

RESOLUTION NO. 05-06-2020 - J

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN PAYSON SOUTH MEADOWS PARTNERS, LLC AND PAYSON CITY
CORPORATION REGARDING THE PROPOSED DEVELOPMENT AT THE WEST
END OF 800 SOUTH.**

WHEREAS, South Meadows Partners, LLC (PSMP) is looking to develop approximately 96 acres of land located at the west end of 800 South; and

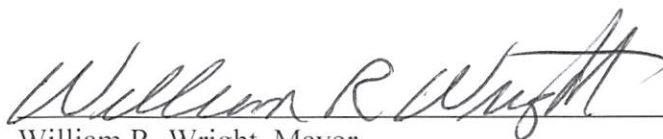
WHEREAS, as part of the development, PSMP has agreed to donate approximately 13.31 acres of land to Mountainland Technical College (MTEC) as part of the development; and

WHEREAS, PSMP has previously entered into an agreement with the Redevelopment Agency of Payson City to purchase approximately 10.25 acres of land as part of this development; and

WHEREAS, the parties have created a Memorandum of Understanding as a roadmap to guide the development of this property. It is understood that this is not a legally binding agreement, but services as a guide to keep the project moving forward.

NOW THEREFORE, BE IT RESOLVED, by the Payson City Council that the attached Memorandum of Understanding is hereby approved and the Mayor is authorized to execute the MOU.

Passed and adopted by the Payson City Council this 6th day of May, 2020.


William R. Wright, Mayor

ATTEST:


Kim E. Holindrake, City Recorder



May 6, 2020

David Tuckett
City Manager, Payson City
439 W. Utah Ave.
Payson, Utah 84651

MEMORANDUM OF UNDERSTANDING

The following is a memorandum of understanding between Payson City (hereinafter referred to as City) and Payson South Meadows Partners, LLC and Towne and County Investments, LLC (hereinafter referred to as PSMP), summarizing the intent of the parties with respect to planning, infrastructure and development issues involving the proposed Red Bridge Village (hereinafter referred to as Project) located at approximately 800 South and 1700 West in Payson, Utah. This Memorandum is not binding upon the parties but is put forth to clarify the understanding, intent, and responsibilities of the respective parties as it relates to development of the Project.

RECITALS

- A. The Project totals approximately 96 acres to be developed in phases, with the intention of establishing a Mountainland Technical College (“MTECH”) campus constructed on a 13.31-acre site. The present intention is for the campus to include multiple buildings consisting of approximately 294,000 square feet. The Project includes an area that could be used for a UTA Front Runner Station, if UTA pursues this location, and at full build-out could include approximately 17 acres of commercial development and high-density housing, with a density to be determined in conjunction with approvals of a zoning overlay. See intention of applicant in Exhibit “A”.
- B. PSMP has agreed to donate the 13.31 acres to accommodate the MTECH campus, with the intention that this will shorten the time required to bring the MTECH facility to Payson. PSMP is currently completing a donation agreement with MTECH.
- C. PSMP has previously entered into an agreement with the City to purchase approximately 10.25 acres of land. This land is part of the Project site area and includes conditions that shall be met, as part of a purchase agreement. This land also includes area to be dedicated to Payson City for the construction of public roads and underground utilities.
- D. Payson City Council has granted overlay approval tied to the concept plan of Phase One of the Project. See Exhibit “B”. An overlay is a zoning tool that is tied to the specific project, is subject to termination, does not guarantee utility service or viability of the project, nor provide any commitment for city financial participation. The intention of the applicant is to construct a retail/office building with approximately 7,332 square feet of gross building area and 366 residential units.
- E. The area is governed by the South Meadows Area Specific Plan. The density proposed goes beyond what is contemplated, and has been studied, in the area plan. To amend this plan to allow the higher density, Payson City Code requires a study to be completed to determine the availability of public services for the proposed development and the necessary improvements triggered by the proposed Project and area plan changes. This study is being conducted by Horrocks Engineering and has not been reviewed by the City. A complete study shall include the entire original South Meadows study area west of I-15, including the impact on capacity at the sewer treatment plant. The study will have to address capacity and upgrade needs for culinary water, pressurized irrigation, storm drainage, traffic signals, and road improvements. As it relates to sewer, a preliminary understanding of this study indicates that the City does not have adequate sewer capacity to serve Phase One of the Project nor any other new developments

located in this southwest area of the City. To resolve the sewer inadequacy, Horrocks proposed the installation of a sewer line extending from the Project to the City sewer treatment facility located approximately three miles north.

