

AMERICAN FORK CITY COUNCIL  
FEBRUARY 28, 2023  
REGULAR SESSION AGENDA

*\*Notice of Electronic Meeting\**

One or more City Council members may be physically absent from this meeting but may participate electronically.

The American Fork City Council will meet in a regular session on Tuesday, February 28, 2023, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m. The agenda shall be as follows:

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Hunter; roll call.
2. Twenty-minute public comment period - limited to two minutes per person.
3. City Administrator's Report
4. Council Reports
5. Mayor's Report

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the February 7, 2023, work session minutes.
2. Approval of the February 14, 2023, city council minutes.
3. Acceptance of an easement at 756 East Quality Drive, Lot #1 Utah Valley Business Park Plat "M".
4. Ratification of city payments (February 8, 2023, to February 21, 2023) and approval of purchase requests over \$50,000.

ACTION ITEMS

1. Review and action on an ordinance approving a zone change for property located at approximately 96 North 350 West, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone.
2. Review and action on approval of a first amendment to the lease agreement between American Fork city and GSTC Foundation for the golf practice facility at Fox Hollow Golf Course.
3. Consideration and action to enter into a closed session to discuss items described in Utah State Code 52-4-204 and 52-4-205.
4. Adjournment.

Dated this 24<sup>th</sup> day of February 2023.



Terilyn Lurker, City Recorder

- In accordance with the Americans with Disabilities Act, the City of American Fork will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-763-3000 at least 48 hours in advance of the meeting.
- The order of agenda items may be changed to accommodate the needs of the City Council, staff, and the public.



**REQUEST FOR COUNCIL ACTION  
CITY OF AMERICAN FORK  
FEBRUARY 28, 2023**

Department Public Works

Director Approval Susan GoebelCanning

**AGENDA ITEM** Easements for Utah Valley Business Park Plat M

**SUMMARY RECOMMENDATION**

It is recommended to accept the easements at Utah Valley Business Park Plat M.

**BACKGROUND**

It was anticipated at the June, 8, 2022 approval for American Fork Industrial Flex project that they would need to submit easement documentation to the City. The requirements for easements are found in section 15.01.110 of the Municipal Code.

**BUDGET IMPACT**

None

**SUGGESTED MOTION**

Move to approve accepting the easements at Utah Valley Business Park Plat M.

**SUPPORTING DOCUMENTS**

AF Industrial Flex Waterline Easement (PDF)

Storm Drain Easement\_REV012023 - Signed (PDF)

Public Utility Easement\_REV012023 - Signed (PDF)

After recording return to:

American Fork City  
Attn: City Recorder  
51 East Main Street  
American Fork, Utah 84003

### WATERLINE UTILITY EASEMENT

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantor hereby grants, conveys, sells, and sets over unto AMERICAN FORK CITY, a Utah municipal corporation, as Grantee, its successors and assigns, a perpetual easement to construct, maintain, operate, repair, inspect, protect, install, remove and replace sewer and/or water pipelines, laterals, manholes, and other sewer and/or water transmission and distribution structures and facilities. Said easement being situated in Utah County, State of Utah, through a parcel of Grantor's land, which easement is more particularly described on **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto and incorporated herein by this reference.

To have and hold the same unto said Grantee, its successors and assigns, with right of ingress and egress in said Grantee, its contractors and assigns to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, protect, remove and replace said facilities; provided, however, that Grantee and its agent will enter upon the easement and Grantor's property at their sole risk and hazard. Grantee and Grantee's agents accept the easement granted herein and all aspects thereof in their "AS IS," WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS," including, but not limited to, both latent and patent defects, the existence of hazardous materials, if any, and any other easements, rights, or other encumbrances affecting the same.

At no time shall Grantor, its successors, licensees, lessees, contractors or assigns or their agents or employees erect or permit to be erected any building or structure of any kind within the boundaries of said perpetual easement. Notwithstanding the foregoing, Grantor reserves the right to use the easement area for any use not inconsistent with Grantee's permitted use of the easement granted herein.

Grantee shall, at its sole cost and expense, maintain and repair any Grantee-owned infrastructure located within the easement in good order and condition. Grantee shall promptly repair any damage to the Grantor's property caused by Grantee and/or Grantee's agents as set forth in Utah Code Ann. §54-3-27(2)(b).

Grantee shall maintain, and ensure that all of Grantee's agents maintain, policies of insurance which, at a minimum, are sufficient to ensure Grantee's obligations as set forth herein. Without limiting the foregoing, Grantee may fulfill its insurance obligations under this provision by means of self-insurance.

Nothing contained herein shall be deemed to be a gift or dedication of any portion of Grantor's property to the general public or for the general public or for any public purpose whatsoever, nor do the provisions herein create any third-party beneficiary rights in any person not specifically benefited by the terms and provisions hereof.

Approved as to form: American Fork City Attorney

This agreement shall be governed and construed in accordance with the laws of the State of Utah. In the event any legal action or proceeding for the enforcement of any right or obligation herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees. This agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all of such counterparts shall constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE FOLLOWS]

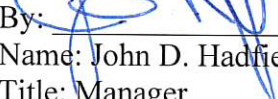
Attachment: AF Industrial Flex Waterline Easement (Easements for Utah Valley Business Park Plat M)



In witness whereof, Grantor has executed this easement this \_\_\_\_ day of \_\_\_\_\_, 2022.

“GRANTOR”

JD XVIII, LLC,  
a Utah limited liability company

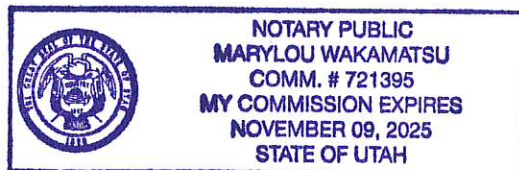
By:   
Name: John D. Hadfield  
Title: Manager


State of Utah

:ss

County of Utah

On the 30 day of June, 2022, personally appeared before me John D. Hadfield, who acknowledged to be the Manager of JD XVIII, LLC, and that he, as such Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained.



  
Notary Public

Attachment: AF Industrial Flex Waterline Easement (Easements for Utah Valley Business Park Plat M)

ACCEPTED BY:

AMERICAN FORK CITY

\_\_\_\_\_  
Bradley J. Frost, Mayor

State of Utah

:ss

County of Utah

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me Bradley J. Frost, who acknowledged to be the Mayor of American Fork City, and that he, as Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

Attachment: AF Industrial Flex Waterline Easement (Easements for Utah Valley Business Park Plat M)

**Exhibit "A"**

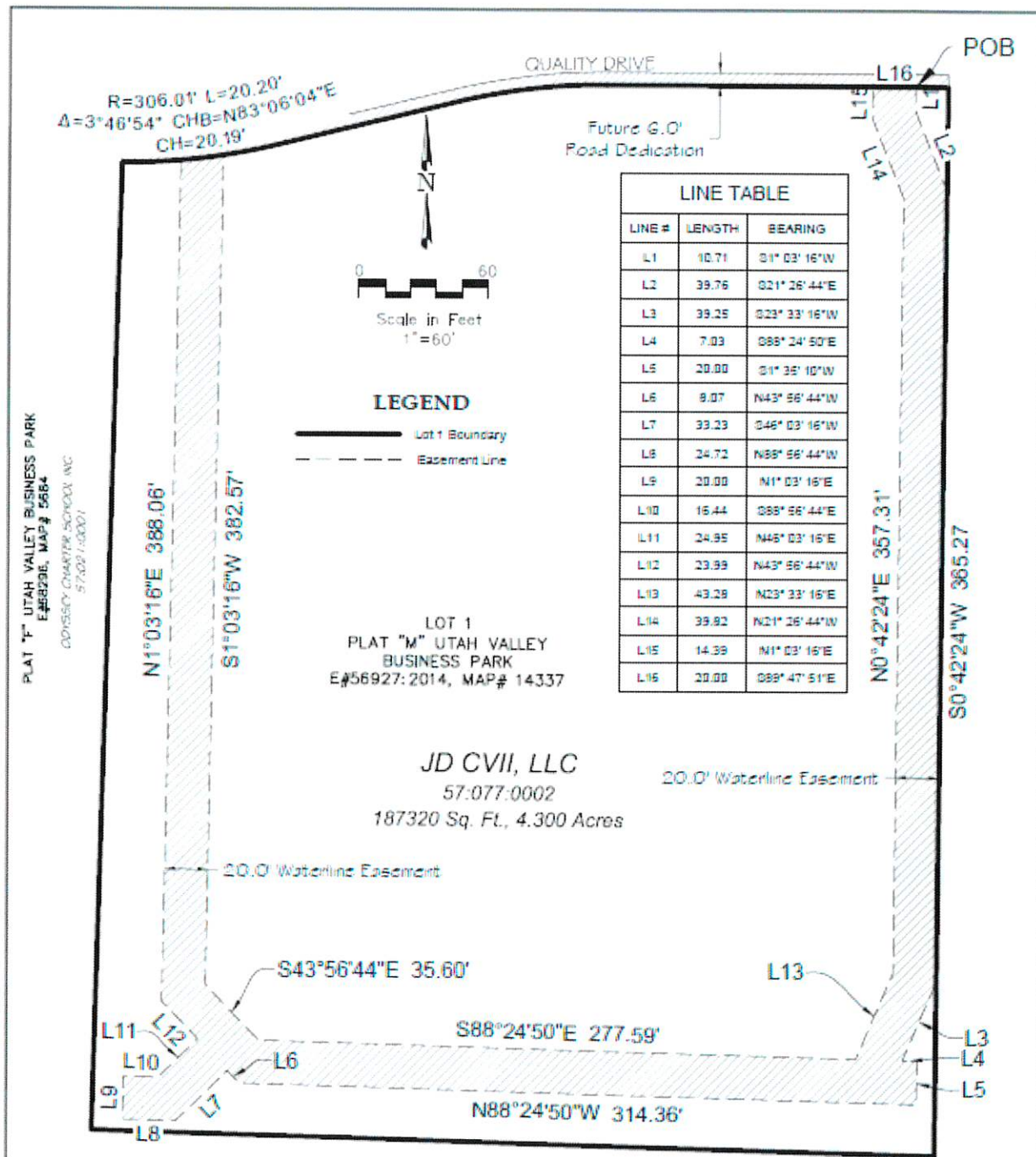
A waterline easement being a part of Lot 1, Plat "M" Utah Valley Business Park recorded August 14, 2014 as Entry No. 56927:2014 having Map# 14337 in the Office of the Utah County Recorder. Said easement is located in the Northeast Quarter of Section 25, Township 5 South, Range 2 East, Salt Lake Base and Meridian and is described as follows:

