



# CITY OF NORTH SALT LAKE

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## NORTH SALT LAKE CITY COUNCIL NOTICE & AGENDA

May 7, 2013

7:00 p.m.

Posted May 3, 2013

Notice is given that the North Salt Lake City Council will hold a regular meeting on **TUESDAY, MAY 7, 2013 at 7:00 p.m.** An open house is being held from 5:00 – 6:30 p.m. with the regular session following in the City Council Chambers. Some Council Members may participate electronically. The following items of business will be discussed; the order of business may be changed as time permits.

### **(Open House for General Plan 5:00 – 6:30 p.m.)**

### **REGULAR SESSION - 7:00 p.m.**

- 7:00 Introduction by Mayor Len Arave
- 7:02 Invocation and Pledge of Allegiance ~ Council Member Stan Porter
- 7:05 Citizen Comment
- 7:10 Swearing in of Elizabeth “Liz” Bogdan, NSL Police Officer
- 7:15 Adoption of 2013-14 Tentative Budget and Setting Date for Public Hearing
- 7:25 Awarding of Contract for Street Preservation Project – Holbrook Asphalt
- 7:30 Consideration of Ordinance No. 2013-04: An ordinance rezoning real property located at approximately 900 North Redwood Road from C-G, General Commercial, to M-D, Manufacturing Distribution. Hughes & Hughes Investment Corporation, applicant
- 7:50 Discussion of Hillside Ordinance
- 8:00 Discussion of Taxing Entity for South Davis Metro Fire Agency
- 8:10 Review Action Items
- 8:20 Council Reports
- 8:30 City Attorney’s Report
- 8:35 Mayor’s Report
- 8:40 City Manager’s Report
- 8:45 Closed Session for the Purpose of Discussing Pending Litigation
- 9:00 Adjourn

**The public is invited to attend all City Council meetings. If you need special accommodations to participate in the City Council meeting, please call the City office at 801-335-8709. Please provide at least 24 hours notice for adequate arrangements to be made.**



## NORTH SALT LAKE PUBLIC WORKS

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10 East Center Street  
North Salt Lake, Utah  
84054  
(801) 335-8700  
(801) 397-0640 Fax

LEONARD ARAVE  
Mayor

PAUL OTTOSON, PE  
Public Works Director /  
City Engineer

### MEMORANDUM

To: Honorable Mayor Arave & City Council  
From: Paul Ottoson  
Date: April 30, 2013  
Subject: Award Contract for High Density Mineral Bond

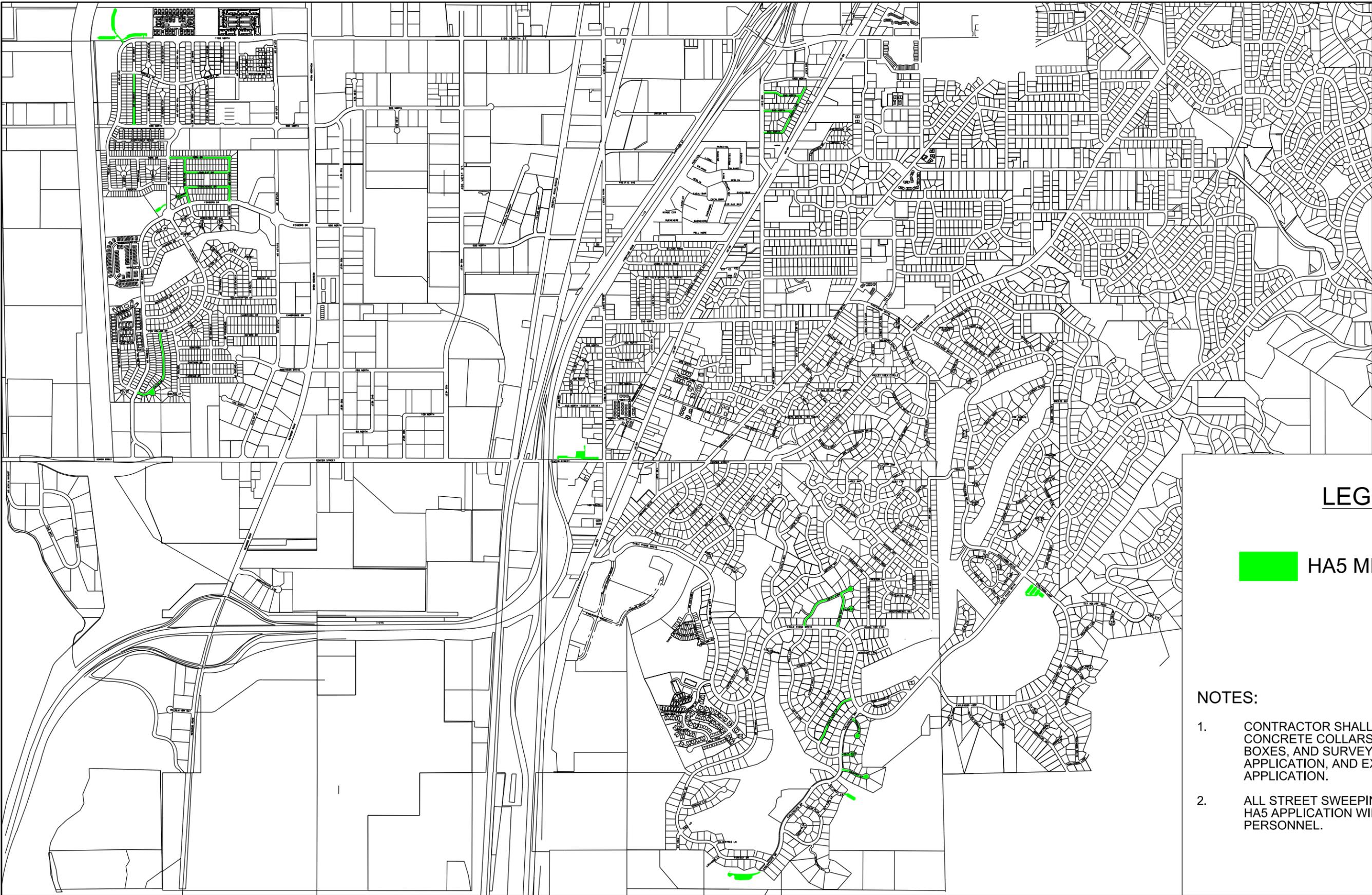
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#### **RECOMMENDATION**

City staff recommends awarding a contract to Holbrook Asphalt Co. for the installation of “High Density Mineral Bond” (HA5) for the price of \$100,581.95.

#### **BACKGROUND**

This project is the second part of the City’s street preservation projects scattered throughout the city. The projects are shown on the attached map and include many city streets and several city parking lots such as Legacy Park, Hatch Park, Tunnel Springs Park and the Golf Course Parking Lot. This project did not go out to bid since Holbrook Asphalt is the sole source provider for HA5. Holbrook Asphalt also installed HA5 on several streets last year for us and we are very impressed with their work.



**LEGEND**

 HA5 MINERAL BOND

**NOTES:**

1. CONTRACTOR SHALL PROTECT ALL EXISTING CONCRETE COLLARS ON MANHOLES, VALVE BOXES, AND SURVEY MONUMENTS DURING HA5 APPLICATION, AND EXPOSE COLLARS AFTER APPLICATION.
2. ALL STREET SWEEPING BEFORE AND AFTER HA5 APPLICATION WILL BE DONE BY CITY PERSONNEL.

REVISION	DATE	BY	DESCRIPTION	DESIGN
				PRØ
				DRAWN PRØ
				CHECKED KØØ
				DATE APR 2013
				F.B. NO.
				P.G. NO.

**HA5 LOCATIONS**

**MISCELLANEOUS STREET PRESERVATIONS 2013**



**CITY OF NORTH SALT LAKE**  
 10 East Center Street  
 North Salt Lake, UT 84054  
 (801) 335-8700

**LEN ARAVE**  
 Mayor

**BARRY EDWARDS**  
 City Manager

SHEET 1  
 OF 1

PROJECT NO.  
 13-010



## NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

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10 East Center Street  
North Salt Lake, Utah 84054  
(801) 335-8700  
(801) 335-8719 Fax

### MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Ken Leetham, Assistant City Manager

**DATE:** May 7, 2013

**SUBJECT:** Consideration of Ordinance No. 2013-04: An ordinance re-zoning property generally located at 900 North Redwood Road from C-G to M-D, Hughes & Hughes Investment Co, applicant.

