

NOTICE AND AGENDA
SANTA CLARA CITY COUNCIL MEETING
Wednesday, March 23, 2022
Time: 5:00 p.m.

AGENDA

Public Notice is hereby given that the Santa Clara City Council will hold a Regular Meeting in the City Council Chambers, located at 2603 Santa Clara Drive, Santa Clara, Utah on Wednesday March 23, 2022 commencing at 5:00 PM. The meeting will be broadcast via You Tube linked on our website at <https://sccity.org/meetings>.

1. **Call to Order:**

2. **Opening Ceremony:**

- Pledge of Allegiance: Leina Mathis
- Opening Comments: Leina Mathis

3. **Conflicts and Disclosures:**

4. **Working Agenda:**

A. Public Hearing(s) 5:00 p.m.

B. Consent Agenda:

1. Approval of Claims and Minutes
 - Mar. 9, 2022 Regular City Council Mtg. Minutes
 - Claims through Mar. 23, 2022
2. Calendar of Events
 - April 13, 2022 Regular City Council Meeting
 - April 27, 2022 Regular City Council Meeting
3. Consider approval of an Arbor Day Proclamation setting April 30, 2022 as Arbor Day in Santa Clara City.

C. General Business:

1. Ironman Presentation and approval of the updated Ironman Interlocal Agreement. Presented by Kevin Lewis & Cierra Parkinson.
2. Consider amending the final plat for the Giovengo Commercial Subdivision located at approximately 3663 Pioneer Parkway. Melanie Huscroft, Applicant. Presented by Jim McNulty, City Planner.
3. Consider approval of Resolution 2022-03R setting a Policy for Designation of Eligibility Status for Tier 2 Elected Officials. Presented by Chris Shelley, City Recorder.

6. **Reports:**

- a. Mayor / Council Reports

7. Executive Session

8. Adjournment

Note: In compliance with the Americans with Disabilities Act, individuals needing special accommodation during this meeting should notify the city no later than 24 hours in advance of the meeting by calling 435-673-6712. In accordance with State Statute and Council Policy, one or more Council Members may be connected via speakerphone or may by two-thirds vote to go into a closed meeting.

Zoom Meeting Participants: Participants on the Zoom call are limited to City Staff, Council Members, and applicants on the Agenda. E-mail calendar invitations will be sent out in advance of the meeting. Instructions for each meeting will include the meeting link, ID, and password to join. When joining the meeting your screen name must show your Full Name. Each applicant will be accepted into the meeting when their item is up for discussion. Submissions from this form will be sent directly to the City. Please contact Chris Shelley at (435) 673-6712 Ext. 203 with any questions regarding Public meetings.

The undersigned, duly appointed City Recorder does hereby certify that the above notice and agenda was posted within the Santa Clara City limits on this 17th day of March 2022 at Santa Clara City Hall, on the City Hall Notice Board, at the Santa Clara Post Office, on the Utah State Public Notice Website, and on the City Website at <http://www.sccity.org>. The 2021 meeting schedule was also provided to the Spectrum on January 12, 2022

Chris Shelley – City Recorder

**SANTA CLARA CITY COUNCIL MEETING
WEDNESDAY, MARCH 9, 2022
MINUTES**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, March 9, 2022, at 5:00 p.m. in the City Council Chambers of the Town Hall at 2603 Santa Clara Drive, Santa Clara, Utah. Notice of the time, place and agenda of the meeting was provided to the Spectrum and to each member of the governing body by emailing a copy of the Notice and Agenda to the Spectrum and also, along with any packet information, to the mayor and each council member, at least two days before the meeting. The meeting will be broadcast via You Tube linked on our website at <https://sccity.org/meetings>. Council Chambers will be available to residents, but we will have limited availability and follow Covid-19 guidelines.

Present: Mayor Rick Rosenberg
Council Members: Jarett Waite, Ben Shakespeare, Christa Hinton, Leina Mathis, and Denny Drake
City Manager: Brock Jacobsen
City Recorder: Chris Shelley

Others Present: Scott Bannon, Assistant City Manager; Dustin Mouritsen, Public Works Director; Brad Hayes, Parks & Trails Director; Andrew Parker, Fire Chief; Matt Ence, City Attorney; Jim McNulty, City Planner; Kristelle Hill, Admin. Assistant; Cody Mitchell, Building Official; Logan Blake; Sydney Blake; Jennifer Kohler; Richard Kohler; Jen Cloward; Lisa Gubler; Tom Gubler; Jeff Stevens

1. **Call to Order**: Mayor Rosenberg called the meeting to order at 5:00 p.m. He introduced himself and the City Council and welcomed everyone.
2. **Opening Ceremony**:
 - Pledge of Allegiance: Ben Shakespeare
 - Opening Comments: Ben Shakespeare
3. **Conflicts and Disclosures**: None.
4. **Working Agenda**:
 - A. **Public Hearing(s)**: None.
 - B. **Consent Agenda**:
 1. **Approval of Claims and Minutes**
 - Feb. 23, 2022 Regular City Council Meeting Minutes
 - Mar. 2, 2022 City Council Work Meeting Minutes
 - Claims through Mar. 9, 2022

2. Calendar of Events
 - Mar. 23, 2022 Regular City Council Meeting
 - April 13, 2022 Regular City Council Meeting
 - April 27, 2022 Regular City Council Meeting
3. Cancel the April 6, 2022 City Council Work Meeting.

Motion to Approve the Consent Agenda as presented.

Motion by Jarett Waite, seconded by Leina Mathis.

Voting Aye: Leina Mathis, Jarett Waite, Denny Drake, Christa Hinton, and Ben Shakespeare.

Voting Nay: None.

Motion Carried.

C. General Business:

1. Consider approval of a proposed Code Amendment to the Santa Clara City Zoning Ordinance by amending Chapter 17.12, Planning Commission and approve Ordinance 2022-06. Santa Clara City, Applicant. Presented by Jim McNulty, City Planner.

- Jim McNulty said we are trying to do a clean-up of Chapter 17 of the Code Amendment. This is specifically dealing with Chapter 17.12 "Planning Commission". We have had a few meetings with the Planning Commission, and they had a public hearing on this item on Feb. 24, 2022. We also had a discussion with City Council on Feb. 2, 2022, regarding the proposed ordinance amendment. He talked about Section 17.12.030 "Removal & Vacancy". He read new language that has been added to this section: "Any member of the Planning Commission may be removed from office by the mayor for any reason with the advice and consent of City Council. The City Council shall also have the right to remove any member of the Planning Commission for a failure to attend seventy-five percent (75%) of the Planning Commission's scheduled meetings during any twelve (12) month period." He stated that in Section 17.12.040 "Compensation" the following language was added, "The members of the Planning Commission shall serve with compensation in an amount set by the City Council for meetings attended." He said that in Section 17.12.050 "Officers" the following changes were made, "The Planning Commission shall elect a chair and vice-chair from among its members yearly. The election of the chair and vice-chair will occur during the first regularly scheduled Planning Commission meeting each year." Next, he talked about Section 17.12.70 "Quorum & Vote" which states, "A quorum shall consist of four (4) members of the Planning Commission, including the chair or vice-chair. If the chair or vice-chair is not present, a temporary chair shall serve. No evidence shall be presented unless a quorum is present. The concurring vote of a majority of those present shall be required to carry and pass any motion. All members of the Planning Commission shall vote on all matters before the Planning Commission." We changed the language to "chair" and "vice-chair". It was "chair" and "chair pro tem". If neither the chair nor vice-chair are at the meeting the remaining members vote for a temporary chair for that evening to serve in that position for that night. The next Section he talked about was 17.12.090 Powers & Duties. He said we are trying to clarify between this and 17.16 Land Use Authority. He said in some cases with Santa Clara City the Planning

Commission is the land use authority and in other cases it is the City Council that is the land use authority. He said that this section is more specific. The Planning Commission is the land use authority on conditional use permits, variances of any kind, interpretation of zoning maps and consideration of disputed questions of lot lines, issues or applications otherwise delegated to the Planning Staff when the planning staff determines that a public hearing should be held to ensure that citizens can comment on the application, and issues delegated to the Planning Commission by the City Council which do not otherwise require final approval of the City Council. Item B states, "The Planning Commission shall act as a reviewing and recommending body to the Santa Clara City Council on the following land use applications and issues: General Plan adoption or General Plan Amendments. Adoption of land use regulations or amendments. Zoning Map Amendments. Subdivision Ordinance Amendments. Subdivision reviews for new subdivisions, phases of subdivisions, preliminary and final plat approval, and amendments to existing subdivisions. Determination regarding the existence, expansion, or modification of nonconforming uses. Any other land use applications or issues which the Santa Clara City Council delegates to the Planning Commission." He also quoted from Item C, "The Planning Commission is further empowered to hold all public hearings which may be required for any land use application under applicable local or state law." He said that we have gone through Utah State code and noticed accordingly and with the public hearing we did notice it according to State code and met all State code requirements. The Planning Commission heard this item on Feb. 24, 2022 and forwarded a positive recommendation to the City Council. Planning Staff recommends that the City Council approve the code amendment for Chapter 17.12 Planning Commission.

- Mayor Rosenberg reminded Council that we have discussed this a couple of times and they have the ordinance before them and the recommendation from the Staff and Planning Commission.

Motion to Approve a proposed Code Amendment to the Santa Clara City Zoning Ordinance by amending Chapter 17.12, Planning Commission and approve Ordinance 2022-06 as presented.

Motion by Leina Mathis, seconded by Christa Hinton.

Voting Aye: Leina Mathis, Jarett Waite, Denny Drake, Christa Hinton, and Ben Shakespeare.

Voting Nay: None.

Motion Carried.

2. Appoint Logan Blake to the Planning Commission. Presented by Mayor Rosenberg.

- Mayor Rosenberg said he presented Logan Blake to be appointed to the Planning Commission and he has accepted that position so we would like to formalize that with the Council tonight. Logan is a civil engineer in St. George. He grew up in Santa Clara and is very familiar with the city. He has a good background in development and engineering. Mayor Rosenberg said he is very comfortable recommending Logan to serve on the Planning Commission.

Motion to Appoint Logan Blake to the Planning Commission.

Motion by Ben Shakespeare, seconded by Denny Drake.

Voting Aye: Jarett Waite, Leina Mathis, Ben Shakespeare, Christa Hinton, and Denny Drake.

Voting Nay: None.

Motion Carried.

3. Inn at Santa Clara – appeal of conditions of Land Use approvals and related requirements - appellant Richard Kohler. Presented by Matt Ence, City Attorney.

- Matt Ence said he will present some introductory information to the Council and then the Council can ask some questions and then we can turn some time over to Richard Kohler. The Inn at Santa Clara project was originally approved for PDC zoning in late 2016. There have been some issues that Richard and the City have worked through over those years of the development of the project. Many of those issues could be worked through. As the City sees things now there are two remaining issues that need to be resolved before his certificate of occupancy (CO) can be issued for his last building, the single-story building on the east side of the property with the roof-top terrace on it (Building A). The two issues that need to be resolved date back to the City's original zoning approval and the site plan that was approved at that time in conjunction with his PDC zoning. The first issue that we have been unable to resolve with Richard is that when the PDC zoning was approved for the project there was a discussion at the City Council meeting about the wall that is on the terrace of Building A. There is a wall around the perimeter of that terrace. There was discussion at the City Council meeting at that time about the height of the wall and how high it should be and there were concerns expressed by certain neighbors about privacy. There were statements made at that meeting that maybe the wall should be 7 ft instead of 3 ½ ft to provide additional privacy to the neighbors. There is a representation at that meeting made by Richard as recorded in the minutes and the recording where he said he would be willing to do that. That ultimately was not done when the building was constructed. The second issue is that the stairs that are used to access the rooftop terrace are exterior to Building A on the south end of the building. Those stairs extend into the 10 ft setback from the residential property line to the south. Those stairs are open stairs so that someone going up and down those stairs can see out and potentially over the wall into neighboring properties and there are some privacy concerns with neighbors about that. Our city code requires that on a project like this that that setback remain open. He said he represented to Richard that if we can resolve those two issues then his recommendation would be to issue his certificate of occupancy (CO) on that building. He stated that he has been corresponding with either the attorney that was representing Richard at the time or with Jennifer, Richard's wife or with Richard himself since May 2021 trying to find some way to resolve these issues. This ultimately resulted in the city proposing a settlement agreement about a month ago which is still on the table. That settlement agreement included that Richard would build a screening structure on the outside of those stairs to provide some additional privacy to the neighbors. He said the last communication he has had with Richard about that settlement agreement is that he does not want to sign that. He said he wanted to introduce this to show all the time that has passed on this and all the effort that has been made on this by Richard and Jennifer and by the City Staff. As the City Council knows we have discussed this multiple times both in open meetings and in Executive Sessions. These are the two issues that the City Council has to consider tonight and whether there is some way to resolve these two issues and issue a CO for the

building.

- Richard Kohler, 1020 Bloomington, St. George, said the first time these two issues came up was last May. He said at that time they were completing the landscaping for the project. He said it was a surprise that these were issued. He said they obtained a building permit for this project in 2018 and at that time Corey Bundy was both the City Building Official and the Director of Planning. He read from a section in the Building Code (A 107.3.2 Previous Approvals), "This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been issued". He said they are relying on that. He said they lawfully obtained a permit to build the building as they built it and the two issues that were raised, one challenges the position of the staircase and the other the height of the parapet wall, both of those were clearly shown on the documents they received the permit for. He also read from the Code (A 111.4 Revocation) which states that the building official has the authority to suspend or revoke a permit where it has been issued in error or where there is a violation of ordinances or regulation. He said the permit was acted upon by the people that were supposed to act on it; Corey Bundy as the Building Official reviewed it and also initially as the Planning Director. He said the Bob Nicholson also chimed in as the City Planner. He said he believes that the documents they prepared for permit were reviewed by the whole TRC at the time. He said the certificate of occupancy has been withheld and they believe they are entitled to have it. He said the error is in part on the reviewing agency. If Corey Bundy found an error that is in discrepancy with the approval, then he is the one that could initiate this action to revoke or withhold the building permit. He said they don't believe that happened in their case. They believe that the City Building Official who has the authority to do this did not do this act. He said they believe others were instructed to do this act by Mr. Ence and they don't think that is correct by law. He said they filed an application to the Board of Appeals because they believe this is a violation of the Building Code on the part of the City. They applied to the Board of Appeals and were notified by Matt Ence. They applied in December 2021 and Matt Ence said they weren't entitled to a Board of Appeals. He said there were legal letters back and forth between their attorney and Matt Ence. He said in the end they are appearing here, to the Council, because this is where they were directed to appear. He said they feel this is not the right venue. The right venue is members "qualified by experience and training to pass on matters pertaining to building construction" because the appeal is technical in nature. He showed a picture of the structure with the open staircase and said this drawing was approved by the City Council in October 2016. The relation of the staircase to that building has remained the same from this zoning approval all the way through construction. The difference is they reverted the direction of the staircase. Originally there were two staircases. They were both open stairs and they were depicted with a glass railing. They decided that having two was too much access and there was a concern about how many people would go up there and how they would be regulated. He said that on the building permit document they did not annotate the actual setback in part because they had been advised by the Building Official that they would have more negotiating room to him and the planning staff if they depicted where the lines were and where their improvements were and didn't tie themselves down to the specific dimensions. He showed the site plan from November 2018 that show the stairs ascending in the opposite direction toward City Hall. It also shows that the nearest building to the red property setback line is situated about 2 ½ ft away. He said that as the building

permit was getting issued, Corey Bundy was present in the meeting where Matt Ence stated that he promised to build a 7 ft parapet wall on the south end of the building. He stated that he did not make that promise. He said it was discussed and he promised he would do the best thing for the neighbors. He said that the neighbors weren't only concerned about the height of that parapet in that direction but also concerned about the height of the building. He said after leaving a meeting at Town Hall, three women neighbors approached him and asked how tall the existing wall was in the drawing and he told them that the main floor is zero and the roof deck is 10 ft, and the parapet wall will be approximately 5 ft above that. He said all three women expressed that they didn't want the wall taller than 15 ft. They felt strongly about the height of that wall. He said that wall sits at the edge of the building and their patrons will mostly when they arrive at the roof will more often than not be seated in lounges or if they are standing, they are standing at some distance away from that wall. He said when you look at a distance and you look across the parapet wall you are not able to look down into the yard. He said he discussed this with Corey Bundy at length. He said that Corey Bundy sent him an email to ask him about the design of the 7 ft parapet wall and the safety barrier on the reflecting pool. He said a few days later he answered Corey and included details of the construction drawing and the height. He stated that in addition they prepared and sent videos of the drawing to Corey Bundy. He said they thought they had a breakthrough on the privacy issue. They decided that they would make the upstairs roof available only accessible if you entered the manager's office and then went up the stairs. He said they feel that solves more of the problem than had they done the 7 ft high wall is that the people going up are only going up as a guest and they have some supervision. He said there were worries at a time that they would make too much noise, or they would engage in unsavory activity but them being accompanied up the stairs they are doing the best they can to solve that problem and he said that Corey Bundy agreed with that and he said that the Planning Staff and TRC also agreed that this was a good solution and that the taller parapet wasn't necessarily needed or beneficial. He said they hired Rosenberg Associates to do a survey. The record shows the survey dimensions from the section corners had been either incorrectly dimensioned or moved (which is highly unlikely). He said if that block wall had been there for longer than 20 years, they still owned that property between the red line of the survey and that block wall. The survey says it is the survey line, but the property line remains the center of the block wall. He said there is 10 ft from the setback line to the survey line but there is 3 ft from the survey line to the block wall which they believe is the property wall. He said this was understood by the Building Official and the City Planner. He said they have been constrained because of the mulberry tree. They shortened the length of building A by 2 ft and still didn't have enough to accommodate this without placing the stairs and getting close to the bank. He said that conceptually they still have approximately a setback of 10 ft from the staircase to the wall. It was approved. He said the site plan was redrawn after the survey came in late February 2019. The site plan was done by April 2019, and they poured the footings for the buildings in May 2019 and the City Planning Staff and Building Official was aware and felt this was permitted because it was more than 2 ½ ft so it was okay because they already negotiated that minimum setback of 2 ½ ft.