Beginning at a point, which is 6.00 feet S. 00°42'24" W. (R=S 0°42'08" W) and 14.93 feet N. 89°47'51" W. from the northeasterly corner of said Lot 1; thence S. 01°03'16" W. 10.71 feet; thence S. 21°26'44" E. 39.76 feet; thence S. 00°42'24" W. (R=S 0°42'08" W) 365.27 feet; thence S. 23°33'16" W. 39.25 feet; thence S. 88°24'50" E. 7.03 feet; thence S. 01°35'10" W. 20.00 feet; thence N. 88°24'50" W. 314.36 feet; thence N. 43°56'44" W. 8.07 feet; thence S. 46°03'16" W. 33.23 feet; thence N. 88°56'44" W. 24.72 feet; thence N. 01°03'16" E. 20.00 feet; thence S. 88°56'44" E. 16.44 feet; thence N. 46°03'16" E. 24.95 feet; thence N. 43°56'44" W. 23.99 feet; thence N. 01°03'16" E. 388.06 feet to a point of non-tangency with a 306.00 – foot radius curve to the left, concave northerly (Radius point bears N. 05°00'29" W.); thence Easterly 20.20 feet along the arc of said curve, through a central angle of 03°46'54" (Chord bears N. 83°06'04" E. 20.19 feet); thence S. 01°03'16" W. 382.57 feet; thence S. 43°56'44" E. 35.60 feet; thence S. 88°24'50" E. 277.59 feet; thence N. 23°33'16" E. 43.28 feet; thence N. 00°42'24" E. 357.31 feet; thence N. 21°26'44" W. 39.82 feet; thence N. 01°03'16" E. 14.39 feet; thence S. 89°47'51" E. 20.00 feet to the Point of Beginning.

The above-described easement contains 24,876 sq ft in area or 0.571 acres, more or less.

**BASIS OF BEARING:** S. 89°35'36" E. along the Section line between the North Quarter corner and the Northeast Corner of said Section 25, Township 5 South, Range 1 East, Salt Lake Base and Meridian.

## Exhibit "B"



Attachment: AF Industrial Flex Waterline Easement (Easements for Utah Valley Business Park Plat M)



After recording return to:  
 American Fork City  
 Attn: City Recorder  
 51 East Main Street  
 American Fork, Utah 84003

### STORM DRAIN EASEMENT

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantor hereby grants, conveys, and sets over unto **AMERICAN FORK CITY, a Utah municipal corporation**, as Grantee, its successors and assigns, a perpetual easement to install, maintain, operate, repair, remove, replace, or relocate storm drain facilities and the rights of ingress and egress within the storm drain easement for public utility employees, contractors, and agents.

A storm drain easement being a part of Lot 1, Plat "M" Utah Valley Business Park recorded August 14, 2014 as Entry No. 56927:2014 having Map# 14337 in the Office of the Utah County Recorder. Said easement is located in the Northeast Quarter of Section 25, Township 5 South, Range 2 East, Salt Lake Base and Meridian and is described as follows:

**Beginning** at a point on the westerly line of said Lot 1, Plat "M" Utah Valley Business Park which is 152.51 feet N. 01°36'30" E. (R=N 1°35'24" E) from the southwesterly corner of said Lot 1; thence N. 01°36'30" E. (R=N 1°35'24" E) 25.02 feet along said westerly line of Lot 1; thence S. 86°19'07" E. 34.79 feet; thence S. 01°35'10" W. 127.73 feet; thence S. 88°24'50" E. 295.83 feet; thence N. 34°11'19" E. 57.18 feet; thence N. 00°18'01" W. 346.24 feet; thence N. 86°57'47" W. 253.60 feet; thence N. 01°31'24" E. 15.00 feet; thence N. 76°33'37" E. 35.29 feet; thence S. 86°57'47" E. 243.74 feet; thence S. 00°18'01" E. 356.61 feet; thence N. 72°03'12" E. 3.83 feet to the easterly line of said Lot 1; thence S. 00°42'24" W. (R=S 0°42'08" W) 26.39 feet along said easterly line of Lot 1; thence S. 72°03'12" W. 8.20 feet; thence S. 34°11'19" W. 70.46 feet; thence N. 88°24'50" W. 334.52 feet; thence N. 01°35'10" E. 128.62 feet; thence N. 86°19'07" W. 9.79 to the **Point of Beginning**.

The above-described easement contains 28,961 sq ft in area or 0.665 acre, more or less.

**EXHIBIT "B":** By this reference, made a part hereof.

**BASIS OF BEARING:** S. 89°34'30" E. along the Section line between the North Quarter Corner and the Northeast Corner of said Section 25, Township 5 South, Range 1 East, Salt Lake Base and Meridian.

To have and hold the same unto said Grantee, its successors and assigns, with right of ingress and egress in said Grantee, its contractors and assigns to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, protect, remove and replace said facilities. As a non-exclusive easement, Grantor shall have the right to use the easement area for purposes that do not interfere or limit the propose the easement granted herein. However, at no time shall Grantor, its successors, licensees, lessees, contractors or assigns or their agents or employees erect or permit to be erected any building or structure of any kind within the boundaries of said perpetual easement.

In witness whereof, the Grantor has executed this easement this 25 day of January, 2023

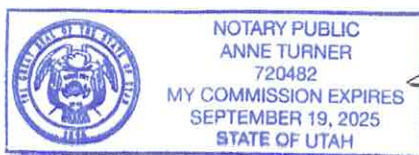
JD XVIII LLC

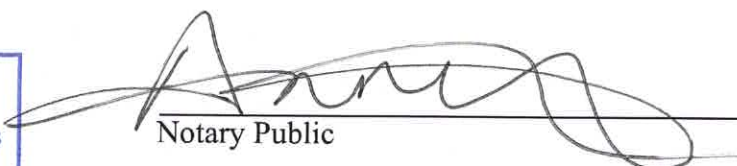
By: 

State of Utah

County of Utah :SS

On the 25<sup>th</sup> day of January, 2023, personally appeared before me Soren Hedfield, who acknowledged to be the Managing Member of JD XVIII LLC and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained.



  
Notary Public

ACCEPTED BY:

AMERICAN FORK CITY

\_\_\_\_\_  
Bradley J. Frost, Mayor

Attachment: Storm Drain Easement\_REV012023 - Signed (Easements for Utah Valley Business Park Plat M)

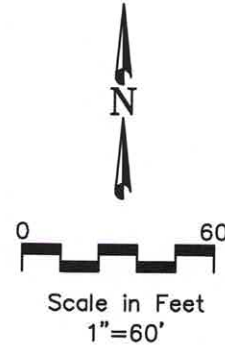


QUALITY DRIVE  
(72.0' PUBLIC ROW)

LOT 3  
PLAT "F" UTAH VALLEY BUSINESS PARK  
E#68296, MAP# 5684  
ODYSSEY CHARTER SCHOOL INC.  
57:021:0001

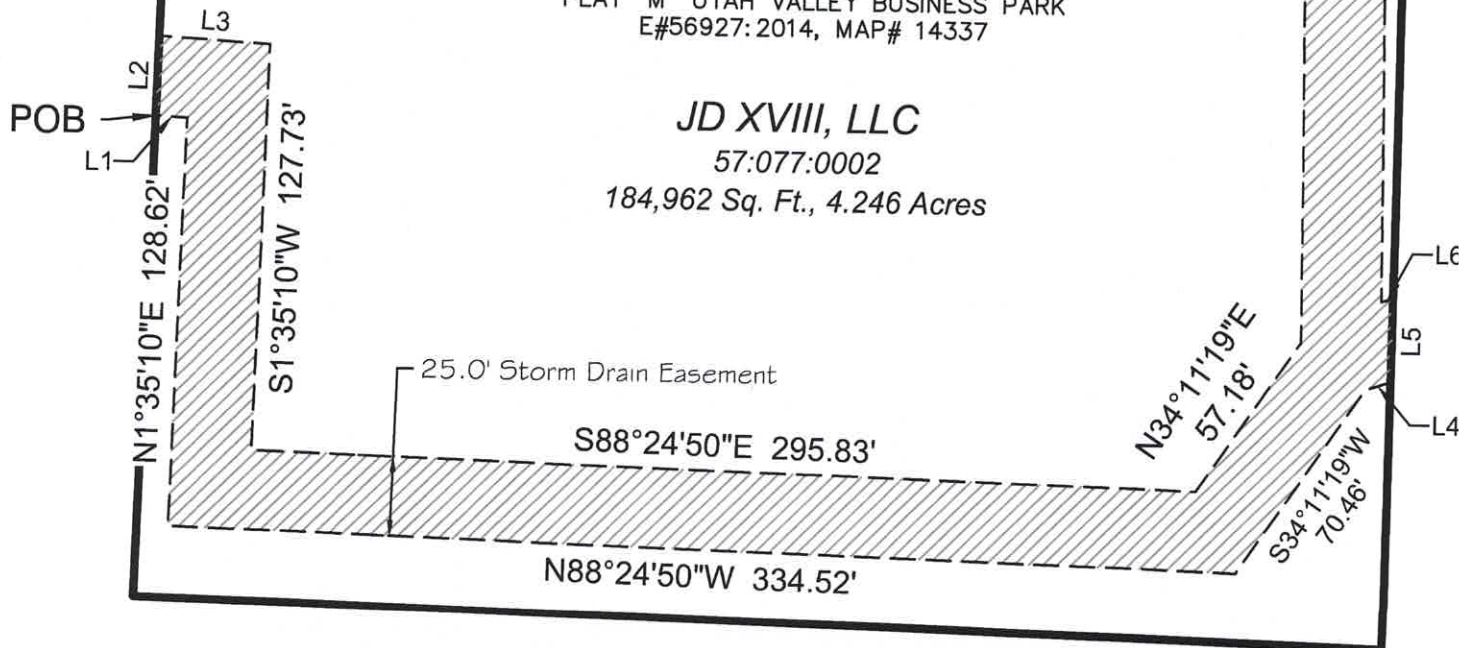
### LINE TABLE

LINE #	LENGTH	BEARING
L1	9.79	N86° 19' 07"W
L2	25.02	N1° 36' 30"E
L3	34.79	S86° 19' 07"E
L4	8.20	S72° 03' 12"W
L5	26.39	S0° 42' 24"W
L6	3.83	N72° 03' 12"E
L7	35.29	N76° 33' 37"E
L8	15.00	N1° 31' 24"E



### LEGEND

- Lot 1 Boundary  
- - - Easement Line



## EXHIBIT "B"

Attachment: Storm Drain Easement\_REV012023 - Signed (Easements for Utah Valley Business Park Plat M)

Lot 1, Plat "M" Utah Valley Business Park  
Storm Drain Easement

Assessor Parcel No:  
57:077:0001

Part of the NE 1/4 of Section 25  
Township 5 South, Range 1 East, S.L.B.&M.

