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DOC # 20220044211

Agreement Page 1 of 25
Gary Christensen Washington County Recorder
09/23/2022 03:11:11 PM Fee \$ 0.00
By HURRICANE CITY

Recording Requested By, and
Return Recorded Document To:
Hurricane City
147 N 870 W
Hurricane, UT 84737



**DEVELOPMENT AGREEMENT
FOR
LONE PINE ZONE CHANGE**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the 19th day of May, 2022 (the "Effective Date"), by and between the CITY OF HURRICANE, a Utah municipal corporation (hereinafter referred to as "City") and Ferel L. & Beverly Campbell, Lane Buckner and Michelle Buckner, and Ronald L. Campbell (hereinafter referred to collectively as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

- A. Developer is the owner of approximately 5.02 acres of land located within the City of Hurricane as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").
- B. On May 19 2022, the City Council approved a zone change subject to and conditioned upon the terms and conditions of this Development Agreement, as set forth in the Hurricane City Council Meeting Minutes for May 19, 2022, attached as EXHIBIT B.
- C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long-range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.
- D. The City Council has further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.
- E. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

F. This Agreement is generally consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

G. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

H. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

I. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.
2. Lot Number Limitations and Requirements. Any future subdivision of the property in EXHIBIT A shall not exceed nine lots. All lots within the subdivision shall comply with R1-15 zoning standards at the time of preliminary plat application and approval.
3. General Development Terms. The Developer shall comply with all requirements and standards established in Hurricane City Code, Master Plans, and Design Standards. Nothing in this Agreement shall amend or replace any requirements by City, State, Federal, Fire, other local development agreements or restrictions, or other applicable regulations.
4. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: FEREL L. & BEVERLY CAMPBELL
332 W 400 S
HURRICANE, UT 84737

To the City: City of Hurricane
Attention: Dayton Hall, City Attorney
147 N 870 W
Hurricane, UT 84737

5. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non-Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Washington County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the

Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

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

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

6. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF HURRICANE

By: 

Mayor Nanette Billings

DEVELOPER:

By: 

Name: Ferel L. Campbell

By: 

Name: Beverly Campbell

By: 

Name: Lane Buckner

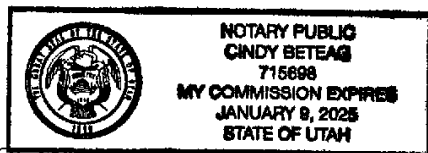
By: 

Michelle Buckner

By: [Signature]
Name: Ronald L. Campbell

STATE OF UTAH)
:SS
COUNTY OF WASHINGTON)

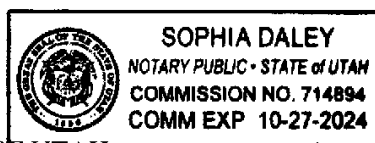
On the 12th day of September, 2022, personally appeared before me **Nanette Billings**, who being by me duly sworn, did say that she is the Mayor of Hurricane City, a Utah municipal corporation, and that the within and foregoing instrument was signed on behalf of said corporation with proper authority and duly acknowledged to me that she executed the same.



[Signature]
Notary Public

STATE OF UTAH)
:SS
COUNTY OF WASHINGTON)

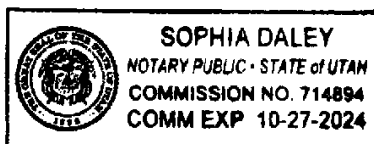
On the 5th day of September, 2022, personally appeared before me **Ferel L. Campbell**, who being by me duly sworn, did duly acknowledge to me that he executed the foregoing document with authority and for the reasons stated therein.



[Signature]
Notary Public

STATE OF UTAH)
:SS
COUNTY OF WASHINGTON)

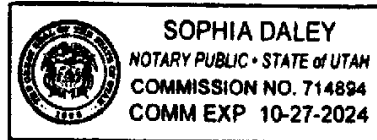
On the 5th day of September, 2022, personally appeared before me **Beverly Campbell**, who being by me duly sworn, did duly acknowledge to me that she executed the foregoing document with authority and for the reasons stated therein.



[Signature]
Notary Public

STATE OF UTAH)
)
:SS
COUNTY OF WASHINGTON)

On the 9th day of September, 2022, personally appeared before me **Lane Buckner**, who being by me duly sworn, did duly acknowledge to me that he executed the foregoing document with authority and for the reasons stated therein.



Sophia Daley
Notary Public

STATE OF UTAH)
)
:SS
COUNTY OF WASHINGTON)

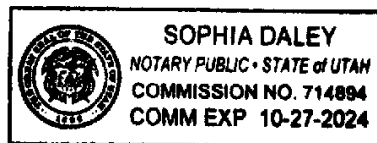
On the 9th day of September, 2022, personally appeared before me **Michelle Buckner**, who being by me duly sworn, did duly acknowledge to me that she executed the foregoing document with authority and for the reasons stated therein.



Sophia Daley
Notary Public

STATE OF UTAH)
)
:SS
COUNTY OF WASHINGTON)

On the 5th day of September, 2022, personally appeared before me **Ronald L. Campbell**, who being by me duly sworn, did duly acknowledge to me that he executed the foregoing document with authority and for the reasons stated therein.



Sophia Daley
Notary Public

EXHIBIT A

Legal Description of Property:

A parcel of land in Section 3, Township 42 South, Range 13, West, Salt Lake Base and Meridian, described as follows:

All of Lot Twenty (20), Block Eight (8), HURRICANE FIELD SURVEY, as recorded on the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

Parcel Number H-3-2-3-1225

EXHIBIT B
Hurricane City Council Minutes for May 19, 2022

Hurricane City Council Minutes – May 19, 2022

Minutes of the Hurricane City Council meeting held on May 19, 2022, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 4 p.m.

Members Present: Mayor Nanette Billings and **Council Members Present:** Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas

Staff Present: City Manager Kaden DeMille, City Attorney Dayton Hall, Police Chief Lynn Excell, Power Superintendent Scott Hughes, Planning Director Stephen Nelson, Recreation Director Tiffani Wright, Water Superintendent Ken Richins, City Engineer Arthur LeBaron, City Recorder Cindy Beteag, and City Accountant Paige Chapman.

AGENDA

4:00 p.m. Work Meeting to discuss Franchise Agreements for fiber

Kaden DeMille explained that Infowest's request for a franchise agreement was continued to allow staff time to research franchise agreements, fiber connectivity, and how that applies to services within the City. Mr. DeMille reviewed a presentation summarizing the information gathered by staff. There is limited fiber connectivity in Hurricane City. Currently CenturyLink and TDS are the only fiber providers within the City. TDS fiber is only along the SR-9 corridor. TDS representative stated that TDS fiber is going into every new subdivision. As the network expands, services to the older subdivisions are reviewed. The fiber in new subdivisions connects directly to the home. In many older areas, the fiber goes to a node that covers a specific house count and is supplied through coaxial cable. Mr. DeMille explained that fast and reliable internet has become a critical service. It is a way to attract potential business, and fiber connectivity is a home selling point.

Staff has identified three possible scenarios. The first option is to allow private businesses to provide fiber throughout the community. This route is less of a financial burden, however, without regulations, there are concerns about unsightly infrastructure. Each company wants conduits and fiber utility infrastructures such as vaults and pedestals, which creates complications with underground infrastructure. The City would need to decide the number of franchise agreements it will allow, how many pedestals are on the property, how many conduits under the road, and how that will affect road and other repairs.

The second option is a city-wide initiative to provide fiber to every household. This will be a large project, including financial bonding. This project will burden the citizens with that bond payment through a monthly utility fee. This is not recommended because it forces citizens to pay for a utility they do not want. In this scenario, a subscription model makes more sense for the citizens, but if the subscription level does not meet the bond payment, it could burden the City. The benefit of this option is that it will be an open-access network, creating more market competition. The cons are the cost of the project. Will the City own the infrastructure or a

Hurricane City Council Minutes – May 19, 2022

private network provider? A new utility department must be created if the City owns and operates the system. Technology is continually evolving, and is it possible for the City to keep up with evolving tech.

The third option is a public/private partnership. The potential benefit in this scenario is shared cost and limiting excessive infrastructure. This option is still a financial risk to the City, and this is not a fast solution and would require a lengthy legal review process.

Councilman Prete stated that he was not in favor of the PIDs because it separates the new Hurricane from the old Hurricane in terms of services. Fiber presents a similar problem, new developments will benefit, but current residents do not have the same access.

Dayton Hall reported that if the City decides to move forward with the franchise agreement, the franchisee agreement ordinance needs to be updated. Mr. DeMille noted that City has to decide how many franchise agreements it will allow. The agreement has to be consistent for all providers and should clearly state how long the provider has to install fiber to every home in Hurricane City. Kelly with Infowest commented that their agreement says they would install fiber in older areas of town.

Mayor Billings asked if the City Council denied the franchise agreement with Infowest until the City knew what direction to go, what other concerns needed to be addressed. Scott Hughes reported that there are concerns regarding pole attachments.

Mr. DeMille asked for direction from the City Council. The City Council members are not in favor of starting a new utility. Councilman Thomas is in favor of limiting the number of franchise agreements. Councilman Prete's priorities are ensuring that services are provided in the older areas, making sure there is adequate competition to keep costs low, and minimize costs to the City. Arthur LeBaron suggested installing conduits in the road when a development is built and leasing the conduit to fiber providers.

The City Council asked Mr. Hall to review the franchise agreement ordinance and return it to Council's next meeting.

5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports

Stephen Nelson held the first meeting with the steering committee for the Moderate Income Housing plan today. The public open house is on June 8th at the Community Center. The plan should be ready for the Council to review in August. State code requires that the plan is adopted before October 1st. The applicant for New Business #8 will not be able to make it tonight and asked for it to be tabled. This application was denied in February because it did not comply with the General Plan. The new application is for a different zone.

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Arthur LeBaron invited the City Council to watch the bell being placed on the tower tomorrow at 11:30 a.m.

Fred Resch III has received letters from attorneys regarding the letter sent to non-compliant short-term rentals. Fines are not accruing daily because the City needs to hire an appeal authority.

Chief Excell reported that the final elementary school DARE graduations are tomorrow. Two hundred students graduated this year. Hurricane City Police Department is the only agency in Washington County teaching DARE. The Crime Scene Investigator/Evidence technician starts the following Monday. The Crime Scene Investigator/Evidence intern is starting on June 1st. The evidence room audit will take them about eight weeks. This must be completed when a new technician is brought in to ensure accuracy. The Field Training Officer program has six officers, which is going well. He expressed gratitude to the City Council for having an attorney on staff. He is collaborating with him to update the Animal Control ordinances. Iron Man was a success, however, three businesses complained about losing revenue due to the traffic.

Tiffani Wright reported that SpongeBob closed and met its revenue goal of 20k. Brent Moser donated kayaks and canoes to the Recreation Center for outdoor programs. The Peach Days vendor list is full, and other vendor applications are on a waitlist.

Ken Richins reported that they lost another employee. There are two open positions. Summer water breaks have already started. He voiced appreciation to his crew for taking care of them.

Scott Hughes stated the Power Department is staying busy. They are in the process of hiring. UAMPS appointed a new CEO. Mayor Billings stated that the City Council would like to attend the next Nuscale project trip.

Paige Chapman is working on the budget and will be sending out the bubble list soon.

Kaden DeMille noted that the City Council and Staff need to schedule a meeting for the budget.

Dave Houston commented that the airport is doing well. They are getting the weeds cleaned up. A volunteer group painted numbers on the hangers.

Dayton Hall reported the City received a notice of intent to annex forty acres nearby Sky Ranch. Mayor Billings reported that Sky Ranch is also ready to file for annexation.

6:00 p.m. - Call to Order –

Prayer: David Hirschi

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Thought: Mayor Billings

Pledge: Mayor Billings

Presentation of naming "The Dan Zaleski Trailhead."

Mayor Billings thanked Mr. Zaleski for his commitment to the families and students in the community. She shared her memories of working with him as a student-teacher. Mr. Zaleski is retiring after forty years as an elementary school teacher. Mr. Zaleski took thousands of children hiking over his years of service, and his passion for hiking helped children appreciate the beauty in their backyard. Councilman Hirschi read the adopted resolution by the Hurricane City Council naming the "Hurricane Cinder Knoll Trailhead" as "The Dan Zaleski Trailhead."

Minutes of the Regular City Council Meeting for 12/16/2021, 4/7/2022, and 4/21/2022

Dave Sanders motioned to approve the Regular City Council Meetings minutes for 12/16/2021, 4/7/2022, and 4/21/2022. Seconded by Doug Heideman. Motion carried unanimously with Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye. Joseph Prete abstained when he was acting chair.

Declaration of any conflict of interest

Kevin Thomas declared a conflict of interest because Zach Forsyth is his client.

Public Forum – Comments From Public

Raymond Palmer said he does not support his monthly water bill's \$4 drainage fee. He asked how the City justifies this fee when it hardly rains? According to Census, there are 6,142 households in Hurricane City. What is the City using that money for each month? He asked for information on wastewater reuse and how the city addresses water conservation.

Arthur LeBaron explained that the existing storm drains have to be maintained. The fee is also used to expand the drainage system. Ash Creek Sewer District manages the wastewater and is working on a reuse system. Mayor Billings discussed the City's development of water resources.

OLD BUSINESS

1. Discussion and presentation for noise abatement policy at the airport - Scott Freeman

Scott Freeman presented an updated proposed noise abatement program. Steve Lemmon and Scott Freeman attend Utah's first Aeronautic conference. Protecting small airports and the surrounding residents was discussed during the conference. Mr. Freeman reported that the

Hurricane City Council Minutes – May 19, 2022

best way to do this is zoning an agriculture buffer around the airport and the second-best way to provide a buffer is light industrial. There is already residential zoning surrounding the airport, but the City still needs to find a solution. An ordinance is not workable because of a law passed in 1990.

There is already a drafted noise abatement policy, but he proposes more noise regulations. Southern Utah University (SUU) is abiding by the MOU. SUU has voiced concern about noise complaints that do not pertain to their aircraft. They also report inconsistent communication. If one person is communicating with them, then it will stay consistent. Mr. Freeman stated that Hurricane Airport is planning to utilize an aircraft monitoring system. This software monitors and tracks altitude, speed, and flight patterns. The system takes data from the aircraft transponders and produces graphical reports. Establishing a documented accountable system for noise complaints and formalizing the noise complaint process is also important. The noise complaints will be correlated to the aircraft tracking system. A volunteer noise coordinator is necessary to oversee this program. Pilot awareness and training are key. Noise abatement training will be provided to all aircraft owners at the airport. This would be a team effort with the private sector and the City to improve the airport.

Mayor Billings reported that the Airport Board must review and approve the policy before the City Council can approve the policy. An ordinance must be adopted to approve the aircraft monitoring system, noise complaint system, and the volunteer position. Council Thomas favors this abatement and thinks it will alleviate many issues. Councilman Heideman stated that this is already in use by other Cities. Mr. Prete asked if the software could monitor noise. Mr. Lemmon explained that each aircraft has associated decibels, and the program monitors the parameter of each aircraft.

Dave Houston, the Airport Manager, clarified that the FAA has worked to secure discretionary funding to pay for the entire lighting project this year. Other airports can utilize this funding if the City is not planning to do so. The City must decide soon because the funding must be committed before the FAA fiscal year ends in September.

Jason Campbell stated that the people have spoken, and this should not be revisited. This has been a blood bath for months. Mr. Campbell expressed gratitude to Mr. Freeman for considering the citizen's feedback. It is important to have a monitoring system to protect citizens and pilots. However, there are citizens concerned that this is a tool to push forward flying at night.

2. Consideration and possible approval of a **proposal to seek sponsorship aid in using the school district buses for a private event** - Dehn Craig

Dehn Craig is not present.

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Joseph Prete motioned to table the proposal to seek sponsorship aid in using the school district buses for a private event. Seconded by Dave Sanders. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

3. Ordinance 2022-10: Consideration and possible approval of a proposed Land Code Use Amendment to Title 10, Chapter 3, Chapter 7, Chapter 41, and Chapter 51 - all regarding ADU's, accessory dwelling units. Hurricane City Planning Applicant

The City Council previously continued this to allow the City Attorney time to review the proposal. Stephen Nelson reviewed the proposed changes. The changes provide conditions and provisions for allowing more than one ADU subject to property size. Another change allows the property owner to live in the main or accessory building. The ADU definition was updated. Councilman Prete suggested clarifying the acreage size to less than .8 acres for one dwelling unit and greater than .8 acres for the additional ADU. Mr. Nelson stated that agriculture must be added to the Accessory Dwelling Unit Standard Section D for consistency.

Jeremy Hargis appreciates the added agriculture zone. He asked if Council was willing to consider a proposal to allow three ADUs on parcels larger than two acres. Mr. Nelson reported this was considered, but the Planning Commission was concerned about creating high density.

Kevin Thomas motioned to approve the proposed Land Code Use Amendment to Title 10, Chapter 3, Chapter 7, Chapter 41, and Chapter 51 - all regarding ADU's, accessory dwelling units. With the proposed amendments. Seconded by Joseph Prete. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

4. Ordinance 2022-21: Consideration and possible approval of a proposed Land Code Use Amendment to Title 10, a section of Chapter 7 – regarding conditional use permits and Chapter 15 regarding Highway Commercial building standards. Ishraj Singh Applicant. Steve Beesley Agent.

Steve Beesley present. Mr. Beesley reported that the applicant proposed a four-story Hampton Inn and Suites hotel. They expected the height to be allowed because there are other tall hotels in Hurricane City, however, the application was denied because the height was 1.5 times greater than the average height of adjacent buildings. Stephen Nelson explained that the state law changed, requiring strict standards for conditional use permits. The City updated the conditional use permits standards judging building height at 1.5 times greater than the average height of the adjacent buildings. This proposed amendment allows a fifty-five-foot-tall building with additional setback requirements for every foot over thirty-five feet. Mr. Nelson reported that if this amendment is approved, it will apply to any commercial zone.

Councilman Prete explained that this change applies to everything in this zone. The City Council discussed applying the new standard specifically to highway commercial zoning and reviewed

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the zoning map to verify what areas are affected. Mr. Nelson stated that within Utah law if an applicant meets the conditions for a conditional use permit, the City is obligated to grant the permit. He thinks this is a better standard than the current code. Councilman Hirschi is not prepared to approve this amendment. He feels the hotel fits this property, but he has not had time to review how this affects other properties.

David Hirschi motioned to deny the proposed Land Code Use Amendment to Title 10, a section of Chapter 7 – regarding conditional use permits and Chapter 15 regarding Highway Commercial building standards. Seconded by Joseph Prete. Motion carried with Joseph Prete, David Hirschi, Doug Heideman, voting aye. Dave Sanders and Kevin Thomas voted nay.

5. Consideration and possible approval of Ordinance 2022-23 updating Code Section 7-1-8 regulating Off-Highway Vehicles and adding Code Section 7-1-9 authorizing and regulating Golf Carts on City roads

Dayton Hall explained that State code states a municipality may allow golf carts on the city streets, but if they do they are required to regulate the parameter of that use. Such as, who can operate, when they can operate, and where they can operate the golf cart. Councilman Prete asked if this gives the City the authority to regulate the age of golf cart operators. Mr. Hall believes the City has that authority. Chief Excel stated he does not think someone without a driver's license should operate any vehicle on city streets. If a driver's license is suspended or revoked because of points, or a DUI, they should not be allowed to operate a golf cart on the city streets. Mr. Excel stated that the proposed code was updated to clarify that golf carts are not allowed on roads with a speed limit greater than twenty-five miles per hour. Mayor Billings reviewed the age limits and roadway speed limits in the proposed code. The City Council agrees that the minimum age limit should be sixteen.

Richard Foote purchased a golf cart to get to work because the DMV told him he could operate it without registration and insurance. He only goes two blocks to work or school, and if this is passed how it is written, he will not be able to drive his golf cart.

Raymond Palmer asked about the purpose of restricting a golf cart to roads with a speed limit of twenty-five miles or less.

Julie Hirschi agrees there should be an age limit. Driving safety is a priority; she thinks golf carts should have turn signals.

Adam Jasperson had a golf cart registered and licensed. The golf cart had to have a windshield, lights horn, seat belts, and turn signal.

Dale Green stated that the ATV ordinance allows someone under sixteen to operate an ATV if they complete the training.

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Mayor Billings would like the OHV club to review the ordinance.

Doug Heideman motioned to continue the Ordinance 2022-23 updating Code Section 7-1-8 regulating Off-Highway Vehicles and adding Code Section 7-1-9 authorizing and regulating Golf Carts on City roads. Seconded by David Hirschi. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

Councilman Prete thinks 7-1-8 looks good, but he is opposed to the golf cart ordinance. Adopting this ordinance would allow anyone over sixteen to drive golf carts around the City, and he feels the City Council could review this on a case-by-case basis.

6. Discussion of Ordinance 2022-29 amending Title 2, Chapter 1, Airport Authority - Nanette Billings

Dayton Hall explained that the proposed amendment eliminates the aviation background prerequisite. The proposed prerequisite is residency in Hurricane City or having a contract stating entitlement to serve as a board member. This proposal defines seven board members with a quorum of four.

Jason Campbell encouraged the City Council to adopt this ordinance. Those impacted by the airport should be included on the advisory board. In the past, the board has taken legislative decisions and authorized expenditures outside of the board mandate, and he does not think Mike Vercimack should be representing the City.

Mr. Hall stated that non-voting board members are the appointed City Council representative and the Airport Manager. Mike Vercimack was appointed to the board by the City Council, effectively placing him as a voting member.

Councilman Prete thinks bringing a community voice to the airport board is important. He suggested one non-pilot voting member. Mayor Billing noted that it is important to have board members who can work together as a functioning group.

NEW BUSINESS

1. Consideration and possible approval of Ordinance 2022-30 amending the design standards pertaining to secondary water system requirements - Ken Richins

Ken Richins reported that an ordinance was approved last year requiring dry irrigation systems in new subdivisions. This update will require wet irrigation systems in new subdivisions, which is a vital component of water conservation.

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Doug Heideman motioned to approve amending the design standards pertaining to secondary water system requirements. Seconded by Kevin Thomas. Motion carried with Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye. Joseph Prete abstained.

2. Consideration and possible approval of a Resolution 2022-25 increasing the amount of public safety employee retirement contributions - Kendra Rich

Kaden DeMille reported that the Utah Retirement System regularly reevaluates its figures and occasionally adjusts the rates. This year the rate was adjusted for tier two employees. In the past, the Council has approved the City to pay the required employee contribution. Mr. DeMille recommended continuing to cover the employee contribution. This is a rate increase of 2.59%. This adjustment is roughly \$166 per employee each year. Mr. DeMille suggested a resolution to allow Administration to match the URS rates without City Council approval up to a maximum of five percent.

Dave Sanders motioned to approve Resolution 2022-25, increasing the amount of public safety employee retirement contributions. Seconded by David Hirschi. Motion carried unanimously with Dave Sanders, Joseph Prete, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

3. Consideration and possible approval of an Off-Premise local consent for Venture Fuel - Patrick Dockstader

Patrick Dockstader is participating online. This is a request for a local consent off-premise beer license. Councilman Prete read the letters of recommendation, and they were exceptionally good.

Joseph Prete motioned to approve the off-premise local consent for Venture Fuel. Seconded by Dave Sanders. Motion carried unanimously with Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

4. Consideration and possible approval of local consent for a liquor license that covers multiple events @ Sand Hollow Resort - Adam Jasperson

Adam Jasperson is present. Councilman Prete stated that the form in the packet is listed as a single event beer permit but they are requesting multiple events. Mr. Jasperson explained that the State of Utah law changed, allowing one permit to cover multiple events. The restaurant has a liquor license, but this license will allow them to serve liquor at concerts, weddings, and other events outside. Councilman Prete is uncomfortable approving the consent for multiple events and would prefer the option to withdraw the license in case of violations.

Joseph Prete motioned to approve local consent for a liquor license that covers multiple events at Sand Hollow Resort with the condition that the approval can be withdrawn due to incidents

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or complaints. If the approval is withdrawn, the applicant must submit a new application. Seconded by Dave Sanders. Motion carried unanimously with Dave Sanders, David Hirschi, Doug Heideman, Joseph Prete, and Kevin Thomas voting aye.

5. Ordinance 2022-26: Consideration and possible approval on a **Zone Change Amendment request located at 163 N Main from RM-1, multifamily 6 units per acre, to RM-3, multifamily 15 units per acre, to add additional units to property.** Zachary Forsyth Applicant.

Zack Forsyth purchased this property in 2018. At that time, he approached the City to add more units but was denied because of the lot size. The ordinance has changed in the Hurricane Downtown area to allow RM-3 zoning on this size of the lot. The Planning Commission is concerned about parking. If more units are approved, he will add additional parking. He has evaluated it, and there is room to accommodate parking and egress. He feels like this fits the area and provides affordable housing. Councilman Thomas noted that he has drawn up a plot map showing twenty-eight feet in between the buildings.

Chris Woodbury spoke on behalf of Dan Zaleski and himself. This is not harmonious with the desire of homeowners in the area. People buy property knowing what it is zoned for and then apply for a change. Neighbors do not want this to change. They purchased their homes to have nice quiet neighbors. He wasn't allowed to build a shop in his backyard because it would obstruct the view of houses around him, and now there is a two-story house behind him.

Councilman Thomas will abstain from this item and the next, but he provided a drawing showing that the parking is available. Stephen Nelson reported that the code was changed to allow RM-2 and RM-3 zoning in the downtown area under an acre. Housing units in downtown areas positively affect affordable housing and commercial development. Staff gave a positive recommendation. Density near amenities, work, and schools match the master plan.

Councilman Hirschi stated that the Council had received several emails from surrounding property owners expressing the challenges they are experiencing with the current units. The parking is already tight, and a current tenant has a fifth wheel that he parks at the entrance. Mr. Forsyth explained that the tenant was not allowed to park the fifth wheel there. The only problem he has had is people dumping cars, and he has those cars towed away.

Albert Langston lives across from this proposal. This will increase the number of people on this property, and the residents do not want this changed.

Councilman Hirschi is not in favor of this. However, he appreciates the applicant's commitment to providing affordable housing. Councilman Heideman feels this is a good concept, but this is not the appropriate time. Councilman Sander's concern is the parking. He understands that Mr. Forsyth will work to enforce proper parking. Councilman Thomas stated that the applicant

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could exceed the minimum parking requirements. Councilman Prete thinks high-density housing next to commercial is a good fit. He likes the proximity to amenities. He is concerned about this adversely affecting residents in the area.

David Hirschi motioned to deny the item because it is not harmonious with the surrounding character, and it will have an adverse effect on the adjacent properties. Seconded by Doug Heideman. Motion failed with Dave Sanders, Nanette Billings, and Joseph Prete voting nay. Kevin Thomas abstained.

Mayor Billings stated that this follows the master plan. She does not want to adversely affect property owners, but it is important to adhere to the master plan. Councilman Hirschi's main consideration is the desire of citizens in the area. Chris Woodbury commented that the master plan is important, but it is not always right. It is important to consider the desire of the residents in the neighborhood. Mr. Forsyth stated that this is not about greed. It is about supporting the community.

Brent Stratton stated he thinks highly of Mr. Forsyth and believes he has good intentions, but this isn't the proper location because the property is too small. He is concerned for his parents, that live next to this property. If there is a fire without adequate parking, how will an emergency service vehicle access the property? Mr. Nelson explained that if the parking and fire access issues are not addressed, the applicant will not be able to move forward with the project.

Joseph Prete motioned to approve the Zone Change Amendment request located at 163 N Main from RM-1, multifamily 6 units per acre, to RM-3. It received a positive recommendation from Planning Commission and Staff and meets the four zone change criteria. It is consistent with the goals and objectives of the General Plan, harmonious with the overall character, and has adequate facilities. There are concerns about adverse effects on adjacent properties, but the City Council does not know if they will exist. Seconded by Dave Sanders. Motion carried with Dave Sanders, Joseph Prete, and Nanette Billings voting aye. David Hirschi and Doug Heideman voting nay. Kevin Thomas abstained.

6. Ordinance 2022-27: Consideration and possible approval on a **Zone Change Amendment request located at 115 N 100 E and 55 E 100 N** from RM-1, multifamily 6 units per acre, and GC, general commercial, to RM-3, multifamily 15 units per acre, to allow for affordable housing along the SR-9 corridor. Zachary Forsyth Applicant.

Councilman Prete asked why the applicant is applying for RM-3. Mr. Forsyth explained that the general commercial piece of the property is valuable in terms of short-term rental. His goal is to develop the entire property as affordable multifamily housing. He does not want to change the general commercial zone on this property section unless RM-3 is approved for the whole property. They plan to do basement and floor-level apartments to stay consistent with the

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surrounding area. Mayor Billings would rather have affordable housing than short-term rentals. Councilman Prete stated it is refreshing to see affordable housing projects. Mr. Forsyth is open to offering affordable housing to police officers to alleviate the concerns about crime, and he can only do that with RM-3.

Chris Woodbury explained that the Maverik County Store increased the traffic, trash, and noise in this neighborhood. Planning Commission questioned whether this was in harmony but made a positive recommendation. He purchased his property based on the zoning.

Councilman Hirschi asked why the City Council approves zone changes. If they are following the master plan, zone changes aren't necessary. The City is required by State law to adopt a General Plan, which is a recommendation and policy for how the City is developed. The zoning map represents the laws of entitlements on properties, and the City should use the General Plan when reviewing proposed zone changes. Dayton Hall explained that the General Plan is one of the four criteria for determining a possible zone change.

Renee Thompson does not understand why small starter homes can't be built for young families instead of more apartment buildings. The zone change notice was not posted on the property, and many residents in the area did not receive letters.

Councilman Hirschi stated when the council members campaigned claiming they would listen to the citizens, but he has not seen much change. The Council needs to slow down and see how things develop. Councilman Prete is uncomfortable because RM-3 is too dense. Mr. Forsyth is open to RM-2 as long as it does not change the general commercial zoning section of the property.

David Hirschi motioned to deny the Zone Change Amendment request located at 115 N 100 E and 55 E 100 N from RM-1, multifamily 6 units per acre, and GC, general commercial, to RM-3. It is incompatible with surrounding properties and will negatively affect the adjacent property. Seconded by Doug Heideman. Motion Carried with David Hirschi, Dave Sanders, Joseph Prete, and Doug Heideman voting aye. Kevin Thomas abstained.

- 7. Ordinance 2022-24: Consideration and possible approval on a Zone Change Amendment request located at 825 S 400 W from RA-1, residential agriculture, to R1-15, residential one unit per 15,000 square feet, for a residential development. Parcel number H-3-2-3-1225. Ferel Campbell Applicant. Jilyn Nelson Agent**

Ronald Campbell's father purchased this property fifteen years ago with the intent of his children moving to the property in the future. City staff had good comments, and Mr. Campbell was not prepared for the Planning Commission's negative recommendation. The applicant felt that some of the Commissioners had a conflict of interest. The Planning Commission approved another application based on the master plan. The Commissioners then chose to go against the

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master plan and deny this application. The applicant is proposing nine lots. After the road dedication, the property will be a little under five acres. Councilman Hirschi stated that there is no guarantee that the property will always remain with the family.

Cheryl Reeve lives near this property. They also have acreage they offered to their children to build on. There were open fields across the street for many years, but they will soon be developed to quarter acres. She does understand the rights of property owners to develop their property. Sometimes it becomes unfeasible to take care of a large property, and it is their right to develop it. Nine units on this property size is reasonable, and the irrigation concerns can be addressed.

Jarolyn Stout lives on this road and started by saying the Campbell family is a great family. The citizens contributed their thoughts to the master plan, but the community did not make the plan. The master plan is a suggestion and not the law. Her family bought their property thirty years ago and always adhered to the zoning. It is not fair to other property owners that live there to change the use. There are working historic farms in this area, and infrastructure, irrigation, and drainage are a problem. Other people's property rights should not trump her property rights. She asked the Council to stick to the zoning and listen to the people that voted the Council members in. People are tired of the City catering to developers.

Dale Ballard owns the property across the street. He is concerned because changing this to R1-15 is extreme compared to the current zoning. His father was negatively affected when development started around him. Fields have gophers that dig holes, and the water follows the holes. Most farmers can't afford lawsuits if homes in the area get flooded by their irrigation.

Kelby Iverson appreciates the City Council not exceeding the master plan and using the guidelines. There are many situations in which the master plan is premature. There is a potential that this zone change could become quarter-acre lots in the future. There are historical farms surrounding this property. He would like the Campbells to come back with a proposal for a one-acre subdivision with agricultural land.

Kathy (Campbell's daughter) explained five children want to live on this property. Her dad is in bad health, and her brother is moving home to care for her dad. They want to purchase the land to help with medical costs. They understand irrigation and farming and are just trying to help their parents.

Mayor Billings explained that the master planned road will be developed as development comes in. Property rights go both ways. Councilman Hirschi clarified that the applicant is applying for R1-15 because of land dedication for the road. Stephen Nelson stated the General Plan lists this area as single-family. What they are requesting is the least amount of density. Councilman Thomas stated that the applicant is following the rules by applying for the zone change. People that live here want their children to live here. The best scenario is to subdivide property for their children. It meets the intention of the General Plan. The applicant could do

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larger lots if they didn't have to give up property for the road. Councilman Sanders commented that there are good people in this community and that it is sad that some people do not want to be good neighbors. This is for the family to stay together. Councilman Hirschi feels the same as Councilman Sanders. The City Council wants to support the neighbors, but this request is reasonable. Mayor Billings asked if half acres with a PDO would work. Mr. Nelson stated that a PDO would allow flexibility in the lot sizes. However, he is unsure if the applicant will still have nine full lots. It could be potentially be achieved with a density bonus.

Councilman Prete is passionate about agricultural preservation and being family-friendly. The Campbells already have the right to develop four lots in the space. He would like to define the number of lots, which he thinks can be addressed in the development agreement.

Joseph Prete motioned to approve the Zone Change Amendment request located at 825 S 400 W from RA-1, residential agriculture, to R1-15 subject to a development agreement limiting the property to nine lots. Seconded by Dave Sanders. Motion carried with Joseph Prete, Dave Sanders, David Hirschi, and Kevin Thomas voting aye. Doug Heideman voting nay.

8. Ordinance 2022-25: Consideration and possible approval on a **Zone Change Amendment request located at 1200 west and 4600 south from RA-1**, residential agriculture one unit per acre, to RA-0.5, residential agriculture one unit per half acre. Parcel number H-3403-K. Joshua Coen Applicant. Clark Spilker and Pope Engineering Agent.

Joseph Prete motioned to table the Zone Change Amendment request located at 1200 west and 4600 south from RA-1, residential agriculture one unit per acre, to RA-0.5, residential agriculture one unit per half acre. Parcel number H-3403-K. Per the applicant's request. Seconded by Dave Sanders. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

9. Ordinance 2022-28: Consideration and possible approval on a **Zone Change and Development Agreement Amendment PDO update located on the old Colina Tinta project to remove the approved golf course and add more public open space**. Parcel number H-3-2-4-214. WPP Hurricane Land LLC Applicant. Austin Overman Agent

Austin Overman is present. This master planned development is fifteen years old. They included staff in the first meetings when they purchased this property to discuss plans for the amenities. Staff commented that the City would prefer the applicant remove the golf course for water conservation reasons. They will keep the same density and are not seeking a zone change. This is just to remove the golf course. Stephen Nelson discussed the originally approved development. They are providing one hundred acres of open space by eliminating the golf course. The number of homes will not change, but there are more single-family, and fewer multifamily Staff has also asked for additional trails. The initial development agreement entitled

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the applicant to have 247 short-term rentals. The new agreement allows the short-term rentals as long as they are developed to the recreational resort standard. Mr. Nelson commented that they would have to provide amenities for the short-term rentals. He discussed the changes to the commercial area within the development. The development agreement states that the commercial will be for neighborhood commercial uses. The applicant would like to have assisted living facilities that are permitted in residential areas in the current code.

Dayton Hall commented that the applicants have proposed revising the development agreement regarding the retirement facility density. The developer is entitled to reimbursement for public facility improvements through the proper process. He is okay with the proposed language. Mr. Nelson reported that there is one water tank on-site, but there has been discussions about adding another. There are also sensitive lands that will have to be approved by the City Engineer. Mr. Hall is concerned because the original development agreement states the City is obligated to exercise the power of eminent domain at the applicant's request. The applicant agreed to remove it.

Dave Sanders motioned to approve the Zone Change and Development Agreement Amendment PDO update located on the old Colina Tinta project to remove the approved golf course and add more public open space. Subject to approval by the City Attorney. Seconded by Joseph Prete. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

- 10. Consideration and possible approval on an amended final plat on Angell Heights Phase 4, located at 2153 S Angell Heights Dr.** Robert and Jody Hardesty Applicant. Ryan Scholes - Alpha Engineering Agent.

Stephen Nelson stated that staff recommends approval.

Kevin Thomas motioned to approve the amended final plat on Angell Heights Phase 4, located at 2153 S Angell Heights Dr. Seconded by Doug Heideman. Motion carried unanimously with Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas voting aye.

- 11. Discussion regarding 200 South and its current and near future impacts on 1515 West - Brady Tapp**

Brady Tapp stated he built a home in Hurricane because of what the area has to offer. They were aware of what the master plan was but thought it would take many years to develop fully. Zion RV Park was required to include access on 200 South to connect to 1515 West. It was explained that the road was necessary for emergency access. That has not been its function. The road is being used as direct access, and the road is not wide enough for two vehicles. The traffic from the RV park is impacting the neighborhood. Those staying in the RV park are not respecting the noise ordinance. They are intruding on the privacy and safety of the surrounding

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homes. The owners of Zions RV have been good to work with, and they are trying to manage the vehicle and pedestrian traffic, however, Ace Hardware may purchase the property next to the RV Park. If that happens, the increased traffic will cause traffic to flow through 1515 West.

Mayor Billings explained that when a road is dedicated, it is a public road that anyone can use. The road is not wide enough because it is not fully developed.

Mr. Tapp stated that roads are necessary to connect this development. He understands that there is access from State Street to the potential Ace Hardware, but most patrons will choose the easiest way to the business, which forces traffic into the residential neighborhood.

Councilman Hirschi stated Tom Kuhlman recommended an emergency crash gate at 1515 West to stop the access. Mayor Billings stated that the emergency crash gates can only be on private property. Dayton Hall explained that the half road was dedicated to the City and cannot be closed unless there is a public hearing and process.

Dale Grange reported that thirteen citizens had waited six hours to speak during this discussion. This is a clear indicator of the vested interest. He feels that when the RV Park was reviewed, the uses were not compatible. He asked for a physical barrier between them. There has been significant vehicle traffic, foot traffic, and trash. People are coming onto his property picking pecans. He asked Council to do something to maintain their quality of life. He appreciates the master plan, but there are times when it might have to be looked at again. Having Ace Hardware in this area will increase traffic, and cars will use the back access. Mayor Billings reported that State Law requires a barrier or road between developments, and the road satisfies the barrier requirements.

Mr. Tapp stated that a barrier is meant to prevent a mixture of uses. A road doesn't serve as a barrier. Councilman Hirschi stated that a crash gate will stop vehicle and pedestrian traffic. Councilman Heideman recommended a block wall along the property because a crash gate will not stop pedestrian traffic. Mayor Billings stated that the City nor the RV park has the funds to pay for a block wall. The RV Park paid to put the road in because it was required. Councilman Thomas feels that the City created a problem when the RV park was approved.

Arthur LeBaron does not have a solution. When 200 South is developed, it will create more traffic through the development. He agrees that the road is not wide enough for two cars to pass. There is also a water line below the half road. The crash gate or block wall could be a solution, but who finances that. Councilman Thomas suggested splitting the cost between the City, citizens, and RV Park owners. Councilman Hirschi proposed researching the cost of a crash gate or block wall.

Casey Lofthouse asked if Zion RV Park is considered a subdivision. Mr. Nelson reported that they did not subdivide their property. Mr. Lofthouse read the definition of subdivision. City

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code would require a block wall if this was a subdivision. 200 South was not aligned properly. The alignment was divided between two property lines. Now it is half-built, and if it is developed entirely, a property owner will be faced with an exaction from their property. It should have been moved thirty feet to the north so that homeowners would not have to lose their homes. A master plan should be in harmony with the existing properties. He reported that the road was moved to accommodate business owners, and he questions why it wasn't moved to accommodate residential property. This will force commercial traffic into a subdivision that has been a dead-end road for many years. He sent an email to all of the City Council members. He asked them to read it and find a solution to what he feels has been an oversight of the City.

Mr. LeBaron agreed that eminent domain is a legal tool for the government. Master-planned roads are built as development progresses. However, there are times when the City has to put in a master planned road in areas that developers are not developing. The City tries to split property lines with roadways, which is the case with 200 South. Councilman Thomas thinks there have been some unanticipated consequences.

Mr. Tapp stated that 1515 W will have to be widened, depending on traffic and development, and there are one-hundred-year-old historic trees there. One resident has a pool that is in the proposed roadway. There are short-term solutions that can work, but long term, there are major impacts and problems with widening 1515 West.

Closed Meeting held pursuant to Utah Code section 52-4-205, upon request.
A closed meeting was not held.

Adjournment: 12:47 a.m.