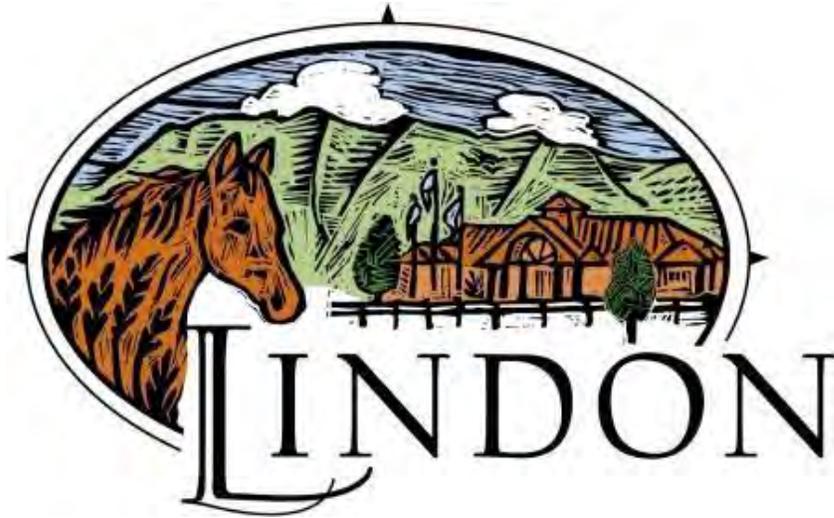


# Lindon City Council Staff Report



Prepared by Lindon City  
Administration

August 17, 2020

# Notice of Meeting of the Lindon City Council



The Lindon City Council will hold a meeting beginning at 5:15 p.m. on Monday, August 17, 2020 in the Lindon City Center Council Chambers, 100 North State Street, Lindon, Utah. The agenda will consist of the following:

**REGULAR SESSION – 5:15 P.M.** - Conducting: Jeff Acerson, Mayor

Invocation: Carolyn Lundberg

Pledge of Allegiance: By invitation

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report materials:



*(Review times are estimates only)*

1. **Call to Order / Roll Call** *(2 minutes)*
2. **Approval of Minutes:** The minutes of the regular City Council meeting of July 20, 2020 will be reviewed. *(5 minutes)*
3. **Council Reports** *(10 minutes)*
4. **Administrator's Report** *(10 minutes)*
5. **Presentations and Announcements**
  - a) Comments / Announcements from Mayor and Council members. *(5 minutes)*
  - b) **Department Head Quarterly Reports.** The Lindon City Department Heads will be in attendance to present their Department Quarterly Reports and/or other misc. updates. *(35 minutes)*
  - c) **Presentation — Envision Utah, Valley Visioning Project.** The City Council will hear a presentation followed by discussion from Envision Utah regarding the Valley Visioning Project. *(15 minutes)*
6. **Open Session for Public Comment** *(For items not on the agenda)* *(10 minutes)*
7. **Consent Agenda** — *(Items do not require public comment or discussion and can all be approved by a single motion.)* *(5 minutes)*
  - a) **Continued Action Item: Ordinance #2020-13-O, Government Records Access Management.** This item was continued from the July 20, 2020 meeting in order to receive any additional public comment on the item. No further public comments have been received. The Council will review and consider city-initiated updates to LCC Title 4, Government Records Access Management. Updates to the Lindon City Policy and Procedures Manual, Section 9, related to government records retention will also be considered for approval.
  - b) **Updated Officer Involved Critical Incident Protocol agreement** with Utah County and other law enforcement agencies within the County.
    - a. This agreement was adopted earlier this year by Utah County and its cities, including Lindon. This amendment updates the structure of the investigation team but does not change the actual protocol. The Chiefs of Police in the County voted to have the agreement re-approved by each municipality in order to avoid any conflicts with the County when an actual event takes place.
8. **Review & Action — Major Subdivision, Coco Development Commercial Condominium Project; 1350 W. 200 S.** Coco Development is requesting Major Subdivision approval to divide an existing building into twenty commercial condominium units at 1350 W. 200 S in the Light Industrial (LI) zone. *(15 minutes)*
9. **Review & Action — Major Subdivision, Lindon Hollow Estates; 122 South Main.** Marc and Jessica McCann are requesting Major subdivision approval from the city council to subdivide the property located at 122 South Main Street into a five (5) lot single family development. *(15 minutes)*

- 10. Continued Action Item — Ordinance #2020-8-O, LCC Title 17.76; Planned Residential Development Overlay.** This item was continued from the July 20, 2020 meeting to allow for some modifications to the previously reviewed ordinance. The City Council will consider the proposed Ordinance 2020-8-O, Planned Residential Development Overlay. *(60 minutes)*
- 11. Public Hearing — Ordinance #2020-6-O. LCC 11.05 Parks, Recreation & Trails Facilities Impact Fees; Parks, Trails and Recreation Impact Fee Studies (IFA, IFFP).** The City Council will accept public comment and review and consider for adoption the Parks, Trails and Recreation Impact Fee Analysis (IFA) and Impact Fee Facilities Plan (IFFP) prepared by Zions Bank and based off of the recently updated Parks, Trails and Recreation Master Plan and will also consider amendments to Lindon City Code (LCC) 11.05 Parks, Recreation & Trails Facilities Impact Fees. *(20 minutes)*
- 12. Discussion Item — Possible Disposal of Surplus Real Property located at 94 North 1200 East.** The City Council will discuss the possible disposal of surplus real property located at 94 North 1200 East. Feedback will be received but no motions made. *(10 minutes)*

## Adjourn

All or a portion of this meeting may be held electronically to allow a council member to participate by video conference or teleconference. Staff Reports and application materials for the agenda items above are available for review at the Lindon City Offices, located at 100 N. State Street, Lindon, UT. For specific questions on agenda items our staff may be contacted directly at (801)785-5043. City Codes and ordinances are available on the City web site found at [www.lindoncity.org](http://www.lindoncity.org). The City of Lindon, in compliance with the Americans with Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations for city-sponsored public meetings, services programs or events should call Kathryn Moosman, City Recorder at 801-785-5043, giving at least 24 hours-notice.

### CERTIFICATE OF POSTING:

I certify that the above notice and agenda was posted in three public places within the Lindon City limits and on the State (<http://pmn.utah.gov>) and City ([www.lindoncity.org](http://www.lindoncity.org)) websites.

Posted by: /s/ Kathryn A. Moosman, City Recorder

Date: August 10, 2020; Time: 2:00 p.m.; Place: Lindon City Center, Lindon Police Dept., Lindon Community Development

## **REGULAR SESSION – 5:15 P.M.** - Conducting: Jeff Acerson, Mayor

Invocation: Carolyn Lundberg

### **Item 1 – Call to Order / Roll Call**

August 17, 2020 Lindon City Council meeting.

Jeff Acerson  
Carolyn Lundberg  
Van Broderick  
Jake Hoyt  
Mike Vanchiere  
Randi Powell  
Staff present: \_\_\_\_\_

### **Item 2 – Approval of Minutes**

- Review and approval of City Council minutes: **July 20, 2020**

**Please Note: The minutes from the July 20, 2020 City Council meeting will be sent separately.**

**Item 3 - COUNCIL REPORTS:***(10 minutes)*

- A) MAG, COG, UIA, Utah Lake Comm., ULCT, NUVAS, IHC Outreach, County Board of Health - Jeff Acerson
- B) Police/Fire/EMS, Emergency Mgmt., Irrigation Co. Representative/Board member, City Buildings - Van Broderick
- C) Public Works/Engineering, Historic Commission, Administration, Building Const. & Inspection - Randi Powell
- D) PG/Lindon Chamber of Commerce, Economic Development, Lindon Days - Carolyn Lundberg
- E) Planning Commission/BOA, Planning/Zoning, General Plan, Transfer Station/Solid Waste Board - Mike Vanchiere
- F) Parks, Trails, and Recreation, Cemetery, Tree Advisory Board - Jake Hoyt

**Item 4 - ADMINISTRATOR'S REPORT***(10 minutes)***Misc. Updates:**

- Next council meetings: September 21<sup>st</sup> and October 5<sup>th</sup>
- September newsletter assignment: Chief Adams
- 8/02 - Residential building fire that burned a shed at 640 East Center and extended into a neighboring home on 630 East. Extensive damage to the home and a total loss to the shed.
- Misc. Items

## **Item 5 – Presentations and Announcements**

- a) Comments / Announcements from Mayor and Council members.
- b) **Department Head Quarterly Reports.** The Lindon City Department Heads will be in attendance to present their Department Quarterly Reports and/or other misc updates to the city council. (35 minutes)
- c) **Presentation — Envision Utah, Valley Visioning Project.** The City Council will hear a presentation followed by discussion from Envision Utah regarding the Valley Visioning Project. <https://utahvalleyvisioning.org/> (15 minutes)

**Item 6 – Open Session for Public Comment** *(For items not on the agenda - 10 minutes)*

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**Item 7 – Consent Agenda** – Consent agenda may contain items which have been discussed beforehand and/or do not require significant discussion, or are administrative in nature, or do not require public comment. The Council may approve all Consent Agenda items in one motion, or may discuss individual items as needed and act on them separately.

- a) **Continued Action Item: Ordinance #2020-13-O, Government Records Access Management.**  
This item was continued from the July 20, 2020 meeting in order to receive any additional public comment on the item. No further public comments have been received. The Council will review and consider city-initiated updates to LCC Title 4, Government Records Access Management. Updates to the Lindon City Policy and Procedures Manual, Section 9, related to government records retention will also be considered for approval.
- b) **Updated Officer Involved Critical Incident Protocol agreement** with Utah County and other law enforcement agencies within the County.
  - a. This agreement was adopted earlier this year by Utah County and its cities, including Lindon. This amendment updates the structure of the investigation team but does not change the actual protocol. The Chiefs of Police in the County voted to have the agreement re-approved by each municipality in order to avoid any conflicts with the County when an actual event takes place.

**Sample Motion:** I move to (approve, deny, continue) the consent agenda item(s) (with changes, as presented).

**Ordinance No. 2020-13-0**

AN ORDINANCE AMENDING TITLE 4 OF THE LINDON CITY CODE, UPDATING AND REVISION LINDON CITY'S GOVERNMENT RECORDS ACCESS AND MANAGEMENT ORDINANCE TO SATISFY CURRENT STATE REQUIREMENTS CONCERNING PUBLIC ACCESS TO GOVERNMENT RECORDS.

WHEREAS, Title 4 of the Lindon City Code has not been revised since 1993; and

WHEREAS, Numerous changes in state law have occurred since the last revision of Title 4 and it is in the best interest of the citizens of Lindon City to ensure that City's ordinances protecting the public's rights to access to government records are updated and consistent with established state laws; and

WHEREAS, Lindon City is currently subject to state wide retention schedules for its public records because the City's current ordinance do not set forth a retention schedule specific to Lindon City; and

WHEREAS, It is in the best interest of Lindon City to establish its own records retention schedule which takes into account local conditions and practices unique to Lindon City.

NOW THEREFORE, BE IT ORDAINED by the City Council of Lindon City, Utah as follows:

PART ONE: Amendment of Title 4 of the Lindon City Code.  
Title 4 of the Lindon City Code is amended as follows:

**TITLE 4  
GOVERNMENT RECORDS ACCESS MANAGEMENT**

**Chapters:**

- 4.01 ~~Lindon City Records~~ **Government Records Access Management**
- 4.02 ~~Maintenance and Retention of Records~~ **Classification of Records**
- 4.03 ~~Access to and~~ **Disclosure of Records**
- 4.04 **Requests for Records and Procedures for Access**
- 4.05 ~~Appeals~~ **Records Retention**
- 4.06 **Enforcement and Penalties** ~~Appeals~~
- 4.07 ~~Rights of Individuals on Whom Data Is Maintained~~
- 4.08 ~~Criminal Penalties~~

**Chapter 4.01**

**LINDON CITY RECORDS** ~~**GOVERNMENT RECORDS ACCESS MANAGEMENT**~~

**Sections:**

- 4.01.010 Purpose and Intent Method of classification.  
 4.01.020 Utah Governmental Records Access and Management Act Intent.  
 4.01.030 Records Officer Designation and Duties Definitions.

**4.01.010 Purpose and Intent Method of classification.**

It is the purpose and Intent of the Lindon City Council to establish fair and reasonable practices to ensure the public's right of easy and reasonable access to public records while protecting personal private information which maybe contained records maintained by the City.

~~Lindon City recognizes and acknowledges two fundamental constitutional rights: the right of privacy in relation to personal data gathered by the city; and the public's right of access to information concerning the conduct of the public's business.~~

1. ~~The city shall:
 
  - a. ~~evaluate all record series that it uses or creates;~~
  - b. ~~designate those record series as provided by this title; and~~
  - c. ~~report the designation of its record series to the state archives.~~~~
2. ~~The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.~~
3. ~~The city may designate another record series or reclassify a record or record series, or information within a record at any time.~~

**4.01.020 Utah Governmental Records Access and Management Act Intent.**

It is the purpose and intent of the Lindon City Council that the City shall acknowledge and comply with the provisions of the Utah Government Records Access and Management Act, Chapter 2 of Title 63G of the Utah Code Annotated, 1953 as amended.

1. All City departments and employees shall comply with the provisions of this Title as well as with Chapter 2 of Title 63G of the Utah Code, as amended hereafter.
2. The definition of words and terminology used in this Title shall be the same as the definitions set forth in the Utah Government Records Access and Management Act, as found in § 63G-2-103 of the Utah Code, and as amended hereafter.

~~It is the intent of Lindon City to:~~

1. ~~Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records;~~
2. ~~Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards; and~~
3. ~~Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this ordinance.~~

#### **4.01.030      Records Officer Designation and Duties Definitions.**

The City Recorder is hereby appointed as the Lindon City Records Officer and is to oversee and coordinate records management, access, and archive activities.

1. The Records Officer shall:
  - a. Comply with § 63G-2-108 "Certification of Records Officer" and obtain all required training and certifications as identified therein;
  - b. Make annual reports of records services activities to the City Council, as requested;
  - c. Provide training relative to records management, maintenance and access, to the various City departments and employees, as necessary;
  - d. Establish and maintain an active, continuing program for the economical and efficient management of the City's records as provided by this Title;
  - e. Make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the City designed to furnish information to protect the legal and financial rights of persons directly affected by the City's activities;
  - f. Submit to the state archivist the approved classifications and schedules of records and retention as provided for in this Title;
  - g. Coordinate and cooperate with the state archivist in conducting surveys made by the state archivist; and
  - h. Establish and report, to the state archives, retention schedules for objects that the City determines are not records, but that have historical or evidentiary value.
  - i. Designate those record series as required by this Title and Chapter 2 of Title 63G of the Utah Code, and report such designations to the state archives.

2. The Records Officer may classify a particular record, record series or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.
3. The Records Officer may re-designate a record series or reclassify a record, record series or information within a record at any time.
4. The Records Officer shall file with the state archives a copy of any amendment to this Ordinance, no later than 30 days after its effective date.

For purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

~~“Audit” means a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.~~

~~“Chronological logs” mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire, and paramedic calls made to the agency and any arrests or jail bookings made by the agency.~~

~~“Classification,” “classify,” and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under U.C.A., §6-32-201(3)~~

~~“Computer program” means a series of instructions or statements that permit the functioning of a computer system in a manner consistent with the manipulation of associated documentation and source material that explain how to operate the computer program.~~

~~a. “Computer program” does not mean:~~

~~i. the original data, including numbers, text, voice, graphics, and images;~~

~~ii. analysis, compilation, and other manipulated forms of the original data produced by use of the program; or~~

~~and then you iii. the mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.~~

~~“Controlled record” means a record containing data on individuals that is controlled as provided in Section 4.02.070.~~

~~“Contractor” means any person who contracts with the city to provide goods or services directly to the city; or any private, nonprofit organization that receives funds from the city. “Contractor” does not mean a private provider.~~

~~“Gross compensation” means every form of remuneration payable for a given period to any individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual’s employer.~~

~~“Designation,” “designate,” and their derivative forms mean indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.~~

~~“Initial contact report”~~

~~a. means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe: the date, time, location, and nature of the complaint, the incident, or offense;~~

~~i. names of victims;~~

~~ii. the nature or general scope of the agency's initial actions taken in response to the incident;~~

~~iii. the general nature of any injuries or estimate of damages sustained in the incident;~~

~~iv. the name, address, and other identifying information about any person arrested or charged in connection with the incident; and~~

~~v. the identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.~~

~~b. “Initial contact report” does not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in subsection (1) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under U.C.A. § 63-2-201(3)(b).~~

~~“Individual” means a human being.~~

~~“Person” means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.~~

~~“Private record” means a record containing data on individuals that is private as classified by Sections 4.02.050 and 4.02.060.~~

~~“Private provider” means any person who contracts with the city to provide services directly to the public.~~

~~“Protected record” means a record that is protected as classified by Section 4.02.080.~~

~~“Public record” means a record that has not been appropriately classified private, controlled, or protected as provided in Sections 4.02.050, 4.02.060, 4.02.070, and 4.02.080 of this title.~~

~~“Record” means~~

~~a. all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, or owned, used, received, or retained by the city.~~

~~b. “Record” does not mean:~~

~~i. temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;~~

~~ii. materials that are legally owned by an individual in his private capacity;~~

~~iii. materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;~~

~~iv. proprietary software;~~

~~v. junk mail or commercial publications received by the city or an official or employee of the city;~~

~~vi. books and other materials that are cataloged, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;~~

~~vii. daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working;~~

~~viii. computer programs that are developed or purchased by or for the city for its own use; or ix. notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of~~

~~Pardons, or a member of any other body charged by law with performing a judicial or quasi-judicial function.~~

~~“Record series” means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.~~

~~“Records officer” means the city recorder and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.~~

~~“Summary data” means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.~~

**Chapter 4.02**

**CLASSIFICATION MAINTENANCE AND RETENTION OF RECORDS**

**Sections:**

- 4.02.010 Records Maintenance Procedures Method of Classification.**
- 4.02.020 Storage Medium Records which are always public.**
- 4.02.030 Retention Schedule Records which are normally public.**
- 4.02.040 ~~Records which are not public.~~**
- 4.02.050 ~~Records which are always private.~~**
- 4.02.060 ~~Records which may be private.~~**
- 4.02.070 ~~Controlled Records.~~**
- 4.02.080 ~~Protected records.~~**

**4.02.010 Records Maintenance Method of Classification.**

Records maintenance procedures shall be developed by the Records Officer to ensure that due care is taken to maintain and preserve City records safely and accurately and in compliance with State requirements. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication and disposal of City Records, and shall monitor compliance with this Title and with State requirements by City departments and employees.

~~The following rules shall apply in classifying records in the city's possession or control:~~

- ~~1. The city shall:
 
  - ~~a. Evaluate all record series that it uses or creates;~~~~

- b. ~~Designate those record series as provided by this title; and~~
- c. ~~Report the designation of its record services to the state archives.~~
- 2. ~~The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.~~
- 3. ~~The city may designate another record series or reclassify a record or record series, or information within a record at any time.~~

#### **4.02.020 Storage Medium Records which are always public.**

The City retains and reserves to itself the right to use any type of non-verbal or non-written format for the storage, retention and retrieval of government records, including, but not limited to, audio tapes, video tapes, microforms, any type of computer, data processing, imaging or electronic information storage or processing equipment or systems, which are not prohibited by State statute and do not compromise legal requirements for records storage, retrieval, security and maintenance, to store and maintain City records. All computerized and non-written format records and data which are designated and classified in accordance with this Title shall be made available to a requester in accordance with this Title and State law.

~~All records are public unless otherwise expressly provided by this title or State or Federal law or regulation. The lists of public records in this section and Section 4.02.030 are not exhaustive and should not be used to limit access to records.~~

The following records are always public:

- 1. ~~Laws and ordinances;~~
- 2. ~~Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of the city's former and present employees and officers, excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individuals safety;~~
- 3. ~~Final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative, or judicial proceeding, except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, protected, or controlled;~~
- 4. ~~Final interpretations of statutes or rules by the city unless classified as protected under Section 4.02.080(15), (16), or (17);~~

5. ~~Information contained in or compiled from transcripts, minutes, or reports of the open portion of a meeting of the city, including the records of all votes of each member of the city council;~~
6. ~~Judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private.~~
7. ~~Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, the Division of Water Rights, or other governmental entities that give public notice of:
 
  - a. ~~Titles or encumbrances to real property;~~
  - b. ~~Restrictions on the use of real property;~~
  - c. ~~The capacity of persons to take or convey title to real property; or~~
  - d. ~~Tax status for real or personal property;~~~~
8. ~~Records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;~~
9. ~~Data on individuals that would otherwise be private under this ordinance if the individual who is the subject of the record has given the city written permission to make the records available to the public;~~
10. ~~Documentation of the compensation that the city pays to a contractor or private provider;~~
11. ~~Summary data.~~

#### **4.02.030      Retention Schedule ~~Records which are normally public.~~**

The public records of Lindon City shall be classified and retained pursuant to the provisions of this Section 9 of the Lindon City Policies and Procedures Manual, as may be amended from time to time.

The following records are normally public, but to the extent a record is expressly exempted from disclosure, access may be restricted:

1. ~~Administrative staff manuals, instructions to staff, and statements of policy;~~
2. ~~Records documenting a contractor's or private provider's compliance with the terms of a contract with the city;~~
3. ~~Records documenting the services provided by a contractor or private provider to the extent the records would be public if prepared by the city;~~
4. ~~Contracts entered into by the city;~~
5. ~~Any account, voucher, or contract that deals with the receipt or expenditure of funds by the city;~~

6. ~~Records relating to governmental assistance or incentives publicly disclosed, contracted for, or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in U.C.A. Subsection 63-2-304(34);~~
7. ~~Chronological logs and initial contact reports;~~
8. ~~Correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;~~
9. ~~The empirical data contained in drafts if:
 
  - a. ~~The empirical data is not reasonably available to the requester elsewhere in similar form; and~~
  - b. ~~The city is given opportunity to correct any errors or make non-substantive changes before release.~~~~
10. ~~Drafts that are circulated to anyone other than the city, state, or federal agency if the city, state, or federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;~~
11. ~~Drafts that have never been finalized but were relied on by the city in carrying out action or policy;~~
12. ~~Original data in a computer program if the city chooses not to disclose the program;~~
13. ~~Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;~~
14. ~~Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;~~
15. ~~Records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:
 
  - a. ~~The disciplinary action has been completed and all time periods for administrative appeal have expired; and~~
  - b. ~~The formal charges were sustained.~~~~
16. ~~Records maintained by the Division of State Lands and Forestry or the Division of Oil, Gas and Mining that evidence mineral production on government lands;~~
17. ~~Final audit reports;~~
18. ~~Occupational and professional licenses;~~
19. ~~Business licenses; and~~
20. ~~A notice of violation, a notice of agency action under U.C.A. § 63-46b-3, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline;~~

**4.02.040 — Records which are not public.**

The following records are not public:

1. ~~Records that are appropriately classified as private, controlled, or protected only those records specified in Sections 4.02.050, 4.02.060, 4.02.070, and 4.02.080 may be classified as private, controlled, or protected; and~~
2. ~~Records to which access is restricted pursuant to court rule, state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.~~

**4.02.050** ~~Records which are always private.~~

The following records are always private:

1. ~~Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination or benefit levels;~~
2. ~~Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;~~
3. ~~Records of publicly funded libraries that when examined alone or with other records identify a patron;~~
4. ~~Records received or generated in a Senator or House ethics committee concerning any alleged violation of the rules on legislative ethics if the committee meeting was closed to the public.~~
5. ~~Records concerning a current or former city employee or applicant for city employment that would disclose the individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions.~~

**4.02.060** ~~Records which may be private.~~

1. ~~Records concerning a current or former city employee or applicant for city employment, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public or private;~~
2. ~~Records describing an individual's finances, except that the following are public:~~
  - a. ~~Records described in Section 4.02.020;~~
  - b. ~~Information provided to the city for the purpose of complying with a financial assurance requirement; or~~
  - c. ~~Records that must be disclosed in accordance with another statute~~
3. ~~Records of independent state agencies if the disclosure of those records would conflict with fiduciary obligations of the agency;~~

4. ~~Other records containing data on individuals, the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;~~
5. ~~Records provided by the United States or by a governmental entity outside the state that are the records are given with the requirement that the records are managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.~~

#### **4.02.070 ~~Controlled Records.~~**

A record is controlled only if:

1. ~~The record contains medical, psychiatric, or psychological data about an individual;~~
2. ~~The city reasonably believes that releasing the information in the record to the subject of the record would be detrimental to the subject's mental health, or releasing the information would constitute a violation of normal professional practice and medical ethics; and~~
3. ~~The city has properly classified the record.~~

#### **4.02.080 ~~Protected records.~~**

The following records are protected if properly classified as protected by the city:

1. ~~Trade secrets as defined in U.C.A. §3-24-2 if the person submitting the trade secret has provided the city with the information specified in U.C.A. §63-2-308;~~
2. ~~Commercial information or non-individual financial information obtained from a person if:
 
  - a. ~~Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or disclosure would impair the ability of the city to obtain necessary information in the future;~~
  - b. ~~The person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and~~
  - c. ~~The person submitting the information has provided the city with the information specified in U.C.A. §63-2-308;~~~~
3. ~~Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy;~~

4. ~~Test questions and answers to be used in future license, certification, registration, employment, or academic examinations;~~
5. ~~Records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;~~
6. ~~Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired, unless:
 
  - a. ~~Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible; and~~
  - b. ~~The information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;~~
  - c. ~~In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property; or~~~~
7. ~~Records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
 
  - a. ~~The public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction;~~  
or
  - b. ~~When prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;~~~~
8. ~~Records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes if release of the records:
 
  - a. ~~Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;~~
  - b. ~~Reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;~~
  - c. ~~Would create a danger of depriving a person of a right to a fair trial or impartial hearing;~~
  - d. ~~Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in~~~~

~~the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or~~

- ~~e. Reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government, if disclosure would interfere with enforcement or audit efforts;~~
- ~~9. Records the disclosure of which would jeopardize the life or safety of an individual;~~
- ~~10. Records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;~~
- ~~11. Records the disclosure of which would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;~~
- ~~12. Records that if disclosed would reveal recommendations made to the Board of Pardons by an employee of or contractor for the Department of Corrections, the Board of Pardons, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;~~
- ~~13. Records and audit work papers that identify audit, collection, and operational procedures and methods used by the Utah State Tax Commission, if disclosure would interfere with audits or collections;~~
- ~~14. Records of communications between the city and an attorney representing, retained, or employed by the city, if the communications would be privileged as provided in U.C.A. §78-24-8;~~
- ~~15. Drafts, unless otherwise classified as public;~~
- ~~16. Records concerning the city's strategy about collective bargaining or pending litigation;~~
- ~~17. Records of investigations of loss occurrences and analysis of loss occurrences;~~
- ~~18. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual, if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;~~
- ~~19. Records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;~~
- ~~20. Records of independent state agencies if the disclosure of the records would conflict with the fiduciary duties of the agency;~~
- ~~21. Records provided by the United States or by a government entity outside the state the are given to the city with a requirement that they be managed as protected records if the~~

- providing entity certifies that the record would not be subject to public disclosure if retained by it;
22. ~~Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;~~
23. ~~Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;~~
24. ~~Records disclosing an attorney's work product, including mental impressions or legal theories of an attorney or other representative of the city concerning litigation;~~
25. ~~Transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meeting Act;~~
26. ~~Records that would reveal the contents of settlement negotiations, but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;~~
27. ~~Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons, or a member of any other body charged by law with performing a quasi-judicial function;~~
28. ~~Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and~~
29. ~~Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights, including patents, copyrights, and trade secrets.~~

### Chapter 4.03

#### DISCLOSURE OF RECORDS

##### Sections:

- 4.03.010 ~~Disclosure of Access to public records.~~
- 4.03.020 ~~Adoption and Enforcement of the Utah Government Records Access and Management Act Disclosure of non-public records.~~
- 4.03.030 ~~Disclosure of private records.~~
- 4.03.040 ~~Disclosure of controlled records.~~
- 4.03.050 ~~Disclosure of protected records.~~
- 4.03.060 ~~Additional limitations on disclosure of private, controlled, and protected records.~~
- 4.03.070 ~~Disclosure of private or controlled records for research purposes.~~

~~4.03.080 — Right to a certified copy of the record.~~

~~4.03.090 — Additional limitations on public's right of access.~~

~~4.03.100 — Disclosure pursuant to court order.~~

~~4.03.110 — Confidential treatment of records for which no exemption applies.~~

**4.03.010      Disclosure of Access to public records.**

~~Subject to provisions of this Title, Every person has the right to inspect a public record, free of charge, and the right to receive take a copy of a public record upon payment of a reasonable cost as set forth herein during normal working hours, subject to the payment of costs and fees pursuant to Section 4.05.030.~~

**4.03.020      Adoption and Enforcement of the Utah Government Records Access and Management Act Disclosure of non-public records.**

In order to ensure the public's right to access and review public records, while still providing required protections for private and protected information which may be contained in such records, Lindon City hereby adopts and incorporates the Utah Government Records Access and Management Act as set forth in Chapter 2 of Title 63G of the Utah Code, as may hereafter be amended.

- ~~1. — The city may not disclose to any person a record that is private, controlled, or protected except as provided in this title.~~
- ~~2. — The city may, in its discretion, disclose records that are private or protected to persons other than those otherwise entitled to obtain such records if the city council, or its designee, determines that there are no interests in restricting access to the record, or that the interests favoring access outweigh the interests favoring restriction of access.~~
- ~~3. — The disclosure of records to which access is governed or limited pursuant to court rule, state statute, federal statute, or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation, but only if the Lindon City Code is inconsistent with the statute, rule, or regulation.~~

**4.03.030 — Disclosure of private records.**

~~Upon request the city shall disclose a private record to:~~

- ~~1. — The subject of the record;~~

2. ~~— The parent or legal guardian of an un-emancipated minor who is the subject of the record;~~
3. ~~— The legal guardian of a legally incapacitated individual who is the subject of the record;~~
4. ~~— Any other individual who has a power of attorney from the subject of the record, or who submits a notarized release from the subject of the record or his legal representative dated no later than 90 days before the date the request is made; or~~
5. ~~— Any person to whom the record must be provided pursuant to court order~~

**4.03.040 — ~~Disclosure of controlled records.~~**

Upon request the city shall disclose a controlled record to:

1. ~~— A physician, psychologist, or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided in Section 4.03.060; and~~
2. ~~— Any person to whom a record must be disclosed pursuant to court order.~~

**4.03.050 — ~~Disclosure of protected records.~~**

Upon request the city shall disclose a protected record to:

1. ~~— The person who submitted the information in the record;~~
2. ~~— Any other individual who has a power of attorney from all persons, government entities, or political subdivisions whose interests were sought to be protected by the protected classification, or who submits a notarized release from their legal representatives dated no more than 90 days prior to the date the request is made; or~~
3. ~~— Any person to whom a record must be provided pursuant to court order.~~

**4.03.060 — ~~Additional limitations on disclosure of private, controlled, and protected records.~~**

The following additional limitations apply to the disclosure of controlled, private and protected records:

1. ~~— A person who receives a controlled record from the city may not disclose controlled information from that record to any other person, including the subject of the record.~~
2. ~~— If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.~~

3. ~~The city may disclose a record classified as private, controlled, or protected to another governmental entity, city, state, the United States, or a foreign government only as provided by U.C.A. § 63-2-206.~~
4. ~~Before releasing a private, controlled, or protected record, the person requesting disclosure shall provide satisfactory evidence of his identity.~~
5. ~~Except as otherwise provided in this title, the city may not disclose records that are private or protected to persons other than those specified in this chapter.~~
6. ~~Under U.C.A. Subsection 63-2-404(8) a court may require the disclosure of records that are private, controlled, or protected to persons other than those specified in this chapter~~

**4.03.070 ~~Disclosure of private or controlled records for research purposes.~~**

1. ~~The city may disclose or authorize disclosure of private or controlled records for research purpose if the city:
 
  - a. ~~Determines that the research purpose cannot reasonably be accomplished without disclosure of the information to the researcher in individually identifiable form;~~
  - b. ~~Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy.~~
  - c. ~~Requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished.~~
  - d. ~~Prohibits the researcher from disclosing the record in individually identifiable form except as provided in Subsection 2 of this section, or from using the record for purposes other than the research approved by the city; and~~
  - e. ~~Secures from the researcher a written statement of his understanding of an agreement to the conditions of this Section and his understanding that violation of the terms of this section may subject him to criminal prosecution under U.C.A. §6-32-801.~~~~
2. ~~A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.~~
3. ~~The city may require indemnification as a condition of permitting research under this section.~~

**4.03.080 ~~Right to a certified copy of the record.~~**

The city shall provide a person with a certified copy of a record if the person requesting the record has a right to inspect it, identifies the record with reasonable specificity, and pays the lawful fees.

**4.03.090 ——— Additional limitations on public's right of access.**

The following are additional limitations on a person's right to access and the city's duty to produce records:

1. ——— The city is not required to create a record in response to a request;
2. ——— Nothing in this ordinance requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;
3. ——— If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may provide the requester with facilities for copying the requested records and require that the requester make the copies himself; or allow the requester to provide his own copying facilities and personnel to make the copies at the city offices, and waive the fees for copying the records;
4. ——— If the city owns an intellectual property right and offers the intellectual property right for sale or license, the city may control by ordinance or duplication policy, the distribution of the material, based on terms the city considers to be in the public interest. Nothing in this ordinance shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right;
5. ——— The city may not use the physical form, electronic or otherwise, in which a record is stored, to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record under this title.

**4.03.100 ——— Disclosure pursuant to court order.**

The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

1. ——— The record deals with a matter in controversy over which the court has jurisdiction;
2. ——— The court has considered the merits of the request for access to the record;
3. ——— The court has considered and limited the requester's use and further disclosure of the record, where appropriate, in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under U.C.A. §63-2-304(1) and (2), and privacy interests in the case of other protected records;

4. ~~To the extent the record is properly classified as private, controlled, or protected, the court has determined that interests favoring access, considering limitations on the requester's use and further disclosure of the record, outweigh the interests favoring restriction of access; and~~
5. ~~Where access is restricted by a rule, statute, or regulation referred to in Section 4.02.040(2), the court has authority to order disclosure, independent of the Lindon City Code.~~

**4.03.110 ~~Confidential treatment of records for which no exemption applies.~~**

1. ~~A court may order confidential treatment and non-disclosure of records for which there is no other exemption from disclosure, if:
 
  - a. ~~There are compelling interests favoring restriction of access to the record; and~~
  - b. ~~The interests favoring restriction of access clearly outweigh the interests favoring access.~~~~
2. ~~If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorney fees incurred by the party seeking disclosure in opposing the city's request, if:
 
  - a. ~~The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and~~
  - b. ~~The court denies confidential treatment under this section.~~~~
3. ~~This section does not apply to records that are specifically required to be public under this title or U.C.A. §632-301, except as provided in Subsections 4 and 5 of this section.~~
4. ~~Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.~~
5. ~~Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.~~

**Chapter 4.04**

**REQUESTS FOR RECORDS AND PROCEDURES FOR ACCESS**

**Sections:**

- 4.04.010 **Request for records Form of requests.**
- 4.04.020 **Fees City's response to requests.**

~~4.04.030 — Presumption of public benefit.~~

~~4.04.040 — Extraordinary circumstances allowing delay in response time.~~

~~4.04.050 — Time limits for extraordinary circumstances.~~

~~4.04.060 — Effect of failure to disclose within time limitations.~~

~~4.04.070 — Disclosure denials.~~

**4.04.010        Request for records ~~Form of requests.~~**

All record requests shall be made by written request upon forms provided by Lindon City, which request shall be directed to the City department where the record is kept. Lindon City will respond to all requests for records pursuant to and in accordance with the requirements of the Utah Government Records Access and Management Act as adopted in this Title.

~~A person making a request for a record shall furnish the city with a written request containing his name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.~~

**4.04.020        Fees ~~City's response to requests.~~**

Lindon City may charge reasonable fees and costs to cover the City's actual cost of compiling and duplicating a record.

1. Fees for such requests may be set and revised by resolution of the City Council.
2. The City may modify or waive the fee pursuant to the terms of the Utah Government Records Access and Management Act as adopted in this Title.

~~As soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:~~

1. ~~Approving the request and providing the record;~~
2. ~~Denying the request;~~
3. ~~Notifying the requester that it does not maintain the record and providing the name and address of the individual having possession of the record, if known; or~~
4. ~~Notifying the requester that because of one of the extraordinary circumstances listed in Section 4.04.040, the city cannot immediately approve or deny the request. The notice shall describe the circumstances relied on and specify the earliest time and date when the records will be available.~~

**4.04.030 — Presumption of public benefit.**

Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

**4.04.040 — Extraordinary circumstances allowing delay in response time.**

The following circumstances constitute “extraordinary circumstances” that allow the city to delay approval or denial by an additional period of time as specified in Section 4.04.050 if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Section 4.04.020:

1. — Another governmental entity is using the record, in which case the city shall promptly request that the other governmental entity return the record;
2. — Another governmental entity is using the record as part of an audit and returning the record before completion of the audit would impair the conduct of the audit;
3. — The request is for a voluminous quantity of records;
4. — The city is currently processing a large number of records requests;
5. — The request requires the city to review a large number of records to locate the records requested;
6. — The decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;
7. — Segregating information the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or
8. — Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

**4.04.050 — Time limits for extraordinary circumstances.**

If one of the extraordinary circumstances listed in Section 4.04.040 precludes approval or denial within the time specified in Section 4.04.020, the following time limits apply to the extraordinary circumstances:

1. — For delays under section 4.04.040(1), the governmental entity currently in possession of the record shall return the record to the city within five business days of the request for the return unless returning the record would impair the holder's work.
2. — For delays under Section 4.04.040(2), the city shall notify the requester when the record is available for inspection and copying;
3. — For delays under Section 4.04.040(3), (4), and (5), the city shall:
  - a. — Disclose the records that it has located which the requester is entitled to inspect;

- b. — Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and
  - c. — Complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible.
- 4. — For delays under Section 4.04.040(6), the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;
  - 5. — For delays under Section 4.04.040(7), the city shall fulfill the request within 15 business days from the date of the original request; for delays under Section 4.04.040(8), the city shall complete its programming and disclose the requested records as soon as reasonably possible.