PREPARED BY:

**CIR**

**CIVIL ENGINEERING  
+ SURVEYING**

10718 South Beckstead Lane, Suite 102, South Jordan, Utah 84095

January 05, 2023

Packet Pg. 11

Page 2 of 2

After recording return to:  
 American Fork City  
 Attn: City Recorder  
 51 East Main Street  
 American Fork, Utah 84003

## UTILITY EASEMENT

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantor hereby grants, conveys, and sets over unto **AMERICAN FORK CITY, a Utah municipal corporation**, as Grantee, its successors and assigns, a perpetual easement to install, maintain, operate, repair, remove, replace, or relocate public utility facilities and the rights of ingress and egress within the public utility easement for public utility employees, contractors, and agents.

A public utility easement being a part of Lot 1, Plat "M" Utah Valley Business Park Subdivision recorded August 14, 2014 as Entry No. 56927:2014 having Map# 14337 in the Office of the Utah County Recorder. Said easement is located in the Northeast Quarter of Section 25, Township 5 South, Range 2 East, Salt Lake Base and Meridian and is described as follows:

**Beginning** at a point which is 9.95 feet S. 00°42'08" W. along the easterly line of said Lot 1 and 15.00 feet West from the northeasterly corner of said Lot 1; thence S. 00°42'08" W. 6.00 feet along an existing 15.0' PUE & Storm Drain Easement; thence N. 89°47'45" W. 144.18 feet to a point of tangency with a 284.00 – foot curve to the left, concave southerly; thence Westerly 67.62 feet along the arc of said curve, through a central angle of 13°38'32" (Chord bears S. 83°22'59" W. 67.46 feet); thence S. 76°33'43" W. 86.87 feet to a point of tangency with a 316.00 – foot radius curve to the right, concave northerly; thence Westerly 64.89 feet along the arc of said curve, through a central angle of 11°45'58" (Chord bears S. 82°26'42" W. 64.78 feet) to an existing 10.0' public utility easement; thence along said existing easement the following five (5) courses: 1) N. 01°35'24" E. 6.01 feet to a point of non-tangency with a 310.00 – foot radius curve to the left, concave northerly (Radius point bears N. 01°44'07" W.); 2) thence Easterly 63.32 feet along the arc of said curve, through a central angle of 11°42'10" (Chord bears N. 82°24'48" E. 63.21 feet); 3) N. 76°33'43" E. 86.87 feet to a point of tangency with a 290.00 – foot radius curve to the right, concave southerly; 4) Easterly 69.05 feet along the arc of said curve, through a central angle of 13°38'32" (Chord bears N. 83°22'59" E. 68.89 feet); 5) S. 89°47'45" E. 144.23 feet to the **Point of Beginning**.

The above-described easement contains 2,181 sq ft in area or 0.050 acre, more or less.

**EXHIBIT "B":** By this reference, made a part hereof.

**BASIS OF BEARING:** S. 89°35'36" E. per said Plat "M" Utah Valley Business Park Subdivision along the Section line between the North Quarter corner and the Northeast Corner of said Section 25, Township 5 South, Range 1 East, Salt Lake Base and Meridian.



To have and hold the same unto said Grantee, its successors and assigns, with right of ingress and egress in said Grantee, its contractors and assigns to enter upon the above described property with such equipment as is necessary to install, maintain, operate, repair, inspect, protect, remove and replace said facilities. As a non-exclusive easement, Grantor shall have the right to use the easement area for purposes that do not interfere or limit the propose the easement granted herein. However, at no time shall Grantor, its successors, licensees, lessees, contractors or assigns or their agents or employees erect or permit to be erected any building or structure of any kind within the boundaries of said perpetual easement.

In witness whereof, the Grantor has executed this easement this 25 day of January, 2023.

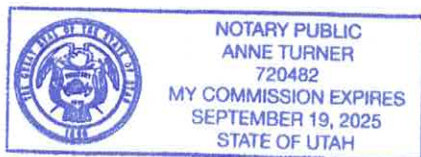
JD XVIII LLC

By: 

State of Utah

County of Utah :SS

On the 25<sup>th</sup> day of January, 2023, personally appeared before me John Hadfield, who acknowledged to be the Managing Member of JD XVIII LLC and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained.



  
Notary Public

ACCEPTED BY:





AMERICAN FORK CITY

\_\_\_\_\_  
Bradley J. Frost, Mayor

QUALITY DRIVE  
(72.0' PUBLIC ROW)

Existing 10.0' Slope & Public Utility Easement



	Public Utility Easement
	Existing Easement
	Centerline of Road
	Boundary Line

Scale in Feet  
1"=40'



1"=40'

LOT 1  
PLAT "M" UTAH VALLEY BUSINESS PARK  
E#56927:2014, MAP# 14337  
187.320 Sq Ft 4.300 Acres

Existing 15.0' PUE &  
Storm Drain Easement

Lot 1 Plat 'M' Utah Valley  
Business Park  
Public Utility Easement

Part of the NE 1/4 of Section 25  
Township 5 South, Range 1 East, S.L.B.&M.

Page 2 of 2



**REQUEST FOR COUNCIL ACTION  
CITY OF AMERICAN FORK  
FEBRUARY 28, 2023**

**Department** Planning      **Director Approval** Patrick O'Brien

**AGENDA ITEM**    Review and action on a proposed zone change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone

**SUMMARY RECOMMENDATION**    Planning Commission recommends approval with a 4:3 vote. Staff recommends denial due to an issue of spot zoning, and the underlying land use not conforming to the proposed zoning.

**BACKGROUND**    The applicant is applying for a zoning change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone. All parcels consist of 0.77 acres and the R3-7500 zoning would be replaced by the Central Commercial zoning (CC-2).

The proposed commercial zoning does not coincide with the current Land Use Map, resulting in a land use amendment to be done as well. The surrounding land uses of the area are all residential high density, general commercial, and design commercial. The surrounding zoning types are R3-7500.

The proposed zone change looks to leapfrog over another property to change the current zoning designation to CC-2. Additionally, the applicant is proposing to change the zoning of 350 West Street to achieve a connection to the existing zone to support this zoning change. Due to the spot zoning issue and a land use designation which does not support a commercial zoning, staff does not recommend approval for the application of the zoning change to the CC-2 zone.

**BUDGET IMPACT**    N/A

**SUGGESTED MOTION**    Move to deny the zone change for ABE Properties, located in the

area of 96 N 350 W, from the R3-7500 Residential Zone to the Central Commercial (CC-2) Zone.

Move to approve the zone change for ABE Properties, located in the area of 96 N 350 W, from the R3-7500 Residential Zone to the Central Commercial (CC-2) Zone.

Move to table the zone change for ABE Properties, located in the area of 96 N 350 W, from the R3-7500 Residential Zone to the Central Commercial (CC-2) Zone.

#### **SUPPORTING DOCUMENTS**

02.28.23 - Zone Change at 96 N 350 W (DOCX)

96N350W\_ZoneChange\_StaffReport(DOCX)

(10.13.2022) ABE Properties Zone Change Documents (PDF)

2023.02.22 ABE Properties Minutes (PDF)

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE AMENDING THE OFFICIAL ZONE MAP OF AMERICAN FORK, UTAH AT 96 NORTH 350 WEST FROM THE R3-7500 RESIDENTIAL ZONE TO THE CC-1 CENTRAL COMMERCIAL ZONE.**

**WHEREAS**, pursuant to Section 10-9a-503, Utah Code Annotated, 1953, as amended, the City is authorized to make and amend the official zoning map which designates property within the city limits into zones that regulate the use of buildings and structures and uses of land (the “Zone Map”); and

**WHEREAS**, Section 10-9a-503, Utah Code Annotated, 1953, as amended, anticipated that the Zone Map will, from time to time, be amended and updated; and

**WHEREAS**, the City has received a request from the property owner at 96 North 350 West (the “Property”) to amend the Zone Map changing the Property from the R3-7500 Residential zone to the CC-1 Central Commercial zone; and

**WHEREAS**, on February 22, 2023, the Planning Commission reviewed the proposed amendment to the Zone Map, after required advertising and public hearing thereon, and duly considered the comments received at the hearing; and

**WHEREAS**, the Planning Commission has recommended approval of the Zone Map amendment with 4 members voting in favor and 3 members voting against; and

**WHEREAS**, the City Council has reviewed the request further, all in accordance with Utah State law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF AMERICAN FORK CITY, UTAH:**

Section 1. That the Official Zone Map of American Fork, Utah, is hereby amended to show the property located in the area of 96 North 350 West be amended from the R3-7500 Residential zone to the CC-1 Central Commercial zone at 96 North 350 West as shows in Exhibit “A”. Said change in zoning is hereby adopted as an amendment to the official Zone Map of American Fork, Utah.

Section 2. That said territory shall hereafter be subject to all requirements and conditions applicable with said zone.

Section 3. That this Ordinance shall be in force and effect upon its passage and first posting as required by law.

