Grand County Planning Commission

Tuesday, May 14, 2019
5:00 P.M. Regular Meeting
Grand County Courthouse
Council Chambers
125 E. Center St., Moab, Utah

<table>
<thead>
<tr>
<th>Type of Meeting:</th>
<th>Regular Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilitator:</td>
<td>Gerrish Willis, Chair</td>
</tr>
<tr>
<td>Attendees:</td>
<td>Planning Commissioners, interested citizens, and staff</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5:00 PM</th>
<th>Citizens to be heard</th>
<th>Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Meeting</td>
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<table>
<thead>
<tr>
<th>Public Hearing Action Item</th>
<th>Sandstone Cottages High Density Housing (HDH) Overlay and Preliminary Plat applications</th>
<th>Staff</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Discussion Item</th>
<th>Review the recently adopted temporary land use regulation prohibiting new overnight accommodations developments in unincorporated Grand County for a period of six (6) months.</th>
<th>Staff</th>
</tr>
</thead>
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| Discussion Item          | Noticing Procedures                                                                         | Staff |
|--------------------------|------------------------------------------------------------------------------------------------|

| Discussion Item          | Review Bylaws                                                                                | Chair |
|--------------------------|------------------------------------------------------------------------------------------------|

| Action Item              | Approval of the April 23, 2019 Meeting Minutes                                               | Chair |
|--------------------------|------------------------------------------------------------------------------------------------|

| Discussion Item          | Future considerations                                                                       | Chair & Staff |
|--------------------------|------------------------------------------------------------------------------------------------|

| Discussion Item          | County Council Update – Terry Morse                                                        | Council Liaison |
|--------------------------|------------------------------------------------------------------------------------------------|

ADJOURN

**Definitions:**

- **Public hearing** = a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

- **Public meeting** = a meeting required to be open to the public pursuant to the requirements of Title 52, Chapter 4, Open and Public Meetings; the public may or may not be invited to participate.

- **Legislative act** = action taken by the County Council or Planning Commission; amending ordinances, adopting general plan, Annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community.

- **Administrative act** = action taken by the Planning Commission, County Council or staff interpreting ordinances and regulations, conditional uses, approving subdivision, site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code, whichever is stricter.
<table>
<thead>
<tr>
<th>TITLE:</th>
<th>Sandstone Cottages (High Density Housing Overlay – HDHO 10 and Preliminary Plat)</th>
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<tbody>
<tr>
<td>FISCAL IMPACT:</td>
<td>N/A</td>
</tr>
<tr>
<td>PRESENTER(S):</td>
<td>Community and Economic Development Staff</td>
</tr>
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**STATED MOTION:**

Motion 1: Move to send a favorable recommendation to the County Council for applying the High Density Housing Overlay (HDHO – 10) to the parcels at 3058 and 3060 Spanish Valley Dr.

Motion 2: Move to approve the proposed preliminary plat for Sandstone Cottages HDHO Development contingent upon the following:
   a) The County Council approves the development agreement committing developer to the deed restriction requirements of Section 4.7 and applies the HDHO-10 to the subject parcels;
   b) The developer meets all engineering design and easement requirements for drainage and roads, including on-street parking, prior to final plat approval; and,
   c) The developer meets all design and easement requirements imposed by GWSSA, the Fire Department, and Rocky Mountain Power prior to final plat approval.
   d) The developer’s final plat and building design standards comply with all other requirements of Section 4.7 – High Density Housing Overlay.

**STAFF RECOMMENDATION:**

Review and consider application materials provided to the planning commission related to the proposed subdivision of the Sandstone Cottages. Staff recommends a favorable recommendation for the HDH 10 Overlay to be applied to the subject parcels. Staff also recommends approval of the Preliminary Plat, contingent upon the statements included in Motion 2 above. Approval of the Preliminary Plat does not constitute legislative action applying the HDH overlay to the subject parcels. The applicant will be required to seek legislative approval of the High Density Housing (HDH) overlay in order for the conditional Preliminary Plat approval to be valid if it is granted by Planning Commission.

**BACKGROUND:**

See staff report attached and below.

The applicant is seeking a Preliminary Plat approval of the Sandstone Cottages
HDHO Development from the Planning Commission, contingent upon the High Density Housing (HDH) Approval from the Grand County Council. Planning Commission shall make recommendations on the two items separately. First, a recommendation should be made as to the legislative application of the HDHO 10 to the subject parcel. Second, Planning Commission shall review the Preliminary Plat application for Sandstone Cottages. Planning Commission shall express its approval of the Preliminary Plat as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefor.

**Attachment(s):**
- Preliminary Plat Application
- High Density Housing Application
- Applicant Statement
- Preliminary Plat
- Grading & Drainage Plat
- Agency Approval Letters
- ALTA/NSPS Land Title Survey
- Title Report
- CC&R’s
- Application Fee
- Public Comments
SUMMARY OF REQUEST
The subject property is made up of two (2) lots totaling 4.28 acres located in the Rural Residential (RR) zone. 3058 Spanish Valley Dr. is a 4.00 acre lot and 3060 Spanish Valley Dr. is a 0.28 acre lot. The developer is requesting application of the HDH 10 overlay to their parcels. If granted, the developer proposes a subdivision comprised of 40 new lots ranging from 1,960 SF to 3,517 SF, and 33,998.5 SF of open space. In effect, the developer is requesting to combine the legislative and administrative components of the HDH Overlay process, which is allowable by code and acceptable to staff.

SITE IMPROVEMENTS / ADDITIONS / CHANGES
The subdivision would extend power, water, and sewer services to each lot. The proposed road on the perimeter of the property will be 24’ of surface width. The County Engineer, Road Supervisor, and Community and Economic Development
CONSIDERATIONS FOR APPROVAL, DENIAL, AND/OR POSTPONEMENT

Article 4.7 HIGH DENSITY HOUSING (HDH) OVERLAY DISTRICT

4.7.1 Purpose.

A. Grand County has established a High Density Housing Overlay (HDHO) district to facilitate the provision of new housing units used for primary residential occupancy by actively employed households. The HDHO districts (See Map- Exhibit A) are intended to provide the opportunity and means for the County to meet its estimate of additional residential and workforce housing needs, to achieve the goals of the housing element of the County’s General Plan, and to implement the policies and goals of the housing element of the County’s General Plan.

B. These regulations are intended to encourage the development of new housing units by assisting both the public and private sector in making the provision of these units economically viable, while providing assurances to the County that these units will maintain a high degree of quality and will remain financially accessible to residents and local area workers.

C. These regulations are further intended to encourage the provision of primary residential housing through the combination of the HDHO districts with multiple-family and single-family residential zoning districts within the County where the residential housing projects are determined to be feasible and are consistent with the County’s General Plan.

D. The HDHO is intended to:

1. Provide a means of directing and simplifying the process for creating and maintaining primary residential housing.
2. Provide a means of directing and simplifying the process for creating and maintaining affordable housing constructed to meet the Assured Housing requirements of Section 6.15.
3. Provide incentives to developers, whether in new or rehabilitated housing, to maintain primary residential rental and ownership units in perpetuity.

Staff believes the developer’s narrative and proposed preliminary plat meet the legislative intent of the High Density Housing Overlay. Staff recommends planning commission forward a favorable recommendation of the HDH Overlay application and a preliminary plat approval conditioned upon the comments below (and specified in the stated motion of the Agenda Summary).

4.7.5(C)

C. Property Development Standards. The following development standards shall apply to HDHO units in the HDHO districts.

1. General Design Standards. The development shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the development site. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping.

The developer is proposing a 24’ road on the exterior perimeter of the subject parcels in order to accommodate the Average Daily Trips (ADTs) projected from the subdivision, to allow emergency vehicle access, to enable on-street, parallel parking for visitors, and to provide larger buffers between the proposed subdivision lots and adjacent properties.

2. Minimum Design Standards. Minimum design standards are included to ensure a high degree of quality in the development of HDHO units. Unless modified by the County Council, the following design standards shall apply to a
Staff has reviewed the proposed preliminary plat for compliance with the following.

a. Sidewalks shall be installed along all street frontages where otherwise required by this LUC.

The developer is not proposing sidewalks on the interior of the road, but rather linear pathways on the interior of the development, which is an allowable alternative to sidewalks specified in Sec. 7.4.1.

b. Screening Requirements

The developer is not proposing outdoor storage, parking lots, or parking islands.

i. Outdoor Storage Screening. All outdoor storage areas for materials, trash, mechanical equipment, vehicles, or other similar items shall follow the standards outlined in Section 6.4.3.

ii. Parking Lot Screening. Parking lot screening must be provided between those portions of an off-street parking area containing six (6) or more parking spaces and a different zoning district or a public street and shall be designed according to the following:
   a. Parking lot screening must be provided within ten feet (10’) of the perimeter of the parking lot to be screened, except for parking lots adjacent to rain gardens/bio-retention systems, other landscape features, or where screening may negatively impact the traffic sight distance (as defined by the American Association of State Highway and Transportation Officials (AASHTO) and verified by the County Engineer)
   b. Parking lot screening shall be not less than eighty percent (80%) opaque and be a minimum of three feet (3’) in height as measured from the highest finished adjacent grade of the parking area. When shrubs are used to provide the screen, such shrubs must be at least two feet (2’) tall at planting and anticipated to grow to at least three feet (3’) tall at maturity.
   c. No landscaping or screening shall interfere with driver or pedestrian visibility for vehicles entering or exiting the premises.
   d. Screening for a parking lot may be comprised of plants found in Section 6.4.3.F.
   e. Content: Parking lot screening must consist of at least two (2) of the following:
      i. A compact hedge of evergreen or densely twigged deciduous shrubs spaced to ensure closure into a solid hedge at maturity;
      ii. A berm with plantings as described above;
      iii. Transit shelters, benches, bicycle racks, and similar features may be integrated as a part of the screen;
      iv. Fencing may be integrated as part of the screen. All wood fencing shall be stained and sealed with a weatherproof product.

iii. Parking Island Design. Off-street parking areas with at least twenty-five (25) parking stalls shall contain interior landscaped islands. Such islands shall be bounded by a raised concrete curb, pervious curbing, or an approved equivalent and shall contain mulch to retain soil moisture. This provision shall not apply to parking structures. The standards for landscaped islands are as follows:
a. Landscaped parking lot islands shall be required at the beginning and end of each parking row and shall contain a minimum of one hundred eighty (180) square feet and a minimum width of nine feet (9').

b. A minimum of one tree shall be provided for each island.

c. Shrubs, perennials or ornamental grass shall be incorporated in each landscaped island that does not contain a tree.

d. Islands shall be prepared with topsoil to a depth of two feet (2') and improved to ensure adequate drainage, nutrient, and moisture retention levels for the establishment of plantings.

e. All perimeter and interior landscaped areas in parking lots shall be equipped with an irrigation system adequate for establishing and maintaining the plant materials within it.

c. Building Exterior Façade Standards.

These standards are to be reviewed at the time a building permit is requested. They are administrative requirements for development within an HDH Overlay. The developer has submitted draft architectural renderings (shown to the planning commission at time of Sketch Plan review) that meet the standards below.

i. Exterior finishes may be of wood, masonry, stone, stucco, HDO board or other high quality material permitted by the building code, but shall not utilize vinyl siding; cedar or wood shakes; highly reflective, shiny, or mirror-like materials; or exposed plywood or particle board.

ii. Buildings shall utilize at least two (2) of the following design features to provide visual relief along the front of the residence:
   a. Projections, recessions, or reveals such as, but not limited to, columns, pilasters, cornices, and bay windows
   b. Dormers.
   c. Gables.
   d. Recessed entries, a minimum of three (3) feet deep.
   e. Covered front porches.
   f. Cupolas.
   g. Architectural Pillars or Posts.
   h. Quoins.
   i. Corbeling on wall.
   j. Decorative lintel.
   k. Incorporation of brick or stone on at least 25% of front surface area

iii. Planning staff shall have the authority to waive this requirement when the building is not visible from adjacent properties or the public right-of-way.

d. Where HDHO units may be placed on the same lot as current or future temporary or short-term accommodations, dedicated HDHO units shall be clustered together so as to minimize the exposure of residents to temporary guests. In all other developments, where temporary or short-term accommodations units do not exist and cannot exist due to zoning restrictions, dedicated HDHO units shall be dispersed throughout the residential development.

e. Where there is a combination of commercial and residential uses, the commercial uses shall front along the highest road designation. Residential development shall be located behind commercial development or on upper floors above commercial development.

f. The County Council may waive, or modify, any, or all, of these requirements when the Council finds it is infeasible to comply due to physical or other constraints on the lot.
3. Minimum Building Site Area and Lot Width. There shall be no minimum building site area, minimum lot width, or maximum lot coverage requirements for individual lots or individual dwelling sites in a HDHO district development. However, the building site area lot widths, and lot coverage percentages shall be designated on a site plan pursuant to Section 9.17 or preliminary plat pursuant to Section 9.4 approved by the Planning Commission.

*Provided by applicant on the sketch plan. 40 new lots ranging from 1,960 SF to 3,517 SF are proposed.*


*The proposed density of 9.3 units per acre is within the limits allowed by the HDH 10 district.*

5. Building Height.

*These standards are to be reviewed at the time a building permit is requested. Based on the draft architectural renderings submitted, staff does not anticipate any challenges in meeting these standards.*

**a.** Maximum building heights shall not exceed the limits defined in the underlying zone district except that buildings constructed in the HDHO 35b district shall not exceed four (4) stories or forty-two (42) feet in height.

**b.** To the maximum extent possible, building heights and locations shall minimize shading and interruption of solar access to adjacent properties with existing residential structures or commercial agricultural operations.

**c.** All structures shall conform to the Ridgeline Standards of Section 6.9.8.

**d.** Structures built under the HDHO must comply with the setback and buffer requirements of the underlying zone. The maximum height of the building at the exterior wall shall be the greater of:

1. 20 feet
2. The building’s setback at that point

**e.** From the exterior wall, the building’s height may increase to its maximum height at a rate not greater than a 45° angle from the maximum allowable height of the exterior wall.

6. Setbacks. The minimum setbacks from the lot line of the development shall be determined by the buffer requirements of Section 5.4.1.B and the compatibility standards of Section 6.10.

*The proposed buffer of 30 feet (plus setbacks from the proposed lot lines facing the street) exceeds the required 20 foot buffer called for in Section 5.4.1.B. The preliminary plat will need to comply with all standards of Section 6.10.*

7. Parking.

*The developer proposes two (2) parking spaces for each lot via garage, plus on-street, parallel parking for visitors. The width of the on-street, parallel parking spaces will be finalized prior to final plat approval based on the final right-of-way width.*

**i.** Number of spaces required

**a.** For every single-family or two-family dwelling, there shall be provided at least two (2) off-street parking spaces for each unit. Parking spaces provided in a garage or carport may count towards the minimum requirement.
b. For every attached multifamily dwelling, off-street parking spaces shall be provided in accordance with Section 6.1.4:

<table>
<thead>
<tr>
<th>Multi-family dwellings</th>
<th>Efficiency and one-bedroom</th>
<th>1.5 per dwelling unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two-bedroom</td>
<td></td>
<td>1.75 per dwelling unit</td>
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<tr>
<td>Three-bedroom and Larger</td>
<td></td>
<td>2.0 per dwelling unit</td>
</tr>
</tbody>
</table>

ii. Parking design requirements

c. Parking areas for single-family or two-family dwellings need not be paved.

d. Parking areas for attached multifamily dwellings shall be subject to the off-street requirements outlined in Section 6.1.7.

e. Uncovered surface parking may be permitted in the rear and side setbacks but is not permitted in the front or street-side setback.

f. Garages, carports, and individual locking storage units are subject to the setback standards outlined in Section 5.4.1.

g. Required spaces for multifamily developments equal to or greater than five units shall be covered in a carport or a garage except that for multifamily dwellings with four or fewer units, parking spaces can be uncovered.

8. Minimum Standards of Physical Condition. A HDHO unit is required to have and maintain those minimum standards of physical conditions set forth in Exhibit B - Minimum Standards.

These standards are to be reviewed at the time a building permit is requested, and included in the deed restrictions attached to each lot’s title.

9. Streets. All public streets within or abutting the proposed planned development shall be dedicated and improved to County specifications for the particular classification of street; all private streets shall meet fire code and access standards.

The proposed road on the perimeter of the property will be 24’ of surface width. The County Engineer, Road Supervisor, Fire Department, and Community and Economic Development Director will work with the developer to dedicate the appropriate amount of road right of way based on the final classification determined before final plat approval. The aforementioned staff also note that a traffic study will need to be conducted prior to final design approval to determine the need for right- and left-hand turn lanes on Spanish Valley Dr.

10. Signs. Signs shall be permitted only to the extent allowed under Section 6.5, Signs, and must be approved by the Planning and Zoning Administrator.

The developer has not proposed signage to date.

11. Construction Timing. The HDHO units shall be ready for occupancy no later than the date of the initial or temporary occupancy of any unrestricted units within the development or applicable phase thereof. If the unrestricted units are developed in phases, then the HDHO units may be developed in proportion to the phasing of the unrestricted units. For example, in an approved development that includes 100 units built in two 50-unit phases the first phase must include at least 40 HDHO units.

The developer has not designated which lots will be deed restricted in accordance with Section 4.7 at this stage of preliminary plat review, but will need to at the time of final plat review, approval, and recordation.
Article 7 Subdivision Standards

Staff has reviewed the preliminary plat application for subdivision standards not specified within the HDH Overlay or addressed above. The following findings are pertinent to planning commission’s review of the preliminary plat.

Lighting: The developer has not submitted a street lighting plan, or exterior lighting plans for the individual structures. The street lighting plan will be required prior to final plat approval and the exterior lighting plans for individual structures will be required at the time building permit applications are reviewed.

Utility Easements: The developer will need to designate acceptable public utility easements on the final plat as per the requirements of GWSSA and Rocky Mountain Power.

Drainage and Drainage Easements: The developer will need to designate the drainage easement on the final plat as per final specifications from the County Engineer.

Fire Protection: The Fire Department has provided initial feedback on the plan and supports the general subdivision layout. It will require between three (3) and five (5) fire hydrants spread throughout the subdivision. Turning radii on the proposed street will also be verified prior to final plat review and approval.

Water and Sewer: See GWSSA will-serve letter. Final design specifications will occur prior to final plat review.

COMPATABILITY WITH GENERAL PLAN
The proposed subdivision is not explicitly supported by the general plan, but it is supported by the HDH Overlay ordinance adopted by the County Council in January 2019. Inasmuch as Council anticipates adding the HDH Overlay to the General Plan as an amendment or complement to the Future Land Use Plan, the proposed subdivision is supported.

COMPATABILITY WITH LAND USE CODE (ZONING)
The subject property is zoned Rural Residential (RR), and is in the HDH10 Overlay zone. Staff has conducted only sketch plan level of review at this stage. Sketch plan approval is recommended on the basis that the developer is seeking legislative approval of the High Density Housing Overlay being applied to the subject parcels. Once the HDH overlay is applied, the proposed preliminary plat will need to comply with all standards in Sections 4.7 and Articles 5, 6, 7, and 9.

LAND USE CODE REFERENCE SECTIONS
Section 3.1 Use Table
4.7.4A

**High Density Housing (HDH) District**

<table>
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<th>HDH District</th>
<th>Maximum Density</th>
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<tr>
<td>HDH 35a</td>
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<tr>
<td>HDH 35b</td>
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<td>HDH 25</td>
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<td>HDH 10</td>
<td>10 units per acre</td>
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<tr>
<td>HDH 5</td>
<td>5 units per acre</td>
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4.7.6 **Assurance of primary residency and occupancy.**

HDH units developed under this Article shall remain available to persons and families who live and work in Grand County according to the standards set forth in Section 4.7 in perpetuity. The developer shall be required to enter into a development agreement with the County to ensure primary residential occupancy by actively employed households is maintained prior to recordation of final plat or issuance of a building permit for the applicable development. Each housing unit designated for primary restricted residential occupancy by an actively employed household (an HDHO unit) shall also include a deed restriction attached to its title in accordance with the standards set forth in this section. Grand County reserves the right to revoke, deny or suspend any permit, including a land development permit, conditional use permit, building permit, certificate of occupancy, or discretionary approval if the standards of this section are not met.

The developer has submitted a development agreement to the County, which is currently under review by the County Attorney. Application of the HDH-10 Overlay to the subject parcels is contingent upon the County Attorney’s and Council’s
approval of the development agreement. Because a preliminary plat approval is contingent upon application of the HDH-10 Overlay, the development agreement will be part of the County Council’s review, and approval or denial. If the HDH-10 Overlay is approved and the Applicant is permitted to develop under the HDHO standards (as per the preliminary plat), each deed restricted lot shall be designated on the plat prior to final plat approval and recordation. Further, each deed restricted lot shall include such restriction on its chain of title in perpetuity.

PROPERTY HISTORY
Each subject parcel currently includes one residence and one garage accessory structure.
Preliminary Plat Application

Date of Submittal: 

Preliminary Plat Processing Fees: $550.00 for first five (5) lots × $125.00 per lot for each lot in excess of five lots

Submittal Received by: Fee Paid: Fees Received by: 

Contact Information

Property Owner: VK Byrnes Trust

Address: 

Phone: cell: fax: 

Email Address: 

Engineer: City Consultants - Greg Day, PE

Address: 1812 Doral Dr., Syracuse, UT 84075

Phone: 801-814-1778 cell: fax: 

Email Address: greg@cityconsultantsco.com 

Property Owner Representative: Glen Lent - Alpine Development

Address: 

Phone: cell: fax: 

Email Address: glen@alpine-development.net 

Project Information

Project Name: Sandstone Cottages

General Location of the Property: 3058 & 3060 Spanish Valley Dr.

Size of the Subject Property: 4.28 acres Number of Lots: 40

Surrounding Land Uses: Southside-KOA, West - pasture, residence, North - Spanish Valley Dr., East - welding shop, 2 residents

Current Zoning: Rural Residential District

REQUIRED - Agency will review for ability to serve the lots and adequate existing and future easements or provide a letter with detailed requirements for the site.

Moab Valley Fire Department

Grand County Road Supervisor

Grand Water and Sewer Service Agency

Rocky Mountain Power

FEMA Floodplain Administrator (Provide site map)
SUPPORTING MATERIALS

Preliminary Plat applications shall contain, at a minimum, the following supporting materials through the approval process according to the following submittal schedule:

1. **APPLICATION SUBMISSION.** Two complete sets (with the exception of the public notice, title report, and fee) of all supporting materials shall be submitted with this application. These complete sets should include two large (24" x 36") and two small (11" x 17") sets of all plans. The preliminary plat shall be considered officially filed after application review fees which are established by resolution of the County Council have been paid and after it is examined and found to be in general compliance with the provisions of these regulations by the Zoning Administrator.

2. **PRIOR TO MEETING.** Revised sets of large (24" x 36") and small (11" x 17") plans shall be submitted prior to the application being placed on a Planning Commission/County Council meeting, including an electronic file.

3. **POST MEETING.** If the revised sets of plans are not approved as submitted two corrected sets of plans both large and small shall be submitted that comply with the Planning Commission's approval.

☐ **Preliminary Plat.** A Preliminary Plat drawing will be required which shows accurate alignments, boundaries and monuments as certified by a land surveyor registered in Utah. Preliminary Plats shall be prepared at a scale no smaller than one (1) inch equals two hundred (200) feet. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and an index map. The vicinity and index maps shall appear on the first of the serially numbered sheets. The following data shall be included on the Preliminary Plat:

- **Boundary Lines and Bearings.** Boundary lines, bearings, and distances sufficient to locate the exact area proposed for subdivision. At least one (1) subdivision corner shall be referenced to a survey (abstract) corner. The area, in acres, of the subdivision shall also be shown.

- **Adjacent Subdivisions.** The name and location of a portion of adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivisions in sufficient detail to show actually the existing lots, streets, alleys and other features that may influence the layout and development of the proposed subdivisions. Where adjacent land is not subdivided, the name of the owner of the adjacent tract shall be shown.

- **Intersecting Streets.** The angle of intersection of the centerline of all intersecting streets.

- **Proposed Streets, Alleys and Easements.** The names, location and widths of all streets, alleys and easements proposed for the subdivision, and all known rights-of-way and/or easements within or affecting the area to be subdivided.

- **Proposed Blocks, Lots and Parks.** The subdivision shall show all proposed streets and alleys, easements, blocks, lots, parks, etc., with principal dimensions.

- **Contours.** Existing topographic contours at 5 foot intervals and all easements or rights-of-way necessary for drainage within or without the boundaries of the addition.

- **Subdivision Title and Planner.** The title under which the proposed subdivision is to be recorded, the name of the owner and the name of the engineer or land planner who prepared the plat.

- **Dedicated Parks, Playgrounds and Other Public Uses.** Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.

- **Scale, North Point**
  1. Scale, north point, date and other pertinent data
  2. The scale of the preliminary plat may be at one (1) inch equals 200 feet.
  3. Name, address and telephone number
  4. Property owner’s name, address, and telephone number
  5. Proposed layout of utilities
  6. A proposed preliminary layout of sanitary sewer and water lines to serve the subdivision.

- **Proposed Land Uses.** A designation of the proposed uses of land within the subdivision and any zoning amendments proposed to be requested.

- **Vicinity Map.** A vicinity map on a smaller scale showing the proposed subdivision and its relationship to the surrounding area and County limits.

☐ **Preliminary Master Plan.** If the proposed subdivision is a portion of a tract that is later to be subdivided, then a tentative master plan of the entire subdivision shall be submitted with the preliminary plat of the portion first to be
subdivided. The master subdivision plan shall conform in all respects to the requirements of the preliminary plat; except, it may be on a scale of not more than one (1) inch to 100 feet, or other staff-approved scale.

☐ Title Report. A preliminary title report from a licensed title company listing or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property, and of the preliminary plat.

☐ Drainage Plan. A drainage plan prepared and stamped by a licensed engineer shall be submitted. The report shall contain a drainage map and a plan view of the overall storm water system. The grading, drainage, and erosion plan shall address the following issues: description of features and hydrological conditions; drainage basin and sub-basin; drainage facility design criteria; infrastructure design criteria; grading plan; and erosion control. Specifically, the report shall contain at a minimum the following information:

- The existing roadways, drainage ways, vegetation and hydrological conditions of a ten (10) year twenty-four (24) hour event and a one hundred (100) year twenty-four (24) hour event.
- The major basin descriptions referencing all major drainage reports such as FEMA, major drainage planning reports, or flood insurance maps and the basin characteristics and planned land uses.
- The sub-basin description showing the historical drainage pattern and off-site drainage patterns both upstream and downstream of the property.
- A general discussion of how the proposed system conforms to existing drainage patterns and offsite upstream drainage will be collected to protect development.
- The water quality evaluation showing the water quality shall not be degraded from existing storm water quality including how solids are collected and not allowed to be discharge into downstream waters and how oils and greases are separated from stormwater.
- Maintenance plan and procedure for storm water system; thorough narrative of all charts, graphs, tables or other information included in the report describing how it affects the proposed development.
- Infrastructure design criteria showing the piping is sized to handle the peak intensity of the ten (10) year storm event; all detention basins are sized to handle one hundred (100) year storm while discharging at a maximum ten (10) year twenty-four (24) hour historical rate; a ten (10) foot traffic lane in both directions is maintained at all locations within the development; and that the roadway and infrastructure will handle a one hundred (100) year storm event without flooding homes or damaging public property.
- Grading plan showing: soil map depicting unique soil features such as collapsible soil, rock features, etc.; a grading plan showing all cut and fill areas within development including: the identification of slopes; fill and cut depths; and rock features within ten (10) feet of post grade soil surface.
- The grading plan shall also show how the grades will allow water to run off of lot areas without ponding and creating flooding problems for homes.
- Erosion control shall show: how erosion will be controlled during construction; explain and design such that construction debris and silts will not be collected by storm water system; show and design for all cut and fill slopes will not be eroded and how these areas will be re-vegetated.

☐ Covenants, Conditions, Restrictions. Draft of any protective covenants where the subdivider proposes to regulate land use or development standards in the subdivision.

☐ Application Fee. The process / filing fee of $550.00 for first 5 lots then $125.00 per lot over 5 shall be paid in full.

APPLICANT CERTIFICATION

I certify under penalty of perjury that this application and all information submitted as a part of this application are true, complete and accurate to the best of my knowledge. I also certify that I am the owner of the subject property and that the authorized agent noted in this application has my consent to represent me with respect to this application. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that Grand County may rescind any approval, or take any other legal or appropriate action. I also acknowledge that I have reviewed the applicable sections of the Grand County Land Use Code and that items and checklists contained in this application are basic and minimum requirements and that other requirements may be imposed that are unique to individual projects or uses. Additionally, I have reviewed and understand the section from the Consolidated Fee Schedule and hereby agree to comply with this resolution. I also agree to allow the Staff, Planning Commission, or County Council or appointed agent(s) of the County to enter the subject property to make any necessary inspections thereof. Property Owner's Signature:

Signature: [Signature]

Date: 3-22-2019
HIGH DENSITY HOUSING (HDH) OVERLAY APPLICATION
Grand County Courthouse: 125 E. Center St. Moab, UT 84532; Phone: (435) 259-1343

FOR OFFICE USE ONLY

Date of Submittal: __3/27__ Application Processing Fees: $500.00
Submittal Received by: __UM__ Amount Paid: $500__ Fees Received by: __UM__

APPLICANTS ARE STRONGLY ENCOURAGED TO READ THROUGH SECTION 4.7 OF THE
GRAND COUNTY LAND USE CODE AND MEET WITH STAFF PRIOR TO SUBMITTING AN
APPLICATION TO RECEIVE THE HIGH DENSITY HOUSING (HDH) OVERLAY. APPROVAL OF
AN HDH OVERLAY APPLICATION DOES NOT CONSTITUTE A PRELIMINARY PLAT, FINAL
PLAT, OR SITE PLAN APPROVAL.

CONTACT INFORMATION

Property owner: __UK Byron Trust__
Address: ___________________________ ___________________________
Phone: ___________________ cell: ___________________ fax: ____________
Email address: __________________________

Engineer (if applicable): __City Consultants - Greg Day, PE__
Address: __1812 Doral Dr., Syracuse, UT 84075__
Phone: __801-873-1778__ cell: ___________________ fax: ____________
Email address: __greg@cityconsultantsco.com__

Property owner representative (if applicable): __Glen Kent - Alpine Development, LLC__
Address: ___________________________ ___________________________
Phone: ___________________ cell: ___________________ fax: ____________
Email address: __________________________

PROJECT INFORMATION

Project name: __Sandstone Cottages__
General location of the property: __3058 & 3066 Spanish Valley Drive__
Underlying Zoning: __Rural Residential__ district
Surrounding land uses: __South side - KBA (commercial), West side - residential & ag, North - Spanish Valley Drive, East - residential__
Size of property: __4.25 acres__
Number of lots/units proposed: __40 (for sale), __ (for rent)
Number of deed restricted HDHO units proposed: __32 (for sale), __ (for rent)
REQUIRED – Each of the following agencies will review for their ability to serve the proposed development through adequate existing and future easements, or provide a letter with detailed requirements for the proposed development. Applicants are encouraged to consult each of the following agencies prior to submitting a development application. Grand County Community and Economic Development staff will request approval letters or signatures from each agency after a complete application is submitted.

Moab Valley Fire Department
Grand County Road Supervisor
Grand Water and Sewer Service Agency
Rocky Mountain Power
FEMA Floodplain Administrator

SUPPORTING MATERIALS
Approvals of the High Density Housing (HDH) Overlay are considered legislative, discretionary decisions. They are reviewed in public hearings by the Planning Commission and County Council, with the County Council serving as the final land use authority (i.e. final decision-making authority). Approval of an HDH Overlay application DOES NOT constitute a preliminary plat, final plat, or site plan approval. HDH Overlay applications shall contain, at a minimum, the following supporting materials through the approval process according to the following submittal schedule:

Survey. The applicant shall submit a certified survey of land area to be rezoned. Such survey map shall require at a minimum the following information:
1. Subject land area acreage
2. Adjacent uses and predominant uses in the vicinity
3. Existing zoning designation of the subject property and surrounding properties
4. A vicinity map.

Applicant Statement. A statement by the Applicant explaining how the proposed High Density Housing Development meets the legislative intent and established standards of Section 4.7 of the Grand County LUC. In making its determination, the County Council shall consider the recommendation of the Planning Commission, staff reports, and the written and oral testimony presented.

Development Agreement. The Applicant shall provide and enter into a development agreement with the County establishing the proposed means for assuring the continuing existence, maintenance and operation of the HDH development in compliance with standards set forth in Section 4.7 of the Grand County LUC.

Title Report. A preliminary title report from a licensed title company listing or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property, and of the preliminary plat.

Covenants, Conditions, Restrictions. Draft of any protective covenants where the developer/subdivider proposes to regulate land use or development standards in the subdivision.
☒ Taxes. A statement from the County treasurer showing the status of all current taxes due on the parcel.

☒ Surrounding Property Owners. A list of surrounding property owners and their legal mailing addresses within 100 feet of the exterior boundary of the parcel proposed to be rezoned.

☐ Posting. The Applicant is responsible for posting a sign noticing the public hearings. The Community and Economic Development Department will provide the physical signs. The Applicant is responsible for wind and water proofing the sign as well as placing it in a prominent place within the front setback of each street to which the proposed subdivision fronts. The public hearing notices shall be posted at least 10 days prior to the public hearings and remain in place until the public hearing is completed.

☐ Application Fee. The process / filing fee of $500.00 shall be paid in full.

APPLICANT CERTIFICATION
I certify under penalty of perjury that this application and all information submitted as a part of this application are true, complete and accurate to the best of my knowledge. I certify that I am the owner of the subject property and that the authorized agent noted in this application has my consent to represent me with respect to this application. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that Grand County may rescind any approval, or take any other legal or appropriate action. I also acknowledge that I have reviewed the applicable sections of the Grand County Land Use Code and that items and checklists contained in this application are basic and minimum requirements only and that other requirements may be imposed that are unique to individual projects or uses. Additionally, I have reviewed and understand the section from the Consolidated Fee Schedule and hereby agree to comply with this resolution. I also agree to allow the Staff, or County appointed agent(s) of the County to enter the subject property to make any necessary inspections thereof.

Property Owner’s Signature: [Signature]
Date: 3-27-2019

State of Utah )
 ) SS
County of Grand )

SUBSCRIBED AND SWORN to and before me this _____ day of _____

[Notary Public Signature]

[Notary Public Seal]
SANDSTONE COTTAGES
Applicant Statement

The primary intent of the High Density Housing Overlay (HDHO) is to facilitate the creation of new housing units used for primary residential occupancy by actively employed households. Sandstone Cottages (Sandstone) shall meet the intent and standards outlined in the HDHO ordinance. Some examples include the following:

- Sandstone will be primarily designed for local housing and shall meet the 80% requirement as outlined in the HDHO ordinance.
- Sandstone intends to ensure compliance with these requirements.
- All homes in Sandstone are detached single family. This product seems appropriate given the surrounding uses of both commercial and residential.
- The intent is to provide for an underserved demographic that prefers a strong community setting that create a sense of place in both public and private spaces. Although the lots may be smaller than typical lots in the Spanish Valley area, homeowners will be entitled to private areas and most will have a fenced in back yard. In addition, all homes will front a private green court giving homeowners the opportunity to meet their neighbors. Thoughtful uses of porches and indoor/outdoor spaces will be provided.
- The homes are intended to be affordable and the use of additional density will facilitate this goal.
- Homeowner demographics may be first time homeowners, families, those wishing to downsize from larger homes, or simply those looking to live a simpler sustainable life.
- Sandstone will participate in the creation of a regional trail system along Spanish Valley Drive.
- Housing setbacks and alleyways have been designed to lessen the impacts to surrounding neighbors.
- Every home will include a 2-car garage and additional parking throughout the community will be provided. There are no parking lots.
- Exterior finishes of the building facades shall be of those allowed in the ordinance. Appropriate designed standards shall be implemented to accommodate a pleasing and consistent look throughout the community.
- It is the intent of the developer to build the homes and not sell off individual lots.
- It is the intent to meet the minimum standards for Physical Conditions as outlined in Exhibit B of the Overlay District.
FEMA FLOOD PLAIN

HISTORICAL DRAINAGE PATTERN

THE PROPERTY IS LOCATED IN ZONE X (FEMA FLOOD PLAIN).

PROPOSED DRAINAGE PATTERN

THE PROPOSED DRAINAGE PATTERN IS TO FOLLOW THE EXISTING TOPOGRAPHY AS CLOSELY AS POSSIBLE. INLETS WILL BE CONSTRUCTED IN THE ROADWAY ON THE NORTH STREETS AND COLLECT THE WATER AND DIVERT IT INTO A RETENTION POND. TWO SUMPS WILL BE CONSTRUCTED TO HELP EVACUATE LOW FLOW SITUATIONS.

WATER QUALITY

TWO SUMPS WILL BE CONSTRUCTED AND WILL HELP CLEAN AND RUN OFF.

MAINTENANCE PLAN

YEARLY MAINTENANCE SHOULD INCLUDE CLEANING SUMPS AND CLEANING STORM DRAIN PIPES. REGULAR MAINTENANCE OF THE RETENTION AREA SHOULD ALSO INCLUDE MOWING AND KEEPING WEEDS AND VEGETATION DOWN.

INFRASTRUCTURE DESIGN CRITERIA

ALL STORM WATER PIPES WILL BE DESIGN TO HANDLE THE 10 YEAR 2R HOUR STORM WITH A TIME OF CONCENTRATION OF 20 MINS.
Gentlemen,

GWSSA has the water and wastewater capacity to serve the Sandstone Cottages project. Easements for the water and sewer mains must be included in the design. This project will require residential secondary irrigation in addition to culinary water. Once preliminary plat is approved the applicant will pay the will serve fees and we will submit the detailed construction plans to GWSSA engineers for approval. At this time, no fees have been paid. If you have any questions, please let me know.

Thanks,

Dana

---

Dana Van Horn
Agency Manager
Grand Water & Sewer Service Agency
3025 E. Spanish Trail Rd.
Moab, UT 84532
P: (435) 259-8121

GWSSA GIS Data Disclaimer: Maps and data are to be used for representation purposes only and have not been prepared for legal, engineering or surveying purposes. GWSSA assumes no liability for errors or omissions in any information. The information contained on the cadastral maps is used to locate and identify parcels of land for reference purposes only and is NOT to be interpreted or used as a "legal description." The only legally binding legal description is the description recorded in the recorder's office. The GIS database and maps are subject to constant change and the accuracy and completeness is not guaranteed.

---

All

I need for my file an approval letter for the Sandstone Cottages project. I have included a site plan as a reminder, but if any other information is needed I would be glad to provide it.

Thank you,

Kenny Gordon
Planning & Zoning Administrator
Grand County, UT
435-259-1343
August 14, 2018

VK Byrnes Trust
Verd M. and Kathy R. Byrnes, Trustees
Via email: vkbyrnes@hotmail.com

Glen K. Lent
Alpine Development
Via email: glen@alpine-development.com

RE: File No. 11588
VK Byrnes Trust to Alpine Development
3058 and 3060 Spanish Valley Drive, Moab UT 84532

Dear Folks:

Please find attached the Commitment for Title Insurance you requested on the above property. If you have any questions, or need additional copies of anything, please let us know. We do appreciate the opportunity to assist you on your real estate transaction.

Very truly yours,

Glenna Oliver
Glenna Oliver

Attachment
ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWARD TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY’S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWARD TITLE GUARANTY COMPANY, a Texas corporation (the “Company”), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company’s liability and obligation end.

Countersigned by:

Authorized Countersignature

Anderson-Oliver Title Insurance Agency, Inc.
94 E. Grand Ave.
Moab, UT 84532
(435) 259-3000

Matt Morris
President and CEO

Denise Carraux
Secretary

For purposes of this form the “Stewart Title” logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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File No. 11588
ALTA Commitment For Title Insurance 8-1-16 (4-2-18)
Page 1 of 3
COMMITMENT CONDITIONS

1. DEFINITIONS
   (a) “Knowledge” or “Known”: Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
   (b) “Land”: The land described in Schedule A and affixed improvements that by law constitute real property. The term “Land” does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
   (c) “Mortgage”: A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
   (d) “Policy”: Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
   (e) “Proposed Insured”: Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
   (f) “Proposed Policy Amount”: Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
   (g) “Public Records”: Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
   (h) “Title”: The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company’s liability and obligation end.

3. The Company’s liability and obligation is limited by and this Commitment is not valid without:
   (a) the Notice;
   (b) the Commitment to Issue Policy;
   (c) the Commitment Conditions;
   (d) Schedule A;
   (e) Schedule B, Part I - Requirements;
   (f) Schedule B, Part II - Exceptions; and
   (g) a countersignature by the Company or its issuing agent that may be in electronic form.

4. COMPANY’S RIGHT TO AMEND
   The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY
   (a) The Company’s liability under Commitment Condition 4 is limited to the Proposed Insured’s actual expense incurred in the interval between the Company’s delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured’s good faith reliance to:
      (i) comply with the Schedule B, Part I - Requirements;
      (ii) eliminate, with the Company’s written consent, any Schedule B, Part II - Exceptions; or
      (iii) acquire the Title or create the Mortgage covered by this Commitment.
   (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
   (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
(d) The Company’s liability shall not exceed the lesser of the Proposed Insured’s actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
(e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
(f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
(g) In any event, the Company’s liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT
(a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
(b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
(c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
(d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
(e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
(f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company’s only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT
The issuing agent is the Company’s agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company’s agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY
The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION
The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is $2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.
ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data for reference only:
Issuing Agent: Anderson-Oliver Title Insurance Agency, Inc.
Issuing Office: 94 E. Grand Ave., Moab, UT 84532
ALTA® Universal ID: N/A
Loan ID Number:
Commitment Number: 11588
Issuing Office File Number: 11588
Property Address: 3058 Spanish Valley Drive, Moab, UT 84532
Revision Number:

1. Commitment Date: August 03, 2018 at 8:00 A.M.

2. Policy to be issued: 
   Proposed Policy Amount
   (a) ALTA Owner’s Policy
   Standard
   $550,000.00
   Premium: $2,246.00
   Proposed Insured: Alpine Development, LLC
   (b) ALTA Loan Policy
   Standard

   Proposed Insured:

3. The estate or interest in the Land described or referred to in this Commitment is:
   Fee Simple

4. Title to the said estate or interest in the Land is at the Commitment Date hereof vested in:
   Verd M. Byrnes and Kathy R. Byrnes, Trustees of the VK BYRNES TRUST dated December 21, 2004

5. The Land is described as follows:

Grand County, Utah:
Parcel 1:
Beginning 381.9 feet South and 247 feet East of the West Quarter Corner Section 22, T26S, R22E, SLM, thence North 51°02’ East 693.2 feet; thence South 38°58’ East 254.1 feet; thence South 51°02’ West 539.8 feet; thence North 38°58’ West 116.9 feet; thence South 51°02’ West 118.4 feet; thence North 53°23’ West 141.5 feet to the point of beginning. (Parcel No. 02-0022-0049)

EXCEPTING THEREFROM all gas and oil rights.

Parcel 2:
Beginning at a point which bears South 556.84 feet and East 482.35 feet from the West 1/4 Corner Section 22, T26S, R22E, SLM, running thence North 53°23’ West 31 feet; thence North 51°02’ East 627.9 feet; thence South 38°58’ East 30 feet; thence South 51°02’ West 620.2 feet to the point of beginning. (Parcel No. 02-0022-0049)

EXCEPTING THEREFROM all gas and oil rights.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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File No. 11588
ALTA Commitment For Title Insurance Schedule 8-1-16
Page 1 of 2
Parcel 3:
Beginning 466.3 feet South and 360.6 feet East of the West 1/4 corner, Section 22, Township 26 South, Range 22 East, SLM, thence North 51°02' East 118.4 feet; thence South 38°58' East 116.9 feet; thence South 51°02' West 88.1 feet; thence North 53°23' West 120.7 feet to the point of beginning. (Parcel No. 02-0022-0050)

EXCEPTING THEREFROM all gas and oil rights.
ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART I

ISSUED BY
STEWART TITLE GUARANTY COMPANY

File No.: 11588

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
Exceptions

File No.: 11588

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.

2. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

3. Any facts, rights, interests, or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.

4. Easements, liens, or encumbrances, or claims thereof, which are not shown by the Public Records.

5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water; ditch rights; (d) minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel and other hydrocarbons in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities related thereto, whether or not the matters excepted under (a), (b), (c) or (d) are shown by the Public Records. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.

7. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

8. Taxes for the year 2018 are accruing as a lien; not yet due and payable. Taxes for the year 2017 were paid in the amount of $2,157.80 for Parcel No. 02-0022-0049 and $818.18 for Tax Parcel No. 02-0022-0050.

9. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be...
ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Exceptions

be leases, grants, exceptions or reservations of interests that are not listed.

10. Reservation to construct, maintain and repair water pipe lines and access roads in, under, over and across the land which is necessary or convenient to the use and operation of the water system of Moab City as reserved in the Quit Claim Deed from George M. White dated December 24, 1957 and recorded May 15, 1958 in Book 3-K at page 9 and in the Quit Claim Deed dated July 25, 1959 and recorded July 29, 1959 as Entry No. 289267 in Book 3-K at page 591. (Affects the S1/2 of Section 22)

11. Pole Line Easement granted by Lloyd Somerville and Naomi Somerville, as Grantors to Utah Power & Light Company, as Grantee and recorded June 12, 1956 as Entry No. 276220 in Book 6-R at page 535.

12. Reservation of all gas and oil rights reserved in the Warranty Deed dated March 1, 1962 between George M. White and Francis R. White, husband and wife, as Grantors and Venice C. Denney and Gloria Ann Denney, husband and wife, as Grantees and recorded April 4, 1962 as Entry No. 297745 in Book 107 at page 271.


14. Sewer Agreement dated June 24, 1984 between Spanish Valley and Sewer Improvement District and Robert M. Byrnes and recorded June 22, 1989 as Entry No. 418178 in Book 413 at page 342.

A judgment search was made in the following names and none were found of record except as noted above:
Verd M. Byrnes and Kathy R. Byrnes, Trustees of the VK BYRNES TRUST dated December 21, 2004
Alpine Development, LLC

CHAIN OF TITLE:

According to the Official Records, there have been no documents conveying the land described herein within a period of 24 months prior to the date of this commitment, except as follows: NONE
STG Privacy Notice
Stewart Title Companies

WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its title affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver’s license number.

All financial companies, such as the Stewart Title Companies, need to share customers’ personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers’ personal information; the reasons that we choose to share; and whether you can limit this sharing.

<table>
<thead>
<tr>
<th>Reasons we can share your personal information.</th>
<th>Do we share</th>
<th>Can you limit this sharing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>For our everyday business purposes—to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td>No</td>
<td>We don’t share</td>
</tr>
<tr>
<td>For our affiliates’ everyday business purposes—information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies. Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For our affiliates’ everyday business purposes—information about your creditworthiness.</td>
<td>No</td>
<td>We don’t share</td>
</tr>
<tr>
<td>For our affiliates to market to you—For your convenience, Stewart has developed a means for you to opt out from its affiliates marketing even though such mechanism is not legally required.</td>
<td>Yes</td>
<td>Yes, send your first and last name, the email address used in your transaction, your Stewart file number and the Stewart office location that is handling your transaction by email to <a href="mailto:optout@stewart.com">optout@stewart.com</a> or fax to 1-800-335-9591.</td>
</tr>
<tr>
<td>For non-affiliates to market to you. Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.</td>
<td>No</td>
<td>We don’t share</td>
</tr>
</tbody>
</table>

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

SHARING PRACTICES

How often do the Stewart Title Companies notify me about their practices? We must notify you about our sharing practices when you request a transaction.

How do the Stewart Title Companies protect my personal information? To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer, file, and building safeguards.

How do the Stewart Title Companies collect my personal information? We collect your personal information, for example, when you request insurance-related services and provide such information to us. We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.

What sharing can I limit? Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

Contact us: If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1980 Post Oak Blvd., Privacy Officer, Houston, Texas 77056

File No.: 11588

Page 1

Revised 11-19-2013
**STG Privacy Notice 2 (Rev 01/26/09) Independent Agencies and Unaffiliated Escrow Agents**

**WHAT DO/DOES THE Anderson-Oliver Title Insurance Agency, Inc. DO WITH YOUR PERSONAL INFORMATION?**

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of Anderson-Oliver Title Insurance Agency, Inc., and its affiliates ("N/A"), pursuant to Title V of the Gramm-Leach-Billey Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as Anderson-Oliver Title Insurance Agency, Inc., need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share, and whether you can limit this sharing.

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<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For our marketing purposes—to offer our products and services to you.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For joint marketing with other financial companies</td>
<td>No</td>
<td>We don't share</td>
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<tr>
<td>For our affiliates' everyday business purposes—information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies.</td>
<td>Yes</td>
<td>No</td>
</tr>
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<td>For our affiliates' everyday business purposes—information about your creditworthiness.</td>
<td>No</td>
<td>We don't share</td>
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<tr>
<td>For our affiliates to market to you</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>For non-affiliates to market to you. Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.</td>
<td>No</td>
<td>We don't share</td>
</tr>
</tbody>
</table>

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

<table>
<thead>
<tr>
<th>Sharing practices</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>How often do/does Anderson-Oliver Title Insurance Agency, Inc. notify me about their practices?</td>
<td>We must notify you about our sharing practices when you request a transaction.</td>
</tr>
<tr>
<td>How do/does Anderson-Oliver Title Insurance Agency, Inc. protect my personal information?</td>
<td>To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state law. These measures include computer, file, and building safeguards.</td>
</tr>
<tr>
<td>How do/does Anderson-Oliver Title Insurance Agency, Inc. collect my personal information?</td>
<td>We collect your personal information, for example, when you • request insurance-related services • provide such information to us We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.</td>
</tr>
<tr>
<td>What sharing can I limit?</td>
<td>Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.</td>
</tr>
</tbody>
</table>

**Contact Us** If you have any questions about this privacy notice, please contact us at: Anderson-Oliver Title Insurance Agency, Inc., 94 E. Grand Ave., Moab, UT 84532

File No.: 11588
GRAND COUNTY CORPORATION
Tax Roll Master Record

Parcel: 02-0022-0049  Serial #:26-22-22-14.3 & 14.6  Entry: 465710
Name: BYRNES VERD M TRUSTEE

c/o Name:  
Address 1: PO BOX 273  
Address 2:  
City State Zip: LA SAL  UT 84530-0000  
Mortgage Co:  
Status: Active

Property Address
SPANISH VALLEY DR 3058
MOAB 84532-0000
Acres: 4.07

Year: 2018  District: 002 SPANISH VALLEY  0.010532

Owners  Interest  Entry  Date of Filing  Comment
BYRNES VERD M TRUSTEE  465710  12/29/2004 (0637/0345)  
BYRNES KATHY R TRUSTEE  465710  12/29/2004 (0637/0345)  
BYRNES VK TRUST 12-21-04  465710  12/29/2004 (0637/0345) QCD 12-29-04  

Property Information

<table>
<thead>
<tr>
<th>Units/Acres</th>
<th>Market</th>
<th>Taxable</th>
<th>Taxes 2018</th>
<th>Market</th>
<th>Taxable</th>
<th>Taxes 2017</th>
</tr>
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<tbody>
<tr>
<td>LS01 SECONDARY LAND</td>
<td>4.07</td>
<td>197,800</td>
<td>197,800</td>
<td>2,083.23</td>
<td>197,800</td>
<td>2,083.23</td>
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<tr>
<td>Totals:</td>
<td>4.07</td>
<td>197,800</td>
<td>197,800</td>
<td>2,083.23</td>
<td>197,800</td>
<td>2,083.23</td>
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</table>

2018 Values & Taxes
2017 Values & Taxes

**** SPECIAL NOTE ****
Tax Rates for 2018 have NOT BEEN SET OR APPROVED! Any levied taxes or values shown on this printout for the year 2018 are SUBJECT TO CHANGE!! (Using Proposed Tax Rate)

DO NOT USE THIS TAXING DESCRIPTION FOR LEGAL PURPOSES OR OFFICIAL DOCUMENTS. For taxing purposes only. Consult property deeds for full legal description.

TAXING DESCRIPTION

BEG 381.9 FT S & 247 FT E OF W1/4 COR SEC 22 T26S R22E; N 51°02'E 693.2 FT; S 38°58'E 254.1 FT; S 51°02'W 539.8 FT; N 38°53'W 116.9 FT; S 51°02'W 118.4 FT; N 53°23'W 141.5 FT TO BEG; *** ALSO: BEG AT POINT WHICH BEARS S 556.84 FT & E 482.35 FT FROM W1/4 COR SEC 22 T26S R22E RNG TH N 53°23'W 31 FT; N 51°02'E 627.9 FT; S 38°58'E 30 FT; S 51°02'W 620.2 FT TO POB 4.07 AC
GRAND COUNTY CORPORATION
Tax Roll Master Record

Parcel: 02-0022-0050  Serial #:26-22-22-14.3.1  Entry:465709
Name: BYRINES VERD M TRUSTEE
  c/o Name:
  Address 1: PO BOX 273
  Address 2:
  City State Zip: LA SAL UT 84530-0000
  Mortgage Co:
  Status: Active
  Year: 2018  District: 002 SPANISH VALLEY 0.010532

Property Address
  SPANISH VALLEY DR 3060 S
  MOAB 84532-0000
  Acres: 0.28

Owners

<table>
<thead>
<tr>
<th>Owners</th>
<th>Interest</th>
<th>Entry</th>
<th>Date of Filing</th>
<th>Comment</th>
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<tbody>
<tr>
<td>BYRINES VERD M TRUSTEE</td>
<td>465709</td>
<td>12/29/2004</td>
<td>(0637/0344)</td>
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<tr>
<td>BYRINES KATHY R TRUSTEE</td>
<td>465709</td>
<td>12/29/2004</td>
<td>(0637/0344)</td>
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<tr>
<td>BYRINES VK TRUST 12-21-04</td>
<td>465709</td>
<td>12/29/2004</td>
<td>(0637/0344) QCD 12-29-04</td>
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</table>

2018 Values & Taxes

<table>
<thead>
<tr>
<th>Property Information</th>
<th>Units/Acres</th>
<th>Market</th>
<th>Taxable</th>
<th>Taxes</th>
<th>Market</th>
<th>Taxable</th>
<th>Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>LV01 LAND VACANT</td>
<td>0.28</td>
<td>75,000</td>
<td>75,000</td>
<td>789.90</td>
<td>75,000</td>
<td>75,000</td>
<td>818.18</td>
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<tr>
<td>Totals:</td>
<td>0.28</td>
<td>75,000</td>
<td>75,000</td>
<td>789.90</td>
<td>75,000</td>
<td>75,000</td>
<td>818.18</td>
</tr>
</tbody>
</table>

2017 Values & Taxes

<table>
<thead>
<tr>
<th></th>
<th>2018 Taxes:</th>
<th>818.18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Fees:</td>
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<td></td>
</tr>
<tr>
<td>Penalty:</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>Abatements:</td>
<td>(0.00)</td>
<td></td>
</tr>
<tr>
<td>Payments:</td>
<td>(0.00)</td>
<td></td>
</tr>
<tr>
<td>Amount Due:</td>
<td>789.90</td>
<td></td>
</tr>
</tbody>
</table>

**** SPECIAL NOTE ****
Tax Rates for 2018 have NOT BEEN SET OR APPROVED! Any levied taxes or values shown on this printout for the year 2018 are SUBJECT TO CHANGE!! (Using Proposed Tax Rate)

2018 Taxes: 789.90  2017 Taxes: 818.18

Review Date 02/02/2015

NO BACK TAXES

GRAND COUNTY TREASURER / DEPUTY

signature

DO NOT USE THIS TAXING DESCRIPTION FOR LEGAL PURPOSES OR OFFICIAL DOCUMENTS. For taxing purposes only. Consult property deeds for full legal description.

Taxing Description

BEG 466.3 FT S & 360.6 FT E OF W1/4 COR SEC 22 T26S R22E TH N 51°02'E 118.4 FT; S 38°58'E 116.9 FT; S 51°02'W 88.1 FT; N 53°23'W 120.7 FT TO BEG 0.28 AC

History

LOT LINE ADJUSTMENT CREATING NEW PARCELS. SEE NEW PARCELS 02-022-0092, 0093, 0094
QUITCLAIM DEED

THIS QUITCLAIM DEED is given by VERD M. BYRNES, with an address of P.O. Box 273, La Sal, Utah 84530 (as "Grantor"), to Verd M. Byrnes and Kathy R. Byrnes, as trustees of THE VK BYRINES TRUST dated December 21, 2004, with an address of P.O. Box 273, La Sal, Utah 84530 (as "Grantee").

For valuable consideration, Grantor hereby quitclaims to Grantee the following described real estate situated in Grand County, State of Utah:

02-022-0050/26-22-22-14.3.1

SPANISH VALLEY DR 3060 S - BEG 466.3 FT S & 360.6 FT E OF W1/4 COR SEC 22 T26S R22E TH N 51°02' E 118.4 FT, S 38°58' E 116.9 FT, S 51°02' W 88.1 FT, N 53°23' W 120.7 FT TO BEG 0.28 AC

DATED effective this 21st day of December, 2004.

VERD M. BYRNES

STATE OF UTAH )
ss
COUNTY OF SAN JUAN )

The foregoing instrument was acknowledged before me this 21st day of December, 2004, by VERD M. BYRNES.

[Notary Public Seal]

Erik C. Paulsen
Notary Public
My Commission Expires
October 4, 2005
State of Utah
QUITCLAIM DEED

THIS QUITCLAIM DEED is given by VERD M. BYRNES, with an address of P.O. Box 273, La Sal, Utah 84530 (as "Grantor"), to Verdm M. Byrnes and Kathy R. Byrnes, as trustees of THE VK BYRNES TRUST dated December 21, 2004, with an address of P.O. Box 273, La Sal, Utah 84530 (as "Grantee").

For valuable consideration, Grantor hereby quitclaims to Grantee the following described real estate situated in Grand County, State of Utah:

THE WHOLE OF WATER RIGHT 05-687

02-022-0049/26-22-22-14.3 & 14.6

SPANISH VALLEY DR 3058 - BEG 381.9 FT S & 247 FT E OF W1/4 COR SEC 22 T26S R22E, N 51°02'E 693.2 FT, S 38°58'E 254.1 FT, S 51°02'W 539.8 FT, N 38°53'W 116.9 FT, S 51°02'W 118.4 FT, N 53°23'W 141.5 FT TO BEG: *** ALSO: BEG AT POINT WHICH BEARS S 556.84 FT & E 482.35 FT FROM W1/4 COR SEC 22 T26S R22E RNG TH N 53°23'W 31 FT, N 51°02'E 627.9 FT, S 38°58'E 30 FT, S 51°02'W 620.2 FT TO POB 4.07 AC

DATED effective this 21st day of December, 2004.

VERD M. BYRNES

STATE OF UTAH )
COUNTY OF SAN JUAN )

The foregoing instrument was acknowledged before me this 21st day of December, 2004, by VERD M. BYRNES.

NOTARY PUBLIC
When Recorded Return To:
Alpine Development, LLC
514 E. Craftsman Way
Midway, Utah 84049

Tax Parcel ID Nos.: See Exhibit A

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR SANDSTONE COTTAGES AT SPANISH VALLEY DRIVE

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SANDSTONE COTTAGES AT SPANISH VALLEY DRIVE (“Declaration”) is made by Alpine Development, LLC, a Utah limited liability company (“Declarant”), as of the date set forth on the signature page below.

RECITALS

A. The Declarant is the owner of certain real property located in Grand County, Utah (“County”), more particularly described on Exhibit A attached hereto (“Property”). Declarant is developing the Property as a residential community to be known as the Sandstone Cottages at Spanish Valley Drive (“Project”). The Project shall be subdivided into individual lots for residential units, streets and certain common areas and facilities.

B. The Sandstone Cottages Homeowners Association (“Association”) has been, or will be, incorporated as a Utah non-profit corporation to act as a homeowners association with the powers of managing and maintaining the Common Areas in the Project, administering and enforcing this Declaration, and assessing and collecting from Owners a share of the costs for maintaining and repairing any and all Common Areas within the Project and performing such other acts as are provided for in this Declaration, the Association’s Bylaws, statute, or which generally benefit the Property.

C. Declarant has adopted the covenants, conditions, restrictions, easements, servitudes, and limitations set forth in this Declaration (collectively, the “Covenants”) for the purpose of:

i. Helping to ensure uniformity in the development of the Lots;
ii. Establishing a common scheme and plan for the possession, use, enjoyment, repair, maintenance, and improvement of the Project.

iii. Protecting long-term property values and a desired quality of life in the Project;

iv. Facilitating the initial sale of Lots by the Declarant, its successors and assigns, and subsequent sale by the individual Owners of Lots in the Project;

v. Maintaining the Common Areas located within the Project in accordance with the Covenants and with County standards; and

vi. Providing for mandatory dispute resolution procedures and requirements to avoid litigation, as set forth in Article 13 of this Declaration.

NOW, THEREFORE, the Declarant does hereby establish the Covenants set forth herein and does hereby declare that the Property, and all Lots within the Project, shall be held, sold, conveyed, leased, and rented subject to, and shall be encumbered by, the Covenants set forth below which shall be run with the Land and be binding on all persons or entities now or hereafter having or claiming any right, title, or interest in the Property, or any of the Lots within the Project.

ARTICLE 1

DEFINITIONS

The plural of any word defined in this Declaration shall have the same meaning as the singular and vice versa. The following words when used in this Declaration shall have the following meanings (other terms may be defined elsewhere in this Declaration):

1.1 “ACC” means the Architectural Control Committee, identified in Section 8.1 of this Declaration and its subparts, which the Declarant may establish during the Period of Declarant’s Control.

1.2 “Act” means the Utah Community Association Act, Utah Code § 57-8a-101 et seq., as amended from time to time.

1.3 “Assessment” means any of the fees, assessments, or payments required to be made by Owners of Lots within the Project, including the reinvestment fee, annual assessments, supplemental assessments, and special assessments, as more particularly described in Article 4 of this Declaration.
1.4 “Association” means the Sandstone Cottages Homeowners Association, a Utah non-profit corporation.

1.5 “Bylaws” means the Bylaws of the Sandstone Cottages Homeowners Association. A copy of the Bylaws is attached hereto as Exhibit C.

1.6 “Board” means the Board of Directors of the Association.

1.7 “Common Areas” means the portions of the Project, including community improvements, which are intended for common use by all the Owners or which are held or maintained by the Association for the benefit of the Owners. Common Areas are not included within the Lots and are not dedicated or reserved for public use. The Common Areas are more particularly discussed in Section 5.1 of this Declaration.

1.8 “Common Expenses” means all sums lawfully assessed against the Lots or the Owners by the Association; all expenses of administration, maintenance, repair or replacement of the Common Areas; all expenses of management of the Association; all expenses allocated by the Association among the Owners; all expenses agreed upon as common expenses by the Association; and all expenses declared common expenses by this Declaration.

1.9 “Common Wall(s)” means the walls in the detached garages that divide and are located between any two (2) adjoining garages.

1.10 “County” means Grand County, Utah.

1.11 “County Recorder’s Office” means the Grand County office which maintains an official record of deeds and real property records and accepts such documents for recordation pursuant to Utah Code § 17-21-1.

1.12 “Covenants” means every covenant, condition, restriction, easement, and limitation set forth in this Declaration.

1.13 “Declarant” means Alpine Development, LLC, a Utah limited liability company, and any assign or successor that acquires Declarant’s interest in the Property and takes a written assignment of Declarant’s rights. The term Declarant shall NOT mean a Commercial Builder, as defined in Section 4.8 of this Declaration, any person or entity who acquires one or more, but less than all, of the Lots from Declarant for the purposes of constructing Residences thereon, unless such person or entity also receives a written assignment of Declarant’s rights.
1.14 “Declaration” means this Declaration of Covenants, Conditions and Restrictions for Sandstone Cottages at Spanish Valley Drive as it may be amended from time to time.

1.15 “Design Guidelines” means the design standards and architectural guidelines which Declarant may adopt and which are applicable to the Project.

1.16 “First Mortgage” means a recorded Mortgage or consensual lien granted by the Owner which is not subject to any senior lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.17 “First Mortgagee” means any person or entity named as a Mortgagee under a First Mortgage and any successor-in-interest to such Mortgagee.

1.18 “Improvement” means every structure, feature or improvement of any kind placed or constructed in the Project, including but not limited to any Residence, building, garage, lighting, deck, porch, patio, sidewalk, foundation, awning, fence, retaining wall, driveway, irrigation or drainage feature, storage structure or other product of construction and also includes landscaping.

1.19 “Limited Common Areas” shall mean the fencing that may be installed, at the Declarant’s discretion, in the locations shown on Exhibit D. If installed, the fencing shall not interfere with Association shall be responsible for the maintenance and repair of the Limited Common Areas. The Limited Common Areas are for the exclusive use of one or more, but fewer than all, of the Residences.

1.20 “Lot” means a subdivided and individually numbered residential parcel within the Project as designated on the Plat Map recorded with the County Recorder’s Office. The term Lot includes any Residence or other Improvement constructed thereon.

1.21 “Member” means a person or entity who is a member of the Association.

1.22 “Mortgage” means any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.23 “Mortgagee” means the mortgage or beneficiary identified in a Mortgage.

1.24 “Owner” means the person or entity vested with legal, record fee simple title to any Lot. If there is more than one record holder of legal title to a Lot, each shall be an Owner.

1.25 “Period of Declarant’s Control” means the period of time during which Declarant shall have administrative control of the Association and the other rights and privileges as set forth
in this Declaration. Following the recording of this Declaration, the Period of Declarant’s Control shall continue until such time as Declarant sees fit to, by written notice, transfer administrative control of the Association to the Owners, but in no event shall the Period of Declarant’s Control extend beyond the date which is one hundred twenty (120) days after one hundred percent (100%) of the Lots in the Project have been conveyed to individual residential purchasers.

1.26 "Plat Map" means, collectively, the subdivision plat maps for the various phases of the Project filed with the County Recorder’s Office or proposed to be filed with the County Recorder’s Office, and any plat incorporating additional real estate into the Project. A copy of the Plat Map current as of the date of this Declaration is attached hereto as Exhibit B. Declarant reserves the right to modify the terms of any revised or amend the Plat Map for the Project. Any such revisions or amendments recorded in the County Recorder’s Office shall be deemed the Plat Map for purposes of this Declaration.

1.27 “Project” means the residential community to be developed by Declarant on the Property. The Project is a community of single family residential homes.

1.28 “Property” means the real property situated in Grand County, State of Utah, as more particularly described in Exhibit A, against which this Declaration is recorded and any real property which may be hereafter become subject to the Covenants set forth herein by virtue of a declaration of inclusion.

1.29 “Residence” means the residential dwelling structure on a Lot within the Project.

1.30 “Rules and Regulations” means the rules, regulations, and restriction which are not inconsistent with the Act, this Declaration, or the Bylaws, duly adopted by the Board.

ARTICLE 2
PROPERTY SUBJECT TO THIS DECLARATION

2.1 Project. The Property comprising the Project, as identified in Exhibit A, together with any additional real property added to the Project, as provided herein, is, and henceforth shall be, held, occupied, transferred, sold, and conveyed subject to the Covenants set forth in this Declaration. The Project may be comprised of multiple phases. The Project is NOT a cooperative. Currently, NO PORTION of the Project is subject to the Condominium Ownership Act, Utah Code § 57-8-1, et seq. During the Period of Declarant’s Control, no portion of the Project may become subject to the Condominium Ownership Act, without Declarant’s express written consent which Declarant may give or withhold in its sole discretion. After the Period of Declarant’s Control, no portion of the Project may become subject to the Condominium Ownership Act without the written consent of all affected Owners and the approval of the Board.
2.2 **Covenants Run with the Land.** This Declaration, and the Covenants herein, shall run with the land and shall be binding on all persons or entities holding or taking title to any interest in the Property or any Lot therein, and all Owners shall hold or take title subject to this Declaration.

2.3 **Applicability of the Act.** Declarant hereby confirms and acknowledges that the Project and the Association are subject to the provisions of the Act with respect to items not addressed in this Declaration but covered by the Act.

2.4 **Local Laws and Ordinances Applicable.** In addition to the Covenants set forth in this Declaration, the Property and any Lot therein is subject to the Act and the local laws and ordinances of the County, including applicable building codes and zoning ordinances, now or hereafter in effect.

2.5 **Enforcement of Covenants.**

2.5.1 **By the Association; Legal action or Fines.** The Association, through its Board, shall have the right to enforce compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations adopted by the Board including, if the Board deems necessary, through legal action. Consistent with the terms of the Act, the Board may establish a schedule of reasonable fines to be imposed on non-complying Owners after appropriate notice has been provided to such Owners. The obligation to pay such fines imposed by the Association shall be a personal obligation of such Owner and shall also be secured by the Association’s lien on such owner’s Lot as provided in Section 4.6 of this Declaration. The Board may also suspend any services provided to an Owner who fails to comply, or whose Lot does not comply, with the Covenants set forth in this Declaration. The Board may also suspend voting rights or privileges related to Common Areas for non-compliance. Any costs associated with the Association’s enforcement of this Declaration may be assessed to the non-complying Owner as a special assessment.

2.5.2 **By an Owner.** Any Owner aggrieved by another Owner’s non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations adopted by the Board may commence an action seeking to enforce compliance with the same.

2.5.3 **Injunction; Legal Fees.** Under appropriate circumstances, the Association or an aggrieved Owner may seek a temporary restraining order or preliminary injunction to stop or prevent non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations adopted by the Board. In any such legal action, the prevailing party shall be entitled to an award of reasonable costs and attorney
fees. In addition, the Association shall have all enforcement rights and remedies set forth in the Act as the same may be amended from time to time.

ARTICLE 3

ASSOCIATION AND MEMBERSHIP THEREIN

3.1 Association Membership. Each Owner is a member of the Association. Such membership automatically becomes affective by an Owner’s acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed. By accepting a deed to a Lot, an Owner is deemed to have agreed to be bound by the Covenants, the Bylaws, and by such reasonable Rules and Regulations as may, from time to time, be established by the Association. Membership is mandatory for all Owners. When more than one person or entity is an Owner of a Lot, all such persons or entities shall be Members. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Lot, whether by conveyance, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Utah. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation.

3.2 Transfer. Upon the transfer or conveyance of any Lot, the transferee or grantee shall become a Member, and the transferor or grantor shall immediately cease being a Member. The Board shall maintain a list of all Members and shall note each transfer of ownership on such list. Upon the transfer or conveyance of any Lot, the selling or transferring Owner shall promptly inform the Association of the name of the transferee or grantee. The Association, directly or through any Manager appointed pursuant to Section 3.7 of this Declaration, may charge a fee for providing payoff information requested in connection with financing, refinancing, or closing of an Owner’s sale of such Owner’s Lot, as provided for in Utah Code § 57-8a-106.

3.3 Voting Rights. The Owner or Owners of each Lot shall be entitled to one (1) vote for each Lot owned. The one (1) vote for such Lot shall be exercised as they, among themselves, determine. Where a Lot is owned by more than one Owner, the vote of any one of them shall be conclusively presumed to have been exercised as a result of an agreement among such Owners and in the event multiple Owners attempt to exercise a vote for such Lot on any question or issue, the Owners of such Lot will forfeit the right to vote on that question or issue. In no event shall more than one (1) vote be cast with respect to any Lot. With respect to any question or issue requiring a vote of the Association, vote of the Owners, or vote of the Members of the Association, the total number of votes cast shall not exceed the number of Lots in the Project. Unless otherwise required by this Declaration or the Bylaws, the number of affirmative votes required for approval of any matter submitted to vote of the Members shall be a majority of the votes cast with respect to such
matter. All voting rights shall be subject to the restrictions and limitations provided herein and in
the Bylaws.

3.4 Meetings. Unless otherwise provided by this Declaration or by the Bylaws, all
matters requiring a vote of the Members of the Association shall be decided at a meeting of the
Members held for that purpose. Except in the case of an emergency or other situation which
requires shorter notice, written notice designating the time and place of such meeting shall be
provided to each Member no less than ten (10) or more than sixty (60) days in advance of a
meeting. Other provisions for giving notice of such meetings, determining a quorum, and tallying
votes shall be included in the Bylaws, or shall be established by the Board. In lieu of attending a
meeting held for the purpose of exercising voting rights, Members may exercise such voting rights
in writing or through a proxy, if designated in writing before the time for such vote. By attending
a meeting where a vote is held, by exercising a vote in writing, or by designating a proxy, an Owner
shall be conclusively deemed to have received adequate notice of such meeting or such vote.

3.5 Declarant Approval Required. Notwithstanding any other provision of this
Declaration, during the Period of Declarant’s Control all matters for which the Declaration or the
Bylaws call for a vote of the Members of the Association may be decided solely by the Declarant
with or without a meeting and with or without a vote of the Members. Any matters which are
submitted to a vote of the Members during the Period of Declarant’s Control will be approved and
implemented if, and only if, the Declarant also approves such matters. After the Period of
Declarant’s Control, all such matters shall be submitted to a vote of the Members of the
Association and shall be decided solely by the votes of the Members.

3.6 Board of Directors. The Board shall be the governing body of the Association. In
addition to those set forth herein, the powers, rights, privileges, and duties of the Board shall be
set forth in the Bylaws. During the Period of Declarant’s Control, the Declarant shall appoint the
members of the Board, which shall number no less than three (3) directors and not more than Seven
(7) directors. After the Period of Declarant’s Control, the members of the Board shall be chosen,
removed, or replaced by the vote of the Members of the Association in accordance with the
provisions of the Bylaws. Notwithstanding the foregoing, Declarant may, at Declarant’s discretion,
allow one (1) or more seats on the Board to be filled by an Owner chosen by the Members of the
Association at any time during the Period of Declarant’s Control. Such action shall not be deemed
as a termination of the Period of Declarant’s Control or a waiver of any of the rights of Declarant
as provided herein.

3.7 Professional Management. The Association may carry out the functions required of
it pursuant to this Declaration, the Bylaws, or the Rules and Regulations, to the extent such
functions are properly delegable, by and through a professional manager (“Manager”). If a
Manager is engaged, the Manager shall be an independent contractor and not an employee of the
Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by the Board, be authorized to perform any of the properly delegable functions or acts required or permitted or performed by the Association.

3.8 **Bylaws.** Nothing in the Association’s Bylaws shall substantially alter, amend, or impair the rights and obligations of the Owners set forth in this Declaration.

3.9 **Property.** The Association may acquire and own real or personal property for the benefit of the Owners and may dispose of such property if allowed under this Declaration and the Bylaws. The maintenance, repair, and replacement of all property owned by the Association shall be a Common Expense.

3.10 **Indemnification.** To the fullest extent allowed by law, the Association shall indemnify and hold the following persons and entities harmless from and against any and all claims, costs, damages, expenses, injuries, liabilities or losses including, but not limited to, attorney fees, reasonably incurred by, or asserted against, such person or entity in connection with any action or proceeding of any sort in which such person is, or may be, a party or otherwise involved by reason of serving, or having served, in any capacity on behalf of the Association: (a) every director, officer, or member of the Board; (b) every member of the ACC; (c) every officer, director, employee, or agent of the Declarant; (d) every person serving as an employee of the Association. The right of indemnification set forth herein will continue regardless of whether such person or entity is still actively serving in the capacity at the time such claims or expenses are incurred or asserted. However, the right of indemnification will not apply to such claims or expenses which are determined by a court of competent jurisdiction, or an arbitrator in the case of claims subject to Article 13 of this Declaration, to be the result of fraud, criminal action, or willful misconduct on the part of such person or entity.

3.11 **Restriction on Sub-Associations.** During the Period of Declarant’s Control, no sub-association may be established for any portion of the Project without Declarant’s express written consent, which Declarant may give or withhold in its sole discretion. After the Period of Declarant’s Control, no sub-association may be established without the written consent of all affected Owners and the approval of the Board. In the event a sub-association is formed pursuant to this Section, all members of such sub-association will remain Members of the Association and have all obligations of Owners set forth herein. The establishment of such a sub-association will not impact any of the rights of the Association as provided herein.
ARTICLE 4

ASSOCIATION ASSESSMENTS

4.1 Covenant to Pay Assessments. The Owner of any Lot, excluding Declarant whose obligations regarding Assessments are set forth below, by accepting a Deed for said Lot, whether or not it shall be expressed in the deed, agrees and is deemed to have agreed to pay to the Association all fees, annual assessments, supplemental assessments, and special assessments as set forth in this Declaration.

4.2 Nature of Assessments.

4.2.1 Association Expenses. The Common Expenses and all obligations of the Association, as identified in the Act, this Declaration, and the Bylaws, shall be funded through fees, annual assessments, supplemental assessments, and special assessments levied against the Lots.

4.2.2 Allocation of Common Expenses. The Common Expenses will be apportioned equally among, and assessed equally to, all Owners.

4.3 Types of Fees and Assessments. The Association may impose the following fees and assessments:

4.3.1 Reinvestment Fee. After the initial purchase of a Lot from the Declarant, each subsequent Owner of a Lot, shall be obligated to pay the Association a Reinvestment Fee. If not paid at the closing of such Owner’s purchase of a Lot, the Reinvestment Fee shall be due and payable to the Association within the first calendar month of ownership of a Lot. The Reinvestment Fee shall be dedicated to meeting the Association’s obligations and benefitting the Property and the Project and may be used for any purpose allowed by law. The initial amount of the Reinvestment Fee is hereby set at $150.00 by the Declarant and may be adjusted from time to time by the Declarant during the Period of Declarant’s Control and thereafter by the Board.

4.3.2 Annual Assessment. Each Owner shall pay an annual assessment for each Lot owned by such Owner, and a prorated portion of such annual assessment shall be due upon each Owner taking title to such Lot. The annual assessment shall be the Lot’s share of the total annual amount necessary for the Association to perform all of its obligations, whether imposed by the Act, this Declaration, or the Bylaws. Without limitation, the annual assessment shall include each Lot’s share of the Common Expenses including the cost to maintain and preserve the Common Areas, including insurance thereon, the amounts necessary to perform the Association’s other maintenance obligations, the amounts
necessary to fund the Association’s reserve fund in a manner consistent with the Act, the Association’s administrative expenses, and the amount any obligations imposed on the Association by any applicable law, ordinances, or regulations, all of which shall be identified in the Association’s budget. The annual assessment shall be fixed, and from time to time adjusted, by the Declarant during the Period of Declarant’s Control and thereafter by the Board in accordance with the provisions of the Act. At a minimum, the Board or the Declarant shall review the annual assessment on an annual basis and make such adjustments as are necessary. The Declarant or the Board may require that the annual assessment attributable to each Lot be divided in twelve equal shares and paid in the form of a “monthly membership assessment,” to be due and payable each month on a date fixed by the Board. Subject to the exemption for the Declarant set forth below, the amount of the annual assessment shall be fixed at a uniform rate for each Lot assessed and shall be a portion of the Association’s annual Common Expenses determined by dividing the total Common Expenses by the number of Lots to which assessments are imposed. As additional Lots are constructed or conveyed to purchasers, the Declarant or the Board shall adjust the amount of the annual assessment accordingly.

4.3.3 Supplemental Assessment. In the event the annual assessment is insufficient to meet the Association’s regular recurring obligations in any given fiscal year, the Declarant during the Period of Declarant’s Control or the Board thereafter may assess a supplemental assessment against each Lot for a share of any supplemental amount necessary to meet the Association’s annual obligations. Each Lot’s share of a supplemental assessment shall be determined in the manner for annual assessments as set forth in Section 4.3.2 of this Declaration.

4.3.4 Special Assessment. The Declarant may, during the Period of Declarant’s Control, assess a special assessment to pay for special, non-recurring, or emergency expenses of the Association or the Project which exceed the Association’s annual budget for the fiscal year during which such expenses arise, including but not limited to expenses related to damage to the Project, unanticipated repairs, and Common Area improvements. A special assessment may be payable over time in appropriate circumstances. After the Period of Declarant’s Control, such a special assessment may be imposed by the Board, but only with the affirmative vote of fifty-one percent (51%) of the total number of Owners in the Association. Any special assessment shall represent the pro-rata share of such expenses attributable to the Lot or Lots benefited by such expenses, or to which such expenses apply. In the event such expenses apply to or benefit less than all of the Lots in the Project, the Declarant or Board may impose a special assessment against less than all of the Lots in the Project. Without limiting the foregoing, if the Association elects to perform maintenance on any Residence as provided in Article 7 the costs incurred in performing such maintenance will be a special assessment attributable to the affected Owner.
4.3.5 **Capital Improvements.** Notwithstanding any other provision of this Declaration, after the Period of Declarant’s Control, the Association shall not make any Capital Improvement, as defined below, without the authorization of fifty-one percent (51%) of the Owners voting at a meeting called for the purpose of proposing such Capital Improvement. For purposes of this Section, a “Capital Improvement” shall mean the installation of new Improvement located within a Common Area or other portion of the Project owned or managed by the Association, for which funds are not otherwise identified in the Association’s budget. If approved as provided in this Section, the cost of a Capital Improvement may be assessed to the Lots as a special assessment.

4.4 **Budget.** The annual assessment shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 of each year, provided that for the first fiscal year shall begin on the date of the conveyance of the first Lot by Declarant. On or before December 1 of each year thereafter, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, the anticipated receipts (if any), and any deficit or surplus from the prior operation period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. On or before December 1 of each year, the Board shall also notify each Owner of the amount of the following fiscal year’s annual assessment for each Lot owned by such Owner.

4.5 **Reserve Account.** The Association must comply with the terms and provisions of the Act relating to a reserve analysis and the funding of a reserve account for those Common Areas of the Project, if any, for which the Association is required to maintain a reserve account. Any reserve account will be funded by assessments imposed in accordance with the terms of this Article 4. The Board may require that all or a portion of each reinvestment fee collected be used to fund the Association’s reserve account.

4.6 **Lien and Personal Obligation.** The fees and assessments identified above, together with any applicable late payment fees, interest, costs, and reasonable attorney fees, and any other financial obligations owed to the Association as permitted under this Declaration, shall be a charge and lien against the Lot against which such assessment is imposed. In addition, each Owner’s obligation to satisfy such assessments and obligations is an independent and personal covenant of such Owner, with all amounts being due and payable without setoff or deduction when assessed. In the event of a failure to pay such assessments, or other default, the Association may pursue an action against the Owner to collect the assessment and enforce the lien against a Lot by foreclosure in the manner set forth below. The Association’s lien shall be a continuing lien on each Lot and shall be subordinate to a First Mortgage, where the Mortgagee is a lender who loaned funds for
the purchase of the Lot, and shall also be subordinate to a lien for property taxes or other public assessments, but the Association’s lien shall be superior to all other liens, charges, or encumbrances of any sort which shall hereafter arise or be imposed on any Lot. The Association’s lien shall not be affected by the sale or transfer of any Lot.

4.7 Statement and Evidence of Payment. Upon receipt of a written request by an Owner, or any other person or entity, the Board shall within a reasonable time issue to such Owner or other person or entity a written certificate stating, as applicable, (i) that all annual, special, and supplemental assessments (plus any applicable costs or fees) have been paid with respect to any specified Lot as of the date of the certificate, or (ii) if all assessments have not been paid, the amount of such outstanding annual, special, or supplemental assessments (plus any applicable costs or fees) due and payable as the date of the certificate. The Board may make a reasonable charge for issuing such certificates. Any such certificate, when issued as provided herein, shall be conclusive and binding with respect to any matter therein stated.

4.8 Exemption for Declarant and Commercial Builders. No assessment for a Lot owned by the Declarant shall be imposed until such Lot is conveyed to a subsequent purchaser. After the date a Lot is conveyed to a purchaser, the full amount of the assessment attributable to such Lot shall be imposed and collected from the new Owner in the manner set forth in this Declaration. Any Lot transferred to a builder or developer other than Declarant who holds two (2) or more Lots within the Project for the purpose of constructing homes for sale to residential customers (“Commercial Builder”) will be partially exempt from assessments according to the terms of this Section. Immediately upon transfer from the Declarant the Commercial Builder will be responsible to pay twenty-five percent (25%) of any assessment attributable to each Lot owned by such Commercial Builder. The Commercial Builder’s exemption will expire, and the full assessment attributable to such Lots will be come due and payable, upon the first to occur of twelve (12) months following the transfer of such Lot from Declarant or a certificate of occupancy for a Residence on the Property being issued. In the event that assessments collected from Owners are insufficient to meet the Association’s obligations, then notwithstanding the foregoing exemptions Declarant and any Commercial Builder will be obligated to contribute, pro-rata based on the number of Lots owned, in order to offset such shortfall; provided that the required contribution shall not exceed the entire amount that would have been payable by Declarant or a Commercial Builder had the exemption not applied.

4.9 Effect of Non-Payment and Remedies.

4.9.1 Late Fees and Interest. Any assessment not paid within ten (10) days from the due date thereof shall be subject to a late payment fee in an amount to be determined by the Board. In addition, all fees and assessments not paid when due shall bear interest at
the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Board.

4.9.2 Legal Remedies. The Association may bring an action at law against the Owner personally obligated to pay the same, and may foreclose the lien against such Owner’s Lot in the manner provided by the laws of the State of Utah, and in the event a judgment is obtained, such judgment shall include interest on the assessment and reasonable attorney fees to be fixed by the court, together with the costs of the action. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose the Association’s lien for any subsequent assessments, charges, costs or fees, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the membership votes appurtenant to ownership of such Lot, and to convey or otherwise deal with such Lot. In addition to the other rights and remedies set forth herein, the Association shall have all of the rights and remedies pertaining to enforcement of assessment liens as set forth in, and to be exercised in accordance with, the provisions of the Act, including, without limitation, the provisions in Utah Code §§ 57-8a-302 and -303, as the same may be amended. To this end, the Declarant (and each Owner by acceptance of a deed to a Lot) hereby conveys and warrants pursuant to Utah Code §§ 57-1-20 and 57-8a-302 to Bartlett Title Insurance Agency, Inc., as trustee, with power of sale, each Lot and all Improvements to each Lot for the purpose of securing payment of assessments under the terms of this Declaration. The Association shall have the right to substitute said trustee and appoint a successor trustee as provided by statute. The lien of the Association shall be superior and prior to all other liens and encumbrances except liens and encumbrances recorded prior to the recordation of this Declaration, a First Mortgage on a Lot, and assessments, liens, and charges in favor of the State of Utah or a political subdivision thereof imposed for taxes or other governmental assessments or charges past due and unpaid. In any action brought by the Association (or counterclaim or cross-claim brought by the Association) to collect assessments or to foreclose a lien for unpaid assessments, the Association shall be entitled to have a receiver of the Owner appointed to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association’s assessments of any kind or nature permitted hereunder.
ARTICLE 5
COMMON AREAS/ LIMITED COMMON AREAS/ COMMON WALLS

5.1 Identification of Common Areas/ Limited Common Areas.

5.1.1 The Project shall have Common Areas consisting of portions of the Project intended for the common use of the Owners, including areas designated as Common Areas on the Plat Map. The Common Areas shall also include the fencing surrounding the perimeter of the Project. During the Period of Declarant’s Control, Declarant may, in Declarant’s discretion, alter or amend the scope and extent Common Areas. The Declarant during the Period of Declarant’s Control and the Association thereafter may install additional amenities on Common Areas which are deemed appropriate or beneficial to the Project.

5.1.2 The Project may have Limited Common Areas consisting of fencing that Declarant may, at its discretion, install along some or all of the Lot lines, except in no event shall fencing be installed within the Side Yard Use Easement. If Declarant installs fencing along the front yard Lot line, such fencing shall be no greater than three (3) feet in height. Fencing may also be constructed and installed by Declarant along the Front Easement Line and the Rear Easement Line (as defined in Section 9.4.1 to this Declaration).

5.2 Use and Enjoyment. Except as provided herein, each Owner shall have a non-exclusive right to use and enjoy the Common Areas. The right of use and enjoyment shall include an access easement to and over all Common Areas. Each Owner shall have the right to use any Limited Common Areas designated for exclusive use by such Owner.

5.2.1 The right to use and enjoy the Common Areas and Limited Common Areas designated for exclusive use by such Owner, shall be appurtenant to such Owner’s ownership of a Lot within the Project and shall immediately transfer upon any conveyance of the Lot.

5.3 Ownership and Dedication. The Common Areas and the Limited Common Areas shall be owned by the Association and Declarant hereby dedicates the Common Areas and the Limited Common Areas to the Association.

5.4 Rules to be Adopted by the Board. Notwithstanding the foregoing, the Rules and Regulations adopted by the Board may include reasonable restrictions on the time, manner, and character of use of the Common Areas by the Owners, their guests, or invitees, including the limitations on total number of persons permitted to use the Common Areas. The Board may enforce the Rules and Regulations as provided in Section 2.6 of this Declaration.
5.5 **Maintenance.** The Association, directly or through the Manager or other designated agents, shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace and maintain the Common Areas and the Limited Common Areas. The Association shall maintain all landscaping of the Common Areas. The Association shall pay all utility charges attributable to the Common Areas. No Owner, directly or indirectly, shall make any alterations to any Common Areas or Limited Common Areas without prior written consent of the Board.

5.6 **No Obstruction.** No person shall obstruct or permanently occupy any portion of a Common Area without prior written permission of the Board.

5.7 **Limitations on Use.** In addition to restrictions set forth in the Rules and Regulations, an Owner’s right to use and enjoy the Common Areas may be temporarily or permanently restricted in the following circumstances consistent with, and to the extent allowed by, the Act:

5.7.1 Any period during which the Assessments imposed against such Owner’s Lot remain unpaid.

5.7.2 Any period during which such Owner, such Owner’s Lot, or any Improvement upon such Owner’s Lot is or remains in a state of non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations adopted by the Board, including, without limitation, the failure to maintain an Owner’s Residence as provided in Article 7. Notwithstanding the foregoing, each Owner shall have fifteen (15) days after receiving written notice of such non-compliance to remedy the same and shall have the opportunity for a hearing before the Board, before any restriction shall be imposed under this Section 5.7.2.

5.8 **Common Walls.** To the extent that any detached garages are connected by, or share, a Common Wall, the following provisions shall govern the use, maintenance, repair and restoration thereof:

5.8.1 Each detached garage sharing a Common Wall shall provide such access as may be reasonably necessary to permit the Association and the Owner of the other garage sharing said Common Wall, and their respective agents and contractors, to maintain the integrity of the Common Wall, and to repair and restore it as necessary.

5.8.2 Should any Common Wall be damaged or destroyed by the negligence or other act or omission of an Owner of one of the detached garages sharing the same, or said Owner’s agents, employees, invitees or guests, said Owner shall be liable, at its sole cost and expense, for all necessary repairs or restoration of said Common Wall, and related damage to any detached garage; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the
Owners of either detached garage sharing said Common Wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Common Wall and related damages to the detached garages. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Owners.

5.8.3 Should any Common Wall be damaged or destroyed by any cause other than the negligence, act or omission of the Owner of either detached garage sharing said Common Wall, or said Owner’s agents, employees, invitees or guests, the Owners of the detached garages sharing said Common Wall shall be equally liable for all necessary repairs or restoration of said Common Wall, and related damage to either detached garage; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either detached garage sharing said Common Wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Common Wall and related damages to the affected detached garages. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Owners.

5.8.4 Should any party fail or refuse to complete the repairs or restorations imposed upon it by these provisions, the Association, after giving written notice to said party of its intention to do so, may undertake said repairs or restorations, and be entitled to reimbursement for all costs incurred in connection therewith from said party. Such reimbursement shall be made within thirty (30) days after the Association has completed the work and presented said party with a statement and demand for payment setting forth all costs incurred. The Association shall have a lien against the Residence of the liable Owner to secure payment to the Association of all costs and expenses incurred in making the necessary repairs or restorations, and the Association shall be entitled to enforce said lien in the same manner as it is authorized to enforce assessment liens, including recovery of attorney fees, costs and interest.

5.8.5 In the event of a dispute or controversy between the Owners of detached garages sharing a Common Wall, as to any matter within or arising out of the provisions of this Article 5, or the respective use, maintenance, repair, or replacement of said Common Wall, such dispute or controversy shall be submitted to the Board of Directors of the Association for arbitration. The decision of the Board with respect to the issues presented shall be binding upon the parties involved.
ARTICLE 6

USE LIMITATIONS AND RESTRICTIONS

6.1 Residential Use and Occupancy. Each Lot, and all Improvements thereon, shall be used only for non-commercial, residential purposes. No Lot shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Lot, so as to create a nuisance or interfere with the rights of any Owners, or in any way which would result in an increase in the cost of any insurance. The primary Improvement on each Lot shall be a Residence. Any other Improvements on the Lot shall be consistent with and shall not detract from the residential nature of the Project. Subject to the Declarant exemption, below, there shall be no temporary or prefabricated structures, mobile homes, trailer houses, or other non-permanent structures allowed in the Project.

6.2 No Further Subdivision. Except as may be allowed in writing by the Declarant, no Lot or Common Area shall be further subdivided or separated into smaller parcels. No conveyance of less than all of any Lot shall be permitted.

6.3 Prompt Repair. Each Residence and other Improvement on an Owner’s Lot shall be kept in good repair. As applicable, the Owner or Association shall promptly repair damage to any Residence or Improvement on such Owner’s Lot.

6.4 Nuisances and Offensive, Unsightly, and Unsafe Conditions. No Owner shall permit any noxious, offensive, unsightly, or unsafe activity, object, animal, or condition to exist on such Owner’s Lot. Without limiting the generality of the foregoing, no unreasonable noise or disturbance shall be permitted on any Lot. Trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, behind approved fencing or otherwise enclosed or screened from view. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except within an enclosed structure or when appropriately screened from view. No Owner shall dispose, or permit to be disposed, any oil, gas, toxic or hazardous material, or other unsafe substance within the Project. The Board may adopt reasonable Rules and Regulations to further clarify the responsibilities of Owners under this Section.
6.5 **Ingress and Egress.** Each Owner shall have a right of ingress to and egress from such Owner’s Lot, with such right of ingress and egress being perpetual and appurtenant to ownership of the Lot.

6.6 **Encroachment.** Subject to Section 9.2.1 of this Declaration, no Improvement on any Lot shall encroach on an adjoining Lot or Common Area and any such encroaching Improvements must immediately be removed at the expense of the Owner of the Lot from which the Improvement encroaches. If, however, encroachment occurs due to natural settling or shifting or for other reasons beyond the control of the Owner, the Owner shall be deemed to have an easement for the maintenance of such encroaching Improvement which shall exist, and shall run with the land, for so long as the encroaching Improvement exists.

6.7 **View Impairment.** Declarant makes no representation or guarantee that the view from, across, or over any Owner’s Lot will remain the same as when purchased by such Owner. Construction of Residences or other Improvements within the Project may affect such Owner’s view. In addition, landscaping and trees may also impact an Owner’s view and the Declarant and Association will have no obligation to prune or trim any landscaping or trees except as may be set forth in any applicable County ordinances.

**ARTICLE 7**

**MAINTENANCE**

7.1 **Maintenance of Residences by Owner.** The Owner of each Residence shall maintain such Owner’s Lot, and all permitted Improvements thereon including the Residence, in good repair and in a clean and tidy manner, and in accordance with all the Covenants, the Design Guidelines, and the Rules and Regulations and in a manner that does not detract from the overall appearance of the Project. Such maintenance will be performed at the Owner’s expense without any setoff right. The Board may adopt reasonable Rules and Regulations governing the appearance and use of driveways, decks, patios, and balconies within the Project. Without limiting the generality of the foregoing, each Owner of a Residence has the following obligations: such Owner shall be responsible to maintain the roof, foundation, beams, exterior surfaces and siding, rain gutters and downspouts, doors, windows, driveways, concrete, patios, balconies, garage doors, and other exterior components of the Residence. Each Owner shall also be responsible for the maintenance of the interior of each Residence and to keep the same in good repair. The ACC or the Board may establish, by Design Guidelines or Rules and Regulations, applicable landscaping guidelines which Owners must follow. Each Owner of a Residence shall be responsible for the maintenance, repair, and replacement of all utility lines serving such Owner’s Residence, provided that no Owner shall do any work or perform any act that will, or may, impair the ability of any utility lines or fixtures to serve other Residences within the Project.
7.2 **Common Areas/ Limited Common Areas.** The Association shall maintain the Common Areas and Limited Common Areas within the Project. The Association shall keep Common Areas and Limited Common Areas and other areas for which it is responsible clean, appropriately landscaped, functional, attractive, and generally in good condition and repair consistent with any applicable requirements of the County. In the event that maintenance or repair to Common Areas or Limited Common Areas is caused by the willful or negligent acts of any Owner or group of Owners, or by their guests or invitees, the cost of such maintenance may be assessed solely to the responsible Owner or Owners as a special assessment.

7.3 **Roads and Streets.** Roads and streets within the Project may be dedicated to the County for public use and will be maintained by the County or may be private for the use of some or all of the Owners, as designated on the Plat Map. If any roads or streets within the Project are private the cost of maintenance will be apportioned to the Owners as provided in Section 4.2.2.

7.4 **Utilities.** The Owner of each Lot shall pay for all utility services provided to such Lot, except utility services which are not separately billed or metered. Any such common utilities shall be paid by the Association and an appropriate share shall be charged to each Lot as part of the annual assessment.

7.5 **Remedies for an Owner’s Failure to Maintain.** The Association shall have the right to enforce the maintenance obligations set forth in this Article 7. Among other available remedies, the Association shall have the right to enter each Owner’s Lot and perform maintenance otherwise required to be performed by an Owner and to recover the cost of such maintenance from such Owner as a special assessment against such Owner and such Owner’s Lot if the Board determines that such Owner is unwilling or unable to timely perform such maintenance. Except in the case of an emergency, the Association may not exercise this remedy unless: (a) the Owner has been given written notice of the need to perform such maintenance and fifteen (15) days have elapsed since such notice was given without the required maintenance being performed by such Owner, and (b) the Owner is given the opportunity for a hearing before the Board.

### ARTICLE 8

**ARCHITECTURAL CONTROL**

8.1 **Architectural Control Committee.** Declarant may, during the Period of Declarant’s Control, establish an Architectural Control Committee ("ACC"). If an ACC is formed, all Improvements within the Project will be subject to design review and prior approval by the ACC. The ACC shall be governed by the following provisions.

8.1.1 **Composition and Selection.** Declarant shall select, change, and remove from time to time the members of the ACC, which shall number no less than three (3)
members. During the Period of Declarant’s Control, Members of the ACC do not need to be Owners.

8.1.2 **Design Guidelines.** If the Declarant establishes the ACC, the ACC will adopt design and maintenance criteria for the Residences and all other Improvements permitted within the Project (“**Design Guidelines**”). The Design Guidelines shall be consistent with the building, land use, and other ordinances and regulations of the County. The ACC must make the Design Guidelines available to all Owners or prospective Owners and, if possible, shall publish the Design Guidelines in electronic format.

8.1.3 **Compliance.** If the Declarant establishes the ACC, all Residences, fences, and other Improvements must be constructed and maintained in accordance with the Design Guidelines. Prior to construction, alteration, modification, or replacement of any Improvements within the Project, an Owner shall submit plans for the same to the ACC. The ACC shall evaluate all such plans for compliance with the Design Guidelines.

8.1.4 **Procedure.** The ACC may establish a schedule of reasonable fees for review of plans for any proposed Improvements and collect such fees before any obligation to review plans under this Article 8. The ACC may employ architects, engineers, and other professionals to review plans submitted by an Owner. The Owner shall pay all expenses reasonably associated with the ACC’s review of the plans. The ACC shall approve or deny such plans in writing within thirty (30) business days following receipt of the same. Failure to approve or deny such plans within the time period provided shall constitute disapproval of the same.

8.1.5 **Enforcement.** The ACC shall have the right, but not the duty, to enforce compliance with the Design Guidelines, including by means of fines levied by the Association or by legal action, in which case the ACC shall be entitled to recover the costs of enforcement, including reasonable attorney fees.

8.2 **Specific Design Standards.** In addition to the Design Guidelines established by the ACC pursuant to Section 8.1.2, all construction within the Project must meet the standards set forth in this Section 8.2 and its subparts.

8.2.1 All Improvements constructed within the Project shall be of good quality and workmanship.

8.2.2 The exteriors of all Residences must be of a material approved by the County.
8.2.3 Exterior colors of all Residences must match the colors required by the ACC.

8.3 Construction. Unless otherwise permitted by the Board, any builder must use its best efforts to complete construction of each Residence within twelve (12) months from the commencement of construction. This includes all exterior painting and finish work and the installation of all required landscaping. During the construction of any Improvement, the affected Lot must be kept reasonably clean and tidy and all construction debris must be controlled and regularly removed. All construction activities must comply with the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations adopted by the Board and all local zoning ordinances, building codes, and other applicable laws.

8.4 Declarant Exemption. Nothing in this Article 8 shall prohibit or restrict the ability of the Declarant to use any Lots owned by Declarant, and the Common Areas during the Period of Declarant’s Control, for any purposes consistent with or intended to facilitate the improvement and sale of Lots owned by Declarant. Declarant shall not be bound by the Design Guidelines and reserves the right to alter or modify the plans for any Improvement on any Lot at any time Declarant owns such Lot. Declarant shall not be bound by the time limitation for construction activities set forth in this Declaration. Declarant’s sales and marketing activities are exempt from the Design Guidelines. Declarant may maintain and operate temporary structures for construction, sales, or business purposes. The exemption does not apply to Commercial Builders and each Commercial Builder will be subject to the Design Guidelines and the other provisions of this Article 8.

ARTICLE 9

EASEMENTS

9.1 Easements Shown on Plat Map. The Property and Lots are subject to the easements, rights of way, encroachments, and other encumbrances as shown on the Plat Map. Within such easements, no Improvement of any type shall be placed or permitted to remain which may damage or interfere with the intended purpose of such easement, except as otherwise specifically set forth herein.

9.2 Easements Reserved. In addition to easements shown on the Plat Map or otherwise provided for in this Declaration, the following easements are reserved for the benefit of the Owners and the Association:

9.2.1 Easement for Encroachment. If, because of an error in original construction, an error on the Plat Map, natural settling or shifting of the earth, or good faith mistakes during repair or reconstruction, any part of the Common Areas encroaches on an adjoining Lot, an easement for the encroachment and for maintenance of the Common Areas shall
exist in favor of the Declarant during the Period of Declarant’s Control and the Association thereafter.

9.2.2 **Public Dedication.** The Declarant reserves, for itself and its successors and assigns, the right to dedicate all roads, streets, alleys, open space, rights of way or easements shown on the Plat Map to public use. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as shown on the Plat Map.

9.2.3 **Current Utility Easements.** The Association and public utility or public service providers shall have an easement for the installation, maintenance, and repair of such utilities and services as shown on the Plat Map. Except for equipment or improvements for which the public utility or public service provider is responsible, each Owner shall maintain the portion of such Owner’s Lot burdened by a utility easement.

9.2.4 **Future Utility Easements.** Declarant reserves, for itself and its successors and assigns, an easement, and the right to grant easements to any person, individual, corporate body, or municipality, across, over, under, upon, and through any Lot, Common Area, road, street, open space, or other portion of the Project, for the installation, construction, maintenance, reconstruction and repair of public, quasi-public, or private utilities and related facilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, pipelines, laterals, underground or above-ground lines and cables, transmission facilities, meters and other facilities and appurtenances necessary or useful for the provision of water, storm sewer, sanitary sewer, gas, electricity, telephone, cable television, internet and data and other public, quasi-public or private services or utilities deemed by Declarant necessary or advisable to provide any service to the Project or any Lot, Common Area, or other portion thereof.

9.2.5 **Grading and Drainage.** Declarant reserves, for itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any Residence built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope. In addition, if Declarant establishes a drainage system within the Project, each Owner must maintain such drainage system and not do anything to modify or interfere with the same.

9.2.6 **Right of Entry onto Lots.** The Declarant during the Period of Declarant’s Control and the Association thereafter shall have the right, through authorized agents, to enter onto any Lot after reasonable notice to the Owner thereof for the purpose of
performing maintenance or determining whether the Lot, or any Improvements thereon, complies with this Declaration, the Bylaws, and the Rules and Regulations. Except in the event of an emergency, entry made pursuant to this Section shall be during normal business hours, at a time convenient for the Owner, after reasonable notice.

9.2.7  **Right of Entry onto Common Areas.** Declarant during the Period of Declarant’s Control and the Association thereafter shall have the right, through authorized agents, to enter upon the Common Areas for maintenance, repair, replacement, and such other purposes as Declarant deems necessary, including the right to make openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and the right to make such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

9.3  **Easement for Entry Monuments.** Declarant reserves the right to place, at Declarant’s discretion and at any time during the Period of Declarant’s Control, one or more entry monuments on one or more Lots within the Project, provided that any such monuments shall not unreasonably interfere with the residential use of such Lot. If the Declarant elects to install one or more entry monument, the Association shall thereafter have an easement on the affected Lot or Lots for the purpose of maintenance of such monument and such maintenance shall be a Common Expense.

9.4  **Side Yard Use Easements.** Each Lot (the “**Grantor Lot**”) which shares a common side yard Lot line with an adjacent Lot on the southwest side of the Grantor Lot (the “**Grantee Lot**”) shall be subject to an easement for the purpose of allowing a side yard for the benefit of the Grantee Lot, as shown on the Plat Map (the “**Side Yard Use Easement**”).

9.4.1  **Description of Side Yard Use Easement.** The Side Yard Use Easement shall extend from: (a) One (1) foot from the side yard foundation of the Residence to be located on the Grantor Lot to the common side yard Lot line, (b) One (1) foot behind the farthest set back front corner foundation of the Residence to be located upon either the Grantor Lot or the Grantee Lot (the “**Front Easement Line**”), and (c) One (1) foot in front of the rear corner foundation of the Residence to be located on the Grantor Lot (the “**Rear Easement Line**”). The legal description for each Side Yard Use Easement shall be attached with Exhibit D.

9.4.2  **Binding on Successors in Interest.** The Side Yard Use Easement shall be binding on each and every Grantor Lot for the benefit of the Grantee Lot and shall run with the land in perpetuity.
9.4.3 **Side Yard Use Easement Restrictions.** The Owner of the Grantee Lot ("Easement Grantee") shall have full access and enjoyment of the Side Yard Use Easement benefitting such Grantee Lot, including construction of improvements (not to include fencing), use and maintenance of the Side Yard Use Easement. Improvements including, but not limited to, decks, patios, walls, landscaping, furniture and other similar elements are permitted within the Side Yard Use Easement. Decks and patios in excess of thirty (30) inches in height (as measured from finished grade) are not permitted in Side Yard Use Easements. Only landscaping, hardscape, and irrigation improvements are permitted within the front and rear setbacks.

9.4.3.1 The Board may develop such rules and regulations as may be necessary to manage the Side Yard Use Easements.

9.4.3.2 All Grantee improvements located within the Side Yard Use Easement shall be maintained by the Easement Grantee.

9.4.3.3 The Side Yard Use Easement is subject to Easement Grantor’s right to obtain access for the maintenance and repair of the Resident located upon the Grantor’s Lot and for no other purpose.

9.4.3.4 Grantee shall not be permitted to alter the finished grade and/or drainage patterns on the Side Yard Use Easement without the advance written approval of the ACC.

**ARTICLE 10**

**DECLARANT RIGHTS AND CONTROL**

10.1 **Declarant’s Administrative Control.** During the Period of Declarant’s Control, neither the Board nor the Association shall take any action without Declarant’s prior written approval.

10.2 **Construction Activities.** So long as Declarant owns at least one (1) Lot within the Project, Declarant shall have the right to conduct construction activities on or related to such Lot and shall not be bound by any limitations related to construction activities set forth in this Declaration. During the Period of Declarant’s Control, Declarant shall have a non-exclusive easement and right-of-way in, through, under, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services and other services or facilities to the Project. Notwithstanding any other provision of this Declaration to the contrary, Declarant, in its absolute discretion, shall have the right to construct and install any and all Improvements within the Project which Declarant desires, so long as they
comply with the applicable ordinances of the County, but this provision shall not be construed to impose any obligations on Declarant to construct any such Improvements.

10.3 **Sales Activities.** Notwithstanding any other provision of this Declaration, so long as Declarant owns at least one (1) Lot within the Project, Declarant shall have the right to conduct reasonable sales activities including, but not limited to maintaining one or more sales office or model home on Lots owned by the Declarant and using the same for business purposes and maintaining a reasonable number of “for sale” signs or other similar marketing materials in the Project, including Common Areas.

10.4 **Declarant’s Rights Assignable.** Declarant may assign the rights of Declarant set forth under this Declaration, or those rights in any way relating to the Property, to a purchaser or successor in interest. Upon assignment, such assignee shall be deemed the Declarant for all purposes under this Declaration.

**ARTICLE 11**

**INSURANCE**

11.1 **Insurance Held by Owner.** Each Owner shall obtain and maintain insurance covering the personal contents of the Residence or other Improvements on such Owner’s Lot. Each Owner shall also maintain a policy of homeowner’s insurance on the Residence on such Owner’s Lot, protecting such Residence against casualty and loss, in an amount not less than one hundred percent (100%) of the current replacement value of such Residence.

11.2 **Insurance Held by Association.** The Association shall obtain and maintain all insurance policies required by Part 4 of the Act consistent with the terms and conditions of the Act. The coverage amounts, limits, terms, and conditions of the Association’s policies shall be comparable to similarly situated homeowners associations in the Wasatch Front area. All premiums for insurance policies held by the Association shall be funded by Assessments. Without limiting the foregoing, the Association shall obtain and maintain:

11.2.1 Property and liability insurance for all Common Areas.

11.2.2 Fidelity insurance (e.g., directors’ and officers’ coverage).

11.2.3 Such other insurance policies for casualty or liability as the Board deems necessary or desirable.

11.3 **Deductible.** If permitted by the Act, the deductible on any claim made under a policy maintained by the Association shall be allocated among all Owners if the loss affects the
Common Areas or all the Lots in the Project or, if the loss affects or impacts less than all the Lots in the Project, the deductible shall be allocated among the Owners of affected Lots.

ARTICLE 12

DURATION AND AMENDMENT

12.1 Duration. This Declaration shall be effective, and the Covenants set forth herein shall encumber the Property, from the date the Declaration is recorded in the County Recorder’s Office and, as amended from time to time, this Declaration shall continue in full force and effect against the Property and the Covenants shall run with the land in perpetuity, for as long as the law allows unless amended or terminated as provided herein.

12.2 Amendment. During the Period of Declarant’s Control, the Declarant shall have the right to amend this Declaration without the consent of any other Owner. The foregoing sentence does not preclude other amendments proposed by Members of the Association, provide that any such amendment proposed during the Period of Declarant’s Control must be approved by sixty-seven percent (67%) of the Members of the Association and must also be approved by the Declarant in writing before it can be effective. After the Period of Declarant’s Control, this Declaration may be amended by the affirmative vote of not less than sixty-seven percent (67%) of the Members of the Association and such amendment must contain a statement from the Board certifying that the required vote has taken place. No amendment to this Declaration shall be effective until it is recorded in the County Recorder’s Office.

12.3 Termination. An agreement to terminate this Declaration and the Covenants set forth herein, shall require same approval required for an amendment as set forth in Section 12.2 of this Declaration. In addition, after the Period of Declarant’s Control any agreement to terminate must be approved, or deemed approved, by at least sixty-seven percent (67%) of the Eligible Mortgagees as provided in Section 14.3 of this Declaration.

ARTICLE 13

MANDATORY DISPUTE RESOLUTION REQUIREMENTS

13.1 Statement of Intent. Prior to purchasing a Lot, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, an inspection on any Lot that Owner is purchasing or any other aspect of the Project, including, without limitation, the Common Areas. Moreover, if any written warranty has been provided, it identifies the only items that are warranted by the Declarant. Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition it and the Lots and Common Areas are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant and/or any subcontractor performing work in the Project to change, upgrade, or add additional work to the
Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot during any period when litigation is pending. For this reason, the Owners, by purchasing a Lot, and the Declarant covenant and agree that claims and disputes shall not be pursued through court action, but shall be asserted and resolved only through the specific alternative dispute resolution mechanisms described below and only after full disclosure, satisfaction of the right to cure periods, and knowing approval of the Owners, as set forth in the provisions of this Article 13. In addition, the Association and the Owners agree that they take ownership and possession of the Lots and Common Areas AS IS, with no warranties of any kind except as maybe provided in writing or as otherwise required as a matter of law. Unless otherwise provided in writing (and then only except to the extent of such writing), the Declarant specifically disclaims any and all warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

13.2 Binding Arbitration for All Disputes. To the fullest extent permitted by law, all claims and disputes of any kind that any Owner, group of Owners, or the Association may have involving the Declarant, or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, or any engineer or contractor involved in the design or construction of the Project, which arise from or are in any way related to the design, use, construction, or maintenance of any Residence or other Improvement on a Lot, the Common Areas, or any other Improvement on, or component of, the Project (each, a “Dispute”), shall be submitted to final and binding arbitration in lieu of litigation. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant and any Owner or between or involving the Declarant and the Association. Each Owner recognizes that this Section 13.2 amounts to a WAIVER OF THE RIGHT TO A JURY TRIAL WITH RESPECT TO ANY DISPUTES and, by taking title to a Lot, knowingly agrees to that waiver. Notwithstanding the foregoing, arbitration proceedings shall not be commenced unless all of the Pre-Arbitration Requirements set forth in Section 13.3 have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include the following:

13.2.1 Any allegation that a condition in any of the Residences on the Lots, the Common Areas, or other Improvements in the Project is or involves a construction defect;

13.2.2 Any disagreement as to whether an alleged construction defect has been corrected;

13.2.3 Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;
13.2.4 Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;

13.2.5 Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;

13.2.6 Any alleged violations of consumer protection, unfair trade practice, or other statutes or laws;

13.2.7 Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;

13.2.8 Any allegation that any condition existing in the Project or created by the Declarant (or any of its contractors), including construction-related noise, dust, and traffic, is a nuisance, a defect, or a breach of any implied warranties of habitability or other implied warranties;

13.2.9 Any disagreement concerning the scope of issues or claims that should be submitted to binding arbitration;

13.2.10 Any disagreement concerning the timeliness of performance of any act to be performed by Declarant or any of its contractors;

13.2.11 Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;

13.2.12 Any disagreement or dispute regarding management of the Association, or regarding reserve studies or funding of Association expenses; and

13.2.13 Any other claim or disagreement arising out of or relating to the sale, design, or construction of any of Improvement on the Lots, Common Areas, off-site improvements, the formation, operation, governance, and/or management of the Association, or other claims regarding the Project.

13.3 Pre-Arbitration Requirements.

13.3.1 Generally. An Owner or the Association may only pursue a claim against the Declarant in arbitration after ALL of the following efforts of dispute resolution have been completed: (a) the claimant (e.g. the affected Owner or the Association) shall provide
to the Declarant a written Notice of Claim (defined below) and permit the Declarant one hundred eighty (180) days to cure or resolve the claim or defect or to try to get the applicable builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings; and (b) if the Dispute is not resolved within the 180-day Right to Cure period, the parties shall participate in formal mediation with a mutually-acceptable third-party mediator in an effort to resolve the Dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this Section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 180-day period.

13.3.2 Notice of Claim. For purposes of this Article 13, “Notice of Claim” shall mean and include ALL of the following information: (a) an explanation of the nature of the claim, (b) a specific breakdown and calculation of any alleged damages, (c) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (d) photographs of any alleged defective condition, if applicable, (e) samples of any alleged defective conditions or materials, if reasonably available, (f) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (g) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

13.4 Member Approval; Legal Opinion; Arbitration. If a claim or dispute has not been resolved after satisfying and complying with the above-described “Pre-Arbitration Requirements,” then the claimant (Owner or Association) shall have the right to proceed with binding arbitration; however, the Association shall not pursue or commence binding arbitration unless such action is first approved by a majority of the total votes of the Association after the Association has obtained a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, the anticipated expert witness fees, and the likelihood of recovery if the Association prevails. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a mutually-acceptable arbitrator (preferably a former judge), or, if an arbitrator cannot be mutually selected, then by a member of the Panel of Construction Arbitrators appointed by the American Arbitration Association (“AAA”). The binding arbitration shall be conducted according to the rules and procedures set forth in the Construction Industry Arbitration Rules promulgated by the AAA. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.
13.5 **Fees and Costs of Arbitration.** Each party shall bear its own attorney fees and costs (including expert witness costs) for the arbitration. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties. The arbitrator **SHALL NOT** award attorney fees, expert witness fees, or arbitration costs, to the prevailing party.

13.6 **No Waiver of Arbitration Right.** If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party, or a bar to the right of any other party, to seek arbitration or to insist on compliance with the requirements set forth in this Article 13. If any such court action is filed, then the court in such action shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein, including, without limitation, compliance with the pre-arbitration requirements set forth above.

13.7 **Waiver of Subrogation.** The Association and each Owner waives any and all rights to subrogation against the Declarant and any builder, contractor, and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the Project engineer, and builder, contractors of the Declarant and the builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, and their respective officers, employees, owners, contractors, insurers, and representatives from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, contractors, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

13.8 **Enforcement of Covenants.** Notwithstanding the foregoing, any legal action taken by Declarant to enforce the Covenants shall be subject to the terms of Section 2.6 of this Declaration, not this Article 13.
ARTICLE 14

MISCELLANEOUS PROVISIONS

14.1 Damage or Destruction.

14.1.1 Attorney in Fact. Each Owner irrevocably appoints the Association as such Owner’s true and lawful attorney-in-fact in such Owner’s name, place and stead for the purpose of dealing with the Project in the event of damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association, except as otherwise provided in this Declaration.

14.1.2 Definition of Repair and Reconstruction. Repair and reconstruction of the Improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Lot and the Common Areas having substantially the same vertical and horizontal boundaries as before.

14.1.3 Procedure. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows. The Association shall give timely written notice to any First Mortgagee on a Lot or who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or a Lot subject to the Mortgage held by such First Mortgagee. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed. In no event shall an Owner of a Lot or any other party have priority over the First Mortgagee on such Lot with respect to the distribution to such Lot of any insurance proceeds.

14.1.4 Repair or Reconstruction. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein.

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14.1.5 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association, and any amounts received from assessments made shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

14.2 Condemnation.

14.2.1 In General. If at any time, or from time to time, all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Section shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Lot or portion thereof, or the Common Areas or any portion thereof, are made the subject matter of any condemnation or eminent domain proceeding, or are otherwise sought to be acquired by a condemning authority, the Board shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner’s attorney-in-fact for the purposes of such representation.

14.2.2 Proceeds. All compensation, damages and other proceeds from any such taking by power of eminent domain (hereinafter “Condemnation Award”) shall be made payable to the Association and shall be distributed by the Board, on behalf of the Association as herein provided.

14.2.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the Condemnation Award shall be allocated among and distributed to the Owners and the Owners shall divide the Condemnation Award based upon the relative values of the Lots immediately prior to the condemnation. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

14.2.4 Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:
14.2.4.1 Allocation of Condemnation Award. As soon as practicable, the Board shall, on behalf of the Association, reasonably and in good faith, apportion the Condemnation Award between compensation, severance damages or other proceeds and shall allocate such apportioned amount and pay the same to the Owners as follows: (a) The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Lots have been taken); (b) The total amount apportioned to severance damages shall be allocated among and distributed equally to the Owners of those Lots that have not been taken; (c) The respective amounts apportioned to the taking of or injury to a particular Lot shall be allocated and distributed to the Owner of such Lot; (d) The total amount apportioned to consequential damages and any other taking or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances; (e) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; (f) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and (g) No provision of this Section, or any other provision of this Declaration, the Association’s Articles of Incorporation or the Bylaws shall entitle the Owner of a Lot, or other party, to priority over any First Mortgagee of such Lot with respect to the distribution to such Lot of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceedings.

14.2.4.2 Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as follows: (a) If any partial taking results in the taking of an entire Lot, then the Owner thereof shall cease to be a Member of the Association and all voting rights shall terminate; (b) If any partial taking results in the taking of a portion of a Lot, the voting rights appertaining to such Lot shall continue; (c) If any partial taking results in the taking of a portion of a Lot and if there is a determination made by the Board, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Lot, then all voting rights shall terminate and the remaining portion of such Lot shall thenceforth be part of the Common Areas; (d) The Board, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section (including a possible reallocation of voting rights);
provided, however, that if any such determination shall have been or such action is taken by judicial decree, the Board shall defer thereto and proceed in accordance therewith.

14.2.4.3 Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Section 14.1 of this Declaration for cases of Damage or Destruction, as applicable.


14.3.1 Owner’s Right to Separate Mortgages. Each Owner shall have the right to separately mortgage or otherwise encumber such Owner’s Lot. No mortgage by any Owner shall encumber any other Owner’s Lot or any portion thereof.

14.3.2 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage (any one of which is an “Eligible Mortgagee”), which written request shall identify the name and mailing address of such First Mortgagee, insurer, or governmental guarantor and the Lot number or physical address of the Residence, any such First Mortgage, insurer or governmental guarantor shall be entitled to timely written notice of: (a) Any condemnation, loss or any casualty loss which affects a material portion of the Project, or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor; (b) Any delinquency in the payment of assessments or charges owed by an Owner, whose Lot is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 14.3.2 or elsewhere herein.

14.3.3 Matters Requiring Mortgagee Approval. After the Period of Declarant’s Control, and except as otherwise provided in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Lots in the Association, and Eligible Mortgagees holding First Mortgages on Lots having at least fifty-one percent (51%) of the votes of the Lots subject to First Mortgages held by Eligible Mortgagees shall be required to: (a) Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs; (b) Add or amend any material provision of the Declaration, Articles of Incorporation, Bylaws or Plat Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of
correcting technical errors or for clarification only): the conversion of Lots into Common Areas or vice versa, a material change to hazard or fidelity insurance requirements, the imposition of any restrictions on Owner’s right to sell or transfer his Lot, the establishment of self-management by the Association if professional management had been required previously by the Declaration or by an Eligible Mortgagee, or a change to or deletion of any provision that expressly benefits Mortgagees, insurers, or guarantors.

14.3.4 Response. Any Eligible Mortgagee who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within sixty (60) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a “return receipt” requested.

14.3.5 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Lots in the Project. Generally, these documents shall be available during normal business hours. The Association shall make an any audited financial statement which the Association obtains available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request, and at such requestor’s expense.

14.3.6 Subordination of Lien. The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lien of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes into possession or which obtain title, shall be collected or enforced by the Association from or against a First Mortgagee or the Lot affected or previously affected by the First Mortgage concerned.

14.3.7 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in this Declaration lapses, is not maintained, or the premiums
therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefore from the Association.

14.3.8 Priority. No provision of this Declaration gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots or the Common Areas.

14.4 Notices. The Association shall keep a list of contact information for Owners of all Lots within the Project and all Eligible Mortgagees. Each Owner, upon becoming an Owner, shall provide the Association with appropriate contact information including mailing address, telephone number, and email address. Each Owner or Eligible Mortgagee shall update the Association with any changes to contact information. Where written notice to an Owner is required under this Declaration, the Bylaws, or the Rules and Regulations, such notice will be deemed sufficient if it is sent to the mailing address or email address on file with the Association.

14.5 Interpretation. The captions and section headings set forth in this Declaration are for convenience and the meaning of the provisions set forth in the sections hereof shall be governed by the body of the text. The use of any plural shall, where the context requires, include the singular thereof, and vice-versa.

14.6 Governing Law. This Declaration shall be governed by, and interpreted in accordance with, the laws of the State of Utah.

14.7 Severability. If any section, term, or provision of this Declaration is determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining sections, terms, and provisions of this Declaration, which shall all remain in full force and effect.

14.8 Waiver. The failure by the Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall not be deemed as a waiver of the right to thereafter enforce such term or provision.

[Signature Page Follows.]
IN WITNESS WHEREOF, Declarant has executed this Declaration on this ____ day of ________, 20__.  

DECLARANT
Alpine Development, LLC., a Utah limited liability company

By: ________________________________
Name: ______________________________
Title: ______________________________

STATE OF UTAH )
ss.
COUNTY OF ___________

The foregoing instrument was acknowledged before me this ____ day of ____________, 20__ by ____________________ as the _________________ of Alpine Development, LLC.

______________________________
Notary Public
EXHIBIT A

(Property Description and Parcel Numbers)
EXHIBIT C

(Association Bylaws)
EXHIBIT D

(Drawing of Fence Lines)
SAND STONE COTTAGES

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03/27/2019 3:59 PM
RE: Public Hearing Sandstone Cottages

Dear Sirs:

Thank you for sending us a written notice about the Public Hearing concerning the Sandstone Cottages Development. We contacted Kenny Gordon earlier today as we won’t be able to attend the meeting due to a prior medical appointment in Salt Lake City, UT. Mr. Gordon asked us to submit a letter listing the concerns and questions about the development.

- We feel the land parcel is not large enough for such a large amount of housing units.
- We are concerned about possible increases in noise levels. We are already dealing with increased noise from tourism traffic and the KOA campground. At times, the noise is unacceptable.
- Will there be a substantial barrier/privacy fence placed around the development? Our current fence keeps our dogs and grandchildren in and other animals and people out. However, it does not act as a noise barrier.
- We feel increasing affordable housing in Moab is a necessity, but we strongly feel it should be built closer to town where jobs are located.
- We worry about the increased congestion caused from more people and auto traffic.
- Will Spanish Valley Dr. be improved to accommodate the already increased congestion?
- What types of requests or restrictions will affect our home and property? We have lived on the same property for over forty years. We understand change is mostly unavoidable, but we would like to be informed as to what will be expected of us as property owners and neighbors.

Thank you for your time and consideration. Please keep us in the communication loop. We are concerned about the fast rate of growth in the Moab valley. Also, thank you Kenny for being so accommodating and pleasant about our visit to your office.

Sam and Cynthia Tangreen
3066 Spanish Vly. Dr.
Moab, UT
435-210-0722
**AGENDA SUMMARY**
**GRAND COUNTY COUNCIL MEETING**
**May 14, 2019**

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<td><strong>PRESENTER(S):</strong></td>
<td>Zacharia Levine, Community &amp; Economic Development Director</td>
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<tr>
<td><strong>PREPARED BY:</strong></td>
<td>Zacharia Levine, Community &amp; Economic Development Director</td>
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**STATED MOTION:**

N/A – Discussion only

**STAFF RECOMMENDATION:**

See summary of May 7, 2019 joint City-County meeting below for items to be discussed on May 14, 2019.

**BACKGROUND:**

Follow this planning effort at [www.moabarealanduse.com](http://www.moabarealanduse.com).

*Note: The following section will serve as a running catalog of formal meeting discussions about the referenced Temporary Land Use Regulation (TLUR). It is provided in reverse chronological order so planning commissioners and members of the public can review the discussion as it evolves.*

**May 7, 2019:**

The purpose of holding a joint City-County meeting on May 7, 2019 is to clarify the core policy components Landmark Design will integrate into a draft ordinance, which will ultimately be presented to each jurisdiction’s planning commission and the public in the next phase of moratorium-related planning. Following the meeting, Zacharia submitted the following message summarizing his takeaways and remaining questions. See note at bottom regarding discussion items the Planning Commission should consider on May 14, 2019. I believed the e-mail accurately reflected the majority position of planning commissioners, council members, and the overwhelming majority of citizens who have engaged in the moratorium process to date. The e-mail noted that corrections were welcomed. If planning commissioners see different evidence, believe I mischaracterized either the results of the May 7th joint meeting or public sentiment, and/or want to see Landmark pursue a different course of action at this stage, the County needs to provide additional guidance to Landmark as soon as possible.

Hi Mark,

Thanks for participating in the joint City-County meeting yesterday. I thought it was productive. We were a bit rushed at the end, so I want to make sure we’re all on the same page as to the core elements of your initial ordinance drafts. Anyone on this e-mail should respond if they think corrections are needed.

1. New overnight lodging is removed from all base zone districts as a principal use.
2. The City Council will consider the creation of an overlay district in the north US 191 corridor and in downtown Moab. The overlay boundaries will dictate which properties are eligible to have the overlay applied in order to have the right to develop new overnight lodging.
   a. The County Council could decide to extend this overlay, if created, to include the parcels just north of the Colorado River (e.g. between the Springhill Suites and DOE UMTRA site)
   b. Landmark will draft preliminary standards for the development of new overnight lodging in these potential overlay districts (if applied to eligible properties), including mandatory mixed-use, water and energy efficiency, and size/scale/form-based elements.
      i. I heard from at least one County Council member today that they would like to see these preliminary standards shared with the County as well. While there seems to be consensus that no new overnight lodging should be allowed until our community has reestablished a sense of balance, there may be some areas/nodes in the southern US 191 corridor that could actually be appropriate for new lodging units if, and only if, integrated into a mixed use development that met these yet-to-be-determined standards. Since Landmark will be working on these preliminary standards for the City's potential overlay, the County will benefit from seeing them should the conversation come up in the future.

3. The City and County Councils will consider how to address existing overnight lodging uses, including hotels/motels, condos/townhomes, bed & breakfasts, and campgrounds.
   a. As I see it, there are three options to be worked out with each entity’s planning commission and council. Option 3 would be the least controversial, but it would likely ensure that such developments are sacrifice zones and, over time, completely convert to overnight lodging. Personally, I’m ok with that as it is pretty much the case already.
      i. Option 1: No new ONR licenses are granted (new-builds or residential conversions). All existing uses become legal non-conforming uses.
      ii. Option 2: No new ONR licenses granted as principal uses. Overlay districts are established that include known ONR developments such as Williams Way, Entrada, Red Cliffs Condos, etc. as eligible to have the overlay attached to their parcel. Existing uses become legal non-conforming uses. All property owners (of existing ONRs or future ONRs) are required to ask for the overlay to be applied to their properties in order to have the full legal right to have an ONR.
      iii. Option 3: Same as 2 except that the City and/or County create the overlay districts and apply them to all the lots/units in these known developments right out of the gate in order to establish certainty around the right to do overnight lodging now or in the future.

4. The City and County Councils need to determine how to address redevelopment of existing uses, whether they are in an overlay or not. If existing uses become legal non-conforming uses, the default limits on redevelopment is no expansion. Basically, redeveloped uses would be limited to what currently exists. However, I see a lot of value in allowing for redevelopment (with some expansion) as long as it meets some meaningful standards (like those being developed in item 2 above).

5. I’m adding this one because it really needs more explicit attention than it has been granted to date. The County Council will need to decide if it is open to any forms of new overnight lodging in the areas of US 191 and SR 313, Crescent Junction, Thompson Springs, or Cisco.

6. The City and County Councils are supportive of the community node concept (neighborhood scale mixed-use development). I would like to see a map that only shows the potential community node locations we have identified. However, most agree that we won’t be able to establish the planning
principles, plans, regulations, and even incentives that will guide and facilitate these community nodes. This is a follow-up task.

As for me, I plan to discuss items 3, 4, and 5 with the County Planning Commission beginning next week so we can provide feedback to the County Council and Landmark while the draft ordinances are being written.

Regards,

Zacharia Levine, AICP*
Community and Economic Development Director

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May 1, 2019:

Landmark Design, in coordination with Zacharia Levine, hosted a meeting of the advisory committee on May 1, 2019 following the previous night’s public open house/workshop. Most committee members attended the previous night’s meeting as well, so the group discussed primary takeaways regarding core policy and planning area concepts developed to date. The feedback generated from the public on April 30th and the advisory committee on May 1st will inform the discussions taking place on May 7, 2019 between the city and county councils. Following the May 7th meeting, Landmark Design will begin drafting ordinance language for the city and county to review and consider.

April 30, 2019:

Landmark Design, in coordination with the City, County, and sub-consultant LYRB, hosted a public open house/workshop. Materials for this meeting can be found on the project website: www.moabarealanduse.com. Between 80 and 100 individuals attended the meeting to learn about the planning efforts conducted to date, current findings related to public sentiment, initial policy concepts and planning areas, and to provide feedback for Landmark Design, City, and County officials. Landmark Design will use the feedback generated in this open house/workshop to present a narrower scope of potential policy concepts to the City and County councils on May 7, 2019.

April 23, 2019:

Landmark Design presented to the City planning commission and council. Although the County planning commission intended to participate in this presentation, scheduling conflicts prevented it. As a result, Zacharia presented the same PowerPoint slides to the County planning commission in their own meeting.

Landmark design presented their initial conception of different “policy packages” and generalized planning areas (e.g. “downtown,” “south of downtown,” and “north of downtown”). Planning commissioners discussed these initial policy concepts and directed staff to provide their feedback to Landmark Design. That feedback is provided below. Landmark used the feedback from City and County planning commissioners and City council members to update materials for the upcoming April 30, 2019 public meeting/workshop.

County planning commission feedback on Landmark Design’s initial policy package “spectrum”:

- In general, the County planning commission (PC) felt like the initial conception of a spectrum of packages is on the right track and reflects public sentiment.
- PC members (and staff) acknowledge that the boundaries of what constitutes “downtown,” “north of downtown” and “south of downtown” need to be fleshed out further. It may be the case that each of these areas needs further differentiation within them as well. Generally, the areas seem appropriate for
differentiating development patterns and associated impacts/issues, but the City and County will need to work on the boundaries and respective policies in the mapping exercises coming up soon.

- The “extreme/strict regulations” actually could achieve the “no new overnight rental (ONR)” position many have advocated for as one end of the “spectrum” if overlay boundaries were drawn around existing developments only. More, some existing developments could be left out and turned into legal non-conforming uses.
  - On a related note, the PC and staff recommend changing the title of this package to exclude “extreme” as it communicates the wrong message. No new growth is also misleading because the growth limitations would be placed on new ONRs only. Growth in other forms/uses would still be allowed, and potentially even incentivized.
- The PC discussed the benefits of having tiers of the proposed ONR overlay that would allow for varying levels of development/redevelopment (like the County’s recently adopted HDHO districts). Some could allow for redevelopment of the same size or smaller, others the addition of co-located services (like new retail or restaurant space), some could allow for additional units, some could stricter form-based standards, etc.
- Questions were raised as to whether or not packages 2 and 3 were different enough to effectively generate public feedback on their nuanced differences.
- These packages don’t explicitly address the area near Hwy 313 and US 191, Hwy 128, or Kane Creek Blvd. The areas need to be addressed. The County PC would like to prevent additional sprawl in lodging development in those areas, or at least significantly improve the regulations governing development in those areas.
- PC members (and staff) would like to see additional nuance in the commercial zoning that does not include ONRs. We need to zone for the economic diversification and development goals we have. There is interest in further incentivizing some commercial activities such that some incentives could make their way into the proposed ordinances, and some could/should be developed in separate but related policy conversations.
- The majority of PC members really want to see water related ordinances (water-efficient landscaping, LID/GI, and greywater ready buildings) included in all policy packages. There is a desire to see these ordinances apply to all new development, and not just new ONRs.
- PC members really support the notion of neighborhood scale, mixed use development areas (i.e. “community nodes”), but agree that the associated standards need to be addressed in follow-up planning efforts. Small area plans are needed for each “community node” because substantial work (and community engagement/public participation) is needed to get them right.
- PC members really want to see the lessons and insights gleaned from case studies (in accessible/bite-size language).
  - In addition to come comparable communities already identified, Zacharia noted Aspen’s integrated transportation and land use regulations and Tahoe’s regional cap on vehicle miles traveled (VMT). Zacharia also noted The Sonoran Institute and Lincoln Policy Institute have great resources/examples on integrated land use and water planning.

April 15 – 22, 2019:

Landmark Design spoke with individual City council members to receive direct feedback on individual’s concerns and the planning process. Findings from these conversations would help to inform initial policy development.

April 16, 2019:

Zacharia provided an update to the County Council on the moratorium process, initial findings related to the “zoning toolbox,” and upcoming steps (see text below). No substantive conversation followed regarding initial policy development.
Landmark Design, on behalf of the City and County, will host a public workshop on April 30, 2019 from 5-7pm at The Grand Center. The purpose of this workshop is to present the results of some case study analysis, findings from LYRB’s economic analyses (LYRB is a sub-consultant.), and preliminary ordinance concepts. A follow-up public workshop is tentatively planned for May 21, 2019.

Within the next week, Landmark will add to the project website at www.moabarealanduse.com the summary of public comments provided during the March 26 and 27 scoping meetings, Zacharia’s summary of comments from additional focus group meetings, any additional advisory committee meeting minutes, case study analyses, preliminary policy concepts, and other relevant material.

On April 23, 2019, CED staff will continue its presentation of potential zoning changes to the planning commission. Zacharia will also attend the City Council meeting to ensure coordination between the City and County occurs as desired.

April 8-12, 2019:

Zacharia facilitated four focus group meetings with multiple stakeholders representing a mix of local businesses: retail, restaurant, outfitters, professional services, real estate brokers, hotel developers/owners, high school students, and middle school students. Zacharia is in the process of summarizing the comments and perspectives shared during these focus group meetings.

April 9, 2019:

As part of its standing agenda item discussion, the planning commission talked about the TLUR and suggested preliminary ideas for regulatory changes. Planning commissioners raised the following questions and requests for research/analysis:

- How can/should the City and County differentiate between higher density and lower density lodging, hotels/motels and condominiums and campgrounds, and other scale dimensions?
- Where are neighborhood-scale commercial and mixed-use development nodes feasible? Where do they belong?
- There is support for the concept of performance-based zoning related to water use, energy efficiency, and indicators of need/benefit/capacity.
- There is support for public policies and budgetary expenditures that emphasize residents, community infrastructure, and quality of life (both related and unrelated to zoning regulations).
- The County should establish different regulations for lodging development in the peripheries of the Moab Valley. In some areas (Thompson, Cisco, etc.), lodging development is warranted. In others (north US-191 between Arches NP and Crescent Junction), lodging development may not be warranted.
- Two county council members in attendance suggested the County should, “start with the most restrictive regulations possible, and then work from there.”
- Planning commissioners acknowledge that many relevant planning efforts need to occur that require more time than is offered by the 180-day moratorium, and may not be zoning related changes, but that these efforts and ideas should be recorded. For example, transportation planning and elements of state and federal policies that influence the local economy.
- Some planning commissioners requested that Landmark Design include in their preliminary set of solutions the following elements: A new or modified version of the Overnight Accommodations Overlay; restriction of new lodging to the “north US 191 corridor; prohibition of new lodging elsewhere in the City and County; enhanced form-based standards that would regulate any new lodging development.
April 2, 2019:

Grand County hosted a joint planning commission-county council meeting on April 2, 2019 for three reasons. The first objective was to ensure members of each body were aware of where the County was at within the 180-day TLUR/moratorium timeline, what had occurred to date, and where the process would go next. The second objective was to ensure the planning commission and county council agreed upon next steps, staff activities, and information requests to Landmark Design and its sub-consultants. The third objective was to provide planning commissioners and council members an opportunity to float initial ideas for regulatory changes that could make their way into draft ordinances.

Highlights from the joint meeting included:

- Future meetings for the public should occur at neutral locations to avoid any resident confusion about which entity hosts the event.
- PC and CC members want to know what the regulatory boundaries are for changes to the LUC.
- PC and CC members have an interest in best practices gleaned from similar communities, in and out of Utah.
- PC and CC members agreed that different regulatory tools could and should be applied to different geographic areas.
- PC and CC members in attendance reached consensus that the “north US 191 corridor” (i.e. the north edge of downtown Moab to Arches NP) should be treated differently than the “south US 191 corridor” (i.e. the south edge of downtown Moab to the Grand-San Juan border). A planning commissioner suggested that new lodging establishments, if allowed, might be appropriate in the north corridor whereas more diverse, non-lodging commercial activities oriented more towards residents were more appropriate in the south corridor. The logic behind this recommendation was that little residential development currently exists in the north corridor and increasing levels of residential development is occurring in the southern reaches of Spanish Valley.
- Those in attendance expressed support for mixed-use development and the underlying principles of form-based codes, although there was concern about where mixed use development would be feasible, the time needed to develop form-based codes, and uncertainty in what they would look like.
- Conservation districts were identified as a way to protect certain areas from undesirable change or to preserve certain characteristics.
- PC and CC members in attendance seemed to reach consensus on the use of an overlay for accommodations developments, which would give the City and County more legislative discretion in approving or denying development applications. A planning commissioner recommended making development approvals contingent upon broader indicators of the need for and capacity to handle new lodging developments, especially for the edification of future legislative bodies.
- Special assessment taxing areas were identified as a possible mechanism for extracting more community benefits or value from lodging developments, although more research would be needed.
- Multiple PC and CC members noted the potential benefit of supporting nodes of neighborhood scale commercial development. More retail, office space, and small business development opportunities are needed.

March 26-27, 2019:

Landmark Design, the City, and the County hosted two open house sessions to generate citizen comments regarding accommodations-based development and land use planning in general within the Moab Valley. Landmark Design and CED Staff are currently in the process of collating and organizing the comments. Once finalized, the public will have an opportunity to comment on their accuracy, comprehensiveness, and any gaps.
March 19, 2019:
Zacharia Levine provided a brief update to the county council on work related to the TLUR/moratorium and invited council members and the public to attend the open houses scheduled for March 26 (5-7pm) and March 27 (11:30am-1:30pm), both at City Hall.

March 13, 2019:
Landmark Design facilitated the first meeting of an advisory committee for the land use planning and moratorium work. The meeting agenda and minutes are attached.

March 12, 2019:
Zacharia Levine presented to the planning commission a “zoning toolbox” to expand and frame the conversation around potential changes to Grand County’s regulatory environment for accommodations-based developments. The presentation is attached.

Representatives from multiple water stakeholder groups presented information to the planning commission regarding their groups’ position on water availability, quality, and distribution. The resources provided to the planning commission are attached. The objective of these presentations was to develop additional clarity on what is known and not known about the safe yield for annual water withdrawals from the Glen Canyon Aquifer, and where various groups have agreement or disagreement on estimates. The goal was not to generate consensus about the effective role of water in Grand County’s land use regulations at this time.

March 11, 2019:
The county council reviewed and approved the attached scope of work for utilizing Landmark Design to conduct land use planning and ordinance development related to accommodations-based development at a not-to-exceed amount of $19,000.

March 5, 2019:
A brief update was provided to the county council on how the planning commission and staff intend to proceed with the moratorium planning work. Council members were informed of the tentative schedule outlined below.

Council was also briefed on the potential to coordinate land use planning efforts with the City of Moab through a shared or complimentary contract with Landmark Design. The City of Moab had already contracted with Landmark to assist in the creation of a future land use element to be added to the City’s recently adopted general plan. As the City of Moab also passed a moratorium on new accommodations-based developments in early February, the City and County need to proceed along similar timelines. Council agreed in principal to the concept of coordinating planning efforts with the City with the idea that Zacharia Levine, the County’s Community and Economic Development Director, would serve as the primary staff liaison for both jurisdictions. Because the final scope of work was not ready for review prior to the March 5, 2019 meeting, a special meeting was called for March 11, 2019 where the Council could review and take action on the proposed scope of work with Landmark Design.

February 26, 2019:
The planning commission agreed to the following tentative timeline:

March 12: PC meeting, Start at 4pm
• Request the following individuals provide reports on their agency’s or non-profit’s current knowledge of
the availability, usage, quality, and distribution of water in the Moab Valley. Their reports should be five
pages or less. Ideally, each individual will present their report highlights in about 5 minutes, and PC
members will engage in Q&A to ensure clarity on what is known/not known and where there is
agreement/disagreement.
• Staff will present to the PC a first pass at the County’s “zoning toolbox” as it pertains to
accommodations-based uses

March 26: PC meeting, Start at 4pm, end at 5:30pm; 1st public scoping meeting, Start at 5:30pm
• Public scoping meeting will be used to query the public for ideas on updating the County’s plans/codes

April 2: Joint PC-CC workshop. 12-3pm.
• Report on PC’s initial positions/ideas
• Report on findings from public scoping meeting
• Ensure PC and CC are on the same page still

April to early May: work on zoning tools/solutions/packages

May 14: 2nd public scoping meeting: Start at 5:30pm
• Present zoning preliminary alternatives to the public and generate feedback

June 11: Planning Commission Public Hearing for draft ordinance

June 18: Recommended ordinance presented to County Council as a discussion item

July 2: County Council first reading of draft ordinance in a public hearing

July 16: County Council votes on ordinance

**Note the public hearing dates at planning commission and county council represent the very last dates of
regularly scheduled meetings to adopt changes to the land use code prior to the moratorium expiring.

February 19, 2019:

The county council reviewed the questions and comments noted in the section dated February 15, 2019 below,
and provided the following response (in no particular order):

• Pay particular attention to the Whereas statements in the adopted ordinance, as these serve as the
foundation for the TLUR and the issues Grand County needs to address.
• Segment the geographic areas under consideration to north of the Colorado River and south of Moab
City Limits. While Thompson Springs, Crescent Junction, and Elgin (Green River) are of interest and
import to the County, primary consideration shall be given to the areas south of I-70.
• Consider establishing a citizen working group to assist with the research, analysis, and recommendation
process.
• Consider identifying the full range of zoning tools available to the County in its regulation of
accommodations-based developments. For example, the County could permit accommodations-based
developments through an overlay (like the HDH overlay), implement stricter form-based, implement
higher energy efficiency or environmental performance standards, require collocation of uses (i.e.
mixed-use), create new zone districts, or use a host of other tools.
• Consider the Council’s desire to provide for a mix of commercial uses available to both residents and visitors, and give particular consideration to the needs of small businesses serving residents and entrepreneurs furthering industry diversification in the area.
• While coordination with the City is desired, proceed with the analysis and recommendation process as directed by the county council. County staff will consult with City staff and, when and where appropriate, advise the Councils on needed areas for coordination and collaboration.
• The Council is interested in co-hosting open house and public participation events with the City of Moab when and where appropriate.

February 15, 2019:

As of February 15, 2019, staff and planning commissioners collectively developed the following list of questions and considerations. The intended use of this list is to gain additional clarity from the county council on desired next steps and pertinent issues related to the TLUR.

Key:
ZL = Zacharia Levine, CED Director
KG = Kenny Gordon, P&Z Administrator
TM = Terry Morse, CC Liaison
GW = Chair Gerrish Willis
AS = Vice Chair Abby Scott
RN = Rachel Nelson
RO = Robert O’Brien
EC = Emily Campbell
CG = Cricket Green
KW = Kevin Walker

ZL

1. How much lodging development does the County want and need?
2. Where should the County allow lodging development?
3. In what form should the County permit lodging development?
4. What is the role of lodging development within the larger Grand County economy?
5. What does the Planning Commission need from County Council (e.g. data, participation, direction, clarity, etc.)?
6. What role does the County Council want to play?
7. What can the County actually accomplish handle in six (6) months? What is a realistic scope of work/analysis?
8. How should the County PC, Council, and Staff coordinate with Moab City?
   1. Infrastructure: roads, water, sewer, etc.

KW:

ZL’s list of questions above looks great to me. Perhaps also

1. How does lodging development affect economic diversity in Grand County? (perhaps a sub question of ZL-Q4, above)

GW:

(I realize this is a long list and we need to spend some time winnowing down our issues and questions)

1. How will groundwater availability be affected by continued overnight accommodation construction if it continues at current rates of building and per capita use?
2. Are the economics of condo development such that if a permanent ban on overnight accommodations were enacted future condo construction demand would continue, but for long term occupancy instead of overnight rentals?
3. Are there sufficient land areas for light industrial and other commercial developments such as professional offices, stores, etc. outside the HC zone? I think this relates to Kevin’s bullet.
4. Are there examples of other resort communities that have banned or limited overnight accommodation development?
5. If it is decided that no use or zoning changes are warranted, how will this decision affect traffic congestion and wait lines in stores and restaurants? Is congestion quantifiable?
6. If it is decided that no use by right or zoning changes are necessary, what will be the effect of additional staffing needed to maintain and service future overnight accommodations on long-term housing affordability and availability?
7. I think Moab City might farm some of their analysis and data collection out to a consultant. Is there a consulting firm that the county could hire to assist with the analysis necessary to help the council decide on necessary zoning changes to address this issue? This relates to Z’s number 7.
8. Campgrounds are low density uses of land when compared to other overnight rentals. If a limit or ban of new overnight accommodations did not include new campgrounds, what effects would that have on land availability for long term housing and other commercial developments?
9. Some HC landowners expect to make windfall profits by developing or selling their property for overnight accommodations. How will a ban affect future land prices in the HC zone?
10. Would form based zoning improve diverse commercial development potential in the HC zone?
11. How appropriate and suitable are Cisco and Thompson for overnight accommodation development?

RN

- In regards to GW-Q2 above, is there a planning formula for determining how much commercial acreage (excluding overnight accommodations) should be allocated per capita (including seasonal visitors, whom I imagine would be counted as fraction of a full time resident)?
- In regards to GW-Q11 above, have there been any studies on water availability in Cisco and Thompson? Or is current data limited to the Moab Valley.
- In regards to GW-Q10 above, how would an application for development (including overnight accommodations) using form based codes play out from start to finish? For example we used increased height allowances, density, etc. to encourage development in the HD overlay areas. Form based seems like the exact opposite of this technique….so how does it work and is it even adoptable and practical?

AS:

2. What part of your constituency wants more lodging development? What types of lodging? Does any part of your constituency want more hotel development? Is the goal to restrict lodging (or just hotel/motels) as much as possible?
3. Would the Council like to see greater conditions put on lodging in areas where it will be permitted? What are the concerns that should be addressed with those conditions?
4. Does Council see a need to differentiate between types of lodging? For example, should campgrounds be considered separately?
5. Would the Council like to see greater restrictions on other types of non-residential use such as restaurants or automobile-related businesses?
6. Would the Council like to see greater restructuring of where non-residential zones exist and what is permitted in those zones, or address lodging only and leave other zone boundaries and descriptions as is?
7. What does the Council foresee as negative impacts from limiting hotels? Does the Council have any specifics about which impacts are most important or which impacts are most in need of mitigating?
8. What is the Council doing to reach out to the new San Juan County Commission or Planning Commission on this issue? Are there efforts at coordinating? Would the Council like to see meaningful involvement from San Juan County, or meaningful attempts to reach out to San Juan County Commissioners and Planning Commissioners? What type of coordination with San Juan County do we want to see, if any?
   1. Terry mentioned that there is will on the Council to be involved in this process and help the Planning Commission. If the County Council would like to see meaningful involvement from San Juan County, I think that this is an area where members of the County Council should take the lead and make the first attempts at reaching out, if this hasn’t been done already. I understand that historically, San Juan County has been resistant to coordinating with Grand County, but it might be worth trying again.
9. How much should Planning Commission factor in the potential for increased traffic if lodging moves to San Juan County?
10. Do you see a need for changes to the zoning in outlying areas such as Crescent Junction & Thompson? Does it make sense to try to make those areas for attractive to hotel development? Has your constituency in outlying areas expressed desire for lodging development?
11. What degree of public involvement do you see being most beneficial? What are the ways that the County Council and Planning Commission should be reaching out to the public and encouraging public involvement?
12. Are there communities that have limited lodging development that we should look to as a guide?

RO

Great questions (above). In terms of Issues I think that this moratorium would not be in place except for the following:

1. The great pressure on housing for residents and affordable housing. Therefore we need to think about how overnight accommodations affect that issue. It would be nice to have some analysis here though I think we have some idea, we do not likely know the quantitative impact.
2. Crowding of everything is the second issue that people are likely to mention. Neighborhood streets and even 191 through town and on the edge of town. Markets, stores, eating establishments, favorite hiking places, and so on. This issue is certainly two pronged in terms of the tourist economy and the quality of life (outside of the economics).
3. Water is an issue often brought up. How many people can we have in the Spanish Valley area with climate change being a factor not often discussed?
4. Those are what I think are the main drivers of the moratorium, but please mention others. I likely will keep them in mind as we address this problem.

February 12, 2019:

The planning commission reviewed the directive and guide provided by the county council to initiate their planning efforts related to the TLUR. Planning commissioners asked questions of staff regarding the process. General conversation about the motivation and potential outcome of the TLUR occurred. With encouragement from staff, the planning commission compiled a list of questions to be shared with the county council for additional clarity in how to proceed with their analysis and development of a recommendation. The list of questions is provided above.

February 5, 2019:

County Council passed an ordinance enacting a temporary land use regulation prohibiting new land use permits for any land use associated with overnight accommodations, including hotels/motels, campgrounds, bed and breakfasts, condominiums and townhomes used for overnight accommodations, or any other land use
associated with overnight accommodations. This temporary land use regulation does not apply to existing structures or vested development projects.

The County Council provided the following directive and guide to the Community and Economic Development staff and Planning Commission.

From the County Council:

DIRECTIVE AND GUIDE FOR COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT AND THE PLANNING AND ZONING COMMISSION

This document will serve to direct and guide the Community and Economic Development Department and the Planning and Zoning Commission in deliberations on the planning and regulation of future development in Grand County by locating and proposing appropriate zoning and/or rezoning of new development of the following Land Uses:

- All overnight rental accommodations, including but not limited to hotels, motels, condominiums, bed and breakfasts, apartments and bunk houses
- General retail and wholesale businesses
- Restaurants
- Light industry
- Automobile related businesses including ATV’s and OHV’s
- Other businesses which are appropriate for the economic benefit of the community

This should include considerations of:

- Where the respective uses should be located in the county
- A map of the placement of the uses that can be used to create the necessary zoning to ensure the intent of this moratorium is adhered to
- Attention given to a balance of services in locations that will serve the beneficial needs of the community
- Economic diversification
- Current essential needs

It is anticipated this study will result in legislative action being taken by the County Council on the recommendations of both the Community and Economic Development Department and the Planning and Zoning Commission once they have completed their evaluations and have put forth their conclusions.
OVERNIGHT ACCOMMODATION
PREFERRED ALTERNATIVE - DRAFT 05.03.19

LEGEND
Existing & Approved Overnight Accommodations
Planning Areas
- Hotels
- B&Bs and short-term rentals
- RV parks and campgrounds
- North of Downtown
- Downtown Center (C-3)
- Downtown Edge (C-1/C-2)
- South of Downtown
- Proposed Community Nodes

DESCRIPTION

INTENT:
Focus more intense overnight accommodations north of downtown, permit properly scaled overnight accommodations downtown, and eliminate overnight accommodation south of downtown.

DETAILS:
NORTH OF DOWNTOWN (to the Colorado River): Eliminate overnight accommodations as a use-by-right. Utilize overlay zones to establish higher performance standards addressing issues such as scale, massing, form, water and energy efficiency, and mixed use.

DOWNTOWN AREA: Eliminate overnight accommodations as a use-by-right in the Downtown Center. Existing use-by-rights to remain in the Downtown Edge areas. Utilize overlay zones to establish higher performance standards addressing issues such as scale, massing, form, water and energy efficiency, ground floor commercial, gathering areas and mixed use.

SOUTH OF DOWNTOWN: Eliminate overnight accommodations as a use-by-right.

NORTH OF THE COLORADO RIVER, KANE CREEK BOULEVARD & THE HWY 128 CORRIDOR:
Eliminate overnight accommodations as a use-by-right anywhere they are currently allowed north of Colorado River to edge of Arches National Park at the intersection of Hwy 313 and US 191, along Kane Creek Boulevard and along the Hwy 128 Corridor.

COMMUNITY NODES: Develop small area plans to determine the use, scale, massing and form of distinct community destinations. These should be distinct small-scale destinations that support community services and functions.

REGULATORY TOOLS:
- Traditional Zoning
- Overlay Zones

As follow-up efforts once initial ordinance changes have been adopted:
- Form-based Codes
- Mandatory Mixed-Use Development
- Performance Standards
- Development Caps
MOAB AREA LAND USE

Moab Area Land Use Advisory Committee Meeting #2
May 1, 2019, 8:30-11:00am
Grand County Council Chambers

Summary of Final Direction Provided

1. Eliminate overnight accommodations as a use by rights throughout the area
2. Consider overnight accommodations north of downtown as part of overlay zoning
3. Preserve downtown as is, with a focus on considering small overnight accommodation projects as part of overlay zoning
4. No additional overnight accommodations south of downtown
5. Grandfather existing uses as legal non-conforming uses and establish triggers for expansions and improvements to meet new policies.
6. Prevent downtown from being redeveloped in the short term until codes can be shored up
7. Consider the form, massing, scale, fit, mixed use, performance standards for water and infrastructure as part of the overlay zones.
8. Address Community Nodes as follow-up efforts once the moratoria are resolved.
9. Consider the application of form-based codes, unit caps, etc. as follow-up efforts once the moratoria are resolved.

Meeting Notes

The purpose of the meeting was to review input from the Public Meeting held the evening before, and for the Advisory Committee to develop recommendations for the City and County regarding a preferred direction for addressing overnight accommodations.

The meeting began with a summary of comments and ideas from the six workshop group sessions. **Option 1 was eliminated outright, and Option 2 received little support.** There was significant support for Option 5, but questions arose about its political feasibility. **Most of the discussion focused on details and nuances of Options 3 and 4.**

Some wondered whether overnight accommodations could be permitted in some areas in some form without sacrificing the community, residential areas and affordable commercial space. There was discussion on the need for more **granular boundaries** between the various zones, and several members sought clarification on how the overlays would impact existing overnight accommodations. Would existing overnight accommodations become legal non-conforming uses, or would the overlay zones be attached to parcels immediately making them active, principal uses?

Several committee members indicated that if overnight accommodations were removed wholly from the area, **the uses would move to San Juan County and other areas to the south.** It was felt that this would continue to increase traffic impacts through the City, as visitors would travel to Moab for services and to reach Arches, for example.

It was generally agreed that **efforts should focus on solving the core problems related to overnight accommodations and the two moratoria,** and that related concerns such as traffic, multi-modal
transportation and infrastructure will be addressed in ongoing and follow-up efforts once the moratoria had expired. It was agreed that the impacts of overnight accommodations on water and services would be addressed as part of the ordinances, and that they could be refined and enhanced once the new ordinances have been adopted. The group acknowledged that traffic, noise, and congestion must be addressed, and that discussions of future growth in overnight accommodations and tourism should be predicated upon adequately addressing the capacity of public infrastructure, services, and quality of life concerns.

Several members voiced support for concentrating development on the north end of the valley, as this would make sense for the vast majority of day trip visits to the recreation areas north of downtown, including Arches NP. It was also generally acknowledged that the pattern in this area was basically set, as much of the currently vacant land holdings have been approved for future projects.

It was expressed that future development or redevelopment of overnight accommodations in the downtown area, if allowed, should only be permitted as part of mixed-use projects and that there should be requirements that future projects should have a scale and form that fits in and protects community gateways and surrounding viewsheds. This would help make downtown a more dynamic, pedestrian-scaled and walkable place.

It was also felt that the identified Community Nodes should be mixed-use places that serve the surrounding neighborhoods and community as a whole. They should provide places that are locally owned and operated and include uses that would not otherwise be feasible near the expensive commercial core. Some wondered if a maximum size should be established for each node.

Many felt that they want Moab to be cool and funky – a community of surprises that can be explored. It was generally concluded that dealing with the community nodes will take additional time and resources beyond the scope of the moratoria and will need to be addressed as follow-up efforts.

It was noted that the overnight accommodation market has experienced a distinct shift in recent years - the existing “big fish” local hoteliers are being replaced by even “bigger fish” from outside of the area. Developers also want to see mixed-use places, as they help make Moab a more interesting and engaging place. Some expressed an interest in significantly reducing the maximum size of overnight accommodations in order to preserve the existing local operators; others felt it may be too late to stop this from happening.

The guiding principles were reviewed, and it was felt that Guiding Principles 1, 7, 8 and 10 are the most applicable to this effort. It was also stressed that water is a critical consideration and should always be considered as decisions are made.

Some concern was expressed about the ability to stop something if use-by-right conditions are met. It was also noted that exactions can be an effective tool but must be tied to impacts. There was much discussion about the mechanics of implementing overlay zones. It was also indicated that a significant swing away from the dominance of overnight accommodations was required to counter the current imbalance, with an understanding that corrections may be required in the future.

Straw Vote Results:
• Eliminate overnight accommodations as a principal use (“use-by-right”) in most, if not all, areas.
• Boundaries to be refined, limiting growth south of city boundary.
• Don’t only limit overnight accommodations to one area, but focus on scale of the building as a way of making them fit in.
• Scale of everything is an issue – not just hotels.
• RV parks are more accepted than hotels as they aren’t permanent, but there were concerns about effects on viewshed.
• Metering overnight accommodations through the use of caps was considered a good idea because it allows assessing the incremental impacts overtime. However, there was some concern that this would be difficult to implement and may backfire and end up as a “floor” rather than a cap.
• Full-support for performance based standards related to water and energy
• General support for form-based standards, particularly in downtown and future Community Nodes.

Node at intersection of SR-313/US-191 and other outlying areas:

One member likes to the idea of space for trailers and RV out of town, while members of the County Planning Commission feel that campgrounds are at their limit without affecting the viewshed, noting that protecting the sense of arrival and the community gateways is essential. They also noted that these areas lack water, which pose significant environmental concerns. If any new development is allowed in these areas, they will require careful study to make sure they protect the viewshed. Also, it was felt that we shouldn’t give people false impressions that something can be approved when it cannot or will not be approved.
Summary of Stakeholder Comments Provided in Focus Group Meetings Held April 8-11, April 30, and May 6, 2019

Facilitator: Zacharia Levine, Grand County Community and Economic Development Director

Comments provided by clients and staff of the Moab Valley Multicultural Center (MVMC): Service workers, business owners, staff

- “When I moved here 23 years ago, nothing was open November through March. It was hard if you didn’t save your money, but it was quiet.”
- “There are 10,000 people living here, but we all work two or more jobs; it is like we need a 20,000 person or larger community to fill the workforce needs. Our workers are stressed.”
- Moab needs more housing opportunities.
  - “Nothing is available, and it is very difficult for non-native speakers to be accepted in rental housing. I know so many families that are living four, even five, families in a single trailer.”
  - “Can the City and County incentivize more ADU development?”
- Overcrowding, due to the lack of supply (and perhaps even more than cost) of housing, is a huge and common problem. It leads to all sorts of other community challenges, and I am especially concerned about its effects on children.”
  - Overcrowding negatively affects family life
  - Overcrowding leads to a loss in privacy, often times sanitation issues, and prevents children from having routines.
  - “It creates chaos in the household. Kids can’t thrive in chaos.”
  - “Because of crime, abuse, and natural disasters (e.g. fire) stemming from overcrowding, more and more of our ‘clients’ are living in their vehicles (or on people’s floors) for increasingly extended periods of time. It used to be a few weeks to a month; it is now, on average, six months.”
    - “This is severely affecting people’s kids. This is the most heartbreaking part of our housing crisis.”
    - “When a family is displaced and living in their car or on another family’s couch, where do the kids sleep? They don’t have beds.”
- The lack of housing in Moab is causing displacement of residents and preventing people who want to move and work here from staying.
  - “Moab has a lot of jobs. People from all over want to come here and work. But, they get here and cannot stay. I am about to lose two employees next week because they cannot find housing.”
  - “I know many people who are leaving Moab because they can’t find housing. These are good people who work hard.”
  - “We have too many jobs and not enough housing.”
  - Many Native American individuals and families have tried to come to Moab, live and work here, but have not been able to stay. Many struggle with the cultural differences, job challenges, and housing.
Most people who leave go to larger employment markets with easier/cheaper housing, especially in Colorado. Only a small number move to surrounding areas in the region and commute.

- “We don’t like to commute because it is a legal concern. Some people cannot drive due to their immigration status. Others are fearful even if they can drive.”
- It was noted that if workforce housing is primarily built in the southern stretches of Spanish Valley, the City and County really need to have public transit because many service workers will not or cannot drive.

Because of the jobs-housing imbalance and the competition among employers for a limited supply of employees, some service sector workers are making much higher wages now.

- “Some housekeepers are now making $20/hr. But, only the bigger companies can pay those wages, so it is negatively impacting the smaller, family-owned businesses.”
- “Because the bigger hotels can pay higher wages, seasonal workers have much less loyalty to their employers. I have a huge problem because of seasonal employee turnover.”
  - There is tension between long-time residents/workers who care about their employers and their community and short-term/seasonal workers who have little loyalty or concern for Moab.
  - “I see work ethics going down because employees know they can find work with other employers if needed.”
- “I like the higher wages, of course, but I prefer tranquility and comfortable working environments. I don’t want to chase the dollar. I want to work hard, have a comfortable life, and a peaceful neighborhood.”

Landlord treatment of non-native speakers can be (and often is) terrible.

- Simply getting information from landlords/property managers is challenging. They don’t return phone calls or respond to inquiries, even when MVMC staff is serving as the point of contact.
- Basic transactions, including rental application processing, is super challenging.
- For residents without immigration status, finding rental housing is nearly impossible.
  - Participants really like the Walnut Ln development idea being led by the City of Moab, but have concerns about documentation requirements

When asked what the participants liked about Moab, the following qualities were identified

- Small town feel
- Relatively low crime rates
- Acceptance of different cultures and languages
- Relatively little emphasis on immigration status – a feeling of safety and acceptance
- Easy to commute/not a lot of driving needed to get to work

When asked about their general sentiments of growth and what they wanted to see in Moab, participants said:

- “No more hotels!”
- “We should not grow any further until our city systems can handle more growth.”
- “I am most concerned about crime. If we grow, I don’t want Moab to have more crime. We need to work towards tranquility.”
“Are we prepared to keep crime down as Moab’s visitation grows? Especially crime from tourists towards residents, and also tourists towards the environment.”

- “We need more child care in Moab. How can the City and County incentivize more child care, financially and otherwise?”
- “We need to help small businesses.”
- “Teenagers need safe spaces.”
- “Residents need more public spaces. Can the City help to make the land outside the MVMC more like a public plaza

Comments provided by citizens at the local Veterans Affairs: Six veterans who have lived in Moab for between 30 and 72 years

- “It is a shame that we did not, and are not, capping growth.”
- “I don’t have a problem with the number of people who are here...I think it’s great...but we should be screaming locally and at UDOT to get the traffic fixed. We have so many infrastructure issues that need to be solved given how many people are now living here and visiting.”
- “We don’t have nearly enough housing. Low-income, affordable housing. Every administration has talked about housing...housing, housing, housing...but they haven’t done anything about it.”
- “Rotary Park is amazing. I love it. Kudos to the City for taking care of Rotary Park.”
- “We don’t want to see any more hotels. We’re ok with more housing if it is affordable.”
- “We need more stores that sell what locals need. We all go to Grand Junction at least once a month. We buy everything we need, have a nice lunch, and fill up on gas. That’s it. This town used to have stores that sold stuff people need on a daily basis. Now, it’s all for tourists.”
- “Food prices here are a rip-off. Everyone in this town is chasing a buck. There is way too much greed.”
- “We need to invest in public services. We need a full-time fire department. New development should be paying more for our public services – they should be buying things like new fire trucks.”
- “Hotels need to pay more for infrastructure and services.”
- “We should incentivize small, locally-owned businesses, especially those focused on locals.”
- Should the City or County approve more hotels?
  - The unanimous answer was no. However, the group said this shouldn’t be the case forever. It is possible that in the future, with a more balanced community system, that additional lodging and visitation growth could be welcomed.
- Many participants criticized the prioritization of community projects and policies, especially within the municipal budget. References were made to excessive salaries and dollars going to things other than critical infrastructure needs.
- All participants expressed a strong interest in bringing back long-running community events such as the State Fair. A comment was made that the City should not evaluate long-running community parades such as the Homecoming Parade on the basis of cost when it allows other events oriented towards tourists to occur and create community impacts. Many participants lamented the loss of community events and the growth of events for tourists.
• “We need more focus on residents. The City and County commissioners need to stop focusing on the dollar. It’s greed. They need to focus on residents.”
• “New hotels should be required to have restaurants. I’m sick and tired of having to compete for a seat in our restaurants.”

• “I commend you for coming to talk with us. No one has ever done that before. We don’t go to public meetings because they are hard for us. Thank you for coming here. I hope someone does this again.”

Comments provided by high school students: 9th and 12th grade (~15 students selected by teacher/principal)

• Some students reported that they walk downtown because they don’t have cars and have few other options for leisure, although they reported mixed views of the business and attractiveness of downtown. Other students said they avoid downtown at all cost because the activity and traffic levels are too intense.
• Students expressed appreciation for Swanny City Park and Rotary Park
• Students suggested that restaurants were too busy and too expensive.
  o “Moab needs more restaurants. Tourists need to sleep, but they also need to eat.”
• Students expressed a desire for more night life activity for young adults and more free common areas, such as public plazas
• “There are too many hotels, and they keep building more. I don’t like it.”
• “Hotels are allowed to be built in the wrong places. For example, the new hotel downtown across from Arches Thai could have been housing and small shops for locals.”
• “We have to travel to Grand Junction for a lot of the things we need to buy because most of our shops are only for tourists.”
• The amount of water hotels use is crazy.”
• “The City and County need to invest in Main St. We need to prevent back-ups at Arches National Park. We need better infrastructure.”
• Students noted that hotels continue to be built but there aren’t enough people to work at them. The people who do work at them earn relatively low wages.
• Students reported a desire to see more locally owned shops because they support the Moab community (and larger corporate companies do not).
• Graduating seniors in the group indicated that they couldn’t stay in Moab long-term because there aren’t any higher paying jobs and it is expensive to live in Moab. The wages are too low and the only options are in tourism and service sectors.
• With respect to design or form-based elements of new hotel construction, students suggested the following:
  o No more big block and huge hotels (structural form and scale)
  o New hotels should blend in with landscape (structural form, materials, colors)
  o “Hotels shouldn’t be an eyesore, like the Wyndham hotel under construction”
Hotels should be required to put in underground parking to keep the ground level better for people walking and biking
Hotels should have to invest in the Moab community

- Students suggested the City needs better biking infrastructure
- Students liked the idea of mixed-use development in the City, so long as adequate parking or minimal traffic was included. Students communicated the need for smaller living spaces for single people.
- Students talked a lot about “community vibe” or community character
  - Special events influence community vibe. Some events (e.g. car show, arts festival, music festival) enhance community vibe. Others detract from it (e.g. competitive sporting events).
    - Students expressed a desire to see the City and County exercise more discretion in special event approvals. “We should be much more selective.”
    - “How do we keep events that start out for locals geared towards locals, such as the summer concert series? It seems that over time events just become about tourists.”
  - Students expressed a desire to see more cultural and ethnic diversity in Moab and Moab’s special events, but noted that cost of living was a barrier to achieving this goal.
  - Hotels change the character of Moab. They privatize space and create a divide between visitors and residents.
    - “Hotels change the vibe of town because the space within them is not for anyone except their guests. The general public is not allowed. Each new hotel means more space that is unavailable to residents.”
  - “We feel disconnected from the town because our community and economy are so oriented towards tourists. As it grows...as more hotels are built and more tourists visit...Moab feels less like home and more like other people’s playground. We need to prioritize the feeling of home. People working 2-3 jobs don’t have the time, energy, or resources to attend local events or community gatherings even if they want to.”

Comments provided by middle school students: 7th grade (6 students selected by principal)

- When asked about their general perceptions of Moab, students said,
  - “There is not much to do in Moab for teenagers/young people because all the activities are for tourists. They are expensive and not for us.”
  - “We need public transportation so it is easier for us to get around. Traffic is so terrible that we can’t even complete our daily tasks. Parking is terrible.”
  - The students communicated that Moab’s scenery is beautiful, but it is not enough to satisfy their needs for extracurricular activities, or to balance out the cost of living in the area.
  - “Moab is for tourists. We need to fortify our town and invest in it for locals.”
  - “There aren’t enough workers because people are leaving Moab since it is a tourist town and too expensive.”
  - Students agreed there are not enough restaurants in Moab
• “We want more open space with shade. We love the Moab Parkway.”
  • “We need more hangout places.”

- The students expressed a desire to have the ability/option to work. Some wanted to work in order to have spending money, others wanted to be able to support their families.”
- Students communicated a desire to see dark skies protected.
- When asked about their opinions of increased density and development in the downtown area, student responses were:
  o “We’re not into seeing taller buildings if they block our views of the canyon walls.”
  o Students suggested that visitors come to Moab for the scenery and landscapes, so building a downtown that is similar to the urbanized areas from which people come diminished Moab’s attractiveness/uniqueness. They also suggested that Moab’s scenery is integral to its community character and identity.
    ▪ “Scenery is Moab. If we take away the scenery, we take away Moab.”
- When asked about the ways Moab is changing over time and development trends in general, students said,
  o “Growth is good, but we need to dial it back because our small town cannot handle it. We don’t have enough people and our infrastructure is old.”
  o “We think Moab is too much for the tourists.”
  o Students suggested that Moab/Grand need to fix all the potholes around town if we are to grown.
  o “We just need to slow down.”
  o “Moab is expensive for visitors and residents, but visitors have so much more money than us.”
  o “The RV parks are low quality.”
  o “You can’t thrive, or even survive, in Moab. We want to work in order to save money so we can move elsewhere.”
  o “Moab is a trap. People can’t make enough money to live here, or enough to leave.”
  o “Growing up in a tourist town, you learn to hate it. I don’t want to live in a tourist town.”
  o “A lot of my friends have had to leave because it’s too expensive for their families to stay here.”
  o “Growing up in Moab, you become so aware of costs. Cost of housing, cost of food, and cost of clothing...everything. When I think of other places I might live someday, I mostly think about their costs of living.”
  o “We can’t stand what Moab is becoming. If you didn’t buy land a long time ago, or have land passed down from your grandparents, it’s impossible to live here.”

- Regarding downtown Moab and Main St., a student said, “We like Main St. because of all the small shops, especially the local shops. We like a small town feel.”
  o “We don’t want a Wal-Mart because that will destroy our small, local shops.”
  o “Everything here is low-quality and underdeveloped, but way over-priced.”
  o “We need more local shops. More services and shops for locals. Less corporate.”
    ▪ “We like places like KZMU, Wabi Sabi, Moonflower, Wicked Brew, and The Rave’n Image.”
    ▪ “We need more clothing and appliance stores that locals can afford.”
Students had many recommendations for how Moab and Grand should prioritize policies and budgets (in addition to what was noted above)

- In relation to their desires for space that is oriented to young people and the ability to work, students suggested the City and County support the creation of a “Kid-café,” which has comfortable seating/hang-out space, creative space, food/drink options, etc. The “Kid-café” should be within walking distance of the schools
- “We need to capitalize on our small town, homey feel.”
- “We should emphasize quality over quantity.”
  - Fewer and smaller hotels, and AirBnBs/Bed and Breakfasts, would do a better job of giving tourists a close-up look at local culture than big box hotels
- Students’ top solutions included:
  - Affordable housing
  - Slowing down growth
  - Creating entertainment for kids
  - Improving roads
  - Allowing fewer hotels
  - Creating more and different job opportunities (esp. for young people)

Comments provided by local business owners: retail, restaurant, outfitter, professional services, real estate, hotel/hospitality, general development

Focus Group 1: Broker, Restaurateur, Hotel Owner

- There will be increased interest in developing hotels in Moab/Grand County because it is so easy to develop hotels here. The hotel development industry knows this – our zoning regulations are minimal and impact fees hardly reflect the real costs of impacts. Customer demand will increase, which may justify more hotel/motel rooms. However, occupancy rates will probably fall yet hotel developers will still try to build.
  - The City and County should require more from hotel developers in terms of form (not just finish).
- Participants communicated a willingness/acceptance of growth management policies, such as capping the amount of new lodging development that approved each year.
  - “Slower growth could be good in order to let us catch-up in areas like housing and infrastructure.”
  - “We can’t stop growth, but we need more control over it.”
- Growth is very much a function of marketing and advertising Moab, and that needs to be addressed
  - “We are at a point where maybe we do need to stop advertising. We can’t handle any more tourists. We’re at capacity, for now at least.”
- Moab does not have enough restaurants. When visitors come here and need to wait 1-2 hours for mid-grade restaurants, that negatively impacts their experience.
- Moab does not have enough retail space, restaurant space, medical office space, or places for mechanics shops that serve both residents and tourists, such as ATV/UTV/bike shops. One local
real estate broker indicated that small business entrepreneurs represent very little, if any, of their client base now because it is so difficult to find space for new start-ups.
  - Entrepreneurs need space!
- Some areas that deserve attention as potential mixed-use development nodes include:
  - West end of Center St.
  - 400 North and 500 West
  - East Center St. and 400 East
  - Mill Creek Dr. and 400 East
  - Mill Creek Dr. and Powerhouse Ln.
  - 100 South and 100 East
- Many hotels are reporting flat or diminished occupancy and/or revenue in 2018 and a slow start to the 2019 season.
- Nightly rental owners have seen diminishing returns since 2016/'17
- Most, if not all, employers are struggling with employee attraction and retention. Employee housing is an area where the City and County need to continue focusing efforts.
  - A local broker suggested the County’s housing policy efforts will begin to pay big dividends in the coming years.
    - The news and early indicators (e.g. road construction) of USU Moab coming online is increasing interest in multi-family development because developers see a solution to having multiple months of vacancy that results from seasonal employment
  - Employees are stressed out. As a result, they are more likely to provide poor customer service.
    - Some larger employers are paying better wages and even providing benefits, but that is not easy for most of the smaller employers in Moab
- The City and County need to invest in more alternative transportation infrastructure
- The County should protect the mixed-use development potential around Spanish Trail Rd and US 191 as well as Resource Blvd. and Spanish Valley Dr.

Focus Group 2: Retailers (tourist and non-tourist specific), Brokers, Restaurateurs, Professional Services; Outfitters

- Communities that Landmark should study: Jackons, WY; Stapleton, CO; Bentonville AR
- In the public domain, negative comments greatly outnumber positive comments regarding tourism development. Even though some people may support tourism development, they don’t speak out as much.
- The nexus between housing availability/affordability and employee attraction/retention is resulting in significantly diminished customer service and customer experience
- Moab now has a nationwide reputation of what NOT to become...what to avoid
- Business representatives are interested in diverting a greater proportion of tourist dollars to quality of life infrastructure and amenities, including housing.
  - TRT conversation but also other sources.
• A lot of privately held land is undeveloped and/or underdeveloped. What can the City and County do to incentivized necessary and beneficial development on such lands.

• All participants strongly agreed that Moab/Grand County do not need additional lodging.
  o However, more commercial development is needed because the pressure on a limited number of businesses is resulting in poor customer service.
  o Some suggested that residents should be given more opportunity to do short-term rentals in their homes as a way of spreading tourism revenue to a larger number of people in Moab

• One business owner expressed frustration that increases in commercial property taxes are forcing them to consider profit generating activities that are not actually in their business or personal goals/interests in order to cover the increases in their property taxes.

• Multiple business owners reported that there are not enough incentives for building workforce housing

• Business owners communicated a desire for managed growth, increased investment in developing the downtown environment.
  o Some communicated the need for a bypass in order to support walkability and bike friendly streets
  o When one business owner suggested the creation of a “walking district,” others agreed

• There was a comment about the difference between unit counts and room/occupant counts. One hotel unit might accommodate 2-3 guests, but one condo or ONR unit might accommodate 10-15.

• There was discussion surrounding the appropriateness of building a downtown parking garage in the context of rapidly changing transportation technology and the need to shift focus from private automobiles to public transit.

• Participants discussed the pros and cons of spreading the downtown experience beyond the existing CBD, but consensus did not emerge.

• Business owners expressed a desire to see local legislators and state representatives change the TRT formula to allow for more money to go towards growth issues such as workforce housing

• It was suggested that new hotel approvals could/should be a function of workforce availability

• Multiple people complained about noise. Business owners, residents, and many visitors want peace and quiet.

• “It is just too easy to develop hotels here. And, there is a big disconnect between hotel developers’ evaluation of the development opportunity (i.e. profitability) and WHY visitors are coming to Moab.”

• “We need to re-establish our reputation from a place where anything goes to a place where excellence is expected. For instance, come to Moab and leave your car at your hotel...it is very easy.”

• There were a couple recommendations that Moab/Grand better accommodate non-traditional housing opportunities, like tiny home communities, long-term visitor areas, etc.
  o Examples provided were Washington, Texas, and Colorado (tiny home communities), and San Diego (camping is allowed constitutionally because the City isn’t doing enough to provide for affordable housing opportunities).
Comments provided during the April 9, 2019 Trail Mix Committee meeting: Representatives of different non-motorized trail user groups and federal land management agencies

- One member noted that three couples who are friends have moved away from Moab or are currently making plans to do so because of recent growth trends in visitation and motorized recreation activity in the Area.
- One member has observed that businesses all over town have “Help Wanted” signs due to the high costs of housing for employees. The member shared his experience from two years prior. After returning to Moab from a short time away, he could not find a room to rent for less than $600 despite having grown up in the community and possessing a large network.
- Trail Mix members believed that high housing costs and increasing employment opportunities have contributed to a significant uptick in longer term camping on public lands near Moab. Many individuals cannot afford housing, so they live in various vehicle types in temporary locations on public lands and commute into town, adding to traffic, parking, and environmental degradation.
- One member suggested the biking community in its entirety, including shops, outfitters, and resident-users agreed that Moab has enough tourists, should not try to attract any more, and would benefit from fewer special events.
- Another member pointed out that many residents have made inaccurate statements, perhaps due to bias or misinformation, about the current level of trail damage throughout the county, noting that trail damage has decreased in many areas due to the efforts of Trail Mix and land management areas. Nevertheless, maintaining high quality trail networks requires more money and staffing.
- BLM and USFS representatives reported a significant uptick in the number of negative reviews and/or complaints received from visitors having poor experiences due to overcrowding on public lands. In particular, the Willow Springs area is generating a lot of complaints.
- The BLM representative suggested that visitor expectations have changed over the years, but they are not being satisfied.
- The USFS representative confirmed that workforce dispersion due to housing costs is affecting forest service lands in the La Sal Mountains. The USFS has had to put more resources to monitoring campers who try to stay beyond the 14-day limit.
- The group suggested that Grand County consider developing “Long-Term Visitor Areas (LTVAs)” similar to what Arizona has created. These areas could accommodate seasonal workers who are not capable of competing for limited traditional housing stock in Moab.
- An event organizer indicated that hotels have seen occupancy rates drop because event participants have reacted negatively to local hotels charging excessive rates or requiring two-night minimums. Some hotels have changed their rate offerings, eliminated minimum stay requirements, and collaborated with the organizer, and as a result, those hotels have reached full occupancy during event weekends.
SUMMARY OF FINDINGS

Lewis Young Robertson & Burningham Inc., ("LYRB") was retained as a sub-consultant by Landmark Design to assist in the Moab Area Land Use Analysis. A number of studies were completed prior to this analysis and provide context for the current state of Moab City ("Moab" or the "City") and Grand County ("County"). These studies include the BAE Urban Economics Phase I Assured Housing Feasibility Analysis and the Phase II Assured Housing Nexus Fee Analysis for Moab and Grand County, the City of Moab 10-Year Financial Plan by Econowest, as well as a number of County analyses including a sector analysis and demographic analyses. LYRB’s primary objectives were to 1) review funding strengths and limitations of existing revenue sources; 2) complete an analysis for supportable commercial acreage; 3) conduct a supportable lodging analysis; and, 4) provide future funding recommendations. Following are the primary findings of this analysis:

FUNDING STRENGTHS AND LIMITATIONS

- The City and County benefit from considerable transient room tax and resort community tax revenues. In the case of Moab, tourism related taxes and sales tax revenues offset the need for a property tax.
- However, transient room taxes are restricted funds collected for specific uses. Per Utah State Code, 47 percent of the transient room tax must be used for tourism promotion.
- A decline in overnight accommodation construction may result in a flat growth for transient room and resort community taxes as compared with the historic average annual growth rates of 10.6 percent and 7.5 percent, respectively.

SUPPORTABLE COMMERCIAL ACREAGE

- The range of supportable commercial acreage (acres that could be developed for viable commercial businesses) is 56 to 218 acres based on a buying power analysis and a per capita commercial analysis.
- Consumer spending provides insights into the County’s current land use patterns. Thirty-five percent of spending by Arches and Canyonlands National Parks visitors was attributed to hotels and 21 percent to restaurants.
- Building trends typically follow the demands for goods and services. Continued development in overnight accommodations will be needed to match current projected growth in tourism demand. This growth will likely induce additional commercial development in the County.

SUPPORTABLE LODGING ANALYSIS

- The number of tourists is growing at a faster pace than development of hotel/motel rooms.
- Despite an increase in overnight accommodations, the room per tourist ratio has declined from 2015 to 2018, which suggests a continued demand for additional overnight accommodations.
- The growing trend of non-hotel/motel lodging will continue to impact the room per tourist ratio.

FUNDING/ INCENTIVES AND RECOMMENDATIONS

- Tools such as Community Reinvestment Areas may be used to incentivize development of a particular land use type.
- In addition, the City and County may have an opportunity to generate needed revenue through impact fee implementation. Impact fees should be assessed and updated regularly to capture the impact of new development on existing infrastructure and services.
- Property tax increases may be necessary to offset changes in tourism related revenue if overnight accommodation development decreases.
**TITLE:** Noticing Procedures  
**FISCAL IMPACT:** N/A  
**PRESENTER(s):** Community and Economic Development Staff

**STATED MOTION:**
N/A  

**STAFF RECOMMENDATION:**
Review, Article 9.1 Common Procedure, from the Grand County Land Use Code.

**BACKGROUND:**
Planning Commissioners asked staff to begin examining the County’s noticing procedures for land use applications, resolutions, and ordinances. Questions about noticing procedures arose during the public hearing for amendments to the HDH ordinance, but they generally apply to noticing writ large.

**ATTACHMENT(s):**
- Grand County Land Use Code Article 9.1 Common Procedure
9.1 Common Procedure

9.1.1 Conformity with Land Use Code
Every official and employee of Grand County vested with the duty or authority to issue a permit or certificate shall not issue a permit or certificate for any use, building, or purpose that conflicts with any provision of this LUC. Any permit, approval, or certificate issued in conflict with the provisions of this LUC shall be null and void. [Ord. 546, 2016.]

9.1.2 Preapplication Conference
Prior to the submission of an application required by this LUC, a preapplication conference with the Zoning Administrator may be required as follows.

A. Preapplication Mandatory Conference
   A mandatory preapplication conference with the Zoning Administrator to discuss procedures, standards, or regulations shall be required for:
   1. Subdivision Sketch Plan;
   2. Preliminary Plat;
   3. Minor Subdivision Plat;
   4. Recreational Subdivision; and
   5. Conditional Use Permits;

B. Optional Conference
   A preapplication conference is recommended for all other applications. Applicants are encouraged to attend an optional preapplication conference with the Zoning Administrator prior to submitting any application.
   (The preapplication conference provisions of this section do not apply where the application or action is initiated by the County Council or Commission.)

[Ord. 546, 2016.]
9.1.3 Minimum Submission Requirements
The following regulations shall apply to all applications.

A. Property Owner Endorsement

All applications shall include the name and signature of the current property owner of all property within the boundaries.

B. Preliminary Title Report

All applications required under this LUC shall include a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record affecting the subject property.

C. Forms and Content

Applications required under this LUC shall be submitted on forms, with any requested information and attachments and in such numbers as required by the Zoning Administrator. The Zoning Administrator shall have the authority to request any pertinent information required to ensure compliance with this LUC. Likewise, the Zoning Administrator may waive any submittal requirements deemed irrelevant in a given application.

D. Electronic Submission

Plats shall be prepared and submitted in digital format acceptable to the Zoning Administrator and compatible with the County’s geographic information system. Plats shall be submitted in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator (currently preferred in State Plane Coordinates – Utah Central Zone or the Valley Coordinate System) with all measurements stated in feet.

E. Fees

1. Filing fees shall be established periodically by resolution of the County Council commensurate with the level of service. Such fees may include all costs occasioned to the County, including publication of notices, public hearing, and review costs, planning and engineering, legal, and other professional review and inspection costs.

2. All required fees shall be made payable to “Grand County.”

3. All required fees shall be nonrefundable.

F. Vicinity Map

A vicinity map [which may be a USGS one inch equals 2,000 feet scale] shall locate the property
relative to surrounding areas.

[Ord. 546, 2016.]

9.1.4 Application
All applications shall be completed and submitted to the Zoning Administrator at least 30 days prior to any desired agenda date. An application shall not be considered as officially submitted until it has been found to be complete in accordance with Section 9.1.6. [Ord. 546, 2016.]

9.1.5 Summary of Land Use Authority
Land use authority for the respective land use review procedures is described below:

<table>
<thead>
<tr>
<th>SUMMARY OF LAND USE AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Type</td>
</tr>
<tr>
<td>Interpretermgts of Text and Zoning Map</td>
</tr>
<tr>
<td>Zoning Map (Rezonings) and Text Amendments</td>
</tr>
<tr>
<td>Sketch Plan</td>
</tr>
<tr>
<td>Preliminary Plat</td>
</tr>
<tr>
<td>Final Plat</td>
</tr>
<tr>
<td>Minor Record Surveys</td>
</tr>
<tr>
<td>Recreational Subdivisions</td>
</tr>
<tr>
<td>Replats and Exemption Plats</td>
</tr>
<tr>
<td>Lot Line Adjustments</td>
</tr>
<tr>
<td>Conditional Use Permits</td>
</tr>
<tr>
<td>Appeals of Administrative Decisions</td>
</tr>
<tr>
<td>Variances</td>
</tr>
</tbody>
</table>

The Grand County Land Use Code is current through Ordinance 580, passed November 7, 2018.
<table>
<thead>
<tr>
<th>Variances (in conjunction with Subdivision Review)</th>
<th>Hearing Officer</th>
<th>Section 9.14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign Permits</td>
<td>County Council</td>
<td>Section 9.14</td>
</tr>
<tr>
<td>Temporary Use Permits</td>
<td>Zoning Administrator</td>
<td>Section 9.15</td>
</tr>
<tr>
<td>Site Plan Reviews</td>
<td>Zoning Administrator</td>
<td>Section 9.16</td>
</tr>
<tr>
<td>Zoning Development Permits</td>
<td>Zoning Administrator</td>
<td>Section 9.17</td>
</tr>
<tr>
<td>Building Permits</td>
<td>Building Official</td>
<td>--</td>
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<tr>
<td>Certificates of Occupancy</td>
<td>Building Official</td>
<td>Section 9.19</td>
</tr>
<tr>
<td>Overnight Accommodations/Short-term Rentals</td>
<td>Zoning Administrator</td>
<td>Section 4.6</td>
</tr>
<tr>
<td>Bed and Breakfasts</td>
<td>Zoning Administrator</td>
<td>Section 3.2.3</td>
</tr>
</tbody>
</table>

[Ord. 548, 2016; Ord. 546, 2016.]

9.1.6 Certification of Completeness
An application shall be considered submitted only after the Zoning Administrator certifies that it is complete, provided in the required form, includes all mandatory information and exhibits, and is accompanied by the applicable fee. A determination of application completeness shall be made by the official responsible for accepting the application within five working days of application filing. If an application is determined to be incomplete, the Zoning Administrator shall contact the applicant to explain the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 15 days, the application shall be considered withdrawn. [Ord. 546, 2016.]

9.1.7 Vested Development Rights
Complete applications shall be considered complete when the requirements in place at the time have been met and certified by the Zoning Administrator. However, such application shall be subject to pending amendments to the LUC that are initiated prior to such certification. [Ord. 546, 2016.]
9.1.8 Required Public Notices

A. Summary of Notice Requirements

Notice shall be required for development review as shown in the table below.

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Published</th>
<th>Posted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeals of Administrative Decisions</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Conditional Use Permits</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Replats</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Text Amendments</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Zoning Map Amendments (Rezonings)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Variances</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

B. Notice Requirements

All required public notices shall be accomplished in accordance with the following requirements:

1. Publication

The County shall cause notice of the public hearing to be given by publication in a newspaper of general circulation (with distribution of the notice to all other local news media without any requirement for publication) in Grand County not less than 10 calendar days prior to the hearing for the purpose of notifying the public of the time and place of such public hearing.

2. Mailing

As an alternative or complement to the above publication requirements, staff may mail notice of the public hearing not less than 10 days prior to the hearing to the recorded owner of each parcel within 500 feet in all directions of the property that is the subject of a land use application.

3. Posting

a. The applicant shall post a sign, provided by the County, noticing the public hearing in a prominent and visible place within five feet of each property line with street frontage on the land area proposed for a rezoning, subdivision amendments, or conditional use with a
notice of the hearing at least 10 days prior to the hearing.

b. The County shall post notice on the official County and state public meeting notice websites.

C. **Content of Notice**

All published, posted, or mailed notices shall at a minimum state the time and place of such hearing and the nature of the subject to be considered, and the name, address, and phone number of the applicant.

[Ord. 546, 2016.]

**9.1.9 Required Public Hearings**

The following table summarizes the types of applications requiring public hearings and the review body responsible for conducting the hearing.

<table>
<thead>
<tr>
<th>REQUIRED PUBLIC HEARINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Application Type</strong></td>
</tr>
<tr>
<td>Appeals of Administrative Decisions</td>
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<td>Conditional Use Permits</td>
</tr>
<tr>
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<tr>
<td>Zoning Map (Rezoning) and Text Amendments</td>
</tr>
<tr>
<td>Variances</td>
</tr>
<tr>
<td>Variances in conjunction with Subdivision Approval</td>
</tr>
</tbody>
</table>

[Ord. 546, 2016.]

**9.1.10 Required Applicant Notices**

A. **Notice of Meetings and Hearings**

1. The County shall provide written notice to each land use applicant of the date, time and place of each public meeting and public hearing at which the applicant’s application is to be considered.

2. All affected entities, including but not limited to school districts, utilities, special districts,
UDOT, and the AOG state planning coordinator shall be notified when considering the General Plan or amendments to the General Plan or multi-unit residential, commercial, industrial or subdivision approvals.

B. Notice of Decision

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the final decision on each land use application.

[Ord. 546, 2016.]

9.1.11 Required Municipal Notice of Urban Development

Proposed residential development with more than 15 dwelling units and an average density greater than one residential unit per acre, or any proposed commercial development with a cost projection of greater than $750,000, that is in the municipality’s proposed annexation area is subject to municipal review according to the requirements of this section:

A. The County shall provide written notice to the municipality of the proposed development; and

B. Within 90 days after the County’s written notice of the proposed development, the municipality shall either:

   1. Consent in writing to the development; or

   2. Submit a written objection to the County’s approval of the proposed development.

C. Where the municipality chooses to submit a written objection, within a reasonable time after receiving said objection, the County shall respond in writing to the municipality’s objections and make a diligent attempt to reasonably reconcile said objections.

[Ord. 546, 2016.]

9.1.12 Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this LUC, the applications for those development approvals may be processed simultaneously at the Zoning Administrator’s option and with the approval of the applicant. The simultaneous processing of applications shall be at the applicant’s risk. [Ord. 546, 2016.]
GRAND COUNTY PLANNING COMMISSION BYLAWS
Grand County, Utah

ARTICLE I
Authority

The Grand County Planning Commission is authorized by the Utah Code Annotated 17-27a-301 and 17-27a-302 and by Grand County Ordinance 299 (1999), Section 8.1 of the Grand County Land Use Code. The Planning Commission exercises authority and assumes responsibilities delegated to it under these authorities.

ARTICLE II
General Provisions

II.1. Applicable State Statutes, County Ordinances, and Policies
The Grand County Planning Commission, hereinafter referred to as “the Commission,” shall be governed by State statutes and County ordinances and policies including the following:

   a. State statutes applying generally to public boards, members, and officials
   b. State statutes governing the activities of County Planning Commissions
   c. Grand County Ordinances and Resolutions
   d. The Grand County Land Use Code
   e. The bylaws of the Grand County Planning Commission as set forth herein. These bylaws are not adopted by Ordinance and do not have the force of law. They are advisory guidelines only. Consequently, should the Commission waive, suspend, or otherwise deviate from these bylaws during the course of a meeting, such deviation shall not be grounds for invalidating a hearing held during such meeting or any decisions made at such meeting.

II.2. Familiarity with State Statutes, County Ordinance and Resolutions, and Rules Affecting the Commission. Upon taking office, all members of the Commission shall familiarize themselves with applicable statutes and rules, ordinances and resolutions, and while in office, shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Commission affairs.

ARTICLE III
Officers and Election

III.1. Officers
The Officers of the Commission shall be a Chairperson and Vice-chairperson.

III.2. Election

Grand County Planning Commission Bylaws, page 1
a. The Chairperson and Vice-chairperson shall be elected as the last item of business at the first meeting of the year after the County Council appoints vacant seats. They shall serve for a term of one year or until their successors are elected. Their term shall start the meeting following the election.

b. If the office of the Chairperson or Vice-Chairperson becomes vacant, the Commission shall elect a successor from its membership who shall serve the unexpired term of the predecessor.

c. Nominations shall be by oral motion. At the close of nominations, the Commission shall vote by voice vote upon the names nominated for the office. If requested by the Chair, written ballots may be used for voting purposes.

III.3. Chair
The Chairperson has the following duties:
   a. The Chairperson presides at all meetings of the Planning Commission maintaining order and decorum, and insures that the procedures prescribed in the Grand County Land Use Code, Utah state code, and policies stated herein are followed.
   b. The Chairperson sets the agenda.
   c. The Chairperson may call special meetings at any time and in accordance with applicable state and County codes.
   d. The Chairperson may appoint up to three Commission members to serve on a committee as needed.
   e. The Chairperson shall inquire regarding potential conflicts of interest and ex parte communication, regarding agenda items, at the beginning of a public meeting or hearing.

III.4. Vice-chair
The Vice-chair performs the duties of the Chairperson in the absence of the Chairperson, or duties as delegated by the Chairperson. In the event of temporary absence of the Chairperson and Vice-chairperson, the remaining members present shall elect an acting Chairperson for that meeting.

ARTICLE IV
Vacancies, Interviews, and Voting

IV.1. Vacancies
County staff shall notify the current Commission of those members whose terms will expire at the end of the calendar year. In cases where a vacancy is created during the middle of a board member’s term (mid-term vacancy), County staff shall notify the Commission as soon as practically possible. County staff shall post a notice of Board vacancies, including
mid-term vacancies, in a local newspaper of record.

IV.2. Candidate Interviews
The Commission shall interview qualified candidates and provide a recommendation to the County Council. At the start of each interview, candidates will be given three minutes to briefly introduce themselves and to provide relevant information as to background and experience. During the interview process Commissioners are encourage to ask questions which verify a candidate’s experience and eligibility of meeting requirements of service. Commissioners shall ask the same questions of each candidate.

IV.3. Voting
The Commission shall vote upon the names of candidates in alphabetical order. Each Commissioner shall be entitled to one vote for each vacancy. Commissioners shall vote by voice or a raise of hands. If requested by the Chair, written ballots may be used for voting purposes.

Planning staff will tally the number of votes cast for each candidate and read this information back to the Commission. Planning Commission, by motion will forward this recommendation, including any findings, to the County Council for consideration.

IV.4. Recommendations to the County Council
The Chairperson, or Planning staff as directed by the Chairperson, shall present the Commission’s recommendation, including any findings, to the County Council.

ARTICLE V
Meetings and Organization

V.1. Open Meetings
All regular meetings, special meetings, workshops, and field trips of the Commission are open to the public and will be noticed in accordance with the requirements of The Open and Public Meetings Act.

V.2. Regular Meetings
Regular Commission meetings shall be twice a month unless there are mitigating circumstances, such as a lack of a quorum, lack of items to be discussed, holidays or other circumstances.

V.3. Annual Training
Commission members are required to attend an annual Open Meetings Training, as provided by Grand County and encouraged to attend the Citizen Planner Workshop, as conducted by the Utah League of Cities and Towns or other entity.

Grand County Planning Commission Bylaws, page 3
V.4. Special Meetings, Workshops, and Field Trips
Special meetings, workshops, and field trips for any purpose may be held at the call of the Chairperson or the Grand County Council.

V.5. Agendas
Agendas shall be set at the direction of the Chairperson. Agendas for regular meetings shall be provided by staff to all members at least three days prior to the meeting.

V.6. Meeting Materials
Planning Department staff shall provide meeting materials to Commission members by 5:00PM the Friday before the Planning Commission meeting date unless extenuating circumstances exist. Meeting materials will be available for review by the public in the Planning Department at 125 East Center Street, Moab, UT 84532 and at the Grand County Library.

V.7. Written Citizen Comment
Any citizen wanting to submit written information to the Planning Commission for inclusion in the Planning Commission meeting materials packet shall provide written comments to the Planning Department by 5:00 PM the Thursday before the Planning Commission meeting date. All documents, including electronically transmitted material, should be submitted directly to the Planning Department. Materials sent to individual Commission members will not be considered.

V.8. Minutes
The recording of minutes of all Commission meetings shall be the responsibility of Planning Department staff. In the event staff is absent from any meeting, the Planning Department may send a designee.

V.9. Rules of Order
In the event a question over procedures arises, Robert’s Rules of Order shall prevail.

V.10. Voting
Commission members shall make a good faith effort to become knowledgeable on matters before the Commission. A quorum of the Commission shall consist of four members and the affirmative vote of at least four members in attendance shall be necessary to pass any motion.

V.11. Motion
All decisions of the Commission shall be made in a public meeting by motion, made and seconded, and by voice vote. Any Commissioner may make or second a motion. If there is any ambiguity on any vote or if the nature of the application or petition warrants, the Chairperson may conduct a roll call vote.

Motions should be supported by reason and include findings. The person making the
motion is encouraged to state the reasons and finding(s) supporting the motion at the time the motion is made. Any conditions for approval must be stated in the motion. The motion may refer to the staff report for details of the conditions for approval if the person making the motion desires to do so.

V.12. Conduct During Public Meetings
During all meetings and hearings, persons providing testimony shall proceed without interruption except by members of the Commission at the discretion of the Chairperson. All comments, arguments, and pleadings shall be addressed to the Chairperson and there shall be no debate or argument between individuals in the audience. There shall be no debate or argument between individuals. The Chairperson shall maintain order and decorum, and, to that end may order removal of disorderly or disruptive persons.

Any member of the Commission, Counsel to the Commission, or the Commission staff, upon recognition by the Chairperson, may direct any questions to the applicant, witness, or any person speaking from the audience for the purpose of eliciting relevant facts. The Chairperson or Commission members may call for relevant facts from staff and make appropriate comments relevant to the matter.

V.13. Time Control
The Chairperson may control the time for debate on any issue. Care should be taken to insure fairness in the hearing process. Those speaking in support and opposed should have substantially equal time. The Chairperson may stop debate once he or she believes the issue has been adequately and fairly heard.

V.14. Citizen, Applicant, and Other Participation by Real-Time Telecommunication
Participation by Citizens, Applicants, and Others may be allowed by real-time telecommunication at the discretion of the Chairperson.

V.15. Commissioner Participation by Real-Time Telecommunication
Commissioner participation by real time telecommunication shall be limited to discussion only. No Commission member shall vote on any matter unless such member is physically present at the meeting when a vote is taken.

V.16. Request to Withdraw or Amend Applications or Petitions
Upon request from the applicant, petitioner, or authorized agent, an application or petition may be withdrawn at any time before the Commission makes a decision on the same.

An applicant, petitioner or authorized agent may amend applications or petitions in any lawful manner on written request delivered to the Commission not less than 14 days prior to the scheduled public meeting. The purpose of this requirement is to assure that the amendment is properly evaluated and addressed in the staff report. In the event that an amendment to an application or petition is received less than 14 days before the public
meeting addressing the same, the staff will orally report to the Commission at the public meeting the nature of the amendment. The Commission shall determine whether the nature of the amendment is such as to require reexamination by the County attorney or staff. If reexamination of the amendment is deemed necessary, the Commission may proceed with the hearing or may continue it to a future date until it has received sufficient information and analysis to make the appropriate findings and conclusions associated with the amended application or petition.

ARTICLE VI
Ethical Considerations

The following ethical principles shall guide the actions of the Commission and its members.

VI.1. Serve the Public Interest
The primary obligation of the Commission and each member is to serve the public interest.

VI.2. Support Citizen Participation in Planning
The Commission shall ensure a forum for meaningful citizen participation and expression in the planning process, and assist in the clarification of community goals, objectives and policies.

VI.3. Conflict of Interest
Planning Commission members shall adhere to Grand County policy as stated in Ordinance 462 regarding conflicts of interest. A member with a conflict of interest shall be required to disclose such conflict prior to consideration of the matter by the Planning Commission. A member with a conflict of interest may not attempt to influence other members or appointed staff outside the meeting. A member with a conflict of interest shall be required to recuse herself or himself from participating in, commenting on, or voting on the matter in which such conflict exists.

VI.4. Ex Parte Communication / Ensure Full Disclosure at Public Meetings
Each case shall be decided on the basis of the evidence placed in the record in a public meeting. Ex parte information on any application received by a Commissioner, whether by mail, telephone, or other communication should be avoided. When such communication does occur it must be made part of the public record by the Commission member. The purpose of disclosing ex parte communication is to get all information on the record so it can then be addressed, confirmed or refuted, by evidence presented by the parties during a meeting.

VI.5. Maintain Public Impartiality
Commission members may seek information from other Commission members, the counsel to the Commission, staff serving the Commission, or the staff of other departments or
agencies advising the Commission. Each member of the Commission has an ethical duty to avoid making public statements for or against the merits of any application before the Commission hearing is concluded and a decision or recommendation has been rendered.

VI.6. Faithful Attendance and Performance
Should circumstances arise where a Planning Commission member is unable to attend a scheduled meeting, the member shall be responsible for notifying the Chair or Planning Department staff as soon as possible. If circumstances prevent faithful attendance and performance of Planning Commission member duties, the member should resign from the Planning Commission.

ARTICLE VII
Resignations and Removal of Membership

VII.1. Resignations
Any member of the Commission must submit a signed letter of resignation specifying the effective date on which the member’s service will cease. The letter of resignation shall be submitted to the County Council Office as per County Resolution ____ (2013).

VII.2. Acceptance of Resignation
The County Council shall accept resignation upon receipt thereof.

VII.3. Removal from Commission
Planning Commission may request the resignation of a member for reasons of attendance and/or ethical considerations. County Council may remove a Commission member for cause prior to the expiration of the appointed term.

ARTICLE VIII
Adoption, Review, and Amendment of Bylaws

VIII.1. Annual Review and Amendment
The bylaws will be reviewed by the Commission at the beginning of each calendar year. Amendments will be recommended to the County Council for approval as per County Ordinance 472 (2008).

VIII.2. Waiving or Suspending Rules
A rule of procedure may be suspended or waived at any meeting by unanimous vote of the Commission members present unless such rule is set by state law or County ordinance.
April 23, 2019

A regular meeting of the Grand County Planning Commission convened on the above date at the Grand Center, 182 N. 500 W., Moab, UT 84532

**Members Present:** Chair Gerrish Willis, Vice Chair Abby Scott, Christine “Cricket” Green, Kevin Walker, Emily Campbell, and Rachel Nelson.

**Members Absent:** Robert O’Brien

**Staff Present:** Zacharia Levine and Kenny Gordon

**Council Liaison:** Terry Morse

Meeting was called to order at 5:00 pm by Chair Gerrish Willis.

**Citizens to be heard:** Too much growth, too many people. A problem for one side of the County is a problem for the whole valley.

**Ex Parte Communication:** None

**Action Items:**

- Sandstone Cottages HDHO Application and Preliminary Plat application postponed to the May 14, planning commission meeting.

Public Hearing to solicit public input on proposed amendments to the High Density Housing (HDH) Overlay Ordinance to clarify standards and procedures and to correct a presumed mapping error in the adopted map.

Presented by Zacharia Levine. On January 15, 2019, the Grand County Council adopted Ordinance 584 establishing the High Density Housing Overlay (HDHO) boundaries and associated standards of development.

Following adoption of Ordinance 584, the County Attorney and Community and Economic Development Office collaborated to clarify the development standards and review and approval procedures set forth in the ordinance. Staff will review the redlined changes to the previously adopted ordinance in the planning commission meeting.

In addition to the standards and procedures clarifications, staff believes the adopted map inadvertently and erroneously omitted two parcels from the HDH 15 district. The parcels are located near Jackson St. A record of mapping conversations related to the subject parcels is included for reference.

Emily Campbell, requested a summary explanation from the County Attorney of why the “caretaker” verbiage could not be included in the HDHO Ordinance, including why it goes against fair housing ordinance.

Amy Weiser, Project Manager Business Resolutions, LLC., representing the owner of Grand County parcel numbers 02-0007-0084 & 02-0MAY-0010. Supports staff on suggested map changes.

Marc Horwitz. Why tiny lots with homes on them were included in the HDHO? Example of deed restricted lot on the plat for May Estates.

Zacharia Levine. If there is a restriction on the deed already, that deed restriction supersedes the HDHO. If there is a restriction that prevents further subdivision then further subdivision can't happen, that gets evaluated at the time of application.

Gerrish Willis recommends splitting the motions into two, one for the ordinance revisions and one for the map revisions.

Gerrish Willis closes public hearing and entertains motions on the proposed changes to the ordinance.

Abby Scott moves to send a favorable recommendation to the County Council for adoption of the proposed ordinance amending the High Density Housing Overlay ordinance to clarify development review procedures including the amendment regarding full time seasonal work of average of thirty (30) hours per week for nine (9) months out of the year.

Seconded by Emily Campbell.
Discussion: Kevin Walker concerns about the change of legislative and administrative decisions. Zacharia Levine clarifies that nothing changed it was just an effort to further clarify procedures.

Vote: For 5, against 1 (Kevin Walker). Motion carries.

Gerrish Willis entertains motions on the proposed changes to correct a presumed mapping error in the adopted map.

Emily Campbell moves to send a favorable recommendation to County Council to adopt a main portion of the lot at 1212 South Jackson Street into the High Density Housing Overlay district under the HDH15.

Seconded by Christine Green.

Discussion: Christine Green, the property in question is already included. Emily Campbell, makes sense given the changes in the map. Kevin Walker, regardless makes sense to notify surrounding properties. Rachel Nelson, agrees with Kevin Walker. Gerrish Willis at a later meeting would like to discuss noticing procedures.

Emily Campbell amends motion to direct staff to sending out notices and posting signs prior to the May 14th County Council meeting and to send a favorable recommendation to County Council to adopt a main portion of the lot at 1212 South Jackson Street into the High Density Housing Overlay district under the HDH15.

Seconded by Abby Scott.

Discussion: Rachel Nelson does this set a precedence? Abby Scott at a later meeting would like to discuss noticing procedures.

Vote on amended motion: For 5, against 0, with 1 abstention (Kevin Walker). Motion carries.

Vote on main motion: For 4, against 2 (Rachel Nelson & Kevin Walker). Motion carries.

Approval of Minutes: April 9, 2019: Emily Campbell, motion approve the April 9, 2019 meeting minutes with suggestions. Seconded by Christine Green. Vote, 5 for and 0 against, with Gerrish Willis abstaining, motion carries.

Zacharia Levine presented a presentation prepared by Landmark Design and presented to the City Planning Commission and City Council Regarding the Future Land Use Planning Process and Overnight Accommodations Moratorium, at a pre-council workshop on April, 23, 2019.

Future Considerations:

Community Development Department Update: None.

County Council Liaison report: None.

Adjournment: Motion to adjourn meeting, all were unanimous. Adjourned at 7:48 pm.