



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: A public hearing for consideration and action on a request for the First Amendment to the Zoning Development Agreement Ordinance #96-33 to reinstate the expired zoning development agreement and allow for a temporary park and ride lot.

Application Type: Legislative

Agenda Date: Tuesday, October 02, 2018

Applicant: Terry Phillips Properties LLC

Authorized Agent: Roger Terry

File Number: ZDA 2018-05

Property Information

Approximate Address: 2620 North Hwy 162 Eden

Project Area: 4.99 Acres

Zoning: CV-2

Existing Land Use: Temporary Park and Ride (Lot 2), Vacant (Lot 1)

Proposed Land Use: Temporary Park and Ride-current use

Parcel ID: 22-154-0001 and 22-154-0002

Township, Range, Section: T7N, R1E, NW ¼ Section 34

Adjacent Land Use

North: Commercial	South: Commercial
East: Commercial	West: Commercial

Adjacent Land Use

Report Presenter: Ronda Kippen
rkippen@co.weber.ut.us
 801-399-8768

Report Reviewer: RG

Development History

- The subject property was purchased by the original petitioner in November 1995.
- Weber County Planning Division received a request to rezone the subject property on August 1, 1996 from Agricultural A-1 Zone to Commercial (C-2) Zone.
- The rezone petition was forwarded to the Planning Commission on August 27, 1996 with a positive recommendation from Staff.
- The rezone petition was forwarded to the Board of County Commissioners with an unanimously positive recommendation from the Planning Commission on October 9, 1996.
- Zoning Development Agreement Ordinance# 96-33 was recorded on January 13, 1997 successfully rezoning the property from Agricultural (A-1) to Commercial (C-2) Zone.
- The subject property was subdivided into three lots known as the "Little Bear Subdivision" July 21, 1999.
- Property purchased by Terry Phillips Property, LLC on May 12, 2005.
- A conditional use permit request was received by the Weber Planning Division on October 3, 2008.
- Conditional Use Permit #16-08 and #01-11 were approved by the Ogden Valley Planning Commission for the temporary parking use of the park and ride lot.
- The Ogden Valley Planning Commission held a public hearing and forwarded a positive recommendation on August 28, 2018.

Summary

The petitioner is requesting an amendment to the Zoning Development Agreement Ordinance #96-33 to reinstate the expired zoning development agreement and to allow for a temporary park and ride lot to be added to the agreement and the conceptual map (See Exhibit C). Temporary or seasonal park and ride lots are a conditional use in the CV-2 zone. Since 2008 the petitioner has received temporary conditional use permits for the park and ride located in Eden. This site provides free

parking for visitors and residents of the valley to gain access to the shuttle service to Powder Mountain Ski Resort. Access to the park and ride lot will be gained from Highway 162. The proposed temporary park and ride lot is located on Lot 2 of the Little Bear Subdivision (See Exhibit B).

The petitioner has requested that the zoning development agreement be reinstated and a temporary park and ride be added to the agreement due to the Uniform Land Use Code of Weber County (LUC) allowing a parking lot as a conditional use in the CV-2 Zone (LUC §104-21-5). The LUC generally requires that parking lots be screened and paved with concrete or asphalt, but an exception is provided for “for seasonal, temporary, or transient uses, including, but not limited to, a fair, festival, short-term vendor, park and ride lots (LUC 108-8-7(b)). Due to the park and ride location being part of the center of the commercial hub in Eden, the Ogden Valley Planning Commission recommends that the petitioner shall install eight drought resistant street trees along the front property line of Lot 2 of the Little Bear Subdivision running along the frontage of Highway 162 as shown on the concept drawings as part of reinstating the zoning development agreement. These improvements will offer some softening of the area by providing some buffering. These improvements may be installed by either the owner or by the lessee. A condition of approval has been added to the Planning Commission’s recommendation giving the petitioner until June 1, 2019 for the street trees to be installed.

Summary of County Commission Considerations

The following questions may be considered by the County Commission regarding the request to amend the “Conceptual Development Plan” as part of amending the Zoning Development Agreement approved as Contract# 96-33

- Does the proposed amendment coincide with the vision of the area?
- Is the proposed amendment harmonious with the Ogden Valley General Plan?
- Does the proposed “Conceptual Development Plan” meet the current goals and objectives as outlined in the Ogden Valley General Plan?
- Does the proposal enhance the public health, safety and welfare over the type of development that could otherwise occur?
- Does the proposal to amend the conceptual development plan negatively impact the surrounding properties and uses?

