



SPECIAL CITY COUNCIL WORK MEETING AGENDA Thursday, November 30, 2017

NOTICE IS HEREBY GIVEN that the Herriman City Council shall assemble for a meeting in the Herriman City Community Room, located at 5355 West Herriman Main Street, Herriman, Utah.

5:00 PM - WORK MEETING:

1. Council Business

- 1.1. Review of this Evening's Agenda
- 1.2. Future Agenda Items

2. Administrative Reports

- 2.1. Presentation from the General Plan Referendum Sponsors
- 2.2. Discussion of the December 2017 Meeting Schedule – Gordon Haight, Assistant City Manager
- 2.3. Discussion of a text change to the Land Use Ordinance to adopt a chapter regarding Planned Development Overlay Zones (File No. 20Z17) – Bryn McCarty, City Planner
- 2.4. Discussion of the Anthem Utah, LLC (Adalynn) Development located at or near 6200 West 12200 South – Bryn McCarty, City Planner
 - 2.4.1. Rezoning 275 Acres from A-1 (Agricultural) to R-2-10 (Residential – Medium Density) and C-2 (Commercial)(File No. Z2017-28)
 - 2.4.2. Applying the Planned Development Overlay Zone on 225 acres (File No. Z2017-29)
 - 2.4.3. Development Agreement – John Brems, City Attorney
- 2.5. Discussion of the Dansie Development located at or near 7300 West Herriman Highway – Bryn McCarty, City Planner
 - 2.5.1. Rezoning 370.91 acres from A-1 (Agricultural) to R-1-15 (Residential)(File No. 15Z17)
 - 2.5.2. Applying the Planned Development Overlay Zone on 370.91 acres (File No. Z2017-30)
 - 2.5.3. Development Agreement – John Brems, City Attorney

3. Closed Session (If Needed)

- 3.1. *The Herriman City Council may temporarily recess the City Council work meeting to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205*

4. Adjournment

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323 and provide at least 48 hours advance notice of the meeting.

ELECTRONIC PARTICIPATION: Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

I, Jackie Nostrom, certify the foregoing agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body, at the principal office of the public body, on the Utah State Public Notice website www.utah.gov/pmn/index.html and on Herriman City's website at www.herriman.org

Posted and Dated this 24th day of November, 2017

Jackie Nostrom, MMC
City Recorder

5355 W. Herriman Main St. • Herriman, Utah 84096
(801) 446-5323 office • (801) 446-5324 fax • herriman.org



Herriman For Responsible Growth
RE: Notes to City Council - Nov. 30, 2017

We will have a presentation for the Council highlighting the following information:

Citizens want:

- To restore resident's voice
- Balanced density
- To preserve the "Herriman feel"
- Consideration of the impact on schools and infrastructure
- To have educated decisions in planning the city and transparency

**The General Plan's intent - "a reflection of the community's vision for the future."
Recent Revision Highlights**

Current MDA Proposals - Our View

RE: Mayor Freeman's request that we discuss our ideas regarding these proposals, we have shared the following with the respective developers:

-Dansie development - out of balance

Dansie Density Balance		
DANSIE %		%
.11 smaller		28.50%
.11-.2		56.02%
.21-.3		15.48%
.31-higher		0%

-Adalyn development - out of balance

ADALYN % Density Balance	
.07-.15	59.11%
.16-.25	28.11%
.25-.6	12.78%

*Both Development Agreements need to match the intent of the General Plan 2014 based on the results of the citizen referendum.

Why changes to the development agreements:

- Restore balance - similar to what the city currently has for single family re
- Represent citizen concerns and move forward with responsible growth
- Help mitigate traffic issues
- Do not want failing roads
- Impacts on community services - ex. fire hazards-homes too close together
- Make our city better-protect the developers, the residents, and the city



DATE: November 21, 2017

TO: The Honorable Mayor and City Council

FROM: Bryn McCarty, Assistant City Planner

MEETING: Special City Council November 30, 2017

REQUEST: Discussion of proposed Adalynn Development

Summary

Anthem Utah, LLC requested to rezone property from A-1 to C-2, R-2-10, and R-1-21. They are also requesting the apply the Planned Development Overlay Zone. They have been working on a development agreement.

Discussion

The Planning Commission recommended approval of the rezone to C-2 (50 acres), R-1-21 (50 acres), and R-2-10 (174 acres). The PC also recommended approval of the Planned Development Overlay Zone, with the attached preliminary site plan. The plan was approved at a density of 4.0 units per acre.

The plan was recommended for approval by the PC to be in compliance with the 2017 amended General Plan. If the referendum is deemed sufficient, then the Council will need to determine if the plan is in compliance with the 2014 General Plan.

This item is on the work meeting for discussion of the proposed rezone, development agreement, and compliance with the General Plan. Staff will review the 2014 General Plan and present information to help the Council determine if the proposed Adalynn development meets the intent of the 2014 General Plan. We will also discuss the proposed development agreement, particularly how it addresses the annexation of the 900 acres.

HERRIMAN, UTAH
ORDINANCE NO. 17.

**AN ORDINANCE OF THE CITY COUNCIL OF HERRIMAN
APPROVING A MASTER DEVELOPMENT AGREEMENT FOR ADALYN AT
ANTHEM WITH RESPECT TO APPROXIMATELY 275 ACRES OF REAL
PROPERTY LOCATED AT APPROXIMATELY 6200 WEST 12200 SOUTH**

WHEREAS, the Herriman City Council ("*Council*") met in regular meeting on November 8, 2017, to consider, among other things, an ordinance of the City Council of Herriman approving a Master Development Agreement for Adalynn at Anthem (the "Development Agreement") with respect to approximately 275 acres of real property located at approximately 6200 West 12200 South; and

WHEREAS, the Utah Code Ann. § 10-9a-102 authorizes, among other things, that the City may enter into development agreements; and

WHEREAS, staff has presented to the Council the Development Agreement for the referenced property; and

WHEREAS, Council has reviewed the Development Agreement and hereby find that (i) entering into the Development Agreement is permitted under and consistent the City code; and (ii) it is in the best interests of the City to enter into the Development Agreement.

NOW, THEREFORE, BE IT ORDAINED that the Development Agreement is approved, and the City Manager and Recorder are hereby authorized and directed to execute and deliver the same; and

BE IT FURTHER ORDAINED that the City Manager may authorize nonsubstantive changes in the Development Agreement, including without limitation to the exhibits thereto, insofar as it is necessary to bring the document into conformance with the intent of the approval granted herein and to provide for ease of readability, including, without limitation, (i) creating a table of contents; (ii) correcting internal cross references; (iii) revising headings and titles for sections and other subdivisions; (iv) revising section numbers; (v) updating exhibits to reflect comments included thereon at the time of approval or to cause changes that bring such exhibits into conformance with applicable City code; and (vi) other changes necessary to preserve the original meaning of the Development Agreement.

PASSED AND APPROVED by the Council of Herriman, Utah, this 8th day of November 2017.

HERRIMAN

ATTEST:

Mayor Carmen Freeman

Jackie Nostrom, MMC
City Recorder

**MASTER DEVELOPMENT AGREEMENT
FOR
ADALYNN AT ANTHEM**

November 8, 2017

WHEN RECORDED, RETURN TO:

BRUCE R. BAIRD
Bruce R. Baird, PPLC
2150 South 1300 East, Suite 500
Salt Lake City, UT 84106

**MASTER DEVELOPMENT AGREEMENT
FOR
ADALYNN AT ANTHEM**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the 8th day of November, 2017, by and between Herriman City, a Utah municipality and Adalynn, LLC, a Utah limited liability company and Last Holdout, LLC., a Utah limited liability company.

RECITALS

A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. Owner owns the Property.

C. Master Developer is under a contract with Owner to develop the Property.

D. Owner, Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the General Plan and the Preliminary PUD.

E. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a master planned community and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

F. The Parties desire to enter into this MDA to specify the rights and responsibilities of Owner and the Master Developer to develop the Property as expressed in this MDA and the rights

and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

G. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2017) *et seq.*

H. On September 13, 2017, the City modified the General Plan for the Property. The City previously modified the General Plan in July 10, 2014. This MDA conforms with the intent of the 2017 General Plan.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Owner and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” - “E” are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2017), *et seq.*

1.2.2. **Addendum No. 1** means the attachment hereto that contain the terms of this MDA that are unique to the Project.

1.2.3. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.4. **Applicant** means a person or entity submitting a Development Application.

1.2.5. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans.

1.2.6. **City** means the Herriman City, a Utah municipality.

1.2.7. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.8. **City's Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.9. **City's Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit “__”.

1.2.10. **Council** means the elected City Council of the City.

1.2.11. **Default** means a material breach of this MDA as specified herein.

1.2.12. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff.

1.2.13. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.14. **Development Application** means an application to the City for development of a portion of the Project including a Final PUD, Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.15. **Development Report** means a report containing the information specified in Sections 3.5 or 3.6 submitted to the City by Master Developer for a Development by Master Developer or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.16. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.17. **Master Developer** means Adalynn, LLC, and its assignees or transferees as permitted by this MDA.

1.2.18. **Maximum Residential Units** means the development on the Property of 900 Residential Dwelling Units

1.2.19. **MDA** means this Master Development Agreement including all of its Exhibits and Addendum No. 1.

1.2.20. **Notice** means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.2.21. **Open Space** shall have the meaning specified in Section 10-20-6.J of the City's Vested Laws.

1.2.22. **Outsource[e][ing]** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.23. **Owner** means Last Holdout, LLC, a Utah limited liability company.

1.2.24. **Parcel** means a portion of the Property that is created by the Owner and Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 6.9.

1.2.25. **Party/Parties** means, in the singular, either Owner, Master Developer or the City; in the plural all of Owner, Master Developer and the City.

1.2.26. **Planning Commission** means the City's Planning Commission.

1.2.27. **Pod** means an area of the Project as generally illustrated on the Preliminary PUD intended for a certain number of Residential Dwelling Units.

1.2.28. **Preliminary PUD** means that plan for the development of the Project attached as Exhibit "___".

1.2.29. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.30. **Property** means the real property owned by Owner and to be developed by Master Developer more fully described in Exhibit "A".

1.2.31. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.32. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence.

1.2.33. **Subdeveloper** means a person or an entity not “related” (as defined by Section 165 of the Internal Revenue Code) to Owner and Master Developer which purchases a Parcel for development.

1.2.34. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.

1.2.35. **Subdivision Application** means the application to create a Subdivision.

1.2.36. **Zoning Map** means that map adopted by the City on November 8, 2017 specifying the zoning for the Property.

1.2.37. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD and this MDA.

2.2. **Maximum Residential Units.** At Buildout of the Project, Owner and Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA.

2.3. **Limits on Transfer of Residential Dwelling Units Between Pods.** The Parties acknowledge that the exact configuration of the final layout of the Project may vary from

that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods so long as (i) no Pod exceeds the Maximum Residential Dwelling Units for that Pod as specified in the Preliminary PUD, (ii) no transfer shall allow the Project to exceed the Maximum Residential Dwelling Units, or (iii) all lots for that Pod satisfies the minimum lot size requirement as specified in the Preliminary PUD.

2.4. Accounting for Residential Units for Parcels Sold to Subdevelopers. Any Parcel sold by Owner or Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Master Developer and any material effects of the sale on the Preliminary PUD.

3. Zoning and Vested Rights.

3.1. Zoning. The City has zoned the Property as shown on the Zoning Map.

3.2. Vested Rights Granted by Approval of this MDA. To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Master Developer intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws and the Preliminary PUD except as specifically provided herein. The Parties specifically intend that this MDA

grant to Master Developer “vested rights” as that term is construed in Utah’s common law and pursuant to Utah Code Ann. § 10-9a-509.

3.3. Exceptions. The restrictions on the applicability of the City’s Future Laws to the Project as specified in Section 3.2 are subject to only the following exceptions:

3.3.1. Master Developer Agreement. City’s Future Laws that Master Developer agrees in writing to the application thereof to the Project;

3.3.2. State and Federal Compliance. City’s Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3.3.3. Codes. Herriman City Development Standards, Engineering Requirements and Supplemental Specifications for Public Works (Sixth Edition, 2011) and any new editions or replacement thereof and any City’s Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.3.4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated; or,

3.3.5. Fees. Changes to the amounts of fees for the processing of Development

Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

3.3.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City. Master Developer and Subdeveloper agree that the impact fees imposed on the Master Developer by the City meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2017) *et seq.*

3.3.7. Planning and Zoning Modification. Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not work to reduce the Maximum Equivalent Residential Units, are generally applicable across the entire City to the respective Zones within the Project and do not materially and unreasonably increase the costs of any Development.

3.3.8. Compelling, Countervailing Interest. Laws, rules or regulations that the City's land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2017).

4. **Term of Agreement.** The term of this MDA shall be until December 31, 2037. This MDA shall also terminate automatically at Buildout.

5. **Processing of Development Applications.**

5.1. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application and upon the request of Master

Developer the City and Master Developer will confer to determine whether the City desires to Outsource the review of any aspect of the Development Application to ensure that it is processed on a timely basis. If the City determines that Outsourcing is appropriate then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner selected by the Master Developer or Subdeveloper in good faith consultation with the Master Developer or Subdeveloper (either overtime to City employees or the hiring of a City Consultant). If the Master Developer or a Subdeveloper notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the City the estimated differential cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or Subdeveloper) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to City employees) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

5.2. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all of its redlines,

comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

5.3. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are not required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such review may be a factor in choosing the expert. The actual and reasonable costs being the responsibility of Applicant.

5.4. City Denial of a Development Application. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

5.5. Meet and Confer regarding Development Application Denials. The City and

Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.6. City Denials of Development Applications Based on Denials from Non-City

Agencies. If the City’s denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

5.7. Mediation of Development Application Denials.

5.7.1. Issues Subject to Mediation. Issues resulting from the City’s Denial of a Development Application that the parties are not able to resolve by “Meet and Confer” shall be mediated and include the following:

- (i) the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,
- (ii) right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,
- (iii) interpretations, minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards, and
- (iv) the issuance of building permits.

5.7.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator

they shall each, within ten (10) business days, appoint their own representative.

These two representatives shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

5.8. Arbitration of Development Application Objections.

5.8.1. Issues Subject to Arbitration. Issues regarding the City's Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

5.8.2. Mediation Required Before Arbitration. Prior to any arbitration the parties shall first attempt mediation as specified in Section 5.7.

5.8.3. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a

decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

5.9. Parcel Sales. The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision as is provided in Utah Code Ann., Section 10-9a-103(57)(c)(v) (2017) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent re-Subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Subdeveloper complies with the City's Vested Laws.

6. **Addendum No. 1.** Addendum No. 1 contains the provisions of this MDA that are unique to the development of the Project.

7. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all of the Project under the City's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

8. **Public Infrastructure.**

8.1. **Construction by and Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application.

8.2. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure—is required by the City Applicant shall provide it in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

9. **Upsizing/Reimbursements to Master Developer.**

9.1. **"Upsizing".** The City shall not require Master Developer to “upsized” any future Public Infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for

upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

10. Default.

10.1. **Notice.** If Owner, Master Developer or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Owner and Master Developer.

10.2. **Contents of the Notice of Default.** The Notice of Default shall:

10.2.1. Specific Claim. Specify the claimed event of Default;

10.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

10.2.3. Materiality. Identify why the Default is claimed to be material; and

10.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days duration.

10.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.6 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

10.4. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by Mediation, and if the Default is not subject to arbitration then the parties may have

the following remedies, except as specifically limited in 10.9:

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

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

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

10.5. **Public Meeting.** Before any remedy in Section 10.4 may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

10.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section 10.4 without the requirements of Sections 10.5. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

10.7. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty

(30) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

10.8. **Default of Assignee.** A default of any obligations assumed by an assignee shall not be deemed a default of Owner or Master Developer.

10.9. **Limitation on Recovery for Default – No Damages.** Anything in this MDA notwithstanding no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Owner, Master Developer or any Subdeveloper shall be that of specific performance.

11. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

Adalynn, LLC
6150 South Redwood Road, Suite 150
Centerville, UT 84123

With a Copy to:

Bruce R. Baird
Bruce R. Baird, LLC
2150 South 1300 East, Suite 500
Salt Lake City, UT 84106

To Owner:

Last Holdout, LLC
c/o Jacob D. Anderson
Anderson Law, PLLC
500 North Marketplace Drive, Suite 240
Centerville, UT 84014

To the City:

Herriman City
Attn: City Manager
5355 West Herriman Main Street
Herriman, UT 84096

With a Copy to:

Herriman City
Attn: City Attorney
5355 West Herriman Main Street
Herriman, UT 84096

11.1. Effectiveness of Notice. Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

11.1.1. Hand Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice). If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.1.3. Mailing. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA

by giving written Notice to the other party in accordance with the provisions of this Section.

12. **Headings.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

13. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City, Owner and Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City’s Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City’s.

14. **Assignability.** The rights and responsibilities of Owner and Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the City as provided herein.

14.1. **Sale of Lots.** Owner or Master Developer’s selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Owner or Master Developer.

14.2. **Related Entity.** Master Developer’s or Owner’s transfer of all or any part of the Property to any entity “related” to Owner or Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all

of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

14.3. Notice. Owner or Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

14.4. Time for Objection. Unless the City objects in writing within twenty (20) business days of notice, the City shall be deemed to have approved of and consented to the assignment.

14.5. Partial Assignment. If any proposed assignment is for less than all of Master Developer’s rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Owner and Master Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations herein.

14.6. Denial. The City may only withhold its consent if the City is not reasonably satisfied of the assignee’s financial ability to perform the obligations of Owner or Master Developer proposed to be assigned or there is an existing breach of a development

obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the “Meet and Confer” and “Mediation” processes specified in Sections 5.6 and 5.7. If the refusal is subject to Arbitration as provided in Section 5.8 then the Parties shall follow such processes.

14.7. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

15. **Binding Effect.** If Master Developer or Owner sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and number of Residential Dwelling Units as applicable to such Parcel and be subject to the same limitations and rights of the City when owned by Owner or Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

16. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

17. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials,

equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

19. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

20. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City, Owner and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager. The initial representative for Master Developer shall be Doug Young. The initial representative for Owner shall be Jacob Anderson. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

21. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

22. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake City Division.

23. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a

subsequent written amendment signed by all Parties.

24. **Mutual Drafting.** Each Party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any particular portion of this MDA.

25. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City's Vested Laws, Exhibit "C", shall not be recorded in the chain of title. A secure copy of Exhibit "C" shall be filed with the City Recorder and each party shall also have an identical copy.

26. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Resolution No. ____ adopted by the City on November 8, 2017.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
Adalynn, LLC

CITY
Herriman City

By: _____
Its: _____

By: _____,
Its: City Manager

Approved as to form and legality:

Attest:

City Attorney

City Recorder

OWNER
Last Holdout, LLC

By: _____
Its: _____

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF SALT LAKE)

On the _____ day of November, personally appeared before me _____ who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF SALT LAKE)

On the _____ day of November, 2017, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Adalynn, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

OWNER ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF SALT LAKE)

On the _____ day of November, 2017, personally appeared before me _____,
who being by me duly sworn, did say that he is the Manager of Last Holdout, a Utah limited
liability company and that the foregoing instrument was duly authorized by the company at a
lawful meeting held by authority of its operating agreement and signed in behalf of said
company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

TABLE OF EXHIBITS

Exhibit “A”	Legal Description of Property
Exhibit “B”	Preliminary PUD
Exhibit “C”	City’s Vested Laws
Exhibit “D” (From Addendum # 1)	Additional Property Depiction
Exhibit “E” (From Addendum # 1)	Design Guidelines

ADDENDUM NO.1

TERMS

1. **Definitions.**

1.1. **Incorporation.** The capitalized terms used in this Addendum No. 1 shall have the meanings set forth in the MDA unless otherwise specified herein.

1.2. **Additional Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Adalynn Park** means that park as illustrated on the Master Plan and PUD as OS-G.

1.2.2. **Additional Property** means that approximately 900 acres owned by Owner as illustrated on Exhibit “D” that is currently not within the boundary of the City but, instead, is under the jurisdiction of Salt Lake County.

1.2.3. **CC&R’s** means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the Property to be recorded in the chain of title on the Property.

1.2.4. **Design Guidelines** means Exhibit “E” which are a set of guidelines approved by the City as a part of the approval of this MDA controlling certain aspects of the design and construction of the development of Property including setbacks, building sizes, height

limitations, parking and signage; and, the design and construction standards for buildings, roadways and infrastructure.

1.2.5. **Homeowner Association(s) (or “HOA(s)”)** means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

1.2.6. **Landscaped Buffers** means those areas located along 12600 South, 6000 West and 6400 West designated as OS-H, -I, -K, -M and -P, as shown on Exhibit “B”.

1.2.7. **Neighborhood Project Park** means a park that is planned and designed as an amenity to serve and is necessary for the use and convenience of a particular Subdivision.

1.2.8. **Other Specified Parks** means those parks designated at OS-A, -B, -C, -D, -E and -F

1.2.9. **Pod** means any of the areas designated on the Master Plan for development of a particular type and number of Residential Dwelling Units

1.2.10. **Senior Housing** means Residential Dwelling Units that are compliant with the Housing for Older Persons Act of 1995, 42 USC, §3601.

2. **Potential Annexation of the Additional Property.** The City acknowledges that Owner and Master Developer are attempting to obtain zoning, a master development

agreement and other entitlements to develop the Additional Property under the jurisdiction of Salt Lake County. If Owner and Master Developer are successful in that effort Owner and Master Developer covenant to file a petition to annex the Additional Property into the City so long as the development rights obtained under the County would be incorporated into a Master Development Agreement vesting the Additional Property with the same terms as provided in the Master Development Agreement when the Additional Property is annexed into the City.

2.1. Effect of City's Declining to Annex. If the City does not annex the Additional Property at the next statutorily available opportunity then Owner and Master Developer may develop the Additional Property under the jurisdiction of the County or may apply to annex the Additional Property into another city.

3. **Parks, Trails and Open Space.**

3.1. Master Plan, PUD and Code Compliance. The Master Plan and the PUD both acknowledge that the Project will comply with the City's Vested Laws regarding parks, trails and open space, including, but not limited to, having total open space of twenty percent (20%) of the gross area of the Project which shall include useable, contiguous open space of at least ten percent (10%) of the gross area of the Project.

3.2. Phased Dedication and Improvement of Adalynn Park and Other Specified Parks. The Master Plan and PUD both provide for the

dedication and improvement of Adalynn Park and the Other Specified Parks. Adalynn Park and the Other Specified Parks shall be dedicated and improved pursuant to the following schedule.

3.2.1. **Pro Rata Open Space Dedication.** Master Developer shall maintain a pro rata relationship between the amount of Open Space dedicated with any approved Development Application and that total amount required by the Preliminary PUD. Generally, as more fully described below, Master Developer shall dedicate Open Space with the recordation of any Subdivision plat. Any shortfall in the required pro rata dedications from any Subdivision shall be made up for by a dedication of the required amount of Open Space in Adalynn Park as specified in Section 3.2.6.

