

**BOUNTIFUL CITY**  
**PLANNING COMMISSION AGENDA**  
**Tuesday, March 3, 2020**  
**6:30 p.m.**

**NOTICE IS HEREBY GIVEN** that the Bountiful City Planning Commission will hold a meeting in the Conference Room, **South Davis Metro Fire Station, 255 S 100 W, Bountiful, Utah, 84010**, at the time and on the date given above. The public is invited. Persons who are disabled as defined by the American with Disabilities Act may request an accommodation by contacting the Bountiful Planning Office at 298-6190. Notification at least 24 hours prior to the meeting would be appreciated.

1. Welcome and Introductions.
2. Consider approval of the minutes for February 18, 2020.
3. **PUBLIC HEARING** - Consider approval of a preliminary and final subdivision for Evans Subdivision located at 3995 S Bountiful Blvd, Nathan Evans, applicant – Lloyd Cheney
4. **PUBLIC HEARING** – Consider approval of a variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% located at 3865 Highland Court, Justin Merkley, applicant – Curtis Poole
5. **PUBLIC HEARING** – Consider approval of a preliminary subdivision for Towns @ Orchard & 500 located at 554 S Orchard Dr, Taylor Spendlove representing Brighton Homes, applicant – Lloyd Cheney
6. Consider approval of a preliminary site plan for Towns @ Orchard & 500 located at 554 S Orchard Dr, Taylor Spendlove representing Brighton Homes, applicant – Curtis Poole
7. Consider approval of the **Findings of Fact** for an amended variance for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South, Dimond Zollinger representing South Davis Water District, applicant – Francisco Astorga
8. Consider approval for the adoption of the Rules and Procedures for Planning Commission – Curtis Poole
9. Open and Public Meetings Act Training – Clint Drake
10. Planning Director's report, review of pending applications and miscellaneous business.

  
\_\_\_\_\_  
Francisco Astorga, Planning Director



**Bountiful City**  
**Planning Commission Minutes**  
**February 18, 2020**

Present: Chair – Sean Monson; Vice Chair – Jesse Bell; Planning Commission Members – Lynn Jacobs; City Council Representation – Kendalyn Harris; City Attorney – Clint Drake; City Engineer – Lloyd Cheney; City Planner – Francisco Astorga; Assistant City Planner – Curtis Poole and Recording Secretary – Darlene Baetz

Excused: Planning Commission Members – Sam Bawden, Jim Clark, and Sharon Spratley

**1. Welcome and Introductions.**

Chair Monson opened the meeting at 6:36 pm and welcomed all those present.

**2. Approval of the minutes for January 21, 2020.**

Jesse Bell made a motion to approve the minutes for January 21, 2020 as written. Lynn Jacobs seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

**3. PUBLIC HEARING – Consider approval of an amended variance for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South, Carter Hatch representing South Davis Water District, applicant.**

Mark Chandler was present. Curtis Poole presented the staff report.

The applicant, South Davis Water District, has requested an Amendment to a Variance request from lot standards, setback requirements and permissible lot coverage standards found in the R-3 Single-Family Residential Zone. The proposed Amendment would allow for construction of a larger well house at this location. The Planning Commission reviewed and granted a Variance for the Applicant at its September 17, 2019 meeting with a vote of five to one (5-1). After the Variance was granted the Applicant decided to alter the footprint of the well house and use a shipping container for the structure. The Applicant indicated the cost of the shipping container would be less expensive to build than the structure granted in the original Variance and would be installed much quicker.

The existing well was drilled in 1955; however, it has not been in operation for the last ten (10) years due to performance issues. South Davis Water District has decided to perform rehabilitation on the well which will require a structure to be built on the property to house chlorine and fluoride, which are incidental to the well rehabilitation. The property is forty (40) feet deep and sixteen (16) feet wide (640 square feet) and currently is nonconforming due to the size. The parcel does not comply with the following R-3 Zone lot standards:

- Minimum lot size – 11,000 square feet
- Minimum buildable area – 3,000 square feet
- Minimum lot frontage width – 80 feet
- Minimum distance abutting a public street – 50 feet

The well house from the granted Variance was approximately fifty (50) square feet with two doors facing 3300 South. It was proposed to be 17.5 feet from the front property line, just over 2.5 feet from the side property lines and a little over fifteen (15) feet from the rear property line. The proposed well house in the Amended Variance will be one hundred and sixty (160) square feet. The proposed structure

will be a shipping container which the Applicant will need to completely cover with a façade and roof. City Code does not permit a shipping container to be located in a Residential zone for extended time periods; however, the Code does not prohibit the frame of a permanent structure to be a shipping container if a façade is used to diminish the characteristics of the container. The structure will have two (2) doors facing east. The Applicant indicated the shipping container would be less expensive to construct than the previously granted well house and will decrease the construction time at this location.

The proposed structure will be 2.75 feet from the west (side) property line, six (6) feet from the east (side) property line, approximately fifteen (15) feet from the front and five (5) feet from the rear property lines. The Land Use Code requires buildings in the R-3 Residential Zone to have the following minimum setback requirements:

- Front Yard – 25 feet
- Side Yard – 8 feet
- Rear Yard – 20 feet

The Applicant will replace the existing chain link fence with a vinyl fence which was a condition of the original Variance request. Other structures such as electrical boxes and well vault will not be increased or moved. Based upon the width and depth of the property it severely limits anything which could be constructed. Furthermore the Land Use Code regulates permissible lot coverage of at least fifty percent of all required front, side and rear yard areas to be landscaped.

Utah Code 10-9a-702 establishes the criteria for review of a Variance request and stipulates the Applicant “shall bear the burden of proving that all of the conditions justifying a Variance have been met.” In order to grant a Variance each of the following criteria must be met:

- (i) *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*

**Staff Response:** State Law defines a hardship as “associated with and peculiar to the property itself.” The size of the property would require the Applicant an unnecessary and unreasonable hardship to comply with building lot standards, setback and permissible lot coverage standards of the Code. The proposed amended plans are reasonable for the use of the property. When reviewing Variances, Staff reviews any unique conditions found on a property which do not apply to other properties.

- (ii) *There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

**Staff Response:** There are no other properties in the R-3 Zone with the same characteristics as the Applicant’s property, and which provide a public benefit. To Staff’s knowledge there is no other property in the zone under the same circumstances and it is highly unlikely there will be any other property with similar characteristics in the future. Additionally, there are very few, if any, other property owners that would fall under the same circumstances as the current Applicant because the Applicant provides a public benefit to properties within the zone. Staff would consider these to be special and unique circumstances.

- (iii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*



**Staff Response:** Granting the Amendment to the Variance will allow the Applicant the ability to update and provide ongoing maintenance for a public use.

(iv) *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

**Staff Response:** Since the property is relatively small and has been in existence for decades there will not be a substantial affect to the General Plan. Granting the Amendment to the Variance will allow the Applicant to rehabilitate the well, and provide a benefit to the neighboring properties, the properties within the same zone and the public in general.

(v) *The spirit of the land use ordinance is observed and substantial justice done*

**Staff Response:** Allowing the Applicant to build the proposed structure will maintain the spirit of the Land Use Code within the constraints of the property.

Staff recommends the Planning Commission grant the request for an Amendment to the granted Variance, based on the analysis of the required review criteria from State Law included in the above findings and the materials submitted by the Applicant with the following conditions:

1. Applicant shall install solid fencing and landscaping to buffer the use of the property from the neighboring residential properties. The fencing shall be in compliance with Bountiful Land Use Code §14-16-110 regarding fencing standards in Single-Family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall meet the clear-view standards of City Code and other applicable standards from the State of Utah.
2. The Applicant shall completely cover the shipping container with a façade and roofing material consistent with the surrounding residential properties and approved by Staff.
3. The Applicant shall apply for a building permit to be reviewed and approved by Staff.

Mr. Astorga stated that this well is for culinary needs.

Mr. Bell asked about the exclusion of using shipping containers in the City code. Mr. Poole stated that City Code states that the shipping container can be used for the structure of the building but would need to be completely covered on the outside.

Chairman Monson opened the **PUBLIC HEARING** at 6:48 p.m.

Dave Badham resides at 3202 South 75 East. Mr. Badham stated that he agrees with the approval of this item and would benefit the community. He believes that the appearance of the building should be more camouflaged with the possible outside covering of a board and batten and use a flat roof and not to extend the roofline.

Mr. Astorga stated that the Commission members have the authority from the State code that may impose additional requirements on the applicate that will mitigate any harmful effects of the variance or serve the purpose of the standard or requirement that is being waived or modified.

Mr. Chandler stated that the fencing will be 8 foot in height, having a 6 foot solid and 2 foot lattice

which will meet the City code. This will be the same height as the shipping container.

Chairman Monson closed the **PUBLIC HEARING** at 6:56 p.m.

Mr. Chandler spoke about the options that would benefit the neighbors including this area to be cleaned up for the neighborhood. He is open to fencing materials to help the neighborhood. There will be no trucks delivering product and will have plenty of room for the proposed opening for the doors. He has been in contact with Bountiful City Water department.

Mr. Bell stated that he would like the fencing to be set back as far away from the street as possible. He would like to see a more natural fencing and maybe not vinyl fencing. Mr. Chandler explained that the District would not be able to move the fence any further back due to the position of the water vault.

Nick Montgomery resides at 33 E 3300 South. Mr. Montgomery has the well on his property and would prefer to have a white vinyl fence surrounding the well which would also continue along the west side of his property.

Chairman Monson asked for legal guidance about the hardships that variances have for this type of variance. Mr. Drake stated that he has not been able to find any code that would apply to this type of variance. He believes that this is a very unique case and would doubt that Bountiful City would see this type of variance again. Mr. Monson explained that his vote from the previous agenda item dated September 17, 2019, he felt that this parcel was self-imposed when purchased.

Mr. Astorga stated that he went back to 1953 and that this parcel was on the same configuration and incorporated from Davis to Bountiful City and has been serving as a well until 2007.

Mr. Chandler stated that requirements have currently changed from County and State that requires that the water be treated with chlorine and fluorinate.

Jesse Bell made a motion to grant approval of an amended variance for development standards to the Val Verda Well for South Davis Water District and adopts the three conditions outlined by staff and the addition of a fourth condition in its presentation and the staff report and adds the finding that the variance should be granted based on the fact that the County and State requirements imposed on the District have changed since taking ownership of the property. The following includes the three conditions which have been amended and includes a fourth condition.

1. The applicant shall install solid vinyl fencing matching the neighbor to the west and landscaping to buffer the use of the property from neighboring properties. The fencing shall be in compliance with Bountiful Land Use §14-16-110 regarding fencing standards in single-family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall be in compliance with clear view standards and other applicable standards from the state of Utah.
2. The applicant shall completely cover the shipping container with a façade (vertical cladding if possible) and roofing materials consistent with the surrounding residential properties and approved by Staff.
3. The applicant shall apply for a building permit to be reviewed and approved by staff.
4. The roof shall have no pitch.

Lynn Jacobs seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

**4. PUBLIC HEARING - Consider approval of a PUD Plat Amendment for The Domaine at Highland Oaks Subdivision lot 7, located at 3865 Highland Court, Justin Merkley and The Domaine at Highland Oaks HOA, applicant.**

Justin Merkley was present. Lloyd Cheney presented the staff report.

Justin Merkley and the Home Owners Association of The Domaine at Highland Oaks are requesting approval for an amendment to the P.U.D. through an adjustment of the platted location for Unit 7 of the development. As proposed, Unit 7 would remain the same size and be moved 10 feet to the Southeast.

The Domaine at Highland Oaks is an 11 unit development located in the R-F subzone, just east of Bountiful Boulevard at approximately 3800 South. This development was originally platted in 1997, and a similar modification to Unit 2 was approved in 2007 which allowed the proposed building location to be modified from the original plat. Currently, 10 of the 11 units have been constructed, with Unit 7 as the last to be built. The Homeowners Association supports the proposed modification.

As Mr. Merkley has prepared for the construction of his proposed home, several issues have been identified:

- The existing frontage and access to the building pad is very restrictive. As is typical with most P.U.D.s, the cul-de-sac diameter is significantly smaller (70 ft diameter) than a standard cul-de-sac on a public street (108 ft diameter). While the developers benefit from the reduced construction cost, the net result is less frontage for each unit with access from the cul-de-sac.
- The proximity of Units 7 and 8 on the original plat did not account for grading and construction of retaining walls required for each unit.