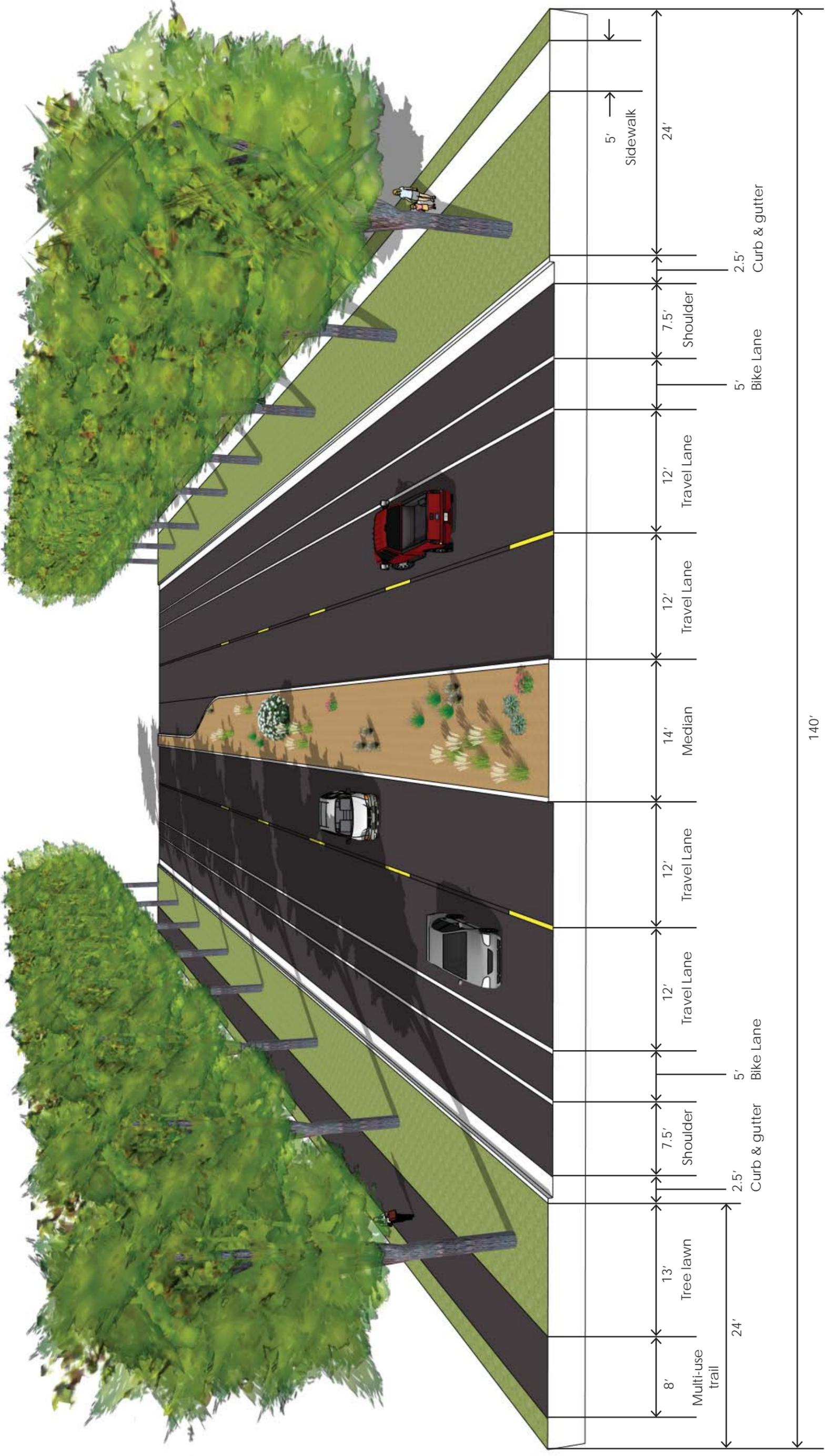
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You will recall that this item has been on two previous City Council meetings and tabled so that the applicants and city staff could collaborate on additional solutions to our mutual concerns. Barry Edwards and I recently met with representatives of Hughes and they requested that the item be placed back on the Council agenda at the earliest opportunity for your consideration.

Hughes has offered to install required improvements (per the Redwood Road cross-section) if the City would rezone their property back to the MD zoning district. Specifically, they have indicated if the City approves their application to rezone, then they would improve their frontage on Redwood Road and meet the adopted cross-section. They also indicated that they would expect the City to bare the material cost of the drainage pipe needed to cover the existing ditch. We estimate the length of the pipe to be approximately 675 feet and would cost approximately \$12,000.

I have attached the Redwood Road cross-section to this memo together with the previous staff materials related to this item.

[Back to Agenda](#)



140'  
ROW

[Back to Agenda](#)



REDWOOD ROAD STREET SECTION



## NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

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10 East Center Street  
North Salt Lake, Utah 84054  
(801) 335-8700  
(801) 335-8719 Fax

### MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Ken Leetham, Assistant City Manager

**DATE:** February 19, 2013

**SUBJECT:** Consideration of Ordinance No. 2013-04: An ordinance re-zoning property generally located at 900 North Redwood Road from C-G to M-D, Hughes & Hughes Investment Co, applicant.

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### RECOMMENDATION

The Development Review Committee (DRC) recommends denial of the proposed re-zoning of property generally located at 900 North Redwood Road from the C-G to the M-D zoning district.

On February 12, 2013, the Planning Commission recommended denial of this application to the City Council (see attached minutes).

### BACKGROUND

On February 7, 2012, the City Council approved the re-zoning of several properties from Manufacturing Distribution (M-D) to General Commercial (C-G)(see attached map). Based upon the request of several property owners affected by this action, the City Council also instructed City Staff to prepare a code amendment that would allow property owners to clarify their status in a way that would allow continued use of their properties without be classified as "legally non-conforming". The result of that Council assignment was the adoption of Ordinance No. 2012-09 which established "Existing Uses Overlay Zone". This overlay zone allows for owners, through a rezoning application process, to have the existing uses on their properties be classified as permitted uses in the C-G zoning district at that particular location only.

The applicant, Hughes & Hughes Investment Co., owns one of the properties that was affected by the re-zoning about a year ago, specifically Parcel #01-083-0090 located at approximately 900 North Redwood Road. Their attorney has been made aware of the Existing Uses Overlay Zone option, which would make their currently conditional use (Contractors and land development – equipment/material storage) a permitted use under those overlay provisions. But, the applicants have decided that they would rather pursue the option of re-zoning their property back to the M-D zoning district.

In considering this ordinance, the City Council should consider several issues which are outlined in this staff memo.

### City's Long-term Objectives

The first consideration in any zoning action should be an analysis or measurement of the proposal against the City's long-term objectives. Put simply, will approval of this request be contrary to or consistent with the City's long-term vision?

The City's adopted General Plan (1991) states that the Redwood Road District (described as the property on both sides of Redwood Road for its entire length through the City) should be dedicated to commercial development. It states that further development be encouraged, but controlled. There is also a separate designation for the traditional industrial park area west of I-15, excluding the Redwood Road corridor. The City's proposed General Plan amendment which the Council will soon consider takes a slightly different approach and contains policies that would strategically place general commercial zoning and land uses at the intersections of major roads. It was based upon this general principal that the Council re-zoned this property to commercial last year since it is located in close proximity to the intersection of 1100 North and Redwood Road.

A second consideration could be a measurement of how much CG zoning and MD zoning does the City currently have and need and will approval of this application be detrimental to that balance? The current zoning map (see attached) indicates that there is very likely an oversupply of CG zoning within the Redwood Road corridor, particularly on the west side of the road in front of the Foxboro developments. It is likely that some of this zoning will be reduced in the future and in fact city staff has met with landowners who are struggling to create viable land plans under the current CG zoning. It is also true that the City has a large supply of MD zoning and that there are ample opportunities within the industrial park for growth of these kinds of land uses. Further thought on the right balance of zoning might lead to the idea that the character of Redwood Road is highly mixed and that the City is attempting to have a positive influence, over time, on the types of uses and buildings developed along the corridor.

Finally, staff believes that our principal efforts in the creation of a large and viable general commercial neighborhood will occur near the intersection of Redwood Road and Center Street. While we are recommending denial of this change, it is a subjective recommendation and made without lengthy market analysis or owners who are ready to develop this property under the terms of the CG district.

### Site-specific Considerations

The owners of the property have raised several points during the course of this application and at the Planning Commission meeting that are worth consideration also. First, this is the only circumstance in all of the City's re-zoning actions in February, 2012 where the result placed one property ownership and business into two zoning districts. The owners believe strongly that this will harm their ability to freely utilize their property and that it interferes with their business model. While staff believes that the use of the existing uses overlay tool is a benefit and generally protects owners, we do not claim to know all of the subtleties and nuances of how

having this one business land holding in two different zoning categories could negatively impact Hughes.

For informational purposes the zoning boundary line does follow a property line, but there are several parcels within the Hughes campus. Hughes and the City (or County) did have a different belief about the dimensions of the parcel that was re-zoned, but the City's record is clear about which parcel was re-zoned and the dimensions of that parcel. The Council should know that Hughes believed, due to confusion on their part about individual parcel boundary lines, that the original re-zoning action to CG impacted much less of their property holdings than what it did.

#### Future Land Uses

The City is willing to establish the existing uses overlay zoning district on this property which means that these specific parcels may in fact have future industrial buildings on them as long as those improvements are a part of the Hughes operation (or a subsequent operator). The simplest question is: Is the City willing to allow future development of the property for any type of MD land use and improvements not just those related to Hughes? If the Council believes that is an acceptable outcome, then re-zoning to MD does no harm to the City's long-term objectives.

#### Other Technical Considerations

If the City Council approves the ordinance to re-zone the property, you must have four (4) affirmative votes to overcome the Planning Commission's negative recommendation (10-3-1, G(3), City Code).