- Matt Ence asked if this plan was ever submitted and approved by someone at the city. He said he has not been able to locate one that depicts that.

- Richard Kohler said the survey came post permit and all the post permit drawings were

supplemental drawings, and they issued a lot of supplemental drawings. He sent the drawings to Mark Weston, his contractor, and Mark would forward them to Corey Bundy. He said he still has his electronic drawings, but he doesn't know where Corey put them especially after his departure.

- Denny Drake said that Corey asked for the drawings and Richard sent a supplemental plan that didn't show the 7 ft. drawings. Was there any response to Corey on that?

- Richard Kohler said no. The normal process with a building official is if they ask a question the architect or engineer or designer responds with the drawings and an explanation and then if another correction is not requested the building permit proceeds to be issued after that fact. He said that is how theirs happened. He went on to explain that right now the distance from the waterproof deck to the top of the lowest parapet is 62 inches so 5 ft or slightly higher right now. He said they will put soil there to reduce the height of the parapet effectively, but the top of the parapet stays where it is. He said all of the parapets are 30 inches wide so they can put plants and other plant materials on top of that to further enhance the top of it and provide privacy on top of that. He said they can't look down from the parapet. He said there are things that can be in setbacks that are not necessarily enumerated in the zoning ordinance or the building code. They are common sense such as air conditioning units, electrical panels and open fire escapes and outside staircases. He said that this is allowed in the St. George City code. He said they heard a couple of times from different City Staff that this was okay because they are open stairs. He said there is a wall that prohibits people from going to the staircase now. He said the staircase is not an obtrusive feature and that is important because they were judged that they spend the extra money on this to make it a very light, delicate structure so that its presence in the setback was not deemed hostile by the Staff. He said that having done all this they believed that they were in compliance by the City Staff's comments to them at each stage. The stairs in the setback issue came up at the issuance of the building code and they are in the same place they are now relative to the building. After the survey they increased to 13 ft from the wall so they pushed their concrete back to the north as far as they could. He said that in April 2020 the Gublers and the Gates approached them and asked them if they would agree to them to pay them and allow the Gublers and Gates to move the wall to the position of the survey line. He walked them around the property and showed them where the footings are of the buildings that hadn't been built yet and told them about the implications, they would be doing which would be to decrease the distance of the Gates and Gublers walls. He asked them if they were okay with that and if so, would they agree to his contribution of funds and the wall would be moved to the survey line which would enlarge their backyards. He said they did that. He said the Gates and Gublers hired the mason, and the mason got the permit on their behalf to rebuild the wall. The City Staff reviewed where their setbacks were 3 times, the building permit itself, the post survey drawing, the supplemental survey site plan and a year later when that property line wall was moved.

- Matt Ence said he wants to comment on the actions of the City Staff verses the action of the City Council which is what the real issue is here. He stated that the act of approving the zone change on this property to the PDC zone is a legislative act that can only be done by the City Council because it is a change to the City's zoning ordinances and the zoning designation on the property and when the Council acts in its legislative capacity and takes that action on the basis of information that is presented to the City Council that legislative act is supposed to guide everything that happens after that. All the things that

Richard has been speaking about concerning his interactions with members of Staff, TRC meetings and those kinds of things, they are all administrative in nature. The purpose of those things ideally is to carry out the legislative direction and intent that the City Council has given. He said there has been some inconsistency on the administrative level. That does not change the fact that the City Council performed a legislative act in approving the zone change and that that decision was based on information that was presented including a commitment from Richard to do certain things. The actions of Staff members acting in an administrative capacity doesn't change that legislative act. He said that this is why he has invited Richard for a long time to come back to City Council because where this began with the City Council and the legislative decision of the City Council if something different is going to happen then what was originally approved that has to happen through an act of the City Council, the legislative body of the city. He said he appreciates what Richard has said but the fundamental difference in the way Richard is looking at this and the way that he is looking at this that these are legislative issues whether it is a building official or a planning official or a clerk can't change the conditions and requirements that the City Council has incorporated into its legislative decision. He said that is why we are here because this is where this needs to happen and where it needs to be considered. He told Council that as a legislative body this is within Council's wheelhouse to decide what happens from here.

- Richard Kohler said that in the actual minutes there is discussion about the location of the parapet wall and the height but in the motion to approve the project there was no conditions attached to the motion by the City Council. It was approved just as the drawings are.

- Matt Ence said that is factually correct. There were no stated conditions, but that motion was made in a context and that context was the City Council was approving the zone change based on the representations that were made to it.

- Ben Shakespeare asked specific to the building now, is the building complete.

- Richard Kohler said no, because of this dispute they have not finished the pool and the roof grass has not been installed and any landscaping up on the roof level has yet to be installed. He said they can't easily achieve 7 ft. He stated they have large, galvanized tubs that are about 22 in. tall, and they thought they could place those on top of the existing parapet wall so that is a total of 6 ft 72 in for the top of the galvanized tubs which they can place on the south property line and in addition to that they will have plant materials above that. He said the tubs don't have to be galvanized they can change the colors.

- Ben Shakespeare said as a Council we had this discussion a couple of months ago and as he understood our request going back was to address the stairs coming up and not the roofline.

- Matt Ence said that is correct and in one of our letters we had floated the idea of some kind of alternative screening to address privacy concerns and in response to that Richard proposed a free standing screening structure and we reviewed that with Staff and brought that to City Council in a closed session and then responded to Richard with some feedback that we didn't feel like it was tall enough to provide the required privacy and that we wanted it to be adjacent to the stairs. He said about a month ago when he met with Jennifer Kohler, she brought a revised design which addressed those issues and we brought that to the Council and discussed it and that is what Ben is referring to. He said from the City's perspective that revised design is still acceptable, but he believes that

Richard has some concerns. He said that is what is on the table to resolve it right now.

- Ben Shakespeare said when we talk about the parapet heights and extending it with landscaping and all of that, we were addressing it at the stair level with a more solid, elevated screening element that would provide that. He said that seemed like a pretty reasonable and simple adjustment. He said that Richard is correct that in many cities, St. George included, outside stairs are allowed outside the setbacks. He stated that in Santa Clara you could build an accessory dwelling 3 ft off of property line if approve. He said this is different because there are some setbacks and some survey disputes though.
- Matt Ence said that recognizing that was part of the reason we were willing to go with some kind of a screening structure. In the compromise we proposed we were willing to accept the fact that the stairs were going to be where they were.
- Ben Shakespeare asked that if the screening is happening at the stairs what was the reservation on doing something.
- Richard Kohler said that as a registered professional architect he is bound by some things. The City has an ordinance that says that the tallest property line fence or wall by ordinance is 9 ft or otherwise approved by the Planning Commission. He said that from the beginning when this solution came on the table, he thought it was ridiculous from their standpoint. They don't want to set the precedent of a 17 ft high wall on a property line. He said the first version they put closer to the wall and the second version which was okayed by Cody Mitchell, the new Building Official, was placed at 3 ft 9 in. He said there was a setback of 2 ½ ft and if they were farther away than that then it could be approved. He said the problem for them is it is unsightly to them and the Gublers. He said it is a really horrible planning and zoning precedent for how you do disputes. He said there are some additional issues about fire-proofing the screening and maintaining it and it is much more costly to them the other alternatives including the parapet wall adjustment.
- Ben Shakespeare said what he remembers us proposing is for Richard to find something in the glass railing that runs along the stairs a way to elevate that and screen that.
- Richard Kohler said what they did effectively was to move the structure 2 ½ ft towards the stair from where it was the first time and made it taller. Because the stairs have a tempered glass railing, they can't attach to them. He said they have a hard time working close to them because they will break.
- Mayor Rosenberg said this was a free-standing structure adjacent to the stairs.
- Ben Shakespeare said he thought he was going to replace the glass with a 5 or 6 ft screen. He thought this was an acceptable way to resolve that.
- Richard Kohler said that had the survey confirmed where the block wall was it would have been fine. It is the survey later that shows them having to impinge on the setback.
- Mayor Rosenberg said the survey is the survey of where the deeds fall. Richard doesn't get to move those. If he wants to do property line agreements with property owners, he has the ability to do that and rerecord deeds and move it to where the existing block walls were but the survey is the survey so he shouldn't infer anything other than that.
- Richard Kohler said had the survey confirmed, which they believed it would, where the property line was, we wouldn't have had an issue.
- Mayor Rosenberg said there is a census on every property line. That is why you do surveys before you do architectural drawings, so you know what you've got to build it.
- Matt Ence said Ben's thought process is not wrong. From back last summer when we wrote a letter to Richard's attorney inviting them to make a proposal, make a screening

proposal, whether it's extending the parapet wall up or something else. We actually did not originate the free-standing screening. That was the proposal that came back to us when we invited a proposal. That is how we got to the free-standing. A proposal was made, and we reviewed it and gave feedback, and it came back again. It was a compromise and we felt it was a compromise that could work.

- Denny Drake said there is some issues with the agreement that were verbalized in the approval process that Richard assumed the building inspector had the right to change and not make Richard adhere to those which is not the case. We are the legislative body, and we approved the plan that he was to work from and not what the building inspector or the contactor suggested he could do. The whole key is to comply with what he agreed to do initially.

- Richard Kohler said that in the minutes of the 2016 meeting it states that they will do what the neighbors want and that the time of the building permit they will have that reviewed by Corey Bundy and/or Bob Nicholson. It states in the minutes what they intended to do and that is what they did, so it is not contrary to the legislative act even by the minutes.

- Denny Drake said it was the approval of the City Council that was working with the plan and the suggestion of the 7 ft parapet.

- Richard Kohler said he knows he has to submit the plans to the building official to the planning director. He said he doesn't know where else it goes. He just knows it was approved and they were issued a permit. He said if Denny is saying their error is in not talking to the City Council, then that is probably something the Staff didn't feel was necessary. That is not something he determined or didn't determine. He said he just did what he was expected to do.

- Denny Drake asked that Richard has worked in this business for 30 years and is that the way he has worked it every time. You have never had to appeal to the City Council on any conditional use?

- Richard Kohler said he has. He said he understands who has authority. In this particular case because of the clause in the minutes of where they thought they would go he said he believes that they did what they were expected to do, and they were approved by the people who they minutes said they were supposed to do.

- Mayor Rosenberg said as he recalls the motion that was made by the City Council that it also included all the recommendations from the Planning Commission in their recommendation to the Council. One of those recommendations is that Richard meet with the neighbors and that he reviewed the plans with the neighbors. That was an inferred condition of that City Council motion. He said that based on his understanding and discussion with the neighbors that that never happened and that there never was a meeting of the minds of what exactly this thing was going to look like. He said he is going to give the neighbors an opportunity to comment on that.

- Richard Kohler said he did meet with the neighbors. They met in the upstairs foyer, outside.

- Mayor Rosenberg reminded the audience that everyone's comments tonight need to be addressed to the City Council. The neighbors won't address Richard and Richard will not address the neighbors. Please direct your comments to Council.

- Richard Kohler said that they had met with the neighbors as required. He thought that Bob Nicholson confirmed that.

- Mayor Rosenberg said that he remembers it because he was surprised that there were no

neighbors at the meeting for that zone change and he fully expected neighbors to be here. He said that Richard represented that he had met with the neighbors and satisfied their concerns and Council moved forward with their motion. He said that immediately after, he was approached by neighbors who said that hadn't happened. The plan review was going to be important at that point in time and he conveyed that to Corey Bundy to make sure that we had a meeting of minds on the plans. He said that based on everything he has heard and seen since that still hasn't happened.

- Jarett Waite said there is a mention in the minutes about a signed affidavit that Richard had agreed with the neighbors on what to do with that terrace on the southern side. Did that ever occur?

- Richard Kohler said that in the interim between the meeting, he said he could do something and then found out that it was not possible to do that. He said the neighbors weren't enumerated by name as to who would sign it and who wouldn't or who would vote which way. He stated that it was never all the neighbors agreeing on all the objectives. He said they accommodated what they could accommodate, and they did that the best they could. He said they explained about the reversal of the stair and making the roof terrace private rather than public and he thinks that was large mitigation of the concerns the neighbors had. He said they also explained in detail about the site lines relative to the parapet and offered to increase the height as discussed.

- Christa Hinton asked about the screen proposal. It is dated 2017. Why was it prepared?

- Matt Ence said that if it is dated 2017 that is probably an error because he is certain that wasn't created until last year.

- Ben Shakespeare asked if the screen proposal is available to show the Council tonight.

- Matt Ence said he has several hard copies of the most recent proposal, the one Jennifer Kohler brought to him. He said that one of the changes between that first proposal and this one is to move it closer to the stairs, which was in response to feedback from the city.

- Mayor Rosenberg said that the neighbors were part of this. Their concerns were noted in the Planning Commission recommendation that came to Council and in turn in the City Council motion.

- Jen Cloward, 2550 Vineyard Drive, said they went to the first Planning Commission meeting when they first proposed the zone change and most of the neighbors were there. The Planning Commission gave the recommendation that Richard meet with us as far as neighbors go and then it would come to the City Council. She said the neighbors knew clear back in 2016 that Mr. Kohler was supposed to meet with them and then on Sept. 8 they were sent a text from the Kohler's talking about a couple of options that would work as far as having a meeting with the neighbors. She said they texted back a couple of dates and nothing was decided. She said they didn't hear from them until Oct. 11 of that year when he texted them and said he would be able to meet the following evening. There wasn't a lot of time to prepare but most of the neighbors showed up there. She said the meeting was less than an hour and they discussed certain things the neighbors have concerns with. She said when the meeting was over, they didn't feel like anything had been solidified or that there were any real agreements on what the neighbors wanted to have happen and they asked if they could meet again. The mayor said he was surprised that none of the neighbors were at that next Council meeting, but she said that none of the neighbors knew about that meeting. She said they all thought they would meet with Mr. Kohler again before the next City Council meeting. She said the next time

they heard about this was when Lisa, who works at the County office, saw Mr. Kohler there and asked him when we are going to meet again, and he said it has already been passed. She said that is when the neighbors found out about the zone change. She stated that from that point on they were under the understanding from the mayor that they would be informed when things were going to move forward and the next thing they knew they saw the ground being broken there and they had no idea what the plans were going to be. She said they hadn't agreed to anything they thought was adequate or fair. She said this project was exciting to her in the beginning, but this project has turned into something different than they thought it would be. She said she has the minutes from October 2016. She read the following from those minutes: "Mr. Kohler has modified his original plans and changed the proposed swimming pool to an outdoor reflective pool and to extend a wood privacy noise wall (I.e., parapet wall) up to 7 ft tall along the south and east edge of the roof on the east building." She said that is in the minutes and that is where it said it would happen. She said the neighbors understood that was what was going to happen. She asked if the east building has another set of stairs. She said that other set is their understanding of where the stairs would go. She said that you can see into their backyard and into her daughter's bedroom window. She said it is super invasive. She said the neighbors' concern all along has been privacy. They have been here for almost 20 years, and this is the last thing that they expected to look out their backyard and see. If Mr. Kohler had met his obligation to meet with the neighbors and really discuss what could have gone back there, she said they probably could have come up with something that would have been beneficial to everyone and made for a good neighbor/business relationship. She said she is not sure that relationship can be salvaged at this point. She said they feel like they have been misled on lots of things. She said that Mr. Kohler has modified his plans to change the pool to a reflecting pool. She asked how deep a person would expect a reflecting pool to be. She said she looked online, and it said between 18 to 24 inches. His reflecting pool is between 3 ½ to 4 ft deep. It is a lap pool. A reflection pool is the only thing he was authorized to have. Getting on their web page it was advertised as a pool. She said she doesn't think Mr. Kohler ever intended to live up to his agreement having that as a reflecting pool. She stated that there have been so many steps along the way that the neighbors feel like Mr. Kohler has misrepresented himself or not told the neighbors what was really supposed to happen. They feel like he has decided what he wants and is just going to do it and the neighbors are going to have to live with the consequences. She said that doesn't make for the kind of neighbor relationship they were hoping for.