Mr. Merkley has previously applied for a Variance at this location, but no action has been taken pending the approval of this amendment. Regardless of the location for the construction of Unit 7, a variance for construction on slopes exceeding 30% will be necessary. After reviewing Mr. Merkley's initial site plan, staff finds that relocation of the building pad would result in minor modifications to the building elevations and retaining wall heights, and would allow reasonable access for construction. Based on the applicant's initial site plan, Staff believes that the resultant change in grading of the hill side is acceptable since the hillside is generally covered in native grasses, and would not disturb any nearby stands of native oak brush. Construction of a single family residence at this location will require a Variance. This will be presented to the Planning Commission at a future date.

Staff recommends that the Planning Commission forward to the City Council a recommendation of approval for Preliminary and Final approval of a PUD Plat Amendment at The Domaine at Highland Oaks, Unit 7, subject to the following conditions:

1. Complete any and all redline corrections on the Plat.
2. Pay recording fees in the amount determined by the City Engineer.

Chairman Monson opened and closed the **PUBLIC HEARING** at 7:33 p.m. without any comments.

Mr. Merkley stated the HOA is supportive of this layout of the plans.

Lynn Jacobs made a motion to forward a recommendation of approval to the City Council for the approval of a PUD Plat Amendment for The Domaine at Highland Oaks Subdivision lot 7, located at 3865 Highland Court with the 5 conditions outlined by staff. Jesse Bell seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

#### **5. Planning Commission Rules of Order and Procedures update.**

Chairman Monson would like to continue this item to the next meeting to allow all of the Commission members to be at the meeting.

Lynn Jacobs made a motion to continue this item. Jesse Bell seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

#### **6. Open and Public Meetings Act Presentation.**

Clint Drake would like to continue this item to the next meeting to allow all of the Commission members to be at the meeting.

Lynn Jacobs made a motion to continue this item. Kendalyn Harris seconded the motion. Voting passed 4-0 with Commission members Bell, Harris, Jacobs, and Monson voting aye.

#### **7. Director's report, review of pending applications and miscellaneous business.**

Francisco Astorga reported:

1. Conflict with City Council meetings for March. Planning Commission will have a meeting on March 3 and City Council will have a meeting on March 17.
2. The Planning Department has created a Calendar for tentative goals for 2020 and short term goals with modifications to Accessory Dwelling Units. We have received direction from City Council for an ordinance and a true public engagement process for Short Term Rentals. This may be given to the PC members on an individual basis instead of in an official meeting.
3. The Planning Department has received 15 Application for the Bountiful City Trails Committee.

Chairman Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:41 p.m.

---

Francisco Astorga, Bountiful City Planner

# Commission Staff Report

**Subject:** Preliminary and Final Approval of the Evans Subdivision  
**Address:** 3995 S Bountiful Boulevard  
**Author:** City Engineer, City Planner  
**Department:** Engineering, Planning  
**Date:** March 3, 2020

---



## Background

Nate Evans and Michael Nielson are requesting Preliminary and Final approval of the Evans Subdivision, a 2 lot subdivision located on the east side of Bountiful Blvd., at approximately 4000 South. The proposed subdivision includes the vacant ground between Huntington Circle and Summerwood Drive, bounded by Bountiful Boulevard on the west and the steep foothill escarpment on the east.

## Analysis

The proposed subdivision includes 2 properties owned by Mr. Nielson. As part of the subdivision, Mr. Nielson intends to adjust the south boundary line of Newport Heights Lot 37 (his personal residence) to include improvements he has made on the vacant parcel. All parcels are currently located in the R-3 zone and total approximately 5.19 acres. Staff has verified that both lots will exceed the minimum requirements for lot size (11,000 sqft minimum) and lot width (80 ft. minimum).

All necessary utilities are available to serve Lot 2, although there are special circumstances related to the extension of the sewer system to serve the subdivision and the existing home located at 4001 S Bountiful Blvd. As the design of the subdivision progressed, it was noted that the existing Lot 37 was connected to the sanitary sewer by a long lateral which connects to a manhole near the intersection of 400 E and Bountiful Blvd. This lateral is not adequate (in its current condition) to serve the proposed development and a future connection to the residence at 4001 S Bountiful Blvd (which is believed to be one of the last homes serviced by a septic tank). After consulting with the South Davis Sewer District, the proposed sewer installation was approved, and will be owned, operated and maintained by the Sewer District. This is noteworthy, since the standard pipe size for the sewer system is an 8" diameter pipe and this has been designed as a 6" pipe.

The remaining issue to be resolved is the connection of 4001 S to the sewer system. Although this is a secondary issue to the proposed subdivision, State Code allows the City Council to require connection to the sewer if the property boundary is within 300 feet of the sewer system (UCA 10-8-38 2(a)(i)). Because of the minimal depth of the sewer at the proposed manhole, and the slope of Bountiful Blvd, this connection can only be accomplished if the lateral for the existing home is installed in the front yard setback of Lot 2 (for a gravity system). The applicants should provide an easement for the installation of the sewer lateral across the south west corner of the lot frontage to serve 4001 S Bountiful Blvd.

The nearest storm drain is located approximately 280 ft south of Lot 2. It is recommended that the developers pay the \$2,100 (per ac) impact fee and take advantage of the existing storm drain capacity in Bountiful Blvd and the creek crossing at Glade Hollow in lieu of installing storm drain pipe and inlet box(es).

The Bountiful Land Use Code includes the following definition:

308. UNBUILDABLE LAND (UNUSABLE LAND): Any portion of a property that is encumbered by physical constraints, such as a flood plain, geologic fault, escarpment, or similar feature. In the Residential Foothill Zone (R-F) this definition shall also include any portion of a property that has thirty percent (30%) slope or greater.

The analysis of these properties would be incomplete if consideration of the geologic and topographic attributes of this location were not considered. The most prominent feature of this site is the steep slope which rises approximately 170 feet above the elevation of Bountiful Blvd. This feature is an indicator of 2 significant conditions:

1. The boundary of the Lake Bonneville shoreline. Above Bountiful Blvd, the exposed soils have a higher clay content, and represent the mountain geology. Below the shoreline, the soils are granular – with a predominance of sands and gravels associated with the interface of a water body to a shoreline.
2. The triangular shaped foothills indicate the site's proximity to fault lines, commonly associated in the Basin and Range province of Utah and Nevada.



Any future owner of Lot 2 should expect to encounter differing soil conditions on the site and the potential for adverse effects from a seismic event, based on the site's proximity to the Weber section of the Wasatch fault.

Since this development is affected by the conditions identified in the definition of Unbuildable Land, it is recommended that the plat identify the areas which are not suitable for

development. Entellus Engineering has taken a step forward in this direction by indicating the location of the existing slopes which exceed 30%, but the boundary is not complete. These areas should be identified on the remainder of Lot 2 and the boundary marked on the plat as “Unbuildable Land”.

For many years this vacant lot has been accessed without an approved drive approach. Any damaged curb, gutter and sidewalk must be replaced as part of the construction of a new residence on Lot 2.

The survey data included on the preliminary plat identifies two existing accessory buildings which cross the property line on the west side of the lot. Two additional accessory buildings currently exist on the interior of the lot. The land use code prohibits accessory structures on lots that lack a primary structure. Mr. Evans intends to remove these buildings, and has indicated that it is likely that he will apply for a building permit with a few weeks. As has been done in the past, staff would recommend a 120 day grace period for Mr. Evans to apply for the building permit for the new single family home before requiring the removal of the structures from the property.

### **Department Review**

This memo has been reviewed by the City Attorney and Planning Department.

### **Recommendation**

Staff recommends the Planning Commission forward a positive recommendation for Preliminary and Final approval of the Evans Subdivision to the City Council with the following conditions:

1. Identify the extent of the slopes which exceed 30% on the plat and identify these areas as “Unbuildable Land”.
2. Provide an Private Utility Easement across the front of Lot 2 for a sewer lateral installation to serve the existing house located at 4001 S Bountiful Blvd.
3. Replace the existing curb, gutter and sidewalk across the frontage of Lot 2. This may be completed with the construction of new home on Lot 2.
4. Make all necessary red line corrections to the final plat and the construction drawings.
5. Provide a current title report.
6. Sign a Development Agreement.
7. Post an acceptable form of bond for the construction of the subdivision improvements.
8. Pay all required fees.

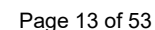
### **Significant Impacts**

None

## **Attachments**

1. Aerial photo showing the proposed location
2. A copy of the preliminary plat.







# Planning Commission Staff Report

**Item:** PUBLIC HEARING – Request for a Variance to allow for encroachments on slopes greater than 30 percent.  
**Address:** 3865 Highland Court  
**Author:** Curtis Poole, Assistant City Planner  
**Date:** March 3, 2020



## Description of Request

The Applicant, Justin Merkley, has requested a Variance to allow for encroachments on slopes greater than 30 percent. The property is located at 3865 Highland Court, which is in the R-F (Residential Foothill) Zone. The proposed Variance would allow for construction of a new residential Single-Family dwelling.

## Authority

Section 14-2-111 authorizes the Administrative Committee to be the review body for Variance requests within the R-F Zone related to encroachments on slopes greater than 30 percent. Section 14-2-104 authorizes the Chairperson of the Administrative Committee to assign any item designated for Administrative Committee review to the Planning Commission, in which case the Planning Commission acts under the same authority granted to the Administrative Committee.

## Background and Analysis:

The Domain at Highland Oaks Planned Unit Development (PUD) Plat was approved in 1997 as an 11 unit (building footprint) plat. Part of the approval process for the PUD included an engineering geotechnical and topographic study. Since the original approval, 10 of the platted units have been completed. The Applicant's platted building footprint (Unit 7) is the last to be built in the PUD. At its February 18, 2020 meeting, the Planning Commission reviewed and forwarded a positive recommendation of approval to the City Council of a Plat Amendment for the Applicant and the Domain of Highland Oaks Homeowner's Association (HOA) regarding platted Unit 7. The City Council reviewed the recommendation and approved the Plat Amendment at its February 25, 2020 meeting.

The Plat Amendment approved by the City Council shifted the building footprint of the platted unit ten (10) feet to the east. The purpose of the amendment was to increase the distance between the future structure on platted Unit 7 and the existing structures on platted Units 6 and 8. Any future structure built within the building footprint will encroach upon slopes greater than 30 percent which would require a Variance from City Code. To avoid constructing one tall retaining wall the Applicant proposes constructing two-tiered

retaining walls less than four (4) feet tall. Prior to the Applicant applying for a building permit a Variance needs to be granted by the Planning Commission.

### **Variance Findings**

Utah Code 10-9a-702 establishes the criteria for review of a variance request and stipulates the applicant “shall bear the burden of proving that all of the conditions justifying a variance have been met.” In order to grant a variance each of the following criteria must be met:

- (i) *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*

**Staff Response:** The purpose of the building standards in the R-F Zone is to preserve the hillside and manage erosion. Literal enforcement of the Code would prohibit the construction of most structures because of the steepness of the slopes in Bountiful City. The Applicant’s unit was previously platted prior to the Applicant acquiring the property. The City Council approved a Plat Amendment allowing the Applicant and HOA to shift the platted unit ten (10) feet to the east. Regardless of the Plat Amendment, the lot would have required a Variance to construct on the platted footprint. The hardship was not created by the Applicant and therefore should not be considered self-imposed.

- (ii) *There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

**Staff Response:** Many properties in the R-F Zone have similar constraints as the Applicant’s property which limit the buildable area and require a variance from the Code to build on slopes greater than 30 percent. The Applicant’s property is unique as the building footprint is a platted unit. This circumstance requires the Applicant to build in that footprint; whereas in other properties in the R-F Zone the property owner has the ability to move the footprint of a structure to a location on the property that would have the least impact to the steep slopes.

- (iii) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*

**Staff Response:** Other properties in the R-F Zone with buildable lots have been allowed some reasonable disturbances of the slopes greater than 30 percent, and the need to create steep driveways and tall retaining walls. Granting the Variance will allow the Applicant to enjoy similar property rights possessed by others in the R-F Zone. Denying the Variance will allow other properties a right not extended to the Applicant’s property.

- (iv) *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

**Staff Response:** Granting the Variance for the Applicant will not have a substantial effect to

the General Plan as other properties in the R-F Zone are treated similarly regarding steep slopes and retaining walls. It is an interest to the City to have all buildable lots developed as opposed to remaining vacant.

(v) *The spirit of the land use ordinance is observed and substantial justice done*

**Staff Response:** The purpose of the Land Use Code which requires improvements be located on slopes less than 30 percent is to preserve the hillside and manage runoff and erosion on properties located in the foothills. The Code anticipates that there are existing lots with special circumstances and the Variance process provides a way for those lots to be developed. However, Section 14-4-101 of the Code also stipulates that the alteration of sensitive lands should be the minimum necessary to allow for reasonable use of the property. The Applicant's platted building footprint does not substantially disturb the hillside at this location as there is not a natural stand of native oak trees.