3.2.2. OS-A and OS-B. “OS-A” and “OS-B” shall be dedicated to the City upon filing a plat for any Residential Dwelling Units in Pod 6 that borders on OS-A. Master Developer will begin construction of the amenities for OS-A and OS-B as specified in the Design Guidelines, within ninety (90) days of the recordation of any Subdivision plat representing 50% of the base number of Residential Dwelling Units in Pod 6 as shown on Exhibit “B” and shall complete the amenities in a diligent, timely, workmanlike manner.

3.2.3. OS-C. “OS-C” shall be dedicated to the City upon filing a plat for any Residential Dwelling Units in Pod 3 that borders on OS-C. Master Developer will begin construction of the amenities for OS-C as specified in the Design Guidelines, within ninety (90) days of the recordation of any Subdivision plat representing 50% of the total base number of Residential Dwelling Units in Pod 3 as shown on Exhibit “B” and shall complete the amenities in a diligent, timely, workmanlike manner.

3.2.4. OS-D and OS-E. “OS-D” and “OS-E” shall be dedicated to the City upon filing a plat for any Residential Dwelling Units in Pod 5 that borders on OS-D. Master Developer will begin construction of the amenities for OS-D and OS-E as specified in the Design Guidelines, within ninety (90) days of recordation of any Subdivision plat for a Residential Dwelling Unit representing 50% of the base number of Residential Dwelling Units in Pod 5 as shown on Exhibit “B” and shall complete the amenities in a diligent, timely, workmanlike manner.

3.2.5. OS-F. “OS-F” shall be dedicated to the City upon filing a plat for any Residential Dwelling Units in Pod 4 that borders on OS-F. Master Developer will begin construction of the amenities for OS-F as specified in the Design Guidelines, within ninety (90) days of the

recordation of any Subdivision plat for a Residential Dwelling Unit representing 50% of the base number of Residential Dwelling Units in Pods 4 as shown on Exhibit “B” and shall complete the amenities in a diligent, timely, workmanlike manner.

3.2.6. Adalynn Park. If the dedication of Open Space in any residential Plat is insufficient to meet the required Open Space for that Plan then Owner and Master Developer shall dedicate such make-up amount from Adalynn Park. The location of that make-up dedication shall be agreed to between the Parties and shall pay due attention to Owner’s intended farming use on Adalynn Park until its dedication is completed. Upon the issuance of recordation of any Subdivision plat for a Residential Dwelling Unit representing 75% of the total number of Residential Dwelling Units in the Project any remaining portion of Adalynn Park described on the Master Plan and PUD as “OS-G” shall be dedicated to the City. The City, at its sole cost and expense, may develop Adalynn Park when and how the City chooses.

3.2.7. Dispute Resolution. Any dispute about the Open Space dedication pursuant to this Section shall be subject to the dispute resolution provisions of the MDA including “meet and confer”, mediation and arbitration in Sections 5.5, 5.7 and 5.8.

3.3. Clear Title/Deed Restrictions. All dedications of any park to the City shall be without any financial encumbrance or other encumbrance (including easements) which unreasonably interferes with the use of the property for a park. Any such deed of dedication or dedication by plat shall contain language restricting the use of the property for public parks and Open Space.

3.4. Adalynn Park/Water. The City shall provide the secondary water rights for Adalynn Park, the water meters and the ongoing water service.

3.5. Adalynn Park and Other Specified Park Maintenance and Operation. After the dedication, final inspection and acceptance by the City of the improvements in OS-A, -C, -D and -F or the dedication of any part of Adalynn Park the City shall be responsible for the maintenance and operation of such improvements and/or property.

3.6. Neighborhood Project Parks. Master Developer shall transfer ownership of the Neighborhood Project Parks as they are constructed to an HOA. Maintenance of any Neighborhood Project Parks in a manner reasonably acceptable to the City shall be the responsibility of the HOA to which ownership has been transferred. Any Neighborhood Park that exceeds 2.5 acres in size shall be dedicated to the City which shall be responsible for any secondary water rights, meters and on-going service.

3.7. Public/Quasi-Public Purposes. Master Developer shall not lose

any density from the Maximum Residential Dwelling Units if any portion of the Property, not already designated as such in the Master Plan, is conveyed without consideration to be used for open space, Neighborhood Project Parks, trails or used for a public use. Instead, the density allocated to such property shall be used in any other portion of the Project pursuant to the PUD and the terms of this MDA.

3.8. Tax Benefits. The City acknowledges that Master Developer and/or a Subdeveloper may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring open space, parks and/or trails to the City or to a charitable organization. Master Developer and/or a Subdeveloper shall have the sole responsibility to claim and qualify for any tax benefits sought by reason of the foregoing. The City shall reasonably cooperate with Master Developer and/or a Subdeveloper to the maximum extent allowable under law to allow Master Developer and/or a Subdeveloper to take advantage of any such tax benefits.

4. **Townhomes and Senior Housing.** The City acknowledges that some or all of the Senior Housing (Pod 6) and the units in Pod 5 may be developed as product other than single family detached residential dwelling units. The details of this potential development are specified in the Design Guidelines.

5. **Public Improvements.**

5.2. Utilities and Project Infrastructure. Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all portions of the Project Infrastructure which are required as a condition of approval of the Development Application.

5.3. No Additional Fees for Backbone Improvements. The City shall not, directly or indirectly, charge the Master Developer, its affiliates or successors, Subdevelopers or the Property any development fees, impact fees, water hookup fees, or any similar fees, charges, assessments or exactions for the Backbone Improvements for the development of the Project except as may be generally applicable to all development within the City or otherwise allowed by law or as otherwise specified.

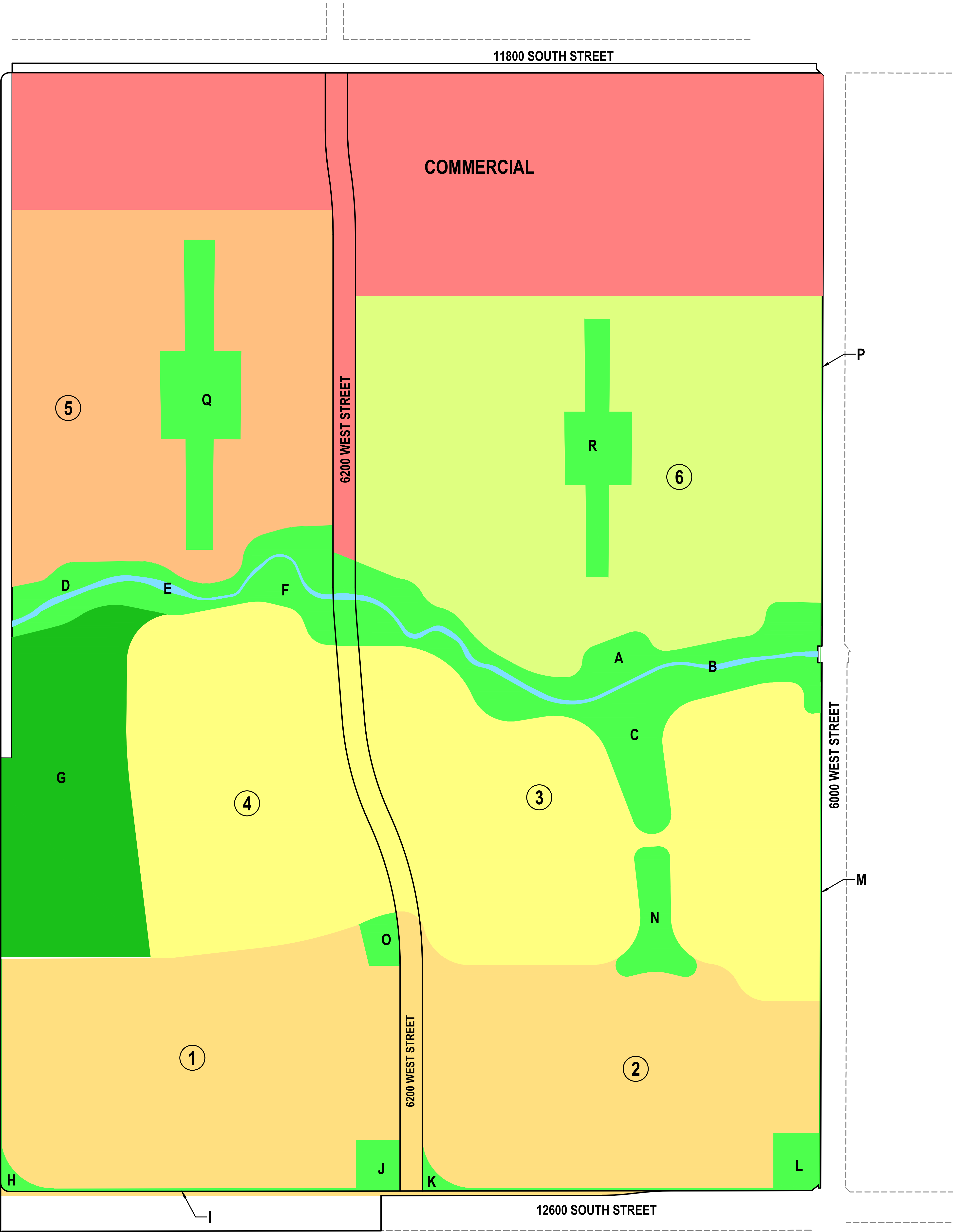
5.4. Landscaped Buffers. Master Developer shall install the Landscape Buffers along with the Subdivision to which they may be adjacent and shall dedicate the Landscaped Buffers to the City. The City shall be responsible for providing the water rights for the Landscaped Buffers. After any Landscaped Buffer has been accepted by the City the City shall be solely responsible for all of the costs of maintaining the Landscaped Buffer.

5.5. Secondary Water. Prior to the construction of any improvements for any portion of Adalynn Park Master Developer shall construct the secondary water lines necessary to serve that portion.

5.6. Construction Prior to Completion of Infrastructure. Anything in the Zoning Ordinance notwithstanding, Master Developer may obtain building permits and/or temporary Certificates of Occupancy for model homes, homes shows, sales offices, construction trailers or similar temporary uses prior to the installation of all Project Infrastructure or Backbone Improvements required to be eventually completed so long as such installation is secured pursuant to the City's Vested Laws.

6. **CC&R's.** The Homeowners Association(s) will be responsible for the implementation and enforcement of the CC&R's and the Design Guidelines. The CC&R's may be amended by the processes specified in the CC&R's without any requirement of approval of such amendments by the City. Prior to the issuance of any building permits for residential, business, commercial or recreational use but excluding infrastructure the architectural control subcommittee established by the CC&R's shall certify to the City that the proposed permit complies with the Design Guidelines and the CC&R's.

Potential Annexation of the Additional Property. The City acknowledges that Owner and Master Developer may attempting to obtain zoning, a master development agreement and other entitlements to develop the Additional Property under the jurisdiction of Salt Lake County (the “County”). Before filing any application with the County for developing the Additional Property in the County Owner and Master Developer shall negotiate with the City as follows. Master Developer and Owner shall make themselves available as necessary for meetings with the City Staff, meetings – both work and public - with the Planning Commission and City Council, and for community meetings. The Parties shall attempt to agree upon a plan, process and timetable for approving the development of the Additional Property in the City in a manner that is mutually acceptable including recognizing legitimate and quality planning principals, appropriate public and private infrastructure, public and private open space, parks, trails, economic impacts including costs and revenues, types and amounts of uses, a potential Utah State University facility and the necessary value of the development of the Additional Property to Owner and Master Developer. Those negotiations shall continue until at least ~~January 15~~March 1, 2018. If, in their sole discretion, Owner and Master Developer determine at any time after ~~January 15~~March 1, 2018 that they do not believe that an annexation and development agreement that is acceptable to Owner and Master Developer can be agreed to with the City within a reasonable time frame then Owner and Master Developer may file an application for development of the Additional Property with the County. If Owner and Master Developer are successful in that effort Owner and Master Developer covenant to file a petition to annex the Additional Property into the City so long as the development rights obtained under the County would be incorporated into a Master Development Agreement vesting the Additional Property with the same terms as provided in the Master Development Agreement executed with the County when the Additional Property is annexed into the City.



SITE SUMMARY	
TOTAL SITE AREA	274.01 ACRES
TOTAL SITE AREA (EXCLUDING COMMERCIAL AREA)	224.01 ACRES
TOTAL RESIDENTIAL UNITS	900 UNITS
TOTAL OPEN SPACE AREA	44.90 ACRES
GROSS DENSITY	3.28
NET DENSITY (EXCLUDES COMMERCIAL ACREAGE)	4.02

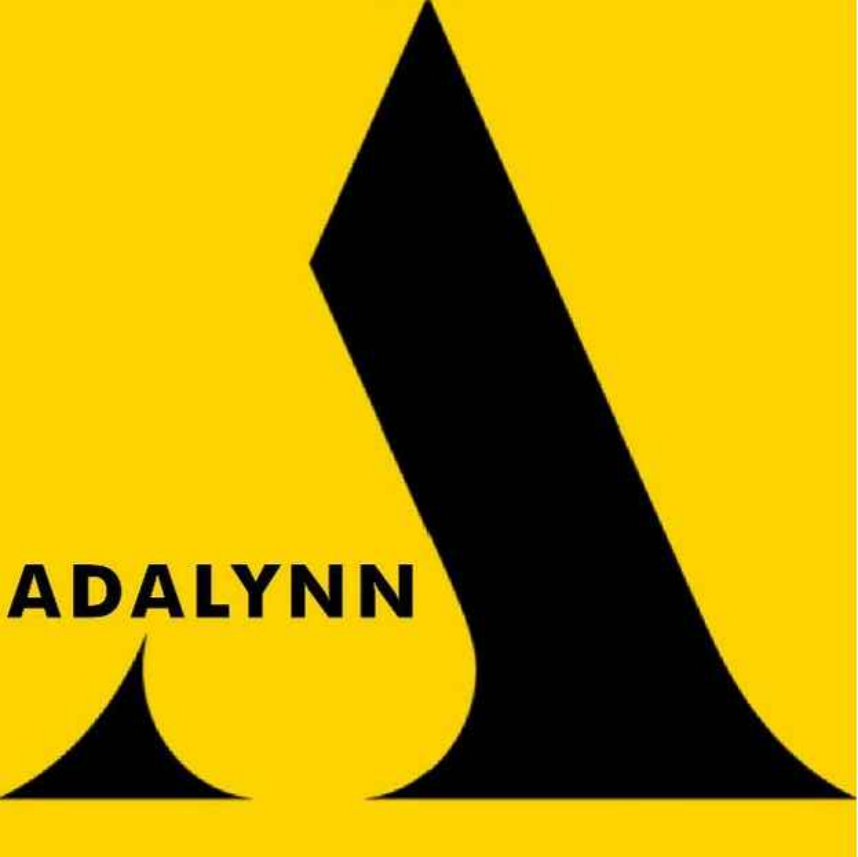
20.04%

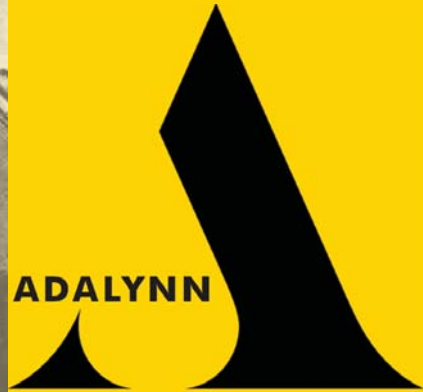
LAND USE SUMMARY				
POD #S	LAND USE	ACRES	BASE	MAXIMUM
1	ESTATE	24.81	61	80
2	ESTATE	22.19	54	75
3	MEADOW	33.90	136	165
4	MEADOW	23.23	117	145
5	COTTAGE	31.62	250	300
6	ACTIVE SENIOR	42.51	282	340
TOTAL		178.26 *	900	1485

* NET NET ACREAGE (EXCLUDES COMMERCIAL AND OPEN SPACE)
** TOTAL UNITS MAY NOT EXCEED 900

OPEN SPACE SUMMARY				
POD #S	LAND USE	ACRES	RATIO	WEIGHTED
A	MIDAS CREEK TRAIL	4.53	100%	4.53
B	MIDAS CREEK	0.63	25%	0.16
C	MIDAS CREEK TRAIL	5.80	100%	5.80
D	MIDAS CREEK TRAIL	3.23	100%	3.23
E	MIDAS CREEK	0.51	25%	0.13
F	MIDAS CREEK TRAIL	2.71	100%	2.71
G	ADALYNN PARK	12.96	100%	12.96
H	6400 WEST BUFFER	0.25	100%	0.25
I	12600 SOUTH BUFFER	0.32	100%	0.32
J	OPEN SPACE	0.61	100%	0.61
K	12600 SOUTH BUFFER	0.48	100%	0.48
L	OPEN SPACE	0.69	100%	0.69
M	6000 WEST BUFFER	0.21	100%	0.21
N	TRAIL / PARK	1.85	100%	1.85
O	OPEN SPACE	0.64	100%	0.64
P	6000 WEST BUFFER	0.09	100%	0.09
Q	TRAIL / PARK	5.40	100%	5.40
R	TRAIL / PARK	4.84	100%	4.84
TOTAL		45.75		44.90

NOTE: THE PROJECT SHALL INCLUDE A MINIMUM OF 20% OPEN SPACE. TOTAL OPEN SPACE SHOWN IN APPROXIMATE LOCATIONS AND MAY BE SUBJECT TO CHANGE.





ADALYNN

DESIGN GUIDELINES
for
ADALYNN
at
ANTHEM

Table of Contents

Site, Landscape and Architectural Design Guidelines

1.0	Introduction to Adalynn at Anthem	4.0	Prototypical Architecture & Landscape
1.1	Overview	4.1	Overview
1.2	Vicinity Map	4.2	Single Family Estates (Pods 1 & 2)
1.3	Neighborhood Map	4.3	Single Family Meadows (Pods 3 & 4)
1.4	Project Objectives	4.4	Single Family Cottages (Pod 5)
		4.5	Active Senior Living (Pod 6)
2.0	Open Space & Trails		
2.1	Open Space		
2.2	Midas Creek Trail Connections		
2.3	Trail Amenities		
3.0	Design Guidelines		
3.1	Unifying Design Elements		
3.2	Neighborhood Entry Features		
3.3	Wall Plan & Images		

1.0 Introduction to Adalynn at Anthem

Site, Landscape and Architectural Design Guidelines



The Midas Creek Trail shown above connects residents to neighbors, schools, churches, shopping, transportation options, open space and recreation opportunities.

1.1 Overview

Adalynn is a 300 acre area within the greater Anthem Community. The area consists of a collection of interconnected neighborhoods, each with its own identity. The community is built upon a walkable network of trails connecting neighborhoods to surrounding schools, churches, shopping, transit, and opportunities for fitness and recreation. This document focuses on the neighborhoods and amenities within Adalynn.

1.2 Vicinity Map

Adalynn is bounded on the north by 11800 S, east by 6000 W, south by 12600 S, and west by 6400 W. Midas Creek bisects the community from west to east.





1.3 Neighborhood Map

Represented by the adjacent graphic, Adalynn will offer a mix of residential products including: single family estates (Pods 1 & 2), single family meadows (Pods 3 & 4), single family cottages (Pod 5), and active senior living (Pod 6).

SITE SUMMARY	
Total Site Area	274.01 ac
Total Site Area (Excluding Commercial)	224.01 ac
Total Residential Units	900 units
Total Open Space Area	44.90 ac (20.04%)
Gross Density	3.28
Net Density (Excludes Commercial)	4.02

LAND USE SUMMARY				
POD #'S	LAND USE	ACRES*	BASE	MAXIMUM
1	Estate	24.81	61	80
2	Estate	22.19	54	75
3	Meadow	33.90	136	165
4	Meadow	23.23	117	145
5	Cottage	31.62	250	300
6	Active Senior	42.51	282	340
TOTAL		178.26	900	**

* Net acreage (excludes commercial & open space)

** Total units may not exceed 900

NOTE: The project shall include a minimum of 20% open space. Open space shown in each pod is representative of the approximate open space total. Actual location and configuration are subject to change.

1.4 Project Objectives

The natural environment surrounding Adalynn will provide the inspiration for design within the community. The Herriman area has sweeping mountain views to the east, south and west that should be maintained. The natural drainages are to be used as the main artery of the trail network within Adalynn and will help to preserve the natural drainages and facilitate proper storm-water management.

The three main objectives, shown to the right, are meant to guide owners and developers in creating high quality developments that support the interconnected community of Adalynn at Anthem and enhance the sense of place experienced by the residents.

A. ***The Architecture and site planning are to reinforce community identity and allow future development to reflect the time in which it is built.*** Each neighborhood pod will have its own palette of architectural elements that will help to identify the neighborhood in addition to reinforcing and unifying the community identity.

B. ***Trails and landscape designs should emphasize and reinforce the community-wide circulation system that links and interconnects neighborhoods within Adalynn as well as the outlying Herriman City area.*** Adalynn is designed as a pedestrian-friendly community with a vast trail network. All Residences at Adalynn, whether townhomes, single family detached lots, senior housing, etc. are to include design principles that connect, enhance and support this community-wide system of trails and paths, offering recreation, fitness, and gathering spaces while utilizing the unifying elements described within these design guidelines.

C. ***Unifying elements throughout Adalynn will strengthen community identity and are important to maintain as new developments are built within Adalynn.*** These elements are common throughout Adalynn, which are: lighting, monuments, fencing, and a common landscape theme.