- Ben Shakespeare said they build reflecting pools all the time and they are up to 24 inches. Lap pools are built at 4 ft, so Jen Cloward is correct on that. He said he would like to know where the neighbors stand. What resolutions would the neighbors like to see?

- Lisa Gubler, 2560 Vineyard Drive, said she agrees with Jen. She doesn't want Mr. Kohler to fail. She wants it to be a success. The little houses up front our cute and it is a quaint project. But she said that two incidences have happened in her backyard. One was when some of the guests came up the stairs, they were surprised to see her and her family. She said it is going to be as awkward for the guests on those stairs as it is for her and her family. It would be their benefit for their guests for this to be taken care of.

- Denny Drake asked that if this plan called for two stairwells how come there isn't one on the north side.

- Richard Kohler said the plan that had two staircases was from the planning approval stage. That was the drawing that was approved.
- Denny Drake asked if that was the drawing that was approved why didn't Richard build the one on the north side.
- Richard Kohler said they felt that by reversing the direction of the one staircase and bringing themselves and their guests up escorted by them that it was in improvement in privacy.
- Denny Drake asked if it was approved by our building people.
- Richard Kohler said that Corey Bundy agreed. He said it was something they did to improve the situation for the neighbors. He said in concept they implemented the plan they had approved. They did it in a better manner than having two public stairs extending to the deck. They have one private stair.
- Brock Jacobsen, City Manager, said what he recalls seeing is one plan that showed stairs on both sides and stairs only on the north side. There was never a set of plans that he has seen that shows stairs solely on the south side.
- Matt Ence said he is skimming through, and he shows the full set of construction drawings that he has which has Corey Bundy's signature on it. It shows it all 3 ways depending on what page you are looking at. It is inconsistent.
- Richard Kohler said that building A has a set of plans and in that set of plans the stair is only on the south side and it is shown in the proper configuration to the lobby. That is the one the video fly through was done from.
- Mayor Rosenberg asked if that set had a different site plan with it or just the building plan.
- Richard Kohler said the building plan shows the stairs and the neighbor's wall on the floor plan sheet of the building A plan along with some 3-D views that are consistent with that. He addressed the depth of the reflecting pool. He said they submitted a shallower pool depth to Corey Bundy. He said that Corey said it had to be a minimum of 3 ft 6 in. He said they changed it to that and in that same email he also asked about the height of the pool safety wall, so they showed it at over 3 ft higher as he had requested. He said if it wasn't that high a person could fall over it down to the ground.
- Ben Shakespeare said that Corey wasn't referencing the water depth of the reflecting pool. He was referencing the railing because it is required by code to be 42 inches in height.
- Leina Mathis had a question about the legislative action that Matt Ence referenced. She said that she read all the minutes from both the June and the October meetings. She was on the Planning Commission when this came through. She remembers the neighbors showing up. She remembers there were concerns with the height and the noise and people looking over. In the minutes that came to Council the discussion about the 7 ft. parapet wall Mr. Kohler states that it's a 3 ½ ft wall but he would be willing to work with the neighbors. There is no discussion on screening of stairs and the site plan that did come to Planning Commission did show stairs on both sides of the building. Did we go back with the recommendation for the stairs at the request of Jennifer Kohler and whoever brought this design to us as a means of trying to appease both issues together given that there was no discussion of the stairs. She said the legislative approval is there is a 7 ft parapet wall with stairs that were approved and no screening on the stairs.
- Matt Ence said the issues are the 7 ft parapet wall and the stairs in the setback. There is some inconsistency. When the City Council approved the general site plan it did show

stairs on the south side, but it did not show those stairs in the setback. The stair issue is the setback. In terms of what we have discussed as a compromise: the screening structure and the compromise from the City-side was that we will live with stairs in the setback if he will address the privacy issue for the neighbors.

- Denny Drake asked what Mr. Kohler would be looking for as far as a resolution.
- Richard Kohler said it has been a tremendous financial burden on them to not have the CO on four rooms in building A and the occupancy of those rooms has nothing to do with either of the two issues. He said the occupancy (CO) should be approved.
- Denny Drake asked if it isn't, is there any solution to this.
- Richard Kohler said that there is.
- Denny Drake asked if he would consider eliminating the stair on the south side and putting the stairs on the north side.
- Richard Kohler said that isn't a realistic solution from an economic standpoint.
- Denny Drake said originally, he was willing to do both staircases. This would actually be completing what he originally planned to do.
- Richard Kohler said that he thinks by reducing the number of stairs between the planning and zoning approval and the building permit approval he said they did what was in the best interest of both themselves and the neighbors for security of the deck access and for the patrons being escorted by them up the stairs. He said that was a big improvement in both numbers of how many would be up there and going up there. That deck is a private deck. That is a big improvement.
- Denny Drake said but it wasn't approved.
- Richard Kohler said he believes it was approved by Mr. Bundy and the minutes from the approval meeting specifically say that these issues were brought up and discussed in the minutes will be approved by Mr. Bundy and/or Mr. Nicholson.
- Denny Drake said and it also said that he would receive recommendations from neighbors which he agreed to do.
- Richard Kohler said what they did was create the fly through video so that could be explained to whomever. He said he went where he should go, and he got the approval that he should have gotten, and he did get, and it was a valid building permit, and they did what they were required to do. He said there were discussions prior to post survey with the planning director and the building official about how this could be resolved. They moved their improvements 3 ft further away from the property line.
- Matt Ence asked if there is any reason that the glass on the stairs could not be replaced with something opaque or something that provided additional higher screening.
- Richard Kohler said they are tempered glass stairs that have been built in California. It is expensive and the purpose of that is to make a light, delicate stair. He said from a privacy standpoint no one would be sitting on the stairs and peeking over the staircase. He said the transparency seems to be consistent with safety. He said that is one of their primary concerns is who could access the roof deck.
- Matt Ence asked if there is any reason something couldn't be added to the stairs as opposed to replacing the glass.
- Richard Kohler said they could put some tinting on it to make it more opaque without destroying the glass that is there. He said they can introduce some security issues that they are not comfortable with.
- Ben Shakespeare said to clarify what is being proposed. He said that 99% of the project looks good. He said for downtown this is great. We are dealing with two issues. He said

what is being proposed is screening for the stairs and Mr. Kohler has suggested 24-inch planters that would be on that parapet (and he suggests not doing galvanized planters). He said the planters would meet the 7 ft. that has been discussed.

- Richard Kohler said he did offer the planters on top of the 30-inch-wide wall.

- Ben Shakespeare said as far as screening the stairway, we have to find a resolution. It all comes down to the screening and the privacy and how it is addressed. He would like to know the neighbors' take on the screen or something like that.

- Tom Gubler, 2560 Vineyard Drive, said he doesn't know how Mr. Kohler sleeps at night with the lies and the things that have come to the neighbors. He first addressed the property line issue. He said when they put their original wall in, they lined it up with the Cloward's wall which was already in. He stated that they didn't survey it, but they knew it was on their property. He built his shed in 2001. They didn't put the first wall up until 2003 or 2004. He said that Mr. Kohler is wrong that he has owned the property for 30 years because that was all open property behind his house and Gates house. He said that Mr. Kohler got the survey, and he knew where the line was from the get-go. He said that Corey Bundy told Travis Gates where his property line was. He said he wants it to be known that Mark Weston, Mr. Kohler's contractor, was also on the Planning Commission. He said that how all these things got by is a conflict of interest. How Mark Weston, being on the Planning Commission and how Corey Bundy can okay these things, something is up. He said that the plans with the two sets of stairs that the neighbors saw and the neighbors were told that the stairs would be on the north side of the building. The mayor said that Mr. Kohler had to meet with the neighbors. He did. We met at the top of the stairs, and it probably wasn't more than a 15- or 30-minute meeting. He said they were promised a 3-D view from their backyards of what it would look like. He said the next thing they knew, it was all passed. He said he knows the mayor asked Mr. Kohler if he had talked with the neighbors and Mr. Kohler said he had. He did talk with them for a short, short time. He said that when they found out that this got passed, they were all dumbfounded. He said they were also shocked when they saw the stairs going up on that side of the building. He said his house is directly behind this project. They built a 7 ft wall for privacy. He said that on the other side Mr. Kohler added 2 ft of dirt. He stated that if he knew he was going to add that dirt he would have put up a 9 ft wall. He said that from day one all they have wanted was privacy. He said the Mr. Kohler knew they wanted privacy. He said that no one should even be at this meeting tonight. The stairs should be on the north side of the building. There should be a wall on the south side and east side as he said he would do. He said another one of his concerns is the reflection pool is 4 ft deep. How is law enforcement going to enforce this when people are swimming because it is supposed to be just a reflection pool? They have already advertised it as a pool and are not going to keep people out of this pool. How is it going to be addressed? He said this was a big thing that was brought up with the neighbors and the City Council was that there was going to be no swimming pool on top of the deck. He said they consented to the reflection pool, but he is worried how it is going to be enforced when people are swimming. He said that these are their concerns. He said that if the stairs had been put on the north side the neighbors wouldn't be here tonight. He told some Council members that he hopes this can get resolved and not go to other means. He asked the Council to go and climb those stairs and see. He also asked how the glass staircase fits the pioneer theme. He said it doesn't fit the pioneer theme at all. He thanked the City Council for all that they have done. He said they can't believe

one thing from Mr. Kohler.

- Mayor Rosenberg asked Mr. Gubler if the screening would be acceptable.

- Tom Gubler said they have talked about that, and it is better than a glass staircase but at the top of the staircase you can see clear through. He said these stairs are so close to his 7 ft. wall that he has, and he has a 3 ft. planter, and you can look right down inside of the wall.

- Matt Ence said the pool issue is one that the City had originally raised in our letter back in May 2021. We did become aware that the website advertised it as a pool. In that exchange between himself and Richard's attorney, Richard agreed that they would post signs at the pool that it was not for swimming, and they also changed the website at that time, so it is just described as a reflecting pool. That is why that has not been raised as an issue from the City's perspective because we felt like in the larger compromise, that satisfied the concerns about the use of the pool.

- Tom Gubler asked how it would be addressed if the signs don't work. He asked if the police should be called or the City Council.

- Matt Ence said there are a lot of things that are hard to enforce but we still have to deal with them. He said it might not be the ideal solution, but it was offered, and the city said in the larger context that would be acceptable.

- Lisa Gubler asked if it would still be possible for the staircase to be moved.

- Jarett Waite said he was on the Council when that was passed. He remembers thinking that would be a spot that kids could jump over to go swimming. He said that when there was a discussion of a 7 ft wall that he thought that would work and would keep the privacy between that building and the neighbors and he remembers feeling that the 7 ft wall on the south end was super important. He said that the decision to put it on the south side would make it be okay. He agrees that it was good to turn the stairs and make it a private entrance because it alleviates even more the pool jumping possibility. He said he believes that setbacks are a way to maintain privacy and regardless of how we ended up here, there is a structure that is super close to the actual surveyed line. He said looking at this appeal we have to mitigate that somehow. He said the City is proposing this, but he is open to other ideas of how we would mitigate that being in the setback so close to the property line. This is what we have in front of us. He stated that the appeal we have here is to give the CO because of his arguments. Were his arguments valid based on Matt's expert opinion or should we be looking at other options?

- Matt Ence said it is very closely related with respect to the distinction between legislative action and administrative action. He said he doesn't dispute the citation from the building code that Richard presented is in the building code. But the issue is the building code doesn't even become relevant until there is a legislative action that zones the property to be developed under the building code. The issues stated at the beginning of the meeting are issues that are related to the initial approval of the zoning along with the site plan which is incorporated into the zoning because this is a PDC zone. The building official's authority to issue a CO is based on the legislative action that preceded it. He said his advice to the City continues to be this is an issue that has to be resolved by the City Council because it is primarily a zoning issue. He said an appeal body doesn't have the authority to resolve these issues.

- Jarett Waite said that in our code (from 2020) it says that where there is a project plan amendment where there is no more than 5% of certain changes it can go to the Planning Commission, and they can approve it. If it is more than that they have to come to the

City Council. He asked that where this happened before 2020 what is the official approval process that has to be followed in this case?

- Matt Ence said the simple answer is this was a decision and conditions that were set originally by the City Council and the City Council has the power to reconsider or to modify so that is why it is appropriate for the City Council to consider this.

- Jarett Waite said we are being asked to amend the original PD zone right now.

- Matt Ence said or to modify a condition of the original approval. He said that is one way to resolve it. Another way is to simply say that there isn't anything to resolve or to say that there is some compromise that we are willing to accept.

- Jarett Waite said our current code talks about setbacks and height minimums and maximums listed can be a little bit fluid according to the City Council. There is that leeway for the Council. He said he thinks that wall needs to be 7 ft. He said the planters are not permanent and wouldn't be 7 ft even with those on it. He said if this in the setback for him to be okay to change the plan then there needs to be some sort of mitigation to make it work. He said the Council approved a plan with stairs on both sides and they weren't screened but we also thought they wouldn't be in the setback. Now that they are in the setback, he feels there needs to be some mitigation.

- Denny Drake said this is an issue that we need to deal with not just because of the privacy for the neighbors but because of the submitted plan and the acceptance of that plan and then building according to the plan submitted. Regardless of the discussion Richard may have had with the building inspector or the builder from the Planning Commission the plan that was submitted and approved by the City Council is the one that should be continued to be enforced. He said the plan that he sees is that there are stairwells on one side and on both sides but legitimately was to be determined with the help of the neighbors as to what was going to go in there and that didn't happen and at this point, we determine if there is a solution that it needs to be suggested by the builder/owner rather than by the Council. The Council needs to continue to hold to the zone and to hold to the decision which was made to build according to plan.

- Leina Mathis said for her it is really going to be sticking with the legislative action that was taken. If we are going to look to an appeal to the condition that was set, in the discussion that was had, there was a condition for privacy. That came up in Planning Commission and in Council minutes so that condition needed to be met. The privacy wall up to 7 ft is a condition that appeared to need to be met based in the legislative action.

- Ben Shakespeare said he agrees with what has been said. The approval was based on addressing privacy. He said in his opinion it comes down to the options of raising the parapet and providing the screening. He asked if a better solution is moving the stairs. He said there are the two options.

- Christa Hinton said she agrees with what has been said and would like to see some cooperation with the neighbors so that they get the privacy that they were expecting based on what has been approved. She would like to go and see the site.

- Jarett Waite said holding the developer to meeting with the citizens is a tricky thing. He said approving something tonight based on neighbor feedback seems really tricky.

- Matt Ence said the Council isn't under any obligation to act tonight. If the Council wants the prior decision to stand as is, then no action will accomplish that. If you want to give direction to him in continuing to talk to Richard in trying to resolve this, he will take that direction. If Council wants to take a more formal action to modify something, you

can do that.

- Ben Shakespeare said we have homeowners that expect privacy for what they thought was being approved and we have an owner that is obviously looking for resolution to get his CO. He said in his opinion we need to find something for both sides to resolve this. Screening is where it comes down to. We should at least give some direction. He said we aren't far off all the parties to get this to where this can get put behind and Mr. Kohler can run his business and the neighbors would be happy. If we revert back, it forces both parties into a corner where nobody feels like they win.

- Richard Kohler said one solution they proposed that hasn't been heard is in the space between the stairwell and the block wall, they can plant some plant material. It wouldn't be immediate but could happen reasonably soon. He talked about a variety of plants that they could plant. This would address the issue but is not a violation of the code. He said they would be willing to do the plants as well as the 7 ft parapet.

- Ben Shakespeare said we don't use softscape because of the way it grows, and it dies. He said a combination of it would certainly be good. He said the screening solves it very easily. He said he likes the planting material as an option but not as the primary option.

- Tom Gubler said they planted bushes on their side but there is a major powerline right there. He said an option that the neighbors would like to take a look at is for the stairs to be moved to the north side. That is 90% of the issue and maybe not have to do the full 7 ft wall all the way around. He said what is being proposed does not benefit the Cloward's at all because coming down the stairs you have a full view of their backyard as well as the Aitken's backyard. He suggested a roof on those stairs to make it kind of a tunnel. He said the simple thing would be to move those stairs and maybe not have to do the wall around the parapet.

- Denny Drake said the consensus among us is we would like to solve this. We need to come up with a resolution that would be advantageous to both the developer and the neighbors. We could suggest something, but it is his pocketbook. If there is a solution that he could deal with and the moving of the stairwell would be workable but again it is not my pocketbook. He said he would like to leave it with Matt to deal with Richard on a basis of trying to figure out a solution for it and then bring it back.