**4.04.060 — Effect of failure to disclose within time limitations.**

If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

**4.04.070 — Disclosure denials.**

The following rules apply to denials of record requests:

- 1. — If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address by U.S. mail.
- 2. — The notice of denial shall contain the following information:
  - a. — A description of the record or portions of the record to which access is denied, provided that the description does not disclose private, controlled, or protected information or records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds;
  - b. — Citations to the provisions of this ordinance, another state statute, federal statute, court rule or order, or federal regulation that exempts the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information;
  - c. — A statement that the requester has the right to appeal the denial to the city council; and
  - d. — A brief summary of the appeals process and the time limit for filing an appeal.

3. ~~Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.~~

## Chapter 4.05 APPEALS RECORDS RETENTION

### Sections:

- 4.05.010** ~~Appeal to Chief Administrative Officer Records retention.~~
- 4.05.020** ~~Appeal of the Decision of Chief Administrative Officer Segregation of records.~~
- 4.05.030** ~~Judicial Review Fees.~~
- 4.05.040** ~~Fee waivers.~~
- 4.05.050** ~~Circumstances under which fee may not be charged.~~

**4.05.010** ~~Appeal to Chief Administrative Officer Records retention.~~

1. ~~For purposes of this Chapter, the Lindon City Administrator shall be Lindon City's Chief Administrative Officer.~~
2. ~~A person who believes their request for records has been wrongfully denied, or that the requested records have not been fully provided, may appeal such decision to the Chief Administrative Officer, or their designee, pursuant to the appeals process set forth in the Utah Government Records Access and Management Act as adopted by this Title.~~

~~The city shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit "A," attached hereto and incorporated herein by this reference.~~

**4.05.020** ~~Appeal of the Decision of Chief Administrative Officer Segregation of records.~~

~~Lindon City has not established a local appeals board. As such, any of appeal of a decision of the Chief Administrative Officer shall be made to the state records committee as set forth in §63G-2-403 of the Utah Code, as adopted by this Title.~~

~~Notwithstanding any other provision in this ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information~~

that the requester is not entitled to inspect, and if the information the requester is entitled to inspect is intelligible, the city:

1. ~~Shall allow access to information in the record that the requester is entitled to inspect; and~~
2. ~~May deny access to information in the record if the information is exempt from disclosure to the requester by issuing a notice of denial.~~

#### **4.05.030      Judicial Review Fees.**

Any petition for judicial decision of an order or decision made under the authority of this Title shall be made pursuant to the requirements of § 63G-2-404 of the Utah Code, as adopted by this Title.

The city may charge a reasonable fee to cover the city's actual cost of duplicating a record or compiling a record in a form other than that maintained by the city. The fees may be set by resolution. The initial fees, until changed by resolution, are set forth in Exhibit B, attached hereto and incorporated herein by this reference.

#### **4.05.040      ~~Fee waivers.~~**

The city may fulfill a record request without a charge when it determines that:

1. ~~Releasing the record primarily benefits the public rather than a person;~~
2. ~~The individual requesting the record is the subject of the record; or~~
3. ~~The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.~~

#### **4.05.050      ~~Circumstances under which fee may not be charged.~~**

The city may not charge a fee for reviewing a record to determine whether it is subject to disclosure, or for inspecting a record.

### **Chapter 4.06**

#### **ENFORCEMENT AND PENALTIES APPEALS**

##### **Sections:**

- 4.06.010      Enforcement Notice of Appeal.**
- 4.06.020      Disciplinary Action Appeal from claim of extraordinary circumstances.**
- 4.06.030      ~~Appeal involving confidential business records.~~**
- 4.06.040      ~~Mayor's determination of appeal.~~**
- 4.06.050      ~~Appeal of mayor's determination to city council.~~**

~~4.06.060 — Appeal of classification determination.~~

~~4.06.070 — Judicial review.~~

**4.06.010        Enforcement Notice of Appeal.**

The Records Officer shall ensure that all Departments and City employees comply with the requirements of this Title and the Utah Government Records Access and Management Act as adopted in herein.

~~Any person aggrieved by the city's access determination under this title, including a person not a party to the city's proceeding, may appeal the determination to the mayor by filing a notice of appeal no later than 30 days after notification of the determination. The notice of appeal shall contain the petitioner's name, address, daytime telephone number, and a statement of the relief sought. The petitioner may also file a short statement of facts, reasons, and legal authority in support of the appeal.~~

**4.06.020        Disciplinary Action Appeal from claim of extraordinary circumstances.**

The City may take disciplinary action, which may include suspension or discharge, against any employee who violates any provision of this Title or the Utah Government Records Access and Management Act as adopted in herein.

~~If the city claims extraordinary circumstances and specifies the date when the records will be available and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance no later than 30 days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent. The notice of appeal shall contain the petitioner's name, address, daytime telephone number, and a statement of the relief sought. The petitioner may also file a short statement of facts, reasons, and legal authority in support of the appeal.~~

**4.06.030 — Appeal involving confidential business records.**

~~If the appeal involves a record that is the subject of a business confidentiality claim under U.C.A. §63-2-308:~~

- ~~1. — The city recorder shall:
 
  - ~~a. — Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and~~~~

- b. ~~Send notice of the business confidentiality claim and the schedule for the mayor's determination to the requester within three business days after receiving notice of the requester's appeal.~~
2. ~~The claimant shall have seven business days after notice is sent by the city recorder to submit further support for the claim of business confidentiality.~~

**4.06.040 — Mayor's determination of appeal.**

1. ~~The mayor shall make the determination on the appeal within five business days after the mayor's receipt of the notice of appeal, or within 12 business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality. However, the parties participating in the proceeding may, by agreement, extend the time periods specified in this chapter.~~
2. ~~If the mayor fails to make a determination within the time specified in Subsection 1, the failure shall be considered the equivalent of an order denying the appeal.~~
3. ~~The mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or non-disclosure, order the disclosure of information properly classified as private or protected if the interests favoring access outweigh the interests favoring restriction of access.~~
4. ~~The city shall send written notice of the determination of the mayor to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the city council, and the time limits for filing an appeal.~~
5. ~~The duties of the mayor under this section may be delegated.~~

**Chapter 4.07**

**RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED**

**Sections:**

~~4.07.010 — Right to contest accuracy of record.~~

~~4.07.020 — Approval or denial of amendment request.~~

~~4.07.030 — Inapplicability of certain sections.~~

~~4.07.040 — Additional rights of individuals on whom data is maintained.~~

~~4.07.010 — Right to contest accuracy of record.~~

~~Subject to Chapter 4.04 of this title, an individual may contest the accuracy or completeness of any public, private, or protected record concerning that individual by requesting the city to amend the record. This chapter does not affect the right of access to private or protected records. The request shall contain the following information:~~

1. ~~The requester's name, mailing address, and daytime telephone number; and~~

2. ~~— A brief statement explaining why the city should amend the record.~~

**4.07.020 ~~— Approval or denial of amendment request.~~**

1. ~~— The city shall issue an order either approving or denying the request to amend no later than 30 days after receipt of the request.~~
2. ~~— If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until the record is amended.~~
3. ~~— If the city denies the request, it shall inform the requester in writing and provide a brief statement giving its reasons for denying the request.~~
4. ~~— If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record. In such event, the city shall:
 
  - a. ~~— File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record, or make the statement accessible if the record is not in a form such that the statement can accompany the record; and~~
  - b. ~~— Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.~~~~
5. ~~— If the city denies a request to amend a record, the requester may appeal the denial pursuant to Chapter 4.06 of this title.~~

**4.07.030 ~~— Inapplicability of certain sections.~~**

~~Sections 4.07.010 and 4.07.020 do not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.~~

**4.07.040 ~~— Additional rights of individuals on whom data is maintained.~~**

1. ~~— The city shall file with the state archivist a statement explaining the purposes for which a record series designated private or controlled are collected and used by the city, which statement is a public record.~~
2. ~~— Upon request, the city shall explain to an individual:
 
  - a. ~~— The reasons the individual is asked to furnish information to the city that could be classified as private or controlled;~~
  - b. ~~— The intended uses of the information; and~~
  - c. ~~— The consequences for refusing to provide the information.~~~~

3. ~~The city may not use private or controlled records for purposes other than those given in the statement filed with the statement filed with the state archivist under Subsection 1 or for purposes other than those for which the governmental entity could use the record under U.C.A. § 63-2-206.~~

## **Chapter 4.08**

### **CRIMINAL PENALTIES**

#### **Sections:**

~~4.08.010 — Illegal disclosure of non-public record.~~

~~4.08.020 — Defenses to illegal disclosure of non-public record.~~

~~4.08.030 — Illegally obtaining access to non-public record.~~

~~4.08.040 — Unlawful refusal to release record.~~

~~4.08.050 — Acts Constituting Separate Offenses.~~

~~4.08.010 — Illegal disclosure of non-public record.~~

~~A public employee or other person who has lawful access to any private, controlled, or protected record under this title, and who intentionally discloses or provides a copy of a private, controlled, or protected record to any person, knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.~~

~~4.08.020 — Defenses to illegal disclosure of non-public record.~~

~~The following are defenses to prosecution under Section 4.08.010:~~

- ~~1. — The actor released private, controlled, or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.~~
- ~~2. — The record could have lawfully been released to the recipient if it had been properly classified.~~

~~4.08.030 — Illegally obtaining access to non-public record.~~

~~A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which he is not legally entitled is guilty of a class B misdemeanor. However, no person shall be guilty under this section if the person receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.~~

**~~4.08.040 Unlawful refusal to release record.~~**

~~A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final order which has not been appealed from the city, or a court, is guilty of a class B misdemeanor.~~

**~~4.08.050 Acts Constituting Separate Offenses.~~**

- ~~7. Each act of intentionally disclosing or providing a copy of a private, controlled, or protected record as prohibited by Section 4.08.020 shall constitute a separate offense under this Chapter.~~
- ~~8. Each protected record that is accessed in violation of Section 4.08.030 shall constitute a separate offense.~~
- ~~9. The unlawful refusal to disclose a required document under Section 4.08.040 shall be a separate offense for each request for new documents. The refusal to disclose required documents on multiple requests for the same, or similar documents, from the same applicant, or applicants associated or affiliated with one another, shall only constitute one offense for the purposes of Section 4.08.040.~~

PART TWO: Amendment of Section 9 of the Lindon City Policies and Procedures Manual.

Section 9 the Lindon City Policies and Procedures Manual is hereby amended to read as follows:

Section 9 – Records Management Policies

- 9.1 PURPOSES
- 9.2 POLICY
- 9.3 PROCEDURE
- 9.4 RETENTION SCHEDULE

9.1 PURPOSE

Lindon City is committed to meeting required retention schedules as set for in the Government Records Access Management Act (GRAMA). Lindon City is also committed to providing access to all public records, and creating transparency in all aspects of government operations.

9.2 POLICY

It is the policy of Lindon City to establish guidelines governing the management, retention and destruction of all government records.

9.3 PROCEDURE

1. The City shall follow the classification and retention schedule set forth in Subsection 9.4. Any record, or records series, not specifically identified or designated in Subsection 9.4 shall be kept and retained pursuant to the model retention schedule as established in GRAMA and maintained by the Utah State Archives and Records Department.
2. Each City Department Head is responsible for management, retention and destruction of the records of their individual departments. The Department Head may delegate the day to day management of records to department staff.
3. Annual destruction of records will be scheduled between January 15 and February 28.
4. Destruction will be completed by on-site shredding, or transferred to the incinerator with Police Department evidence which is ready for destruction.
5. On the date of destruction, each Department Head will provide a written inventory of records destroyed to the City Recorder.
6. Frequently requested public records will be made available for public access on the City website as much as possible.
7. Any citizen requesting a copy of a record (GRAMA request) is required to complete a records request form and pay any associated fees for processing the request.
8. Records requests forms will be forwarded to the City Recorder. The City Recorder is responsible to process the request in cooperation with the department with control of the record.
9. All citizen requests will be completed as soon as possible, but no later than ten business days after the request is received. If processing the request within the ten-day period is not possible, the citizen requesting the records must be contacted prior to the end of the ten-day period and notified of the date the records will be available.
10. Any email message received by a City employee or official which is relevant to any City business shall be retained in electronic format until final action, including any appeal period, is complete. Following final action, any email correspondence shall be printed in hard copy form and placed in the file of the application or project as part of the project record. The electronic message may be deleted when the hard copy of the correspondence is printed and placed in the file.

#### 9.4 RETENTION SCHEDULE

City records shall be classified and retained pursuant to the provisions of this Subsection.

1. Permanent Retention: Records deemed to have historical value and importance shall be retained permanently. The Records officer may transfer permanent records to the State Archives for retention if necessary. The following Records shall be retained permanently:
  - a. Articles of Incorporation: Records related to the organization and establishment of the city, including annexation and boundary adjustments;
  - b. General Plan: Records of the comprehensive plan for municipal development adopted by the City Council;
  - c. Ordinances and Resolutions: Records of the official legislative actions of the City Council;
  - d. Public Minutes: Approved minutes of the Lindon City Council, Lindon City Planning Commission, and the Lindon City Board of Adjustment;

- e. Building Permits: Permits issued by building officials authorizing the construction, demolition, or remodeling structures and buildings, including inspections reports and certificates issued by the City;
  - f. City Histories: Chronological records of activities of the city and its departments, including photographs, newspaper clippings, flyers, program notes, brochures, and other items related to activities of the city and its citizens; and
  - g. Agency History Records: Records prepared specifically to document the organization or modification of governmental entities, including histories, functional information, and organizational files.
2. Seven Year Retention. The following records shall be retained for a period of seven years:
- a. Real Estate Acquisition Records: Documentation of the purchase of real property by Lindon City, including contracts, correspondence and deeds;
  - b. State or Federal Grants: Documentation of monetary grants applied for and received from federal or state sources, including Community Development Block Grants (CDBG), which documentation includes original applications, contract agreements, and annual and final performance reports;
    - i. The retention period for these records shall begin to run at the completion of the project or program, including any warranty period.
  - c. System Studies Final Reports: Final reports of various studies of program analysis, or project studies of city operations or public activities created by private or public agencies; and
  - d. Commercial Building Plans: Blueprints and specifications submitted by building contractors and owners when applying for a building permit for a commercial building or structure.
3. Three Year Retention. The following records shall be retained for a period of three years:
- a. Census Information Files: Copies of US Census Bureau forms completed by the city regarding government employment and tax revenues. Used to compile state and national statistical reports, meeting the requirements for federal revenue sharing and publication of financial information with the public; and
  - b. Publications: Records issued by Lindon City for public distribution at the expense of the city entity, including annual reports and policy and procedure manuals.
    - i. The retention period for these records shall begin to run upon the publication of a subsequent volume or amendment of the publication or a retraction of the publication.
4. Two Year Retention. The following records shall be retained for a period of two years:
- a. Executive Correspondence. Correspondence, regardless of format that provides information relating to official actions to facilitate or promote functions, policies, procedures or programs of Lindon City and which document the actions of executive decision makers made regarding city interests. Executive decision-makers may include the Mayor, the City Administrator, or other department heads identified by the City Administrator;

- b. Feasibility Studies. Studies conducted before the installation of any significant technology or equipment, including specific studies and system analysis for the initial establishment or major modification of such systems;
  - c. Public Relations Records. Records created for the distribution to news media or the public, including speeches, press releases, public announcements, and similar records; and
  - d. Policy and Procedure Case files. Records related to policy and procedure issuance with documentation of the policies' formulation, including issues related to routine administrative functions. (e.g. payroll, procurement, and personnel).
    - i. The retention period for these records shall begin to run upon a policy or procedure being superseded or rescinded.
5. One Year Retention. The following records shall be retained for a period of one year:
- a. Notary Bond Files: Documentation of City employees providing the City services as Notaries Public, including development certificates, copies of bonds, and related correspondence; and
    - i. The retention period for these records shall begin to run upon the expiration of a Notary's certification.
  - b. Unsuccessful Grant Application. Record related to the rejection or withdrawal of the grant application, including memoranda, correspondence, and other records related to the decision to reject or withdraw the grant proposal.
    - i. The retention period for these records shall begin to run upon the denial or withdrawal of a grant application.
6. 90 Day Retention. The following records shall be retained for a period of 90 days:
- a. Temporary Correspondence: Correspondence, regardless of format, related to matters of short-term interest and which contain no final contractual, financial, or policy information, including routine requests for information, unofficial notices for meetings and events, request for supplies, approvals to attend training or scheduling activities, duty rosters or work assignments, schedules, appointments or activity logs and working copies of documents which are not considered drafts and records relating to daily activities that do not reflect policy or official actions;
  - b. Temporary Tracking Records: Records documenting temporary transactions which tracks information regarding services rendered, movement of people, materials, including Internet website visitor information; and
  - c. Temporary Work Files and Notes: Records containing unique information in notes or drafts assembled and used repair or analyze other documents, including information, understanding, and context of the formulation of City staff's actions, decisions or responses in administrative functions and which are not part of a record otherwise defined by the Chapter.
7. No Retention Period Required. The following documents do not to be retained by the Records Officer:
- a. Documents or records that do not meet the criteria of a "record" as defined by state law, including personal notes and communications, temporary drafts made for personal use, materials copyrighted and owned by an individual in a private capacity,

daily calendars kept for personal use, information protected by the attorney-client privilege or nongovernmental publications or documents.

PART THREE: Severability

Severability is intended throughout and within the provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

PART FOUR: Effective Date.

This ordinance shall take effect immediately upon its passage and posting as provided by law.

PASSED AND APPROVED AND MADE EFFECTIVE by the City Council of Lindon City, Utah, this \_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_,  
JEFF ACERSON,  
Lindon City Mayor

ATTEST:

\_\_\_\_\_,  
Kathy Moosman  
City Recorder

# **Utah County Law Enforcement Executives Contractual Agreement for Officer Involved Critical Incident Protocol**



Revised July 2020

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**UTAH COUNTY**  
**OFFICER INVOLVED CRITICAL INCIDENT TASK FORCE**  
**CONTRACTUAL AGREEMENT**

**THIS CONTRACTUAL COOPERATION AGREEMENT** (“Agreement”) is entered into this 2, day of March 2020, by and between the following higher education, municipal, and government entities for and on behalf of their respective law enforcement agencies: Alpine City, American Fork City, Brigham Young University, (solely for and on behalf of University Police, the remainder of the university being a private entity), Highland City, Lehi City, Lindon City, Mapleton City, City of Orem, Payson City, Pleasant Grove City, Provo City, Salem City, Santaquin City, Spanish Fork City, Saratoga Springs City, Springville City, Utah County, Utah Highway Patrol, Utah Transit Authority, Utah Valley University, Utah Department of Corrections/Adult Probation and Parole or any Police Department or Department of Public Safety of any city or town located in Utah County for the purpose of facilitating the establishment of the Utah County Officer Involved Critical Incident Task Force hereby now referred to as OICI Task Force. The parties to this Agreement are sometimes referred to collectively as the “Parties” or individually as a “Party.”

**RECITALS:**

- A. UTAH CODE ANN. §76-2-408 (the “OICI Statute”) sets forth requirements for the Investigation of Officer Involved Critical incidents (“OICI”) delineated in the statute.
- B. The OICI Statute requires every law enforcement agency to adopt and post by December 31, 2015, (1) the policies and procedures the agency has adopted to select the investigating agency that will investigate an OICI that occurs in its jurisdiction when one or more of its officers are alleged to have caused or contributed to the OICI; and (2) the protocols the agency has adopted to ensure that every OICI investigation conducted in its jurisdiction is conducted professionally, thoroughly, and impartially.

- C. The Parties have determined that the formation of a Utah County OICI Task Force (hereinafter referred to as “Utah County Task Force” or “OICI Task Force”) that will serve as the investigating agency for OICI’s that occur in Utah County will ensure that any investigation of an OICI will be conducted professionally, thoroughly and impartially.
- D. The Parties have determined that the Utah County OICI Task Force will be governed by the Utah County OICI Protocol established to provide uniform procedures for the investigation of OICI’s.
- E. The utilization of a Utah County OICI Task Force to investigate OICI’s is beneficial to the Parties, the citizens of Utah County and the officers who are involved in OICI’s.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings of the Parties hereto, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **General Purpose.** The purpose of this Agreement is to form a Utah County OICI Task Force to meet the requirements set forth in the OICI Statute and to provide improved OICI investigations while avoiding conflicts of interest. The Parties declare that there is a county-wide need for a Utah County OICI Task Force.
2. **Definitions.**
  - a. Actor. Any person whose act or actions result in an Officer Involved Critical Incident as defined herein.
  - b. Administrative Investigators. Those investigators assigned by the Employer Agency to conduct an administrative investigation of the incident.
  - c. Advisory Board. The Advisory Board that shall govern the administration of the OICI Protocol shall include the County Attorney or designee thereof, two City Attorney’s from Protocol Member Agencies who have been nominated and agreed upon by a majority of the members of the Advisory Board, and a designee from each Protocol Member Agency.
  - d. Case Officer. The OICI Task Force investigator assigned by the incident manager to organize and supervise the collection of reports, and write a comprehensive incident report of the incident and investigation.
  - e. Crime Scene Supervisor. The OICI Task Force investigator assigned by the Incident Manager to supervise the crime scene(s).
  - f. Criminal Investigators. Those investigators assigned by the County Attorney’s Office and the Venue Agency, to conduct a criminal investigation of the incident.
  - g. Employee. Unless otherwise indicated the word “employee” as used herein refers to the following employees of those agencies participating in this OICI Protocol:

- i. Full-time, part-time, and hourly sworn peace officers, whether on or off-duty and acting for a law enforcement or private purpose at the time of the incident.
- ii. Reserve peace officers who, at the time of the incident, are on-duty or are acting actually, apparently, or purportedly for a law enforcement purpose.
- iii. Temporary employees and volunteers, paid or unpaid, who, at the time of the incident are on-duty or are acting actually, apparently, or purportedly for a law enforcement purpose.
- iv. Informants: This OICI Protocol does not intend to create an employer-employee relationship between an informant and any agency participating in this OICI Protocol. For the sole purpose of determining when an Officer Involved Critical Incident has occurred and whether the incident will be investigated, informants are considered employees when they are working under the immediate direction, control, and supervision of a peace officer.
- h. Employer Agency. The agency by whom the police employee involved in the OICI is employed or with which he/she is affiliated. In many cases the Venue Agency will also be the Employer Agency.
- i. Incident Manager. The OICI Task Force investigator assigned by the Task Force Manager/Commander and the Venue Agency Chief to manage the investigation of the incident.
- j. Injured. Any person who is injured by the act or actions of the actor which results in an Officer Involved Critical Incident. When used in this OICI Protocol, the word injured does not imply the existence or commission of a crime or inference of any liability, but is used simply to designate the person or persons injured.
- k. Interview Supervisor. The OICI Task Force investigator assigned by the Incident Manager to organize and supervise the interviews of witnesses and officers involved in the OICI.
- l. Investigating Agency. The OICI Task Force is composed of officers/employees from multiple law enforcement agencies.
- m. Officer Involved Critical Incident. An incident which occurs in any city, town, or unincorporated area of Utah County and involves any employee of the Protocol Member Agency and includes but is not limited to the following:
  - 1) The use of a dangerous weapon by an officer against a person that causes injury to any person;
  - 2) Death or serious bodily injury to any person, except the Officer, resulting from the use of a motor vehicle by an officer while on duty, or use of a government vehicle while the officer is off duty;
  - 3) The death of a person who is in law enforcement custody, but not including deaths that are the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death.
  - 4) Death or serious bodily injury to a person resulting from the efforts of an officer attempting to prevent a person's escape from custody, make an arrest, or otherwise gain physical control of a person; and

- 5) The use of deadly force by an officer against a person that causes damage to property but not death or serious bodily injury. However, in this situation, unless the Venue Agency Chief or the County Attorney request an investigation, none will be performed.
- n. OICI Protocol: the procedure and rules governing the Protocol Member Agencies' responses to OICI's as outlined in this Agreement.
  - o. Protocol Member Agency. Any law enforcement agency operating in Utah County and which has committed to participation in this OICI Protocol.
  - p. Task Force Command. Advisory Board and designated Task Force Manager/Commander.
  - q. Task Force Manager/Commander. The command level OICI Task Force investigator assigned to manage/supervise an OICI Task Force investigation. This/these person(s) is/are nominated and voted on by the Advisory Board.
  - r. Utah County Forensic/Evidence Unit. Employees of the Utah County Forensic/Evidence Department trained in the gathering and processing of possible crime scenes or other areas of interest.
  - s. Venue Agency. The agency or agencies within whose geographical jurisdiction the incident occurs.
3. **Utah County OICI Task Force Jurisdiction.** The OICI Task Force shall have jurisdiction throughout Utah County to investigate OICI's. Each Party to this Agreement hereby expressly consents to allow the OICI Task Force to investigate OICI's that occur in its jurisdiction when one or more of its officers are alleged to have caused or contributed to the OICI.
4. **Property Acquisition.** No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent that a Party acquires, holds or disposes of any real or personal property for use in the joint undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.
5. **Consideration.** The consideration for this Agreement consists of the mutual benefits and exchange of promises provided herein.
6. **Counterparts.** This Agreement may be executed in counterparts by the Parties. All signed counterparts shall be deemed to be one original.
7. **Binding Agreement.** This Agreement shall be binding upon and shall insure to the benefit of the successors and assigns of the respective Parties hereto.
8. **Captions, Recitals.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or

provisions of this Agreement or the intent hereof. The recitals form an integral part of this Agreement and are hereby incorporated.

9. **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.
10. **Interpretation.** This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah, without giving effect to any choice or conflict of law provision or rule (whether of the state of Utah or any other jurisdiction).
11. **Notice.** All notices and other communications provided for in this Agreement shall be in writing and shall be sufficient for all purposes if: (a) sent by email to the address a Party may designate, or by fax to the fax number a Party may designate, and concurrently sent by first class mail to the Party and the Party's legal office; (b) personally delivered; or (c) sent by certified United States Mail addressed to the Party at the address the Party may designate, return receipt requested. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three (3) days after such notice is deposited in the United States mail, certified mail postage prepaid and addressed to the Parties at their respective addresses.
12. **Governmental Immunity.** All Parties, or their respective law enforcement agencies or departments are governmental entities under the Governmental Immunity Act of Utah, UTAH CODE ANN. §§ 63G-7-101 to -904 (2011), as amended (the "Act"). Subject to and consistent with the terms of the Act, each Party, or their respective law enforcement agencies or departments shall be liable for its own negligent acts or omissions, or those of its authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and no Party shall have any liability whatsoever for any negligent act or omission of any other Party, its employees, officers, or agents. No Party, or their respective law enforcement agencies or departments waives any defenses or limits of liability available under the Act and other applicable law. All, or their respective law enforcement agencies or departments Parties maintain all privileges, immunities, and other rights granted by the Act and all other applicable law.
13. **Ethical Standards.** The Parties to this Agreement each represent that they have not: (a) provided an illegal gift or payoff to any officer or employee, or former officer or employee, or to any relative or business entity of an officer or employee, or relative or business entity of a former officer or employee of any of the Parties; (b)

retained any person to solicit or secure participation in this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute; or (d) knowingly influenced, and hereby promise that they will not knowingly influence, any officer or employee or former officer or employee of any Party to breach any of the ethical standards set forth in State statute.

14. **Assignment.** No Party may assign any of its rights or delegate any performance under this Agreement. Any attempt to assign any rights or delegate any performance under this Agreement shall be void.
15. **Responsibility for OICI Task Force Members.** Each Protocol Member Agency shall fund all salaries, benefits, and other obligations for its employees assigned to the OICI Task Force.
16. **Insurance.** Each Protocol Member Agency shall be solely responsible for providing workers' compensation and benefits for its own employees who provide services under this Agreement. Each Protocol Member Agency shall obtain insurance, become a member of a risk pool, or be self-insured to cover the liability arising out of negligent acts or omissions of its own personnel rendering services under this Agreement.
17. **Effective Date.** This Agreement shall become effective when at least two Parties named above each execute an original or copy of the Agreement as required by law.
18. **Term.** The term of this Agreement shall be three (3) years from the effective date, unless the Parties agree in writing to terminate the Agreement prior to the expiration of the initial term of the Agreement. Renewals shall occur automatically thereafter every three (3) years, for a period of up to fifty (50) years, unless the Parties agree in writing that the Agreement shall not be renewed.
19. **Termination by Any Party.** Any Party to this Agreement may terminate its involvement with the OICI Task Force and this Agreement at any time prior to the expiration of the term of the Agreement. Such termination shall be provided via written notice to the Advisory Board in care of the Utah County Attorney, 100 East Center Street, Suite 2100 Provo, Utah 84606. and shall be effective upon delivery to the Advisory Board. Notwithstanding such termination, any terminating Party will agree to complete its involvement in any investigations that are open at the time that written notice to terminate is delivered.
20. **Claims and Disputes.** Claims, disputes and other issues between the Parties arising out of or related to this Agreement shall be decided by litigation in the Fourth

Judicial District Court of Utah County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, each of the Parties shall continue to perform its obligations hereunder during the pendency of such dispute.

**21. Integration.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings concerning the subject matter of this Agreement.

**22. Rights and Remedies.** The rights and remedies of the Parties shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provision(s) hereof.

**23. Modification.** This Agreement may be modified in the following manner:

- a. When modifying the intent of any part of this Agreement it shall be done by a writing signed by all parties hereto.
- b. When making minor modifications that do not change the intent of the Agreement it shall be done by majority vote. Notification to all parties hereto will be made of the minor modification.

**24. Additional Parties.** Any entity within Utah County which is subject to the provisions of the OICI Statute, and who is not an original party to this Agreement, may apply in writing to become a Party to this Agreement. The applicant shall become a Party to this Agreement upon (a) the approving vote of at least seventy-five (75) percent of the members of the Advisory Board; and (b) the approved applicant's execution and delivery of a counterpart of this Agreement whereby under the approved applicant agrees to be bound by all of the terms and conditions of this Agreement. Subject to the foregoing, the Parties' formal amendment to this Agreement for the purposes of admitting an applicant as an additional Party shall be unnecessary.

**25. Invocation of the OICI Protocol.**

This protocol is effective immediately upon the occurrence of an Officer Involved Critical Incident.

- i. In the event of an Officer Involved Critical Incident as defined by UCA 76-2-408, this OICI Protocol is automatically effective.
- ii. The Venue Agency Chief shall immediately notify the County Attorney's Office of an Officer Involved Critical Incident.
- iii. The Venue Agency is required to immediately contact the Task Force Manger/Commander indicating the OICI Protocol has been invoked.
- iv. The Venue Agency Chief, the Utah County Attorney, and the Task Force Manager shall:
  - 1) Jointly designate the task force personnel to investigate the Officer Involved Critical Incident; and

- 2) Designate which law enforcement agency is the lead investigative agency, if the Officer Involved Critical Incident involves multiple investigations.
- v. The lead investigating agency may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the Officer Involved Critical Incident.
- vi. Optional: Each Protocol Member Agency, when acting in the capacity of a Venue Agency or Employer Agency, may request activation of the OICI Protocol upon the occurrence of any Officer Involved Critical Incident involving an employee. The Task Force Command will consider the circumstances of the incident when determining whether or not to invoke the OICI Protocol. Upon this optional invocation, the matter will be investigated under the provisions of the OICI Protocol.
- vii. This section does not preclude the Employer Agency from conducting an internal administrative investigation.

**26. Investigative Agencies, Formats and Responsibilities.** To properly recognize and accommodate the various interests and the various rules of law which may be involved in an incident, investigations may be performed under two separate investigative formats: the criminal investigation and the administrative investigation.

**27. Criminal Investigation.**

- a. A criminal investigation that commences pursuant to the invocation of this OICI Protocol has priority over any parallel administrative investigation and will begin immediately following the incident for which this OICI Protocol is invoked.
- b. The criminal investigation of an Officer Involved Critical Incident commences with the invocation of this OICI Protocol, whether that invocation occurs automatically or at the direction of the Venue Agency Chief. Upon the invocation of this OICI Protocol the Venue Agency Chief and the Task Force Manager will select an Incident Manager. Such selection will be from a list of investigators constituted and maintained by Protocol Member Agencies. The selection of an Incident Manager may be made without respect to the rank or title of other investigators on the list who may also be asked to participate in the investigation.
- c. The Venue Agency Chief or his/her designee and the Task Force Manager/Commander shall inform the Incident Manager of the facts of the Officer Involved Critical Incident. The Incident Manager shall then assemble a task force of additional investigators of sufficient numbers to thoroughly and properly investigate the incident for which the OICI Protocol has been invoked. The selection of additional investigators by the Task Force Manager/Commander and the Incident Manager shall also be from the list of specifically designated employees constituted and maintained by Protocol Member Agencies.
- d. Among those investigators selected to constitute the OICI Task Force conducting the criminal investigation there shall be one representative of the Employer Agency. The Incident Manager shall not be from the Employer Agency. One

Deputy Utah County Attorney shall also be designated a member of the OICI Task Force by the Incident Manager as well an investigator from the Utah County Attorney's Office.

## **28. Venue Determination.**

- a. When an Officer Involved Critical Incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency and the respective Venue Agency Chiefs shall jointly appoint the Incident Manager.
- b. When an Officer Involved Critical Incident occurs on the boundary of two jurisdictions, or under circumstances that make determination of the Venue Agency difficult or places venue in dispute the Venue Agency shall be:
  - i. The Employer Agency if the Actor is employed by either boundary agency;
  - ii. Both boundary agencies if Actors are employed by both; or
  - iii. The agency which has the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the incident occur within its jurisdiction.
  - iv. The Advisory Board shall be the authority to resolve any Venue Agency investigative issues.
- c. Custodial deaths:
  - i. A subject who dies in police or corrections custody falls under the Protocol. If the death was anticipated and the result of a medical condition under the care of a physician, it will be considered an attended death and the OICI Task Force should not respond in accordance with UCA §76-2-408.
  - ii. If the death occurred at a correctional facility, police agency building, or holding area, the Venue Agency is the agency having control of the facility, building, or holding area.
  - iii. If the death occurred outside a correctional facility, the agency having jurisdiction in the area will act as the Venue Agency. The Employer Agency would be the agency that had custody of the subject. Using this scenario, the Venue Agency and employer agency could be the same.
  - iv. Custodial Death Scenes: When an incident occurs in a correctional facility, holding facility or other location and other inmates may be witnesses, those inmates should be identified, and if possible, separated, pending interviews by OICI Task Force investigators.

## **29. Scene Security.**

- a. The Venue Agency is responsible for immediately securing the scene of an Officer Involved Critical Incident. This responsibility includes the preservation and integrity of the scene(s) and its contents, access, control, and the identification and sequestration of witnesses. Responsibility for scene security may change as the investigation continues and the Incident Manager assumes responsibility for the criminal investigation. If, in the judgment of the senior representative of the Venue Agency, weather, or other factors make it imperative

that evidence collection begins prior to the designation of the Incident Manager and constitution of the investigative team, such steps may be taken at the direction of and under the supervision of that representative of the Venue Agency.

- i. The following crime scene procedures and priorities will be observed as fully as circumstances permit:
  - 1) The scene shall be controlled to prevent further injury or criminal activity.
  - 2) Emergency life saving measures have first priority.
  - 3) Injured persons transported to a hospital will be accompanied, in the same vehicle if possible, by a police officer from the Venue Agency who will:
    - (a) Identify, locate, preserve, and take custody of physical evidence which may leave the scene with the injured person.
    - (b) Note and record as accurately as possible any spontaneous or excited utterances or statements which would describe the person's previous mental or physical state or any dying declaration.
    - (c) Maintain custody of the injured person if that person has been arrested.
    - (d) Provide information as may be known, which is necessary for the medical treatment of the injured person.
    - (e) Coordinate and communicate as necessary with investigators at the scene.
    - (f) Provide all information acquired to the Crime Scene Supervisor or Incident Manager.
  - 4) If a firearm or other deadly instrument was used in the Officer Involved Critical Incident, procedures at the scene shall be as follows:
    - (a) If the area is secure, loose firearms or other deadly instruments shall be left in place and undisturbed until removal is directed by the Crime Scene Supervisor or Incident Manager.
    - (b) If the area is not secure the senior representative of the Venue Agency shall decide whether any loose firearms or deadly instruments can be safely left in place or whether immediate removal is necessary. If it is determined that the item or items must be removed immediately all efforts shall be made to photograph the item in place and establish its location with reference to other fixed points.
    - (c) If any officer still has personal possession of a firearm discharged in the course of an Officer Involved Critical Incident, the senior representative present of the Venue Agency shall assign a peer support officer to the officer that discharged his/her firearm to insure the evidentiary value of the weapon is not compromised. When appropriate as deemed by the Venue Agency, and for safety and evidentiary purposes, the firearm, holster/case and duty belt may be taken as a unit without removing the firearm from the holster/case. As deemed appropriate by the Employer Agency, the involved officer may

be given a replacement firearm and duty belt as soon as practical. The items taken shall be immediately secured in a manner consistent with their preservation as items of evidence. The items shall be so maintained until further disposition is ordered by the Crime Scene Supervisor or Incident Manager. The Venue Agency representative to whom the firearms are surrendered shall document facts pertinent to the collection of the items, specifically the make and caliber of the firearm, the person from whom it was received, the item's location at the time it was received, the condition of the item and an indication of how it was used in the incident under investigation. Unless necessary for safety, no attempt shall be made to change the condition of the firearm at the time of its surrender. It shall not be unloaded nor cleared of a jam. The firearm may be made safe to handle by lowering the hammer or putting on the safety so long as those actions taken to make the firearm safe are documented fully by the person taking the actions.