### **Department Review**

The request has been reviewed by the City Planner, City Engineer, and City Attorney.

### **Recommended Action**

Based on analysis of the required criteria from State law included in the findings above and the materials submitted by the Applicant, Staff recommends the Planning Commission grant the requested Variance related to encroachments on slopes greater than 30 percent with the following conditions:

1. The Applicant will continue to work with Staff to ensure the final plans submitted will meet the standards for building in the R-F Zone, in particular the impact of retaining walls on slopes greater than 30 percent.
2. The Applicant shall apply for a building permit to be reviewed and approved by Staff.

### **Attachments**

1. Aerial Photo
2. Utah Municipal Code, Municipal Land Use, Development & Management Act Section 10-9a-702
3. Applicant's Narrative
4. Proposed Plan



## Aerial Photo



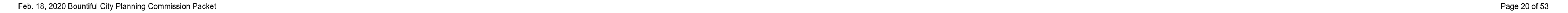
### Utah Municipal Code, Municipal Land Use, Development & Management Act Section 10-9a-702

#### 10-9a-702 Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
  - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
  - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

- (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
  - (A) is located on or associated with the property for which the variance is sought; and
  - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
  - (i) relate to the hardship complained of; and
  - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  - (a) mitigate any harmful affects of the variance; or
  - (b) serve the purpose of the standard or requirement that is waived or modified.







THE DOMAINE AT HIGHLAND OAKS P.U.D. SUBDIVISION, AMENDED UNIT 7

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5,  
TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN  
BOUNTIFUL CITY, DAVIS COUNTY, UTAH  
DECEMBER 2019

J. JEREMIAH R. CUNNINGHAM, A PROFESSIONAL LAND SURVEYOR HOLDING CERTIFICATE NO. 9182497 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH, DO HEREBY CERTIFY THAT BY THE AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED HERewith AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND STREETS HEREafter TO BE KNOWN AS THE DOMAINE AT HIGHLAND OAKS P.U.D. SUBDIVISION. AMENDED UNIT 7 AND THAT SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN.

SURVEYOR'S CERTIFICATE

PRELIMINARY

JEREMIAH R. CUNNINGHAM, P.L.S. UT #9182497

BOUNDARY DESCRIPTION

ALL OF THE PRIVATE OWNERSHIP AREA AND LIMITED COMMON AREA PERTAINING TO UNIT 7, THE DOMAINE AT HIGHLAND OAKS P.U.D., AND ALSO PART OF THE COMMON AREA SURROUNDING SAID UNIT 7, SAID WHOLE PARCEL BEING LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH, AND ALSO DESCRIBED AS FOLLOWS:

BEGINNING AT A CORNER OF THE COMMON AREA OF THE DOMAINE AT HIGHLAND OAKS P.U.D. THAT IS SOUTH 00°08'42" EAST 507.21 FEET ALONG THE SECTION LINE TO THE SOUTHWEST CORNER OF LOT 7, INDIAN SPRINGS ESTATES PLAT "A", AND SOUTH 00°08'42" EAST 526.02 FEET ALONG THE SECTION LINE TO A CORNER OF SAID COMMON AREA AND SOUTH 67°40'33" EAST 202.83 FEET ALONG THE SOUTH LINE OF SAID COMMON AREA TO A CORNER AND NORTH 22°19'27" EAST 218.50 FEET ALONG THE EAST LINE OF SAID COMMON AREA FROM THE WEST QUARTER CORNER OF SAID SECTION 5, AND RUNNING THENCE SOUTH 22°19'27" WEST 88.51 FEET, THENCE NORTH 67°40'33" WEST 71.85 FEET; THENCE NORTH 37°07'14" WEST 22.97 FEET TO THE EAST LINE OF HIGHLAND COURTE (600 EAST STREET); THENCE NORTHERLY 41.74 FEET ALONG SAID EAST LINE AND ALONG A NON-TANGENT, 35.00-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 68°20'07", CHORD BEARS NORTH 10°31'47" EAST 39.31 FEET; THENCE NORTH 66°22'10" EAST 53.35; THENCE SOUTH 67°40'33" EAST 62.57 FEET TO SAID CORNER OF THE COMMON AREA AND TO THE POINT OF BEGINNING.

CONTAINING 0.174 ACRES.

OWNER'S DEDICATION

KNOWN ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED SAME TO BE SUBDIVIDED INTO PRIVATE LOTS, HEREafter TO BE KNOWN AS THE DOMAINE AT HIGHLAND OAKS P.U.D. SUBDIVISION, AMENDED UNIT 7, DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE, INCLUDING EASEMENTS, AND DO WARRANT AND DEFEND AND SAVE THE CITY THINLESS AGAINST ANY EASEMENT OR OTHER ENCUMBRANCE WHICH WILL INTERFERE WITH THE CITY'S USE, MAINTENANCE, AND OPERATION OF SAID EASEMENTS.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS DAY OF 20

AMBER F. MERKLEY

JUSTIN MERKLEY

NAME:  
ASSOCIATION OF UNIT OWNERS OF DOMAINE AT  
HIGHLAND OAKS P.U.D.

ACKNOWLEDGEMENT

ON THIS DAY OF 20, THERE APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, JUSTIN MERKLEY and AMBER F. MERKLEY, WHO DULY ACKNOWLEDGED TO ME THEY SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSE THEREIN MENTIONED.

NOTARY PUBLIC:

RESIDENCE:

MY COMMISSION EXPIRES:

ASSOCIATION ACKNOWLEDGMENT

ON THE DAY OF 20, THERE PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO BEING BY ME DULY SWORN DID SAY THAT HE IS OF THE ASSOCIATION OF UNIT OWNERS OF DOMAINE AT HIGHLAND OAKS P.U.D., AND THAT SAID INSTRUMENT WAS SIGNED IN BEHALF OF SAID ASSOCIATION BY A RESOLUTION OF ITS MEMBERS AND ACKNOWLEDGED TO ME THAT SAID ASSOCIATION EXECUTED THE SAME.

NOTARY PUBLIC:

RESIDENCE:

MY COMMISSION EXPIRES:

DAVIS COUNTY RECORDER

ENTRY NO. FEE PAID  
FILED FOR RECORD AND RECORDED THIS DAY OF 20  
AT IN BOOK OF  
COUNTY RECORDER:  
BY: DEPUTY

CITY ATTORNEY'S APPROVAL

APPROVED ON THIS DAY OF 20

BOUNTIFUL CITY ATTORNEY

PLANNING COMMISSION APPROVAL

APPROVED BY THE PLANNING COMMISSION OF BOUNTIFUL CITY, THIS DAY OF 20

PLANNING DIRECTOR

CITY ENGINEER'S APPROVAL

APPROVED BY THE BOUNTIFUL CITY ENGINEER, THIS DAY OF 20

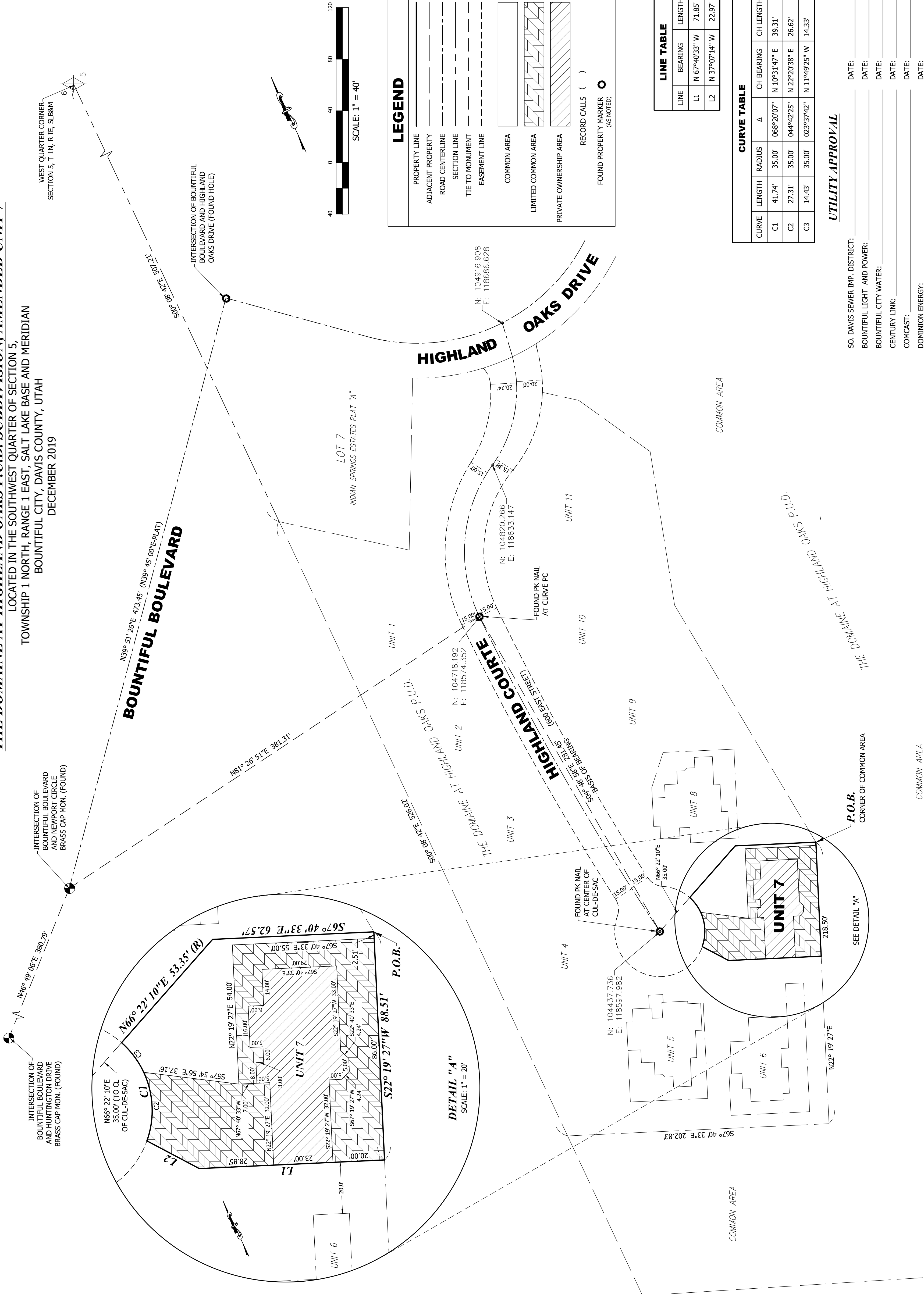
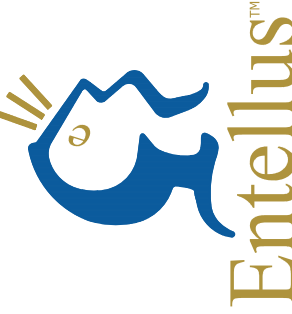
BOUNTIFUL CITY ENGINEER

CITY COUNCIL'S APPROVAL

PRESENTED TO THE CITY COUNCIL OF BOUNTIFUL CITY, UTAH, ON THIS DAY OF 20

CITY RECORDER ATTEST:  
MAYOR:

1470 South 600 West  
Woods Cross, UT 84010  
Phone 801.298.2236  
www.Entellus.com  
PROJECT #1824001 12/12/2019, RNH





# Commission Staff Report

**Subject:** Preliminary Approval of the Towns at Orchard & 500 S P.U.D.  
**Address:** 500 South Orchard Drive  
**Author:** City Engineer, City Planner  
**Department:** Engineering, Planning  
**Date:** March 3, 2020

---



## Background

Brighton Homes is requesting Preliminary Approval for a twenty eight (28) unit townhome style development on the southwest corner of 500 S and Orchard Drive. This project would combine 6 parcels into a single development of 2.17 acres. The site is located in the RM-13 zone and is surrounded by a mix of apartments and multi-family developments, small commercial offices and the West Bountiful culinary water reservoir.

## Analysis

Brighton Homes is proposing twenty eight (28) three (3) bedroom units. Plans indicate the new units will be configured in three (3) six-unit and two (2) five-unit townhome style structures. The 2.17 acre site can accommodate a maximum of twenty eight (28) units at the allowed density of 13 units per acre. Three bedroom units are required by Ordinance to have 2.75 parking stalls per unit (this amount includes a visitor component of 0.25 stalls per unit). Fifty-six (56) of the seventy-seven (77) required stalls are furnished by 2 car garages and the remaining twenty-one (21) stalls are located in the parking area on the south side of the project site. Each unit is also required to have a minimum of 50 sq. ft. of private outdoor space which is indicated as limited common area on the Preliminary plan. Because this project will be a private development, all of the common areas will be dedicated as a public utility easement. The landscaping component of the project meets the required minimum of 40% as indicated on the plans.