- Ben Shakespeare said that Leina is right. From a Council we could tell him to just follow the 7 ft wall and the Council has the right to do that. He said the Council could safely say that is something we would require of screening on the stairs. That is going to have an expense to raise those parapets. Moving the stair from a cost aspect may be equal to raising the parapet. He doesn't believe the Council can require the stairs to be moved. We could require the 7 ft, which is going to cost equal or more money to get that to that height. He said moving the stairway is equal or less costly to the applicant and solves both issues and gets it done in a quick manner.

- Matt Ence said that he suspects that one challenge of relocating the stairs is that it eliminates the option to have the stairs be private because of the configuration of the building. It is a different access situation.

- Richard Kohler said he understands that there is a delay for the Council to decide. He asked if there is a possibility that they can have the occupancy for the rooms, not the roof or the parapets, could they get relief on the occupancy so they can close their loan. He said that is a very important financial hurdle for them. They will still need to come before Council to get permission to use the stairs and do the parapets.

- Ben Shakespeare said he would love to see something written and signed as to what is

going to happen. There is going to be a time delay in whatever resolution is done. If we can get something agreed to knowing that it might take 6 months to get all that done, he would like to understand what is going to happen and a timeframe then he has no problem with that.

- Matt Ence said the settlement agreement that has been proposed actually does that exact thing but with this design.

- Mayor Rosenberg said we can just modify the settlement agreement and remove the provision on the design but state what has to be done.

- Matt Ence said the settlement agreement was an attempt to do exactly what Ben is saying. It defines what is going to happen, gives them a time period to complete it and lets them have their certificate of occupancy now or when the agreement was signed. That was a pretty big concession on the City's part.

- Mayor Rosenberg asked if that prohibited the use of the roof and the stairs.

- Matt Ence said it did in the meantime. He said that is on the table with this design. If the agreement is that we will give him the certificate of occupancy and they can't use the roof and we will figure it out, it is not going to get figured out.

- Denny Drake said he is not willing to have a written guarantee. He wants some funding set aside for whatever engineering and building needs to be done. The money needs to be committed either by bond or by cash to cover the costs if they can't complete what they agree to do.

- Richard Kohler said he understands that the Council is reluctant to not have a design accompanying the settlement agreement. But the value to them of finishing the roof and the pool is great enough that they are not just going to not do anything. They would prefer that they could occupy the rooms and that they could separate the occupancy of the rooms which allows them to close their construction loan and gives them time and energy to put the money where it belongs, finding the resolution. He said he thinks he should contact Council members individually to get direction of what the resolution should be. He feels like he doesn't have enough information and he doesn't think the Council has enough from what he is hearing.

- Mayor Rosenberg asked if there is money in his long-term loan to cover the expenses on the roof.

- Richard Kohler said they have been funding above the loan amount since July out of their pockets. Closing the loan will help them to have funds. He said he believes they have funds enough to set aside some cash or bond and that could be worked into the agreement if that is necessary.

- Matt Ence said he is concerned about signing a settlement agreement that doesn't have a specific direction as to how the real issues are going to be resolved. We can set a timeline, but we would be right back where we started at that timeline to figure out how we resolve this. He said that is not a solution, that is kicking the can down the road. ii

- Denny Drake suggested having the engineering and costs so that we know what they are going to do and that is what they are bonding for.

- Matt Ence said that this agreement was specific to this design so that we would know what they are going to do.

- Mayor Rosenberg asked if Council would be willing to approve the agreement as it is presented with the option to come back and substitute the design and if Richard signs the agreement, then he can get the occupancy permit.

- Richard Kohler said he doesn't want to commit right now but he will look again at the

agreement. The mayor is suggesting an amendment that would allow a variance in the design.

- Mayor Rosenberg said all he would have to do is come back and substitute out the agreement.

- Matt Ence said he could easily add that language. The current agreement does not require a bond to be posted or anything for cash in lieu of the cost.

- Brock Jacobsen said the concern is on having the chance to modify is if there is a 6-month window and he comes in and wants to change it then how much further down the road then he needs 6 more months to design and build.

- Mayor Rosenberg said he thinks he has agreed to do it within 6 months. He would have to have his plan in here in 2.

- Richard Kohler asked if he could meet individually with each Council member and show them some concepts. He feels the one we have is not optimal.

- Christa Hinton asked what the objection is to the agreement. Is it the plan?

- Richard Kohler said there is some other provisions in the agreement that he is very nervous about. This plan may be unapprovable. He said he may have to go to the Historic District Commission additionally which is a very burdensome path, and he thinks those bodies will say no.

- Matt Ence said the provision of the mutual release of claims is pretty typical for a settlement agreement and is a way of wiping the slate clean. It doesn't affect claims going forward. And any approval of an alternative design would come to the City Council. That would not be a Staff decision. He asked Cody Mitchell, because he is familiar with this design if he is prepared to issue a building permit on this design.

- Cody Mitchell, Building Official, said yes.

- Matt Ence said so this design is not an issue. Cody has already reviewed it and the settlement agreement says that when he signs the settlement agreement that Cody would issue a building permit for this design and issue the CO for the building. Those are not issues. If Richard is going to bring back an alternative design, it is going to have to go through a process. It has to come to City Council and if there needs to be a building permit issued, Cody will do what he needs to. He said this design is not an issue. It is ready to go. He said he needs clarity on the bond issue.

- Denny Drake said that if there isn't any money set aside to take care of it there is nothing that ties him to that end result other than a lawsuit for breach of contract. He said he doesn't want to leave the city hanging out and having to come back with nothing being done and no way of paying for it if we ended up having to do it.

- Jarett Waite said he doesn't really want to meet with Mr. Kohler individually. He would rather meet together at a Work Meeting. The first one would be in May. He suggested an 8-month time period because of the delay of the Work Meeting. He suggested keeping the stairs but only using them as a maintenance access and the public could use stairs that are put somewhere else.

- Richard Kohler asked about having the roof terrace remain as is. It is not occupied and if the pool doesn't necessarily get finished.

- Mayor Rosenberg said he thinks you can separate the use off of it. Just lock up the stairs. Have no access to the roof deck until the resolution is met. He said the pool is not done so there will be no swimming. It would stay just like it is on top of that roof.

- Ricard Kohler said that until they know they can do it they are not going to invest money in it.

- Ben Shakespeare said that if part of the agreement is denying access to the roof until it is resolved, the applicant has every motivation to finish it and the residents are satisfied until that is done.
- Matt Ence said that once the CO is issued, we need to just accept that they are issued. Pulling those back isn't a realistic option. Our remedies if we sign a settlement agreement is our contract remedies. If the contract isn't fulfilled, then we go into court and we make a case for breach of contract. He said that is part of the reason we are here talking about whether we issue a CO or not. Once it is issued it is issued.
- Ben Shakespeare said there are incentives on all parties to get it. Without an access that solves the problem until it can be addressed. He said he would like there to be language in the agreement about no access.
- Leina Mathis said she is good with an amendment to the settlement agreement that includes no roof access until it is resolved.
- Christa Hinton said she is good with that.
- Denny Drake said he is still not good issuing the CO. The CO becomes the whipping post in getting it accomplished.
- Jarett Waite said he undecided on the bonding or not. He said he feels the plight of a small business owner and it is hard when you are up against something you weren't expecting. He empathizes with the Kohler's and would love to find a resolution. He said it has been pretty effective to hold back the CO up to this point. He said he doesn't know if we have to be that strict about it. He said he is more on the side of restricting access to the roof. He said he doesn't love this design. It is kind of a quick fix look. He said he would agree to not make this the requirement as part of the settlement.
- Matt Ence asked Richard that if he decided not to build this structure and he couldn't get an alternative approved would he be willing to just remove the stairs and do away with the roof access.
- Richard Kohler said as a desperation alternative he may have to do that. He said he doesn't want to do that. He said they have remedies for that.
- Matt Ence suggested writing the settlement agreement so he had 3 options: either build this structure, propose an alternative that is approved by the City Council, or remove the stairs. He said that six months may be a little short.
- Richard Kohler said that if there were no pool or no green roof then the only people that will want to go up those expensive stairs are maintenance people. He said he doesn't know why the stairs can't stay. Why have the cost of tearing them off? He said they are being deprived of the pool, which they want, and the green roof, which they want for their guests.
- Matt Ence said that is a good idea though because it absolutely resolves the issue. It resolves the issue from the neighbors' standpoint, and it makes clear that nothing is going to be done with the roof. It is only one of 3 options.
- Richard Kohler asked if it is okay to individually contact each Council member.
- Mayor Rosenberg suggested that we schedule the site visit as part of our Work Meeting for May and give Richard two months to get over there. The first Wednesday in May all the Council will come to the site.
- Richard Kohler said he is hoping to get something on the table well before May.
- Matt Ence said Richard is always free to contact individual Council members after the agreement is signed. Their emails are on the city website. It is up to them if they want to respond.

- Jarett Waite asked how long it would take for him to get the CO after the agreement is signed.
- Cody Mitchell said that as soon as the agreement is signed, he is fine to give him the CO. He said there are a few outstanding items that Mark has assured him have been resolved so he wants to physically see that.
- Matt Ence said there doesn't need to be a motion and he feels he has the direction from Council that he needs.
- Tom Gubler told the Council that this solves the Gubler issue, but it does not solve the Gates or Aitkens issue. Something has to happen to where those stairs are not infringing on everyone.
- Mayor Rosenberg said that with any upper floor if you look out the window you can see other people's yards. We are trying to do what we can to minimize the privacy issues for the neighbors.
- Tom Gubler said the difference is the two-story home would be offset a lot further than these stairs are.
- Mayor Rosenberg said we are going to do our best to get this thing resolved so we can all move on with it. He asked what the hesitation is on Richard Kohler's users to use their parking lot.
- Richard Kohler said that it is a grass parking lot and when it storms the parking lot floods and if they drive on the parking lot, they tear it up. He said they resodded and they are nursing it. If they only have a few guests, they will ask them to park on the driveway if there is damp condition at all.
- Mayor Rosenberg said we need him to use their parking lot. It is a requirement.

5. **Reports:**

A. Mayor / Council Reports

Ben Shakespeare:

- Nothing to report.

Leina Mathis:

- Nothing to report.

Jarett Waite:

- Nothing to report.

Denny Drake:

- Nothing to report.

Christa Hinton:

- Nothing to report.

Mayor Rosenberg:

- Nothing to report.

Brock Jacobsen:

- Tru Grit is here this weekend. Cimmaron Chacon asked if any members of the Council would like to do the send-off/welcome at 8 a.m. on Saturday morning to the racers.
- Ben Shakespeare said he can do it.

6. **Executive Session:** None.

7. **Adjournment:**

Motion to adjourn by Jarett Waite.

Seconded by Christa Hinton with all members present voting aye.

Meeting Adjourned at 8:07 p.m.

Chris Shelley – City Recorder

Date Approved: _____

DRAFT

**City of Santa Clara
Check Register
Checking 1889 - 03/16/2022 to 03/16/2022**

<u>Payee Name</u>	<u>Reference Number</u>	<u>Invoice Number</u>	<u>Invoice Ledger Date</u>	<u>Payment Date</u>	<u>Amount</u>	<u>Description</u>	<u>Ledger Account</u>
INTERMOUNTAIN GOLF CARS, I	69696	271089	02/28/2022	03/16/2022	13,000.00	INV#271089-CARRYALL GAS GOLF CAR-PA	104515-740 - CAPITAL EQUIPMEN
					\$13,000.00		
DENNIS MILLER HOMES, INC	69697	SAC200709119	03/10/2022	03/16/2022	500.00	BLDG MAIN DEP REFUND PERMIT 20-119	102570-000 - BLDG SITE MAINTEN
					\$500.00		
JOY MILES	69698	31522-JM	03/15/2022	03/16/2022	79.62	COURT INTERPRETER MAR 15, 2022 CASE	104120-330 - LEGAL SERVICES
					\$79.62		
OPTICARE OF UTAH	69699	000165243-MAR	03/07/2022	03/16/2022	350.07	VISION INSURANCE	102254-000 - OPTICARE VISION P
					\$350.07		
UPPER CASE PRINTING INK.	69700	18038	03/07/2022	03/16/2022	189.99	INV#18038-UTIL BILL BACK OF BILL PRINTI	104130-370 - PROFESSIONAL SE
					\$189.99		
UTAH RETIREMENT SYSTEMS	69701	PR030922-444	03/11/2022	03/16/2022	166.19	State Retirement	102230-000 - RETIREMENT PAYAB
					\$166.19		
WASH. COUNTY WATER CONSE	69702	52620	03/01/2022	03/16/2022	4,509.96	INV 52620 - REG. PIPELINE BOND PAYMEN	515110-822 - DEBT PAYMENT TO
WASH. COUNTY WATER CONSE	69702	52631	02/28/2022	03/16/2022	5,601.05	INV 52631 - REGIONAL WATER SURCHARG	513714-000 - REGIONAL WATER S
					\$10,111.01		
					\$10,111.01		
					\$24,396.88		

Mayor
Rick Rosenberg

City Manager
Brock Jacobsen



City Council
Denny Drake
Leina Mathis
Ben Shakespeare
Jarett Waite
Christa Hinton

CITY COUNCIL

Meeting Date: March 23, 2022

Agenda Item: B3

Applicant: Parks Department

Requested by: Sherrelle Pontarelli

Subject: 2022 Arbor Day

Proclamation

Description:

The Santa Clara Parks and Trails wishes to celebrate Arbor on the evening of April 30, 2022 at the Canyonview Park. We will be having children's crafts, games and other fun. The featured movie will be Jumanji, The Next Level. The Parks Department is requesting the City Council to approve the 2022 Arbor Day Proclamation to declare April 30th, 2022 as the City's official Arbor Day. The event is funded through Recreation, Arts and Parks tax revenue.

Recommendation: Approval

Cost: 0

Legal Approval: N/A

Finance Approval: Yes

Budget Approval: Yes

Attachments:

<https://sccity.org/wp-content/uploads/formidable/41/Arbor-Day-Park-Setup.pdf>



N Canyon View Dr

Volleyball

Family games

- 1. Bunnies
- 2. Courts
- 3. Parks
- 4. Admin
- 5. Building, Power Admin
- 6. Police
- 7. Fire
- 8.
- 9.
- 10.
- 11.
- 12.

- 1
- 2
- 3
- 4
- 5
- 6

- 7
- 8
- 9
- 10
- 11
- 12

Crafts Pizza
BINGO
TREE DRAWING
check in

Lava Flow

Screen

Canyon View Park

PROCLAMATION

Arbor Day

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community.

NOW, THEREFORE, BE IT RESOLVED that the Santa Clara Mayor hereby proclaims April 30, 2022 as Arbor Day in the City of Santa Clara, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and urge all citizens to plant trees to gladden the heart and promote the wellbeing of this and future generations.

Dated: March 23, 2022.

Rick Rosenberg, Mayor

Mayor
Rick Rosenberg

City Manager
Brock Jacobsen



City Council
Denny Drake
Leina Mathis
Ben Shakespeare
Jarett Waite
Christa Hinton

CITY COUNCIL

Meeting Date: March 23, 2022

Agenda Item: 1

Applicant: Washington County - Kevin Lewis - Greater Zion **Requested by:** Brock Jacobsen

Subject: INTERLOCAL COOPERATION AGREEMENT TO PROVIDE SUPPORT TO WASHINGTON COUNTY
IN HOSTING THE IRONMAN WORLD CHAMPIONSHIP - ST. GEORGE (MAY 2022),
THE IRONMAN 70.3 WORLD CHAMPIONSHIP – ST. GEORGE (OCTOBER 2022),

Description:

The previous interlocal agreement has expired so the new interlocal agreement is an update to the previous agreement. This is an interlocal agreement between the Santa Clara City and Washington County to set forth the obligations of the City in support of the County in hosting the Ironman races from May 2022 thru May 2025. The City's support may come in any of the following ways: Planning & Coordination, Use of Venues or Facilities, Police, Fire, Emergency Services, Traffic Control, Community Awareness, and Waste Management. The County shall reimburse the City for all race day overtime costs for police and municipal services necessary to conduct the portion of the event that is within the boundary of the City, including police, traffic operations, traffic control devices (cones, barricades, and VMS boards), community awareness, waste management, electrical services, and parking.

