

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
January 5, 2021 – WORK SESSION

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

Pursuant to the State of Utah Public Health Order 2020-17, dated October 14, 2020, and in conjunction with the State of Utah's ongoing declaration of a statewide public health emergency, Mayor Shepherd made a written declaration on December 10, 2020, that results in the following: (1) the City is not providing an anchor location for City Council meetings, (2) Although no other physical meeting location will be available for the general public, the City Council may or may not appear in person at the City building subject to compliance to social distancing and mask requirements, (3) the public's participation in the City Council meeting may present a substantial risk to the health and safety of others, and (4) the public's participation in the City Council meeting will only be available through Zoom and/or Facebook Live.

The public is invited to monitor or listen to the open portions of the meeting electronically by following the instructions below.

Public Participation – Join Work Session Zoom Meetings

<https://us02web.zoom.us/j/88996299239>

Meeting ID: 889 9629 9239

Dial by your location

1 (346) 248 7799

1 (669) 900 6833

6:00 P.M. WORK SESSION

(TENTATIVE) The Council may consider a motion to enter into a Closed Session for the purpose of a strategy session to discuss pending or reasonably imminent litigation (Utah Code Ann. §52-4-205)

Discussion on a Request to Amend the City's General Plan Future Land Use Map Designating the Properties Located at Approximately 1550 South 1000 West (TINs: 12-391-0015, 12-391-0012, 12-391-0011, 12-065-0005, 12-065-0096 and 12-065-0104) from Commercial to Residential

Discussion on a Request to Rezone Properties Located at Approximately 1550 South 1000 West (TINs: 12-391-0015, 12-391-0012, 12-391-0011, 12-065-0005, 12-065-0096 and 12-065-0104) from A-1 (Agricultural) and C-2 (Commercial) to R-3 (Residential)

Discussion on the Development Agreement for the Alta Townhomes and Commercial Development Located at Approximately 938 South University Park Boulevard

Discussion on the Amendments to the Fiscal Year 2021 Budget

*****ADJOURN THE CITY COUNCIL WORK SESSION AND IMMEDIATE RECONVENE
AS THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA)*****

CDRA WORK SESSION

Discussion on Amendments to the Fiscal Year 2021 Budget

Discussion on the Argentine Corner Commercial Development
and Economic Stimulus Incentive Agreement

*****CDRA ADJOURN*****

Dated this 31st day of December, 2020.

/s/Wendy Page, Deputy Recorder

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



STAFF REPORT

TO: Mayor Shepherd and City Council Members

FROM: Brad McIlrath, Senior Planner

MEETING DATE: Tuesday, January 5, 2021

SUBJECT: Public Hearing, Discussion and Possible Action on **GPA 2020-110029**, a general plan amendment request by John Warnick with Destination Homes to change the designation for the subject properties from Commercial to Residential. **Location:** 1550 South 1000 West (TINs: 12-391-0015, 12-391-0012, 12-391-0011, 12-065-0005, 12-065-0096 & 12-065-0104). **Project Area:** 12.193 Acres. **Staff:** Brad McIlrath **(Legislative Matter).**

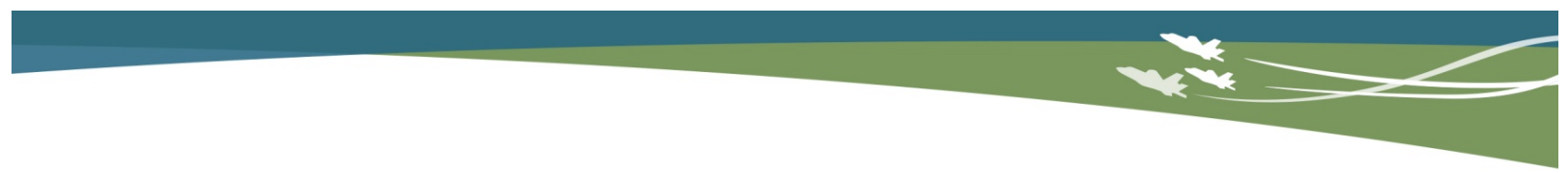
Public Hearing, Discussion and Possible Action on **RZN 2020-110029**, a zoning map amendment request by John Warnick with Destination Homes to rezone the subject properties from A-1 (Agricultural) and C-2 (Commercial) to R-3 (Residential). **Location:** 1550 South 1000 West (TINs: 12-391-0015, 12-391-0012, 12-391-0011, 12-065-0005, 12-065-0096 & 12-065-0104). **Project Area:** 12.193 Acres. **Staff:** Brad McIlrath **(Legislative Matter).**

CITY COUNCIL ACTIONS – GENERAL PLAN AMENDMENT

1. **Move to approve GPA 2020-110029**, a general plan amendment request by John Warnick with Destination Homes to change the general plan designation for the subject properties from Commercial to Residential.
2. **Move to deny GPA 2020-110029**, a general plan amendment request by John Warnick with Destination Homes to change the general plan designation for the subject properties from Commercial to Residential.
3. **Move to table GPA 2020-110029** and request additional time to consider the request.

CITY COUNCIL ACTIONS – ZONING MAP AMENDMENT

1. **Move to approve RZN 2020-110029**, a zoning map amendment request by John Warnick with Destination Homes to rezone the subject properties from A-1 (Agricultural) and C-2 (Commercial) to R-3 (Residential).
2. **Move to deny RZN 2020-110029**, a zoning map amendment request by John Warnick with Destination Homes to rezone the subject properties from A-1 (Agricultural) and C-2 (Commercial) to R-3 (Residential).
3. **Move to table GPA 2020-110029** and request additional time to consider the request.



PLANNING COMMISSION RECOMMENDATION

On December 2, 2020, the Clearfield Planning Commission forwarded a recommendation of approval of **GPA 2020-110029** and **RZN 2020-110029** for the proposed general plan amendment and zoning map amendment as requested.

STAFF RECOMMENDATION

Staff recommends that the City Council **approve GPA 2020-110029** for the proposed general plan amendment based upon the findings and discussion outlined in this staff report.

Staff recommends that the City Council **approve RZN 2020-110029** for the proposed zoning map amendment based upon the findings and discussion outlined in this staff report.

DESCRIPTION / BACKGROUND

The applicant is requesting the proposed general plan and zoning map amendments for the subject properties to be combined for residential development. The vision for the residential development would be as a townhome development similar to the Midtown Townhomes in Layton (2150 North 700 West) constructed by Destination Homes.

General Plan Amendment

The Clearfield City General Plan designates the future land use for the central area included in the general plan amendment as residential with the parcels along 1600 South and those with 1000 West frontage designated as commercial. Except for the two parcels along 1600 South, all the properties included in this general plan amendment and rezone include residential uses and each property at some point in time has been used for agricultural purposes.

The general plan supports continual evaluation of future land use designations and zones based on a comprehensive understanding of the area and the potential impacts of future uses. The future use of these properties as residential rather than commercial is supported by development trends and a decrease in need for commercial/retail land. These parcels are to the north of the commercial area situated around the intersection of Antelope Drive and 1000 West (entirety of commercial area is in both Clearfield and Syracuse. Northeast corner in Clearfield and the South and Southwest corners in Syracuse). With limited visibility from the commercial corridor of Antelope Drive and the need to support commercial areas with nearby residential households, requested general plan amendment for the entire project area is supported by the goals and objectives of the Clearfield City General Plan.

Zoning Map Amendment (Rezone)

The zoning map amendment portion of this request is to change the current zoning designations of A-1 (Agricultural) and C-2 (Commercial) to R-3 (Residential) for the subject properties. The R-3 zone allows a density of sixteen (16) units to the acre and allows single-family, two-family, and

multi-family dwellings. The Oakmont Townhomes constructed at the east end of 1600 South are in the R-3 Zone and were developed in accordance with the current development standards. The intent to develop this project area with townhomes would be a consistent land use pattern for low-medium density residential on the periphery of this commercial area. Clearfield Municipal Code, identifies townhomes under the land use classification of multi-family dwellings and would be a permitted use in the R-3 zone.

The construction of additional housing in this area will support the existing local commercial uses. This medium density residential development pattern at the edges of the commercial area will support the commercial area and serve as a transition between the commercial to the low-density single-family neighborhoods in the area.

Based upon this analysis of the general plan amendment and zoning map amendment, staff recommends that the Planning Commission forward a recommendation of approval to the City Council for both amendments.

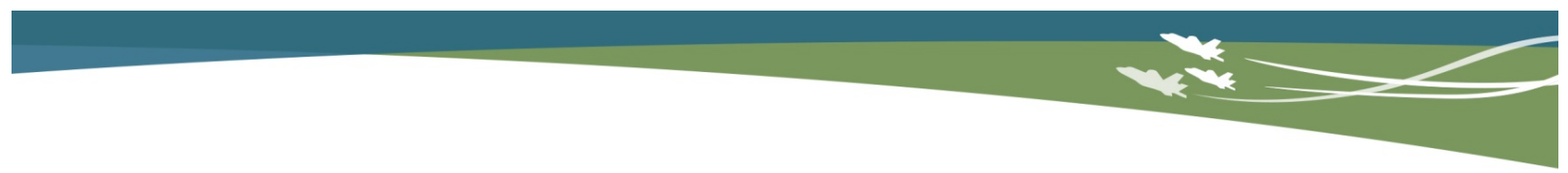
PUBLIC COMMENT

A property notice was posted on November 20, 2020 with mailed notices sent the same day. A corrected notice was mailed on November 24, 2020 to correct the date of the Planning Commission meeting. A public hearing legal notice was posted on the Utah State public notice website and in the local newspaper the weekend of the 21st and 22nd. Staff has been contacted by adjacent property owners with questions regarding the request. No opposition to the request has been voiced to date. The owner of the childcare business to the south spoke at the Planning Commission meeting regarding expansion of that business and the impact that these changes would have on the business. The commission and staff were able to answer questions regarding that process for the expansion that would occur at a future date.

