



The Regular Meeting of the
BRIAN HEAD TOWN
PLANNING COMMISSION
56 N. Hwy 143, Brian Head, UT 84719
Via Zoom Meeting ID# 85924332803
www.zoom.us (click [here](#))
Tuesday, March 1, 2022 @ 1:00 p.m.

Agenda

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. DISCLOSURES

D. MINUTES: February 15, 2022

E. REPORTS / PUBLIC INPUT

F. AGENDA ITEMS

1. PRELIMINARY REVIEW – WEST ZION VIEW

The Commission will review an application for a new subdivision to be located on lots 2-4 of the Crystal Aire Subdivision.

2. LAND MANAGEMENT CODE

The Commission will review proposed changes to Chapter 6 & 7 of the Land Management Code regarding an overlay zone and make a recommendation to the Town Council.

G. ADJOURNMENT

Dated the 25th day of February 2022

Available to Board Members as per Resolution No. 347 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the public body may participate by means of telephonic or telecommunications conference.

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029, giving at least 48 hours advance notice.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in three public and conspicuous places within the Town Limits of Brian Head; to wit, Town Hall, Post Office and The Mall this 25th day of February 2022. I also certify that I have posted a copy of this agenda on the Utah State Public Meeting Notice Website and have caused a copy of this notice to be delivered to the Daily Spectrum.

Bret Howser
Town Manager



The Regular Meeting of the
BRIAN HEAD TOWN
PLANNING COMMISSION
56 N. Hwy 143, Brian Head, UT 84719
Via Zoom Meeting ID# 8308099
Tuesday, February 15, 2022 @ 1:00 p.m.

Roll Call.

Members Present: Chairperson Doug Deutschlander, Commissioner Carrie Dever, Commissioner Sherri Brown, Commissioner Jeff Morgan, Commissioner Cecile Wallis.

Members Absent: Commissioner Kade Bryant.

Staff Present: Bret Howser, Town Manager; Amanda Hunter, Code Enforcement.

A. CALL TO ORDER

Chairperson Deutschlander called the regular meeting of the Brian Head Planning Commission to order at 1:03 p.m. for February 15, 2022

B. PLEDGE OF ALLEGIANCE

Chairperson Deutschlander led the Commissioners and others in the Pledge of Allegiance

C. DISCLOSURES

There were no conflicts of interest with today's agenda items. Chairperson Deutschlander stated that the disclosure statements are on file with the Town Clerk and are available for public inspection during normal business hours

D. APPROVAL OF THE MINUTES:

a. August 19, 2021, and September 21, 2021, Planning Commission Meetings

Motion: Chairperson Deutschlander moved to table the August 19, 2021, and September 21, 2021, Planning Commission. Commissioner Morgan seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5, No = 0, Abstain = 0 Vote: Yes:** Chairperson Deutschlander, Commissioner Morgan, Commissioner Brown, Commissioner Wallis, Commissioner Dever).

b. February 01, 2022, Planning Commission Meeting

Motion: Commissioner Dever moved to approve the February 01, 2022, Planning Commission minutes with no corrections. Commissioner Wallis seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5, No = 0, Abstain = 0 Vote: Yes:** Chairperson Deutschlander, Commissioner Morgan, Commissioner Brown, Commissioner Wallis, Commissioner Dever).

E. REPORTS / PUBLIC INPUT

Bret Howser, Town Manager

- 1- Officer Brad Benson's retirement party is scheduled for February 23, 2022, at 2:00 PM at the Public Safety Building. Everyone is invited to attend.
- 2- The Trails Committee has been meeting on the trails master plan and will have a draft ready in March for the Council and will be asking the Council if they would like the Planning Commission to look at it also.
- 3- The Town Planner job posting will close on Monday, February 21, 2022. Bret reported he anticipates having the position filled by the end of March 2022.

F. AGENDA ITEMS

1. PUBLIC HEARING – ASPEN MEADOWS SOUTHEAST SUBDIVISION PRELIMINARY PLAT

A public hearing regarding the preliminary plat for the proposed Aspen Meadows Southeast Subdivision

Chairperson Deutschlander opened the public hearing to receive comment on the proposed preliminary plat for the Aspen Meadows Southeast subdivision at 1:09 pm.

No comments were made, and no written comments were submitted. Chairperson Deutschlander closed the public hearing on the Aspen Meadows Southeast subdivision at 1:10 pm.

2. PRELIMINARY PLAT REVIEW FOR THE ASPEN MEADOWS SOUTHEAST SUBDIVISION.

A review of the preliminary plat for the Aspen Meadows Southeast subdivision.

Bret Howser, Town Manager, presented the preliminary plat for the Aspen Meadows Southeast subdivision (see attached). Bret reported staff reviewed the preliminary plat with the following items of discussion:

- a. The Public Works Director reviewed the water and sewer for the top of Ridge Top Drive which meets the Town's standards.
- b. The utility easements would need to be recorded on the final plat
- c. The lift station and building property would need to be dedicated to the Town.
- d. The pedestrian trail will be a year-round public access trail.
- e. There will be a ten-foot (10') utility easement will be located on private property.

Bret reported the following are items that will need to be submitted prior to the approval of the preliminary plat:

- a. Development Agreement signed by both parties.
- b. CC&R's to be submitted.
- c. A phased plan for the subdivision will need to be submitted.

Bret recommended the Planning Commission table this agenda item until the abovementioned documents/items are submitted.

Chairperson Deutschlander inquired if the pedestrian trail language identified should be identified as a seasonal trail instead.

Dave Mason, 891 Plateau Place, inquired if Plateau Place Road that currently dead ends

before Steam Engine Drive could identify a right-of-way through Aspen Meadow's property in order to access Steam Engine Drive in order to connect two roads, Plateau Place and Steam Engine Drive. Bret responded that Mr. Mason would need to work with the owners of Aspen Meadows Southeast subdivision due to the fact that he is requesting access through their property.

Motion: Commissioner Dever moved to table the Preliminary Plat review until the Town Engineer review is completed and missing submittal requirements are submitted. Commissioner Morgan seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5, Vote: Yes:** Chairperson Deutschlander, Commissioner Morgan, Commissioner Brown, Commissioner Wallis, Commissioner Dever).

3. PUBLIC HEARING – WEST ZION VIEW SUBDIVISION PRELIMINARY

PLAT. A public hearing regarding the preliminary plat for the proposed West Zion View subdivision.

Chairperson Deutschlander recessed the regular meeting of the Planning Commission and opened the public hearing for the West Zion View subdivision at 1:31 pm.

Mike Decker, lot 18 owner in the Crystal Air subdivision, reported he is representing the owners of lots 6, 8, and 19. Mr. Decker reported he also owns a condominium unit at The Mall. Mr. Decker stated he would like to address his concerns for parking in which he has noticed in the parking at The Mall during busy weekends and holidays is difficult and has concerns that a 24-unit project that is being proposed for this subdivision will face the same challenges as The Mall and they would be forced to park on the streets and neighboring properties.

Raimon Chikhani, lot 6 owner, expressed his concerned about the amount of traffic that the 24-unit project along with and convenience store would bring. Mr. Chikhani commented he would like to ensure the subdivision has sufficient snow storage.

Joel Braly, lot 8 owner, expressed his concerns about the amount of traffic the subdivision will bring with deliveries to the stores along with a 24-unit project. Mr. Braly inquired if the owners would be willing to consider a change in the access by identifying an access directly off of Highway 143 or corner of Zion View Drive instead of going into the subdivision. Mr. Braley expressed his concerns on the amount of OHV's that this could bring to the neighborhood.

Commissioner Dever inquired if the existing turning lane on Highway 143 into Zion View Drive would work for traffic if the turning lane was widened. Commissioner Dever also inquired if the developers would consider turning the store to face east instead of west for better traffic access. Mike Platt reported his experience in working with Utah Department of Transportation (UDOT) has been challenging.

No other comments were received, and no written comments were submitted. Chairperson Deutschlander closed the public hearing for the West Zion View subdivision and reconvened the regular meeting of the Planning Commission at 1:44 pm.