Recommendation: Approval

Cost: 0.00

Legal Approval: Yes

Finance Approval: Yes

Budget Approval: No

Attachments:

<https://sccity.org/wp-content/uploads/formidable/41/Interlocal-Santa-Clara-2022-25.docx>

INTERLOCAL COOPERATION AGREEMENT
TO PROVIDE SUPPORT TO
WASHINGTON COUNTY IN HOSTING THE
IRONMAN WORLD CHAMPIONSHIP - ST. GEORGE (MAY 2022), THE
IRONMAN 70.3 WORLD CHAMPIONSHIP – ST. GEORGE (OCTOBER 2022), THE
IRONMAN 70.3 NORTH AMERICAN CHAMPIONSHIP (MAY 2023, 2025,) AND THE IRONMAN
NORTH AMERICAN CHAMPIONSHIP (MAY 2024)

This Interlocal Cooperative Agreement (the “Agreement”) is entered into by WASHINGTON COUNTY, a political subdivision of the State of Utah (“the County”); and SANTA CLARA CITY, a Utah municipal corporation (“the City”), hereinafter collectively referred to as “Participants”. The purpose of the Agreement is to set forth the obligations that the City will perform to support the County in hosting the IRONMAN World Championship – St. George (May 2022), the IRONMAN 70.3 World Championship (Oct. 2022), the IRONMAN 70.3 North American Championship (May, 2023 and 2025), and the IRONMAN North American Championship (May 2024) and fulfilling the County’s contract with World Triathlon Corporation (“WTC”).

RECITALS

WHEREAS, over the past eleven years, Washington County and the City have worked together with other public entities in order to host IRONMAN events; and

WHEREAS, the prior event hosting agreement between Washington County and WTC as well as the prior interlocal agreement between the City and County regarding the IRONMAN events have expired and need to be renewed for the area to successfully host new IRONMAN events; and

WHEREAS, the County has entered into Host Venue Agreements with WTC under which the County will host IRONMAN races for through 2025 (“IRONMAN Contracts”), copies of which are attached hereto as Exhibits “A,B and C”, and under which Washington County will host the IRONMAN World Championship – St. George (May 2022), the IRONMAN 70.3 World Championship (Oct. 2022), the IRONMAN 70.3 North American Championship (May, 2023 and 2025), and the IRONMAN North American Championship (May 2024)(each individually referred to as an “Event” or collectively as “Annual Event”); and

WHEREAS, in addition to the IRONMAN Contract, Washington County has been selected to host the IRONMAN 70.3 World Championship and has entered into a Host Venue Agreement (“World Championship Contract”), a copy of which is attached hereto as Exhibit “B”, and under which Washington County will host the IRONMAN 70.3 World Championship – St. George (2021) (referred to as an “Event” or the “World Championship Event”); and

WHEREAS, The Utah Interlocal-Cooperation Act, Utah Code Annotated Sections 11-13-101 et seq. (1953, as amended), permits local public agencies, including counties and cities, to make the most efficient use of their powers through cooperating with other public agencies; and

WHEREAS, due to the large positive economic impact that will come to the City and its residents by having the IRONMAN events conducted in and around the City, the City is willing to assist the County in fulfilling some of the County’s responsibilities under the IRONMAN Contract and the World Championship Contract.

THEREFORE, the Participants agree as follows:

REQUIREMENTS OF THE COUNTY UNDER THE IRONMAN CONTRACTS
THAT SHALL BE PROVIDED BY THE CITY

- Section 1. The City shall provide the following to the County at no expense to the County (except as provided in Section 3), during each year of the term of the IRONMAN Contracts:
- (a) **Planning and Coordination.** Coordinate the use and permitting of needed and available City facilities, roads, easements and volunteer recruitment for all race sites in Washington City to include: race course, aid stations, concessions, parking, VIP hospitality, spectator viewing, transportation and municipal services.
 - (b) **Venues/Facilities.** The City will provide venues and facilities in a similar manner, location, and quantity as the City has historically provided. The Parties acknowledge that adjustments to the course may be needed from year to year based on new growth and development in the area. Any adjustments will be discussed and approved by the Parties well in advance of the annual event. Certain facilities and personal property listed herein will be required from the Tuesday before to the Tuesday immediately following each Race. The County shall identify all facilities and personal property listed herein needed for an Event, and the dates needed, no later than 60 days prior to an Event.

SERVICES

- Section 2. With respect to each Event and as coordinated by WTC's Race Director, the City shall facilitate, assist, and contribute services for the following support services as needed within the City:
- (a) **Police, Emergency and Other Municipal Services within the City.** Provide and/or arrange for the provision of costs for police and municipal services within the City necessary to plan and conduct the Events, including police, traffic operations, community awareness, waste management, and electrical services. The City shall ensure that police will command and ensure all emergency services (police, fire, and ambulance) needed to maintain public safety.
 - (b) **Traffic Control Devices and Services.** The City shall provide (or cause to be provided) diagrams and/or plans to assist with the placement of traffic devices within the City. The City shall have no obligation to provide traffic control devices, cones, message boards, etc.
 - (c) **Community Awareness.** The City shall provide community notifications (provided a reasonable time before the Event) to all potentially affected persons and third parties within the city, informing them of planned street closures and Event schedules.
 - (c) **Waste Management Services.** The City shall ensure that the Venue is clean and well-kept at all times. Adjustments will be put in place according to the needs of WTC. The City shall provide (or cause to be provided) recycle containers, garbage units, large units for disposal, transportation, and manpower.

REIMBURSEMENT

- Section 3. The County shall reimburse the City for all race day overtime costs for police and municipal services necessary to conduct the portion of the event that is within the boundary of the City, including police, traffic operations, traffic control devices (cones, barricades, and VMS boards), community awareness, waste management, electrical services, and parking. The City shall coordinate police and service employee schedules during race week to provide for the least amount of overtime hours possible during race day.

TERM

- Section 4. This Agreement shall become effective on the date that both Participants have duly executed the Agreement and will continue in effect until thirty (30) days after the 2025 Event, unless otherwise agreed to in writing by the parties.

COMPLIANCE

- Section 5. The City shall agree to the following items in order to comply with the terms of the IRONMAN Contract and the World Championship Contract:

- (a) **Intellectual Property of WTC.** The City shall not, without WTC's prior written consent, use any intellectual property rights of WTC, including without limitation the IRONMAN® mark, the 70.3® mark, and the design mark known as the "M-DOT." The City shall promptly inform WTC of any possible misuse or infringement by any person or entity of the Event Logo or any other intellectual property of WTC.
- (b) **No Construction; Street Cleaning.** Unless reasonably required and unavoidable, the City shall not begin and/or effect any structural, engineering, beautification, or related works during the Event and the week prior to the Event. The City shall be responsible for sweeping and cleaning up all Venue areas prior to and after each Event.
- (c) **Venue & Race Course Exclusivity; Condition of Race Course.** The City shall provide WTC with exclusive use of locations (as necessary for conducting the Event) within the Venue for purposes of staging and conducting the Race, the transition areas and infrastructure, the Expo, and all other aspects of the Event. The City shall ensure that, as necessary to conduct the Races, the Race course route (i.e., the roads, waterways, and other public spaces actually used for the Race) is closed to the public during the Race and for a reasonable period before and after the Race, and, subject to reasonable exceptions, is made exclusively available to WTC during such periods. The City shall ensure that all Race routes within the Venue are in good condition during the Event.

EXCLUSIVITY

- Section 6.

- (a) **Use of Racecourse and Event-Related Areas.** Notwithstanding anything to the contrary in this Agreement: During the period between (and including) the Monday preceding the Race Date until (and including) the Friday following the Race Date (collectively, the

“Event Period”), the City shall not produce, conduct, host, or permit any event (other than such Event) that takes place, in whole or in part, on any portion of the Race course or at any Event-related area; provided, however, that during the Event Period (excluding Race day) private functions, corporate events and the Washington City Cotton Days Celebration may take place but only if such events do not do or include any of the following:

- (i) include any endurance-, running-, road cycling-, or swimming-related race, competition or event having a distance longer than an “Olympic” distance triathlon;
- (ii) include any vendor exposition, tradeshow, and/or the selling of any merchandise and/or services that has the effect of exploiting the goodwill of the Event and/or gaining market exposure by way of intrusive and/or associative marketing practices;
- (iii) occur on the Race course or at any other area where any part of the Event is being conducted, or adversely affect the ingress or egress to or from any such areas;
- (iv) in any way jeopardize or adversely impact Event production or operations;
- (v) infringe on any WTC intellectual property rights; or
- (vi) include or constitute Ambush Marketing (as defined in Section 7 or otherwise promote themselves as purportedly being part of or in connection with the Event).

- (b) **Advertising Other Triathlon Companies or Long-Distance Triathlons.** Unless otherwise pre-approved, in writing, by WTC (which approval may be granted or denied in WTC’s sole discretion), during the Term and except as set forth in this Section, the City shall not permit its website to display any marketing, promotion, advertisement, reference, or the like, of (i) any other triathlon event series or company, including but not limited to International Triathlon Union (ITU), Revloution3 Triathlon, Life Time Fitness Triathlon, Challenge Family Triathlon, and HITS Triathlon (or any of their respective successors or assigns)(the “Ironman Competitors”), (ii) any person, entity, or group (other than WTC or any subsidiary or licensee thereof) that operates, organizes, produces, or is otherwise involved in any triathlon having a distance longer than that of an “Olympic” distance triathlon (as such distance is defined by the International Triathlon Union), or (iii) any triathlon having a distance longer than that of an “Olympic” distance triathlon (as such distance is defined by the International Triathlon Union), unless such triathlon is owned or operated by WTC or any subsidiary or licensee of WTC.

Notwithstanding the foregoing, the City may permit its website to display marketing, promotion, advertisement, reference, and/or otherwise associate with, BBSC Endurance Sports (“BBSC”), provided however, that the City may not permit its website to display any marketing, promotion, advertisement, reference, or the like, of (A) any BBSC event(s) if such BBSC event(s) features any race distance longer than that of an “Olympic” distance triathlon (as such distance is defined by the International Triathlon Union), or (B) BBSC if BBSC or any of BBSC’s events are acquired by and/or operated by any Ironman Competitor.

- (c) **Non-Competition.** During the Term and the eighteen (18)-month period thereafter, the City shall not produce, support, advertise, promote, conduct, host, permit, or contract or partner with any person or entity (other than WTC or a subsidiary thereof) for or in connection with, any other triathlon located, in whole or in part, within the Venue if such event features any race distance longer than that of an “Olympic” distance triathlon (as such distance is defined by the International Triathlon Union).

AMBUSH MARKETING

Section 7.

- (a) “Ambush Marketing” means selling (e.g., including, but not limited to, sponsorship, merchandise, vendor space), advertising, or marketing, by any third party that is not a WTC-authorized sponsor, merchandiser, and/or vendor of the Event, where such selling, advertising, or marketing (i) is in connection with, or in proximity to, the Event, or (ii) otherwise has the effect of exploiting the goodwill of the Event and/or gaining market exposure by way of intrusive and/or associative marketing practices.
- (b) The City shall not cause, engage in, or permit any Ambush Marketing, and, except to the extent the City is prohibited by law from doing so, the City shall prevent and stop Ambush Marketing at, near, or in connection with the Event, including without limitation by:
 - (i) Causing its employees and agents to promptly report, to WTC and the proper City or County authorities, any marketing or activity reasonably appearing to be Ambush Marketing;
 - (ii) Ensuring, prior to and during the Event, that the Event perimeter and any other key advertising locations under the City's control do not carry any form of temporary advertising or promotional material relating to the Event, except as may be approved in writing by WTC (in WTC's sole discretion);
 - (iii) Using, invoking, and applying the City's powers to protect all trademarks and copyrights associated with the Event;
 - (iv) Preventing the distribution of product samples, premiums, promotional literature and other commercial and non-commercial materials within the established Event perimeter or adjacent to the Event site, except where expressly authorized by WTC;
 - (v) As allowed by law, causing all signage and other physical items of Ambush Marketing to be taken down, moved, removed, and/or confiscated immediately by the City or, if applicable, law enforcement personnel; and
 - (vi) Cooperating with WTC to prevent Ambush Marketing, as may reasonably be requested by WTC.

INDEMNIFICATION

Section 8.

- (a) Each Participant agrees to be fully responsible for their own acts of negligence, or their respective agents' acts of negligence while acting within the scope of their authority, and agree to be liable for any damages resulting from said negligence to the extent permitted by law. Each Participant shall indemnify, defend and hold the other Participant and its officers, employees, and/or agents harmless from any and all claims, costs, liabilities, judgments, expenses or damages arising out of any negligent and/or act of malfeasance by the other party, its officers, employees, and/or agents.
- (b) Nothing contained herein shall be construed as consent by either of the Participants to be sued by third-parties in any manner arising from this Agreement, or as a waiver of sovereign immunity as to any Participant.

GENERAL PROVISIONS

Section 9.

- (a) **Interlocal Agreement to be Kept on File.** Each Participant will file this Agreement with its keeper of records.
- (b) **Approval.** This Agreement shall be approved by each party, pursuant to the requirements of the Interlocal Cooperation Act.
- (c) **Attorney Review.** This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party, pursuant to the requirements of the Interlocal Cooperation Act.
- (d) **Costs.** Unless otherwise stated in this Agreement, each party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.
- (e) **No Interlocal Entity.** No separate legal entity is created by the terms of this Agreement. To the extent that this Agreement requires administration other than as set forth herein, it shall be administered by the duly assigned employees of the Participants, acting as a joint board. No real or personal property shall be acquired jointly by the parties as a result of this Agreement. To the extent that a party acquires, holds, and disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such party shall do so in the same manner that it deals with other property of such party
- (f) **Participants Status.** Each Participant represents and warrants that it is a political subdivision of the State of Utah and is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

- (g) Termination of Agreement. This Agreement shall be in full force and effect and be legally binding upon the Participants only after its approval and execution by the governing bodies of each of the Participants. This Agreement shall automatically terminate if and when the Ironman Contract is terminated prior to the fulfillment of its term. Furthermore, the Participants by mutual consent may terminate the Agreement at any time after all contractual obligations and debts relating to this Agreement have been fulfilled and retired.
- (h) Counterparts. This Agreement may be executed in several counterparts, any one of which shall be regarded for all purposes as one original. The Participants agree that they will execute all instruments, documents, and resolutions or ordinances necessary to give effect to the terms of the Agreement.
- (i) Entire Contract. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Participants relating to the subject matter hereof and constitutes the entire contract between the Participants.
- (j) Amendment. This Agreement shall not be modified or amended except in writing, which shall be signed by the duly authorized representative of each Participant after adoption of a resolution by the governing body of each participant approving the modification or amendment.
- (k) Dispute Resolution. The Participants to this Agreement are governmental entities working together for mutual advantage. In the event a dispute arises with respect to this Agreement, the Participants agree to first submit the matter to non-binding mediation.
- (l) Governing Law. This Agreement shall be governed by the laws of the State of Utah.

SIGNATURE BLOCK

IN WITNESS WHEREOF, the Participants have caused this Agreement to be executed by their duly authorized representatives as of the Date first written above.

WASHINGTON COUNTY

CITY OF SANTA CLARA

Victor Iverson, Chair
Washington County Commission

By: _____

Title: _____

Attest:

Attest:

Susan Lewis
Washington County Clerk-Auditor

Date: _____

Date: _____

Approved as to form and compatible with State law:

Deputy Washington County Attorney

City Attorney

Mayor
Rick Rosenberg

City Manager
Brock Jacobsen



City Council
Denny Drake
Leina Mathis
Ben Shakespeare
Jarett Waite
Christa Hinton

CITY COUNCIL

Meeting Date: March 23, 2022

Agenda Item: 2

Applicant: Melanie Huscroft

Requested by: James McNulty

Subject: Amended Final Plat, Giovengo Commercial

Subdivision

Description:

The applicant, Melanie Huscroft, is requesting to amend the Giovengo Commercial Subdivision. The original subdivision plat included 3-lots. The applicant is proposing to amend Lot 1 by subdividing to create Lots 1A and 1B. The existing Quench It building is located on Lot 1B. Lot 1A would be sold to other individual(s) who will complete the building on Lot 1A which will be similar to the building on Lot 1B. O'Reilly's Auto Parts is currently under construction on Lot 2, with the existing Dollar Tree located on Lot 3. A staff report has been included with additional project information.

Recommendation: Approval

Cost: N/A

Legal Approval: Yes

Finance Approval: N/A

Budget Approval: N/A

Attachments:

https://sccity.org/wp-content/uploads/formidable/41/Giovengo-Commercial-Amd-Plat_March_2022_CC-Report.docx,
<https://sccity.org/wp-content/uploads/formidable/41/Original-Subdivision-Plat.pdf>, <https://sccity.org/wp-content/uploads/formidable/41/AMENDED-FINAL-PLAT.pdf>, <https://sccity.org/wp-content/uploads/formidable/41/AMENDED-LOT-1-EXHIBIT.pdf>



City of Santa Clara
2603 Santa Clara Drive
(435) 656-4690, Ext. 225
jmcnulty@sccity.org

Staff Report

Subdivision Plat Amendment Summary and Recommendation

Public Body: Santa Clara City Council

Meeting Date: March 23, 2022

Current Zone: PDC

Property Address: 3663 Pioneer Parkway

Request: Amended Final Plat, Giovengo Commercial Subdivision

Applicant Name: Melanie Huscroft

Staff Planner: Jim McNulty

Planning Staff Recommendation: Approval with conditions

Meeting Type: Public Meeting

PROJECT DESCRIPTION

The applicant, Melanie Huscroft, is requesting to amend the Giovengo Commercial Subdivision. The original subdivision plat includes a total of 3-lots. The applicant is proposing to amend Lot 1 by subdividing to create Lot 1A and Lot 1B. Lot 1A would be 29,395 sq. ft. (0.674 acres), and Lot 1B would be 29,580 sq. ft. (0.679 acres). The original Lot 1 was 58,975 sq. ft. (1.35 acres). Lot 2 would remain the same size at 1.35 acres (future O'Reilly's Auto Parts), with Lot 3 remaining at 1.05 acres (Dollar Tree site).

