference Date") Uintah Homes Inc. and or Assigns ("Buyer") offers to purchase from Armstrong 1970 Trust ("Seller") the *Property* described below and hereby delivers to the Brokerage or Title/Escrow Company, as *Earnest Money*, the amount of \$500 in the form of Check which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Brokerage or Title/Escrow Company Lincoln Title Insurance Agency Address 2225 Washington Blvd. Ste 110 Ogden, UT

Received by: _____ on _____
(Signature above acknowledges receipt of Earnest Money) (Date)

OFFER TO PURCHASE

1. PROPERTY (General Description): 660 West 24th Street

Address 660 West 24th Street City Ogden

County Weber State of Utah, ZIP 84401

County Tax I.D. # 14-018-0006 (the "Property")

For a legal description (Check Applicable Box): SEE ADDENDUM # _____ COMMITMENT FOR TITLE INSURANCE as provided in Section 7(b).

1.1 INCLUDED ITEMS: Unless excluded herein, this sale includes all fixtures presently attached to the *Property*. The following personal property shall also be included in this sale and conveyed under separate *Bill of Sale* with warranties as to title:

1.2 Excluded Items. These items are excluded from this sale:
None

2. PURCHASE PRICE The Purchase Price for the *Property* is \$75,000.00
The Purchase Price will be paid as follows:

- \$500 (a) *Earnest Money Deposit*.
- \$ (b) *New Loan*. Buyer will apply for one or more of the following loans: *Conventional* *SBA* *Other* (specify) _____ Buyer shall have the right to approve the terms and conditions of the new loan as provided in *Section 8 (f)*.
- \$ (c) *Loan Assumption Addendum* (see attached *Assumption Addendum* if applicable)
- \$ (d) *Seller Financing* (see attached *Seller Financing Addendum* if applicable)
- \$ (e) *Other* (specify) _____
- \$74,500.00 (f) *Balance of Purchase Price in Cash at Settlement*

\$75,000.00 PURCHASE PRICE. Total of lines (a) through (f)

3. SETTLEMENT AND CLOSING. Settlement shall take place on the Settlement Deadline referenced in *Section 24(c)*, or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office

in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Tenant deposits (including, but not limited to, security deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. For purposes of this Contract, "Closing" means that: (i) Settlement has been completed; (ii) the proceeds of any new loan have been delivered by the lender to Seller or to the escrow/closing office; and (iii) the applicable Closing documents have been recorded in the office of the county recorder.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: 24 HOURS AFTER CLOSING; ___ DAYS AFTER CLOSING; OTHER (SPECIFY) _____

Any rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement.

5. CONFIRMATION OF BROKERAGE FEES & AGENCY DISCLOSURE. Buyer and Seller acknowledge prior receipt of written agency disclosure provided by their respective Buyer's Agent or Seller's Agent that has disclosed the agency relationships that are confirmed below. Buyer and Seller further acknowledge that Brokerage Fees due as a result of this transaction are being paid based upon the terms of a separate written agreement. At the signing of this Contract:

Seller's Agent, Mitch Hales represents Seller Buyer both Buyer and Seller as a Limited Agent;
Seller's Brokerage, Century 21 Gage Froerer & Associates represents Seller Buyer both Buyer and Seller as a Limited Agent;
Buyer's Agent, Nate Harbertson represents Seller Buyer both Buyer and Seller as a Limited Agent;
Buyer's Brokerage, PPC Commercial represents Seller Buyer both Buyer and Seller as a Limited Agent;

6. TITLE TO PROPERTY & TITLE INSURANCE.

- (a) Seller represents that Seller has fee simple title to the Property and will convey good and marketable title to Buyer at Closing by: GENERAL WARRANTY DEED SPECIAL WARRANTY DEED, free of financial encumbrances except as provided under Section 10.1.
- (b) At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. The title policy shall conform with Seller's obligations under Section 10.1 and with the Commitment for Title Insurance as agreed to by Buyer under Section 8.
- (c) BUYER ELECTS TO OBTAIN A FULL-COVERAGE EXTENDED ALTA POLICY OF TITLE INSURANCE. The cost of this coverage (including the ALTA survey), above that of the standard-coverage Owner's policy, shall be paid for at Settlement by: BUYER SELLER OTHER _____

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":