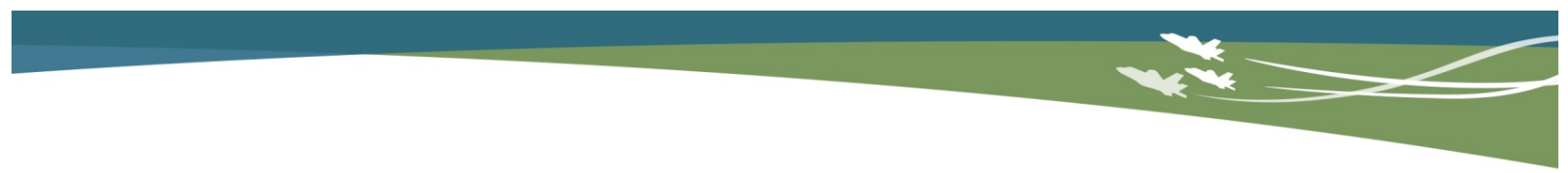
GENERAL PLAN ANALYSIS

The Clearfield City General Plan outlines the overall community vision and provides land use guidelines located in Chapter 2 - Land Use Element, which should be followed throughout the City. The following table provides an analysis of those guidelines with this request.

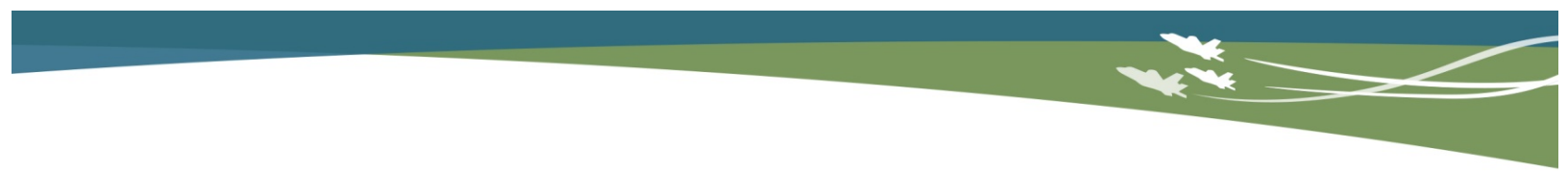
LAND USE GUIDELINES REVIEW		
	Guideline	Staff Analysis
1.	<i>The identity of Clearfield City should be strengthened by land uses which improve the image of the community and foster a positive, healthy living environment conducive to long-term residency.</i>	The change in designation for this property from Commercial to Residential will allow the development of a multi-family use and will improve the image of the community and be conducive to long-



		term residency to support the local economy.
2.	<i>The relationship of planned uses should reflect consideration of existing development, environmental conditions, service and transportation needs, and fiscal impacts.</i>	This area of the City has seen development of single-family residential, multi-family (townhome) residential, commercial, and light industrial uses. Development of this property as multi-family residential will be consistent with the townhome residential to the southeast. This type of residential development will provide service and transportation efficiencies by providing additional housing near a commercial and service area.
3.	<i>Redevelopment should emphasize the reuse of developed areas and existing community resources in such a way as to increase the livability and aesthetics of the City</i>	Although not a redevelopment area, with a residential designation the existing community resources and businesses will benefit with additional residences. The livability and aesthetics of this area will be increased with adjacent residential development and high-quality design standards.
4.	<i>The Land Use Plan should provide for a full range and mix of land uses including, residential, commercial, manufacturing, and public use areas.</i>	This amendment would provide for a greater range of a mix of land uses in this part of the city and with residential that will compliment and fit into the type of residential use that is in this area of the City.
5.	<i>Transitions between differing land uses and intensities should be made gradually with compatible land uses, particularly where natural or man-made buffers are not available. Adequate screening and design should be provided to protect existing residential areas for more intense land uses.</i>	The residential designation would allow for future residential development that would be compatible to the existing residential uses and commercial uses.



6.	<i>Development approval should be tied to the construction of culinary water, sewer, storm drainage, and circulation systems.</i>	Public utilities are provided for properties in this area of the City and at a level of service to support residential uses allowed in the R-3 Zone.
7.	<i>Density increases should be considered only after adequate infrastructure and resources availability have been sufficiently demonstrated.</i>	This request will increase the number of residential households in this area of the City. Based upon review of the existing infrastructure, the utilities are of appropriate size to serve additional residential households in this area. Utility access is provided for the future development of this project area.
8.	<i>An interconnecting public open space system should be provided, including pedestrian linkages, recreational areas, natural areas, on-road cycling facilities, and drainage ways.</i>	This project will be required to provide pedestrian connections to existing public streets. Storm water drainage will be addressed as part of future development as well as consideration of the existing environment.
9.	<i>Commercial and manufacturing uses should be highly accessible, clustered new the center of their service areas, and developed in harmony with the uses and character of surrounding districts.</i>	As staff evaluates the locations for manufacturing and commercial uses in the City, this property is more desirable for residential use and will support the nearby commercial area.
10	<i>The Land Use Plan should promote and encourage land use patterns that provide high quality of life to all and offer choice in mobility and transportation.</i>	The change for this area of land to residential promotes a land use part that provides high quality of life to all individuals and families with different economic levels. The collection of households near commercial centers increases mobility and transportation choices.
11	<i>The remaining vacant properties in the City should be developed at their highest</i>	Developing this land in accordance with the R-3 Zone standards will result in increased property values, increased



	<i>and best use to maximize their value to the landowner and the City.</i>	access to commercial uses, and efficiencies with transportation and utility connections. As a result, the community will see the highest and best use developed for this remaining vacant land.
12	<i>The quality and usefulness of parks and open space should be maximized. Open spaces that are small, inaccessible, difficult to maintain, or encumbered by utilities, drainage basins, or excessive slopes should not be encouraged.</i>	This change will have a minimal impact on public open spaces in the area. The open space under the power lines will remain as it cannot be developed. Potential for future open space under that corridor or in the area is present.
13	<i>Manufacturing and industrial activities should be limited to those areas already zoned for such uses.</i>	Not applicable.
14	<i>Properties registered with the County or State for agricultural or industrial protection should be recognized by the City to allow such land use.</i>	Not applicable.
15	<i>Land use decisions should be based on a comprehensive understanding of their effects on the environment and surrounding areas.</i>	With an understanding of the residential uses in this area, this change is supportive of future and existing uses.

CORRESPONDING POLICY PRIORITY (IES)

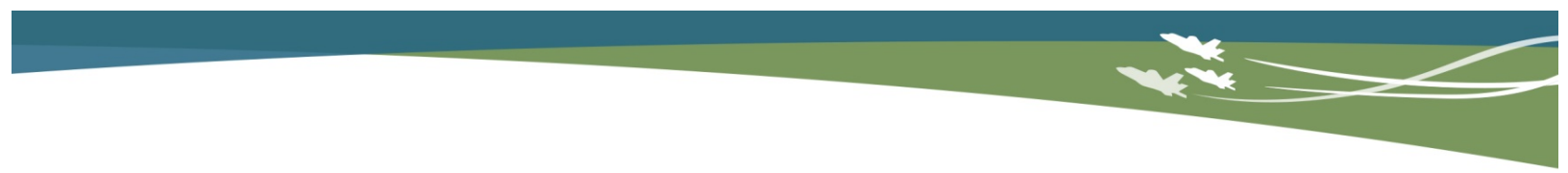
Improving Clearfield's Image, Livability and Economy

The proposed general plan and zoning map amendments will improve *Clearfield's Image, Livability, and Economy* by providing an additional residential opportunities and an improvement to an undeveloped property. The additional households will support the local economy with proximity to the commercial center to the south. The proposed change is consistent with the area and surrounding land uses.

STAFF RECOMMENDATION/CONCLUSION

Staff recommends **APPROVAL** of the proposed general plan and zoning map amendments, based upon the following findings:

1. The proposed general plan and zoning map amendments are consistent with the land use guidelines, goals, and objectives of the Clearfield City General Plan.

- 
2. The proposed general plan and zoning map amendments and future development of this area as residential will be consistent with existing residential uses in the area.
 3. Existing infrastructure in the area is supportive of additional residential development for the project area.

FISCAL IMPACT

None

ALTERNATIVES

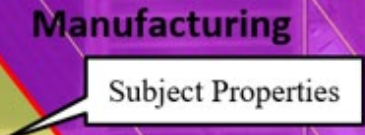
None

SCHEDULE / TIME CONSTRAINTS

If the City Council chooses to table the item to direct staff to perform research for further information on this item, the item will need to be tabled to a date specific to comply with public hearing notice requirements.

LIST OF ATTACHMENTS

1. General Plan: Future Land Use Map
2. Zoning Map
3. Legal Description
4. Title Survey



A-1 **M-1**



Total Parcel Description to Destination Homes
(Combined Description of All Deed Parcels
Less a Portion of 12-065-0005, 12-065-0086 and 12-065-0104)

Beginning at the Southwest Corner of Lot 15, Wilcox Farms Amended, a Subdivision recorded on May 22, 2000, as Entry No. 1593382, in Book 2650 at Page 920 in the office of the Davis County Recorder, said point being North 0°07'41" East 670.81 feet along the section line to the extension of the north line of Lot 10 of said Wilcox Farms Amended and South 89°52'19" East 158.00 feet to and along the north line of said Lot 10 from the Southwest Corner of Section 11, Township 4 North, Range 2 West, Salt Lake Base and Meridian, and running;
Thence North 0°07'41" East 98.59 feet along the west line of Lot 15 of said Wilcox Farms Amended;
Thence North 89°52'19" West 125.00 feet to the east line of 1000 West Street;
Thence North 0°07'41" East 99.25 feet along the east line of 1000 West Street;
Thence North 89°52'19" West 33.00 feet to the center line of 1000 West Street and being on the section line;
Thence North 0°07'41" East 145.00 feet along the center line of 1000 West Street and the section line to the extension of a north line of Lot 15 of said Wilcox Farms Amended;
Thence South 89°52'19" East 250.00 feet to and along the north line to an interior corner of Lot 15 of said Wilcox Farms Amended;
Thence North 0°07'41" East 110.00 feet along a west line of Lot 15 of said Wilcox Farms Amended;
Thence North 89°52'19" West 59.68 feet;
Thence North 0°07'41" East 96.14 feet to a south line of Lot 15 of said Wilcox Farms Amended;
Thence North 89°52'19" West 157.31 feet along the south line to a Southwest Corner of Lot 15 of said Wilcox Farms Amended and being on the east line of 1000 West Street;
Thence North 0°07'41" East 56.00 feet along the west line of to a Northwest Corner of Lot 15 of said Wilcox Farms Amended and also being on the east line of 1000 West Street;
Thence South 89°52'19" East 126.00 feet along a north line of Lot 15 of said Wilcox Farms Amended;
Thence North 0°07'41" East 95.29 feet to a fence line;
Thence North 88°17'51" East 177.85 feet along a fence line to a fence corner post;
Thence North 0°07'41" East 55.32 feet along a fence line to a fence corner post;
Thence North 89°32'25" East 158.16 feet along a fence line to the westerly line of the Utah Power and Light Company Corridor;
Thence South 27°09'00" East 91.16 feet along the westerly line to an angle point in the westerly line of the Utah Power and Light Company Corridor;
Thence South 36°41'00" East 851.68 feet along the westerly line of the Utah Power and Light Company Corridor and also to and along the easterly line to the Southeast Corner of Lot 15 of said Wilcox Farms Amended;
Thence North 89°52'19" West 492.90 feet along the south line of Lot 15 to the Northeast Corner of Lot 12 of said Wilcox Farms Amended and being on the west line of 900 West Street;
Thence South 0°00'10" West 152.56 feet along the east line of Lot 12 of said Wilcox Farms Amended and also being on west line of 900 West Street;
Thence southwesterly 23.56 feet along the arc of a 15.00 foot radius curve to the right, (center bears North 89°59'50" West and long chord bears South 45°00'10" West 21.21 feet, with a

central angle of $90^{\circ}00'00''$) along the southeasterly line of Lot 12 of Wilcox Farms Amended and the west line of 900 West Street to the north line of 1600 South Street;

