MILLCREEK PLANNING AND ZONING
3330 SOUTH 1300 EAST
MILLCREEK, UTAH 84106

File No. ZM-21-003

City Council Staff Report

Meeting Date: **22 November 2021 (2ND Reading)**

Applicant: **Nathan Anderson**

Request:	**Applicant requesting rezone from R-1-8 to C-2 to accommodate the parking and assemblage required for a Mixed-Use PUD consisting of 7 residential townhomes and 4 live/work units. (*Refer to files CU-21-002 / SD-21-006 for proposed development*)**

Parcel: **16-33-381-055-0000 (4088 South Highland Drive)**

Size: **.04 acres / 1,742.4 square feet**

Prepared By: **Robert May, Long Range Planning Manager**

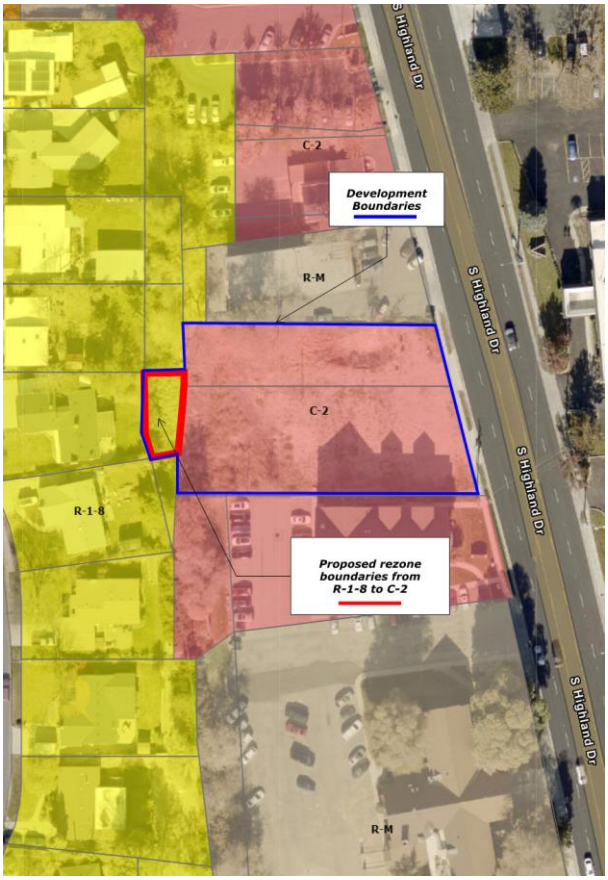
SYNOPSIS AND SCOPE OF DECISION

Applicant Nathan Anderson is requesting a rezone from R-1-8 to C-2 to accommodate the parking and assemblage required for a Mixed-Use PUD consisting of 7 residential townhomes and 4 live/work units.

(*Refer to files CU-21-002 / SD-21-006 for proposed development*).

The project development site consists of three separate parcels and collectively amounts to approximately .63 acres. The majority of the development site lies within C-2 Zone with roughly 1,700 sf that lies in the R-1-8 Zone.



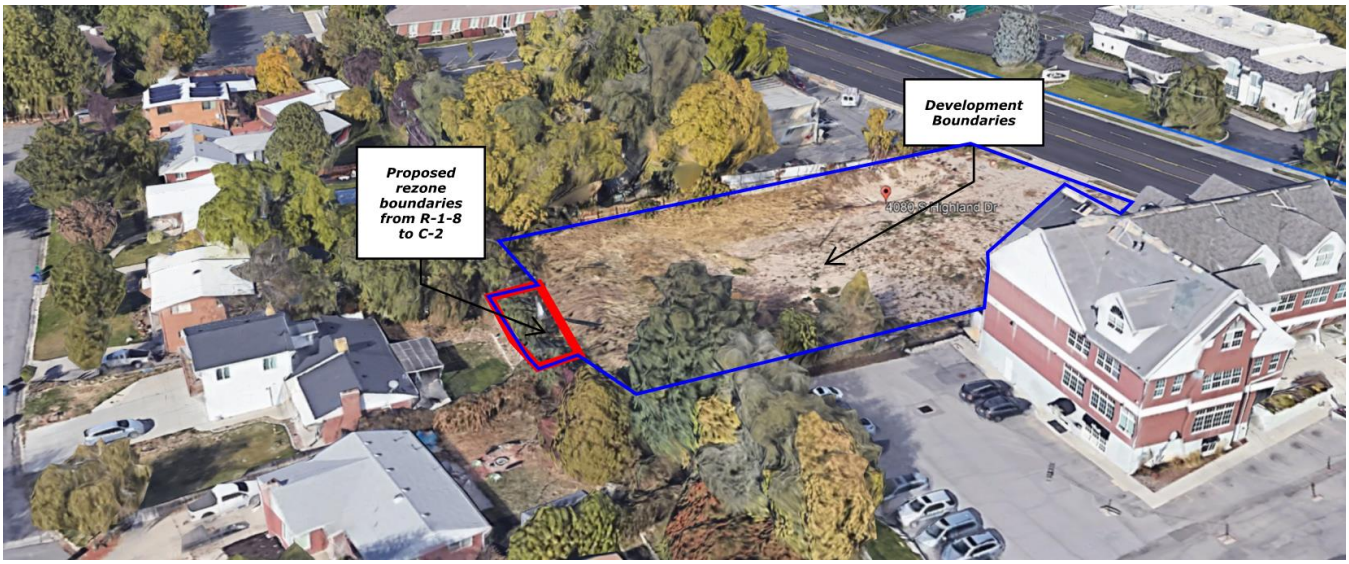


SITE & VICINITY DESCRIPTION

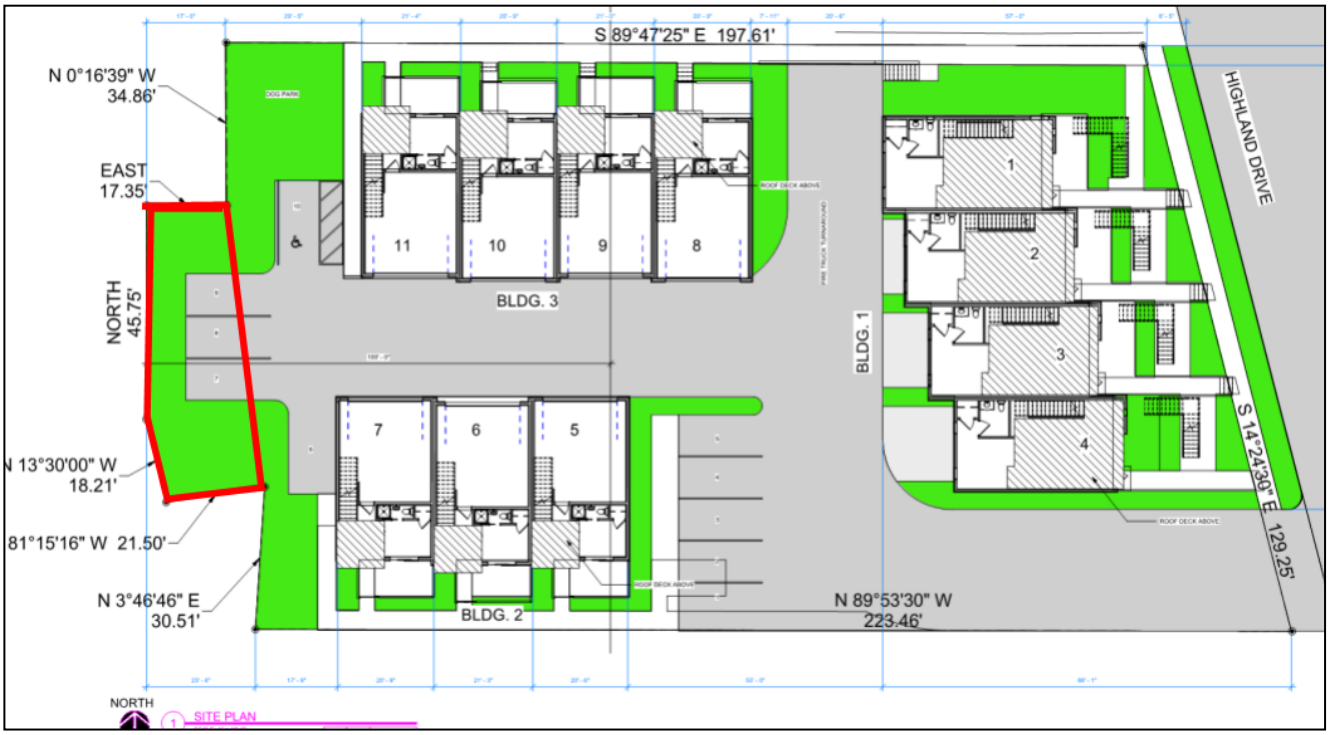
Existing Land Use and Proposed Change

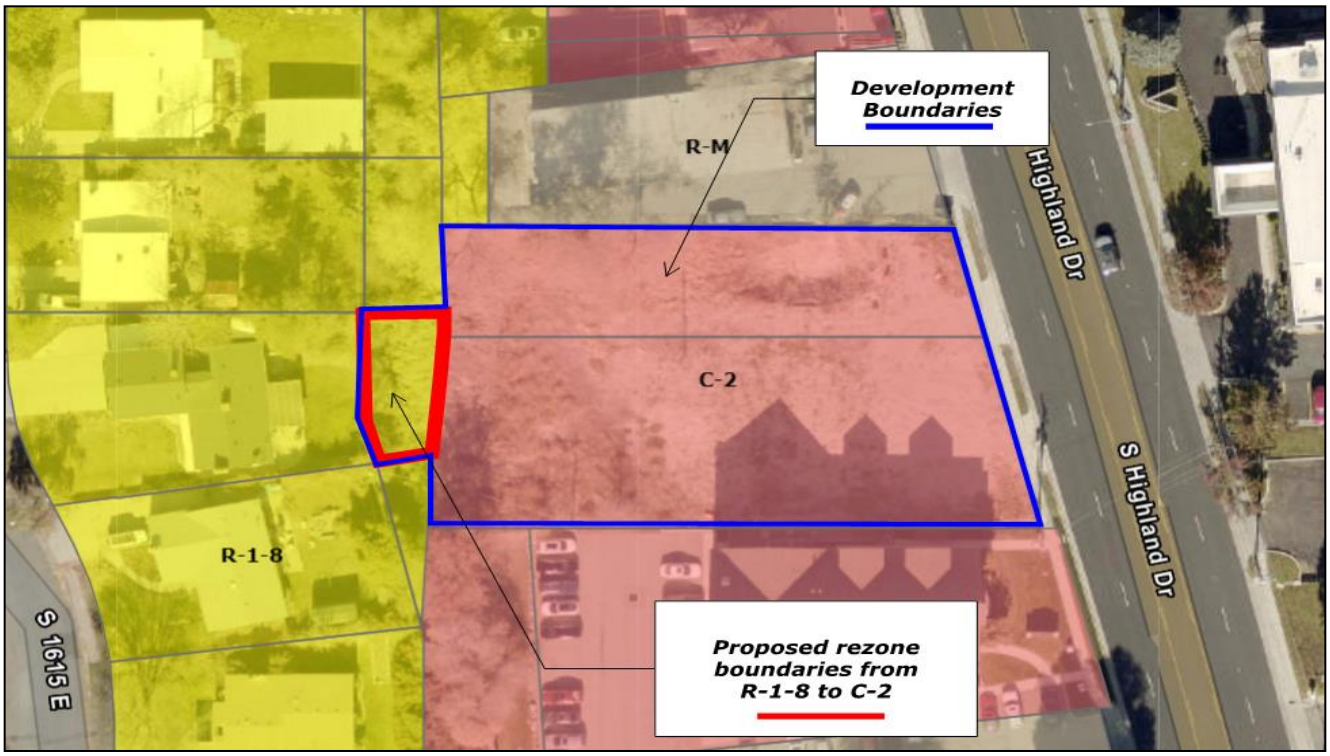
The subject property is wedged between a residential lot and a commercial property and is encumbered by an irrigation easement owned by Big Cottonwood Lower Canal Irrigation Company. There are multiple wedged and land locked properties within this area that are being used for commercial purposes. Many are being used for parking and serve as buffers to the residential behind them.





Below is a comparison of the proposed site plan with a portion of the required guest parking needed for the development. The three guest stalls are approximately 9’ feet from the west property line bordering the residential property.

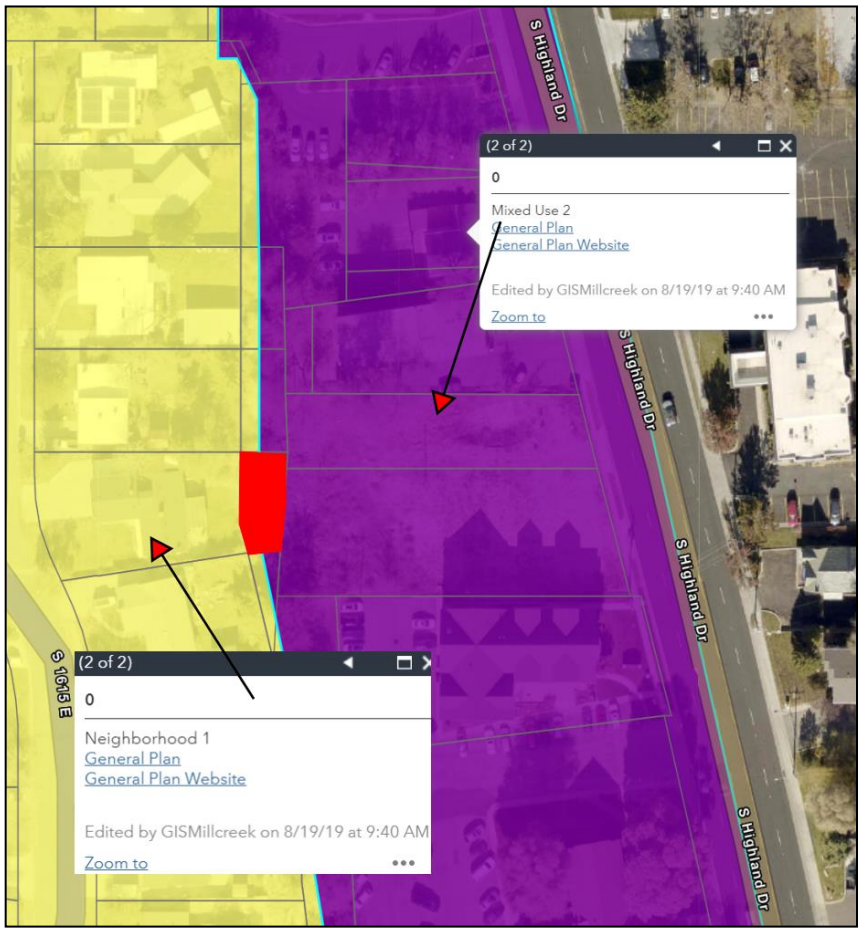




Future Land Use Map Considerations

The boundaries of the Mixed-Use 2 Zone follow the parcel boundaries, and although the parcel data is slightly skewed, it is clear the Future Land Use Map was intended to encumber the subject parcel as being lumped into the Mixed-Use 2 Zone. This was contemplated at the time the General Plan and Future Land Use Map was created due to many of these land locked properties being utilized for commercial/multi-family purposes.

Historically the small subject property has been assembled with the two other properties at 4080/4090 South and has been used in conjunction as a mechanic shop and a caretaker dwelling.



Left is an image of the Future Land Use Map showing the subject property in red.



Image to the left is the original mechanic shop built in the 1970's

STAFF ANALYSIS AND FINDINGS

Staff finds that a rezone to C-2 would be appropriate and would serve the intentions of the Future Land Use Map. Although the subject property is a separate parcel, it has historically been assembled with the other two parcels known as 4080/4090 South Highland Drive. However, staff does not feel as though a rezone to C-2 should move the height transition boundary, resulting in a greater height.

Staff is recommending that this rezone be subject to a development agreement with conditions.

1. The development site plan as presented in Exhibit C of the Development Agreement shall not change
2. Elevations and locations of buildings of development as presented in Exhibit C of the Development Agreement shall not change
3. Building materials and façade articulation of development as presented in Exhibit C of the Development Agreement shall not change
4. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.

The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. These reasonably anticipated detrimental effects can be addressed in a development agreement as well.

PROJECT INFORMATION

(*Refer to Staff Report CU-21-002 / SD-21-006 for proposed development details*) Architectural plans located in the supporting documents.

COMMUNITY COUNCIL RESPONSE

Millcreek Community Council. The Millcreek Community Council held a public meeting on this application on 10 August 2021. The Millcreek Community Council recommended approval of the project, on a vote of 8 approve and 1 abstained. During the meeting it was discussed that the applicant provide a buffer along the west property line with trees. It was also discussed that the development's CC&R's regulate the type of commercial space that can be used in the live/work units.

PLANNING COMMISSION RESPONSE

On 18 August 2021, Planning Commission as respects to ZM-21-003 rezone from R-1-8 to C-2, moved to recommend approval of the rezone subject to the staff report and conditions contained therein. Vote was unanimous.

NEIGHBORHOOD RESPONSE

Residents that attended meeting and by email comments to staff conveyed their concerns about the western boundary line having an adequate barrier by way of a fence and trees. Staff replied by adding that a perimeter fence is required by code. Another comment was made about restricting the live/work commercial space to prohibit massage parlors.

DEVELOPMENT AGREEMENT CONSIDERATIONS

Staff is recommending that this rezone be subject to a development agreement. Per §19.84.060 of the Millcreek Code, All Conditional Use Permits run with the land and may require the applicant to record documents to that effect. The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. These reasonably anticipated detrimental effects can be addressed in a development agreement as well.

Staff is recommending that a proposed development agreement address the following:

1. The development site plan as presented in Exhibit C shall not change
2. Elevations and locations of buildings of development as presented in Exhibit C shall not change
3. Building materials and façade articulation of development as presented in Exhibit C shall not change
4. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.
5. ~~Perimeter fencing is required for non-residential uses located adjacent to residential uses and mixed use developments. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, wood, or vinyl may be allowed with a minimum two foot wide, six foot tall brick or stone pillars spaced every ten feet on center. Unless a variance is granted by the Land Use Hearing Officer allowing different fencing requirements for areas within the irrigation easement owned and operated Big Cottonwood Lower Canal Company.~~ **Variance granted on November 1, 2021. See attached Variance Approval LU-21-007.**

PLANNING STAFF RECOMMENDATION

Based on staff findings, staff recommends to City Council to **approve** rezone application ZM-21-003 accompanied with a development agreement containing the following conditions:

5. The development site plan as presented in Exhibit C of the Development Agreement shall not change
6. Elevations and locations of buildings of development as presented in Exhibit C of the Development Agreement shall not change
7. Building materials and façade articulation of development as presented in Exhibit C of the Development Agreement shall not change
8. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.

SUPPORTING DOCUMENTS

1. Draft Development Agreement with Exhibits
2. Plans
3. Variance Approval LU-21-007
4. August 18, 2021 Planning Commission meeting minutes
5. August 18, 2021 Planning Commission Staff Report CU-21-002 / SD-21-006

When recorded, return to:

Millcreek
Attn: Jeff Silvestrini
3330 South 1300 East
Millcreek, UT 84106

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into this ____day of November 2021, by and between Highland Lofts, LLC. ("Developer"), for the land to be included in or affected by the project located at approximately 4080, 4088, and 4090 South Highland Drive in Millcreek Utah, a municipal corporation of the State of Utah ("City"). The Developer and the City are sometimes referred to as the "Parties."

RECITALS

WHEREAS, Developer owns approximately .65 acres of real property located at 4080, 4088, and 4090 South Highland Drive in Millcreek, Utah ("Property") and intends to develop the Property. A legal description of the Property is attached hereto as exhibit "A." The Parties desire that the Property be developed in a unified and consistent fashion and establish minimum standards for a new mixed-use planned unit development consisting of 7 residential townhomes and 4 live/work townhomes (the "Project") on the Property; and

WHEREAS, Developer hereby represent to the Millcreek Council that it is voluntarily entering into this Agreement; and

WHEREAS, Developer is willing to develop the Property in a manner that is in harmony with the objectives of the City's General Plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

WHEREAS, the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-11, *et seq*., and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

DRAFT

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Affected Property**. The legal description of the Property contained within the Project boundaries is attached as exhibit "A." No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

2. **Reserved Legislative Powers**. Nothing in this Agreement shall limit the future exercise of police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land-use plans, ordinances, and regulations after the date of this Agreement, provided that the adoption and exercise of such power shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the Millcreek Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Ordinances and Standards**. Developer acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable ordinances and requirements of the City necessary for development of the Project, including the payment of fees, and compliance with applicable City standards.

4. **Specific Design Conditions**. The Project shall be developed and constructed as set forth in the specific design conditions/criteria set forth in exhibit "B. The Project shall also comply with all requirements set forth in the minutes of the Millcreek Planning Commission and Millcreek meetings on this matter.

5. **Agreement to Run With the Land**. This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property. This Agreement supersedes any and all development agreements that have been executed concerning the Property.

6. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without the consent of the other party. This Agreement shall be binding upon any successors and assigns. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

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7. **No Joint Venture, Partnership or 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, except as expressly provided herein.

8. **Integration. Modification, and Entire Agreement**. This Agreement contains the agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind may only be modified by a subsequent writing duly executed and approved by the parties hereto. Exhibits A and B are hereby incorporated into this Agreement.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

TO DEVELOPER: Highland Lofts, LLC.
Nathan Anderson, Mgr. City Ventures, Mgr.
2383 South 900 South
Salt lake City, UT 84108

TO CITY: Millcreek
Jeff Silvestrini, Mayor
3330 South 1300 East
Millcreek, Utah 84106

DRAFT

Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

10. **Choice of Law and Venue**. Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Any Utah litigation regarding this Agreement shall be filed in the Third District Court in Salt Lake City, Utah. Any federal litigation regarding this Agreement shall be filed in the United States District Court for the District of Utah in Salt Lake City, Utah.

11. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

12. **Limitation on Recovery for Default – No Damages.** No party shall be entitled to any claim for any monetary damages as a result of any breach of this Agreement and each Party

waives any claims thereto. The sole remedy available to Developer or and assignee shall be that of specific performance. Notwithstanding such limitation the City may withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Develop or any assignee.

13. **Term of Agreement.** The term of this Agreement shall be until November 22, 2031 and shall automatically expire on such date.

14. **Force Majeure.** Neither party shall be liable or deemed to be in default for any delay, failure, or interruption in performance under the Agreement resulting, directly or indirectly, from acts of God, acts of civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, strikes or other work interruptions, or any other cause beyond the control of either party. Both Parties, however, agree to make good faith efforts to perform under this Agreement in the event of any such circumstance.

15. **Construction.** The Parties stipulate that this Agreement and all agreements or documents incorporated herein shall not be subject to the rule of construction that a written agreement is construed against the Party preparing or drafting that Agreement.

16. **Headings**. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

17. **No Waiver**. The failure of either Party to exercise in any respect a right provided for in this Agreement shall not be deemed to be a subsequent waiver of the right or of any other right.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

DRAFT

Millcreek

_____
Jeff Silvestrini, Mayor

ATTEST:

_____
Elyse Sullivan, CMC, City Recorder

DEVELOPER

By: _____

Title: _____

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Jeff Silvestrini and Elyse Sullivan as the Mayor and the City Recorder, respectively, of Millcreek, a Utah municipality.

_____
Notary Public

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

The foregoing instrument was acknowledged before me this ___ day of _____ 2021 by _____.

_____
Notary Public

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Exhibit A

Address: 4088 South Highland Drive

Parcel No. 16-33-381-055-0000

Legal Description

BEG NE COR LOT 20, GREEN PASTURES SUB; S 45.75 FT; S 13^30' E 18.21 FT M OR L; N 81^15'16" E 21.5 FT M OR L TO CANAL; N'LY ALG SD CANAL TO PT BEING E 29.47 FT FR BEG; W 29.47 FT TO BEG. 0.04 AC M OR L. 5664-1296 7627-2136 8447-3129 09766-5559

Address: 4080 South Highland Drive

Parcel No. 16-33-381-025-0000

Legal Description

BEG N 242.14 FT & W 70.76 FT FR S 1/4 COR SEC 33, T 1S, R 1ES L M; N 89^42'25" W 197.6 FT; S 0^16'39" E 48.33 FT, M OR LE 209.52 FT, M OR L; N 14^24'30" W 48.86 FT TO BEG. 0.22 AC 4433-0117 8619-3269 09499-2572

Address: 4090 South Highland Drive

Parcel No. 16-33-381-026-0000

Legal Description

COM 7.73 RDS N FR S 1/4 COR SEC 33 T 1S R 1E SL MER N 4.79 RDS W 16 RDS S 4.79 RDS E 16 RDS TO BEG LESS STREET & PARCELDEEDED TO S L CO FOR WIDENING 0.38 AC 4433-0117 5560-0226 8619-3272,3269 9499-2572 09758-3924

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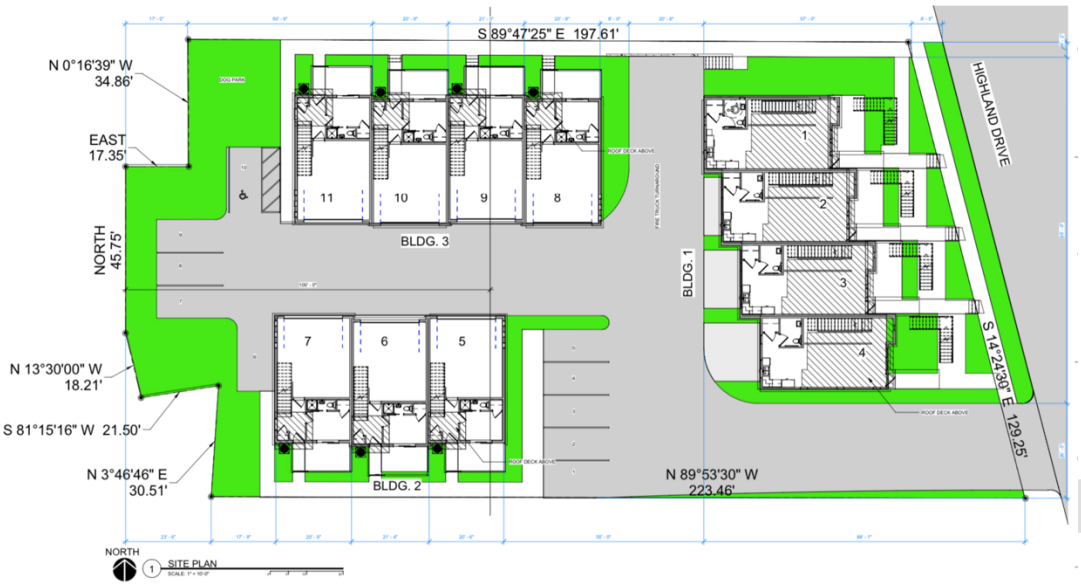
Exhibit B

Developer and the City agree that the proposed development will incorporate the following:

1. The development site plan as presented in Exhibit C shall not change
2. Elevations and locations of buildings of development as presented in Exhibit C shall not change
3. Building materials and façade articulation of development as presented in Exhibit C shall not change
4. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.