2.0 Open Space & Trails

Site, Landscape and Architectural Design Guidelines

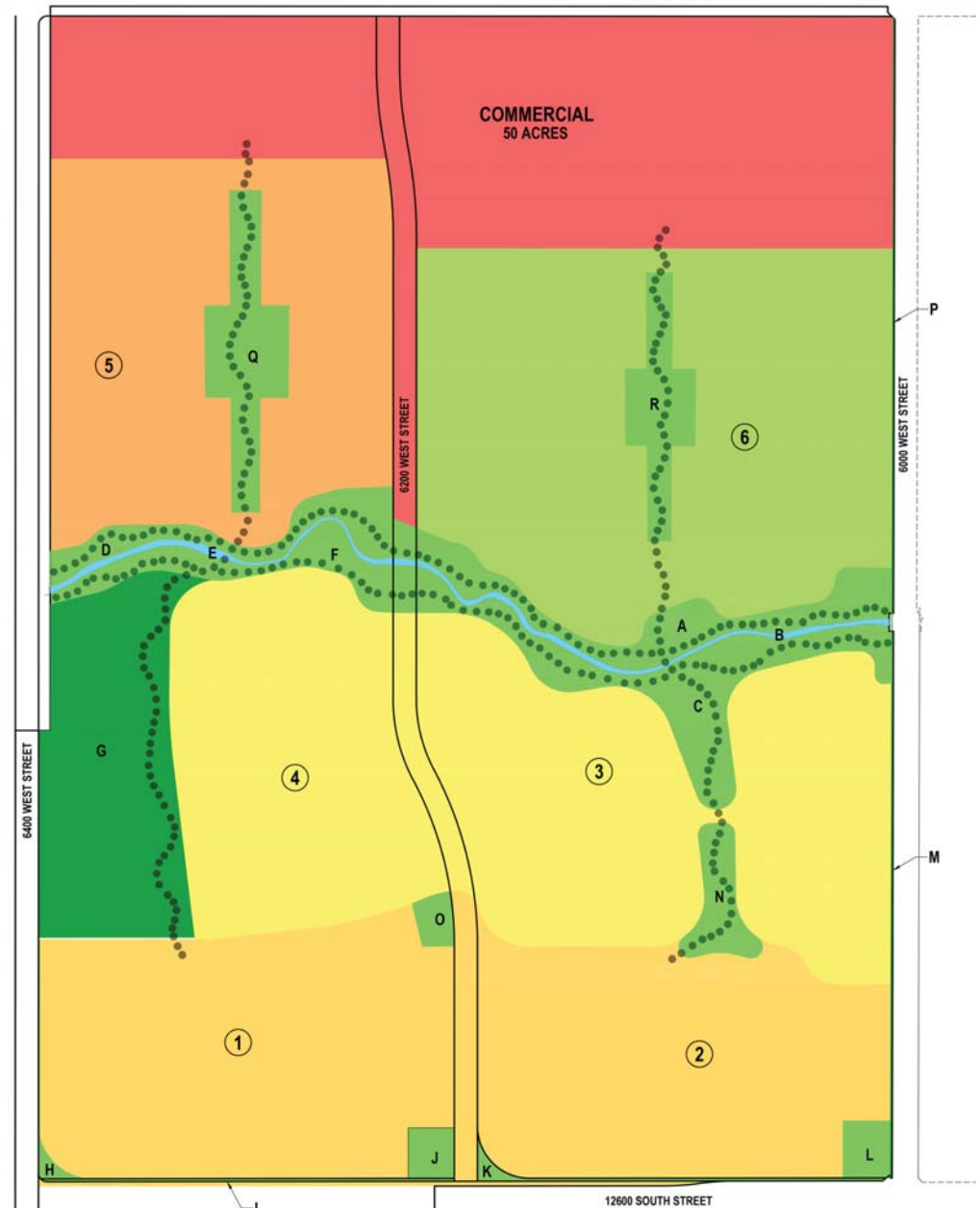
2.1 Open Space

Adalynn is united through a variety of parks, trails and open space.

OPEN SPACE SUMMARY				
POD #'S	LAND USE	ACRES	RATIO	WEIGHTED
A	Midas Creek Trail	4.53	100%	4.53
B	Midas Creek	0.63	25%*	0.16
C	Midas Creek Trail	5.80	100%	5.80
D	Midas Creek Trail	3.23	100%	3.23
E	Midas Creek	0.51	25%*	0.13
F	Midas Creek Trail	2.71	100%	2.71
G	Adalynn Park	12.96	100%	12.96
H	6400 West Buffer	0.25	100%	0.25
I	12600 South Buffer	0.32	100%	0.32
J	Open Space	0.61	100%	0.61
K	12600 South Buffer	0.48	100%	0.48
L	Open Space	0.69	100%	0.69
M	6000 West Buffer	0.21	100%	0.21
N	Trail/Park	1.85	100%	1.85
O	Open Space	0.64	100%	0.64
P	6000 West Buffer	0.09	100%	0.09
Q	Trail/Park	5.40	100%	5.40
R	Trail/Park	4.84	100%	4.84
TOTAL		45.75		44.90

*Pursuant to 10-20-9(A) of Herriman City Code, the water flow line acreage is valued at 25% of the actual area.

NOTE: The project shall include a minimum of 20% open space. Open space shown in each pod is representative of the approximate open space total. Actual location and configuration are subject to change.



2.2 Midas Creek Trail Connections

One of the main elements that unites and connects Adalynn is Midas Creek. It functions as the primary corridor of a trail network where trails branch off to offer the community pedestrian links to recreational, commercial, and residential areas within Adalynn.

Midas creek is the spine that links community parks, schools, churches, trails, and other community elements. The trail will also link to the existing trail network within Herriman city.

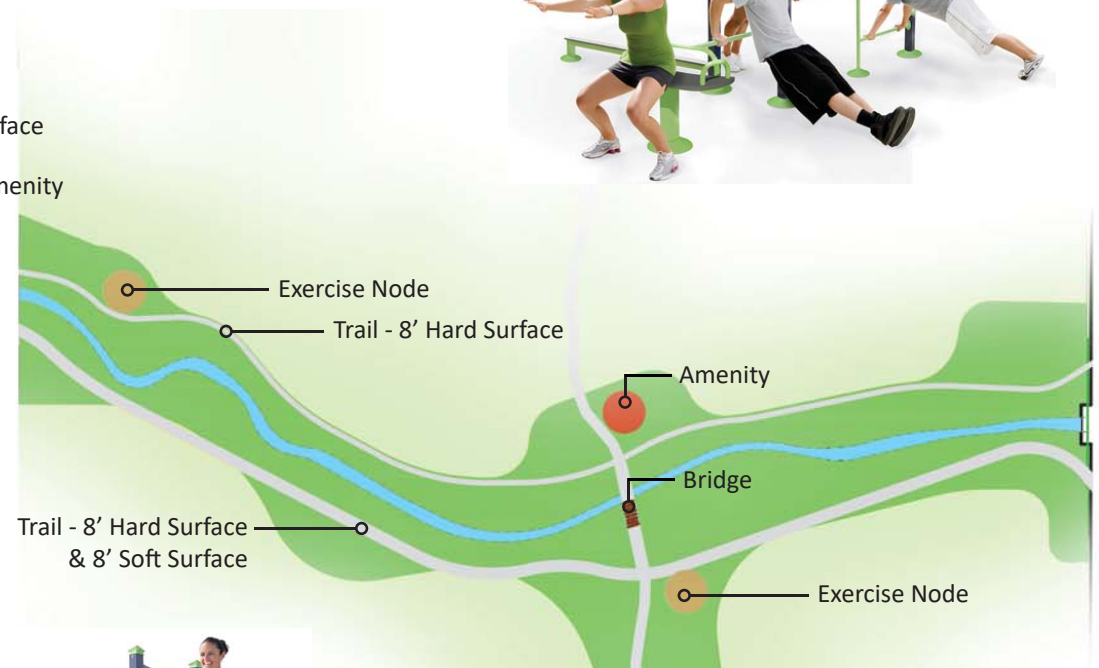
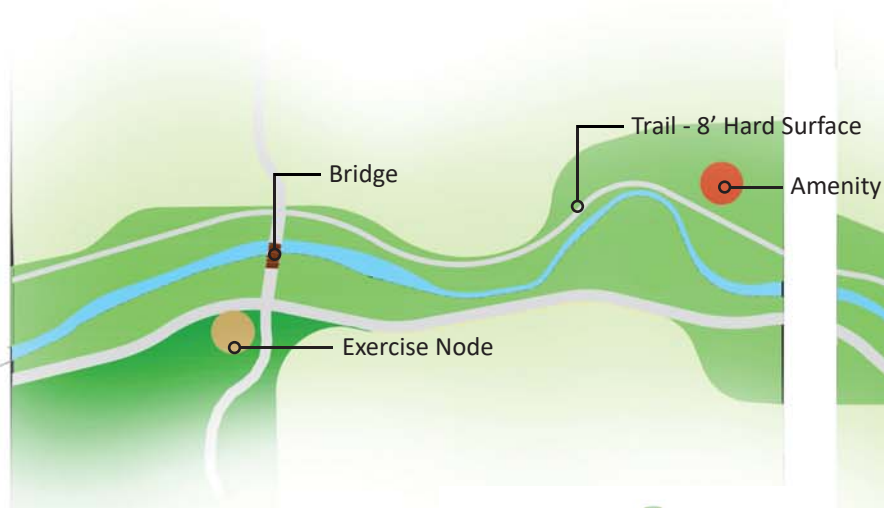
The trail system will help preserve the natural storm-water drainage system as well as provide the residents of Adalynn access to nature and some of the most desired recreation opportunities and trails.



Midas Creek Trail & Bridge

2.3 Trail Amenities

The Midas Creek trail system provides residents and travelers of the with a number of amenities including a fitness trail and linkages to surrounding neighborhoods and amenities.



3.0 Design Guidelines

Site, Landscape and Architectural Design Guidelines

3.1 Unifying Design Elements

The unifying elements identified to the right, will help to ensure that developments within Adalynn can be identified as part of the same community; providing visual links, landmarks, and these common elements will also ensure that the connectivity within Adalynn can continue through as the area is developed.

The idea is to create quality architecture and landscapes by requiring minimums of architectural and landscape elements demonstrated in examples within these design guidelines.

- **Entry Features.** A hierarchy of entrance features help with identifying and way-finding to streets, parks, trails, open space, neighborhoods, and retail centers; signage and monumentation and community directional signage.
- **Monuments.** Monuments will act as visual landmarks, helping residents and visitors find their way through Adalynn.
- **Streetscapes.** The streetscapes within Adalynn will promote walkability and provide a strong unifying visual element to the neighborhoods of Adalynn.
- **Street Lighting.** The street lighting is to be consistent throughout Adalynn, adding to its identity.
- **Fencing.** The fencing permitted within Adalynn will match the architectural style of the homes and tie into the neighborhood look.
- **Architectural Styles.** The architectural styles shown in this book, are to be used as inspiration for the design of Adalynn.



Entry Features

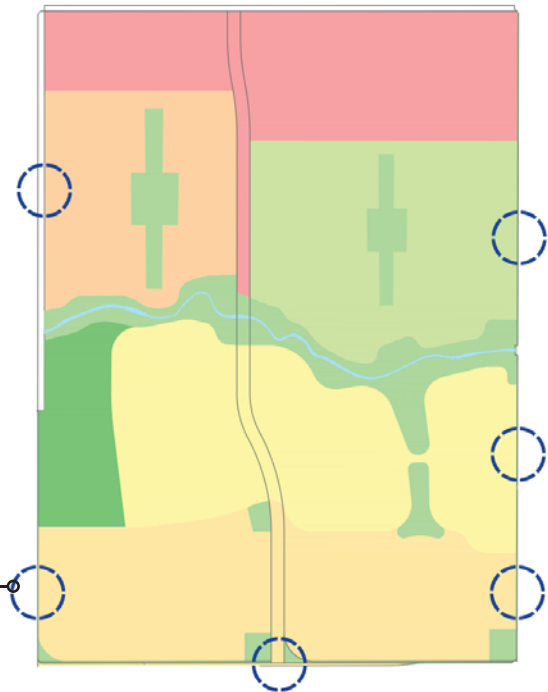
3.2 Community Entry Features

The identity of each neighborhood may differ slightly in architectural style and character, but they will be unified by a number of elements. The entrance specs listed below provide visual cues to visitors and residents when they are within Adalynn. The elements common to the Adalynn character include a consistent landscape palette, Midas Creek, lighting, fencing, monuments and entrance features.

Entrance Specifications:

- Monuments
- Monument Lighting
- Parkstrip ~ 7' wide

Proposed Entry
Feature Location

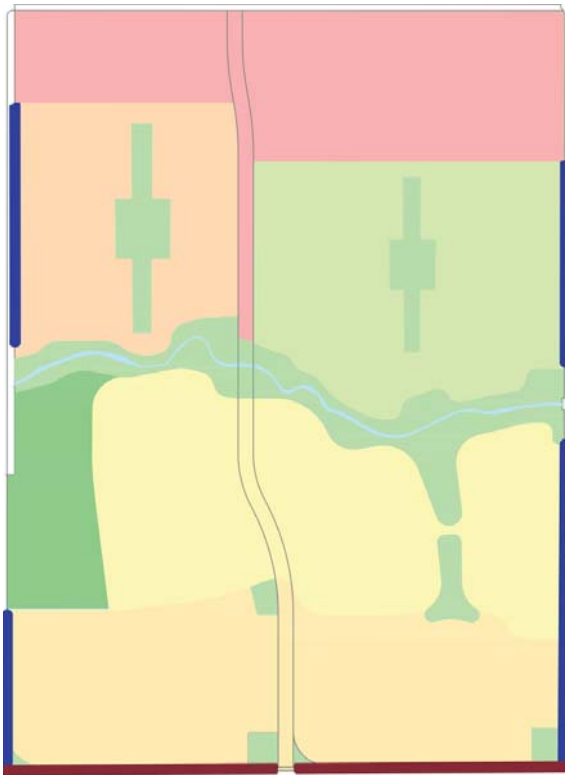


3.3 Wall Plan & Images

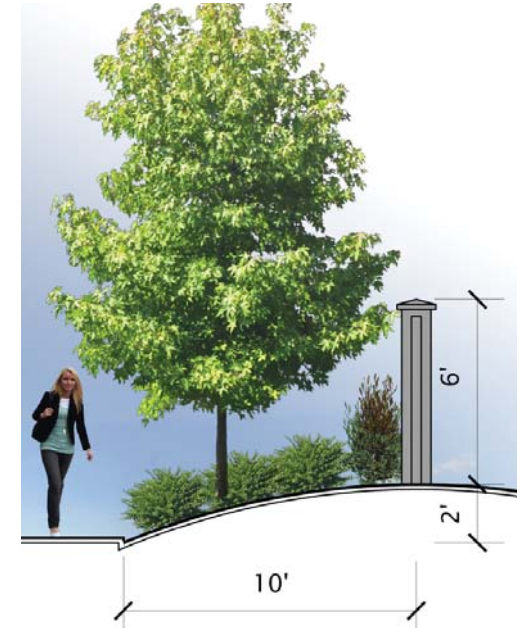
The map at right illustrates location of precast concrete walls around the development. Images below illustrate type of wall represented in locations shown.

WALL LEGEND

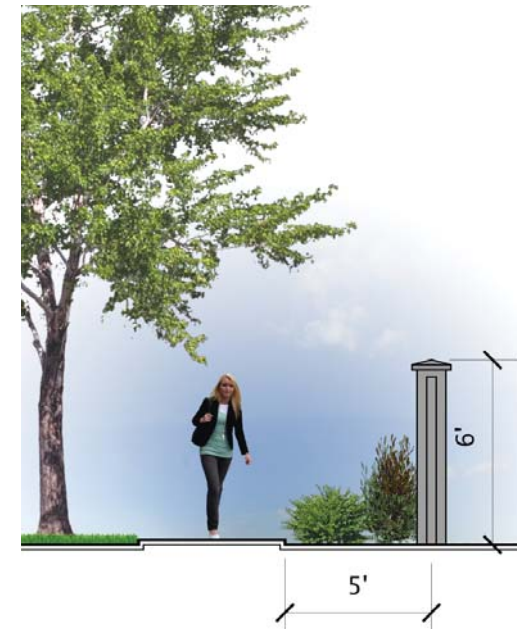
- 6' Standard Herriman Wall with 2' Berm
- 6' Owell Precast Concrete Wall



6' Standard Herriman Wall with 2' Berm (Installed on top of Berm)



6' Olympus Precast Concrete Wall



4.0 Prototypical Architecture & Landscape

Site, Landscape and Architectural Design Guidelines

4.1 Overview

Design at Adalynn draws inspiration from Craftsman architecture, using common elements that help to unify a neighborhood; one example is demonstrated in the illustration below.



The Design Guidelines and these general characteristics provide opportunities for creative architectural design within Adalynn that still fits with the desired character.

Architectural designs:

- Buildings should be oriented to face the street whenever possible.
- Front elevations will have a minimum of three architectural elements visible.
- Side and rear elevations will have a minimum of two architectural elements and colors visible.
- Permitted materials will consist of a mixture of Stone, Brick, Masonry Products, Stucco, and Wood.
- Vinyl Siding is prohibited.

Landscape designs:

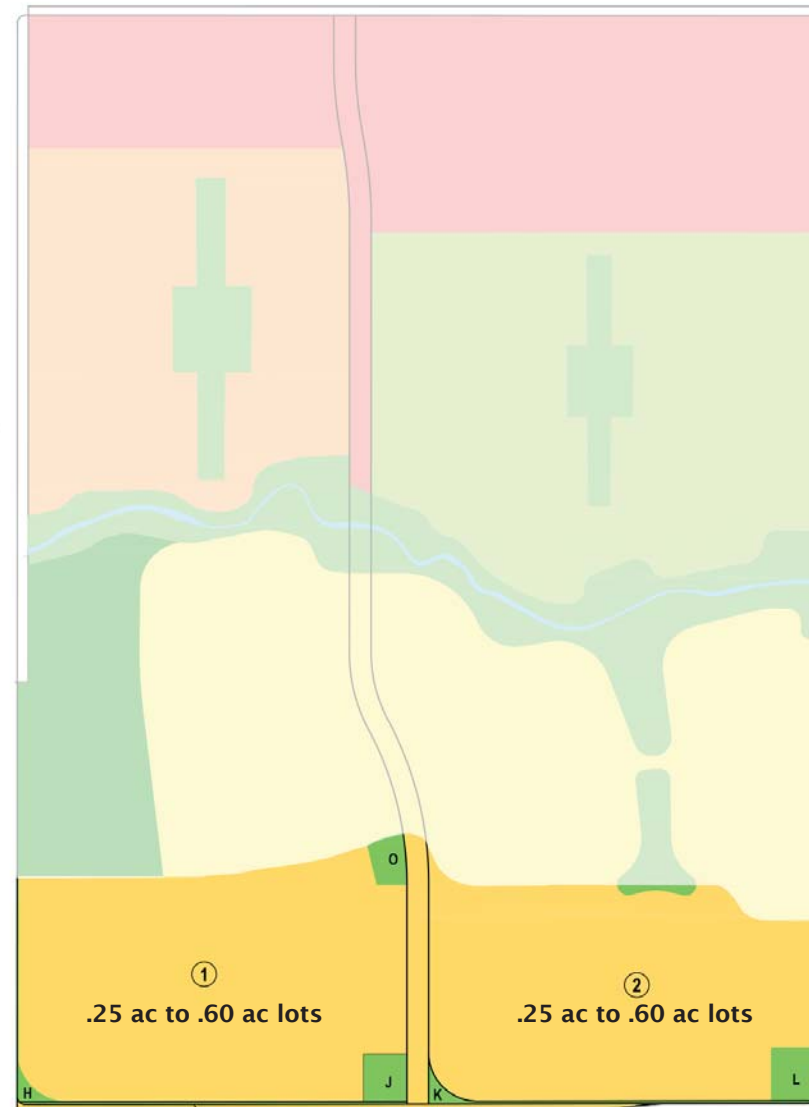
- Street trees will be planted every 30' on center.
- One deciduous and one evergreen tree per lot (excludes street trees).
- Six 5 gal. Shrubs per front yard.
- Twelve 1 gal. Shrubs per front yard.

4.2 Single Family Estates (Pods 1 & 2)

Estate lots are spacious ranging from **.25 ac** to **.60 ac** in size. Homes within the ranch area utilize current architectural styling with a flavor of country.

LAND USE SUMMARY				
POD #'S	LAND USE	ACRES*	BASE	MAXIMUM
1	Estate	24.81	61	80
2	Estate	22.19	54	75

* Net acreage (excludes open space)



4.2 Single Family Estates (Pods 1 & 2)

The sample images to the right illustrate a few of the architectural design principles used in the Estate area.

SETBACKS	
Front Yard	20'
Driveway	25'
Side Yard - Standard	8'/10'
Side Yard - Corner Lot Street Side	18'
Rear Yard	25'
Deck/Covered Patio	15'

DESIGN ELEMENTS

Roof Pitch

-75% of roof surfaces 4/12 or steeper

Facade Treatment

-Minimum 3 design elements on front including a minimum of 40% brick and/or stone

-Minimum 2 design elements on side and rear

Minimum Home Size

-3,600 SF

-3 car garage

Prohibited Items

-Vinyl Siding



Architectural Accent

Roof Detail

Change in Materials

Large Porch



Variation in Roof Orientation & Pitch

Prominent Entrance

Screened Garage

Columns

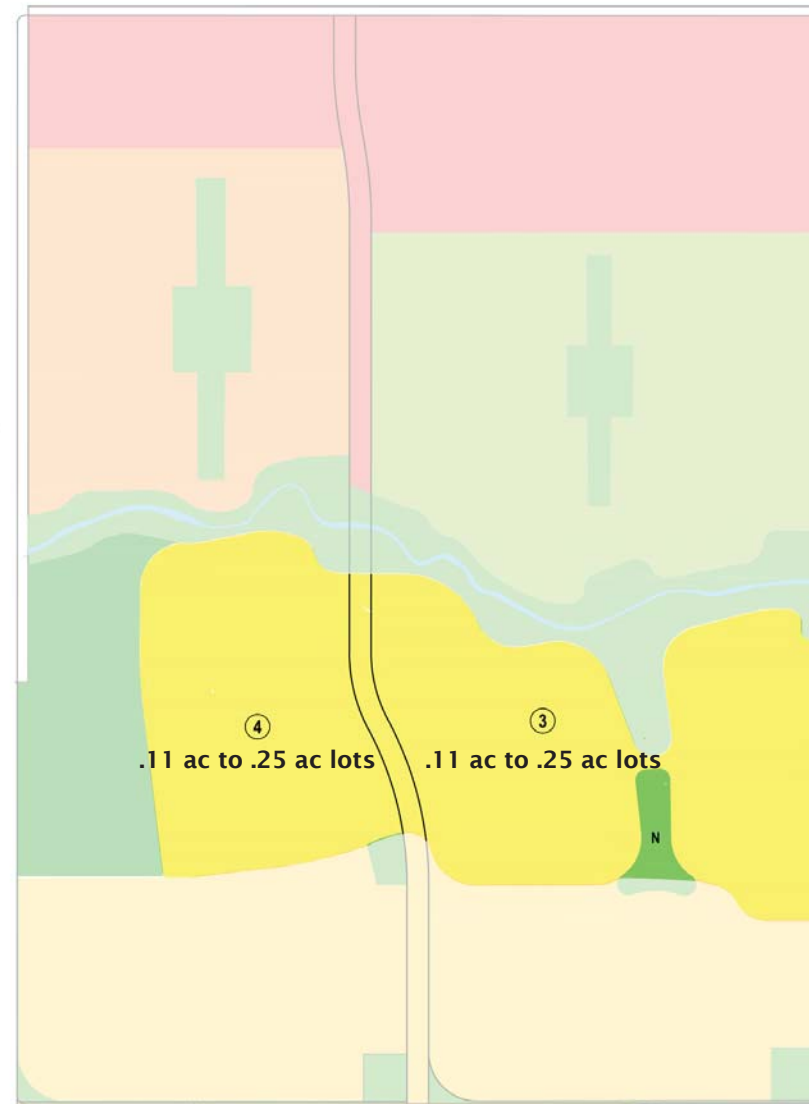
*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community

4.3 Single Family Meadows (Pods 3 & 4)

Meadow lots provide midrange housing with lots ranging between .11 ac and .25 ac. Architectural elements are inspired by the Craftsman style.

LAND USE SUMMARY				
POD #'S	LAND USE	ACRES*	BASE	MAXIMUM
3	Meadow	33.90	136	165
4	Meadow	23.23	117	145

* Net acreage (excludes open space)



4.3 Single Family Meadows (Pods 3 & 4)

The sample images to the right illustrate a few of the architectural design principles used in the Meadow area.