It is also important to note that the City's actions of rezoning the property to General Commercial last year did not render the current and lawful uses in existence at the time as illegal uses, but only legally non-conforming. As you know, the existing uses overlay tool is a way for impacted property owners to re-classify their lawful uses, now classified as legally non-conforming, into permitted uses and avoid any negative consequences arising out of a status as a non-conforming land use. Such permitted uses may continue uninterrupted, expand as needed and otherwise enjoy full status of conformance to the City's zoning requirements.

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### **POSSIBLE MOTIONS**

I move that the City Council DENY Ordinance No. 2013-04 re-zoning the property generally located at 900 North Redwood Road from the C-G to the M-D zoning district.

I move that the City Council APPROVE Ordinance No. 2013-04 re-zoning the property generally located at 900 North Redwood Road from the C-G to the M-D zoning district.

### Attachments

- 1) Letter from Hughes & Hughes Investment Corp.
- 2) Location map
- 3) Vicinity map
- 4) Map showing parcels re-zoned on February 7, 2012
- 5) NSL zoning map – February 2013
- 6) Minutes of City Council action on February 7, 2012
- 7) Minutes of Planning Commission meeting on this application dated February 12, 2013

City Planning Commission  
CITY OF NORTH SALT LAKE  
10 East Center Street  
North Salt Lake, Utah 84054

RE: *Parcel # 01-083-0090 – Rezoning Application*

To The Commission:

I am writing on behalf of Hughes & Hughes Investment Corp. (“Hughes”), regarding its Rezoning Application filed for Parcel #01-083-0090, which Parcel is more fully described in Exhibit “A” attached hereto, and is located within the municipal boundaries of the City of North Salt Lake, Davis County, State of Utah (hereinafter referred to as the “Property”).

As the fee title owner of the subject Property, Hughes is entitled to and hereby officially does petition the City Planning Commission for its recommendation of approval of Hughes’ Application, and the City Council for an affirmative vote approving the rezoning of Parcel # 01-083-0090 from its recent change to General Commercial (“G-C”), back to its previous designation as Manufacturing and Distribution (“M-D”).

To that end, this letter is intended to serve as Hughes’ satisfaction of the informational requirements codified within North Salt Lake City Code Title 10 Chapter 3 Section 1. First and foremost, Hughes has standing to seek such an amendment because it is the fee title owner of the Property. Hughes obtained title to the Property by way of a Special Warranty Deed, recorded upon the records of Davis County as instrument number 912707, on December 31, 1990, and remains the fee title owner and occupier of the Property to this date. *See Special Warranty Deed and Abstract of Title attached hereto.*

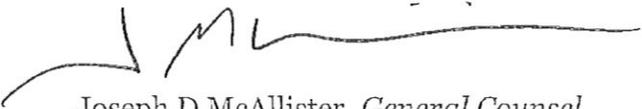
Second, Hughes asserts that the requested rezoning is necessary and proper to allow for the continued use of its entire property, and failing to do so will create confusion and conflict within the zoning designations upon a single contiguous piece of property, which just so happens to be comprised of two Parcels. The conflict exists because the subject Property, which was recently rezoned, sits adjacent to and is used in conjunction with Parcel #01-083-0089 to the south, and while the Parcels are separated by a security fence, this does not reflect in any way the actual boundaries of Hughes current operations, and does not change the fact that both Parcels are required for the utilization of Hughes’ property in that area. Therefore, Hughes requests that the City Council reconsider its previous decision to include the subject Property within the list of properties recently rezoned to the General Commercial (“G-C”) classification, because it conflicts with the adjacent land use, and is, quite frankly, incompatible with Hughes’ ability to utilize the contiguous piece of land that makes up its actual operational footprint ... regardless of the location of an arbitrary Parcel line within that piece of land.

As you are likely aware, the subject Property was originally part of the North Salt Lake Industrial Park and was zoned Manufacturing and Distribution (“M-D”) until the City Council acted on February 7, 2012, to rezone 15 individual parcels throughout the City by its adoption of Ordinance No. 2012-05. Upon information and belief, one of the

primary reasons for this rezone was that the City of North Salt Lake desired to designate strategically located Parcels near major roadway intersections for commercial development. Regardless of the merits of that decision, in practical effect, by failing to restrict the rezoning of the southeast corner of 1100 South and Redwood Road to only the Parcel which actually abuts that intersection, the City has created what is hopefully an unintended consequence -- splitting a contiguous piece of property into conflicting zoning designations. It is this result, and the attendant conflicts to Hughes' operations, that Hughes requests the Planning Commission and City Council to rectify by allowing the Property to revert to its previous zoning designation.

Finally, it should be noted that Hughes is aware of Ordinance No. 2012-09, but after careful consideration, it has been determined that because of the nature of the subject Property, including the fact that its use is inseparably connected to the entire footprint of Hughes' operation, an existing uses overlay simply does not adequately address the concern of having conflicting zoning designations on its property. Rather, it is Hughes' position that all parties have a vested interest in having a unified and clear approach to zoning designations in this location, and that when all relevant factors are taken into consideration, including, the nature of the affected property, its prior uses and the affect on adjacent properties, it is self-evident that the proper outcome of this Rezoning Application should be approval and amendment. We hope you will agree.

HUGHES & HUGHES INVESTMENT CORP.



Joseph D McAllister, *General Counsel*



3000  
900

feet  
meters





**HUGHES**  
GENERAL CONTRACTORS

CORPORATE OFFICE  
900 North Redwood Road  
P.O. Box 540700  
North Salt Lake, Utah 84054-0700  
Phone: 801.292.1411  
Fax: 801.255.0599

ST. GEORGE OFFICE  
62 W. Washington City Ind. Drive  
Washington City, Utah 84780

Phone: 435.628.0042  
Fax: 435.628.0292

CONSULTANT:

PROJECT:

**HUGHES & HUGHES  
INVESTMENT  
VICINITY PLAN**

ADDRESS:

900 NORTH REDWOOD RD.

DATE:

8 Jan 13

REVISIONS:

MARK DATE DESCRIPTION

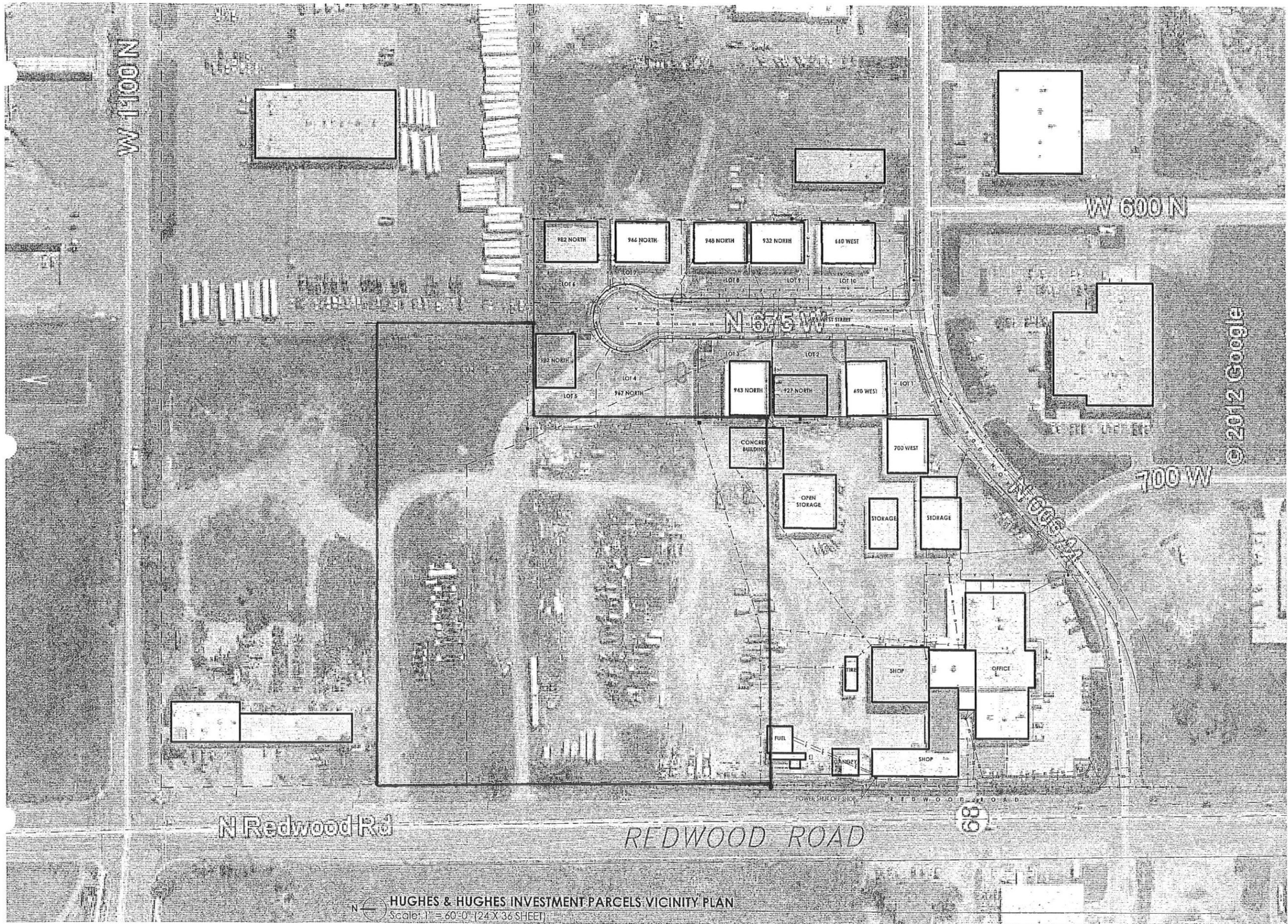
MARK	DATE	DESCRIPTION

SHEET

**SITE PLAN**

SHEET NUMBER

**SD1.1**



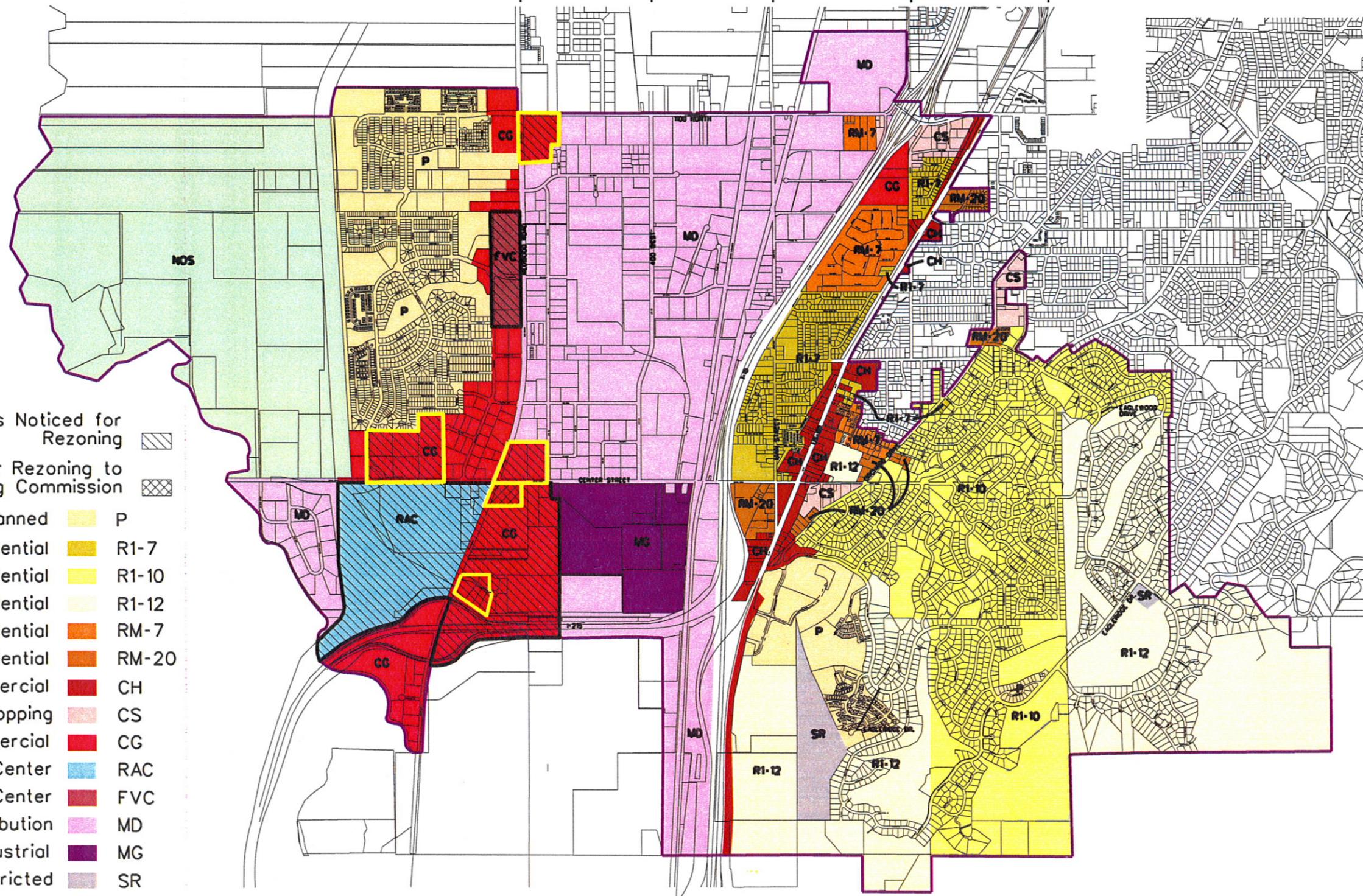
HUGHES & HUGHES INVESTMENT PARCELS VICINITY PLAN  
Scale: 1" = 60'-0" (24 X 36 SHEET)

1100 NORTH—  
900 NORTH—

—REDWOOD RD  
—400 WEST  
—MAIN STREET  
—400 EAST  
—800 EAST



- Properties Noticed for Rezoning 
- Recommended for Rezoning to C-G by Planning Commission 
- Planned  P
  - Residential  R1-7
  - Residential  R1-10
  - Residential  R1-12
  - Residential  RM-7
  - Residential  RM-20
  - Highway Commercial  CH
  - Commercial Shopping  CS
  - General Commercial  CG
  - Regional Activity Center  RAC
  - Foxboro Village Center  FVC
  - Manufacturing-Distribution  MD
  - General Industrial  MG
  - Special Use Restricted  SR
  - Natural Open Space  NOS



REVISION	DATE	BY	DESCRIPTION	DESIGN	PAD
				DRAWN	FDP
				CHECKED	
				DATE	F&B 2012
				P.S. NO.	
				P.C. NO.	

**Option 1** Properties re-zoned on February 7, 2012

## North Salt Lake City Zoning Map



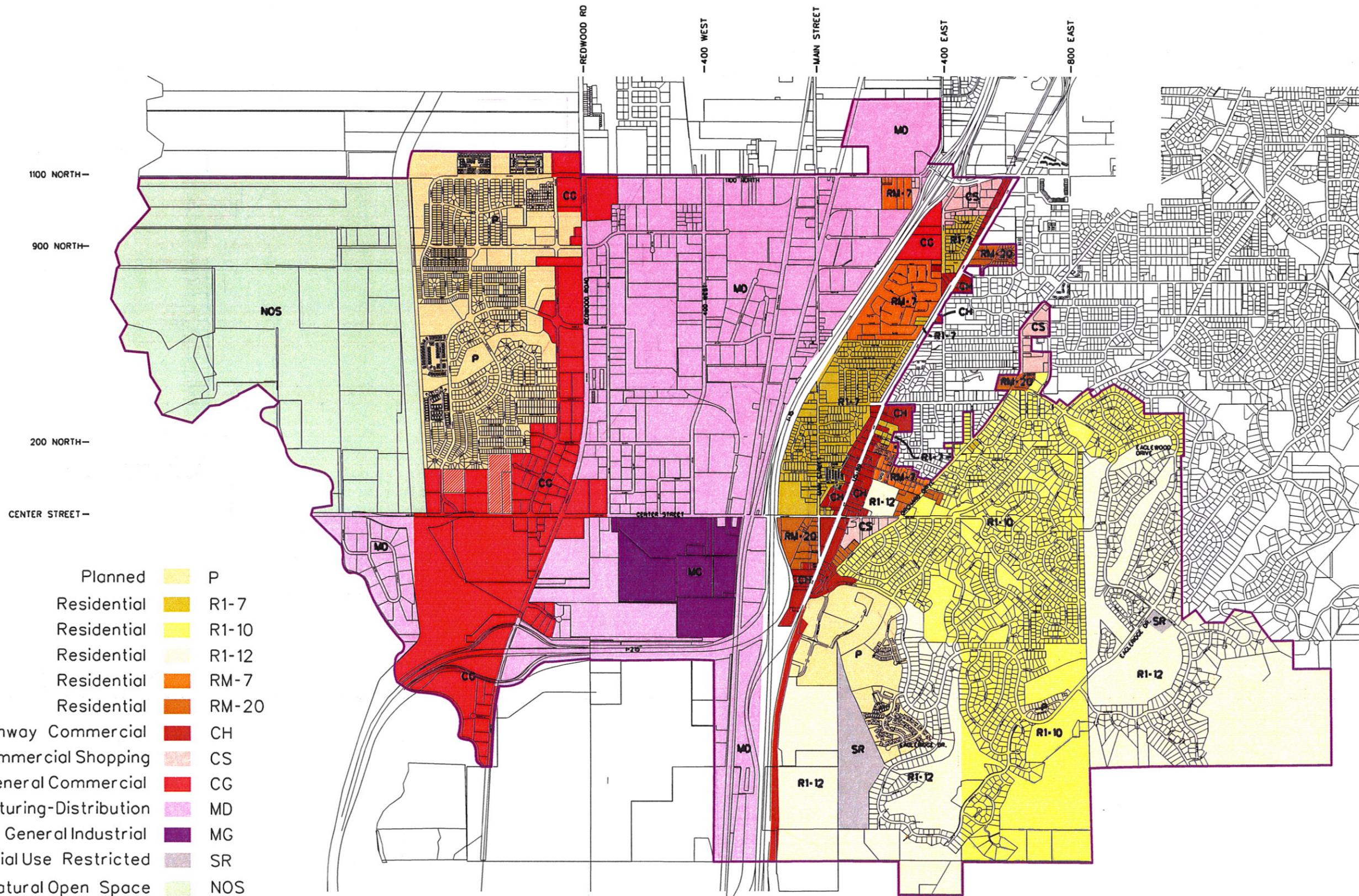
**CITY OF NORTH SALT LAKE**  
10 East Center Street  
North Salt Lake, Utah 84064  
(801) 336-8700

