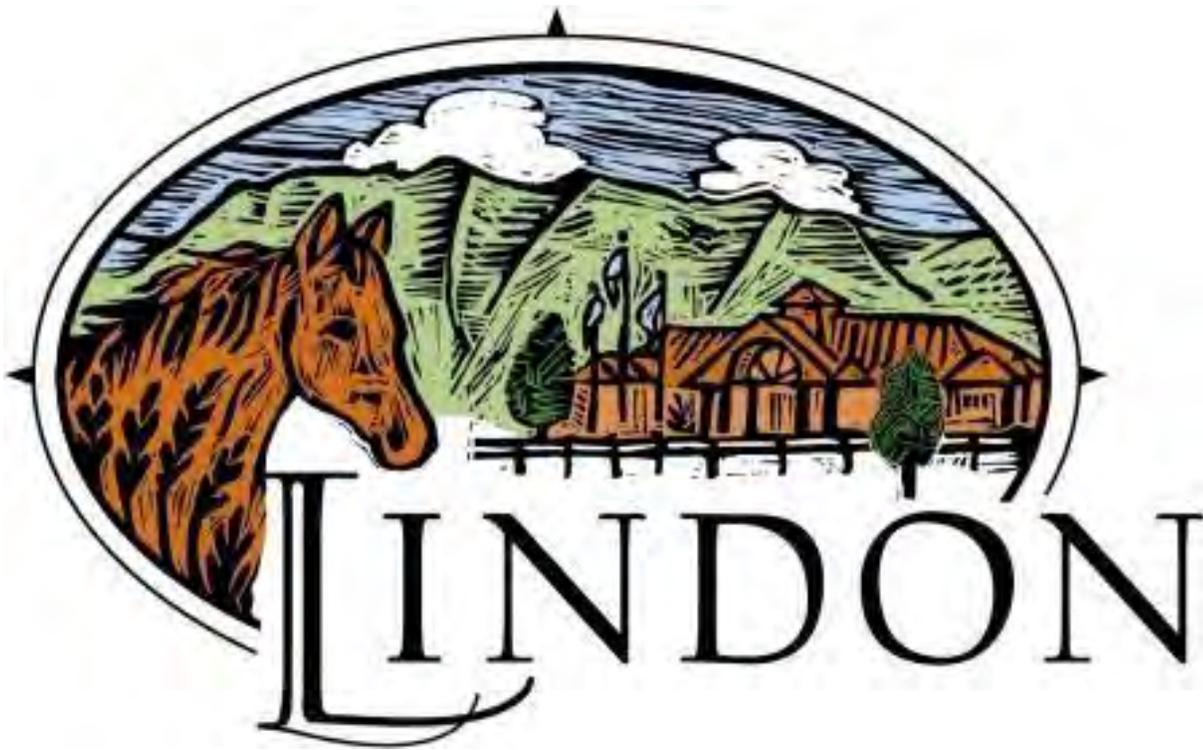


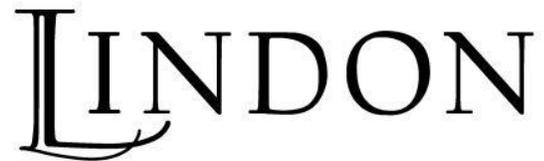
# **Lindon City Planning Commission Staff Report**



August 28, 2018

# Notice of Meeting

## Lindon City Planning Commission



The Lindon City Planning Commission will hold a regularly scheduled meeting on Tuesday, August 28, 2018, in the Council Room of Lindon City Hall, 100 North State Street, Lindon, Utah. The meeting will begin at 7:00 p.m. This meeting may be held electronically to allow a commissioner to participate by video or teleconference. The agenda will consist of the following:

### REVISED AGENDA

Invocation: By Invitation

Pledge of Allegiance: By Invitation

#### 1. Call to Order

#### 2. Approval of minutes

Planning Commission 08/14/2018

#### 3. Public Comment

(20 minutes)

#### 4. Public Hearing — Zone Map Amendment, Commercial Farm Zone ~450 E. Center St.

Mike Jorgensen, Walker Farms of Lindon, LLC, requests approval of a Zone Map Amendment to reclassify the following parcels from Residential Single Family (R1-20) to the Commercial Farm (CF) zone: 14:073:0237 (Mike Jorgensen, MJ Real Estate Holdings LLC) and 14:073:0036 (Mike Jorgensen, MJ Real Estate Holdings LLC). Total land area of ~1.06 acres. Recommendation(s) will be forwarded to the City Council. (Pending Ordinance 2018-\_\_\_\_-O).

(20 minutes)

#### 5. Conditional Use Permit — Gillman Farms Elk Ranch

Deny Farnworth requests conditional use permit (CUP) approval for a domestic elk farm (Farnworth Gillman Farm's Elk Ranch) on 9.3 acres located at 592 West Gillman Lane, in the Residential Single-Family (R1-20) zone.

(15 minutes)

#### 6. Public Hearing — Ordinance Amendment, Lindon City Code 8.20 Public Nuisances

Lindon City requests approval of an amendment to Lindon City Code Section 8.20.030 Nuisance – Definition subsection (2)(cc) Inappropriate Noise. The proposal would address potential hours during which Inappropriate Noises are not allowed. Recommendations will be forwarded to the City Council for final approval. (Pending Ordinance 2018-9-O) *(Item continued from 6/12/18)*

#### 7. Discussion Item — Lindon City General Plan, Environmental Planning

Lindon City Planning & Economic Development Director, Hugh Van Wagenen, will review the Environmental Planning section with the Planning Commission. This is an informative discussion item only. No motions will be made.

(15 minutes)

#### 8. Discussion Item — Car lots

Hugh Van Wagenen, Planning Director, will review and discuss with the Planning Commission, car lots in general. This is an informative discussion item only. No motions will be made.

#### 9. New Business from Commissioners

#### 10. Planning Director Report

Adjourn



Scan or click here for link to download agenda & staff report materials.

Staff Reports and application materials for the agenda items above are available for review at the Lindon City Planning Department, located at 100 N. State Street, Lindon, UT. For specific questions on agenda items our Staff may be contacted directly at (801) 785-7687. 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 Kathy Moosman at 785-5043, giving at least 24 hours notice.

# Notice of Meeting

## *Lindon City Planning Commission*



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

**Posted By:** Hugh Van Wagenen

**Date:** August 24, 2018

**Time:** 3:00 p.m.

**Place:** Lindon City Center, Lindon Police Station, Lindon Community Center

**Item 2: Approval of Minutes**

Lindon City Planning Commission Meeting August 14, 2018

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**  
3 **August 14, 2018 beginning at 7:00 p.m.** at the Lindon City Center, City Council  
4 Chambers, 100 North State Street, Lindon, Utah.

6 **REGULAR SESSION – 7:00 P.M.**

8 Conducting: Sharon Call, Chairperson  
9 Invocation: Charlie Keller, Commissioner  
10 Pledge of Allegiance: Steve Johnson, Commissioner

12 <b><u>PRESENT</u></b>	<b><u>EXCUSED</u></b>
Sharon Call, Chairperson	Mike Vanchiere, Commissioner
14 Rob Kallas, Commissioner	
Mike Marchbanks, Commissioner	
16 Charlie Keller, Commissioner	
Steven Johnson, Commissioner	
18 Hugh Van Wagenen, Planning Director	
Brandon Snyder, Associate Planner	
20 Kathy Moosman, Recorder	

22 1. **CALL TO ORDER** – The meeting was called to order at 7:00 p.m.

24 2. **APPROVAL OF MINUTES** –The minutes of the regular meeting of the  
26 Planning Commission meeting of July 10, 2018 were reviewed.

28 COMMISSIONER JOHNSON MOVED TO APPROVE THE MINUTES OF  
30 THE REGULAR MEETING OF JULY 10, 2018 AS PRESENTED. COMMISSIONER  
KALLAS SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE  
MOTION CARRIED.

32 3. **PUBLIC COMMENT** – Chairperson Call called for comments from any  
34 audience member who wished to address any issue not listed as an agenda item.  
There were no public comments.

36 **CURRENT BUSINESS** –

38 4. **Public Hearing — Residential Business Overlay Ordinance.** Lani Podzikowski  
40 requests approval of an amendment to Lindon City Code Title 17 Zoning, to  
adopt a Residential Business District Overlay zone. Recommendation(s) will be  
42 forwarded to the City Council for final approval. (Pending Ordinance 2018-7-O)  
(Item continued from 6/12/18)

44 COMMISSIONER KALLAS MOVED TO OPEN THE PUBLIC HEARING.  
46 COMMISSIONER MARCHBANKS SECONDED THE MOTION. ALL PRESENT  
VOTED IN FAVOR. THE MOTION CARRIED.

2 Hugh Van Wagenen led this agenda item by stating this item was last discussed at  
the June 12, 2018, Commission meeting. At that time the Commission requested that the  
4 Commercial Farm zone to not be considered non-residential in determining parameters  
for location of the Residential Business Overlay. That requested change has been made to  
6 the proposed ordinance. He noted the Commission also requested that the City Attorney,  
Brian Haws, review the ordinance language allowing exemptions to public infrastructure  
8 improvements. He noted the new language from Mr. Haws has been added to the  
ordinance language per the Commission's request as follows:

10 *"It is clearly within the City Council's authority to grant waivers, but as pointed  
out to avoid situations where there might be a claim bias or favoritism it is advisable to  
12 lay out conditions upon which a waiver can be granted. I have inserted some conditions  
for you to consider. These come from some other cities from around the country I found  
14 that had sidewalk waivers and I which think provide reasonable factors for the council to  
consider. The 4th condition is a catch all that is based on the same kind of standards used  
16 when the board of adjustments granting a variance."*

18 Mr. Van Wagenen then read Mr. Haws suggested language that has been added to the  
draft ordinance as follows:

- 20 a) Property may be required to have street improvements including curb, gutter, and  
sidewalk along all street frontage; however, an exception may be granted for any  
22 or all of these improvements by city council at the time of zoning approval.
- 24 i. The city council may grant a waiver of the street improvements only if it  
makes a written finding that one of the following conditions exist on the  
26 proposed property:
- 28 1. Potential pedestrian traffic in area is so minimal that improvements are  
not warranted or needed to ensure public health and safety;
- 30 2. Properties surrounding the proposed property are without curb, gutter,  
and sidewalks and requiring street improvements would result in  
32 disconnected or isolated improvements;
- 34 a. A waiver under this condition may only be granted upon the execution of a  
development agreement to install the improvements at a later date as required  
36 in this Section.
- 38 3. The natural topography or vegetation preexisting in the area are desirable  
to maintain and can be done without creating unreasonable risks to  
pedestrians; or
- 40 4. The requirement to construct the improvements would cause an  
unreasonable hardship for the applicant that is not necessary to carry out  
the purpose this Chapter.
- 42 a. To grant a waiver under this condition the city council must  
further find that;
- 44 i. There are special circumstances unique to the proposed property which do not  
generally apply to other similar properties;
- 46 ii. The asserted hardship was not self-imposed and
- iii. Granting the waiver is within the spirit of this Chapter, will not be contrary to the  
public interest, and substantial justice will be done.

48 Mr. Van Wagenen stated this is a request for a new section of code to be added to

2 Title 17 called Residential Business Overlay (RBO) zone. He pointed out that the  
3 ordinance gives greater allowances than current home occupation standards in regards to  
4 parking, hours of operation, and clients. Unlike the home occupation ordinance, however,  
5 only certain properties will be eligible for the overlay based on frontage, size, and  
6 proximity to collector roads and commercial zones. Additionally, any property desiring to  
7 use the RBO zone would need to apply for a Zone Map change to apply the overlay to a  
8 specific property. Although this request only deals with the zoning text and not the  
9 zoning map, it is important to understand why the applicant is making the request and  
10 how it pertains to her property.

11 Mr. Van Wagenen then gave a brief history explaining in 2016, Ms. Podzikowski  
12 purchased the property on the corner of Main Street and 200 South (172 South Main). At  
13 the time, the property had an old home on it and the property was split zoned with a small  
14 corner residential and the majority commercial. With plans to build a new home and  
15 operate her existing dance company from the home, Ms. Podzikowski felt the property  
16 was a good fit with its proximity to commercial operations. Ms. Podzikowski was able to  
17 demolish the old home and build a new home under City ordinances allowing such, in  
18 addition to the small corner of the property being residential. At the time, new  
19 construction of a home after demolition of an existing home did not require any public  
20 improvements. Upon completion of the home, Ms. Podzikowski obtained a home  
21 occupation license and began operating her dance company.

22 Mr. Van Wagenen noted not long after operations began, City Staff became aware  
23 that the number of students and contracted staff was well beyond the home occupation  
24 allowances. After many discussions with City Staff on potential solutions to the situation,  
25 Ms. Podzikowski decided to apply for a new ordinance (the draft is before the  
26 commission tonight).

27 Mr. Van Wagenen stated the creation of a new zoning ordinance is always met  
28 conservatively as unintended consequences are feared. To alleviate the concern about  
29 proliferation of this zone, parameters for property to even be eligible are included in the  
30 text as follows:

31 *2. Site requirements for zone eligibility:*

- 32 a) *Property must have a minimum of fifty (50) feet of street frontage along a major*  
33 *collector road as identified by the Lindon City Street Master Plan Map.*  
34 b) *Property must be a minimum of 30,000 square feet.*  
35 c) *Property must be adjacent to or across the street from a non-residential zone or*  
36 *within a non-residential zone. For purposes of this ordinance, the Commercial*  
37 *Farm zone is not considered a non-residential zone.*

38 Mr. Van Wagenen then referenced the map showing the properties within the City  
39 that would be eligible to apply to the zone. Even with eligibility established, an applicant  
40 would need approval from the City before the overlay would be in place.

41 Highlights of the ordinance are as follows:

- 42 1. Public improvement requirements can be waived by the City Council.  
43 2. All building and fire codes must be met based on desired occupancy (this can  
44 require significant upgrades if using a residence for certain commercial purposes).  
45 3. Business owner must live on-site as primary resident  
46 4. Permitted Uses are:  
47 a. Barbers, cosmetologists, manicurists.

- 2                   b. Culinary, Bakery, Food Preparation.
- 4                   c. Consultant or Professional Services with additional employees or
- 6                   d. Contractor, “handyperson”, and landscape or yard maintenance
- 8                   contractor; subject to the special conditions that no construction
- 10                  materials or equipment will be stored on the premises outside of an
- 12                  approved structure.
- 14                  e. Pre-School
- 16                  f. Home instruction including, but not limited to, in-home lessons such
- 18                  as: musical instruments, voice, dance, acting, graphic arts, art, and
- 20                  educational subjects, swimming, tennis, and other athletic instruction.
- 22                  g. Other permitted uses include any land use permissions in the
- 24                  underlying zone.
- 26                  5. Rear Yard Setbacks are 20 feet to residential zones and 10 feet to non-residential
- 28                  zones.
- 30                  6. Minimum of eight feet of landscaping is required adjacent to public rights of way.
- 32                  7. Operating hours are from 7:30 am to 9:00 pm.
- 34                  8. Ten patrons are allowed per hour for most businesses with preschool and home
- 36                  instruction patrons allowed based on occupancy of the structure as determined by
- 38                  building and fire code.
- 40                  9. Up to five employees not residing on the property are allowed.
- 42                  10. Off-street parking requirements are based on type of use
- 44                  11. Only one permanent sign allowed with parameters for temporary signs

26                  Mr. Van Wagenen then referenced Ordinance 2018-8-O Residential Business  
 28                  Overlay Zone draft with Attorney edits, Updated Map of properties that meet parameters  
 30                  to request the overlay, and the Current Zoning Map of 172 South Main followed by  
 32                  discussion.

30                  Chairperson Call pointed out, based on Mr. Haws information, this doesn’t fit  
 32                  under the criteria to grant a waiver and for the improvements to not be required at the  
 34                  time of the zoning application. She also asked, as far as direction to the property owner,  
 36                  what they would have to do at this point (if not approved) with the action taken with the  
 38                  overlay in the city and what it does to this specific property. Mr. Van Wagenen replied  
 40                  the property remains as is with a residential home on it, but it would need a business there  
 42                  to come into compliance with existing code. Commissioner Kallas asked how many  
 44                  locations in the city this overlay zone could potentially apply to. Mr. Van Wagenen said  
 46                  there are 14 properties that would have to make a request to the City Council for a  
 48                  rezone, but it is not guaranteed and is fairly limited. He added that even with eligibility  
 established, an applicant would need approval from the City before the overlay would be  
 in place.

42                  Commissioner Kallas stated he can think of a number of properties that adjoin  
 44                  residential that have been required to put in improvements. He feels it seems a little  
 46                  unfair that some should have to comply and not others. If they are in business for a  
 commercial use he feels they should do a pro forma to see the costs involved to determine  
 if it is going to work and then act accordingly.

48                  Ms. Travis explained they are not trying to find a way to get out of doing the  
 improvements as they are more than willing to do improvements this is just another tool

2 in the cities box to make the transition in areas that are different from a commercial use;  
this is not a full commercial use. She added the City Council and Planning Commission  
4 have the leverage to have the discretion to approve it if they meet the criteria that the city  
attorney has laid out. And for the most part, if applied, those standards would be  
6 applicable.

8 Chairperson Call then read the conditions provided by the City Attorney noting  
she struggles a little bit with the unreasonable hardship aspect. Ms. Travis re-iterated they  
10 want to make the improvements but it is a timing issue and they would agree to sign a  
development agreement. There are circumstances involved with the property and other  
items to look at and they are willing to do that.

12 Commissioner Johnson asked if there has been any thought on the applicant's part  
if this is not approved that she may have to apply for a commercial zone. Ms. Travis  
14 stated they haven't discussed that, but part of what she is looking for is to be able to have  
her home on the site as well. Commissioner Kallas inquired if there is any way to  
16 accomplish what the applicant wants to do and the city wants her to do without doing a  
new overlay zone. Ms. Travis expressed that this is a good negotiation tool for the city  
18 that allows for opportunities not only for this location but for the future as well. She  
recognizes there is compromise on both sides. She noted Ms. Podikowski and the dance  
20 studio brings a positive influence to the neighborhood and she is more that willing to  
meet the requirements.

22 Commissioner Keller stated he understands that they will still put in the  
improvements and requirements, but it doesn't have the commercial setbacks. He feels it  
24 would be a good transition from residential to commercial.

Chairperson Call asked if there were any public comments at this time. Angie  
26 Neuwirth expressed her concerns about safety issues at this location as there is not a safe  
pedestrian walkway. Scott Thompson asked what types of home businesses would trigger  
28 this overlay. Chairperson Call stated with this issue it is because of the volume of  
students and the parking requirements and the fact that part of the property is commercial  
30 and part of the property is residential.

Chairperson Call asked if there were any further public comments. Hearing none  
32 she called for a motion to close the public hearing.

34 COMMISSIONER KELLER MOVED TO CLOSE THE PUBLIC HEARING.  
COMMISSIONER KALLAS SECONDED THE MOTION. ALL PRESENT VOTED IN  
36 FAVOR. THE MOTION CARRIED.

38 Mr. Van Wagenen referenced the map showing residential properties on 800 west  
that are adjacent to the commercial zones and a collector roadway followed by  
40 discussion. Commissioner Marchbanks suggested removing the language "across the  
street" and use the word "adjacent" instead (first page of ordinance, Paragraph C). He  
42 feels there may be more attraction to the City Council to approve this if it falls along  
those properties that come in conjunction with those along the state street corridor and  
44 that would also limit the number of properties that would meet the criteria. Commissioner  
Johnson suggested adding "adjacent to general commercial." There was then some  
46 general discussion regarding the language change.

Chairperson Call asked if we were to approve this ordinance and this applicant  
48 comes back in would they still be subject to the improvements and subject to a

2 development agreement. Mr. Van Wagenen stated they will look at that when the  
application comes in. Commissioner Kallas asked if we make these changes would the  
4 applicant meet all other requirements. Mr. Van Wagenen confirmed there is work to do  
but it could be handled through staff.

6 Chairperson Call asked if there were any further comments or discussion.  
Hearing none she called for a motion.

8  
10 COMMISSIONER MARCHBANKS MOVED TO RECOMMEND TO THE  
CITY COUNCIL APPROVAL OF THE APPLICANT’S REQUEST FOR  
12 ORDINANCE 2018-7-O WITH THE CONDITION THAT ADJACENT PROPERTIES  
ONLY WOULD HAVE TO BE IN THE GENERAL COMMERCIAL ZONE ALONG  
THE STATE STREET CORRIDOR. COMMISSIONER KELLER SECONDED THE  
14 MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

16 CHAIRPERSON CALL	AYE
16 COMMISSIONER MARCHBANKS	AYE
16 COMMISSIONER KALLAS	AYE
18 COMMISSIONER KELLER	AYE
18 COMMISSIONER JOHNSON	AYE

20 THE MOTION CARRIED UNANIMOUSLY.

22 Commissioner Kallas expressed that he voted aye but he feels work should be  
done to get commercial uses in commercial zones. Commissioner Johnson agreed and  
24 feels this is a good transition but he would hope that this will help these to eventually  
become commercial.

- 26  
28 5. **Site Plan — doTERRA Call Center.** doTERRA International requests approval  
for a 203,108 s.f. call center on 13.5 acres located in the Regional Commercial  
zone at 2320 West 400 North.

30  
32 Hugh Van Wagenen, Planning Director, gave a brief overview of this item stating  
the applicant proposes to construct a 203,000 s.f. call center, adjacent to the recently  
approved distribution center. He noted Mr. Mark Ringer and Mr. Neil Valentino are  
34 present as representatives of this application. He noted the facility will house up to 2,300  
employees across different shifts. There is still remaining acreage on the overall site for a  
36 future building and parking. He added the applicant has completed a traffic impact study  
regarding both the doTERRA Call Center and Distribution Center. The study shows that  
38 upon opening, the street intersection at 2800 West 600 North (attachment 6) will have an  
“F” level of service for anyone going to and leaving the doTERRA site in the am and pm  
40 hours, meaning vehicles will have to wait longer than 50 seconds to get through the  
intersection. The report states a signal will be warranted when doTERRA begins  
42 operations. Until a signal is installed, a four-way stop may be beneficial, but has its  
drawbacks for traffic existing the freeway. Also, it was suggested that a round-about  
44 option deserved further study. Additionally, the report recommended the City promote  
services that could benefit the employees in the area, reducing the need to drive during  
46 the daytime hours. Lindon staff has already begun working with UDOT to identify  
solutions to the forthcoming problem.

2 Mr. Van Wagenen went on to say the parking standards are based on the zone and  
the different uses in the building and their respective square footage. The RC zone  
4 requires a 16-20 foot landscape strip behind the meandering five (5) foot sidewalk along  
street frontages. Trees are to be planted every 30 feet in the landscape strip with 30% to  
6 be evergreens and the plan has a mix of evergreen and deciduous trees. The RC zone  
requires an 8-12-foot parkstrip between the curb and the meandering sidewalk along  
8 street frontages with trees every 30 feet. However, due to a conflict with a storm drain  
line, all the trees have been pushed behind the sidewalk and the parkstrip is called out as  
10 sod on the plans.

Mr. Van Wagenen stated the code requires that all buildings in the RC zone  
12 provide appropriate articulation, variation in rooflines, and avoid flat looking  
wall/facades and large, boxy buildings. The building footprint is 63,088 square feet and is  
14 generally one big rectangle with little articulation and little variation in rooflines. Please  
discuss this with the applicant. Code requires primary building materials (60% or  
16 greater), unless otherwise approved by the Planning Commission, to be masonry  
materials such as brick, stone, or decorative concrete block. Fenestration (windows and  
18 doors) can be counted toward the 60% primary building materials. Currently, 56% of the  
primary entrance elevation is glass windows/doors. The remaining 44% of the building is  
20 a metal faced composite wall panel. Metal is not a listed primary or secondary building  
material but may be approved upon Planning Commission review. 44% of the front  
22 building elevation that is metal is a champagne color. Champagne could be considered an  
earth tone color due to its similarity to beige.

Mr. Van Wagenen noted the proposed structure satisfies the setbacks (30 feet  
24 from all property lines and 50 feet from UDOT rights of way) and height requirements  
(80 feet) in the RC zone. The City Engineer is working through technical issues related to  
26 the site and will ensure all engineering related issues are resolved before final approval is  
granted. Mr. Van Wagenen then presented an Aerial photo of the site and surrounding  
28 area, Site Plan, Landscaping, Proposed Building Elevations, Architectural Renderings,  
and the 2800 West 600 North intersection followed by discussion. Mr. Van Wagenen  
30 then turned the time over to the applicant for comment.

