

Memorandum Concerning Zoning Application for Valley Estates Subdivision Spanish Valley, San Juan County, Utah

To: Jens Nielsen, Deputy Attorney, San Juan County
From: Dana T Farmer, ECP Spanish Valley Development, LLC
Date: March 26, 2025

Issue

Whether legislative approvals are complete for the Valley Estates' subdivision zoning application ("Application") filed on November 11, 2023, for Overnight Accommodation Overlay as outlined in Chapter 10 of the Spanish Valley Ordinance. Specifically, whether the next step in the process is negotiation of the development agreement with staff and/or the planning commission.

Summary of Opinion

Because the Application sought a zone change for the entire subdivision and the agenda item for the County Commission included the entire subdivision, the entire subdivision received legislative approval for the Overnight Accommodation Overlay and the next step is the negotiation of a development agreement, an administrative process.

Background

The Application was submitted to the Planning Commission on December 14, 2023.

LEGISLATIVE ITEMS

5. Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, El Rancho Development, Mack McDonald, Chief Administrative Officer

The Commission voted to recommend the Application.

The first page of the Application explains the approval was for the entire subdivision, i.e. both parcels comprising the Valley Estates Subdivision (previously approved for residential flex zoning).

Shik Han, Elan Spanish Valley, LLC

Valley Estates Development

11/7/2023

It is requested that the following property be considered for the San Juan County, UT Overnight Accommodations Overlay. Below we have provided specific information regarding the layout of the structures, number of units and proposed primary uses, as well as a summary outlining how this development helps accomplish the objects set forth in the Spanish Valley General Plan.

Parcel IDs: 27S22E011800, 27S22E010002

Approximately 45.5 Acres

Residential Flex Zoning

On January 2, 2024, the County Commission considered the Application as agenda item 17,

17. Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, Valley Estates Development. Kristen Bushnell, Planning and Zoning Administrator

The Staff Report, attached here as Addendum A, noted that the Commission was voting to approve the first two steps of Chapter 10's zone change process – "The applicant is seeking to consider both step one and step two together."

SUMMARY

Valley Estates Development, Shik Han, is applying for the Spanish Valley Overnight Accommodations Overlay (SVOAO) for 45.5 acres of private property in Spanish Valley as described below:

Property:

Parcel 1: 27S22E011800

Parcel 2: 27S22E010002

Collectively 45.5 acres

Current Zoning:

These parcels are in the Residential Flex Planned Community District (RF). The rezone of the property was approved at the November 7, 2023 Board of Commissioners Meeting.

This application is a request to both apply the Spanish Valley Overnight Accommodations Overlay to these parcels and attach the approval to their Valley Estates Development plans. In the past the Planning Commission has approved Spanish Valley Overnight Accommodations Overlay applications in three steps. Step one applies the overlay to the property, and step two attaches it to the specific project or development, and step three is development agreement, project plan, or subdivision plats. The applicant is seeking to consider both step one and step two together.

This three-step consideration process is outlined in Chapter 10 of the Spanish Valley Development Ordinances, and has established somewhat of a precedent, and to be consistent in the way we handle these applications, the Planning Commission would consider this application in two steps rather than one.

The three-step process referenced in the Staff Report is described in Spanish Valley Ordinance, Ch. 10, § 3 Table 10-1, pp. 77-78,

Table 10-1

APPLICATION	IMPLEMENTATION	WHAT IS ADDRESSED?	APPROVAL LEVEL
Spanish Valley Overnight Accommodations Overlay (Rezone)	A modification to the official Zoning Map, indicating the area or areas where the specific overlay district applies	The physical location and extents of the proposed overlay zone	Legislative (Rezone and Zoning Map Change) <ul style="list-style-type: none"> • Planning Commission (recommendation to County Commission) • County Commission (adoption)
Application for Attaching Overnight Accommodations (OA) Overlay to a Specific Site, Property or Development	As a modification to the official Zoning Map and Zoning Ordinance, indicating the specific location of the application site and the terms upon which it will be developed	Land area to be rezoned and general terms upon which it is approved, including but not limited to the following: <ul style="list-style-type: none"> ▪ Proposed primary uses ▪ Number of rooms/units ▪ Design and development conditions ▪ Special conditions and requirements ▪ Other uses and development requirements 	Legislative (Rezone and Zoning Map Change) <ul style="list-style-type: none"> • Planning Commission (recommendation to County Commission) • County Commission (adoption)

p. 77.

Development Agreement, Project Plan and/or Subdivision Plat	As specific submittals and approvals specified in the applicable ordinances	Specific project development requirements for development approval.	Administrative Staff and/or Planning Commission approval according to the specific terms and ordinance obligations
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p. 78.

Each row in this table is a “step” referred to in the Staff Report. Thus, when that report says, “The applicant is seeking to consider both step one and step two together”, that means the business before the County Commission was a legislative approval of the items explained in the first two rows of Table 10-1, i.e. approval of the rezone the Application. The County Commission unanimously approved both.

With this background and record of approvals in mind, the dispute at the Planning Commission meeting on March 13, 2025, can be resolved. During that meeting, approval of the Applicant’s project plan was tabled so staff could resolve confusion over an issue raised by Commissioner Wilson.

According to Commissioner Wilson, when the County Commission voted on the Application on January 2, 2024, the approval was limited to Phase One of the Valley Estates Subdivision rather than the entire subdivision. This contention rests exclusively on an exhibit the Application - the plat for Phase One. According to Commissioner Wilson, the Applicant was only asking to rezone Phase One. This is incorrect.

As explained above, the Application seeks rezoning of both parcels comprising Valley Estates. The Phase One plat is demonstrative of how a portion of the development will proceed but does not control the Application's scope.

Moreover, the Staff Report presented to the County Commission on January 2, 2024, clearly explains the Commission was asked to approve the entire subdivision, and the discussion between staff and the Commission involved the subdivision in its entirety, not just a single phase.

Conclusion

The legislative process is complete. The Chapter 10's Overnight Accommodation Overlay applies to the entirety of the Valley Estates Subdivision. The next step is to negotiate the development agreement.

ADDENDUM A



STAFF REPORT

MEETING DATE: January 2, 2024

ITEM TITLE, PRESENTER: Consideration and Approval of Spanish Valley Overnight Accommodations Overlay Application, Valley Estates Development.
Kristen Bushnell, Planning and Zoning Administrator

RECOMMENDATION: Consideration and Approval

SUMMARY

Valley Estates Development, Shik Han, is applying for the Spanish Valley Overnight Accommodations Overlay (SVOAO) for 45.5 acres of private property in Spanish Valley as described below:

Property:

Parcel 1: 27S22E011800

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Collectively 45.5 acres

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This three-step consideration process is outlined in Chapter 10 of the Spanish Valley Development Ordinances, and has established somewhat of a precedent, and to be consistent in the way we handle these applications, the Planning Commission would consider this application in two steps rather than one.

HISTORY/PAST ACTION

At the October 26, 2023 Planning Commission Meeting the Planning Commission held a public hearing on this rezone application. The Planning Commission voted to recommend approval of the rezone application. The positive recommendation passed with 5 voting yea and 1 voting nay.

At the November 7, 2023 Board of County Commissioners Meeting, the County Commission approved the rezone request with a unanimous vote.

At the December 14, 2023 Planning Commission Meeting the Planning Commission discussed the application in accordance with our ordinances. The Planning Commission voted to recommend the approval to apply an Overnight Accommodation Overlay on the property. The positive recommendation passed with 6 voting yea and 1 voting nay.

Overnight Accommodations Overlay Application

Shik Han, Elan Spanish Valley, LLC

Valley Estates Development

11/7/2023

It is requested that the following property be considered for the San Juan County, UT Overnight Accommodations Overlay. Below we have provided specific information regarding the layout of the structures, number of units and proposed primary uses, as well as a summary outlining how this development helps accomplish the objects set forth in the Spanish Valley General Plan.

Parcel IDs: 27S22E011800, 27S22E010002

Approximately 45.5 Acres

Residential Flex Zoning



Spanish Valley OAO Mixed Use Community

San Juan County, Utah

Shik Han - Applicant

Valley Estates Development

This document shall address the Spanish Valley Overnight Accommodations Overlay District Requirements as requested by the SJC Staff, “Section 5 Site Master Plan Required”. In addition to the Site Plan, the following commentary shall provide rationale for OAO approval and vesting the project with overnight accommodations being a permitted use If project is approved for Overnight Accommodations consideration in the November 17th, 2023 San Juan County Planning Commission Meeting.

Overnight Accommodations Overlay Checklist

- ☒ Proposed Primary Uses
- ☒ Number of rooms/units
- ☒ Design and development conditions
- ☒ Special conditions and requirements (None)
- ☒ Other uses and development requirements
- ☒ Statement of how the proposed development provides benefit to Spanish Valley
- ☒ Map and description of sensitive lands (None)
- ☒ Site planning features and how they will be addressed
- ☒ Description of beneficial public services and goods the project provides
- ☒ Documentation of utilities and how infrastructure designs will conserve resources
- ☒ Narrative and graphic presentation of the development
- ☒ Traffic Study
- ☒ Site Plan (Attachment)
- ☒ Statement of how the proposed development is consistent with the area plan
- ☒ Other relevant information as requested by the County.

Location and Intended Design

The proposed project is in San Juan County, Utah approximately 45.5 acres located between SITLA master community plan and Balanced Rock development. The parcel ID is 27S22E011800 and 27S22E010002. The parcel is currently zoned Residential Flex. The San Juan County Spanish Valley Area Plan (SJCSVAP) provides guidelines and principles to be considered for all development activities in the area.

In addition to industry best practices, the SJCVAP provides some key criteria including the need for “residential and destinations” that “transcend preconceived notions of what new development should look like and how it can fit with the surroundings”. The proposed development uses this guidance to create a design that adds intentionality and resource preservation to the community.

This includes:

1. The residential type and design incorporated in the attached site plan is an approved product as outlined in the SJCSVAP plan. This includes a “Wide range of residential uses and types to meet the full range of socio-economic and life-cycle needs” (SJCSVAP, 2018, pg. 30-33).
2. The proposed location of the development is in harmony with the surrounding land uses. In this location, overnight accommodation will not disrupt or negatively harm adjacent properties but will rather create a community center staying at the adjacent Balanced Rock Development to the north, and the SITLA Development West and South. The design also includes designated housing to support growth of the area as referenced in the Area Plan.
3. The residential use product set forth in the site plan conforms to the examples set forth in the Area Plan (SJCSVAP, 2018, pg. 30).
4. The economic benefits of overnight accommodations will provide valuable revenue for the county to aid their limited resources and manpower. This growth will provide resources for infrastructure and a larger variety of services to attract visitors and permanent residents to further the responsible growth of the county. (SJC General Plan, 2018, pg. 140)

Proposed Usages and Densities

The project proposes 180 residential units with overnight accommodation. This mirrors the Spanish Valley Plan for Flex Development Areas by “incorporating a flexible development approach that allows a range...specialty residential uses” (SJCSVAP, 2018, pg. 30). Sample of Housing Types show in the Spanish Valley Area Plan (SJCSVAP, 2018, pg. 30-31) The project will mirror this style and spirit.



Economics

As part of their 10 year vision, the county is prioritizing Diversification and Business Expansion (SJC General Plan, 2018, pg. 29). In an effort to generate more, higher paying jobs in the area, and in order to support tourism expansion, the area will need its own service providers such as restaurants, shops, and accommodations for visitors.

In addition to the sales and income taxes generated by these businesses, local transient room tax will also be created. It is estimated that gross revenue from this tax alone could be \$297,481 a year as of 2018. (SJC General Plan, 2018, pg. 63). The San Juan County General Plan states that “Tourism can become one of the county’s primary industries because it imports dollars.” And “The County’s natural amenities can be tourism assets if managed properly” (SJC General Plan, 2018, pg. 64). As discussed in the State’s Travel and Tourism Industry Report, “Domestic and international travelers and tourists visit Utah year-round to participate in a wide range of activities. Since 2015, visitor spending in Utah’s economy has increased by an average 5.1% annually. In 2019, travelers directly spent a record \$10.06 billion in Utah, generating an estimated 141,500 total Utah jobs, and \$1.34 billion in state and local tax revenue. Utah’s national parks and state parks experienced record visitation in 2019 as well.” (The State of Utah’s Travel and Tourism Industry, 2019, Cover Page).

The proposed site plan avoids the “Corporate Hotel or Motel” style and instead presents a thoughtful and respectful design that not only incorporates the area’s rich heritage and culture, but also provides economic drivers and revenue sources for the county.

By using intentional colors and designs, the project will mirror the environment around it and provide a safe and comfortable place for residents to enjoy the Spanish Valley area.

Ecological Guidelines and Concerns

Traffic and Road Design:

Safe and Efficient Traffic flow will be a priority to the project. Concept Study for traffic studies, counts, and design criteria applicable to integrate with future SITLA Development. The project will work closely with both Balance Rock and SITLA.

Sensitive Lands:

The project does not contain any sensitive lands.

Energy:

The project designs will reduce Heating, Cooling, and Lighting loads through Climate-Responsive Design and Conservation Practices such as daylighting, the use of photovoltaic panels, and smart controls. Buildings will utilize energy efficient insulation and exteriors to meet or exceed federally approved energy modeling standards. Electric vehicle charge stations may be provided in a thoughtful and intentional manner.

Dark Skies:

Exterior Lighting shall follow the San Juan County Dark Skies requirements. Interior lighting fixtures visible from the property boundaries shall have fixtures directed to the interior of rooms to minimize light pollution.

Water Conservation:

The project will use a few water conservation strategies.

These include:

1. System Optimization (efficient water system design, leak detection, and repair)
2. Water-efficient plumbing fixtures (low-flow urinals, toilets, sinks and showerheads as well as water-efficient dishwashers and washing machines).
3. Irrigation and Landscape Methods beyond the requirements of the Spanish Valley Water Efficient Landscape Requirements. (water efficient,-low evaporation irrigation systems, smart irrigation control systems, limited turf in landscape design, water-efficient scheduling practices, and Xeriscape)
4. Water recycling or reuse measures (Water Catchment, low impact HVAC systems, and gray water reuse where possible and approved by the Health Department)
5. Bio-Retention and Bio-Infiltration systems to manage storm runoff.

Site Planning Features

Using industry recognized best-practices, the site plan will implement modern techniques and designs to promote a seamless transition between the site and its surroundings. One of the biggest features being implemented in the project's plans is foresight. The project can be ready to meet the needs of the County revenue and future residential usage to the area. This includes intentional road layouts and setbacks which future-proof the Spanish Valley corridor. Being thoughtful of future weather events, the project can utilize water retention and detention methods to limit the storm water runoff to historic levels. Lastly, by incorporating the surrounding colors, lines, and layouts of the red rock, the project will limit its visual impact and make for a comfortable addition to the area.

The following project statistics are provided per the San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance.

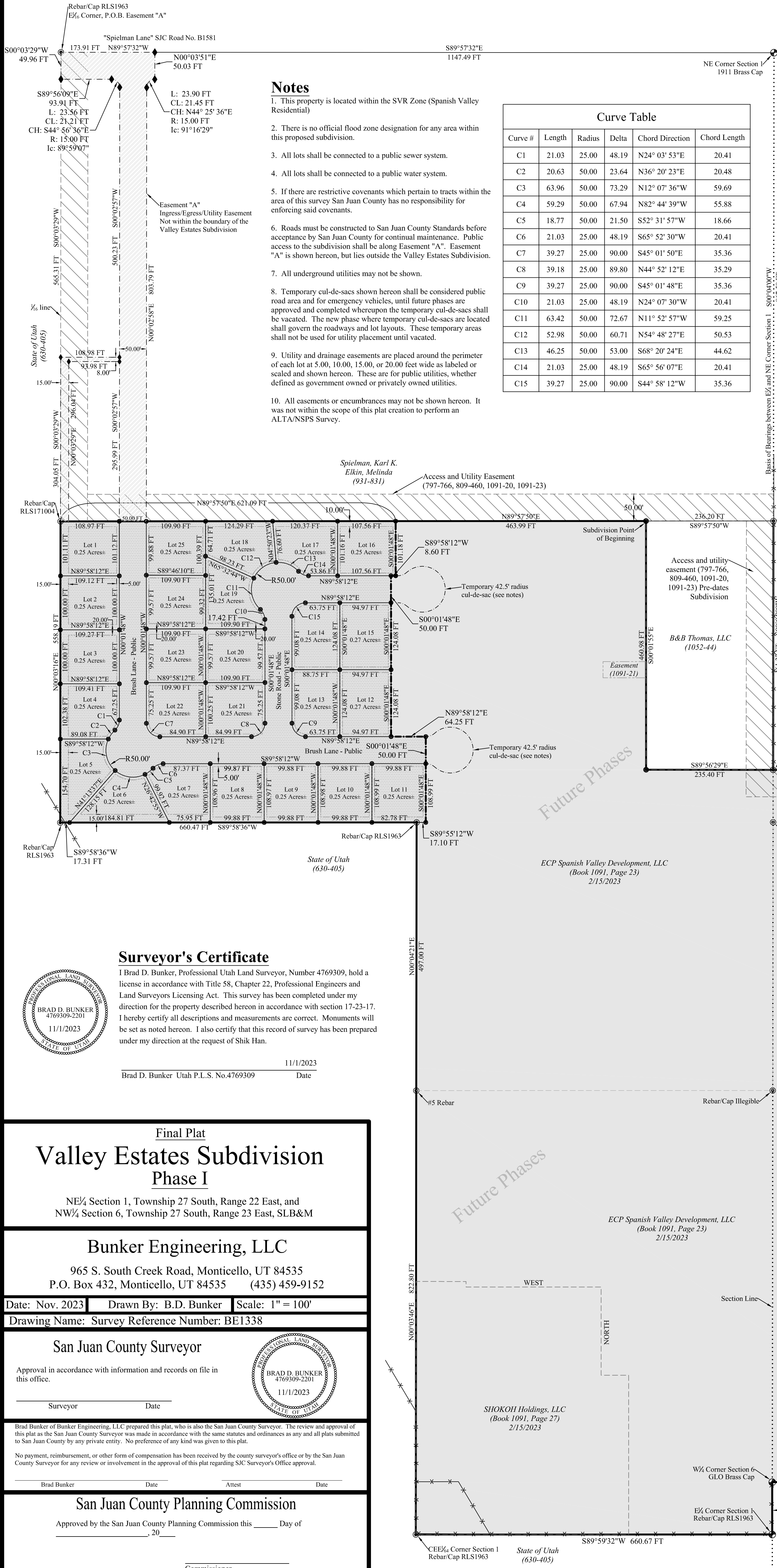
Gross acreage: approx. 45.5 Acres

Residential – 4 Units per Acre

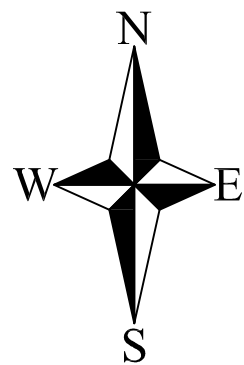
Total overnight accommodation units: 180 Units

Overnight accommodations unit density expressed as a per-acre ratio: 4 Units per Acre

The project is adjacent to future public open-space.



Final Plat
Valley Estates
Subdivision
Phase I



NE¼ Section 1, Township 27 South, Range 22 East, SLB&M and
NW¼ Section 6, Township 27 South, Range 23 East, SLB&M

Area within Subdivision: 46.32 Acres±
Area within Phase I: 8.11 Acres±

Narrative

The purpose of this survey was to identify the bounds of the tracts of land as shown hereon and prepare a subdivision plat.
The basis of bearings for this survey is N00°04'00"E between the E¼ corner and the northeast corner of Section 1, Township 27 South, Range 22 East, SLB&M. This is in accordance with the basis of bearings of a previous survey which is filed in the San Juan County Surveyor's Office as "Record of Survey No. 948"

Subdivision Boundary Descriptions

"As Surveyed"
A tract of land within the NE¼ of Section 1, Township 27 South, Range 22 East and the NW¼ of Section 6, Township 27 South, Range 23 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:
Beginning at a point located S00°04'00"W 867.58 feet along the section line and S89°57'50"W 236.20 feet from the northeast corner of said Section 1; thence S00°01'55"E 460.98 feet, thence S89°56'29"E 235.40 feet, thence S89°56'29"E 390.57 feet, thence S00°00'15"W 552.75 feet, thence S00°00'46"W 767.62 feet, thence N89°53'41"W 391.90 feet to the W¼ corner of said Section 6, thence S00°04'00"W 97.04 feet to the E¼ corner of said Section 1, thence S89°59'32"W 660.67 feet to the CEE¼ corner, thence N00°03'46"E 822.80 feet, thence N0°04'21"E 497.00 feet, thence S89°58'36"W 660.47 feet, thence N00°03'16"E 558.19 feet, thence N89°57'50"E 1085.08 feet to the point of beginning, containing 46.32 acres more or less.

Phase I Boundary

"As Surveyed"
A tract of land within the NE¼ of Section 1, Township 27 South, Range 22 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:
Beginning at a point located S00°04'00"W 867.58 feet along the section line and S89°57'50"W 700.19 feet along the north line of the ECP Spanish Valley Development, LLC Tract as recorded in Book 1091 Page 23; thence S00°01'48"E 101.18 feet, thence S89°58'12"W 8.60 feet, thence S00°01'48"E 298.15 feet, thence N89°58'12"E 64.25 feet, thence S00°01'48"E 158.99 feet, thence S89°55'12"W 17.10 feet, thence S89°58'36"W 660.47 feet, thence N00°03'16"E 558.19 feet, thence N89°57'50"E 621.09 feet to the point of beginning, containing 8.11 acres more or less.

Easement "A" Description

An easement within the NE¼ of Section 1, Township 27 South, Range 22 East, SLB&M, County of San Juan, State of Utah, more particularly described as follows:
Beginning at the E¼ corner on the north line of said Section 1, said point is also the northwest corner of the Spielman/Elkin Tract as recorded in book 931 page 831 and is located N89°57'32"W 1321.40 feet from the northeast corner of said Section 1; thence S00°03'29"W 49.96 feet along the 1/8 line, thence S89°56'09"E 93.91 feet to the beginning of a 15.00 foot radius curve to the right whose chord is 21.21 feet and bears S44°56'36"E, thence along said curve 23.56 feet, thence S00°02'57"W 500.23 feet, thence West 108.98 feet to the 1/8 line, thence S00°03'29"W 304.05 feet to the northwest corner of the Valley Estates Subdivision, thence N89°57'50"E 15.00 feet along the north line of said Subdivision, thence N00°03'29"E 296.04 feet, thence East 93.98 feet, thence S00°02'57"W 295.99 feet to the north line of said Valley Estates Subdivision, thence N89°57'50"E 50.00 feet along the north line of said Valley Estates Subdivision, thence N00°02'58"E 803.79 feet to the beginning of a 15.00 foot radius curve to the right whose chord is 21.45 feet and bears N44°25'36"E, thence along said curve 23.90 feet, thence N00°03'51"E 50.03 feet to the section line, thence N89°57'32"W 173.91 feet to the point of beginning.

Surveyor's Certificate

I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described hereon in accordance with section 17-23-17. I hereby certify all descriptions and measurements are correct. Monuments will be set as noted hereon. I also certify that this record of survey has been prepared under my direction at the request of Shik Han.

Brad D. Bunker Utah P.L.S. No.4769309
11/1/2023 Date

Final Plat
Valley Estates Subdivision
Phase I

NE¼ Section 1, Township 27 South, Range 22 East, and
NW¼ Section 6, Township 27 South, Range 23 East, SLB&M

Bunker Engineering, LLC

965 S. South Creek Road, Monticello, UT 84535
P.O. Box 432, Monticello, UT 84535 (435) 459-9152

Date: Nov. 2023 Drawn By: B.D. Bunker Scale: 1" = 100'
Drawing Name: Survey Reference Number: BE1338

San Juan County Surveyor

Approval in accordance with information and records on file in this office.

Surveyor Date

Brad Bunker of Bunker Engineering, LLC prepared this plat, who is also the San Juan County Surveyor. The review and approval of this plat as the San Juan County Surveyor was made in accordance with the same statutes and ordinances as any and all plats submitted to San Juan County by any private entity. No preference of any kind was given to this plat.

No payment, reimbursement, or other form of compensation has been received by the county surveyor's office or by the San Juan County Surveyor for any review or involvement in the approval of this plat regarding SIC Surveyor's Office approval.

Brad Bunker Date Attest Date

San Juan County Planning Commission

Approved by the San Juan County Planning Commission this ____ Day of ____ 20__

Commissioner

Health Department

Approved this ____ Day of ____ 20__

Health Official

Approval as to Form

Approved this ____ Day of ____ 20__

Attorney

San Juan County Commission

The subdivision hereon was presented to the San Juan County Commission this ____ day of ____ 20__, and was accepted and approved.

Commissioner

Attest

San Juan County Road Department

Approved this ____ Day of ____ 20__

Road Department

Owners Dedication

Know all men by these presents that we, the undersigned owners of the above described tracts of land, having caused the same to be subdivided into lots and streets hereafter to be known as the Valley Estates Subdivision, Phase I and do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use. In witness whereof I have hereunto set my hand as dated at the signature below.

Elan Spanish Valley, LLC,
a Utah limited liability company
By: Its Manager, Elan Capital Partners, LLC, a Utah limited liability company

By: Kevin C. Bradburn, Manager Date:

SHOKOH Holdings, LLC

By: Michael I. Dibble, Member of Shokoh Holdings, LLC Date:

By: Troy L. Walker, Member of Shokoh Holdings, LLC Date:

Acknowledgement (for Kevin C. Bradburn)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__ Residing in ____ County Notary Public

Acknowledgement (for Troy L. Walker)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__ Residing in ____ County Notary Public

Acknowledgement (for Michael I. Dibble)

State of Utah, County of San Juan, on the ____ Day of ____ 20__ personally appeared before me ____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.

My commission expires ____ 20__ Residing in ____ County Notary Public