4. PRELIMINARY REVIEW – WEST ZION VIEW

An. application for a new subdivision to be located on lots 2-4 of the Crystal Aire Subdivision.

Mike Platt, Platt and Platt Engineering, presented the preliminary plat for the West Zion View subdivision (see attached). Mr. Platt responded to a question that arose during the public hearing portion of today's meeting in which Mr. Braley suggested relocating the access of the convenience store onto Highway 143 instead on Zion View Drive which currently being

proposed. Mr. Platt reported he will contact the developer for the subdivision on the suggestion of moving the access 90 degrees directly onto Highway 143.

John Shannon, West Zion View Developer, reported they have not yet contacted Utah Department of Transportation (UDOT) regarding a direct access onto Highway 143 since he would first need to confirm with the owners on a 90 degree turn into the convenience store. Mr. Platt reported if UDOT requires them to identify a deceleration lane, would exceed their budget for this project. Mr. Shannon reported the developers are proposing lower density units, they are allowed up to 34 units and are proposing 24 individual single-family home units.

Mr. Ramon Chikhani, property owner of lot six, commented that they are appreciative of what the developers are trying to do but he has concerns about the impact of parking for the commercial store on the residents. Mr. Chikhani reported they are willing to work with the developers on identifying additional parking for the project.

Bret Howser, Town Manager, reported the Public Works Director has reviewed the water and sewer within the project. Bret reported staff identified the following:

1. Under Roads: The streetlights need to be in conformance with the Dark Sky friendly requirements.
2. Trails: dedicated 10' easement along the property adjacent to Highway 143 for future trails.
3. Transit: Future shuttle stop will need to be identified.
4. Storm water drainage: Plan on using the drainage swells adjacent to the roads in the development.
5. Snow storage: 27.5% of hard surface is identified for snow storage.

The Commission discussed the following:

1. CC&R's will need to be submitted.
2. The project is not a phased project.
3. No development agreement is needed for this project since the infrastructure is privately owned and will not be dedicated to the Town.
4. An outdoor space which includes a 12'x20' maintenance shed, and outdoor seating is also identified for snow storage. Mr. Shannon explained this area is a work in progress and they may continue to work on this area and will present it to the Planning Commission. Chairperson Deutschlander expressed his concern on where the snow storage is identified.
5. The Commission recommended the developers contact UDOT on a direct access onto Highway 143 for the convenience store area.

Motion: Commissioner Morgan moved to table the West Zion View Subdivision Preliminary Plat until the Town Engineer has reviewed and approved the plat and the CC&R's have been submitted. Commissioner Dever seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Chairperson Deutschlander, Commissioner Brown, Commissioner Dever, Commissioner Morgan, Commissioner Wallis).

5. CEDAR BREAKS MOUNTAIN ESTATES, UNIT C, LOTS 93 AND 120 PLAT AMENDMENT.

The Commission will review a plat amendment for Cedar Breaks Mountain Estates Unit C lots 93 & 120. The owner would like to vacate the lot line and create one lot.

Bret Howser, Town Manager, reported the applicant, Ron Regan, is requesting a lot line vacation of his properties located in the Cedar Breaks Mountain Estates, Unit C, lots 93 and 120 to create one lot (see attached).

Chairperson Deutschlander inquired if these properties are located within a proposed Special Assessment Area (SAA). Bret responded these lots are not within a SAA.

- Motion:** Commissioner Wallis moved to approve the Cedar Breaks Mountain Estates, Unit C plat amendment for a lot line vacation of lots 93 and 120 as proposed, subject to the appropriate signatures and recording of the amended plat. Commissioner Morgan seconded the motion.
- Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Chairperson Deutschlander, Commissioner Brown, Commissioner Dever, Commissioner Morgan, Commissioner Wallis).

6. CEDAR BREAKS MOUNTAIN ESTATES, UNIT B, PLAT AMENDMENT FOR A LOT LINE VACATION OF LOTS 9 AND 10. 9 & 10 A plat amendment

for Cedar Breaks Mountain Estates Unit B Lots 9 & 10. The owner would like to vacate the lot line and create one lot.

Bret Howser, Town Manager, reported the town received an application from Mr. Richard Schmit, to vacate the lot lines of lots 9 and 10 in the Cedar Breaks Mountain Estates, Unit B subdivision (see attached). Bret reported this property is currently in a proposed Special Assessment Area (SAA) and this agenda item was tabled in a previous Commission meeting with the direction that staff contact the Town Attorney on whether the lot line vacation can take place during the initial stages of a SAA. Bret reported he contacted the Town Attorney who reported that once the Notice of Intent is adopted, the lots identified in the Notice of Intent will remain and the Commission can grant the lot line vacation, but Mr. Schmit will be responsible for two SAA assessments for lot 9 and 10.

- Motion:** Commissioner Dever moved to approve the lot line vacation of lots 9 and 10 in the Cedar Breaks Mountain Estates, Unit B subdivision as proposed. Commissioner Wallis seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Chairperson Deutschlander, Commissioner Brown, Commissioner Dever, Commissioner Morgan, Commissioner Wallis).

7. LAND MANAGEMENT CODE DISCUSSION ON OVERLAY ZONES. A review of proposed changes to Chapter 6 & 7 of the Land Management Code regarding an overlay zone.

Bret Howser, Town Manager, reported this item was previously discussed by the Planning Commission and was decided that language would need to be reviewed and approved by the Town Attorney. Bret reported the attorney reviewed the language and recommended a Standards for Review (see attached). Bret explained the overlay zone would allow for enhanced landscaping along the village core area.

The Commission discussed the following:

Overlay Zones:

1. Chairperson Deutschlander stated he is opposed to the overlay zoning that is being proposed.
2. Bret explained that overlay zones could be identified in single-family residential and multi-family or light industrial zones as well.
3. Chairperson Deutschlander recommended that single-family residential and multi-family residential zones be stricken from overlay zones.
4. Commissioner Dever commented that the proposed language does not identify multi-family residential (R-3) zones. Bret reported that it was his intent to include multi-family residential (R-3) zones for a 30% landscaping requirement.
5. Commissioner Dever commented the overlay zones deal with location vs. zoning and it would be identified along the Highway and multiple zones could be included. Bret explained he will revise the language to include all zones along the highway and drop the landscape requirement to 20% for single-family (R1 and R-2) zones and

residential and reduced to 30% in commercial zones.

6. Bret reported the Council discussed the overlay zones and identified a 20% landscape requirement.
7. Mayor Calloway stated that if landscaping can be placed to where the Town wants it and the type of landscaping the Town wants, then he believes it will be a better look for Brian Head in whole. Otherwise, the applicant can identify landscaping where they want it and it may not be beneficial to the beautification of the Town.

Setback discussion

1. Chairperson Deutschland recommended that clarification needs to be identified on the scale on how far they can encroach into the setbacks. Chairperson Deutschlander recommended a drawing that would help clarify the requirement.
2. Bret reported that it was his intent to strike the word "residential" in section "D" on Setbacks, Decks and Staircases.
3. Bret reported the International Building Code (IBC) identifies a five-foot setback and it would be his recommendation to mirror the IBC.
4. Section e: Portico: add "secondary egress as defined by the definition of the IBC. No wider than xxx feet and may extend 50% into the setback when approved by the Planning Commission. Bret will identify language and present to the Planning Commission.
5. Chairperson Deutschlander commented he would like to revisit this agenda item with the revised language.

Motion: Commissioner Morgan moved to table the Planning Commission recommendation chapter 6 and 7 for the overlay zones and setbacks discussion any modify any exception to the general commercial zone setbacks. Commissioner Dever seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Chairperson Deutschlander, Commissioner Brown, Commissioner Dever, Commissioner Morgan, Commissioner Wallis).

G. ADJOURNMENT

Motion: Commissioner Morgan moved to adjourn the regular meeting of the Planning Commission. Commissioner Dever seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Chairperson Deutschlander, Commissioner Brown, Commissioner Dever, Commissioner Morgan, Commissioner Wallis).

The regular meeting of the Brian Head Planning Commission was adjourned at 3:01 pm for February 1, 2021.

