



ENT 2504:2014 PG 1 of 30
JEFFERY SMITH
UTAH COUNTY RECORDER
2014 Jan 13 4:52 pm FEE 72.00 BY SW
RECORDED FOR PLEASANT GROVE CITY CORPORA

DEVELOPMENT AGREEMENT

by and between

Pleasant Grove City, Utah,
a Utah Municipality

and

ICO Development, LLC
Developer

Adopted Nov 19, 2013

LIST OF EXHIBITS

- Exhibit A - Legal Description of Property
- Exhibit B - Defined Terms
- Exhibit C - Site Plan
- Exhibit D - Exterior Design Elements
- Exhibit E - Senior Housing Overlay

DEVELOPMENT AGREEMENT

The Parties hereto, PLEASANT GROVE CITY (hereinafter “Pleasant Grove” or “the City”), a Utah Municipality, and ICO Development, a Utah limited liability company and _____, (collectively the “Developer”), enter into this Development Agreement (this “Agreement”) this 19 day of November 2013.

RECITALS

A. WHEREAS Developer owns certain real property located within the boundaries of the City, more particularly described in Exhibit A attached hereto (the “Property”). The real estate development project that Developer plans for the Property is referred to herein as the “Project”; and

B. WHEREAS the City has expressed its willingness to apply the Senior Housing Overlay on the subject Property pursuant to the City Code.

C. WHEREAS the Developer desires to have the Overlay applied to the Property to enable a unique blend of mixed-uses, including without limitation residential, professional, office, medical, commercial, and related commercial uses authorized for this Property; and

D. WHEREAS the Developer desires to develop on the Property a multi-phase mixed use development, and the Developer has incurred and will incur substantial expenditures in furtherance thereof.

E. WHEREAS the Parties intend to enter into this Agreement to establish the Senior Housing Overlay zone, and the development standards and regulations governing and regulating the development of the Project on the Property, and to take all steps necessary to finalize the zoning of the Project, and to develop the Project according to this Agreement.

F. WHEREAS unless otherwise provided herein, the Project is subject to, and shall conform with this Agreement, and the Senior Housing Overlay and the underlying C-N Zone Text to be enacted concurrently herewith and the Existing City Laws to the extent not inconsistent with this Agreement.

G. WHEREAS the City is authorized to enter into this Agreement and to change the zoning of the Property to apply the Senior Housing Overlay Zone, subject to the terms and provisions of this Agreement, by Ordinance simultaneously adopted, and ordained with the approval of this Agreement in order to promote orderly development of real property within the City’s boundaries, and provide infrastructure and other benefits in connection with development.

H. WHEREAS the Parties acknowledge that the development of the Property pursuant to this Agreement will result in significant planning and economic benefits to the City and its residents, by among other things, requiring the orderly development of the Property with Mixed-Uses that are desirable and beneficial to the City and its residents, and increasing sales tax

and other revenues to the City based on the improvements to be constructed as part of the Project.

I. WHEREAS Developer and the City have cooperated and jointly participated in the preparation of this Agreement.

J. WHEREAS The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as described in this Agreement, and the rights and responsibilities of the City to allow, approve, and regulate such development pursuant to this Agreement.

K. WHEREAS the City desires to enter into this agreement with the Developer authorizing the rezoning and development of the Project and Property, and in furtherance of the comprehensive planning objectives encouraged by the City.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION ONE: DEFINITIONS

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the meaning set forth in Exhibit B to this Agreement.

SECTION TWO: PROJECT AND PROPERTY DESCRIPTION

2.1 Project Description.

The Master Development Agreement and Master Development Plan provide for the development of the Property and Project as part of a Mixed-Use development containing approximately 9.773 acres +/-, of contiguous land located in Pleasant Grove City, Utah County, as depicted in Exhibit C. More details concerning the Master Development Plan, zoning, permitted uses, density, and related issues is addressed in the following sections of this Agreement.

2.2 Property Description.

The metes and bounds and graphic depiction of the legal description of the Property is attached hereto as Exhibit A.

SECTION THREE: REGULATION OF DEVELOPMENT

3.1 Entitlement to Develop. The City agrees that the Developer has the right to develop all phases of the Project as set forth in this Agreement. Any subsequent discretionary actions by the City or any conditions, terms, restrictions and requirements for such discretionary actions by the City, shall not prevent development of the Project for the uses and density or intensity of

development allowed in this Agreement. Developer is also entitled to lease or sell any or all of the buildings constructed in the Project.

3.2 Subsequent Review. All subsequent review of the development of the Project shall be subject to the terms and considerations of this Agreement and the Existing City Laws. Provided, however, in the event any ordinances, general plans, rules, regulations, standards and/or official policies governing permitted and conditional uses of the Property and the density, design, improvement, and construction applicable to development of the Project, or any impact fees, requirements, building permit, approval, consent or authorization by the City, or conditions precedent to any permit required by the City, for the development of the Project, shall be enacted, amended, adopted, modified or otherwise changed so that it becomes less restrictive than the Existing City Laws or this Agreement, or otherwise more beneficial to the Developer, as determined by the Developer in its sole discretion, (the “Less Restrictive Requirements”) then the Property and the development of the Project shall be governed by this Agreement and the Existing City Laws as modified by and subject to the Less Restrictive Requirements, at the election of the Developer.

3.3 Development. The City acknowledges and represents that its Existing City Laws, including without limitation its zoning ordinances and Development Code permit development of the Property as set forth in this Agreement, and the attachments hereto, or that it will enact or amend as may be required or necessary, permit the nature and extent of development contemplated by this Agreement. The City will provide all such services at a cost not to exceed those set forth in the Existing City Laws, and at the same level of service and capacity available to other residential subdivision developments in the City..

3.4 Plan Submission. The City shall in a timely and reasonably diligent manner, consistent with state law and local ordinance: (a) review all plans, drawings and other submissions (collectively, the “Submissions”), required by any of the applicable Existing City Laws, submitted in connection with the Project and either approve or reject the same consistent with the provisions of this Agreement, the Existing City Laws to the extent not inconsistent therewith, and State Statute; (b) allow plans and drawings to be submitted and permits issued in phases on a timely basis to facilitate the progress of the design, engineering, construction and occupancy of the Project; and (c) issue permits for construction for various phases prior to final review and final approval of other phase submissions. Unless expressly prohibited by Existing City Laws, or if permitted by the practices of the City thereunder, permits allowing grading and other construction and development for the Project will be issued before final plat approval and recording, at the request of the Developer.

3.5 Road Connections and Construction. If Developer determines, in its sole discretion, that Garden Drive must be re-routed to accommodate the Project and that a traffic signal should be installed in connection therewith, Developer will be responsible for funding the costs of the construction of the road modification, but not for the cost of installing any traffic signals.

3.6 Acceptance of Roads. The City shall accept any roads and related infrastructure constructed in the Project, and the dedication thereof, so long as such roads are constructed in accordance with Existing City Laws. All roads dedicated to the City shall meet minimum street standards.

3.7 Development Regulations and Guidelines.

3.7.1 The development site requirements such as parking, setbacks, landscaping, etc., shall be as set forth in the Existing City Laws, including the Senior Housing Overlay Zone, or other zoning change required to rezone a portion of the Property to permit the development and construction of Senior Housing residential units.

3.7.2 All approvals previously granted on the Property pursuant to requests by prior developers or owners shall be vacated by the City at the request of Developer, in Developers sole discretion.

3.7.3 Exterior design elements of Project structures, including height, size, design, look and feel, and finishes shall be as set forth in the Design Guidelines attached hereto as Exhibit D.

3.7.4 The street to the Senior Housing parcel may be a private street (the "Private Street"), at the discretion of the Developer. Said street shall be described as a perpetual easement, unobstructed by any interfering easements or rights of way, to provide permanent and perpetual access from the Senior Housing parcel to a public street.

3.7.5 If the Senior Housing development has 200 feet of frontage on the Private Street referenced above, that will be sufficient to satisfy any frontage requirements, even if that frontage is not on a public street.

3.7.6 The Private Street is approved with the landscaping and setback requirements applicable to the overall site plan. The special landscaping requirements applicable to a public street shall not apply.

3.7.7 The commercial parcels in the Project shall have cross-easement parking agreements for parking to be mutually inclusive, and will count towards any minimum parking requirements.

3.7.8 The Senior Housing shall have exclusive parking for residents and guests only, and will not have cross-easement agreements with the commercial parcels.

SECTION FOUR: RIGHTS AND RESPONSIBILITIES OF PARTIES

4.1 Rights and Responsibilities of the City.

4.1.1 **Development Area a Part of Pleasant Grove City.** The City will permit development of the Project consistent with this Agreement and the Existing City laws that not in conflict with this Agreement.

4.1.2 **Provision of Municipal Services.** The City will provide to the Project and the residents and tenants thereof, all municipal services generally provided by

the City to other residential, commercial, office and retail developments, at a level no less than that generally provided to other areas of the City, including without limitation, sewer, water (both potable water and irrigation water), police, fire, and all other municipal services.

4.1.3 Roads and Utility Easements. The City agrees to allow, upon proper application and permit, work on roads, rights of way and utility easements owned by the City as may be necessary to connect, link, construct, or accommodate utility improvements in the project area. The City will permit Developer to use on a non-exclusive basis, and without charge any utility easements or corridors in the vicinity of the Project and Property for utility lines and infrastructure that benefit the Project, provided however, Developer will not be permitted to use the existing water line easements to the north of the subject property. Water line connections will be brought in from 600 West.

4.1.4 Credits against Impact Fees. To the extent the Developer constructs utility, road, water storage and distribution, park, recreational, and trail improvements or any other improvements that are system improvements or benefits, or which involve oversizing project improvements to add additional system capacity or exceed the minimum requirements for the Project, or which or which otherwise benefit the City or other residents, lots, subdivisions or properties therein (the "System Benefits"), the City shall allow the costs incurred by Developer in providing any such System Benefits either to be a credit against any applicable impact fees lawfully imposed by the City, and/or shall reimburse Developer for the cost of such System Benefits.

4.1.5 Zoning. The City shall rezone the portion of the Property to permit development of the Senior Housing residential units with a total Senior Housing density of 60 residential units, as reflected on Exhibit C.

4.1.6 Reserved Legislative Powers. This Agreement will not limit the future exercise of the police powers of the City to enact ordinances, standards, or rules regulating development. The City acknowledges, however, that any exercise of its legislative or police powers which alters or modifies this Agreement to Developer's detriment may have legal consequences.

4.2 Developer's Rights and Obligations.

4.2.1 Development of Project. Developer shall be permitted to develop the Project on the Property, including the Senior Housing residential units and the other mixed uses, as permitted by this Agreement.

4.2.2 Phasing and Order of Recording. The Developer shall be permitted to develop the Project in phases and it shall determine the order in which phases are submitted, platted, approved and developed, subject to existing ordinances.

4.2.3 Site Clean Up. Subject to paragraph 4.2.6 hereof, Developer shall clean up the existing condition of the Property within 3 months after obtaining all necessary city approvals to commence development of the Senior Housing residential units portion of the Project, provided however that if the necessary approvals are not obtained until the winter months, that the clean-up shall be completed within 6 months of obtaining such approvals. The clean-up shall include the following: removal of all existing structures, foundations, and pavements not intended for use in current proposal. All trash and debris to be removed. All vegetation is to be cleared and the site graded to allow for easy maintenance of weeds and growth that may occur prior to construction of site improvements. Disturbed areas to be controlled with appropriate storm water controls until revegetated. Thereafter this clean up obligation shall be satisfied and concluded.

4.2.4 Development of Commercial Uses. Subject to paragraph 4.2.6 hereof, (and further conditioned upon timely receipt of the applicable development and construction approvals and permits from the City), Developer shall commence retail development of the Project within 24 months after completion of the construction and issuance of a certificate for occupancy for all of the Senior Housing portion of the Project. Further, Developer agrees not to begin construction of the Senior Housing portion of the Project until 2015.

a. The obligations of the requirements of this Section 4.2.4 will be satisfied if Developer timely commences development of the three retail buildings identified on Exhibit C (the "Retail Buildings"), consistent with the following schedule:

(i). Construction of the first of the retail buildings (as selected by Developer in its discretion), (the "First Retail Building") shall commence within two (2) years of the completion of construction of the Senior Housing building, and the issuance of a Certificate For Occupancy for that entire building.

(ii). Construction of the second of the retail buildings (as selected by Developer in its discretion), (the "Second Retail Building"), shall commence within two (2) years of the effective date on which seventy-five percent (75%) of the rentable space of the First Retail Building has been leased.

(iii). Construction of the third of the retail buildings (as selected by Developer in its discretion), (the "Third Retail Building"), shall commence within two (2) years of the effective date on which seventy-five percent (75%) of the aggregate rentable space of the prior retail buildings has been leased.

b. Subject to the foregoing, Developer will have a limited liquidated damage obligation to the City, if such retail development does not commence in a timely manner, as set forth above and below. The liquidated damages assessment, if commenced because of the delay in commencing the construction of one of the retail buildings consistent with the foregoing schedule, will terminate with the commencement of construction of a retail building, and will not resume again unless and until the construction of the next retail building is not commenced consistent with the schedule set forth above.

c. The Liquidated damage provision shall be \$18,000 per year, for every year in which the required development is not commenced. Provided however that the \$18,000 potential liquidated damages amount shall be reduced by one third after the issuance of a certificate for occupancy for the First Retail Building; shall be reduced by another one third after the issuance of a certificate for occupancy for the Second Retail Building; and shall be reduced by the final one-third after the issuance of the certificate for occupancy for the Third Retail Building.

4.2.5 Signage. Developer shall be entitled to use, operate, maintain, service, repair, reconstruct, replace and/or relocate the existing pole sign located on the Property with the size and height that presently exists. Developer will be allowed to install a second sign of up to equal size and height on the Property, subject to compliance with existing City Ordinances. Double sided signage will also be permitted on the building, because of the unique layout of the site and the two frontage streets.

4.2.6 Compliance with City Requirements and Standards. Unless otherwise provided in this Agreement, Developer expressly acknowledges that nothing in this Agreement will be deemed to relieve Developer from its obligations to comply with all applicable requirements under the Existing City Laws for approval and recordation of subdivision plats and site plans for the Project including the payment of unpaid fees, the approval of subdivision plats and site plans, the approval of building permits and construction permits, and applicable ordinances, resolutions, policies and procedures of the City.

4.2.7. Development Obligation Contingency. Developer shall not be obligated under this Development Agreement, or otherwise be required, to proceed with development of the Project or the Property if Developer is not successful in obtaining Low Income Housing Tax Credits ("LIHTC") for the Project that are acceptable to Developer. This Agreement will terminate on January 15, 2016 if Developer has not obtained the LIHTC and determined to proceed with development, However Developer shall be entitled to request and receive two separate two-year extensions of the January 15, 2016 deadline if Developer advises the City in writing prior to the expiration of any such deadline, that it is still working towards obtaining the LIHTC, or that failing, investigating the development of the Senior Housing as market based Senior Housing, instead of low income tax credit housing.

SECTION FIVE: ZONING, DENSITY AND VESTED RIGHTS

5.1 Amendment of the Pleasant Grove Zoning Map.

The Pleasant Grove City Zoning Map will be amended to include the Property and the Project in a mixed use zone permitting Senior Residential Housing, retail, office, medical, commercial, and related uses, as shown on Exhibit C, with Setback Requirements and lot sizes consistent with Existing City Laws and this Agreement. Similarly, the Zoning Text shall be amended to reflect such zoning uses and density.

5.2 Vested Density and Uses.

5.2.1 **Vested Senior Housing Residential Density.** The Developer shall have the vested right to develop the Project into 60 Senior Housing residential units, including without limitation as reflected in Exhibit C.

5.2.2 **Vested Commercial Density.** In addition to the Senior Housing Residential Density discussed above, The Developer shall have the vested right to develop portions of the Property and the Project into mixed use commercial development including office, retail, medical, drive thru retail, restaurant, and related commercial uses. Specifically, the Project shall be vested for up to a total of 100,000 square feet of commercial development in up to 8-10 separate buildings, to include up to 46,000 square feet of office development in at least two of the buildings; 18,500 square feet of retail development in up to three buildings; and 35,500 of additional commercial development in other potential buildings, as reflected on Exhibit C hereto.

5.2.3 **Development of the Property.** Developer shall have the vested right to develop the vested residential and commercial density specified above into a mixed use residential and commercial development that is conceptually similar to the Concept Plan, a copy of which is attached hereto as Exhibit C, and consistent with the terms and provisions of this Agreement, and the Existing City Laws to the extent not inconsistent therewith.

5.2.4. **Effective Date and Timing.** Such vested rights shall be effective as of the date of this Agreement. The parties acknowledge that the most efficient and economic development of the Project depends on numerous factors, such as market and demand, interest rates, competition, and similar factors. Accordingly, the timing, subdivision sequencing, and phasing of development of the Project shall be as determined by the Developer, consistent with this Agreement. If changes to any City Ordinances after the date hereof would entitle or enable Developer to a development density of greater than set forth herein, Developer is entitled to include the additional density in the Project, if it so chooses.

SECTION SIX: GENERAL PROVISIONS

6.1 Term. The term of this Agreement shall be a period commencing on the date of the execution hereof and expiring ten (10) years from the date thereof, (the "Initial Term"). The Initial Term shall automatically be renewed for an additional five (5) years, at the election of the Developer (the "First Renewal Term"), upon written notice delivered to the City prior to the expiration of the Initial Term. The First Renewal Term may be extended by an additional five (5) year term, (the "Second Renewal Term") for good cause shown by the Developer, including without limitation reasons based on economics, absorption, financing, demand, and any other valid reason justifying the Second Renewal Term, and provided that the Developer is in substantial compliance with, and not in any material breach of the terms or provisions hereof. The Developer shall be deemed to be in substantial compliance, and it shall be deemed that there is no material violation of any obligation that would prevent the automatic renewal of this Agreement unless any such alleged violation is presented to the Developer in writing, served upon Developer, with a copy to its attorney, Kevin E. Anderson, at the addresses furnished by the Developer and its attorney to the City from time to time. The Developer shall be entitled to receive from the City an estoppel certificate, within fifteen (15) business days of any written

request for such estoppel certificate, reflecting that the Developer is in substantial compliance with, and not in any material breach of, the terms and provisions of this Agreement. To the extent the City changes any provision of its zoning and development code subsequent to the date of this Agreement, the Developer, at its election, shall have the right, but not the obligation, to “opt-in” to development of the Project consistent with the terms and provisions thereof.

6.2 Covenants Running with the Land. The provisions of this Agreement will constitute real covenants, contract and property rights and equitable servitudes, which will run with all of the land subject to this Agreement. The burdens and benefits hereof will bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto. Each successor in interest will succeed only to those benefits and burdens of this Agreement which pertain to the portion of the Project to which the successor holds title.

6.3 Transfer of Property. Developer will have the right to assign or transfer all or any portion of its rights and obligations under this Agreement to any party acquiring an interest or estate in the Property or the Project or any portion thereof, except as specifically set forth below. Developer will also be entitled to collaterally assign all or any portion of its rights under this Agreement to one or more of Developer’s lenders, on any terms that Developer and its lender or lenders deem necessary or proper. In the event of an assignment of this Agreement or any interest in this Agreement, the transferee will succeed to all of Developer’s rights and obligations under this Agreement as to the interest transferred. Developer’s selling or conveying individual lots or parcels of land to builders, individuals or other developers will not be deemed to be an “assignment”. All references in this Agreement to “assignment” of this Agreement in whole or in part will also be deemed to include collateral assignment of this Agreement, in whole or in part.

6.4 No Agency, Joint Venture or Partnership. The Project is a private development, City and Developer are not agents of each other and this Agreement creates no agency relationship, joint venture, or partnership between City and Developer. It is specifically understood and agreed to by and among the Parties that: (i) the subject development is a private development; (ii) City and Developer hereby renounce the existence of any form of agency relationship, joint venture, or partnership among City and Developer; and (iii) nothing contained herein shall be construed as creating any such relationship among City and Developer.

6.5 Consent. In the event that this Agreement provides for consent from the City or the Developer, such consent will be deemed to be given 30 days after consent is requested in writing in the event no response to the request is received within that period. All requests for consent will be made in writing, and in no event will consent be unreasonably withheld or delayed.

6.6 Legal Challenges. If any party hereto is required to engage the services of counsel by reason of the default of another party, the non-defaulting party will be entitled to receive its costs and reasonable attorneys' fees, both before and after judgment and whether or not suit be filed or if the provisions of this Agreement are enforced through arbitration.

6.7 Incorporation of Recitals, Introductory Paragraphs, and Exhibits. The Recitals contained in this Agreement, the introductory paragraph preceding the Recitals, and all Exhibits

referred to or attached hereto are hereby incorporated into this Agreement as if fully set forth herein.

6.8 Other Miscellaneous Terms. The singular will include the plural; the masculine gender will include the feminine; “shall” and “will” are mandatory; “may” is permissive.

6.9 Severability. If any provision of this Agreement or the Annexation Application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will continue in full force and effect.

6.10 Construction. This Agreement has been reviewed and revised by legal counsel for Developer and the City, and no presumption or rule that ambiguities will be construed against the drafting Party will apply to the interpretation or enforcement of this Agreement.

6.11 Further Assurances, Documents, and Acts. Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents, and to take all further acts reasonably necessary in order to carry out the intent and purposes of this Agreement and the actions contemplated hereby. All provisions and requirements of this Agreement will be carried out by each party as allowed by law.

6.12 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Utah.

6.13 Notices. Any notice or communication required hereunder between the Parties must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of (1) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice is given when delivered to the Party to whom it is addressed. Any Party hereto may at any time, by giving ten (10) days written notice to other Parties hereto, designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the Parties at the address set forth below:

If to City to:

*Kathy T. Kresser
Pleasant Grove City Recorder*

*70 South 100 East
Pleasant Grove, Utah 84062*

With a copy to:

Christine M. Petersen

Pleasant Grove City Attorney

If to Developer to:

*ICO Development
c/o Justin Earl
3340 N. Center St.
Lehi, Utah 84043*

With a copy to:

*Kevin E. Anderson, Esq.
Anderson Cal & Wilkinson, P.C.
136 E. South Temple Street
Suite 2400
Salt Lake City, Utah 84111*

6.14 Counterparts. This Agreement is executed in four duplicate counterparts, each of which is deemed to be an original. This Agreement consists of Fifteen (15) pages, including notary acknowledgment forms, and an additional Twelve (12) Exhibits, which constitute the entire understanding and agreement of the Parties to this Agreement.

6.15 Plat Recording. Developer will record the annexation plat for the Project within 180 days of the City's adoption of an annexation ordinance to annex the Project.

IN WITNESS WHEREOF, this Agreement has been executed by Pleasant Grove City, and ICO which includes without limitation Geneva Holdings, LLC and Symphony Development Corporation by persons duly authorized to execute the same and by the City of Pleasant Grove, acting by and through its City Council as of the 19 day of November, 2013.

PLEASANT GROVE CITY

By: *[Signature]*
Its: Mayor



ATTEST:

By: *Nathy J. Kresser*
Pleasant Grove, City Recorder

APPROVED AS TO FORM:

ENT 2504:2014 PG 14 of 30

By: Christopher M. Fee
_____, City Attorney

ICO Development

By: ICO Development
By: Justin B. Zull
Its: Authorized Representative

EXHIBIT A

BOUNDARY DESCRIPTIONLots 1 thru 4 Description

Beginning at a point being South 00°17'08" East 983.47 feet along the Section Line and East 267.58 feet from the West Quarter Corner of Section 20, Township 5 South, Range 2 East, Salt Lake Base and Meridian;

thence South 41°37'17" East 51.06 feet;

thence North 88°45'41" East 583.36 feet;

thence South 89°31'47" East 79.49 feet;

thence South 03°31'16" East 106.28 feet;

thence South 83°49'43" East 173.12 feet to a point on the West Line of 600 West Street;

thence South 00°29'22" West 205.98 feet along the West Line of said 600 West Street;

thence Southwesterly 23.56 feet along the arc of a 15.00 foot radius curve to the right (center bears North 89°30'38" West and the chord bears South 45°28'39" West 21.21 feet with a central angle of 89°58'34") to a point on the North line of Garden Drive;

thence North 89°32'04" West 117.38 feet along the North Line of said Garden Drive;

thence Southwesterly 262.32 feet along the arc of a 356.00 foot radius curve to the left (center bears South 00°25'18" West and the chord bears South 69°21'23" West 256.42 feet with a central angle of 42°13'05") along the North Line of said Garden Drive;

thence westerly 306.17 feet along the arc of a 300.00 foot radius curve to the right (center bears North 41°39'24" West and the chord bears South 77°29'05" West 293.06 feet with a central angle of 58°28'29") along the North Line of said Garden Drive;

thence North 73°16'40" West 227.05 feet along the North Line of said Garden Drive;

thence North 00°18'36" East 459.38 feet to the point of beginning.

Contains 354,151 Square Feet or 8.130 Acres and 4 Lots

Lot 5 Description

Beginning at a point on the South Line of Garden Drive, said point also being South 00°17'08" East 1,266.78 feet along the Section Line and East 468.51 feet from the West Quarter Corner of Section 20, Township 5 South, Range 2 East, Salt Lake Base and Meridian;

thence Northeasterly 361.35 feet along the arc of a 356.00 foot radius curve to the left (center bears North 16°22'21" East and the chord bears North 77°19'35" East 346.03 feet with a central angle of 58°09'22") along the South Line of said Garden Drive;

thence Northeasterly 221.06 feet along the arc of a 300.00 foot radius curve to the right (center bears South 41°42'26" East and the chord bears North 69°21'30" East 216.10 feet with a central angle of 42°13'13") along the South Line of said Garden Drive;

thence South 00°27'52" West 313.48 feet;

thence North 73°16'57" West 561.00 feet to the point of beginning.

Contains 71,665 Square Feet or 1.645 Acres and 1 Lot

Total acreage is 425,816 Square Feet or 9.775 Acres and 5 Lots

EXHIBIT B
(Definitions)

1. "Agreement" shall refer to this Development Agreement and the exhibits thereto.
2. "C-N Zone Text" shall refer to the corresponding portion of the City's Zoning Ordinance in the Existing City Laws.
3. "City" shall refer to Pleasant Grove City.
4. "City Ordinances" shall refer to the ordinances of Pleasant Grove City.
5. "City Zoning map" shall refer to the official zoning map of Pleasant Grove City.
6. "Concept Plan" shall mean the Site Plan, defined hereafter.
7. "Design Guidelines" shall mean and refer to the exterior design elements described in the Development Agreement and Exhibit D thereto.
8. "Developer" shall refer to ICO.
9. "Development Agreement" shall refer to this Agreement and the exhibits thereto.
10. "Existing City Laws" shall refer to the ordinances of Pleasant Grove City in effect on the effective date of the Development Agreement.
11. "First Retail Building" shall refer to the first of the Retail Buildings constructed in the Project as set forth in section 4.2.4(i) of the Development Agreement.
12. "Less Restrictive Requirements" shall mean any ordinance requirements adopted by the City after the effective date of the Agreement that are less restrictive than the requirements set forth in the Existing City Law, as described and defined further in section 3.2 of the Agreement.
13. "Mixed-Uses" shall refer to the mixed uses permitted in the Project, including residential Senior Housing, retail, office, and other commercial uses referenced in the Development Agreement and in the Site Plan.
14. "Pleasant Grove" or "Pleasant Grove City" shall refer to Pleasant Grove City in Utah County, State of Utah.

15. "Private Street" shall refer to any private street constructed on the Property as part of the Project, including as set forth in section 3.7 of the Development Agreement.
16. "Project" shall refer to the mixed use development to be constructed on the Property, including the Senior Housing, the retail buildings, and the other commercial buildings, as set forth in the Development Agreement and on Exhibit C thereto.
17. "Property" shall refer to the property described in Exhibit A to the Development Agreement, upon which the Project is to be located.
18. "Retail Buildings" shall refer to the retail buildings constructed in the Project, including without limitation the retail buildings identified in the Site Plan.
19. "Second Retail Building" shall refer to the second of the Retail Buildings constructed in the Project as set forth in section 4.2.4(ii) of the Development Agreement.
20. "Senior Housing" shall refer to the 60 units of multi-family residential housing to be build on the Property for purchase by people 55 years of age and older.
21. "Senior Housing Overlay" shall refer to the Senior Housing Overlay zoning ordinance adopted by the City and a part of the Existing City Laws that permits development of the development of the Senior Housing on the Property.
22. "Senior Housing Residential Density" shall refer to the 60 Senior Housing residential units vested and permitted to be constructed in the Project.
23. "Senior Residential Housing" shall have the same meaning as Senior Housing.
24. "Site Plan" shall refer to the Site Plan for the Project attached hereto as Exhibit C.
25. "Third Retail Building" shall refer to the third of the Retail Buildings constructed in the Project as set forth in section 4.2.4(iii) of the Development Agreement.

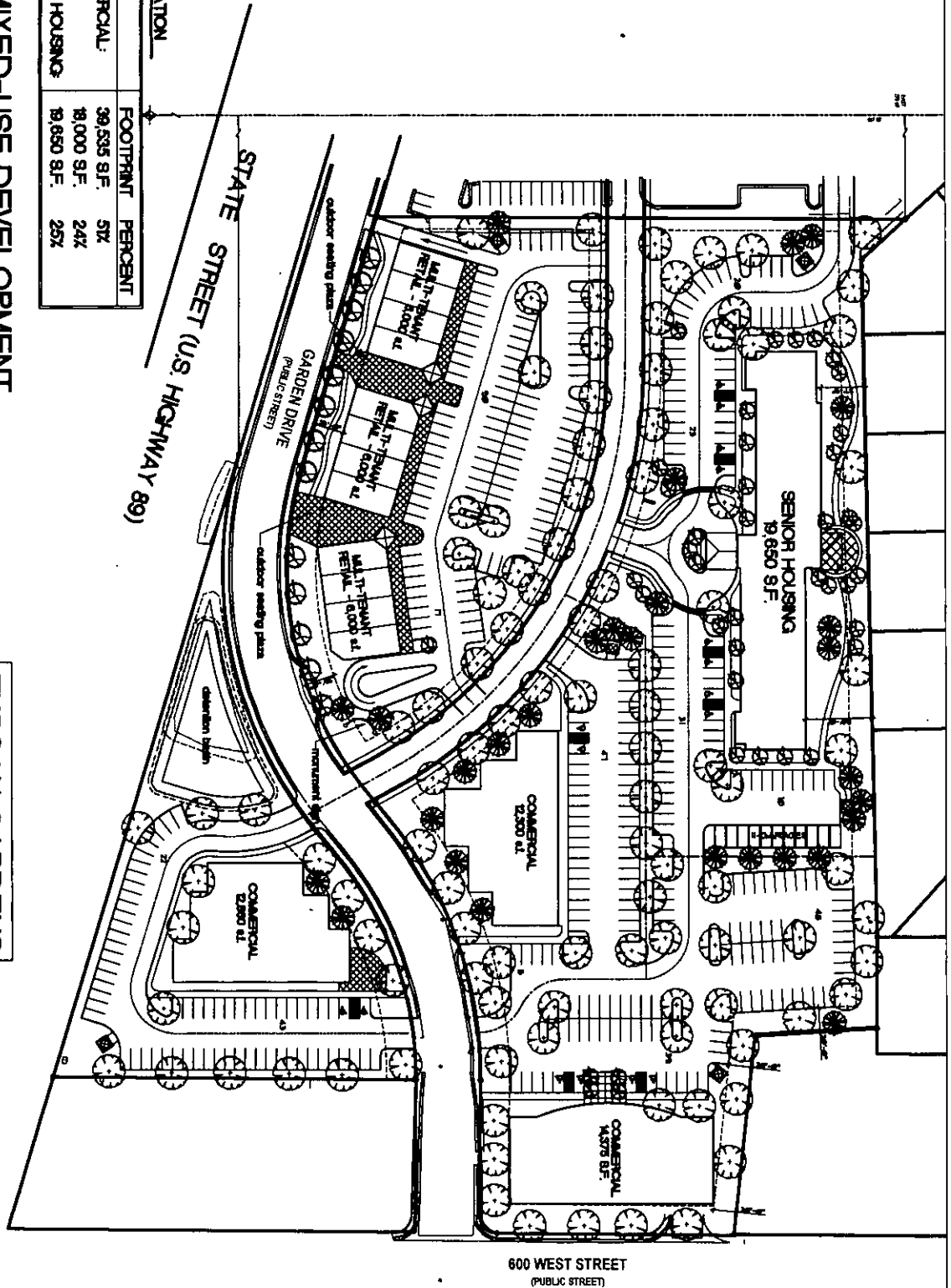
USE	FOOTPRINT	PERCENT
COMMERCIAL	38,535 S.F.	51%
RETAIL	18,000 S.F.	24%
SENIOR HOUSING	19,850 S.F.	25%

MIXED-USE DEVELOPMENT
SCHEMATIC SITE PLAN
PLEASANT GROVE, UT

SCALE: 1" = 40'-0"



TUSCAN GARDENS



THIS DOCUMENT IS CONFIDENTIAL AND FOR ICD COMPANIES USE ONLY

A1.1

DATE: 10 OCT 2014
DRAWN BY: [Name]
CHECKED BY: [Name]

2333 4th Ave
Salt Lake, Utah 84140
(801) 583-8338
(801) 583-8338 FAX

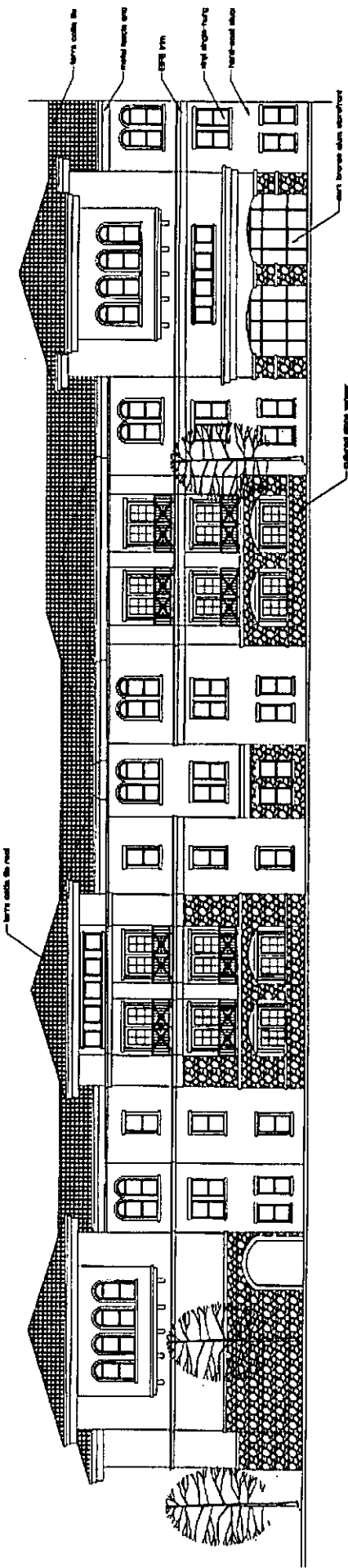
PROJECT/OWNER:
PLEASANT GROVE
SENIOR APARTMENTS
GARDEN DRIVE / 600 WEST
PLEASANT GROVE, UTAH
ICD DEVELOPMENT

SCHEMATIC SITE PLAN
SCHEME 1
SCALE: 1" = 40'-0"

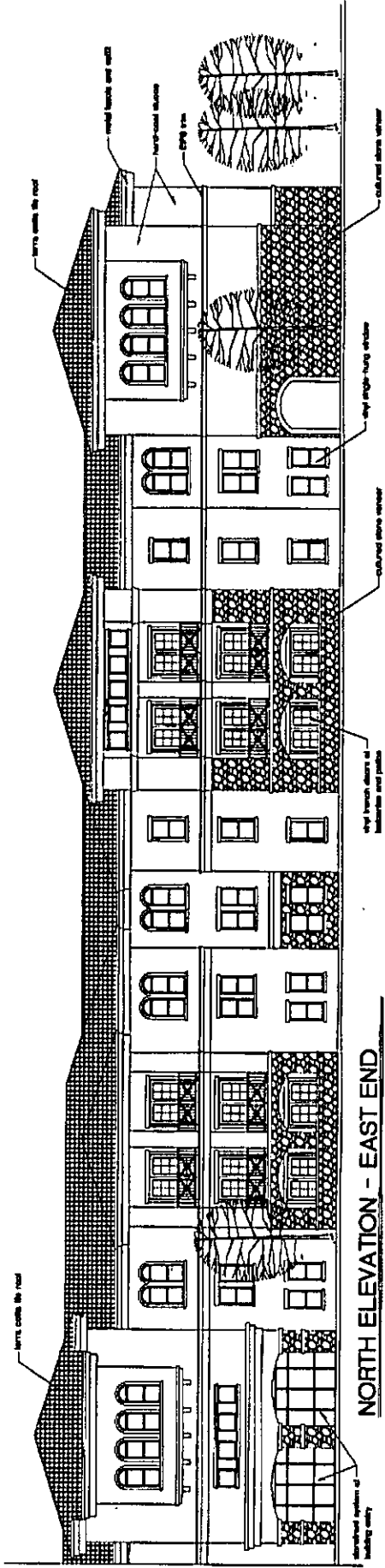
PROJECT NUMBER:
13-071

EXHIBIT C

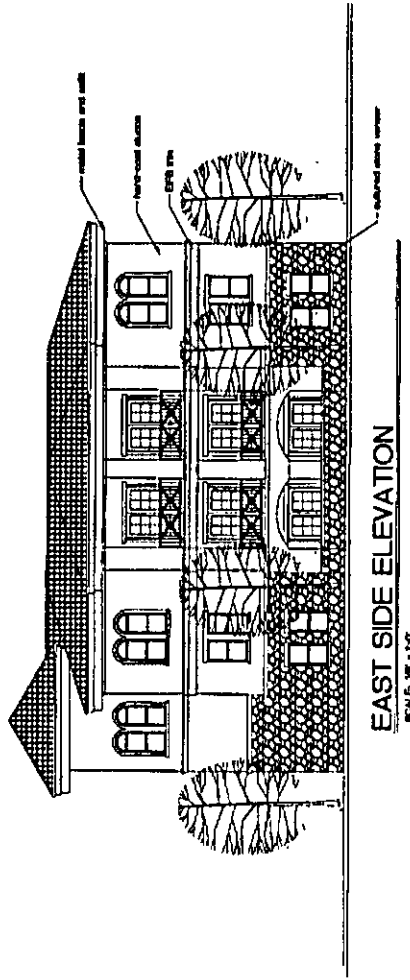
Exhibit D



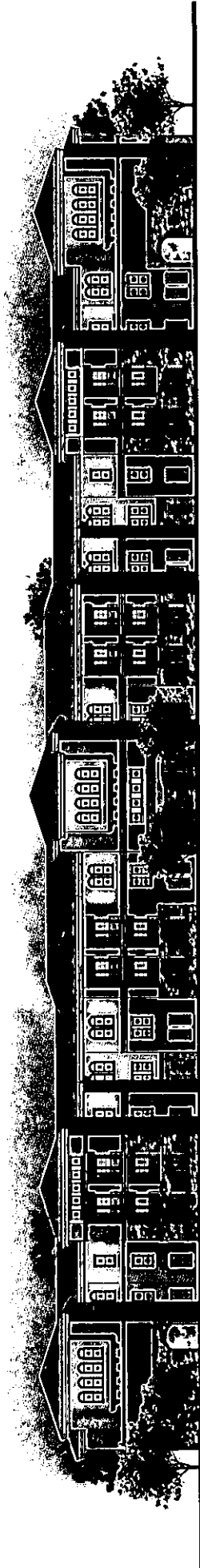
SOUTH ELEVATION - WEST END
SCALE: 1/8" = 1'-0"



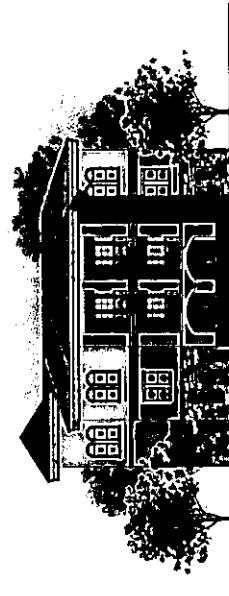
NORTH ELEVATION - EAST END
SCALE: 1/8" = 1'-0"



EAST SIDE ELEVATION
SCALE: 1/8" = 1'-0"

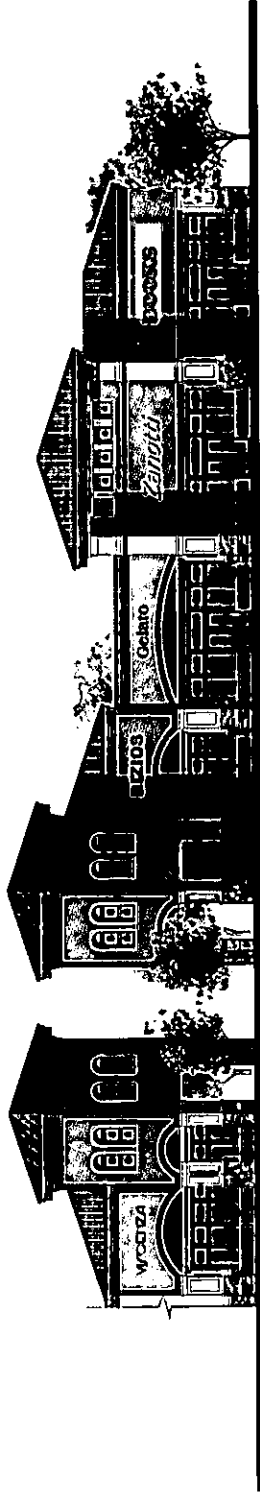


NORTH ELEVATION

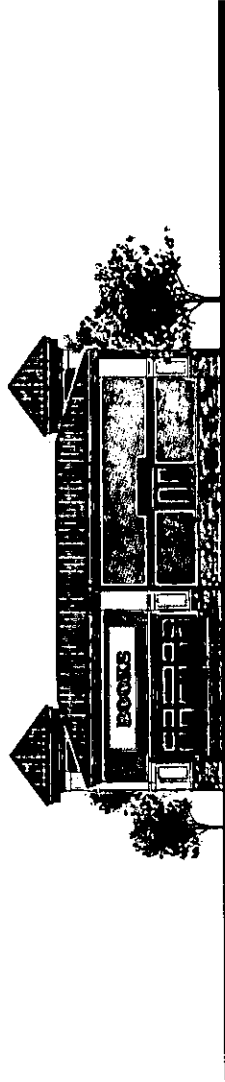


EAST ELEVATION

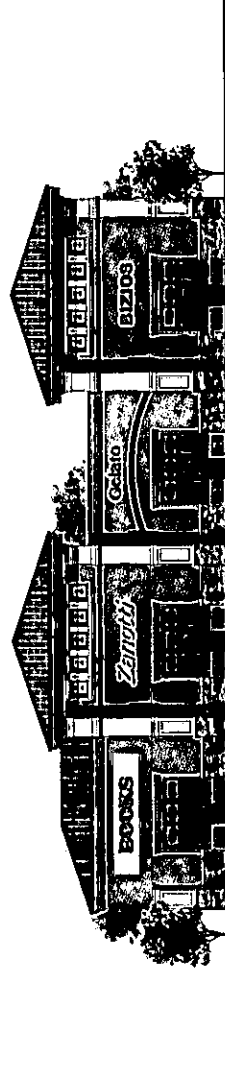
TUSCAN GARDENS SENIOR APARTMENTS



NORTH ELEVATION



WEST ELEVATION



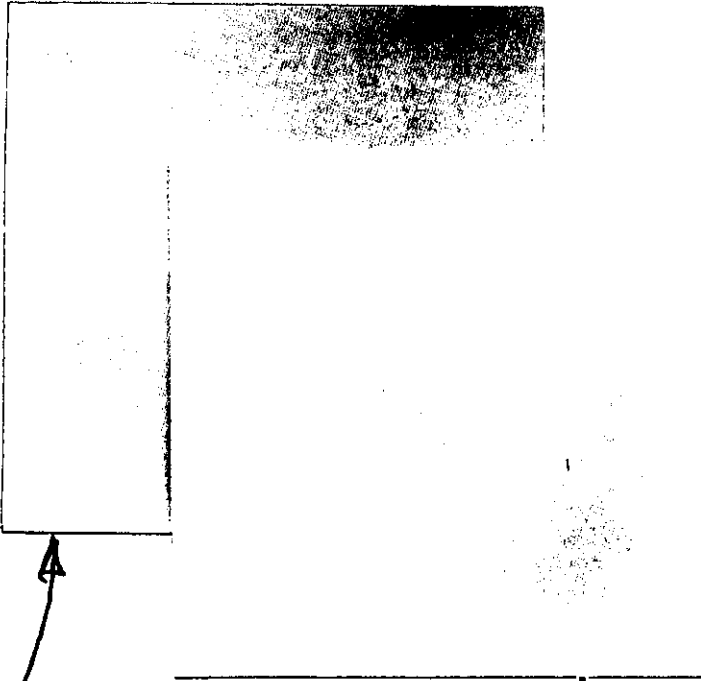
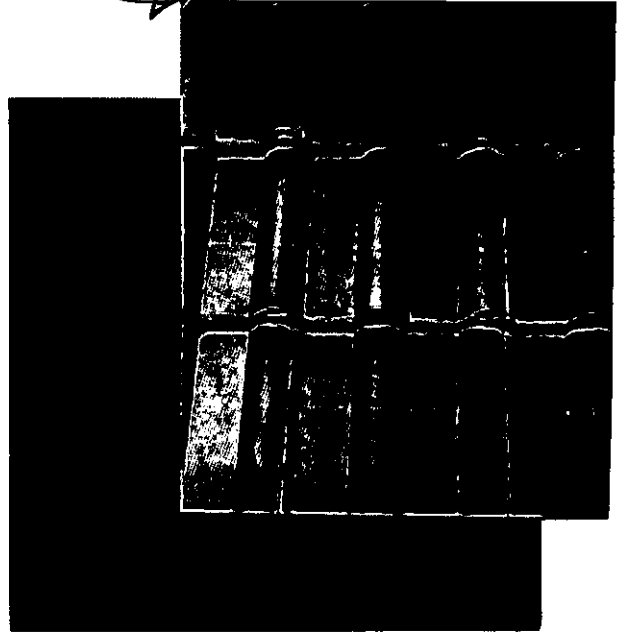
SOUTH ELEVATION

TUSCAN GARDENS RETAIL

TERRA COTTA ROOF TILE

METAL FASCIA & SOFFIT

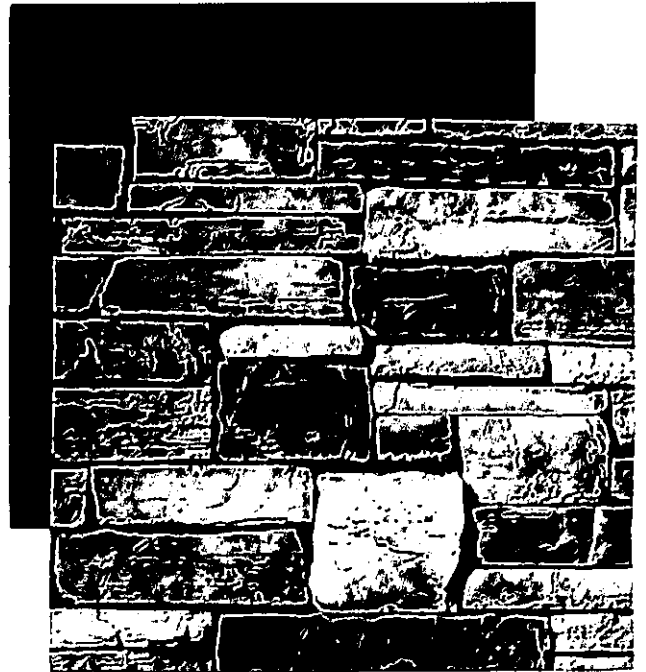
STUCCO UPPER LEVEL



STUCCO LOWER LEVEL

STUCCO TRIM

DARK BRONZE WINDOWS & RAILING



SOUTHERN LEDGESTONE
RUSTIC STONE VENEER

TUSCAN GARDENS

ORDINANCE No. 2013-35

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF PLEASANT GROVE CITY, APPLYING THE SENIOR HOUSING OVERLAY ON APPROXIMATELY 2.5 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 600 WEST GARDEN DRIVE. ICO DEVELOPMENT, APPLICANT.

WHEREAS, the applicant has requested a zoning overlay that will allow for senior housing development opportunities in certain zones; and

WHEREAS, the City has determined a need for additional senior housing opportunities in the community; and

WHEREAS, on November 6, 2013, the City Council approved an amendment to the City Code establishing the provisions of the Senior Housing Overlay; and

WHEREAS, on November 14, 2013 the Pleasant Grove City Planning Commission held a public hearing to consider the request to apply the Senior Housing Overlay on approximately 2.5 acres of property located at 600 West Garden Drive; and

WHEREAS, at its public hearing the Planning Commission found that the overlay application request was in the public's interest and is consistent with the written goals and policies of the General Plan; and

WHEREAS, the Pleasant Grove Planning Commission recommended to the Pleasant Grove City Council that the overlay application request be approved; and

WHEREAS, on November 19, 2013 the Pleasant Grove City Council held a public hearing to consider the request; and

WHEREAS, at its meeting the Pleasant Grove City Council was satisfied that the overlay application request was in the best interest of the public and was consistent with the written goals and policies of the General Plan; and

WHEREAS, at its meeting the Pleasant Grove City Council approved the request that the Residential Agriculture Overlay be applied on approximately 2.5 acres of property located at approximately 600 West Garden Drive.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLEASANT GROVE:

SECTION 1: The approximately 2.5 acres of property currently owned by the FDIC, located at approximately 600 West Garden Drive in the City of Pleasant Grove is hereby applied with the Residential Agriculture Overlay; said property being described as shown on Exhibit "A".

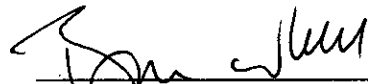
SECTION 2: The Official Zoning Map showing such changes shall be filed with the Pleasant Grove City Recorder.

SECTION 3. The Pleasant Grove City Council finds that the overlay application is in the best interest of the public and is consistent with the written goals and policies of the City's General Plan.

SECTION 4. SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

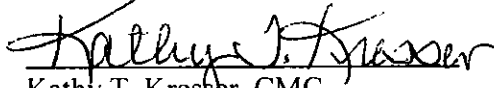
SECTION 5: This ordinance shall take effect immediately upon its passage and shall be posted or published as required by law.

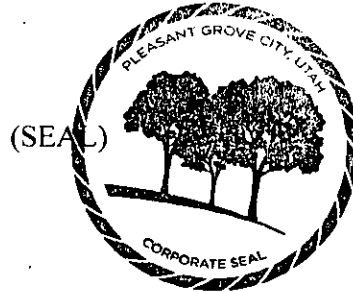
SECTION 6. APPROVED AND ADOPTED AND MADE EFFECTIVE by the City Council or Pleasant Grove City, State of Utah, on this 19th day of November, 2013.



Bruce Call, Mayor

ATTEST:


Kathy T. Kresser, CMC
City Recorder



ORDINANCE NO. 2013-32

AN ORDINANCE OF PLEASANT GROVE CITY, UTAH COUNTY, UTAH; ADDING ARTICLE K TO CHAPTER 10, TITLE 11, OF THE PLEASANT GROVE CITY CODE; ESTABLISHING PROVISIONS FOR THE SENIOR HOUSING OVERLAY; LEISURE VILLAS (APPLICANT)

WHEREAS, the applicant has requested a zoning overlay that will allow for independent senior housing developments; and

WHEREAS, the City has determined a need for providing additional development opportunities for senior housing projects in Pleasant Grove; and

WHEREAS, on October 10, 2013 the Pleasant Grove City Planning Commission held a public hearing to consider the amendment adding the Senior Housing Overlay to the Pleasant Grove City Municipal Code; and

WHEREAS, at its public hearing the Planning Commission decided that the requested amendment adding the Senior Housing Overlay to the Pleasant Grove Municipal Code are in the public's interest and consistent with the goals and policies of the General Plan; and

WHEREAS, the Pleasant Grove Planning Commission recommended to the Pleasant Grove City Council that the amendment adding the Senior Housing Overlay to the Pleasant Grove Municipal Code be approved; and

WHEREAS, on November 6, 2013 the Pleasant Grove City Council held a public hearing to consider the request; and

WHEREAS, at its meeting the Pleasant Grove City Council was satisfied that the amendment to the Pleasant Grove Municipal Code is in the best interest of the public and consistent with the goals and policies of the General Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Pleasant Grove City, Utah County, State of Utah, as follows:

SECTION 1: Article K of Chapter 10-11 of the Pleasant Grove Municipal Code is hereby added to read as follows:

ARTICLE K, SENIOR HOUSING OVERLAY (SHO) ZONE

1. **Purpose:** The Senior Housing Overlay (SHO) zone is established to provide an area for independent senior housing developments that are in proximity to community commercial or civic centers. This overlay zone is not intended for assisted living, nursing homes, hospitals, clinics, health care centers, or like uses. The intent of this overlay zone is to provide adequate accommodation for senior citizens, where the lifestyle is less burdensome and more convenient for residents to perform daily activities.
2. **Definition:** "Independent Senior Housing" refers to a multi-unit housing development that is restricted to older adults, usually age 55 and over, and shall be defined as housing for the elderly as per Federal Housing guidelines. Included are two permitted types of development:
 - a. Single Family Retirement Community with resident ownership of attached or detached single family homes, having amenities but few or no services, and
 - b. Congregate Housing with units that have a tenant-landlord relationship or that are individually owned, accommodating the varied housing and lifestyle needs and desires of seniors by providing some amenities and services.
3. **Applicable Zones:** The SHO zone may be applied onto properties within the following zones: Downtown Village, CS-2, C-N and the Grove Zone - Mixed Housing subdistrict.
4. **Density And Area Requirements:**
 - a. **Maximum Density.**
 - i. Single family retirement communities shall have a maximum density of 8 dwelling units per acre.
 - ii. Congregate housing developments shall have a maximum density of 24 dwelling units per acre. In mixed-use developments, density shall be calculated using only the immediate acreage of buildings, parking, landscaped areas and roadways specifically associated with the housing development.
 - b. **Parcel Size.** Congregate housing developments shall be limited to a total parcel size of not more than 8 acres.
5. **Setback Requirements.**
 - a. Minimum setbacks for single family retirement communities shall be the same as those found within the underlying zone. Variations to these requirements may be approved by the Planning Commission, upon the positive recommendation of the Design Review Board, based on a well-designed site plan.
 - b. The minimum building setback for congregate housing development buildings is twenty five feet (25') from rear and side property lines and forty feet (40') from street frontages.
6. **Accessory Buildings.** Allowable accessory buildings and facilities include free standing club facilities for member use; garage structures, carports, and sheds; pools and jacuzzis; recreation facilities such as game rooms, fitness facilities, basketball courts, tennis courts,

and similar structures. Other structures may be approved by the Planning Commission, upon the positive recommendation of the Design Review Board.

7. **Building Height.** The maximum height for all buildings and structures in the SHO zone shall be the same as found within the underlying zone.
8. **Landscaping:** Landscaping requirements shall be the same as found within the underlying zone. Variations may be approved by the Planning Commission, upon the positive recommendation of the Design Review Board.
9. **Open Space:**
 - a. Senior housing developments with a density of more than 8 units per acre (whether a stand-alone project or part of a mixed use development) shall provide a minimum of thirty percent (30%) of the net developable site area for open space. At least seventy five percent (75%) of that open space must be usable, contiguous open space, available for recreational uses not located within required buffer areas. Open space may include parks, walkways, natural areas, landscaped areas and usable wetland areas. Open space may not include leftover space between buildings, or narrow space under ten feet (10') in width that is immediately adjacent to buildings, where the space is between the building and parking areas, drive aisles or inner-development roads.
 - b. Senior housing developments with a density of less than 8 units per acre shall include a mix of useable, contiguous open space and amenities for social activities. It is the developer's responsibility to show that the mix of open space and amenities provided shall be a beneficial part of a well-designed site plan.
10. **Parking:**
 - a. Two and one half (2.5) parking stalls shall be required for each single family attached residential unit.
 - b. One and one fourth (1.25) parking stalls shall be required for each congregate type residential unit.
11. **RV Storage:** An independent senior housing development may provide recreational vehicle and/or boat storage areas for up to 20% percent of dwelling units within the development. Storage areas shall be fenced from neighboring properties by a minimum eight-foot solid masonry wall. RVs, motor homes, trailers and boats stored on the property shall not be used as a residence.
12. **Occupancy Restrictions:** The units are intended for, and to be occupied by, at least one person fifty-five (55) years of age or older per unit. However, a unit may be occupied by the surviving member(s) of a household, regardless of age, if the fifty-five (55) years of age or older qualifying person has passed away, provided the surviving member(s) was a resident of the unit at the time of that qualifying person's death.
13. **Architectural Design:** The architectural design of an independent senior housing development shall comply with architectural design guidelines as established in the zone

where the facility is proposed. An exception to this requirement may be approved by the Planning Commission, upon the positive recommendation of the Design Review Board, based on a well-designed, architecturally pleasing site plan.

14. Site Plan Required: An application for an independent senior housing development pursuant to this chapter shall be accompanied by a site plan. Site plans for independent senior housing developments shall be reviewed for approval by the Planning Commission and the City Council. Upon prior recommendation of the Planning Commission, the City Council may set other reasonable conditions for any development which it feels will further the intent of this chapter.


15. Code Compliance: The development shall meet all city and state building, safety and health laws and regulations applicable to other dwellings in the zone. Further, the facility shall meet all state and federal laws which apply to structures and facilities used by senior people.


SECTION 2: SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

SECTION 3: EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and shall be posted or published as required by law.

SECTION 4: APPROVED AND ADOPTED AND MADE EFFECTIVE by the City Council of Pleasant Grove City, Utah County, Utah, this 6th day of November, 2013.

ATTEST:


Kathy T. Kresser, CMC
City Recorder


Bruce W. Call, Mayor

