

DEVELOPMENT AGREEMENT NORTERRA SUBDIVISION ANNEXATION

This Development Agreement ("Agreement") is entered into by and between the City of Star, a municipal corporation in the State of Idaho, hereinafter referred to as "City", and Iterra Holdings, LLC, hereinafter referred to as "Owner".

WHEREAS, Owner owns a parcel of land approximately 48.43 acres in size (52.26 acres as annexed with right-of-way), currently located within Ada County, zoned RUT and more particularly described in **Exhibit A** of Ordinance 327, which is attached hereto and incorporated by reference herein (the "Property");

WHEREAS, Owner has requested that the Property be annexed into the City and developed in accordance with the applicable ordinances and regulations of the City and this Agreement;

WHEREAS, the City, pursuant to Section 67-6511A, Idaho Code, and Star City Code at Title 8, Chapter 1, has the authority to enter into a development agreement for the purpose of allowing, by agreement, a specific development to proceed in a specific area and for a specific purpose or use which is appropriate in the area, but for which all allowed uses for the requested zoning may not be appropriate;

WHEREAS, the City has authority to enter into development agreements to condition annexations and re-zones;

WHEREAS, Owner desires to be assured that it may proceed with allowing its Property to be rezoned in accordance with this Agreement;

WHEREAS, the parties agree to the zoning designations for various parcels within the Property to be rezoned in accordance with this Agreement;

WHEREAS, Owner filed with the City of Star, a Request for Rezone of the Property and Zoning of R-7-DA & CBD-DA, as File No. AZ-20-05, so that the City can review all the applications affecting the use and development of the Property in an integrated manner consistent with the City's Comprehensive Plan and land use ordinances;

WHEREAS, the intent of this Agreement is to protect the rights of Owner's use and enjoyment of the Property while at the same time mitigating any adverse impacts of the development upon neighboring properties and the existing community and ensuring the Property is developed in a manner consistent with City Ordinances;

THEREFORE, the City and Owner, for and in consideration of the mutual covenants, duties and obligations herein set forth, hereby agree as follows:

Section 1. Legal Authority. This Agreement is made pursuant to and in accordance with the provisions of Idaho Code Section 67-6511A and Star City Code, Title 8, Chapter 1.

Section 2. Development/Uses/Standards.

2.1 Development Acreage and Uses Permitted. As to the Parcel shown on **Exhibit A**, Owner is allowed to develop 48.43 acres as follows:

- Zoning Classification: The Residential zoning classification shall be a R-7-DA. The Commercial zoning classification shall be CBD-DA.
- The Owner shall comply with all city ordinances relating to the property except as otherwise provided herein.

2.2 Site Design. The conceptual site plan, as set forth in **Exhibit B**, is hereby approved.

2.3 Uses. The development is hereby approved for the following land uses:

- A maximum of 20 Single-Family Detached Lots
- A maximum of 98 Single-Family Attached Lots
- A maximum of 23 Commercial Lots
- All Principal Permitted Uses in the CBD zoning district shall be allowed.*
- Commercial Uses approved by Council through this Agreement* that will not require a further Conditional Use Permit include:
 - Child Care
 - Gasoline, Fueling & Charging Station with or without Convenience Store
 - Hotel/Motel
 - Nursery, Garden Center and Farm Supply
 - Nursing or Residential Care Facility**
 - Independent Senior Housing only as accessory to Residential Care Facility
 - Vehicle Washing Facility
 - Veterinarian Office

*All proposed Commercial Uses are subject to a Certificate of Zoning Compliance/Design Review application approval.

**Any Nursing, Residential Care Facility/Independent Senior Housing located outside the area specified on the Concept Plan in Exhibit B shall require Conditional Use Permit Approval.

2.4 Setbacks. The development shall follow these setbacks approved by Council:

- Minimum Street Frontage 24 Feet
- Front Setbacks 15 Feet
- Rear Setbacks 10 Feet***
- Interior Side Setbacks 5 Feet
- Street Side Setbacks 10 Feet (Local Street); 5 Feet (Alley)
- Street Landscape Buffer 35 Feet (Collector Roadway)
- Maximum Building Height 35 Feet

**** Rear Setbacks for Lots along the north boundary shall be 15' minimum.**

2.5 Additional Requirements:

- All streets in the development shall be private and shall be constructed to ACHD standards, with a minimum street section of 28' with two 10' travel lanes and 4' bike lanes on both sides, with no parking signs for the "Collector Road". An 8' landscape strip with 5' detached sidewalk shall be provided on one side of the "Collector Road" from Highbrook Road to the central north/south street. The main East/West Collector Road shall be No Parking.
- Main East/West Pathway from Can Ada Road to N. Highbrook shall provide for Public use.
- The Developer shall provide a Pool Facility as a residential development amenity.

2.6 Proportionate Share Agreement for ITD Improvements.

ITD is requiring the developer to construct the following improvements at the intersection of SH-44/Can Ada Road. Developer is required to provide the City of Star an engineer's estimate of these improvements. The difference between ITD's previously requested proportionate share amount of \$748,061 and the cost of design/construction of the following improvements needs to be provided to the City of Star.

- Addition of a center turn lane on SH 44 through the Can Ada Road Intersection;
- Addition of separate southbound right and left turn lanes on Can Ada Road;
- Addition of a westbound right turn lane on SH-44.
- Dedicate 12ft of right of way along the entire length of the westbound right turn lane.

ITD finds a direct access approach to SH-44 MP 9.77 (left) to be acceptable with the construction of the following improvements.

- The approach shall be limited to right-in, right-out, left-in with installation of a median traffic separator.
- Addition of a westbound right turn lane.
- Construct a continuous two-way left turn lane from Can Ada Road to the proposed approach.
- Dedicate the difference between the existing SH-44 right-of-way and the future right-of-way line (70ft from center of SH-44) along the entire length of the parcel.
- Dedicate an additional 12ft of right of way along the entire length of the westbound right turn lane.

2.7 Changes and Modifications. No change in the use or restrictions specified in this Agreement shall be allowed or changed without modification of this Agreement pursuant to the requirements of the Star City Ordinances. In the event Owner changes or expands the

use permitted by this Agreement or fail to comply with the restrictions without formal modification of this Agreement as allowed by the Star City Ordinances, Owner shall be in default of this Agreement.

2.8 Conditions, Bonding for Completion. All of the conditions set forth herein shall be complied with or shall be bonded for completion by Owner before an Occupancy permit will be granted. Failure to comply with the Star City Ordinances or the terms of this Agreement shall result in a default of this Agreement by Owner. Owner may be allowed to bond for certain conditions at one hundred and fifty percent (150%) of the estimated cost of completion pursuant to Star City Ordinances.

Section 3. Affidavit of Property Owner. Owner shall provide an affidavit agreeing to submit the Property to this Development Agreement and to the provisions set forth in Idaho Code section 67-6511A and Star Zoning Ordinance and such affidavit is incorporated herein by reference.

Section 4. Default. The failure of Owner, its heirs or assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, to faithfully comply with any of the terms and conditions of this Agreement shall be deemed a default herein. This Agreement may be modified or terminated by the Star City Council as set forth in the Star City Ordinances. In the event this Agreement is modified, Owner shall comply with the amended terms. Failure to comply with the amended terms shall result in default. In the event the City Council, after compliance with the requirements of the Star City Ordinances, determines that this Agreement shall be terminated, the zoning of the Property or portion thereof that has not been developed in accordance with this Agreement shall revert to its prior zoning designation or City equivalent. All uses of such property, which are not consistent with the prior zoning designation, shall cease. A waiver by the City of Star for any default by Owner of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of the City or apply to any subsequent breach of any such or other covenants and conditions. Owner, by entering into this Agreement, do hereby consent to a reversion of the subject property to its prior zoning designation, or City equivalent in the event there is a default in the terms and/or conditions of this Agreement.

Section 5. Unenforceable Provisions. If any term, provision, commitment or restriction of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of the instrument shall remain in full force and effect.

Section 6. Assignment and Transfer. After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Applicant. Each commitment and restriction on the development subject to this Agreement, shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property and shall run with the land. This Agreement shall be binding on the City and Owner, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns: provided, however, that if all or any portion of the Property is divided, each owner of a legal lot shall only be responsible for duties and obligations associated with an owner's parcel and shall not be responsible for duties and

obligations or defaults as to other parcels of lots within the Property. The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect only to such owner's lot or parcel.

Section 7. General Matters.

7.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with the notice and hearing provisions of Idaho Code Section 67- 6509, as required by Star City Code.

7.2 Paragraph Headings. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

7.3 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Idaho in effect at the time of the execution of this Agreement. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Ada County, Idaho.

7.4 Notices. Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below.

Star: City of Star
Attn: City Clerk
P.O. Box 130
Star, ID 83669


Owner: Brent Thompson, Managing Member
Iterra Holdings, LLC
316 E. 1400 S. Suite 2A
Saint George, UT 84790

7.5 Effective Date. This Agreement shall be effective after delivery to each of the parties hereto of a fully executed copy of this Agreement.

7.6 Attorney Fees. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney fees as determined by a court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year set forth below.

Dated this 3rd day March, 2021.



Trevor A. Chadwick, Mayor

ATTEST:



Jacob M. Qualls, City Clerk

OWNER:

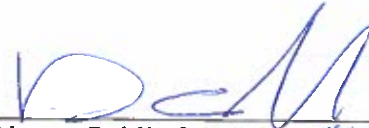


Brent Thompson
Managing Member, Iterra Holdings, LLC

STATE OF ^{Utah} IDAHO)
County of ^{Washington} Ada) ss.

On this ^{23rd} day of ^{February}, 2021, before me the undersigned, a Notary Public in and for said state, personally appeared Brent Thompson, known or identified to me to be the person who subscribed his name to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Notary Public for ^{Utah} Idaho
Residing at: ^{St. George} UT
My Commission Expires: ^{24796 9/1/2021}

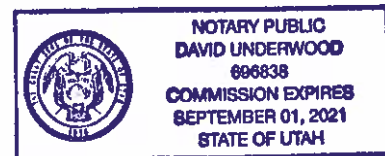
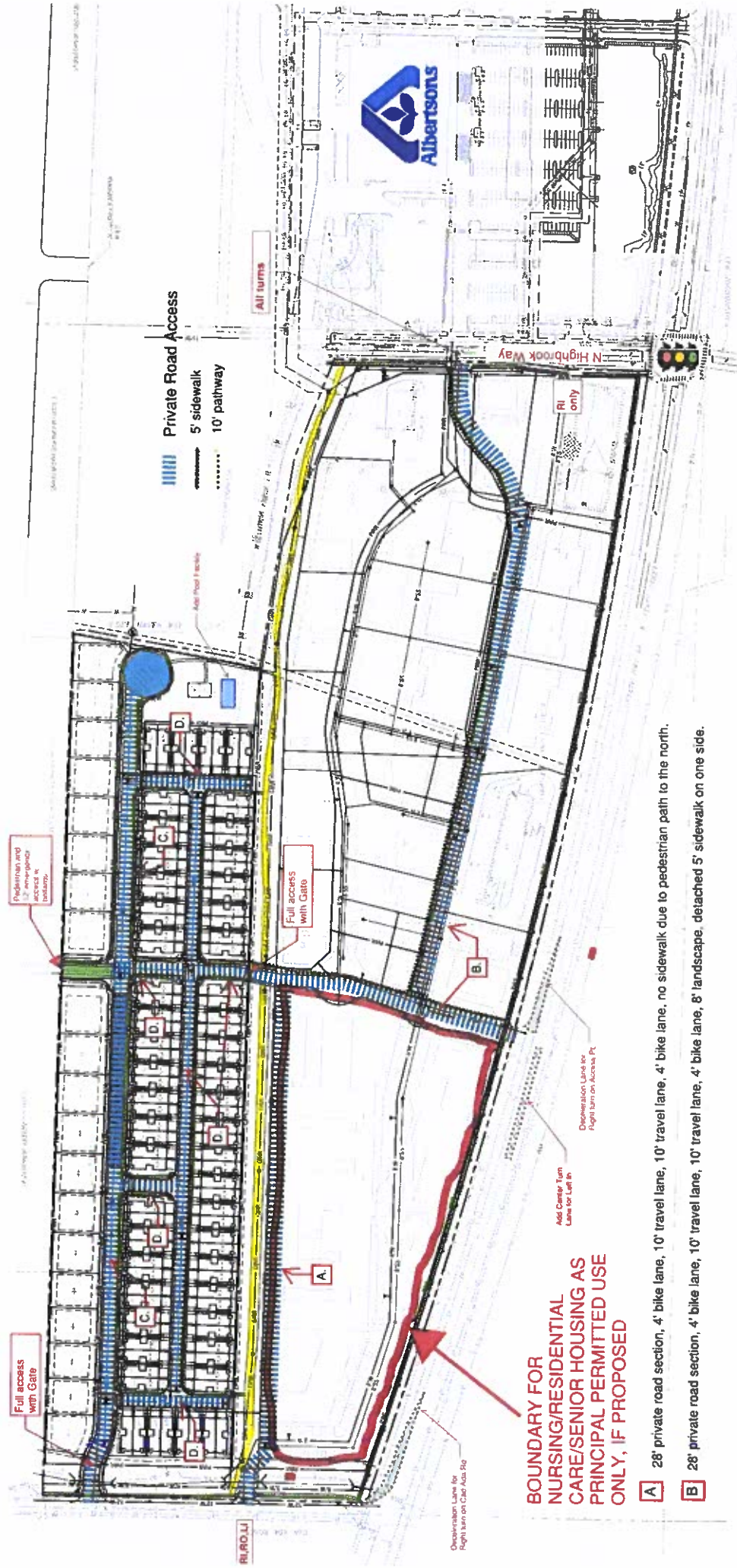


EXHIBIT B - APPROVED CONCEPTUAL PLAN OCTOBER 6, 2020



**BOUNDARY FOR
NURSING/RESIDENTIAL
CARE/SENIOR HOUSING AS
PRINCIPAL PERMITTED USE
ONLY, IF PROPOSED**

- A** 28' private road section, 10' travel lane, 10' travel lane, 4' bike lane, no sidewalk due to pedestrian path to the north.
- B** 28' private road section, 4' bike lane, 10' travel lane, 10' travel lane, 4' bike lane, 8' landscape, detached 5' sidewalk on one side.