The existing site generally slopes from southeast to northwest, with approximately 20 feet of elevation change. While this may not seem like difficult site conditions for Bountiful, there is sufficient grade change to make the final layout of these large buildings a challenge. The three (3) five-unit townhomes which front onto Orchard Dr. are shown with a 45 foot setback from the property line to accommodate the step down from the sidewalk elevation to the finish floor elevation of the units, and to provide an aesthetically pleasing appearance to the street. The grade differential between the main floor elevation and the sidewalk varies from approximately six (6) at the southern unit to two (2) feet at the northernmost unit.

The applicant has proposed constructing a new 4 ft wide sidewalk with 3.5 foot parkstrip along the south side of 500 South and the west side of Orchard Drive. This configuration will be a significant improvement to the character of the development, will also provide much needed separation for pedestrians from traffic, and provide a place for snow storage. Because the sidewalk will be located outside the street right of way, an easement (at minimum) or

additional dedication of right of way to the City is necessary. Access to the site will be provided at a new 20 foot wide drive approach on 500 South and on Orchard Dr. The center of the closest access (on 500 S) is located 150 feet from the center of the intersection at Orchard Drive. Because of the minimum distance to the intersection and the current east bound lane configuration, this access should be restricted to right-in right-out only movements. In addition to this requirement, a median barrier should be installed on the north side of the left-hand turn lane for eastbound traffic. This median should extend approximately 180 feet west from the stop bar to accommodate the left turn storage space. In addition, the width of the drive approaches should be increased to a minimum of 24 ft (pavement width) to better accommodate garbage service and emergency vehicle access from these very busy streets. The applicant will need to accommodate garbage service (including a dumpster enclosure), mail delivery and snow storage on the interior of the site. Access roadways are shown with a 20 foot wide pavement width. This is similar to other developments (by Brighton Homes) which have approved, but both Pages Hollow and Bristol Village are smaller developments of 14 and 19 units, respectively. Staff highly recommends the width of the north-south roadway be increased the standard twenty-four (24) foot (pavement) width, as is required in parking areas with perpendicular parking.

The site can be served by utilities in Orchard Drive and 500 South. The proposed 8" sewer main will connect to the sewer system in 500 S. The current sewer design shows long mains extending to the west to serve the three (3) six (6) unit townhomes, which have been shown with the length of the building oriented in an east-west direction. These mains are designed with the minimum allowable slope and minimal depth at their western ends to accommodate the site. The culinary water mains will be installed to create a looped system, and will connect to the existing culinary system in 500 S and Orchard Drive. A new fire hydrant is proposed on the interior of the development, meeting the requirements of the Fire District.

The existing buildings are currently served by overhead power, and the Power Dept. has prepared a preliminary plan to service the site. Modifications will include facilities to connect to the overhead system which serves the existing homes and offices to the west of the project.

Related to the proposed utility work and access construction is the termination of existing service laterals. It will be necessary to disconnect the existing culinary water and irrigation laterals which serve the existing buildings. Because of the number and location of the required excavations in 500 South, a 1" mill and asphalt overlay is required along the 500 S frontage. Orchard Drive is a concrete pavement, and the removal and replacement of full concrete panels will be required for all utility connections.

The most difficult utility condition to resolve is related to drainage and retention of storm water. As currently proposed, the applicant will install two separate buried retention structures which are sized to accommodate the 100 year design storm. These types of facilities are intended to infiltrate the accumulated storm water into the ground, without the need to discharge to the storm drain system....which does not exist in close (enough) proximity to this site to be used. It is also important to note that the next renewal of the City's storm water



permit will require the use of “Low Impact Development” principals (such as retention), so this type of installation will give the City a head start to the implementation of these practices. Particular attention will need to be given to the final design of the site to direct overflows to the street right of way, and not to the adjacent properties on the west side of the project.

### **Department Review**

This memo has been reviewed by the City Attorney and Planning Department. The development has been reviewed by Police, Fire, and Power representatives.

### **Recommendation**

Staff recommends the Planning Commission forward a positive recommendation for Preliminary approval of the Towns on Orchard and 500 S to the City Council with the following conditions:

1. Identify the private spaces associated with each unit on the Plat.
2. Provide an easement for the new sidewalk location or dedicate the ground to the City as an extension of the right of way for Orchard Drive and 500 S.
3. Restrict the site access from 500 S to only permit right-in right out movements.
4. Install a concrete median barrier in 500 S to prevent left turns (to go west on 500 S) from the 500 S access. Recommended length is 180 feet from the stop bar at the intersection with Orchard Drive.
5. Revise the drive approach and roadway widths at the access locations to 24 ft pavement width.
6. Revise the width of the north-south access road way to 24 ft pavement width.
7. Furnish a 1” deep mill and overlay of the south lane of 500 S to mitigate required utility work excavation.
8. Provide adequate grading to direct site runoff overflow to 500 S, and not to adjoining properties.
9. Identify the location of mailboxes, trash enclosures and snow storage areas on the interior of the site.
10. Complete red line corrections to the plat and constriction drawings.

### **Significant Impacts**

The impact of greatest significance will be related to traffic flow into and out of the development. The 2019 traffic volume for the intersection of 500 S and Orchard Dr. is shown below. All utilities have adequate capacity to supply the development.

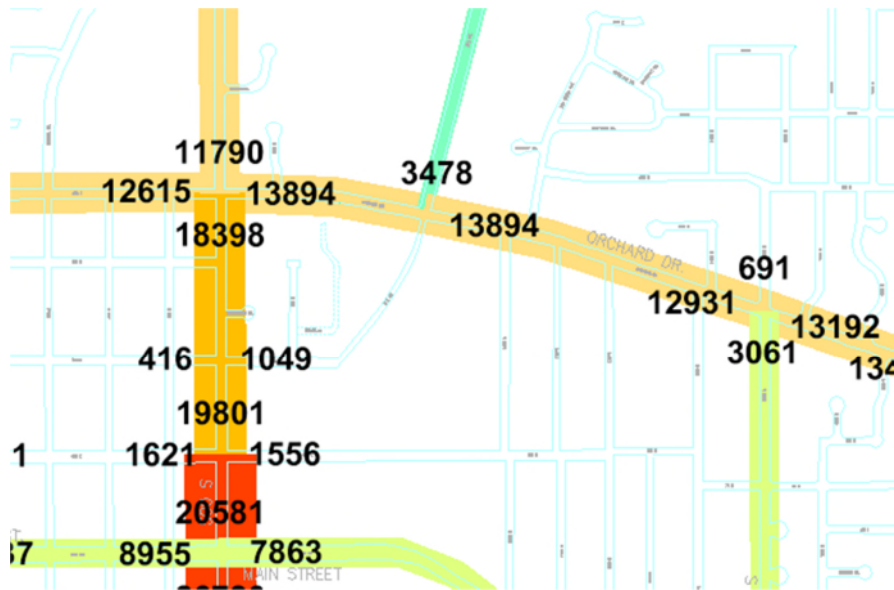
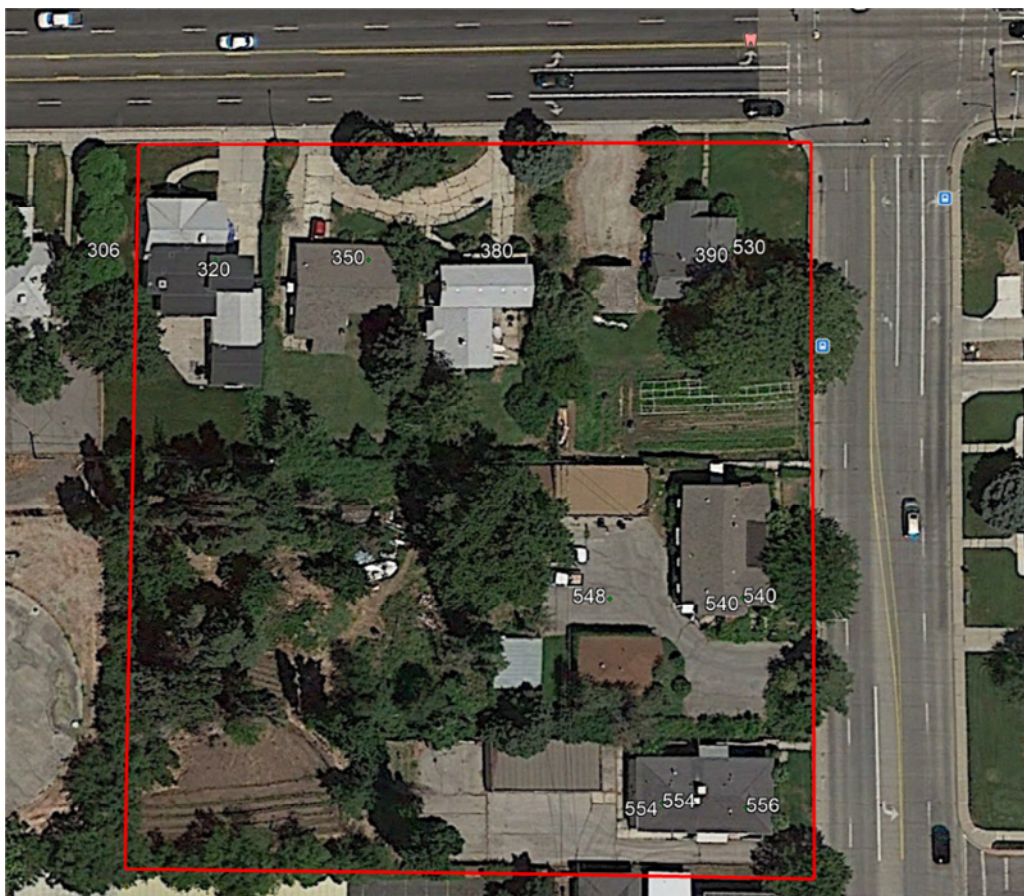


Figure 1 2019 Traffic Volume

## Attachments

1. Aerial photo showing the proposed location
2. A copy of the preliminary plat.

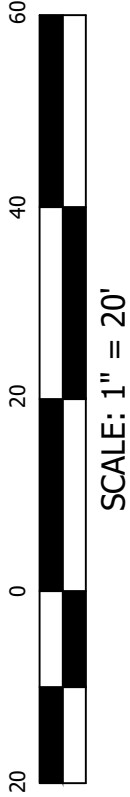




PRELIMINARY PLAN  
ORCHARD DRIVE TOWNHOMES  
LOCATED IN THE NE QUARTER OF SECTION 31, TOWNSHIP 2N.,  
RANGE 1E., SALT LAKE BASE AND MERIDIAN BOUNTIFUL  
CITY, DAVIS COUNTY, UTAH  
FEBRUARY 7, 2020