LEN ARAVE  
Mayor

BARRY EDWARDS  
City Manager

SHEET 1  
OF 1

PROJECT NO.  
92-237



- Planned  P
- Residential  R1-7
- Residential  R1-10
- Residential  R1-12
- Residential  RM-7
- Residential  RM-20
- Highway Commercial  CH
- Commercial Shopping  CS
- General Commercial  CG
- Manufacturing-Distribution  MD
- General Industrial  MG
- Special Use Restricted  SR
- Natural Open Space  NOS
- Existing Uses Overlay  EUO

REVISION	DATE	BY	DESCRIPTION	DESIGN
				K.D.B.
				DRAWN
				K.D.B.
				CHECKED
				DATE
				OCT 2012
				F.S. NO.
				P.G. NO.

## North Salt Lake City Zoning Map



**CITY OF NORTH SALT LAKE**  
 10 East Center Street  
 North Salt Lake, Utah 84064  
 (801) 336-6700

LEN ARAVE  
 Mayor  
 BARRY EDWARDS  
 City Manager

SHEET	1
OF	1
PROJECT NO.	

Council Member Porter asked about storage rooms at some of the parks and if they are available for teams to use. Paul Ottoson responded that there is already lacrosse and soccer equipment in them.

Council Member Jensen stated that he is okay charging more than the going rate for field rental, which could potentially eliminate some of the demand.

Council Member Horrocks asked if there is something in place to eliminate/cancel reservations if fields are abused. Barry Edwards responded that this is included.

**Council Member Harman moved to adopt the athletic field use policy as amended, specifically on the playing field usage fee of \$6, and the non-resident fee for \$10 for a two-hour block. Council member Horrocks seconded the motion. The motion was approved by Council Members Jensen, Horrocks, Porter, Harman and Jacobson.**

7. ORDINANCE 2012-04: AN ORDINANCE ADOPTING CERTAIN AMENDMENTS TO THE CITY'S LAND USE ORDINANCE

Ken Leetham addressed the Council and stated that staff put together some ordinances they believe are necessary to adopt before the building moratorium ends, as the City is receiving some development pressure. There are other ordinances with changes proposed, and staff has been working on several land use changes. He said the sections of code recommended for amendment relate to deficiencies in improvements. They have added standards for U.S. Highway 89, and taken an opportunity to consolidate land uses in the land use table. Mr. Leetham went over some of the changes from the material handed out to the Council.

The Council suggested adding that if an applicant, or member of the governing body, finds the use categorized incorrectly, they can appeal it to the Planning Commission, including property notification process, etc.

**Council Member Porter moved to approve Ordinance 2012-04: An ordinance adopting certain amendments to the City's Land Use Ordinance pertaining to parking regulations, landscape standards for Redwood Road and Highway 89, permitted and conditional uses, and standards for a commercial highway zoning district, with 10-7-7-K changed to include the requirement of graffiti guard on fences and changes discussed in 10-11-2, adding that an applicant or member of the governing body may appeal a staff decision of whether a use is conditional. Council Member Jensen seconded the motion. The motion was approved by Council Members Jensen, Horrocks, Porter, Harman and Jacobson.**

8. ORDINANCE 2012-05 AN ORDINANCE AMENDING THE CITY'S ZONING MAP FOR CERTAIN REAL PROPERTY FROM MANUFACTURING DISTRIBUTION, M-D TO GENERAL COMMERCIAL, C-G

Ken Leetham stated that the Planning Commission recommended that the City Council change the zoning on only one parcel, the southeast corner of Redwood Road and Center Street, from M-D to C-G. They also recommended that the Council table any action on the FVC zone along the entry parcels of

Foxboro and the RAC zone, the southwest quadrant of Center Street and Redwood Road. He stated that staff has drafted zoning districts for both of those areas. The property owners have copies of the drafts, and in both cases have requested additional time to study the drafts. The City also wanted to hear public comment on proposals included in both of those zoning districts. Staff recommends the parcels outlined in yellow (on Mr. Leetham's map) be rezoned to C-G. They are all zoned M-D right now, and making that change would be consistent with the General Plan element being presented soon.

The City Council received copies of correspondence and comments from property owners and residents. The overlay zone was designed to be a good compromise for the current business owners, as it would allow current uses to continue. Mr. Leetham stated that the City has a great opportunity right now, as it is a good time to pursue development for retail/grocery, etc. in this area. There may be a developer right now willing to put together this type of development.

Mayor Arave opened up the meeting at 9:55 p.m. to hear comment from landowners wishing to address the Council.

Ben Wellman, Horizon Manufacturing and Repair, 980 West Center Street, just north of the proposed RAC area, stated he would like to have the Council consider a dual zoning and apply the M-D. If this area was zoned C-G, his company would not have been able to make the improvements they have thus far, such as paving the parking lot, etc.

Council Member Harman asked about the time-frame for the overlay zone. Mr. Leetham said the overlay zone had not been drafted yet, and he would have to confer with David Church, but he assumed it could expire after a certain number of years. Council Member Harman asked if that would hinder the RAC zone. Mr. Leetham stated that whether additional retail is sustainable is the question, and would only be determined over time. The question was raised whether the Council could reverse a zoning change if it was not successful, and Mr. Leetham responded that the Council does have the authority to zone property.

Council Member Horrocks asked what would be the result if the City did not make the zone change, and would it affect the developers. Barry Edwards stated that some parcels are significantly more important to the future of the RAC zone, and other parcels are not. The 1100 North parcel is not critical to the RAC, but the two parcels on the east side of Redwood Road, north and south of Center Street, are vital to the RAC zone. The impediment to developers right now is that the surrounding property is blighted.

Council Member Jensen asked about the area being considered by Wasatch Integrated for waste disposal, and if this change was made, would they be amenable to finding a different parcel. If the City does not do anything, what would be the likely response from them? Ken Leetham said they did not get this far in discussions with Wasatch Integrated; however, he believed there were several parts of their proposal that are not allowed in the M-D zone. Mayor Arave said he believed Wasatch Integrated would be willing to work with the City in finding a different location.

Barry Edwards stated that the parcels being presented by Mr. Leetham were the only ones that should be rezoned now. Mr. Leetham said the General Plan would state that the RAC zone "could" apply to properties within a half mile of the intersection. Mayor Arave asked how the overlay would work. Mr.

Leetham responded that staff would have to write those provisions and bring them through the Planning Commission to the Council, which would not be completed by the 15<sup>th</sup> of February. Council Member Horrocks asked who had objected to the overlay zone, and Mayor Arave responded that Stericycle had expressed concern.

Council Member Jensen said he did not think any of the parcels needed to be changed now, but they would all have to be changed if the RAC zone takes place. Council Member Jacobson said it would not be good to jeopardize current business owners. Mayor Arave stated a concern that if the zoning is not changed now, the City could put the future RAC development in jeopardy if the wrong application came in under the M-D zone.

**Council Member Jensen moved to approve Ordinance 2012-5 an ordinance amending the City's zoning Map for certain real property from Manufacturing Distribution, M-D, to General Commercial, C-G, and to direct City staff to create a site specific overlay plan to bring to the Council for adjusted zoning. Council Member Harman seconded the motion. The motion was approved by Council Members Jensen, Horrocks, Porter, Harman and Jacobson.**

9. ORDINANCE 2012-06: AN ORDINANCE AMENDING TITLE 8-5-2 OF THE CITY OR NORTH SALT LAKE'S MUNICIPAL CODE

Barry Edwards reported that this ordinance is a housekeeping item to correct an incorrect number in the code. **Council Member Jensen moved to adopt Ordinance 2012-06 an ordinance amending Title 8-5-2 of the City of North Salt Lake's Municipal Code. Council Member Porter seconded the motion. The motion was approved by Council Members Jensen, Horrocks, Porter, Harman and Jacobson.**

10. APPROVE MINUTES

The City Council minutes of January 17, 2012 were reviewed and amended. **Council Member Jacobson moved to approve the work session and regular session minutes of January 17, 2012 as amended. Council Member Harman seconded the motion. The motion was approved by Council Members Jensen, Horrocks, Porter, Harman and Jacobson.**

11. COUNCIL REPORTS

Council Member Jensen reported that the Second Sunday Concert Series would be hosting a local group of jazz performers Sunday, February 12<sup>th</sup> at 6:00 p.m. at City Hall.

