

WEST HAVEN CITY
COUNCIL AGENDA

AMENDED

February 1, 2023 6:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

NOTICE IS HEREBY GIVEN THAT ON **February 1, 2023** THE COUNCIL OF WEST HAVEN CITY WILL HOLD THE FOLLOWING PUBLIC MEETINGS: **5:00 PM: COUNCIL WORKSHOP** **6:00 PM: REGULAR WEDNESDAY CITY COUNCIL MEETING**. JOIN US DIGITALLY FOR THE WORK SESSION AND COUNCIL MEETING AT [HTTPS://US06WEB.ZOOM.US/J/81581435918](https://us06web.zoom.us/j/81581435918). WATCH LIVE AT [HTTPS://WWW.YOUTUBE.COM/CHANNEL/UC6EQNBTFZJWTFOPHMCNCBA](https://www.youtube.com/channel/UC6EQNBTFZJWTFOPHMCNCBA).

- 1. MEETING CALLED TO ORDER: Mayor Vanderwood
- 2. OPENING CEREMONIES
 - A. PLEDGE OF ALLEGIANCE Councilmember Dixon
 - B. PRAYER/MOMENT OF SILENCE Councilmember Call
- 3. PUBLIC PRESENTATION: Resident(s) attending this meeting will be allotted 2 minutes to express a concern or ask a Question about any issue that **IS NOT ON THE AGENDA** No action can or will be taken on any issue(s) presented.

- 4. UPCOMING EVENTS
 - Senior Lunch Bunch-February 22, 2023-11:30 AM
 - Easter Egg Hunt-April 8, 2023-9:00 AM

5. COUNCIL UPDATES

AGENDA ACTION ITEMS

6. ACTION ON CONSENT AGENDA

A. CITY COUNCIL MINUTES	MEETING HELD	January 4, 2023
B. SPECIAL CITY COUNCIL MINUTES	MEETING HELD	January 10, 2023
C. SPECIAL CITY COUNCIL WORK SESSION MINUTES	MEETING HELD	January 17, 2023
D. STRATEGIC PLAN CITY COUNCIL MINUTES	MEETING HELD	January 18, 2023
E. MARRIOTT CONSTRUCTION	\$393,507.37	Inv.#6700
F. WEBER COUNTY SHERIFF	\$426,190.00	Inv.#42188

7. PRESENTATION-AUDIT REVIEW-ULRICH & ASSOCIATES, PC

8. PRESENTATION-THE LOUDER AND PROUDER TOUR-WEBER STATE UNIVERSITY-BRAD MORTENSEN

9. ACTION ON PLANNING COMMISSION MEETING RECOMMENDATION(S)

- A. ACTION ON ORDINANCE 03-2023-PATIO HOME ZONE
- B. ACTION ON RESOLUTION 04-2023-MODERATE INCOME HOUSING
- C. ACTION ON ORDINANCE 04-2023-REZONE FROM A-1 TO C-2-3675 S MIDLAND DRIVE
- D. ACTION ON ORDINANCE 05-2023-MASTER DEVELOPMENT AGREEMENT-21 SOUTH-MIXED USE PROJECT-2000 S 1350 W-PONDEROSA CAPITAL

10. ACTION ON RESOLUTION 05-2023-CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY

- 11. ADVISE & CONSENT OF: FOUR (4) EVENTS COMMITTEE MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill four, 1-year term position. The new terms will be from January 1, 2023 thru December 31, 2023.
- 12. ADVISE & CONSENT OF: THREE (3) EVENTS COMMITTEE MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill three, 2-year term position. The new terms will be from January 1, 2023 thru December 31, 2024.
- 13. ADVISE & CONSENT OF: SIX (6) EVENTS COMMITTEE MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill six, 3-year term position. The new terms will be from January 1, 2023 thru December 31, 2025.
- 14. ADVISE & CONSENT OF: FIVE (5) ARTS COUNCIL MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill five, 2-year term position. The new terms will be from January 1, 2023 thru December 31, 2024.
- 15. ADVISE & CONSENT OF: FIVE (5) ARTS COUNCIL MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill five, 1-year term positions. The new terms will be from January 1, 2023 thru December 31, 2023.
- 16. ADVISE & CONSENT OF: FOUR (4) BEAUTIFICATION COMMITTEE MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill four, 2-year term positions. The new terms will be from January 1, 2023 thru December 31, 2024.
- 17. ADVISE & CONSENT OF: TWO (2) BEAUTIFICATION COMMITTEE MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood To fill two, 1-year term positions. The new terms will be from January 1, 2023 thru December 31, 2023.

18. ADJOURNMENT

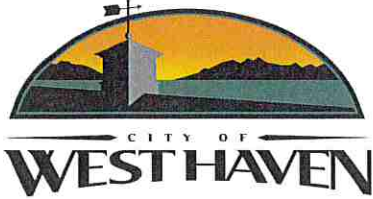
Emily Green

Emily Green, City Recorder

In compliance with the Americans with Disabilities Act, persons needing special accommodations, including auxiliary communicative aids and services, for this meeting should notify the city recorder at 731-4519 or by email: emilyg@westhavencity.com at least 48 hours in advance of the meeting.

CERTIFICATE OF POSTING

The undersigned, duly appointed city recorder, does hereby certify that the above notice and agenda has been posted in the West Haven City Recorder's office; at the West Haven City Complex on the Notice Board and at westhavencity.com; emailed to the Standard-Examiner with a request that it be posted in their Wednesday night meeting section; mailed and emailed to the West Haven City Mayor and each West Haven City Council Member who has email capacity and to the city attorney



**WEST HAVEN CITY
PRE-COUNCIL WORKSHOP AGENDA
HELD PRIOR TO CITY COUNCIL MEETING
WEDNESDAY FEBRUARY 1, 2023**

@

5:00 PM – In City Council Chambers

*NO ACTION CAN OR WILL BE TAKEN ON ANY CITY COUNCIL MEETING AGENDA ITEMS DISCUSSED DURING
PRE-COUNCIL WORKSHOP - DISCUSSION OF SUCH ITEMS IS FOR CLARIFICATION OF AGENDA ITEMS.*

MEETING TO ORDER:

MAYOR VANDERWOOD

REPORTS AND DISCUSSION AS FOLLOWS:

1. Discussion-Council Discussion
2. Discussion-Inventory
3. Discussion-Riverbank Stabilization
4. Discussion-Strategic Initiatives

STAFF REPORT

TO: City Council
FROM: Matt Jensen
DATE: February 1, 2023
SUBJECT: Strategic Initiatives 2023



This staff report presents a summary of the initiatives discussed at the Strategic Retreat held on January 18, 2023.

BACKGROUND

During the January 18, 2023 Strategic Retreat, Council and staff discussed initiatives to help with implementation of the Strategic Priorities that were adopted in 2022. Initiatives will be the starting point for staff to develop projects/tasks to implement the Council's initiatives.

ANALYSIS

The results of the Retreat provided a mix of general initiatives along with priority projects/tasks. Distilling these down, the attached pages provides a draft of the initiatives and some of the priority projects/tasks listed under. There are some shared nature between some initiatives between priorities. This could be clarified with a bit of reclassification as the Council decides.

The next step would be to have staff provide additional projects/tasks aimed at implementing these initiatives over the next 12 to 24 months. Preliminary discussion on that, if initiatives are approved, would occur during Council work session on 2/15.

RECOMMENDATION

Staff requests Council to approve initiatives for further development of projects/tasks. Additions or clarifications are welcome.

Strategic Priority

Define Community Development

Initiative	1) Improve Identification of West Haven as a community	
Task	Assignment	Note
Establish City entrance markers at major roads	Admin/ Parks&Rec	
Explore opportunity for electronic messaging signs	Admin	Note - Moved from 'Strengthen Community Identity'
Explore establishing a Main Street corridor	Council	Needs definition

Initiative	2) Establish strategic pedestrian network	
Task	Assignment	Note
Complete road/sidewalk inventory	Engineer/ PW	
Identify areas where sidewalks should be added/replaced by the City	Engineer/ PW	
Develop ordinance/policy to address agricultural areas where sidewalk is not necessary	Engineer/ Comm Dev	

Initiative	3) Develop City's trail system & open spaces	
Task	Assignment	Note
Identify & prioritize opportunities for trails and open space	Admin/ Parks&Rec	
Develop maintenance/improvement plan for trail system	Parks&Rec	
Develop trail marker systems	Parks&Rec	

Initiative	4) Develop tools for public outreach and education	
Task	Assignment	Note
Implement a resident survey tool for engagement (i.e. general plan, budget, events)	Admin/ Comm Dev/ Parks&Rec	
Develop tools to help educate the public on City processes	Comm Dev	
Clearly define areas of growth and their proposed uses	Comm Dev	

Other Initiatives Discussed	Votes
Farmers Market	2
Strategic Street Lights	0
Park n' Ride (4000 S)	0

Strategic Priority*Strengthen Community Identity*

Initiative	1) Develop Effective Community Opportunities	
Task	Assignment	Note

Reintroduce CERT Program	Admin	
Create & Expand community opportunities like dumpster days	PW	

Initiative	2) Emphasize a West Haven identity	
Task	Assignment	Note

Explore unique amenities and events to help differentiate West Haven	Parks&Rec/ Events	
Concentrate on partnering with local businesses on events	Events	
Emphasize City participation in County events	Admin	
Increase opportunities for beautification projects	Beaut. Comm.	

Initiative	3) Improve Communication of City Events and Activities	
Task	Assignment	Note

Explore social media consultant option	Admin	
Evaluate social media and other platforms for effective communication to residents	Admin	

Other Initiatives Discussed	Votes
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Improve welcoming nature of neighborhoods	0
Sponsorship of events	0
Events that improve comm gathering	1

Strategic Priority

Emphasize Economic Development

Initiative	<i>Develop an economic tool kit</i>	
Task	Assignment	Note
Explore parameters for RDA/CRA options	Admin	
Evaluate approaches to expand economic development	Admin	
Explore options for public/private partnership	Admin	

Initiative	<i>Diversify commercial base</i>	
Task	Assignment	Note
Review land use ordinances	Comm Dev	
Engage with NUEC		

Initiative	<i>3) 21 Street Development Plan</i>	
Task	Assignment	Note
Explore specific RDA/CRA Options	Comm Dev	
Update plan with actionable options to pursue	Comm Dev	

Initiative	<i>4) Champion Local Businesses</i>	
Task	Assignment	Note

Other Initiatives Discussed	Votes
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Strategic Priority

Champion Fiscal Responsibility

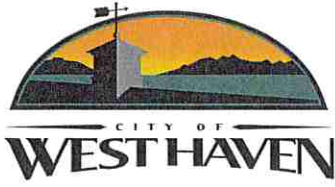
Initiative		
1) Increase opportunities for Resident input on Budget		
Task	Assignment	Note
Develop resident budget document	Admin	
Publish budget process through newsletter/website/social media	Admin	
Continual improvement on budget format	Admin	

Initiative		
2) Audit City processes for efficiencies		
Task	Assignment	Note
Consultant review of department composition/personnel load	Admin	
Audit all fees to insure City costs are covered as appropriate	Admin	Sub-tasks to all departments
Work to identify areas of waste	Admin	

Initiative		
3) Consider opportunities for improve investment		
Task	Assignment	Note
Pursue grant funding	Admin/ Grants	
Explore opportunities outside of WACOG & WFRC	Admin/ Grants	
Explore non-property tax options for revenue	Admin	

Initiative		
4) Plan for Emergencies		
Task	Assignment	Note
Update Emergency Management Plan	Admin	
Review EOC for practicality	PW/ Parks&Rec	
Implement Safety Committee	Admin	

Other Initiatives Discussed	Votes
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WEST HAVEN CITY COUNCIL MEETING MINUTES

January 4, 2023 6:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

Present:	Rob Vanderwood	Mayor
	Carrie Call	Councilmember
	Kim Dixon	Councilmember
	Ryan Swapp	Councilmember
	Ryan Saunders	Councilmember
Staff Present:	Emily Green	City Recorder
	Matthew Jensen	City Manager
	Alike Murphy	Planner I
	Edward Mignone	City Engineer
	Amy Hugie	City Attorney
	Shari Phippen	Community Development Director
Excused:	Nina Morse	Councilmember

5:00 Council Workshop

Mayor Vanderwood brought the meeting to order.

Councilmember Saunders asked about emergency management and what is currently planned for the city and if we have someone that manages that.

Matthew Jensen said that he manages emergency management and that we currently have a plan in place that should be updated fairly soon.

City Council discussed going over their responsibilities in an emergency.

Councilmember Swapp asked for an update on the contamination of the slough.

Matthew Jensen said that we have issued citations, but he will double check where that is at.

Councilmember Dixon asked about the strategic plan.

Matthew Jensen said that we will be doing that on the 18th in lieu of a regular meeting.

Councilmember Swapp asked about having hyperlinks to pdfs of the previous original code online.

Emily Green said that when she researched this American Legal Publishing gave a quote for each hyperlink and at the time it was not cost effective, but agreed to double check the price to see if the city might want it for the future.

City Council discussed putting that in the budget the next fiscal year.

Matthew Jensen went over the UTOPIA sites and the aesthetics for the sheds.

City Council discussed moving the shed at City Hall further back.

1. MEETING BROUGHT TO ORDER:

The Council met at their regularly scheduled meeting held in the Council Chambers.

Mayor Vanderwood brought the Meeting to order at 6:01 pm. and welcomed those in attendance.

2. **OPENING CEREMONIES**

- A. Lead by Councilmember Swapp
- B. Lead by Councilmember Saunders

3. **PUBLIC PRESENTATION**

No one came up at this time.

4. **UPCOMING EVENTS**

Senior Lunch Bunch-January 25, 2023-11:30 AM

5. **COUNCIL UPDATES**

No updates at this time.

6. **ACTION ON CONSENT AGENDA**

- A. CITY COUNCIL MINUTES
- B. IVORY HOMES

MEETING HELD
\$54,307.46

December 21, 2022
Inv.#Refund

Councilmember Dixon made a motion to approve the consent agenda. **Councilmember Call seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Saunders, aye; Councilmember Swapp, aye; **Vote was unanimous.**

7. **PRESENTATION-QUARTERLY FINANCIAL UPDATE-AMY DAVIES**

Amy Davies gave a presentation on the quarterly financial update.

8. **ADVICE & CONSENT OF: TWO (2) PLANNING COMMISSION MEMBER APPOINTMENTS-Submitted by Mayor**

Vanderwood To fill two, 4-year term positions available due to the expiring terms of Kirt Nalder and Scott Epperson. The new terms will be from January 1, 2023 thru December 31, 2026.

Mayor Vanderwood presented Jeff Reed and Matt Nece

Councilmember Dixon made a motion to give advice and consent for Jeff Reed and Matt Nece to Planning Commission. **Councilmember Swapp seconded** the motion.

Amy Hugie brought up the concern that the mayor had not yet presented a policy on appointing Planning Commission members.

Mayor Vanderwood recommended doing this in a special session.

Councilmember Dixon withdrew her motion. **Councilmember Swapp withdrew his second.**

Councilmember Dixon made a motion to table. **Councilmember Saunders seconded** the motion. Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Saunders, aye; Councilmember Swapp, aye; **Vote was unanimous.**

9. **ADVICE & CONSENT OF: TWO (2) WHSSD BOARD MEMBER APPOINTMENTS-Submitted by Mayor Vanderwood** To fill two, 4-year term positions available due to the expiring terms of Bryan Harms and Kirt Nalder. The new terms will be from January 1, 2023 thru December 31, 2026.

Mayor Vanderwood presented Melinda Stimpson and James Jenson

Councilmember Saunders made a motion to give advice and consent for Melinda Stimpson and James Jenson to the WHSSD Board. **Councilmember Dixon seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

10. **ADVICE & CONSENT OF: MAYOR PRO TEM Submitted by Mayor Vanderwood**

Mayor Vanderwood presented Councilmember Call.

Councilmember Dixon made a motion to give advice and consent for Councilmember Call as Pro Tem. **Councilmember Swapp seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

11. **PUBLIC HEARING-**For the purpose of receiving public input on adopting an ordinance for committees

Councilmember Dixon made a motion to enter into public hearing. **Councilmember Call seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood invited the public up for comment.

No one came up at this time.

Councilmember Saunders made a motion to leave public hearing. **Councilmember Dixon seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

12. **ACTION ON PUBLIC HEARING-**Action on Ordinance 01-2023-Adopting an ordinance for committees

Councilmember Call said on section 32.04 number 8 it says that the committees will have an annual presentation from the chairman and suggested adding or designee.

Mayor Vanderwood said that 32.04 B 2 b he thought should be changed to the first of the year.

Councilmember Call said there are different dates for arts council and the youth council and it conflicts with this section.

Councilmember Saunders suggested changing it to at the end of a one-year term beginning at a time to be determined by the committees.

Mayor Vanderwood suggested changing 32.04 B 2 b to beginning in the month of January and ending on the last day of December in the same year.

Councilmember Call suggested adding the special events position into the ordinance.

Councilmember Swapp agreed that it should be included.

Matthew Jensen suggested adding to section 32.05 and item D that says City Staff Support. A Special Events Coordinator shall serve as dedicated staff support for the Community Events Committee. They will provide administrative, grant, and sponsorship coordination and other services as required.

Councilmember Dixon expressed concern about the 32.16 C item 6, she said that they do sometimes allow members who are not residents.

Mayor Vanderwood suggested allowing non-residents to be considered under the advice of the Mayor and City Council.

Councilmember Swapp made a motion to adopt ordinance 01-2023 with amendments as shown. **Councilmember Saunders seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

13. **PUBLIC HEARING-**For the purpose of receiving public input on amending the ordinance for the roles and duties of Mayor and City Council

Councilmember Dixon made a motion to enter into public hearing. **Councilmember Swapp seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood invited the public up for comment

No one came up at this time.

Councilmember Saunders made a motion to leave public hearing. **Councilmember Dixon seconded** the motion. Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

14. **ACTION ON PUBLIC HEARING-Action on Ordinance 02-2023**-Amending the ordinance for the roles and duties of Mayor and City Council

Mayor Vanderwood asked why the numbers were taken off for the prior code.

Amy Hugie explained that she wasn't sure how American Legal publishing would handle the old code numbers because this ordinance would be repealing and replacing.

Councilmember Call suggested changing 30.06 C to add electronically on the 3-hour notification.

Councilmember Call made a motion to adopt ordinance 02-2023 and add electronically to 30.06 C. **Councilmember Swapp seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

15. **ACTION ON PUBLIC HEARING-Action on Ordinance 36-2022**-Readopting a procurement policy

Councilmember Call asked about specifying when the training would need to be completed.

Councilmember Dixon suggested annually.

Councilmember Dixon made a motion to adopt ordinance 36-2022 with the addition of annual training. **Councilmember Saunders seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

16. **ACTION ON RESOLUTION 01-2023-MEETING SCHEDULE**

Councilmember Call made a motion to adopt resolution 01-2023. **Councilmember Dixon seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

17. **ACTION ON RESOLUTION 37-2022-CABLE AND FACILITIES EASEMENTS BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY**

Matthew Jensen suggested removing the City Hall contract from this resolution for the time being so that is could be moved back as discussed previously.

Councilmember Call said that the Fairgrove contract still did not have the correct address.

Mayor Vanderwood said that the site maps needed to have Exhibit A on them so that is shows as an exhibit.

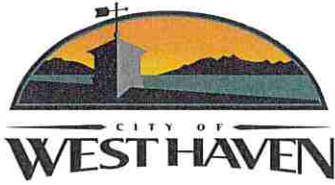
Councilmember Call made a motion to adopt resolution 37-2022 including the three contracts and the changes to exhibit A. **Councilmember Dixon seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

18. **ADJOURNMENT**

Councilmember Call moved to adjourn at 7:29 PM. **Councilmember Saunders seconded** the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Emily Green
City Recorder

Date Approved: _____



WEST HAVEN CITY SPECIAL COUNCIL MEETING MINUTES

January 10, 2023 5:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

Present: Rob Vanderwood Mayor
Carrie Call Councilmember
Ryan Saunders Councilmember
Nina Morse Councilmember
Kim Dixon Councilmember

Staff Present: Emily Green City Recorder
Matthew Jensen City Manager

Excused: Ryan Swapp Councilmember

1. **MEETING BROUGHT TO ORDER:**

Mayor Vanderwood brought the Meeting to order at 5:01 pm. and welcomed those in attendance.

2. **PRESENTATION-PLANNING COMMISSION_APPOINTMENT PROCESS POLICY-MAYOR VANDERWOOD**

Mayor Vanderwood presented his policy for the appointment process.

3. **ADVICE & CONSENT OF: TWO (2) PLANNING COMMISSION MEMBER APPOINTMENTS-Submitted by Mayor**

Vanderwood To fill two, 4-year term positions available due to the expiring terms of Kirt Nalder and Scott Epperson. The new terms will be from January 1, 2023 thru December 31, 2026.

Mayor Vanderwood presented Jeff Reed and Matt Nece.

Councilmember Call made a motion to give advice and consent for Jeff Reed and Matt Nece for Planning Commission.

Councilmember Morse seconded the motion. Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Morse, aye; Councilmember Saunders, aye; **Vote was unanimous.**

4. **ACTION ON RESOLUTION 02-2023-RIGHT OF WAY ACQUISITIONS-3300 S-3 PARCELS**

Councilmember Morse made a motion to adopt resolution 02-2023. **Councilmember Saunders seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Morse, aye; Councilmember Saunders, aye; **Vote was unanimous.**

5. **ACTION ON RESOLUTION 03-2023-RAMP GRANT APPLICATIONS**

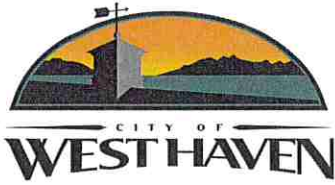
Councilmember Dixon made a motion to adopt resolution 03-2023. **Councilmember Call seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Morse, aye; Councilmember Saunders, aye; **Vote was unanimous.**

6. **ADJOURNMENT**

Councilmember Call moved to adjourn at 5:16 PM. **Councilmember Morse seconded** the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; **Vote was unanimous.**

Emily Green
City Recorder

Date Approved: _____



**WEST HAVEN CITY
SPECIAL COUNCIL WORK SESSION MEETING MINUTES**

January 17, 2023 6:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

Present: Rob Vanderwood Mayor
Carrie Call Councilmember
Ryan Saunders Councilmember
Nina Morse Councilmember
Kim Dixon Councilmember
Ryan Swapp Councilmember

Staff Present: Emily Green City Recorder
Matthew Jensen City Manager
Amy Hugie City Attorney
Shari Phippen Community Development Director

1. MEETING BROUGHT TO ORDER:

Mayor Vanderwood brought the Meeting to order at 6:01 pm. and welcomed those in attendance.

2. DISCUSSION-CITY COUNCIL COMMUNITY PLANNING DIRECTIVE, STAFF POLICY, GENERAL PLAN-COUNCILMEMBER SWAPP

Councilmember Swapp said that he is proposing a policy that will help direct staff because of the recurring issues with zoning.

Matthew Jensen said that he is hesitant to have a procedure that overrides our ordinances because of the legal ramifications.

Councilmember Swapp asked if the general plan is a guiding document and not a legal document.

Shari Phippen said that all general plans are advisory, but the issue with our general plan is there are no goals or policies. She said that a well written general plan will have visions, goals, and strategies.

Shari Phippen said that Planning Commission will be discussing this issue in their next meeting halting the development applicationst

Councilmember Swapp asked about the RDA that was discussed in the budgeting process.

Matthew Jensen said that he has contacted a few companies about this.

Councilmember Swapp expressed some concern about taking 12 months to fix the general plan, because that could potentially leave us wide open for developments that were not initially intended.

Matthew Jensen said that if we correct our commercial overlay that should resolve those issues.

Councilmember Dixon asked if Planning Commission reviewed this zone if it will start the moratorium.

Shari Phippen said this will table the applications for the future.

Mayor Vanderwood expressed concern about still needing to line out specific areas for commercial.

Mayor Vanderwood expressed concern in the community not really having space for a grocery store.

Matthew Jensen said that its important to know what the council would like for the future, if they would prefer a bedroom community or something else.

Councilmember Call asked if they were only discussing the overlay in Planning Commission.

Shari Phippen confirmed that they are.

Councilmember Dixon said fixing the commercial overlay is important and is in favor of an informal moratorium. She asked if there are any issues in the future, that the City council could be notified.

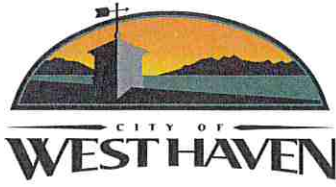
Matthew Jensen confirmed they could.

3. **ADJOURNMENT**

Councilmember Dixon moved to adjourn at 7:29 PM. **Councilmember Saunders** seconded the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Swapp, aye; Councilmember Morse, aye; Councilmember Saunders, aye; **Vote was unanimous.**

Emily Green
City Recorder

Date Approved: _____



WEST HAVEN CITY STRATEGIC PLAN CITY COUNCIL MEETING MINUTES

January 18, 2023 5:00 P.M.
Roy Hope Center
5051 S 1900 W Roy, UT. 84067

Present: Rob Vanderwood Mayor
Carrie Call Councilmember
Ryan Saunders Councilmember
Ryan Swapp Councilmember
Kim Dixon Councilmember

Staff Present: Emily Green City Recorder
Matthew Jensen City Manager
John Wallace Water and Sewer Supervisor
Shari Phippen Community Development Director
Amy Hugie City Attorney
Jamie Williams WHSSD Recorder
Scott Venstra Public Works Director
Edward Mignone City Engineer
Colt Prevedel Storm Water Coordinator
Brock Randall Parks and Recreation Director

Excused: Nina Morse Councilmember

1. **WELCOME-MAYOR VANDERWOOD**

Mayor Vanderwood brought the Meeting to order at 5:01 pm. and welcomed those in attendance.

2. **DINNER-COMMUNICATION EXERCISE**

City Council and staff played code names as a communication exercise.

3. **REVIEW OF VISION/MISSION/STRATEGIC PRIORITIES**

City Council and staff reviewed the vision/mission/strategic priorities.

4. **DISCUSSION-SWOT ANALYSIS**

Everybody's SWOT Analysis were combined.

5. **WORKSHOP-STRATEGIC INITIATIVES**

City Council and staff thought of strategic initiatives under the following categories:

- Define Community Development
- Strengthen Community Identity
- Emphasize Economic Development
- Champion Fiscal Responsibility

6. **WRAP UP**

City Council and staff chose the most important initiatives.

7. **ADJOURNMENT**

Councilmember Dixon moved to adjourn at 8:41 PM. **Councilmember Saunders** seconded the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Swapp, aye; Councilmember Saunders, aye; **Vote was unanimous.**

Emily Green
City Recorder

Date Approved: _____

ORDINANCE NO. 03-2023

AN ORDINANCE OF WEST HAVEN CITY AMENDING THE RESIDENTIAL PATIO HOME ZONE; AND PROVIDING AN EFFECTIVE DATE FOR THESE CHANGES.

Section 1 – Recitals

WHEREAS, the City of West Haven (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and

WHEREAS, the City Council finds that in conformance with UC §10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by the laws of the State of Utah or any other provision of law; and,

WHEREAS, West Haven City has adopted and promulgated city ordinances and rules regarding zoning and acceptable uses within those zones in the City; and

WHEREAS, the City Council finds that certain changes to the West Haven City Zoning Code in regards to amending the language for §157.410-157.419 “Residential Patio Home Zone” should be made; and

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue in this matter and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED by the City Council of West Haven City, Utah that the following portions of the West Haven City Zoning Code be, and the same is, changed and amended to read as follows:

- a. **§ 157.410 through and including §157.419 - Residential Patio Home Zone is amended as found in the attached Exhibit A.**

The forgoing Recitals are fully incorporated herein.

Section 2 – Prior Ordinances and Resolutions

That the above changes, where they may have been taken from prior City Ordinances and Resolutions, are listed here for centralization and convenience; and that the body and substance of those prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 3 – Repealer of Conflicting Enactments

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts thereof, which conflict with this Ordinance are, for such conflict, repealed, except that this repeal will not be construed to revive any act, order or resolution, or part.

Section 4 – Savings Clause

If any provision of this Ordinance be held or deemed invalid, inoperative or unenforceable, such will render no other provision or provisions invalid, inoperative or unenforceable to any extent whatsoever, this Ordinance being deemed the separate independent and severable act of the City Council of West Haven City.

Section 5 – Date of Effect

This Ordinance shall be effective as of the date of signing and after being published or posted as required by law.

DATED the ____ day of February, 2023

WEST HAVEN CITY

Rob Vanderwood
Mayor

ATTEST:

Emily Green, City Recorder

DRAFT

PH- RESIDENTIAL PATIO HOME ZONE**§157.410 Purpose**

The Purpose of the Patio Home Zone is to provide an acceptable housing style for single family “empty nest” type housing that is a sustainable quality product within West Haven City. To provide for areas in appropriate locations where quiet residential neighborhoods may be established and protected.

§157.411 Permitted Uses

1. Accessory Uses and buildings (Only behind homes) Less than 200 sq. ft.
2. Dwellings, single family detached
3. Animal Keeping. See Animal Keeping Ordinance.
4. Home Occupations with no visiting clientele
5. Pets, the Keeping of household pets
6. Any use not specifically permitted or conditional is strictly prohibited.

§157.412 Conditional Uses

Conditions for approval shall be determined as provided in the conditional use ordinance.

1. Church (temporary churches held in open areas, tents or in temporary structures excluded.)
2. Home Occupations with visiting clientele in accordance with the Home Occupation Ordinance.

§157.413 Building Lot Requirements

1. **Density:** There shall be no more than 5.0 residential units per acre contained within the boundaries of each phase of every subdivision or planned unit development; except when previously completed phases of the same development have sufficiently low density that the average is still 5.0 residential units per acre or less.
2. **Lot Area:** There shall be a minimum of six thousand (6,000) sq. feet in each lot. Corner lots shall be a minimum of six thousand four hundred (6,400) sq. feet.
3. **Lot Width:** Minimum lot width shall be 50 feet, Corner lots 60 feet.

§157.414 Location of Structures

1. **Dwellings**
 - A. **Front Setback-** 20 feet from the property line to garage, 18 feet for the home.
 - B. **Side Setback-** 5 feet minimum on each side, except 15 feet minimum for side fronting on a street.
 - C. **Rear Setback-**The rear lot line has to average 18 feet
2. **Detached Accessory Buildings and Garages:** Accessory Buildings larger than 200 sq. feet shall be as follows. The size and location of accessory buildings shall be

evaluated and approved during the approval process and shall be outlined in the development agreement and CC&R's. Otherwise non allowed over 200 sq. ft. Accessory Dwelling Units are not permitted.

3. Detached Accessory Buildings and Garages-200 Sq. Ft. and smaller

- a. **Front Setback**-All accessory building must be behind the home or behind the plane of the rear wall of the home.
- b. **Side Setback**-5 feet
- c. **Rear Setback**-5 feet

§157.4151.06 Zero Lot Lines

- ~~1. Developers wishing to provide attached single level single family homes (zero lot lines) may request a development agreement with the City which will outline the provisions under which such homes would be allowed.~~
- ~~2. If a development agreement is approved allowing zero lot line projects, developer shall be required to maintain the density requirements of this zone but shall not be required to maintain a minimum lot size for such uses.~~

§157.416 Maximum Structure Height

- 1. Dwelling or other main building, twenty-five (25) feet. Habitable attic space permitted over garage area.
- 2. Accessory Building fifteen (15) feet

§157.417 Landscaping

- 1. Landscaping and Automatic Sprinkler System to be installed with construction contract. At least one (1) tree is to be planted per lot. (trunk size is to be 2-inch diameter or larger). Fencing standardized within development.
- 2. Developer shall pay a Landscaper cash bond of \$8,500, specifically for landscape installation, ~~at~~ the time of issuance of the building permit. The normal landscape installation will be required within 30 days of the C/O issuance. However, when that 30-day period cannot be achieved due to short secondary water season, the landscape shall be installed by or prior to the next May 15th. The entire Landscape Cash bond amount shall be held by the City until final completion of the required landscaping.

§157.418 Off Street Parking

As provided in West Haven's parking ordinance

§157.419 Permitted Signs

See West Haven City Sign Ordinance

RESOLUTION NO. 04-2023

A RESOLUTION ADOPTING AN AMENDMENT TO THE MODERATE-INCOME HOUSING ELEMENT OF THE WEST HAVEN CITY GENERAL PLAN

WHEREAS, Utah Code 10-9a-103(41) and Utah Code 10-9a-408 require each city in the State of Utah with a population of one thousand or more residents, to conduct a review of and revise the Moderate Income Housing Element of its General Plan biennially; and,

WHEREAS, the West Haven City Council initiated a review of the Moderate Income Housing Plan as parts of its annual reporting requirement; and

WHEREAS, certain changes need to be made to the verbiage of the West Haven City Moderate Income Housing Plan as it relates to requirements found in Utah Code 10-9a; and

WHEREAS, West Haven City has initiated new goals and strategies to ensure continued compliance with the requirements of Utah Code 10-9a-403(2)(b); and

WHEREAS, such goals and strategies are required to be clearly written and adopted into the Moderate Income Housing Plan; and

WHEREAS, West Haven City has prepared the following changes for review and adoption by the West Haven City Council; and

WHEREAS, the West Haven City Planning Commission did hold a public hearing regarding the proposed verbiage, goal, and strategy changes at its regularly scheduled meeting on January 11, 2023; and

WHEREAS, the West Haven City Council finds that the proposed amendments do meet the requirements of Utah Code 10-9a and are in the best interest of the health, safety and welfare of the residents of West Haven City

NOW, THEREFORE, be it resolved by the City Council of West Haven City, Utah, as follows:

The following portions of the West Haven City Moderate Income Housing Plan are amended as follows:

- A. Beginning on Page 7 “UCA 10-9a-103(47)” and continuing though page 9, ending with “...strategies described in Subsection (2)(b)(iii)(G) or (H).” is stricken in its entirety and replaced with the following:**

UCA 10-9a-103(49):

"Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the municipality;
- (b) an estimate of the need for moderate income housing in the municipality for the next five years;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

UCA 10-9a-403(2)(b):

(b) In drafting the moderate income housing element, the planning commission:

- (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
 - (A) to meet the needs of people of various income levels living, working or desiring to live or work in the community; and
 - (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;
- (ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;
- (iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following moderate income housing strategies:
 - (A) rezone for densities necessary to assure the production of moderate income housing;
 - (B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;
 - (C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;
 - (E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;
 - (F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

- (G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;
- (H) amend parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;
- (I) amend land use regulations to allow for single room occupancy developments;
- (J) implement zoning incentives for moderate income units in new developments;
- (K) preserve existing and moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;
- (L) reduce, waive or eliminate impact fees related to moderate income housing;
- (M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;
- (N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;
- (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within the agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;
- (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;
- (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
- (R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530
- (S) create a program to transfer development rights for moderate income housing;
- (T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection (2)(b)(iii)(G) or (H).

B. The Section titled “Goals and Strategies” found on pages 31 and 32 is stricken in its entirety and replaced with the goals and strategies outlined below:

Goal 1: Amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridor.

Strategy 1 – The City will create an ordinance which clearly defines mixed-use boundaries/sub-areas and what housing densities are allowed within each sub-area
Completion Timeline – after preparation and review by the Planning Commission, this ordinance will be before the Council for review and adoption by June 15, 2023.

Strategy 2 – The City will create an ordinance which clearly defines the site development standards for commercial overlay within a mixed-use zone.

Completion Timeline – after preparation and review by the Planning Commission, this ordinance will be before the Council for review and adoption by June 15, 2023.

Goal 2 – Amend land use regulations to allow for single room occupancy developments.

Strategy 1 – The City will ensure that multi-family developments may have at least 25% studio apartments in their project

Completion Timeline – after preparation and review by the Planning Commission, an ordinance allowing for studio apartment projects will be before the Council for review and adoption by June 15, 2023

Goal 3 - Reduce, waive or eliminate impact fees related to moderate income housing.

Strategy 1 – The City will examine the feasibility of providing a credit against certain impact fees for moderate income housing projects, specifically multi-family developments.

Completion Timeline – By October 1, 2023, the City will be under contract for review and update of the transportation impact fee, with an expected deliverable of strategies for reducing impact fees related to multi-family developments.

Goal 4 – Amend parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities.

Strategy 1 – Require developers to submit a parking study if they are requesting reduced parking in a multi-family development.

Strategy 2 – Create an ordinance dictating that the number of required parking stalls in multi-family projects will be based on the number of bedrooms as opposed to the number of units.

Strategy 3 – Create an ordinance simplifying and, where practical, reducing the number of required parking stalls in commercial areas.

Strategy 4 – Provide a credit against required parking for projects located within 1000' of a major transit investment corridor or senior living facilities.

Completion Timeline – after review and recommendation by the Planning Commission, an ordinance outlining strategies 1-4 above will be before the Council for review and adoption by December 15, 2023.

PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any and all prior Resolutions, together with their specific provisions, where not otherwise in conflict with this Resolution, are hereby reaffirmed and readopted.

REPEALER OF CONFLICTING ENACTMENTS:

All orders, and Resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Resolution, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative, or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Resolution and the provisions of this Resolution being deemed to be the separate independent and severable act of the City Council of West Haven City.

DATED this 1st day of February, 2022.

WEST HAVEN, a municipal corporation

by: _____
Mayor Rob Vanderwood

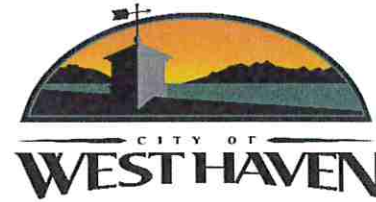
Attested and recorded

Emily Green
City Recorder

DRAFT

City Council
Staff Review Memo
January 24, 2023

Shari Phippen, Community Development Director



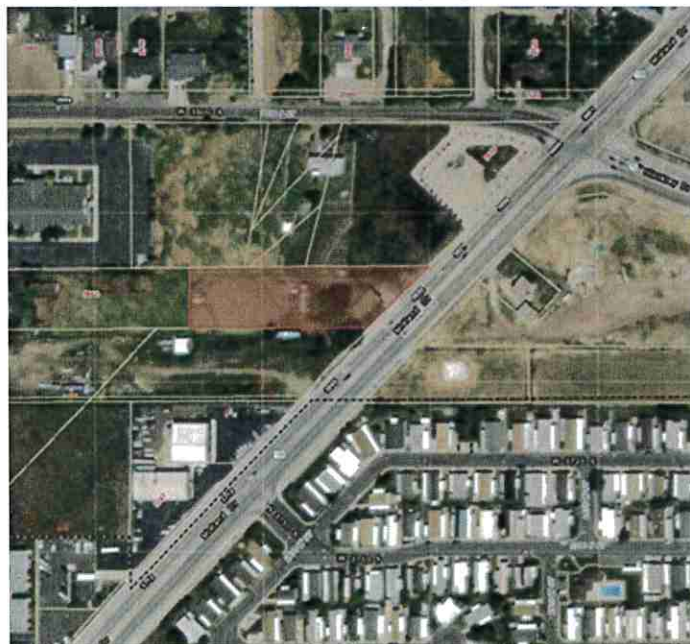
Rezone 1.35 Acres of Property from A-1 to C-3

Request: To rezone 1.35 acres of property from A-1 to C-3
Property Address: 3675 South Midland Drive
Property Zone: A-1
Property Size: 1.35 acres
Applicant: Coldwater Capital (Mitch Morris)

Governing Document(s): WHC General Plan
Decision Type: Legislative
Staff Recommendation: See Comments Under "Staff Review"

Background

Debra K. Wilde owns 1.35 acres of property on 3675 South Midland Drive (the property is in red). Ms. Wilde has authorized Coldwater Capital to for a rezone of the property. The application requested that the property be rezoned C-3. The property is shown here in red, just south of the intersection of 3600 South and Midland Drive.



At the Planning Commission meeting on January 11, 2023, Alike Murphy, City Planner, discussed with the Commission that the General Plan anticipates this property will be C-2. Staff recommended at that time that the Commission recommend the rezone but that it be C-2 instead of C-3. Mr. Morris was uncertain whether that would be acceptable to Ms. Wilde, so he requested that rather

than recommend something against the application, the Commission recommend the Council deny the rezone. After the meeting, he had the opportunity to discuss options with Ms. Wilde

and with his business partners and said that they were comfortable with the Council granting a C-2 zone, as that is in line with the General Plan.

Staff discussed with the City Attorney whether the Council could approve a rezone that was outside of what had been requested on the application. Ms. Hugie stated that it was possible to do that without restarting the process, so long as we had written documentation from the applicant or their agent supporting the different zone. That documentation is attached to this staff report.

Because the original request was to C-3 and that is how the request has been noticed, and reviewed by the Commission, it remains that way on the agenda and staff report. This does not preclude the Council from rezoning to C-2, as stated above. The ordinance has been prepared reflecting C-2.

Staff Review/Recommendation

As the property owner has consented to have the property rezoned C-2, and as that is in line with the scale of commercial the City anticipates along that portion of Midland Drive, it is staff's recommendation that the Council rezone the property to Commercial C-2.



Shari Phippen
Community Dev Director
4150 S 3900 W
West Haven, UT 84401

January 23, 2023

Dear Shari,

I, the applicant, submitted a rezone application to the City for the property at 3675 S Midland Dr., West Haven, UT 84401 on December 5, 2022. The original application requested a rezone to the C-3 zone. As the applicant, I consent to have the property rezoned to the C-2 zone as per the City's General Plan.

Regards,

A handwritten signature in black ink that reads "Mitch Morris".

Mitch Morris
Dev. & Acq. Manager
Coldwater Capital
3135 S. Richmond Street
Salt Lake City, UT 84106

ORDINANCE NO. 04-2023

AN ORDINANCE OF THE CITY OF WEST HAVEN, UTAH REZONING CERTAIN PROPERTY WITHIN ITS BOUNDARIES FROM AGRICULTURAL A-1 TO COMMERCIAL C-2, AMENDING THE ZONING MAP OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1 - Recitals:

WHEREAS, the City Council finds that the planning commission has caused to be prepared and has recommended to the City Council a proposed zoning ordinance and general plan; and,

WHEREAS, the City Council finds that the full text of the zoning ordinance and its associated and related maps, representing the commission's recommendations for zoning all or any part of the area within the municipality have been subjected to the required public hearing prior to its adoption; and,

WHEREAS, the City Council finds that the City Council lawfully adopted the zoning ordinance as proposed with all later amendments thereto; and,

WHEREAS, the City Council finds that Utah Code ("UC") §10-9a-503 provides that the legislative body may amend the number, shape, boundaries, or area of any zoning district; any regulation of or within the zoning district; or any other provision of the zoning ordinance; and,

WHEREAS, the City Council finds that the City Council may make no amendment to the City's zoning ordinance or zoning maps unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval, or recommendations; and,

WHEREAS, the City Council finds that West Haven City desires to comply with the procedure specified in UC §10-9a-502 in preparing and adopting an amendment to the zoning ordinance or the zoning map; and,

WHEREAS, upon petition to West Haven City, and after having been reviewed by the West Haven City Planning Commission, the City Council determines it to be in the best interest of the City to change the existing zone of certain parcels in the City from Agricultural A-1, to Commercial C-2 as outlined herein; and,

WHEREAS, the City Council finds that such a change follows the City's General Plan; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST HAVEN, UTAH that the City Zoning Ordinance is changed and amended as follows:

Zoning Changes:

These described lands and premises within the boundaries of the City are re-zoned from Agricultural A-1 to Commercial C-2:

Parcel 08-022-0104, more accurately described as:

BEGINNING AT A POINT WHICH IS SOUTH 88D58'00" EAST 884.87 FEET, SOUTH 01D02'00" WEST 37.77 FEET, NORTH 88D59'01" WEST 151.63 FEET, SOUTH 05D04'06" WEST 327.15 FEET AND NORTH 89D32'12" WEST 197.71 FEET FROM THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, THAT SAME POINT BEING THE CORNER OF AN OLD WOOD AND WIRE FENCE; THENCE SOUTH 01D37'25" WEST 132.25 FEET ALONG AN OLD WOOD AND WIRE FENCE; THENCE SOUTH 89D26'20" EAST ALONG AN OLD WOOD AND WIRE FENCE 374.82 FEET TO THE WEST RIGHT OF WAY OF MIDLAND DRIVE; THENCE NORTH 46D41'52" EAST 193.01 FEET ALONG THE WEST RIGHT OF WAY OF MIDLAND DRIVE TO THE PROJECTION OF AN OLD WOOD AND WIRE FENCE; THENCE NORTH 89D41'27" WEST 161.38 FEET ALONG SAID FENCE; THENCE NORTH 89D36'54" WEST 152.44 FEET ALONG SAID FENCE; THENCE NORTH 89D32'12" WEST 197.71 FEET TO THE POINT OF BEGINNING. THE BASIS OF BEARING IS NORTH 00D51'40" EAST 2644.88 BETWEEN THE WEST QUARTER CORNER AND THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN.

Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal will not be construed to revive any act, order or resolution, or part, repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of all prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance be held or deemed or be invalid, inoperative, or unenforceable, such reason will render no other provision or provisions invalid, inoperative or

unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of West Haven City.

Section 5 - Date of Effect

BE IT FURTHER ORDAINED this Ordinance will become effective on the 1st day of February, 2022

DATED this 1st day of February, 2022.

WEST HAVEN, a municipal corporation

by: _____
Mayor Rob Vanderwood

Attested and recorded

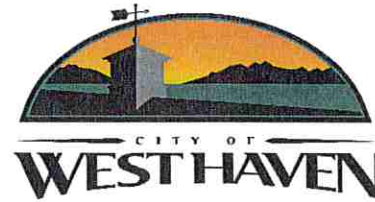
Emily Green
City Recorder

DRAFT

City Council Staff Review Memo

January 25, 2023

Shari Phippen, Community Development Director



Mixed Use Master Development Agreement- 21 South

Project Location:	2000 South 1350 West (approx.)
Project Size/Zone:	9.5 acres – Mixed-Use
Parcel ID:	150660096 & 150660071
Applicant¹:	Ponderosa Capital, LLC (Jordan Watson)

Governing Document(s):	General Plan, WHZC 157.310-315
Decision Type:	Administrative Approval by Legislative Body
Staff Recommendation:	Recommend Approval

Background

The City has received an application for redevelopment of the Stevens-Henegar/Independence University site. The project will involve the demolition of the building and development of a mixed-use high density residential project on that parcel and the parcel to the south. They intend to call the project 21 South.

The project will be comprised of 285 apartments (or 30 units per acre), as well as recreational amenities and landscaped open space between the buildings. The specifics of the proposed density can be found in Section 4.5 of the draft MDA.

The property has been mixed-use for some time now, so no rezone is necessary. Staff has presented the draft MDA to the applicant for their review. The applicant has had the opportunity to review and provide feedback on the MDA, which is now before the Commission for review and recommendation.

A couple of things to note:

- 1- Review and action on the MDA does NOT alleviate the developer of the responsibility to go through the site plan approval process.
 - a. The process for this type of project is two-fold:
 - i. Review and action on the MDA, which includes the density, amenities and other relevant provisions of a concept
 - ii. Site plan and design review process, which gets into the specifics of how the project will look and flow

¹ In this staff report, the terms Applicant and Developer are used interchangeably and both refer to Ponderosa Capital, LLC

- 2- While the Commission will soon be reviewing and making significant updates to commercial overlays and the mixed-use zone, as will be discussed in the 1/25 work session, the applicant submitted a complete application for this review prior to the City formally initiating those updates, so they are entitled to review under the ordinances that exist as presently written.
- 3- This type of project is one where staff would strongly encourage the Commission and Council to require a traffic impact study as part of the site development. The applicant has already taken steps to begin that and should be discussed with the Commission.

Staff Review

Below are the relevant portions of City Code and how this concept meets or falls short of the standards imposed (staff comments are in bold). Not all portions of the mixed-use zone, found in 157.310-315, but I have included the entire ordinance and will indicate which sections don't apply, and the reasons they don't.

§ 157.310 PURPOSE; DEFINITION.

(A) (1) The Mixed Use Zone is characterized as a pedestrian-friendly Zone made up of developments which are required to contain two or more of the following elements: commercial, residential, open space, recreational, cultural, and institutional uses.

- **The project proposes residential, recreational and open space elements, satisfying this requirement.**
- **The recreational elements they are including are: pickleball courts, a clubhouse, a swimming pool, and a fitness facility.**

(2) To wit, the Zone may include:

- (a) Areas of mandatory commercial overlays as designated on the general plan map;
 - (b) Developments with combined commercial and residential uses, such as a corner store with house attached, a main floor home business with a residence above it, or first-floor commercial suites with residences above, and the like;
 - (c) Walkable commercial opportunities within the district which allow residents to walk to, rather than drive to, those businesses;
 - (d) Higher density multiple-family residential buffers between Commercial, Industrial, or Manufacturing Zones and lower density residential areas as appropriate;
 - (e) A mix of different housing types and densities, including single-family homes, townhomes, apartments, and affordable housing units;
 - (f) The preservation of open space through the use of clustering in residential and non-residential developments;
 - (g) Neighborhood and regional parks, and other recreational features (trails excluded);
 - (h) Community cultural facilities, such as community centers and facilities for the arts;
- and
- (i) Institutional uses such as libraries, educational institutions, religious facilities, or public buildings.

- **This list is not a list of requirements, but rather suggestions, so there is no specific requirement to be evaluated.**

(3) Mixed Use developments of less than two acres are required to have only one of the required components. If a mandatory commercial overlay exists in the district in which the development is located, it shall continue to be required.

- **Does not apply due to the size of the project.**
- (4) Trails alone may not be used as a required element in the recreational category.
- **Does not apply, as applicant is not proposing to use trails as a recreational element.**
- (B) (1) RESIDENTIAL AFFORDABLE HOUSING shall mean housing (either owned or rented), the cost of which is projected in good faith at the time of application to consume no more than 30% of the monthly income of those residents with incomes less than, or equal to, 80% of the annual mean income (AMI) for the city as published by the United States Census Bureau.
- **Affordable housing is considered anything which requires less than 30% of the monthly gross income of those making less than 80% of an area median income (AMI)- AMI is determined on a county-wide basis**
 - **According to 2021 HUD data given to the Governor’s Office of Planning & Budget², Weber County’s AMI is \$90,900- 80% of that is \$72,700- 30% of that \$72,700 is \$21,810, or \$1,817.5 per month.**
 - **For the purposes of housing development, anything which rents for at or below \$1,817.50/mo is considered affordable. I would make an educated guess that the average cost of housing (owned or otherwise) in West Haven City is less than that, not including utilities.**
 - **While this project is not being proposed specifically as an affordable housing project, based on the County’s AMI and on current market rental rates, the project certainly meets the State threshold of being affordable.**
- (2) For the purposes of density calculations in the Mixed Use Zone, an acre is defined as 43,560 square feet of raw ground.
- **The City has previously taken steps to standardize the definition of an acre, so there is nothing to be considered with this subsection.**
- (3) (a) A Mixed Use District is a contiguous area of land which is designated to be zoned as Mixed Use on the general plan map.
- (b) Districts may include property under the ownership of multiple entities.
- (c) District boundaries shall be shown on the general plan map.
- **As can be seen on the City’s zoning maps, this property was clearly designated and zoned for mixed-use projects, so the project falls within the anticipated land use.**

§ 157.311 DENSITY; DISTRICTS.

(A) Residential Density Zones shall be defined as follows:

- (1) Low Density is zero to 4.9 dwelling units per project acre;
 - (2) Medium-Low Density is five to 8.9 dwelling units per project acre;
 - (3) Medium-High Density is nine to 14.9 dwelling units per project acre; and
 - (4) High Density is 15 to 30 dwelling units per project acre.
- **The General Plan and zoning maps designate this mixed-use district for high density, which would be 15-30 units per acre. The proposed 285 units on 9.5 acres falls within this range, satisfying the density cap for the property.**

(B) The Planning Commission shall designate the boundaries of each Mixed Use District and shall delineate said boundaries on the general plan map.

² <https://budget.utah.gov/homelessness-and-housing-affordability-2022-general-session/>

(C) The density of each Mixed Use District shall be determined by the Planning Commission, and delineated on the general plan map.

(D) Mandatory Commercial overlays will be identified on the General Plan Map.

(E) The Planning Commission may take into account the overall density of the surrounding area as well as that of the encompassing Mixed Use District as a whole when considering a development project density, but shall not be required to grant a similar density to the development under consideration.

- **B-D have been previously done. Comments on the mandatory commercial overlay are below.**
- **As to E, staff has reviewed this with the City attorney, as well as spent time reviewing relevant statutes and relevant land use cases. Because this property is already zoned mixed use and because the designation of high density has already been made, they have a vested right to a project that falls within the density range, provided that other regulations of the mixed-use zone are satisfied.**

§ 157.312 ADDITIONAL REQUIREMENTS.

(A) A concept plan shall be attached to any application for Mixed Use Zoning in accordance with this chapter and the requirements of §§ [157.705](#) through [157.715](#) and [157.730](#) through [157.737](#).

(B) Uses permitted in a Mixed Use Zone development shall reflect the character, scale, and needs of the particular area as determined by the Planning Commission, in consultation with area residents via one or more public hearings.

(C) Once the Planning Commission has held the required public hearing and recommended to City Council a residential density for a proposed Mixed Use Zone development, the project may not be approved with a density exceeding 110% of the recommended density unless an additional public hearing is held by the Planning Commission to receive input on the proposed increase. After the Planning Commission has held the additional public hearing on the increased density and voted on a recommendation, the City Council shall review the public input and make a final determination. Density for a proposed Mixed Use Zone development may be decreased from the Planning Commission recommendation without holding an additional public hearing.

- **The property has already been zoned Mixed-Use, so sections A-C do not apply to this project. The developer is not requesting the density increase that B outlines, so that is not an issue.**

(D) Specific setbacks and other zoning or design criteria, landscaping, vehicular and pedestrian circulation patterns, building aesthetics and payback agreements (as applicable) for each development shall be established in a development agreement, the approval of which shall be determined by the City Council upon recommendation of the Planning Commission.

- **Setbacks and maximum building height language is included in the MDA.**
- **The other items mentioned above are governed by WHZC 157.730, which outlines the site plan and design review requirements. Language has been included in the MDA that obligates the developer to that process.**

(E) Residential single-family homes and townhomes within 300 feet of Commercial, Manufacturing, or Industrial Zones shall be required to have a sound engineer determine the

method and materials of construction to protect future homeowners from noise. The developer shall ensure that buyers of lots and contractors are made aware of, and agree to abide by, this requirement.

- **N/A- no single family homes or townhomes are being proposed.**

(F) (1) Lot size buffering

- **I removed the language of this section from the staff report, as none of the regulations of subsection F apply since this project is not adjacent to any of the zones which would require buffering.**

(G) Once a rezoning application to the Mixed Use Zone development has been granted, improvements to the real property must begin within 365 days or the property may revert to its original zoning at the option of the city with 60 days' notice.

(1) Two 90-day extensions may be granted by the Planning Commission at the request of the developer.

(2) If at any time the development remains stagnant in construction or improvements for a period of 365 days, the city may, at its option, notify the developer of the intent for the city to revoke the Mixed Use Zone designation with 60 days' notice.

- **This section does not apply, as the property is already zoned for mixed-use.**

§ 157.313 COMMERCIAL OVERLAY AND COMMERCIAL USES IN MIXED USE.

(A) Mixed Use Commercial Overlay areas are designed to encourage the establishment and retention of a variety of retail, entertainment, and personal service establishments to meet the needs of the community's residents, workers, and visitors.

(B) All businesses allowed or conditionally allowed in Zones C-1 and C-2 may be included in Mixed Use Zones where commercial areas have been approved, designated, required or established. A conditional use permit must be obtained for any business that would be required to do so in either a C-1 or C-2 Zone.

(C) Businesses that are permitted or conditional only in a C-3 Zone are specifically excluded from the Mixed Use Zone, with the exception of large retail stores, also known as big box stores, which are allowed in a Mixed Use Zone.

(D) With the exception of Mandatory Commercial Overlay designations, not all Mixed Use Zone developments require a commercial component.

- **This is the area that seems to be of the greatest concern. Overlay districts/areas are a zone within a zone. In order to enforce them, overlay district and areas require an ordinance that defines the boundaries, sets a purpose and outlines the specific rules and regulations for that particular area.**
- **It is not enough for a City to simply designate an area on a map. Absent an ordinance for the overlay, the City has no mechanism with which to enforce that designation.**
- **Although it appears that this area is slated for commercial overlay, the City does not at this time have the mechanism by which it can require this project to contain a commercial element.**
- **Going forward, we will have that ordinance in place which will obligate future projects, which is why the Commission discussed this in work session.**

§ 157.314 REGULATIONS FOR TEMPORARY STORAGE UNITS, CONTAINERS, AND STRUCTURES.

- **There is nothing in this subsection which applies to the project, so the verbiage is not included in this staff report.**

Staff Findings of Fact & Conclusions of Law

Based on staff review of the project and of West Haven Zoning Code, and as outlined in this staff report, staff finds and concludes as follows.

Findings of Fact:

- On January 11, 2023, the developer, Ponderosa Capital, LLC submitted a complete application for a mixed-use project
- The proposed density, as outlined in the MDA and on the attached concept, falls within the high density range outlined in code and on the official maps of the City
- The proposed project, as outlined in the MDA and on the attached concept, meets the statutory requirement to contain two elements outlined in City code
- Approval of the MDA does not constitute approval of the entire project, but only approval of the project terms, conditions and of a conceptual layout.
- The MDA states that the developer will be required to submit the necessary site plans to receive approval of the specific design for the buildings, as well as the site circulation, landscaping and traffic impacts.
- Absent an ordinance defining the boundaries and regulations for a commercial overlay, the City cannot require a commercial element of this project.
- The Council may recommend changes to the MDA, so long as those changes do not affect the density of the project or otherwise impact the applicant's rights under the mixed-use ordinance.

Conclusions of Law:

- Developer has presented a plan which is compliant with all standards necessary to receive approval and proceed to preparation of an engineered site plan and civil design documents.
- The Council should approve the MDA and its attached concept plan.

Planning Commission Action

At the January 25, 2023 Planning Commission meeting, Commissioner Wilson made the following motion: "I motion that we forward this MDA and concept plan to the City Council for their approval, based on the findings and conclusions outlined in the staff report dated January 19, 2023" After a second on the motion, the Commission unanimously supported the motion and has recommended the Council approve the MDA and concept.

ORDINANCE NO. 05-2023

AN ORDINANCE OF THE CITY OF WEST HAVEN, UTAH APPROVING AND ADOPTING A MASTER DEVELOPMENT AGREEMENT FOR 21 SOUTH; AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1 - Recitals:

WHEREAS, the City Council finds that the planning commission has caused to be prepared and has recommended to the City Council a proposed zoning ordinance and general plan; and,

WHEREAS, the City Council finds that the Planning Commission has caused to be prepared and has recommended to the City Council a Master Development Agreement ("Agreement") for the 21 South development, with said Agreement representing the Commission's recommendations for development of the proposed project within the municipality; and

WHEREAS, the City Council finds that under Utah Code 109-9a-305(8)(a) and 10-9a-509, the City Council may lawfully adopt development plans and schedules by ordinance, as recommended by the Planning Commission; and

WHEREAS, upon petition to and based on the recommendation of the West Haven City Planning Commission, the City Council determines it to be in the best interest of the City to adopt the proposed Agreement; and,

WHEREAS, the City Council finds that such a change follows the City's General Plan; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST HAVEN, UTAH:

The **Master Development Agreement, 21 South**, by and between West Haven City and Ponderosa Capital Partners, LLC, attached hereto as Exhibit A, and fully incorporated by this reference, is approved and adopted.

The foregoing recitals are fully incorporated herein.

Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such

conflict, repealed, except this repeal will not be construed to revive any act, order or resolution, or part, repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of all prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance be held or deemed or be invalid, inoperative, or unenforceable, such reason will render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of West Haven City.

Section 5 - Date of Effect

BE IT FURTHER ORDAINED this Ordinance will become effective on the 1st day of February, 2022

DATED this 1st day of February, 2023.

WEST HAVEN, a municipal corporation

by: _____
Mayor Rob Vanderwood

Attested and recorded

Emily Green
City Recorder

WHEN RECORDED, RETURN TO:
Matthew D. Jensen, City Manager
West Haven City
4150 S 3900 W
West Haven, UT 84401

MASTER DEVELOPMENT AGREEMENT FOR 21 SOUTH

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the _____ day of _____, _____ by and among the West Haven City, a political subdivision of the State of Utah (“City”), and Ponderosa Capital Partners, LLC, a Utah limited liability company (“Developer”).

RECITALS

- A. The capitalized terms used in these Recitals are defined in Section 1.2, below.
- B. Developer owns and is developing the Property.
- C. Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the Concept Plan and this MDA.
- D. Development of the Property pursuant to this MDA is acknowledged by the parties to be consistent with LUDMA and the Zoning Ordinance and to operate to the benefit of the City, Developer, and the general public.
- E. The Planning Commission has reviewed this MDA, including the Concept Plan, and determined that they are consistent with the Act, the Zoning Ordinance and development of the Property.
- F. The parties acknowledge that development of the Property pursuant to this MDA will result in planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property, and increasing revenues to the City based on improvements to be constructed on the Property. Development of the Property pursuant to this MDA will also result in additional benefits to the City in that Developer has agreed to tear down an existing, blighted building located on the Property.
- G. Development of the Property pursuant to this MDA will also result in benefits to Developer by providing assurances to Developer that it will have the ability to develop the Property in accordance with this MDA.
- H. Developer and the City have cooperated in the preparation of this MDA.
- I. The parties desire to enter into this MDA to specify the rights and responsibilities of the Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

J. The parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of, the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. §§10-9a-101 et seq.

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

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibit A are hereby incorporated into this MDA.

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

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

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

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

1.2.4. **Buildout** means the completion of the Project on the Property in accordance with the approved plans.

1.2.5. **City** means the West Haven City, a political subdivision of the State of Utah.

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

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

1.2.8. **City’s Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, and which may govern this MDA.

1.2.9. **Commission** means the duly appointed Planning Commission of West Haven City, Utah.

- 1.2.10. **Concept Plan** means that plan for the development of the Project attached as Exhibit A.
- 1.2.11. **Council** means the elected City Council of the City.
- 1.2.12. **Default** means a material breach of this MDA as specified herein.
- 1.2.13. **Denial** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application, but does not include review comments or “redlines” by City staff.
- 1.2.14. **Developer** means Ponderosa Capital Partners, LLC, a Utah limited liability company, and its assignees or transferees as permitted by this MDA.
- 1.2.15. **Development** means the development of all or a portion of the Property pursuant to the Concept Plan and an approved Development Application.
- 1.2.16. **Development Application** means an application to the City for development of all or a portion of the Project or any other permit, certificate or other authorization from the City required for development of the Project.
- 1.2.17. **MDA** means this Master Development Agreement including all of its Exhibits.
- 1.2.18. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.
- 1.2.19. **Project** means the total development to be constructed on the Property pursuant to this MDA, including the Concept Plan, with the associated public and private facilities, and all of the other aspects approved as part of this MDA.
- 1.2.20. **Property** means that real property owned and to be developed by Developer more fully described in Section 4.1 of this MDA.
- 1.2.21. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City, if any, as a condition of the approval of a Development Application.
- 1.2.22. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

- 2. **Effect of MDA.** This MDA shall be the sole agreement between the parties related to the Project.
- 3. **Development of the Project.** Development of the Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Concept Plan and this MDA.

4. Zoning, Obligations and Vested Rights.

4.1. **Property Description.** The Properties which shall be the subject of this MDA are identified as: **Parcel 15-066-0096** and **Parcel 15-066-0071**, as described in the office of the Weber County Recorder.

4.2. **Zoning.** The City has zoned the Property as Mixed Use.

4.3. **Mixed Use Zone Compliance.** West Haven Zoning Code (“WHZC”) 157.310(A)(1) requires all projects in the Mixed-Use Zone to contain two or more of the following elements: commercial, residential, open space, recreational, and/or institutional. The Project is in compliance with the Mixed-Use Zone because it includes high-density residential, recreational and open space elements and uses in accordance with WHZC 157.310(A)(1). The Project is also in compliance with a stated purpose of the zone in WHZC 157.310(A)(2)(d) because the Project is a high-density multi-family residential project which provides a buffer between nearby commercial, industrial and other uses.

4.4. **Density.** The property may be developed at 30 units per acre, for a total of 284 units on the Property, as provided on the Concept Plan.

4.5. Land Uses.

4.5.1. **Residential Land Uses.** The Property shall be developed as a residential, high-density multi-family project, with a combination of 1, 2, and 3-bedroom apartments, as well as the recreational and open space elements provided below.

4.5.2. **Recreational Elements.** The Property shall be developed with the following recreational elements as shown on the Concept Plan or as otherwise approved by the City:

- 4.5.2.1. Pickleball Court(s)
- 4.5.2.2. Clubhouse
- 4.5.2.3. Swimming Pool
- 4.5.2.4. Fitness Facility

4.5.3. **Open Space Elements.** The Property shall also be developed with the following open space elements as shown on the Concept Plan or as otherwise approved by the City:

- 4.5.3.1. Dog parks
- 4.5.3.2. Other open space as shown on the Concept Plan

4.6. **Landscaping.** As part of the site plan and design review, Developer shall be required to submit a site plan which complies with the landscaping requirements outlined in WHZC 157.733(D)

4.7. **Site Plan and Design Review.** Upon approval of the MDA, Developer shall be required to comply with the terms, conditions and process of the WHZC 157.730, including building design, landscaping and site circulation.

4.8. **Setbacks and Building Heights.**

4.8.1. **Setbacks.** All residential buildings shall be set back a minimum of 10' from any property line, a minimum of 10' from any other building, and a minimum of 15' from any public or private right of way.

4.8.2. **Building Height.** Regardless of the use of the building, no building may exceed 45' height.

4.9. **Pedestrian and Vehicular Circulation; Parking.** All pedestrian and vehicular circulation within the Project shall comply with the West Haven Engineering Design Standards and Specifications, as well as the International Fire Code. Approval of civil design documents shall constitute approval of said circulation. City and Developer acknowledge and agree that the Project, as depicted on the Concept Plan, complies with the City's parking requirements.

4.10. **Civil Drawings.** Once approved by the City Engineer, a copy of the stamped, approved civil engineering drawings for the Project shall be kept with this MDA. Once construction has commenced, a copy of the stamped drawings is required to be kept on-site at all times during construction of the Project.

4.11. **Developer Obligations.** In exchange for the City approving the above zoning, density, and land uses, Developer shall:

4.11.1. Develop the property in accordance with this MDA, all applicable federal, state, and local ordinances, as well as all relevant building codes.

4.11.2. Follow the Site Plan/Design Review process outlined in WHZC 157.731, relative to the landscaping, building design and engineering requirements.

4.12. **City Obligations.** In addition to the above zoning, density and land uses, the City does hereby agree to issue all permits and approvals within a timely manner, as prescribed by any relevant federal, state and local law.

4.13. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Developer intend that this MDA grants Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws and the Concept Plan except as specifically provided herein. The Parties intend that the rights granted to Developer under this MDA are contractual and also those rights that exist under statute, common law and at equity. The parties specifically intend that this MDA grant to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. §10-9a-509.

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

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

4.14.2. **State and Federal Compliance.** City's Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

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

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

4.14.5. **Fees.** Changes to the amounts of fees (but not changes to the times provided in the City's Vested Laws for the imposition or collection of such fees) for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

4.14.6. **Planning and Zoning Modification.** Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not materially or adversely amend or reduce the Maximum Residential Units, Public Infrastructure or amenities required for the Project, are generally applicable across the entire City to the respective Zones within the Project and do not materially and unreasonably increase the costs of any Development.

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

5. **Term of Agreement.** The term of this MDA shall be until June 30, 2028 unless otherwise amended in writing and signed by the parties hereto. This MDA shall also terminate automatically at Buildout.

6. **Processing of Development Applications.**

6.1. **City Denial of a Development Application.** If the City denies a Development Application, the City shall provide a written determination advising the Applicant of the reasons for denial,

including specifying the reasons the City believes that the Development Application is not consistent with this MDA, and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

6.2. **Meet and Confer regarding Development Application Denials.** The City and Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

6.3. **Mediation of Development Application Denials.**

6.3.1. **Issues Subject to Mediation.** Issues resulting from the City's Denial of a Development Application that are not subject to arbitration provided in Section 6.4 shall be mediated.

6.3.2. **Mediation Process.** If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable mediator, they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and City shall each pay one-half (1/2) of the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

6.4. **Arbitration of Development Application Objections.**

6.4.1. **Issues Subject to Arbitration.** Issues regarding the City's Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

6.4.2. **Mediation Required Before Arbitration.** Prior to any arbitration the parties shall first attempt mediation as specified in Section 6.3.

6.4.3. **Arbitration Process.** If the City and Applicant are unable to resolve an issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and City shall each pay one-half (1/2) of the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not

only incorrect but was also maintained unreasonably and not in good faith, then the arbitrator may order the City or Applicant, as applicable, to pay the arbitrator's fees and the other party's reasonable attorneys' fees and costs.

7. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Developer may at any time, choose to submit a Development Application for some or all of the Project under the City's Future Laws in effect at the time of the Development Application so long as Developer is not in current breach of this Agreement. Any Development Application filed for consideration under the City's Future Laws shall be governed by all portions of the City's Future Laws related to the Development Application. The election by Developer at any time to submit a Development Application under the City's Future Laws shall not be construed to prevent Developer from relying for other Development Applications on the City's Vested Laws and the terms and conditions of this MDA.
8. **Tax Benefits.** The City acknowledges that Developer may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring portions of the Property to the City or to a charitable organization for Open Space or other public use. Developer shall have the sole responsibility to claim and qualify for any tax benefits sought by Developer by reason of the foregoing. The City shall reasonably cooperate with Developer to the maximum extent allowable under law to allow Developer to take advantage of any such tax benefits.
9. **Public Infrastructure.**
 - 9.1. **Construction by Developer.** Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application.
 - 9.2. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure is required by the City it shall provide in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.
 - 9.3. **Utilities.** The City acknowledges that the utility drawings submitted along with the Plat for the Project are, or will be when finally approved by the City's Engineer, acceptable to the City and that the City will allow such connections and service.
10. **Default.**
 - 10.1. **Notice.** If Developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party of such default as provided herein.
 - 10.2. **Contents of the Notice of Default.** The Notice of Default shall:
 - 10.2.1. **Specific Claim.** Specify the claimed event of Default;

- 10.2.2. **Applicable Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;
- 10.2.3. **Materiality.** Identify why the Default is claimed to be material; and
- 10.2.4. **Optional Cure.** If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be not less than thirty (30) days in duration.
- 10.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 6.2 and 6.3. If the claimed Default is subject to Arbitration as provided in Section 6.4, then the parties shall follow such processes.
- 10.4. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by Mediation, and if the Default is not subject to Arbitration then the parties may have the following remedies, except as specifically limited in Section 10.8
- 10.4.1. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.
- 10.4.2. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.
- 10.4.3. **Future Approvals.** The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project.
- 10.5. **Public Meeting.** Before any remedy in Section 10.4 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.
- 10.6. **Emergency Defaults.** If the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section 10.4 without the requirements of Sections 10.5. The City shall give Notice to Developer of any public meeting at which an emergency default is to be considered and the Developer shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.
- 10.7. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty (30) days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence. A written agreement extending the cure period shall be evidence of such extension and shall set a new expiration of the cure period.
- 10.8. **Limitation on Recovery for Default- No Damages.** No party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Developer or any party shall be that of specific performance.

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

To the Developer: Ponderosa Capital Partners, LLC
1141 E. 2800 N.
Ogden, UT 84414
Attn: Daniel Stephens
E-mail: daniel@theblackpinegroup.com

With a Copy for Developer to: Cheney Law Group
10808 S. River Front Pkwy, Ste 365
South Jordan, UT 84095
Attn: Brian Cheney
E-mail: bcheney@cheneylawgroup.com

To the City: Matthew Jensen, City Manager
Shari Phippen, Community Development Director
4150 S. 3900 W.
West Haven City, UT 84401
Email: matthewj@westhavencity.com
sharip@westhavencity.com

With a Copy for City to: Amy F. Hugie, JD
9 West Forest St. #208
Brigham City, UT 84302
Email: amyhugie@xmission.com

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

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

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

11.1.3. **Mailing.** On the third day after the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of Section 11.

12. **Estoppel Certificate.** Upon twenty (20) days prior written request by Developer, the City will execute an estoppel certificate to any third party certifying that Developer is, at that time, not in default of the terms of this Agreement.

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

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

15. **Assignability.** The rights and responsibilities of Developer under this MDA may be assigned in whole or in part by Developer with the written consent of the City as provided herein.

15.1. **Sale of Lots.** Developer's selling or conveying lots in any approved Subdivision to builders or end users shall not be deemed to be an "assignment" subject to the above-referenced approval by the City.

15.2. **Related Entity.** Developer's transfer of all or any part of the Property to any entity "related" to Developer (as defined by regulations of the Internal Revenue Service in 26 U.S. Code §267(B)), Developer's entry into a joint venture for the development of the Project or Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Developer. Developer shall give the City Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

15.3. **Notice.** Subject to Sections 15.1 and 15.2, Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

15.4. **Time for Objection.** Unless the City objects in writing within twenty (20) business days of notice, the City shall be deemed to have approved of and consented to the assignment.

- 15.5. **Partial Assignment.** If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.
- 15.6. **Denial.** The City may only withhold its consent to a proposed assignment if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of or Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the "Meet and Confer" and "Mediation" processes specified in Sections 6.2 and 6.3. If the refusal is subject to Arbitration as provided in Section 6.4 then the parties shall follow such processes.
- 15.7. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.
16. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.
17. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.
18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor, health pandemics, acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.
19. **Time is of the Essence.** Subject to Section 18, time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.
20. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this MDA, the City, Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City shall be the City Manager and the initial representatives for Developer shall be Daniel Stephens and Nate Messerly. The parties may change their designated representatives

by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this MDA and the development of the Project.

21. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.
22. **Applicable Law.** This MDA is entered into in Weber County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.
23. **Venue.** Any action to enforce this MDA shall be brought only in the Second District Court, Weber County Division or the Utah District of the Federal Court.
24. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.
25. **Recordation and Running with the Land.** This MDA shall be recorded against the Property in the Official Records of the Weber County Recorder. This MDA shall be deemed to run with the land.
26. **Authority.** The parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this MDA lawfully binding the City pursuant to Resolution No. _____ adopted by the City on _____.

[Signatures on Following Page]

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

DEVELOPER:

PONDEROSA CAPITAL PARTNERS, LLC,
a Utah limited liability company

By: _____

Name: _____

Title: _____

State of Utah)

ss:

County of _____)

On the ____ day of _____ 2023, personally appeared before me _____, the [Manager/Authorized Agent] of Ponderosa Capital Partners, LLC, duly sworn, and the signer of the within instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

Notary Public

CITY:

By: _____

Name: _____

Title: _____

State of Utah)

ss:

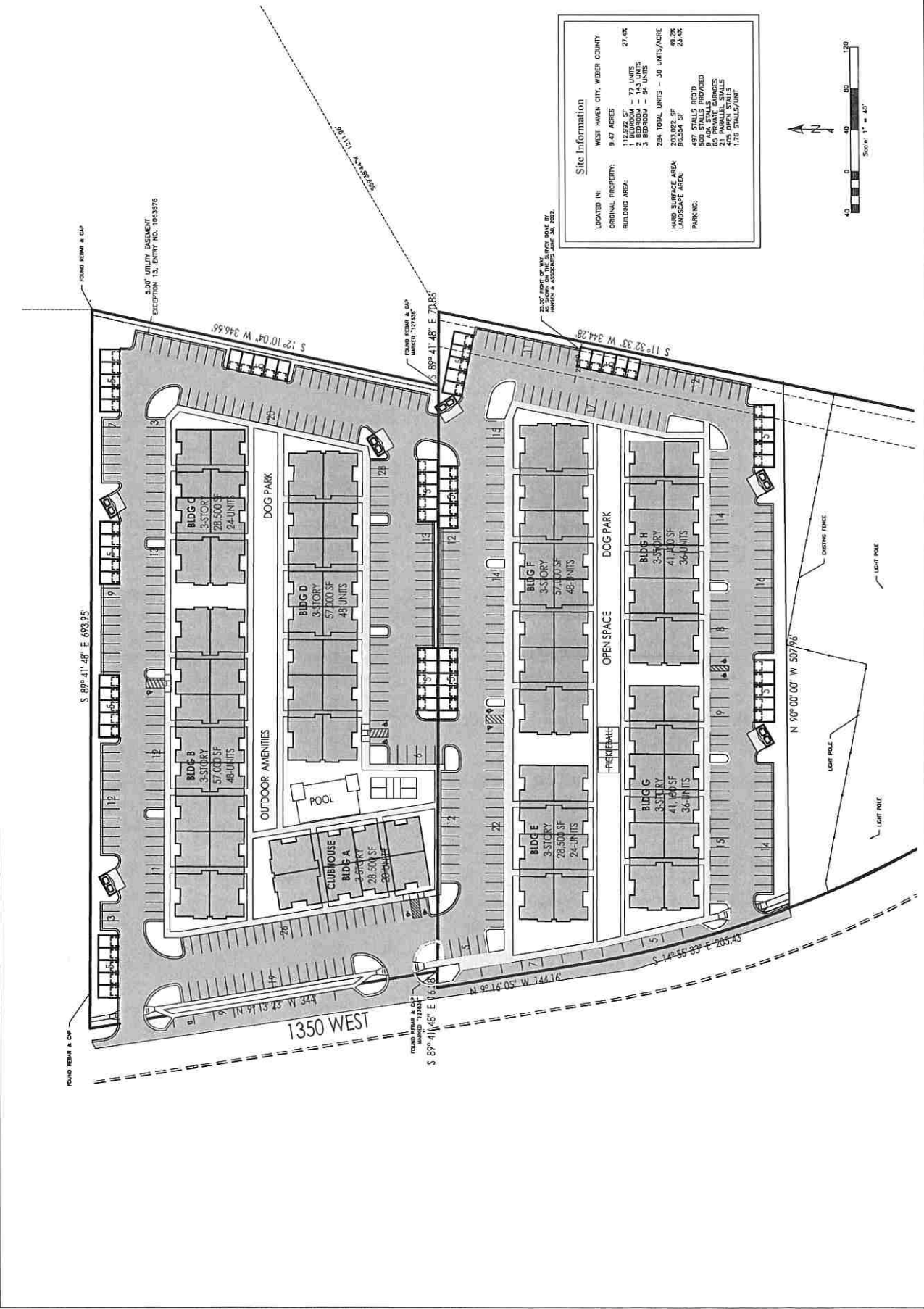
County of _____)

On the ____ day of _____ 2023, personally appeared before me _____, the Mayor of West Haven City, duly sworn, and the signer of the within instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

Notary Public

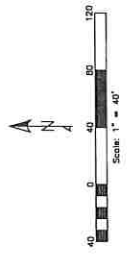
Revision	Date

PROJECT INFO.
 Engineer: T. HUNT
 Draftsman: J. HUNT
 Issue: 1/26/2023
 West Haven Apartments



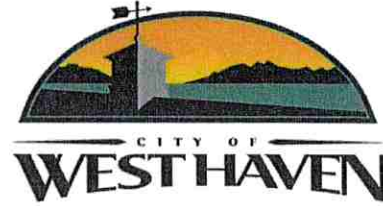
Site Information

LOCATED IN:	WEST HAVEN CITY, WEBER COUNTY
ORIGINAL PROPERTY:	9.47 ACRES
BUILDING AREA:	112,892 SF
	3 BEDROOM - 143 UNITS
	3 BEDROOM - 64 UNITS
	284 TOTAL UNITS - 30 UNITS/ACRE
HARD SURFACE AREA:	203,022 SF
LANDSCAPE AREA:	96,554 SF
PARKING:	487 STALLS REQ'D
	8 ADA STALLS PROVIDED
	25 PRIVATE GARAGES
	200 OPEN STALLS
	1.76 STALLS/UNIT



STAFF REPORT

TO: City Council
FROM: Matt Jensen
DATE: February 1, 2023
SUBJECT: Site Agreement for UTOPIA



This staff report presents a resolution on the final site agreement between West Haven City and UTOPIA for fiber huts.

BACKGROUND

Previously, the Council approved three locations for fiber huts which will act as hubs for the fiber connections throughout the City. Council requested reconsideration on the location of WHV01 which is located at City Hall. Staff and UTOPIA met to review and discuss.

ANALYSIS

The attached document shows the proposed location of the WHV01 fiber hut. It has been relocated to the east and will not be a site issue for the City Hall. Due to the timeliness of the project, staff is requesting approval on the contract while UTOPIA finalizes survey description for the described location. This will allow execution at the earliest possibility rather than waiting for another Council meeting.

RECOMMENDATION

Staff requests approval by the Council on the resolution allowing the Mayor to sign the site agreement in anticipation of a corrected survey description.

Resolution No. 05-2023

RESOLUTION OF WEST HAVEN CITY AUTHORIZING ADOPTION OF THE CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY; AUTHORIZING THE CITY MAYOR TO SIGN THIS RESOLUTION; AUTHORIZING THE CITY MANAGER TO SIGN THE EASEMENT ON BEHALF OF THE CITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

SECTION I – RECITALS:

WHEREAS, the City Council of West Haven City (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with the provisions of UCA § 10-3-717, the governing body of the City may exercise all administrative powers by resolution including, but not limited to entering into contracts and agreements regarding protecting the health, safety, and welfare of the public; and,

WHEREAS, the City entered into a Fiber Communications Service and Acquisition Contract ("Contract") in order to ensure that fiber connection services are available and offered to all citizens of the City; and,

WHEREAS, Utah Infrastructure Agency ("UIA") is a separate legal entity, body politic and corporate, and political subdivision of the State of Utah, and had the ability to offer connection services to the City; and

WHEREAS, part of the Contract is that the City and UIA will enter into Cable and Facilities Easements so that UIA can install certain infrastructure in order to fulfill the contract of ensuring fiber connection services within the City; and

WHEREAS, after review of all of the information and the Contract and the map of the Cable and Facilities Easement for the location of the infrastructure by City Hall, the City feels that the Cable and Facilities Easement will best serve the citizens of the City and now desires to adopt that easement that is represented by the map as attached as Attachment A; and,

WHEREAS, the City finds that the public convenience and necessity requires the actions herein contemplated,

NOW, THEREFORE, BE IT RESOLVED by the City of West Haven as follows:

SECTION II. CABLE AND FACILITIES EASEMENTS:

1. That the Cable and Facilities Easement between West Haven City and UIA, a copy of the map showing the location of the easement of which is attached as Attachment A to this Resolution, is hereby adopted by the City Council.

2. That the City Manager is authorized to sign any and all documents necessary to effect this easement, including signing the easement itself.
3. That the Mayor is authorized to sign this Resolution adopting the Cable and Facilities Easement for the infrastructure located near City Hall.

All of the recitals are also included and adopted by this resolution.

SECTION III. PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any and all prior Resolutions, together with their specific provisions, where not otherwise in conflict with this Resolution, are hereby reaffirmed and readopted.

SECTION IV. REPEALER OF CONFLICTING ENACTMENTS:

All orders, and Resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Resolution, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

SECTION V - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Resolution and the provisions of this Resolution being deemed to be the separate independent and severable act of the City Council of West Haven City.

SECTION VI. DATE OF EFFECT

This Resolution shall be effective immediately upon its passage on the 1st day of February, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 1st day of February, 2023.

WEST HAVEN CITY

Mayor Rob Vanderwood

ATTEST:

City Recorder

ATTACHMENT "A"

MAP OF THE CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND
UTAH INFRASTRUCTURE AGENCY ("UIA") LOCATED NEAR CITY HALL

DRAFT

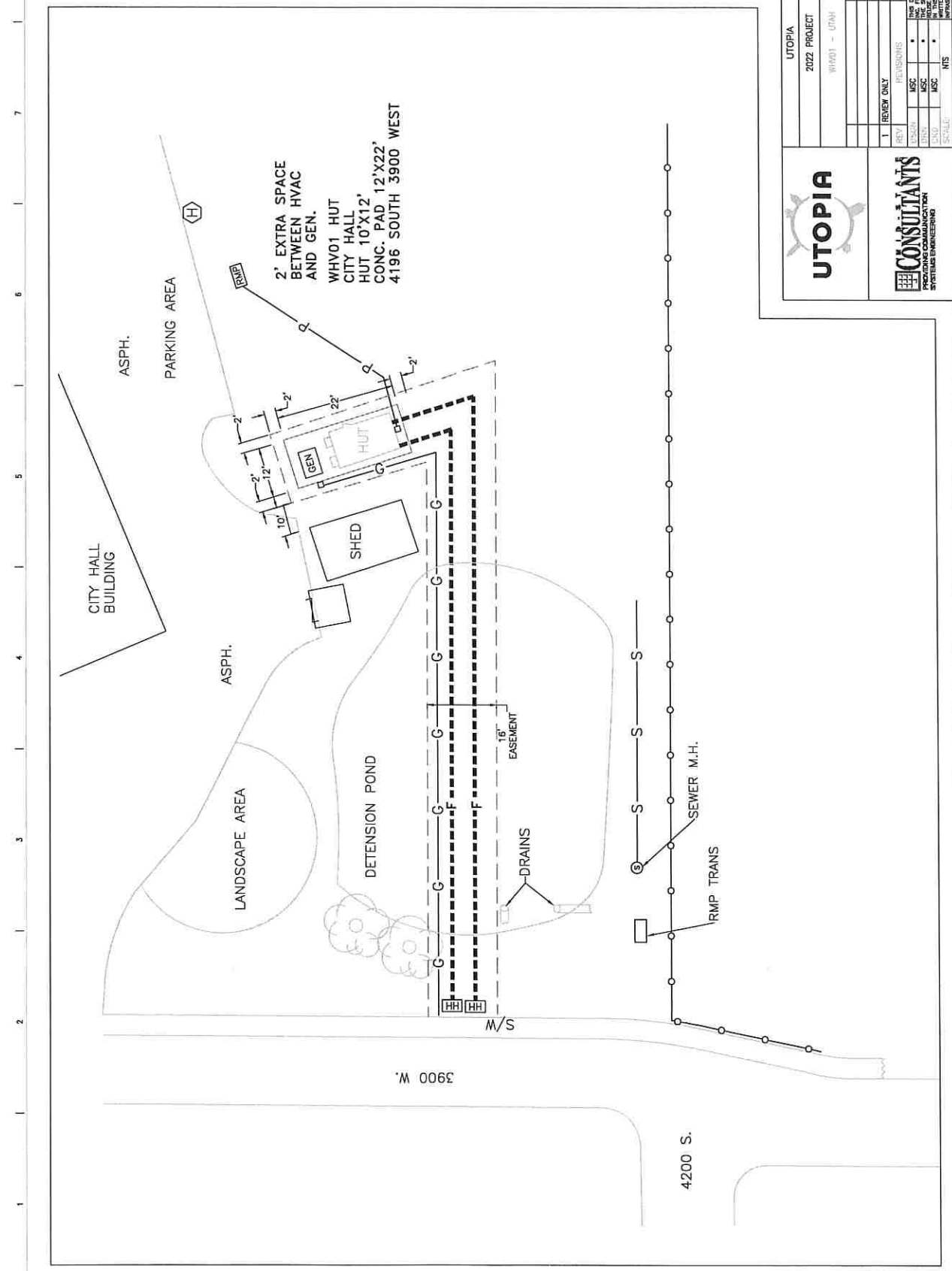


LEGEND

- FOOTPRINT BORDER
- STREET CENTERLINE
- PARCEL BOUNDARIES
- OVERHEAD POWER
- WATER LINE
- SEWER LINE
- RAILROAD
- EDGE OF PAVEMENT
- BACK OF CURB
- RIGHT-OF-WAY
- SIDEWALK
- DROP WIRE
- BORE
- BORE
- AERIAL FIBER
- SUCCESSIVE RISES
- CONDUIT
- TRENCH
- EXISTING FIBER
- ANCHOR SYMBOLS
- BACKBONE
- CABINET
- MDU LINE

CALL BEFORE DIGGING
 BLUE STAKES UTILITY
 1(800) 662-4111

UTOTIA	PROJECT NUMBER	DATE	DESIGN	APPROVAL
2022 PROJECT	WHV01 - UTAH	07/2022		
OVERVIEW NUMBER WHV01-HUT SITE				
1	REVIEW ONLY			



UTOPIA

CONSULTANTS
 SYSTEMS ENGINEERING