



**HILDALE CITY**

Established 1963

P.O. BOX 840490 320 E. NEWEL AVE. HILDALE, UTAH 84784 PHONE: 435-874-2323 FAX: 435-874-2603

## NOTICE AND AGENDA

NOTICE IS HEREBY GIVEN TO THE MEMBERS OF THE HILDALE CITY PLANNING COMMISSION AND TO THE PUBLIC, THAT THE PLANNING COMMISSION WILL HOLD A MEETING ON MONDAY THE 21ST DAY OF OCTOBER, 2019 AT HILDALE CITY HALL, 320 EAST, NEWEL AVENUE, WHICH MEETING SHALL BEGIN AT 6:30 P.M. MDT.

THE AGENDA SHALL BE AS FOLLOWS:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES OF PREVIOUS MEETING
5. PUBLIC COMMENT
6. PUBLIC HEARING ON THE FOLLOWING APPLICATIONS
  - A. REZONE APPLICATION FOR LOT HD-SHCR-3-25 (880 N ELM ST.)
  - B. REZONE APPLICATION FOR LOT HD-SHCR-3-36 & 39 (845 N ELM ST. & 840 N MAPLE ST.)
  - C. REZONE APPLICATION FOR LOTS HD-SHR-13-52, 53, 54, 55, 60, 61, 62, 63 (SOUTH ZION ESTATES PHASE 1)
7. DISCUSSION AND POSSIBLE ACTION FOR CONDITIONAL USE APPLICATION ON LOT HD-SHCR-11-13 (1065 N HILDALE ST.) [PG 1-9]
8. DISCUSSION AND POSSIBLE ACTION FOR REZONE APPLICATION ON THE FOLLOWING LOTS
  - A. HD-SHCR-3-25 (880 N ELM ST.) [10-29]
  - B. HD-SHCR-3-36 & 39 (845 N ELM & 840 N MAPLE) [PG 30-37]
9. DISCUSSION AND POSSIBLE ACTION ON PHASE 1 OF SOUTH ZION ESTATES PROJECTS
  - A. REZONE APPLICATION FOR LOTS HD-SHR-13-52, 53, 54, 55, 60, 61, 62, 63 [PG 38-44]

Agenda items and any variables thereto are set for consideration, discussion, approval or other action. The City Council may, by motion, recess into executive session which is not open to the public, to receive legal advice from the City attorney(s) on any agenda item, or regarding sensitive personnel issues, or concerning negotiations for the purchase, sale or lease of real property. Council Members may be attending by telephone. Agenda may be subject to change up to 24 hours prior to the meeting. Individuals needing special accommodations should notify the City Recorder at 435-874-2323 at least three days prior to the meeting.

- B. PRELIMINARY PLAT APPLICATION FOR PHASE 1 [PG 45-54]
    - C. DEVELOPMENT AGREEMENT FOR PHASE 1 [PG 55-67]
- 10. UPDATE ON CIB GRANT FUNDING FOR GENERAL PLAN
- 11. WORK SESSION
  - A. GUIDED DISCUSSION FOR OFF SITE IMPROVEMENTS [PG 68-71]
- 12. ADJOURNMENT

Agenda items and any variables thereto are set for consideration, discussion, approval or other action. The City Council may, by motion, recess into executive session which is not open to the public, to receive legal advice from the City attorney(s) on any agenda item, or regarding sensitive personnel issues, or concerning negotiations for the purchase, sale or lease of real property. Council Members may be attending by telephone. Agenda may be subject to change up to 24 hours prior to the meeting. Individuals needing special accommodations should notify the City Recorder at 435-874-2323 at least three days prior to the meeting.

# HILDALE CITY PLANNING COMMISSION APPLICATION STAFF REPORT

**Project/Applicant Name:** Gemstone Properties Inc.

**Application Type:** Conditional Use Permit

**Project Address:** 1065 N Hildale St.

**Current Zoning:** Neighborhood Commercial

**Proposed Zoning:** N/A

## **Summary of Application**

The applicant is requesting a conditional use on a property that is currently zoned neighborhood commercial. Due to the size of the building the applicant would like to provide residential apartments in half of the building. The other half of the building would become a health clinic.

## **Background**

The properties were given NC Zoning during the original creation of the zoning map. The east lot consists of approximately 3.35 Acre and includes a structure that is approximately 41,176 sq ft.

## **General Plan and Zoning**

The property is bordered on the South and East with other properties zoned neighborhood commercial. The north and West side of the property is bordered by large residential properties. The current general map shows this property as low density residential.

## **Analysis**

Our code states that multiple family dwelling is allowed conditionally in a neighborhood commercial zone and a medical service facility is permitted. 152-7-9 E2e it states the following for a multi-family conditional use:

- e. Standards for dwelling, multi-family; dwelling, single-family; dwelling, temporary; dwelling, two-family:

(1) A two-family dwelling, or a multi-family dwelling contained within a standalone structure shall be governed by the development standards of the RM-2 zone, to the extent that such standards are inconsistent with the development standards of the applicable zone.

(2) A single-family dwelling shall be governed by the development standards of the R-1-8 zone, to the extent that such standards are inconsistent with the development standards of the applicable zone.

(3) A conditional use permit shall be valid for a period not to exceed thirty years.

Development standards for an RM-2 zone are as follows:

TABLE 152-13-2

DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES							
	Zones						
Development Standard	R1-25	R1-15	R1-10	R1-8	RM-1	RM-2	RM-3
Lot standards:							
Average lot area <sup>2</sup>	15,000 sq. ft.	15,000 sq. ft.	10,000 sq. ft.	8,000 sq. ft.	n/a	n/a	n/a
Minimum lot area or acreage	12,000 sq. ft.	12,000 sq. ft.	8,000 sq. ft.	6,400 sq. ft.	10,000 sq. ft.	1 acre	1 acre
Minimum lot width and/or project frontage	89 ft.	90 ft.	80 ft.	70 ft.	80 ft . project	100 ft . project	200 ft . project
					30 ft . unit	30 ft . unit	30 ft . unit
Maximum number of units per acre	n/a	n/a	n/a	n/a	6 units/lots	10 units/lots	15 units/lots
Building standards:							
Maximum height, main building <sup>3</sup>	34 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Maximum height, accessory building <sup>4</sup>	19 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Maximum size, accessory building	1,200 sq. ft.	1,200 sq. ft.	1,200 sq. ft.	500 sq. ft.	1,000 sq. ft.	1,000 sq. ft.	500 sq. ft.
<a href="#">Building coverage: See subsection 10-37-12I of this title</a>	50% of lot	50% of lot	50% of lot	50% of lot	50% of lot	50% of lot	50% of lot
Distance between buildings	No requirement	No requirement	No requirement	No requirement	20 ft.	20 ft.	20 ft.

### **Staff Recommendation**

Due to a possible conflict of interest staff will refrain from making a recommendation.

### **Sample Motions**

1. (Approve without conditions) **I move we approve the conditional use application requested by Gemstone Properties Inc. based on the findings set forth in the staff report.**
2. (Approve with conditions) **I move we approve the conditional use application requested by Gemstone Properties Inc. with the following conditions: [list conditions].**
3. (Deny) **I move we deny the conditional use application requested by Gemstone Properties Inc. based on the findings set forth in the staff report.**

# CONDITIONAL USE PERMIT

City of Hildale  
320 East Newel Avenue  
Hildale, Utah 84784  
(435) 874-1160  
FAX (435) 874-2603

Fee: \$50 <sup>#</sup> 100

For Office Use Only:

File No. \_\_\_\_\_  
Receipt No. 110980132

Angelene 8/30/19

## APPLICATION & SUBMITTAL CHECKLIST

Name: GEMSTONE PROPERTIES INC Telephone: 435-229-4447

Address: 2608 W 510 N. HURRICANE Fax No. 435-635-8414

Email: Frank@gemstone-properties.com

Agent (If applicable): FRANK LINDHARDT Agent's Phone: 435-229-4447

Agent email: SAME AS ABOVE

Address of Subject Property: 1005 N.

Tax ID of Subject Property: HD-SHce-11-10 Zone District: \_\_\_\_\_

Proposed Conditional Use: (Describe, use extra sheet if necessary) APARTMENTS  
IN COMMERCIAL ZONE

### This application shall be accompanied by the following:

- 1. A plot plan showing the following:
  - Property boundaries, dimensions and existing streets.
  - Location of existing and proposed building or livestock facility
  - Adjoining property lines and uses within one hundred (100) feet of subject property.
- 2) A reduced copy of all plans (8 1/2 x 11 if readable, or 11 x 17) if original plans are larger.
- 3) Building floor plans for new construction
- 4) A statement of how the applicant intends to meet the conditions for the use desired
- 5) Signed and notarized Affidavit of Property owner showing evidence that the applicant has control of the property or copy of warranty deed

**NOTE: It is important that all applicable information noted above is submitted with the application. An incomplete application cannot be reviewed until it is complete. Fee is part of the application.**

\*\*\*\*\*

(Office Use Only)

Date Received: 8/30/19

Received by: KYLE LAYTON

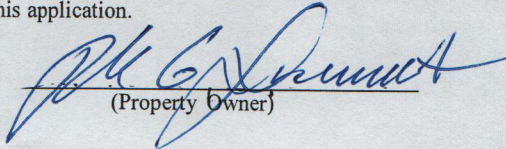
Date application deemed to be complete: 8/30 Completion determination made by: KYLE LAYTON

AFFIDAVIT  
PROPERTY OWNER

STATE OF UTAH )

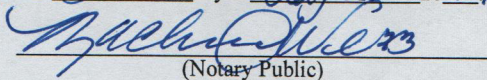
COUNTY OF )

I (we), FRANK LINDHAROT, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided identified in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (we) also acknowledge that I have received written instructions regarding the process for which I am applying and the Hildale City Planning staff have indicated they are available to assist me in making this application.

  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this 29<sup>th</sup> day of August, 2019

  
(Notary Public)



**RACHEL L. WEBB**  
Notary Public  
State Of Utah  
My Commission Expires 09-30-2022  
COMMISSION NO. 702351

Residing in: Huacriana, UTAH

My Commission Expires: 9-30-2022

Agent Authorization

I (we), FRANK LINDHAROT, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) \_\_\_\_\_ to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

Residing in: \_\_\_\_\_

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



**Hildale City**  
 320 E. Newel Ave  
 Hildale, UT 84784  
 435-874-1160  
 ar@hildalecity.com

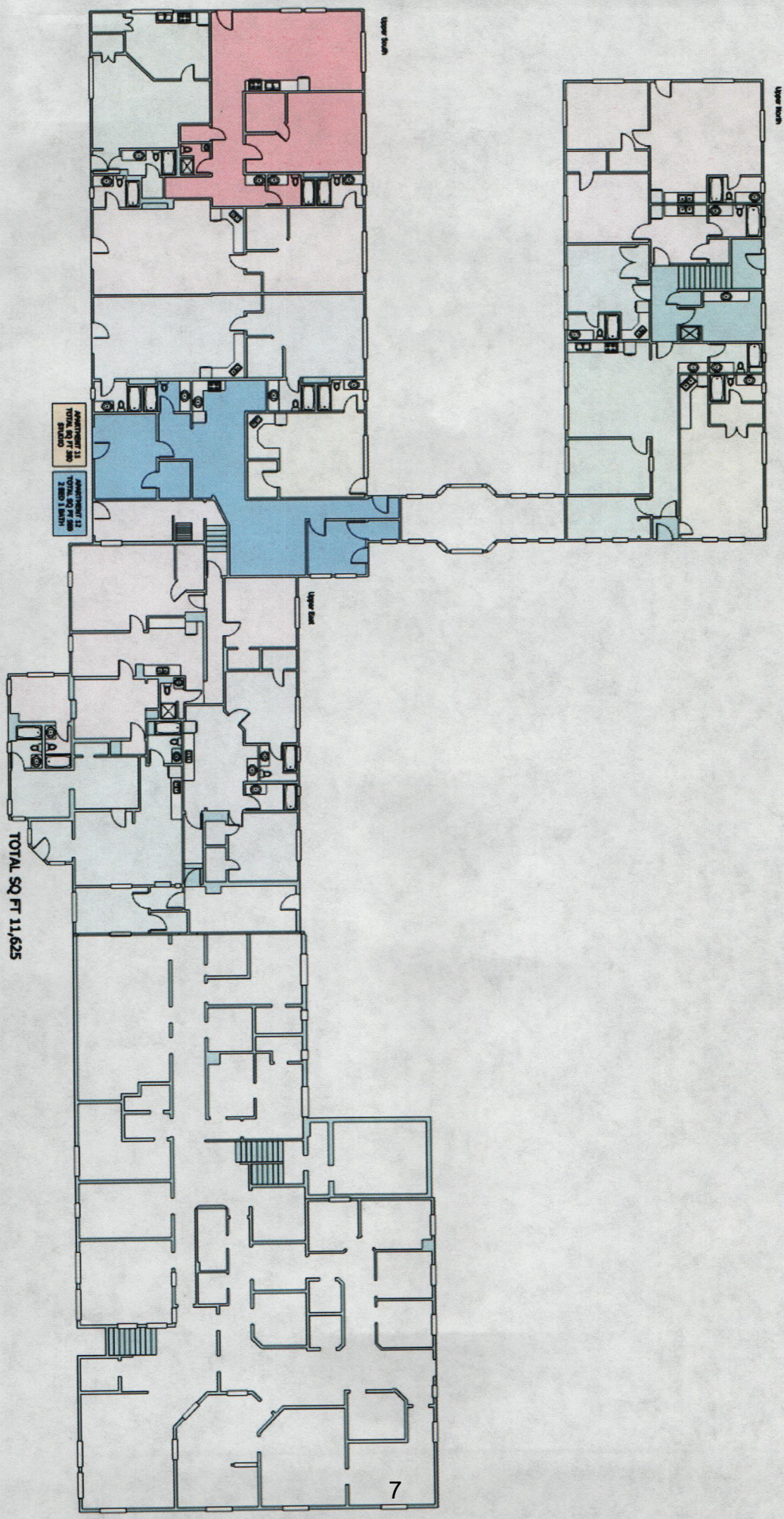
XBP Confirmation Number: **66349122**

Transaction detail for payment to Hildale City.			Date: 08/30/2019 - 9:39:46 AM
Transaction Number: 110980132PT Visa — XXXX-XXXX-XXXX-3315 Status: <b>Successful</b>			
Account #	Item	Quantity	Item Amount
	Land Use	1	\$100.00
			<b>TOTAL: \$100.00</b>

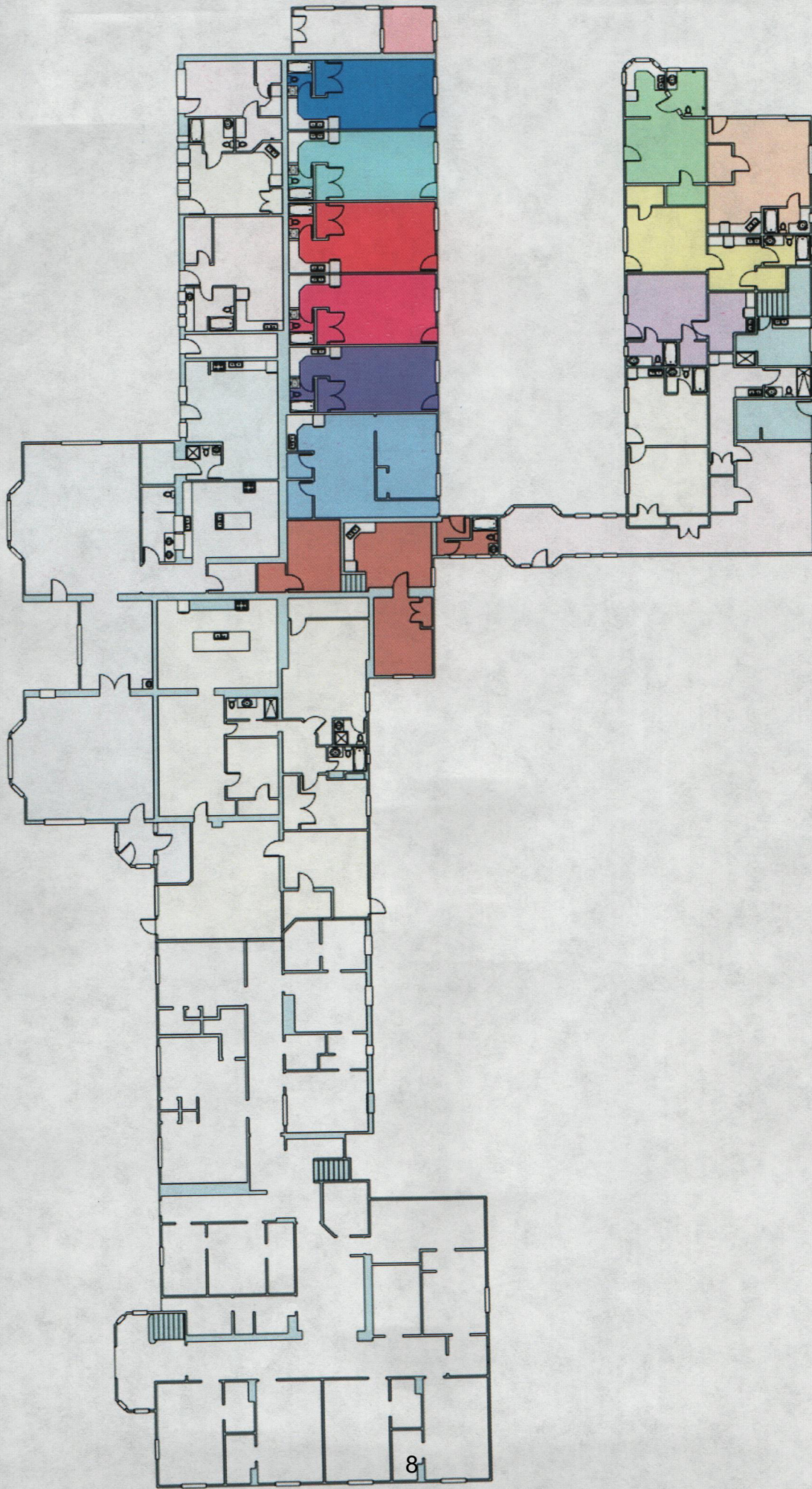
**Billing Information**  
 GEMSTONE PROPERTIES  
 FRANK  
 2608 WEST 510 NORTH  
 HURRICANE, UT 84737

Transaction taken by: AChatwin

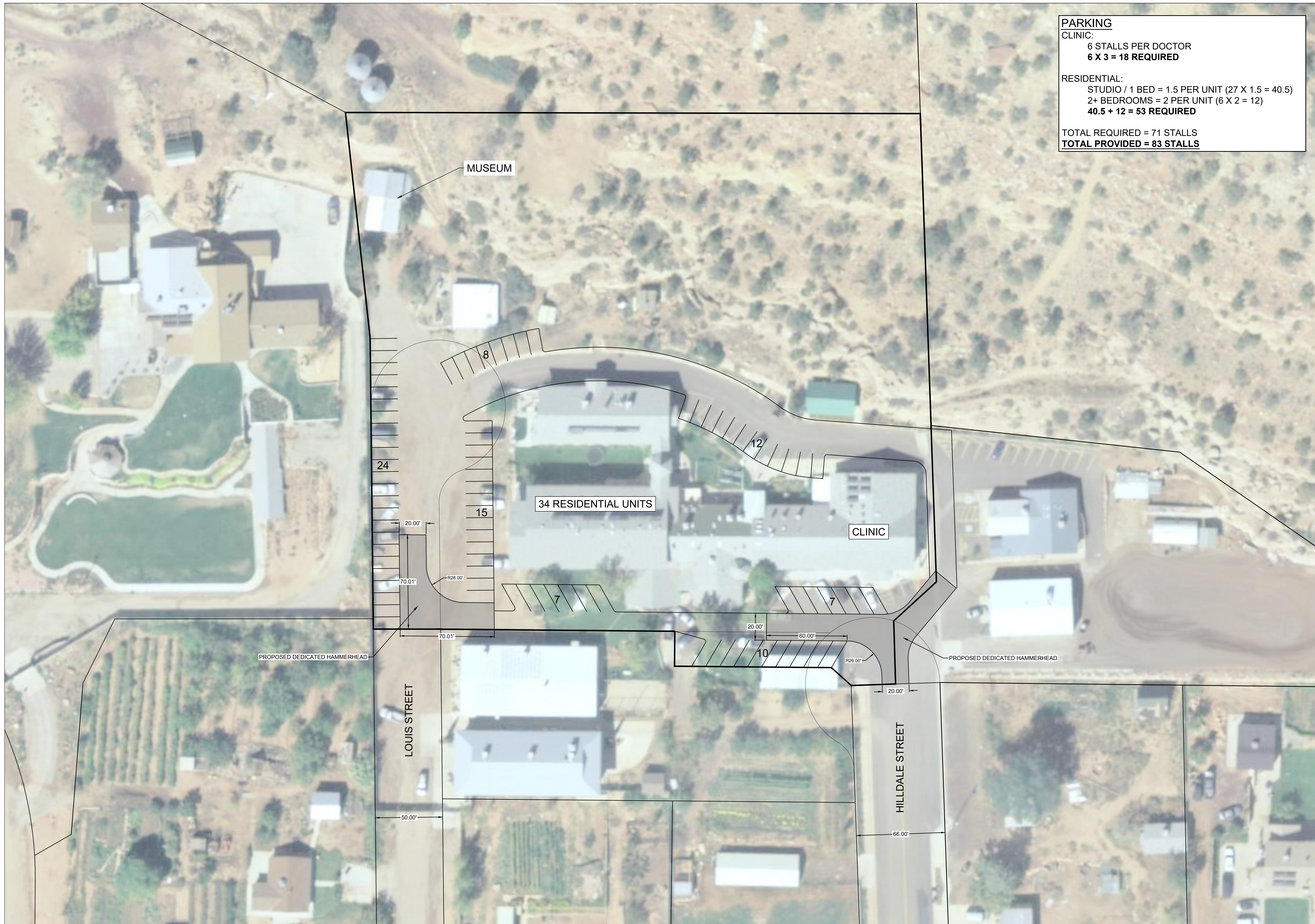




TOTAL SQ FT 11,625



8



**PARKING**  
 CLINIC:  
 6 STALLS PER DOCTOR  
 6 X 3 = 18 REQUIRED

RESIDENTIAL:  
 STUDIO / 1 BED = 1.5 PER UNIT (27 X 1.5 = 40.5)  
 2+ BEDROOMS = 2 PER UNIT (6 X 2 = 12)  
 40.5 + 12 = 53 REQUIRED

TOTAL REQUIRED = 71 STALLS  
**TOTAL PROVIDED = 83 STALLS**

1453 S. DIXIE DRIVE, SUITE 150  
 ST. GEORGE, UT 84770  
 435.986.0100



**ZONE CHANGE SITE PLAN MAP**  
 LOCATED IN  
 HILLDALE, UTAH  
 HD-SHCR-11-13

PROJ. #:	FF19070.07
DRAWN BY:	BLW
DATE:	05/21/2019
SCALE OF SHEET	
HOR SCALE:	1" = 30'
SHEET	1
OF	1

## **HILDALE CITY PLANNING COMMISSION APPLICATION STAFF REPORT**

**Project/Applicant Name:** Lee Dutson

**Project Address:** 880 N Elm St.

**Current Zoning:** RA-1

**Proposed Zoning:** RA.5 and RM-1

### **Summary of Application**

The Applicant is requesting an amendment to the zoning map to change 1 lot(s) located on the South East corner of Elm St. and Newel Ave. from RA-1 (Residential Agricultural 1 acre) to RA.5 and RM-1 (Residential Agricultural, Multiple Family 1) zoning, for the stated purpose to create two building lots consisting of 1 multi family home and one residential home.

### **Background**

The property was given RA-1 Zoning during the original creation of the zoning map. The lot consists of approximately 1.03 Acres of vacant land.

### **General Plan and Zoning**

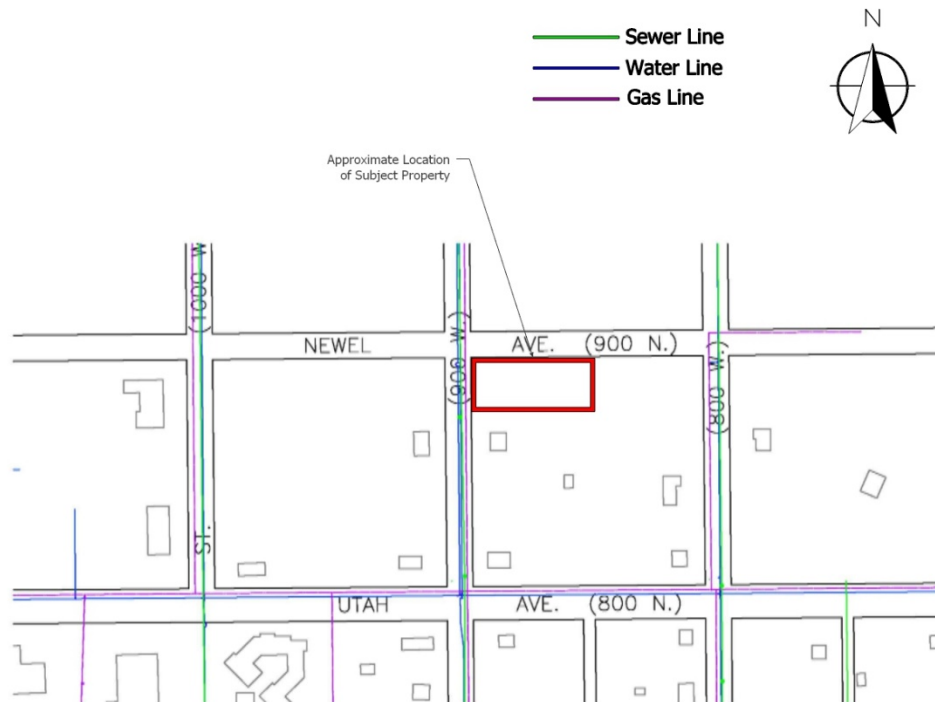
The property is surrounded by RA-1 properties on all sides. The general map shows this area as low density residential

### **Analysis**

The intention of this application is to two lots. One lot would be RM-1 allowing a maximum of 3 units and the other lot would be zoned RA.5 allowing a single family residential home.

Staff has done some research on the ability to split zoning in the middle of a lot and has found that we are capable of doing that, however it may not be the best practice.

All utilities are running north to south along Elm St. No utilities provided off Newel Ave.



**Staff Recommendation**

In an effort to make application like this more simple for the applicant, instead of making them zone RA.5 and then later Re Zone for the zone they actually want, staff would recommend that an application like this be approved with conditions. Those conditions would be something such as: the Re Zone will be granted on the condition that a lot split is completed within a specified time frame, at that time the zoning would be changed. If a lot split doesn't occur the lot will remain with the original RA-1 zoning.

**Sample Motions**

1. (Approve without conditions) **I move we recommend that the City Council approve the zoning map amendment requested for lot(s) HD-SHCR-3-25 based on the findings set forth in the staff report.**
2. (Approve with conditions) **I move we recommend that the City Council approve the zoning map amendment requested for lot(s) HD-SHCR-3-25 with the following conditions: [list conditions].**

3. (Deny) I move we recommend the City Council deny the zoning map amendment requested for lot(s) HD-SHCR-3-25 based on the findings set forth in the staff report.



Fee: \$100

For Office Use Only:  
File No. \_\_\_\_\_  
Receipt No. 1046433

*Angelene 09/10/19*

# ZONE CHANGE APPLICATION

Name: Lee Dutton Telephone: 435-705-9525

Address: PO Box 841586  
880 N Elm St Hildale Fax No. \_\_\_\_\_

Agent (If Applicable): \_\_\_\_\_ Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Address/Location of Subject Property: 880 N Elm St Hildale

Tax ID of Subject Property: HD-SHCR-3-25 Existing Zone District: RA-1

Proposed Zoning District and reason for the request (Describe, use extra sheet if necessary)

**Submittal Requirements:** The zone change application shall provide the following:

- a. The name and address of every person or company the applicant represents;
- b. An accurate property map showing the existing and proposed zoning classifications;
- c. All abutting properties showing present zoning classifications;
- d. An accurate legal description of the property to be rezoned;
- e. Stamped envelopes with the names and addresses of all property owners within 250 feet of the boundaries of the property proposed for rezoning.
- f. Warranty deed or preliminary title report or other document (see attached Affidavit) showing evidence that the applicant has control of the property

**Note:** It is important that all applicable information noted above along with the fee is submitted with the application. An incomplete application will not be scheduled for Planning Commission consideration. Planning Commission meetings are held on the third Monday of each month at 6:30 p.m. The deadline date to submit the application is 14 days prior to the scheduled meeting. Once your application is deemed complete, it will be put on the agenda for the next Planning Commission meeting. A deadline missed or an incomplete application could result in a month's delay.

\*\*\*\*\*

(Office Use Only)

Date Received: 9/10/19 Application Complete: YES  NO

Date application deemed to be complete: 9/11/19 Completion determination made by: KYLE LOTTOR

## **ZONE CHANGE APPLICATION (General Information)**

### **PURPOSE**

All lands within the City are zoned for a specific type of land use (single family residential, multi-family, commercial, industrial, etc.). Zoning occurs to provide for a relationship between various types of land uses which promotes the health, safety, welfare, order, economics, and aesthetics of the community. Zoning is one of the main tools used to implement the City's General Plan.

### **WHEN REQUIRED**

A zone change request is required any time a property owner desires to make a significant change to the use of his/her land. The change may be from one zone density (say 1 acre lots) to smaller lots (10,000 square foot lots). Or, it may be to an entirely different type of use, such as a change from single family zoning to multiple family or commercial zoning. Since the zone applied to your land limits what you can do, a rezoning application is typically the first step toward a change.

### **REQUIRED CONSIDERATIONS TO APPROVE A ZONE CHANGE**

When approving a zone change the following factors should be considered by the Planning Commission and City Council:

1. Whether the proposed amendment is consistent with the Goals, Objectives and Policies of the City's General Plan;
2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
3. The extent to which the proposed amendment may adversely affect adjacent property; and
4. 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 wastewater and refuse collection.

### **PROCESS**

Contact the Planning Department for when the deadline for submission is. After it is deemed complete, staff will review the request, and prepare a report and recommendation for the Planning Commission. This will be reviewed at a public hearing where the applicant should attend, present the project, and respond to questions from the Planning Commission. Since it is a public hearing, members of the public may also have questions or comments. At the public hearing the Planning Commission will review the application and staff's report and forward a recommendation to the City Council of approval, approval with modifications, or denial the zone change application.

Upon receipt of the Planning Commission recommendation, typically 1-2 weeks after the Planning Commission action, the City Council will consider and act on the Commission's recommendation. The action of the City Council is final. If denied, a similar application generally cannot be heard for a year.



Applicant would like to divide  
said property in half, making 2,  
 $\frac{1}{2}$  acre lots. One lot would be zoned  
RA-~~5~~, and the other would be  
zoned multi-family.

East half lot RA-1  
West half lot MF

Applicant, Lee Dutton



**Bidder Terms and Auction Rules - United Effort Plan Trust Auction of Real Properties:**

(Final Sale of each Real Property is subject to the approval of the Fiduciary and the Court)

This deposit shall be in the form of a cashier's check made payable to Statewide Auction

**11. Title Insurance.** The Seller will provide a standard owner's policy of title insurance subject



**Bidder Terms and Auction Rules - United Effort Plan Trust Auction of Real Properties:**

(Final Sale of each Real Property is subject to the approval of the Fiduciary and the Court)

This deposit shall be in the form of a cashier's check made payable to Statewide Auction

**11. Title Insurance.** The Seller will provide a standard owner's policy of title insurance subject

AFFIDAVIT  
PROPERTY OWNER

STATE OF UTAH )

COUNTY OF ) Washington

I (we), Lee Outson, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided identified in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (we) also acknowledge that I have received written instructions regarding the process for which I am applying, and the Hildale City Planning staff have indicated they are available to assist me in making this application.

Lee Outson  
(Property Owner)

State of Utah  
County of Washington

Lee Outson  
(Property Owner)

Subscribed and sworn to me this 10<sup>th</sup> day of Sept 2019, by Lee Outson.

Lisa Jeffs  
(Notary Public)

Residing in: Washington Co., Utah

My Commission Expires: 6/28/2021



Agent Authorization

I (we), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) \_\_\_\_\_ to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

Residing in: \_\_\_\_\_

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

Hildale City  
320 East Newel Avenue  
P. O. Box 840490  
Hildale UT 84784-0490 435-874-2323

Receipt No: 1.046433 Sep 10, 2019

LEE DUTSON

Previous Balance:	.00
MISCELLANEOUS	
Land Use 880 NORTH ELM STREET	100.00

Total:	100.00
--------	--------

Cash - Zions Bank	
Check No: CASH	100.00
Payor:	
LEE DUTSON	
Total Applied:	100.00

Change Tendered:	.00
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09/10/2019 12:03 PM



October 7, 2019

RE: Notice of Public Hearing — Re-zone Request  
Parcel Numbers: HD-SHCR-3-25  
Address: 880 N ELM ST. HILDALE UT

To Whom it May Concern:

You are invited to a public hearing to give any input you may have, as a neighboring property owner, regarding a request to re-zone the above-listed parcel(s) from RA-1 (Residential Agricultural 1 acre) to RA.5 and RM-1 (Residential Agricultural ½ acre and Residential Multi-Family) for the purpose of splitting the lot into two lots, one with a single family residence and the other with a multi-family housing unit. The regulations, prohibitions, and permitted uses that the property will be subject to, if the zoning map amendment is adopted, can be found in the Hildale City Land Use Ordinance, available in the City Recorder’s office or [at http://hildalecity.com/wp-content/uploads/2018/11/LU-Ordinance-V2.pdf](http://hildalecity.com/wp-content/uploads/2018/11/LU-Ordinance-V2.pdf). The hearing will be held October 21st at 6:30 PM. MDT, at Hildale City Hall, which is located at 320 East Newel Avenue, Hildale, Utah.

Any objections, questions or comments can be directed by mail to the City of Hildale, Attn: Planning and Zoning Administrator, P.O. Box 840490, Hildale, Utah 84784, or in person at the Hildale City Hall. The Planning and Zoning Administrator can be reached by phone at (435) 874-2323, or by email at [kylel@hildalecity.com](mailto:kylel@hildalecity.com). Any owner of property located entirely or partially within the proposed zoning map amendment may file a written objection to the inclusion of the owner’s property in the proposed zoning map amendment, not later than 10 days after day of the first public hearing. Each written objection filed with the municipality will be provided to the Hildale City Council.  
Sincerely,

Kyle Layton  
Planning and Zoning Director  
Tel: (435) 819-0128



CITY OF HILDALE  
P.O. Box 840490 • 320 E. NEWEL AVE.  
HILDALE, UT 84784

## **HILDALE CITY PLANNING COMMISSION APPLICATION STAFF REPORT**

**Project/Applicant Name:** Mills Gary Tooke Trust

**Project Address:** 840 N Maple St. & 845 N Elm St.

**Current Zoning:** RA-1

**Proposed Zoning:** GC

### **Summary of Application**

The Applicant is requesting an amendment to the zoning map to change 2 lot(s) located on Maple St. and Elm St. from RA-1 (Residential Agricultural 1 acre) to GC (General Commercial) zoning, for the stated purpose to match more closely the use that is taking place on the lot.

### **Background**

The property was given RA-1 Zoning during the original creation of the zoning map. The applicants are currently using the property for a commercial purpose under an allowed non-conforming use. A considerable financial investment has been put into these properties placing cabins for nightly rentals.

### **General Plan and Zoning**

The property is surrounded by RA-1 properties on the north and east. It has general commercial to the West as well as south. The general map shows this area as low density residential

### **Analysis**

This property is located closely to residential properties, however it is in close proximity to other general commercial properties as well. The property is also located just off Utah Ave. which is the major entrance into Hildale City. Because of this it may be a good location for a general commercial property. One item for discussion may be whether the Planning Commission feels that Utah Ave. will remain the main entrance into the city. If so it would be worth considering creating an environment that encourages the properties along that road to become more adapted to a commercial corridor.

Another Item to consider would be the fact that the applicant already has a non conforming use for this property and has invested a considerable amount into making this property commercial.

### **Staff Recommendation**

Because this property is in close proximity to other general commercial properties and the applicant has already taken steps in making this a commercial property. Staff would recommend that the Planning Commission approve this application.

### **Sample Motions**

1. (Approve without conditions) **I move we recommend that the City Council approve the zoning map amendment requested for lot(s) HD-SHCR-3-36 and HD-SHCR-3-39 based on the findings set forth in the staff report.**
2. (Approve with conditions) **I move we recommend that the City Council approve the zoning map amendment requested for lot(s) HD-SHCR-3-36 and HD-SHCR-3-39 with the following conditions: [list conditions].**
3. (Deny) **I move we recommend the City Council deny the zoning map amendment requested for lot(s) HD-SHCR-3-36 and HD-SHCR-3-39 based on the findings set forth in the staff report.**



# ZONE CHANGE APPLICATION

City of Hildale  
320 East Newel Avenue  
Hildale, UT 84784  
(435) 874-1160  
FAX (435) 874-2603

Fee: \$100

For Office Use Only: File No. _____ Receipt No. <u>1046594</u>
--

Angelina 10/07/19

Name: Mills Gary Toke Trust Telephone: 435 703 0453

Address: PO Box 1051 Storage 24771 Fax No. \_\_\_\_\_

Agent (If Applicable): \_\_\_\_\_ Telephone: \_\_\_\_\_

Email: tokegde@gmail.com

Address/Location of Subject Property: 840 N. Elm, Hildale UT

Tax ID of Subject Property: 0926932/092690 Existing Zone District: RA1  
#39 #30

Proposed Zoning District and reason for the request (Describe, use extra sheet if necessary)  
No zoning prior to approval of project.

Request change to correspond w/project - GC

Submittal Requirements: The zone change application shall provide the following:

- a. The name and address of every person or company the applicant represents;
- b. An accurate property map showing the existing and proposed zoning classifications;
- c. All abutting properties showing present zoning classifications;
- d. An accurate legal description of the property to be rezoned;
- e. Stamped envelopes with the names and addresses of all property owners within 250 feet of the boundaries of the property proposed for rezoning.
- f. Warranty deed or preliminary title report or other document (see attached Affidavit) showing evidence that the applicant has control of the property

**Note:** It is important that all applicable information noted above along with the fee is submitted with the application. An incomplete application will not be scheduled for Planning Commission consideration. Planning Commission meetings are held on the second Thursday and fourth Wednesday of each month at 6:00 p.m. Contact the Planning Department for the deadline date for submissions. Once your application is deemed complete, it will be put on the agenda for the next Planning Commission meeting. A deadline missed or an incomplete application could result in a month's delay.

\*\*\*\*\*

(Office Use Only)  
Date Received: 10/7/19 Application Complete: YES  NO

Date application deemed to be complete: 10/8/19 Completion determination made by: KTL

a. List of persons/company represented in application:

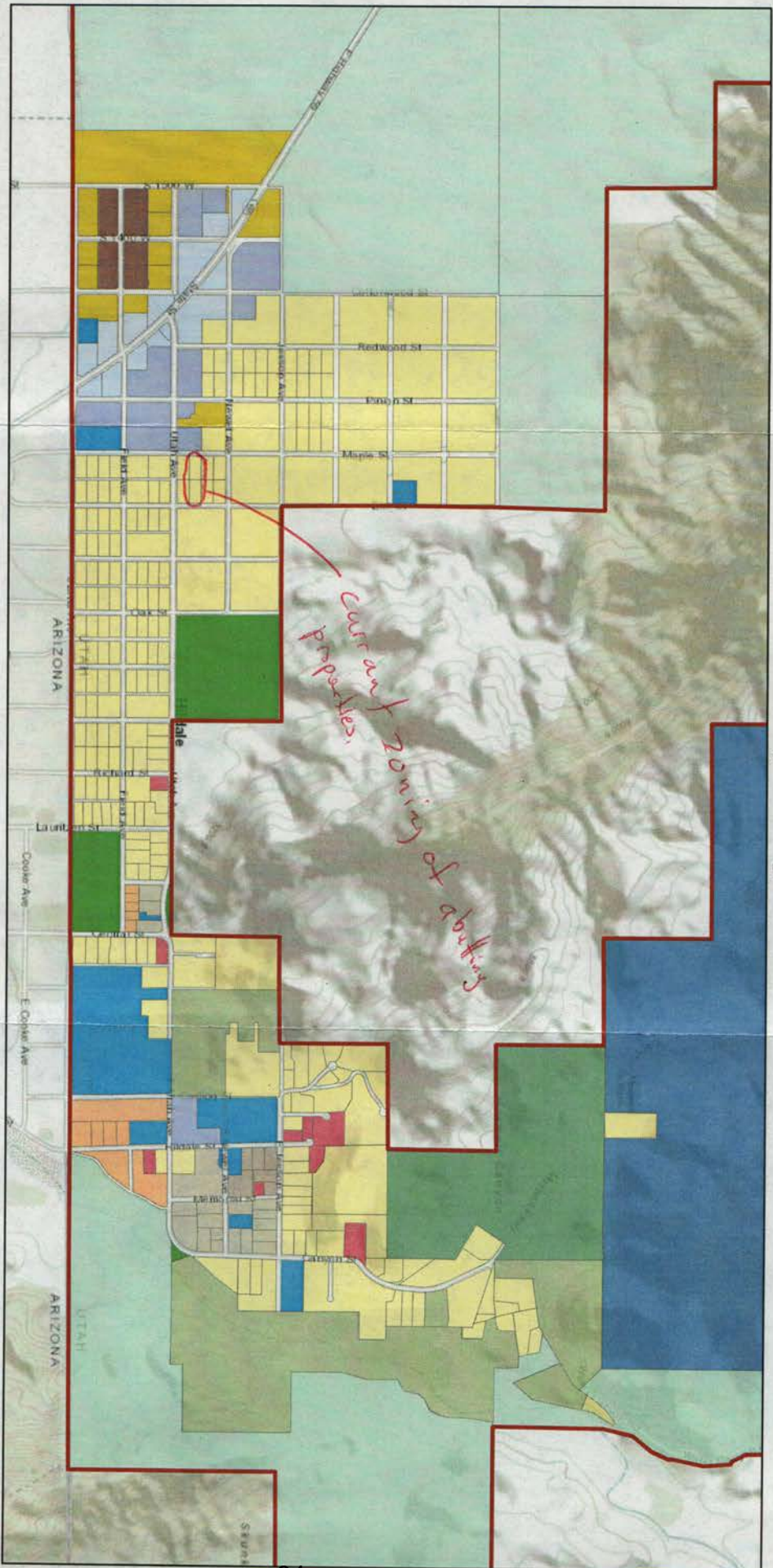
-Gary Tooke

-Shane Tooke

-Tooke Development

PO Box 651, St. George Utah 84771

# Hildale City Zoning Editor



HD-SHCR-3-36

0926901

Legal Description

BEGINNING AT THE CENTER OF SAID SECTION 33 AND RUNNING THENCE N 89°59'86" W A DISTANCE OF 658.51 FEET TO A FOUND BOLT; THENCE N 89°57'40" W A DISTANCE OF 1319.64 FEET TO A FOUND PK NAIL; THENCE N 0°03'55" W A DISTANCE OF 1321.79 FEET TO A POINT ON THE NORTH 1/16TH LINE; THENCE N 89°58'11" E A DISTANCE OF 659.49 FEET ALONG THE NORTH 1/16TH LINE OF SECTION 83, TO THE NORTHWEST 1/16TH CORNER OF SAID SECTION 33; THENCE N 89°59'06" E ALONG THE 1/16TH LINE A DISTANCE OF 1318.30 FEET TO THE CENTER NORTH 1/16TH CORNER OF SAID SECTION 33; THENCE S 0°04'51" E 1323.45 FEET TO THE POINT OF BEGINNING.

HD-SCHR-3-39

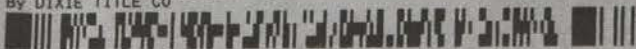
0926932

Legal Description

BEGINNING AT THE CENTER OF SAID SECTION 33 AND RUNNING THENCE N 89°59'86" W A DISTANCE OF 658.51 FEET TO A FOUND BOLT; THENCE N 89°57'40" W A DISTANCE OF 1319.64 FEET TO A FOUND PK NAIL; THENCE N 0°03'55" W A DISTANCE OF 1321.79 FEET TO A POINT ON THE NORTH 1/16TH LINE; THENCE N 89°58'11" E A DISTANCE OF 659.49 FEET ALONG THE NORTH 1/16TH LINE OF SECTION 83, TO THE NORTHWEST 1/16TH CORNER OF SAID SECTION 33; THENCE N 89°59'06" E ALONG THE 1/16TH LINE A DISTANCE OF 1318.30 FEET TO THE CENTER NORTH 1/16TH CORNER OF SAID SECTION 33; THENCE S 0°04'51" E 1323.45 FEET TO THE POINT OF BEGINNING.

DOC # 20180017431

Warranty Deed Page 1 of 1  
Russell Shirts Washington County Recorder  
04/30/2018 10:29:25 AM Fee \$ 11.00  
By DIXIE TITLE CO



WHEN RECORDED MAIL TO:  
Mills Gary Tooke, Trustee  
P.O. BOX 651  
ST. GEORGE UT. 84771

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY  
RECORDED AT THE REQUEST OF DIXIE TITLE COMPANY ORDER # 4-18-15C  
MAIL TAX NOTICE TO: SAME AS ABOVE  
TAX ID NO: HD-SHCR-3-36 and HD-SHCR-3-39

### WARRANTY DEED

Patrick Allen Zitting

GRANTOR(S)  
STATE OF ARIZONA

OF COLORADO CITY, COUNTY OF  
HEREBY CONVEY AND WARRANT TO

Mills Gary Tooke, Trustee of The Mills Gary Tooke Trust created under agreement dated the First Day of May, 2002

GRANTEE(S)

OF ST GEORGE, COUNTY OF WASHINGTON, STATE OF UTAH  
FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION,  
THE FOLLOWING DESCRIBED TRACT OF LAND IN WASHINGTON COUNTY, STATE OF UTAH:

All of Lots 36 and 39, Short Creek Subdivision #3, according to the Official Plat thereof on file and of Record in the Office of the Washington County Recorder, State of Utah.

TOGETHER with all improvements and appurtenances thereunto belonging but being SUBJECT to Easements, Rights of Way and Restrictions of Record.

WITNESS, THE HAND(S) OF SAID GRANTOR(S), THIS 25 DAY OF APRIL, 2018.

Patrick Allen Zitting

STATE OF UTAH )  
                          :SS  
COUNTY OF WASHINGTON )

ON APRIL 25, 2018, PERSONALLY APPEARED BEFORE ME, Patrick Allen Zitting, THE SIGNER OF THE WITHIN INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC





October 9, 2019

RE: Notice of Public Hearing — Re-zone Request

Parcel Numbers: HD-SHCR-3-36 & 39

Address: 845 N ELM ST. & 840 N MAPLE ST.

To Whom it May Concern:

You are invited to a public hearing to give any input you may have, as a neighboring property owner, regarding a request to re-zone the above-listed parcel(s) from Residential Agricultural to General Commercial for the purpose of more closely corresponding with its current use. The regulations, prohibitions, and permitted uses that the property will be subject to, if the zoning map amendment is adopted, can be found in the Hildale City Land Use Ordinance, available in the City Recorder's office or at <http://hildalecity.com/wp-content/uploads/2018/11/LU-Ordinance-V2.pdf>. The hearing will be held October 21st at 6:30 PM. MDT, at Hildale City Hall, which is located at 320 East Newel Avenue, Hildale, Utah.

Any objections, questions or comments can be directed by mail to the City of Hildale, Attn: Planning and Zoning Administrator, P.O. Box 840490, Hildale, Utah 84784, or in person at the Hildale City Hall. The Planning and Zoning Administrator can be reached by phone at (435) 874-2323, or by email at [kylel@hildalecity.com](mailto:kylel@hildalecity.com). Any owner of property located entirely or partially within the proposed zoning map amendment may file a written objection to the inclusion of the owner's property in the proposed zoning map amendment, not later than 10 days after day of the first public hearing. Each written objection filed with the municipality will be provided to the Hildale City Council.

Sincerely,

**Kyle Layton**  
**Planning and Zoning Director**  
**Tel: (435) 819-0128**



**CITY OF HILDALE**  
P.O. Box 840490 • 320 E. NEWEL AVE.  
HILDALE, UT 84784



# ZONE CHANGE APPLICATION

Fee: \$100

For Office Use Only:  
File No. \_\_\_\_\_  
Receipt No. 1046514

*9/25/19 Angelene*

Name: The Heights at South Zion Estates Phase 1 Telephone: 385.557.4946

Address: 11951 South 645 East, Draper, UT 84020 Fax No. \_\_\_\_\_

Agent (If Applicable): Mark Garza Telephone: 801.558.9966

Email: travis@prideexcavating.com / mark@tlgcompany.com

Address/Location of Subject Property: Pinion Street and Jessop Ave

Tax ID of Subject Property: HD-SHCR-13-52, 53, 54, 55, 602, 61, 62 & 63 Existing Zone District: R1-10

Proposed Zoning District and reason for the request (Describe, use extra sheet if necessary)  
The Heights at South Zion Estates is proposing a PDO on the property to help establish and regulate the development of a

comprehensive single family project that is unique and in harmony with the natural features, including variable lot sizes and open space amenities

Submittal Requirements: The zone change application shall provide the following:

- a. The name and address of every person or company the applicant represents;
- b. An accurate property map showing the existing and proposed zoning classifications;
- c. All abutting properties showing present zoning classifications;
- d. An accurate legal description of the property to be rezoned;
- e. Stamped envelopes with the names and addresses of all property owners within 250 feet of the boundaries of the property proposed for rezoning.
- f. Warranty deed or preliminary title report or other document (see attached Affidavit) showing evidence that the applicant has control of the property

Note: It is important that all applicable information noted above along with the fee is submitted with the application. An incomplete application will not be scheduled for Planning Commission consideration. Planning Commission meetings are held on the third Monday of each month at 6:30 p.m. The deadline date to submit the application is 10 business days prior to the scheduled meeting. Once your application is deemed complete, it will be put on the agenda for the next Planning Commission meeting. A deadline missed or an incomplete application could result in a month's delay.

\*\*\*\*\*

(Office Use Only)  
Date Received: 9/25/19 Application Complete: YES  NO

Date application deemed to be complete: 9/25/19 Completion determination made by: *[Signature]*

## **ZONE CHANGE APPLICATION (General Information)**

### **PURPOSE**

All lands within the City are zoned for a specific type of land use (single family residential, multi-family, commercial, industrial, etc.). Zoning occurs to provide for a relationship between various types of land uses which promotes the health, safety, welfare, order, economics, and aesthetics of the community. Zoning is one of the main tools used to implement the City's General Plan.

### **WHEN REQUIRED**

A zone change request is required any time a property owner desires to make a significant change to the use of his/her land. The change may be from one zone density (say 1 acre lots) to smaller lots (10,000 square foot lots). Or, it may be to an entirely different type of use, such as a change from single family zoning to multiple family or commercial zoning. Since the zone applied to your land limits what you can do, a rezoning application is typically the first step toward a change.

### **REQUIRED CONSIDERATIONS TO APPROVE A ZONE CHANGE**

When approving a zone change the following factors should be considered by the Planning Commission and City Council:

1. Whether the proposed amendment is consistent with the Goals, Objectives and Policies of the City's General Plan;
2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
3. The extent to which the proposed amendment may adversely affect adjacent property; and
4. 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 wastewater and refuse collection.

### **PROCESS**

Contact the Planning Department for when the deadline for submission is. After it is deemed complete, staff will review the request, and prepare a report and recommendation for the Planning Commission. This will be reviewed at a public hearing where the applicant should attend, present the project, and respond to questions from the Planning Commission. Since it is a public hearing, members of the public may also have questions or comments. At the public hearing the Planning Commission will review the application and staff's report and forward a recommendation to the City Council of approval, approval with modifications, or denial the zone change application.

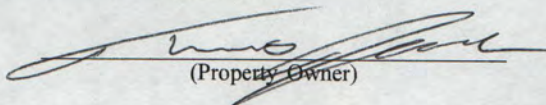
Upon receipt of the Planning Commission recommendation, typically 1-2 weeks after the Planning Commission action, the City Council will consider and act on the Commission's recommendation. The action of the City Council is final. If denied, a similar application generally cannot be heard for a year.



AFFIDAVIT  
PROPERTY OWNER

STATE OF UTAH )  
COUNTY OF Salt Lake :SS

I (we), Travis Jessop, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided identified in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (we) also acknowledge that I have received written instructions regarding the process for which I am applying and the Hurricane City Planning staff have indicated they are available to assist me in making this application.

  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

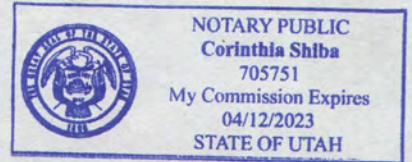
\_\_\_\_\_  
(Notary Public)

Residing in: \_\_\_\_\_

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

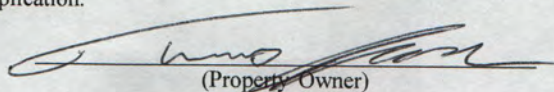
STATE OF UTAH  
COUNTY OF: Salt Lake  
ON THE 18<sup>th</sup> DAY OF September  
PERSONALLY APPEARED BEFORE ME  
Travis Jessop SIGNER(S) OF THE ABOVE  
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT  
HE/SHE/THEY EXECUTED THE SAME

Corinthia Shiba  
NOTARY PUBLIC



Agent Authorization

I (we), Travis Jessop, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) Mark Garza to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this 18<sup>th</sup> day of September 2019.

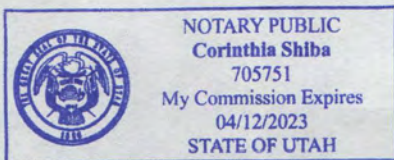
STATE OF UTAH  
COUNTY OF: Salt Lake  
ON THE 18<sup>th</sup> DAY OF September 2019  
PERSONALLY APPEARED BEFORE ME  
Travis Jessop SIGNER(S) OF THE ABOVE  
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT  
HE/SHE/THEY EXECUTED THE SAME

Corinthia Shiba  
(Notary Public)

Residing in: Sandy Utah

My Commission Expires: 04/12/2023

Corinthia Shiba  
NOTARY PUBLIC



Special Warranty Deed Page 1 of 2  
Russell Shirts Washington County Recorder  
09/01/2017 11:22:23 AM Fee \$12.00 By FIRST  
AMERICAN ST. GEORGE MAIN

Recording Requested by:  
First American Title Insurance Company  
50 East 100 South, Suite 100  
St. George, UT 84770  
(435)673-5491

Mail Tax Notices to and  
AFTER RECORDING RETURN TO:  
South Zion Estates, LLC  
C/O Mark F. James  
Hatch, James & Dodge  
10 W Broadway #400  
Salt Lake City, UT 84101

SPACE ABOVE THIS LINE (3 1/2" X 5") FOR RECORDER'S USE

**SPECIAL WARRANTY DEED**

Escrow No: 363-5864922 (LR)  
A.P.N.: HD-SHCR-13-1 THROUGH 16, 49, 50, AND 52 THROUGH 64

Holm Holdings, LLC, a Utah limited liability company, Grantor, of Hildale, Washington County, State of UT, hereby CONVEYS AND WARRANTS only as against all claiming by, through or under it to

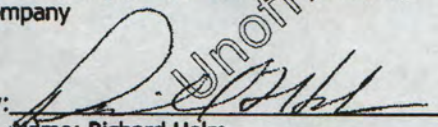
South Zion Estates, LLC, a Utah limited liability company, Grantee, of Hildale, Washington County, State of UT, for the sum of Ten Dollars and other good and valuable considerations the following described tract(s) of land in Washington County, State of Utah:

**LOTS 1 THROUGH 16, 49, 50, AND 52 THROUGH 64, SHORT CREEK SUBDIVISION #13, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE IN THE OFFICE OF THE WASHINGTON COUNTY RECORDER.**

Subject to easements, restrictions and rights of way appearing of record or enforceable in law and equity and general property taxes for the year 2017 and thereafter.

Witness, the hand(s) of said Grantor(s), this Aug 29 2017

Holm Holdings, LLC a Utah limited liability company

By:   
Name: Richard Holm  
Title: Manager

A.P.N.: HD-SHCR-13-1

Special Warranty Deed - continued

File No.: 363-5864922 (LR)

STATE OF

Utah

County of

Washington

On August 29, 2021, before me, the undersigned Notary Public, personally appeared **Richard Holm, Manager of Holm International Properties, LLC**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 06/03/2021

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



Hildale City  
320 East Newel Avenue  
P. O. Box 840490  
Hildale UT 84784-0490 435-874-2323

Receipt No: 1.046514 Sep 25, 2019

THE HEIGHTS AT SOUTH ZION ESTATES

Previous Balance: .00

MISCELLANEOUS

Land Use PINION STREET 100.00  
AND JESSOP AVE

Total: 100.00

Check - Zions Bank

Check No: 1002 100.00

Payor:

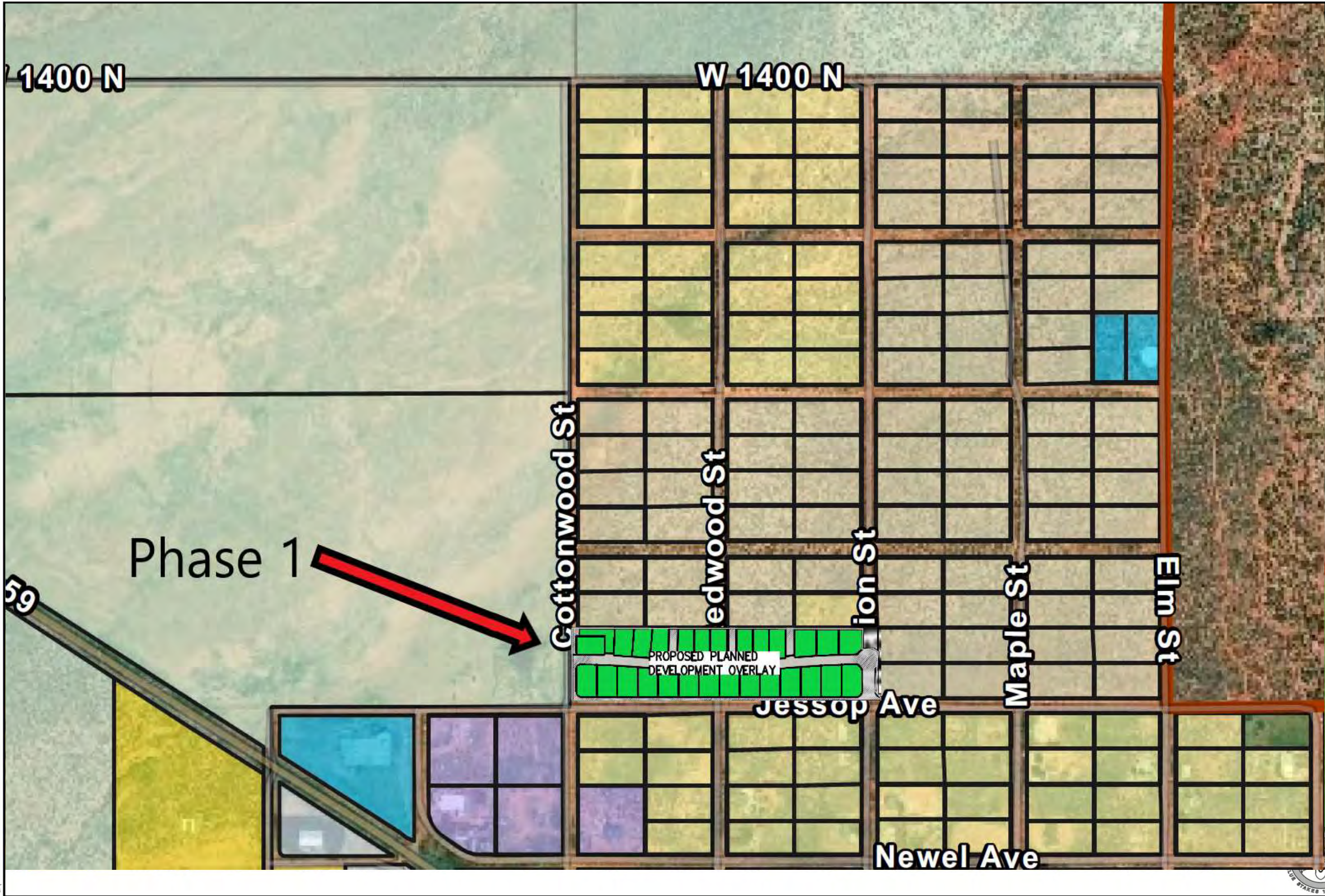
SOUTH ZION ESTATES LLC

Total Applied: 100.00

Change Tendered: .00

43

09/25/2019 10:34 AM



NO.	REVISIONS	BY	DATE

**CIR**  
**ENGINEERING, L.L.C.**  
 3032 SOUTH 1030 WEST, SUITE 202  
 S.C. Utah 84119 — 801-949-6296

HILDALE RESIDENCE  
 JESSOP AVE, REDWOOD ST., HILDALE, UT 84737

EXHIBIT



SHEET NO.  
**EXH**

PROJECT ID: A-1000  
 DATE: 09/16/19  
 FILE NAME: PRJ-HHS  
 SCALE: N.T.S.



# PRELIMINARY PLAT APPLICATION

City of Hildale  
320 East Newel Avenue  
Hildale, UT 84784  
(435) 874-1160  
FAX (435) 874-2603

Fee: \$300 (Plus \$50.00 per lot)

27 lots  
TOTAL \$1650.00

For Office Use Only:  
File No. \_\_\_\_\_  
Receipt No. 1046513

9/25/19 Angelene

Name: The Heights at South Zion Estates Phase 1 Telephone: 385.557.4946

Address: 11951 South 645 East, Draper, UT 84020 Fax No. \_\_\_\_\_

Email: travis@prideexcavating.com / mark@tlgcompany.com

Agent (If Applicable): Mark Garza Telephone: 801.558.9966

Address/Location of Subject Property: Pinion Street and Jessop Ave

Tax ID of Subject Property: HD-SHCR-13-52-55 & 13-60-63 Zone District: R1-10

Proposed Use: (Describe, use extra sheet if necessary. Include total number of lots) The project is a 27 lot

residential subdivision seeking preliminary plat approval.

**Submittal Requirements:** The preliminary plat application shall provide the following:

- 1. Description: In a title block located in the lower right-hand corner of the sheet the following is required:
  - a. The proposed name of the subdivision.
  - b. The location of the subdivision, including the address and section, township and range.
  - c. The names and addresses of the owner or subdivider, if other than the owner.
  - d. Date of preparation, and north point.
  - e. Scale shall be of sufficient size to adequately describe in legible form, all required conditions of Chapter 39, City Subdivision regulations.
- 2. Existing Conditions: The preliminary plat shall show:
  - a. The location of the nearest monument.
  - b. The boundary of the proposed subdivision and the acreage included.
  - c. All property under the control of the subdivider, even though only a portion is being subdivided. (Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in light of existing Master Street Plan or other Commission studies.)
  - d. The location, width and names/numbers of all existing streets within two hundred (200) feet of the subdivision and of all prior streets or other public ways, utility rights of way, parks and other public open spaces, within and adjacent to the tract.
  - e. The location of all wells and springs or seeps, proposed, active and abandoned, and of all reservoirs or ponds within the tract and at a distance of at least one hundred feet (100') beyond the tract boundaries.
  - f. Existing sewers, water mains, culverts or other underground facilities within the tract, indicating the pipe sizes, grades, manholes and the exact locations.

- g. Existing Hildale Canal Company facilities; other ditches, canals, natural drainage channels and open waterways and any proposed realignments.
- h. Contours at vertical intervals not greater than five (5) feet.
- i. Identification of potential geotechnical constraints on the project site (such as expansive rock and soil, collapsible soil, shallow bedrock and caliche, gypsiferous rock and soil, potentially unstable rock or soil units including fault lines, shallow groundwater, and windblown sand) and recommendations for their mitigation.
- j. Information on whether property is located in desert tortoise take area

3. Proposed Plan: The subdivision plans shall show:

- a. The layout of streets, showing location, widths, and other dimensions of proposed streets, crosswalks, alleys and easements.
- b. The layout, numbers and typical dimensions of lots.
- c. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision.
- d. Easements for water, sewers, drainage, utilities, lines and other purposes.
- e. Typical street cross sections and street grades where required by the Planning Commission. (All street grades over 5% should be noted on the preliminary plat)
- f. A tentative plan or method by which the subdivider proposes to handle the storm water drainage for the subdivision.
- g. Approximate radius of all center line curves on highways or streets.
- h. Each lot shall abut a street shown on the subdivision plat or on an existing publicly dedicated street. (Double frontage or flag lots shall be prohibited except where conditions make other design undesirable)
- i. In general, all remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allow to remain as unusable parcels.
- j. Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the Planning Commission.
- k. A letter from both the local sanitary sewer provider and culinary water provider indicating availability of service.
- l. Will this subdivision be phased? If yes show possible phasing lines.
- m. A tentative plan or method for providing non-discriminatory access to the subdivision for purposes of placement of communications infrastructure, and for purposes of placement of utility infrastructure.

4. Required copies of plans:

- a. Three copies of all full-scale drawings
- b. One copy of each drawing on a 11 x 17-inch sheets. (8 1/2 x 11 is acceptable if the project is small and the plans are readable at that size).

5. Warranty deed or preliminary title report or other document (see attached Affidavit) showing evidence that the applicant has control of the property

**Note: It is important that all applicable information noted above along with the fee is submitted with the application. An incomplete application will not be scheduled for Planning Commission consideration. Planning Commission meetings are held on the third Monday of each month at 6:30 p.m. The deadline date to submit the application is 10 business days prior to the scheduled meeting. Once your application is deemed complete, it will be put on the agenda for the next Planning Commission meeting. A deadline missed or an incomplete application could result in a month's delay.**

\*\*\*\*\*

(Office Use Only)

Date Received: 9/25/19 Application Complete: YES  NO

Date application deemed to be complete: \_\_\_\_\_ Completion determination made by: \_\_\_\_\_

### **PURPOSE**

The preliminary plat application is the first step in land development process in those instances where land is divided for eventual sale. The process is established to ensure that all proposed divisions of land conform to the City General Plan and to adopted development standards of the Land Use Ordinance.

### **WHEN REQUIRED**

The preliminary plat is required any time land is to be divided, re-subdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on installment plan or upon any and all other plans, terms and conditions. It is not required on agricultural divisions where the agricultural parcel is divided to be combined with another agricultural parcel, nor is it required when two un-subdivided properties are merged, or where the boundary between two un-subdivided properties are adjusted.

The preliminary plat must be approved before a final plat can be processed and recorded.

Subdivision approval process:

- Determine current zoning for property.
- If zoning fits desired subdivision, meet with Planning staff to discuss the proposed project.
- Obtain a preliminary plat application form and complete the application and have a plat prepared by an engineer to meet the requirements on the preliminary plat application.
- Submit completed application, preliminary plat, and required \$150 fee to Planning Department before noon on the Wednesday two weeks before desired Planning Commission meeting. (see submittal dates sheet)
- Appear at the scheduled Planning Commission meeting to discuss preliminary plat, hear comments, answer questions, and receive recommendation of approval or disapproval from Planning Commission.
- Appear at the next scheduled City Council meeting that occurs after the Planning Commission meeting at which a recommendation was received. Hear City Council comments, answer questions, and receive City Council decision. City Council can approve the plat with conditions, recommend changes and send it back to the Planning Commission, or deny the plat.

If the preliminary plat is approved, have construction drawings for utilities and streets prepared by an engineer according to

City standards. Construction drawings must be approved by both the

Joint Utilities Committee and the Ash Creek Special Service District. Approval means changes are made and all required signatures are obtained.

Once the preliminary plat is approved by the City Council, the applicant has one year after receiving approval of the preliminary plat to submit the final plat to the Planning Commission for action. The Planning Commission may authorize a one-year time extension, provided the extension request is made before the one-year time limit is reached. The Planning Commission will review and make recommendation to the City Council on the final plat when submitted. The City Council will typically review the Planning Commission recommendation within 1-2 weeks after the Commission action on the final plat.

### **APPEALS**

The Planning Commission makes a recommendation to the City Council, so there is no appeal. The City Council's action on a preliminary plat is final unless appealed to the appropriate court.



AFFIDAVIT  
PROPERTY OWNER

STATE OF UTAH )

COUNTY OF Salt Lake

I (we), Travis Jessop, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided identified in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (we) also acknowledge that I have received written instructions regarding the process for which I am applying, and the Hildale City Planning staff have indicated they are available to assist me in making this application.

[Signature]  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this 18<sup>th</sup> day of September 2019.

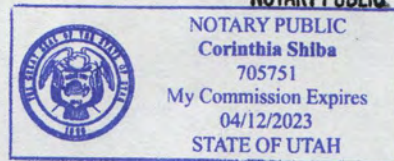
Corinthia Shiba  
(Notary Public)

Residing in: Sandy, Utah

My Commission Expires: 04/12/2023

STATE OF UTAH  
COUNTY OF: Salt Lake  
ON THE 18<sup>th</sup> DAY OF September 2019  
PERSONALLY APPEARED BEFORE ME  
Travis Jessop SIGNER(S) OF THE ABOVE  
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT  
HE/SHE/ THEY EXECUTED THE SAME

Corinthia Shiba  
NOTARY PUBLIC



Agent Authorization

I (we), Travis Jessop, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) Mark Garza to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

[Signature]  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this 18<sup>th</sup> day of September 2019.

Corinthia Shiba  
(Notary Public)

Residing in: Sandy Utah

My Commission Expires: 04/12/2023

STATE OF UTAH  
COUNTY OF: Salt Lake  
ON THE 18<sup>th</sup> DAY OF September 2019  
PERSONALLY APPEARED BEFORE ME  
Travis Jessop SIGNER(S) OF THE ABOVE  
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT  
HE/SHE/ THEY EXECUTED THE SAME

Corinthia Shiba  
NOTARY PUBLIC



Hildale City  
320 East Newel Avenue  
P. O. Box 840490  
Hildale UT 84784-0490 435-874-2323

Receipt No: 1.046513 Sep 25, 2019

THE HEIGHTS AT SOUTH ZION ESTATES

Previous Balance: .00

MISCELLANEOUS

Land Use PINION STREET 1,650.00  
AND JESSOP AVE

Total: 1,650.00

Check - Zions Bank

Check No: 1001 1,650.00

Payor:

SOUTH ZION ESTATES LLC

Total Applied: 1,650.00

Change Tendered: .00

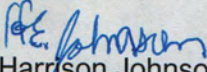
49

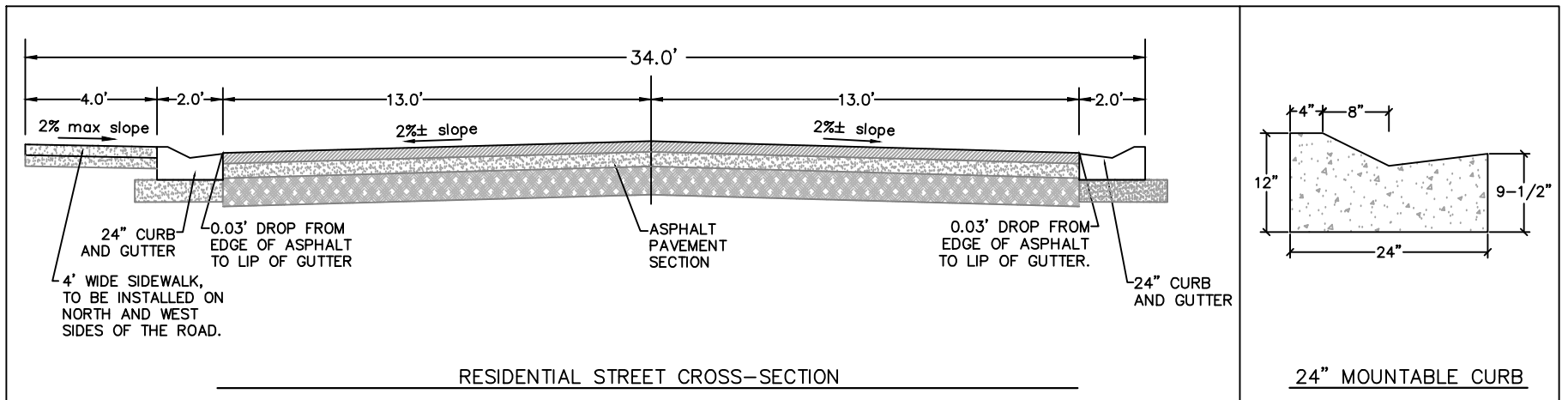
09/25/2019 10:31 AM

Dear Mark Garza  
CIR Engineering  
3032 South 1030 West, Ste 202  
Salt Lake City, UT 84119

We can confirm that there are no existing culinary water, sanitary sewer or gas services available for the Short Creek Subdivision #13 sent on September 30<sup>th</sup>, 2019. We expect that the developer of Short Creek Subdivision #13 will submit fully engineered drawings, and provide funding for engineering review to the Water, Wastewater and Gas Departments before final approval is given. Additionally, all drawings, submissions and construction related to utilities installation are inspectable by Utilities Superintendents to ensure compliance with City development standards and ordinances, and local, state and federal laws.

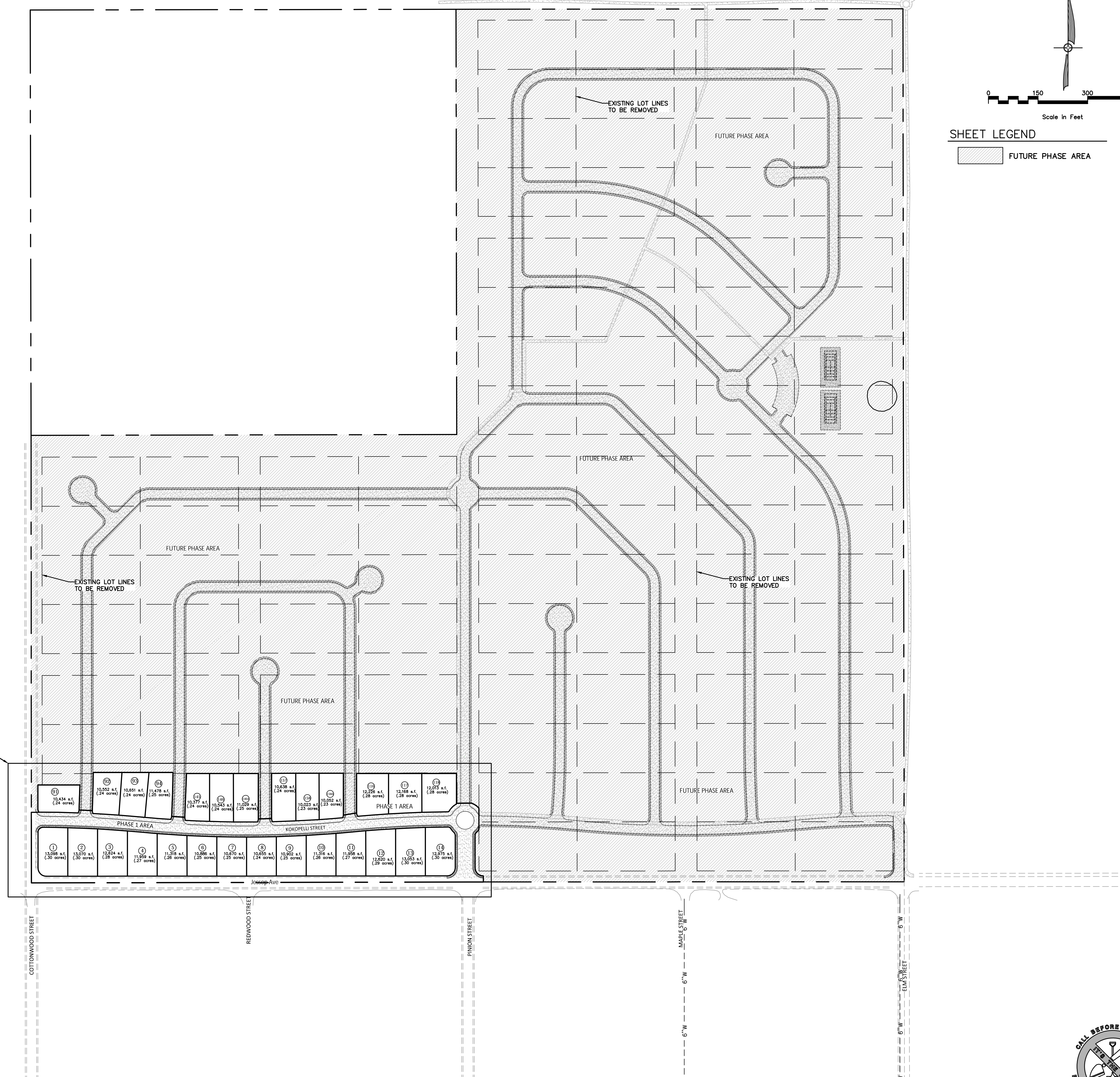
We look forward to working with you and seeing your project succeed!

  
Harrison Johnson  
Director  
Hildale-Colorado City Utility Department



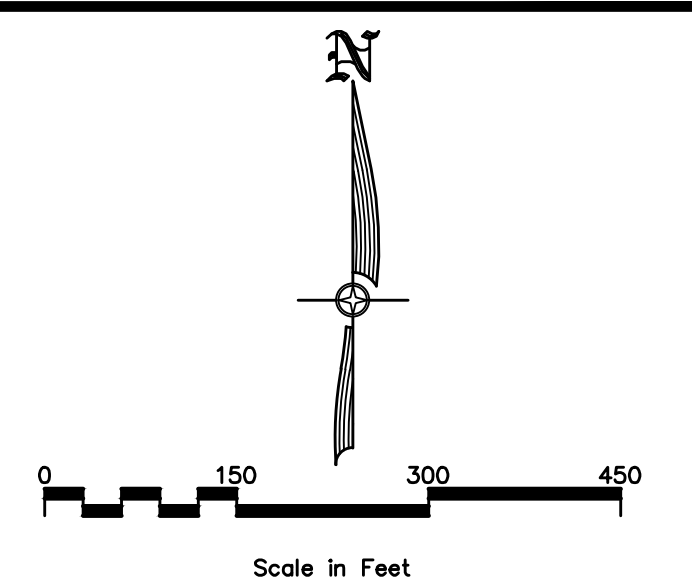
BOXELDER STREET  
8" SS

SEE SHEET C4 FOR  
PHASE 1 AREA PLAN



SHEET LEGEND

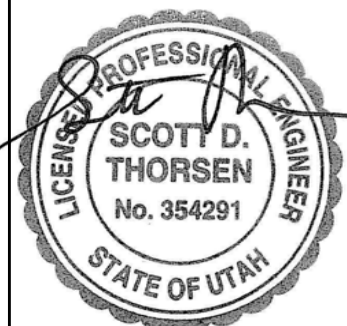
FUTURE PHASE AREA



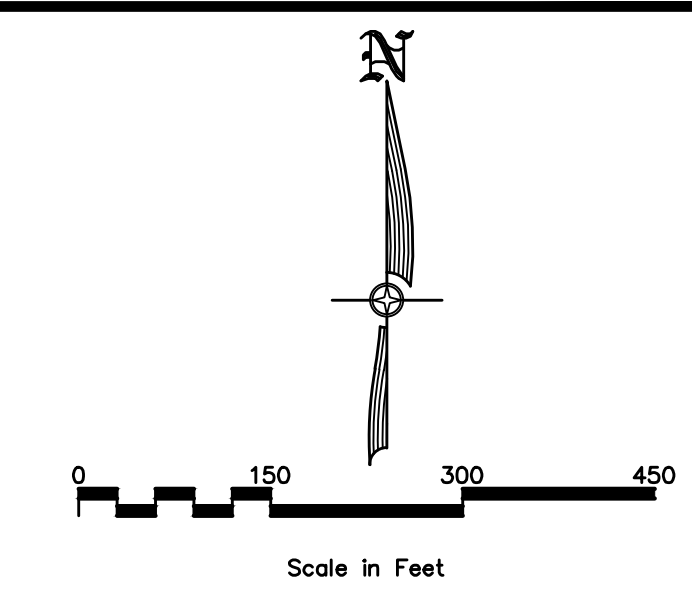
NO.	REVISIONS	BY	DATE

**CIR**  
ENGINEERING, L.L.C.  
3032 SOUTH 1030 WEST, SUITE 202  
SLC, Utah 84119 - 801-949-6296

HILDALE RESIDENCE  
JESSOP AVE. REDWOOD ST., HILDALE, UT 84737  
SITE PLAN



SHEET NO.	C1
PROJECT ID	A-1000
DATE	09/16/19
FILE NAME	PRJ-HHS
SCALE	1"=150'

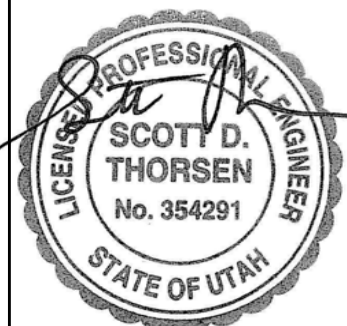


SHEET LEGEND  
 FUTURE PHASE AREA

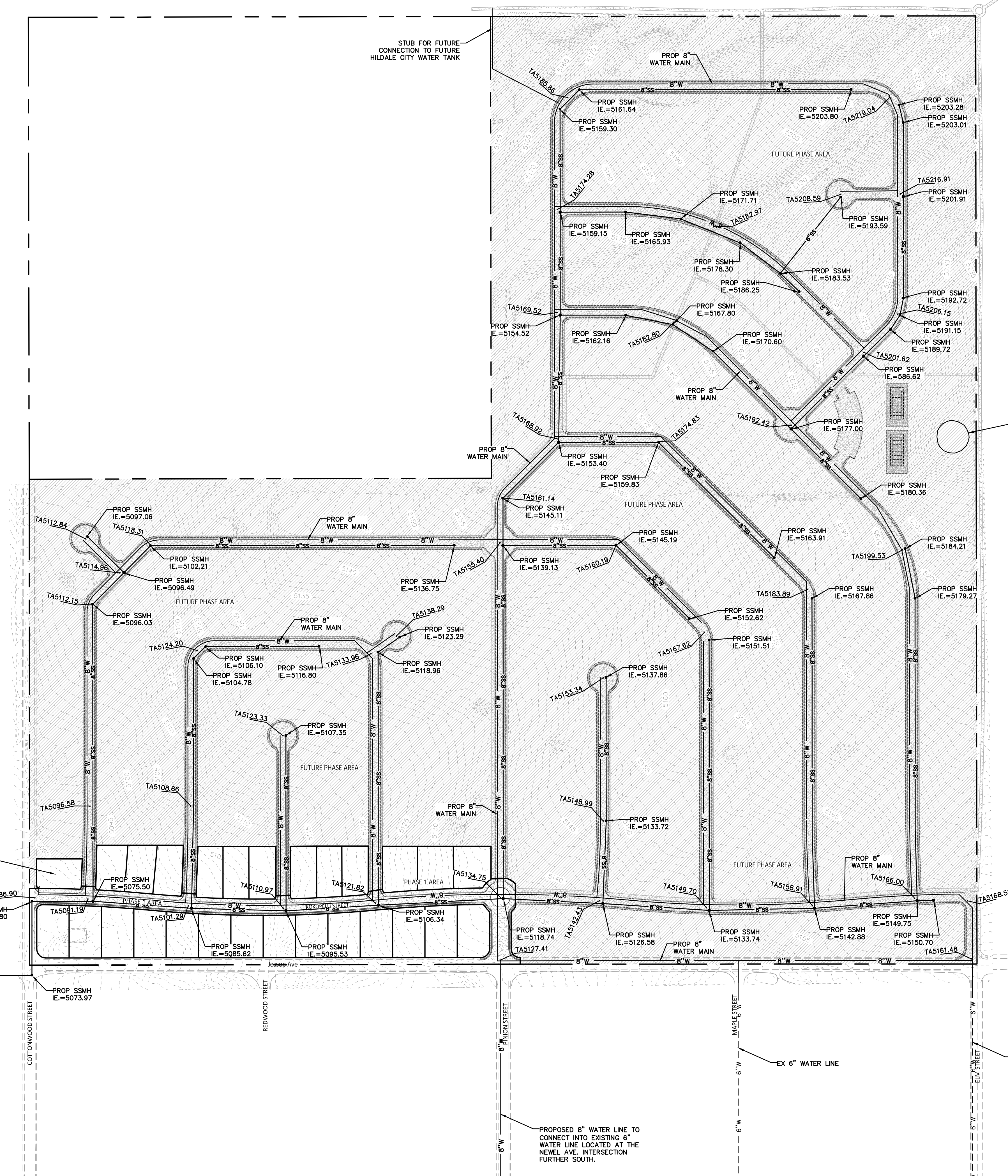
NO.	REVISIONS	BY	DATE

**CIR**  
**ENGINEERING, L.L.C.**  
 3032 SOUTH 1030 WEST, SUITE 202  
 S.L.C. Utah 84119 - 801-949-6296  
 DESIGNER: SDT  
 PROJECT ENGINEER: SDT

HILDALÉ RESIDENCE  
 JESSOP AVE. REDWOOD ST., HILDALÉ, UT 84737  
 UTILITY PLAN



SHEET NO.  
**C2**  
 PROJECT ID: A-1000  
 DATE: 09/16/19  
 FILE NAME: PRJ-HHS  
 SCALE: 1"=150'



PROPOSED 8" WATER LINE TO CONNECT INTO EXISTING 6" WATER LINE LOCATED AT THE NEWEL AVE. INTERSECTION FURTHER SOUTH.

POSSIBLE TEMPORARY-RETENTION POND LOCATION

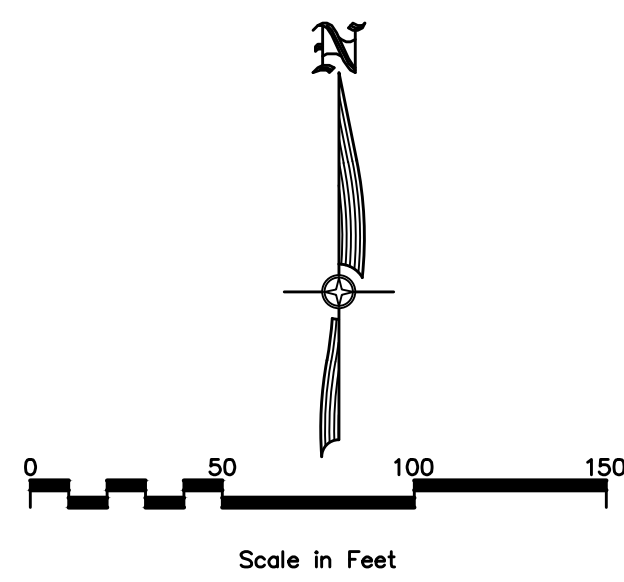
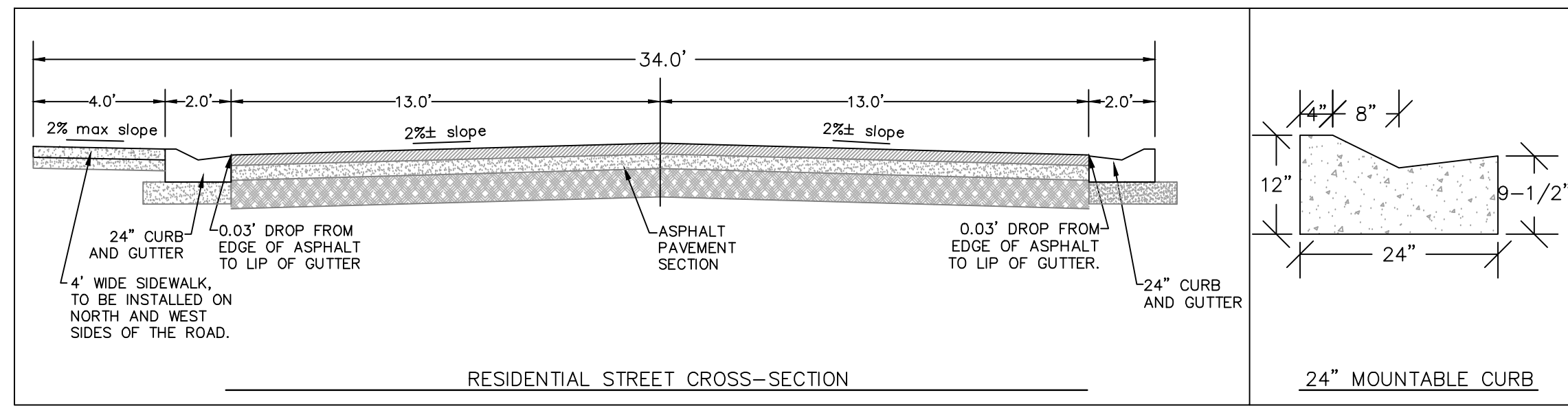
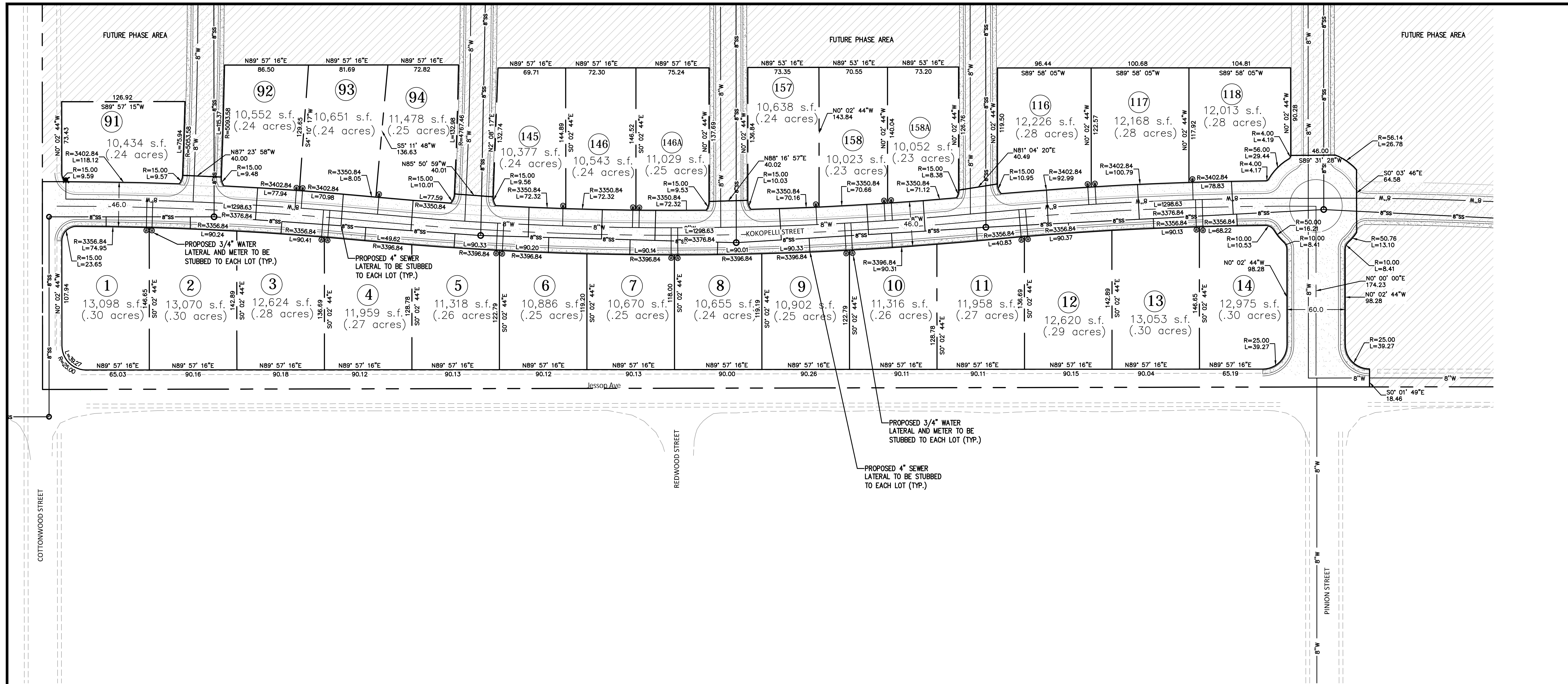
STUB FOR FUTURE CONNECTION TO FUTURE HILDALÉ CITY WATER TANK

EX WATER TANK

EX 6" WATER LINE

EX 6" WATER LINE

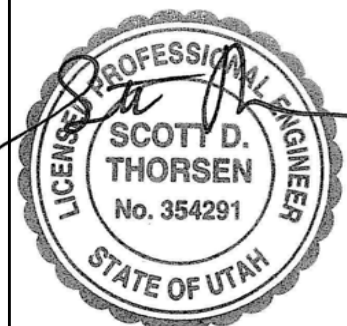
EX SSMH 8" IN PIPE GOES SOUTH IE=5050.43 RIM=5082.33



NO.	REVISIONS	BY	DATE

**CIR ENGINEERING, L.L.C.**  
 3032 SOUTH 1030 WEST, SUITE 202  
 SLC, Utah 84119 - 801-949-6296  
 PROJECT ENGINEER: SDT

HILDALÉ RESIDENCE  
 JESSOP AVE. REDWOOD ST., HILDALÉ, UT 84737  
 PHASE 1 AREA PLAN



SHEET NO. **C3**  
 PROJECT ID: A-1000  
 DATE: 09/16/19  
 FILE NAME: PRJ-HHS  
 SCALE: 1"=50'



## DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into this \_\_\_\_\_ day of August, 2019 by and between the City of Hildale, a Utah municipal corporation, hereafter referred to as “City” and [South Zion Estates, LLC, a Utah limited liability company], hereafter referred to as “Developer”.

### RECITALS

A. City, acting pursuant to its authority under Utah Code Annotated Section 10-9a-102 (2) *et seq.*, as amended and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has made certain determinations with respect to the proposed subdivision development and, in exercise of its legislative discretion, has elected to enter into this Agreement.

B. Developer is the owner of certain real property located in Hildale, Utah, and generally known as Lots 1 through 64, Shortcreek Subdivision #13, and Lots 17 through 35, and 38 through 48, Shortcreek Subdivision # 14, hereafter referred to as the “Property”. The Property is legally described on **Exhibit “A”** attached hereto and incorporated herein by reference.

C. Developer has prepared and presented to the City a development application for a single-family Planned Unit Development to be known as the South Zion Estates Subdivision (hereinafter referred to as the “Project”). The application package has been submitted and reviewed by the City pursuant to the requirements of the Hildale City Code (the “City Code”) and related protocols and policies and other applicable zoning, engineering, fire safety and building requirements. The resulting concept plan (the “Concept Plan”), a copy of which is attached hereto as **Exhibit “B”**, and the preliminary and final approved subdivision plat(s), engineering construction drawings, conveyance documents, title reports and other documents submitted during the City’s review and approval processes will be referred to herein as the “**Development Documents.**”

D. The Developer and City desire to allow Developer to make improvements to the Property and develop the Project in accordance with the Concept Plan and the Development Documents.

E. The City has authorized the negotiation of and adoption of development agreements which advance the policies goals and objectives of the Hildale City General Plan.

F. Consistent with the foregoing authorization and the provisions of Utah State law, the City’s governing body has authorized execution of this Agreement by resolution \_\_\_\_\_, a copy of which is attached to this Agreement as **Exhibit “C”**.



## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### ARTICLE I LEGAL AUTHORITY AND PURPOSE

- 1.1. **Purpose.** The City and Developer represent that they have the legal authority to enter into and perform their respective obligations under this Agreement and that the City has determined that this Agreement effectuates the above-referenced public purposes, objectives and benefits. This Agreement and the Development Documents and Land Use Laws (defined below) will govern the City and the Developer with respect to development of the Project.
- 1.2. **Recitals and Exhibits.** The above Recitals and all Exhibits hereto are hereby incorporated by reference into this Agreement.
- 1.3. **Conditions Precedent.** Each of the City and Developer is entering into this Agreement in anticipation of the satisfaction of certain conditions precedent, which, if not satisfied, will frustrate the purposes of this Agreement. Accordingly, if the Conditions Precedent are not satisfied or otherwise waived by the Parties, this Agreement shall be rendered null and void and none of the parties hereto shall have any further obligation to the other arising out of this Agreement. The Parties recognize that some of the Conditions Precedent may be satisfied contemporaneously with or prior to the execution of this Agreement, but such Conditions Precedent have been identified herein for purposes of setting forth the intent of the Parties. For purposes of this Agreement, the following shall constitute the “**Conditions Precedent**”:
  - 1.3.1. the final non-appealable approval and acceptance of this Agreement by the City Council; and
  - 1.3.2. the final non-appealable approval and acceptance of the modified design standards set forth on the Modified Standards attached hereto as **Exhibit “D”** (the “**Modified Standards**”) by the City Council; and
  - 1.3.3. the final non-appealable approval and acceptance of the Concept Plan by the City Council.
- 1.4. **Vested Rights.** Subject to satisfaction of the Conditions Precedent, Developer shall have the vested right to develop and construct the Project in Phases in accordance with the Development Documents and the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations of the City (together, the “**Land Use Laws**”) in existence and effective on the date of final approval of this Agreement and applying the terms and conditions of this Agreement. Subject to the reservation of the City’s legislative powers

as set forth in Section 1.5 below, to the extent of any inconsistency between this Agreement and the Land Use Laws, this Agreement and the approved Development Documents will govern the City and the Developer with respect to development of the Project.

- 1.5. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of the police power of the City in enacting generally applicable land use laws after the date of this Agreement. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights described in Section 1.4 based on a good faith application of the policies, facts, and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change, including the imposition of any moratoria, affecting the vested rights of the Developer granted under this Agreement shall be binding upon Developer only if (a) such change is of general application to all development activity in the City; and (b) the Developer receives, unless in good faith the City declares an emergency, prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project and the rights granted hereunder.

## ARTICLE II PROJECT DEVELOPMENT

### 2.1 **Development Obligations.**

- 2.1.1 **Conveyance or Dedication of Required Easements.** Developer shall convey or dedicate to the City or other applicable utility provider, at no cost, such required utility easements on or across the Project as are necessary to facilitate the extension of required utility services to and throughout the Project and as are shown on the various Final Plats for the Project. Without limitation, the easements shall include easements for access to and operation, maintenance, repair and replacement of public water, storm drain and sanitary sewer facilities located within master planned rights-of-way for which dedication is deferred.
- 2.1.2 **Public Streets, Culinary Water, Sanitary Sewer and Storm Water Improvements—Developer Obligations.** Developer shall design, construct and dedicate to the City all public streets and other public infrastructure required by the Hildale City Code and City standards (as modified pursuant to the Modified Standards) and shown on the approved Final Plat and Plans and Specifications for a given Phase (hereinafter referred to as the “**Developer Constructed Project Improvements**”), which Final Plat and Plans and Specifications (defined below) shall be approved unless they fail to materially comply with the Development Documents. Deferral of public improvement construction within a given Phase, if any, shall be addressed by separate agreement. Notwithstanding any other provisions of this Agreement, all Developer Constructed Project Improvements shall be constructed in compliance with engineering plans and specifications approved by the City in connection with the applicable Final Plat for a given Phase

of the Project (the “**Plans and Specifications**”), which approval shall not be unreasonably withheld, conditioned or delayed.

- 2.1.3 **Public Streets, Culinary Water, Sanitary Sewer and Storm Water Improvements—City Obligations.** The City shall, at its sole cost and expense, construct all streets, culinary water, natural gas, sanitary sewer, and storm water improvements necessary or desirable to provide access and utilities to the Project (the “**City Constructed System Improvements**”). City agrees that it shall install the City Constructed System Improvements required in connection with a given Phase of the Project contemporaneously with the Developer’s construction of that Phase. The City and Developer hereby agree that the City Constructed System Improvements constitute all master planned or so called “system improvements” required in connection with the development of the Project, and that Developer shall not be required to construct, install or otherwise complete any master planned or so called “system improvements” in connection with the Project, and that no additional improvement or public facilities shall be required by the City in connection with the completion or development of the Project, except for those roadways and other public facilities constituting so-called “project improvements” as are shown on an approved Final Plats for each given Phase and included within the overall perimeter boundaries of the Project. The City shall not be required to permit connection at any location or by any method other than as shown on the applicable Final Plat or the Development Documents.
- 2.1.4 **Payment of Fees.** All required fees associated with the recordation of a final plat for a given Phase shall be paid by Developer prior to recording the Final Plat for such Phase.
- 2.1.5 **Completion of Developer Constructed Project Improvements.** Notwithstanding any other provision in the City Code to the contrary, including, without limitation, Section 153-141, City acknowledges and agrees that Developer shall only be required to provide completion guarantees or improvement completion assurances (each a “**Completion Assurance**”) with respect to Developer Constructed Project Improvements or landscaping if requested by Developer pursuant to the provisions of Utah Code Ann. Section 10-9a-604.5. Unless a Completion Assurance is posted with respect to the applicable Final Plat, Developer may not record such Final Plat until such time as the applicable Developer Constructed Project Improvements and landscaping to be completed in connection with such Final Plat are completed by Developer. Completion Assurances posted by Developer shall comply with the requirements of the City Code. All Completion Assurances, including but not limited to performance, warranty, and maintenance bonds, and related agreements are between the City, Developer, and the applicable financial institution. No other person shall be deemed a third-party beneficiary or have any rights under this subsection or any bond or agreement entered into pertaining to bonds. Any other person or entity, including but not limited to owners of individual units or lots, shall have no right to bring any action under any bond or agreement as a third-party beneficiary or otherwise. All

Developer Constructed Project Improvements associated with a given Phase of the Project shall be constructed by Developer within two (2) years after recording the Final Plat for such Phase.

- 2.1.6 **Construction Process.** Following City approval of the Final Plat and Plans and Specifications for a given Phase of the Project, Developer shall not make any material changes to such Final Plat and Plans and Specifications without the prior written consent of the City.
- 2.2 **Provision of Certain Water and Sewer Utility Services.** The City agrees that it shall make available to the Project (subject to completion of the Developer Constructed Project Improvements to be completed in connection with each given Phase of the Project, application for service, issuance of applicable permits and payment of connection fees and applicable commodity usage rates) culinary water, natural gas, sanitary sewer and storm water, as well as garbage collection on public streets for residential properties and related services provided by the City to its citizens generally. Culinary water, sanitary sewer and storm water utility services will be provided through City Constructed System Improvements constructed by the City and Developer Constructed Project Improvements constructed by the Developer in connection with each Phase of the Project.
- 2.3 **Vacation of Existing Subdivision, Streets and Rights-of-Way.** The City acknowledges and agrees that the Concept Plan identifies new public streets and rights-of-way within the Project (the “**Revised ROWs**”), and that in order for the proposed roadway system to function, the City’s existing public streets and rights-of-way (the “**Existing ROWs**”) will need to be vacated and the real property conveyed to the Developer. The City agrees that upon the Developer’s dedication of Revised ROWs to the City pursuant to the recordation of a Final Plat for a given Phase, the City shall declare as surplus, vacate and convey to Developer all Existing ROWs included within the perimeter boundaries of the applicable Phase. In connection with the foregoing, the City has determined, on the basis of reasonable evidence and in the exercise of its legislative discretion, that the value of the improved Revised ROWs within each Phase is equal to or higher than the value of the Existing ROWs in the various Phases, as generally identified on the Concept Plan. City and Developer acknowledge and agree that upon the recordation of a Final Plat for a given Phase, the existing subdivision lots of record (i.e. those lots created pursuant to the Short Creek Subdivision) located within the boundary of the applicable Phase, shall be deemed vacated in their entirety and that all future development of the portion of the Property within the boundaries of the applicable Final Plat shall be developed in accordance with such Final Plat without the need for any further amendment or vacation of the applicable portions of the official plats of the Short Creek Subdivision. Notwithstanding the foregoing, until such time as a Final Plat is recorded against an applicable portion of the Property consistent with the Concept Plan, the lots of record within the Short Creek Subdivision shall continue to be legal platted lots of record.
- 2.4 **Development to be Consistent with Final Plats and Plans and Specifications; Increased Density.** Except as expressly provided in this Agreement, all development, whether by the Developer or a successor in interest, will be consistent with this Agreement

and the finally approved Final Plats and Plans and Specifications, which Final Plats and Specifications shall be approved by City if they are generally consistent with the Development Documents and provide for an overall residential density that does not exceed that allowed in the R1-10 zoning district of City. In connection with the foregoing sentence, City expressly acknowledges and agrees that the Concept Plan shows a residential density that is less than presently allowed in the R1-10 zoning district, and that Developer shall have the vested right under this Agreement to increase the residential density in the various Phases so long as such residential density does not exceed the minimum lot area or acreage or average lot area requirements of the R1-10 zoning district.

- 2.5 **Parks, Trails and Pathways.** Each Final Plat shall provide for public use spaces as are shown on the Concept Plan or otherwise proposed by the Developer. The Developer and City will cooperate in reasonably locating and/or refining the location of such open spaces, parks, trails and pathway systems as part of the platting process.

### ARTICLE III IMPACT FEES

- 3.1 **Impact Fees; Costs of Application Processing.** The Project and Concept Plan have been approved by the City Council as a Planned Unit Development in order to provide for more affordable housing within the City. Accordingly, Developer will not be assessed or required to pay any impact fees typically collected by the City pursuant to the Utah Impact Fees Act, all such impact fees being expressly waived by the City pursuant to this Agreement.
- 3.2 **Maintenance of Detention Basins Appurtenant to or Within the Project.** The Developer shall legally create and empower one or more property owner associations in connection with the Project and shall impose upon one or more of these associations the long-term responsibility for the maintenance of the detention basin within the Project. Notwithstanding the foregoing, at such time as the City develops a storm water collection system with respect to which the Project specific storm water collection system may be reasonably connected, the City shall promptly make such connection and the association's obligation to maintain the detention basin for storm water detention purposes shall from and after such connection, cease in its entirety and the applicable real property may be repurposed by the Developer in accordance with the terms of this Agreement and the Concept Plan.

### ARTICLE IV DEFAULT AND COSTS

- 4.1 **Default.** In the event of a failure by any party to comply with the commitments set forth herein, within thirty (30) days of written notice of such failure from the other party, the non-defaulting party shall have the right to pursue any or all of the following remedies, which right shall be cumulative:

- 4.1.1 To cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and
- 4.1.2 To enforce all rights and remedies available at law and in equity including, but not limited to, injunctive relief, specific performance and/or damages.
- 4.2 **Insolvency.** Insolvency, bankruptcy or any voluntary or involuntary assignment by any party for the benefit of creditors, which action(s) are unresolved for a period of 180 days shall be deemed to be a default by such party under this Article IV.
- 4.3 **Court Costs and Attorneys' Fees.** In the event of any legal action or defense between the Parties arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.

ARTICLE V  
ASSIGNMENT AND RECORDATION

- 5.1 **Assignment and Transfer of Development.** The Developer may assign its obligations under this Agreement or any rights or interests herein, and may convey the Project or any portion thereof, without the prior written consent of the City, provided such assignment is by instrument in writing, shall have expressly assumed all of the obligations of the Developer under this Agreement and any then applicable additional agreements and agreed to be subject to all of the conditions and restrictions arising under this Agreement or any Development Documents. If only a portion of the Project is assigned and/or conveyed under this section 5.1, a reasonable allocation of the Developer's duties appurtenant to that portion will be made. The provisions of this Section 5.1 shall not prohibit the granting of any security interests for financing the acquisition and development of the Project, subject to the Developer complying with applicable law and the requirements of this Agreement, nor shall it prohibit the Developer from selling individual building lots within each Phase from and after the recording of the final plat for such Phase. Upon assignment and assumption by the transferee of the Developer's obligations under this Agreement and the Development Documents, the respective transferee shall have the same rights and obligations as the Developer under this Agreement and the Development Documents, and the Developer shall be released from any further obligations with respect to that portion of the Project.
- 5.2 **Recordation.** After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Developer. Each commitment and restriction on development set forth herein shall be a burden on the real property constituting the Project, shall be appurtenant to and for the benefit of the City and shall run with the land.

ARTICLE VI  
REIMBURSEMENT

- 6.1 **Reimbursement for Developer Constructed Project Improvements.** Reimbursement for Developer Constructed Project Improvements may be addressed by a separate reimbursement agreement for the Project or a given Phase thereof entered into concurrently with or subsequent to this Agreement. Such reimbursement agreements, if any, shall be entered into prior to recordation of the affected plat for a given Phase and shall comply with the City Code, the Development Documents and this Agreement.

ARTICLE VII  
GENERAL MATTERS

- 7.1 **Amendments.** Any alteration or change to this Agreement shall be made only after complying with the same procedures followed for the adoption and approval of this Agreement.
- 7.2 **Captions and Construction.** This Agreement shall be construed according to its fair and plain meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed so as to effectuate the public purposes, objectives and benefits set forth herein. As used in this Agreement, the words “include” and “including” shall mean “including, but not limited to” and shall not be interpreted to limit the generality of the terms preceding such word.
- 7.3 **Laws and Forum.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns, and shall be construed in accordance with Utah law. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Salt Lake County, Utah.
- 7.4 **Legal Representation.** Each of the Parties hereto acknowledge that they either have been represented by legal counsel in negotiating this Agreement or that they had the opportunity to consult legal counsel and chose not to do so. In either event this Agreement has no presumptions associated with the drafter thereof.
- 7.5 **Non-Liability of City Officials.** No officer, representative, agent or employee of a party hereto shall be personally liable to any other party hereto or any successor in interest or assignee of such party in the event of any default or breach by the defaulting party, or for any amount which may become due the non-defaulting party, or its successors or assigns, or for any obligation(s) arising under the terms of this Agreement.
- 7.6 **No Third Party Rights.** Unless otherwise specifically provided herein, the obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any other persons or third parties.
- 7.7 **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, floods, earthquakes 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. Any party seeking relief under the provisions of this paragraph must have notified the other party in writing of a force majeure event within thirty (30) days following occurrence of the claimed force majeure event.

- 7.8 **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or when deposited in the United States mail, by registered or certified mail, addressed as follows:



The City: Hildale City  
P.O. Box 840490  
Hildale, Utah 84784  
Attention: City Manager

Developer: South Zion Estates  
Attn: Mark F. James  
10 W. Broadway, Suite 400  
Salt Lake City, Utah 84101

Such addresses may be changed by notice to the other party given in the same manner as above provided. Any notice given hereunder shall be deemed given as of the date delivered or mailed.

- 7.9 **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by the City for the Project prior to the date hereof, contain and constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the Parties which are not contained in such agreements, regulatory approvals and related conditions. It is expressly agreed by the Parties that this Agreement and the additional agreements between the Developer and the City, as contemplated and referred to elsewhere in this Agreement, are intended to and shall govern the development of the Project. It is expressly acknowledged by the Parties that additional agreements may be entered into by or among the Parties and all such shall be included as Development Documents.
- 7.10 **Effective Date.** This Agreement shall be effective upon the signing and execution of this Agreement by all Parties which, upon its occurrence, shall be deemed to have occurred as of the Effective Date.
- 7.11 **Termination.** This Agreement shall terminate upon mutual written agreement of the parties hereto, failure of the Conditions Precedent to occur on or before April 1, 2020 or 15 years after the Effective Date, whichever occurs first.
- 7.12 **Further Action.** The Parties hereby agree to execute and deliver such additional documents and to take all further actions as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written:

**CITY:**

ATTEST:

CITY OF HILDALE  
A Utah Municipal Corporation

By: \_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

STATE OF UTAH            )  
  : ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before the undersigned notary public in and for the said state, personally appeared \_\_\_\_\_, known or identified to me to be the Mayor of Hildale City and the person who executed the foregoing instrument on behalf of said City and acknowledged to me that said City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
Notary Public for Utah



Exhibit "A"  
(Legal Description of Property)

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Exhibit "B"  
(Concept Plan)

---

Exhibit "C"  
(Adopting Resolution)

---

Exhibit "D"  
(Modified Standards)

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**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF  
HILDALE, UTAH, ESTABLISHING A TEMPORARY LAND USE  
REGULATION REGARDING OFF-SITE IMPROVEMENTS.**

**WHEREAS**, Section 152-7-13(E)(2) of the Hildale Code currently requires completion of, or a deposit sufficient to complete street improvements to city standards – including, in many areas, asphalt pavement and gutters – prior to a building permit being issued;

**WHEREAS**, most local streets in Hildale are unpaved and do not have gutters, including those within areas that have already been developed;

**WHEREAS**, the City does not yet have a unified plan for how to address the challenge of unimproved rights of way;

**WHEREAS**, this situation presents a compelling, countervailing public interest, in that while all residents and businesses have an interest in improving our streets, requiring private funding of street improvements on a piecemeal basis is not a practical method of achieving that goal, and in fact will likely deter desirable new construction in developed areas;

**WHEREAS**, Section 10-9a-504(1)(a) of the Utah Code and Section 152-7-20(A) of the Hildale Code allow the City Council to enact an ordinance establishing a temporary land use regulation for any or all of the area within the municipality if (i) the legislative body makes a finding of compelling, countervailing public interest; or (ii) the area is unregulated;

**WHEREAS**, the City Council desires to relieve property owners wishing to build in developed areas of the City from the burden of funding street improvements, until the City can formulate a unified plan for solving the problem;

**WHEREAS**, the attached map recognizes the fundamental difference between previously developed areas of the City, with roads that are traversable by normal vehicular traffic and have historically thus been used, and those at the periphery of the City, which are still largely undeveloped, and where the City wishes to continue requiring street improvements as a condition on development; and

**WHEREAS**, the City Council will refer the issue to the Planning Commission for deliberation and recommendation of a long-term solution of the need for street improvements.

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

**Section 1.** While this Ordinance remains in effect, any property that lies substantially within the shaded portions of the attached map of the City shall be exempt from the provisions of Section 152-7-13(E)(2) of the Hildale Code, and from any other local ordinance or regulation that may be construed to require the property owner to complete off-site improvements to a city street or right of way, except with regard to emergency access or flood control.

**Section 2.** Notwithstanding the provisions of Section 1, any property owner that undertakes to make street improvements voluntarily or under a development agreement shall be required to comply with all city standards applicable thereto.

**HILDALE CITY ORDINANCE No. 2018-007**

**Section 3.** This Ordinance shall apply to the consideration of any building permit applications that are pending as of the effective date hereof, or that are filed with the City while this Ordinance remains in effect.

**Section 4.** This ordinance shall become effective immediately after publication or posting as required by law, and shall automatically expire six months thereafter, unless repealed earlier by action of the City Council.

**PASSED AND ADOPTED BY THE HILDALE CITY COUNCIL, STATE OF UTAH, ON THIS 5TH DAY OF DECEMBER, 2018.**

		YES	NO	ABSTAIN	ABSENT
Lawrence Barlow	Council Member				
Stacy Seay	Council Member				
Jared Nicol	Council Member				
JVar Dutson	Council Member				
Maha Layton	Council Member				

\_\_\_\_\_  
Donia Jessop, Mayor

Attest:

\_\_\_\_\_  
(seal)  
City Recorder

Exhibit A to  
Ordinance 2018-  
007

(Exemption Area  
Map)



152-7-13(E)

E. Approval Standards:

The following standards shall apply to determine zoning compliance of a building permit application:

1. No building permit shall be approved for zoning compliance unless the proposed building, structure or use when built and the land on which it is located will conform to applicable provisions of this chapter and any applicable conditions of approval required under a permit applicable to the subject property.

2. No building permit shall be issued unless the property or lot for which the building permit is to be issued fronts a dedicated street which meets the width requirement specified by this code and has been improved according to city standards, except where a variance has been approved by the Hearing Officer, or as follows:

a. In the event that property for which a building permit is sought fronts a dedicated street which requires additional footage on each side of the street in order to meet the width requirements of the road master plan or official map, a building permit may be issued if one-half (1/2) of the additional footage is dedicated by the owner of said property for use by the public as a city street.

b. In lieu of requiring completion of all improvements to a dedicated city street prior to the issuance of a building permit, a building permit may be issued if:

(1) The road is traversable by normal vehicular traffic, including law enforcement, fire and other emergency vehicles; and

(2) A written agreement is executed by the owner of the property for which the building permit is to be issued, stating the owner will deposit with the city an amount equal to the cost of improving the street frontage of the owner's lot before receiving a certificate of occupancy on the house for which the permit is issued.