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**RESOLUTION R2015-73**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING THE HIGHRIDGE ESTATES PHASE II DEVELOPMENT AGREEMENT, FIRST AMENDMENT.**

**WHEREAS**, the HighRidge Estates Phase II Development Agreement, which governs property currently being developed at approximately 11400 S. 3500 W., was previously approved by the City Council and signed by the Mayor (the "Agreement"); and

**WHEREAS**, the developers of HighRidge Estates Phase II have proposed amending the Agreement to now include a single family use, up to 6 units per acre, on property currently designated for an "assisted living" use as depicted in Exhibit B of the Agreement; and

**WHEREAS**, in accordance with law, the City Council held a public meeting to consider the proposed amendment; and

**WHEREAS**, the City Council has determined that to promote the orderly growth of South Jordan City, to preserve property values, and to promote the public health, safety and general welfare of the residents of South Jordan City, the Agreement should be amended as proposed in the attached Exhibit A.

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

**SECTION 1. Approval of First Amendment to the Agreement.** The City Council hereby authorizes the Mayor to sign the First Amendment to the Agreement, which is attached hereto as Exhibit A.

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

**SECTION 3. Effective Date.** This Resolution shall become effective immediately upon passage.

[SIGNATURE PAGE FOLLOWS]

12185687  
12/10/2015 09:31 AM \$0.00  
Book - 10386 Pg - 4345-4421  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SOUTH JORDAN  
1600 W TOWNE CENTER DR  
SOUTH JORDAN UT 84095-8265  
BY: EEA, DEPUTY - WI 77 P.

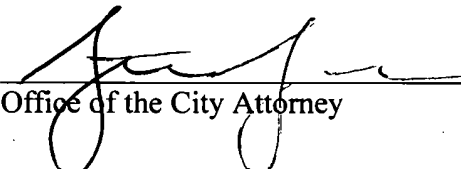
APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,  
ON THIS 1 DAY OF Dec, 2015 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Mark Seethaler	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Chuck Newton	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Donald Shelton	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Steve Barnes	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Christopher Rogers	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

Mayor:   
David L. Alvord

Attest:   
City Recorder

Approved as to form:

  
Office of the City Attorney



**Exhibit A**

**First Amendment to the Highridge Estates Phase II Development Agreement**

Please return to:  
South Jordan City Recorder  
1600 West Towne Center Drive  
South Jordan, UT 84095

**FIRST AMENDMENT  
TO THE  
HIGHRIDGE ESTATES PHASE II  
DEVELOPMENT AGREEMENT**

The City of South Jordan, a Utah municipal Corporation (the "City"), and Freiss Development Group, L.L.C., a Utah limited liability company (the "Developer"), enter into this First Amendment to the HighRidge Estates Phase II Development Agreement (this "First Amendment") this 1 day of December, 2015 ("Effective Date").

**RECITALS**

**WHEREAS**, the Developer and the City originally entered into the HighRidge Estates Phase II Development Agreement dated May 15, 2014, and recorded with the Salt Lake County Recorder's Office as entry 11871442, book 10240, page 8048-8115 (the "Agreement") (attached as Exhibit 1); and

**WHEREAS**, the Developer and the City each desire to clarify and amend certain provisions of the Agreement.

**NOW THEREFORE**, the parties hereby agree as follows:

A. Paragraph C.2 of the Agreement is amended to read:

Single Family Housing. Up to six (6) units per acre of single family detached housing units are permitted within the assisted living area as shown on Exhibit B.

B. Exhibit B to the Agreement is hereby amended as shown within Exhibit 2 attached hereto.

D. This First Amendment and the Agreement, together with the exhibits attached thereto, documents referenced therein and all regulatory approvals given by the City contain the entire agreement of the parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the parties which are not contained in such agreements, regulatory approvals and related conditions.

E. Except as amended by this First Amendment, all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this First Amendment. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

**IN WITNESS WHEREOF**, the parties have executed this First Amendment as of the Effective Date.

[SIGNATURE PAGE FOLLOWS]

**CITY OF SOUTH JORDAN,**  
A Utah municipal corporation

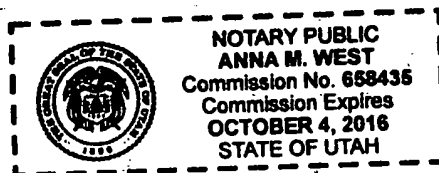
By: [Signature]  
David L. Alvord  
Mayor

APPROVED AS TO FORM:

[Signature]  
Attorney for the City

State of Utah )  
:SS  
County of Salt Lake )

The foregoing instrument was acknowledged before me on this 1 day of December, 2015, by David L. Alvord, the Mayor, of the City of South Jordan, a Utah municipal corporation, and said document was signed by him in behalf of said municipal corporation by authority of the South Jordan City Code by a Resolution of the South Jordan City Council.



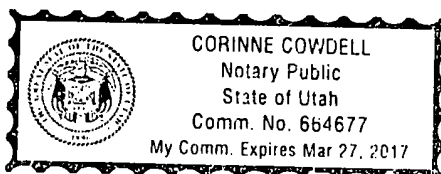
[Signature]  
Notary Public  
My Commission Expires:  
Residing at:

**FREISS DEVELOPMENT GROUP, LLC**  
A Utah limited liability company

By: [Signature]  
David Y. Freiss  
Manager

State of Utah )  
:SS  
County of Salt Lake )

The foregoing instrument was acknowledged before me on this 7 day of ~~November~~ <sup>December</sup>, 2015, by David Y. Freiss, the Manager of the Freiss Development Group, L.L.C., a limited liability company, and said document was signed by him in behalf of said LLC.



[Signature]  
Notary Public  
My Commission Expires: 3/27/2017  
Residing at: Salt Lake County

## **EXHIBIT 1**

### **The HighRidge Estates Phase II Development Agreement**

High Ridge

DEVELOPMENT AGREEMENT

The City of South Jordan, a Utah municipal corporation (the "City"), and Freiss Development Group, a(n) Limited Liability Corporation ("the Developer"), enter into this Development Agreement (this "Agreement") this 15 day of May, 2014 ("Effective Date"), and agree as set forth below. The City and the Developer are jointly referred to as the "Parties".

RECITALS

WHEREAS, the Developer is the owner of certain real property identified as Assessor's Parcel Number(s) 27-20-401-018-000, 27-20-401-022-0000, 27-20-401-023-0000, 27-20-401-00 specifically described in attached Exhibit A (the "Property") and intends to develop the Property consistent with the Master Development Plan attached as Exhibit B (the "Concept Plan"); and

WHEREAS, the City, acting pursuant to (1) its authority under Utah Code Annotated 10-9a-102(2) *et seq.*, as amended, and (2) the South Jordan City Municipal Code (the "City Code"), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has made certain determinations with respect to the proposed development of the Property and in exercise of its legislative discretion has elected to enter into this Agreement; and

WHEREAS, the Property is currently subject to the Planning and Land Use Ordinance of South Jordan City and is within the Agricultural A-5 Zone (the "A-5 Zone") and the Residential R-1.8 Zone (the "R-1.8 Zone"). A copy of the provisions of such zone designations in the South Jordan City Code are attached as Exhibit C; and

WHEREAS, the Developer desires to make improvements to the Property in conformity with this Agreement and has requested a zone change on the Property from the A-5 Zone and R-1.8 to the Residential R 2.5 Zone (the "R-2.5 Zone") and the Village Mixed Use (the "VMU Zone"). A copy of the provisions of the R-2.5 Zone and the VMU Zone designation in the South Jordan City Code are attached as Exhibit D; and

WHEREAS, the Developer and the City acknowledge that the development and improvement of the Property pursuant to this Agreement will provide certainty useful to the Developer and to the City in ongoing and future dealings and relations among the Parties; and

WHEREAS, the City has determined that the proposed development contains features which advance the policies, goals and objectives of the South Jordan City General Plan, preserve and maintain the open and sustainable atmosphere desired by the citizens of the City, or contribute to capital improvements which substantially benefit the City and will result in planning and economic benefits to the City and its citizens; and

11871442  
06/25/2014 10:13 AM \$0.00  
Book - 10240 Pg - 8048-8115  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SOUTH JORDAN  
1600 W TOWNE CENTER DR  
SOUTH JORDAN UT 84095-8265  
BY: JNA, DEPUTY - WI 68 P.



WHEREAS, this Agreement shall only be valid upon approval of such by the South Jordan City Council, pursuant to Resolution 2013-72 a copy of which is attached as Exhibit E; and

WHEREAS, the City and the Developer acknowledge that the terms of this Agreement shall be enforceable and the rights of the Developer relative to the Property shall vest only if the South Jordan City Council, in its sole legislative discretion, approves a zone change for the Property currently zoned as A-5 and R-1.8 to zones designated as R-2.5 and VMU.

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

#### TERMS

**A. Recitals; Definitions.** The recitals set forth above are incorporated herein by this reference. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Planning and Land Use Ordinance of South Jordan City.

**B. Enforceability:** The City and the Developer acknowledge that the terms of this Agreement shall be enforceable, and the rights of the Developer relative to the Property shall vest, only if the South Jordan City Council in its sole legislative discretion approves a zone change for the Property currently zoned as A-5 and R-1.8 to zones designated as R-2.5 and VMU.

**B. Conflicting Terms.** The Property shall be developed in accordance with the requirements and benefits provided for in relation to the R-2.5 and VMU zones under the City Code as of the Effective Date. In the event of a discrepancy between the requirements of the City Code including the R-2.5 and VMU zones, and this Agreement, this Agreement shall control.

**C. Developer Obligations:**

1. Master Development Plan. Any development of the Property, including the uses and intensity of those uses, shall be as specifically shown on the Master Development Plan and the requirements set forth in this Agreement and the City Code. Said uses to be limited to assisted living, R-2.5, office, and commercial.
2. Single Family Housing. No single family detached housing shall be allowed in the VMU Zone.
3. Business Hour Restriction. Businesses located on Lots 3 and 4 of the Property ("Lots 3 and 4"), as shown on attached Exhibit B, shall be restricted in the hours of operation to;
  - a. No later than 10:00 pm Monday thru Thursday and,

b. No later than 11:00 pm Friday, Saturday and Sunday.

The Developer shall record such restriction on any and all Codes, Covenants and restrictions or, if there are not such documents, on the title to individual properties.

4. Restaurant Hour Limitation. In no event shall any restaurant, including any fast food restaurant, operate 24 hours a day. Restaurants must comply with subsection C.3. The Developer shall record such restriction on any and all Codes, Covenants and restrictions or, if there are not such documents, on the title to individual properties.
5. Sidewalk Improvements. The Developer shall install sidewalk, per City standards, from 11400 South to the north boundary of the Paradigm High School parcel sidewalk, in coordination with and as permitted by any affected private property owners. The City will credit the actual cost of installation of such sidewalk against fees charged Developer by the City for development of the Property.
6. Water. Developer shall dedicate to the City sufficient water rights to meet R-2.5 requirements for that portion of the Property being developed for R-2.5 residential purposes. In no event shall Developer or any subsequent owner or tenant of the Property be required to dedicate any water rights for that portion of the Property being developed for an assisted living facility or for office or commercial uses.

**E. City Obligations.**

1. Development Review. The City shall review development of the Property in a timely manner, consistent with the City's routine development review practices and in accordance with all applicable laws and regulations.
2. Sidewalk Improvements. The City shall work with the Developer to facilitate the installation of the Sidewalk required in Section C.5. above.

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

1. Vested Rights. Consistent with the terms and conditions of this Agreement, City agrees Developer has the vested right to develop and construct the Property in accordance with: (i) the R-2.5 and VMU zoning designation (Exhibit D); (ii) the City Code in effect as of the Effective Date and; (iii) the terms of this Agreement.

2. Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer under this Agreement and with respect to use under the zoning designations

as referenced in *Section III.A.* above under the terms of this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Property shall be of general application to all development activity in the City and Salt Lake County (the "County"); and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Property under the compelling, countervailing public interest exception to the vested rights doctrine. The notice required by this paragraph shall be that public notice published by the City as required by State statute

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

**H. General Provisions.**

1. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified U.S. Postal Service mail, return receipt requested, postage prepaid to the following addresses or to such other addresses as either party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least 10 days before the date on which the change is to become effective:

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

If to Developer:  
Freiss Development Group  
10757 S. Riverfront Pkwy ste. 110  
South Jordan, UT 84095

2. Mailing Effective. Notices given by mail shall be deemed delivered 72 hours following deposit with the U.S. Postal Service in the manner set forth above.

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

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

5. Authority. The parties to this Agreement represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Developer represents and warrants it is fully formed and validly existing under the laws of the State of Utah, and that it is duly qualified to do business in the State of Utah and is in good standing under applicable state laws. Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the parties on whose behalf each individual is signing. Developer represents to the City that by entering into this Agreement Developer has bound all persons and entities having a legal or equitable interest to the terms of the Agreement as of the Effective Date.

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

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

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

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

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

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

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

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

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

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

16. Runs With The Land. This Agreement and all of the terms and conditions contained herein shall inure to the benefit of, and be binding upon the parties hereto and their respective successors and assigns, and shall be "covenants running with the land".

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

*{Signatures follow on next page}*

APPROVED AS TO FORM:

By: David L. Alvord  
Mayor

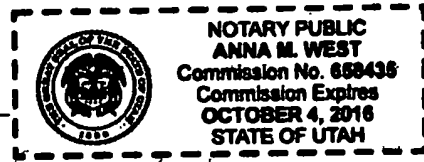
Ryan W. Jones  
Attorney for the City



State of Utah )  
 )  
 ) ss  
County of Salt Lake )

On this 19<sup>th</sup> day of May, 20 14, personally appeared before me David L. Alvord, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he is the Mayor, of the City of South Jordan, a Utah municipal corporation, and said document was signed by him in behalf of said municipal corporation by authority of the South Jordan City Code by a Resolution of the South Jordan City Council, and he acknowledged to me that said municipal corporation executed the same.

Anna M. West  
Notary Public



a(n) FREISS DEVELOPMENT GROUP

By: Dave Freiss

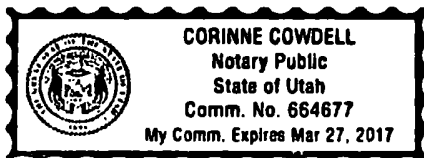
Name: [Signature]

Title: Manager

**LIMITED LIABILITY COMPANY APPLICANT**

State of Utah )  
 ) :ss  
County of Salt Lake )

On this 15 day of May, 2014, personally appeared before me  
Dave Freiss, whose identity is personally known to me or  
proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the \_\_\_\_\_  
Manager, of Freiss Development Group limited liability company,  
by authority of its members or its articles of organization, and he/she acknowledged to me that  
said limited liability company executed the same.



[Signature]  
Notary Public

## **EXHIBIT A**

THE BASIS OF BEARING FOR THIS SURVEY IS SOUTH 89°32'56" EAST BETWEEN THE FOUND CENTER OF SECTION MONUMENT FOR SECTION 20, TOWNSHIP 3 SOUTH, RANGE 1 WEST AND THE FOUND EAST QUARTER CORNER OF SAID SECTION 20.

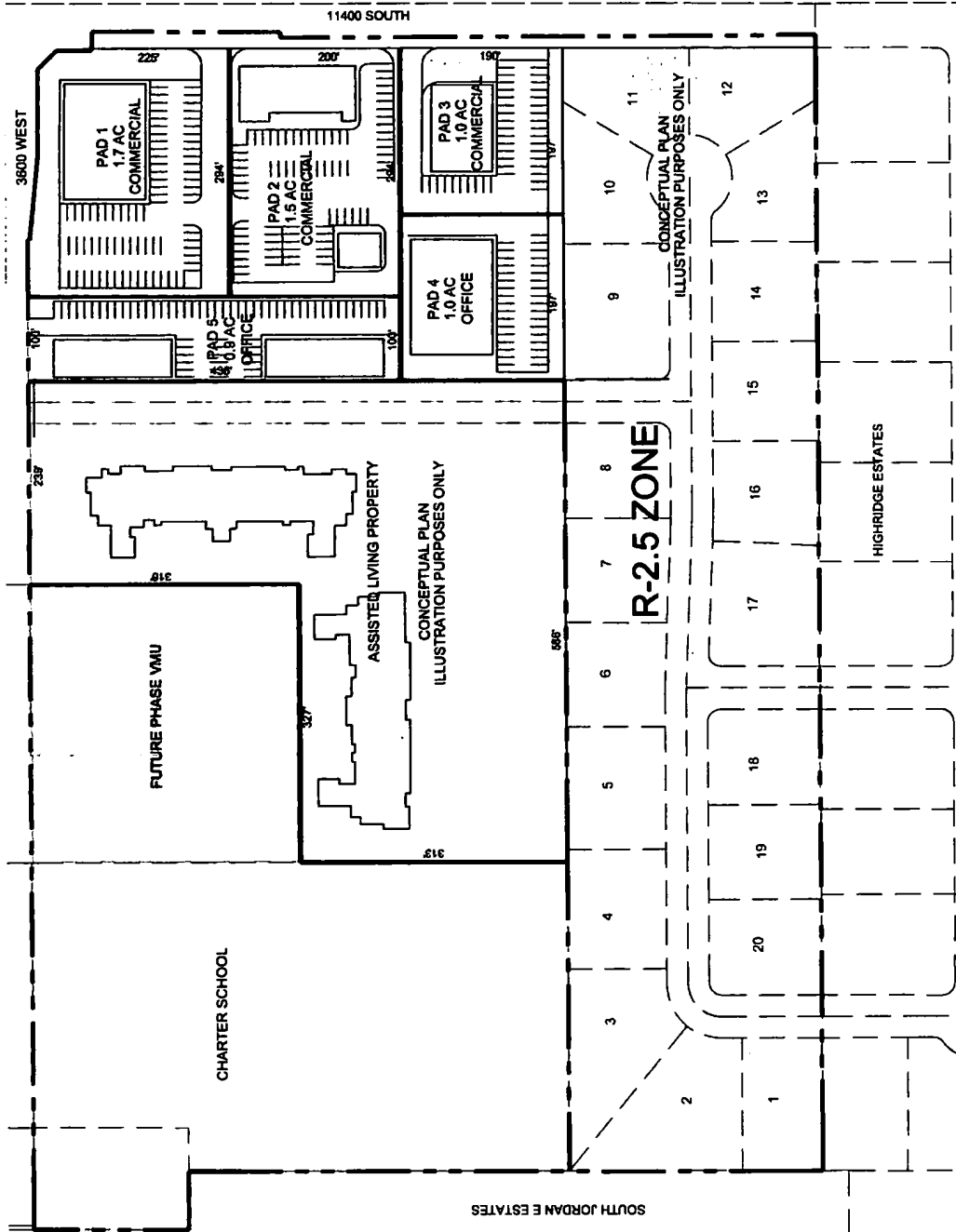
BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF 11400 SOUTH STREET, SAID POINT BEING SOUTH 89°32'56" EAST, ALONG THE SECTION LINE, 661.20 FEET AND SOUTH 00°27'04" WEST 57.99 FEET FROM THE CENTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 00°15'10" WEST 956.64 FEET TO THE NORTH LINE OF SOUTH JORDAN ESTATES SUBDIVISION, RECORDED AS 98-6P-141; THENCE NORTH 89°33'38" WEST, ALONG SAID NORTH LINE, 312.57 FEET; THENCE NORTH 00°15'19" EAST 327.69 FEET; THENCE NORTH 89°31'56" WEST 315.48 FEET TO THE EAST RIGHT OF WAY LINE OF 3600 WEST STREET; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FIVE (5) COURSES: 1) NORTH 00°15'20" EAST 407.31 FEET; 2) SOUTH 89°36'13" EAST 2.49 FEET; 3) NORTH 05°58'33" EAST 99.94 FEET; 4) NORTH 00°17'27" EAST 101.94 FEET; 5) NORTH 45°16'56" EAST 31.70 FEET TO THE SOUTH RIGHT OF WAY LINE OF 11400 SOUTH STREET; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE THE FOLLOWING FIVE (5) COURSES: 1) SOUTH 89°17'33" EAST 41.62 FEET; 2) NORTH 00°28'36" EAST 2.80 FEET; 3) SOUTH 87°50'59" EAST 7.10 FEET; 4) 209.51 FEET ALONG THE ARC OF A 8049.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS SOUTH 88°35'43" EAST 209.50 FEET); 5) SOUTH 89°20'29" EAST 334.88 FEET TO THE POINT OF BEGINNING.

CONTAINS 495,811 SF OR 11.38 ACRES MORE OR LESS



# HIGHRIDGE PHASE 2

EXHIBIT B



## LEGEND

COMMERCIAL/ OFFICE	(4 AC - 8 AC)
RESIDENTIAL MIN 1/3 AC LOTS	(9 AC - 11 AC)
ASSISTED LIVING/ AGE RESTRICTED/ RESIDENTIAL	(4 AC - 8 AC)

DATE	11/4/13
SCALE	1" = 60'
SHEET	1 OF 1



## **EXHIBIT C**

### **A-5 City Code Provisions:**

## **Chapter 17.24 AGRICULTURAL A-5 ZONE**

### **17.24.010: PURPOSE:**

### **17.24.020: PERMITTED USES:**

### **17.24.030: CONDITIONAL USES:**

### **17.24.040: USE REGULATIONS:**

### **17.24.050: DEVELOPMENT REVIEW:**

### **17.24.060: LOT AREA:**

### **17.24.070: LOT WIDTH AND FRONTAGE:**

### **17.24.080: PRIOR CREATED LOTS:**

### **17.24.090: DWELLING DENSITY:**

### **17.24.100: LOT COVERAGE:**

### **17.24.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

### **17.24.120: PROJECTIONS INTO YARDS:**

### **17.24.130: FARM ANIMALS<sup>1</sup> (REP. BY ORD. 2011-18, 3-6-2012):**

### **17.24.140: PARKING AND ACCESS:**

### **17.24.150: FENCING, SCREENING AND CLEAR VISION:**

### **17.24.160: ARCHITECTURAL STANDARDS:**

### **17.24.170: LANDSCAPING:**

### **17.24.180: LIGHTING:**

### **17.24.190: OTHER REQUIREMENTS:**

### **17.24.010: PURPOSE:**

The agricultural A-5 zone (minimum 5 acre lot), may be cited as the "A-5 zone" and is established to allow for the continuation of agriculture in an expanding urban community and to complement the existing rural residential environment in the city. The regulations of this chapter are intended to allow for the orderly expansion of residential and commercial developments into agricultural lands while encouraging compatibility of new growth with existing agricultural uses. (Ord. 2007-02, 1-16-2007)

### **17.24.020: PERMITTED USES:**

The following uses may be conducted in the A-5 zone as limited herein:

Agricultural and residential accessory uses and buildings.

Agricultural buildings not exceeding five thousand (5,000) square feet.

Crop production, horticulture.

Farm animals as regulated in section 17.130.040 of this title.

Home occupations according to city ordinances.

Produce stand, maximum three hundred (300) square feet, maximum one per parcel or lot for selling only produce grown on the premises.

Single-family dwelling, detached, maximum one per lot or parcel. (Ord. 2011-18, 3-6-2012)

**17.24.030: CONDITIONAL USES:**

A conditional use permit may be issued for the following uses in the A-5 zone:

Agricultural buildings exceeding five thousand (5,000) square feet in area.

Animal husbandry, unique or exotic animal specialties or other animal uses not otherwise regulated by this chapter.

Building other than single-family dwelling as a main building on the lot.

Commercial or public corrals, arenas, stables, silos, barns, equestrian or rodeo facilities and other commercial agricultural related structures and uses.

Cultural exhibits and activities.

Daycare center facility on minimum one acre lot.

Educational facilities that have direct access to a collector street.

Golf courses and driving ranges.

Nature or zoological exhibits.

Parks and recreational activities.

Preschool center facility on minimum one acre lot.

Public facilities.

Religious activities. (Ord. 2012-12, 10-2-2012)

**17.24.040: USE REGULATIONS:**

Uses may be conducted in the A-5 zone only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in the A-5 zone. A conditional use permit must be obtained prior to the establishment of a conditional use.
- B. Accessory uses may be conducted in the A-5 zone only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, caretakers, nurses, nannies, maids, barns, garages, silos, corrals, sheds, stables, paddocks, swimming pools, recreational equipment, greenhouses, windmills, wells and water storage facilities and other structures and activities which are incidental and subordinate to the principal permitted or conditional use on the premises.

- C. There shall be no open storage of trash, debris, used materials, commercial goods or wrecked or neglected materials, equipment or vehicles in the A-5 zone.
- D. It shall be unlawful to park, store or leave, or to permit the parking, storing or leaving of any vehicle of any kind, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, whether attended or not, upon any private or public property within the A-5 zone for longer than seventy two (72) hours, except that up to two (2) such vehicles or parts thereof may be stored completely within an enclosed building or within an opaque fence enclosure which is completely screened from view of public streets and neighboring properties.
- E. No commercial vehicle or commercial earthmoving or material handling equipment shall be parked or stored in the A-5 zone, except in conjunction with temporary development or construction activities or in conjunction with an approved use which requires such vehicles. Commercial vehicles shall include semitrucks and trailers, trucks and trailers equaling or exceeding eight thousand (8,000) pounds' curb weight, delivery vehicles, dump trucks, backhoes, graders, loaders, farm implements, cement trucks, bulldozers, belly dumps and scrapers, forklifts, or any similar vehicle or apparatus.
- F. Watercraft, trailers, campers, motor homes and other utility or recreational vehicles shall be stored within lawfully constructed buildings or behind the front line of the main building on the lot or parcel in an A-5 zone, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may not be occupied as living quarters in the A-5 zone, except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year. (Ord. 2007-02, 1-16-2007)

#### **17.24.050: DEVELOPMENT REVIEW:**

Uses proposed in A-5 zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in A-5 zones. All uses shall be conducted according to the approved plan or plat and any conditions of approval. Plans or plats may not be altered without prior approval of the city, except as allowed under state law. (Ord. 2007-02, 1-16-2007)

#### **17.24.060: LOT AREA:**

The minimum area of any lot or parcel in the A-5 zone shall be five (5) acres. Every portion of a parcel being subdivided shall be included as a lot or lots in the proposed subdivision plat. (Ord. 2007-02, 1-16-2007)

#### **17.24.070: LOT WIDTH AND FRONTAGE:**

Each lot in the A-5 zone shall have a minimum width of one hundred feet (100'), measured at the minimum front yard setback at a point which corresponds to the midpoint of the front lot line. Each lot or parcel shall abut the right of way line of a public street a minimum distance of one hundred feet (100'), except that lots with side property lines which diverge at an angle of at least twenty degrees (20°) shall abut the right of way a minimum distance of sixty feet (60'). (Ord. 2007-02, 1-16-2007)

#### **17.24.080: PRIOR CREATED LOTS:**

Lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the establishment of an A-5 zone shall not be denied a building permit solely for reason of nonconformance with the parcel requirements of this chapter. (Ord. 2007-02, 1-16-2007)

#### **17.24.090: DWELLING DENSITY:**

Only one single-family dwelling may be placed upon a lot or parcel of land in the A-5 zone. (Ord. 2007-02, 1-16-2007)

#### **17.24.100: LOT COVERAGE:**

A maximum of twenty percent (20%) of the area of lots or parcels in the A-5 zone may be covered by buildings. (Ord. 2007-02, 1-16-2007)

#### **17.24.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

The following yard requirements shall apply in A-5 zones. Minimum yard areas are measured from the corresponding front, side and rear property lines of lots. A land use permit shall be obtained prior to the construction of any accessory building for which a building permit is not required. An application form, lot plan showing streets, existing buildings, dimensions, easements, setbacks of the proposed accessory building and other information as needed shall be submitted for review:

A. Minimum yard requirements for main buildings are as follows:

1. Front yard, interior and corner lots: Thirty feet (30').
2. Front yard, cul-de-sac lot adjacent to turnaround: Twenty five feet (25').
3. Side yard, interior lots: Ten feet (10').
4. Side yard, corner lots: Ten feet (10') on the side adjoining another lot, thirty feet (30') on the side adjoining the street.
5. Rear yard, interior lot: Twenty five feet (25').
6. Rear yard, corner lot: Ten feet (10').

B. Minimum yard requirements for accessory buildings are as follows:

1. Accessory Buildings: Accessory buildings may not be located between a street and the front building line of a main building.
2. Side Yard Accessory Building: An accessory building may be located in a side yard no closer than ten feet (10') from the side property line or boundary and no closer than six feet (6') from the dwelling or main building.
3. Street Side Yard Accessory Building, Corner Lot: An accessory building may be located between a street and the side of the dwelling or main building on a corner lot but not within the required minimum main building side yard and no closer than six feet (6') from the dwelling or main building.
4. Rear Yard Accessory Building: An accessory building may be located in a rear yard no closer than six feet (6') from the dwelling or main building and no closer than three feet (3') from the side or rear property line or boundary, except as required in subsection B5 of this section.

5. Height Considerations: The minimum setback from property lines or boundaries for accessory buildings or structures exceeding sixteen feet (16') in height shall be increased by one foot (1') for each foot of building height in excess of sixteen feet (16').

C. All buildings shall be separated by a minimum distance of six feet (6').

D. Buildings used for the housing or shelter of animals shall be located a minimum distance of forty feet (40') from any existing dwelling or neighborhood street right of way line and, if approved with a conditional use permit, a minimum of twenty feet (20') from any collector street right of way line. (Ord. 2007-02, 1-16-2007)

#### **17.24.120: PROJECTIONS INTO YARDS:**

The following may be erected on or projected into any required yard space in A-5 zones:

A. Fences and walls in conformance with city ordinances.

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

C. Utility or irrigation equipment or facilities.

D. Decks not more than two feet (2') in height.

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

F. Chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building not exceeding eight feet (8') wide and extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard. (Ord. 2007-02, 1-16-2007)

#### **17.24.130: FARM ANIMALS:**

(Rep. by Ord. 2011-18, 3-6-2012)

#### **17.24.140: PARKING AND ACCESS:**

Parking areas and vehicle access in A-5 zones shall meet the requirements of title 16, chapter 16.26 of this code. (Ord. 2007-02, 1-16-2007)

#### **17.24.150: FENCING, SCREENING AND CLEAR VISION:**

The following fencing, screening and clear vision requirements shall apply in A-5 zones. A permit shall be obtained from the community development department prior to construction of any fence in the A-5 zone. An application form and the location, height and description of the proposed fence shall be submitted for review.

A. Utility Screening: In nonsingle-family residential developments requiring conditional use approval in A-5 zones, all mechanical equipment, antennas (where possible), loading and utility areas and trash receptacles shall be screened from view with architectural features or walls consistent with materials used in the associated buildings.

- B. Incompatible Land Use Screening: Incompatible land uses, including waterways, trails, parks, open spaces and other uses or zones shall be screened or buffered with fences, walls and/or landscaping as determined with development approval.
- C. Rear And Side Yard Fencing: A maximum six foot (6') high fence and/or hedge may be installed and maintained between a dwelling and a rear or side lot line.
- D. Front Yard Fencing: A maximum four foot (4') high, nonvisually obscuring decorative wrought iron, simulated wrought iron or vinyl fence may be constructed along a side lot line to the right of way line or sidewalk of a neighborhood street, except as regulated in clear vision areas. A masonry or solid vinyl fence or hedge may also be used along side lot lines to the right of way or sidewalk, but may not exceed three feet (3') in height. Brick pillars may not exceed eighteen inches (18") square or be closer than ten feet (10') on center. Posts or pillars may not extend higher than four inches (4") above the four foot (4') fence panel.
- E. Clear Vision: Landscape materials, except for mature trees which are pruned at least seven feet (7') above the ground, and fences shall not exceed three feet (3') in height within a ten foot (10') triangular area formed by the edge of a driveway and the street right of way line or within a thirty foot (30') triangular area formed by the right of way lines of intersecting streets. Lesser clear vision triangular areas may be approved by the city engineer based upon traffic speeds, flow, volumes and other traffic related variables.
- F. Collector Street Fencing: Any single-family residential rear or side yard fence erected or maintained roughly parallel to and within twenty feet (20') of a collector or arterial street right of way in A-5 zones shall be constructed according to standards found in section 16.04.200 of this code. (Ord. 2009-12, 3-16-2009)

#### **17.24.160: ARCHITECTURAL STANDARDS:**

The following exterior materials and architectural standards are required in A-5 zones:

- A. Each dwelling in A-5 zones shall be constructed with brick or stone in the minimum amount of two feet (2') times (x) the perimeter of the foundation (including garage). Dwellings shall be constructed with minimum five to twelve (5:12) roof pitch and a minimum two (2) car garage (minimum 22 feet by 22 feet, or approximate approved equivalent).
- B. All building materials shall be high quality, durable and low maintenance.
- C. Buildings in A-5 zones may not exceed thirty five feet (35') in height, except for structures not intended for human occupancy.
- D. Signs shall meet requirements of title 16, chapter 16.36 of this code and shall be constructed of materials which are consistent with the buildings which they identify.
- E. The minimum floor area, finished and unfinished, of any single-family dwelling in A-5 zones shall be two thousand four hundred (2,400) square feet.
- F. The exteriors of buildings in the A-5 zone shall be properly maintained by the owners.
- G. Attached garages on single-family residential corner lots may be located on the interior side of the lot or on the street side of the lot only if the garage is accessed directly from the side street. (Ord. 2007-02, 1-16-2007)

#### **17.24.170: LANDSCAPING:**

The following landscaping requirements shall apply in A-5 zones:

- A. The front and side yards of lots shall be landscaped and properly maintained with lawn and other acceptable plant material unless otherwise approved with a conditional use permit.
- B. All areas of nonresidential developments not approved for parking, buildings, recreation facilities, access or other hard surfacing or otherwise exempted with development approval, shall be landscaped and properly maintained with grass, deciduous and evergreen trees and other plant material approved in conjunction with a site plan or plat for the development.
- C. In nonresidential developments, a minimum of one tree per one thousand (1,000) square feet, or part thereof, of landscaped area, excluding landscaped sports or play areas, is required. A minimum of thirty percent (30%) of required trees shall be minimum seven foot (7') evergreens. Deciduous trees shall be minimum two inch (2") caliper. Deciduous and evergreen trees need not be equally spaced except as required in parking areas and in park strips, but shall be distributed throughout the required yard areas on the site.
- D. All collector street and other public and private park strips in A-5 zones shall be improved and maintained by the adjoining owners according to specifications adopted by the city unless otherwise allowed with development approval.
- E. In nonresidential developments in A-5 zones, the following landscaping requirements shall apply:
  - 1. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of parking rows. Planters shall be at least five feet (5') wide.
  - 2. Minimum five foot (5') landscaped planters shall be provided along street sides of building foundations except at building entrances.
  - 3. All landscaped areas shall be curbed.
- F. Developments which are contiguous to canals, streams or drainage areas shall make reasonable efforts to include banks and rights of way in the landscaping of the project and the urban trails system. If approved by the city engineer, waterways which traverse developments may be left open if properly landscaped and maintained by the adjacent owners. Waterways may not be altered without approval of any entity or agency having jurisdiction over said waterways.
- G. All required landscaping in yard areas and open spaces shall be installed (or escrowed on a case by case basis) prior to occupancy.
- H. All landscaped areas, including adjoining public right of way areas not maintained by the city, shall be properly irrigated and maintained by the owners.
- I. Required trees may not be topped nor may any required landscape material be removed in A-5 zones without city approval. Any dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan or plat approval. (Ord. 2007-02, 1-16-2007)

#### **17.24.180: LIGHTING:**

The following lighting requirements shall apply in A-5 zones:

- A. A lighting plan shall be submitted with all new developments in A-5 zones. Where required by the city, lighting shall be shielded to prevent glare on adjacent agricultural and residential properties.
- B. Lighting fixtures on private property shall be architectural grade and consistent with the architectural theme of the development.



- C. Lighting fixtures on public property shall be architectural grade. A single streetlight type, approved by the city engineer, will be used on the same street. (Ord. 2007-02, 1-16-2007)

**17.24.190: OTHER REQUIREMENTS:**

The following requirements shall apply in A-5 zones:

- A. All developments shall be graded according to the city engineering and building requirements to provide adequate drainage. Buildings shall be equipped with facilities for the discharge of all roof drainage onto the subject lot or parcel.
- B. All areas of lots shall be properly maintained by the owners.
- C. A project phasing plan shall be submitted for review at the time of plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the city. (Ord. 2007-02, 1-16-2007)

R-1.8 City Code Provisions:

**Chapter 17.32  
RESIDENTIAL R-1.8 ZONE**

**17.32.010: PURPOSE:**

**17.32.020: PERMITTED USES:**

**17.32.030: CONDITIONAL USES:**

**17.32.040: USE REGULATIONS:**

**17.32.050: DEVELOPMENT REVIEW:**

**17.32.060: LOT AREA:**

**17.32.070: LOT DENSITY:**

**17.32.080: LOT WIDTH AND FRONTAGE:**

**17.32.090: PRIOR CREATED LOTS:**

**17.32.100: LOT COVERAGE:**

**17.32.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

**17.32.120: PROJECTIONS INTO YARDS:**

**17.32.130: FARM ANIMALS<sup>1</sup> (REP. BY ORD. 2011-18, 3-6-2012):**

**17.32.140: PARKING AND ACCESS:**

**17.32.150: FENCING, SCREENING AND CLEAR VISION:**

**17.32.160: ARCHITECTURAL STANDARDS:**

**17.32.170: LANDSCAPING REQUIREMENTS:**

**17.32.180: LIGHTING:**

**17.32.190: PLANNED UNIT DEVELOPMENT OR CONDOMINIUM PROJECT:**

**17.32.200: OTHER REQUIREMENTS:**

**17.32.010: PURPOSE:**

The residential R-1.8 zone (single-family residential, 1.8 lots per acre), may be cited as the "R-1.8 zone" and is established to provide areas where residential uses may be harmoniously integrated with incidental agricultural pursuits. Limited farm animal and horticultural uses may be combined to provide a transition between higher density residential areas and agricultural areas and to maintain a rural component of the city. (Ord. 2007-02, 1-16-2007)

**17.32.020: PERMITTED USES:**

The following uses may be conducted in the R-1.8 zone as limited herein:

Agricultural and residential accessory uses.

Farm animals as regulated in section 17.130.040 of this title.

Home occupations according to city ordinances.

Residential accessory buildings, the footprints of which do not exceed the footprint area of the

dwelling.

Single-family dwelling, detached, maximum one per lot or parcel. (Ord. 2011-18, 3-6-2012)

#### **17.32.030: CONDITIONAL USES:**

A conditional use permit may be issued for the following uses in the R-1.8 zone:

Commercial or public corrals, arenas, stables, silos, barns, equestrian or rodeo facilities and other agricultural related structures and uses.

Cultural exhibits and activities.

Daycare center facility on minimum one acre lot.

Educational facilities that have direct access to a collector street.

Golf courses.

Nature or zoological exhibits.

Parks and recreational activities.

Preschool center facility on minimum one acre lot.

Public facilities.

Religious activities.

Single-family dwelling planned unit development (PUD) or condominium projects. (Ord. 2012-12, 10-2-2012)

#### **17.32.040: USE REGULATIONS:**

Uses may be conducted in the R-1.8 zone only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in the R-1.8 zone. A conditional use permit must be obtained prior to the establishment of a conditional use. (Ord. 2007-02, 1-16-2007)
- B. Accessory uses may be conducted in the R-1.8 zone only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, caretakers, nurses, nannies, maids, garages, sheds, swimming pools, recreational equipment, gardens, farm animals as regulated in section 17.130.040 of this title, greenhouses and other structures and activities which are incidental and subordinate to the principal permitted or conditional use on the premises. (Ord. 2011-18, 3-6-2012)
- C. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles in the R-1.8 zone.
- D. It shall be unlawful to park, store or leave, or to permit the parking, storing or leaving of any vehicle of any kind, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, whether attended or not, upon any private or public property within the R-1.8 zone for longer than seventy two (72) hours, except that up to two (2) such vehicles or parts

thereof may be stored completely within an enclosed building or within an opaque fence enclosure which is completely screened from view of public streets and neighboring properties.

- E. No commercial vehicle or commercial earthmoving or material handling equipment shall be parked or stored in the R-1.8 zone, except in conjunction with temporary development or construction activities or in conjunction with an approved use which requires such vehicles. Commercial vehicles shall include semitrucks and trailers, trucks and trailers equaling or exceeding eight thousand (8,000) pounds' curb weight, delivery vehicles, dump trucks, backhoes, graders, loaders, farm implements, cement trucks, bulldozers, belly dumps and scrapers, forklifts or any similar vehicle or apparatus.
- F. Watercraft, trailers, campers, motor homes and other utility or recreational vehicles shall be stored within lawfully constructed buildings or behind the front line of the main building on the lot or parcel in an R-1.8 zone, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may not be occupied as living quarters in the R-1.8 zone, except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year. (Ord. 2007-02, 1-16-2007)

#### **17.32.050: DEVELOPMENT REVIEW:**

Uses proposed in R-1.8 zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in R-1.8 zones. All uses shall be conducted according to the approved plan, map or plat and any conditions of approval. Plans, maps or plats may not be altered without prior approval of the city except as allowed under state law. (Ord. 2007-02, 1-16-2007)

#### **17.32.060: LOT AREA:**

The minimum area of any lot or condominium private ownership space (unit in which building dimensions are not recorded) in R-1.8 zones shall be fourteen thousand five hundred twenty (14,520) square feet, except where smaller lots or units are allowed in a PUD or condominium project, in which case the minimum lot or unit size shall be twelve thousand (12,000) square feet. Lots in subdivisions or units in condominium projects thirty two thousand six hundred seventy (32,670) square feet or larger in area shall be clustered and appropriately buffered from smaller lots or units. Every portion of a parcel being subdivided or recorded as a condominium project shall be included as a lot or lots in the proposed subdivision plat or as common, limited common or private ownership area in a condominium project. (Ord. 2011-18, 3-6-2012)

#### **17.32.070: LOT DENSITY:**

The maximum gross density in any residential development in R-1.8 zones shall be 1.8 lots or dwelling units per acre. (Ord. 2007-02, 1-16-2007)

#### **17.32.080: LOT WIDTH AND FRONTAGE:**

Each lot or parcel in the R-1.8 zone shall have a minimum width of ninety feet (90') measured at the minimum front yard setback at a point which corresponds to the midpoint of the front lot line. Each lot or parcel, except in condominium projects and PUDs where private streets are permitted, shall abut

the right of way line of a public street a minimum distance of ninety feet (90'), except that lots with side property lines which diverge at an angle of at least twenty degrees (20°) shall abut the right of way a minimum distance of fifty feet (50'). (Ord. 2007-02, 1-16-2007)

#### **17.32.090: PRIOR CREATED LOTS:**

Lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the establishment of an R-1.8 zone shall not be denied a building permit solely for reason of nonconformance with the requirements of this chapter. (Ord. 2007-02, 1-16-2007)

#### **17.32.100: LOT COVERAGE:**

A maximum of forty percent (40%) of the area of lots or private ownership areas in R-1.8 zones may be covered by buildings. (Ord. 2007-02, 1-16-2007)

#### **17.32.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

The following yard requirements shall apply in R-1.8 zones. Minimum yard areas are measured from the corresponding front, side and rear property lines of lots or from the boundaries of private ownership areas in condominium projects. A land use permit shall be obtained prior to the construction of any accessory building for which a building permit is not required. An application form, lot plan showing streets, existing buildings, dimensions, easements and setbacks of the proposed accessory building and other information as needed shall be submitted for review.

A. Minimum yard requirements for main buildings are as follows:

1. Front yard, interior and corner lots: Thirty feet (30').
2. Front yard, cul-de-sac lot adjacent to turnaround: Twenty five feet (25').
3. Side yard, interior lots: Ten feet (10').
4. Side yard, corner lots: Ten feet (10') on the side adjoining another lot, thirty feet (30') on the side adjoining the street.
5. Rear yard, interior lot: Twenty five feet (25').
6. Rear yard, corner lot: Ten feet (10').

B. Minimum yard requirements for accessory buildings are as follows:

1. Location: Accessory buildings may not be located between a street and the front building line of a main building.
2. Side Yard Accessory Building: An accessory building may be located in a side yard no closer than ten feet (10') from the side property line or boundary and no closer than six feet (6') from the dwelling or main building.
3. Street Side Yard Accessory Building, Corner Lot: An accessory building may be located between a street and the side of the dwelling or main building on a corner lot but not within the required minimum main building side yard and no closer than six feet (6') from the dwelling or main building.

4. **Rear Yard Accessory Building:** An accessory building may be located in a rear yard no closer than six feet (6') from the dwelling or main building and no closer than three feet (3') from the side or rear property line or boundary, except as required in subsection B5 of this section.
5. **Height Consideration:** The minimum setback from property lines or boundaries for accessory buildings or structures exceeding sixteen feet (16') in height shall be increased by one foot (1') for each foot of building height in excess of sixteen feet (16').

C. All buildings shall be separated by a minimum distance of six feet (6').

D. Buildings used for the housing or shelter of animals shall be located a minimum distance of forty feet (40') from any existing dwelling or neighborhood street right of way line and, if approved with a conditional use permit, a minimum of twenty feet (20') from any collector street right of way line. (Ord. 2007-02, 1-16-2007)

#### **17.32.120: PROJECTIONS INTO YARDS:**

The following may be erected on or projected into any required yard space in R-1.8 zones:

A. Fences and walls in conformance with city ordinances.

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

C. Utility or irrigation equipment or facilities.

D. Decks not more than two feet (2') in height.

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

F. Chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building not exceeding eight feet (8') wide and extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard. (Ord. 2007-02, 1-16-2007)

#### **17.32.130: FARM ANIMALS:**

(Rep. by Ord. 2011-18, 3-6-2012)

#### **17.32.140: PARKING AND ACCESS:**

Parking areas and vehicle access in R-1.8 zones shall meet requirements of title 16, chapter 16.26 of this code. (Ord. 2007-02, 1-16-2007)

#### **17.32.150: FENCING, SCREENING AND CLEAR VISION:**

The following fencing, screening and clear vision requirements shall apply in R-1.8 zones. A permit shall be obtained from the community development department prior to construction of any fence in the R-1.8 zone. An application form and the location, height and description of the proposed fence shall be submitted for review.

- A. **Utility Screening:** In nonsingle-family residential developments requiring conditional use approval in R-1.8 zones, all mechanical equipment, antennas (where possible), loading and utility areas and trash receptacles shall be screened from view with architectural features or walls consistent with materials used in the associated buildings.

- B. Incompatible Land Use Screening: Incompatible land uses including waterways, trails, parks, open spaces and other uses or zones shall be screened or buffered with fences, walls and/or landscaping as determined with development approval.
- C. Rear And Side Yard Fencing: A maximum six foot (6') high fence and/or hedge may be installed and maintained between a dwelling and a rear or side lot line.
- D. Front Yard Fencing: A maximum four foot (4') high, nonvisually obscuring decorative wrought iron, simulated wrought iron or vinyl fence may be constructed along a side lot line to the right of way line or sidewalk of a neighborhood street, except as regulated in clear vision areas. A masonry or solid vinyl fence or hedge may also be used along side lot lines to the right of way or sidewalk but may not exceed three feet (3') in height. Brick pillars may not exceed eighteen inches (18") square or be closer than ten feet (10') on center. Posts or pillars may not extend higher than four inches (4") above the four foot (4') fence panel.
- E. Clear Vision: Landscape materials, except for mature trees which are pruned at least seven feet (7') above the ground, and fences shall not exceed three feet (3') in height within a ten foot (10') triangular area formed by the edge of a driveway and the street right of way line or within a thirty foot (30') triangular area formed by the right of way lines of intersecting streets. Lesser clear vision triangular areas may be approved by the city engineer based upon traffic speeds, flow, volumes and other traffic related variables.
- F. Collector Street Fencing: Any single-family residential rear or side yard fence erected or maintained roughly parallel to and within twenty feet (20') of a collector or arterial street right of way in R-1.8 zones shall be constructed according to standards found in section 16.04.200 of this code. (Ord. 2009-12, 3-16-2009)

#### **17.32.160: ARCHITECTURAL STANDARDS:**

The following exterior materials and architectural standards are required in R-1.8 zones:

- A. Each dwelling in R-1.8 zones shall be constructed with brick or stone in the minimum amount of two feet (2') times (x) the perimeter of the foundation (including garage). Dwellings shall be constructed with minimum five to twelve (5:12) roof pitch and a minimum two (2) car garage (minimum 22 feet by 22 feet, or approximate approved equivalent).
- B. All building materials shall be high quality, durable and low maintenance.
- C. Signs shall meet requirements of title 16, chapter 16.36 of this code and shall be constructed of materials which are consistent with the buildings which they identify.
- D. The minimum total floor area, finished and unfinished, of any single-family dwelling (except in PUDs) in R-1.8 zones shall be two thousand four hundred (2,400) square feet.
- E. Main buildings in R-1.8 zones may not exceed thirty five feet (35') in height. Accessory buildings may not exceed twenty five feet (25') in height.
- F. The exteriors of buildings in the R-1.8 zone shall be properly maintained by the owners.
- G. Attached garages on single-family residential corner lots may be located on the interior side of the lot or on the street side of the lot only if the garage is accessed directly from the side street. (Ord. 2007-02, 1-16-2007)

## **17.32.170: LANDSCAPING REQUIREMENTS:**

The following landscaping requirements shall apply in the R-1.8 zone:

- A. The front and street side yards of single-family lots shall be landscaped and properly maintained with lawn or other acceptable plant material unless otherwise approved with a conditional use permit.
- B. All areas of PUD, condominium projects and nonresidential developments not approved for parking, buildings, recreation facilities, access or other hard surfacing or otherwise exempted with development approval, shall be landscaped and properly maintained with grass, deciduous and evergreen trees and other plant material approved in conjunction with a site plan or plat for the development.
- C. In PUD, condominium projects and nonresidential developments, a minimum of one tree per one thousand (1,000) square feet, or part thereof, of landscaped area, excluding landscaped sports or play areas, is required. A minimum of thirty percent (30%) of required trees shall be minimum seven foot (7') evergreens. Deciduous trees shall be minimum two inch (2") caliper. Deciduous and evergreen trees need not be equally spaced, except as required in parking areas and in park strips but shall be distributed throughout the required yard areas on the site.
- D. All collector street and other public and private park strips in R-1.8 zones shall be improved and maintained by the adjoining owners according to specifications adopted by the city unless otherwise allowed with development approval.
- E. In nonresidential developments in R-1.8 zones, the following landscaping requirements shall apply:
  - 1. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of parking rows. Planters shall be at least five feet (5') wide.
  - 2. Minimum five foot (5') landscaped planters shall be provided along street sides of building foundations, except at building entrances.
  - 3. All landscaped areas shall be curbed.
- F. Developments which are contiguous to canals, streams or drainage areas shall make reasonable efforts to include banks and rights of way in the landscaping of the project and the urban trails system. Any areas so included and perpetually preserved may be counted toward required open space for the development. If approved by the city engineer, waterways which traverse developments may be left open if properly landscaped and maintained by the adjacent owners. Waterways may not be altered without approval of any entity or agency having jurisdiction over said waterways.
- G. All required landscaping in yard areas and open spaces shall be installed (or escrowed on a case by case basis) prior to occupancy.
- H. All landscaped areas, including adjoining public right of way areas not maintained by the city, shall be properly irrigated and maintained by the owners.
- I. Required trees may not be topped nor may any required landscape material be removed in R-1.8 zones without city approval. Any dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan or plat approval. (Ord. 2007-02, 1-16-2007)



### **17.32.180: LIGHTING:**

The following lighting requirements shall apply in R-1.8 zones:

- A. A lighting plan shall be submitted with all new developments in R-1.8 zones. Where required by the city, lighting shall be shielded to prevent glare on adjacent agricultural and residential properties.
- B. Lighting fixtures on private property shall be architectural grade and consistent with the architectural theme of the development.
- C. Lighting fixtures on public property shall be architectural grade. A single streetlight type, approved by the city council and city engineer, will be used on the same street. (Ord. 2007-02, 1-16-2007)

### **17.32.190: PLANNED UNIT DEVELOPMENT OR CONDOMINIUM PROJECT:**

As used in this chapter, "planned unit development (PUD) or condominium project" shall mean a single-family residential development in the R-1.8 zone which meets the requirements of this section as well as other pertinent provisions of this title. (Ord. 2007-02, 1-16-2007)

- A. A PUD may be allowed only with a conditional use permit in the R-1.8 zone. Uses allowed in a PUD shall be the same as those allowed in the R-1.8 zone. (Ord. 2011-18, 3-6-2012)
- B. Each PUD or condominium shall contain a minimum of ten (10) acres.
- C. Any open space provided within a PUD or condominium project shall be labeled and recorded as common area to be jointly owned and maintained as permanent common farmland, landscaped open space, recreation and/or pasture by the owners. Private yard areas may not be counted as open space. The city may determine the location of open space in the PUD or condominium project in consideration of topography, drainage or other land features. The city may also determine the acceptability of proposed recreational amenities. The city may require a cash bond or a letter of credit to guarantee installation of the open space improvements.
- D. The following standards shall apply in PUDs and condominium projects:
  - 1. A consistent architectural theme for all buildings, landscaping, streetscape, signs, street furniture, lighting, fencing and other design components shall be provided for review and applied throughout the PUD or condominium project.
  - 2. Each dwelling shall contain a total of at least three thousand six hundred (3,600) square feet of floor area and a minimum two (2) car garage (minimum 22 feet by 22 feet, or approximate approved equivalent).
  - 3. All buildings shall be constructed with minimum six to twelve (6:12) roof pitches.
  - 4. All dwellings shall be constructed of brick or stone in the minimum amount of three feet (3') times (x) the perimeter of the foundation (including garage).
  - 5. Public and private street construction improvements in PUDs and condominium projects shall be constructed according to public street construction widths, cross section, and construction standards. Street widths, curbs, and pavement/subbase shall be designed and built as required in subsection 16.04.180A of this code.
  - 6. For private streets, setbacks shall be measured from the back of the curb.

7. Two (2) parking spaces minimum, per unit shall be provided for all dwelling units within the PUD or condominium project. At least one space per unit shall be covered. One space per every four (4) dwelling units shall be provided for guest parking. Parking spaces shall be scattered throughout the project, so as to minimize the walking distance to the dwelling units. This requirement may be waived by the planning commission if the applicant can show that the design of the project makes this requirement unnecessary.
- E. The minimum yard, width and frontage requirements of lots and units in the R-1.8 zones may be altered in a PUD or condominium project. (Ord. 2007-02, 1-16-2007)

#### **17.32.200: OTHER REQUIREMENTS:**

The following requirements shall apply in R-1.8 zones:

- A. Developers of condominium or PUD projects shall submit a proposed declaration of covenants to the city attorney for review, including an opinion of legal counsel licensed to practice law in the state that the condominium project or PUD meets requirements of state law, and record the covenants with the condominium or PUD plat for the project.
- B. All improvements in PUDs and other developments, including buildings, open space, recreational facilities, roads, fences, utilities, landscaping, walkways, streetlights and signs not specifically dedicated to the city or accepted for ownership or maintenance by the city shall be perpetually owned by the homeowners and maintained by the owners or their agents through a special taxing district or owners' association with power to assess and collect fees for maintenance or other assessment and maintenance mechanisms acceptable to the city.
- C. All developments shall be graded according to the city engineering and building requirements to provide adequate drainage. Buildings shall be equipped with facilities for the discharge of all roof drainage onto the subject lot or parcel.
- D. All private areas of lots or parcels shall be properly maintained by the owners.
- E. A project phasing plan shall be submitted for at the time of plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the city. (Ord. 2007-02, 1-16-2007)

## **EXHIBIT D**

### **R-2.5 AND VMU ZONES CITY CODE PROVISIONS**

#### **R-2.5 City Code Provisions:**

### **Chapter 17.36 RESIDENTIAL R-2.5 ZONE**

#### **17.36.010: PURPOSE:**

#### **17.36.020: PERMITTED USES:**

#### **17.36.030: CONDITIONAL USES:**

#### **17.36.040: USE REGULATIONS:**

#### **17.36.050: DEVELOPMENT REVIEW:**

#### **17.36.060: LOT AREA:**

#### **17.36.070: LOT DENSITY:**

#### **17.36.080: LOT WIDTH AND FRONTAGE:**

#### **17.36.090: PRIOR CREATED LOTS:**

#### **17.36.100: LOT COVERAGE:**

#### **17.36.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

#### **17.36.120: PROJECTIONS INTO YARDS:**

#### **17.36.130: PARKING AND ACCESS:**

#### **17.36.140: FENCING, SCREENING AND CLEAR VISION:**

#### **17.36.150: ARCHITECTURAL STANDARDS:**

#### **17.36.160: LANDSCAPING REQUIREMENTS:**

#### **17.36.170: LIGHTING:**

#### **17.36.180: PLANNED UNIT DEVELOPMENT OR CONDOMINIUM PROJECT:**

#### **17.36.190: OTHER REQUIREMENTS:**

#### **17.36.010: PURPOSE:**

The residential R-2.5 zone (single-family residential, 2.5 lots per acre), may be cited as the "R-2.5 zone" and is established to provide areas for low density single-family housing without farm animal uses. This zone is intended to represent the standard for residential development in the city. (Ord. 2007-02, 1-16-2007)

#### **17.36.020: PERMITTED USES:**

The following uses may be conducted in the R-2.5 zone as limited herein:

Home occupations according to city ordinances.

Residential accessory buildings, the footprints of which do not exceed sixty percent (60%) of the footprint area of the dwelling.

Residential accessory uses.

Single-family dwelling, detached, maximum one per lot or parcel. (Ord. 2011-01, 2-1-2011)

**17.36.030: CONDITIONAL USES:**

A conditional use permit may be issued for the following uses in the R-2.5 zone:

Daycare center facility on minimum one acre lot.

Educational facilities that have direct access to a collector street.

Golf courses.

Parks and recreational activities.

Preschool center facility on minimum one acre lot.

Public facilities.

Religious activities.

Single-family dwelling planned unit development (PUD) or condominium project. (Ord. 2012-12, 10-2-2012)

**17.36.040: USE REGULATIONS:**

Uses may be conducted in the R-2.5 zone only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in the R-2.5 zone. A conditional use permit must be obtained prior to the establishment of a conditional use.
- B. Accessory uses may be conducted in the R-2.5 zone only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, caretakers, nurses, nannies, maids, garages, sheds, swimming pools, recreational equipment, gardens, greenhouses and other structures and activities which are incidental and subordinate to the principal permitted or conditional use on the premises.
- C. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles in the R-2.5 zone.
- D. It shall be unlawful to park, store or leave, or to permit the parking, storing or leaving of any vehicle of any kind, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, whether attended or not, upon any private or public property within the R-2.5 zone for longer than seventy two (72) hours, except that up to two (2) such vehicles or parts thereof may be stored completely within an enclosed building or within an opaque fence enclosure which is completely screened from view of public streets and neighboring properties.
- E. No commercial vehicle or commercial earthmoving or material handling equipment shall be parked or stored on any lot or parcel in the R-2.5 zone except in conjunction with temporary development or construction activities on the lot. Commercial vehicles shall include semitrucks and trailers, trucks and trailers equaling or exceeding eight thousand (8,000) pounds' curb

weight, delivery vehicles, dump trucks, backhoes, graders, loaders, farm implements, cement trucks, bulldozers, belly dumps and scrapers, forklifts or any similar vehicle or apparatus.

- F. Watercraft, trailers, campers, motor homes and other utility or recreational vehicles shall be stored within lawfully constructed buildings or behind the front line of the main building on the lot or parcel in an R-2.5 zone, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may not be occupied as living quarters in the R-2.5 zone except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year. (Ord. 2007-02, 1-16-2007)

#### **17.36.050: DEVELOPMENT REVIEW:**

Uses proposed in R-2.5 zones may only be established in conformance with development review procedures of the city. Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in R-2.5 zones. All uses shall be conducted according to the approved plan, map or plat and any conditions of approval. Plans, maps or plats may not be altered without prior approval of the city except as allowed under state law. (Ord. 2007-02, 1-16-2007)

#### **17.36.060: LOT AREA:**

The minimum area of any lot or condominium private ownership space (unit in which building dimensions are not recorded) in R-2.5 zones shall be fourteen thousand five hundred twenty (14,520) square feet, except where smaller lots or units are allowed in a PUD or condominium project, in which case the minimum lot or unit size shall be ten thousand (10,000) square feet. Every portion of a parcel being subdivided or recorded as a condominium project shall be included as a lot or lots in the proposed subdivision plat or as common, limited common or private ownership area in a condominium project. (Ord. 2007-02, 1-16-2007)

#### **17.36.070: LOT DENSITY:**

The maximum gross density in any residential development in R-2.5 zones shall be 2.5 lots or dwelling units per acre. (Ord. 2007-02, 1-16-2007)

#### **17.36.080: LOT WIDTH AND FRONTAGE:**

Each lot or parcel in the R-2.5 zone shall have a minimum width of ninety feet (90') measured at the minimum front yard setback at a point which corresponds to the midpoint of the front lot line. Each lot or parcel, except in condominium projects and PUDs, shall abut the right of way line of a public street a minimum distance of ninety feet (90'), except that lots with side property lines which diverge at an angle of at least twenty degrees (20°) shall abut the right of way a minimum distance of fifty feet (50'). (Ord. 2007-02, 1-16-2007)

#### **17.36.090: PRIOR CREATED LOTS:**

Lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the establishment of an R-2.5 zone shall not be denied a building permit solely for reason of nonconformance with the requirements of this chapter. (Ord. 2007-02, 1-16-2007)

### **17.36.100: LOT COVERAGE:**

A maximum of forty percent (40%) of the area of lots or private ownership areas in R-2.5 zones may be covered by buildings. (Ord. 2007-02, 1-16-2007)

### **17.36.110: YARD REQUIREMENTS; MAIN AND ACCESSORY BUILDINGS:**

The following yard requirements shall apply in R-2.5 zones. Minimum yard areas are measured from the corresponding front, side and rear property lines of lots or from the boundaries of private ownership areas in condominium projects. A land use permit shall be obtained prior to the construction of any accessory building for which a building permit is not required. An application form, lot plan showing streets, existing buildings, dimensions, easements and setbacks of the proposed accessory building, and other information as needed shall be submitted for review.

A. Minimum yard requirements for main buildings are as follows:

1. Front yard, interior and corner lots: Thirty feet (30').
2. Front yard, cul-de-sac lot adjacent to turnaround: Twenty five feet (25').
3. Side yard, interior lots: Ten feet (10').
4. Side yard, corner lots: Ten feet (10') on the side adjoining another lot; thirty feet (30') on the side adjoining the street.
5. Rear yard, interior lot: Twenty five feet (25').
6. Rear yard, corner lot: Ten feet (10').

B. Minimum yard requirements for accessory buildings are as follows:

1. Location: Accessory buildings may not be located between a street and the front building line of a main building.
2. Side Yard: An accessory building may be located in a side yard no closer than ten feet (10') from the side property line or boundary and no closer than six feet (6') from the dwelling or main building.
3. Street Side Yard, Corner Lot: An accessory building may be located between a street and the side of the dwelling or main building on a corner lot but not within the required minimum main building side yard and no closer than six feet (6') from the dwelling or main building.
4. Rear Yard: An accessory building may be located in a rear yard no closer than six feet (6') from the dwelling or main building and no closer than three feet (3') from the side or rear property line or boundary, except as required in subsection B5 of this section.
5. Minimum Setback: The minimum setback from property lines or boundaries for accessory buildings or structures exceeding sixteen feet (16') in height shall be increased by one foot (1') for each foot of building height in excess of sixteen feet (16').

C. All buildings shall be separated by a minimum distance of six feet (6'). (Ord. 2007-02, 1-16-2007)

### **17.36.120: PROJECTIONS INTO YARDS:**

The following may be erected on or projected into any required yard space in R-2.5 zones:

- A. Fences and walls in conformance with city ordinances.
- B. Agricultural crops and landscape elements, including trees, shrubs and other plants.
- C. Utility or irrigation equipment or facilities.
- D. Decks not more than two feet (2') in height.
- E. Cornices, eaves, sills, planter boxes, stairways, landings, porches, decks or similar architectural features attached to the building extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard.
- F. Chimneys, fireplace keys, box or bay windows or cantilevered walls attached to the building not exceeding eight feet (8') wide and extending not more than two feet (2') into a side yard or four feet (4') into a front or rear yard. (Ord. 2007-02, 1-16-2007)

### **17.36.130: PARKING AND ACCESS:**

Parking areas and vehicle access in R-2.5 zones shall meet requirements of title 16, chapter 16.26 of this code. (Ord. 2007-02, 1-16-2007)

### **17.36.140: FENCING, SCREENING AND CLEAR VISION:**

The following fencing, screening and clear vision requirements shall apply in R-2.5 zones. A permit shall be obtained from the community development department prior to construction of any fence in the R-2.5 zone. An application form and the location, height and description of the proposed fence shall be submitted for review.

- A. Utility Screening: In nonsingle-family residential developments requiring conditional use approval in R-2.5 zones, all mechanical equipment, antennas (where possible), loading and utility areas and trash receptacles shall be screened from view with architectural features or walls consistent with materials used in the associated buildings.
- B. Incompatible Land Use Screening: Incompatible land uses, including waterways, trails, parks, open spaces and other uses or zones shall be screened or buffered with fences, walls and/or landscaping as determined with development approval.
- C. Rear And Side Yard Fencing: A maximum six foot (6') high fence and/or hedge may be installed and maintained between a dwelling and a rear or side lot line.
- D. Front Yard Fencing: A maximum four foot (4') high, nonvisually obscuring decorative wrought iron, simulated wrought iron or vinyl fence may be constructed along a side lot line to the right of way line or sidewalk of a neighborhood street, except as regulated in clear vision areas. A masonry or solid vinyl fence or hedge may also be used along side lot lines to the right of way or sidewalk but may not exceed three feet (3') in height. Brick pillars may not exceed eighteen inches (18") square or be closer than ten feet (10') on center. Posts or pillars may not extend higher than four inches (4") above the four foot (4') fence panel.

- E. Clear Vision: Landscape materials, except for mature trees which are pruned at least seven feet (7') above the ground, and fences shall not exceed three feet (3') in height within a ten foot (10') triangular area formed by the edge of a driveway and the street right of way line or within a thirty foot (30') triangular area formed by the right of way lines of intersecting streets. Lesser clear vision triangular areas may be approved by the city engineer based upon traffic speeds, flow, volumes and other traffic related variables.
- F. Collector Street Fencing: Any single-family residential rear or side yard fence erected or maintained roughly parallel to and within twenty feet (20') of a collector or arterial street right of way in R-2.5 zones shall be constructed according to standards found in section 16.04.200 of this code. (Ord. 2009-12, 3-16-2009)

### **17.36.150: ARCHITECTURAL STANDARDS:**

The following exterior materials and architectural standards are required in R-2.5 zones:

- A. Each dwelling in R-2.5 zones shall be constructed with brick or stone in the minimum amount of two feet (2') times (x) the perimeter of the foundation (including garage). Dwellings shall be constructed with minimum five to twelve (5:12) roof pitch and a minimum two (2) car garage (minimum 22 feet by 22 feet, or approximate approved equivalent).
- B. All building materials shall be high quality, durable and low maintenance.
- C. Signs shall meet requirements of title 16, chapter 16.36 of this code and shall be constructed of materials which are consistent with the buildings which they identify.
- D. The minimum total floor area, finished and unfinished, of any single-family dwelling in R-2.5 zones shall be two thousand four hundred (2,400) square feet.
- E. Main buildings in R-2.5 zones may not exceed thirty five feet (35') in height. Accessory buildings may not exceed twenty five feet (25') in height.
- F. The exteriors of buildings in the R-2.5 zone shall be properly maintained by the owners.
- G. Attached garages on single-family residential corner lots may be located on the interior side of the lot or on the street side of the lot only if the garage is accessed directly from the side street. (Ord. 2007-02, 1-16-2007)

### **17.36.160: LANDSCAPING REQUIREMENTS:**

The following landscaping requirements shall apply in the R-2.5 zones:

- A. The front and street side yards of single-family lots shall be landscaped and properly maintained with lawn or other acceptable plant material unless otherwise approved with a conditional use permit.
- B. All areas of PUD, condominium project and nonresidential developments not approved for parking, buildings, recreation facilities, access or other hard surfacing or otherwise exempted with development approval, shall be landscaped and properly maintained with grass, deciduous and evergreen trees and other plant material approved in conjunction with a site plan or plat for the development.
- C. In PUD, condominium project and nonresidential developments, a minimum of one tree per one thousand (1,000) square feet, or part thereof, of landscaped area, excluding landscaped sports or play areas, is required. A minimum of thirty percent (30%) of required trees shall be minimum



seven foot (7') evergreens. Deciduous trees shall be minimum two inch (2") caliper. Deciduous and evergreen trees need not be equally spaced, except as required in parking areas and in park strips but shall be distributed throughout the required yard areas on the site.

D. All collector street and other public and private park strips in R-2.5 zones shall be improved and maintained by the adjoining owners according to specifications adopted by the city unless otherwise allowed with development approval.

E. In nonresidential developments in R-2.5 zones, the following landscaping requirements shall apply:

1. Curbed planters with two inch (2") or larger caliper shade trees and grass, shrubs or ground cover shall be installed at the ends of parking rows. Planters shall be at least five feet (5') wide.
2. Minimum five foot (5') wide landscaped planters shall be provided along street sides of building foundations, except at building entrances.
3. All landscaped areas shall be curbed.

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

G. All required landscaping in yard areas and open spaces shall be installed (or escrowed on a case by case basis) prior to occupancy.

H. All landscaped areas, including adjoining public right of way areas not maintained by the city, shall be properly irrigated and maintained by the owners.

I. Required trees may not be topped nor may any required landscape material be removed in R-2.5 zones without city approval. Any dead plant material shall be replaced in accordance with the requirements of this chapter and the conditions of site plan or plat approval. (Ord. 2007-02, 1-16-2007)

### **17.36.170: LIGHTING:**

The following lighting requirements shall apply in R-2.5 zones:

A. A lighting plan shall be submitted with all new developments in R-2.5 zones. Where required by the city, lighting shall be shielded to prevent glare on adjacent agricultural and residential properties.

B. Lighting fixtures on private property shall be architectural grade and consistent with the architectural theme of the development.

C. Lighting fixtures on public property shall be architectural grade. A single streetlight type, approved by the city council and city engineer, will be used on the same street. (Ord. 2007-02, 1-16-2007)

### **17.36.180: PLANNED UNIT DEVELOPMENT OR CONDOMINIUM PROJECT:**

As used in this chapter, "planned unit development (PUD) or condominium project" shall mean a single-family residential development in the R-2.5 zone which meets the requirements of this section as well as other pertinent provisions of this title.

- A. A PUD or condominium project may be allowed only with a conditional use permit in the R-2.5 zone. Uses allowed in a PUD or condominium project shall be the same as those allowed in the R-2.5 zone.
- B. Each PUD or condominium project shall contain a minimum of five (5) acres.
- C. Any open space provided within a PUD or condominium project shall be labeled and recorded as common area to be jointly owned and maintained as permanent common farmland, landscaped open space and/or recreation by the owners. Private yard areas may not be counted as open space. The city may determine the location of open space in the PUD or condominium project in consideration of topography, drainage or other land features. The city may also determine the acceptability of proposed recreational amenities. The city may require a cash bond or a letter of credit to guarantee installation of the open space improvements.
- D. The following standards shall apply in PUDs and condominium projects:
  - 1. A consistent architectural theme for all buildings, landscaping, streetscape, signs, street furniture, lighting, fencing and other design components shall be provided for review and applied throughout the PUD or condominium project.
  - 2. Each dwelling shall contain a total of at least three thousand six hundred (3,600) square feet of floor area and a minimum two (2) car garage (minimum 22 feet by 22 feet, or approximate approved equivalent).
  - 3. All buildings shall be constructed with minimum six to twelve (6:12) roof pitches.
  - 4. All dwellings shall be constructed of brick or stone in the minimum amount of three feet (3') times (x) the perimeter of the foundation (including garage).
  - 5. Public and private street construction improvements in PUDs and condominium projects shall be constructed according to public street construction widths, cross section, and construction standards. Street widths, curbs, and pavement/subbase shall be designed and built as required in subsection 16.04.180A of this code.
  - 6. For private streets, setbacks shall be measured from the back of the curb.
  - 7. Two (2) parking spaces minimum, per unit shall be provided for all dwelling units within the PUD or condominium project. At least one space per unit shall be covered. One space per every four (4) dwelling units shall be provided for guest parking. Parking spaces shall be scattered throughout the project, so as to minimize the walking distance to the dwelling units. This requirement may be waived by the planning commission if the applicant can show that the design of the project makes this requirement unnecessary.
- E. The minimum yard, width and frontage requirements of lots and units in the R-2.5 zones may be altered in a PUD or condominium project.
- F. Before final plat approval, all PUD or condominium projects shall have approved by the staff of the city of South Jordan and recorded with the Salt Lake County recorder's office, a declaration of restrictive covenants containing, at a minimum, provisions for a homeowners' association, maintenance of all buildings, streets, sidewalks, other improvements and common areas,

adherence to city conditions and standards applicable to the development at the time of approval, snow removal, and other items recommended by city staff and approved by the planning commission. Said restrictive covenants shall also comply with section 17.04.300 of this title. (Ord. 2007-02, 1-16-2007)

#### **17.36.190: OTHER REQUIREMENTS:**

The following requirements shall apply in R-2.5 zones:

- A. Developers of condominium or PUD projects shall submit a proposed declaration of covenants to the city attorney for review, including an opinion of legal counsel licensed to practice law in the state that the condominium or PUD meets requirements of state law, and record the covenants with the condominium or PUD plat for the project.
- B. All improvements in PUDs and other developments, including buildings, open space, recreational facilities, roads, fences, utilities, landscaping, walkways, streetlights and signs not specifically dedicated to the city or accepted for ownership or maintenance by the city shall be perpetually owned by the homeowners and maintained by the owners or their agents through a special taxing district or owners' association with power to assess and collect fees for maintenance or other assessment and maintenance mechanisms acceptable to the city.
- C. All development shall be graded according to the city engineering and building requirements to provide adequate drainage. Buildings shall be equipped with facilities for the discharge of all roof drainage onto the subject lot or parcel.
- D. All private areas of lots or parcels shall be properly maintained by the owners.
- E. A project phasing plan shall be submitted for review at the time of plat or site plan approval. Development shall be in accordance with the phasing plan unless a revised phasing plan is approved by the city. (Ord. 2007-02, 1-16-2007)

VMU City Code Provisions:

**Chapter 17.74  
MIXED USE (MU) ZONE**

**17.74.010: OBJECTIVES AND CHARACTERISTICS OF ZONE:**

**17.74.020: PERMITTED USES AND CONDITIONAL USES:**

**17.74.030: USE REGULATIONS:**

**17.74.040: ZONE ESTABLISHMENT:**

**17.74.050: DEVELOPMENT REVIEW:**

**17.74.060: SPECIAL PROVISIONS:**

**17.74.070: AREA REQUIREMENTS:**

**17.74.080: DEVELOPMENT STANDARDS APPLICABLE TO MIXED USE (MU)**

**ZONES/SUBDISTRICTS:**

**17.74.090: RESIDENTIAL DESIGN REQUIREMENTS:**

**17.74.100: REQUIREMENTS UNIQUE TO THE MIXED USE TRANSIT ORIENTED  
DEVELOPMENT (MU-TOD) SUBDISTRICT:**

**17.74.110: REQUIREMENTS UNIQUE TO THE MIXED USE TOWN CENTER (MU-TC)  
SUBDISTRICT:**

**17.74.120: REQUIREMENTS UNIQUE TO THE VILLAGE MIXED USE (VMU)  
SUBDISTRICT:**

**17.74.010: OBJECTIVES AND CHARACTERISTICS OF ZONE:**

The mixed use (MU) zone is established to provide a zone to be used in specific locations near city transportation nodes and corridors with the intent of allowing a mix of specific land uses that are typically found separately in "mutually exclusive" zoning districts. Mixed use represents a departure from characteristic zoning to the extent that it encourages a combination of land uses which may be compatible, but have traditionally been separated.

The intent of this zone is to create self-sustaining developments that become walkable neighborhoods, in which residents may walk to work, to shopping, to recreational facilities, and have access to mass transit. These neighborhoods are to provide a variety of housing opportunities and choices that include a range of household types, family sizes, and incomes. They shall provide convenient pedestrian access to commercial services and employment opportunities.

Design standards include requirements that help produce a true "neighborhood" by stipulating various mix of uses, "build-to" lines, compact building design, preservation of open space, pedestrian friendly streets, streetscape, parking concealment, architectural control, and maintenance. Proposed developments with increased land intensity and housing density but without the above "walkable" elements are unacceptable and will not be approved. (Ord. 2011-11, 4-19-2011)

**17.74.020: PERMITTED USES AND CONDITIONAL USES:**

Permitted and conditional uses in the MU zone shall be approved based on the uses listed under each respective mixed use subdistrict. (Ord. 2011-11, 4-19-2011)

**17.74.030: USE REGULATIONS:**

Uses may be conducted in the MU zone only in accordance with the following regulations:

- A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in the MU zone. A conditional use permit must be obtained prior to the establishment of a conditional use.
- B. Accessory buildings uses may be constructed in the MU zone only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, garages, sheds, swimming pools, recreational equipment, gardens, greenhouses and other structures and activities which are incidental and subordinate to the principal permitted or conditional use on the premises.
- C. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles in the MU zone.
- D. It shall be unlawful to park, store or leave, or to permit the parking, storing or leaving of any vehicle of any kind, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, whether attended or not, upon any private or public property within the MU zone for longer than seventy two (72) hours, except that up to two (2) such vehicles or parts thereof may be stored completely within an enclosed building or within an opaque fence enclosure which is completely screened from view of public streets and neighboring properties.
- E. No commercial vehicle or commercial earthmoving or material handling equipment shall be parked or stored on any lot or parcel designated for residential or office uses within the MU zone, except in conjunction with temporary development or construction activities on the lot. Commercial vehicles shall include semitrucks and trailers, trucks and trailers equaling or exceeding eight thousand (8,000) pounds' curb weight, delivery vehicles, dump trucks, backhoes, graders, loaders, farm implements, cement trucks, bulldozers, belly dumps and scrapers, forklifts or any similar vehicle or apparatus.
- F. No commercial vehicles such as earthmoving or material handling equipment, semitrucks or trailers or any commercial truck, trailer or vehicle may be parked or stored on any lot or parcel designated for commercial uses within the MU zone for longer than twenty four (24) hours unless in conjunction with approved construction activities or unless it is in conjunction with an approved use or development and parked or stored in an approved loading dock that is screened from street view.
- G. Watercraft, trailers, campers, motor homes and other utility or recreational vehicles shall be stored within lawfully constructed buildings or behind the front line of the main building on the lot or parcel in an MU zone except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may not be occupied as living quarters in the MU zone, except that a vehicle owned by a guest of the resident may be stored and occupied in the driveway located in the required front yard or street side yard of the permanent dwelling for no more than seven (7) days per calendar year. (Ord. 2011-11, 4-19-2011)

#### **17.74.040: ZONE ESTABLISHMENT:**

- A. Each proposed MU zone, or subdistrict thereof, may be established by following standard rezoning procedures of chapter 17.22 of this title and shall be accompanied by a master development plan (MDP) prepared by the applicant, in consultation with city staff and area

property owners, which specifies land use areas and residential types. Retail, office, residential, vertical mixed use (containing different upper floor uses), open space and public/quasi-public land use areas will be shown on the MDP. The MDP must show all stages of the development (including any phasing plans), street connections, and both existing and reasonable projected development on adjoining properties, determined as needed. Phased developments and approved individual plats and site plans shall conform to the master development plan.

- B. The intent of the above is to achieve a consistent overall mixed use neighborhood with uniform and compatible site standards when the project area is completely built out. Remnant parcels left from old developments, rebuilds on existing parcels, or pads within existing center developments, are required to make reasonable compliance with mixed use development standards through consultation with the community development director.
- C. The MDP shall be adopted as an exhibit to the ordinance establishing the MU zone subdistrict, in which it is proposed. The MDP, or portions thereof, may be amended only after review by the planning commission and upon approval of the city council with public input after the establishment of the MU zone, as may be needed. A development agreement between the city and the applicant may be required by the city council and executed before the zoning designation shall be effective. (Ord. 2011-11, 4-19-2011)

#### **17.74.050: DEVELOPMENT REVIEW:**

All development and uses in MU zones may only be established in conformance with development review procedures of the city as set forth in title 16, chapter 16.24 of this code and in conformance with the approved master development plan (MDP), or as the plan may be amended and approved.

Applicants shall follow the procedures and requirements of this code regarding development review in the preparation and review of development proposals in MU zones. All uses shall be conducted according to the approved plan or plat and any conditions of approval. Applicants are encouraged to consult with city staff and/or the development review committee (DRC) prior to submitting a site plan application. The following procedure shall be used for site plan review of projects in the MU zone:

- A. The developer shall prepare and submit a site plan and submit a design book containing typical renderings, cross sections, and plan views of the following:
  - 1. Existing and proposed public street curb, gutter, sidewalk, park strip, landscaping, streetlights and pavement.
  - 2. Yard areas between buildings and public streets, including trees, grass, shrubs, ground cover, signs and screen walls.
  - 3. Parking areas, walkways, driveways, landscaped areas and storm detention/retention areas.
  - 4. Architectural features, including materials and colors, of buildings, freestanding and wall mounted signs and light fixtures, trash enclosures, utility and loading area screen walls, pedestrian furniture and artwork.
  - 5. Other improvements as required by city staff.
- B. The city staff shall review the site plan and design book for compliance with the master development plan and shall provide comments to the developer for needed revisions to the documents. Upon final review and approval of city staff, the site plan and design book for the development will be scheduled on the planning commission agenda for a public hearing.

- C. Upon approval of the site plan and design book by the planning commission, the subdivision or condominium plats for all or portions of the MU zone may be prepared and submitted in accordance with title 16, chapter 16.10 of this code and other applicable sections of title 16, "Development Code", of this code.
- D. Building permits shall only be approved upon prior approval of the site plan, design book, and, if necessary, the subdivision or condominium plat (including improvements). (Ord. 2011-11, 4-19-2011)

#### **17.74.060: SPECIAL PROVISIONS:**

When reviewing a proposed development in the MU zone, the planning commission shall consider the following special provisions in order to protect the intended characteristics of the zone:

- A. Location: Mixed use developments shall be located at transportation nodes and along transportation corridors and other locations where "walkable" components (i.e., housing choices, convenience commercial, employment, community facilities, transportation linkages, park or other open space, schools, churches) are already present, planned, or where the size and scale of development is such that said components can be provided within the project itself. As a guiding principle, mixed use components should be within a five (5) minute (or  $\frac{1}{4}$  mile) walking distance, approximately one-fourth ( $\frac{1}{4}$ ) mile, of the above.
- B. Traffic: The developer shall demonstrate that all potential traffic concerns regarding existing intersections, substandard streets, inadequate improvements, and access are mitigated.
- C. Surrounding Properties: The developer shall demonstrate to the satisfaction of the planning commission, that sufficient measures have been incorporated into the development plan to assure that adjacent properties will not experience significant impacts as a result of the proposed development.
- D. Use Composition: Each MU zone shall contain a combination of more than one use. The actual blend of "vertical" and/or "horizontal" mixed use development shall be determined depending upon the size, scale, and location of the development. Where size and scale permit, housing units shall include more than one land use type (i.e., single-family homes, twin homes, townhomes, condominiums, apartments, row houses), housing size, and number of bedrooms, encouraging neighborhoods with a mix of family cycles and incomes.
- E. Pedestrian Realm: In order to achieve an overall "walkable" development, appropriate land uses, pedestrian connections, cross easements, common driveways, consistent site standards, etc., must be coordinated within the respective MU zone subdistrict, even though properties may be individually owned. In order to promote pedestrian activity and to improve air quality, drive-through windows are discouraged in conjunction with uses such as fast food restaurants, dry cleaners, banks, etc. (Ord. 2011-11, 4-19-2011)

#### **17.74.070: AREA REQUIREMENTS:**

The following area requirements shall apply in any MU zone:

- A. Minimum Zone Area: The minimum area of an MU zone/MDP shall be four (4) acres.
- B. Minimum Project Area: Any development in any MU zone for which a preliminary plat or site plan has been proposed or approved. The minimum area of any project within an MU zoned area

shall be two (2) acres. Approved projects may be built in phases based upon an overall approved phasing plan.

- C. Minimum Lot Area: There shall be no minimum lot area in any MU zone, except as established with development approval. Parcels shall be of sufficient size to assure compliance with building setbacks, landscaping, access, parking, and walkability standards. (Ord. 2011-11, 4-19-2011)

#### **17.74.080: DEVELOPMENT STANDARDS APPLICABLE TO MIXED USE (MU) ZONES/SUBDISTRICTS:**

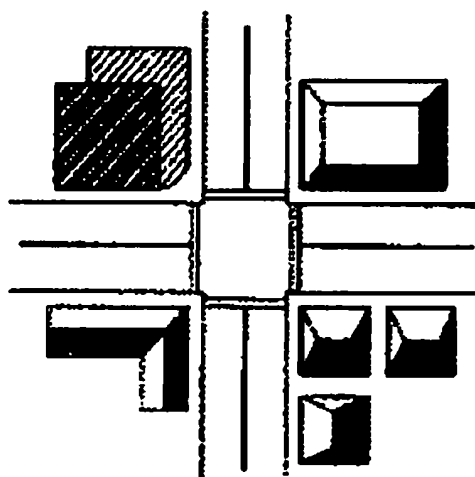
The following standards are to be considered as applying specifically to development in mixed use (MU) subdistricts in addition to general standards provided elsewhere in this code:

##### **A. Building Placement And Massing:**

1. Setbacks: Building facades for nonresidential development shall comprise at least seventy percent (70%) of each street edge identified as "build-to lines". To meet this requirement, building facades adjacent to streets must be zero feet (0') to five feet (5') from the street side (typically inside edge of sidewalk) property lines where build-to lines are drawn. Awnings and architectural features may project beyond build-to lines, as approved by the planning commission. Street side setback variations may be used when an activity related to pedestrian use is maintained, i.e., special landscaping, outside restaurant seating. Recessed plazas, courtyards, and trellises are encouraged.

Zero lot line side setbacks with attached structures, in compliance with the international building code (IBC) may be required except for necessary driveway access, pedestrian access, open space, and landscape areas. Unless otherwise approved by the planning commission, rear yards and the rear of buildings shall not directly abut streets.

2. Building Orientation And Access: The entrances of all retail, civic, residential, and office buildings shall front onto streets (or approved private driveways designed as streets), with the exception of center block residences (which still must front green courts and pedestrianways) and anchor stores greater than forty thousand (40,000) square feet in size, which may be considered for "side fronting" design.





Secondary entries are encouraged and may be required at the rear of street facing buildings. Where possible, "like land uses" shall face "like land uses" or open space, i.e., retail across the street from retail, townhomes from townhomes, etc. Loading docks and service areas must be screened from streets and adjacent properties through architectural design and landscaping. Anchor store entrances must be connected to adjacent streets via landscaped, publicly accessible walkways. Access from parking areas may be via midblock passageways or "paseos" connected to the street.

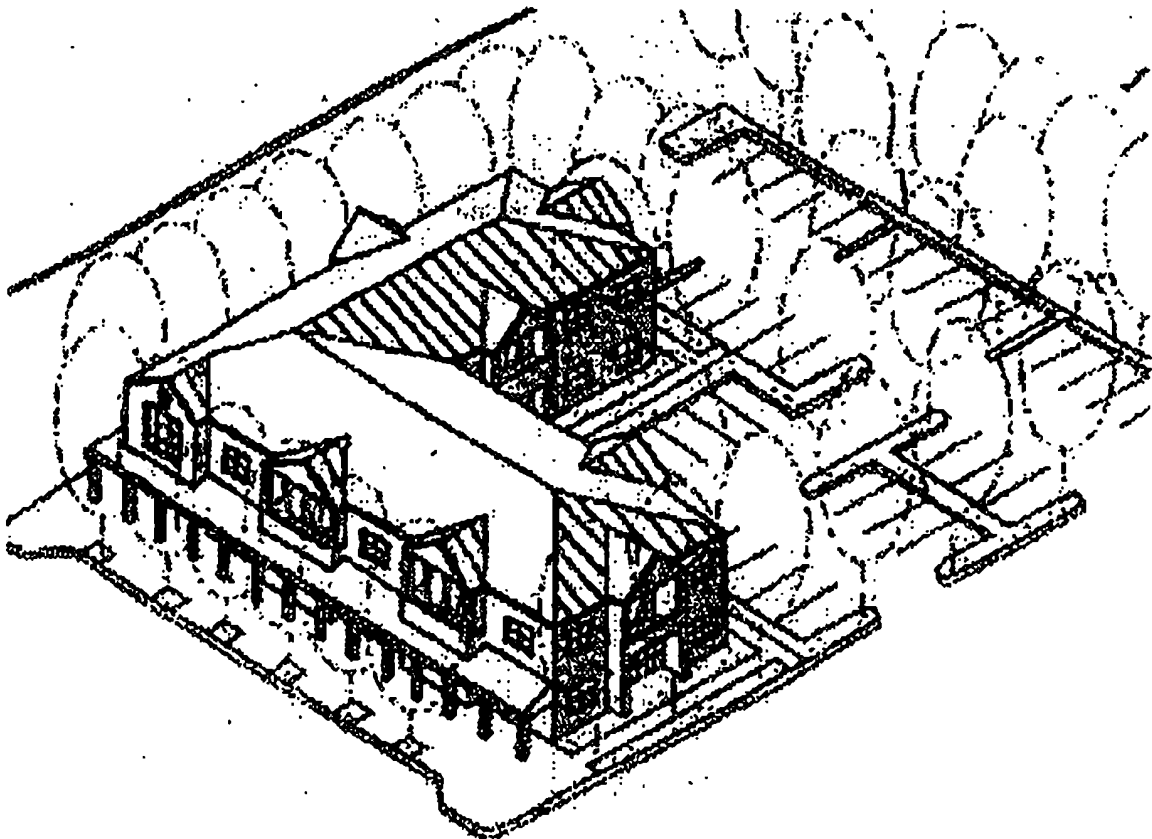
3. **Building Height:** Buildings shall have a minimum and maximum number of stories as indicated by building type and mixed use subdistrict (see sections 17.74.100, 17.74.110, and 17.74.120 of this chapter), with height to be measured in accordance with the city's adopted ordinances and standards. Buildings of greater height than allowed may be approved by the planning commission on a limited basis, based upon the size, scale, topography, and uniqueness of the development, i.e., rooftop gardens. Approved structures with additional height may be required to employ suitable "step back" architecture and other architectural features which encourage a more walkable "village" feel at street level.
4. **CPTED (Crime Prevention Through Environmental Design):** Where practically possible, CPTED principles shall be used in the design and layout of buildings, streets, accesses and open space areas. Design shall promote natural surveillance, access control, territorial reinforcement, sense of ownership, proper management and maintenance. CPTED landscaping guidelines shall be used, including planting shrubs with a maximum height of two feet (2') to three feet (3') and trees with a proper ground clearance of six feet (6') to eight feet (8') above walkways and sidewalks and eight feet (8') to ten feet (10') above vehicular travel and parking lanes.

In order to encourage public safety through natural surveillance, natural access control, and territorial reinforcement, blank walls are not permitted adjacent to streets, pedestrian corridors, parking areas, and open space amenities. Symbolic barriers, such as low lying fences/wall, landscaping and signage may be used, as appropriate, to discourage crime and to promote safety through natural access control. Developments shall have street side building entrances and extensive windows, with balconies, decks or landscape terraces, and other architectural features being encouraged to promote "eyes on the street".

- B. **Land Use Impact And Buffering:** Landscape buffers are preferred over fences and walls where separation is desirable. A visually open look is encouraged between compatible uses. The planning commission may require special treatment of such areas. Fences or walls, if determined to be necessary or desirable, must be reviewed for their effectiveness in protecting private space while not creating isolated uses or dead space void of natural surveillance. When approved, fences or walls shall be compatible in color, texture, and design in relationship to building materials.
- C. **Architectural Design And Materials:** The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site that is in character with and in proportion to other surrounding buildings, while still providing diversity in design. The city's architectural review committee (ARC) shall review such and make recommendations to the planning commission. Requirements applicable to all buildings are stated below:
  1. All sides of buildings shall receive equal design consideration, particularly where exposed to pedestrian and/or vehicular traffic and adjacent properties.
  2. Building materials for structures, including garages, shall use brick, stone, or cement fiber products (i.e., hardie board) in combinations that create aesthetically pleasing architecture. Stucco products, if used, shall clearly be used in minimal amounts and as a contrast or accent to other building

materials, i.e., gables. Both vertical and horizontal elements should be used, as appropriate, to enrich and give variety to the architectural theme. Individual buildings shall have enough architectural variation to appear as separately recognizable structures. The use of exposed concrete (architectural concrete excepted), or plastic for storefront facades is not permitted.

3. A consistent architectural theme with colors from the natural environment is encouraged to help buildings blend with surrounding developments. Building styles shall be compatible with existing buildings within the respective MU zone.
4. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls, creating easy pedestrian access from sidewalks, parking areas, etc. Commercial or mixed use buildings shall be designed with contrasting ground floor architectural articulation in order to enhance street activity and walkability. All buildings shall have expansive windows, balconies, terraces, or other design features which are oriented to the street, or other people spaces, in order to maximize interface connection. Windows, display windows, doors, and arcades must make up at least seventy percent (70%) of street facing facades on the first story of commercial developments. Window shapes and sizes shall be so designed to be compatible from building to building. Tinted windows or windows with reflective film or glass are not permitted at street level.



5. Mechanical equipment shall be located or screened so as not to be visible from streets, pedestrian areas, and adjacent developments. Screens shall be aesthetically incorporated into the design of the building whether located on the ground or on the roof.
6. Plans for significant exterior modifications to any existing structures must be submitted to the planning commission for approval and must meet the same requirements as all other structures within the MU development.

D. Signage: Proper design and placement of signs and their lighting shall be compatible with structures and uses. Mixed use developments shall have a sign theme which promotes mixed use compatibility. Permitted signs within the MU zone shall be in compliance with title 16, chapter 16.36 of this code, except that freestanding and off premises signs or billboards shall not be permitted. Wall signs, blade signs, and window signs, approved as part of an overall sign theme, are encouraged.

Monument signs and directional signs are discouraged. Where approved, a monument sign must comply with the following limitations: the sign shall have as the prominent feature the name of the development (i.e., "Jordan Village", "Jordan Plaza"). All other lettering shall be no taller than four inches (4") in height. The maximum height of the sign shall be four feet (4') for the portion containing general copy, with an overall maximum height of six feet (6') above sidewalk grade. It is intended that the top two feet (2') be utilized to identify the name of the development. The lettering font style for tenant identification shall be the same for all tenants. Monument signs shall be constructed with the materials similar to that of the main building. Monument signs may not extend into the required sign visibility triangle, unless otherwise approved by the city transportation engineer.

- E. Open Space: Significant usable open space shall be provided within the mixed use development, depending upon size, scale, nature, and proximity of other accessible open space amenities in the area of the development. Approved open space may include, but is not limited to: commons, pocket parks, plazas, outdoor dining, courtyards, natural or manmade landscape features or focal points, fountains, waterfalls, other water features, greenbelts, trail connections, playgrounds, pavilions, and picnic areas. A "village green", as a commons area, may be required adjacent to mass transit connections or other significant activity.

Construction materials used within open space areas shall be related to the materials of adjacent buildings and shall be a nonskid finish. Design and texture shall encourage comfortable and safe pedestrian use, including landscaping, seating areas, and lighting as appropriate.

Areas of environmental concern or interest may be required to be preserved, i.e., drainages, steep slopes, connections to trail systems, and water features. Unless otherwise specified through special agreement or understanding with the city, all open space areas shall be maintained by property owners or property associations.

- F. Landscaping: Landscaping guidelines are established to improve and maintain site qualities while minimizing alteration, removal, or degradation of approved landscaping. Landscaping, in general, shall follow CPTED (crime prevention through environmental design) principles.

1. Submittal Of Landscape And Streetscape Plans: No plans for any building, structure or other improvements shall be approved by the city unless there shall also have been submitted landscape and streetscape plans satisfactory to the planning commission or to the staff, if so designated.
2. Installation At Time Of Occupancy: Landscaping in accordance with the plans submitted must be installed at the time of occupancy or as otherwise approved by the planning staff as seasonal conditions may dictate.

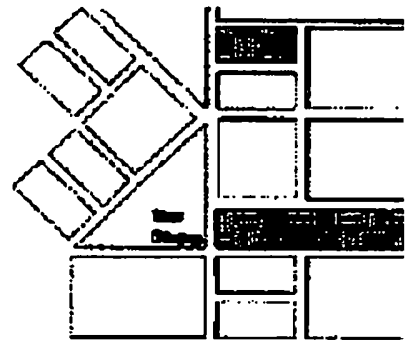
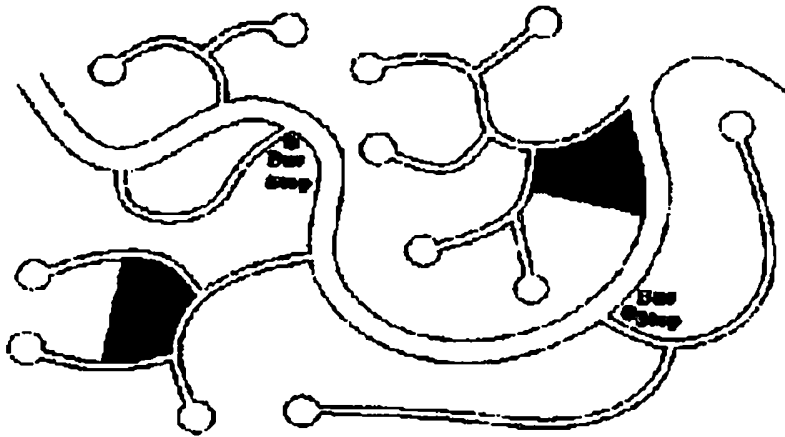
3. **Condition Free Of Weeds:** Future development areas or land area not occupied by buildings, structures, hard surfacing, vehicular driveways or pedestrian walkways shall be kept in a weed free condition or landscaped, as approved by the planning commission.
4. **Bond For Landscape Improvements:** The developer shall bond for landscape improvements to ensure that installations are completed as submitted and approved. Performance assurance requirements for landscape improvements shall be the same as required by the city for street improvements.
5. **Planting Specifications:**
  - a. Sixty percent (60%) medium size trees; deciduous trees with a caliper of two inches (2") and evergreen trees with a minimum height of seven feet (7'). Forty percent (40%) small size trees and shrubs in a combination with deciduous trees with a caliper of one and one-half inches (1½") to two inches (2") and evergreen trees with a minimum height of four feet (4'). Depending on site conditions, a 50/50 mix of deciduous and evergreen trees and shrubs should be used for on site landscaping.
  - b. Street trees with a minimum two inch (2") caliper shall be installed along all public rights of way by the developer. The species type, location, and spacing of trees shall be as shown on the approved landscape plan, in compliance with designated streets within the city's streetscape plan.
  - c. Parking lot landscaping shall include planters at the ends of parking rows with shade trees and ground covers. Planters shall be at least five feet (5') wide. Shade trees and ground covers shall be installed in planters at minimum intervals, or groups with a ratio of at least one tree per six (6) parking stalls for double parking rows and one tree per three (3) parking stalls for single parking rows. Planter areas may also include rocks (minimum of 3 inches) or bark mulch provided that a commercial grade weed barrier or fabric is used.
  - d. Landscaping for plazas shall include at least one tree per seven hundred fifty (750) square feet. At least forty percent (40%) of the plaza area shall be covered with trees or planted canopy structures. One linear foot of seating shall be provided for every one foot (1') of perimeter of the plaza area.
  - e. The landscaping of other open space shall include trees and ground covers, with a requirement of at least one tree per five hundred (500) square feet. Trees should be clustered together, where possible, to allow larger open areas for seating and activities.
6. **Installation:** It shall be the responsibility of the developer to grade, place topsoil, seed, sod, install sprinkler irrigation systems, and properly plant trees, shrubs, and other approved plant materials.
7. **Maintenance:** It shall be the responsibility of the developer and/or property association to properly maintain landscaped areas including watering, mowing, pruning, fertilizing, and the removal and replacement of dead plant materials in a timely manner.
8. **Vegetation Modification/Removal:** Pruning vegetation for "exposure", which results in unnatural plant specimens, is prohibited. Necessary vegetation removal shall be replaced with equal or better quality plant materials. Trees that are necessarily removed shall be replaced with a mix of trees with comparable total caliper. Street tree replacement shall be in compliance with the city's streetscape plan, unless otherwise approved by the planning staff.
9. **Utility Connections:** When disturbances are made to existing landscaped areas, the existing landscaping must be replaced to its previous condition. Other modification of landscaped areas shall require approval by the community development director.

**G. Outdoor Lighting:** The lighting of streets, pedestrian areas, parking lots, and open space is required. Streetlights shall conform to an approved theme and shall encourage a "village" feel and walking safety. Indirect lighting, bollard lighting, and landscape lighting is encouraged.

Lighting will be judged as to how adequately it meets its intended purpose. Design and location of standards and fixtures shall be specified on the site development drawings. Intensities shall be controlled so that "safety" lighting is provided while neighboring areas are protected from glare or excessive direct light. Streetlight design fixtures shall be pedestrian in scale, shall evoke a "village" feel and be installed and maintained as required.

**H. Streets And Pedestrianways:**

1. **Streets:** All accesses within a mixed use development shall have connectivity with existing and future street patterns. A grid street pattern or modified grid pattern is required where practically possible. Cul-de-sac streets will not be approved unless it can be demonstrated that no other practical way exists to make connectivity. Private streets are discouraged and gated communities are prohibited in mixed use developments.



2. **Widths:** Street widths shall be determined during site plan review and approved by the planning commission. In general, streets shall be designed to implement "complete streets" concept as recommended in the document: "Context Sensitive Solutions In Designing Major Urban Thoroughfares For Walkable Communities". The level of travel and service should be considered, while incorporating principles of traffic calming and pedestrian compatibility, i.e., tree lined streets with pedestrianways and linkages, decreasing the need for pavement width by spreading traffic through a grid or modified grid street system.
3. **Sidewalks And Walkways:** The design of pedestrianways may include a solitary meandering pathway or trail, a "pedestrian street", and the many possible designs in between. Walkways and connections to trail systems shall be incorporated into the project. Choice of appropriate pedestrian access will be made based upon scale, the type of mixed use project being proposed, and by the way uses are integrated. A standard eleven foot (11') cross section, with a six foot (6') park strip and a five foot (5') sidewalk, is a minimum, while wider park strips and/or sidewalks may be required depending upon the land uses and the desired effect. All streets shall have sidewalks and curbside streetscape.

Pavers, borders, and other sidewalk design materials with compatible colors shall be used as needed in order to break up expanses of hard surfacing and to encourage pedestrian interest and activity. In "vertical mixed use" and other more urban areas, sidewalk adjustments may be required in order to enhance street and land use connectivity. Portions of the park strip may be paved to accommodate street furniture, leaving appropriately sized tree wells for street trees.

Street furniture, including, but not limited to, benches, trash receptacles, artwork, drinking fountains, bike racks, and newspaper racks, may be required depending upon the nature of the block face and specific land uses. Street furniture requirements shall include an overall design theme for compatibility.

4. **Crosswalks:** Extensive use of crosswalks shall be incorporated within the project, at intersections, midblocks as needed, within parking lots, or other desirable pedestrian connections. A "pedestrian inconvenience distance" of one hundred fifty feet (150') shall be used as a guideline. Crosswalks shall be so configured to be a design feature of the development, i.e., multiple painted lines, pavers, edges, and other methods of emphasizing pedestrian use versus auto use. Crosswalk paving materials matching sidewalk materials are encouraged to further enhance the pedestrian realm. Bulb outs and other pedestrian design features shall be used to shorten walking distances across open pavement. Gaps in planted medians shall be used in appropriate areas to encourage walking and to act as a "refuge" for crossing pedestrians.

- I. **Other Forms Of Transportation:** All forms of transportation shall be considered within and without the mixed use development with the intent to improve convenience and reduce vehicle trips ("complete streets"). All forms of transportation should be encouraged, including train, auto, bus, bicycle, and pedestrian. Access connections shall be required where deemed essential to provide circulation or access to churches, schools, playgrounds, open space, shopping centers, transportation, and other community facilities.

Appropriate bus turnouts, shelters, stops and other transit options shall be coordinated and planned as part of the development review process. Based upon land use and the level of demand, bicycle parking shall be provided in appropriate locations, i.e., visible from storefronts and entrances to office buildings and residential structures.

- J. **Parking Areas:** Parking areas shall be considered as structures since they present a three-dimensional appearance when occupied. Parking areas shall be designed as follows:

1. Location of parking shall be determined not only from its visual relationship to the building and site, but also as it relates to safe, convenient pedestrian and vehicular circulation patterns. The placing of building and parking elements on a site shall be evaluated by the planning commission based on the following factors:
  - a. Type of land use and structure.
  - b. Building height and configuration.
  - c. Relationship to other buildings both horizontally and vertically.
  - d. Natural land features such as slopes and vegetation.
  - e. Physical features such as rail lines, canals, and controlled ingress and egress.
  - f. Visibility from vehicular approaches and distant highways.
  - g. Safe pedestrian connections to buildings, walkways, open space, and streets.

2. Where possible, parking lots shall be broken up and planned as "outdoor rooms" through the use of buildings, walkways, open space, and landscape design. When approved, large parking lots shall be broken up with substantial tree and ground cover plantings. Parking lots should be broken up into "rooms" of no more than one hundred (100) parking stalls through the use of connecting walkways.
3. Unless otherwise approved by the planning commission, parking lots are prohibited between streets and buildings.
4. Underground parking, deck or terrace parking, and parking garages are encouraged and may be required in conjunction with structures of three (3) stories or more. Said structures shall have architectural treatments compatible with area buildings. Parking structures with ground level parking immediately adjacent to the frontage of a street are prohibited. Parking structures shall be designed around natural light with "safety" lighting added as needed. Landscaping, within and without, may be required to enhance compatibility and safety.
5. Developments are not allowed to be "over parked" without justification. Developments may be approved by the planning commission with less than required parking if evidence can be shown that the nature of the land uses proposed will not generate the number of stalls as recommended in the city's parking ordinance. Developments may also be "under parked" if justified with a walkable design that demonstrates such, and/or where local multimodal transit systems exist or are immediately planned, which would help reduce the number of needed parking stalls and/or automobile trips. Shared parking arrangements may be required in order to reduce unnecessary parking areas and to encourage pedestrian activity.
6. Where possible, on street parking shall be provided adjacent to developments, and a prorated share of such, may be used to satisfy overall parking requirements. Parallel or angle parking may be approved based upon the overall design and width of the street, as recommended by the city transportation engineer and approved by the planning commission.

**K. Environmental Concerns:**

1. Building, landscape, and solar access should be adjusted, where possible, to be compatible with the local climate. Such design should include, but not be limited to, window placement, building recesses, overhangs, trellises, awnings, porches, and landscape placement, planned in such a way to enhance livability and reduce energy costs.
2. The use of lighter colored building materials (i.e., rooftops), fences/walls, and extensive deciduous and evergreen tree cover shall be incorporated into developments in order to reduce the urban heat island effect. Where possible, streets, driveways, parking lots, etc., should use concrete or other materials which absorb less sunlight.
3. Where possible, drought resistant ground covers, shrubs, and trees shall be incorporated into the landscape to reduce water usage and storm runoff. Water gardens, landscape swales or other on site drainage design should be designed into the project. Extensive areas of grass or other high water use plants without a public purpose are discouraged.

**L. Service Areas:** Loading and refuse collection areas must be screened from public view. These areas are not permitted between buildings and streets unless they can be adequately screened through landscaping and architectural design. Buildings and site improvements must be designed to properly accommodate loading, unloading and refuse collection, with such being discouraged on public streets. Screen walls and enclosures shall be constructed with materials compatible with the structures they serve. Loading and refuse collection areas shall be properly maintained in a debris free condition.

Except for approved and screened recreational vehicle storage lots associated with a residential

use, storage areas, including the storage of materials, merchandise, pallets, etc., shall be within buildings.

M. Utilities: Utility companies shall coordinate utility infrastructure location and grouping to create minimal impact on site design. All utility lines shall be placed underground in designated easements. No pipe, conduit, cable, line for water, gas, sewage, drainage, steam, electricity or any other energy or service shall be installed, and no pole or other support structure therefor shall be erected, altered or replaced, upon any lot (outside of any building) above the surface of the ground except for hoses, movable pipes used for irrigation or other purpose during construction.

1. Utility boxes shall be grouped together where possible and screened with vegetation or other appropriate method. Such facilities shall be sensitively placed so as to not detract from street aesthetics and pedestrian design. Gas meters and electric service meters and panels shall be located on the sides of buildings.
2. Where overhead utility poles exist, service lines to new developments must be placed underground from the nearest overhead service pole.
3. This section does not require removal of any existing electrical transmission facilities and electrical distribution lines nor does it restrict the repair, minor relocation, and maintenance of any such existing facilities. However, the developer shall be responsible for the removing or relocating of utility poles out of the public right of way and/or away from the frontage of the development. (Ord. 2011-11, 4-19-2011)

#### **17.74.090: RESIDENTIAL DESIGN REQUIREMENTS:**

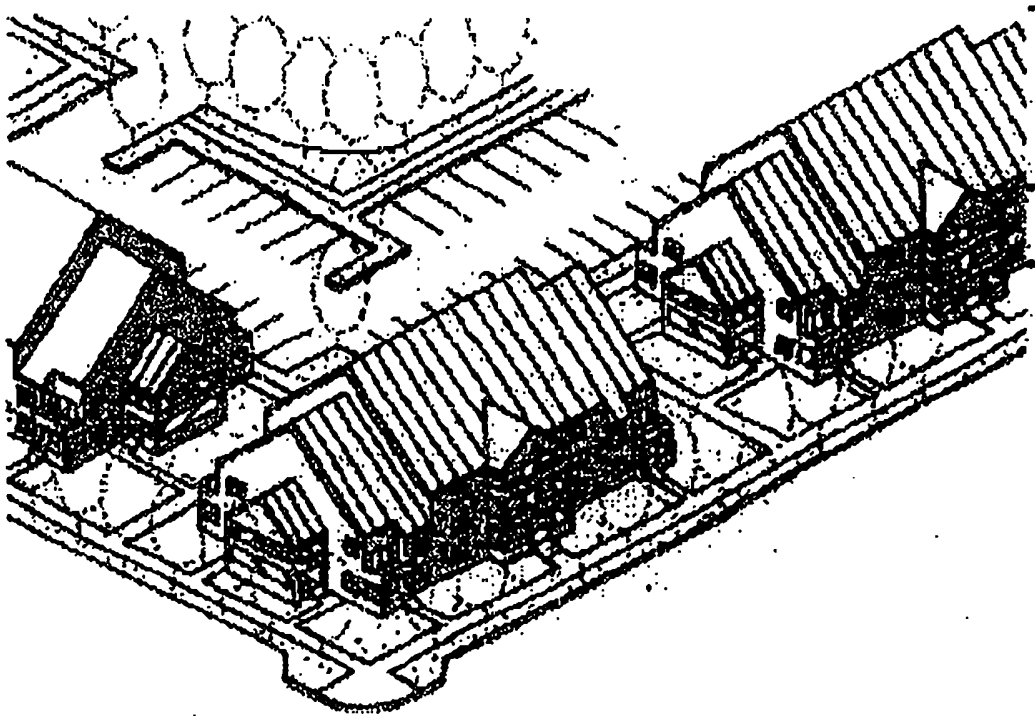
Depending upon the size and scale of mixed use projects, residential dwellings shall comprise more than one land use type, fulfilling housing needs with an assortment of housing options and shall be designed using standards and design principles as promulgated in the "Wasatch Choices 2040 Plan". The number of bedrooms per unit and other housing design options shall be varied in proportions to assist in providing suitable housing for a range of household incomes, family size, and life cycles.

A. Where possible, multi-family development shall front onto open space or public streets with appropriate walkable elements, including building entrances facing the street, sidewalks, and park strips with street trees. When approved, private streets shall be so designed to resemble a walkable public street design.

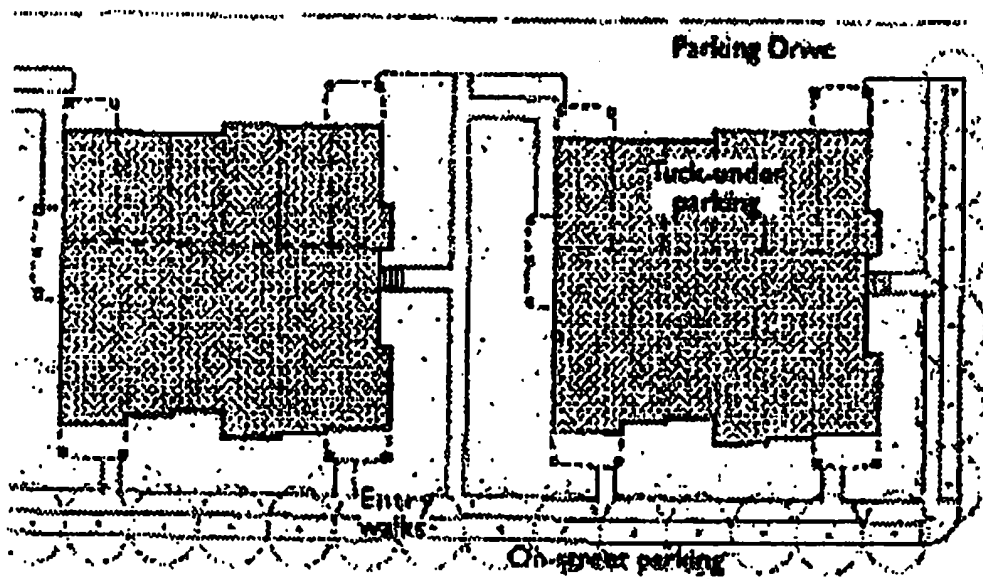
B. Multi-family residential development shall conform to requirements heretofore presented. Approved setbacks shall be determined by the planning commission based upon acceptable layout and design.

1. The following standards shall be required for multi-family residential:
  - a. Properly designed off street surface parking hidden from streets, or provided within parking terraces.





- b. Surface parking, where possible, shall be designed in a linear fashion to better resemble a public street design.
- c. Garage units associated with multi-family development should be rear loaded. Where front loaded garages are approved, they shall be so designed to be subservient (set back at least 5 feet from the front line of the dwelling) to the architecture of the residential structure.



d. Roofs with a four to twelve (4:12) pitch or greater, unless otherwise approved by the planning commission.

e. Dwelling and garage gables facing streets and alleys.

f. Extensive windows facing streets, alleys and pedestrian connections.

g. Covered entrance porches.

h. Entry sidewalks that connect directly to public sidewalks.

i. Variety of building sizes, shapes and building heights.

j. Open space and recreational amenities compatible with project scale and market.

2. The following standards for multi-family residential shall be encouraged:

a. Multi-level structures.

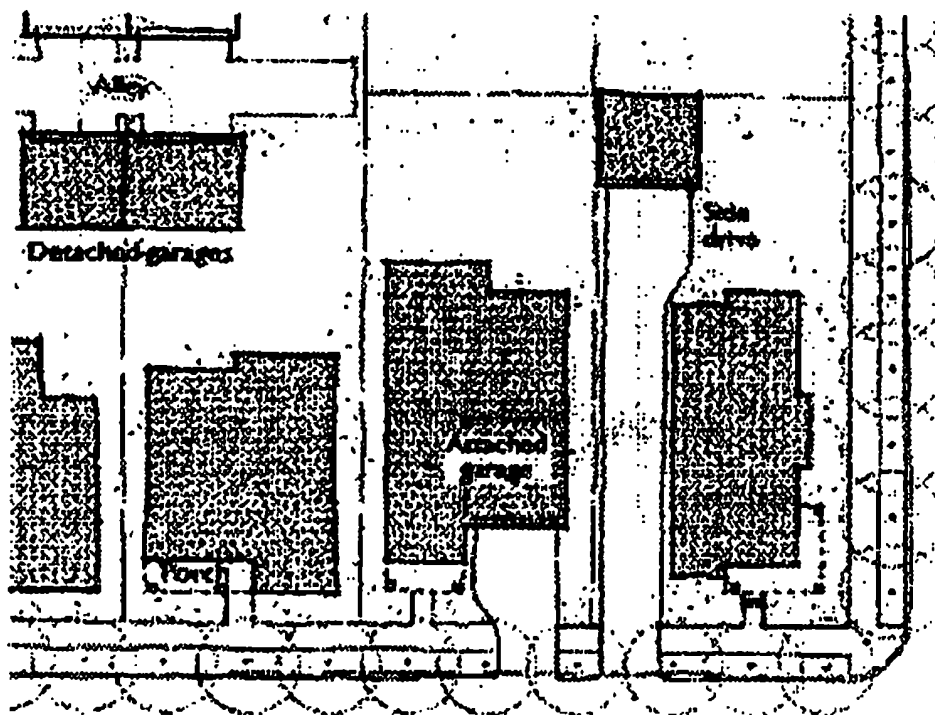
b. Dormers and/or shutters, and other window treatments.

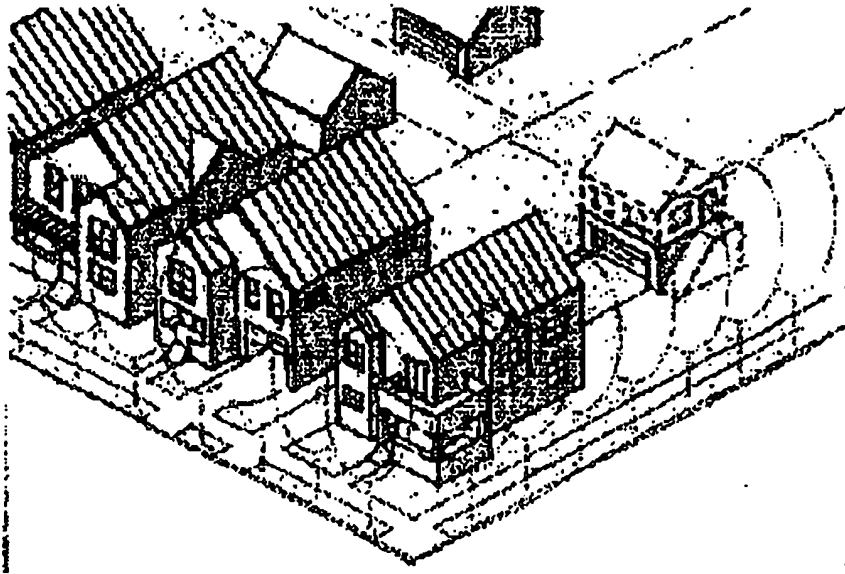
c. Street side balconies/decks.

C. Single-family residential dwellings, unless fronting a "green court", shall have front setbacks that range between twenty two feet (22') and thirty two feet (32'), measured from the porch to the edge of the curb. Front loaded garages shall be subservient to the dwelling and shall not have a setback less than eighteen feet (18') to the inside edge of the sidewalk. Side and rear setbacks shall be determined by the planning commission based upon acceptable subdivision layout and design.

1. The following standards shall be required for single-family residential:

- a. Subservient garages, i.e., rear loaded with alley access, front loaded detached or attached but set back from the front line of the home by at least five feet (5'), side entry attached, or a combination of the above.
  - b. Roofs with a four to twelve (4:12) pitch or greater, unless otherwise approved by the planning commission.
  - c. Dwelling and garage gables facing streets and alleys.
  - d. Covered open front porches comprising at least fifty percent (50%) of the front elevation (not including the garage), and in no case being no less than fifteen feet (15') in width.
  - e. Entry sidewalks that connect directly to public sidewalks.
2. The following standards for single-family residential shall be encouraged:
- a. Two-story dwellings.
  - b. House dormers and/or shutters, and other window treatments.
  - c. Street side balconies/decks.
  - d. Wraparound porches, particularly on corner lots.





(Ord. 2011-11, 4-19-2011)

**17.74.100: REQUIREMENTS UNIQUE TO THE MIXED USE TRANSIT ORIENTED DEVELOPMENT (MU-TOD) SUBDISTRICT:**

A. Purpose Of The MU-TOD Subdistrict: The purpose of this subdistrict is to encourage the development of high intensity regional mixed land uses with maximum building height and bulk standards conducive to transit oriented development. The focus of such uses would be in appropriate areas along Jordan Gateway and I-15 in proximity to the "FrontRunner" Commuter Rail Station. (Ord. 2011-11, 4-19-2011)

B. Permitted Uses: The following uses shall be permitted in the MU-TOD subdistrict:

Accessory uses.

Agriculture without livestock or poultry.

Banks, credit unions, financial institutions without drive-up facilities.

Business services.

Educational facilities.

Home occupations in compliance with this title.

Household pets in accordance with this code.

Medical and dental offices or clinics.

Multi-family dwellings, varied and integrated with adjacent uses.

Office services.

Personal services.

Residential facility for disabled persons as required by state law.

Residential use above the first floor of commercial or office use.

Restaurants without drive-up facilities.

Retail sales and services; excluding auto services such as stand alone car wash, tires, repairs, gas stations and/or convenience store.

**C. Conditional Uses:** A conditional use permit may be issued for the following uses in the MU-TOD subdistrict:

Auto service, including stand alone car wash, tires, repairs, gas stations and/or convenience store wherein the building is built to the street with bays, pumps, etc., to the side or rear.

Banks, credit unions, financial institutions with drive-up facilities located to the rear of the structure.

Churches, excluding temporary revival tents or structures.

Daycare center facility.

Health and fitness centers.

Live/work units.

Parks and recreational activities.

Preschool center facility.

Public buildings.

Public or private schools.

Restaurants with drive-up facilities located to the rear of the structure. (Ord. 2012-12, 10-2-2012)

**D. Building Height:** Buildings shall have a minimum and maximum height as indicated by building type, as shown below. Additional height may be granted by the planning commission for rooftop landscaping/amenities.

Land Use	Commercial	Office	Vertical Mixed Use	Condos	Apartments	Townhomes	Public / Quas Public
Min. building height	1 story, extended <sup>1</sup>	3 stories	2 stories	3 stories	3 stories	2 stories	1 story, extended

Max. building height	20 stories <sup>2</sup>	20 stories <sup>2</sup>	20 stories <sup>2</sup>	20 stories <sup>2</sup>	20 stories <sup>2</sup>	3 stories	3 stories
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**Notes:**

1. Vertical architectural elements that make the buildings appear greater than 1 story.
2. "Step back" architecture may be required wherein building height adjacent to public streets may be limited in order to enhance pedestrian design.

(Ord. 2011-11, 4-19-2011)

**17.74.110: REQUIREMENTS UNIQUE TO THE MIXED USE TOWN CENTER (MU-TC) SUBDISTRICT:**

A. Purpose Of The MU-TC Subdistrict: The purpose of this subdistrict is to encourage the development of medium intensity community and town center mixed uses with a "village" look and feel (i.e., human scale, pedestrian friendly, architecturally diverse). The location of such uses would be in appropriate locations along portions of Redwood Road and South Jordan Parkway, with a focus on the area around city hall and the South Jordan Towne Plaza. (Ord. 2011-11, 4-19-2011)

B. Permitted Uses: The following uses shall be permitted in the MU-TC subdistrict:

Accessory uses.

Agriculture without livestock or poultry.

Banks, credit unions, financial institutions without drive-up facilities.

Business services.

Educational facilities.

Healthcare facilities and services.

Home occupations in compliance with this title.

Household pets in accordance with this code.

Medical and dental offices or clinics.

Multi-family dwellings, varied and integrated with other uses in a "village" style.

Office services.

Personal services.

Residential accessory uses.

Residential facility for disabled persons as required by state law.

Residential use above the first floor of commercial or office use.

Restaurants without drive-up facilities.

Retail sales and services; excluding auto services such as stand alone car wash, tires, repairs, gas stations and/or convenience store.

**C. Conditional Uses:** A conditional use permit may be issued for the following uses in the MU-TC subdistrict:

Auto service, including stand alone car wash, tires, repairs, gas stations and/or convenience store wherein the building is built to the street with bays, pumps, etc., to the side or rear.

Banks, credit unions, financial institutions with drive-up facilities located to the rear of the structure.

Churches, excluding temporary revival tents or structures.

Daycare center facility.

Health and fitness centers.

Live/work units.

Park and recreational activities.

Preschool center facility.

Public buildings.

Public or private schools.

Restaurants with drive-up facilities located to the rear of the structure. (Ord. 2012-12, 10-2-2012)

**D. Building Height:** Buildings shall have a minimum and maximum height as indicated by building type, as shown below. Additional height may be granted by the planning commission for rooftop landscaping/amenities.

Land Use	Commercial	Office	Vertical Mixed Use	Condos	Apartments	Townhomes	Public Quarters
Min. building height	1 story, extended <sup>1</sup>	1 story, extended <sup>1</sup>	2 stories	2 stories	2 stories	2 stories	1 story, extended
Max. building height	4 stories <sup>2</sup>	4 stories <sup>2</sup>	5 stories <sup>2</sup>	4 stories <sup>2</sup>	4 stories <sup>2</sup>	3 stories	3 stories

**Notes:**

1. Vertical architectural elements that make the buildings appear greater than 1 story.
  2. "Step back" architecture may be required wherein building height adjacent to public streets may be limited in order to enhance pedestrian design.
- (Ord. 2011-11, 4-19-2011)

**17.74.120: REQUIREMENTS UNIQUE TO THE VILLAGE MIXED USE (VMU) SUBDISTRICT:**

A. Purpose Of The VMU Subdistrict: The purpose of this subdistrict is to encourage the development of low intensity neighborhood mixed land uses with a "village" look and feel (i.e., human scale, pedestrian friendly, architecturally diverse). The location of such uses would be in appropriate locations along major collector streets.

B. Permitted Uses: The following uses shall be permitted in the VMU subdistrict:

Accessory uses.

Agriculture without livestock or poultry.

Banks, credit unions, financial institutions without drive-up facilities.

Business services.

Educational facilities.

Healthcare facilities and services.

Home occupations in compliance with this title.

Household pets in accordance with this code.

Medical and dental offices or clinics.

Multi-family dwellings, varied and integrated with other uses in a "village" style.

Office services.

Personal services.

Residential accessory buildings on single-family lots that do not exceed that allowed under comparable lot size zoning requirements.

Residential accessory uses.

Residential facility for disabled persons as required by state law.

Residential use above the first floor of permitted commercial and office use.

Restaurants, excluding establishments with drive-up facilities.

Retail sales and services; excluding auto services such as stand alone car wash, tires, repairs, gas stations and/or convenience store.

Single-family dwellings.



**C. Conditional Uses:** A conditional use permit may be issued for the following uses in the MU-VMU subdistrict:

Auto service, including stand alone car wash, tires, repairs, gas stations and/or convenience store wherein the building is built to the street with bays, pumps, etc., to the side or rear.

Banks, credit unions, financial institutions with drive-up facilities located to the rear of the structure.

Churches, excluding temporary revival tents or structures.

Daycare center facility.

Health and fitness centers.

Live/work units.

Parks and recreational activities.

Preschool center facility.

Public buildings.

Public or private schools.

Restaurants with drive-up facilities located to the rear of the structure. (Ord. 2012-12, 10-2-2012)

**D. Building Height:** Buildings shall have a minimum and maximum height as indicated by building type, as shown below. Additional height may be granted by the planning commission for rooftop landscaping/amenities.

Land Use	Commercial	Office	Vertical Mixed Use	Condos	Apartments	Townhomes	Single Family Twin Homes
Min. building height	1 story, extended <sup>1</sup>	1 story, extended	2 stories	2 stories	2 stories	2 stories	1 story
Max. building height	2 stories	2 stories	3 stories	2 <sup>1</sup> / <sub>2</sub> stories	2 <sup>1</sup> / <sub>2</sub> stories	2 <sup>1</sup> / <sub>2</sub> stories	2 stories

**Note:**

1. Vertical architectural elements that make the buildings appear greater than 1 story.

(Ord. 2011-11, 4-19-2011)

**EXHIBIT E**

**RESOLUTION R-2013-72**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AUTHORIZING THE CITY OF SOUTH JORDAN TO ENTER INTO A DEVELOPMENT AGREEMENT PERTAINING TO APPROXIMATELY 20.8 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 11400 SOUTH 3450 WEST KNOWN AS HIGHRIDGE PHASE II.

WHEREAS, The City of South Jordan is a municipal corporation and a political subdivision of the State of Utah authorized to enter into development agreements that it considers necessary or appropriate for the use and development of land within the City under Utah Code Ann. § 10-9a-102 et seq; and

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

WHEREAS, The Developer now desires to enter into an agreement, for the purpose of developing the property and project in accordance to the terms of the Development Agreement; and

WHEREAS, The South Jordan City Council finds it in the best interest of the public health, safety, and welfare to enter into a development agreement with the Developer for the orderly development of approximately 20.8 acres of property located at approximately 11400 S. 3450 W. in South Jordan known as Highridge Phase II.

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

**SECTION 1. Authorization to Sign.** The South Jordan City Council hereby adopts the Highridge Phase II Development Agreement and authorizes the Mayor to sign the Development Agreement attached hereto as Exhibit A upon approval of content by the South Jordan City Manager and legal form by the South Jordan City Attorney.

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

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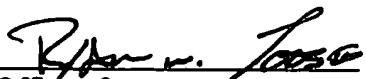
APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,  
ON THIS 19<sup>th</sup> DAY OF November, 2013 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Mark Seethaler	<u>X</u>	___	___	___
Chuck Newton	<u>X</u>	___	___	___
Brian C. Butters	<u>X</u>	___	___	___
Steve Barnes	<u>X</u>	___	___	___
Larry Short	<u>X</u>	___	___	___

Mayor:   
David L. Alvord

Attest:   
City Recorder

Approved as to form:

  
Office of the City Attorney



DEVELOPMENT AGREEMENT

The City of South Jordan, a Utah municipal corporation (the "City"), and Freiss Development Group, a(n) Limited Liability Corporation ("the Developer"), enter into this Development Agreement (this "Agreement") this 15 day of May, 2014 ("Effective Date"), and agree as set forth below. The City and the Developer are jointly referred to as the "Parties".

RECITALS

WHEREAS, the Developer is the owner of certain real property identified as Assessor's Parcel Number(s) 27-20-401-018-000, 27-20-401-022-0000, 27-20-401-023-0000, 27-20-401-00 specifically described in attached Exhibit A (the "Property") and intends to develop the Property consistent with the Master Development Plan attached as Exhibit B (the "Concept Plan"); and

WHEREAS, the City, acting pursuant to (1) its authority under Utah Code Annotated 10-9a-102(2) *et seq.*, as amended, and (2) the South Jordan City Municipal Code (the "City Code"), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has made certain determinations with respect to the proposed development of the Property and in exercise of its legislative discretion has elected to enter into this Agreement; and

WHEREAS, the Property is currently subject to the Planning and Land Use Ordinance of South Jordan City and is within the Agricultural A-5 Zone (the "A-5 Zone") and the Residential R-1.8 Zone (the "R-1.8 Zone"). A copy of the provisions of such zone designations in the South Jordan City Code are attached as Exhibit C; and

WHEREAS, the Developer desires to make improvements to the Property in conformity with this Agreement and has requested a zone change on the Property from the A-5 Zone and R-1.8 to the Residential R 2.5 Zone (the "R-2.5 Zone") and the Village Mixed Use (the "VMU Zone"). A copy of the provisions of the R-2.5 Zone and the VMU Zone designation in the South Jordan City Code are attached as Exhibit D; and

WHEREAS, the Developer and the City acknowledge that the development and improvement of the Property pursuant to this Agreement will provide certainty useful to the Developer and to the City in ongoing and future dealings and relations among the Parties; and

WHEREAS, the City has determined that the proposed development contains features which advance the policies, goals and objectives of the South Jordan City General Plan, preserve and maintain the open and sustainable atmosphere desired by the citizens of the City, or contribute to capital improvements which substantially benefit the City and will result in planning and economic benefits to the City and its citizens; and

WHEREAS, this Agreement shall only be valid upon approval of such by the South Jordan City Council, pursuant to Resolution 2013-72 a copy of which is attached as Exhibit E; and

WHEREAS, the City and the Developer acknowledge that the terms of this Agreement shall be enforceable and the rights of the Developer relative to the Property shall vest only if the South Jordan City Council, in its sole legislative discretion, approves a zone change for the Property currently zoned as A-5 and R-1.8 to zones designated as R-2.5 and VMU.

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

#### TERMS

**A. Recitals; Definitions.** The recitals set forth above are incorporated herein by this reference. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Planning and Land Use Ordinance of South Jordan City.

**B. Enforceability:** The City and the Developer acknowledge that the terms of this Agreement shall be enforceable, and the rights of the Developer relative to the Property shall vest, only if the South Jordan City Council in its sole legislative discretion approves a zone change for the Property currently zoned as A-5 and R-1.8 to zones designated as R-2.5 and VMU.

**B. Conflicting Terms.** The Property shall be developed in accordance with the requirements and benefits provided for in relation to the R-2.5 and VMU zones under the City Code as of the Effective Date. In the event of a discrepancy between the requirements of the City Code including the R-2.5 and VMU zones, and this Agreement, this Agreement shall control.

**C. Developer Obligations:**

1. Master Development Plan. Any development of the Property, including the uses and intensity of those uses, shall be as specifically shown on the Master Development Plan and the requirements set forth in this Agreement and the City Code. Said uses to be limited to assisted living, R-2.5, office, and commercial.
2. Single Family Housing. No single family detached housing shall be allowed in the VMU Zone.
3. Business Hour Restriction. Businesses located on Lots 3 and 4 of the Property ("Lots 3 and 4"), as shown on attached Exhibit B, shall be restricted in the hours of operation to;
  - a. No later than 10:00 pm Monday thru Thursday and,
  - b. No later than 11:00 pm Friday, Saturday and Sunday.

The Developer shall record such restriction on any and all Codes, Covenants and restrictions or, if there are not such documents, on the title to individual properties.

4. Restaurant Hour Limitation. In no event shall any restaurant, including any fast food restaurant, operate 24 hours a day. Restaurants must comply with subsection C.3. The Developer shall record such restriction on any and all Codes, Covenants and restrictions or, if there are not such documents, on the title to individual properties.
5. Sidewalk Improvements. The Developer shall install sidewalk, per City standards, from 11400 South to the north boundary of the Paradigm High School parcel sidewalk, in coordination with and as permitted by any affected private property owners. The City will credit the actual cost of installation of such sidewalk against fees charged Developer by the City for development of the Property.
6. Water. Developer shall dedicate to the City sufficient water rights to meet R-2.5 requirements for that portion of the Property being developed for R-2.5 residential purposes. In no event shall Developer or any subsequent owner or tenant of the Property be required to dedicate any water rights for that portion of the Property being developed for an assisted living facility or for office or commercial uses.

**E. City Obligations.**

1. Development Review. The City shall review development of the Property in a timely manner, consistent with the City's routine development review practices and in accordance with all applicable laws and regulations.
2. Sidewalk Improvements. The City shall work with the Developer to facilitate the installation of the Sidewalk required in Section C.5. above.

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

1. Vested Rights. Consistent with the terms and conditions of this Agreement, City agrees Developer has the vested right to develop and construct the Property in accordance with: (i) the R-2.5 and VMU zoning designation (Exhibit D); (ii) the City Code in effect as of the Effective Date and; (iii) the terms of this Agreement.

2. Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of Developer under this Agreement and with respect to use under the zoning designations as referenced in *Section III.A.* above under the terms of this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the

vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Property shall be of general application to all development activity in the City and Salt Lake County (the "County"); and, unless in good faith the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Property under the compelling, countervailing public interest exception to the vested rights doctrine. The notice required by this paragraph shall be that public notice published by the City as required by State statute

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

**H. General Provisions.**

1. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified U.S. Postal Service mail, return receipt requested, postage prepaid to the following addresses or to such other addresses as either party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least 10 days before the date on which the change is to become effective:

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

If to Developer:  
Freiss Development Group  
10757 S. Riverfront Pkwy ste. 110  
South Jordan, UT 84095

2. Mailing Effective. Notices given by mail shall be deemed delivered 72 hours following deposit with the U.S. Postal Service in the manner set forth above.

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

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

5. Authority. The parties to this Agreement represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Developer represents and warrants it is fully formed and validly existing under the laws of the State of Utah, and that it is duly qualified to do business in the State of Utah and is in good standing under applicable state laws. Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the parties on whose behalf each individual is signing. Developer represents to the City that by entering into this Agreement Developer has bound all persons and entities having a legal or equitable interest to the terms of the Agreement as of the Effective Date.

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

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

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

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

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

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



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

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

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

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

16. Runs With The Land. This Agreement and all of the terms and conditions contained herein shall inure to the benefit of, and be binding upon the parties hereto and their respective successors and assigns, and shall be "covenants running with the land".


**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the Effective Date.

***{Signatures follow on next page}***


CITY OF SOUTH JORDAN,  
a Utah Municipal Corporation

APPROVED AS TO FORM:

By:


  
David L. Alvord  
Mayor

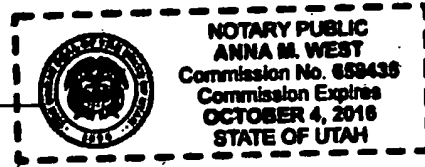


  
Attorney for the City

State of Utah )  
County of Salt Lake )  
:ss

On this 19th day of May, 20 14, personally appeared before me David L. Alvord, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he is the Mayor, of the City of South Jordan, a Utah municipal corporation, and said document was signed by him in behalf of said municipal corporation by authority of the South Jordan City Code by a Resolution of the South Jordan City Council, and he acknowledged to me that said municipal corporation executed the same.

  
Notary Public



a(n) FREISS DEVELOPMENT GROUP

By: Dave Freiss

Name: [Signature]

Title: Manager

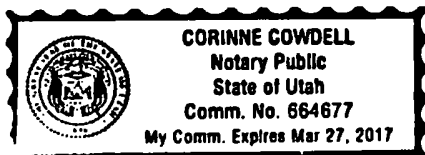
**LIMITED LIABILITY COMPANY APPLICANT**

State of Utah )

:SS

County of Salt Lake )

On this 15 day of May, 2014, personally appeared before me  
Dave Freiss, whose identity is personally known to me or  
proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the Manager  
of Freiss Development Group limited liability company,  
by authority of its members or its articles of organization, and he/she acknowledged to me that  
said limited liability company executed the same.



[Signature]  
Notary Public

## **EXHIBIT 2**

**Amended Exhibit B to the HighRidge Estates Phase II Development Agreement**

**EXHIBIT B**