Date Approved

Amanda Hunter, Code Enforcement



STAFF REPORT TO THE PLANNING COMMISSION

SUBJECT: Preliminary Plat Review – West Zion View
AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: March 1, 2022
TYPE OF ITEM: Administration Action

SUMMARY:

The Planning Commission will hold a public hearing regarding the preliminary plat for the proposed West Zion View subdivision. The Planning Commission will then consider recommending approval of the preliminary plat to the Town Council.

BACKGROUND:

The Crystal Aire Subdivision was developed in 2008 and zoned multi-family residential. The lots have remained vacant over the last 13 years. The infrastructure in this subdivision is complete and has been accepted by the Town.

The applicant submitted an application for Schematic Plan Review in November 2021, following a pre-application conference with staff. The Planning Commission approved the Schematic Plan in December 2021. The applicant has now applied for the preliminary plat approval. A public hearing was noticed for and held on February 15, 2022 at Planning Commission meeting. A second public hearing was held at Town Council Meeting on February 22, 2022.

On February 15, Planning Commission began review of the proposed preliminary plat and tabled the item until the remaining application documents (draft CC&Rs and a phasing plan) were submitted and the engineering review of preliminary construction documents was completed. The Commission also asked the applicant to explore ideas for realigning the first entrance off of Zion View Drive to address concerns from the neighbors of traffic and parking issues on the interior of the neighborhood.

ANALYSIS:

The following are the Standards for Review for a Preliminary Plat:

1. The proposal does not significantly deviate from the schematic plan insofar that the schematic plan was consistent with local ordinances and state statute.
2. The proposed water distribution system is connected to the town's water system and meets the requirements of the town.
3. Provision has been made for a public sewer collection system and is connected to the town's sewer system and meets town requirements.
4. Preliminary engineering plans provide evidence that public services (roads, trails, transit, storm water, snow storage, fire, police, gas, electricity, telecommunications, and recreation) meet the requirements of this title and applicable codes.

Findings of fact were addressed in the February 15, 2022 staff report. Recommendations from staff resulting from findings of fact are:

1. A note should be included on the plat referencing the height and lighting requirements on the original plat related to Cedar Breaks Nat'l Monument dark sky standards.
2. Drainage swales should be noted for final plat.

The draft CC&Rs and phasing plan are attached, along with the preliminary plat. Staff does not find any issues with the proposed CC&Rs and phasing plan.

PROPOSED MOTION:

The Commission can deny, table or approve the Preliminary Plat.

Recommended motion: I move to recommend approval of the Preliminary Plat for West Zion View

ATTACHMENTS:

- A – Proposed Preliminary Plat
- B – Draft CC&Rs
- C – Phasing Plan

BRIAN HEAD TOWN, IRON COUNTY, UTAH

CATEGORY	MINIMUM	ACRE/ %	TOTAL/REQUIRED
PAVEMENT		0.51/4.6%	
DRIVEWAY	325 SF PER UNIT	0.18/5.15%	
BUILDING	1152 SF PER UNIT	0.68/19.6%	
UNDISTURBED		2.11/60.6%	
NOW STORAGE	20% PAVED & PARKING	0.19/5.60%	0.19 ACRE / 0.14 ACRE
TOTAL		3.48/100%	
DENTAL PARKING	2 PER UNIT		48 / 48

- ① TRASH ENCLOSURE
- ② I-WAY STREET SIGNS

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	80.52	125.00	36.91	N72° 00' 53"E	79.13
C2	10.62	15.00	40.57	N73° 50' 45"E	10.40
C3	114.38	50.00	131.07	N28° 35' 44"E	91.02
C4	10.16	15.00	38.80	N17° 32' 17"W	9.97
C5	43.96	125.00	20.15	N8° 12' 43"W	43.74
C6	109.36	75.00	83.54	N23° 29' 04"E	99.92
C7	23.70	15.00	90.51	S69° 29' 16"E	21.31
C8	198.83	639.69	17.81	S33° 08' 09"E	198.03
C9	153.75	639.69	13.77	S45° 55' 32"E	153.38
C10	352.58	639.69	31.58	S40° 01' 17"E	348.13
C11	145.65	100.00	83.45	N47° 48' 21"W	133.11
C12	108.06	100.00	61.92	S59° 30' 40"W	102.88
C13	35.17	100.00	20.15	S8° 12' 43"E	34.99
C14	145.81	100.00	83.54	S23° 29' 04"W	133.23

DRAWN BY:
H.K. HULET

CHECKED BY:
R.B. PLATT

DATE: Feb 10, 2022

SCALE: 1" = 40'

FILE:
P:\Hunter\Jobs\Judson
Shannon\DWG\Civil Plans
Extended Buildings
0208022.dwg

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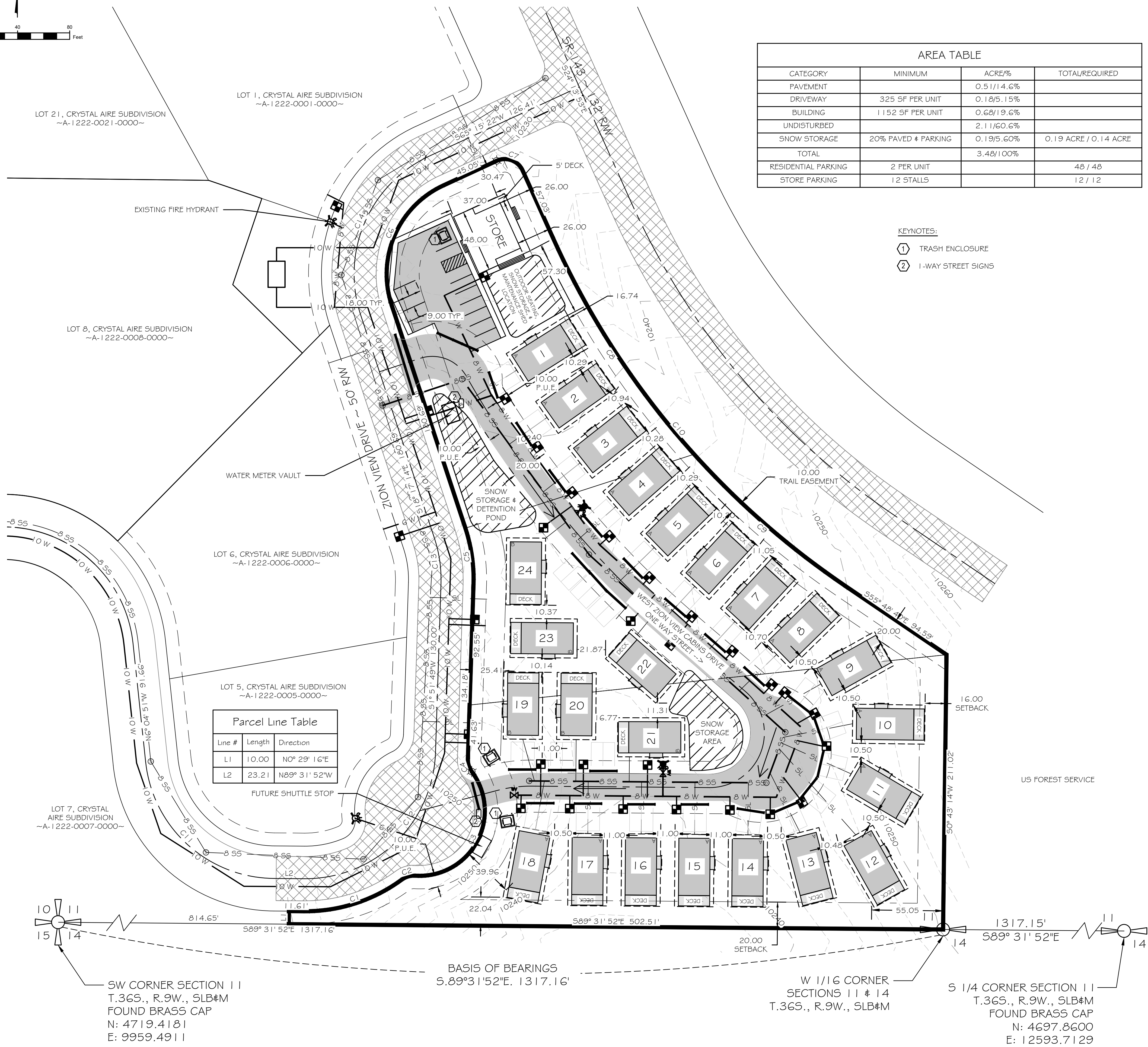
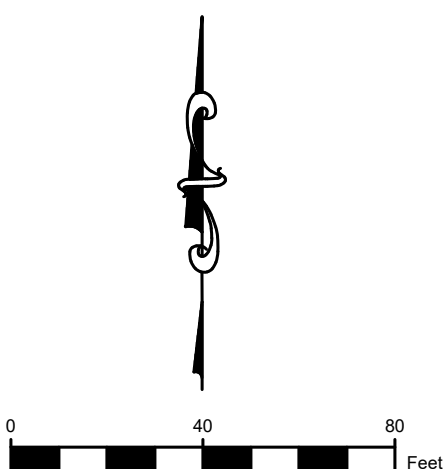
NOTES:

VICINITY MAP
(N.T.S.)

1. PROPERTY OWNERS:
JUDSON SHANNON
2. THE PROPERTY IS ZONED R-3-M.
3. CONTAINS 3.48 ACRES
4. THE BASIS OF BEARINGS, COORDINATES, AND ELEVATIONS FOR THIS PROJECT ARE ON A LOCAL COORDINATE SYSTEM.
5. OWNER, OWNER'S REPRESENTATIVE, CONTRACTOR, AND SUB CONTRACTORS TO COMPLY WITH PROJECT GEOTECHNICAL REPORT PERFORMED BY GEM ENGINEERING, PROJECT NUMBER RG2539, DATED APRIL 14, 2021.
6. THE PROPERTY IS LOCATED IN FLOOD ZONE C, AREA OF MINIMAL FLOODING BASED ON THE FEMA FLOOD INSURANCE RATE MAP, IRON COUNTY, UTAH (UNINCORPORATED AREAS) COMMUNITY PANEL NUMBER 4900730750B, EFFECTIVE DATE: JULY 17, 1994.
7. STREETS ARE TO BE 20 FEET WIDE.
8. UTILITY EASEMENTS ARE 10 FEET WIDE ALONG ALL ROADS.
9. SEWER MAIN TO BE CONNECTED TO THE EXISTING 8" DIAMETER SEWER MAIN IN ZION VIEW DRIVE.
10. WATER MAIN TO BE CONNECTED TO THE EXISTING 6" DIAMETER WATER MAIN STUB OUTS FROM ZION VIEW DRIVE.
11. TOTAL NUMBER OF TOWN HOMES IS 24.
12. SEE GRADING PLAN FOR EXISTING AND PROPOSED CONTOURS.
13. TYPICAL PARKING STALLS 9' X 18'
14. SNOW REMOVAL PROVIDED BY HOA.
15. BRIAN HEAD TOWN IS NOT BEING RESPONSIBLE FOR PAVEMENT DAMAGED DUE TO TRASH PICKUP.
16. ROAD CROSS SECTIONS PROVIDED IN THE CONSTRUCTION DRAWINGS.

LEGEND

	PROJECT BOUNDARY OR PHASE BOUNDARY
	EXISTING SEWER MANHOLE
	PROPOSED SEWER MANHOLE
	EXISTING 10-INCH WATER LINE
	EXISTING 8-INCH WATER LINE
	EXISTING 6-INCH WATER LINE
	PROPOSED 8-INCH WATER LINE
	WATER LATERAL
	EXISTING 8-INCH SEWER LINE
	PROPOSED 8-INCH SEWER LINE
	SEWER LATERAL
	EXISTING FIRE HYDRANT
	PROPOSED FIRE HYDRANT
	WATER CONNECTION
	WATER VALVE
	STREET LIGHT
	PUBLIC UTILITY EASEMENT
	SET BACK
	ROADWAYS
	SNOW STORAGE AREA
	EXISTING PAVEMENT
	PROPOSED PAVEMENT



PAGE: 1 OF 6

After Recording Please Return to:

West Zion View Drive, LLC
c/o Matthew J. Ence
Snow Jensen & Reece, PC
912 West 1600 South, Ste. B200
St. George, Utah 84770

Parcel Nos.:
A-1222-0002-0000
A-1222-0003-0000
A-1222-0004-0000

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
WEST ZION VIEW CABINS TOWNHOMES**

A RESIDENTIAL PLANNED DEVELOPMENT IN BRIAN HEAD, UTAH

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration," is made and executed this _____ day of _____, 2022, by WEST ZION VIEW DRIVE, LLC, a Utah limited liability company, hereinafter called "Declarant."

RECITALS

A. Declarant is the owner of certain real property located in the City of Brian Head, County of Iron, State of Utah, which is more particularly in Exhibit "A", attached and incorporated herein with this reference (hereafter the "Property").

B. The Property herein described has been platted under the name of WEST ZION VIEW CABINS TOWNHOMES, said Official Plat having been recorded in the Office of the Iron County Recorder, State of Utah.

C. Declarant desires to provide for preservation and enhancement of the property values and amenities of the Property and for maintenance of the Common Areas. To this end and for the benefit of the Property and of the Owners thereof, Declarant desires to subject the Property described in Exhibit "A" to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which are for the benefit of the Property and each Owner thereof.

DECLARATION

Declarant declares that all of the Property described herein shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, reservations, assessments, charges, and liens, and to the Official Plat recorded concurrently herewith. This is for the purpose of protecting the value and desirability of said Property. This Declaration and the Official Plat shall be construed as covenants of equitable servitude which shall run with the land and shall be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I **PROPERTY RIGHTS**

Section 1. Definition of "Unit." For purposes of this Declaration, "Unit" shall mean and refer to each of the parcels of land described by the Official Plat which are intended for, or upon which has been constructed, a residential dwelling. "Unit" shall not mean any parcel of land which is intended or utilized for any other purpose, including commercial purposes or for improvement for amenities to benefit the community.

Section 2. Owners' Easements of Enjoyment to Common Areas. Every Unit Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his Unit and in and to the Common Areas, which easement is appurtenant to and passes with title to every Unit.

Section 3. Owners' Easements of Enjoyment to Limited Common Areas. Each Unit Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to certain Units and identified on the Official Plat of the Project. The exclusive right to use and occupy such Limited Common Areas shall be appurtenant to and shall pass with the title to every Unit with which it is associated. A Unit Owner's exclusive right of use and occupancy of Limited Common Areas reserved for their Unit shall be subject to and in accordance with the Declaration and Bylaws.

ARTICLE II **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership. Every Owner of a Unit which is subject to assessment shall be a Member of the homeowners' association to be known as The West Zion View Cabins Owners Association (hereafter the "Association"). Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment. Owners of parcels not meeting the definition of "Unit" shall not be Members of the Association, and said parcels shall not be subject to assessment hereunder.

Section 2. Board of Directors. The Board of Directors shall initially consist of three (3) members. Declarant reserves the right to appoint the Board of Directors and to exercise all powers and responsibilities associated with the Board of Directors until the date which is ninety (90) days after the Declarant no longer owns or controls any of the Units, or any part thereof, for purposes of development, sale, or lease (hereafter the "Declarant Control Period"). Following the end of the Declarant Control Period, either at the next annual meeting of the Members or at a special meeting called for this purpose, the Members shall elect the Board of Directors pursuant to the provisions of the Bylaws of the Association.

Section 3. Classes of Membership. The Association shall initially have two (2) classes of membership:

(a) Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Unit owned.

(b) Class B. The Class B Member shall be Declarant and shall be entitled to five (5) votes for each Unit owned. Class B membership shall cease and be converted to Class A membership upon the expiration of the Declarant Control Period.