Council Member Porter met with Lieutenant Simmons of the National Guard and suggested the City choose a date for a signing event for their veteran's program. It was decided that Saturday May 19<sup>th</sup>, Armed Forces Day, would be a good option. There was some discussion about hosting a 9-hole golf tournament for the first 50 or 60 active duty military personnel who sign up, or just give them a 9-hole voucher. Council Member Porter said it would probably be less than 50 people who would participate. Mayor Arave asked Barry Edwards to talk to Brent Moyes about a possible 9-hole voucher as part of Armed Forces Day and the signing event.

115 Commissioner Mumford made a motion for the Planning Commission to approve the  
116 proposed conditional use permit for United Site Services at 500 North Redwood Road with  
117 the following conditions:

118

119 1. All the employee and customer parking stalls must be striped according to city  
120 standards, including ADA parking stalls must be stripped and marked.

121 2. The existing landscaping on-site must be improved, irrigated, and maintained.

122 3. The screening of all outdoor storage must be accomplished with a solid vinyl fence  
123 or a wall, with allowance of a slatted chain link fence to the south of the storage. No  
124 outdoor storage is allowed within 20-feet of the public right-of-way. The storage of  
125 trailers is included in the definition of outdoor storage.

126 4. All the conditions must be met prior to issuance of a city business license.

127

128 The motion was seconded by Commissioner Jensen and passed by unanimous vote (6-0).

129

130 4. PUBLIC HEARING - CONSIDERATION OF A REZONE OF PROPERTY LOCATED  
131 AT APPROXIMATELY 900 NORTH REDWOOD ROAD FROM C-G to M-D. JOE  
132 MCALLISTER – HUGHES & HUGHES INVESTMENT CORP., APPLICANT.

133

134 (*Note:* Staff specifically requested the staff report for this item dated February 12, 2013 be made  
135 part of the public record)

136

137 Ken Leatham, Assistant City Manager, reported the Development Review Committee (DRC)  
138 recommends denial of the proposed re-zoning of property. On February 7, 2012 the City Council  
139 approved the rezone of several properties from Manufacturing Distribution (M-D) to General  
140 Commercial (C-G). The applicant's property is located within this rezoned area. Following this  
141 rezone the City Council instructed staff to prepare a code amendment that would allow property  
142 owners to clarify their status in a way that would allow continued use of their properties without  
143 being classified as "legally nonconforming." The result of this assignment was the adoption of  
144 Ordinance No. 2012-09 establishing the "Existing Uses Overlay Zone." This new overlay zone  
145 allows property owners to have their existing uses classified as permitted in the C-G Zoning  
146 District. The City Council rezoned these parcels in order to promote development themes  
147 throughout the Redwood Road corridor, including: eliminating "islands" of industrial zones,  
148 promoting commercial activity, encourage retail commercial, and encourage commercial  
149 development and redevelopment.

150

151 The applicant has been informed of the existing uses overlay option which would deem their  
152 property use permitted, but has decided to continue with their rezone request. The applicant

153 claims they need to have the same zoning designation on all the property they own in order to  
154 continue to run their business as they have for many years.

155

156 The DRC does not find that rezoning this property back to its previous industrial zoning  
157 designation would in any way assist the City in carrying out the goals for the Redwood Road  
158 corridor. The General Plan states the Redwood Road corridor should be dedicated to commercial  
159 development and that further development is encouraged, but controlled. The DRC finds it has  
160 been the intention of the City to encourage and require commercial development along the  
161 Redwood Road corridor for over 20 years and that the rezone actions of the City Council  
162 (February 7, 2012) were consistent with that objective.

163

164 The February 7, 2012 rezone did not render the current and lawful uses in existence at that time  
165 as illegal uses, but only legally non-conforming. The existing uses overlay tool is merely a way  
166 for impacted property owners to re-classify their lawful uses, now classified as legally  
167 nonconforming, into permitted uses and avoid any negative consequences arising out of a status  
168 as a non-conforming land use. Such permitted uses may continue uninterrupted, expand as  
169 needed and otherwise enjoy full status of conformance to the City's zoning requirements. In this  
170 case, the DRC believes the existing uses overlay tool would be of great benefit while at the same  
171 time preserving the City's future and very long-term goal of one day allowing for general  
172 commercial uses at the subject location.

173

174 Although a denial of this application would divide the applicant's overall property into two  
175 zoning designations, rezoning the property to M-D would establish that the entire property would  
176 remain industrial for many years, which is not the overall goal of the City. Keeping the property  
177 as a commercial zoning designation would in no way harm the tax base, cause degradation of the  
178 aesthetics of the property, or decrease the property value. In fact, a commercial zoning  
179 designation (with or without the Existing Uses Overlay) would likely increase the property value  
180 as it would open up more options for permitted land uses. Mr. Leetham explained the City  
181 Council is trying to avoid a situation where the expansion of the M-D use and subsequent  
182 buildings take place in an area where the future goal of the City is to encourage commercial uses  
183 and buildings. The proposed application is inconsistent with the long-range goals of the City.

184

185 Chairman Klutz opened the public hearing.

186

187 Joe McAllister, Counsel for the applicant, said Hughes and Hughes Investment Corp, does not  
188 believe the Existing Uses Overlay is an effective tool to address both their business needs and  
189 their private property rights. He said they also do not believe a rezone back to M-D is contrary to  
190 the General Plan or the desires and goals of the City Council. He said, of all the properties

191 rezoned in February 2012, this is the only property where the entire footprint of a business was  
192 not included. Only a portion of the Hughes property was rezoned to C-G. He said this is due, in  
193 part, because of a deed mix-up in the 1980's. He explained there are two parcels of land which  
194 Hughes owns and operates. These parcels have always been treated as one parcel and have  
195 always been used as industrial cohesively. He said the rezone came about because the City  
196 Council created the Regional Activity Center (RAC) southwest of Redwood Road and Center  
197 Street. It made sense to rezone property around the RAC to commercial in order to promote the  
198 RAC and originally only extended north to 100 north. It was later that the corner of Redwood  
199 and 1100 North was included in the rezone. He said it makes sense to rezone the corner to  
200 commercial, but it does not make sense to extend that onto the Hughes property. He said there is  
201 no current proposal or future plans to change the use or add buildings on the Hughes property.  
202 The C-G zone simply destroys the unity of zoning for the Hughes property and causes problems  
203 with operating their business, including loan payments and business documents. It is difficult to  
204 leverage property assets when there is split zoning. Hughes should also have the right to maintain  
205 their sub-leasing possibilities.

206

207 Mr. McAllister explained there is no way to split the north parcel (C-G) from the Hughes  
208 property and from their current existing use (M-D). This parcel contains the main access to their  
209 site. He explained both the fuel island for Hughes and one existing building is split among the  
210 two zoning designations because the parcel line was inaccurately measured and recorded. He  
211 said Hughes is not in the retail business and does not intend to be in the retail business and  
212 respectfully requests their entire property be rezoned back to its original designation of M-D. He  
213 said the General Plan encourages the property rights of business owners and encourages the  
214 expansion or growth of existing businesses. He read from the January 31, 2012 Planning  
215 Commission minutes and the February 7, 2012 City Council meeting minutes. He said there were  
216 five (5) rezone options presented to the Commission at that meeting. The Planning Commission  
217 minutes reflect a desire to set the ground work for the RAC and passed a motion to rezone only  
218 the southeast corner of Redwood and Center Street to C-G. The Planning Commission also  
219 moved not to rezone any other parcels at that time. He said he does not see the connection  
220 between the RAC and extending the C-G zone ten (10) blocks north to include the Hughes  
221 property. He said it was stated by the City Manager in the City Council minutes that the rezone  
222 at the corner of Redwood and 1100 North was not critical. However, the City Council still  
223 rezoned the Hughes property. He said, it seems, according to the minutes on record, that the  
224 rezone of the Hughes property was not necessary or critical for the support of the RAC.

225

226 Mr. McAllister said the proposed General Plan (on tonight's agenda) discusses a desire to cluster  
227 retail and shows (Figure R.3: Encourage Clustered Retail in Redwood Road District) a preferred  
228 cluster of retail on the southwest corner of Redwood and 1100 North. It does not suggest retail

229 on the Hughes property. He said Hughes has spent a significant amount of money, time, and  
230 planning to create a footprint of businesses with compatible uses in order to reduce conflicts. He  
231 said the proposed General Plan (Goal R-2.1.1) encourages retaining and expanding current  
232 businesses. He said rezoning the Hughes property back to M-D will accomplish this goal and is  
233 in keeping with the goals of the General Plan. He said Hughes is a clean, orderly, good industrial  
234 tenant who brings generous tax revenue to the City. It is not fair to bisect their property and  
235 diminish their property rights. He said there is no harm in recommending to the City Council the  
236 proposed rezone back to M-D which is in accordance with the currently existing use,  
237 surrounding uses, and the proposed General Plan amendments. He said North Salt Lake Code  
238 (10-1-43) states that regardless of division or more than one tax notice (i.e., separate parcels) all  
239 contiguous land, held in one ownership should be considered a whole parcel.