Commissioner Kallas asked if there is enough parking on the project without  
32 decking. Mr. Valentino clarified when the call center opens there will be a total of 2,400  
employees and they will plan on the parking for that, and there will be signaling at the  
34 intersection and they will be working with UDOT. Chairperson Call expressed her  
biggest concern is the building mass and the rectangle size with very little articulation.  
36 However, she feels they will be a great contributor to the community but it is a large box  
building.  
38

Commissioner Kallas pointed out the stairwells create some of the elements they  
40 want to see and sometimes the straight lines look good. Mr. Valentino stated they have  
addressed it to create some variation in the building as the lower level is recessed that  
42 makes the building flow well. They have created a lantern effect at night where the stairs  
look like they are floating and they have transparent glass so you can see right through it  
44 to become a window. They have 12" thick walls with recessed windows creating a  
shadow line. They understand the concerns, but when you have a big building you need  
46 to make it breathe as a structure and make it flow. He also explained in detail the  
building elements and landscaping.

2 Mr. Ringer then explained the site plan and building layout and amenities. He  
pointed out the top third floor will remain unfinished at this time. He noted the building  
4 is meant to house the employees and to hopefully keep them at doTerra for years. He also  
further explained the parking requirements and model with the plan being to pick up  
6 more property for parking. He noted they have contacted UTA to facilitate mass transit  
needs in the area for both the existing campus and this new facility. Mr. Van Wagenen  
8 stated the plans still need to be finalized so the parking needs will be worked through and  
staff will make sure the requirements are completed and to also include it in the motion.

10 Commissioner Keller commented that it appears the conditions in the motion  
seems to cover everything. The only concern he can see is if we are comfortable with the  
12 rooftops and articulation of the building but he feels it is sufficient. Commissioner  
Marchbanks expressed that this is a beautiful building and will be a nice addition to the  
14 area. Following discussion, the Commission were in agreement to accept the building  
materials as presented and that the building will be a beautiful addition to the city.

16 Chairperson Call asked if there were any further comments or discussion.  
Hearing none she called for a motion.

18  
20 COMMISSIONER KALLAS MOVED TO APPROVE THE APPLICANT'S  
REQUEST FOR SITE PLAN APPROVAL WITH THE FOLLOWING CONDITIONS:  
22 1. STREET DEDICATION AND SIDEWALK/STREET LIGHT AND STORM  
WATER EASEMENTS BE EXECUTED AND 2. VEHICLE AND BIKE PARKING  
REQUIREMENT BE MET BY STAFF AND 3. COMPLY WITH ALL ENGINEERING  
24 REQUIREMENTS AS DETERMINED BY THE CITY. COMMISSIONER  
MARCHBANKS SECONDED THE MOTION. THE VOTE WAS RECORDED AS  
26 FOLLOWS:

28 CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
30 COMMISSIONER KELLER	AYE
COMMISSIONER JOHNSON	AYE

32 THE MOTION CARRIED UNANIMOUSLY.

- 34 6. **Major Subdivision — Estates at Anderson Farms.** Ken Watson, on behalf of  
Ivory Development LLC, request major subdivision approval for a 51-lot  
36 subdivision on 17.5 acres in the Anderson Farms Planned Development Zone.  
Recommendations will be forwarded to the City Council for final approval.

38  
40 Mr. Van Wagenen gave some background of this item explaining this is the  
seventh plat of the Anderson Farms Planned Development which was approved by  
Development Agreement between Lindon City and Ivory Development, LLC in June of  
42 2016. Estates consists of 56 units in what is considered Parcel E of the Anderson Farms  
concept plan. He noted the Development of Anderson Farms is governed by the  
44 Anderson Farms Master Development Agreement and all standards are referred to here  
are a part of that Agreement. The average lot size is 10,242 s.f. with the largest lot being  
46 14,797 s.f. and the smallest being 8,244 s.f. These lots are consistent with the concept  
plan. Parcel A is an access road to the sewer lift station and regional park. Setbacks are:  
48 20-foot front, 20-foot rear, 6/10-foot side yards for a total of 16 feet between Homes.

2 This is consistent with the concept plan. 56 lots are one more lot than what is shown on  
the concept plan for Parcel E (55). However, Gardens at Anderson Farms (Parcel F),  
4 which has also been applied for, has four fewer lots than the concept plan. He noted that  
staff will ensure the overall units (865) for the project do not exceed approvals per the  
6 Development Agreement.

8 Mr. Van Wagenen indicated new roads will be built to serve the subdivision and  
curb, gutter and five-foot sidewalks will be installed along the new local streets in  
addition to six-foot planter strips. The eastern edge of the subdivision border Anderson  
10 Lane (not to be confused with Anderson Boulevard). The Development Agreement  
requires certain improvements to Anderson Lane in conjunction with this plat: "It will  
12 include grading and slag/asphalt improvements along Anderson Lane." Mr. Van  
Wagenen then went over the Development Agreement Requirements followed by  
14 discussion. He noted the park amenities are associated with building permits issued not  
the lots recorded. He then turned the time over to Mr. Watson for comment.

16 Mr. Watson stated they have sold 26 units in plat A and are just starting to build  
the townhomes. He would encourage the Commission to visit the site. The park is  
18 coming but not until 60% of all permits are in and they haven't gotten to that point as yet.

20 Mr. Van Wagenen then presented an Aerial photo of the proposed subdivision,  
Overall Anderson Farms Concept Plan, Estates Concept Plan, Preliminary Estates at  
Anderson, Farms Plat A, Concept and Preliminary Plat Comparison, and the 55-foot  
22 Right of Way Local Street Cross Sections followed by some general discussion.

24 Chairperson Call asked if there were any further comments or discussion.  
Hearing none she called for a motion.

26 COMMISSIONER KELLER MOVED TO RECOMMEND TO THE CITY  
COUNCIL APPROVAL OF THE APPLICANT'S REQUEST FOR APPROVAL OF A  
28 56-LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS ESTATES AT  
ANDERSON FARMS WITH THE FOLLOWING CONDITIONS: 1. COMPLY WITH  
30 ASPECTS OF DEVELOPMENT AGREEMENT AS LISTED IN THE STAFF REPORT  
AND 2. RENAME THE STREETS LISTED AS BROOKVIEW IN ORDER TO AVOID  
32 CONFUSION WITH PLATS A AND B OF ORDINANCE 2018-12-O WITH NO  
CONDITIONS. COMMISSIONER MARCHBANKS SECONDED THE MOTION.

34 THE VOTE WAS RECORDED AS FOLLOWS:

36 CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
38 COMMISSIONER KELLER	AYE
COMMISSIONER JOHNSON	AYE

40 THE MOTION CARRIED UNANIMOUSLY.

42 7. **Major Subdivision — Gardens at Anderson Farms.** Ken Watson, on behalf of  
Ivory Development LLC, request major subdivision approval for a 65-lot  
44 subdivision on 12.7 acres in the Anderson Farms Planned Development Zone.  
Recommendations will be forwarded to the City Council for final approval.

46 Mr. Van Wagenen opened this agenda item by stating this is the sixth plat of the  
48 Anderson Farms Planned Development which was approved by Development Agreement

2 between Lindon City and Ivory Development, LLC in June of 2016. He noted Gardens at  
Anderson Farms consists of 65 units in what is considered Parcel F of the Anderson  
4 Farms concept plan. Parcel F is identified as an “Active Adults Community.”  
Development of Anderson Farms is governed by the Anderson Farms Master  
6 Development Agreement and all standards are referred to here are a part of that  
Agreement. Although not required by the Development Agreement, a 6-foot pedestrian  
8 access way in the southwest corner (Lots 131/132) of the development would provide  
more direct access to the surrounding area and regional park. He explained in the concept  
10 plan, this parcel shows individually owned pad sites, like a townhome or condo, with  
common space in between each pad. However, this application has privately owned lots  
12 without the common space and be part of an HOA. The concept plan shows 65 units and  
the current application has 62 lots, a 3-unit reduction so the home site configuration has  
14 been slightly adjusted.

Mr. Van Wagenen stated the average lot size is 6,495 s.f. with the largest lot  
16 being 14,579 s.f. and the smallest being 4,866 s.f. He noted Mr. Watson has indicated the  
lot lines will be adjusted slightly to optimize rear yard space with total unit count  
18 remaining within the parameters of the Development Agreement. He pointed out that  
new roads will be built to serve the subdivision with curb, gutter and five-foot sidewalks  
20 will be installed along the new local streets in addition to six-foot planter strips. Mr. Van  
Wagenen then went over the Development Agreement Requirements (as binding in  
22 place) followed by discussion. He then turned the time over to Mr. Watson for  
comment. Mr. Watson explained the reduction of units and the new phase which will be  
24 all ramblers with no two-story units. They will be age targeted for 55 and over and will  
be part of the overall HOA and will be done in one plat.

Mr. Van Wagenen then presented an Aerial photo of the proposed subdivision,  
26 Overall Anderson Farms Concept Plan, Active Adult Concept Plan, Preliminary Gardens  
at Anderson Farms Plat A, Concept and Preliminary Plat Comparison, 55-foot Right of  
28 Way Local Street Cross Section, Exhibit J for Anderson Lane, and the 47.5-foot Right of  
Way Anderson Lane Cross Section followed by discussion.  
30

Chairperson Call asked if there were any further comments or discussion.  
32 Hearing none she called for a motion.

34 COMMISSIONER MARCHBANKS MOVED TO RECOMMEND TO THE  
CITY COUNCIL APPROVAL OF THE APPLICANT’S REQUEST FOR APPROVAL  
36 OF A 62-LOT SENIOR LIVING RESIDENTIAL SUBDIVISION TO BE KNOWN AS  
GARDENS AT ANDERSON FARMS PLAT A WITH THE FOLLOWING  
38 CONDITIONS: 1. PROVIDE CONDITIONS, COVENANTS, AND RESTRICTIONS  
VERIFYING THIS IS A 55+ SENIOR LIVING COMMUNITY AND 2. COMPLY  
40 WITH ASPECTS OF DEVELOPMENT AGREEMENT AS LISTED IN THE STAFF  
REPORT AND 3. PROVIDE A 6-FOOT PEDESTRIAN ACCESS WAY BETWEEN  
42 LOTS 131 AND 132 FROM ORCHARD LANE TO ANDERSON BOULEVARD IF  
POSSIBLE. COMMISSIONER KELLER SECONDED THE MOTION. THE VOTE  
44 WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
46 COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
48 COMMISSIONER KELLER	AYE

2 COMMISSIONER JOHNSON AYE  
THE MOTION CARRIED UNANIMOUSLY.

4  
8. **Public Hearing — Ordinance Amendment, Lindon City Code 8.20 Public Nuisances.** Lindon City requests approval of an amendment to Lindon City Code Section 8.20.030 Nuisance – Definition subsection (2)(cc) Inappropriate Noise. The proposal would address potential hours during which Inappropriate Noises are not allowed. Recommendations will be forwarded to the City Council for final approval. (Pending Ordinance 2018-9-O) (Item continued from 6/12/18)

12 COMMISSIONER KELLER MOVED TO OPEN THE PUBLIC HEARING.  
14 COMMISSIONER JOHNSON SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

16 Mr. Van Wagenen explained this item was continued from the June 12<sup>th</sup> meeting at the Commission’s request. He noted noise complaints are not uncommon but are not particularly frequent either. However, the existing nuisance code regarding Inappropriate Noise does not have any defined quiet hours, but rather leaves the time frame open to interpretation based on “noise that is substantially incompatible with the time and location where created.” He noted city staff prefers to have defined hours from 10:30 pm to 7:00 am where it is very clear that inappropriate noise is not permitted. This not only helps with enforcement but with public education also.

24 Mr. Van Wagenen indicated concern was expressed by Commissioner Keller that these restrictions would not be favorable to businesses with 24-hour production shifts, especially those far away from residential areas. The Commission agreed to continue the item so that staff could do additional research into the concern. He noted staff’s initial effort to modify the ordinance was to add relatively little text but have defined quiet hours. Several other cities have a much more specific and lengthier code dealing with noise issues. Additionally, several sections of the Lindon City Code deal with noise and quiet hours for specific uses such as: a) 17.30.070 as follows:

32 *All grading and excavation in or contiguous to residential neighborhoods shall be carried on between the hours of seven a.m. to five-thirty p.m. The zoning administrator may waive this requirement if it is shown that restricting the hours of operation would unduly interfere with the development of the property and it is shown that other properties or neighborhood values would not be adversely affected. Receiving areas located within one hundred fifty feet (150') of a residential zone shall be located inside an approved building or in an area enclosed on three (3) sides and covered with a roof. Access to receiving docks shall be from the front of the building or from the side of the building, provided the side of the building is not oriented toward an adjacent residential zone. Receiving areas shall be signed to indicate the hours the receiving area is operational and shall be signed to prohibit engine idling when the receiving area is closed. Receiving areas adjacent to a residential zone shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless provisions can be made to bring merchandise into the store through the front or side of the store not oriented toward a residential area. Materials, such as pallets, store fixtures, and other similar items shall not be stored in the receiving area. Any and all venting of the receiving areas shall be to the interior.*

2 Mr. Van Wagenen then went over code section 17.51.145 Noise Limits as follows:

- 4 1. Noise levels, as measured in decibels, from any commercial event/activity shall  
6 be limited to the following levels:
  - 8 a) Eighty-five (85) dBA between 7:00 a.m. and 10:00 p.m.
  - 10 b) Fifty-five (55) dBA between 10:00 p.m. and 7:00 a.m.
- 12 2. Devices used to measure noise levels shall:
  - 14 a) Be set to the “A” frequency weighting and “slow” response characteristic; and
  - 16 b) Be placed at any point on the property line.
- 18 3. Any noise level greater than the approved levels above may be allowed through  
20 the issuance of a special event permit as approved by Lindon City. (Ord. 2017-16  
22 §1, adopted, 2017) With this in mind, staff has added language that considers  
24 noise in and adjacent to residential zones and a line dealing with other sections of  
26 code that may differ from this noise regulation. The requested change allows staff  
28 to give clear information to the public and a clear timeframe to enforce quiet  
30 hours. The added language does not take away the ability of the City to enforce  
32 other noise disturbances outside of those hours if such a situation should develop.  
34 The suggested language is shown in italics below:

8.20.030(2)

36 cc. *Inappropriate Noise.* It shall be unlawful for any person to make, permit,  
38 continue, or cause to be made, or to create any unreasonable loud and disturbing  
40 noise in the City. Any noise which is substantially incompatible with the time and  
42 location where created to the extent that it creates an actual or imminent  
interference with peace and good order of persons of ordinary sensibilities shall  
be prohibited. *Quiet hours for residential zones and properties adjacent to  
residential zones shall be between 10:30 pm and 7:00 am for construction  
projects, public and private events, and any other activity with the propensity to  
create noise that may impact others in an adverse manner. Exceptions to quiet  
hours may be obtained upon approval from the City Administrator, or his/her  
designee. If this section is in conflict with another section of City Code, the more  
restrictive section shall apply.*

34 Chairperson Call called for any public comment at this time. There were several  
36 in attendance who addressed the Commission as follows:

38 Angie Neuwirth stated she lives close to the Lindon Nursery event center where  
40 weddings and receptions are held. She noted there is excessive noise (music) from the  
42 event center seven days a week. Joe Walker stated he lives adjacent to the center noting  
the noise is going on until after 11pm. He has been a Lindon resident for the past 21  
years and this is unacceptable. He has called the police at least 20 times due to the  
complaints. He questioned where in the policy does it protect the rights for citizens as this  
is a huge nuisance. He noted the nursery leases it out so they say they have no control  
over those who rent it.

44 Mr. Van Wagenen stated staff is asking for direction in making tweaks to the  
46 ordinance as to have something more detailed and specific as to educate the public and  
48 also be easier to enforce. Chairperson Call asked where we have made regulations on  
sound and noise in the commercial farm zone is there anything we can do for other areas  
in the city. Mr. Van Wagenen confirmed that statement. Commissioner Kallas pointed  
out that having a noise ordinance doesn't mean everything has to shut down at 10pm but

2 the noise decibel levels do. Following some additional discussion, the Commission was  
in agreement to continue this item for further discussion and research in crafting the  
4 ordinance and moving forward.

6 Chairperson Call asked if there were any further public comments. Hearing none  
she called for a motion to close the public hearing.

8 COMMISSIONER KELLER MOVED TO CLOSE THE PUBLIC HEARING.  
10 COMMISSIONER KALLAS SECONDED THE MOTION. ALL PRESENT VOTED IN  
FAVOR. THE MOTION CARRIED.

12 Chairperson Call asked if there were any further comments or discussion.  
Hearing none she called for a motion to continue to continue.

14  
16 COMMISSIONER KALLAS MOVED TO CONTINUE ORDINANCE  
AMENDMENT 2018-9-O TO ALLOW STAFF TO DO FURTHER RESEARCH.  
18 COMMISSIONER KELLER SECONDED THE MOTION. THE VOTE WAS  
RECORDED AS FOLLOWS:

20 CHAIRPERSON CALL	AYE
22 COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER KELLER	AYE
COMMISSIONER JOHNSON	AYE

24 THE MOTION CARRIED UNANIMOUSLY.

26 9. **New Business: Reports by Commissioners** – Chairperson Call called for any  
28 new business or reports from the Commissioners.

30 Chairperson Call mentioned a resident brought up the issue of entrances going into  
the Avalon and Osmond Senior living facilities that are very dark and difficult to enter at  
night and are a safety hazard and if there is anything the city can do to require businesses  
32 to provide lighting units for safety concerns. Mr. Van Wagenen stated he will check into  
this issue and he would also suggest talking to the management. Commissioner Keller  
34 mentioned with the secondary water going in at the new Ivory development if there is any  
chance of it going in to the Fieldstone area also. Mr. Van Wagenen stated it is getting  
36 stubbed in so the possibility is there but the logistics are a little harder. Commissioner  
Kallas said he has heard a lot of complements on the recent Lindon Days celebration.  
38 Commissioner Johnson mentioned there was a resident community meeting on the  
Norton property regarding the proposed storage units.

40  
42 10. **Planning Director Report** – Mr. Van Wagenen reported on the following item  
followed by discussion.

- 44 • American Planning Association Utah Chapter Fall Conference, Sandy,  
October 4<sup>th</sup> - 5<sup>th</sup>
- 46 • Mt. Tech IV Grand Opening, RSVP needed. September 13<sup>th</sup>, 3-5pm
- 48 • Treatment Center Hearing (staff only) August 16<sup>th</sup>

2 Chairperson Call called for any further comments or discussion. Hearing none she  
called for a motion to adjourn.

4 **ADJOURN** –

6  
8 COMMISSIONER MARCHBANKS MADE A MOTION TO ADJOURN THE  
MEETING AT 10:10 PM. COMMISSIONER KELLER SECONDED THE MOTION.  
10 ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

12 Approved – August 28, 2018

14 \_\_\_\_\_  
Sharon Call, Chairperson

16  
18 \_\_\_\_\_  
20 Hugh Van Wagenen, Planning Director

**Item 3: Public Comment**

**1** - Subject \_\_\_\_\_  
Discussion

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**2** - Subject \_\_\_\_\_  
Discussion

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**3** - Subject \_\_\_\_\_  
Discussion

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## Item 4: Public Hearing — Zone Map Amendment Commercial Farm Zone ~450 E. Center St.

Mike Jorgensen, Walker Farms of Lindon, LLC, requests approval of a Zone Map Amendment to reclassify the following parcels from Residential Single Family (R1-20) to the Commercial Farm (CF) zone: 14:073:0237 (Mike Jorgensen, MJ Real Estate Holdings LLC) and 14:073:0036 (Mike Jorgensen, MJ Real Estate Holdings LLC). Total land area of ~1.06 acres. Recommendation(s) will be forwarded to the City Council. (Pending Ordinance 2018-\_\_\_\_-O).

<p>Applicant: Mike Jorgensen, Walker Farms of Lindon, LLC Presenting Staff: Brandon Snyder</p> <p>General Plan: Residential Low Current Zone: Residential (R1-20)</p> <p>Property Owner(s): Mike Jorgensen, MJ Real Estate Holdings LLC Address: ~450 E. Center St. Parcel IDs: 14:073:0237 and 14:073:0036 Area Size: ~1.06 acres</p> <p>Type of Decision: Legislative Council Action Required: Yes</p>	<p><u>SUMMARY OF KEY ITEMS</u></p> <ol style="list-style-type: none"><li>Whether to recommend approval of a request to change the zoning map for the subject properties from Residential (R1-20) to Commercial Farm (CF).</li></ol> <p><u>MOTION</u></p> <p>I move to recommend to the Lindon City Council (approval, denial, continue) of the applicant's request to rezone the subject properties with the following condition(s) (if any):</p> <ol style="list-style-type: none"><li>That the applicant works with City Staff to address and correct: setback concerns and lot issues raised by recent unapproved divisions of land.</li></ol>
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### OVERVIEW

The applicant is requesting to rezone the subject properties from Residential (R1-20) to the Commercial Farm (CF) zone. The properties under consideration were recently purchased by the applicant. In discussions with the applicant, it appears that the main reason for rezoning the properties is to add them to the adjacent CF zoned parcels also under his ownership. This will increase the area for a proposed reception center by the applicant in the CF zone that is currently under review by City Staff (which will come before the Planning Commission and City Council at a later date for review and approval). Adding acreage will more easily allow the proposed reception center proposal to be able to comply with the Lindon Code requirement that some of the property associated with the use be left in agricultural production. (See Lindon City Code 17.51.015). The applicant would be adding the acreage of these properties to the adjacent properties recently rezoned to the CF zone. (Please refer to the attached minutes from 2017 and map below.) The applicant intends to build a reception/event center while raising and breeding alpacas and selling alpaca wool.

(As previously noted, the applicant is currently going through Staff review of the proposed site plan/conditional use permit for the reception center. Staff is reviewing the site plan application

to ensure all site requirements are met regarding parking, landscaping, fencing, building height, etc. That item will be brought before the Planning Commission and City Council once ready. The latest version of the site plan is attached.) The properties currently being considered for rezoning (depicted below) are vacant and most recently have been used for agricultural related purposes.



**Lindon City Code 17.51.010 Purpose and Objectives:**

Commercial farm zones (CF) are established to provide encouragement of agricultural production and associated commercial activities that are compatible with and/or promote agricultural uses within the city. Objectives of the zone include promoting and preserving agricultural production, promoting agricultural open space throughout the city, and allowing associated commercial activities which could be used as additional revenue sources to help sustain and support agricultural industry within Lindon. Although the intent of the zone is to promote agricultural uses within the city, the zone may be utilized as a “holding zone” to allow reasonable options for income from agricultural and/or commercial uses for a period of time before developing the land in conformance with the general plan land use map.

Permitted uses in the CF zone include: Single-family residence; accessory buildings to a single-family dwelling; agricultural production and related accessory buildings; other permitted uses in the R1 residential zones. Uses that are permitted conditionally include: Caretaker’s or farm-help accessory dwelling unit; commercial horse stables; farmers’ market; greenhouses; plant or garden nursery; garden center; bed and breakfast facility; educational programs and associated facilities; amphitheater; reception center; conference center; boutique; cafe; restaurant;

veterinary clinic; and food manufacturing (not to exceed two thousand (2,000) square feet of processing and production area). (Please refer to Lindon City Code 17.51.012 Permitted Uses.)

Public Hearing Notices required per Lindon City Code section 17.14 were mailed on August 16, 2018. No public comments have been received at this time.



### FINDINGS OF FACT

The proposed area to be rezoned is 1.06 acres. The existing CF zone is 5.23 acres. Combined total would be ~6.29 acres. Increasing the acreage of the CF project will help to further address a concern raised in 2017, if 5 acres as a minimum project size is adequate.

LCC 17.51.020 Lot Area requires: The minimum area of any lot or parcel of land in the CF zone shall be five (5) acres. Multiple parcels that total five (5) acres or more may

qualify as meeting the minimum lot area without combining the parcels only when they are under identical legal ownership and are contiguous. A deed restriction prohibiting the separation of parcels may be required in order to maintain the minimum five (5) contiguous acres.

Staff has concerns over recent deed work by the applicant that has resulted in setback issues for existing accessory buildings, parcels that have been created that are land-locked (no frontage along a public street), and a parcel that doesn't have adequate acreage to comply with the zoning requirements (See LCC 17.44, 17.51 and Utah State Code 10-9a-103(57)). These issues were created when the applicant negotiated to buy additional parcels. Staff can work with the applicant to address and correct the concerns by adjusting property lines in accordance with Utah State Code and combining parcels in order to comply with zoning regulations relating to setbacks, acreage, frontage and subdividing. Another option to address the setback concerns would be to relocate or remove the existing accessory buildings.



The applicant has previously provided a brief business plan and is working through a concept site plan for the property. Staff anticipates minor changes to the site plan if additional area is added to the CF zone. The most recent site plan layout (going through City Staff review) is attached

- Business Plan for the Commercial Farm

- “We will have 14 alpacas. Our intent is to sell the offspring as breeding pairs, or what’s called a starter pack. This will consist of a pregnant female and an unrelated male. We can also sell the wool which can be quite expensive and highly sought after.”
- The reception/event center will be an additional revenue source for the alpaca operation. This is a conditionally permitted use in the CF zone.