(c) Multiple Ownership Interests. In the event there is more than one (1) Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any such Owner, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

ARTICLE III **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of Lien and Personal Obligation of Assessments. Subject to the exemptions set forth in section 4 below, Declarant (as applicable) and Members, for each Unit owned within the Property, hereby covenant, and each Owner of any Unit by acceptance of a deed therefor is deemed to covenant and agree to pay to the Association (i) annual assessments, (ii) special assessments, and (iii) additional assessments as set forth in this Declaration or as provided by law. Assessments shall be levied, fixed, established and collected from time to time. The assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of taxes and insurance on the Common Areas; management and supervision of the Common Areas, including personal property owned by the Association; repair and maintenance of the Common Areas, such as for snow removal, road surface repair, and so on; funding the purchase of personal property to be used by or amenities for the benefit of Association Members; funding the purpose of additional land to be used as Common Areas; establishing and funding a reserve to cover the repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

Section 3. Subordination of Lien to Mortgages. The lien created hereunder upon any Unit shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any first mortgage (meaning a mortgage with first priority over other mortgages) or equivalent security interest on any Unit, made in good faith and for value, recorded prior to the date any such assessment becomes due. Any holder of a first mortgage lien or equivalent security interest on a Unit who comes into possession by virtue of foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take said Unit and the improvements appurtenant thereto free of any claims for unpaid assessment charges against said Unit which accrue prior to the time such holder comes into possession of the Unit, except for the claims for a share of such expenses or charge resulting from a reallocation of such assessment or charges to all Units including the mortgaged Unit. Any first mortgagee, who obtains title to a Unit in the development pursuant to the remedies in the mortgage/deed of trust or through foreclosure of the mortgage/deed of trust or any other security instrument, shall not be liable for more than six (6) months of the Unit's unpaid dues or charges which have accrued before the acquisition of title to the Unit by the mortgagee through foreclosure. However, no such sale or transfer shall relieve such Unit from liability for any assessments which thereafter become due or from the lien thereof.

Section 4. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All Properties dedicated to and accepted by any local public authority;
- (b) The Common Areas; and
- (c) Units owned by Declarant, except for Units owned by Declarant on which a dwelling is constructed which is occupied as a residence; and
- (d) Any Properties not meeting the definition of "Unit" hereunder.

Section 5. Additional Assessments. In addition to the annual assessments and special assessments authorized herein, the Association shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to the streets or other Common Areas or Limited Common Areas from the activities of the City of Washington in maintaining, repairing or replacing utility lines and facilities thereon, it being acknowledged that the ownership of utility lines, underground or otherwise, is in the City up to and including the meters for individual Units, and that they are installed and shall be maintained to City specifications.

ARTICLE IV **OPERATION AND MAINTENANCE**

Section 1. Maintenance by the Association. All areas maintained by the Association shall be maintained so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any Unit. The Association shall maintain the exterior landscaping on all Common Areas, including all grass, shrubs, plants, and trees. The Association shall also maintain, repair, set, and regulate any irrigation and sprinkler systems and shall have access to all such systems, including sprinkler timing devices and clocks. The Association shall be responsible for snow removal from the private street and any parking areas in the Common Areas, and the storage of the same in areas designated for such purpose.

Section 2. Maintenance by Owner. No Unit Owner shall be permitted to allow the accumulation of rubbish or other unsightly items on or around his Unit. In the event any Owner shall allow such an accumulation in a manner inconsistent with the terms of this Declaration as determined by the Board of Directors, the Association shall have the right to enter upon such Unit to clean up the Unit and exterior of the Living Unit. The cost of such clean up shall be added to and become part of the assessment to which such Unit is subject. Each Owner shall be responsible to operate, maintain and repair his or Unit and the utilities and infrastructure that exclusively service such Unit. Each Owner shall also be responsible for maintenance of Limited Common Areas which are exclusively for use with his or her Unit.

Section 3. Utilities. Each Unit Owner shall pay for all utility services which are separately billed or metered to individual Units, including water, sewer, garbage, electrical and telephone service as the same may be provided by the City of Washington or other party furnishing such service. The Board of Directors shall determine what additional utility services, if any, shall be included in the general utility services for which the Association will be responsible for payment as an Association debt.

Section 4. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property and the

Common Areas are maintained and used in a manner consistent with the interests of the Owners. The Association also has authority to adopt a schedule of monetary fines that may be imposed on Owners for the willful violation of rules that have been duly adopted and published by the Association.

ARTICLE V **EASEMENTS**

Section 1. Minor Encroachments. Each Unit, the Common Areas, Limited Common Areas, and all other Properties described in the Official Plat, shall be subject to an easement for encroachment created by construction, repair, shifting, settling or movement, and overhangs as designed or constructed by the Declarant, as well as for the installation of necessary items or appurtenances of the living unit including, but not limited to, patios, heating/cooling units, eaves, etc. A valid easement for said encroachment and for the maintenance of same, so long as it stands, shall and does exist.

Section 2. Utilities Easements. There is hereby granted and conveyed to the City of Brian Head, for the benefit of all public utility providers, their successors and assigns, a blanket easement upon, across, over and under all of the Common Areas, including Limited Common Areas, for ingress, egress, installation, replacing, repairing and maintaining all utilities at such location or locations as said entity deems appropriate. By virtue of this easement, it shall be expressly permissible for the providing electrical, internet service provider, cable television and/or telephone company to construct and maintain the necessary equipment on said property and to affix and maintain electrical, telecommunication, cable television and/or telephone wires, circuits and conduits on, across and under the Common Areas, including Limited Common Areas.

An easement is further granted to all police, fire protection, ambulance, trash collection and all similar persons to enter upon the streets and Common Areas, including Limited Common Areas, in the performance of their duties. Notwithstanding anything to the contrary contained in this Article, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as (i) initially planned and approved by the Declarant, or thereafter approved by the Board of Directors, or (ii) as required by the City of Brian Head. Should any company furnishing a service conveyed by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 3. Easements for Ingress and Egress and Landscaping Maintenance and Repair. An easement is hereby granted to the Association, its officers, agents, employees and to any management company selected by the Association to enter in or to cross over the Common Areas, including Limited Common Areas, and any Unit to perform the duties of maintenance and repair of the Unit, yard and landscape area, or Common Areas provided for herein.

Section 4. Easements by Declarant. Declarant reserves the right to enter upon, connect to, access, or otherwise make use of the streets, water lines, sewer lines, drainage lines, power lines and other utilities on the property in the process of developing new phases and/or adjacent properties.

ARTICLE VI **USE RESTRICTIONS AND REQUIREMENTS**

Section 1. Residential Use. No Owner of any Unit shall occupy or use his Unit, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's lessees or guests. Said restriction shall be limited to those properties meeting the definition of "Unit" herein.

Section 2. Use of Units as Short-term Rentals. Owners may rent their Units as Short-term Rentals, subject to the requirements of this Declaration. "Short-term Rental" means a Unit used for resort or other transient lodging uses where the term of occupancy, possession, or tenancy of the Unit is for twenty-nine (29) consecutive calendar days or less, for direct or indirect remuneration. Owners opting to rent their Units as Short-term rentals are required to use the services of a property management company that is (a) licensed in accordance with state law and local ordinances and (b) during the Declarant Control Period, approved by the Declarant. The Owner of a Short-term Rental shall, at all times the Unit is so rented, assure compliance of its tenants with: (a) this Declaration, (b) the governing documents of the Association, (c) any rules and regulations for the Property, and (d) all applicable local, state, and federal law.

Section 3. Timeshares Prohibited. No Owner shall offer or sell any interest in his Unit under a "timesharing" or "interval ownership" plan. This prohibition on timeshares does not include Short-term Rentals as provided for in this Declaration.

Section 4. Fee Conveyed. Each Unit and all other Properties described on the Official Plat shall be conveyed as a separately designated and legally described freehold estate, the Owner taking title in fee simple, subject to the terms, conditions, and provisions hereof.

ARTICLE VII **GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or Declarant or its successors in interest, or any Owner shall have the right to sue for damages, or to enforce by any proceeding injunctive or otherwise, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, Bylaws, or Articles of Incorporation. Specifically, the aggrieved party may seek to recover damages and for injunctive relief. Failure by the Association to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party to any action

brought to enforce the terms of this Declaration or any supplements or amendments thereto shall be entitled to costs and reasonable attorney fees.

