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REC FOR: HARRISVILLE CITY



\*W3329007\*

## Master Development Agreement

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for development of a

Clustered Development Plan

Between HARRISVILLE CITY and MZ ENTERPRISES INC.

on this 11 of June, 2024





**MASTER DEVELOPMENT AGREEMENT FOR  
HARRISVILLE FIELDS**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of this  
11 of June, 2024 by and between HARRISVILLE CITY and MZ ENTERPRISES, INC.

**RECITALS**

- A. The capitalized terms used in this MDA are defined in Section 1.2, below.
- B. Master Developer is under a contract to purchase and will own as of the Effective Date the Property and is developing the Project on the Property.
- C. Contemporaneously with the approval of this MDA the City has approved the Clustered Development Master Plan.
- D. The City finds that this MDA and the Master Plan conform with the intent of the City's General Plan.
- E. The City has processed this MDA and the Master Plan pursuant to the applicable provisions of Section 10-9a-501, *et seq.*, of the Act as a land use regulation including holding hearings on the MDA and the Clustered Development Master Plan before the Planning Commission and the City Council.
- F. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the Master Plan.
- G. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City, and its residents by, among other things requiring orderly development of the Property as a master planned development and

increasing property tax and other revenues to the community based on improvements to be constructed on the Property.

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

I. The Parties understand and intend that this MDA is a “development agreement” within the meaning of the Act and entered into pursuant to the terms of the Act.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged, the City and Master Developer hereby agree to the following:

#### TERMS

##### 1. **Incorporation of Recitals and Exhibits/Definitions.**

1. **Incorporation.** The foregoing Recitals and Exhibits “A” – “F”, whether or not specifically referenced herein are hereby incorporated into this MDA.

1. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2020), *et seq.*

1.2.2. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.3. **Applicant** means a person or entity submitting a Development Application.

1.2.4. **Buildout** means the completion of all the development on the entire Harrisville Fields Project in accordance with the approved plans.

1.2.5. **City** means Harrisville City, a Utah municipality.

1.2.6. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as engineering, planning, traffic, hydrology, or drainage for reviewing certain aspects of the development of the Project.

1.2.7. **City's Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.8. **City's Vested Laws** means the ordinances, policies, standards, and procedures of the City in effect as of the date the City approves this MDA.

1.2.9. **Council** means the elected City Council of the City.

1.2.10. **Default** means a material breach of this MDA as specified herein.

1.2.11. **Denial** means a formal denial issued by the final administrative decision-making body of the City for a Development Application but does not include review comments or "redlines" by City staff.

1.2.12. **Design and Site Standards** means those standards for the design, look, and feel of the Project more fully specified in Exhibit "D".

1.2.13. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.14. **Development Area** means one of the areas that are a part of the Project as conceptually illustrated in the Master Plan.

1.2.15. **Development Application** means an application to the City for

development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.16. **Development Report** means a report containing the information specified in Sections 2.6.9 – 2.6.11.

1.2.17. **Effective Date** means the date that this MDA becomes effective as specified in Section 27, below.

1.2.18. **Excluded Development Area** means that portion of the Property illustrated on the Master Plan, Exhibit “B”, which is subject to the special provisions of Section 2.4 below.

1.2.19. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with the Act or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.20. **Four Mile SSD** means a special service district created by the City that provides approved public services to the Project, including secondary water (pressurized irrigation), if Developer is unable to arrange for such water through Pineview Water District.

1.2.21. **Intended Uses** means the use of all or portions of the Project for single-family residential units, restaurants, public facilities, open spaces, parks, trails, and other uses as more fully specified in Exhibit “B”.

1.2.22. **Master Developer** means MZ ENTERPRISES INC.

1.2.23. **Master Plan** means the conceptual layout for Commercial Development, Residential Dwelling Units, Open Space, and Public Infrastructure for the Project.

1.2.24. **Maximum Residential Units** means the maximum number of Residential Dwelling Units that may be developed on the Property, as detailed in Section 2.2



below, consistent with the Property zoning and as generally depicted in the Master Plan.

1.2.25. **MDA** means this Master Development Agreement including all the Exhibits.

1.2.26. **Notice** means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.2.27. **Open Space** shall have the meaning specified in Section 11.01.060 of the City's Municipal Code.

1.2.28. **Party/Parties** means, in the singular, Master Developer or the City; in the plural Master Developer and the City.

1.2.29. **Planning Commission** means the City's Planning Commission.

1.2.30. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all the other aspects approved as part of this MDA.

1.2.31. **Property** means the real property owned by and to be developed by Master Developer more fully described in Exhibit "A".

1.2.32. **PTOS Plan** means the plan for developing, managing, preserving improving the neighborhood parks, trails, and open space in the Project as more fully specified in.

1.2.33. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City or other governmental entity as a condition of the approval of a Development Application including, but not limited to, public streets, culinary water utility lines, secondary water utility lines, sanitary sewer lines and storm water facilities.

1.2.34. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence, an attached residence, including a condominium and town house, as illustrated on the Master Plan.

1.2.35. **Standards Deviations** means those deviations from existing City

development, design, engineering, and other standards, including but not limited to those standards that are included in the City's Vested Laws, which are specified in Exhibit "E" and which are subject to the provisions of Sections 2.1 and 5.1, below.

1.2.36. **Sub-developer** means a person or an entity not "related" (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases a Development Area for development.

1.2.37. **Subdivision** means the division of any portion of the Project into developable lots pursuant to the Act and/or the Zoning Ordinance.

1.2.38. **Subdivision Application** means the application to create a Subdivision.

1.2.39. **Zoning Ordinance** means the City's Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City's Vested Laws.

## 2. **Development of the Project.**

### 2. **Compliance with the Master Plan, Design Standards, and this MDA.**

Development of the Project shall be in accordance with the City's Vested Laws (except as specified in the Standards Deviation, Exhibit "E"), the City's Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Master Plan, the Design Standards, and this MDA. If there is any conflict between this MDA and the City's Vested Laws, then this MDA shall be controlling.

2. **Maximum Residential Units/Intended Uses.** At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units of Fifty-eight (58).

2. **Limitation and No Guarantee.** Master Developer acknowledges that the development of the Maximum Residential Units and every other aspect of the Master Plan requires

that each Development Application comply with the City's Vested Laws, the Master Plan, the Design Standards, and this MDA. The City's entry into this MDA does not guarantee that the Master Developer will be able to construct the Maximum Residential Units or any other aspect of the Project until and unless all the applicable requirements of the City's Vested Laws are complied with.

2. Excluded Development Area. The Parties acknowledge that development in the Excluded Development Area is currently and potentially impacted by issues related to storm water drainage, a potential flood plain and other issues. It is Parties' intent, and current agreement, as and when those issues are resolved, to pursue and allow development in the Excluded Development Area as illustrated in the Master Plans, and under the terms of this MDA, with the potential addition of up to four (4) Residential Units to the Maximum Residential Units identified in Section 1.2.24, subject to such amendments of this MDA as may reasonably be required.

2. Sequencing and Relationship of Residential Uses.

2.5.1. General Statement. The Parties acknowledge that, separate from and related to the City's interest in the development of Residential Uses within the Development, the City has an interest in the development of areas designated on the Master Plan, and recognizing that such development is subject to market/economic forces beyond the control of Master Developer, desires certain assurances that Master Developer is and will remain committed to develop the residential areas in a timely manner. To that specific end, the Parties agree to the following sequencing plan and related mutual goals:

2.5.2. Prompt Platting/Approval. Master Developer will use its best commercially reasonable efforts actively and promptly to pursue the platting and approval of all residential subdivisions within the Development, including the layout of roads and general infrastructure within those subdivisions, with the goal of satisfying all requirements for approvals

within a period of not more than eighteen (18) months from the Effective Date of this Agreement. For its part, the City will actively and promptly engage in all reasonable and required review and analysis of Master Developer's subdivision applications with the goal of providing required approvals within the stated target period.

2.5.3. Timely Application Review. The Parties acknowledge that an accelerated sequencing of sub-development to the Parties mutual benefit, including the City's proper and timely review, analysis and consideration of Master Developer's anticipated and separate residential subdivisions within the period stated in subsection 2.5.2.

2.5.4. Infrastructure Development. Upon approval of all subdivisions by all governmental entities necessary to the approval process, and subject at all times to the requirements and reservations outlined in Subsection 2.5.7 below, Master Developer will promptly and actively, as commercially reasonable, pursue the development and installation of all infrastructure for the entire Development, beginning with the excavation and development of roadways and, conditional upon approval by the applicable utility, continuing with the installation of electric, sewer, water (including secondary water) and cable or fiber lines. Assuming necessary approvals from the City and all utilities by July 30, 2024, Master Developer projects, without guarantee, completion of residential infrastructure within thirty-six (36) months of approval, with appropriate and reasonable adjustments to that timeframe for any delays in approvals beyond July 30, 2024.

**Special Provision on Storm Water.** Developer shall increase the Storm Water detention capacity to make the basin a Regional Basin for the City. The Final Capacity shall be increased by 181,000 cubic ft which is a 40% increase from what the subdivision needs. In exchange, the City shall reimburse by check issued by the City made payable to the Developer, 40% of the costs of construction; directly related to the upsizing of the basin.

2.5.5. Development Area Sales. The City acknowledges that the precise



location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Development Area, may not be known at the time of the creation of or sale of a Development Area. Master Developer may obtain approval of a division or partition of the Property as is provided in Section 10-9a-103(65)(c)(v) of the Act that does not create any individually developable lots in the Development Area without being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Development Area shall be that of the Master Developer or a Sub-developer upon a subsequent re-Subdivision of the Development Area that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Sub-developer complies with the City's Vested Laws.

2.5.6. Accounting for Residential Dwelling Units and Other Intended Uses for Development Areas developed by Master Developer. At the recordation of a Final Plat for any Development Application for areas to be developed by Master Developer, Master Developer shall provide the City a Development Report showing any Residential Dwelling Units or other Intended Uses used with the Development Application and the number of Residential Dwelling Units and other Intended Uses remaining with Master Developer for the remaining Project. The Development Report shall also account for any required Open Space.

2.5.7. Accounting for Residential Dwelling Units and Other Intended Uses for Development Areas Sold to Sub-developers. Any Development Area sold by Master Developer to a Sub-developer shall include the transfer of a specified portion of the Maximum Residential Units and, for any non-residential Intended Use, shall specify the amount and type of any such other use sold with the Development Area. At the recordation of a Final Plat or other document of conveyance for any Development Area sold to a Sub-developer, Master Developer

shall provide the City a Development Report showing the ownership of the Development Area(s) sold, the portion of the Maximum Residential Units and/or other type of Intended Use transferred with the Development Area(s), the amount of the Maximum Residential Units and other Intended Uses remaining with Master Developer and any material effects of the sale on the Master Plan.

2.5.8. Return of Unused Residential Dwelling Units or Other Intended Uses. If any portion of the Maximum Residential Units or other Intended Uses transferred to a Sub-developer is unused by the Sub-developer at the time the Development Areas transferred with such Density receives approval for a Development Application for the final portion of such transferred Development Areas, the unused portion of the transferred Maximum Residential Units or other Intended Uses shall automatically revert back to Master Developer and the Master Developer shall file with the City a Development Report.

### 3. Vested Rights.

3. Vested Rights Granted by Approval of this MDA. To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws, the Zoning, and the Master Plan, except as specifically provided herein. The Parties specifically intend that this MDA grant to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Section 10-9a-509 of the Act.

3. Exceptions. The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.1 are subject to only the following exceptions:

3.2.1. Master Developer Agreement. City's Future Laws that Master Developer agrees in writing to the application thereof to the Project;

3.2.2. State and Federal Compliance. City's Future Laws which are generally applicable to all properties in the City, and which are required to comply with State and

Federal laws and regulations affecting the Project;

3.2.3. Codes. Any City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, flood plain or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual on Uniform Traffic Control Devices, the International Residential Code or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.2.4. Regulations of other service providers. Any changes in laws, rules or regulations of any other entity that provides services to the Project.

3.2.5. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons, and entities similarly situated;

3.2.6. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law;

3.2.7. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law, and applicable statutes, including but not limited to Utah Code Ann. § 11-36a-101 (2020), *et seq.*;

3.2.8. Planning and Zoning Modification. Changes by the City to its planning principles and design standards, provided that such changes do not work to reduce the Maximum Residential Units, are generally applicable across the entire City and do not materially



and unreasonably increase the costs or net financial results of any Development Area; or

3.2.9. Compelling, Countervailing Interest. Laws, rules, or regulations that the City's land use authority finds on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2020).

4. **Term of Agreement** This MDA shall expire on December 31, 2031. If Master Developer has not been declared to be currently in Default as of December 31, 2031 (and if any such Default is not being cured), then this MDA shall be automatically extended until December 31, 2036. This MDA shall also terminate automatically at Buildout.

5. **Public Infrastructure.**

5. Construction by Master Developer. Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application. The Public Infrastructure shall be designed and constructed in Compliance with all applicable standards in the City's Vested Laws and, also, with any other Federal, State, or County laws, rules, or regulations. The Public Infrastructure shall be consistent with and fulfill the purposes of adopted plans for such infrastructure that are a part of the City's Vested Laws.

5. Bonding. If and to the extent required by the City's Vested Laws, unless otherwise provided by the Act, security for any required improvements shall be provided in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

6. **Parks, Trails and Open Space.** Master Developer shall be responsible for dedicating open spaces to Harrisville City upon recordation of the final plat. Harrisville City will be responsible for improving the parks, trails and open space in the Project.

7. **Processing of Development Applications.**

7.1. Processing of Development Applications. Within ten (10) business days after receipt of a Development Application and upon the request of Applicant, the City and Applicant will confer in good faith concerning the projected timeline for processing the application and to determine the scope of any supplementation or outsourcing that may be necessary to meet the desired schedule. If the City determines that outsourcing is necessary and appropriate to the timely processing of any Development Application as agreed between the Parties, then the City shall promptly estimate the reasonably anticipated differential cost of outsourcing in the manner selected by the Master Developer or Sub-developer in good faith consultation with the City. This may include either an agreement to pay overtime to the City employees or the hiring of a City Consultant acceptable to the Parties and selected in the manner consistent with that provided in Section 7.3 below for expert consultants. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or Sub-developer) for the actual differential cost of Outsourcing, Master Developer or the Sub-developer shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential. If at any time the Applicant becomes delinquent in the payment of any Outsourcing fees, the City may postpone all work until the Applicant is paid current with the City for all outstanding fees related to the Development Application.

7.2. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified, or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new

issues that need to be addressed.

7.3. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, site infrastructure, and other similar matters which are not required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such review may be a factor in selecting the City Consultant. The actual and reasonable costs of a City Consultant shall be the responsibility of Applicant. The work of the City Consultant shall be completed in a commercially reasonable time.

7.4. Processing of Residential Subdivisions

Residential Subdivisions shall be processed by the "Land Use Authority", pursuant to the standards and processes of Chapter 11.22, subject to Standards Deviations, and shall be approved if they are in compliance with the Master Plan.

7.5. City Denial of a Development Application. If the City issues a Denial of a Development Application, the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Zoning and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

7.6. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within ten (10) business days after any Denial to resolve the issues specified in the Denial of a Development Application.

7.7. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a non-City agency, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

7.8. Mediation of Development Application Denials.

7.8.1. Issues Subject to Mediation. Issues resulting from the City's Denial of a Development Application for reasons other than denials from non-City agencies and that the parties are not able to resolve by "Meet and Confer" shall be mediated and include, but are not necessarily limited to, the following:

7&1.1. the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,

7&1.2. right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,

7&1.3. interpretations, minor technical edits, or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards,

7&1.4. Justifications for, selection of and costs of Outsourcing under Sections 7.1 and 7.4;

7&1.5. the scope, conditions and amounts of any required development or infrastructure bond or related security and any impact fees; and

7&1.6. the issuance of subdivision applications and related



review of project-wide systems designs.

7.8.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator, they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall, within fifteen (15) calendar days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

7.9. Arbitration of Development Application Objections.

7.9.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable arbitrator, they shall each, within fifteen (15) calendar days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision



that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith, then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

8. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all or part of the Project under the City's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

9. **Default.**

9.1. **Notice.** If Master Developer or a Sub-developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other Party. If the City believes that the Default has been committed by a Sub-developer, then the City shall also provide a courtesy copy of the Notice to Master Developer.

9.2. **Contents of the Notice of Default.** The Notice of Default shall:

9.2.1. **Specific Claim.** Specify the claimed event of Default;

9.2.2. **Applicable Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation, or provision of this MDA that is claimed to be in Default;

9.2.3. **Materiality.** Identify why the Default is claimed to be material;

and

9.2.4. **Optional Cure.** If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration.

9.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties shall engage in the "Meet and Confer" and "Mediation" processes specified in

Sections 7.6 and 7.8. If the claimed Default is subject to Arbitration as provided in Section 7.9, then the parties shall follow such processes.

9.4. Remedies. If the parties are not able to resolve the Default by “Meet and Confer” or by “Mediation”, and if the Default is not subject to arbitration, then the parties may have the following remedies:

9.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

9.4.2. Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the Default.

9.4.3. Future Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Sub-developer, development of those Development Areas owned by the Sub-developer until the Default has been cured or a bond has been posted to secure satisfaction of the default. Building permits or Certificates of Occupancy may not be withheld from any Development Area sold to a Sub-developer based on any Default of the Master Developer unless that Default of the Master Developer is such that the Public Infrastructure required to service a Development Area owned by a Sub-Developer is not available to service the Development Area. Nor shall any Default by a Sub-developer permit the withholding of any Development Applications for Master Developer or any other Sub-developer that is not in Default.

9.5. Public Meeting. Before any remedy in Section 9.4 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

9.6. Emergency Defaults. Anything in this MDA notwithstanding, if the City

Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City, then the City may impose the remedies of Section 9.4 without the requirements of Section 9.5. The City shall give Notice to Master Developer and/or any applicable Sub-developer of any public meeting at which an emergency default is to be considered and the Master Developer and/or any applicable Sub-developer shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

9.7. Extended Cure Period. If any Default cannot be reasonably cured within thirty (30) calendar days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

9.8. Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

9.9. Limitation on Recovery for Default – No Damages. Anything in this MDA notwithstanding, no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Master Developer or any Sub-developer shall be that of specific performance.

10. Notices. All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Master Developer:**

**MZ Enterprises**

**5835 Dartmouth Dr**

**Mountain Green UT 84050**

**craignorth7@gmail.com**

**With a Copy to:**

N/A

**To the City:**

**Harrisville City  
363 West Independence Blvd  
Harrisville, UT 84404**

**With a Copy to:**

**ATTN: Attorney Brody Flint  
Harrisville City  
363 West Independence Blvd  
Harrisville, UT 84404**

11. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

8.1. **Hand Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.3. **Mailing.** On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.



12. **Secondary Water/Consent to Four Mile SSD.** Master Developer shall be responsible to furnish sufficient water rights to support secondary water service sufficient to satisfy requirements for the Project. If such service is not available from or through Pineview Water District, Master Developer agrees to coordinate such service from the Four Mile SSD, previously formed to provide authorized services to areas of the City including the Project, including any Project-specific services for which the Ben Lomond Views CRA is required, but may be unable, to provide under applicable CC&Rs.

13. **Headings.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidence of intent.

14. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City or Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA 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 or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City’s Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City’s.

13. **Hold Harmless.** Master Developer hereby covenants to indemnify, defend, and hold the City harmless from any claims made by any third parties regarding the City’s entry into this MDA and the City’s performance of any of its obligation under this MDA.

14. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part, respectively, by Master Developer with the consent of the City as provided herein, which consent may not unreasonably be withheld.

14.2. **Sale of Lots.** Master Developer’s selling or conveying lots in any approved

Subdivision or Development Areas to builders, users, or Sub-developers, shall not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by Master Developer.

14.3. Related Entity. Master Developer’s transfer of all or any part of the Property to any entity “related” to Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

14.4. Notice. Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

14.5. Time for Objection. Unless the City objects in writing within fifteen (15) calendar days of notice, the City shall be deemed to have approved of and consented to the assignment.

14.6. Partial Assignment. If any proposed assignment is for less than all of Master Developer’s rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Master Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the

performance of any obligations herein.

14.7. Denial. The City may only withhold its consent to an assignment of Master Developer's rights hereunder if the City is not reasonably satisfied of the proposed assignee's financial ability to perform the obligations of Master Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to "Meet and Confer" and "Mediation" processes specified in Sections 7.6 and 7.8.1. If the denial arises in the context of any dispute that is subject to Arbitration, then the Parties shall follow such processes.

14.8. Assignees Bound by MDA. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment. That consent shall specifically acknowledge the provisions of Section 2.

15. Binding Effect. If Master Developer sells or conveys Development Areas of lands to Sub-developers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and number of Residential Dwelling Units as applicable to such Development Area and be subject to the same limitations and rights of the City when owned by Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

16. No Waiver. Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

17. Severability. If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be



deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties, governmental delays or restrictions resulting from COVID-19 or other declared pandemic, or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

19. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

20. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Planner as the Administrator of the MDA as defined in Section 1.2.2. The initial representative for Master Developer shall be Craig North. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

21. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

22. **Estoppel Certificate.** Upon ten (10) calendar days' prior written request by Master



Developer or a Sub-developer, the City will execute an estoppel certificate to any third party certifying that Master Developer or a Sub-developer, as the case may be, at that time is not in default of the terms of this Agreement.

23. **Mutual Drafting.** Each Party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any portion of this MDA.

24. **Effective Date.** This MDA shall become effective upon Master Developer giving Notice to the City that Master Developer or its Assigns has (have) acquired the Property. Barring a written agreement between the Parties otherwise, if Master Developer has not given the City such Notice on or before December 31, 2024, then this MDA shall become null, void and of no effect.

25. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project after the Effective Date. This MDA shall be deemed to run with the land. The data disk of the City's Vested Laws, Exhibit "T", shall not be recorded in the chain of title. A secure copy of Exhibit "T" shall be filed with the City Recorder and each party shall also have an identical copy.

26. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this MDA lawfully binding the City pursuant to **Ordinance 555** adopted by the City on May 14<sup>th</sup>, 2024.

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 herein above written.

\* \* \* \* \* SIGNATURE PAGE FOLLOWS \* \* \* \* \*

MASTER DEVELOPER  
MZ ENTERPRISES, INC.

CITY  
Harrisville City

By: *Craig North*  
Its: Manager Date: 6/3/2024

By: *Michelle Tait* Its: City  
Mayor  
Date: 6-10-2024

Approved as to form and legality:

*Becky FFD*  
City Attorney

Attest:

*Jack Fogal*  
City Recorder

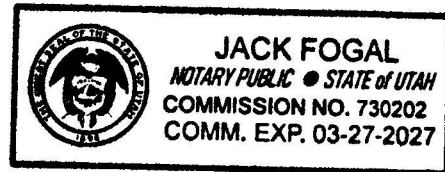


**CITY ACKNOWLEDGMENT**

STATE OF UTAH )  
:SS.  
COUNTY OF WEBER )

On the 10 day of June, 2024 personally appeared before me Michelle Tait who being by me duly sworn, did say that he is the City Mayor of Harrisville City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Mayor acknowledged to me that the City executed the same.

*Jack Fogal*  
NOTARY PUBLIC  
My Commission Expires: 3-27-2027  
Residing at: 1263 Sheldon Dr.



**MASTER DEVELOPER ACKNOWLEDGMENT**

STATE OF UTAH )  
:SS.  
COUNTY OF WEBER )

On the 3 day of June, 2024, personally appeared before me Craig North, who

being by me duly sworn, did say that he is the Manager of MZ Enterprises ---, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.



NOTARY PUBLIC

My Commission Expires: 3-27-27  
Residing at: 1263 Sheridan Dr.



## TABLE OF EXHIBITS

### **Exhibits:**<sup>1</sup>

A	Legal Description of Property
B	Overall Project Site Plan
C	Phasing Plan
C-1	Narrative
C-2	Phasing Map
D	Design and Site Standards and Renderings
D-1	Residential Development and Design Standards
D-2	Preliminary Residential Renderings
E	Bonus Density Calculation
F	Land Use Table



Exhibit "A"

Harrisville Fields Subdivision Deed Parcel Description

All of Lot 3 and Lot 4, Hart Subdivision No. 1 Lot 3 1st Amendment, a recorded subdivision in the office of the Weber County Recorder as Entry no. 2255778 in Book 65 at Page 98 with a recording date of April 15, 2007.

Also: A "Gap Parcel" not described on the records of Weber County within the existing roadway named, North Street." This gap parcel is between the aforementioned Hart Subdivision No. 1 Lot 3 1st Amendment and Fort Bingham Phase 1 Subdivision. More Particularly Described as follows:

Parcel Description

A Part of Section 8, Township 6 North, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the north line of Lot 3, Hart Subdivision No. 1 Lot 3 1st Amendment, a recorded subdivision in the office of the Weber County Recorder as Entry no. 2255778 in Book 65 at Page 98 with a recording date of April 15, 2007, said point being South 0°20'38" East 1749.91 feet from the North Quarter Corner of Section 8, Township 6 North, Range 1 West, Salt Lake Base and Meridian, and running:  
Thence South 72°52'11" East 447.13 feet along the north line of said Lot 3;  
Thence South 58°17'31" East 272.60 feet along the north line of said Lot 3;  
Thence South 49°33'36" East 157.06 feet along the north line of said Lot 3;  
Thence North 13°29'19" East 549.63 feet along the west line of said Lot 3 to the south line of Harrisville Road;  
Thence South 49°33'36" East 67.31 feet along the north line of said Lot 3 and also being along the south line of Harrisville Road;  
Thence South 13°29'19" West 649.63 feet along the east line of said Lot 3;  
Thence South 49°33'36" East 101.27 feet along the north line of said Lot 3 to the west line of Taylor Ranchettes Subdivision;  
Thence South 24°45'06" West 1479.46 feet along the east line of said Lot 3 to and along the east line of Lot 4 of the aforementioned Hart Subdivision No. 1 Lot 3 1st Amendment and also along the west line of Taylor Ranchettes Subdivision, and beyond;  
Thence South 0°47'49" West 351.29 feet to the north line of Fort Bingham Phase 1, also being the current centerline of 400 North Street, (a 60 foot road);  
Thence North 88°29'52" West 278.41 feet along the center line of 400 North Street and beyond and also along the north line of Fort Bingham Phase 1 to an interior corner of Fort Bingham Phase 1, to the section line;  
Thence North 1°00'15" East 11.63 feet along the section line and an east line to the Northeast Corner of Lot 1, Fort Bingham Phase 1;  
Thence North 88°29'52" West 152.32 feet along the north line of Lot 1, Lot 2 and Lot 3 of Fort Bingham Phase 1;  
Thence North 0°32'49" East 1019.20 feet;

Thence North 0°13'49" East 885.10 feet along the west line of said Lot 4 to and along the west line of said Lot 3;  
Thence North 0°30'49" East 398.60 feet along the west line to the Northwest Corner of said Lot 3;  
Thence South 72°52'11" East 161.27 feet along the north line of said Lot 3 to the point of beginning.  
Contains 1,614,220 square feet, 37.057 acres.



Exhibit "B"  
Site Plan

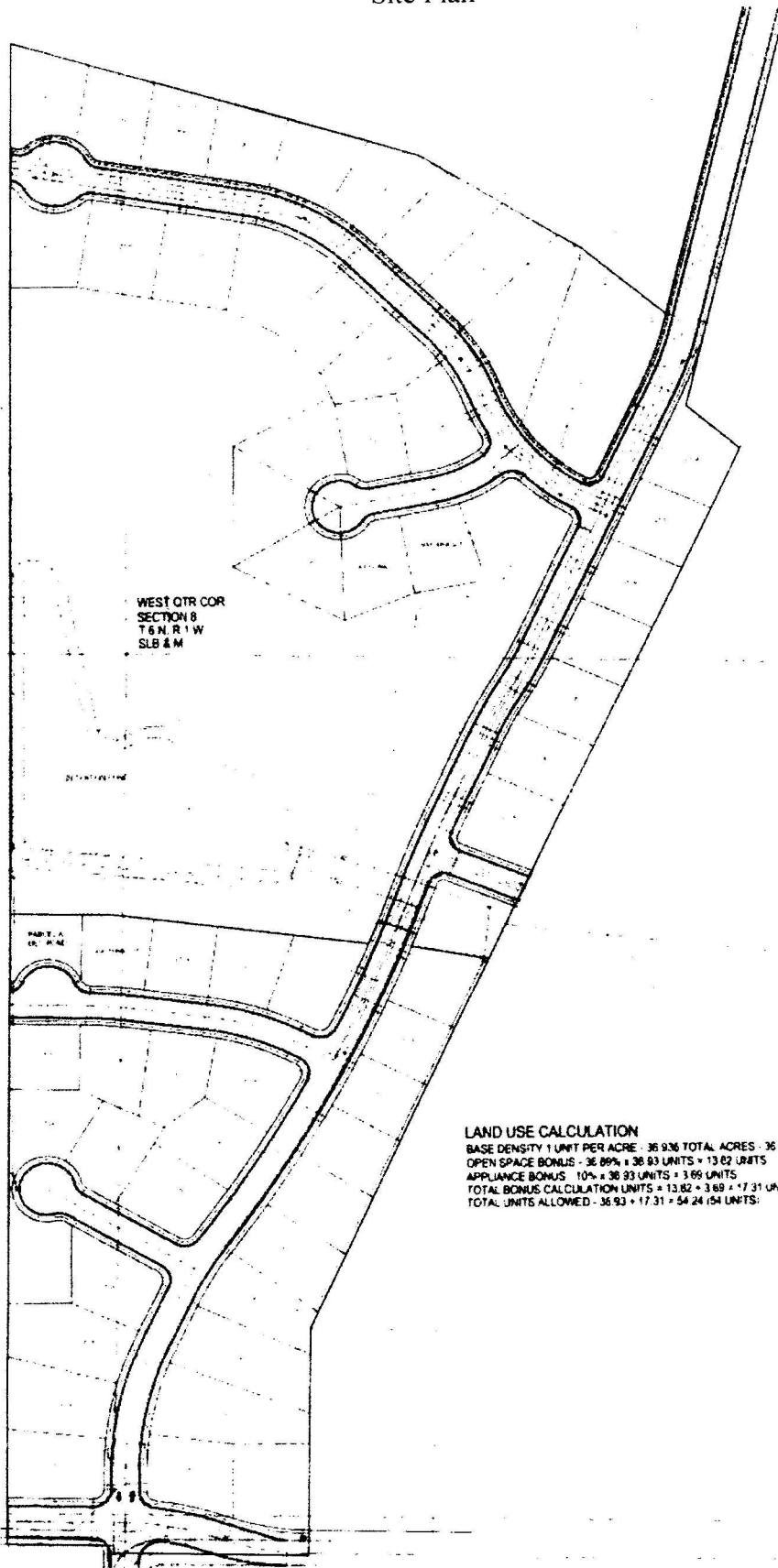
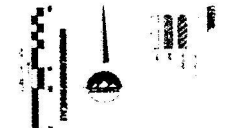
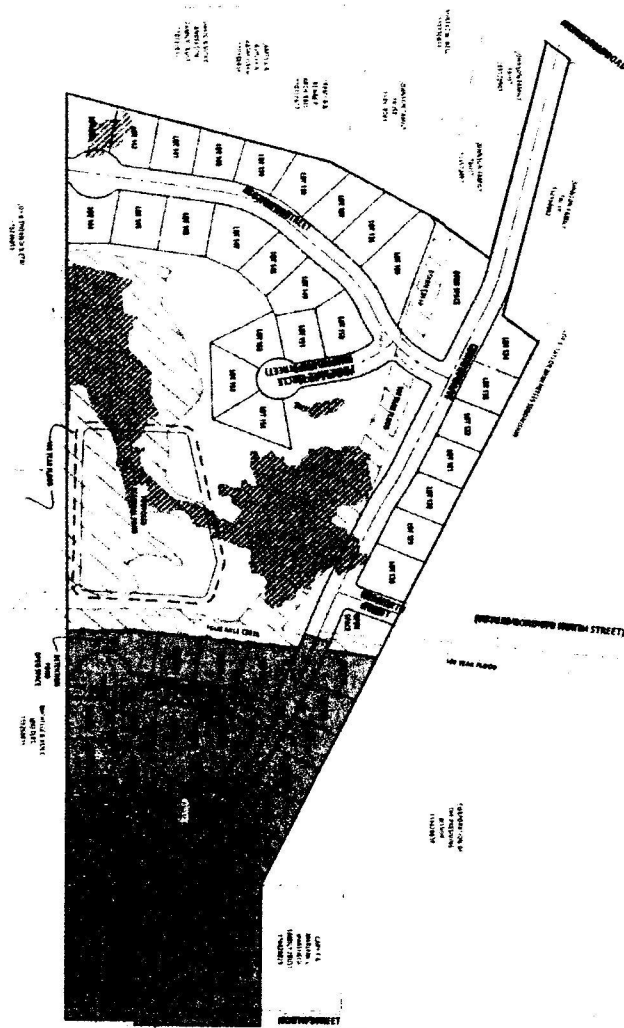


Exhibit "C-1"

Narrative: The Project shall be completed in 2 Two (2) phases. Phase One (1) will begin on the south end of the Project and include 28 Lots. Phase Two (2) will continue from Phase One and will contain 29 Lots.



Exhibit "C-2"



<p><b>1083</b></p> <p>DATE: 10/15/2013</p> <p>PROJECT: WINDY HILL SUBDIVISION</p> <p>SCALE: AS SHOWN</p>	<p><b>WINDY HILL SUBDIVISION</b></p> <p>2000 WINDY HILL ROAD HARRISBURG, PA 17110</p>		<p><b>ENSIGN</b></p> <p>ENGINEERING &amp; ARCHITECTURE</p> <p>1000 W. MARKET STREET, SUITE 200 HARRISBURG, PA 17104</p> <p>TEL: 717.633.1111 WWW.ENSIGN-PA.COM</p>
	<p>PROJECT NO. 1083</p> <p>DATE: 10/15/2013</p> <p>SCALE: AS SHOWN</p>		

Exhibit "D"

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

**HARRISVILLE FIELDS SUBDIVISION**

Harrisville, UTAH

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR Harrisville Fields Subdivision (Referred to below as "SUBDIVISION") is made and executed this \_\_\_ day of \_\_\_\_\_, 2020, MZ Enterprises, a Utah Corporation, referred to below as "Declarant".

**RECITALS:**

A. Declarant is the Owner of the following described real property approximately 863 North Harrisville Rd, Harrisville, UT (the "Entire Property" Weber County, Utah:

All lots and all roadways according to the Official Plat thereof on file and of record in the Weber County Recorder's Office.

B. Declarant intends to develop a residential subdivision on the Entire Property. Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions and restrictions all as set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision.

**DECLARATION:**

DECLARANT HEREBY DECLARES that all of the Lots within the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitude set forth in this Declaration, all of which are created by the mutual benefit of the Owners of the Lots. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a generally uniform pattern of development, to protect and enhance the property values and aesthetic values of the Lots by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. The Covenants, Conditions and Restrictions are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision to be located on the Entire Property. The covenants, conditions, and Restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner of a lot within the Subdivision on the Entire Property. An instrument containing protective covenants, conditions and restrictions substantially similar to the covenants set forth in this Declaration, with such modifications or supplemental provisions as may be deemed appropriate by Declarant on a phase-by-phase basis to address differences in the circumstances affecting Lots to be constructed after the initial phase, shall be recorded against Lots of the Subdivision on the Entire Property.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this declaration: (1) Installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) Installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City ordinances; (4) assignment of the Declarant's rights under this Declaration in whole or part to one or more builders intending to construct homes within the Subdivision; and (5) retention of Declarant's rights with respect to subsequent phases of the Subdivision

## COVENANTS, CONDITIONS & RESTRICTIONS

### ARTICLE I

#### DEFINITIONS

1. Unless the context clearly requires the application of a more general meaning the following terms, when used in this Declaration, shall have the following meanings:

**"Additional Property"** shall mean the balance of the Entire Property not included within recorded Plats.

**"Architectural Committee"** shall mean the committee created under Article III of this Declaration.

**"City"** shall mean Harrisville City, Utah and its appropriate departments, officials and boards.

**"Declarant"** shall mean and refer to Psion Homes, A Utah Corporation.

**"Declaration"** shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions. The Subdivision Plats for Harrisville Fields, and the Easements and other matters shown on any such plat, are also incorporated into this Declaration by reference.

**"Dwelling"** shall mean the single family residence built or to be built on any lot including the attached garage.

**"Entire Property"** shall have the meaning set forth in the recitals.

**"Family"** shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than five people not so related living together as a unit who maintain a common household.

**"Improvement"** shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, fences, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

**"Lot"** shall mean any numbered building Lot shown on any official plat of all or a portion of the Subdivision.

**"Owner"** shall mean the person or persons having title to any lot. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of any obligation, including the trustee and/or beneficiary under a Deed of Trust or mortgagee under a mortgage.

**"Person"** shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

**"Plat"** shall mean an official ownership plat of Harrisville Fields Subdivision as approved by Weber County and recorded in the office of the Weber County Recorder, as it may be amended from time to time.

**"Property"** shall have the meaning set forth in the recitals.

**"Subdivision"** shall mean all of the Harrisville Fields Subdivision and all lots, and other property within the Subdivision as shown on the plats covering the Entire Property.

**"Subdivision Improvements"** shall mean all subdivision improvements to be installed outside of the boundaries of lots or within easements as identified on the plats that are necessary to provide public road access and utility service to the lots, and including other construction work required to comply with any conditions of the City or county or other governmental agencies to the approval of the Subdivision or any plat thereof.

### ARTICLE II

#### RESTRICTION ON ALL LOTS

2. The following restriction on use apply to all Lots within the Subdivision:

2.1 Zoning Regulations: The lawfully enacted zoning regulations of Harrisville City and any building, fire, and health codes are in full force and effect in the Subdivision, and no lot may be occupied in a manner that is in violation of any statute, law or ordinance.

2.2 Right to Farm Notice: The area surrounding Subdivision has for many years been an agricultural community and it is anticipated that agricultural uses in the areas will continue on properties adjoining the boundaries of the



subdivision. Protection and preservation of agricultural land uses is a goal of the Declarant and of Harrisville City. Therefore, those persons buying property within the subdivision are, by this provision, put on notice that farm work hours run late and being early, and that farm operations may contribute to noises and odors objectionable to subdivision residents.

2.3 No Mining Uses: The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted.

2.4 No Business or Commercial Uses: No portion of the Subdivision may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (a) the Declarant from using one or more lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the lots are sold, whichever occurs later, or (b) the use by any Owner of his lot for a home occupation pursuant to Harrisville City ordinance. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the lot to conduct business, or which requires any employees outside of the Owner's immediate family or household.

2.5 Restriction on Signs: The Subdivision may be identified by the permanent signs which have been or will be constructed as part of the entry structure. No signs will be permitted on any lot or within the Subdivision, except for traffic control signs placed by the City, temporary signs warning of some immediate danger, or signs not in excess of eight square feet identifying the contractor and/or architect of any dwelling unit while it is under construction. Signs indicating the lot is for sale may be placed in accordance with City sign regulations, and no such sign may exceed eight square feet. The Declarant may erect a sign at the entrance to the Subdivision for a period of no more than two years after the recordation of the last plat within the Subdivision announcing the availability of lots and giving sales information. No permanent signs stating the address or the name of the owner of any lot may be installed without the advance consent of the Architectural Committee.

2.6 Completion Required Before Occupancy: No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by Harrisville City.

2.7 Dwelling to be Constructed First: No garage, storage unit, or other out building may be constructed prior to the constructions of the Dwelling on the lot.

2.8 Underground Utilities: All gas, electrical, telephone, television, and any other utility lines in the Subdivision are to be underground, including lines within any lot which service installations entirely within that Lot. No propane tanks or oil tanks may be installed on any lot except for temporary head during construction.

2.9 Maintenance of Property: All lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No owner shall permit his lot or the improvements on it to fall into disrepair.

2.10 No Noxious or Offensive Activity: No noxious or offensive activity shall be carried out on any lot, including the creation of loud or offensive noises or orders that detract from the reasonable enjoyment of nearby lots.

2.11 No Hazardous Activity: No activity may be conducted any that is or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners' insurance policy. This includes, without limitation, the storage or caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

2.12 No Unsightliness: No unsightliness is permitted on any lot. This shall include, without limitation, the open storage of any building materials (except during construction of any Dwelling unit or addition); open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage, lawn or garden furniture except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the lot in a manner that is visible from any other lot or any public street.

- 2.13 No Annoying Lights: Any outdoor lighting shall be subject to approval by the Architectural committee, and no outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the lot on which it is installed. This shall not apply to street lighting maintained by the City. Lighted tennis courts or sport courts are prohibited.
- 2.14 No Annoying Sounds: No speakers, wind bells, wind chimes, or other noise making devices may be used or maintained on any lot that create noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining lots, except for security or fire alarms.
- 2.15 Sewer Connection Required: All lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any lot. All Dwelling units must be connected to the sanitary sewer system.
- 2.16 No Fuel Storage: No fuel oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar, or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational.
- 2.17 Drainage: No Owner shall alter the direction of natural drainage from his lot, nor shall any Owner permit accelerated storm run-off to leave his lot without first using reasonable means to dissipate the flow energy.
- 2.18 Vehicles Restricted to Roadways: No motor vehicle will be operated on the Subdivision except on improved roads and driveways. No snowmobiles or motorcycles will be operated on any lot except for ingress and egress or while loading the equipment for lawful transport on public streets.
- 2.19 Kennels: No kennel or dog run may be placed closer than 30 feet to any Dwelling other than that of the Owner of the kennel, unless written permission is granted by current owner of adjacent lot. This permission does not run with the land and must be obtained from any owner of an adjacent lot.
- 2.20 No Transient Lodging Uses: The lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, a Bed and Breakfast, or other uses for providing accommodations to travelers. No lease of any Dwelling on a lot shall be for a period of less than 30 days. No Dwelling on a lot shall be subjected to time interval ownership.
- 2.21 No Re-Subdivision: No lot may be re-subdivided without the consent of the Architectural Committee, and no re-subdivision of any lot may result in the construction of any additional Dwelling units within the subdivision.
- 2.22 Combination of Lots:
- A. Authority to Combine Lots: Subject to the provisions of this Declaration and the limitations set forth in this Section, any Owner may combine two or more adjoining lots within the Subdivision.
  - B. Dwelling Placement: The square footage of the living area in the Dwelling on the combined lots should be concentrated at the center of the combined lots, and should not be placed entirely or predominately on one of the lots.
  - C. Combination Deemed Permanent: The combination of lots is deemed to be permanent and the lots may not be independently sold once construction has commenced on the improvements for the combined lot. The Owner of any lots that have been combined will execute and deliver to the Committee a notice in recordable form, containing the name of the Owner and the legal description of the lots combined, which Notice will state that the two lots have been combined and cannot subsequently be subdivided. The Committee shall record this Notice with the Davis County Recorder upon the commencement of the construction of the Dwelling on the combined lots.

#### ARTICLE IV

#### ARCHITECTURAL RESTRICTIONS ON IMPROVEMENTS



3. All Improvements on any lots are subject to the Harrisville Fields "Architectural Guidelines" which follow, and in addition, are subject to the following restrictions.

3.1 Number of Dwellings: Only one Dwelling may be constructed on any lot. All Dwellings shall have an attached garage for at least two cars.

3.2 Dwelling Height: No structure shall exceed two stories above the ground level for living space or be more than thirty-five feet in height.

3.3 Construction Completion: When construction has started on any residence or other structure, work thereon must be completed within a reasonable length of time (10 months shall be reasonable).

3.4 Windows: All windows must be at least double paned. Any trapezoidal window must follow the shape of the walls or roofs surrounding them, with the top parallel to the roof above, and the bottom horizontal or parallel to the roof structure below it. No mirrored or reflective glass may be used.

3.5 Chimneys & Vents: Chimneys must be enclosed in an approved material.

3.6 Antennas: All antennas must be enclosed within the Dwelling. If possible, any satellite dishes must be located and screened in a manner so that they are not directly visible from adjoining lots or streets. Solar panels will be permitted only with the consent of the Architectural Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted.

3.7 No Used or Temporary: No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any lot.

3.8 Driveways: Every garage shall be serviced by a driveway, which shall be of sufficient width and depth so as to park two vehicles side by side completely out of the street right of way. All driveways are to be constructed only of concrete.

3.9 Sewer Connection Required: All lots are served by sanitary sewer service and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any lot. All Dwelling units must be connected to sanitary sewer system.

3.10 Finished Lot Grading: Lot owners and builders are responsible to complete the fine grading of the entire lot so that the finish grading complies with Harrisville City ordinance.

3.11 Aluminum, vinyl and steel siding: shall only be allowed on the exterior of a Dwelling in soffit and fascia areas.

3.12 Setbacks: All sides of a Lot with frontage on a road shall have a minimum setback of 25 feet. All sides of a Lot shall have a minimum side yard setback of 8 feet, and shall have a minimum setback on rear yards of 25 feet.

3.13 Colors: Without limiting the use of color, exterior walls shall be subdued in color and not reflective. Intense colors should be used as accent only.

## ARTICLE V

### CONSTRUCTION COVENANTS

5. In order to minimize the inconvenience to adjoining owners during periods of construction within the Subdivision, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the owner and the builder of each Dwelling or other improvements on a lot. The owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the owner for which owner is liable.

5.1 Portable Office or Trailer: A builder or general contractor constructing a home on a lot may utilize a portable office or trailer during the construction period only. The portable office must be located within the owner's lot. The temporary office may not be installed prior to the commencement of construction, and must be removed upon the first to occur of (1) the issuance of a Certificate of Occupancy, (2) the termination, expiration, or cancellation of the

building permit, (3) the suspension of construction activities for a period of 60 days, or (4) one year after the commencement of construction.

5.2 Construction Debris Removal: The builder must comply with City ordinances requiring the placement and maintenance of a trash container or dumpster on the lot. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind, regularly serviced. No trash may be burned, buried or otherwise disposed within the Subdivision.

5.3 Construction Area Appearance: The lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

5.4 Sanitary Facilities: The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be removed from the site at such time as the permanent plumbing system is operational.

5.5 Construction Sign: During periods of actual construction on the Dwelling, the owner or builder may install a sign not to exceed six square feet in an area identifying the lot and the builder. The sign must also comply with any signage ordinance enacted by the City after the date of this Declaration. The sign must be removed upon completion or abandonment of construction.

5.6 Hours of Work: Daily working hours on the site shall be limited to the period beginning one half hour after sunrise and ending one half hour before sunset, unless otherwise restricted by City ordinances. The builder is responsible for controlling noise emanating from the site.

5.7 Removal of Mud: The builder is responsible for cleaning up and removing mud, dirt and all debris from the construction site that is deposited on the roadways of the Subdivision.

5.8 Duration of Construction: No construction shall be undertaken without a building permit and all other necessary permits from the City and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment, or similar materials or equipment may be delivered to this site prior to the issuance of the permit. It is the obligation of the owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the building shall be substantially completed within a period of eight months from the date the foundation is completed. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling.

## ARTICLE VI

### LANDSCAPE STANDARDS

6. It is the intent of the Declaration to require appropriate landscaping of lots following construction of any improvements, and to encourage the use of appropriate plant materials. The use and improvement of each lot is subject to the following Landscape Standards.

6.1 Landscaping Required: As soon as practical following completion of the construction of the Dwelling, but in no event later than the summer immediately following completion of construction, or not later than 18 months from the issuance of a building permit, whichever first occurs, each owner is encouraged to fully landscape his or her lot. The owner may plant lawns, which are encouraged to be pre-grown sod, gardens, plant shrubbery, trees or other ornamental plantings or replace natural species. Front yard landscaping shall include a balance of turf, ground cover, shrubs and trees. Provisions should be made for Spring and Summer seasonal color in the ground covers shrubs and trees.

6.3 Fences: Fencing of lots along the lot line shall be permitted in the Subdivision. The area that may be fenced shall be limited to the side yards and the rear yards of the lots. No fencing shall extend beyond the front plane of any home.



## ARTICLE VII

### OWNER'S MAINTENANCE OBLIGATIONS

8. It is the obligation of each owner to maintain his lot at all times in order to preserve and enhance the enjoyment of the Subdivision:

8.1 Duty to Maintain: It is the obligation of the owner of each lot to maintain his lot and the improvements to the lot in a good state of repair and in an attractive, safe, and healthy condition.

## ARTICLE VIII

### GENERAL PROVISIONS

9. The Covenants, Conditions, and Restrictions contained in this declaration may be enforced as follows:

9.1 Violation deemed a Nuisance: Any violation of these Covenants which is permitted to remain on the property is deemed a nuisance, and is subject to abatement.

a. Any single or continuing violation of the Covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the owner of any lot), by any other owner. In any action brought to enforce these Covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorney's fees and costs of court.

b. Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. These Covenants are to be construed as being in addition to those remedies available at law.

c. The remedies available under this declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

d. The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

9.2 Severability: Each of the Covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining Covenants shall remain in full force and effect.

9.3 Limited Liability: Neither the Declarant, the Trustees, or its individual members, nor any other owner shall have personal liability to any other owner for actions or inactions taken under this Covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these Covenants, and without malice.

9.4 Amendment: At any time while this declaration is in effect, the owners of 55% of the lots may amend the provisions of this declaration. Any amendment must be in writing and be approved by 55% of the owners at the time of the amendment and the consent of the owner of the additional land, if any portion of the additional land has not been subdivided at the time. No such amendment will be binding upon the holder of any mortgage or trust deed unless the holder joins in the amendment. No amendment which limits the rights of the Declarant or its successors in interest to expand the Subdivision or otherwise affects the additional land shall be effective without the written consent of the Declarant or other owner of the additional land.

9.5 Constructive Notice: Every person who owns, occupies, or acquires any right, title or interest in any lot in the subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the

application and enforcement of each of the Covenants, conditions, and Restrictions against his lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any lot.

9.6 Notices: All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

9.7 Liberal Interpretation: The provisions of this declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

9.8 Mortgagees Protection Provision: The breach of any of the foregoing covenants shall not defeat or render invalid the lien of any mortgage or deed of trust lien on the Entire Property that is made in good faith and for value, provided, however, that all of the covenants contained herein shall be binding upon and effective against any owner of a lot whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding, from and after the date of such foreclosure, trustee's sale or other foreclosure proceeding.

Executed on the date stated above.

MZ Enterprises  
A Utah Company

By: \_\_\_\_\_

Craig North

STATE OF UTAH )

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County of Weber

On this \_\_\_\_ day of \_\_\_\_\_, 2024, personally appeared before me, \_\_\_\_\_, who being by me duly sworn did say that they are the Owner of \_\_\_\_\_, a Utah Company, and that the within and foregoing instrument was signed on behalf of said Utah Corporation by authority of a resolution of its board of directors and said \_\_\_\_\_ duly acknowledged to me that said Utah Corporation executed the same.

\_\_\_\_\_

Notary Public

Residing \_\_\_\_\_ at:

My Commission Expires:  
\_\_\_\_\_

Exhibit "D-2"

Preliminary Design Renderings

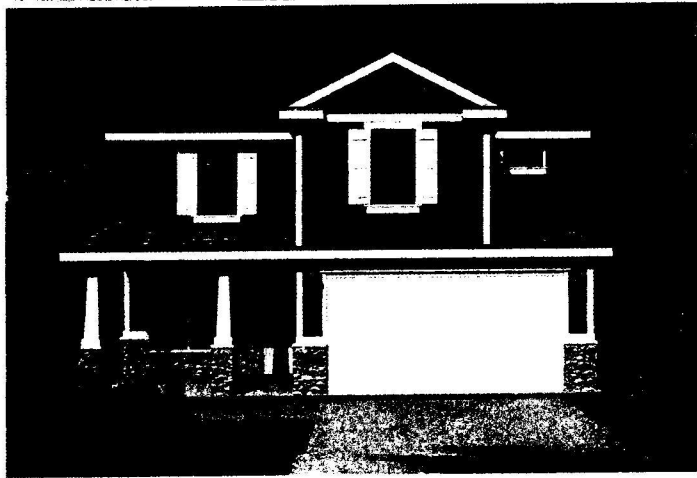
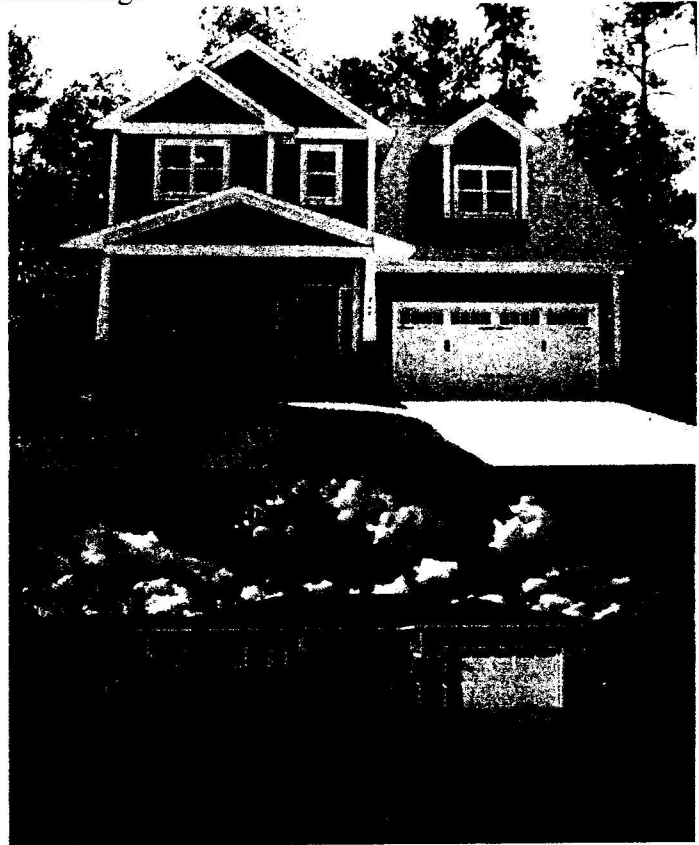




Exhibit "E"

Unit Count - The total unit count of Fifty-Seven (58) dwelling units has been calculated using the following bonus density:

CALCULATION		
BASE DENSITY (Total Acreage/40,000 sq ft lots)	37.057 Acres	40.355 UNITS
OPEN SPACE BONUS	34.72% x Base Density	14.01 UNITS
ENERGY EFFICIENCY	10% x Base Density	3.7 UNITS
TOTAL UNITS ALLOWED	$40.35+14.01+3.7=58.06$	58 UNITS

Ensign Engineering

May 1, 2024

Harrisville Fields Subdivision

Job no. 11293

**Harrisville Fields Land Calculations Total Land Area = 37.057 Acres**

**Phase 1 Total 11.388 Acres**

28 Private Lots 8.100 Acres

Public Streets 3.098 Acres

Open Space 0.190 Acres

**Phase 2 Total 25.669 Acres**

30 Private Lots 8.721 Acres

Public Streets 4.270 Acres Open

Space 12.678 Acres

**Open Space Phase 2 Total 12.678 Acres**

Regional Pond 2.360 Acres

Wetlands 3.551 Acres

Common Area 6.767 Acres

**Phase 2 Wetlands to be Reclaimed Total 0.403 Acres**

Inside Private Lots 0.216 Acres

Inside Private Streets 0.085 Acres

Inside Common Open Space 0.094 Acres