- (a) a Seller property condition disclosure for the Property, signed and dated by Seller;
- (b) a Commitment for Title Insurance on the Property;
- (c) a copy of all leases and rental agreements now in effect with regard to the Property together with a current rent roll;
- (d) operating statements of the Property for its last _____ full fiscal years of operation plus the current fiscal year through _____ certified by the Seller or by an independent auditor;
- (e) copies in Seller's possession, if any, of any studies and/or reports which have previously been done on the Property, including without limitation, environmental reports, soils studies, site plans and surveys;
- (f) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
- (g) Other (specify) _____

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (check applicable boxes):

- (a) IS IS NOT conditioned upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 7;
- (b) IS IS NOT conditioned upon Buyer's approval of a physical condition inspection of the Property;
- (c) IS IS NOT conditioned upon Buyer's approval of a survey of the Property by a licensed surveyor ("Survey");

Buyer's Initials NH Date 7-12-16 Seller's Initials MH Date 7-12-16

- (d) IS IS NOT conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the *Property*; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the *Property*;
- (e) IS IS NOT conditioned upon the *Property* appraising for not less than the Purchase Price.
- (f) IS IS NOT conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in *Section 2*.
- (g) IS IS NOT conditioned upon Buyer's approval of the following tests and evaluations of the *Property*: (specify)

If any of the items 8(a) through 8(g) are checked in the affirmative, then *Sections 8.1, 8.2, 8.3 and 8.4* apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as "Buyer's Due Diligence." Unless otherwise provided in this Contract, the Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Buyer shall conduct Buyer's Due Diligence in such manner as not to unreasonably disrupt the activities and business of Seller, and shall indemnify Seller and hold Seller harmless from and against any and all liability, claim, or damages which arise from, is caused by, or is in any manner connected with Buyer's Due Diligence, including without limitation, claims for payment for inspection services, claims for mechanics liens, and physical damage to the *Property*. Seller agrees to cooperate with Buyer's Due Diligence and with a site inspection under *Section 11*.

8.1 Due Diligence Deadline. No later than the Due Diligence Deadline referenced in *Section 24(b)* Buyer shall: (a) complete all of Buyer's Due Diligence; and (b) determine if the results of the Buyer's Due Diligence are acceptable to Buyer.

8.2 Right to Cancel or Object. If Buyer, in Buyer's sole discretion, determines that the results of the Buyer's Due Diligence are unacceptable, Buyer may, no later than the Due Diligence Deadline, either: (a) cancel this Contract by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer; or (b) provide Seller with written notice of objections.

8.3 Failure to Respond. If by the expiration of the Due Diligence Deadline, Buyer does not: (a) cancel this Contract as provided in *Section 8.2*; or (b) deliver a written objection to Seller regarding the Buyer's Due Diligence, the results of the Buyer's Due Diligence shall be deemed approved by Buyer; and the contingencies referenced in *Sections 8(a) through 8(g)*, including but not limited to, any financing contingency, shall be deemed waived by Buyer.

8.4 Response by Seller. If Buyer provides written objections to Seller, Buyer and Seller shall have 10 CALENDAR DAYS after Seller's receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Except as provided in *Section 10*, Seller may, but shall not be required to, resolve Buyer's objections. If Buyer and Seller have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may cancel this Contract by providing written notice to Seller no later than THREE CALENDAR DAYS after expiration of the *Response Period*; whereupon the *Earnest Money Deposit* shall be released to Buyer. If this Contract is not canceled by Buyer under this *Section 8.4*, Buyer's objections shall be deemed waived by Buyer. This waiver shall not affect those items warranted in *Section 10*.

9. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addendum No. _____
 Seller Financing Addendum Assumption Addendum Lead-Based Paint Disclosure & Acknowledgement
 OTHER (specify) Buyer is a licensed Real Estate Agent in the State of Utah.

10. SELLER'S WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Buyer agrees to accept title to the *Property* subject to the contents of the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*. Buyer also agrees to take the *Property* subject to existing leases affecting the *Property* and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, association fees and dues, utilities, and other services provided to the *Property* after Closing. Except for any loan(s) specifically assumed by Buyer under *Section 2*, Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause all assessments to be paid current by Closing.

10.2 Condition of Property. Seller warrants that ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER, the *Property* and improvements will be broom-clean and free of debris and personal belongings, and in the same general condition as they were on the date of *Acceptance*.