BOUNDARY DESCRIPTION

TOTAL ACREAGE: 2.17

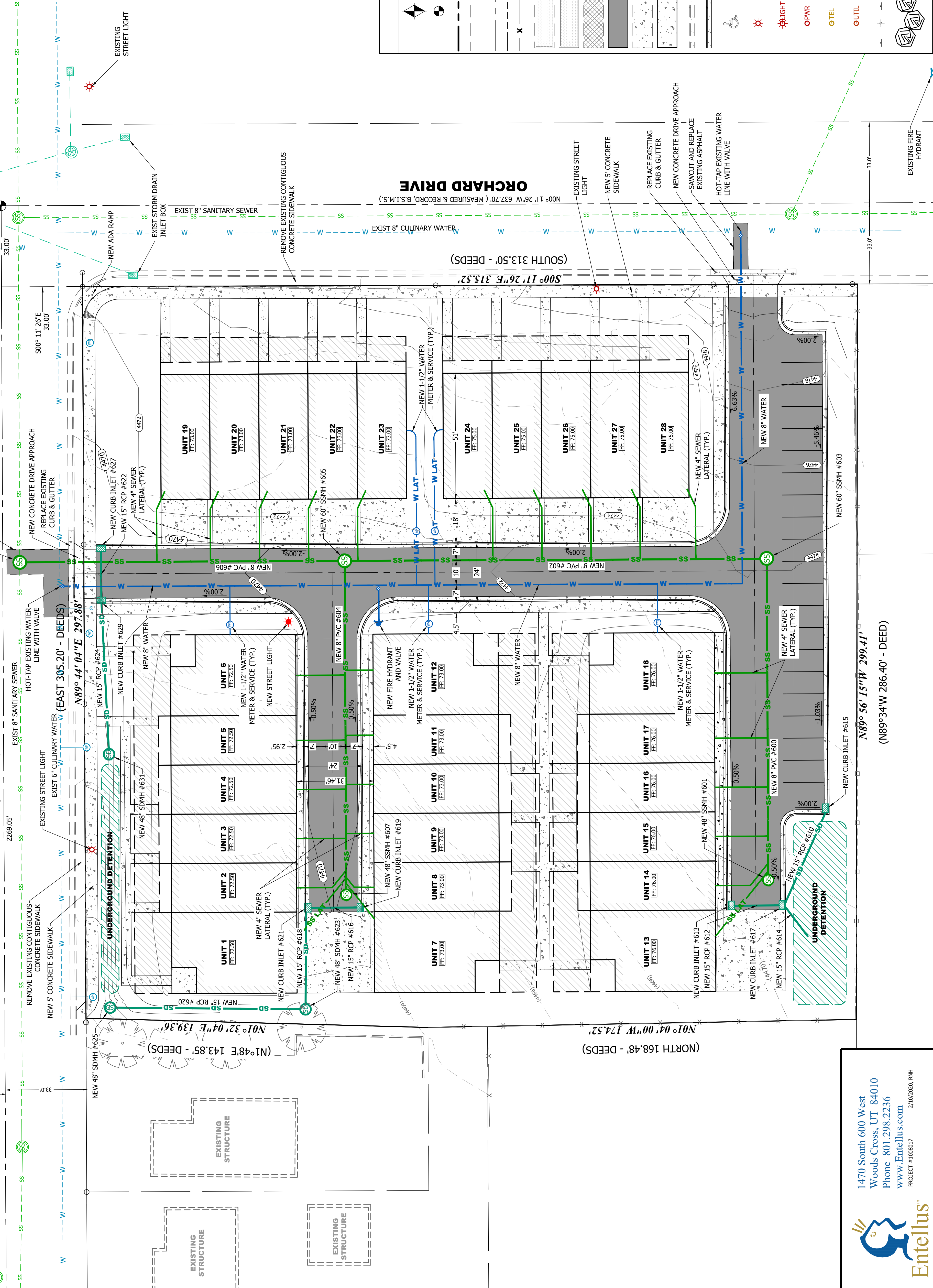


LEGEND

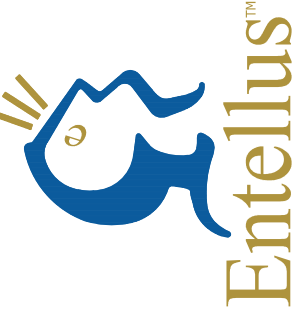
SECTION CORNER	EXISTING WATER LINE	EXISTING WATER LINE
MONUMENT	PROPOSED WATER LINE	PROPOSED WATER LINE
LOT OR BOUNDARY LINE	PROPOSED FIRE PROTECTION	PROPOSED FIRE PROTECTION
PUBLIC UTILITY EASEMENT	WATER MANHOLE	WATER MANHOLE
BUILDABLE AREA SETBACK	WATER METER	WATER METER
CENTER LINE OF ROAD	FIRE HYDRANT	FIRE HYDRANT
EXISTING FENCE	BLOWOFF	BLOWOFF
PROPOSED FENCE	VALVE	VALVE
EXISTING BUILDING	TEE	TEE
PROPOSED BUILDING	ELBOW	ELBOW
EXISTING ASPHALT	REDUCER	REDUCER
PROPOSED ASPHALT	THRUST BLOCK	THRUST BLOCK
EXISTING CONCRETE	EXISTING SEWER LINE	EXISTING SEWER LINE
PROPOSED CONCRETE	PROPOSED SEWER LINE	PROPOSED SEWER LINE
EXIST CURB & GUTTER	SEWER MANHOLE	SEWER MANHOLE
PROP CURB & GUTTER	EXISTING STORM DRAIN	EXISTING STORM DRAIN
ADA PARKING	PROPOSED STORM DRAIN	PROPOSED STORM DRAIN
STREET LIGHT	STORM DRAIN MANHOLE	STORM DRAIN MANHOLE
LIGHT	CATCH BASIN / CLEANOUT	CATCH BASIN / CLEANOUT
POWER POLE	CURB INLET	CURB INLET
TELEPHONE POLE	EXISTING FIBER OPTIC	EXISTING FIBER OPTIC
UTILITY POLE	PROPOSED FIBER OPTIC	PROPOSED FIBER OPTIC
STREET SIGN	EXISTING NATURAL GAS	EXISTING NATURAL GAS
ROCK WALL	PROPOSED NATURAL GAS	PROPOSED NATURAL GAS
	EXISTING POWER	EXISTING POWER
	PROPOSED POWER	PROPOSED POWER
	EXISTING OVERHEAD POWER	EXISTING OVERHEAD POWER
	PROPOSED OVERHEAD POWER	PROPOSED OVERHEAD POWER
	EXIST UNDERGROUND POWER	EXIST UNDERGROUND POWER
	PROPOSED UNDERGROUND POWER	PROPOSED UNDERGROUND POWER
	EXISTING TELEPHONE	EXISTING TELEPHONE
	PROPOSED TELEPHONE	PROPOSED TELEPHONE

500 SOUTH STREET

S89° 44' 04"W 2302.05' (B.S.I.M.S.)



1470 South 600 West  
Woods Cross, UT 84010  
Phone 801.298.2236  
www.Entellus.com  
PROJECT #1008017 2/10/2020, RNH







# Planning Commission Staff Report

**Subject:** Orchard Drive Townhomes Preliminary  
Architectural and Site Plan Review for a 28 unit  
Multi-Family Residential Development  
**Author:** Curtis Poole, Assistant City Planner  
**Address:** 554 South Orchard Drive  
**Date:** March 3, 2020



## Description of Request

The Applicant, Brighton Homes Utah, is requesting Preliminary Architectural and Site Plan approval for a 28 Unit Multi-Family Residential Townhome Development located at 554 South Orchard Drive.

## Background and Analysis

The Applicant is proposing to consolidate six (6) separate properties into one (1) property consisting of 2.19 acres. This property is currently located in the RM-13 (Multiple Family) Zone. Single-Family dwellings and a water tank owned by West Bountiful City are located to the west. There is an existing Multi-Family development to the south and Multi-Family dwellings to the east across Orchard Drive. The Hospital Zone is located to the north of the property across 500 South.

The Applicant is proposing 28, three (3) bedroom units. The Site Plan submitted by the Applicant shows five (5) separate buildings with three (3) buildings consisting of six (6) units each and two (2) buildings consisting of five (5) units each. The units fronting Orchard Drive and 500 South will have their entrances facing the streets with back loaded garages. There will be two (2) drive approaches into the development, one on the south of the property from Orchard Drive and the other on the north of the property from 500 South.

The Applicant submitted building elevations and renderings showing a mix of stone, wood panels, stucco and vertical lap siding. The front of each building shows an appropriate mix of vertical and horizontal articulations with porches, balconies and other architectural elements which provide aesthetically pleasing views. The Planning Commission may want to determine whether the unit which runs parallel to 500 South (Unit 19) or the unit which is more visible from Orchard Drive (Unit 28) should have architectural articulations similar to the front of the buildings or adequate landscaping to avoid the large expanse of flat walls.

The Landscape Plan shows an appropriate mix of street and interior trees. The submitted plan shows forty (40) percent landscape coverage which would meet the standards of the Code; however, the Applicant also indicated on a Project Information sheet the landscape coverage is under twenty-nine (29) percent. This discrepancy will need to be resolved prior to Final Architectural and Site Plan review. The proposal shows a three (3) foot tall vinyl picket-style fence matching the color of the structures which will divide the private

and common spaces of the development. The Applicant will also need to submit a perimeter fencing plan meeting the standards of the Landscape and Fencing Code, particularly § 14-16-111.

Interior vehicle circulation is provided by twenty-four (24) foot drive aisles connecting the two (2) drive approaches. The Site Plan also shows twenty-one (21) parking stalls in addition to the two (2) car garages for each unit. Based upon the per unit bedroom count the Applicant meets the parking calculation standard of the Code consisting of 77 parking spaces.

There is approximately a six (6) foot grade difference on the south end of the property from Orchard Drive and the edge of Unit 28. This will require the Applicant to construct stairs to connect the unit entrances along Orchard Drive to the sidewalk. Moving north along Orchard Drive the grade difference becomes less significant. The Applicant is also proposing to construct a parkstrip along 500 South and Orchard Drive to provide additional separation for pedestrian and vehicular traffic.

The Applicant should reconsider the location of water meters to eliminate long runs through the property. The Applicant will provide Staff with geological testing, in particular a percolation test, to determine if the proposed on-site storm water retention system will be sufficient. Bountiful Light and Power will continue to work with the Applicant on necessary easements to provide service to this property. The Applicant will need to provide the location of a dumpster and sight obscuring fencing meeting the standards of the Code.

### **Department Review**

This proposal has been reviewed by the Engineering, Planning, Power and Police Departments and by the Fire Marshall.

### **Significant Impacts**

The Applicant will need to demonstrate how storm water impacts to the site will be handled. Other infrastructure in the area is adequate for the impacts anticipated by this development.

### **Recommended Action**

Staff recommends the Planning Commission forward a recommendation of approval to the City Council for Orchard Drive Townhomes Preliminary Architectural and Site Plan Review for the proposed 28 unit Multi-Family Residential Development subject to the following conditions:

1. Complete any and all redline corrections.
2. Prior to applying for a building permit the six parcels shall be consolidated and recorded, including any easements, with Davis County by the Applicant.

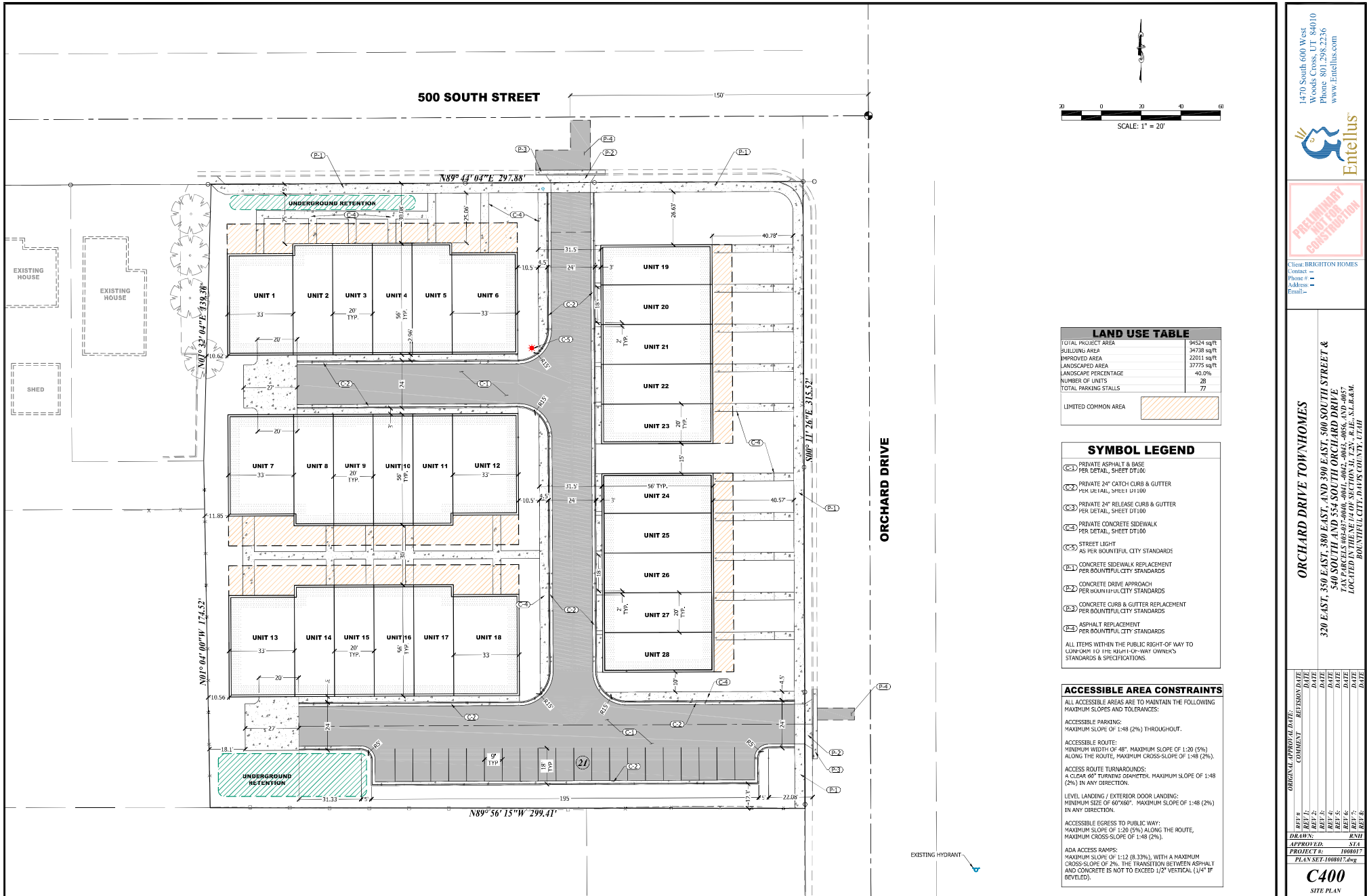
3. Submit a fencing plan and provide landscaping calculations meeting the standards of the Code.
4. Provide the location of a dumpster and required sight obscuring fencing.
5. Prior to submittal for Final Architectural and Site Plan approval provide Staff with geotechnical study and resolve any concerns with storm water retention to the satisfaction of the City Engineer.
6. Revise the elevations on Units 19 and 28 to show similar articulation as the building elevations fronting Orchard Drive to provide architectural continuity on these visible sides of the building or demonstrate sufficient landscape buffering.
7. All damaged curb, gutter and sidewalk along 500 South and Orchard Drive shall be replaced.
8. Pay fees and post an acceptable bond in the amount determined by the City Engineer.
9. Sign a Public Improvement Development Agreement.