**PASSED AND ORDERED POSTED BY THE CITY COUNCIL OF AMERICAN FORK,  
UTAH THIS 28<sup>th</sup> DAY OF FEBRUARY 2023.**

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Bradley J. Frost, Mayor

ATTEST:

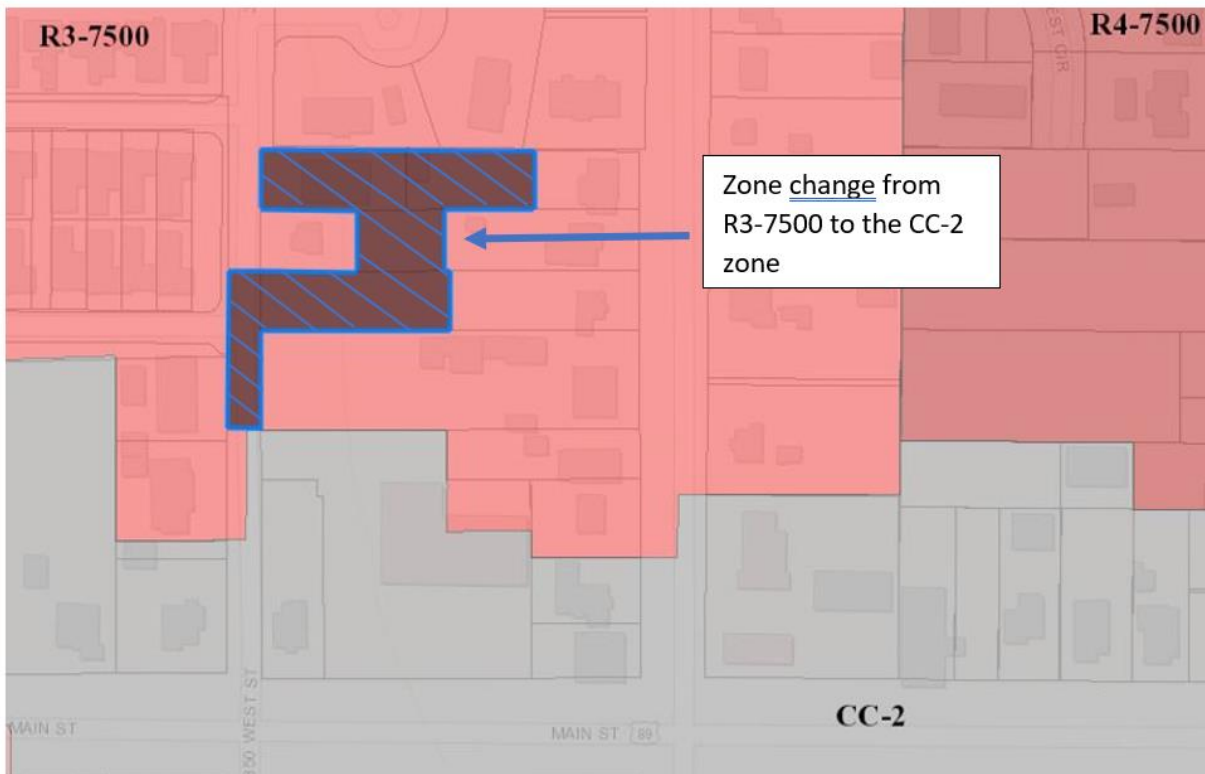
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Terilyn Lurker, City Recorder

Attachment: 02.28.23 - Zone Change at 96 N 350 W (ABE Properties)

EXHIBIT "A"

ZONE MAP







**AMERICAN FORK CITY  
PLANNING COMMISSION**
**MEETING DATE:** February 8th, 2023

**AGENDA TOPIC:**

Public hearing and recommendation on a proposed zone change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone

BACKGROUND INFORMATION		
Location:		96 North 350 West
Applicants:		ABE Properties, LLC
Existing Land Use:		Residential High Density
Proposed Land Use:		N/A
Surrounding Land Use:	North	Residential High Density
	South	Residential High Density
	East	Residential High Density
	West	Residential High Density
Existing Zoning:		R3-7500
Proposed Zoning:		CC-2
Surrounding Zoning:	North	R3-7500
	South	R3-7500
	East	R3-7500
	West	R3-7500

**BACKGROUND:**

The applicant is applying for a zoning change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone. All parcels consist of 0.77 acres and the R3-7500 zoning would be replaced by the Central Commercial zoning (CC-2).

The proposed commercial zoning does not coincide with the current Land Use Map, resulting in a land use amendment to be done as well. The surrounding land uses of the area are all residential high density, general commercial, and design commercial. The surrounding zoning types are R3-7500, R4-7500, and CC-2.

The proposed zone change looks to leapfrog over another property to change the current zoning designation to CC-2. Additionally, the applicant is proposing to change the zoning of 350 West Street to achieve this zoning change. Due to the leapfrogging, or spotted

Attachment: 96N350W\_ZoneChange\_StaffReport (ABE Properties)

zoning, over the adjacent property staff does not recommend approval for the application of the zoning change to the CC-2 zone.

### **ADDITIONAL PROJECT CONDITIONS:**

Approximately 14 additional feet from this parcel along the frontage of 350 W shall be dedicated to the City at no cost to the City as a condition of this zone map amendment. Right-of-way dedication for 350 W shall be shown on a subdivision plat that is submitted to the city for review within 60 days of the approved zone change or shall be deeded to the city by deed within 60 days of the approved zone change.

### **POTENTIAL MOTIONS – Zoning Change**

#### **APPROVAL**

Mr. Chairman, I move that we recommend approval of the Zone Change to Central Commercial (CC-2) Zone, for the properties located in the area of 96 N 350 W, subject to any findings, conditions, and modifications found in the Staff Report, or recommended by the Fire Marshal.

#### **DENIAL**

Mr. Chairman, I move that we deny the Zone Change to Central Commercial (CC-2) Zone, for the properties located in the area of 96 N 350 W, with a finding that the proposed zone is incongruent with adjacent existing development.

#### **TABLE**

Mr. Chairman, I move that we table action on the Zone Change to Central Commercial (CC-2) Zone, for the properties located in the area of 96 N 350 W, and instruct the developer/staff to \_\_\_\_\_.

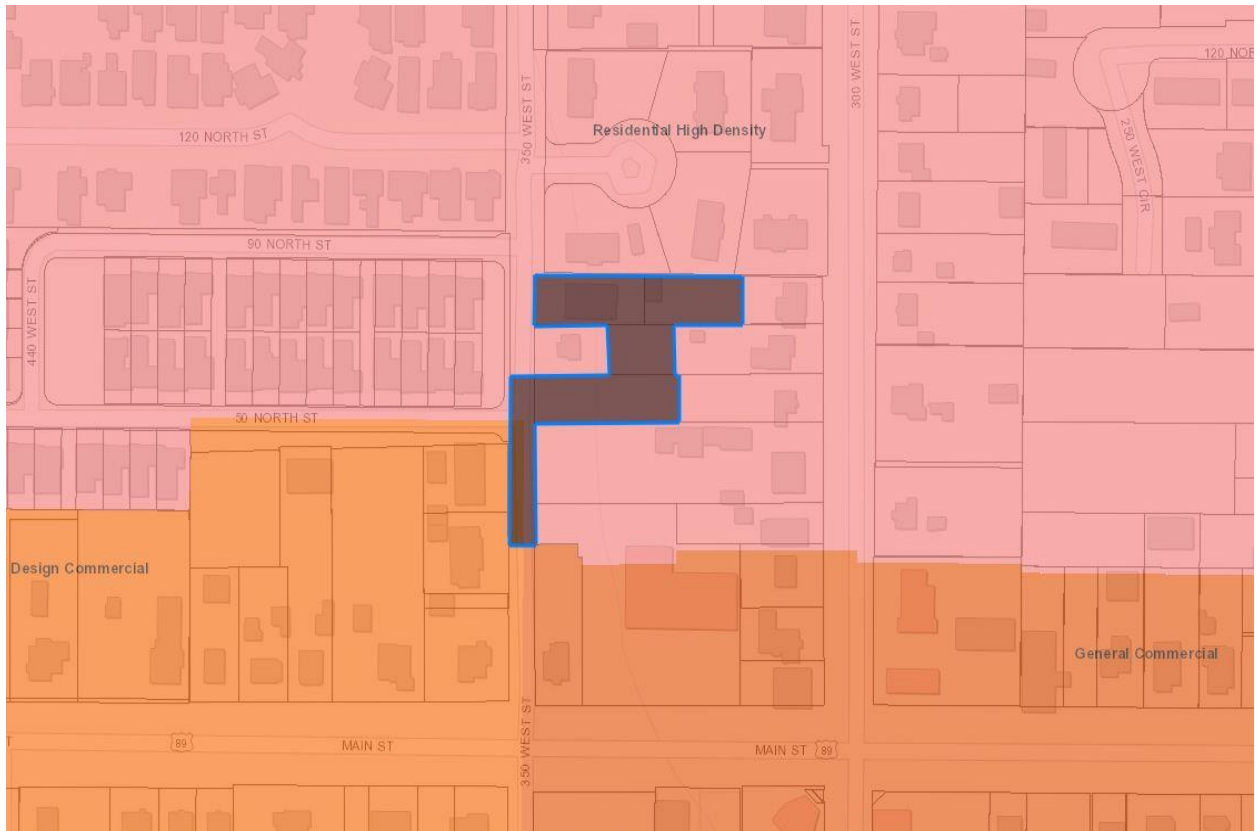


Figure 1. Land Use Types.

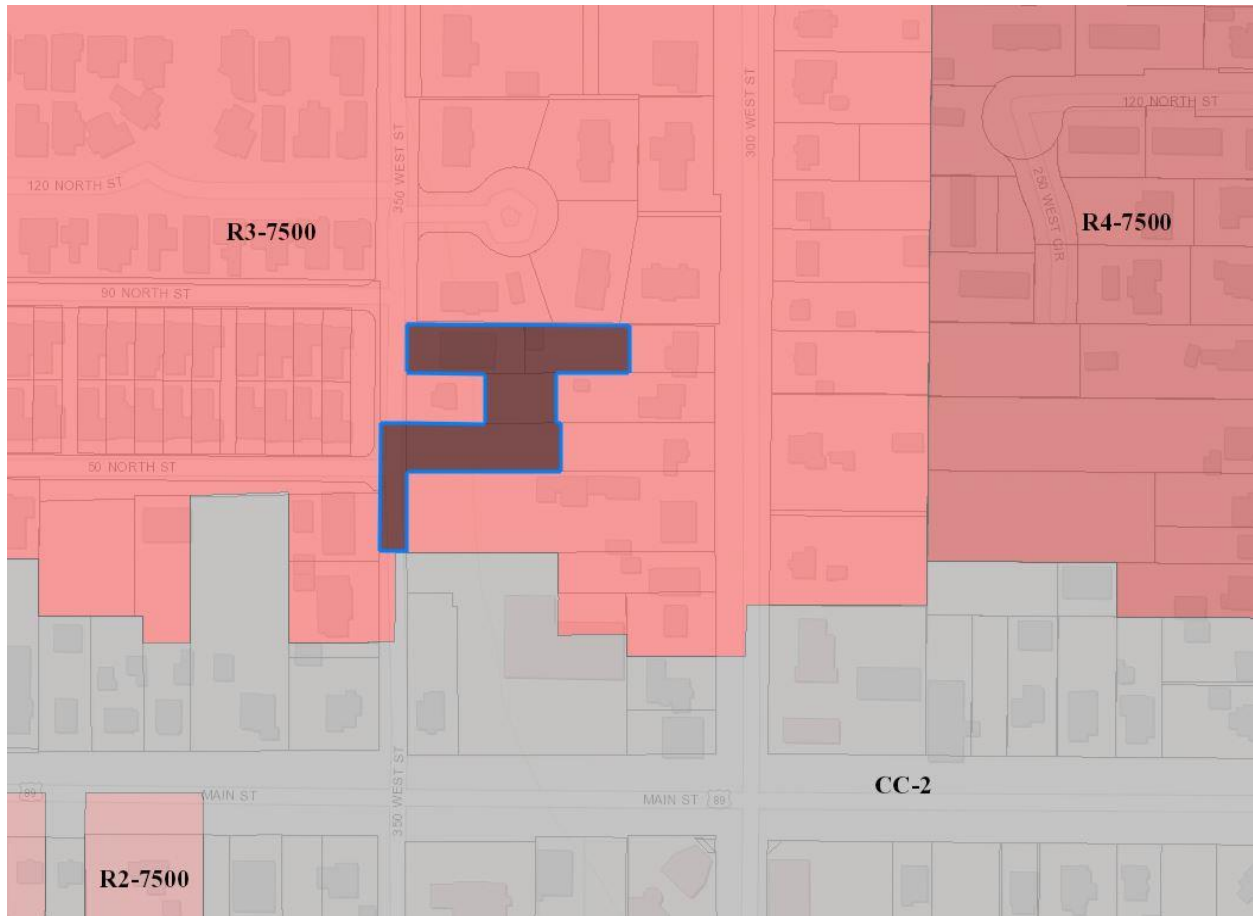


Figure 2. Zoning Types.



American Fork City  
Development Review  
Committee

Planning and Zoning Reviewed  
TVANEKELEBURG  
10/13/22

Engineering Division  
Reviewed  
jmortimer 10/12/2022

## PROPOSED ZONE CHANGE

R3-7500 TO CC-2

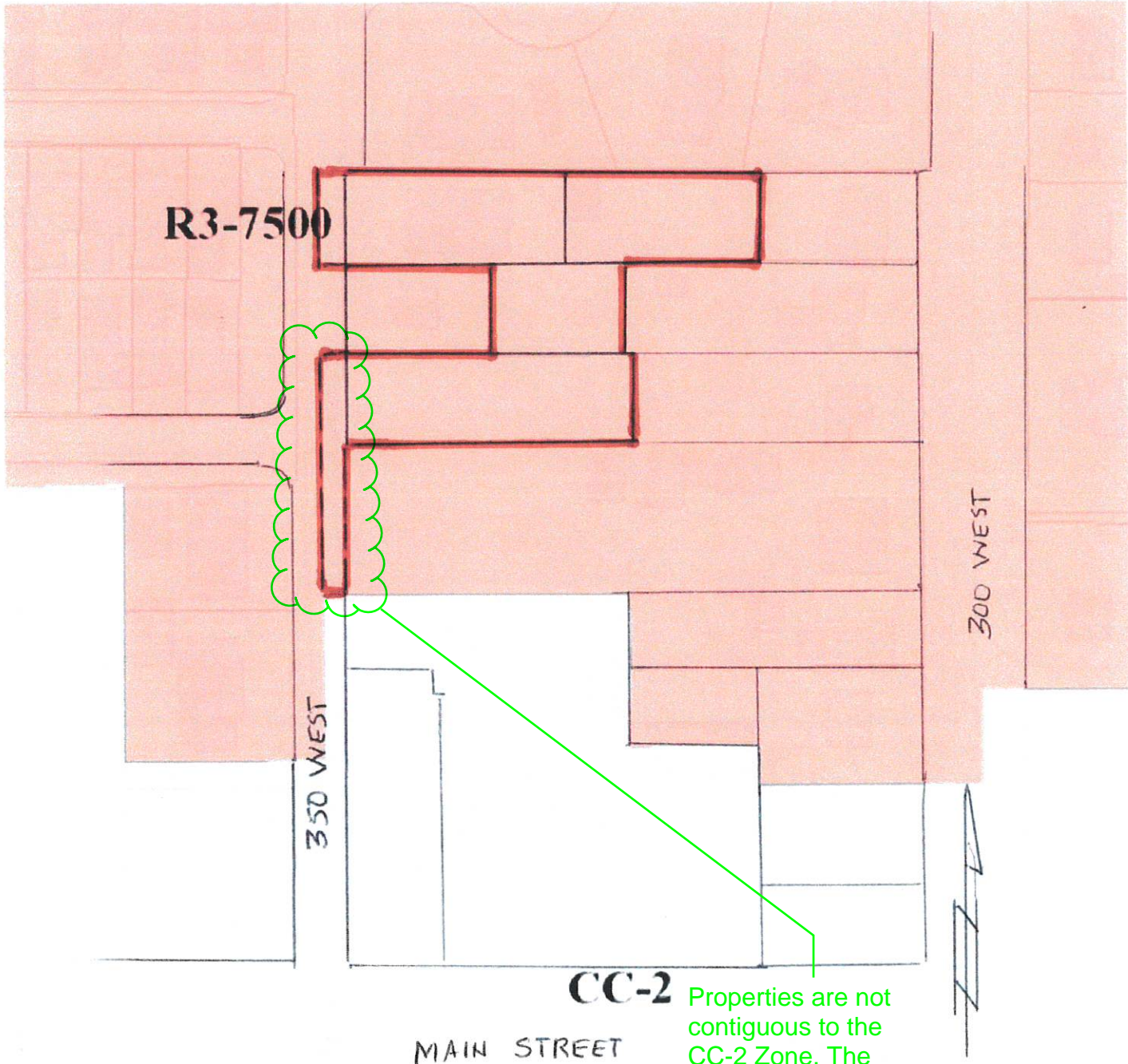
0.77 ACRES PLUS 1/2 ROADWAY

PREPARED SEPTEMBER 2022

### NEXT STEP:

Proceed to Planning  
Commission on November  
2nd, 2022.

Fire Department  
Reviewed  
M. Sacco 10/10/2022



ROW necessary for 350 West shall be dedicated  
within 60 days or with submittal of a plat.

Properties are not  
contiguous to the  
CC-2 Zone. The  
street is City property  
and rezoning half of  
the street will not be  
possible for  
connectivity.



W 90 NORTH ST

N 350 WEST ST

W 50 NORTH ST

55:148:0001  
GSD ENTERPRISES, LLC  
341 W 100 NORTH ST - AMERICAN FORK  
Value: \$794,600 -- 0.34 acres  
Entry# 24667-2009

12:072:0062  
ABE PROPERTIES, LLC  
66 N 350 WEST - AMERICAN FORK  
Value: \$407,000 -- 0.21 acres  
Entry# 71738-2022

12:072:0063  
ABE PROPERTIES, LLC  
- AMERICAN FORK  
Value: \$105,100 -- 0.18 acres  
Entry# 71738-2022

12:072:0033  
MISKIMEN, TIMOTHY L.  
68 N 350 WEST - AMERICAN FORK  
Value: \$274,500 -- 0.14 acres  
Entry# 66848-1994

12:072:0022  
ABE PROPERTIES, LLC  
- AMERICAN FORK  
Value: \$77,300 -- 0.12 acres  
Entry# 71738-2022

12:072:0038  
MONEY KELLY (ET AL)  
65 N 300 WEST - AMERICAN FORK  
Value: \$336,900 -- 0.28 acres  
Entry# 12669-2021

12:072:0039  
ABE PROPERTIES, LLC  
- AMERICAN FORK  
Value: \$171,900 -- 0.26 acres  
Entry# 71738-2022

12:072:0009  
GRIFFEN, DAREN THOMAS and MICHEL  
45 N 300 WEST - AMERICAN FORK  
Value: \$304,200 -- 0.26 acres  
Entry# 65817-2020

12:072:0010  
KIRKPATRICK, ROBERT O and NANETTE  
43 N 300 WEST - AMERICAN FORK  
Value: \$504,600 -- 0.88 acres  
Entry# 9313-2022

# Utah County Parcel Map

This cadastral map is generated from Utah County Recorder data. It is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations with an actual survey

Date: 9/2/2022



## PROPOSED ZONE CHANGE – 350 WEST – NARRATIVE – SEPTEMBER 2022

The owner of these parcels, ABE Properties, LLC, proposes to change 4 small parcels from the R3-7,500 Zone to the adjacent CC-2 Zone. A 5<sup>th</sup> parcel owner does not want to participate at this time. The accompanying figure shows the proposed boundaries for the zone change. A second map shows the County parcel numbers and acreage. A third sketch shows what ABE Properties proposed as a concept site plan for the properties under his control. It also shows a possible layout for the 5<sup>th</sup> parcel should it decide to participate in the future. This plan does not block or prevent any future property from developing. In fact, it facilitates that action.

As to the use of the property and it fitting into the CC-2 zone, it fits exactly the intent of the zone. This is part of the zone description as printed in the code.

### Sec 17.4.403 CC-2 Central Commercial Zone

1. Intent. It is the intent of this zone to: (1) facilitate the orderly development of property within and adjacent to the built-up central business area of the city for commercial purposes but to do so in a manner to minimize the adverse impacts of such commercial activity on existing residents and residential uses in the zone area and, (2) encourage and facilitate the preservation and restoration of homes in the zone area having unique historic significance.

The zone is to be applied to the existing built-up areas within and adjacent to the existing central commercial areas of the city which were initially developed for residential purposes, but which have more recently experienced a trend toward conversion in use for office and commercial purposes.

The zone is characterized by a mixture of relatively small commercial structures and existing residences converted for office and retail and service commercial purposes and located in pleasant landscaped settings, interspersed with older residential structures, still occupied as dwellings. Many of the dwellings and converted dwellings qualify for historic building status.

2. Permitted and conditional uses. The following buildings, structures and uses of land shall be permitted upon compliance with the requirements set forth in this code:

1. Residential structures, provided that said structure existed as a residence prior to the effective date of this chapter. Also, customary residential accessory structures (i.e. swimming pools, detached garages, private greenhouses etc.) when appurtenant to and on the same lot as a residence.

2. Home occupations, when conducted as an incidental part of a residence permitted pursuant to paragraph 1 above, and subject to the provisions of Section 17.5.123.

3. General retail stores and shops providing goods and services for sale at retail in the customary manner.

4. Office buildings, medical clinics.

5. Commercial recreation enterprises including movie theaters, bowling alleys, recreation centers, athletic clubs,

6. Accessory signs in accordance with the provisions of Section 17.5.128.

7. Historic building conservation projects, subject to the applicable provisions of Section 17.7.801 of this code.

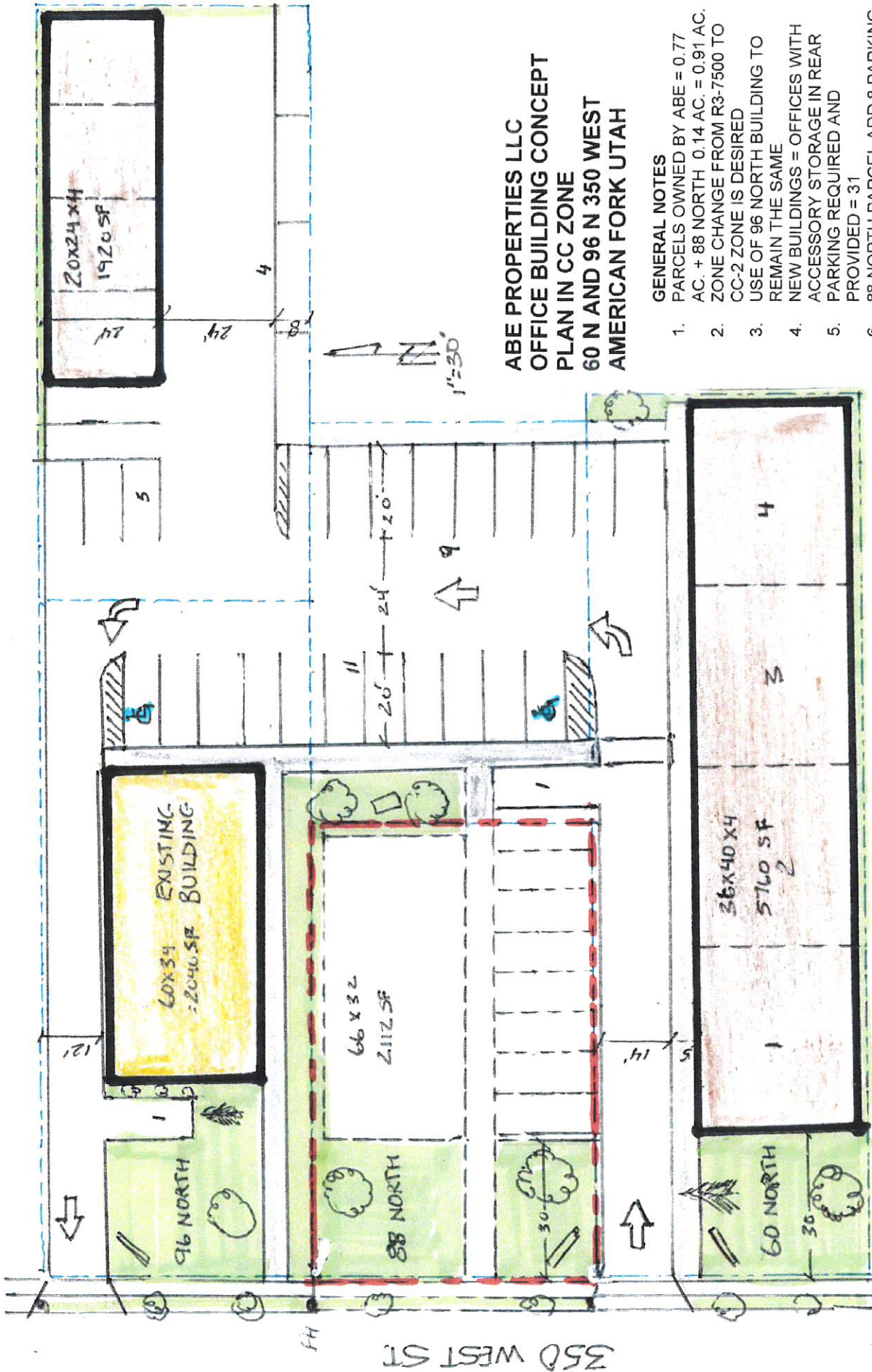
8. Specialty schools subject to the approval of a site plan in accordance with the provisions of section 17.6.101.

As the site plan shows, the owner proposes to follow the code exactly with no exceptions.

Acreages and parcel numbers are as follows: 12:072:062 = 0.21 ac, 12:072:063 = 0.18 ac, 12:072:022 = 0.12 ac, 12:072:039 = 0.26 ac, for a total of 0.77 acres. The plan was drawn to include one-half of 350 West in front of the two parcels to allow it to be contiguous. The City may choose to include the one-half street as is normally done. Also, the City may chose to invite other adjacent parcels to join in this zone change.

The changing conditions that made this proposed amendment necessary include a) owners desire to foster several commercial enterprises, b) continued use of the former dance studio as a similar specialty school, c) location of these parcels relatively close to other CC-2 commercial enterprises, d) owners desire to construct a nice, functional, new, useful, beautifully landscaped office building site, e) desire to improve existing fences and delineation of residential properties, and f) provide a needed type of office/storage facilities.





**ABE PROPERTIES LLC  
OFFICE BUILDING CONCEPT  
PLAN IN CC ZONE  
60 N AND 96 N 350 WEST  
AMERICAN FORK UTAH**

**GENERAL NOTES**

1. PARCELS OWNED BY ABE = 0.77 AC. + 88 NORTH 0.14 AC. = 0.91 AC.
2. ZONE CHANGE FROM R3-7500 TO CC-2 ZONE IS DESIRED
3. USE OF 96 NORTH BUILDING TO REMAIN THE SAME
4. NEW BUILDINGS = OFFICES WITH ACCESSORY STORAGE IN REAR
5. PARKING REQUIRED AND PROVIDED = 31
6. 88 NORTH PARCEL ADD 8 PARKING
7. PLAN WILL WORK WITH OR WITHOUT 88 NORTH PARCEL
8. 4-5 PARCELS LIKELY NEED TO BE COMBINED FOR ONE SITE PLAN
9. LANDSCAPING = 0.10 AC. NIC 88 N
10. R.O.S. MAP TO BE PREPARED
11. SKETCH PREPARED BY STEPHEN SOWBY, P.E. 22 AUG 2022



## UNAPPROVED MINUTES

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to fill the role. It was agreed that all members of the Commission would qualify for the role, but ultimately Mr. Christiansen was the best candidate at this time. Mr. Christiansen stated that he feels honored to fill the role and has the capacity to do so at this time.

**Harold Dudley motioned to approve Chris Christiansen as the new Planning Commission Vice Chairperson.**

**David Bird seconded the motion. Voting was as follows:**

<b>Christine Anderson</b>	<b>AYE</b>
<b>Chris Christiansen</b>	<b>AYE</b>
<b>Bruce Frandsen</b>	<b>AYE</b>
<b>Jenny Peay</b>	<b>AYE</b>
<b>Harold Dudley</b>	<b>AYE</b>
<b>Rodney Martin</b>	<b>AYE</b>
<b>David Bird</b>	<b>AYE</b>

**The motion passed**

**3. Recommendation on a proposed zone change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) Zone.**

Travis Van Ekelenburg reviewed the background information for action item number 3: The applicant is applying for a zoning change for property located at approximately 96 N 350 W, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone. All parcels consist of 0.77 acres and the R3-7500 zoning would be replaced by the Central Commercial zoning (CC-2).

The proposed commercial zoning does not coincide with the current Land Use Map, resulting in a land use amendment to be done as well. The surrounding land uses of the area are all residential high density, general commercial, and design commercial. The surrounding zoning types are R3-7500, R4-7500, and CC-2.

The proposed zone change looks to leapfrog over another property to change the current zoning designation to CC-2. Additionally, the applicant is proposing to change the zoning of 350 West Street to achieve this zoning change but has not followed staff's recommendations and instructions to submit a land use map

## UNAPPROVED MINUTES

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amendment to support the zone change. Due to the leapfrogging, or spotted zoning, over the adjacent property staff and legal counsel does not recommend approval for the application of the zoning change to the CC-2 zone.

## ADDITIONAL PROJECT CONDITIONS:

Approximately 14 additional feet from this parcel along the frontage of 350 W shall be dedicated to the City at no cost to the City as a condition of this zone map amendment. Right-of-way dedication for 350 W shall be shown on a subdivision plat that is submitted to the city for review within 60 days of the approved zone change or shall be deeded to the city by deed within 60 days of the approved zone change.

Mr. Dudley stated his understanding that there would be work by staff to put forth a land use map amendment in congruence with the zone change. He noted that the report states the zone change is not congruent with the land use, and he wanted to clarify why the land use map was not initiated.

Mr. O'Brien stated that the land use amendment request would need to come from the applicant. Mr. Sowby was informed of the process via email communication on January 5<sup>th</sup> 2023, and at this time the city has not received a land use amendment application. Mr. O'Brien reiterated that a zone change and land use amendment would be appropriate if neighboring properties were also changing, but as it is currently it would create an island. Based on discussions with the city's legal counsel, it is the staff's opinion that without it being congruent, it does fall into spot zoning.

