



## CITY COUNCIL AGENDA

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August 16, 2022 at 6:30 PM

1020 E. Pioneer Rd. Draper, UT 84020

Council Chambers

### **6:30 PM STUDY MEETING**

#### **1. Closed Session: By Motion**

The Draper City Council may temporarily recess the regular meeting and convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonably imminent litigation, or the purchase, exchange, or lease of real property, as provided by UCA 52-4-205.

#### **2. Council/Manager Reports**

### **7:00 PM BUSINESS MEETING**

#### **1. Call to Order**

#### **2. Thought/Prayer and Pledge of Allegiance**

#### **3. Oath of Office Ceremony for the Draper Youth Council**

#### **4. Public Comments**

To be considerate of everyone attending the meeting, public comments will be restricted to items that are not listed on this or a future agenda and limited to three minutes per person. Comments which cannot be made within these limits should be submitted in writing to the City Recorder prior to noon the day before the meeting. Comments pertaining to an item on the agenda should not be given at this time but should be held until that item is called.

#### **5. Consent Items**

##### **a. Approval of August 2, 2022, City Council Meeting Minutes**

##### **b. Approval of Resolution #22-43**

A Resolution reappointing Mike Green and Kevin Hicks to the

Draper City Audit Committee. Staff: Bob Wylie.

**6. Public Hearing: Ordinance #1558**

An Ordinance approving the Siempre Events Center 1st Amendment Development Agreement for approximately 8.99 acres of property located at approximately 1283 East Mike Weir Drive within Draper City. Staff report by Jennifer Jastremsky.

**7. Public Hearing: Ordinance #1557**

An Ordinance approving the Shipp Barn 1st Amendment Development Agreement for approximately 2.97 acres of property located at approximately 570 East Stokes Avenue within Draper City. Staff report by Jennifer Jastremsky.

**8. Public Hearing: Ordinances #1555 and #1556**

An Ordinance amending the official Land Use Map of Draper City for approximately 2.44 acres of property from Neighborhood Commercial to Residential High Density and an Ordinance amending the official Zoning Map of Draper City for approximately 2.44 acres of property from the OR (Office/Residential) zone to the RM2 (Multi Family Residential, up to 12 du/ac) zone. Otherwise known as the Avery Townhomes Zoning and Land Use Map Amendments. Staff report by Jonathan Concidine.

**9. Adjournment**

**SALT LAKE COUNTY AND UTAH COUNTY, STATE OF UTAH**

I, the City Recorder of Draper City, certify that copies of the agenda for the **Draper City Council** meeting to be held **August 16, 2022**, were posted on the Draper City Electronic Bulletin Board, Draper City website [www.draperutah.gov](http://www.draperutah.gov), the Utah Public Notice website at [www.utah.gov/pmn](http://www.utah.gov/pmn), and sent by email to the *Salt Lake Tribune* and the *Deseret News*.

Date Posted: August 12, 2022

*Laura Oscarson*

Laura Oscarson, CMC, City Recorder  
Draper City, State of Utah



In compliance with the Americans with Disabilities Act, any individuals needing special accommodations or services during this meeting shall notify Laura Oscarson, City Recorder at (801) 576-6502 or [laura.oscarson@draperutah.gov](mailto:laura.oscarson@draperutah.gov), at least 24 hours prior to the meeting.



# MEMO

To: City Council Meeting  
From: Laura Oscarson  
CC: City Council  
Date: August 16, 2022  
Re: Meeting Minutes

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## Comments:

Please review the attached draft minutes for the August 2, 2022 City Council meeting prior to approval.

## ATTACHMENTS:

Description	Upload Date	Type
CC 8.2 Minutes	8/10/2022	Cover Memo

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, AUGUST 2, 2022, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy K. Walker, and Councilmembers Mike Green, Tasha Lowery, Fred Lowry, Cal Roberts, and Marsha Vawdrey

STAFF PRESENT: David Dobbins, City Manager; Fred Aegerter, Community Development Director; Mike Barker, City Attorney; Kellie Challburg, Chief of Staff; Scott Cooley, City Engineer; John Eining, Police Chief; Bret Millburn, Assistant City Manager; Malena Murray, Human Resources Director; Rhett Ogden, Recreation Director; Laura Oscarson, City Recorder; Linda Peterson, Communications Director; Clint Smith, Fire Chief; Jake Sorensen, IT; and Bob Wylie, Finance Director

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## Study Session

### 1.0 Update: Traffic

1.1 Police Chief John Eining provided an update regarding traffic-related issues in Draper City. Chief Eining reported on recruitment efforts and answered questions from the Council.

### 2.0 Council/Manager Reports

2.1 Councilmember T. Lowery asked questions about Jordan Valley Water Conservancy District restrictions for the 2022 summer season.

2.2 Councilmember F. Lowry reminded Councilmembers of the Draper City Moto Challenge scheduled for Saturday, August 6, 2022.

2.3 Councilmember F. Lowry asked the Council for feedback on food truck events. The Council discussed continuing food truck events through Labor Day.

2.4 Councilmember Green said it had been brought to his attention that emergency access to some apartment buildings in the City was less than ideal, possibly slowing response time. Staff responded that challenges had been worked through.

2.5 Mayor Walker mentioned a specific road crossing he believed needed additional pedestrian safety measures.

## Business Session

### 1.0 Call to Order: Mayor Troy K. Walker

### 2.0 Thought/Prayer and Pledge of Allegiance

2.1 The prayer was offered by Network Administrator Jake Sorensen, and the Pledge of Allegiance was led by Fire Chief Clint Smith.

### 3.0 Oath of Office Ceremony for Draper City Firefighters

3.1 Laura Oscarson, City Recorder, administered the Oath of Office to newly promoted Fire Captain Anders Pritchard and Battalion Chief Brian Plummer.

### 4.0 Public Comments

4.1 No comments

### 5.0 Consent Items

- a. Approval of July 19, 2022, City Council Meeting Minutes
- b. Approval of Ordinance #1554, an Ordinance of the Draper City Council amending Title 1 of the Draper City Municipal Code regarding the City Seal and other City symbols.
- c. Approval of Resolution #22-42, a resolution of the Draper City Council amending Section 1020, 2020, 3010, and 7020 of the Personnel Policies and Procedures Manual regarding Definitions, Equal Employment Opportunity, Employee Classification and Status, and Employee Benefits.

5.1 Councilmember Green moved to approve all three Consent Items. Councilmember T. Lowery seconded the motion.

5.2 A roll call vote was taken. The motion passed unanimously.

	Yes	No	Absent
Councilmember Green	X		

Councilmember T. Lowery	X
Councilmember F. Lowry	X
Councilmember Roberts	X
Councilmember Vawdrey	X

**6.0 Public Hearing: Ordinance #1553, an Ordinance approving the Open Space Easement Reduction for approximately 0.63 acres of property located at approximately 2019 East Graystone Court within Draper City.**

6.1 Planning Manager Jen Jastremsky showed the location of the subject property on a map. She explained the request to reduce the open space easement along the back of Lot 405 of Phase 4 of the development from 75 feet to 40 feet. Ms. Jastremsky stated Phase 4 would effectively still meet the 20% open space requirement if the request were approved. She said the HOA submitted a letter in support of the reduction.

6.2 Responding to a question from Councilmember F. Lowry, Ms. Jastremsky said the reduced easement would allow the property owner to terrace the north side of the property to better utilize the open space.

6.3 Mayor Walker opened a public hearing and closed the public hearing seeing that no one wished to comment.

6.4 Tom Hulbert, the applicant, thanked the Council for holding the public hearing and thanked City staff and the neighborhood HOA for working with him to come to the proposed conclusion.

6.5 Councilmember F. Lowry moved to approve Ordinance #1553. Councilmember Green seconded the motion.

6.6 A roll call vote was taken. The motion passed unanimously.

	Yes	No	Absent
Councilmember Green	X		
Councilmember T. Lowery	X		
Councilmember F. Lowry	X		
Councilmember Roberts	X		
Councilmember Vawdrey	X		

7.0 Adjournment

7.1 Councilmember Green moved to adjourn the meeting. Councilmember F. Lowry seconded the motion.

7.2 A voice vote was taken. The motion passed unanimously.

7.3 The meeting adjourned at 7:18 p.m.



# MEMO

To: City Council Meeting

From:

CC:

Date: August 16, 2022

Re:

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## ATTACHMENTS:

Description	Upload Date	Type
R-22-43, reappointing M. Green & K. Hicks, Audit Committee	8/11/2022	Cover Memo

## RESOLUTION NO. 22-43

### A RESOLUTION REAPPOINTING MIKE GREEN AND KEVIN HICKS AS MEMBERS OF THE DRAPER CITY AUDIT COMMITTEE

WHEREAS, the City is authorized to establish boards, commissions and committees within the city as deemed appropriate by the City Council; and

WHEREAS, the City has created an Audit Committee within the city for the purpose of providing a framework to advise the City Council on the annual audit of the City's financial statements; and

WHEREAS, the duties of this Committee are to recommend and engage an auditor to audit the city's annual financial statement; provide oversight of the city's financial statements and follow up on auditor findings and management letter comments provided by independent auditors; and

WHEREAS, the terms of two of the members of the Audit Committee will expire on August 18, 2022; and

WHEREAS, the City Council recognizes the need to fill the two positions on the Audit Committee; and

WHEREAS, the Mayor has identified one citizen and one Council Member to serve on the Audit Committee; and

WHEREAS, Kevin Hicks has expressed a desire to serve as a regular committee member and possesses the qualifications as stated in Draper City Municipal Code ("DCMC") 3-5-110(C)(2); and

WHEREAS, one member of the City Council has agreed to serve as per DCMC 3-5-110(C)(1); and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:**

**Section 1. Appointment.** The City Council consents to the Mayor's appointment of the following individuals to serve on the Audit Committee:

Kevin Hicks is hereby appointed to serve as a regular member of the Draper City

Audit Committee according to the laws, ordinances and regulations governing the Committee and its members for the term of August 18, 2022, through August 18, 2024; and

Council Member Mike Green is appointed for the term of August 18, 2022, through August 18, 2024; and

Council Member Mike Green is appointed chairperson.

**Section 2. Severability.** If any section, part, or provision of this Resolution is held invalid, or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts, and provisions of this Resolution shall be severable.

**Section 3. Effective Date.** This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DRAPER, STATE OF UTAH, ON THIS THE 16<sup>TH</sup> DAY OF AUGUST 2022.

ATTEST:

DRAPER CITY

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Laura Oscarson, City Recorder

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Mayor Troy K. Walker

VOTE TAKEN:

YES

NO

Councilmember Green

\_\_\_\_\_

Councilmember Lowery

\_\_\_\_\_

Councilmember Lowry

\_\_\_\_\_

Councilmember Roberts

\_\_\_\_\_

Councilmember Vawdrey

\_\_\_\_\_

Mayor Walker

\_\_\_\_\_



# MEMO

To: City Council Meeting  
From: Jennifer Jastremsky, AICP  
CC:  
Date: August 16, 2022  
Re: Siempre Events Center 1st Amendment – Development Agreement Request

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## Comments:

This application is a request for approval of an Amended Development Agreement for approximately 8.99 acres located on the north side of Mike Weir Dr. at approximately 1283 East Mike Weir Dr. The property is currently zoned C-2 and RM. The applicant is requesting that an Amended Development Agreement be approved to modify the parking standards approved in the previous Development Agreement.

The Planning Commission reviewed this item at their August 11, 2022 meeting and forwarded a negative recommendation on a vote of 3-2.

The findings are as follows:

## For approval:

1. The Development Agreement complies with DCMC Section 9-5-200(C) and (D).
2. Adequate parking has been provided for the property.

## For denial:

1. Adequate parking has not been provided for the property.

## ATTACHMENTS:

Description	Upload Date	Type
Ord 1558	8/9/2022	Cover Memo
PC Staff Report	8/9/2022	Cover Memo
Public Comments	8/10/2022	Cover Memo

## ORDINANCE NO. 1558

### AN ORDINANCE APPROVING THE SIEMPRE EVENTS CENTER 1<sup>ST</sup> AMENDMENT DEVELOPMENT AGREEMENT FOR APPROXIMATELY 8.99 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 1283 EAST MIKE WEIR DRIVE WITHIN DRAPER CITY.

**WHEREAS**, the Land Use and Development Code of the Draper City Municipal Code has been established to provide regulations concerning general developments within the City Boundaries; and

**WHEREAS**, the City Council hereby determines that it will be in the best interest of the City to allow development of the subject property in accordance with the Development Agreement Amendment; and

**WHEREAS**, the original Development Agreement required 20 geo-grass paver parking stalls for overflow parking; and

**WHEREAS**, the Development Agreement Amendment will allow for the elimination of the 20 geo-grass paver parking stalls; and

**WHEREAS**, the Development Agreement Amendment sets that the existing 207 paved parking stalls are sufficient for the property; and

**WHEREAS**, the proposed Development Agreement Amendment set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed modifications to development standards; and

**WHEREAS**, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed Development Agreement Amendment, and the City Council has found the proposed Development Agreement Amendment to be consistent with the City's General Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:**

**Section 1. Development Agreement Amendment**. The City of Draper approves the Development Agreement Amendment provided in Exhibit A, otherwise known as the Siempre Events Center 1<sup>st</sup> Amendment Development Agreement.

**Section 2. Severability Clause**. If any part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion

of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting, or 30 days after final passage, whichever is closer to the date of final passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE**  
**\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

**DRAPER CITY**

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**Mayor Troy K. Walker**

**ATTEST:**

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**Laura Oscarson, CMC, City Recorder**

VOTE TAKEN:

YES

NO

Councilmember Green

\_\_\_\_\_

Councilmember T. Lowry

\_\_\_\_\_

Councilmember F. Lowry

\_\_\_\_\_

Councilmember Roberts

\_\_\_\_\_

Councilmember Vawdrey

\_\_\_\_\_

Mayor Walker

\_\_\_\_\_

**EXHIBIT A**

**DEVELOPMENT AGREEMENT**

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT  
FOR  
SIEMPRE EVENT CENTER**

\_\_\_\_\_, 2022

**WHEN RECORDED, RETURN TO:**

Draper City Recorder  
1020 E. Pioneer Road  
Draper, Utah 84020

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
FOR  
SIEMPRE EVENT CENTER**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Amendment”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between Draper City, a Utah municipality (the “City”), and Siempre, LLC, a Utah limited liability company (“Developer”).

**RECITALS**

A. Developer and the City entered into that certain Development Agreement for Siempre Event Center dated January 19, 2021 (the “MDA”) pertaining to a new Event Center to be constructed on land owned by Salt Lake County at the South Mountain Golf Course in Draper City, Utah.

B. At the time the MDA was approved and signed by the parties, Developer intended to use the new Event Center, on occasion, to host two (2) wedding events simultaneously (one event in the upper level of the Event Center, and a separate wedding event in the lower level of the Event Center).

C. Due to the intensity of the proposed use (i.e., occasionally hosting two (2) weddings events at the same time), it was agreed that Developer would provide twenty-seven (27) new/additional parking stalls to the existing parking facilities of the golf course to ensure ample parking during peak demand.

D. Pursuant to Section 2.3 of the MDA, Developer agreed to provide the additional 27 parking stalls as follows: Developer would provide seven (7) additional asphalted parking stalls and twenty (20) additional parking stalls on geo-grass pavers.

E. Developer has now completed construction of the new Event Center and has hosted the

first few wedding events. It has become evident that due to internal noise issues and guest flow, it is not practical or desirable to host two (2) wedding events at the same time. Accordingly, Developer agrees that it will not host more than one (1) wedding event at a time at the new Event Center. This limitation will reduce peak parking demand at the facility.

F. Furthermore, during the course of construction of the new Event Center, Developer was able to install fourteen (14) additional asphalted parking stalls along the eastern edge of the parking lot (near the new Event Center).

G. As a result, the facility now has a total of 207 asphalted parking stalls, which is still more than the 193 parking stalls originally required by the Horrocks Engineers Parking Study for the new Event Center.

H. For these reasons, it is no longer necessary for Developer to construct or install any additional parking stalls on geo-grass pavers, and the parties desire to formally amend the MDA to remove the requirement to install parking stalls on geo-grass pavers.

I. The capitalized terms used in this Amendment shall have the meanings given to them in these Recitals and in Section 1.2 of the MDA.

## **TERMS**

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

## **TERMS**

1. **Parking Stalls.** Based on Developer's agreement in Section 2 below not to use the new Event Center to host simultaneous wedding events at the new Event Center, Section 2.3 of the MDA is hereby amended and revised to remove the requirement to install any new or additional parking stalls on geo-grass pavers. The City approves and accepts the existing 207 asphalted

parking stalls at the facility (which includes the 14 new asphalted parking stalls constructed by Developer during construction of the new Event Center). Developer is not required to provide any additional parking stalls beyond the existing 207 asphalted parking stalls.

2. **No Simultaneous Wedding Events.** Developer covenants and agrees that it will not host two (2) or more wedding events at the same time at the new Event Center. No more than one (1) wedding event at a time will occur at the new Event Center.

3. **Effect of Amendment.** The MDA, as expressly modified by this Amendment, shall remain in full force and effect. No other amendments or modifications to the MDA shall be valid unless approved by written instrument signed by both parties.

4. **Authority.** The Parties to this Amendment each warrant that they have all of the necessary authority to execute this Amendment. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this Amendment lawfully binding the City pursuant to motion of the Draper City Council passed on \_\_\_\_\_, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by and through their respective, duly authorized representatives as of the day and year first herein above written.

**DEVELOPER:**

Siempre, LLC

**CITY:**

Draper City

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By: Golden Holt  
Its: Manager  
Date: \_\_\_\_\_

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By: \_\_\_\_\_  
Its: City Manager  
Date: \_\_\_\_\_

Approved as to form and legality:

Attest:

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City Attorney

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City Recorder

## **CITY ACKNOWLEDGMENT**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_ who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

## NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

## DEVELOPER ACKNOWLEDGMENT

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

On the \_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me Golden Holt, who being by me duly sworn, did say that he is the Manager of Siempre, LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed on behalf of said company.

## NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_



## Development Review Committee

1020 East Pioneer Road  
Draper, UT 84020  
August 2, 2022

**To:** Draper City Planning Commission  
Business Date: August 11, 2022

**From:** Development Review Committee

**Prepared By:** Jennifer Jastremsky, AICP, Planning Manager/Zoning Administrator  
Planning Division  
Community Development Department  
801-576-6328, [jennifer.jastremsky@draperutah.gov](mailto:jennifer.jastremsky@draperutah.gov)

**Re: Siempre Events Center 1<sup>st</sup> Amendment – Development Agreement Request**

Application No.: DA-134-2022  
Applicant: Randy Deschamps, representing Siempre Events Center  
Project Location: 1283 E Mike Weir Dr.  
Current Zoning: C-2 (Neighborhood Commercial) and RM (Multi-family Residential) Zone  
Acreage: 8.99 Acres (Approximately 391,604 ft<sup>2</sup>)  
Request: Request for approval of an Amended Development Agreement in the C-2 and RM zones for the purpose of eliminating the 20 unpaved geo-grass paver parking spaces required in the original development agreement and accepting the current paved 207 parking stalls as sufficient.

### **BACKGROUND AND SUMMARY**

This application is a request for approval of an Amended Development Agreement for approximately 8.99 acres located on the north side of Mike Weir Dr., at approximately 1283 East Mike Weir Dr. (Exhibit B & C). The property is currently zoned C-2 and RM. The applicant is requesting that an Amended Development Agreement be approved to modify the parking standards approved in the previous Development Agreement (Exhibit F).

The property is located in the South Mountain Development Agreement area, and the Site Plan was subject to the 1990 Draper City Municipal Code (1990 DCMC) and the South Mountain Design Guidelines (Guidelines). The golf course is owned by Salt Lake County and was developed in the mid-1990's. In an effort to revitalize the golf course, Salt Lake County

partnered with the company Siempre LLC to develop an event center on the site. The event center has an approved 45 year ground lease with Salt Lake County to utilize 2.13 acres of the 8.99 acre property for the development of the Siempre Event Center.

The City Council approved a Development Agreement on the property on January 19, 2021. After obtaining the Development Agreement, the applicant went before the Planning Commission and obtained Site Plan approval on January 28, 2021.

## **ANALYSIS**

### *General Plan and Zoning.*

<b>Table 1</b>	<b>General Plan and Zoning Designations</b>	<b>Exhibit</b>
Existing Land Use	Neighborhood Commercial	Exhibit D
Current Zoning	C-2, RM	Exhibit E
Proposed Use	Event Center	
Adjacent Zoning		
East	RM	
West	OS (Open Space) and RM	
North	OS	
South	RM	

The Neighborhood Commercial land use designation is characterized as follows:

## Neighborhood Commercial

LAND USE DESCRIPTION	
<b>CHARACTERISTICS</b>	<ul style="list-style-type: none"> <li>Small-scale commercial land uses that serve local residents in adjacent neighborhoods</li> <li>Minimal impact in predominantly residential areas</li> <li>Well-landscaped street frontages</li> <li>Limited traffic access points and pedestrian access from surrounding residential areas</li> <li>Don't overcrowd commercial lots; i.e., require adequate setback and landscape buffers</li> <li>Screened parking and adequate ingress and egress to parking areas</li> <li>Adequate drainage</li> <li>Low noise standards</li> </ul>
<b>LAND USE MIX</b>	<ul style="list-style-type: none"> <li>Small-scale commercial</li> <li>Planned retail</li> <li>Office</li> </ul>
<b>COMPATIBLE ZONING</b>	<ul style="list-style-type: none"> <li>Neighborhood Commercial (CN)</li> <li>Institutional Care (IC)</li> <li>Commercial Services (CS)</li> </ul>
<b>LOCATION</b>	<ul style="list-style-type: none"> <li>Adjacent to neighborhood</li> <li>Along local roads</li> </ul>

According to 1990 DCMC Section 9-5-3 the purpose of the C-2 zone is to *"To provide areas, in appropriate locations where convenience buying outlets may be established to serve surrounding residential neighborhoods. The regulations of this district are designed to promote a combination of retail and service facilities which, in character and scale, are necessary to meet day-to-day needs of area residents."*

According to 1990 DCMC Section 9-4-030 the purpose of the RM zone is to *"To provide areas for low-to-medium residential density with the opportunity for varied housing styles and character, providing for a maximum density of up to twelve (12) units per acre for medium to high density residential unit projects subject to conditional-use permit procedures and conditions for this type of use and based on minimum development guidelines adopted by the City."*

### Development Agreement.

**Table 1** **Parking Space Requirements**

Standard	2001 DA or Code	Proposal	Notes
Parking Required in Development Agreement	224 total	207	Reduction of 17 stalls
Paved	204	207	
Geo-grass pavers	20	0	
Parking Study	197		

Requirement			
1990 DCMC Parking Requirement	323		
1990 DCMC Parking Requirement (Shared Parking)	281		
Current DCMC Parking Requirement	153		

Table 1 above contains several parking standards. The 1990 DCMC has different standards than the current DCMC in regards to the parking calculations. The applicant obtained a development agreement which allowed a lesser parking standard than required by the 1990 DCMC, but more than what would be required under current DCMC (Exhibit H).

The event center has opened since the original development agreement was done and the applicant has modified their business model to allow only one event at a time. Originally, they had planned on having two events at a time. With this change, they no longer believe they need the 20 geo-grass paver parking spaces called for in the original development agreement. The proposed agreement would accept the already installed and paved 207 spaces (Exhibit G). The 207 spaces is still more than what would be required under the current DCMC standards of 153 stalls.

*Previous Conditions of Approval.* The Planning Commission placed the following conditions of approval on the Site Plan on January 28, 2021:

1. That all requirements of the Draper City Engineering, Public Works, Building, Planning, and Fire Divisions are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
2. That all requirements of the geotechnical report are satisfied throughout the development of the site and the construction of all buildings on the site.
3. That the site comply with the Siempre Event Center Development Agreement approved January 19, 2021.
4. That the property comply with Salt Lake Valley Health Department regulations for noise pollution.

*Criteria For Approval.* DCMC does not contain criteria for review and potential approval of a Development Agreement. It does, however; contain a list of items that are required as part of an Agreement and limitations to a Development Agreement, as found in DCMC Section 9-5-200(C) and (D). This section depicts the required materials for such requests as:

- C. *Procedure: All development agreements, upon proper execution, shall be recorded with the respective County Recorder's Office, shall run with the land, and shall be*

*binding on all successors in the ownership of the affected property. A development agreement shall contain, at a minimum, the following:*

1. *A legal description of the land subject to the development agreement.*
2. *The restrictions or conditions to be attached to the property including development standards and the provision of public facilities.*
3. *The configuration of the project as shown on a project master plan.*
4. *A statement of the benefits and value the development agreement will have for the City as a whole, including, but not limited to, assurances of design standards, dedication and improvement of open space, parks, trails, amenities, or infrastructure such as public rights-of-way or utilities.*
5. *The time frames for performance by the parties.*
6. *A description of the various City approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement.*
7. *Provisions for enforcement of the terms and conditions of the development agreement.*
8. *Provisions for making amendments to the development agreement.*
9. *The time limitation of the agreement.*
10. *Such other terms as may be proposed and agreed to between the City and developer or subdivider.*

D. *Limitations:*

1. *A development agreement under this section may not:*
  - a. *Limit the City's authority in the future to:*
    - i. *Enact a land use regulation; or*
    - ii. *Take any action allowed under Utah Code Annotated Section 10-8-84, as amended;*
  - b. *Require the City to change the zoning designation of an area of land within the City in the future; or*
  - c. *Contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the city council approves the development agreement in accordance with the same procedures for enacting a land use regulation under Utah Code Annotated Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.*
2. *The City may not require a development agreement as the only option for developing land within the City.*
3. *To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by;*
  - a. *Utah Code Annotated 10-9a-530, as amended; and*
  - b. *Applicable land use regulations of this Title.*

## **REVIEWS**

Planning Division Review. The Draper City Planning Division has completed their review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Engineering and Public Works Divisions Review. The Draper City Engineering and Public Works Divisions have completed their reviews of the Development Agreement submission. Comments from these divisions, if any, can be found in Exhibit A.

Fire Division Review. The Draper City Fire Marshal has completed his review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Legal Division Review. The Draper City Attorney has completed his review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Noticing. Notice has been properly issued in the manner outlined in the City and State Codes.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the request, receive public comment, and make a decision based on the findings listed below and the criteria for approval, or denial, as listed within the staff report.

The findings for approval as are follows:

1. The Development Agreement complies with DCMC Section 9-5-200(C) and (D).
2. Adequate parking has been provided for the property.

The findings for denial as are follows:

1. Adequate parking has not been provided for the property.

## **MODEL MOTIONS**

Sample Motion for Approval – I move that we forward a positive recommendation to the City Council for the Development Agreement, as requested by Randy Deschamps,

representing Siempre Events Center for Siempre Events Center 1<sup>st</sup> Amendment Development Agreement, application DA-134-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 2, 2022.

Sample Motion for Modified Approval- I move that we forward a positive recommendation to the City Council for the Development Agreement, as requested by Randy Deschamps, representing Siempre Events Center for Siempre Events Center 1<sup>st</sup> Amendment Development Agreement, application DA-134-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 2, 2022 and as modified by the findings and conditions below:

1. List any additional findings and conditions...

Sample Motion for Denial – I move that we forward a negative recommendation to the City Council for the Development Agreement, as requested by Randy Deschamps, representing Siempre Events Center for Siempre Events Center 1<sup>st</sup> Amendment Development Agreement, application DA-134-2022, based on the findings listed in the Staff Report dated August 2, 2022.

## **DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT**

We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

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Draper City Public Works Department

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Draper City Planning Division

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Draper City Fire Department

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Draper City Legal Counsel

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Draper City Building Division

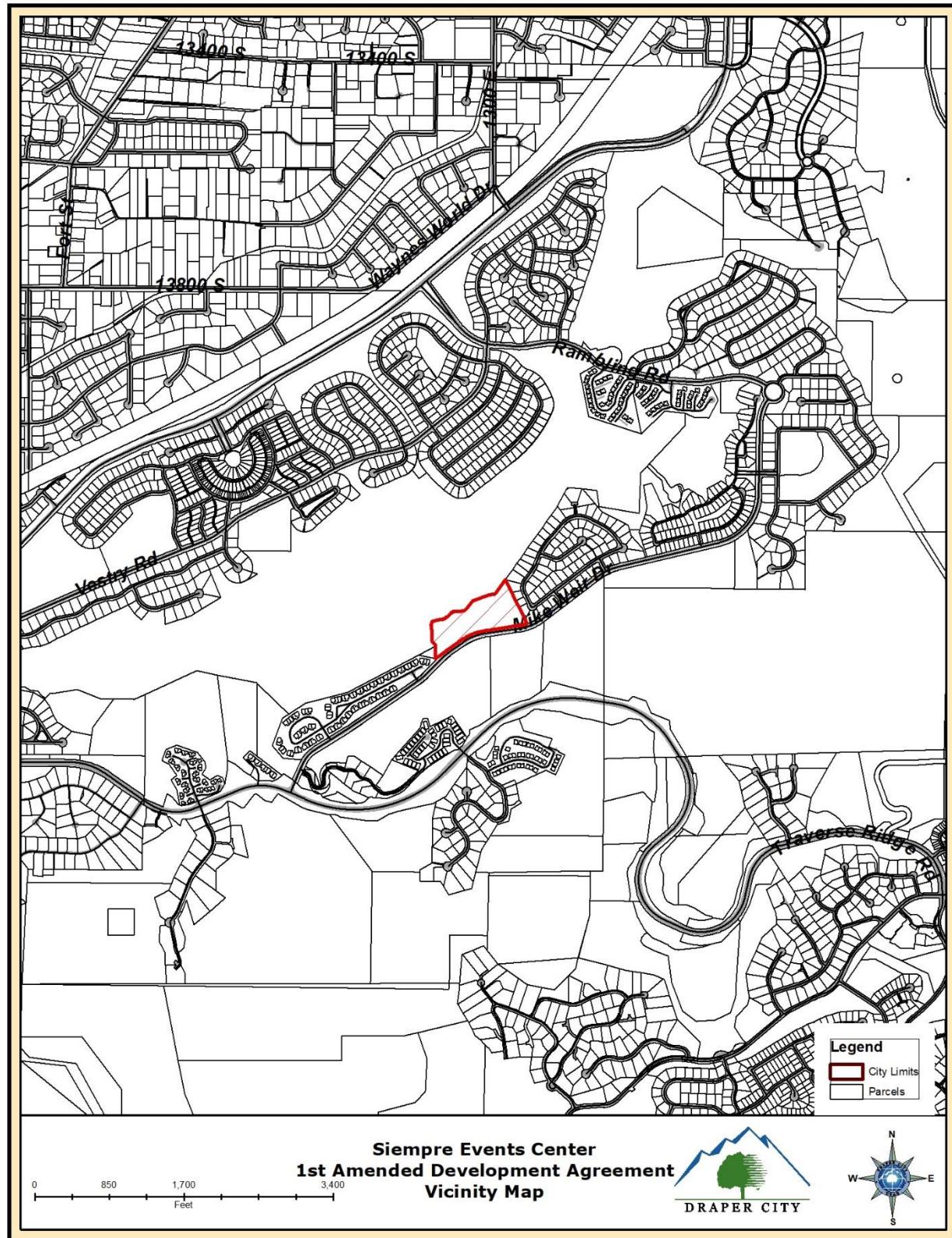
**EXHIBIT A**  
**DEPARTMENT REVIEWS**

REVIEWS ARE NOT MEANT TO BE AN ALL INCLUSIVE LIST OF POSSIBLE COMMENTS OR CONDITIONS.

Non provided

## **EXHIBIT B**

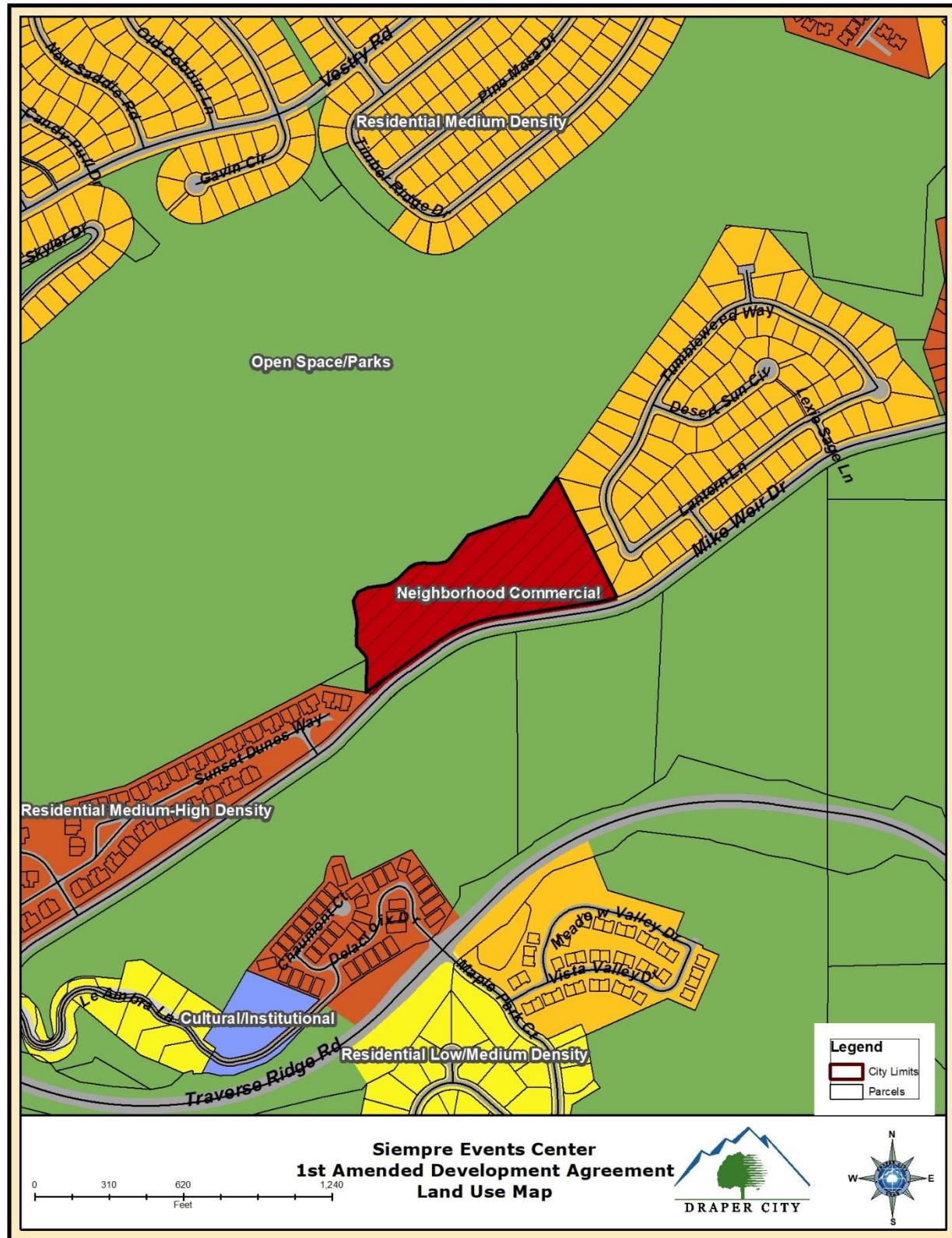
### **VICINITY MAP**



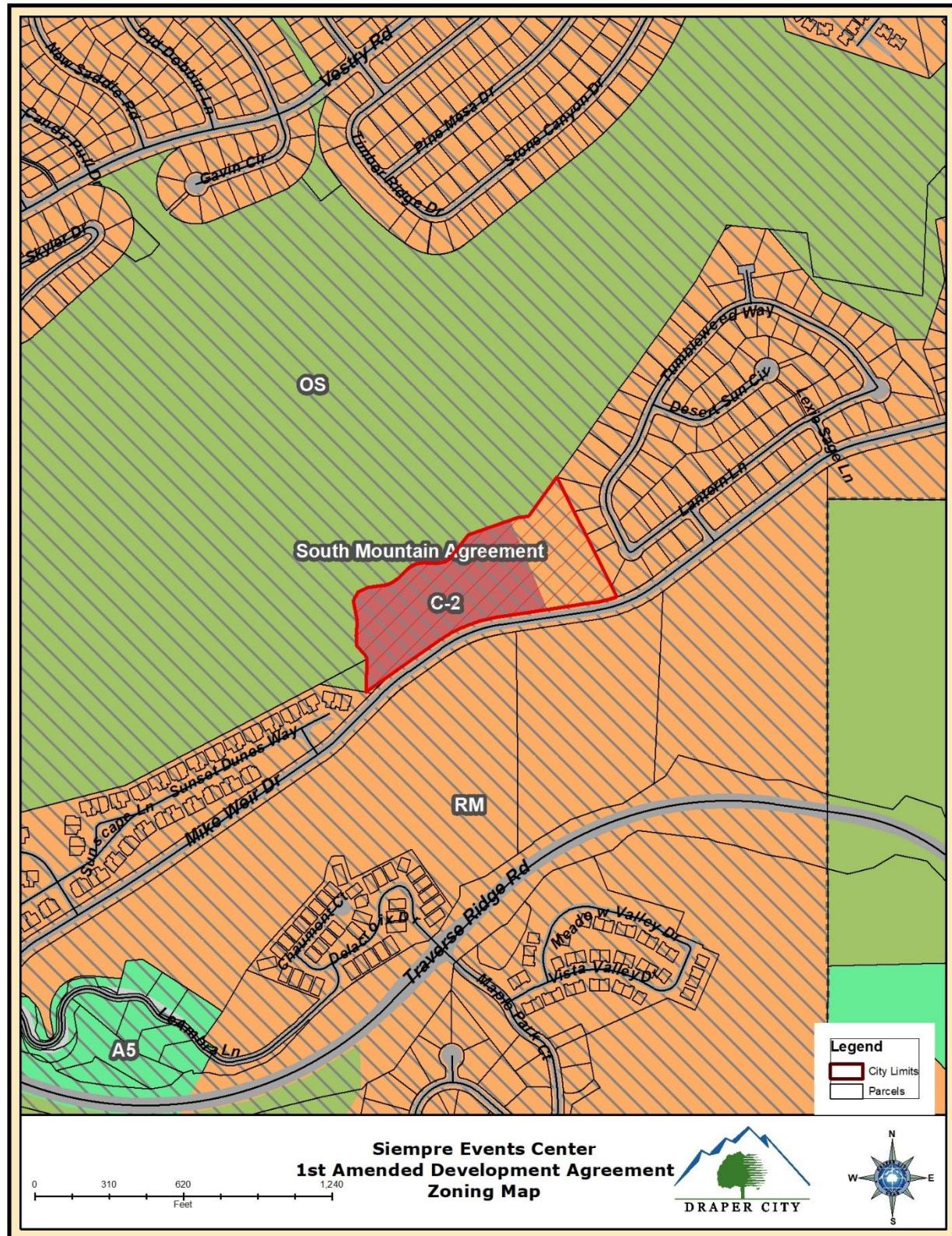
**EXHIBIT C**  
**AERIAL MAP**



**EXHIBIT D**  
**LAND USE MAP**



**EXHIBIT E**  
**ZONING MAP**



**EXHIBIT F**  
**APPLICANT REQUEST LETTER**

## SIEMPRE EVENT CENTER

Siempre is proposing an amendment to the Development Agreement which was approved for Siempre by the Draper City Planning Commission and City Council. We have included with this submittal the application, a drawing showing all parking at the site, a copy of the original Development Agreement, and the proposed amendment to the original agreement. Below we offer our reasoning for proposing this amendment.

### REQUESTED AMENDMENT TO THE AGREEMENT:

The purpose for this proposed amendment to the Siempre Development Agreement is to show justification for not providing 17 parking spaces that were proposed in the current Development Agreement. These spaces were to be provided in the open area on the west side of the existing parking lot. They were approved to be constructed using grass turf block and were to be irrigated.

### REASONS FOR REQUEST:

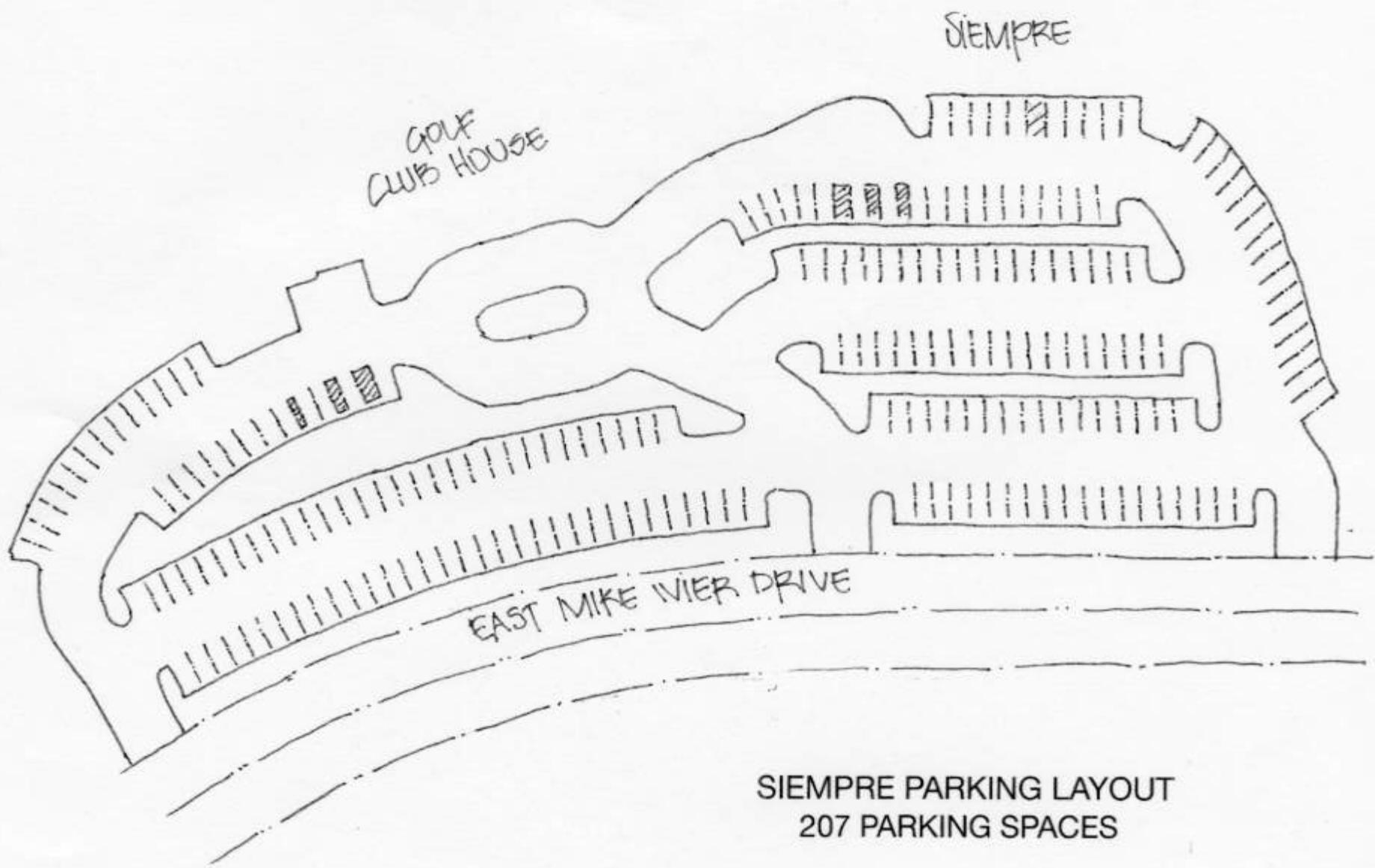
The reasons for the elimination of these 17 parking spaces is due to a reduction in the parking needs generated from the Siempre activity at the site.

The approved Siempre parking study, prepared by Horrocks Engineering, determined that 193 spaces would be needed at the golf course/event center site when full occupancy occurs during two concurrent evening receptions at the events center. There were 197 spaces originally constructed at the site by the County golf course. During Siempre construction 5 of the 197 spaces were eliminated and 15 additional parking spaces were added, taking the currently existing number of spaces to 207, fourteen more spaces than the traffic study determined necessary at full occupancy with two wedding events at the same.

In addition, and more importantly, the Horrocks traffic study was based on, as stated above, two evening events occurring at the same time. Since the

traffic study was completed based on two concurrent events, it has been determined that Siempre will not have two wedding events occur at the same. This reduction in activity reduces the 193 spaces needed in the traffic study by approximately 50 spaces. Full activity with just one event would only require between 145 and 150 spaces. Again, currently at the site there are 207 parking spaces.

Based on this changed level of activity, we request that the additional 17 spaces that have not yet been constructed in the open space west of the current parking, not be constructed. We do not anticipate the additional spaces will be used and request these spaces be eliminated from the Development Agreement. We feel the current 207 spaces will easily provide any buffer spaces for the approximate 150 spaces needed for full use activity. This reduction in grass turf block spaces will also eliminate the need to irrigate that acreage, reducing water usage.



SIEMPRE PARKING LAYOUT  
207 PARKING SPACES

**EXHIBIT G**  
**PROPOSED DEVELOPMENT AGREEMENT**

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT  
FOR  
SIEMPRE EVENT CENTER**

\_\_\_\_\_, 2022

**WHEN RECORDED, RETURN TO:**

Draper City Recorder  
1020 E. Pioneer Road  
Draper, Utah 84020

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
FOR  
SIEMPRE EVENT CENTER**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Amendment”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between Draper City, a Utah municipality (the “City”), and Siempre, LLC, a Utah limited liability company (“Developer”).

**RECITALS**

A. Developer and the City entered into that certain Development Agreement for Siempre Event Center dated January 19, 2021 (the “MDA”) pertaining to a new Event Center to be constructed on land owned by Salt Lake County at the South Mountain Golf Course in Draper City, Utah.

B. At the time the MDA was approved and signed by the parties, Developer intended to use the new Event Center, on occasion, to host two (2) wedding events simultaneously (one event in the upper level of the Event Center, and a separate wedding event in the lower level of the Event Center).

C. Due to the intensity of the proposed use (i.e., occasionally hosting two (2) weddings events at the same time), it was agreed that Developer would provide twenty-seven (27) new/additional parking stalls to the existing parking facilities of the golf course to ensure ample parking during peak demand.

D. Pursuant to Section 2.3 of the MDA, Developer agreed to provide the additional 27 parking stalls as follows: Developer would provide seven (7) additional asphalted parking stalls and twenty (20) additional parking stalls on geo-grass pavers.

E. Developer has now completed construction of the new Event Center and has hosted the

first few wedding events. It has become evident that due to internal noise issues and guest flow, it is not practical or desirable to host two (2) wedding events at the same time. Accordingly, Developer agrees that it will not host more than one (1) wedding event at a time at the new Event Center. This limitation will reduce peak parking demand at the facility.

F. Furthermore, during the course of construction of the new Event Center, Developer was able to install fourteen (14) additional asphalted parking stalls along the eastern edge of the parking lot (near the new Event Center).

G. As a result, the facility now has a total of 207 asphalted parking stalls, which is still more than the 193 parking stalls originally required by the Horrocks Engineers Parking Study for the new Event Center.

H. For these reasons, it is no longer necessary for Developer to construct or install any additional parking stalls on geo-grass pavers, and the parties desire to formally amend the MDA to remove the requirement to install parking stalls on geo-grass pavers.

I. The capitalized terms used in this Amendment shall have the meanings given to them in these Recitals and in Section 1.2 of the MDA.

## **TERMS**

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

## **TERMS**

1. **Parking Stalls.** Based on Developer's agreement in Section 2 below not to use the new Event Center to host simultaneous wedding events at the new Event Center, Section 2.3 of the MDA is hereby amended and revised to remove the requirement to install any new or additional parking stalls on geo-grass pavers. The City approves and accepts the existing 207 asphalted

parking stalls at the facility (which includes the 14 new asphalted parking stalls constructed by Developer during construction of the new Event Center). Developer is not required to provide any additional parking stalls beyond the existing 207 asphalted parking stalls.

2. **No Simultaneous Wedding Events**. Developer covenants and agrees that it will not host two (2) or more wedding events at the same time at the new Event Center. No more than one (1) wedding event at a time will occur at the new Event Center.

3. **Effect of Amendment**. The MDA, as expressly modified by this Amendment, shall remain in full force and effect. No other amendments or modifications to the MDA shall be valid unless approved by written instrument signed by both parties.

4. **Authority**. The Parties to this Amendment each warrant that they have all of the necessary authority to execute this Amendment. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this Amendment lawfully binding the City pursuant to motion of the Draper City Council passed on \_\_\_\_\_, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by and through their respective, duly authorized representatives as of the day and year first herein above written.

**DEVELOPER:**

Siempre, LLC

**CITY:**

Draper City

---

By: Golden Holt  
Its: Manager  
Date: \_\_\_\_\_

---

By: \_\_\_\_\_  
Its: City Manager  
Date: \_\_\_\_\_

Approved as to form and legality:

Attest:

---

City Attorney

---

City Recorder

## **CITY ACKNOWLEDGMENT**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_ who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

## NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

## DEVELOPER ACKNOWLEDGMENT

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

On the \_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me Golden Holt, who being by me duly sworn, did say that he is the Manager of Siempre, LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed on behalf of said company.

## NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

**EXHIBIT H**  
**EXISTING DEVELOPMENT AGREEMENT**

20/1/21

**WHEN RECORDED, RETURN TO:****WHEN RECORDED, MAIL TO:**

Draper City Recorder  
 1020 E. Pioneer Rd. *Gateway #200*  
 Draper, UT 84020 *84095*

13544469  
 01/26/2021 11:48 AM \$0.00  
 Book - 11105 Pg - 7264-7293  
**RASHELLIE HOBBS**  
 RECORDER, SALT LAKE COUNTY, UTAH  
 CITY OF DRAPER  
 1020 E PIONEER RD  
 DRAPER UT 84020  
 BY: MZA, DEPUTY - MA 30 P.

**DEVELOPMENT AGREEMENT  
 FOR  
 SIEMPRE EVENT CENTER**

THIS DEVELOPMENT AGREEMENT (this “MDA”) is made and entered into as of the 19th day of January, 2021, by and between Draper City, a Utah municipality and Siempre, LLC, a Utah limited liability company.

**RECITALS**

- A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.
- B. Developer has the right to develop the Property and construct a new event center thereon under the Ground Lease (defined below) with Salt Lake County.
- C. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things providing certain improvements to the South Mountain Golf Course facilities, allowing for the construction of a new event center that may be used by Salt Lake County, golf course patrons, and members of the public who desire to use the event center for events.
- D. The Parties desire to enter into this MDA to specify the rights and responsibilities of the Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.
- E. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2018) *et seq.*

F. The Property already has the appropriate zoning for the intended use. The property is located within the C2 and RM zone and is subject to the South Mountain Agreement.

G. This MDA conforms with the intent of the City's General Plan and the Zoning.

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

## TERMS

### 1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" - "E" are hereby incorporated into this MDA.

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

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

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

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

1.2.4. **City** means Draper City, a Utah municipality.

1.2.5. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.6. **City's Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development

Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.7. **City's Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit "B."

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

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

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

1.2.11. **Developer** means Siempre, LLC, and its assignees or transferees as permitted by this MDA.

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

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

1.2.14. **Event Center** means the new Event Center to be constructed on the Property in accordance with the Ground Lease (with Salt Lake County) and the building permit to be issued by Draper City.

1.2.15. **Ground Lease** means the 45-year Ground Lease for the South Mountain Golf Course Event Center dated March 5, 2020, as amended, between Salt Lake County (as "Landlord") and Siempre, LLC/Developer (as "Tenant"). A copy of the Ground Lease, with amendments, is attached hereto as Exhibit "E."

1.2.16. **MDA** means this Master Development Agreement including all of its Exhibits.

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

1.2.18. **Outsourc[e][ing]** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

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

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

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

1.2.22. **Property** means the real property owned by Salt Lake County, but leased to Developer for construction of the Project, as more fully described in Exhibit "A."

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

## **2. Development of the Project.**

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

2.2. **Limitation and No Guarantee.** Developer acknowledges that each Development Application must comply with the City's Vested Laws including, without limitation, the

City's geologic hazards requirements.

**2.3. Parking Stalls.** The City has reviewed, and agrees with, the parking study submitted by Developer (from Horrocks Engineers) stating that 193 parking stalls are needed for the Event Center and golf course. A copy of the Horrocks Parking Study is attached hereto as Exhibit "D." The golf course already has 197 existing parking stalls. In an effort to ensure ample parking during peak demand the Developer is seeking to install an additional 27 parking stalls (for a total of 224 parking stalls) as a buffer. The 1990 Draper City Municipal Code does not allow for parking spaces that are not paved with asphalt or cement. Twenty (20) of the additional stalls will not have an asphalt surface. Instead, the surface for the 20 additional parking stalls will be graded and improved with geo-grass pavers or similar materials (see information online at: <https://www.geosolutionsinc.com/products/porous-pavement-boddington-grass.html>). Developer will also provide seven (7) additional asphalted parking stalls. The layout of the parking (224 spaces) is shown in the parking map in Exhibit "C" hereto. Under the contracts with Salt Lake County, Developer is responsible to maintain all parking surfaces and parking landscape areas. The geo-grass parking area will be maintained by Developer as well.

### **3. Vested Rights.**

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

**3.2. Exceptions.** The restrictions on the applicability of the City's Future Laws to the

Project as specified in Section 3.1 are subject to only the following exceptions:

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

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

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

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

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

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann.

Section 11-36a-101 (2018) *et seq.*;

3.2.7. Planning and Zoning Modification. Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes are generally applicable across the entire City and do not materially and unreasonably increase the costs of any Development; or

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

4. **Term of Agreement.** The effective date of this MDA shall be the date it is approved by the City and signed by both parties. This MDA shall expire on the same date as the Ground Lease.

**5. Processing of Development Applications.**

5.1. **Outsourcing of Processing of Development Applications.** Within twenty-one (21) calendar days after receipt of a Development Application and upon the request of Applicant the City and Applicant will confer to determine whether the City desires to Outsource the review of any aspect of the Development Application to ensure that it is processed on a timely basis. If the City determines that Outsourcing is necessary to ensure the timely processing of the Development Application then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in good faith consultation with the Applicant (either overtime to City employees or the hiring of a City Consultant). If Applicant notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs then Applicant shall deposit in advance with the City the estimated differential cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Applicant) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to

City employees) of Outsourcing, Applicant shall, within thirty (30) calendar days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

**5.2. Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

**5.3. Independent Technical Analyses for Development Applications.** If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are not required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such review may be a factor in choosing the expert. The actual and reasonable costs being the responsibility of Applicant.

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

**5.5. Meet and Confer regarding Development Application Denials.** The City and Applicant shall meet within twenty-one (21) calendar days of any Denial to resolve the issues specified in the Denial of a Development Application.

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

**5.7. Mediation of Development Application Denials.**

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

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

(iv) the issuance of building permits.

**5.7.2. Mediation Process.** If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

#### **5.8. Arbitration of Development Application Objections.**

**5.8.1. Arbitration Process.** If the City and Applicant are unable to resolve an issue through mediation, the parties may then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable arbitrator they shall each, within fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall

ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

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

**7. Public Infrastructure.**

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

**7.2. Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure—is required by the City Applicant shall provide it in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

**8. Upsizing/Reimbursements to Developer.**

**8.1. "Upsizing".** The City shall not require Developer to "upsized" any future Public Infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Developer are made to

compensate Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

## **9. Default.**

**9.1. Notice.** If Developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other Party.

**9.2. Contents of the Notice of Default.** The Notice of Default shall:

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

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

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

9.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration.

**9.3. Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.5 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

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

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

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

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

**9.5. Public Meeting.** Before any remedy in Section 9.4 may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

**9.6. Emergency Defaults.** Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City, then the City may impose the remedies of Section 9.4 without the requirements of Sections 9.5. The City shall give Notice to Developer of any public meeting at which an emergency default is to be considered and Developer shall be allowed to address the City Council at the meeting regarding the emergency Default.

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

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

**9.9. Limitation on Recovery for Default – No Damages.** Anything in this MDA notwithstanding no Party shall be entitled to any claim for any monetary damages as a result

of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Developer shall be that of specific performance.

10. **Notices.** All notices under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Developer:**

Siempre, LLC  
Attn: Golden Holt, Manager  
730 South Sleepy Ridge Drive  
Orem, Utah 84058  
Email: [goldenholt@gmail.com](mailto:goldenholt@gmail.com)

**With a Copy to:**

Paxton Guymon  
York Howell & Guymon  
10610 South Jordan Gateway #200  
South Jordan, Utah 84095  
Email: [paxton@yorkhowell.com](mailto:paxton@yorkhowell.com)

**To the City:**

Draper City  
Attn: City Manager  
David Dobbins  
1020 East Pioneer Road  
Draper, UT 84020  
[David.dobbins@draper.ut.us](mailto:David.dobbins@draper.ut.us)  
(801) 576-6500

**With a Copy to:**

Draper City  
Attn: City Attorney  
Mike Barker  
1020 East Pioneer Road  
Draper, UT 84020  
[Mike.barker@draper.ut.us](mailto:Mike.barker@draper.ut.us)

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

10.1.1. **Hand Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally

delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

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

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

11. Headings. The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidence of intent.

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

13. **Assignability.** The rights and responsibilities of Developer under this MDA may be assigned in whole or in part by Developer with the consent of the City as provided herein.

13.1. **Related Entity.** Developer's transfer of all or any part of the Property to any entity "related" to Developer (as defined by regulations of the Internal Revenue Service in Section 165), Developer's entry into a joint venture for the development of the Project or Developer's pledging of part or all of the Project as security for financing shall not be deemed to be an "assignment" requiring approval from the City. Developer shall give the City Notice of any such event specified in this sub-section 13.1 within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

13.2. **Notice.** For all other proposed assignments of Developer's rights and responsibilities under this MDA, Developer must obtain the City's prior approval. Developer shall give Notice to the City of any such proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

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

13.4. **Partial Assignment.** If any proposed assignment is for less than all of Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of

any obligations herein.

**13.5. Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of or Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the "Meet and Confer" and "Mediation" processes specified in Sections 5.5 and 5.7. If the refusal is subject to Arbitration as provided in Section 5.8 then the Parties shall follow such processes.

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

**14. Binding Effect.** This MDA is binding on the parties hereto and their successors and assigns.

**15. No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

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

**17. Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations

or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

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

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

20. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

21. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake City Division.

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

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

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

25. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to motion of the Draper City Council passed on January 19, 2021.

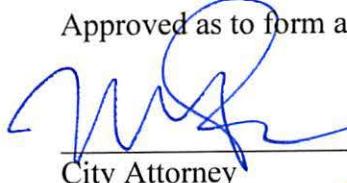
IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

**DEVELOPER:**

Siempre, LLC

By: Golden Holt  
Its: Manager  
Date: \_\_\_\_\_

Approved as to form and legality:

  
City Attorney

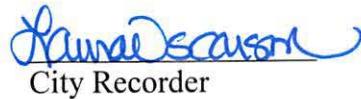


**CITY:**

Draper City

By: David Dobbins  
Its: City Manager  
Date: 1-20-21

Attest:

  
City Recorder

## CITY ACKNOWLEDGMENT

STATE OF UTAH )  
:ss.

COUNTY OF SALT LAKE )

On the 20<sup>th</sup> day of January, 2021, personally appeared before me David Dobbins who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

Kellie Challburg  
NOTARY PUBLIC

My Commission Expires: 1/10/2023

Residing at: S.L. County



## DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH )  
:ss.

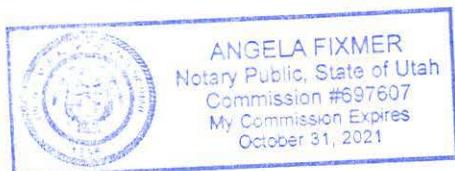
COUNTY OF SALT LAKE )

On the 21<sup>st</sup> day of January, 2021, personally appeared before me Golden Holt, who being by me duly sworn, did say that he is the Manager of Siempre, LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

Angela Fixmer  
NOTARY PUBLIC

My Commission Expires: 10/31/2021

Residing at: Draper, UT



## TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	City's Vested Laws
Exhibit "C"	Map of Additional Parking Area
Exhibit "D"	Horrocks Parking Study
Exhibit "E"	Ground Lease (with amendments)

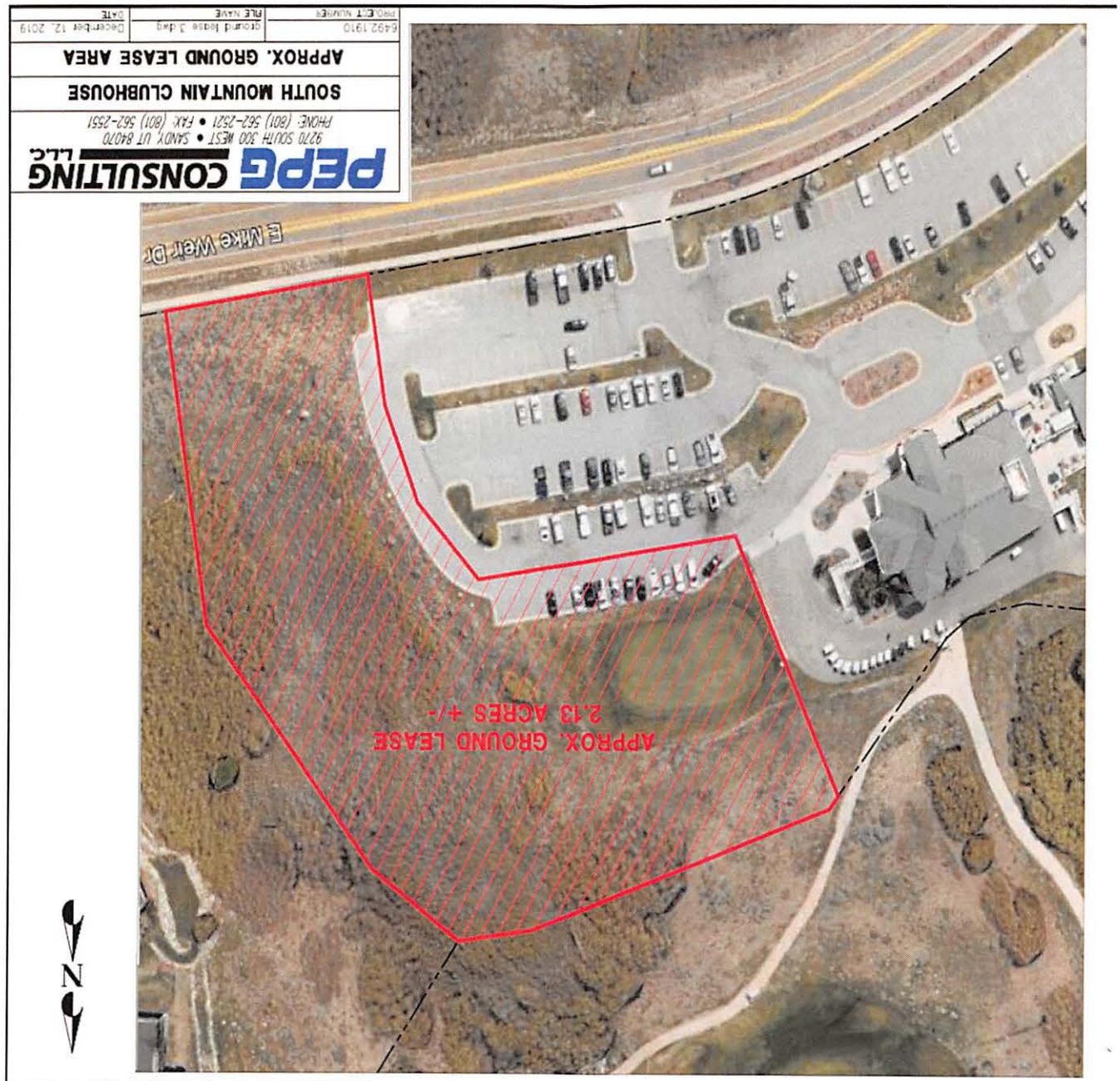
**Exhibit "A"**  
**Legal Description of Property**

The Property is located in Salt Lake County, Draper City, Utah, and is described as follows:

Beginning at a point on the northerly right of way line of Mike Weir Drive; said point being South 89°52'36" East, along the section line, 269.76 feet and South 00°07'24" West, 1115.53 feet from the Northwest Corner of Section 9, Township 4 South, Range 1 East, Salt Lake Base and Meridian (Basis of Bearing is North 89°52'36" West between said Northwest Corner and North Quarter Corner of said Section 9); and running thence South 81°10'59" West, along said northerly right of way line, 140.00 feet; thence North 08°49'01" West, 77.36 feet; thence north 21°25'39" West, 61.75 feet; thence North 42°46'01" West, 61.58 feet; thence South 81°39'39" West, 177.78 feet; thence North 24°58'46" West, 168.01 feet to a point on the southerly line of a Conservation Easement, Entry No.: 6497420, Book 7527 Page 2334, as recorded in the Salt Lake County recorder's office; thence along said Conservation Easement southerly line the following three (3) courses: (1) North 38°23'38" East, 9.74 feet; (2) North 70°37'54" East, 215.75 feet; (3) North 82°35'51" East, 50.18 feet; thence South 54°50'02" East, 72.38 feet; thence South 38° 34'16" East, 183.20 feet; thence South 08°49'01" East, 187.13 feet to the point of beginning.

Containing: 2.13 Acres more or less

- A map depicting the Ground Lease is shown on the following page.

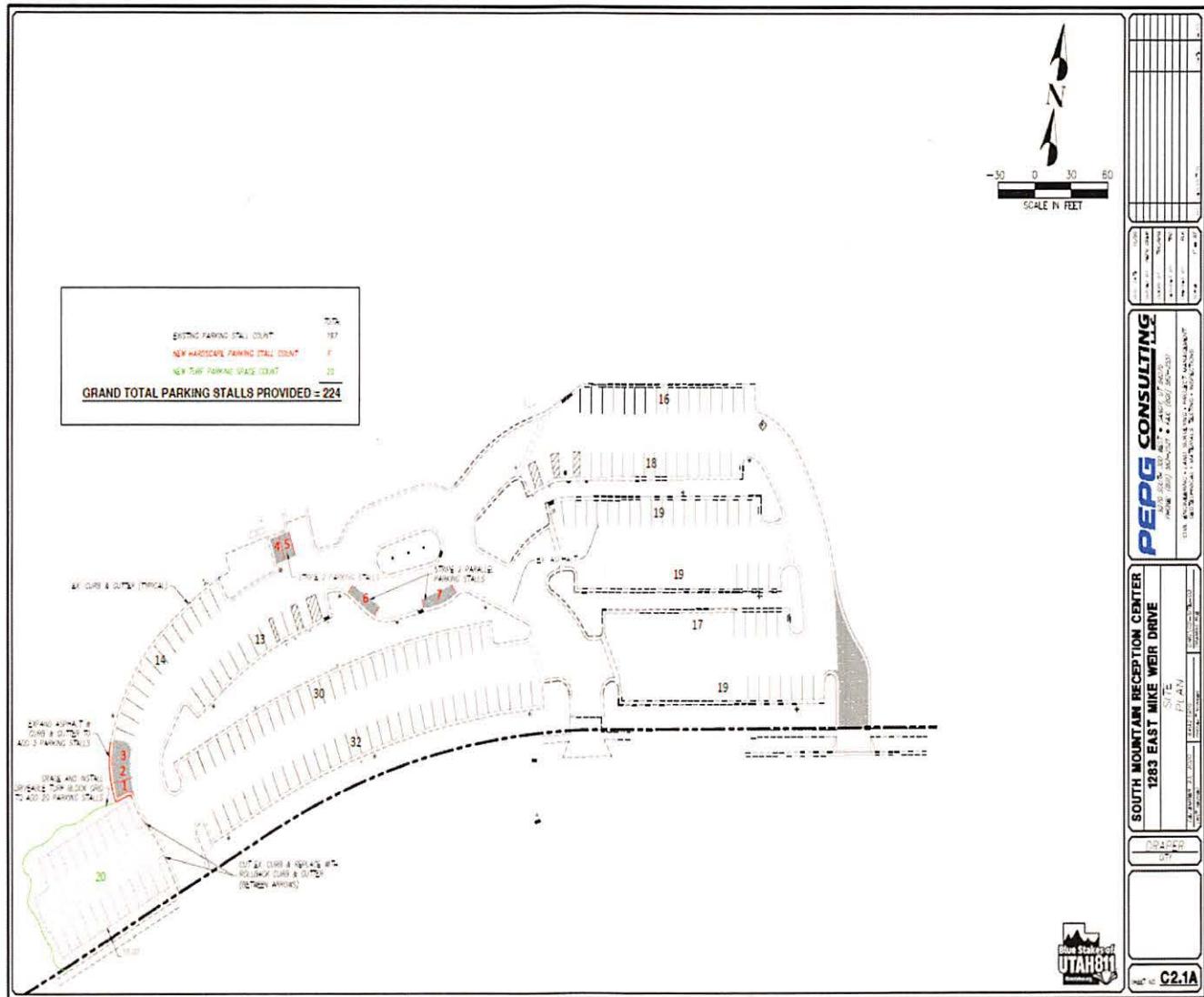


**Exhibit "B"**  
**City's Vested Laws**

On file with the Draper City Recorder

**Exhibit "C"**  
Map of Additional Parking Area

See the area shown in the maps below:





THIS AREA TO BE LANDSCAPED WITH GRASS (TURF BLOCK) AND IRRIGATION  
PARKING STRIP TO BE LANDSCAPED WITH SPRINKLER SYSTEM, SOD, AND TREES

## Exhibit “D”

### Horrocks Parking Study

A full copy of the Parking Study from Horrocks Engineers is dated December 24, 2020, comprised of 88 pages, and is on file with the City’s Planning/Zoning Department. A copy of the 2-page summary in the Parking Study follows:

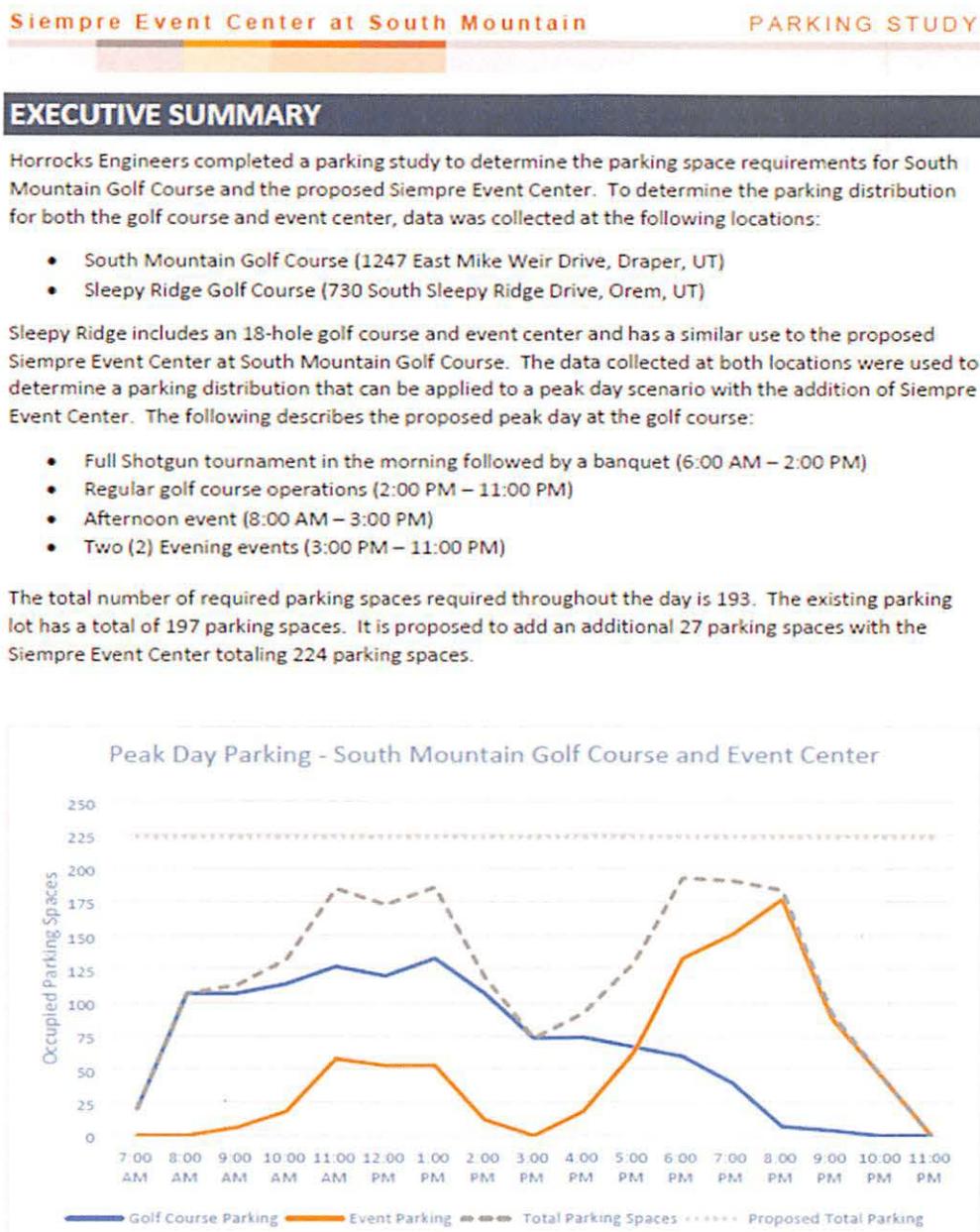
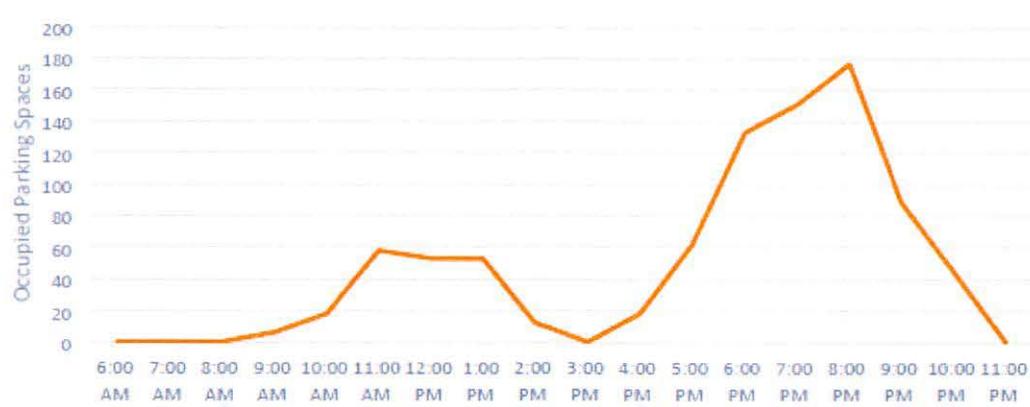


Figure 2: Peak Event Center Parking Space Requirements

## Peak Event Center Parking Space Requirement



## PEAK DAY PARKING REQUIREMENT

Using the peak day distributions, the total parking spaces is calculated by adding the golf course and event center parking requirements. The following describes the full peak day operations at the golf course and event center:

- Full Shotgun tournament in the morning followed by a banquet (6:00 AM – 2:00 PM)
- Regular golf course operations (2:00 PM – 11:00 PM)
- Afternoon event (8:00 AM – 3:00 PM)
- Two (2) Evening events with a total of 384 invited guests (3:00 PM – 11:00 PM)

The maximum number of required parking spaces will be 193 spaces between 5:00 PM – 6:00 PM, as shown in Table 8, and Figure 3. There are currently 197 parking spaces at South Mountain Golf Course. It is proposed by the developer to add an additional 27 spaces when the event center is built to provide a total of 224 parking spaces as shown in Table 7. This leaves an additional 31 parking spaces (16%) for overflow parking.

Table 7: Vehicle Occupancy Data

Parking Spaces at South Mountain Golf Course	
Existing Parking Spaces	197
Proposed Total Parking Spaces	224
Parking Spaces Required on Peak Day	193
Additional Parking Spaces (%)	31 (16%)

**Exhibit "E"**  
**Ground Lease (with amendments)**

A copy of the Ground Lease between Salt Lake County and Siempre (Developer), with amendments, is on file with the City's Planning and Zoning Department.

To be published on Friday, January 22, 2021, in *Deseret News*

City of Draper Notice of Ordinance Adoption – On January 19, 2021, the Draper City Council approved Ordinance #1472, approving the Siempre Event Center Development Agreement. The complete ordinance is on file at the Draper City Recorder's Office and online at [www.draper.ut.us](http://www.draper.ut.us). Published this 22nd day of January 2021. Laura Oscarson, Draper City Recorder.



## Jennifer Jastremsky

---

**From:** shannon <shannon\_sandberg@msn.com>  
**Sent:** Tuesday, August 9, 2022 4:10 PM  
**To:** Jennifer Jastremsky  
**Subject:** Siempre parking lot Amendment  
**Attachments:** Image.jpeg; Image.jpeg; Image.jpeg

Dear Draper Planning Commission-

I am writing to you concerning Siempre reception center's amendment regarding expanding their parking lot.

My backyard overlooks the 18th hole of the South mountain golf course. Siempre's reception center and gazebo have become my new backyard. During Covid, when Siempre was being discussed by the zoning commission and at the city council meeting, we had three minutes over a zoom call to let you know our concerns. In addition to the negative impact of its noise and light, one of our main concerns was how all the guests would fit in the parking lot. If parking overflowed onto the street, this would impact the bike lanes on Mike Weir Drive. If the bike lanes are blocked they either go on the sidewalk, which affects the frequent walkers, or the car lanes, which affects traffic. This has indeed already been an issue. Last Thursday August 4, the parking lot was filled, and cars parked on both sides of Mike Weir drive. There is a steady stream of cyclists, walkers and runners from dawn until way after dark along Mike Weir. I noticed that today Siempre put up "no parking" signs along the road in front of their park strip, but where will the overflow cars now park? I'm not particularly excited to have more construction noise around Siempre, but not having enough parking spots negatively impacts the outdoor enthusiasts that frequently bike or exercise along Mike Weir. I have attached images of cars along the street from August 4.

I previously mentioned the concern the neighbors and I shared with the city council and zoning committee about the lights and noise that would be coming from Siempre. Since this reception center has opened, it is like having a nightclub in our backyard. The lights are on all night long, shining into our windows, making it difficult to sleep. I can hear the noise from people, dj's and especially the loud music in my house, even with all the windows shut and over the volume of my TV. I compare it to when you are at a traffic signal and an obnoxiously loud car comes up next to you with the bass thumping and the volume full blast. Now imagine that for three or more hours straight in your home. There are speakers around the gazebo that we hear not only during the event. The cleaning crew often accidentally turns the outdoor speakers on at 6:00 a.m. when they come to clean. When the DJ's come set up we hear the music blasting sometimes hours before the event starts. Singers coming to prepare for a special musical number have come early Sunday morning and I hear them practice over and over again for hours. Especially on a Sunday when I just want to relax and have peace and quiet, it is so frustrating to have the music of a gender reveal party or wedding reception blasting into my home. In other words, I no longer have peace in my home when there are events at this reception center. It has been devastating to us and the neighbors.

I know not much can be done to help my cause with the noise and the lights that have negatively impacted the peace and quiet of our home and neighborhood. I know our voices and needs were not enough to outweigh the financial benefits of Siempre to that of the county's failing golf course. But I sincerely ask you to consider the negative impact the lack of parking has on all the many bikers, walkers and traffic along Mike Weir Drive, and vote to make Siempre expand their parking lot.

Thank you for your time and consideration,

Shannon Sandberg



## Jennifer Jastremsky

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**From:** Eric Judd <ejudd14@gmail.com>  
**Sent:** Wednesday, August 10, 2022 8:30 AM  
**To:** Jennifer Jastremsky  
**Subject:** Siempre Parking on Mike Weir Dr

Hey Jennifer,

It was recommended that I email you to contact the planning commission regarding parking from Siempre on Mike Drive. Unfortunately, I'll be out of town for the next two Thursday commision meetings where this will be discussed.

*In short, I don't want street parking on Mike Weir Dr to become normalized, especially as Siempre grows to hold more than one event per week.*

My family moved to The Ridge off of Mike Weir in 2020 to get away from crowded Sugarhouse. In SLC I've had my share of car collisions while riding my bicycle on busy SLC streets. Now I enjoy riding my road bike on our Draper roads a lot.

My ask: Let's find a way to preserve quieter neighborhoods and roads that aren't not packed with parked cars. I hope we first consider other options before dismissing the promise to build the green, paver parking. To my knowledge there haven't been efforts to shuttle people from the Draper amphitheater, as was previously agreed with the City Council. Please consider this, along with the green pavers (which Siempre advertised so elegantly) as a first solution.

What I don't want...a Mike Weir Dr that is filled with cars parallel parking, car door opening as I pass, and 20-something year-old groomsmen speeding to and from parties after sharing their music with me all night. We moved here to enjoy the beauty and stillness of Corner Canyon, Potato Hill, the BST, and preserved open spaces. Let's work toward development that preserves the things that make Draper so unique.

Feel free to let me know of any questions about my experience. I'm always available to offer calm, kind conversation.

THANKS!!!

ERIC JUDD | (801) 624-0544



# MEMO

To: City Council Meeting

From: Jennifer Jastremsky, AICP

CC:

Date: August 16, 2022

Re: Shipp Barn 1st Amendment- Development Agreement Request

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Comments:

This application is a request for approval of a Development Agreement for approximately 2.97 acres located on the south side of Stokes Ave., at approximately 570 East Stokes Ave. The property is currently zoned RA2. The applicant is requesting that a Development Agreement Amendment be approved to modify the concept plan in the original agreement to reconfigure the lots.

The Planning Commission heard this item at their July 28, 2022 meeting and forwarded a positive recommendation on a 4-1 vote.

The findings are as follows:

For approval:

1. The proposal complies with DCMC Sections 9-5-200(C) and (D).

For denial:

1. The proposal does not comply with DCMC Sections 9-5-200(C) and (D).

ATTACHMENTS:

Description	Upload Date	Type
Ord 1557	8/10/2022	Cover Memo
PC Staff Report	8/10/2022	Cover Memo

## ORDINANCE NO. 1557

### AN ORDINANCE APPROVING THE SHIPP BARN 1<sup>ST</sup> AMENDMENT DEVELOPMENT AGREEMENT FOR APPROXIMATELY 2.97 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 570 EAST STOKES AVENUE WITHIN DRAPER CITY.

**WHEREAS**, the Land Use and Development Code of the Draper City Municipal Code has been established to provide regulations concerning general developments within the City Boundaries; and

**WHEREAS**, the City Council hereby determines that it will be in the best interest of the City to allow development of the subject property in accordance with the Amended Development Agreement; and

**WHEREAS**, the Amended Development Agreement will allow modified development standards than would otherwise be allowed in the RA2 (Residential Agricultural, 20,000 square foot lot minimum) zone; and

**WHEREAS**, the Amended Development Agreement will allow modified development standards for Accessory Dwelling Units; and

**WHEREAS**, the Amended Development Agreement will still ensure the preservation of a historic home on Stokes Ave. for a period of 25 years from the date of original Development Agreement; and

**WHEREAS**, the proposed Amended Development Agreement set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed modifications to development standards; and

**WHEREAS**, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed Development Agreement, and the City Council has found the proposed Development Agreement to be consistent with the City's General Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:**

**Section 1. Development Agreement.** The City of Draper approves the Amended Development Agreement provided in Exhibit A, otherwise known as the Shipp Barn 1<sup>st</sup> Amendment Development Agreement.

**Section 2. Severability Clause.** If any part or provision of this Ordinance is held

invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting, or 30 days after final passage, whichever is closer to the date of final passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

**DRAPER CITY**

---

**Mayor Troy K. Walker**

**ATTEST:**

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**Laura Oscarson, CMC, City Recorder**

VOTE TAKEN:	YES	NO
Councilmember Green	_____	_____
Councilmember T. Lowery	_____	_____
Councilmember F. Lowry	_____	_____
Councilmember Roberts	_____	_____
Councilmember Vawdrey	_____	_____
Mayor Walker	_____	_____

**EXHIBIT A**

**DEVELOPMENT AGREEMENT**

**WHEN RECORDED, RETURN TO:**

**Bruce R. Baird  
Bruce R. Baird, PLLC  
2150 South 1300 East, Suite 500  
Salt Lake City, UT 84101**

**FIRST AMENDMENT**

**MASTER DEVELOPMENT AGREEMENT  
FOR  
SHIPP BARN**

THIS FIRST AMENDMENT (“First Amendment”) to the MASTER DEVELOPMENT AGREEMENT (“MDA”) is made and entered into as of the \_\_\_ day of June, 2022 by and between Draper City, a Utah municipality, Shipp Investments, LLC, a Utah limited liability company and the Cami D. Shipp Trust, Nathan D. Shipp Trustee.

**RECITALS**

- A. The capitalized terms used in this First Amendment are defined in the MDA.
- B. Shipp Investments, the Trust and the City desire that the MDA be amended to take into account changes to the proposed Project.

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

**TERMS**

1. **Replacement of Exhibits “B” and “D”.** Exhibits “A”, “B” and “D” of the MDA are hereby replaced in their entirety with Exhibits “A1”, “B1” and “D1”.
2. **Amendment of Section 6.1.** Section 6.1 of the MDA is amended to read as follows:

**6.1 Construction by and Shipp Investments.** Shipp Investments shall obtain a Minor Subdivision, including public right-of-way dedication on Stokes Avenue, and Land Disturbance Permit from the City and construct the curb, gutter and sidewalk improvements as shown on the Master Plan. The curb, gutter and sidewalk shall be completed to City Standards no later than October 15, 2023. After acceptance by the City the curb, gutter and sidewalk shall become the property of the City.

**3. Acknowledgement of Continuing Effectiveness of the MDA.** Other than as specifically provided in this First Amendment the Parties acknowledge that the MDA remains in full force and effect.

**4. Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. \_\_\_\_ adopted by the City on June \_\_\_, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

Shipp Investments

CITY  
Draper City

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_,  
Its: City Manager  
Date: \_\_\_\_\_

The Trust

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form and legality:

Attest:

---

## City Attorney

---

## City Recorder

## **CITY ACKNOWLEDGMENT**

STATE OF UTAH )  
COUNTY OF SALT LAKE )

On the \_\_\_ day of July, 2022 personally appeared before me \_\_\_\_\_ who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

---

**NOTARY PUBLIC**

My Commission Expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

## SHIPP INVESTMENTS ACKNOWLEDGMENT

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Residing at:

## **TABLE OF EXHIBITS**

Exhibit "A1"	Amended Legal Description
Exhibit "B1"	Amended Master Plan
Exhibit "D1"	Amended Exceptions to City's Vested Laws

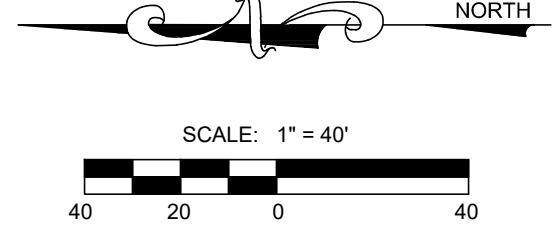
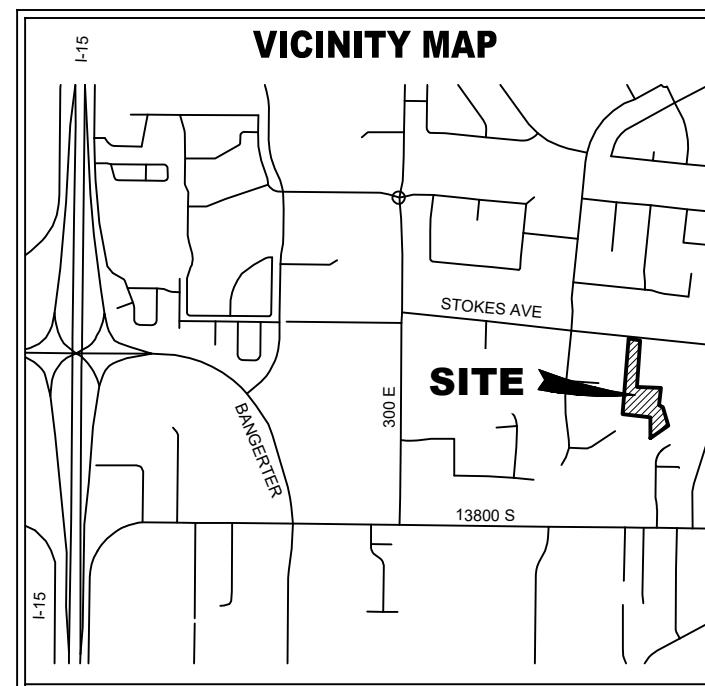
**Exhibit "A1"**  
Amended Legal Description

A portion of the Northeast Quarter of Section 6, Township 4 South, Range 1 East, Salt Lake Base & Meridian, more particularly described as follows:

Beginning at a point on the north line of Kennington Estates Subdivision, said point being located N0°35'00"E along the Section line 824.41 feet and West 549.74 feet from the East Quarter Corner of Section 6, T4S, R1E, S.L.B.& M.; thence along said subdivision line the following two (2) courses: S58°34'38"W 88.26 feet; thence S52°28'54"W 101.14 feet; thence along the Hunter's Point Subdivision and the extension thereof the following three (3) courses: N1°41'37"E 178.39 feet; thence N84°31'32"W 227.92 feet; thence N4°25'18"E 591.91 feet; thence N4°25'47"E 29.46 feet; thence S84°44'00"E 100.22 feet; thence along an existing fence line and the extension thereof the following two (2) courses: S4°15'44"W 85.75 feet; thence S4°49'56"W 302.09 feet; thence S86°09'54"E 56.36 feet; thence S86°12'46"E 65.98 feet; thence S86°33'15"E 71.13 feet; thence S5°04'27"W 21.18 feet; thence S9°23'49"W 27.46 feet; thence S3°25'07"W 36.13 feet to an existing fence line; thence along said existing fence line the following four (4) courses: S2°16'55"W 48.05 feet; thence S63°46'49"E 25.25 feet; thence S83°58'47"E 11.93 feet; thence S15°29'11"E 165.17 feet to the point of beginning.

Contains: ±2.97 Acres

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Amended Master Plan



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NOT FOR  
CONSTRUCTION

**NATE SHIPP**  
**570 EAST STOKES AVENUE, DRAPER, UTAH**

---

**AMENDED MASTER PLAN**  
**EXHIBIT B-1**

## **REVISIONS**

---

LEI PROJECT #:  
**2012-0635**  
DRAWN BY:  
**RWH/TJP**  
DESIGNED BY:  
**GDM**  
SCALE:  
**1"=40'**  
DATE:  
**07/13/2022**

## NOTES

ALL STORM DRAINAGE TO BE RETAINED ON-SITE WITHIN EACH LOT.

LAND DESIGN OF PROJECT IS 12-0033 NAME SHIFF LLADWIS CUNCEF IS 12-0033 NAME SHIFF AWEINIED MFI EXHIBIT. UWG //IS/12-0033 4:30 PM



LEI# 12-0635

**Exhibit “D1”**  
Exceptions to the City’s Vested Laws

- The layout and configuration of Lots 2, 3, and 4 are conceptually approved and will be created at a later date from Phase 1 by a Minor Subdivision pursuant to the administrative processes in the City’s Vested Laws. The property which will be Lots 2, 3 and 4 shall be allowed to remain as a remnant parcel until subdivided in the future. Existing accessory structures may remain on the property until such time as the lots are subdivided. This is a deviation from DCMC Section 17-5-020(H) which prohibits remnant parcels and DCMC Section 9-10-030(B)(2) which prohibits accessory structures without a primary structure.
- When developed, Lots 2, 3, and 4 will be allowed to be accessed off the 20' east access lane. The existing private lane will not be required to be widened at the time of the subdivision, as would normally be required under DCMC Section 9-27-150. At no time shall the width of the asphalt improvements be less than 20' wide.
- The Existing Home shall be considered as a permitted Detached Accessory Dwelling Unit in the front yard of a new home to be constructed on Phase 1 as shown on the Amended Master Plan, Exhibit “B1”. This is a deviation from DCMC Section 9-31-040(B)(3) which requires Detached Accessory Dwelling Units to be located within the rear yard.
- Required dedication and right-of-way improvement area on Stokes Avenue will reduce the setback of the Existing Home to less than the required 30-foot minimum. DCMC Section 9-31-040(B)(2) requires all Detached Accessory Dwelling Units to comply with the same setbacks as the main building. The change in use of the Existing Home from a primary dwelling unit to a Detached Accessory Dwelling Unit will not require additional setback from any new right-of-way boundary that is established due to required dedication or right-of-way improvement.



---

## Development Review Committee

1020 East Pioneer Road  
Draper, UT 84020  
July 19, 2022

**To:** Draper City Planning Commission  
Business Date: July 28, 2022

**From:** Development Review Committee

**Prepared By:** Jennifer Jastremsky, AICP, Planning Manager/Zoning Administrator  
Planning Division  
Community Development Department  
801-576-6328, [jennifer.jastremsky@draperutah.gov](mailto:jennifer.jastremsky@draperutah.gov)

**Re: Shipp Barn – Development Agreement Request**

Application No.: DA-107-2022  
Applicant: Nate Shipp  
Project Location: 570 East Stokes Ave.  
Current Zoning: RA2 (Residential Agricultural, 20,000 square foot lot minimum)  
Zone  
Acreage: 2.97 Acres (Approximately 129,372 ft<sup>2</sup>)  
Request: Request for approval of a Development Agreement in the RA2  
(Residential Agricultural, 20,000 square foot lot minimum) zone  
regarding a Development Agreement amendment to reconfigure  
the concept plan and combine two lots into one.

### **BACKGROUND AND SUMMARY**

This application is a request for approval of a Development Agreement for approximately 2.97 acres located on the south side of Stokes Ave., at approximately 570 East Stokes Ave. (Exhibit B & C). The property is currently zoned RA2. The applicant is requesting that a Development Agreement Amendment be approved to modify the concept plan in the original agreement to reconfigure the lots.

The original agreement was approved by the City Council in March 2021.



## **ANALYSIS**

### **General Plan and Zoning.**

<b>Table 1</b>	<b>General Plan and Zoning Designations</b>	<b>Exhibit</b>
Existing Land Use	Residential Low/Medium Density	Exhibit D
Current Zoning	RA2	Exhibit E
Proposed Use	Single-family Dwelling and Accessory Dwelling Unit	
Adjacent Zoning		
East	RA2	
West	RA2	
North	RA2	
South	RA2	

The Residential Low/Medium Density designation is characterized as follows:

#### *Residential Low-Medium Density*

<b>LAND USE DESCRIPTION</b>		
<b>CHARACTERISTICS</b>		
		<ul style="list-style-type: none"> <li>Very large lot single-family neighborhoods or ranchettes allows for enhancement of Draper's rural character</li> <li>Environmentally designed clustered housing with the Suncrest and South Mountain projects being the exceptions</li> <li>Some natural features and cultivated vegetation is apparent and special care is required in order to preserve those features and areas</li> <li>Equestrian uses and privileges may exist in certain areas</li> </ul>
<b>LAND USE MIX</b>	Primary	Secondary
		<ul style="list-style-type: none"> <li>Single-family detached homes</li> <li>Parks</li> <li>Open space</li> <li>Churches</li> <li>Schools</li> </ul>
<b>DENSITY</b>	<ul style="list-style-type: none"> <li>Density range: up to 2 dwelling units per acre</li> <li>Reduction for non-buildable areas</li> </ul>	
<b>COMPATIBLE ZONING</b>	<ul style="list-style-type: none"> <li>Residential Agricultural (RA1)</li> <li>Residential Agricultural (RA2)</li> <li>Single-family Residential Hillside (RH)</li> <li>Master Planned Community (MPC)</li> </ul>	
<b>OTHER CRITERIA</b>	<ul style="list-style-type: none"> <li>Increased densities within equestrian areas may be allowed only with compliance to specified performance standards and impact mitigation measures</li> <li>Buffers and transitions around existing low-density single-family residences may consist of open space/retention areas, lots that are pie-shaped or otherwise larger than standard sized lots or a combination of these and other appropriate design techniques</li> </ul>	

According to Draper City Municipal Code (DCMC) Section 9-8-020 the purpose of the RA2 zone is to *"foster low density development with little impact on its surroundings and municipal services; to generally preserve the character of the City's semi-rural areas; and to promote and preserve conditions favorable to large-lot family life, including the keeping of limited numbers of animals and fowl. This zone is intended to promote a combination of retail and service facilities which, in character and scale, meet day to day needs of nearby residents."*

**Development Agreement.** The original development agreement preserved a historic home that is on Stokes Ave, while allowing for development on the land behind the home into a single lot (Exhibit G). It also addressed future development on adjacent farm land and guaranteed the farm would stay until 2028. The applicant is now looking to reconfigure the property containing the historic home, while not modifying the provisions concerning the farm land (Exhibit F). The original idea was to place the historic home and the area behind the home on separate lots. Now the owner would like to keep the property as one lot, but allow a new house to build behind the historic home. In this proposal the historic home would become an ADU (Accessory Dwelling Unit).

**Table 2** **Development Agreement**

<b>Standard</b>	<b>DCMC Requirements</b>	<b>Proposal</b>	<b>Notes</b>
Lot Size	20,000 sq ft	35,844 sq ft	
ADU Location	Required to be in the Rear yard	Located in the front yard	
ROW Dedication	Requires ROW Dedication	Requires ROW Dedication	
Historic Home Setback	30-feet from ROW	18-feet from ROW	Allows the historic home to remain in its current location and setback to become nonconforming after required ROW is dedicated to the City.

**Criteria For Approval.**

DCMC does not contain criteria for review and potential approval of a Development Agreement. It does, however; contain a list of items that are required as part of an Agreement and limitations to a Development Agreement, as found in DCMC Section 9-5-200(C) and (D). This section depicts the required materials for such requests as:

C. *Procedure: All development agreements, upon proper execution, shall be recorded with the respective County Recorder's Office, shall run with the land, and shall be binding on all successors in the ownership of the affected property. A development agreement shall contain, at a minimum, the following:*

1. *A legal description of the land subject to the development agreement.*
2. *The restrictions or conditions to be attached to the property including development standards and the provision of public facilities.*
3. *The configuration of the project as shown on a project master plan.*
4. *A statement of the benefits and value the development agreement will have for the City as a whole, including, but not limited to, assurances of design standards, dedication and improvement of open space, parks, trails, amenities, or infrastructure such as public rights-of-way or utilities.*
5. *The time frames for performance by the parties.*
6. *A description of the various City approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement.*
7. *Provisions for enforcement of the terms and conditions of the development agreement.*
8. *Provisions for making amendments to the development agreement.*
9. *The time limitation of the agreement.*
10. *Such other terms as may be proposed and agreed to between the City and developer or subdivider.*

D. *Limitations:*

1. *A development agreement under this section may not:*
  - a. *Limit the City's authority in the future to:*
    - i. *Enact a land use regulation; or*
    - ii. *Take any action allowed under Utah Code Annotated Section 10-8-84, as amended;*
  - b. *Require the City to change the zoning designation of an area of land within the City in the future; or*
  - c. *Contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the city council approves the development agreement in accordance with the same procedures for enacting a land use regulation under Utah Code Annotated Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.*
2. *The City may not require a development agreement as the only option for developing land within the City.*
3. *To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by;*
  - a. *Utah Code Annotated 10-9a-530, as amended; and*

*b. Applicable land use regulations of this Title.*

## **REVIEWS**

Planning Division Review. The Draper City Planning Division has completed their review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Engineering and Public Works Divisions Review. The Draper City Engineering and Public Works Divisions have completed their reviews of the Development Agreement submission. Comments from these divisions, if any, can be found in Exhibit A.

Building Division Review. The Draper City Building Division has completed their review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Fire Division Review. The Draper City Fire Marshal has completed his review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Legal Division Review. The Draper City Attorney has completed his review of the Development Agreement submission. Comments from this division, if any, can be found in Exhibit A.

Noticing. Notice has been properly issued in the manner outlined in the City and State Codes.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the request, receive public comment, and make a decision based on the findings listed below and the criteria for approval, or denial, as listed within the staff report.

The findings for approval as are follows:

1. The proposal complies with DCMC Sections 9-5-200(C) and (D).

The findings for denial as follows:

1. The proposal does not comply with DCMC Sections 9-5-200(C) and (D).

## **MODEL MOTIONS**

Sample Motion for Approval – I move that we forward a positive recommendation to the City Council for the Development Agreement, as requested by Nate Shipp for Shipp Barn Development Agreement Amendment, application DA-107-2022, based on the findings and subject to the conditions listed in the Staff Report dated July 19, 2022.

Sample Motion for Modified Approval– I move that we forward a positive recommendation to the City Council for the Development Agreement, as requested by Nate Shipp for Shipp Barn Development Agreement Amendment, application DA-107-2022, based on the findings and subject to the conditions listed in the Staff Report dated July 19, 2022 and as modified by the findings and conditions below:

1. List any additional findings and conditions...

Sample Motion for Denial – I move that we forward a negative recommendation to the City Council for the Development Agreement, as requested by Nate Shipp for Shipp Barn Development Agreement Amendment, application DA-107-2022, based on the findings listed in the Staff Report dated July 19, 2022.

## **DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT**

We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

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Draper City Public Works Department

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Draper City Planning Division

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Draper City Fire Department

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Draper City Legal Counsel

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Draper City Building Division

## **EXHIBIT A**

### **DEPARTMENT REVIEWS**

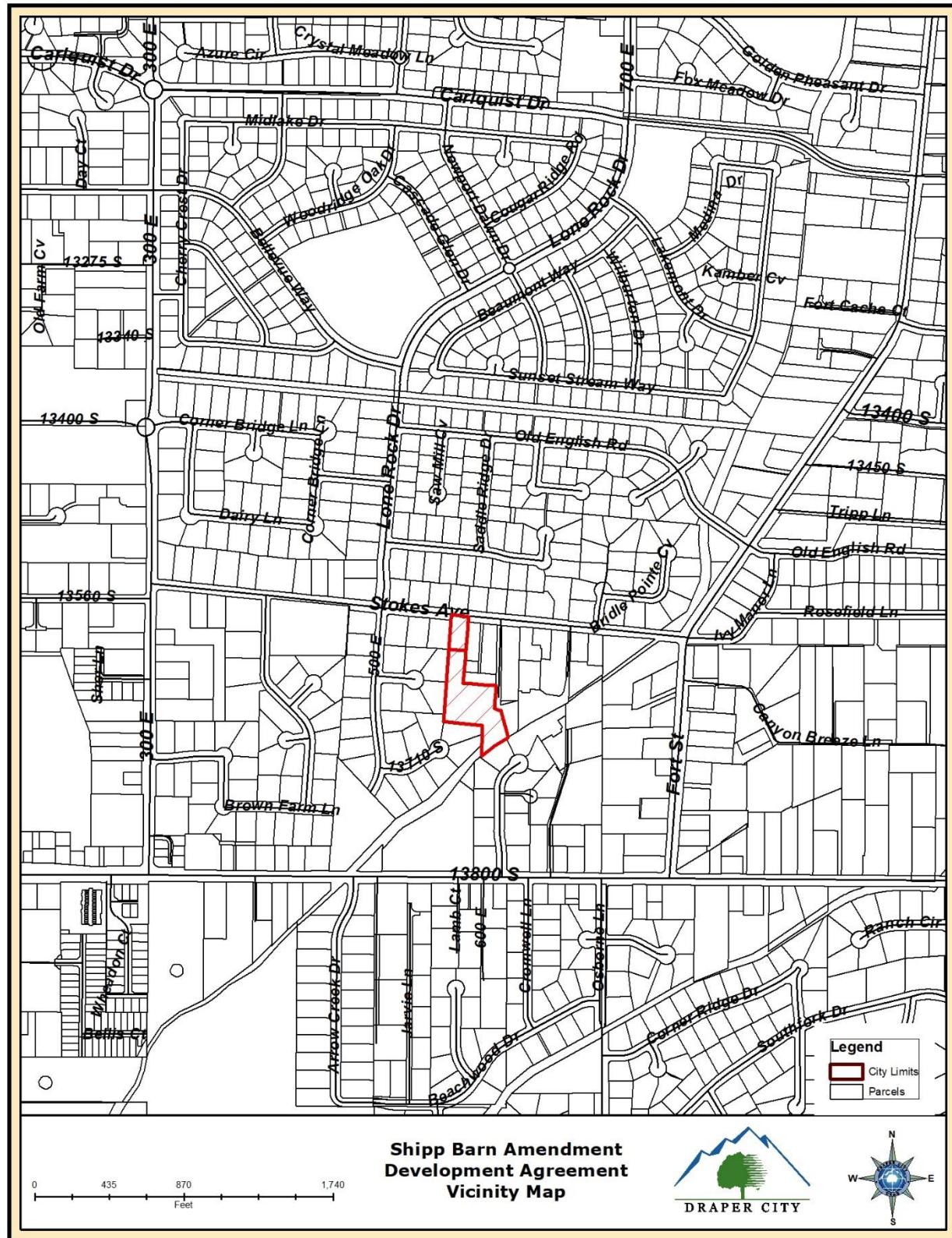
REVIEWS ARE NOT MEANT TO BE AN ALL INCLUSIVE LIST OF POSSIBLE COMMENTS OR CONDITIONS.

#### *Planning Division Review.*

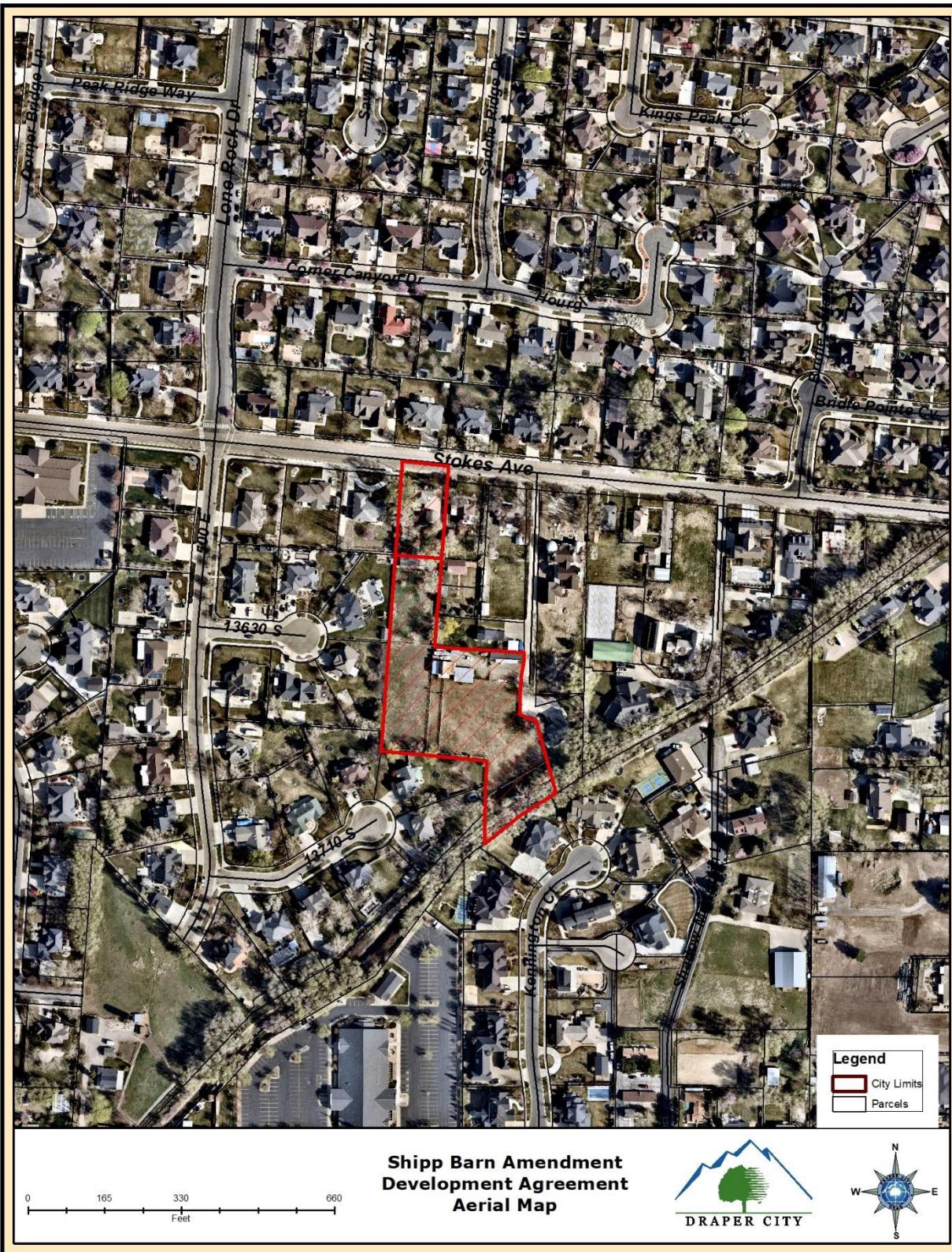
1. The proposed Development Agreement ensures the preservation of the historic home on the property.

## **EXHIBIT B**

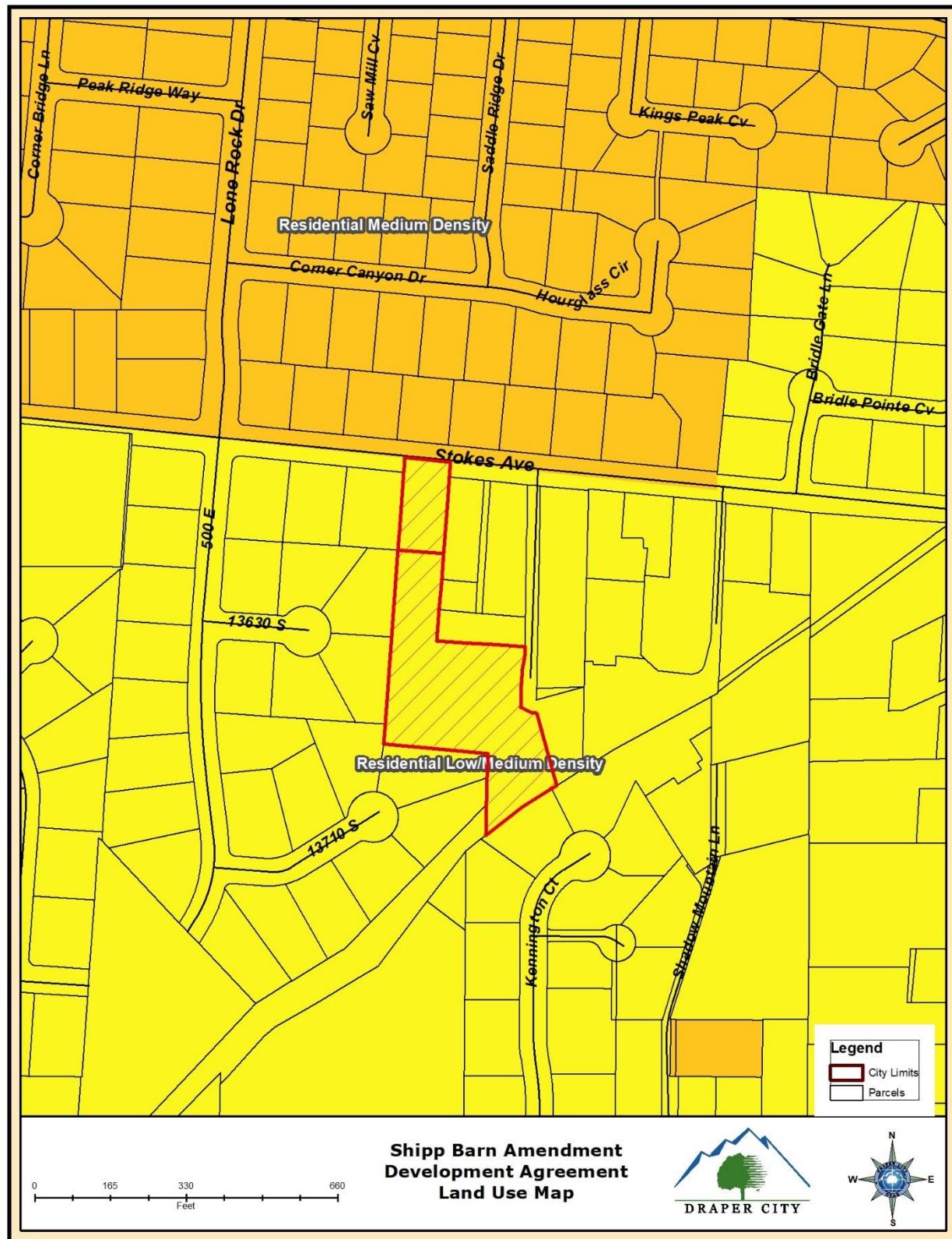
### **VICINITY MAP**



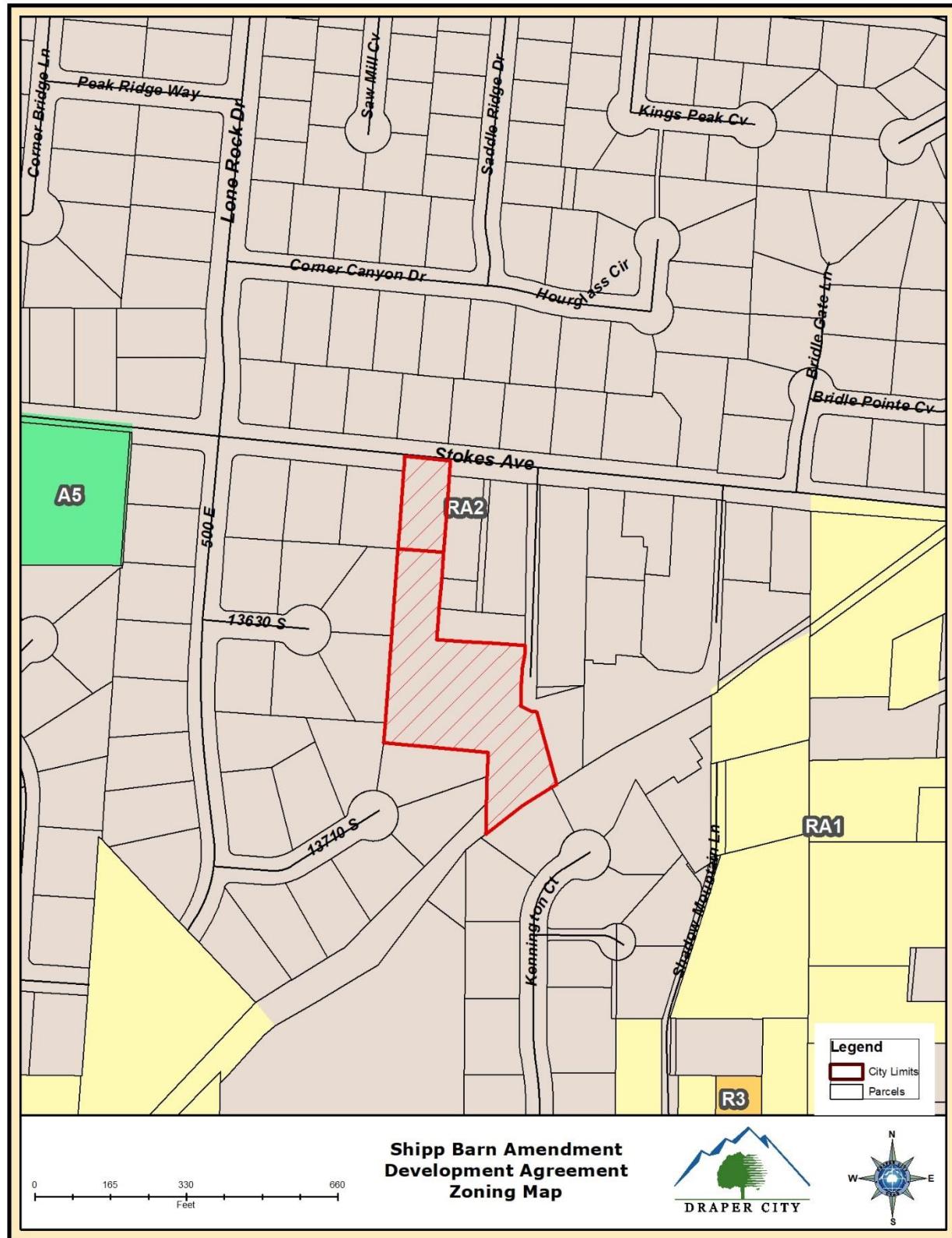
**EXHIBIT C**  
**AERIAL MAP**



**EXHIBIT D**  
**LAND USE MAP**



**EXHIBIT E**  
**ZONING MAP**



**EXHIBIT F**  
**DEVELOPMENT AGREEMENT**

**WHEN RECORDED, RETURN TO:**

**Bruce R. Baird  
Bruce R. Baird, PLLC  
2150 South 1300 East, Suite 500  
Salt Lake City, UT 84101**

**FIRST AMENDMENT**

**MASTER DEVELOPMENT AGREEMENT  
FOR  
SHIPP BARN**

THIS FIRST AMENDMENT (“First Amendment”) to the MASTER DEVELOPMENT AGREEMENT (“MDA”) is made and entered into as of the \_\_\_ day of June, 2022 by and between Draper City, a Utah municipality, Shipp Investments, LLC, a Utah limited liability company and the Cami D. Shipp Trust, Nathan D. Shipp Trustee.

**RECITALS**

- A. The capitalized terms used in this First Amendment are defined in the MDA.
- B. Shipp Investments, the Trust and the City desire that the MDA be amended to take into account changes to the proposed Project.

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

**TERMS**

1. **Replacement of Exhibits “B” and “D”.** Exhibits “A”, “B” and “D” of the MDA are hereby replaced in their entirety with Exhibits “A1”, “B1” and “D1”.
2. **Amendment of Section 6.1.** Section 6.1 of the MDA is amended to read as follows:

**6.1 Construction by and Shipp Investments.** Shipp Investments shall obtain a Minor Subdivision, including public right-of-way dedication on Stokes Avenue, and Land Disturbance Permit from the City and construct the curb, gutter and sidewalk improvements as shown on the Master Plan. The curb, gutter and sidewalk shall be completed to City Standards no later than October 15, 2023. After acceptance by the City the curb, gutter and sidewalk shall become the property of the City.

**3. Acknowledgement of Continuing Effectiveness of the MDA.** Other than as specifically provided in this First Amendment the Parties acknowledge that the MDA remains in full force and effect.

**4. Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. \_\_\_\_ adopted by the City on June \_\_\_, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

Shipp Investments

CITY  
Draper City

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_,  
Its: City Manager  
Date: \_\_\_\_\_

The Trust

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form and legality:

Attest:

---

## City Attorney

---

## City Recorder

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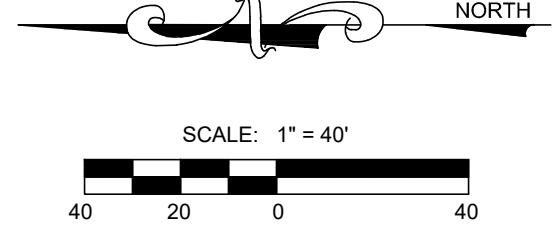
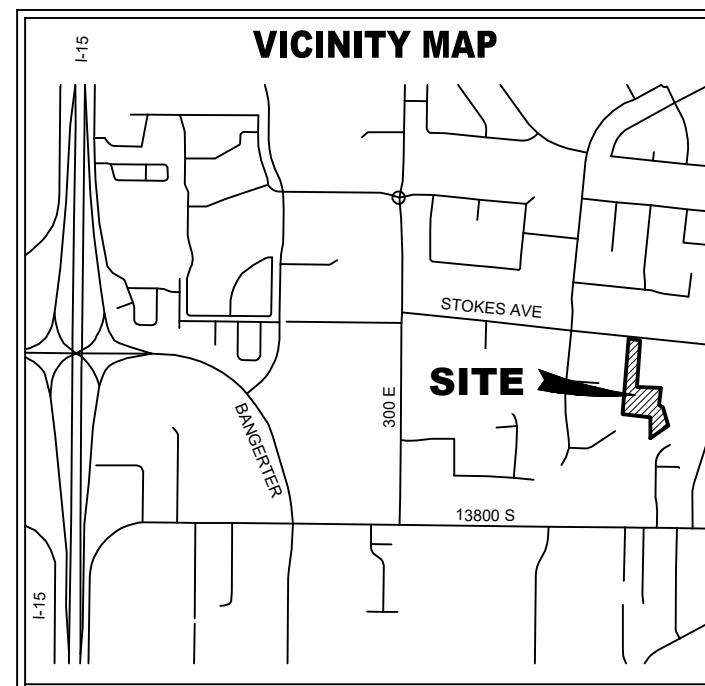
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Fax: 801.798.9393  
[office@lei-eng.com](mailto:office@lei-eng.com)  
[www.lei-eng.com](http://www.lei-eng.com)

NOT FOR  
CONSTRUCTION

**NATE SHIPP**  
**570 EAST STOKES AVENUE, DRAPER, UTAH**

---

**AMENDED MASTER PLAN**  
**EXHIBIT B-1**

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## REVISIONS

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LEI PROJECT #:  
**2012-0635**

---

DRAWN BY:  
**RWH/TJP**

---

DESIGNED BY:  
**GDM**

---

SCALE:  
**1"=40'**

---

DATE:  
**07/13/2022**

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LEI# 12-063

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**EXHIBIT G**  
**ORIGINAL DEVELOPMENT AGREEMENT**

26-NF

13617926  
04/01/2021 01:36 PM \$0.00  
Book - 11148 Pg - 5285-5310  
**RASHELLE HOBBS**  
RECORDER, SALT LAKE COUNTY, UTAH  
DRAPER RECORDERS OFFICE  
1020 E. PIONEER RD  
DRAPER UT 84020  
BY: JLA, DEPUTY - MA 26 P.

**FINAL**

**03/16/2021**

**MASTER DEVELOPMENT AGREEMENT  
FOR  
SHIPP BARN**

March 16, 2021

**WHEN RECORDED, RETURN TO:**

**WHEN RECORDED, MAIL TO:**

Draper City Recorder  
1020 E. Pioneer Rd.  
Draper, UT 84020

**MASTER DEVELOPMENT AGREEMENT  
FOR  
SHIPP BARN**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered into as of the 16th day of March, 2021 by and between Draper City, a Utah municipality, Shipp Investments, LLC, a Utah limited liability company and the Cami D. Shipp Trust, Nathan D. Shipp Trustee.

**RECITALS**

- A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.
- B. Shipp Investments and the Trust each own certain of the Properties.
- C. Shipp Investments, the Trust and the City desire that the Properties be developed in a unified and consistent fashion pursuant to the Master Plan.
- D. The Parties acknowledge that development of the Properties pursuant to this MDA will result in planning and economic benefits to the City and its residents by, among other things, requiring orderly development of the Properties.
- E. The Parties desire to enter into this MDA to specify the rights and responsibilities of Shipp Investments and the Trust to develop the Properties as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.
- F. The Parties understand and intend that this MDA is a “development agreement” within

the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2020) *et seq.*

G. The Properties are zoned RA2.

H. This MDA conforms with the intent of the City's General Plan and the Zoning.

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

## TERMS

### 1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" – "D" are hereby incorporated into this MDA.

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

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2020), *et seq.*

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

1.2.3. **City** means Draper City, a Utah municipality.

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

1.2.5. **City's Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit "C".

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

1.2.7. **Default** means a material breach of this MDA as specified herein.

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

1.2.9. **Development** means the development of a portion of the Properties pursuant to an approved Development Application.

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

1.2.11. **Exceptions to City's Vested Laws** means those minor deviations from the City's Vested Laws necessary for the development of the Project as more fully specified in Exhibit "D" and referenced in Section 3.1, below.

1.2.12. **Existing Home** means the currently existing home located at 570 East Stokes Avenue.

1.2.13. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2020), or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.14. **Master Plan** means the conceptual layout for the Project attached as Exhibit "B".

1.2.15. **MDA** means this Master Development Agreement including all of its Exhibits.

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

1.2.17. **Party/Parties** means, in the singular, the Trust, Shipp Investments or the City; in the plural Shipp Investments, the Trust and the City.

1.2.18. **Pasture** means that area shown on the Master Plan as Lots 2, 3 and 4 which is currently used as a pasture.

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

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

1.2.21. **Properties** means the real properties owned by and to be developed by Shipp Investments or the Trust more fully described in Exhibit "A".

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

1.2.23. **Shipp Investments** means Shipp Investments, LLC, a Utah Limited liability company.

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

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

1.2.26. **The Trust** means the Cami D. Shipp Trust, Nathan D. Shipp Trustee.

1.2.27. **Zoning** means the RA2 zoning for the Properties.

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

## **2. Development of the Project.**

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

**2.2. Preservation of Existing Home.** The Existing Home shall not be demolished during the term of this MDA. The Trust, and any assignee thereof, shall take reasonable steps to preserve and maintain the look, feel and historical aspects of the Existing Home such that it is suitable for human occupation.

**2.3. Repairs for Catastrophic Damage.** The Trust shall purchase an insurance policy to protect the existing home from fire, theft, vandalism, wind and hail. The Trust shall not be responsible to rebuild or repair the Existing Home if an uninsured event occurs or if the insurance provider is unwilling to provide like kind materials to preserve and maintain the look, feel and historical aspects of the Existing Home. If the Existing Home is damaged due to an uninsured peril or an event beyond the reasonable control of the Trust so that it cannot be restored in a commercially reasonable manner then this provision shall expire.

**2.4. Pasture.** Shipp Investments shall maintain the Pasture in its current pastoral state until at least December 31, 2028. The Pasture shall be maintained by Shipp Investments in compliance with the City's Vested Laws.

**2.5. Dispute Resolution.** If there is any dispute about the subject of this Section 2 that dispute shall be resolved pursuant to the provisions of Sections 7.3 - 7.5.

**3. Vested Rights.**

**3.1. Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this MDA grants the Trust and Shipp Investments all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws (with the Exceptions to the City's Vested Laws specified in Exhibit "D"), the Zoning and the Master Plan except as specifically provided herein. The Parties specifically intend that this MDA grant to the Trust and Shipp Investments "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2020).

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

3.2.1. Agreement by the Trust and Shipp Investments. City's Future Laws that the Trust and Shipp Investments agree in writing to the application thereof to the Project;

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

3.2.3. Codes. Any City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, fire or

similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual on Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

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

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

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2020) *et seq.*;

3.2.7. Planning and Zoning Modification. Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes are generally applicable across the entire City and do not materially and unreasonably increase the costs of the Development of the Master Plan; or

3.2.8. Compelling, Countervailing Interest. Laws, rules or regulations that the City's

land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2020).

**4. Term of Agreement.** The effective date of this MDA shall be until December 31, 2046.

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

**6. Public Infrastructure.**

**6.1. Construction by and Shipp Investments.** Shipp Investments shall obtain a Minor Subdivision and Land Disturbance Permit from the City and construct the curb, gutter and sidewalk improvements as shown on the Master Plan. The curb, gutter and sidewalk shall be completed to City standards no later than October 15, 2021. After acceptance by the City the curb, gutter and sidewalk shall become the property of the City.

**6.2. Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure is required by the City then Applicant shall provide it in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws and improvement completion assurance agreements, if any.

**7. Default.**

**7.1. Notice.** If Shipp Investments or the Trust or the City fails to perform their respective

obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other Party.

**7.2. Contents of the Notice of Default.** The Notice of Default shall:

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

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

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

7.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration.

**7.3. Meet and Confer.** If any Party gives a Notice of Default the Parties shall meet within twenty-one (21) calendar days of the Notice of Default in a good faith effort to resolve the issues specified in the Notice.

**7.4. Mediation.** If the Parties are unable to resolve the Notice of a Default pursuant to the Meet and Confer provision of Section 7.3 the Parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the issue in dispute. If the Parties are unable to agree on a single acceptable mediator they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. The Parties shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar days, review the positions of the Parties regarding the Dispute and promptly attempt to mediate the issue between the Parties. If the Parties are

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

**7.5. Arbitration.** If the Parties are unable to resolve a Notice of Default through mediation, the Parties shall then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the issue in dispute. If the Parties are unable to agree on a single acceptable arbitrator they shall each, within fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. The Parties shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the Parties regarding the Dispute and render a decision. The arbitrator shall ask the prevailing Party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon the Parties. If the arbitrator determines as a part of the decision that the position of a Party was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order that offending Party to pay the arbitrator's fees. Any award or decision in arbitration may be enforced pursuant to the Utah Uniform Arbitration Act, Chapter 11 of Title 78B of the Utah Code.

**7.6. Emergency Defaults.** The requirements of Sections 7.3, 7.4 and 7.5 shall not apply to any Default that the City declares in the Notice of Default to be an emergency related to the fundamental purpose of this MDA such as the eminent demolition of the Existing Home.

**7.7. Remedies.** The City shall be entitled to all rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance; the right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default; and the right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project until the Default has been cured.

**7.8. Limitation on Recovery for Default – No Damages.** Anything in this MDA notwithstanding no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Shipp Investments or the Trust shall be that of specific performance.

8. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To Shipp Investments:**

Nathan Shipp  
Shipp Investments  
14034 South 145 East  
Suite 204  
Draper UT 84020  
[nate@daiutah.com](mailto:nate@daiutah.com)  
801-259-6145

**To the Trust:**

Nathan Shipp  
Cami D. Shipp Trust  
14034 South 145 East  
Suite 204  
Draper UT 84020  
[nate@daiutah.com](mailto:nate@daiutah.com)  
801-2596145

**With a Copy to:**

Bruce R. Baird  
Bruce R. Baird, PLLC  
2150 South 1300 East, Suite 500  
Salt Lake City, UT 84101  
[bbaird@difficultdirt.com](mailto:bbaird@difficultdirt.com)  
801.647.1400

**To the City:**

Draper City  
Attn: City Manager  
David Dobbins  
1020 East Pioneer Road  
Draper, UT 84020  
[David.dobbins@draper.ut.us](mailto:David.dobbins@draper.ut.us)  
(801) 576-6500

**With a Copy to:**

Draper City  
Attn: City Attorney  
Mike Barker  
1020 East Pioneer Road  
Draper, UT 84020  
[Mike.barker@draper.ut.us](mailto:Mike.barker@draper.ut.us)  
(801) 576-6500

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

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

8.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email

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

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

9. Headings. The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidence of intent.

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

11. Assignability. The rights and responsibilities of the Trust or Shipp Investments under this MDA may be assigned in whole or in part, respectively, by the Trust or Shipp Investments with the consent of the City as provided herein.

**11.1. Sale of Lots.** Shipp Investments' selling or conveying lots in any approved Subdivision or Parcels to builders or end-users shall not be deemed to be an "assignment" subject to the above-referenced approval by the City.

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

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

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

**11.5. Partial Assignment.** If any proposed assignment is for less than all of the Trust or

Shipp Investments' rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment the Trust or Shipp Investments shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations herein.

**11.6. Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of the Trust or Shipp Investments proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City.

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

12. **Binding Effect.** This MDA shall be binding on any owner of the Properties.

13. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

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

15. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation

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

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

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

18. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

19. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake City Division.

20. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a

subsequent written amendment signed by all Parties.

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

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

23. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. 1481 adopted by the City on March \_\_\_, 2021.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

Shipp Investments

CITY

By: af  
Its: Manager  
Date: 3/25/21

The Trust

By: Cami D. Shipp Trust  
Its: Trustee  
Date: 3/25/21

Draper City

By: David Dabbous  
Its: City Manager  
Date: 3-29-21

Approved as to form and legality:

W.R.  
City Attorney

David Dabbous  
City Recorder

## CITY ACKNOWLEDGMENT

On the 29 day of March, 2021 personally appeared before me David Dobbins, who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

Kellie Chalberg  
NOTARY PUBLIC

My Commission Expires: 1/10/2023

Residing at: Salt Lake County, UT



## SHIPP INVESTMENTS ACKNOWLEDGMENT

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

On the 25<sup>th</sup> day of March, 2021, personally appeared before me Nathan Shipp, who being by me duly sworn, did say that he/she is the Manager of Shipp Investments Utah LLC and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company. Q S 1

Angela Fox  
NOTARY PUBLIC

My Commission Expires: 10/31/2021

Residing at: Draper, UT



## THE TRUST ACKNOWLEDGMENT

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

On the 25<sup>th</sup> day of March, 2021, personally appeared before me Nathan Shipp, who being by me duly sworn, did say that he/she is the Trustee of Shipp Investments Utah LLC and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

Angela Fijen  
NOTARY PUBLIC

My Commission Expires: 10/31/2021

Residing at: Draper, ut



Exhibit "A"	Legal Description of Properties	Master Plan	City's Vested Laws	Exclusions to City's Vested Laws	Exhibit "D"
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**TABLE OF EXHIBITS**

**Exhibit "A"**  
**Legal Description of the Properties**

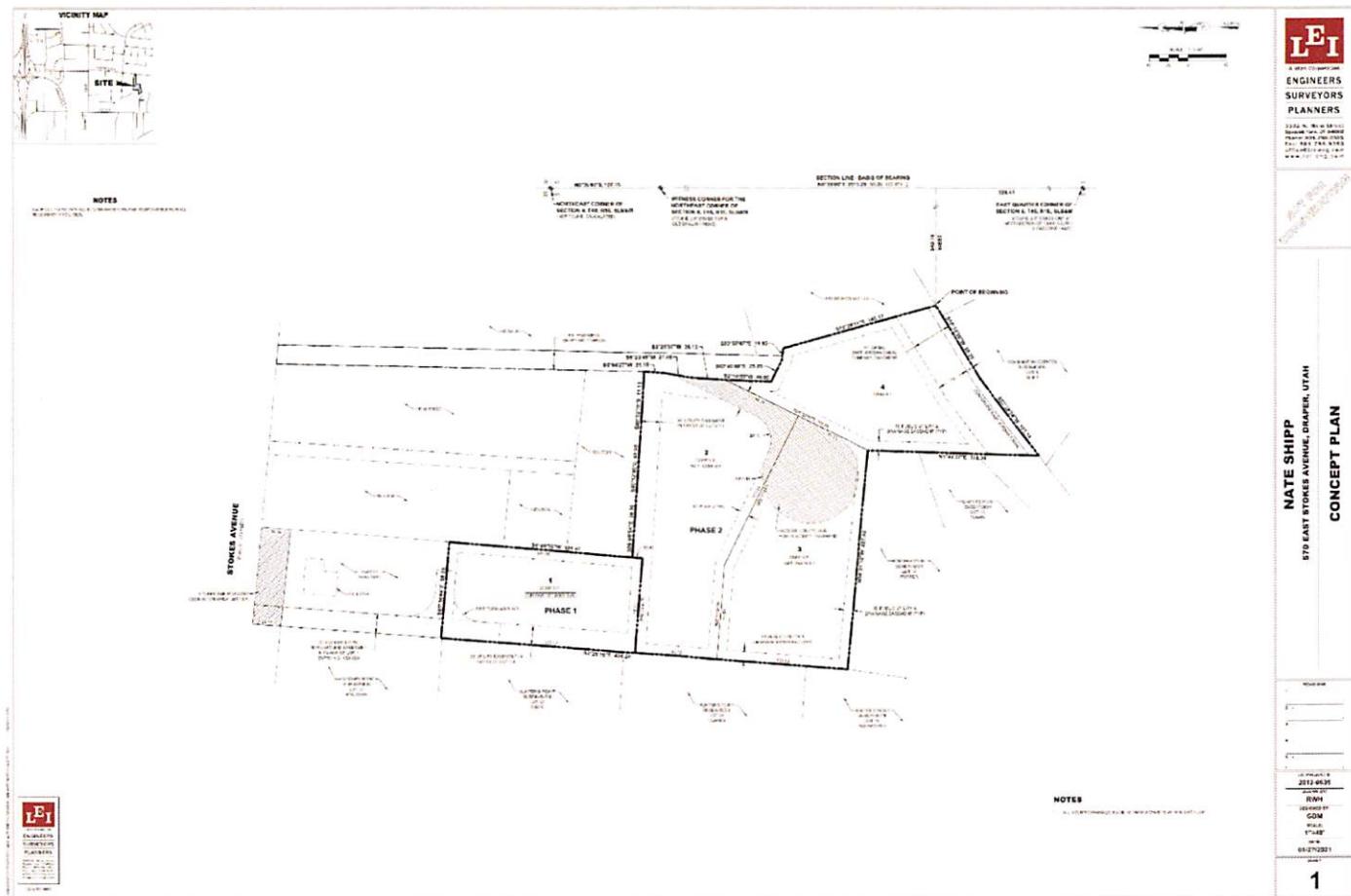
**BOUNDARY DESCRIPTION**

A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF KENNINGTON ESTATES SUBDIVISION, SAID POINT BEING LOCATED N0°35'00"E ALONG THE SECTION LINE 824.41 FEET AND WEST 549.74 FEET FROM THE EAST QUARTER CORNER OF SECTION 6, T4S, R1E, S.L.B.& M.; THENCE ALONG SAID SUBDIVISION LINE THE FOLLOWING TWO (2) COURSES: S58°34'38"W 88.26 FEET; THENCE S52°28'54"W 101.14 FEET; THENCE ALONG THE HUNTER'S POINT SUBDIVISION AND THE EXTENSION THEREOF THE FOLLOWING FOUR (4) COURSES: N1°41'37"E 178.39 FEET; THENCE N84°31'32"W 227.92 FEET; THENCE N4°25'19"E 424.24 FEET; THENCE S85°10'04"E 99.65 FEET; THENCE S4°49'56"W 191.47 FEET; THENCE S86°09'54"E 56.36 FEET; THENCE S86°12'46"E 65.98 FEET; THENCE S86°33'15"E 71.13 FEET; THENCE S5°04'27"W 21.18 FEET; THENCE S9°23'49"W 27.46 FEET; THENCE S3°25'07"W 36.13 FEET TO AN EXISTING FENCE LINE; THENCE ALONG SAID EXISTING FENCE LINE THE FOLLOWING FOUR (4) COURSES: S2°16'55"W 48.05 FEET; THENCE S63°46'49"E 25.25 FEET; THENCE S83°58'47"E 11.93 FEET; THENCE S15°29'11"E 165.17 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±2.52 ACRES

## Exhibit "B" Master Plan



**Exhibit "C"**  
**City's Vested Laws**

**Exhibit "D"**  
Exceptions to the City's Vested Laws

- The layout and configuration of Lots 2, 3, and 4 are conceptually approved and will be created at a later date from Lot 1 by the administrative processes in the City's Vested Laws. The property which will be Lots 2, 3 and 4 shall be allowed to remain as a remnant parcel until subdivided in the future. Existing accessory structures may remain on the property until such time as the lots are subdivided. This is a deviation from DCMC Section 17-5-020(H) which prohibits remnant parcels and DCMC Section 9-10-030(B)(2) which prohibits accessory structures without a primary structure.
- When developed, Lots 2, 3, and 4 will be allowed to be accessed off the 20' east access lane. The existing private lane will not be required to be widened at the time of the subdivision, as would normally be required under DCMC Section 9-27-150. At no time shall the width of the asphalt improvements be less than 20' wide.
- Lot 1 will be allowed to access Stokes Avenue from a 20' private access lane across the north parcel from Lot 1 not being subdivided. The 20' private access lane and fire turn around may be counted towards the minimum lot size. This is a deviation from DCMC Section 9-3-040 Lot Area definition and Table 9-10-3 Note 1 which prohibits access lanes and private roads from counting towards the minimum lot size area.
- The 20' private access lane across the north parcel from Lot 1 will count towards the minimum lot size of the north parcel, it will also be counted in the minimum lot width standard for the parcel. This is a deviation from DCMC Section 9-3-040 Lot Area definition and Table 9-10-3 Note 1 which prohibits access lanes and private roads from counting towards the minimum lot size area.
- The proposed dedication and right-of-way improvement area is currently counted in the acreage of the parcel which contains the existing home. Once the dedication takes place, the parcel will be deficient in acreage. The size of the parcel after the dedication is hereby specifically acknowledged as a deviation to DCMC Table 9-10-3. The parcel is recognized as a legal, conforming lot and the existing home on is recognized as a legal, conforming structure.
- Traffic Studies from Hales Engineering dated August 7, 2020 and supplemented on February 22, 2021 have been reviewed and accepted by the City as complying with the City's requirements for the areas shown therein. The minimum spacing requirements for access points on Stokes Ave is 200-feet. The concept plan contains access points which do not comply with the 200-foot spacing standards. The Traffic Studies state that the proposed access points shown in the concept plan will be safe and will not hamper the operation of the Stokes Ave. Modified access spacing, as shown in the concept plan, are approved with this Development Agreement.

To be published on Friday, March 26, 2021, in *Deseret News*

City of Draper Notice of Ordinance Adoption – On March 16, 2021, the Draper City Council approved Ordinance #1481, known as the Shipp Barn Development Agreement. The complete ordinance is on file at the Draper City Recorder's Office and online at [www.draperutah.gov](http://www.draperutah.gov). Published this 26th day of March 2021. Laura Oscarson, Draper City Recorder.





# MEMO

To: City Council Meeting

From: Jonathan Concidine

CC:

Date: August 16, 2022

Re: Avery Townhomes – Land Use & Zoning Map Amendments Request

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## Comments:

This application is a request for approval of Land Use & Zoning Map Amendments for approximately 2.44 acres located between 12300 S. and 12220 S. on the north and south, and Placer St. and 670 E. on the east and west, at approximately 638 E. 12225 S. The property is currently zoned OR. The applicant is requesting that Land Use & Zoning Map Amendments be approved to allow for the development of four townhomes units in addition to the 17 that have been previously approved.

The Planning Commission heard this application on its July 28, 2022 meeting and forwarded a positive recommendation for both items on 5-0 votes.

The findings are as follows:

## For approval:

1. The proposed amendment is consistent with the goals, objectives and policies of the city's general plan.
2. The proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is consistent with the standards of any applicable overlay zone;
4. The proposed amendment should not adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are adequate.
6. The proposed land use map amendment complies with DCMC Sections 9-2-020(F) and 9-5-060(D).

## For denial:

1. The proposed amendment is not consistent with goals, objectives and policies of

the city's general plan.

2. The proposed amendment is not harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is not consistent with the standards of any applicable overlay zone.
4. The proposed amendment is likely to adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are inadequate.
6. The proposed land use map amendment does not comply with DCMC Sections 9-2-020(F) and 9-5-060(D).

ATTACHMENTS:

Description	Upload Date	Type
Ordinance #1555	8/11/2022	Cover Memo
Ordinance #1556	8/11/2022	Cover Memo
PC Staff Report	8/11/2022	Cover Memo

## ORDINANCE NO. 1555

### **AN ORDINANCE AMENDING THE OFFICIAL LAND USE MAP OF DRAPER CITY FOR APPROXIMATELY 2.44 ACRES OF PROPERTY FROM NEIGHBORHOOD COMMERCIAL TO RESIDENTIAL HIGH DENSITY, LOCATED AT APPROXIMATELY 638 E. 12225 SOUTH WITHIN DRAPER CITY, OTHERWISE KNOWN AS THE AVERY TOWNHOMES LAND USE AMENDMENT.**

**WHEREAS**, pursuant to State law, Draper City has adopted a General Plan and Land Use Map to guide the future development within the City; and

**WHEREAS**, from time to time it is necessary to review and amend the Land Use Map to keep pace with development within the City and to ensure the provision of a variety of economic uses; and

**WHEREAS**, the proposed land use change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Land Use Map; and

**WHEREAS**, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed amendment to the official Land Use Map of Draper City, and the City Council has found the proposed land use change to be consistent with the City's General Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:**

**Section 1. Land Use Amendment.** The following described real property located at approximately 638 E. 12225 South within Draper City, Salt Lake County, State of Utah, previously designated Neighborhood Commercial as shown on the Draper City Land Use Map, as depicted in Exhibit "A" hereto, are hereby changed to the Residential High Density land use designation:

Beginning at the Northwest Corner of MIDAS CREEK COMMERCIAL CONDOMINIUMS PHASE 1, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder, located S00°02'47"W along the Section line 543.17 feet and West 282.80 feet from the East 1/4 Corner of Section 30, T3S, R1E, SLB&M; thence South along said plat 183.79 feet; thence S89°45'00"W 280.64 feet to a point on a boundary line agreement recorded as Entry No. 11281758 of the Official Records of Salt Lake County; thence along said agreement the following 5 (five) courses:

- 1) N00°15'00"W 150.00 feet;
- 2) S89°45'00"W 100.00 feet;
- 3) S00°46'08"W 306.90 feet;
- 4) S00°24'40"W 54.07 feet;
- 5) S33°25'14"E 42.43 feet to the North line of 12300 South Street;

thence S89°45'00"W along said street 0.69 feet; thence S59°32'40"W along said street 46.82 feet; thence N32°44'52"W 42.10 feet; thence N15°11'17"W 19.38 feet; thence N00°05'04"E 57.46 feet; thence N88°34'10"W 1.50 feet to a point on the Easterly line of THE PARC AT DAY DAIRY SUBDIVISION – AMENDMENT No. 3, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N00°46'01"E along said plat 525.45 feet to the South line of 12200 South Street; thence N89°56'35"E along said street 163.52 feet; thence S00°04'30"W 181.63 feet; thence East 262.43 feet to the point of beginning. Contains 2.44 acres more or less.

**Section 2. Severability Clause.** If any part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting, or 30 days after final passage, whichever is closer to the date of final passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY,  
STATE OF UTAH, ON THE 16th DAY OF AUGUST, 2022.**

**DRAPER CITY**

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**Mayor Troy K. Walker**

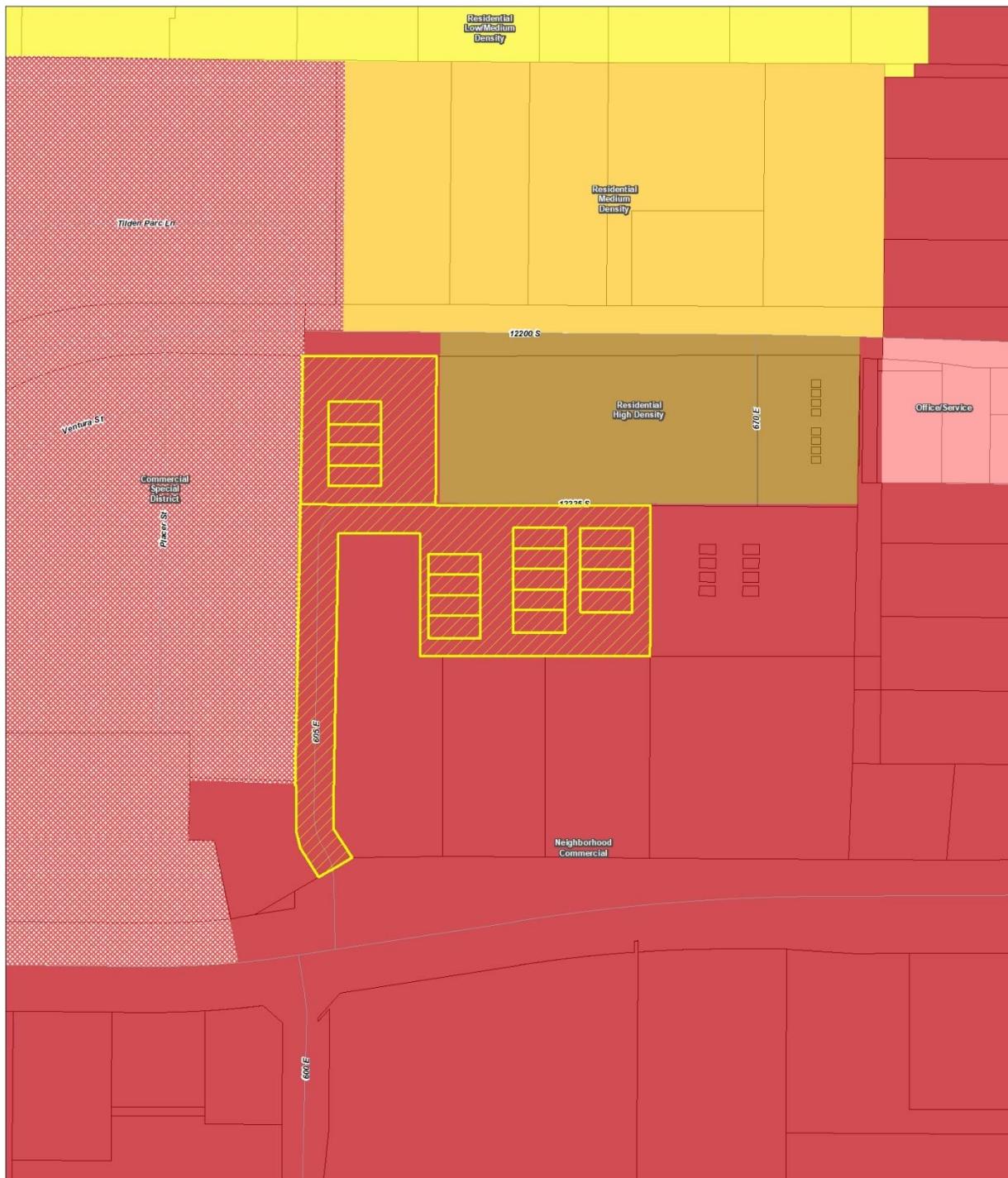
**ATTEST:**

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**Laura Oscarson, CMC, City Recorder**

VOTE TAKEN:	YES	NO
Councilmember Green	_____	_____
Councilmember T. Lowery	_____	_____
Councilmember F. Lowry	_____	_____
Councilmember Roberts	_____	_____
Councilmember Vawdrey	_____	_____
Mayor Walker	_____	_____

**EXHIBIT A**  
**AVERY TOWNHOMES LAND USE AMENDMENT**



Avery Townhomes Rezone  
Land Use Map

0 87.5 175 350 Feet



N  
↗

## ORDINANCE NO. 1556

### **AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF DRAPER CITY FOR APPROXIMATELY 2.44 ACRES OF PROPERTY FROM OR (OFFICE/RESIDENTIAL) TO RM2 (MULTI-FAMILY RESIDENTIAL), LOCATED AT APPROXIMATELY 638 E. 12225 SOUTH WITHIN DRAPER CITY, OTHERWISE KNOWN AS THE AVERY TOWNHOMES ZONING MAP AMENDMENT.**

**WHEREAS**, pursuant to State law, Draper City has adopted a Zoning Ordinance and Zoning Map to guide the orderly development and use of property within the City; and

**WHEREAS**, from time to time it is necessary to review and amend the Zoning Map to keep pace with development within the City and to ensure the provision of a variety of economic uses; and

**WHEREAS**, the proposed zone change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Map; and

**WHEREAS**, the Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed amendment to the official Zoning Map of Draper City, and the City Council has found the proposed zone change to be consistent with the City's General Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH:**

**Section 1. Zoning Map Amendment.** The following described real property located at approximately 638 E. 12225 South within Draper City, Salt Lake County, State of Utah, previously zoned OR as shown on the Draper City Zoning Map, as depicted in Exhibit "A" hereto, are hereby changed and rezoned to RM2:

Beginning at the Northwest Corner of MIDAS CREEK COMMERCIAL CONDOMINIUMS PHASE 1, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder, located S00°02'47"W along the Section line 543.17 feet and West 282.80 feet from the East 1/4 Corner of Section 30, T3S, R1E, SLB&M; thence South along said plat 183.79 feet; thence S89°45'00"W 280.64 feet to a point on a boundary line agreement recorded as Entry No. 11281758 of the Official Records of Salt Lake County; thence along said agreement the following 5 (five) courses:

- 1) N00°15'00"W 150.00 feet;
- 2) S89°45'00"W 100.00 feet;
- 3) S00°46'08"W 306.90 feet;
- 4) S00°24'40"W 54.07 feet;
- 5) S33°25'14"E 42.43 feet to the North line of 12300 South Street;

thence S89°45'00"W along said street 0.69 feet; thence S59°32'40"W along said street 46.82 feet; thence N32°44'52"W 42.10 feet; thence N15°11'17"W 19.38 feet; thence N00°05'04"E 57.46 feet; thence N88°34'10"W 1.50 feet to a point on the Easterly line of THE PARC AT DAY DAIRY SUBDIVISION – AMENDMENT No. 3, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N00°46'01"E along said plat 525.45 feet to the South line of 12200 South Street; thence N89°56'35"E along said street 163.52 feet; thence S00°04'30"W 181.63 feet; thence East 262.43 feet to the point of beginning. Contains 2.44 acres more or less.

**Section 2. Severability Clause.** If any part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all provisions, clauses and words of this Ordinance shall be severable.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting, or 30 days after final passage, whichever is closer to the date of final passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE 16th DAY OF AUGUST, 2022.**

**DRAPER CITY**

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**Mayor Troy K. Walker**

**ATTEST:**

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**Laura Oscarson, CMC, City Recorder**

VOTE TAKEN:	YES	NO
Councilmember Green	_____	_____
Councilmember T. Lowery	_____	_____
Councilmember F. Lowry	_____	_____
Councilmember Roberts	_____	_____
Councilmember Vawdrey	_____	_____
Mayor Walker	_____	_____

**EXHIBIT A**  
**AVERY TOWNHOMES ZONING MAP AMENDMENT**



**Avery Townhomes Rezone  
Zoning Map**

0 87.5 175 350 Feet





## Development Review Committee

1020 East Pioneer Road  
Draper, UT 84020  
07/15/2022

**To:** Draper City Planning Commission  
Business Date: August 28, 2022

**From:** Development Review Committee

**Prepared By:** Jonathan Concidine, Planner  
Planning Division  
Community Development Department  
801-576-6522, [j.concidine@draperutah.gov](mailto:j.concidine@draperutah.gov)

**Re: Avery Townhomes – Land Use & Zoning Map Amendments Request**

Application No.: TEXTMAP-139-2022 & TEXTMAP-142-2022  
Applicant: Troy Dana, representing Draper Office Associates, LLC  
Project Location: Approximately 638 E. 12225 S.  
Current Zoning: OR (Office/Residential) Zone  
Acreage: 2.44 Acres (Approximately 106,000 ft<sup>2</sup>)  
Request: Request for approval of Land Use and Zoning Map Amendments in the OR (Office/Residential) zone regarding a proposed change to the Land Use designation from Neighborhood Commercial to High Density Residential and the zoning to RM2 (Multi-Family Residential, up to 12 du/ac).

### **BACKGROUND AND SUMMARY**

This application is a request for approval of Land Use & Zoning Map Amendments for approximately 2.44 acres located between 12300 S. and 12220 S. on the north and south, and Placer St. and 670 E. on the east and west, at approximately 638 E. 12225 S. (Exhibits C & D). The property is currently zoned OR. The applicant is requesting that Land Use & Zoning Map Amendments be approved to allow for the development of four townhomes units in addition to the 17 that have been previously approved.

The property is subdivided into lots on the plat named The Avery Townhomes. Previously it was part of the Victoria Woods subdivision. The Avery Townhomes plat was approved by the Planning Commission on December 10, 2020.

### **ANALYSIS**

#### Existing General Plan and Zoning

<b>Table 1</b> <b>General Plan and Zoning Designations</b>		<b>Exhibit</b>
Existing Land Use	Neighborhood Commercial	Exhibit E
Current Zoning	OR	Exhibit F
Proposed Use	Multi-Family Residential	
Adjacent Zoning		
East	OR	
West	CSD-DD (Day Dairy Commercial Special District)	
North	OR , RA1 (Residential Agricultural, 40,000 sq ft min. lots), RA2 (Residential Agricultural, 20,000 sq ft min. lots), R3 (Single Family Residential, 13,000 sq ft min. lots)	
South	CC (Community Commercial)	

The Neighborhood Commercial land use designation is characterized as follows:

#### *Neighborhood Commercial*

<b>LAND USE DESCRIPTION</b>	
<b>CHARACTERISTICS</b>	<ul style="list-style-type: none"> <li>Small-scale commercial land uses that serve local residents in adjacent neighborhoods</li> <li>Minimal impact in predominantly residential areas</li> <li>Well-landscaped street frontages</li> <li>Limited traffic access points and pedestrian access from surrounding residential areas</li> <li>Don't overcrowd commercial lots; i.e., require adequate setback and landscape buffers</li> <li>Screened parking and adequate ingress and egress to parking areas</li> <li>Adequate drainage</li> <li>Low noise standards</li> </ul>
<b>LAND USE MIX</b>	<ul style="list-style-type: none"> <li>Small-scale commercial</li> <li>Planned retail</li> <li>Office</li> </ul>
<b>COMPATIBLE ZONING</b>	<ul style="list-style-type: none"> <li>Neighborhood Commercial (CN)</li> <li>Institutional Care (IC)</li> <li>Commercial Services (CS)</li> </ul>
<b>LOCATION</b>	<ul style="list-style-type: none"> <li>Adjacent to neighborhood</li> <li>Along local roads</li> </ul>

According to Draper City Municipal Code (DCMC) Section 9-8-020 the purpose of the OR zone is *"A district composed of certain land and structures used primarily to provide administrative, clerical, and professional offices, of a residential scale and character, to serve nearby residential and commercial areas, as well as the city as a whole. These uses are characterized by low volume, direct daily customer contact. This district also provides for accessory medium-high density residential (0 to 12 du/ac). This district is designed to be a transitional zone, and should be used to buffer low density residential uses from more intense land uses, districts, and heavily traveled transportation routes. The property development standards, while strict in order to protect adjacent low density residential uses, are designed to be flexible enough to allow experimentation in office and housing design, and to allow housing constructed within this*

*district to incorporate its own protection from more intense adjacent uses."*

Proposed General Plan and Zoning

The applicant proposes a change to the Land Use Map of the General Plan from Neighborhood Commercial to the High Density Residential land use designation for the subject property.