One of the main requirements for CF zone consideration is listed in LCC 17.51.015 and states:

- Agricultural Production Required
  - 1. At least 40% of the property must be maintained in active agricultural production and be managed in such a way that there is a reasonable expectation of profit. Land used in connection with a farmhouse, such as landscaping, driveways, etc., cannot be included in the area calculation for agricultural production eligibility.
  - 2. For the purposes of this chapter, “agricultural production” shall be defined as the production of food for human or animal consumption through the raising of crops and/or breeding and raising of domestic animals and fowl (except household pets) in such a manner that there is a reasonable expectation of profit.

The application does meet the requirements for lot area, lot width, lot depth, and lot frontage.

The concept site plan does show the existing single-family home in addition to a caretaker dwelling that is currently being restored (Center and 500 East).

#### ATTACHMENTS

1. Picture (from Center Street looking south)
2. Conceptual Site Plan and Building Elevations
3. LCC 17.51 Commercial Farm Zone
4. Planning Commission and City Council meeting minutes (2017)





400 East Street

Center Street

500 East Street

500 East Street

Thompson

Nichols

Anderson

Anderson

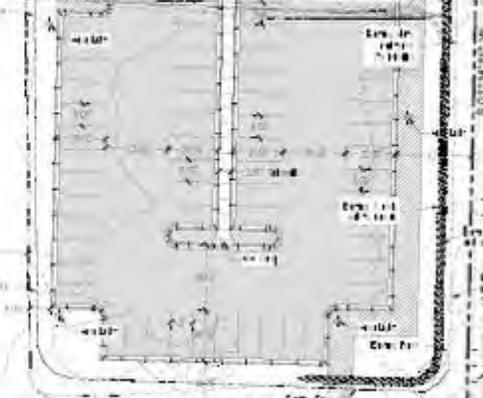
Pasture

Pasture

Pasture

Pasture

Pasture



Total Area  
266,599 SF  
6.12 AC

**CONCEPT**

8.87°51'25" E 991.61'

PL 001  
Title  
Date

Scale  
North

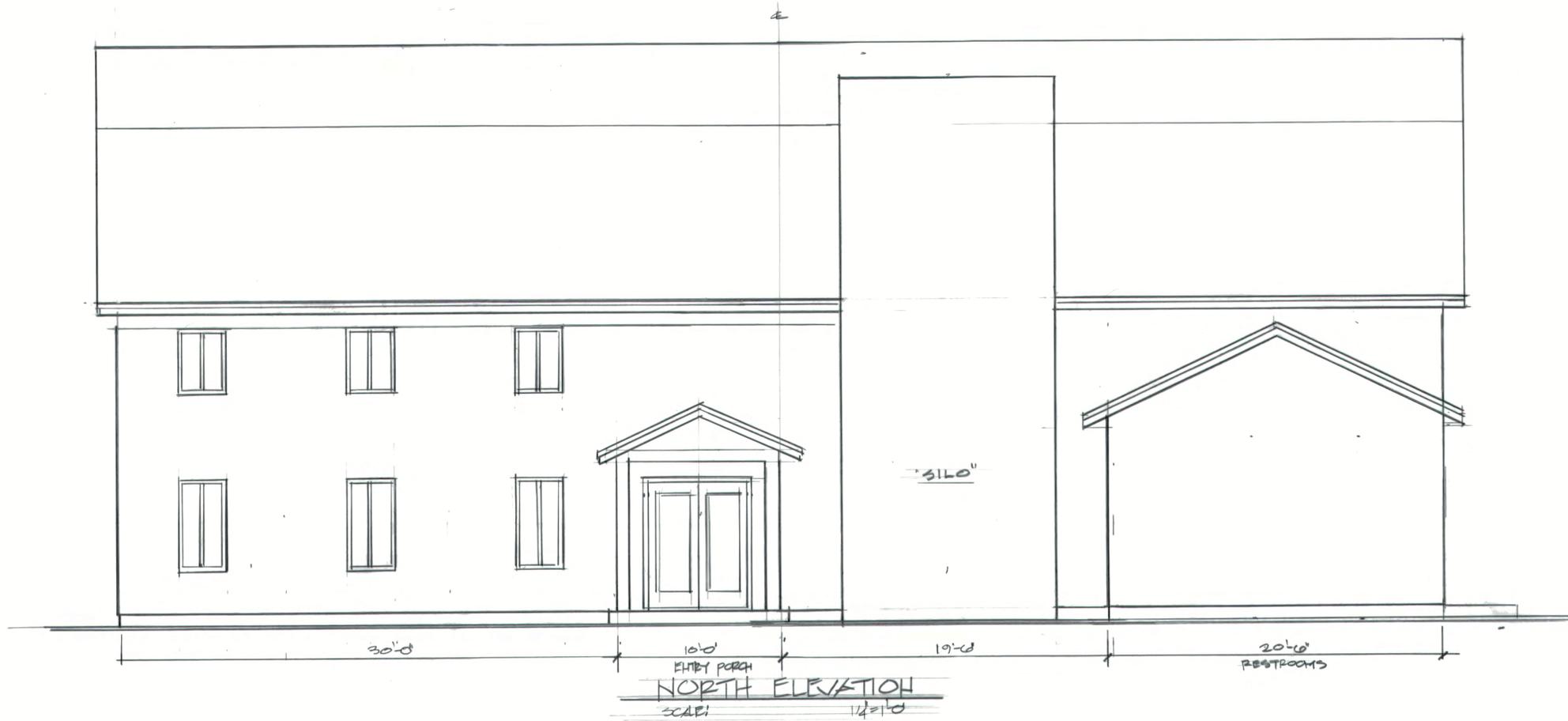


WEST ELEVATION  
SCALE: 1/4"=1'-0"



EAST ELEVATION  
SCALE: 1/4"=1'-0"

KELKER FARM  
500 EAST CENTER ST. LINCOLN, UT.



WALKER FARM  
500 EAST CENTER ST.  
LIMON, UTAH

## **Chapter 17.51**

### **COMMERCIAL FARM ZONE**

Sections:

- 17.51.010 Purpose and objectives.**
- 17.51.012 Permitted uses.**
- 17.51.014 Owner residency required.**
- 17.51.015 Agricultural production required.**
- 17.51.020 Lot area.**
- 17.51.030 Lot width.**
- 17.51.040 Lot depth.**
- 17.51.050 Lot frontage.**
- 17.51.070 Number of dwellings per lot.**
- 17.51.080 Noncommercial building yard setback requirements.**
- 17.51.085 Commercial building yard setback requirements.**
- 17.51.090 Projections into yards.**
- 17.51.100 Building height.**
- 17.51.110 Distance between buildings.**
- 17.51.120 Permissible lot coverage.**
- 17.51.125 Screening and fencing.**
- 17.51.130 Parking.**
- 17.51.140 Residential and agricultural accessory buildings.**
- 17.51.145 Noise limits.**
- 17.51.150 Other requirements.**

#### **17.51.010 Purpose and objectives.**

Commercial farm zones (CF) are established to provide encouragement of agricultural production and associated commercial activities that are compatible with and/or promote agricultural uses within the city. Objectives of the zone include promoting and preserving agricultural production, promoting agricultural open space throughout the city, and allowing associated commercial activities which could be used as additional revenue sources to help sustain and support agricultural industry within Lindon. Although the intent of the zone is to promote agricultural uses within the city, the zone may be utilized as a “holding zone” to allow reasonable options for income from agricultural and/or commercial uses for a period of time before developing the land in conformance with the general plan land use map. (Ord. 2017-16 §1, amended, 2017)

### **17.51.012 Permitted uses.**

The following is a list of permitted, conditional, and nonpermitted uses in the CF zone:

1. *Permitted Uses.* Single-family residence; accessory buildings to a single-family dwelling; agricultural production and related accessory buildings; other permitted uses in the R1 residential zones.
2. *Conditional Uses.* Caretaker's or farm-help accessory dwelling unit; commercial horse stables; farmers' market; greenhouses; plant or garden nursery; garden center; bed and breakfast facility; educational programs and associated facilities; amphitheater; reception center; conference center; boutique; cafe; restaurant; veterinary clinic; and food manufacturing (not to exceed two thousand (2,000) square feet of processing and production area). (Ord. 2017-16 §1, amended, 2017)

### **17.51.014 Owner residency required.**

Each commercial farm project shall have a legal on-site residence that is owner occupied. (Ord. 2017-16 §1, adopted, 2017)

### **17.51.015 Agricultural production required.**

1. At least forty percent (40%) of the property must be maintained in active agricultural production and be managed in such a way that there is a reasonable expectation of profit. Land used in connection with a farmhouse, such as landscaping, driveways, etc., cannot be included in the area calculation for agricultural production eligibility.
2. For the purposes of this chapter, "agricultural production" shall be defined as the production of food for human or animal consumption through the raising of crops and/or breeding and raising of domestic animals and fowl (except household pets) in such a manner that there is a reasonable expectation of profit. (Ord. 2017-16 §1, amended, 2017)

### **17.51.020 Lot area.**

The minimum area of any lot or parcel of land in the CF zone shall be five (5) acres. Multiple parcels that total five (5) acres or more may qualify as meeting the minimum lot area without combining the parcels only when they are under identical legal ownership and are contiguous. A deed restriction prohibiting the separation of parcels may be required in order to maintain the minimum five (5) contiguous acres. (Ord. 2017-16 §1, amended, 2017)

**17.51.030 Lot width.**

Each lot or parcel of land in the CF zone, or conglomeration of parcels as defined in Section [17.51.020](#), shall have a width of not less one hundred feet (100') (measured at front yard setback). (Ord. 2017-16 §1, amended, 2017)

**17.51.040 Lot depth.**

Each lot or parcel of land in the CF zone, or conglomeration of parcels as defined in Section [17.51.020](#), shall have a minimum lot depth of one hundred feet (100'). (Ord. 2017-16 §1, amended, 2017)

**17.51.050 Lot frontage.**

Each lot or parcel of land in the CF zone, or conglomeration of parcels as defined in Section [17.51.020](#), shall abut a public street for a minimum distance of fifty feet (50'), on a line parallel to the centerline of the street or along the circumference of a cul-de-sac improved to city standards. Frontage on a street end which does not have a cul-de-sac improved to city standards shall not be counted in meeting this requirement. (Ord. 2017-16 §1, amended, 2017)

**17.51.070 Number of dwellings per lot.**

Not more than one (1) single-family dwelling with an accessory apartment, and one (1) caretaker's or farm-help dwelling, may be placed on a lot or parcel of land in the CF zone (or conglomeration of parcels necessary to meet minimum acreage requirements). In no case may the caretaker's or farm-help dwelling be sold as a separate, subdivided lot unless it meets all requirements of the underlying zone. Owner occupancy of a primary residence on the property is required to maintain a caretaker's or farm-help dwelling unit. (Ord. 2017-16 §1, amended, 2017)

**17.51.080 Noncommercial building yard setback requirements.**

The following minimum yard requirements shall apply to noncommercial buildings in the CF zone: (Note: All setbacks are measured from the property line, or for property lines adjacent to a street the setback shall be measured from the street right-of-way line.)

1. Front yard setback: thirty feet (30').
2. Rear yard setback: thirty feet (30').
3. Side yard setback: ten feet (10').
4. *Street Side Yard - Corner Lots.* On corner lots, the side yard contiguous to the street shall not be less than thirty feet (30') and shall not be used for vehicle parking, except such portion as is devoted to driveway use. Of the

remaining rear and side yards on a corner lot, one (1) rear yard setback of thirty feet (30') and one (1) side yard setback of ten feet (10') shall be required on the remaining non-street-facing sides of the lot. (Ord. 2017-16 §1, amended, 2017)

### **17.51.085 Commercial building yard setback requirements.**

The following minimum yard requirements shall apply to the following commercial buildings/structures in the CF zone: amphitheater, reception center, conference center, boutique, cafe, restaurant, veterinary clinic, and food manufacturing.

(Note: Unless otherwise noted, all setbacks are measured from the property line, or for property lines adjacent to a street the setback shall be measured from the street right-of-way line.)

1. Front yard setback: fifty feet (50').
2. Rear yard setback: twenty feet (20') to property line minimum and at least one hundred feet (100') from any neighboring primary residence.
3. Side yard setback: twenty feet (20') to property line minimum and at least one hundred feet (100') from any neighboring primary residence.
4. *Street Side Yard – Corner Lots.* On corner lots, the side yard contiguous to the street shall not be less than fifty feet (50'). (Ord. 2017-16 §1, adopted, 2017)

### **17.51.090 Projections into yards.**

1. The following structures may be erected on or project into any required yard setback:
  - a. Fences and retaining walls in conformance with the Lindon City Code and other city codes or ordinances.
  - b. Necessary appurtenances for utility service.
2. The structures listed below may project into a minimum front, side, or rear yard not more than the following distances:
  - a. The following may project into a minimum front, side or rear yard not more than twenty-four inches (24"): cornices, eaves, belt courses, sills, buttresses, or other similar architectural features; fireplace structures and bays (provided that they are not wider than eight feet (8'), measured generally parallel to the wall of which they are a part), awnings and planting boxes or masonry planters.
  - b. The structures listed below may project into a rear yard not more than twelve feet (12'): a shade structure or uncovered deck (which does not support a roof structure, including associated stairs and landings) extending from the main-floor level and/or ground level of a building, provided such structure is open on at least three (3) sides, except for necessary supporting columns and customary architectural features.

- c. The following may project into a front, side or rear yard (above or below grade) not more than four feet (4') as long as they are uncovered (not supporting a roof structure): unenclosed stairways, balconies, landings, and fire escapes. (Ord. 2017-16 §1, amended, 2017)

### **17.51.100 Building height.**

No lot or parcel of land in the CF zone shall have a building or structure which exceeds a maximum average height of thirty-five feet (35'), measuring the four (4) corners of the structure from finished grade to the highest point of the roof structure. In all zones, the planning director and chief building official shall be responsible for designating and identifying the four (4) corners of a structure. Nonhabitable architectural features or structures not wider than ten feet (10') such as silos, steeples, cupolas, or other similar structures may exceed the building height up to forty-five feet (45'). No dwelling shall be erected to a height less than one (1) story above grade. (Ord. 2017-16 §1, amended, 2017)

### **17.51.110 Distance between buildings.**

The separation distance between any accessory buildings and a dwelling, or the distance between multiple detached accessory buildings, shall not be less than ten feet (10'). (Ord. 2017-16 §1, amended, 2017)

### **17.51.120 Permissible lot coverage.**

1. In a CF zone, all buildings, including accessory buildings and structures, shall not cover more than forty percent (40%) of the area of the lot or parcel of land, or the conglomeration of parcels as defined in [Section 17.51.020](#).
2. At least forty percent (40%) of the front yard setback area of any lot shall be landscaped. On any lot, concrete, asphaltic, gravel, or other driveway surfaces shall not cover more than fifty percent (50%) of a front yard. (Ord. 2017-16 §1, amended, 2017)

### **17.51.125 Screening and fencing.**

1. The following screening and fencing requirements are required in the CF zone:
  - a. A six-foot (6') high site obscuring fence shall be constructed and maintained along any property line between a residential use or residential zone and a commercial building in the CF zone when the commercial building is closer than thirty feet (30') from the property line. The fence shall be placed along the property line at an area parallel to the commercial building and shall extend a minimum of fifty feet (50') along the property line from both directions from the ends of the building.

- b. Any commercial structure closer than thirty feet (30') to a residential use or residential zone shall provide a minimum ten-foot (10') wide tree-lined buffer from the commercial building to the adjacent residential use or zone. Trees shall be planted at least every ten feet (10') along the buffer area adjacent to the residential use or residential zone. Trees must be a minimum of two-inch (2") caliper measured one foot (1') off the ground and at least six feet (6') tall when planted. In addition to any required fencing, trees shall be of a variety that will mature to a height of at least twenty feet (20') tall in order to provide an increased visual barrier between the commercial use and the residential use.
2. For purposes of this chapter, residential dwelling units and agricultural accessory buildings in the CF zone are not considered commercial structures.
3. The planning commission may waive or modify the fencing and/or landscape screening requirement upon findings that the fence and/or landscaping is not needed to protect adjacent residential uses from adverse impacts, or that such impacts can be mitigated in another appropriate manner. (Ord. 2017-16 §1, amended, 2017)

### **17.51.130 Parking.**

1. Each use in the CF zone shall have, on the same lot or conglomeration of parcels as defined in Section [17.51.020](#), off-street parking sufficient to comply with the number of spaces required by Chapter [17.18](#).
2. Parking spaces in a CF zone are exempted from the surfacing, striping, and interior landscaping requirements as found in Chapter [17.18](#), but shall be provided with a dustless, hard surface material such as compacted gravel, asphalt, or concrete and shall be provided with a similar hard surfaced access from a public street.
3. Notwithstanding Subsection [\(2\)](#) of this section, any off-street parking lot adjacent to a residential use or residential zone shall provide a minimum ten-foot (10') landscaped buffer from the parking lot to the adjacent residential use or zone. Trees shall be planted at least every ten feet (10') along the landscaped strip. Trees must be a minimum of two-inch (2") caliper measured one foot (1') off the ground and at least six feet (6') tall when planted. Trees shall be of a variety that will mature to a height of at least twenty feet (20') tall in order to provide a visual barrier between the parking lot and the residential use/zone.
4. No required parking spaces shall be within thirty feet (30') of a front property line or street side property line.
5. All required ADA parking stalls shall be provided with smooth, hard surface asphalt or concrete paving with a similar surface provided as an ADA accessible pedestrian route between the parking spaces and any public buildings being accessed from the spaces. (Ord. 2017-16 §1, amended, 2017)

### **17.51.140 Residential and agricultural accessory buildings.**

1. *Accessory Building within the Buildable Area (Noncommercial).* Accessory buildings meeting all setback requirements (within the buildable area) for the main dwelling are permitted when in compliance with the following requirements:

- a. Have a building height not taller than thirty-five feet (35'). Height to be calculated as per Section [17.51.100](#).
  - b. Comply with all lot coverage requirements.
2. *Accessory Building outside the Buildable Area (Noncommercial)*. Accessory buildings that do not meet the setback requirements (outside the buildable area) for the main dwelling shall comply with lot coverage requirements and meet the following:
- a. Be set back a minimum of thirty feet (30') from the front property line and five feet (5') from any other property line.
  - b. Be set back a minimum of ten feet (10') from property line when located between the main dwelling and the side property line.
  - c. Not be located within a recorded public utility easement, unless a release can be secured from all public utilities.
  - d. Have an average building height of no more than twenty feet (20') in height measured at the four (4) corners of the structure from finished grade to the highest point of the roof structure.
  - e. Comply with distance between buildings requirements.
3. Accessory buildings larger than two hundred (200) square feet shall be required to obtain a building permit.
4. Construction of an accessory building may precede the construction of the primary residence. (Ord. 2017-16 §1, amended, 2017)

### **17.51.145 Noise limits.**

1. Noise levels, as measured in decibels, from any commercial event/activity shall be limited to the following levels:
  - a. Eighty-five (85) dBA between 7:00 a.m. and 10:00 p.m.
  - b. Fifty-five (55) dBA between 10:00 p.m. and 7:00 a.m.
2. Devices used to measure noise levels shall:
  - a. Be set to the "A" frequency weighting and "slow" response characteristic; and
  - b. Be placed at any point on the property line.
3. Any noise level greater than the approved levels above may be allowed through the issuance of a special event permit as approved by Lindon City. (Ord. 2017-16 §1, adopted, 2017)

### **17.51.150 Other requirements.**

1. Except as otherwise stated within this chapter regarding animal uses in the CF zone, all applicable sections of Title [6](#) (Animal Regulations) pertain to the CF zone, including setbacks to agricultural buildings and corrals.
2. *Signage.* Signs allowed within the CF zone are limited to monument signs, wall signs, banner signs, flags, directional signs, and temporary display signs (balloons, banners, and pennant flags) as more fully described in Title [18](#). (Ord. 2017-16 §1, amended, 2017; Ord. 2011-6, amended, 2011)

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#### **The Lindon City Code is current through Ordinance 2018-13, passed July 17, 2018.**

Disclaimer: The city recorder's office has the official version of the Lindon City Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.lindoncity.org](http://www.lindoncity.org)

City Telephone: (801) 785-5043

[Code Publishing Company](#)

2 provided. Required Open Space the LVC zone requires a minimum of 20% open space  
on the site. This site requires 9,322 s.f. of open space and 23,655 s.f. is provided.

4 Mr. Van Wagenen went on to say all building in the LVC zone must meet Lindon  
City Design Standards. The building materials proposed are brick and concrete fiberboard  
6 for the primary materials and stucco and woodgrain siding as secondary materials with  
black metal trim for the doors and windows. He noted the colors appear to meet the color  
8 palette requirements but staff is not sure of the placement of mechanical units but they  
must be visually screened. Also, there does not appear to be a cornice treatment on the  
10 parapet wall/roof, as required and these items need to be addressed. He noted the  
building is within the 48 foot height limit in the LVC zone, the highest point of the  
12 parapet wall being 30 feet. He added there are some engineering issues that will need to  
be resolved before the plans are finalized and staff will ensure all requirements are met.

14 Mr. Van Wagenen then referenced an aerial photo of the site and surrounding area,  
site plan, landscaping plan, architectural elevations and the color palette followed by  
16 discussion. He then turned the time over to the applicant for comment.

18 Mr. Aguilar explained the cornice treatment on the parapet stating they didn't  
know exactly what was required with height and shape but they are flexible and will be  
happy to comply with any requirement. Mr. Van Wagenen explained modern cornice  
20 treatments and showed some photos. Following some general discussion the commission  
was in agreement that because the cornice treatment isn't specified in the code to allow  
22 the architect to recommend a modification of what would look good with the  
contemporary theme they are proposing and to allow staff to approve the cornice  
24 treatment. There was also some discussion on parking, landscaping and the dumpster  
enclosure requirements. The Commission also agreed it is a good use of an irregular  
26 shaped lot and they have taken care of all the amenities and have done a good job.  
Chairperson Call pointed out it appears to meet the intent of the ordinance with the  
28 conditions listed and will be a nice addition to the area.

30 Chairperson Call asked if there were any further comments or discussion. Hearing  
none she called for a motion.

32 COMMISSIONER MARCHBANKS MOVED TO APPROVE THE  
APPLICANT'S REQUEST FOR SITE PLAN APPROVAL WITH THE FOLLOWING  
34 CONDITIONS: 1. LANDSCAPING REQUIREMENTS MUST BE MET AND 2.  
MECHANICAL UNITS MUST BE VISUALLY SCREENED AND 3. PARAPET  
36 MUST HAVE A CORNICE TREATMENT WORKED OUT WITH STAFF TO MEET  
THE INTENT OF THE ORDINANCE. COMMISSIONER KALLAS SECONDED THE  
38 MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
40 COMMISSIONER KALLAS	AYE
COMMISSIONER MARCHBANKS	AYE
42 COMMISSIONER WILY	AYE
COMMISSIONER KELLER	AYE
44 COMMISSIONER JOHNSON	AYE

THE MOTION CARRIED UNANIMOUSLY.

## 46 **6. Public Hearing — Zone Map Amendment, Request: Commercial Farm Zone**

2           **Walker Farms of Lindon, 55 South 400-500 East.** Mike Jorgensen requests  
approval of a Zone Map Amendment to reclassify multiple parcels from  
4           Residential Single Family (R1-20) to the Commercial Farm (CF) zone on the  
following parcels: 47:184:0002 (Michael B & Jill Jorgensen 55 South 400 East),  
6           14:073:0201 (Michael & Jill Jorgensen 85 South 400 East), 47:184:0003 (Michael  
B & Jill Jorgensen 53 South 500 East), and 14:073:0028 (Michael B Jorgensen on  
8           behalf of MJ Real Estate Holdings LLC 484 East Center Street). Total land area  
of 5.19 acres. Recommendation(s) will be forwarded to the City Council (Pending  
10          Ordinance 2017-\_\_\_-O).

12           COMMISSIONER MARCHBANKS MOVED TO OPEN THE PUBLIC  
HEARING. COMMISSIONER WILY SECONDED THE MOTION. ALL PRESENT  
14          VOTED IN FAVOR. THE MOTION CARRIED.

16           Mr. Van Wagenen gave an overview of this item explaining the Commercial Farm  
(CF) zone was created in 2011 to provide encouragement of agricultural production and  
18          associated commercial activities that are compatible with and/or promote agricultural  
uses within the city. Although the intent of the zone is to promote agricultural uses within  
20          the city, the zone may be utilized as a holding zone to allow reasonable options for  
income from agricultural and/or commercial uses for a period of time before developing  
22          the land in conformance with the General Plan Land Use Map. The applicant is  
requesting a rezone of the subject properties in order to build a reception/event center  
24          while raising and breeding alpacas and selling alpaca wool.