240  
241 Scott Hughes, property owner/applicant, said the immediate southeast corner of Redwood Road  
242 and 1100 North is a reasonable location for commercial, but to extend that zone onto his property  
243 bisecting his business is not practical. He said they have invested a great deal into their property  
244 in order to sustain their growth and would like to continue under their original industrial zone.  
245 He said they have been in business since the 1980's and would like to retain their property rights.  
246 He explained they have always considered their property one parcel and it has always been used  
247 and viewed as such. He said the building that bisects the parcel line was only built three years  
248 ago. If the parcel line was reality the approval for that building would never have been allowed.  
249 He said they cannot continue to expand their business northward on their own property if this  
250 parcel is not rezoned back to M-D. He said they are an industrial use and will always be; there is  
251 no way to expand their business into a commercial zone.

252  
253 Mr. Leetham said the version of the General Plan that Mr. McAllister referred to is not currently  
254 adopted and is not the General Plan that was in existence at the time of the rezone. He said it is  
255 irrelevant what was said in past meeting minutes or what is proposed for the amendments to the  
256 General Plan. The guiding document for this issue is the Ordinance (No. 2012-5) that was  
257 adopted amending the zoning map last February 2012. The County records clearly indicated the  
258 property boundaries, perhaps there was a deed mistake, but the rezone was legally accomplished  
259 per County data, which was provided to the City Council along with pictures of each parcel. He  
260 said the applicant has been informed that the City will consider all their business activities as  
261 permitted in the Existing Uses Overlay zone, as long as those activities are owned and operated  
262 by Hughes. The Existing Uses Overlay would not include buildings leased to other entities. The  
263 City's future goal for this area is commercial. He said reverting back to M-D would create  
264 another industrial park on Redwood Road, a goal the City does not share.

265  
266 Chair Klotz closed the public hearing.

267

268 Commissioner Knowlton said the Planning Commission is not a legislative body and does not  
269 have the ability to create policy for the City. The Commission is being asked to find if the  
270 proposed amendment is in accordance with the General Plan (1991), goals, and policies of the  
271 City and if the proposed amendment is reasonably necessary to carry out changed or changing  
272 conditions. Although the applicant has reasonable arguments, it is still clear a rezone back to M-  
273 D is not compatible with the future goals of the City. Commissioner Knowlton also noted, it is  
274 odd, that at the time of the rezone a consolidation proposal or boundary line adjustment was not  
275 pursued.

276

277 Mr. McAllister said Hughes was aware of the rezone, but did not participate in the rezone  
278 because the original plans did not include their property and there were no red flags that led  
279 Hughes to believe there would be any future problems with the rezone. He said a lot  
280 consolidation is now no longer possible because of the conflicting zones. If Hughes were to  
281 consolidate their property today ordinances dictate the more restrictive zone applies, which  
282 would render Hughes entire property non-conforming. He said they are simply asking the  
283 Commission to recommend to the City Council consideration that there is confusion with this  
284 property and there are adverse affects to Hughes, the property owner.

285

286 Commissioner Drinkall said the City Council acted in accordance with their duties when they  
287 amended the zoning map in 2012. He said the minutes show significant discussion and a  
288 unanimous vote by the City Council for the rezone. It is difficult to believe the Council acted  
289 hastily without full consideration of all factors. The City Council acted in a manner that was in  
290 the best interest of the city. He said although the applicant has some compelling arguments staff  
291 has provided a recommendation and the Commission does not have the power, the tools, or the  
292 ability to do anything different. It is up to the City Council to make this legislative decision.

293

294 Commissioner Mumford said there are some confusing questions associated with this issue. He  
295 wondered whether the City Council was fully aware that Hughes property consists of more than  
296 one parcel and that a building is bisected between zones. It is strange that these issues were not  
297 discussed or resolved.

298

299 Commissioner Jensen agreed there is obvious confusion and conflict with the property. She said  
300 the Planning Commissions main role is to help land owners accomplish what they desire in  
301 accordance with city ordinances. She said the applicant has provided a great presentation and  
302 dilemma. However, it is up to the City Council to make this legislative decision.

303

304 Chair Klotz said the Existing Overlay Zone is the appropriate tool to help current property  
305 owners continue as they are. The City Council provided this tool because they were aware of the  
306 complications the rezone may create and this tool allowed the continuation of current uses while  
307 providing direction toward future goals. He agreed it is important to consider the City Council  
308 voted unanimously for the rezone last February.

309

310 **Commissioner Drinkall said the Commission recognizes there is confusion and a need for**  
311 **the City Council to revisit this issue and make a final decision. He made a MOTION for the**  
312 **Planning Commission to recommend to the City Council further review of the property**  
313 **lines for the Hughes and Hughes Investment Corporation generally located at 900 North**  
314 **Redwood Road for further discussion of converting back from the C-G Zoning District to**  
315 **the M-D Zoning District prior to granting approval or denial, as necessary, and in the best**  
316 **interest of the City and in accordance with the City's long term goals. Motion FAILED for**  
317 **lack of a second.**

318

319 Mr. Leetham said it would be best if the motion spoke to the application. The failed motion  
320 discussed part of the substance but fell short on the Commission's position regarding the  
321 application. For example, if the property line dispute were resolved what is the Commission's  
322 recommendation for zoning?

323

324 Commissioner Knowlton said it seems the Existing Uses Overlay would protect this applicant's  
325 existing business. He said it is reasonable for the applicant to have consistent zoning for both  
326 parcels and it is also reasonable for the applicant to request that zoning not be C-G. He said if  
327 these parcels were joined he may look at this application differently, but since the parcels are  
328 separate he recommends denial of the application.

329

330 Mr. McAllister agreed the parcels should be joined. However, this is not possible while the  
331 parcels are separately zoned. He asked the Commission to urge the City Council to recognize the  
332 confusion and recommend approval of the rezone in order to join these contiguously owned  
333 parcels. He said the problem with the Existing Uses Overlay is that it demands a decision on  
334 future use within twenty-four (24) months. He said decisions regarding property use can take  
335 decades, it is not reasonable to expect Hughes to make a decision this quickly.

336

337 Mr. Leetham said it is not accurate to say what can or cannot be accomplished with the Existing  
338 Uses Overlay because that is not the application before the Commission tonight. However, with  
339 other Existing Use Overlay applications the City Council has tailored the approval to the  
340 property owner. The Existing Uses Overlay is an exercise in researching zoning rights and then  
341 establishing those rights in an ordinance. It is not a decision about what a property owner wants

342 to put on their property. It is a measurement of the existing activities on a given site as of  
343 February 7, 2012 and whether the City is willing to allow those activities to continue, to expand,  
344 and/or to grow to their fullest potential. He explained there are two choices for the use of this  
345 property; any use within the C-G Zoning District and/or any uses the City Council determines  
346 appropriate for the Existing Uses Overlay.

347

348 Commissioner Oblad said Hughes has created an industrial cul-de-sac on the east end of their  
349 property. If this parcel is allowed to revert back to M-D it would be possible for Hughes to create  
350 another industrial cul-de-sac, this time on Redwood Road. He said it is clear the General Plan,  
351 the zoning ordinances and the City Council foresee commercial along Redwood Road, not more  
352 industrial. Rezoning this parcel back to M-D would not be consistent with future goals.

353

354 **Commissioner Knowlton said given the existence of two (2) parcels on Hughes property,**  
355 **the possibility of an application for an Existing Uses Overlay, and the fact that the extent of**  
356 **the C-G Zoning District is a legislative decision he made a MOTION for the Planning**  
357 **Commission to recommend denial to the City Council of the proposed rezoning of property**  
358 **located at 900 North Redwood Road from C-G to M-D. The motion was seconded by Chair**  
359 **Klotz.**

360

361 Commissioner Mumford said he lives in this area and is a strong proponent of commercial. He  
362 said he is not positive the City knew where the property line was or clearly understood all the  
363 issues with this property. It is not likely the Council would have rezoned a parcel that would  
364 bisect a building if they were fully aware of the circumstances. He said he would be in favor of  
365 rezoning Hughes entire property to C-G then granting the entire property an Existing Uses  
366 Overlay. Commissioner Jensen agreed.

367

368 Commissioner Oblad said he gives the City Council the benefit of doubt. He does not believe the  
369 City Council rezoned this property in ignorance; the Council is more competent than that.

370

371 Commissioner Drinkall said he believes the Council's decision to rezone was made in good  
372 prudence, but he also agrees the Hughes property would make a great commercial cluster  
373 development. He said if, in the future, Hughes decides to sale their property the City should have  
374 the opportunity to convert this area into commercial for the benefit of those living in the area. He  
375 believes the Council made the rezone decision in the best interest of the City.

376

377 **Chair Klotz called for a VOTE on Commissioner Knowlton's motion. The motion passed**  
378 **with a unanimous vote (6-0).**

379

**ORDINANCE NO. 2013-04**

**AN ORDINANCE AMENDING THE CITY OF NORTH SALT LAKE ZONING MAP BY CHANGING THE ZONING OF PROPERTY LOCATED GENERALLY AT 900 NORTH REDWOOD ROAD WITHIN THE CITY OF NORTH SALT LAKE, STATE OF UTAH, FROM GENERAL COMMERCIAL, CG TO MANUFACTURING DISTRIBUTION, MD.**

**WHEREAS**, the City of North Salt Lake has received an application from Hughes and Hughes Investment Co. to amend the zoning for property located generally at 900 North from General Commercial (CG) to Manufacturing Distribution (MD); and

**WHEREAS**, the proposed zoning change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law and the City of North Salt Lake's ordinances to obtain public input regarding the proposed revisions to the Zoning Map.