10.3 Other Seller Warranties. Seller further warrants that, to the best of Seller's knowledge, each of the following statements is true: (a) the consummation of the transactions contemplated by this Contract will not constitute a default or result in the breach of any term or provision of any contract or agreement to which Seller is a party so as to adversely affect the consummation of such transactions; (b) there is no action, suit, legal proceeding or other proceeding pending or threatened against Seller and/or the *Property* which may adversely affect the transactions contemplated by this Contract, in any court or before any arbitrator of any kind or before or by any governmental body which may adversely affect the transactions contemplated by this Contract; (c) all work which will be performed in, on or about the *Property* or materials furnished thereto which might in any circumstances give rise to a mechanic's or materialman's lien, will be paid and all necessary waivers of rights to a mechanic's or materialman's lien for such work will be obtained; (d) Seller has not received any written notice indicating that the *Property* is in violation of any Federal, State or local Environmental Law; (e) there are no Hazardous Substances on, under, or about the *Property*, nor has Seller undertaken, permitted, authorized or suffered, and will not undertake, permit, authorize or suffer the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the *Property*.

of any Hazardous Substances, or the transportation to or from the *Property*, of any Hazardous Substances. As used herein, "Hazardous Substance" shall mean any substance, material or matter that may give rise to liability under any Federal, State, or local Environmental Laws; and (f) Seller is not a "foreign person" as that term is defined in Section 1445 of the U.S. Internal Revenue Code of 1986, as amended. (In that regard, Seller shall deposit into Escrow, at or prior to Closing, an affidavit in such form as may be required by the U.S. Internal Revenue Service, setting forth Seller's full name, address and taxpayer identification number and stating under penalty of perjury that Seller is not a "foreign person" as so defined).

11. FINAL PRE-CLOSING INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a final pre-closing inspection of the *Property* to determine **only** that the *Property* is "as represented," meaning that the items referenced in *Sections 1.1, 8.4 and 10.2 and 10.3* ("the items") are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at Settlement to provide for the same. The failure to conduct a final pre-closing inspection or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the *Property*; or (d) incur any further financial encumbrances against the *Property*.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller.

14. COMPLETE CONTRACT/ASSIGNMENT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties. This Contract SHALL SHALL NOT be assignable by Buyer. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

15. MEDIATION. Any dispute relating to this Contract that arise prior to or after Closing:

SHALL

MAY AT THE OPTION OF THE PARTIES

first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved THIRTY (30) CALENDAR DAYS from the date written notice requesting mediation is sent by one party to the other(s). If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this *Section 15* shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under *Section 15*.

18. NOTICES. Except as provided in *Section 23*, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of *Sections 8.4, 10.1, 10.3, 15 and 17* and any other express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. **RISK OF LOSS.** All risk of loss to the *Property*, including physical damage or destruction to the *Property* or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until Closing.

21. **TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (i.e., Acceptance, etc.). If the performance date falls on a Saturday, Sunday, State or Federal legal holiday, performance shall be required on the next business day. Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as otherwise agreed to in writing by such non-party.

22. **FAX TRANSMISSION AND COUNTERPARTS.** Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. **ACCEPTANCE.** "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. **CONTRACT DEADLINES.** Buyer and Seller agree that the following deadlines shall apply to this Contract:

(a) Seller Disclosure Deadline	<u>14 Days from Acceptance</u> (Date)
(b) Due Diligence Deadline	<u>45 Days from Acceptance</u> (Date)
(c) Settlement Deadline	<u>On or before 60 days from Acceptance</u> (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the *Property* on the above terms and conditions. If Seller does not accept this offer by: 5:00 [AM PM Mountain Time on 07/14/2016 (Date), this offer shall lapse; and the Brokerage or Title/Escrow Company shall return the *Earnest Money Deposit* to Buyer.

T. Robertson, Pres. 7-12-16
 (Buyer's Signature) (Title, if any) (Date) (Buyer's Signature) (Title, if any) (Date)

Wintah Homes Inc. 5666 Woodshire Pl. 84103
 (Buyers' Names) (PLEASE PRINT) (Address) S. Ogden, Ut (Zip Code) (Phone) (Fax)

 (Buyers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE OF OFFER TO PURCHASE: Seller Accepts the foregoing offer on the terms and conditions specified above.