- F. PSMP submits that, for them, the cost of installing the off-site improvements in addition to the donation of land for the MTECH site would result in the Project being financially unfeasible. To facilitate the financing of this project, PSMP has proposed the creation of a Public Infrastructure District (PID). This PID would fund a significant portion of the infrastructure improvements that are required by the construction of this Project, as well as by properties in the vicinity of the Project. PSMP acknowledges that the creation of the PID is at the discretion of and subject to City approval and is at no cost to the City, including all operations from creation, administration, and completion of improvements. Only the sites comprising the Project will be included in the PID. The PID bond will be repaid through tax assessments involving the sites in the PID district.
- G. At their expense, PSMP has retained the law firm of Farnsworth and Johnson to provide legal counsel to represent PSMP in establishing a PID. Gilmore Bell, P.C. has been engaged by the City to help the City to explore a PID and if the City determines that it is open to a PID, assist in the creation of the PID and is anticipated to be bond and disclosure counsel to the PID for its bond issuance.
- H. The City has planned a westward extension of 800 South. This road extends in an east-west direction through the Project and will eventually cross the railroad tracks in at least one location. The exact location, nature of, and width of the extension has not yet been determined. The City has received funding approval through Mountainland Association of Governments (MAG) to obtain a study indicating how to accommodate this connection. The study is expected to be completed within approximately one year, however, the timing of the current funding cycle may be affected due to the impact of the Covid-19 pandemic. PSMP agrees to accommodate this extension of this road as outlined in the study, which will include them being responsible for their portion of the construction of the road and associated improvements.

UNDERSTANDING OF THE PARTIES

1. PSMP, or its predecessor, has applied to amend the South Meadows Area Specific Plan to allow a greater density than is contemplated in the existing plan. This impacts utility capacity and warrants a new study of capacity and infrastructure needs. PSMP is pursuing this study through Horrocks Engineering. City will subsequently review this study to determine infrastructure needs for the proposed Project.
2. If Payson City Council determines they are open to a PID, PSMP is responsible to apply for an overlay involving Phases Two and Three of the Project. See Exhibit "B". The applicant understands that, like Phase One, the overlay is a zoning tool only, and does not guarantee viability of the project. It will, however, provide a concept plan to allow more detailed engineering design to occur and assurance that City Council supports the conceptual design of what was approved. Because zoning does not grant vested development rights as it relates to engineering, the overlay can be applied for and pursued while utility and other infrastructure studies are ongoing.
3. If the applicant is unable to meet the requirements of the existing TS-O overlay, the applicant can work with staff to either amend the overlay or create a new zoning overlay. Approval of the code amendment is subject to recommendation by Planning Commission and approval by City Council. Any submittal will need to be consistent with the requirements of the applicable overlay code.

4. The area specific plan will need to be amended prior to any overlay approval that goes against the current area specific plan terms. The presently adopted South Meadows Area Specific Plan shows two density options—one that includes a frontrunner station with a university campus, and one that does not. The intention of the parties is to come to a compromise that will show density surrounding a smaller higher-ed campus and parking as if no transit station is being established. The City has not received indication from UTA that a station will be built at this location and will be operating under that assumption unless and until UTA provides otherwise. Any amendment to the area specific plan is subject to City Council approval and the results of the infrastructure study.
5. Any overlay approved by City for areas of the PSMP property beyond Phase One will be subject to City requirements involving future expansion of 800 South through the Project, based on the results of the pending expansion study. Accordingly, no preliminary plats will be approved for areas of the PSMP Project beyond Phases One and Two for a 12-month period after approval of the overlay, while the concept plan for Phase Two will best approximate the anticipated results of the study, based on recommendations by the City Engineer. The overlay will not be rescinded while development progress is being made on the project within any 12-month period, as outlined in Payson City Code 19.2.12, “Termination of Application” adopted April 2020.
6. PSMP will be responsible to provide the engineering study and cost estimates for the construction of the infrastructure—sanitary sewer, culinary water, pressurized irrigation, power—for the South Meadows area west of I-15, specifically the area to be funded by the PID. The PID funding will include the cost of upgrading and installing transportation systems and utilities to, through, and along the project. The developer is responsible for making the necessary improvements to culinary water, pressurized irrigation, sanitary sewer, power, storm drainage, road improvements, trails, and traffic signals. The PID will be utilized to finance at least a portion of these improvements.
7. Any PID will have the following purposes listed in its creation document: Issue negotiable bonds to pay all or part of the costs of acquiring an interest in, improving or extending certain of the improvements, facilities, or property and public improvements.
8. The parties may explore employment of a connectors agreement between the City and the PID that requires any connection to infrastructure previously paid for by PID funding to pay a City connection fee commiserate with the capacity being used. The respective utility connection fee will be proportionate to the capacity of usage compared to the cost of the infrastructure, amortized over the time and rate that the bond has been in place. For sanitary sewer, it is intended that all new connections will be connected to the new sewer line and not the existing line. While Payson City development regulations currently limit the agreement to ten years, the parties may explore a different limit through use of an interlocal agreement.
9. The intention of the applicant is that final approval of the PID will occur simultaneously with phase 2 and 3 overlay approval. City staff review and approval of the Horrocks engineering study is required before PID bonding can be taken to market. Payson City Council will need to review the terms of the PID, including the best estimates of the financial structure and liabilities against properties within PID boundaries. Once this is approved, PSMP may apply for a new plat, reflecting the areas of each phase, with improvements deferred as outlined in the PID and engineering study. To create this plat, PSMP will provide security via the 13.31-acre MTECH parcel and the three parcels identified on the site plan attached as