Thence North $89^{\circ}59'50''$ West 206.51 feet along the south line of Lot 12 to and along the south line of Lot 11 of said Wilcox Farms Amended and being on the north line of 1600 South Street;

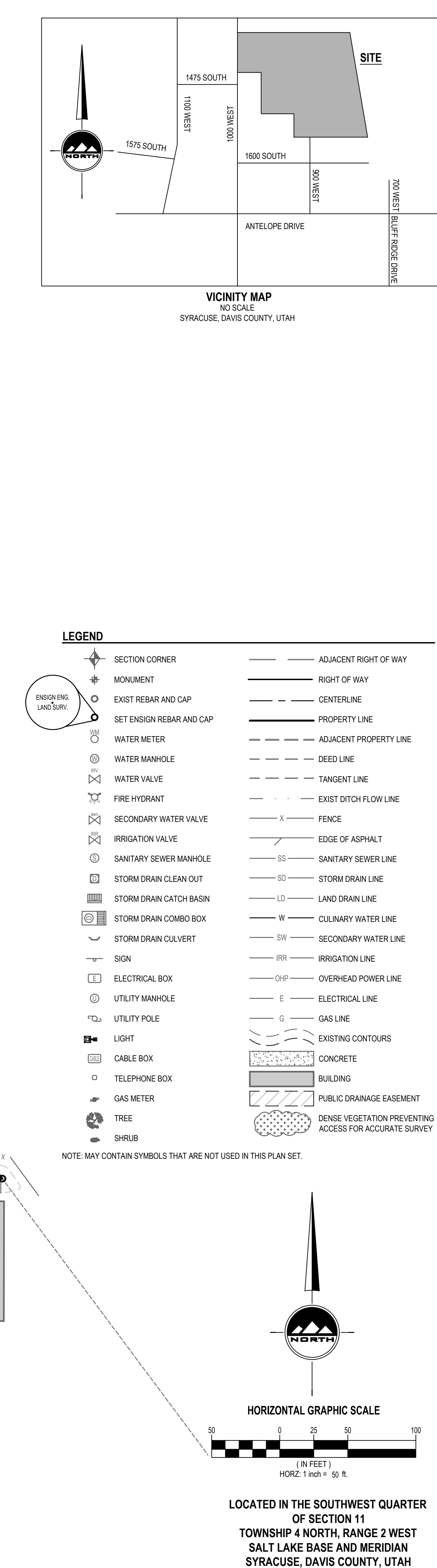
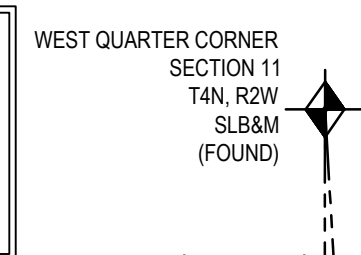
Thence northwesterly 40.20 feet along the arc of a 270.275 foot radius curve to the right, (center bears North $0^{\circ}00'10''$ East and long chord bears North $85^{\circ}44'12''$ West 40.16 feet, with a central angle of $8^{\circ}31'16''$) along the south line of Lot 11 of said Wilcox Farms Amended and also being on the north line of 1600 South Street;

Thence northwesterly 49.04 feet along the arc of a 329.725 foot radius curve to the left, (center bears South $8^{\circ}31'26''$ West and long chord bears North $85^{\circ}44'12''$ West 48.99 feet, with a central angle of $8^{\circ}31'16''$) along the south line to the Southwest Corner of Lot 11 of said Wilcox Farms Amended and also being on north line of 1600 South Street;

Thence North $0^{\circ}00'10''$ East 161.62 feet along the west line to the Northwest Corner of Lot 11 of said Wilcox Farms Amended and being on the south line of Lot 15 of said Wilcox Farms Amended;

Thence North $89^{\circ}52'19''$ West 85.69 feet along the south line of Lot 15 of said Wilcox Farms Amended to the point of beginning.

Contains 531,129 square feet, 12.193 acres.





STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Brad McIlrath, Senior Planner
MEETING DATE: Tuesday, January 5, 2021
SUBJECT: Discussion on a development agreement for the Alta Townhomes & Commercial development for the subject location. **Location:** 938 S. University Park Boulevard (TIN: 09-302-0009). **Parcel Area:** 3.46 acres. **Zones:** R-3 (Residential) for back 2.74 acres; C-2 (Commercial) for front .74 acres. **Planner:** Brad McIlrath (**Administrative Action**).

RECOMMENDED ACTION

Staff recommends that the City Council review the proposed development agreement and provide feedback and direction to staff regarding any proposed changes.

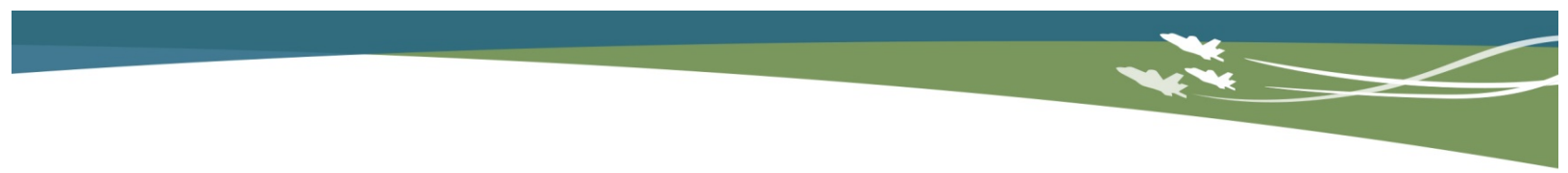
DESCRIPTION / BACKGROUND

The applicant Brock Johnston requested approval to rezone the back 2.74 acres of the 3.46-acre property from C-2 (Commercial) to R-3 (Residential) in September 2019. The rezone was approved subject to the execution of a development agreement outlining limitations for the residential construction of the development and timing for the commercial construction. The residential portion of the development is to be limited to townhomes as well as having the timing of the commercial building tied to progress of the residential units. The R-3 Zone allows multi-family development with a maximum density of sixteen (16) units to the acre, but it is the intention of the developer to only development the residential portion of the project as townhomes. As shown on the attached concept plan, the applicant would construct a development with a density of fourteen point two (14.2) units to the acre with thirty-nine (39) total townhomes.

Development Agreement

Prior to the changing of the zoning designation from C-2 to R-3 on the City's official zoning map, the development agreement must be executed by the developer and the City and be recorded against the property. The draft development agreement is attached to this report for the City Council's review. Below is a summary of the key components of the draft development agreement as outlined in Section 2 "Development of the Project" (p.7):

1. The residential (R-3) portion of the development comprising of 2.74 acres is to be limited to townhomes and is not to exceed a density of 16 units to the acre as allowed in the R-3 Zone.

- 
2. The City will not be required to issue a Certificate of Occupancy for any of the final ten (10) townhomes until vertical construction (framing) has commenced on the commercial building.
 3. The residential construction type is limited to townhomes and may not include multi-family apartment buildings.
 4. The commercial building shall have a minimum building area of 8,000 square feet.

CORRESPONDING POLICY PRIORITY (IES)

Improving Clearfield's Image, Livability and Economy

The proposed development agreement will improve *Clearfield's Image, Livability, and Economy* by providing clear direction for the future development of this site. The agreement will impose appropriate limitations for the residential use as well as timing restrictions for the commercial use to commence construction.

FISCAL IMPACT

None

ALTERNATIVES

The City Council may make changes to the development agreement following discussion of the proposed language and other applicable items.

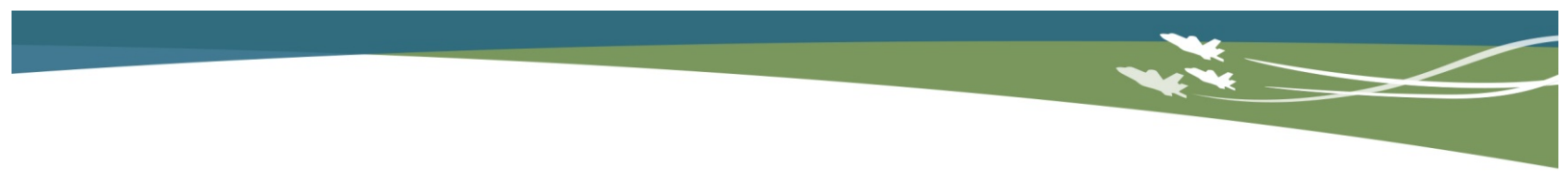
SCHEDULE / TIME CONSTRAINTS

If the City Council chooses to table the item at the policy session then the item will need to be tabled to a date specific.