- 5) Law Enforcement Employee Clothing: As deemed appropriate by the Incident Manager, Crime Scene Supervisor, or Interview Supervisor, any officer who discharged a firearm during the course of an Officer Involved Critical Incident, may be required to surrender his or her uniform and any outer-wear worn during the time of the incident.
- 6) Recording Devices (any device designed to capture audio, video or photographic data or images, including but not limited to body cameras, dash cameras, video cameras, cameras, cell phones, audio recorders, etc.) shall be handled in accordance with the following:
  - (a) If any involved or witness officer(s) has personal possession of a recording device during the course of an Officer Involved Critical Incident, the on-scene supervisor or senior representative of the Venue Agency, will insure the recording device is made available to the Incident Manager or his/her representative upon arrival or as soon as practical.
  - (b) The supervisor or senior representative of the Venue Agency will not review any recordings made on the device unless necessary for the safety of others (any review of a recording device may change the recording's metadata).
  - (c) At a minimum the supervisor or senior representative of the Venue Agency shall document the collection of the recording device, including the make and model of the recording device, the person from whom it was received, the time and location it was received, the condition of the device and an indication of how it was used in the incident under investigation.
  - (d) The supervisor or senior representative of the Venue Agency, prior to reviewing or downloading the device's contents, will release the device

to the Incident Manager or his/her representative. The Incident Manager (or his/her designee) will download or oversee the download of the contents of the recording device and will provide a copy of the downloaded contents to the Venue Agency as soon as practicable. When practical the recording device will be maintained by the Incident Manager until further disposition is ordered by the County Attorney or his/her designee.

7) Other evidence and the identity of all witnesses shall be preserved.

**30. Notifications.** Upon identification of an Officer Involved Critical Incident, the Venue Agency shall make the following notifications as promptly as possible:

- a. Intra-department officers as required by the agency's procedures;
- b. The Employer Agency, if applicable and if not yet aware;
- c. The County Attorney or designee; and
- d. The Medical Examiner or designated Investigator upon confirmation of a fatality consistent with the requirements of Utah Code.

**31. Appointment of Investigators by Protocol Member Agency.**

- a. Each Protocol Member Agency shall designate at least one of its most experienced criminal investigators to be available to participate in the investigation of an Officer Involved Critical Incident. A list of those officers so designated shall be maintained by the Task Force Manager/Commander and be updated semi-annually. A copy of the list shall be provided to each Protocol Member Agency and it is from this list that the Venue Agency Chief and Task Force Manager/Commander shall designate the Incident Manager and from which the task force conducting the criminal investigation of any Officer Involved Critical Incident shall be assembled.
- b. When assembling the OICI Task Force Investigative team for an OICI, the Venue Agency and the Task Force Manager/Commander will, in an effort to avoid creating too much work load for any one agency, take into consideration the number of investigators assigned from any one Protocol Member Agency.
- c. In designating investigators to be listed as available to participate in an Officer Involved Critical Incident investigation, Protocol Member Agencies should consider the following qualifications, characteristics, and attributes of those designated:
  - i. Experience in homicide investigations as well as other crimes against persons.
  - ii. The ability to effectively interview people of various backgrounds including police officers.
  - iii. Good working knowledge of physical evidence collection and preservation techniques and an appreciation of the use and limitations of scientific evidence.

- iv. Good knowledge of police operational procedures and the criminal justice system.
- v. Excellent report writing and communication skills.
- vi. Good organizational and supervisory skills.
- vii. Respected professionally by those whom he or she works for being competent, thorough, objective, fair, and honest.
- viii. Ability to both participate in and direct a complicated investigation.

### **32. Transporting, Sequestering, and Interviewing Officers in an OICI.**

- a. Officers who were present at the scene at the time of an Officer Involved Critical Incident, whether as Actors or witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sequestered at their own police station unless other suitable and agreeable arrangements are made for them. Officers from the Venue Agency not involved in the OICI shall be assigned to accompany officers involved in the OICI and remain with them to ensure their privacy, accommodate their needs, and preserve the integrity of each witness officer's report as they may be gathered later. It is highly recommended that certified peer support officers be used during this time.
- b. If circumstances prohibit the removal of all officers involved in the OICI from the scene at one time, those officers who can be identified as Actors as defined herein should be relieved first.
- c. OICI Task Force investigators, witnesses and officers involved in the OICI should be allowed to contact spouses and family members and should be encouraged to relax. Officers involved in the OICI are allowed legal assistance and/or representation prior to and during interviews.
- d. Generally speaking, involved officers will not be interviewed for at least forty-eight hours after the incident in order to provide the best opportunity for recall (two sleep cycles). The involved officer's interview will be transcribed and serve as the officer's report.

### **33. Video Evidence.**

- a. If an Officer Involved Critical Incident is captured on video, the review of this video by the officer is permitted prior to any report writing or interviews. Prior to the involved officer reviewing the video, the task force investigator will read the following advisory:
  - i. Video Advisory:

“You are about to view a camera recording of a use-of-force event. Understand that while this recording depicts visual information from the scene, the human eye and brain are highly likely to perceive some things in stressful situations differently than a camera records them, so this photographic record may not reflect how the involved officer actually perceived the event.

”

The recording may depict things that the officer did not see or hear. The officer may have seen or heard things that were not recorded by the camera. Depending on the speed of the camera, some action elements may not have been recorded or may have happened faster than the officer could perceive and absorb them. The camera has captured a 2-dimensional image, which may be different from an officer's 3-dimensional observations. Lighting and angles may also have contributed to different perceptions. And, of course, the camera did not view the scene with the officer's unique experience and training.

Hopefully, this recording will enhance your understanding of the incident. Keep in mind, though, that these video images are only one piece of evidence to be considered in reconstructing and evaluating the totality of the circumstances. Some elements may require further exploration and explanation before the investigation is concluded."

#### **34. Reports.**

- A. Inasmuch as Officer Involved Critical Incidents are of intense interest to the public, expeditious and thorough investigation and resolution of these matters is necessary. Prompt completion and distribution of reports is essential.
- B. A Spillman Report Management System Case number will be obtained by the Case Officer, Incident Manager or the Task Force Commander. All reports will be referenced or written directly under the obtained case number.
- C. Agencies involved in the OICI Task Force investigation will submit reports to the Incident Manager or his/her designee as soon as possible after an Officer Involved Critical Incident.
- D. The Case Officer will assemble all individual reports making sure all reports are tied to the Spillman Case number obtained and write a comprehensive incident report and submit this report and case file to the Incident Manager for approval.
- E. The Incident Manager will then submit this report and the case file to the Utah County Attorney or his/her designee.
- F. Upon request the County Attorney's Office will provide copies of the complete case file to the heads of all agencies having officers involved in an incident as Actors or witnesses.

**35. Equipment.** Each member of an OICI Task Force will provide equipment as requested by the Incident Manager whether or not officers from that department are involved in either the criminal or administrative investigation. Officers from the department providing equipment may retain custody and operation of the equipment if it appears the interests of the investigation will be served.

#### **36. Autopsy.**

- a. At least one member of the OICI Task Force shall be assigned by the Incident Manager to attend the autopsy. Protocol Member Agencies investigators involved in the OICI, including the administrative investigators, may also attend.
- b. The OICI Task Force investigator assigned to attend the autopsy will brief the medical examiner prior to the post mortem examination. This briefing will be as complete as possible.

### **37. County Attorney's Office.**

- a. The County Attorney's Office has the following roles in Incident Investigations:
  - i. With the Venue Agency Chief and the Task Force Manager/Commander jointly designate the task force personnel to investigate the Officer Involved Critical Incident.
  - ii. Assign at least one attorney from the Utah County Attorney's Office and at least one investigator from the Utah County Attorney's Office to the OICI Task Force.
  - iii. Participate co-equally with other members of the OICI Task Force performing the criminal investigation.
  - iv. Assist and advise the task force on the various criminal law issues which may arise during the investigation.
  - v. The County Attorney's Office will strive to complete its report and findings within two weeks of the completion of the Protocol Investigation. However, this cannot be guaranteed, depending on the complexity of the incident.
  - vi. Upon completion of the criminal investigation, analyze the facts of the incident as well as the relevant law to determine if criminal laws have been violated. If so, prosecute as appropriate or arrange for a special prosecutor.
  - vii. The County Attorney has his or her own independent investigative authority. When deemed appropriate, the County Attorney may conduct an independent investigation of an Officer Involved Critical Incident separate but simultaneous with any other investigation.

### **38. Employer Agency Administrative Investigation.**

- a. This OICI Protocol recognizes the need of the administrative investigators to acquire information about the Incident for the following non-criminal purposes:
  - i. Internal Affairs and determination of whether or not employees have violated department policy or regulation.
  - ii. Agency improvement and determination of whether or not department policies, procedures, programs, equipment, and training are adequate.
  - iii. Acquiring sufficient information concerning an Officer Involved Critical Incident to appropriately inform its parent governmental body and be responsive to the public and the news media.
  - iv. To adequately address claims for damages and prepare for civil litigation that may be initiated by or against the Employer Agency.

- b. While both the criminal and administrative investigations are important and should be aggressively pursued, investigative conflicts between the two formats shall be resolved by allowing the criminal investigation to have priority. It is intended that this prioritization will preclude competition between the two investigative formats for access to witnesses, physical evidence, and the involved parties and will prevent the criminal investigation from being compromised by an untimely exercise of the Employer Agency's control of the scene, evidence, or witnesses.
- c. The initiation of an administrative investigation and the extent of that investigation is solely the responsibility of the Employer Agency. If an administrative investigation is being conducted, the Employer Agency should immediately assign administrative investigators upon being notified of the Officer Involved Critical Incident. Administrative investigators will be identified to the Incident Manager at the earliest possible opportunity. In addition to gathering information for the Employer Agency, it is anticipated that administrative investigators will act as a liaison between the Incident Manager and the Employer Agency even if no actual investigation is being conducted by the Employer Agency.
- d. Interview statements, physical evidence, toxicology test results, and investigative leads which are obtained by administrative investigators by ordering police employees to cooperate shall not be revealed to criminal investigators without the prior approval of the County Attorney following a determination of need and evaluation of the applicable law.
- e. The Incident Manager will periodically brief the administrative investigators on the progress of the criminal investigation. The administrative investigators will have access to briefings, the incident scene, physical evidence, and witness statements. Unless, for good reason it is determined otherwise, the County Attorney's Office will provide to the Employer Agency his or her findings of fact and a complete copy of the case file prepared by the task force investigators. A copy of the County Attorney's findings of fact will also be provided to the Incident Manager.

### **39. Evidence.**

- a. Evidence gathered at the scene will be booked and held at the Utah County Sheriff's Evidence facility by the Utah County Forensic/Evidence Unit. Booking procedures outlined by Utah County Forensic/Evidence staff shall be followed.

### **40. Report Writing.**

- a. The Incident Manager will decide which investigator is responsible for a particular report. OICI Task Force investigators should not write more than one report on an interview or event, regardless of the number of interviews involved. OICI Task Force investigators are responsible for the final report of the Task Force investigation. Prior to submitting a law enforcement (employee) interview report, the interviewed employee should have the opportunity to review the report. All

OICI Task Force investigators shall coordinate with the Task Force Manger/Commander to write a final report which documents their participation in the investigation.

- b. Prompt completion and distribution of reports is essential. All agencies and investigators will strive for report completion and distribution as soon as possible while ensuring all information is obtained accurately prior to completion.

#### **41. GRAMA Requests.**

- a. GRAMA requests as a rule should not be filled until the investigation is concluded. GRAMA requests shall be the responsibility of the Venue Agency and the Utah County Attorney's office. The Venue Agency and the County Attorney's office should consult with one another prior to fulfilling any GRAMA requests. GRAMA rules and regulations shall be followed.

#### **42. News Media Relations.**

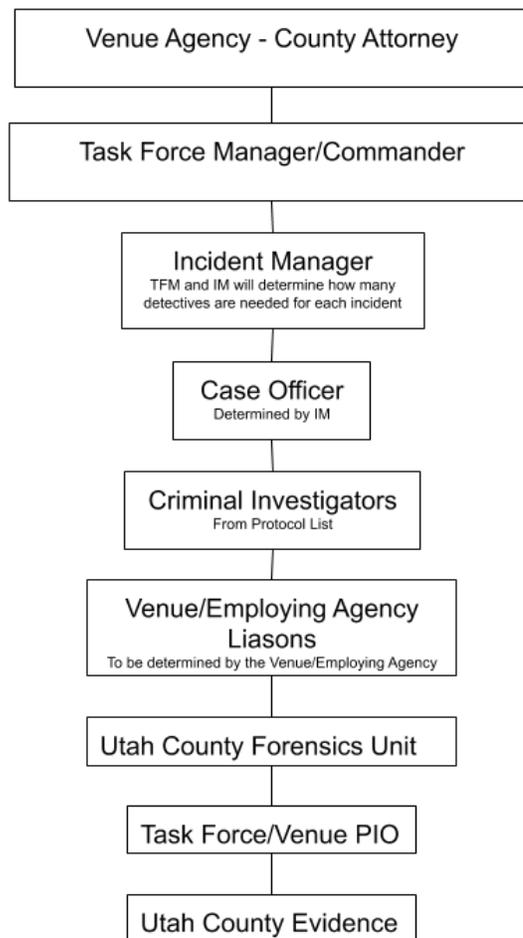
- a. The interests of the news media must be balanced with the requirements of the investigation and with the rights of the involved individuals.
- b. While any agency cannot be prohibited from making statements to the news media about an incident, these guidelines are established:
  - i. The Venue Agency Chief or designee has the responsibility for making press releases about the Incident and its investigation until such time as the matter is referred to the County Attorney's Office.
  - ii. The Incident Manager will provide the Venue Agency with information from which a press release can be made.
  - iii. Other participants in the investigation should refrain from making separate press releases or discussing the investigation with the press. If the Employer Agency is not also the Venue Agency, fewer problems will arise, especially at the early stages of the investigation, if the Employer Agency limits its comments to information which has been cleared for release by the Venue Agency.

#### **43. Reporting to Board and Training.**

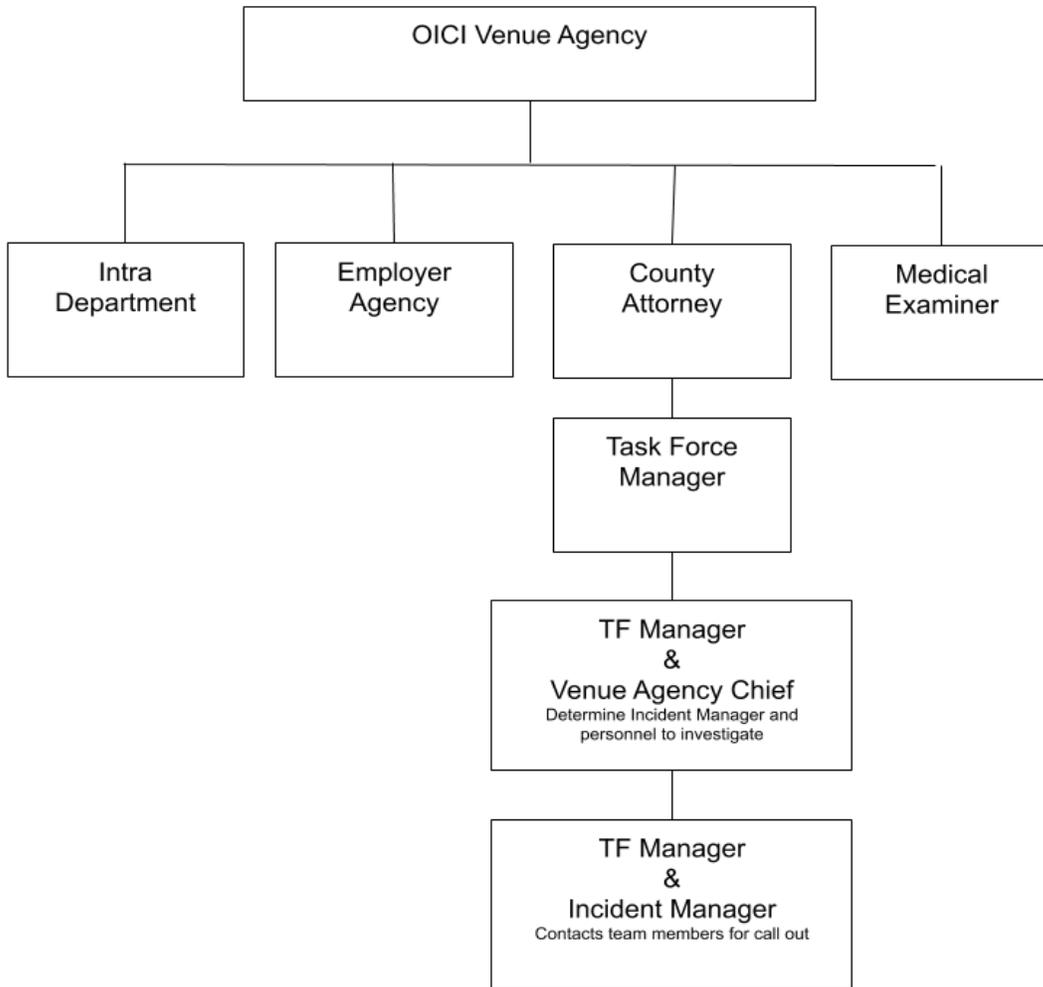
- a. The Task Force Manager/Commander(s) will report to the Advisory Board once per quarter at the monthly Chief Law Enforcement Executives meeting. This report will include but not be limited to, ongoing investigations, training held and to be held for team members, personnel issues and other needs.
- b. The Task Force Manager/Commander(s) will hold quarterly training for OICI Task Force members on; policy, investigative techniques, best practices, court findings and other necessary matters.
- c. OICI Task force members are required to attend two of the four trainings, however it is preferred that 100% attendance is maintained.

- d. The OICI Board by vote, may require participating agencies to pay an agreed amount of \$20.00 annually into a fund to be used for training purposes. If there is a vote to collect funds the OICI Board will vote on a participating agency to invoice and hold the monies in an agreed account. An annual accounting of these monies collected and used will be documented and shared with the OICI Board by a Task Force Manager/Commander during a board meeting.

#### **44. OICI Protocol Organizational Flow Chart**



#### 45. Callout Flow Chart



**IN WITNESS WHEREOF**, each Party has caused this Agreement to be executed on its behalf by its duly authorized representative.

[Remainder of page intentionally left blank - SIGNATURE PAGES of Parties follow]

Signature Page pertaining to the **“Utah County Law Enforcement Executives Contractual Agreement for Officer Involved Critical Incident Protocol”** between Alpine City, American Fork City, Brigham Young University, Highland City, Lehi City, Lindon City, Mapleton City, Orem City, Payson City, Pleasant Grove City, Provo City, Salem City, Santaquin City, Spanish Fork City, Saratoga Springs City, Springville City, Utah County, Utah Highway Patrol, Utah Transit Authority, Utah Valley University, Utah Department of Corrections/Adult Probation and Parole or any Police Department or Department of Public Safety of any city or town located in Utah County

**City of Lindon**

By \_\_\_\_\_

Its \_\_\_\_\_

- 8. Review & Action — Major Subdivision, Coco Development Commercial Condominium Project; 1350 W. 200 S.** Coco Development is requesting Major Subdivision approval to divide an existing building into twenty commercial condominium units at 1350 W. 200 S in the Light Industrial (LI) zone.  
*(15 minutes)*

**Sample Motion:** I move to (approve, deny, continue) the Coco Development Major Subdivision; Commercial Condominium Project (Brixton Heights Condo Plat) (as presented, or with changes).

## Brixton Heights Condominium Plat 1350 W. 200 S.

Date: August 17, 2020

Applicant: Coco  
Development, LLC  
Presenting Staff: Michael  
Florence

General Plan: Light  
Industrial  
Current Zone: Light  
Industrial

Property Owners: Coco  
Development Lindon, LLC

Parcel ID's: 45:241:0001

Council Action  
Required: Yes. The  
planning commission  
recommended approval



### SUMMARY OF KEY ISSUES

1. The applicants are seeking preliminary major subdivision approval for a 20-unit commercial condominium development;
2. Units range in size from 1,149 square feet to 3,825 square feet;
3. The building has a total square footage of 37,700 square feet;
4. The building is existing. The applicant is proposing to create the individual units and make improvements to those units;
5. Condominium developments follow Utah Code Title 57 Chapter 8 for dividing property as well as Lindon City major subdivision requirements and processes;
6. The applicant received approval from the planning commission to amend the original Jacobson **Commercial Subdivision for the business park. The Plat didn't accurately reflect the site.** In addition, the applicant has worked with the other property owners in the business park to adopt and easement agreement for parking and maintenance of the business park.

### OVERVIEW

1. The applicant has provided letters from both an architect and an attorney stating that the application follows the Utah Condominium Code Title 57 Chapter 8. The letters are attached to this report;
2. The proposed development meets the one-acre minimum lot size requirement for the LI zone;
3. The applicant has provided a Condominium Declaration as well as Covenants, Conditions and **Restrictions (CC&R's) for the development;**
4. A condominium plat includes sheets identifying both the internal floor area and vertical space.

MOTION

I move to (approve, deny, or continue) the applicant's request for preliminary approval of the Brixton Heights Condominium Plat with the following conditions:

1. The applicant will continue to work with city staff to make all final corrections to the plat for recording;
2. Prior to plat recording the applicant will provide staff with a final plat mylar to include notarized **signatures of owner's consent to dedication** and obtain signatures of all entities indicated on the attached subdivision plat;
3. The plans and plat will meet and be constructed as per the relevant specifications as found in the Lindon City Development Manual;
4. Final easement agreements for the business park will be recorded with the subdivision plat;
5. All items of the staff report.

## Surrounding Zoning and Land Use

North: Light Industrial – office/warehouse

South: Light Industrial – office/warehouse

East: Light Industrial – office/warehouse

West: Light Industrial – office/warehouse

Lot Requirements – Light Industrial Zone

Required	Compliant
Minimum lot size: one acre	Yes
Parking	<ul style="list-style-type: none"> <li>• The existing and amended Jacobson Subdivision plats have in place cross access and shared parking easements</li> <li>• Lot 1 has its own separate parking and parking is not counted towards the requirements for lots 2,3,4</li> <li>• The current parking count for the Lots 2, 3, and 4 is 169 stalls</li> <li>• The applicants are changing their parking layout for lot 2 and adding additional entryways into the building for the commercial condominiums. Currently, they have 60 stalls for the building and will be reducing that to 40.</li> <li>• The applicants provided a square footage and use breakdown for the buildings on Lots 2, 3, and 4. The total parking requirement for these lots is 150 stalls. See parking analysis and plan exhibits</li> <li>• The business park easement agreement will allow parking to be shared among lots 2, 3, and 4.</li> </ul>

## Subdivision Requirements 17.76.070

Required	Compliant
For condominiums, three dimensional drawings of buildings and building elevations.	Yes
developer shall submit a written statement by an attorney who is licensed to practice in Utah. This written statement shall be the attorney's opinion that the condominium declaration, the subdivision plat and the other supporting documentation comply in all respects with the	Yes

Utah Condominium Ownership Act (UCA Sec. 57-8-1, et seq.) as well as all applicable federal, state and local laws and ordinances and that when the office of the Utah County Recorder has recorded the condominium declaration and final plat, the proposed project will be a validly existing and lawful condominium project in all respects.	
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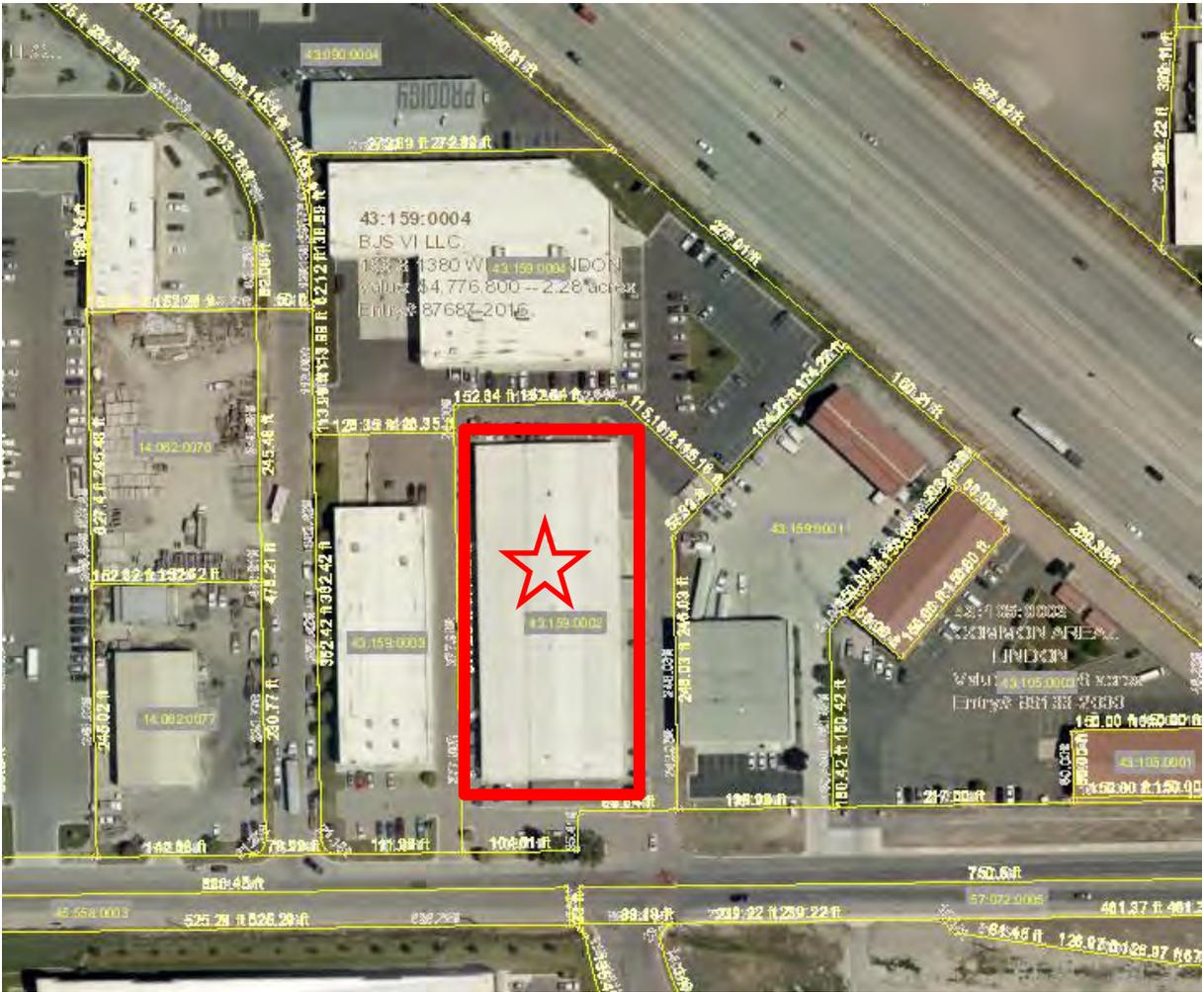
### Engineering Requirements

The City Engineer is working through technical issues related to the plat and civil engineering plans and will ensure all engineering related issues are resolved before final approval is granted.

### EXHIBITS

1. Aerial photo
2. Condominium plat
3. Site improvement plan
4. Existing parking analysis
5. Proposed parking plan
6. Compliance letters

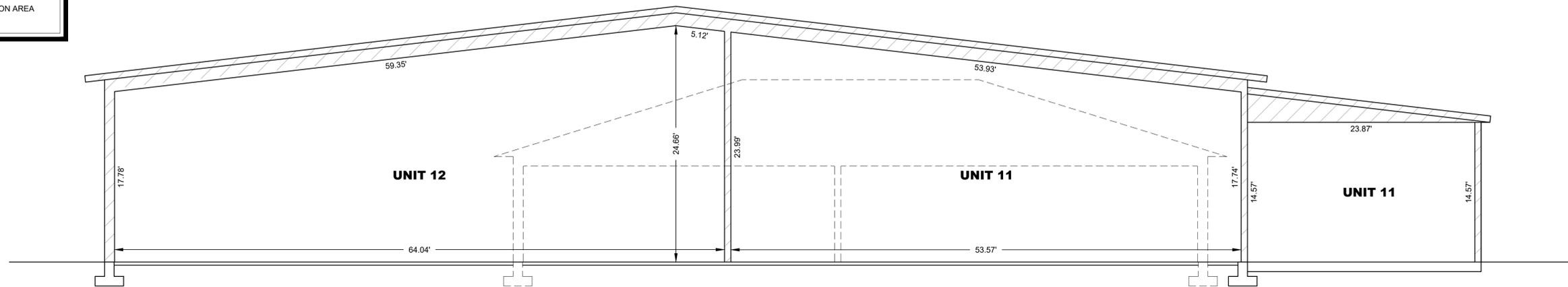
Exhibit 1



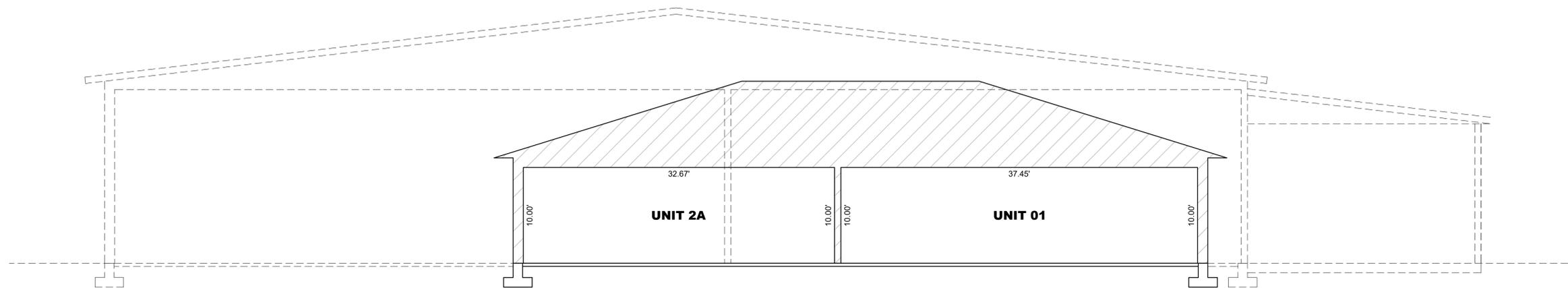


**LEGEND**

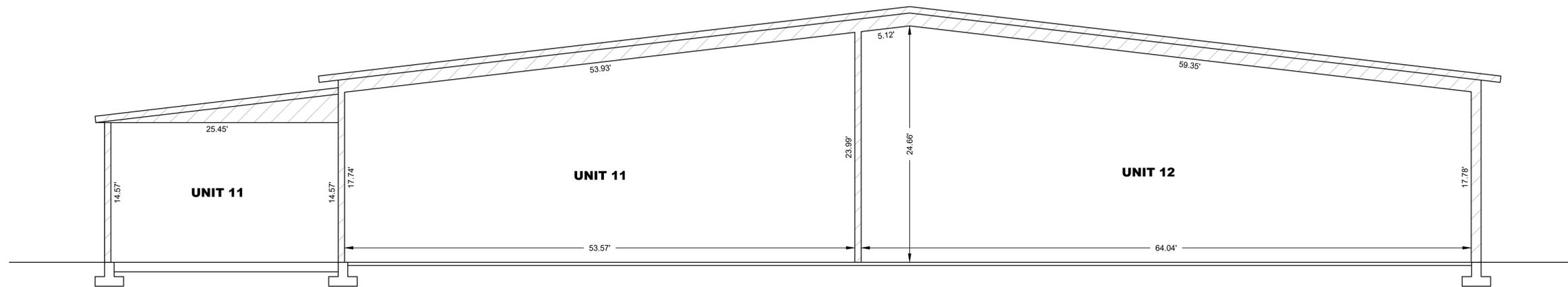
 COMMON AREA



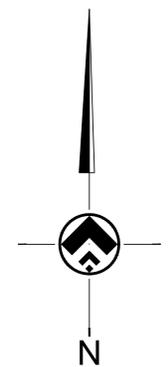
**01 SOUTH WAREHOUSE VIEW**  
SCALE - 1" = 6'



**02 SOUTH OFFICE VIEW**  
SCALE - 1" = 6'



**03 NORTH WAREHOUSE VIEW**  
SCALE - 1" = 6'



KNOW WHAT'S BELOW. CALL 811 BEFORE YOU DIG.  
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NO.	DATE	REVISION
5	07/27/2020	PRELIMINARY
4	06/23/2020	PRELIMINARY
3	06/16/2020	PRELIMINARY
2	06/10/2020	PRELIMINARY
1	05/11/2020	PRELIMINARY



**CLIENT / OWNER INFORMATION:**

 **BRIXTON PARTNERS**  
118 E 126 75 S  
DRAPER, UTAH 84020

SEAN SHAH  
sean@brixtonpartners.com  
385-281-3851

**ENGINEER / SURVEYOR INFORMATION:**

 **JOHNSON ENGINEERING**  
4436 SOUTH 1025 EAST • SALT LAKE CITY, UTAH 84124  
www.johnsonengineeringinc.com  
Phone: 801-787-4569

**SHEET INFORMATION:**

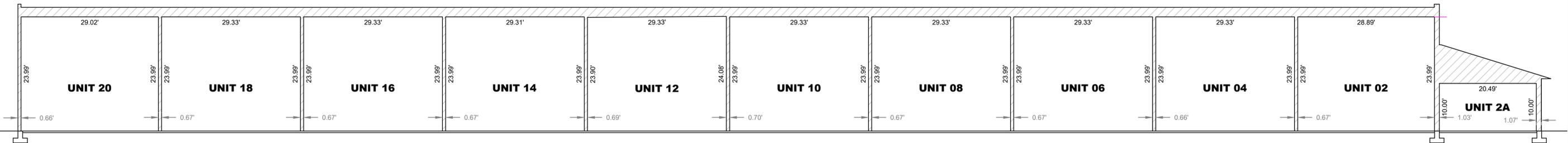
**BRIXTON HEIGHTS CONDO  
PLAT 02  
LINDON WAREHOUSE CONDO**  
LINDON, UTAH COUNTY, UTAH

DRAWN BY: DBJ	CHECKED BY: DBJ	APPROVED BY: DBJ	SHEET: <b>V-103</b>
PROJECT NO: 20-001	DATE: 07/27/2020		02 OF 04
SCALE: 1":6'			

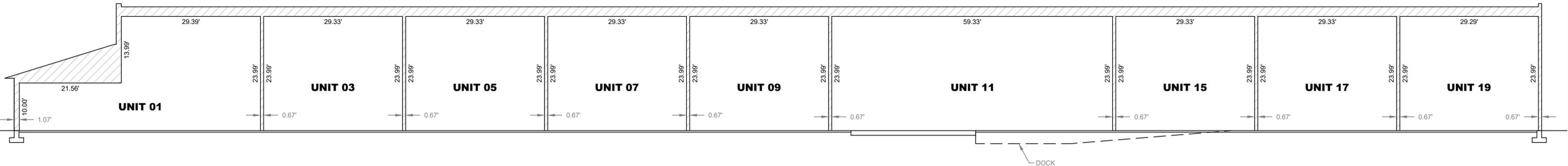
X:\Active Projects\2001 Lindon Warehouse Condo\04 Design Drawings\Design\Plan Sheets\VP-Survey\Preliminary Plat II.dwg

**LEGEND**

 COMMON AREA



**01 WEST SIDE VIEW**  
SCALE - 1" = 10'



**02 EAST SIDE VIEW**  
SCALE - 1" = 10'

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3	06/16/2020	PRELIMINARY
2	06/10/2020	PRELIMINARY
1	05/11/2020	PRELIMINARY



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SEAN SHAH  
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385-281-3851