#### **Attachments**

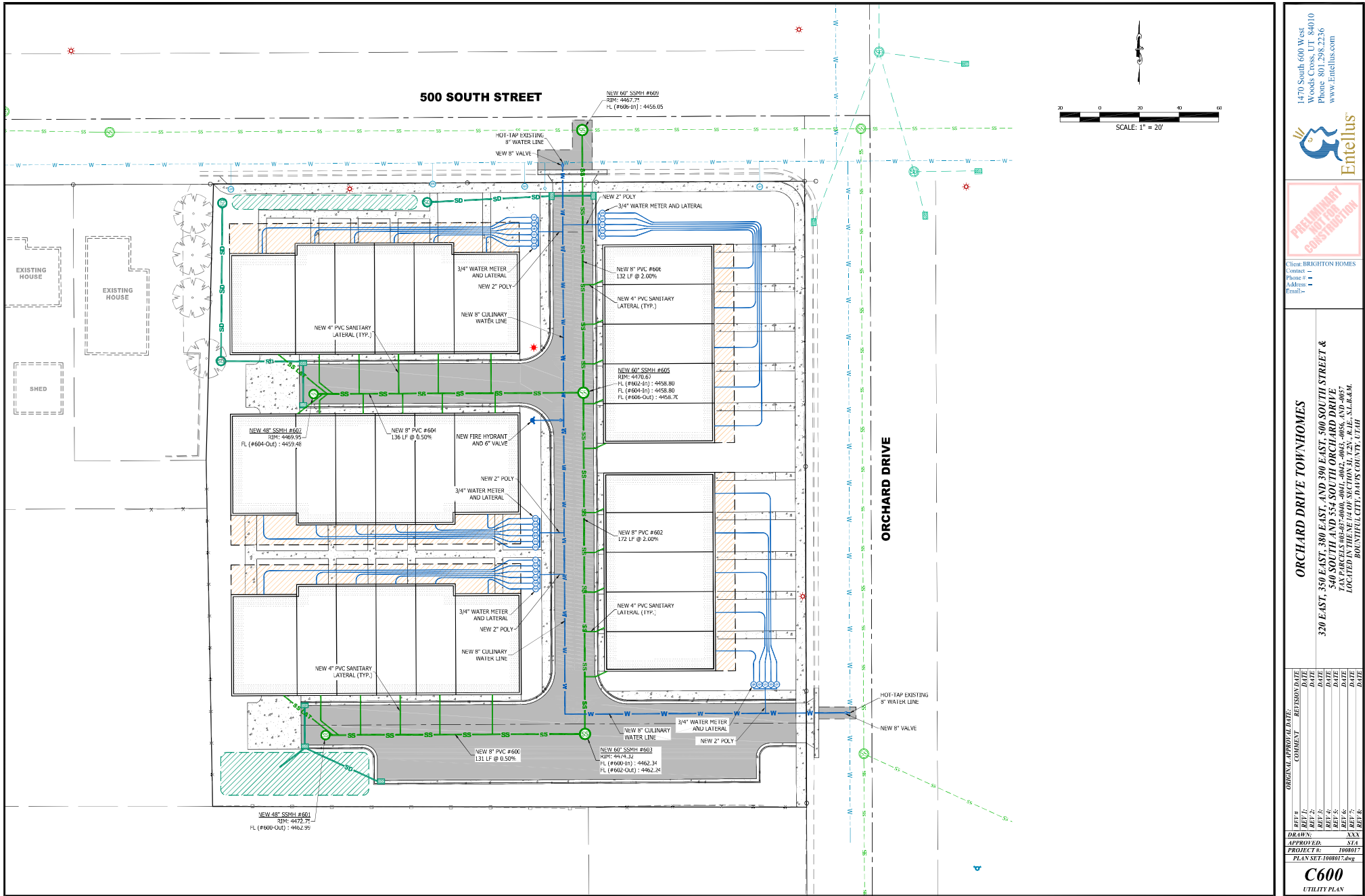
1. Aerial photo
2. Site and Utility Plans
3. Building Elevations and Renderings
4. Exterior Finish and Color Scheme
5. Applicant's Project Information Sheet
6. Landscaping Plan
7. Fencing example

## Aerial Photo









1470 South 600 West  
Woods Cross, UT 84010  
Phone 801.298.2236  
www.Entellus.com

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

Client: BRIGHTON HOMES  
Contact: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_

**ORCHARD DRIVE TOWNHOMES**

320 EAST, 350 EAST, 380 EAST, AND 390 EAST, 500 SOUTH STREET &  
540 SOUTH AND 554 SOUTH ORCHARD DRIVE  
TOWNHOMES LOCATED 320 EAST, 350 EAST, 380 EAST, AND 390 EAST  
LOCATED BOUNTIFUL CITY, DAVIS COUNTY, UTAH

ORIGINATOR	DATE	REVISION	DATE	COMMENT
REF 1		REF 1		
REF 2		REF 2		
REF 3		REF 3		
REF 4		REF 4		
REF 5		REF 5		
REF 6		REF 6		
REF 7		REF 7		
REF 8		REF 8		

DRAWN: XXX  
APPROVED: STA  
PROJECT #: 1000017  
PLAN SET: 1000017.dwg

**C600**  
UTILITY PLAN



## KEYNOTES

FUTURE & OPTIONAL CONSTRUCTION  
DENOTED BY DASHED LINE (UNO)

~ SEE GENERAL NOTES PAGE FOR ADDITIONAL  
CODE REQUIREMENTS AND SPECIFICATIONS

\* SHELVES THAT SPAN 48+" RECEIVE A SHELF  
SUPPORT

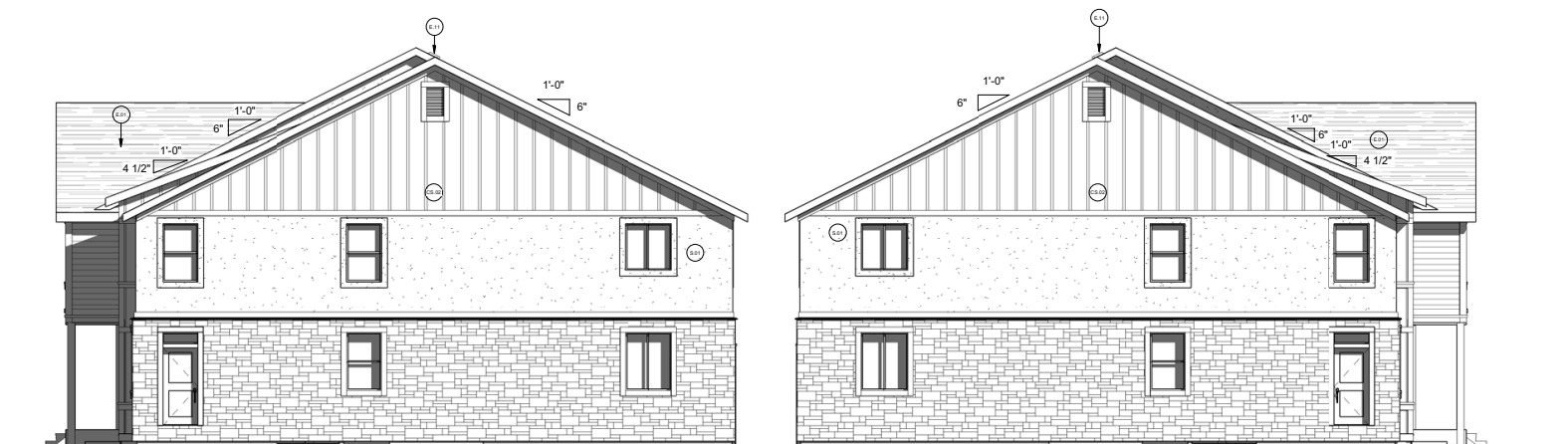
^ COORDINATE LOCATION AND SIZE WITH  
FLOOR PLANS

CS.01	BOARD & BATTEN @ 16" O.C.
CS.02	TRUE LAP SIDING
CS.04	2-1/2"x3/4" COMPOSITE BATTEN BOARD
CS.06	5-1/2"x3/4" COMPOSITE TRIM BOARD
CS.07	7-1/4"x3/4" COMPOSITE TRIM BOARD
E.01	ARCHITECTURAL GRADE ASPALT SHINGLES
E.06	STONE VENEER (SEE DETAIL 3/A5.00)
E.11	TURTLE VENT
E.12	METAL RAILING
S.01	SYNTHETIC STUCCO ~
S-03	2"x1" STUCCO TRIM
S-05	6"x1" STUCCO TRIM
S.06	8"x1" STUCCO TRIM

⑤ FRONT  
3/32" = 1'-0"



① REAR  
3/32" = 1'-0"



② RIGHT ELEVATION  
3/32" = 1'-0"

① LEFT ELEVATION  
3/32" = 1'-0"



③ COVER PERSPECTIVE

## KEYNOTES

FUTURE & OPTIONAL CONSTRUCTION  
DENOTED BY DASHED LINE (UNO)

~ SEE GENERAL NOTES PAGE FOR ADDITIONAL  
CODE REQUIREMENTS AND SPECIFICATIONS

\* SHELVES THAT SPAN 48+" RECEIVE A SHELF  
SUPPORT

^ COORDINATE LOCATION AND SIZE WITH  
FLOOR PLANS

CS.01	BOARD & BATTEN @ 16" O.C.
CS.02	TRUE LAP SIDING
CS.04	2-1/2"x3/4" COMPOSITE BATTEN BOARD
CS.06	5-1/2"x3/4" COMPOSITE TRIM BOARD
CS.07	7-1/4"x3/4" COMPOSITE TRIM BOARD
E.01	ARCHITECTURAL GRADE ASPALT SHINGLES
E.06	STONE VENEER (SEE DETAIL 3/A5.00)
E.11	TURTLE VENT
E.12	METAL RAILING
S.01	SYNTHETIC STUCCO ~
S.03	2"x1" STUCCO TRIM
S.05	6"x1" STUCCO TRIM
S.06	8"x1" STUCCO TRIM





⑤ FRONT  
3/32" = 1'-0"



① REAR  
3/32" = 1'-0"

## KEYNOTES

FUTURE & OPTIONAL CONSTRUCTION  
DENOTED BY DASHED LINE (UNO)

~ SEE GENERAL NOTES PAGE FOR ADDITIONAL  
CODE REQUIREMENTS AND SPECIFICATIONS

\* SHELVES THAT SPAN 48"+ RECEIVE A SHELF  
SUPPORT

^ COORDINATE LOCATION AND SIZE WITH  
FLOOR PLANS

CS.01	BOARD & BATTEN @ 16" O.C.
CS.02	TRUE LAP SIDING
CS.04	2-1/2"x3/4" COMPOSITE BATTEN BOARD
CS.06	5-1/2"x3/4" COMPOSITE TRIM BOARD
CS.07	7-1/4"x3/4" COMPOSITE TRIM BOARD
E.01	ARCHITECTURAL GRADE ASPALT SHINGLES
E.06	STONE VENEER (SEE DETAIL 3/A5.00)
S.01	SYNTHETIC STUCCO ~
S.05	6"x1" STUCCO TRIM
STUCC O	



① LEFT  
3/32" = 1'-0"

② RIGHT  
3/32" = 1'-0"



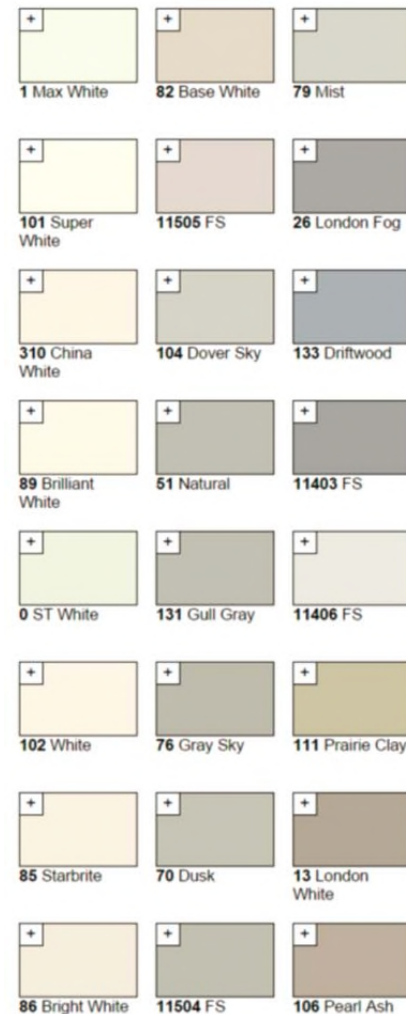
## Exterior Finishes and Colors

- Exterior materials shall consist of Fiber Cement Board, Grey Stone, Asphalt Shingles, and Wood Railings. The following colors and materials shall be used in the construction of all townhomes.