STAFF RECOMMENDATION/CONCLUSION

Staff recommends that the City Council **APPROVE** the proposed development agreement based upon the following findings:

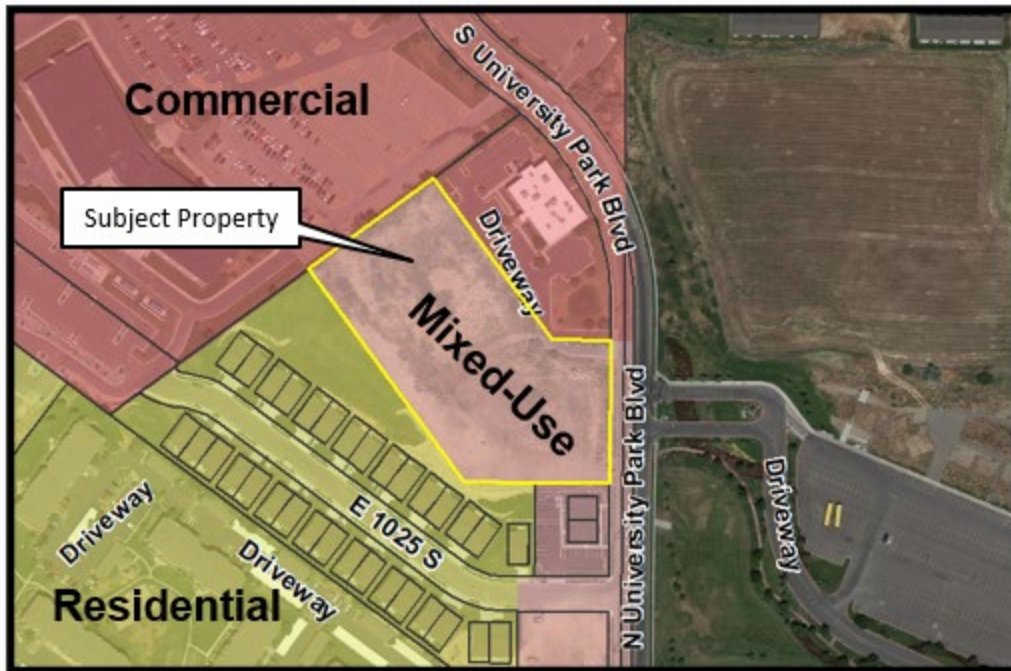
1. The proposed development agreement is consistent with the rezone approval.
2. The proposed development agreement will ensure timely construction of the residential and commercial components of this development.
3. Development of residential townhomes is the most appropriate residential development in this area considering the existing infrastructure.



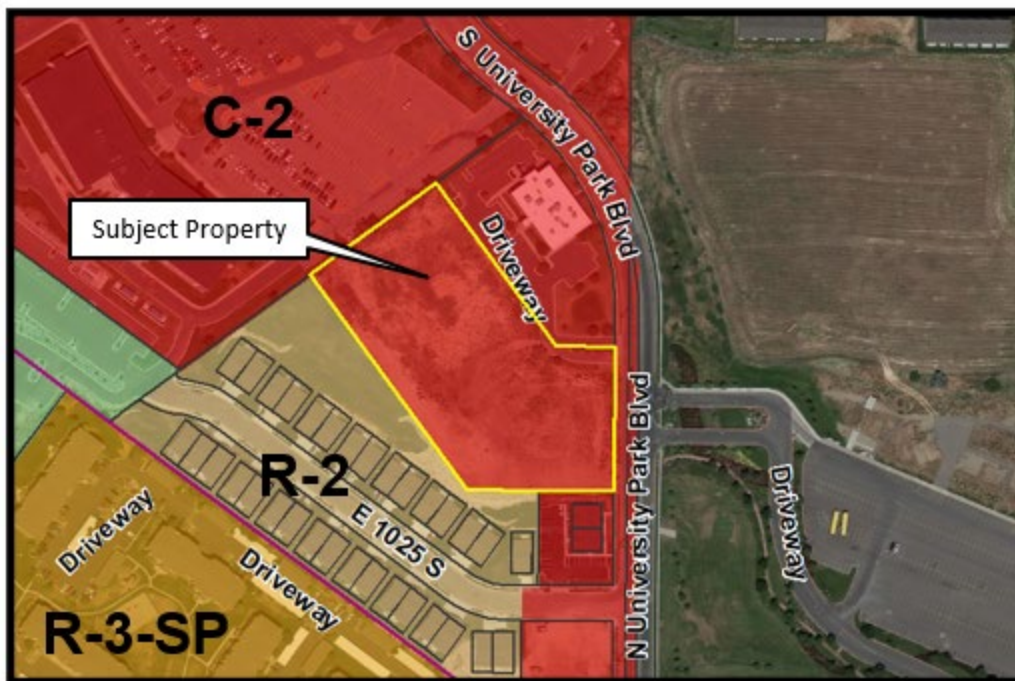
LIST OF ATTACHMENTS

1. General Plan: Future Land Use Map
2. Zoning Map
3. Draft Development Agreement
4. Parcel Zoning Exhibit
5. Concept Plan

GENERAL PLAN: FUTURE LAND USE MAP



ZONING MAP



**DEVELOPMENT AGREEMENT
FOR
TOWNS AT UNIVERSITY PARK
MIXED USE PROJECT**

WHEN RECORDED, RETURN TO:

**DEVELOPMENT AGREEMENT
FOR
TOWNS AT UNIVERSITY PARK**

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ___ day of _____, 2020, by and between Clearfield City Corporation, a Utah municipality, and Alta Homes, Inc. a Utah Corporation.

RECITALS

A. The capitalized terms used in this Development Agreement (DA) and in these Recitals are defined in Section 1.2, below.

B. Developer owns and is developing the Property.

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

D. The Parties acknowledge that development of the Property pursuant to this DA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a Overall Site Planned community known as Towns at University Park and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

E. The Parties desire to enter into this DA to specify the rights and responsibilities of the Developer to develop the Property as expressed in this DA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this DA.

F. The Parties understand and intend that this DA is a “development agreement” within

the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2018) *et seq.*

G. The rear portion of the Property (2.74 Acres) is to be zoned R-3 (Residential) and the front portion of the Property (.74 Acres) is to be zoned C-2 Commercial subject to the execution of this DA(See Exhibit “B” Parcel Zoning Exhibit)

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

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

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

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

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

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2018), *et seq.*

1.2.2. **Administrator** means the person designated by the City as the Administrator of this DA.

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

1.2.4. **Buildout** means the completion of all of the development on the entire Project, both Phase 1 and Phase 2, in accordance with the approved plans.

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

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

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

1.2.8. **DA** means this Development Agreement including all of its Exhibits.

1.2.9. **Default** means a material breach of this DA as specified herein.

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

1.2.11. **Developer** means Owner and builder.

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

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

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

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

1.2.16. **Maximum Residential Units** means the development on Phase 1 of thirty-

nine (39) Residential Dwelling Units

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

1.2.18. **Overall Site Plan** means the conceptual layout for Residential Dwelling Units, Commercial Units and Public Infrastructure for the Project as shown on Exhibit "C".

1.2.19. **Owner** means the Towns at University Park, LLC.

1.2.20. **Parcel** means a portion of the Property that is created by the Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 5.9.

1.2.21. **Party/Parties** means, in the singular, Developer or the City, in the plural Developer and the City.

1.2.22. **Phase 1** means the residential portion of the Property as illustrated on the Overall Site Plan to be developed with townhouse residential.

1.2.23. **Phase 2** means the commercial portion of Property as illustrated on the Overall Site Plan to be developed with a commercial use or office building use.

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

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

1.2.26. **Property** means the real property owned by and to be developed by Developer more fully described in Exhibit "B" with Parcel A (R-3 Zone) and Parcel B (C-2 Zone).

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

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

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

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

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

1.2.32. **Residential Zoning** means City’s R-3 Zone.

1.2.33. **Commercial Zoning** means City’s C-2 Zone.

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

2. Development of the Project.

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

2.2. Maximum Residential Units. At Buildout of Phase 1, the Developer shall be entitled to have Sixteen (16) units to the acre as allowed by the R-3 (Residential) Zoning District.

2.3 Order of Construction. The City shall not be required to grant a Certificate of Occupancy for the last ten (10) residential units until vertical construction (framing) has commenced on the commercial building located within Phase 2 (Commercial).

2.4 Type of Construction. The type of construction for Phase 1 (Residential) of the of the development shall be limited to townhomes only and shall not include any multi-family apartment buildings.

2.5 Commercial Building Area. Phase 2 (Commercial) shall include a commercial building with a building area not less than 8,000 square feet.

3. Vested Rights.

3.1. Vested Rights Granted by Approval of this DA. To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this DA grants Developer all rights to develop the Project in fulfillment of this DA, the City's Vested Laws, the Zoning and the Overall Site Plan except as specifically provided herein. The Parties specifically intend that this DA grant to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2018).

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

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

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

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

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

3.2.5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law;

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2018) *et seq.*;

3.2.7. Planning and Zoning Modification. Changes by the City to its planning

principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not work to reduce the Maximum Residential Units, are generally applicable across the entire City and do not materially and unreasonably increase the costs of any Development; or

3.2.8. Compelling, Countervailing Interest. Laws, rules or regulations that the City's land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2018).

4. Processing of Development Applications.

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

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

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

4.4. Mediation of Development Application Denials.

4.4.1. Issues Subject to Mediation. Issues resulting from the City's Denial of a Development Application that the parties are not able to resolve by "Meet and Confer" upon mutual agreement the parties may be mediated and include the following:

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

4.4.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties may attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach

agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

4.5. Arbitration of Development Application Objections.

4.5.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may attempt within fifteen (15) calendar days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator they shall each, within fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

4.6. Parcel Sales. The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale

of a Parcel. Developer may obtain approval of a Subdivision as is provided in Utah Code Ann., Section 10-9a-103(57)(c)(v) (2018) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Developer or a Subdeveloper upon a subsequent re-Subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Developer or Subdeveloper complies with the City's Vested Laws.

5. Application Under City's Future Laws.

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

6. Public Infrastructure.

6.1. Construction by and Developer. Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application pursuant to the City's Vested Laws.

6.2. Bonding. If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure—is required by the City Applicant shall provide it in a form

acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

7. Upsizing/Reimbursements to Developer.

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

8. Default.

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

8.2. **Contents of the Notice of Default.** The Notice of Default shall contain:

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

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

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

8.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration, with the exception of a Default that creates a legitimate concerns related to public health, safety or welfare, which may, at the discretion of the City, be less than thirty (30) calendar days.