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Phone: 801-787-4569

**SHEET INFORMATION:**

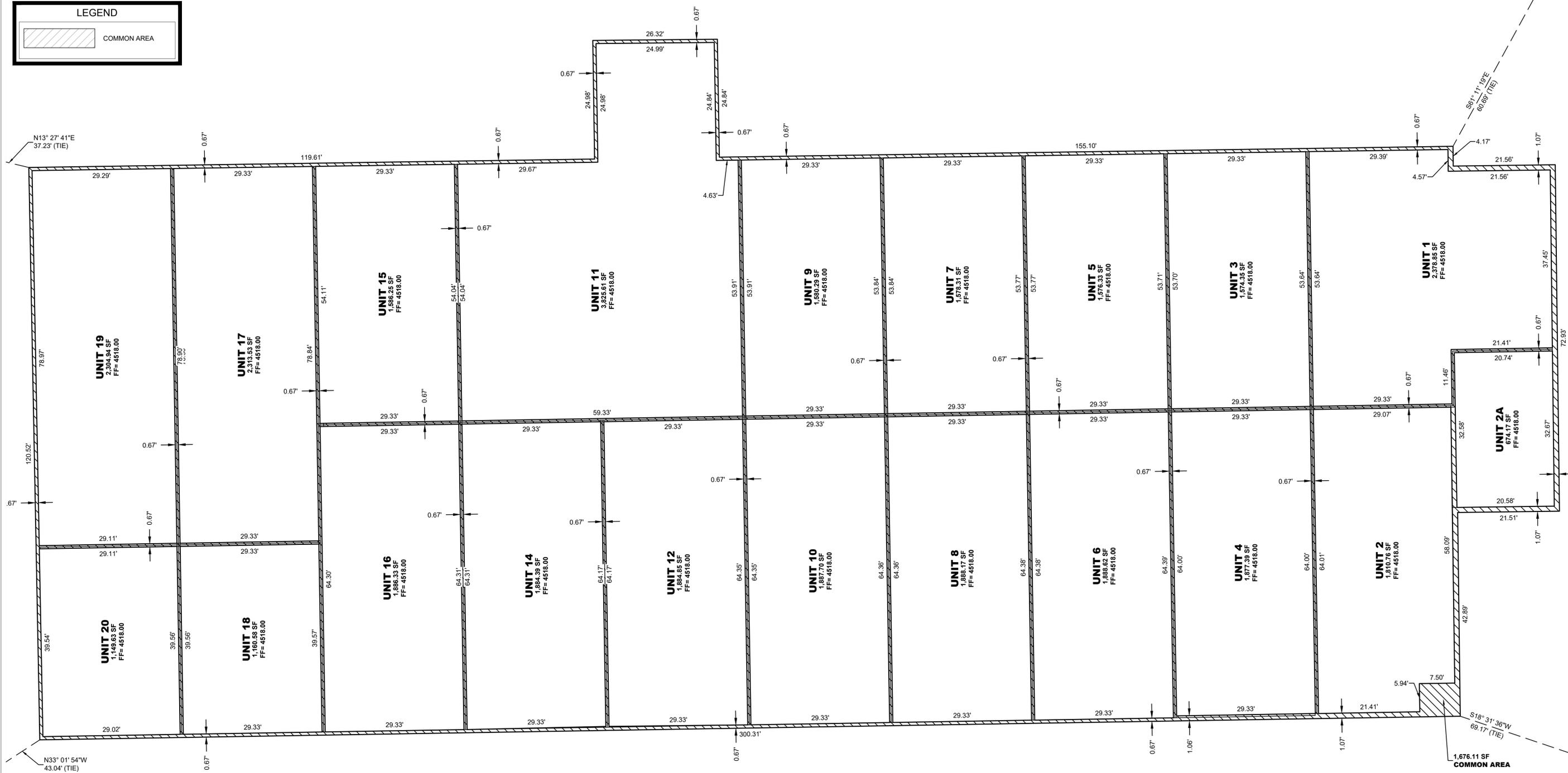
**BRIXTON HEIGHTS CONDO  
PLAT 03  
LINDON WAREHOUSE CONDO**  
LINDON, UTAH COUNTY, UTAH

DRAWN BY: DBJ	CHECKED BY: DBJ	APPROVED BY: DBJ	SHEET: <b>V-104</b>
PROJECT NO: 20-001	DATE: 07/27/2020	03 OF 04	
SCALE: 1":10'			

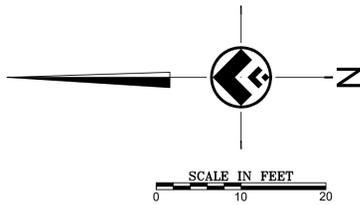
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**LEGEND**

 COMMON AREA



**01** PLAN VIEW  
SCALE - 1" = 10'



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NO.	DATE	REVISION
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4	06/23/2020	PRELIMINARY
3	06/16/2020	PRELIMINARY
2	06/10/2020	PRELIMINARY
1	05/11/2020	PRELIMINARY



**CLIENT / OWNER INFORMATION:**

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SEAN SHAH  
sean@brixtonpartners.com  
385-281-3851

**ENGINEER / SURVEYOR INFORMATION:**

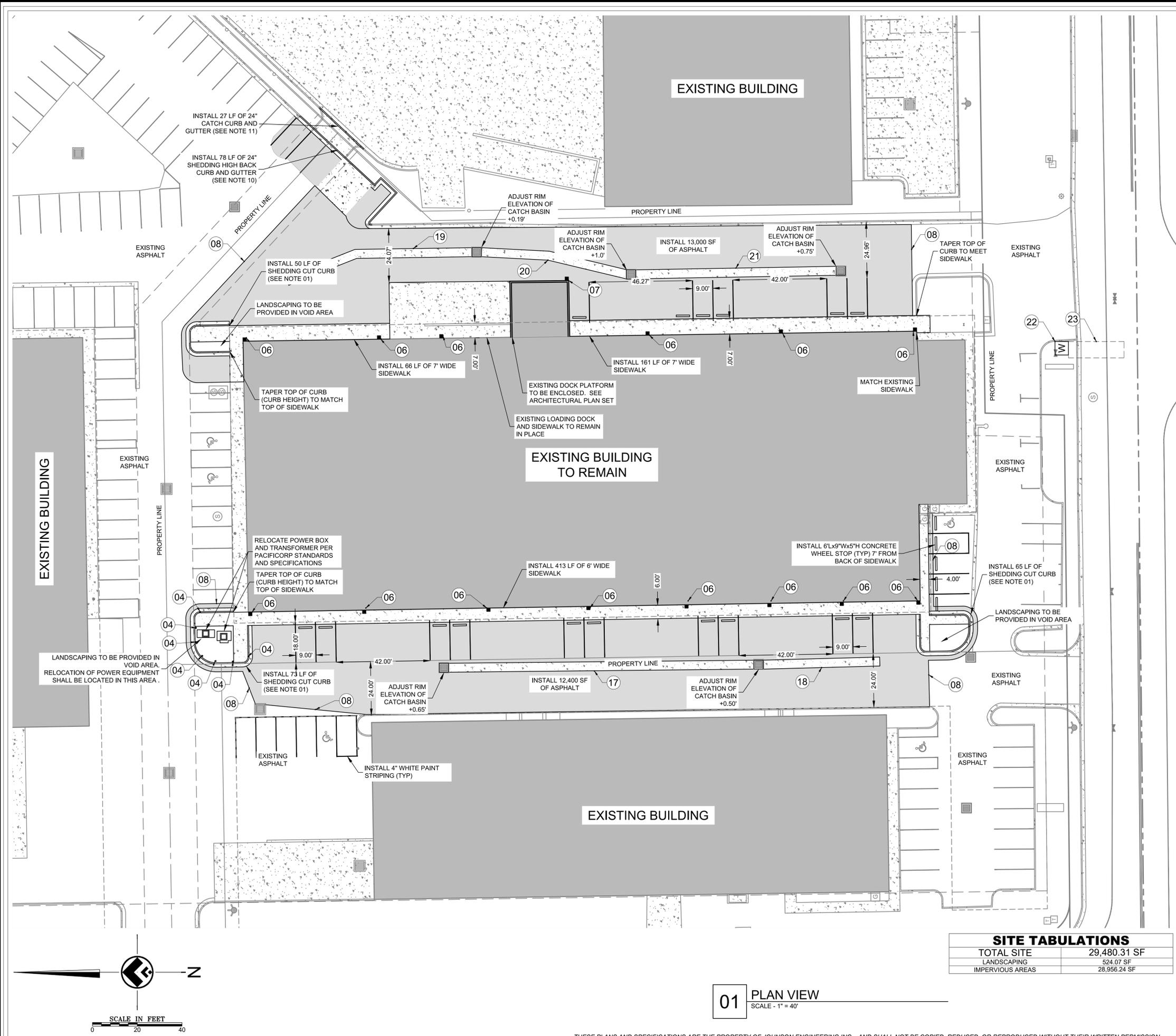
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www.johnsonengineeringinc.com  
Phone: 801-787-4569

**SHEET INFORMATION:**

**BRIXTON HEIGHTS CONDO  
PLAT 04  
LINDON WAREHOUSE CONDO**  
LINDON, UTAH COUNTY, UTAH

DRAWN BY: DBJ	CHECKED BY: DBJ	APPROVED BY: DBJ	SHEET: <b>V-105</b>
PROJECT NO: 20-001	DATE: 07/27/2020	SCALE: 1"=10'	04 OF 04

X:\Active Projects\2001 Lindon Warehouse Condo\04 Design Drawings\Design\Plan Sheets\VP-Survey\Preliminary Plat II.dwg



**GENERAL NOTES**

- NOTES:**
- INSTALL 24" CUT SHED CURB AND GUTTER PER DETAIL 03 ON SHEET CS-102
  - INSTALL 227 LF OF 7 FOOT WIDE CONCRETE SIDEWALK PER DETAIL 05 ON SHEET CU-103.
  - INSTALL 413 LF OF 6 FOOT WIDE CONCRETE SIDEWALK PER DETAIL 05 ON SHEET CU-103.
  - INSTALL BOLLARD. SEE DETAIL 01 ON SHEET CS-102.
  - MIN. 3" INCH ASPHALT 8" BASE MATERIAL = 28,900 SF.
  - INSTALL 12" NYLOPLAST ROOF DRAIN (SEE DETAIL CU-101)
  - INSTALL 12" NYLOPLAST ROOF DRAIN **HEAVY DUTY TRAFFIC RATED** (SEE DETAIL CU-101)
  - PROJECT IS LOCATED IN ZONE LI (LIGHT INDUSTRIAL) PER CITY ZONING MAP.
  - SAW CUT MIN. 2' AWAY FROM EXISTING OR PROPOSED CONCRETE. REPLACE ASPHALT IN KIND. MATCH EXISTING ASPHALT ELEVATION AT SAWCUT LINE.
  - INSTALL CATCH CURB AND GUTTER PER DETAIL 02, CS-102.
  - INSTALL SHEDDING HIGH BACK CURB PER DETAIL 03, CS-102
  - SEE SC-101 FOR PROPOSED PARKING STALL COUNT AND ANALYSIS.
  - THE APPLICANT IS RESPONSIBLE FOR COMPLIANCE WITH ALL REQUIREMENTS OF THE "AMERICANS WITH DISABILITIES ACT" (ADA).
  - ALL LANDSCAPED AREAS SHALL HAVE AN AUTOMATIC, UNDERGROUND SPRINKLING SYSTEM WITH A BACKFLOW PREVENTION DEVICE AND A BACKFLOW PREVENTION DEVICE TO THE BUILDING, UNLESS LANDSCAPING IS SERVED BY THE SECONDARY WATER SYSTEM.
  - WATER METERS ARE TO BE LOCATED BEHIND BACK OF WALK OR BACK OF CURB IN AN AREA THAT IS ACCESSIBLE, NOT LOCATED BEHIND FENCED AREAS OR UNDER COVERED PARKING.
  - LINDON STANDARD SPECIFICATIONS AND DRAWINGS APPLY TO CONSTRUCTION OF PUBLIC IMPROVEMENTS THAT WILL BE OWNED OR MAINTAINED BY LINDON CITY AND TAKE PRECEDENCE OVER OTHER STANDARDS.
  - INSTALL 137 LF OF 4" WATERWAY SEE SHEET CS-102 DETAIL 04
  - INSTALL 52 LF OF 4" WATERWAY SEE SHEET CS-102 DETAIL 04
  - INSTALL 85 LF OF 4" WATERWAY SEE SHEET CS-102 DETAIL 04
  - INSTALL 66 LF OF 4" WATERWAY SEE SHEET CS-102 DETAIL 04
  - INSTALL 90 LF OF 4" WATERWAY SEE SHEET CS-102 DETAIL 04
  - REMOVE EXISTING 3" WATER METER AND REPLACE WITH PROPOSED 2" WATER METER PER CITY STANDARDS. WATER METER TO SERVICE ALL UNITS THROUGH HOME OWNERS ASSOCIATION. SEE SHEET CU-102.
  - SAWCUT ASPHALT AND TRENCH PER LINDON CITY STANDARD 10 SHEET CS-102



KNOW WHAT'S BELOW. CALL 811 BEFORE YOU DIG.  
DRAWING IS NOT TO SCALE IF LESS THAN 24"x36". DIMENSIONS AND NOTES SUPERCEDE SCALE.

**ENGINEER / SURVEYOR INFORMATION:**



**JOHNSON ENGINEERING**  
4436 SOUTH 1025 EAST • SALT LAKE CITY, UTAH 84124  
www.johnsonengineeringinc.com  
Phone: 801-787-4569

**CLIENT / OWNER INFORMATION:**



**BRIXTON PARTNERS**  
118 E 126 75 S DRAPER, UTAH 84020  
SEAN SHAH  
sean@brixtonpartners.com  
385-281-3851

**SHEET INFORMATION:**

**SITE PLAN**  
**LINDON WAREHOUSE CONDO**  
LINDON, UTAH COUNTY, UTAH

**SITE TABULATIONS**

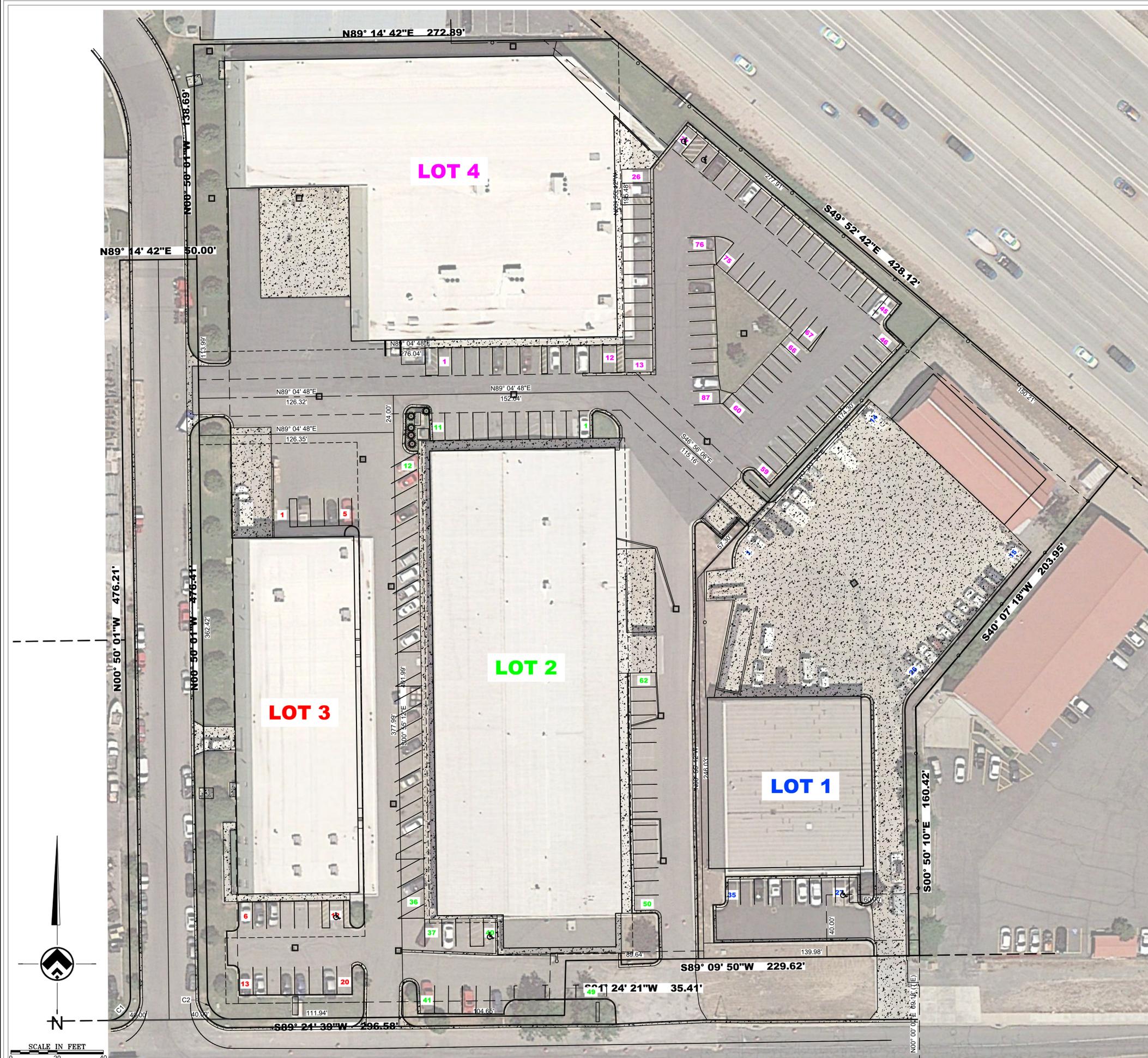
TOTAL SITE	29,480.31 SF
LANDSCAPING	524.07 SF
IMPERVIOUS AREAS	28,956.24 SF

DRAWN BY:	CHECKED BY:	APPROVED BY:	SHEET:
DBJ	DBJ	DBJ	CS-100
PROJECT NO:	20-001		
DATE:	06/23/2020	04	06/23/2020 PRELIMINARY
SCALE:	1":20'	03	06/16/2020 PRELIMINARY
		NO.	DATE
			REVISION

**01** PLAN VIEW  
SCALE - 1" = 40'

X:\Active Projects\2001 Lindon Warehouse Condo\04 Design\Drawings\Design\Plan Sheets\CS-Civil Site\Site Plan II.dwg

X:\Active Projects\2001 Lindon Warehouse Condo\04 Design\Drawings\Design\Plan Sheets\VP-Survey\Existing Parking Analysis.dwg



LEGEND AND GENERAL NOTES

NOTES:

1. LOT 1 (BUILDING SF = 10,700)
  - 1.1. REGULAR STALLS = 34
  - 1.2. HANDICAP STALLS = 1
  - 1.3. TOTAL STALLS = 35
- PER PREVIOUS SUBDIVISION, LOT ONE DOES NOT HAVE RIGHTS TO CROSS PARKING / ACCESS EASEMENT. LOT 1 SHALL PROVIDE ENOUGH PARKING STALLS TO SATISFY PARKING REQUIREMENTS FOR THE BUILDINGS LOCATED ON LOT 1.
2. LOT 2 (BUILDING SF = 37,700)
  - 2.1. REGULAR STALLS = 59
  - 2.2. HANDICAP STALLS = 3
  - 2.3. TOTAL STALLS = 62
3. LOT 3 (BUILDING SF = 18,400)
  - 3.1. REGULAR STALLS = 18
  - 3.2. HANDICAP STALLS = 2
  - 3.3. TOTAL STALLS = 20
4. LOT 4 (BUILDING SF = 37,200)
  - 4.1. REGULAR STALLS = 85
  - 4.2. HANDICAP STALLS = 2
  - 4.3. TOTAL STALLS = 87
5. SEE JACOBSON SUBDIVISION PLAT D FOR EXISTING SUBDIVISION MAP. ENTRY NO. 20606, MAP 11526, 2/21/2006



KNOW WHAT'S BELOW. CALL 811 BEFORE YOU DIG.  
DRAWING IS NOT TO SCALE IF LESS THAN 24"x36". DIMENSIONS AND NOTES SUPERCEDE SCALE.

ENGINEER / SURVEYOR INFORMATION:

**JOHNSON ENGINEERING**  
4436 SOUTH 1025 EAST • SALT LAKE CITY, UTAH 84124  
www.johnsonengineeringinc.com  
Phone: 801-787-4569

CLIENT / OWNER INFORMATION:

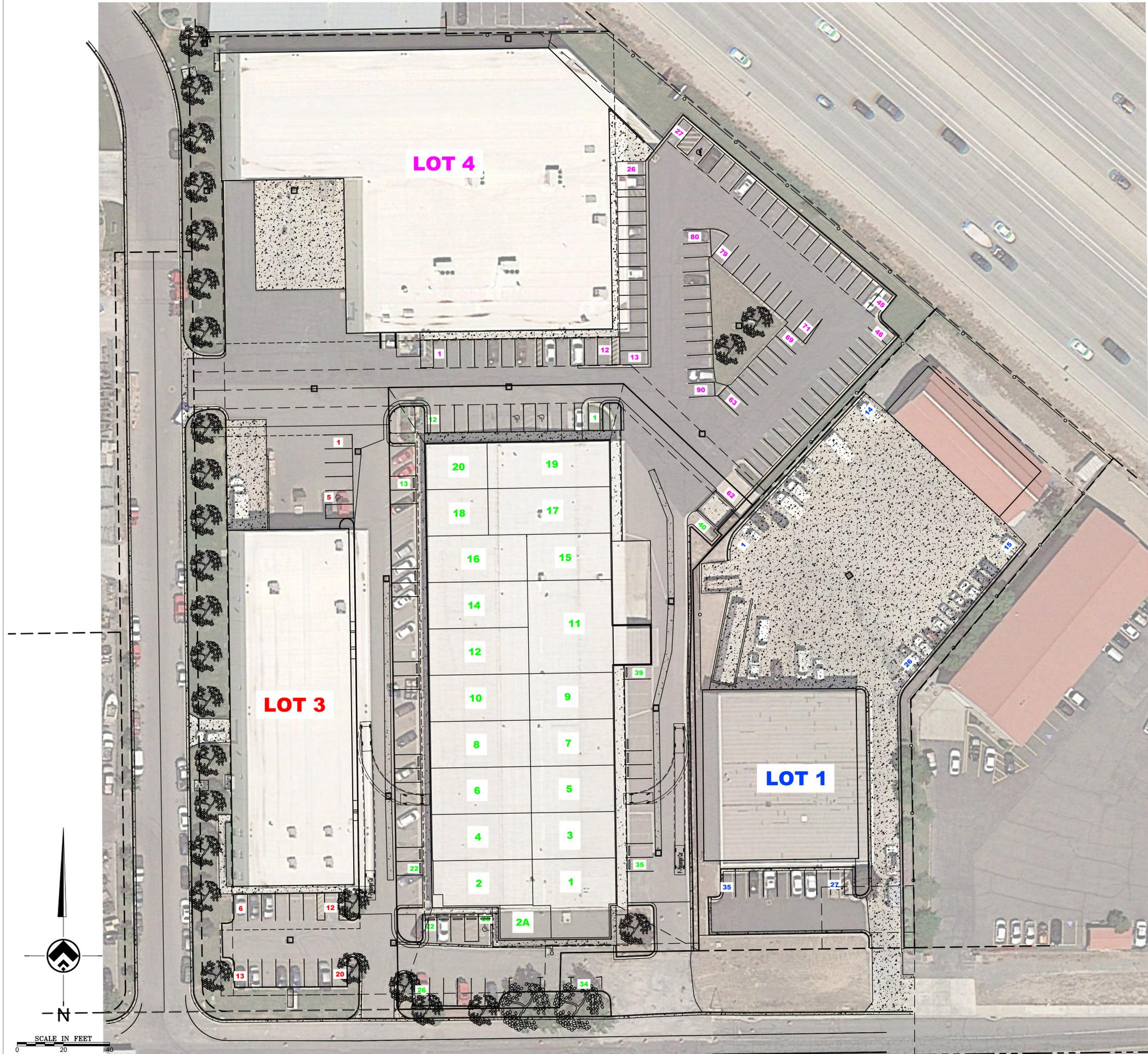
**BRIXTON PARTNERS**  
118 E 126 75 S SEAN SHAH  
DRAPER, UTAH 84020 sean@brixtonpartners.com  
385-281-3851

SHEET INFORMATION:

**EXISTING PARKING ANALYSIS**  
**LINDON WAREHOUSE CONDO**  
LINDON, UTAH COUNTY, UTAH

DRAWN BY:	CHECKED BY:	APPROVED BY:	SHEET:
DBJ	DBJ	DBJ	V-106
PROJECT NO:	20-001		
DATE:	06/23/2020	04	06/23/2020 PRELIMINARY
SCALE:	1":20'	03	06/16/2020 PRELIMINARY
		NO.	DATE REVISION

X:\Active Projects\2001 Lindon Warehouse Condo\04 Design\Drawings\Design\Plan Sheets\CS-Civil Site\Proposed Parking Analysis II.dwg



LEGEND AND GENERAL NOTES

NOTES:

1. LOT 1
  - 1.1. REGULAR STALLS = 34
  - 1.2. HANDICAP STALLS = 1
  - 1.3. TOTAL STALLS = 35
- PER PREVIOUS SUBDIVISION, LOT ONE DOES NOT HAVE RIGHTS TO CROSS PARKING / ACCESS EASEMENT. LOT 1 SHALL PROVIDE ENOUGH PARKING STALLS TO SATISFY PARKING REQUIREMENTS FOR THE BUILDINGS LOCATED ON LOT 1.
2. LOT 2 CONDO (BUILDING SF = 36,427 TOTAL (34,852 WAREHOUSE / 1,575 OFFICE))
  - 2.1. REGULAR STALLS = 36
  - 2.2. HANDICAP STALLS = 4
  - 2.3. TOTAL STALLS = 40
3. LOT 3 (BUILDING SF = 18,377 TOTAL (12,852 WAREHOUSE / 5,525 OFFICE))
  - 3.1. REGULAR STALLS = 18 (8 STALL RESIDE IN CROSS PARKING / ACCESS EASEMENT)
  - 3.2. HANDICAP STALLS = 2 (0 STALL RESIDES IN CROSS PARKING / ACCESS EASEMENT)
  - 3.3. TOTAL STALLS = 20
4. LOT 4 (BUILDING SF = 37,427 TOTAL (19,031 WAREHOUSE / 18,396 OFFICE))
  - 4.1. REGULAR STALLS = 88
  - 4.2. HANDICAP STALLS = 2
  - 4.3. TOTAL STALLS = 90
5. TOTAL STALLS REQUIRED (LOTS 2,3,4) 1,000 SF/ 1 STALL WAREHOUSE, 350 SF/1 STALL OFFICE
  - 5.1. TOTAL WAREHOUSE = 66,735 SF (67 STALLS)
  - 5.2. TOTAL OFFICE = 25,496 SF ( 73 STALLS)
  - 5.3. TOTAL STALLS REQUIRED = 140 STALLS REQUIRED
6. TOTAL CROSS ACCESS STALLS PROVIDED
  - 6.1. REGULAR STALLS = 142
  - 6.2. HANDICAP STALLS = 8
  - 6.3. TOTAL STALLS = 150 STALLS PROVIDED
7. 140 STALLS REQUIRED, 150 STALLS PROVIDED. SURPLUS OF 10 STALLS.
8. SEE JACOBSON SUBDIVISION PLAT D FOR EXISTING SUBDIVISION MAP. ENTRY NO. 20606, MAP 11526, 2/21/2006
9. THE APPLICANT IS RESPONSIBLE FOR COMPLIANCE WITH ALL REQUIREMENTS OF THE "AMERICANS WITH DISABILITIES ACT" (ADA).
10. ALL LANDSCAPED AREAS SHALL HAVE AN AUTOMATIC, UNDERGROUND SPRINKLING SYSTEM WITH A BACKFLOW PREVENTION DEVICE AND A BACKFLOW PREVENTION DEVICE TO THE BUILDING, UNLESS LANDSCAPING IS SERVED BY THE SECONDARY WATER SYSTEM.
11. WATER METERS ARE TO BE LOCATED BEHIND BACK OF WALK OR BACK OF CURB IN AN AREA THAT IS ACCESSIBLE, NOT LOCATED BEHIND FENCED AREAS OR UNDER COVERED PARKING.
12. LINDON STANDARD SPECIFICATIONS AND DRAWINGS APPLY TO CONSTRUCTION OF PUBLIC IMPROVEMENTS THAT WILL BE OWNED OR MAINTAINED BY LINDON CITY AND TAKE PRECEDENCE OVER OTHER STANDARDS.
13. THE PARKING LOT AREA FOR BRIXTON HEIGHTS HAS BEEN DESIGNED FOR PARKING AND BAY DOOR ACCESS BY PASSENGER VEHICLES. LARGE TRUCKS AND SEMI TRAILERS MAY ACCESS DOCK ON EAST SIDE OF BUILDING.



KNOW WHAT'S BELOW. CALL 811 BEFORE YOU DIG. DRAWING IS NOT TO SCALE IF LESS THAN 24"x36". DIMENSIONS AND NOTES SUPERCEDE SCALE.

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 Phone: 801-787-4569

CLIENT / OWNER INFORMATION:

**BRIXTON PARTNERS**  
 118 E 126 75 S SEAN SHAH  
 DRAPER, UTAH 84020 sean@brixtonpartners.com  
 385-281-3851

SHEET INFORMATION:

**PROPOSED PARKING ANALYSIS**  
**LINDON WAREHOUSE CONDO**  
 LINDON, UTAH COUNTY, UTAH

DRAWN BY:	CHECKED BY:	APPROVED BY:	SHEET:
DBJ	DBJ	DBJ	CS-101
PROJECT NO:	20-001		
DATE:	06/23/2020	04	06/23/2020 PRELIMINARY
SCALE:	1":20'	03	06/16/2020 PRELIMINARY
		NO.	DATE
			REVISION

June 22, 2020

Mike Florence  
 Planning and Economic Development Director  
 Lindon City  
 100 North State Street  
 Lindon, Utah 84042

RE: Legal Review of Brixton Heights Condominiums Project

Dear Mr. Florence:

This law firm represents Coco Development Lindon, LLC, owner of that certain real property and improvements located at 1350 W 200 S Lindon, Utah 84042 (Tax Parcel No. 43:159:0002), which it intends to subdivide into a condominium project to be known as “Brixton Heights”, under a land use application filed on May 11, 2020 with Lindon City.

I have reviewed the attached proposed plat map prepared by Johnson Engineering. I also have reviewed the proposed Declaration of Condominium of Brixton Heights Owners Association Inc. and the proposed Bylaws of the Brixton Heights Owners Association Inc.

I have reviewed the foregoing for compliance with Title 57, Chapter 8 of the Utah Code, also known as the Condominium Ownership Act (the “Act”). It appears to me that in all material respects the property is suitable for subdivision into a multi-unit industrial condominium project, and that the plat, the declaration and bylaws comply with the Act.

Sincerely,

RAY QUINNEY & NEBEKER P.C.

*/s/ Blake Bauman*

Blake R. Bauman

## ATTORNEYS AT LAW

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 Herbert C. Livsey  
 D. Jay Curtis  
 James S. Jardine  
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 Bruce L. Olson  
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 Jeffrey W. Appel  
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 Jascha K. Clark  
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 Aaron C. Hinton  
 Jason M. Tholen  
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 Elaine A. Monson  
 Katie A. Eccles  
 Jordan Christianson  
 Anjali J. Patel

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 801 532-7543 FAX  
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 86 North University Ave  
 Suite 430  
 Provo, Utah  
 84601-4420

801 342-2400 TEL  
 801 375-8379 FAX

1531465





05.19.2020

Mr. Mike Florence  
Planning and Economic Development Director  
Lindon City  
100 North State Street  
Lindon, Utah 84042

Re: 1350 West 200 South Office/Warehouse Condominium Review

Dear Mike,

I have been asked by Sean Shah of Coco Development Lindon LLC to prepare a letter of evaluation for creating 20 individual condominium units under Utah Condominium Ownership Act (Utah Title 57, Section 57-8) within an existing building located at 1350 West and 200 South. The building is located on Lot 2 of the Jacobson Commercial Subdivision.

Under the Utah Condominium Ownership Act, building shells and all common property are held and managed by a condominium association. Units defined by the shell and demising walls will have separate tax ID numbers and are owned and managed by individual owners. Each of these owners participates in the condominium association. Under the Utah Condominium Ownership Act, fire-rated separation between the individual taxable units is not required if the occupancy class aligns with the IBC 508.4 table.

My Client has hired David Johnson with Johnson Engineering to create a condo plat and revised civil drawings, which has been turned into Lindon for review. The generated condo plat will allow the building to be divided up into the individual taxable units. The revised civil drawings will allow a contractor to rebuild the site grading to allow entrance access to each unit. Currently I am generating document to convert the single use building into the 20-unit condos. These drawings will contain the unit layouts, unit allowable area, restroom quantity and configuration, life safety exiting diagram, and details for construction. The drawings will comply with IBC 2018 building code and Lindon City Standards and will be turned into the city when completed.

The subject project comprises of a single building containing twenty individual units. The following table illustrates the proposed use in each of these units and the 2018 international building code fire-rated separation requirements between uses (table 508.4)



UNIT	USE DESCRIPTION	IBC CLASS	SEPERATION REQ.
Unit 1	Office / Product Storage	B, S-1	NONE
Unit 2	Office / Product Storage	B, S-1	NONE
Unit 2a	Office	B	NONE
Unit 3	Office / Product Storage	B, S-1	NONE
Unit 4	Office / Product Storage	B, S-1	NONE
Unit 5	Storage	S-1	NONE
Unit 6	Office / Product Storage	B, S-1	NONE
Unit 7	Storage	S-1	NONE
Unit 8	Office / Product Storage	B, S-1	NONE
Unit 9	Storage	S-1	NONE
Unit 10	Office / Product Storage	B, S-1	NONE
Unit 11	Office / Product Storage	B, S-1	NONE
Unit 12	Office / Product Storage	B, S-1	NONE
Unit 13	Office / Product Storage	B, S-1	NONE
Unit 14	Office / Product Storage	B, S-1	NONE
Unit 15	Office / Product Storage	B, S-1	NONE
Unit 16	Office / Product Storage	B, S-1	NONE
Unit 17	Office / Product Manufacturing	B, M	NONE
Unit 18	Office / Product Storage	B, S-1	NONE
Unit 19	Office / Product Manufacturing	B, M	NONE
Unit 20	Office / Product Storage	B, S-1	NONE

As a review of the condo plat and revised civil drawings, and soon to be generated building construction documents, it is in my opinion that the conversion from a single property to a multiple condo properties aligns with the Utah Condominium Ownership Act.

Sincerely,

A handwritten signature in blue ink that reads 'Adam E. Orme'.

Adam E. Orme  
Gould Plus Architects

9. **Review & Action — Major Subdivision, Lindon Hollow Estates; 122 South Main.** Marc and Jessica McCann are requesting Major subdivision approval from the city council to subdivide the property located at 122 South Main Street into a five (5) lot single family development. *(15 minutes)*

**Sample Motion:** I move to (approve, deny, continue) the Lindon Hollow Estates Major Subdivision (as presented, or with changes).

## The Hollows Major Subdivision Approval Approximately 122 S. Main Street

Date: August 17, 2020

Applicant: Marc and Jessica McCann  
Presenting Staff: Michael Florence

General Plan: Residential Low  
Current Zone: Residential R1-20

Property Owner: Jessica McCann  
Parcel ID's: 14:070:0316,  
14:070:0315, 14:070:0051,  
14:070:0317

Type of Decision: Administrative  
Council Action Required: Yes.  
The planning commission  
unanimously recommended  
approval with conditions outlined in  
the motion



### SUMMARY OF KEY ISSUES

1. Marc and Jessica McCann are seeking preliminary major subdivision approval for a 5-lot single family home subdivision;
2. June 1, 2020 the City Council, with a recommendation from the planning commission, adopted a new public road cross section and **amendment to the “hammer head” turnaround** that applies only to the **“Hollow” area**.
3. The property owners and city have signed an easement for a detention area at the bottom of the **“hollow”** for future City water detention needs.

### OVERVIEW

1. The Lindon City Streets Master Plan map identifies connecting 130 S. as well as a future north/south road connecting 130 S. to 40 S. The applicant, will only be installing a portion of the new north/south road. Future development will connect to this partially installed road;

### MOTION

I move to (approve, deny, or continue) of the applicant's request for preliminary approval of the Hollow Subdivision with the following conditions:

1. The applicant will continue to work with the city staff to make all final corrections to the engineering documents and plat;
2. Prior to plat recording the applicant will provide staff with a final plat mylar to include notarized **signatures of owner's consent to dedication**, obtain signature of all entities indicated on the attached subdivision plat;
3. Complete (or post an adequate improvement completion assurance), warrant and post required warranty assurance for all required public infrastructure improvements;
4. The plans and plat will meet and be constructed as per the relevant specifications as found in the Lindon City Development Manual;
5. The planning commission approves lot 1 of the Hollow Subdivision as a non-conforming lot and meets the requirements found in Lindon City Code 17.16.030(2)(b).

6. Prior to final approval the applicant shall place permanent survey monuments in the subdivision;
7. All items of the staff report

#### Surrounding Zoning and Land Use

North: Residential R1-20 – Single Family

South: Residential R1-20 – Lindon Elementary

East: Residential R1-20 – Single Family

West: Public Facilities – Single family, rodeo grounds

#### Lot Requirements – Residential (R1-20) Zone

Required	Compliant
Minimum lot size: 20,000 square feet	<ul style="list-style-type: none"> <li>• Lots 2, 3, 4, 5 are all a minimum 20,000 square feet</li> <li>• Lot 1 is 15,674 square feet. There are two existing lots that are non-conforming and range in size from 6,098 (120 S. Main Street) to 6,534 square feet (duplex 112 and 114 S. Main). The duplex will be demolished to make room for the new street. These two existing lots will be combined and the lot area increased to 15,674 square feet. See analysis section for additional information.</li> </ul>

#### Subdivision Requirements

Required	Complaint
No single lot shall be divided by municipal or county boundary lines, roads, alleys, or other lots.	Yes
All residential lots shall front on a public street	Yes
Side lot lines shall be at right angles or radial to street lines.	Yes
The street layout shall conform to the master plan	Yes
Minimum right-of-way width for Minor streets	Yes, 100 north will be the new sub-local cross section adopted by the City
Minor streets maximum grade: 12%	6.0%
Sidewalks, curbs and gutters shall be provided on both sides of all streets to be dedicated to the public	The new sub-local cross-section does not require sidewalk but there will be curb and gutter on both sides of the street. The applicant will also be improving Main street with curb, gutter and trail on the east side of Main Street.
Easements shall follow rear and side lot lines whenever practical and shall have a minimum total width of 15 feet apportioned equally in abutting properties.	Yes
Underground utilities and piped sanitary sewerage shall be provided by the subdivider.	Yes
No lot shall be created which is more than three times as long as it is wide.	Yes
Street lights	Yes

## Analysis

Lindon City and the applicants have been working for quite some time on this subdivision application. The City believes that the current proposal is the best option after working through many iterations of development proposals. The proposed subdivision maintains the **character of the “Hollow” while also** providing sufficient access to future homeowners, and meeting a water detention need of the City.