Exhibit "C" to the City. The city will simultaneously convey the 10.25 acres currently owned by the City to PSMP. The 13.31 acres will be held in trust for future donation to MTECH. The three parcels will be part of future phases and PSMP will be given the right to partial releases (as parcels are sold, including title and real estate brokerage fees) of security against the three parcels for a purchase price of \$2,009,205. However, if the fair market values of the three lots are insufficient collateral, the City will withhold placement of a proportionate amount of the 13.31 acres in trust for MTECH, with the portion being kept as collateral outside the trust. The remaining acreage kept as collateral will then be placed in the MTECH trust after completion of the exchange outlined above in this paragraph. The security for the city is outlined in the attached exhibit.

10. The PID Board will initially consist of three members comprised of landowners or agents of land owners appointed by the City, followed by a transition to elections as outlined in U.C.A. 17B-2a-1205.
11. The applicant may not receive preliminary and final plat approval on any phase except Phase One unless City Council has granted final approval of the PID.
12. The result of studies necessary for preliminary and final plat approval, such as a final wetland delineation (Army Corps of Engineers), floodplain requirements (FEMA), and stream alteration (Utah Division of Water Rights), among others, may impact the amount of developable area and/or use of the land. The result of these studies may impact the project, and any approved concept plan is subject to these requirements, hence, any density calculation is on a net basis and subject to these terms.
13. This MOU does not modify or waive any regulations of Payson City Code, Utah Code, or other applicable development codes.

IN WITNESS WHEREOF, this Memorandum of Understanding was duly agreed to and signed
this 3 day of ~~May~~ June, 2020.

PAYSON SOUTH MEADOWS PARTNERSHIP LLC

Sheila Michaelis
Sheila Michaelis, Manager

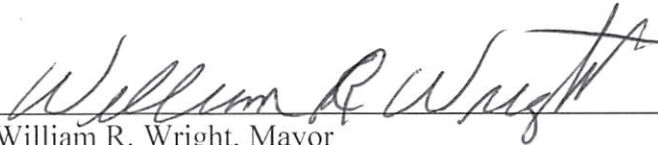
STATE OF UTAH)
: ss.
COUNTY OF UTAH)

On this ___ day of May, 2020, personally appeared before me Sheila Michaelis, Manager of Payson South Meadows Partnership, LLC, the signer of the above instrument, who duly acknowledged to me that she executed the same.

Bambi Burnell
Notary Public



PAYSON CITY CORPORATION


William R. Wright, Mayor

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On this 12th day of May, 2020, personally appeared before me, a Notary Public in and for the State of Utah, William R. Wright, Mayor of Payson City, the signer of this instrument, who duly acknowledged to me that he executed the same.


Notary Public



CL mgr.

Chris Crowe, Manager
Towne and County Investments, LLC

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On this 11 day of June, 2020, personally appeared before me Chris Crowe, Manager of Towne and County Investments, LLC, the signer of the above instrument, who duly acknowledged to me that he executed the same.