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

8.4. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by “Mediation”, and if the Default is not subject to arbitration then the parties may have the following remedies, except as specifically limited in 9.9:

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

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

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

8.5. **Public Meeting.** Before any remedy in Section 9.4 may be imposed by the City the

party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

8.6. Emergency Defaults. Anything in this DA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section 10.4 without the requirements of Sections 9.5. The City shall give Notice to Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

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

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

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

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

9. Notices. All notices required or permitted under this DA shall, in addition to any other

means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Developer:

Owners

Towns at University Park, LLC
Attn.: Brock Johnston
Address 1157 Gullane Circle
Syracuse, Utah 84075

To the City:

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

With a Copy to:

Clearfield City Attorney
55 South State Street
Clearfield, UT 84015

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

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

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

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

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

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

12. **Assignability.** The rights and responsibilities of Developer under this DA may be assigned in whole or in part, respectively, by Developer with the consent of the City as provided

herein.

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

12.2. **Related Entity.** Developer' transfer of all or any part of the Property to any entity "related" to Developer (as defined by regulations of the Internal Revenue Service in Section 165), Developer' entry into a joint venture for the development of the Project or Developer' pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Developer. Developer shall give the City Notice of any event specified in this sub-section within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

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

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

12.5. **Partial Assignment.** If any proposed assignment is for less than all of Developer' rights and responsibilities, then the assignee shall be responsible for the performance of

each of the obligations contained in this DA to which the assignee succeeds. Upon any such approved partial assignment Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations herein.

12.6. **Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of or Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the "Meet and Confer" and "Mediation" processes specified in Sections 5.2 and 5.4. If the refusal is subject to Arbitration as provided in Section 5.5 then the Parties shall follow such processes.

12.7. **Assignees Bound by DA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this DA as a condition precedent to the effectiveness of the assignment. That consent shall specifically acknowledge the provisions of Section 2.

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

14. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some

future date any such right or any other right it may have.

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

16. **Force Majeure**. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

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

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

19. **Applicable Law**. This DA is entered into in Salt Lake County in the State of Utah and

shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

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

21. **Entire Agreement.** This DA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

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

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

24. **Authority.** The Parties to this DA each warrant that they have all of the necessary authority to execute this DA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this DA lawfully binding the City pursuant to Resolution No. ____ adopted by the City on __, 2020.

DEVELOPER

Phase 1 and 2 Owners

Towns at University Park, LLC

By: _____

Its: _____

DEVELOPER ACKNOWLEDGMENT

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

On the ___ day of , 2020, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Towns at University Park, LLC a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

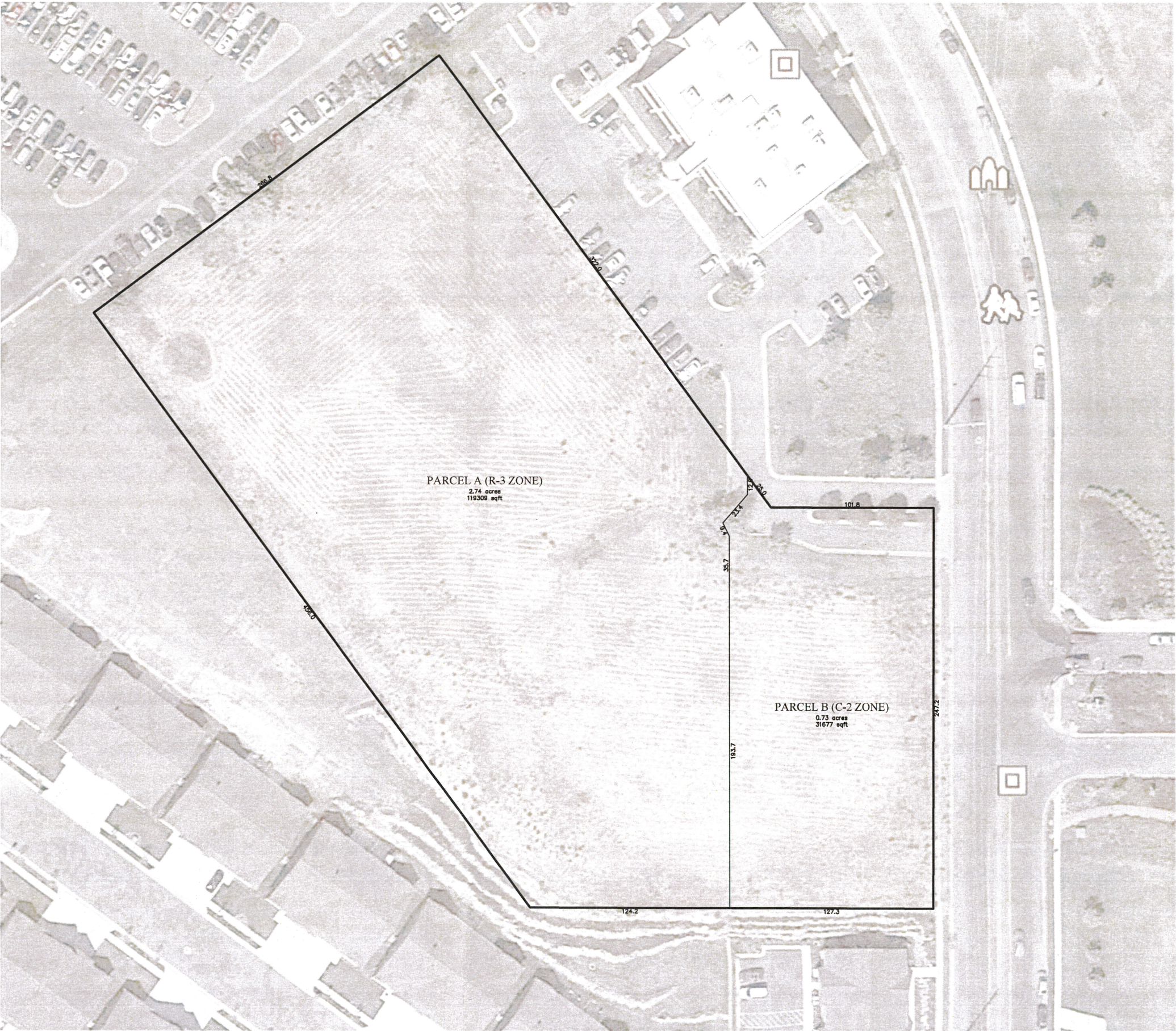
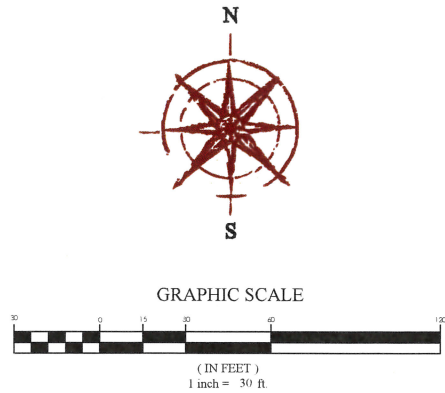
TABLE OF EXHIBITS

Exhibit “A”	Legal Description of Property
Exhibit “B”	Parcel Zoning Exhibit
Exhibit “C”	Overall Site Plan

Exhibit "A"
Legal Description of Property

Exhibit “B”
Parcel Zoning Exhibit

Exhibit “C”
Overall Site Plan



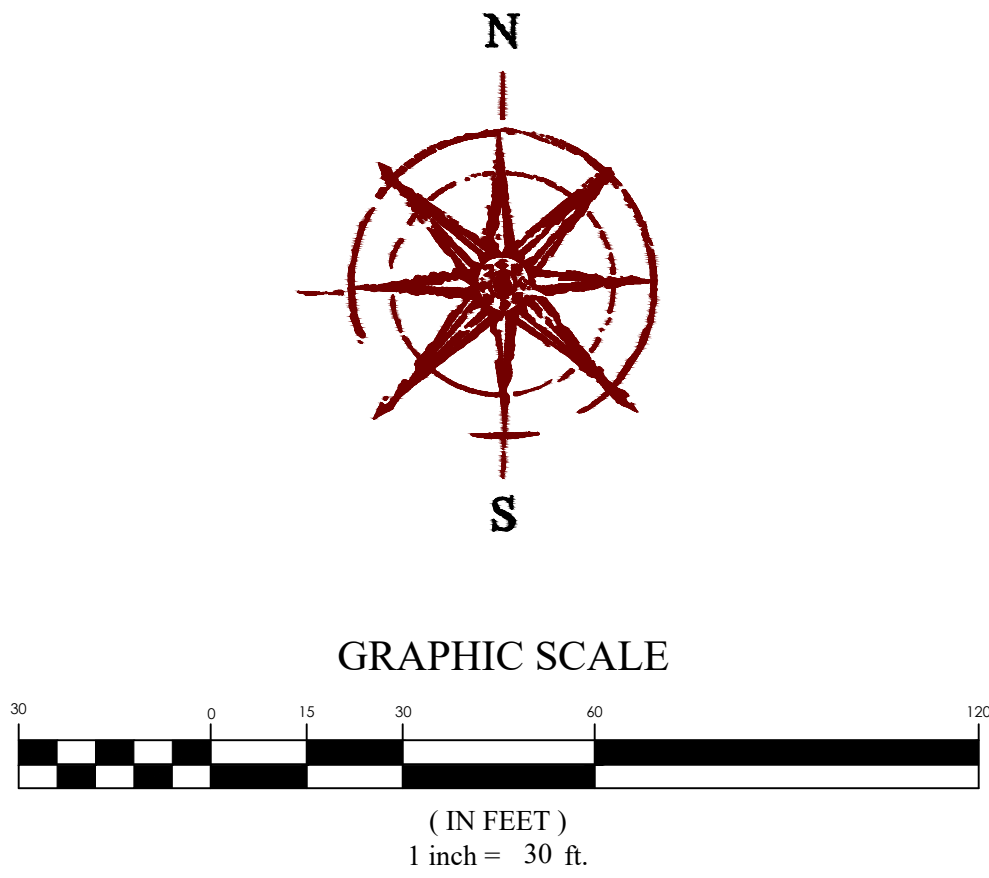
GENERAL NOTE:
INFORMATION PROVIDED ON THIS PLAN IS BASED ON THE BEST AVAILABLE DATA AT THE TIME OF PREPARATION AND MAY CHANGE AT ANYTIME FOR ANY REASON. THIS PLAN IS FOR ILLUSTRATIVE PURPOSES ONLY.