At this time, the Quench It building is located on the proposed Lot 1B. The applicant, Melanie Huscroft, has decided not to pursue the construction of the second retail building approved at this location. As a result, the property is proposed to be subdivided and sold to other individual(s) who will complete the building on Lot 1A. Additionally, the proposed plat amendment places the 50' Ingress/Egress & Cross-Access Easement in the correct location which is between Lot 1B and Lot 2. It also places the 25' Ingress/Egress & Cross-Access Easement behind the Quench It building on Lot 1B allowing for future use by Lot 1A. A copy of the original plat and amended plat have been included in the packet. City staff has discussed this with legal counsel to make sure this has been addressed appropriately. As a result, each property owner will be required to sign the Owner's Dedication & Acknowledgement on the final plat before recordation.

Both amended lots (Lots 1A & 1B) will meet the density, setbacks, and other requirements as per Section 17.68.090 of city ordinance. The applicant currently owns Lot 1; however, Lot 1A will be sold after the amended plat is recorded. The applicant would retain ownership of Lot 1B (Quench It building).

SITE & VICINITY DESCRIPTION

The subject property is in the northern part of the city. Major cross streets in the vicinity include Pioneer Parkway and Rachel Drive.

ISSUES OF CONCERN/PROPOSED MITIGATION

No issues of concern have been identified for this application.

NEIGHBORHOOD RESPONSE

Notices were sent to the property owners within the Giovengo Commercial Subdivision. The subject property was also posted as per State Code. No responses have been received by city staff as of the writing of this report.

REVIEWING DEPARTMENTS

DEPARTMENT: *Building*

Recommendations: A geotechnical report will be required for Lot 1A prior to building permit issuance.

Required Revisions: None at this time.

DEPARTMENT: *Parks & Trails*

Recommendations: N/A

Required Revisions: N/A

DEPARTMENT: *Police & Fire*

Recommendations: N/A

Required Revisions: N/A

DEPARTMENT: *Power*

Recommendations: Public Utility Easements (PUE's) are required.

Required Revisions: None at this time.

DEPARTMENT: *Public Works*

Recommendations: Any public utility easement that's affected by this amendment needs to be relocated. A final mylar with signature blocks is required.

Required Revisions: None at this time.

STATE CODE CONSIDERATIONS

Utah Code, Section 10-9a-207 includes requirements for subdivision amendments. To amend a subdivision, a city must hold at least one public meeting (not public hearing). Additionally, a public meeting to consider an amendment to a subdivision requires 10 days' notice rather than 24 hours' notice. A notice must also be sent to all property owners in the subdivision, with a notice in a visible location, with a sign of sufficient size and durability. Planning Staff has determined that all State Code requirements have been met with this application.

PLANNING STAFF RECOMMENDATION

On March 10, 2022, the Planning Commission held a public meeting and forwarded a recommendation of approval to the City Council. Planning Staff recommends that the Santa Clara City Council approves the Amended Final Plat for the Giovengo Commercial Subdivision subject to the following conditions:

1. That the applicant be required to comply with the recommendations from all city reviewing departments.
2. That the applicant be allowed to subdivide Lot 1 into Lot 1A and Lot 1B only.
3. That the required 50' and 25' Ingress/Egress Cross-Access Easements as shown on the final plat remain in place for the use of all property owners (Lot 1A, Lot 1B, Lot 2, and Lot 3).
4. That the Owner's Dedication & Acknowledgement be signed by all property owners prior to final plat recordation.
5. That the applicant be required to record the amended subdivision plat prior to the future sale of Lot 1A.

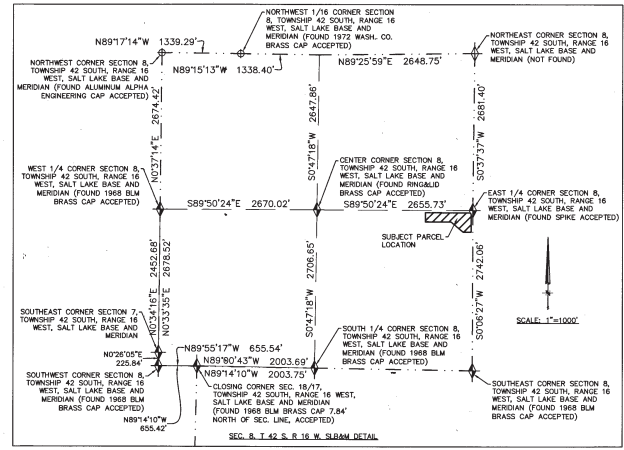
Order: sdf Comment: Description: Washington, UT Document - Year: DocId 2020-12655 Page: 2 of 2

GENERAL NOTES

- 1. THERE EXISTS PUBLIC UTILITY EASEMENTS ON ALL LOTS AS FOLLOWS UNLESS OTHERWISE NOTED: 15.00 FOOT ALONG ALL STREET SIDE LOT LINES AND 10.00 FOOT ALONG ALL SIDE AND REAR LOT LINES. NO BUILDINGS OR STRUCTURES, E.G. POOLS, WALLS, OR FENCES, WILL BE ALLOWED TO BE BUILT IN THE EASEMENT AREA AND THE OWNER BEARS THE RISK OF LOSS OR DAMAGE TO THOSE IMPROVEMENTS RESULTING FROM THE EXERCISE OF THE EASEMENT RIGHTS.
2. UNSTABLE SOIL CONDITIONS MIGHT EXIST ON LOTS IN THIS SUBDIVISION. PURCHASERS OF LOTS HEREIN HAVE THE SOLE RESPONSIBILITY FOR OBTAINING APPROPRIATE ENGINEERING SERVICES AND ADVICE RELATIVE TO THE USABILITY OF THE LOTS. THE CITY OF SANTA CLARA DISCLAIMS ANY AND ALL RESPONSIBILITY FOR SUCH SOIL CONDITIONS, WATER CONTROL (SURFACE AND/OR SUBSURFACE), AND DRAINAGE CONTROL.
3. PROPERTY IS SUBJECT TO FINDINGS, SUMMARIES, AND CONCLUSIONS OF THE GEOTECHNICAL INVESTIGATION, HEIGHTS WEST, PLAT H, SANTA CLARA, UTAH* PREPARED BY ASCE, DATED FEBRUARY 7, 2005. A COPY OF WHICH IS AVAILABLE FOR INSPECTION OR COPIES MADE BY CONTACTING THE CITY OF SANTA CLARA, 2721 SANTA CLARA DRIVE, SANTA CLARA, UTAH 84765.
4. THE BASIS OF BEARING FOR THIS SURVEY IS S 89°50'24" E ALONG THE SOUTH SECTION LINE OF SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST S1/4 CORNER AND THE CENTER 1/4 CORNER AND THE EAST 1/4 CORNER OF SAID SECTION 8, THE MONUMENTS, TYPE AND LOCATIONS OF WHICH ARE SHOWN ON THIS PLAT.
5. ROTATE BASIS OF BEARING 119°54' COUNTER CLOCKWISE TO MATCH RECORD BEARINGS OF HEIGHTS WEST, PLAT H.
6. LAND OWNERS ARE RESPONSIBLE FOR LANDSCAPING. LANDSCAPING TO BE SIMILAR TO OTHER COMMERCIAL DEVELOPMENTS IN THE AREA.
7. LAND OWNERS OR PURCHASERS OF THIS LAND ARE RESPONSIBLE FOR ALL UTILITIES. NO UTILITIES ARE PROVIDED OR EXTENDED TO LOTS IN THIS PLAT.
8. BUILDING SETBACKS ARE 20' ALONG ROADWAYS AND 10' ALONG REAR AND SIDE PROPERTY LINES.

LEGEND

- SECTIONAL MONUMENTATION (FOUND: TYPE, DATE, AGENCY AND LOCATION ETC. AS SHOWN ON THE PLAT).
SPECIFICS FOUND SURVEY CONTROL MONUMENT AS SHOWN AND NOTED (CLASS 1, RING & LID).
ALL BOUNDARY CORNERS TO BE SET WITH 5/8" REBAR AND CAP STAMPED B&G, UNLESS OTHERWISE SPECIFIED ON THE PLAT.
BOUNDARY LINE
SECTION LINE
QUARTER SECTION LINE
1/16 SECTION LINE
ADJOINING LOT/PARCEL / BOUNDARY LINE
LOT EASEMENT LINE



SURVEYOR'S CERTIFICATE

I, D. GREG MEYERS, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD LICENSE NO. 312770 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT AND HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED HEREON IN ACCORDANCE WITH SECTION 17-23-17 UTAH STATE CODE, AND HAVE VERIFIED ALL MEASUREMENTS AND PLACED MONUMENTS AS REPRESENTED ON THIS PLAT. I FURTHER CERTIFY THAT BY AUTHORITY OF THE HEERON OWNER(S), I HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND PUBLIC EASEMENTS HEREAFTER TO BE KNOWN AS:

GIOVENGO SUBDIVISION

AND THAT THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT.

BOUNDARY DESCRIPTION

BEGINNING AT A POINT THAT LIES SOUTH 0°06'27" WEST 64.95 FEET ALONG THE SECTION LINE AND NORTH 89°53'33" WEST 29.79 FEET FROM THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING ON THE WEST RIGHT-OF-WAY OF RACHEL DRIVE, AND RUNNING THENCE SOUTH 0°06'27" WEST ALONG SAID RIGHT-OF-WAY 304.12 FEET TO A POINT ON THE NORTH BOUNDARY OF HEIGHTS WEST, PLAT H, OFFICIAL RECORDS OF WASHINGTON COUNTY, UTAH, THENCE ALONG SAID HEIGHTS WEST PLAT H THE FOLLOWING FOUR (4) COURSES: (1) NORTH 89°53'00" WEST 135.75 FEET, (2) NORTH 49°53'00" WEST 265.18 FEET; (3) NORTH 89°32'36" WEST 439.21 FEET AND (4) NORTH 0°02'00" EAST 157.01 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF PIONEER PARKWAY, THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES: (1) SOUTH 89°07'24" EAST 753.25 FEET AND (2) SOUTHEASTERLY ALONG A 250.00 FOOT RADIUS CURVE TO THE RIGHT CURVE, (LONG CHORD BEARS SOUTH 44°51'59" EAST A DISTANCE OF 35.34 FEET, CENTER POINT BEING SOUTH 0°09'36" WEST), THROUGH A CENTRAL ANGLE OF 89°56'51" A DISTANCE OF 39.25 FEET TO THE POINT OF BEGINNING. CONTAINS 163,684 SQUARE FEET OR 3.76 ACRES. (THREE LOTS)

12/06/2019
DATE: BUSH AND GUDDALL INC.



D. Greg Meyers
PROFESSIONAL LAND SURVEYOR
UTAH LICENSE NUMBER 312770

OWNER'S DEDICATION

KNOW ALL BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE HEERON DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC EASEMENTS AND CROSS ACCESS EASEMENTS TO HEREAFTER BE KNOWN AS:

GIOVENGO SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

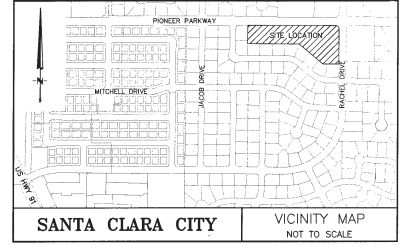
GIOVENGO PROPERTIES, LLC
(A UTAH LIMITED LIABILITY COMPANY)

Jayleen Giovengo
BY: JAYLEEN GIOVENGO
ITS: MANAGER

LIMITED LIABILITY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASHINGTON } S.S.
ON THE 16th DAY OF January, 2020 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, Jayleen Giovengo, WHO BEING BY ME DULY SWORN, DID SAY THAT (S)HE IS THE MANAGER/MEMBER OF GIOVENGO PROPERTIES, LLC, AND THAT (S)HE EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID LIMITED LIABILITY COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO BY THE OPERATING AGREEMENT OF GIOVENGO PROPERTIES, LLC, AND (S)HE DID DULY ACKNOWLEDGE TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

Notary Public
COMMISSION NUMBER: 690028



GIOVENGO SUBDIVISION

LOCATED IN
SOUTHEAST 1/4 SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN

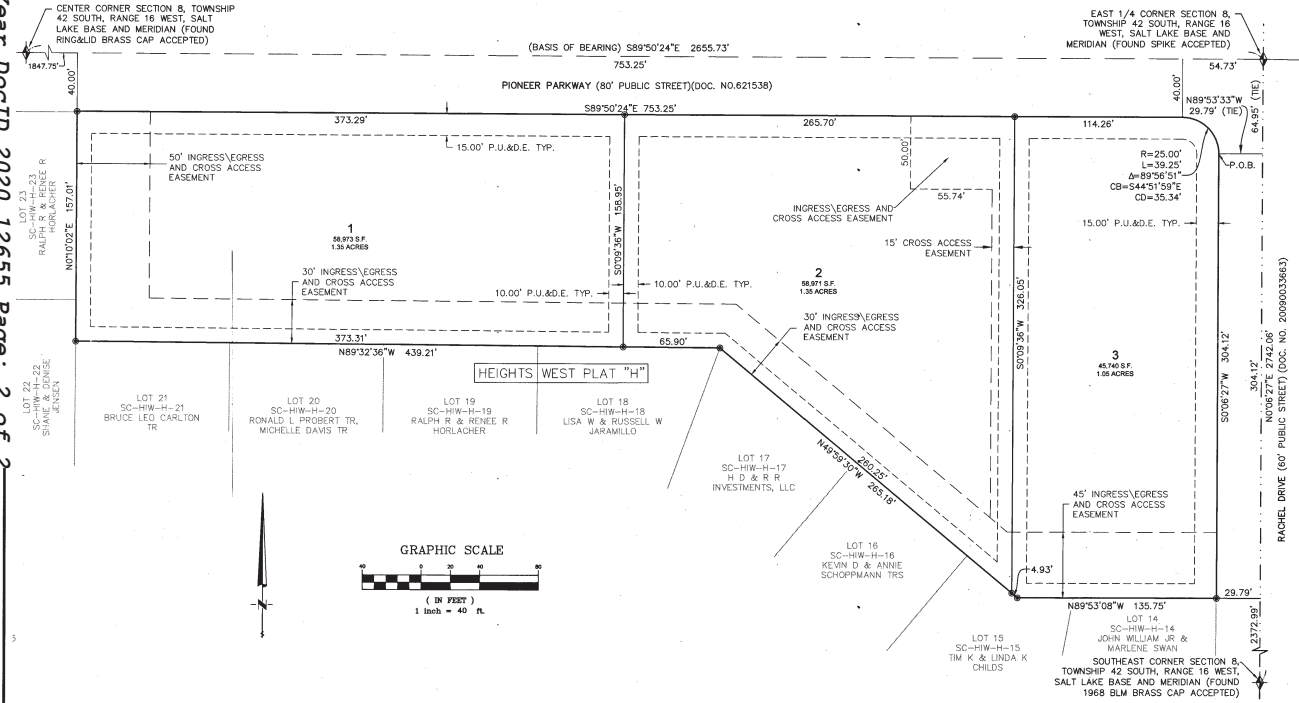
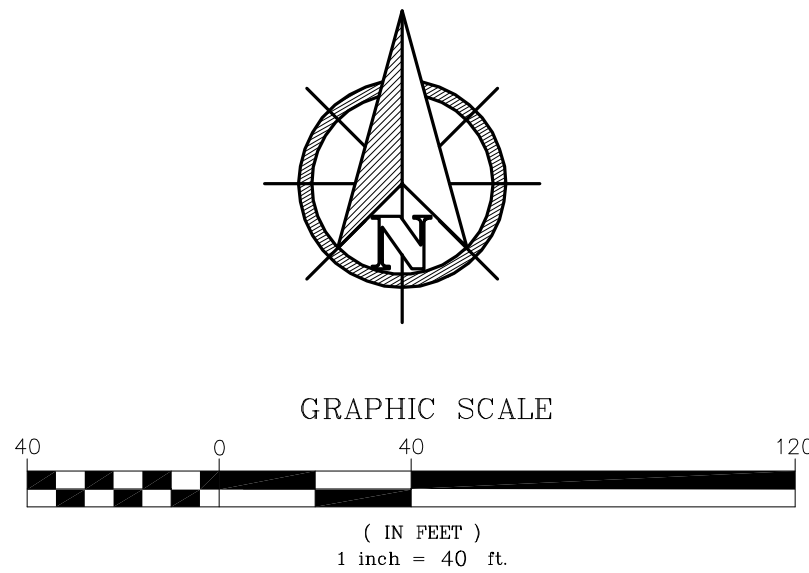


Table with 4 columns: CITY SURVEYORS CERTIFICATE, ENGINEER'S APPROVAL, APPROVAL AS TO FORM, APPROVAL OF THE PLANNING COMMISSION, APPROVAL AND ACCEPTANCE BY THE CITY OF SANTA CLARA, UTAH, and TREASURER APPROVAL. Each column contains a signature and date.