SETBACKS

Front Yard	15'
Driveway	22'
Side Yard - Standard	6'
Side Yard - Corner Lot Street Side	15'
Rear Yard	15'
Deck/Covered Patio	10'

DESIGN ELEMENTS

Roof Pitch

-75% of roof surfaces 4/12 or steeper

Facade Treatment

-Minimum 3 design elements on front including a minimum of 40% brick and/or stone

-Minimum 2 design elements on side and rear

Minimum Home Size

-2,600 SF

-2 car garage

Prohibited Items

-Vinyl Siding



Wood Shakes

Thick Trim & Visually Sturdy Columns

Windows on Garage Door



Articulation of Facade

Minimal Distance Between Garage and Eaves

Bay Window

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community

4.4 Single Family Cottages (Pod 5)

Cottage lots provide introductory housing with lots ranging between **.07 ac** and **.10 ac**. Architectural elements are inspired by the Craftsman style.

LAND USE SUMMARY				
POD #'S	LAND USE	ACRES*	BASE	MAXIMUM
5	Cottage	31.62	250	300

* Net acreage (excludes open space)



4.4 Single Family Cottages (Pod 5)

The sample images to the right illustrate a few of the architectural design principles used in the Cottage area.

SETBACKS	Front Loaded	Alley Product
Front Yard	15'	15'
Driveway	22'	3'
Side Yard - Standard	3'	3'
Side Yard - Corner Lot Street Side	12'	12'
Rear Yard/Deck	10'	n/a

DESIGN ELEMENTS

Roof Pitch

-75% of roof surfaces 4/12 or steeper

Facade Treatment

-Minimum 3 design elements on front including a minimum of 40% brick and/or stone

-Minimum 2 design elements on side and rear

Minimum Requirements

-1,200 SF

-2 car garage

Prohibited Items

-Vinyl Siding



Windows on Garage Doors



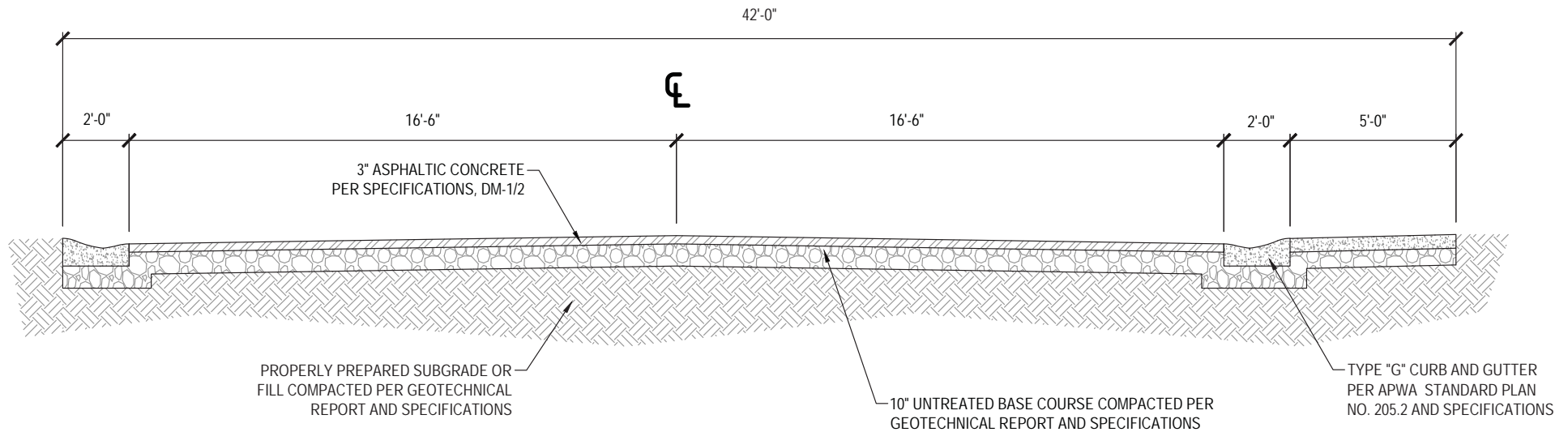
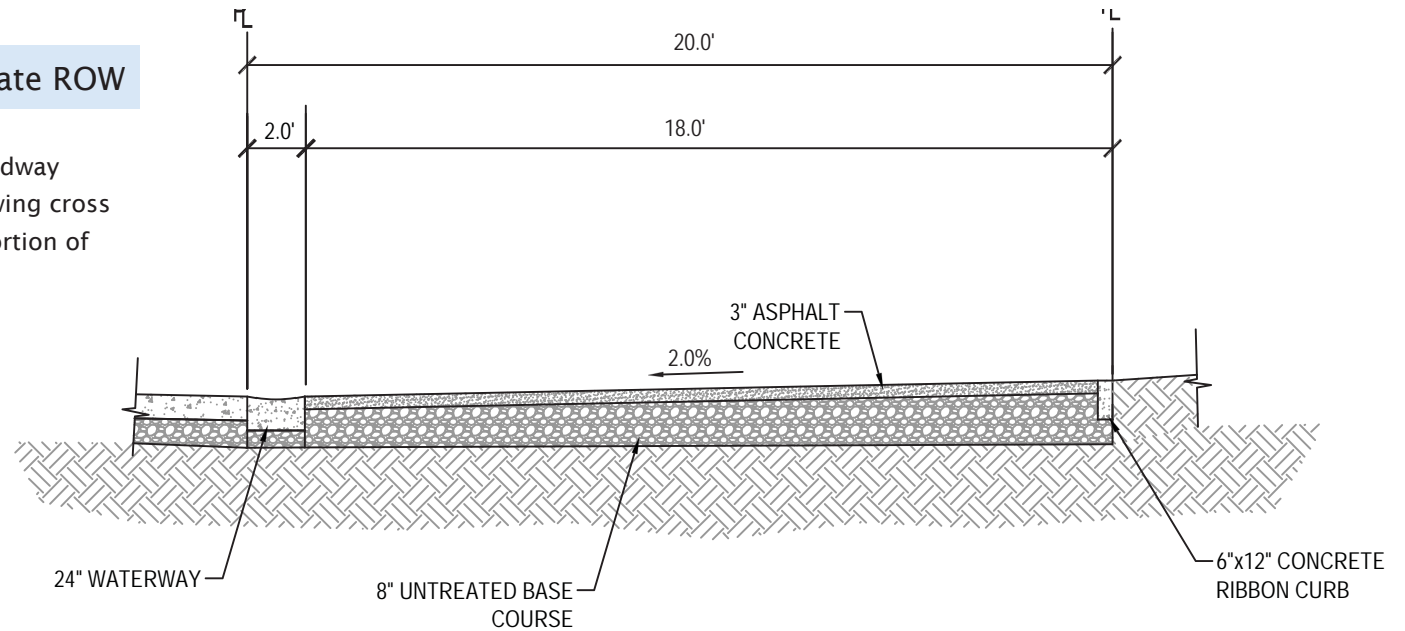
Architectural Ornamentation

Accentuated Entrance

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community

4.4 Single Family Cottages Private ROW

In addition to the Herriman City's typical roadway cross section, it is anticipated that the following cross sections will be used with in the Cottages portion of the development.

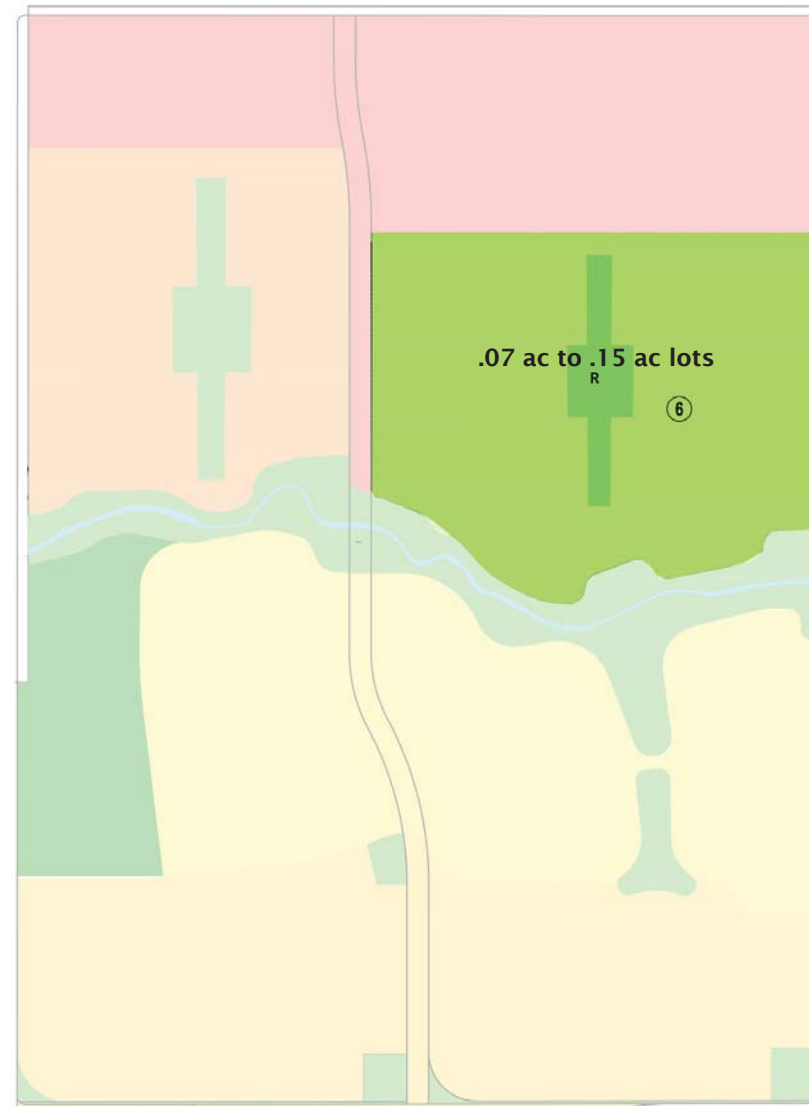


4.5 Active Senior Living (Pod 6)

The Active Senior Living neighborhood is a gated community which specifically caters to those 55+. Homes within the neighborhood are situated on lots ranging from **.07 ac** to **.15 ac** in size.

LAND USE SUMMARY				
POD #'S	LAND USE	ACRES*	BASE	MAXIMUM
6	Active Senior	42.51	282	340

* Net acreage (excludes open space)



4.5 Active Senior Living (Pod 6)

The sample images to the right illustrate a few of the architectural design principles used in the Active Senior Living area.

SETBACKS	Front Loaded	Alley Product
Front Yard	15'	15'
Driveway	22'	3'
Side Yard (Standard)	3'	3'
Side Yard (Corner Lot Street Side)	15'	12'
Rear Yard/Deck	10'	n/a



Windows on
Garage Door

Variation of
Materials



Significant
Overhang of Roof

Prominent Entry

Dormer

DESIGN ELEMENTS

Roof Pitch

-75% of roof surfaces 4/12 or steeper

Facade Treatment

-Minimum 3 design elements on front including a minimum of 40% brick and/or stone

-Minimum 2 design elements on side and rear

Minimum Home Size

-1,200 SF

-2 car garage

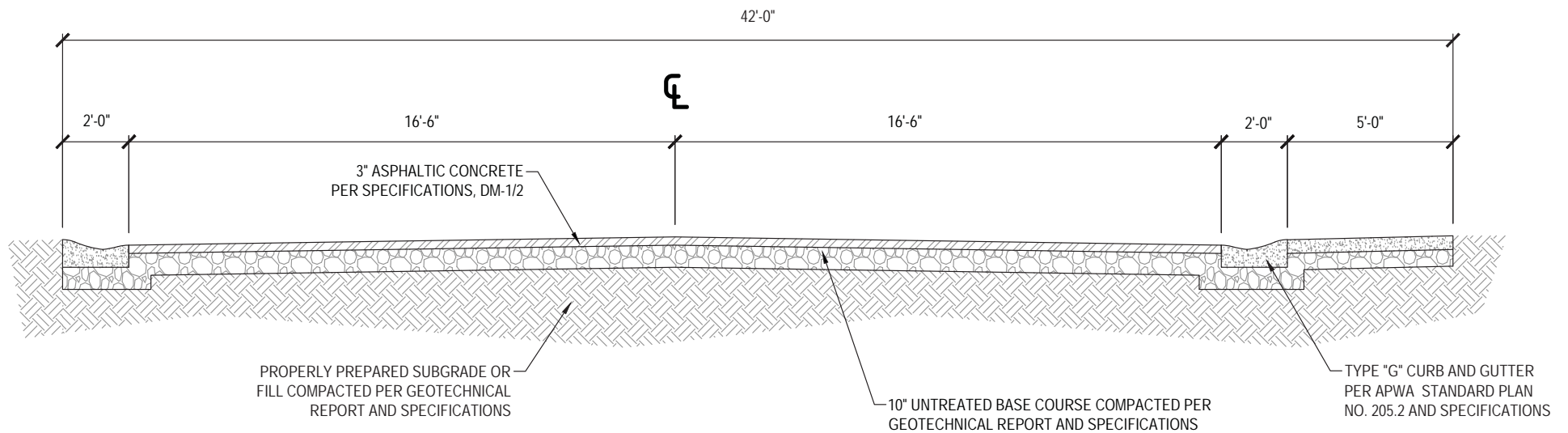
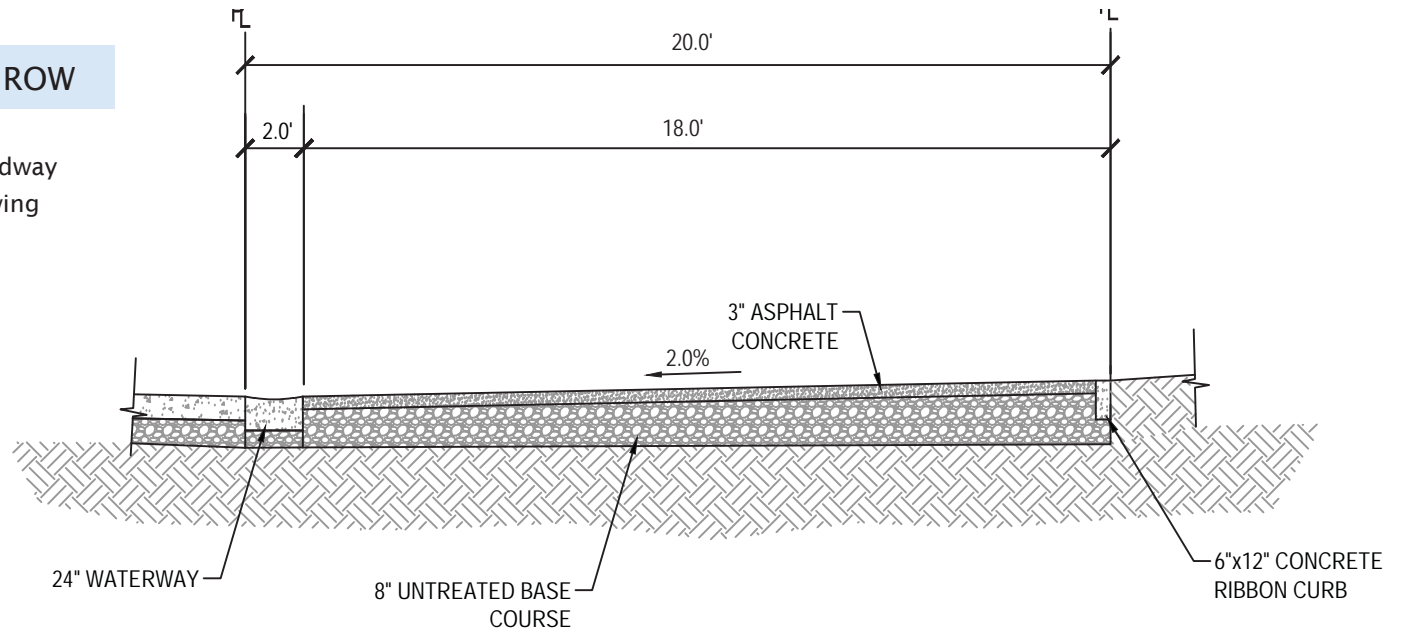
Prohibited Items

-Vinyl Siding

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community

4.5 Active Senior Living Private ROW

In addition to the Herriman City's typical roadway cross section, it is anticipated that the following cross sections will be used with in the Active Senior portion of the development.





DATE: November 21, 2017

TO: The Honorable Mayor and City Council

FROM: Bryn McCarty, Assistant City Planner

MEETING: Special City Council November 30, 2017

REQUEST: Discussion of proposed Dansie Development

Summary

Dansie Land, LLC, requested to rezone property from A-1 to R-1-15 and R-1-21. They are also requesting the apply the Planned Development Overlay Zone. They have been working on a development agreement.

Discussion

The Planning Commission recommended approval of the rezone to R-1-21 (67 acres), and R-1-15 (305 acres). The PC also recommended approval of the Planned Development Overlay Zone, with the attached preliminary site plan. The plan was approved with a total of 1,021 units, which is a density of 2.99 units per acre.

The plan was recommended for approval by the PC to be in compliance with the 2017 amended General Plan. If the referendum is deemed sufficient, then the Council will need to determine if the plan can be reviewed under the 2014 General Plan, or if an amended General Plan needs to be completed.

This item is on the work meeting for discussion of the proposed rezone, development agreement, and compliance with the General Plan. Staff will review the 2014 General Plan and present information to help the Council determine if the proposed Dansie development meets the intent of the 2014 General Plan. We will also discuss the proposed development agreement.

HERRIMAN, UTAH
ORDINANCE NO. 17.

**AN ORDINANCE OF THE CITY COUNCIL OF HERRIMAN
APPROVING A MASTER DEVELOPMENT AGREEMENT FOR HIDDEN OAKS
WITH RESPECT TO APPROXIMATELY 370.91 ACRES OF REAL PROPERTY
LOCATED AT OR NEAR 7300 WEST HERRIMAN HIGHWAY**

WHEREAS, the Herriman City Council ("*Council*") met in regular meeting on November 8, 2017, to consider, among other things, an ordinance of the City Council of Herriman approving a master development agreement for Hidden Oaks with respect to approximately 370.91 acres of real property located at or near 7300 West Herriman Highway; and

WHEREAS, the Utah Code Ann. § 10-9a-102 authorizes, among other things, that the City may enter into development agreements; and

WHEREAS, staff has presented to the Council the Master Development Agreement for the referenced property ("*Development Agreement*"); and

WHEREAS, Council has reviewed the Development Agreement and hereby find that it is in the best interests of the both parties to enter into the Development Agreement; and

NOW, THEREFORE, BE IT ORDAINED that the Development Agreement is approved, and the City Manager and Recorder are hereby authorized and directed to execute and deliver the same.

PASSED AND APPROVED by the Council of Herriman, Utah, this 8th day of November 2017.

HERRIMAN

Mayor Carmen Freeman

ATTEST:

Jackie Nostrom, MMC
City Recorder

WHEN RECORDED, RETURN TO:

LOYAL C. HULME
KIRTON McCONKIE
50 E. SOUTH TEMPLE
SALT LAKE CITY, UT 84111

APNS: 26-33-426-001; 26-34-300-009; 26-34-300-002; 26-34-300-003; 26-33-326-002

**MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS**

November __, 2017

**MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the ____ day of November, 2017, by and between Herriman City, a Utah municipality and Dansie Land, LLC, a Utah limited liability company (“**Master Developer**”) (collectively the “**Parties**”).

RECITALS

A. Unless otherwise defined in the body of this MDA, the capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. On or about October 28, 2015, the Property was annexed into the City pursuant to ordinance 2015-39.

C. On or about October 27, 2016, a complaint was filed in the Third District Court (case number 160906708) alleging, among other things, that the annexation of the Property into the City was improper (the “**Annexation Lawsuit**”).

D. The Parties desire to enter into the Stay Agreement and to enter into this MDA.

E. On September 13, 2017, the City modified the General Plan for the Property. The City previously modified the General Plan in July 10, 2014. This MDA conforms with the intent both the 2014 and 2017 General Plans.

F. Master Developer is under contract to acquire the property from the current owners of the Property.

G. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the General Plan and the Preliminary PUD.

H. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a master planned community and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

I. Development of the Property pursuant to this MDA will also result in significant benefits to Master Developer by providing assurances to Master Developer that it will have the ability to develop the Property in accordance with this MDA and to the City through orderly development, the creation of regional attraction and the generation of tax revenues.

J. The Parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as expressed in this MDA and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

K. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 et seq..

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” - “J” are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101, et seq.

1.2.2. **Administrative Action** means and includes the actions related to either (i) Development Applications that may be approved by the Administrator as provided in Section 5.2.1 and (ii) any amendment, modification, or supplement to this MDA that may be approved by the Administrator pursuant to the terms of Section 5.16.1.

1.2.3. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.4. **Applicable Fees** means fees that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law, all such fees to be reasonably and rationally related to the type and scope of services to be rendered in connection with such fees.

1.2.5. **Applicant** means a person or entity submitting a Development Application, a Modification Application or a request for Administrative Action.

1.2.6. **Building Permit** means a permit issued by the City to allow construction, erection or structural alteration of any building or structure on any portion of the Project.

1.2.7. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans.

1.2.8. **Capital Improvement Road(s)** means each of the rights-of-way identified on Exhibit “B”.

1.2.9. **City** means Herriman City, a Utah municipality.

1.2.10. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.11. **City’s Future Laws** means the ordinances, policies, standards, and procedures of the City which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.12. **City’s Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a copy of which is attached as Exhibit “C”.

1.2.13. **Code** means the municipal code of the City existing as of the date of this MDA.

1.2.14. **Council** means the elected City Council of the City.

1.2.15. **Council Modification** means and includes any amendment, modification, or supplement to this MDA that may be approved by the Council pursuant to the terms of Section 5.16.3.

1.2.16. **Culinary Water System Improvements** mean all pipe, fittings, valves, services, fire hydrants, blow off assemblies, air vacuum release valves, isolation valves, sampling stations, pressure reducing valves, backflow prevention devices, vaults, meters, and other structures required in the project that convey drinking water consistent with the Development Standards.

1.2.17. **Default** means a material breach of this MDA as specified herein.

1.2.18. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff.

1.2.19. **Density** means the number of Residential Dwelling Units allowed per acre.

1.2.20. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.21. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision, a Building Permit, a Land

Disturbance Permit, final PUD, or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.22. **Development Report** means a report containing the information specified in Section 2.4 submitted to the City by Master Developer for a Development by Master Developer of any Parcel or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.23. **Development Standards** means the Herriman City Development Standards, Engineering Requirements and Supplemental Specifications for Public Works Projects (6th Edition) 2011, or any new edition or replacement thereof that is applicable City-wide and that is materially consistent with the then current recommended APWA specifications or, if more stringent than such APWA specifications, the standards of the existing 2011 Development Standards described above.

1.2.24. **Effective Date** means the date that the Zoning Ordinance and this MDA of the Property becomes effective.

1.2.25. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.26. **General Plan** means a General Plan Amendment adopted by the City on September 13, 2017, a copy of the general map of which is attached hereto and incorporated herein as Exhibit “D-1”, or, to the extent that such General Plan Amendment is overturned or rescinded by referendum or otherwise, means a General Plan Amendment adopted by the City in July 2014, a copy of the general map of which is attached hereto and incorporated herein as Exhibit “D-2”.