ALTA ESTATES
CLEARFIELD, DAVIS COUNTY
PARCEL EXHIBIT

REVISION BLOCK	
#	DESCRIPTION
1	
2	
3	
4	
5	
6	

PARCEL EXHIBIT

Scale: 1"=30' Drawn: SV
Date: 07/18/2019 Job #: 19-0152
Sheet: 1 OF 1

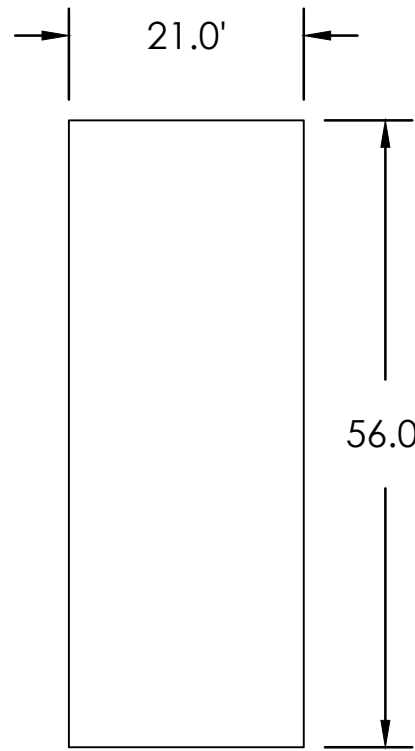


CONCEPT NARRATIVE RESIDENTIAL

LOCATED IN:	CLEARFIELD, DAVIS COUNTY
ORIGINAL PROPERTY	±3.5 ACRES
RESIDENTIAL AREA	±2.69 ACRES
OPEN SPACE	0.93 ACRES (35%)
MULTIFAMILY UNITS	39
TOTAL DENSITY	14.4 UNITS/ACRE
GUEST PARKING STALLS PROVIDED	15

CONCEPT NARRATIVE COMMERCIAL

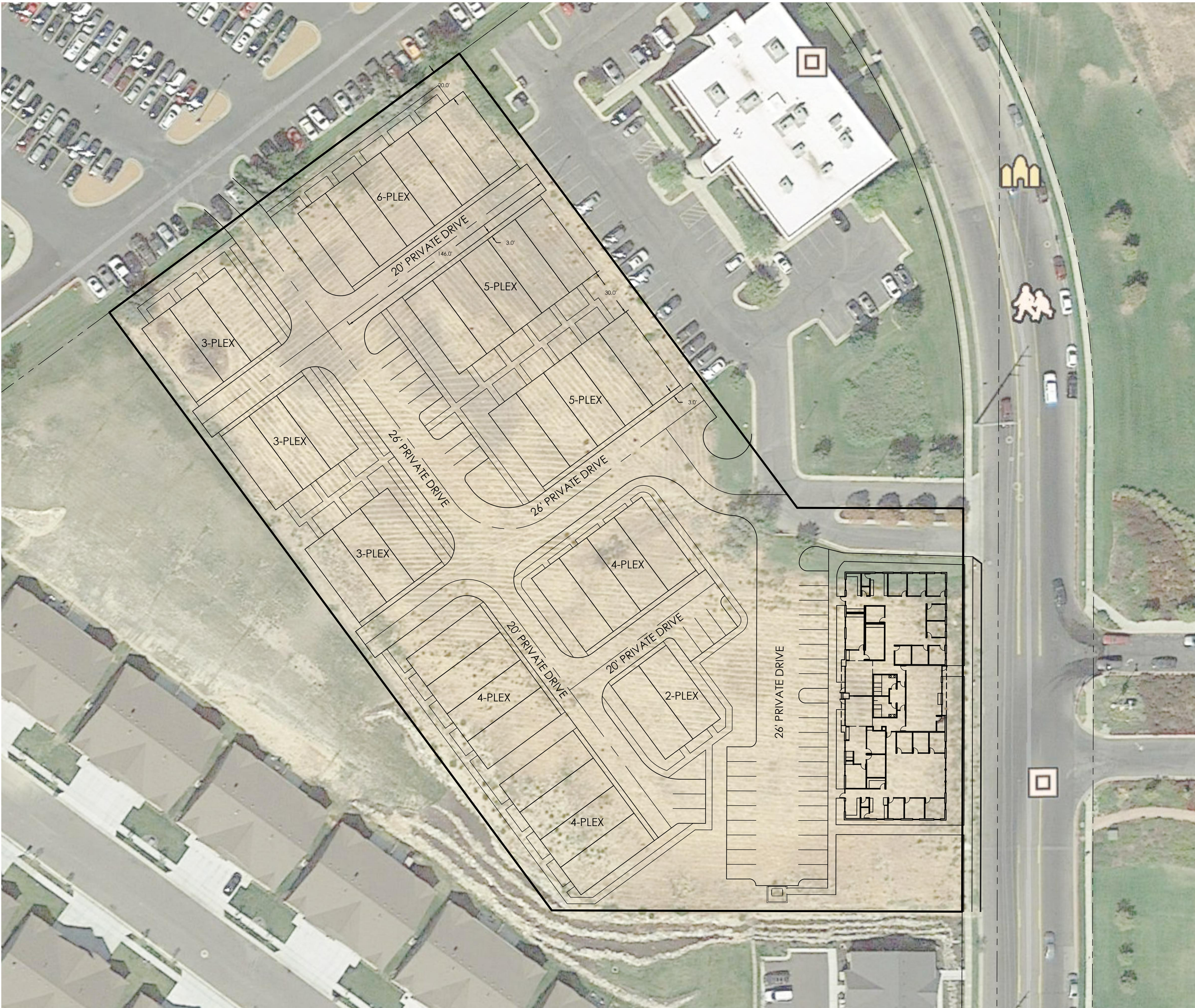
LOCATED IN:	CLEARFIELD, DAVIS COUNTY
COMMERCIAL AREA	0.77 ACRES
BUILDING AREA	9,481 SQFT
LANDSCAPE AREA	±0.19 ACRES (25%)
PARKING STALLS PROVIDED	29



TYPICAL UNIT DIMENSIONS
N.T.S.

GENERAL NOTE:

INFORMATION PROVIDED ON THIS PLAN IS BASED ON THE BEST AVAILABLE DATA AT THE TIME OF PREPARATION AND MAY CHANGE AT ANYTIME FOR ANY REASON. THIS PLAN IS FOR ILLUSTRATIVE PURPOSES ONLY.



Note: This plan is for illustrative purposes only. Boundaries may be based on parcels obtained through public GIS data. It is recommended that a survey be performed to determine actual boundary size and dimensions as well as other potential boundary conflicts.

CLEARFIELD TOWNS & COMMERCIAL
CLEARFIELD, DAVIS COUNTY
CONCEPT PLAN F

#	DATE	DESCRIPTION
1	04/20/2020	Initial Design
2	04/20/2020	Final Design
3	04/20/2020	Final Design
4	04/20/2020	Final Design
5	04/20/2020	Final Design
6	04/20/2020	Final Design

CONCEPT PLAN F		
Scale: 1"=30'	Drawn: SV	
Date: 04/20/2020	Job #: 19-0152	
Sheet:		1 OF 1



STAFF REPORT

To: Chairman Peterson and Board Members
From: Rich Knapp, Finance Manager
Meeting Date: January 5, 2021
Subject: Fiscal Year 2021 Proposed Budget Amendments

Recommended Action

Staff recommends the Mayor and City Council consider the FY2021 proposed budget amendments.

Description / Background

The attached table is draft only. New amendment proposals may be added before the meeting.

The attached table lists proposed expenditures that do not have, or which exceed FY 2021 budget authority and require budget amendments as allowed by Utah Code Title 10 Chapter 6 Section 124 to 129.

Corresponding Policy Priorities

- Providing Quality Municipal Services
- Improving Clearfield's Image, Livability, and Economy
- Maintaining a Highly Motivated and Well-Trained Workforce

Hedgehog Score

Scores listed in the attached worksheet.

Fiscal Impact

The proposed General Fund amendments net use of unrestricted fund balance total \$218,950. This would bring the total budgeted use of General Fund reserves/available cash for FY21 to \$2,250,950. The FY20 ending available cash was \$3.6 million over the 25%.

Alternatives

Some of the recommended amendments are due to expenditures that have already been incurred and/or authorized consistent with previous discussions with the City Council and should consequently be approved. Others are recommended for approval but are more discretionary and could be removed from the final list.



Schedule / Time Constraints

The budget is typically amended in December or January, and again in June.

List of Attachments

- FY2021 Budget Amendment Items Worksheet (draft)

Background on Individual Items

Pickleball Court Restroom

The FY21 budget (current operating budget) includes funding (\$100,000) for restroom renovation for existing restrooms at Steed, Island View, and Kiwanis parks and \$90,000 for a new restroom at Central Park. While those projects are important for the future of our parks system, the construction of the pickleball courts at Steed Park has created a critical need to prioritize a restroom at that location ahead of these other projects. Staff is recommending that this available funding be re-appropriated to fund a large restroom at Steed Park and to request funding for the original projects in the next budget cycle.

200 South Well Repair

- Authorize staff to utilize park impact fees in the amount of \$35,000 to upgrade the 200 South well that supplies Mabey Pond by lowering the bowls and replacing the existing motor to prevent future issues with cavitation. The cost of the project is \$32,284 with the remainder to serve as a contingency for the project
- There is an additional cost of \$8,919 to have Rocky Mountain Power move an existing power line that crosses over the well. This line must be moved to allow for the existing pump and casing to be removed through the top of the well and for the new pump and casing to be inserted.
- The total amount needed is \$35k + \$9k = \$44k

CAFC Natatorium Lights

- This project is intended to allow the City to replace the lights over the pools at the CAFC. These are the lights that were installed four years ago as a part of the energy performance contract with McKinstry Inc. These lights have been failing for a couple of years now and now fewer than 50% are operational. These issues need to be addressed to alleviate what is quickly becoming a safety issue. Staff has been working with the manufacturer, the

supplier, the installer, and McKinstry to resolve the issue for more than two years. The warranty period was 1 year and has expired. The manufacturer is from China and will not respond to the attempts to contact them. The supplier says it is a manufacturer's issue and has refused to provide any resolution. McKinstry has even told them that they will no longer do business with them. The installer has worked with us a little bit but claims that the installation was not the problem. McKinstry has indicated a willingness to help with the installation of new fixtures. The cost of the replacement is included below.