Planning Commission Recommendation

The Ogden Valley Planning Commission forwards this petition with a positive recommendation to amend the Zoning Development Agreement Ordinance #96-33 to reinstate the expired zoning development agreement and to allow for a temporary park and ride lot to be added to the agreement and the conceptual map in the Zoning Development Agreement:

1. The petitioner shall install eight drought resistant street trees along the front property line of Lot 2 running along of Highway 162 as shown on the concept drawings prior to June 1, 2019.
2. A new conditional use permit for a temporary park and ride lot on Lot 2 must be obtained.

This recommendation is based on the following findings:

1. A request to amend the “Concept Development Plan” is allowed per the previously approved Zoning Development Agreement.
2. It is in the best interests of both the applicant and the County to have a “Concept Development Plan” that is viable and harmonious with the Ogden Valley General Plan.
3. The amendment to the conceptual design will facilitate the required site improvements in a manner that will coincide with the vision of the area and will be more desirable for future residents.
4. The amendment is not detrimental to the public health, safety, or welfare.
5. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Exhibits

- A. Ordinance#96-33.
- B. Little Bear Subdivision
- C. Proposed ZDA Amendment 1

Map 1



WEBER COUNTY
ZONING DEVELOPMENT AGREEMENT

OR (UN)AN TRUST OR ASSUMED

PARTIES: The parties to this Zoning Development Agreement (Agreement) are Gabriel Klanian ("the petitioner") and Weber County Corporation ("the County").

EFFECTIVE DATE: The effective date of this Agreement will be the date that rezoning approval is granted as outlined below by the Weber County Commission ("the Commission").

RECITALS: Whereas, the petitioner seeks to rezone property generally located at 2620 N. Hwy. 162 within the unincorporated area of Weber County, Utah from an Agricultural A-1 Zone to a Commercial C-2 Zone for the purpose of: Retail shops, office, motel/cottage use, etc. which property consists of 6.27 acres and is more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference ("the property"); and,

WHEREAS, the County seeks to promote the health, welfare, safety, convenience and economic prosperity of the inhabitants of the County through the establishment and administration of Zoning Regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing adopted Land Use Master Plans of all or part of the County; and

WHEREAS, petitioner has requested that certain property be rezoned for purposes of allowing him or his designees to develop the property in a manner which has been outlined to the Planning Commission; and

WHEREAS, the petitioner considers it to his advantage and benefit for the County to review his petition for rezoning based upon having prior knowledge of the development that is proposed for the property so as to more completely assess its compatibility with the County's master plan and for the area and the existing land use surrounding the property to be rezoned as outlined in Exhibit A.

WHEREAS, the County is desirous of rezoning the property for the purpose of developing the property in the manner outlined to the county but does not feel that the property should be rezoned unless the development that the petitioner contemplates is commenced and completed on the property within an agreed upon reasonable time; and

WHEREAS, it is in the best interests of both the petitioner and the County that in the event the petitioners project is not commenced, constructed and completed within a reasonable time that the zoning of the parcel described in Exhibit A be rezoned back to the zoning that existed prior to granting petitioners initial rezoning request.

NOW THEREFORE, for good and valuable consideration in receipt of which is hereby acknowledged and accepted by both parties, the parties hereto mutually agree and covenant as follows:

1. The County will rezone the property described in Exhibit A from an Agricultural A-1 zone to a Commercial C-2 zone for the purpose of allowing the petitioner to construct his pre-design project on the subject property.
2. The petitioner will develop the subject property based on the concept development plan attached hereto and marked as Exhibit B. The attached plan may be refined and modified by the general concept of the plan will not be changed without prior formal approval of the County. The petitioner will begin construction on the designated project described in Exhibit B within 18 months of the date on which final approval of the rezoning petition is granted and will complete the project within 5 years of rezoning approval.

E# 1449609 BK 1843 PG 1000
DOUG CROFTS, WEBER COUNTY RECORDER
13-JAN-97 12:11 PM FEE \$.00 DEP MH
REC FOR: WEBER.COUNTY.CLERK

PAFORMSMAN3-ZONEZO8

3. Petitioner acknowledges that if the project has not begun or has not been completed within the time frames outlined above that he will request that the property be rezoned from a Commercial C-2 zone to an Agricultural A-1 zone and this document will serve as his request that the property be rezoned by the County. Petitioner understands that the County's granting of his rezoning petition is contingent upon him completing the project substantially as outlined in Exhibit B and within the time frame outlined in this agreement.
4. The petitioner agrees that only uses which fall within the general use types included in the approved Concept Development Plan and which comply with the Zoning Ordinance provisions, will be approved on the petitioned for property as part of a more specific and more detailed version of the approved Concept Development Plan. No other uses will be approved until or unless this Agreement and the approved Concept Plan are amended or voided.
5. The responsibilities and commitments of the petitioner and the County as detailed in this document, when executed shall constitute a covenant and restriction running with the land and shall be binding upon the petitioner/owner his assignees and successors in interest and shall be recorded in the Office of the Weber County Recorder.
6. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both parties.
7. The County will issue land use permits for only those uses determined to be within the general land use types listed on the Concept Development Plan and more specifically on more detailed development plans for the project or major phase thereof submitted to and approved by the County.
8. The following conditions, occurrences or actions will constitute a default by the petitioner, his assigns or successors in interest:
 - a. failure to present a detailed development plan including proposed uses for the project, or a major phase thereof, gain County approval and obtain land use and building permits and complete construction within the time periods specified in this Agreement.
 - b. disposing of the property for any other purpose than that approved by this Agreement, the concept development plan and general uses and any subsequent more detailed plans and uses approved by the County.
 - c. a written petition by the petitioner, his assigns or successors in interest, filed with the County seeking to void or materially alter any of the provisions of this Agreement.
9. In the event that any of the conditions constituting default by the petitioner, his assigns or successors in interest, occur, the County finds that the public benefits to accrue from rezoning as outlined in this Agreement will not be realized.

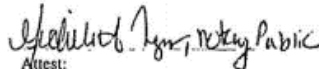

In such a case, the County shall examine the reasons for the default and lack of progress or proposed major change of plans, and either approve an extension of time or major change or the concept plan or initiate steps to revert the zoning designation to its former zone.
10. The parties may amend or modify the provisions of this Agreement, the concept development plan and list of use types only by written instrument and after considering the recommendation of the County Planning Commission which may hold a public hearing to determine public feeling on the proposed amendment or modification if deemed warranted.

F:\FORMSMAN\3-ZONE\208

E# 1449609 BK1843 P61001

- 11. This Agreement with any amendments shall be in full force and effect until all construction and building occupancy has taken place as per approved development plans or until the property covered herein has been reverted to its former zone designation as a result of default.
- 12. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
- 13. In the event that legal action is required in order to enforce the terms of this agreement, the prevailing party shall be entitled to receive from the faulting party any costs and attorney's fees incurred in enforcing this agreement from the defaulting party.
- 14. This agreement constitutes the entire agreement between the parties. No changes or alternatives may be made in this agreement except in writing signed by both parties.

Approved by the parties herein undersigned this 26 day of December, 1996



 Attest: _____ Zoning Petitioner



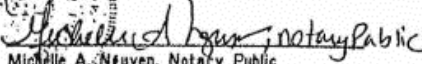
 Attest: _____ Weber County

Documents Attached:

- Exhibit A - Property description of area petitioned for rezoning
- Exhibit B - List of Intended Uses and Concept Development Plan

Subscribed and sworn to (or affirmed) before me this 26 day of December, 1996, by Gabriel Klouner.




 Michelle A. Nguyen, Notary Public

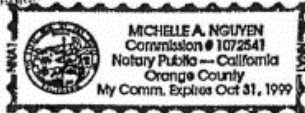


EXHIBIT A

Serial No. 22-046-0051 ✓

Description

PART OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT WHICH IS WEST 594.00 FEET; SOUTH 42D50' EAST 414.00 FEET, AND SOUTH 13D29' EAST 47.74 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 34, RUNNING THENCE SOUTH 13D29' EAST 307.04 FEET, THENCE NORTH 88D00" WEST 556.40 FEET, MORE OR LESS, TO THE EAST LINE OF THE STATE ROAD, THENCE NORTH 44D35'09" WEST 168.65 FEET ALONG SAID EAST LINE TO A POINT SOUTH 75D42' WEST OF BEGINNING, THENCE NORTH 75D42' EAST 641.30 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING.

EXCEPT THAT PORTION THEREOF CONVEYED TO NAYLOR FAMILY INVESTMENT COMPANY BY DEED RECORDED IN BOOK 1455 OF RECORDS, PAGE 1128.

ALSO EXCEPT THAT PORTION THEREOF IN CONFLICT WITH PROPERTY OF RANDY S SHEPHERD AND WIFE ON THE NORTH AS CONVEYED BY DEED IN BOOK 1455 OF RECORDS PAGE 1134.

Serial No. 22-046-0023 ✓

Description

PART OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT ON AN EXISTING FENCE CORNER WHICH IS WEST 594.00 FEET ALONG THE SECTION LINE, SOUTH 42D50' EAST 189.00 FEET, SOUTH 66D33'06" WEST 16.50 FEET; AND SOUTH 47D04' EAST 5.00 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 34; RUNNING THENCE TWO COURSES ALONG AN EXISTING FENCE AS FOLLOWS; SOUTH 47D04' EAST 214.07 FEET, AND SOUTH 14D07' EAST 68.67 FEET; THENCE SOUTH 74D27'30" WEST 622.67 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE STATE ROAD; THENCE NORTH 44D35'09" WEST 174.10 FEET ALONG SAID LINE TO A FENCE CORNER; THENCE NORTH 65D29'15" EAST 607.02 FEET ALONG SAID FENCE TO THE POINT OF BEGINNING.

EX 1449609 BK1843 PG1003

Serial No. 22-046-0025 ✓

PART OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 594 FEET WEST AND 189 FEET SOUTH 42D50' EAST AND 16.50 FEET SOUTH 66D33'06" WEST OF THE NORTHEAST CORNER OF SAID QUARTER SECTION, RUNNING THENCE SOUTH 47D04' EAST 5.0 FEET, THENCE SOUTH 65D29'15" WEST 607.02 FEET TO THE EAST LINE OF COUNTY ROAD, THENCE NORTHWESTERLY ALONG THE EAST LINE OF THE COUNTY ROAD TO A POINT SOUTH 66D33'06" WEST 601.46 FEET FROM THE POINT OF BEGINNING, THENCE NORTH 66D33'06" EAST 601.46 FEET TO THE POINT OF BEGINNING.

KLANIAN
 A PART OF THE HWY 1/4 OF SEC 34,
 17N, 11E, S.L.B. & M.
 OLD HWY 162, ST. RD 158

SHEET
1

Project No.	721-1481	City	Dayton
Client	538 North Main	City	Dayton, Ohio 45402
Contractor	7-7-74		
Contractor's License	733-6272		
Contractor's Address			
Contractor's Phone			

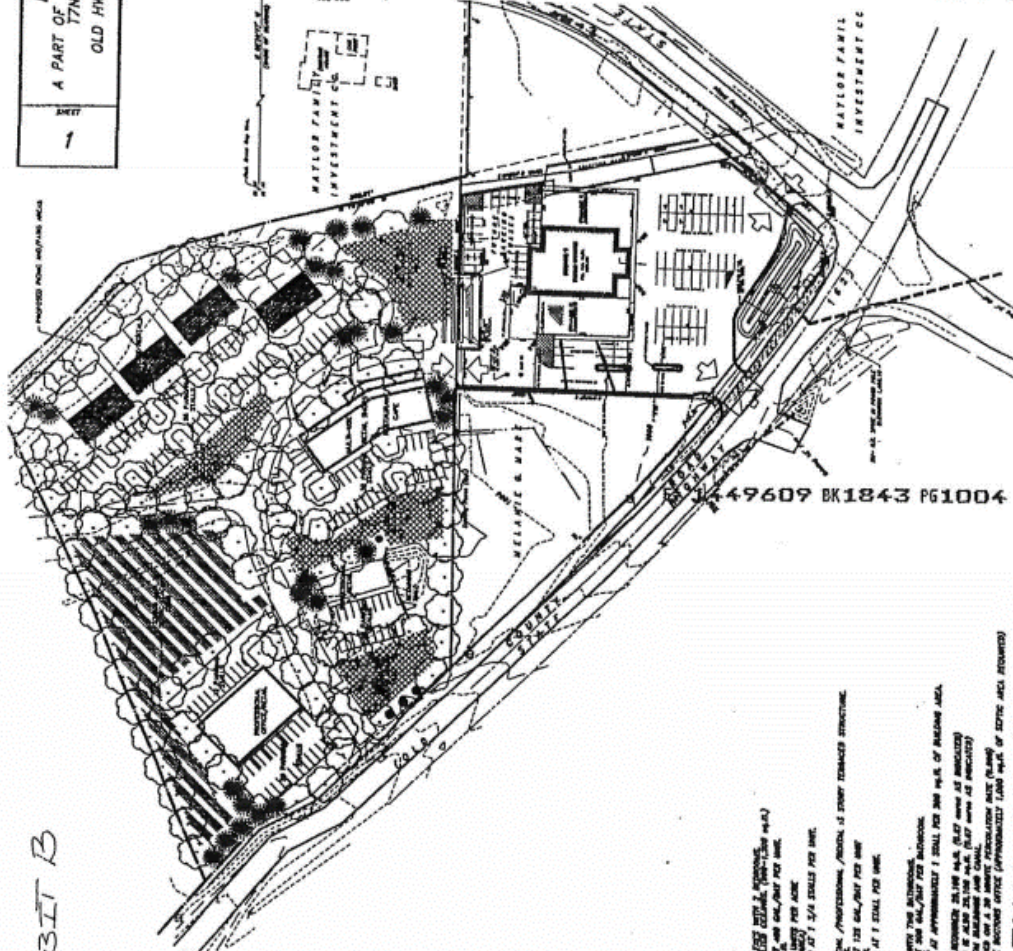


EXHIBIT B

- LEGEND**
- TELEPHONE POLE
 - WASTE WATER
 - POWER POLE
 - CUSTOMER TRAIL
 - PROPOSED TREES
 - SHrub
 - WOOD
 - FENCE LINE
 - DRIVE
 - 1" CONTOUR
 - PROPOSED ROAD
 - PROPOSED ACCESS

NOTES

- EXISTING IMPROVEMENTS TO BE MAINTAINED AND NOT RECONSTRUCTED.
- EXISTING UTILITIES TO BE MAINTAINED AND NOT RECONSTRUCTED.
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CONCEPTUAL MASTER PLAN

WEBER COUNTY

ZONING DEVELOPMENT AGREEMENT AMENDMENT ONE

PARTIES: The parties to this Zoning Development Agreement (Agreement) are Terry Phillips Properties LLC and/or assigns ("the Petitioner") and Weber County Corporation ("the County").

EFFECTIVE DATE: The effective date of this Agreement will be the date upon which the Weber County Commission ("the Commission") signs the Agreement.

RECITALS: Whereas, the Petitioner has previously rezoned property generally located at 2620 North Highway 162 within the unincorporated area of Weber County, Utah from the Agricultural Valley-3 (AV-3) to the Commercial Valley-2 (CV-2) Zone for the general purpose of: Retail shops, office, motel/cottage use, etc... and a temporary park and ride lot on Lot 2 of the Little Bear Subdivision (See Exhibit C) which consists of 4.99 undeveloped acres and is more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("the Property"); and

WHEREAS, the County seeks to promote the health, safety, welfare, convenience, and economic prosperity of the residents of the County through the establishment and administration of zoning regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing the adopted General Plan; and

WHEREAS, the Petitioner has requested that the Property continue to be zoned CV-2 for the purpose of allowing the Petitioner, or a designee, to develop the property in the manner that has been illustrated as Exhibit B; and

WHEREAS, the Petitioner considers it to his advantage and benefit for the County to review his petition, to maintain the existing CV-2 zoning, and amend the Agreement to allow for a temporary park and ride lot on Lot 2 during the interim the as shown in Exhibit B; and

WHEREAS, the County desires to maintain the CV-2 zoning on the Property for the purpose of developing the Property in the manner illustrated and described, but the County does not feel that the property should maintain its zoning unless development of the Property is consistent with the terms of the Agreement and project completion is pursued in good faith; and

WHEREAS, the County Commission, after receiving a recommendation from the Ogden Valley Planning Commission, has determined that the proposed development continues to conform to the goals and objectives of the Ogden Valley General Plan and continues to be a benefit to the parties involved; and

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged and accepted, both parties mutually agree and covenant as follows:

1. The County will maintain, barring any default by the Petitioner, the zoning of the property described in Exhibit A which was rezoned from Agricultural Valley-3 (AV-3) to Commercial Valley-2 (CV-2) for the purpose of allowing the Petitioner to utilize Lot 2 of the Little Bear Subdivision as a temporary park and ride lot and to construct his pre-designed project on the Property.
2. The Petitioner will develop the Property based on the concept development plan attached hereto and marked as Exhibit B. The attached plan may be refined and minimally modified but the general concept of the plan shall not change without prior formal approval of the County. Lot 3 of Little Bear Subdivision has been developed. Per the previous agreement, construction would begin as shown in Exhibit B within 18 months from the date on which final approval of the rezoning petition was granted and was to be complete within five years from that date. The

agreement has now expired and it is the desire of both parties to reinstate the agreement for a period of five years.

3. The Petitioner acknowledges and agrees that, if project completion is not pursued in good faith, he will request that the Property be rezoned from Commercial Valley-2 (CV-2) to Agricultural Valley-3 (AV-3) and this document will serve as his request that the Property be rezoned by the County.
4. The responsibilities and commitments of the Petitioner and the County, as detailed in this Agreement when executed, shall constitute a covenant and restriction running with the land and shall be binding upon the Petitioner and his assignees and successors in interest.
5. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests of both parties; therefore, the parties acknowledge that the Agreement will be recorded in the Office of the Weber County Recorder.
6. The following conditions, occurrences, or actions constitute a default by the Petitioner:
 - a. Failure to comply with the terms of this Agreement.
 - b. Disposing of the property for any other purpose than that approved by this Agreement.
 - c. A written request, submitted to the County, seeking to void, alter, or amend any of the provisions of this Agreement.
7. In the event of Petitioner default, the County may examine the reasons for the default and either approve an amendment to the Agreement or initiate steps to revert the zoning designation to a zone preferred by the County.
8. The parties may amend or modify the provisions of this Agreement only by written instrument and after considering the recommendation of the Ogden Valley Planning Commission which may hold a public meeting to obtain public input regarding the proposed amendment or modification.
9. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
10. This Agreement, which constitutes the entire agreement between the parties, shall supersede all previously executed zoning development agreements and be in full force and effect until the parties appropriately amend the Agreement or until the Property has been rezoned to another zone due to Petitioner default.

Documents Attached:

Exhibit A (Legal Description)
Exhibit B (Conceptual Development Plan)
Exhibit C (Recorded Subdivision)

Approved by the parties herein undersigned this _____ day of _____, 20__.

Petitioner

COMPLETE ONLY IF APPLICANT IS A LIMITED LIABILITY COMPANY

State of _____)
County of _____) :ss

On this _____ day of _____, 20__, personally appeared before me

_____ [name of person(s)], whose identity is personally known
to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the _____
_____ [title],
of _____ [name of LLC], limited liability company,
by authority of its members or its articles of organization, and he/she acknowledged to me that said
limited liability company executed the same.

Notary Public

APPROVED AS TO FORM:

Weber County Attorney

Date

APPROVED:

Chair, Weber County Commission

Date

ATTEST:

Weber County Clerk/Auditor

Exhibit A

All of Lot 1 and Lot 2 in the Little Bear Subdivision as recorded in the office of the Weber County Recorder's Office.

Parcel# 22-154-0001 and 22-154-0002

Exhibit B

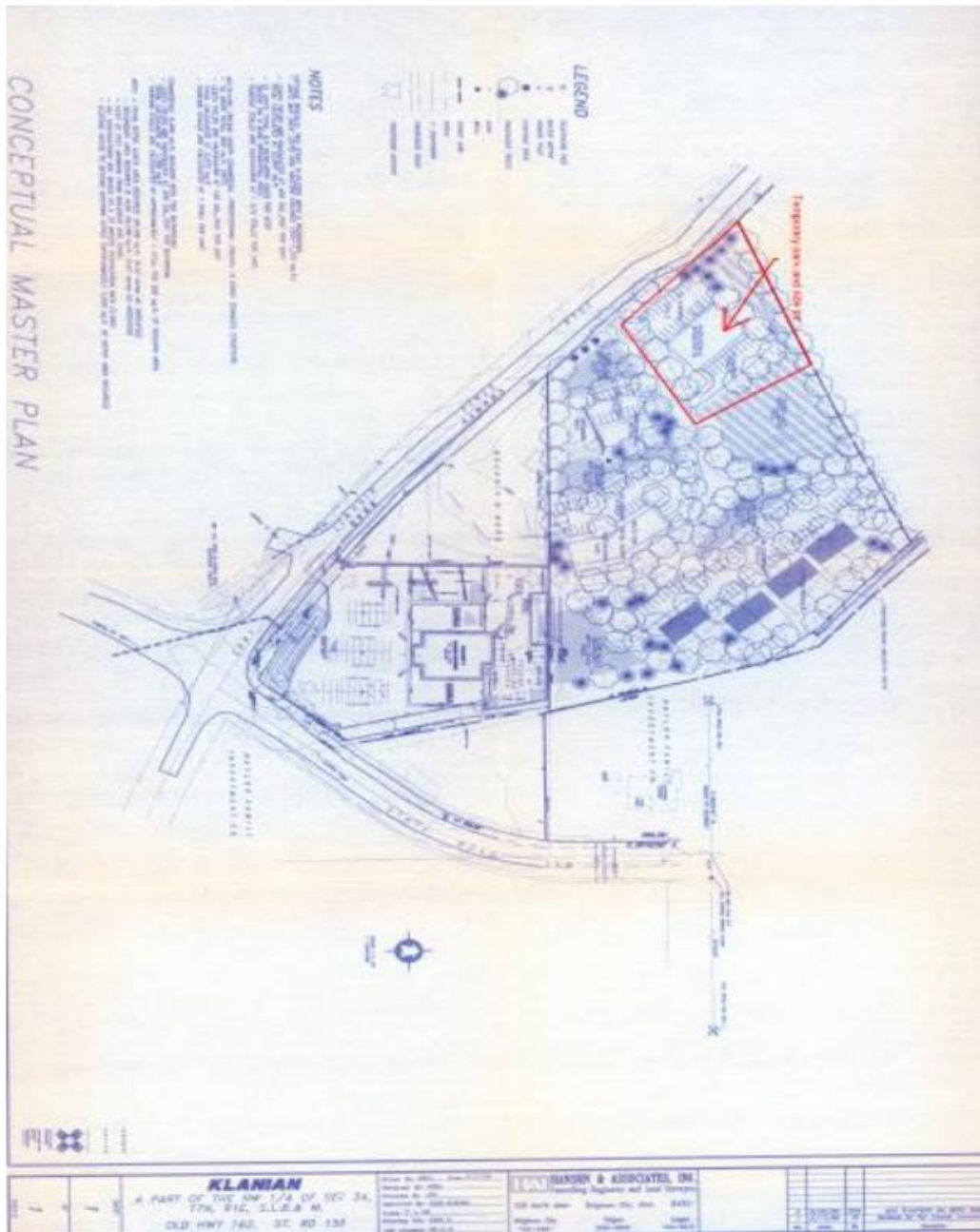


Exhibit C

LITTLE BEAR SUBDIVISION
A PART OF THE NW 1/4 OF SECTION 34,
17N, 10E, S1/2 & M,
MARCH, 1999

Table with 2 columns: ADDRESS, and 2 rows of lot numbers and acreages.

SCALE: 1" = 80'



NARRATIVE

The subject of this report was prepared by the... I have examined the final plat...

WERER - MORGAN HEALTH DEPARTMENT

I have examined the final plat and the conditions... I have examined the final plat...

HANSEN & ASSOCIATES, INC. Consulting Engineers and Land Surveyors

528 Main Street, Helena, Montana 59601

WERER COUNTY ATTORNEY

I have examined the final plat and the conditions... I have examined the final plat...

Spencer

WERER COUNTY SUPERVISOR

I have examined the final plat and the conditions... I have examined the final plat...

Spencer

WERER COUNTY ENGINEER

I have examined the final plat and the conditions... I have examined the final plat...

Spencer

WERER COUNTY COMMISSION ACCEPTANCE

This is to certify that the subdivision... I have examined the final plat...

Spencer

WERER COUNTY PLANNING COMMISSION

This is to certify that the subdivision... I have examined the final plat...

Spencer

BOUNDARY DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 17 NORTH, RANGE 10 EAST, 10TH MERIDIAN... ACCESS EASEMENT DESCRIPTION

DELTA ACCESS EASEMENT DESCRIPTION DELTA FOR LOTS 2 & 3



SURVEY CERTIFICATE

I, the undersigned, being a duly qualified and licensed Surveyor in Montana, have surveyed and laid out the above described lands...

OWNER'S DECLARATION

I, the undersigned owner of the above described lands, do hereby certify that the above described lands are mine, my heirs, assigns, or estate...

ACKNOWLEDGMENT

Before me, the undersigned authority, on this day personally appeared David J. Spitzer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.