Gary A. Jensen
Notary Public



Site plan for the South Meadow Station area. The plan shows a grid of streets including 1700 WEST, 1750 WEST, 1800 SOUTH, 1850 SOUTH, 1900 SOUTH, 1950 WEST, and 2000 WEST. Various building footprints are shown, labeled with their intended use: MULTI-FAMILY, COMMERCIAL, HOTEL, GAS STATION, RETAIL/RESTAURANT, MIXED-USE, OPEN SPACE/ TRAIL, COMMUNITY CENTER, TOWNHOMES, and FOURPLEX MULTI-FAMILY. The plan also includes a north arrow and a scale bar.

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SOUTH MEADOW STATION AREA
Payson, Utah
COLUMBIA VALLEY

A000

EXHIBIT "B"

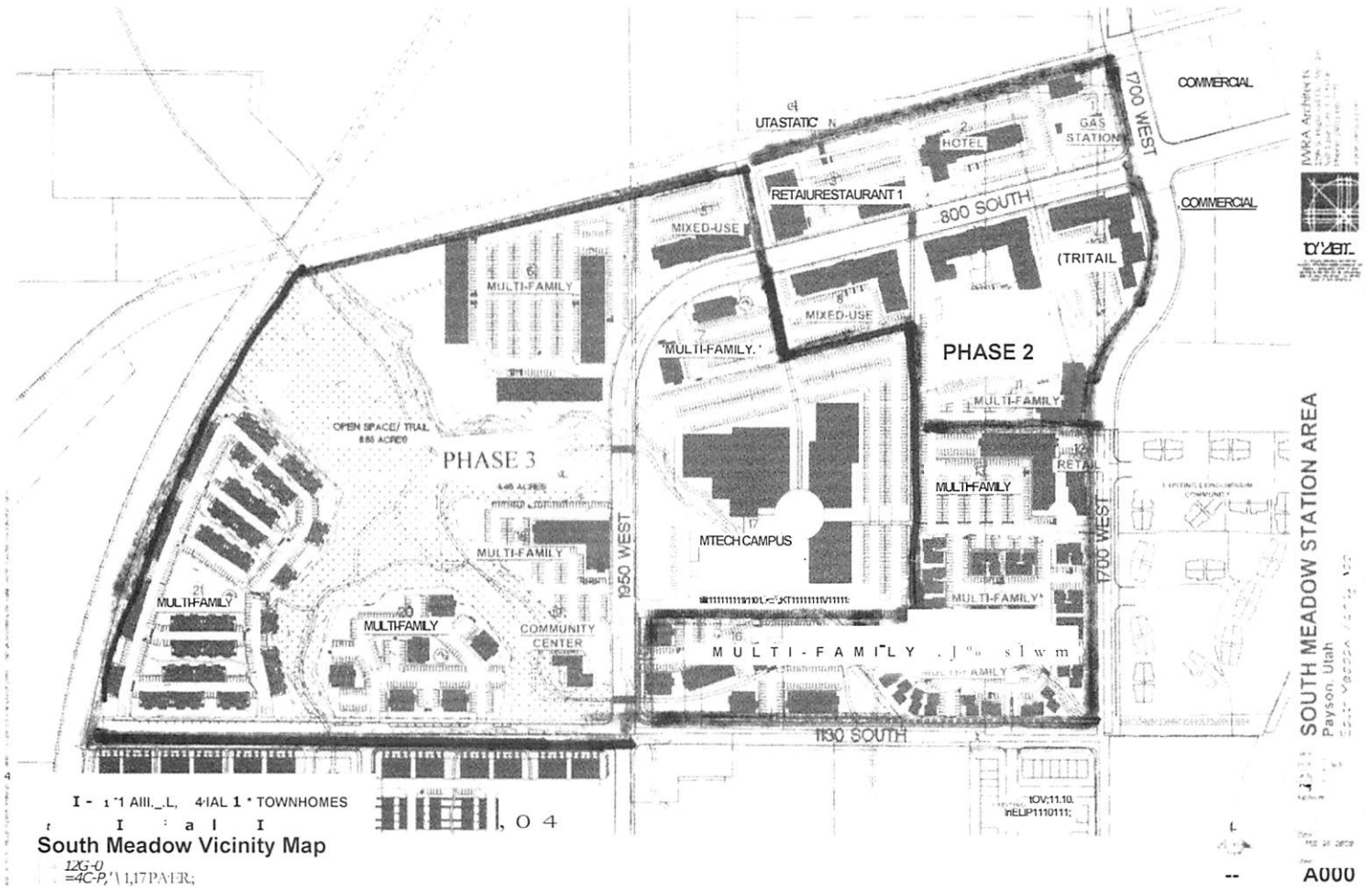


Exhibit C

Area to be conveyed to Payson City

Area to be conveyed to PSMP

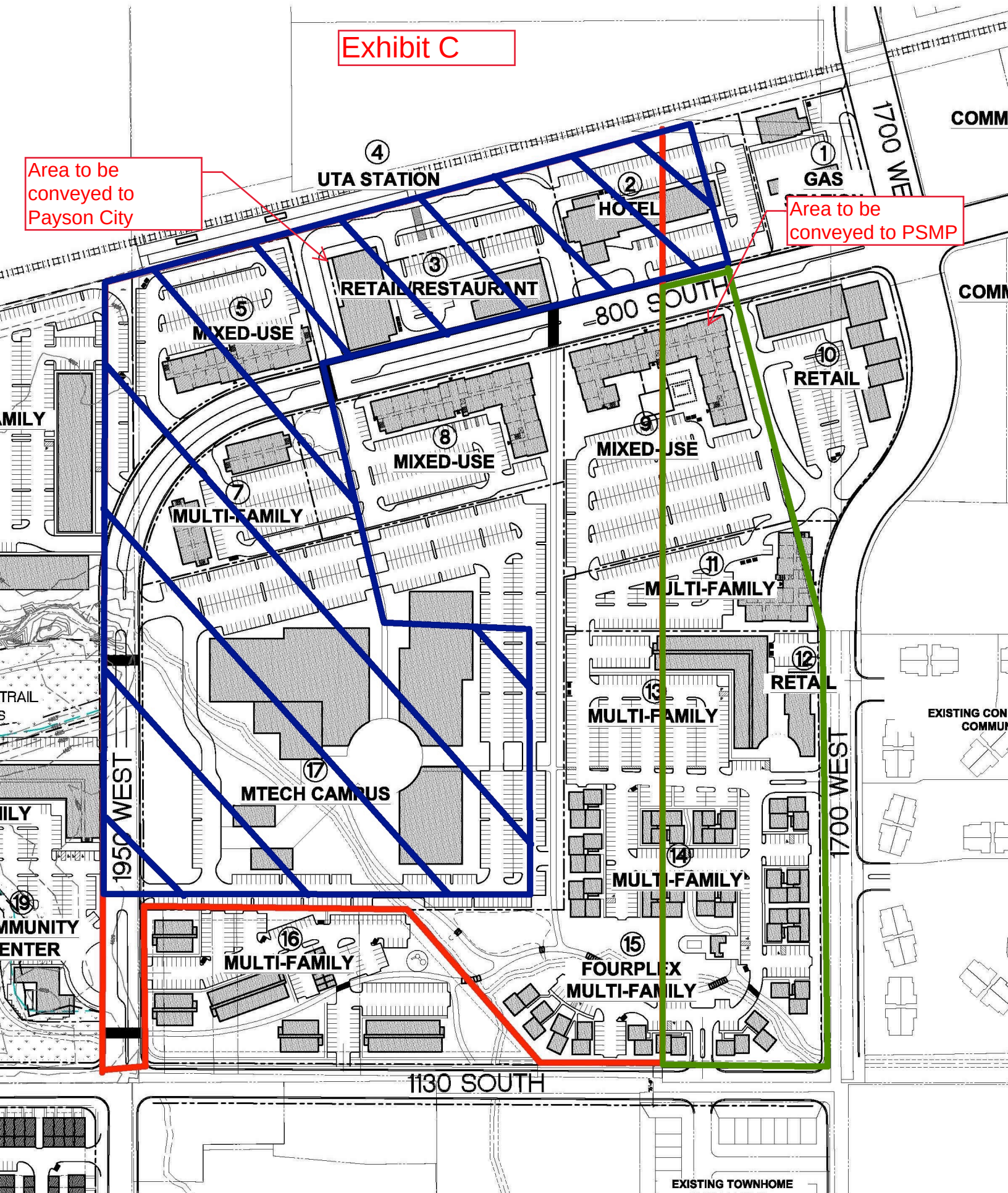


EXHIBIT D

Parcel Number	Acreage	Current Owner
29:012:0020	42.72	
30:060:0056	33.59	
30:060:0069	1.00	Towne & Country Investments LLC
30:060:0014	1.68	Towne & Country Investments LLC
30:060:0040	1.65	Towne & Country Investments LLC
30:060:0030	10.25	Redevelopment Agency of Payson City
30:060:0049	1.45	Payson Business Center, LLC
30:060:0048	1.165	Payson Business Center, LLC
30:060:0009	0.257	Payson Business Center, LLC