Mr. Van Ekelenburg stated that the staff offers the opportunity for applicants to meet with the staff and are available to answer questions throughout the process. He confirmed that no changes have been made to the application and it remained the same as what was presented at the November 02, 2022, Planning Commission meeting.

Mr. O'Brien stated staff had discussed the zone change with the property owners between the proposal and the existing CC-2 zone as requested by the Planning Commission to see if they were interested in coming on board as part of the multi-unit zoning change. Mr. Van Ekelenburg noted that the property owners, Nan and Bob Kirkpatrick, had met with staff and were at the meeting to discuss their opinion on the zone change.

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Mr. Steve Sowby represents the applicants and he stated that they chose not to make the land use map amendment application because they do not have the authority to do it as they do not own the property where the amendment would occur. He stated that he spoke with city staff and was told neither the city staff nor Mr. Sowby's team could not initiate the land use map amendment. Staff clarified that the applicant could not apply to change another property owners land use but this did not prohibit an application to change the land use of their property.

Mr. O'Brien stated that for a zone change to remain in conformity with the city's land use plan, a land use amendment would be required for the same properties that are undergoing a zone change request; from a staff perspective it's difficult to recommend a zone change for approval if the underlying land use does not conform. He gave a hypothetical example of a property having residential land use and commercial zoning; they do not sit well with one another.

Mr. Dudley asked Mr. Sowby what made him feel he could not apply for a land use map amendment. Mr. Sowby stated they did not initiate the application because it was his team's understanding that they would be unable to apply for a land use map amendment or a zone change on behalf of the Kirkpatrick's property.

Mr. Sowby restated his findings from the November 02, 2022, Planning Commission meeting that fifteen other areas in the city have a stem, half street annexation, four areas in the CC-2 with spot zoning, and eight areas in the adjoining GC-2 zone that are already islands. Because of these areas, he does not feel his team is out of bounds in asking for the zone change as he has seen it done in the city before. He stated that it was his feeling that the city could recommend bringing in the parcel to the south [the Kirkpatrick's property] with a city-initiated land use amendment, similar to a city-initiated annexation. He also noted that there is a building on the northern parcel against 350 West that is already compatible with the CC-2 zone and they are trying to put the building in the right zone.

Nan Kirkpatrick stated that they currently own and reside on the property south of the proposed zone change, from 300 West through to 350 West. She asked the Commission to deny changing the zone from Residential to Commercial. Mr. Martin asked if there was any particular reason for their request of denial and if it affected the Kirkpatricks' financially or in any other way. Mrs. Kirkpatrick stated that their experience with the commercial property to the south, Good Earth, has been difficult as they have dealt with daily unintentional and intentional litter from the commercial property. She again asked that the Commission deny the zone change. She stated her

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understanding that while their property was not in the discussion, it did have an impact on the discussion. Mr. Dudley asked if they were opposed to the land use changing. Mrs. Kirkpatrick clarified that they do not want the land use to change from residential to commercial.

Chairwoman Anderson questioned what the impact would be from a land use change on a property.

Mr. O'Brien stated that the land will inform what the future use can be and will impact the long-range vision for a community. As best as possible, it is best to plan the underlying land use range to be what is wanted for the future zoning for a property. There are situations where the current zoning may not match the land use, but the land use is meant to signify what the future use should be. Changing land use would signify what is wanted in the area in the future. If the land use in an area were changed to commercial, anyone could request to change the zoning as the land use signified the future intention.

Mr. Dudley and Mr. Martin clarified where the Kirkpatrick's property was located on the presentation map, as well as a few other properties. The Commission thanked the Kirkpatricks' for their time and thoughts on the matter.

Mr. John Heiner stated that it was his team's understanding from staff that without the Kirkpatrick's participation, the staff was not willing to support the change in the land use amendment which is why they did not move forward with an application. He stated that the property has been used for commercial for years, and when Mr. Dustin Pyne purchased the property, it was his understanding that it would not be an issue to change the zoning to commercial. Mr. Heiner stated that his team attempted to reach out to the Kirkpatrick's many times without success. In his experience land use proposals are started by the city and staff. He stated his surprise that there was a suggestion from staff for a land use amendment from Main Street to Pacific Drive as he feels that change would not be made in his lifetime.

Mr. O'Brien refuted Mr. Heiner's point and clarified that staff did not make the recommendation of a land use change from Main to Pacific Drive. He stated the subdivision north of the properties in question would be the furthest staff would consider. Mr. Dudley clarified that the suggestion to amend the land from Main Street to Pacific Drive was suggested by a City Council member in attendance at the November 02, 2022, Planning Commission meeting.

## UNAPPROVED MINUTES

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Mr. Heiner stated the property has been a commercial property for years. Somewhere along the way the city approved that, and although the zone did not change, it has been used for commercial development for years. He can appreciate that the Kirkpatrick's would be concerned, especially their experience with Good Earth. He asked for the Commissions support and approval.

Mr. Dustin Pyne thanked the Kirkpatrick's and stated his hope to be a good neighbor and his hopes to be a positive influence in the community in American Fork. The background of the studio on the property is that it operated as a ballet studio. It is a 5,000 square foot building with two studios, one on the first floor and one in the basement. The Kirkpatrick's gave a brief history of the property and stated that Joseph and Jacqueline Colledge bought it from the Fagens, and the Fagens used to own the home that Tim Miskimen now lives in. Prior to the dance studio being built, it was all horse property. The Colledge's built the dance studio in the 80's.

Mrs. Kirkpatrick stated her opinion that the dance studio creates issues in the area such as inadequate parking when there are large events at the studio. She does not feel it is realistic to add more businesses to the area.

Mr. Dudley asked Mr. Pyne what his plans were for the property if the zone change goes through. Mr. Martin asked if the zone change was approved if the main change would be to provide correct parking for the existing building. Mr. Pyne stated there would be additional parking and two new additional buildings put in. One would be a storage garage for the theater company, and one would be an offsite office for his Chick-fil-a business that would include a few additional units to help pay the mortgage with businesses such as insurance agencies. He feels the office buildings would be an improvement to the area and he hopes to clean up the property and make it more usable. The office units will be one level as there is not enough parking spaces to support multi-level units. Mr. Heiner stated that with large warehouse space and small office units, there will not be a lot of traffic produced in the area.

Mr. Sowby stated that if the Commission gave a favorable recommendation his team would be happy to apply for a land use amendment.

Mr. Pyne asked if there is a legal non-compliance, could the contingent properties not be considered spot zoning? Mr. O'Brien stated it would be legally non-conforming with the existing zoning. This means they wouldn't be able to change the structure without needing to meet existing zoning. Staff would need to research if it is a legal non-conforming use, or if it is an illegal use.

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Ms. Peay stated that she would be interested to know if the dance studio was approved with a conditional use permit and if that is the reason it was approved as-is. She also noted that even if American Fork City deemed that lot as a non-conforming lot, it doesn't mean that it gives priority or precedence that would say the city would continue to do so.

Chairwoman Anderson asked if the Commission has the ability to recommend approval on a lot that is connected only by a road.

Mr. O'Brien stated that he had consulted with the city attorney and her answer was no. She is looking at it from a more legal and technical perspective, which is why he consulted with her to get an answer he could not provide, and because of that, staff went with her recommendation of no.

Mr. Martin asked if there were examples of spot zoning that had been referenced earlier in the meeting. Mr. O'Brien stated that it would not be considered spot zoning where there is CC-2 and GC-2 core areas that are supposed to be centrally located in other areas. They are not necessarily three or four lots that are consolidated together, but multiple blocks. There is a CC-2 zone on the west end and the east end of the CC-1 zone. Similarly, there are GC-2 zones scattered throughout the city in strategic locations because it's meant to be supportive to commercial. He feels the zone change is leapfrogging a property to get additional units, and the zones Mr. Sowby referenced were strategically located masses of development throughout the community that the council and previous Planning Commission members would have done at different points in time. Mr. Van Ekelenburg noted that when a property is rezoned, it is for that specific property and should not be leapfrogged, or cherry-stemmed, to one down the street.

Mr. Fransen asked Mr. Sowby if he had examples of cherry-stemming for zone changes. Mr. Sowby stated he had given two examples in the November 02, 2022, Planning Commission meeting. He stated that one could look at a map and see fifteen locations where it had happened.

Chairwoman Anderson stated that she is in favor of the idea of allowing surrounding areas of the C-2 zone to switch to commercial. In this case, she does not like the fact that it connects with a roadway and it also overlooks the rights of the current residents. She is not ready to recommend approval.



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Mr. Christiansen stated his opinion that the changes should be made strategically as the Commission looks at the plat map and the overall general plan, and not make changes for specific projects.

Mr. Bird stated he agreed with Chairwoman Anderson regarding the rights of the Kirkpatrick's, but also feels it was important to respect the rights of Mr. Pyne. He respects Mr. Pyne's project and thinks it would be a good asset to the community.

Mr. Christiansen noted that Mr. Pyne's rights stemmed from when he purchased the property and what rights existed at that point in time. He has rights to residential but not commercial. He may have non-conforming rights to the building, but he cannot change his rights at will.

Mr. Martin noted that more of these situations are going to arise as the years go by and American Fork grows. It is his opinion that the commercial zone will extend north and south of Main Street in the coming years. He feels the rezoning will happen regardless, even if it is not perfect. It is his opinion that people will not be building houses right next to Main Street and the Commission should make decisions to improve the properties in that area.

Mr. Pyne stated his understanding of doing due diligence when buying a property. He stated he would not have bought the property if he knew he would be held up in meetings. He did his due diligence and felt comfortable moving forward with the purchase of the property. He stated his inability to be able to do high density housing with the current zoning as they do not have the frontage. He stated that he is not in the farming business, and he may need to sell the property which may result in a monetary loss. He would like to see American Fork move forward and progress and feels that changing the zone to commercial would be a positive move for the community.

Ms. Peay asked Mr. O'Brien for clarification on the procedure for a land use map amendment. Mr. O'Brien stated that when an application for a land use map amendment or zone change is received it goes through a review process and is then added to the next available Planning Commission agenda. Land use and zoning changes are statutorily required to have a public hearing and with that comes a 10-day state required public notice. We follow the State noticing requirements as outlined in LUDMA, but also within our own code. The city attorney advised a land use amendment before the zone change. Surrounding property owners were notified

## UNAPPROVED MINUTES

01.18.2023

of this zone change. Ms. Peay stated that the property owners should be notified of a land use map amendment should it be initiated.