In analyzing Lot 1, the City believes that the proposal meets the non-conforming use requirements of Title 17.16.030. The applicants are proposing to combine two non-conforming lots and bring Lot 1 into **compliance as much as reasonably possible due to hillside site constraints, and the City’s need for a** detention area. The Planning Commission will need to grant approval for the non-conforming lot which has been included in the motion. City code 17.16.030 states:

*17.16.030 - Amendments, additions, enlargements and moving of nonconforming parcels or uses.*

- 1. All nonconforming parcels, lots, buildings, structures, or uses shall not be added to, enlarged in any manner, moved to another location on the lot, or have parcel lines moved, changed, or adjusted, except as provided by subsection 2 of this section.*
- 2. The Planning Commission may authorize the expansion, alteration, or enlargement of a nonconforming use, structure, building, parcel, or lot, or movement of parcel lines, only after holding a public hearing and finding that:*
  - a. the expansion, alteration or enlargement of the nonconforming building, structure, parcel, lot, or use will to reasonable extent bring the property, building, structure, parcel, lot or use as close as reasonably possible to conformance with requirements and regulations of the zone in which the nonconformity is located; and*
  - b. the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure or violate the development policies adopted in the Lindon City Master Plan; and*
  - c. the use, building, or structure, existing or proposed, will be brought into compliance, where possible, with design and architectural standards of the zone where proposed.*

## Engineering Requirements

The City Engineer is working through technical issues related to the plat and civil engineering plans and will ensure all engineering related issues are resolved before final approval is granted.

## EXHIBITS

1. Aerial photo
2. Plat
3. Site improvement map
4. Applicable road profiles



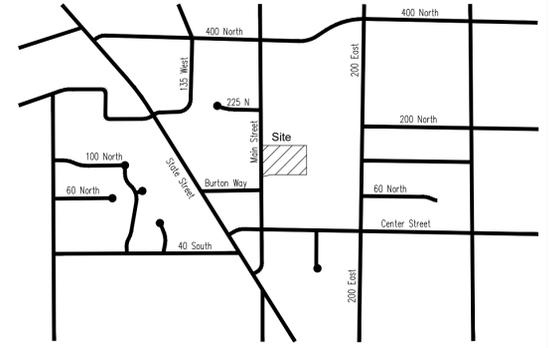
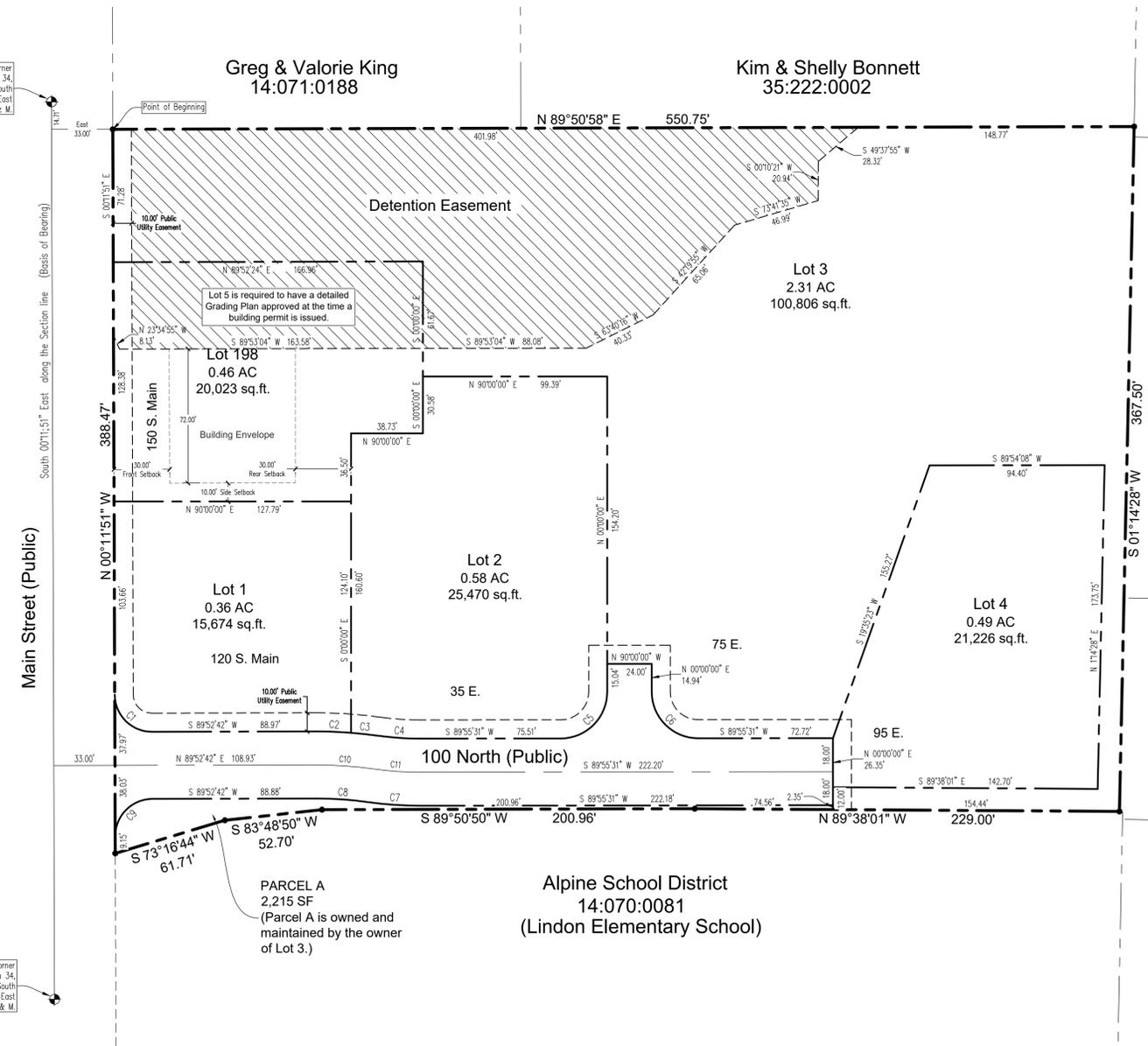


NORTH  
1" = 40'

Curve	Radius	Length	Chord	Bearing	Delta
C1	20.00'	31.39'	28.27'	S 45°09'34" E	89°55'27"
C2	231.00'	18.43'	18.43'	N 87°50'08" W	4°34'19"
C3	231.00'	14.21'	14.20'	N 83°47'16" W	3°31'26"
C4	168.00'	23.60'	23.58'	S 86°03'01" E	8°02'56"
C5	25.00'	39.24'	35.33'	N 44°57'46" E	89°55'31"
C6	25.00'	39.30'	35.38'	S 45°02'14" E	90°04'29"
C7	204.00'	28.66'	28.64'	S 86°03'00" E	8°03'02"
C8	195.00'	27.54'	27.52'	N 86°04'24" W	8°05'34"
C9	20.00'	31.44'	28.30'	S 44°50'26" W	90°04'33"
C10	213.00'	30.09'	30.06'	N 86°04'24" W	8°05'34"
C11	186.00'	26.13'	26.11'	S 86°03'00" E	8°03'02"

West quarter corner  
Section 34,  
Township 5 South,  
Range 2 East  
S.L.B. & M.

Southwest corner  
Section 34,  
Township 5 South,  
Range 2 East  
S.L.B. & M.



Vicinity Map

Lyle Lamoreaux  
14:071:0100

Gayleen Carlton  
14:070:0059

J B & Maxine Jacobson  
14:070:0299

J B & Maxine Jacobson  
14:070:0221

Alpine School District  
14:070:0081  
(Lindon Elementary School)

PARCEL A  
2,215 SF  
(Parcel A is owned and  
maintained by the owner  
of Lot 3.)

Storm Drain Detention area  
in favor of Lindon City

**Occupancy Restriction Notice**  
It is unlawful to occupy any building within this subdivision without first having obtained a certificate of occupancy issued by the City.

**Notice of Lindon City Housing Ordinance**  
All potential buyers of lots within this plat are hereby notified of the Lindon City R2 Overlay Ordinance. Under this ordinance there is potential for small, localized multifamily housing projects in this neighborhood consisting of single family planned unit developments, duplexes, triplexes and accessory apartments. Conditions Covenants and Restrictions (C.C.&Rs) which prohibit this type of housing in specific subdivisions are considered illegal and in violation of Lindon City Code. Please contact the Lindon City Planning Department at (801) 785-7687 for details regarding this Ordinance.

**Surveyor's Certificate**

I, Roger D. Dudley, do hereby certify that I am a registered land surveyor, and that I hold certificate No. 147082 in accordance with Utah Code, Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act. I further certify, that at the request of the owner of the below-described land, I performed a survey of said land in accordance with Section 17-23-17 of the Utah Code; that the boundary description below correctly describes the land surface upon which will be constructed PLAT "A", THE HOLLOW'S SUBDIVISION, that I have verified all measurements, and that the reference markers shown on said plat are located as shown and are sufficient to readily retrace or reestablish this survey.

**Boundary Description**

Commencing at a point located South 0°01'51" East along the Section line 14.71 feet and East 33.00 feet from the West quarter corner of Section 34, Township 5 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°50'58" East 550.75 feet; thence South 0°14'28" West 367.50 feet; thence North 89°38'01" West 229.00 feet; thence South 89°50'50" West 200.96 feet; thence South 83°48'50" West 52.70 feet; thence South 73°16'44" West 61.70 feet to Main Street; thence North 0°01'51" West along Main Street 388.47 feet to the point of beginning.

Area = 200,757 sq.ft. or 4.61 Acres

Basis of Bearing is South 0°01'51" East along the Section line from the West quarter corner to the Southwest corner of said Section 34, (NAD 27)

Date \_\_\_\_\_ Professional Land Surveyor  
(see seal below)

**Owner's Dedication**

The undersigned owners ("owner" without regard to number or gender) of the above-described land hereby certifies that: owner has caused a survey to be made of said land and to be prepared for Plat A, THE HOLLOW'S SUBDIVISION, Owner hereby consents to the concurrent recordation of the plat and Declaration and hereby submits the described land to the provisions and requirements of the declaration, owner hereby dedicates any public streets reflected on the map for the use by the general public.

In witness hereof we have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_.

112-120 VENTURES LLC  
JESSICA McCANN  
BY: KIRK WILLIAMSON - MANAGER

**Acknowledgement**

STATE OF UTAH } S.S.  
COUNTY OF UTAH }  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who represented that he is the owner of the above-described property and has the authority to execute this instrument.  
My Commission Number \_\_\_\_\_ Signed (a Notary Public Commissioned in Utah)  
My Commission Expires \_\_\_\_\_  
Print name of Notary

**Acceptance by Legislative Body**

The City of Lindon, County of Utah, approves this Subdivision subject to the Conditions and Restrictions stated hereon, and hereby accepts the dedication of all streets, easements and other parcels of land intended for perpetual use of the public this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

Mayor \_\_\_\_\_ Planning Commission Chair  
Planning Director \_\_\_\_\_ City Engineer  
City Attorney \_\_\_\_\_ City Recorder  
Attest \_\_\_\_\_

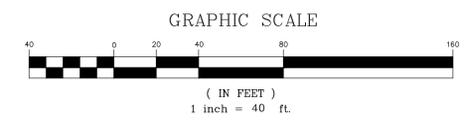
**Conditions of Approval**

Plat "A"

**The Hollows Subdivision**

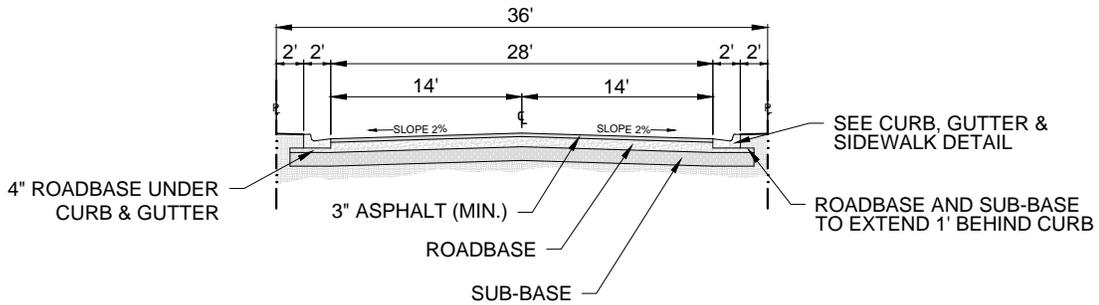
Lindon City, Utah County, Utah  
Scale: 1" = 40 Feet

Prepared by:  
Dudley and Associates, Inc.  
353 East 1200 South  
Orem, Utah 84058  
office 801-224-1252  
fax 801-224-1264



SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	CLERK-RECORDER SEAL	COUNTY RECORDER
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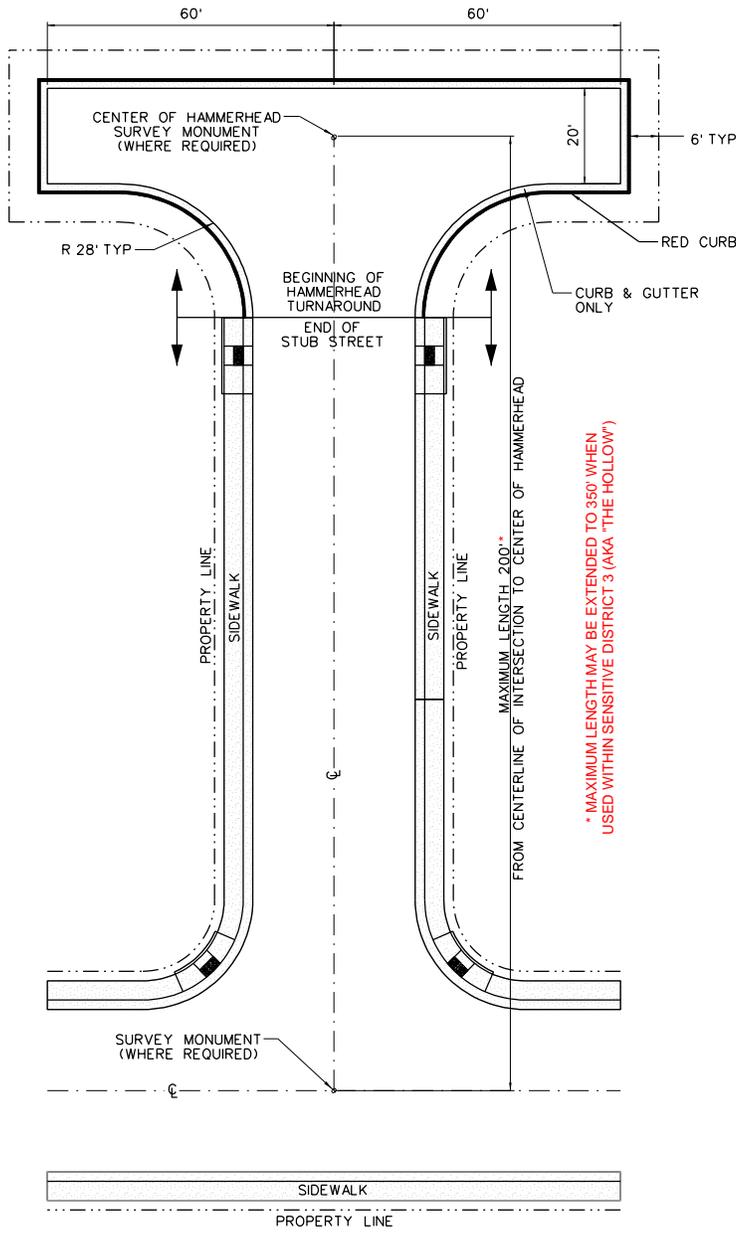




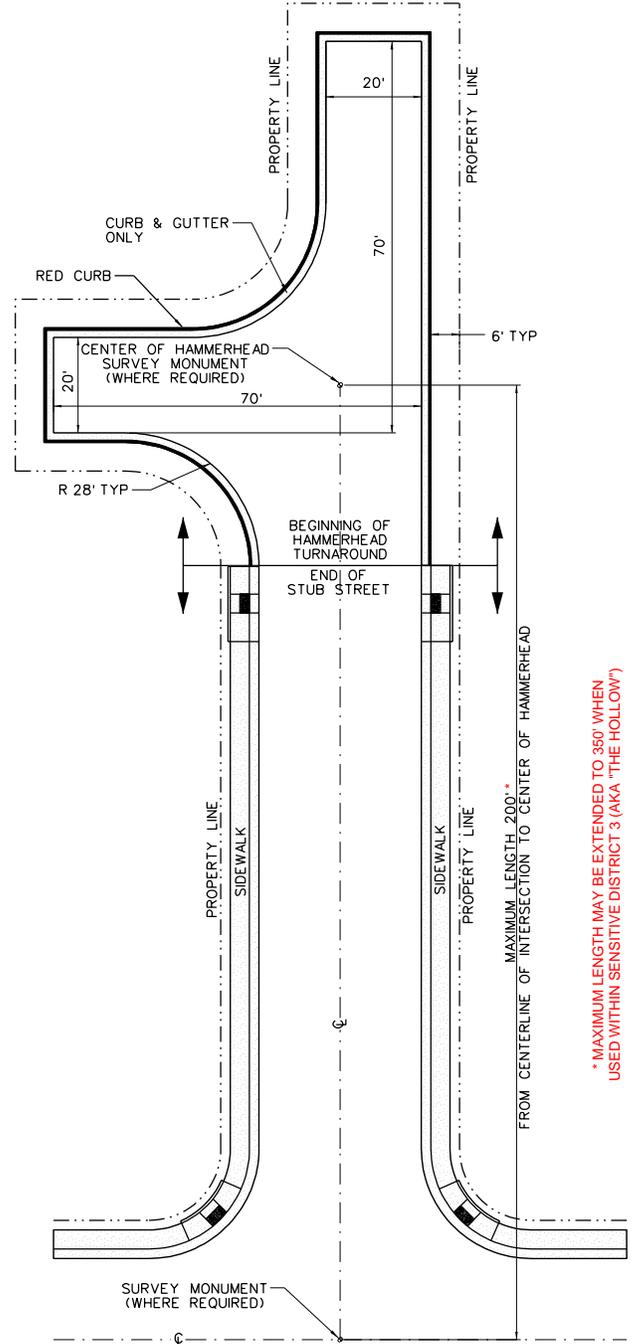
SUB-LOCAL STREET - 36' RIGHT-OF-WAY

NOTES:

1. **THIS CROSS SECTION ONLY APPLIES, AND IS ALLOWED ONLY WITHIN, SENSITIVE AREA DISTRICT 3 (AKA "THE HOLLOW").**
2. PARKING IS RESTRICTED ON AT LEAST ONE SIDE OF THE SUB-LOCAL STREET.
3. UTILITY LOCATIONS AND NOTES APPLY AS SHOWN ON THE "STANDARD STREET CROSS SECTIONS AND UTILITY LOCATIONS" STANDARD DRAWING (STD DWG #2a).
4. IMPORTED GRANULAR MATERIAL (I.E. SUB-BASE), ROADBASE, AND, WHERE NECESSARY, ASPHALT THICKNESS, WILL BE DETERMINED BY SOILS REPORT / PAVEMENT DESIGN.
5. MINIMUM OF 4" UNTREATED BASE COURSE (ROADBASE) UNDER CURB & GUTTER AND 8" UNDER STREET PAVEMENT UNLESS MORE REQUIRED BY SOILS REPORT / PAVEMENT DESIGN.
6. ROADBASE AND SUB-BASE SHALL EXTEND 1' MIN. BEHIND CURB AND GUTTER DUE TO LACK OF SIDEWALK ADJACENT TO CURB.



120' HAMMERHEAD DETAIL



ACCEPTABLE ALTERNATIVE TO 120' HAMMERHEAD DETAIL

- HAMMERHEAD TURNAROUNDS ARE INTENDED TO BE USED ONLY IN EXCEPTIONAL CIRCUMSTANCES AND ONLY IN RESIDENTIAL LAND USE ZONES. THE FOLLOWING RESTRICTIONS APPLY TO THEIR USE:
1. HAMMERHEAD TURNAROUNDS MAY NOT BE USED IF A STANDARD CUL-DE-SAC IS FEASIBLE WHILE STILL PERMITTING CREATION OF AND ACCESS TO AT LEAST TWO LOTS THAT MEET ALL CODE CONDITIONS (LOT SIZE, FRONTAGE, ETC).
  2. NO MORE THAN TWO LOTS MAY HAVE ACCESS FROM A HAMMERHEAD TURNAROUND (OR COUNT FRONTAGE FROM THE HAMMERHEAD TURNAROUND).
  3. NO MORE THAN FOUR LOTS MAY ACCESS A STUB STREET WITH A HAMMERHEAD TURNAROUND (AS MEASURED FROM THE CENTER OF THE NEAREST INTERSECTION).
  4. LOTS HAVING ACCESS TO THE HAMMERHEAD TURNAROUND MUST PROVIDE A MINIMUM OF 3 OFF-STREET PARKING SPACES PER DWELLING UNIT.
  5. NO ON-STREET PARKING IS PERMITTED WITHIN A HAMMERHEAD TURNAROUND.
  6. ONLY THOSE HAMMERHEAD TURNAROUNDS SHOWN IN THE LINDON STANDARD DETAILS MAY BE USED. THEY MUST ALSO MEET THE MINIMUM REQUIREMENTS OF THE A TURNAROUND IN APPENDIX A OF THE INTERNATIONAL FIRE CODE.
  7. SIDEWALK IS OPTIONAL AROUND THE HAMMERHEAD TURNAROUND.



STATEMENT OF USE

THIS DOCUMENT AND ANY ILLUSTRATIONS HEREON ARE PROVIDED AS STANDARD CONSTRUCTION DETAILS WITHIN LINDON CITY. DEVIATION FROM THIS DOCUMENT REQUIRES APPROVAL OF LINDON CITY, LINDON CITY CORPORATION AND J-U-B ENGINEERS CAN NOT BE HELD LIABLE FOR MISUSE OR CHANGES REGARDING THIS DOCUMENT.

REVISION

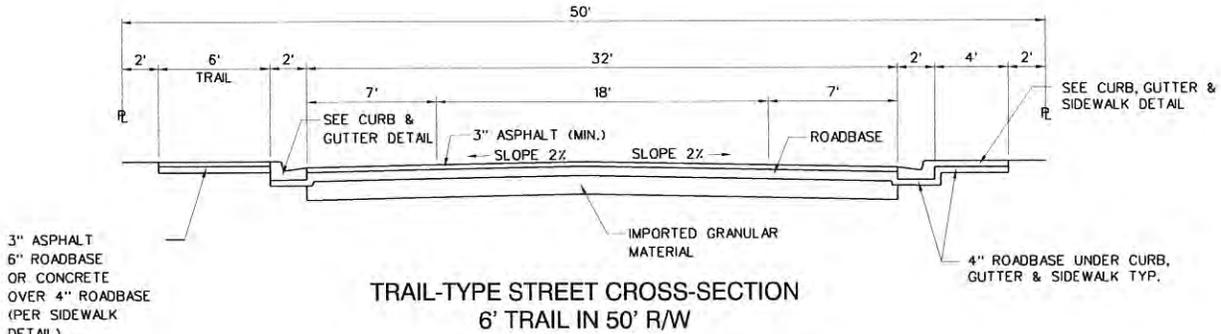
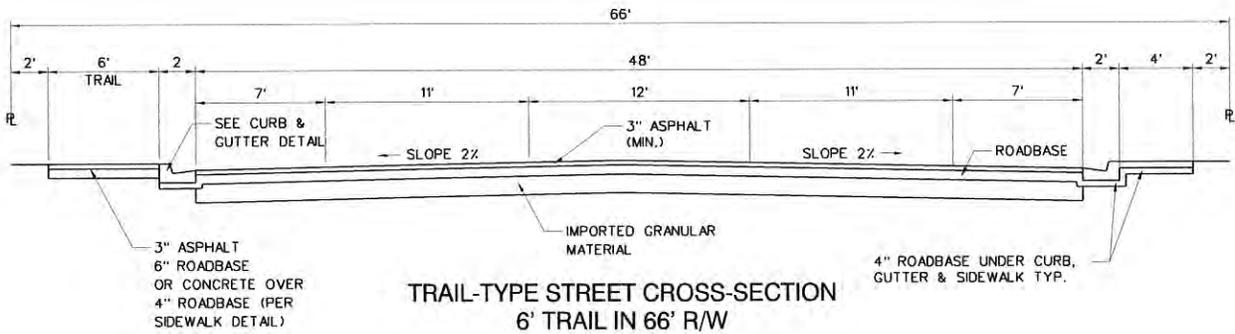
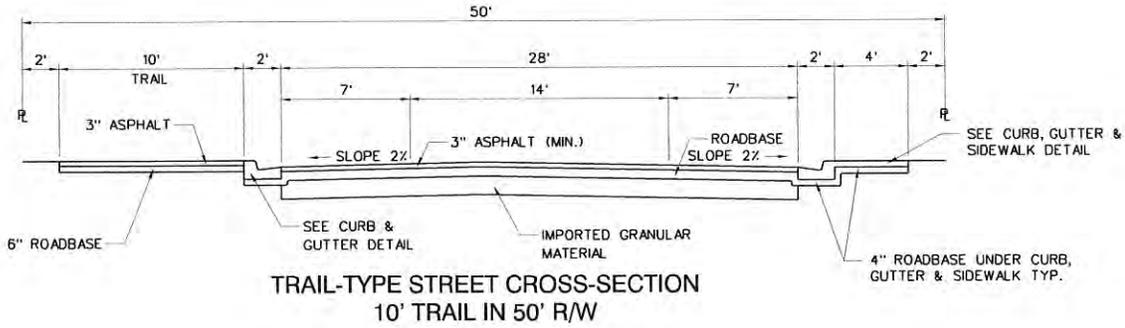
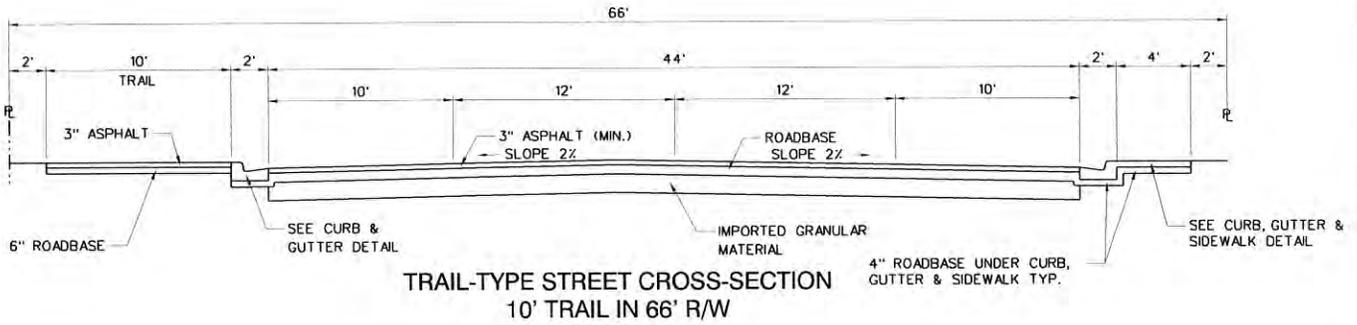
NO.	DESCRIPTION	BY	APPR	DATE
1	ADDED CURB RAMPS AT END OF STUB ROAD & NOTE 7	SAC	MLC	09/18/08



HAMMERHEAD TURN AROUNDS

LINDON CITY  
100 NORTH STATE

STANDARD DRAWING NUMBER:	8b
CAD DWG: LC StdDwg.dgn	
PLOT SCALE:	1:000
DRAWN BY:	SAC
DESIGN BY:	MLC
CHECKED BY:	MLC
ADOPTED DATE:	10 OCT 2019



- NOTES:
1. UTILITY LOCATIONS AND NOTES APPLY AS SHOWN ON THE STANDARD STREET CROSS SECTIONS AND UTILITY LOCATIONS STANDARD DRAWING (STANDARD DRAWING NUMBER 2A).
  2. IMPORTED GRANULAR MATERIAL, ROADBASE AND WHERE NECESSARY ASPHALT THICKNESS WILL BE DETERMINED BY PAVEMENT DESIGN.
  3. STREETS WITH 4" CONCRETE TRAILS HAVE THE SAME CROSS SECTIONS AS THE STANDARD STREET CROSS SECTIONS.
  4. WHERE CURB AND GUTTER EXISTS, OR FOR OTHER REASONS, 6' TRAIL MAY BE PLACED AGAINST THE RIGHT-OF-WAY-LINE.
  5. SIDEWALK NOT REQUIRED IN INDUSTRIAL ZONES WEST OF GENEVA ROAD.



STATEMENT OF USE

THIS DOCUMENT AND ANY ILLUSTRATIONS HEREON ARE PROVIDED AS STANDARD CONSTRUCTION DETAILS WITHIN LINDON CITY. DEVIATION FROM THIS DOCUMENT REQUIRES APPROVAL OF LINDON CITY LINDON CITY CORPORATION AND ALLIED ENGINEERS CAN NOT BE HELD LIABLE FOR MISUSE OR CHANGES RECORDING THIS DOCUMENT.

NO.	REVISION	DATE	BY	DATE
1	ISSUE DRAWING TITLE	01/21/09	M.C.	
2	CREATE TRAIL-TYPE STREET CROSS SECTIONS	12/14/08	M.C.	
3	ADD NOTE 5	1/29/09	M.C.	



TRAIL-TYPE STREET CROSS SECTIONS AND UTILITY LOCATIONS

LINDON CITY  
100 NORTH STATE

STANDARD DRAWING NUMBER	2b
CAD DWG: LC Std0493.dwg	
PLOT SCALE	1:000
DRAWN BY	CJC
DESIGN BY	M.C.
CHECKED BY	M.C.
ADOPTED DATE	15 JAN 09

- 10. Continued Action Item — Ordinance #2020-8-O, LCC Title 17.76; Planned Residential Development Overlay.** This item was continued from the July 20, 2020 meeting to allow for some modifications to the previously reviewed ordinance. The City Council will consider the proposed Ordinance 2020-8-O, Planned Residential Development Overlay. *(60 minutes)*

**Sample Motion:** I move to (approve, deny, continue) Ordinance #2020-8-O the Planned Residential Development Overlay (as presented, or with changes).

# Ordinance Amendment – Planned Residential Development Overlay

**Date:** August 17, 2020

**Applicant:** Lindon City

**Presenting Staff:** Michael Florence

**Type of Decision:** Legislative

**Council Action Required:** Yes, the planning commission recommended approval of the ordinance amendment

## Motion

I move to *(approve, deny, to continue)* ordinance amendment 2020-8-O *(as presented, or with changes)*.

## Overview:

Since the last City Council meeting staff has made a number of updates that are either highlighted in “red” for updated language or “strike through” for those proposed sections to be removed. The “underlined” sections highlight all changed to the existing Planned Residential Development code/ City staff received written comments from a few interested parties and a majority of their comments are attached.

Below is a list of proposed changes to the ordinance:

- 17.76.080 (2) – changes the maximum density of 10 units to the acre to an average density of 10 units to the acre. Development phases with a density above ten (10) units to the acre shall be located adjacent to commercial uses. Densities shall be ten (10) units or less as a transition to low density single family residential.
- 17.76.080(6) – clarified building type requirements
- 17.76.080(7)(b) – clarified side yard setback requirements for detached single family as 6 feet and a combined total of 12 feet. This is the same requirement as approved for the Anderson Farms development.
- 17.76.080(10)(b)
  - allows for a setback to be counted toward the 20% common open space if the setback is a usable size segment and a common development amenity is provided within the setback area.
  - Allows the land use authority to review alternative or innovative common open space options over the primary central open space
- 17.76.080(15) –
  - Increases the front stucco limitation to 30%
  - Allows for 100% stucco if a building elevation is not fronting a public or private street, development entrance or common open space
  - Removes the requirement that identical buildings with only alternating color scheme be minimized. The ordinance still requires a variety of materials and architectural elements.
  - Removes the 5:12 roof pitch requirement but still requires a pitched roof
- 17.76.080(22)
  - After reviewing the Anderson Farms development for street widths, utility access, and fire code requirements city staff recommends the follow language for street widths.
  - The minimum width for private streets shall be twenty-four (24) feet if residential buildings are less than thirty (30) feet in height. For residential buildings thirty (30) feet or greater in height, the minimum private street width is twenty-six (26) feet. Where a street includes public utilities, the minimum street width shall be twenty-nine (29) feet, constructed to a public street standard as found in the Lindon City Development Manual, and dedicated to Lindon City. Hard surfacing for both private and public streets shall not include the gutter when determining minimum street widths.

**Exhibits**

1. Draft Planned Residential Overlay ordinance
2. Draft Planned Residential Overlay ordinance with “redline” changes
3. Written comments

## ORDINANCE NO. 2020-8-O

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMENDING TITLE 17.76 PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (PRD OVERLAY) ZONE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council is authorized by state law to enact and amend ordinances establishing land use regulations; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that a variety of housing types should be provided where appropriate, and innovative development patterns and building methods that will result in more affordable housing should be encouraged; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that the relationship of planned land uses should reflect consideration of existing development, environmental conditions, service and transportation needs, and fiscal impacts; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that transitions between different land uses and intensities should be made gradually with compatible uses, particularly where natural or man-made buffers are not available; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that growth should be guided to locations contiguous to existing development to provide city services and transportation in a cost-effective and efficient manner; and

WHEREAS, the proposed amendment is consistent with the goal of the General Plan that density increases should be considered only upon demonstration of adequate infrastructure and resource availability; and

WHEREAS, on April 28, 2020 and June 9, 2020 the Planning Commission held properly noticed public hearings to hear testimony regarding the ordinance amendment; and

WHEREAS, after the June 9, 2020 public hearing, the Planning Commission further considered the proposed ordinance amendment and recommended that the City Council adopted the attached ordinance; and

WHEREAS, the City Council held a public hearing on July 20, 2020, to consider the recommendation and the City Council received and considered all public comments that were made therein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lindon, Utah County, State of Utah, as follows:

**Section I:** Amendment. Amend Lindon City Code Section 17.76 as follows:

## Chapter 17.76

## PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (PRD OVERLAY) ZONE

## Sections:

- 17.76.010 Purpose.
- 17.76.020 Applicability.
- 17.76.030 Permitted Uses, Building Types, and Densities.
- 17.76.040 Site Plan and Conditional Use Approval
- 17.76.050 Final Plat and Improvement Drawings.
- 17.76.060 Building Permits
- 17.76.070 Completion and Maintenance of Site
- 17.76.080 Development Standards and Requirements

## 17.76.010 Purpose.

1. The Planned Residential Development Overlay Zone promotes the following purposes:
  - a. Create diverse and quality housing options in Lindon City.
  - b. Effectively develop unique commercial lots and parcels that do not naturally accommodate traditional commercial development patterns;
  - c. Allow for appropriate housing transitions from commercial properties to low density single family residential;
  - d. Improve the design and livability of residential buildings in the Planned Residential Development Overlay Zone.
  - e. To preserve the commercial tax base and intent of the General Commercial zone.
2. The purposes of the Planned Residential Development Overlay are accomplished by:
  - a. Allowing densities higher than a typical low-density residential development, as identified in the Lindon City Land Use Map;
  - b. Establishing standards for landscaping, building and site design, public safety, parking, aesthetics, traffic circulation, fencing, lighting, and other similar site improvements; and
  - c. Requiring standards that enable Planned Residential Developments to fit into the surrounding development.

## 17.76.020 Applicability.

1. The Planned Residential Development Overlay Zone may be applied to ~~any~~ lots or parcels only in the General Commercial (CG) Zone after application and approval of a zone map amendment by the City Council after a recommendation from the Planning Commission.

17.76.030 Permitted Uses and Building Types

1. *Permitted Uses.* In addition to uses permitted or conditionally permitted in the underlying General Commercial (GC) zone, a Planned Residential Development is a conditionally permitted use in the Planned Residential Development Overlay Zone and is not permitted in any other zone.
2. Planned Residential Development's may include the following building types: detached single family, twin homes, tri-plex, multi-unit buildings and townhouses. All Individual residential units shall be subdivided into separate lots or condominium units;

- a. The minimum lot size for detached single family shall be five thousand (5,000) square feet with fifty (50) feet of frontage.
  - b. Multi-unit buildings shall be limited to a maximum of four (4) units per building.
  - c. Townhomes building types shall be limited to a maximum of six (6) units in a single row within a single building.
3. In order to preserve the intent of the General Commercial zone, building permits from Lindon City shall be obtained and construction commenced for at least twenty-five (25) percent of the approved commercial square footages prior to releasing building permits for residential construction.
  4. Accessory apartments are not permitted in the Planned Residential Development Overlay Zone
- 17.76.040 Zone Map Amendment, Site Plan and Conditional Use Permit Approval.