26           Mr. Van Wagenen noted the applicant (Mike and Jill Jorgensen) who are in  
attendance have provided a brief business plan and concept site plan for the property. He  
then referenced the submitted Business Plan for the Commercial Farm as follows:

- 28           • We will have 14 alpacas. Our intent is to sell the offspring as breeding pairs, or  
what's called a starter pack. This will consist of a pregnant female and an  
30          unrelated male. We can also sell the wool which can be quite expensive and  
highly sought after.
- 32           • The reception/event center will be an additional revenue source for the alpaca  
operation. This is a conditionally permitted use in the CF zone. One of the main  
34          requirements for CF zone consideration is listed in LCC 17.51.015 and states:

36          Mr. Van Wagenen then referenced the Agricultural Production Requirements as follows:

- 38           1. At least 40% of the property must be maintained in active agricultural  
production and be managed in such a way that there is a reasonable expectation  
of profit. Land used in connection with a farmhouse, such as landscaping,  
40          driveways, etc., cannot be included in the area calculation for agricultural  
production eligibility.
- 42           2. For the purposes of this chapter, "agricultural production" shall be defined as  
the production of food for human or animal consumption through the raising of  
44          crops and/or breeding and raising of domestic animals and fowl (except  
household pets) in such a manner that there is a reasonable expectation of profit.  
46          The application does meet the requirements for lot area, lot width, lot depth, and  
lot frontage.

48

2 Mr. Van Wagenen went on to say the parcels presented are not currently under  
identical ownership as required in LCC 17.51.020 noting this should be a requirement if  
4 an approval is recommended. He added the concept site plan does show the existing  
single family home in addition to a caretaker dwelling that is currently being restored  
6 (Center and 500 East). He noted the caretaker dwelling being restored has nonconforming  
setbacks due to the age of the original construction.

8 Mr. Van Wagenen stated although the application appears to meet the  
requirements for the properties in question to be rezoned, this is a legislative action.  
10 Therefore, the Planning Commission is not obligated to recommend approval if the  
Commission decides the request is not in the best interest of the public and Lindon City.

12 Mr. Van Wagenen pointed out in looking to the future the home on this site will  
have to be associated with the proposed reception/event center because of the minimum  
14 size requirements of the Commercial Farm zone. He added as we have recently seen with  
other properties, this can be problematic when the current owner moves on and the  
16 property is sold to future operators. If the applicant's request is granted, a separate site  
plan application will need to be submitted to ensure all site requirements are met  
18 regarding parking, landscaping, fencing, building height, etc.

20 Mr. Van Wagenen then referenced for discussion an Aerial photo of the proposed  
area to be rezoned, Current Zoning Map, Conceptual Site Plan, Applicant provided  
information on alpaca farming and LCC 17.51 Commercial Farm Zone. Mr. Van  
22 Wagenen then turned the time over to Mr. & Mrs. Jorgensen to speak on their request.

24 Mr. Jorgensen gave a handout depicting the proposed buildings including the  
locations and uses of the buildings. He also listed the animals they will raise located at  
the property noting the amounts meet the code. He explained their vision is to create a  
26 mini "Wheeler Farm" for uses for field trips, petting zoo, pumpkin patch etc. They are  
also proposing an "event barn" to use for vintage fairs, weddings, family reunions,  
28 parties, antique sales etc. He also explained the ownership of the properties noting they  
can transfer ownership as required.

30 Mr. Van Wagenen spoke on properties in Lindon developed for specific and  
unique purposes (built to suit) noting they are now running into "exiting" issues in trying  
32 to sell them and finding beneficial uses for these properties based on the unique build.  
Mr. Jorgensen stated they have thought about this and where the barn is will be one  
34 property and their home and they can consider dividing the property into two lots if they  
ever want to sell. Mr. Van Wagenen explained the only way this can continue to operate  
36 under the current ordinance in perpetuity going forward, is keeping the property  
combined together if it meets the minimum and doesn't exceed it. Because this is the  
38 minimum 5 acres in the farm zone, you couldn't take the existing home the Jorgensen's  
live in and sell it off and continue to operate the event center. If any new buyer comes in  
40 and buys and want to continue to operate the event barn they would have to buy the full 5  
acres.

42 There was then some discussion of the options if the applicant decides to sell the  
properties at some future date. Chairperson Call expressed one of her biggest concerns  
44 because of the recent situation they have dealt with is trying to revert back to residential  
once it has been developed as commercial. Mr. Jorgensen stated the ordinance speaks to  
46 those issues. He added they are going into this with their eyes open and they understand  
the implications.

2 Chairperson Call asked if there were any public comments. There were several  
residents in attendance who addressed the commission at this time as follows:

4  
6 **Boyd Walker:** Mr. Walker asked how many parking stalls they are proposing. Mr. Van  
Wagenen stated they are proposing 72 proposed stalls with overflow grass parking  
dependent on approval of the zone with no street parking.

8  
10 **Judy Anderson:** Ms. Anderson stated this proposal is right next to her mother's house.  
She expressed her concerns with the parking next to her property and that it will bring a  
lot of traffic and cut down the value of her property. These are things to take into  
12 consideration as it is a concern.

14 **Larry Anderson:** Mr. Anderson suggested putting the parking on the left of their old  
house and to move to pumpkin patch so the parking is not right next to his mother's  
16 house as that causes them come concerns. They need to put up a barriers or buffers. Mr.  
Jorgensen stated this is the first draft and there are options they can consider.

18  
20 *Chairperson Call pointed out the commission is not considering the site plan tonight only  
whether to make the zone change or not.*

22 **Ann Johnson:** Ms. Johnson stated she talked to her neighbors and they didn't get noticed  
about this meeting and she feels another public hearing should be held before a decision  
24 is made. All of the neighbors should be allowed to have their voices and opinions heard  
and it should be advertised more. She stated this is a big change with traffic, noise, influx  
26 of crime and their property values going down. Rezoning to commercial is not a good  
idea for our residential areas and once it starts it will continue. We also need to protect  
28 our kids as the school is directly across the street. She stated the Jorgensen's bought their  
property knowing it wasn't zoned commercial. None of this is needed or wanted in the  
30 neighborhood and she is 100% opposed to this change.

32 **Eileen Nybo:** Ms. Nybo stated they moved to Lindon 25 years ago to live in a quiet  
residential neighborhood. She mentioned her concerns with the school being across the  
34 street from this proposal and with the parking and noise and traffic etc. She is against this  
change and is 100% against this being in her neighborhood. She stated the Jorgensen's  
36 bought residential and it should stay that way and if they want to do this type of business  
go to a commercial area.

38  
40 **Lucinda Preece:** Ms. Preece also brought up the issues of noise and traffic if this is  
changed to commercial. They bought here in Lindon to have residential and she is against  
this proposal. She opposes 100%.

42  
44 Mr. Van Wagenen clarified the commercial farm zone requires a minimum of 5  
acres and this proposal presented tonight is 5 acres and meets that requirement. The only  
46 thing changing with this zone request is the ability to operate an event center. The event  
center is the distinguishing factor (as they are allowed to have the alpaca business, farm  
etc.) but because of the minimum acreage designation, at any time in the future, if they  
48 wanted to sell a portion of the property (5 acres) or just the home piece, it would be in

2 violation of the zone and the ability to run any type of commercial event center on the  
4 property and the business license would be null and void and no one would be allowed to  
run an event center on this property. Or they could opt to divide the property into ½ acre  
lots and sell building lots.

6 Mr. Jorgensen commented that this is a wonderful historic Lindon site and they are  
going to extreme expense to restore the old historic Walker home and will ensure that this  
8 will be a beautiful, nice addition and amenity to the city.

10 COMMISSIONER KELLER MOVED TO CLOSE THE PUBLIC HEARING.  
COMMISSIONER MARCHBANKS SECONDED THE MOTION. ALL PRESENT  
12 VOTED IN FAVOR. THE MOTION CARRIED.

14 Chairperson Call stated the question is if this proposal is the appropriate use in this  
location with this amount of land. Commissioner Wily also asked what the standard is for  
16 recommending approval or denial. Mr. Van Wagenen replied in this instance the  
commission can consider the public comments presented tonight and consider the health,  
18 welfare and safety of the neighborhood; anything presented or heard tonight can be  
considered in the recommendation. Commissioner Johnson asked for clarification that  
20 there is currently only one commercial farm in the city. Mr. Van Wagenen confirmed  
that statement noting Wadley Farms is the only one and this would be the second.  
22 Commissioner Johnson commented that Wadley Farms is much larger and this smaller  
proposal may have less of an impact on the neighbors.

24 Commissioner Kallas commented that he knows the Jorgensen's and everything  
they do is first class and the proposal looks very good, but he has concerns about more  
26 commercial uses in residential areas in the city and the use of a reception/event center.

28 Commissioner Marchbanks stated he is in a quandary on this issue. He pointed out  
that the whole purpose of the commercial farm zone was to maintain some farm feel and  
history in the city. Things like this are what allows people to refurbish historic homes and  
30 maintain a farm feel with animals etc. and this is what the zone was created for as these  
are the components needed to make it work. He agreed that Wadley Farms is a much  
32 larger facility and there have not been a lot of complaints or issues so he is confused.  
Commissioner Keller feels like this is a nice proposal and plan but he is also torn with  
34 putting commercial into a residential area. Commissioner Wily stated there are many  
appealing components with this proposal and maybe the undesirable parts could be  
36 mitigated with conditions.

38 Commissioner Johnson asked Mr. Van Wagenen by rezoning this property what  
rights do we give the property. Mr. Van Wagenen referenced the permitted uses section  
of the code and conditional uses and mitigating effects that would be tied to actual  
40 concerns; there is a large hurdle to deny a conditional use. Commissioner Keller asked if  
this was the same process Wadley Farms went through to change the zone. Mr. Van  
42 Wagenen confirmed that statement. Mr. Jorgensen pointed out the ordinance currently  
allows for what they are requesting so they feel to deny that would be unfair.

44 Commissioner Kallas stated he doesn't have a problem except for the issue of the  
noise associated with the event center and he is not sure it could be mitigated. Mr.  
46 Jorgensen pointed out the garden noise area is on their side of the building and would be  
closer to their own home. Commissioner Wily pointed out this is not a question if this  
48 application meets the requirements but a quasi legislative action and not a matter if the

2 requirements are met, this issue rests on if this proposal/change is in the best interest of  
the city and the residents; he is not sure we can agree that it is or isn't in the best interest  
4 of the city. Commissioner Johnson stated he feel these issues could be mitigated with  
conditions and he would suggest sending it to the city council with approval.

6 Chairperson Call asked if the Commission should consider continuing this item in  
order for more residents to be aware of the issue even though additional noticing cannot  
8 be done. Mr. Van Wagenen stated he would feel uncomfortable with that as it would not  
be treating this applicant the same as other applicants. He pointed out whatever  
10 recommendation is made tonight (rather approval or denial) it will go on to the City  
Council.

12 Chairperson Call asked if there were any further comments or discussion. Hearing  
none she called for a motion.

14  
16 COMMISSIONER JOHNSON MOVED TO RECOMMEND TO THE CITY  
COUNCIL APPROVAL OF THE APPLICANT'S REQUEST WITH THE CONDITION  
18 THAT ALL PARCELS BE UNDER THE SAME OWNERSHIP AS REFLECTED ON  
THE DEEDS. COMMISSIONER MARCHBANKS SECONDED THE MOTION. THE  
VOTE WAS RECORDED AS FOLLOWS:

20 CHAIRPERSON CALL	NAY
COMMISSIONER KALLAS	NAY
22 COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KELLER	NAY
24 COMMISSIONER JOHNSON	AYE
COMMISSIONER WILY	NAY

26 THE MOTION FAILED FOUR TO TWO.

28 THERE WERE NO ADDITIONAL MOTIONS MADE SO THE MOTION WAS  
RECORDED AS AN EFFECTUAL DENIAL.

- 30  
32 **7. Conditional Use Permit — Geo Automotive and Tire, 973 West 240 North,  
Unit "B".** Heber G. Cordova, Geo Automotive and Tire, requests conditional use  
34 permit (CUP) approval for general auto/vehicle repair services to be located at  
973 West 240 North, Unit "B", in the Light Industrial (LI) zone.

36 Brandon Snyder, Associate Planner, gave some background of this item stating  
the applicant Heber Cordova (who is in attendance) has requested approval for general  
38 auto/vehicle repairs. The Lindon City Land Use Table indicates that "General  
auto/vehicle repair" is a conditional use in the LI zone. The applicant provides vehicular  
40 repair services mainly for used car dealerships. The applicant has been operating without  
a business license or CUP since around March of this year. Mr. Snyder noted City  
42 records (as of 08/29/2017) indicate two open/active business licenses for this location:  
Auto City Deals (Used Vehicle Sales Lot and office only. No approval for general  
44 auto/vehicle repair.), and Taylor Products (Bathroom accessories supply warehouse, i.e.  
shower doors and mirrors). Car Finder (Used Vehicle Sales Lot) and Fine Line Footings  
46 and Forms (Construction) were previously located on the site. The property is part of the  
Mountainview Industrial Park L.C. Subdivision, which was recorded 06/13/2003 (file 00-

2 this item is for discussion only. He then turned the time over to Mark Christensen,  
Engineer with JUB Engineers for his presentation.

4 Mr. Christensen presented an overview of the functionality of Lindon’s water  
system and explained how the fee structure has been established. He explained that in the  
6 2016 General Session, the Utah State Legislature passed the “Water System Conservation  
Pricing” bill which requires all retail water providers, including Lindon City, to establish  
8 an increasing rate structure for culinary water. In June 2017 the City Council adopted a  
new tiered water rate structure in conformance with updated State requirements. The fees  
10 went into effect for the July utility billing. He noted the intent of the State’s required  
tiered structure is to financially incentivize water conservation by having larger volumes  
12 of water usage charged at higher rates.

Mr. Christensen went on to say the City adopted a tiered rate schedule designed to  
14 keep the total annual water revenue at a constant (not increasing or decreasing). He noted  
during summer months when customers use more water the revenues will increase, and  
16 during winters months when customers use less water the revenues will decrease. An  
additional base rate change was also incorporated into the City’s new rate schedule per  
18 previously evaluated annual increases recommended to help build water fund revenues to  
adequately cover costs of operations, maintenance, and replacement of water system  
20 infrastructure. He then referenced the water rate adjustments as adopted by the City  
Council in June followed by some general discussion.

22 Brad Jorgenson, Public Works Director, spoke on the chlorination option in the  
water noting this is the best and least expensive option for the city. He also talked about  
24 cross connections/contamination and water conservation followed by some additional  
discussion.

26 Following the presentation Mr. Cowie stated the intent of this discussion was to  
give an overview of the rate changes made in July. He noted this will come back to the  
28 council later in the spring and they will go from there.

30 Mayor Acerson then called for any further comments or discussion from the  
Council. Hearing none he moved on to the next agenda item.

32 **8. Public Hearing — Zone Map Amendment, Request: Commercial Farm Zone  
Walker Farms of Lindon 55 South 400-500 East. Ordinance #2017-14-O.**

34 Mike Jorgensen requests approval of a Zone Map Amendment to reclassify  
multiple parcels from Residential Single Family (R1-20) to the Commercial Farm  
36 (CF) zone on the following parcels: 47:184:0002 (Michael B & Jill Jorgensen 55  
South 400 East), 14:073:0201 (Michael & Jill Jorgensen 85 South 400 East),  
38 47:184:0003 (Michael B & Jill Jorgensen 53 South 500 East), and 14:073:0028  
(Michael B Jorgensen on behalf of MJ Real Estate Holdings LLC 484 East Center  
40 Street). Total land area of 5.19 acres. The Planning Commission recommended  
denial of the request.

42  
44 COUNCILMEMBER BRODERICK MOVED TO OPEN THE PUBLIC  
HEARING. COUNCILMEMBER LUNDBERG SECONDED THE MOTION. ALL  
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

2 Hugh Van Wagenen, Planning Director, opened this discussion item by giving an  
4 overview stating the Commercial Farm (CF) zone was created in 2011 to “provide  
6 encouragement of agricultural production and associated commercial activities that are  
8 compatible with and/or promote agricultural uses within the city. He pointed out although  
10 the intent of the zone is to promote agricultural uses within the city, the zone may be  
12 utilized as “holding zone” to allow reasonable options for income from agricultural  
14 and/or commercial uses for a period of time before developing the land in conformance  
16 with the General Plan Land Use Map.” He noted the applicant is requesting a rezone of  
18 the subject properties in order to build a reception/event center while raising and breeding  
20 alpacas and selling alpaca wool.

22 He then referenced for discussion a brief business plan and concept site plan for  
24 the property provided by the applicant as follows:

26 Business Plan for the Commercial Farm

- 28 • “We will have 14 alpacas. Our intent is to sell the offspring as breeding pairs, or  
30 What’s called a starter pack? This will consist of a pregnant female and an  
32 Unrelated male. We can also sell the wool which can be quite expensive and  
34 Highly sought after.”
- The reception/event center will be an additional revenue source for the alpaca  
operation. This is a conditionally permitted use in the CF zone.

One of the main requirements for CF zone consideration is listed in LCC  
17.51.015 and states:

Agricultural Production Required

1. At least 40% of the property must be maintained in active agricultural  
production and be managed in such a way that there is a reasonable expectation  
of profit. Land used in connection with a farmhouse, such as landscaping,  
Driveways, etc., cannot be included in the area calculation for agricultural  
Production eligibility.
2. For the purposes of this chapter, “agricultural production” shall be defined as  
The production of food for human or animal consumption through the raising of  
Crops and/or breeding and raising of domestic animals and fowl (except  
Household pets) in such a manner that there is a reasonable expectation of profit.  
The application does meet the requirements for lot area, lot width, lot depth, and  
lot frontage.

Mr. Van Wagenen stated the parcels presented are not currently under identical  
ownership as required in LCC 17.51.020 and this should be a requirement if an approval  
is granted. The concept site plan does show the existing single family home in addition to  
a caretaker dwelling that is currently being restored (Center and 500 East). He noted the  
caretaker dwelling being restored has nonconforming setbacks due to the age of the  
original construction.

Mr. Van Wagenen stated although the application appears to meet the  
requirements for the properties in question to be rezoned, this is a legislative action.  
Therefore, the City Council is not obligated to approve if the Council decides the request  
is not in the best interest of the public and Lindon City.

2 Mr. Van Wagenen pointed out in looking to the future; the home on this site will  
4 have to be associated with the proposed reception/event center because of the minimum  
6 size requirements of the Commercial Farm zone. He mentioned as we have recently seen  
8 with other properties, this can be problematic when the current owner moves on and the  
property is sold to future operators. He added if the applicant's request is granted, a  
separate site plan application will need to be submitted to ensure all site requirements are  
met regarding parking, landscaping, fencing, building height, etc.

10 Mr. Van Wagenen stated the Commission heard this request on September 12,  
12 2017. Several citizens came to the public hearing and opposed the applicant's request.  
14 There were concerns about traffic and noise from the proposed event/reception center.  
16 The Commission considered the item for an hour, discussing the positives and negatives  
18 of the request. He noted one motion to approve the request, with the consideration that a  
future reception center would be a conditional use permit where conditions could be  
placed on the property to mitigate negative effects on the neighborhood was defeated. No  
member of the Commission offered an alternative motion. He noted a lack of an  
approved motion automatically becomes a recommended denial of the request to the City  
Council. He also mentioned three letters were received today that were emailed to the  
council regarding this request.

20 Mr. Van Wagenen then referenced the Draft ordinance 2017-14-O, an Aerial  
22 photo of the proposed area to be rezoned, Current Zoning Map, Conceptual Site Plan,  
24 information provided by the applicant on alpaca farming, and LCC 17.51 Commercial  
Farm Zone followed by discussion. He then turned the time over to the applicant for  
comment.

26 Mr. Jorgensen gave a brief history of how they came to live in Lindon (19 years  
28 ago) and their background noting they moved to Lindon for the "little bit of country" feel.  
30 He added they have owned and operated several businesses. Mr. Jorgensen stated it is  
their hope to answer some questions tonight and to alleviate some of the neighbor's fears  
as he has seen the comments from the neighbors and there is a lot of confusion of what  
they will be allowed to do with their property.

32 Mr. Jorgensen stated the zone is well written because when you have five (5)  
34 acres at least 40% must be green space or agricultural production and is required; the  
zone controls and manages itself. He pointed out the zone was created to be able to hold  
36 on to the "little bit of country" theme here in Lindon. They feel this is unique as they  
gathered up the parts and reassembled them and are trying to preserve the integrity and  
38 history of the property. They chose to do an "event barn" and call it Walker Farms as a  
lot of their property was acquired from Reed Walker. He pointed out things like this  
40 proposal are what the zone was written for (for places like Wadley Farms) and when the  
ordinance was drafted for the zone the council was aware of that and they wrote it with  
that in mind; to be able to have a commercial aspect that makes it viable.

42 Councilmember Lundberg asked Mr. Van Wagenen to explain how conditional  
44 uses are treated. Mr. Van Wagenen explained the conditional use process and also the  
permitted uses in the code.

46 Mayor Acerson called for any public comment at this time. There were several  
residents in attendance who addressed the Council as follows:

2 **Karen Hill:** Ms. Hill stated she is not a resident yet of Lindon but will be in three weeks.  
4 She noted they built directly across the street by the school so she will be a neighbor to  
6 this proposed site. When she heard that the rural feel may be taken away she was upset  
8 as this would increase noise and traffic in the area and vandalism may increase. The  
10 overflow parking would go into the school parking lot that is adjacent to her property and  
12 the school traffic is already bad. She doesn't see that there would be much of a buffer and  
14 would not be set back from the street so the visual alteration is a concern. Putting a  
16 commercial endeavor in a residential area is not a good idea.

18 **Judy Anderson:** Ms. Anderson stated her Mother's house is west of where this proposed  
20 parking lot will be. She stated she is not concerned about the animals but worries about  
22 the noise and it will put a burden on these people.

24 **Belva Parr:** Ms. Parr stated this is a real safety issue as the east entrance to the area is  
26 almost next to the school. The road is narrow and there are four schools on Center Street  
28 where kids walk to school; if we add to the traffic this could put kids in danger and this  
30 causes her great concern.

32 **Earl Porter:** Mr. Porter stated he is the Vice Principle at Timpanogos Academy. He  
34 noted he has approached the Planning Commission for help with safety issues with the  
36 school kids on Center Street in the past. He pointed out there are some things to look into  
38 for safety if this proposal goes through adding it would be easier to support if the safety  
40 issues are addressed.

42 **Dan Whittle:** Mr. Whittle stated he has lived on Center Street for 39 years noting it is a  
44 great place to live but there is only a "little built of country" left in the city. He has  
concerns with increased traffic as there is a traffic problem now. He added that he doesn't  
feel good about the event center and feels the residents will be impacted. The associated  
noise is also a concern. The Council should address some of these issues before allowing  
something like this to go through.

**Cindy Tate:** Ms. Tate stated she didn't receive a notice. She commented that there is  
already an overflow of traffic with the schools and more traffic is not a good idea for  
safety concerns and is a real issue. Having the Alpacas is great not an event center.

**Joel Tate:** Mr. Tate stated he loves the quiet aspect but with having events there with all  
the traffic and noise and overflow street parking it is probably not a good idea unless  
those issues are resolved because it will be a popular successful event center.

**Evan Nixon:** Mr. Nixon asked if this zone was created when for Wadley Farms and  
what year. Mr. Van Wagenen explained the zone was applied to Wadley Farms in 2011.  
Mr. Nixon stated his concern is with changing the zone and that the ordinance is stating  
non permissible uses.

2 **Larry Anderson:** Mr. Anderson stated the parking lot area will be right next to his  
4 mother's fence and poses a concern and would suggest that Mr. Jorgensen move the  
parking lot to the pumpkin patch area. He also has concerns that there may be loud music.  
6 Mr. Van Wagenen pointed out this is just a draft site plan and explained the site  
requirements noting the conditional use permit would be put in place with specific  
conditions.

8

10 **Rex Daley:** Mr. Daley stated he likes the ideas of doing a farm and preserving green  
space and feels if the Jorgensen's are willing to move things around and mitigate some of  
12 these issues that it will be better than what is there now and traffic won't be an issue. The  
Jorgensen's will do this very nice and make it better than what is there now. He is in  
support.

14

16 **Ginger Romriell:** Ms. Romriell commented that she is excited about this project and  
what it will bring to the community. She noted there are two traffic entrances on two  
18 different roads and pointed out that the events will be held at night so that won't affect  
the traffic with the schools. She noted the Jorgensen's will put in buffers for the noise  
and a sidewalk and they have great taste and will make it beautiful. The proposed petting  
20 zoo would be great for the school students also. She is in favor of this proposal 100%.

22 **Corrine Ross:** Ms. Ross asked about the 300 ft. noticing requirement. She asked if there  
was a better process to get notices further than that for a commercial issue. Mr. Van  
24 Wagenen stated it is a legislative action. She also asked how hard it is to change the  
zoning back to residential if the applicant leaves and what the process is. Mr. Van  
26 Wagenen stated they would have to apply with an application and go to the Planning  
Commission and City Council where it is a legislative action and what happens would be  
28 up to whoever buys it.