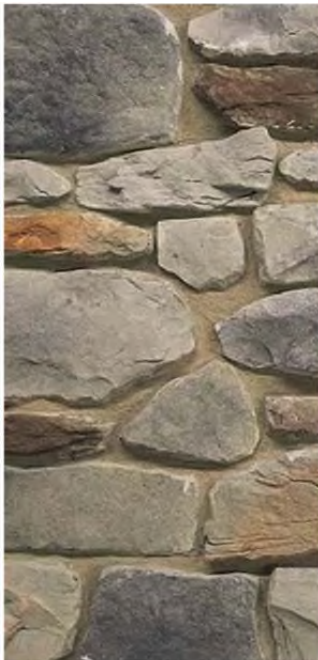
### Hardie Colors



### Stucco Colors



### Stone



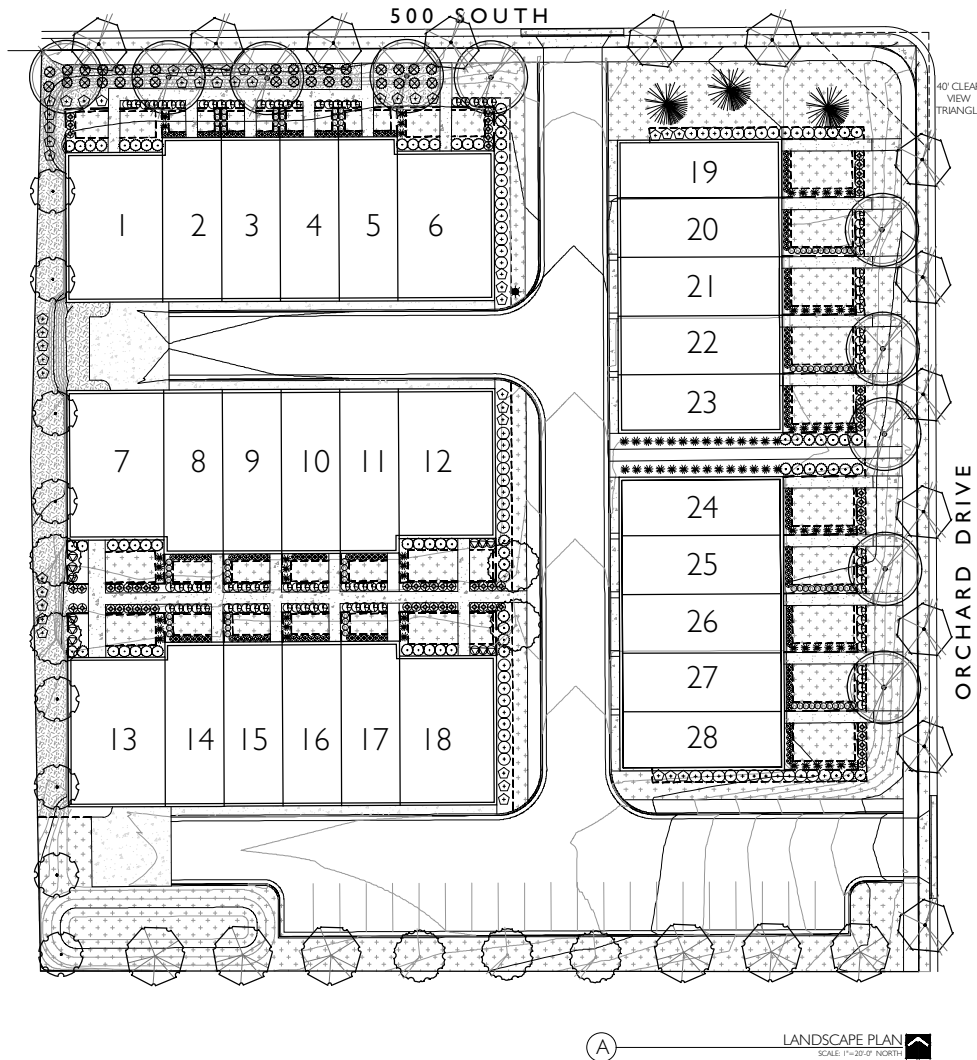
### Trim Color



## **Towns at Orchard and 500**

### **Project Information**

- 28 Townhome Units
- Residential Occupancy R-2
- Mid Units 2267 total Square Footage 1606 Finished
- Master On Main Units 3221 total Square Footage 2037 Finished
- Parking - 3.6 stalls per unit
  - 56 Garage stalls (2 per unit)
  - 24 Driveway Stalls
  - 21 Guest Stalls
- Landscape @ 28.6%



A LANDSCAPE PLAN  
SCALE: 1"=20'-0" NORTH



#### LANDSCAPE SCHEDULE

QNTY	SCIENTIFIC NAME	COMMON NAME	SIZE
DECIDUOUS TREES			
13	Acer platanoides 'Columnarbroad'	Parkway Maple	2" Cal.
0	Gymnodendron dioicus	Kentucky Coffeetree	2" Cal.
6	Crataegus phaeopyrum	Washington Hawthorn	2" Cal.
3	Picea omorika	Serbian Spruce	6'
7	Prunus virginiana 'Canada Red'	Canada Red Chokeberry	2" Cal.
8	Pyrus calleryana 'Trinity'	Trinity Pear	2" Cal.
10	Zelkova serrata 'Green Vase'	Green Vase Zelkova	2" Cal.
EVERGREEN SHRUBS			
158	Buxus sempervirens suffrutcosa	Dwarf Boxwood	2 Gal.
32	Juniperus horizontalis 'Wiltonii'	Blue Rug Creeping Juniper	2 Gal.
32	Prunus laurocerasus 'Otto Luykens'	Otto Luykens Laurel	2 Gal.
39	Taxus media 'Tautoni'	Tautoni's Yew	2 Gal.
DECIDUOUS SHRUBS			
67	Buddleia davidii 'Blue Chip'	Blue Chip Butterfly Bush	2 Gal.
52	Euroyonimus alatus compacta	Dwarf Burning Bush	2 Gal.
12	Spiraea betulifolia 'Tor Gold'	Tor Gold Spiraea	2 Gal.
ORNAMENTAL GRASSES			
87	Calamagrostis x acutifolia 'Karl Foerster'	Karl Foerster Feather Grass	1 Gal.
49	Miscanthus sinensis 'Yaku Jima'	Yaku Jima Maiden Grass	1 Gal.
97	Pennisetum alopecuroides	Fountain Grass	1 Gal.
PERENNIALS			
92	Hemerocallis Stella d'Oro	Stella d'Oro Daylily	1 Gal.
TURF			
19,276 S.F.	Chanshare Imperial Bluegrass		50¢
MULCH			
	Bark Mulch, Medium, Dark Brown - All Planters Unless Noted Otherwise		3" Min.
4,354 S.F.	Gravel Mulch - 1" - 2", Earth Tone		3" Min.
EDGING			
	Metal - Steel, 4" x 3/16"		
FENCING			
	3 Rail Aluminum Fence - 3' High, Flat Top		

#### LANDSCAPE GENERAL NOTES

- All alterations to these drawings during construction shall be approved by the Project Representative and recorded on "as Built" drawings by the Contractor.
- All plant materials shall conform to the minimum guidelines established by the American Standard for Nursery Stock, published by the American Nursery Association, Inc.
- All plants to be balled and burlapped or container grown, unless otherwise noted on the plant list.
- The contractor shall supply all plant material in quantities sufficient to complete the planting shown on the drawings.
- Any proposed substitutions of plant species shall be made with plants of equivalent overall form, height, branching habit, flower, leaf color, fruit and culture only as approved by the Landscape Architect.
- The Contractor shall locate and verify all existing utility lines prior to planting and shall report any conflicts to the Landscape Architect.
- Stake location of all proposed planting for approval by the Landscape Architect prior to commencement of planting.
- All turf areas shall receive four inches (4") of topsoil prior to planting. All shrub, groundcover, and perennial beds shall receive four inches (4") of topsoil prior to planting.
- Submit topsoil report prepared by a qualified soil testing laboratory prior to soil placement. topsoil shall meet the following mechanical analysis:  
Sand (0.05 - 2.0 mm Dia.) 20 - 70%  
Clay (0.002 - 0.05 mm Dia.) 20 - 70%  
The max. retained on a #10 sieve will be 15 percent. the topsoil shall meet the following analysis criteria:  
pH Range of 5.5 to 8.2, a min. of 4% and max. of 8% organic matter content and free of stones 3" or larger. Soluble salts <2 dS/m or mmho/cm and sodium absorption ration (sar) <6.
- All tree rings and plant beds to receive mulch as specified in the Landscape Schedule.
- Prune trees in accordance with current horticultural practices.
- All landscape areas to be watered by pop-up spray heads, rotors or drip irrigation. Pop-up spray heads, rotors and drip irrigation to be placed on separate irrigation zones.
- All shrubs, groundcover and perennial plants to be watered on zones separate from turf.





## **BOUNTIFUL CITY PLANNING COMMISSION FINDINGS OF FACT AND CONCLUSIONS**

**APPLICANT:** South Davis Water District

**APPLICATION TYPE:** Amendment to a Variance request from lot standards, setback requirement and permissible lot coverage.

### **I. DESCRIPTION OF REQUEST:**

The Applicant, South Davis Water District, has requested an Amendment to a Variance request from lot standards, setback requirements and permissible lot coverage standards found in the R-3 Single-Family Residential Zone. The proposed Amendment would allow for construction of a larger well house at this location.

### **II. LAND USE ORDINANCE AUTHORITY:**

Section 14-2-111 authorizes the Planning Commission as the review body for Variance requests related to lot standards, setback requirements and permissible lot coverage.

### **III. APPEAL PROCEDURE:**

Bountiful City Land Use Code section 14-2-108 states that an Applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use code or ruling on a request for a Variance may, within fourteen calendar days of the written decision, appeal that decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.

The appeal must be in writing and specifically allege that there is an error in an order, requirement, decision or determination by the Land Use Authority. The Appellant shall state every theory of relief that it can raise in District Court.

### **IV. SUMMARY OF EVIDENCE:**

- A.** The basic facts and criteria regarding this application are contained in the Staff Report, which is attached as **Exhibit A** and is incorporated herein.
- B.** The minutes of the public hearing held by the Planning Commission on **Tuesday, February 18, 2020** which are attached as **Exhibit B** summarize the oral testimony presented and are hereby incorporated herein.

### **V. FINDINGS OF FACT:**

Based upon the information presented and oral testimony given at the Public Hearing the Planning Commission made the following findings:

- A. The literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance;

State Law defines a hardship as “associated with and peculiar to the property itself.” The size of the property would require the Applicant an unnecessary and unreasonable hardship to comply with building lot standards, setback and permissible lot coverage standards of the Code. The proposed amended plans are reasonable for the use of the property.

- B. There are special circumstances attached to the property that do not generally apply to other properties in the district;

There are no other properties in the R-3 Zone with the same characteristics as the Applicant’s property, and which provide a public benefit. There is no other property in the zone under the same circumstances and it is highly unlikely there will be any other property with similar characteristics in the future. Additionally, if there were another property with similar characteristics, there are very few, if any, other property owners that would fall under the same circumstances as the current Applicant because the Applicant provides a public benefit to properties within the zone.

- C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district;

Granting the Amendment to the Variance will allow the Applicant the ability to update and provide ongoing maintenance for a public use.

- D. The variance will not substantially affect the general plan and will not be contrary to the public interest;

Since the property is relatively small and has been in existence for decades there will not be a substantial affect to the General Plan. Granting the Amendment to the Variance will allow the Applicant to rehabilitate the well, and provide a benefit to the neighboring properties, the properties within the same zone and the public in general.

- E. The spirit of the land use ordinance is observed and substantial justice is done

Allowing the Applicant to build the proposed structure will maintain the spirit of the Land Use Code within the constraints of the property.

## VI. DECISION AND SUMMARY

The Planning Commission grants the request for the Amended Variance from development standards to the Val Verda Well for South Davis Water District by a vote of 4-0, and adopts the findings of fact as contained above and incorporates



by this reference the findings as outlined in the Staff Report and as presented in the Variance hearing and also finds that the State and County ordinances have changed since operations of the well began making the Variance necessary. As part of the granted Amended Variance, the Planning Commission imposes the following conditions:

1. The Applicant shall install solid vinyl fencing matching the neighbor to the west and landscaping to buffer the use of the property from neighboring properties. The fencing shall be in compliance with Bountiful Land Use §14-16-110 regarding fencing standards in Single-Family zones, which may include a combination of solid fencing for security and aesthetic purposes. The fencing shall be in compliance with clear view standards and other applicable standards from the state of Utah.
2. The Applicant shall completely cover the shipping container with a façade (vertical cladding if possible) and roofing materials consistent with the surrounding residential properties and approved by Staff.
3. The Applicant shall apply for a building permit to be reviewed and approved by Staff.
4. The roof shall have no pitch.

**FINDINGS OF FACT APPROVED BY THE Bountiful City Planning Commission this 3<sup>rd</sup> day of March 2020**

---

Sean Monson, Chairman  
Bountiful City Planning Commission



# Planning Commission Staff Report



**Subject:** Planning Commission Rules of Order and Procedure  
**Author:** Curtis Poole, Assistant City Planner  
**Date:** March 3, 2020

## Background

In accordance with Utah State Code §10-9a-301, the Planning Commission may adopt rules and procedures which govern how it conducts business. Such rules shall follow State law regarding the Open and Public Meetings Act and authority granted by Bountiful City Code. These rules may be amended by successive Planning Commissions as needs may dictate. Staff has found the Planning Commission last adopted rules of procedure in 2007.

The Commission may benefit from reviewing the following proposed procedures and discuss the rules and procedures to guide how to conduct its meetings. These serve only as discussion points and not an official recommendation from Staff.

## Proposed Procedures for Conducting Business

### Commencing and Adjourning a Meeting

1. The Chairperson or designee, upon determining a quorum is present, shall open the meeting.
2. The Chairperson or designee, upon determining there is no further business to conduct, shall adjourn the meeting.

### Agenda Items

1. The Chairperson, in consultation with the Planning Director or designee, may modify posted agenda items as deemed necessary to provide a more orderly flow to the meetings.
2. A **sample order** for agenda items **may** include the following:
  - a. Staff presentation
  - b. Questions/comments of Commission Members to Staff
  - c. Applicant presentation (length may be limited by Chairperson)
  - d. Questions/comments of Commission Members to Applicant
  - e. Public Hearing (when applicable)
  - f. Applicant closing comments
  - g. Staff closing comments
  - h. Commission discussion, deliberation, comments, and additional questions directed to Staff, the Applicant, or anyone present demonstrating expertise on the subject matter
  - i. Commission action which may include:
    1. Approval or Forward Positive Recommendation to City Council (may include adding and/or modifying conditions of approval)
    2. Denial or Forward Negative Recommendation to City Council (may include adding and/or modifying findings of fact relating to the denial or negative recommendation)

3. Continue (table) the item if Commission finds it needs additional information to make a decision

#### Public Hearings

Public Hearings will be held when required by State Law and/or City Code. The Chairperson, or designee, shall request those wishing to address the Commission in a Public Hearing to stand (if possible), state their name and address prior to addressing the Commission. The Chairperson, or designee, has discretion to determine the time permitted for the public to speak in favor or in opposition and may limit the number of speakers in favor or in opposition, so long as there are equal numbers representing each view.

From time to time during a Public Hearing the public will ask repeated questions to the Planning Commission and/or Staff. Public Hearings are not intended to serve as question and answer periods or to discuss items outside the scope of the hearing. Using prudence, applicability, and sound judgment, the Commission during their deliberation time, may answer applicable questions, and/or request to have Staff answer questions. Staff should always address the Commission and not the public.

#### Temporary Chairperson

In the case where both the Chairperson and Vice-Chair are absent in the same meeting, the Commission shall elect a temporary Chairperson for that specific meeting at the beginning of the meeting.

### **Existing Code**

#### Membership

1. Shall consist of seven (7) members.
2. Planning Commission members shall be residents of Bountiful City and shall be appointed by the Mayor with the advice and consent of the City Council.
3. The terms of Planning Commission members shall be staggered. Each member of the Planning Commission shall serve for a term of four (4) years and until a successor is appointed, provided that members may be appointed for terms shorter than three (3) years when necessary to provide staggered terms.
4. Terms of Planning Commission members shall begin on July 1st of each year.
5. Planning Commission members may be reappointed for successive terms.
6. The Mayor, with the advice and consent of the City Council, may remove any member of the Planning Commission at any time with or without cause.
7. A vacancy occurring on the Planning Commission by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.
8. The Mayor may appoint one person from the City Council as a full member of the Planning Commission.

### Organization and Meetings

1. Members of the Planning Commission shall select one (1) of its members as chair to oversee the proceedings and activities of the Planning Commission.
  - a. The chairperson shall serve for a term of one (1) year.
  - b. Members of the Planning Commission shall select one (1) of its members as vice-chair to act in the absence of the chair.
2. The chair and vice-chair may be re-elected for successive terms.
3. The Planning Commission may adopt policies and procedures, consistent with the provisions of this Title and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Planning Commission. All such policies and procedures shall be submitted to the City Council for review and approval.
4. The Planning Commission shall meet on a regular basis, as determined by a vote of the Commission members, and at such other times as the Commission members may determine. All meetings shall be properly noticed as required by law, and held in accordance with the open meetings law set forth in Utah Code Ann. ' 52-4-1, et seq., as amended. At the beginning of each calendar year the Bountiful City Planning Department shall create and post in its office a schedule of Planning Commission meetings and application deadlines.

### Quorum

No official business shall be conducted by the Planning Commission unless a quorum of its members is present. Four (4) members of the Planning Commission shall constitute a quorum. Any action taken shall require a minimum of four (4) yes votes from members of the Planning Commission, unless otherwise prescribed by law.

### Hearings and Decisions

1. Any person desiring to appear before the Planning Commission shall complete an application and submit all required materials and fees to the Planning Department. An application that does not include all of the required signatures, materials, fees, or other necessary information shall be deemed incomplete and returned to the applicant.
2. After an applicant has submitted a completed application to the Planning Department, the item shall be placed on the next available Planning Commission agenda, unless the applicant and the Commission Chair agree to postpone placing the item on the agenda or agree to continue the item to a subsequent meeting.
3. An applicant may request that an item be postponed or continued a maximum of one (1) meeting (i.e. once) or for forty five (45) days from the date of application, whichever is longer. If the matter is not heard within this deadline, the application is deemed to have expired or been withdrawn, and must be resubmitted if the applicant desires the Commission to act on the item. This shall not apply to completed applications that have been placed on an agenda, reviewed and discussed by the Planning Commission, and then continued for reasons determined by the Commission.
4. The Planning Commission shall not reconsider a previous action or change a recorded vote, and once an action is taken, the matter shall not be considered again for twelve (12) months from the date of decision.

5. Decisions of the Planning Commission shall take effect on the date of the meeting or hearing where the decision is made, unless a different date is designated in the Commission's rules or at the time the decision is made. The approval of written findings shall relate back to the date of decision.

### Minutes

1. The Planning Commission shall keep written minutes of its proceedings, showing the vote upon each question, or if absent or failing to vote, indicating that fact, and keep records of all its official actions. The Planning Commission may, but is not required to, have its proceedings transcribed by a secretary, a court reporter, a tape recorder, or other recording device.
  - a. The Planning Commission shall report, either verbally or in writing, its official acts and recommendations to the City Council. Any member of the Planning Commission may also make a concurring or dissenting report or recommendation to the City Council.
  - b. The minutes of all meetings of the Planning Commission shall be prepared and filed in the office of the Planning Director, under the direction of the City Recorder. All such records are public records and shall be available for public review and access in accordance with the Government Records and Access Management Act, Utah Code Ann., 63- 2-101, et seq., as amended.

### Powers and Duties

The Planning Commission shall have all the powers and duties, explicit or implied, given planning commissions by Utah State law and the Bountiful City Land Use Code, including but not limited to the following. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this Title and of State law.

1. Prepare and recommend a general plan and amendments to the general plan to the City Council;
2. Recommend Land Use Code and maps, and/or amendments to Land Use Code and maps, to the City Council;
3. Administer applicable provisions of this Title and of State law;
4. Recommend approval or denial of subdivision applications;
5. Advise the City Council on matters requested by the City Council;
6. Hear and decide the approval or denial of conditional use permits;
7. Hear and decide variances from this title;
8. Hear and/or decide any other matter that the City Council designates;
9. Exercise any other powers that are necessary to enable the Planning Commission to perform its function or that are delegated to it by the City Council; and
10. Perform any other power or duty set forth in this Land Use Code or in State law relating to Planning Commissions.

### Appeals

Any person adversely affected by a final decision of the Planning Commission may appeal that decision as set forth in Section 14-2-108 of this Title. Any recommendation of the Planning Commission to another approval body is not a final decision and therefore cannot be appealed.

### Examinations and Surveys

The Planning Commission and its authorized agents may enter upon any land at reasonable times to make examinations and surveys as necessary to enable it to perform its function to promote City planning, development, and enforcement of the provisions of this Title.

### **Significant Impacts**

The Planning Commission may adopt policies and procedures, consistent with the provisions of the Bountiful City Land Use Code and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Planning Commission. All such policies and procedures shall be submitted to the City Council for review and approval.

### **Miscellaneous-Sample Motions**

During recent discussion with the Commission, City Staff committed to provide some sample motions, see below:

#### ***Positive and Modified Positive Recommendation***

Mr. Chairman, I move that we forward a positive recommendation to the City Council for (Site Plan, Subdivision) based on the conditions of approval listed in the Staff Report / and the following additional conditions / modified conditions...

#### ***Approval/Granting and Modified Approval/Granting***

Mr. Chairman, I move that we approve/grant approval of the (Conditional Use Permit, Variance) based on the conditions of approval listed in the Staff Report / and the following additional conditions / modified conditions...

#### ***Negative Recommendation/Denial***

Mr. Chairman, I move that we forward a negative recommendation (Site Plan, Subdivision) to City Council based upon the findings listed in the Staff Report / and the following additional reasons...

Mr. Chairman, I move that we deny the (Conditional Use Permit, Variance) based on the findings listed in the Staff Report / and the following additional reasons...

(The use of "Mr. Chairman" is used in the above examples because the current Chairperson is a man. In the event the Chairperson is a woman, "Madam Chairwoman or Ms. Chairwoman" should be utilized. The use of "Mr. Chair," "Madam Chair," or "Ms. Chair" without a pronoun is also an acceptable.)

### **Attachments**

Attachment 1 – Utah State Code (LUDMA) §10-9a-301

Attachment 2 – Utah State Code (LUDMA) §10-9a-302

***Effective 5/9/2017***

**10-9a-301 Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.**

- (1)
  - (a) Each municipality shall enact an ordinance establishing a planning commission.
  - (b) The ordinance shall define:
    - (i) the number and terms of the members and, if the municipality chooses, alternate members;
    - (ii) the mode of appointment;
    - (iii) the procedures for filling vacancies and removal from office;
    - (iv) the authority of the planning commission;
    - (v) subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting; and
    - (vi) other details relating to the organization and procedures of the planning commission.
  - (c) Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.
- (2) The legislative body may authorize a member to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

Amended by Chapter 70, 2017 General Session



***Effective 5/14/2019***

**10-9a-302 Planning commission powers and duties.**

- (1) The planning commission shall make a recommendation to the legislative body for:
  - (a) a general plan and amendments to the general plan;
  - (b) land use regulations;
  - (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
  - (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
  - (e) application processes that:
    - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
    - (ii) shall protect the right of each:
      - (A) applicant and third party to require formal consideration of any application by a land use authority;
      - (B) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
      - (C) participant to be heard in each public hearing on a contested application.
- (2) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

Amended by Chapter 384, 2019 General Session