Chairwoman Anderson stated that there may have been planning practices in the past that do not need to be repeated. She believes that the CC-2 zone will need to expand and voiced her favor of that change. She stated she is uncomfortable with setting a precedent that properties can be skipped, or leapfrogged, to expand on the other side of properties and would like to see the expansion go radially.

Mr. O'Brien stated his opinion that expansions should be Planning Commission or City Council driven and not applicant driven to ensure all expansions are well thought out.

Mr. Dudley stated his belief that the city needs to move forward in situations like this and look at expanding its general commercial north and south along Main Street as appropriate. He felt that the project had not progressed since the meeting on November 02, 2022, and questioned why the city had not initiated a land use amendment.

Mr. O'Brien clarified that the City Council would need to initiate a full-scale land use amendment on behalf of the city. Mr. Sowby reiterated that his team did not initiate the land use amendment for their property due to the roadblocks discussed earlier in the meeting.

Mr. Christiansen stated that the Planning Commission was the recommending body for the land use amendment. He suggested that the Planning Commission deny this and send it to the City Council to give them the ability to address the issue with an interest in expanding the land use. Mr. Heiner stated that there needs to be a method to address the challenges that arise in circumstances like this, or properties may continue to sit without development.

Mr. Franson agreed with Mr. Christiansen and stated that the City Council needs to take a deep look at the land use along Main Street as he believes commercial will continue to grow. He feels that this is an opportune time to put this issue in front of the City Council as it has not been addressed in this way for many years.

Mr. Martin asked what can be done as a recommending body to ensure that the City Council will consider changing the land use to the north and south of Main Street.



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Mr. O'Brien stated that this discussion would help address the issue. Ms. Peay clarified that the Commission was only approving the rezoning.

Mr. Martin stated that he feels Mr. Pyne's project could help the City Council understand the issue that the city is facing and what they will be facing in the near future. Mr. Pyne stated he is a trailblazer. He stated he has no issue going to Mayor Frost and the council members and explaining what his experience has been trying to get through this committee. He felt it would be easier to be able to go to with an approval and tell them what it took to get to this point. He stated his opinion that the process is difficult and there could be steps to make the process easier.

Chairwoman Anderson stated her hopes that the discussion would help the city to see that there is a problem that needs to be addressed, and that it could lead to growth. She felt a good move by the city would be to change the underlying land use in areas like this so that it would allow for future change to commercial, as commercial expands, without changing the zoning of residents who do not want to be in commercial.

**Harold Dudley motioned to recommend approval of the Zone Change to Central Commercial (CC-2) Zone, for the properties located in the area of 96 N 350 W, subject to any findings, conditions, and modifications found in the Staff Report, or recommended by the Fire Marshall**

**David seconded the motion. Voting was as follows:**

<b>Christine Anderson</b>	<b>NAY</b>
<b>Chris Christiansen</b>	<b>NAY</b>
<b>Bruce Frandsen</b>	<b>AYE</b>
<b>Jenny Peay</b>	<b>NAY</b>
<b>Harold Dudley</b>	<b>AYE</b>
<b>Rodney Martin</b>	<b>AYE</b>
<b>David Bird</b>	<b>AYE</b>

**The motion was approved**

- 4. Recommendation on an ordinance creating section 17.5.136 of the American Fork City Municipal Code relating to rock crushing and providing an effective date for the ordinance**



**REQUEST FOR COUNCIL ACTION  
CITY OF AMERICAN FORK  
FEBRUARY 28, 2023**

Department Recorder

Director Approval Terilyn Lurker

**AGENDA ITEM** Review and action on approval of a first amendment to the lease agreement between American Fork city and GSTC Foundation for the golf practice facility at Fox Hollow Golf Course.

**SUMMARY RECOMMENDATION**

Staff would recommend approval.

**BACKGROUND**

This amended agreement is an adjustment of the original boundary description to match the location of the constructed facility.

**BUDGET IMPACT**

NA

**SUGGESTED MOTION**

Move to approve the first amendment to the lease agreement between American Fork City and GSTC Foundation for the golf practice facility and authorize the city to execute the agreement.

**SUPPORTING DOCUMENTS**

LEASE AMENDMENT 2.7.23 (DOCX)

LEASE\_DESC (DOCX)

ALTA-01-update (PDF)

**LEASE AMENDMENT**  
**FIRST AMENDMENT TO LEASE AGREEMENT**

This Amendment to the Lease Agreement between American Fork City Corporation and GSTC Foundation on executed on June 28, 2016 (the "Amendment") is made this \_\_\_\_ day of February, 2023, by and between American Fork City Corporation, a Utah municipal corporation (hereinafter "Owner") and GSTC Foundation, a Utah nonprofit corporation (hereinafter "Tenant").

**RECITALS**

**WHEREAS**, the Owner and Tenant having previously executed a lease agreement on or about June 28, 2016 (the "2016 Lease") related to approximately 5.234 acres of real property in American Fork City, more particularly described in Exhibit A of the 2016 Lease;

**WHEREAS**, the Property outlined in the 2016 Lease bisects a driveway off of Canal Blvd. and fails to incorporate small areas of land inside the fence line along the east boundary of the Property; and

**WHEREAS**, the Owner and Tenant have agreed to make certain modifications to the Lease to incorporate additional land.

**NOW THEREFORE**, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, effective upon execution, the parties agree as follows:

1. Property Description – Exhibit A. The Property description in Exhibit A of the 2016 Lease is hereby amended as follows:

**EXHIBIT A**

Commencing at the Southwest corner of Section 1, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence North 00°20'15" West 788.98 feet along the section line and North 90°00'00" East 1140.89 feet to the true point of beginning; running thence North 71°48'29" East 65.85 feet; thence North 77°32'51" East 280.13 feet; thence North 81°26'50" East 99.62 feet; thence North 86°28'03" East, 15.32 feet; thence South 03°17'31" East, 1.41 feet; thence South 32°33'38" West, 16.93 feet; thence South 19°23'52" West, 16.96 feet; thence South 27°44'19" West, 21.33 feet; thence South 30°38'11" West, 21.33 feet; thence South 42°00'15" West, 5.55 feet; thence South 09°56'36" West 23.48 feet; thence South 08°07'38" West 121.09; thence South 29°10'46" West 165.36 feet; thence South 05°47'02" West 135.18 feet; thence South 30°23'46" East 62.56 feet; thence South 63°16'40" East 71.53 feet; thence South 41°14'51" East 61.40 feet; thence South 44°05'35" West 76.55 feet; thence North 60°16'54" West 227.03 feet to a point on a 300.00 foot radius non-tangent curve to the left; thence along said curve 245.16 feet through a central angle of 46°82'28" (chord bears South 52°22'56" West 238.40 feet); thence North 61°01'45" West 100.51 feet; thence North 15°07'51" East 233.27 feet; thence North 08°56'14" East 233.40 feet; thence North 00°38'19" West 113.97 feet to the true point of beginning.

Contains: 5.25 Acres (or 228,748 Sq. Ft.)

2. Lease in Effect. Except as specifically amended or modified herein, all provisions of the 2016 Lease, as previously amended, shall remain unchanged and in full force and effect, and Tenant and Owner hereby reaffirm the 2016 Lease and the parties' rights and obligations thereunder.
3. Counterparts; Facsimile Execution. This Amendment may be executed in any number of counterparts, each of which, when so executed, shall be deemed an original, but all of which shall constitute but one and the same instrument. Delivery of an executed counterpart of this Amendment by facsimile or in portable document format (PDF) shall be equally as effective as delivery of a manually executed counterpart of this Amendment. Any party delivering an executed counterpart of this Amendment by facsimile or in portable document format shall also deliver a manually executed counterpart of this Amendment, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, or binding effect of this Amendment.
4. Authority. Tenant warrants that the individual signing this Amendment on its behalf has the authority to do so and to bind Tenant. Owner warrants that this Amendment has been approved by the City Council and that the individual signing this Amendment on its behalf has the authority to do so and to bind Owner.

WHEREFORE, Owner and Tenant voluntarily enter into this Amendment, as evidenced by affixing their respective signatures below:

\*\*\*SIGNATURE PAGE FOLLOWS\*\*\*

Owner:

Tenant:

\_\_\_\_\_  
American Fork City Corporation

By:

Its: Mayor

\_\_\_\_\_  
**GSTC FOUNDATION**

By: Michael Acton

Its: Director

Dated: \_\_\_\_\_

\_\_\_\_\_  
**GSTC FOUNDATION**

By: James Pritchard

Its: Director

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Recorder

Dated: \_\_\_\_\_

Attachment: LEASE AMENDMENT 2.7.23 (Golf Practice Facility)



Commencing at the Southwest corner of Section 1, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence North 00°20'15" West 788.98 feet along the section line and North 90°00'00" East 1140.89 feet to the true point of beginning; running thence North 71°48'29" East 65.85 feet; thence North 77°32'51" East 280.13 feet; thence North 81°26'50" East 99.62 feet; thence North 86°28'03" East, 15.32 feet; thence South 03°17'31" East, 1.41 feet; thence South 32°33'38" West, 16.93 feet; thence South 19°23'52" West, 16.96 feet; thence South 27°44'19" West, 21.33 feet; thence South 30°38'11" West, 21.33 feet; thence South 42°00'15" West, 5.55 feet; thence South 09°56'36" West 23.48 feet; thence South 08°07'38" West 121.09; thence South 29°10'46" West 165.36 feet; thence South 05°47'02" West 135.18 feet; thence South 30°23'46" East 62.56 feet; thence South 63°16'40" East 71.53 feet; thence South 41°14'51" East 61.40 feet; thence South 44°05'35" West 76.55 feet; thence North 60°16'54" West 227.03 feet to a point on a 300.00 foot radius non-tangent curve to the left; thence along said curve 245.16 feet through a central angle of 46°82'28" (chord bears South 52°22'56" West 238.40 feet); thence North 61°01'45" West 100.51 feet; thence North 15°07'51" East 233.27 feet; thence North 08°56'14" East 233.40 feet; thence North 00°38'19" West 113.97 feet to the true point of beginning.

Contains: 5.25 Acres (or 228,748 Sq. Ft.)

Attachment: LEASE\_DESC (Golf Practice Facility)