1.2.27. **Hard Costs** means the actual reasonable cost associated with the installation and construction of the System Improvements located on the Property, including the costs of materials, contractor’s insurance, and contractor’s overhead.

1.2.28. **Impact Fee Facility Plan (or “IFFP”)** means a plan adopted or to be adopted by the City to substantiate the collection of Impact Fees as required by State law, and which shall satisfy the requirements of an impact fee analysis pursuant to Utah Code Ann. §11-36a-304, as each such plan may be amended as required herein.

1.2.29. **Impact Fees** means those fees, assessments, exactions or payments of money imposed by the City as a condition of development activity as specified in Utah Code Ann. §§ 11-36a-101, et seq., (2008).

1.2.30. **Interest Rate** means the interest rate of eight percent (8%) per annum.

1.2.31. **JVWCD** means the Jordan Valley Water Conservancy District.

1.2.32. **Land Disturbance Permit** means a permit issued by the City to allow for excavation, grading, stockpiling, site development, material storage, fill or other similar activities on any portion of the Project.

1.2.33. **Master Developer** means Dansie Land, LLC, a Utah limited liability company, and its assignees or transferees as permitted by this MDA.

1.2.34. **Maximum Residential Units** means the development on the Property of: (a) 1010 Residential Dwelling Units if the School Properties are developed as schools; and (b) 1177 Residential Dwelling Units if the School Properties are not developed as schools.

1.2.35. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.36. **MDA Ordinance** means an ordinance whereby this MDA has been approved and adopted by the City as provided in Section 29 of this MDA, a copy of which is attached hereto as Exhibit “E”.

1.2.37. **Modification Application** means an application to amend, modify, or supplement this MDA (but not including those changes which may be made by Administrative Action).

1.2.38. **Non-City Agency** means a governmental or quasi-governmental entity, other than those of the City, which has jurisdiction over the approval of any aspect of the Project.

1.2.39. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.40. **Off-Parcel Infrastructure** means any items of public or private infrastructure necessary for development of a Parcel such as roads and utilities that are not on the site of any portion of the Property that is the subject of a Development Application.

1.2.41. **Off-Site Capital Improvement Road(s)** means (i) Herriman Highway/Herriman Main Street extending from the western-most edge of the Property on the west to the eastern-most edge of the Property to the east, but only to the extent not located on the Property, (ii) 7300 West from its existing terminus located south of the Property extending north to the southern edge of the Property, and/or (iii) any other right-of-way or potential right-of-way that would connect a Capital Improvement Road to a then-existing public right-of-way.

1.2.42. **On-Parcel Infrastructure** means those items of public or private infrastructure as a condition of the approval of a Development Application that are necessary for development of a Parcel such as roads or utilities and that are located on that portion of the Property which is subject to a Development Application, excluding any System Improvements located on the Property or any Off-Parcel Infrastructure.

1.2.43. **Open Space** shall have the meaning specified in Section 10-20-9 of the City's Vested Laws, and shall include those areas identified as Open Space on Exhibit "F", as such areas may be more particularly described in any Subdivision or final PUD in accordance with the terms of this MDA.

1.2.44. **Ordinances** means the MDA Ordinance, the Preliminary PUD, and the Zone Change Ordinance.

1.2.45. **Outsource[e][ing]** means the process of the City contracting with City Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.46. **Parcel** means a portion of the Property that is created by the Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 5.15.

1.2.47. **Planning Commission** means the City's Planning Commission.

1.2.48. **Planning Commission Modification** means and includes any amendment, modification, or supplement to the design guidelines applicable to the Project that may be approved by the Planning Commission pursuant to the terms of Section 5.16.2.

1.2.49. **Pod** means an area of the Project as generally illustrated on the Preliminary PUD intended for a certain number of Residential Dwelling Units.

1.2.50. **Preliminary PUD** means that preliminary Planned Unit Development of the Project as approved by the Planning Commission on November 2, 2017, a copy of which is attached as Exhibit "F".

1.2.51. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.52. **Property** means the Three Hundred Seventy-Two and Ninety-Seven One-Hundredths (372.97) acres of real property either owned or controlled by Master Developer and more fully described in Exhibit "A".

1.2.53. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.54. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence; one single-family residential dwelling and each separate unit in a multi-family dwelling equals one Residential Dwelling Unit.

1.2.55. **School Properties** means the portions of the Property as generally illustrated on the Preliminary PUD as having an intended use as an elementary school or middle school.

1.2.56. **Soft Costs** means the actual reasonable costs and expenses associated with the design, layout, complete construction documents by an engineer, any engineering or architectural fees or costs, design review fees or costs, legal fees and costs, financing costs, costs of bonds or security, insurance, and the costs of permits and fees associated with the System Improvements located on the Property.

1.2.57. **Stay Agreement** means that certain Stipulated Motion to Stay entered into with respect to the Annexation Lawsuit on or about the date hereof whereby the Annexation Lawsuit will be stayed for a period of one year from the Effective Date.

1.2.58. **Street System Improvements** mean all earth work, rough grading, final grading, road base, curb and gutter, waterways, asphalt, survey monuments, collars, and associated improvements, which shall comply with the Development Standards, as amended from time to time, including installation of energy saving lighting.

1.2.59. **Subdeveloper** means a person or an entity not “related” (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases or acquires a Parcel for development.

1.2.60. **Subdivision** means the division of any portion of the Project into a subdivision pursuant to State Law and/or the City’s Vested Laws.

1.2.61. **Subdivision Application** means the application to create a Subdivision.

1.2.62. **System Improvement** means those elements of infrastructure that are defined as System Improvements pursuant to Utah Code Ann. §11-36a-102(21) (2008), including, without limitation those improvements shown and/or described on Exhibit “G” to the extent same are infrastructure improvements of a comprehensive scale that are a part of the overall development of the Property and not merely a part of the development of any particular Subdivision.

1.2.63. **Zone Change Ordinance** means an Ordinance assigning the land use zones of R-1-15 and R-1-21 to the Property as described on the Zoning Map.

1.2.64. **Zoning Map** means Exhibit “H” which is a map of the locations of the various zones applied to the Property by the Zone Change Ordinance.

1.2.65. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD and this MDA. The City acknowledges and agrees that the Preliminary PUD approval and any associated

conditional use application shall not expire until the expiration of the term of this MDA. The City agrees that no fees shall be charged or assessed against Master Developer related to the Preliminary PUD approval other than the initial fee paid prior to the execution of this MDA. Other than the initial fee, any additional fees payable related to the PUD shall be paid upon submittal by Master Developer or a Subdeveloper for final Subdivision and final PUD approval, which fees shall only be based upon the number of units contained in the proposed final Subdivision and final PUD approval, and which shall not exceed the Applicable Fees. In accordance with Section 10-15C-5 of the Code, including, without limitation, clause H(2) thereof, the City hereby agrees that: (a) Master Developer may subdivide portions of the Property into Parcels and sell Parcels to various Subdevelopers or other parties; (b) the Subdevelopers or other parties owning Parcels within the Property may further subdivide Parcels into smaller Parcels, (c) each Subdeveloper or other parties owning Parcels within the Property will submit separate applications for final Subdivision and final PUD approval for each Parcel within the Preliminary PUD, (d) each final Subdivision and final PUD plan application shall be independently reviewed; provided that the Open Space and density shall be considered based upon the preliminary PUD and the Property as a whole and not to any specific final Subdivision or final PUD application, (e) applications for final PUD approval shall satisfy the requirements set forth in Chapter 20 of the Code, whereby specific plans and designs related to, including, but not limited to, the following: grading, drainage, landscaping, fencing, screening, signage, floodlighting, site plans, and building plans solely pertaining to the Parcel seeking final PUD approval shall be required as part of the final PUD approval process, and (f) any conditions related to the final Subdivision and final PUD will be solely applied toward the Parcel governed by such final Subdivision and final PUD approval. Upon issuance of the conditional use permit or final site plan approval for planned unit development, as applicable, with respect to any final Subdivision and final PUD approval, the conditional use permit or final site plan approval for planned unit development, as applicable, shall thereafter continue in perpetuity, unless it is revoked due to a violation of such permit or plan approval, as applicable. In evaluating the application for final Subdivision and final PUD approval, the City/planning commission may not impose any conditions or requirements on Master Developer or any Subdeveloper that are inconsistent with the Preliminary PUD and/or the terms and conditions of this MDA.

2.2. Maximum Residential Units. At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA.

2.3. School Sites. The City acknowledges that the Master Developer currently intends to sell the School Properties to Jordan School District for use as a middle school and elementary school, as applicable; provided that, in the event Jordan School District makes a final determination that the School Sites are not to be developed for such intended use and/or the School Properties are conveyed to a third party that is not a charter school or other legally authorized private or public school provider, the School Properties shall, at the option of Master Developer and/or any Subdeveloper of the School Properties, be for Residential Dwelling Units consistent with the Preliminary PUD and the terms of this MDA. Master Developer acknowledges and agrees that upon the sale of the School Properties to Jordan School District, the density attached to the School Properties on the Preliminary PUD shall be transferred with the School Sites and shall not be available to Master Developer or any Subdeveloper for

purposes of Section 2.4 of this MDA or otherwise unless and until Master Developer and/or any Subdeveloper exercises the option to use the School Sites for Residential Dwelling Units as provided in this Section. The City and Master Developer each acknowledge and agree that upon the sale of the School Properties to Jordan School District, a charter school, or other legally authorized public or private school provider, the terms of this MDA shall no longer apply to the School Properties unless and until Master Developer and/or any Subdeveloper exercises the option to use the School Sites for Residential Dwelling Units as provided in this Section, whereupon the provisions of this MDA shall be reinstated as to the School Properties.

2.4. Limits on Transfer of Residential Dwelling Units Between Pods; Use of Density. The Parties acknowledge that the exact configuration of the final layout of the Project may vary from that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods so long as (a) no transfer of the location of Residential Dwelling Units between and among Pods allows the Project as a whole to exceed the Maximum Residential Dwelling Units for the Project as a whole; (b) no individual Pod exceeds the Maximum Residential Dwelling Units allocable to that Pod as specified in the Preliminary PUD and (c) the lot size for any individual residential lot in any Pod is no smaller than the minimum lot size applicable to such Pod as specified on the Preliminary PUD. . Except as provided in Section 7.1 and subject in all respects to the limitations on transfer set forth above in this Section, the entire Open Space located within the Property may be allocated or used for density clustering of Residential Dwelling Units within the entire Property and each Subdivision within the Property is not required to independently satisfy any Open Space requirements so long as the development, at full build-out, meets the Open Space requirements. Under no condition shall the City deny a Development Application if the applicant Subdeveloper is not currently in default under this MDA and its Development Application (i) does not exceed the Maximum Density that is available for the entire Property or any individual Pod, (ii) the plan is consistent with the Preliminary PUD, (iii) the plan is consistent with sound land use planning practices as certified by the land planner for the Master Developer and/or Subdeveloper provided such land use planner is reasonably acceptable to the City, (iv) the plan does not contain aspects that are detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in the vicinity as reasonably determined by the City, and (v) the Master Developer or Subdeveloper complies with the City's Vested Laws and any other applicable state, county, or district code, or ordinance.

2.5. Accounting for Residential Units for Parcels Sold to Subdevelopers. Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Master Developer and any material effects of the sale on the Preliminary PUD.

2.5.1. Return of Unused Density. If any portion of the Maximum Residential Units transferred to a Subdeveloper are unused by the Subdeveloper, the unused portion of the

transferred Maximum Residential Units shall automatically revert back to Master Developer. Master Developer shall then have the right to reallocate the Maximum Residential Units to other Pods within the Property as provided herein, subject to the applicable limitations thereon.

3. **Zoning and Vested Rights.**

3.1. **Zoning.** The City has zoned the Property as R-1-15 and R-1-21 as set forth on the Zoning Map.

3.2. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Master Developer intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws and the Preliminary PUD except as specifically provided herein. The Parties specifically intend that this MDA and the Preliminary PUD grants to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2008). The rules, regulations and official policies applicable to and governing the development of the Property shall be the City's Vested Laws. Unless otherwise provided in, or amended by, this MDA, the City's Future Laws shall not be applicable to or govern the development of the Property except as provided in Section 3.3 below.

3.3. **Exceptions.** The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.2 are subject to only the following exceptions:

3.3.1. **Election to Use City's Future Laws.** City's Future Laws that Master Developer and/or any Subdeveloper agrees in writing to the application thereof to the Project or any particular Pod thereof, provided, however, that said decision to apply the City's Future Laws must be to apply all of the City's Future Laws and not portions thereof to the Project or such particular Pod, as applicable;

3.3.2. **State and Federal Compliance.** City's Future Laws which are generally applicable to all properties in the City and to the extent such modifications are required to comply with State and Federal laws and regulations affecting the Project;

3.3.3. **Codes.** City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction, fire or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare and are imposed on a City-wide basis;

3.3.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated; or,

3.3.5. **Fees.** Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the

City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law, but not exceeding the Applicable Fees.

3.3.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected by the City, subject to this Section 3.3.6 and Sections 8.4 and 8.5 of this MDA. Any Impact Fee imposed upon Master Developer or any Subdevelopers will not exceed the uniformly assessed individual Impact Fee applied toward all developments within the service area where the Property is located. If Master Developer or any Subdeveloper submits a study of the Impact Fees charged to Master Developer or such Subdeveloper and such study shows that the proposed Impact Fee is disproportional or should be lower in accordance with applicable law, Master Developer and/or Subdeveloper shall pay the lower impact fee based upon the impact fee study in accordance with applicable law.

3.3.7. Compelling, Countervailing Interest. Laws, rules or regulations that the City's land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2016).

3.4. **Universal Fairness.** In all events, the City shall not impose upon the Property any regulations or fees that are more expensive, restrictive, burdensome, or onerous than those imposed generally on all real property throughout the City or in violation of the terms of this MDA.

3.5. **Legislative Action.** Concurrently with this MDA, and as material consideration for Master Developer agreeing to the terms hereof, the City and Council has complied with any and all requirements under this MDA and has taken all actions required or advisable to adopt (a) the Zone Change Ordinance; (b) the Preliminary PUD; and (c) the MDA Ordinance.

If the City fails to adopt any of the Ordinances upon terms and conditions acceptable to Master Developer, Master Developer may elect to cause the termination of the Stay Agreement or, to the extent applicable, refile a complaint objecting to the annexation of the Property as described in the recitals to this MDA.

The City acknowledges and agrees that the Ordinances and the terms and conditions of this MDA represent material consideration for Master Developer to settle its dispute regarding the annexation of the Property into the City. In the event any Ordinance or any term or condition of this MDA is illegal, unconstitutional, invalid, or not enforceable, the Parties shall cooperate to amend the MDA to resolve the issue in a mutually agreeable manner that is consistent with the terms and intent of this MDA. If after reasonable efforts have been made by both Parties to resolve these issues and they remain unresolved, Master Developer shall have the right to be released from the Stay Agreement, refile the Annexation Lawsuit (if released pursuant to the terms hereof and if such refiling is permissible under applicable state law), or otherwise pursue de-annexation of the Property from the City, as applicable. Provided that (i) the City is not then in default of its obligations under this MDA, and (ii) Master Developer has not terminated or otherwise been released from the Stay Agreement in accordance with its rights under this MDA or in the Stay Agreement, Master Developer agrees to release the Annexation Lawsuit without prejudice upon the expiration of the term of the Stay Agreement.

4. **Term of Agreement.** The term of this MDA shall be until the date that is thirty (30) years after the Effective Date. This MDA shall also terminate automatically at Buildout. Notwithstanding anything to the contrary contained herein, the provisions contained herein that, by their terms, are intended to survive the expiration of this MDA shall remain in full force and effect following any such expiration or termination of the term hereof.

5. **Approval Processes and Modification of MDA.**

5.1. **Approval Processes for Development Applications.**

5.1.1. **Phasing; Safeguarding the Orderly Development of Infrastructure.** The City acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit a single or multiple Development Applications from time to time to develop and/or construct all or portions of the Project in one or multiple phases. Any phase of the Project may be developed independently of other phases. The City shall not require any sequencing of phases within the Project. In order to ensure the orderly development of the Property, in the event that, notwithstanding Master Developer's commercially reasonable efforts to prevent such behavior, any Subdeveloper withholds consent to or otherwise unreasonably impedes the orderly construction of the System Improvements located on the Property or any other infrastructure necessary for the orderly development of the Property (including local roads) by any other Subdeveloper, upon request from Master Developer, the City agrees to use all reasonable efforts to orderly complete the System Improvements located on the Property, provided that the City may require that Master Developer or the applicable Subdeveloper pay the reasonable and actual costs incurred by the City in connection therewith.

5.1.2. **Processing Under City's Vested Laws.** Approval processes for Development Applications shall be as provided in the City's Vested Laws, except as otherwise provided in this MDA. Development Applications shall be approved by the City if they comply with the City's Vested Laws and conform to this MDA and the Preliminary PUD.

5.1.3. **City's Cooperation in Processing Development Applications.** The City shall cooperate reasonably in promptly and fairly processing Development Applications.

5.1.4. **Applicability of State and Federal Law.** Notwithstanding anything to the contrary contained herein and for the avoidance of doubt, all development within the Property will comply with all federal, state and county laws, rules and regulations applicable thereto.

5.2. **Administrative Actions.**

5.2.1. **Administrative Actions Defined.** Aspects of a Development Application may be approved by an Administrative Action. An Administrative Action involves approval of aspects of a Development Application by the City staff and/or the Administrator. Administrative Actions with regard to Development Applications means the following, which shall be subject only to the approval process more fully set forth below in this Section 5.1:

(i) the location of On-Parcel Infrastructure, including utility lines and stub outs to adjacent developments,

(ii) right-of-way modifications (excluding System Improvements) that do not involve the altering or vacating of a previously dedicated public right-of-way,

(iii) minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose (including, without limitation, the Development Standards) and interpretation of the Development Standards, and

(iv) the issuance of Building Permits and/or Land Disturbance Permits.

5.2.2. Administrator Review. Administrative Actions shall require only the approval of the Administrator (with the review of the City's staff as requested by the Administrator), and the Administrator shall not seek or condition the Administrator's approval upon: (i) approval of the Council, (ii) approval of the Planning Commission, (iii) approval of the City Manager, or (iv) notice of or participation in any public meeting, hearing or forum. Upon approval by the Administrator, any Administrative Action shall be deemed and considered fully approved in all respects.

5.2.3. Development Standards. The Development Standards outlines the general approval procedure for different activities along with the general requirements and standards that may be applicable to certain improvements and types of developments. Pursuant to Section 1 of the Development Standards, steps related to the City's approval procedure as outlined in the Development Standards may be combined, added, replaced or eliminated as deemed necessary by the City. This MDA is a contract between Master Developer and the City that will inure to the benefit of the Property and the owners thereof whereby the City agrees that any approval procedures and processes contained in this MDA shall supersede and replace the Development Standards. The City hereby agrees as follows:

(a) As part of the Preliminary PUD approval process (including application for the Preliminary PUD and the conditional use permit), Master Developer shall not be obligated to provide any improvement plans as required in Sections 2.01.01 and 2.01.04 (or their equivalents) of the Development Standards. Inasmuch as the Property may be developed in phases, when Master Developer or Subdeveloper seeks final Subdivision and final PUD approval for a phase of the Property, Master Developer or Subdeveloper will submit the improvement plans for that phase of the Property. Improvement plans will not be required for the entire Property or for any portion of the Property not included within the phase of the Property that is the subject of the application.

(b) Any references to "developer" in the Development Standards shall mean Master Developer, its assigns, or the Subdeveloper that actually develops a Subdivision within the Property and submits a Development Application. If a Subdeveloper submits a Development Application and develops a Subdivision, the Master Developer shall not be deemed the "developer" related to that Subdivision.

(c) City Approval or Denial of a Development Application. Development

Applications subject only to Administrative Action shall be unconditionally approved by the Administrator if (i) such Development Application substantially complies with the terms of this MDA and the Development Approvals to the extent related to terms or conditions set forth in this MDA, or (ii) such Development Application substantially complies with the City's Vested Laws. The Administrator's review of all Development Applications subject to approval by Administrative Actions shall be limited to material differences and/or inconsistencies between the information and/or documentation submitted and the materials, and information and/or documentation described in subsections (i) and (ii) of the preceding sentence. If the Administrator denies a Development Application subject only to Administrative Action, the Administrator shall provide a written determination advising the Applicant of detailed reasons for Denial, including all specific items of non-compliance with subsections (i) and (ii) above.

5.2.4. Re-submittal of Development Applications. If the Administrator has previously denied a Development Application subject only to Administrative Action, then the Administrator shall promptly complete its review of any re-submittal (which may include redlines) of a Development Application. No additional fees will be required from the Applicant in connection with any re-submittal or redlines. To the extent Applicant has changed the Development Application to (a) substantially comply with this MDA or the City's Vested Laws or (b) substantially conform to the Development Standards, then the re-submittal or redline shall be approved by the Administrator. Developer shall only be required to re-submit, and the Administrator shall only review, the portions of the Development Application which related to the Denial by the Administrator as set forth in the Administrator's written response described in Section 5.2.5 above. All other portions of the Development Application that were not addressed specifically in such written response by the Administrator shall be deemed and considered previously approved. If the City again denies the re-submitted Development Application or redline subject only to Administrative Action, then the City shall meet with the Applicant as promptly as possible to discuss same. Applicant shall have the right to treat such Denial as a "final action of the City" and immediately appeal as appropriate.

5.3. **Material Actions.**

5.3.1. Material Actions Defined. Except with respect to the listed Administrative Actions described in Section 5.2.1 above, all other reviews, actions, approvals, and/or consents with respect to a Development Application concerning a portion of the Property shall be deemed and considered Material Actions and shall be processed in accordance with the City's Vested Laws, this MDA and the Development Standards.

5.3.2. Information Contained in a Development Application Requiring Material Action. Except to the extent not required by any other terms of this MDA, any Development Application requiring Material Action shall contain (i) the information required in the Development Standards for the specific approval, consent, and/or permit requested in the applicable Development Application, or (ii) in the event the Development Standards do not address such specific approval, consent, and/or permit requested in the applicable Development Application, the information normally required by the City under the City's Vested Laws for the issuance of such specific approval, consent, and/or permit requested.

5.4. General Provisions Regarding All Development Applications and Approvals.

5.4.1. Application Fees. Due to the City's understanding of the Property, the City has agreed (i) to allow Master Developer and/or Subdevelopers to obtain approvals for development of the Project in accordance with the processes and procedures set forth in Section 5, (ii) to deem satisfied certain requirements for the Master Developer and/or Subdevelopers to provide certain information and/or documentation to the City under the City's Vested Laws, and (iii) to grant Master Developer's and/or Subdeveloper's requested reviews and approvals of all Development Applications without the imposition of any charges or fees to Master Developer and/or Subdevelopers in addition to those provided generally for review under the City's fee schedule in effect at the time of the application while recognizing that (except as otherwise specifically provided herein) a complete application will still be required for all Development Applications.