30 **Carmen Durfey:** Ms. Durfey expressed her opinion stating this is a wonderful plan the  
Jorgensen's are proposing that will help make Lindon look the way it used to with the  
32 open space and historical aspects preserved. She pointed out that the events will be at  
night so the parking lot and traffic issues won't conflict with school traffic and parking.  
34 She is in support of this proposal 100%.

36 **Shelley Savage:** Ms. Savage stated she lives just south from the Jorgensen's and they are  
totally excited about this plan the Jorgensen's are proposing. She understands school  
38 traffic issues or football traffic etc. having dealt with it over the years but it just the way it  
is. So knows there will be times when traffic increases but she would like to keep the  
40 rural feel without 5 or 6 new homes coming in there. The schools field trips the  
Jorgensen's will offer would be awesome and a great opportunity to enjoy the animals.  
42 They will do an incredible job with the event barn and will impact the neighbors as little  
as possible. This will be a classy operation and it is her hope that it gets approved.

44

46 **Linda Matheson:** Ms. Matheson asked about the legal perspective and if it's changed  
would the whole thing be commercial and if it could potentially be another commercial

2 area and if the owner has to live onsite. Mr. Van Wagenen stated there is not a  
4 requirement that the owner has to live on site and any new use would have to come  
6 through the review process. In order for these 5 acres to operate as a commercial farm it  
has to maintain the 5 acres and if someone wants to come in they would have to change it  
back.

8 **Don Wharton:** Mr. Wharton stated he is in favor of the Jorgensen’s proposal. He also  
questioned at what point does the city put in speed bumps for the increased traffic on  
10 Center Street and if there is an ordinance in place as that is a separate concern. Mr.  
Cowie stated Lindon has a policy that residents and neighborhoods can sign a petition  
12 and submit and the engineers will do an evaluation in the area and give a  
recommendation; speed bumps are allowed on side streets but not on collector roads.

14 **Ann Johnson:** Ms. Johnson stated there has been such an increase of traffic on Center  
16 Street with school events at night that poses a safety issue. She doesn’t have problem  
with an event center but feels this is not in the right spot. She also passed out a letter to  
18 the council listing the neighbors concerns.

20 **Ruth Udall:** Ms. Udall stated she lives across the street from the Jorgensen’s and their  
place is immaculate. She pointed out we have lost a “little bit of country” in Lindon when  
22 they built smaller than half acre lots above the canal and opened the road to Pleasant  
Grove and Center Street. She has also requested speed bumps in the past. Ms. Udall  
24 stated what the Jorgensen’s are proposing is beautiful and she would much rather see  
what they are proposing with a little more country rather than have more houses. She is  
26 in support of this proposal.

28 **Dan Linville:** Mr. Linville commented this is a great idea and he lives across the street  
from the Jorgensen’s. Some of these properties have been an eyesore for years and what  
30 they plan to do will improve it a lot. The schools and car lots have brought more traffic  
than what this will. What the Jorgensen’s are proposing will not be an issue and we  
32 already have a noise ordinance in place to control any noise. He is in support of this  
proposal.

34 **Ross Wright:** Mr. Wright stated he is in support of what the Jorgensen’s are proposing.  
36 He lived here when the two schools were put in and he also suggested that they increase  
parking capacity and widening roads that was turned down. He was told the schools can  
38 do whatever they want. He noted across from the Jorgensen’s property there is a “share  
the harvest shed” that has been there for many years for neighbors to share produce etc.  
40 the school is who to blame for the traffic. The Jorgensen’s do quality work and it speaks  
for itself; he is 100% in favor of this proposal.

42 **Virginia Pugh:** Ms. Pugh stated when they opened canal road that is when the increased  
44 traffic came and they drive so fast on Center Street; school traffic is the issue and a  
hazard. She feels we need to preserve this property and this would look nice and she

2 would be in favor of this if the event center is located in the southwest end of the property  
so it is not by the school traffic.

4  
6 **Jeremy King:** Mr. King stated his wife is against this issue because of the traffic, but he  
is in support of it because he doesn't want to see more homes going in. He feels we  
should keep nice gathering places here in Lindon as these are located in beautiful areas  
8 and he believes weddings/receptions really don't increase the traffic. He is in support of  
this request.

10  
12 *Mayor Acerson excused himself from the meeting at 9:27 p.m. Councilmember  
Hoyt stepped in as Mayor Pro Tem as this time.*

14 Mr. Jorgensen explained the site plan (drafted by Jim Dain) and event barn  
concept at this time including the size, parking plan, landscaping, occupancy load (220)  
16 noting they plan on putting in a nice wall and landscaping buffers. They will also help to  
alleviate some of the overflow parking issues at the school for soccer games, events etc.  
18 There was then some general discussion regarding these issues.

20 **Debbie Rohbock:** Ms. Rohbock stated she moved to Lindon 24 years ago noting we all  
moved here for a little bit of country. She is worried about the noise and how late into  
22 the night the events will go. She also feels you can't control what kind of beverages  
come into the area. She would suggest building an event center somewhere else.

24  
26 **Ilene Hugo:** Ms. Hugo stated she attended the Planning Commission meeting and it was  
denied for many reasons. The neighbors do not want a reception center as there will be  
problems with zoning for parking and it should be addressed; we need to keep our way of  
28 life here.

30 **Mrs. Linville:** Ms. Linville pointed out there are two parking lots and two entrances. Her  
daughter was married in a backyard and there were over 200 guests. There are a lot of  
32 things going on that generate noise in the city and the idea that people will be sneaking  
liquor in is ridiculous. The Jorgensen's are the caretakers of their property and they will  
34 make sure the activities going on will be in their best interest too.

36 **Alan Colledge:** Mr. Colledge stated he owns Wadley Farms which facilitated a lot of  
this discussion. They developed something for the future it was not economically and not  
38 for money it was for homesteading land and to work at how to preserve the history with  
food and farms etc. When they started the commercial farm zone the goal was to look at  
40 Lindon to see if there were any areas that fit in the zone. With the five (5) acre limit it is  
economical viable to keep their farm a farm and some will like it and some won't. He  
42 noted they employ a lot of people and it does affect the neighbors to some extent. With  
their newest addition on the castle a lot of friends and neighbors complained. They are  
44 putting up a 12 ft. barrier wall for sound and addressing parking issues but these things  
can be mitigated; preserving open space is not easy.

2 **Luanne Fullmer:** Ms. Fullmer pointed out that no one complains about the traffic at  
4 churches. This event will be less than an event on a Saturday or in the evening and will  
6 create jobs for young people. Building more homes will bring more noise than this will.  
8 What they are proposing will keep it more country with the barn and animals etc. The  
noise will be minor and it will be a beautiful event center to share as a community rather  
than subdividing with more homes; it is keeping it in the family. She is in support of this  
proposal.

10 **John Roylance:** Mr. Roylance stated it is important to think outside of the box. The  
12 Police will ticket people who are speeding on Center Street. This isn't a Wal-Mart it is a  
14 reception center. If it is booked and busy it will be because it is a nice place. If we are  
serious about keeping Lindon a "little bit of country" things like this need to happen in  
the city. He realizes it is up-setting to have the city tell you what to do with your property  
but the quality of what they do will awesome and they will do right by the neighborhood.  
16 He is in support of this and supports keeping a little bit of country; this will just keep it  
viable.

18 **Roy Jacklin:** Mr. Jacklin stated when he was on the council there has been fear every  
20 time something new came along in the city; usually unfounded fear. He feels this  
proposal will work out very well. Mr. Jacklin stated he has known Mr. Jorgensen for  
22 many years and he has integrity and he and Jill will make this great for years to come. He  
voiced that he is in support of their proposal.

24 **Eric Dowdle:** Mr. Dowdle stated that we need beautiful things in the world and if you  
26 build something beautiful the emotion and happiness it will bring will add up. This city  
needs this change and addition to the city and Mike and Jill Jorgensen will do a fantastic  
28 job. He completely approves this proposal.

30 **Resident:** The building department and ordinances will take care of any noise or traffic  
issues. This proposal will bring so many improvements. The issue tonight is to look at the  
32 zoning change only and we are not the building department.

34 ***Mayor Acerson returned to the meeting at 10:10 pm.***

36 Mayor Acerson called for any further public comment. Hearing none he called for  
a motion to close the public hearing.

38  
40 COUNCILMEMBER SWEETEN MOVED TO CLOSE THE PUBLIC  
HEARING. COUNCILMEMBER LUNDBERG SECONDED THE MOTION. ALL  
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

42  
44 Councilmember Hoyt asked how many alpacas they plan to have. Mr. Jorgensen  
stated they currently have 7 and the city ordinance states with three species they can have  
up to 14. He also asked for a recap from the planning commission. Commissioner Steve  
46 Johnson gave a recap of the planning commission decision noting it was a denial by

2 default as there weren't enough votes to deny. He pointed out that was a different  
4 meeting as there were mostly negative comments and they are seeing a lot of positive  
6 comments heard tonight; they have heard plenty on both sides. Councilmember Bean  
8 agreed it was a different meeting as there have been a lot of support and positive  
10 comments heard here tonight. He added no one on the commission wanted to make a  
12 motion to deny because the applicant meets the requirements of the ordinance.

14 Councilmember Sweeten commented that it sounds like the consensus of the  
16 commission was to move the decision to the city council to decide as they were  
18 undecided. He would also like to hear as much public input as possible as he likes a lot of  
20 aspects of this. It appears the opposition is with the event center but the hard part is  
22 because the ordinance was not put in place just for one location. If approved most of the  
24 concerns and challenges brought up would most likely end up not being a problem and  
everything is reviewable on complaint and there are things in place to mitigate concerns.  
He is a supporter of property rights and to preserve the country feel, if done properly with  
some tweaking this can be made viable. He is overall in support of this proposal.

18 Councilmember Bean commented that he really appreciates the tenor of the  
20 comments heard here tonight with everyone being very civil noting that's what's great  
22 about Lindon City. We have a unique opportunity here in Lindon but this is a difficult  
24 issue. It appears the applicant meets the requirements of the ordinance, so the decision is  
in this particular location, that a zone change can be made and is a decision of the  
Council. He appreciates the creativity gone into by the applicant and, overall despite  
some concerns, we do let some of our fears drive decisions more than what we should;  
overall he is comfortable with this request.

26 Councilmember Lundberg commented she was on the City Council when the  
28 commercial farm ordinance was crafted. She noted anytime there is something new on  
the books we don't have a crystal ball to know what future applicants will come forward  
and the mitigating caveats. She pointed out what is appealing about the commercial farm  
zone was preserving open space but she is concerned with any spill over of issues that  
may not be ideal. She loves the idea of anything related to the farm side of it, but she  
worries about the impact on the neighbors. She is not sure how this will look and what  
will be passed on but we need to weigh seriously on this matter and how to manage  
growth.

34 Councilmember Broderick stated he appreciates the comments heard tonight  
36 noting the Council agrees and loves the "little bit of country" theme in the city. He stated  
this will change the dynamic of the neighborhood and be an impact on the neighbors; he  
loves so many things about this but it is a hard decision.

38 Councilmember Hoyt stated he came here tonight feeling opposed to this proposal  
40 but now after hearing the various comments he torn in his opinion as he sees the merit of  
it, but is a little hesitant knowing it is legislative decision and it fits the code. He would  
like to have more research on some additional areas before making a decision in moving  
42 forward as a lot of valid questions have been brought forth tonight.

44 Mayor Acerson commented this is forum where residents can speak openly and if  
we lose that we lose Lindon. He hopes in any given situation we set the proper  
expectation and if this moves forward that we be sensitive and thoughtful and try to be

2 accommodating. He clarified that the Council can continue this item in order to gather  
more research and information.

4 Councilmember Lundberg commented that it appears the Jorgensen's want to be  
good neighbors and be accommodating and mitigate the issues mentioned. She asked if  
6 he has any other business model. Mr. Jorgensen stated this is the only model and they just  
want to be treated fairly as they fit into this ordinance and fit all of the criteria in the  
8 commercial farm zone. They are trying to preserve some of Lindon's history and the  
ordinance wasn't written only for Wadley Farms. Mr. Cowie pointed out the focus  
10 tonight is approving or not approving the zone and the site plan is secondary.

12 Mr. Van Wagenen stated he will bring this back after researching the effects of  
commercial in a residential area, additional renderings, buffers (landscaping, walls,  
fencing) any complaints on other similar facilities/uses in the city, noise pollution  
14 mitigation, traffic study, parking etc.

16 Mayor Acerson then called for any further comments or discussion from the  
Council. Hearing none he moved called for a motion.

18 COUNCILMEMBER SWEETEN MOVED TO CONTINUE THE  
APPLICANTS REQUEST FOR APPROVAL OF ORDINANCE 2017-14-O TO THE  
20 NEXT AVAILABLE CITY COUNCIL MEETING. COUNCILMEMBER LUNDBERG  
SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

22 COUNCILMEMBER BEAN NAY  
COUNCILMEMBER LUNDBERG AYE  
24 COUNCILMEMBER HOYT AYE  
COUNCILMEMBER BRODERICK AYE  
26 COUNCILMEMBER SWEETEN AYE

THE MOTION CARRIED 4 TO 1.

28

9. **Public Hearing — Zone Map Amendment & Ordinance Adoption. 400 North  
30 2800 West, LCC 17.54 Regional Commercial (RC) Zone (Ordinance #2017-  
11-O).** Lindon City requests review and approval of a Zone Map Amendment  
32 from General Commercial Auto (CG-A8) to Regional Commercial (RC), on  
multiple parcels located at approximately 400 North 2800 West. Lindon City also  
34 requests approval of an amendment to Lindon City Code by way of adopting  
17.54 Regional Commercial Zoning Ordinance, to address development  
36 regulations, activities and uses in the RC zone. These items may be continued for  
further review. The Planning Commission recommended approval.

38

40 COUNCILMEMBER BRODERICK MOVED TO OPEN THE PUBLIC  
HEARING. COUNCILMEMBER HOYT SECONDED THE MOTION. ALL  
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

42

44 Mr. Van Wagenen explained Lindon City is requesting review and approval of a  
Zone Map Amendment from General Commercial Auto (CG-A8) to Regional  
Commercial (RC), on multiple parcels located at approximately 400 North 2800 West.  
46 Lindon City also requests approval of an amendment to Lindon City Code by way of

2 COUNCILMEMBER BEAN AYE  
COUNCILMEMBER LUNDBERG AYE  
4 COUNCILMEMBER HOYT AYE  
COUNCILMEMBER BRODERICK AYE  
6 COUNCILMEMBER SWEETEN AYE  
THE MOTION CARRIED UNANIMOUSLY.

8

7. **Continued Action Item — Zone Map Amendment, Request: Commercial Farm Zone Walker Farms of Lindon 55 South 400-500 East. Ordinance #2017-14-O.** This item was continued from the September 19, 2017 City Council meeting for continued deliberation by the Council. The Public Hearing on the item has been closed. Mike Jorgensen requests approval of a Zone Map Amendment to reclassify multiple parcels from Residential Single Family (R1-20) to the Commercial Farm (CF) zone on the following parcels: 47:184:0002 (Michael B & Jill Jorgensen 55 South 400 East), 14:073:0201 (Michael & Jill Jorgensen 85 South 400 East), 47:184:0003 (Michael B & Jill Jorgensen 53 South 500 East), and 14:073:0028 (Michael B Jorgensen on behalf of MJ Real Estate Holdings LLC 484 East Center Street). Total land area of 5.19 acres. *The Planning Commission recommended denial of the request.*

22 *Councilmember Hoyt disclosed at this time for the public record that he is employed at Rock Canyon Bank where the applicant's do their banking but he does not have any banking relationship with the Jorgensen's accounts or business transactions through Rock Canyon Bank.*

26 Mr. Van Wagenen gave some background stating the Council voted to continue this item from the September 19, 2017 meeting and requested the following information: (1) examples of the building being proposed on the property; (2) traffic counts on Center Street; and (3) review of buffering requirements between commercial and residential properties.

- 32 1. Home Values
- 34 2. Building examples
- 34 3. Center Street Traffic Counts
- 36 4. Buffering requirements:
  - 38 a) Screening and Fencing in the *CF* zone requires
    - 40 i. a six (6) foot high site obscuring fence shall be constructed and maintained along any property line between a residential use or residential zone and a commercial building in the CF zone when the commercial building is closer than 30' from the property line. The fence shall be placed along the property line at an area parallel to the commercial building and shall extend a minimum of 50' along the property line from both directions from the ends of the building;
    - 44 ii. any commercial structure closer than 30' to a residential use or residential zone shall provide a minimum 10' wide tree-lined buffer from the commercial building to the adjacent residential use or zone. Trees shall be

- 2 planted at least every 10' along the buffer area adjacent to the residential  
use or residential zone. Trees must be a minimum of 2" caliper measured  
4 one foot off the ground and at least 6' tall when planted. In addition to  
any required fencing, trees shall be of a variety that will mature to a height  
6 of at least 20' tall in order to provide an increased visual barrier between  
the commercial use and the residential use;
- 8 iii. residential dwelling units and agricultural accessory buildings are not  
considered commercial structures.
- 10 b. Screening and fencing in *other commercial zones* requires
- 12 i. a 40 foot building setback to a residential property;
- 14 ii. a masonry or concrete fence seven feet high be constructed along any  
property line between nonresidential development and a residential  
use/zone;
- 16 iii. any off-street parking lot adjacent to a residential use/zone shall provide a  
minimum 10 foot landscape buffer from the parking lot to the adjacent  
residential use/zone with trees planted every 10 feet.

18

20 Mr. Van Wagenen explained the Commercial Farm (CF) zone was created in  
2011 to “provide encouragement of agricultural production and associated commercial  
activities that are compatible with and/or promote agricultural uses within the city.  
22 Although the intent of the zone is to promote agricultural uses within the city, the zone  
may be utilized as “holding zone” to allow reasonable options for income from  
24 agricultural and/or commercial uses for a period of time before developing the land in  
conformance with the General Plan Land Use Map.” The applicant is requesting a rezone  
26 of the subject properties in order to build a reception/event center while raising and  
breeding alpacas and selling alpaca wool.

28 Mr. Van Wagenen stated the applicant has provided a brief business plan and  
concept site plan for the property (see attached).

- 30 • Business Plan for the Commercial Farm
- 32 ○ “We will have 14 alpacas. Our intent is to sell the offspring as breeding pairs,  
or what’s called a starter pack. This will consist of a pregnant female and an  
unrelated male. We can also sell the wool which can be quite expensive and  
34 highly sought after.”
- 36 ○ The reception/event center will be an additional revenue source for the alpaca  
operation. This is a conditionally permitted use in the CF zone.

38 One of the main requirements for CF zone consideration is listed in LCC 17.51.015  
and states:

- 40 • Agricultural Production Required
- 42 1. At least 40% of the property must be maintained in active agricultural  
production and be managed in such a way that there is a reasonable  
expectation of profit. Land used in connection with a farmhouse, such as  
44 landscaping, driveways, etc., cannot be included in the area calculation for  
agricultural production eligibility.
- 46 2. For the purposes of this chapter, “agricultural production” shall be defined as

2 the production of food for human or animal consumption through the raising  
of crops and/or breeding and raising of domestic animals and fowl (except  
4 household pets) in such a manner that there is a reasonable expectation of  
profit.

6 Mr. Van Wagenen noted the application does meet the requirements for lot area,  
lot width, lot depth, and lot frontage. However, the parcels presented are not currently  
8 under identical ownership as required in LCC 17.51.020. This should be a requirement if  
an approval is granted.

10 Mr. Van Wagenen further explained the concept site plan does show the existing  
single family home in addition to a caretaker dwelling that is currently being restored  
12 (Center and 500 East). The caretaker dwelling being restored has nonconforming  
setbacks due to the age of the original construction. Although the application appears to  
14 meet the requirements for the properties in question to be rezoned, this is a legislative  
action. Therefore, the City Council is not obligated to approve if the Council decides the  
16 request is not in the best interest of the public and Lindon City. In looking to the future,  
the home on this site will have to be associated with the proposed reception/event center  
18 because of the minimum size requirements of the Commercial Farm zone. As we have  
recently seen with other properties, this can be problematic when the current owner  
20 moves on and the property is sold to future operators.

Mr. Van Wagenen stated if the applicant's request is granted, a separate site plan  
22 application will need to be submitted to ensure all site requirements are met regarding  
parking, landscaping, fencing, building height, etc.

24 Mr. Van Wagenen pointed out the Planning Commission heard this request on  
September 12, 2017. Several citizens came to the public hearing and opposed the  
26 applicant's request. There were concerns about traffic and noise from the proposed  
event/reception center. He noted the Commission considered the item for an hour,  
28 discussing the positives and negatives of the request. One motion to approve the request,  
with the consideration that a future reception center would be a conditional use permit  
30 where conditions could be placed on the property to mitigate negative effects on the  
neighborhood was defeated. No member of the Commission offered an alternative  
32 motion. Lack of an approved motion automatically becomes a recommended denial of the  
request to the City Council.

34 Mr. Van Wagenen then referenced the draft ordinance 2017-14-O, and aerial  
photo of the proposed area to be rezoned, the current zoning map, the conceptual site  
36 plan, the information provided on alpaca farming, LCC 17.51 Commercial Farm Zone,  
building examples and the center street traffic counts followed by discussion. At this time  
38 he called for any questions from the Council.

Councilmember Sweeten asked for clarification on the intent of this ordinance  
40 that it was not drafted for just one property and not for others. Mr. Cowie clarified the  
intent noting they looked at a specific site to address issues but knowing that it may be  
42 utilized by other properties. He noted this is a unique use but everyone thought it was a  
benefit to the community and to help keep the agricultural open space in Lindon. Mr. Van  
44 Wagenen clarified this is a legislative decision noting they can meet the commercial farm  
ordinance but they are under no obligation otherwise to approve. At this time  
46 Councilmember Hoyt read several lines from an email sent by the City Attorney noting it

2 is important to know that this can be reasonably debatable in moving forward and in  
making a decision.

4 Councilmember Sweeten pointed out the original Wadley Farms has a lot of  
similar things to this proposal and to remember what the intent was and what the original  
6 ordinance was. Councilmember Lundberg stated she has thought about this historically  
and the fact that Wadley Farms had a conditional use for many years with their original  
8 event barn, so they were really able to establish themselves to be a good neighbor and it  
was not an inherit right to continue on and they had to prove their model; they had to give  
10 weight to the neighbors to show they would be a good neighbor. She noted this is a  
divisive issue and we must give weight to the fact that this has been a residential zone and  
12 the event facility itself has been so divisive; it would be nice to stage this and see how it  
progresses through stages.

14 Councilmember Sweeten stated the comments received are almost split down the  
middle with half for pro and half for con, but he is hearing a lot of positives especially  
16 from those neighbors who are in close proximity to the applicant; if he lived across the  
street from this proposal he would be okay as it is proposed. Councilmember Lundberg  
18 stated she has received some additional emails from neighbors who feel they will be  
impacted by the noise and traffic.

20 At this time Mr. Van Wageningen stated the applicants are in attendance to address the  
council and provide additional information if needed.

22 Mr. Jorgensen made note of the letters they have received that are for and against  
noting it appears that those who live near to them (who this may impact the most) are in  
24 support of them and those who aren't supportive live further away. Shelly Savage, direct  
neighbor to the Jorgensen's stated she is in favor of this proposal. She also pointed out that  
26 some of the residents who were in attendance showing support to the Jorgensen's did not  
send emails. Mr. Jorgensen pointed out that he has been looking at the minutes from when  
28 the commercial farm zone was put in to place and the arguments made (he read portions  
from the minutes from 2011). He also referenced the zone map. Mr. Jorgensen stated they  
30 are going to great expense to acquire and preserve these properties for the very reason  
Lindon City adopted this ordinance in the first place. This will be a great event center for  
32 the community. He understands these concerns but they will be mitigated through a  
conditional use permit. They have been here for 18 years and this will be a good thing for  
34 the community and it will be a nice addition. He pointed out their property is bordered by  
two collector roads and will not make much more of an impact on traffic than what is  
36 already generated.

Councilmember Broderick stated it is interesting on the number of comment, texts  
38 and emails pointing out that all are favorably to the Jorgensen's integrity. He has been to  
the property at least five times with those who are pro and con and walked through and  
40 looked at the areas and some changed their mind after walking through (both pro and con).  
He is for preserving the residential area based on the zoning so he will not be in favor.

42 Councilmember Hoyt stated he values residential properties and he is familiar with  
this property location in question. He stated he reached out to and was given the opinion of  
44 three real estate agents and all had similar answers and they all agreed in the best case  
scenario that the home values would be minimally affected. He went back to two meetings  
46 ago where they discussed preserving residential areas. The General Plan is written to decide

2 where residential areas should be and we don't want them negatively affected. This is a  
controversial issue and he has concerns about the buffering and noise. He appreciates the  
4 Jorgensen's and the thought gone into this, but he worries that it may be too much  
infringement on a general planned residential area and therefore he will not be in favor.