COUNTEROFFER: Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. _____

T. Robertson 7-12-16
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

 (Sellers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

 (Sellers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

REJECTION: Seller Rejects the foregoing offer.

 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

DOCUMENT RECEIPT

State law requires Broker to furnish Buyer and Seller with copies of this Contract bearing all signatures. (Fill in applicable section below.)

A. I acknowledge receipt of a final copy of the foregoing Contract bearing all signatures:

Wintah Homes Inc. 7-12-16
 (Buyer's Signature) (Date) (Buyer's Signature) (Date)

T. Robertson 7-12-16
 (Seller's Signature) (Date) (Seller's Signature) (Date)

B. I personally caused a final copy of the foregoing Contract bearing all signatures to be [faxed [mailed [hand delivered on _____, postage prepaid, to the [Seller [Buyer.

Sent/Delivered by (specify) _____

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UAR FORM 3



ADDENDUM NO. 1
TO
REAL ESTATE PURCHASE CONTRACT



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 12th day of July, 2016, including all prior addenda and counteroffers, between Utah Homes Inc. and or Asslgn as Buyer, and Property Source Utah Inc as Seller, regarding the Property located at 660 W 24th Ogden Utah 84401. The following terms are hereby incorporated as part of the REPC:

Sale Price \$85000. Settlement Date to be on or before July 29 2016

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: c. 7/29/2016 b. 7/25/2016

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 6 : 00 AM PM Mountain Time on July 13, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

[Signature] 7-12-16
 Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. 2

[Signature] 7-12-16
 (Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.



ADDENDUM NO. 2
TO



REAL ESTATE PURCHASE CONTRACT

THIS IS AN [] ADDENDUM [X] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 12th day of July, 2016 including all prior addenda and counteroffers, between Uintah Homes Inc. and or Assigns as Buyer, and Property Source Utah Inc. as Seller, regarding the Property located at 660 W. 24th Ogden, Utah 84401. The following terms are hereby incorporated as part of the REPC:

- 1. Settlement Deadline to be on or before August 30, 2016.
- 2. Seller will grant the buyer (2) 30 day options to extend settlement for a \$5,000 non-refundable payment to seller per extension.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): [] REMAIN UNCHANGED [X] ARE CHANGED AS FOLLOWS: c. 8/30/2016

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. [X] Seller [] Buyer shall have until 5 : 00 [] AM [X] PM Mountain Time on July 13, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

[X] Buyer [] Seller Signature (Date) (Time) [] Buyer [] Seller Signature (Date) (Time)
[Signature] 7-12-16

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

[X] ACCEPTANCE: [X] Seller [] Buyer hereby accepts the terms of this ADDENDUM.

[] COUNTEROFFER: [] Seller [] Buyer presents as a counteroffer the terms of attached ADDENDUM NO.

[Signature] (Date) (Time) [Signature] (Date) (Time)
[Signature] 7-13-16

[] REJECTION: [] Seller [] Buyer rejects the foregoing ADDENDUM.

[Signature] (Date) (Time) [Signature] (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Buyer's Initials [Signature] Seller's Initials [Signature]

Buyer's Initials NA Date 7-12-16 Seller's Initials MR Date 7-13-16



ADDENDUM NO. 3
TO
REAL ESTATE PURCHASE CONTRACT



THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 12th day of July, 2016 including all prior addenda and counteroffers, between Uintah Homes Inc. and or Assigns as Buyer, and Property Source Utah Inc. as Seller, regarding the Property located at 660 W. 24th Ogden, Utah 84401. The following terms are hereby incorporated as part of the REPC:

1. Settlement Deadline shall be extended to be on or before October 3, 2016.
2. The buyer shall assign this contract to the Ogden City Redevelopment Agency.
3. \$5,500.00 of earnest money shall become non-refundable and released to the seller on or before 09/09/2016. All payments made to the seller shall be applicable to the purchase price.
4. All other items in the contract shall remain the same.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): REMAIN UNCHANGED ARE CHANGED AS FOLLOWS: c. 10/03/2016

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 10 : 00 AM PM Mountain Time on September 02, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

Michael Landon 9-2-16 3:00pm
 Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

- ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.
 COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. _____

Michael Landon 9/2/2016 | 22:46 PM PDT
 (Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.
 (Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Buyer's Initials ML Seller's Initials DS ML