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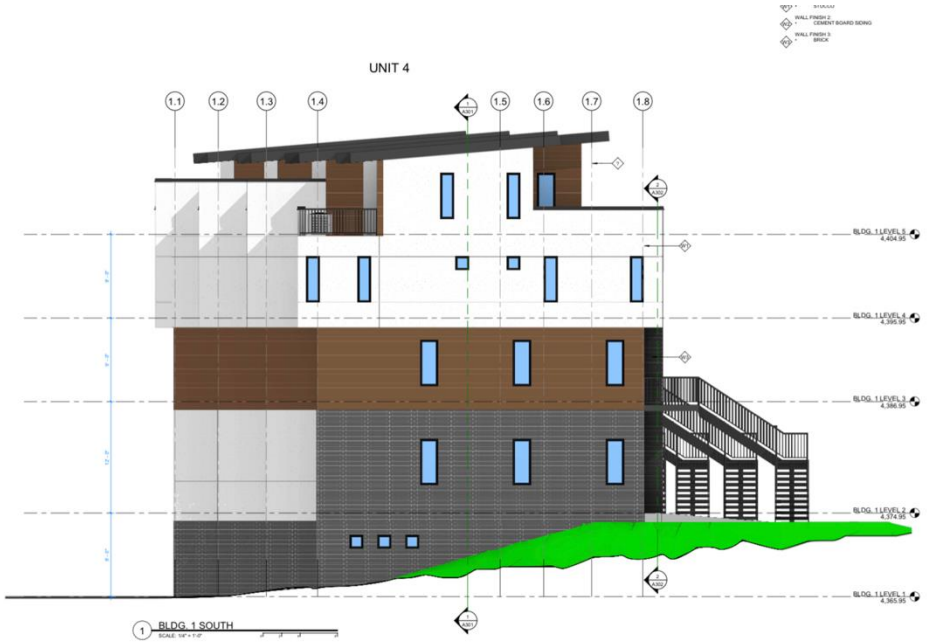
Exhibit C


S 89°47'25" E 197.61'
N 0°16'39" W
34.86'
EAST
17.35'
NORTH
45.75'
N 13°30'00" W
18.21'
S 81°15'16" W 21.50'
N 3°46'46" E
30.51'
BLDG. 3
BLDG. 2
BLDG. 1
N 89°53'30" W
223.46'
HIGHLAND DRIVE
S 14°24'30" E 129.25'
11
10
9
8
7
6
5
1
2
3
4
NORTH
1 SITE PLAN


UNIT 4
UNIT 3
UNIT 2
UNIT 1
1.A
1.B
1.C
1.D
1.E
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
1 BLDG. 1 EAST


WALL FINISH 2
CEMENT BOARD SIDING
WALL FINISH 3
BRICK
1.8
1.7
1.6
1.5
UNIT 1
1.4
1.3
1.2
1.1
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 NORTH


WALL FINISH 2
CEMENT BOARD SIDING
WALL FINISH 3
BRICK
1.E
UNIT 1
1.D
UNIT 2
1.C
UNIT 3
1.B
UNIT 4
1.A
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 WEST


UNIT 4
1.1
1.2
1.3
1.4
1.5
1.6
1.7
1.8
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 SOUTH


2.1
2.2
2.3
2.4
UNIT 7
UNIT 6
UNIT 5
1
BLDG. 2 SOUTH
2.D
2.C
2.B
2.A
UNIT 5
UNIT 5 LEVEL 3
4,385.25
UNIT 5 LEVEL 2
4,375.25
UNIT 5 LEVEL 1
4,365.25
2
BLDG. 2 EAST

[DRAFT]


2.4
UNIT 5
2.3
UNIT 6
2.2
UNIT 7
2.1
BLDG. 2 NORTH
2.A 2.B
UNIT 7
2.C 2.D
UNIT 7 LEVEL 3
4,394.25
UNIT 7 LEVEL 2
4,374.25
UNIT 7 LEVEL 1
4,364.25
BLDG. 2 WEST

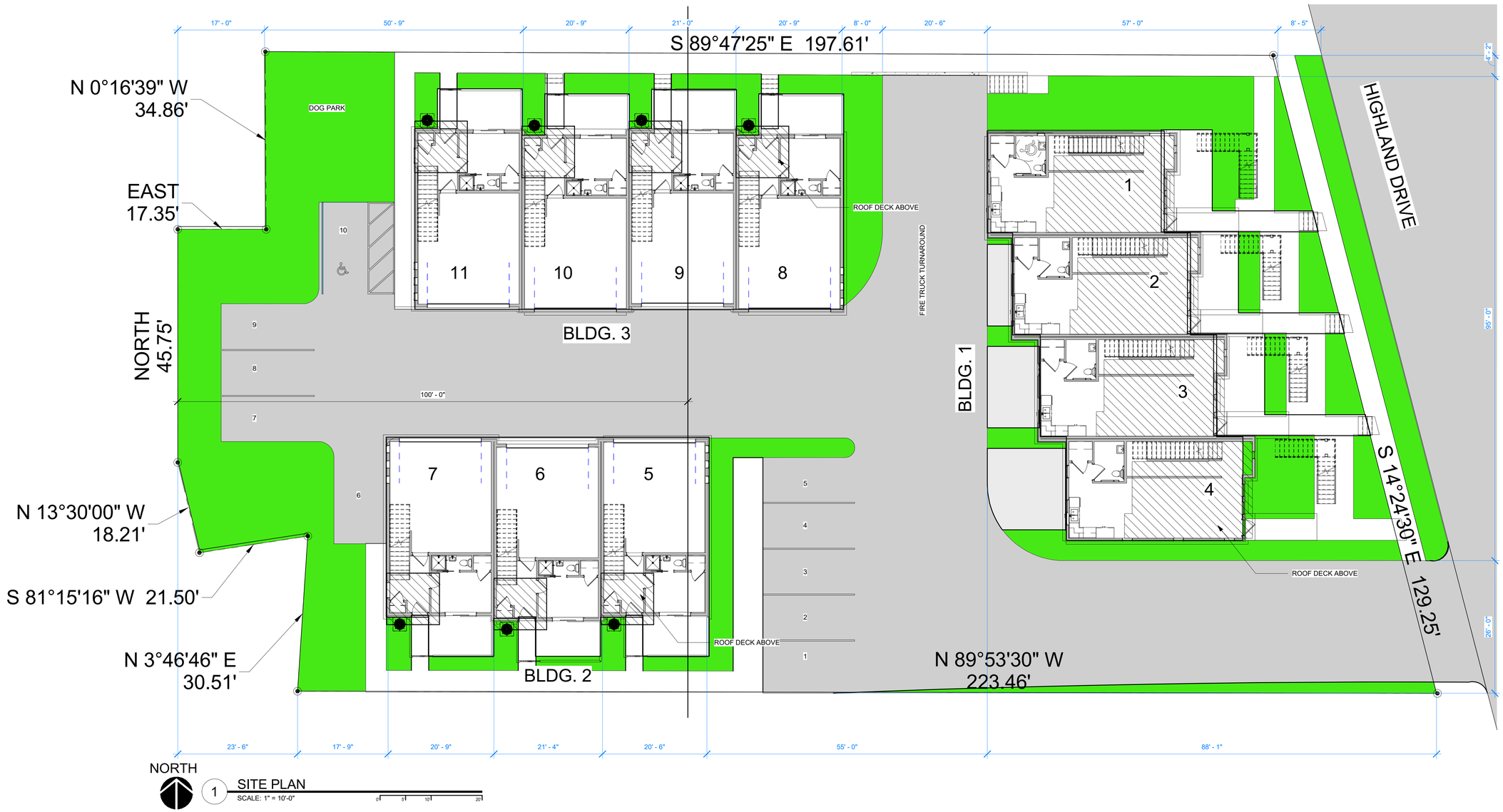












NORTH

1 SITE PLAN

SCALE: 1" = 10'-0"

0 5 10 20

TABULATION BOX

1. AVERAGE: .64
2. DENSITY UNDER C-2: MINIMUM 21,000 OF 27,878.
3. GEOLOGIC OVERLAY: TESTED NO FAULT DETECTED.
4. OPEN SPACE: 40% REQUIRED - 20 COMMON 20 PRIVATE
5. BUILDING AREA: 8,010 OR .28% OF LOT.
6. GARBAGE FACILITY: WITHIN GARAGE.
7. INTERNAL PARKING: 22
8. SITE PARKING: 10
9. SIDE YARDS 15', REAR YARD 25' FRONT YARD 25'
10. AMENITY: DOG PARK, MIXED USE

*PARKING: 11 UNITS (4 - 3 BEDROOM UNITS/10 PARKING STALLS) (7 - 2 BEDROOM UNITS 14 PARKING STALLS = 24 STALLS. GUEST = 4, COMMERCIAL (1,500) = 6

28 RESIDENTAIL + 6 COMMERCIAL, WITH SHARED PARKING WOULD BE 29 STALLS (32 PROVIDED)

DOG PARK W/BENCH IS FENCED 4' HEIGHT.
OPEN SPACE PROVIDED = 45%, 40% REQUIRED
MIXED-USED COMMERCIAL = 1,500/4 = 375 SF IN UNITS 1-4.
COURTYARDS ARE FENCED UNITS 5-11
UNITS 5-12 30' 0" FT IN HEIGHT, 1-4 = 45' IN HEIGHT.

WEST FENCING TO BE ALTERED FOR TERRAIN.

AREA BREAKDOWN

PROPERTY: 27,570 SF.
PARK STRIP: 1,228 SF.
28,798 SF.

OPEN SPACE: 10,817 SF.
ROOF DECKS: 2,124 SF.
12,941 SF. 45%

BUILDING PADS: 7,993 SF. - ROOF DECKS = 5,869 SF.
HARDSCAPE: 9,988 SF.
15,857 SF. 55%

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

OWNER PROJECT #:
RPA PROJECT #:
DRAWN BY:
CHECKED BY:
DESIGNED BY:

COPYRIGHT:
© 2018 RUSSELL PLATT ARCHITECTURE

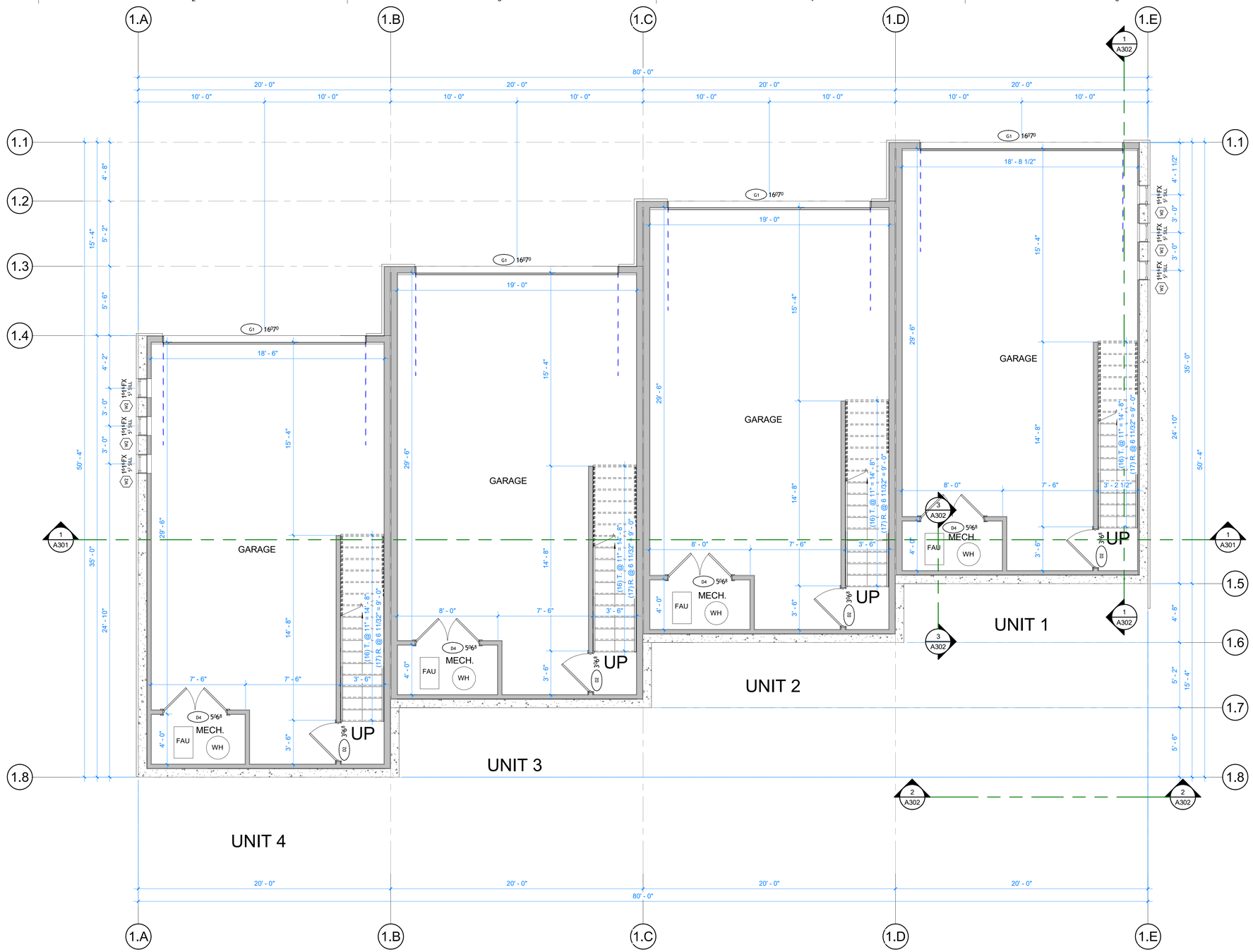
SHEET TITLE:

PLAN - SITE

SHEET NUMBER:

A100

Last Plotted: 10/1/2021 9:46:34 AM



ARCHITECT'S INFORMATION:

RUSSELL**PLATT** ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

OWNER PROJECT #:
RPA PROJECT #:
DRAWN BY:
CHECKED BY:
DESIGNED BY:

COPYRIGHT:
© 2018 RUSSELL PLATT ARCHITECTURE

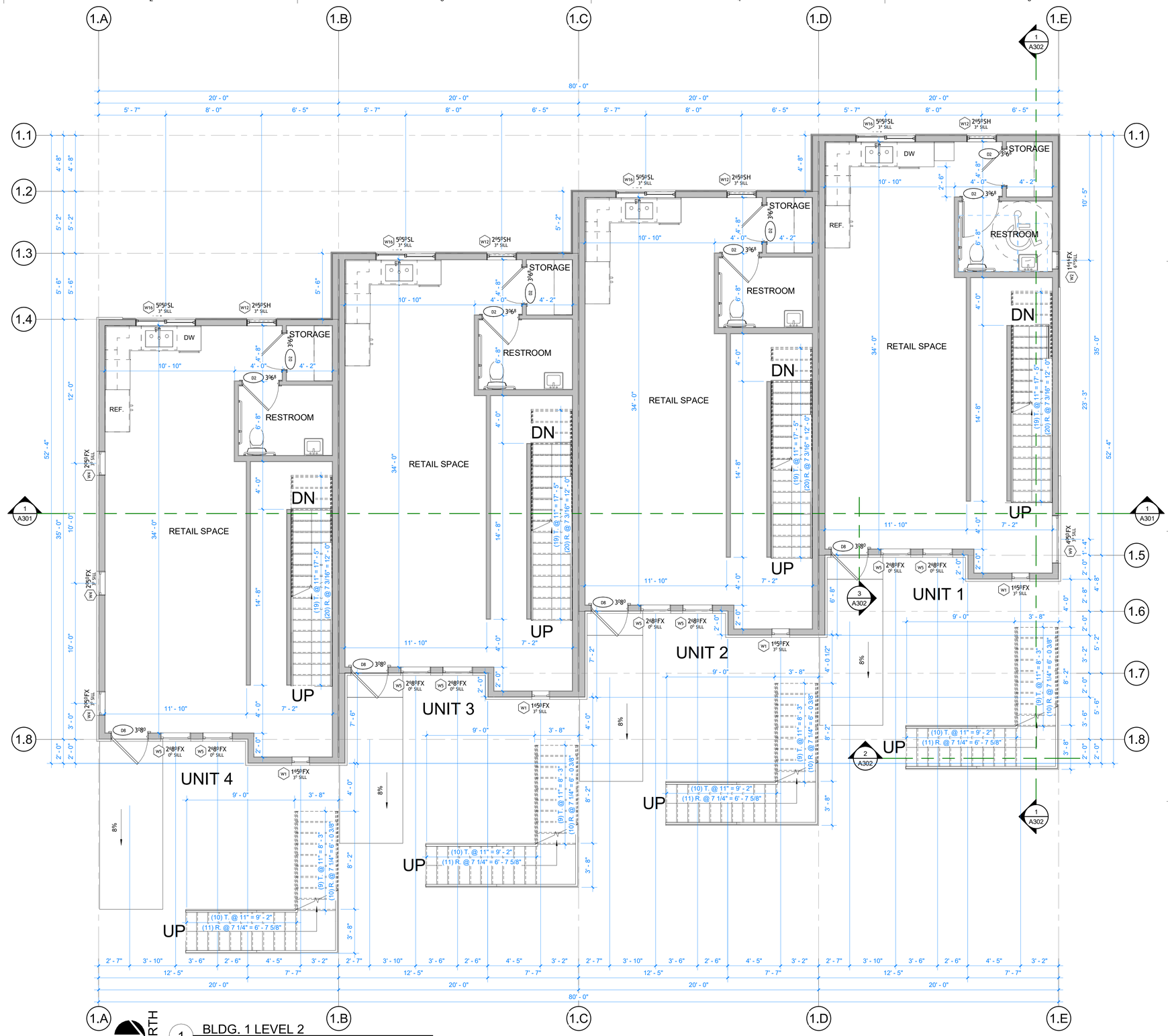
SHEET TITLE:

PLAN - BLDG. 1
LEVEL 1

SHEET NUMBER:

A111

Last Plotted: 10/1/2021 9:46:35 AM



Last Plotted: 10/1/2021 9:46:37 AM

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

OWNER PROJECT #:
RPA PROJECT #:
DRAWN BY:
CHECKED BY:
DESIGNED BY:

COPYRIGHT:
© 2018 RUSSELL PLATT ARCHITECTURE

SHEET TITLE:

PLAN - BLDG. 1
LEVEL 2

SHEET NUMBER:

A112

A CLEAR FLOOR SPACE COMPLYING WITH SECTION 305.3, POSITIONED FOR FORWARD APPROACH, SHALL BE PROVIDED. 2009 ICC - 606.2

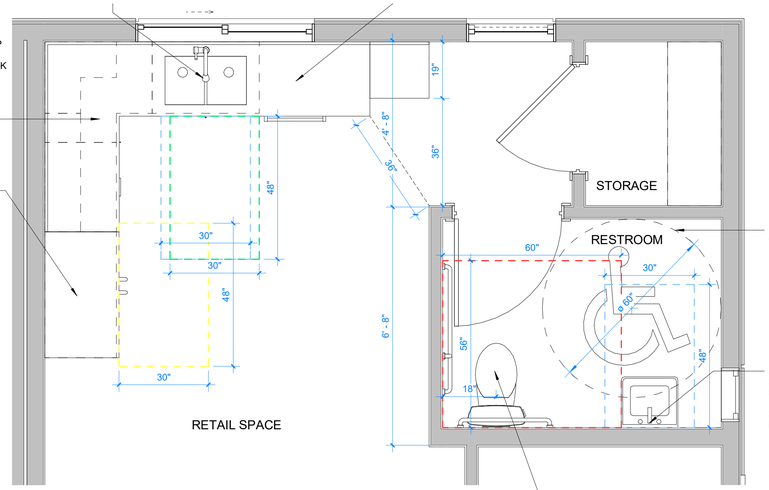
305.3 SIZE - THE CLEAR FLOOR SPACE SHALL BE 48" MIN. IN LENGTH AND 30 INCHES MIN. IN WIDTH.

A CLEAR FLOOR SPACE POSITIONED ADJACENT TO THE DISHWASHER DOOR, SHALL BE PROVIDED. THE DISHWASHER DOOR IN THE OPEN POSITION SHALL NOT OBSTRUCT THE CLEAR FLOOR SPACE FOR THE DISHWASHER OR AN ADJACENT SINK. 2009 ICC - 804.5.3

SPACES THAT DO NOT PROVIDED A COOKTOP OR CONVENTIONAL RANGE SHALL NOT BE REQUIRED TO PROVIDE AN ACCESSIBLE WORK SURFACE. 2009 ICC - 804.3

THE TOPS OF DINING SURFACES AND WORK SURFACES SHALL BE 28" MIN. AND 34" MAX. IN HEIGHT ABOVE THE FLOOR. 2009 ICC - 902.4

A CLEAR FLOOR SPACE, POSITIONED OF A PARALLEL APPROACH TO THE REFRIGERATOR/FREEZER, SHALL BE PROVIDED. THE CENTERLINE OF THE CLEAR FLOOR SPACE SHALL BE OFFSET 24" MAX. FROM THE CENTERLINE OF THE APPLIANCE. 2009 ICC - 804.5.6



THE TURNING SPACE SHALL BE CIRCULAR SPACE WITH A 60" MIN. DIAMETER. 2009 ICC - 606.2

A CLEAR FLOOR SPACE COMPLYING WITH SECTION 305.3, POSITIONED FOR FORWARD APPROACH, SHALL BE PROVIDED. 2009 ICC - 606.2

305.3 SIZE - THE CLEAR FLOOR SPACE SHALL BE 48" MIN. IN LENGTH AND 30 INCHES MIN. IN WIDTH.

CLEARANCE AROUND A WATER CLOSET SHALL BE 60" MIN. IN WIDTH, MEASURED PERPENDICULAR FROM THE SIDEWALL. CLEARANCE AROUND THE WATER CLOSET SHALL BE 56" MIN. IN DEPTH, MEASURED PERPENDICULAR FROM THE REAR WALL. 2009 ICC - 604.3

NORTH

1 BLDG. 1 LEVEL 2 - Callout 1 Option 1

SCALE: 1/2" = 1'-0"

A CLEAR FLOOR SPACE COMPLYING WITH SECTION 305.3, POSITIONED FOR FORWARD APPROACH, SHALL BE PROVIDED. 2009 ICC - 606.2

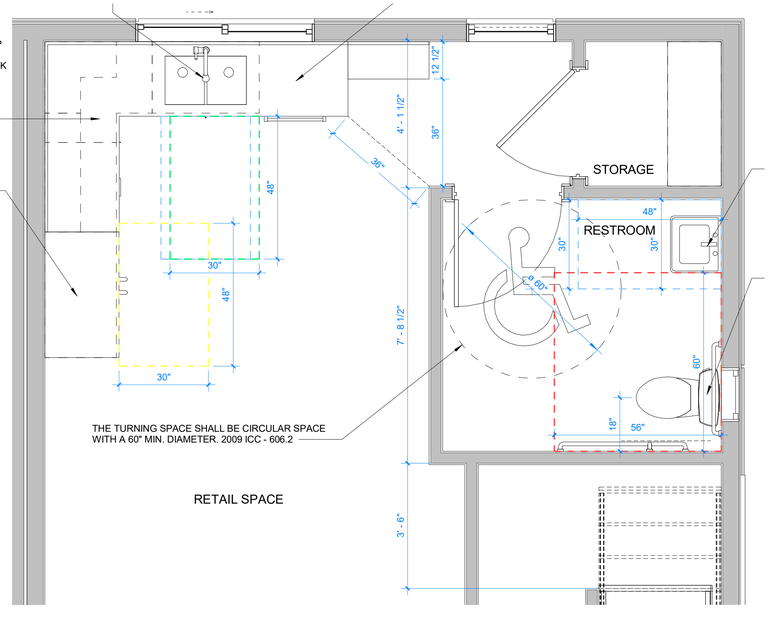
305.3 SIZE - THE CLEAR FLOOR SPACE SHALL BE 48" MIN. IN LENGTH AND 30 INCHES MIN. IN WIDTH.

A CLEAR FLOOR SPACE POSITIONED ADJACENT TO THE DISHWASHER DOOR, SHALL BE PROVIDED. THE DISHWASHER DOOR IN THE OPEN POSITION SHALL NOT OBSTRUCT THE CLEAR FLOOR SPACE FOR THE DISHWASHER OR AN ADJACENT SINK. 2009 ICC - 804.5.3

SPACES THAT DO NOT PROVIDED A COOKTOP OR CONVENTIONAL RANGE SHALL NOT BE REQUIRED TO PROVIDE AN ACCESSIBLE WORK SURFACE. 2009 ICC - 804.3

THE TOPS OF DINING SURFACES AND WORK SURFACES SHALL BE 28" MIN. AND 34" MAX. IN HEIGHT ABOVE THE FLOOR. 2009 ICC - 902.4

A CLEAR FLOOR SPACE, POSITIONED OF A PARALLEL APPROACH TO THE REFRIGERATOR/ FREEZER, SHALL BE PROVIDED. THE CENTERLINE OF THE CLEAR FLOOR SPACE SHALL BE OFFSET 24" MAX. FROM THE CENTERLINE OF THE APPLIANCE. 2009 ICC - 804.5.6



THE TURNING SPACE SHALL BE CIRCULAR SPACE WITH A 60" MIN. DIAMETER. 2009 ICC - 606.2

A CLEAR FLOOR SPACE COMPLYING WITH SECTION 305.3, POSITIONED FOR FORWARD APPROACH, SHALL BE PROVIDED. 2009 ICC - 606.2

305.3 SIZE - THE CLEAR FLOOR SPACE SHALL BE 48" MIN. IN LENGTH AND 30 INCHES MIN. IN WIDTH.

CLEARANCE AROUND A WATER CLOSET SHALL BE 60" MIN. IN WIDTH, MEASURED PERPENDICULAR FROM THE SIDEWALL. CLEARANCE AROUND THE WATER CLOSET SHALL BE 56" MIN. IN DEPTH, MEASURED PERPENDICULAR FROM THE REAR WALL. 2009 ICC - 604.3

NORTH

2 BLDG. 1 LEVEL 2 - Callout 1 Option 2

SCALE: 1/2" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELLPLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

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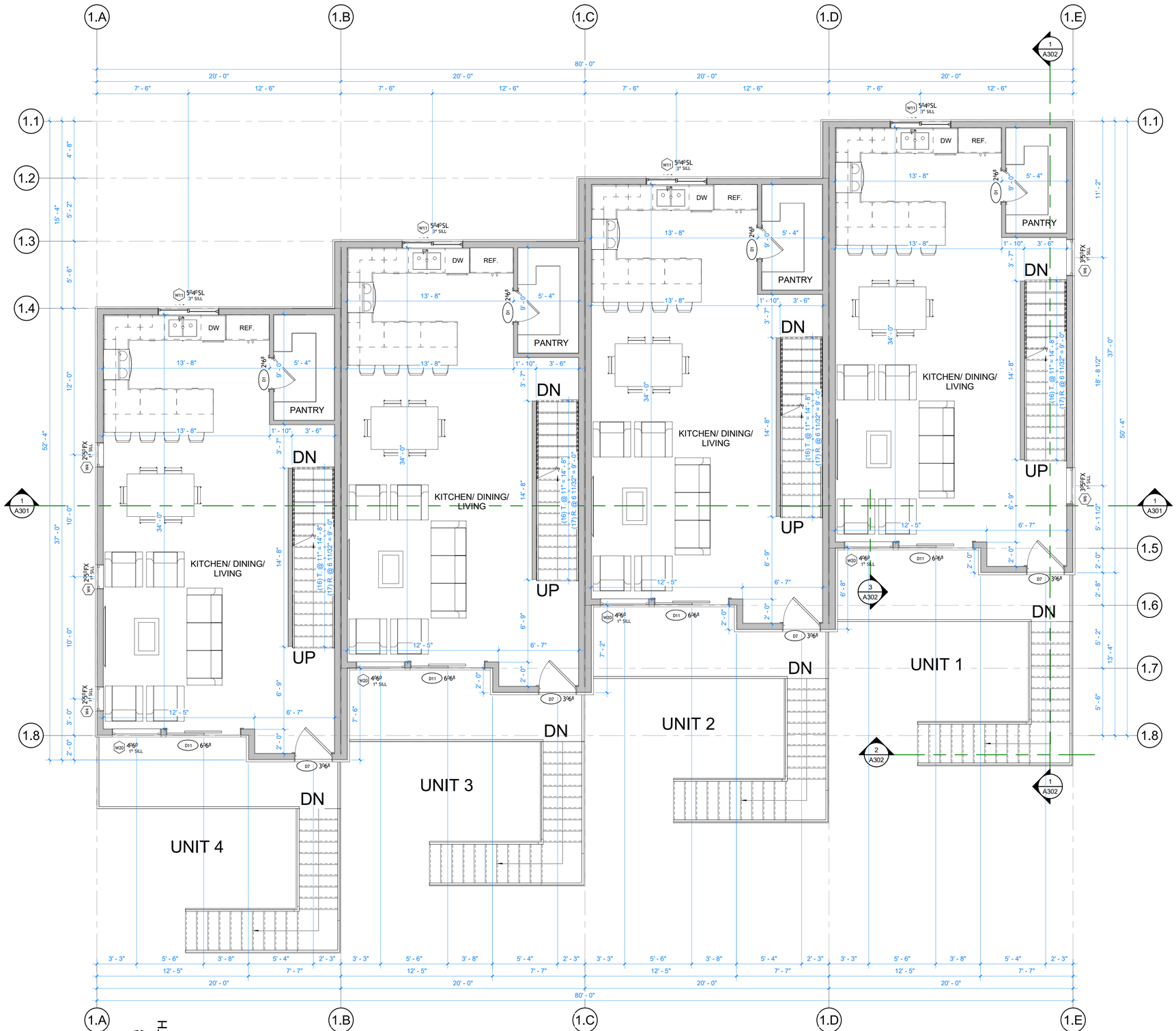
SHEET TITLE:

ENLARGED BLDG. 1 LEVEL 2 ADA PLAN

SHEET NUMBER:

A112.1

Last Plotted: 10/1/2021 9:46:38 AM



ARCHITECT'S INFORMATION:

RUSSELL**PLATT** ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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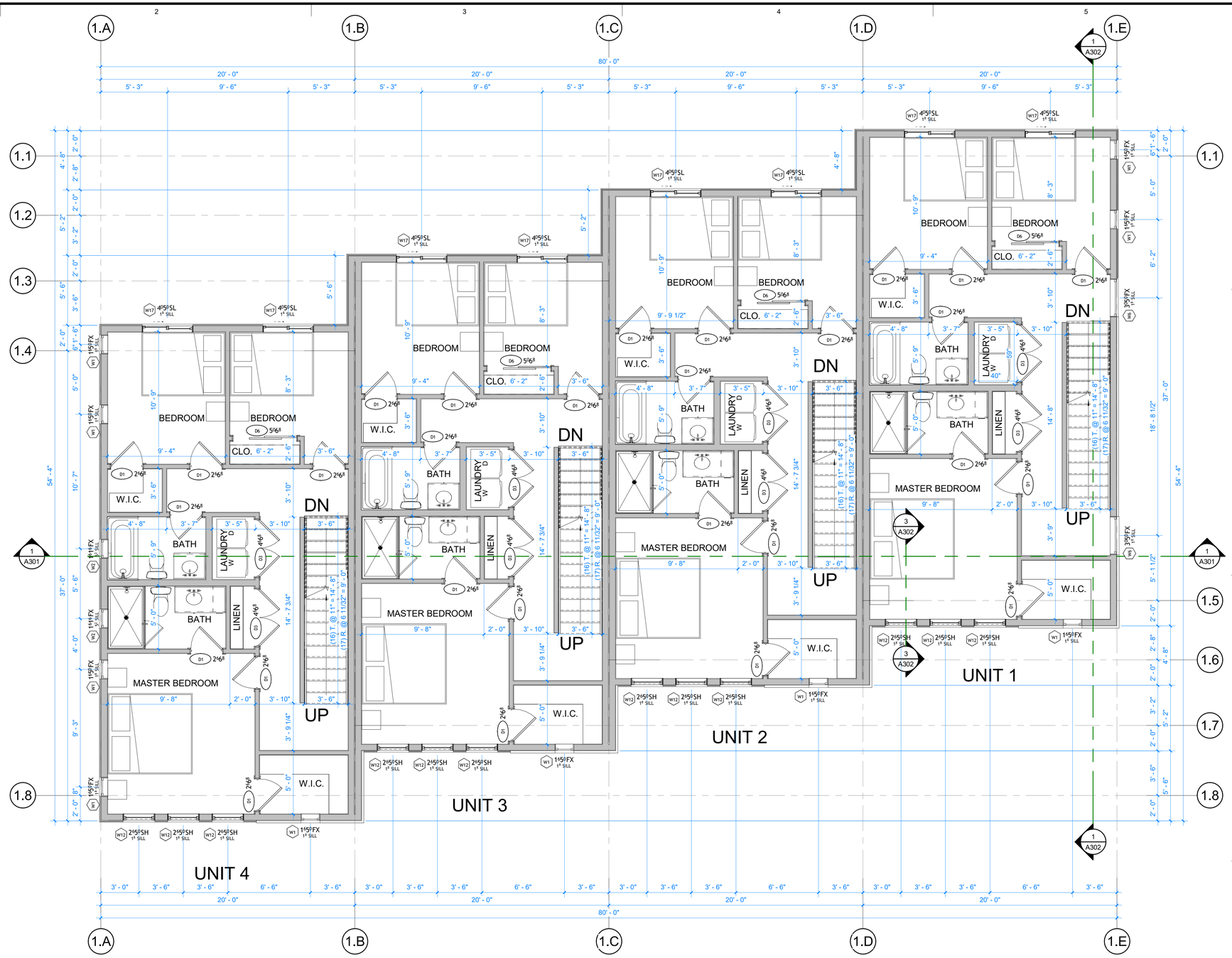
SHEET TITLE:

PLAN - BLDG. 1
LEVEL 3

SHEET NUMBER:

A113

Last Plotted: 10/1/2021 9:46:40 AM



NORTH

1 BLDG. 1 LEVEL 4

SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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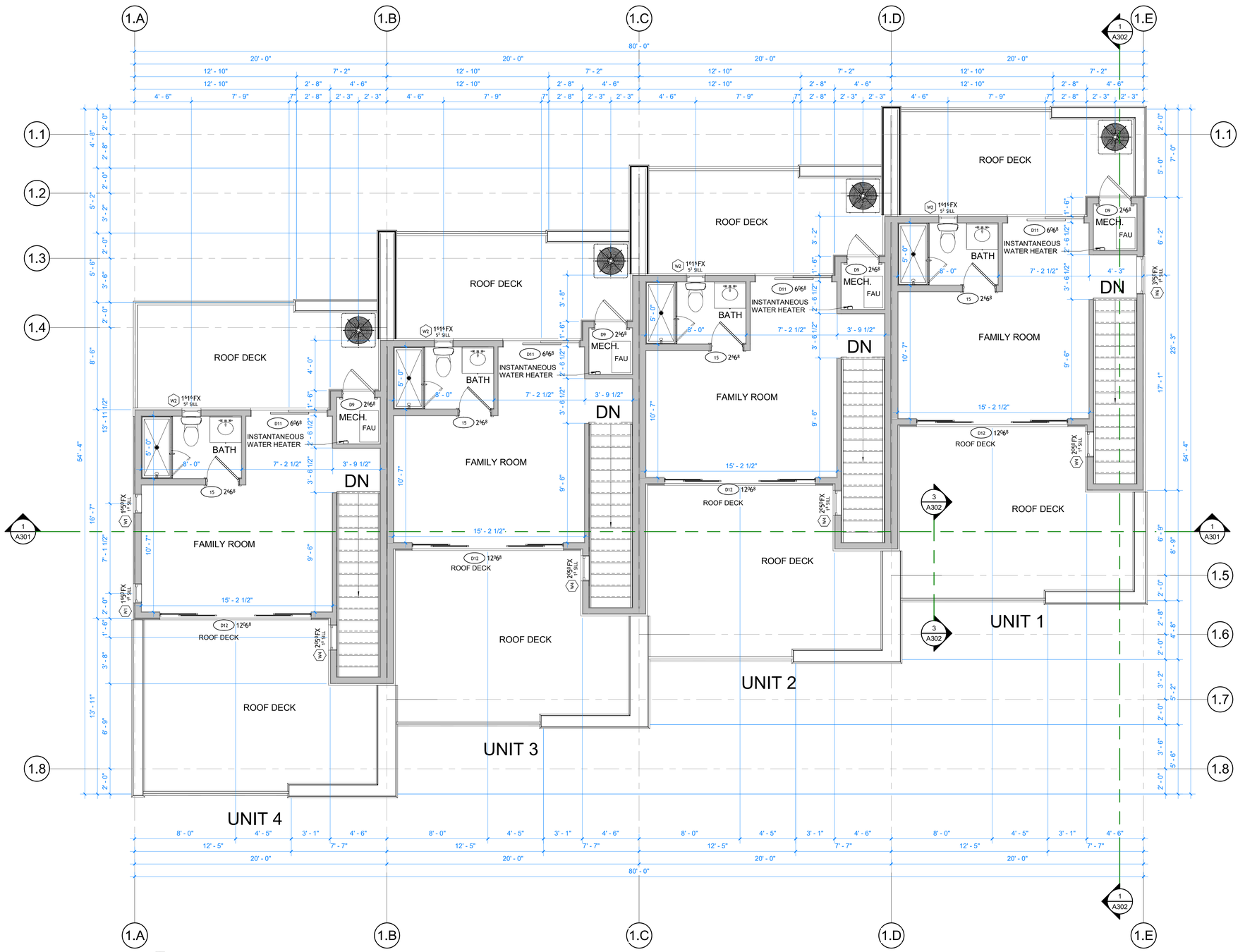
SHEET TITLE:

PLAN - BLDG. 1
LEVEL 4

SHEET NUMBER:

A114

Last Plotted: 10/1/2021 9:46:43 AM



ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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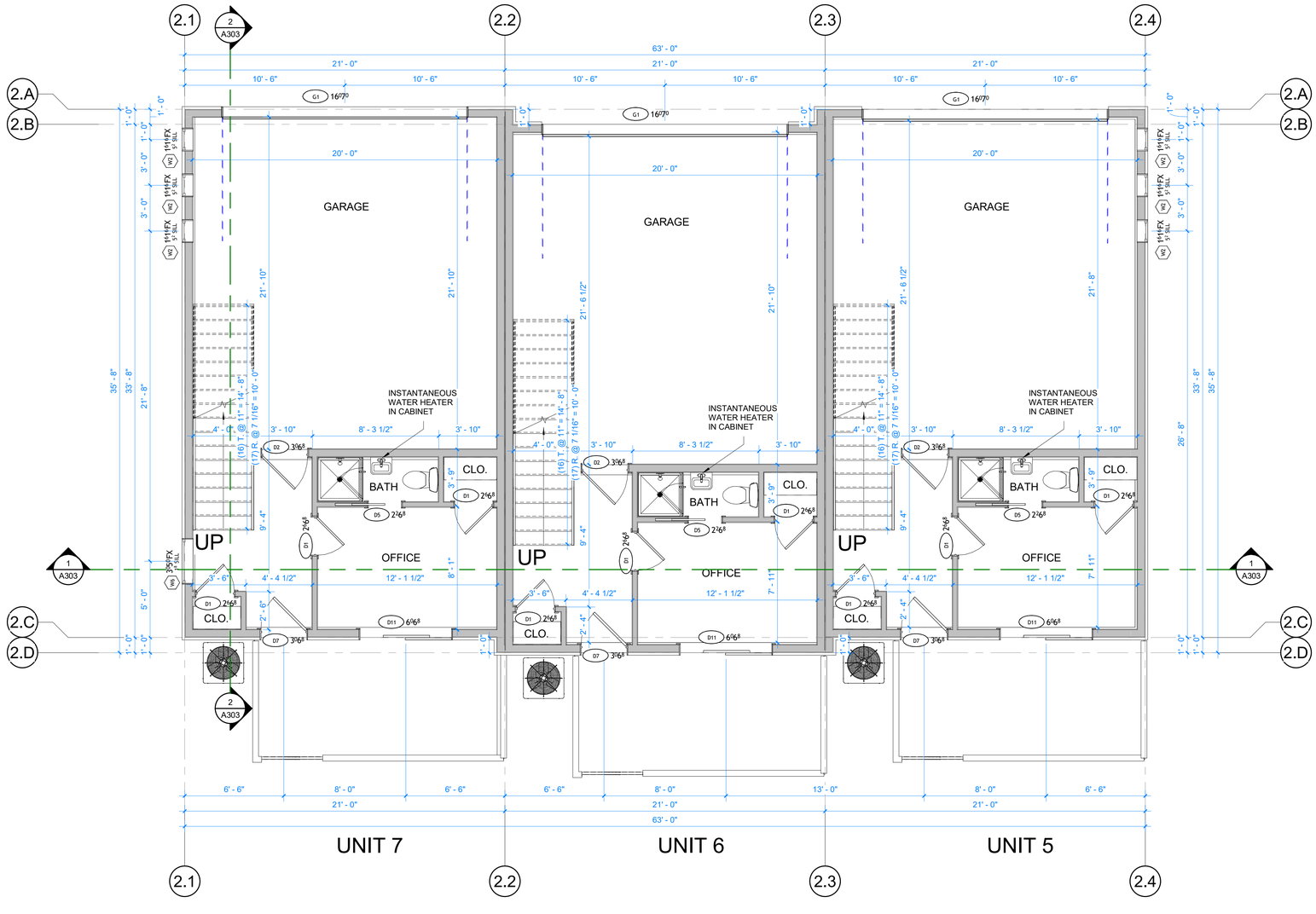
SHEET TITLE:

PLAN - BLDG. 1
LEVEL 5

SHEET NUMBER:

A115

Last Plotted: 10/1/2021 9:46:46 AM



NORTH

1 BLDG. 2 LEVEL 1

SCALE: 1/4" = 1'-0"

Last Plotted: 10/1/2021 9:46:48 AM

ARCHITECT'S INFORMATION:

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RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR, MILLCREEK, UT 84124

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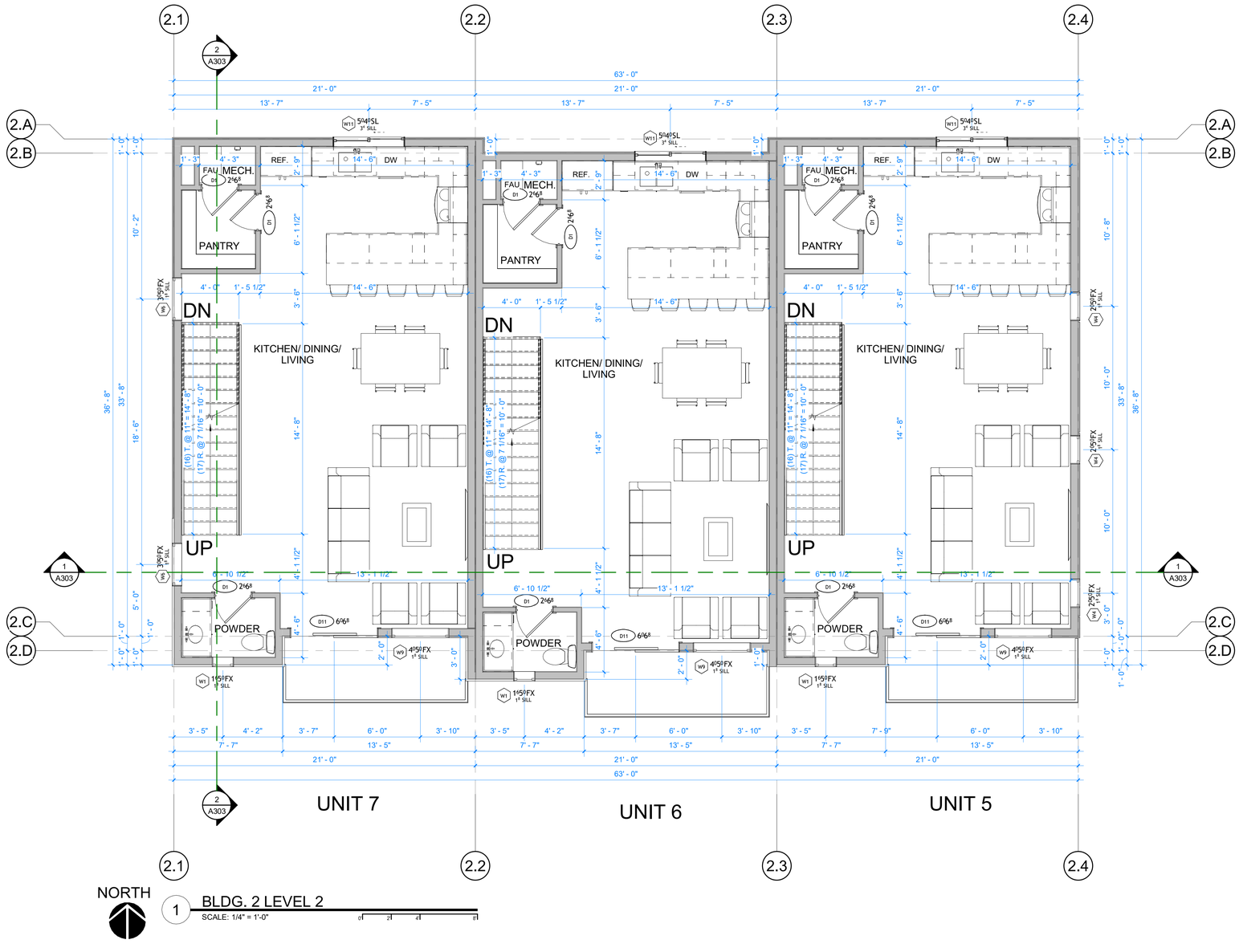
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SHEET TITLE:

PLAN - BLDG. 2
LEVEL 1

SHEET NUMBER:

A121



ARCHITECT'S INFORMATION:
RUSSELL PLATT ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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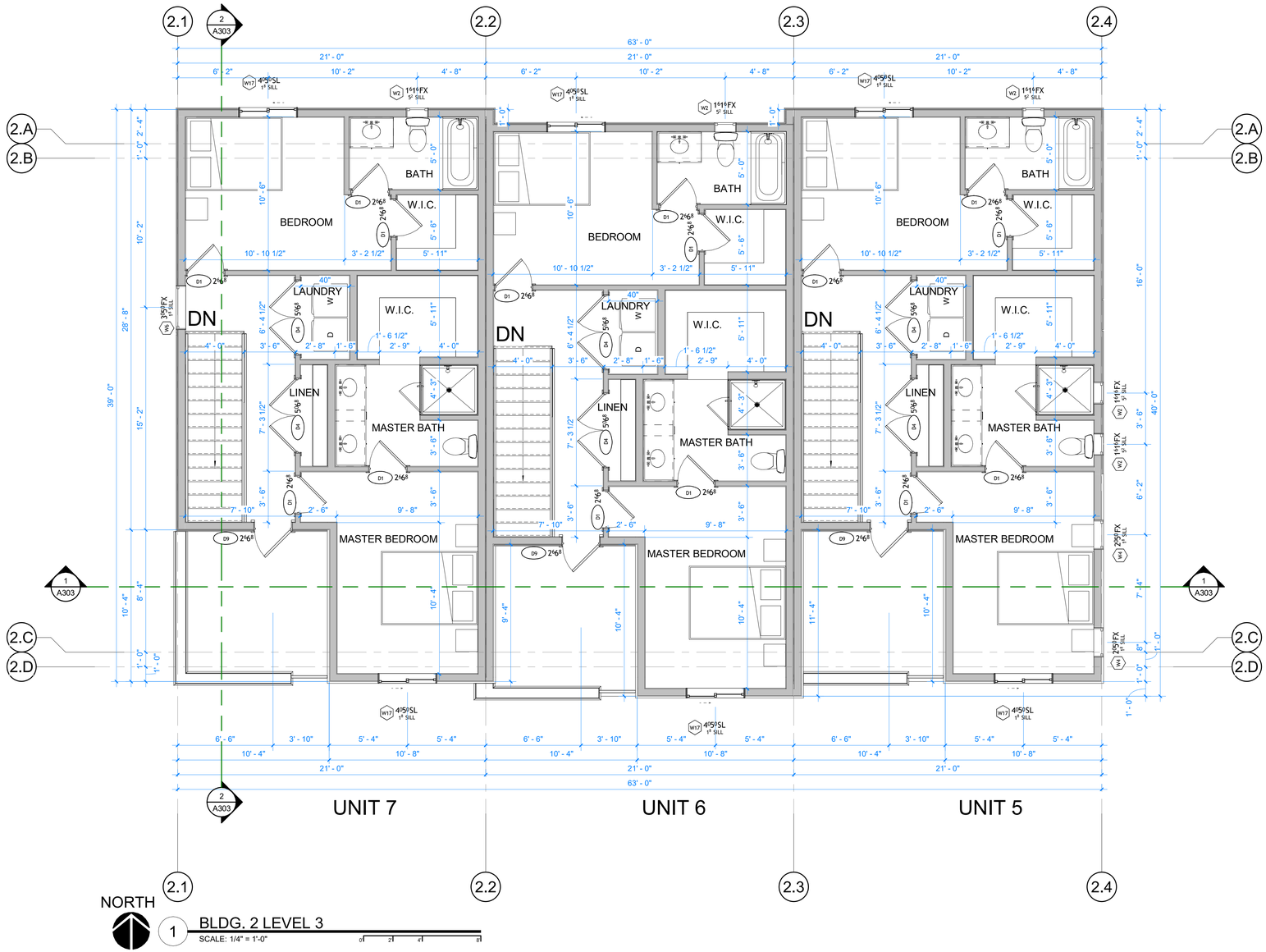
SHEET TITLE:

PLAN - BLDG. 2
LEVEL 2

SHEET NUMBER:

A122

Last Plotted: 10/1/2021 9:46:50 AM



Last Plotted: 10/1/2021 9:46:52 AM

ARCHITECT'S INFORMATION:

RUSSELL**PLATT** ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

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NO.	DATE	DESCRIPTION

OWNER PROJECT #:
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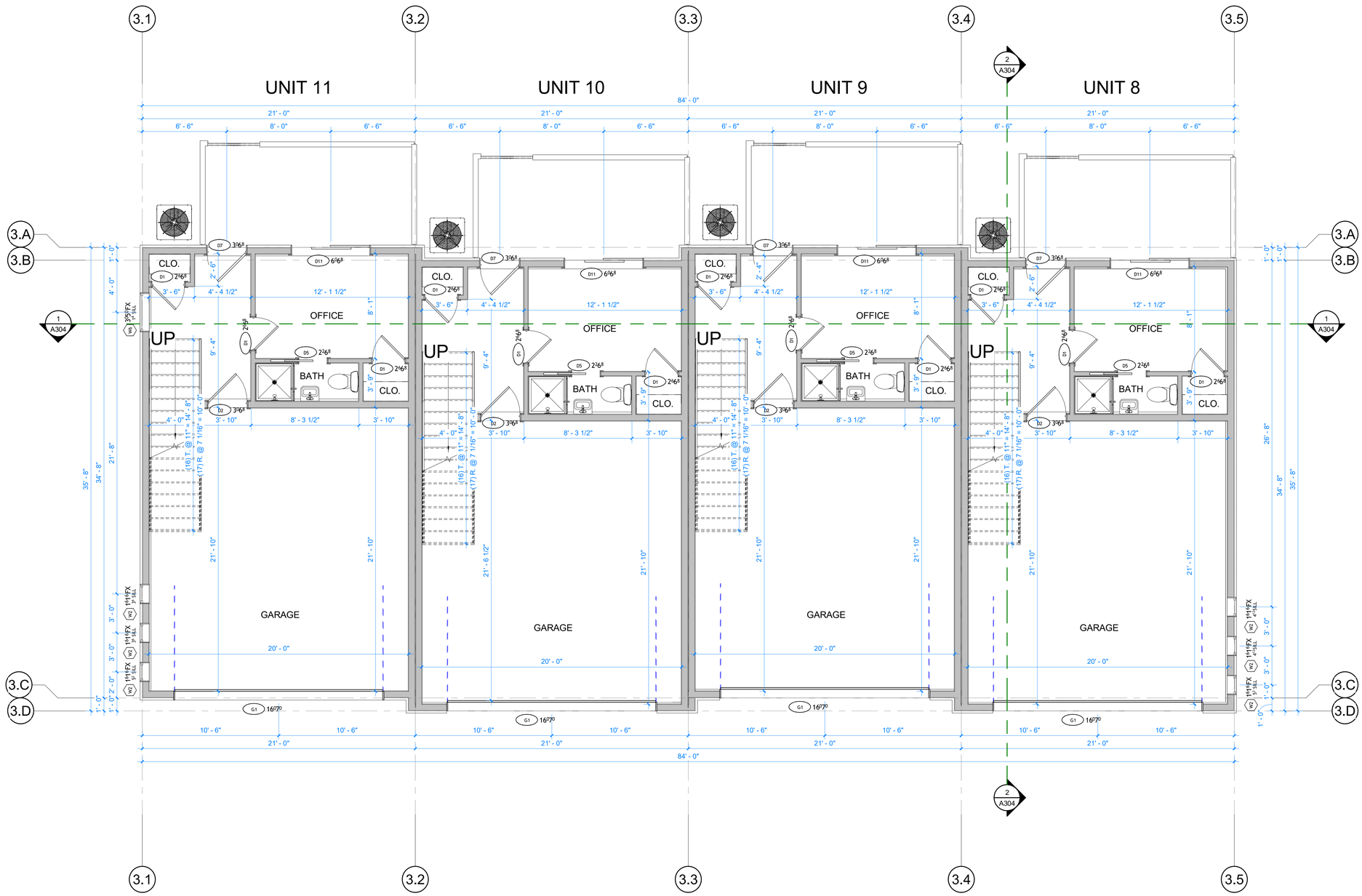
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SHEET TITLE:

PLAN - BLDG. 2
LEVEL 3

SHEET NUMBER:

A123



1 BLDG. 3 LEVEL 1

SCALE: 1/4" = 1'-0"

0' 2' 4' 8'

Last Plotted: 10/1/2021 9:46:55 AM

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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NO.	DATE	DESCRIPTION

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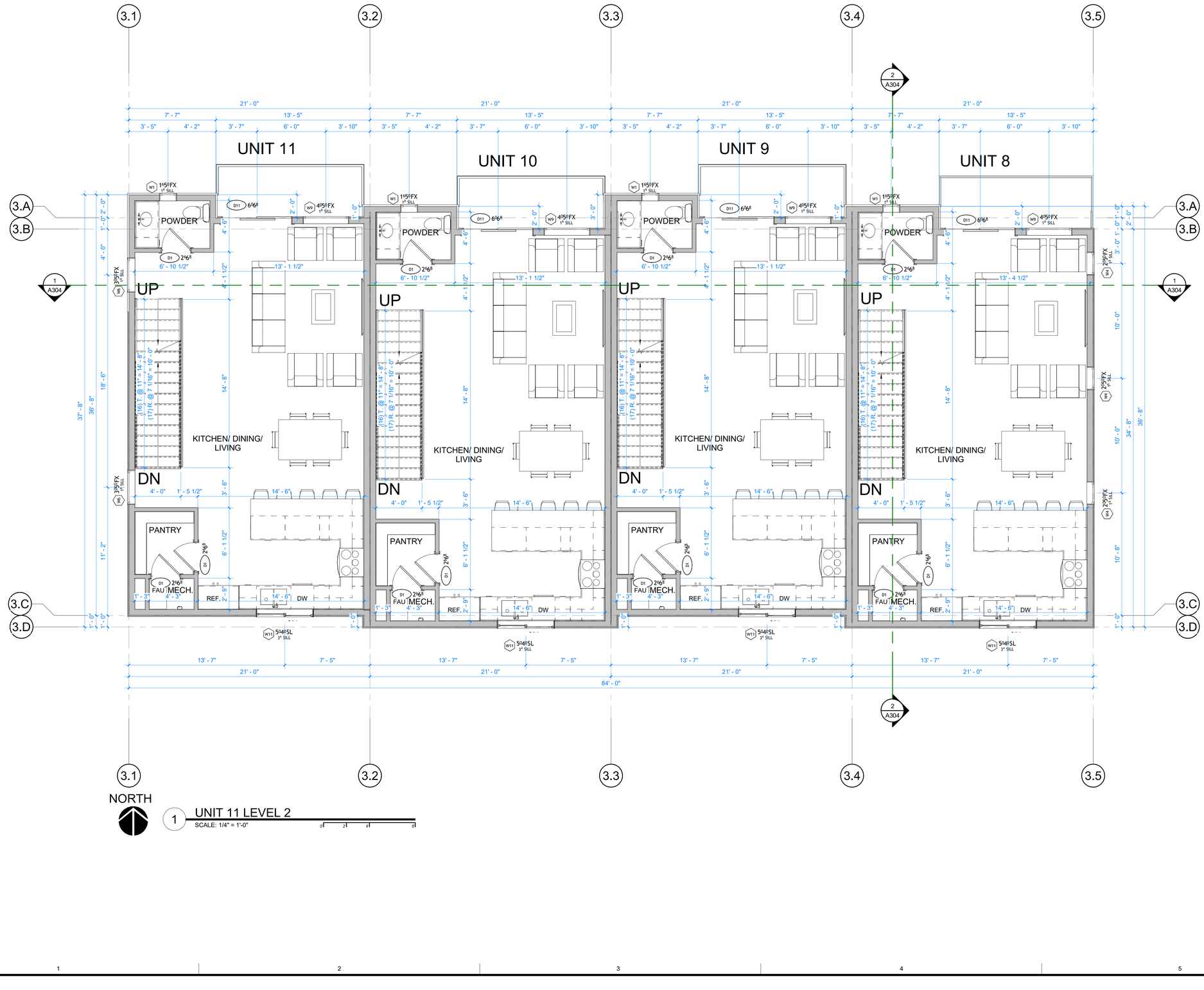
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SHEET TITLE:

PLAN - BLDG. 3
LEVEL 1

SHEET NUMBER:

A131



NORTH

1 UNIT 11 LEVEL 2
SCALE: 1/4" = 1'-0"

Last Plotted: 10/1/2021 9:46:57 AM

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

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ISSUED: OCT. 1ST, 2021

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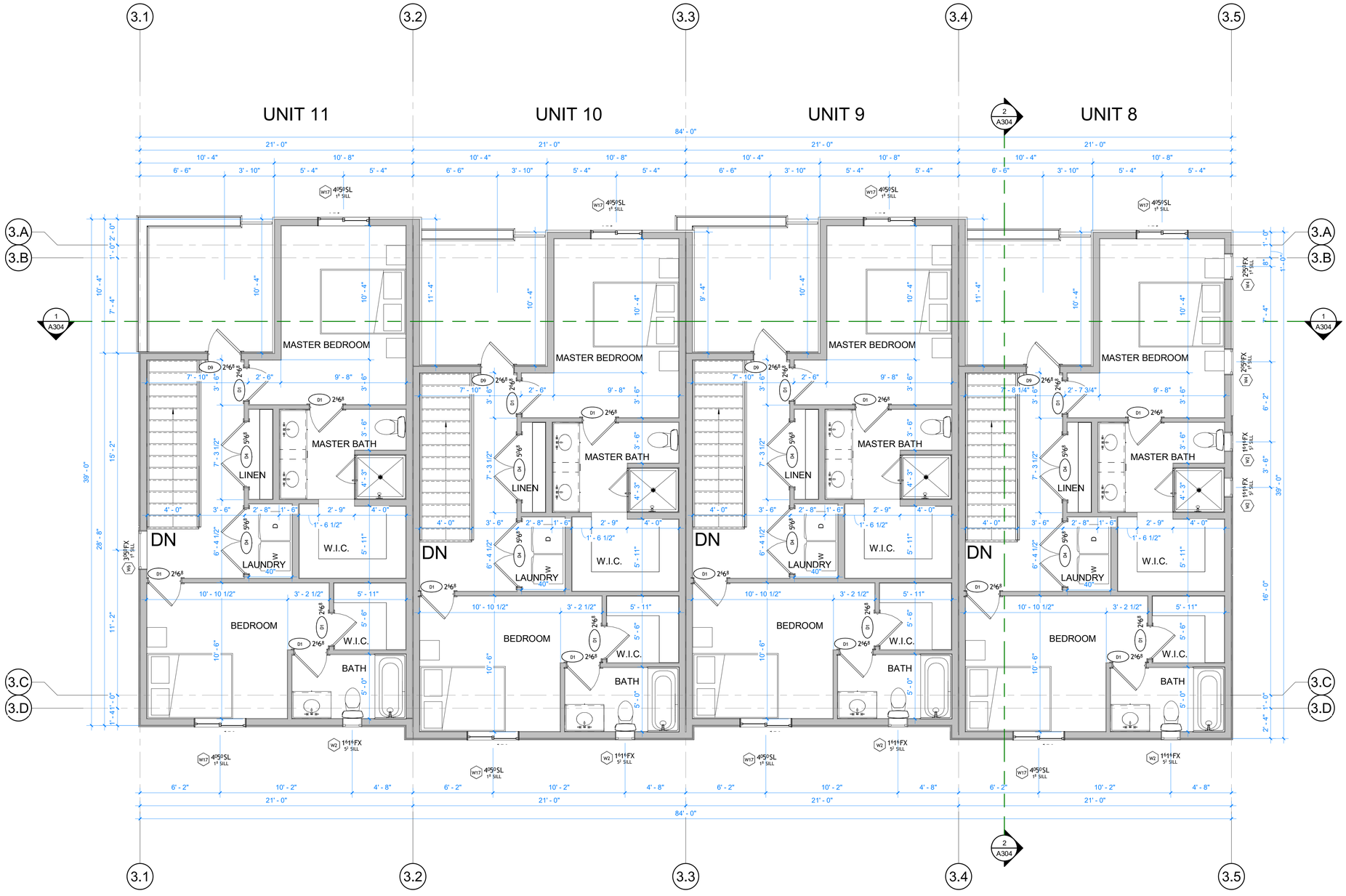
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SHEET TITLE:

PLAN - BLDG. 3
LEVEL 2

SHEET NUMBER:

A132



NORTH

1 UNIT 11 LEVEL 3

SCALE: 1/4" = 1'-0"

Last Plotted: 10/1/2021 9:47:00 AM

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS

4080 HIGHLAND DR. MILLCREEK, UT 84124

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SHEET TITLE:

PLAN - BLDG. 3
LEVEL 3

SHEET NUMBER:

A133

// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK



1 BLDG. 1 EAST
SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

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SHEET TITLE:

BUILDING ELEVATIONS BLDG. 1 EAST

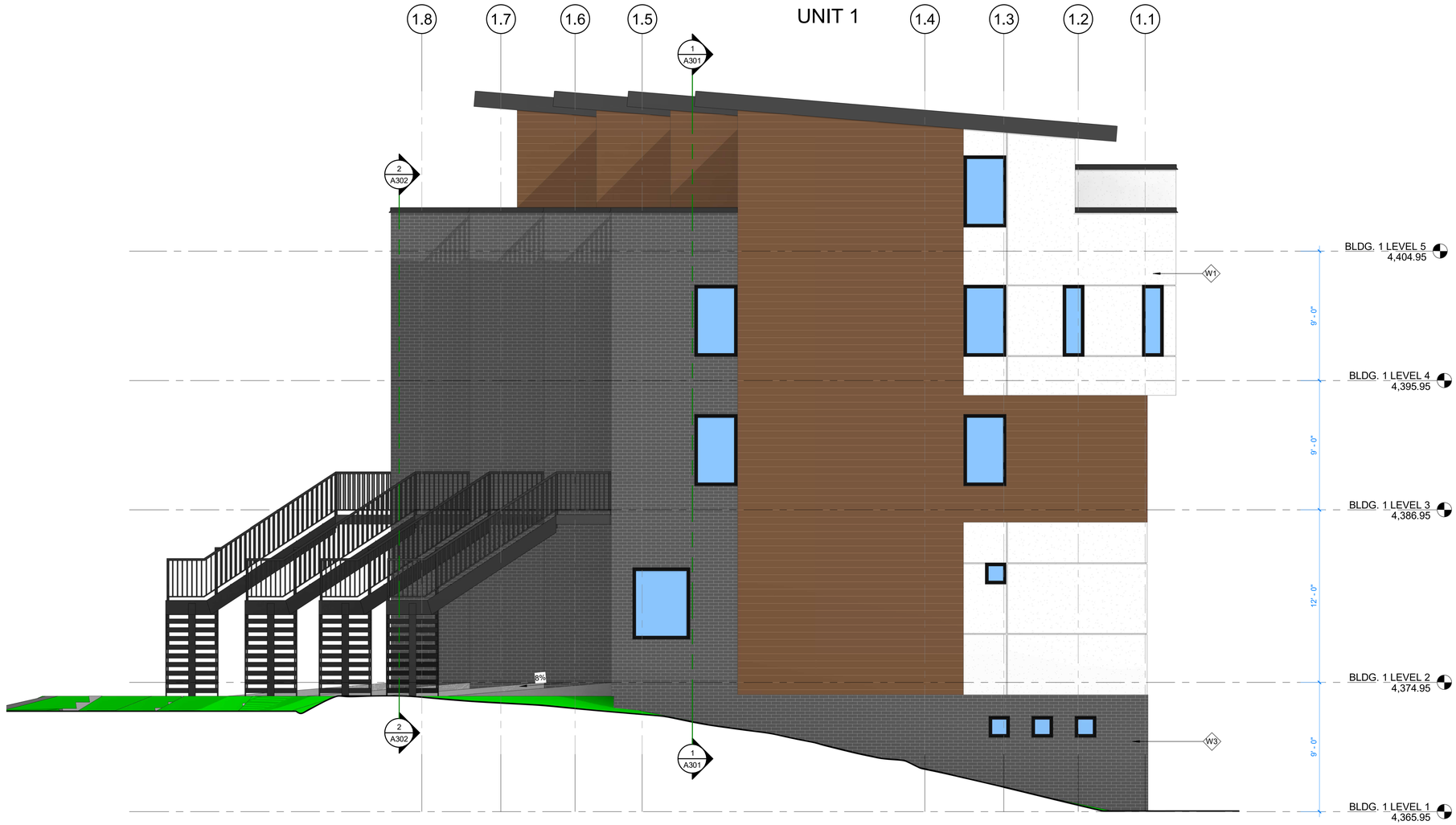
SHEET NUMBER:

A211

Last Plotted: 10/1/2021 9:47:22 AM

// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK



1 BLDG. 1 NORTH
SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

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SHEET TITLE:

BUILDING ELEVATIONS BLDG. 1 NORTH

SHEET NUMBER:

A212

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// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK



1 BLDG. 1 WEST
SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

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SHEET TITLE:

BUILDING ELEVATIONS BLDG. 1 WEST

SHEET NUMBER:

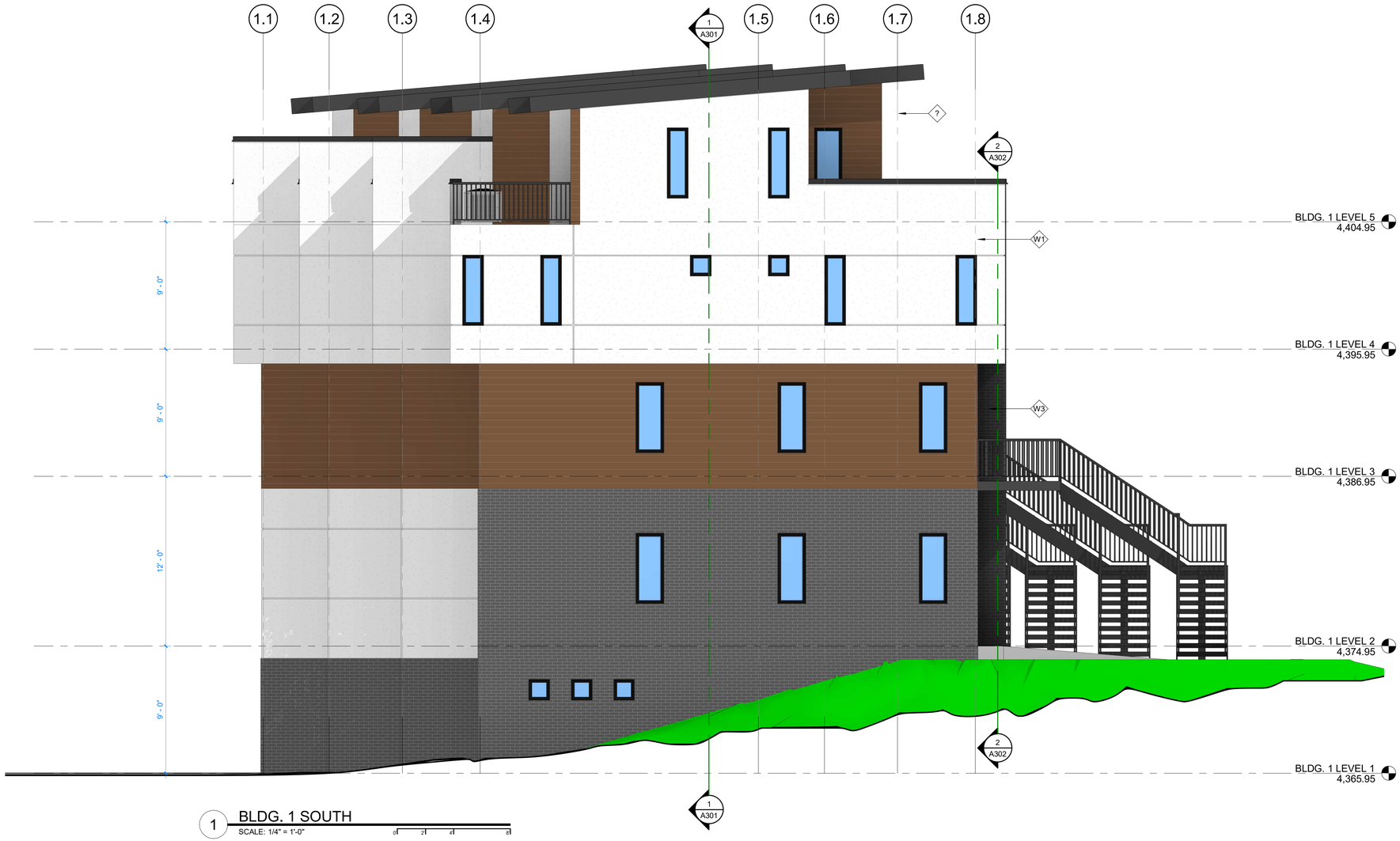
A213

Last Plotted: 10/1/2021 9:48:25 AM

// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK

UNIT 4



1 BLDG. 1 SOUTH
SCALE: 1/4" = 1'-0"

Last Plotted: 10/1/2021 9:48:55 AM

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

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SHEET TITLE:

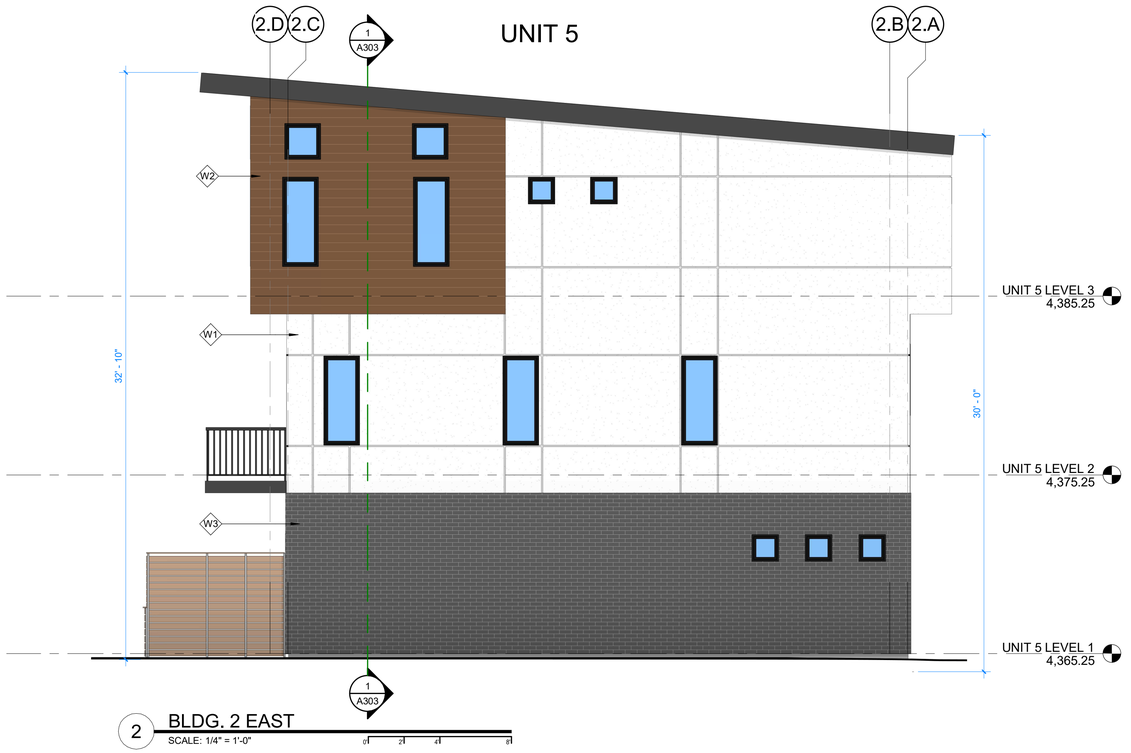
BUILDING ELEVATIONS BLDG. 1 WEST

SHEET NUMBER:

A214



1 BLDG. 2 SOUTH
SCALE: 1/4" = 1'-0"



2 BLDG. 2 EAST
SCALE: 1/4" = 1'-0"

// FINISH SCHEDULE

W1 WALL FINISH 1:
- STUCCO

W2 WALL FINISH 2:
- CEMENT BOARD SIDING

W3 WALL FINISH 3:
- BRICK

ARCHITECT'S INFORMATION:
RUSSELL PLATT ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

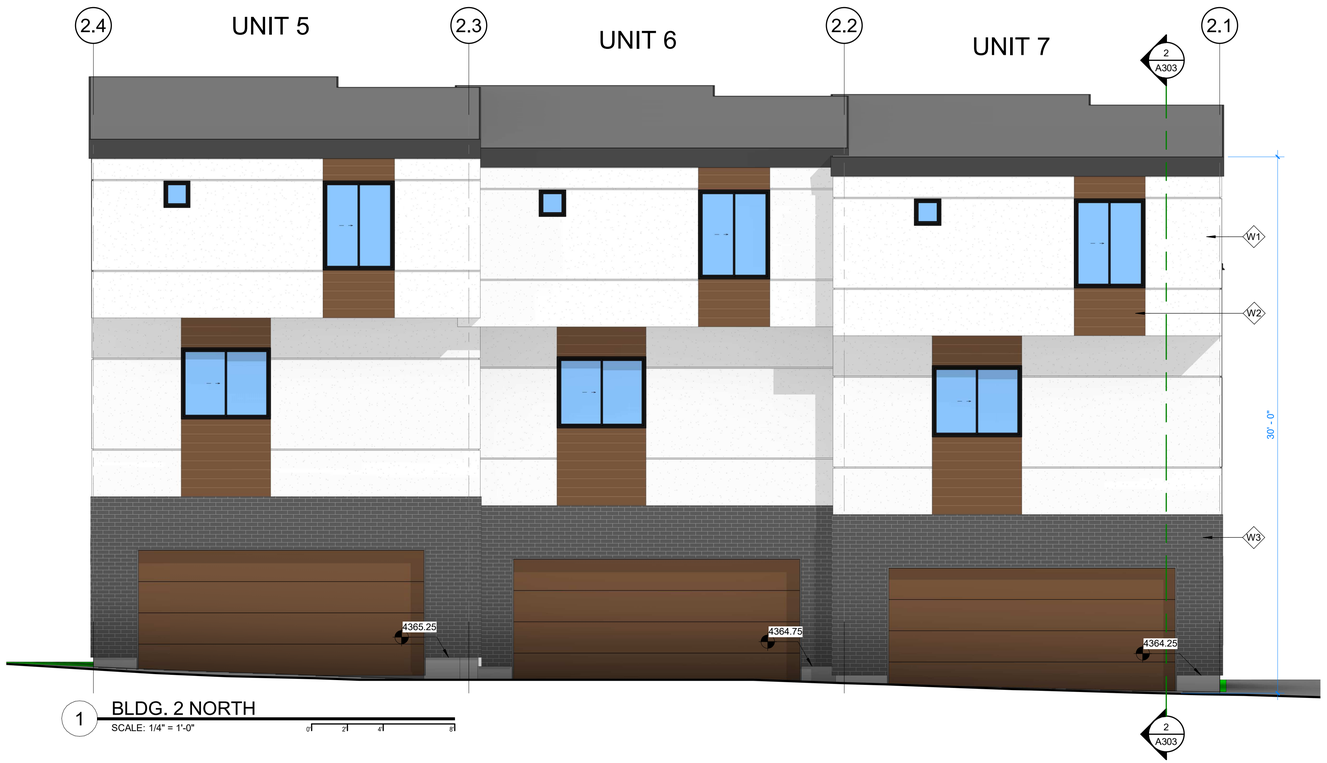
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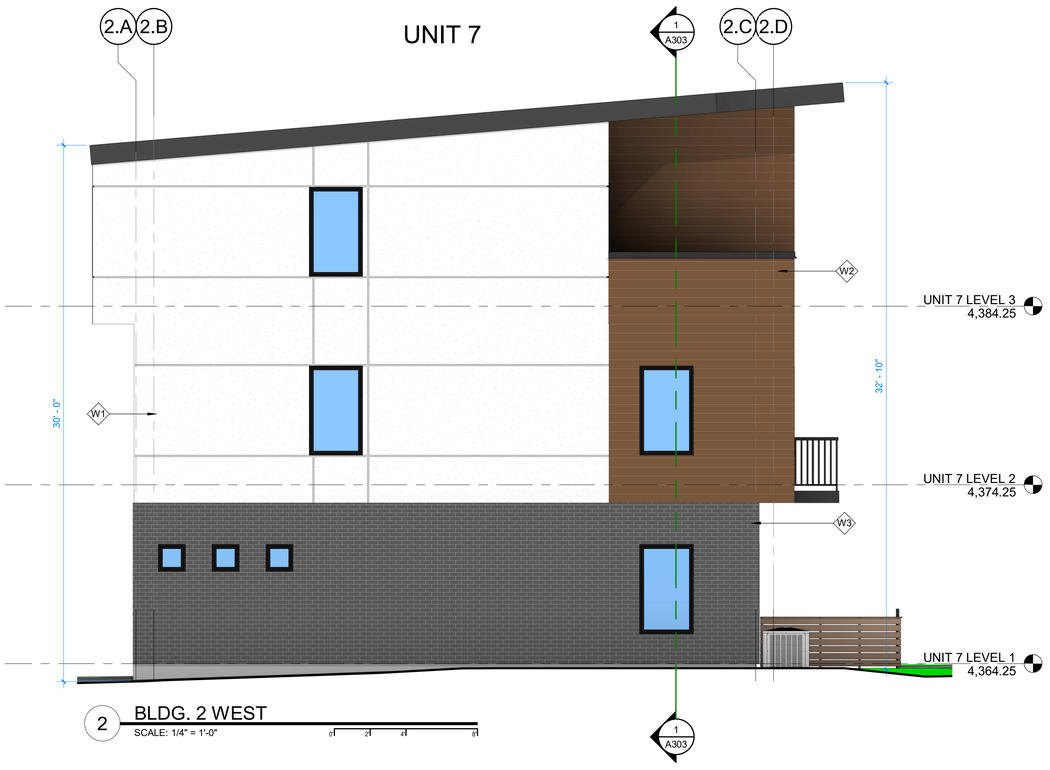
SHEET TITLE:
BUILDING ELEVATIONS BLDG. 2 SOUTH & EAST

SHEET NUMBER:
A221

Last Plotted: 10/1/2021 9:49:06 AM



1 BLDG. 2 NORTH
SCALE: 1/4" = 1'-0"



2 BLDG. 2 WEST
SCALE: 1/4" = 1'-0"

// FINISH SCHEDULE

W1 WALL FINISH 1:
- STUCCO

W2 WALL FINISH 2:
- CEMENT BOARD SIDING

W3 WALL FINISH 3:
- BRICK

ARCHITECT'S INFORMATION:
RUSSELL PLATT ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

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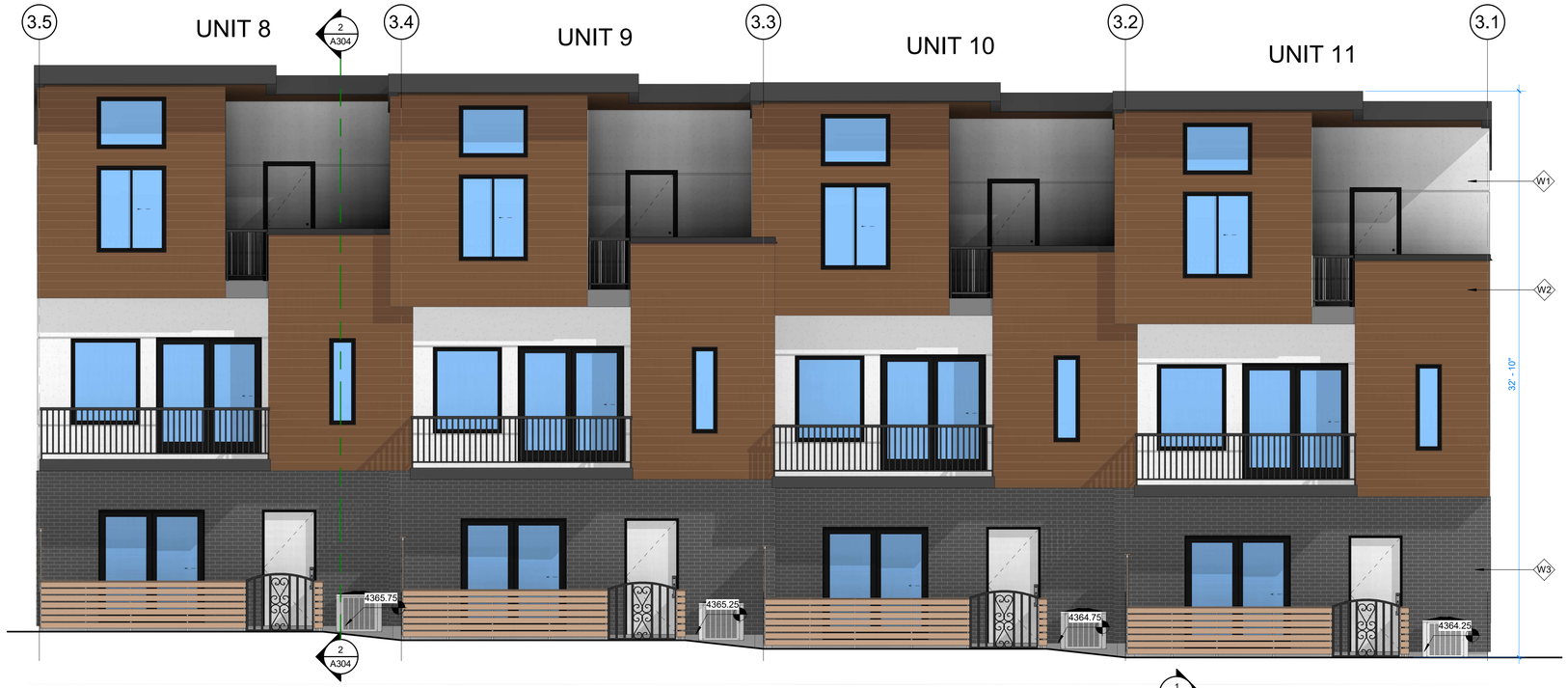
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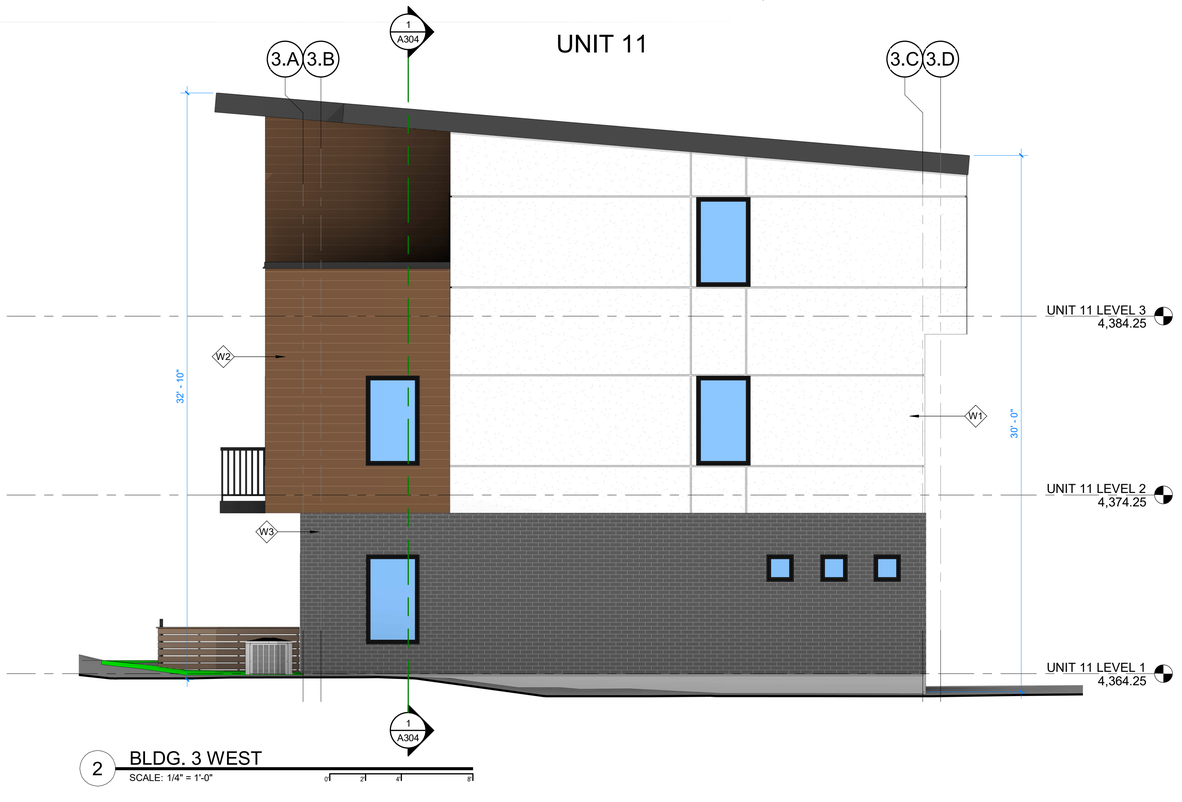
SHEET TITLE:
BUILDING ELEVATIONS BLDG. 2 NORTH & WEST

SHEET NUMBER:
A222

Last Plotted: 10/1/2021 9:49:16 AM



1 BLDG. 3 NORTH
SCALE: 1/4" = 1'-0"



2 BLDG. 3 WEST
SCALE: 1/4" = 1'-0"

// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK

ARCHITECT'S INFORMATION:

RUSSELL**PLATT** ARCHITECTURE

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

OWNER PROJECT #:
RPA PROJECT #:
DRAWN BY:
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DESIGNED BY:

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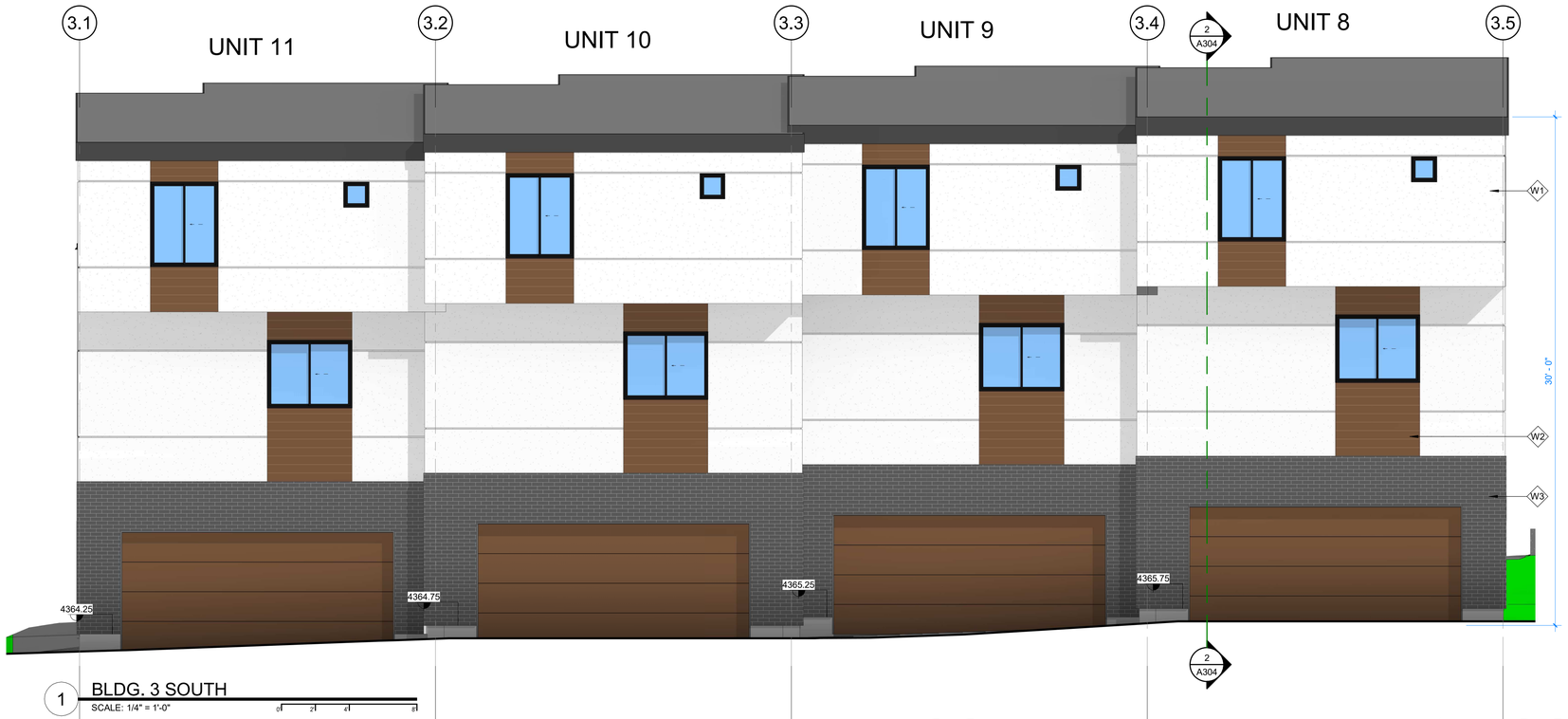
SHEET TITLE:

BUILDING ELEVATIONS BLDG. 3 NORTH & WEST

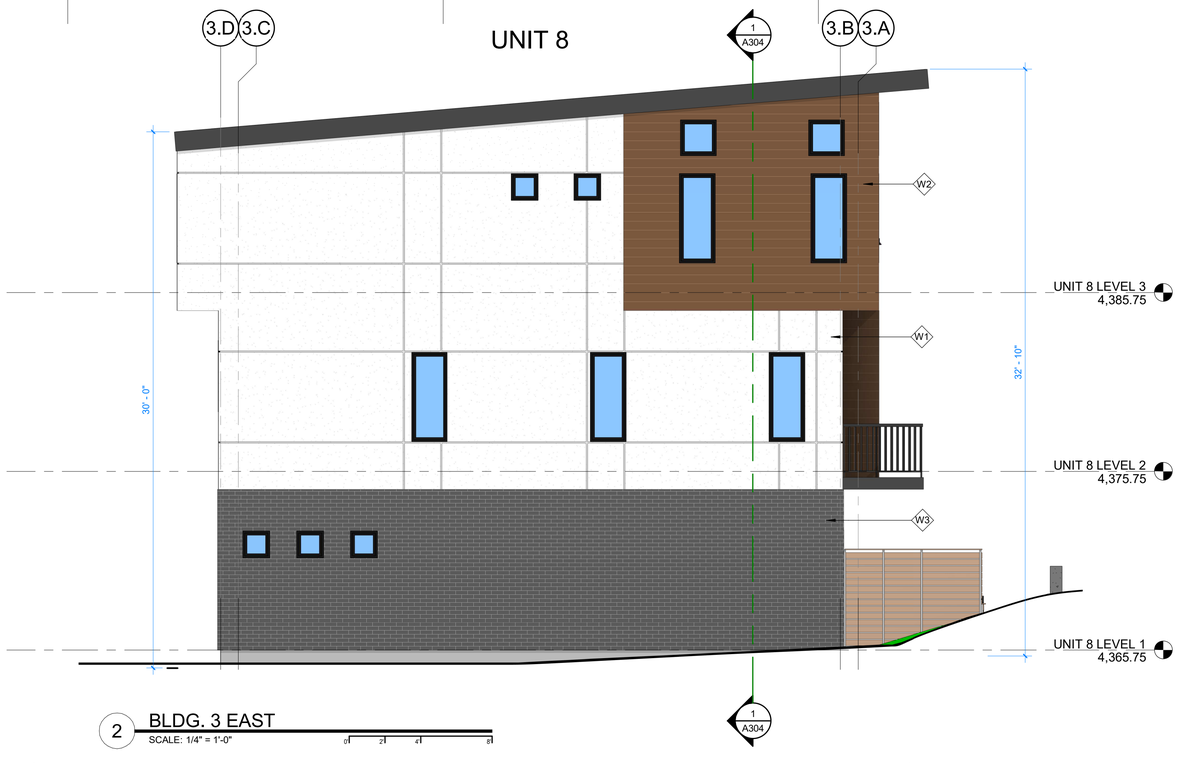
SHEET NUMBER:

A231

Last Plotted: 10/1/2021 9:49:31 AM



1 BLDG. 3 SOUTH
SCALE: 1/4" = 1'-0"



2 BLDG. 3 EAST
SCALE: 1/4" = 1'-0"

// FINISH SCHEDULE

- W1 — WALL FINISH 1: STUCCO
- W2 — WALL FINISH 2: CEMENT BOARD SIDING
- W3 — WALL FINISH 3: BRICK

ARCHITECT'S INFORMATION:
RUSSELL PLATT ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

OWNER PROJECT #:
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SHEET TITLE:
BUILDING ELEVATIONS BLDG. 3 SOUTH & EAST

SHEET NUMBER:
A232

Last Plotted: 10/1/2021 9:49:45 AM



1 BLDG. 1 SECTION 1

SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:

RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:

HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

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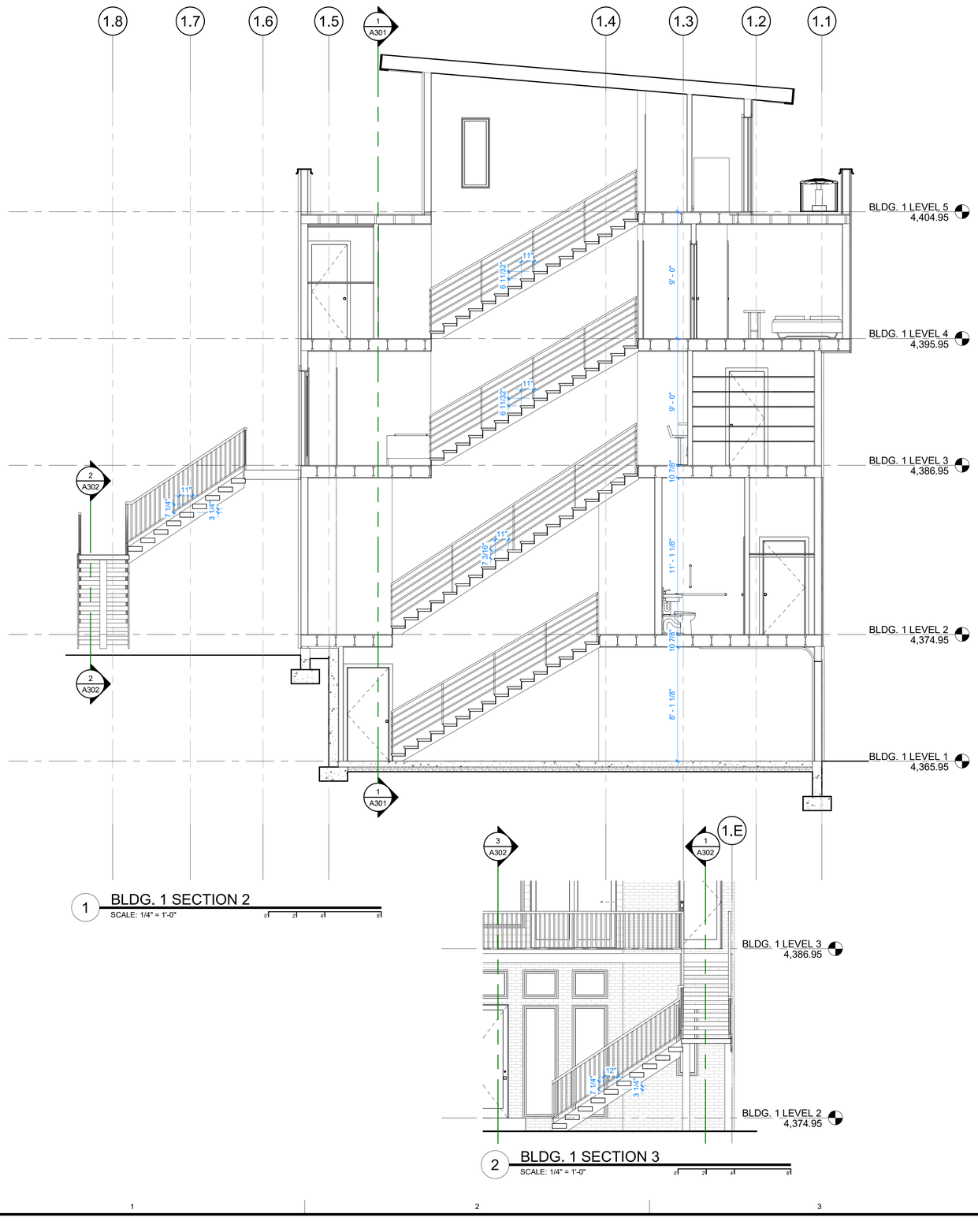
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BUILDING SECTIONS

SHEET NUMBER:

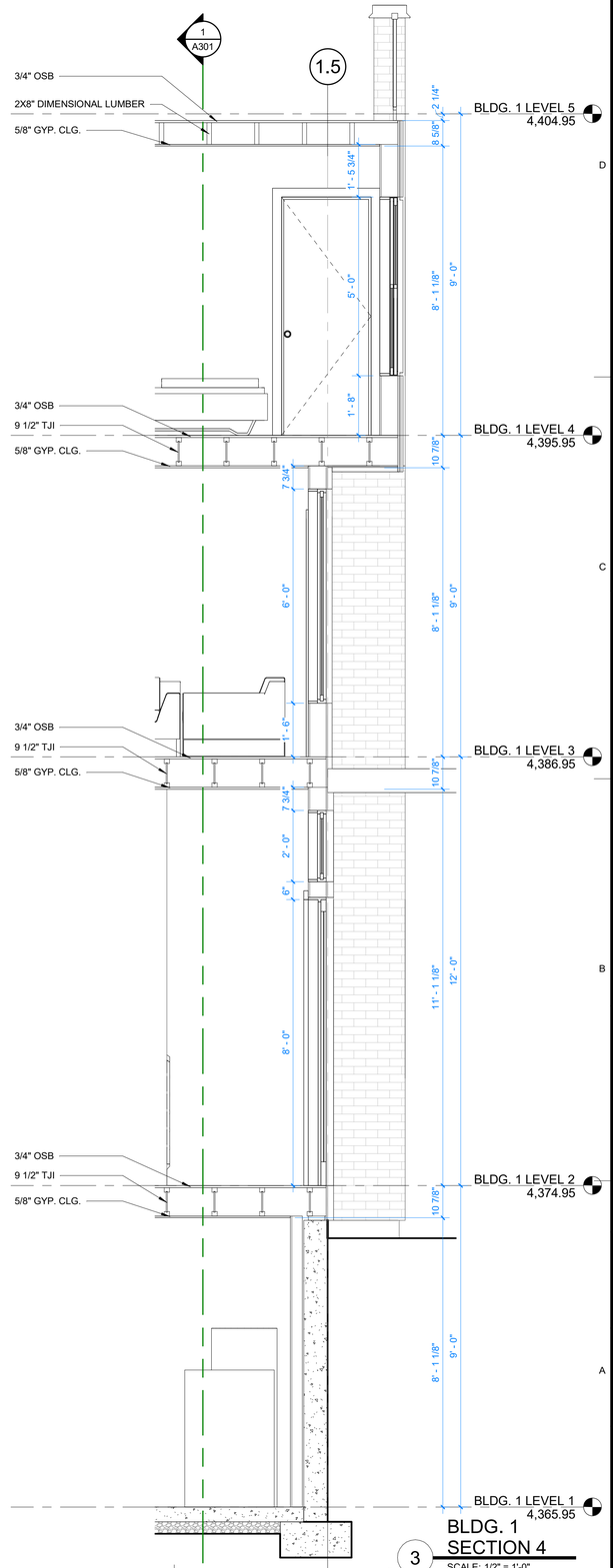
A301

Last Plotted: 10/1/2021 9:49:48 AM



1 BLDG. 1 SECTION 2
SCALE: 1/4" = 1'-0"

2 BLDG. 1 SECTION 3
SCALE: 1/4" = 1'-0"



3 BLDG. 1 SECTION 4
SCALE: 1/2" = 1'-0"

Last Plotted: 10/1/2021 9:49:50 AM

ARCHITECT'S INFORMATION:
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RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

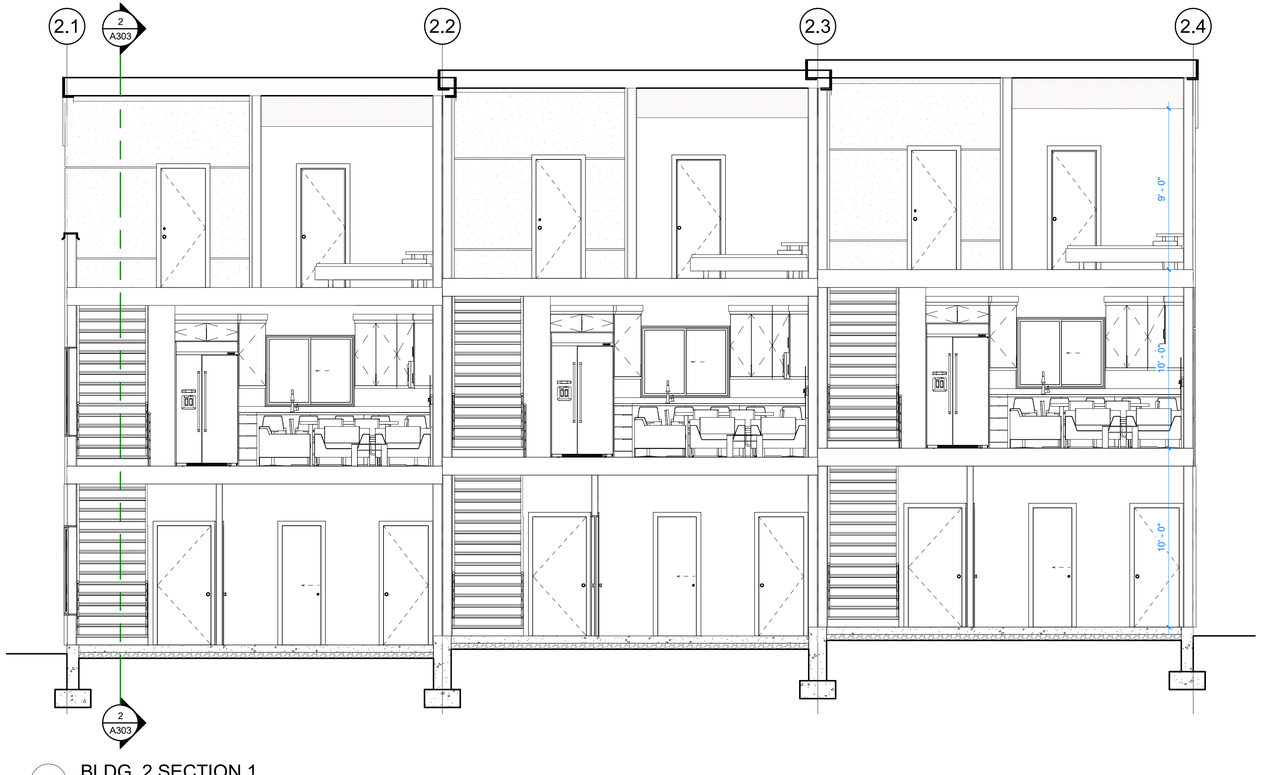
ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

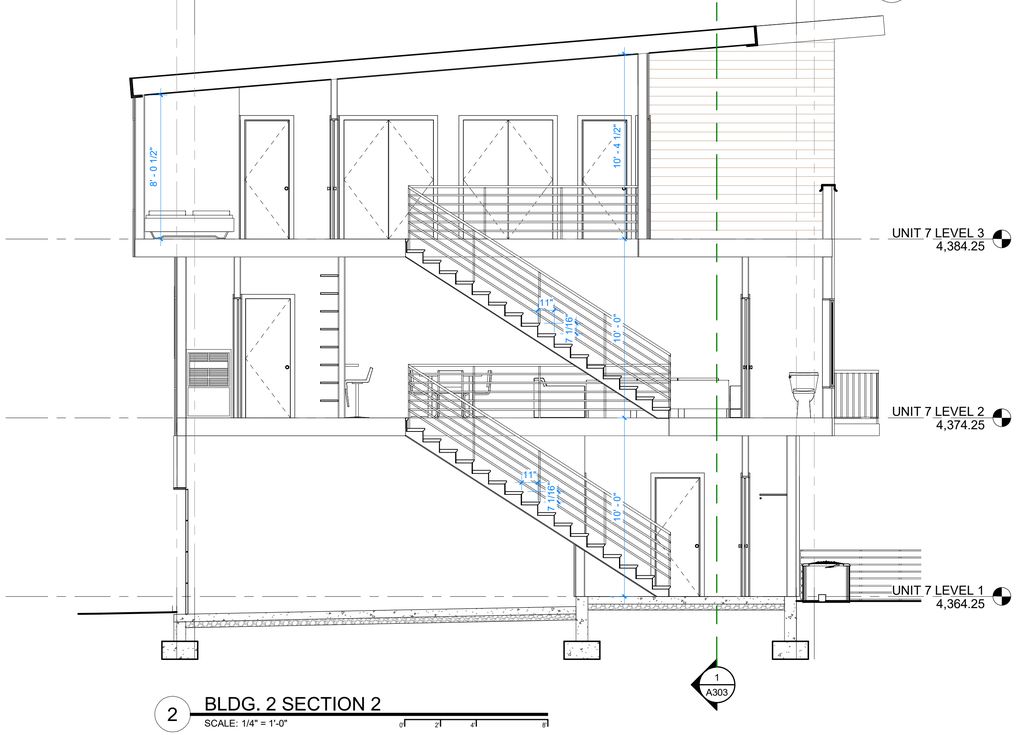
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SHEET TITLE:
BUILDING SECTIONS

SHEET NUMBER:
A302



1 BLDG. 2 SECTION 1
SCALE: 1/4" = 1'-0"



2 BLDG. 2 SECTION 2
SCALE: 1/4" = 1'-0"

Last Plotted: 10/1/2021 9:49:52 AM

ARCHITECT'S INFORMATION:
RUSSELL PLATT ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

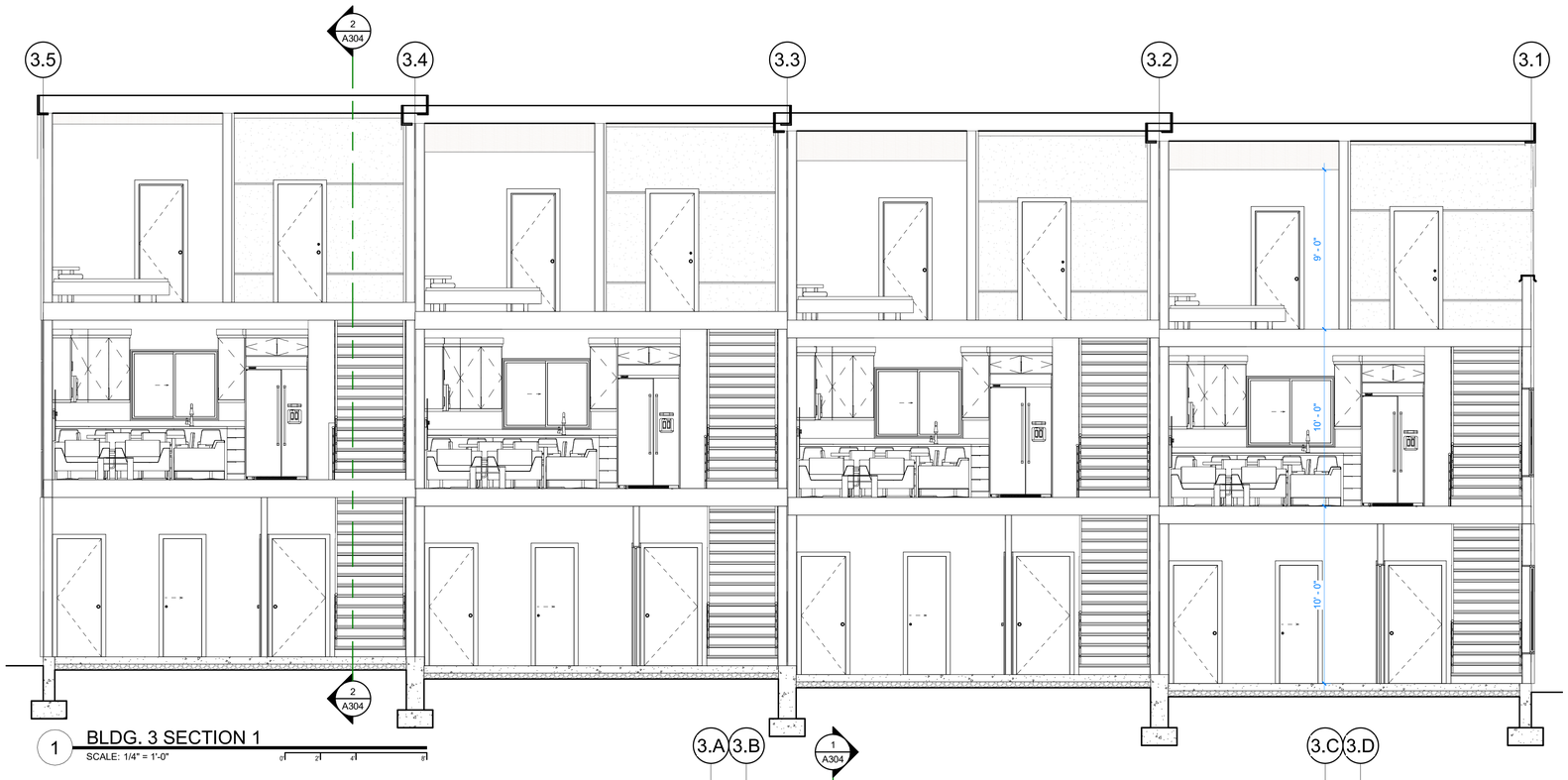
ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

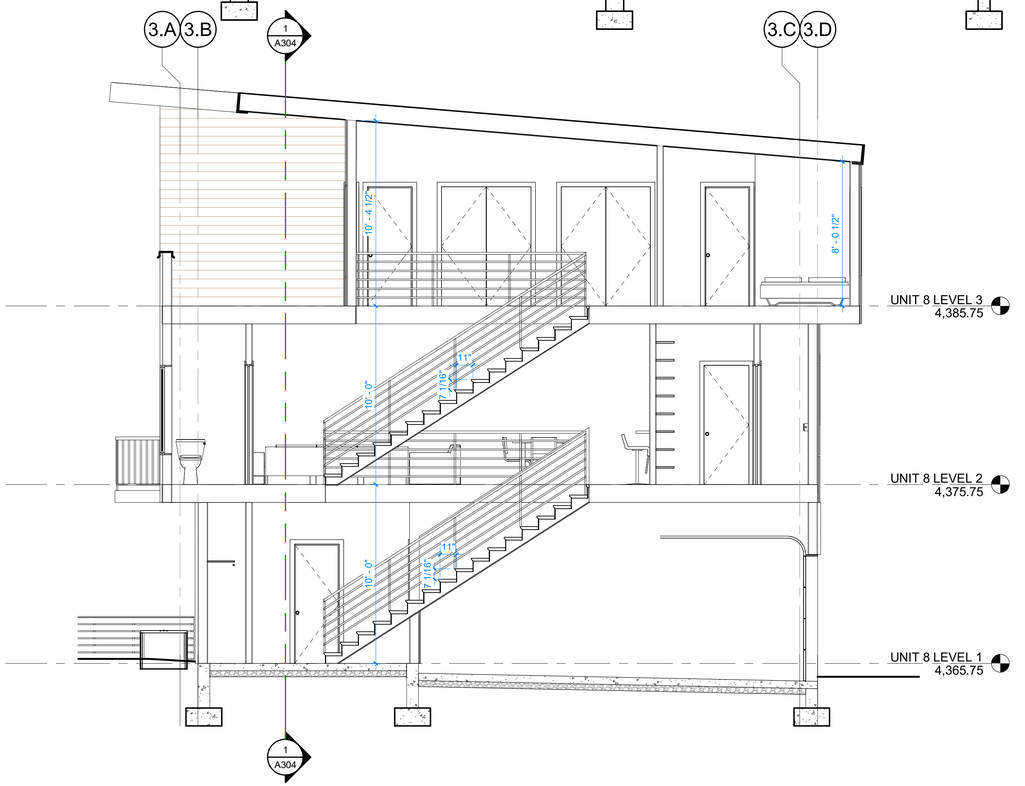
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SHEET TITLE:
BUILDING SECTIONS

SHEET NUMBER:
A303



1 BLDG. 3 SECTION 1
SCALE: 1/4" = 1'-0"



2 BLDG. 3 SECTION 2
SCALE: 1/4" = 1'-0"

ARCHITECT'S INFORMATION:
RUSSELL**PLATT** ARCHITECTURE
RUSSELL PLATT ARCHITECTURE
235 W SEGO LILY DR #200
SANDY, UT 84070
(801)-580-0181

PROFESSIONAL STAMP:

CODE OFFICIAL STAMP:

PROJECT NAME:
HIGHLAND LOFTS
4080 HIGHLAND DR. MILLCREEK, UT 84124

REVISIONS:

NO.	DATE	DESCRIPTION

ISSUED: OCT. 1ST, 2021

NO.	DATE	DESCRIPTION

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BUILDING SECTIONS

SHEET NUMBER:
A304

Last Plotted: 10/1/2021 9:49:54 AM

MILLCREEK CITY LAND USE

REQUEST FOR A VARIANCE OF SPECIFIC PERIMETER FENCING REQUIREMENTS FOR PROPERTY LOCATED AT 4080 SOUTH HIGHLAND DRIVE IN MILLCREEK CITY	)	**APPROVAL**
	)	FILE # LUHO 2021-007
	)	Hearing Officer J. Richard Catten

Parcel ID'S: 16-33-381-0025-0000
16-33-381-0026-0000
16-33-381-0055-0000

Applicant: Nathan Anderson

This request was heard by the Millcreek City Land Use Hearing Officer on October 28, 2021. The Applicant requests a variance from specific perimeter fencing construction requirements to allow for the construction of a perimeter fence with dry-packed wooden posts, instead of two-foot brick or stone pillars.

The Applicant was present and spoke at the hearing. Millcreek City was represented by Planner Robert May. The City did not oppose the granting of a variance in this case. The Hearing Officer, being fully advised in the premises and based on the material in the file, the information presented at the hearing, and the relevant ordinances and laws, NOW FINDS AS FOLLOWS:

REQUIREMENTS FOR APPROVAL

The Millcreek City Land Use hearing officer may grant a variance from the land use ordinances if the request meets the criteria set forth the Utah Code and in the following section of the Millcreek City Code:

19.92.050 Variances

1. The authority shall have the following powers to authorize on appeal in specific cases a variance from the terms of this title. The authority may grant a variance only if:
    1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;
    2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
    3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
    4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
    5. The spirit of this title is observed and substantial justice is done.

2 In determining whether enforcement of this title will cause unreasonable hardship, the authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances particular to the property, not from conditions which are general to the neighborhood. In determining whether or not enforcement of this title would cause an unreasonable hardship, the authority may not find an unreasonable hardship if the hardship is self-imposed or economic. In determining whether or not there are special circumstances attached to the property, the authority may find that special circumstances exist only if special circumstances relate to the hardship complained of and deprive the property of the privileges granted to other properties in the same district. The applicant shall bear the burden of proving that all the conditions justifying a variance have been met.

3. In granting a variance, the authority may impose additional requirements on the applicant that will mitigate any harmful effects of the variance or serve the purpose of the standard or requirement that is waived or modified.

In this case, the applicant has met the burden of proof on each requirement and the variance is granted, with conditions.

FINDINGS

1. The proposed use to be placed on the property consists of 7 residential townhomes and 4 live/work units. The development has been approved, with conditions, by the Millcreek City Planning Commission.

2. Millcreek ordinances require the perimeter fencing around such a development to either be brick, stone, block or precast concrete. Wood, wrought iron or vinyl may also be used as fencing with a minimum two-foot wide, six foot tall brick or stone pillar spaced every twelve feet on center. §19.78.030 Millcreek City Code.

3. A portion of the perimeter of the development is encumbered by an irrigation easement owned by the Big Cottonwood Lower Canal Company. This easement prohibits the installation, within the easement, of any permanent (cemented) foundation materials. This would include a brick, stone, block or cement fence, and the pillars in a wood, wrought iron or vinyl fence, as required by the §19.78.030 of the Millcreek Code. This easement is a special circumstance with does not generally apply to other properties within the district.

4. The Applicant has requested a variance from §19.78.030 to allow the substitution of dry packed 8’ x 8’ wood pillars for the brick or stone pillars required by the ordinance. Although the irrigation easement does not run the entire perimeter of the property, the Applicant requests a variance for the entire perimeter in order to allow the installation of a consistent, identical fence around the development.

5. Literal enforcement of the requirements of the Millcreek Code causes an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the ordinances. Granting the variance will allow the Applicant to construct a fence, that is otherwise in compliance with the ordinances, without violating the provisions of the irrigation easement. This will allow the Applicant to develop his property in a way that is consistent with the property rights possessed by other property located in the same district. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the district.

6. Granting the variance will not substantially affect the general plan and will not be contrary to the public interest. To the contrary, granting the variance will allow the property to be developed in harmony with the approvals of the Planning Commission and Millcreek City ordinances.

7. Granting the variance is in keeping with the spirit of the ordinances and provide substantial justice to the parties.

8. The hardship found in this case is a direct result of the location of an irrigation easement on a portion of the perimeter fence line of the property and is not based on conditions which are general to the neighborhood.

9. The hardship found in this case in not self-imposed or economic.

APPROVAL

Based on the applicable law and the forgoing findings, the Applicant's Request for a Variance from the perimeter fencing requirement set forth in §19.78.030 of the Millcreek City Code with respect to the type of fence post, fence post size, and material, is hereby approved, subject to the following conditions:

1. This variance allows the Applicant to install dry packed 8’ x’ 8’ wooden posts in lieu of the stone or brick pillars required by §19.78.030.

2. The Applicant must meet all applicable ordinance requirements regarding fencing, including building permit and inspection requirements.

DATED THIS 30th day of October 2021.

J. Richard Catten
Millcreek City Land Hearing Officer

SEE PAGE 6 FOR THE BEGINNING OF DISCUSSION FOR ZM-21-003

Minutes of the Millcreek Planning Commission August 18, 2021 5:00 p.m. Regular Meeting

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, August 18, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was conducted electronically and live streamed via the City's website with an option for online public comment.

PRESENT:

Commissioners
Shawn LaMar, Chair
Victoria Reid, Vice Chair (electronic)
David Allen
Scott Claerhout
Skye Sieber (left at 7:57 p.m., returned electronically)
Tom Stephens
Ian Wright
Christian Larsen (excused)
Aryel Cianflone

City Staff
John Brems, City Attorney
Elyse Sullivan, City Recorder
Francis Lilly, Planning and Zoning Director
Robert May, Planner
Kurt Hansen, Facilities Director
Naba Faizi, Planner (electronic)
Frederick Lutze, Deputy City Engineer
Jen Smith, Staff Engineer
Mike Winder, Assistant City Manager

Attendees: Mayor Jeff Silvestrini, Rola Hajeb (electronic), Seishi Yamagata (electronic), Elliot Abel (electronic), Raed Salem (electronic), Joseph Mills (electronic), Mallory Wise, Cynthia Fowler, Nathan Anderson, Carol Elliott, Russ Sorenson, Cy Waldron, Tyler Green, Derek Wilson, and Don Bostrom.

REGULAR MEETING – 5:00 p.m.
TIME COMMENCED: 5:02 p.m.

Chair LaMar called the meeting to order and read a statement explaining the duties of the Planning Commission.

3. Commission Business

3.1 Oath of Office; Shawn LaMar

The City Recorder administered the oath of office to Shawn LaMar who was recently reappointed to the Commission by the City Council.

1. Public Hearings

1.1 Consideration of CU-21-014, Preliminary Approval of a Conditional Use Permit for a Mixed-Use Project Consisting of 120 Condominium Units with Office and Retail in the City Center Overlay Zone Location: 3330 S. Highland Drive Applicant: Russ Sorenson

Robert May said the project was previously approved as CU-19-013, but through a variety of reasons had expired. The applicant revised the materials, articulation, the footprint. It was a project with 176 rental apartments and 40,000 square feet of retail and office space but was being proposed as 118 owner-occupied units and one live-work unit condominium with 25,000 square feet of retail and office space, and 20,000 square feet of outdoor open space. The current use of the properties includes an abandoned building previously run as Linda's Furniture and Aqua Vie Day Spa. Aqua Vie is expected to move to a temporary location until their new space within this project was completed. In the City Center Overlay Zone (CCOZ), 299 parking stalls would be required for the use but the applicant was requesting the shared parking ratio by mixing uses for only 231 parking stalls.

May showed the Commission building renderings and said the proposed materials would be brick, faux wood, steel, metal panels, and graphite brick with large windows. The proposed project consisted of three parcels consisting of approximately 1.41 acres. The majority of commercial space would consist of local businesses, including Fine Arts Inn and Aqua Vie Day Spa. A proposed multi-level parking garage would be for the residents, business owners/employees, and customers. The project features two separate parking accesses, including one allocated for residents only. The second parking access would serve dedicated parking for retail and office users and residential guests. Pedestrian and vehicular access would be from Highland Drive. The original traffic study conducted by Fehr & Peers contemplated an additional 60 residential units and 15,000 square feet in commercial retail/office space. The conclusion and mitigation did not change in the updated study. May said the CCOZ parking requirement was 3 spaces per 1,000 square feet but the shared parking requirement was based on uses. The developer would provide 247 parking stalls, which included ADA stalls. May said the layout of the newly proposed building differs slightly from the original in that the new building, although situated roughly the same, takes on more of an "E" shape creating separation for more gathering spaces and helps enhance the building articulation by way of almost appearing like three separate buildings. The overall height of the proposed building was 75 feet. Since the building would be constructed into an existing grade change, the height along Highland Drive would appear dramatically less by almost 10 feet.

May reported that the Millcreek Community Council held a public meeting on this application on August 10, 2021, and recommended approval of the project, on a vote of five members in favor, two against, and one abstention. A couple of community council members discussed their concerns with the City Center in a broader context and failed to provide specific concerns for the proposed development. Although the majority vote approved the project, the bulk of the conversation became a platform to voice concern about the City Center as a whole and concerns on overall density, Highland Drive traffic congestion, pedestrian travel to and from Millcreek Common, building heights, and empty promises made by developers. The Canyon Rim Citizens Association held a public meeting on this application on August 4, 2021, and recommended unanimous approval with the understanding that the applicant would consider the overall lifespan of the building in terms of its carbon footprint and materials used to lessen the impact on the environment. The East Mill Creek Community Council held a public meeting on this application on August 5, 2021, and unanimously recommended approval of the proposed project. Planning staff recommended approval of the conditional use permit with the conditions located in the staff report.

Commissioner Allen clarified that the shared parking was between the uses on the project site and that it was not with the city. May confirmed. Commissioner Cianflone asked about landscaping. May said in the technical review process, the applicant would be held to Millcreek's Urban Forestry Standard. The Commission would see the landscaping detail with the condominium plat approval. Commissioner Cianflone asked about the green space between the sidewalk and building. Francis Lilly said 10 feet was the standard setback, but this offered more. Commissioner Cianflone asked about the outdoor spaces. May said the developer could explain. Commissioner Reid read from page 12 of the staff report, "…staff recommends approval of a conditional use permit subject to conditions that affirm the code requirement that buildings seeking an exceptional height allowance in the code are indeed exceptional in character." She asked what was exceptional in character with this project. May said the applicant was meeting and exceeding minimum requirements. He said developers often submit exactly what is required, so when projects exceed the requirements, they are considered exceptional. He said the materials, stepbacks, open space, and the façade made this application exceptional.

Chair LaMar noted that the 3-bedroom parking requirement was inaccurate in the presentation; it showed 5 parking stalls for 10 units but should have at least 10 stalls. Chair LaMar asked how many stalls would be in the gated residential area. May said the applicant could answer. Commissioner Wright asked about the height allowed by the zoning. May said the underlying C-2 zone capped heights at 45 feet, but the CCOZ allowed heights up to 75 feet. May said there was a grade change from Highland Drive to the west.

Tyler Green, on behalf of the applicant, said the process in going from for-rent to for-sale products was to create a property tax base and to cater to the community and add walkability. Commissioner Cianflone verified that the building was 15 feet off of the right-of-way from Highland Drive. The applicant's architect confirmed. Green said anything the developers do was at the approval of the city. He said they were trying to create an environment to fit into the campus of Millcreek and provide opportunities for retail experiences in shared amenities, not residential amenities. He said the landscaping plan had not yet been completed. Commissioner Cianflone asked about dark sky requirements. Lilly said it would be checked at technical review. Chair LaMar asked about the residential parking. Derek Wilson, project architect, said there would be 60 stalls on the top level dedicated to commercial use and underneath gated parking would be dedicated to residents and employees. Chair LaMar expressed concern about the parking breakdown. Wilson said it would be reviewed.

Chair LaMar asked about egress from the project and said a U-turn at Luck Lane to go north, as the traffic study recommended, would not be possible. Green said the developers were still working through the traffic mitigations. Chair LaMar asked about the proposed traffic mitigation. Frederick Lutze said the traffic study recommended a median to prevent left turn movements from the accesses. He said the movements in the study failed at peak hours, but businesses had functioned at that location in the past. He said there could be signs restricting movements during certain hours. He said an option would be to restripe Highland Drive to have two tapered lanes going north at 3300 S. to stack vehicles. The intersection as whole at none-peak hours could be acceptable. Chair LaMar asked about the 85% of traffic that wanted to go north on Highland Drive. Lutze said the drivers would have to figure out how to go north through another route.

Seishi Yamagata, Fehr & Peers, said there were safety concerns with the U-turn mitigation. He said drivers would turn right onto Luck Lane and cut through the Home Depot parking lot, but the traffic engineers could not recommend that. He said it was worth exploring limiting left turns during certain times. Commissioner Sieber asked about the bus stop improvements. Russ Sorensen, applicant, said the dedicated street space for the bus stop was owned by UTA, so any added improvement would have to be maintained by the HOA. May recommended the developer work with UTA on the bus stop as a condition of approval. Lutze noted that UTA did not like bus pullouts because the buses could not easily get back into traffic. Commissioner Reid asked why a left turn was less safe than a U-turn. Yamagata said a left turn required gaps from both traffic directions. Lutze said the problem was delay time; drivers get frustrated when they have to wait a long time and then they consider dangerous maneuvers. He said the problem was inherent with the land. The project had to be viewed as a standalone, not as if there was a possibility of Luck Lane extending.

Chair LaMar opened the public hearing.

Don Bostrom, Tres Hombres, said it was tough to make the project work in that location. He did not think the project looked more exceptional than any other project in town. He felt the proposed parking was inadequate. His restaurant has always had a problem with parking with 55 stalls. He acknowledged that there was no onstreet parking nearby. He asked the Commission to address all the parking and landscaping that was needed.

Mike Winder, Assistant City Manager and Economic Development Director for Millcreek, said the key to the City Center Master Plan was to preserve and protect local businesses. This project provided that support for the Fine Arts Inn and Aqua Vie Day Spa. He felt supporting existing local business was exceptional. He said there was a huge demand for condominiums over apartments which also added stability to the neighborhood and value to the area. He noted that this project did not add many more vehicles than the prior business uses located on the site. He said Millcreek Common was being funded through a tax increment tool and a lot of projects slowed down during the pandemic, but bond payments did not. The new projects would add to the increment to pay the bond and the added rooftops would support businesses in the area. He encouraged the Commission to move the project forward.

Chair LaMar closed the public hearing.

Commissioner Cianflone asked about the approval process. May said if the conditional use permit was approved, the application would go through a technical review process, then a condominium plat approval, and then a technical review process. Commissioner Allen asked if density would be locked in with the conditional use permit approval. May said the conditions the Commission wanted needed to be included that night. Commissioner Cianflone said the project was cool, but until there was a solution for the northbound traffic, the Commission should not approve it. May said the mitigating factors as part of the approval was a shortened median to allow for left turns and a sign prohibiting left turns during certain times of the day. Commissioner Allen said the Commission could not control the left-hand turn issue. Lilly said a mitigation where a driver makes a U-turn was not acceptable, but ultimately the city engineers are the custodians of the street. Staff would work with the applicant on a solution. Lutze said they were looking for better solutions than U-turns at

Luck Lane. Commissioner Stephens said the Commission should not encourage U-turns but said the Commission should put faith in the city engineers. Chair LaMar pointed out that there was not a traffic solution in 2019 when the project was last discussed and wondered why nothing had been resolved since then.

Commissioner Allen expressed concern with the shared parking. He said the shared parking was theoretical because only 60 spots were available without going through the residential parking gate. Green said the commercial businesses would have ownership in the project and they brought a certain number of customers. He felt there was subjectivity with the use. Chair LaMar felt there was not enough information. Commissioner Reid brought up the open space provided. Sorensen said the parking structure hosted patron parking on the second level, and residential and business owner/employee parking in the gated area. He said he was providing more parking than what was required by 10 stalls to foresee future use changes. He said the parking was not subjective. Wilson said the 74 commercial stalls (in the study) was based on the building square footage, not the tenant use, but added that the gate location could be moved. Commissioner Allen pointed out that there was no spill over parking available. He said if there was a gate, then it should not be called shared parking. Commissioner Wright said adding height for more density was possibly not the right solution for the area. Commissioner Stephens said if the Commission continued the application, it would be for traffic safety. May said the developer had met parking code with the shared parking ratio. Commissioner Allen questioned the shared parking because there was a gate. The rationale implied with shared parking is that everyone can park anywhere.

Lilly said the city did not know what the road (Highland Drive) would look like in twenty years. He said he did know if there would be a satisfactory option. He the Deputy City Engineer talked through options with the Commission and said staff would do everything within their power to keep the left turn open and that was what staff would tell the Commission at their next meeting if the application was continued. The Millcreek Public Works Department, not Planning and Zoning or the Commission, had custody over the street and they would make the final decision based on industry standards, best practices, and guidance. Chair LaMar asked about getting Unified Police Department's opinion. He said staff was offering too much variability. He said if there was a detrimental effect, the Commission wanted to mitigate it. Commissioner Allen said the Commission could have control over the density in relation to the road. Lilly said Millcreek ordinance did not contemplate a reduction in density because of a poor road that was not to the fault of the developer. Commissioner Cianflone noted that it was a safety issue. Lilly said the City Engineer would mitigate the safety through technical design which would require some thought. On the basis of the approved height of 75 feet in a zone that does not contemplate density, he recommended that the Commission let the professionals figure it out. Staff was committed to solving the problem. He said the Commission would see technical level drawings with the condominium plat, but the developers would not work on those drawings without some vesting from the city.

Mayor Jeff Silvestrini said the Unified Police Department could give statistics on accidents on Highland Drive that occurred in the past, not on safety of road design. The role of the Planning Commission under the legal framework with conditional uses was to consider conditions that a property owner could effect on their property to mitigate any harm from the project, not to redesign the road to accommodate a project. He encouraged the Commission

to stay in their lane. Commissioner Allen said the Commission could approve the project with a "no left turn" sign on the property. The Mayor confirmed. Commissioner Wright asked about limiting height to limit density. The Mayor said that was a potential mitigation.

Chair LaMar said the mitigation of a U-turn at Luck Lane did not work as recommended in the 2019 traffic study. Commissioner Allen said once traffic was off the property, the Commission could not control where people went but they could control the number of vehicles being put on the road. Commissioner Stephens asked why the Commission could not stipulate no left turns during certain times. Lilly said they could. Commissioner Sieber read from the first condition listed in the staff report, "Applicant shall restrict left turns out of the north project access or incorporate another means of traffic mitigation subject to approval by the City Engineer." Chair LaMar said the mitigations in the application were not viable and he wanted time to understand what mitigations were available.

Chair LaMar, with respects to CU-21-014, moved to continue this item to a future date and the reasons are because we need to understand more on the mitigation for the traffic for what has been proposed to us and make sure that will feel like it is acceptable for the standards of approval which include the traffic and street surface levels and also additional details for the parking and how that would work would be nice to see and that would help eliminate any heartburn of shared parking, that it be looked at. Commissioner Cianflone seconded. Commissioner Allen said reduced conditions (density and height) could satisfy the concern, but the Commission liked the project and did not want to do that. Commissioner Wright expressed frustration with the height but did like the project.
Chair LaMar called for the vote. Commissioners Allen, Cianflone, LaMar, Reid, Stephens, and Wright voted yes. Commissioners Claerhout and Sieber voted no. The motion passed.

The Commission took a break from 7:06-7:11 p.m.

1.2 Consideration of ZM-21-003, Rezone Request from R-1-8 to C-2 to Accommodate the Parking and Assemblage Required for a Mixed-Use PUD Consisting of 7 Residential Townhomes and 4 Live/Work Units Location: 4088 S. Highland Drive Applicant: Nathan Anderson

Robert May said the project included a rezone (item 1.2), preliminary conditional use permit approval (item 1.3), and preliminary plat approval (item 1.3). He first presented the conditional use and plat information. He said the development consisted of seven residential townhomes and four live/work units. The project development site consisted of three separate parcels and collectively amounted to approximately .63 acres. The majority of the development site lies within C-2 Zone with roughly 1,700 square feet that lies in the R-1-8 Zone. He showed the Commission the proposed building rendering and site plan. He said the development would consist of four 3-bedroom units and seven 2-bedroom units. Four of the eleven total units would be commercial live-work units fronting Highland Drive. Each of the 4 units facing Highland Drive would have a separate sidewalk entrance and ground floor commercial space and would provide 375 square feet each of commercial space or 1,500 in total for units 1-4. All of the units would have a 2-car garage. There would be 4 guest parking stalls and 6 commercial parking stalls. May went over the shared parking table from Millcreek Code 19.80 and said the uses of residential and office space required 28.3 stalls. He said there was not language in the code stating that shared parking could or could not be gated.

May showed the Commission the building elevations. He said the proposed development was subject to a height transition that limits the development to 35 feet in height from any residential zoning. However, units outside of the transition area are eligible of maximum heights of 45 feet. He noted that the property was on a slope and the first floors would be below grade.

May said the Millcreek Community Council held a meeting on August 10, 2021, and recommended approval of the project. During that meeting it was discussed that the applicant should provide a buffer along the west property line with trees. It was also discussed that the development's CC&Rs regulate the type of commercial space that can be used in the live/work units. May said the residents that attended the meeting and emailed comments to staff conveyed concerns about the western boundary line having an adequate barrier by way of a fence and trees. Staff replied that a perimeter fence was required by code. Another comment was made about restricting the live/work commercial space to prohibit massage parlors.

May went through the staff findings. Staff found that the proposed project was a vast improvement to the surrounding area. The applicant has committed to a high standard for building materials, extra parking, and extra amenity space. Staff found that the project meets and exceeds the minimum requirements for a vertically integrated mixed-use development in the C-2 Zone. Staff found that the project is well designed and complied10 with the City's development standards and can meet all the city standards and requirements for conditional use permit approval, including subdivision approval thru the technical review process. Staff recommended approval of the conditional use permit and preliminary plat with the recommended staff conditions located in the staff report.

May then reviewed the rezone application. He said the subject property is wedged between a residential lot and a commercial property and is encumbered by an irrigation easement owned by Big Cottonwood Lower Canal Irrigation Company. There are multiple wedged and land locked properties within this area that are being used for commercial purposes. Many are being used for parking and serve as buffers to the residential behind them. The boundaries of the Mixed-Use 2 Zone follow the parcel boundaries, and although the parcel data is slightly skewed, it is clear the Future Land Use Map in the General Plan was intended to encumber the subject parcel as being lumped into the Mixed-Use 2 Zone. This was contemplated at the time the General Plan and Future Land Use Map were created due to many of these land locked properties being utilized for commercial/multi-family purposes. He showed the Commission the zoning map highlighting the wedge.

May said that staff found that a rezone to C-2 would be appropriate and would serve the intentions of the Future Land Use Map. However, staff does not feel as though a rezone to C-2 should move the height transition boundary, resulting in a greater height. He recommended that this rezone be subject to a development agreement. Per §19.84.060 of the Millcreek Code, all conditional use permits run with the land and may require the applicant to record documents to that effect. The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. These reasonably anticipated detrimental effects can be addressed in a development agreement as well.

Staff recommended approval of the rezone subject to a development agreement and that the agreement address the following:

- CC&R's regulating commercial uses to professional office uses only.
- Massage parlors are prohibited in the live/work commercial space.
- Elevations of structures as presented in plans shall not change.
- Developer shall plant a minimum of 6 trees along the west property line. Trees must be columnar birch or poplar.

Commissioner Cianflone asked what a massage parlor was. May said the community council did not want a 10-bed parlor, but a home massage therapist business with one-at-a-time clients was okay. May said he was open to changing the tree requirements. Commissioner Cianflone recommended a drought-resistant tree. Commissioner Sieber asked about the fault line in relationship to the site. May said it did not touch the property, but the plan was in the meeting packet.

Applicant Nathan Anderson explained the history of the site. He praised Francis Lilly and Robert May as planners. He gave the Commission a handout on past projects' landscaping, fencing, and style of live/work units. He explained that he would plant a lot of trees along the boundaries. He said the code required cement pillar fencing. but it would not make sense because of the grade change and the irrigation company requested that no foundation material be used. He wanted the fencing in the project to be uniform. Chair LaMar asked about the garages on the east side. Anderson said the live/work unit garages would be below grade.

Chair LaMar opened the public hearing on item 1.2.

There were no comments.

Chair LaMar closed the public hearing on item 1.2.

Chair LaMar opened the public hearing on item 1.3.

There were no comments.

Chair LaMar closed the public hearing on item 1.3.

Commissioner Stephens, as respects to ZM-21-003 rezone from R-1-8 to C-2, moved to recommend approval of the rezone subject to the staff report and conditions contained therein. Commissioner Allen seconded. Robert May recommended removing the 6 tree requirement from the development agreement condition. **Commissioner Stephens clarified that as respects to justifying the type and number of trees that staff and the applicant work together. Commissioner Allen seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.**

1.3 Consideration of CU-21-002/SD-21-006, Preliminary Approval of a Conditional Use Permit and Preliminary Plat Approval for a Mixed-Use PUD Consisting of 7

Townhomes and 4 Live/Work Units Location: 4080-4090 S. Highland Drive Applicant: Highland Lofts, LLC

Commissioner Stephens commended Mr. Anderson on his other projects. Commissioner Allen said he was not worried about shared parking with this project. The nature of the live/work units changed the sharing aspect even though the majority of the parking was in garages. Commissioner Stephens said the Commission could not grant an exception to the fencing. Robert May said the applicant was subject to the fencing code and the Commission could not change that. He said the applicant could apply for a variance. Chair LaMar said he did not want a massage therapist to not be able to have a business in the project because of the motion the Commission made on the rezone with the development agreement and requested staff tell the City Council. May said he would recraft the development agreement language based on that intention.

Commissioner Allen moved to give preliminary approval to the mixed-use project located 4080/4090 South Highland Drive, consisting of 7 residential townhomes and 4 live/work units, and preliminary plat approval for applications CU-21-002/SD-21-006 subject to conditions in the staff report. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

1.4 Consideration of CU-21-013, Preliminary Approval of a Conditional Use Permit for a 6-Unit Multifamily Development Location: 2725 E. 3300 S. Applicant: IRVA Development

Naba Faizi said the proposed 6-plex would be 3 stories with a parking lot and access off of 3300 S. The 6-plex is proposed for 2 two-bedroom units and 4 three-bedroom units. There would be 16 parking spaces, including guest parking, and a carport would be located on the east portion of the property. The parking would be: 2 spaces per unit (two bedroom) (4), 3 spaces per unit (three bedroom) (10), and .33 guest parking spaces per unit (2). The property is in the R-M zone that permits single-family dwellings up to multiple-family dwellings. It is currently occupied by one single-family house fronting 3300 S. which is UDOT highway 171 that has a 106-foot right-of-way. There is one access to the property from 3300 S. and one access from the north to the alley way. The alley to the north is a public right-of-way, the owner of the property would be responsible for improvements for a certain portion of the alley way. The applicant may need a UDOT access permit during technical review. No dedication was needed for the property. The surrounding properties are commercial (C-2) and residential (R-1-8, R-2-6.5, RM). There are no irrigation canals in this area. The height of the proposed 6-plex will follow the height transition requirements of 19.44.050 (10) and thus the height shall not be greater than 35 feet. The building is a contemporary design with a mix of stucco, wood cement siding, and brick.

Faizi showed the Commission the proposed site plan, landscaping plan, and building elevations. She said Millcreek staff and the applicant had met with UTA regarding the removal of a bus stop bench on 3300 S. near the proposed project. The meeting was held on August 10, 2021, and UTA and the applicant will be working on including a bus stop bench near the property as an effort to provide more accessibility for those who use the bus for transit. She noted that the current bus stop bench would be relocated.

Faizi said staff sent notices to directly affected property owners and entities on July 27, 2021, and did not receive any comments from residents. This project was reviewed at both the East

Mill Creek Community Council and Canyon Rim Community Council. At their regularly scheduled meeting on August 4, 2021, the Canyon Rim Community Council discussed the need for a traffic study (not needed for any project under 20 units), and safety concerns and signage for pedestrians and cyclists. One resident/business owner was present at the meeting and mentioned that the project was a great idea for the neighborhood and had no concerns. The Canyon Rim Community Council voted to recommend approval of the project. At their regularly scheduled meeting on August 5, 2021, the East Mill Creek Community Council discussed fire safety and access to hydrants, and no residents were in attendance to speak about the project. The East Mill Creek Community Council voted to recommend approval of the project.

Faizi reviewed the staff findings. Staff found that the applicant can meet all of the requirements through a conditional use permit and through technical review. Staff found that the height of the project is comparable to the surrounding building heights, and therefore not a major impact on views and massing for surrounding properties. The applicant will comply with the height restriction of no more than 35 feet as per 19.44.050. Staff found that the project will not be a major impact due to only being 6 units. Staff found that due to the project's access of the alley way, the traffic circulation and impacts would be minimal. She said the applicant would also include signage for pedestrians and cyclists in order to promote the health, safety, and welfare of the community. She recommended preliminary approval of the application subject to the following conditions:

1. No upward illumination is allowed. Any installation of public lighting facilities or lighting located within the public right of way must be approved by the Millcreek Public Works Department. No light my trespass onto adjacent lots.
2. The applicant shall obtain all approvals and permits required from UDOT as necessary.
3. Signs and accessory buildings will require separate building permits and staff review for zoning/land use compliance.
4. The applicant will be required to include the proposed bus stop bench location as agreed upon by UTA.
5. The applicant will be required to include signage near the property for pedestrians and cyclists.
6. Any modifications to these approved plans must be approved by the Millcreek Planning & Zoning Department. Any adjustments to the exterior design of the building, or alterations that increase the height or building footprint of structures, or any increase in density, must be approved by Planning Commission. Any changes to the site plan along a public right of way must be reviewed and approved by Millcreek Public Works Department.
7. The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval.
8. As part of the technical review, applicant is required to meet all standards for roadway development as determined by the Millcreek Public Works departments.
9. All applicable fees from the technical review process required must be paid in full before final conditional use approval can be granted and before certificate of occupancy is granted.
10. The applicant will comply with all requirements of the Unified Fire Code and is subject to approval by the Fire Marshal. Any safety measures required by the Fire Marshal including a fire hydrant shall be installed.
11. The applicant shall obtain a complete review for an approved building permit and shall comply with the requirements of Millcreek City, and utilities. Building permit may only be applied for once final approval letter for conditional use permit is given to applicant.
12. Applicant must obtain utility will serve letters during the technical review process.
13. The applicant and its successors shall properly and continually maintain all required landscaping, fencing, buildings.

14. An approved landscape plan that complies with the minimum standards found in Chapter 19.77 and shall be bonded for prior to final conditional use approval. A tree preservation, replacement, and removal plan will be completed and approved by City staff.
15. Applicant will be required to receive approval from Salt Lake County addressing department before final conditional use approval.
16. Applicant is required to bond for all proposed or required improvements of landscaping and public improvements as determined by the Public Works Department and Planning and Zoning Department.
17. That applicant shall schedule a pre-construction meeting with the public works department once bonding is complete.
18. The development shall meet all requirements of Low Impact Development (LID) approach. This approach includes long-term stormwater BMPS that allow stormwater to infiltrate, evapotranspiration or harvest and reduces runoff from the site and protects water quality (MS4 permit 4.2.5.1.3). If a LID approach is infeasible, an alternative rationale must be provided and documented showing that infiltration, evapotranspiration, and harvesting methods were used to the maximum extent feasible. Reasons for infeasibility may include the following: high ground water, drinking water source protection areas, soil conditions, slopes, accessibility, excessive costs, or others (MS4 permit 4.2.5.1.5).
19. All items of the staff report.

Applicant Elliot Abel said Faizi was great to work with. Commissioner Reid asked about saving the mature trees on the property. Abel said he tried to reconfigure the layout to preserve the trees, but trees would be removed and replaced.

Chair LaMar opened the public hearing.

Elyse Sullivan read a public comment received online from Jamie Allyn, 2197 E. Keller Lane. *"It appears from the submitted plans (pg. 5 of staff report) and dimensions taken from the County Assessor Parcel Viewer that about 1/3 of the area slated as satisfying the rear-yard setback requirement is owned (not merely a R of W) by Questar. Even if, because of the alley, the rear yard setback requirement is reduced from 20 ft. to 10 ft. (pursuant to 19.44.050: SPECIAL REQUIREMENTS FOR THE R-M ZONE [#18]) the Questar owned parcel takes up 40 ft. of the 126.3 ft. lot width. At the East Millcreek Community Council Meeting I asked Staff and Applicant about this and was told by the applicant that there was something in the code that permitted this. I have not been able to locate the specific provision and wondered if the Planning Commission might include this in their discussion. I presume that a zone's setback requirement is not only to provide a buffer between one parcel and another but also to provide open space within a parcel. If so, can a parcel owned by another party be included as a means to satisfy a setback requirement?"*

Chair LaMar closed the public hearing.

Francis Lilly said he had already responded to Jamie Allyn via email. He said there is language in the code that if you have property that abuts an alley that is at least 20 feet wide, the RM Zone setback could be reduced to 10 feet. He said the reason for the setback is the alley width plus the 10-foot setback from the Questar parcel actually exceeded the minimum rear yard by the zone. Commissioner Allen said he liked the project.

Commissioner Cianflone moved to grant preliminary approval to CU-21-013 subject to the planning staff's recommendations, the conditions found in the staff report. Commissioner Allen seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

1.5 Consideration of SD-21-021, Preliminary Plat approval of the Millcreek City Center Open Space Subdivision Location: 1321-1357 E. 3300 S., 1311-1363 E. Chambers Avenue, 3216 S. Highland Drive, and 1310-1334 E. Woodland Avenue Applicant: Millcreek

Robert May reviewed the staff report. He said the subdivision defined the boundaries of the common area in the City Center. He noted the plat did not vacate any easements or right-of-way but dedicated land for Chambers Avenue and 3300 S. Commissioner Allen asked if the subdivision would impact future applications. Lilly said the plat would accomplish the dividing line between Millcreek Common and development. He said in a commercial zone, there is no minimum lot size. The goal of the application was to divide Millcreek Common space to developable parcels to give the City opportunity to trade or sell property.

Chair LaMar opened the public hearing.

Carol Elliot, 3210 S. Highland Drive, asked how a piece of property that was already sold to a private developer could be platted on the open space subdivision as being owned by Millcreek. She noted that she had an ingress/egress easement on the "L-shaped" section of property touching Highland Drive. She protested this piece of property being part of the open space subdivision.

Mallory Singleton, 1296 E. 3300 S., asked if the subdivision would impact the Verizon and Check City property kiddie corner to the Common. Staff said no.

Chair LaMar closed the public hearing.

Francis Lilly said that the "L-shaped" property had not been sold, so Millcreek still owned it. He said the County requires subdivisions to be named. The predominant use would be the City Center open space, so that is what it was named. He said the city cannot sell the property until the subdivision takes place. The subdivision does not affect the disposition of the easement.

Commissioner Allen, in regards to application SD-21-021, moved to grant preliminary plat approval of the Millcreek City Center Open Space subdivision subject to conditions outlined in the staff report. Commissioner Claerhout seconded. Chair LaMar called for the vote. Commissioners present voted yes. The motion passed unanimously.

The Commission took a break from 8:27-8:34 p.m.

2. Continuing Application

2.1 Consideration of ZM-19-012, Rezone Request from R-1-8 to R-2-6.5 and Adoption of a Development Agreement for a 15-unit Planned Unit Development Location: 1315 East Magda Lane Applicant: Raed Salem

Francis Lilly said there were currently 7 units on the property in various states of decay. The landowners previously put together a site plan that would salvage some of those buildings, but as the project got going it made sense to scrape the entire property and replace the units with modern owner-occupied twin housing. The surrounding zoning is R-1. After receiving feedback from the Planning Commission at the April 21, 2021 meeting, the applicant was submitting a site plan that presumes the demolition of all 7 existing dwellings, replacing them with 16 new twin homes in a Planned Unit Development (PUD). He showed the Commission the proposed site plan that had an existing tree in the way of parking. He said the application would come back to the Commission as a conditional use permit and PUD.

Lilly said the finer points of the design, landscaping, and detrimental effects of the proposed development agreement should be discussed that evening. He said the buildings were modern in concept with white Jerusalem stone, stucco, and wood as the proposed materials. He said in the proposed zone, the minimum front yard setback was 25 feet, but the proposal was almost 35 feet from the property line. He said sidewalk would be added in the dedication. He said the site looked like a heavily concreted space. He felt attention was warranted in the front of the townhomes for landscaping. He noted the pedestrian and vehicular space was shared. He said at their meeting on December 3, 2019, the Millcreek Community Council unanimously recommended approval of the proposed rezone with a development agreement. Lilly recommended approval of the rezone and reviewed the proposed development agreement conditions:

1. Height. The height of the buildings will not exceed 28 feet in height.
2. Setbacks. The setbacks for the building will be as established on the attached site plan, Exhibit C.
3. Parking. The project will include 58 parking stalls for the development. There will be 12 units with 3 parking spaces each, and 4 units with 4 parking spaces each, and 6 guest parking spaces.
4. Common Open Space. The project will consist of open space totaling 45% of the project site. 22% of the open space will be common, and 23% of the open space will be private.
5. Amenities. The open space will include the following residential amenities: Community Garden consisting of at least 16 garden beds.
6. Screening. Parking between 1300 E and the buildings fronting 1300 E shall be screened from view.
7. Units. The project will consist of 12 four-bedroom units, and 4 five-bedroom units.
8. Private Open Space. The project will consist of open space totaling 46% of the project site. 22% of the open space will be common, and 24% of the open space will be private.
9. Lighting. The developer will install Street lights on the south side of Magda Lane as shown in the drawing.
10. Fencing. The developer will install Wooden Fencing along perimeter of PUD.
11. Uses. Uses will be limited to 16 Residential Twin Homes.
12. Landscaping. Landscaping will be provided as provided in the attached landscape plan. Trees, community garden space, resident's choice. Trees will be preserved per the tree preservation plan indicated in the attached exhibit. Trees to be installed along private right-of-way.
13. Materials. The project will consist of the following materials: White Jerusalem Stone, Stucco, and Wood.
14. Arrangement. Arrangement of the materials and windows will be as indicated on the attached renderings.

Chair LaMar asked about screening standards. Lilly proposed two options: a wall or an evergreen hedge.

Applicant Raed Salem did not object to more greenery and screening along the street. Chair LaMar asked why the units had large bedroom counts. Salem said there was space, so they added bedrooms. Chair LaMar noted that fewer bedrooms would require fewer parking stalls. Applicant Rola Hajeb said the footprints would not change. Commissioner Reid agreed with Lilly's remarks on additional landscaping. Chair LaMar said screening taller than three feet would be preferred. The Commissioners expressed a desire for a hedge. Lilly recommended an evergreen hedge. Commissioner Allen recommended the applicant work with staff to add more greenery to the front of the homes.

Commissioner Allen, on consideration of ZM-19-012, moved to forward a positive recommendation for a rezone request from R-1-8 to R-2-6.5 and adoption of a development agreement for a 16 unit planned unit development including the items in the staff report, plus a hedged screen between the units and 1300 E., plus to work with staff on trying to increase greenery in front of the homes. Commissioner Wright seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

3. Commission Business Continued

3.2 Approval of July 21, 2021 Meeting Minutes

Commissioner Cianflone moved to approve the July 21, 2021 meeting minutes. Chair LaMar seconded. Chair LaMar called for the vote. All Commissioners present voted yes. Commissioner Allen abstained. The motion passed.

3.3 Updates from the Planning and Zoning Director

Francis Lilly said he was looking to hire additional staff, a current planning manager. He announced that Robert May was promoted to the Long-Range Planning Manager position. He asked the Commissioners to let him know if they wanted to participate in the American Planning Association Conference.

3.4 Discussion of Current City Center Overlay Zone (CCOZ) and City Center Master Plan

Chair LaMar said he added this item to the agenda to go over details in anticipation of future applications because there was interest to add digital billboards in the City Center. He provided the Commission with a draft position letter to send to the City Council. Commissioner Stephens said the purpose of the letter was not to pass judgement on whether or not some form of a digital billboard is a bad idea, but to encourage the City Council to follow the public process as respects to the guiding documents. He then read the following letter.

"Dear City Council Members,

An open letter from a planning commission to a city council is perhaps unprecedented, but we feel it is important that you understand our alarm at the prospect of erecting digital billboards within the City Center. Nothing in our current ordinances supports billboards in the City Center and we oppose efforts to approve them without a robust open public process.

No support for this digital billboard plan can be found in the General Plan (adopted in 2019). The City Center Master Plan (adopted in 2019) explicitly stipulates signage that is diametrically the opposite of what constitutes a digital billboard. The City Center Overlay Zone Ordinance (adopted in 2019) prohibits digital billboards. The underlying sign and billboard ordinance (adopted in 2020) specifically prohibits digital billboards in the City Center.

All these documents are effectively new and were adopted by the city council after extensive public involvement, including open houses, polling of residents, public hearings and public meetings. These guiding documents and ordinances represent what Millcreek residents want. If the goal of erecting digital billboards in the city center persists, these guiding documents and multiple zoning ordinances must first be changed in substantive ways. All changes in these documents should go through the same extensive process involved in their creation. That includes outreach meetings, multiple hearings, dialogue with neighborhoods throughout the entire city, the community councils, the planning commission and finally the city council will then be free to move forward. After the culmination of this public process, and IF the changes in these city planning documents are approved, it would then be appropriate to start the discussion of any applications relevant to this issue.

The City Council appears to be motivated by what it feels are certain immediate exigencies regarding one billboard located on 3300 South. This is not a new issue nor is it urgent that a deal be made in the near future to exchange traditional billboards for digital billboards. The City Council can start the process of condemnation to remove this billboard, and then if and after changes are approved to the ordinances and guiding documents, a deal can still be made with Reagan Outdoor Advertising, or the city can simply choose to complete the condemnation process. Revising the definition of a digital billboard to make them acceptable – by adjusting their size, height, fancy framing and duration of each digital image – will not work.

Our advice: slow down. There are rational and thoughtful alternatives that are well within the control and financial resources of the city."

Chair LaMar asked for feedback on the letter. Commissioner Reid said it was important to follow the process and that the Commission's role should be respected. Commissioner Sieber said she liked the letter in concept and was taken aback by the article on digital billboards in the City's newsletter. She said the code was clear that digital billboards were only allowed along the I-15 corridor in Millcreek. She said the CCOZ specifically stated that only monument, illuminated, temporary A-frame, and protruding signs were allowed, and digital billboards did not fit. She said requirements in code should be followed or changed. Commissioner Allen said the letter was not for or against billboards, just stating that the appropriate process needed to be followed.

Commissioner Allen moved to approve the draft letter as presented and forward it to the City Council. Commissioner Stephens seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

4. Calendar of Upcoming Meetings

- City Council Mtg., 8/23/21, 5:00 p.m. at City Hall
- Canyon Rim Citizens Association Mtg., 9/1/21, 7:00 p.m. TBD
- East Mill Creek Community Council Mtg., 9/2/21, 6:30 p.m. TBD
- Mt. Olympus Community Council Mtg., 9/7/21, 6:00 p.m. TBD
- Millcreek Community Council Mtg., 9/7/21, 6:30 p.m. TBD
- City Council Mtg., 9/13/21, 5:00 p.m. at City Hall
- Planning Commission Mtg., 9/15/21, 5:00 p.m. at City Hall

ADJOURNED: Commissioner Allen moved to adjourn the meeting at 9:13 p.m. Commissioner Cianflone seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

APPROVED: Shawn LaMar **Date** 9/15/2021
Shawn LaMar, Chair

Attest: **Elyse Sullivan, City Recorder**

3330 South 1300 East
Millcreek, UT 84106
801-214-2700
millcreek.us

File # CU-21-002/SD-21-006

Planning Commission Staff Report

Meeting Date:	**18 August 2021**
Applicant:	**Nathan Anderson**
Property Address:	**4080/4090 South Highland Drive**
Parcel IDs:	**16-33-381-025-0000, -026,-055**
Request:	**Applicant is requesting Preliminary Approval of a Conditional Use Permit and Preliminary Plat Approval for a Mixed-Use PUD consisting of 7 residential townhomes and 4 live/work units.**
Zone:	**C-2 /R-1-8**
Prepared By:	**Robert May, Long Range Planning Manager**

SYNOPSIS AND SCOPE OF DECISION

Applicant Nathan Anderson is requesting Preliminary Approval of a Conditional Use Permit and Preliminary Plat Approval for a Mixed-Use PUD consisting of 7 residential townhomes and 4 live/work units. The project development site consists of three separate parcels and collectively amounts to approximately .63 acres. The majority of the development site lies within C-2 Zone with roughly 1,700 sf that lies in the R-1-8 Zone.

Refer to application file ZM-21-003 for more information regarding the rezone request and characteristics.



A mixed-use development is recognized as a conditional use in the C-2 Zone per Section 19.60.020 Table 19.60-1. Due to the project being a Planned Unit Development, development standards and requirements within Chapter 19.78 and subdivision Code, Title 18 are required to be met.

The Planning Commission has the authority to approve or approve with conditions, based on standards, all conditional use applications. Denial of an application shall only be considered if there are no conditions that can be imposed to mitigate

the reasonably anticipated detrimental effects of the use. All conditional uses are presumed to be compatible in the zone and compatible with the intent of the General Plan. – *Section 19.84.050 Approval/Denial Authority*

Existing Land Use and Proposed Change

Currently the proposed development site is vacant, but historically has been used as an auto repair shop for over the last thirty years. The adjacent property directly to the south is zoned commercial and currently hosts a mixture of commercials uses such as a denntist office and dance studio. The adjacent property directly to the north is zone multi-family residential and is currently housing a 9-unit multi-family housing development.

The property directly west is zoned residential and is separated by a canal owned and operated by Big Cottonwood Lower Canal Irrigation Company. Directly across Highland Drive from the subject property is a large reception center.

The property does have public improvements in terms of curb, gutter, and sidewalk. However, a new access and apron will likely trigger new installation of public improvements.

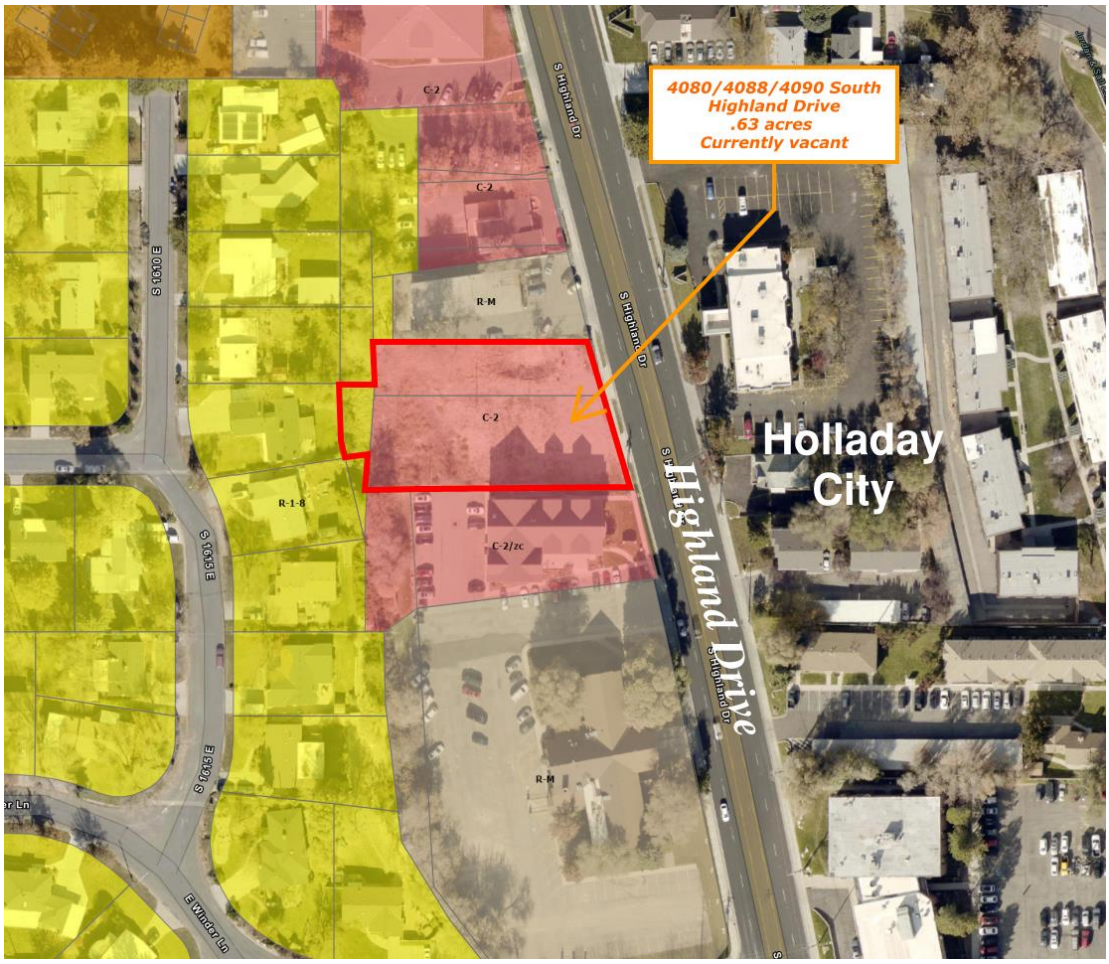
Existing Zoning	Existing Land Use	Surrounding Uses and Zones	Site Improvements	Parcel ID	Size of Property
C-2	Vacant commercial	Commercial /Mixed-Use Residential	119 dwellings 25,000 sf commercial	**16-33-381-025-0000, -026,-055**	Approx. .63 acres

SITE & VICINITY DESCRIPTION

Figure 1: Google street view



Figure 2: Zoning map



The purpose of the C-2 Commercial Zone is to provide areas for larger-scale community commercial development. Such zones cater to regional markets and generate traffic from a much larger regional area. The C-2 Zone does allow for residential mixed use developments with special requirements.

The development will consist of four 3-bedroom units and seven 2-bedroom units. Four of the eleven total units will be commercial live-work units fronting Highland Drive. The project parking follows the below breakdown per Chapter 19.80 Off-Street Parking Code.

4-3 Bedroom Unit = 10 Stalls

7-2 Bedroom Units = 14 stalls

Guest 33% = 4 stalls

Commercial (1500 sf) = 6 stalls





Surrounding Uses. The site is bordered to the north by a mult-family residential structure and small commercial structures, to the east by Highland Drive, to the south by a 3-story office/commercial structure, and to the west by a canal followed by single-family residential structures.

Right-of-Way. The existing Highland Drive right-of-way is approximately 80 feet, and no right-of-way dedication is required along this site. There is curb, gutter, and sidewalk on both sides of Highland Drive, and the project site is currentlys served by a high-frequency bus line (UTA Route 220). There is a bus stop approximatly 150 north of the property.

On-Street Parking. No on-street parking is available along Highland Drive, and none is contemplated as part of the development.

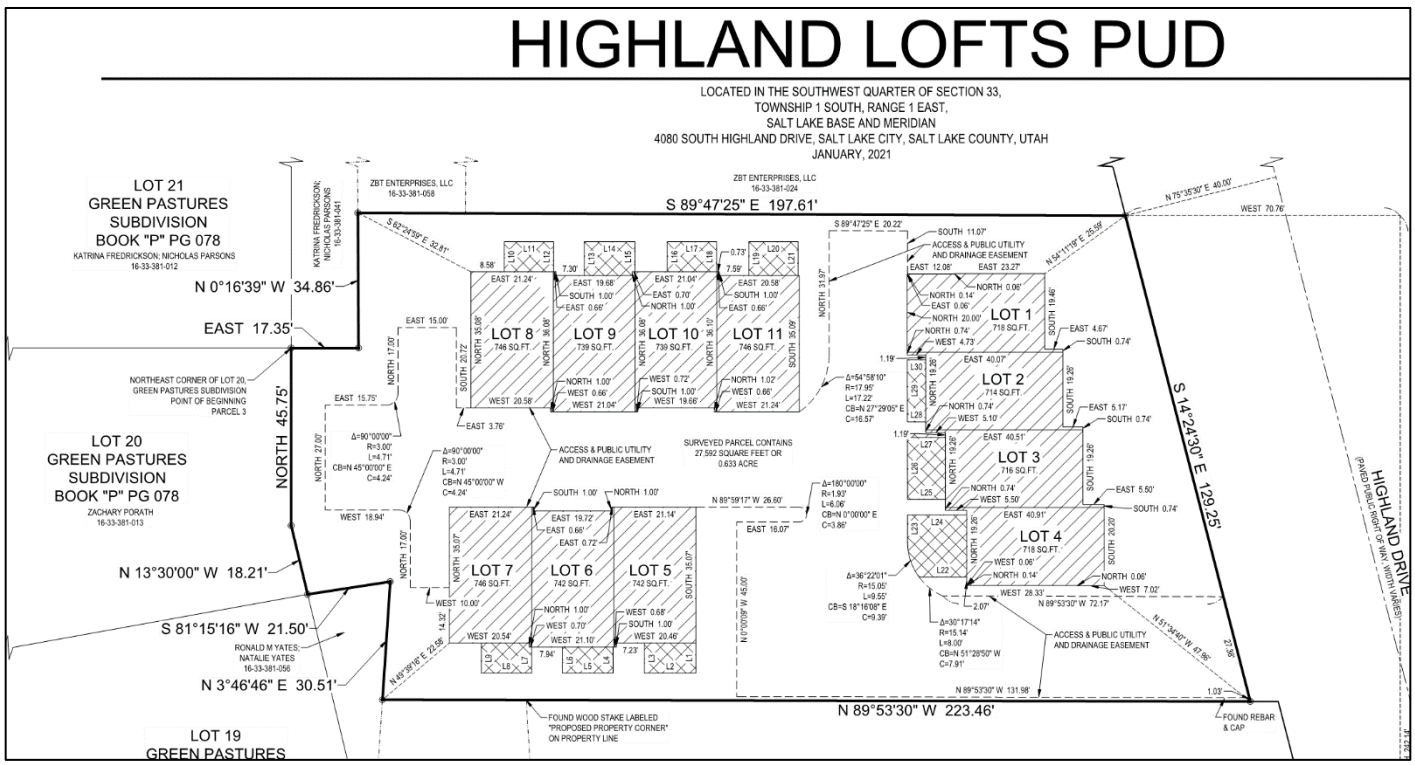
Street Lighting. There are no street lights along the property frontage. There are two street lights across Highland Drive to the north and south.

Geologic Hazards. There is a known fault line to the west of the property. The project is within a fault study area and is subject to the City's Geological Hazards Ordinane, Chapter 19.75 of the Millcreek Code.

Private Irrigation. Big Cottonwood Lower Canal Company has a known canal that runs south to north along the west property line. The applicant has been in contact with the irrigation company and is mitigating any concerns.

Grade. The property features a significant grade change from east to west. The first floor of the mixed use units will be below grade from Highland Drive.





PROJECT INFORMATION

The applicant is proposing a Mixed-Use PUD consisting of 7 residential townhomes and 4 live/work units. The four units facing Highland Drive will each contain 375 square feet of ground floor commercial/office space that collectively totals 1500 square feet of commercial for the project.

DOG PARK W/BENCH IS FENCED 4' HEIGHT.
OPEN SPACE PROVIDED = 45%, 40% REQUIRED
MIXED-USED COMMERCIAL = 1,500/4 = 375 SF IN UNITS 1-4.
COURTYARDS ARE FENCED UNITS 5-11
UNITS 5-12 34' 7" FT IN HEIGHT, 1-4 = 45' IN HEIGHT.

WEST FENCING TO BE ALTERED FOR TERRAIN.

AREA BREAKDOWN

PROPERTY: 27,570 SF.
PARK STRIP: 1,228 SF.
28,798 SF.

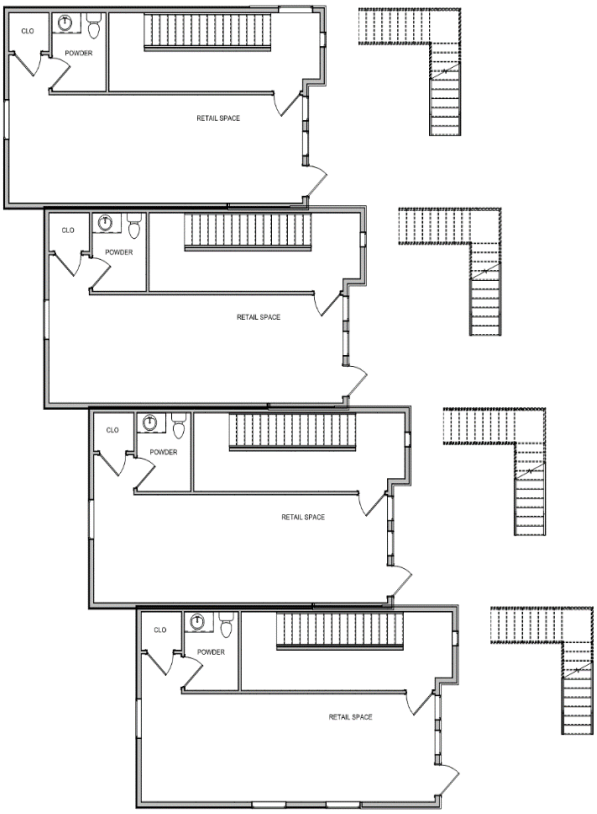
OPEN SPACE: 10,817 SF.
ROOF DECKS: 2,124 SF.
12,941 SF. 45%

BUILDING PADS: 7,993 SF. - ROOF DECKS = 5,869 SF.
HARDSCAPE: 9,988 SF.
15,857 SF. 55%



TABULATION BOX

1. AVERAGE: .64
2. DENSITY UNDER C-2: MINIMUM 21,000 OF 27,878.
3. GEOLOGIC OVERLAY: TESTED NO FAULT DETECTED.
4. OPEN SPACE: 40% REQUIRED - 20 COMMON 20 PRIVATE
5. BUILDING AREA: 8,010 OR .28% OF LOT.
6. GARBAGE FACILITY: WITHIN GARAGE.
7. INTERNAL PARKING: 22
8. SITE PARKING: 10
9. SIDE YARDS 15', REAR YARD 25' FRONT YARD 25'
10. AMENITY: DOG PARK, MIXED USE



This mixed-use development is a vast improvement over the past use. The past use was mechanics garage and a small home. The applicant is adding 4' sidewalks behind the curb and through-out the development for better pedestrian access. Guest parking provided just beyond the entry and on the west-end. Individual waste containers will be provided for each unit. In addition to the minimum garage size of 20x22 and disposal cans will be placed under the stairs to avoid outdoor storage. Signage for the four live-work units will be confined to a 24" x 16" area above each entry door. No illumination is allowed. Solar set-up will be provided with each unit and appropriately screened. Solar panels are to be added later following federal incentives.

The proposed development is subject to a height transition that limits the development to 35 feet in height from any residential zoning. However, units outside of the transition area are eligible of maximum heights of 45 feet. See elevations in attachments. Note that the property is on a slope and the first floors are below grade.

<u>Height Transition Requirements</u>.
For any development adjacent to an R-1, R-2, R-4, A-1, or A-2 zone ("residential zone"), the maximum height, as measured per Table 19.60-3, for buildings or structures within 100 feet of a residential zone boundary shall not exceed 35 feet. No vertically-integrated mixed use building or commercial building within 100 feet of a residential zone boundary may have more than two stories.





Figure above shows units within height transition area – Below 35 feet



Figure above shows units outside height transition area – May be above 35 feet but no higher than 45 feet

Density. The C-2 Zone does not have a density cap, but regulates density and scale by lot coverage maximums and open space minimums along with other development standards and regulations. The project density is roughly 2,500 square feet per unit or 17 units per acre.

Site Layout. The applicant is proposing a mixed use site consisting of three buildings. The applicant proposes commercial uses in the four units directly facing Highland Drive. The result will be a project that presents a distinctive streetscape along Highland Drive in a manner that complies with the C-2 mixed use requirements for building length and step-backs, as well as commercial uses.

Fencing: *Per the PUD code standards,* fencing around the perimeter of all developments shall be provided, except along frontages of a public right-of-way. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, wood, or vinyl may be allowed with a minimum two-foot wide, six-foot tall brick or stone pillar spaced every twelve feet on center.

Lighting: There is no surface parking proposed between the building and Highland Drive, however there will likely be building lighting and streetlights. Building lighting shall be dark-sky compliant and streetlights shall meet the requirements of the Millcreek City Engineer.

Landscaping: The applicant is providing 9,799 square feet of on-site open space area, including roof deck balcony, a 450 square foot dog park area and approximately 6,000 square feet of landscaping that will include a combination of plant coverings and turf grass.

Access. Pedestrian and vehicular access for the project will be served from Highland Drive. The project features one parking access. A traffic impact study was not done due to the minimal impact 11 units will have on the adjacent area and Highland Drive.

Dedication. No dedication is required as part of this project.

Parking. The development will consist of four 3-bedroom units and seven 2-bedroom units. Four of the eleven total units will be commercial live-work units fronting Highland Drive. The project parking follows the below breakdown per Chapter 19.80 Off-Street Parking Code. Per the Off-Street Parking Code Chapter 19.80, specifically the shared parking section, the developer is requesting shared parking approval. 28 residential stalls with 6 commercial stalls within the shared parking matrix would result in 30 parking stalls. **The developer is providing 32 parking stalls.**

4-3 Bedroom Unit = 10 Stalls

7-2 Bedroom Units = 14 stalls

Guest 33% = 4 stalls

Commercial (1500 sf) = 6 stalls

Required Parking Matrix

Chapter 19.80 Shared Parking Table 19.80.080(a)

1	For each applicable general land use category, calculate the number of spaces required for a use as if it were the only use (refer to the schedule of minimum off-street parking requirements).
2	Use the figures for each individual land use to calculate the number of spaces required for that use for each time period specified in the table (six time periods per use).
3	For each time period, add the number of spaces required for all applicable land uses to obtain a grand total for each of the six time periods
4	Select the time period with the highest total parking requirement and use that as the total number of parking spaces required for the site on a shared parking basis.

GENERAL LAND USE CATERGORY		WEEKDAYS			WEEKENDS		
		12a.m.— 7a.m.	7a.m.—6p.m.	6p.m.—12a.m.	12a.m.—7a.m.	7a.m.—6p.m.	6p.m.—12a.m.
☐	Office & Industrial	5%	100%	5%	0%	5%	0%
☐	Retail	5%	100%	80%	5%	100%	60%
☐	Restaurant	50%	70%	100%	70%	50%	100%
☐	Hotel	100%	65%	100%	100%	65%	100%
☐	Residential	100%	50%	80%	100%	75%	75%
☐	Theater/entertainment	5%	20%	100%	5%	50%	100%
☐	Place of worship	0%	30%	50%	0%	100%	75%
USE	**Required Parking**						
LU 1	Residential - 28	28	15	24	30	22.5	22.5
LU 2	Office Space - 6	0.3	6	0.3	0	0.3	0
	Total	28.3	21	24.3	**30**	22.8	22.5

Open Space. The applicant is proposing 12,941 square feet of open space which includes 2,124 square feet of roof deck.

Building Design. The applicant proposes a design consisting of three buildings. The development will consist of four 3-bedroom units and seven 2-bedroom units. Four of the eleven total units will be commercial live-work units fronting Highland Drive.

Height: The overall height of units 5-12 is 34'7" feet. Units 1-4 are no higher than 45' from grade. Since the building is being constructed into an existing grade change, the height along Highland Drive is 42 feet.
Setbacks: The project establishes a 25 foot setback from Highland Drive, and a 15 foot perimeter setback.
Materials: The applicant is proposing a mixture of brick, stone, and stucco with exposed steel for the railing and stairs.
Massing: The project has a highly articulated façade with articulation and large windows giving it a strong curb appeal along the Highland Drive frontage. The applicant is proposing a 12 foot high 1st floor for the commercial space.

Unit Characteristics. The applicant is proposing 11 residential dwellings, with four being live/work units. There are 4-three-bedroom units, and 7 two-bedroom units. Each unit consists of approximately 750 square feet.

Amenities. The applicant is proposing a 440 square foot dog park and bench as the amenity for the residents.

Utilities and Waste Removal. The applicant is proposing that each unit will have its own waste and recycling containers that will be emptied on-site by a private waste removal outfit. No containers can be along Highland Drive.

COMMUNITY COUNCIL RESPONSE

Millcreek Community Council. The Millcreek Community Council held a public meeting on this application on 10 August 2021. The Millcreek Community Council recommended approval of the project, on a vote of 8 approve and 1 abstained. During the meeting it was discussed that the applicant provide a buffer along the west property line with trees. It was also discussed that the development's CC&R's regulate the type of commercial space that can be used in the live/work units.

STANDARDS FOR APPROVAL

Per §19.84.060 of the Millcreek Code, All Conditional Use Permits run with the land and may require the applicant to record documents to that effect. The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use.

In addition, buildings with heights greater than 40 feet are subject to additional findings, which will be discussed following the mitigations.

Staff identified the following reasonably anticipated detrimental effects on this project, and recommend the following modifications and conditions to mitigate them:

1. *Detrimental effects of decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation as determined by a qualified traffic engineer.*

Effect: Although minor, eleven units with 4 being live/work will generate some traffic impacts.

Mitigation: An eleven unit development does not warrant a traffic study. The applicant has exceeded the parking requirement by two stalls to help remedy any additional parking demand. The applicant will ensure that every residential unit has at least one dedicated parking space. Prior to receiving final subdivision plat approval, applicant shall bond for all required street improvements, including curb, gutter, sidewalk, street trees and required irrigation, required setback landscaping, streetlights, and any other improvement required by the City.

2. *Detrimental effects on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation as determined by the City's engineering staff, contracted engineers, and utility service providers.*

Effect: Existing utilities may not be equipped to handle increased demand imposed by the project.

Mitigation: Applicant shall provide service availability letters from all utility providers prior to receiving final conditional use approval.

3. *Detrimental effects on connectivity and safety for pedestrians and bicyclists.*

Effect: Any development will have an impact on existing utilities.

Mitigation: Applicant shall provide service availability letters from all utility providers prior to receiving final conditional use approval.

4. *Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable, within a neighborhood including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.*

Effect: New development increases the demand on nonrenewable energy sources and inefficient buildings may contribute to short- and long-term air quality issues.

Mitigation: Applicant shall verify that all lighting will be directed downward and shielded. All trash containers will be stored within individually owned garages.

5. *Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands, as determined by City Engineer, City geologist and other qualified specialists.*

Effect: Soils conditions or geological hazards may be present on site.

Mitigation: Applicant shall verify with engineering staff through appropriate studies as required by the City's Geological Hazards ordinance that the soils are suitable for development prior to receiving final conditional use approval.

6. *Detrimental effects of modifications to or installation of signs and exterior lighting that conflict with neighborhood compatibility.*

Effect: The development may include lighting that casts outward and upward, contributing to light pollution during evening hours.

Mitigation: Applicant shall install dark-sky compliant lighting, and submit a lighting plan, including for signage, for review by planning staff prior to receiving final conditional use approval.

7. *Detrimental effects arising from incompatible designs in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.*

Effect: Changes to the development during preparation of construction documents may result in significant alterations to mass and materials, resulting in a significantly more massive building or one with a decreased standard of architectural finishes.

Mitigation: Applicant shall comply with the materials palette presented in the application.

8. *Detrimental effects on the tax base and property values.*

Not applicable

9. *Detrimental effects on the current level of economy in governmental expenditures.*

Not applicable.

10. *Detrimental effects on emergency fire service and emergency vehicle access.*

Effect: Developments will always be an impact on emergency fire service and emergency vehicles.

Mitigation: The applicant has designed and constructed a project that is compliant with fire code. The applicant shall obtain preliminary plan approval from the Fire Marshal prior to receiving final conditional use approval.

11. *Detrimental effects on usable/functional/accessible open space.*

Effect: N/A.

Mitigation: Applicant shall verify prior to receiving final conditional use approval that the project meets the minimum square feet of open space required. The project exceeds the open space requirement.

12. *Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.*

    Effect: Inadequate maintenance and care for the property and structures could take place, making the project a slum and dragging neighboring property values down.

    Mitigation: The applicant shall establish an HOA and funding to properly maintain and care for the property and structures.

13. *Detrimental effects on appearance from graffiti. Applicants shall apply an anti-graffiti material or coating, approved by the City, to building, fence, and other surfaces from ground level to a height of nine feet. The Planning Commission may approve dense planting or appropriate design measures in place of anti-graffiti materials. This requirement may be imposed retroactively where graffiti issues are present.*

    Effect: Project fencing and long building facades may be defaced by graffiti.

    Mitigation: Prior to receiving a certificate of occupancy, applicant shall apply an anti-graffiti material or coating on the north, west, and south building facades, and on any fencing the applicant installs on the project.

PLANNING STAFF ANALYSIS AND FINDINGS

Per §19.84.060 of the Millcreek Code, the Planning Commission can impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. While staff finds that the project is well designed and is conceptually in compliance with the City's development standards, the final conditional use permit will be evaluated for potential detrimental impacts established in the Millcreek Code.

Staff finds that this project provides superior value to the area due to its' unique characteristics. The project is a vast improvement to the surrounding area. It is a mixed use development consisting of three buildings and is designed to accommodate 4 live/work units comfortably. The applicant has committed to a high standard for building materials, extra parking, and extra amenity space. Due to the project's exceptionality and that it meets and exceeds the minimum requirements for a vertically integrated mixed use development, staff recommends approval of a conditional use permit subject to the conditions in the staff recommendation.

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval of the conditional use permit and preliminary plat known as file# CU-21-002/SD-21-006 with the recommended staff conditions:

1. Prior to receiving final subdivision plat approval, applicant shall bond for all required street improvements, including curb, gutter, sidewalk, street trees and required irrigation, required setback landscaping, streetlights, and any other improvement required by the City.

2. the applicant will ensure that every residential unit has at least one dedicated parking space.

3. Applicant shall provide service availability letters from all utility providers prior to receiving final conditional use approval.

4. Applicant shall verify with engineering staff through appropriate studies as required by the City's Geological Hazards ordinance that the soils are suitable for development prior to receiving final conditional use approval.

5. Applicant shall install dark-sky compliant lighting, and submit a lighting plan, including for signage, for review by planning staff prior to receiving final conditional use approval.

6. Applicant shall comply with the materials palette presented in the application.

7. The development shall consist of three separate buildings with four mixed-use units that individually consist of at minimum 375 square feet along Highland Drive.

8. Within one year of receiving preliminary conditional use approval, applicant shall record a commercial condominium plat consisting of at least two commercial spaces, totaling at least 40,000 square feet of commercial uses. Commercial uses shall not include leasing offices or amenities space for the residential use.

9. The applicant shall obtain preliminary plan approval from the Fire Marshal prior to receiving final conditional use approval.

10. The develop shall meet all requirements of Low Impact Development (LID) approach. This approach includes long-term stormwater BMPS that allow stormwater to infiltrate, evapotranspiration or harvest and reduces runoff from the site and protects water quality (MS4 permit 4.2.5.1.3). If a LID approach is infeasible, an alternative rationale must be provided and documented showing that infiltration, evapotranspiration, and harvesting methods were used to the maximum extent feasible. Reasons for infeasibility may include the following: high ground water, drinking water source protection areas, soil conditions, slopes, accessibility, excessive costs, or others (MS4 permit 4.2.5.1.5)

11. Prior to receiving a certificate of occupancy, applicant shall apply an anti-graffiti material or coating on the north, west, and south building facades, and on any fencing the applicant installs on the project.

12. Prior to receiving final conditional use approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.

13. The applicant shall obtain final approval from the Millcreek City Engineer that all anticipated traffic impacts or concerns of the proposed development have been mitigated.

14. Signs and accessory structures will require separate building permits and staff review for zoning/land use compliance.

15. The applicant shall provide sufficient parking-lot light illumination. No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line including the alley (ROW) of any off-street parking area as required by Section 19.80.030 of the zoning ordinance.

16. Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.

17. Landscaping shall be installed in compliance with Chapter 19.77 Water Efficient Landscape Design and Development Standards. Any revisions to the landscape plan package shall be reviewed and approved in writing by the director or designee prior to commencement of construction. Re-certification of compliance with the requirements of the landscaping ordinance shall be provided by the qualified professionals who prepared and submitted the plan revisions.

18. The applicant is required to meet all requirements and standards of the Millcreek subdivision Planned Unit Development Code Chapter 19.78.

19. The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval and preliminary plat approval.

20. The applicant is required to meet all requirements and standards of the Millcreek subdivision code Title 18.

21. Before final approval and the recordation of the plat, the applicant must bond and complete a bond agreement for all required public improvements and landscaping.

22. All items of the staff report.

MODEL MOTION

Motion to approve the mixed-use project located 4080 South Highland Drive, consisting of 7 residential townhomes and 4 live/work units, file# CU-21-002/SD-21-006 with the recommended staff conditions located in the staff report.

SUPPORTING DOCUMENTS

1. Architecture plans
2. Civil plans
3. Proposed Plat
4. Landscape plans
5. Fault rupture study
6. Applicants letter

MILLCREEK, UTAH
ORDINANCE NO. 21-50

AN ORDINANCE REZONING CERTAIN PROPERTY LOCATED AT APPROXIMATELY 4088 SOUTH HIGHLAND DRIVE FROM R-1-8 ZONE (RESIDENTIAL) TO C-2 ZONE (COMMERCIAL)

WHEREAS, the Millcreek Council ("Council") met in regular session on November 22, 2021, to consider among other things, an ordinance rezoning certain property located at approximately 4088 South Highland Drive from R-1-8 Zone (Residential) to C-2 Zone (Commercial); and

WHEREAS, Utah Code Ann. § 10-9a-503 provides in part that the Council may make zoning map amendments; and

WHEREAS, Utah Code Ann. § 10-9a-503 also provides that the Council may not make any amendment to its land use ordinances unless the amendment was first submitted to the planning commission for its recommendation; and

WHEREAS, Utah Code Ann. § 10-9a-503 also provides that the Council shall comply with the procedure specified in Utah Code Ann. § 10-9a-502 in preparing and adopting an amendment to a land use regulation; and

WHEREAS, Utah Code Ann. § 10-9a-502 provides planning commission shall provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4) and hold a public hearing on the proposed land use ordinances; and

WHEREAS, on July 27, 2021, the required hearing notice was published; and

WHEREAS, on August 18, 2021, the proposed amendment was submitted to the planning commission for its recommendation; and

WHEREAS, on August 18, 2021, the planning commission held the required public hearing with respect to this rezone; and

WHEREAS, at the August 18, 2021, planning commission meeting the Millcreek Planning Commission recommended approval of the proposed rezone; and

WHEREAS, the Millcreek Code of Ordinances, provides among other things, that before finally adopting any such rezone, the Council shall consider the application during a public meeting which has been properly noticed in compliance with the provisions of Title 52, Chapter 4, of the Open and Public Meetings Act; and

WHEREAS, on November 17 2021, the Council caused the required notice to be given; and

WHEREAS, on November 22, 2021, the Council considered the rezone during a public meeting; and

WHEREAS, Section 19.06.020 of the Millcreek Code of Ordinances provides that each of the sections of the City which are amended or zoned be shown on the maps on file with Millcreek; and

WHEREAS, the Council finds that it is in the best interest of Millcreek to adopt the rezone/map change as recommended by the Planning Commission.

NOW THEREFORE, be it ordained by the Council that the property described in File # ZM-21-003 filed by Nathan Anderson located at 4088 South Highland Drive is hereby rezoned/reclassified from R-1-8 Zone (Residential) to C-2 Zone (Commercial) such property being more particularly described as follows:

Legal Description

Parcel No. 16-33-381-055-0000

Legal Description

BEG NE COR LOT 20, GREEN PASTURES SUB; S 45.75 FT; S 13^30' E 18.21 FT M OR L; N 81^15'16" E 21.5 FT M OR L TO CANAL; N'LY ALG SD CANAL TO PT BEING E 29.47 FT FR BEG; W 29.47 FT TO BEG. 0.04 AC M OR L. 5664-1296 7627-2136 8447-3129 09766-5559

BE IT FURTHER ORDAINED, that pursuant to Section 19.06.020 of the Millcreek Code of Ordinances that the official zoning map showing the change enacted hereby be filed as provided in Section 19.06.020.

This Ordinance, assigned Ordinance No. 21-50, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's recorder.

PASSED AND APPROVED this 22nd day of November 2021.

MILLCREEK COUNCIL

By:_____
Jeff Silvestrini, Mayor

ATTEST:

_____
Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
ORDINANCE 21-50: REZONING CERTAIN PROPERTY LOCATED AT APPROXIMATELY 4088 SOUTH HIGHLAND DRIVE FROM R-1-8 ZONE (RESIDENTIAL) TO C-2 ZONE (COMMERCIAL)
was passed and adopted the 22nd day of November 2021 and certifies that copies of the foregoing Ordinance 21-50 were posted in the following locations within the municipality this ____ day of November, 2021.

1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
3. Calvin S. Smith Library, 810 E. 3300 S., Millcreek, UT 84106

_____
Elyse Sullivan, City Recorder

MILLCREEK, UTAH
ORDINANCE NO. 21-51

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR A NEW MIXED-USE PLANNED UNIT DEVELOPMENT CONSISTING OF 7 RESIDENTIAL TOWNHOMES AND 4 LIVE/WORK TOWNHOMES WITH RESPECT TO APPROXIMATELY 0.63 ACRES OF REAL PROPERTY LOCATED AT APPROXIMATELY 4080, 4088, AND 4090 SOUTH HIGHLAND DRIVE

WHEREAS, the Millcreek Council ("*Council*") met in regular meeting on November 22, 2021, to consider, among other things, an ordinance approving a master development agreement for a new mixed-use planned unit development consisting of 7 residential townhomes and 4 live/work townhomes with respect to approximately .63 acres of real property located at approximately 4080, 4088, and 4090 South Highland Drive; and

WHEREAS, the Utah Code Ann. § 10-9a-102 authorizes, among other things, that the City may enter into development agreements; and

WHEREAS, staff has presented to the Council a Development Agreement for the referenced property ("Development Agreement"); and

WHEREAS, the Council has reviewed the Development Agreement and hereby find that it is in the best interests of the both parties to enter into the Development Agreement.

NOW, THEREFORE, **BE IT ORDAINED** that the Development Agreement is approved, and the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

PASSED AND APPROVED by the Council this 22nd day of November 2021.

M**ILLCREEK**

_____
Jeff Silvestrini, Mayor

ATTEST:

_____
Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
ORDINANCE 21-51: APPROVING A DEVELOPMENT AGREEMENT FOR A NEW MIXED-USE PLANNED UNIT DEVELOPMENT CONSISTING OF 7 RESIDENTIAL TOWNHOMES AND 4 LIVE/WORK TOWNHOMES WITH RESPECT TO APPROXIMATELY 0.63 ACRES OF REAL PROPERTY LOCATED AT APPROXIMATELY 4080, 4088, AND 4090 SOUTH HIGHLAND DRIVE
was passed and adopted the 22nd day of November 2021 and certifies that copies of the foregoing Ordinance 21-51 were posted in the following locations within the municipality this ____ day of November, 2021.

1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
3. Calvin S. Smith Library, 810 E. 3300 S., Millcreek, UT 84106

_____
Elyse Sullivan, City Recorder

When recorded, return to:

Millcreek
Attn: Jeff Silvestrini
3330 South 1300 East
Millcreek, UT 84106

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into this ____day of November 2021, by and between Highland Lofts, LLC. ("Developer"), for the land to be included in or affected by the project located at approximately 4080, 4088, and 4090 South Highland Drive in Millcreek Utah, a municipal corporation of the State of Utah ("City"). The Developer and the City are sometimes referred to as the "Parties."

RECITALS

WHEREAS, Developer owns approximately .65 acres of real property located at 4080, 4088, and 4090 South Highland Drive in Millcreek, Utah ("Property") and intends to develop the Property. A legal description of the Property is attached hereto as exhibit "A." The Parties desire that the Property be developed in a unified and consistent fashion and establish minimum standards for a new mixed-use planned unit development consisting of 7 residential townhomes and 4 live/work townhomes (the "Project") on the Property; and

WHEREAS, Developer hereby represent to the Millcreek Council that it is voluntarily entering into this Agreement; and

WHEREAS, Developer is willing to develop the Property in a manner that is in harmony with the objectives of the City's General Plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

WHEREAS, the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-11, *et seq*., and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Affected Property**. The legal description of the Property contained within the Project boundaries is attached as exhibit "A." No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

2. **Reserved Legislative Powers**. Nothing in this Agreement shall limit the future exercise of police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land-use plans, ordinances, and regulations after the date of this Agreement, provided that the adoption and exercise of such power shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the Millcreek Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Ordinances and Standards**. Developer acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable ordinances and requirements of the City necessary for development of the Project, including the payment of fees, and compliance with applicable City standards.

4. **Specific Design Conditions**. The Project shall be developed and constructed as set forth in the specific design conditions/criteria set forth in exhibit "B. The Project shall also comply with all requirements set forth in the minutes of the Millcreek Planning Commission and Millcreek meetings on this matter.

5. **Agreement to Run With the Land**. This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property. This Agreement supersedes any and all development agreements that have been executed concerning the Property.

6. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without the consent of the other party. This Agreement shall be binding upon any successors and assigns. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

7. **No Joint Venture, Partnership or 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, except as expressly provided herein.

8. **Integration. Modification, and Entire Agreement**. This Agreement contains the agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind may only be modified by a subsequent writing duly executed and approved by the parties hereto. Exhibits A and B are hereby incorporated into this Agreement.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

TO DEVELOPER:
Highland Lofts, LLC.
Nathan Anderson, Mgr. City Ventures, Mgr.
2383 South 900 South
Salt lake City, UT 84108

TO CITY:
Millcreek
Jeff Silvestrini, Mayor
3330 South 1300 East
Millcreek, Utah 84106

Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

10. **Choice of Law and Venue**. Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Any Utah litigation regarding this Agreement shall be filed in the Third District Court in Salt Lake City, Utah. Any federal litigation regarding this Agreement shall be filed in the United States District Court for the District of Utah in Salt Lake City, Utah.

11. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

12. **Limitation on Recovery for Default – No Damages.** No party shall be entitled to any claim for any monetary damages as a result of any breach of this Agreement and each Party waives any claims thereto. The sole remedy available to Developer or and assignee shall be that of specific performance. Notwithstanding such limitation the City may withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Develop or any assignee.

13. **Term of Agreement.** The term of this Agreement shall be until November 22, 2031 and shall automatically expire on such date.

14. **Force Majeure.** Neither party shall be liable or deemed to be in default for any delay, failure, or interruption in performance under the Agreement resulting, directly or indirectly, from acts of God, acts of civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, strikes or other work interruptions, or any other cause beyond the control of either party. Both Parties, however, agree to make good faith efforts to perform under this Agreement in the event of any such circumstance.

15. **Construction.** The Parties stipulate that this Agreement and all agreements or documents incorporated herein shall not be subject to the rule of construction that a written agreement is construed against the Party preparing or drafting that Agreement.

16. **Headings**. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

17. **No Waiver**. The failure of either Party to exercise in any respect a right provided for in this Agreement shall not be deemed to be a subsequent waiver of the right or of any other right.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Millcreek

_____

Jeff Silvestrini, Mayor

ATTEST:

_____

Elyse Sullivan, City Recorder

DEVELOPER

By: _____

Title: _____

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Jeff Silvestrini and Elyse Sullivan as the Mayor and the City Recorder, respectively, of Millcreek, a Utah municipality.

_____
Notary Public

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

The foregoing instrument was acknowledged before me this ___ day of _____ 2021 by _____.

_____
Notary Public

Exhibit A

Address: 4088 South Highland Drive

Parcel No. 16-33-381-055-0000

Legal Description

BEG NE COR LOT 20, GREEN PASTURES SUB; S 45.75 FT; S 13^30' E 18.21 FT M OR L; N 81^15'16" E 21.5 FT M OR L TO CANAL; N'LY ALG SD CANAL TO PT BEING E 29.47 FT FR BEG; W 29.47 FT TO BEG. 0.04 AC M OR L. 5664-1296 7627-2136 8447-3129 09766-5559

Address: 4080 South Highland Drive

Parcel No. 16-33-381-025-0000

Legal Description

BEG N 242.14 FT & W 70.76 FT FR S 1/4 COR SEC 33, T 1S, R 1ES L M; N 89^42'25" W 197.6 FT; S 0^16'39" E 48.33 FT, M OR LE 209.52 FT, M OR L; N 14^24'30" W 48.86 FT TO BEG. 0.22 AC 4433-0117 8619-3269 09499-2572

Address: 4090 South Highland Drive

Parcel No. 16-33-381-026-0000

Legal Description

COM 7.73 RDS N FR S 1/4 COR SEC 33 T 1S R 1E SL MER N 4.79 RDS W 16 RDS S 4.79 RDS E 16 RDS TO BEG LESS STREET & PARCELDEEDED TO S L CO FOR WIDENING 0.38 AC 4433-0117 5560-0226 8619-3272,3269 9499-2572 09758-3924

Exhibit B

Developer and the City agree that the proposed development will incorporate the following:

1. The development site plan as presented in Exhibit C shall not change.
2. Elevations and locations of buildings of development as presented in Exhibit C shall not change.
3. Building materials and façade articulation of development as presented in Exhibit C shall not change.
4. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.

Exhibit C



TABULATION BOX

1. AVERAGE: .64
2. DENSITY UNDER C-2: MINIMUM 21,000 OF 27,878.
3. GEOLOGIC OVERLAY: TESTED NO FAULT DETECTED.
4. OPEN SPACE: 40% REQUIRED - 20 COMMON 20 PRIVATE
5. BUILDING AREA: 8,010 OR 29% OF LOT.
6. PARKING: 1 PER UNIT IN MIN GARAGE.
7. INTERNAL PARKING: 22
8. SITE PARKING: 10
9. SIDE YARDS: 15', REAR YARD 25' FRONT YARD 20'
10. AMENITY: DOG PARK, MIXED USE

*PARKING: 11 UNITS (4 - 3 BEDROOM UNITS/10 PARKING STALLS) (7 - 2 BEDROOM UNITS 14 PARKING STALLS = 24 STALLS. GUEST = 4. COMMERCIAL (1,500) = 6
28 RESIDENTIAL + 6 COMMERCIAL, WITH SHARED PARKING WOULD BE 29 STALLS (32 PROVIDED)

DOG PARK W/BENCH IS FENCED 4' HEIGHT.
OPEN SPACE PROVIDED = 45%, 40% REQUIRED
MIXED-USED COMMERCIAL = 1,500/4 = 375 SF IN UNITS 1-4.
UNITS 1-4 ARE 35'-0" FT IN HEIGHT.
UNITS 5-12 30'-0" FT IN HEIGHT, 1-4 = 40' IN HEIGHT.

WEST FENCING TO BE ALTERED FOR TERRAIN.

AREA BREAKDOWN

PROPERTY: 27,570 SF
PARK STRIP: 8,808 SF
36,798 SF

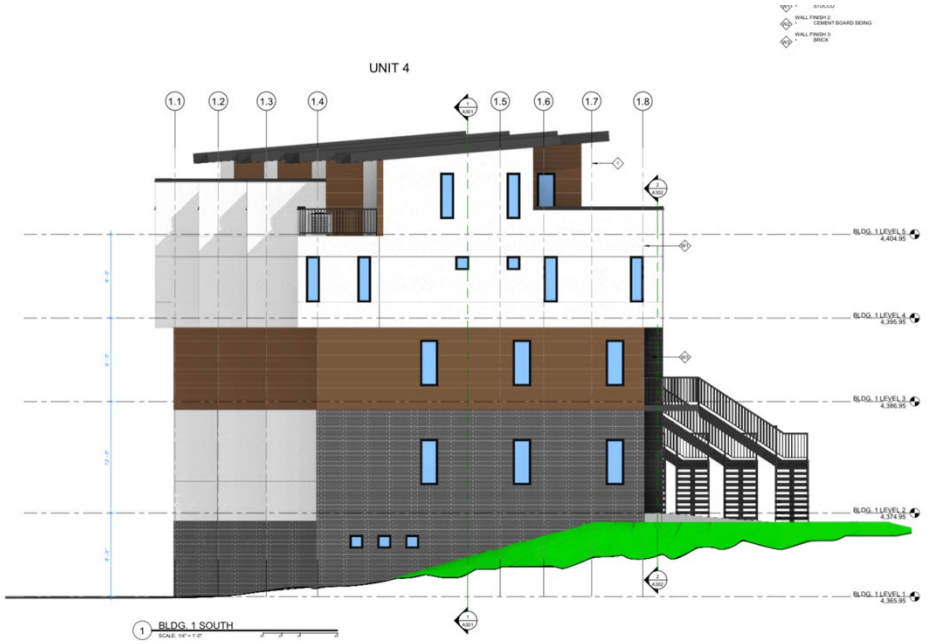
OPEN SPACE: 10,817 SF
ROOF DECKS: 2,124 SF
12,941 SF - 45%

BUILDING PADS: 7,993 SF - ROOF DECKS = 5,869 SF
5,869 SF
15,857 SF - 55%




WALL FINISH 2
CEMENT BOARD SIDING
WALL FINISH 3
BRICK
1.8
1.7
1.6
1.5
UNIT 1
1.4
1.3
1.2
1.1
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 NORTH


WALL FINISH 2
CEMENT BOARD SIDING
WALL FINISH 3
BRICK
1.E
UNIT 1
1.D
UNIT 2
1.C
UNIT 3
1.B
UNIT 4
1.A
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 WEST


UNIT 4
1.1
1.2
1.3
1.4
1.5
1.6
1.7
1.8
BLDG. 1 LEVEL 5
4,404.95
BLDG. 1 LEVEL 4
4,395.95
BLDG. 1 LEVEL 3
4,386.95
BLDG. 1 LEVEL 2
4,374.95
BLDG. 1 LEVEL 1
4,365.95
1
BLDG. 1 SOUTH


2.1
UNIT 7
2.2
UNIT 6
2.3
UNIT 5
2.4
1
BLDG. 2 SOUTH
2.D
2.C
UNIT 5
2.B
2.A
UNIT 5 LEVEL 3
4,385.25
UNIT 5 LEVEL 2
4,375.25
UNIT 5 LEVEL 1
4,365.25
2
BLDG. 2 EAST


2.4
UNIT 5
2.3
UNIT 6
2.2
UNIT 7
2.1
1
BLDG. 2 NORTH
2.A
2.B
UNIT 7
2.C
2.D
UNIT 7 LEVEL 3
4,384.25
UNIT 7 LEVEL 2
4,374.25
UNIT 7 LEVEL 1
4,364.25
2
BLDG. 2 WEST











MILLCREEK, UTAH
RESOLUTION NO. 21-40

A RESOLUTION ESTABLISHING AN ELECTION DATE TO CONSIDER A POSSIBLE REFERENDUM CHALLENGING THE ADOPTION OF ORDINANCE 21-48

WHEREAS, on November 22, 2021, the Millcreek Council (the "Council") of Millcreek met in regular session to consider, among other things, a resolution establishing an election date to consider a possible referendum challenging the adoption of Ordinance No. 21-48; and

WHEREAS, an application was submitted on November 15, 2021, seeking a referendum on Ordinance 21-48, amending the City Center Master Plan and Title 19 of the Millcreek Code of Ordinances with respect to digital district signs; and

WHEREAS, Utah Code Ann. § 20A-7-607(5)(c) provides, "[f]or a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or
(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:
    (A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;
    (B) the local clerk;
    (C) the county clerk; and
    (D) the attorney for the county or municipality that took the legislative action; and

WHEREAS, the City Recorder as the local clerk has determined that prior to August 30 that she will determine if the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601; and

WHEREAS, the Council finds that it is not feasible to obtain the agreement of the required parties for another election date within the required time frame; and

WHEREAS, the best date to hold an election to consider the proposed referendum if all the required signatures are collected in accordance with Title 20A, Chapter 7, would be November 8, 2022, which is the date of the next general election; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of Millcreek to hold the election for a possible referendum challenging the adoption of Ordinance No. 21-48 on November 8, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council as follows:

1. Designation of Election. An election will be held on November 8, 2022, for the purpose of holding a vote on the referendum petition on Ordinance No. 21-48 so long as the

referendum petition is sufficient for submission to a vote of the people or is not otherwise invalid.

2. Effective Date. This Resolution is effective immediately upon passage.

PASSED AND APPROVED this 22nd day of November, 2021.

MILLCREEK COUNCIL

_____
Jeff Silvestrini, Mayor

Attest:

_____
Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No