6 Councilmember Bean stated when this commercial farm zone was initiated he and  
Councilmember Lundberg were on the Planning Commission so there is some related  
8 institutional knowledge and background here tonight. At the time the Wadley Farms  
property had been operating for about 10 years and they wanted to expand it and it is  
10 probably bigger now than what would have been foreseen. Being that Wadley Farms is a  
historical farm site was significant and the 18 acres provides a large buffer. He is aware  
12 that Wadley Farms has expanded and the applicant's proposal is much smaller. In  
retrospect he would have liked to see the minimum size (in the ordinance) be larger than 5  
14 acres as he feels they did not anticipate future applicant's putting together parcels to  
achieve the 5 acre minimum; he has mixed feelings but they have met the ordinance.

16 Councilmember Sweeten asked the Council where in the city they would like to see  
this ordinance used if not at this location as he feels it is a great location to see this  
18 ordinance used; if not here then why do we even have this ordinance. Councilmember  
Lundberg stated the ordinance was put in place to encourage saving some open space; that  
20 was the intent of the ordinance and she personally likes the concept. The only issue that  
seems to be divisive is this plan that can bring in several hundred people multiple times a  
22 week. She agrees it is on a collector street so it is not a super quiet residential area.  
Councilmember Sweeten questioned the Council if it were 10 acres would it be okay.  
24 Councilmember Lundberg stated for her it is the distance from a conditional use event  
center to an adjacent residential home and if there is enough of a buffer. Mr. Jorgensen  
26 stated it was approved by the past council as a 5 acre piece and questioned what has  
changed since then. Mr. Jorgensen expressed that he feels they are not being treated fairly  
28 and this appears to be a double standard (as it pertains to Wadley Farms) as they have come  
in under that same ordinance.

30 Councilmember Lundberg stated Wadley Farms has been operating in that activity  
for many years and they have established good neighbor relationships for the operation of  
32 that business and she is sure the Jorgensen's have that same intention. Where we are going  
in changing a zone to accommodate this we should have to give weight to those folks who  
34 want to maintain a residential area. Mr. Jorgensen said their property was a farm long  
before it was residential and it was a great idea then but why not now and why and what  
36 better place to put another one. He pointed out this is named Walker Farms, a historical  
name synonymous with Lindon. We need these zones...it was a great idea then and if not  
38 here then where in the city would you want this? What has changed since then?

40 Michael Travis, resident in attendance, pointed out that the Udall's were raked over  
the coals tonight for their trip count and their requirements and looking at this proposal  
there has been no discussion addressed that this proposal is across the street from the  
42 elementary school which will induce mass chaos with traffic. He questioned if this is in an  
appropriate location; he feels it is not. Mr. Van Wagenen pointed out there are buffering  
44 comparisons included in the staff report.

46 Mayor Acerson stated the Council has weighed in on this issue and called for action  
at this time.

2

At this time Mr. Jorgensen asked to read a prepared statement for the record as follows:

4

6

*I do not feel that our application has been treated the same as other similar applications that have been made over the years and I have several examples that I want to get on the record.*

8

*Back in 2011, Alan Colledge of Wadley Farms requested Lindon City to draft a new zone that would accommodate his plans to expand his reception business. According to his comments in this room at our last meeting, (which are recorded) he helped write the language for the zone change. Taking from that same recorded testimony, "there were no other parcels in the city at that time that this new zone could be applied to, and so we set the minimum acreage for the zone to 5." Minutes from Lindon Council records:*

10

12

14

16

18

*LCC 9-20-2011: The council was asked to review and give feedback concerning a proposed concept of creating a new zone to better accommodate future needs of his farm and reception facility at 35 East 400 North in the R1-20 zone.*

20

22

*PZ 9/27/2011: In the Planning Directors Report, Mr. Cowie reported that; "Mr. Colledge is requesting to expand the reception center to accommodate a 300 person capacity, which will need an ordinance change. Mr. Cowie noted that this could be a potential farm zone, which is currently zoned residential. The City Council felt strongly enough about preserving this property that they directed the planning staff to prepare an ordinance change for farm use.*

24

26

28

*This will be coming to the Planning Commission the end of October for a CUP, Ordinance Change and a Zone Change. Basically a done deal!*

30

32

*PZ 10/25/2011:*

*Add a Commercial Farm Zone*

34

*Approve Wadley Farms for the new zone change\* Approve a CUP, (even before the CC approved) Approved Approved Approved*

36

*\*NO hard questions, no concerns about traffic, noise, impact of home values, no requests for what his new building would look like...*

38

40

*None of the questions that Councilwomen Lundberg asked at our last meeting were asked at that meeting by any of them, including then Commissioner Lundberg.*

42

*LCC 11/1/2011:*

*Mr. Cowie opened the discussion by stating this proposed ordinance is a **city initiated***

2 change to add a commercial farm zone to the Lindon City ordinances.  
Mr. Cowie also noted that *this ordinance would be intended for other people to*  
4 *use this in other areas of the city.*

6 Mr. Cowie noted some key items for discussion as follows:

- 8 • a minimum 5 acre lot size
- 40% agricultural required
- 10 • Lot width and depth and frontage as same as residential zone
- Number of dwellings per lot (not more than one single family dwelling).
- 12 • Setback requirements. Any potential commercial building should have  
same setbacks as residential units.
- 14 • Maximum building height of 35 ft. with an additional 10 ft. for other uses, i.e.  
cupola, HVAC.
- 16 • Distance of 10 ft. between buildings as required by building code. Permissible  
lot coverage of 40% of the lot area.
- 18 • 40% of front yard setback must be landscaped.
- Screened fencing.

20 Mr. Cowie then went over permitted uses and conditional uses. He also noted that  
22 there are enough conditions in the Conditional Use Permit to set limits and make it  
compatible. Mr. Cowie also mentioned concerns regarding potential nuisances such  
24 as odors, flies, loose animals, etc. Mr. Cowie asked if there were any concerns with  
any of the listed uses. Councilmember Bayless noted that the Planning Commission  
26 discussed this issue thoroughly. There were no other concerns or comments.

28 *Fast Forward to PZ April 11 2017:*

30 *Site Plan Amendment —Wadley Farms, Alan Colledge requests amended site  
plan approval for a 5,500 square foot addition to the Wadley Farms Castle.*

32 *Mr. Van Wagenen stated they are providing vehicle parking for up to 1,645 persons,  
Note: with only one entrance and exit to the site.*

36 *THERE WERE NO CONCERNS RAISED BY ANY COMMISSIONERS*

38 *COMMISSIONER KALLAS MOVED TO APPROVE THE APPLICANT'S*  
40 *REQUEST FOR A 5,500 SQUARE FOOT ADDITION TO THE COMMERCIAL*  
*BUILDING*

42 ***Our Experience:***

2 *PZ 9112/2017: This was a request for a zone change. We shouldn't have even been*  
3 *discussing what our intended use of the property could be. That should have*  
4 *happened when and if we applied for a CUP after approval of our zone change*  
5 *While I appreciate the support of Commissioners Johnson and Marchbanks, I am*  
6 *concerned about comments made by other commissioners, specifically Rob Kallas. He*  
7 *stated that he could get behind anything else but the "R" word, reception center. He*  
8 *was especially critical of the lights and noise that would spill over to the neighbors*  
9 *around us and he used the Linden Barn as an example. Note: I've personally known*  
10 *Rob for 30 years and I found this to be ironic since he and his employer, the Woodbury*  
11 *Corporation have systematically wiped out literally blocks of single family homes in*  
12 *expanding their University Mall (Place).*

14 *This was the same PZ commissioner who just 5 months ago made the motion to approve*  
15 *Wadley Farms request to build an additional 5500 sf. This addition will take their total*  
16 *amount of reception center space to more than 23,000 sf, and accommodate 1645*  
17 *people, and not one of them made a peep.*

18 *LCC 9119/2017:*

20 *Mr. Wadley was allowed to make a speech TO THE AUDIENCE, his back to the*  
21 *council, and made these comments:*

- 22 • *Your neighborhood will never be the same,*
- 23 • *Your relationships with your neighbors will never be the same,*
- 24 • *You are putting your foot in a bear trap,*
- 25 • *and questioned our ability to control our guest's behaviors.*

26 *I know he had a right to be there and take his 3 minutes, but why he, as a competitor,*  
27 *would be allowed to make such a long presentation with NO attempt from the council*  
28 *to stop or remind HIM of the rules regarding the format of the meeting.*

30 ***In Summary:***

32 *What is before you is an application for a zone change. What we do with our*  
33 *property after that SHOULD have been dealt with under a completely separate*  
34 *application and process.*

36 *Lindon City created a Commercial Farm Zones (CF) to provide encouragement of*  
37 *agricultural production and associated commercial activities that are compatible*  
38 *with and/or promote agricultural uses within the city. Objectives of the zone include*  
39 *promoting and preserving agricultural production, promoting agricultural open*  
40 *space throughout the city, and allowing associated commercial activities which*  
41 *could be used as additional revenue sources to help sustain and support agricultural*  
42 *industry within Lindon and it is still on the books.*

2 *We meet ALL of the city's requirements for the zone and while there are those who*  
4 *oppose this, (and they have that right) public clamor is not an acceptable reason for*  
6 *the city to deny our application. If the majority of the citizens of Lindon want to*  
8 *change or eliminate this zone, there is a process to do it and they are free to do so.*  
*This meeting should be about whether or not we meet the requirements for a zone*  
*change and after that we should be discussing our CUP, but that horse has long left*  
*the barn.*

10 *Our project and its use is exactly what the Zone was intended for. It's located on one*  
12 *of the few remaining pieces of the original Walker Farms, with the house that most of*  
*them grew up in being painstakingly restored.*

14 *The location couldn't be better as it is bordered on 2 of 3 sides with Major Collector*  
16 *roads according to Lindon City Street Master Plan. Also, we have 2 ways in and 2 ways*  
*out on 2 separate roads*

18 *The criteria laid out in the Zone dictates a small size for our operation. Our proposed*  
20 *Event Barn is only 4900 sf. (21% the size of Wadley Farms) and our occupancy is*  
22 *220 (13% of Wadley's). We are providing more off street parking that the city*  
*requires (9 more spaces).*

24 Following the statement Mr. Jorgensen thanked the Mayor and Council for their  
time and consideration in this matter.

26 Councilmember Bean asked Mayor Acerson to voice his comments. Mayor  
Acerson commented that these issues arise in the city and you have heard the council weigh  
for support or non support on this issue. This is a different council from years past and  
things change. We want a "little bit of country" in Lindon but this is a divisive issue and  
the fear of the unknown exists. There is a chance over time that those who are opposed  
may find these fears are unfounded. The Council has to weigh in on all comments from all  
citizens and the council is going to vote the way they feel. His greatest desire is to ensure  
that all citizens can voice their opinion and in the end this legislative body has to make a  
decision whether right or wrong. The challenge is that Lindon is growing and Lindon likes  
open space and large properties with open areas. This is a situation where we all need to  
work together; the Council is trying to be the voice of the people.

36 Councilmember Lundberg commented that her comments are not put verbatim in  
the minutes and are summarized. She noted there was a lot of healthy discussion with  
Wadley Farms and the zone and she is leaning to approval. She expressed that we need to  
be respectful to everyone and they did neighbor to neighbor work to mitigate concerns and  
she wants to be careful because there may be those who will be impacted but the event  
center will have a conditional use associated with it to mitigate the issues and concern. She  
feels 5 acres is sufficient but the use of the building and the buffering is a concern. She  
stated it appears Mr. Jorgensen is starting the groundwork to establish good relationships  
and earn the respect and rapport with the neighbors and she would like to see that continue.

44 Mayor Acerson then called for any further comments or discussion from the  
46 Council. Hearing none he called for a motion.

2

COUNCILMEMBER HOYT MOVED TO DENY THE APPLICANTS  
REQUEST FOR APPROVAL OF ORDINANCE 2017-14-O WITH NO CONDITIONS.  
COUNCILMEMBER BRODERICK SECONDED THE MOTION. THE VOTE WAS  
RECORDED AS FOLLOWS:

COUNCILMEMBER BEAN	NAY
COUNCILMEMBER LUNDBERG	NAY
COUNCILMEMBER HOYT	AYE
COUNCILMEMBER BRODERICK	AYE
COUNCILMEMBER SWEETEN	NAY

12 THE MOTION FAILED 3 TO 2.

14 Mayor Acerson called for another motion because the motion failed.

16 Councilmember Lundberg brought up the issues at hand: traffic, location, off  
street parking. She asked Mr. Jorgensen if he would be willing to do this incrementally  
and get the feedback from the community and develop relationships and build a good  
rapport with the neighbors as to mitigate the concerns and issues. Mr. Jorgensen agreed  
that they would be happy to do this incrementally and to continue to mitigate any issues  
as to alleviate the neighbors concerns. Councilmember Lundberg clarified this is only the  
zone change tonight and not the conditional use permit.

24 COUNCILMEMBER SWEETEN MOVED TO APPROVE THE APPLICANTS  
REQUEST FOR APPROVAL OF ORDINANCE 2017-14-O WITH THE CONDITION  
THAT ALL PARCELS BE UNDER THE SAME OWNERSHIP. COUNCILMEMBER  
BEAN SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

COUNCILMEMBER BEAN	AYE
COUNCILMEMBER LUNDBERG	AYE
COUNCILMEMBER HOYT	NAY
COUNCILMEMBER BRODERICK	NAY
COUNCILMEMBER SWEETEN	AYE

THE MOTION PASSED 3 TO 2.

34  
36 **8. Discussion Item — Parks & Recreation Facilities Visioning; Park Signs;  
Field Rental Fees; etc.** Lindon City Parks & Recreation Director, Heath  
Bateman, will review several items for discussion and feedback including long-  
38 term visioning and intended use of the Community Center & Veterans Hall,  
review possible park & sports field rental policies and fees, standardizing park  
40 entry signage, possible pavilions and expanded fencing around the Aquatics  
Center, and other matters pertaining to the Parks & Recreation Department.

42  
44 Heath Bateman, Parks and Recreation Director, was in attendance to review  
several items for discussion and feedback including long-term visioning and intended use  
of the Community Center & Veterans Hall, review possible park & sports field rental  
46 policies and fees, standardizing park entry signage, possible pavilions and expanded

## Item 5: Conditional Use Permit — Gillman Farms Elk Ranch

Deny Farnworth requests conditional use permit (CUP) approval for a domestic elk farm (Farnworth Gillman Farm’s Elk Ranch) on 9.3 acres located at 592 West Gillman Lane, in the Residential Single-Family (R1-20) zone.

<p>Applicant: Deny Farnworth Presenting Staff: Brandon Snyder</p> <p>General Plan: Residential Low Zone: Residential Single Family R1-20</p> <p>Property Owner: Farnworth Gillman Farms LLC (Deny Farnworth) Address: 592 W. Gillman Lane Parcel ID: 40:342:0033 Lot Size: 9.345 acres</p> <p>Type of Decision: Administrative Council Action Required: No</p>	<p><u>SUMMARY OF KEY ISSUES</u></p> <ol style="list-style-type: none"> <li>Whether to approve the applicant’s request for a conditional use permit.</li> <li>Whether to impose reasonable conditions to mitigate potential detrimental impacts.</li> </ol> <p><u>MOTION</u></p> <p>I move to (<i>approve, deny, continue</i>) the applicant’s request for a conditional use permit for a domestic elk farm, to be located at 592 West Gillman Lane, in the Residential Single-Family (R1-20) zone, with the following conditions (if any):</p> <ol style="list-style-type: none"> <li>Restrict total number of elk (including bulls, cows and calves) to no more than _____,</li> <li>No hunting activities to take place on-site, and</li> <li>Maintain licensing and comply with regulations as required by the State of Utah to operate a domestic elk farm (as per Lindon City Code 6.16.020).</li> </ol>
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### REQUEST

#### DESCRIPTION OF GILLMAN FARM ELK RANCH

We are requesting a permit to raise elk at our facility. Our facility consists of 9.4 acres which we are utilizing approximately 9 acres for the elk farm. We have correlated with the State of Utah according to their rules and regulations and have exceeded their requirements and received a license from them which Lindon City has a copy of.

Our fences are 8’ high made of high-tensile steel wire. The state required 5” pressure treated posts 12’ tall 20’ apart, Gillman farms installed 7”-8” pressure treated posts 18’ apart. All exterior gates are 2”x2”x1/4” thick square tubing and are locked with pad locks. We have double gated the main entry to keep any elk from breaching the perimeter and have a dart gun in case any problems arise. We have acquired a hydraulic squeeze shoot specifically designed for elk to use in any medical or emergency purposes.

At Gillman Farms Elk Ranch our start up plan is to have 2 bulls and approximately 20 cows. Each year we will have calves, some we will raise and some we will sell. The state has no requirements as far as animal per acre amount. Rule of thumb we’ve heard from other breeders and elk facilities is 6-10 per acre. We will never exceed this amount.

Thank you for your time and consideration in this matter.

Deny and Trisha Farnworth and Family

## OVERVIEW

- The applicant has requested approval from the Lindon City Planning Commission for a domestic elk farm. No hunting activities are requested or will be allowed to take place. The applicant is proposing to be allowed 54-90 elk as a maximum. How many elk are appropriate for this site? (State recommendation by Leslie McFarlane, Domestic Elk Manager, for this property is no more than 50-60 total. About 6 elk per acre. Bulls generally require separate pens and more space. Main public complaint is occasional animal noises (bugles and calls) during fall breeding. State regulations address main concerns of escape and disease.)
- Elk are considered to be a wild animal per Lindon City Code (LCC) 6.04.005. LCC 6.16.015 indicates: Wild and exotic animals, as defined in this title, shall only be authorized in Lindon City by issuance of a conditional use from the Planning Commission. Conditional uses shall be regulated according to Chapters 17.20 through 17.24 of Lindon City Code. The potential allowance of wild and/or exotic animal species and the quantities of said species are subject to approval on a case-by-case basis. Conditions of approval may be imposed by the Planning Commission as deemed necessary to protect the public health, safety, and welfare including, but not limited to, increased setbacks, fencing, size and type of enclosure or structure, etc.
- Objective 5 (Community Vision – Lindon City General Plan) Maintain the quality of existing and future neighborhoods and land use areas within the City through preservation of animal rights, community beautification, improved parks & trails, and other pursuits relating to provident living, recognizing all segments of our community (age, economic status, etc.).
- Objective 9 (Community Vision – Lindon City General Plan) Protect and maintain the rights of Lindon City residents to own and possess on their property, as is appropriate for property size, farm animals such as horses, cows, chickens, pigs, goats, sheep, etc., as well as cats and dogs; and provide these same rights to new residential developments.
- The site has existing structures (barns) and animal enclosures that comply with the setback requirements of LCC 6.32.040 and 50.
- The applicant has already been issued a license from the State of Utah (Department of Agriculture and Food) for a Domestic Elk Farm. (See attached license.)
- Most Elk Farm owners raise the elk as a hobby and/or business (breeding stock, velvet production, meat production, and mature bulls sold for hunting on private property).

Links:

<https://ag.utah.gov/animal/elk-farms-hunting-parks.html>

<https://www.naelk.org>

Third Party Public Notices required per LCC section 17.14.50 were mailed on August 17, 2018. No public comments have been received at this time.



ANALYSIS

LCC Animal Regulations Title 6 indicates that the ability to keep animals and livestock has been and continues to be a defining characteristic of the rural atmosphere that Lindon City seeks to maintain.

LCC 6.04.003 Purpose and Intent: The animal control ordinance shall provide a reasonable opportunity for the residents of Lindon to maintain animals on their property within the constraints and limits of this provision. It shall also be the purpose of this ordinance to provide regulations, constraints, and limits on the number of animals kept and the manner in which the animals are maintained in order to minimize the impact on neighboring property owners...Lindon City recognizes that the keeping of animals and livestock is inherently associated with odors, animal excrete, flies, and some noises. Unless otherwise stated within this Title, a reasonable level of tolerance will be permitted for these inherent characteristics such as odors, flies, and animal noises that are common to the keeping of animals and livestock in order to protect, preserve, and maintain the rights of land owners to raise animals on their properties.

*Applicable laws and standards of review*

- State Code defines a conditional use as "a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts."
- Section 10-9a-507 of the State Code requires municipalities to grant a conditional use permit "if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards." Once granted, a conditional use permit runs with the land.
- State Code further provides that a conditional use permit application may be denied only if "the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards." Utah Code § 10-9a-507.
- LCC Section 17.20.060 provides that a conditional use may be denied when:
  - "[U]nder circumstances of the particular case, the proposed use will be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity, and there is no practical means available to the applicant to effectively mitigate such detrimental effects;" or,
  - "[T]he applicant cannot or does not give the Planning Commission reasonable assurance that conditions imposed incident to issuance of a conditional use permit will be complied with."

PICTURES









**DOMESTIC ELK**

**NO TRESPASSING**

**VIOLATORS WILL BE PROSECUTED UP TO \$100,000 FINE.**

**Gillman Farms Ranch LLC  
Contact 801-310-1999**

08.22.2018 08:39





08.22.2018 08:44



## ATTACHMENTS

1. Site Plan
2. State of Utah License (Domestic Elk Farm)
3. State of Utah Elk Facility Checklist
4. Regulation R58-18. Elk Farming
5. Regulation R58-19 Compliance Procedures
6. Utah Code 4-39 Domesticate Elk Act



650 WEST ST.

290 N.

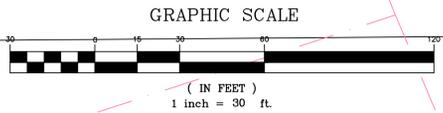
PHEASANT BROOK PLAT "A", LOT 17

GILLMAN FARM PLAT "A", LOT 8



GILLMAN LANE

GILLMAN LANE  
KEVIN & LISA GILLMAN  
250 N. 600  
REX W. CLARK



A.L.M. & Associates, Inc.  
Engineering • Surveying • Development • Planning

2230 North University Parkway, Building 6D, Provo, Utah 84604 ph: (801) 374 - 8762

SEAL

ELK ENCLOSURE MAP

DENY FARNWORTH

SITE PLAN

No.	Revision	Date

1  
OF 1  
Proj # 389 - 877

© COPYRIGHTED MATERIAL. THESE PLANS WITHOUT WRITTEN PERMISSION ARE CONSIDERED FROM THE PROPERTY OF A.L.M. & ASSOCIATES, INC. 2009 NORTH UNIVERSITY PARKWAY BUILDING 6-D PROVO, UTAH 84604

SHEETS

YEAR: 2019

STATE OF UTAH

No: 2801-20237

DEPARTMENT OF AGRICULTURE AND FOOD

P.O. Box 146500 Salt Lake City UT 84114-6500 <http://ag.utah.gov> Phone: 801-538-7100

DOMESTIC ELK FARM  
LICENSE  
GILLMAN FARMS LLC



DENY AND TRISHA FARNWORTH  
592 W GILLMAN LN  
LINDON UT 84042

Registry No: PREMISE ID# UT072

Expiration: 6/30/2019

COMMUNITY DEVELOPMENT  
LINDON CITY

AUG 10 2018

RECEIVED

## ELK FACILITY CHECKLIST

### FENCING

- All perimeter fences and gates shall be 8'.
- Fences constructed of high-tensile steel - 14 « gauge.
- Bottom 4' must be mesh no larger than 6 x 6".
- Top 4' must be mesh no larger than 12 x 6".
- Gates shall be locked, consecutive or self closing.
- Posts shall be treated wood 4" in diameter or equivalent.
- Stays can be wood or steel.
- Stays must be within 15 feet of post.
- Stays must be 8' above or 2' below ground.
- Corner posts and gate posts must be braced.

### INTERNAL FACILITY

- Does facility have working pen?
- Does facility have alley way?
- Does facility have a restraining chute that will allow inspection and veterinarian work?
- Is this internal facility constructed to protect inspection personnel?
- Does facility have an isolation holding facility separate from other elk holding areas (no nose to nose contact)?
- Does facility have signage indicating that it is a domestic elk facility?

COMMUNITY DEVELOPMENT  
LINDON CITY

AUG 10 2018

**RECEIVED**

AUG 10 2018

**R58. Agriculture and Food, Animal Industry.**

**R58-18. Elk Farming.**

**R58-18-1. Authority.**

Regulations governing elk farming promulgated under authority of 4-39-106.

**RECEIVED**

**R58-18-2. Definitions.**

In addition to the definitions found in Sections 4-1-8, 4-7-3, 4-24-2, 4-32-3 and 4-39-102, the following terms are defined for purposes of this rule:

(1) "Adjacent Herd" means a herd of Cervidae occupying premises that border an affected herd, including herds separated by fences, roads or streams, herds occupying a premises where Chronic Wasting Disease (CWD) was previously diagnosed, and herds that share the same license as the affected or source herd, even if separate records are maintained and no commingling has taken place.

(2) "Affected herd" means a herd of Cervidae where an animal has been diagnosed with Chronic Wasting Disease (CWD) caused by protease resistant prion protein (PrP), and confirmed by means of an approved test, within the previous 5 years.

(3) "Animal identification" means a device or means of animal identification.