**WHEREAS**, the Planning Commission has made a recommendation to the City Council concerning the proposed zoning change as required by City Code and Utah Code; and

**WHEREAS**, the City Council has reviewed this application and finds that it is in the best interest of the City to make the requested amendment to its official Zoning Map; and,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH SALT LAKE, STATE OF UTAH, AS FOLLOWS:**

**Section 1. Zoning Map Amendment.** The City of North Salt Lake Zoning Map is hereby amended to change the zoning of approximately 7.84 acres of property located generally at 900 North Redwood Road within the city limits of the City of North Salt Lake, and more particularly described as Davis County parcel number 01-083-0090, from General Commercial (CG) to Manufacturing Distribution (MD).

**Section 2. Severability.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

**Section 3. Effective Date.** This Ordinance shall become effective upon publication or posting, or thirty (30) days after passage, whichever occurs first.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH**

**SALT LAKE, STATE OF UTAH, THIS 19TH DAY OF FEBRUARY, 2013.**

**CITY OF NORTH SALT LAKE**

By: \_\_\_\_\_  
Len Arave, Mayor

**ATTEST:**

\_\_\_\_\_  
City Recorder

City Council Vote as Recorded:

<u>Name</u>	<u>Vote</u>
Council Member Harman	_____
Council Member Horrocks	_____
Council Member Jacobson	_____
Council Member Jensen	_____
Council Member Porter	_____

**Action Items**  
(for May 7, 2013)

**NEW:**

- \_\_\_ 2. Ken – draft ordinance having an 8-ft fence height as a conditional use. (Also, re-examine circular driveways as a conditional use as well?) *Ken is working on this.*
- \_\_\_ 3. Chief - Invite the “state” to visit with the staff and council about what they are going to do about the deer in our City. *Chief Black will call Division of Wildlife.*
- \_\_\_ 5. Chief – Graffiti on buildings/signs near Quizno’s. *Police Dept. will work on this with the property owners.*

**CARRY-OVER:**

- \_\_\_2. Jon – acceptable use policy for Legacy Trail (include all trails). *Jon is working on this. Barry is meeting with other cities.*
- \_\_\_4. Action: Paul Ottoson and Council Member Porter will work on maps for the trails. *This has been completed, except for “you are here” markers at junctions. (Spring 2013). Working to set up a trails committee meeting.*
- \_\_\_5. Action: Janice - will do some additional review on actual staff costs and fee study, and make a recommendation to the Council. *Fee study is complete. Community Development department to put together recommendation for Council Review at future meeting.*
- \_\_\_6. Action: Jon/Paul – Jim Allen expressed concern about the weeds in the open areas. *Jon to work with T.J. on controlling weeds in upland portion of the wetland open space. The City will continue to spray.*



## NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

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10 East Center Street  
North Salt Lake, Utah 84054  
(801) 335-8700  
(801) 335-8719 Fax

### MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Ken Leetham, Assistant City Manager

**DATE:** May 7, 2013

**SUBJECT:** Pending litigation – Tran (Warner) home at 490 South Lofty Lane.

---

The matter of the former Tran home, now Warner, on 490 South Lofty Lane should be considered by the City Council at this time. The purpose of this memo is to give the Council a status report on this issue.

On October 27, 2011, the City entered into an agreement with the current property owner, Michael Warner. The purpose of the agreement was to remediate several conditions that the City considered hazardous to both this property and neighboring downhill properties. That agreement is attached and contains a list of items that Mr. Warner agreed to perform in exchange for the City allowing water service to resume at the property and occupancy of the home.

Mr. Warner complied partially with the agreement by posting a \$25,000 surety bond intended to provide some performance assurance. He also submitted plans for the demolition and replacement of a retaining wall system on the north half of the property behind the home in order to repair damage and stabilize the hillside. That work was completed and the hillside appears to be stable in that location.

The work that has not been completed is a final resolution to the shoring plates and helical pier system that was installed after the slope failure in 2010. That system was described as a "temporary" improvement designed principally to stabilize the house. It is believed by city staff that the possibility still remains that the shoring plates could shift or twist in place, thus allowing more damage and the dangerous potential of the principal structure failing. The City has consistently made the demand of Mr. Warner and previous owners that there be a plan and active construction to complete this repair, but it appears that Warner is now unwilling to take any steps towards resolution. He has never submitted a plan for this repair nor has any work been suggested. Naturally, property owners downhill (Mendez and Murphy) are very concerned and continue to express a desire for the City to take action.

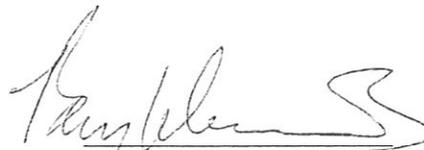
Staff is recommending that the Council consider next steps which could include doing nothing further, revoking occupancy until full compliance is obtained or a combination of actions that would include filing of a lawsuit to enforce compliance.

An Agreement by and between Michael Warner and the City of North Salt Lake, Utah for the remediation of the slope behind 490 Lofty Lane.

1. Mr. Warner agrees to abide by the conditions outlined in the letter of March 3, 2011 by City Attorney David Church.
2. Mr. Warner agrees to post a bond for \$25,000 to insure the compliance with the conditions of the abovementioned letter.
3. Mr. Warner agrees to provide to the city a plan for the wall replacement and construction cost estimates by November 15, 2011 to be reviewed and approved by the city engineer.
4. Mr. Warner agrees to increase the bond to cover the total cost of construction as determined in paragraph 3 above should such estimates exceed \$25,000.
5. All work shall be completed by no later than July 31, 2011.
6. Upon signing of this agreement and posting of the bond, the City agrees to reconnect water service and permit occupancy.

Date: 10/27/11

  
Michael Warner

  
North Salt Lake City, UT



## NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

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10 East Center Street  
North Salt Lake, Utah 84054  
(801) 335-8700  
(801) 335-8719 Fax

Leonard K. Arave  
Mayor

March 3, 2011

Mr. Fred Law  
Law Real Estate  
10808 South River Front Parkway, Suite 395  
South Jordan, UT 84095

Dear Mr. Law,

The City of North Lake wishes to clear up any confusion about the City's position regarding the former Tran home located at 490 South Lofty Lane. We have determined that the following items must be completed prior to occupancy of the property and that failure to address these will result in continued risk and danger to life and property for those who may reside in the home and for surrounding property owners. We appreciate your help in informing present and potential future owners of these requirements.

First, prior to occupancy, the City will require a written statement or opinion from a Utah licensed structural engineer indicating the following:

- 1) That the structure is currently stable and sound and may be occupied without risk.
- 2) That in the event that the helical pier system installed in the hillside below the structure fails, that the safety of the home will not be compromised.

Second, a principal problem is that the existing shoring plates with helical piers currently installed in the hillside were a temporary solution only and were allowed for emergency conditions. A permanent self supporting retaining structure west of the shoring plates will be required. The design of this structure should be prepared by a licensed structural engineer and plans should be submitted to the City for our review and approval prior to construction. One other possible alternative would be to create a stable slope without a retaining structure. Such an option would need to be designed by a licensed geotechnical engineer and approved in advance by the City. It is unknown at this time if this is even possible without a topographic survey of the property. It is the City's position that there is a significant danger to the subject property and surrounding properties if a permanent solution to this helical pier issue is not implemented.

Other repairs or tasks that must also be completed prior to occupancy include:

1. The existing retaining wall on the north side of the property needs to be removed and reconstructed. If a stable slope could be recreated similar to what was described above, this might also be an acceptable resolution. Regardless of the method used to correct this problem, we believe that the remaining wall must be removed.
2. All steep slopes (greater than 3 horizontal to 1 vertical) must be matted and seeded to prevent exposed soil wash out.
3. A new irrigation plan must be submitted and approved.
4. A new plan for where the roof drain runoff water will be directed must be submitted and approved.
5. Repair must be performed to the damaged sidewalk and curb and gutter at 498 South Lofty Lane. This damage was incurred as a result of work done to install the helical piers on the subject property.

Finally, the City has a general concern that the damage that occurred on the property also damaged the Tran's underground irrigation system. We are concerned that whenever new owners attempt to irrigate the property using the existing piped system, leaking water could again infiltrate into hillside material and potentially cause additional damage. So, we would respectfully request your vigilance in informing affected parties to please use caution when re-introducing irrigation water to the property. The system should be inspected and tested for leaks prior to its use.

A letter of non-compliance reflecting these requirements will be recorded with the Davis County Recorders office in order to assist you and potential buyers of this property.

The City appreciates all of your efforts to inform present and future owners of these issues. Questions regarding this information may be directed to me at (801)261-3407.

Sincerely,

A handwritten signature in black ink, appearing to read "David Church", written over a large, stylized flourish that extends to the left and underlines the signature.

David Church  
City Attorney



