

KAYSVILLE CITY COUNCIL MEETING MEETING NOTICE AND AGENDA

Notice is hereby given that the Kaysville City Council will hold a regular council meeting on Thursday, December 6, 2018, starting at 7:00 p.m. in the Council Room of the Kaysville City Municipal Center, 23 East Center Street, Kaysville, UT.

CITY COUNCIL MEETING – 7:00 PM

The agenda shall be as follows:

1. OPENING
 - a. Provided by Council Member Barber
2. RECOGNITIONS AND PRESENTATIONS
 - a. Swearing-In of new Kaysville Police Department Officer Rhett Farnell
 - b. Animal Control Update
 - c. Photo Contest – Mindi Edstrom
3. DECLARATIONS OF CONFLICTS OF INTEREST
4. CONSENT ITEMS
 - a. Minutes from November 15, 2018.
 - b. Resolution Adopting an Interlocal Agreement to Allow an Area East of Highway 89 to Connect to North Davis Sewer.
5. ACTION ITEMS
 - a. Solar Net Metering Residential Policy/Agreement Proposed Change.
 - b. Contract with MHTN Architects, Inc. for Architectural Services.
 - c. An Ordinance Amending Provisions of the Kaysville City Code regarding the City Engineer.
 - d. Appointment of Lyle Gibson as Community Development Director.
 - e. Acceptance of the Street Improvements Ranking Policy.
 - f. Water Tank Pump House Design Approval.
 - g. Request to rezone 0.36 acre of property at 120 South Main Street from PB (Professional Business) to the HC (Health Care) zoning district - Jordan Burningham.
 - h. Request to rezone 0.78 acre of property at 167 North 200 West from GC (General Commercial) to the R-T (Old Kaysville Townsite Residential) zoning district - James Pearson.
 - i. Request to rezone 58.6 acres of property at 2300 West Schick Lane (200 North) from R-A (Residential Agriculture) to the R-1-LD (Single Family Low Density), R-1-8 (Single Family Residential) and GC (General Commercial) zoning districts – Perry Homes.

- j. Request to rezone 0.96 acres of property at 233 South 400 East to include the PRUD (Planned Residential Unit Development) overlay zone – Heidi Nettleton
- k. Preliminary Plat approval for the Prigmore Flag Lots Subdivision at 233 South 400 East – Heidi Nettleton.

6. WORK ITEMS

- a. Better City Discussion.
- b. Amendment of Section 17-31-25, Telecommunication Towers, together with amendments to applicable zoning districts within Title 17, Planning and Zoning, to clarify where tower types may be located and by which process they may be considered.– Lyle Gibson.
- c. Adopting an ordinance to the Kaysville City Code regarding the need to keep the Public Right-of-way clear of obstructions (particularly with streets and sidewalks). –Josh Belnap.
- d. Visioning/Strategic Plan Discussion.

7. CALL TO THE PUBLIC

8. COUNCIL MEMBER REPORTS

9. CITY MANAGER REPORT

10. CLOSED SESSION

- a. Closed Session to discuss the character, professional competence, or physical or mental health of an individual, in conformance with Utah State Code §52- 4-205.

11. ADJOURNMENT

Kaysville City is dedicated to a policy of non-discrimination in admission to, access to, or operations of its programs, services or activities. If you need special assistance due to a disability, please contact the Kaysville City Offices at (801) 546-1235.

A Closed Session may be called to order pursuant to Utah State Code §52- 4-204 & §52- 4-205. The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public. Supporting documentation for this agenda is posted on the city's website at www.kaysvillecity.com. A recording of this meeting will be posted on the city's website at the following link: <https://www.kaysvillecity.com/AgendaCenter>.

I hereby certify that I posted a copy of the foregoing Notice and Agenda at City Hall and emailed copies to media representatives on December 04, 2018.

Maria T. Devereux
City Recorder



KAYSVILLE CITY COUNCIL

DRAFT

Meeting Minutes

DRAFT

Meeting Minutes of the November 15, 2018 Kaysville City Council Meeting.

Present: Mayor Witt, Council Member Barber, Council Member Page, Council Member DeCaire, Council Member Garn, and Council Member Adams.

Others present: City Manager Shayne Scott, Chief Sol Oberg, City Recorder Maria Devereux, Public Works Director Josh Belnap, Zoning Administrator Lyle Gibson. Attendees list not available.

PUBLIC HEARING

AMENDMENTS TO CHAPTER 16-13, RETAIL TOBACCO SPECIALTY BUSINESS

Lyle Gibson, Zoning Administrator, proposed amendments to Chapter 16-13 and explained the changes are primarily for the purpose of bringing Kaysville City's ordinances into conformity with recent changes in State Law as to what is or isn't a Retail Tobacco Specialty Business.

In addition to aligning Kaysville City's definitions and requirements with the State, the proposed ordinance removes the requirement for the city to review a background check before approving a business license for a Retail Tobacco Specialty Business. He explained that this is in part to keep our processes consistent with how the city reviews applications for other Businesses who sell similar products, and in part because these businesses are already highly regulated by other agencies who are conducting these reviews.

Council Member DeCaire made a motion to close the Public Hearing, second by Council Member Adams.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Excused
Council Member DeCaire, Yea

The motion passes unanimously.

CITY COUNCIL MEETING - 7:00 PM

RECOGNITIONS AND PRESENTATIONS

Kristen Floyd, Executive Director of Safe Harbor expressed appreciation for Council Member DeCaire for his assistance with the Evergreens fundraiser and to the City Council for their support. She gave an overview of their new partnership with Intermountain Healthcare.

FY2018 ANNUAL AUDIT PRESENTATION- HANSEN, BRADSHAW, MALMROSE AND ERICKSON.

The Hansen, Bradshaw, Malmrose and Erickson representative gave an overview of the Comprehensive Annual Report. He explained that the City has received an award of Excellence in Financial Reporting. He explained that the *Utah State Uniform Fiscal Procedures Act* requires that at the completion of the fiscal year, the City's Financial Statements are audited by an Independent Auditor. The purpose of the audit is to ensure that Financial Statements are a fair and accurate presentation of the financial position and financial operations of the City and in accordance with generally accepted accounting principles. The Audit also includes a report on Internal Control over Financial Reporting on Compliance in accordance with *Government Auditing Standards*. The Audit requires a review and analysis of the Basic Financial Statements and related Notes to the Financial Statements. In addition to the Basic Financial Statements and Notes, the City prepares a Comprehensive Annual Financial Report (CAFR) to include additional disclosures and information to enable the reader to gain a proper understanding of the financial affairs of the City. He commended the internal controls the City has in place.

Mayor Witt thanked Dean Storey and Cami Moss for their good work.

DECLARATION OF CONFLICTS OF INTEREST

Council Member Adams disclosed that he has a familial relation to the item being presented by Terraventure Development.

CONSENT ITEMS

Mayor Witt asked for a vote on the Consent Items with the exception of Item I.

Council Member Barber made a motion to accept the consent items with the exception of C and I, second by Council Member DeCaire.

Council Member Garn noted that there should be a change in the minutes from Council Member Hansen to Council Member DeCaire on the first vote.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes unanimously.

Council Member Adams asked for clarification on Item C in regard to the Community Development Director, the appointment of Lyle Gibson.

Council Member DeCaire made a motion to table the appointment of Community Development Director, second by Council Member Garn, the motion passes unanimously.

Shayne Scott, City Manager explained the cooperative agreement with UDOT for Safe Routes to Schools funding for pedestrian activated crossings along the D & RGW rail trail. He noted that Kaysville City has been awarded grant monies from UDOT through their Safe Routes to Schools program. With the support of Centennial Jr. High, the city applied for money to install pedestrian activated blinker signs along the D&RGW trail corridor at street crossing. The agreement states that the city would be reimbursed up to \$39,500. This reimbursement would cover enough Blinker Signs to signalize 6 different crossings from Shepard Lane to Webb Lane.

Council Member DeCaire made a motion to accept the cooperative agreement with UDOT for Safe Routes to Schools funding for pedestrian activated crossings along the D & RGW rail trail, second by Council Member Garn and passed unanimously.

ACTION ITEMS

PRELIMINARY PLAT APPROVAL FOR SOUTH ANGEL ST SUBDIVISION AT APPROXIMATELY 1300 WEST ROUECHE LANE – JD HORNE. .

Lyle Gibson, Zoning Administrator explained that the owner of this property, Mr. Horne, would like split this property into two building lots. Mr. Horne owns additional property to the south and west of this parcel and would like to develop that property someday as well. The Property is currently zoned R-A, Agricultural Residential, which requires full half acre lots with 100 feet of frontage. The lots as shown are 104 feet wide and 210 feet deep, giving them the required 21,780 square feet.

There were no participants for Public Comment.

Council Member DeCaire suggested made a motion to approve the Preliminary plat for the South Angel St. Subdivision at approximately 1300 West Rouche Lane, second by Council Member Adams.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes unanimously.

REQUEST TO REZONE 3.92 ACRES OF PROPERTY FROM GC (GENERAL COMMERCIAL) TO R-1-20 (SINGLE FAMILY RESIDENTIAL) AND ANOTHER 1.81 ACRES OF PROPERTY FROM GC (GENERAL COMMERCIAL) TO THE LI (LIGHT INDUSTRIAL) ZONING DISTRICT AT APPROXIMATELY 2100 WEST 200 NORTH – TERRAVENTURE DEVELOPMENT.

Lyle Gibson explained that the subject property is located west of Angel Street on the South side of 200 North Street. The property which is currently zoned General Commercial abuts more commercial zoning to the south and east. To the west and across the street to the north is the Hill Farms Subdivision zoned R-1-14 (Single Family Residential).

The applicant is requesting a rezone of a portion of their property from GC to R-1-20. This roughly 4 acres of property abuts housing to the west and would change the allowed uses from commercial office/retail to a single family district which most notably allows homes and public/quasi-public buildings. More specifically the LDS church is interested in this location for a meeting house should the zoning allow it.

The second part of the request is to rezone another 1.81 acres of property in the middle of the existing GC zoning district to the LI zone. The LI zoning district allows many of the same uses as the existing GC zoning district with some additional uses. The applicant desires to build storage units on this property which is the reason for requesting the rezone. The LI district is also not subject to the same building design standards as the GC zone. Under the proposed rezone request, the remaining frontage along 200 North Street would remain in the existing GC zone.

PUBLIC COMMENT

Taylor Spendlove noted that he emailed the Council and was excited about the rezone. He likes the idea of an agreement.

Tammy Bassett explained that she lives close to this area and agrees with the rezone.

Michael Sawyer agrees with the homeowners, and stated that the rezone will make changes easier going forward.

Beth Harmon stated she is in favor of the rezone.

Crystal Robbins stated she is in favor of the rezone.

Council Member DeCaire made a motion to approve the development agreement for 4 acres of property at 292 Blooming Grove Circle with the omission of paragraph 1 as discussed, second by Council Member Page.

Council Member Barber noted that she feels that change should be made concerning the requirement of homes versus churches being built.

Council Member Page explained that he is not too concerned about removing the first paragraph.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Nay
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes four to one.

Council Member DeCaire made a motion to approve the request to rezone 3.92 acres of property from GC (General Commercial) to R-1-20 (Single Family Residential) and another 1.81 acres of property from GC (General Commercial) to the LI (Light Industrial) zoning district at approximately 2100 West 200 North, second by Council Member Page.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Nay
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes four to one.

AMENDMENT OF CHAPTER 16-13, RETAIL TOBACCO SPECIALTY BUSINESS

Lyle Gibson explained that the proposed amendments to Chapter 16-13 are primarily for the purpose of bringing Kaysville City's ordinances into conformity with recent changes in State Law as to what is or isn't a Retail Tobacco Specialty Business. In addition to aligning Kaysville City's definitions and requirements with the State, the proposed ordinance removes the requirement for the city to review a background check before approving a business license for a Retail Tobacco Specialty Business. This is in part to keep our processes consistent with how the City reviews applications for other businesses who sell similar products, and in part because these businesses are already highly regulated by other agencies who are conducting these reviews. Explained that this item was reviewed during the November 1 work item agenda. Staff recommends that the City Council approve the ordinance as written.

Council Member Adams made motion to accept the amendments of Chapter 16-13, retail tobacco specialty business, second by Council Member DeCaire.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes unanimously.

ARCHITECT RFQ PROPOSAL

Shayne Scott explained that over the past three years there has been much discussion about the spatial needs of the City. In 2015, Kaysville City commissioned a "Spatial Needs Assessment" from an architectural firm, JRCA. This assessment was broad and took into account each department in the city and what their perceived needs might be from the present day until "build-out". The purpose of this discussion item is to recommend an architect with whom we should work moving forward on meeting the needs of the city.

Mayor Witt explained that the City made a decision not to tear down the old library and explained the need for additional space. She stated that no decisions have been made as of yet and that additional information may be found in the Council packet.

Council Member DeCaire noted that City staff need more office space, with much growth over the past years.

Council Member Garn made a motion to move the Architect RFQ proposal to an action item, second by Council Member Barber.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Nay
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes four to one.

A PROPOSED ORDINANCE AMENDING PROVISIONS OF THE KAYSVILLE CITY CODE REGARDING THE CITY ENGINEER

Shayne Scott explained that currently, the City Code requires that the City Engineer also serve as the Department Director for the Community Development Department. This has worked well in the past, but with Mr. Thompson retiring, staff desires to have greater flexibility in how Departments are structured. When Staff recognized this requirement, we reviewed the municipal codes of Layton, Bountiful, Farmington, and Clearfield to see if this highly specific requirement was common. Staff found that none of the jurisdictions surveyed required that the City Engineer serve as a department director. Please note that this amendment would not prohibit the City Engineer from Serving as the Department Director of the Community Development Department, but would allow the City to structure its departments in the most efficient manner.

Shayne Scott noted that city made a good choice with choosing Lyle Gibson as the Community Development Director.

Shayne Scott explained that Kaysville City staffs very lean.

Council Member Barber made a motion to approve the ordinance amending provisions of the Kaysville City code regarding the City Engineer, second by Council Member DeCaire.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes unanimously.

DISCUSSION ABOUT CITY POLICY ON SIDEWALK RANKING AND PAYMENTS FROM RESIDENTS.

Josh Belnap, Public Works Director, Kaysville City Public Works would like to eventually see full improvements (curb, gutter and sidewalk generally) along all City streets, where practical.

He would like to implement a uniform policy for determining the order of and approaching the projects in the areas where they are currently lacking, to help clarify and expedite this process.

Council Member DeCaire stated that staff has his full support.

Council Member Adams noted that he is concerned that residents will be upset about fees. He feels the issue should be further vetted.

Josh Belnap explained that he reached out to other cities to gain insight.

Council Member Barber feels that consistency is the best option and this option feels very fair.

Council Member Page explained that this sets a good precedence.

Council Member Garn is appreciative of Josh Belnap and the work he does for the city.

Council Member Page made a motion to forward this item to an action item, second by Council Member Garn.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Nay
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes four to one.

AMENDMENT OF SECTION 17-31-25, TELECOMMUNICATION TOWERS, TOGETHER WITH AMENDMENTS TO APPLICABLE ZONING DISTRICTS WITHIN TITLE 17, PLANNING AND ZONING, TO CLARIFY WHERE TOWER TYPES MAY BE LOCATED AND BY WHICH PROCESS THEY MAY BE CONSIDERED.

Lyle Gibson explained that staff has worked with the Planning Commission over multiple meetings to prepare an ordinance reflecting new tower types, where they are located, and standards by which they must be built. Based on feedback from the Planning Commission during previous discussions, the proposed draft puts all cell tower approvals under the purview of Planning Commission. More specific definitions and standards have been added including more clearly specifying different tower types. A distance requirement has also been added in order to space out monopole towers.

Council Member Adams made a motion to send this to the next meeting as an action item, second by Council Member DeCaire.

Council Member Garn feels this is moving in the right direction.

The vote on the motion was as follows:

Council Member Barber, Yea
Council Member Page, Yea
Council Member Adams, Yea
Council Member Garn, Yea
Council Member DeCaire, Yea

The motion passes unanimously.

CALL TO THE PUBLIC

No public comment.

CITY MANAGER REPORT

Shayne Scott, City Manager explained that the Planning Commission will have future openings. He noted that there is more information on the website and in the City Newsletter.

ADJOURNMENT

Council Member DeCaire made a motion to adjourn the meeting at 9:05pm, second by Council Member Barber.

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018
ITEM NO.: 4 b.

TYPE OF ITEM: Consent
PRESENTED BY:

SUBJECT/AGENDA TITLE: Approving an Interlocal Sewer Agreement

EXECUTIVE SUMMARY: The City recently approved an annexation east of Highway 89. This area sits on the extreme northeast corner of the City. This area is within the service boundaries of the Central Davis Sewer District. However, it is not effective for the Central Davis Sewer District to service this property. Instead, it is more effective for the North Davis Sewer District to provide these services. This interlocal agreement would allow the Central Davis Sewer District and Kaysville City to collect sewer fees for this limited area and remit them to Layton City who in turn would remit the fees to the North Davis Sewer District in exchange for servicing the area.

Council Options: : 1) Approve the interlocal agreement to allow sewer service to the newly annexed area; 2) Approve the interlocal agreement with any modifications that the Council deems appropriate; 3) Decline to adopt the interlocal agreement and remand to staff with further direction.

Recommended Options: Staff recommends that the City Council approve the interlocal sewer agreement.

Fiscal Impact & Fund Source for Recommended Action: None foreseen.

Attachments:

RESOLUTION 18-

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN LAYTON CITY, KAYSVILLE CITY, NORTH DAVIS SEWER DISTRICT, AND CENTRAL DAVIS SEWER DISTRICT

WHEREAS, a land developer has approached KAYSVILLE with an annexation petition for certain parcels of property in the northeast portion of the city, east of Highway 89, which property is more particularly described in Exhibit A; and

WHEREAS, the proposed development consists of residential lots which will require utility service, including but not limited to sanitary sewer; and

WHEREAS, in order to obtain sanitary sewer service, the developer desires to attach to an existing 12 inch sanitary sewer line owned by LAYTON; and

WHEREAS, LAYTON has determined that there is adequate capacity in the sanitary sewer line for the proposed residential subdivision; and

WHEREAS, the sewer line owned by LAYTON as more particularly identified in Exhibit B, runs south and west from Layton City under Highway 89 to connect to a line owned and operated by North Davis Sewer District (NDSD); and

WHEREAS, LAYTON's ordinance does not allow extra territorial connections to its line unless the use is also serviced by Layton water and NDSD will not take over the LAYTON line because of a restriction in their ordinance against taking ownership of a municipality's sanitary sewer structure; and

WHEREAS, CDSD normally provides sanitary sewer services to all subdivisions within KAYSVILLE, but a connection to CDSD is not available at this location; and

WHEREAS, CDSD and NDSD have, on a number of occasions, provided service into the other's service area by mutual agreement.

WHEREAS, it is the intent of this agreement to accommodate NDSD's provision of treatment services and CDSD to provide collection services, and

WHEREAS, KAYSVILLE is willing to annex the subject property based on all parties working together in a common agreement in order to provide sanitary sewer to the subdivision; and

WHEREAS, This agreement shall constitute an interlocal agreement between the parties and shall comply with the provisions of Title 11, Chapter 13 Interlocal Cooperation Act, of the Utah Code providing for interlocal agreements between governmental entities.

NOW, THEREFORE, BE IT RESOLVED BY THE KAYSVILLE CITY COUNCIL,

1. That the agreement entitled **Interlocal Agreement Between Layton City, Kaysville City, North Davis Sewer District, and Central Davis Sewer District**, which is attached hereto and incorporated herein by this reference, be adopted and approved.

2. That the Mayor be authorized to execute and deliver the Interlocal Agreement and approve the final terms of the Interlocal Agreement.
3. This Resolution shall become effective immediately upon adoption by the City Council.

PASSED AND ADOPTED by the City Council of Kaysville, Utah, this ____ **day of**
_____, **2018.**

KATIE WITT, Mayor

ATTEST:

MARIA DEVEREAUX, City Recorder

INTERLOCAL AGREEMENT

This Interlocal Agreement is entered into this ____ day of _____, 2018 **LAYTON CITY (LAYTON), KAYSVILLE CITY (KAYSVILLE), NORTH DAVIS SEWER DISTRICT and CENTRAL DAVIS SEWER DISTRICT (CDSD).**

RECITALS

A. A land developer has approached KAYSVILLE with an annexation petition for certain parcels of property in the northeast portion of the city, east of Highway 89, which property is more particularly described in Exhibit A; and

B. The proposed development consists of residential lots which will require utility service, including but not limited to sanitary sewer; and

C. In order to obtain sanitary sewer service, the developer desires to attach to an existing 12 inch sanitary sewer line owned by LAYTON; and

D. LAYTON has determined that there is adequate capacity in the sanitary sewer line for the proposed residential subdivision; and

E. The sewer line owned by LAYTON as more particularly identified in Exhibit B, runs south and west from Layton City under Highway 89 to connect to a line owned and operated by North Davis Sewer District (NDSD); and

F. LAYTON's ordinance does not allow extra territorial connections to its line unless the use is also serviced by Layton water and NDSD will not take over the LAYTON line because of a restriction in their ordinance against taking ownership of a municipality's sanitary sewer structure; and

G. CDSD normally provides sanitary sewer services to all subdivisions within KAYSVILLE, but a connection to CDSD is not available at this location; and

H. CDSD and NDSD have, on a number of occasions, provided service into the other's service area by mutual agreement.

I. It is the intent of this agreement to accommodate NDSD's provision of treatment services and CDSD to provide collection services, and

J. KAYSVILLE is willing to annex the subject property based on all parties working together in a common agreement in order to provide sanitary sewer to the subdivision; and

K. This agreement shall constitute an interlocal agreement between the parties and shall comply with the provisions of Title 11, Chapter 13 Interlocal Cooperation Act, of the Utah Code providing for interlocal agreements between governmental entities.

NOW THEREFORE, in exchange for good and valuable consideration, receipt of which is acknowledged hereby, the parties agree as follows:

1. LAYTON shall retain ownership of the 256 feet of 12 inch sanitary sewer line currently owned by LAYTON and depicted on Exhibit B.

2. CDSD and LAYTON hereby agrees to share all costs of service, maintenance, construction, reconstruction, and otherwise servicing financially the 256 feet of 12 inch sanitary sewer line in Exhibit B.

3. Responsibility and liability for the 256 feet of sewer line shall be allocated between Layton City. and CDSD proportional to the number of residential lots serviced within Layton City (Layton City's proportional responsibility) and the number of lots serviced within Kaysville City (CDSD's proportional responsibility)

4. CDSD agrees to take responsibility for servicing the development of the subject property within KAYSVILLE in the same manner as CDSD services other parts of KAYSVILLE.

5. CDSD and NDSD agree to split fees from the development, in a manner mutually agreed upon by separate agreement between CDSD and NDSD. The parties agree and understand that this agreement must be signed and approved by the respective bodies governing the parties to this agreement.

6. The point of connection is indicated on Exhibit B. Connection shall be made to an existing manhole or a manhole at another location on the line as approved by Layton City.

7. The term of this agreement shall be for 30 years or such other time as the parties shall hereinafter agree in writing.

8. This agreement may only be amended in writing between the parties.

9. This agreement shall not inure to the benefit of any third party beneficiary.

10. This agreement may be executed separately for the purpose of the convenience of the parties.

11. The recitals above and the exhibits attached hereto are part of this agreement.

This agreement is entered into this _____ day of _____, 2018 the execution of which is affirmed by the signatures below and attached hereto.

LAYTON CITY MAYOR

KAYSVILLE CITY MAYOR

ROBERT STEVENSON

KATIE WITT

ATTEST

ATTEST

KIMBERLY READ, City Recorder

MARIA DEVEREAUX, City Recorder

NORTH DAVIS SEWER DISTRICT

CENTRAL DAVIS SEWER DISTRICT

By:

By:

WITNESS

WITNESS

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5 a.

TYPE OF ITEM: Action

PRESENTED BY: Shayne Scott, City Manager

SUBJECT/AGENDA TITLE: Solar Net Metering Residential Policy/Agreement

EXECUTIVE SUMMARY:

This Action item is to tweak one slight wording change to match up with the way the billing system calculates the bills. This only pertains to the new solar customers (15) not the grandfathered solar customers. This is the way that the billing is being done currently.

Council Options: Approve the agreement as presented.
Approve the agreement with suggested modifications.
Remand the item back to staff with direction on proposed changes/discussion.

Recommendation: At this time Staff recommends approving this agreement as presented.

Fiscal Impact & Fund Source for Recommended Action: This contract will not impact the City financially.

Attachments: Agreement.

2018

NET METERING AND INTERCONNECTION AGREEMENT

This Net Metering and Interconnection Agreement ("Agreement") is made and entered into as of this _____ day of _____, 20____, by the City of Kaysville, a municipal corporation and political subdivision of the State of Utah (the "City") and _____ ("Customer") located at _____ Kaysville, Utah 84037.

RECITALS

WHEREAS, the City adopted the Net Metering Policy to encourage and regulate the orderly establishment and maintenance of parallel renewable energy systems interconnected with the City's existing electric distribution system; and

WHEREAS, pursuant to the City's Net Metering Policy, Customer wishes to establish, operate, and maintain a renewable energy net metering facility interconnected with the City's existing electric distribution system; and

WHEREAS, the City intends to credit the customer's total electric energy usage the portion supplied by the Customer's own renewable energy net metering facility;

NOW, THEREFORE, the parties mutually agree and covenant as follows:

1. **Renewable energy Net Metering Facility:** Customer's renewable energy net metering facility (the "facility") shall mean the generating facility described in Exhibit A attached hereto. The facility shall consist of a solar photovoltaic, wind generating, or other qualified energy generating facility that is located on the Customer's premises that is interconnected with and operates in parallel with the City's electric transmission and distribution facilities, and is intended primarily to offset part or all of the Customer's own electrical requirements. The design, installation and operation of the Facility shall comply in all aspects with the City's Net Metering Policy. Customer shall be responsible for the design, installation and operation of the Facility and for obtaining and maintaining all required permits and approvals related thereto. This Agreement is applicable only to the renewable energy net metering facility described in Exhibit A and Customer shall not make any modification to the Facility without prior written consent of the City.
2. **Term and Termination:** This agreement shall commence on the date established above and shall remain in effect until terminated by either party upon thirty days prior written notice, provided, however that this Agreement will terminate automatically upon:
 - a. Any change of ownership of customer;
 - b. Any change in ownership of the facility or the premises upon which the facility is located; or
 - c. Any change in the location of the facility.

3. **Definition of Net Energy:** “Net Energy” means the difference between electrical energy consumed by the Customer from the City’s electric distribution system and the electrical energy generated by the Customer and fed back into the City’s electric distribution system.
4. **Measurement of Net Energy:** A Customer’s generating facility used for net metering shall be equipped with metering equipment that can measure the flow of electricity in both directions. The City will install a meter capable of measuring bi-directional energy flow at the customer’s expense. The bi-directional metering equipment shall be used to provide information necessary to accurately bill or credit Customer and to collect electrical generating system performance information for research purposes.
5. **Purchase of Energy and Payment:**

~~a.—The Customer will be charged for all delivered (consumed) KWH’s at the appropriate residential rate and be billed for the appropriate customer charge as the other customers in the same rate class each month. The City shall measure the net energy delivered or consumed by the Customer during each billing period, in accordance with normal metering practices.~~

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~~b.—The Customer shall be credited for all Received KWH’s at the current residential solar rate each month. If the energy supplied by the City exceeds the electricity generated by the Customer during the billing period, or any portion thereof, then the Customer shall be billed for the energy supplied to Customer by the City’s electric distribution system together with the appropriate customer charge paid by other customers of the City in the same rate class.~~

~~d. If the customer’s electrical generating facility “GF” produces more kilowatt-hours (kWh) than the customer consumes each month, the customer shall be credited or paid for all received kWh’s at the current residential solar rate, each month.~~

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~~d.f.~~ The City will only compensate a “GF” (Generating Facility) customer up to but not to exceed the amount that it consumes in kWh’s during the calendar year. If the customer generates more kWh’s than they consume through the calendar year, that excess will be forfeited. At the end of the year the City will review the customer’s account and a billing adjustment will be made for any over payment the customer received during the previous year. The adjustment will be prorated over the next 6 months.

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~~e.g.~~ Customer shall pay any amount owing for electric service provided by the City in accordance with applicable rates and policies. Nothing in this Section shall limit the City’s rights under applicable Rate Schedules, City Ordinances, Customer Service Policies, and General Provisions.

~~f.h.~~ The customer will release to City all renewable energy credits “REC”, solar renewable-energy credits “S-REC”, or other

renewable attributes as appropriate based on actual on-site electric generation from the renewable resource.

6. **Interconnection:** Customer shall provide the electrical interconnection on its side of the bi-directional metering equipment in accordance with the City's Net Metering Policy. At the customers' expense, the City may make such modifications to the City's system as are reasonably necessary to accommodate the Facility in accordance with the City's Net Metering Policy (at the Customers Expense). The cost for such modifications will shall be paid prior to construction. Customer shall ensure, at its own expense, that the facility includes all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the City's Net Metering Policy, as may be amended from time to time by other applicable City policies and ordinances, by applicable state law, and by the National Electric Code, National Electric Safety Code, and the Institute of Electrical and Electrical Engineers and Underwriters Laboratories. Customer shall not commence parallel operation until the City has inspected the Facility, including all interconnection equipment and issued a written approval in accordance with the City's Net Metering Policy, which includes a stipulated start time.

7. **Disconnect Device:**

- a. Customers generating facility produces 10 Kilowatts or less that are inverter based:

The Customer has the option to install, on its side of the bi-directional metering equipment a safety disconnect device capable of fully disconnecting and isolating the facility from the City's electric system. In the event that no disconnect switch is installed, the customer's electric service may be disconnected by the City entirely if the generating facility must be physically disconnected from the utility's distribution system. If the City determines that there is a problem on the bi-directional equipment or the City needs to test the equipment the City has the right to disconnect the entire service to the residence until such equipment is repaired and inspected and determined to be functioning properly. The meter base main breaker box or bi-directional safety disconnect must be marked with an approved engraved or metallic placard, showing the location of disconnect and batteries that are red in color and attached in a secure manner. If at any time the placard is not legible or becomes loose or falls off the Customer will replace it within two weeks or the City may disconnect the service until it is repaired to the City's satisfaction.

- b. Customers generating facility produces 11 - 15 Kilowatts:

An interconnection customer of the City must install and maintain a manual disconnect switch which will disconnect the generating facility from the utility's distribution system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The Disconnect switch must be readily accessible to the City at all times and located within 10 feet of the utility's meter.

- i. Exemption:

The disconnect switch and batteries may be located more than 10 feet from the utility meter if permanent instructions are posted on a 5" x 7" plaque, that is red in color at the utility meter indicating the precise location of the disconnect switch and battery location. In this case Kaysville City must approve the location of the disconnect switch prior to the installation of the generating facility.

- a. Not to exceed 15KW (DC) in total capacity.
 - b. The net metering agreement is between Kaysville City and the Kaysville City home owner. No third parties.
 - c. All generating facilities, batteries and all types of storage devices must immediately disconnect from Kaysville City's distribution system upon any and all power outages on Kaysville City's distribution system (line Side).
8. **Operational Standards:** The Facility must be designed to operate within allowable operating standards for the City's electric distribution system. The facility must not adversely affect the quality or reliability of service provided to the City's other customers. The City shall have the right to periodically inspect the Facility.

Customers shall furnish, operate, and maintain in good order and repair, at Customer's cost, all equipment required for the safe operation of the facility in parallel with the City's electric distribution system. This includes, but is not limited to equipment necessary to:

 - a. Establish and maintain automatic synchronism with the City's electric distribution system;
 - b. Automatically disconnect the facility from the City's electrical distribution system in the event of overload or outage of the City's electrical distribution system; and
 - c. Customer must pay for and have a production meter installed to capture all of the kWh's produced by the customer's GF.
9. **Installation and Maintenance:** Except for the bi-directional meter owned by the City, all equipment on customer's side of the delivery point, including the disconnect device, shall be provided and maintained in satisfactory operating condition by Customer and shall remain the property and responsibility of the Customer. The City will bear no responsibility for the installation or maintenance of Customer's equipment or for any damage to property as a result of any failure or malfunction thereof. The City shall not be liable, directly or indirectly for permitting or continuing to allow the interconnection of the facility or for the acts or omissions of customer or the failure or malfunction of any equipment of Customer that caused loss or injury, including death, to any party.
10. **Indemnity and Liability:** Customer shall defend, hold harmless, and indemnify the City its directors, officers, employees, and agents against any and all loss, liability, damage, claim, cost, charge, demand or expense including any direct, indirect or consequential loss, liability,

damage, claim, cost, charge, demand, or expense including attorney's fees for injury or death to persons, including employees of the City, and Customer and damage to property, including property of the City, Customer, or any other person, arising out of or in connection with:

(a) the engineering, design, construction, maintenance, repair, operation, supervision, inspection, testing, protection, or ownership of the facility; or,

(b) the making of placements, additions, betterment to, or reconstruction of the facility.

Customer's obligation to indemnify the City hereunder shall apply regardless of whether the City is alleged or determined to have contributed to or been concurrently, jointly, or independently negligent.

11. **Pre-Operation Inspection:** Prior to interconnection, the facility and associated interconnection equipment must be inspected and approved by the City and by any other governmental authority having jurisdiction.
12. **Access:** Authorized City employees shall have the right to enter upon customer's property at any time for the purpose of inspection and/or operating the disconnect device and meters and making additional tests concerning the operation and accuracy of the City's meters.
13. **Integration Clause:** This document constitutes the entire agreement between the parties and may not be amended except in writing, signed by the Parties.
14. **Assignment:** This agreement may not be assigned by customer in whole or in part without the prior written consent of the city, which consent may be granted or withheld at the City's sole and absolute discretion.
15. **Relationship of the Parties:** Nothing in the agreement shall be constructed to imply joint venture or partnership between the parties.
16. **Governing Law and Venue:** This agreement shall be construed according to the laws of the State of Utah. The parties agree that venue for all legal actions, unless they involve the cause of action with mandatory federal jurisdiction, shall be the Fifth District court for the State of Utah. The parties further agree that the Federal District Court for the district of Utah shall be the venue for the cause of action with mandatory federal jurisdiction.
17. **Notices:** All notices, demands, and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Customer:

_____	(Name)
_____	(Address)
_____	(Address)
_____	(System size in ACKW)

To City:

Kaysville City
Power Department
721 West Old Mill Lane
Kaysville, Utah 84037

Upon at least ten (10) ten days prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States.

18. **Counterparts:** This agreement may be executed in counterparts each of which shall be an original and shall constitute one of the same agreements.
19. **Attorney's Fees:** In the event of any action of suit by a party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other party all costs and expenses incurred therein, including reasonable attorney's fees.
20. **Payment of Costs:** Provided Customer has not exercised its right to terminate this Agreement. Customer shall reimburse the City for Customers' share of costs under this agreement within thirty days of Customer's receipt of an invoice for such costs from City, which invoice shall contain reasonably satisfactory supporting documentation demonstrating that the work underlying such invoice has been performed and documentation demonstrating that the costs for which Customer is invoiced are the obligation of Customer pursuant to this Agreement.
21. **Counterparts:** This agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

KAYSVILLE CITY

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On the day of _____, 20____, personally appeared before me Bruce Rigby, who being by me duly sworn did say, that he, the Resource and Service Manager of Kaysville City Corporation, that the foregoing Agreement was signed and executed in behalf of Kaysville City Corporation.

Notary Public

CUSTOMER

STATE OF UTAH)
 ss,
COUNTY OF DAVIS)

On the _____ day of _____, 20____, personally appeared before me, _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed in the foregoing document and acknowledged before that he/she signed it voluntarily for its stated purpose.

Notary Public

**Kaysville City
Net Metering Program
Application for Interconnection Review**

Please carefully read all of the following information. With the help of your installation Contractor, fully complete the form for Solar Electric Equipment, as well as Kaysville City Net Metering Agreement.

Building Permit Number: _____

Application Information:

Customer Name: _____

Customer
Address: _____

Contact Name: _____

Phone Number: _____ Fax Number: _____

Email: _____

A: EQUIPMENT INFORMATION

1. Solar Electric Module
Manufacturer: _____

Module Model Number: _____

2. Power Rating per Module: _____ DC Watts Number of Modules: _____

3. Total Array Output: _____ DC Watts (No. of Modules x Power Rating)

4. Inverter Model Number: _____

5. Inverter's Continuous AC Rating _____ AC Watts Number of Inverters: _____

6. Total Inverter Output: _____ AC Watts (Inverter Continuous AC Rating x Number of Inverters): _____

7. Inverters Continuous AC Rating x Number of Inverters): _____

2. EQUIPMENT LOCATION

1. Solar Electric Array Location: _____ Rooftop _____ Pole Mount or _____
Ground Mount Location:

2. Solar Electric Module Orientation: _____ degrees (e.g. 180 degrees true South)

3. Solar Electric Module Tilt: _____ degrees (e.g., flat mount= 0 degrees;
Vertical mount = 90 degrees)

4. Solar Electric Module Tracking: _____ Fixed _____ Single-axis _____
Double-axis _____.

5. Inverter Location: _____ Indoor _____ Outside Location _____

6. Utility-Accessible AC Disconnect Switch Location:

7. Production meter location noted on one line drawing (must be located outside near bi-directional meter)

Yes _____ No _____

8. System Type and Mode Operation:

_____ Utility interactive (parallel/capable of back feeding the meter)

_____ Dedicated circuit, utility power as backup (transfer switch)

_____ Stand-alone (system confined to an independent circuit, no utility backup)

9. A one- page site map and system single line must accompany this application. This document must indicate the location of the solar electric modules, the inverter, batteries (if any), lockable disconnect switch, and point of connection with the utility system. The installation address, current account number at that address, and the installer's name and telephone number must also be included on the site map.

Does this system include batteries or generator back up? ____ Yes ____ No

If yes, there may be additional review required.

10. System rated output (Section A, line 3 above): _____ DC Watts

Total installed System cost: \$ _____ Estimated Start-up date. _____

Property Owners Signature

“EXHIBIT A”

NET METERING AND INTERCONNECTION INFORMATION

SECTION 1 CUSTOMER INFORMATION

Name:

Utility Customer Account Number (from the utility bill)

Mailing Address:

Physical Address: (if different from above)

Daytime Phone:

Evening Phone:

Email Address:

SECTION 2 NET METERING FACILITY INFORMATION

SYSTEM TYPE ____X____ Solar (PV)

Generator Size (kW AC)

Inverter Manufacturer:

Inverter Model:

Inverter Serial Number:

Inverter Power Rating:

Inverter Location:

Signed: _____ Date: _____

10-2-13 Net Metering Policy

1. **Applicability.** The Net Metering Program is available to all residential customers located within the City's current electrical service territory who:
 - a. Purchase electricity from the City under the provisions of the residential electric rate service schedule; and
 - b. Own and operate generating facility "GF" a solar, wind, or other qualified renewable generator or generators located on the customer's premises that together:
 - i. Are primarily intended to offset part or all of the customer's own electrical requirements on the premises;
 - ii. Do not exceed 15 kW in total capacity;
 - iii. Are interconnected with Kaysville City's electric system through a production meter and a net meter (two meters); and
 - iv. Operate in parallel with the City's distribution system.
2. **Definitions.** As used in this section:
 - a. "Net Energy" is the difference between the electricity supplied by the City to the customer through the City's electric distribution system and the electricity generated on the customer's premises which is fed back into the City's electric distribution system.
 - b. "Net Metering" is a method of measuring the difference between the electricity supplied by the City to the customer through the City's electric distribution system and the electricity generated on the customer's premises which is fed back into the City's electric distribution system.
3. **Special Conditions**
 - ~~a. The customer shall pay for the net energy used in accordance with the following formula:~~
 - ~~i. The Customer will be charged for all delivered (consumed) KWH's at the appropriate residential rate.~~
 - ~~i. The customer shall pay for all electric energy delivered to the customer by Kaysville City Power and Light at the appropriate residential rate.~~
 - ~~ii. If the energy generated by the customer and distributed (received) back to the City's electric distribution system during the billing period, or any portion thereof, exceeds the energy supplied to the Customer by the City's electric distribution system then the customer shall be:~~
 - ~~ii. The customer shall be credited for all Received KWH's at the current residential solar rate each month.~~
 - iii. Billed for the appropriate customer service charge as other customers of the City in the same rate class and any other fees and charges deemed appropriate by the City Council: and
 - ~~iv. Credited (payed) for any excess production (received) put back on to Kaysville City's distribution system at the rate specified in the residential solar "GF" rate schedule.~~
 - ~~iv.~~
 - v. If the customers generating facility "GF" produces more kWh's than the customer consumes each month, the customer will be paid for all (received) kWh's at the current residential solar "GF" rate each month.

- vi. Customer shall pay any amount owing for electric service provided by the City in accordance with applicable rates and policies. Nothing in this section shall limit the City's rights under applicable Rate schedules, City ordinances, Customer service policies, any charges deemed appropriate by the City Council and general provisions.
- vii. In the event the customer terminates service, the customer will be paid for any credit balance according to the provisions set forth in Subsection (3) (a) (ii).
- b. The price for electric energy provided to a customer participating in the Net Metering Program shall be the price charged by the City under the provisions of the electric service schedule for which the customer receives service absent this electric Net Metering Program. All ~~credited~~
- c. kWh's will be ~~paid~~ credited
- b-d. to the customer at the residential "GF" solar rate in place at that time.
- e-e. The Net Metering Program billing adjustment only applies to charges for energy. Participating customers are subject to all other charges, rates, terms and conditions of the electric service schedule under which the customer receives service except as expressly altered by this electric service Net Metering Program.
- d-f. The customer will release to the City all renewable energy credits (REC), solar renewable-energy credits (S-REC), or other renewable attributes as appropriate based on actual on-site electric generation from the Renewable Resource.
- e-g. The customer shall provide, at customer's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the National Electric Code (NEC), the Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), and any applicable local and state agencies, including any equipment deemed necessary by the City's Power Department expressly to accommodate the customer's request to qualify for this electric service Net Metering Program. The customer must first obtain written approval from the City's Power Department before the customer's on-site generating system is energized or interconnected with the City's electric system.
- f-h. In order to participate in the City's Net Metering Program and to receive the benefits of this Program. The customer must first sign a Net Metering Program Interconnection and Service Agreement with the City. The Interconnection and Service Agreement allows the customer to interconnect and operate in parallel with the City's distribution system and allows the City to test and inspect the customer's system periodically to ensure the safety of electrical workers and the integrity of the City's electric distribution system. The Interconnection and Service Agreement will contain additional terms and conditions for service under this electric service Net Metering Program, including specific terms of interconnection and parallel operation with the City's electrical System.

~~g.i.~~ The Net Metering Program may be adjusted or discontinued by the Kaysville City Council for any reason, at any time, without any obligation to existing participants.

~~h.i.~~ The Net Metering Agreement and Net Meter policy is between Kaysville City and the Kaysville City home owner. No third parties.

~~i.k.~~ The Customers “GF” shall not back feed onto Kaysville City’s distribution system in the event of a power outage on Kaysville City’s distribution system. This includes all “GF’s” batteries and any type of fuel cell or storage system.

4. The City shall have the right to inspect a customer's generating facility after interconnection approval is granted, at reasonable hours and with reasonable prior notice to the customer. If the City discovers that the customer's generating facility is not in compliance with the requirements of this policy, or that the customer's facility adversely affects the safety or reliability of the electric distribution system, the City may require the customer to disconnect the customer's generating facility until compliance is achieved.
5. The City shall have the right to disconnect the customer's generating facility in the event it causes problems. The customer will have the option of correcting the problem, at which time the system will be re-inspected before beginning operation again. The customer shall be required to install a manual disconnect device as stated in the Net Metering Interconnection and Service Agreement. The disconnect shall be readily accessible to City authorized personnel.
6. The customer shall be responsible for any damage caused by the customer's generating facility to the City's system and/or neighboring services. The customer shall be responsible for the installation and maintenance of applicable protection equipment and for any damage caused by improper application, maintenance or faulty equipment. Kaysville City shall not be liable directly or indirectly for permitting or continuing to allow an attachment or a Net Metering facility, or for the acts or omissions of the customer's generator that cause loss or injury, including death, to any third party.

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5 b.

TYPE OF ITEM: Action

PRESENTED BY: Shayne Scott, City Manager

SUBJECT/AGENDA TITLE: Contract for Architectural Services with MHTN

EXECUTIVE SUMMARY:

Over the past three years there has been much discussion about the spatial needs of the City. In 2015 Kaysville City commissioned a "Spatial Needs Assessment" from an architectural firm, JRCA. This assessment was broad and took into account each department in the city and what their perceived needs might be from the present day until "build-out".

The purpose of this action item is to formally engage with MHTN, the recommended architect that came out of the RFQ process, on a contract. Nic Mills has reviewed the contract and approves of the details therein.

Council Options: Discuss this recommendation and approve this contract as presented.
Approve the contract with suggested modifications
Remand the contract back to staff with direction on proposed changes.

Recommendation: At this time Staff recommends approving this contract as presented.

Fiscal Impact & Fund Source for Recommended Action:

This contract will impact the city financially depending on the size and scope of the final project.

Attachments: Contract.



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty day of November in the year Two Thousand Eighteen
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:

Kaysville City Corporation
23 East Center Street
Kaysville, Utah 84037
Telephone Number: (801) 546-1235

and the Architect:

MHTN Architects, Inc.
420 East South Temple, Suite 100
Salt Lake City, UT 84111
Telephone Number: 801-595-6700

for the following Project:

Kaysville City Municipal Building
23 East Center Street
Kaysville, Utah 84037

Kaysville City needs approximately 10,000 additional square feet (sf.) to the city's Municipal Building to accommodate public meetings and to provide appropriate working space for City employees.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

§ 1.1.1 The Owner's program for the Project:

Vision and Conceptual Planning

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Additional 10,000 sf. added to the city's Municipal Building. The square footage will be added by either a remodel or by demolition/rebuilding the Municipal Building to include the additional square footage. If decided by the City, MHTN will hold a public outreach meeting to share the design with the Citizens and consider their comments in refining the design.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

Initial budget for the project is Four Million Dollars and Zero Cents (\$4,000,000.00).

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Construction commencement date:
Construction is estimated to begin by the end of June 2019.

.2 Substantial Completion date or dates:
Estimated construction period will be from June 2019 to December 2020.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Public Bid

§ 1.1.6 The Owner identifies the following representative in accordance with Section 5.3:

Shayne Scott, City Manager
Kaysville City
23 East Center Street
Kaysville, Utah 84037
Telephone Number: (801) 546-1235

§ 1.1.7 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer

.2 Other, if any:

§ 1.1.8 The Architect identifies the following representative in accordance with Section 2.3:

Ryan Wallace, Project Manager
MHTN Architects, Inc.
420 East South Temple, Suite 100
Salt Lake City, UT 84111
Telephone Number: 801-595-6700

§ 1.1.9 The Architects shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2

§ 1.1.10 Consultants retained under Basic Services:

.1 Structural Engineer:

Reaveley Engineers & Associates
675 East 500 South, Suite 400
Salt Lake City, Utah 84102
Telephone Number: (801) 486-3883
Project Manager: Mike Buehner

.2 Mechanical Engineer:

Van Boerum & Frank Associates (VBFA)
330 South 300 East
Salt Lake City, Utah 84111
Telephone: (801) 530-3148
Project Manager: Richard Reeder

.3 Electrical Engineer:

Spectrum Engineers
324 South State Street, Suite 400
Salt Lake City, UT 84111
Telephone: (801) 328-5151
Project Managers: Chris Kobayashi, Matt Haverkamp, Sarah Rollins

.4 Civil Engineer:

Civil Solutions
254 South 00 East, Suite 104
Salt Lake City, UT 84102
Telephone Number: (801) 216-3192
Project Manager: Dayton Law

§ 1.1.11 Other Initial Information on which the Agreement is based:

Kaysville City needs approximately 10,000 additional sf. in its Municipal Building to accommodate public meetings and to provide appropriate working space for City employees. Two options have been proposed. One is to demolish the existing Municipal Building and construct new. The other is to remodel existing space and add to the existing Municipal Building. The initial budget for construction of this project is \$4 million.

Kaysville City, at a future date, also plans to upgrade and transform Main Street.

The scope of work for this project includes the following:

- Conduct visioning and public outreach for the Municipal Building.
- Conduct Visioning and public outreach for the Main Street Upgrade and Transformation.
- Assist the City with preliminary concepts and cost estimates to decide whether to demolish the existing City Municipal Building and build new, or to remodel the existing City Municipal Building and add approximately 10,000 square feet of space.
- Once the scope of the project is decided (new or remodel) MHTN and its team of engineers will develop concept designs in concert with Kaysville City Staff and steering committee.
- If decided by the City, MHTN will hold a public outreach meeting to share the design with the Citizens and consider their comments in refining the design.
- Once a concept has been approved, MHTN and consulting engineers will proceed with Schematic Design and seek approval from the project steering committee.
- After approval of the Schematic Design, MHTN and team will proceed with Design Development and seek approval from the project steering committee.
- After approval of the Design Development, MHTN and team will prepare Contract Documents appropriate for contractor use in constructing the building and seek approval from the project steering committee before issuing the documents for public bids.
- MHTN and team will assist with the Bidding and Award of the construction contract.
- Once Kaysville City selects a contractor for the work, MHTN and team will participate in the Construction Administration phase of work with regular visits to the construction site to review the construction progress and help respond to contractor questions.
- In general, MHTN will provide services customarily associated with architectural and engineering design for the intended project and will follow through with customary construction administration services.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and Two Million Dollars and Zero Cents (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Five Million Dollars and Zero Cents (\$ 5,000,000.00) per claim and Five Million Dollars and Zero Cents (\$ 5,000,000.00) in the aggregate.

§ 2.5.6 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.7 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming Verification	Included in Basic Services
§ 4.1.1.2 Designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	Included in Basic Services
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	Included in Basic Services
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	Included in Basic Services
§ 4.1.1.17 Post-occupancy evaluation	

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	As noted in Section 11 Fee
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	Two Bid Packages included in Basic Services
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	As noted in Section 11 Fee
§ 4.1.1.29 Other services provided by specialty Consultants	As noted in Section 11 Fee
§ 4.1.1.30 Other Supplemental Services	As noted in Section 11 Fee

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon

receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 The Architect and consulting engineers will review shop drawings and product data submittals as noted in the project specification manual. This will be one primary review of each submittal and one follow up submittal review if necessary.
- .2 The Architect will visit the project site weekly during construction to review project progress. Our consulting engineers will visit the site periodically to review the work associated with their engineering discipline.
- .3 MHTN and consulting engineers will visit the site two times to determine if the project is substantially complete.
- .4 The Architect and consulting engineers will visit the site no more than two (2) times to determine final completion of the project.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty-five (25) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ -2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or

otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official

regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration

Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 8.3 of this Agreement
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

This will be negotiated between the Owner and the Architect at the time of termination, should termination occur.

- 2 This will be negotiated between the Owner and the Architect at the time of termination, should termination occur.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum:

.2 Percentage Basis:

Compensation based on State of Utah DFCM fee policy, Schedule B; Less Than Average Complexity with complexity for renovation and addition.

Estimated project construction cost: \$4 million

Basic Fee: 6.30%

Addition for Renovation Complexity: 0.65%

Total basic Fee percentage: 6.95%

Total Basic Fee: Two Hundred Seventy-Eight Thousand Dollars and Zero Cents (\$278,000.00)

.3 Other:

Additional Complexity

Audio / Visual Engineering: \$12,500

Structured Cabling Engineering: \$3,475

Furniture and Furnishings Design: \$18,000

Main Street Visioning: \$11,250

Total Additional Complexity: \$45,225.00

Total Fee: Three Hundred Twenty-Three Thousand Two Hundred Twenty-Five Dollars and Zero Cents (\$323,225.00)

Optional Additional Engineering Services

Survey: \$2,100

Geotechnical Study: \$4,200

Storm Water Pollution Protection Plan: \$1,300

Storm Water Management Plan: \$500

Wetland Delineation: \$3,800

§ 11.2 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

This will be negotiated between the Owner and the Architect before additional services are performed.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent (10 %), or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Visioning and Conceptual Planning	Seven	percent (	7	%)
Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty-Five	percent (	25	%)
Construction Documents Phase	Thirty	percent (	30	%)
Procurement Phase	Three	percent (	3	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

MHTN Hourly Billing Rates attached as Exhibit A

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

1.5 % monthly

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

☒ [X] Hourly Billing Rates

MHTN's hourly billing rates attached as Exhibit A

☐ [] Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

.4 Other documents:

(List other documents, if any, forming part of the Agreement.)

This Agreement entered into as of the day and year first written above

Kaysville City Corporation *(Signature)*

Shayne Scott, City Manager
(Printed name and title)

MHTN Architects, Inc. *(Signature)*

Kyle Taft, Vice President
(Printed name, title, and license number, if required)



Init.

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EXHIBIT A

MHTN Architects, Inc.
Hourly Billing Rates July 1, 2018 through December 31, 2018
Hourly rates will be revised at the first of every calendar year.



MHTN
ARCHITECTS

Architectural Drafter	
Level 1	\$90.00
Level 2	\$110.00
Senior Drafter	\$125.00
Intern 1	
Level 1	\$70.00
Level 2	\$90.00
Level 3	\$95.00
Level 4	\$100.00
Intern 2	
Level 1	\$105.00
Level 2	\$110.00
Level 3	\$115.00
Intern 3	
Level 1	\$110.00
Level 2	\$115.00
Level 3	\$125.00
Level 4	\$140.00
Architect 1	
Level 1	\$125.00
Level 2	\$130.00
Level 3	\$135.00
Level 4	\$140.00
Architect 2	
Level 1	\$140.00
Architect 3	
Level 1	\$150.00
Level 2	\$160.00
Level 3	\$165.00
Project Manager/Team Leader 1	
Level 1	\$150.00
Project Manager/Team Leader 2	
Level 1	\$155.00
Level 2	\$160.00
Level 3	\$165.00
Level 4	\$175.00
Level 5	\$185.00
Entry Level Interior Designer	
Level 1	\$95.00
Level 2	\$100.00
Intermediate Interior Designer	\$125.00
Senior Interior Designer	
Level 1	\$125.00
Level 2	\$145.00
Unlicensed Architecture/Project Designer	
Level 1	\$135.00
Level 2	\$140.00
Senior Project Designer	\$185.00
Administrative Staff	\$110.00
Specification Writer	\$180.00
Cost Estimator	\$195.00
Landscape Architect	\$115.00
Senior Landscape Architect	\$150.00
Director	
Level 1	\$185.00
Level 2	\$195.00
Level 3	\$210.00
Associate Principal	

Level 1	\$180.00
Level 2	\$210.00
Principal	\$225.00

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018
ITEM NO.: 5 c.

TYPE OF ITEM: Action
PRESENTED BY:

SUBJECT/AGENDA TITLE: An Ordinance Amending Provisions of the Kaysville City Code regarding the City Engineer

EXECUTIVE SUMMARY: Currently, the City Code requires that the City Engineer also serve as the Department Director for the Community Development Department. This has worked well in the past, but with Mr. Thompson retiring, staff desires to have greater flexibility in how Departments are structured. When Staff recognized this requirement, we reviewed the municipal codes of Layton, Bountiful, Farmington, and Clearfield to see if this highly specific requirement was common. Staff found that none of the jurisdictions surveyed required that the City Engineer serve as a department director. Please note that this amendment would not prohibit the City Engineer from Serving as the Department Director of the Community Development Department, but would allow the City to structure its departments in the most efficient manner.

Council Options: 1) Approve the Ordinance amending provisions of 8-1-2 of the City code; 2) Approve the Ordinance with any modifications that the Council deems appropriate; 3) Decline to adopt the Ordinance and remand to staff with further direction.

Recommended Options: Staff recommends that the City Council approve the Ordinance amending provisions of 8-1-2 of the City Code.

Fiscal Impact & Fund Source for Recommended Action: Amending this statute will not result in any foreseeable fiscal impact.

Attachments:

ORDINANCE ~~XX-XX-XX~~

AMENDING TITLE 8, CHAPTER 1, SECTION 2 OF THE KAYSVILLE MUNICIPAL CODE, AMENDING PROVISIONS REGARDING THE CITY ENGINEER.

WHEREAS, Kaysville City has long employed a City Engineer who has also served as the Department Director for the Community Development Department; and

WHEREAS, the City would like to have the flexibility to structure the Community Development Department in a way that will optimize the human capital in the department; and

WHEREAS, the City Council of Kaysville City finds that this amendment to be in the best interests of the Citizens of Kaysville City and the health, safety, and welfare of the City.

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

SECTION I: Amendment. Title 8, Chapter 1, Section 2 of the Kaysville Municipal Code is hereby amended as follows:

8-1-2 City Engineer

There is hereby created the position of City Engineer ~~who shall be the Community Development Department supervisor and shall have all the powers, rights, and duties conferred upon such municipal engineer by law. (10-3-903 through 10-3-907 and 10-3-917 of the Utah Code.)~~

SECTION II: Severability. If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION III: Effective Date. This Ordinance shall become effective the 20th day of November, 2018.

PASSED AND ADOPTED by the City Council of Kaysville, Utah, this ____ day of _____, 2018.

Katie Witt, Mayor

ATTEST:

Maria Devereux, City Recorder

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5e

TYPE OF ITEM: Action Item

PRESENTED BY: Josh Belnap, Public Works Director

SUBJECT/AGENDA TITLE: Street Improvements Policy and Ranking

EXECUTIVE SUMMARY:

Kaysville City Public Works would like to see full improvements (curb, gutter and sidewalk generally) along all City streets, where practical. We've received and incorporated input and feedback from previous discussions and would like to implement a uniform policy for determining the order of and approaching the projects in the areas where they are currently lacking, to help clarify and expedite this process.

The proposal is the product of two work sessions and has been reviewed by Nic Mills and Shayne Scott, who both approve of the details therein.

Council Options: Discuss the recommended policy and adopt as presented.
Adopt the policy with suggested modifications.
Remand the policy back to staff with direction on proposed changes.

Recommended Options: Staff recommends adopting this policy as presented.

Fiscal Impact & Fund Source for Recommended Action: This policy may impact the City's general, road utility and storm water utility funds, depending on the final policy and specific project details.

Attachments: Kaysville City Public Street Improvement Policy

Kaysville City

Public Street Improvement Policy

In order to better ensure the safety of the residents of Kaysville City, by improving the overall flow of traffic and by providing facilities for pedestrian use, the following procedures will be followed for planning, coordinating and constructing public street improvements **where they do not currently exist**. Specifically of concern is the coordination, planning and cost for the installation of curb, gutter, sidewalk and the impact on properties within the designated right-of-way (ROW) and street dimensions for the public street in question. This policy is to be administered by the Public Works Superintendent, under the direct supervision of the City Manager.

Sec. 1 Definitions:

Public Street: Means any highway, street, alley or other public right-of-way for motor vehicle travel under the jurisdiction and control of or within the City which has been acquired, established, dedicated or devoted to highway purposes.

Necessary ROW: In regards to this policy, this is defined as the area between the current private property line and the future private property line after improvements are installed. This area may need to be first acquired by the City from a property owner. Upon installation of improvements, ROW is then typically defined as the area between the private property line and the back of curb.

Improvements: Defined as the curb, gutter, approach/apron and sidewalk. Cost for improvements does not include the cost of design or engineering work, cost of landscaping removal, cost of relocation of City/private utilities or basic contractor selection and mobilization costs.

Driveway: In this policy, the term driveway shall be limited to the portion of the driveway behind the sidewalk on private property. Transitioning current driveways to meet the elevation of new improvements should not exceed a slope of 10%.

Owner: The word "owner" applied to a building or land shall include any part-owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

Standard Mailboxes: Means a mailbox consisting of an approved USPS mailbox and a basic post (either wood or metal). Does not apply to decorative or luxury mailboxes or mailbox housings.

Landscaping: Means trees and other vegetation, grasses, rocks, decorative fixtures, irrigation equipment and fixtures, etc.

Betterments: Means requests for improvements or services from an owner which are deemed to exceed the pre-construction "as good" condition of a property.

Sec. 2 For properties/locations where the City has agreements in place for the future installation of said improvements:

- 1. If the City currently has the necessary ROW for the improvements, the owner will bear 100% of the cost for installation of improvements.**
 - a. Properties may be impacted from a landscaping perspective and are eligible for the City to provide top soil and grading of the top soil to tie the new improvements into the existing yard or property, where grade separations or gaps may exist. The owner is to also bear the cost and responsibility of restoring landscaping. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the temporary easements, the City will cause the work to be done and may lien the property for incurred costs if still necessary.
- 2. If the City does not have the necessary ROW for the improvements, the owner will bear 65% of the cost for installation of improvements.**
 - a. The City will cover 35% of said costs. The City is to also bear the cost and responsibility of restoring landscaping and other reasonable property impacts to “as good” condition. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate the ROW and any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the ROW and/or temporary easements, the City will cause the work to be done and may lien the property for incurred costs, if still necessary.

Sec. 3 For properties/locations where the City does not have agreements in place for the future installation of said improvements:

- 1. If the City currently has the necessary ROW for the improvements, the owner will bear 50% of the cost for installation of improvements.**
 - a. The City will cover 50% of said costs. Properties may be impacted from a landscaping perspective and are eligible for the City to provide top soil and grading of the top soil to tie the new improvements into the existing yard or property, where grade separations or gaps may exist. The owner is to also bear the cost and responsibility of restoring landscaping. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the temporary easements, the City may cause the work (either partially or entirely) to be done or they may leave the property out of the project. If the same owner that has declined then wishes to have the work done after project completion, that same owner will then be required to bear 100% of the cost, rather than 50%.

2. If the City does not have the necessary ROW for the improvements, the City will bear 100% of the cost for installation of improvements.

- a. The City is to also bear the cost and responsibility of restoring landscaping and other reasonable property impacts to “as good” condition.
- b. Property owners will need to donate the ROW and any necessary temporary easements for the work.
- c. If the owner declines the work, or are unwilling to donate the ROW and/or temporary easements, the City may leave the property out of the project. If the same owner that has declined then wishes to have the work done after project completion, that same owner will then be required to bear 50% of the cost.

Sec. 4 For properties where the City expends funds on the installation of improvements and/or restoration of landscaping at a property, and the owner of that property decides to develop that specific property within 10 years of the project’s completion, the owner will then be required to reimburse the City those same costs. This may be done by means of a lien, if necessary.

Sec. 5 On projects and work being done, the City may cause the work to be done, including payment of invoices, and owner costs will then be assessed with an itemized bill or invoice. Payment can either be a lump sum in full, as part of a multi-year re-payment agreement or by another means deemed acceptable by the City Manager.

Sec. 6 Situations may exist where a certain property may not fit perfectly within one of the categories listed above, or where extremely extenuating circumstances exist. In these instances, under the direction and approval of the City Manager, some properties may warrant being evaluated and addressed on a case by case basis.

Sec. 7 Betterments requested by owners must be submitted in writing to the Public Works Superintendent and approved by the City Manager. The cost for betterments will be borne by the owner. Requests for betterments are also subject to contractor agreement and ability. Betterments are to be restricted to only areas directly impacted by the project.

Sec. 8 Kaysville City will create, and maintain, a prioritized list of potential project locations. This list will help determine the order and sequence of projects moving forward, as budget permits. Projects may be started sooner, though, depending on various factors, including (but not limited to) safety issues, dimensions and the level of owner support.

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5f

TYPE OF ITEM: Action Item

PRESENTED BY: Josh Belnap, Public Works Director

SUBJECT/AGENDA TITLE: Water Tank Pump House Design

EXECUTIVE SUMMARY:

Kaysville City has previously contracted with Sunrise Engineering to design a water tank to be constructed in the recently annexed area commonly referred to as the "Frost Property." Said tank will require a booster pump station to get water up to its elevation. We are proposing to submit as a change order to Sunrise Engineering's current contract to also design this pump station. Sunrise has quoted us on this design at \$67,200, which would either be reimbursed to us by UDOT (due to losing the West Crestwood Tank when US-89 widens) or from the developer.

We feel that with Sunrise Engineering's intimate knowledge of the area, the project and the technical needs of the tank, they are best suited for this work.

Council Options: Discuss the recommended change order and accept.
Remand the need for design back to staff with direction.

Recommended Options: Staff recommends accepting this change order as presented.

Fiscal Impact & Fund Source for Recommended Action: This change order would initially impact water enterprise funds, but would ultimately impact our reimbursement from UDOT or would be a contribution by the developer.

Attachments: Sunrise Change Order

Phase 0005- Additional Design Coordination and Administration

Task 001- Coordination and Administration

This task includes the additional coordination required for the additional scope of work as shown above. Additional coordination includes coordination between disciplines for the booster station and coordination with the developer and the developer's engineers. This also covers (2) additional project update meetings.

ARTICLE 2. COMPENSATION

Compensation for Work Release No.2018-3 will be as follows:

Kaysville 1.0 MG Tank WR-3- Booster Station				
Fee Summary				
Phase	Task	Description	Proposed Fee	Fee Type
0001		Additional Design Level Survey		
	001	Field Work- Booster Site and Transmission Line	\$2,000	Lump Sum
		Subtotal	\$2,000	Lump Sum
0002		Booster Station Geotechnical Report		
	001	Special Fault Study (Sub-Consultant)	\$4,500	Lump Sum
	002	Geotechnical Report	\$7,000	Lump Sum
		Subtotal	\$11,500	Lump Sum
0003		Detailed Design of Booster Station		
	001	Detailed Design of Booster Station	\$25,300	Lump Sum
	002	Electrical Design of Booster Station	\$8,500	Lump Sum
	003	Technical Specifications	\$3,000	Lump Sum
		Subtotal	\$36,800	Lump Sum
0004		Detailed Design of Water Transmission Line and Access Road		
	001	Detailed Design of Transmission Line	\$8,600	
	003	Additional Overflow Piping and Outlet Box Design	\$3,800	
		Subtotal	\$12,400	Lump Sum
0005		Additional Design Coordination and Administration		
	001	Coordination and Administration	\$4,500	Lump Sum
		Subtotal	\$4,500	Lump Sum
		WORK RELEASE 3 TOTAL	\$67,200	Lump Sum

We have included a man-hour breakdown of the compensation showing the required hours for each task in Exhibit B.

These payments shall be considered complete compensation for all engineering services outlined in this agreement.

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5 g.

TYPE OF ITEM: Action Item

PRESENTED BY: Community Development Staff

SUBJECT/AGENDA TITLE: Rezone of 0.36 acres at 120 South Main Street from PB (Professional Business) to the HC (Health Care) zoning district.

Executive Summary:

The property is currently zoned to allow for professional offices and has been home to the Kaysville Clinic for many years where family medicine is practiced. The request for the rezone would allow for the Kaysville Clinic to continue operation but would accommodate an expanded use where patients who need extended care could receive aid. In addition to family medicine, the Kaysville Clinic offers outpatient addiction treatment. In partnership with Diamond Tree Recovery, the Kaysville Clinic is looking to allow patients to stay for a period of 5 to 7 days where they could have 24-hour care and assistance as they seek help to begin their recovery from addictive substances. Patients would only be at this location for that short term before being moved to a longer term recovery facility where additional help can be offered.

While the service continues to be medical in nature, the use most closely fits within the HC zoning district because of the type and length of care provided.

Existing Zoning Regulations:

PB Zoning District

17-18-1 Purpose

To provide sites for offices in which the intensity of use, in terms of hours of operation and number of customers, is less than that of a commercial zone. The Professional Business District may be applied to properties that front on Main Street or front on 200 North Street.

17-18-2 Site Plan Review

A site plan review is required and a site plan shall be submitted for all permitted and conditional uses. (Consult KCC Chapter 18-4.)

17-18-3 Permitted Uses

1. Business and professional offices.
2. Accessory uses and structures considered incidental and customary to a permitted use subject to the provisions of KCC 17-31-2.

17-18-4 Conditional Uses

There are no conditional uses.

Requested Zoning Regulations:

HC Health Care District

17-17-1 Purpose

To provide areas in appropriate locations where residential health care facilities with various support services for residents may be established, maintained and protected. The regulations of this district are designed to promote and encourage longer term health care facilities.

17-17-2 Site Plan Review

A site plan is required and a site plan shall be submitted for all permitted and conditional uses (consult KCC Chapter 18-4).

17-17-3 Permitted Uses

1. Residential facilities for persons with a disability.
2. Assisted living facilities.
3. Nursing care facilities.
4. Accessory uses and buildings considered incidental and customary to a permitted use, subject to the provisions of KCC 17-31-2.

17-17-4 Conditional Uses

There are no conditional uses.

17-17-5 Accommodations For Persons With Disabilities

1. Reasonable accommodations that may be necessary for persons with disabilities to have an equal opportunity to use and enjoy dwellings shall be determined through an interactive process resulting in a development agreement. The rezoning to Health Care District will be approved if a development agreement is approved by the developer and City Council. The development agreement shall be in effect before the zone is effective and the zone shall be voided if the provider of the residential health care facility fails to comply with the development agreement.
2. Accommodations for persons with disabilities shall be granted if the requested accommodations are found to be:
 1. Necessary to afford persons or groups of persons with disabilities, as defined by the Fair Housing Act, an equal opportunity to use and enjoy a dwelling; and
 2. Reasonable. A requested accommodation is reasonable if it will not:
 1. Impose an undue financial or administrative burden on a local government; or
 2. Create a fundamental alteration in the land use and zoning scheme.

17-17-7 Area, Lot Coverage And Yard Requirements

There are no lot size or yard requirements except that where a lot in the Health Care District abuts a residential district, the yard abutting the residential district shall be at least twenty feet (20'). An existing building may have the twenty feet (20') yard requirement reduced to the yard requirement of the abutting residential zone if the reduced yard contains only landscaping.

The City's **General Plan** states, among other things:

GOALS AND POLICIES

I. Identity and Character

A. Kaysville should be primarily a residential community with a vision to promote business, industry and public use.

II Defining Features

A. The City Center should be developed as a traditional main street. 1. Create a large and varied grouping of uses to sustain civic and economic activity.

LAND USE

Background Land use in Kaysville is mostly low density residential with agriculture and open space, businesses and industries. Housing will be the greatest use of land with business, industry, recreation, education, and other uses to support that housing.

II. Business and Industry

A. Most sites used primarily for business or industry should be located on major streets. Mitigate impacts on adjacent residential uses through compliance with ordinances and regulations.

(Main Street is classified as a Major Street per Kaysville City's Major Street Plan in Section 8-3-2.)

Recommended Options:

After holding a public hearing, the Planning Commission voted unanimously to forward a favorable recommendation of the proposed rezone to the City Council. The City Council has the ability to use broad discretion as to whether or not the request is appropriate based on the city's general plan and how the request fits at the specific location.

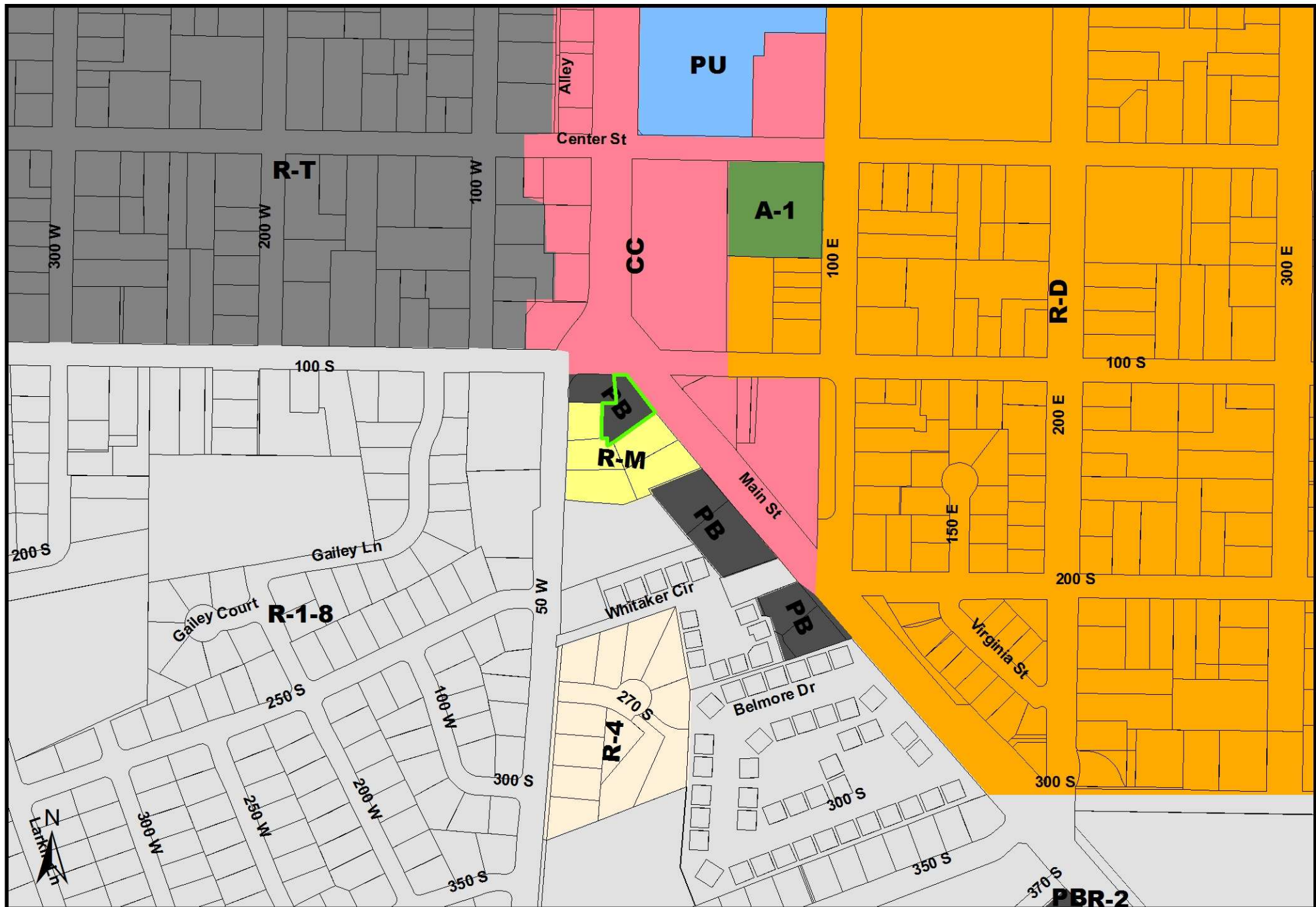
Attachment 1: Area Map
Attachment 2: Zoning Map



Rezone of 120 South Main Street from PB to HC



120 South Main Street - Rezone from PB to HC



STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018
ITEM NO.: 5 h.

TYPE OF ITEM: Action Item
PRESENTED BY: Community Development Staff

SUBJECT/AGENDA TITLE: Rezone of 0.78 acres at 167 North 200 West from the GC (General Commercial) to the R-T (Old Kaysville Townsite Residential) zoning district.

Executive Summary:

While the subject property is located in the General Commercial zoning district just south of 200 North Street. The property currently has a home and detached garage and exists as a legal but non-conforming dwelling. The applicant/property owner has informed staff of his desires to rezone the property due to the difficulty of selling and developing the property for commercial use.

While the property may continue to have a dwelling under the existing non-conforming status, Chapter 17-29, Non-Conforming Uses, of the Kaysville City Ordinance restricts what can be done with such a property. 17-29-1 states the purpose of this ordinance is 'to control and gradually eliminate those uses of land or buildings, which although [legal when established], do not now conform to the use regulations of the district within which they are located.' Meaning that additions and significant changes to the home which may make it more desirable for use as a dwelling would not be permitted.

The existing zoning matches properties along 200 north while the requested zone would match the neighborhood to the south.

Existing Zoning Regulations:
GC Zoning District

17-19-1 Purpose

To provide for appropriate uses in locations in which business, commercial, industrial, entertainment, and related activities may be established. The regulations of this district are designed to provide for a suitable environment for those uses which are vital to the economic life of the city.

17-19-3 Permitted Uses

1. Offices.
2. Retail sales and services, not including storage services, sale of beer for consumption on the premises, sale of liquor for consumption on the premises and conditional uses in KCC 17-19-4.
3. Government offices and services.

17-19-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

Rezone of 167 North 200 West from GC to RT



1. Single family dwellings which are an integral part of a commercial use and serves as housing for the proprietor or an employee.
2. Light industry/research uses subject to the provisions of KCC Chapter 17-23.
3. Buildings of height greater than thirty-five feet (35').
4. Recreational vehicle parks subject to the provisions of KCC 17-31-24.
5. Telecommunication towers and telecommunication towers of height greater than thirty-five feet (35') subject to the provisions of KCC 17-31-25.
6. Public utility substations.
7. Sale of beer for consumption on the premises of a full-service restaurant, limited service restaurant, beer-only restaurant, banquet or reception center.
8. Sale of liquor for consumption on the premises of a full-service restaurant, limited service restaurant, banquet or reception center.

Requested Zoning Regulations:

R-T Old Kaysville Townsite Residential District

17-11-1 Purpose

To preserve the character and historic nature of the area known as the Old Kaysville Townsite through the establishment of uses and goals intended to assure greater compatibility of new construction with the existing neighborhood that displays a unique historical appeal. This zoning district promotes a consistent streetscape with sidewalks on only one side of the street, large street trees and swales and promotes the preservation, continuity, beauty and feel of the area. The area within the R-T zone conveys a certain sense of time and place associated with its history. New construction should, to the greatest extent possible, maintain the established mass, scale, height, width, and form of other buildings on the street. New buildings and additions may be larger than existing buildings, but should not be so dramatically greater in scale such that the visual continuity of the street is compromised.

17-11-3 Permitted Uses

1. Agriculture.
2. Single-family dwellings.
3. Public parks and playgrounds, and privately-owned parks, playgrounds, and recreational grounds not operated as a business in whole or part and to which no admission is charged.
4. Minor home occupations subject to the provisions of KCC Chapter 17-26.
5. Two household pets per dwelling unit.
6. Private swimming pools subject to the provisions of KCC 17-31-9.
7. Accessory uses and accessory buildings customarily appurtenant to a permitted use subject to the provisions of KCC 17-31-2.
8. Fowl, rabbits, or similar animals subject to the provisions of KCC Chapter 17-24.

17-11-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Public or quasi-public buildings of the educational, recreational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, warehouses and similar uses.
2. Major home occupations A and B subject to the provisions of KCC Chapter 17-26.
3. Residential child care subject to the provisions of KCC Chapter 17-26.
4. Temporary buildings for uses incidental to construction work subject to the provisions of KCC 17-30-7, which buildings must be removed upon the completion or abandonment of the construction.
5. Public utility substations subject to the provisions of KCC 17-31-15.
6. Farm animals other than those allowed as a permitted use subject to the provisions of KCC Chapter 17-24.
7. Swimming clubs subject to the provisions of KCC 17-31-10.

The City's **General Plan** states, among other things:

GOALS AND POLICIES

I. Identity and Character

A. Kaysville should be primarily a residential community with a vision to promote business, industry and public use.

III. Growth and Development

A. Growth should mostly occur through development within the City. Development should improve public safety and sense of community. An adequate revenue base should be developed to fund City operations and infrastructure.

1. Refurbish or replace deteriorating structures so that land is used to its longterm potential.
2. Reserve land and promote development that is high quality, diversified and adaptable to changing conditions.
3. Encourage businesses and industries to locate and invest within the City.
4. Regulate the more intensive uses that create traffic and public service problems and costs.

LAND USE

Background Land use in Kaysville is mostly low density residential with agriculture and open space, businesses and industries. Housing will be the greatest use of land with business, industry, recreation, education, and other uses to support that housing.

II. Business and Industry

A. Most sites used primarily for business or industry should be located on major streets. Mitigate impacts on adjacent residential uses through compliance with ordinances and regulations.

B. Home occupations should be located throughout the City, but not be allowed to change or interfere with the character of residential areas.

(200 North Street is classified as Major Streets per Kaysville City's Major Street Plan in Section 8-3-2.)

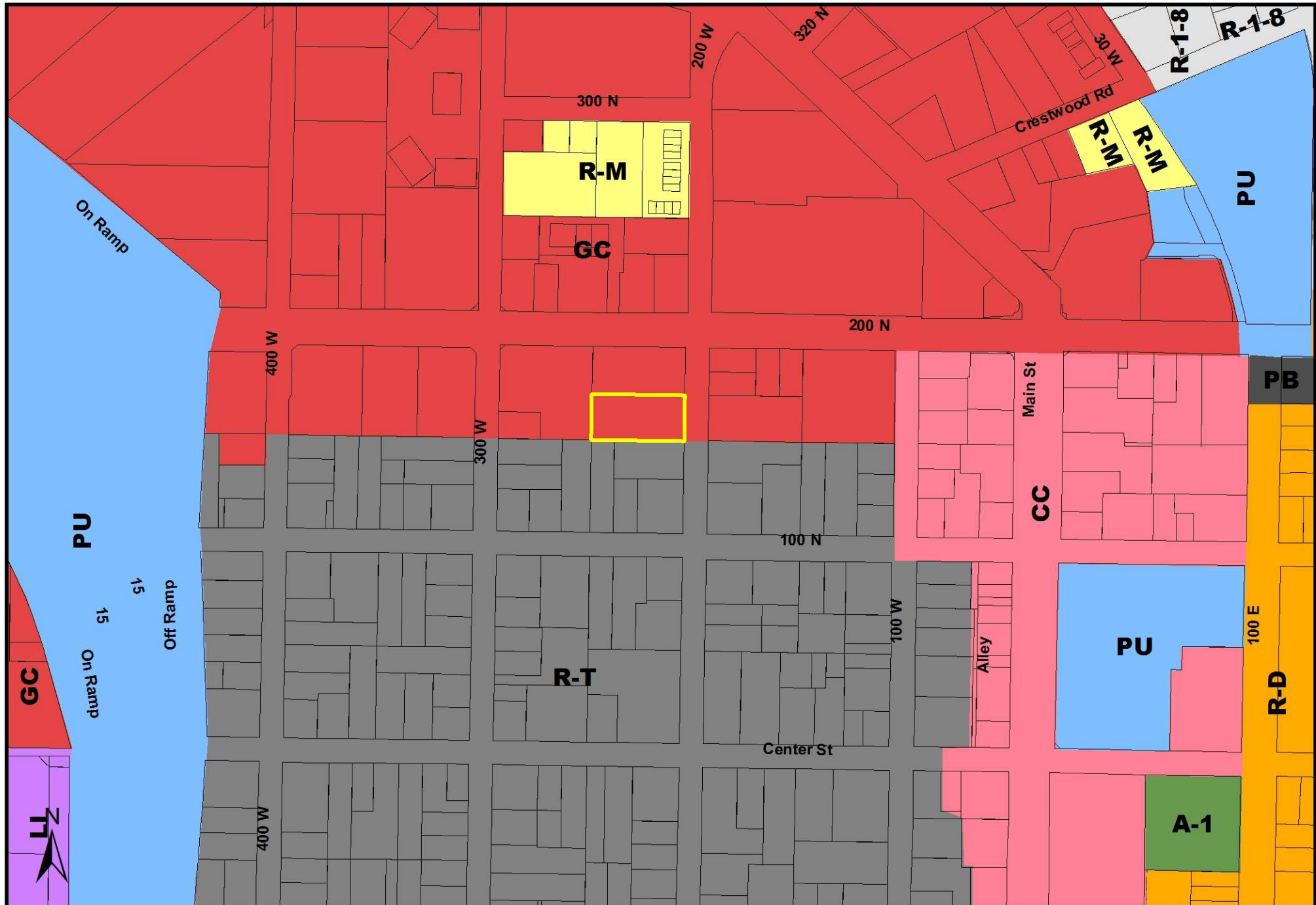
Recommended Options:

After holding a public hearing, the Planning Commission voted unanimously in favor of recommending the rezone of this property as proposed. The City Council may use broad discretion to make the final decision regarding the overlay zone based in its findings of compatibility with the surrounding neighborhood and the city's general plan.

Attachment 1: Area Map
Attachment 2: Zoning Map



167 North 200 West - Rezone from GC to R-T



STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018
ITEM NO.: 5 i.

TYPE OF ITEM: Action Item
PRESENTED BY: Community Development Staff

SUBJECT/AGENDA TITLE: Rezone 58.6 acres of property at 2300 West Schick Lane (200 North) from R-A (Residential Agriculture) to the R-1-LD (Single Family Low Density), R-1-8 (Single Family Residential) and GC (General Commercial) zoning districts.

Executive Summary:

Perry Homes owns a large section of property at the far north west corner of Kaysville City which is just north of 200 North Street and will be adjacent to the proposed West Davis Corridor to the west. An existing open space/park and church abut the property as well as a patio home development and R-1-20 single family development on the eastern edge.

The property is currently zoned R-A which allows for development at 2 units an acre, but which requires that lots be at least a half-acre in size with a minimum of 100 feet of frontage. Taking into account known infrastructure in the area and the current market, the applicant is requesting to rezone the property from the existing zoning district to 3 different zones as shown in the attached exhibits. Under the existing zoning, when including the space to be identified in the exhibits as open space to Kaysville city, the applicant could build 122 homes at a density of 2 units per acre. As the applicant has expressed willingness to keep the open space intact and provide some commercial property near the proposed interchange to the West Davis Corridor, they are looking for different residential zoning designations to allow the same number of homes as would have been previously developed with some flexibility as to how they are arranged.

The requested R-1-LD zoning would allow for development at no more than 2 units per acre on the majority of the property which abuts existing neighborhoods. The R-1-LD zoning district, while limiting the total density, allows for flexibility in lot sizes which must be at least 12,000 sq. ft. in size with at least 90 feet of frontage. The 44.39 acres of this zoning district could yield as many as 88 units depending on the final layout.

The R-1-8 zoning district is being requested along the far west edge of the property which would be against the new freeway. This zoning district allows for lots of at least 8,000 sq. ft. in size with at least 60 feet of frontage. The 11.21 acres of this zoning district could yield as many as 61 units. Without the PRUD overlay based on configuration and the need for roads and meeting frontage requirements this is almost not feasible to reach.

The final request is for 3 acres of General Commercial which will right off the newly proposed freeway. The General Commercial zoning district allows for retail sales and services and office type development.

While the applicant has provided an exhibit of how the property would likely develop. The request under consideration is a rezone only, not a subdivision plat. However, if the zones are desirable but there are elements of the requested zoning districts and how it may permit development that cause concern, a development agreement may be considered to ensure certain details are pursued through the subdivision and development process.

The full details of the requested zoning districts can be found in Chapter 17-12, Single Family Residential District, and Chapter 17-19, General Commercial District, of the Kaysville City Ordinances. The full details of the existing R-A zoning district are found in Chapter 17-10 of the city's ordinances.

Some of the details of the commercial zone are provided below:

17-19-3 Permitted Uses

1. Offices.
2. Retail sales and services, not including storage services, sale of beer for consumption on the premises, sale of liquor for consumption on the premises and conditional uses in KCC 17-19-4.
3. Government offices and services.

17-19-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Single family dwellings which are an integral part of a commercial use and serves as housing for the proprietor or an employee.
2. Light industry/research uses subject to the provisions of KCC Chapter 17-23.
3. Buildings of height greater than thirty-five feet (35').
4. Recreational vehicle parks subject to the provisions of KCC 17-31-24.
5. Telecommunication towers and telecommunication towers of height greater than thirty-five feet (35') subject to the provisions of KCC 17-31-25.
6. Public utility substations.
7. Sale of beer for consumption on the premises of a full-service restaurant, limited service restaurant, beer-only restaurant, banquet or reception center.
8. Sale of liquor for consumption on the premises of a full-service restaurant, limited service restaurant, banquet or reception center.

The City's General Plan states, among other things:

Identity and Character:

Kaysville should be primarily a residential community with a vision to promote business, industry and public use.

Growth and Development

A. Growth should mostly occur through development within the City. Development should improve public safety and sense of community. An adequate revenue base should be developed to fund City operations and infrastructure.

1. Refurbish or replace deteriorating structures so that land is used to its long-term potential.
2. Reserve land and promote development that is high quality, diversified and adaptable to changing conditions.
3. Encourage businesses and industries to locate and invest within the City.
4. Regulate the more intensive uses that create traffic and public service problems and costs

Housing

A. Housing should be located throughout the City and restricted only where it is incompatible with other necessary uses.

1. West of I-15, allow zero to two units per acre with some higher density housing along the major streets.

B. The majority of the housing should be one unit per structure (single unit). About ten percent (10%) of the housing should be more than one unit per structure (multiple unit). Multiple unit housing should consist mostly of duplexes (two unit structures) and some three to six unit structures dispersed throughout the City.

C. Housing development should have a minimum of through vehicular traffic and a maximum of open space.

D. Housing developments should essentially pay for themselves.

Business and Industry

A. Most sites used primarily for business or industry should be located on major streets. Mitigate impacts on

adjacent residential uses through compliance with ordinances and regulations.

B. Home occupations should be located throughout the City, but not be allowed to change or interfere with the character of residential areas.

200 North and the West Davis Corridor (SR-67) are both classified as Major Streets per Kaysville City's Major Street Plan in Section 8-3-2.

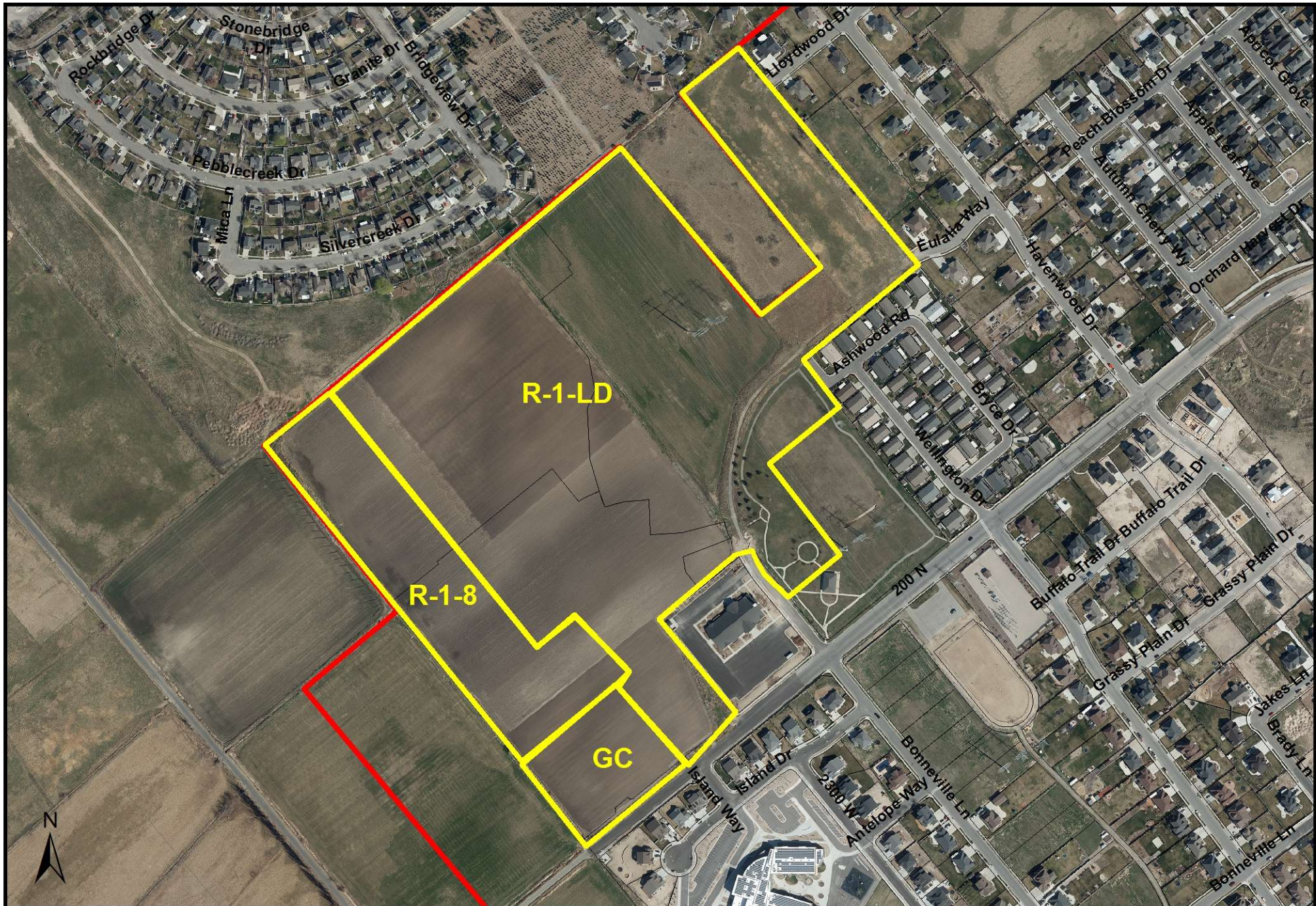
Recommended Options:

After holding a public hearing, the Planning Commission voted 5 to 1 in favor of recommending the rezone of this property as proposed. The City Council may use broad discretion to make the final decision regarding the overlay zone based in its findings of compatibility with the surrounding neighborhood and the city's general plan.

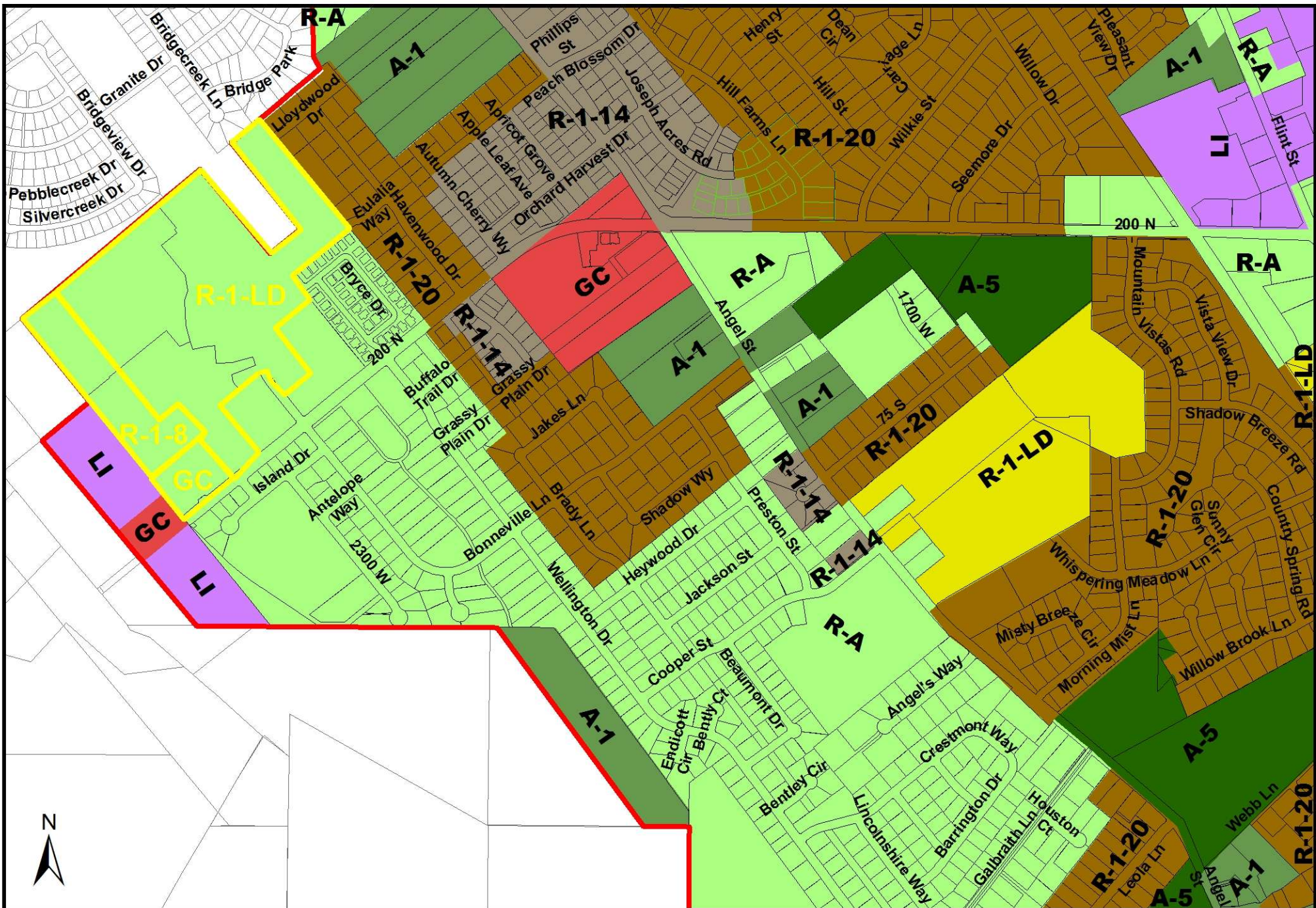
Attachment 1:	Area Map
Attachment 2:	Zoning Map
Attachment 3:	Concept Development Plan

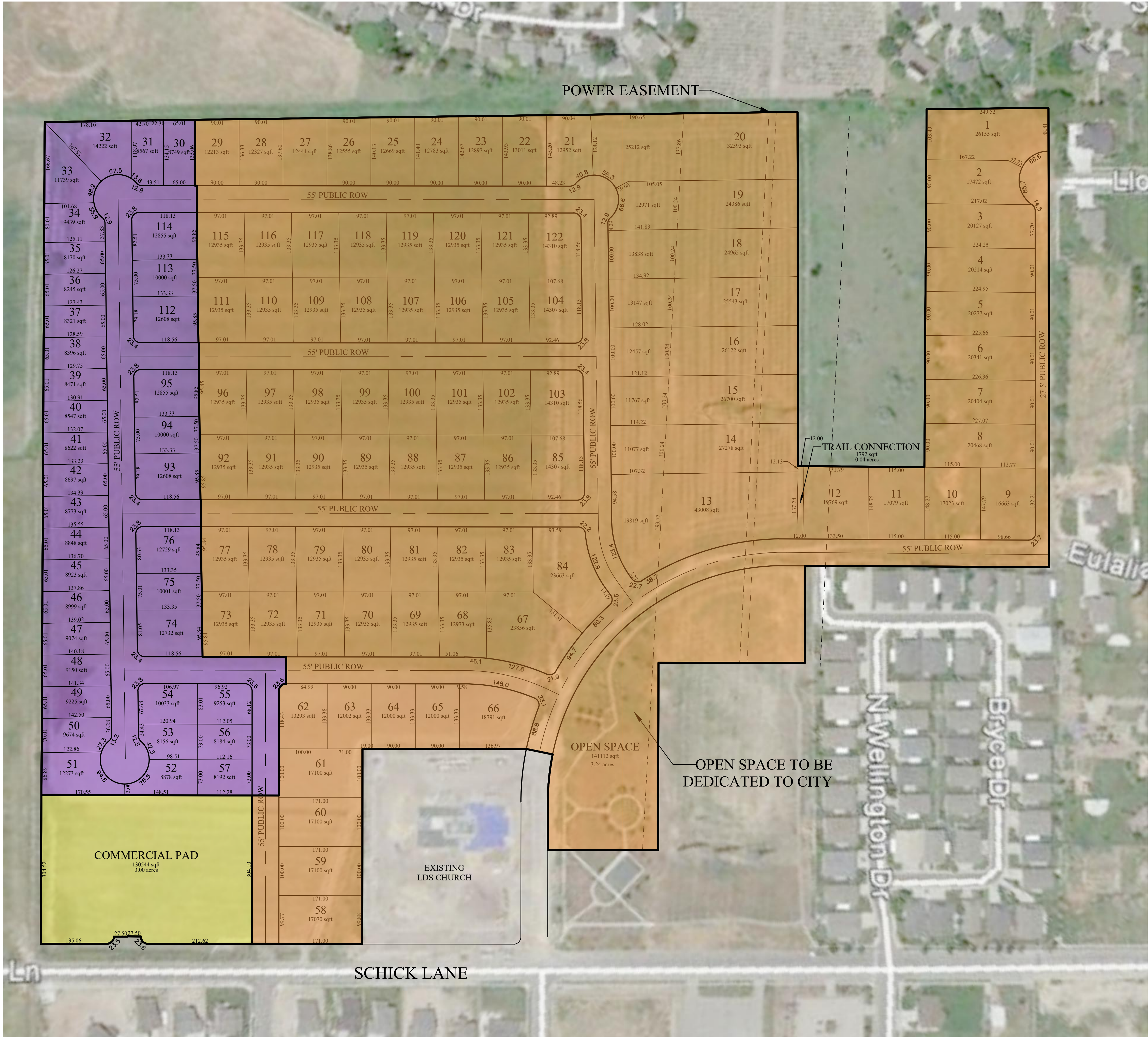


Rezone of 2300 West Schick Lane (200 North) from R-A to GC, R-1-LD, and R-1-8



Rezone of 2300 West Schick Lane (200 North) from R-A to GC, R-1-LD, and R-1-8





STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 5 j. & 5 k.

TYPE OF ITEM: Action Item

PRESENTED BY: Community Development Staff

SUBJECT/AGENDA TITLE: Rezone of 0.96 acres of property at 233 S. 400 E. to include the PRUD (Planned Residential Unit Development) overlay zone and Preliminary Plat for the Prigmore Flag Lots Subdivision.

Executive Summary:

OVERLAY ZONE

The property which is located mid-block just north of Davis High School is currently zoned R-D (Residential Diverse). The applicant desires to build a couple of homes on the rear portion of their property. In order to create additional lots the PRUD overlay is necessary. The underlying zone will remain the same.

The PRUD overlay zone is a legislative action thus it gives the Planning Commission and ultimately the City Council broad discretion as to where it is applied. While it gives discretion as to where, there are specific standards as to what is developed within this overlay.

17-34-9 Flag Lot Subdivision

1. Development requirements:

1. The area of each flag lot shall be at least 10,000 square feet or meet the lot area required by the underlying zone district, whichever is greater.
2. Flag lots shall have access to a street by way of a projection of at least thirty feet (30') in width along its entire length. Two flag lots with projections side-by-side may each have projections eighteen feet (18') or greater in width (for a total of not less than 36 feet) and share a common paved driveway twenty feet (20') or more in width covered by an easement so that the driveway cannot be divided.
3. Main buildings on a flag lot shall be located not closer than twenty feet (20') to any property line.
4. Accessory buildings shall comply with KCC 17-31-2.

2. Acceptable Uses.

Subject to the review and approval of the Planning Commission, uses acceptable in a flag lot subdivision shall be those uses which are permitted in the zoning district in which the flag lot subdivision is located. Two family dwellings on flag lots as conditional uses are prohibited.

3. Applicability:

1. Flag lot subdivisions shall be considered only in R-A, R-1, R-D, R-2, R-4 and R-M zones.

The City's General Plan states, among other things:

Identity and Character:

Kaysville should be primarily a residential community with a vision to promote business, industry and public use.

Growth and Development

A. Growth should mostly occur through development within the City. Development should improve public safety and sense of community. An adequate revenue base should be developed to fund City operations and infrastructure.

1. Refurbish or replace deteriorating structures so that land is used to its long-term potential.
2. Reserve land and promote development that is high quality, diversified and adaptable to changing conditions.
3. Encourage businesses and industries to locate and invest within the City.
4. Regulate the more intensive uses that create traffic and public service problems and costs

Housing

A. Housing should be located throughout the City and restricted only where it is incompatible with other necessary uses.

1. West of I-15, allow zero to two units per acre with some higher density housing along the major streets.

B. The majority of the housing should be one unit per structure (single unit). About ten percent (10%) of the housing should be more than one unit per structure (multiple unit). Multiple unit housing should consist mostly of duplexes (two unit structures) and some three to six unit structures dispersed throughout the City.

C. Housing development should have a minimum of through vehicular traffic and a maximum of open space.

D. Housing developments should essentially pay for themselves.

PRELIMINARY PLAT

The Prigmore Flag Lots Subdivision preliminary plat includes 3 total lots. The existing home on a standard lot fronting 400 east street, then 2 flag lots accessed from 400 east street. The exiting home would remain on a 11,808 sq. ft. lot that is 96 ft. wide. The flag lots would be accessed from a required shared 20 ft. wide drive on stems that are each 18 ft. in width. The lot sizes including the flag stems are 12,314 sq. ft. and 16,314 sq. ft. in size. With the required setbacks for the main dwelling on these lots, there would be a buildable area of 1,424 sq. ft. on what is labeled as lot 1, and 3,368 sq. ft. of buildable area on what is labeled as lot 2.

Recommended Options:

The city council should make a separate motion for each item.

PRUD Overlay Zone:

After holding a public hearing, the Planning Commission voted unanimously in favor of recommending the rezone of this property to include the PRUD overlay zone for a flag lot subdivision. The City Council may use broad discretion to make the final decision regarding the overlay zone based in its findings of compatibility with the surrounding neighborhood and the city's general plan.

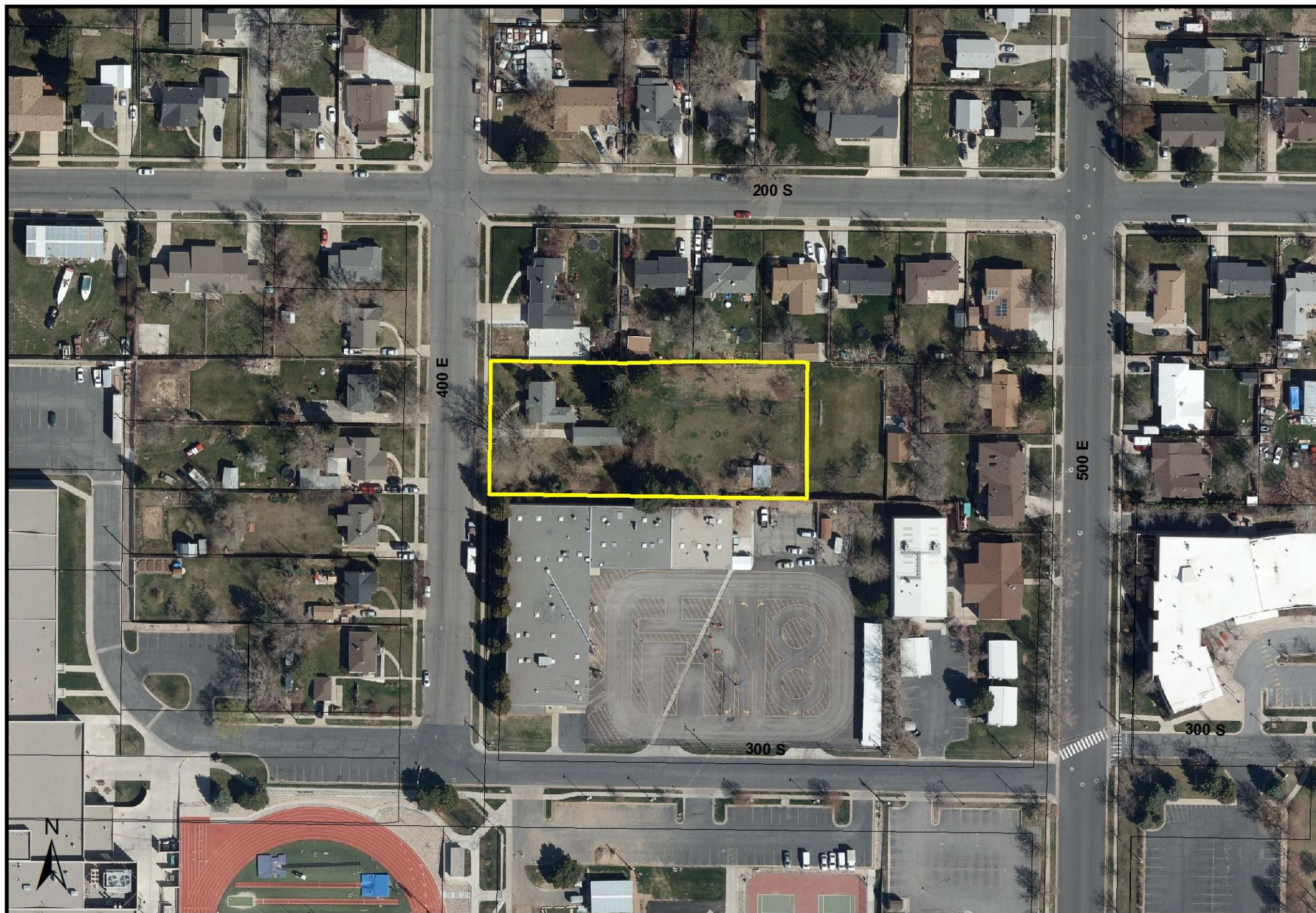
Preliminary Plat:

The Planning Commission voted 5-1 in favor of recommending the proposed preliminary plat to the City Council, the recommendation is subject to approval of the PRUD overlay zone. The recommendation was based on the findings that the proposed plat meets the applicable requirements outlined in the PRUD overlay zone for flag lot development.

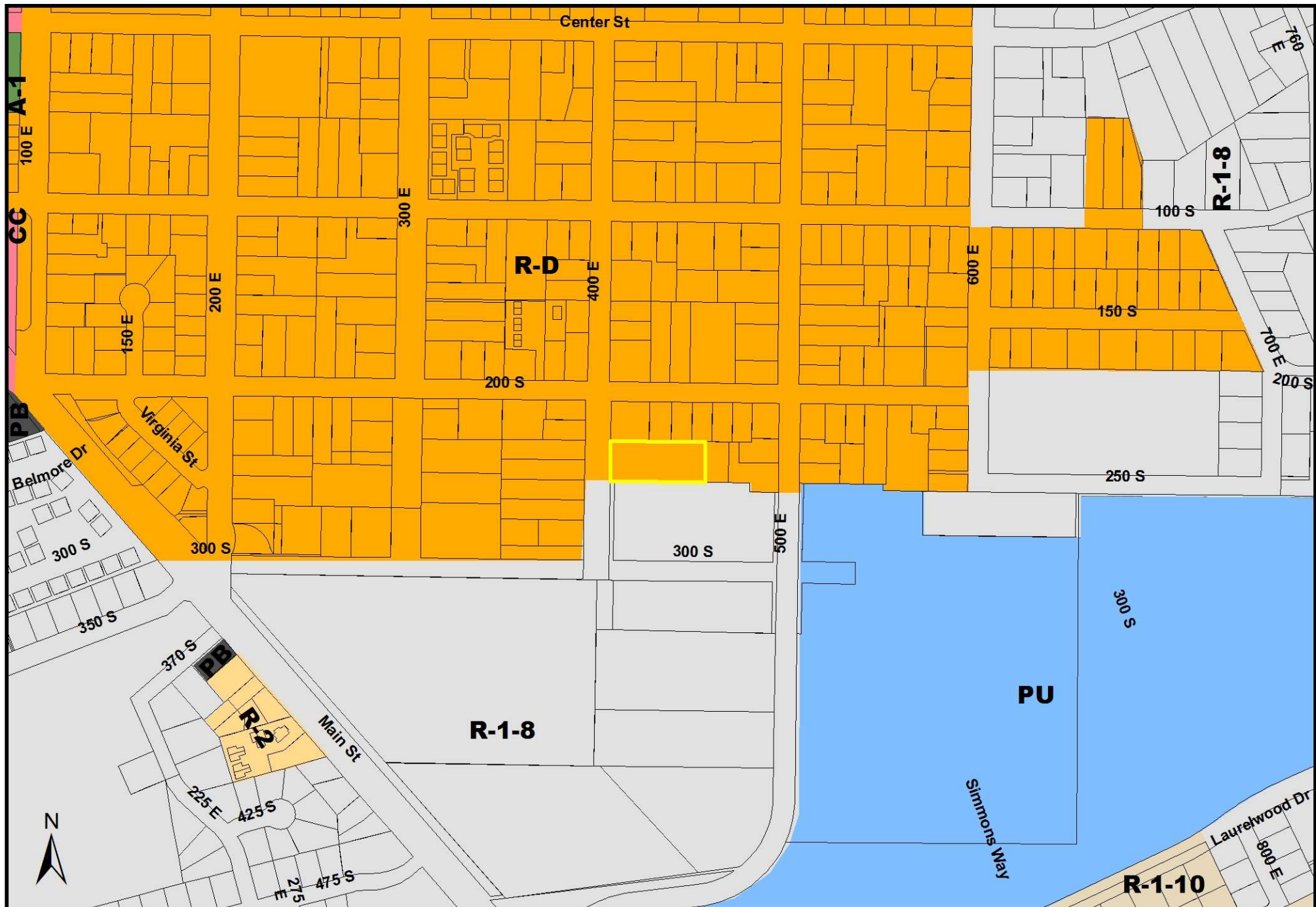
Attachment 1:	Area Map
Attachment 2:	Zoning Map
Attachment 3:	Preliminary Plat



Rezone of 0.96 acres at 233 S. 400 E. to include the PRUD overlay zone.



Rezone of 0.96 acres at 233 S. 400 E. to include the PRUD overlay zone.



Prigmore 2 Flag Lots

TOTAL SIZE 41,052 #

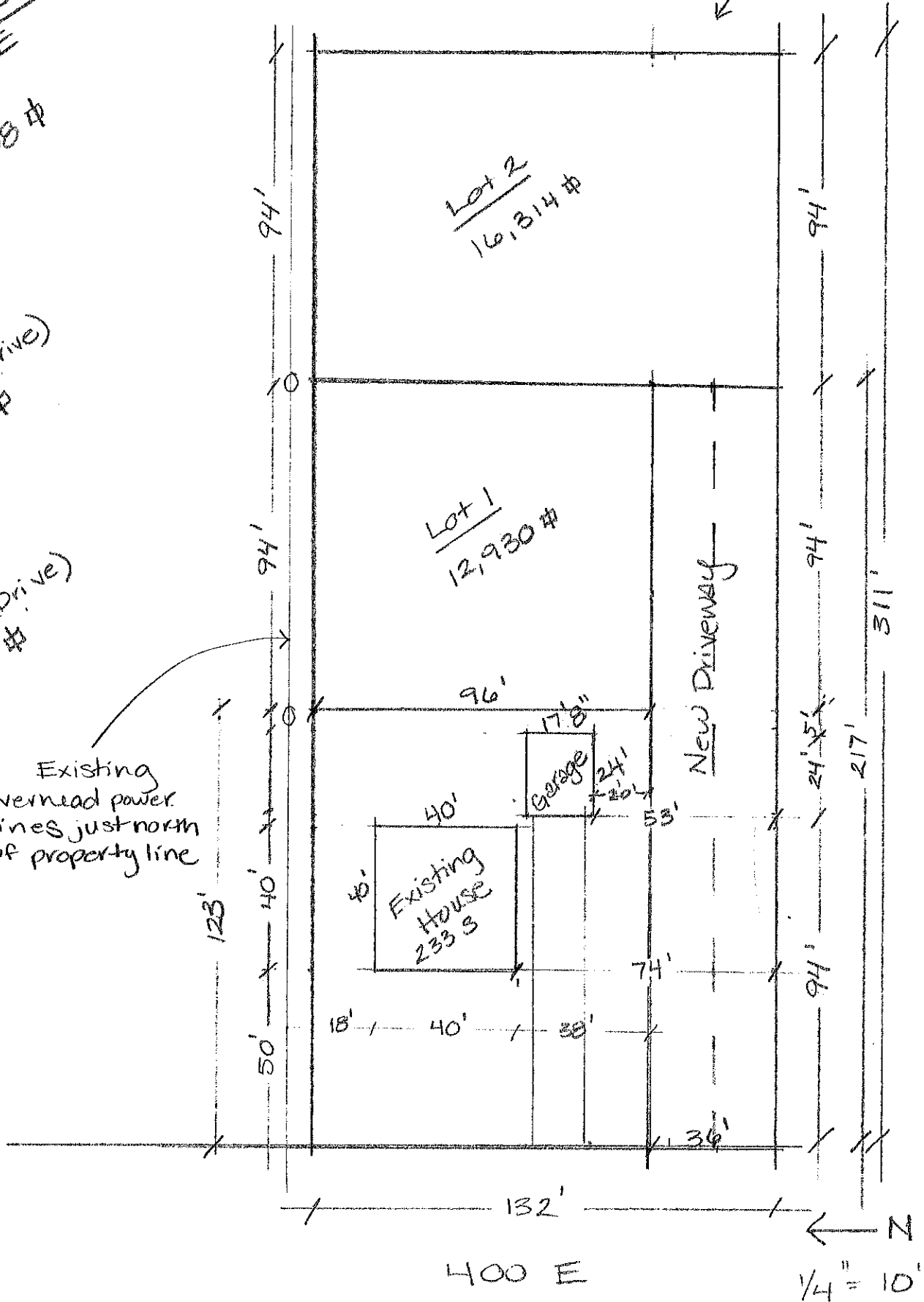
Existing House
233 S 400 E
Keyville
11,808 #

Lot 1
9,024
3,906 (Drive)
12,930 #

Lot 2
12,408
3,906 (Drive)
16,314 #

Existing
overhead power
lines just north
of property line

36' stem
20' Driveway



STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 6 a.

TYPE OF ITEM: Work

PRESENTED BY: Shayne Scott, City Manager

SUBJECT/AGENDA TITLE: Better City Discussion

EXECUTIVE SUMMARY:

Over the past two years we have contracted with Better City on Economic Development services targeting two parcels of Commercial land in Kaysville. The contract was established to pay them \$1000/month and to reward them for bringing certain commercial developments to the two specific parcels. The contract was extended for another year last year after lapsing after year one.

The purpose of this work item is to decide on how or if to continue our relationship with Better City. Three of our options include:

1. Terminating our relationship with Better City
2. Agreeing to continue our relationship with Better City for another year or other determined period of time
3. Agreeing to terminate our relationship but keeping the “reward” portion of the contract in place whereas if Better City were able to perform on one of the parcels the reward would therefore be paid out as outlined in the previous agreement.

There may be other options that can or should be discussed as well. Better City is in favor of Option 2 of continuing the relationship as has been the case for the past two years. Adam with Better City recommended an “open-ended” contract extension or a one-year extension through 2019 with a one-year extension option.

Council Options: Discuss this recommendation and once consensus is reached, move this item to Action for approval.
Remand the item back to staff with direction on proposed changes/discussion.

Recommendation: At this time Staff recommends moving this item to Action with Option 3 as the preferred option.

Fiscal Impact & Fund Source for Recommended Action:
This contract will impact the city financially depending on the option chosen.

Attachments: None at this time.

STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018
ITEM NO.: 6 b.

TYPE OF ITEM: Work Item
PRESENTED BY: Community Development Staff

SUBJECT/AGENDA TITLE: Amendment of Section 17-31-25, Telecommunication Towers, together with amendments to applicable zoning districts within Title 17, Planning and Zoning, to clarify where tower types may be located and by which process they may be considered.

Executive Summary:

In consideration of allowing and encouraging a broader range of telecommunication towers in Kaysville City staff has worked with the Planning Commission over multiple meetings to prepare an ordinance reflecting new tower types, where they are located, and standards by which they must be built.

Based on feedback from the Planning Commission during previous discussions, the proposed draft puts all cell tower approvals under the purview of Planning Commission. More specific definitions and standards have been added including more clearly specifying different tower types. A distance requirement has also been added in order to space out monopole towers.

Council Options:

Recommended Options:

The Planning Commission voted unanimously to recommend approval of the ordinance as written. Based on a positive recommendation from the Planning Commission it is recommended that it be moved to an action item on the next City Council Agenda. Should the council have items that it would like to see changed or clarified this can return to a work or action item agenda.

Fiscal Impact & Fund Source for Recommended Action: N/A

Attachments:

1. Proposed Ordinance
2. Existing Cell Tower Map
3. Large properties in Kaysville Map

ORDINANCE NO. 18-__-__

AN ORDINANCE AMENDING SECTION 17-31-25, TELECOMMUNICATION TOWERS, TOGETHER WITH AMENDMENTS TO APPLICABLE ZONING DISTRICTS WITHIN TITLE 17, PLANNING AND ZONING, TO CLARIFY WHERE TOWER TYPES MAY BE LOCATED AND BY WHICH PROCESS THEY MAY BE CONSIDERED.

WHEREAS, Kaysville City desires that its businesses and residents have access to quality wireless telecommunication options; and

WHEREAS, Kaysville City has determined that it is in the best interest of its residents and businesses to allow for more creativity in the placement and design of telecommunication facilities;

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

SECTION I: Repealer. If any provisions of the City's Code previously adopted are inconsistent herewith they are hereby repealed.

SECTION II: Enactment.

Section 17-31-25, TELECOMMUNICATION TOWERS, of Chapter 17-31, SPECIAL PROVISIONS APPLYING TO PARTICULAR USES; of Title 17, PLANNING AND ZONING, of the Revised Ordinances of Kaysville City, 1993, is amended as follows:

17-31-25 Telecommunication Towers.

(1) Each person or company desiring to locate a telecommunication tower within the City shall submit a Site Location Master Plan. This plan shall be submitted and accepted by the Planning Commission prior to the processing of any permits for telecommunication towers. The plan shall identify existing locations of facilities, and approximate proposed locations of new facilities to provide service within City boundaries and the surrounding area for the ten (10) years following the date the plan is submitted. These estimates shall be based on projected population growth and anticipated development. The applicant shall provide the City with the owner's current name, address, and an emergency telephone number for each facility.

~~(2) The owner of any telecommunication tower shall consent to two co-locations (in addition to the owner's) on the tower and construct the tower in such a manner as to be able to accommodate the owner's equipment and two others on the same tower.~~

~~(23)~~ Applicants for telecommunication tower permits shall co-locate their facilities on existing towers, unless it can be shown by a preponderance **substantial** evidence that all existing towers are inadequate to serve the applicant's reasonable needs due to the location, height or other reason; and shall pay reasonable compensation to the tower owner to fairly share past and future costs.

(34) Telecommunication towers shall be located, designed, and constructed to be as unobtrusive and as few in number as possible. They shall be subject to requirements that minimize the impact on surrounding properties and the City. No telecommunications tower shall exceed one hundred twenty feet (120') in height from the finished grade of the ground to the highest point on the structure.

(4) Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with the surroundings by which they are most commonly seen. The color shall be reviewed and approved on a case-by-case basis by the Planning Commission. Within six months after the facility has been constructed, the Planning Commission may require the color be changed if it is determined that the original color does not blend with the surroundings.

(5) Telecommunication Towers and equipment shall not be permitted on any buildings used as a dwelling.

(6) The following Wireless Telecommunication equipment may be allowed according to the applicable requirements:

Wall mounted antennas. Wall mounted antennas shall be considered a telecommunication tower and must comply with the following criteria in addition to the general requirements of this chapter:

1. Wall mounted antennas shall not extend above the roof line of the building more than four feet (4').
2. Wall mounted antennas shall not be located on a building façade which faces a public street.
3. Antennas and all associated equipment shall be painted to match the color of the building or surrounding area.
4. A maximum of forty (40) square feet may be allowed on any building façade for the placement of a wall mounted antenna. The area is determined by drawing straight lines around the outermost portions of the antennas until enclosed.
5. All equipment associated with the use (excluding the antenna) must be screened by a view obstructing structure.
6. If the associated equipment is located on the ground it must be appropriately landscaped.

Roof mounted antennas. Roof mounted antennas shall be considered a telecommunication tower and must comply with the following criteria in addition to the general requirements of this chapter:

1. Roof mounted antennas can only be mounted on structures with flat roofs. Exceptions may be granted by the Planning Commission with the following stipulations:
 - a) The tower will be mounted on the roof of a building such that the building will obstruct the view of the antenna from the front of the building.
 - b) The antenna will be less visible from ground level than the typical antenna mounted on a flat roof.
2. All roof mounted antennas must be setback from the building edge one foot (1') for every one foot (1') of antenna height to a maximum of fifteen feet (15').

Monopole towers. Where permitted, all monopole towers require a conditional use approval from the Planning Commission. In addition to the general requirements of this chapter, all monopole towers must comply with the following:

1. All towers must be of a mono-pole construction. No lattice constructed towers of any kind shall be allowed.
2. All towers must allow for co-location and supply engineering calculations by a state certified engineer that will allow for as many as three (3) separate users on a single pole. Certification must be provided by the applicant stating that the owners of the tower will allow for co-location and that the structure has been constructed to allow for co-location as required.
3. No tower may be located within a two thousand foot (2,000') radius of another mono-pole tower unless grid documentation is supplied by an independent consultant demonstrating the need to locate near an existing tower and also showing that co-location is either not feasible or that co-location will create an unreasonable hardship. Evidence of an unreasonable hardship shall be provided by an independent engineering study provided to the City at cost to the applicant.
4. Co-location on an existing mono-pole structure is a permitted use and is handled administratively.

Stealth tower. A tower is considered stealth if it is disguised as a tree listed on the Kaysville City Tree List or is attached to a pre-existing light pole, utility pole, or similar structure in order to significantly reduce its visual impact.

1. The Planning Commission may require the owner of a stealth tower to consent to at least one co-location (in addition to the owner's).

2. No Stealth Tower shall be permitted to exceed ninety feet (90') in height.

(7) The following shall be considered by the Planning Commission for conditional uses.

- a) Compatibility of the proposed structure with the height and mass of nearby existing buildings and utility structures.
- b) Location of the antenna in relation to existing vegetation, topography including ridge lines, structures, and buildings to obtain the best visual screening.
- c) Installation of, but not limited to, curb, gutter, sidewalk, landscaping, and fencing for the purpose of blending the site with the surrounding environment and providing screening for the tower and associated equipment.

(8) Cables shall be installed on the interior of any monopole or telecommunications structure.

~~(95)~~ Each application for a permit to construct a telecommunication tower shall be certified by a licensed professional engineer that the design of the facility meets all applicable standards for the facility including, but not limited to, electrical safety, material and design integrity, wind and seismic safety according to applicable building code adopted by Kaysville City. ~~The professional engineer shall certify that the tower meets acceptable design criteria or standards to withstand 100 mph wind speeds.~~

~~(106)~~

- (a) The applicant must certify in writing that if technology renders the tower obsolete or the tower is vacated, that the agent will remove the tower, all apparatus associated with it, the top three feet (3') of the footing, and restore the site to its original condition within ninety (90) days of the vacation of the tower.
- (b) The tower owner shall maintain the tower, site, and improvements in a state of good repair. If a ~~telecommunication tower is abandoned, or~~ is not maintained, the Zoning Administrator may notify the owner of the tower that it must be repaired and used within thirty days after the notice was sent, or the facility must be removed. If the communication facility is not repaired,

~~used~~, or removed within thirty days after notice was sent, the Zoning Administrator may order the removal of the facility and the restoration of the property at the owner's expense. Any conditional use permit issued for the facility will be automatically revoked.

- (c) If a telecommunication tower is not used for more than six months, it shall be deemed to be abandoned for purposes of Subsection (a).

(11) Notwithstanding being listed or not as an approved use in any zoning district, telecommunication towers shall be permitted in Kaysville City's zoning districts as follows:

<u>Zone</u>	<u>Wall Mount</u>	<u>Roof Mount</u>	<u>Mono-pole</u>	<u>Stealth</u>
<u>A-1, A-5</u>	<u>C</u>	<u>C</u>	=	<u>C*</u>
<u>R-A, R-1 zoning districts</u>	<u>C**</u>	<u>C**</u>	=	<u>C**</u>
<u>PU</u>	<u>C</u>	<u>C</u>	=	<u>C*</u>
<u>PB</u>	=	=	=	=
<u>LI</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>CC</u>	<u>C</u>	<u>C</u>	=	<u>C</u>
<u>GC</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>HC</u>	<u>C</u>	<u>C</u>	=	=
<u>P = Permitted Use</u> <u>C = Conditional Use</u> <u>* = Must be 300 feet from the property line of a residential zoning district</u> <u>** = Allowed only on properties greater than 10 acres in size which are also occupied by a public or quasi-public use.</u>				

SECTION III: Enactment.

Section 17-8-4, CONDITIONAL USES, of Chapter 17-8, A-5 HEAVY AGRICULTURAL DISTRICT; and Section 17-9-4, CONDITIONAL USES, of Chapter 17-9, A-1 LIGHT AGRICULTURAL DISTRICT; and Section 17-19-4, CONDITIONAL USES, of Chapter 17-19, GENERAL COMMERCIAL DISTRICT, and 17-20-4, CONDITIONAL USES, of Chapter 17-20, CENTRAL COMMERCIAL DISTRICT; and Section 17-21-4, CONDITIONAL USES, of Chapter 17-21, LIGHT INDUSTRIAL DISTRICT; of Title 17, PLANNING AND ZONING, of the Revised Ordinances of Kaysville City, 1993, is amended as follows:

17-8-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Major home occupations A and B subject to the provisions of KCC Chapter 17-26.
2. Agricultural home occupations subject to the provisions of KCC Chapter 27-26.
3. Golf courses subject to the provisions of KCC 17-31-8.
4. Greenhouse and nursery limited to the sale of plants, landscaping materials, fertilizer, pesticide and insecticide products, tools for garden and lawn care and the growing and sale of sod.

5. Public or quasi-public buildings of the educational, recreational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, warehouses, and similar uses.
6. Public utility substation or storage facilities developed by a public agency.
7. Animal hospital or clinic, dog breeding, dog kennels, dog training school, provided any building or enclosure for animals shall be located not less than one hundred feet (100') from a public street and not less than fifty feet (50') from any dwelling or adjacent property.
- ~~8. Telecommunication towers and telecommunication towers of height greater than thirty feet (30') subject to the provisions of KCC 17-31-25.~~
- 9.8. Accessory building larger than three thousand (3,000) square feet in area, subject to the provisions of KCC 17-31-2.

17-9-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Major home occupations A and B subject to the provisions of KCC Chapter 17-26.
2. Agricultural home occupations subject to the provisions of KCC Chapter 17-26.
3. Golf courses subject to the provisions of KCC 17-31-8.
4. Greenhouses and nursery limited to the sale of plants, landscaping materials, fertilizer, pesticide and insecticide products, tools for garden and lawn care and the growing and sale of sod.
5. Public or quasi-public buildings of the educational, recreational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, warehouses, and similar uses.
6. Public utility substation or storage facilities developed by a public agency.
7. Animal hospital or clinic, dog breeding, dog kennels, dog training school, provided any building or enclosure for housing animals shall be located not less than one hundred feet (100') from a public street and not less than fifty feet (50') from any dwelling on adjacent property.
- ~~8. Telecommunication towers and telecommunication towers of height greater than thirty feet (30') subject to the provisions of KCC 17-31-25.~~
- 9.8. Accessory building larger than three thousand (3,000) square feet in area, subject to the provisions of KCC 17-31-2.

17-19-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Single family dwellings which are an integral part of a commercial use and serves as housing for the proprietor or an employee.
2. Light industry/research uses subject to the provisions of KCC Chapter 17-23.
3. Buildings of height greater than thirty-five feet (35').
4. Recreational vehicle parks subject to the provisions of KCC 17-31-24.
- ~~5. Telecommunication towers and telecommunication towers of height greater than thirty-five feet (35') subject to the provisions of KCC 17-31-25.~~
- 6.5. Public utility substations.
- 7.6. Sale of beer for consumption on the premises of a full-service restaurant, limited service restaurant, beer-only restaurant, banquet or reception center.
- 8.7. Sale off liquor for consumption on the premises of a full-service restaurant, limited service restaurant, banquet or reception center.

17-20-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17- 30.

1. Theaters.
2. Motels or hotels.
3. Light industry/research uses subject to the provisions of KCC Chapter 17-23.
4. Dwellings and household pets.
5. Social halls, lodges, fraternal organizations.
6. Automotive repair that does not break the continuity of retail store frontage for pedestrians, does not impose a nuisance on residences or other surrounding uses, does not create traffic hazards or undue traffic congestion, and has pump islands located so that vehicles serviced or awaiting service do not block any public sidewalk or driveway.
7. Amusement arcades.
- ~~8. Telecommunication towers and telecommunication towers of height greater than thirty-five feet (35') subject to the provisions of KCC 17-31-25.~~
- ~~9.8.~~ Public utility substations.
- ~~10.9.~~ Sale of beer for consumption on the premises of a full-service restaurant, limited-service restaurant, beer-only restaurant, banquet or reception center.
- ~~11.10.~~ Sale of liquor for consumption on the premises of a full-service restaurant, limited-service restaurant, banquet or reception center.

17-21-4 Conditional Uses

Compliance with standards shall be determined by the Planning Commission by reference to KCC Chapter 17-30.

1. Food and kindred product manufacturing or processing.
2. Textile products manufacturing.
3. Furniture and fixtures manufacturing.
4. Stone, clay and glass products manufacturing.
5. Fabricated metal products industries (not to include primary metal industries).
6. Contract construction services.
7. Buildings of height greater than thirty-five feet (35') or less than ten feet (10').
- ~~8. Telecommunication towers and telecommunication towers of height greater than thirty-five feet (35') subject to the provisions of KCC 17-31-25.~~
- ~~9.8.~~ Sale of beer for consumption on the premises of a full-service restaurant, limited-service restaurant, beer-only restaurant, banquet or reception center.
- ~~10.9.~~ Sale of liquor for consumption on the premises of a full-service restaurant, limited-service restaurant, banquet or reception center.

SECTION VII: Severability. If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION IX: Effective Date. This Ordinance shall take effect 20 days after being passed and adopted by the City Council.

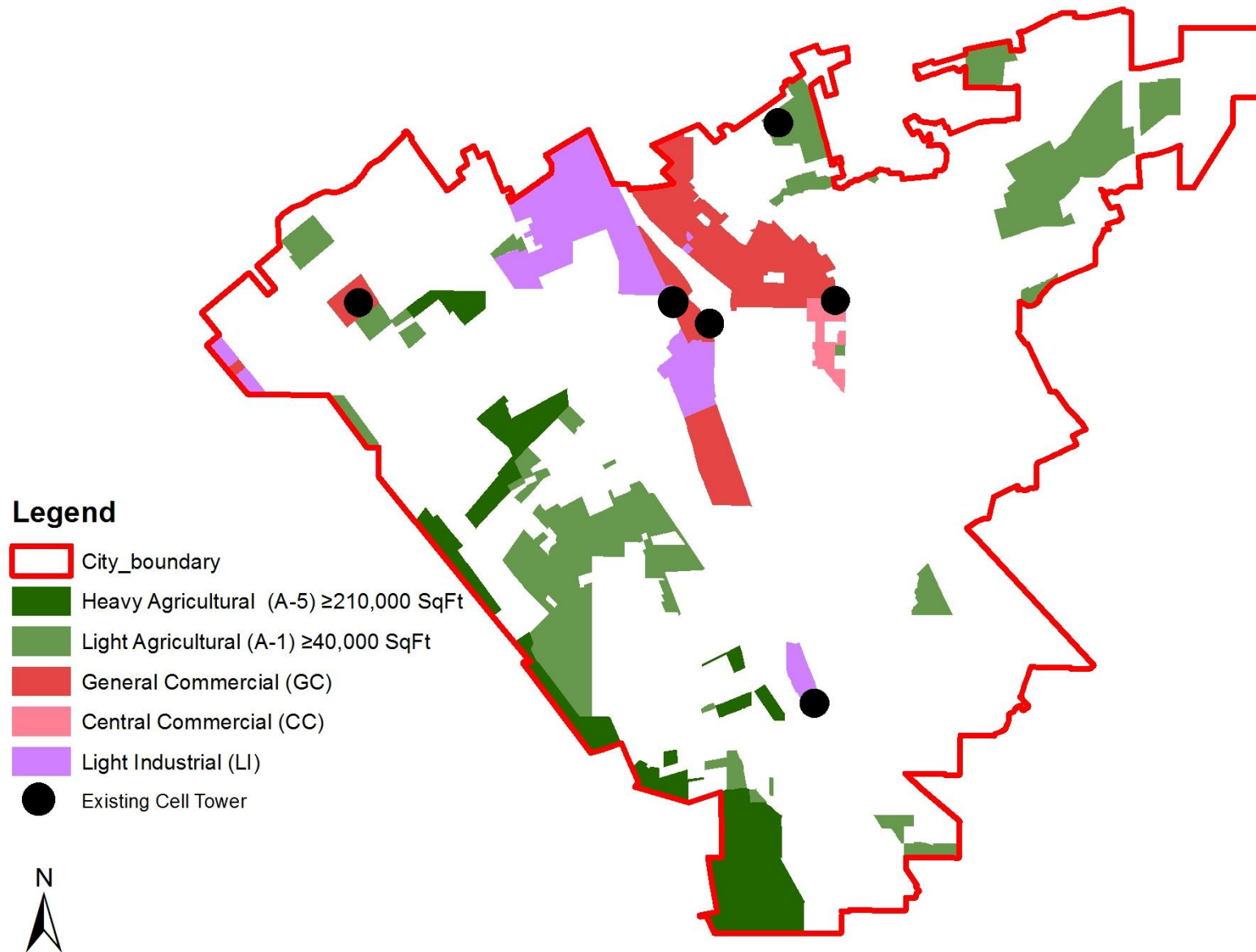
PASSED AND ADOPTED by the City Council of Kaysville City, Utah, this __th day of _____, 2018

Katie Witt
Mayor

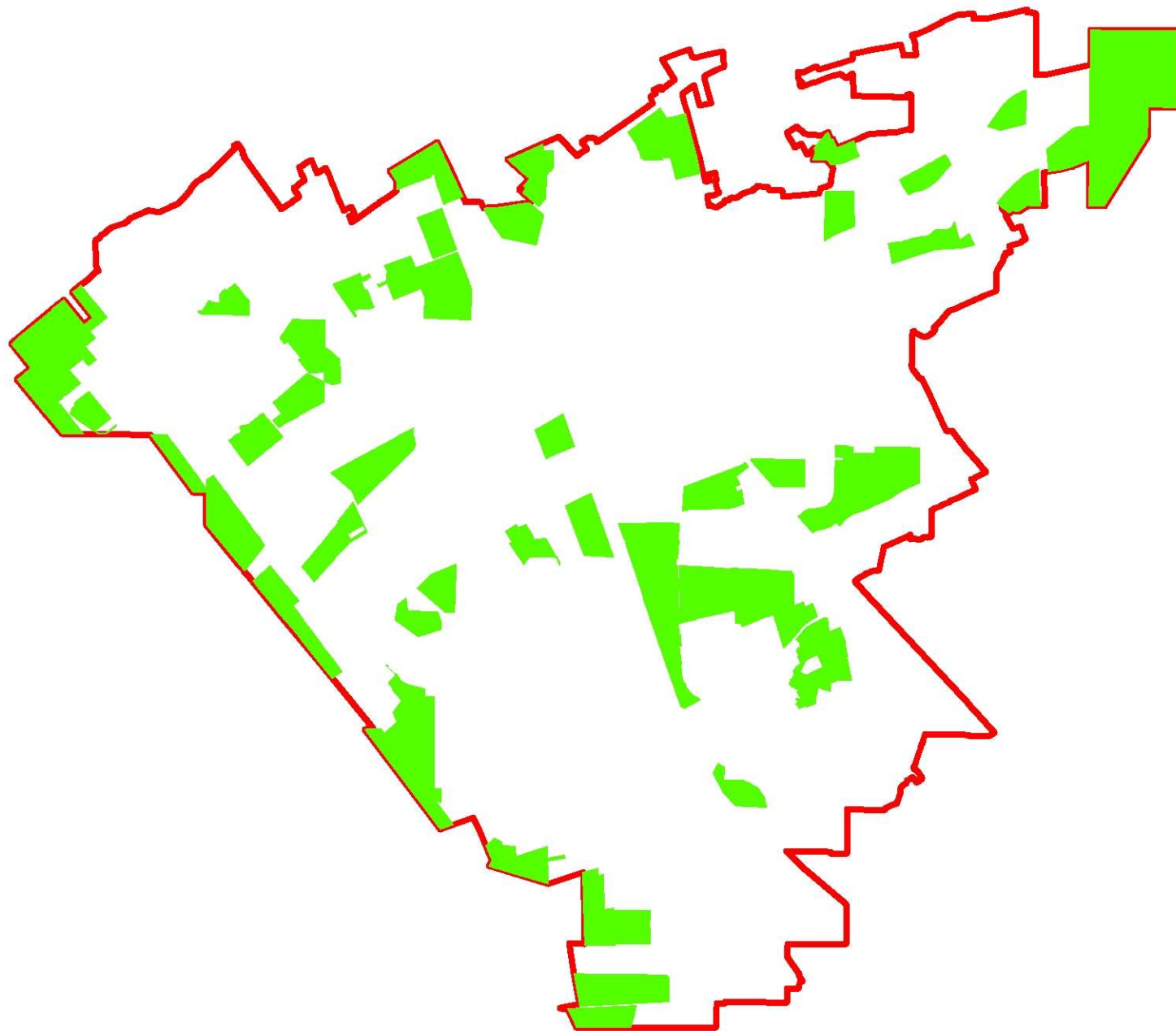
ATTEST:

Maria T. Devereux
City Recorder

Current Telecommunication Tower Locations



Properties over 10 acres in size



STAFF REPORT



COUNCIL MEETING DATE: December 6, 2018

ITEM NO.: 6 c.

TYPE OF ITEM: Work

PRESENTED BY: Josh Belnap, Public Works Director

SUBJECT/AGENDA TITLE: An added Ordinance to the Kaysville City Code regarding the need to keep the Public Right-of-way clear of obstructions (particularly with streets and sidewalks)

EXECUTIVE SUMMARY: Currently, sections of the City Code address protecting access along and through the Public Right-of-Way the City. However, we felt that those sections do not adequately inform residents and owners of the needs and responsibilities that exist, and exactly how they can help to better the access for City services and pedestrian/vehicle traffic.

This proposed ordinance, we feel, does just that. It has been discussed with and drafted by Nic Mills.

Council Options: 1) Discuss the proposed Ordinance 9-2-11 of the City code and move to an action item; 2) Remand back to staff with further direction.

Recommended Options: Staff recommends that the City Council discuss and move the proposed ordinance to an Action Item for the next council meeting.

Fiscal Impact & Fund Source for Recommended Action: Approving the proposed Ordinance at a later date would alleviate issues related to and decrease the amount of staff time and resources expended on attempting to remove obstructions.

Attachments: Proposed Ordinance on Right-of-Way Obstructions

ORDINANCE XX-XX-XX

**AN ORDINANCE ENACTING TITLE 9 CHAPTER 2 SECTION 11 PROHIBITNG
RIGHT OF WAY OBSTRUCTIONS; PROVIDING FOR REPEALER; PROVIDING
FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Kaysville City desires to maintain its right of way in an efficient manner that accommodates both public safety and staff efficiency; and

WHEREAS, the City has found that obstructions which encroach on the right of way interfere with paving roads, snow removal, garbage removal, mail delivery, and other necessary city functions.

WHEREAS, the City Council of Kaysville City finds it to be in the best interest of its citizens to enact an ordinance which will help the City to accomplish these goals.

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

SECTION I: Repealer. If any provisions of the City's Code previously adopted are inconsistent herewith they are hereby repealed.

SECTION II: Enactment. Title 9, Chapter 2, Section 11 shall be enacted to read as follows:

9-2-11 Right of Way Obstructions

It shall be unlawful for any person owning or occupying or otherwise controlling real property within Kaysville City:

1. To fail to maintain any tree, shrubbery, vegetation, or other obstruction located on either private property or within the parkway that impedes or interferes with travel on and of the public streets or sidewalks.
 - a. For public streets, clearance shall be maintained 14 feet vertically from the back of curb, or from the edge of the road if curb is not present.
 - b. On sidewalks, clearance shall be maintained 8 feet vertically on either side of the sidewalk.
2. No item shall also obstruct or impede the function or visibility of any street lamp, road sign or other public utility located within the parkway.
3. It shall be prohibited for items (including, but not limited to, snow, leaves or ice) to be pushed, thrown or otherwise deposited into or onto public streets or sidewalks.

A violation of this section is an infraction.

SECTION III: Severability. If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION IV: Effective Date. This ordinance being necessary for the peace, health and safety of the City, shall become effective immediately upon posting.

PASSED AND ADOPTED by the City Council of Kaysville, Utah, this ____ day of _____, 20__.

Katie Witt, Mayor

ATTEST:

Maria Devereux, City Recorder