

# **SOUTH JORDAN CITY CITY COUNCIL REPORT**

**Meeting Date: 2/1/22**

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**Application:** HARVEST POINTE WEST LAND USE AMENDMENT AND REZONE  
Amending the land use designation from Economic Center to Mixed Use and  
rezoning from Commercial Community (C-C) to Multiple Family Residential  
Planned Development (R-M-PD).

**Address:** 3773 W South Jordan Parkway

**File No:** PLZBA202000247

**Applicant:** Peterson Development

**Submitted By:** David Mann, Planner II  
Jared Francis, Senior Engineer

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**Staff Recommendation:** deny the proposed development agreement, land use amendment and rezone.

**Alternative to Approve (motion ready):**

Based on the information the Applicant presented to the City Council during the public hearing, I move that the City Council **approve** the proposed **development agreement**.

Based on the information the Applicant presented to the City Council during the public hearing, I move that the City Council **approve** the proposed **land use amendment from Economic Center to Mixed Use**.

Based on the information the Applicant presented to the City Council during the public hearing, I move that the City Council **approve** the proposed **rezone from C-C to R-M-PD**.

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## **STANDARD OF APPROVAL**

Land Use Amendment: Upon satisfactory submittal of an application for a land use amendment, the Planning Department shall schedule a public hearing before the Planning Commission regarding the proposed land use amendment. Notice of the public hearing shall be provided in accordance with [S]ection 17.04.060 of [the City Code]. The Planning Commission shall receive public comment at the public hearing regarding the proposed land use amendment and make a recommendation on the amendment to the City Council.

(City Code § 17.12.050)

Planned Development Floating Zone Purpose: The purpose of the Planned Development Floating Zone (PD) is to allow for flexibility in the application of zoning regulations and development provisions of this title to advance a public interest through prescriptive

requirements of a development plan and development agreement approved by the City Council. The PD may be applied to specific geographical areas ("districts") in circumstances that address a unique situation, confer a substantial benefit to the City, or incorporate design elements or a mixture of uses that represent a significant improvement in quality over what could otherwise be accomplished by standard zoning and development provisions. Such circumstances may include, but are not limited to: improvements in open space and amenities, environmental and resource preservation, tree and vegetation protection, slope accommodations, improved infrastructure efficiency, exceptional and innovative site or building design, increased public benefits, and complementary integrated land uses. The City Council shall consider the purpose of the base zone and the impacts on and from surrounding properties when approving a PD District.

(City Code § 17.130.050.010)

**Rezone Application:** The rezoning of property may not be considered if the proposed zoning does not conform to the [G]eneral [P]lan. The following guidelines shall be considered in the rezoning of parcels:

- A. The parcel to be rezoned meets the minimum area requirements of the proposed zone or if the parcel, when rezoned, will contribute to a zone area which meets the minimum area requirements of the zone.
- B. The parcel to be rezoned can accommodate the requirements of the proposed zone.
- C. The rezoning will not impair the development potential of the parcel or neighboring properties.

(City Code § 17.22.020)

**BACKGROUND:**

A description of the Property is as follows:

<b>ACREAGE:</b>	Approximately 3.16 acres
<b>CURRENT ZONE:</b>	C-C
<b>CURRENT USE:</b>	Vacant
<b>FUTURE LAND USE PLAN:</b>	Economic Center

**NEIGHBORING LAND USE DESIGNATIONS, ZONING, EXISTING USES:**

North—Economic Center, Commercial-Community (C-C), Commercial Retail  
South—Stable Neighborhood, Residential-Multiple 8 units/acre (R-M-8), Rushton Meadows  
East—Economic Center, Commercial-Community (C-C), Commercial Retail  
West—Open Space, Open Space-Park (OS-P), Rushton Meadows City Park

Peterson Development submitted an application to create a planned development floating zone. The Applicant initially proposed the construction of an office condominium on the north portion of the subject property and 28 townhouses on the south portion. The subject property

is part of a commercial subdivision that was originally anchored by an Albertsons grocery store. The businesses in this development have changed over the years and the subject property has never been developed. The Applicant has expressed to Staff the challenges they have experienced in attracting a commercial business to locate on the subject property due to poor street frontage. Staff presented the Applicant's concepts, which included a townhouse option and a residential condominium option, to the City Council on September 15, 2020 during a work session to get initial feedback and direction from the Council. Staff sent the Applicant a letter outlining the items that needed to be addressed before any public hearings would be scheduled. The Applicant has also conducted several neighborhood meetings to discuss their concepts and listen to concerns made by the surrounding property owners.

On May 11, 2021, the Planning Commission reviewed the subject application during a public hearing. At that time, Staff asserted that the proposed concept was not in line with directions received from the City Council regarding similar projects. The Planning Commission evaluated potential issues with parking, traffic, and landscape design and voted to table the item in order to give the Applicant more time to improve the proposed concept. After a few discussions with Staff, the Applicant provided an updated concept plan that removed the office use and incorporated better design principles that would benefit the project and lessen potential impacts to existing residents and businesses. The Planning Commission held another public hearing on October 26, 2021 to review and make a recommendation on the proposal. The Commission voted 5-0 to recommend that the City Council deny this application.

#### **ANALYSIS:**

After meeting with the City Council Staff provided a letter to the Applicant that included topics such as density, traffic, parking, landscaping, and architecture. The Applicant's townhouse proposal would have a density close to 11 units per acre if calculated using only the undeveloped area of the parcel, or 8.8 units per acres if calculated using the entire parcel, which is denser than the six to eight units per acre density that the City Council has typically approved for similar projects. It would also be denser than the Rushton Meadows subdivision, which is approximately eight units per acre for all phases of that development (including single family and townhome phases).

The Applicant responded to Staff's concern by stating that in order to make the project viable and keep the prices down to qualify for workforce housing, the proposed density is necessary. The Applicant provided a traffic study in order to demonstrate the reduction of car trips based on their concept when compared to developing retail on the subject property. The Applicant also submitted a revised concept that was presented at the October 26 Planning Commission meeting that further addressed Staff's comments regarding the design of the site. Even though the overall layout of the buildings and parking areas were improved, the proposed number of units did not change and the surrounding residents are still opposed to the residential use at this location. The attached housing development located south of the Rushton Meadows single family subdivisions has created traffic and parking issues that residents have contended would only be compounded with the proposed project.

The development agreement that the Applicant has proposed includes, among others, the following terms:

- Overall density will not exceed 28 residential units.
- The developer will install a flashing crosswalk connecting Rushton Meadows Park with the project, and other reasonable traffic calming measures long the east side of the Harvest Pointe Drive abutting the project.
- The project will be developed according to the Concept Plan.
- The project's architecture will comply with residential architectural requirements that were once standard in the City Code, but that the City Council recently removed to comply with a change in state law.
- Privacy windows will be installed on the third floor, side elevation of units that abut the Rushton Meadows Subdivision.
- The developer will work with adjacent residents in the Rushton Meadows Subdivision to thoughtfully place landscaping between the subdivisions, with the goal of creating addition privacy.
- The project's CC&Rs will online parking standards and a parking enforcement plan.

#### **STAFF FINDINGS, CONCLUSIONS & RECOMMENDATIONS:**

##### **Findings:**

- The Planning Commission voted 5-0 to recommend that the City Council deny this application. Reasons commissioners voted to recommend denial included the number of units (density) and desire to keep density approvals throughout the City consistent, height of the buildings, changing the use, amending the General Plan, using the PD Floating Zone on a small parcel.
- Staff finds the proposal does not sufficiently address all of Staff's concerns or meet the intent of the PD Floating Zone (*See City Code § 17.130.050.010*).
- The subject parcel has been designated for a commercial land use for many years, and remained a commercial land use with the latest reiteration of the future land use map that the City Council recently adopted in 2021.
- Staff believes that adding housing to existing shopping centers should be part of a larger redevelopment strategy rather than just adding housing to vacant parcels or empty space within shopping centers.

##### **Conclusion:**

Based on the findings listed above, Staff concludes that the proposed rezone does not meet the purpose of the Planned Development Floating Zone and should remain a commercial use.

##### **Recommendation:**

Deny the application as presented.



**ALTERNATIVES:**

- Approve the application.
- Propose modification(s) to the application.
- Schedule the application for a decision at some future date.

**SUPPORT MATERIALS:**

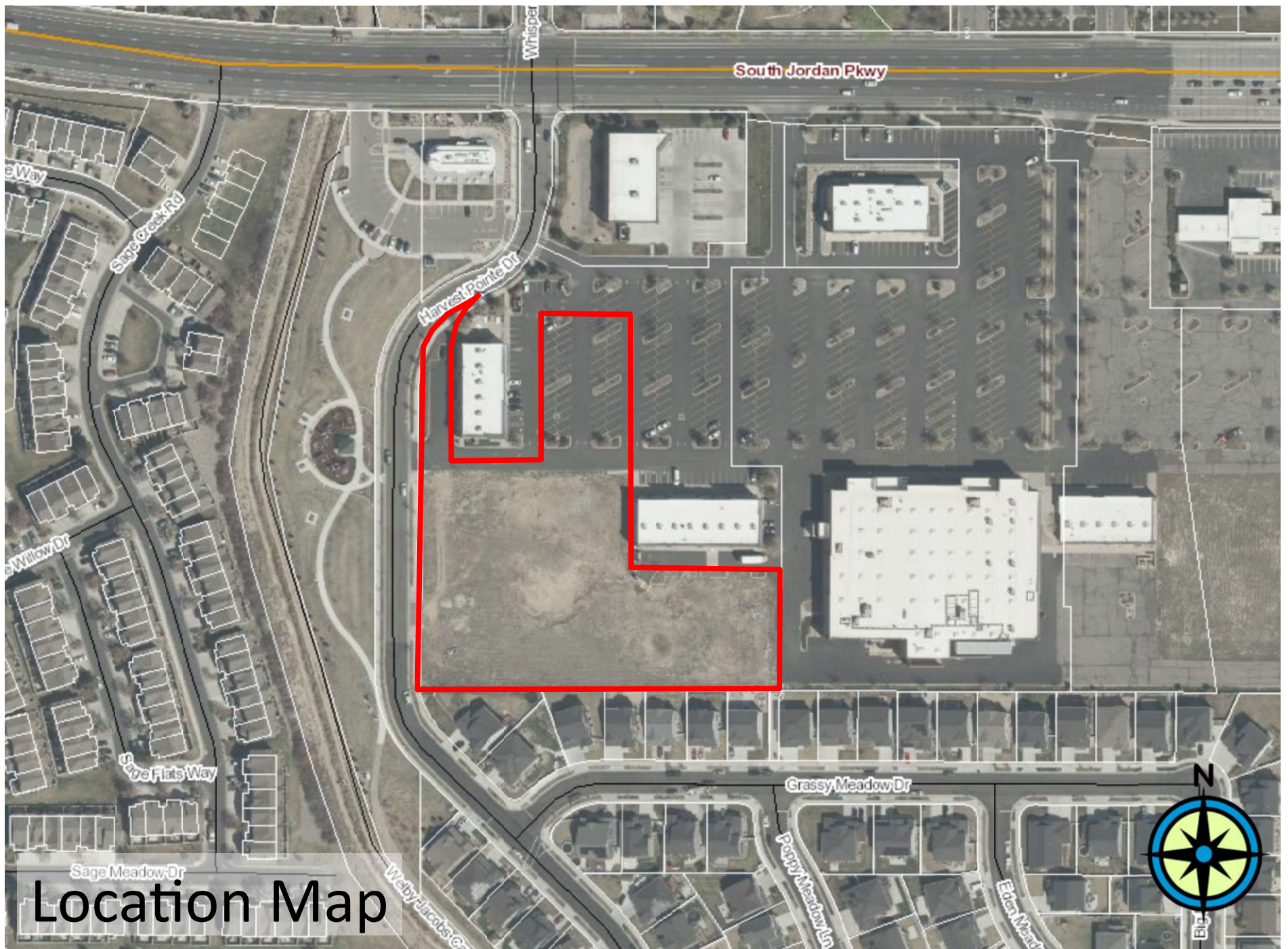
- Location Map
- Zoning Map
- Land Use Map
- Staff letter to Applicant with original concept plan
- Applicant letter to Staff with revised concept plan
- Minutes from 10/26/21 Planning Commission Meeting
- Resolution R2022-03
- Resolution R2022-04
- Ordinance 2022-01-Z

**DEPARTMENT APPROVAL:**

  
Steven Schaefermeyer (Jan 26, 2022 14:33 MST)

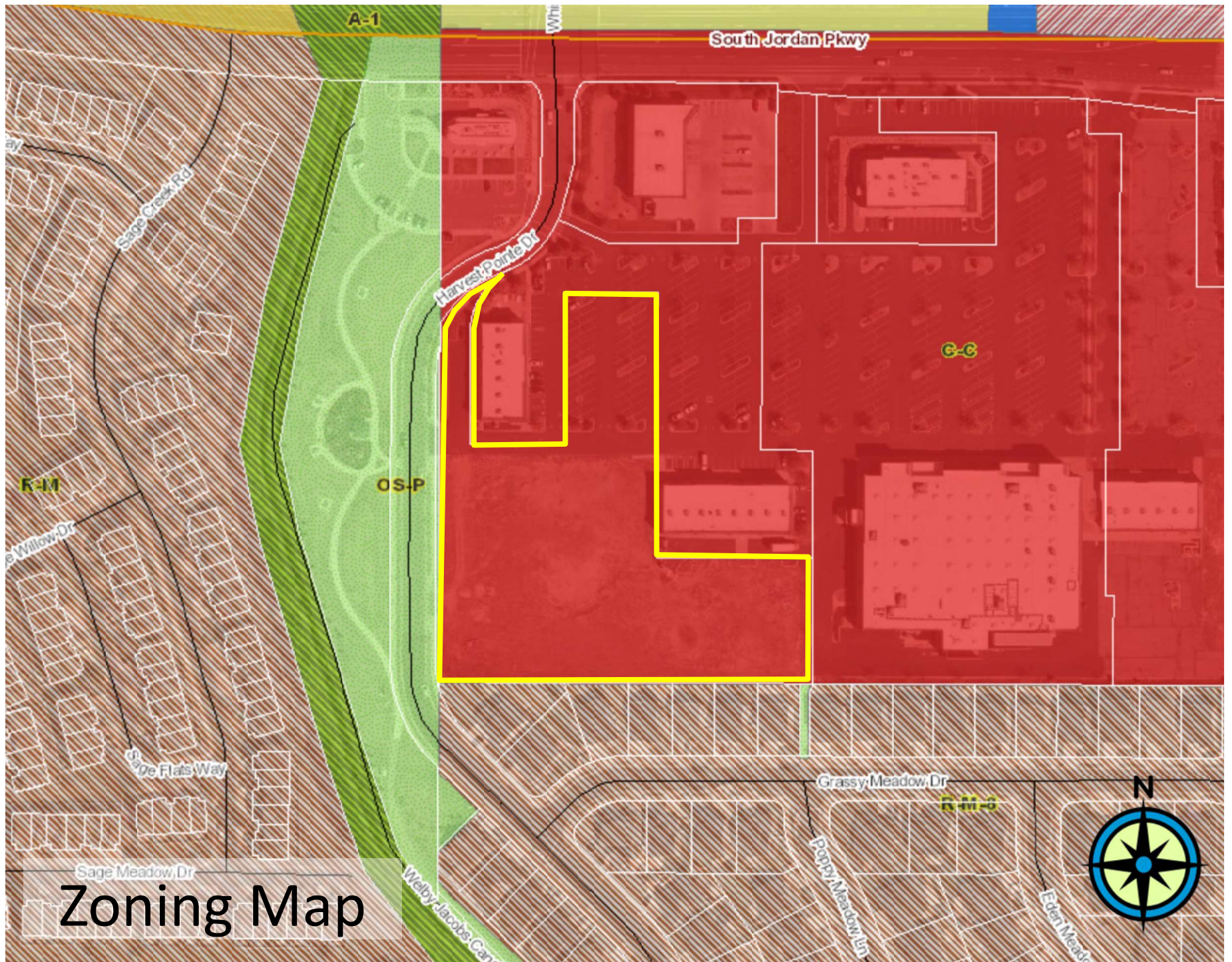
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Steven Schaefermeyer  
Director of Planning  
Planning Department

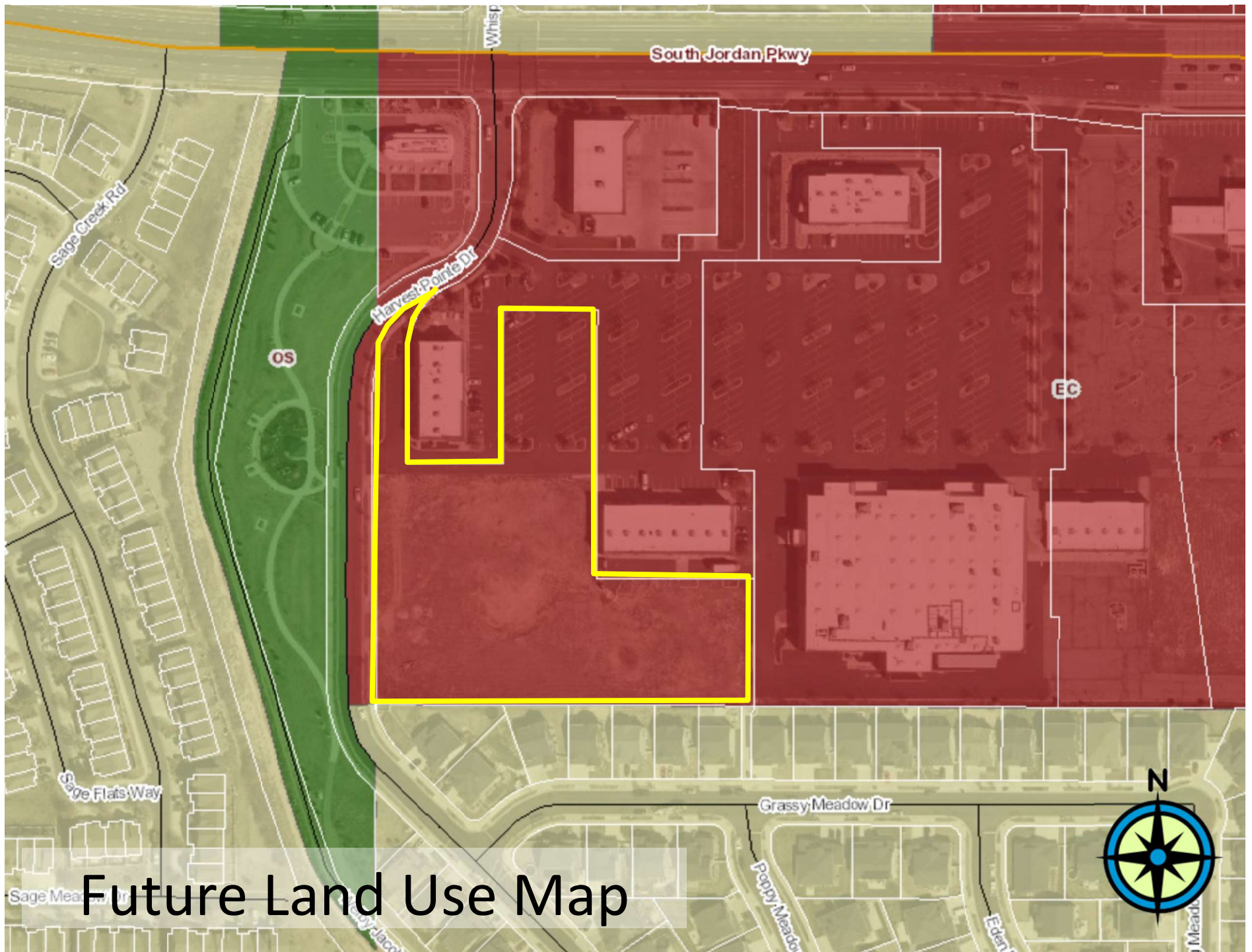


Location Map









Dawn R. Ramsey, *Mayor*  
Patrick Harris, *Council Member*  
Bradley G. Marlor, *Council Member*  
Donald J. Shelton, *Council Member*  
Tamara Zander, *Council Member*  
Jason T. McGuire, *Council Member*



PH: 801.446-HELP @SouthJordanUT

October 29, 2020

Attn:  
Jeff Seaman  
Harvest Pointe LLC  
225 S 200 E #200  
Salt Lake City, UT 84111

RE: South Jordan City Staff Comments on Harvest Pointe West Concept 3 (PLZBA202000247)

Dear Mr. Seaman:

This letter provides initial comments based on your latest submission (attached) and information from prior submissions. Because of the preliminary and conceptual nature of your submissions, City staff cannot provide a complete set of comments at this time. A complete set of comments will be necessary before drafting a development agreement. City staff will likely have additional comments as you respond to these initial comments with more information or develop your concept further.

We anticipate that you may have questions or concerns about some of these comments. Please do not hesitate to call so that we discuss these comments.

**Planned Development (PD) Floating Zone:** Approval of a PD project is justified if there are “circumstances that address a unique situation, confer a substantial benefit to the City, or incorporate design elements or a mixture of uses that represent a significant improvement in quality over what could otherwise be accomplished by standard zoning and development provisions.” (South Jordan City Municipal Code § 17.130.050.010.) In reviewing applications for PD projects, staff looks for specific justification in the application and plans that demonstrate that there are exceptional reasons to recommend approval of the project. These reasons include solving unique circumstances, superior designs that go beyond what is required by standard zoning regulations, community support and moderated impact on surrounding properties.

- Review the requirements of the PD Floating Zone and provide any additional narratives, plans or justifications that are missing in your current submission (some of those requirements are highlighted in these initial staff comments). If you believe you have already provided all that is required, please combine your various submissions into one document with the updated concept plan you wish to pursue.

- If approved, the base zone for the townhome portion of the project should be the RM Zone.
  - Review the requirements of the RM Zone (*see* City Code § 17.40) and identify specific requirements that you believe need to be modified by the development agreement. The default requirements of the RM Zone will be imposed at site plan approval unless specifically modified by the development agreement.

**Density:** This City Council has consistently directed staff that it will not approve residential projects with densities greater than six to eight units per acre.

- City staff calculated the density of the currently proposed 28-unit project as 8.86 units per acre if you include the entire 3.16 acre parcel, and 10.89 units per acre if you include only the portion of the property that is vacant and proposed for development (approximately 2.57 acres).
- We believe the second density calculation of 10.89 is the more accurate calculation because it excludes portions of the parcel not reasonably related to the townhome project.
  - Please reduce the number of units to be within the City Council's expected density OR provide justification why this project should be allowed a higher density than has been approved for other similar recent projects.
- Once the density issue is addressed we can begin discussing possible RDA housing dollars being used for the project and how many units will be deed restricted for workforce housing.

**Layout:**

- Current layout creates no street presence along Harvest Pointe Drive. Please consider turning the townhomes so they face east and west, with alleys that run north and south. Such a configuration could eliminate the southernmost entrance from Harvest Pointe Drive and provide a wider landscape buffer for neighbors by eliminating the south alley. City staff recognizes that although such changes may create their own unique set of design challenges, including circulation or fire access, the concept is worth exploring.
  - Label on the concept the width of the paseo between the townhomes along with a delineation of shared vs. private space.

**Architecture:**

- Provide elevations or renderings of the two-story townhomes.
- Provide a material board or some other explanation of the proposed materials and colors.
- Label the townhomes on the concept plan as two story or three story.
- Please identify any design elements, architectural features or materials that make the design of the townhomes and the commercial building superior to what is required by standard zoning requirements.

**Landscaping and Open Space:**

- Provide a more detailed conceptual landscape plan or typical landscape detail for a smaller area of the project that will be used throughout the project.
- Provide the square footage of the central open space area.

- The trees between garages could be a great way to soften the alleys. Usually townhome projects, however, put air conditioning units between garages where the trees are currently shown.
  - Are the trees shown between garages realistic and what methods will be utilized to ensure they remain healthy? If the trees are not realistic, please remove them from the rendering.
  - Where will the air conditioning units be placed if not between garages?
- The current C-C Zone applied to the property requires a ten-foot landscape buffer between the commercial uses and adjacent residential. (*See City Code § 17.60.020. J.1.a.*)
  - Although the concept is for a residential use, please provide the same landscape buffer the neighbors would have gotten with a commercial use by increasing the landscape area to at least ten feet along the south side of the project OR provide sufficient justification why a smaller buffer is warranted.
  - If you believe a smaller buffer is warranted, provide what tree species will be planted to enhance privacy and how that species will remain healthy in the smaller area provided.

**Parking and Circulation:**

- Contrary to some comments made in your meeting with the residents, the City is willing to consider solutions to mitigate the concerns the residents have with traffic, safety and parking along Harvest Pointe Drive.
  - City staff is exploring possible solutions that we may be able to partner with you in solving the issues on Harvest Pointe Drive. Once we have determined the feasibility of these solutions we will update you.
  - Solutions include providing on-street parallel parking, striping a pedestrian cross walk across Harvest Pointe Drive together with a flashing pedestrian sign, and a right turn pocket at the intersection with South Jordan Parkway.
- Alleys must be a minimum of 24 feet wide to provide proper access for fire protection.
- Provide separate parking calculations for the commercial building and the townhomes and show on the concept plans the parking stalls dedicated to each use.
- Please show on the concept plan any specific circulation plans including delineation of any one-way traffic, stop signs, cross walks and any proposed striping.

Sincerely,

South Jordan City Staff

## Harvest Pointe Townhomes





October 14, 2020



RE: Harvest Pointe - West Rushton Meadows Trip Memo – South Jordan, UT

The following is a trip generation memo comparing various land use options for the Harvest Pointe West Rushton Meadows area of South Jordan, UT. UDOT is building an interchange at 10400 South (South Jordan Parkway) / Bangerter Highway which will impact the available land use possible. This memo evaluates three options. The original land use zoning and two possible alternative land uses.

Option #1: 20,000 sf of retail

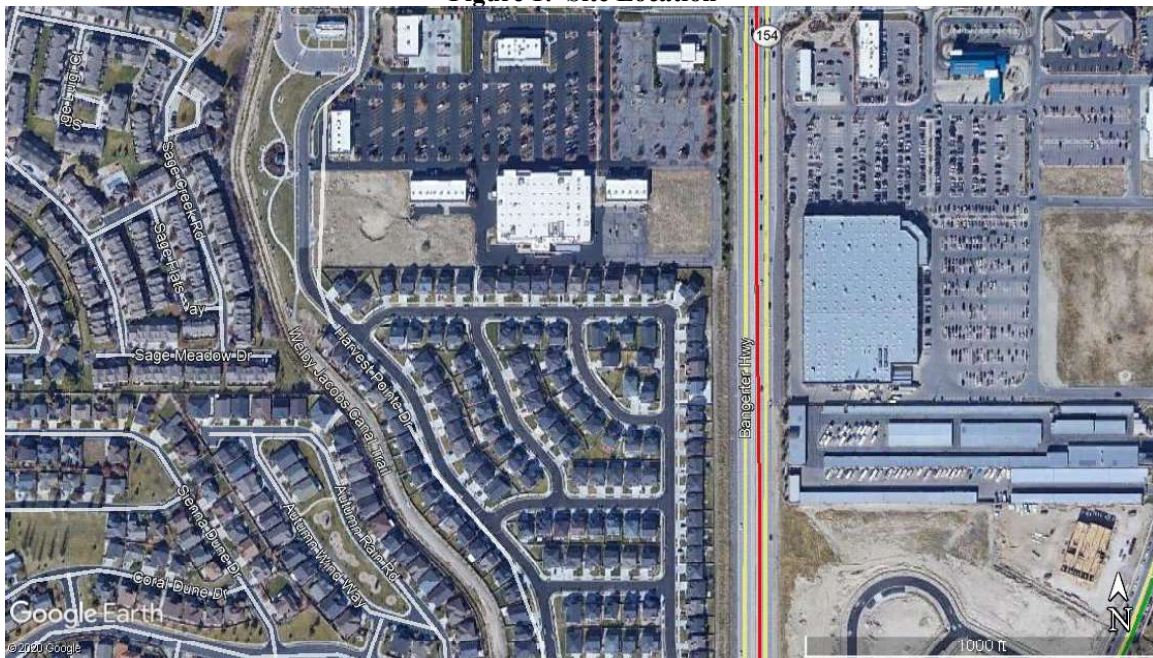
Option #2: 28 townhomes and 6,000 sf of office condos

Option #3: 39 condos and 0 sf office

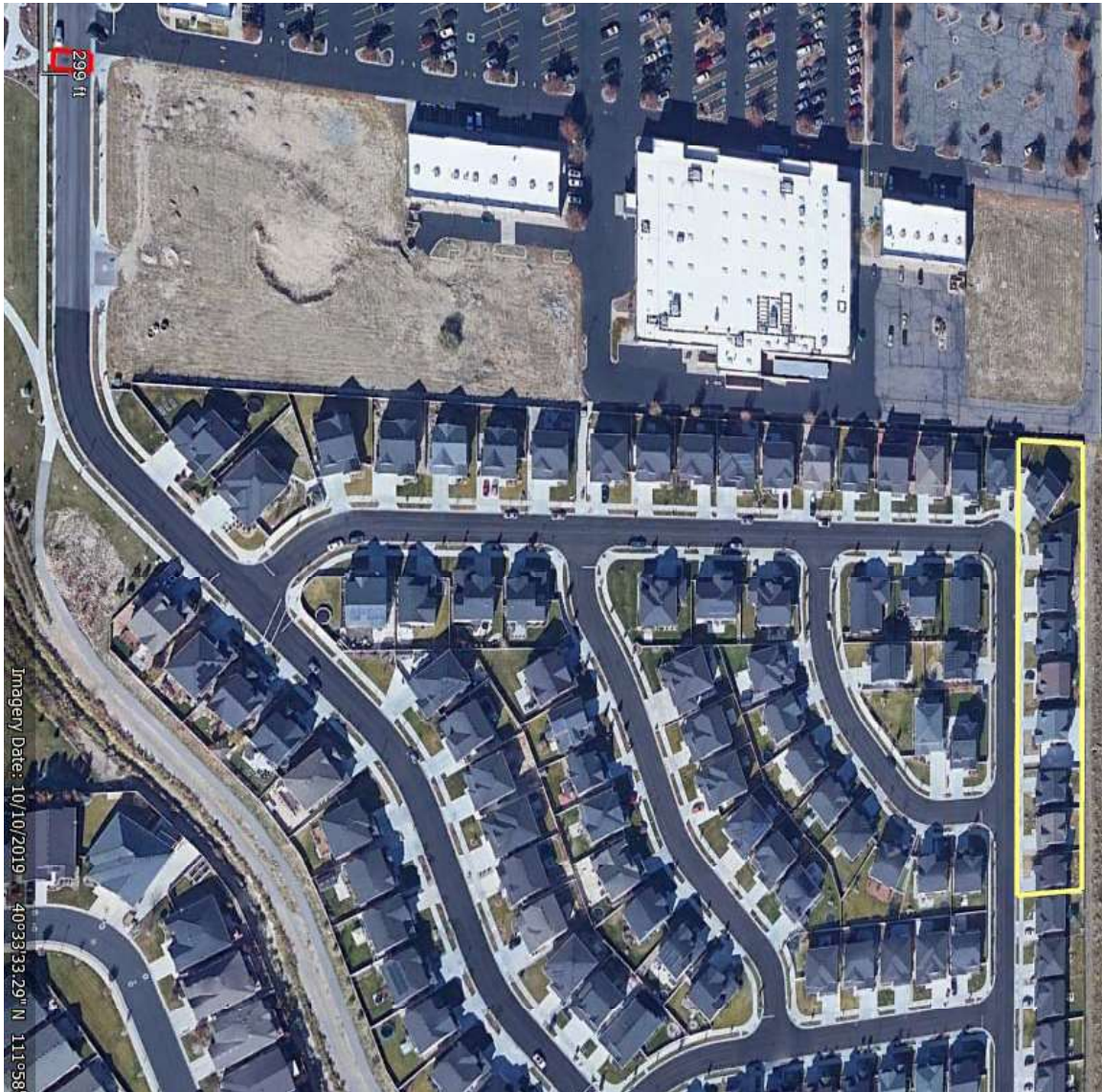
Because of the interchange, 9 single family homes will be eliminated as traffic from the area. Those trip numbers are also identified in the trip generation to quantify the net traffic change to the area.

Figure 1 identifies the site location. Figure 2 shows the 9 homes to be eliminated and the developable land.

**Figure 1: Site Location**



**Figure 2: Proposed Site Area and 9 Homes to be Eliminated**



**Trip Generation**

Trip generation for the site was done using the Institute of Transportation Engineers (ITE) 10<sup>th</sup> Edition *Trip Generation* handbook. Based on the land use assumptions and size of the building, the projected traffic generated by the site is determined.

The 3 options for various land uses produce the trip generation is shown in Table 1.



**Table 1: Site Trip Generation**

ITE 10th Ed	Size	Land Use	Trip Rate			Trips		
			AM	PM	Daily	AM	PM	Daily
Option 1								
Retail	20.000	820	0.94	3.81	37.75	19	76	755
Total						19	76	755
Option 2								
28 Townhomes	28	220	0.46	0.56	7.32	13	16	205
Office	6.000	710	1.16	1.15	9.74	7	7	58
Total						20	23	263
% of Option 1						106%	30%	35%
Option 3								
39 Townhomes	39	220	0.46	0.56	7.32	18	22	285
Total						18	22	285
% of Option 1						95%	29%	38%
9 Existing Homes	9.000	210	0.74	0.99	9.44	7	9	85
% of Option 1						35%	12%	11%

What this indicates is that the original entitled retail / commercial land use for the area could generate an estimated 755 daily trips with 19 projected AM peak and 76 PM peak trips. If the land use changes to townhomes and office (Option 2), then the daily and peak hours trips are estimated to be less than Option 1 trips (20 AM Peak, 23 PM peak and 263 daily trips). If the land use becomes residential only (Option 3), then the trips are 18 AM, 22 PM and 285 daily trips. Since residential and office space generate less traffic than retail traffic, the change in land use to less retail, residential or office from retail has a substantial reduction in traffic generation.

Note that the existing 9 residential homes being eliminated would generate 7 AM (35%), 9 PM (12%) and 85 daily (11%) of the Option 1 trips and would be eliminated from the current traffic situation.

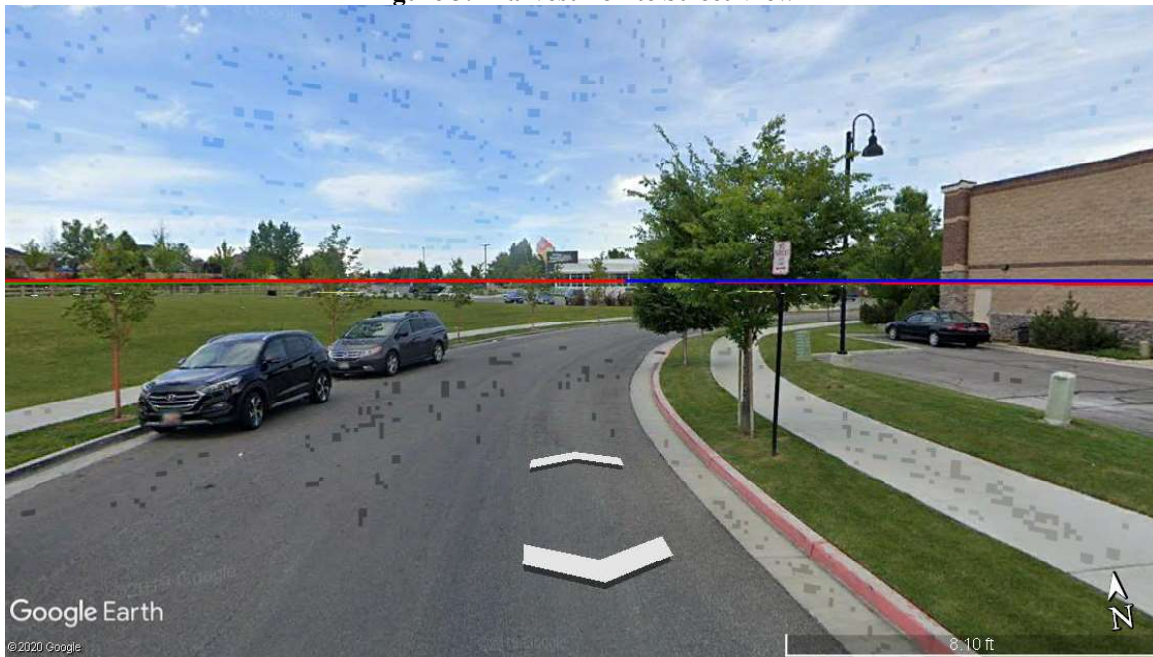
Harvest Pointe Drive is a collector street that leads to 10400 South and a signalized intersection. The street is a two lane road with approximately 28 feet of asphalt width and posted at 25 MPH. Parking is allowed on the park side but no parking on the commercial side of the street. A two-lane collector has a daily capacity of approximately 13,500 daily trips. Depending on what option is selected will determine the capacity utilized by the proposed development.

Option 1 – 5.6% (755/13,500) of the roadway capacity

Option 2 – 1.9% (263/13,500) of the roadway capacity

Option 3 – 2.1% (285/13,500) of the roadway capacity

**Figure 3: Harvest Pointe Street View**



Please let me know if you have any questions.

Sincerely,  
**A-Trans Engineering**

A handwritten signature in black ink that reads "Joseph Perrin, Jr." The signature is written in a cursive style.

Joseph Perrin, PhD, PE, PTOE  
Principal

South Jordan City  
Attention: Steven Schaefermeyer  
1600 West Towne Center Drive  
South Jordan, UT 84095

RE: Response to Harvest Pointe West Concept 3 (PLZBA202000247)

Dear Mr. Schaefermeyer:

Thank you for your time in reviewing the Harvest Pointe West submittals and providing feedback which has helped refine the concept. Peterson Development (Peterson) is proposing a 28-unit townhome project and 6,000 sq ft of office condo/warehouse space called Harvest Pointe West (HPW), attached as Exhibit A. We have spent a considerable amount of time and money exploring different options for this property and appreciate the City's willingness to make it worthy of being part of South Jordan. Below are answers to the comments you provided.

**Planned Development (PD) Floating Zone:** As stated, South Jordan City Municipal Code §17.130.050.010 requires the "solving of unique circumstances, superior design that go beyond what is required by standard zoning regulations, community support and moderated impact on surrounding properties." This property is currently part of the Harvest Pointe Shopping Center, and with the condemnation of other junior tenant building pads because of the expansion of Bangerter Highway, it is the last remaining mid-sized commercial pad in the subdivision. Peterson has actively marketed this property for retail tenants for more than 20 years without success, because without the synergy that the other mid-sized commercial lot would have created, retailers are reluctant to invest in this property.

Furthermore, many people, from the Mayor to the City Council and neighbors, have concerns about the traffic congestion at the intersection of Harvest Pointe Drive and South Jordan Parkway (10400 South). According to an October 2020 trip generation memo by A-Trans Engineering, a 20,000 sq ft retail building (which currently the property is already zoned and entitled for) would increase traffic to this already congested area by 755 daily trips, including 95 during peak hours. Peterson's proposal reduces this trip count by 65% for an estimate of 263 daily trips. A copy of the complete memo is attached as Exhibit B. By 'down zoning' to a much less intense use, the impact on the surrounding property is minimized.

**Density:** Throughout the submittal process and with multiple iterations density has been a balancing act. Peterson has submitted concepts with up to 39 units which the City Council viewed favorably. The latest proposal has 28 units which puts density at either 8.86 or 10.89 units to the acre. We tend to agree with what Council Members have stated, that the number of units per acre is not what is alarming in a development but how it lays on the land and the effect on the neighborhood. Great care has been taken to minimize the effect on the neighbors.

Additionally, current infrastructure and construction costs make the project prohibitively expensive without the proposed 28-units. To qualify as a 'workforce housing' project and maintain a price point for the high \$300ks to the mid \$400ks the unit count is vital.

**Layout:** Peterson has produced multiple layouts of the concept including a street presence along Harvest Pointe Drive and an apartment building with podium parking. Each of these layouts presented

their own challenges in one form or another and were not suitable for the space. We feel the layout as presented is the highest and best use for the property considering the numerous constraints.

**Architecture:** Harvest Pointe West provides a clean look that transitions from the commercial center to the existing single-family homes south of the project. With a modern pitched-roof, board and batten hardie board, and classic stone exterior, these units go above and beyond the current zoning requirements. Elevations for both the two-story and three-story units are attached as Exhibit C.

**Landscaping and Open Space:** As presented, this layout contains more than 17,000 sq ft of central open space and approximately 24,000 sq ft of total open space. A preliminary landscape plan is attached as Exhibit D showing the typical planting around the townhomes and open spaces. The landscape buffer between the existing neighbors to the south will have dense Musashino Zelkova trees, planted and maintained by the HPW homeowner's association. A spec sheet of this tree is attached as Exhibit E. Because of the measures taken to minimize impact on the neighbors, such as two-story units on the southern side of the project and the proposed landscaping, the suggested 10' buffer is not warranted.

**Parking and Circulation:** Peterson is happy to work with the City to mitigate resident's concerns about the traffic, safety, and parking along Harvest Pointe Drive. Our revised concept takes a holistic view of what the area could look like with 16 additional 'pocket parking' stalls adjacent to the park and a flashing crosswalk across Harvest Pointe Drive. Pursuant to Municipal Code §16.26.040, multi-family dwelling units must provide 2.5 parking stalls per 3 or more bedroom unit. HPW provides 87 residential parking stalls for a 3.10 ratio, well above the City's requirement. The office condo portion of the project includes an additional 61 stalls, which is way more than is sufficient.

As detailed above, HPW complies with the PD Floating Zone by "solving of unique circumstances, superior design that go beyond what is required by standard zoning regulations, community support and moderated impact on surrounding properties." We look forward to the approval process and are anxious to get started.

Sincerely,

Barrett Peterson, President  
Peterson Development Company

Location: 10738 South Beckstead Ln.  
File No: PLPA202100190  
Applicant: Nate Reiner, CIR Engineering

Planner Damir Drozdek reviewed background information from the Staff Report.

**Kirby Kirkman (Applicant)** is the architect on the project. He thanked the commission for their consideration on the project. The building footprint increased a little bit, but the height was taken down to a one story. Parking still is well within all the ratios and it looks like its brothers on the site.

Commissioner Nathan Gedge opened the hearing for public comment. There were no comments, public comments were closed.

**Commissioner Gedge motioned to approve File No. PLPA202100190, Site Plan Amendment, as presented to the Planning Commission. Commissioner Catmull seconded the motion. Roll Call vote was 5-0, unanimous in favor; Chair Hollist was absent from the vote.**

#### **VIII. LEGISLATIVE PUBLIC HEARINGS –**

##### **A. HARVEST POINTE WEST LAND USE AMENDMENT AND REZONE**

**Amending the land use designation from Economic Center to Mixed Use and rezoning from Commercial Community (C-C) to Commercial Community Planned Development (C-C-PD).**

Location: 3773 W South Jordan Parkway  
File No: PLZBA202000247  
Applicant: Peterson Development

**Commissioner Gedge motioned to take a five minute recess. Commissioner Darby seconded the motion. Vote was unanimous in favor, Chair Hollist was absent from the vote.**

Planner David Mann reviewed background information from the Staff Report.

**Jeff Siemen (Applicant)** said it's good to be back. They preferred to do this about a month ago, but this gave them a chance to have another neighborhood meeting with some of the residents. They had two people attend, they were able to answer some questions and concerns they might have and it was beneficial for them to see what their revision is. As you can tell, from the old to the new concept, this is a much better flow and addresses more of the concerns of the residents as far as privacy, safety and a number of other things. By doing this refresh, they were able to shift the entrance of these townhomes further to the north, away from the residents and helping to alleviate some of their traffic concerns. Having the frontage and facade along Harvest Pointe Drive, in talking to Jeremy Nielsen, typically adds presence which helped drivers slow down which was big concern of the neighbors to the south. They have been cognizant of what the neighbors want and tried to address it in the concepts. The elevations are three stories, they are

about 30 feet which is about the same size as the existing residents there who have pitched roofs; these townhomes will have flat roofs. To be aware and address their concerns on privacy, on the third level they have taken the windows that face the residents and shifted those windows up, so no one will be looking out those windows into somebody's backyard. It fits well, the setbacks are exactly what the existing residents have at 25 feet from fence line to the back of the building. By turning the buildings perpendicular to where they were, they will see the side of a building as opposed to a garage which adds another benefit to them as a neighborhood. Getting rid of the commercial also allowed them to put driveways in there; in addition to two car garages there are two car driveways. The required parking for multi-family for the city in the code is 2.5, immediately off the bat they will exceed that with four reserved spaces per unit, along with additional parking spread throughout for a total of 188 total parking spaces with overflow. In the overall concept, the funky nature of this parcel is such that you see the 24 and 23 spaces are part of this project. They hope the commission can see they have taken the residents' concerns seriously, and with their help this project is much better.

Commissioner Nathan Gedge opened the hearing for public comment. He reminded everyone that due to the number of potential comments they will be sticking to the three minute rule for each person. Also, the commission members have the minutes from the last time this was heard in May and most of them were in attendance at that time and familiar with this.

**Jeffrey Mathers (Resident)** owns two condos near here. He has two objections, one is the density this is bringing to the community. The traffic there is almost overwhelming now. He bought these properties back in 2005, he has seen a lot of growth in the area. He paid a premium for the view of the mountains and the valley, which is slowly eroding away. Along with the density and congestion, his biggest objection is the height of the buildings and how it restricts his view of the valley and mountains. As he looked at the elevation, it is 30 feet high; to him, that seems to be the highest project in the whole area at eight to ten feet higher than everything else around there. He is here on behalf of everyone who lives along that creek that faces the mountain they paid considerable premiums for, and now are being jipped.

**Rachel Rasmussen (Resident)** said she was sorry she missed the developer's meeting, they were given two days' notice and it was at 5:00pm on a weeknight which is difficult to make. She appreciates this opportunity to discuss some of the concerns about this development with everyone here. She also appreciates the efforts that they have made to improve this proposed rezone. That said, she keeps asking herself "why are we trying to do something better that we maybe shouldn't be doing at all." She thinks this property zoned as commercial needs to stay zoned as commercial. She appreciates the parking stalls that have been added and all the efforts, but there is no guaranteeing conversion of this to a residential area won't have parking and traffic overflow in to their already busy and congested neighborhood. As has been stated before, there has been all kinds of news stories about traffic problems in their neighborhood. Any sort of additional parking on their neighborhood will be detrimental. She has five young kids, her neighbor has five young kids, her other neighbor has two young kids, across the street has two young kids, and they live right where the walkway is. Her fear is they will have to deal with parking permits which changes the whole value and function of her home. If this is a commercial development, someone visiting a business will access it from the main road where they see the sign, and even if they have to park a few stalls back they are going to park in the parking lot. If



turned into a residential, all of a sudden those townhouse that are right by the walkway don't want their friends having to walk a long way so they'll tell them to park on their street and come in closer. That is her concern, regardless of how many parking spots there are here, turning this into residential is going to create additional parking problems on their already dangerous streets.

**Mark Nelson (Resident)** is speaking on behalf of many of his neighbors, he has been asked to speak to the fact that they want this to stay commercial. When they moved here they knew it would be commercial, they knew there would be high density at the south end, they knew what they were getting to. Those that live on the north end are OK with the commercial, they like the commercial, they walk to the commercial. They also know that commercial has set hours, patterns that coincide with their lives; at night there is no street parking. Nielsen's Frozen Custard is busy, but at night it is closed and not a big deal; they love it and they go there. One thing they've all assumed, this piece has sat there for so long waiting for the 10400 S construction to be completed. They thought that is smart to wait until that is done because once they have this beautiful new intersection and everything is revitalized, it will be a main point of the city just like 11400 S is. People will want to flock to this area in his opinion and they would like to see commercial stay there. As far as the housing goes, the density still seems too high and they would love to know garage sizes, how they will do street parking on Harvest Pointe as there is 15-20 cars at the park at all times. The east of that road is red zoned at this point, that means if this is built they will have red zones right in front of their own properties and won't be parking right in front of their buildings; there is no way to get a third car through there. The walkway as it sits now will have five units on the other side of it, the walkway is for them as residents at this point and they like it and want it; this turns it around on them and it becomes the walkway to park cars in front of their homes. They also feel that this boxes them in on both ends with high density and feels like a third strike. They had the high density that turned into permit parking at the south, then 11 homes being torn down in the community for reconstruction of Bangerter, now they're looking at this. They have a lot of people looking to move and he really doesn't like that. Where is CCPD in the code, where can they reference that. They appreciate all the work that has been put into this and they would love everyone's feedback.

**Brittany Coleman (Resident)** said her backyard is against VASA. Like Rachel and Mark, some of her concerns are with parking, especially with that five strip on the east side that Mark just referenced. She thinks that will encourage people to come and park down on Grassy and Poppy Meadow via the walkway. She is not sure that parking signs will help, they have that on the south end of the neighborhood by the townhomes and it's not patrolled, people are still parking in those areas. She sees people walk to VASA and the Puddle Jumpers Preschool through that walkway every day, she doesn't want to see it closed off, she is hoping that maybe those parking stalls can be removed. They are counting 47 stalls in that commercial property that are already there. She goes to the Puddle Jumpers three times a week and that parking area is always at least halfway full with people going to the dental, Puddle Jumpers, and all the other buildings in there. She feels like they can only count those stalls between 5:00pm-8:00am, she doesn't think those should be allowed to count. Parking on Grassy, with their homes being as close together as they are, is already pretty tight. She has received two messages from her mail lady because they had a guest park on the street for two days and was made to go down to the post office to pick up mail. They have received other nasty letters from her that they can't park there ever and there is no

parking on the street, usually they don't even have a car there. She is very concerned with the parking and how it will influence the neighborhood.

**Brad Neves (Resident)** echoed some of the comments we've already heard. They have people parking in front of his mailbox as well and they don't have teen drivers or anyone from their own home parking there. Parking is an issue. Similar to Mark Nelson's argument, he'd like to go back a step; there are a lot of objections he has to the proposal itself. If we look at the South Jordan City Code 17.22.030, the rezoning application, it reads that a rezone not initiated by the city may not be reinitiated for a parcel of property for which rezoning has been considered within the last year. This has already been considered within the last year and this should not be happening tonight under code 17.22.030 without the city council's approval for a second application within the same year. The purpose of rezoning should be to improve the community. As most of the neighbors have already stated, they would suggest that commercial is a better use for that property. He understands as an entrepreneur and small business owner the need to try and make businesses profitable, he doesn't fault Peterson for that; however, if they reference another company that the same people own, the Nielsen's Custard is owned by the very same people trying to push this through. They have created a parking issue, drive through issues, traffic issues that back up onto South Jordan Parkway because their customers are trying to enter from Harvest Pointe. They have been a bit better this year, but he doesn't know if that's to any credit of Peterson or Nielsen's Frozen Custard. He would suggest still that the parking and traffic is not their concern because they don't live in our community, they live in some of the nicest areas of the valley in homes that are tucked away and not part of these high density areas. He doesn't believe they related to the pain that we feel in this community. We like our community and he's just asking that the commission vote to deny this once more and not keep wasting everyone's time to guide them into an approval. The city council, the planning commission, you are all working with and for them as taxpayers in their city, not for this developer, so please consider their opinions a little bit stronger than this application. He cannot find anything for CCPD. He can find planned development stuff, the CC stuff, but the density is an issue. The minimum size for a CC rezoning should be five acres, this is too small for a CCPD. He believes they are trying to get this in as mixed use or something that they aren't being forthcoming about to get more flexibility in the zoning requirements. We need them to start over with a little more forthcoming clarity. The documents that were posted tonight are different than they were this afternoon and than they were last month, they are not seeing a consistent set of supporting documents and he feels like they need more clarity before a motion is really considered there.

**Jill Lash (Resident)** agrees with everything everyone has said. She sent a very lengthy email on September 28 that she was assured would be included in the meeting minutes for the last meeting that was supposed to be scheduled and got delayed, so she isn't going to go through all of her concerns because she hopes that email is included. Peterson's website claims "when you choose Peterson you choose peace of mind," and she has seen throughout this entire project development that that is completely opposite. There is no peace of mind with this development. She does appreciate the updates and how they have claimed to be listening to the concerns of the residents, but she doesn't feel like any of the changes that have been made truly address the safety concerns they have for their children, those driving through their neighborhood, as well as the traffic increase. She also wanted to mention the intersection at Harvest Pointe and South Jordan Parkway, if this does not remain as a commercial development and becomes residential,

she feels that intersection will have to be changed or widened in the future as there is only one left turn lane for residents to turn left heading south into their neighborhood. She doesn't feel like one lane during rush hour traffic is going to handle that amount of increased traffic coming into their neighborhood. Also, as you turn left and get along that road where Nielsen's Frozen Custard is, if you have all these townhome residents also trying to turn left off of Harvest Pointe into their residential area that's going to create a backup clear up to that intersection and then impatient cars will try to swerve around those cars waiting to turn left into the townhomes and residents like her who are trying to get through to the neighborhood. It is already a very congested road with really only one lane of traffic on both sides, there are not multiple lanes or a left turn lane, and she feels like those issues would have to be updated.

**Danny Wehungue (Resident)** has shared some of his concerns before, but given where his house is in the neighborhood he has a firsthand view of the intersection. Traffic is an issue, everyone has referenced that, he just wanted to give his personal experience. They had both of their cars destroyed the first night they moved into the neighborhood when a driver crossed the intersection, both of their cars were totaled. They filed a police report and the driver was never found. It's an issue, they have been personally and financially impacted by it already. He walks his daughter to the bus stop every morning on Grassy Meadow, just this morning his three year old son was with him. He was holding his hand to cross the street walking back and someone blew through the stop sign, followed by four more people as they just waited for the people to cross. It's only a matter of time until something that can't be fixed happens on this road. It's a little scary, regardless of whether this is approved or not as it is already a problem, he just wanted to share his firsthand experience. Another thing that hasn't been brought up yet is there are a lot of kids in the neighborhood, multiple bus stops and busses that come through the neighborhood morning and afternoon. He watches the bus 1455 come around the corner every day and it just narrowly makes it through the cars that are already parked there, adding more cars is definitely a risk and safety issue. He hopes we can do as much as they can now to prevent any further problems or disasters from happening.

**Tricia Martindale (Resident)** thinks part of the traffic issue is going along Harvest Pointe. When they gets residents into those townhomes, if they are wanting to avoid the busy intersection on 10400 S, many of them will be using Harvest Pointe Drive to cut through their neighborhood and get over to 4000 W if they are heading south. That will increase the traffic flow a ton on that road, which is already super busy as mentioned.

**Lexi McCarty (Resident)** shared an experience she had last week that illustrates being on Harvest Pointe. She was going to pick up carpool with some of her junior high kids and she rounded the corner on Harvest Pointe, was the only one on there, and she looked out and there was a little three year old boy standing in the middle of Harvest Pointe, holding his mom's keys and standing next to the van. There was no one coming, she pulled over and took up part of the lane so no one could go around and she yelled at that mom to come and get the little boy. As the mom came to get the little boy there were four people on either side of her van; if she had not been there, that little boy would have gotten hit. If they add any more people and have the park, and Nielsen's and another development, she thinks they are just asking for a lot of things happening to kids with having the park, Nielsen's, their neighborhood and the townhomes behind them, and then putting townhomes in front of them the density is just so high. It's a safety

issue. At one point, she turned around and saw her little boy heading in that direction. She can't say how many times she has been at that park and seen that. She just thinks having those townhomes right next to the park and Nielsen's would be too much.

**Jordan Wouden (Resident)** came to speak to the traffic on Harvest Pointe. When you come through the park, the added parking stalls have made it near impossible to see coming around the stop sign. She goes to Puddle Jumpers in the morning, and when she comes out there are people flying through because they are trying to go around the cars. Further south on Harvest Pointe in front of her house, cars come through frustrated, stop at the stop sign and then zoom. She and her three young children hardly ever play in the front yard because cars zoom by and she has tried to motion people to slow down, but they just slow down and wave. When she goes on walks she can see people are frustrated by Nielsen's, frustrated by the park and people coming out of the gym and Puddle Jumpers parking lot, then a stop sign, and it's just a free for all and usually they just blow through the next stop sign. She doesn't remember who said it, but someone mentioned the increased traffic with construction, and if people are trying to avoid it they are going to use her street and they are going to use it to cut through to 4000 W; it just increases the traffic on her street. She sent a pretty lengthy email, but they were the three story townhomes in a previous neighborhood in Riverton and they claimed parking stalls based on the garage and the driveway, so they had four parking spots. They failed to require parking in those spots. Eventually they had to have board meetings and HOA meetings and complaints to change it where you had to park in your garage, there was no storage. For them as a young couple, they were there temporarily, they didn't want to be there forever and they didn't have a lot so they could park in their garage. Many, many families had to move because once they said nothing in the garage it became an issue, they couldn't get in there because they just didn't have enough room. If this were to be approved, they would propose that there be some sort of HOA mandate that they have to use their garage as those two designated parking spots.

**Tina Falk (Resident)** said her property is just to the south of the property line, next to the walkway. She voiced that she is in alignment with everyone else in her neighborhood that's spoken. The residential is just a different stressor. There will be residents here that will use that pedestrian crosswalk more than if it was commercial, there will be more foot traffic crossing this already really confusing space with a park, it just doesn't make sense. It's scary as a driver going through there, let alone being on foot and being an adult and going for a walk. If this was to get passed, this is exhausting. The thought of this turning residential is beyond frustrating for them because that's not why they purchased this property here on Grassy Meadow as they knew it was going to be commercial. The three story units, the last time this plan was proposed they were two story, now they are three story and it looks like they have bumped it back a foot further away from her fence. A three story unit overlooking two story houses along the fence line is concerning, it's a wall that they get to look out their bedroom windows at. You can't put trees in there that will give them any sense of privacy. She understands that there are trees they want to put there to protect their backyards, but what about her bedroom, does she have to live with her blinds closed. This changes their way of living in her neighborhood and she is just not a fan. She thinks it is so fitting that on their plan the blue line designs logo is how she feels, very blue about this whole experience. She hopes that everybody survives Halloween and the safety of all of this and they can come up with a better idea, there has to be something better.

**Mindi Butterfield (Resident)** wanted to make it perfectly clear that the traffic along Harvest Pointe isn't just for their neighborhood. The neighborhoods to the south of them, going all the way down to 11400 S, people are cutting through and going through Harvest, they are not taking 4000 W.

Commissioner Gedge closed the public comment portion of the hearing.

Mr. Siemen discussed the height of the buildings, they are not 38 feet tall, they are 30 feet tall with the architectural element that adds a few feet. Garage sizes depend on the unit, corner units are 20 feet wide and interior units are between 16 and 18 feet wide, all have a depth of 22 feet; this fits within the city code. Regarding parking, the city code is 2.5 per unit and they are providing above and beyond that, not with just the four spaces that each individual unit has, but also the additional parking around it; this isn't counting the 47 spaces that are already there as part of the commercial. Those commercial spots are being counted because they are part of the parcel. If the complaint is that there isn't enough parking, but then parking is supplied, those two things cross and they definitely provided more than enough parking. We have designed this to be an integral part of the community. There is the beautiful park, and to have a commercial building across from the park doesn't make as much sense as having residential where families can be close and enjoy the park. They have committed to the flashing crosswalk, as well as spoken with Traffic Engineer Jeremy Nielsen about traffic calming measures as part of this. Some of them would be covered by the city, because they don't own that side of the road. Some things Peterson can do are shifting the crosswalk to the south a little more, and then building out the curb and gutter to narrow the road at that point, it indicates for drivers that you're entering a residential area. Regarding the traffic trip generation memo, the methodology behind that is studies going back 40-50 years that show a typical commercial building generates a certain amount of traffic, a typical residential generates a certain amount of traffic. For a 20,000 square foot commercial retail building, which they are already entitled to build on this piece of land, that would generate 755 traffic trips per day. Per city staff, Harvest Pointe Drive can handle that capacity as it is right now. The residents may not agree, but they are trying to help that since residential is a less intense use with only 205 trips.

Commissioner Sean Morrissey asked, if this is a safer plan, why did they wait until now to propose it.

Mr. Siemen said they were not the original developers of this property. The grocery store was lost and the Bangerter expansion took out part of the shopping center as well, those things have decimated that commercial center. You need an anchor tenant to support the junior anchors. We are in the middle of a housing crisis and we need more places to live.

Commissioner Morrissey said we're also in the middle of a construction crisis, Daybreak is going to build 20,000 more homes. The houses are going to come, it's a matter of mixed use and more density. That's the issue right here with this area. He lives next to this area and went through the first buildout that all these residents described, those were the scenarios that went through his mind before it was built; those concerns have come to fruition, that it would be even worse because originally there were no houses. That was originally going to be apartments and townhomes, the whole area. That was stopped, there was compromise, but we are hearing about

safety issues and he can see a lot of the testimony foreseeing those safety issues escalating to potential hazards, kids being hit by cars, etc. He has gone through this area on his way to the UPS Store, which is a great tenant in that area because it has been there for a long time. He usually goes around to get back, but it's an easy drive from his house to that area. Going through that area they've added multiple stop signs because of the issues, there used to be none. He's glad they're talking about a potential flashing crosswalk and there should be more of those in that area based on what he's heard tonight. Even if this doesn't go through, the city should be looking into that right now and adding one or two so we reduce the safety issues there. Looking at this as a potential fix to the situation of a "housing crisis" doesn't feel like a solution. This development isn't going to solve that crisis as again, Daybreak is building 20,000 units, half will be mixed use and townhouse style like this one which comes with huge density issues out there as well. Why add it to this particular parcel at this time. The Bangerter expansion did remove a key lot where Cypress Credit Union and a vacant pad were. He asked how many commercial or office buildings are being built right now in the city. Peterson claims they can't fill this space, because there isn't opportunity or it isn't the right opportunity, but there is retail and office space being built here in South Jordan because those applicants are coming to the planning commission.

Mr. Siemen said commercial and retail space is overbuilt in the southwest side of the valley by over a million square feet. This site has been marked for quite a while, and it sat vacant. Because of the synergy that was lost with the expansion of Bangerter on that other pad they haven't found anyone willing to fill this space.

Commissioner Morrissey said it comes down to economic opportunity. Peterson says it would be great to have townhouses across the street from the park, but residents testify that it wouldn't because it's going to create more density issues. When he drives by the park, it is already filled up by residents which is great. These townhouses are not going to fill that need right now, because it is already being filled. Peterson is asking the commission to make this change in land use designation, as well as zoning, to allow them to move forward with this project and that is an uphill discussion for them to prove to the commission. He is trying to figure out what the new development is providing, if those changes are made, that isn't already there.

Mr. Siemen said that's probably something for the 28 people who would move in there to respond to. They would have great access with a park across the street, right there by commercial with walkability. It helps the commercial sustain themselves with the current tenants who are part of the tax base.

Commissioner Morrissey asked if there is concern about the commercial base in those pads right now. There is Sherman-Williams, but he doesn't see those 28 residents going there very often.

Mr. Siemen said no, there are no concerns. While they might not be the customer base for Sherman Williams, they could be for Mountain Mike's, Roxberry, Dominoes, Puddle Jumpers and VASA.

Commissioner Morrissey said they have a huge base here that is opposing it that probably uses all those facilities too.

Commissioner Mike Peirce said he has a bigger concern with the density issue, the city council will not approve it with this kind of density.

Mr. Siemen said density is a key factor, but he has been told that they need to look at the whole project, how it fits on the land. This is a change and different from what's there now, and he accepts that the neighbors don't like that, but this gives every concession to fitting on the project. If they cut down on four or five units to add parking, excess parking, when there is already adequate parking provided, it doesn't make sense.

**Barrett Peterson (Applicant)** said there are a lot of opposing viewpoints here, it needs to be recognized that there is a developer on one side, and neighbors on the other side. They hope to get some sort of recommendation this evening, but they know it is an uphill battle. He is not here to litigate it or go back and forth. The commission knows the history. They have been out here a long time, developed the Albertson's Center which is now a VASA Center. He has owned this piece of property longer than a lot of the neighbors. He has his property rights, the neighbors have their property rights. Regarding safety, they have the right to build something right now that would bring more traffic than what they are proposing, he doesn't want to lose sight of that. The neighbors might debate them on that, but Mr. Siemen cited traffic studies going back many years to support that. He thinks neighbors generally just don't want change and they are concerned about busses, cars, and kids getting hit which is a real thing. Something will get built here, they are making the decision to petition the city council to build housing. It may not solve the housing crisis, but little by little we need to add more housing. Daybreak was mentioned, but this is a statewide problem. Where are kids and grandkids going to live, that's where they are taking a principled stand saying eight units to an acre shouldn't be the limit. They want to build a quality product on the site with slightly more density than that, along with offering workforce housing. They would offer three units of workforce housing like Bingham Court. Commercial has changed so much in the last 20 years that sometimes you need to ask for a change and housing has flipped since 2008. We go through these patterns in our societies and communities that have to be adjusted to. They have been patient with this property, but they are taking the approach that they have the right to petition the council for this and they know it's an uphill battle. They understand the neighbors aren't happy, but they have certainly solicited input over the last year and a half and they are happy to hold more community meetings. In the end, they may not see entirely eye to eye. They think this is a quality product, it is something that is needed in the area. He appreciates the tough decision for the planning commission.

Commissioner Morrissey asked about the density currently.

Mr. Peterson said they are asking for 28 units, he believes 25 would put it closer to a number they'd be comfortable with. He thinks the neighbors don't want to see even one unit there. Maybe if they get to the city council they can talk about that and see how close they can get. It's not a huge gap to get to the eight number.

Planner Mann discussed boundary lines and current parking potentially being included in calculating density. It will ultimately be up to the city council with their approval, they will decide what the density technically is based on what's developed and the parking. Using just the

potentially developed property the density is 10 to 11 units per acre, if they include the entire property as shown on the visuals that's where they get closer to the eight units per acre numbers.

Commissioner Peirce said they are still over the numbers that city council will approve, regardless of how it's calculated. If worst case they are at 10.89 units per acre and best case they are at 8.8 units per acre they are still over the limit.

Mr. Peterson said they are taking the principled stand saying eight seems very arbitrary, they are saying this is what fits on the parcel and it's a nice product. They've turned the units sideways so there are only four units backing those neighbors to the side, they've increased the setbacks. If they decrease the density do they just make more parking, they already have over 100 stalls. This is an infill piece, it's a little unusual, but that's going to be up to the city council. They want to take this to them, they also want to show that they are providing three units as workforce housing. If the council comes back and says the density needs to be lower, they may not be able to do that workforce housing.

Commissioner Gedge asked questions to staff regarding noticing and whether or not it has all been done correctly.

Assistant City Attorney Greg Simonsen discussed an email from Brad Neves (Attachment A) who questioned whether noticing complies with applicable statutes. His concern was that the notice does not comply with the city notice statute 17.04.60; he has reviewed that and he believes the notice is fully in compliance with every requirement. Mr. Neves had a concern that the address in the notice for the property is not accurate because it should have been changed as access is from Harvest Pointe, rather than South Jordan Parkway. In his own email, he notes that the address given is what you would find if you went to the county. The law is that the notice needs to be reasonably calculated to give notice of the property under consideration. If you look up the address and go to the county records, it will point to this exact property; this gives reasonable notice in his opinion. The address has not changed, so the address used is accurate.

Commissioner Gedge asked about the concern raised by Mr. Neves about hearing this item again. He knows there was no action made in May, the item was tabled and a recommendation was not forwarded of any type to the city council. In turn, the city council has not made any action.

Attorney Simonsen said he is correct. We need to keep in mind, this is just a recommending body, this has not made it to the city council yet who is the actual decision maker.

Commissioner Gedge said a few residents mentioned the Commercial Community Planned Development (CCPD) zone and asked for a reference to the location in code for this.

City Planner Greg Schindler said the CCPD is not a zone listed in the code. The CC part identifies it as being Community Commercial, which is the underlying zone that it currently is. PD is the Planned Development overlay zone that is listed in Title 17.130 and explains the process of obtaining a PD overlay zone. In this case, they have applied for the overlay zone to have residential over the CC zone since generally residential uses are not allowed in the CC



zone. This section of the code was set up to give opportunity at some point to have residential in certain areas where it is not specifically zoned for it. It is still up to the city council to approve what the density is, what it will look like, the type of units, etc. There is a development agreement that goes along with the PD zone, which becomes the actual language of the zone. If the council decides to approve it, they would then approve a development agreement that will list what the density actually is, the number of units, how tall the units are, etc.

Commissioner Gedge encouraged staff to look at traffic enforcement and calming measures, safety issues, even if the project isn't approved to hopefully prevent items in the future. If the city council were to deny this, he asked what the possibilities in the future could look like with this currently being a commercial zone. What types of commercial could this be, other types of uses that could fall under this zone.

Planner Schindler said it's whatever is allowed in the CC zone, and it's quite a list. This includes what's already in the shopping center, along with many other things that are not currently there.

Commissioner Catmull asked if residents can call the Planning Department if they are unable to find information they are looking for, like the CCPD issue tonight.

Planner Schindler said they can call the Planning Department in the future, or if it's for a specific project they can call the planner that's handling that project. There haven't been a lot of things like this, but they are happy to explain where to find the specific parts in the code and list the process of what each applicant would have to go through to get that approval.

Attorney Simonsen discussed what should be considered as evidentiary considerations. This is a legislative matter, the earlier items on this agenda were administrative. The evidentiary standard in administrative matters is substantial evidence, you must have substantial evidence to rely on when making your decision. A legislative standard is the reasonably debatable standard, which is a much more flexible standard, for you to be able to consider everything even if it wasn't backed by scientific studies. He believes those that drafted the code for a planning commission were looking for the commission to give their honest, own personal judgment on a matter and make that recommendation as you are focused on planning. It is somewhat a red herring to speculate on what the city council will or will not do; what they want is this commission's professional opinion after sitting here and hearing all the testimony. He believes whether Peterson gets a negative or positive recommendation they're going to take it to the next step, to the city council.

Commissioner Trevor Darby asked the difference between a residential development and a commercial development in terms of tax base. To him, it seems like the commercial would generate more tax revenue.

Planner Schindler said generally residential, especially single family, doesn't pay for itself through property taxes. Multi-family is better when it comes to tax generation because the property values will be higher with the number of units. However, the commercial is generally higher as it brings in property tax as well as sales tax. They also have to look at what the city provides for residential, like police and fire protection, same with commercial. Residential usually requires more city services in regards to those things mentioned, but they haven't done

research on this in a long time and this is just based on what he has read from different sources. Either one would be of some tax benefit to the city, either multi-family residential or commercial.

Commissioner Darby said he lives in a place where his view was disrupted when they built out beyond his house and it was disappointing to him as well. He learned at that time that the city doesn't typically, and can't, protect views. It's frustrating when you buy or build a property and then your views are obstructed. He wanted to bring that up so that concern was answered, because it is a real concern but unfortunately they can't make their decision based on views.

Commissioner Catmull asked if Daybreak has workforce housing currently.

Planner Mann said he doesn't believe there is anything designated at this time.

Commissioner Catmull asked if a property is difficult to develop or undevelopable, is a redevelopment agency (RDA) an option.

Planner Mann said it could be, but that would be more of a question for the economic development department. They have worked in partnership with other projects, but ultimately it's their decision.

Planner Schindler doesn't believe an RDA would apply here since there isn't a "blight" impeding their development, just a lot that hasn't been developed.

Commissioner Catmull said they've heard a lot of comments about the traffic going through the neighborhood to get to various locations. There are estimates of what that traffic should look like, is there a way to do a study to compare the actuals in that interior neighborhood versus the expected; if that were to be done, who would fund that.

Engineer Nielsen addressed validating trip generation numbers. He doesn't know who would pay for that, presumably the city if we are questioning the validity of our numbers. They have done some tests over the years and they have always come in pretty accurate, with single family homes in particular around 10 trips per day is pretty accurate. For townhomes it's a little bit less than that, and that's what they used in their study. They have not done a formal study to validate that those numbers are exactly correct.

Commissioner Catmull said he was referring to this specific area because of the comments of neighbors today, such that if those numbers were higher than expected and they changed the current estimates, how might that impact where they are today.

Engineer Nielsen said they have counts from 2019 on Harvest Pointe Drive, during the peak hour they saw about three vehicles per minute; it is a residential collector street that is constantly used. On a daily basis it's about 1900 vehicles, and that has probably gone up a little bit as there have been a few more homes built to the south since this study was done.

Commissioner Catmull said Bangerter is not complete on 10400 South. He asked the applicant if he thinks anything will change with new traffic patterns and their ability to develop.

Mr. Peterson said his answer is given through their actions. The center was designed with Albertsons as anchor, which went out and is now VASA, and then two junior anchors. Junior anchors within the industry have become less and less because of Amazon. When the junior anchor got taken out with Bangerter, usually you have two to accompany the one main anchor. That caused them to rethink this, they've been waiting on this for 15 or so years, and they have tried many different approaches on this. This is a different tact, to rezone it to residential, but it has a lot to do with the fact that Bangerter came in and wiped out one pad which they had been in limbo with for a number of years knowing that Bangerter was coming in. They weren't going to build a building there, get a tenant and a lease, knowing there was going to be a freeway there. They don't have a way to know exactly what will happen after Bangerter is completed, but he does think something will develop there eventually. He doesn't think it's "blighted" and appreciates the questions about the RDA, but they think that a higher and better use is residential and that's not a popular opinion. They are developing the 55+ community, the Villas, south of Costco. At one point in time they did a study looking at the space being developed as office versus residential. It was surprising to them that residential developed over a shorter period than office, which would take longer to absorb as 25-30 acres of office, the tax impact was more favorable to the city with the residential; maybe they need to look at a study like that for this project.

Commissioner Catmull asked if they can sell the parcel undeveloped.

Mr. Peterson they have marketed it in a number of different ways over the years. Yes, they could sell it, but there is a higher and better if they develop themselves. They'd like to control what's going in there because it needs to fit with the rest of their center. They are either looking for the right group to buy it or the long-term lease, it just depends who comes along; they haven't put a sign up and prefer to take a more patient approach.

Commissioner Catmull asked to confirm the taxable value at about \$2 million.

Mr. Peterson said that sounds about right, but he doesn't know off the top of his head.

Commissioner Catmull asked if there was an opportunity they passed by in the last 20 years to either sell part of the land or get a tenant in.

Mr. Peterson said to be honest, there aren't a lot of people that call on junior anchor space. They put a lot of money into that center over the years because it went through a pretty rough period when Albertson's went out. There could have been a blight there, but they kept things going and it's standing tall today. In full disclosure, they do not own the VASA nor the pads out front; they own the surrounding retail, are part owners in the Nielsen's Custard and Mountain Mike's. Having this open space is not from lack of trying, he is sincere when he says that Amazon has changed things. They're grateful they didn't have to sell the space, they were able to hold it long-term and look for the highest and best use.

Commissioner Gedge reminded the commission there are two motions they are considering tonight. He reminded the public in attendance that they are only a recommending body who will be making a recommendation to the city council; no matter which way they vote this evening, there is still another phase to this process and he encouraged the residents to reach out to their elected representative for their district and attend the city council meeting when this is up for a vote. Also, if the recommendation in the motion is to deny, the commission should remember they are voting on whether or not they agree with the denial. He feels that the applicant is close to the desired density, but still a little higher than what the council used to consider. He believes it's close enough that they might be able to do some changing to make it work, possibly reconsider the amount of units in each building or the height as that seems to be a point of contention with neighbors. He also feels like this space can't be empty forever, something will go in and at least this will be a smaller number of homes for this area. A future council could end up approving high density in this area, which is what was originally planned. He is in favor of the development, just not the number of units and type of design with three stories, but he feels they are close. He is torn between a positive and negative recommendation based on the total number of units, also it depends on the acreage they are using for the calculations; the parking lot isn't really part of the actual homes on the northern piece of the property. He thinks he would lean towards a negative recommendation, but he believes if they work with the council this could become a project that could work for the community.

Commissioner Catmull thanked the applicant for patiently answering all his questions. He spent a considerable amount of time evaluating definitions of the future uses and zones, as well as their purposes. He went through each of the LIVE goals in the general plan and marked each one that he thought was relevant. He listened to the comments today, and he is leaning towards a recommendation to deny. He feels the applicant has other options still that they can pursue, and that the overall benefit to the city isn't compelling enough to justify altering both a future use map and a rezone of this area for a planned development overlay zone. He feels altering the future use map is a huge deal as a planning commissioner, especially the signal that developers and people that move in use in that designation. He also struggled with a rezone for this 3.1 acre property for a planned development overlay zone based on his research.

Commissioner Peirce is sympathetic to the residents and their concerns with what this may bring, but Mr. Peterson made a great point that sometimes people are afraid of change. We need to take into consideration that something is eventually going to go in this space. Looking at the trip generator that was run, it looks like if something commercial went in there it could very likely bring even more traffic. The residents need to take that into consideration too and realize that, unfortunately, something is going to go in there and it is going to bring more traffic. They may view it as trying to pick the lesser of two evils, and this might not be the more evil choice. His biggest concern is with the overall density everywhere in the city, and any time we start running up over those numbers that's concerning to him. If this could get down to where it was below or in that six to eight units per acre range he would be more comfortable with that. If they are using the actual functioning acreage, this gets up closer to 11 and that's his biggest concern. We are making a lot of speculation about when these people are going to come and go, where they will park, how fast they will drive; it's a lot of speculation that just isn't known. Anything going in there is going to bring some negative consequences, as well as positive, and they will have to deal with that.

Commissioner Darby thanked all the residents who have come tonight and expressed their views. There are some serious concerns about safety and he seconded what Commissioner Morrissey said earlier, that regardless of whether this development is approved or not, he would encourage the city to look more into those concerns and ways they can improve safety in this area. It seemed that the speed of the traffic was a real concern, with lots of bad experiences shared. He has six kids himself and you never want to hear about kids, or adults, in danger. He doesn't know that the developer particularly has that responsibility, especially right now because they don't have anything there; those events aren't necessarily because of something they've done. The other issue brought up was parking in the neighborhoods. He is a lazy person generally, if he has four parking spots in his home he's not going to park on another street and walk to his house, that doesn't seem logical; that argument does seem strange to him. His biggest concern is probably that historically the city doesn't approve a density above six to eight, so why are we looking at eight to 11; this is tough for him to approve because typically the city council hasn't approved that. His inclination is to deny, but he really likes the look of the project and it might be beneficial to have something there. He doesn't want to overrule what the city council has done in the past, he wants to leave that in their lap to decide.

Commissioner Peirce said he liked the comment about the speed. If we are looking at traffic studies, and they are saying that commercial is going to bring in more cars, that is a valid concern. However, if they are residents we may make the assumption that they are going to drive more slowly than if it's commercial, but we don't know that. He doesn't believe that is Peterson's responsibility, that is a city responsibility. The city needs to address the residents' concerns as far as safety and traffic, and Peterson's just needs to get something done with their lot of land.

Commissioner Catmull wonders, in regards to traffic, if it is commercial versus residential, how much of it comes in off of South Jordan Parkway versus Harvest Pointe.

Commissioner Morrissey is sympathetic to both the developer and the residents. However, he wonder if changing the future use of this land and rezoning it the best way to benefit the city in the long run. He is reluctant to make those changes at this point in time because of the density. Density has always been a concern of his and he has strongly opposed situations where people are trying to change the use of the zone to create more density; he is reluctant to vote for those changes at this time.

**Commissioner Gedge motioned to recommend a decision to deny File No. PLZBA202000247, the proposed land use amendment from Economic Center to Mixed Use, based on the information from the Staff Report and other information that was presented during the public hearing. Commissioner Morrissey seconded the motion. Roll Call vote was 5-0, unanimous in favor; Chair Hollist was absent from the vote.**

**Commissioner Gedge motioned to recommend a denial of File No. PLZBA202000247, proposed rezone from CC to CCPD. Commissioner Peirce seconded the motion. Roll Call Vote was 5-0, unanimous in favor; Chair Hollist was absent from the vote.**

**IX. OTHER BUSINESS –**

City Planner Greg Schindler said the first meeting in November has more items than tonight's agenda, however tomorrow planners will decide when they want to bring those items forward.

**ADJOURNMENT**

**Commissioner Darby motioned to adjourn the October 26, 2021 Planning Commission meeting. Commissioner Morrissey seconded the motion, vote was unanimous in favor; Chair Hollist was absent from the vote.**

The October 26, 2021 Planning Commission Meeting adjourned at 9:14 p.m.

Meeting minutes were prepared by Deputy Recorder Cindy Valdez

**This is a true and correct copy of the October 26, 2021 Planning Commission minutes, which were approved on November 9, 2021.**

**Cindy Valdez  
Deputy Recorder**

# 10-26-21 PC Meeting Attachment A

**Cindy Valdez**

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**From:** Greg Schindler  
**Sent:** Wednesday, October 27, 2021 12:47 PM  
**To:** Cindy Valdez  
**Subject:** FW: 2nd Improper Notice Given to the Public for File PLZBA202000247

Cindy,

I couldn't get hold of David. He must be at lunch. I will try later. Below is the email that Mr. Neves sent yesterday.

Thanks,  
Greg

**Greg Schindler, AICP | City Planner | City of South Jordan**  
1600 W. Towne Center Drive | South Jordan, UT 84095  
Office: 801.254.3742 | Direct: 801.253.5203 ext 1291



**From:** Brad Neves <[bradneves@gmail.com](mailto:bradneves@gmail.com)>  
**Sent:** Tuesday, October 26, 2021 11:53 AM  
**To:** Steven Schaefermeyer <[sschaefermeyer@sjc.utah.gov](mailto:sschaefermeyer@sjc.utah.gov)>  
**Cc:** Sean Morrissey <[SMorrissey@sjc.utah.gov](mailto:SMorrissey@sjc.utah.gov)>; Michele Hollist <[MHollist@sjc.utah.gov](mailto:MHollist@sjc.utah.gov)>; Nathan Gedge <[NGedge@sjc.utah.gov](mailto:NGedge@sjc.utah.gov)>; Trevor Darby <[TDarby@sjc.utah.gov](mailto:TDarby@sjc.utah.gov)>; Steven Catmull <[SCatmull@sjc.utah.gov](mailto:SCatmull@sjc.utah.gov)>; David Mann <[DMann@sjc.utah.gov](mailto:DMann@sjc.utah.gov)>; Jason McGuire <[JMcGuire@sjc.utah.gov](mailto:JMcGuire@sjc.utah.gov)>; [marknelson801@gmail.com](mailto:marknelson801@gmail.com); [davecrasmussen@gmail.com](mailto:davecrasmussen@gmail.com); [seanmccarty@gmail.com](mailto:seanmccarty@gmail.com); [cloudwalker1977@gmail.com](mailto:cloudwalker1977@gmail.com); Jeremy Nielson <[JNielson@sjc.utah.gov](mailto:JNielson@sjc.utah.gov)>; Greg Schindler <[GSchindler@sjc.utah.gov](mailto:GSchindler@sjc.utah.gov)>  
**Subject:** 2nd Improper Notice Given to the Public for File PLZBA202000247

Hello again Mr. Schaefermeyer,

We had an email exchange last month on September 28, 2021, titled "Improper Notice Given to Public for September 28, 2021 (Peterson Development's Proposal)", in which you responded to my request to reschedule the discussion for the Peterson Development Proposal on Harvest Pointe Dr.

I am writing once again to request that the Planning Commission Meeting scheduled for tonight, October 26, 2021, remove the item for Peterson Development, File PLZBA202000247 (Salt Lake County parcel 27171760310000), that is scheduled on the agenda tonight, to discuss the rezoning of this parcel.

I am contesting that the notification of this hearing is once again improper under SJC Code 17.04.060 for the following reasons:

The notice states the property is located at 3773 South Jordan Parkway. While this is accurate according to the parcel information recorded at the county level, my argument is that the address is inaccurate in itself. If not, it is considered a landlocked parcel at this point with no street access, therefore, the applicant would have thereby falsified its intentions on the application and proposal, showing access from Harvest Pointe Dr, which thereby further supports my argument that the proposal/application does not properly notify the whole public.

If it is not considered landlocked, which I would argue it is not because of the access from Harvest Pointe Dr, then the address assigned to this parcel should have been changed when the land was last divided and Jordan Parkway access was removed, as it currently is, to assign it a Harvest Pointe Dr address. If the proposal suggests access to the parcel via Harvest Pointe Dr, then Harvest Pointe, LLC also would agree it needs to be changed.

While the applicant followed procedures to notify those of us within 300 ft of the property of discussion, it still didn't allow for proper notification to the public at large, which it is not excused from doing so. There are other citizens of South Jordan City that are concerned about this as well and they have the same right to proper notification, of which does not fall on the shoulders of any opposed to the application.

If the Planning Commission proceeds with the agenda as notified, they should do so with the understanding that either A) they believe the parcel to be properly addressed, meaning it is landlocked, or B) they are willingly proceeding knowing the address doesn't properly notify the public, therefore in violation of SJC Code 17.04.060 and the proper notification required thereunder, and will therefore be subject to the penalties of SJC Code 17.04.090.

To sum up my argument, in order to properly notify the public regarding anything required for this parcel, it must be properly assigned a new address on Harvest Pointe Dr before any notice would be able to be sent out. This item should be removed from the agenda and not placed on it again until a proper address can be established.

Please let me and the other people copied on this message know whether the Planning Commission will remove the item from the agenda or not.

Sincerely,

Brad Neves  
10637 S Harvest Pointe Dr  
South Jordan, UT 84009



# Harvest Pointe West

3773 W South Jordan Parkway



For Peterson Development by Econowest  
February 2022



## 28 Three-story, 2100 Square Foot Residences



# Harvest Pointe West

## Exhibits Highest and Best Use

1. The Harvest Point West offers the current “highest and best use” for this property
2. Based on Utah’s continued job growth and in-migration, there will be strong demand in Utah for residential homes in the next two years
3. According one expert, waiting for Professional Office space to materialize would be a “train wreck” for a developer
4. South Jordan revenue (net present value) from 2022 to 2041 will be 70% higher for a **residential project** than **retail dollar store** or a **professional office space**
5. No net difference in costs to cities between residential, retail and commercial according to recent study in Utah Valley by Commerce CRG



# Demand for Housing Should Continue in Short-term

	2021	2022
Utah Employment	1,611,000	1,656,000
New Jobs	72,000	45,000
Utah Households	1,083,000	1,109,000
New Households	26,000	26,000
In-migration	35,000	34,000
Utah New Dwelling Permits	40,200	36,000

Source: Kem C. Gardner Policy Institute, Econowest

# Harvest Pointe's Present Value Revenues Exceeds Professional Office by 1.7 to 1

2022 – 2041 To South Jordan City	Present Value Revenue in 2022 \$
Harvest West - Residential & 2023-41	\$834,000
100% Professional Office Project, 2029-41	\$501,000
Retail Trade “Dollar Store”, 2023-41	\$479,000





# Harvest Pointe's Present Value Revenues Exceed Professional Office and Retail Dollar Store Project by 1.7 to 1

Present Value Analysis													
		NPV Net Present Value	2022 1	2023 2	2024 3	2025 4	2026 5	2027 6	2028 7	2029 8	2030 9	2031 10	2032 11
Commercial - Professional Office Space										1	2	3	4
	NPV=>	500,801	48,194	-	-					Percent complete=> 25%	75%	85%	90%
Revenue										84,277	38,347	44,764	48,819
Cap Rate - Class A	4.500%	342,629								33,889	25,804	28,825	30,082
Growth Rate	3.0%	Current Value	679,550										
												44,764	
												47,490	
Retail - Dollar Store													
	NPV=>	478,536	-	59,229	27,377	28,198	29,044	29,916	30,813	32,046	33,328	34,661	36,047
Cap rate - Multifamily	4.000%	478,536		54,761	24,338	24,104	23,872	23,643	23,416	23,416	23,416	23,416	23,416
Growth Rate y1-y5	3.0%	Current Value	737,398										
Growth Rate y6-y17	4.0%												
Harvest West Residential													
	NPV=>	833,996	284,094	29,683	32,982	33,971	34,990	36,040	37,121	38,606	40,150	41,756	43,426
Cap rate - Multifamily	3.625%	833,996	274,155	27,643	29,640	29,461	29,284	29,107	28,931	29,036	29,141	29,247	29,352
Growth Rate y1-y5	3.0%	Current Value	1,130,775										
Growth Rate y6-y17	4.0%												
Residential to Commercial													
	NPV=>	166.5%											
Residential to Retail													
	NPV=>	174.3%											
Ongoing Sales and Property Tax Revenue													
One-Time Impact Fees													



# Harvest Pointe West

28 Three-story, 2100 Square Foot Residences





# Impact Fees Higher for Residential Development

	One-time Tax Revenues to South Jordan City
Harvest West Residential Project (complete in 2023)	\$ 278,848
Professional Office Project (complete in 2030-32)	\$ 71,867
Retail Dollar Store Project	\$ 48,194



## Professional Office Space Base Revenues Higher, But Later Start Lowers Office Net Present Value

	Ongoing Tax Revenues to South Jordan City Per Year
Harvest West Residential Project (complete in 2023)	\$ 32,982
Sales Tax	18,429
Property Tax	14,553
Professional Office Project (complete in 2030-32)	\$ 48,194
Sales Tax	11,250
Property Tax	36,944
Retail Dollar Store Project	\$ 27,377
Sales Tax	\$ 22,494
Property Tax	\$ 4,883



# 50/50 Population/Point of Sale Formula Drives More Sales Tax

## Population

- New Residents = 28 homes x 3.3 = 92.3
- Increase share in states population =

$$92.3 / 3,271,616 = .0028\% \times \$784M \times 0.5\% = \$ 11,055$$

## Point of Sale

$$92.3 \text{ people} \times \$15,984 \text{ per person} @ 0.5\% = \$ \underline{7,374}$$

$$\text{Total Sales Tax from Residential Project} = \$ \mathbf{18,429}$$



## 28 Three-story, 1900 Square Foot Residences



# Harvest Pointe West's Costs to the City

1. Should be calculated on the basis of:

Marginal not Average

For example, will the addition of the Harvest Pointe's 92 residents and 28 homes “break the camel's back” in terms of adding new (FTE) employees?

Not Likely

















## RESOLUTION R2022 – 03

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AUTHORIZING THE MAYOR TO SIGN A DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF PROPERTY LOCATED AT 3773 W. SOUTH JORDAN PARKWAY IN THE CITY OF SOUTH JORDAN.**

**WHEREAS**, the City of South Jordan is a municipal corporation and political subdivision of the State of Utah (“City”) and is authorized to enter in to development agreements that it considers are necessary or appropriate for the use and development of land within the City pursuant to Utah Code § 10-9a-102 *et seq.*; and

**WHEREAS**, the City has entered into development agreements from time to time as the City has deemed necessary for the orderly development of the City; and

**WHEREAS**, the Applicant, Peterson Development, now desires to enter into an agreement for the purpose of developing and changing the zoning designation on property located at 3773 W. South Jordan Parkway (“Property”); and

**WHEREAS**, the South Jordan City Council (“City Council”) has determined that it is in the best interest of the public health, safety, and welfare of the City to enter into a development agreement for the orderly development of the property.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:**

**SECTION 1. Authorization to Sign Development Agreement.** The City Council hereby authorizes the Mayor to sign the Development Agreement, attached hereto as **Exhibit A**.

**SECTION 2. Effective Date.** This Resolution shall become effective immediately upon passage.

[SIGNATURE PAGE FOLLOWS]

APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Bradley Marlor	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: \_\_\_\_\_  
Dawn R. Ramsey

Attest: \_\_\_\_\_  
City Recorder

Approved as to form:

  
\_\_\_\_\_  
Office of the City Attorney

After recording, please send to:

City of South Jordan  
Attn: City Recorder  
1600 West Towne Center Drive  
South Jordan, Utah 84095

Affected Parcel No: 27-17-176-031.

## **DEVELOPMENT AGREEMENT**

This Development Agreement (this “Agreement”) is between the City of South Jordan, a Utah municipal corporation (“City”) and Harvest Pointe LLC, a Utah limited liability company (“Developer”). City and Developer are jointly referred to as the “Parties” and each may be referred to individually as “Party.”

### **RECITALS**

**WHEREAS**, Developer owns certain real property identified as Salt Lake County Assessor Parcel Number: 27-17-176-031, which is specifically described in attached **Exhibit A** (the “Property”); and

**WHEREAS**, the Property is subject to the Planning and Land Use Ordinance of South Jordan City and is located approximately at 3773 West South Jordan Parkway; and

**WHEREAS**, the Property is currently zoned Commercial-Community (C-C) and

**WHEREAS**, Developer desires to develop the Property as a project to be known as Harvest Pointe West (the “Project”) substantially consistent with the concept plan attached as **Exhibit B** (the “Concept Plan”), and the concept elevations and floor plans attached as **Exhibit C** (the “Elevations and Floor Plans”); and

**WHEREAS**, in furtherance of Developer’s desire to develop the Project, Developer has requested that the Property be rezoned with a base zoning of Residential-Multiple (the “R-M Zone”) and further and subsequently rezoned and made subject to a Planned Development Floating Zone (the “PD Zone”) to be known as the “R-M-PD Zone” (attached as **Exhibit D**); and

**WHEREAS**, the purpose of the PD Zone is “to allow for flexibility in the application of zoning regulations and development provisions of this title to advance a public interest through prescriptive requirements of a development plan and development agreement approved by the city council;” and

**WHEREAS**, Developer and City acknowledge that development in the PD Zone requires a development agreement specific to each area zoned as a PD Zone; and

**WHEREAS**, the City Council of the City of South Jordan (the “City Council”), acting pursuant to its authority under Utah Code § 10-9a-102(2) *et seq.*, as amended, and the South Jordan City Municipal Code (the “City Code”), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has elected to exercise its legislative discretion to enter into

this Agreement for the purpose of establishing the R-M-PD Zone and regulating the development the Project pursuant to the R-M-PD Zone; and

**WHEREAS**, Developer and City acknowledge that the development and improvement of the Property pursuant to this Agreement comply with the requirements of the PD Zone and provide certainty useful to the Developer and to City in ongoing and future dealings and relations among the Parties pertaining to the development of the Project; and

**WHEREAS**, this Agreement shall only be valid upon approval of such by the City Council and pursuant to Resolution R2022-03 a copy of which is attached as **Exhibit E**; and

**WHEREAS**, City and Developer acknowledge that the terms of this Agreement shall be enforceable and the rights of the Developer relative to the Property shall vest only if the City Council, in its sole legislative discretion, approves both the R-M Zone as the base zone for the Property and the R-M-PD Zone as the applicable PD Zone for the Property.

**NOW THEREFORE**, based on the foregoing recitals and in consideration of the mutual covenants and promises contained and set forth herein, the Parties agree as follows:

## **TERMS**

A. **Recitals; Definitions.** The recitals set forth above are incorporated herein by this reference. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the City Code.

B. **Enforceability.** City and Developer acknowledge that the terms of this Agreement shall be enforceable, and the rights of Developer relative to the Property shall vest, only if: (i) the City Council in its sole legislative discretion rezones the Property from the C-C Zone to the R-M Zone as the base zone and also rezones the Property with the R-M-PD Zone as the applicable PD Zone for the Property; and (ii) the City Council, acting as the South Jordan Redevelopment Agency (“RDA”) Board, approves the use of RDA workforce housing funds to be used in the project in exchange for at least three (3) deed-restricted units.

C. **Effective Date.** This Agreement is effective on the date the last party executes this Agreement as indicated by the date stated under that party’s signature line (the “Effective Date”).

D. **Conflicting Terms.** The Property shall be developed in accordance with the requirements and benefits provided for in relation to the R-M Zone and the PD Zone under the City Code as of the Effective Date. If there is a discrepancy between the requirements of the City Code, including the R-M Zone or the PD Zone, and this Agreement, this Agreement shall control.

E. **Developer Obligations.**

a. Uses. Developer shall develop and use the Property in a manner substantially consistent with the Concept Plan.

b. Density. The overall density of the project will not exceed twenty-eight (28) residential units.

c. Setbacks. All setbacks will meet those shown on the concept plan attached hereto as **Exhibit B**.

d. Amenities. Developer will install a flashing crosswalk connecting Rushton Meadows Park with Harvest Pointe West. Developer will work with the City to install other reasonable traffic calming measures along the east side of Harvest Pointe Drive abutting this development.

e. Architecture. The architecture will be similar to the pictures submitted to the City and attached as Exhibit 'C', comply with requirements of City Code § 17.40. and the following architectural standards:

1. Buildings shall be constructed with a minimum amount of brick or stone that is calculated by multiplying two (2) by the perimeter length of the foundation (including garage). (Ord. 2016-05, 5-3-2016)

2. Buildings shall be constructed of a contemporary design with a parapet wall enclosing the roof deck constructed with a lower roof pitch when done so in compliance with applicable Building Codes. (Ord. 2017-22, 7-18-2017)

3. Buildings shall include a minimum two car garage (minimum 22 feet by 22 feet, or an approved equivalent area).

4. The minimum total floor area, finished and unfinished, of any residential main building shall be 2100 square feet.

5. Buildings shall include architectural elements (i.e., main entrance, porch) that distinguish the side of the building oriented toward the front yard as the front of the house. The front of the house shall be accessible by a pedestrian from the adjacent right-of-way. (Ord. 2016-05, 5-3-2016)

6. Privacy windows shall be installed on the third floor of all buildings abutting Lots 122, 410, 411, 412, 413, and 414 of Rushton Meadows Subdivision. These privacy windows are reflected in the elevations included in Exhibit "C".

f. Landscaping.

1. The landscaping will comply with the landscaping requirements of City Code § 17.40.020.J.

2. Developer shall work with the adjacent property owners in the Rushton Meadows Subdivision for thoughtful placement of the landscaping materials and locations between the two subdivisions. The purpose of this subsection is to create additional privacy between the two subdivisions.



g. Compliance with the R-M-6 Zone. The Project will comply with the R-M-6 Zone (included in Exhibit D), except where requirements are modified by this Agreement.

h. Parking Enforcement. Developer shall require that the Property's covenants, conditions, and restrictions (CC&Rs) outline parking standards and parking enforcement plan.

i. Plat Language. The final plat for the Project shall contain the following language in a note: *This plat is subject to that certain Development Agreement dated \_\_\_\_\_, by and between the City of South Jordan and \_\_\_\_\_, including all provisions, covenants, conditions, restrictions, easements, charges, assessments, liens or rights, if any, created therein and recorded \_\_\_\_\_ as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ of the Official Records of Salt Lake County.*

j. Subdivision Streets. The proposed streets within the Project shall be private streets and built to the width as shown on the Concept Plan. In addition, the streets shall be constructed as outlined in the City Code for private streets. On-street parking may be restricted and developer will be required to place "No Parking" signs as directed by the City Engineer.

F. **Minor Changes.** The Planning Department, after conferring with the City Manager, may approve minor modifications to the Developer Obligations in Section E which are necessary or advantageous in facilitating more desirable function and aesthetics of the Project.

G. **City Obligations.**

1. Review of City. City shall review development applications with respect to the Property in a timely manner, consistent with City's routine development review practices and in accordance with all applicable laws and regulations.

H. **Vested Rights and Reserved Legislative Powers.**

1. Vested Rights. Consistent with the terms and conditions of this Agreement, City agrees Developer has the vested right to develop and construct the Project during the term of this Agreement in accordance with: (i) the R-M-PD Zone designation; (ii) the City Code in effect as of the Effective Date; and (iii) the terms of this Agreement.

2. Reserved Legislative Powers. Developer acknowledges that City 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 City all of its police power that cannot be so limited. Notwithstanding the retained power of City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer under this Agreement and with respect to use under the zoning designations as referenced in this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Property shall be of general application to all development activity in City and Salt Lake County; and, unless in good faith City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be

heard with respect to the proposed change and its applicability to the Property under the compelling, countervailing public interest exception to the vested rights doctrine.

I. **Term.** This Agreement shall run with the land and shall continue in full force and effect until all obligations hereunder have been fully performed and all rights hereunder fully exercised; provided, however, that unless the parties mutually agree to extend the term, this Agreement shall not extend further than a period of ten (10) years from its date of recordation in the official records of the Salt Lake County Recorder's Office.

J. **General Provisions.**

1. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified U.S. Postal Service mail, return receipt requested, postage prepaid to the following addresses or to such other addresses as either Party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least ten days before the date on which the change is to become effective:

If to City:                      City of South Jordan  
   Attn: City Recorder  
   1600 West Towne Center Drive  
   South Jordan, Utah 84095

If to Developer:              Harvest Pointe LLC  
   ATTN: Barrett Peterson  
   225 South 200 East #200  
   Salt Lake City, UT 84111

2. Mailing Effective. Notices given by mail shall be deemed delivered seventy-two hours following deposit with the U.S. Postal Service in the manner set forth above.

3. No Waiver. Any Party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the Party intended to be benefited by the provisions, and a waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

4. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provision this Agreement.

5. Authority. The Parties to this Agreement represent that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Developer represents and warrants it is fully formed and validly existing under the laws of the State of Utah, and that it is duly qualified to do business in the State of Utah and is in good standing under applicable state laws. Developer and City warrant to each other that the individuals executing this Agreement on behalf of their

respective Party are authorized and empowered to bind the Party on whose behalf each individual is signing. Developer represents to City that by entering into this Agreement Developer has bound all persons and entities having a legal or equitable interest to the terms of this Agreement as of the Effective Date.

6. Entire Agreement. This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by City for the Property contain the entire agreement of the Parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the Parties which are not contained in such agreements, regulatory approvals and related conditions.

7. Amendment. This Agreement may be amended in whole or in part with respect to all or any portion of the Property by the mutual written consent of the Parties or by their successors-in-interest or assigns. Any such amendment of this Agreement shall be recorded in the official records of the Salt Lake County Recorder's Office.

8. Severability. If any of the provisions of this Agreement are declared void or unenforceable, such provision shall be severed from this Agreement. This Agreement shall otherwise remain in full force and effect provided the fundamental purpose of this Agreement and Developer's ability to complete the development of the Property as set forth in the Concept Plan is not defeated by such severance.

9. Governing Law. The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement. The Parties shall agree that the venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Salt Lake County, Utah. The Parties hereby expressly waive any right to object to such choice of law or venue.

10. Remedies. If either Party breaches any provision of this Agreement, the non-defaulting Party shall be entitled to all remedies available both at law and in equity.

11. Attorney's Fees and Costs. If either Party brings legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and court costs.

12. Binding Effect. The benefits and burdens of this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors in interest and assigns. This Agreement shall be incorporated by reference in any instrument purporting to convey an interest in the Property.

13. No Third Party Rights. The obligations of Developer and City set forth in this Agreement shall not create any rights in or obligations to any other persons or parties except to the extent otherwise provided herein.

14. Assignment. Developer may freely assign this Agreement, in which case the assignor or successor-in-interest shall be fully liable under this Agreement and Developer shall be deemed released of its obligations in connection with this Agreement; provided, however, that Developer shall provide City with notice of the assignment of this Agreement within a

reasonable time after the occurrence of such assignment.

15. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

To evidence the Parties' agreement to this Agreement, each Party has executed it on the date stated under that Party's name, with this Agreement being effective on the date stated in Section C.

[SIGNATURE PAGE FOLLOWS]

**CITY OF SOUTH JORDAN**

Approved as to form:

  
Office of the City Attorney

Signature: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

State of Utah )

County of Salt Lake )  
:ss

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me  
\_\_\_\_\_ (name of document signer), whose identity is personally  
known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed,  
did say that he/she is the Mayor of the City of South Jordan and that said document was signed by  
him/her in behalf of said Corporation by Authority of its Bylaws or by Resolution, and said  
\_\_\_\_\_ (name of document signer) acknowledged to me that said  
Corporation executed the same.

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

**DEVELOPER**

HARVEST POINTE LLC, A UTAH LIMITED LIABILITY COMPANY

Signature: \_\_\_\_\_

By: Barrett Peterson

Its: Manager

Date: \_\_\_\_\_

State of Utah)

:ss

County of Salt Lake)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me Barrett Peterson, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is a Manager of Harvest Pointe LLC, a Utah limited liability company, and that said document was signed by him in behalf of said limited liability company by authority of its Operating Agreement or by Resolution, and said Barrett Peterson acknowledged to me that said limited liability company executed the same.

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



## EXHIBIT A

(Legal Description for the Property)

Beginning at a point being North 89°57'00" West 290.73 feet along the south line of 10400 South Street from the Northwest Corner of Lot 3, Albertson's 10400 South Street Subdivision as found and on file at the Salt Lake County Recorder's Office, Book 2002, Page 243, and running; thence Southwesterly 27.77 feet along the arc of a 35.00 foot radius curve to the left (center bears South 44°34'51" East and the long chord bears South 22°41 '12" West 27.05 feet with a central angle of 45°27'54"); thence South 0°02'32" East 67.31 feet; thence Southwesterly 12.46 feet along the arc of a 50.00 foot radius curve to the right (center bears North 89°57'15" East and the long chord bears South 7°05'48" West 12.43 feet with a central angle of 14°16'39"); thence South 14°14'07" West 49.15 feet; thence Southwesterly 103.10 feet along the arc of a 119.00 foot radius curve to the right (center bears North 75°45'53" West and the long chord bears South 39°03'22" West 99.91 feet with a central angle of 49°38'29"); thence Southwesterly 100.40 feet along the arc of a 90.00 foot radius curve to the left (center bears South 26°07'24" East and the long chord bears South 31 °55'02" West 95.28 feet with a central angle of 63°55'09"); thence South 0°02'33" East 136.59 feet; thence East 116.23 feet; thence North 188.61 feet; thence East 115.65 feet; thence South 327.62 feet; thence East 193.09 feet to the west line of Lot 2, Albertson's 10400 South Street Subdivision; thence South 156.58 feet along the west line to the Southwest Center of said Lot 2, Albertson's 10400 South Street Subdivision; thence North 89°57'00" West 461.67 feet along the south line to the Southwest Corner of said Albertson's 10400 South Street Subdivision; thence North 0°02'34" West 481.22 feet along the west line of said Albertson's 10400 South Street Subdivision; thence North 89°57'29" east 17.60 feet; thence Northeasterly 82.88 feet along the arc of a 120.00 foot radius curve to the right (center bears South 65°41 '48" East and the long chord bears North 44°05'19" East 81.24 feet with a central angle of 39°34' 13"); thence Northeasterly 99.28 feet along the arc of a 89.00 foot radius curve to the left (center bears North 26°07'35" West and the long chord bears North 31 °54'57" East 94.21 feet with a central angle of 63°54'57"); thence North 0°02'32" West 97.83 feet; thence Northwesterly 28.06 feet along the arc of a 35.00 foot radius curve to the left (center bears South 89°57'35" West and the long chord bears North 23°00' 13" West 27.31 feet with a central angle of 45°55'36") to the south line of 10400 South Street; thence South 89°57'00" East 61.10 feet along the south line of said 10400 South Street to the point of beginning.

Less and excepting any and all portions lying within the legal bounds of Harvest Pointe Drive.

Tax ID: 27-17-176-031

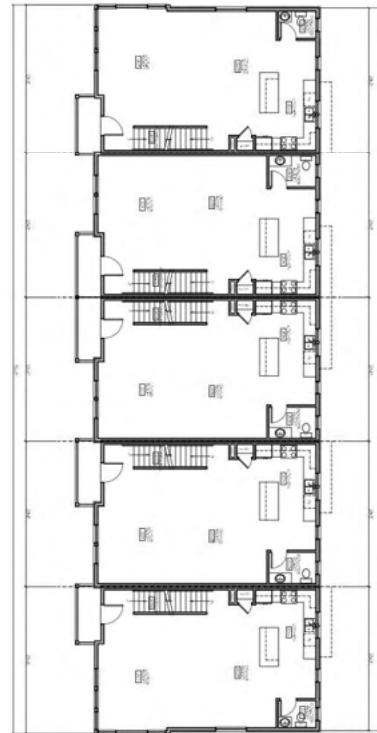
(Concept Plan)



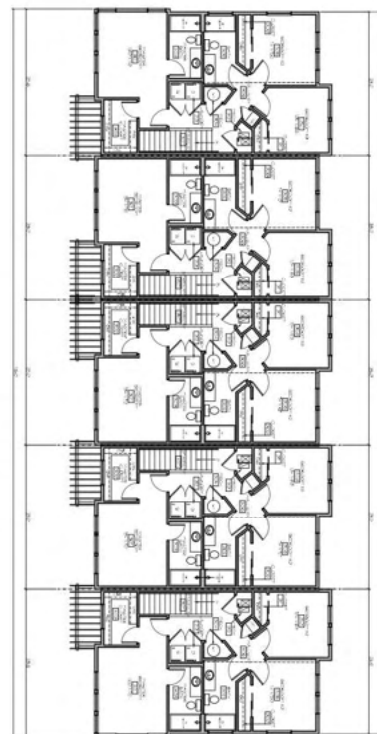
## EXHIBIT C

(Elevations and Floor Plans)

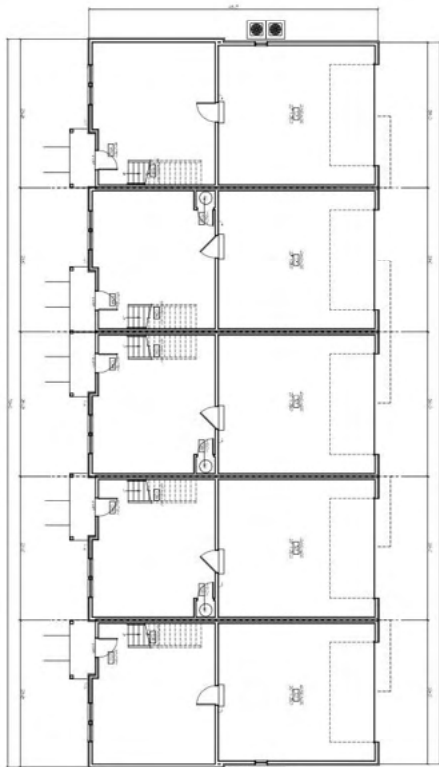




2 SPLEX - LEVEL 2 - 3 STORY  
A/D SCALE: 1/8" = 1'-0"



3 SPLEX - LEVEL 3 - 3 STORY  
A/D SCALE: 1/8" = 1'-0"



1 SPLEX - LEVEL 1 - 3 STORY  
A/D SCALE: 1/8" = 1'-0"

# HARVEST POINT WEST South Jordan, Utah

These plans are the property of Architecture Belgique, Inc. and are provided to owner for review and approval. They are not to be used for any other purpose without the written consent of Architecture Belgique, Inc.

January 17, 2022



7588 So. Main Street, Ste. 100 Midvale, UT 84047  
(801) 561-1233

## EXHIBIT D

### Chapter 17.40 RESIDENTIAL ZONES

#### 17.40.010: PURPOSE:

This chapter is established to provide standards and regulations, consistent with the city's general plan and the purposes and provisions of this title, for single-family residential areas in the city. This chapter shall apply to the following residential zones as established in chapter 17.20, "Zone Establishment", of this title: R-1.8, R-2.5, R-3, R-4, R-5, and R-M zones. Uses may only be conducted in residential zones in accordance with the regulations of this code. Allowed use (permitted and conditional), accessory use, temporary use and other associated use regulations may be found in chapter 17.18, "Uses", of this title. (Ord. 2016-05, 5-3-2016)

#### 17.40.020: DEVELOPMENT AND DESIGN STANDARDS:

A. Development Review: Uses proposed in residential zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in residential zones. All uses shall be conducted according to the approved plan or plat and any conditions of approval. Plans or plats may not be altered without prior approval of the city, except as otherwise allowed under state law.

B. Lot Area: The area of any lot in residential zones shall not be less than the minimum lot area requirement identified in the minimum lot area table below. Every portion of a parcel being subdivided shall be included as a lot or lots in the proposed subdivision plat, right of way or as common, limited common or private ownership.

Zone	Minimum Lot Area (Square Feet)
R-1.8	14,520
R-2.5	12,000
R-3	10,000
R-4	8,000
R-5	6,000
R-M	5,000

C. Lot Density: The maximum gross density (number of lots or primary dwelling units per acre) in any residential development in a residential zone shall not exceed the density shown in the lot density table below. The primary dwelling density of each area zoned R-M shall be determined, according to the densities established in the lot density table, with approval of a rezoning application per chapter 17.22, "Zoning Amendments", of this title and indicated on the official zoning map with a numerical suffix matching the approved density.

Zone	Maximum Gross Density
R-1.8	1.8
R-2.5	2.5
R-3	3
R-4	4



R-5	5
R-M-5	5
R-M-6	6

D. Lot Width And Frontage: Each lot or parcel in a residential zone shall have a minimum lot width not less than the dimension in the minimum width column of the lot width and frontage table below. The minimum lot width shall be measured at the minimum front yard requirement (see subsection F of this section) that shall be determined from a point which corresponds to the midpoint of the front lot line. Each lot or parcel shall abut the right of way line of a public street a minimum distance not less than the dimension in the frontage (standard) column of the lot width and frontage table below, except that lots with side property lines which diverge at an angle of at least twenty degrees (20°) shall abut the right-of-way or landscaped open space a minimum distance not less than the dimension in the frontage (diverged) column.

Zone	Minimum Width	Frontage (Standard)	Frontage (Diverged)
R-1.8	90'	90'	50'
R-2.5	90'	90'	50'
R-3	85'	85'	50'
R-4	80'	80'	50'
R-5	75'	75'	50'
R-M-5	65'	65'	40'
R-M-6	60'	60'	40'

E. Lot Coverage: The area of lot, parcel or private ownership area in a residential zone covered by buildings shall not exceed the percentage identified in the lot coverage table below of the total lot, parcel or private ownership area.

Zone	Maximum Building Coverage
R-1.8	40%
R-2.5	40%
R-3	40%
R-4	40%
R-5	50%
R-M	60%

F. Yard Area: The yard area (setback) requirements below shall apply in all residential zones. Minimum yard areas are measured from the corresponding front, side and rear property lines of lots or from the boundaries of private ownership areas. A land use permit shall be obtained prior to the construction of any accessory building for which a building permit is not required. An application form, lot plan showing streets, existing buildings, dimensions, easements and setbacks of the proposed accessory building and other information as needed shall be submitted for review. (Ord. 2016-05, 5-3-2016)

1. Main Buildings: Minimum yard area requirements for main buildings are as follows:

<b>Zone</b>	<b>Front Yard (Interior And Corner Lots)</b>	<b>Garage Opening<sup>1</sup> (Front Or Street Side)</b>	<b>Front Yard (Cul-De-Sac Lots)</b>	<b>Side Yard (Standard)</b>	<b>Side Yard (Corner Lot Street Side)</b>	<b>Rear Yard (Interior Lot)</b>	<b>Rear Yard (Corner Lot)</b>
R-1.8	30'	30'	25'	10'	30'	25'	10'
R-2.5	25'	30'	20'	10'	25'	25'	10'
R-3	25'	30'	20'	10'	25'	25'	10'
R-4	20'	25'	20'	8'	20'	20'	10'
R-5	20'	25'	20'	8'	20'	20'	10'
R-M-5	20'	25'	20'	8'	10'	20'	10'
R-M-6	20'	25'	20'	8'	10'	20'	10'

Note: 1. The garage opening minimum yard area requirement shall apply to garages when the garage opening faces the street, otherwise the front yard minimum yard area shall apply. The garage opening minimum yard requirement shall be 25 feet to any street-facing garage opening in a cul-de-sac. (Ord. 2017-22, 7-18-2017)

2. Accessory Buildings: Minimum yard area requirements for accessory buildings are as follows:

a. Location: Accessory buildings may not be located between the front building line of a main building and the right-of-way that determines the front yard area.

b. Side Yard: An accessory building may be located in a side yard, including a street side, if located no closer than the minimum side yard requirement for the main building pursuant to this subsection F, except that accessory buildings less than ten feet (10') in height and not containing habitable space may be located no closer than five feet (5') from the side property line.

c. Rear Yard: An accessory building may be located in a rear yard no closer than three feet (3') from the side or rear property line or boundary and increased by one foot (1') for each foot of building height in excess of sixteen feet (16'), except that the setback shall be increased to no closer than five feet (5') from the side or rear property line or boundary when adjacent to a right-of-way, which shall be increased by one foot (1') for each foot of building height in excess of sixteen feet (16').

3. Buildings Used To Shelter Animals: Buildings used for the housing or shelter of animals shall be located a minimum distance of forty feet (40') from any existing dwelling or neighborhood street right-of-way or, if approved with a conditional use permit, a minimum of twenty feet (20') from any collector street right-of-way line.

4. Projections: The following may be erected on or projected into any required yard space in Residential Zones:

a. Fences and walls in conformance with this Code.

b. Agricultural crops and landscape elements, including trees, shrubs and other plants.

c. Utility or irrigation equipment or facilities.

d. Decks not more than two feet (2') high.

e. Cornices, eaves, sills, planter boxes, stairways, landings, porches, decks, awnings or similar architectural features attached to the building and not enclosed by walls, extending not more than two feet (2') into a side yard, or four feet (4') into a front or rear yard.

f. Chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building no greater than eight feet (8') wide and extending not more than two feet (2') into a side yard, or four feet (4') into a front or rear yard.

G. Parking And Access: Parking areas and vehicle access in Residential Zones shall meet the requirements of title 16, chapter 16.26, "Parking And Access", of this Code, chapter 17.18, "Uses", of this title, and title 10 of this Code (Traffic Code). A driveway may only directly access a collector or arterial street with approval of the Utah Department of Transportation ("UDOT") for UDOT streets or with approval of the City Engineer for City streets. (Ord. 2016-05, 5-3-2016)

H. Fencing, Screening And Clear Vision: The fencing, screening and clear vision requirements of this section shall apply in Residential Zones. A permit shall be obtained from the Planning Department prior to construction of any fence in a Residential Zone. A completed fence application form that includes a diagram showing the location and height of the proposed fence, and a description of the proposed fence shall be submitted for review by the Planning Department. (Ord. 2016-05, 5-3-2016; amd. Ord. 2019-01, 3-5-2019)

1. Utility Screening: In nonresidential developments, all mechanical equipment, antennas (where possible), loading areas, and utility areas shall be screened from view at ground level along the property line of the subject property with architectural features or walls consistent with materials used in the associated buildings. Exterior trash receptacles in nonresidential developments shall be enclosed by masonry walls that are at least as tall as the receptacle itself, but not less than six feet (6') tall, and solid steel access doors. The color of trash receptacle enclosures (masonry walls and access doors) shall be consistent with colors used in the associated buildings. (Ord. 2017-22, 7-18-2017)

2. Incompatible Land Use Screening: Incompatible land uses, including waterways, trails, parks, open spaces and other uses or zones shall be screened or buffered with fences, walls and/or landscaping as required by the development approval.

3. Rear And Side Yard Fencing: A maximum six foot (6') high fence and/or hedge may be installed and maintained between a dwelling and a rear or side lot line.

4. Front Yard Fencing: A maximum four foot (4') high, nonvisually obscuring decorative wrought iron, simulated wrought iron or nonobscuring vinyl picket fence may be constructed along a side lot line to the right-of-way line or sidewalk of a neighborhood street, except as regulated in clear vision areas. A masonry or solid vinyl fence or hedge may also be constructed along lot lines to the right-of-way or sidewalk but may not be greater than three feet (3') high. Brick pillars may not exceed eighteen inches (18") square or be closer than ten feet (10') on center. Posts or pillars may not extend higher than four inches (4") above the fence panel.

5. Clear Vision: Landscape materials, except for mature trees that are pruned at least seven feet (7') above the ground, and fences shall be no greater than three feet (3') high within a ten foot (10') triangular area formed by the edge of a driveway and the street right-of-way line or within a thirty foot (30') triangular area formed by the right-of-way lines of intersecting streets. Lesser clear vision triangular areas may be approved by the City Engineer based on traffic speeds, flow, volumes and other traffic related variables.

6. Collector Street Fencing: Any single-family residential rear or side yard fence erected or maintained roughly parallel to and within twenty feet (20') of a collector or arterial street right-of-way in a Residential Zone shall be constructed according to section 16.04.200 of this Code.

I. Architecture: The following exterior materials and architectural standards are required in Residential Zones:

1. General Architectural Standards:

- a. All building materials shall be high quality, durable and low maintenance.
- b. The exteriors of buildings in Residential Zones shall be properly maintained by the owners or owners' association.
- c. Signs shall meet requirements of [title 16, chapter 16.36](#), "Sign Ordinance", of this Code and shall be constructed of materials that are consistent with the buildings they identify.
- d. Main buildings shall be no greater than thirty five feet (35') high.

2. Architectural Standards For Main Buildings:

- a. Main buildings shall be constructed with a minimum amount of brick or stone that is calculated by multiplying two (2) by the perimeter length of the foundation (including garage). (Ord. 2016-05, 5-3-2016)
- b. Main buildings shall be constructed with a majority of the roof to be a minimum roof pitch of three to twelve (3:12), except that main buildings of a contemporary design with a parapet wall enclosing the roof deck may be constructed with a lower roof pitch when done so in compliance with applicable Building Codes. (Ord. 2017-22, 7-18-2017)
- c. Residential main buildings shall include a minimum two car garage (minimum 22 feet by 22 feet, or an approved equivalent area).
- d. The minimum total floor area, finished and unfinished, of any residential main building shall be two thousand four hundred (2,400) square feet.
- e. Residential main buildings shall include architectural elements (i.e., main entrance, porch) that distinguish the side of the building oriented toward the front yard as the front of the house. The front of the house shall be accessible by a pedestrian from the adjacent right-of-way. (Ord. 2016-05, 5-3-2016)

3. Architectural Standards For Accessory Buildings:

- a. Accessory buildings may not be higher than the main building, except as approved by the Planning Commission as a conditional use permit. In no case shall an accessory building be greater than twenty five feet (25') high.
- b. The footprint of accessory buildings in the R-2.5, R-3, R-4, R-5 and R-M Zones shall not exceed sixty percent (60%) of the footprint of the main building, including the footprint of an attached garage, except that the Planning

Commission may approve a conditional use permit for an accessory building with a footprint that is greater than sixty percent (60%) but in no case shall exceed the footprint of the main building. In the R-1.8 Zone, the footprint of an accessory building, such as a barn or a stable, shall not exceed the footprint of the main building, except with a conditional use permit approved by the Planning Commission.

c. Any portion of an accessory building within twenty feet (20') of a property line shall meet the following requirements, except as approved by the Planning Commission as a conditional use permit:

(1) Openings (e.g., windows and doors) that are visible from the property line shall not be located in an exterior wall when the floor height exceeds four feet (4') above grade.

(2) The average wall height shall not exceed sixteen feet (16') above grade.

d. Accessory buildings with a footprint exceeding two hundred (200) square feet shall be constructed with a minimum one to twelve (1:12) roof pitch in the R-1.8 Zone, and a minimum three to twelve (3:12) roof pitch over a majority of the structure in all other Residential Zones.

e. Applications for a conditional use permit under subsections I3a, I3b and I3c of this section shall demonstrate that the proposed accessory building is consistent with the character of the surrounding area, which analysis includes, but is not limited to, consideration of nearby structures and uses and applicable declarations of conditions, covenants and restrictions ("CC&Rs"). Written notice shall be provided to all property owners located within the subdivision plat of the subject property and to all property owners otherwise located within three hundred feet (300') of the subject property. Notice shall be provided no less than ten (10) days prior to the scheduled Planning Commission meeting. (Ord. 2019-06, 3-19-2019)

#### J. Landscaping:

1. The front and street side yards of single-family lots shall be fully improved and properly maintained with not less than fifty percent (50%) of the yard area landscaped and not less than fifty percent (50%) of the required landscaped area covered in lawn or other acceptable live plant material unless otherwise approved with a conditional use permit.

2. All collector street and other public and private park strips in Residential Zones shall be improved and maintained by the adjoining property owners according to specifications adopted by the City unless otherwise allowed with development approval.

3. Where an adjacent park strip in a residential right-of-way is a minimum of five feet (5') wide, park strip improvements shall include one shade tree that is a minimum two inch (2") caliper, for every fifty feet (50') of frontage and spaced evenly throughout the landscaped portion of the park strip. Park strip trees shall be consistent with the "Streetscape Tree Species for South Jordan City" list.

4. In developments that have a principal use other than single-family, detached, the following landscaping requirements shall apply:

a. All areas of developments not approved for parking, buildings, recreation facilities, access, other hard surfaces, or otherwise exempted with development approval shall be landscaped and properly maintained with grass, deciduous and evergreen trees and other plant material approved in conjunction with a site plan or plat for the development.

b. A minimum of one tree per one thousand (1,000) square feet, or part thereof, of landscaped areas, excluding landscaped sports or play areas, is required. At least thirty percent (30%) of all required trees shall be a minimum seven foot (7') evergreen. Deciduous trees shall be a minimum two inch (2") caliper. Deciduous and evergreen trees need not be equally spaced, except as required in parking areas and in park strips but shall be distributed throughout the required yard areas on the site.

c. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of each parking row. Planters shall be at least five feet (5') wide.

d. Minimum five foot (5') wide landscaped planters shall be installed along the street side of building foundations, except at building entrances.

e. All landscaped areas shall be curbed.

5. Developments that are contiguous to canals, streams or drainage areas shall make reasonable efforts to include banks and rights-of-way in the landscaping of the project and the urban trails system. Any area so included and perpetually preserved as open space may be counted toward required open space for the development. If approved by the City Engineer, waterways which traverse developments may be left open if properly landscaped and maintained by the adjacent owners. Waterways may not be altered without approval of any entity or agency having jurisdiction over said waterways.

6. All required landscaping in yard areas and open spaces shall be installed prior to occupancy unless deferred pursuant to section 16.04.300, "Deferred Improvements", of this Code.

7. Property owners shall properly irrigate and maintain all landscaped areas, including those in adjacent public rights-of-way that are not maintained by the City.

8. Required trees may not be topped and required landscape material may not be removed in Residential Zones without City approval.
9. Dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan or plat approval.

K. Lighting:

1. A lighting plan shall be submitted with all new nonresidential developments in Residential Zones.
2. Lighting shall be shielded to prevent glare on adjacent agricultural and residential properties.
3. Lighting fixtures in all developments that have a principal use that is not agricultural or residential shall be architectural grade and consistent with the architectural theme of the development.
4. Lighting fixtures on public property shall be approved by the City Engineer.

L. Streets: Streets in Residential Zones shall meet the requirements of section 16.04.180, "Streets", of this Code, except that private streets and gated communities are prohibited in Residential Zones unless otherwise provided for in this chapter. (Ord. 2016-05, 5-3-2016)

**17.40.030: OTHER REQUIREMENTS:**

A. Grading: All developments shall be graded as required by the City Engineer to provide adequate drainage. Buildings shall be equipped with facilities that discharge all roof drainage onto the subject lot or parcel. (Ord. 2016-05, 5-3-2016; amd. Ord. 2019-01, 3-5-2019)

B. Maintenance: All private areas of lots or parcels shall be properly maintained by the owners.

C. Phasing Plan: A project phasing plan shall be submitted for review at the time of plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the City.

D. Common Areas: All common area improvements in developments, including, but not limited to, buildings, open space, recreational facilities, roads, fences, utilities, landscaping, walkways, streetlights and signs not specifically dedicated to the City or accepted for ownership or maintenance by the City shall be perpetually owned and maintained by the property owners of the development or their agents through a special taxing district or owners' association with power to assess and collect fees for maintenance or other assessment and maintenance mechanisms acceptable to the City.

E. Prior Created Lots: Lots or parcels of land that legally existed or were created by a preliminary or final plat approval prior to the establishment of a Residential Zone shall not be denied a building permit solely for reason of nonconformance with the requirements of this chapter.

F. Approval: Before building permits are issued, all projects shall have been approved according to the provisions and requirements of this Code and the applicable plat recorded with the Salt Lake County Recorder's Office.

G. Open Space: Any open space provided within a subdivision to be jointly owned, maintained and preserved by a homeowners' association and/or special assessment area acceptable to the City shall be labeled and recorded as common area or as a perpetual open space easement. Private yard areas may not be counted as required open space. The City may determine the location of open space in a subdivision by considering topography, drainage or other land features. The City may require a cash bond or a letter of credit to guarantee installation of improvements.

H. Developer Requirements: Developers of projects that will include common area, private streets, shared private improvements, or shall otherwise include restrictive covenants shall submit a proposed declaration of conditions, covenants and restrictions ("CC&Rs") to the City for staff review. The CC&Rs shall be recorded concurrently with the final plat and, except where the City has agreed to and executed documents to guarantee the establishment of a special assessment area, shall include the following:

1. An opinion of legal counsel licensed to practice law in the State that the project meets requirements of State law.
2. Provisions for a homeowners' association, maintenance of all buildings, streets, sidewalks, other improvements and common areas, adherence to City conditions and standards applicable to the development at the time of approval, snow removal, and other items recommended by City staff and approved by the Planning Commission.
3. Language consistent with section 17.04.300 of this title. (Ord. 2016-05, 5-3-2016)



## **17.130.050: PLANNED DEVELOPMENT FLOATING ZONE:**

### **17.130.050.010: PURPOSE:**

The purpose of the Planned Development Floating Zone (PD) is to allow for flexibility in the application of zoning regulations and development provisions of this title to advance a public interest through prescriptive requirements of a development plan and development agreement approved by the City Council. The PD may be applied to specific geographical areas ("districts") in circumstances that address a unique situation, confer a substantial benefit to the City, or incorporate design elements or a mixture of uses that represent a significant improvement in quality over what could otherwise be accomplished by standard zoning and development provisions. Such circumstances may include, but are not limited to: improvements in open space and amenities, environmental and resource preservation, tree and vegetation protection, slope accommodations, improved infrastructure efficiency, exceptional and innovative site or building design, increased public benefits, and complementary integrated land uses. The City Council shall consider the purpose of the base zone and the impacts on and from surrounding properties when approving a PD District. (Ord. 2016-05, 5-3-2016)

### **17.130.050.020: ESTABLISHMENT:**

#### **A. Procedure:**

1. Concept: A concept plan, that includes a preliminary site layout, basic sketches of proposed buildings, and a general understanding of proposed uses, shall be submitted for City Council review. Applicants are encouraged to work with staff prior to application to achieve an understanding of the surrounding area, the purpose of the base zone, and the goals and policies of the City's general plan. The Council shall provide advisory comments and recommendation regarding the concept plan to assist in the preparation of the development plan according to subsection B of this section. No action will be taken by the Council, and comments and recommendations will not obligate, compel, or constrain future action by the Council.
2. Rezone: A PD District shall only be established upon approval by the City Council as a rezone according to the provisions of chapter 17.22, "Zoning Amendments", of this title and as may be required elsewhere in this title, except that the requirement for a conceptual plan in subsection 17.22.030D of this title shall be replaced with a development plan according to subsection B of this section. The development plan shall be approved by development agreement in conjunction with the rezoning approval. (Ord. 2016-05, 5-3-2016)
3. Concurrent Site Plan Or Preliminary Subdivision (Optional): At the applicant's option and with the approval of the Planning Director, the applicant may submit a site plan application and/or preliminary subdivision application to be processed concurrently with a PD rezone. In the case of concurrent applications, Planning Commission approval of a concurrent site plan and/or preliminary subdivision shall be contingent on the City Council's approval of the PD rezone. (Ord. 2016-05, 5-3-2016; amd. Ord. 2019-01, 3-5-2019)

#### **B. Development Plan Requirements:**

1. A written statement shall be provided that explains the intent of the proposal, explains how the PD provisions will be met, and identifies the requested revisions to standard zoning and development provisions.
2. A map and other textual or graphic materials as necessary to define the geographical boundaries of the area to which the requested PD District would apply.
3. A development plan shall also include:
  - a. Site plan/conceptual subdivision plan;
  - b. Circulation and access plan;
  - c. Building elevations, materials, and colors;
  - d. Landscape and open space plan;
  - e. Signage plan;
  - f. Lighting plan; and
  - g. Allowed uses.

#### **C. Prohibited:**

1. Sexually oriented businesses shall not be allowed in a PD District where otherwise prohibited by this Code.
2. A PD District shall not be approved in the P-C Zone or Single-Family Residential Zones (R-1.8, R-2.5, R-3, R-4, R-5).

#### **D. Effect Of Approval:**

1. All of the provisions of this Code, including those of the base zone, shall be in full force and effect, unless such provisions are expressly waived or modified by the approved development plan and/or development agreement.
2. An approved PD District shall be shown on the zoning map by a "-PD" designation after the designation of the base zone district.
3. No permits for development within an approved PD District shall be issued by the City unless the development complies with the approved development plan. (Ord. 2016-05, 5-3-2016)
4. The Planning Director may authorize minor deviations from an approved development plan to resolve conflicting provisions or when necessary for technical or engineering considerations. Such minor deviations shall not affect the vested rights of the PD District and shall not impose increased impacts on surrounding properties. (Ord. 2016-05, 5-3-2016; amd. Ord. 2019-01, 3-5-2019)

E. Vested Rights:

1. A property right that has been vested through approval of a PD District shall remain vested for a period of three (3) years or upon substantial commencement of the project. A property right may be vested, or an extension of a vested property right may be granted, for a period greater than three (3) years only if approved by the City Council through an approved PD District. (Ord. 2016-05, 5-3-2016)
2. Substantial commencement shall be the installation of infrastructure, a building having started construction, or as determined by the Planning Director based on significant progress otherwise demonstrated by the applicant. A project that has not substantially commenced may, at the discretion of the property owner, develop according to the base zone. A project that has substantially commenced shall not deviate, in whole or in part, from the approved PD District, unless amended per section 17.130.050.030 of this section 17.130.050. (Ord. 2016-05, 5-3-2016; amd. Ord. 2019-01, 3-5-2019)

**17.130.050.030: AMENDMENTS:**

Any application to amend an approved PD District shall be processed as a zone text amendment, except that an application to extend the district boundaries shall be processed as a rezone. Any amendment to an approved PD District requires that the corresponding development agreement also be amended. (Ord. 2016-05, 5-3-2016)

**ORDINANCE NO. 2021 - 20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING SECTIONS 17.08.010, 17.18.030.030, 17.30.020 AND 17.40.020 OF THE SOUTH JORDAN MUNICIPAL CODE REGULATING RESIDENTIAL USES AND DEVELOPMENT DESIGN STANDARDS.**

**WHEREAS**, Utah Code § 10-9a-102 grants the City Council of the City of South Jordan (the "City Council") authority to enact ordinances that it considers necessary or appropriate for the use and development of land in the City of South Jordan (the "City"), including the City's aesthetics; and

**WHEREAS**, the Utah State Legislature recently passed House Bill 1003 ("H.B. 1003") "Government Building Regulation Amendments," which prohibit a municipality from regulating certain building design elements of one and two family dwellings; and

**WHEREAS**, the City Council has adopted Title 17 (Planning and Zoning Code) of the City of South Jordan Municipal Code ("City Code"); and

**WHEREAS**, the City Council desires to amend City Code Sections 17.08.010, 17.18.030.030, 17.30.020 and 17.40.020 of Title 17, regulating uses of land in residential zones and development and design standards in agricultural and residential zones, to bring those Sections in conformity with the newly enacted State law; and

**WHEREAS**, the South Jordan Planning Commission held a public hearing, and reviewed and made a recommendation concerning the subject text amendments; and

**WHEREAS**, the City Council held a public hearing and reviewed the subject text amendments; and

**WHEREAS**, the City Council finds that the subject text amendments will enhance the public health, safety and welfare, and will promote the goals of the General Plan.

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

**SECTION 1. Amendment.** City Code Sections 17.08.010, 17.18.030.030, 17.30.020 and 17.40.020 of the South Jordan municipal code are amended as shown in Exhibit A to this Ordinance.

**SECTION 2. Severability.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

**SECTION 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting as required by law.

[SIGNATURE PAGE FOLLOWS]


PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 5 DAY OF October, 2021 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	<u>X</u>	___	___	___
Bradley Marlor	<u>X</u>	___	___	___
Donald Shelton	<u>X</u>	___	___	___
Tamara Zander	___	___	___	<u>X</u>
Jason McGuire	<u>X</u>	___	___	___

Mayor:   
Dawn R. Ramsey

Attest:   
City Recorder

Approved as to form:

  
Office of the City Attorney



## EXHIBIT A

(Deletions in ~~strikethrough~~ new language in **bold underline**)

### Chapter 17.08 DEFINITIONS GENERALLY

#### 17.08.010 DEFINITIONS

**CONTINUOUS FREE FLOW ACCESS:** A continuous and open path between the primary dwelling area and the ~~second kitchen or~~ potential internal accessory dwelling unit contained in a primary dwelling unit. The access path shall allow two-way access through entryways (which shall not be finished to facilitate the addition of a door), open spaces, hallways, stairways, or other open access ways that remain uninhibited by doors, walls, or any other physical barrier. The path shall have openings of at least forty-eight (48) inches wide or the standard width of the connecting corridor so as not to limit or restrict access.

~~**SECOND KITCHEN:** A second kitchen, contained within the primary dwelling unit that provides continuous free flow access between the primary dwelling area and the second kitchen. Second kitchens are not considered accessory dwelling units as long as continuous free flow access is maintained.~~

### Chapter 17.18 USES

#### 17.18.030.030 RESIDENTIAL USE REGULATIONS

6. Single-Family, Detached: Lots or parcels may be occupied by only one single-family dwelling unit as the primary dwelling. Accessory dwelling units may be permitted according to the provisions of section 17.130.030, "Accessory Dwelling Unit Floating Zone", of this title. ~~A second kitchen, as defined in section 17.08.010 of this Title, is not considered an accessory dwelling unit and may be allowed as a permitted use in a single-family detached dwelling unit provided that it complies with the following:~~

- ~~a. Only one (1) second kitchen shall be permitted per lot.~~
- ~~b. The residence~~**Single-Family dwellings** shall have only one (1) front entrance, one (1) address, one (1) mailbox, and one (1) electrical meter.
- ~~c. Continuous free flow access shall be maintained at all times between the primary dwelling area and the second kitchen.~~
- ~~d. The second kitchen shall be contained within the primary dwelling so as to be one (1) unit and shall not be installed in an accessory building or detached from the primary dwelling.~~
- ~~e. Construction of any second kitchen shall meet standards of the current building codes adopted by the City.~~



- ~~f. Approval of a second kitchen within a single family dwelling unit shall not be an approval of a second dwelling unit or accessory dwelling unit.~~
- ~~g. Upon request by the City, the owner shall allow inspection of the dwelling unit and second kitchen to determine compliance with this section.~~

## **Chapter 17.30**

### **AGRICULTURAL ZONES**

#### **17.30.020 DEVELOPMENT AND DESIGN STANDARDS**

I. Architecture: The following exterior materials and architectural standards are required in Agricultural Zones:

1. General Architectural Standards:

- a. All building materials shall be high quality, durable and low maintenance.
- b. The exteriors of buildings in Agricultural Zones shall be properly maintained by the owners or owners' association.
- c. Signs shall meet the requirements of title 16, chapter 16.36, "Sign Ordinance", of this Code and shall be constructed of materials that are consistent with the buildings they identify.
- d. Main buildings shall be no greater than thirty five feet (35') high.

2. Architectural Standards For Main Buildings:

- ~~a. Main buildings, excluding main buildings used for agricultural uses, shall be constructed with a minimum amount of brick or stone that is calculated by multiplying two (2) by the perimeter of the foundation (including garage).~~
- ~~b. Main buildings shall be constructed with a majority of the roof to be a minimum five to twelve (5:12) pitch, except that roofs of agricultural main buildings may be constructed to be a minimum four to twelve (4:12) roof pitch over the majority of the building.~~
- a. ~~e.~~ Residential main buildings shall include a minimum two car garage (minimum 22 feet x 22 feet, or an approved equivalent area).
- b. ~~d.~~ The minimum total floor area, finished and unfinished, of any residential main building shall be ~~two~~one thousand ~~four hundred (2,400)~~1000 square feet **not including a garage.**
- c. ~~e.~~ Residential main buildings shall include architectural elements (i.e., main entrance, porch) that distinguish the side of the building oriented toward the front yard as the front of the house. The front of the house shall be accessible by a pedestrian from the adjacent right-of-way.

## CHAPTER 17.40 RESIDENTIAL ZONES

### 17.40.020 DEVELOPMENT AND DESIGN STANDARDS

I. Architecture: The following exterior materials and architectural standards are required in Agricultural Zones:

1. General Architectural Standards:

- a. All building materials shall be high quality, durable and low maintenance.
- b. The exteriors of buildings in Agricultural Zones shall be properly maintained by the owners or owners' association.
- c. Signs shall meet the requirements of title 16, chapter 16.36, "Sign Ordinance", of this Code and shall be constructed of materials that are consistent with the buildings they identify.
- d. Main buildings shall be no greater than thirty five feet (35') high.

2. Architectural Standards For Main Buildings:

- ~~a. Main buildings shall be constructed with a minimum amount of brick or stone that is calculated by multiplying two (2) by the perimeter length of the foundation (including garage).~~
- ~~b. Main buildings shall be constructed with a majority of the roof to be a minimum roof pitch of three to twelve (3:12), except that main buildings of a contemporary design with a parapet wall enclosing the roof deck may be constructed with a lower roof pitch when done so in compliance with applicable Building Codes.~~
- a. ~~e.~~ Residential main buildings shall include a minimum two car garage (minimum 22 feet by 22 feet, or an approved equivalent area).
- b. ~~d.~~ The minimum total floor area, finished and unfinished, of any residential main building shall be twoone thousand four hundred (~~2,400~~1000) square feet not including a garage.
- c. ~~e.~~ Residential main buildings shall include architectural elements (i.e., main entrance, porch) that distinguish the side of the building oriented toward the front yard as the front of the house. The front of the house shall be accessible by a pedestrian from the adjacent right-of-way.

## **EXHIBIT E**

(Resolution R2022-03 - To Be Inserted Once Executed)

## **RESOLUTION R2022 - 04**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING THE FUTURE LAND USE PLAN MAP OF THE GENERAL PLAN OF THE CITY OF SOUTH JORDAN FROM THE ECONOMIC (EC) TO THE MIXED USE (MU) DESIGNATION ON PROPERTY LOCATED AT 3773 W. SOUTH JORDAN PARKWAY IN THE CITY OF SOUTH JORDAN; PETERSON DEVELOPMENT (APPLICANT).**

**WHEREAS**, the City Council of the City of South Jordan (“City Council”) has adopted the Future Land Use Plan Map of the General Plan of the City of South Jordan (“Land Use Map”); and

**WHEREAS**, the Applicant has applied to rezone property it owns located at 3773 W. South Jordan Parkway from the Commercial Community (C-C) to the Multiple Family Residential Planned Development (R-M-PD); and

**WHEREAS**, under the laws and ordinances of the City of South Jordan (“City”), the rezoning of property may not occur if the proposed zoning does not conform to the City’s General Plan; and

**WHEREAS**, the Applicant requested that the City Council amend the Land Use Map by changing the land use designation on the subject property from Economic Center (EC) to Mixed Use (MU); and

**WHEREAS**, the South Jordan Planning Commission reviewed Applicant’s proposed amendment and made a recommendation to the City Council; and

**WHEREAS**, the City Council held a public hearing concerning the proposed amendment; and

**WHEREAS**, the City Council finds that amending the Land Use Map as proposed by the Applicant will enhance the public health, safety and general welfare, and promote the goals of the General Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:**

**SECTION 1. Amendment.** The land use designation of the Land Use Map of a portion of the property described in Application PLZBA202000247, which is located at 3773 W. South Jordan Parkway in the City of South Jordan, Utah, is hereby changed from Economic Center (EC) to Mixed Use (MU) as shown in **Exhibit A**.

**SECTION 2. Severability.** If any section, clause or portion of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

**SECTION 2. Effective Date.** This Resolution shall become effective immediately upon passage.


**APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021 BY THE FOLLOWING VOTE:**

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Bradley Marlor	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: \_\_\_\_\_  
Dawn R. Ramsey

Attest: \_\_\_\_\_  
City Recorder

Approved as to form:

  
\_\_\_\_\_  
Office of the City Attorney



**ORDINANCE NO. 2022-01-Z**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, REZONING PROPERTY LOCATED AT 3773 W. SOUTH JORDAN PARKWAY FROM COMMERCIAL COMMUNITY (C-C) ZONE TO MULTIPLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT (R-M-PD) ZONE.**

**WHEREAS**, the City Council of the City of South Jordan (“City Council”) has adopted the Zoning Ordinance of the City of South Jordan (Title 17 of the City Code) with the accompanying Zoning map; and

**WHEREAS**, the Applicant, Peterson Development, proposed that the City Council amend the Zoning Map by rezoning property located at 3773 W. South Jordan Parkway in the City of South Jordan (“City”); and

**WHEREAS**, the South Jordan Planning Commission reviewed the proposed rezoning and made a recommendation to the City Council; and

**WHEREAS**, the City Council held a public hearing concerning the proposed rezoning; and

**WHEREAS**, the City Council finds that the rezoning will enhance the public health, safety and welfare and promote the goals of the General Plan.

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

**SECTION 1. Rezone.** The property described in Application PLZBA202000247, located in the City of South Jordan, Utah, is hereby reclassified from the Commercial Community (C-C) to the Multiple Family Residential Planned Development (R-M-PD) on the property described in the attached **Exhibit A**.

**SECTION 2. Filing of Zoning Map.** The Official Zoning Map showing such changes shall be filed with the South Jordan City Recorder.

**SECTION 3. Severability.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

**SECTION 3. Effective Date.** This Ordinance shall become effective immediately upon publication or posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Bradley Marlor	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: \_\_\_\_\_  
Dawn R. Ramsey

Attest: \_\_\_\_\_  
City Recorder

Approved as to form:

  
\_\_\_\_\_  
Office of the City Attorney