The High Density Residential land use designation is characterized as follows:

*Residential High Density*

LAND USE DESCRIPTION		
<b>CHARACTERISTICS</b>		<ul style="list-style-type: none"> <li>• Abundant landscaping</li> <li>• Architectural variation between units and/or buildings, designed to look like houses, not boxes</li> <li>• Avoid walls and fences, except for screening and buffering with neighboring developments</li> </ul>
<b>LAND USE MIX</b>	Primary <ul style="list-style-type: none"> <li>• Patio homes</li> <li>• Townhouses</li> <li>• Multifamily housing</li> </ul>	Secondary <ul style="list-style-type: none"> <li>• Parks</li> <li>• Churches</li> <li>• Schools</li> <li>• Open Space</li> </ul>
<b>DENSITY</b>		<ul style="list-style-type: none"> <li>• Density range: 8-12 dwelling units per acre</li> </ul>
<b>COMPATIBLE ZONING</b>		<ul style="list-style-type: none"> <li>• Institutional care (IC)</li> <li>• Multiple-family Residential (RM1)</li> <li>• Multiple-family Residential (RM2)</li> <li>• Master Planned Community (MPC)</li> </ul>
<b>LOCATION</b>	<ul style="list-style-type: none"> <li>• Near retail centers, offices, or other compatible uses</li> <li>• Near major transit investment corridors</li> </ul>	
<b>OTHER CRITERIA</b>	<ul style="list-style-type: none"> <li>• Care must be taken to minimize impacts on other residential areas to provide adequate circulation to accommodate the traffic demands</li> <li>• The developer must demonstrate that the project provides a quality living environment</li> </ul>	

The applicant is proposing a change in the zoning map from OR to RM2. According to DCMC Section 9-8-020 the purpose of the RM2 zone is to *"permit well designed apartments, townhomes, twin homes, and condominiums at relatively high densities that are appropriately buffered from and compatible with surrounding land uses."*

<b>Table 2</b>	<b>Existing Zoning</b>	<b>Proposed Zoning</b>
<i>Development Standards</i>	<i>OR (Office/Residential)</i>	<i>RM2 (Multi-family Residential)</i>
Maximum Density	12 du/ac Residential uses may not take up >49% of land on site	12 du/ac
Uses Allowed	Commercial, Multi-family	Multi-family Residential

	Residential (secondary)	
Maximum Height	24 feet	35 feet
Approved Development Density	7 du/ac	N/A

### Criteria for Approval

#### Zoning Map Amendment 9-5-060(E)

A Map Amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. However, in making a recommendation to the City Council, the Planning Commission should consider the following factors in Section 9-5-060(E) of the DCMC:

##### *1. Map Amendments:*

- a. Whether the proposed amendment is consistent with goals, objectives and policies of the city's general plan;*
- b. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;*
- c. Whether the proposed amendment is consistent with the standards of any applicable overlay zone;*
- d. The extent to which the proposed amendment may adversely affect adjacent property; and*
- e. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection.*

#### Land Use Map Amendments

The Land Use Map amendment request falls under DCMC Section 9-2-020(F) because the Land Use Map is part of Draper City's General Plan. That section lists the following criteria for a General Plan amendment as:

*Plan Amendment: All plan amendments shall be in accordance with Utah Code Annotated 10-9a-404, as amended and, unless requested by the city's legislative body, shall follow the procedures as outlined in Draper City Municipal Code 9-5-060(D)." That section is noted as follows:*

*D. Procedure: Zoning text and map amendments shall be considered and processed as provided in this subsection:*

- 1. A complete application shall be submitted to the office of the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:*
  - a. The name, address and telephone number of the applicant and the applicant's agent, if any.*
  - b. The name and address of every person or company the applicant represents.*
  - c. The requested amendment and reasons supporting the request.*

- d. *If the proposed amendment requires a change in the zoning map, the application shall include:*
  - (1) *An accurate property map showing present and proposed zoning classifications;*
  - (2) *All abutting properties showing present zoning classifications; and*
  - (3) *An accurate legal description and an approximate common address of the area proposed to be rezoned.*
- e. *If the proposed amendment requires a change in the text of this title, the application shall include chapter and section references and a draft of the proposed text.*

2. *After the application is determined to be complete, the zoning administrator shall prepare a staff report evaluating the application.*
3. *The planning commission shall schedule and hold a public hearing on the application as provided in sections 9-5-040 and 9-5-045 of this chapter. Following the public meeting, the planning commission shall recommend approval, approval with modifications, or denial of the proposed amendment and shall submit its recommendation to the city council for review and decision.*
4. *The city council shall schedule and hold a public hearing on the application as provided in sections 9-5-040 and 9-5-045 of this chapter. Following the public hearing, the city council may approve, approve with modifications, or deny the proposed amendment.*

## **REVIEWS**

*Planning Division Review.* The Draper City Planning Division has completed their review of the Land Use & Zoning Map Amendments submission. Comments from this division, if any, can be found in Exhibit A.

*Engineering and Public Works Divisions Review.* The Draper City Engineering and Public Works Divisions have completed their reviews of the Land Use & Zoning Map Amendments submission. Comments from these divisions, if any, can be found in Exhibit A.

*Fire Division Review.* The Draper City Fire Marshal has completed his review of the Land Use & Zoning Map Amendments submission. Comments from this division, if any, can be found in Exhibit A.

*Noticing.* Notice has been properly issued in the manner outlined in the City and State Codes.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the request, receive public comment, and make a decision based on the findings listed below and the criteria for approval, or denial, as listed within the staff report.

The findings for approval are as follows:

1. The proposed amendment is consistent with the goals, objectives and policies of the city's general plan.
2. The proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is consistent with the standards of any applicable overlay zone;
4. The proposed amendment should not adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are adequate.
6. The proposed land use map amendment complies with DCMC Sections 9-2-020(F) and 9-5-060(D).

The findings for denial are as follows:

1. The proposed amendment is not consistent with goals, objectives and policies of the city's general plan.
2. The proposed amendment is not harmonious with the overall character of existing development in the vicinity of the subject property.
3. The proposed amendment is not consistent with the standards of any applicable overlay zone.
4. The proposed amendment is likely to adversely affect adjacent property.
5. The facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection, are inadequate.
6. The proposed land use map amendment does not comply with DCMC Sections 9-2-020(F) and 9-5-060(D).

## **MODEL MOTIONS**

### *Land Use Map Amendment*

I move that we forward a positive recommendation to the City Council for the Avery Townhomes Land Use Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-142-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 15, 2022.

I move that we forward a positive recommendation to the City Council for the Avery Townhomes Land Use Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-142-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 15, 2022 and as modified by the findings and conditions below:

1. List any additional findings and conditions...

I move that we forward a negative recommendation to the City Council for the Avery Townhomes Land Use Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-142-2022, based on the findings listed in the Staff Report dated August 15, 2022.

**Zoning Map Amendment**

I move that we forward a positive recommendation to the City Council for the Avery Townhomes Zoning Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-139-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 15, 2022.

I move that we forward a positive recommendation to the City Council for the Avery Townhomes Zoning Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-139-2022, based on the findings and subject to the conditions listed in the Staff Report dated August 15, 2022 and as modified by the findings and conditions below:

1. List any additional findings and conditions...

I move that we forward a negative recommendation to the City Council for the Avery Townhomes Zoning Map Amendment, as requested by Troy Dana, representing Draper Office Associates, LLC, application TEXTMAP-139-2022, based on the findings listed in the Staff Report dated August 15, 2022.

## DEVELOPMENT REVIEW COMMITTEE ACKNOWLEDGEMENT

We, the undersigned, as duly appointed members of the Draper City Development Review Committee, do acknowledge that the application which provides the subject for this staff report has been reviewed by the Committee and has been found to be appropriate for review by the Draper City Planning Commission and/or City Council.

**Brien Maxfield**

Digitally signed by Brien Maxfield  
DN: cn=Brien Maxfield, o=Draper City, ou=PW -  
OU=Planning Division, ou=Draper City, c=US  
email:brien.maxfield@draperutah.gov, c=US  
Date: 2022.07.19 14:47:58 +06'00'

Draper City Public Works Department

**Don Buckley**

Digitally signed by Don Buckley  
DN: G=US, E=don.buckley@draper.ut.us,  
O=Draper City Fire Department, OU=Fire  
Marshal, CN=Don Buckley  
Date: 2022.07.20 13:13:25-06'00'

Draper City Fire Department

**Keith Collier**

Digitally signed by Keith Collier  
DN: C=US, E=keith.collier@draperutah.gov, O=Draper  
City, OU=Building Official, CN=Keith Collier  
Date: 2022.07.19 13:52:49-06'00'

Draper City Building Division

**Jennifer Jastremsky**

Digitally signed by Jennifer Jastremsky  
DN: C=US,  
E=jennifer.jastremsky@draperutah.gov,  
O=Planning Division, OU=Draper City,  
CN=Jennifer Jastremsky  
Date: 2022.07.19 14:32:54-06'00'

Draper City Planning Division

**Mike Barker**

Digitally signed by Mike Barker  
Date: 2022.07.19 13:56:19-06'00'

Draper City Legal Counsel

## EXHIBIT A DEPARTMENT REVIEWS

REVIEWS ARE NOT MEANT TO BE AN ALL INCLUSIVE LIST OF POSSIBLE COMMENTS OR CONDITIONS.

### Engineering and Public Works Divisions Review



Public Works Department

### Engineering Division Memorandum

To: Jonathan Concidine / Planning  
Civil Engineer reviewed by: Brien Maxfield / Engineering  
Date: July 7, 2022  
Subject: Avery Townhomes – (TEXTMAP-139-2022 & TEXTMAP-142-2022) – Zoning Map and Land Use Map Amendments

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We have reviewed the subject zone map amendment application, proposing approximately two acres to be zoned from OR to RM2 in accordance with the provisions of Section 9-5-060(E) of the Draper City Municipal Code (DCMC). We speak primarily to the adequacy of facilities and services intended to serve the subject property. In making an amendment, the City Council should consider the following factors. Accordingly, the following comments are recommended for your consideration:

1. *The adequacy of facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection;*

Other than noted below, we are not aware of any inadequacies of the facilities intended to serve this property.

- a. The change in zone from office/residential (OR) to multifamily zone (RM2) represents an increase in the density of multifamily residential units with the corresponding increase in traffic. The proposed zone could have up to twenty-one multifamily residential units (townhomes), up from seventeen residential units. Each unit contributes up to eight daily trips plus one peak hour trip per unit, based on industry traffic generation tables. Any increase in traffic would be limited to 12200 South, a minor residential collector in that area and 12300 South, an arterial with significant existing traffic. This proposed rezone is under the threshold required to automatically trigger a traffic impact study, where the site is not five acres and will not generate 100 peak hour trips.

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- b. Connectivity with the subject parcel to a public right-of-way is either 12200 South or 12300 South. There are existing accesses to each street and would not be modified by any site development. Access locations are required to meet Draper City Standards as outlined in our Master Transportation Plan.
- c. There are existing storm drainage facilities at the site. Any future site drainage will be required to be addressed with any subdivision or site plan application, and shall comply with the provisions of the development requirements within the Draper City Municipal Code.
- d. Sanitary sewer facilities will be provided by South Valley Sewer District. Any subdivision application will require a commitment to serve from the Sewer District that facilities are adequate to provide service for the proposed uses.
- e. Drinking water is provided by WaterPro. Any future subdivision application will require a commitment to serve from WaterPro that facilities are adequate to provide service for the any change of uses.

Accordingly, we will provide comments relative to the potential construction activities when the appropriate application is received. Thank you for the opportunity to review the Zone Amendment Request.

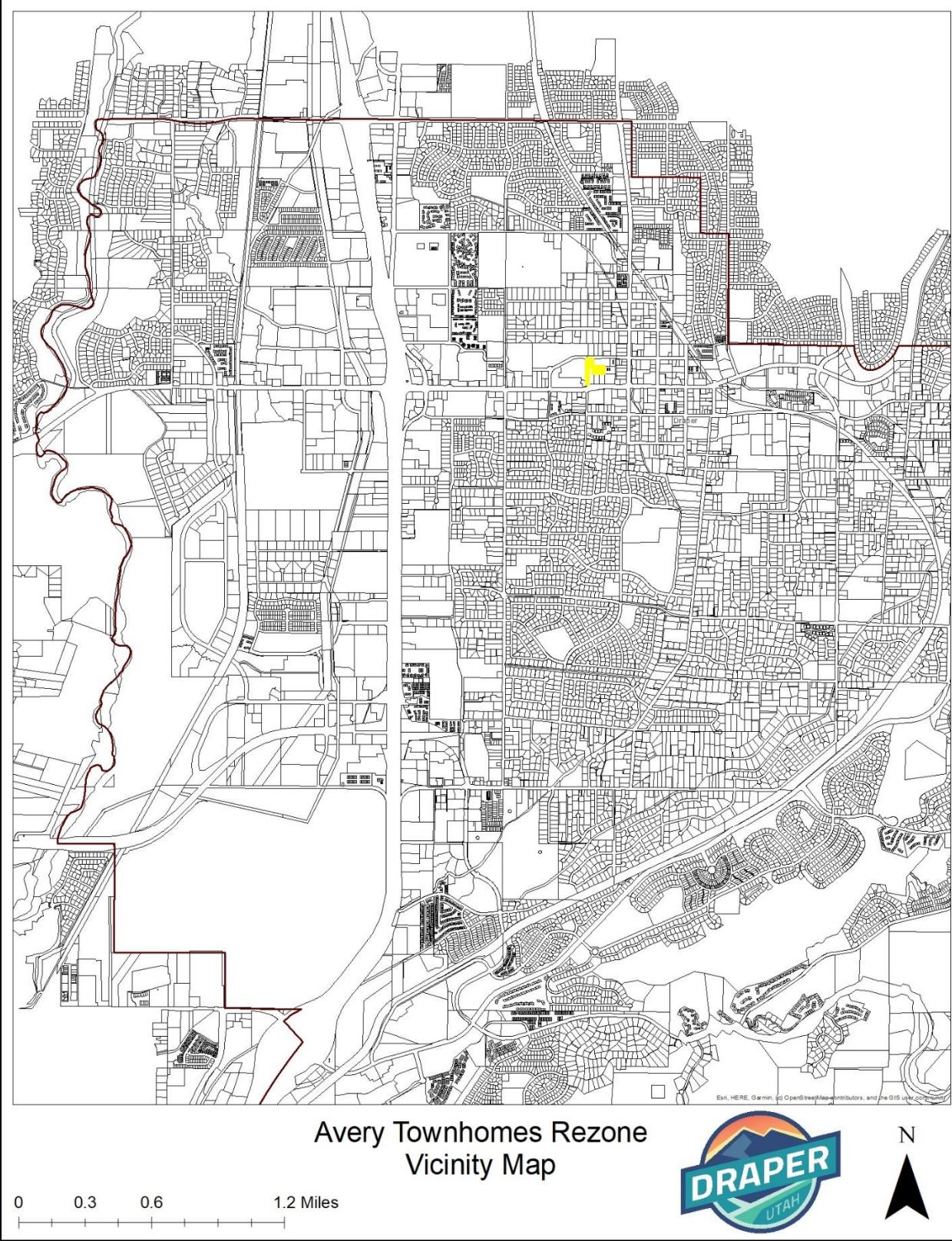
TEXTMAP-139-2022 & TEXTMAP-142-2022

**EXHIBIT B**  
**LEGAL DESCRIPTION**

A portion of the SE 1/4 of Section 30, Township 3 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of MIDAS CREEK COMMERCIAL CONDOMINIUMS PHASE 1, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder, located S00°02'47"W along the Section line 543.17 feet and West 282.80 feet from the East 1/4 Corner of Section 30, T3S, R1E, SLB&M; thence South along said plat 183.79 feet; thence S89°45'00"W 280.64 feet to a point on a boundary line agreement recorded as Entry No. 11281758 of the Official Records of Salt Lake County; thence along said agreement the following 5 (five) courses: 1) N00°15'00"W 150.00 feet; 2) S89°45'00"W 100.00 feet; 3) S00°46'08"W 306.90 feet; 4) S00°24'40"W 54.07 feet; 5) S33°25'14"E 42.43 feet to the North line of 12300 South Street; thence S89°45'00"W along said street 0.69 feet; thence S59°32'40"W along said street 46.82 feet; thence N32°44'52"W 42.10 feet; thence N15°11'17"W 19.38 feet; thence N00°05'04"E 57.46 feet; thence N88°34'10"W 1.50 feet to a point on the Easterly line of THE PARC AT DAY DAIRY SUBDIVISION – AMENDMENT No. 3, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N00°46'01"E along said plat 525.45 feet to the South line of 12200 South Street; thence N89°56'35"E along said street 163.52 feet; thence S00°04'30"W 181.63 feet; thence East 262.43 feet to the point of beginning. Contains 2.44 acres more or less.

**EXHIBIT C**  
**VICINITY MAP**



**EXHIBIT D**  
**AERIAL MAP**

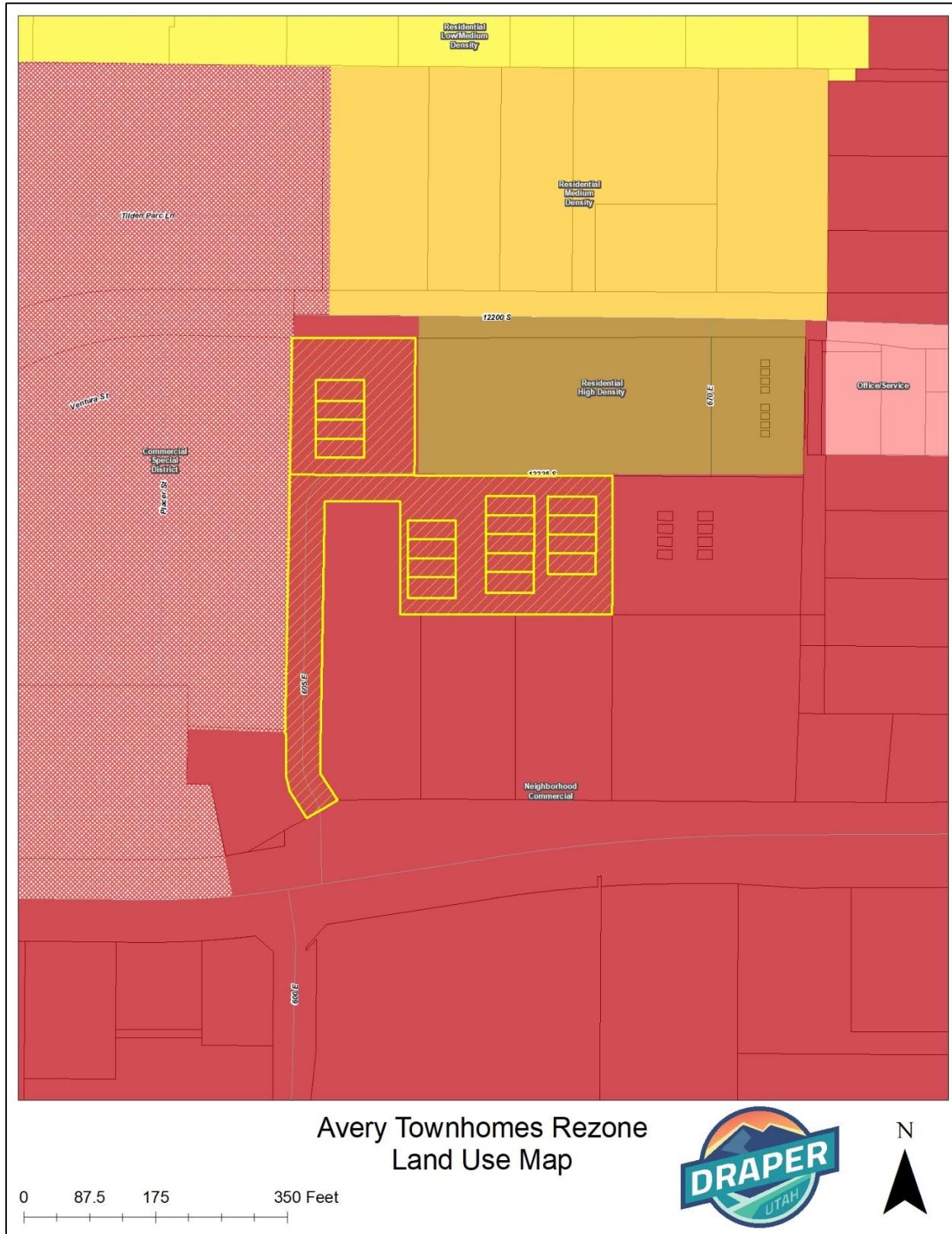


Avery Townhomes Rezone  
Aerial Map

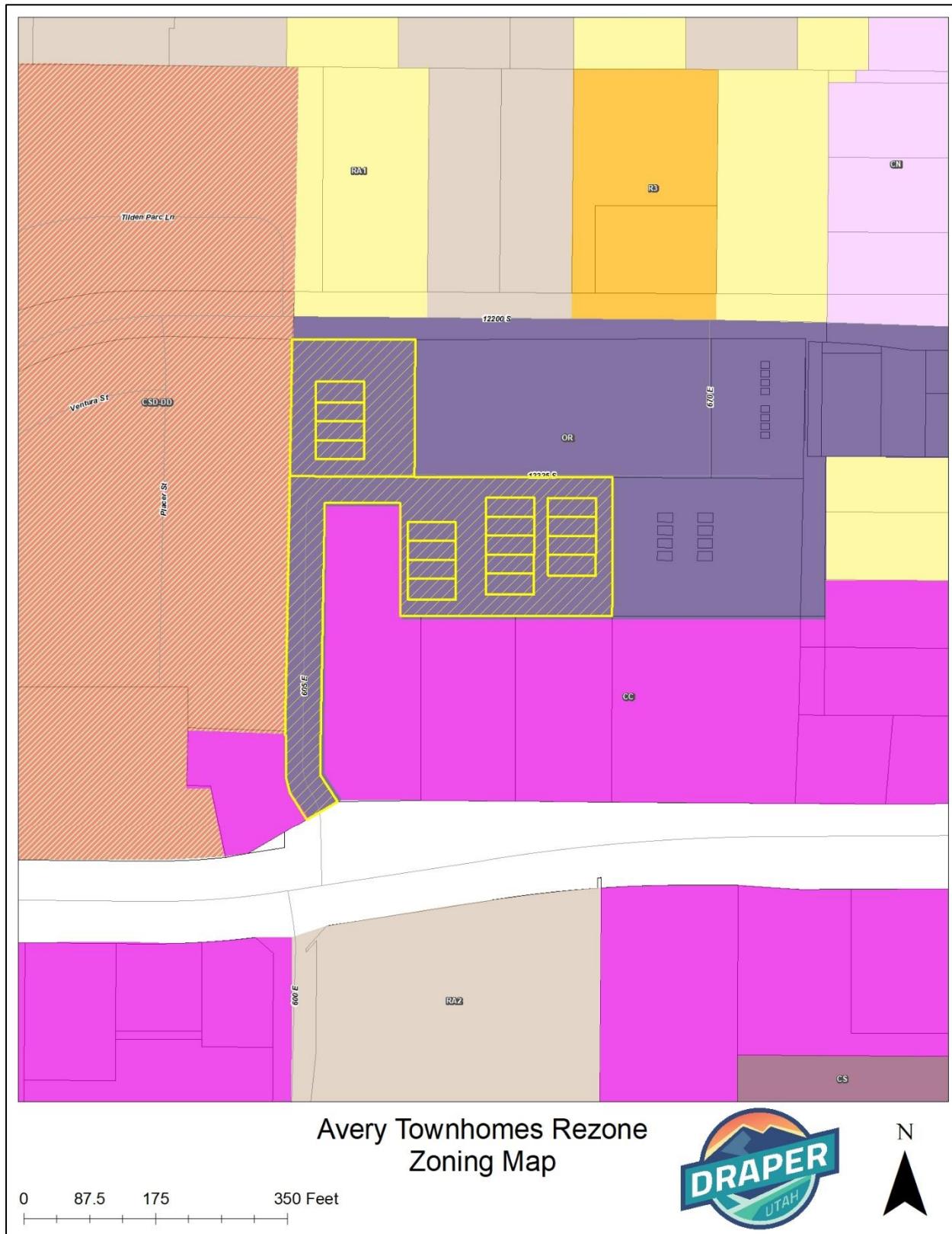
0 80 160 320 Feet



## EXHIBIT E LAND USE MAP



**EXHIBIT F**  
**ZONING MAP**



**EXHIBIT G**  
**SUBDIVISION PLAT**



## THE AVERY TOWNHOMES

LOCATED IN THE SE 1/4 OF SECTION 30, T3S, R1E,  
SALT LAKE BASE & MERIDIAN  
BRAPE CITY, SALT LAKE COUNTY, UTAH