- The cost of the fixtures is \$28,575 and they have a 10-year warranty. They are manufactured in the U.S. and have been installed in other pools without experiencing issues with humidity.
- Installation of the fixtures (45) is \$6,770

Police Records / Customer Service Center Reorganization

Now three years into our Customer Service Center experience, staff has identified another function that needs to be handled in a different way to be more effective and efficient. Police records responsibilities (and related functions) need to be sent back to the Police Department. This will require two full-time employees in Police. However, to keep up with workload, the Customer Service Center can only afford to reduce their full-time headcount by one. The net impact is the creation of one full-time employee, though it is possible that in the future this could be reduced slightly (e.g. a part-time position) through attrition. The budgetary impact of one FTE for the remainder of the fiscal year is estimated at about \$30,000.

CDBG Grant Revenue – Open Door & Safe Harbor

Clearfield City has been awarded \$129,178 via HUD via the CARES Act. After exploring multiple program options, staff recognized the need to partner with Open Doors and Safe Harbor to address housing and food needs that are the result of COVID-19 impacts.

Forgiveness of CDRA Interfund Loan from Utility Administration Fund

The CDRA Fund owes \$1,134,177 to the Utility Administration Fund—an enterprise fund. In FY2000, most of this loan was established, and it appears most of it was to cover a CDRA fund balance deficit. The CDRA has been charged monthly an interest rate equal to the State investment pool rate, or PTIF, for the loan.

In 2014, a resolution set the terms of the loan to charge a rate of interest equal to the PTIF, and the CDRA to pay the loan back in full by June 30, 2024.

Due to limited revenues specific to project areas and committed future revenues, the CDRA would have a difficult time repaying this loan. And while paying back the loan would hinder the community and economic development priorities of the City, the enterprise funds' long-range plans are not



predicated on any repayment. In other words, economic and community development would take a bigger hit than the City's utility functions, should the loan not be forgiven.

Regional Advertising Campaign for CAFC

Historically, the Aquatic and Fitness Center has only dabbled in a broader/regional advertising campaign. The hope for this campaign is to attract new customers locally and from further out. The ROI is unknown.

Restore Later List

- Veteran's Monument— \$?k
- CAFC daycare counters and facing—\$6,500
- City Hall replacement of appliances—\$15k
- City Hall tile re-grout—\$8,000
- CAFC concrete leveling project—\$20k
- CAFC natatorium area wooden doors replacement—\$7,500
- Steed Park tower siding renovation— \$6k
- Steed Park tower sound system replacement— \$10k
- Fisher Park tower sound system replacement—\$10k
- Marquee Monument Signs—\$8,000
- Arts Center update landscaping & add musical equip—\$80k
- 700 S north bound off-ramp berm—\$150k
- Additional cameras CAFC— \$20k
- City Hall additional camera—\$5,000
- Business License & Other Fees' Study—\$20k
- Art Center tables & chairs ph2—\$10,000
- Holiday decorations for City Hall west entrance pillars—\$9k
- Police conference room chair replace—\$5k
- Econ Dev - Façade Improvement Grant— \$25k
- Marketing - Portable LED signs for sponsorship displays— \$3k
- Marketing - Video equipment —\$2,500
- Proactive Nuisance Abatement—\$20k

FY2021 Budget Amendment Items

Fund Division	Division #	Account	Expense Account Title	Expense Adjust	Description	Hedgehog High 18-24	Source Account Title	Source Adjustment
General Fund								
Inpections	104642	621301	Training	6,600	Training new Inspector			
Inpections	104642	623501	Travel	3,550	Travel for new Inspector			
Inpections	104642	621101	Publications	855	New Inspector			
Inpections	104642	631006	Contracted Services	86,000	Inspector vacancy & growth - \$56k over budget YTD may need more			
Inpections	104642	611101	Full-time Employees	(25,000)	Inspector Savings			
				72,005			Fund Balance	72,005
Planning	104641	631006	Contracted Services	3,000	Parking Study - match for \$27k WFRC grant		Fund Balance	3,000
Customer Service	104144	625002	Equipment Purchases	3,200	Office Chairs		Fund Balance	3,200
Parks	104521	673001	Capital Project	190,000	Pickleball Court Restrooms (reappropriated funds) delay renovation Steed, Island View, Kiwanis delay Central Park new restroom	19		0
All Payroll Divisions		61****	Personnel Accounts	?	FFCRA Leave-Covid leave mandate expired Dec 31 Continue benefit until March 31			
Recreation	104522	611201	Overtime	4,500	Theatre		Fund Balance	4,500
Patrol & Investigations	104212	611101	Full-Time Employee	30,000	Police records extra help - half year	20	Fund Balance	30,000
Patrol & Investigations	104212	625002	Equipment Purchases	14,400	Red Dot Optic for 9mm	18	Fund Balance	14,400
Patrol & Investigations	104212	625002	Equipment Purchases	19,000	Crowd control & civil unrest equipment can use \$12k saved on radio purchase	statutory	Fund Balance	19,000
Patrol & Investigations	104212	661001	Equipment Purchases	7,500	Police Centennial Badges and Patches	11	Fund Balance	7,500
General Fund Revenue	100000	331006	CDBG Grant Revenue	129,178	CDBG Grant Revenue		CDBG Covid Grant	
CDBG	104632	693001	Pass Through	65,178	Open Doors		CDBG Covid Grant	
CDBG	104632	693001	Pass Through	64,000	Safe Harbor		CDBG Covid Grant	
Communications	104612	645001	Special Dept Allow	30,000	Regional Advertising Campaign for CAFC	17	Fund Balance	30,000

Fund Division	Division #	Account	Expense Account Title	Expense Adjust	Description	Hedgehog High 18-24	Source Account Title	Source Adjustment
Transfers to Other Funds	104810	691004	Trnf GF	35,345	CAFC Natatorium Fixtures and Bulb Replacement	22	Fund Balance	35,345
Total New Use of Fund Balance Items				<u>218,950</u>				
CDRA Fund								
CDA #1-Clearfield Station	204624	673001	Capital Projects	343,000	Engineering Services Clearfield Station TOD		Bond Reimburse	343,000
CDRA - Revenue	200000	381005	Tx from Enterprise Funds	(1,134,177)	Forgive Loan from Utility Admin Fund to CDRA	18	Utility Admin	(1,134,177)
Capital Fund								
Park Capital Project Fund	404521	673001	Capital Projects	44,000	200 South Well Repair (\$7,500 more than presented)	20	Impact Fees	44,000
Capital Projects	450000	381004	Trnf from GF	35,345	CAFC Natatorium Fixtures and Bulb Replacement	22	Trnf GF	35,345
Capital Projects-Facilities	454161	673001	Capital Projects	35,345	CAFC Natatorium Fixtures and Bulb Replacement	22	Trnf GF	35,345
Water, Sewer, Storm, Fleet								
Utility Admin	505011	691001	Tx Other Funds	1,134,177	Forgive Loan from Utility Admin Fund to CDRA		Fund Balance	1,134,177
Water	515110	673001	Capital Projects	72,000	#271 Freeport South Well Building Upgrade	23	Fund Balance	72,000
					Adding to \$350k already budgeted			
Water	515110	673001	Capital Projects	560,000	#209 State Street 700 S to 1450 S 10"	23	Fund Balance	560,000
					Adding to \$473k already budgeted			
Water	515110	673001	Capital Projects	125,000	#273 700 South Well Transformer	23	Fund Balance	125,000
					Adding to \$100k already budgeted			
Water	515101	624004	Materials & Supplies	50,000	700 S Reservoir Repairs (Sanitary Survey Findings)	23	Fund Balance	50,000
				807,000				



STAFF REPORT

TO: CDRA Chair Peterson and Board members
FROM: Summer Palmer, Assistant City Manager
MEETING DATE: January 5, 2021
SUBJECT: Argentine Corner Commercial Development & Economic Stimulus Incentive Agreement

RECOMMENDED ACTION

Approve the grant amount requested by Argentine Corner to facilitate relocation of the business to Clearfield Junction.

DESCRIPTION / BACKGROUND

In August of 2017, the CDRA entered into a agreement with City Centre to facilitate the relocation of Argentine Corner to the commercial store front at City Centre. The CDRA intended to provided City Centre \$50,000 to close the gap on the required tenant improvements to bring Argentine Corner into the commercial space. For reasons out of our control Argentine Corner and City Centre were unable to form a partnership and the relocation did not happen.

Earlier this year the owners of Argentine Corner and Clearfield Junction entered into an agreement to relocate Argentine Corner to its new home in the southern corner of Clearfield Junction. They came to the City to request the same \$50,000 incentive previously agreed upon.

The attached document outlines the provisions of the proposed agreement including:

- The \$50,000 incentive will be funded post performance; after the owners spend an approximate \$279,000 to move to the new location.
- If the business leaves the location within the next five years, they will pay back a prorated portion of the \$50,000 incentive.

CORRESPONDING POLICY PRIORITY (IES)

Approval will help to ***Improve Clearfield's Image, Livability and Economy*** by adding business and vibrancy to this dynamic part of Clearfield's main street. This is a great opportunity for the CDRA to support the growth of a long-time local business, as well as fill an empty commercial store front space on our main corridor.



FISCAL IMPACT

\$50,000 was previously approved to be distributed from RDA 7 for this purpose. With the move Clearfield Junction, the funds would come RDA 8 instead.

ALTERNATIVES

The board could deny the approval of the incentive. However, the owners of Argentine Corner have indicated they will not be able to move forward with the move without assistance from the City.

SCHEDULE / TIME CONSTRAINTS

The parties would like to move forward with construction as quickly as possible so Argentine Corner can open the new location early/mid 2021.

