



Staff Report to the Western Weber Planning Commission

Weber County Planning Division

Synopsis

Application Information

Agenda Item: ZDA 2023-01. A public hearing to consider a request to amend the development agreement on 15 acres of property zoned RE-15, located at 4300 W and 1600 S, Ogden. The proposed amendment will allow the zoning to be changed from RE-15 to R1-15.

Application Type: Legislative

Agenda Date: Tuesday, November 7, 2023

Applicant: Jake Young

File Number: ZDA 2023-01

Property Information

Approximate Address: 4300 W and 1600 S, Ogden

Zoning: A-1

Existing Land Use: Agricultural

Proposed Land Use: Residential

Parcel Number: 15-057-0068

Adjacent Land Use

North:	Agricultural	South:	Residential
East:	Agricultural	West:	Agricultural

Adjacent Land Use

Report Presenter: Steve Burton
sburton@webercountyutah.gov
801-399-8766

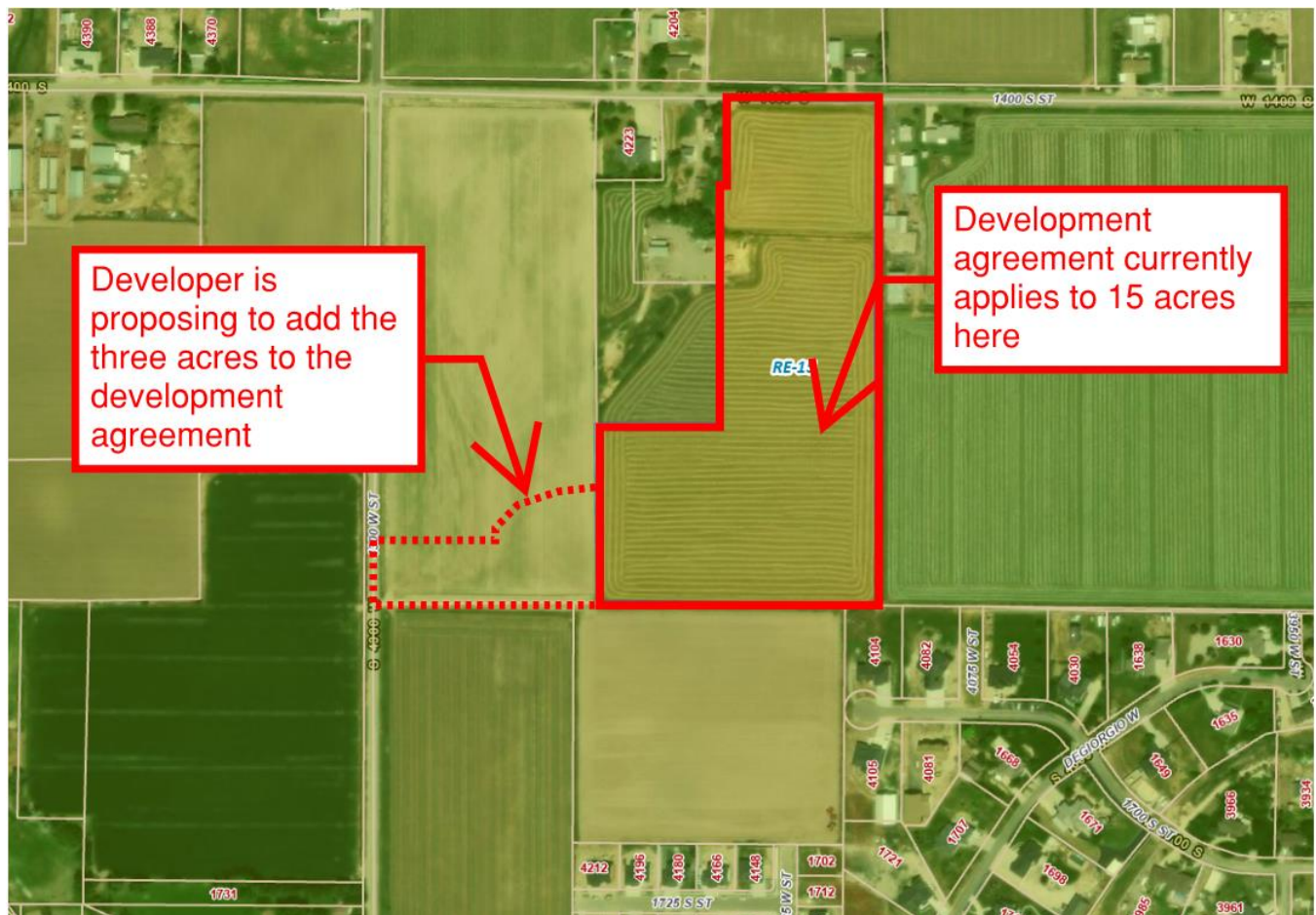
Report Reviewer: CE, RG

Summary

The owner of the subject property recently submitted a rezone application, ZMA 2023-13. Staff recommended to the owner that, if the rezone from A-1 and RE-15 to R1-15 were to be approved, that the development agreement that applies to the 15 acres would also need to be amended. With this application, the developer is officially requesting that the development agreement be amended to reflect the R1-15 zoning, and to include the additional 3 acres of R1-15 property in the agreement.

Area Map

The following image shows the property to which the development agreement applies and the three acres the developer is proposing to include in the development agreement.



An exhibit to this staff report is the developer's proposed changes to the development agreement. The changes include referencing the 45 lots instead of 37, referencing the R1-15 zoning allowances and setbacks, and including the proposed concept plan for the additional three acres.

If the rezone request receives a positive recommendation from the Planning Commission, it is recommended that the Planning Commission forward a positive recommendation on the proposed development agreement amendment. The proposed development agreement amendment meets the following minimum requirements outlined in Sec 102-6-3:

All development agreements entered into by the county shall, at a minimum, comply with the following standards:

1. *Be in writing.*
2. *Provide an accurate legal description of the subject property and the names of all legal and equitable owners.*
3. *Provide a concept plan including, but not limited to, the location and arrangement of all allowed uses, traffic circulation patterns, buildings, and all required dedications and improvements*
4. *Provide the terms of the agreement, including any extension requirement(s).*
5. *Identify all allowed uses for the subject property and the procedures required for the approval of each use.*
6. *Identify development standards that will be implemented, including the timing and obligations associated with the provision of necessary infrastructure and services.*
7. *Provide for the provision and installation of required public infrastructure and services.*
8. *Provide a listing of all features and facilities being voluntarily provided to the county, or other public or private agency.*
9. *Provide a description of any reservation or dedication of lands for public purposes.*

10. *Identify enforcement mechanisms determined necessary to ensure compliance.*
11. *Provide for the recording of the approved development agreement in the office of the Weber County recorder.*
12. *Include any requirements and conditions identified by the County Commission determined necessary to advance the interests of the county or to protect the public health, safety, and welfare, of the county and its residents.*
13. *Include a clause that states that in the event a development agreement is terminated as a result of noncompliance by the subject property owner, the subject property shall revert to the zoning district designation that existed prior to the enactment of the development agreement.*

Staff Recommendation

Staff recommends that the Planning Commission approve ZDA 2023-01, based on the following findings:

1. The development agreement amendment meets the requirements outlined in the land use code.
2. The development agreement amendment outlines the mutually agreeable terms of the rezoning of 18 acres from RE-15 and A-1 to R1-15.

Model Motion

The model motions herein are only intended to help the planning commission provide clear and decisive motions for the record. Any specifics provided here are completely optional and voluntary. Some specifics, the inclusion of which may or may not be desired by the motioner, are listed to help the commission recall previous points of discussion that may help formulate a clear motion. Their inclusion here, or any omission of other previous points of discussion, are not intended to be interpreted as steering the final decision.

Motion for positive recommendation **as-is:**

I move that we approve File # ZDA 2023-01, an applicant driven request to amend the development agreement on 15 acres of property zoned RE-15, located at 4300 W and 1600 S, Ogden. **I do so with the following findings:**

Example findings:

- The zone change is supported by the General Plan.
- [_____ add any other desired findings here _____].

Motion to **table:**

I move that we **table** action on File # ZDA 2023-01, an applicant driven request to amend the development agreement on 15 acres of property zoned RE-15, located at 4300 W and 1600 S, Ogden, **to [_____ state a date certain _____], so that:**

Examples of reasons to table:

- We have more time to review the proposal.
- Staff can get us more information on [_____ specify what is needed from staff _____].
- The applicant can get us more information on [_____ specify what is needed from the applicant _____].
- More public noticing or outreach has occurred.
- [_____ add any other desired reason here _____].

Motion to recommend **denial:**

I move that we deny File # ZDA 2023-01, an applicant driven request to amend the development agreement on 15 acres of property zoned RE-15, located at 4300 W and 1600 S, Ogden. **I do so with the following findings:**

Examples of findings for denial:

- The proposal is not adequately supported by the General Plan.
- The proposal is not supported by the general public.
- The proposal runs contrary to the health, safety, and welfare of the general public.
- The area is not yet ready for the proposed change to be implemented.
- [_____ add any other desired findings here _____].

Exhibits

Exhibit A –Proposed development agreement amendment

DEVELOPMENT AGREEMENT

Between

WEBER COUNTY, UTAH (COUNTY)

and

STEWARD LAND HOLDINGS, LLC, (DEVELOPER)

Table of Contents

DEVELOPMENT AGREEMENT	3
RECITALS	3
AGREEMENT	3
1. Effective Date, Expiration, Termination.	3
2. Definitions and Interpretation.	4
3. Additional Requirements of Developer.	5
4. Project Description.	5
5. Project Location and Illustration.	5
6. Vesting.	5
7. Development and Use Restrictions.	6
8. Amendments and Revisions.	6
9. OMITTED	7
10. OMITTED	7
11. General Provisions.	7
12. Notices.	8
13. Default and Remedies.	8
14. Entire Agreement.	9
15. Counterparts.	9
SIGNATORIES	11
Attachment A	13
Attachment A	14
Attachment B	15
Attachment B	16

DEVELOPMENT AGREEMENT

Anselmi Acres

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between Weber County, Utah ("County") and STEWARD LAND HOLDINGS, LLC (known as "Developer") (County and Developer known herein as the "Parties.").

RECITALS

WHEREAS, The Developer desires and intends to develop a residential subdivision (the "Project") in the unincorporated area of Western Weber County. Key components of the Project include approximately ~~thirty-seven (37)~~ detached single-family residential dwellings; ^{forty-five (45)}

WHEREAS, The Developer's objective is to develop approximately ~~thirty-seven (37)~~ ^{forty-five (45)} single family lots that complement the character of the community and is financially successful;

WHEREAS, The County's objective is to approve only development that supports and advances the health, safety, and welfare of the community, as generally described in the general plan and as otherwise determined appropriate by the Board of County Commissioners;

WHEREAS, The Project is currently zoned ~~A-1~~ ^{RE-15 and A1} and Developer desires to rezone the Project to the ~~RE-15~~ ^{R1-15} zone consistent with the terms and provisions contained herein; and

WHEREAS, The Project will be located on land referred to herein as the "Project Site". The Project Site is as more specifically described in **Attachment A**: Project Area Legal Description and Graphic Depiction. A concept plan showing the general location and layout of the Project is contained in **Attachment B** Concept Plan.-

NOW, THEREFORE, in consideration of the recitals (which are incorporated into the Agreement by this reference) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Effective Date, Expiration, Termination.

1.1. **Effective Date.** The Effective Date of this Agreement is the latter of:

1.1.1. The last date upon which it is signed by any of the Parties hereto;

1.1.2. The recordation of this Agreement; or

1.1.3. The recordation of the rezone ordinance to which this Agreement is associated and inextricably linked.

1.2. **Expiration.** This Agreement shall be in full force and effect until (10) years from the Effective Date of this Agreement, at which point this Agreement shall expire. After the expiration of this agreement, the development and use restrictions of Section 7 herein shall prevail as legislatively adopted land use restrictions. Typical legislative action shall be required to make changes thereto.

1.3. Termination. This Agreement may be terminated by mutual written agreement of the Parties to this Agreement. This Agreement automatically terminates, without notice, in the following circumstances:

- 1.3.1.** The term of this Agreement expires;
- 1.3.2.** The Project is abandoned or the use is discontinued, as provided for by Weber County Code Chapter 108-12; or
- 1.3.3.** The Developer defaults on any provision of this Agreement and the default is not resolved as specified in Section 13 of this Agreement.

2. Definitions and Interpretation.

For purposes of this Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein where capitalized; words not defined herein shall have their ordinary and common meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision

- 2.1. Adjacent Property.** "Adjacent Property" means that existing subdivisions located to the South of the Project.
- 2.2. Agreement.** "Agreement" means this Development Agreement between County and Developer, approved by the Board of County Commissioners, and executed by the undersigned.
- 2.3. Association.** "Association" shall have the meaning given to such term in Utah Code Ann. §57-8a-102(2).
- 2.4. County.** "County" means Weber County, Utah.
- 2.5. Developer.** "Developer" means STEWARD LAND HOLDINGS, LLC, or its Assignees as provided in Section 11 of this Agreement.
- 2.6. Effective Date.** "Effective Date" has the meaning set forth in Section 1 of this Agreement.
- 2.7. Force Majeure Event.** "Force Majeure Event" means any event beyond the reasonable control of the affected Party that directly prevents or delays the performance by such Party of any obligation arising under this Agreement, including an event that is within one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; pandemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to the Project caused by third Parties; riot or similar civil disturbance or commotion; material or supply delay; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and, actions of a governmental or judicial authority.
- 2.8. Parties.** "Parties" means the Developer and the County.
- 2.9. Project.** "Project" means The Anselmi Acres Subdivision as set forth in the Attachment B hereto.
- 2.10. Project Site.** "Project Site" means the land area on which the Project will actually be sited, as more specifically described in Attachment A: Project Area Legal Description and Graphic

Depiction.

- 2.11. **Routine and Uncontested.** "Routine and Uncontested" means simple and germane to the Project or Project Site, having very little chance of effect on the character of the area, and not anticipated to generate concern from the public.
- 2.12. **Substantial Completion.** "Substantial Completion" means the Project is constructed according to the plans and permits approved and issued by the County and in conformance with this Agreement.
- 2.13. **Transferee.** A party to which the Project is transferred or assigned in part or in whole. "Assignee" shall also mean the same.

3. Additional Requirements of Developer.

- 3.1. Developer shall agree to sign a document waiving the right to protest future annexation into any adjacent city. Said document shall be recorded on the deed and recorded at the same time of this Development Agreement.
- 3.2. Developer shall make a donation of \$2,000 per lot in the Subdivision to the Taylor West Weber Parks District. Alternatively, the Developer may provide park development services to the District that, at fair market value, is equal to the donation. This donation will help the District provide parks and recreational services to the Subdivision and surrounding communities.
- 3.3. Project shall include a 10' wide concrete or asphalt trail parallel to the street identified as 1600 South Street, running east and west through the Project, as shown in Attachment B.
- 3.4. Developer shall install street trees along all streets in the subdivision, at an interval so that the specific tree species' canopies touch at their maturity.

4. Project Description.

A subdivision consistent with the ^{R1-15} ~~RE-15~~ zoning, consisting of approximately ^{Forty-five (45)} ~~thirty-seven (37)~~ detached single-family residential lots, the actual amount to be determined after survey level accurate plats are produced.

5. Project Location and Illustration.

The Project is as described herein, and illustrated in Attachment B.

6. Vesting.

- 6.1. To the maximum extent permitted under the laws of the County, the State of Utah, and the United States, the Parties hereto intend that this Agreement grants to Developer the right to develop and use the Project, as outlined in and subject to the requirements set forth in this Agreement, without modification or interference by the County (collectively, the "Vested Rights"). The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law, and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann.
- 6.2. The County shall not impose upon the Project (whether by initiative, or other means) any new ordinance (each a "New Law") that reduces or impacts the development rights provided by this Agreement or the Vested Rights. Without limiting the generality of the foregoing, any New Law

shall be deemed to conflict with this Agreement and / or the Vested Rights if it would accomplish any of the following results in a manner inconsistent with or more restrictive than applicable law, either by specific reference to the Project or as part of a general enactment that applies to or affects the Project: (i) change any land uses or permitted uses of the Project; (ii) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner so long as all applicable requirements of this Agreement, and the applicable zoning ordinance are satisfied; or (iii) apply to the Project any New Law otherwise allowed by this Agreement that is not uniformly applied on a County-wide basis to all substantially similar types of development projects and project sites with similar zoning designations. Notwithstanding the foregoing, if Developer considers any New Law to be beneficial to the Project, this section does not require Developer to comply with the superseded ordinance, but rather in such cases, Developer may with County approval, which approval may not be unreasonably withheld, conditioned, or delayed, elect to request that the New Law apply to the Project.

- 6.3. The Developer acknowledges that the County is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to the County all of its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 17-27a-509.5 of the County Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. County of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under State or Federal laws.
- 6.4. The parties mutually acknowledge that any use lawfully established under vested laws and this Agreement replaces and supersedes any previously approved development agreements pertaining to or recorded against the Property and Project.
- 6.5. No part of this Agreement shall be interpreted to modify, waive, or supersede any part of Weber County Code except where more specifically provided herein.

7. Development and Use Restrictions.

- 7.1. **Use of Property.** The use of the Project shall be limited to any lawful use allowed within the ~~RE-15 zone, except that uses that require one-half acre of land or more shall not be permitted.~~
~~The RE-15 zoning will govern the lot development standards, except as otherwise permitted by this agreement. The concept plan shall govern the lot sizes and widths.~~
~~R1-15~~
- 7.2. **Setbacks.** ~~The minimum yard setbacks of the RE-15 zone will apply, except the side yard setback for a dwelling shall be eight feet.~~ ~~The R1-15 setbacks shall apply.~~
~~R1-15~~
- 7.3. **Building Height.** The main building height and accessory building height of the ~~RE-15~~ zone shall apply.

8. Amendments and Revisions.

This Agreement may be amended by mutual agreement of the Parties only if the amendment is in writing and approved and signed by Developer and County (an "Amendment"). The following sections specify what Project changes can be undertaken without the need for amendment of the Development Agreement, and what changes require Amendment to this Agreement.

- 8.1. **Project Facility Repair, Maintenance and Replacement.** Developer shall be permitted to

repair, maintain and replace the Project and its components consistent with the terms of this Agreement, and County Laws without amending the Agreement.

- 8.2. Authorized Changes, Enlargements, or Alterations.** As set forth below, County staff may review and approve certain minor changes, enlargements or adjustments ("Changes") to the Project in their respective administrative capacities. The following types of Changes are considered minor, provided that no such Changes shall directly or indirectly result in significantly greater impacts than those contemplated in the approval of this Agreement.

8.2.1. Changes Necessary to Comply with Other Laws. Any resulting changes as a consequence of obtaining or complying with a federal, state, or local permit or approval; provided that the changes are routine and uncontested and the application thereof does not materially affect the County's original intent, findings, or conditions on the Project in a manner that would have likely resulted in a different decision on this Agreement, as determined by the Planning Director.

8.2.2. De Minimis Changes. Other de minimis changes requested by the Developer, which are reasonably consistent with the intent of this agreement and the RE-15 zone, and are routine and uncontested.

9. OMITTED

10. OMITTED

11. General Provisions.

- 11.1. Assignability.** The rights and responsibilities of Developer under this Agreement may be assigned as provided herein.

11.1.1. Total Assignment of Project and Project Site. The Developer, as the landowner of the entire Project Site at the time of the execution of this Agreement, may sell, convey, reassign, or transfer the entire Project Site or Project to another entity at any time.

- 11.2. Binding Effect.** This Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring all or any portion of the Project, any lot, parcel or any portion thereof within the Project Site, or any interest therein, whether by sale, operation of law, devise, or in any manner whatsoever.

- 11.3. Utah Law.** This Agreement is entered into under the laws of the State of Utah, and the Parties hereto intend that Utah law shall apply to the interpretation hereof.

- 11.4. Authority.** Each Party represents and warrants that it has the respective power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to execute, deliver and perform its obligations under this Agreement.

- 11.5. Duty to Act Reasonably and in Good Faith.** Unless otherwise expressly provided, each Party shall act reasonably in giving consent, approval, or taking any other action under this Agreement. The Parties agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement and each of them covenants that it will not at any time voluntarily engage in any actions which frustrate the purpose and intent of the Parties to develop the Project in conformity with the terms and conditions specified in this Agreement.

- 11.6. Communication and Coordination.** The Parties understand and agree that the process

described in this Agreement depends upon timely and open communication and cooperation between the Parties. The Parties agree to use best efforts to communicate regarding issues, changes, or problems that arise in the performance of the rights, duties and obligations hereunder as early as possible in the process, and not wait for explicit due dates or deadlines. Each Party agrees to work cooperatively and in good faith toward resolution of any such issues.

- 11.7. **Force Majeure Event.** A Force Majeure Event shall be promptly addressed by Developer. County agrees to offer a reasonable period for Developer to cure the effect of the event given the extent of the effect on the Project and the Developer's ability to redress the effect.

12. Notices.

- 12.1. **Written Notice.** Any notice, demand, or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). A courtesy copy of the Notice may be sent by facsimile transmission or email.
- 12.2. **Addresses.** Notices shall be given to the Parties at their addresses set forth as follows:

If to the County:

Weber County Commission
2380 Washington Blvd, Ste #360
Ogden, UT 84401

With copies to:

Weber County Attorney
2380 Washington Blvd, Ste. #230
Ogden, UT 84401

Weber County Planning Director
2380 Washington Blvd, Ste. #240
Ogden, UT 84401

If to Developer:

Steward Land Holdings, LLC
1708 E 5550 S, STE 18
South Ogden, UT 84403

- 12.3. **Notice Effect.** Notice by hand delivery shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered forty-eight (48) hours after deposited. Any Party at any time by Notice to the other Party may designate a different address or person to which such notice or communication shall be given.

13. Default and Remedies.

- 13.1. **Failure to Perform Period.** No Party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written

notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure of the alleged default.

13.2. Remedies. The Developer's failure to comply with this agreement constitutes a violation of the Land Use Code of Weber County, and is subject to the enforcement provisions and remedies thereof. In addition, the County may withhold any permits from the Project.

13.3. Dispute Resolution Process.

13.3.1. Conference. In the event of any dispute relating to this Agreement, the Parties, upon the request of either Party, shall meet within seven (7) calendar days to confer and seek to resolve the dispute ("Conference"). The Conference shall be attended by the following parties: (a) the County shall send department director(s) and County employees and contractors with information relating to the dispute, and (b) Developer shall send Developer's representative and any consultant(s) with technical information or expertise related to the dispute. The Parties shall, in good faith, endeavor to resolve their disputes through the Conference.

13.3.2. Mediation. If this Conference process does not resolve the dispute within the 7-day Conference period, the Parties shall in good faith submit the matter to mediation. The Parties shall send the same types of representatives to mediation as specified for the "Conference" process. Additionally, the Parties shall have representatives present at the mediation with full authority to make a settlement within the range of terms being discussed, should settlement be deemed prudent. The mediation shall take place within forty-five (45) days of the Parties submitting the dispute to mediation. If the dispute is not able to be resolved through the mediation process in the 45-day period, the Parties may pursue their legal remedies in accordance with Utah and local law.

14. Entire Agreement.

This Agreement, together with all Attachments hereto, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement. This agreement is specifically intended by the Parties to supersede all prior agreements between them or recorded to the property, whether written or oral.

15. Counterparts.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile or by e-mail shall be deemed originally signed copies of this Agreement.

IN WITNESS HEREOF, the Parties hereto, having been duly authorized, have executed this Agreement.


(Signatures on following pages)

SIGNATORIES

signature page

"County"

Weber County, a body corporate and politic of the State of Utah

By: 

Weber County Commission

DATE: 3/14/2023

ATTEST: 

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

Signature to show updates

"Developer"

Steward Land Holdings, LLC

By: 

Print Name: Bradley John Brown

Title: Member

DATE: 3/14/23

Developer Acknowledgment

State of Utah)

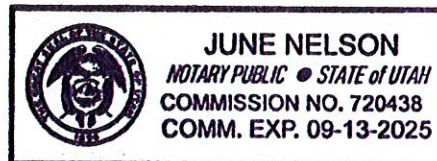
)ss.

County of Weber)

On the 14 day of March, 2023 personally appeared before me Bradley Brown, who being by me duly sworn, did say that he is the member of Steward Land Holdings, a limited liability company, and that the foregoing instrument was signed in behalf of said limited liability company by authority of its members or its articles of organization; and said person acknowledged to me that said limited liability company executed the same.

9-13-25

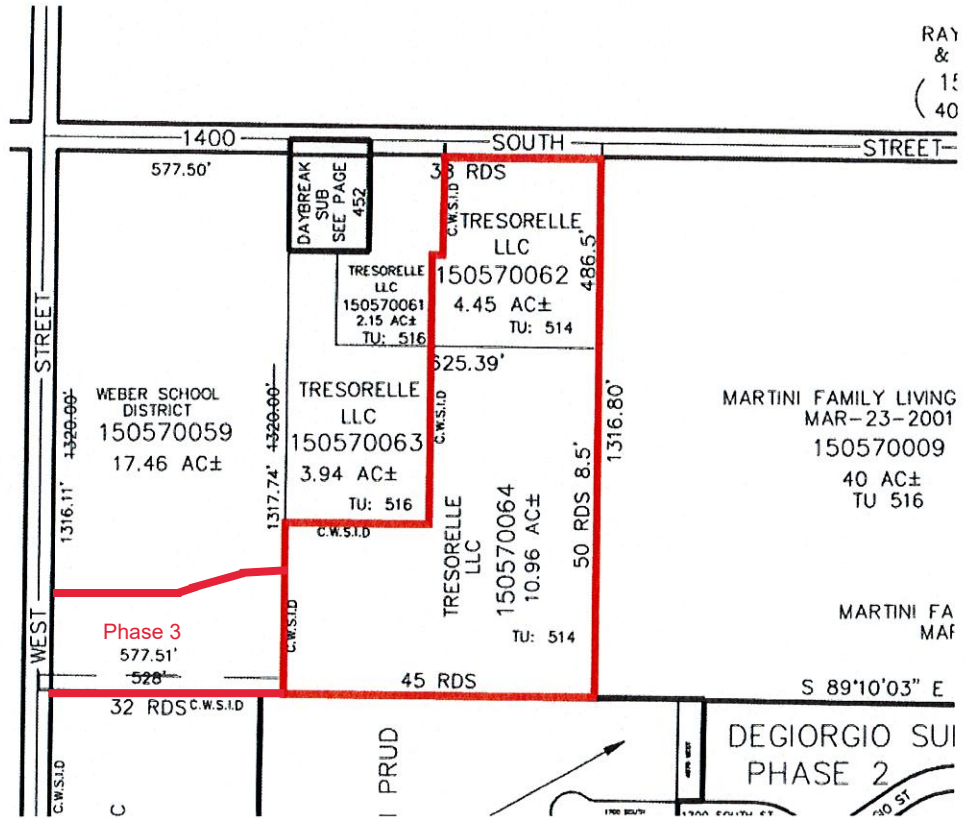
My Commission Expires:




Notary Public, residing in

Attachment A

Project Area Legal Description and Graphic Depiction



Attachment A

Project Area Legal Description and Graphic Depiction

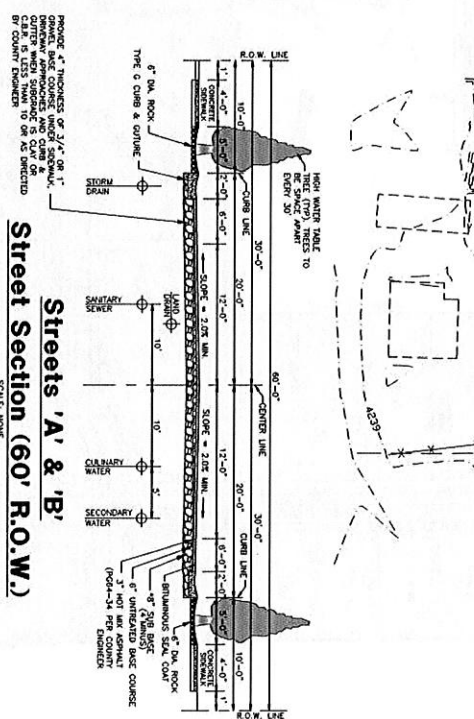
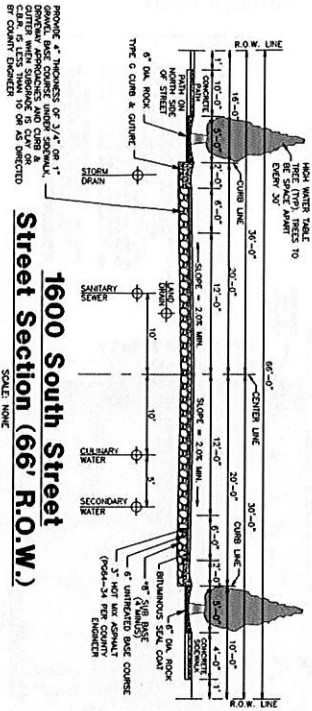
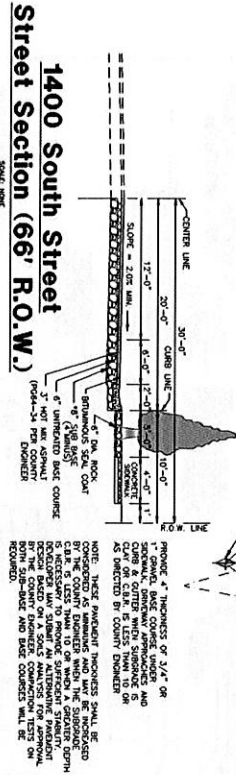
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Together with

THAT PORTION LYING WITHIN THE CENTRAL WEBER SEWER IMPROVEMENTDISTRICT DESCRIBED AS FOLLOWS: PART OF THE NORTHWEST QUARTEROF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 6 NORTH,RANGE 2 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING ATTHE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAIDSOUTHWEST QUARTER; THENCE WEST 38 RODS; THENCE SOUTH 486.5FEET; THENCE EAST 38 RODS THENCE NORTH 486.5 FEET TO THE PLACEOF BEGINNING. EXCEPTING THEREFROM DAY BREAK SUBDIVISION [NOTE: BECAUSE THE DESCRIPTION OF RECORD DID NOT CONTAINAN AREA FOR THIS PARCEL THE AREA FOR THIS PARCEL WASCALCULATED BY THIS OFFICE FOR TAX PURPOSES]

Add legal description for 8 lot subdivision

Attachment B
Concept Plan



Anselmi Acres Subdivisi

Weber County, Utah

Additional concept

Exhibit A
Proposed Development
Agreement Amendment

(Site Plan)