5.4.2. Standard Review Fees. Master Developer or the applicable Subdeveloper shall only have the obligation to pay the standard fees applicable with respect to any submittal of a Development Application under the City's fee schedule in effect at the time of the application.

5.4.3. Processing of Development Applications. The City shall cooperate reasonably and in good faith in promptly and fairly processing and reviewing all Development Applications. During each application process, the City shall keep the Applicant informed of the status of the applicable Development Application. The City agrees to exercise good faith efforts to follow the General Review Processes and meet all timelines set forth therein. If Master Developer and/or Subdeveloper determines the City has not met all of the processes and timelines set forth in the General Review Processes, then, among other remedies, Master Developer and/or Subdeveloper shall have the right to request a decision under Utah Code Ann. Section 10-9a-509.5. As more fully set forth in Section 7.1 below, Master Developer intends to apply for a CLOMR/LOMR for certain portions of the Property. The City agrees that, following issuance of a CLOMR but prior to the issuance of the LOMR related thereto, Master Developer and/or a Subdeveloper shall have the right to submit a Development Application for any portion of the Property that would be subject to a FEMA map revision pursuant to such CLOMR and to have such Development Application reviewed and approved pursuant to the terms of this MDA and the City's Vested Laws and/or City's Future Laws, as applicable, notwithstanding that the related LOMR has not yet been issued, provided that in no event shall any construction that would be prohibited by applicable law within a FEMA floodplain and/or that would be reasonably expected to invalidate or otherwise materially impair the City's participation in the National Flood Insurance Program (or any successor thereto) be permitted except and until a LOMR for such portion of the Property that is consistent with the subject Development Application is issued by FEMA.

5.4.4. Additional Terms, Provisions and Conditions Related to Development Applications. Notwithstanding any language to the contrary herein or in the City's Vested Laws and/or City's Future Laws, the Parties hereby agree that the following terms, provisions and conditions shall apply with respect to Development Application submissions and reviews:

(i) After receipt of any preliminary plat approval, no Final Plat approval shall be Denied or delayed if the Development Application for such Final Plat substantially complies in all respects with the conditions of the approved Preliminary Plat;

(ii) If a development is proposed to be completed in phases, filing of a Final Plat for one phase shall extend the then existing expiration date of the preliminary plat approval for all additional phases for an additional period of two years from the existing expiration date or longer if provided for in the City's Vested Laws or City's Future Laws.

5.5. Outsourcing of Processing of Development Applications. Within fifteen (15) business days after receipt of a Development Application and upon the request of either the City or Master Developer or Subdeveloper, the City and Master Developer or such Subdeveloper will confer to determine whether the City and/or Master Developer or such Subdeveloper desires the City to Outsource the review of any aspect of the Development Application to insure that it is processed on a timely basis. If either party determines that Outsourcing is appropriate then the City shall promptly estimate the reasonably anticipated cost of Outsourcing in the manner selected by the City in good faith consultation with the Master Developer or such Subdeveloper (either overtime to City employees or the hiring of a City Consultant). If Master Developer or such Subdeveloper notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs then the Master Developer or such Subdeveloper shall deposit in advance with the City the estimated cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or such Subdeveloper) for the actual cost (or, in the case of paying overtime to City employees, the differential cost) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated cost deposited for the Outsourcing and the actual cost as provided herein.

5.6. Non-City Agency Reviews. If any aspect or a portion of a Development Application is governed exclusively by a Non-City Agency, an approval for these aspects does not need to be submitted by Applicant for review by any body or agency of the City. The Applicant shall timely notify the City of any such submittals and promptly provide the City with a copy of the requested submissions. The City may only grant final approval for any Development Application subject to compliance by Applicant with any conditions required for such Non-City Agency's approval.

5.7. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. A Development Application so signed, endorsed, certified or stamped shall be deemed to meet the specific standards which are the subject of the opinion or certification without further objection or required review by the City or any other agency of the City. It is not the intent of this Section to preclude the normal process of the City's "redlining", commenting on or suggesting alternatives to the proposed designs or specifications in the Development Application.

Generally, the City should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed. The City may not impose any duties, obligations, or responsibilities on Master Developer and/or Subdeveloper inconsistent with the terms and conditions of the City's Vested Laws and this MDA.

5.8. Expert Review of Certifications Required for Development Applications. If the City, notwithstanding such a certification by Applicant's experts, subjects the Development Application to a review by City Consultants, the City shall bear the costs of such review if the City Consultants determine that the Applicant's expert certification was materially correct. If the City Consultants determine that the certification in the Development Application was materially incorrect, then Applicant will pay the actual costs of the City Consultants' that would otherwise have been incurred by the City to review the certification contained in the Development Application.

5.8.1. Selection of City Consultants for Review of Certifications Required for Development Applications. The City Consultant undertaking any review by the City required or permitted by this MDA or the City's Vested Laws shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants. The anticipated cost and timeliness of such review may be a factor in choosing the expert.

5.9. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants under the processes specified in Section 6.1 with the actual and reasonable costs being the responsibility of Applicant. If the City needs any other technical expertise other than as specified above, under extraordinary circumstances specified in writing by the City, the City may engage such experts as City Consultants under the processes in Section 6.1 with the actual and reasonable costs being the responsibility of Applicant. If the City requires any review that is not required by the City's Vested Laws, the City shall be responsible for the cost of such reviews.

5.10. City Denial of a Development Application. The City cannot use the Development Application process to impose upon the Master Developer and/or Subdeveloper greater obligations than agreed to in this MDA or to avoid the City's responsibilities, obligations, or costs as set forth in this MDA, and the City cannot Deny or condition approval of a Development Application to impose upon Master Developer or Subdeveloper any obligation or cost assumed by the City in this MDA. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Preliminary PUD and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

5.11. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.12. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Master Developer shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

5.13. Mediation of Development Application Denials.

5.13.1. Issues Subject to Mediation. All issues resulting from the City's Denial of a Development Application that are not subject to arbitration as provided in Section 5.14.1 shall be mediated.

5.13.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the Parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the issue in dispute. If the Parties are unable to agree on a single acceptable mediator they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall equally share the fees of the chosen mediator. Within ten (10) business days after the selection of the chosen mediator, each party shall provide to the chosen mediator and the other party a position paper setting forth their position, along with any relevant fact and circumstances. The chosen mediator shall within fifteen (15) business days, review the positions of the Parties regarding the mediation issue and promptly attempt to mediate the issue between the Parties. If the Parties are unable to reach agreement, the mediator shall notify the Parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the Parties. The Parties agree to act in good faith and participate in the mediation process in order to reach a resolution of the dispute.

5.14. Arbitration of Development Application Objections.

5.14.1. Issues Subject to Arbitration. Issues regarding the City's Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration. The failure of a Development Application to comply with an applicable Federal, State or City Vested Law (or, if applicable, a City Future Law) is not an issue subject to arbitration. In such an event, and notwithstanding anything herein to the contrary, Master Developer and/or any Subdeveloper or Applicant shall have all rights and remedies available under applicable law to appeal such decision to district court.

5.14.2. Mediation Required Before Arbitration. Prior to any arbitration the Parties shall first attempt mediation as specified in Section 5.13.

5.14.3. Arbitration Process. In connection with all issues described in Section 5.14.1, and issues not resolved through mediation, the Parties shall within ten (10) business days

appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the Parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator, which shall be an expert in the professional discipline of the issue in question. Applicant and the City shall equally share the fees of the chosen arbitrator. The arbitration shall be performed in accordance with the most recently enacted American Arbitration Association Commercial Arbitration Rules and Procedures provided that within thirty (30) days after selection of the arbitrator the Parties shall submit to the arbitrator a statement of their respective positions. Upon mutual agreement of the Parties, they may modify the rules and procedures pertaining to the arbitration. The chosen arbitrator shall within fifteen (15) business days after receipt of the position statements, review the positions of the Parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator shall order the offending party to pay the arbitrator's fees. The Arbitrator's decision shall not be binding on either Party but shall give good faith guidance to each once a final decision has been rendered, either Party may seek redress in district court. The Parties agree that they will faithfully observe this MDA and the arbitration rules, that they will abide by and perform any decision rendered by the arbitrator, and that a judgment of any court having jurisdiction may be entered on the decision.

5.15. Parcel Sales. The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision that does not create any individually developable lots in the Parcel without being subject to any requirement in the City's Vested Laws to be subject to a condition of such Subdivision approval requiring Master Developer to: (i) apply for final PUD approval, (ii) install any On-Parcel Infrastructure or Off-Parcel Infrastructure improvements, (iii) provide detailed development information, including, without limitation, site plans, building elevations, and Development Applications; or (iv) complete or provide security for any Public Infrastructure, On-Parcel Infrastructure or Off-Parcel Infrastructure at the time of such subdivision. The responsibility for completing and providing any Development Application and the obligation for completion (including providing any security associated therewith) of any Public Infrastructure, On-Parcel Infrastructure or Off-Parcel Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper, as applicable, upon a subsequent re-Subdivision of the Parcel that creates individually developable lots or upon submittal of a Development Application. However, construction of improvements shall not be allowed until the Developer or Subdeveloper complies with the terms of this MDA with respect thereto.

5.16. Modifications to this MDA. Any amendment, modification, or supplement to this MDA must be in writing and approved by the City and Master Developer and its assigns as provided herein. Only Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this MDA (and not including a Subdeveloper) may

submit an application to modify the MDA. If a Subdeveloper desires to modify the MDA as part of a Development Application, the Subdeveloper must obtain the Master Developer's approval to such modification. Notwithstanding the foregoing, the Parties (not the Subdeveloper unless specifically authorized) may mutually determine to waive one or more provisions hereof as such provisions relate to a particular Development Application, without formally amending the MDA.

5.16.1. Administrative Modifications. The Administrator may approve without approval by the Council any non-material modifications of any part of the System Improvements located on the Property that do not materially change the functionality of such System Improvements and so long as the modifications are based upon sound engineering. Applications for Administrative Action with respect to the MDA shall be filed with the Administrator. If the Administrator reasonably determines that it would be inappropriate for the Administrator to determine any such proposed Administrative Action, the Administrator may require such requested Administrative Action to be processed as a Planning Commission Modification or a Council Modification. The Administrator shall consider and decide upon such requested Administrative Action within a reasonable time, which shall in no case be longer than fourteen (14) calendar days. If the Administrator approves any requested Administrative Action, such Administrative Action by the Administrator shall be conclusively deemed binding on the City. If the Administrator denies any proposed Administrative Action as provided in this Section, the Master Developer may process the proposed Administrative Action as a Planning Commission Modification or a Council Modification, as applicable.

5.16.2. Planning Commission Modifications. The Planning Commission may approve without approval by the Council any modifications of design guidelines applicable to the Project (including, without limitation, lot widths, setbacks, building heights, exterior building materials, landscape, and street layouts). Applications for Planning Commission Modifications shall be filed with the Planning Commission. If the Planning Commission determines for any reason that it would be inappropriate for the Planning Commission to determine any proposed Planning Commission Modification, the Planning Commission may require the Planning Commission Modification to be processed as a Council Modification. The Planning Commission shall consider and decide upon the Planning Commission Modification within a reasonable time after the filing of the request for the Planning Commission Modification. If the Planning Commission approves any Planning Commission Modification, the Planning Commission Modification shall be conclusively deemed binding on the City. If the Planning Commission denies any proposed Planning Commission Modification, Master Developer may process the proposed Planning Commission Amendment as a Council Modification.

5.16.3. Council Modifications. The Council may approve any amendments, modifications, or supplements to this MDA that are not Administrative Modifications or Planning Commission Modifications. Applications for Council Modifications shall be filed with the City staff. The Council shall consider and decide upon the Council Modification within a reasonable time after the filing of the request for the Council Modification. If the Council objects to the Modification Application, the Council shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Modification Application is not consistent with the intent of this MDA, the Preliminary PUD and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

5.16.4. Contents of Modification Applications. All Modification Applications shall:

- (a) Identify the property or properties affected by the Modification Application.
- (b) Describe the effect of the Modification Application on the affected portions of the Project.
- (c) Identify any Non-City Agencies potentially having jurisdiction over the Modification Application.
- (d) Provide a map of any affected property and all property within three hundred feet (300') showing the present or intended use and Density of all such properties.
- (e) Be accompanied by a fee in an amount reasonably estimated by the City to cover the costs of processing the Modification Application.

5.16.5. Resolution of Objections/Denial of Modification Applications. The City shall reasonably cooperate in promptly and fairly processing any Modification Applications. The Council and Master Developer and/or Subdeveloper shall meet within ten (10) calendar days of any objection to resolve the issues presented by a Modification Application and any of the Council's objections. If the Council and Master Developer are unable to resolve a dispute regarding a Modification Application the matter shall be mediated and/or arbitrated pursuant to the terms of this Sections 5.13 and 5.14 of this MDA.

6. Application Under City's Future Laws. Master Developer or any Subdeveloper may at any time, choose to submit a Development Application for all of the Project or any portion thereof under the City's Future Laws in effect at the time of the Development Application, subject, in each case, to the terms of Section 3.3.1.

7. Open Space.

7.1. **Creation of Additional Open Space.** Master Developer and/or a Subdeveloper shall dedicate the Open Space as provided on the Preliminary PUD, subject to the right to make modifications to the Preliminary PUD as provided herein, but in any case not less than the amount of Open Space that is required by the City's Vested Laws (i.e., 20% of the area within the PUD). Master Developer acknowledges and agrees that the Open Space on the Preliminary PUD is based on the assumption that the Federal Emergency Management Agency will revise the FEMA flood map for the Project in such a manner as to cause the calculation of the Open Space as provided on the Preliminary PUD to satisfy the Open Space that is required by the City's Vested Laws. Master Developer shall evidence such FEMA flood map revision by providing both a conditional letter of map revision (CLOMR) and a final letter of map revision (LOMR) from FEMA to the City. For the avoidance of doubt, in the absence of obtaining a LOMR consistent with the Preliminary PUD, Master Developer will be required to dedicate such additional portions of the Property as Open Space as is required to satisfy the City's Vested Laws (i.e., 20% of the area within the PUD) and the Maximum Residential Units shall be reduced in an amount equal to the product of (i) the average density of the Project as a whole *multiplied by* (ii) the total additional acreage required to be dedicated as Open Space above and beyond total acreage of Open Space reflected on the Preliminary PUD. Master Developer and the City

acknowledge and agree that it is the intent to have Butterfield Creek remain a surface-level creek that is not piped and that the initial application for the CLOMR/LOMR will be consistent with such intent; provided, however, that if a CLOMR consistent with the Preliminary PUD is not obtained based on such initial submission, Master Developer may, in its sole and absolute discretion, (a) revise the plans for Butterfield Creek to cause portions thereof to be piped to the extent necessary to obtain a CLOMR/LOMR that is consistent with the Preliminary PUD and (b) resubmit the CLOMR/LOMR application based on such revised plans. The parties intend that the creation of Open Space will generally maintain a pro rata relationship between the amount of land being developed with a Development Application and the total acreage designated for Open Space. The City acknowledges that it may not be in the interest of either the City, Master Developer, assignees of Master Developer or Subdevelopers to always dedicate Open Space on such a basis that may result in constructing and/or designating incremental, small, unusable parcels of land. Therefore, each Development Application approval shall provide for the designation of Open Space in such amounts as are determined to be appropriate considering the factors specified below. Any Denial by the City based on the amount or location of Open Space shall be subject to the mediation and arbitration provisions of Sections 5.13 and 5.14. The factors to be evaluated are: (a) the amounts and types of Open Space provided on the portions of the Project previously developed; (b) the amounts and types of Open Space remaining to be designated and/or constructed on the portions of the Project remaining to be developed; and (c) the amount and nature of the land and the types land uses proposed by the Development Application. Upon approval of a Development Application containing a designation of Open Space, Master Developer and/or Subdeveloper at any time thereafter may dedicate the designated area comprising such additional Open Space to the City.

7.2. Dedication/Conveyance of Open Space. Master Developer and/or a Subdeveloper shall dedicate to the City any parks and other portions of Open Space to be dedicated to the City as generally illustrated on the Preliminary PUD by Special Warranty Deed; provided, however, that title will be conveyed free and clear of any (a) financial encumbrance or (b) other encumbrance (including easements) that materially and adversely interferes with the use of the property so conveyed as Open Space, active Open Space, and/or improved park space. The dedication of any Open Space location within a Subdivision shall occur immediately following the recordation of the Subdivision plat. To the extent practicable, the Open Space will be designed whereby utilities and easements will be located on the periphery of the Open Space. To the extent that Master Developer and/or Subdeveloper believes it is not practicable to locate an easement or utility on the periphery of the Open Space, Master Developer and/or Subdeveloper may reserve unto itself an easement over the Open Space for such easement(s) in a location mutually agreed upon by the Master Developer and/or Subdeveloper and the City. Upon mutual agreement as to the location of an easement, Master Developer and/or Subdeveloper may record a document indicating the location of such easement.

7.3. Improvement of Open Space. Neither Master Developer nor any Subdeveloper shall be obligated to make any park-related System Improvements to the Open Space in any manner that causes the cost of such System Improvements to exceed the Impact Fees available therefor that are generated from the Property unless and until the City provides other sources of financing the excess cost thereof.

7.4. Maintenance of Open Space, Parks and Trails. The City shall be responsible

for maintaining the Open Space and parks to be dedicated to the City as generally illustrated on the Preliminary PUD after final inspection and acceptance of the improvements by the City, such maintenance to be consistent with City-wide standards.

7.5. **Tax Benefits.** The City acknowledges that Master Developer and/or a Subdeveloper may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring Open Space and/or Trails to the City or to a charitable organization. Master Developer and/or Subdeveloper shall have the sole responsibility to claim and qualify for any tax benefits sought by Master Developer and/or Subdeveloper by reason of the foregoing. The City shall reasonably cooperate with Master Developer and/or Subdeveloper to the maximum extent allowable under law to allow Master Developer and/or Subdeveloper to take advantage of any such tax benefits. The City does not offer tax advice and the Master Developer and Subdeveloper shall rely on its own independent review and analysis of tax issues.

8. **Public Infrastructure.**

8.1. **Acquisition of Rights-of-Way.** The City agrees that, to the extent a road currently exists, the centerline of any Capital Improvement Road and the right-of-way associated therewith will be the centerline of such existing road. As a material covenant in this MDA, the City agrees to use good faith and diligent efforts to obtain funds from the Wasatch Front Regional Council (or any successor thereto) for the acquisition/purchase of the land and improvements constituting (A) the Capital Improvement Roads, and (B) the Off-Site Capital Improvement Roads, but only as to Herriman Highway/Herriman Main Street and 7300 West as described in Section 1.2.43. In the event the City requires that the alignment for any Capital Improvement Road deviate from the alignment shown on the Preliminary PUD and in System Improvements exhibit attached to this MDA whereby more of the Property is required to be used for any Capital Improvement Road that would have been required if such alignment was consistent with the Preliminary PUD, the City shall compensate the Master Developer for the differential between the amount of the Property projected to be used for such Capital Improvement Road on the Preliminary PUD and the amount of the Property required by the newly required alignment of such Capital Improvement Road.

8.2. **Water.**

8.2.1. **General Provisions.** Except for the portions of the Property currently located in the area designated as pressure zone 5, there is sufficient water rights, water storage capacity, adequate water pressure, flow and capacity to serve the Property for the Maximum Residential Units for both indoor and outdoor water use and fire protection. To the extent that Master Developer and/or a Subdeveloper desires to develop a portion of the Property located in pressure zone 5, Master Developer and/or Subdeveloper shall have the option to (i) lower the grade of such portion of the Property, (ii) engineer the water delivery system on the Property in such a manner that sufficient water rights, water storage capacity, adequate water pressure, flow and capacity is available to serve such portion of the Property for both indoor and outdoor water use and fire protection, provided that such engineering complies with the Development Standards or is otherwise reasonably acceptable to the City, or (iii) delay such development until such time as the City in its discretion installs the required infrastructure to provide sufficient

water rights, water storage capacity, adequate water pressure, flow and capacity to such portion of the Property for both indoor and outdoor water use and fire protection; provided that any change in grade, engineered water delivery system or other water delivery plan to such portions of the Property shall be required to meet the requirements of Utah Admin. Code R309-100, et seq. Master Developer and any Subdevelopers shall not be required to dedicate or convey any water to the City or to pay any fee, charge or assessment related to acquiring or providing such water so long as they pay the water right impact fees and appropriate water charges assessed for the use of such water, which charges shall be consistent with the City's then current water fee schedule. Inasmuch as Master Developer and/or Subdeveloper will pay a water right impact fee to the city, in the event JWCD desires to assess Master Developer, a Subdeveloper, or the Property any fee or cost associated with the acquisition of water or in lieu of the dedication of water to JWCD, the City agrees to use good faith and diligent efforts to cause JWCD to waive such requirement of Master Developer and/or Subdeveloper. If the water infrastructure is insufficient to serve the Property, the City shall cause the water infrastructure to be upgraded to provide sufficient water capacity, pressure, and flow to the Property as it may be developed. Notwithstanding the above and without waiving or releasing any of the obligations set forth above, Master Developer and/or Subdeveloper may provide its/their own water to the Property to augment the water provided by the City, so long as same complies with the applicable state, county and local laws, ordinance and rules and regulations applicable thereto. Without waiving any rights or remedies against the City, if the City's representations are not accurate or if the City allows other developments to use water that diminish the water available to the Property that results in a decrease the quantity, flow, or pressure of water for culinary or fire protection services, and if Master Developer and/or Subdeveloper provide its/their own water to the Project or otherwise incur costs to augment the water service or infrastructure, the City shall reimburse the Master Developer and/or Subdeveloper for the costs incurred associated therewith (including Soft Costs and Hard Costs) within ten (10) days after written demand. If the City fails to reimburse the Master Developer and/or Subdeveloper within such ten (10) day period, the amount due shall accrue interest at the Interest Rate. Notwithstanding the foregoing, if any amount owed by the City to the Master Developer and/or the Subdeveloper is not paid within ninety (90) days after such amount is due, Master Developer and/or the Subdeveloper shall have the right to exercise any remedies available under this MDA, at law or in equity against the City.

8.2.2. Secondary Water. The City acknowledges and agrees that it will be solely responsible to provide wet secondary water to the Property. The City represents that at the present time the City lacks sufficient capacity to provide wet secondary water to the Property. The City will use good faith efforts to provide the capacity and infrastructure so that the Property can be served by wet secondary water as soon as reasonably practicable. As such, there shall be no obligation on the Master Developer and/or any Subdeveloper to provide wet secondary water to or within the Property. Notwithstanding the foregoing, Master Developer acknowledges and agrees that each Development Application will require the installation by Master Developer or the applicable Subdeveloper of dry secondary water lines sufficient to service the Parcel or Pod that is subject to such Development Application.

8.3. Construction of Certain System Improvements.

8.3.1. Off-Site Capital Improvement Roads. Based upon the Traffic Study attached hereto as Exhibit “I”, which the City agrees is reasonable, the City agrees that in no event shall Master Developer or any Subdeveloper be required to construct any Off-Site Capital Improvement Road nor shall the construction of any such Off-Site Capital Improvement Road be a condition to any Development Application for so long as the updated traffic study submitted in connection with such Development Application determines that the existing infrastructure supplies a level of service equal to or greater than “D” level service when taking into account the effect of the development proposed in such Development Application. If such updated traffic study determines the level of service would be less than “D” level service and therefore the proposed Development Application would be denied, Master Developer and/or such Applicant shall have the option to improve any Off-Site Capital Improvement Road to cause the level of service to be equal to or greater than “D” level service and the Development Application shall thereafter shall not be denied based on the traffic level of service. The City agrees that the term “updated traffic study” as used herein shall mean the Traffic Study attached hereto as updated with respect to the TIS data for the Pod/Parcel subject to the subject Development Application and shall not require the submission of a complete new traffic study. If Master Developer and/or such Applicant elects to so improve any Off-Site Capital Improvement Road, the City agrees to (i) use all reasonable efforts to obtain any rights-of-way required in order for Master Developer and/or such Applicant to improve such Off-Site Capital Improvement Road and (ii) reimburse Master Developer pursuant to a reimbursement agreement entered into concurrently herewith by and between the City and Master Developer with respect to the Project, except that the source of the reimbursement funds shall come from future impact fees from developments benefiting from such Off-Site Capital Improvement Roads or, in Master Developer’s discretion, from Impact Fees generated from the Project to the extent such costs are reimbursable by impact fees pursuant to applicable law.

8.3.2. Modifications of Location of System Improvements Located on the Property. The City acknowledges that the development of certain portions of the Property is influenced by the location of certain elements of the System Improvements located on the Property. Changes in the precise locations of elements of the System Improvements located on the Property may render the development of certain portions of the Property impractical (e.g., a proposed road is moved or designed in a way so that it leaves a portion of property no longer economically or developmentally practical for a certain type of use). The City agrees that it shall not materially modify the alignment of any roads or otherwise change the design of any of the System Improvements located on the Property unless mutually agreed upon by the City and the Master Developer, such agreement not be unreasonably withheld or delayed by either party.

8.3.3. Financing. Other than the Applicable Fees that may be assessed by the City and ad valorem property taxes and/or assessments levied against the real property within the City as a whole, under no conditions shall the City finance the System Improvements located on the Property through a special service district, bond, or similar mechanism whereby the costs of the System Improvements located on the Property will be paid by the Master Developer, unless requested by the Master Developer, any Subdeveloper or the owners of any portion of the Property.

8.4. **Storm Drain.** Notwithstanding anything to the contrary contained in the City's Vested Laws, the City's Future Laws or the Development Standards to the contrary, the design and construction of the storm drainage system on the Property shall be subject to the provisions outlined on Exhibit "J".

8.5. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure is required by the City it shall provide in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

8.6. **Infrastructure Built by Master Developer.** Subject to the terms of this MDA, Master Developer or Subdevelopers may, from time to time, install and construct portions of the System Improvements located on the Property. The City shall ensure that Master Developer and/or Subdevelopers are reimbursed pursuant to a reimbursement agreement entered into concurrently herewith by and between the City and Master Developer with respect to the Project.

9. **Cable TV/Fiber Optic/Data/Communications Service.** To the extent conduits are not provided as part of the System Improvements located on the Property, subject to all applicable Federal and State laws, Master Developer and/or a Subdeveloper may install or cause to be installed underground all conduits and cable service/fiber optic lines within the Project and underneath any public streets at no expense to the City. In such an event, the City agrees not to charge Master Developer and/or Subdeveloper any fees or costs associated with the installation of such conduits and cable, including any fees associated with permits or the City's approval. Any and all conduits, cable, lines, connections and lateral connections (except for conduit installed for public utilities, such as power, natural gas, culinary water, and sanitary sewer, that are installed as part of the System Improvements located on the Property, which will be owned by the City) shall remain the sole and exclusive property of Master Developer or cable/fiber optic provider even though the roadways in which the cable/fiber optic lines, conduits, connections and laterals are installed may be dedicated to the City, and Master Developer hereby reserves an easement on, through, over, across, and under such publically dedicated right-of-way for such conduits and cables. Master Developer or any Subdeveloper may contract with any data/communications/cable TV/fiber optic provider of its own choice and grant an exclusive access and/or easement to such provider to furnish cable TV/fiber optic services for those dwelling units or other uses on the Project, so long as the property is private and not dedicated to the public. The City may charge and collect all taxes and/or fees with respect to such cable service and fiber optic lines as allowed under State Law. Master Developer acknowledges that the City has entered into certain franchise agreements with certain cable TV, fiber optic, data and/or communications service providers and that such providers services on the Project will be subject to such agreements; provided that in no event shall the existence of such agreements exclude or otherwise limit the ability of Master Developer or a Subdeveloper from installing conduits, cable, lines, connections and other infrastructure necessary for other providers to provide service on the Project as provided in this Section.

10. **Upsizing/Reimbursements to Master Developer; Amendments to IFFPs.**

10.1. **"Upsizing"**. The City shall not require Master Developer to "upsizing" any public infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means a reimbursement agreement entered into concurrently herewith by and between the City and Master Developer with respect to the Project.

10.2. **Amendments to Impact Fee Facility Plans.** To the extent that any Impact Fee Facility Plan is currently inconsistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, the City shall promptly commence and use good faith efforts to diligently pursue to completion an amendment to each such Impact Fee Facility Plan such that each such plan will be consistent with the Preliminary PUD and any other plan for the Property set forth in this MDA and use good faith efforts to cause each such plan to be so amended within twelve (12) months of the date hereof; provided, however, that if and only if such amendments are required to be made under the General Plan passed in July 2014 and the changes in such amendments apply only to the Property, then Master Developer shall be responsible for the reasonable and actual third-party costs incurred by the City in connection with such amendments to the extent incurred after the date hereof, subject to reimbursement from applicable Impact Fees. Such amendments shall include, without limitation, (a) amending the City's transportation master plan and any related transportation capital facilities plan to reflect the inclusion of each Capital Improvement Road with the alignment of such road consistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, (b) including the Open Space to be developed pursuant to the Preliminary PUD within the applicable parks Impact Fee Facility Plan, which will assume that the Open Space will be improved with parks that qualify for reimbursement under such plan, (c) amending the water IFFP to include the requirements for water as set forth in the System Improvements exhibit attached to this MDA and otherwise herein; (d) amending the storm sewer IFFP to include the requirements for storm sewer as set forth in the System Improvements exhibit attached to this MDA and otherwise herein and (e) including any other portion of the improvements contemplated on the Preliminary PUD or in the System Improvements exhibit attached to this MDA that are legally permissible to include in an IFFP, including any "system improvements", within the applicable Impact Fee Facility Plan. If the City fails to so amend any of the IFFP plans as provided above, Master Developer may elect to cause the termination of the Stay Agreement or, to the extent applicable, refile a complaint objecting to the annexation of the Property as described in the recitals to this MDA. The System Improvements located on the Property shall be designed and constructed in accordance with the Transportation Master Plan, the Water Master Plan and the Storm Drainage Master Plan (each as updated as required herein) to accommodate the Maximum Residential Units as shown on the Preliminary PUD that can be developed within the Property, along with the development and use of other adjacent property that may use the infrastructure improvements

10.3. **Limitations on Impact Fee Use.** The City acknowledges and agrees that the Impact Fees generated from the Project are to be used first to fund any system improvements located or to be located on the Project. To the extent that, as reasonably determined by the City

and Master Developer, the Impact Fees collected or to be collected from the Project exceed the cost of the system improvements located or to be located on the Project, such excess Impact Fees may be used by the City to fund off-Project costs to the extent permitted by applicable law.

11. Default.

11.1. **Notice.** If Master Developer or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Master Developer.

11.2. **Contents of the Notice of Default.** The Notice of Default shall:

11.2.1. Specific Claim. Specify the claimed event of Default;

11.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

11.2.3. Materiality. Identify why the Default is claimed to be material; and

11.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

11.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the Parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.11 and 5.13. If the claimed Default is subject to Arbitration as provided in Section 5.14 then the Parties shall follow such processes.

11.4. **Remedies.** If the Parties are not able to resolve the Default by “Meet and Confer” or by Mediation, and if the Default is not subject to Arbitration, or Arbitrator does not yield a desired result, then the Parties may have the following remedies:

11.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages; provided, however, Master Developer and/or Subdeveloper shall not pursue an action for monetary damages, except under the following circumstances: (a) any default by the City for non-payment of funds by the City, (b) any default arising from fraud, bad faith, or gross negligence by the City, (c) any default arising from the failure of the City to timely initiate and thereafter prosecute any acquisition of any portion of the rights-of-way and easements necessary for the System Improvements as required by this MDA, and/or (d) any default arising from the City where specific performance is unavailable as a remedy, provided that any claim under this clause (d) shall be capped at the amount of available insurance then maintained by the City.

11.4.2. Self-help. In the event of a default by the City, to the extent possible, Master Developer and/or Subdeveloper shall perform the City’s obligations. In such an event, the City shall reimburse the Master Developer and/or Subdeveloper for the costs incurred associated

with the performance of the City's obligations within ten (10) days after written demand. If the City fails to reimburse the Master Developer and/or Subdeveloper within such ten (10) day period, the amount due shall accrue interest at the Interest Rate. Notwithstanding the foregoing, if any amount owed by the City to the Master Developer and/or the Subdeveloper is not paid within ninety (90) days after such amount is due, Master Developer and/or the Subdeveloper shall have the right to exercise any remedies available under this MDA, at law or in equity against the City.

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

11.4.4. Future Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of (i) the Project in the case of a default by Master Developer, or (ii) those Parcels/Pods owned by the applicable Subdeveloper in the case of a default by such Subdeveloper, in each case until the applicable Default has been cured.

11.5. **Public Meeting.** Before any remedy in Section 11.4.3 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the Council and address the Council regarding the claimed Default.

11.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Council finds on the record that a default materially impairs and creates a compelling, countervailing interest of the City and that any delays in imposing such a default would also result in a compelling, countervailing interest of the City then the City may impose the remedies of Section 11.4.3 and 11.4.4 without the requirements of Sections 11.3. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

11.7. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty (60) days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence, but in no case longer than one-hundred twenty (120) days.

11.8. **Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

11.9. **Default of Assignee.** A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

12. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

Dansie Land, LLC

Attn: Richard P. Dansie
7070 West 13090 South (Herriman Highway)
Herriman, Utah 84096

With a copy (which shall not be considered notice) to:

Loyal C. Hulme, Esq.
Kirtan McConkie
50 East South Temple
Salt Lake City, Utah 84111

To the City:

Herriman City
Attn: City Manager
5355 Main Street
Herriman, UT 84096

Herriman City
Attn: City Attorney
5355 Main Street
Herriman, UT 84096

12.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

12.1.1. Hand Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice). If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

12.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

12.1.3. Mailing. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

13. **Estoppel Certificate.** Upon ten (10) calendar days prior written request by Master Developer or a Subdeveloper, the City will execute an estoppel certificate to any third party certifying that Master Developer or a Subdeveloper, as the case may be, at that time is not in

default of the terms of this MDA.

14. **Attorneys' Fees.** In addition to any other relief, the prevailing party in any action, whether at law, in equity or by arbitration, to enforce any provision of this MDA shall be entitled to its costs of action including a reasonable attorneys' fee.

15. **Headings.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

16. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City and Master Developer. Further, the Parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City's Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City's.

17. **Assignability.** The rights, responsibilities, benefits, obligations, and burdens of Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the City as provided herein; provided that no such consent shall be required to so assign to any Subdeveloper; provided further that Master Developer shall remain liable for the performance by any such assignee Subdeveloper except as otherwise provided herein, including, without limitation, Section 17.5.

17.1. **Sale of Lots.** Master Developer's selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer.

17.2. **Related Entity.** Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

17.3. **Notice.** Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

17.4. **Time for Objection.** To the extent City has consent rights to an assignment, unless the City objects in writing within twenty (20) business days of notice, the City shall be

deemed to have approved of and consented to the assignment.

17.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned, provided that Master Developer shall not be so released upon any such partial assignment unless such Subdeveloper has (i) a net worth in excess of \$10,000,000.00 at the time of such assignment; or (ii) acquires or is otherwise under contract to acquire all or substantially all of one or more Pods in connection with such assignment, whether such acquisition occurs (or is intended to occur) in a single transaction or a series of transactions; or (iii) if clauses (i) or (ii) do not apply, the Subdeveloper is otherwise reasonably acceptable to the City.

17.6. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

17.7. **Release of Master Developer.** Master Developer represents and the City acknowledges that the Master Developer plans to sell portions of the Property and does not plan to develop any portion of the Property itself. Instead the Property will be developed by one or more Subdevelopers. As such, in the event Master Developer sells or conveys any portion of the Property, such sale shall be deemed a partial assignment and Sections 17.5 and 17.7 shall apply, and Master Developer shall be fully and completely released from any obligations whatsoever related to the portion of the Property sold, and the City shall look solely to the Subdeveloper for performance hereunder relating to the Parties of the Property sold.

18. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and Density as applicable to such Parcel and be subject to the same limitations and rights of the City when owned by Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein. The City agrees that this MDA is a contract and contains contractual obligations of the City, and is fully enforceable and binding upon the City.

19. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

20. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect; provided, however, if any of the City's representations, covenants, agreements, or obligations are invalidated, Master Developer shall have the right, in its sole and absolute discretion, to terminate this MDA and/or pursue any remedies available under this MDA.

21. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this MDA which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.
22. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.
23. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager and the initial representative for Master Developer shall be Loyal Hulme of Kirton McConkie, P.C. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.
24. **Mutual Drafting.** Each party has participated in negotiating this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.
25. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.
26. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake County.
27. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.
28. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City's Vested Laws, Exhibit "C", shall not be recorded in the chain of title. A secure copy of Exhibit "C" shall be filed with the City Recorder and each party shall also have an identical copy.
29. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. ____ adopted by the City on November __, 2017.

IN WITNESS WHEREOF, the Parties hereto have executed this MDA by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
Dansie Land, LLC

CITY
Herriman City

By: Richard P. Dansie
Its: Manager

By: Brent Wood,
Its: City Manager

Approved as to form and legality:

Attest:

City Attorney

City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

On the ____ day of _____, personally appeared before me _____ who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

On the ____ day of _____, 2017, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of _____, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

TABLE OF EXHIBITS

Exhibit “A”	Legal Description of Property
Exhibit “B”	Capital Improvement Roads
Exhibit “C”	City’s Vested Laws
Exhibit “D-1”	2017 General Plan
Exhibit “D-2”	2014 General Plan
Exhibit “E”	MDA Ordinance
Exhibit “F”	Preliminary PUD
Exhibit “G”	System Improvements on Property
Exhibit “H”	Zoning Map
Exhibit “I”	Traffic Study
Exhibit “J”	Storm Drain Requirements

Exhibit "A"
Legal Description of Property

OVERALL DESCRIPTION

A portion of the SE1/4 and SW1/4 of Section 33, and a portion of Section 34, Township 3 South, Range 2 West, Salt Lake Base and Meridian, Herriman, Utah, more particularly described as follows:

Beginning at the South ¼ Corner of Section 34, T3S, R2W, SLB&M; thence N89°53'28"W along the Section line 1,208.30 feet; thence N0°14'55"W 892.87 feet to the centerline of Herriman Highway; thence along said centerline the following 2 (two) courses and distances: S75°27'00"W 1,252.37 feet; thence S76°37'00"W 238.88 feet; to the Section line; thence N0°18'05"W along the Section line 803.76 feet to the Southeast Corner of the NE1/4 of the SE1/4 of Section 33, T3S, R2W, SLB&M; thence N89°55'34"W along the 1/16th (40 acre) line 3984.36 feet; thence N0°38'23"W along the 1/16th (40 acre) line 1,323.55 feet to the 1/4 Section line; thence S89°55'59"E along the 1/4 Section line 3992.18 feet to the East ¼ Corner of Section 33; thence S89°51'43"E along the 1/4 Section line 1,329.78 feet to the West 1/16th Corner of Section 34; thence N0°14'07"W along the 1/16th (40 acre) line 1,326.55 feet to the Center 1/16th Corner of the NW1/4 of Section 34; thence S89°49'23"E along the 1/16th (40 acre) line 2,661.98 feet to the Center 1/16th Corner of the NE1/4 of Section 34; thence S0°07'34"E along the 1/16th (40 acre) line 1,342.76 feet to the Northerly line of Plat "B", WESTERN CREEK Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence S79°59'39"W along said plat 6.09 feet; thence S0°12'42"E along said plat 779.78 feet; thence N89°59'57"W 132.48 feet; thence South 187.10 feet; thence N71°29'13"E 140.30 feet to the west line of said plat; thence South along said plat 37.63 feet; thence N71°07'20"E 4.93 feet to the 1/16th (40 acre) line; thence S0°07'34"E along the 1/16th (40 acre) line 82.51 feet; thence N89°55'05"W 165.00 feet; thence S0°07'34"E 264.36 feet to the north line of CHRISTOFFERSEN ESTATES Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N89°51'03"W along said plat 1,163.36 feet to the 1/4 Section line; thence S0°10'55"E 1,322.27 feet to the point of beginning.

LESS AND EXCEPTING COLTON Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder and Tracts Previously Conveyed.

ALSO LESS AND EXCEPTING that Real Property described in Deed Bool 7011 Page 1538 of the Official Records of Salt Lake County described by deed as follows:

Beginning on the North right of way line of Utah Highway 111, said point being South 1106.76 feet and West 1844.51 feet from the East Quarter Corner of Section 34, Township 3 South, Range 2 West, Salt Lake Base and Meridian, said point also being South 71°29' West 1945.21 feet and North 28.00 feet from the Salt Lake County Witness Monument located in said highway; and running thence South 71°29' West 100 feet; thence North 459.41 feet; thence North 71°29' East 100.00 feet; thence South 459.41 feet to the point of beginning.

‘Net’ Area: 372.97± acres

Exhibit “B”
Capital Improvement Roads

(see attached)

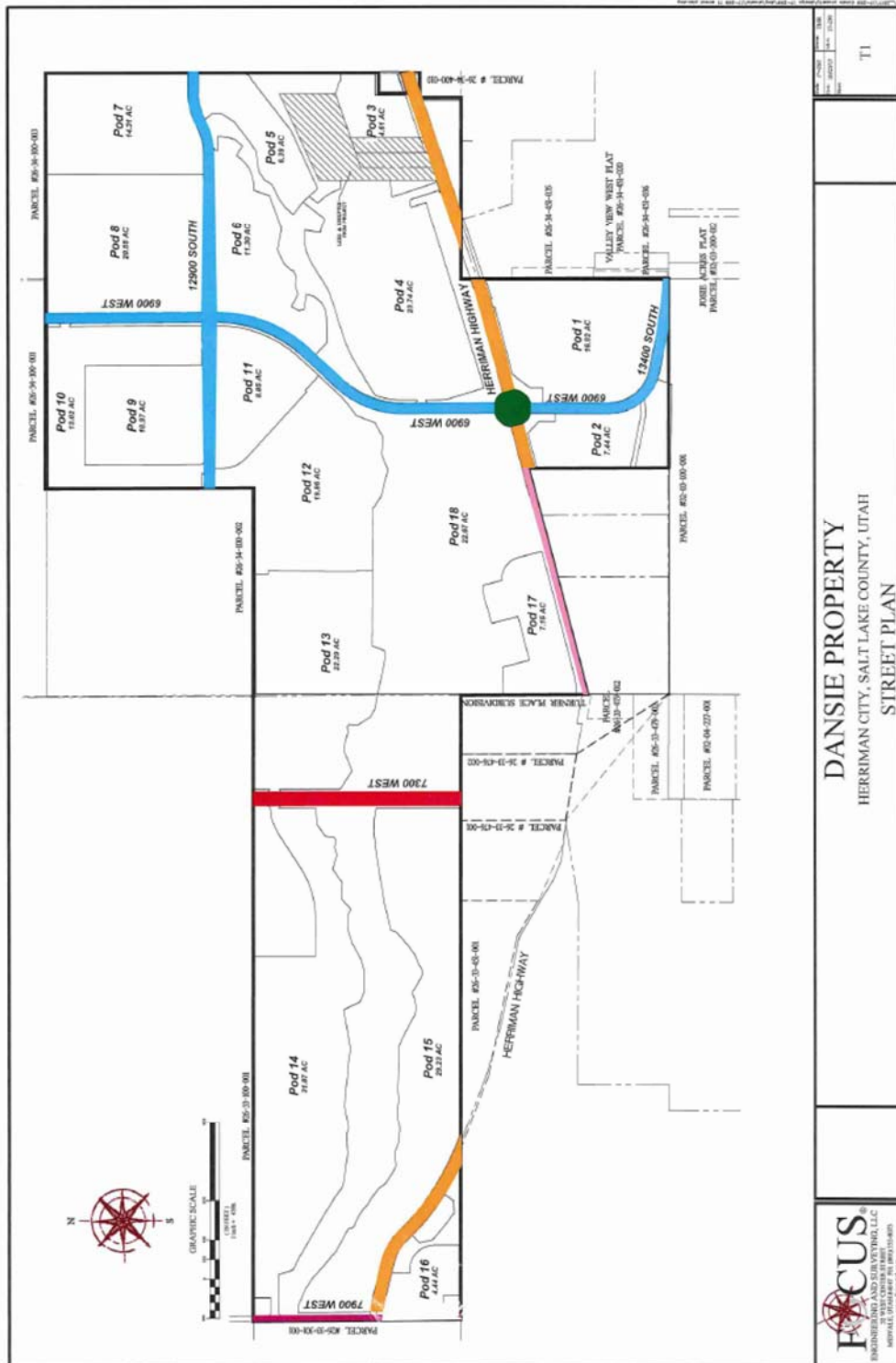


Exhibit “C”
City’s Vested Laws

(see attached)

Exhibit "D-1" 2017 General Plan

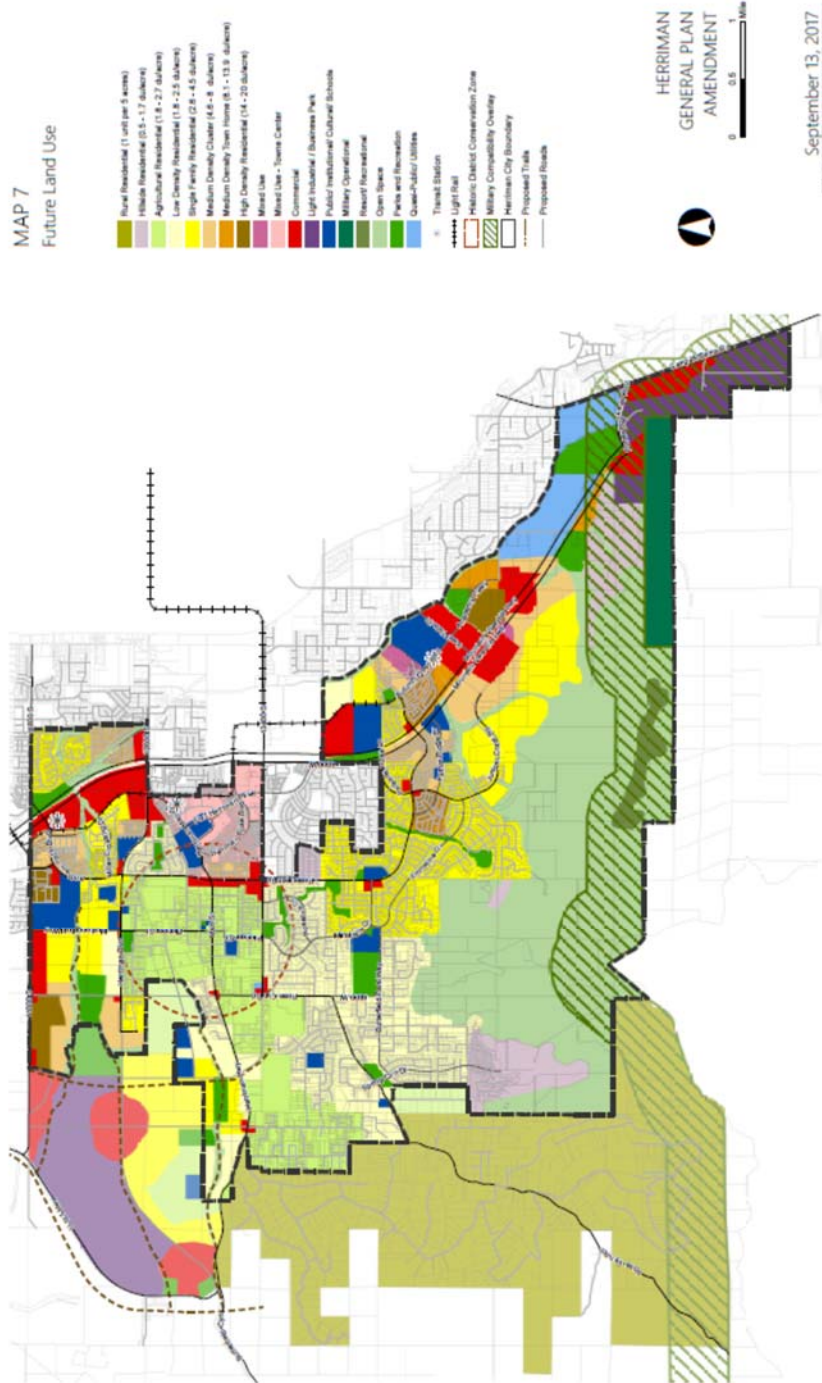


Exhibit “D-2” 2014 General Plan

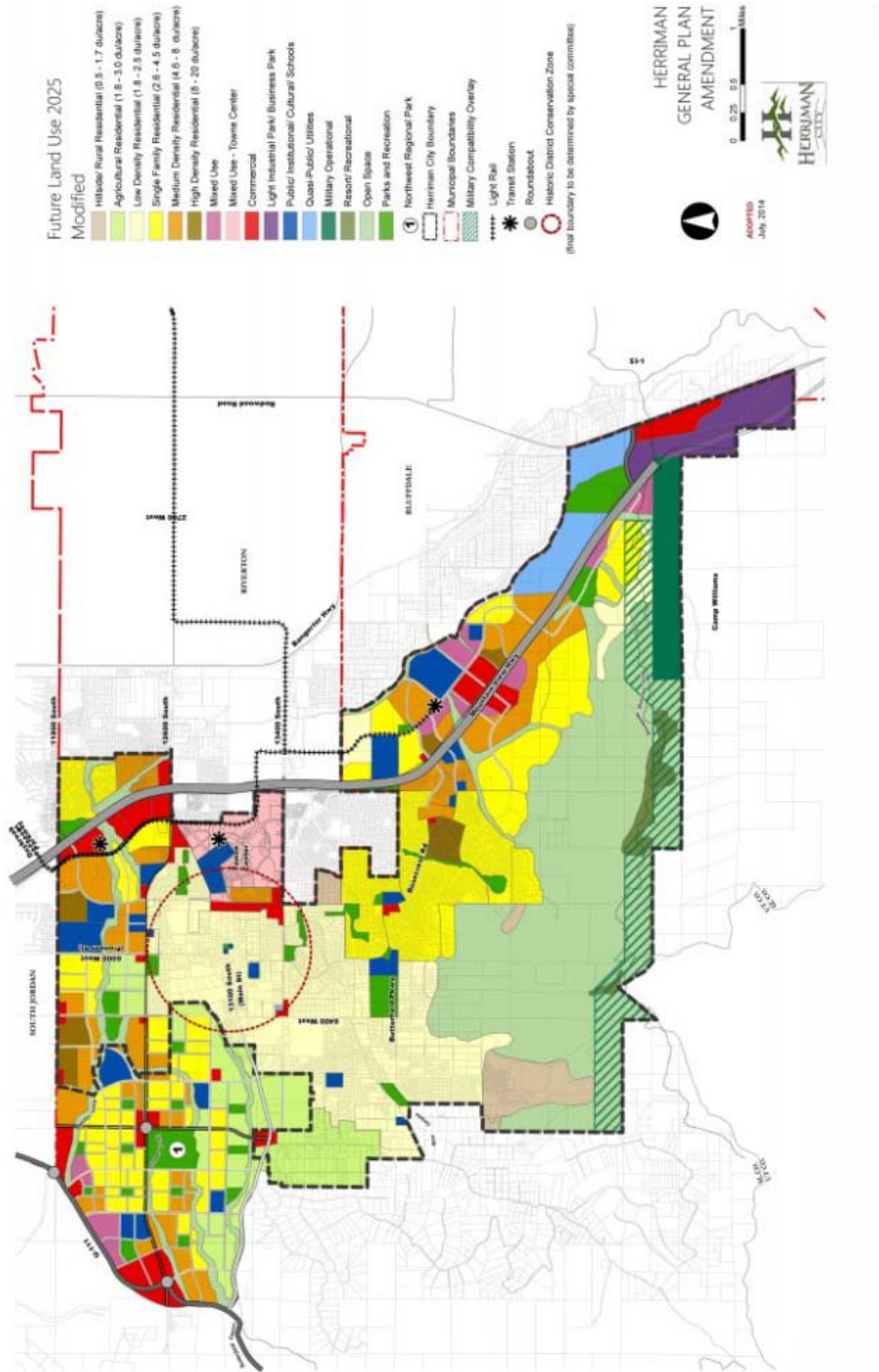


Exhibit “E”
MDA Ordinance
(see attached)

Exhibit “F”
Preliminary PUD

(see attached)

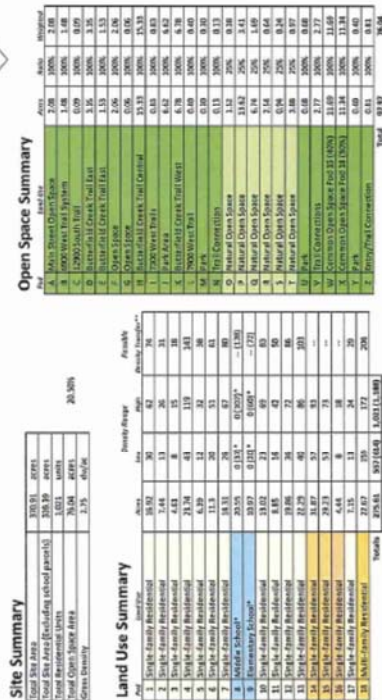
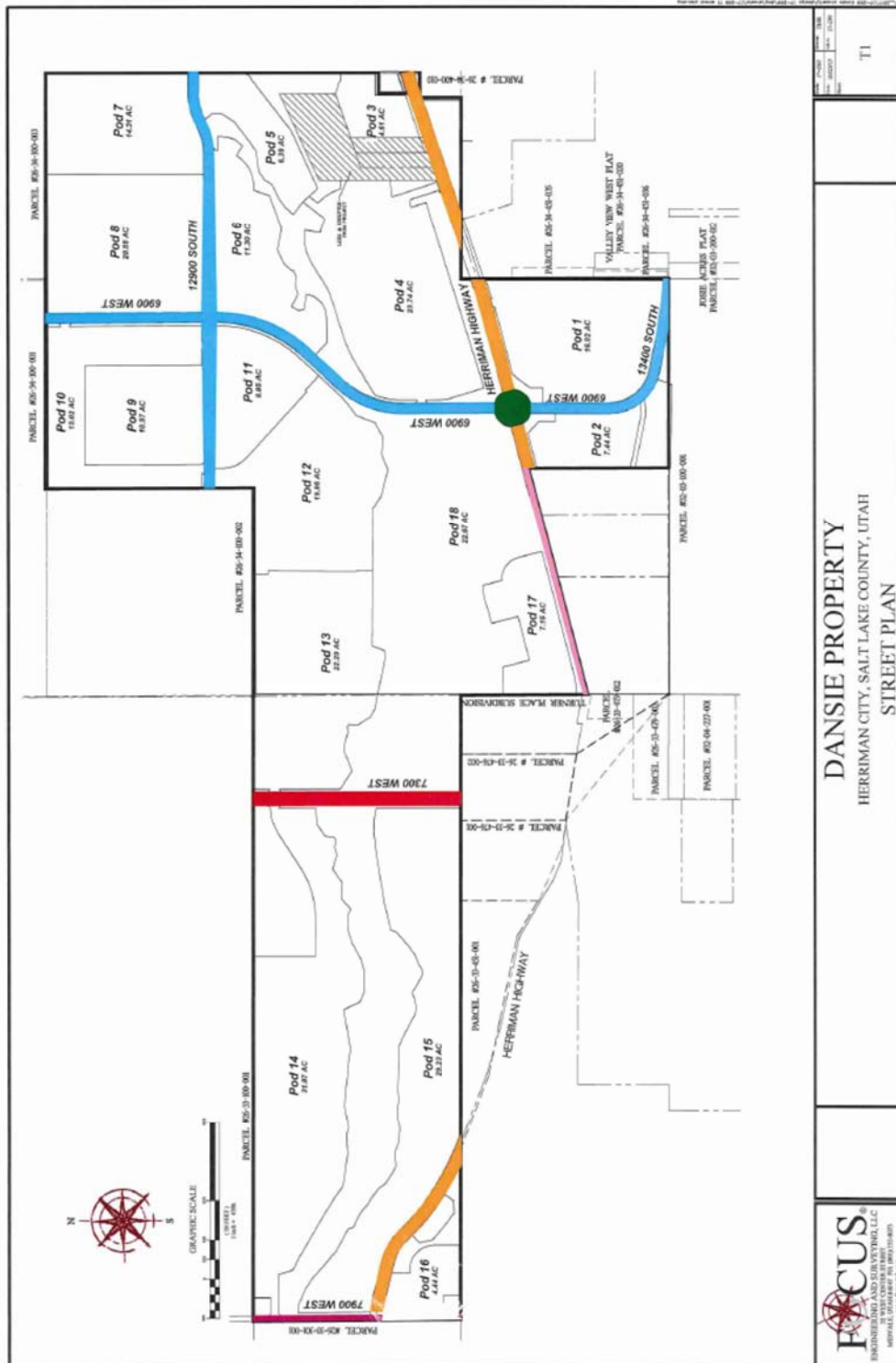


Exhibit “G”
System Improvements on Property
(see attached)



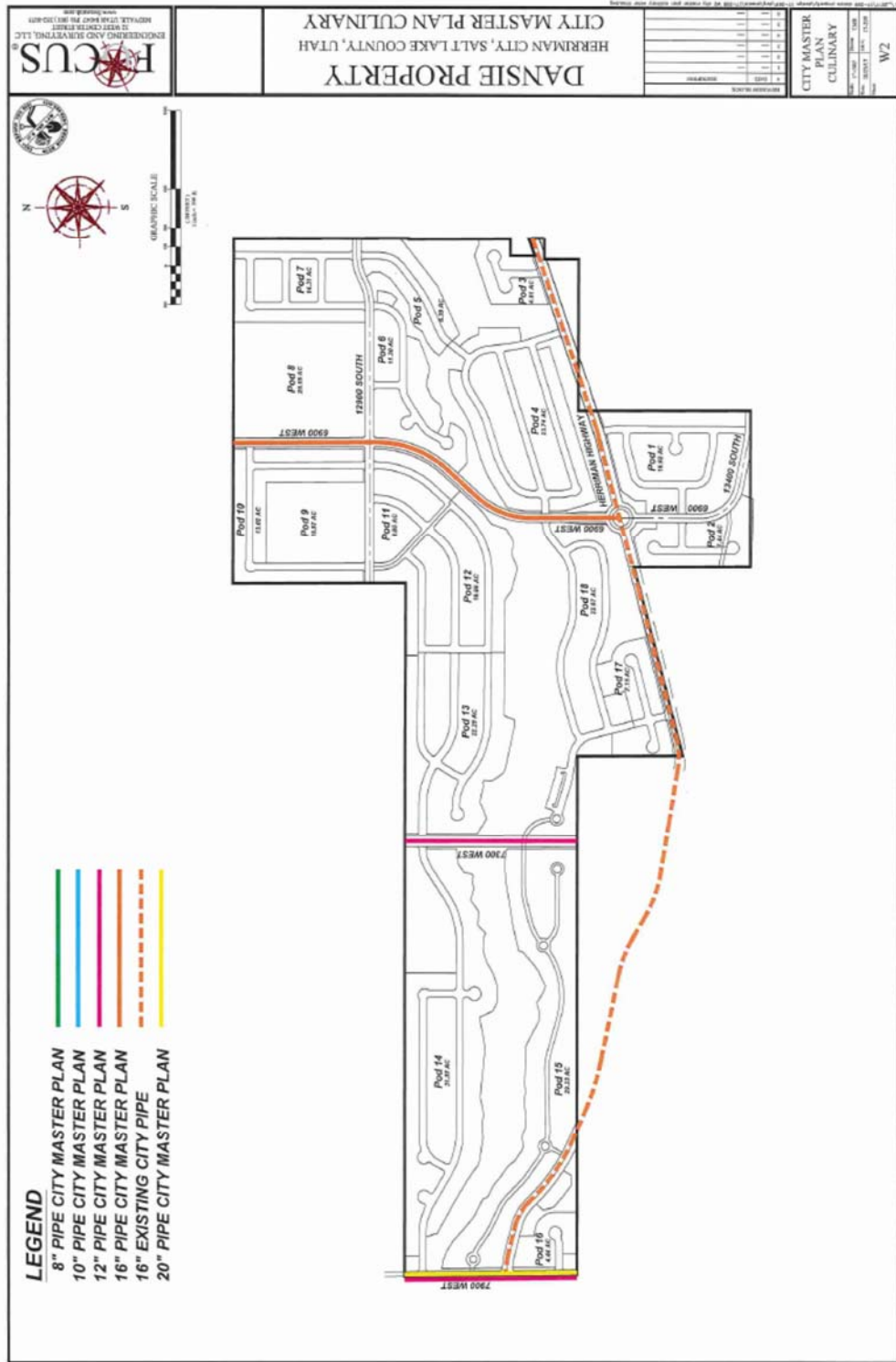
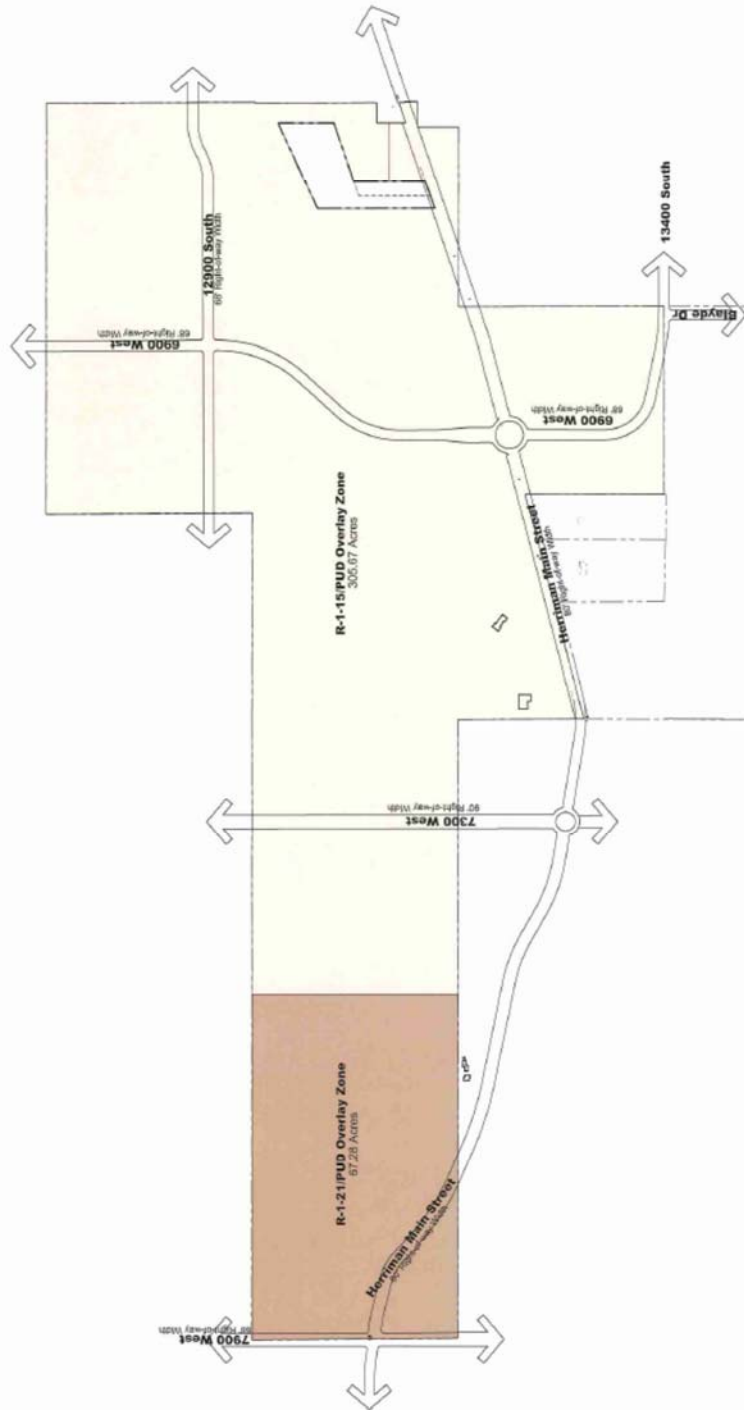


Exhibit "H" Zoning Map



Zoning Exhibit
 Dansie Property, Herriman, Utah
 October 27, 2017

Think
 Architecture

Exhibit “T”
Traffic Study

(see attached)

Exhibit “J”
Storm Drain Requirements

- Prior to Engineering approval of the first phase of the development, the Master Developer or the Sub Developer must provide an approved Storm Drain Master Plan outlining the required storm drain infrastructure to service the development in order to comply with local standards and requirements including but not limited to the Herriman City Standards.
- Detention Ponds are allowed to be constructed with highwater depths greater than 4.0' if a perimeter fence is installed around the pond.
- Temporary Detention Ponds within the development area will not be allowed. Each phase of construction will be required to provide the permanent detention pond that will handle flows from the phase being developed. This may require off-site storm drain infrastructure or easements. Temporary Retention ponds may be allowed if approved by the city engineer and a permanent detention pond plan is in place for the temporary retention pond.
- Storm Drain Discharge locations shall be approved by the governing entity.
- The storm drain piping shall be designed at a minimum 0.5% slope unless approved by the city engineer.



Site Summary

Total Site Area	370.91	acres
Total Site Area (Excluding school parcels)	339.39	acres
Total Residential Units	1,021	units
Total Open Space Area	76.04	acres
Gross Density	2.75	du/ac

20.50%

Land Use Summary

Pod	Land Use	Acres	Density Range		Possible
			Low	High	Density Transfer**
1	Single-family Residential	16.92	30	62	74
2	Single-family Residential	7.44	13	26	31
3	Single-family Residential	4.61	8	15	18
4	Single-family Residential	23.74	43	119	143
5	Single-family Residential	6.39	12	32	38
6	Single-family Residential	11.3	20	51	61
7	Single-family Residential	14.31	26	67	80
8	Middle School*	20.55	0 (37)*	0 (107)*	-- (128)
9	Elementary School*	10.97	0 (20)*	0 (60)*	-- (72)
10	Single-family Residential	13.02	23	69	83
11	Single-family Residential	8.85	16	42	50
12	Single-family Residential	19.86	36	72	86
13	Single-family Residential	22.29	40	86	103
14	Single-family Residential	31.87	57	93	--
15	Single-family Residential	29.23	53	73	--
16	Single-family Residential	4.44	8	18	--
17	Single-family Residential	7.15	13	24	29
18	Multi-family Residential	22.67	159	172	206
Totals		275.61	557 (614)	1,021 (1,188)	

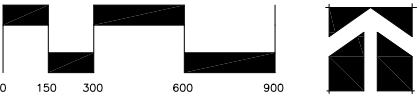
Open Space Summary

Pod	Land Use	Acres	Ratio	Weighted
A	Main Street Open Space	2.08	100%	2.08
B	6900 West Trail System	1.48	100%	1.48
C	12900 South Trail	0.09	100%	0.09
D	Butterfield Creek Trail East	3.35	100%	3.35
E	Butterfield Creek Trail East	1.53	100%	1.53
F	Open Space	2.06	100%	2.06
G	Open Space	0.06	100%	0.06
H	Butterfield Creek Trail Central	15.33	100%	15.33
I	7300 West Trails	0.83	100%	0.83
J	Park Area	6.62	100%	6.62
K	Butterfield Creek Trail West	6.78	100%	6.78
L	7900 West Trail	0.40	100%	0.40
M	Park	0.30	100%	0.30
N	Trail Connection	0.13	100%	0.13
O	Natural Open Space	1.52	25%	0.38
P	Natural Open Space	13.62	25%	3.41
Q	Natural Open Space	6.74	25%	1.69
R	Natural Open Space	2.54	25%	0.64
S	Natural Open Space	0.94	25%	0.24
T	Natural Open Space	3.88	25%	0.97
U	Park	0.68	100%	0.68
V	Trail Connections	2.77	100%	2.77
W	Common Open Space Pod 15 (40%)	11.69	100%	11.69
X	Common Open Space Pod 18 (50%)	11.34	100%	11.34
Y	Park	0.40	100%	0.40
Z	Entry/Trail Connection	0.81	100%	0.81
Total		97.97		76.04



Land Use Plan
Dansie Property, Herriman, Utah

October 27, 2017



* If these Pods are not developed as School Sites and are to be developed as residential units as provided in Section 2.3 of the MDA, the numbers shown in parenthesis shall apply. If these Pods are developed as School Sites, the numbers shown in parenthesis shall be disregarded.

** See MDA Section 2.4

Proposed Setbacks

Dansie Property, Herriman, Utah
October 27, 2017

Zone	Min Front	Min Side	Min Rear
R-1-15	20'	5'/10'/15' corner	20'
R-1-15 (Pods 15 & 18)	15'	<i>Note: Front setback may be reduced to 15' if the garage setback from the front plane of the garage to the public right of way or sidewalk is at least 20'.</i>	
R-1-21	20'	5'/10'/15' corner	20'
R-1-21 (Pod 15)	15'	<i>Note: Front setback may be reduced to 15' if the garage setback from the front plane of the garage to the public right of way or sidewalk is at least 20'.</i>	