(4) "Approved test" means approved tests for Chronic Wasting Disease CWD surveillance shall be those laboratory or diagnostic tests accepted nationally by USDA and approved by the State Veterinarian.

(5) "Commingled", "commingling" means that animals are commingled if they have direct contact with each other, have less than 10 feet of physical separation, or share equipment, pasture, or water sources/watershed. Animals are considered to have commingled if they have had such contact with a positive animal or contaminated premises within the last 5 years.

(6) "CWD-exposed animal" means an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

(7) "CWD-exposed herd" means a herd in which a CWD-positive animal has resided within 5 years prior to that animal's diagnosis as CWD-positive.

(8) "CWD Herd Certification Program" means the Chronic Wasting Disease Herd Certification Program.

(9) "CWD-positive animal" means an animal that has had a diagnosis of CWD confirmed by means of an official CWD test.

(10) "CWD-positive herd" means a herd in which a CWD positive animal resided at the time it was diagnosed and which has not been released from quarantine.

(11) "CWD-suspect animal" means an animal for which has been determined that laboratory evidence or clinical signs suggest a diagnosis of CWD.

(12) "CWD-suspect herd" means a herd in which a CWD suspect animal resided and which has not been released from quarantine.

(13) "Destination Herd" means the intended herd of residence, which will be occupied by the animal which is proposed for importation.

(14) "Domestic elk" as used in this chapter, in addition to 4-39-102, means any elk which has been born inside of, and has spent its entire life within captivity.

(15) "Elk" as used in this chapter means North American Wapiti or Cervus Elaphus Canadensis.

(16) "Herd of Origin" means the herd, which an imported animal has resided in, or does reside in, prior to importation.

(17) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receives state or federal inspection.

(18) "Quarantine Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk and livestock.

(19) "Raised" as used in the act means any possession of domestic elk for any purpose other than hunting.

(20) "Secure Enclosure" means a perimeter fence or barrier that is so constructed as to prevent domestic elk from escaping into the wild or the ingress of native wildlife into the facility.

(21) "Separate location" as used in Subsection 4-39-203(5) means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.

(22) "Trace Back Herd/Source Herd" means a herd of Cervidae where an animal affected with CWD has formerly resided.

(23) "Trace Forward Herd" means a herd of Cervidae which has received exposed animals that originated from a CWD positive herd within 5 years prior to the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.

### **R58-18-3. Application and Licensing Process.**

(1) Each applicant for a license shall submit a signed, complete, accurate and legible application on a Department issued form.

(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed farm in conjunction with roads, towns, etc. in the immediate area.

(3) A facility number shall be assigned to an elk farm at the time a completed application is received by the Department.

(4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any facility. This inspection shall be made by an approved Department of Agriculture and Food employee and Division of Wildlife Resources employee. It shall be the responsibility of the applicant to request this inspection at least 72 hours in advance.

(5) Upon receipt of an application, inspection and approval of the facility and completion of the facility approval form and receipt of the license fee, a license will be issued.

(6) All licenses expire on July 1st in the year following the year of issuance.

(7) Elk may enter into the facility only after a license is issued by the Department and received by the applicant.

### **R58-18-4. License Renewal.**

(1) Each elk farm must make renewal application to the Department on the prescribed form no later than April 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee. Any license renewal application received after April 30th will have a late fee assessed.

(2) Any license received after July 1st is delinquent and any animals on the farm will be quarantined until due process of law against the current owner has occurred. This may result in revocation of the license, loss of the facility number, closure of the facility and or removal of the elk from the premises.

(3) Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.

(4) The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.

(5) Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee.

(a) The employee will document that all fencing and facility requirements are met as required.

(b) The employee will perform an inventory count on all elk on the premises.

(c) The employee will perform a visual general health check of all animals.

(d) Every year, the employee will perform an inventory of all elk by matching individual animal identification with the inventory records received from the owner/manager of the elk facility.

(e) The physical inventory and bookkeeping inventory must have at least a 95% match.

#### **R58-18-5. Facilities.**

(1) All perimeter fences and gates shall meet the minimum standard as defined in Section 4-39-201.

(a) The perimeter fences and gates shall be constructed to prevent the movement of cervids, both captive and wild, into or out of the facility.

(2) Internal handling facilities shall be capable of humanely restraining an individual animal for the applying or reading of any animal identification, the taking of blood or tissue samples, or conducting other required testing by an inspector or veterinarian.

(a) Any such restraint shall be properly constructed to protect inspection personnel while handling the animals.

(b) Minimum requirements include a working pen, an alley way and a restraining chute.

(3) The licensee shall provide an isolation or quarantine holding facility which is adequate to contain the animals and provide proper feed, water and other care necessary for the physical well being of the animal(s) for the period of time necessary to separate the animal from other animals on the farm.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

#### **R58-18-6. Records.**

(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of all elk on the facility.

(2) The inventory record of each animal shall include:

(a) Name and address of agent(s) which the elk was purchased from,

(b) Identification number (tattoo or microchip) and official ear tag number,

- (c) Age,
- (d) Sex,
- (e) Date of purchase or birth,
- (f) Date of death or change of ownership (name of new owner and address should be recorded and retained), and
- (g) Certificate of Veterinary Inspection if purchased out of state.

(3) The inventory sheet may be one that is either provided by the Department or may be a personal design of similar format.

(4) Any animal born on the property or transported into a facility must be added to the inventory sheet within seven days.

(5) Any elk purchased must be shown on the inventory sheet within 30 days after acquisition, including source.

(6) A death record of all elk 12 months of age and over that die; or that are otherwise harvested, slaughtered, killed, or destroyed shall be submitted to the Department within 48 hours after death of the animal.

#### **R58-18-7. Genetic Purity.**

(1) All elk entering Utah, except those going directly to slaughter, must have written evidence of genetic purity.

(2) Written evidence of genetic purity will include one of the following:

(a) Test charts from an approved lab that have run either a:

(i) Blood genetic purity test or

(ii) DNA genetic purity test.

(b) Registration papers from the North American Elk Breeders Association.

(c) Herd purity certification papers issued by another state agency.

(3) Genetic purity records must be kept on file and presented to the inspector at the time elk are brought into the state and also each year during the license renewal process.

(4) Any elk identified as having red deer genetic influence shall be destroyed, or immediately removed from the state.

#### **R58-18-8. Acquisition of or Slaughter of Elk.**

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) All new elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal(s) to verify that all health, identification and genetic purity requirements have been met. New animals may not co-mingle with any elk already on the premises until this verification is completed by the livestock inspector.

(3) All elk presented for slaughter at an official slaughter facility, that have come from an out of state source, must arrive on a day when no Utah raised elk or elk carcasses are present at the plant.

(4) Individual elk identification must be maintained throughout slaughter and processing until such time that CWD test results have been returned from the laboratory.

(5) Out of state elk shall be tested for Brucellosis at the time of slaughter.

**R58-18-9. Identification.**

(1) All elk shall be permanently identified with either a tattoo or electronic identification tag.

(2) If the identification method chosen to use is the electronic identification tag, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify electronic identification number. The electronic identification tag shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

(a) UT (indicating Utah) followed by a number assigned by the Department (indicating the facility number of the elk farm) and

(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:

UTxxx

ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or microchipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or microchipped within 30 days after arriving on the farm.

(g) All calves must be tattooed or microchipped within 15 days after weaning or in no case later than September 15th or before leaving the premises where they were born.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by an official USDA ear tag or other ear tag approved by the State Veterinarian within 15 days after weaning or in no case later than September 15th or before leaving the premises where they were born or within 30 days after arriving on the farm.

**R58-18-10. Inspections.**

(1) All facilities must be inspected within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the Department for such inspection, giving the Department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within 60 days before a license renewal can be issued.

(3) All elk must be inspected when any change of ownership, moving out of state, leaving the facility, slaughter or selling of elk products, such as antlers, occurs except as indicated in (f) below.

(a) It is the responsibility of the licensee to arrange for any inspection with the local state livestock inspector.

(b) A minimum of 48 hours advance notice shall be given to the inspector.

(c) When inspected, the licensee or his representative shall make available such records as will certify ownership, genetic purity, and animal health.

(d) All elk to be inspected shall be properly contained in facilities adequate to confine each individual animal for proper inspection.

(e) Animals shall be inspected before being loaded or moved outside the facility.

(f) Animals moving from one perimeter fence to another within the facility may move directly from one site to another site without a brand inspection, but must be accompanied with a copy of the facility license.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. All requirements of R58-18-10(3) above shall apply to the inspection of such animals.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of elk or elk products, including velveted antlers, which are to be moved from a Utah elk farm.

(a) Shed antlers are excluded from needing an inspection.

(6) Proof of ownership and proper health papers shall accompany all interstate movement of elk to a Utah destination.

(7) Proof of ownership may include:

(a) A brand inspection certificate issued by another state.

(b) A purchase invoice from a licensed public livestock market showing individual animal identification.

(c) Court orders.

(d) Registration papers showing individual animal identification.

(e) A duly executed bill (notarized) of sale.

#### **R58-18-11. Health Rules.**

(1) Prior to the importation of elk, whether by live animals, gametes, eggs, sperm or other genetic material into the State of Utah, the importing party must obtain an import permit from the Utah State Veterinarian's office.

(a) An import permit number shall be issued only if the destination is licensed as an elk farm by the Utah Department of Agriculture and Food or an official slaughter facility.

(b) The import permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food.

(2) All elk imported into Utah must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid Certificate of Veterinary Inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements must be included on the Certificate of Veterinary Inspection. Minimum disease testing requirement may be waived on elk traveling directly to an official slaughter facility.

(b) A negative tuberculosis test must be completed within 60 days prior to entry into the state. A retest is also optional at the discretion of the State Veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified or monitored herd, they may be imported only if accompanied by a certificate stating that such domestic cervidae have been

classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days prior to the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) All elk being imported shall test negative for brucellosis if six months of age or older, by at least two types of official USDA brucellosis tests.

(e) The Certificate of Veterinary Inspection must also include the following signed statement: "To the best of my knowledge the elk listed herein are not infected with Johne's Disease (Paratuberculosis), Chronic Wasting Disease or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The Certificate of Veterinary Inspection shall also contain the name and address of the shipper and receiver, the number, sex, age and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the State Veterinarian prior to importation or when there is reason to believe other disease(s), or parasites are present, or that some other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm if the State Veterinarian determines the need for and the length of such a quarantine.

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Eradication, Uniform Methods and Rules", the May 6, 1992 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae.

(6) Treatment of all elk for internal and external parasites is required within 30 days prior to entry, except elk going directly to slaughter.

(7) All elk imported into Utah must originate from a state or province, which requires that all suspected or confirmed cases of Chronic Wasting Disease (CWD), be reported to the State Veterinarian or regulatory authority. The state or province of origin must have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) Based on the State Veterinarian's approval, all elk imported into Utah shall originate from states, which have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk.

All elk imported to Utah must originate from herds that have been participating in a verified CWD surveillance program for a minimum of 5 years. Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.

(9) No elk originating from a CWD affected herd, trace back herd/source herd, trace forward herd, adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

(10) Elk semen, eggs, or gametes, require a Certificate of Veterinary Inspection verifying the individual source animal has been tested for genetic purity for Rocky Mountain Elk genes and certifying

that it has never resided on a premises where Chronic Wasting Disease has been identified or traced. An import permit obtained by the issuing veterinarian must be listed on the Certificate of Veterinary Inspection.

**R58-18-12. Chronic Wasting Disease Surveillance and Investigation.**

(1) The owner, veterinarian, or inspector of any elk which is suspected or confirmed to be affected with Chronic Wasting Disease (CWD) in Utah is required to report that finding to the State Veterinarian.

(2) The State Veterinarian will promptly investigate all animals reported as CWD-exposed, CWD-suspect, or CWD-positive animals, including but not limited to:

(a) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(b) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and

(c) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(d) With the approval of the Commissioner of Agriculture, the State Veterinarian will place the facility under quarantine and any trace-back or trace-forward facility as needed.

(e) Any elk over 12 months of age that dies or is otherwise slaughtered or destroyed from a CWD-positive, CWD-exposed, and CWD-suspect herd shall have the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes collected for testing for Chronic Wasting Disease (CWD) by an official test.

(i) The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the State Veterinarian.

(ii) Carcasses and tissues from these animals will be either incinerated or stored by a state or federally inspected slaughter establishment until testing is completed.

(iii) Carcasses and tissues from animals testing positive must be disposed of by incineration or other means approved by the State Veterinarian.

(3) Each elk farm, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes of any elk over 12 months of age that dies or is otherwise slaughtered or destroyed, for testing for Chronic Wasting Disease (CWD) by an official test. The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the State Veterinarian. Farms owning 20 or more elk maybe allowed up to a 10% error rate on samples per year; farms owning less than 20 elk will not have an acceptable error rate.

(4) Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes of all elk over 12 months of age that die; or that are otherwise harvested, slaughtered, killed, or destroyed, for testing for Chronic Wasting Disease with an official

test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian. Hunting parks maybe allowed up to a 10% error rate on samples per year with consideration taken when elk are shot in an area of the elk that causes an unacceptable sample.

(5) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within 7 days, to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, handling, shipping, and identification of specimens for submission.

(6) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(7) The designation and disposition of CWD exposed, positive, or suspect animals or herds in Utah shall be determined by the State Veterinarian.

### **R58-18-13. Herd Status.**

(1) Initial and subsequent status.

(a) When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status, except that; if the herd is comprised solely of animals obtained from herds already enrolled in the Program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd.

(b) If the herd continues to meet the requirements of the CWD Herd Certification Program, each year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year; i.e., Second Year status, Third Year status, Fourth Year status, and Fifth Year status.

(c) One year from the date a herd is placed in Fifth Year status, the herd status will be changed to "Certified", and the herd will remain in "Certified" status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(2) Loss or suspension of herd status.

(a) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only reenroll after entering into a herd plan.

(b) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation.

(i) If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level.

(ii) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(iii) If the epidemiological investigation is unable to make a determination regarding the exposure of the herd, because the

necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status will continue as Suspended unless and until a herd plan is developed for the herd.

(iv) If a herd plan is developed and implemented, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level; Except that, if the epidemiological investigation finds that the owner of the herd has not fully complied with program requirements for animal identification, animal testing, and recordkeeping, the herd will be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status.

(v) Any herd reinstated after being placed in Suspended status must then comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program. The herd plan will require testing of all animals that die in the herd for any reason, regardless of the age of the animal, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question, and may include other requirements found necessary to control the risk of spreading CWD.

(c) If the Department determines that animals from a herd enrolled in the program have commingled with animals from a herd with a lower program status, the herd with the higher program status will be reduced to the status of the herd with which its animals commingled.

(3) Cancellation of enrollment by the Department.

(a) The Department may cancel the enrollment of an enrolled herd by giving written notice to the herd owner.

(b) In the event of such cancellation, the herd owner may not reapply to enroll in the CWD Herd Certification Program for 5 years from the effective date of the cancellation.

(c) The Department may cancel enrollment after determining that the herd owner failed to comply with any requirements of this section.

Before enrollment is canceled, the Department will inform the herd owner of the reasons for the proposed cancellation.

(d) Herd owners may appeal cancellation of enrollment or loss or suspension of herd status by writing to the Commissioner of Agriculture within 10 days after being informed of the reasons for the proposed action.

(i) The appeal must include all of the facts and reasons upon which the herd owner relies to show that the reasons for the proposed action are incorrect or do not support the action.

(ii) The Commissioner of Agriculture will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision.

(iii) If there is a conflict as to any material fact, a hearing will be held to resolve the conflict.

(iv) The cancellation of enrollment or loss or suspension of herd status shall become effective pending final determination in the proceeding if the Commissioner of Agriculture determines that such action is necessary to prevent the possible spread of CWD.

(A) Such action shall become effective upon oral or written notification, whichever is earlier, to the herd owner.

(B) In the event of oral notification, written confirmation shall be given as promptly as circumstances allow.

(v) This cancellation of enrollment or loss or suspension of herd status shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Commissioner of Agriculture.

(4) Herd status of animals added to herds.

(a) A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.

(b) If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd.

(c) If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

#### **R58-18-14. Herd Plan.**

(1) A written herd plan will be developed by the State Veterinarian with input from the herd owner, USDA, and other affected parties.

(2) The herd plan sets out the steps to be taken to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent introduction of CWD into another herd.

(3) A herd plan will require:

(a) specified means of identification for each animal in the herd;

(b) regular examination of animals in the herd by a veterinarian for signs of disease;

(c) reporting to a State or USDA representative of any signs of central nervous system disease in herd animals;

(d) maintaining records of the acquisition and disposition of all animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed, cause of death, if the animal died while in the herd.

(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular condition of the herd and its premises, including but not limited to:

(a) specifying the time for which a premises must not contain cervids after CWD positive, exposed, or suspect animals are removed from the premises;

(b) fencing requirements;

(c) depopulation or selective culling of animals;

(d) restrictions on sharing and movement of possibly contaminated livestock equipment;

(e) cleaning and disinfection requirements, or other requirements.

(5) The State Veterinarian must approve all movement of cervids onto or off of the facility.

(a) Movement restriction of cervids will remain in place until requirements of the plan have been met.

(6) The State Veterinarian may review and revise a herd plan at any time in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread.

**R58-18-15. Grounds for Denial, Suspension, or Revocation of Licenses for Domestic Elk Facilities.**

(1) A license to operate a domestic elk facility may be denied, suspended, or revoked by the Department for any of the following reasons:

(a) Incomplete application or incorrect application information;

(b) Incorrect records or failure to maintain required records;

(c) Not presenting animals for identification at the request of the Department;

(d) Failure to notify Department of movement of elk onto or off of the facility;

(e) Failure to identify elk as required;

(f) Movement of imported elk onto facility without obtaining a Certificate of Veterinary Inspection which has an import permit number obtained from the Department;

(g) Importing animals that are prohibited or controlled as listed in rule R657-3;

(h) Failure to notify the Department concerning an escape of an animal from a domestic elk facility;

(g) Failure to maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;

(i) Failure to notify the Division of Wildlife Resources that there are wild cervids inside a domestic elk farm or hunting park;

(j) Failure to participate with the Utah Department of Agriculture and Food and the Utah Division of Wildlife Resources in a cooperative wild cervid removal program;

(k) Failure to have inventories match with at least a 95% match;

(l) Failure to submit the acceptable rate of CWD test samples;

(m) Failure to have the minimum proper equipment necessary to safely and humanely handle animals in the facility; or

(1) Inhumane handling or neglect of animals on the facility as determined by the Department.

(2) Once the Department has notified the operator of a domestic elk facility of the denial, suspension, or revocation of a license to operate a domestic elk facility, the operator has 15 calendar days to request an appeal with the Commissioner of Agriculture.

(3) An operator of a domestic elk facility that has had their license revoked shall remove all elk from the facility within 30 calendar days by:

(a) Sending all elk to an inspected facility for slaughter; or

(b) Selling elk to another facility;

(4) Any elk remaining on the facility at the end of 30 days will be sold by the Department during a special sale conducted for that purpose.

**KEY: chronic wasting disease, elk, inspections**

**Date of Enactment or Last Substantive Amendment: September 19, 2016**

Notice of Continuation: January 12, 2017  
Authorizing, and Implemented or Interpreted Law: 4-39-106

AUG 10 2018

RECEIVED

**R58. Agriculture and Food, Animal Industry.**

**R58-19. Compliance Procedures.**

**R58-19-1. Authority.**

This rule is promulgated by the Division of Animal Industry (Division), within the Department of Agriculture and Food (Department) under authority of Section 4-2-2(1)(j).

**R58-19-2. Definition of Terms.**

(1) An Emergency Order means a written action by the Division, which is issued to a person, as a result of information that is known by the Division, which identifies an immediate and significant danger to the public's health, animal health, safety or welfare, and warrants prompt action pursuant to Section 63G-4-502.

Emergency orders include: "quarantine", "seized", "Utah Inspection and Condemned", "sealed", "reject", "retain", "denatured", "detained", and "suspect", and may be issued when division action is warranted to stop the sale of a product, or halt an immediate condition or service from occurring, pursuant to Sections 4-32-7, 4-32-16, 4-32-17, 4-31-17, 4-39-107, and 9 CFR-III 303.1 through 381.207.

(2) A Citation means a lawful notice, issued by the division, which is intended to immediately remedy a violation of agricultural statutes or rules by a person, business, operator, etc. Pursuant to Section 4-2-15, a citation may include a penalty assessment, or provide for a fine to take effect within a stated time period.

**R58-19-3. Emergency Order.**

(1) The Division may issue an emergency order when it determines that there is an immediate and significant danger to public health, animal health, safety or welfare may be issued to secure the well-being, safety, or removal of danger to state citizens.

(2) Orders are intended to protect the public from unlawful agricultural and food products and services.

(3) When an emergency order is justified, and conditions warrant immediate action by the Division, it shall:

(a) Promptly issue a written order that includes the following information:

(i) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.

(ii) a brief statement of findings of fact as determined by the division,

(iii) references to statutes or administrative rules violated,

(iv) the reasons for issuance of the emergency order,

(v) the signature of the agency representative, and

(vi) a space/line for the signature of the person (a signature is not required if the person refuses).

(4) This order shall be written and no product, condition, or service subject to the order shall be released, except upon the subsequent written release by the department.

**R58-19-4. Citation.**

(1) The Commissioner or persons designated by the Commissioner, may enforce this rule by the issuance of a citation for violation, in order to secure subsequent payments of fines or the imposition of penalties:

(a) The citation will include the following information:

(i) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.

(ii) references to the statutes or rules violated,

(iii) a brief statement to the findings of fact as determined by the division,

(iv) a penalty or fine amount,

(v) the signature of the agency representative,

(vi) a space or line for the signature of the person (a signature is not required if the person refuses),

(vii) a statement to the effect that a person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

(2) Fine or penalty amounts will be set by the Department or the Division, under the direction of the Commissioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor.

(3) In accordance with Section 4-2-15, fine or penalty amounts shall be determined according to the approved Department fee schedule.

**R58-19-5. Request for Hearing.**

When any order or citation, as defined above, is issued, the person being charged with the violation may elect to file, within allowable time limits, a request for the Department to schedule an informal Administrative Hearing in accordance with the provisions of Section 4-1-3.5.

**KEY: agricultural law**

**Date of Enactment or Last Substantive Amendment: March 25, 2013**

**Notice of Continuation: January 18, 2017**

**Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(j)**

**Chapter 39**  
**Domesticated Elk Act**

**Part 1**  
**General Provisions**

COMMUNITY DEVELOPMENT  
LINDON CITY

AUG 10 2018

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**4-39-101 Title.**

This chapter is known as the "Domesticated Elk Act."

Enacted by Chapter 302, 1997 General Session

**4-39-102 Definitions.**

As used in this chapter:

- (1) "Domesticated elk" means elk of the genus and species *cervus elaphus*, held in captivity and domestically raised for commercial purposes.
- (2) "Domesticated elk facility" means a facility where only domesticated elk are raised.
- (3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

Amended by Chapter 345, 2017 General Session

**4-39-103 Department's responsibilities.**

The department is responsible for enforcing laws and rules relating to:

- (1) the importation, possession, or transportation of domesticated elk into the state or within the state;
- (2) the inspection of domesticated elk facilities;
- (3) preventing the outbreak and controlling the spread of disease-causing pathogens among domesticated elk in domesticated elk facilities;
- (4) preventing the spread of disease-causing pathogens from domesticated elk to wildlife, other animals, or humans; and
- (5) if necessary, quarantining any domesticated elk pursuant to Chapter 31, Control of Animal Disease.

Amended by Chapter 331, 2012 General Session

**4-39-104 Domesticated Elk Act advisory council.**

- (1) The department shall establish a Domesticated Elk Act advisory council to give advice and make recommendations on policies and rules adopted pursuant to this chapter.
- (2) The advisory council shall consist of 10 members appointed by the commissioner of agriculture to four-year terms as follows:
  - (a) one member, recommended by the executive director of the Department of Natural Resources, shall represent the Department of Natural Resources;
  - (b) two members, one of whom shall be the state veterinarian, shall represent the Department of Agriculture;
  - (c) one member shall represent the livestock industry;

- (d) one member, recommended by the executive director of the Department of Natural Resources from a list of candidates submitted by the Division of Wildlife Resources, shall represent wildlife interests; and
  - (e) five members, recommended by the Department of Agriculture, shall represent the domesticated elk industry.
- (3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5)
- (a) A majority of the advisory council constitutes a quorum.
  - (b) A quorum is necessary for the council to act.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 181, 2017 General Session  
Amended by Chapter 345, 2017 General Session

**4-39-105 Prohibited activities.**

- (1) Except as provided in this title or in the rules of the department made pursuant to this title, a person may not:
- (a) acquire, import, or possess domesticated elk intended for use in a domesticated elk facility;
  - (b) transport domesticated elk to or from a domesticated elk facility;
  - (c) propagate domesticated elk in a domesticated elk facility; or
  - (d) harvest, transfer, possess, or sell domesticated elk or domesticated elk products from a domesticated elk facility.
- (2) Releasing domesticated elk into the wild is prohibited.