Vertical sidebar containing: BUSH & GUDDALL, INC. Engineers - Planners - Surveyors; GIOVENGO SUBDIVISION; SHEET 1 OF 1 SHEETS; FILE: 191118FF

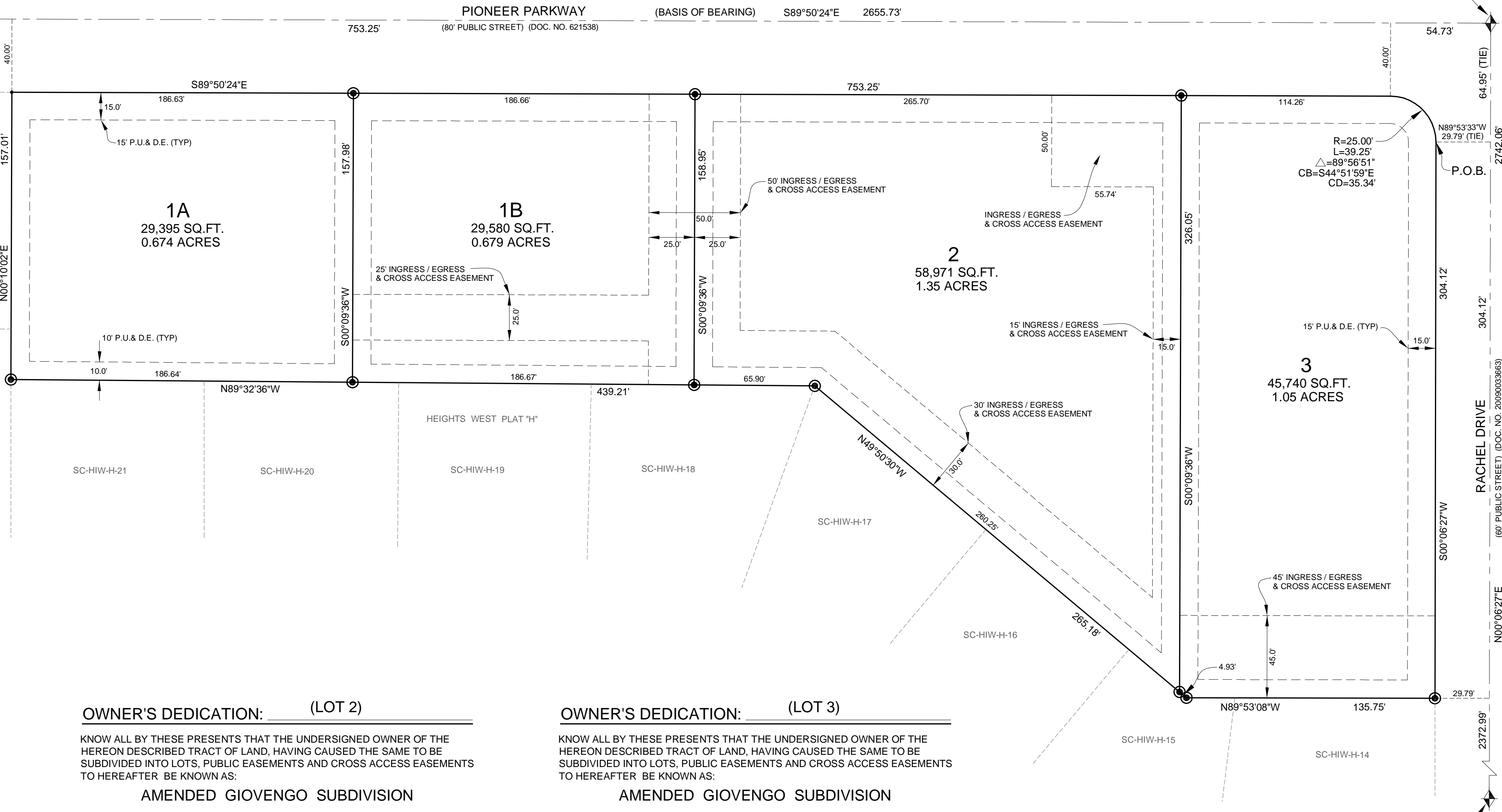
CENTER CORNER SECTION 8, TOWNSHIP
42 SOUTH RANGE 16 WEST, SLB&M
(FOUND RING AND LID BRASS CAP ACCEPTED)

EAST 1/4 CORNER SECTION 8, TOWNSHIP
42 SOUTH RANGE 16 WEST, SLB&M
(FOUND SPIKE ACCEPTED)



LEGEND:

- ◆ FOUND SECTION MONUMENTATION AS SHOWN AND DESCRIBED
- ⊕ FOUND CLASS 1 MONUMENT
- SET REBAR AND CAP MARKED PLS 334571
- SECTION LINE
- - - QUARTER SECTION LINE
- BOUNDARY LINE
- - - LOT EASEMENT LINE
- - - ADJACENT LOT LINES (NOT A PART)



OWNER'S DEDICATION: (LOTS 1A & 1B)

KNOW ALL BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE HEREOF DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC EASEMENTS AND CROSS ACCESS EASEMENTS TO HEREAFTER BE KNOWN AS:

AMENDED GIOVENGO SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

SC QI LLC
(A UTAH LIMITED LIABILITY COMPANY)

BY: MELANIE HUSCROFT
ITS: MANAGER

LIMITED LIABILITY ACKNOWLEDGMENT:

STATE OF UTAH } SS.
COUNTY OF _____ }
ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, _____ WHO BEING BY ME DULY SWORN, DID SAY THAT HE / SHE IS THE _____ OF SC QI LLC, AND THAT HE / SHE EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID LIMITED LIABILITY COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO BY THE OPERATING AGREEMENT OF SC QI LLC, AND HE / SHE DID DULY ACKNOWLEDGE TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

FULL NAME SIGNATURE _____ COMMISSION NO. _____ DATE _____
FULL NAME PRINT _____ EXPIRATION DATE _____
(STAMP NOT REQUIRED PER UTAH CODE 46-1-16(6))

OWNER'S DEDICATION: (LOT 2)

KNOW ALL BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE HEREOF DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC EASEMENTS AND CROSS ACCESS EASEMENTS TO HEREAFTER BE KNOWN AS:

AMENDED GIOVENGO SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

RKF SANTA CLARA, LLC
(A UTAH LIMITED LIABILITY COMPANY)

BY: RYAN W. FORSYTH
ITS: MANAGING MEMBER

LIMITED LIABILITY ACKNOWLEDGMENT:

STATE OF UTAH } SS.
COUNTY OF _____ }
ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, _____ WHO BEING BY ME DULY SWORN, DID SAY THAT HE / SHE IS THE _____ OF RKF SANTA CLARA, LLC, AND THAT HE / SHE EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID LIMITED LIABILITY COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO BY THE OPERATING AGREEMENT OF RKF SANTA CLARA, LLC, AND HE / SHE DID DULY ACKNOWLEDGE TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

FULL NAME SIGNATURE _____ COMMISSION NO. _____ DATE _____
FULL NAME PRINT _____ EXPIRATION DATE _____
(STAMP NOT REQUIRED PER UTAH CODE 46-1-16(6))

OWNER'S DEDICATION: (LOT 3)

KNOW ALL BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE HEREOF DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC EASEMENTS AND CROSS ACCESS EASEMENTS TO HEREAFTER BE KNOWN AS:

AMENDED GIOVENGO SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

C&N SANTA CLARA, LLC
(A UTAH LIMITED LIABILITY COMPANY)

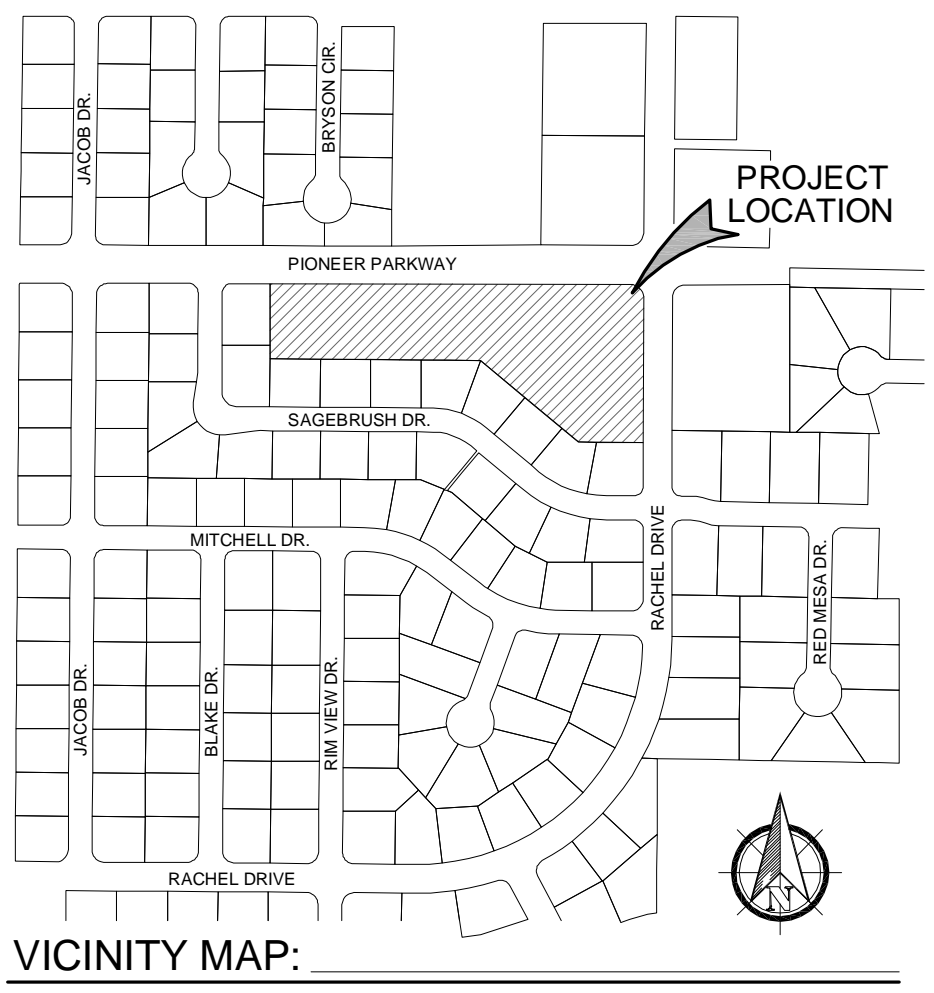
BY: CHRISTIAN W. FORSYTH
ITS: MANAGING MEMBER

LIMITED LIABILITY ACKNOWLEDGMENT:

STATE OF UTAH } SS.
COUNTY OF _____ }
ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, _____ WHO BEING BY ME DULY SWORN, DID SAY THAT HE / SHE IS THE _____ OF C&N SANTA CLARA, LLC, AND THAT HE / SHE EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID LIMITED LIABILITY COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO BY THE OPERATING AGREEMENT OF C&N SANTA CLARA, LLC, AND HE / SHE DID DULY ACKNOWLEDGE TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

FULL NAME SIGNATURE _____ COMMISSION NO. _____ DATE _____
FULL NAME PRINT _____ EXPIRATION DATE _____
(STAMP NOT REQUIRED PER UTAH CODE 46-1-16(6))

SOUTHEAST CORNER SECTION 8, TOWNSHIP
42 SOUTH RANGE 16 WEST, SLB&M
(FOUND 1968 BLM BRASS CAP ACCEPTED)



VICINITY MAP:

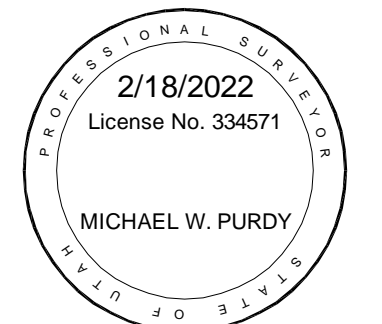
GENERAL NOTES:

- 1.) THERE EXIST PUBLIC UTILITY EASEMENTS ON ALL LOTS AS FOLLOWS UNLESS OTHERWISE NOTED: 15.00 FOOT ALONG ALL STREET SIDE LOT LINES AND 10.00 FOOT ALONG ALL SIDE AND REAR LOT LINES. NO BUILDINGS OR STRUCTURES, E.G. POOLS, WALLS, OR FENCES, WILL BE ALLOWED TO BE BUILT IN THE EASEMENT AREA AND THE OWNER BEARS THE RISK OF LOSS OR DAMAGE TO THOSE IMPROVEMENTS RESULTING FROM THE EXERCISE OF THE EASEMENT RIGHTS.
- 2.) UNSTABLE SOIL CONDITIONS MIGHT EXIST ON LOTS IN THIS SUBDIVISION. PURCHASERS OF LOTS HEREIN HAVE THE SOLE RESPONSIBILITY FOR OBTAINING APPROPRIATE ENGINEERING SERVICES AND ADVICE RELATIVE TO THE USABILITY OF THE LOTS. THE CITY OF SANTA CLARA DISCLAIMS ANY AND ALL RESPONSIBILITY FOR SUCH SOIL CONDITIONS, WATER CONTROL (SURFACE AND/OR SUBSURFACE), AND DRAINAGE CONTROL.
- 3.) PROPERTY IS SUBJECT TO FINDINGS, SUMMARIES, AND CONCLUSIONS OF THE GEOTECHNICAL INVESTIGATION, "HEIGHTS WEST, PLAT H, SANTA CLARA UTAH" PREPARED BY A.G.E.C., DATED FEBRUARY 7, 2005. A COPY OF WHICH IS AVAILABLE FOR INSPECTION OR COPIES MADE BY CONTACTING THE CITY OF SANTA CLARA, 2721 SANTA CLARA DRIVE, SANTA CLARA, UTAH 84765.
- 4.) THE BASIS OF BEARING FOR THIS SURVEY IS S89°50'24"E ALONG THE SOUTH SECTION LINE OF SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SLB&M, BETWEEN THE CENTER 1/4 CORNER AND THE EAST 1/4 CORNER OF SAID SECTION 8, THE MONUMENTS, TYPE AND LOCATIONS OF WHICH ARE SHOWN ON THIS PLAT.
- 5.) ROTATE BASIS OF BEARING 1°18'54" COUNTER CLOCKWISE TO MATCH RECORD BEARINGS OF HEIGHTS WEST, PLAT H.
- 6.) LAND OWNERS ARE RESPONSIBLE FOR LANDSCAPING. LANDSCAPING TO BE SIMILAR TO OTHER COMMERCIAL DEVELOPMENTS IN THE AREA.
- 7.) LAND OWNERS OR PURCHASERS OF THIS LAND ARE RESPONSIBLE FOR ALL UTILITIES. NO UTILITIES ARE PROVIDED OR EXTENDED TO LOTS ON THIS PLAT.
- 8.) BUILDING SETBACKS ARE 20' ALONG ROAD WAYS AND 10' ALONG REAR AND SIDE PROPERTY LINES.

SURVEYOR'S CERTIFICATE:

I, MICHAEL W. PURDY, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD CERTIFICATE OF REGISTRATION NUMBER 334571 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNER I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS AND HAVE PLACED THE MONUMENTS AS REPRESENTED ON THE PLAT TO BE HEREAFTER KNOWN AS:

AMENDED GIOVENGO SUBDIVISION



LEGAL DESCRIPTION:

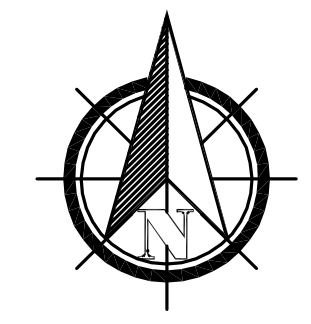
BEGINNING AT A POINT THAT LIES SOUTH 0°06'27" WEST 64.95 FEET ALONG THE SECTION LINE AND NORTH 89°53'33" WEST 29.79 FEET FROM THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING ON THE WEST RIGHT-OF-WAY OF HEIGHTS WEST, PLAT H, OFFICIAL RECORDS OF WASHINGTON COUNTY, UTAH, THENCE ALONG SAID HEIGHTS WEST PLAT H THE FOLLOWING FOUR (4) COURSES: (1) NORTH 89°53'08" WEST 135.75 FEET, (2) NORTH 49°59'30" WEST 265.18 FEET, (3) NORTH 89°32'36" WEST 439.21 FEET AND (4) NORTH 0°10'02" EAST 157.01 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF PIONEER PARKWAY, THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES, (1) SOUTH 89°50'24" EAST 753.25 FEET AND (2) SOUTHEASTERLY ALONG A 25.00 FOOT RADIUS CURVE TO THE RIGHT CURVE, (LONG CHORD BEARS SOUTH 44°51'59" EAST A DISTANCE OF 35.34 FEET, CENTER POINT LIES SOUTH 00°09'36" WEST), THROUGH A CENTRAL ANGLE OF 89°56'51" A DISTANCE OF 39.25 FEET TO THE POINT OF BEGINNING.