Section 2. Severability, Construction and Validity of Restrictions. All of said conditions, covenants and restrictions contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants or restrictions, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant or restriction, or any part thereof, shall be thereby affected or impaired; and Declarant and Unit Owners, their successors, heirs or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason become unenforceable.

Section 3. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years.

Section 4. Gender and Grammar. The singular wherever used in this Declaration shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 5. Conflicts. In case of any conflict between this Declaration, as the same may be amended from time to time, and the Articles of Incorporation and the Bylaws of the Association, as they may be amended from time to time, the provisions of this Declaration shall be controlling.

ARTICLE VIII **AMENDMENT**

The Declarant may unilaterally amend or modify this Declaration at any time during the Declarant Control Period. In addition to Declarant's right, this Declaration may be amended by an instrument signed by not less than the Owners of not less than two-thirds (2/3) of all the Units, which amendment shall be effective upon recordation in the Office of the Recorder of Washington County, State of Utah. Prior to any material amendment to this Declaration, written notice shall be sent to all holders of first mortgage liens, setting forth said amendment and advising them of the time period during which the signatures of Members will be gathered upon the instrument of amendment.

(signature page to follow)

DRAFT

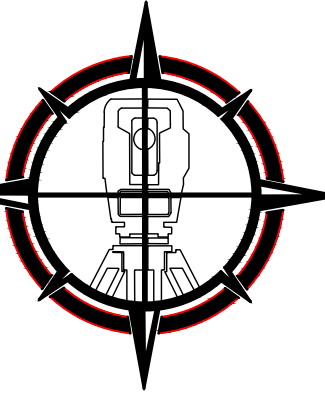
Declaration of Covenants, Conditions and Restrictions
West Zion View Cabins Townhomes
Page 10

EXHIBIT A
LEGAL DESCRIPTION

All of Lots 2, 3, and 4, Crystal Aire Subdivision, according to the Official Plat thereof on file in the office of the Recorder for Iron County, State of Utah.

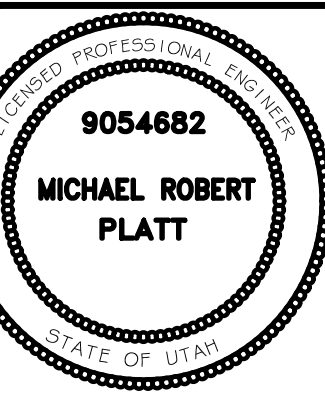
DRAFT

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PLATT, INC
CONSULTING
CIVIL ENGINEERS
\$
LAND SURVEYORS
95 N. 100 E.
CEDAR CITY, UT 84720
TEL: (435) 586-6151
FAX: (435) 586-8567
EMAIL:
PLATT@INFOWEST.COM

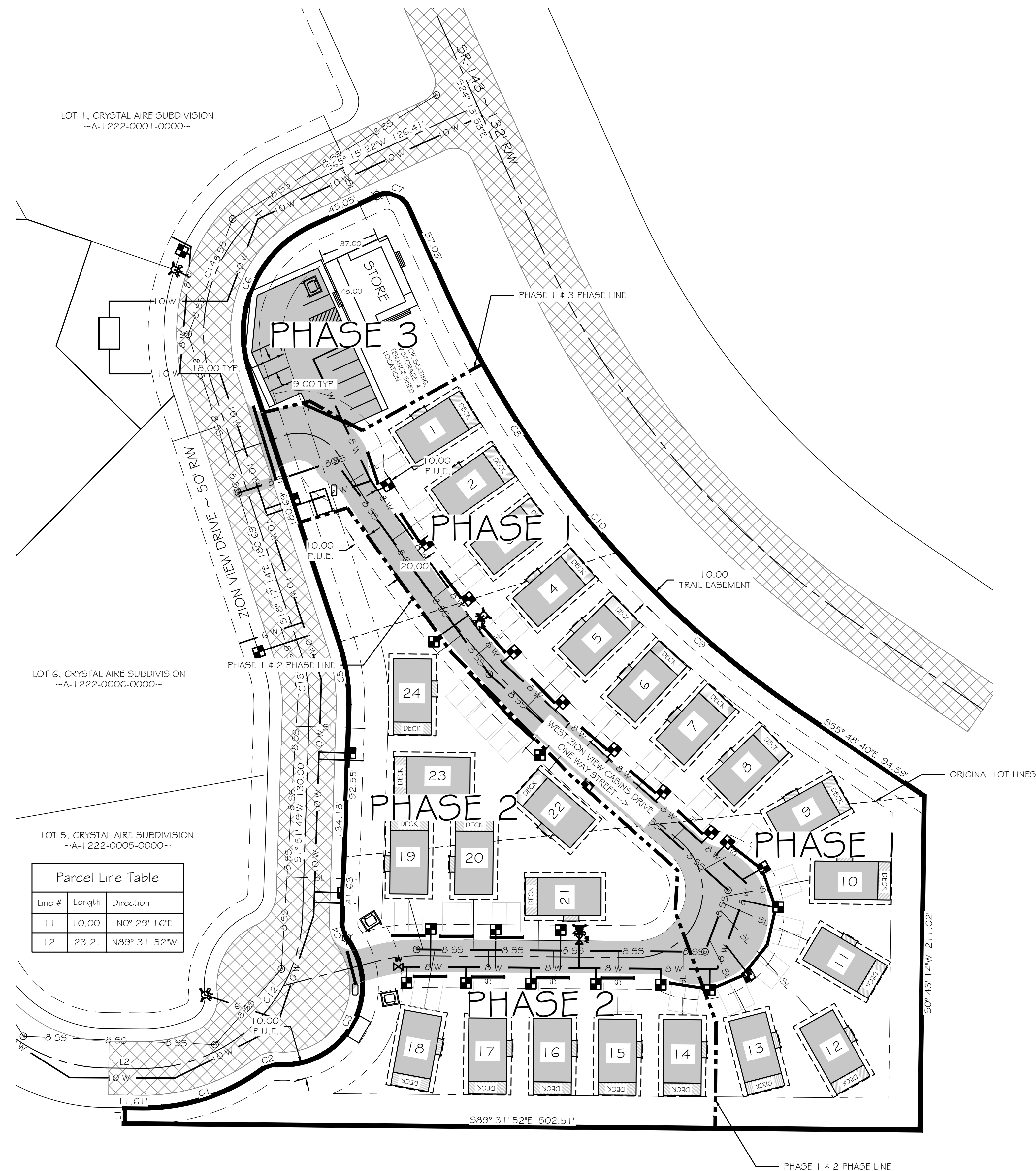
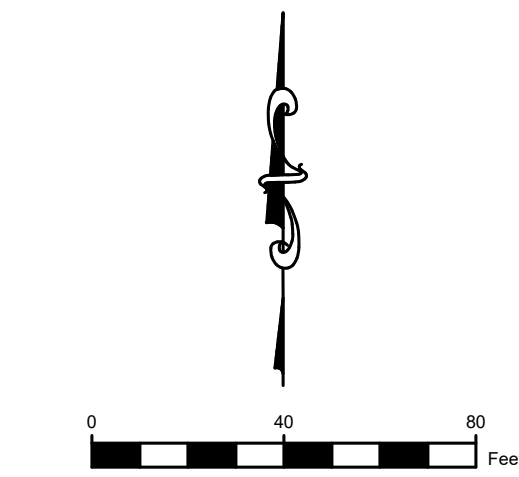


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WEST ZION VIEW CABINS TOWNHOMES
RPD
WITHIN THE SW 1/4 OF SECTION 11, T. 36 S., R. 9 W., S16M
BRIAN HEAD TOWN, IRON COUNTY, UTAH



DRAWN BY:
 L. HULET
 CHECKED BY:
 S. PLATT
 DATE: Feb 24, 2022
 SCALE: 1" = 40'
 E:
 Hunter/Jobs/Judson
 Cannon/DWG/Site Plan Extended
 01/28/2022.dwg
 PAGE: 3 OF 6



Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	80.52	125.00	36.91	N72° 00' 53"E	79.13
C2	10.62	15.00	40.57	N73° 50' 45"E	10.40
C3	114.38	50.00	131.07	N28° 35' 44"E	91.02
C4	10.16	15.00	38.80	N17° 32' 17"W	9.97
C5	43.96	125.00	20.15	N8° 12' 43"W	43.74
C6	109.36	75.00	83.54	N23° 29' 04"E	99.92
C7	23.70	15.00	90.51	S69° 29' 16"E	21.31
C8	198.83	639.69	17.81	S33° 08' 09"E	198.03
C9	153.75	639.69	13.77	S48° 55' 32"E	153.38
C10	352.58	639.69	31.58	S40° 01' 17"E	348.13
C11	145.65	100.00	83.45	N47° 48' 21"W	133.11
C12	108.06	100.00	61.92	S59° 30' 40"W	102.88
C13	35.17	100.00	20.15	S8° 12' 43"E	34.99
C14	145.81	100.00	83.54	S23° 29' 04"W	133.23



STAFF REPORT TO THE PLANNING COMMISSION

SUBJECT: LMC Changes – Commercial Core Overlay District
AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: February 15, 2022
TYPE OF ITEM: Legislative Action

SUMMARY:

The Planning Commission will review proposed changes to the Land Management Code (LMC) chapters 6 and 7 regarding a Commercial Core Overlay District and setback exceptions and make a recommendation to the Town Council.

BACKGROUND:

Brian Head is in the middle of considering a design review for a commercial development for the first time in well over a decade. Many of the regulations and changes in the LMC that have happened in the last 10-20 years have not been tested in the context of commercial development.

The Town is also currently working with UDOT and others on a Commercial Core Transportation Plan which is intended to re-think the look, feel, and operation of Brian Head's Commercial Core. The expectation is that when we are done, Highway 143 through Town may operate more like a main street of a resort town than a state highway focused on throughput.

With that in mind, staff is suggesting that some provisions and requirements for the General Commercial zone be re-evaluated, particularly along the highway in the commercial core, to better fit our long-term vision. In order to facilitate this, staff is recommending considering the creation of an overlay zone in the commercial core which would allow the Town to ask for enhanced standards in return for relaxing others in a manner consistent with the long-term vision for the commercial core. The legal structure of the overlay zone would allow the Town to add provisions to the overlay zone to better meet the vision as the vision becomes clearer, and as any potential conflicts between the underlying zone requirements and the vision for the commercial core arise through the application of the LMC to commercial development in the core.

On January 4, 2022, the Planning Commission discussed the overlay zone concept and proposal and largely reacted favorably. Commissioner Deutschlander expressed concern over the idea of pulling back on the minimum landscape requirements as he felt that was the wrong direction to be going. Other Commissioners were comfortable with the concept so long as we were getting enhanced landscaping where we want it. No official recommendation was made, and staff was directed to seek legal counsel on the proposed language.

On February 15, 2022, the Planning Commission again reviewed the proposed overlay district, this time with suggested changes by the Town Attorney, and suggested two more minor changes. The Planning Commission also reviewed proposed language allowing

secondar egress stairs a setback exception in General Commercial. They suggested changes to that language as well.

ANALYSIS:

The following adjustments have been made to the proposed language on the Commercial Core Overlay District and the Secondary Egress Setback Exception.

- 1) Added R-3 and L-1 zones to the Overlay District
- 2) Added parking lots to screening language in Overlay District
- 3) Defined Secondary Egress per IBC (using language suggested by the Iron County Building Inspector)

FINANCIAL IMPLICATIONS:

There are no direct financial implications

STAFF RECOMMENDATION:

Staff recommends that Planning Commission review the proposed changes and forward a positive recommendation to the Town Council

PROPOSED MOTION:

I move to recommend the changes to the Land Management Code Chapters 6 & 7 establishing the Commercial Core Overlay District and modifying setback exceptions in the General Commercial zone to the Town Council as proposed by staff.

ATTACHMENTS:

- A – Proposed Commercial Core Overlay District requirements
- B – Proposed Setback Exception Changes
- B – Proposed Zone Map amendments (including proposed CCOD)

Attachment A – Proposed Overlay District

(note: All the language would be new to the code. Language in **black** is from first draft, **red** is second draft, and **blue** is language the Planning Commission is seeing for the first time).

9-7-10: CCOD COMMERCIAL CORE OVERLAY ~~ZONE~~DISTRICT:

A. Purpose Statement: The purpose of the Commercial Core Overlay ~~Zone~~District is to guide development in the commercial core in a manner that achieves the aesthetics desired in a mountain resort community and improves the first impression of the town. This overlay ~~zone~~district employs stricter design standards in order to achieve the Town's goals in return for relaxing other standards that may not be as critical to the Town's goals specifically in the commercial core.

B. District Locational Criteria: The Commercial Core Overlay District will be identified on the zone district map as prescribed in Chapter 6 of this title. Areas covered by the ~~Commercial Core Overlay Zone district~~ are characterized by the following:

1. Uses compatible with mountain resort-complimentary commercial and residential activity;
2. Located adjacent to transportation corridors; and
3. Frequented by guests and visitors to the town.

C. Permitted Uses: The uses specified as permitted uses set forth in this chapter for the underlying zone shall be permitted uses and no other.

D. Eligibility for District: Applicants proposing a project under the allowances and requirements of the Commercial Core Overlay District should make application according to the requirements outlined in Chapter 4 of this Title and state on their application that they intend to develop under the requirements of the overlay district rather than the underlying zone. The designated review authority shall determine eligibility of the application to be considered under the overlay district regulations according to the following standards:

1. The proposed use and development is consistent with the Town General Plan
2. The proposed use and development enhances the character of the overlay district, as set forth in the purpose of the overlay district, in a manner which could not be reasonably achieved under the regulations and standards of the underlying zone
3. The proposed use and development strictly adheres to or exceeds the enhanced design standards set forth in this section

~~D~~E. Conditional Uses: The uses specified as conditional uses set forth in this chapter for the underlying zone shall be conditional uses and no other.

~~E~~F. Physical Restrictions: The physical restrictions specified as set forth in this chapter for the underlying zone shall be applied unaltered in this overlay ~~zone~~district with the following exceptions:

1. Minimum Landscaping: Minimum requirement may be reduced to 20% in L-1, R-1 and R-2 underlying zones and may be reduced to 30% in R-3 and GC underlying zones. Minimum requirement remains unaltered in all other zones.

~~FG~~. Design Standards: The design standards specified as set forth in chapter 12 of this title shall be applied unaltered in this overlay ~~zone~~district with the following exceptions:

1. Landscaping: Landscaping shall be incorporated along frontages between any buildings, structures ~~or parking~~ and the public right-of-way to achieve enhanced screening. Landscaping used for screening shall consist of mature trees and shrubs, varied in height but a minimum of six (6) feet in height ~~and four (4) inches in trunk diameter for trees~~. While landscaping intended for screening does not need to completely block buildings ~~and parking~~ from sight, it ~~should~~shall be of sufficient density to render any structures significantly less imposing on views from the right-of-way. Spacing between the foliage of mature trees and shrubs shall be no greater than four (4) feet, except where driveways and walkways intersect the frontage. Placement of trees and shrubs shall be staggered and varied to avoid unnaturally linear appearance of vegetation. Enhanced landscaped areas shall not be designated for snow storage. Landscape screening shall not impede visibility for drivers entering and exiting driveways.

Attachment 2 – Setback Exception Changes

9-7-4: GC GENERAL COMMERCIAL:

- A. Purpose: The general commercial (GC) district is intended to provide sites outside of the village commercial zone, with a mixture of lodges and commercial establishments in an auto oriented setting. The GC district regulations are intended to ensure light, air, open space and other amenities appropriate to the permitted types of buildings and uses. The GC district regulations, in conjunction with this title, prescribe site development standards that are intended to maintain the unique character and relationship of the town commercial areas and to ensure an attractive, functional commercial setting.
- B. Permitted Uses: Only the following uses are permitted in the GC zone:
- Banks.
 - Childcare centers. Churches.
 - Food and beverage service establishments.
 - Home occupations identified in subsection [9-10-5 \(D\)](#) of this title. (amd. Ord. 21-006, 5-25-21)
 - Indoor entertainment (Theater, arcade, bowling alley, etc). (amd. Ord. 15-004, 04-28-2015, amd. Ord. 21-006, 5-25-21) Other uses customarily incidental and necessary to permitted uses and necessary for the operation thereof.
 - Light hardware (no outside storage or sales of goods).
 - Lodging and nightly rentals (including hotels and motels).
 - Mortuary (Ord. 17-004, 7-11-2017)
 - Personal services (barber/beauty, spa, self-service laundry, etc.).
 - Places for retailing of goods such as necessities, sundries, groceries and convenience items), including outdoor display. (amd. Ord. 21-006, 5-25-21)
 - Professional offices (real estate, finance, insurance, medical and dental, etc.). Public and private educational institutions.
 - Public institutions and government buildings, e.g., town hall, library, senior center, etc. Public open spaces (parks, etc.).
 - Public parking lots. Public recreation areas.
 - Residential dwellings in conjunction with commercial space. It is required that at least seventy- five percent (75%) of the entire main floor, facing the public street or thoroughfares, be dedicated to commercial business residential units to be located in the rear or sides of the building to maximize the commercial business exposure. On multi-building projects, the commercial space may be cumulatively oriented toward the vehicle

and pedestrian corridors rather than locations typically not accessible or visible to the general public. (amd. Ord. 21-006, 5-25-21)

Retail, guest services, non-motorized equipment rental (e.g., skis, bicycles, etc.) oriented to tourists and mountain outdoor recreation (including outdoor display).

Schools.

C. Conditional Uses: The following uses are conditional and require a conditional use permit:

Building Material Sales (no outdoor storage or display) (Ord. 17-004, 7-11-2017, amd. Ord. 21-006, 5-25-21)

Car Wash (Ord. 17-004, 7-11-2017)

Fuel service stations.

Home occupations identified in subsection [9-10-5\(E\)](#) of this title.

Public and private utility structures. (2010 Code, amd. Ord. 15-004, 04-28-2015)

Recreational vehicle rental, sales and service.

Rental of horses.

Outdoor entertainment. (Ord. 15-004, 04-28-2015, and. Ord. 21-006, 5-25-21)

(amd. Ord. 21-006, 5-25-21)

D. Physical Restrictions:

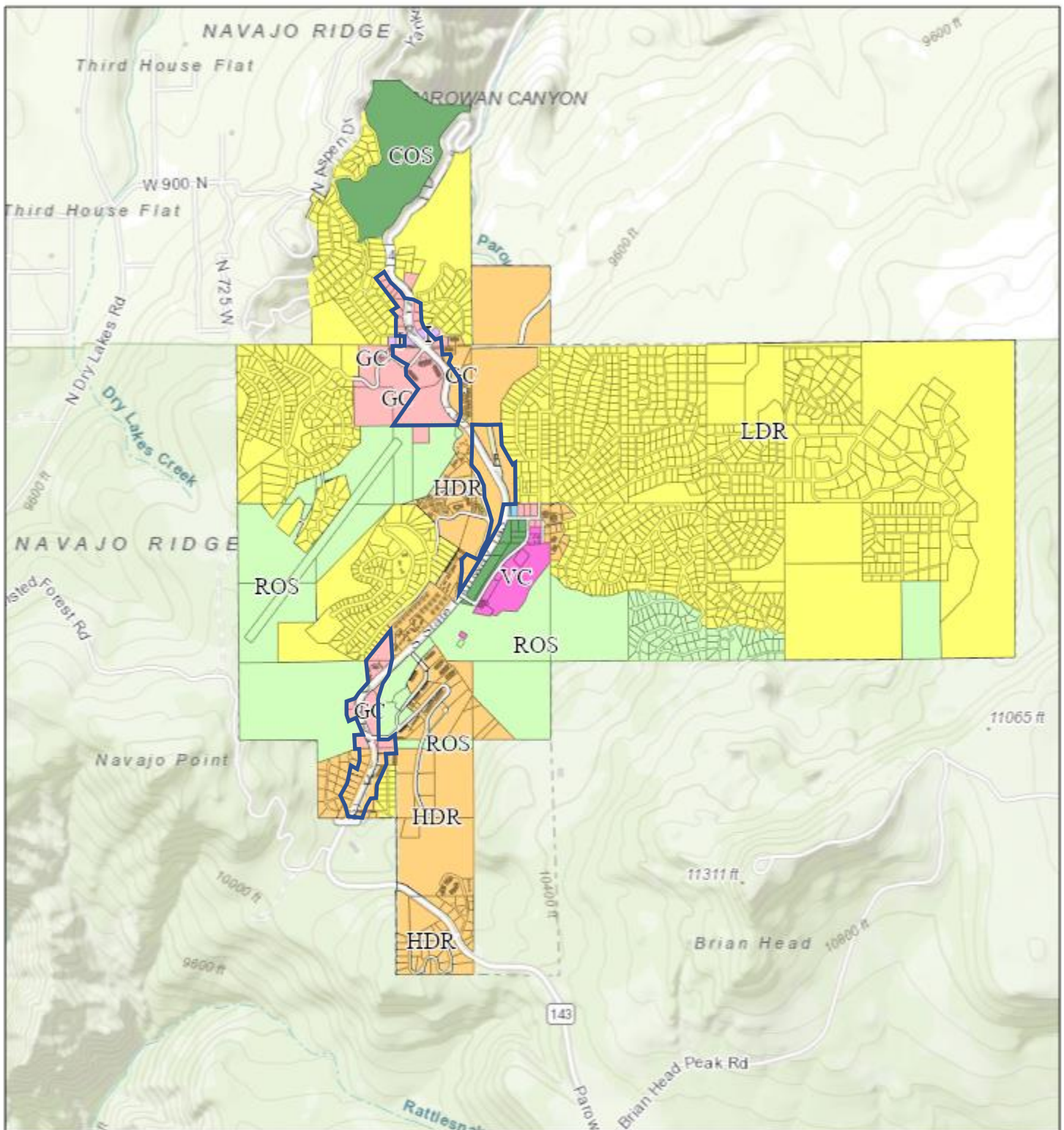
1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).
2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25');
 - b. Side and rear: Twenty feet (20') up to thirty-five feet (35') height.
 - c. For buildings over thirty-five feet (35') in height:
 - (1) Front: Twenty-five feet (25');
 - (2) Side and rear: Thirty feet (30').
4. Setback exceptions: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section.
 - a. Driveways and walkways.
 - b. Roof eaves provided they encroach no more than five feet (5') into the required setback.

- c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3¹/₂') into the required setback; (2010 Code, amd. Ord. 15-004, 04-28-2015)
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or sidewalks less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. Ord. 15-004, 04-28-2015)
 - e. Portico ~~or secondary access~~ egress stairways (when required on a second story above grade plan and higher by section 1006 in IBC) may extend into ~~front or side yard~~ the innermost half of the setback when approved by the Planning Commission.
5. Maximum height: Sixty feet (60') for peak roof, fifty feet (50') for flat roof.
 6. Maximum density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.
 7. Maximum building coverage: Forty percent (40%) of the lot area.
 8. Minimum landscaping: Forty percent (40%) of the lot shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation.
 9. Parking and loading: In accordance with section [9-12-15](#) of this title. Onsite parking should be provided in the rear of the building or underground. Parking may be provided off site by participating in a parking district, or by providing parking lots jointly with other specific establishments with the approval of the Planning Commission. (2010 Code, amd. Ord. 15-004, 04-28-2015)
 10. Remaining undeveloped area shall be landscaped as per section [12-9-5](#) of this title. (2010 Code, amd. Ord. 15-004, 04-28-2015)

One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in

a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (Ord. 20-011, 12-08-20)

Zoning Map



December 30, 2021

- Commercial Core Overlay District