Amended by Chapter 378, 1999 General Session

**4-39-106 Department to make rules.**

- (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, after considering the recommendations of the advisory council:
- (a) specifying procedures for the application and renewal of licenses for operating a domesticated elk facility;
  - (b) governing the disposal or removal of domesticated elk from a domesticated elk facility for which the license has lapsed or been revoked;
  - (c) setting standards and requirements for operating a domesticated elk facility;
  - (d) setting health requirements and standards for health inspections; and
  - (e) governing the possession, transportation, and accompanying documentation of domesticated elk carcasses.
- (2) The department may make other rules consistent with its responsibilities set forth in Section 4-39-103.

Amended by Chapter 382, 2008 General Session

**4-39-107 Powers of state veterinarian.**

The state veterinarian shall:

- (1) set up periodic or ongoing surveillance programs considered necessary for:
  - (a) the recognition, control, monitoring, and elimination of infectious diseases and parasites; and
  - (b) monitoring genetic purity; and
- (2) quarantine or make any disposition of diseased animals that the state veterinarian considers necessary for the control or eradication of that disease.

Amended by Chapter 345, 2017 General Session

**4-39-108 Deposit of fees.**

The department shall deposit all fees collected under this chapter into the Utah Livestock Brand and Anti-Theft Account created in Section 4-24-502.

Amended by Chapter 345, 2017 General Session

**Part 2**  
**Domesticated Elk Facilities and Licenses**

**4-39-201 Fencing, posts, and gates.**

- (1) A domesticated elk facility shall, at a minimum, meet the requirements of this section and shall be constructed to prevent the movement of domestic elk and wild cervids into or out of the facility.
- (2)
  - (a) All perimeter fences and gates shall be:
    - (i) a minimum of eight feet above ground level; and
    - (ii) constructed of hi-tensile steel.
  - (b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".
  - (c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".
- (3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.
- (4) All perimeter gates at the entrances of a domesticated elk handling facility shall be locked, with consecutive or self-closing gates when animals are present.
- (5) Posts shall be:
  - (a)
    - (i) constructed of treated wood that is at least four inches in diameter; or
    - (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);
  - (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are used; and
  - (c) at least eight feet above ground level and two feet below ground level.
- (6) Stays, between the posts, shall be:
  - (a) constructed of treated wood or steel;
  - (b) spaced no more than 15 feet from any post; and
  - (c) at least eight feet above ground level, and two feet below ground level.
- (7) Corner posts and gate posts shall be braced wood or its strength equivalent.

Amended by Chapter 345, 2017 General Session

**4-39-202 General facility requirements.**

- (1)
  - (a) Internal handling facilities shall be capable of humanely restraining an individual animal and to facilitate:
    - (i) the application or reading of any animal identification;
    - (ii) the taking of blood or tissue samples; and
    - (iii) any other required or necessary testing procedure.
  - (b) A domesticated elk facility shall be properly constructed to protect inspection personnel while inspection personnel are handling the domesticated elk.
- (2) The domesticated elk facility owner shall provide ample signage around the facility indicating that it is a domesticated elk facility, so that the public is put on notice that the animals are not wild elk.

Amended by Chapter 345, 2017 General Session

**4-39-203 License required to operate a domesticated elk facility.**

- (1) A person may not operate a domesticated elk facility without first obtaining a license from the department.
- (2)
  - (a) Each application for a license to operate a domesticated elk facility shall be accompanied by a fee.
  - (b) The fee shall be established by the department in accordance with Section 63J-1-504.
- (3) Each applicant for a domesticated elk facility license shall submit an application providing all information in the form and manner as required by the department.
- (4)
  - (a) No license shall be issued until the department has inspected and approved the facility.
  - (b) The department shall:
    - (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled inspection so that a Division of Wildlife Resources representative may be present at the inspection; and
    - (ii) provide the Division of Wildlife Resources with copies of all licensing and inspection reports.
- (5) Each separate location of the domesticated elk operation shall be licensed separately.
- (6)
  - (a) If a domesticated elk facility is operated under more than one business name from a single location, the name of each operation shall be listed with the department in the form and manner required by the department.
  - (b) The department shall require that a separate fee be paid for each business name listed.
  - (c) If a domesticated elk facility operates under more than one business name from a single location, each facility shall maintain separate records.
- (7) Each person or business entity with an equity interest in the domesticated elk shall be listed on the application for license.
- (8) Each domesticated elk facility license shall expire on July 1 in the year following the year of issuance.
- (9) Each licensee shall report to the department, in the form and manner required by the department, any change in the information provided in the licensee's application or in the reports previously submitted, within 15 days of each change.

(10) Licenses issued pursuant to this section are not transferable.

Amended by Chapter 345, 2017 General Session

**4-39-204 Inspection of domesticated elk.**

Following the issuance of a license, the licensee shall have each domesticated elk inspected within 60 days following the stocking of the facility.

Enacted by Chapter 302, 1997 General Session

**4-39-205 License renewal.**

(1) To renew a license, the licensee shall submit to the department the following:

- (a) renewal fee;
- (b) paperwork showing that the:
  - (i) domesticated elk, on the domesticated elk facility, have been inspected and certified by the department for health, proof of ownership, and genetic purity certification for all elk imported into the state; and
  - (ii) facility has been properly maintained, as provided in this chapter, during the immediately preceding 60-day period; and
- (c) record of each purchase of domesticated elk and transfer of domesticated elk into the facility, which shall include the following information:
  - (i) name, address, and health approval number of the source;
  - (ii) date of transaction; and
  - (iii) number and sex.

(2)

- (a) If the renewal fee and paperwork are not received on or before April 30, a late fee will be charged.
- (b) A license may not be renewed until the fee is paid.

(3) If the application and fee for renewal are not received on or before July 1, the license may not be renewed, and a new license shall be required.

Amended by Chapter 355, 2018 General Session

**4-39-206 Records to be maintained.**

(1) The following records and information shall be maintained by a domesticated elk facility for the life of the animal plus two years:

- (a) records of purchase, acquisition, distribution, and production histories of domesticated elk;
- (b) records documenting antler harvesting, production, and distribution; and
- (c) health certificates.

(2) For purposes of carrying out the provisions of this chapter and rules made under this chapter, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all records required to be kept.

(3) The department may make copies of the records referred to in this section.

Amended by Chapter 345, 2017 General Session

**4-39-207 Inspection of facilities.**

- (1) The department may conduct pathological or physical investigations at any domesticated elk facility to ensure compliance with this chapter.
- (2) For purposes of carrying out the provisions of this chapter and rules made under this chapter, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all buildings, yards, pens, pastures, and other areas in which any domesticated elk are kept, handled, or transported.
- (3) The department shall notify the Division of Wildlife Resources prior to an inspection so that a Division of Wildlife Resources representative may be present at the inspection.

Amended by Chapter 345, 2017 General Session

### **Part 3**

#### **Acquisition, Transportation, Sale, or Slaughter of Domesticated Elk**

##### **4-39-301 Health and genetic purity requirements -- Proof of source.**

The department shall require:

- (1) that each domesticated elk, including gametes, eggs, or sperm, imported into the state:
  - (a) test negative for the red deer genetic factor;
  - (b) be registered with gold or silver status with the North American Elk Breeders Association; or
  - (c) come from a state which has a red deer genetic factor prevention program approved by the department; and
- (2) proof that the domesticated elk originates from a legal source as provided in Section 4-39-302.

Amended by Chapter 345, 2017 General Session

##### **4-39-302 Acquisition of domesticated elk for use in domesticated elk facilities.**

Domesticated elk intended for use in domesticated elk facilities shall meet all health and genetic requirements of this chapter.

Amended by Chapter 378, 2010 General Session

##### **4-39-303 Importation of domesticated elk.**

- (1) A person may not import domesticated elk into the state for use in domesticated elk facilities without first obtaining:
  - (a) an entry permit from the state veterinarian's office; and
  - (b) a domesticated elk facility license from the department.
- (2) The entry permit shall include the following information and certificates:
  - (a) a health certificate with an indication of the current health status;
  - (b) proof of genetic purity as required in Section 4-39-301;
  - (c) the name and address of the consignor and consignee;
  - (d) proof that the elk are tuberculosis and brucellosis free;
  - (e) the origin of shipment;
  - (f) the final destination;
  - (g) the total number of animals in the shipment; and
  - (h) any other information required by the state veterinarian's office or the department.

- (3) No domesticated elk will be allowed into the state that originates east of the 100 degree meridian, to prevent introduction of the meningeal worm.

Enacted by Chapter 302, 1997 General Session

**4-39-304 Marking domesticated elk.**

- (1) Each domesticated elk shall be marked by either an official USDA tag or by an electronic identification tag, as provided in Subsection (2):
  - (a) within 30 days of a change of ownership; or
  - (b) in the case of newborn calves, within 15 days after being weaned, but in any case, no later than January 31.
- (2) If a domesticated elk is identified with an electronic identification tag, it shall be placed in the right ear.

Amended by Chapter 355, 2018 General Session

**4-39-305 Transportation of domesticated elk to or from domesticated elk facilities.**

- (1) A person may transport domesticated elk without an official state brand certificate or other proof of ownership if the person:
  - (a) only moves domesticated elk accompanied by an intrastate transfer form provided by the department;
  - (b) reports the move to the department within five days;
  - (c) only moves domesticated elk from a licensed facility to another licensed facility owned by the same person; and
  - (d) only moves domesticated elk intrastate.
- (2) An official state brand inspection certificate shall accompany all domesticated elk sold or slaughtered.

Amended by Chapter 355, 2018 General Session

**4-39-306 Inspection before movement, sale, or slaughter.**

- (1) Each domesticated elk facility licensee shall have the domesticated elk inspected by the department before sale or slaughter.
- (2) Except as provided by Section 4-39-305, any person transporting or possessing domesticated elk or domesticated elk products shall have the appropriate brand inspection certificate in the person's possession.

Amended by Chapter 355, 2018 General Session

**4-39-307 Inspections -- Qualifications of inspectors.**

Health certification shall be based upon inspections carried out in accordance with standards specified by the department.

Enacted by Chapter 302, 1997 General Session

**Part 4**

## **Escape of Domesticated Elk/Removal of Wild Elk**

### **4-39-401 Escape of domesticated elk -- Liability.**

- (1) The owner shall try to capture domesticated elk that escape.
- (2) The escape of a domesticated elk shall be reported immediately to the domestic elk program manager, who shall notify the Division of Wildlife Resources.
- (3) If the domesticated elk is not recovered within 72 hours of the escape, the department, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.
- (4) The owner shall reimburse the state or a state agency for any reasonable recapture costs incurred in the recapture or destruction of an escaped domesticated elk.
- (5) An escaped domesticated elk taken by a licensed hunter in a manner that complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the Wildlife Board shall be considered a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.
- (6) The owner shall be responsible for containing the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Amended by Chapter 355, 2018 General Session

### **4-39-402 Removal of wild cervids -- Liability.**

- (1) Upon discovery of a wild cervid in a domesticated elk facility, the licensee shall immediately notify the Division of Wildlife Resources, which shall remove the wild cervid.
- (2) The state or a state agency is not liable for disease or genetic purity problems of domesticated elk that may be attributed to wild cervids.

Amended by Chapter 345, 2017 General Session

## **Part 5 Enforcement and Penalties**

### **4-39-501 Enforcement and penalties.**

- (1) Any violation of this chapter is a class B misdemeanor and may be grounds for revocation of the license or denial of any future license as determined by the department.
- (2) A violation of any rule made under this chapter may be grounds for revocation of the license or denial for future licenses as determined by the department.

Enacted by Chapter 302, 1997 General Session

### **4-39-502 Adjudicative proceedings.**

Adjudicative proceedings under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session



## Item 6: Ordinance Amendment Lindon City Code 8.20 Public Nuisances

<p>Applicant: Lindon City Staff Presenting Staff: Hugh Van Wagenen</p> <p>Type of Decision: Legislative Council Action Required: Yes</p>	<p><u>SUMMARY OF KEY ISSUES</u></p> <p>1. Whether it is in the public interest to institute city wide quiet hours from 10:30 pm to 7:00 am with exceptions possible with approval from the City.</p> <p><u>MOTION</u></p> <p>I move to recommend (<i>approval, denial, continuation</i>) of ordinance amendment 2018-9-0 (<i>as presented, with changes</i>).</p>
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### BACKGROUND

Noise complaints are not uncommon but are not particularly frequent either. However, the existing nuisance code regarding *Inappropriate Noise* does not have any defined quiet hours, but rather leaves the time frame open to interpretation based on "noise that is substantially incompatible with the time and location where created..."

City staff prefers to have defined hours from 10:30 pm to 7:00 am where it is very clear that inappropriate noise is not permitted. This helps not only with enforcement, but also with public education.

### PREVIOUS PLANNING COMMISSION MEETING

Several residents voiced concern over an event center in their neighborhood that was disturbing the peace. The Commission asked staff to draft a more robust ordinance that would protect residents from adverse impacts and coordinate with Chief Adams on the draft. The Commission also stated that 10:00 pm was more appropriate for night hours than 10:30 pm.

Staff has attached the latest draft of the ordinance for review.

### ATTACHMENTS

1. 2018-9-0

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ORDINANCE NO. 2018-9-O

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMENDING SECTION 8.20.030(2)(CC) AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the proposed amendment is consistent with the goal of the General Plan maintain the quality of existing and future neighborhoods; and

WHEREAS, it is in the Public Interest to provide clearly defined quiet hours within the City limits; and

WHEREAS, the Lindon City Planning Commission has recommended approval of an amendment to the Standard Land Use Table of Lindon City Code; and

WHEREAS, a public hearing was held on June 12, 2018, to receive public input and comment regarding the proposed amendment; and

WHEREAS, no adverse comments were received during the hearing; and

WHEREAS, the Council held a public hearing on June 19, 2018, to consider the recommendation and no adverse comments were received.

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

**SECTION I:** Lindon City Code Section 8.20.030(2)(cc) is hereby amended to read as follows:

8.20.030(2)

cc. *Inappropriate Noise.*

- i. It shall be unlawful for any person to make, permit, continue, or cause to be made, or to create any ~~unreasonable~~-loud and disturbing noise in the City beyond the parameters set forth below. ~~Any noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order of persons of ordinary sensibilities shall be prohibited.~~
- ii. Noise limits: In no event shall the peak intensity of sound exceed a sound level in excess of the limits established in the table below, measured in decibels (dBA):

<u>Zone</u>	<u>Day (7 am —10 pm)</u>	<u>Night (10 pm —7 am)</u>
<u>Residential (R1-12, R1-20, R3, AFRD, PRD, SHFO)</u>	<u>65 dBA</u>	<u>55 dBA</u>

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<u>Commercial (CG zones, LVC, MC, PC-1/2, R&amp;B, PF)</u>	<u>85 dBA</u>	<u>65 dBA</u>
<u>Industrial (LI, HI)</u>	<u>85 dBA</u>	<u>65 dBA</u>
<u>Commercial Farm</u>	<u>85 dBA</u>	<u>55 dBA</u>

- iii. Noise levels shall be based on continuous noise for two-minute intervals or intermittent noise which exceeds the level five or more times within a ten-minute period.
- iv. When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.
- v. It shall be unlawful to sustain, in any place of public entertainment, including, but not limited to restaurants, dance halls, or event centers, any sound levels equal to or in excess of one hundred five (105) dBA at any time.
- vi. Amplified noise, including music, is limited to 200 feet as heard by the human ear, from the source of the sound.
- vii. Exceptions: Sounds created by emergency activities or emergency vehicles are exempt from these provisions. Waivers may be granted by the City Administrator or his/her designee for special public events or special construction projects and upon application shall describe (1) the special nature of the event, (2) the maximum decibel level desired, and (3) the time period for which the waiver is being sought. Upon review of the application, the Administrator may approve, modify or deny the request based on the health, welfare, and safety of the public.
- iviii. If this section is in conflict with another section of City Code, the more restrictive section shall apply.

**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.

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**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 \_\_\_\_\_, 2018.

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Jeff Acerson, Mayor

ATTEST:

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Kathryn A. Moosman,  
Lindon City Recorder

SEAL

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**Item 7: Discussion Item — Lindon City General Plan, Environmental Planning**

Lindon City Planning & Economic Development Director, Hugh Van Wagenen, will review the Environmental Planning section with the Planning Commission. This is an informative discussion item only. No motions will be made.

<p>Applicant: Lindon City Presenting Staff: Hugh Van Wagenen Type of Decision: N/A Council Action Required: Discussion</p>	<p>SUMMARY OF KEY ISSUES Staff will present information regarding the Lindon City General Plan update by reviewing the Environmental Planning section. No formal action will be taken at this time.</p>
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# ENVIRONMENTAL PLANNING

## ENVIRONMENTAL PLANNING

Lindon City is located in north Utah County approximately 45 minutes south of Salt Lake City. Lindon City extends east to the Wasatch Mountains and the Great Western Trail and west to the Lindon Marina on Utah Lake. Lindon City shares a boundary on the south with Orem City and on the north with Pleasant Grove City. The mean elevation of the City is approximately 4,600 feet above sea level. There is a difference in elevation of approximately 500 feet between the higher land which is against Mt. Timpanogos on the east and the flat land that reaches out to Utah Lake on the west.



**View of Dry Canyon and the Mt. Timpanogos foothills during the spring of 2010. This area is within the Lindon city limits and supports abundant amounts of wildlife such as elk, mule deer, moose, mountain goats, and wild turkeys.**

### CLIMATE

The climate is typical of the intermountain region with four distinct seasons which usually include hot, dry summers and cold, moist winters. Precipitation averages about fifteen inches (15") per year. Severe storms rarely occur in Lindon, and many days are relatively windless.

Monthly temperatures average about 75° Fahrenheit during the summer and about 28° Fahrenheit during the winter. The average frost-free period is about 150 days.

The accumulation of cold, dense air in the valley, capped by warm air above, occasionally creates fog in the winter time which sometimes lasts for several days, or until a low pressure system moves the fog out of the valley.

### **WILDLIFE, WETLANDS, AND HABITAT CORRIDORS**

Lindon enjoys an abundance of wildlife in and around the City. Preservation of wildlife resources is of great importance to the City. Cooperation with state agencies to identify, inventory and protect critical wildlife habitat areas should occur. Known habitat areas should be mapped and protected from development activities.

The eastern portion of the City covers the Timpanogos foothills, which support many animal species such as elk, mule deer, moose, Big Horn Sheep, mountain goats, wild turkeys, etc. Some habitat and wintering areas for these animals have been identified by State and Federal agencies and should be mapped on City environmental inventories.



**Wild iris and cattails in bloom along the Lindon Hollow Creek wetlands.**

The western border of the City adjacent to Utah Lake has significant wetland habitat areas that support beaver and other water dependent animals, birds of prey, waterfowl, amphibian and fish habitats. This wetland area includes a 102 acre wetland bank owned and operated by UDOT and wetland habitat areas along Lindon Hollow Creek. The area should be carefully managed and protected in cooperation with Utah County, State & Federal

agencies, the Solid Waste District, and individual property owners.

Additional wetland nodes and wildlife corridors along stream and ditch channels throughout the City support substantial small-animal and avian species and may be considered for protection and/or restoration in the future. Riparian setbacks for wildlife protection may be considered along these corridors and nodes.

### **SOILS**

According to the Natural Resources Conservation Service (NRCS) studies, soils near the northwest corner of the City and those in the south part, east of State Street

on the bench, are in production capability classes I and II. These soils have only slight or moderate limitations for cultivation. Those on the extreme east side are in classes VI and VII, and are not suitable for cultivation. The remainder of the soils on the east side are classes III and IV, and have severe limitations for cultivation. The soils in the west part and on the extreme east part have severe limitations for foundations. Soils in the southeast part of the City have moderate restrictions for foundations. The remainder of the soils in the center of the City have slight restrictions on foundations. Soils on the west side are poorly drained. All other soils are well or moderately well drained.

Given these characteristics, the City should continue to require individual reports for foundation construction by certified engineers or engineering geologists. Potential problems with foundation settling and high groundwater concerns should continue to be reviewed in the subdivision, site plan, and building permit processes.

### **HILLSIDES**

Areas on the east side of the City, east of the Salt Lake Aqueduct, have development restrictions associated with the slopes in the area. Lindon City has adopted a Hillside Development Ordinance which places restrictions upon development on slopes over twenty percent (20%). The City has been proactive in purchasing steep hillside areas and implementing plans to limit excessive development on steep slopes. The City should continue to be proactive in protection and/or acquisition of steep slope areas.

### **FLOOD ZONES**

The City has several areas which are designated by the Federal Emergency Management Agency (FEMA) as being in a flood zone. FEMA determines areas that would be covered by a flood that has a one percent (1%) chance of occurring every year (100 year flood). These flood zones are located in the southwest area of the City by Utah Lake, in the Lindon Hollow following a natural drainage through Lindon City Center Park, and all along the east side of State Street. There are also flood zone areas in Dry Canyon, Sumac Hollow, Squaw Hollow, and Squirrel Hollow on the east side of Lindon. Development should avoid these areas, mitigate potential flooding hazards, or if necessary, construct the buildings according to FEMA floodplain elevation standards so as to reduce property damage and/or loss during flood events.

Specific ordinance changes should be adopted to reflect FEMA's current development recommendations for flood hazard areas. The City should ensure that development meets FEMA regulations and should establish goals to meet minimum guidelines for development & building construction under the National Flood Insurance Program (NFIP), so as to help lower costs of flood insurance for its residents.

Unless engineered to eliminate adverse impacts, excessive filling of flood plain areas should be discouraged or prohibited – so as not to displace the flood water onto other properties.

### **GEOLOGIC HAZARDS**

Although Lindon’s mountains are significant assets that help define the City’s character, the land contains several hazards to people and property. Geologic hazards include rockfalls, fault lines and fault rupture zones, unstable slopes, flood related mud slides, subsidence, and foundation instability. The most severe hazards occur in mountainous areas because hazard potential increases with slope. Other soil hazards include collapsible soils, liquefaction, and a high water tables.

Citizens can avoid soil and geologic hazards by selecting construction sites that have been carefully evaluated by professional geologists or engineers. The study prepared by Kleinfelder, Inc. in October 2006 titled “Geological Hazards Evaluation and Plan, Lindon City Foothills Area, Utah County, Utah” should be used as a reference and guide for additional studies and further identification of hazards.

### **ENVIRONMENTAL PLANNING GUIDELINES**

1. On the far east bench are areas of excessive slope which would not be conducive to building sites. The City should consider possible acquisition of key properties so as to prevent development on steep sloped areas and maintain hillside integrity with natural vegetation.
2. New land development shall consider wildlife habitat preservation in development plans. Homeowners and businesses should consider local wildlife when developing landscaping plans.
3. Development on the east side should minimize impacts along sensitive areas and scenic vistas consistent with continued implementation of the Hillside Ordinance.
4. The City may cooperate with the Department of Wildlife Resources (DWR), the National Forest Service, and other state/federal agencies to identify, inventory and protect critical wildlife habitat in the Timpanogos foothills and wetlands near Utah Lake. Existing wetlands may be inventoried and an ordinance may be written to protect and/or mitigate damage to wetland habitat areas within the City.
5. The City may establish riparian habitat setback standards for inventoried streams, wetlands, or habitat areas along ditches & canals.

6. The City draws significantly from groundwater through wells and springs. The City has created a plan for protection of these sites and should periodically update the plan as necessary to maintain the wellhead protection areas.
7. Lindon should engage in efforts to minimize soil and geologic hazards to people and properties, to include:
  - Plans for inventorying geologic hazards and implementing code standards to help mitigate or avoid such hazards.
  - Special review procedures and ordinances for building on hillsides or in other environmentally sensitive areas.
  - Requiring developers to identify and assess soils and geologic hazards prior to development.
  - Preparing construction guidelines for roads and other improvements on sensitive hillsides.
  - Regulations that limit development densities on lands that contain severe hazards or constraints.
  - Periodic monitoring of existing, known geologic slides or other measurable, active hazards.
8. The City should update existing floodplain ordinances and building requirements to be consistent with current FEMA standards & best floodplain management principles. Efforts to exceed minimum National Flood Insurance Program (NFIP) requirements, therefore lowering flood insurance for Lindon residents, should be pursued.

## **Item 8: Discussion Item — Car Lots**

Hugh Van Wagenen, Planning Director, will review and discuss with the Planning Commission, car lots in general. This is an informative discussion item only. No motions will be made.

**Item 9: New Business (Planning Commissioner Reports)**

Item 1 – Subject \_\_\_\_\_

Discussion

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Item 2 – Subject \_\_\_\_\_

Discussion

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Item 3 – Subject \_\_\_\_\_

Discussion

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## **Item 10: Planning Director Report**

- American Planning Association Utah Chapter Fall Conference, Sandy, Oct. 4-5
- Mt. Tech IV Grand Opening Cancelled

**Adjourn**