LIST OF ATTACHMENTS

- Commercial Development & Economic Stimulus Incentive Agreement

AGREEMENT

between

CLEARFIELD COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

and

for

FORM BASED CODE (DOWNTOWN VISION)

COMMERCIAL DEVELOPMENT & ECONOMIC STIMULUS INCENTIVE

THIS AGREEMENT ("Agreement") is entered into as of the ____ day of _____, 2021, between the CLEARFIELD COMMUNITY DEVELOPMENT AND RENEWAL AGENCY, a governmental entity organized under the laws of the State of Utah (the "Agency"), and _____, a Utah _____ ("Argentine Corner"). The aforementioned are sometimes referred to in this Agreement as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, Clearfield City (the "City") created a Downtown Plan in 2016 that includes the four (4) downtown districts (Exchange Center, Mabey Place, Access Point, and Clearfield Station); and

WHEREAS, the City incorporated the 2016 Downtown Plan through the adoption of the Form Based Code in _____; and

WHEREAS, the downtown district of Exchange Center is intended to include a mix of civic and town place types such as municipal/county services and a small hub of housing with supporting commercial; and

WHEREAS, Clearfield Junction Apartments (Building #1), located in the heart of the Exchange Center at 101 North Main Street, was issued a certificate of occupancy on _____, including the required first floor construction of numerous commercial tenant units; and

WHEREAS, Argentine Corner is a successful commercial business that has been located within the City for over ____ years; and

WHEREAS, the City and Argentine Corner desire to relocate Argentine Corner into a commercial unit of approximately ____ square feet, as the anchor commercial tenant of the Clearfield Junction Apartments (Building #1); and

WHEREAS, to relocate the Argentine Corner into the commercial unit of approximately ____ square feet, as the anchor commercial tenant of the Clearfield Junction Apartments (Building #1), Tenant Improvements are required in excess of \$250,000.00 dollars; and

WHEREAS, the Agency believes that the relocation of Argentine Corner into the Clearfield Junction Apartment (Building #1), as the anchor tenant, is consistent with the desire to spur addition commercial development and economic growth within the downtown district of the Exchange Center.

NOW, THEREFORE, based upon the mutual promises and conditions herein, the parties agree as follows:

AGREEMENT

A. PURPOSE OF INCENTIVE

1. The purpose of the Form Based Code (Downtown Vision) Commercial Development and Economic Stimulus Incentive is twofold. First, the Agency is supportive of the City's desire to spur commercial development within the Exchange Center district of the Form Based Code and Downtown Plan by supporting a strong and viable Clearfield business to relocate as the anchor tenant within the Clearfield Junction Apartments (Building #1). Second, the Agency believes that by supporting a strong, unique, and proven local business in relocating, additional commercial tenants will locate within the Exchange Center and result in an overall positive economic impact.

B. CONDITIONS PRECEDENT TO AWARD

1. Subject to the terms and conditions set forth herein, the Agency shall provide a partial reimbursement to Argentine Corner for the necessary tenant improvements at Clearfield Junction (Building #1), as follows:

- a. Argentine Corner shall pay for and ensure that all required tenant improvements are completed.

- i. The parties acknowledge and agree that not all known tenant improvement costs are available at the time of entering into this Agreement. However, for the purpose of this Agreement, the parties agree to the following known necessary tenant improvements and their estimated costs, subject to a 10% variance:

1. Construction: \$ 31,000.00
2. Equipment: \$ 155,000.00
3. Signage: \$ 35,000.00
4. Furnishings: \$ 48,000.00
5. Infrastructure: \$ 10,000.00

Estimated Total: \$ 279,000.00

- b. Argentine Corner is responsible and shall ensure that all tenant improvements are completed consistent with federal, state, or local laws or regulation.

- c. Receive a certificate of occupancy and all other business licensing requirements necessary, and open for business at Clearfield Junction Apartments (Building #1), prior to _____, 2020.

C. TERMS OF PARTIAL REIMBURSEMENT

1. Upon successful completion of the conditions precedent outlined above, the Agency will provide to Argentine Corner a Commercial Development and Economic Stimulus Incentive of up to \$50,000.00 dollars, or $\frac{1}{4}$ of all verified necessary tenant improvements, whichever is less.
 - a. The Agency may require proof of cost for necessary tenant improvements, including but not limited to proof of paid invoices.
 - b. The Agency will provide the Commercial Development and Economic Stimulus Incentive within thirty (30) days of completion of the conditions precedent.
2. With acceptance of a Commercial Development and Economic Stimulus Incentive, Argentine Corner agrees and commits to remain at the Clearfield Junction Apartments (Building #1) location for a term of no less than 5 years.
 - a. Should Argentine Corner fail to remain open for business at the Clearfield Junction Apartments (Building #1) commercial location for at least 5 years, Argentine Corner shall repay to the Agency a prorated amount of the Commercial Development and Economic Stimulus Incentive. This return of award balance shall be made to the Agency, in full, within thirty (30) days of no longer being open for business at the Clearfield Junction Apartments (Building #1).
 - i. Example: If Argentine Corner accepts a Commercial Development and Economic Stimulus Incentive Award in the amount of \$50,000.00 dollars, but closes business or moves locations after one year (12 months), Argentine Corner shall owe and return \$40,000.00 dollars to the Agency within thirty (30) days of said closure/move.

D. TERMS OF AGREEMENT AND TIME FOR COMPLETION

1. Failure of Argentine Corner to complete all conditions precedent outlined above by _____ shall make this Agreement, at the discretion of the Agency, null and void.

E. TERMINATION

1. FOR BREACH. If either party commits a material breach of any of the terms and conditions of this Agreement and fails to cure such breach within thirty (30) calendar days of written notice thereof, then the non-breaching party may terminate this Agreement.
2. FOR AGENCY'S CONVENIENCE. The Agency may terminate this Agreement at any time prior to issuing the Commercial Development and Economic Stimulus Incentive, either with or without cause upon giving Argentine Corner prior written notice.

F. GENERAL PROVISIONS

1. The following general provisions shall apply to this Agreement:
 - a. ASSIGNMENT. This Agreement shall be binding upon the heirs, successors and assigns of the Contractor and shall not be assigned without the prior written consent by Agency.
 - b. GOVERNING LAW. The terms of this Agreement shall be construed and interpreted under the laws of the State of Utah. Any action, challenge, or dispute under this Agreement shall be brought in the Second Judicial District Court of Utah, Davis County, or in the U.S. District Court of Utah. Argentine Corner explicitly agrees that the courts listed above in this Paragraph shall have personal and/or subject matter jurisdiction over Argentine Corner and this Agreement in all disputes or challenges under this Agreement. For judgment collection purposes only, the parties further consent to the jurisdiction of any state court located within a district which encompasses assets of a party against which a judgment has been rendered for the enforcement of such judgment or award against the assets of such party.
 - c. ATTORNEYS' FEES. In the event of default by one of the parties to this Agreement, the non-defaulting party shall be entitled to reasonable attorneys' fees and all costs incurred in the enforcement of this Agreement, regardless of whether an action is commenced or prosecuted to judgment.
 - d. RELATIONSHIP OF PARTIES AND NO THIRD-PARTY RIGHTS. This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the parties hereto nor any rights or benefits to third parties. Argentine Corner acknowledges and agrees that neither the City nor the Agency has any business relationship with the Clearfield Junction Apartments. As such, neither the City, nor the Agency is responsible for the acts of the Clearfield Junction agents or representatives. Any and all conflicts that may arise between Argentine Corner as the lessee and the lessor at Clearfield Junction is not applicable to this Agreement and in no way shall the

Agency be responsible to act as a result of providing a Commercial Development and Economic Stimulus Incentive to Argentine Corner.

- e. SEVERABILITY. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect under any applicable statute or rule of law, then such provisions shall be deemed inoperative to the extent that they are invalid, illegal or unenforceable, and the remainder of this Agreement shall continue in full force and effect. The parties hereto agree to replace an invalid, illegal or unenforceable provision with a new provision which provides the most nearly similar permissible economic effect as the invalid, illegal or unenforceable provision.
- f. NOTICE. Any notice or communication required or permitted to be given hereunder shall be sufficiently given when received by the other party and must be delivered or mailed by registered mail, postage prepaid, or sent by facsimile with hard copy to follow, charges prepaid, in each case properly addressed to the addresses of the parties indicated herein, or at such other addresses as may hereafter be furnished in writing by either party hereto to the other party and such notice shall be deemed to have been given as of the date so delivered, mailed or sent.
- g. ENTIRE AGREEMENT. This Agreement states the entire agreement between the parties. The provisions of the Agreement are for the benefit of the parties hereto solely, and not for the benefit of any other person, persons or legal entities. No waiver, alteration, modification, or representation of any of the provisions of the Agreement shall be binding unless in writing and signed by a duly authorized representative of the Agency and the Argentine Corner and expressly referring to this Agreement.
- h. SECTION HEADINGS. Section headings are for convenience only and shall not affect the interpretation of this Agreement.
- i. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute only one instrument.
- j. WAIVERS. The failure of either Party at any time or times hereafter to require strict performance by the other of any of the undertakings, agreements or covenants contained in this Agreement shall not waive, affect or diminish any right of either Party hereunder to demand strict compliance and performance thereof. None of the undertakings, agreements, or covenants of either Party under this Agreement shall be deemed to have been waived unless such waiver is evidenced by an instrument in writing signed by the party to be charged with specifying such waiver.

- k. **BINDING EFFECT.** This Agreement shall be binding upon and shall inure to the benefit of the Agency, Argentine Corner and its respective successors and assigns.
- l. **AMENDMENTS AND CHANGE ORDERS.** Neither this Agreement nor any provisions hereof may be changed, waived, discharged or terminated orally and may only be modified or amended by an instrument in writing, signed by both the Agency and Argentine Corer.

DRAFT

EXECUTED as of the day and year first written above.

IN WITNESS WHEREOF, the Agency has caused this Form Based Code (Downtown Vision) Commercial Development and Economic Stimulus Incentive Agreement to be duly executed in its behalf; and the Argentine Corner has caused the same to be duly executed in its behalf, on or as of the day and year first above written.

**CLEARFIELD COMMUNITY
DEVELOPMENT AND
RENEWAL AGENCY**

_____,
a Utah limited liability company

By _____
Nike Peterson, Chair

By _____
Name: _____
Title: _____

ATTEST:

Nancy Dean, Secretary

Approved as to form:

Agency Counsel

STATE OF UTAH)
:ss.
COUNTY OF DAVIS)

On the ____ day of _____ 2021, personally appeared before me _____ and being by me duly sworn did say, each for themselves that she, Nike Peterson, is the Chairman and that the within and foregoing instrument was signed in behalf of said Agency by authority of a motion of its board of directors.

My Commission Expires: _____

Notary Public
Residing at:

STATE OF _____)
:ss.
COUNTY OF _____)

On the ____ day of _____ 2021 personally appeared before me _____, who being by me duly sworn did say, that as the _____ of _____, LLC he has signature authority for said LLC, and that the within and foregoing instrument was signed in behalf of said _____, LLC, and acknowledged to me that said company executed the same pursuant to authority under or as authorized by its operating agreement or other proper authority.

My Commission Expires: _____

Notary Public
Residing at: