

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
May 21, 2019 – WORK SESSION

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Executive Conference Room
55 South State Street
Third Floor
Clearfield, Utah

6:00 P.M. WORK SESSION

Discussion on a Zoning Text Amendment to Amend City Code § 11-15-8F Billboard Regulations

Discussion on a Request to Rezone Property Located at Approximately 90 West 200 South
(TIN: 12-020-0062) from R-1-8 (Residential) to R-1-6 (Residential)

Discussion on the Development Agreement with Bravada 193, LLC for the Development of the
Property Located in the Vicinity of 788 South 2000 East (TIN: 09-419-0102)

Discussion on the Amended Development Agreement with Hamblin Investment Group, LLC
for the Development of Kensington Place Townhomes Subdivision Located at 852 and 880 South
550 East (TIN: 12-815-0001 and 12-815-0002)

Review of “The Five Dysfunctions Of A Team”

****ADJOURN AS THE CITY COUNCIL****

Dated this 16th day of May, 2019.

/s/Nancy R. Dean, City Recorder

The City of Clearfield, in accordance with the ‘Americans with Disabilities Act’ provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.



Planning Commission

STAFF REPORT

AGENDA ITEM
#1

TO: Clearfield City Planning Commission

FROM: Brad McIlrath, Senior Planner
brad.mcilrath@clearfieldcity.org
(801) 525-2784

MEETING DATE: Wednesday, May 8, 2019

SUBJECT: Public Hearing, Discussion on **ZTA 1903-0017**, a zoning text amendment by Clearfield City to amend Section 11-15-8F, the billboard regulations of the sign ordinance. The purpose of these amendments is to provide additional buffering, location, and design standards for existing and relocated billboards within the City. **Planner: Brad McIlrath (Legislative Matter).**

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation of **APPROVAL** for **ZTA 1903-0017** to the City Council, a zoning text amendment to amend Land Use Ordinance Section 11-15-8F as proposed. This recommendation is based upon the information and findings outlined in this report.

RECOMMENDATION OPTIONS

1. **Move to recommend approval of ZTA 1903-0017** to the City Council, a zoning text amendment to amend Land Use Ordinance Section 11-15-8F as proposed.
2. **Move to recommend denial of ZTA 1903-0017** to the City Council, a zoning text amendment to amend Land Use Ordinance Section 11-15-8F as proposed.
3. **Move to table ZTA 1902-0002** to request additional information for consideration.

The Planning Commission may also make a recommendation that is different than those listed above such as a modified recommendation of approval.

BACKGROUND & ANALYSIS

With the recent relocation of a billboard to a commercially zoned property located at I-15 and 200 South and its proximity to a single-family residential neighborhood, it was requested that staff research and present ordinance changes to help prevent this situation from happening again in the future. As part of the research of standards that can be included to protect residential areas from the impacts of billboards, staff has received assistance from Scenic Utah, a nonprofit organization that provides assistance with billboard regulations as part of their mission along with help from the neighborhood. From research, staff determined that it was important to understand the current Utah State Code standards and also the local regulations for billboards. Based upon this review and that of other municipal codes and information provided by Scenic Utah, staff proposes ordinance changes outlined later in this report.

Utah State Code outlines standards for Billboards within the Utah Outdoor Advertising Act (72-7-5) and the Municipal Land Use, Development, and Management Act also known as LUDMA (10-9a-513). The standards outlined in these Utah State Code sections provide the minimum standards for billboard locations and relocations that the Utah Department of Transportation (UDOT) and municipalities must adhere to. As outlined in Utah State Code section 10-9a-104, “a municipality may enact a land use regulation imposing stricter requirements or higher standards than are required by this chapter. A municipality may not impose a requirement or standard that conflicts with a provision of this chapter, other state law, or federal law.” This report provides further background and analysis of these existing State Code standards along with the current Clearfield City standards that regulate billboards. Based upon this review and that of other municipal billboard regulations, staff is proposing amendments to the language in the City’s billboard regulations to promote community health, safety, and general welfare for residents and visitors of Clearfield.

A. Utah State Code Standards and Clearfield City Standards

Utah Outdoor Advertising Act (Utah Code 72-7-5)

This act provides statewide regulations for all advertising along State Highways and Roads which includes billboards, unified commercial developments, and UDOT signage. This act provides the specific regulations that UDOT must follow with all types of outdoor advertising in areas where the State has jurisdiction. The following summarized standards apply specifically to billboards and this text amendment but are not a complete list of all the standards outlined in this act. This summary begins with definitions.

Definitions

- “Relocation” includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.
- “Remodel” means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.
- “Visibility Area” means the area on a street or highway that is:
 - defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - perpendicular to the street or highway; and
 - 500 feet from the base of the billboard.

Standards

- Maximum area – 1,000 square feet
- Maximum length – 60 feet
- Maximum height – 65 feet above the ground or 25 feet above the main traveled way, whichever is greater.
- The height of the sign may be adjusted if the view or readability of the sign is obstructed due to a noise abatement or safety measure (sound wall), grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of the state. The owner of the sign May 2, 2019:
 - Adjust the height of the sign; or

- Relocate the sign to a point within 500 feet of its prior location if in an industrial or commercial zone and if it complies with the spacing requirements.
- If the height is adjusted it can be up to a height to make the entire advertising content clearly visible, but has to be the same size as the previous sign.
- May not be located within 500 feet of a public park, forest, playground, cemetery, or areas designated as a scenic area by UDOT or other state agency having and exercising this authority.
- May not be located closer than 500 feet to an existing off-premise sign (billboard) adjacent to an interstate highway or limited access primary highway.
- May not be located closer than 500 feet from an interchange, or intersection at grade, or rest area.
- A changeable message sign is permitted, but the interval between messages cannot be less than 8 seconds and the change must occur within 3 seconds.
- An illumination standard adopted by any jurisdiction shall be uniformly applied to all signs, public or private, on or off premise. (Staff understands this regulation to mean, that if a city adopts an illumination standard, UDOT must also abide by that standard for the signs that are identified by the city)

As stated above, this is not the full list of regulations, but these have been provided to assist the Planning Commission in better understanding the standards UDOT has a right to impose on state roads and highways.

Municipal Land Use, Development, and Management Act, AKA LUDMA (Section 10-9a-513)

This section of state code outlines regulations for municipalities in the treatment of billboards with regards to relocation requests and eminent domain/acquisition of a billboard by a municipality for failure to find a mutual agreed upon location. Similar to the act outlined above, which provides specific regulations that UDOT must abide, this section of state code provides the minimum standards the municipalities must abide by with regards to billboards.

Definitions

- “Clearly visible” means capable of being read without obstruction by any occupant of a vehicle traveling on a street or highway within the visibility area.
- “Highest allowable height” means:
 - the height allowed by the municipality if it is higher than the following standards:
 - Noninterstate billboard:
 - the height of the previous use or structure; or
 - if the height of the previous use or structure was less than 45 feet, then that height or up to 45 feet to make the entire advertising content of the billboard clearly visible.
 - Interstate billboard:
 - if the height of the previous use or structure is at or above the interstate height, then it is that previous height; or
 - if the height of the previous use or structure is less than the interstate height, then the previous height, or to a height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- “Interstate height” means a height that is the higher of:
 - 65 feet above ground; or
 - 25 feet above the grade of the interstate.

- “Visibility area” means the area on a street or highway that is:
 - defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - perpendicular to the street or highway; and
 - for an interstate billboard, 500 feet from the base of the billboard; or
 - for a noninterstate billboard, 300 feet from the base of the billboard.

Standards

- If the owner of a billboard makes a written request to the municipality with jurisdiction of the billboard for one of the following actions, the municipality must respond within 180 days, or the owner may take the action that they requested.
 - A billboard owner may:
 - rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - relocate or rebuild a billboard structure or take another correcting action if there was a mistake in the placement or erection of a billboard;
 - structurally modify or upgrade a billboard;
 - relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality’s boundaries, if the relocated billboard is:
 - within 5,280 feet of the billboard’s previous location; and
 - no closer than 300 feet from an off-premise sign (billboard) existing on the same side of the street or highway, or 500 feet if it is an interstate.
- During relocation or structural modification a billboard owner can
 - erect the billboard:
 - to the highest allowable height; and
 - as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or
 - install a sign face that is at least the same size as, but no larger than, the sign face on the billboard before the billboard’s relocation.

Clearfield City Billboard Regulations (Section 11-15-8F)

The following are the current City standards for billboards.

F. Billboards: No new billboards shall be permitted after the effective date hereof. Existing billboards shall comply with the following regulations:

1. Location: Billboards shall be allowed only on commercial parcels adjacent to the Interstate I-15 right of way and Legend Hills Drive. Billboards shall be oriented for freeway viewing and shall be located within one hundred fifty feet (150') of the nearest freeway lane.
2. Size, Height And Spacing: Billboards shall be regulated as follows:
 - a. Size: Maximum area of one face of a sign (whether single or double faced) shall be six hundred seventy five (675) square feet.
 - b. Height: Maximum height of billboards shall be forty five feet (45') above the grade of the traveled way of the interstate.
 - c. Spacing: No billboard shall be erected within five hundred feet (500') of another billboard on the same side of the street, or of an Interstate I-15 interchange.

3. Sign Construction: All billboards shall be of a monopole construction.
4. Conditional Use Permit: Billboards shall require a conditional use permit, to be obtained in accordance with the provisions of [chapter 4](#) of this title.

B. Scenic Utah Information & Resident Assistance

In their efforts to assist Clearfield City Staff, Scenic Utah provided a document with a summary of municipalities within the state and their regulations regarding billboards. The summary includes information for 38 of the 243 total municipalities in the state. The list could be considered to include the most populous cities and those along major transportation corridors. The majority of the cities on the list prohibit billboards, but as stated on this list the existing billboards in those cities are classified as “non-conforming.”

Scenic Utah provided preliminary results of polling questions regarding billboards and public opinion regarding billboards. This information is not included the summary document and was sent via email. In this scientific poll of 750 likely voters statewide the following information was gathered.

1. 75% of Utah respondents AGREED (39% strongly and 36% somewhat) with the following statement: “Billboards are a total eyesore in our community and they have no redeeming value.”
2. 79% of Utah respondents DISAGREED (33% strongly and 39% somewhat) with the following statement: “Billboards are simply a form of advertising, no better, no worse than any other form of advertising.”
3. 80% of Utah respondents DISAGREED (42% strongly and 38% somewhat) with the following statement: “Billboards are an important source of information in our community.”
4. In split-sampling questions about people’s support for (1) ‘reasonable restrictions’, (2) ‘some restrictions’, or (3) a total ban on billboards – respondents were evenly divided on questions #1 and #2, but on question #3, 72% of respondents were strongly supportive of a total ban (representing nearly a 3 to 1 margin in favor of a total ban).

In addition to the assistance provided by Scenic Utah, the City has been provided with proposed language by Jeff Baker, a resident of the neighborhood on 200 South. Based upon this assistance, materials provided, and a review of Utah State code standards, staff proposes changes to City code standards outlined in the next section of this report.

PROPOSED ORDINANCE AMENDMENT LANGUAGE

All new language is indicated with an underline and highlighted, and as necessary, an explanation provided in parenthesis, italics and red lettering.

F. Billboards: No new billboards shall be permitted after the effective date hereof. Existing billboards shall comply with the following regulations:

1. Location: Billboards shall be allowed only on commercial parcels adjacent to the Interstate I-15 right of way and Legend Hills Drive. Billboards shall be oriented for freeway viewing and shall be located within one hundred fifty feet (150') of the nearest freeway lane.
2. Size, Height And Spacing: Billboards shall be regulated as follows:
 - a. Size: Maximum area of one face of a sign (whether single or double faced) shall be six hundred seventy five (675) square feet. Pursuant to Utah State Code section 10-9a-

513(2)(b)(v)(B), a relocated billboard shall not be permitted to have a sign face greater than the sign face on the billboard before the billboard's relocation. A noninterstate billboard that is being relocated to an approved location along the interstate may install a sign face to the maximum area of six hundred seventy five (675) square feet as allowed by this title. *(This proposed standard needs further vetting with the State Property Rights Ombudsman and legal counsel to see if this is legal according to State Code standards. The intent is to encourage the relocation of noninterstate billboards to the interstate. Without providing some type of incentive, the signs will likely never be moved)*

b. Height: Maximum height of billboards shall be forty five feet (45') above the grade of the traveled way of the interstate.

c. Spacing: No billboard shall be erected within five hundred feet (500') of another billboard on the same side of the street, or of an Interstate I-15 interchange.

d. Residential spacing: No billboards after the effective date of this ordinance shall be erected within five hundred feet (500') of any residentially zoned property on the same side of the interstate. *(Jeff Baker proposed 1,000 feet, however after analyzing the locations where billboards can be located along Interstate 15, this distance would not allow for the relocation of more billboards along the interstate. There are approximately 7 billboards that are not located along the interstate. We should encourage the relocation of noninterstate billboards to the interstate)*

3. Sign Construction: All billboards shall be of a monopole construction.

4. Illumination: Billboards shall be illuminated with lighting fixtures that direct light upward onto the advertising message to reduce the amount of reflection on adjacent properties. Lighting from the base of the advertising message area or any area downward is prohibited.

5. Digital/electronic message billboards: Digital and or electronic message center billboards are prohibited.

6. Conditional Use Permit: Billboards shall require a conditional use permit, to be obtained in accordance with the provisions of [chapter 4](#) of this title.

PUBLIC COMMENT

Public notice was placed in the newspaper on April 28, 2019 and on the State of Utah noticing website. No public comment has been received to date.

GENERAL FINDINGS

Zoning Ordinance Text Amendment

Clearfield Land Use Ordinance Section 11-6-3 establishes the following findings the Planning Commission shall make to approve Zoning Ordinance Text Amendments. The findings and staff's evaluation are outlined below:

Review Consideration		Staff Analysis
1)	The proposed amendment is in accordance with the General Plan and Map; or	The proposed amendment is not contradictory to the General Plan. The General Plan encourages continual evaluation and modifications to adopted ordinances as circumstances require.

2)	Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	With recent public comment regarding impacts of billboard relocations and the request to evaluate standards to protect residential neighborhood from the said relocations, the amendments are proposed and would help would help to prevent future concerns with billboard relocations. Additionally, the proposed changes are necessary to address the concerns presented by the residents regarding the negative impact of billboards on the community, including light pollution.
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FINDINGS & CONCLUSION

1. Based on the information provided by Scenic Utah that there is agreement that billboards have distinct negative impacts on communities such as: visual clutter, light pollution, and driver distraction.
2. Utah State Code limits the construction of new billboards within close proximity of existing billboards.
3. Billboards may impede effective and valuable redevelopment and economic development of communities.
4. The proposed amendments will encourage relocation along the interstate while increasing standards to protect residentially zoned properties.

ATTACHMENTS

1. Utah State Code Sections
2. Billboard Summary Sheet by Scenic Utah
3. Clearfield Map of Existing Billboards

Effective 5/8/2018

10-9a-513 Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

(1) As used in this section:

- (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
- (b) "Highest allowable height" means:
 - (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
 - (ii)
 - (A) for a noninterstate billboard:
 - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
 - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
- (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
- (f) "Visibility area" means the area on a street or highway that is:
 - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B)
 - (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2)

- (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:
 - (i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:

- (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and
- (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;
- (ii) denies the request in accordance with Subsection (2)(d); or
- (iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).
- (b) Subject to Subsection (2)(a), a billboard owner may:
 - (i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - (ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modify or upgrade a billboard;
 - (iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:
 - (A) within 5,280 feet of the billboard's previous location; and
 - (B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or (500 feet)
 - (v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:
 - (A) erect the billboard:
 - (I) to the highest allowable height; and
 - (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or
 - (B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.
- (c) A modification under Subsection (2)(b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.
- (d) A municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section 10-9a-512, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:
 - (i) by the billboard applicant in the application; and
 - (ii) regarding the placement or erection of the billboard.
- (e) A municipality that acquires a billboard and associated rights through eminent domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an amount that is:
 - (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard;
 - (iii) the cost of the sign structure; and
 - (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

- (f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):
 - (i) the provisions of Section 78B-6-510 do not apply; and
 - (ii) the municipality may not take possession of the billboard or the billboard's associated rights until:
 - (A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and
 - (B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).
- (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.
- (h)
 - (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).
 - (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.
- (3) Notwithstanding Section 10-9a-512, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:
 - (a) the municipality determines:
 - (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
 - (b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the billboard owner fails to remedy the condition or conditions within:
 - (i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or
 - (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and
 - (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
 - (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

- (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.
- (5) A permit that a municipality issues, extends, or renews for a billboard remains valid beginning on the day on which the municipality issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
 - (b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Amended by Chapter 239, 2018 General Session

Part 5

Utah Outdoor Advertising Act

72-7-501 Purpose of part -- Utah-Federal Agreements ratified.

- (1) The purpose of this part is to provide the statutory basis for the regulation of outdoor advertising consistent with zoning principles and standards and the public policy of this state in providing public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in highways, to preserve the natural scenic beauty of lands bordering on highways, and to ensure that outdoor advertising shall be continued as a standardized medium of communication throughout the state so that it is preserved and can continue to provide general information in the specific interest of the traveling public safely and effectively.
- (2) It is the purpose of this part to provide a statutory basis for the reasonable regulation of outdoor advertising consistent with the customary use, zoning principles and standards, the protection of private property rights, and the public policy relating to areas adjacent to the interstate, federal aid primary highway existing as of June 1, 1991, and the national highway systems highways.
- (3) The agreement entered into between the governor of the state of Utah and the Secretary of Transportation of the United States dated January 18, 1968, regarding the size, lighting, and spacing of outdoor advertising which may be erected and maintained within areas adjacent to the interstate, federal aid primary highway existing as of June 1, 1991, and national highway systems highways which are zoned commercial or industrial or in other unzoned commercial or industrial areas as defined pursuant to the terms of the agreement is hereby ratified and approved, subject to subsequent amendments.

Renumbered and Amended by Chapter 270, 1998 General Session

72-7-502 Definitions.

As used in this part:

- (1) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on the main traveled way of a street or highway within the visibility area.
- (2) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:
 - (a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;
 - (b) transient or temporary activities;
 - (c) activities not visible from the main-traveled way;
 - (d) activities conducted in a building principally used as a residence; and
 - (e) railroad tracks and minor sidings.
- (3)
 - (a) "Commercial or industrial zone" means only:
 - (i) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;
 - (ii) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

- (iii) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:
 - (A) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and
 - (B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or
- (iv) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.
- (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.
- (4) "Comprehensive local zoning ordinances or regulations" means a municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.
- (5) "Contiguous" means that a portion of one parcel of land is situated immediately adjacent to, and shares a common boundary with, a portion of another parcel of land.
- (6) "Controlled route" means any route where outdoor advertising control is mandated by state or federal law, including under this part and under the Utah-Federal Agreements described in Section 72-7-501.
- (7) "Directional signs" means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.
- (8)
 - (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.
 - (b) "Erect" does not include any activities defined in Subsection (8)(a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.
- (9) "Highway service zone" means a highway service area where the primary use of the land is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.
- (10) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of:
 - (a) places of interest within the state; or
 - (b) any other information that the department considers desirable.
- (11) "Interchange or intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.
- (12) "Maintain" means to allow to exist, subject to the provisions of this chapter.

- (13) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an act of God.
- (14) "Main-traveled way" means the through traffic lanes, including auxiliary lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each direction.
- (15) "Major sponsor" means a sponsor of a public assembly facility or of a team or event held at the facility where the amount paid by the sponsor to the owner of the facility, to the team, or for the event is at least \$100,000 per year.
- (16) "Official signs and notices" means signs and notices erected and maintained by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out official duties or responsibilities in accordance with direction or authorization contained in federal, state, or local law.
- (17) "Off-premise sign" means a sign located in an area zoned industrial, commercial, or H-1 and in an area determined by the department to be unzoned industrial or commercial that advertises an activity, service, event, person, or product located on premises other than the premises on which the sign is located.
- (18) "On-premise sign" means a sign used to advertise the sale or lease of, or activities conducted on, the property on which the sign is located.
- (19) "Outdoor advertising" means any outdoor advertising structure or outdoor structure used in combination with an outdoor advertising sign or outdoor sign within the outdoor advertising corridor which is visible from a place on the main-traveled way of a controlled route.
- (20) "Outdoor advertising corridor" means a strip of land 660 feet wide, measured perpendicular from the edge of a controlled highway right-of-way.
- (21) "Outdoor advertising structure" or "outdoor structure" means any sign structure, including any necessary devices, supports, appurtenances, and lighting that is part of or supports an outdoor sign.
- (22) "Point of widening" means the point of the gore or the point where the intersecting lane begins to parallel the other lanes of traffic, but the point of widening may never be greater than 2,640 feet from the center line of the intersecting highway of the interchange or intersection at grade.
- (23) "Public assembly facility" means a convention facility as defined under Section 59-12-602 that:
 - (a) includes all contiguous interests in land, improvements, and utilities acquired, constructed, and used in connection with the operation of the public assembly facility, whether the interests are owned or held in fee title or a lease or easement for a term of at least 40 years, and regardless of whether the interests are owned or operated by separate governmental authorities or districts;
 - (b) is wholly or partially funded by public money;
 - (c) requires a person attending an event at the public assembly facility to purchase a ticket or that otherwise charges for the use of the public assembly facility as part of its regular operation; and
 - (d) has a minimum and permanent seating capacity of at least 10,000 people.
- (24) "Public assembly facility sign" means a sign located on a public assembly facility that only advertises the public assembly facility, major sponsors, events, the sponsors of events held or teams playing at the facility, and products sold or services conducted at the facility.
- (25) "Relocation" includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.
- (26) "Relocation and replacement" means allowing all outdoor advertising signs or permits the right to maintain outdoor advertising along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system highways to be maintained in a commercial

or industrial zoned area to accommodate the displacement, remodeling, or widening of the highway systems.

- (27) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.
- (28) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.
- (29) "Scenic or natural area" means an area determined by the department to have aesthetic value.
- (30) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
- (31)
 - (a) "Unzoned commercial or industrial area" means:
 - (i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;
 - (ii) the lands along the highway for a distance of 600 feet immediately adjacent to those activities; and
 - (iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the highway do not have scenic or aesthetic value.
 - (b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.
 - (c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of 12 months.
- (32) "Urbanized county" means a county with a population of at least 125,000 persons.
- (33) "Visibility area" means the area on a street or highway that is:
 - (a) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (b) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (i) perpendicular to the street or highway; and
 - (ii) 500 feet from the base of the billboard.

Amended by Chapter 299, 2016 General Session

72-7-503 Advertising -- Permit required -- Penalty for violation.

- (1) It is unlawful for any person to place any form of advertising upon any part of the public domain, or within 660 feet of a public highway, except within the corporate limits of a city or town, and except upon land in private ownership situated along the highway, without first receiving a permit from the department, if a state highway, or from the county executive, if a county road.
- (2) Any person who violates this section is guilty of a class B misdemeanor.

Amended by Chapter 299, 2016 General Session

72-7-504 Advertising prohibited near interstate or primary system -- Exceptions -- Logo advertising -- Department rules.

- (1) As used in this section, "specific service trailblazer sign" means a guide sign that provides users with business identification or directional information for services and eligible activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).
- (2) Outdoor advertising that is capable of being read or comprehended from any place on the main-traveled way of an interstate or primary system may not be erected or maintained, except:
 - (a) directional and other official signs and notices authorized or required by law, including signs and notices pertaining to natural wonders and scenic and historic attractions, informational or directional signs regarding utility service, emergency telephone signs, buried or underground utility markers, and above ground utility closure signs;
 - (b) on-premise signs advertising the sale or lease of property upon which the on-premise signs are located;
 - (c) on-premise signs advertising major activities conducted on the property where the on-premise signs are located;
 - (d) public assembly facility signs;
 - (e) unified commercial development signs that have received a waiver as described in Section 72-7-504.6;
 - (f) signs located in a commercial or industrial zone;
 - (g) signs located in unzoned industrial or commercial areas as determined from actual land uses; and
 - (h) logo advertising under Subsection (3).
- (3)
 - (a) The department may itself or by contract erect, administer, and maintain informational signs:
 - (i) on the main-traveled way of an interstate or primary system, as it existed on June 1, 1991, specific service signs for the display of logo advertising and information of interest, excluding specific service trailblazer signs as defined in rules adopted in accordance with Section 41-6a-301, to the traveling public if:
 - (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the sign or sign space; and
 - (B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3); and
 - (ii) only on rural conventional roads as defined in rules adopted in accordance with Section 41-6a-301 in a county of the fourth, fifth, or sixth class for tourist-oriented directional signs that display logo advertising and information of interest to the traveling public if:
 - (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the tourist-oriented directional sign or sign space; and
 - (B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3).
 - (b) The amount shall be sufficient to cover the costs of erecting, administering, and maintaining the signs or sign spaces.
 - (c)
 - (i) Any sign erected pursuant to this Subsection (3) which was existing as of March 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

- (ii) A noncompliant sign shall only be permitted for the contract period of the advertising contract.
- (iii) A new advertising contract may not be issued for a noncompliant sign.
- (d) The department may consult the Governor's Office of Economic Development in carrying out this Subsection (3).
- (4)
 - (a) Revenue generated under Subsection (3) shall be:
 - (i) applied first to cover department costs under Subsection (3); and
 - (ii) deposited in the Transportation Fund.
 - (b) Revenue in excess of costs under Subsection (3)(a) shall be deposited in the General Fund as a dedicated credit for use by the Governor's Office of Economic Development no later than the following fiscal year.
- (5) Outdoor advertising under Subsections (2)(a), (f), (g), and (h) shall conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

Amended by Chapter 260, 2017 General Session

72-7-504.5 Public assembly facility signs -- Restrictions.

- (1) Signs on the premises of a public assembly facility that do not bring rental income to the owner of the public assembly facility may advertise:
 - (a) the name of the facility, including identifiable venues or stores within the facility; and
 - (b) principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 C.F.R. Section 750.709, including:
 - (i) events being conducted in the facility or upon the premises, including the sponsor of the current event; and
 - (ii) products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.
- (2) An advertising structure described in Subsection (1):
 - (a) shall be located on a public assembly facility or on a parcel contiguous to the public assembly facility;
 - (b) shall be under the same ownership as the public assembly facility; and
 - (c) may not be separated from the public assembly facility by a public road.
- (3) An advertising structure described in Subsection (1) may only promote a maximum of seven major sponsors and the sponsor of a current event at any one time.
- (4) An advertising structure described in Subsection (1) may not be located on narrow land held by easement or anything other than a fee interest unless it is a part of a public assembly facility.
- (5) A public assembly facility is exempt from the requirement under this part to have a state outdoor advertising permit.

Amended by Chapter 346, 2011 General Session

72-7-504.6 Unified commercial development.

- (1) As used in this section:
 - (a) "Common areas" means sidewalks, roadways, landscaping, parking, storage, and service areas that are identified on the approved map provided to the department describing the unified commercial development as required by this section.
 - (b)

- (i) "Contiguous" includes parcels that are otherwise contiguous, as defined in Section 72-7-502, that are considered to be contiguous notwithstanding a survey error or discrepancy in a legal boundary description or the presence of any of the following intervening features, including land reasonably related to those features:
 - (A) a road, other than a controlled route, that provides access to the development;
 - (B) a railway right-of-way; or
 - (C) land that is undevelopable.
 - (ii) "Contiguous" does not include a parcel of land that is only physically connected to another parcel of land by a long, narrow strip.
 - (c) "Permit waiver" means written approval by the department, issued to the owner of a unified commercial development, to maintain a unified commercial development sign within the outdoor corridor that is within the boundaries of a unified commercial development per this section.
 - (d)
 - (i) "Property," for purposes of the definition of " unified commercial development sign," includes all property within a unified commercial development upon which all owners in the development have irrevocable shared ownership and use rights and irrevocable shared obligations to the common areas, and specifically excludes any parcels of land within a unified commercial development that allow residential use.
 - (ii) "Property" does not include development that involves merely reciprocal easements or use agreements among individual properties.
 - (iii) If the owners in an approved unified commercial development subdivide the unified commercial development into individual parcels that do not meet the criteria in this Subsection (1)(d), then the approved unified commercial development sign permit waiver shall be denied or revoked.
 - (e) "Unified commercial development" means a development that:
 - (i) is used primarily for commercial or industrial activities;
 - (ii) is developed by a single developer, including successors, under a common development plan;
 - (iii) may include phased development;
 - (iv) consists solely of land that is contiguous;
 - (v) holds itself out to the public as a common development through signs and other marketing efforts; and
 - (vi) received planning approval from the local land use authority and is recorded in the county in which the development was approved.
 - (f) "Unified commercial development sign" means a sign:
 - (i) erected within an approved unified commercial development;
 - (ii) erected within the outdoor advertising corridor; and
 - (iii) that advertises only the brands, logos, or trade names of businesses, products, services, and events that are available to the public at facilities on parcels within the boundaries of the unified commercial development.
- (2)
- (a) The department shall issue a revocable permit waiver to the owner of a unified commercial development, approved by the local land use authority, for the erection and maintenance of a unified commercial development sign within the outdoor advertising corridor after receiving the development map that:
 - (i) is approved by the local land use authority and recorded by the county; and
 - (ii) shows:

- (A) the unified commercial development sign location;
 - (B) the boundaries of the unified commercial development; and
 - (C) included parcels, owners, and businesses within the development that would qualify to advertise on the unified commercial development sign in compliance with this section.
- (b) The entity holding a permit waiver under this section shall provide an updated list of all businesses located within the unified commercial development every 12 months from the date of issue of the unified commercial development permit waiver.
- (c) In the event that a parcel within the boundaries of the approved unified commercial development allows a residential use, is removed from the development, or does not include irrevocable ownership and use rights and obligations, that parcel shall be excluded from the unified commercial development for purposes of determining a legal site for the sign, and any business, product, service, or event occurring on that parcel shall be excluded from display upon the unified commercial development sign.
- (3) A unified commercial development sign within a unified commercial development shall prominently display the name of the development and may also advertise:
- (a) the sale or lease of land within the unified commercial development where the sign is located;
 - (b) the name of identifiable facilities or stores within the unified commercial development; and
 - (c) products for sale or services provided to the public at licensed businesses within the unified commercial development.
- (4)
- (a) A unified commercial development sign may not:
 - (i) advertise brands, logos, or trade names of businesses, products, services, events, or activities that are not available to the public at facilities or stores within the unified commercial development or are only incidental to any business within the unified commercial development;
 - (ii) advertise products, services, brands, logos, or trade names of any business more than 90 days before the opening day of business to the public within the unified commercial development of the facilities or stores of the named advertiser; or
 - (iii) exceed the measurable limits described in Subsection (4)(b).
 - (b) A unified commercial development sign shall be:
 - (i) 750 feet, measured along the same side of an interstate right-of-way, from any other unified commercial development sign within the same unified commercial development; and
 - (ii) 475 feet, measured along the same side of the right-of-way of any noninterstate controlled route, from any other unified commercial development sign within the same unified commercial development.
- (5) A unified commercial development sign that is not maintained in compliance with this section shall:
- (a) have the sign owner's permit waiver revoked by the department;
 - (b) be considered as unlawful outdoor advertising; and
 - (c) be subject to penalties described in Section 72-7-508 and Subsection 72-7-510(3)(c).
- (6) Notwithstanding any other provision in this part to the contrary, any sign or structure lawfully existing under Laws of Utah 2016, Chapter 299, on February 1, 2017, may continue to be operated, maintained, rebuilt, or replaced in a manner consistent with such chapter.

Amended by Chapter 260, 2017 General Session

72-7-505 Sign size -- Sign spacing -- Location in outdoor advertising corridor -- Limit on implementation.

- (1)
 - (a) Except as provided in Subsection (2), a sign face within the state may not exceed the following limits:
 - (i) maximum area - 1,000 square feet;
 - (ii) maximum length - 60 feet; and
 - (iii) maximum height - 25 feet.
 - (b) No more than two facings visible and readable from the same direction on the main-traveled way may be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed the maximum allowed square footage.
 - (c) Two or more advertising messages on a sign face and double-faced, back-to-back, stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces enjoy common ownership.
 - (d) A changeable message sign is permitted if the interval between message changes is not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.
 - (e) An illumination standard adopted by any jurisdiction shall be uniformly applied to all signs, public or private, on or off premise.
- (2)
 - (a) An outdoor sign structure located inside the unincorporated area of a nonurbanized county may have the maximum height allowed by the county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.
 - (b) An outdoor sign structure located inside an incorporated municipality or urbanized county may have the maximum height allowed by the municipality or urbanized county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.
- (3) Except as provided in Section 72-7-509:
 - (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection 72-7-504(2) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign adjacent to an interstate highway or limited access primary highway, except that signs may be erected closer than 500 feet if the signs on the same side of the interstate highway or limited access primary highway are not simultaneously visible.
 - (b) Signs may not be located within 500 feet of any of the following which are adjacent to the highway, unless the signs are in an incorporated area:
 - (i) public parks;
 - (ii) public forests;
 - (iii) public playgrounds;
 - (iv) areas designated as scenic areas by the department or other state agency having and exercising this authority; or
 - (v) cemeteries.
 - (c)
 - (i)
 - (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate highway or limited access highway on the primary system within 500 feet of an interchange, or intersection at grade, or rest area measured along the interstate highway or freeway from

the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

- (B) Interchange and intersection distance limitations shall be measured separately for each direction of travel. A measurement for each direction of travel may not control or affect any other direction of travel.
- (ii) A sign may be placed closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way, if:
 - (A) the sign is replacing an existing outdoor advertising use or structure which is being removed or displaced to accommodate the widening, construction, or reconstruction of an interstate, federal aid primary highway existing as of June 1, 1991, or national highway system highway; and
 - (B) it is located in a commercial or industrial zoned area inside an urbanized county or an incorporated municipality.
- (d) The location of signs situated on nonlimited access primary highways in commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the primary highway shall not exceed the following minimum spacing criteria:
 - (i) Where the distance between centerlines of intersecting streets, roads, or highways is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted between the intersecting streets or highways.
 - (ii) Where the distance between centerlines of intersecting streets, roads, or highways is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.
- (e) All outdoor advertising shall be erected and maintained within the outdoor advertising corridor.
- (4) Subsection (3)(c)(ii) may not be implemented until:
 - (a) the Utah-Federal Agreement for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system is modified to allow the sign placement specified in Subsection (3)(c)(ii); and
 - (b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state and the United States Secretary of Transportation.

Amended by Chapter 402, 2015 General Session

72-7-506 Advertising -- Regulatory power of department -- Notice requirements.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules no more restrictive than this chapter to:
 - (a) control the erection and maintenance of outdoor advertising along the interstate and primary highway systems;
 - (b) provide for enforcement of this chapter;
 - (c) establish the form, content, and submittal of applications to erect outdoor advertising; and
 - (d) establish administrative procedures.
- (2) In addition to all other statutory notice requirements:
 - (a) the department shall give reasonably timely written notice to all outdoor advertising permit holders of any changes or proposed changes in administrative rules made under authority of this part; and
 - (b) any county, municipality, or governmental entity shall, upon written request, give reasonably timely written notice to all outdoor advertising permit holders within its jurisdiction of any

change or proposed change to the outdoor or off-premise advertising provisions of its zoning provisions, codes, or ordinances.

Amended by Chapter 382, 2008 General Session

72-7-507 Advertising -- Permits -- Application requirements -- Duration -- Fees.

- (1)
 - (a) Outdoor advertising may not be maintained without a current permit.
 - (b) Applications for permits shall be made to the department on forms furnished by it.
 - (c) A permit must be obtained prior to installing each outdoor sign.
 - (d) The application for a permit shall be accompanied by an initial fee established under Section 63J-1-504.
- (2)
 - (a) Each permit issued by the department is valid for a period of up to five years and shall expire on June 30 of the fifth year of the permit, or upon the expiration or termination of the right to use the property, whichever is sooner.
 - (b) Upon renewal, each permit may be renewed for periods of up to five years upon the filing of a renewal application and payment of a renewal fee established under Section 63J-1-504.
- (3) Sign owners residing outside the state shall provide the department with a continuous performance bond in the amount of \$2,500.
- (4) Fees may not be prorated for fractions of the permit period. Advertising copy may be changed at any time without payment of an additional fee.
- (5)
 - (a) Each sign shall have its permit continuously affixed to the sign in a position visible from the nearest traveled portion of the highway.
 - (b) The permit shall be affixed to the sign structure within 30 days after delivery by the department to the permit holder, or within 30 days of the installation date of the sign structure.
 - (c) Construction of the sign structure shall begin within 180 days after delivery of the permit by the department to the permit holder and construction shall be completed within 365 days after delivery of the permit.
- (6) The department may not accept any applications for a permit or issue any permit to erect or maintain outdoor advertising within 500 feet of a permitted sign location except to the permit holder or the permit holder's assigns until the permit has expired or has been terminated pursuant to the procedures under Section 72-7-508.
- (7) Permits are transferrable if the ownership of the permitted sign is transferred.
- (8) Conforming, permitted sign structures may be altered, changed, remodeled, and relocated subject to the provisions of Subsection (6).

Amended by Chapter 183, 2009 General Session

72-7-508 Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial review -- Costs of removal -- Civil and criminal liability for damaging regulated signs -- Immunity for Department of Transportation.

- (1) Outdoor advertising is unlawful when:
 - (a) erected after May 9, 1967, contrary to the provisions of this chapter;
 - (b) a permit is not obtained as required by this part;
 - (c) a false or misleading statement has been made in the application for a permit that was material to obtaining the permit;

- (d) the sign for which a permit was issued is not in a reasonable state of repair, is unsafe, or is otherwise in violation of this part; or
 - (e) a sign in the outdoor advertising corridor is permitted by the local zoning authority as an on-premise sign and the sign, from time to time or continuously, advertises an activity, service, event, person, or product located on property other than the property on which the sign is located.
- (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary to this chapter is also a public nuisance.
- (3) Except as provided in Subsections (4) and (10), in its enforcement of this section, the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- (4)
- (a) The district courts shall have jurisdiction to review by trial de novo all final orders of the department under this part resulting from formal and informal adjudicative proceedings.
 - (b) Venue for judicial review of final orders of the department shall be in the county in which the sign is located.
- (5) If the department is granted a judgment in an action brought under Subsection (4), the department is entitled to have any nuisance abated and recover from the responsible person, firm, or corporation, jointly and severally:
- (a) the costs and expenses incurred in removing the sign; and
 - (b)
 - (i) \$500 for each day the sign was maintained following the expiration of 10 days after notice of agency action was filed and served under Section 63G-4-201;
 - (ii) \$750 for each day the sign was maintained following the expiration of 40 days after notice of agency action was filed and served under Section 63G-4-201;
 - (iii) \$1,000 for each day the sign was maintained following the expiration of 70 days after notice of agency action was filed and served under Section 63G-4-201; and
 - (iv) \$1,500 for each day the sign was maintained following the expiration of 100 days after notice of agency action was filed and served under Section 63G-4-201.
- (6)
- (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces, destroys, or uses any sign controlled under this chapter without the owner's permission is liable to the owner of the sign for treble the amount of damage sustained and all costs of court, including a reasonable attorney's fee, and is guilty of a class C misdemeanor.
 - (b) This Subsection (6) does not apply to the department, its agents, or employees if acting to enforce this part.
- (7) The following criteria shall be used for determining whether an existing sign within an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor advertising:
- (a) whether the sign complies with this part;
 - (b) whether the premise includes an area:
 - (i) from which the general public is serviced according to normal industry practices for organizations of that type; or
 - (ii) that is directly connected to or is involved in carrying out the activities and normal industry practices of the advertised activities, services, events, persons, or products;
 - (c) whether the sign generates revenue:
 - (i) arising from the advertisement of activities, services, events, or products not available on the premise according to normal industry practices for organizations of that type;

- (ii) arising from the advertisement of activities, services, events, persons, or products that are incidental to the principal activities, services, events, or products available on the premise; and
 - (iii) including the following:
 - (A) money;
 - (B) securities;
 - (C) real property interest;
 - (D) personal property interest;
 - (E) barter of goods or services;
 - (F) promise of future payment or compensation; or
 - (G) forbearance of debt;
 - (d) whether the purveyor of the activities, services, events, persons, or products being advertised:
 - (i) carries on hours of operation on the premise comparable to the normal industry practice for a business, service, or operation of that type, or posts the hours of operation on the premise in public view;
 - (ii) has available utilities comparable to the normal industry practice for an entity of that type; and
 - (iii) has a current valid business license or permit under applicable local ordinances, state law, and federal law to conduct business on the premise upon which the sign is located;
 - (e) whether the advertisement is located on the site of any auxiliary facility that is not essential to, or customarily used in, the ordinary course of business for the activities, services, events, persons, or products being advertised; or
 - (f) whether the sign or advertisement is located on property that is not contiguous to a property that is essential and customarily used for conducting the business of the activities, services, events, persons, or products being advertised.
- (8) The following do not qualify as a business under Subsection (7):
- (a) public or private utility corridors or easements;
 - (b) railroad tracks;
 - (c) outdoor advertising signs or structures;
 - (d) vacant lots;
 - (e) transient or temporary activities; or
 - (f) storage of accessory products.
- (9) The sign owner has the burden of proving, by a preponderance of the evidence, that the advertised activity is conducted on the premise.
- (10)
- (a) If the department has issued two or more notices of violation of Subsection (1)(e) for an existing sign within the last three years, the department may bring an action to enforce in any state court of competent jurisdiction against a person, firm, or corporation that satisfies one or more of the following prerequisites:
 - (i) has a present ownership interest in the sign;
 - (ii) had an ownership interest in the sign on one or more of the days the sign was in violation of Subsection (1)(e);
 - (iii) has a present ownership interest in the property upon which the sign is located, or in a unified commercial development as defined in Section 72-7-504.6;
 - (iv) had an ownership interest in the property upon which the sign is located, or in a unified commercial development as defined in Section 72-7-504.6, on one or more of the days the sign was in violation of Subsection (1)(e);

- (v) received or became entitled to receive compensation in any form for the unlawful outdoor advertising; or
- (vi) solicited the advertising.
- (b) In an action under Subsection (10)(a):
 - (i) the provisions of Subsections (7) and (8) apply; and
 - (ii) the defendants have the burden of proving, by a preponderance of the evidence, that the advertising in question is lawful under this part.
- (c) If the department is granted judgment in an action under this Subsection (10), the department is entitled to recover from the defendants, jointly and severally, \$1,500 for each day on which the sign was used for unlawful off-premises outdoor advertising.

Amended by Chapter 260, 2017 General Session

72-7-509 Existing outdoor advertising not in conformity with part -- When removal required -- When relocation allowed.

- (1) Any outdoor advertising lawfully in existence along the interstate or the primary systems on May 9, 1967, and which is not then in conformity with its provisions is not required to be removed until five years after it becomes nonconforming or pursuant to the provisions of Section 72-7-510.
- (2) Any existing outdoor advertising structure that does not comply with Section 72-7-505, but that is located in an industrial and commercial area, an unzoned industrial and commercial area, or an area where outdoor advertising would otherwise be permitted, may be remodeled and relocated on the same property in a commercial or industrial zoned area, or another area where outdoor advertising would otherwise be permitted under this part.

Renumbered and Amended by Chapter 270, 1998 General Session

72-7-510 Existing outdoor advertising not in conformity with part -- Procedure -- Eminent domain -- Compensation -- Relocation.

- (1) As used in this section, "nonconforming sign" means a sign that has been erected in a zone or area other than commercial or industrial or where outdoor advertising is not permitted under this part.
- (2)
 - (a) The department may acquire by gift, purchase, agreement, exchange, or eminent domain, any existing outdoor advertising and all property rights pertaining to the outdoor advertising which were lawfully in existence on May 9, 1967, and which by reason of this part become nonconforming.
 - (b) If the department, or any town, city, county, governmental entity, public utility, or any agency or the United States Department of Transportation under this part, prevents the maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be discontinued, the sign in question shall be considered acquired by the entity and just compensation will become immediately due and payable.
 - (c) Eminent domain shall be exercised in accordance with the provision of Title 78B, Chapter 6, Part 5, Eminent Domain.
- (3)
 - (a) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same, including the right of the landowner upon whose land a sign is located, acquired through the processes of eminent domain.

- (b) For the purposes of this part, just compensation shall include the consideration of damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign company's interest, which remaining properties, together with the properties actually condemned, constituted an economic unit.
- (c) The department is empowered to remove signs found in violation of Section 72-7-508 without payment of any compensation.
- (4) Except as specifically provided in this section or Section 72-7-513, this part may not be construed to permit a person to place or maintain any outdoor advertising adjacent to any interstate or primary highway system which is prohibited by law or by any town, city, or county ordinance. Any town, city, county, governmental entity, or public utility which requires the removal, relocation, alteration, change, or termination of outdoor advertising shall pay just compensation as defined in this part and in Title 78B, Chapter 6, Part 5, Eminent Domain.
- (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by the department nor sign maintenance as described in this section be discontinued unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under 23 U.S.C., Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated and are immediately available to this state.
- (6)
 - (a) If any outdoor advertising use, structure, or permit may not be continued because of the widening, construction, or reconstruction along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, the owner shall have the option to relocate and remodel the use, structure, or permit to another location:
 - (i) on the same property;
 - (ii) on adjacent property;
 - (iii) on the same highway within 5280 feet of the previous location, which may be extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either side of the same highway; or
 - (iv) mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located.
 - (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.
 - (c) The county or municipality in which the use or structure is located shall, if necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance.
 - (d) The relocated and remodeled use or structure may be:
 - (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled;
 - (ii) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part;
 - (iii) relocated to a comparable vehicular traffic count.
- (7)
 - (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a) shall pay the costs related to the relocation, remodeling, or acquisition.
 - (b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).

Amended by Chapter 3, 2008 General Session

72-7-510.5 Height adjustments for outdoor advertising signs.

- (1) If the view and readability of an outdoor advertising sign, including a sign that is a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of this state, along an interstate, federal aid primary highway existing as of June 1, 1991, national highway systems highway, or state highway or by an improvement created on real property subsequent to the department's disposal of the property under Section 72-5-111, the owner of the sign may:
 - (a) adjust the height of the sign; or
 - (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone.
- (2) A height adjusted sign under this section does not constitute a substantial change to the sign.
- (3) The county or municipality in which the outdoor advertising sign is located shall, if necessary, provide for the height adjustment or relocation by ordinance for a special exception to its zoning ordinance.
- (4)
 - (a) The height adjusted sign:
 - (i) may be erected:
 - (A) to a height to make the entire advertising content of the sign clearly visible; and
 - (B) to an angle to make the entire advertising content of the sign clearly visible; and
 - (ii) shall be the same size as the previous sign.
 - (b) The provisions of Subsection (4)(a) are an exception to the height requirements under Section 72-7-505.

Amended by Chapter 170, 2009 General Session

72-7-511 Violation of part -- Misdemeanor.

A person who violates any provision of this part is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 270, 1998 General Session

72-7-512 Appeals by attorney general.

The attorney general may take such appeals as are provided for in 23 U.S.C., Sec. 131.

Renumbered and Amended by Chapter 270, 1998 General Session

72-7-513 Relocation on state highways.

- (1) As used in this section, "state highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act, on July 1, 1999, and any subsequently designated state highway.
- (2) If any outdoor advertising use or structure may not be continued because of the widening, construction, or reconstruction along a state highway, the owner shall have the option to relocate and remodel the use or structure to another location:
 - (a) on the same property;

- (b) on adjacent property;
 - (c) within 2640 feet of the previous location on either side of the same highway; or
 - (d) mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located.
- (3) The relocation under Subsection (2) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.
- (4) The county or municipality in which the use or structure is located shall, if necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance.
- (5) The relocated and remodeled use or structure may be:
- (a) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled;
 - (b) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part;
 - (c) relocated to a comparable vehicular traffic count.
- (6)
- (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (2) shall pay the costs related to the relocation, remodeling, or acquisition.
 - (b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (2) (a), (b), or (c), it shall pay just compensation as provided in Subsection 72-7-510(3).

Amended by Chapter 72, 1999 General Session

72-7-514 Landscape control program.

- (1) As used in this section, "landscape control" means trimming or removal of seedlings, saplings, trees and vegetation along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system right-of-way to provide clear visibility of outdoor advertising.
- (2)
- (a) The department shall establish a landscape control program as provided under this section.
 - (b) Except as provided in this section, a person, including an outdoor advertising sign owner or business owner may not perform or cause landscape control to be performed.
- (3)
- (a) An outdoor advertising sign owner or business owner may submit a request for landscape control to the department.
 - (b) Within 60 days of the request under Subsection (3)(a), the department shall:
 - (i) conduct a field review of the request with a representative of the sign or business owner, the department, and the Federal Highway Administration to consider the following issues listed in their order of priority:
 - (A) safety;
 - (B) protection of highway features, including right-of-way and landscaping;
 - (C) aesthetics; and
 - (D) motorists' view of the sign or business; and
 - (ii) notify the sign or business owner what, if any, trimming, removal, restoration, banking, or other landscape control shall be allowed as decided by the department, after consultation with the Federal Highway Administration.
 - (c) If the sign or business owner elects to proceed, in accordance with the decision issued under this subsection, the department shall issue a permit that describes what landscape

control may be allowed, assigns responsibility for costs, describes the safety measures to be observed, and attaches any explanatory plans or other information.

- (4) The department shall establish an appeals process within the department for landscape control decisions made under Subsection (3).
- (5)
 - (a) A person who performs landscape control in violation of this section is guilty of a class C misdemeanor, and is liable to the owner for treble the amount of damages sustained to the landscape.
 - (b) Each permit issued under this section shall notify the permit holder of the penalties under Subsection (5)(a).

Renumbered and Amended by Chapter 270, 1998 General Session

72-7-515 Utah-Federal Agreement -- Severability clause.

- (1) As used in this section, "Utah-Federal Agreement" means the agreement relating to outdoor advertising that is described under Section 72-7-501, and it includes any modifications to the agreement that are signed on behalf of both the state and the United States Secretary of Transportation.
- (2) The provisions of this part are subject to and shall be superseded by conflicting provisions of the Utah-Federal Agreement.
- (3) If any provision of this part or its application to any person or circumstance is found to be unconstitutional, or in conflict with or superseded by the Utah-Federal Agreement, the remainder of this part and the application of the provision to other persons or circumstances shall not be affected by it.

Amended by Chapter 21, 1999 General Session

72-7-516 Relocating outdoor advertising structure to maintain required distance from high voltage overhead lines.

- (1) If an outdoor advertising structure needs to be moved away from a high voltage power line or lines so that the sign can be reposted or maintenance performed without having to comply with the distance or notification requirements of Section 54-8c-2, or in order to comply with distance or notification requirements imposed by the National Electrical Safety Code, International Building Code, a regulation, standard, or directive of the Occupational Safety and Health Administration or any other similar applicable regulation, then the owner shall have the option to remodel the structure at the same location or relocate and remodel the structure to another location within the same jurisdiction:
 - (a) on the same property;
 - (b) on adjacent property;
 - (c) within 2,640 feet of the previous location on either side of the same highway; or
 - (d) mutually agreed upon by the owner and the county or municipality in which the structure is located.
- (2) The relocation under Subsection (1) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.
- (3) The county or municipality in which the structure is located shall, if necessary, provide for the relocation or remodeling by ordinance for a special exception to its zoning ordinance.
- (4) The relocated and remodeled structure may be:

- (a) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled;
 - (b) the same size and at least the same height as the previous structure, but the relocated structure may not exceed the size and height permitted under this part; and
 - (c) relocated to a location with a comparable traffic vehicular count.
- (5) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (1) (a), (b), or (c), it shall pay just compensation as provided in Subsection 72-7-510(3).

Amended by Chapter 330, 2006 General Session

Utah Cities' Billboards / Outdoor Advertising Ordinances, April 2019

This summary is **not** a legal review of billboard ordinances or state code, nor does it provide a complete summary of these ordinances. Instead, the intent is to give an understanding of what cities have done and their general sentiment as respects billboards within their cities.

When a city designates all billboards within its jurisdiction to be “non-conforming” or “prohibited”, the practical effect is that the city is prohibiting any additional billboards and is attempting to prevent the existing “non-conforming” billboards from being moved, increased in size, converted to electronic or any other alternation. Changes in state law, however, have eroded the ability of cities to regulate non-conforming billboards.

Most cities and towns in Utah have existing billboards within their boundaries. When the zoning ordinance specifies billboards as being “prohibited” or “non-conforming”, these billboards can remain in place into perpetuity, subject to the continuance of land leases, the wishes of the billboard company and the absence of the city or town invoking eminent domain. In addition, state law gives the billboard companies the right to move a “non-conforming” billboard to another location, subject to certain restrictions, irrespective of the goals or standards found in a city’s general plan or zoning ordinance.

Source of information: city websites, and specifically the zoning ordinance language found on these websites, as of November 2018.

City	How each city deals with billboards, as stated in its zoning ordinance	Notes / Code Citation	Are <u>new</u> billboards, including the expansion of an existing billboard, larger than 300 sq. ft. allowed (<u>excluding</u> freeway locations)?
	Note: a number of these ordinances reference state law and the allowance for the continuance of billboards along I-15. Note: this survey only deals with incorporated towns and cities – not counties. Note: the term “prohibited” means that billboards are prohibited within the city’s boundaries and that existing billboards in a city are classified as “non-conforming”, which has the same practical effect as being prohibited.		See Note #12
Millcreek	Billboards are a permitted use in all commercial and manufacturing zones, excepting C-1, where allowed as a conditional use. Subject to billboard “bank” that limits total sign	19.82.185	Yes. Allowed – up to 675 square feet in C-2, C-3 & manufacturing zones

	square footage to amount that existed in 2004.		"Billboard Bank" – see note #13
South Salt Lake	Billboards are allowed in some areas, but new billboards are prohibited east of 200 East; maximum size not to exceed 300 square feet excepting freeway billboards. Billboard bank exists. 500 ft. minimum separation along same side of road.	17.16	No
West Valley City	Permitted in some zones, prohibited in other zones. Subject to billboard "bank". Its ordinance language materially more restrictive than Millcreek's.	11-05-105 See note #3	No
Salt Lake City	Prohibited in much of the city. Allowed in certain areas	21A.46.160 & Billboard Map See note #9	Yes
Sandy	Prohibited Classified as "non-conforming" – shall not be moved altered or enlarged...	15A-26-04	No
Holladay	Prohibited except as allowed in the ordinance, meaning existing legal non-conforming signs	13.82.180	No
Taylorsville	Prohibited -- classified as "non-conforming"	12.26.040 See note #1	No
Cottonwood Heights	Prohibited	19.82.110	No
Draper	Prohibited -- classified as "non-conforming"	9-26-110 See note #2	No
Riverton	Prohibited – "Billboards shall not be installed within city limits."	17.22.150	No
Murray	Prohibited. "All off premises advertising signs are prohibited within the jurisdiction of the city."	17.48.170 See note #4 below	No
Bluffdale	Prohibited, other than within 450 ft of I-15, but only in a "light industrial" zone	11-22-14 See note #5 below	No
Bountiful	Billboards are "prohibited, "except as allowed herein"	14-19-01 #6 below	No
West Bountiful	Billboards are prohibited, "except for those existing prior to the adoption of this chapter, as may be allowed under Utah State law."	17.48.060	No
Centerville	Billboards are prohibited.	12.54.010	No

Layton	Excepting certain defined corridors, new billboards are prohibited.	20.06 see note #7 below	No
Kaysville	Prohibited.	17-33-8	No
Clearfield	Prohibited “No new billboards shall be permitted....”	11.15.1 see note #8 below	No
Ogden	Prohibited. Existing signs are non-conforming and can be moved to certain designated areas of the city	18-3-17	Yes – but only in designated areas
Logan	Prohibited “Off-premise signs, except where specifically allowed by this chapter;”	17.40.40	No
Brigham City	Allowed only in manufacturing / industrial zones. 1,000 minimum separation	29.27.080	Yes – but only in manufacturing / industrial zones
Tremonton	Prohibited	1.02055.B	
Provo	Prohibited All billboards are “legal non-conforming uses”.	14.38.115	No
Lehi	Prohibited	23.110 See Note #10	No
Saratoga Springs	Prohibited	19.18.04	No
Eagle Mountain	Prohibited	17.80.130	No
Orem	Prohibited	14-3-3	No
American Fork	Prohibited Non-conforming, except in certain zones that are adjacent to I-15.	17.6.115	No
Springville	Prohibited	11-6-306	No
Spanish Fork	Prohibited, except adjacent to I-15 and Highway 6, subject to certain restrictions.	15.3.24.020	No
Santaquin	Prohibited “No billboards are allowed within Santaquin City limit.”	10-13-8-F	No
Nephi	Prohibited	10-18-7	No
Beaver	No specific ordinance language	Title 10	Yes – since no billboard ordinance exists
St George	Prohibited, other than being allowed adjacent to I-15.	9-13-4	No
Vernal	Billboards allowed as conditional use in commercial & industrial zones	16.28.050 See Note #11 below	No
Heber	Prohibited	18.103.070	No
Park City	Prohibited	12-7-1	No

Note #1: Taylorsville – all off premises signs shall be prohibited, including billboards, except as provided in subsections 12.26.090 A-4 and A-8 (neither of which deal with billboards)

Note #2: Draper – Billboards, being classified as non-conforming, “may be relocated, removed or altered according to the terms of Utah Code Annotated (Ord. 963, 2-15-2011)

Note #3: West Valley City – allowed in certain commercial zones, but not in “gateway-oriented overlay zones”, regardless of the underlying zone; shall not exceed 300 sq. ft in commercial zones; shall not exceed 672 feet along freeways; maximum height of 35 feet, except for freeway oriented signs; setbacks: not less than 10 feet from property line and increasing with height of the billboard. Minimum separation 500 radial feet.

Note #4: Murray – Existing billboards are “legal non-conforming” and may be continued only to the extent allowed by sections 10-9a-511 through 513 of the Utah code. “A legal non-conforming sign must not be extended, altered expanded or substituted.”

Note #5: Bluffdale – “Non-appurtenant advertising structures (billboards) shall be permitted within four hundred fifty feet of the nearest edge of the Interstate-15 right of way in the light industrial (I-1) zone....”

Note #6, Bountiful – any existing billboards are of course subject to state law.

Note #7, Layton – defined corridors: I-15, Main Street, which runs parallel to I-15, and a short section of Highway 193.

Note #8, Clearfield – existing billboards shall comply with certain regulations. Confusing language, but does state that billboards “shall be allowed on commercial parcels adjacent to Interstate I-15 right of way...”

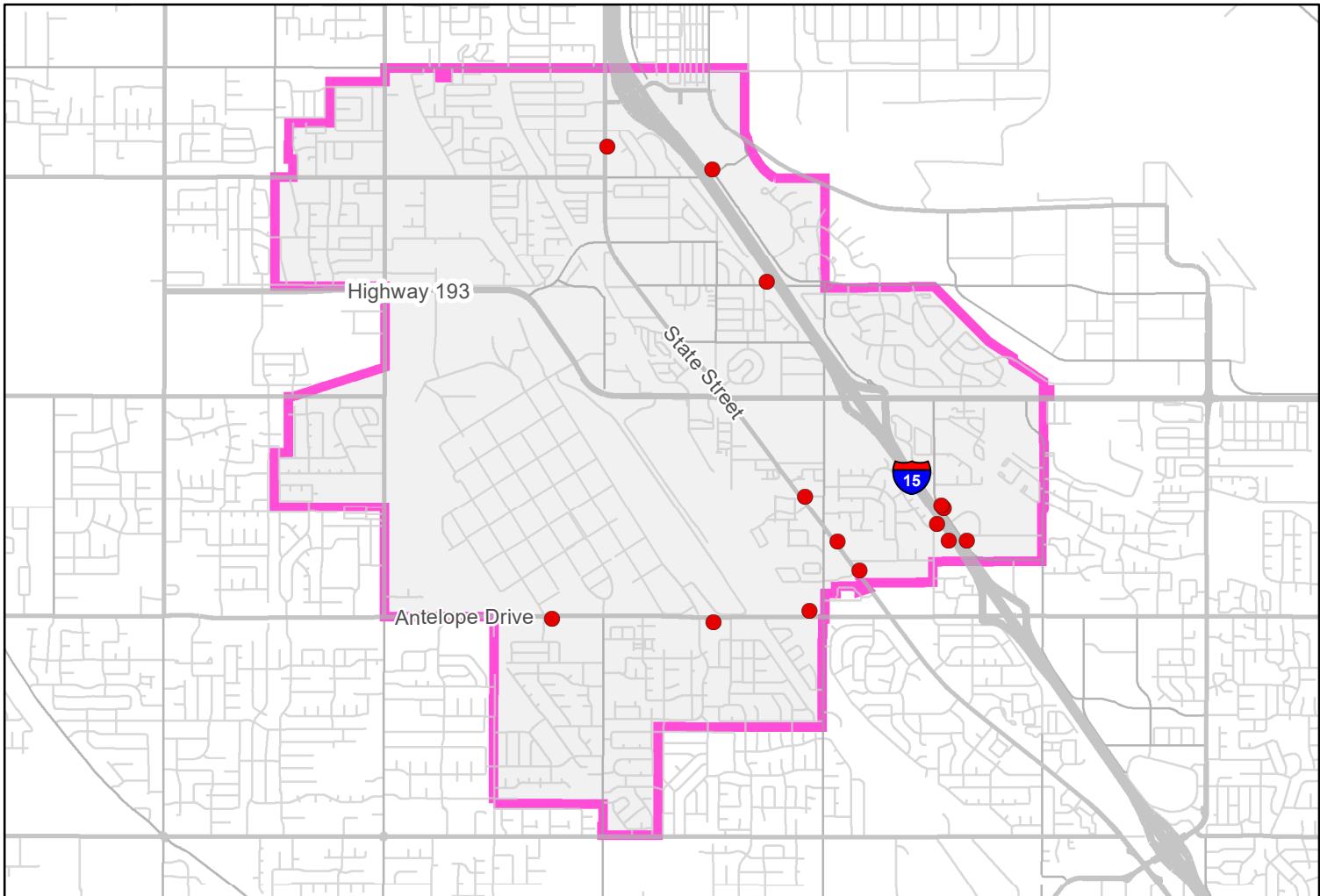
Note #9, Salt Lake City – the stated goal of the city is to reduce the number of billboards, prioritizing their removal based upon certain standards. Billboards are prohibited in most areas of the city (making the existing billboards non-conforming) and allowed in other areas (per an official “Official Billboard & Gateway Map” that can be found on the city’s website). See map. Salt Lake City includes a billboard bank.

Note #10, Lehi – Extensive language as respects allowing freeway size electronic billboards along I-15 corridor. An existing non-conforming billboard may be converted to digital, subject to various restrictions, including the sign location being limited to a location within the “Off-Premises Electronic Display Sign Overlay Zone”, which appears to allow electronic billboard solely along the I-15 corridor and not elsewhere in the city.

Note #11, Vernal – Maximum size allowed in all zones –200 square feet. Minimum separation between billboards: 500 feet.

Note #12, all jurisdictions – To emphasize, the representations made in this column do not take into account existing freeway size (600 to 675 square feet) billboards within a city limit. In addition, a “new” billboard can be one where the sign face square footage for it comes from the removal of one or more smaller, older billboard that has been removed, Millcreek being a good example of this trend to larger billboards. Plus, there might be a few exceptions not caught, mis-read or overlooked by this analysis.

Note #13, Billboard Bank – This is a mechanism that allows the billboard company to use the sign face square footage from a demolished billboard for the erection of a new billboard. The square footage from the demolished billboard is “banked” and then, within a certain period of time, commonly 36 months, this banked square footage can be used for the sign face on a new billboard. This mechanism benefits billboard companies, as it assures them that they have the opportunity to never lose any sign square footage (as manifested in new billboards), even when a city declares all existing billboards to be non-conforming or prohibited. As respects non-conforming billboards, this mechanism has been largely preempted by changes in state law, a topic beyond the scope of this summary.





Planning Commission

STAFF REPORT

AGENDA ITEM
#2

TO: Clearfield City Planning Commission

FROM: Brad McIlrath, Senior Planner
brad.mcilrath@clearfieldcity.org
(801) 525-2784

MEETING DATE: Wednesday, May 8, 2019

SUBJECT: Public Hearing, Discussion and Possible Action on **RZN 1903-0018**, a zoning map amendment request by Kyle Weaver to rezone the subject property from R-1-8 (Residential) to R-1-6 (Residential). **Location:** 90 West 200 South (TIN: 12-020-0062). **Project Area:** 1.57 Acres. **Planner:** Brad McIlrath (**Legislative Matter**).

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation of **APPROVAL** of **RZN 1903-0017**, a zoning map amendment request by Kyle Weaver to rezone the subject property from R-1-8 (Residential) to R-1-6 (Residential). This recommendation is based upon the findings outlined in this report.

PLANNING COMMISSION RECOMMENDATION OPTIONS:

Following careful consideration of the information included in this report the commission may decide to vary from Staff's recommendation and may choose to forward the following recommendations:

1. **Move to recommend approval of RZN 1903-0018**, to the Clearfield City Council, a zoning map amendment request by Kyle Weaver to rezone the subject property from R-1-8 (Residential) to R-1-6 (Residential).
2. **Move to recommend denial of RZN 1903-0018**, to the Clearfield City Council, a zoning map amendment request by Kyle Weaver to rezone the subject property from R-1-8 (Residential) to R-1-6 (Residential).
3. **Move to table RZN 1903-0018** and request additional time to consider the request.

BACKGROUND & ANALYSIS

The applicant is requesting the approval for the rezone of the subject property from R-1-8 (Residential) to R-1-6 (Residential) in order to subdivide the property according to the standards of the R-1-6 Zone. A previous request to rezone the property to R-3 (Residential) was denied by Clearfield City in July 2018. Since that decision, the Clearfield City General Plan has been amended to allow a greater use of the R-1-6 Zone for single-family residential infill development. The Wedgewood Estates No. 2 single-family subdivision located directly to the north of this property is zoned R-1-8, but was developed with a special purpose overlay zone which allowed smaller lot sizes. The largest lot in that subdivision is just over 8,200 square feet with the smallest lot is 3,920 square feet. The average lot size in that subdivision is 5,168 square feet.

If rezoned, this property can be subdivided with the minimum lot size of 6,000 square feet which would be comparable to the average lot size of the Wedgewood Estates No. 2 subdivision. With the recent completion of Hamblin Park on 200 South, subdivision of this property will add additional households to benefit the adjacent park and its unique design and character. The Clearfield City General Plan supports this rezone request for single-family development in this area.

Public Comment

A public hearing notice was posted at the property on April 26, 2019. Mailed notices were also sent the same day. As of the date of this report, no public comment has been received.

GENERAL PLAN ANALYSIS

Review Consideration	Staff Analysis
The proposed amendment is in accordance with the General Plan and Map; or	As recently amended, the General Plan states, "The R-1-6 Zone is allowed for infill single-family development and also as an alternative to larger lot single-family uses in areas designated as residential in the future land use map. The R-1-6 zone is an alternative single-family option to multi-family development in areas outside of the downtown corridor and should be used to encourage a mix of housing types throughout the city" (p. 4). Based upon this guidance, the proposed rezone is supported by the General Plan.
Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	With changes to focus multi-family development along the downtown corridor, changes are needed to allow further use of the R-1-6 Zone. These amendments allow greater use of the R-1-6 Zone, and therefore this property is appropriate for the recent amendments and to be rezoned to R-1-6.

STAFF RECOMMENDATION/CONCLUSION

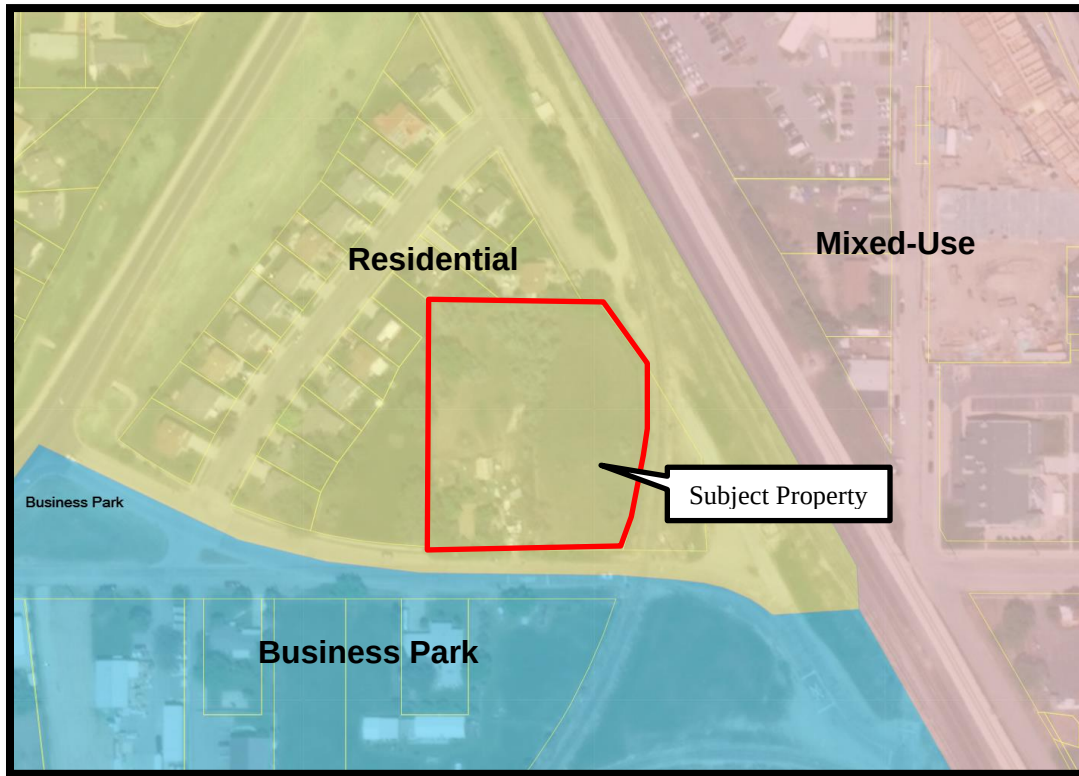
Staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to the City Council for the proposed zoning map amendment, based upon the following findings:

1. The proposed zoning map amendment is consistent with the land use guidelines, goals, and objectives of the Clearfield City General Plan.
2. The proposed zoning map amendment and future development of this area as residential will support Hamblin Park to the west.
3. The R-1-6 Zone for this area will provide a gradual land use transition from the single-family residential to the northwest and the higher density residential to the east in the downtown corridor.
4. The rezone of this property to R-1-6 and development in accordance with those standards is consistent with the character and design of the adjacent Wedgewood Estates No. 2 subdivision.

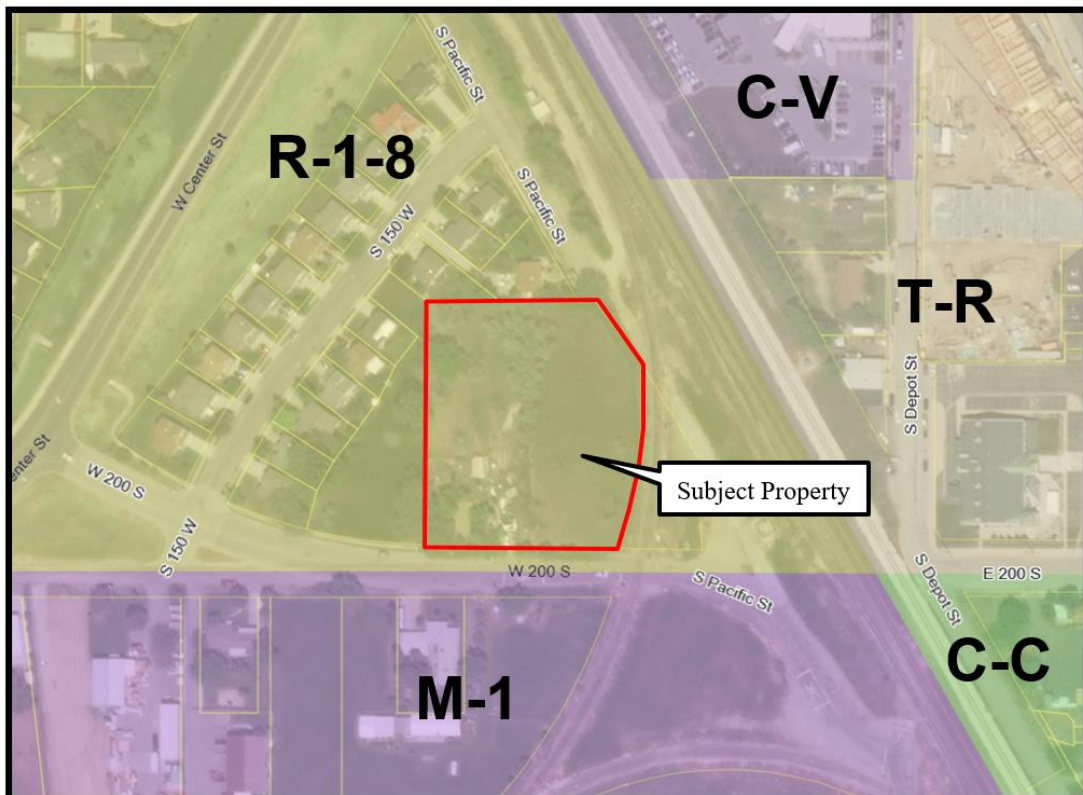
ATTACHMENTS

1. General Plan: Future Land Use Map
2. Zoning Map
3. Subdivision Concept

GENERAL PLAN: FUTURE LAND USE MAP



ZONING MAP





STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Spencer W. Brimley, Community Development Director
MEETING DATE: Tuesday, May 21, 2019
SUBJECT: Development Agreement for the Bravada 193 - (Discussion)

RECOMMENDED ACTION

Discussion on the development agreement for the property located in the vicinity of 788 South 2000 East (University Park Blvd.) (TIN: 09-419-0102) for the development of the Bravada 193 project.

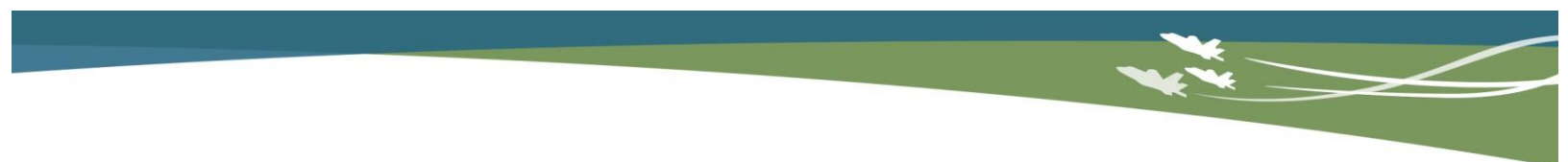
DESCRIPTION / BACKGROUND

The applicant has requested and received a conditional use permit approval to construct a 328-unit apartment development at the subject property, contingent on the completion of all required land use approvals and the execution of a development agreement. The applicant intends on developing a mixed use project which would include high density residential, commercial space and tie in with a proposed convenience store on the corner of 700 S and 2000 East (University Park Blvd.).

D-R Zoning District Requirements

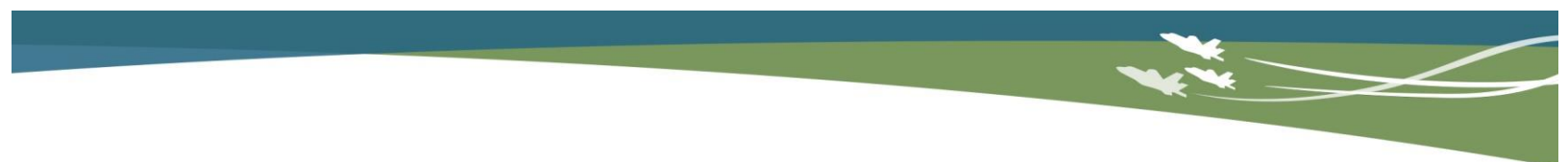
The property was rezoned from C-2 to D-R in August 2018 contingent upon project approval and the execution of a development agreement. If the development agreement is not approved the property will revert back to previous designation or the C-2 Zone. As a mixed-use zone the D-R Zone includes specific requirements for residential developments to ensure that there is a commercial component of every development in this zone. There are specific requirements outlined in the D-R zoning district which require any modifications to the standards outlined in the D-R zone to be accommodated in the development agreement. Staff also discovered some potential issues with the parking and has sought to address those items with agreed upon language in the development agreement. Those modifications and items for consideration are listed below:

- **Parking:** Underground parking shall not be required for either Phase 1 or Phase 2. Each Development Application shall specify the manner by which the City's parking requirements are met for that Development Application.
 - Parking for both Phases may be in front of the buildings, at the discretion of Master Developers, as shown on the Master Plan.
 - Shared Parking may be allowed pursuant to the City's Vested Laws.

- 
- Where tuck-under garages are shown on the Master Plan, they are to be of sufficient dimensions to allow a full-size vehicle to be parked in them.
 - The management company shall not allow garages to be used as storage units (i.e. vehicle parking must be the primary use).
 - Tuck-under garages that are blocked by a tandem surface parking stall shall not be leased to tenants in 1-bedroom units.
 - The surface parking stall in a tandem situation must be assigned to the same tenant that is leasing the garage that it blocks.
 - **Phase 1:** The Parties acknowledge that Phase 1 is not currently planned to include a commercial component, except for the leasing/management office for the Phase 1 Residential Dwelling Units.
 - Master Developers may allow the recreational facilities that are an amenity to the Phase 1 Residential Units to be available to non-residents on a commercial basis.
 - Site work (including, but not limited to, clearing, grubbing, and installation of utilities) and the construction of footings and foundations on Phase 1 may begin when the City approves the plans for those improvements.
 - Vertical construction shall not be permitted on Phase 1 until vertical construction has commenced on either Phase 2 or for a commercial development “Lot 101”.
 - The City shall not be required to grant a Certificate of Occupancy for the final building of Phase 1 (currently contemplated to be Building D as shown on the Master Plan) until: 1)
 - a Certificate of Occupancy is required for either the commercial building on Lot 101 or for the Phase 2 (Commercial 30,000 SF);
 - and 2) vertical construction has begun on the other commercial building (either on Lot 101 or Phase 2).
 - **Phase 2 (Commercial):** Phase 2 shall include at least 30,000 SF of commercial space. A Hotel may, at the discretion of Master Developers, be allowed as a commercial use in Phase 2.

CORRESPONDING POLICY PRIORITY (IES)

This project will help to ***Improve Clearfield’s Image, Livability and Economy*** by promoting a ***high quality development*** which will add value and appeal to the corridor along 700 S (SR-193). This project emphasizes the city’s increase for ***beautification of our community as well as an increase in community pride, investment, and involvement***. The project will provide both commercial and



residential development in an area of the City that has not experienced substantial private investment for some time.

FISCAL IMPACT

The execution of the agreement is only one step in the entitlement process. The applicant is still required to propose plans that meet the standards and requirements of the code and reviewing agencies. The approval of this agreement does not provide final approval of technical drawings or other required submittals. The agreement simply outlines the responsibilities of the developer as they proceed, following the approval of all land use and associated agency approvals.

ALTERNATIVES

This item is scheduled to be discussed in a public meeting by the Council on Tuesday, May 28, 2019. The meeting for final approval of this agreement may be adjusted or changed at the discretion of the Council.

SCHEDULE / TIME CONSTRAINTS

The applicant is constrained by issues related to utilities for the project. Public Works and Engineering have been working with the applicant's engineer on solutions which would allow them to proceed. These items have yet to be resolved and have not received the required approvals. Approval of the attached agreement does not grant land use, zoning, or engineering approval, nor does it resolve any outstanding issues required as a part of the development review process. All items required for construction of this project must receive final approval before construction, as well as all requirements of the development agreement.

LIST OF ATTACHMENTS

- Bravada 193 Development Agreement
- Bravada 193 Addendum
- Architectural Plans

DRAFT

TO CITY 04/15/19

**MASTER DEVELOPMENT AGREEMENT
FOR
BRAVADA 193**

May __, 2019

WHEN RECORDED, RETURN TO:

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

**MASTER DEVELOPMENT AGREEMENT
FOR
BRAVADA 193**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered into as of the ____ day of May, 2019, by and between Clearfield City Corporation, a Utah municipality, Bravada 193, LLC, a Utah limited liability company and University Enterprises, LLC, 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. Master Developers own and are developing the Property.

C. Master Developers and the City desire that the Property be developed in a unified and consistent fashion with commercial and residential uses pursuant to the Master Plan.

D. 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 known as Bravada and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

E. The Parties desire to enter into this MDA to specify the rights and responsibilities of

the Master Developers 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.

F. 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 (2018) *et seq.*

G. This Property is zoned Downtown Redevelopment (D-R).

H. This MDA conforms with the intent of the City’s General Plan and the Zoning.

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 Developers hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” - “C” 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 (2018), *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, both Phase 1 and Phase 2, in accordance with the approved plans.

1.2.6. **City** means Clearfield City Corporation, a Utah municipality.

1.2.7. **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.

1.2.8. **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 "C".

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

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

1.2.11. **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.

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

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

1.2.14. **Development Report** means a report containing the information specified in Section 2.4.

1.2.15. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2018), or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.16. **Master Developers** means Phase 1 Owner and the Phase 2 Owner,

1.2.17. **Master Plan** means the conceptual layout for Residential Dwelling Units and Public Infrastructure for the Project as shown on Exhibit “B”.

1.2.18. **Maximum Residential Units** means the development on Phase 1 of three hundred twenty-eight (328) 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. **Parcel** means a portion of the Property that is created by the Master Developers to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 5.9.

1.2.22. **Party/Parties** means, in the singular, Master Developers or the City; in the plural Master Developers and the City.

1.2.23. **Phase 1** means that portion of the Property as illustrated on the Master Plan and more fully described in Exhibit "A-1".

1.2.24. **Phase 1 Owner** means the Bravada 193, LLC.

1.2.25. **Phase 2** means that portion of the Property as illustrated on the Master Plan and more fully described in Exhibit "A-2".

1.2.26. **Phase 2 Owner** means University Enterprises, LLC.

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

1.2.28. **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.

1.2.29. **Property** means the real property owned by and to be developed by Master Developers more fully described in Exhibits "A-1" (Phase 1) and "A-2" (Phase 2).

1.2.30. **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.

1.2.31. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a residence as illustrated on the Master Plan.

1.2.32. **Subdeveloper** means a person or an entity not "related" (as defined by Section 165 of the Internal Revenue Code) to Master Developers which purchases a Parcel for development.

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

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

1.2.35. **Zoning** means City's D-R Zone.

1.2.36. **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 Master Plan 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 Master Plan and this MDA.

2.2. **Maximum Residential Units.** At Buildout of Phase 1, Master Developers shall be entitled to have developed on Phase 1 the Maximum Residential Units as specified in and pursuant to this MDA of the type and in the general location as shown on the Master Plan.

2.3. **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 County a report showing the relationship of the Parcel(s) sold, the portion of the Maximum Residential Units 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 Master Plan.

3. **Vested Rights.**

3.1. 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 Parties intend that this MDA grants Master Developers all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws, the Zoning and the Master Plan except as specifically provided herein. The Parties specifically intend that this MDA grant to Master Developers "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2018).

3.2. Exceptions. The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.1 are subject to only the following exceptions:

3.2.1. Master Developers Agreement. City's Future Laws that Master Developers agrees in writing to the application thereof to the Project;

3.2.2. 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;

3.2.3. Codes. 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;

3.2.4. 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;

3.2.5. 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;

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which 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 (2018) *et seq.*;

3.2.7. 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 Residential Units, are generally applicable across the entire City and do not materially and unreasonably increase the costs of any Development; or

3.2.8. 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) (2018).

4. **Term of Agreement.** The term of this MDA shall be until December 31, 2024. If Master Developers has not been declared to be currently in Default as of December 31, 2024 (and if any such Default is not being cured) then this MDA shall be automatically extended until December 31, 2029. This MDA shall also terminate automatically at Buildout.

5. Processing of Development Applications.

5.1. 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, the Zoning and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

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

5.3. 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.

5.4. Mediation of Development Application Denials.

5.4.1. 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" upon mutual agreement the parties may 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.

5.4.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties may attempt within fifteen (15) calendar 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 fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar 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.

5.5. Arbitration of Development Application Objections.

5.5.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may attempt within fifteen (15) calendar 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 fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar 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.

5.6. **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 Developers may obtain approval of a Subdivision as is provided in Utah Code Ann., Section 10-9a-103(57)(c)(v) (2018) 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 Developers 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 Developers or Subdeveloper complies with the City's Vested Laws.

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

7. **Public Infrastructure.**

7.1. **Construction by and Master Developers.** Master Developers 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 pursuant to the City's Vested Laws.

7.2. **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.

8. **Upsizing/Reimbursements to Master Developers.**

8.1. **"Upsizing".** The City shall not require Master Developers 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 Developers are made to compensate Master Developers 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 Developers for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

9. Default.

9.1. **Notice.** If Master Developers 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 Developers.

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

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

9.2.2. 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;

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

9.2.4. 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) calendar days duration.

9.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties may engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.2 and 5.4. If the claimed Default is subject to Arbitration as provided in Section 5.5 then the parties may follow such processes.

9.4. **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 9.9:

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

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

9.4.3. 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 Developers, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

9.5. **Public Meeting.** Before any remedy in Section 9.4 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.

9.6. **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 9.5. The City shall give Notice to Master Developers and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Master Developers and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

9.7. Extended Cure Period. If any Default cannot be reasonably cured within thirty (30) calendar days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

9.8. Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Master Developers.

9.9. No Cross-Default. A default regarding either Phase 1 or Phase 2 shall not be deemed to be a default for the other Phase.

9.10. 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 Master Developers or any Subdeveloper shall be that of specific performance.

10. 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 Developers:

Phase 1 Owner

Bravada 193, LLC
Attn.: _____

_____, UT 84_____

Phase 2 Owner

Bravada 193, LLC
Attn.: _____

_____, UT 84_____

With a Copy for Master Developers to:

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

To the City:

Clearfield City Corporation
Attn: City Manager
55 South State Street
Clearfield, UT 84015

With a Copy to:

Clearfield City Attorney
55 South State Street
Clearfield, UT 84015

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

10.1.1. 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.

10.1.2. 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.

10.1.3. **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.

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

12. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City, or Master Developers. 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.

13. **Assignability.** The rights and responsibilities of Master Developers under this MDA may be assigned in whole or in part, respectively, by Master Developers with the consent of the City as provided herein.

13.1. **Sale of Lots.** Master Developers’ 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 Master Developers.

13.2. **Related Entity.** Master Developers’ transfer of all or any part of the Property to any entity “related” to Master Developers (as defined by regulations of the Internal Revenue Service in Section 165), Master Developers’ entry into a joint venture for the development of the Project or Master Developers’ 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 Developers. Master Developers shall give the City Notice of any event specified in this sub-section within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

13.3. **Notice.** Master Developers 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.

13.4. **Time for Objection.** Unless the City objects in writing within thirty (30) calendar days of notice, the City shall be deemed to have approved of and consented to the assignment.

13.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developers’ 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 Master Developers 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.

13.6. **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 or Master Developers 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 5.2 and 5.4. If the refusal is subject to Arbitration as provided in Section 5.5 then the Parties shall follow such processes.

13.7. **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. That consent shall specifically acknowledge the provisions of Section 2.

14. **Binding Effect.** If Master Developers 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 or Master Developers and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

15. **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.

16. **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.

17. **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.

18. **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.

19. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developers each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developers. The initial representative for the City shall be the City Manager. The initial representative for Master Developers shall be _____. 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.

20. **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.

21. **Venue.** Any action to enforce this MDA shall be brought only in the Second District Court for the State of Utah, Davis County Division.

22. **Entire Agreement.** This MDA, and all Exhibits and Addendum 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.

23. **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.

24. **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.

25. **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 May __, 2019.

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.

CITY
Clearfield City Corporation

By: _____,
Its: City Manager

Approved as to form and legality:

Attest:

City Attorney

City Recorder

CITY ACKNOWLEDGMENT

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

On the ____ day of April, 2019 personally appeared before me _____ who being by me duly sworn, did say that he is the City Manager of Clearfield City Corporation, 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 DEVELOPERS

Phase 1 Owner

Bravada 193, LLC

By: _____
Its: _____

Phase 2 Owner

Bravada 193, LLC

By: _____
Its: _____

MASTER DEVELOPERS ACKNOWLEDGMENT

Phase 1 Owner

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

On the __ day of May, 2019, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Bravada 193, 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: _____

Phase 2 Owner

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

On the __ day of May, 2019, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of University Enterprises, LLC, 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”	Master Plan
Exhibit “C”	City’s Vested Laws
Exhibit “D” (from Addendum # 1)	Landscaping Plan
Exhibit “E” (from Addendum # 1)	Color and Materials for all Building Materials Schedule

Exhibit “A”
Legal Description of Property

Exhibit “B”
Master Plan

Exhibit “C”
City’s Vested Laws

Exhibit “D” (from Addendum # 1)
Landscaping Plan

Exhibit “E” (from Addendum # 1)
Renderings and Building Materials

DRAFT
TO CITY 04/15/19
ADDENDUM NO.1
TERMS

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

1.1. “Vertical Construction” means that the footings and foundations of a building are completed and approved by the City and that the exterior walls of the building have started to be framed.

2. **Parking.** Underground parking shall not be required for either Phase 1 or Phase 2. Each Development Application shall specify the manner by which the City’s parking requirements are met for that Development Application. Parking for both Phases may be in front of the buildings, at the discretion of Master Developers, as shown on the Master Plan. Shared Parking may be allowed pursuant to the City’s Vested Laws.

2.1. Where tuck-under garages are shown on the Master Plan, they are to be of sufficient dimensions to allow a full-size vehicle to be parked in them. The management company shall not allow garages to be used as storage units (i.e. vehicle parking must be the primary use). Tuck-under garages that are blocked by a tandem surface parking stall shall not be leased to tenants in 1-bedroom units. Moreover, the surface parking stall in a tandem situation must be assigned to the same tenant that is leasing the garage that it blocks.

3. **Phase 1.** The Parties acknowledge that Phase 1 is not currently planned to include a commercial component, except for the leasing/management office for the Phase 1

Residential Dwelling Units. At their discretion, Master Developers may allow the recreational facilities that are an amenity to the Phase 1 Residential Units to be available to non-residents on a commercial basis.

3.1. Site work (including, but not limited to, clearing, grubbing, and installation of utilities) and the construction of footings and foundations on Phase 1 may begin when the City approves the plans for those improvements. Vertical construction shall not be permitted on Phase 1 until vertical construction has commenced on either Phase 2 or for a commercial development on an adjoining property shown on the Master Plan as “Lot 101”.

3.2. The City shall not be required to grant a Certificate of Occupancy for the final building of Phase 1 (currently contemplated to be Building D as shown on the Master Plan) until: 1) a Certificate of Occupancy has been issued for either the commercial building on Lot 101 or for the Phase 2 (Commercial) building as specified in Section 4 and as shown on the Master Plan; and 2) vertical construction has begun on the other commercial building (either on Lot 101 or Phase 2).

4. **Phase 2 (Commercial).** Phase 2 shall include at least 30,000 square feet of commercial space. A Hotel may, at the discretion of Master Developers, be allowed as a commercial use in Phase 2.

5. **Landscaping.** Development of the Project shall comply with the landscaping and open space requirements of the City’s Vested Laws as generally illustrated on (Exhibit “D”). Generally, the landscaping and open space shown on Exhibit “D” shall be constructed concurrently with the construction of the Development Application with which it is associated.

Master Developer may modify the types and location of the landscaping and open space at its discretion so long as the modifications comply with the City's Vested Laws.

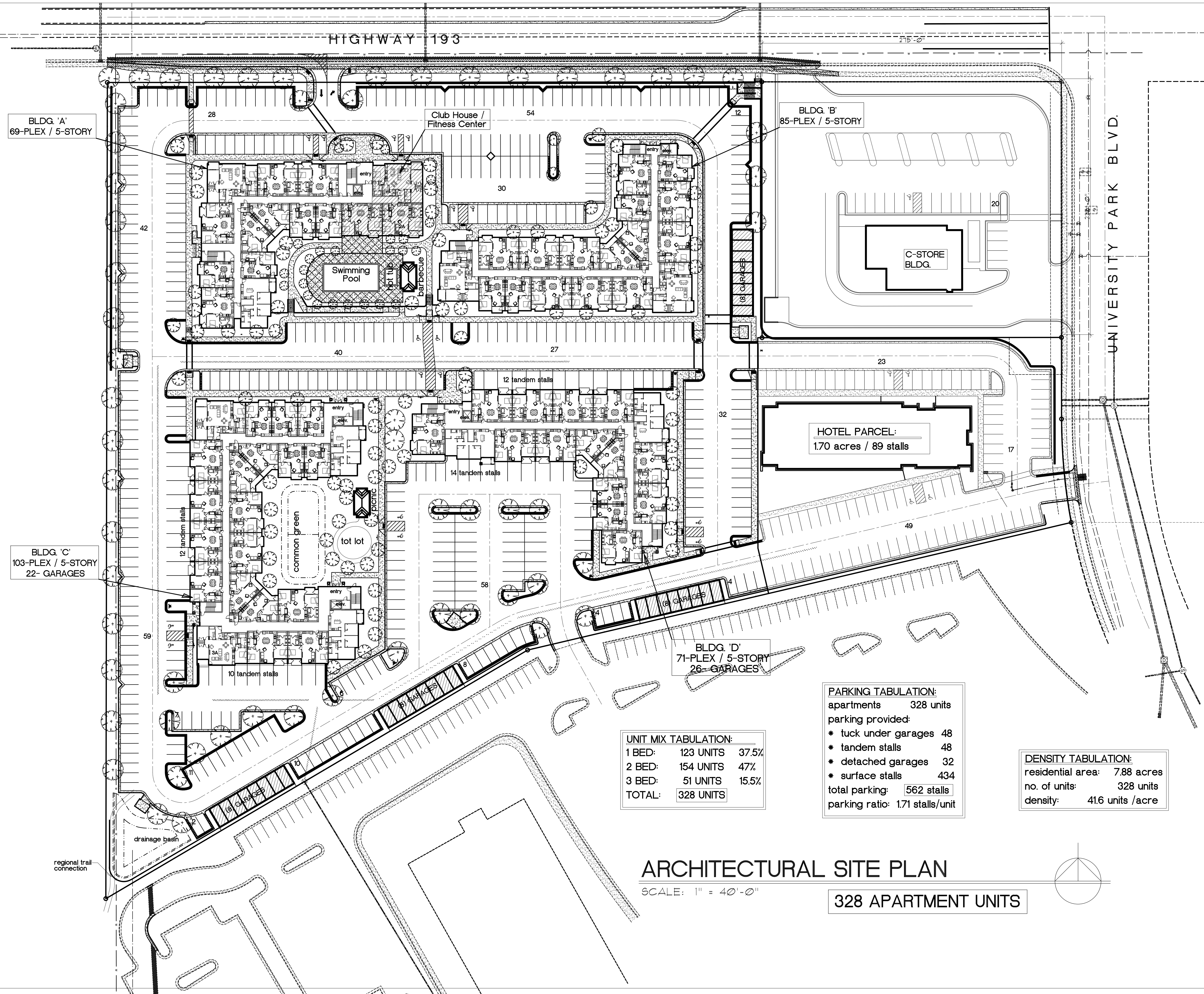
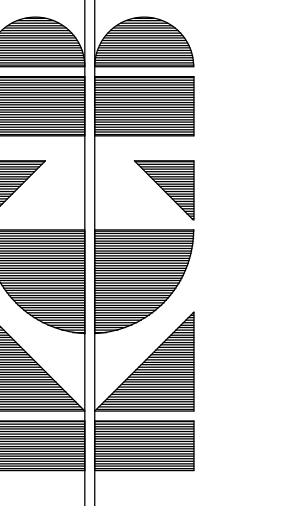
6. **Renderings and Building Materials.** The Parties acknowledge that construction of the Project shall be designed and use materials substantially similar to those specified in Exhibit "E".

7. **Fencing.** Certain areas of the boundaries of the Project shall be fenced as illustrated on the Master Plan. Generally, the fencing shall be constructed concurrently with the construction of the Development Application with which it is associated.

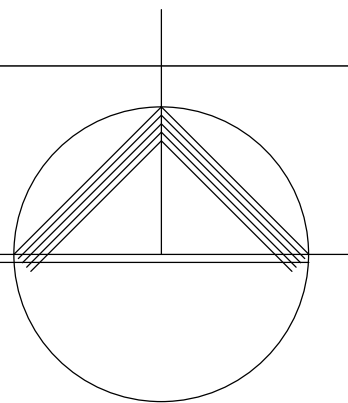


BUILDING A NORTH ELEVATION

CLEARFIELD APARTMENTS









club house entry

BLDG. 'A'
NORTH ELEVATION

PROJECT NUMBER

17-066

SHEET TITLE

ELEVATIONS - BLDG. 'A'

SCALE: 1/8" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT

HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT

architecture

2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

XX

DATE

19 JAN 2019

SHEET NUMBER

A2.3



BUILDING FLOOR PLAN - BLDG. 'B'
85-PLEX / 5-STORY

PROJECT NUMBER

17-066

SHEET TITLE

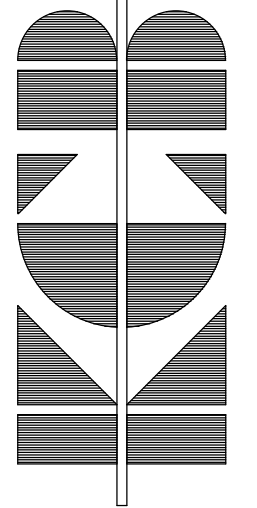
BUILDING MAIN FLOOR PLAN
BUILDING 'B'
SCALE: 1/8" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT

architecture
2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX



REVISION DATE

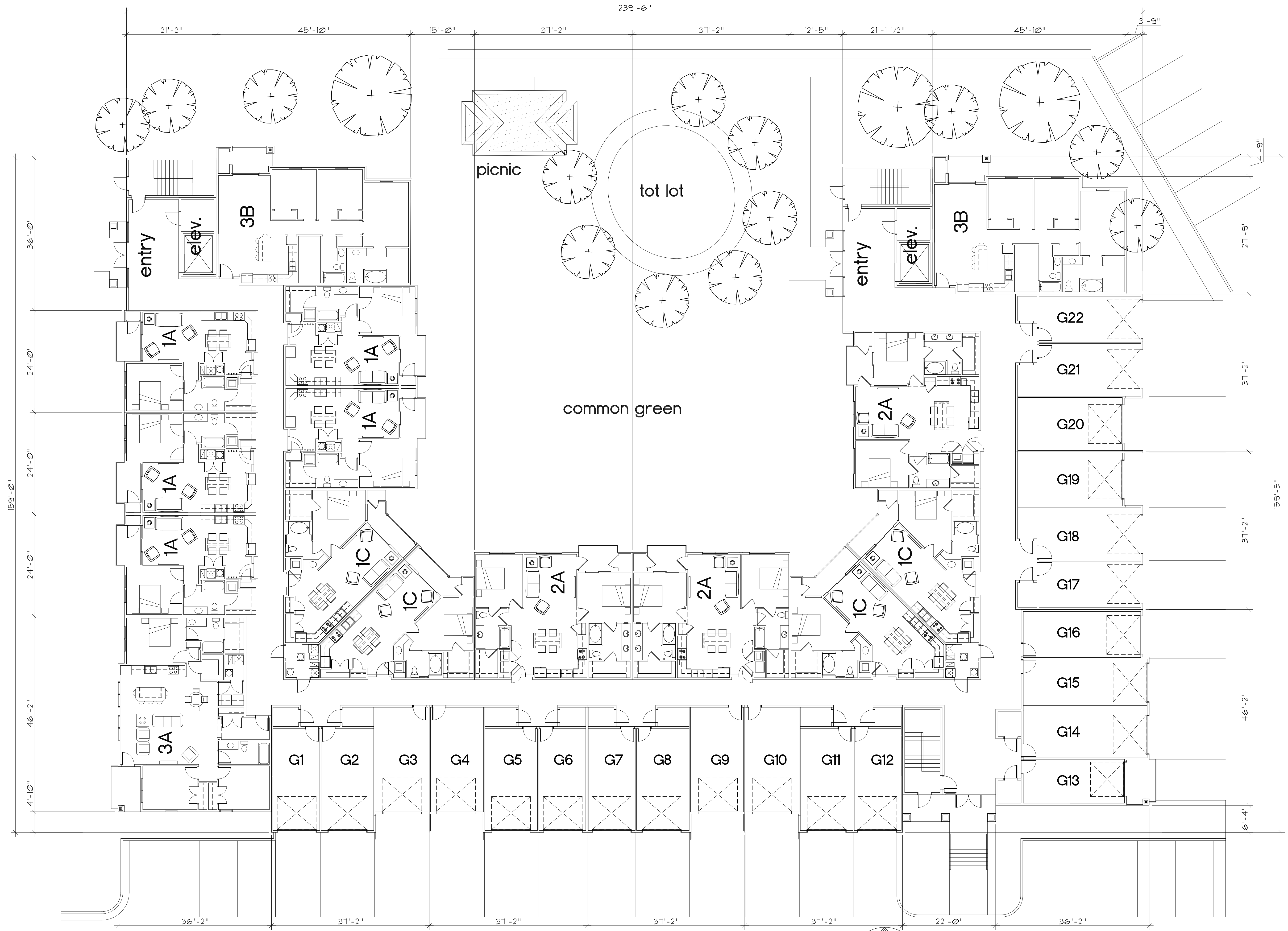
XX

DATE

19 JAN 2019

SHEET NUMBER

A3.1



BUILDING MAIN FL. PLAN - BLDG. 'C'
103-PLEX / 5-STORY / 22-GARAGES

PROJECT NUMBER

17-066

SHEET TITLE

BUILDING MAIN FLOOR PLAN
BUILDING 'C'
SCALE: 3/32" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT

architecture
2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

architecture
2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

XX

DATE

19 JAN 2019

SHEET NUMBER

A4.1



BUILDING UPPER FL. PLAN - BLDG. 'C'
103-PLEX / 5-STORY / 22-GARAGES

PROJECT NUMBER

17-066

SHEET TITLE

BUILDING MAIN FLOOR PLAN
BUILDING 'C'
SCALE: 3/32" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT



architecture
2033 dan drive 84040
layton, utah
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

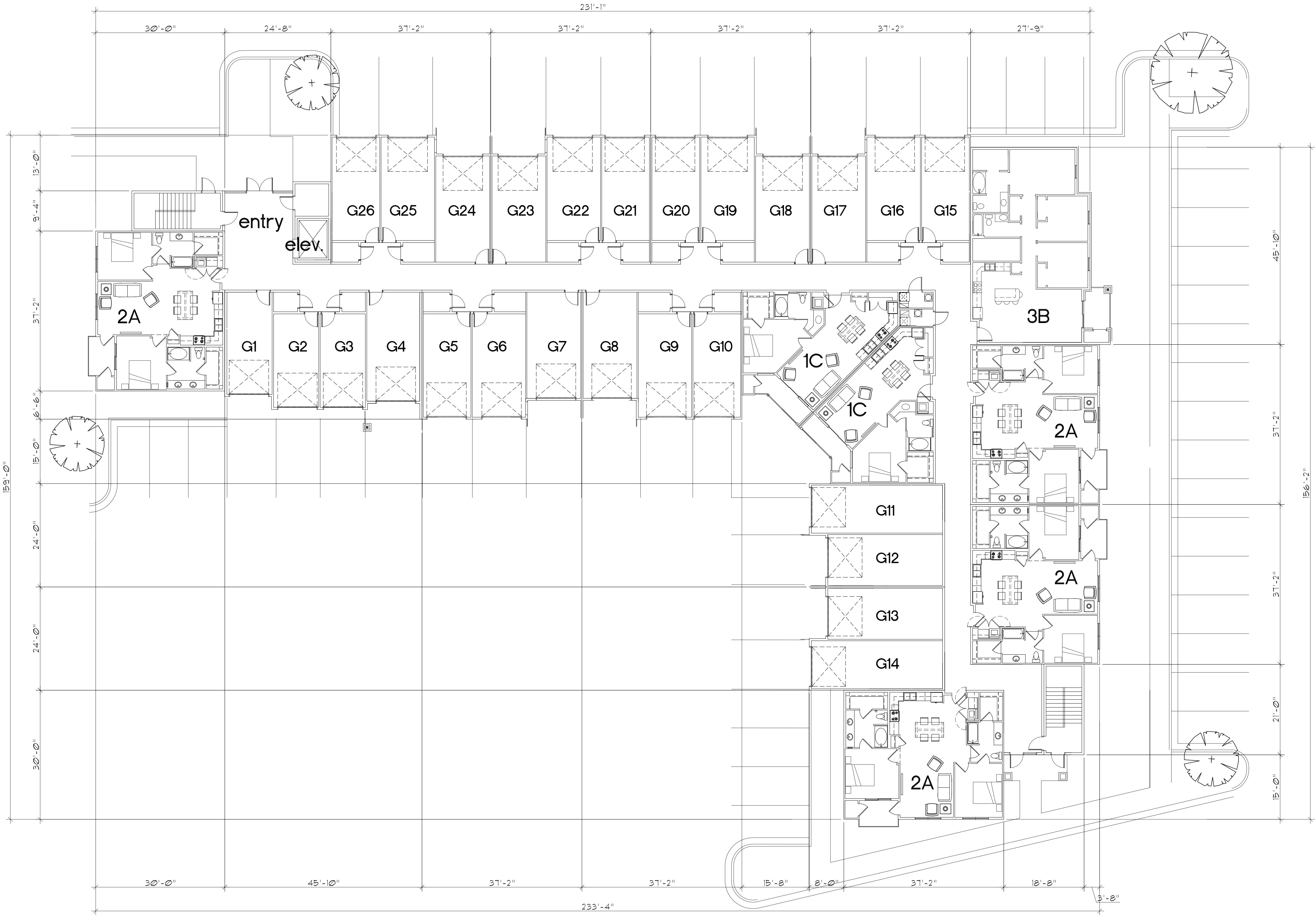
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DATE

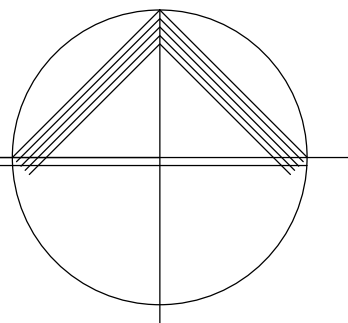
19 JAN 2019

SHEET NUMBER

A4.2



BUILDING MAIN FL. PLAN - BLDG. 'D'
 71-PLEX / 5-STORY / 26-GARAGES



PROJECT NUMBER

17-066

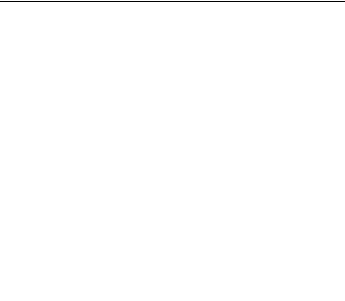
SHEET TITLE

BUILDING MAIN FLOOR PLAN
 BUILDING 'D'
 SCALE: 3/32" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
 DEVELOPMENT
 HIGHWAY 193
 CLEARFIELD, UT
 CASTLE CREEK HOMES

ARCHITECT



architecture
 2033 dan drive
 layton, utah 84040
 (801) 593-9338
 (801) 593-9328 FAX

REVISION DATE

XX

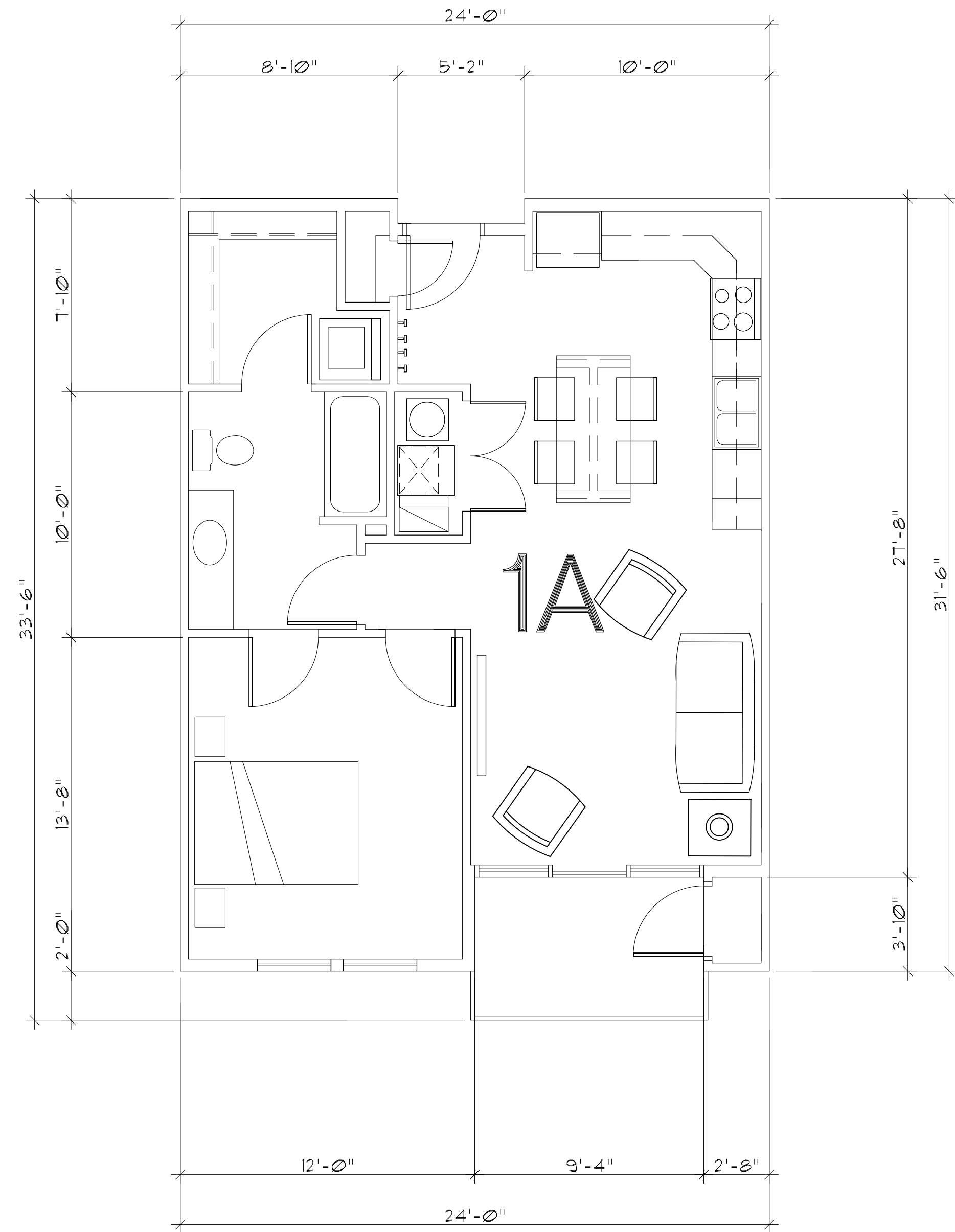
DATE

19 JAN 2019

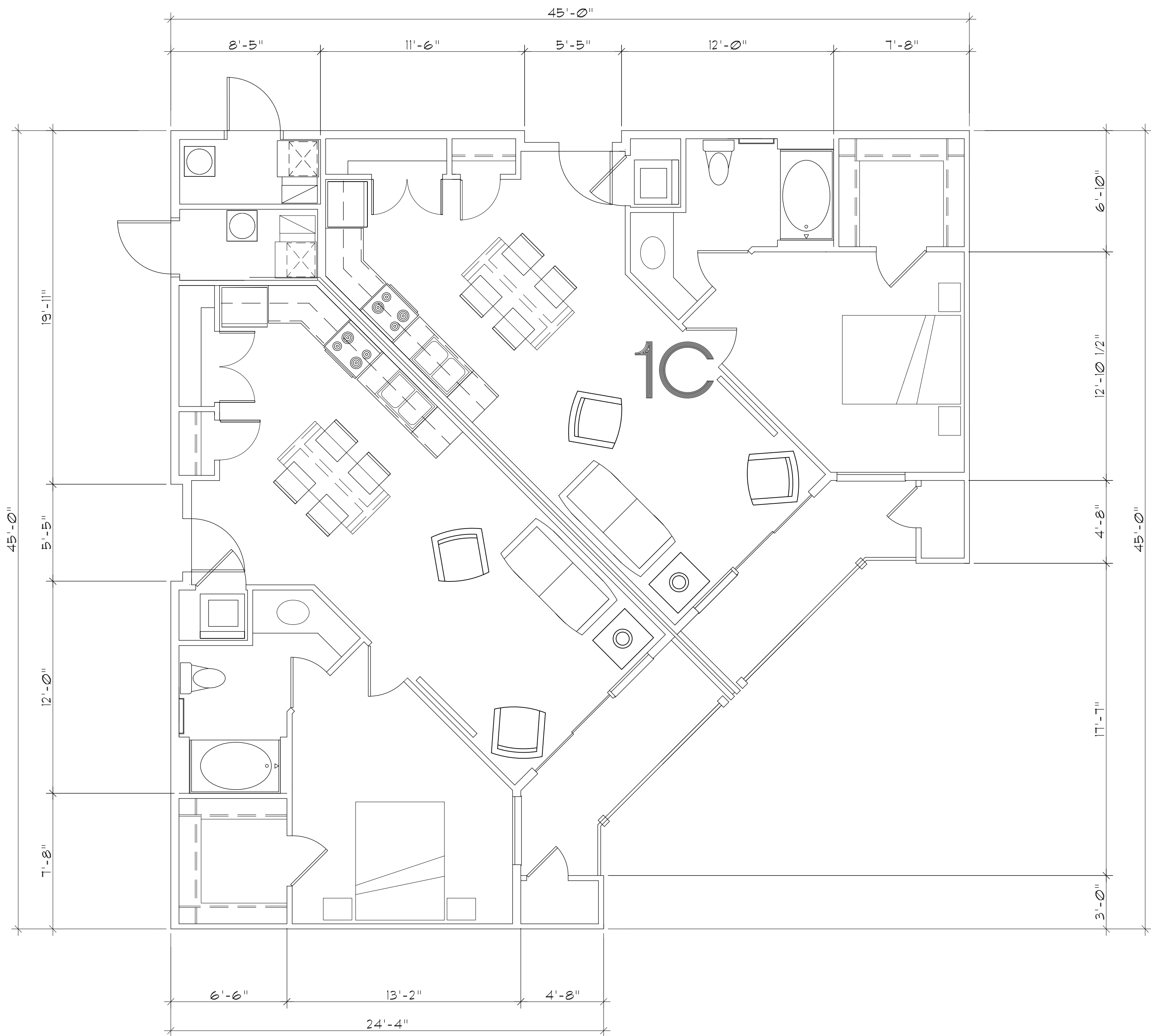
SHEET NUMBER

A5.1





UNIT PLAN - 1A
715 S.F.



UNIT PLAN - 1C
782 S.F.

PROJECT NUMBER

17-066

SHEET TITLE

UNIT FLOOR PLANS
1-BED UNITS
SCALE: 1/4" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT

architecture

2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

XX

DATE

19 JAN 2019

SHEET NUMBER

A6.1



UNIT PLAN - 2A
1,072 S.F.

PROJECT NUMBER

17-066

SHEET TITLE

UNIT FLOOR PLANS
2-BED UNITS
SCALE: 1/4" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT

architecture
2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

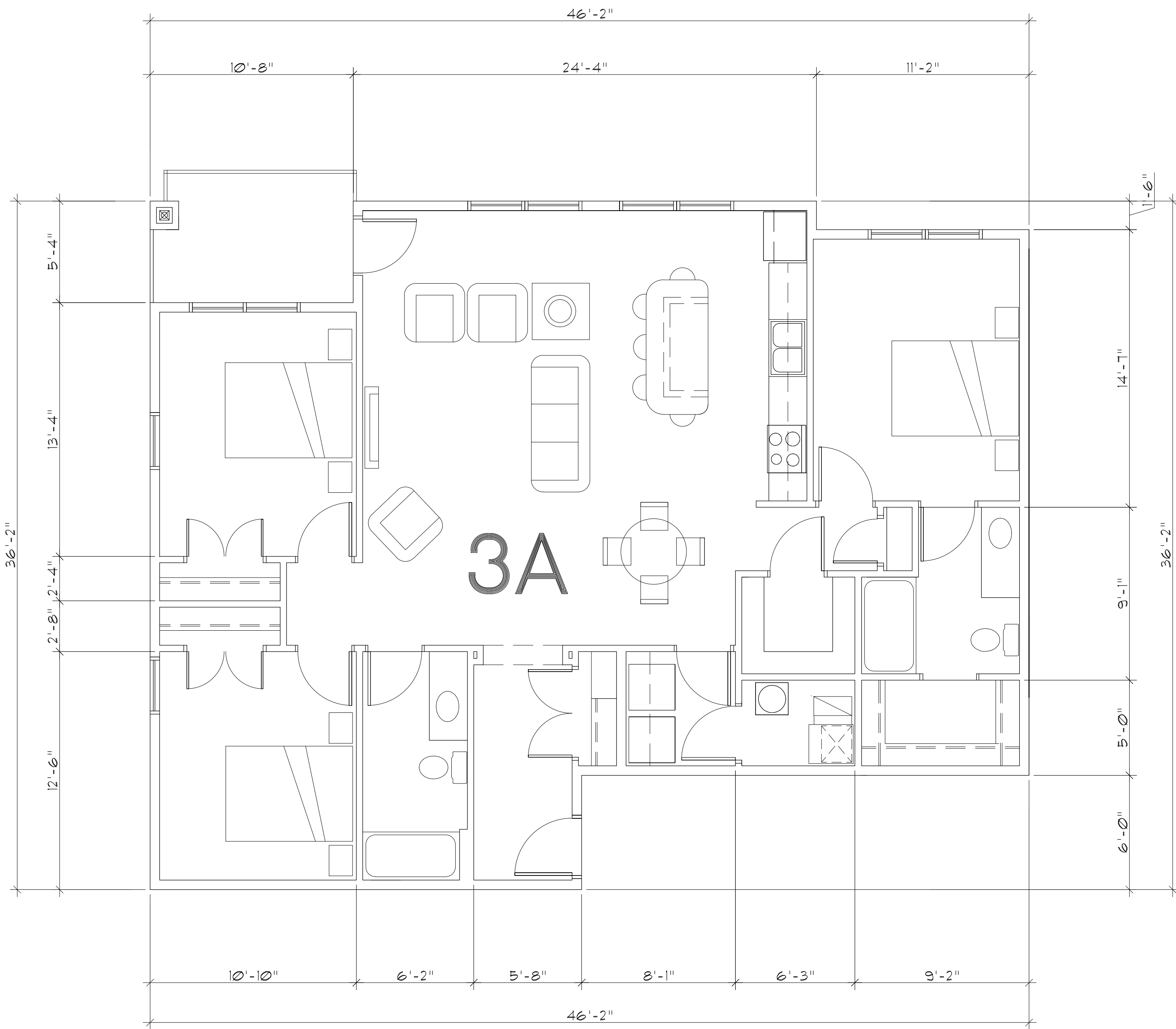
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DATE

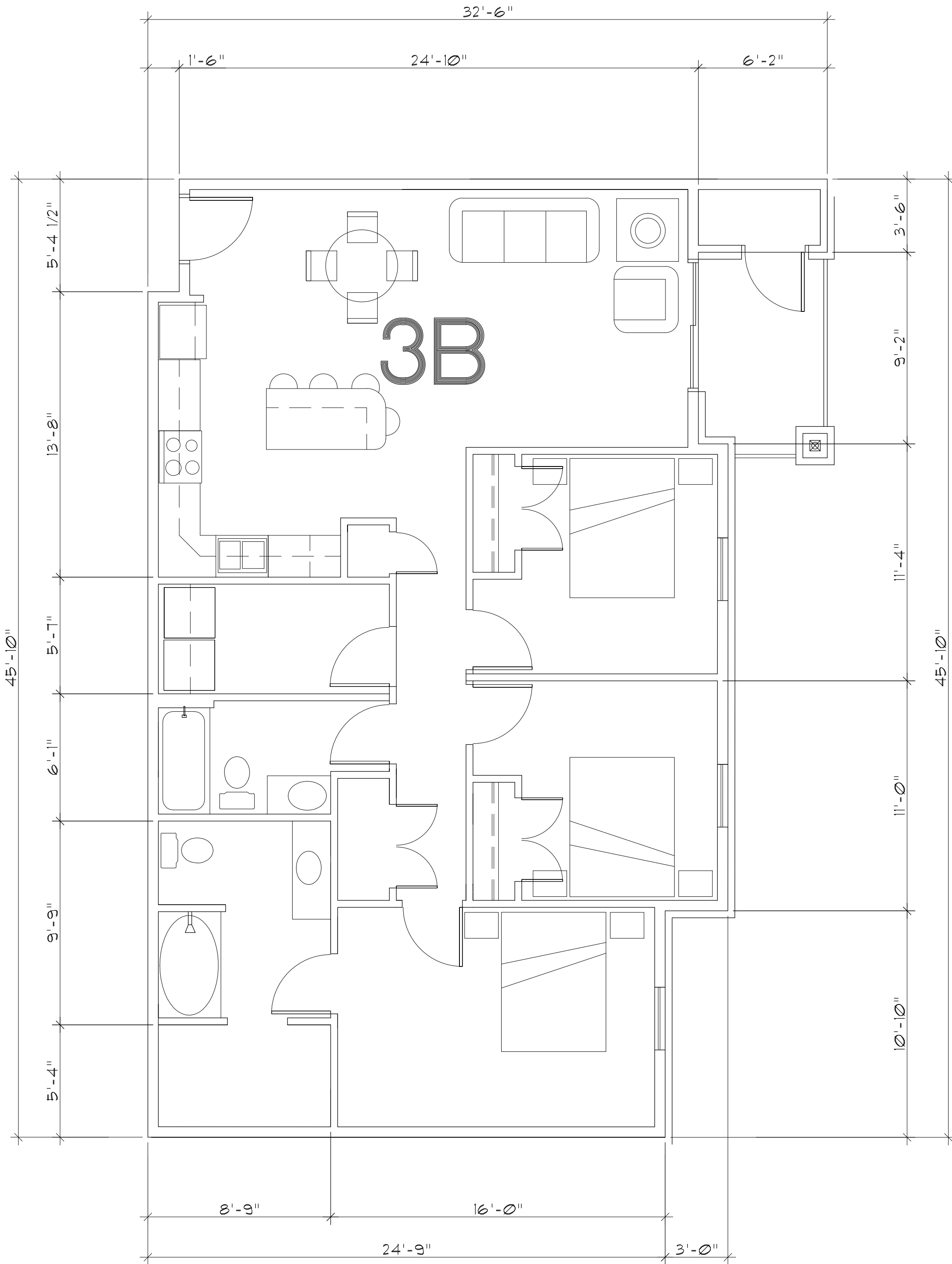
19 JAN 2019

SHEET NUMBER

A6.2



UNIT PLAN - 3A
1,455 S.F.



UNIT PLAN - 3B
1,234 S.F.

PROJECT NUMBER

17-066

SHEET TITLE

UNIT FLOOR PLANS
3-BED UNITS
SCALE: 1/4" = 1'-0"

PROJECT/OWNER

CLEARFIELD MIXED USE
DEVELOPMENT
HIGHWAY 193
CLEARFIELD, UT
CASTLE CREEK HOMES

ARCHITECT



architecture
2033 dan drive
layton, utah 84040
(801) 593-9338
(801) 593-9328 FAX

REVISION DATE

XX

DATE

19 JAN 2019

SHEET NUMBER

A6.3



STAFF REPORT

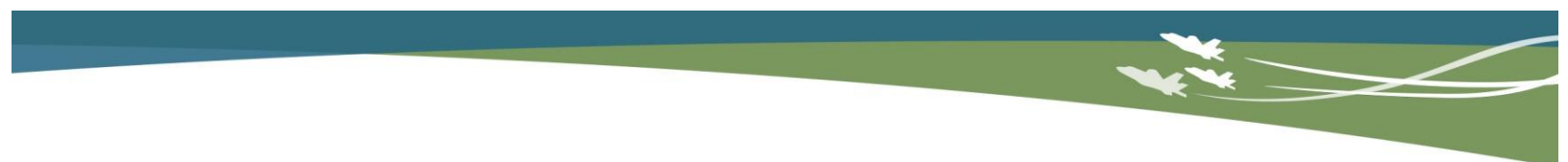
TO: Mayor Shepherd and City Council Members
FROM: Brad McIlrath, Senior Planner
MEETING DATE: Tuesday, May 21, 2019
SUBJECT: Discussion on the amended development agreement for the Kensington Place Townhomes Subdivision located at 852 & 880 South 550 East (TIN: 12-815-0001 & 12-815-0002).

DESCRIPTION / BACKGROUND

The Kensington Place Phase II Development Agreement was originally executed by Clearfield City and the developer, John Ryan on September 23, 2014. The document was recorded with the Davis County Recorder's office on February 6, 2015. This agreement between the developer and the City outlined the specific development and design standards for this townhome subdivision development. The completion of the project was in compliance with the standards outlined in this agreement.

On April 23, 2019 the Clearfield City Council approved the Kensington Place Phase II Amended subdivision plat for the expansion of the development with six (6) additional townhomes and a future office/storage space. As a condition of that approval, the applicant was to amend the original development agreement to include the additional space of the subdivision and record the amended agreement in conjunction with the amended plat. This proposed amended development agreement includes all of the same development and design standards as were required as part of the original agreement. The following summary of the development and design standards required for the initial subdivision will also be required for the amended subdivision.

- A. The developer is required to install all improvements required for the development.
- B. All housing units shall be single-family dwellings (townhomes) and shall have a one-car garage and one additional parking space.
- C. The residential units shall have at least 1,200 square feet of finished floor area about grade. No slab on grade construction without footings is allowed.
- D. Each main building on the property shall have the setbacks, front yards, back yards, and side yards as shown on the approved site plan.
- E. Each unit shall have vinyl siding on units where siding is used, and front elevations shall have at least 50% brick or 40% rock. All side and rear exterior finishes may be brick stucco, rock, vinyl siding, or combinations thereof.

- 
- F. The developer shall construct the residential units in substantial conformance with the approved plans and elevations.
 - G. The developer agrees to provide at least 25% of the developed property as open space.
 - H. The developer shall record the agreement with the amended subdivision plat.
 - I. The developer shall install vinyl fencing around the property.
 - J. The developer shall comply with the City requirements for guaranteeing the installation and warranty of improvements.

A full detailed list of these requirements is provided in the attached amended development agreement. The agreement also spells out the City's undertakings and general terms and conditions.

CORRESPONDING POLICY PRIORITY (IES)

Improving Clearfield's Image, Livability and Economy

Single family attached housing (townhomes) is something we have seen more of within the City. This housing option provides an alternative to the multi-family housing (apartments/condos) and single family housing. As a continuation of the existing neighborhood and development pattern, the expansion of the Kensington Place Phase 2 subdivision and site development aligns with this priority by providing additional housing and will improve the livability and community image in this area. The development will improve Clearfield's image by developing parcels adjacent to the townhome development and will provide uniformity with development in the area. With compliance to ordinance design standards and those outlined in this development agreement, the high quality and location of this development will encourage additional investment and create additional housing options for residents.

FISCAL IMPACT

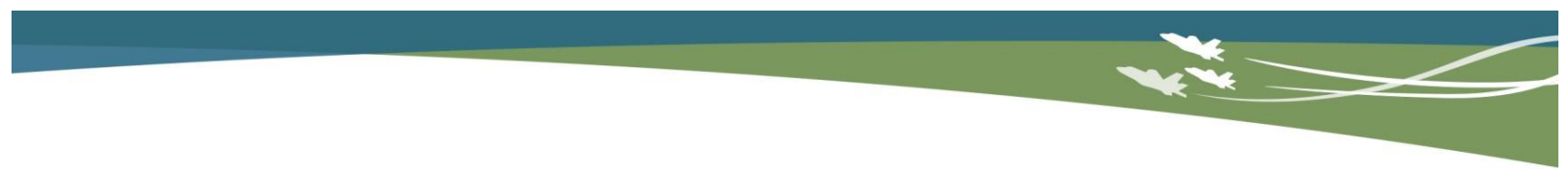
There are no fiscal impacts tied to this development agreement.

ALTERNATIVES

None proposed.

SCHEDULE / TIME CONSTRAINTS

Upon approval of the development agreement the developer will need to prepare the final document and record the agreement in conjunction with the final amended subdivision plat.



LIST OF ATTACHMENTS

- Kensington Place Subdivision, Phase II Amended Development Agreement

DEVELOPMENT AGREEMENT

for
KENSINGTON PLACE SUBDIVISION, PHASE II **AMENDED**
between
CLEARFIELD CITY CORPORATION
and
HAMBLIN INVESTMENT GROUP, LLC

THIS AGREEMENT is entered into this ____ day of _____ **2019**, by and between Clearfield City Corporation (the “City”), a Utah Municipal Corporation, and Hamblin Investment Group, LLC, a Utah Limited Liability Company, John K. Ryan **Manager** (“Developer”).

RECITALS

- A. Developer intends to develop certain property situated in Clearfield City, Davis County, Utah, located at approximately 860 South 550 East, more particularly described in Exhibit A hereto and known as the “Property.”
- B. Developer either owns or has a contractual right to purchase the Property.
- C. The Developer desires to develop the Property according to the Kensington Place Phase II **Updated Expansion** Subdivision Plat and **Updated** Improvement Drawings as well as incorporating any changes thereto as set forth in the approved final subdivision plat to be recorded with the Davis County Recorder’s Office, which documents are attached hereto as Exhibit B (the “Plat”).
- D. On **April 23, 2019**, the City approved the **updated expansion** Plat submitted by the Developer for the development of the Property.
- E. Developer and City are entering into this Development Agreement as part of the subdivision approval process for the development of the Property.

NOW, THEREFORE, in consideration of the premises and the terms and conditions herein stated and for other valuable consideration, the adequacy of which is acknowledged by the parties hereto, it is agreed as follows:

1. Developer’s Undertaking

- A. Developer hereby agrees to construct and to install, all **updated** improvements described in the **updated expansion** Plat and Improvement Drawings. In the event that Developer does not complete such improvements according to the specific plans set forth in the **updated expansion** Plat and Improvement Drawings, the City shall have the right to cause such work to be done as is necessary to reasonably complete the installation of the

updated expansion improvements and Developer shall be liable for the cost of such additional work.

In addition this development may require new water, sanitary sewer and storm sewer lines to be installed. The Developer shall be responsible for installing those lines in accordance with City standards and in addition to the other improvements on the updated expansion Plat.

No building permits shall be issued for construction of the town homes in the subdivision until the City has approved the final updated expansion Subdivision Plat and the final updated expansion Site Plan.

B. All housing units within the development of the Property shall be single-family dwellings (condominiums) and shall have a one-car garage and one additional parking space. This is a deviation from City Code 11-9E-13D which requires each dwelling to have a two car garage.

C. Residential units shall have at least 1,200 square feet of finished floor area above grade. No slab on grade construction without footings is allowed. This is a deviation from City Code 11-9E-13B which requires dwelling styles other than ramblers to have a finished floor area of at least 1,500 square feet.

D. Each main building on the Property shall have the setbacks, front yards, back yards and side yards as shown on the approved updated expansion Final Site Plan. There are deviations from City Code 11-9E-5 regarding front, side, and rear yard setbacks in various locations throughout the development.

E. Each unit shall have vinyl siding on units where siding is used, and front elevations shall have at least fifty percent (50%) brick or forty percent (40%) rock. All side and rear exterior finishes may be brick stucco, rock, vinyl siding, or combinations thereof.

F. Developer shall construct residential units on the Property in substantial conformance with the plans and elevations presented to the City during the approval process which elevations shall be kept on file in the records of Clearfield City its assigns, may modify the plans and elevations for the residential units on the Property provided that such modifications satisfy the requirements of paragraphs 1(B), 1(C) and 1(E) of this Agreement and further provided that such modifications of the plans and elevations shall be presented to and approved by the Planning Commission and the City Council.

G. Developer agrees to provide at least twenty-five percent (25.0%) of the newly developed Property shall remain in open space. Developer shall construct, install, and pay for all improvements related to the open space and it shall have shrubs, trees and grass covering that shall be mowed, watered and maintained. Developer shall establish a homeowners association to be responsible for all aspects of maintenance of the open space as well as all surface improvements on private property including streets and rights of way throughout the Property. Should the homeowners association fail to maintain the open space, the City shall have the right, but not the obligation to perform such

maintenance and bill the charges therefore to the individual homeowners on a pro rated basis.

H. The Developer shall record this Agreement as covenants running with the lots and Land in the Development and indicate on the approved Final Subdivision Plat the existence of this Agreement and the recording data therefore.

I. The Developer shall install vinyl fencing around the property.

J. The Developer must comply with the City's requirements for guaranteeing the installation and warranty of all subdivision improvements pursuant to the City's subdivision ordinance and all other applicable laws.

2. City's Undertakings.

A. The City shall approve the final subdivision plat for the development of the Property, provided that such final plat is consistent with the Plat and conforms to all applicable laws. The City will record the approved final plat with the Davis County Recorder's Office as required by law.

B. Pursuant to the City's subdivision ordinance, following approval of the final subdivision plat by the City Council, but before approval from the City Attorney or recording of the final plat with the Davis County Recorder's Office, the City will verify that proper assurances (escrow account and agreement, and/or surety bond) are in place to guarantee the satisfactory installation and warranty of the subdivision improvements

3. General Terms and Conditions.

A. Integration Clause- This Document and those incorporated by reference constitute the entire agreement between the Parties and may not be amended except in writing signed by the Parties.

B. Exhibits Incorporated. Each exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

C. Attorneys Fees. In the event of any action or suit by a party against the other party for any reason of any breach of any of the covenants, conditions, agreements, provisions on the part of the other part arising out of the Agreement, the prevailing party in such action or suit shall be entitled to have and recover from the other party all costs and expenses incurred therein, including reasonable attorney's fees.

D. Governing Law and Venue. It is mutually understood and agreed that this Agreement shall be governed by the laws of the state of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the Second Judicial District Court, Farmington Department, State of Utah.

E. Remedies for Breach. In addition to any other remedies allowed under law or equity, the parties shall specifically be entitled to specific performance of the terms and conditions under this Agreement.

F. Successors and Assigns of the Parties. This Agreement shall be binding upon the parties and their successors and assigns, and where the term “Developer”, “Party” or “Parties” is used in this Agreement it shall mean and include the successors and assigns of Developer. In addition, Developer may assign the rights to develop part of the Property to a third party pursuant to the terms of this Agreement, provided that such third party agrees in writing to be bound by the terms of this Agreement and that such written agreement to be bound has been provided to the City.

G. Headings. The paragraph headings of this Agreement are for the purposes of performance only and shall not limit or define the provisions of this Agreement or any of said provisions.

H. Severability or Partial Validity. If any term, covenant, paragraph, or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such remaining term, covenant, or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

I. Warranty of Authority. Each party signing or executing this Agreement warrants that they have full authority to sign this Agreement and by signing said Agreement do bind the parties thereto.

J. Warranty Inspections. The Developer agrees to reimburse the City or pay directly to the City's engineer any costs associated with the intermediate and final warranty inspections that are required prior to acceptance of the subdivision improvements by the City.

WITNESS WHEREOF, the Developer and Clearfield City have executed this Agreement effective as of the date first above written.

CLEARFIELD CITY CORPORATION,
A Utah Municipal Corporation

Hamblin Investment Group, LLC
A Utah Limited Liability Company

By: _____
Mark R. Shepherd, Mayor

John K. Ryan, Manager

ATTEST:

By: _____
Nancy R. Dean, City Recorder

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH)

§
COUNTY OF DAVIS)

On the _____ day of _____, 2019 personally appeared before me,
Mr. John K. Ryan, as **signer** of the foregoing document, who duly acknowledged to me
that **he has** corporate authority on behalf of Hamblin Investment Group, LLC to execute
the same, and did so on behalf of the Limited Liability Company.

NOTARY PUBLIC

Residing:

STATE OF UTAH}

$$\} \text{ SS}$$
$$\} \text{ SS}$$

COUNTY OF DAVIS}

On _____ of _____, 2019 personally appeared before me, Mark R. Shepherd and **Nancy R. Dean**, who being by me duly sworn did say, that they are the Mayor and City Recorder of Clearfield City Corporation, and that the within and foregoing instrument was signed on behalf of said corporation by authority of the City Council and the said, Mark R. Shepherd and **Nancy R. Dean**, acknowledged to me that said corporation executed the same.

NOTARY PUBLIC

Residing: