

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on October 6, 2009, by and between the Provo City Corporation, a Utah municipal corporation, hereinafter referred to as "City," and Colony Partners, LLC, a Utah limited liability company; Kem C. Gardner Family Partnership, Ltd., a Utah limited partnership; NWP, a Utah limited liability company; and Plumb Land Investment, LLC, a Utah limited liability company; hereinafter jointly referred to as "Developer".

Recitals

A. Developer is the developer of certain property located generally from Geneva Road to Utah Lake between 1300 North and 2000 North in Provo, Utah (the "Property"), which is more fully described in Exhibit "A" attached hereto and incorporated herein. As part of the development of the Property, Developer desires to have the Property placed in the Villages at Celebration Specific Development Plan Overlay ("SDP-5") zone, as provided in Title 14 of the Provo City Code, as amended (the "Rezoning Request").

B. Developer has indicated a desire and intent to develop on the Property a mixed use residential and commercial project which meets the development standards of the SDP-5 zone (the "Project").

C. To assist City in its review of the Rezoning Request and to assure development of the Project in accordance with Developer's representations to City, Developer and City desire to enter voluntarily into this Agreement which sets forth the process and standards whereby Developer may develop the Project.

D. On November 9, 2004, City adopted a comprehensive update to its general plan ("General Plan") pursuant to Utah Code Annotated §§ 10-9a-401, et seq. A portion of the General Plan establishes development policies for the Property. Such development policies are consistent with the proposed Project.

E. On August 12, 2009, after a duly noticed public hearing, City's Planning Commission recommended approval of Developer's application to rezone the Property subject to certain findings and conditions as set forth in Exhibit "B", attached hereto and incorporated herein, and forwarded such application to the Municipal Council for its consideration.

F. On April 22, 2009, after a duly noticed public hearing, City's Planning Commission approved Developer's application for preliminary project plan on the Property subject to certain findings and conditions as set forth in Exhibit "C", attached hereto and incorporated herein.

G. On September 1 and October 6, 2009, City's Municipal Council held duly noticed public hearings to consider Developer's application to rezone the subject property to the SDP-5 zone and duly considered (i) comments from the public, neighborhood representatives, Developer, and City officials, and (ii) recommendations of the General Plan regarding the Property.

H. On October 6, 2009, City's Municipal Council reviewed the preliminary project plan for the Property, attached hereto as Exhibit "D-2", and found such plan meets the policy and intent of the General Plan as it pertains to the Property.

I. To allow development of the Property for the benefit of Developer, to ensure City that the development of the Property will conform to applicable policies set forth in the General Plan, and address concerns of property owners in proximity to the Property, Developer and City are each willing to abide by the terms and conditions set forth herein.

J. Acting pursuant to its legislative authority under Utah Code Annotated § 10-9a-101, et seq., and after (i) all required public notice and hearings and (ii) execution of this Agreement by Developer, City's Municipal Council, in exercising its legislative discretion, has determined that entering into this Agreement furthers the purposes of the (i) Utah Municipal Land Use, Development, and Management Act, (ii) City's General Plan, and (iii) Titles 14 and 15 of the Provo City Code (collectively, the "Public Purposes"). As a result of such determination, City has elected to process the Rezoning Request and the subsequent development authorized thereunder in accordance with the provisions of this Agreement and has concluded that the terms and conditions set forth in this Agreement accomplish the Public Purposes referenced above and promote the health, safety, prosperity, security and general welfare of the inhabitants and taxpayers of Provo City.

Agreement:

Now, therefore, in consideration of the premises recited above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Development. In the event City's Municipal Council approves Developer's Rezoning Request, development of the Property shall be subject to the terms and conditions of this Agreement. In the event City's Municipal Council does not approve Developer's Rezoning Request this Agreement shall be null and void.

2. Zone Change and Permitted Uses. Subject to the terms of this Agreement, the zoning classification on the Property shall be the SDP-5 zone. Land uses allowed pursuant to such zoning designation shall be governed by Title 14 of the Provo City Code as constituted on the effective date of this Agreement, except to the extent this Agreement is more restrictive.

3. Applicable Code Provisions. All provisions of the Provo City Code as constituted on the effective date of this Agreement shall be applicable to the project proposed on the Property except to the extent this Agreement is more restrictive. The parties acknowledge that in order to proceed with development of the Property, Developer shall comply with the requirements of this Agreement, Titles 14 and 15 of the Provo City Code, and other requirements generally applicable to development in Provo City. In particular, and not by way of limitation, Developer shall conform to the requirements of Chapter 14.49E (Villages at Celebration Specific Development Plan Overlay Zone) and the project plan approval process therein.

4. Reserved Legislative Powers. Nothing in this Agreement shall limit the future

exercise of the police powers of City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of City to enact such legislation under its police power, such legislation shall not modify Developer's rights as set forth herein unless facts and circumstances are present which meet the compelling, countervailing public interest exception to the vested rights doctrine as set forth in Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah, 1988), or successor case law or statute. Any such proposed change affecting Developer's rights shall be of general application to all development activity in City. Unless 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 Project.

5. Final Project or Development Plan Approval. In the event City's Municipal Council approves the Rezoning Request, Developer shall cause final project plans and specifications (including site and building design plans) (the "Plans") to be prepared for the Project.

A. In particular, such Plans shall meet the following requirements:

(1) be in sufficient detail, as reasonably determined by City, to enable City to ascertain whether the Project will be of high quality design (including the size, scope, composition of the primary exterior components, on- and off-site vehicular and pedestrian access, and general Project design) and in accordance with the terms and conditions of this Agreement;

(2) comply with all City standards and requirements applicable to drainage, site and traffic engineering and utilities;

(3) comply with the standards and requirements of Title 15 of the Provo City Code; and

(4) comply with Chapter 14.37 of the Provo City Code (Off-Street Parking Requirements) except as otherwise provided in the SDP-5 zone and this Agreement.

B. Developer shall:

(1) comply with the conditions of preliminary project plan approval as set forth in the Planning Commission Report of Action dated April 22, 2009 (attached hereto as Exhibit "C" to this Agreement);

(2) comply with the special conditions (the "Special Conditions") shown on Exhibit "E" attached hereto and made a part hereof; and

(3) provide other information as City may reasonably request.

6. Standard for Approval. City, on recommendation of its Planning Commission, shall

approve the Plans if such Plans meet the standards and requirements enumerated in Paragraph 3 above and if, as determined by City, the Plans are consistent with commitments made to City that the Project will be a high quality development that will be designed in a manner to minimize adverse impacts to the neighborhood and, in particular, conforms to the Special Conditions set forth in Exhibit "E" attached to this Agreement.

7. Commencement of Site Preparation. Developer shall not commence site preparation or construction of any Project improvement on the Property until such time as the Plans have been approved by City in accordance with the terms and conditions of this Agreement.

8. Project Phasing and Timing. Upon approval of the Plans, subject to the provisions of this Agreement and the Special Conditions set forth in Exhibit "E" attached hereto, Developer may proceed by constructing the Project all at one time or in phases as elected by Developer.

9. Changes to Project. No material modifications to the Plans shall be made after approval by City without City's written approval of such modification. Developer may request approval of material modifications to the Plans from time to time as Developer may determine necessary or appropriate. For purposes of this Agreement, a material modification shall mean any modification which (i) increases the total perimeter size (footprint) of building area to be constructed on the Property by more than ten (10) percent, (ii) substantially changes the exterior appearance of the Project, or (iii) changes the functional design of the Project in such a way that materially affects traffic, drainage, or other design characteristics. Modifications to the Plans which do not constitute material modifications may be made without the consent of City. In the event of a dispute between Developer and City as to the meaning of "material modification," no modification shall be made without express City approval. Modifications shall be approved by City if such proposed modifications are consistent with City's then applicable rules and regulations for projects in the zone where the Property is located, and are otherwise consistent with the standard for approval set forth in Paragraph 6 hereof.

10. Time of Approval. Any approval required by this Agreement shall not be unreasonably withheld or delayed and shall be made in accordance with procedures applicable to the SDP-5 zone.

11. Term. The term of this Agreement shall commence on, and the effective date of this Agreement shall be, the effective date of the ordinance approving the Rezoning Request. This Agreement shall terminate (i) when certificates of occupancy have been issued for all buildings and/or dwelling units in the Project; provided, however, that any covenant included in this Agreement which is intended to run with the land shall as set forth in any Special Condition shall survive this Agreement as provided such Special Condition, or (ii) if Developer fails to proceed with the Project to the extent that the zoning on the Property is reverted pursuant to Section 14.02.020(4) or Section 14.50.090, Provo City Code. If this Agreement is terminated due to Developer's failure to proceed with the Project, then no Special Condition set forth in Exhibit "E" attached hereto shall survive this Agreement.

12. Successors and Assigns.

A. Change in Developer. This Agreement shall be binding on the successors and assigns of Developer. If the Property is transferred ("Transfer") to a third party ("Transferee"), Developer and the Transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such Transfer (i) Developer provides to City a letter from Transferee acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by the Transferee, notarized, and delivered to City prior to the Transfer. Upon execution of the letter described above, the Transferee shall be substituted as Developer under this Agreement and the persons and/or entities executing this Agreement as Developer shall be released from any further obligations under this Agreement as to the transferred Property.

B. Individual Lot or Unit Sales. Notwithstanding the provisions of Subparagraph 12A, a transfer by Developer of a lot or condominium dwelling unit located on the Property within a City approved and recorded plat shall not be deemed a Transfer as set forth above so long as Developer's obligations with respect to such lot or dwelling unit have been completed. In such event, Developer shall be released from any further obligations under this Agreement pertaining to such lot or dwelling unit.

13. Default.

A. Events of Default. Upon the happening of one (1) or more of the following events or conditions Developer or City, as applicable, shall be in default ("Default") under this Agreement:

(1) a warranty, representation or statement made or furnished by Developer under this Agreement is intentionally false or misleading in any material respect when it was made; or

(2) a determination by City made upon the basis of substantial evidence that Developer has not complied in good faith with one (1) or more of the material terms or conditions of this Agreement;

(3) any other event, condition, act or omission, either by City or Developer, (i) violates the terms of, or (ii) materially interferes with the intent and objectives of this Agreement; or

(4) Developer fails to obtain final Project plan approval and begin construction of the Project within one (1) year after approval of the SDP-5 zone or within any extended time period approved by City for good cause shown.

B. Procedure Upon Default.

(1) Upon the occurrence of Default, the non-defaulting party shall give the other party thirty (30) days written notice specifying the nature of the alleged Default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event the Default cannot reasonably be cured within thirty

(30) days, the defaulting party shall have such additional time as may be necessary to cure such Default so long as the defaulting party takes action to begin curing such Default with such thirty (30) day period and thereafter proceeds diligently to cure the Default. After proper notice and expiration of said thirty (30) day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in Paragraph 13(C) herein. Failure or delay in giving notice of Default shall not constitute a waiver of any Default.

(2) Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a Default.

C. Breach of Agreement. Upon Default as set forth in Subparagraphs 13(A) and 13(B) above, City may declare Developer to be in breach of this Agreement and City (i) may withhold approval of any or all building permits or certificates of occupancy applied for in the Project, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of occupancy for any building within the Project until the breach has been corrected by Developer. In addition to such remedies, either City or Developer (in the case of a Default by the City) may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.

14. General Terms and Conditions.

A. Recording of Agreement. This Agreement shall be recorded to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

B. Severability. Each and every provision of this Agreement shall be separate, several and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provision shall not affect the enforceability of any other provision hereof.

C. Time of Performance. Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.

D. Construction of Agreement. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of City.

E. State and Federal Law; Invalidity. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's approval of the Project is held invalid by a court of competent jurisdiction this Agreement shall be null and void.

F. Enforcement. The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Developer violates the rules, policies, regulations or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty (30) days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation within such thirty (30) days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been rectified by Developer. City shall be free from any liability arising out of the exercise of its rights under this paragraph.

G. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of City's Municipal Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind City by making any promise or representation not contained herein.

H. Entire Agreement. This Agreement shall supersede all prior agreements with respect to the subject matter hereof, not incorporated herein, and all prior agreements and understandings are merged herein.

I. Amendment of Agreement. This Agreement shall not be modified or amended except in written form mutually agreed to and signed by each of the parties. No change shall be made to any provision of this Agreement or any special condition set forth in Exhibit "E" hereof unless this Agreement is amended pursuant to a vote of City's Municipal Council taken with the same formality as the vote approving this Agreement.

J. Attorneys Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified

therein.

K. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be deemed to have been sufficiently given or served for all purposes when presented personally, or four days after being sent by registered or certified mail, properly addressed to the parties as follows (or to such other address as the receiving party shall have notified the sending party in accordance with the provisions hereof):

To the Developer:	Colony Partners, LLC 331 Rio Grande St, Suite E Salt Lake City, Utah 84101
	Kem C. Gardner Family Partnership 90 South 400 West, Suite 360 Salt Lake City, Utah 84101
	NVP, LC 11451 South 700 East, Suite B Draper, Utah 84020
	Plumb Land Investment, LLC 90 South 400 West, Suite 360 Salt Lake City, Utah 84101
To the City:	Community Development Director P.O. Box 1849 Provo, Utah 84603
With copy to:	Municipal Council Attorney P.O. Box 1849 Provo, Utah 84603

L. Applicable Law. This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder are to be construed and enforced in accordance with the laws of the State of Utah.

M. Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

N. Hold Harmless. Developer agrees to and shall hold City, its officers, agents, employees, consultants, special counsel, and representatives harmless from liability for damages, just compensation restitution, or judicial or equitable relief which may arise from or are related to any activity connected with the Project, including approval of the Project; the direct or indirect operations of Developer or its contractors, subcontractors, agents,

employees or other persons acting on its behalf which relates to the Project; or which arises out of claims for personal injury, including health, and claims for property damage.

(1) The agreements of Developer in this Paragraph 14(N) shall not be applicable to (i) any claim arising by reason of the negligence or intentional tort actions of City, or (ii) attorneys fees under Paragraph 14(J) herein.

(2) City shall give written notice of any claim, demand, action or proceeding which is the subject of Developer's hold harmless agreement as soon as practicable but not later than thirty (30) days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, Developer shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

O. Relationship of Parties. The contractual relationship between City and Developer arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Developer, (ii) the Project is a private development; (iii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.

P. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Developer has complied with the terms of this Agreement. If City finds, on the basis of substantial evidence, that Developer has failed to comply with the terms hereof, City may declare Developer to be in Default as provided in Paragraph 13 herein. City's failure to review at least annually Developer's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a Default under this Agreement by Developer or City.

Q. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any Default or breach, to specifically enforce any covenants or agreements set forth in this Agreement or to enjoin any threatened or attempted violation of this Agreement; or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth District Court, State of Utah, or in the Federal District Court for the District of Utah.

R. Title and Authority. Developer expressly warrants and represents to City that Developer (i) owns all right, title and interest in and to the Property, or (ii) has the exclusive right to acquire such interest, and (iii) that prior to the execution of this Agreement no right, title or interest in the Property has been sold, assigned or otherwise transferred to any entity or individual other than to Developer. Developer further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind.

Developer warrants that the undersigned individuals have full power and authority to enter into this Agreement on behalf of Developer. Developer understands that City is relying on these representations and warranties in executing this Agreement.

S. Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, this Agreement has been executed by City and by a duly authorized representatives of Developer as of the date first written above.

Attest:

Ladisi Grovesbeck
City Recorder



PROVO CITY, a political subdivision of the State of Utah

By: *[Signature]*
Lewis Billings, Mayor

DEVELOPER, Colony Partners, LLC, a Utah limited liability company

By: *[Signature]*
Walter J. Plumb, III, Manager

DEVELOPER, Kem C. Gardner Family Partnership, Ltd., a Utah limited partnership

By: *[Signature]*
Kem C. Gardner, Manager

DEVELOPER, NWP, a Utah limited liability company

By: *[Signature]*
Jeff Heap, Manager

DEVELOPER, Plumb Land Investment, LLC, a Utah limited liability company

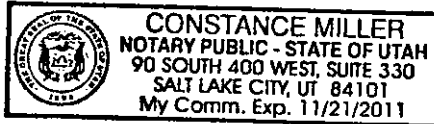
By: *[Signature]*
Walter J. Plumb, IV, Manager

State of Utah
County of Utah

The foregoing instrument was acknowledged before me this 7 day of October 2009 by Walter J. Plumb, III, Manager of Colony Partners, LLC, a Utah limited liability company

Constance Miller

Notary Public



State of Utah
County of Utah

The foregoing instrument was acknowledged before me this 7 day of October 2009 by Kem C. Gardner, Manager of Kem C. Gardner Family Partnership, Ltd., a Utah limited partnership.

Constance Miller

Notary Public

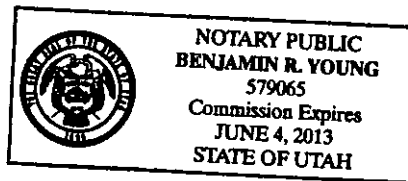


State of Utah
County of Utah

The foregoing instrument was acknowledged before me this 7 day of OCT, 2009 2009 by Jeff Heap, Manager of NWP, a Utah limited liability company.

Jeff Heap

Notary Public



State of Utah
County of Utah

The foregoing instrument was acknowledged before me this 7 day of October 2009 by Walter J. Plumb, IV, Manager of Plumb Land Investment, LLC, a Utah limited liability company.

Constance Miller

Notary Public

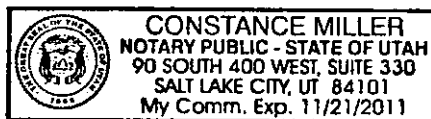


Exhibit "A"
Legal Description of Property
Autumn View Project Redevelopment Option
1250 South State Street, Provo, Utah

1. Colony Partners, LLC

Beginning at a point which is East 228 feet and South 154.96 feet from the East Quarter Corner of Section 33, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence S 64°03'52" E 256.91 feet; thence S 25°29'35" W 517.03 feet; thence N 0°50'28" W 74.10 feet; thence S 89°09'32" W 1,320 feet; thence N 1°07'28" W 380.82 feet; thence N 89°09'32" E 1321.88 feet; thence N 0°50'28" W 124.20 feet; thence S 81°22'50" W to the point of beginning. Contains 13.07 acres (569,447.20 sq. ft.).

2. Kem C. Gardner Family Partnership, Ltd.

Beginning at a point which is West 119.26 feet and South 957.07 feet from the Northeast Corner of Section 33, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence S 48°25'00" E 54.34 feet; thence S 61°22'00" E 92.91 feet thence S 0°17'00" E 475.48 feet thence N 87°28'00" W 1,305.30 feet; thence N 0°53'00" W 485.56 feet; thence N 89°33'00" E 1,185.00 feet; thence N 34°59'21" E 6.88 feet to the point of beginning. Contains 15.46 acres (673,518.48 sq. ft.).

3. NWP (Parcel 1)

Beginning at a point which is South 51.17 feet from the North Quarter Corner of Section 33, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence N 89°42'30" E 602.80 feet; thence S 0°27'30" E 880.92 feet; thence N 89°30'30" E 742.78 feet thence S 1°05'00" E 553.61 feet; thence N 89°54'30" W 2,321.99 feet; thence N 26°10'46" W 710.82 feet; thence N 0°43'46" W 773.25 feet; thence N 89°37'34" E 1,282.43 feet; thence N 0°53'13" W 1.79 feet to the point of beginning. Contains 68.47 acres (2,982,541.99 sq. ft.).

4. NWP (Parcel 2)

Beginning at a point which is West 1,319.02 feet and South 945.78 feet from the Northeast Corner of Section 33, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence S 1°05' 00" E 19.20 feet; thence N 89°37' 00" E 1,237 feet;; thence N 70°54'45" W 61.71 feet; thence S 89°33'00" W 1,179.05 feet; thence N 86°24'19" W to the point of beginning. Contains 0.55 acre (24,040.82 sq. ft.).

4. Plumb Land Investment, LLC

Beginning at a point which is East 16.10 feet and South 1,514.03 feet from the Northeast Corner of Section 33, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence S 0°36'48" E 362.55 feet; thence N 87°56'03" W 1,318.73 feet; thence N 0°38'03" W 378.35 feet; thence S 87°14'39" E 1,299.78; feet thence S 87°36'03" E 19.93 feet; thence S 52°42'00" W 0.01 feet to the point of beginning. Contains 11.20 acres (487,934.78 sq. ft.).

Exhibit "B"
Planning Commission Report of Action
Rezoning- August 12, 2009
Villages at Celebration
Geneva Road to Utah Lake between 1300 North and 2000 North, Provo, Utah

Provo City Planning Commission

Report of Action

August 12, 2009

REQUEST FOR COUNCIL ACTIONType of Action Requested: **X**

Resolution _____

Ordinance X Formal Action/Motion X

Review at Study Session _____

Administrative; No Action _____

- ITEM 1* Gardner and Associates request approval of the Villages at Celebration Specific Development Plan (a mixed use development) containing approximately 346.72 acres, located generally west of Geneva Road and east of Utah Lake, between 1300 North and 2000 North currently located in Utah County. *Lakeview North Neighborhood Continued from the April 22, 2008 and July 8, 2009 hearings*
- a)* Request to rezone 346.72 acres from R1.20 (One Family Residential) to SDP5 (Specific Development Plan) to be known as The Villages at Celebration Specific Development Plan Overlay Zone. (08-0007R)
- b)* Requests the adoption of Chapter 14.49E The Villages at Celebration Specific Development Plan Overlay Zone (SDP-5). (08-00100A)

The following action was taken by the Planning Commission on the above described item at its regular meeting of August 12, 2009:

RECOMMENDATION TO APPROVE (a & b)*

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Roy Peterman

Second By: Leonard Mackay

Votes in Favor of Motion: Roy Peterman, Pam Boshard, Leonard Mackay, Brian Bird, Jeff Ringer, and Ron Madsen

Votes Opposed to Motion: None

Marian Monnahan was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the SDP5 Zone is described in the attached Exhibit A.

TEXT AMENDMENT

The ordinance text amendment is described in the attached Exhibit B.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- Staff noted that the item before the Planning Commission was continued from a previous meeting to permit the Municipal Council time to set the parameters of development.
- The Municipal Council noted at previous Council meetings that they would like to see the planning Commission move forward all the items related to this project to the Council so that the Council could hear the entire project consisting of four (4) items at the same times, giving the public the opportunity to discuss all aspects of the project together.
- There have been numerous neighborhood involvements in the local setting and in Public meetings. Public input has been received, and the project has been redesigned many times to address many of the concerns raised. Additional input from the public at the Planning Commission level appears to be unwarranted. The public will have ample opportunity to express their concerns regarding all requests to the Municipal Council at a future date.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was present and neighbors or other interested parties were present. The Planning Commission elected not to open the meeting for public comment.

CONCERNS RAISED BY PUBLIC

Ron Phillips, representing the neighborhood, approached the Planning Commission requesting them to open up the meeting for public input to share new information. He stated that the Planning Commission was railroading the project through.

PLANNING COMMISSION DISCUSSION

Roy Peterman stated that the only way to get it out of an impasse is to get it into a public meeting format before the Council. Even if the Planning Commission would take public input, we couldn't rescind their previous actions.

Marian Monnahan stated that the Commission was not railroading the project through. She felt that the public is better making all their statements to the Council, who is going to make the final decision anyway.



 Planning Commission Chair



 Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A - Legal Description

**Villages at Celebration
Annexation Boundary 1 Description:**

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 33, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN; THENCE RUNNING SOUTH A DISTANCE OF 80.24 FEET; THENCE EAST A DISTANCE OF 2040.38 FEET, TO A POINT OF BEGINNING;

S. 27°43'48" E. A DISTANCE OF 14.85 FEET; S. 28°01'02" E. A DISTANCE OF 234.48 FEET; S. 31°38'14" E. A DISTANCE OF 214.84 FEET; S. 40°22'18" E. A DISTANCE OF 261.07 FEET; S. 49°40'05" E. A DISTANCE OF 304.21 FEET; S. 52°20'07" E. A DISTANCE OF 434.21 FEET; S. 52°19'32" E. A DISTANCE OF 502.10 FEET; S. 50°04'39" E. A DISTANCE OF 251.68 FEET; S. 45°41'09" E. A DISTANCE OF 237.32 FEET; S. 41°35'10" E. A DISTANCE OF 200.48 FEET; S. 39°37'36" E. A DISTANCE OF 525.74 FEET; S. 59°01'32" W. A DISTANCE OF 41.24 FEET; S. 41°00'00" E. A DISTANCE OF 222.12 FEET; S. 89°50'58" W. A DISTANCE OF 1654.83 FEET; S. 00°42'23" E. A DISTANCE OF 263.43 FEET; S. 62°45'00" E. A DISTANCE OF 294.93 FEET; THENCE S. 25°38'03" W. A DISTANCE OF 583.81 FEET; S. 00°50'03" E. A DISTANCE OF 1197.39 FEET; THENCE S. 88°38'11" W. A DISTANCE OF 857.37 FEET; THENCE S. 03°28'50" E. A DISTANCE OF 428.43 FEET; THENCE S. 03°02'37" E. A DISTANCE OF 118.14 FEET; THENCE N. 67°20'00" W. A DISTANCE OF 306.33 FEET; THENCE N. 31°26'00" W. A DISTANCE OF 179.90 FEET; THENCE N. 46°03'00" W. A DISTANCE OF 321.40 FEET; THENCE N. 43°10'00" W. A DISTANCE OF 192.00 FEET; THENCE N. 28°41'00" W. A DISTANCE OF 565.83 FEET; THENCE N. 39°11'22" W. A DISTANCE OF 721.64 FEET; THENCE N. 33°30'21" W. A DISTANCE OF 76.65 FEET; THENCE N. 36°30'00" W. A DISTANCE OF 603.24 FEET; THENCE N. 28°00'00" W. A DISTANCE OF 924.00 FEET; THENCE N. 57°00'00" W. A DISTANCE OF 422.40 FEET; THENCE N. 15°30'00" W. A DISTANCE OF 397.98 FEET; THENCE N. 76°58'19" W. A DISTANCE OF 125.66 FEET; THENCE N. 26°10'37" W. A DISTANCE OF 711.21 FEET; THENCE N. 00°47'48" E. A DISTANCE OF 773.25 FEET; THENCE N. 89°32'16" E. A DISTANCE OF 1284.84 FEET; THENCE N. 89°45'52" E. A DISTANCE OF 601.21 FEET; THENCE N. 89°43'28" E. A DISTANCE OF 742.61 FEET; THENCE N. 36°25'02" E. A DISTANCE OF 12.09 FEET; THENCE N. 89°30'58" E. A DISTANCE OF 342.55 FEET; THENCE S. 89°31'14" E. A DISTANCE OF 345.35 FEET TO THE POINT OF BEGINNING.

CONTAINS 346.72 ACRES MORE OR LESS.

EXHIBIT B - Proposed Text Amendment

Chapter 14.49E The Villages at Celebration Mixed Use Specific Development Plan Overlay Zone (SDP-5)

14.49E.010	Purpose and Objectives
14.49E.020	Compliance with Chapter 14 and 15 Required
14.49E.030	Permitted and Conditional Uses
14.49E.040	Architectural Design and Control
14.49E.050	One Family Homes at Celebration (Village 1)
14.49E.060	Mansion Home at Celebration (Village 2)
14.49E.070	Courtyard Town Homes at Celebration (Village 3)
14.49E.080	Urban Town Homes at Celebration (Village 4)
14.49E.090	Town Center Residential at Celebration (Village 5)
14.49E.100	Village Town Center at Celebration (Village 6)
14.49E.110	Parks and Open Space
14.49E.120	Project Plan Review
14.49E.130	Fences, Walls, Entry Treatments
14.49E.140	Signs
14.49E.150	Landscaping Requirements
14.49E.160	Occupancy Requirements
14.49E.170	Other Requirements
14.49E.180	Existing Agricultural Uses
14.49E.190	Illustrations

14.49E.010 Purpose and Objectives

The Villages at Celebration is a residential/commercial mixed use development set in the Lakeview area. This development is located between 1300 North and 2000 North, Geneva Road and Utah Lake. The overall development will contain approximately three hundred fifty acres when fully developed. The development provides a large variety of housing types, ample open space, parks, trails and amenities throughout. A village commercial center may include residential mixed use, retail, office and service uses in a village setting.

A wide assortment of residential dwellings will provide diversity through a mixture of different building types and architectural forms while maintaining an overall architectural design theme. Each residential village will be unique in character meeting the housing needs of various income groups, ages and lifestyles. The standards set forth herein are intended to encourage pedestrian movement within the neighborhoods and to reduce automobile use from residential areas to village commercial uses. The commercial element will be designed to encourage a wide variety of retail and service uses on a smaller scale that would meet the needs of the surrounding neighborhoods and those in the general area.

14.49E.020 Compliance with Chapter 14 and 15 Required

In addition to the Specific Development standards contained in this chapter, applicable provisions in Chapter 14 and 15 will also regulate this development.

14.49E.030 Permitted Uses

(1) Those uses or categories of uses as listed herein, and no others, are permitted in the zone.

(2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four (4) digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four (4) digit number in which the last one (1) or two (2) digits are zeros.

(3) All such categories listed herein and all specific uses contained within the Standard Land Use Code will be permitted in the Villages at Celebration Mixed Use Specific Development Plan Overlay Zone (SDP-5) subject to the limitations set forth herein.

(4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted within the designated villages as described. Commercial uses are permitted within the Village Town Center

(Village 6) only:

(a) Residential Uses: All residential uses are specifically allowed in the individual Villages as designated below. No accessory units or apartments are permitted.

<u>Use</u>	<u>Use</u>
<u>No.</u>	<u>Classification</u>
1111	<u>One family dwelling, detached</u>
1112	<u>One family dwelling, attached (three (3) to five (5) units attached)</u>
1113	<u>One family dwelling, attached (dwelling units must be above /over the commercial)</u>
1150	<u>Multi-family (contains twelve units)</u>

(b) Commercial Uses: All commercial uses are permitted in the Town Center (Village 6) only. All uses must be conducted within an enclosed building, except uses that are customarily conducted outdoors. Individual buildings within the center will be limited to ground floor foot prints no larger than 15,000 square feet, except as approved by the Planning Commission through the issuance of a Conditional Use Permit.

<u>Use</u>	<u>Use</u>
<u>No.</u>	<u>Classification</u>
5390	<u>Other retail trade - general merchandise</u>
5400	<u>Food</u>
5600	<u>Apparel</u>
5700	<u>Furniture, home furnishings and equipment (retail only)</u>
5810	<u>Eating places</u>
5910	<u>Drug stores, pharmacy</u>
5931	<u>Antiques</u>
5932	<u>Secondhand clothing, furniture and books</u>
5937	<u>Stamp and coin collectors</u>
5940	<u>Books, stationery, art and hobby supplies</u>
5950	<u>Sporting goods, bicycles and toys</u>
5969	<u>Garden supplies, includes garden centers</u>
5970	<u>Jewelry</u>
5990	<u>Misc. retail trade</u>
6100	<u>Finance, insurance and real estate services (except 6123 Pawn brokers, 6124 Bail bonds)</u>
6200	<u>Personal service (except 6240 Funeral Parlor, cemeteries and crematory services, 6290 personal services, NEC)</u>
6330	<u>Duplicating, mailing, stenographic and office services (except telemarketing)</u>
6340	<u>Dwelling and other building services</u>
6350	<u>News services</u>
6360	<u>Employment services</u>
6395	<u>Photo finishing services</u>
6510	<u>Professional services (except 6515 Behavior drug and alcohol treatment centers, 6516 Sanitariums, convalescent and rest home services)</u>
6710	<u>Executive, legislative and judicial functions (except military operations)</u>
6720	<u>Police and fire protection services</u>
6730	<u>Postal services</u>
6815	<u>Day nursery - child care centers</u>
6911	<u>Churches</u>
6930	<u>Business, professional and labor organizations and services</u>
6990	<u>Misc. services</u>

- 02 7110 Cultural activities
 03 7190 Cultural activities and nature exhibitions, NEC
 04 7211 Amphitheaters
 05 7212 Motion picture theaters (indoors)
 06 7214 Legitimate theaters
 07 7234 Civic theaters and halls
 08 7600 Parks (includes play fields, tot lots, etc.)
 09

10 (5) Permitted Accessory Uses (Villages 1-5). Accessory Uses and structures are permitted in this
 11 residential villages provided they are incidental to, and do not substantially alter the character of the permitted
 12 principal uses or structures. Such permitted accessory uses and structures include, but are not limited to the
 13 following:

14 (a) Accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds,
 15 recreation rooms, and similar structures which are customarily used in conjunction with, and incidental
 16 to a principal use or structure;

17 (b) Swimming pools and incidental bath houses subject to the standards of Section 14.34.210,
 18 Provo City Code;

19 (c) Vegetable and flower gardens and noncommercial orchards;

20 (d) Home occupations subject to the regulations of Chapter 14.41, Provo City Code;

21 (e) Storage of materials used for construction of a building, including the contractor's temporary
 22 office, provided that such use is on the building site or immediately adjacent thereto, and provided,
 23 further, that such use shall be permitted only during the construction period and thirty (30) days
 24 thereafter;

25 (f) Household pets, provided there shall be no more than two (2) such pets over the age of four
 26 months per dwelling unit. Nothing herein shall be construed as authorizing the keeping of any animal
 27 capable of inflicting harm or discomfort or endangering the health and safety of any person or property.
 28

29 14.49E.040 Architectural Design and Control

30 Prior to approval and issuance of any building permits, the overall architectural design theme, exterior
 31 building materials, elevations, landscaping and colors to be used within the Villages at Celebration, must be
 32 approved by the Provo City Design Review Committee (DRC) as outlined in Chapter 14.04A. The following
 33 design criteria must be followed:

- 34 (a) The architectural styles that may be used within the Villages at Celebration are as follows:
 35 Colonial, Cottage, Country, Craftsman, Farmhouse, French Country, Prairie, Ranch and Tudor.
 36 (b) At least three or more design elements must be carried throughout the entire Villages at
 37 Celebration.
 38 (c) No vinyl or aluminum siding may be used, except for soffits, gutters, and window trim unless the
 39 DRC approves other design features as part of an element of the overall design.
 40 (d) Exterior building materials may consist of stucco, stone, brick, hardy board siding, wood trim
 41 and composition roofing and other design features as part of an element of the overall design as
 42 approved by the Design Review Committee.
 43 (e) In Village 1 there must be a minimum of ten (10) different elevations and floor plans to provide
 44 a variety in housing styles and no similar elevations may be located adjacent to each other.
 45

46 14.49E.050 One Family Homes at Celebration (Village 1)

47 Villages comprising of subdivision lots for one family detached dwellings will be classified as Village 1
 48 (V1) and are subject to the following regulations:

- 49 (1) Lot Area
 50

51 The minimum area of any lot or parcel of land shall be as indicated by the sub zone used in conjunction
 52 with a designation. Sub zones as designated by adding a suffix number to an area developed into subdivision
 53 lots. The suffix number shall be the minimum square lot area for the sub zone.

54 V1.5 Five thousand (5,000) square feet in area

55 V1.6 Six thousand (6,000) square feet in area

56 V1.8 Eight thousand (8,000) square feet in area

57 V1.10 Ten thousand (10,000) square feet in area

58 **(2) Lot Width**

59 Each lot or parcel of land within the Village 1 (V1) designation, except corner lots, shall have a width of
 60 not less than the following for the sub zone in which said lot or parcel of land is situated. Corner lots must be 10
 61 feet wider than interior lots. Widths are measured at the interior side of the front yard setback line.

62 V1.5 fifty (50) feet wide

63 V1.6 sixty (60) feet wide

64 V1.8 eighty (80) feet wide

65 V1.10 ninety (90) feet wide

66 **(3) Lot Depth**

67 Each lot or parcel of land within the V1 designations shall have a minimum lot depth of ninety (90) feet.

68 **(4) Lot Frontage**

69 Each lot or parcel of land within the V1 designations shall abut a street for a minimum distance of thirty-
 70 five (35) feet. No residential structure may front on an Arterial or collector street.

71 **(5) Lot Area Per Dwelling**

72 Not more than one (1) one family dwelling may be placed upon a lot, building pad or parcel of land in
 73 the Village 1(V1) development of the Villages at Celebration SDP.

74 **(6) Yard Requirements**

75 The following minimum yard requirements shall apply in the Village 1 (V1) development of the Villages
 76 at Celebration SDP:

77 **(a) Villages 1.5 (V1.5) and Villages 1.6 (V1.6)**

78 **(i) Front.** The minimum depth of the front yard shall be twenty (20) feet.

79 Notwithstanding a lesser setback for the main building, garages, whether attached or not which
 80 are front loading to a public or private street, shall be setback at least twenty-six (26) feet from
 81 the property line to ensure a twenty (20) foot driveway depth, measured from the back of the
 82 sidewalk.

83 **(ii) Rear Yard.** The minimum depth of the rear yard shall be fifteen (15) feet where
 84 homes have front loading garages. If a home has an alley loading garage, then the garage must
 85 be setback at least twenty (20) feet from the property line or shall be located within five (5) feet
 86 of said property line.

87 **(iii) Side Yard.** The minimum depth of the side yard shall be five (5) feet on one side and
 88 eight (8) feet on the other side which will be designated as Public Utility easement. On corner
 89 lots, side yards contiguous to the street shall not be less than ten (10) feet wide and shall not be
 90 used for vehicle parking, except such portion as is devoted to driveway use for access to a garage
 91 or carport.

92 **(b) Villages 1.8 (V1.8) and Villages 1.10 (V1.10)**

93 **(i) Front/Rear Yard.** The minimum depth of the front or rear yard shall be twenty (20)
 94 feet. Notwithstanding a lesser setback for the main building, garages, whether attached or not,
 95 shall be setback at least twenty -six (26) feet from the property line when necessary to ensure a
 96 twenty (20) foot driveway depth, measured from the back of side walks.

97 **(ii) Side Yard.** The minimum depth of the side yard shall be eight (8) feet. On corner
 98 lots, side yards contiguous to the street shall not be less than fifteen (15) feet and shall not be
 99 used for vehicle parking, except such portion as is devoted to driveway use for access to a garage

or carport.

(iii) Accessory Buildings Within the Buildable Area. Accessory buildings meeting all setback requirements (within the buildable area) for the main dwelling shall:

(a) Have a building footprint and height less than the main dwelling.

(b) Comply with all lot coverage requirements.

(c) Comply with the latest adopted edition of the Uniform Building code.

(d) Only be used for those accessory uses allowed in the respective zone.

(e) Maintain architecturally similar material and colors with main building.

(iv) Accessory Building Outside the Buildable Area. Accessory buildings that do not meet the setback requirements (outside the buildable area) for the main dwelling shall meet the conditions in Section (iii) above and the following:

(a) Be no closer to the front property line than the main building.

(b) Be no larger than ten percent (10%) of the actual lot area of said property.

(c) Be set back a minimum of three (3) feet from any property line.

(d) Not be located within a recorded public utility easement, unless a release can be secured from all public utilities.

(e) Have no portion of the building exceed 12 feet in height within 10 feet of a property line.

(f) Not be located within a front or street side yard.

(g) Comply with distance between buildings requirements.

(h) Maintain architecturally similar material and colors with main building.

(7) Projections into yards

(a) The following structures maybe erected on or project into any required yard:

(i) Fences and walls in conformance with 14.49E.130;

(ii) Landscape elements including trees, shrubs and other plants; and

(iii) Necessary appurtenances for utility services.

(b) The structures listed below may project into a yard setback not more than two (2) feet:

(i) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.

(ii) Fireplace structures and bays, provided that they are not wider than eight (8) feet, measured generally parallel to the wall of which they are a part.

(iii) Stairways, balconies, door stoops, fire escapes, awnings and planting boxes or masonry planter not exceeding twenty-four (24) inches in height.

(c) A covered deck may project into the rear vard twelve (12) feet if open on three (3) sides.

(8) Building Height

No lot or parcel of land in the Village 1 (V1) designation shall have a building which exceeds a maximum height of thirty-five (35) feet, measured at each building facade individually, except that the front elevation shall not exceed thirty feet (30') as defined by Provo City Code.

(9) Permissible Lot Coverage

(a) All buildings, including accessory buildings and structures, shall not cover more than forty (40) percent of the area of the lot or parcel of land.

(b) At least forty (40) percent of the area of any lot shall be maintained in landscaping as defined in Section 15.20.040, Provo City Code.

(c) Permitted accessory structures shall not be located in the front or side yards.

(10) Parking, Loading and Access

(a) Each lot shall have, on the same lot, a minimum of two off-street parking spaces within an enclosed garage. The garage shall have a minimum interior width and length of twenty (20) feet.

(b) Said spaces shall be paved with concrete and shall be provided with a paved driveway from a street or alley as defined in 14.37.

(c) Except for tandem parking on a driveway as provided in Subsection

249 14.37.080(1)(c)(i), Provo City Code, no parking spaces shall be provided within the front yard setback.
 250 (d) The total area of all parking spaces on a lot (including a garage and uncovered parking slabs)
 251 and associated access lanes shall cover not more than thirty (30) percent of the lot.

252 (e) No property may have driveway access to an arterial or collector street.

253 (f) No RV storage will be permitted outside of an enclosed structure except in designated RV
 254 Parking areas within the overall development or within one interior side yard within the V1.10 villages.

255 **(11) Minimum Finished Floor Area Requirement**

256 All one family detached dwellings shall have a minimum finished floor area (exclusive of garage) as
 257 indicated below:

258	<u>V1.5</u>	<u>1,100 square feet</u>
259	<u>V1.6</u>	<u>1,200 square feet</u>
260	<u>V1.8</u>	<u>1,500 square feet</u>
261	<u>V1.10</u>	<u>1,750 square feet</u>

262
 263 **14.49E.060 Mansion Homes at Celebration (Village 2)**

264 Villages comprising one family attached dwellings (3 units attached) will be classified as Village 2
 265 (V2). These structures architecturally must be designed to appear as a large home. This development is subject
 266 to the following regulations:

267 **(1) Yard Requirements**

268 The following minimum yard requirements shall apply in the Village 2 (V2) developments of the
 269 Villages at Celebration SDP.

270 (a) Front Yard. The minimum depth of the front yard shall be fifteen (15) feet.

271 (b) Rear Yard. These structures require alley loading garages. Therefore, the garage portion of
 272 the structure must be setback at least twenty (20) feet from the rear property line or shall be located
 273 within five (5) feet of said property line. Except for the garage, a minimum depth of the rear yard shall
 274 be fifteen (15) feet.

275 (c) Side Yard. The minimum width of a side yard shall be fifteen (15) feet.

276 **(2) Distance Between Buildings**

277 The distance between main buildings shall be fifteen (15) feet.

278 **(3) Building Height**

279 No structure in the Village 2 (V2) designation shall have a building which exceeds a maximum height of
 280 thirty-five (35) feet, measured at each building facade, except that the front elevation shall not exceed thirty (30)
 281 feet as defined by Provo City Code.

282 **(4) Parking, Loading and Access**

283 (a) Each structure shall have a minimum of two off-street parking spaces within an enclosed
 284 garage per unit. The garage shall have a minimum interior width and length of twenty (20) feet.

285 (b) Said spaces shall be paved with concrete and shall be provided with a paved driveway from a
 286 street or alley as defined in 14.37.

287 (c) Except for tandem parking on a driveway as provided in Subsection 14.37.080(1)(c)(i), Provo
 288 City Code, no parking spaces shall be provided within the front yard setback.

289 (d) No structure may have driveway access to an arterial or collector street.

290 (e) Visitor parking shall be provided at one (1) space per three (3) units.

291 (f) No RV parking is permitted outside a designated fenced RV Parking area within the overall
 292 development.

293 **(5) Minimum Finished Floor Area Requirement**

294 All one family attached dwellings shall have a minimum finished floor area (exclusive of garages) of
 295 1,200 square feet.

296
 297 **14.49E.070 Courtyard Town Homes at Celebration (Village 3)**

298 Villages comprising of one family attached dwellings (3 to 5 units attached) will be classified as Village
 299 3 (V3). These units are three-story attached one family dwellings with garage access from an alley. The units
 300 are typically developed in a courtyard design with buildings facing one another along a pedestrian courtyard.
 301 Patio spaces are developed for each unit along the pedestrian courtyard. (See illustrations) This development is
 302 subject to the following regulations:

303 **(1) Yard Requirements**

304 The following minimum yard requirements shall apply in Village 3 (V3) development of the Villages at
 305 Celebration SDP.

306 (a) Front Yard. The minimum depth of the front yard shall be fifteen (15) feet.

307 (b) Rear Yard. These structures require alley loading garages. Therefore, the garage portion of
 308 the structure must be setback at least twenty (20) feet from the rear property line or shall be located
 309 within five (5) feet of said property line. Except for the garage, a minimum depth of the rear yard shall
 310 be fifteen (15) feet.

311 (c) Side Yard Corner Lot. The minimum depth of the side yard on a corner shall be fifteen (15)
 312 feet.

313 **(2) Distance Between Buildings**

314 The distance between buildings shall be fifteen (15) feet.

315 **(3) Building Height**

316 No structure in the Village 3 (V3) designation shall have a building which exceeds a maximum height of
 317 thirty-five (35) feet, measured at each building facade, except that the front elevation shall not exceed thirty (30)
 318 feet as defined by Provo City Code.

319 **(4) Parking, Loading and Access**

320 (a) Each structure shall have a minimum of two off-street parking spaces within an enclosed
 321 garage per unit. The garage shall have a minimum interior width and length of twenty (20) feet.

322 (b) Said spaces shall be paved with concrete and shall be provided with a paved driveway from a
 323 street or alley as defined in 14.37.

324 (c) Except for tandem parking on a driveway as provided in Subsection 14.37.080(1)(c)(i), Provo
 325 City Code, no parking spaces shall be provided within the front yard setback.

326 (d) No structure may have driveway access to an arterial or collector street.

327 (e) Visitor parking shall be provided at one (1) space per three (3) units.

328 (f) No RV parking is permitted outside a designated fenced RV Parking area within the overall
 329 development.

330 **(5) Minimum Finished Floor Area Requirement**

331 All one family attached dwellings shall have a minimum finished floor area (exclusive of garages) of
 332 1,200 square feet.

334 **14.49E.080 Urban Town Homes at Celebration (Village 4)**

335 Village 4 consists of of one family attached dwellings (three (3) to four (4) units attached) will be
 336 classified as Village 4 (V4) similar to the Courtyard Town Homes, with the exception of the provisions of a
 337 courtyard. This development is subject to the following regulations:

340 **(1) Yard Requirements**

341 The following minimum yard requirements shall apply in Village 4 (V4) development of the Villages at
 342 Celebration SDP.

343 (a) Front Yard. The minimum depth of the front yard shall be fifteen (15) feet.

344 (b) Rear Yard. These structures require alley loading garages. Therefore, the garage portion of
 345 the structure must be setback at least twenty (20) feet from the rear property line or shall be located
 346 within five (5) feet of said property line. Except for the garage, a minimum depth of the rear yard shall
 347 be fifteen (15) feet.

848 (c) Side Yard Corner Lot. The minimum depth of the side yard on a corner shall be fifteen (15)
 849 feet.
 850 **(2) Distance Between Buildings**
 851 The distance between buildings shall be fifteen (15) feet.
 852 **(3) Building Height**
 853 No structure in the Village 4 (V4) designation shall have a building which exceeds a maximum height of
 854 thirty-five (35) feet, measured at each building facade individually, except that the front elevation shall not
 855 exceed thirty (30) feet as defined by Provo City Code.
 856 **(4) Parking, Loading and Access**
 857 (a) Each structure shall have a minimum of two off-street parking spaces within an enclosed
 858 garage per unit. The garage shall have a minimum interior width and length of twenty (20) feet.
 859 (b) Said spaces shall be paved with concrete and shall be provided with a paved
 860 (c) Except for tandem parking on a driveway as provided in Subsection 14.37.080(1)(c)(i), Provo
 861 City Code, no parking spaces shall be provided within the front yard setback. driveway from a
 862 street or alley as defined in 14.37.
 863 (d) No structure may have driveway access to an arterial or collector street.
 864 (e) Visitor parking shall be provided at one (1) space per three (3) units.
 865 (f) No RV parking is permitted outside a designated fenced RV Parking areas within the overall
 866 development.
 867 **(5) Minimum Finished Floor Area Requirement**
 868 All one family attached dwellings shall have a minimum finished floor area (exclusive of garages) of
 869 1,200 square feet.
 870
 871 **14.49E.090 Town Center Residential at Celebrations**
 872 Village 5 (V5) consists of multi-family structures (twelve plexes) adjacent to the Village Town Center.
 873 These units will be designed to provide affordable home ownership for young families, singles, and retired
 874 persons.
 875 **(1) Yard Requirements**
 876 The following minimum yard requirements shall apply in the Village 5 (V5) development of the Villages
 877 at Celebration SDP.
 878 (a) Front Yard. The minimum depth of the front yard shall be twenty-five (25) feet.
 879 (b) Rear Yard. The minimum depth of the rear yard shall be five (5) feet.
 880 (c) Side Yard Corner Lots. The minimum depth of the side yard on a corner shall be fifteen (15)
 881 feet.
 882 **(2) Distance Between Buildings**
 883 The distance between buildings shall be twenty (20) feet.
 884 **(3) Building Height**
 885 No structure in the Village 5 (V5) designation shall have a building which exceeds a maximum height of
 886 forty (40) feet, measured at each building facade, except that the front elevation shall not exceed thirty -five (35)
 887 feet as defined by Provo City Code. In no case shall a building exceed three stories in height.
 888
 889 **(4) Parking, Loading and Access**
 890 (a) A minimum of two (2) parking spaces per unit shall be provided for all units.
 891 (b) Said spaces shall be paved with asphaltic cement or concrete and shall be provided with a
 892 paved access from a public street or alley.
 893 (c) No parking spaces shall be provided in the front yard setback.
 894 (d) No structure may have driveway access to an arterial or collector street.
 895 (e) Visitor parking of one (1) space per three units shall be required.
 896 (f) No RV parking is permitted outside a designated fenced RV Parking area within the overall
 897 development.

(5) Minimum Finished Floor Area Requirement

All attached dwellings shall have a minimum finished floor area of 900 square feet.

14.49E.100 Village Town Center at Celebration (Village 6)

The Village Town Center (V6) will comprise of retail and office uses that are architecturally compatible with the Villages within the development. The center is not intended for "big box" type retailers, but is intended to promote smaller retailers and office units. Therefore, individual buildings within the center will be limited to ground floor foot prints no larger than 15,000 square feet, except as approved by the Planning Commission through the issuance of a Conditional Use Permit. It is not the intent of the development to permit manufacturing uses or other uses that would encourage heavy vehicle traffic into the area. Buildings with street frontages must have a front facade.

(1) Yard Requirements

The following minimum yard requirements shall apply in the Village 6 (V6) development of the Villages at Celebration SDP:

(a) Front Yard. The maximum depth of the front yard shall be ten (10) feet for any building fronting on a public street.

(b) Rear Yard. The minimum depth of the rear yard shall be ten (10) feet for any building fronting on a public street.

(c) Side Yard Corner Lots. The minimum depth of the side yard on a corner shall be ten (10) feet.

(2) Distance Between Buildings

The distance between buildings shall be determined by the International Building Code.

(3) Building Height

No structure in the Village 6 (V6) designation shall have a building which exceeds a maximum height of thirty-five (35) feet, measured at each building facade, except that the front elevation shall not exceed thirty (30) feet as defined by Provo City Code. In no case shall a building exceed two stories in height.

(4) Parking, Loading and Access

(a) Parking shall be required for all retail and office uses at one (1) space per two hundred (200) square feet of gross floor area. All parking spaces must be located within the interior of the center and not within the yard setback areas.

(b) Said spaces shall be paved with asphaltic cement or concrete and shall be provided with a paved access from a public street or alley.

(c) Parking spaces shall be maintained as outlined in 14.37.090 Provo City Code.

(d) All parking spaces shall be designed as outlined in 14.37.100 Provo City Code.

(e) Disabled Parking Spaces shall be provided and designed as outlined in 14.37.110 Provo City Code.

(f) The parking spaces located within the Town Center may be used by visitors of the adjacent residential villages after closing of normal business hours if said business owners association so permits through a permitting process. Any vehicles parked in these parking areas overnight must be removed prior to the opening of normal business hours. Signs are required to be posted regulating the parking standards. No storage or parking of recreational or inoperable vehicles will be permitted.

14.49E.110 Parks and Open Space

The Villages at Celebration has been designed providing several parks and open space throughout the development. Parks and open space will be installed as the individual phases are developed within one year of the approval of a final plat. All parks and open spaces are considered as private and will be required to be maintained through a Village Homeowner's Association. Any parks and open space dedicated to and accepted by Provo City will be maintained by Provo City.

Amenities such as ball parks, play areas, tot lots, amphitheaters, water features, fountains, statues, flower gardens, sports courts, and other features are permitted as accessory uses. Trails are required to be paved a minimum width of six (6) feet. All landscaping shall comply with 14.49E .140 of this code.

449 **14.49E.120 Project Plan Review**

450 The overall architectural design theme, building materials, elevations and colors of the Villages at
 451 Celebration must be approved by the Provo City Design Review Committee (DRC) as outlined in Chapter
 452 14.04A as part of the final plan approval process for each phase before the issuance of a building permit. All
 453 structures must contain a minimum of three design elements as approve by the DRC.

454 **14.49E.130 Fences, Walls, Entry Treatments**

455 **(1) Fence Design and Materials**

456 (a) Design. All fencing and wall design and materials must be approved by the DRC.

457 (i) Typical Lot Fencing. Typical lot fencing includes all lot fencing for single family
 458 detached lots (Village 1 all inclusive) except where a vard is adjacent to a collector or arterial
 459 street.

460 (ii) Lot fencing adjacent to a collector or arterial street (except along Geneva Road). The
 461 design of fencing adjacent to the collector or arterial street shall be comprised of solid vinyl
 462 fence elements and shall include a pillar constructed of masonry or stone a minimum every
 463 twenty (20) feet. A pillar may extend up to eighteen (18) inches above the allowable height of a
 464 fence.

465 (iii) Lot Fencing along Geneva Road, adjacent to residential lots. The fencing along
 466 Geneva Road will be required to be constructed of brick, stone or a combination thereof as
 467 approved by the Design Review Committee. The fence must be coated with a graffiti resistant
 468 material and installed by the developer with the appropriate phase that fronts on Geneva Road.
 469 This fence shall be six (6) feet in height.

470 **(2) Fences and walls**

471 (a) No fence or wall shall create a sight distance hazard to vehicular or pedestrian traffic as
 472 determined by the Provo City Traffic Engineer.

473 (b) Front Yard Setbacks. No fence or wall may exceed three (3) feet in height in anv required
 474 front yard setback.

475 (c) Side Yard. Fences or walls may be constructed to a maximum height of six (6) feet.

476 (d) Rear Yard. Walls and fences in a rear yard shall be a maximum of six (6) feet in height.

477 **(3) Village Entrance Treatments.**

478 (a) Entry wall or fence treatments to village entrances may not exceed six (6) feet at the highest
 479 point, except lamps on pillars, and shall comply with the provisions of Section 14.34.100, Clear Vision
 480 Area - Corner lots. A pillar may extend up to eighteen (18) inches above the allowable height of a fence
 481 or wall provided each pillar is no less than six (6) feet from an adjoining pillar, measured face to face.

482 (4) Materials. All fencing shall be constructed of vinyl unless other materials are approved by the
 483 Design Review Committee or noted in the ordinance. The type of fencing should be consistent throughout the
 484 individual Villages. The color used throughout the community shall be consistent and determined at the time of
 485 Final Plat approval by the Design Review Committee and the Planning Commission. Pillars shall be constructed
 486 of a consistent masonry or stone material that will contribute to the overall project.

487 **14.49E140 Signs**

488 Unless otherwise prohibited by law, signs of the type and description listed below and no others may be
 489 placed on private property in which they pertain to.

490 **(1) Villages 1-5**

491 (a) One name plate not exceeding two (2) square feet in area and displaying only the name and
 492 address of the occupant on the wall of the building.

493 (b) One (1) temporary sign with a maximum area of six (6) square feet each, pertaining to the
 494 sale, lease, or rent of the particular building, property, or premises upon which displayed. No sign is
 495 permitted in the street right of way, including the landscaped planter strips.

496 (c) One monument sign may be erected at the entrance of each of each village not exceeding
 497
 498

499 thirty-two (32) square feet placed upon an ornamental masonry wall which identifies a minimum of the
 500 name and/or address of the village or group of buildings. The sign shall be architecturally compatible as
 501 approved by the Design Review Committee.

502 **(2) Village Town Center (Village 6)**

503 **(a) Freestanding Sign:** One (1) freestanding sign not to exceed twenty (20) feet in height may
 504 be located at the entrance of the commercial center. Said signs shall conform with the following
 505 provisions:

506 **(i) Area:** The area shall be in accordance with the provisions of Table 2, Section
 507 14.38.130, Provo City Code. The name of the center must be displayed on the sign. The name
 508 of one (1) or more of the tenants or business establishments in said shopping center may be
 509 displayed on said signs.

510 **(ii) Location:** No such sign shall project over any property line nor more than five (5)
 511 feet into any required front yard.

512 **(iii) Lighting:** Said signs may be lighted with interior or exterior soft lighting.

513 **(iv) Electronic messages:** Twenty-five percent (25%) of the sign may include electronic
 514 messages. No messages or material may rotate or flash no greater than 8 revolutions per minute.

515 **(iv) Clearance.** If the sign is located where pedestrians can walk directly beneath the
 516 sign, the bottom of the sign cabinet must be at least eight (8) feet above the ground.

517 **(b) Wall Signs:** Each business establishment or tenant of the Village Town Center may have
 518 wall signs in conformance with the following:

519 **(i) Area:** Refer to Table 3, Section 14.38.140, Provo City Code.

520 **(ii) Number:** There may be one (1) wall sign for the front face of each business or
 521 tenant. There may, in addition, be one sign for each business establishment or tenant having a
 522 rear building face with a public entrance.

523 **(iii) Height:** No part of a wall sign shall extend above the top level of a wall upon or in
 524 front of which it is situated.

525 **(iv) Projection:** No such sign, including any light box or structural part, shall project
 526 more than eighteen (18) inches from the face of the part of the building to which it is attached.
 527 No copy is permitted on the sides of any such sign.

528 **(c) Architectural Compatibility:** All signs must be architecturally compatible with design
 529 elements, materials, colors and design themes approved by the Design Review Committee.

530 **(d) Special Purpose Signs:** Special purposes signs as described in 14.38.050 may be permitted.
 531 In addition to the ordinance, community signs may be erected for the purpose of providing information,
 532 such as trail access, directional, and other similar signage as deems necessary for the movement of
 533 pedestrians or for general information purposes for the community. These signs may not exceed three
 534 (3) feet in height or larger than twelve (12) square feet in area and must be architecturally compatible.
 535

536 **(e) Development Flags or Banners:** One flag or banner no larger than two (2) feet by three (3)
 537 feet may be attached to utility poles for the purpose of displaying seasonal activities relating to holidays
 538 or special events that relate to the development and not individual businesses or advertising of retail
 539 merchandise. The Community Development Department must review and approve these signs prior to
 540 installation of said signs. Written permission must be granted by the utility company if placed on a
 541 utility pole. A building permit will be required if a new pole is to be installed. There must be a
 542 clearance of a minimum of eight (8) feet below the sign from the ground.
 543

544 **14.49E.150 Landscaping Requirements**

545 A detailed landscaping plan must be approved by the Design Review Committee prior to the approval of
 546 any final plat. The requirements of this section shall apply in addition to other requirements of Chapter 15.20
 547 Provo City Code.

548 **(1) Villages 1-5**

549 The requirements of this section shall apply in addition to other applicable requirements of Chapter 15.20
 550 Provo City Code.

551 (a) All open areas except driveways, parking areas, walkways, utility areas, decks, patios,
 552 porches, etc., shall be landscaped with plants, shrubs, trees, grass, and similar materials.

553 (b) Landscaping per lot. A minimum of two (2), one and one-half (1.5) inch caliper deciduous
 554 trees or six (6) foot tall evergreen trees, and four (4), five (5) gallon shrubs shall be planted for each lot
 555 or pad in a subdivision or village, as well as building foundation planting of appropriate shrubs, flowers,
 556 or ground covers. In areas where grass is designated, sod will be planted.

557 (c) The developer is required to install the landscaping in the front and side yards including the
 558 sprinkler system for all V1.5 and V1.6 lots prior to occupancy of the structure if weather permitting or
 559 bond for the installation of the landscaping as required in 15.20.130 Provo City Code including the
 560 landscaping of the street planter strip.

561 (d) The home owner is required to install the landscaping and sprinkler system for all V1.8 and
 562 V1.10 lots as required by Chapter 15.20 Provo City Code meeting the above requirements.

563 (e) All parking lots shall be landscaped as per 15.20.090 Provo City Code

564 (f) The developer is required to install the landscaping and sprinkler system for all V2-5
 565 Villages prior to occupancy of the structures.

566 **(2) Village Town Center**

567 (a) A minimum of fifteen (15), two (2) inch calipers deciduous or six (6) foot evergreen trees per
 568 acre or any combination thereof shall be required to be installed. All shrubs shall be five (5) gallon in
 569 size.

570 (b) All parking lots shall be landscaped as per 15.20.090 Provo City Code.

571 (c) Chapter 15.20 shall apply where applicable.

572 **(3) Park Strips**

573 All park strips within the Villages at Celebration shall be maintained by the Home Owners
 574 Association. Street trees are required to be planted in the park strips in addition to lawn as outlined in
 575 Chapter 15.20 of Provo City Code.

576 **(4) Parks and Open Space**

577 (a) Parks and Open Space shall be landscaped with grass and trees and other landscaping
 578 materials as approved by the Design Review Committee.

579 (b) Parks and Open Space shall be landscaped by the developer as part of each phase of the
 580 development as approved by the Planning Commission.

581 (c) All amenities indicated on the approved plans must be installed as part of the phase (Village)
 582 as approved.

583 (e) A minimum of fifteen (15) inch and one half (1.5) inch calipers deciduous or six (6) foot
 584 evergreen trees per acre or any combination thereof shall be required to be installed.

585 (f) All trail systems must be a minimum of six (6) feet wide and paved with asphalt or concrete.

586 **14.49E.160 Occupancy Requirements**

587 (a) Each housing unit located within the Villages at Celebration may be occupied by a family or three
 588 singles as defined by 14.06.020 definitions (Family) Provo City Code relative to the Lakeview North
 589 Neighborhood requirements.

590 (b) Second kitchens may be permitted in the V1.10 and V1.8 zones if a second kitchen agreement is
 591 approved and recorded by Provo City. No second kitchens will be permitted within the remaining Villages at
 592 Celebration development.

593 **14.49E.170 Other Requirements**

594 **(1) Home Owners Association - Guarantees and Covenants.**

595 (a) Adequate guarantees and covenants shall be provided for permanent retention and
 596 maintenance of all parks, open space, trails, and other amenities owned in common within the Villages at
 597 Celebration development. No final plat may be approved until restrictive covenants have been
 598 submitted to and approved by the Community Development Department. Said guarantees may include
 599 the following:

600 (i) The creation of a Home Owner's Association for the entire development.

601 (ii) The care and maintenance of the area within such open space reservation shall be
 602 insured by the developer by establishing a private association or corporation responsible for such
 603 maintenance which shall levy the cost thereof as an assessment on the property owners within the
 604 performance development. Ownership and tax liability of private open space reservations shall
 605 be established in a manner acceptable to the City and made a part of the conditions of the final
 606 plan approval.

607 (iii) Maintenance of open space reservations shall be managed by person, partnership, or
 608 corporate entity in which there are adequate expertise and experience in property management to
 609 assure that said maintenance is accomplished efficiently and at a high standard of quality.

610 (b) Disclosure of parking and occupancy requirements, funds and establishment of maintenance
 611 estimates and funds prior to purchase of property within the development.

612 (c) Disclosure of ongoing maintenance fees that will be assessed prior to the purchase or lease of
 613 property.

614 **(2) RV Storage**

615 (a) RV storage is permitted only within designated RV storage areas located with the
 616 development except within the V1.10 villages as described in the ordinance.

617 (b) Each storage area is to be enclosed with an opaque fence six (6) feet high and either paved
 618 with asphaltic cement or concrete. Compacted gravel may be used through the issuance of a conditional
 619 use permit. If gravel is used, then assurances must be provided to the Planning Commission regarding
 620 weed control.

621 **(3) Trash Storage**

622 (a) Refuse bins. Refuse bins (dumpsters) shall be stored in screened enclosures by a six (6) foot
 623 masonry wall or vinyl fences which are architecturally compatible in style and materials with the
 624 character of the development. These structures may not be located in a front yard setback.

625 (b) Trash Storage, Abandoned, Wrecked, or Junked Vehicles; Miscellaneous Materials must be
 626 in compliance with 14.34.080, Provo City Code.

627 **(4) Outdoor Lighting**

628 All outdoor lighting must be in compliance with 15.21 where applicable. The Design Review Committee
 629 must approve all elements of the outdoor lighting.

630 **(5) Transitional Development Standards**

631 Where a commercial structure is located adjacent to residential property, Chapter 14.34.300 shall apply.
 632

633
 634
 635 **14.49E.180 Existing Agricultural Uses**

636 Recognizing that there are existing agricultural uses within the designated Villages at Celebration
 637 Specific Development zone, all legal uses will be considered as conforming and may continue as permitted
 638 under the appropriate zoning that existed under Utah County designation until such time the property is
 639 developed as part of the Villages at Celebration. At that point, the existing uses are considered non-conforming.

Exhibit "A" - Illustrations

14.49E.190 Illustrations:

The following graphics are provided for illustration purposes only and are representative of the typical architecture that will be found throughout the entire village. All architecture is subject to approval of the Design Review Committee:

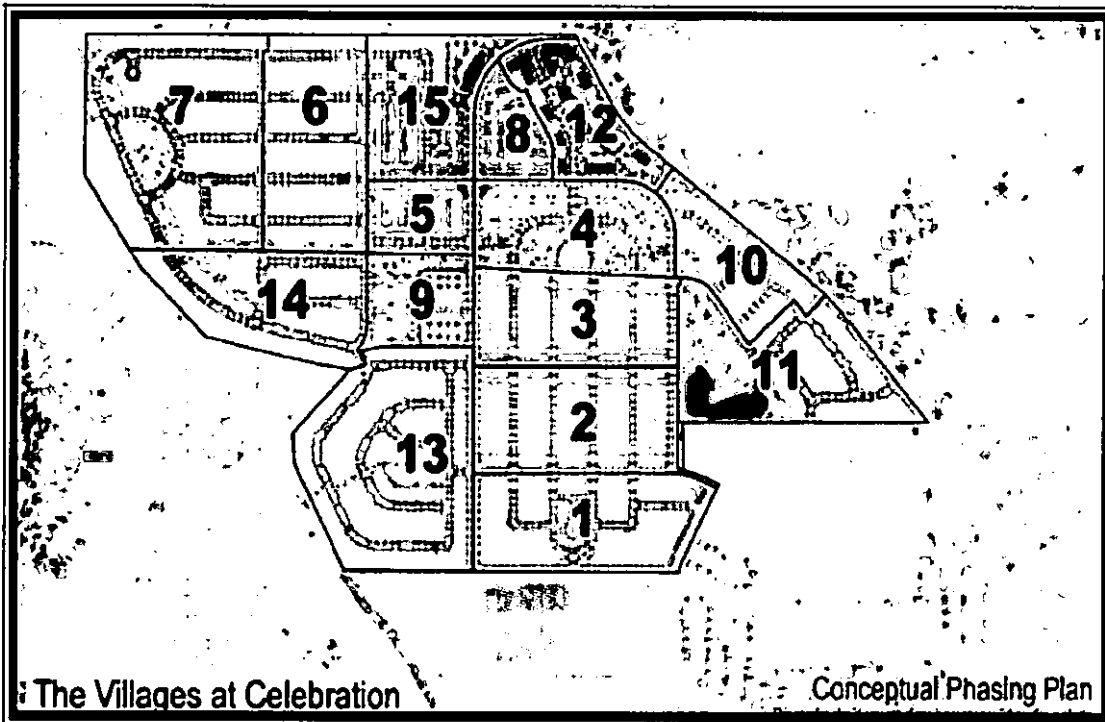
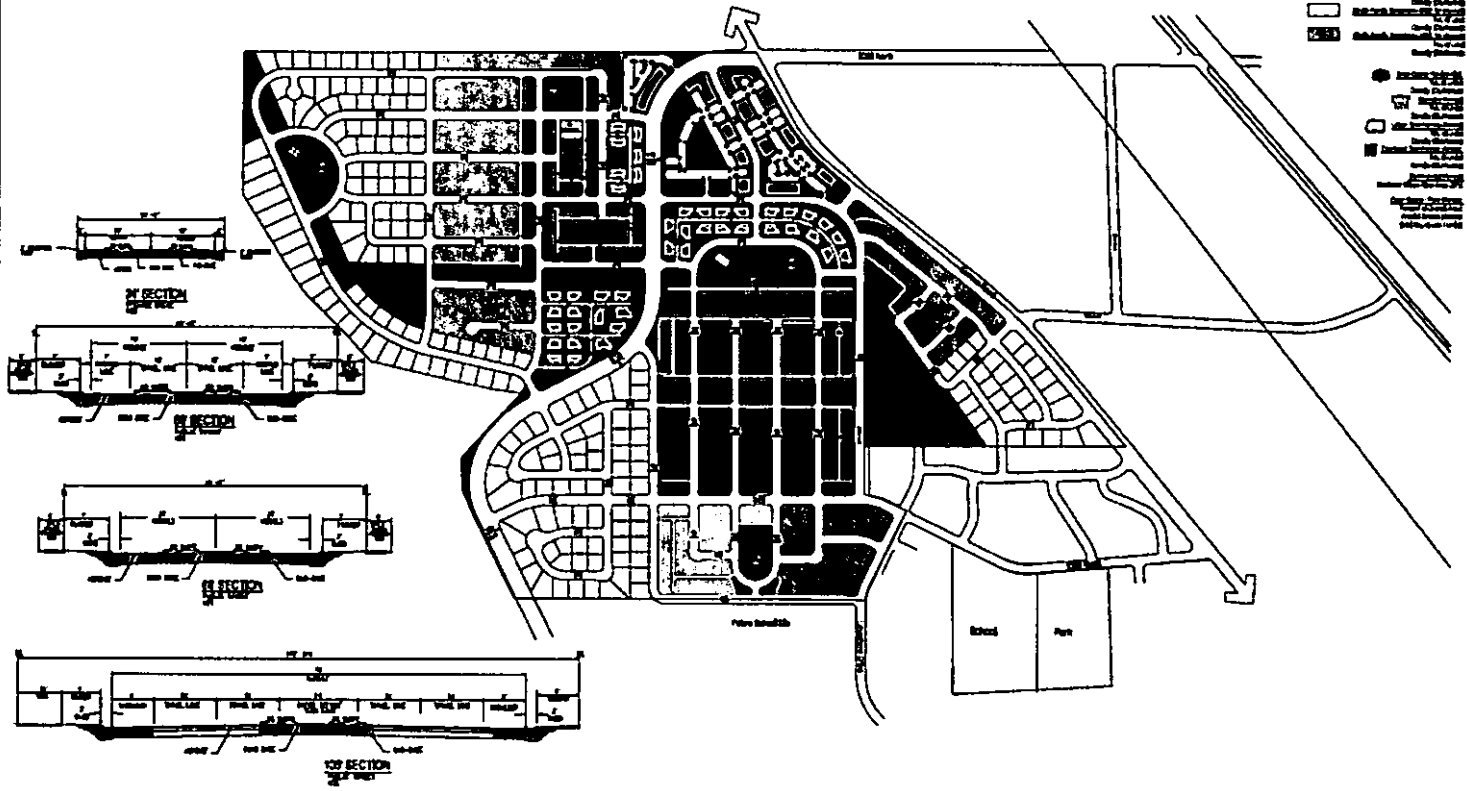
1. Site Plans and Elevations (Examples)

A. Villages 1 One Family - Alley loaded garage homes



The Villages at Celebration Concept Development Plan

September 19, 2009



The Villages at Celebration

Conceptual Phasing Plan

Exhibit "C"
Planning Commission Report of Action
Preliminary Project Plan - April 22, 2009
Villages at Celebration
Geneva Road to Utah Lake between 1300 North and 2000 North, Provo, Utah

Provo City Planning Commission

Report of Action

April 22, 2009

REQUEST FOR COUNCIL ACTION

Type of Action Requested: X
 Resolution _____
 Ordinance _____
 Formal Action/Motion _____
 Review at Study Session _____
 Administrative; No Action X

- ITEM 2* Gardner and Associates request approval of the Villages at Celebration Specific Development Plan (a mixed use development) containing approximately 346.72 acres, located generally west of Geneva Road and east of Utah Lake, between 1300 North and 2000 North currently located in Utah County. *Lakeview North Neighborhood Continued from the September 24, 2008 hearing*
- a) Preliminary Project Approval for 1,172 housing units including one family and multi-family housing units and approximately 140,000 square feet of office and commercial uses. (08-0033PPA)
 - b)* Request to rezone 346.72 acres from R1.20 (One Family Residential) to SDP5 (Specific Development Plan) to be known as The Villages at Celebration Specific Development Plan Overlay Zone. (08-0007R)
 - c)* Requests the adoption of Chapter 14.49E The Villages at Celebration Specific Development Plan Overlay Zone (SDP-5). (08-0010OA)

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 22, 2009:

A) CONDITIONAL APPROVAL

On a vote of 6:0, the Planning Commission approved the above noted application, with the following conditions:
Conditions of Approval:

1. Each phase must be approved by the Planning Commission and the Design Review Committee prior to final approval regarding layout, design elements and landscaping.
 2. That a home owner's association is created and restrictive covenants are approved and recorded prior to final approval of any phase. There may be individual associations under the umbrella of a managing organization.
 3. That the technical concerns raised by the various City Departments be addressed prior to final plan approval.
- Note: These conditions are with an understanding that Items B* and C* are to be continued until the Municipal Council sets the parameters of development.

B*) CONTINUED

On a vote of 6:0, the Planning Commission continued the above noted application until the Municipal Council sets the parameters of development.

C*) CONTINUED

On a vote of 6:0, the Planning Commission continued the above noted application until the Municipal Council sets the parameters of development.

Motion By: Roy Peterman

Second By: Coy Porter

Votes in Favor of Motion: Brian Bird, Roy Peterman, Pam Boshard, Leonard Mackay, Ron Madsen, Coy Porter

Votes Opposed to Motion: None

Marian Monnahan was present as Chair.

- Additional Report of Action for item previously continued after a public hearing or other discussion: Item 1 April 22, 2009 Casefile 08-0001A
- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not generally consistent with the Staff analysis and determination.

RELATED ACTIONS

Item 1*, Celebrations Annexation, April 22, 2009: Casefile 08-0001A

DEVELOPMENT AGREEMENT

- May apply with future approvals.

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT

Item was continued.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- After the September 24, 2008 Planning Commission meeting, the applicant was advised that he would be required to provide right of way for a new arterial road that would connect 2000 North and traverse through the project southward. The applicant has since submitted a revised preliminary plan that contains the same basic housing elements, but the overall number of housing units has decreased.
- The applicant has submitted a new drawing that indicates 1,157 units which equals 4.02 units per acre.
- The project will contain a mix of housing units described as follows:
 - a. One family subdivision lot (ranging from 5,000 to more than 10,000 sq. ft).
 - b. Mansion homes, which have the appearance of a large home, contain three units.
 - c. Courtyard Town Homes which contain 3 to 5 units attached and face inward to each other creating a courtyard between buildings.
 - d. Urban Town Homes which contain 3- 4 units attached.
 - e. Town Center Residential units which contain 12 units attached, three stories high condominiums. These units are located adjacent to the Town Center.
 - f. The Village Town Center contains 140,000 square feet of commercial floor area, is located adjacent to Geneva Road and the arterial collector.
 - g. Parks, trails and open space to be maintained by a homeowner's association.
 - h. RV enclosed storage areas.
- The overall alignment does divide the project into two different sections and may work for technical reasons, but provides unique issues within the development. Pedestrian safety regarding the proposed arterial is in question. This arterial is equal to University Avenue in width when fully constructed. It would be desirable to have the arterial street relocated along the western boundary of the project instead of its current location, if possible.
- The commercial center will contain 140,000 square feet of gross floor area. Individual buildings will be limited to ground floor foot prints no larger than 15,000 square feet, except as approved by the Planning Commission through the conditional use permit process.
- All one family detached dwellings will require two car garages. All one family attached and multi-family dwellings will require two parking spaces plus one visitor parking space per three units.
- The Design Review Committee only granted final approval for the single family homes as presented and required all one family attached, multi-family and commercial building plans be brought back for final review and approval. This includes landscaping, fencing, signs and other design elements.
- If the property is annexed into Provo City, the R1.20 zone will be placed upon the properties within the annexation description. In order to develop the properties as a Specific Development Option, the properties will be required to be rezoned from the R1.20 to the SDP5 (Specific Development Plan) to be known as The Villages at Celebration Specific Development Plan Overlay Zone.

- The rezoning of the properties is in compliance with the adopted General Plan policies and will establish the zoning for the entire area, permitting development under the Specific Development Plan as discussed in the staff report.
- The developer is required as part of the SDP process to submit an ordinance for adoption governing the Specific Development Plan. He has submitted Chapter 14.49E The Villages at Celebration (SDP-5) Specific Development Plan Overlay Zone for review and approval. This ordinance will govern the entire 345 acres. The benefit of the ordinance is that it governs the entire project and sets the tone for all development that may occur. An architectural style will be established throughout the development providing a cohesiveness within the project.

CITY DEPARTMENTAL ISSUES

- **Development Services:** This property is located in the *High Water Table Area* as defined by Provo City Ordinances; please refer to **Chapter 15.05.170 (1) (i) (i) High Water Table and Wetland Area Development Standards** for building elevation requirements.
- **Energy :** No concerns at this time, this annexation would be beneficial to Provo City Power.
- **Engineering: Minor Concerns:**
 1. The alignment for the "Northwest Connector Road" will be looked at as the project is designed. There may be a need for adjustments in the alignment as the road design is completed. This will require close coordination between the developer and the Engineering Division.
 2. It was discussed in a meeting with the developer that the proposal is to abandon Lakeshore Drive north of 1390 North as a collector road. This would need to include a reclassification of Lakeshore Drive through the Goodrich Farms Subdivision to a local street. These items would require Planning Commission and City Council action.
 3. The traffic study has been submitted but needs to be revised. The LOS evaluations of Provo City's environmental traffic threshold volumes is not accurate and unnecessary. The traffic study has not provided any intersection evaluation for any of the major intersections associated with the project. The trip distribution projections for residential traffic are not reasonable or acceptable. All of these items need to be addressed prior to final project approval. The traffic study review should be coordinated with Casey Serr, Provo City Traffic Engineer.
 4. Since Geneva Road is a state highway, UDOT approval will be required for the project plan.
 5. A geotechnical report will be required for this project. It will need to address ground water levels, soil stability and any other issues deemed appropriate by the geotechnical engineer. These issues will need to be addressed prior to final project approval.
- **Fire Department:** No concerns at this time. Further review will be given with the final plats.
- **Parks and Recreation:** No concerns at this time.
- **Sanitation** There are no additional comments or concerns.
- **Storm Water: Major Concerns, Resolvable:**
 1. Currently there are no storm water outfalls north of the Despain Ditch and storm water retention is restricted by Provo City Code in this area. This may be a significant hurdle in ensuring proper storm water management for this project if the runoff from the entire project is unable to be directed to the Despain Ditch.
 2. It appears that this proposed project does not control the property that borders Utah Lake. Any proposals to discharge runoff directly to Utah Lake will need to include proper easements or land acquisitions.
 3. There are significant amounts of wetlands in this area of Provo City. All wetland permitting / mitigation issues will need to be coordinated with the Army Corps of Engineers. Please provide any available documents that demonstrate correspondence with the Army Corps.
 4. Provide a Preliminary Drainage Plan proposing how storm water runoff will be managed. At this stage in the approval process provide enough elevation to ensure that the proposed drainage layout will drain as intended.

Minor Concerns:

1. The minimum street elevation for this project is to be 4495' (NAVD 27).
2. The lowest habitable floor elevation is to be the greater of 4496' in elevation or two feet below the sidewalk elevation fronting the lot providing that the elevations of the street improvements are designed at an appropriate elevation above the ground water table.
3. Storm water runoff pre-treatment measures need to be implemented for this project.

4. A General Construction Storm Water Permit is required by the State of Utah unless a waiver is granted. More information can be found on the Internet at <http://www.waterquality.utah.gov/updes/stormwater.htm>.

• **Water Resources: Major Concerns -Resolvable :**

1. First, Since this area was not identified in the current General Plan, it will be necessary to develop a funding package that will be sufficient to cover the costs of all off-site wastewater improvements required to service this area beyond the first approximate 200 connections. Second, confirmation that the assumptions made in the Wastewater Collections System 2009 Westside Update are supported by the Provo City General Plan currently under evaluation.

The Wastewater Collection System Master Plan update has now been completed and has identified two alternatives (A and B) to deal with wastewater collection system capacity in those areas generally west of I-15 and including the Villages at Celebration. One of these alternatives is clearly better in the long run but has a slightly higher front end cost. We are also currently exploring any additional alternatives which might prove cost effective. Most recently we have looked at a hybrid of alternatives A and B which would allow us to begin with Alternative A and then at a predetermined point move to Alternative B. Without duplication of effort and at a fairly low front end cost, this hybrid approach would provide capacity for approximately 350 new units in the Northwest service area. Approximately 100 of those units are already committed to previously approved projects. Another option includes directing wastewater flows to the City of Orem as part of an inter-local agreement that is already in place. This alternative is also currently being reviewed.

Additionally, the Planning Commission is currently working on a revision to the City's General Plan, which may result in some changes to the Wastewater Master Plan based on anticipated population densities and development patterns. Reviewing the outcomes of the General Plan process should be a reality test of the assumptions in the Master Plan.

While we anticipate some of the projects identified in the Master Plan could be constructed during the spring and summer of 2009 with existing revenues, in the long term we will need to develop and adopt a Capital Facility Plan and carefully evaluate funding alternatives before we will fully understand the timing associated with construction of the remaining elements of the Capital Facilities Plan. Accordingly, our ability to provide capacity for the Villages at Celebration beyond those describes above will be dependant on the completion of those planning and funding elements.

NEIGHBORHOOD MEETING DATE

- The Neighborhood Chair determined that a neighborhood meeting would not be required at this time because several neighborhood meetings have been held in the past and if and when the request goes to Council, additional meetings will be held.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair (Don Allpin) was present /addressed the Planning Commission during the public hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequently to the Staff Report or public comment during the public hearing included the following:

- Mike Heines - Loves the open area, but dislikes all of the traffic going down 1390 North.
- Steve Heines - Agrees on the annexation, however, need answers to the density. Requests the Planning Commission to approve a concept plan, not the preliminary plan. The proposed arterial road goes nowhere and someone needs to determine where it should go. The park costs are extreme.

- Michael Heines feels that the small 5,000 square foot lots should be relocated to the northwest portion of the project and the 10,000 square foot lots should be placed adjacent to the Goodwin Farms development which comprises of .5 acre acre lots.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following: Mr. Gardner wants the preliminary plan to be approved so the annexation and the plan can go to the Municipal Council for discussion. The Council cannot approve the plan, but needs to see it to help with their final decision.

PLANNING COMMISSION DISCUSSION

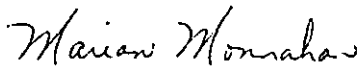
Key points discussed by the Planning Commission included the following:

- Pam Boshard expressed concerns by the amount of homes and sizes of the homes. She also expressed a concern that the large proposed arterial road divided the neighborhood in half.
- Roy Peterman expressed his concerns that the Planning Commission was asked to shoot at a moving target because until the Municipal Council can establish the parameters, the preliminary plan may be modified and come back to the Planning Commission to review again.
- Gary McGinn explained the project plan approval process and recommended that the Planning Commission conditionally approve the project plan, the ordinance and rezoning so the project can move onto the Municipal Council. The ordinance reflects the project and the project reflects the ordinance. He also stated that if they wish to continue the ordinance text amendment and the rezoning, staff would support that motion.

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

Roy Peterman, in his motion, found that the project should be conditionally approved, recognizing that it may be modified by the Municipal Councils decision and that may change the ordinance as written, therefore he recommended conditional approval of the project plan and continued the ordinance and rezoning requests.



Planning Commission Chair



Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

Exhibit "D-1"
Preliminary Project Plan
Villages at Celebration
Geneva Road to Utah Lake between 1300 North and 2000 North, Provo, Utah

Exhibit "D-2"
Preliminary Project Plan
Villages at Celebration
Geneva Road to Utah Lake between 1300 North and 2000 North, Provo, Utah

The Villages at Celebration
Concept Development Plan
 September 19, 2009

Area of Study Area Plans

201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500
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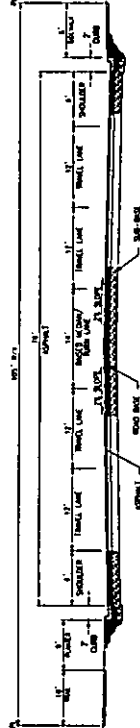
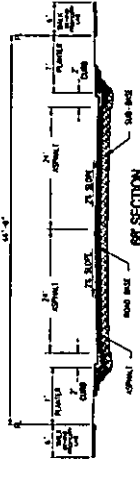
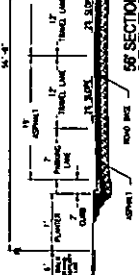
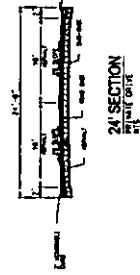
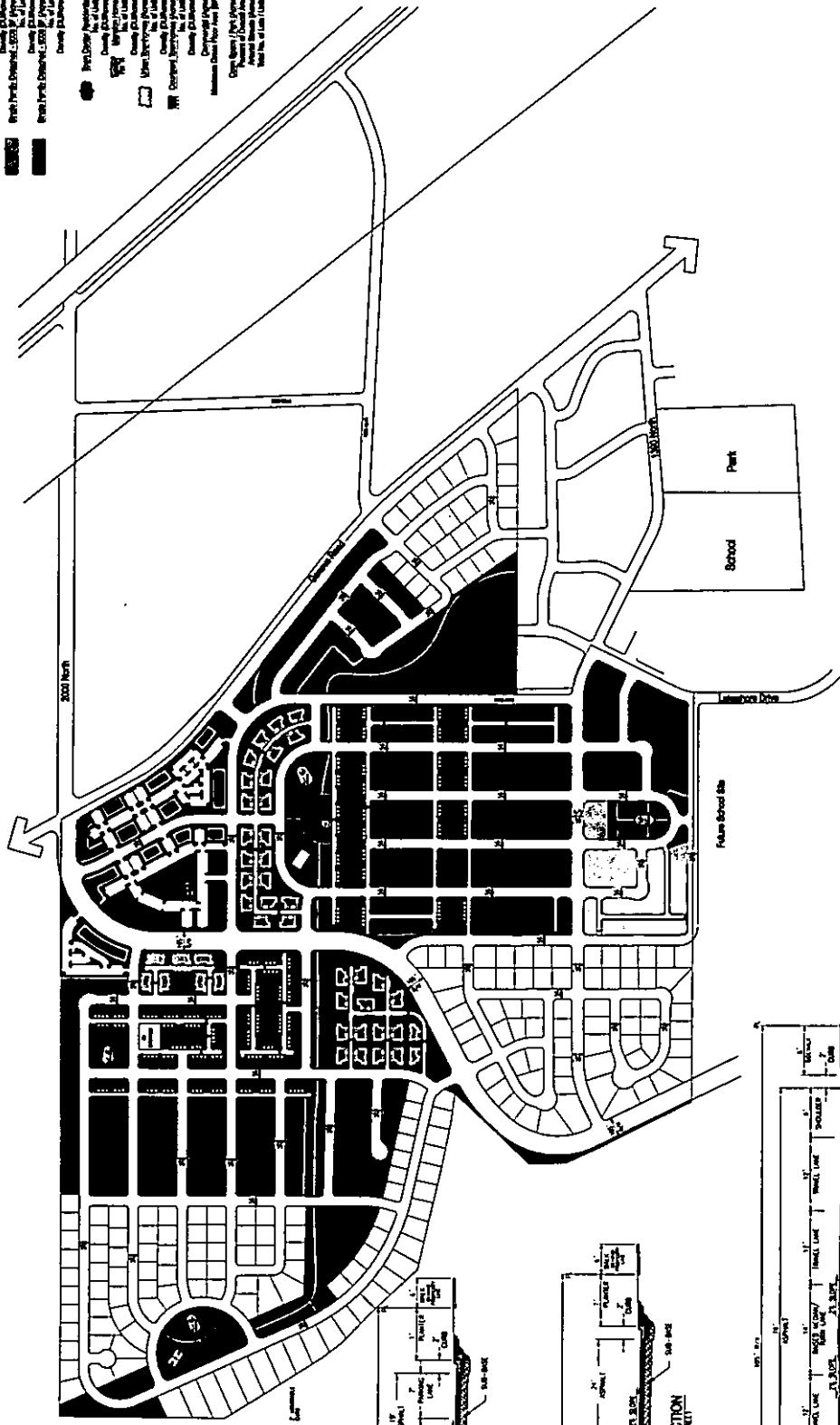


Exhibit "E"
Special Conditions
Villages at Celebration
Geneva Road to Utah Lake between 1300 North and 2000 North, Provo, Utah

The following requirements shall apply to development of the Property which is the subject of the within Agreement. Capitalized terms shall have the meaning set forth in the Agreement.

Development of land in the Project described in the within Agreement shall be subject to the following Special Conditions. All final plans for the Project shall note these conditions on the body of the plan along with all other notes required by Provo City; provided, however, that a condition need not be placed on a final plan as a note if such plan clearly illustrates the substance and requirements of the condition except as otherwise provided in the Special Conditions below.

1. Not more than one thousand one hundred fifty-seven (1,157) dwelling units may be constructed in the Project as shown on the preliminary project plan set forth in Exhibit "D-2" of the within Agreement, subject to approval by City's Planning Commission.

2. Developer shall prepare a design standards manual which provides coordinated and detailed design standards for construction and improvement of roadways, buildings, parking areas, landscaping, signage, and lighting within the Project as provided in Chapter 14.49E of the Provo City Code. The following shall be a part of the design standards manual:

A. design of landscaping for the median of the arterial road (105' right-of-way) through the Project; and

B. design for traffic calming measures to be undertaken in the Project, such as lane chokers, raised crosswalks, and traffic islands.

3. As of the date of the within Agreement, City has limited sewer capacity to serve the area located north of Provo River and west of Geneva Road (the "Sewer Service Area"). Although future sewer service is planned, Developer acknowledges and agrees that, notwithstanding Planning Commission approval of the preliminary plan set forth in Exhibit "C" of the within Agreement, City shall not be obligated to authorize more than two hundred sewer hook-ups in the Sewer Service Area and that such hook-ups will be available to any person on a first come, first serve basis.

4. City agrees to build and maintain a sewer lift station needed to serve the Project. The exact location of the lift station shall be determined in conjunction with final approval of Plans for the Project. If the lift station is proposed to be located on property owned or controlled by Developer, any property or easements needed for the sewer lift station shall be provided by Developer to City free of charge. If such property or easements are not within Developer's ownership or control, Developer shall use its best efforts to acquire the needed property or easement and shall thereafter dedicate them to City without charge.

5. Developer shall not be required to transfer any water rights to City for the Project.

6. To the extent Developer owns or controls any property necessary for the major arterial road which traverses the Project as shown on Exhibit D-2 of the within Agreement (the "Arterial Road"), Developer shall, upon request by City, dedicate to City, free of charge, necessary right-of-way for the Arterial Road.

7. City and Developer shall each pay their roughly proportionate share of the cost of constructing the Arterial Road. For the purpose of this Agreement, Developer's proportionate share means the cost of a local road needed solely to serve the Project pursuant to City's adopted development standards. City's proportionate share means the cost of oversizing the local road to the extent City determines necessary to serve the area generally. City may elect to construct the Arterial Road, using City's own financing, before Developer proceeds with final approval and construction of any portion of the Project. In such event Developer shall not be required to pay any portion of Developer's proportionate share of Arterial Road construction costs until City approves final Plans for development of that portion of the Property which abuts the Arterial Road.

8. Prior to the issuance of any building permit, covenants, conditions, and restrictions ("CCRs") shall be recorded for the Project which shall run with the land. Provo City shall approve the CCRs, which approval shall not be unreasonably withheld, to determine compliance with the within Agreement and this Special Condition. The CCRs shall include provisions that:

A. establish a master property owners association for the Project and subsidiary associations for village areas within the Project as such areas are developed;

B. require the property owners associations to manage common areas within the Project, including the collection of necessary management fees;

C. limit occupancy in the Project to one (1) family per dwelling unit as such term is defined in Section 14.06.02 of the Provo City Code, as amended;

D. limit the total number of motor vehicles owned, leased, or otherwise possessed by occupants on property within the Project which are parked on and/or operated therefrom to not more than the number of legal parking spaces, excluding handicap and visitor parking spaces, located on the subject property;

E. prohibit parking of recreational vehicles within the Project;

F. require Developer, property owners associations, and any subsequent owners of the Property or any portion thereof to notify potential owners and occupants within the Project of the foregoing parking and occupancy limitations prior to any purchase or lease of any portion of the Property, including any dwelling unit within the Project;

G. require adoption of an enforcement policy that:

(i) requires strict adherence to the occupancy and parking provisions included in these Special Conditions and the policies of the property owners associations, and

(ii) has penalties for non-compliance; and

H. require that the foregoing occupancy and parking policies may not be modified or removed without written approval from Provo City. Any such modification or removal shall be deemed an amendment to the within Agreement and shall be accomplished as provided in Paragraph 14(I) thereof.

9. The special conditions set forth in Paragraph 8 shall run with the land and shall survive the within Agreement as provided in Paragraph 11 thereof. Provided, however, that the parties to the within Agreement, or their successors or assigns, may elect to modify or remove the foregoing conditions on the Property. Modification or removal of any special condition set forth in Paragraph 8 shall be in written form mutually agreed to and executed by each of the parties and shall constitute an amendment to the within Agreement. The amendment shall be undertaken pursuant to a vote of the Municipal Council as provided in Section 14(I) of the within Agreement.

10. Conditions C, D, and E in Special Condition No. 8 above shall be included on each recorded plat for Property, including but not limited to any condominium plat.

11. Developer agrees that any property located within the Project which is acquired by Developer subsequent to execution of this Agreement shall be subject to the within Development Agreement. Developer shall take any action necessary, including amendment of this Agreement, to assure such property is subject to this Agreement.