CONTAINS 163,684 SQUARE FEET OR 3.76 ACRES (FOUR LOTS)

AMENDED GIOVENGO SUBDIVISION

LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN.

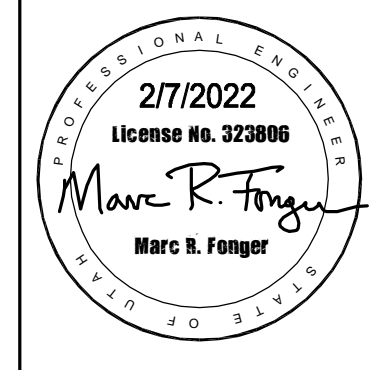
<p>AMENDED GIOVENGO SUBDIVISION</p> <p>GIO-122 FILE NUMBER: 2/17/2022 DATE: 1" = 40' SCALE: E.A.M. DRAWN: M.P. CHECKED:</p>	<p>CITY SURVEYORS CERTIFICATE</p> <p>I, THE SANTA CLARA CITY SURVEYOR, DO HEREBY VERIFY THAT THIS OFFICE HAS EXAMINED THIS SUBDIVISION PLAT AND HAVE DETERMINED THAT IT IS CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE.</p> <p>_____ CITY SURVEYOR, CITY OF SANTA CLARA</p>	<p>ENGINEER'S APPROVAL</p> <p>THE HEREOF SUBDIVISION FINAL PLAT HAS BEEN REVIEWED AND IS APPROVED IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE THIS _____ DAY OF _____, A.D. 20____.</p> <p>_____ ENGINEER, CITY OF SANTA CLARA</p>	<p>APPROVAL AS TO FORM</p> <p>APPROVED AS TO FORM THIS THE _____ DAY OF _____, A.D. 20____.</p> <p>_____ CITY ATTORNEY, CITY OF SANTA CLARA</p>	<p>APPROVAL OF PLANNING COMMISSION</p> <p>ON THIS _____ DAY OF _____, A.D. 20____, THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, HAVING REVIEWED THE ABOVE SUBDIVISION FINAL PLAT AND HAVING FOUND THAT IT COMPLIES WITH THE REQUIREMENTS OF THE CITY'S PLANNING ORDINANCES, AND BY AUTHORITY OF SAID COMMISSION HEREBY APPROVE SAID SUBDIVISION FOR ACCEPTANCE BY THE CITY OF SANTA CLARA, UT.</p> <p>_____ CHAIRMAN PLANNING COMMISSION CITY OF SANTA CLARA, UTAH</p>	<p>APPROVAL AND ACCEPTANCE BY THE CITY OF SANTA CLARA, UTAH</p> <p>WE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SANTA CLARA, UTAH HAVE REVIEWED THE ABOVE SUBDIVISION FINAL PLAT AND BY AUTHORIZATION OF SAID CITY COUNCIL, RECORDED IN THE MINUTES OF ITS MEETING OF THE _____ DAY OF _____, A.D. 20____, HEREBY ACCEPT SAID FINAL PLAT WITH ALL COMMITMENTS AND OBLIGATIONS PERTAINING THERETO.</p> <p>_____ ATTEND: CITY RECORDER OF SANTA CLARA _____ MAYOR, CITY OF SANTA CLARA</p>	<p>TREASURER APPROVAL</p> <p>I, WASHINGTON COUNTY TREASURER, CERTIFY ON THIS _____ DAY OF _____, A.D. 20____, THAT ALL TAXES, SPECIAL ASSESSMENTS, AND FEES DUE AND OWING ON THIS SUBDIVISION FINAL PLAT HAVE BEEN PAID IN FULL.</p> <p>_____ WASHINGTON COUNTY TREASURER</p>	<p>WASHINGTON COUNTY RECORDER</p> <p>_____ WASHINGTON COUNTY RECORDER</p>
	<p>AMENDED GIOVENGO JOB TITLE:</p>	<p>CITY SURVEYOR, CITY OF SANTA CLARA</p>	<p>ENGINEER, CITY OF SANTA CLARA</p>	<p>CITY ATTORNEY, CITY OF SANTA CLARA</p>	<p>CHAIRMAN PLANNING COMMISSION CITY OF SANTA CLARA, UTAH</p>	<p>ATTEND: CITY RECORDER OF SANTA CLARA _____ MAYOR, CITY OF SANTA CLARA</p>	<p>WASHINGTON COUNTY TREASURER</p>



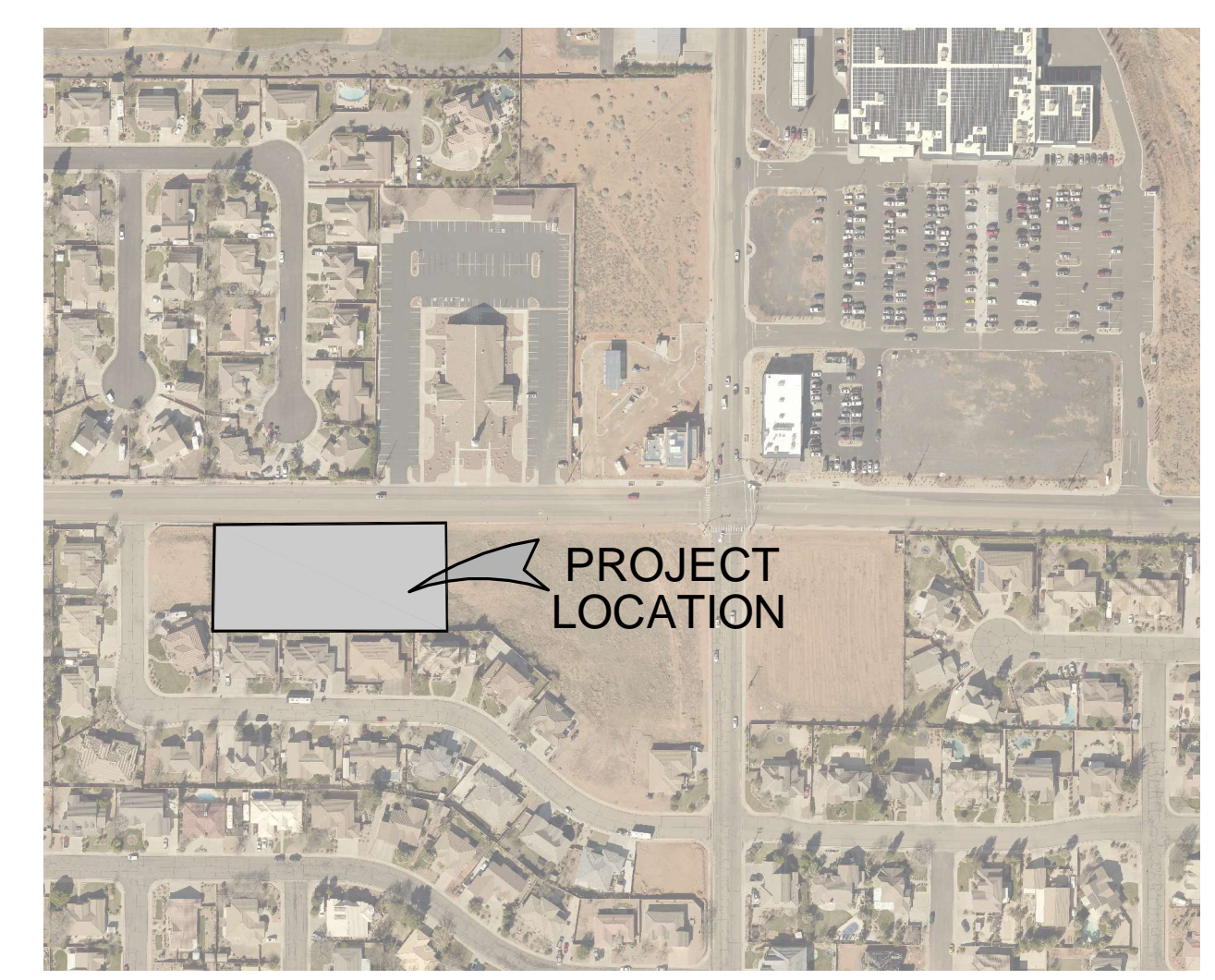
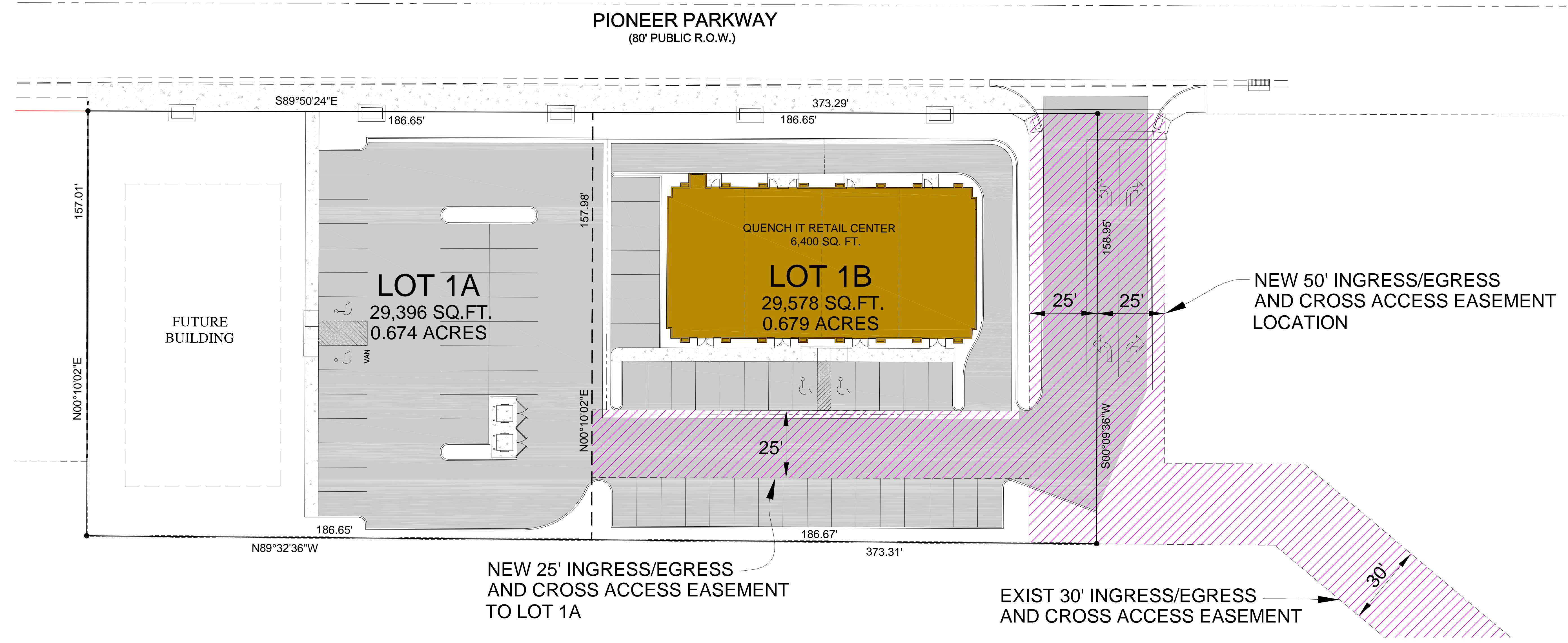
SCALE: 1" = 20'

AMENDED LOT I EXHIBIT
 QUENCH IT RETAIL CENTER
 3663 PIONEER PARKWAY PARCEL # SC-GIO-1
 SANTA CLARA, UTAH 84765

PREMIER
 Design & Engineering
 75 EAST 100 NORTH WINS, UTAH 84738 (435) 313-2267

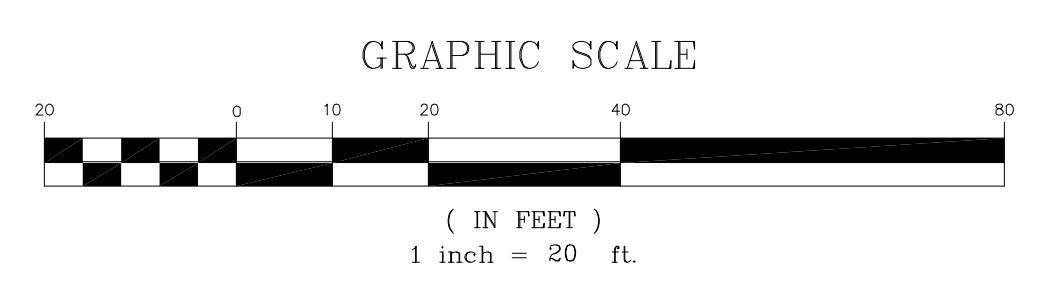


SHEET
EX



VICINITY MAP

N.T.S.



AVOID CUTTING UNDERGROUND UTILITY LINES. IT'S COSTLY.
Call before you Dig
 1-800-662-4111
BLUE STAVES LOCATION CENTER (LH70)

PROPERTY INFO

PROPERTY ADDRESS = PARCEL # SC-GIO-1
 3663 PIONEER PARKWAY
 SANTA CLARA, UTAH 84765

OWNER / DEVELOPER:
 SC QI LLC
 252 EAST WILTSHIRE LANE
 SARATOGA SPRINGS, UT 84045
 MHUSCROFT@YOUNIQUEPRODUCTS.COM
 (801) 842-3182

Mayor
Rick Rosenberg

City Manager
Brock Jacobsen



City Council
Denny Drake
Leina Mathis
Ben Shakespeare
Jarett Waite
Christa Hinton

CITY COUNCIL

Meeting Date: March 23, 2022

Agenda Item: 3

Applicant: Santa Clara City

Requested by: Chris Shelley

Subject: Approve Resolution 2022-03R Eligibility for Tier 2 Elected

Officials.

Description:

The City recently completed their URS Audit and it was recommended that we create a Policy for Designation of Eligibility Status for Tier 2 Elected Officials and for the Utah State Retirement Systems.

Recommendation: Approval

Attachments:

Cost: 0

Legal Approval: No

Finance Approval: N/A

Budget Approval: N/A



**POLICY FOR DESIGNATION OF ELIGIBILITY STATUS OF
TIER 2 ELECTED OFFICIALS AND FOR UTAH STATE RETIREMENT SYSTEMS**

Santa Clara City's Policy for Elected Officials is as follows:

Elected officials are ineligible to participate in the Utah State Retirement System. An Elected Official may have deferrals directed to a savings plan of their choice, like other employee's ineligible for pension coverage. However, participation is not required by Title 49.

ADOPTED BY THE SANTA CLARA CITY COUNCIL IN A REGULAR MEETING ON
MARCH 23, 2022.

Rick Rosenberg, MAYOR

Date: _____

ATTEST:

Chris Shelley, CITY RECORDER

**CITY OF SANTA CLARA
RESOLUTION NO. 2022-03R**

**A RESOLUTION OF THE CITY OF SANTA CLARA, UTAH ESTABLISHING
A POLICY FOR DESIGNATION OF ELIGIBILITY STATUS OF TIER 2
ELECTED OFFICIALS AND FOR UTAH STATE RETIREMENT SYSTEM**

WHEREAS, the City Council of Santa Clara City finds that it is authorized by state law to adopt rules and policies to govern the conduct of its municipality.; and

WHEREAS, staff and City Council finds that it is prudent to adopt policies; and

WHEREAS, the City Council has reviewed and approves the following “Santa Clara City Council Policy” which is incorporated into this Resolution; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Clara, Washington County Utah, as follows;

1. The attached Santa Clara City “Policy for Designation of Eligibility Status of Tier 2 Elected Officials and for the Utah State Retirement System are hereby adopted.

Effective Date: This Resolution shall become effective immediately upon its approval and adoption.

ADOPTED by a duly constituted quorum of the Santa Clara City Council this 23rd day of March 2022.

IN WITNESS THERETO:

RICK ROSENBERG, Mayor

ATTEST:

Chris Shelley, City Recorder