1. Zone Map Amendment. An application to apply the Planned Residential Development Overlay Zone shall include a concept site plan, building elevations, and renderings showing the proposed project for the subject site. Any concept plan presented to the Planning Commission and City Council for approval shall first be reviewed by the Development Review Committee to ensure the proposal is technically feasible.
2. *Site Plan.*
  - a. Proposed development in the Planned Residential Development Overlay Zone shall first submit a Land Use Application for site plan approval. The applicant shall provide all requirements of the site plan to the City before the City considers the application submitted and before action is taken. The application for a site plan shall include all necessary fees and documentation required by this Chapter.
  - b. The applicant shall submit the site plan for a Planned Residential Development according to site plan submittal requirements-outlined in the Lindon City Land Development Policies, Standard Specifications and Drawings Manual (Development Manual). In addition to the items required in the Development Manual, a complete application shall include building elevations and renderings, open space percentages and landscape plan, site circulation, and project size and density. At that time the applicant shall pay a fee in an amount established in the most recently adopted Lindon City Consolidated Fee Schedule. No development, construction, revisions, or additions shall take place on the site until the Planning Commission has approved the site plan, the site plan is considered finalized by the City, and the developer has obtained the appropriate permits. Applicants for amended site plans for Planned Residential Developments shall follow the same procedures, pay the same fees, and be bound by the same development standards and requirements as applicants for site plans for Planned Residential Developments. The Planning Director or designee has the authority to make minor amendments to the site plan where such amendments are in compliance with the ordinance and the site plan is not materially altered.
  - c. The procedure for site plan approval shall be as follows:
    - i. Development Review Committee. The Planning Department shall forward the proposed site plan to the Development Review Committee for initial review. The Development Review Committee shall review the site plan, civil engineering, and architectural designs while considering whether it complies with the Lindon General Plan and all City ordinances, resolutions, and policies. The site plan and architectural designs shall comply with the Lindon General Plan and all City

- ordinances, resolutions, and policies before the Planning Commission can review the application.
- ii. Planning Commission. The Planning Commission shall review the site plan and be the land use authority for all site plans for Planned Residential Developments. The Planning Commission shall consider whether the proposed site plan complies with City ordinances, resolutions, policies, development manual and the General Plan when reviewing a site plan for a Planned Residential Development.
  - d. The applicant shall not amend or change any approved site plan without first following the procedure for approval of site plans.
  - e. The Planning Commission may impose conditions or require further studies ~~on~~ of the site plan to mitigate dangerous hazards or evaluate impacts to public infrastructure or surrounding neighborhoods where there is substantiated evidence that a real safety hazard exists.

#### 17.76.050 Final Plat and Improvement Drawings.

1. The form and contents of the final plat and improvement drawings, where applicable, shall contain all of the requirements found in Title 17.32 – Subdivisions-Special Requirements and the Lindon City Development Manual. The final plat shall also contain the following information:
  - a. A designation of common areas, limited common areas, and private ownership areas.
  - b. For condominiums, three dimensional drawings of buildings and building elevations. In the case where the Planned Residential Development is a condominium project, the developer shall submit a written statement by an attorney and architect who are licensed to practice in Utah. This written statement shall be the attorney's and architect's opinion that the condominium declaration, the subdivision plat and the other supporting documentation comply in all respects with the Utah Condominium Ownership Act (UCA Sec. 57-8-1, et seq.) as well as all applicable federal, state and local laws and ordinances and that when the office of the Utah County Recorder has recorded the condominium declaration and final plat, the proposed project will be a validly existing and lawful condominium project in all respects.
  - c. Plat restrictions, lot restrictions, and other information required by the Planning Commission or City Council.
2. Planned Residential Development site plans may be built in phases as long as each phase of a Planned Residential Development complies with all of the requirements of this ordinance. A phase of a Planned Residential Development may not be less than twenty thousand (20,000) square feet.
3. The Planning Director shall approve the final plat of the Planned Residential Development provided he/she finds that:
  - a. The applicant has redrawn the site plan to incorporate all the requirements as approved by the Planning Commission and City Council and has submitted the corrected site plan with the final plat.

- b. The applicant has incorporated all of the improvements and conditions of the approved site plan into the final plat.
  - c. The City Engineer has marked the construction drawings of the Planned Residential Development as finalized.
4. The City shall record the final plat after it obtains all of the required signatures and after it receives all of the required bonds, fees, and documents.
5. The procedure for subdivision shall be as follows:
- a. The site plan must be approved by the Planning Commission before the final plat can be approved.
  - b. Subdivision approval shall be approved by the appropriate land use authority as found in 17.09.
  - c. The developer shall submit a Land Use Application for final plat approval of all or part of the Planned Residential Development together with all required fees. The final plat shall be prepared by the developer's surveyor and engineer.
  - d. The Development Review Committee shall review the final plat and give their recommendations to the Planning Director.
  - e. The Planning Director is the final approving authority, after receiving approval from the Planning Commission and City Council, for final plats and shall approve the application request if it meets the requirements of the approved site plan and all applicable City ordinances.
  - f. All applications shall meet the expiration time lines as found in 17.12.210

17.76.060 Building Permits.

The City shall not issue a building permit for any project until the final plat has been recorded by the City.

17.76.070 Completion and Maintenance of Site.

Every Planned Residential Development shall conform to the approved site plan. The applicant or any other person or entity shall not add any structures or make any improvements or changes to a Planned Residential Development that did not appear on the approved site plan. The applicant and subsequent owners and applicable associations shall maintain all improvements shown on the site plan in a neat and attractive manner. Failure to complete or maintain a Planned Residential Development in accordance with this Chapter and with the approved site plan is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to complete or maintain a Planned Residential Development in accordance with this Chapter and with the approved site plan.

17.76.080 Development Standards and Requirements.

The City requires the following development standards for all Planned Residential Developments.

1. *Compliance with Lindon City Code.* A proposed Planned Residential Development shall comply with the requirements of this Chapter, the Lindon City Development Manual, and with all applicable Lindon City Code provisions and with conditions imposed by the Land Use Authority.
2. *Density.* A Planned Residential Development shall not exceed an average density of ten (10) dwelling units per gross acre. Development phases with a density above ten (10) units to the acre shall be located adjacent to commercial uses. Densities shall be ten (10) units or less as a transition to low density single family residential.
3. *Height.* No lot or parcel of land in a Planned Residential Development approved pursuant to the Planned Residential Development Overlay Zone shall have a building or structure used for dwelling which exceeds a maximum average height of thirty-five (35) feet or two stories, measuring the four (4) corners of the structure from finished grade to the highest point of the roof structure. The Planning Director and Chief Building Official shall be responsible for designating and identifying the four corners of a structure. No dwelling shall be erected to a height less than one (1) story above grade.
4. *Minimum Area.* The minimum area required for any Planned Residential Development shall be twenty thousand (20,000) square feet.
5. *Maximum Area.* The maximum allowable size for any Planned Residential Development shall be one (1) acre with no more than ten (10) units where development is not part of an existing or new commercial development. Lindon City has a number of deep commercial lots that front State Street. Residential may be allowed on the rear portion of these lots following the development and entitlement requirements in this chapter and when the following requirements are met:
  - a. To preserve the commercial intent, use and zoning along State Street, a three hundred (300) foot commercial depth shall remain and residential uses are not allowed within this depth. The Planning Commission and City Council may consider a reduction in this depth upon evaluating the following:
    - i. Viable commercial options remain for the site;
    - ii. A commercial lot is irregularly shaped;
    - iii. The reduction does not limit future redevelopment opportunities of the commercial property.
  - b. The area required for any Planned Residential Development that is part of an existing or new commercial use shall be a minimum of one (1) acre;
6. *Building Types and Variety.* At least two different building types shall be included in projects larger than two acres and with multiple buildings. Buildings shall be differentiated from other building types through type of building, variations to building materials, color, rooflines, and the use of architectural features such as awnings, light fixtures and eave details
7. *Setbacks.* The following building setbacks, as measured from property lines, for primary structures shall apply in the Planned Residential Development zone:
  - a. For residential developments one acre or less not including an existing or new commercial use as part of the project

- i. *Front Setback.* 30 feet
    - ii. *Rear Setback.* 30 feet
    - iii. *Side Setbacks.* For attached units the setback between buildings is 10 feet and 6 feet for a combined side yard setback of sixteen (16) feet. For interior units with common walls the setback is zero (0) feet. For detached buildings the side setback is six (6) feet for a combined side yard setback of twelve (12) feet.
  - b. For residential developments proposed for a property with new or existing commercial uses the below setbacks are required.
    - i. buildings shall be setback a minimum thirty (30) feet from the abutting property line of any single-family residential or R1-20 zone and any commercial building.
    - ii. Side Setbacks: 10 feet and 6 feet for a combined side yard setback of sixteen (16) feet. For interior units with common walls the setback is zero (0) feet. When abutting the property line of any single-family residential the side yard shall be increased to thirty (30) feet.
    - iii. Corner side setbacks 20 feet.
    - iv. Front: 30. The front setback may be modified by the land use authority where design items such as common open space, paseos or similar design feature is proposed.
    - v. Rear: 30. The rear setback may be modified by the land use authority where design items such as common open space or similar design feature is proposed. Setbacks from abutting single family residential may not be reduced.
8. *Utilities.* Compliance with the Development Manual and applicable Lindon City Code provisions regarding utility connections to residential units is required. The public sewer system and the public water supply shall serve all dwellings. All utilities shall be underground. The developer shall individually meter natural gas and electricity for each individual dwelling. No water or sewer lines shall be located under covered parking areas. Wall-mounted and ground-based meters, HVAC, and utility equipment serving a building shall be located as close to each other as possible and fully screened from view. Screening shall either be incorporated aesthetically into the design of the building, fencing or screened by landscaping.
9. *Fences.*
- a. *Perimeter Fences.* A minimum seven (7) foot masonry or concrete perimeter fence shall be required as a buffer when abutting single family residential or commercial uses. The Planning Commission may allow alternative materials and location and placement of perimeter fencing. Any fence erected around or within the development shall comply with Lindon City Code section 17.04.310, involving fencing standards. Any perimeter fencing shall have a consistent design throughout the project and shall consist of the same construction materials.
  - b. *Patio/Limited Common Area Fences.* A patio or limited common area adjacent to the rear of a dwelling unit may be enclosed with a six-foot (6') high fence.
10. *Landscaping and Open Space.*

- a. All land within a Planned Residential Development not covered by buildings, driveways, sidewalks, structures, and patios shall be designated as common area and shall be permanently landscaped with trees, shrubs, lawn, or ground cover and maintained in accordance with good landscaping practice. All required setback areas adjacent to public streets shall be landscaped. All landscaping shall have a permanent underground sprinkling system.
- b. Development greater than one acre shall include common open space, according the following standards:
  - i. At a minimum, twenty (20) percent of the development site, excluding roads or private driveways and required setback areas, shall be in common open space. Setback areas that are in usable size segments and where a common amenity is provided can be counted towards the common open space requirement. The land use authority may approve a reduction in the open space requirement by twenty-five (25) percent of the required open space square footage if the site is within one quarter mile, as measured at the closest property lines, of an existing Lindon City park or trail. Private balconies, porches, patios of a minimum sixty (60) square feet may be counted towards a maximum of ten (10) percent of the required open space percentage;
  - ii. Open spaces shall include both active and passives spaces including plazas, courtyards, paseos, landscaped detention basins, playgrounds, pavilions, pools, spa, pool deck, or other areas that can be made into useable areas, and interior spaces available to residents as common area such as a clubhouse;
  - iii. Open spaces shall be designed to be an integral part of any development. A majority of the required open space shall be consolidated into a primary central and common open space area. Alternative and innovative open space options may be presented to the land use authority for consideration which accomplish the similar goal of open space being integral part of any development. Buildings shall be designed around the common open space edge. Majority open spaces shall not be located in perimeter outlying areas of the development;
  - iv. Where appropriate, the planning commission may approve individual private yard areas in place of common open space. However, development with private open space shall have no loss of the required open space percentage:
    1. Rear-loaded buildings shall provide private open space through porches, balconies, and small front yards;
    2. Front-loaded units may provide private open space as enclosed rear yards.
  - v. Trees shall be planted along any property line abutting single family residential with trees planted as a buffer every thirty (30) feet. Trees shall be a minimum two (2) inch caliper, measured one (1) foot above the ground and shall be at least

six (6) feet in height. Tree species shall be planted as found in the Lindon City Tree Planting Guide. An eight (8) foot landscaped area shall be provided for trees to be planted and allow for future tree growth. It shall be the responsibility of the property owner to maintain the trees in a healthy manner and to replace any trees that have died in order to maintain the buffer.

- vi. Accent elements such as trellises, arches, arbors, columns, or low monument features shall be used to demarcate entrances to the development, common open spaces and paseos. Alternative accent elements may be approved by the land use authority

11. *Lighting Plan.* All Planned Residential Development's shall include a lighting plan and photometric study for parking lots, pedestrian walkways and buildings. The lighting plan shall be designed to:

- a. discourage crime;
- b. enhance the safety of the residents and guests of the Planned Residential Development;
- c. prevent glare onto adjacent properties; and enhance the appearance and design of the project.

All Planned Residential Development homeowners' associations and housing units are required to control and meter all outside lighting shown on the lighting plan except for front and back door lighting. The lighting plan shall designate which lighting shall be commonly metered to the association or owner.

12. *Parking.* There shall be a minimum of two (2) parking spaces provided for each dwelling. At a minimum, sixty-five (65) percent of the residential units shall have a garage capable of parking two (2) vehicles. Required off-street parking spaces shall not be permitted within the street-side yard setbacks. There shall be a minimum of one half (1/2) parking space for each dwelling for guest parking within the development. Guest parking shall be located on the same lot or parcel of the dwellings served. With approval of the land use authority, a development may count building unit driveways up to fifty (50) percent of the required spaces toward meeting the guest parking requirement. All parking spaces shall measure at least nine (9) feet by eighteen feet (18'). Developers shall pave with asphalt and/or concrete all parking spaces, parking areas, and driveways and provide proper drainage. Drainage shall not be channeled or caused to flow across pedestrian walk ways. The architecture of all covered parking structures shall be the same as the architecture of the main structures within the Planned Residential Development.

- a. Direct access to each parking space shall be from a private driveway and not from a public street unless otherwise granted by the Planning Commission based on the following guidelines:
  - i. Topography or other development constraints on the project area are such that a private drive is impractical to serve the project.
  - ii. Traffic volumes, safety, and visibility on the public roadway will not create a dangerous situation for direct parking stall access.

iii. No more than six (6) units shall directly access any public roadway.

13. *Irrigation Systems.*

- a. Where an existing irrigation system consisting of open ditches is located on or adjacent to or within one hundred (100) feet of a proposed subdivision, complete plans for relocation or covering or other safety precautions shall be submitted with an application for preliminary approval of a plat.
- b. All pressure irrigation systems in or within one hundred (100) feet of a proposed subdivision shall be identified and otherwise color-coded as to pipe and valve color to meet state standards and regulations.

14. *Solid Waste Receptacles.* All solid waste receptacles which are not located within a building, shall be enclosed on at least three sides with the similar materials as used on the exterior of the main structures within the Planned Residential Development. Central waste receptacles shall only be permitted within a trash enclosure which meets standards found in the Development Manual. Trash enclosures shall be located in the side or rear of the dwelling units, but not the Streetside, and must be accessible for garbage trucks.

15. Architectural and façade Designs. The treatment of building design, materials and exteriors shall be architecturally and aesthetically pleasing and have unique individual, feel and sense of place, while still being architecturally compatible with the surrounding buildings and properties. Buildings within developments shall have a variety of building materials to architecturally set them apart and to create unique and separate buildings. Both vertical and horizontal elements shall be used, as appropriate, to give variety and architectural detail. Side facades of buildings shall typically receive equal design consideration, particularly when fronting common open spaces, public or private streets, and development entrances. The following architectural design requirements shall be applied:

- a. Buildings shall contain more than a single-color application and more than a single material application;
- b. Building Materials
  - i. The following materials may be used as the primary exterior materials of a building consisting of at least sixty (60) percent: wood clapboard, cementitious fiber board, wood board and batten, wood siding, brick, stone, or similar material as approved by the land use authority. The following secondary materials may be used: cementitious fiber board, brick, wood, stone, glass, architectural metal panel, or similar material as approved by the land use authority.
  - ii. EIFS or stucco may be used for up to thirty (30) percent on the front façade of a building and forty (40) percent of a side façade when facing a public or private street, development entrance or common open space. EIFS and stucco do not have a maximum percentage on the remaining side and rear facades when not fronting on a public or private street, development entrance or common open space.

- c. Each building shall include varied wall plains, recesses, or similar façade design to incorporate wall variation.
  - d. Changes in materials and color shall correspond to variations in building mass or shall be separated by a building element.
  - e. Buildings shall incorporate a variety of materials and architectural elements to provide variation among the building types.
  - f. Eaves and rooflines are encouraged to emphasize vertical proportions. They shall be broken up with gables, building projections, and articulation to emphasize the individual quality of the units.
  - g. Garage doors shall be designed consistent with the overall style of the building. Material, pattern, and, color to be coordinated with the architectural style. Garages shall be recessed from wall plane. Where garage doors are flush with facades, the facade shall feature upper level building projections and decorative building elements such as trellises to provide interest and relief. For buildings with front loading garages, garage doors shall include windows to add variety to the door.
  - h. Stucco-textured foam trim molding shall not be used as the only application to enhance building facades
  - i. All windows along the front façade shall incorporate at least one of the following:
    - i. mullions and/or transoms;
    - ii. trim or molding at least four inches in width;
    - iii. canopies, shutters, or awnings, proportional to window size;
    - iv. recessed inset from the front façade by at least two (2) inches.
  - j. the front façade of any residential building shall not face or front the rear yard or side yard of a single-family home
16. *Roof Pitch.* All structures shall have a pitched roof consistent with the overall architectural style of the building.
17. *Homeowner's Association.* The applicant shall establish a home owners association for every Planned Residential Development containing common or limited common property, with more than one owner for the purpose of maintaining the Planned Residential Development. The homeowner's association, the individual property owners, and tenants shall maintain the ~~PRD~~ Planned Residential Development in accordance with the approved site plan.
18. *Existing Homes.* No Planned Residential Development shall include an existing single-family dwelling. If a single-family dwelling exists on the property where a Planned Residential Development is proposed, the applicant shall plat separately a lot containing the home. The plat shall comply with the requirements of the Lindon City Development Manual.
19. Each attached unit must contain enhanced sound attenuation and sound mitigation construction;
20. Pedestrian Connections.
- a. The project site plan and development must connect each separate building with internal concrete walkways to provide safe and convenient pedestrian access to common areas.

and amenities. The width of internal walkways that are adjacent to parking stalls shall be no less than five feet. The width of internal walkways that are not adjacent to parking stalls shall be no less than four feet.

- b. To the extent possible, developments shall make at least one pedestrian access connections to a public street right-of-way.

21. Frontage, Orientation and Entrances.

- a. Building entrances shall, to the extent feasible, front onto streets, private driveways designed as streets or common open spaces. Where an end unit fronts onto a street or private driveway designed as a street, center block residences may front onto a common open space, courtyard, paseos or landscaped pedestrian way;
- b. In order to create neighborhood connections, all residential buildings shall have expansive windows, entryways, balconies, terraces or other architectural design features which are oriented to the street, pedestrian way or common open spaces.
- c. Building entrances shall be the primary feature of the front façade and identify access to individual units;
- d. Stoops or front porches, raised a minimum of one (1) foot above the adjacent grade, shall be provided at entrances that face a street, paseo, common open space area, or other public space.

22. Access and Streets.

- a. Development access shall be identified on the site plan and subdivision plans. New public streets shall follow the Lindon City Streets Master Plan Map. Projects may be accessed through existing or new commercial developments when appropriate easements or land is secured for access. Proposed developments shall not remove existing single-family homes for access connections to adjacent neighborhoods.
- b. The minimum width for private streets shall be twenty-four (24) feet if residential buildings are less than thirty (30) feet in height. For residential buildings thirty (30) feet or greater in height, the minimum private street width is twenty-six (26) feet. Where a street includes public utilities, the minimum street width shall be twenty-nine (29) feet, constructed to a public street standard as found in the Lindon City Development Manual, and dedicated to Lindon City. Hard surfacing for both private and public streets shall not include the gutter when determining minimum street widths.

**SECTION II:** The provisions of this ordinance and the provisions adopted or incorporated by reference are severable. If any provision of this ordinance is found to be invalid, unlawful, or unconstitutional by a court of competent jurisdiction, the balance of the ordinance shall nevertheless be unaffected and continue in full force and effect.

**SECTION III:** Provisions of other ordinances in conflict with this ordinance and the provisions adopted or incorporated by reference are hereby repealed or amended as provided herein.

**SECTION IV:** This ordinance shall take effect immediately upon its passage and posting as provide by law.

PASSED and ADOPTED and made EFFECTIVE by the City Council of Lindon City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jeff Acerson, Mayor

ATTEST:

\_\_\_\_\_  
Kathryn A. Moosman,  
Lindon City Recorder

SEAL

## Chapter 17.76

## PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (PRD OVERLAY) ZONE

## Sections:

- 17.76.010 Purpose.
- 17.76.020 Applicability.
- 17.76.030 Permitted Uses, Building Types, and Densities.
- 17.76.040 Site Plan and Conditional Use Approval
- 17.76.050 Final Plat and Improvement Drawings.
- 17.76.060 Building Permits
- 17.76.070 Completion and Maintenance of Site
- 17.76.080 Development Standards and Requirements

## 17.76.010 Purpose.

1. The Planned Residential Development Overlay Zone promotes the following purposes:
  - a. Create diverse and quality housing options in Lindon City.
  - b. Effectively develop unique commercial lots and parcels that do not naturally accommodate traditional commercial development patterns;
  - c. Allow for appropriate housing transitions from commercial properties to low density single family residential;
  - d. Improve the design and livability of residential buildings in the Planned Residential Development Overlay Zone.
  - e. To preserve the commercial tax base and intent of the General Commercial zone.
2. The purposes of the Planned Residential Development Overlay are accomplished by:
  - a. Allowing densities higher than a typical low-density residential development, as identified in the Lindon City Land Use Map;
  - b. Establishing standards for landscaping, building and site design, public safety, parking, aesthetics, traffic circulation, fencing, lighting, and other similar site improvements; and
  - c. Requiring standards that enable Planned Residential Developments to fit into the surrounding development.

## 17.76.020 Applicability.

1. The Planned Residential Development Overlay Zone may be applied to ~~any~~ lots or parcels only in the General Commercial (CG) Zone after application and approval of a zone map amendment by the City Council after a recommendation from the Planning Commission.

17.76.030 Permitted Uses and Building Types

1. *Permitted Uses.* In addition to uses permitted or conditionally permitted in the underlying General Commercial (GC) zone, a Planned Residential Development is a conditionally permitted use in the Planned Residential Development Overlay Zone and is not permitted in any other zone.
2. Planned Residential Development's may include the following building types: detached single family, twin homes, tri-plex, multi-unit buildings and townhouses. All Individual residential units shall be subdivided into separate lots or condominium units;

- a. The minimum lot size for detached single family shall be five thousand (5,000) square feet with fifty (50) feet of frontage.
  - b. Multi-unit buildings shall be limited to a maximum of four (4) units per building.
  - c. Townhomes building types shall be limited to a maximum of six (6) units in a single row within a single building.
3. In order to preserve the intent of the General Commercial zone, building permits from Lindon City shall be obtained and construction commenced for at least twenty-five (25) percent of the approved commercial square footages prior to releasing building permits for residential construction.
  4. Accessory apartments are not permitted in the Planned Residential Development Overlay Zone
- 17.76.040 Zone Map Amendment, Site Plan and Conditional Use Permit Approval.

1. Zone Map Amendment. An application to apply the Planned Residential Development Overlay Zone shall include a concept site plan, building elevations, and renderings showing the proposed project for the subject site. Any concept plan presented to the Planning Commission and City Council for approval shall first be reviewed by the Development Review Committee to ensure the proposal is technically feasible.
2. *Site Plan.*
  - a. Proposed development in the Planned Residential Development Overlay Zone shall first submit a Land Use Application for site plan approval. The applicant shall provide all requirements of the site plan to the City before the City considers the application submitted and before action is taken. The application for a site plan shall include all necessary fees and documentation required by this Chapter.
  - b. The applicant shall submit the site plan for a Planned Residential Development according to site plan submittal requirements-outlined in the Lindon City Land Development Policies, Standard Specifications and Drawings Manual (Development Manual). In addition to the items required in the Development Manual, a complete application shall include building elevations and renderings, open space percentages and landscape plan, site circulation, and project size and density. At that time the applicant shall pay a fee in an amount established in the most recently adopted Lindon City Consolidated Fee Schedule. No development, construction, revisions, or additions shall take place on the site until the Planning Commission has approved the site plan, the site plan is considered finalized by the City, and the developer has obtained the appropriate permits. Applicants for amended site plans for Planned Residential Developments shall follow the same procedures, pay the same fees, and be bound by the same development standards and requirements as applicants for site plans for Planned Residential Developments. The Planning Director or designee has the authority to make minor amendments to the site plan where such amendments are in compliance with the ordinance and the site plan is not materially altered.
  - c. The procedure for site plan approval shall be as follows:
    - i. Development Review Committee. The Planning Department shall forward the proposed site plan to the Development Review Committee for initial review. The Development Review Committee shall review the site plan, civil engineering, and architectural designs while considering whether it complies with the Lindon General Plan and all City ordinances, resolutions, and policies. The site plan and architectural designs shall comply with the Lindon General Plan and all City

ordinances, resolutions, and policies before the Planning Commission can review the application.

- ii. Planning Commission. The Planning Commission shall review the site plan and be the land use authority for all site plans for Planned Residential Developments. The Planning Commission shall consider whether the proposed site plan complies with City ordinances, resolutions, policies, development manual and the General Plan when reviewing a site plan for a Planned Residential Development.
- d. The applicant shall not amend or change any approved site plan without first following the procedure for approval of site plans.
- e. The Planning Commission may impose conditions or require further studies ~~on~~ of the site plan to mitigate dangerous hazards or evaluate impacts to public infrastructure or surrounding neighborhoods where there is substantiated evidence that a real safety hazard exists.

#### 17.76.050 Final Plat and Improvement Drawings.

1. The form and contents of the final plat and improvement drawings, where applicable, shall contain all of the requirements found in Title 17.32 – Subdivisions-Special Requirements and the Lindon City Development Manual. The final plat shall also contain the following information:
  - a. A designation of common areas, limited common areas, and private ownership areas.
  - b. For condominiums, three dimensional drawings of buildings and building elevations. In the case where the Planned Residential Development is a condominium project, the developer shall submit a written statement by an attorney and architect who are licensed to practice in Utah. This written statement shall be the attorney's and architect's opinion that the condominium declaration, the subdivision plat and the other supporting documentation comply in all respects with the Utah Condominium Ownership Act (UCA Sec. 57-8-1, et seq.) as well as all applicable federal, state and local laws and ordinances and that when the office of the Utah County Recorder has recorded the condominium declaration and final plat, the proposed project will be a validly existing and lawful condominium project in all respects.
  - c. Plat restrictions, lot restrictions, and other information required by the Planning Commission or City Council.
2. Planned Residential Development site plans may be built in phases as long as each phase of a Planned Residential Development complies with all of the requirements of this ordinance. A phase of a Planned Residential Development may not be less than twenty thousand (20,000) square feet.
3. The Planning Director shall approve the final plat of the Planned Residential Development provided he/she finds that:
  - a. The applicant has redrawn the site plan to incorporate all the requirements as approved by the Planning Commission and City Council and has submitted the corrected site plan with the final plat.

- b. The applicant has incorporated all of the improvements and conditions of the approved site plan into the final plat.
  - c. The City Engineer has marked the construction drawings of the Planned Residential Development as finalized.
4. The City shall record the final plat after it obtains all of the required signatures and after it receives all of the required bonds, fees, and documents.
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  - c. The developer shall submit a Land Use Application for final plat approval of all or part of the Planned Residential Development together with all required fees. The final plat shall be prepared by the developer's surveyor and engineer.
  - d. The Development Review Committee shall review the final plat and give their recommendations to the Planning Director.
  - e. The Planning Director is the final approving authority, after receiving approval from the Planning Commission and City Council, for final plats and shall approve the application request if it meets the requirements of the approved site plan and all applicable City ordinances.
  - f. All applications shall meet the expiration time lines as found in 17.12.210

17.76.060 Building Permits.

The City shall not issue a building permit for any project until the final plat has been recorded by the City.

17.76.070 Completion and Maintenance of Site.

Every Planned Residential Development shall conform to the approved site plan. The applicant or any other person or entity shall not add any structures or make any improvements or changes to a Planned Residential Development that did not appear on the approved site plan. The applicant and subsequent owners and applicable associations shall maintain all improvements shown on the site plan in a neat and attractive manner. Failure to complete or maintain a Planned Residential Development in accordance with this Chapter and with the approved site plan is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to complete or maintain a Planned Residential Development in accordance with this Chapter and with the approved site plan.

17.76.080 Development Standards and Requirements.

The City requires the following development standards for all Planned Residential Developments.

1. *Compliance with Lindon City Code.* A proposed Planned Residential Development shall comply with the requirements of this Chapter, the Lindon City Development Manual, and with all applicable Lindon City Code provisions and with conditions imposed by the Land Use Authority.
2. *Density.* A Planned Residential Development ~~may be developed at a maximum~~ shall not exceed an average density of ten (10) dwelling units per gross acre. Development phases with a density above ten (10) units to the acre shall be located adjacent to commercial uses. Densities shall be ten (10) units or less as a transition to low density single family residential.
3. *Height.* No lot or parcel of land in a Planned Residential Development approved pursuant to the Planned Residential Development Overlay Zone shall have a building or structure used for dwelling which exceeds a maximum average height of thirty-five (35) feet or two stories, measuring the four (4) corners of the structure from finished grade to the highest point of the roof structure. The Planning Director and Chief Building Official shall be responsible for designating and identifying the four corners of a structure. No dwelling shall be erected to a height less than one (1) story above grade.
4. *Minimum Area.* The minimum area required for any Planned Residential Development shall be twenty thousand (20,000) square feet.
5. *Maximum Area.* The maximum allowable size for any Planned Residential Development shall be one (1) acre with no more than ten (10) units where development is not part of an existing or new commercial development. Lindon City has a number of deep commercial lots that front State Street. Residential may be allowed on the rear portion of these lots following the development and entitlement requirements in this chapter and when the following requirements are met:
  - a. To preserve the commercial intent, use and zoning along State Street, a three hundred (300) foot commercial depth shall remain and residential uses are not allowed within this depth. The Planning Commission and City Council may consider a reduction in this depth upon evaluating the following:
    - i. Viable commercial options remain for the site;
    - ii. A commercial lot is irregularly shaped;
    - iii. The reduction does not limit future redevelopment opportunities of the commercial property.
  - b. The area required for any Planned Residential Development that is part of an existing or new commercial use shall be a minimum of one (1) acre;
6. *Building Types and Variety.* At least two different building types shall be included in projects larger than two acres and with multiple buildings. Buildings shall be differentiated from other building types through type of building, variations to building materials, color, rooflines, and the use of architectural features such as awnings, light fixtures and eave details
7. *Setbacks.* The following building setbacks, as measured from property lines, for primary structures shall apply in the Planned Residential Development zone:
  - a. For residential developments one acre or less not including an existing or new commercial use as part of the project

- i. *Front Setback.* 30 feet
    - ii. *Rear Setback.* 30 feet
    - iii. *Side Setbacks.* For attached units the setback between buildings is 10 feet and 6 feet for a combined side yard setback of sixteen (16) feet. For interior units with common walls the setback is zero (0) feet. For detached buildings the side setback is six (6) feet for a combined side yard setback of twelve (12) feet.
  - b. For residential developments proposed for a property with new or existing commercial uses the below setbacks are required.
    - i. buildings shall be setback a minimum thirty (30) feet from the abutting property line of any single-family residential or R1-20 zone and any commercial building.
    - ii. Side Setbacks: 10 feet and 6 feet for a combined side yard setback of sixteen (16) feet. For interior units with common walls the setback is zero (0) feet. When abutting the property line of any single-family residential the side yard shall be increased to thirty (30) feet.
    - iii. Corner side setbacks 20 feet.
    - iv. Front: 30. The front setback may be modified by the land use authority where design items such as common open space, paseos or similar design feature is proposed.
    - v. Rear: 30. The rear setback may be modified by the land use authority where design items such as common open space or similar design feature is proposed. Setbacks from abutting single family residential may not be reduced.
8. *Utilities.* Compliance with the Development Manual and applicable Lindon City Code provisions regarding utility connections to residential units is required. The public sewer system and the public water supply shall serve all dwellings. All utilities shall be underground. The developer shall individually meter natural gas and electricity for each individual dwelling. No water or sewer lines shall be located under covered parking areas. Wall-mounted and ground-based meters, HVAC, and utility equipment serving a building shall be located as close to each other as possible and fully screened from view. Screening shall either be incorporated aesthetically into the design of the building, fencing or screened by landscaping.
9. *Fences.*
- a. *Perimeter Fences.* A minimum seven (7) foot masonry or concrete perimeter fence shall be required as a buffer when abutting single family residential or commercial uses. The Planning Commission may allow alternative materials and location and placement of perimeter fencing. Any fence erected around or within the development shall comply with Lindon City Code section 17.04.310, involving fencing standards. Any perimeter fencing shall have a consistent design throughout the project and shall consist of the same construction materials.
  - b. *Patio/Limited Common Area Fences.* A patio or limited common area adjacent to the rear of a dwelling unit may be enclosed with a six-foot (6') high fence.
10. *Landscaping and Open Space.*

- a. All land within a Planned Residential Development not covered by buildings, driveways, sidewalks, structures, and patios shall be designated as common area and shall be permanently landscaped with trees, shrubs, lawn, or ground cover and maintained in accordance with good landscaping practice. All required setback areas adjacent to public streets shall be landscaped. All landscaping shall have a permanent underground sprinkling system.
- b. Development greater than one acre shall include common open space, according the following standards:
  - i. At a minimum, twenty (20) percent of the development site, excluding roads or private driveways and required setback areas, shall be in common open space. Setback areas that are in usable size segments and where a common amenity is provided can be counted towards the common open space requirement. The land use authority may approve a reduction in the open space requirement by twenty-five (25) percent of the required open space square footage if the site is within one quarter mile, as measured at the closest property lines, of an existing Lindon City park or trail. Private balconies, porches, patios of a minimum sixty (60) square feet may be counted towards a maximum of ten (10) percent of the required open space percentage;
  - ii. Open spaces shall include both active and passives spaces including plazas, courtyards, paseos, landscaped detention basins, playgrounds, pavilions, pools, spa, pool deck, or other areas that can be made into useable areas, and interior spaces available to residents as common area such as a clubhouse;
  - iii. Open spaces shall be designed to be an integral part of any development. A majority of the required open space shall be consolidated into a primary central and common open space area. Alternative and innovative open space options may be presented to the land use authority for consideration which accomplish the similar goal of open space being integral part of any development. Buildings shall be designed around the common open space edge. Majority open spaces shall not be located in perimeter outlying areas of the development;
  - iv. Where appropriate, the planning commission may approve individual private yard areas in place of common open space. However, development with private open space shall have no loss of the required open space percentage:
    1. Rear-loaded buildings shall provide private open space through porches, balconies, and small front yards;
    2. Front-loaded units may provide private open space as enclosed rear yards.
  - v. Trees shall be planted along any property line abutting single family residential with trees planted as a buffer every thirty (30) feet. Trees shall be a minimum two (2) inch caliper, measured one (1) foot above the ground and shall be at least

six (6) feet in height. Tree species shall be planted as found in the Lindon City Tree Planting Guide. An eight (8) foot landscaped area shall be provided for trees to be planted and allow for future tree growth. It shall be the responsibility of the property owner to maintain the trees in a healthy manner and to replace any trees that have died in order to maintain the buffer.

- vi. Accent elements such as trellises, arches, arbors, columns, or low monument features shall be used to demarcate entrances to the development, common open spaces and paseos. Alternative accent elements may be approved by the land use authority

11. *Lighting Plan.* All Planned Residential Development's shall include a lighting plan and photometric study for parking lots, pedestrian walkways and buildings. The lighting plan shall be designed to:

- a. discourage crime;
- b. enhance the safety of the residents and guests of the Planned Residential Development;
- c. prevent glare onto adjacent properties; and enhance the appearance and design of the project.

All Planned Residential Development homeowners' associations and housing units are required to control and meter all outside lighting shown on the lighting plan except for front and back door lighting. The lighting plan shall designate which lighting shall be commonly metered to the association or owner.

12. *Parking.* There shall be a minimum of two (2) parking spaces provided for each dwelling. At a minimum, sixty-five (65) percent of the residential units shall have a garage capable of parking two (2) vehicles. Required off-street parking spaces shall not be permitted within the street-side yard setbacks. There shall be a minimum of one half (1/2) parking space for each dwelling for guest parking within the development. Guest parking shall be located on the same lot or parcel of the dwellings served. With approval of the land use authority, a development may count building unit driveways up to fifty (50) percent of the required spaces toward meeting the guest parking requirement. All parking spaces shall measure at least nine (9) feet by eighteen feet (18'). Developers shall pave with asphalt and/or concrete all parking spaces, parking areas, and driveways and provide proper drainage. Drainage shall not be channeled or caused to flow across pedestrian walk ways. The architecture of all covered parking structures shall be the same as the architecture of the main structures within the Planned Residential Development.

- a. Direct access to each parking space shall be from a private driveway and not from a public street unless otherwise granted by the Planning Commission based on the following guidelines:
  - i. Topography or other development constraints on the project area are such that a private drive is impractical to serve the project.
  - ii. Traffic volumes, safety, and visibility on the public roadway will not create a dangerous situation for direct parking stall access.

iii. No more than six (6) units shall directly access any public roadway.

13. *Irrigation Systems.*

- a. Where an existing irrigation system consisting of open ditches is located on or adjacent to or within one hundred (100) feet of a proposed subdivision, complete plans for relocation or covering or other safety precautions shall be submitted with an application for preliminary approval of a plat.
- b. All pressure irrigation systems in or within one hundred (100) feet of a proposed subdivision shall be identified and otherwise color-coded as to pipe and valve color to meet state standards and regulations.

14. *Solid Waste Receptacles.* All solid waste receptacles which are not located within a building, shall be enclosed on at least three sides with the similar materials as used on the exterior of the main structures within the Planned Residential Development. Central waste receptacles shall only be permitted within a trash enclosure which meets standards found in the Development Manual. Trash enclosures shall be located in the side or rear of the dwelling units, but not the Streetside, and must be accessible for garbage trucks.

15. Architectural and façade Designs. The treatment of building design, materials and exteriors shall be architecturally and aesthetically pleasing and have unique individual, feel and sense of place, while still being architecturally compatible with the surrounding buildings and properties. Buildings within developments shall have a variety of building materials to architecturally set them apart and to create unique and separate buildings. Both vertical and horizontal elements shall be used, as appropriate, to give variety and architectural detail. ~~All sides of buildings~~ Side facades of buildings shall typically receive equal design consideration, particularly when fronting ~~pedestrian ways, park or common open spaces, public or private streets, and development entrances and adjacent single family properties.~~ The following architectural design requirements shall be applied:

- a. Buildings shall contain more than a single-color application and more than a single material application;
- b. **Front Façade Building Materials**
  - i. The following materials may be used as the primary exterior materials of a building consisting of at least sixty (60) percent: wood clapboard, cementitious fiber board, wood board and batten, wood siding, brick, stone, or similar material as approved by the land use authority. The following secondary materials may be used: cementitious fiber board, brick, wood, stone, glass, architectural metal panel, or similar material as approved by the land use authority.
  - ii. EIFS or stucco may be used for up to ~~twenty (20)~~ thirty (30) percent on the front façade of a building and forty (40) percent of the remaining building facades of a side façade when facing a public or private street, development entrance or common open space. EIFS and stucco do not have a maximum percentage on the remaining side and rear facades when not fronting on a public or private street,

development entrance or common open space. The land use authority may modify the EIFS or stucco requirements for the side and rear facades when those facades do not front pedestrian ways, parks or common open spaces, streets, development entrances or when the land use authority believes that other architectural features sufficiently and comparably add character to the building.

- c. Each building shall include varied wall plains, recesses, or similar façade design to incorporate wall variation.
  - d. Changes in materials and color shall correspond to variations in building mass or shall be separated by a building element.
  - e. Identical buildings with only alternating color schemes shall be minimized. Buildings shall incorporate a variety of materials and architectural elements to provide variation among the building types.
  - f. Eaves and rooflines are encouraged to emphasize vertical proportions. They shall be broken up with gables, building projections, and articulation to emphasize the individual quality of the units.
  - g. Garage doors shall be designed consistent with the overall style of the building. Material, pattern, and, color to be coordinated with the architectural style. Garages shall be recessed from wall plane. Where garage doors are flush with facades, the facade shall feature upper level building projections and decorative building elements such as trellises to provide interest and relief. For buildings with front loading garages, garage doors shall include windows to add variety to the door.
  - h. Stucco-textured foam trim molding shall not be used as the only application to enhance building facades
  - i. All windows along the front façade shall incorporate at least one of the following:
    - i. mullions and/or transoms;
    - ii. trim or molding at least four inches in width;
    - iii. canopies, shutters, or awnings, proportional to window size;
    - iv. recessed inset from the front façade by at least two (2) inches.
  - j. the front façade of any residential building shall not face or front the rear yard or side yard of a single-family home
16. *Roof Pitch.* All structures shall have a ~~minimum roof pitch of five (5) rise to twelve (12) run-~~ pitched roof consistent with the overall architectural style of the building.
17. *Homeowner's Association.* The applicant shall establish a home owners association for every Planned Residential Development containing common or limited common property, with more than one owner for the purpose of maintaining the Planned Residential Development. The homeowner's association, the individual property owners, and tenants shall maintain the ~~PRD~~ Planned Residential Development in accordance with the approved site plan.
18. *Existing Homes.* No Planned Residential Development shall include an existing single-family dwelling. If a single-family dwelling exists on the property where a Planned Residential

Development is proposed, the applicant shall plat separately a lot containing the home. The plat shall comply with the requirements of the Lindon City Development Manual.

19. Each attached unit must contain enhanced sound attenuation and sound mitigation construction;
20. Pedestrian Connections.
  - a. The project site plan and development must connect each separate building with internal concrete walkways to provide safe and convenient pedestrian access to common areas and amenities. The width of internal walkways that are adjacent to parking stalls shall be no less than five feet. The width of internal walkways that are not adjacent to parking stalls shall be no less than four feet.
  - b. To the extent possible, developments shall make at least one pedestrian access connections to a public street right-of-way.
21. Frontage, Orientation and Entrances.
  - a. Building entrances shall, to the extent feasible, front onto streets, private driveways designed as streets or common open spaces. Where an end unit fronts onto a street or private driveway designed as a street, center block residences may front onto a common open space, courtyard, paseos or landscaped pedestrian way;
  - b. In order to create neighborhood connections, all residential buildings shall have expansive windows, entryways, balconies, terraces or other architectural design features which are oriented to the street, pedestrian way or common open spaces.
  - c. Building entrances shall be the primary feature of the front façade and identify access to individual units;
  - d. Stoops or front porches, raised a minimum of one (1) foot above the adjacent grade, shall be provided at entrances that face a street, paseo, common open space area, or other public space.
22. Access and Streets.
  - a. Development access shall be identified on the site plan and subdivision plans. New public streets shall follow the Lindon City Streets Master Plan Map. Projects may be accessed through existing or new commercial developments when appropriate easements or land is secured for access. Proposed developments shall not remove existing single-family homes for access connections to adjacent neighborhoods.
  - b. The minimum width for private streets shall be twenty-four (24) feet if residential buildings are less than thirty (30) feet in height. For residential buildings thirty (30) feet or greater in height, the minimum private street width is twenty-six (26) feet. Where a street includes public utilities, the minimum street width shall be twenty-nine (29) feet, constructed to a public street standard as found in the Lindon City Development Manual, and dedicated to Lindon City. Hard surfacing for both private and public streets shall not include the gutter when determining minimum street widths.

Lindon City Planning and Zoning:

August 2nd, 2020

We feel that we have had extensive communication with neighbors and the community located around this development. The current ordinance itself is very well worded and as a development we support the ordinance that has been written. We would however like to specify and stipulate a few changes to the ordinance that have been implied.

**Setbacks:** We agree to the setbacks of the development bordering the residential homes and we are not asking to reduce those. What we are proposing is that we be allowed to put in an amenity of a walking path in the setback portion. Due to us including this amenity we are requesting that this be counted towards our open space requirement. Our goal is to make the community more inviting by incorporating a park into our amenity package and for this reason we would like to clarify that the spacing between the commercial frontage and residential is able to fluctuate within 100 feet. In short we feel we would rather have 50 feet of park instead of excess parking in commercial area.

**Density:** We are in favor of the ten units per acre for density. We are purposing that the city will allow for an average density of ten units per acre. In our design we are hoping to allow for a higher density near the commercial frontage and are wanting to put larger units in the back of our development by the residential houses. In summary, we are working with 8 acres of property and are purposing to put 80 units total. We would position the units to best fit the density and flow of the development.

**Fencing:** In talking with neighbors about the development we would like to purpose that we use a higher quality vinyl panel for fencing. A combination of masonry posts with vinyl panels is available and would allow for easier repairs, easier graffiti clean up, and easier replacement as time moves forward.

**Architecture design features:** We request that we be allowed to have two unit types with 40% stucco on the front and 100% stucco on the sides and rear.

We appreciate you taking the time to review our purposals and take them into consideration.

Sincerely,

Amy Johnson

## Proposed Changes to PUD Ordinance ROUGH DRAFT

As land owners, neighbors of the commercial properties, city volunteers, and developers, we have come together and agree to the following changes to the proposed ordinance:

- Up to 12 units to the acre density will be allowed AFTER the commercial frontage on State Street up to 750' from State Street as measured perpendicularly from State St.
- Up to 6 units to the acre density will be allowed AFTER the 12 unit to the acre product for properties that are deeper than 750'. This will allow for a better transition on deeper commercial lots.
- No 12 unit per acre product will be allowed to have access to the residential neighborhoods. All traffic from these homes must go out to State St. through the commercial frontage.
- The 6 unit per acre product COULD be allowed access to the local neighborhood as determined by the City Council at time of application. In this case, it would NOT have access to State St through the commercial frontage.
- The 7' masonry fence needs to be masonry of some type (not Vinyl or other fencing material) and it will be installed to separate the 12 units to the acre from the 6 unit to the acre product IF the 6 unit to the acre product has access through the neighborhood.

These proposed changes allow for a better transition in multifamily product as you get further from State St. It also addresses many of the neighbors concerns about traffic flow and fencing. This also lowers the overall density on the Norton property and other deeper commercial lots.

- The homes would be allowed to have up to 40% stucco on the front.
- The homes would be allowed to have up to 100% stucco on the sides and rear.
- 1 product type is allowed unless there are more than 80 units of the same type.
- The homes have to meet the 2.5 parking stalls per acre. No requirement for any % of 2-car garages.
- Trellises and other amenities in the common spaces are not required specifically but are part of the overall amenity package that is part of each overall site plan.

These changes allow for the homes to be more attainable financially for more people and yet don't really affect the neighbors. These items should be market driven.

Mr Southard has shared a draft of proposed changes the PUD ordinance under discussion by the City Council for deep properties on State Street. He has asked for my opinion of the draft ordinance. First, I would like to state that I have limited knowledge of the neighborhood and proposals as they relate to the Norton property and that the opinions I will share are based on the proposal and configuration of the Linden Nursery property.

I have read the proposed changes developed by Mr Southard and find that they are not drastically different to the concept he had shared with me previously, in regard to the Nursery property. I have always been totally in favor of Lindon's 1/2 acre lot policy and I am still committed to that. Lindon is a great community in which to raise a family and enjoy a semi-rural lifestyle. That being said, the commercial properties, on State Street, with extreme depth, will never be developed for 1/2 acre lots and the proposal being shared for the Nursery property seems reasonable. The commitment to the 7 foot masonry wall is important to the neighbors, the lack of vehicle access to 1/2 acre residential areas is important to the neighbors. The plan which Mr Southard hopes to develop, with small rear yards and no back alleys would be the most appealing for me. I believe having a small back yard is more valuable to residents and better for families or retirees. Back alleys are often unsafe due to low visibility and secluded areas. The only way to mitigate the problems with rear loaded alleyways is with extreme lighting, which is decidedly unacceptable to the present neighbors.

Property values in Lindon are high ( our property tax notices make that clear) and the proposed development should provide a decent quality home for a moderate price. For many years, the R2 overlay and accessory apartments have been part of Lindon's development plan and they seem to have been acceptable and successful parts of our neighborhoods. Providing another type of home, in limited areas and limited quantities, should not be detrimental to the lifestyle of Lindon's present residents and having designated areas for this type of development should help protect the designations in other areas.

The suggestions regarding design standards being proposed seem realistic when compared to the typical single family home being built today. Based on the Cambria development, pleasing landscaping adds more interest to the neighborhood for less financial outlay than extreme architectural standards. If the goal of Lindon's willingness to consider higher density housing in these specific areas is to add an area with greater affordability, adding burdensome design standards for trellises etc, seems counterproductive. Again, based on Cambria, where the parking is inadequate, the parking guidelines being suggested seem adequate.

While it is obvious that it is never possible to please everyone, it seems to me that the development being proposed for the Nursery property is acceptable as proposed.

Lindsey Bayless

500 West Gillman lane,

Lindon

- 11. Public Hearing — Ordinance #2020-6-O. LCC 11.05 Parks, Recreation & Trails Facilities Impact Fees; Parks, Trails and Recreation Impact Fee Studies (IFA, IFFP).** The City Council will accept public comment and review and consider for adoption the Parks, Trails and Recreation Impact Fee Analysis (IFA) and Impact Fee Facilities Plan (IFFP) prepared by Zions Bank and based off of the recently updated Parks, Trails and Recreation Master Plan and will also consider amendments to Lindon City Code (LCC) 11.05 Parks, Recreation & Trails Facilities Impact Fees. (20 minutes)

The City has been working with Zions Bank financial consultants to update the Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA) in conjunction with the updated Parks, Trails and Recreation Master Plan. This public hearing is intended for the Council to evaluate the methodology in the impact fee studies and review the potential fee that may be adopted to cover costs of maintaining the current level of Parks, Trails and Recreation services and amenities within Lindon. Lindon City Code 11.05 dealing with Parks, Trails & Recreation Facilities Impact Fees will also be updated according to the studies and new fees as directed by the Council.

The Council will need to determine what Parks, Trails and Recreation impact fee amounts are acceptable to be adopted.

Based on the updated IFA the *maximum* gross impact fees that can be assessed are as follows:

- Single-Family Residential units = \$5,097.13
- Multi-Family Residential units = \$4,927.23

The current park impact fees are as follows:

Current FY 2020-21 Parks, Trails & Recreation Impact Fee (per dwelling unit)

- Single-Family, detached = \$4,500.00
- All other residential = \$1,500.00

As a reminder, impact fees don't go into effect until 90 days after adoption and are collected at the time of a building permit issued for *new* residential construction.

**Sample Motion:** I move to (approve, deny, continue) Ordinance #2020-6-O adopting the Parks, Trails and Recreation IFFP and IFA and updating Lindon City Code 11.05 and setting the Parks, Trails & Recreation impact fees at \$ \_\_\_\_\_ for single-family, detached units and \$ \_\_\_\_\_ for all other residential units.

<b>Parks and Recreation Impact Fees:</b>	<b>Single Family Dwelling</b>	<b>Multi-Family Units</b>
Salt Lake City	\$5,173.00	\$3,078.00
Lindon (maximum)	\$5,097.13	\$4,927.23
Lindon (current)	\$4,500.00	\$1,500.00
Sandy	\$4,156.00	\$2,402.00
South Jordan	\$4,115.00	\$2,643.00
Spanish Fork	\$3,959.56	\$2,410.31
American Fork	\$3,855.99	\$3,064.51
Springville	\$3,715.00	\$3,715.00
West Jordan	\$3,201.00	\$2,498.00
Provo	\$3,105.10	\$2,884.62
Orem	\$2,813.07	\$2,435.66
Lehi	\$2,600.00	\$2,170.00
Saratoga Springs	\$2,388.44	\$2,388.44
West Valley	\$2,285.00	\$1,943.00
St. George	\$2,182.00	\$1,427.00
Layton	\$1,873.00	\$1,381.00
Pleasant Grove	\$1,803.28	\$1,477.16
Taylorsville	\$1,290.00	NA

## ORDINANCE NO.2020- 6-O

AN ORDINANCE ADOPTING THE 2020 LINDON CITY PARKS, TRAILS AND RECREATION IMPACT FEE FACILITIES PLAN AND THE 2020 LINDON CITY IMPACT FEE ANALYSIS, AND AMENDING CHAPTER 11.05 OF THE LINDON CITY CODE SO AS TO MODIFY THE PARKS, RECREATION AND TRAILS FACILITIES IMPACT FEE AND PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES, AND OTHER RELATED MATTERS.

WHEREAS, Lindon City (the “City”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the City has legal authority, pursuant to Sections 11-36a-101 et seq., Utah State Code, as amended (“Utah Impact Fees Act”), to impose development impact fees as a condition of development approval; and

WHEREAS, the City has retained the firm of Zions Public Finance Inc. (Consultant), to prepare an impact fee facilities plan and an impact fee analysis for the parks, trails and recreation facilities within the City, so as to study the need and appropriateness of amending the related impact fees; and

WHEREAS, the Consultant has prepared, and the City has reviewed, the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis, which are attached hereto as Exhibits “A” and “B”, respectively; and

WHEREAS, the Lindon City Council has met in regular session on August 17, 2020, to consider adopting the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis, and to consider amending Chapter 11.05 of the Lindon City Code, the Parks, Recreation and Trails Impact Fee, so as to provide for the updated calculation and collection of the related impact fees and other related matters; and

WHEREAS, the City has reviewed the current level of service for parks, trails and recreation facilities throughout Lindon City and has found that increased growth in all areas of the City will create additional need for such facilities throughout the City and that such needs throughout the City justifies the continuation of one, citywide, service area for parks, trails and recreation; and

WHEREAS, a copy of the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis, together with a summary of these analyses, which is designed to be understood by a lay person, and a draft copy of this proposed Ordinance have been made available to the public at Lindon City Offices and has been posted to the City’s website as required by §11-36a-504, so as to be available to the public for inspection; and

WHEREAS, the City has complied with the requirements of § 11-36a-504 and § 10-9a-205 of the Utah Code by posting notice of the date, time, and place of the public hearing to consider the adoption of the Impact Fee Ordinance in at least three public locations within the municipality or on the municipality's official website and by publishing notice in a newspaper of general circulation in

Lindon City at least ten (10) calendar days before the public hearing, and by mailing notice to such entities as required, again at least ten (10) calendar days before the hearing; and

WHEREAS, after careful review of the above referenced studies, and after careful consideration of the comments provided at the public hearings, the Council has determined that it is in the best interest of the health, safety and welfare of the inhabitants of Lindon City to adopt the findings and recommendations of the studies to address the continued impacts of development upon Lindon City, to approve and adopt the proposed 2020 Lindon City Parks, Trails and Recreation Impact Fee Facilities Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis, and to amend Chapter 11.05 of the Lindon City Code accordingly.

NOW THEREFORE, be it ordained the City Council of Lindon City, Utah, as follows:

**PART 1. FINDINGS:**

The Lindon City Council finds and determines as follows:

1.1. All required notices have been given and made and all public hearings have been conducted as required by the Utah Impact Fees Act with respect to the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facilities Plan and the 2020 Lindon City Parks, Trails and Recreation, Impact Fee Analysis, and the amendment Chapter 11.05 of the Lindon City Code.

1.2. Growth and development activities in Lindon City will create additional demands on the City's parks, trails and recreation systems. The proportional share analysis and the allocation of responsibility for the costs of capital facilities, which is analyzed in the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and in the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis, best serves the public interest in allocating costs between current users and future development. These studies and analyses apportion the costs between the current levels of service with the projected impacts of future development in a manner that is fair and equitable and which complies with the requirements of the Utah Impact Fees Act. Persons responsible for growth and development activities should pay a proportionate share of the costs of the facilities needed to meet the increase demands for service created by such growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to those to be borne in the future, in comparison with the benefits already received and those yet to be received. Furthermore, the analyses provided by the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis clearly demonstrate and support the conclusion that it is appropriate to adopt these studies as an updated statement of current conditions, capacities, and demands and the impact that projected growth will have on the capacities of the City's parks, trails and recreation systems, and that these studies provide a reasonable and appropriate basis upon which the City Council may modify an amend the existing Parks, Recreation and Trials Facilities Impact Fee found in Chapter 11.05 of the Lindon City Code.

**Part 2. The 2020 LINDON CITY PARKS, TRAILS AND RECREATION IMPACT FEE FACILITY PLAN AND THE 2020 LINDON CITY PARKS, TRAILS AND RECREATION IMPACT FEE ANALYSIS ADOPTED:**

The Lindon City Council hereby accepts and adopts the 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan and the 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis Attached as Exhibit A and Exhibit B, respectively, as the factual and legal basis for any amendment of Chapter 11.50 of the Lindon City Code.

**Part 3. SECTION 11.05.070 OF THE LINDON CITY CODE AMENDED:**

Section 11.05.070 of the Lindon City Parks, Recreation and Trail Impact Fee Ordinance, found in Chapter 5 of Title 11 of the Lindon City Code, is amended to read as follows:

Section 11.05.070 Impact Fee Schedule Formula

1. *Maximum Supportable Impact Fees.* The fee schedule included herein represents the maximum Impact Fees which the City may impose on development within the defined Lindon City-Wide Service Area and are based upon general demand characteristics and potential demand that can be created by each class of user. The City reserves the right under the Impact Fees Act (Utah Code 11-36-402(2)(c) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed.

This adjustment may result in a higher Impact Fee if the City determines that a user would create a greater than normal impact on any of the systems. The City may also decrease the Impact Fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user (Utah Code 11-36-402(3)(a)).

RECOMMENDED MAXIMUM PARKS, RECREATION AND TRAILS  
IMPACT FEE:

PER DWELLING UNIT – SINGLE FAMILY–, \$ \_\_\_\_\_ \*<sup>1</sup>

PER DWELLING UNIT – MULTI FAMILY –\$ \_\_\_\_\_ \*

All remaining Sections of Chapter 11.05 shall remain unaltered and remain in their current form.

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<sup>1</sup>\* The City Council will determine an equitable amount not to exceed the amounts indicated in Table 7 on Page 5 of the 2020 Lindon City Park, Trails, and Recreation Impact Fee Analysis, which is attached as Exhibit B.

**PART 3. EFFECTIVE DATE:**

This Ordinance shall become effective 90 days after the adoption of this Ordinance.

PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF AUGUST, 2020.

---

JEFF ACERSON  
MAYOR

Attested By:

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Kathy Moosman  
City Recorder

## **EXHIBITS**

**Exhibit A: 2020 Lindon City Parks, Trails and Recreation Impact Fee Facility Plan.**

**Exhibit B: 2020 Lindon City Parks, Trails and Recreation Impact Fee Analysis.**



## Lindon City

# Parks, Trails and Recreation Impact Fee Facilities Plan



July 21, 2020

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## Summary

### Background

Lindon City (“City”) completed a Parks, Trails and Recreation Master Plan in April 2020. The Master Plan, along with input from the City, forms the basis for this Impact Fee Facilities Plan (IFFP) for Parks, Trails and Recreation.

The City has determined that there is one service area citywide and that only residential development is considered to create demand for parks, trails and recreation facilities and therefore only residential growth has been considered in the determination of impact fees.

Projections for population growth in the City are as follows:

TABLE 1: PROJECTED POPULATION GROWTH, 2019-2029

Year	Population
2019	11,353
2020	11,512
2021	11,673
2022	11,836
2023	12,002
2024	12,170
2025	12,340
2026	12,513
2027	12,688
2028	12,866
2029	13,046

Source: Lindon City

### Identify the Existing and Proposed Levels of Service and Excess Capacity

*Utah Code 11-36a-302(1)(a)(i)(ii)(iii)*

The IFFP considers only *system* facilities in the calculation of impact fees. For the City, this has been determined to mean community parks. Neighborhood parks are considered *project* improvements and have not been included in the calculation of impact fees.

Existing service levels are based on the (2019) levels of service in the City for both parks and trails.<sup>1</sup> Existing and proposed service levels are shown in the table below.

TABLE 2: EXISTING AND PROPOSED SERVICE LEVELS

	Existing	Proposed (Minimum)	Excess Capacity
Land (acres, with improvements, per 1,000 population)	4.26	4.26	0

<sup>1</sup> The IFFP shows a different service level than the Master Plan. This difference occurs for two reasons: 1) the IFFP cannot include project improvements (i.e., neighborhood parks), which are included in the level of service in the Master Plan; and 2) the IFFP does not include donated or gifted facilities for the purpose of establishing the impact-fee eligible level of service.

	Existing	Proposed (Minimum)	Excess Capacity
Trail miles (trail miles per 1,000 population)	0.33	0.33	0

\*The standard is 0.25 trail miles per 1,000 persons for 10’ trails and 0.09 trail miles per 1,000 persons for 8’ trails.

The City intends to at least maintain existing service levels for both parks and trails.

The Aquatic Center currently serves 11,353 residents and has capacity to serve 17,000. Therefore, the Aquatic Center has excess capacity.

Parks, trails and recreation development in the City is one overall recreation system designed to meet the needs and desires of its residents for physical and leisure activities.

### Identify Demands Placed Upon Existing Public Facilities by New Development Activity at the Proposed Level of Service

*Utah Code 11-36a-302(1)(a)(iv)*

The table below shows the declining service levels that will occur in Lindon, due to population growth, if no new facilities are added. Each of these declining service levels is discussed in more detail in the body of this report.

**TABLE 3: IMPACTS TO SERVICE LEVELS DUE TO NEW DEVELOPMENT IF NO IMPROVEMENTS ARE MADE**

Summary Table	Parks	Trails 10'	Trails 8'
Acres/Trail Miles per 1000 Population in 2019	4.26	0.25	0.09
Acres/Trail Miles per 1000 Population in 2029	3.71	0.21	0.08
Cost per Capita Investment in 2019	\$1,393.76	\$182.31	\$55.81
Cost per Capita Investment in 2029	\$1,212.89	\$158.65	\$48.57

The Aquatic Center has capacity to serve 17,000 persons. At the present time, it is serving 11,353 persons, representing 67 percent of total capacity. By 2029, the Aquatic Center will serve 13,046 persons, representing 77 percent of total capacity; therefore, 10 percent of the excess capacity will be consumed by new development between 2019 and 2029.

### Identify How the Growth Demands Will Be Met

*Utah Code 11-36a-302(1)(a)(v)*

In order to maintain the existing level of service, the projected new development over the next ten years will require the construction or acquisition of new park and trail facilities in the amount of \$2,762,771.14, as stated in 2020 dollars.

**TABLE 4: NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH, 2019-2029**

Description	Amount
Parks	\$2,359,636.42
Trails	\$403,134.72
<b>Total</b>	<b>\$2,762,771.14</b>

## Consideration of Revenue Sources to Finance Impacts on System Improvements

### *Utah Code 11-36a-302(2)*

This Impact Fee Facilities Plan includes a thorough discussion of all potential revenues sources for parks, trails and recreation improvements. These revenue sources include grants, bonds, interfund loans, transfers from the General Fund, impact fees and anticipated or accepted dedications of system improvements.

## Utah Code Legal Requirements

Utah law requires that communities prepare an Impact Fee Facilities Plan (IFFP) before preparing an Impact Fee Analysis (IFA) and enacting an impact fee. Utah law also requires that communities give notice of their intent to prepare and adopt an IFFP. This IFFP follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Facilities Plan in accordance with legal requirements.

### *Notice of Intent to Prepare Impact Fee Facilities Plan*

A local political subdivision must provide written notice of its intent to prepare an IFFP before preparing the Plan (Utah Code §11-36a-501). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFFP by posting notice.

### *Preparation of Impact Fee Facilities Plan*

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an impact fee facilities plan. (Utah Code 11-36a-301).

Section 11-36a-302(a) of the Utah Code outlines the requirements of an impact fee facilities plan which is required to identify the following:

- (i) identify the existing level of service
- (ii) establish a proposed level of service
- (iii) identify any excess capacity to accommodate future growth at the proposed level of service
- (iv) identify demands placed upon existing facilities by new development activity at the proposed level of service; and
- (v) identify the means by which the political subdivision or private entity will meet those growth demands.

Further, the proposed level of service may:

- (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
- (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- (a) grants
- (b) bonds
- (c) interfund loans
- (d) transfers from the General Fund
- (e) impact fees; and
- (f) anticipated or accepted dedications of system improvements.

#### *Certification of Impact Fee Facilities Plan*

Utah Code states that an impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan. This certification is included at the conclusion of this analysis.

## Existing Service Levels, Proposed Service Levels and Excess Capacity

*Utah Code 11-36a-302(1)(a)(i)(ii)(iii)*

### Growth in Demand

Impacts on recreation-related facilities will come from residential development only. Residential growth is projected as follows:

TABLE 5: PROJECTED POPULATION GROWTH, 2019-2029

Year	Population	Population Growth
2019	11,353	
2020	11,512	159
2021	11,673	161
2022	11,836	163
2023	12,002	166
2024	12,170	168
2025	12,340	170
2026	12,513	173
2027	12,688	175
2028	12,866	178
2029	13,046	180
<b>TOTAL</b>		<b>1,693</b>

Source: Lindon City

Population projections are for 1,693 new residents between 2019 and 2029.

### Existing Service Levels

#### Park Land Area

Existing system parks are shown in the table below. System parks that were acquired through donations or grants have not been included in the level of service for impact fees.

TABLE 6: SYSTEM PARKS

Summary	Size (Acres)
Meadows	4.16
Pheasant Brook	9.78
Creekside	1.88
Lindon City Center	11.3
Fryer Park	4
Hollow Park	4.46
Pioneer Park	5.3
Hillside Park*	
Geneva Resort	7.5
<b>TOTAL</b>	<b>48.38</b>

\*Hillside Park is listed as a community park in the City's Parks, Recreation and Trails Master Plan but is not included in the calculation of impact fees.

The existing level of service for parks then, for the purpose of calculating impact fees, is 4.26 acres per 1,000 residents, calculated by dividing the 48.38 eligible park acres by the 2019 population of 11,353 residents (which has been divided by 1,000).

### Park Land and Improvements

The table below summarizes the improvements, along with the costs, to determine an existing standard for park land and improvements. Cost estimates have been provided in consultation with the City.

TABLE 7: SYSTEM PARK LAND AND IMPROVEMENTS

	Units	Cost per Unit	Total Investment
Land (Acres)	48.38	\$201,435	\$9,745,421
Restrooms	6	\$150,000	\$900,000
Pavilions - Small	2	\$30,000	\$60,000
Pavilions - Medium	6	\$75,000	\$450,000
Pavilions - Large	3	\$150,000	\$450,000
Picnic Tables	99	\$1,000	\$99,000
Playgrounds	8	\$100,000	\$800,000
Exercise Equipment	0	\$9,000	\$0
Pickleball	6	\$50,000	\$300,000
Tennis	3	\$75,000	\$225,000
Basketball	0	\$20,000	\$0
Soccer Fields	7	\$500	\$3,500
Ball Diamonds	4	\$20,000	\$80,000
Sand Volleyball	0	\$25,000	\$0
Riding Arena	27,243	\$2.25	\$61,297
Asphalt Square Feet	46,635	\$5.00	\$233,175
Trail Feet (Lighted)	6,223	\$50.00	\$311,150
Mowed sf	1,052,410	\$2.00	\$2,104,819
<b>TOTAL</b>			<b>\$15,823,362.24</b>

With 48.38 existing park acres, the average cost for land and improvements is \$327,064.12 per acre. Land costs are based on the recent sale of 9.05 acres to Vineyard for a cost of \$1,822,986, or a cost of \$201,434.92 per acre.

### Trails

The City currently has 2.8 miles of 10' wide paved trails, or 14,784 linear trail feet. This results in an existing service level of 0.25 linear trail feet per capita, calculated by dividing the 2.8 miles by the 2019 population.

The City currently has 1 mile of 8' wide paved trails, or 5,280 linear trail feet. This results in an existing service level of 0.09 linear trail feet per capita, calculated by dividing the 1 mile by the 2019 population.

### Aquatic Center

The City has currently invested \$1,864,298 in the Aquatic Center, with \$8,891,925 remaining in bond payments through 2034. Therefore, only 17.3 percent of the Aquatic Center has been paid for to date, resulting in an investment of \$109.66 per capita when considering the capacity population.

## Proposed Service Levels

### Parks and Trails

The City has determined that parks and trails have no excess capacity and that it desires to maintain existing service levels in the future, as new development occurs. This determination is based on the City's Parks and Trails Master Plan completed in January 2020.

The proposed service level for the Aquatic Center is to serve 17,000 residents.

### Identify Excess Capacity

The City has identified excess capacity in the Aquatic Center. The Aquatic Center has capacity to serve 17,000 persons. At the present time, it is serving 11,353 persons, representing 67 percent of total capacity. By 2029, the Aquatic Center will serve 13,046 persons, representing 77 percent of total capacity; therefore, 10 percent of the excess capacity will be consumed by new development between 2019 and 2029.

## Identify Demands Placed on Existing Public Facilities by New Development Activity at Proposed Level of Service and How Those Demands Will Be Met

*Utah Code 11-36a-302(1)(a)(iv)(v)*

### Demand Placed on Facilities by New Development Activity

#### Park Land and Park Improvements

Existing park service levels will decline, due to new development activity, from the existing service level of 4.26 acres per 1,000 persons to 3.71 acres per 1,000 residents, over the next 10 years, if no improvements are made.

**Table 8: Park Land and Improvement Service Level Impacts from New Development Activity, 2019-2029**

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2019	11,353		4.26
2020	11,512	159	4.20
2021	11,673	161	4.14

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2022	11,836	163	4.09
2023	12,002	166	4.03
2024	12,170	168	3.98
2025	12,340	170	3.92
2026	12,513	173	3.87
2027	12,688	175	3.81
2028	12,866	178	3.76
2029	13,046	180	3.71

### Trails

The existing level of service of 0.25 linear trail miles (10' wide trails) per capita will decline to 0.21 linear trail miles per capita, over the next 10 years, if no new improvements are made.

**Table 9: 10' Trail Service Level Impacts from New Development Activity, 2019-2029**

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2019	11,353		0.247
2020	11,512	159	0.243
2021	11,673	161	0.240
2022	11,836	163	0.237
2023	12,002	166	0.233
2024	12,170	168	0.230
2025	12,340	170	0.227
2026	12,513	173	0.224
2027	12,688	175	0.221
2028	12,866	178	0.218
2029	13,046	180	0.215

The existing level of service of 0.09 linear trail miles (8' wide trails) per capita will decline to 0.08 linear trail miles per capita, over the next 10 years, if no new improvements are made.

**Table 10: 8' Trail Service Level Impacts from New Development Activity, 2019-2029**

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2019	11,353		0.09
2020	11,512	159	0.09
2021	11,673	161	0.09
2022	11,836	163	0.08
2023	12,002	166	0.08
2024	12,170	168	0.08
2025	12,340	170	0.08
2026	12,513	173	0.08
2027	12,688	175	0.08
2028	12,866	178	0.08
2029	13,046	180	0.08

### Aquatic Center

The Aquatic Center has capacity to serve 17,000 persons. At the present time, it is serving 11,353 persons, representing 67 percent of total capacity. By 2029, the Aquatic Center will serve 13,046 persons, representing 77 percent of total capacity; therefore, 10 percent of the excess capacity will be consumed by new development between 2019 and 2029.

### Identify the Means by Which the Political Subdivision Will Meet the Growth Demands

The City will need to acquire additional park lands and improvements to maintain its existing and proposed service levels. Service levels will decline, due to population growth, unless new facilities are constructed or acquired. Impact fees will be used to maintain the existing service levels for parks and trails.

The figures in the following table were calculated by multiplying the existing service levels by the cost for each line item by the projected growth in demand over the next ten years.

**Table 11: Cost of New Park Construction Due to New Growth, 2019-2029**

Year	Additional Park (Acres) Needed	Additional Investment Needed
2019		\$0
2020	0.68	\$221,608
2021	0.69	\$224,395
2022	0.69	\$227,183
2023	0.71	\$231,364
2024	0.72	\$234,152
2025	0.72	\$236,939
2026	0.74	\$241,121
2027	0.75	\$243,908
2028	0.76	\$248,089
2029	0.77	\$250,877
<b>TOTAL</b>	<b>7.21</b>	<b>\$2,359,636</b>

**Table 12: Cost of New 10' Trail Construction Due to New Growth, 2019-2029**

Year	Additional Trail Miles Needed	Additional Investment Needed
2019	-	\$0.00
2020	0.04	\$28,987.21
2021	0.04	\$29,351.83
2022	0.04	\$29,716.45
2023	0.04	\$30,263.38
2024	0.04	\$30,628.00
2025	0.04	\$30,992.62
2026	0.04	\$31,539.55
2027	0.04	\$31,904.17
2028	0.04	\$32,451.09
2029	0.04	\$32,815.71
<b>TOTAL</b>	<b>0.42</b>	<b>\$308,650.02</b>

**Table 13: Cost of New 8' Trail Construction Due to New Growth, 2019-2029**

Year	Additional Trail Miles Needed	Additional Investment Needed
2019	-	\$0.00

Year	Additional Trail Miles Needed	Additional Investment Needed
2020	0.01	\$8,873.64
2021	0.01	\$8,985.25
2022	0.01	\$9,096.87
2023	0.01	\$9,264.30
2024	0.01	\$9,375.92
2025	0.01	\$9,487.54
2026	0.02	\$9,654.96
2027	0.02	\$9,766.58
2028	0.02	\$9,934.01
2029	0.02	\$10,045.63
<b>TOTAL</b>	<b>0.15</b>	<b>\$94,484.70</b>

Total costs anticipated over the next 10 years, in order to maintain existing service levels given the projected growth in the City, is \$2,762,771.14.

TABLE 14: SUMMARY OF NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH, 2019-2029

Description	Amount
Parks	\$2,359,636.42
Trails	\$403,134.72
<b>Total</b>	<b>\$2,762,771.14</b>

The recently-completed 2020 Lindon City Parks, Trails and Recreation Master Plan provides detailed plans for improvements needed to maintain existing parks, recreation and trails service levels in the City (pp. 48-59). These plans include the following improvements for which impact fees could be utilized in order to meet the growing demands generated by new development.

- Equestrian center
- Improvements at the following parks:
  - Anderson Farms Park
  - Geneva Resort Park
  - Keeneland Park
  - Pheasant Brook Park Expansion
  - Lakeview Park
  - Hollow Park Expansion
  - Lindon Village
- Shade structures/trees
- Large all-abilities playgrounds
- All ages playground/exercise equipment
- Parking
- Signage
- Frisbee golf course
- Dog park
- Pickleball courts
- Wayfinding
- Pump tracks
- Fieldhouse
- Dry Canyon Trail Road

- Fieldhouse
- Running paths/park trails
- Improved trail connectivity
- ADA accessibility
- Trailhead enhancements
- Expansion of restrooms

Recommendations are based on a holistic approach to recreation by offering a wide variety of recreational offerings throughout the City, including active and passive uses.

## Consideration of All Revenue Sources

*Utah Code 11-36a-302(2)*

### Grants

The City anticipates that future trail land will be acquired through easements and grants, as it has in the past, and has therefore not included any cost for trail land in the calculation of impact fees. The City is unaware of any potential grant sources for future parks, trails and recreation development. However, should it be the recipient of any such grants, it will then look at the potential to reduce impact fees.

While the City has been gifted some park property in the past, it has no future indication of any gifts that will be received by the City. Further, the City has conservatively excluded any gifted properties, or properties acquired through grant funds, from establishing its level of service used in the calculation of impact fees.

### Bonds

The City has one outstanding bond for the Aquatic Center, Series 2008, refunded in 2015, with an expiration date of 2034. Credits on this bond must be made in connection with impact fees so that double payment does not occur.

While the City could issue bonds in the future in order to fund parks, trails and recreation facilities, no bonds are currently being contemplated and therefore no costs associated with future bond issuance have been included in the calculation of impact fees.

### Interfund Loans

The City has the option to purchase facilities through interfund loans but no interfund loans are currently in place.

### PARC Sales Tax Fund

Lindon City has enacted a 0.10 percent Park, Arts, Recreation and Culture Tax. Use of these funds is controlled by statute, which provides, among other purposes, that these funds may be used to finance recreation facilities and ongoing associated operations. A portion of these funds have been used for this purpose in the past. It is the City's intent to use these funds to enhance existing service levels and not to offset the demands for capital facilities created by new development.

### Transfer from General Fund

To the extent that the City is able to generate net revenues in its General Fund, it may choose to transfer all or a portion of the net revenues to the City's capital fund. It is most likely that, if net revenues should

be generated, they will be used to enhance existing service levels and not to offset the demands generated by new development which is anticipated to be paid for with impact fees.

**Impact Fees**

Because of the growth anticipated to occur in the City, impact fees are a viable means of allowing new development to pay for the impacts that it places on the existing system. This IFFP is developed in accordance with legal guidelines so that an Impact Fee Analysis for Parks, Trails and Recreation may be prepared, and the City may charge impact fees for Parks, Trails and Recreation.

**Anticipated or Accepted Dedications of System Improvements**

Any item that a developer funds must be included in the IFFP if a credit against impact fees is to be issued and must be agreed upon with the City before construction of the improvements.

## Certification

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Zions Public Finance, Inc. certifies that the attached impact fee facilities plan:

1. Includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
  
2. Does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
  
3. Complies in each and every relevant respect with the Impact Fees Act.



## Appendix A – Park Facility Summaries

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APPENDIX A

Summary	Size (Acres)	Restrooms	Pavilions - Small	Pavilions - Medium	Pavilions - Large	Picnic Tables	Playgrounds	Exercise Equipment	Pickleball	Tennis	Basketball	Soccer Fields	Ball Diamonds	Sand Volleyball	Riding Arena	Mowed SF	Off-Street Parking
Meadows	4.16	0	0	1	0	8	1	0	0	0	0	1	0	0	0	197,762.40	1,200
Pheasant Brook	9.78	1	0	0	2	20	1	0	2	0	0	3	2	0	0	317,552.40	2,877
Creekside	1.88	1	0	1	0	8	2	0	0	2	0	0	0	0	0	77,972.40	
Lindon City Center	11.3	1	1	0	1	31	1	0	0	0	0	0	2	0	1	180,774.00	
Fryer Park	4	1	1	2	0	8	1	0	0	0	0	2	0	0	0	171,626.40	8,501
Hollow Park	4.46	1	0	2	0	12	1	0	4	1	0	0	0	0	0	138,085.20	15,643
Pioneer Park	5.3	1	0	0	0	12	1	0	0	0	0	1	0	0	0	156,816.00	18,414
Hillside Park*																	
Geneva Resort	7.5																
<b>TOTAL</b>	<b>48.38</b>	<b>6</b>	<b>2</b>	<b>6</b>	<b>3</b>	<b>99</b>	<b>8</b>	<b>0</b>	<b>6</b>	<b>3</b>	<b>0</b>	<b>7</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>1,240,588.80</b>	<b>46,635</b>

\*Listed as a community park based on size but is not included in impact-fee eligible parks



# **Lindon City Parks, Trails and Recreation Impact Fee Analysis**



July 21, 2020



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## Summary of Impact Fee Analysis (IFA)

Lindon City (“City”) has completed a Parks, Trails and Recreation Impact Fee Facilities Plan which, along with input from the City, forms the basis for this impact fee analysis. The City has determined that there is one service area citywide and that only residential development is considered to create demand for parks, trails and recreation facilities and therefore only residential growth has been considered in the determination of impact fees.

Projections for population growth in the City are as follows:

**TABLE 1: PROJECTED POPULATION GROWTH, 2019-2029**

Year	Population
2019	11,353
2020	11,512
2021	11,673
2022	11,836
2023	12,002
2024	12,170
2025	12,340
2026	12,513
2027	12,688
2028	12,866
2029	13,046

Source: Lindon City

This IFA is organized based on the legal requirements of Utah Code 11-36a-304.

### Impact on Consumption of Existing Capacity - Utah Code 11-36a-304(1)(a)

The IFFP considers only *system* facilities in the calculation of impact fees. For the City, this has been determined to mean community parks. Neighborhood parks are considered *project* improvements and have not been included in the calculation of impact fees.

Existing service levels are based on the (2019) levels of service in the City for both parks and trails.<sup>1</sup> Existing and proposed service levels are shown in the table below.

**TABLE 2: EXISTING AND PROPOSED SERVICE LEVELS**

	UNITS		
	Existing	Proposed (Minimum)	Excess Capacity
Land (acres, with improvements, per 1,000 population)	4.26	4.26	0
Trail miles (trail miles per 1,000 population)	0.33	0.33	0

\*The standard is 0.25 trail miles per 1,000 population for 10' trails and 0.09 trail miles per 1,000 population for 8' trails.

<sup>1</sup> The IFFP shows a different service level than the Master Plan. This difference occurs for two reasons: 1) the IFA cannot include project improvements (i.e., neighborhood parks), which are included in the level of service in the Master Plan; and 2) the IFA does not include properties that have been donated or gifted in the calculation of the impact-fee eligible level of service.

The City intends to at least maintain existing service levels for both parks and trails.

The Aquatic Center currently serves 11,353 residents and has capacity to serve 17,000. Therefore, the Aquatic Center has excess capacity.

### **Impact on System Improvements by Anticipated Development Activity - Utah Code 11-36a-304(1)(b)**

The table below shows the declining service levels that would occur in Lindon, due to population growth, if no new facilities are added. Each of these declining service levels is discussed in more detail in the body of this report.

**TABLE 3: IMPACTS TO SERVICE LEVELS DUE TO NEW DEVELOPMENT IF NO IMPROVEMENTS ARE MADE**

<b>Summary Table</b>	<b>Parks</b>	<b>Trails 10'</b>	<b>Trails 8'</b>
Acres/Trail Miles per 1000 Population in 2019	4.26	0.25	0.09
Acres/Trail Miles per 1000 Population in 2029	3.71	0.21	0.08
Cost per Capita Investment in 2019	\$1,393.76	\$182.31	\$55.81
Cost per Capita Investment in 2029	\$1,212.89	\$158.65	\$48.57

### **Relationship of Anticipated Impacts to Anticipated Development Activity - Utah Code 11-36a-304(1)(c)**

The demand placed on existing public park, trails and recreation facilities by new development activity is attributable to population growth. Lindon has a 2019 population of 11,353 persons and as a result of anticipated development activity will grow to a projected 13,046 persons by 2029 – an increase of 1,693 persons. As growth occurs as a result of increased development activity, more parks and trails are needed to maintain existing service levels and to reach proposed service levels.

In order to maintain the existing level of service, the projected new development over the next ten years will require the construction or acquisition of new facilities in the amount of \$2,762,771.14, as stated in 2020 dollars.

**TABLE 4: NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH, 2019-2029**

<b>Description</b>	<b>Amount</b>
Parks	\$2,359,636.42
Trails	\$403,134.72
<b>Total</b>	<b>\$2,762,771.14</b>

### **Proportionate Share Analysis - Utah Code 11-36a-304(1)(d)(i)(ii)**

#### **Costs Reasonably Related to New Development Activity**

The cost of new system improvements required to maintain the service levels related to new development activity are based on the costs of system-wide park and trail facilities, and the consultant fees for the preparation of the Impact Fee Facilities Plan and the Impact Fee Analysis.

The total gross fee is \$1,306.96 per capita. However, the actual fee charged will be based on the average household size of a residential unit.

TABLE 5: CALCULATION OF GROSS IMPACT FEE

<b>Summary of Gross Fee</b>	
Aquatic Center	\$109.66
Parks	\$1,393.76
Trails	\$238.12
Consultant Cost	\$2.95
Fund Balance	(\$437.54)
<b>Cost per Capita</b>	<b>\$1,306.96</b>

The City may choose to either charge one fee for every type of residential unit, or it can charge different fees for single-family and multi-family units. The average household size for residential units in Lindon is as follows:

TABLE 6: AVERAGE HOUSEHOLD SIZE

<b>Residential Unit Type</b>	<b>Household Size</b>
Single-Family Units	3.90
Multi-Family Units	3.77

*Source: American Community Survey 2017*

The maximum impact fees for single-family and multi-family residential are shown in the table below:

TABLE 7: MAXIMUM IMPACT FEES

<b>MAXIMUM GROSS FEE</b>	<b>Amount</b>
Single-Family Residential	<b>\$5,097.13</b>
Multi-Family Residential	<b>\$4,927.23</b>

### **Manner of Financing - Utah Code 11-36a-304(2)(c)(d)(e)(f)(g)(h)**

An impact fee is a one-time fee that is implemented by a local government on new development to help fund and pay for all or a portion of the costs of public facilities that are needed to serve new development. Additionally, impact fees allow new growth to share in the cost of existing facilities that have excess capacity.

#### **Impact Fee Credits**

The Impact Fees Act requires credits to be paid back to development for future fees that may be paid to fund system improvements found in the IFFP so that new development is not charged twice.

#### **Extraordinary Costs and Time Price Differential**

It is not anticipated that there will be any extraordinary costs in servicing newly-developed park properties.

## Utah Code 11-36a

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**Preparation of Impact Fee Analysis.** Utah Code requires that “each local political subdivision... intending to impose an impact fee shall prepare a written analysis (Impact Fee Analysis or IFA) of each impact fee” (Utah Code 11-36a-303). This IFA follows all legal requirements as outlined below. Lindon City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Analysis in accordance with legal requirements.

Section 11-36a-304 of the Utah Code outlines the requirements of an impact fee analysis which is required to identify the following:

- anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

- anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;

- how anticipated impacts are reasonably related to the anticipated development activity

- the proportionate share of:

  - costs for existing capacity that will be recouped; and

  - costs of impacts on system improvement that are reasonably related to the new development activity; and

  - how the impact fee was calculated

Further, in analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:

- the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

- the cost of system improvements for each public facility;

- other than impact fees, the manner of financing for each public facility such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

- the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by means such as user charges, special assessments, or payment from the proceeds of general taxes;

- the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;

the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;

extraordinary costs, if any in servicing the newly developed properties; and

the time-price differential inherent in fair comparisons of amounts paid at different times.

**Calculating Impact Fees.** Utah Code 11-36a-305 states that for purposes of calculating an impact fee, a local political subdivision or private entity may include the following:

construction contract price;

cost of acquiring land, improvements, materials, and fixtures;

cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and

for a political subdivision, debt service charges if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes or other obligations issued to finance the costs of the system improvements.

Additionally, the Code states that each political subdivision or private entity shall base impact fee amounts on realistic estimates and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

**Certification of Impact Fee Analysis.** Utah Code 11-36a-306 states that an impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis. This certification is included at the conclusion of this analysis.

**Impact Fee Enactment.** Utah Code 11-36a-202 states that a local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402. Additionally, an impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysts. An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

**Notice of Intent to Prepare Impact Fee Analysis.** A local political subdivision must provide written notice of its intent to prepare an IFA before preparing the Analysis (Utah Code 11-36a-503(1)). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFA by posting notice.

## Impact Fee Analysis

Utah Code allows cities to include only system-wide parks for the purpose of calculating impact fees. Project-wide parks cannot be used to establish levels of service eligible to be maintained through impact fees. Based on input from the City and the consultants, a system-wide park is defined as a park that serves more than one local development area. System-wide parks in Lindon include community parks.

This IFA is organized based on the legal requirements of Utah Code 11-36a-304.

### 1 Impact on Consumption of Existing Capacity

*Utah Code 11-36a-304(1)(a): an impact fee analysis shall identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity*

#### Demand Placed on Facilities by New Development Activity

##### Park Land and Park Improvements

Lindon City currently has 48.38 systemwide park acres that qualify to be included in the calculation of impact fees. The existing level of service for parks then, for the purpose of calculating impact fees, is 4.26 acres per 1,000 residents, calculated by dividing the 48.38 eligible park acres by the 2019 population of 11,353 residents (which has been divided by 1,000).

The table below summarizes the improvements, along with the costs, that were used to determine an existing standard for park land and improvements. Cost estimates have been provided in consultation with the City.

TABLE 8: SYSTEM PARK LAND AND IMPROVEMENTS

	Units	Cost per Unit	Total Investment
Land (Acres)	48.38	\$201,435	\$9,745,421
Restrooms	6	\$150,000	\$900,000
Pavilions - Small	2	\$30,000	\$60,000
Pavilions - Medium	6	\$75,000	\$450,000
Pavilions - Large	3	\$150,000	\$450,000
Picnic Tables	99	\$1,000	\$99,000
Playgrounds	8	\$100,000	\$800,000
Exercise Equipment	0	\$9,000	\$0
Pickleball	6	\$50,000	\$300,000
Tennis	3	\$75,000	\$225,000
Basketball	0	\$20,000	\$0
Soccer Fields	7	\$500	\$3,500
Ball Diamonds	4	\$20,000	\$80,000
Sand Volleyball	0	\$25,000	\$0
Riding Arena	27,243	\$2.25	\$61,297
Asphalt Square Feet	46,635	\$5.00	\$233,175
Trail Feet (Lighted)	6,223	\$50.00	\$311,150
Mowed sf	1,052,410	\$2.00	\$2,104,819
<b>TOTAL</b>			<b>\$15,823,362.24</b>

With 48.38 existing park acres, the average cost for land and improvements is \$327,064.12 per acre. Land costs are based on the recent sale of 9.05 acres to Vineyard for a sum of \$1,822,986, or a cost of \$201,434.92 per acre.

Existing park service levels will decline, due to new development activity, from the existing service level of 4.26 acres per 1,000 persons to 3.71 acres per 1,000 residents by 2029 if no improvements are made.

**TABLE 9: PARK LAND AND IMPROVEMENT SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2019-2029**

Year	Population	Population Growth	Land Acres per 1000 Persons if No New Facilities
2019	11,353		4.26
2020	11,512	159	4.20
2021	11,673	161	4.14
2022	11,836	163	4.09
2023	12,002	166	4.03
2024	12,170	168	3.98
2025	12,340	170	3.92
2026	12,513	173	3.87
2027	12,688	175	3.81
2028	12,866	178	3.76
2029	13,046	180	3.71

#### Trails – 10' Width

The City currently has 2.8 miles of 10' wide trails, or 14,784 linear trail feet. This results in an existing service level of 0.25 linear trail feet per capita, calculated by dividing the 2.8 miles by the 2019 population.

The existing level of service of 0.25 linear trail miles (10' wide trails) per capita will decline to 0.21 linear trail miles per capita, over the next 10 years, if no new improvements are made.

**Table 10: 10' Trail Service Level Impacts from New Development Activity, 2019-2029**

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2019	11,353		0.247
2020	11,512	159	0.243
2021	11,673	161	0.240
2022	11,836	163	0.237
2023	12,002	166	0.233
2024	12,170	168	0.230
2025	12,340	170	0.227
2026	12,513	173	0.224
2027	12,688	175	0.221
2028	12,866	178	0.218
2029	13,046	180	0.215

The City currently has 1 mile of 8' wide trails, or 5,280 linear trail feet. This results in an existing service level of 0.09 linear trail feet per capita, calculated by dividing the 1 mile by the 2019 population.

The existing level of service of 0.09 linear trail miles (8' wide trails) per capita will decline to 0.08 linear trail miles per capita, over the next 10 years, if no new improvements are made.

**Table 11: 8' Trail Service Level Impacts from New Development Activity, 2019-2029**

Year	Population	Population Growth	Unit Service Levels per 1000 Persons if No New Facilities
2019	11,353		0.09
2020	11,512	159	0.09
2021	11,673	161	0.09
2022	11,836	163	0.08
2023	12,002	166	0.08
2024	12,170	168	0.08
2025	12,340	170	0.08
2026	12,513	173	0.08
2027	12,688	175	0.08
2028	12,866	178	0.08
2029	13,046	180	0.08

### Aquatic Center

The Aquatic Center has capacity to serve 17,000 persons. At the present time it is serving 11,353 persons, representing 67 percent of total capacity. By 2029, the Aquatic Center will serve 13,046 persons, representing 77 percent of total capacity; therefore, 10 percent of the excess capacity will be consumed by new development between 2019 and 2029.

## 2 Impact on System Improvements by Anticipated Development Activity

*Utah Code 11-36a-304(1)(b): an impact fee analysis shall identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;*

The City will need to acquire additional park lands and trail miles and make park and trail improvements to maintain its existing service levels of improved parks. Impact fees will be used to maintain the existing service levels for parks and trails.

The figures in the following table were calculated by multiplying the existing service levels by the cost for each line item by the projected growth in demand over the next ten years.

Total costs anticipated over the next 10 years to maintain existing service levels given the projected growth in the City, is \$2,762,771.

**TABLE 12: SUMMARY OF NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH, 2019-2029**

Summary of Needs	Acres/Miles Needed 2019-2029	Cost per Unit	Total Cost 2019-2029
Parks	7.21	\$327,064	\$2,359,636
Trails - 10' width	0.42	\$140	\$308,650
Trails - 8' width	0.15	\$120	\$94,485
<b>TOTAL</b>			<b>\$2,762,771</b>

# 3

## Relationship of Anticipated Impacts to Anticipated Development Activity

*Utah Code 11-36a-304(1)(c): an impact fee analysis shall subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;*

The demand placed on existing public park facilities by new development activity is attributable to population growth. Lindon has a 2019 population of 11,353 persons and as a result of anticipated development activity will grow to a projected 13,046 persons by 2029 – an increase of 1,693 persons. As growth occurs, more parks and trails are needed to maintain existing service levels and to reach proposed service levels.

# 4

## Proportionate Share Analysis

*Utah Code 11-36a-304(1)(d)(i)(ii): an impact fee analysis shall estimate the proportionate share of costs for existing capacity that will be recouped; and the costs of impacts on system improvements that are reasonably related to the new development activity;*

### Costs Reasonably Related to New Development Activity

The cost of new system improvements required to maintain the existing level of parks, trails and recreation services related to new development activity is based on the cost of system-wide park and trail facilities, as well as consultant fees for the preparation of the Impact Fee Facilities Plan and the Impact Fee Analysis.

The City will need to acquire an additional 7.21 acres of land over the next 10 years in order to maintain its existing service level of 4.26 acres per 1,000 persons. At a cost of \$327,064.12 per acre, including improvements, the cost to the City will be \$2,359,636.42. The proportionate share per capita, for new development, is \$1,393.76.

TABLE 13: PER CAPITA COST TO MAINTAIN LOS FOR PARK LAND AND IMPROVEMENTS

Park Land and Improvements	
Investment Required, 2019-2029	\$2,359,636.42
Population Growth, 2019-2029	1,693
<b>Cost per Capita</b>	<b>\$1,393.76</b>

The per capita cost to maintain the existing level of service for 10' trails is \$182.31.

TABLE 14: PER CAPITA COST TO MAINTAIN LOS FOR 10' TRAILS

Description	Amount
Investment Required, 2019-2029	\$308,650.02
Population Growth, 2019-2029	1,693
<b>Cost per Capita</b>	<b>\$182.31</b>

The per capita cost to maintain the existing level of service for 8' trails is \$55.81.

TABLE 15: PER CAPITA COST TO MAINTAIN LOS FOR 8' TRAILS

Description	Amount
Investment Required, 2019-2029	\$94,484.70
Population Growth, 2019-2029	1,693
<b>Cost per Capita</b>	<b>\$55.81</b>

The total cost for the Aquatic Center is \$10,756,223. The Aquatic Center is funded through an outstanding bond, with \$8,891,925 remaining in principal payments. Therefore, only 17.3 percent of bond payments have been made to date. With a total capacity that will serve 17,000 residents, this represents a per capita investment of \$109.66 to date.

TABLE 16: PER CAPITA COST FOR AQUATIC CENTER

Description	Amount
Total Cost	\$10,756,223
Total Capacity – population	17,000
Total Cost per Capita	\$632.72
Bond Payments Made	\$1,864,298
Bond Amount Remaining	\$8,891,925
<b>Current LOS - Investment Made</b>	<b>\$109.66</b>

The Impact Fee Facilities Plan and Impact Fee Analysis consultant cost is \$2.95 per capita.

TABLE 17: PER CAPITA CONSULTANT COSTS

Description	Amount
Consultant Costs	\$5,000
Population Growth 2019-2029	1,693
<b>Cost per Capita</b>	<b>\$2.95</b>

The total gross Parks, Trails and Recreation Impact Fee is \$1,306.96 per capita.

TABLE 18: MAXIMUM ALLOWABLE IMPACT FEE

Description	Amount
Aquatic Center	\$109.66
Parks	\$1,393.76
Trails	\$238.12
Consultant Cost	\$2.95
Fund Balance	(\$437.54)
<b>Cost per Capita</b>	<b>\$1,306.96</b>

The maximum fee per capita is then multiplied by the household size for single-family and multi-family residential units.

TABLE 19: HOUSEHOLD SIZE

Household Type	Household Size
Single-Family	3.90
Multi-Family	3.77

*Source: American Community Survey 2017*

Maximum impact fees for single-family and multi-family residential are \$5,097.13 and \$4,927.23 respectively.

TABLE 20: MAXIMUM IMPACT FEE

Development Type	Amount
Single-Family Residential	\$5,097.13
Multi-Family Residential	\$4,927.23

### Impact Fee Credits

## 5

*Utah Code 11-36a-304(1)(e): an impact fee analysis shall, based on the requirements of this chapter, identify how the impact fee was calculated;*

There are no bonds outstanding on parks or trails facilities and therefore no credits need to be made against the parks and trails portion of the fee. However, there is a bond outstanding on the Aquatic Center. Therefore, new development has only been charged for the current principal payments made on the Aquatic Center in order to ensure that new development only pays for the current level of service that has been borne by existing residents.

## 6

### Manner of Financing

*Utah Code 11-36a-304(2)(c)(d)(e)(f)(g)(h): an impact fee analysis shall identify, if applicable: other than impact fees, the manner of financing for each public facility such as user charges, special assessments, bonded indebtedness, federal taxes, or federal grants;*

An impact fee is a one-time fee that is implemented by a local government on new development to help fund and pay for all or a portion of the costs of public facilities that are needed to serve new development. These fees are usually implemented to help reduce the economic burden on local jurisdictions that are trying to deal with growth within the area. As a matter of policy and legislative discretion, a City may choose to have new development pay the full cost of its share of new public facilities if the facilities would not be needed except to service new development. However, local governments may use other sources of revenue to pay for the new facilities required to service new development and use impact fees to recover the cost difference between the total cost and the other sources of revenue. Additionally, impact fees allow new growth to share in the cost of existing facilities that have excess capacity.

At the current time, no other sources of funding other than impact fees have been identified, but to the extent that any are identified and received in the future, then impact fees will be reduced accordingly.

Additional system-wide park land and recreation facility improvements beyond those funded through impact fees that are desired to maintain a higher proposed level of service will be paid for by the community through other revenue sources such as user charges, special assessments, GO bonds, general taxes, etc.

### **Impact Fee Credits**

The Impact Fees Act requires credits to be paid back to development for future fees that may be paid to fund system improvements found in the IFFP so that new development is not charged twice. Credits may also be paid back to developers who have constructed or directly funded items that are included in the IFFP or donated to the City in lieu of impact fees, including the dedication of land for system improvements. This situation does not apply to developer exactions or improvements required to offset density or as a condition for development. Any item for which a developer receives credit should be included in the IFFP and must be agreed upon with the City before construction begins.

In the situation that a developer chooses to construct facilities found in the IFFP in lieu of impact fees, the arrangement must be made through the developer and the City.

### **Extraordinary Costs and Time Price Differential**

It is not anticipated that there will be any extraordinary costs in servicing newly developed park properties.

## **Certification**

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Zions Public Finance, Inc. certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

- 12. Discussion Item — Possible Disposal of Surplus Real Property located at 94 North 1200 East.** The City Council will discuss the possible disposal of surplus real property located at 94 North 1200 East. Feedback will be received but no motions made. *(10 minutes)*

**This item is for discussion only with no motion needed.**

The City was approached by the land owner (Chudleigh) on the SW corner of the Horse Transfer Station park property (formerly called Bonneville Nature Park and Trailhead) with interest to purchase some land from the city in order to enlarge their back yard. The property owned by the city and desired by the neighbor does not appear necessary for the city's future needs and is an odd configuration on a slope that is not suitable for development. It seems reasonable that the sliver of city land could be declared as surplus.

A future storm water drainage pipe is anticipated being needed on the city's property and the city engineers feel a storm drain pipe and easement installed down to the street below the neighbor's home may be a fair trade in lieu of purchasing the land from the city. However, an appraisal will be needed to determine if value of the land is similar to the cost of the piping project or and/or an easement. Maps and diagrams with details are attached.

Any thoughts about moving forward to have the property appraised to determine fair market value of the land and potential cost of storm drainage piping?

Additional public hearing(s) will be required to declare the property surplus and work out an exchange agreement with the property owner.



NOT TO SCALE

14:074:0202  
LINDON CITY

PROPOSED PROPERTY TRANSFER FROM LINDON CITY TO CHUDLEIGH  
~5400 SF

36:622:0081  
CHUDLEIGH

PROPOSED PROPERTY TRANSFER FROM OLSEN TO CHUDLEIGH  
~5500 SF

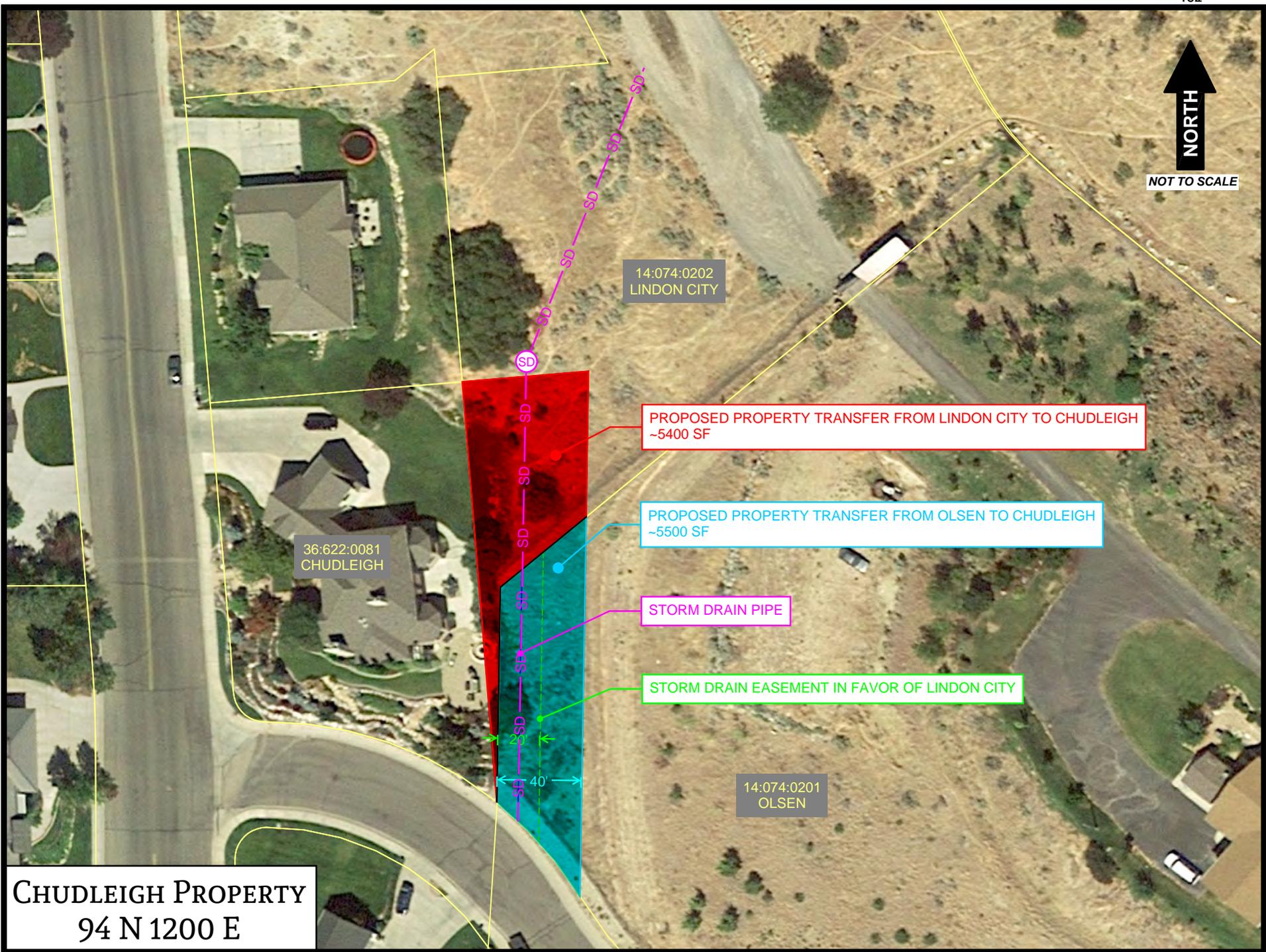
STORM DRAIN PIPE

STORM DRAIN EASEMENT IN FAVOR OF LINDON CITY

14:074:0201  
OLSEN

40'

CHUDLEIGH PROPERTY  
94 N 1200 E



# Subject Property



Utah County Parcel Map

This cadastral map is generated from Utah County Recorder data. It is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations with an actual survey.

Date: 6/22/2020



View from Teton View Toward Teton Backyard Prop Line



Hill Looking N



Hill Looking S



Hill Looking SE



Hill Looking W

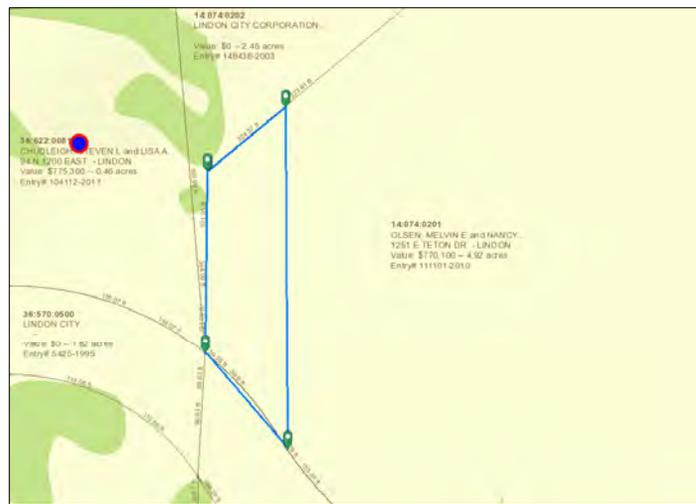


Hill Looking N





# Rough Proposed Lot Line Transfer Olsen – Chudleigh Approximately .11 acre

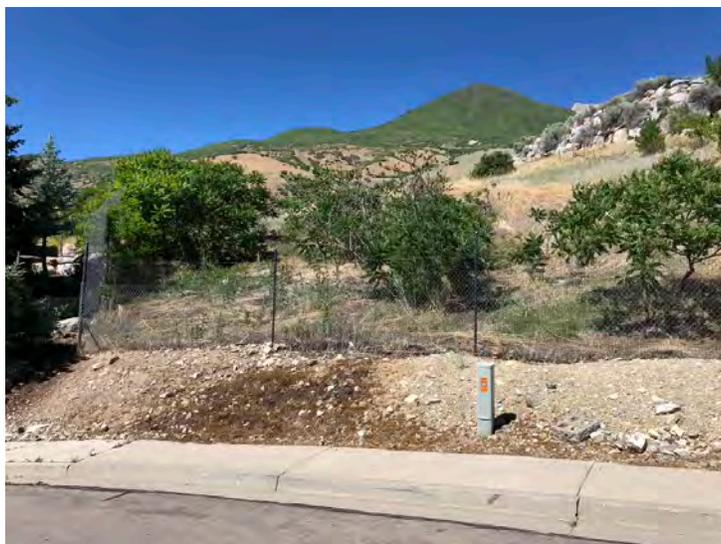


Utah County Parcel Map  
S4 North 1200 East London

This cadastral map is generated from Utah County Recorder data. It is for reference only and no liability is assumed for any inaccuracies, incorrect data or variations with an actual survey.

Date: 6/22/2020

View of Transfer Property –Teton



Corner Post of Transfer Area



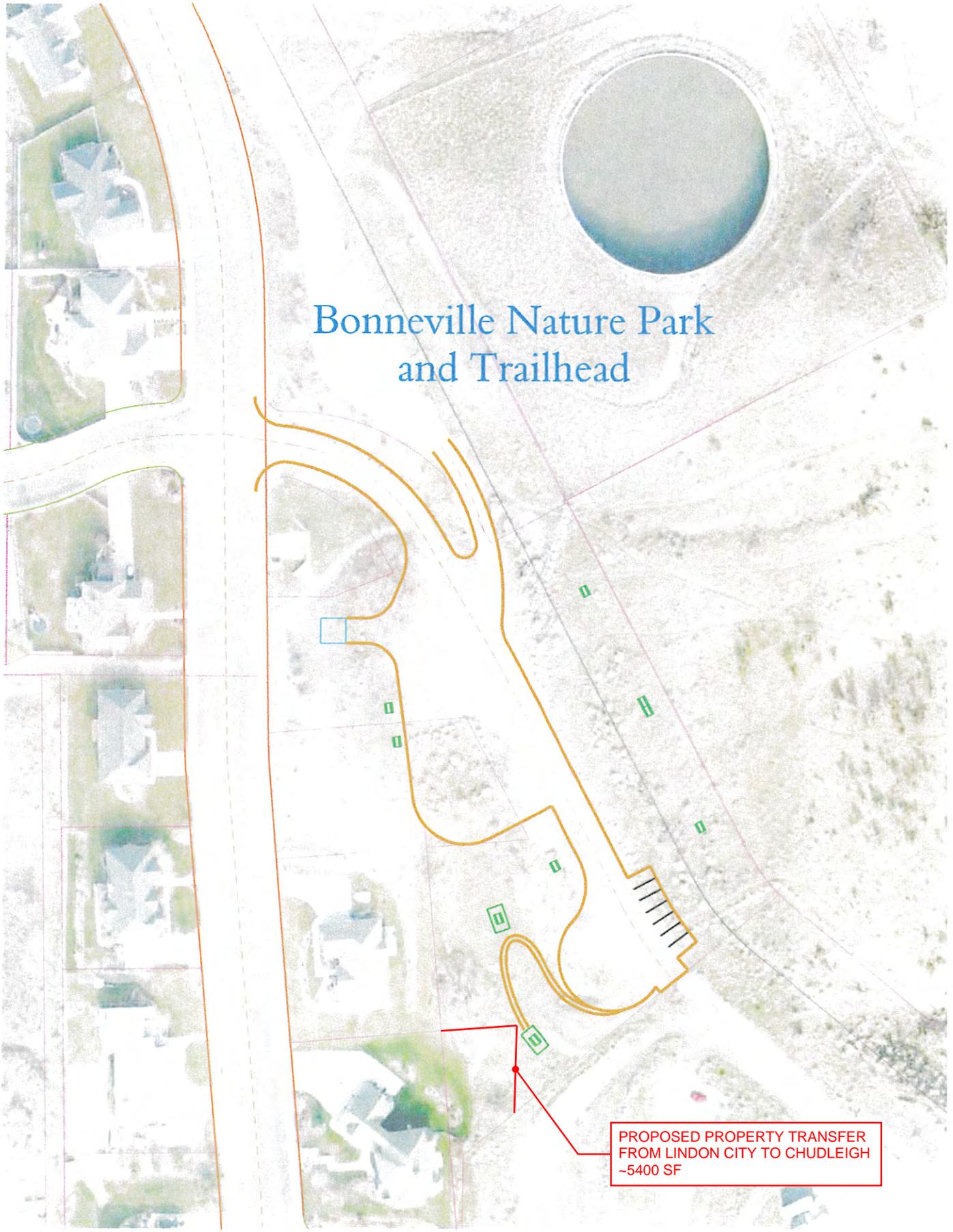
View of Transfer Property Toward Teton



N Boundary Looking W







# Bonneville Nature Park and Trailhead

PROPOSED PROPERTY TRANSFER  
FROM LINDON CITY TO CHUDLEIGH  
~5400 SF

**ADJOURN**