

SCENIC VIEW ESTATES  
PRELIMINARY PLAT  
730 NORTH 650 EAST  
CITY COUNCIL MEETING  
SEPTEMBER 19, 2019

Utilities:

Sewer- Located at 500 North at 600 East. A sewer lift station and extension will be required to the property.

Culinary Water- 10" main located at 300 North.

Electric- City power is available at 600 East to Hwy. 165

Irrigation- Not required.

Storm Water- Proposing a storm water pond on west side.

Roads:

These will be private roads within the development. A road will be required out to 4400 South with future phases. The road is being realigned off of Highway 165 at 600 East. The road into the development will have a wide 60' ROW. This wide ROW will also allow for some extra parking.

Signage & Fencing:

Fencing being provided around the perimeter of development. Different types of fencing are being proposed. A landscaping berm is proposed for a portion of the East boundary.

HOA:

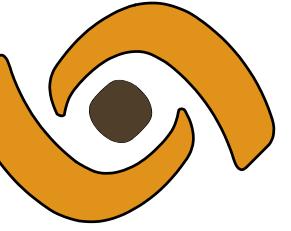
Outline will be needed.

Landscaping, Playground:

As shown. A walking path is proposed around the development. A playground is required as per code.

Other:

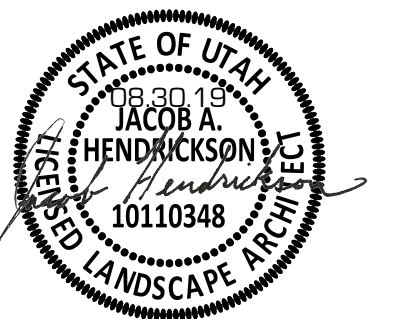
When this property was annexed it was proposed at that time for possible multi/family development where shown. (Lot 1) The annexation discussion also stipulated that the front portion would be reserved for commercial use. (Lot 2) Three story Townhomes are being proposed. These will be larger townhomes than what are currently being built in the city. The Planning Commission recommends approval with the following conditions: Agreement reached for Storm Water with the Canal Company, the HOA have a plan for managing garbage cans in the development, no curb & gutter required for 650 East Road (Behind storage units), and striping & signage added to 600 East near the 700 North intersection (To help alert traffic to the new intersection layout).



**SCENIC VIEW ESTATES**  
 LOCATED IN THE EAST HALF OF SECTION 33  
 TOWNSHIP 11 NORTH, RANGE 1 EAST, S.L.B. & M.  
 HYRUM, CACHE COUNTY, UTAH

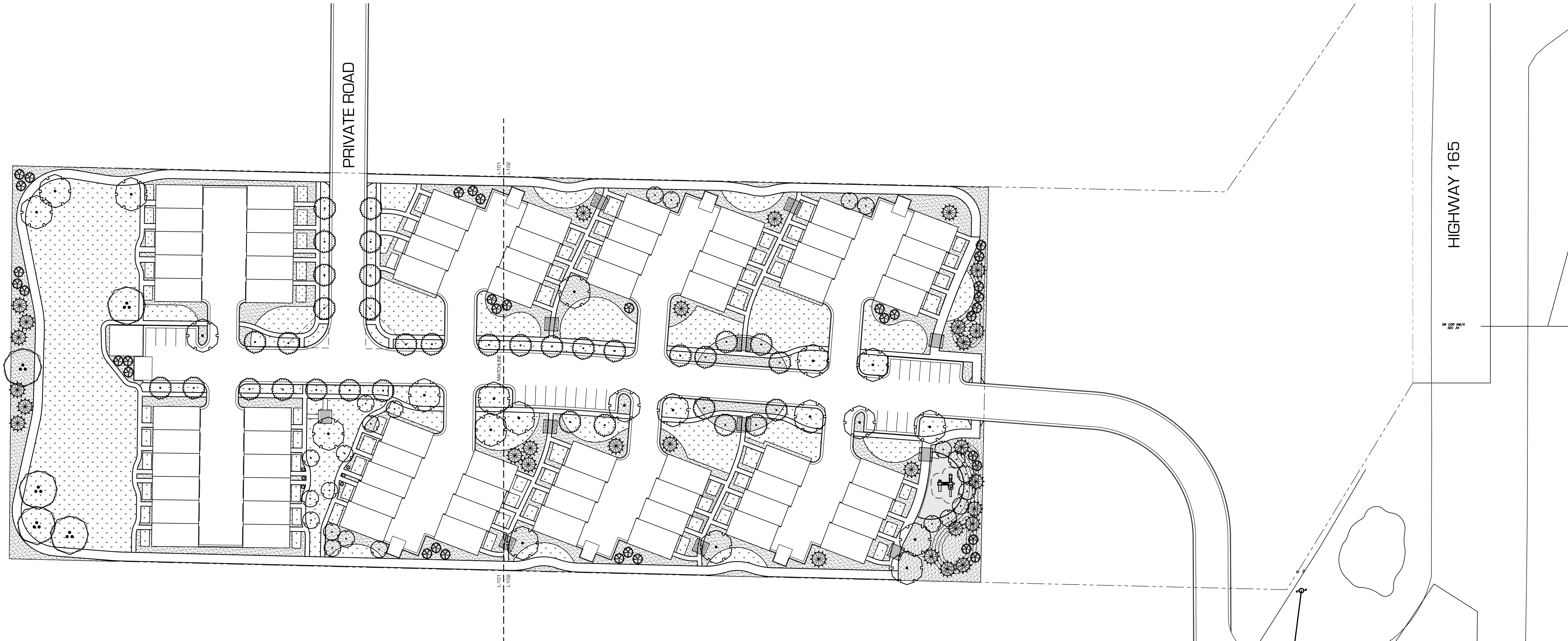
MARK:	DATE:	DESCRIPTION:

PROJECT #: 19-301  
 DRAWN BY: J. HENDRICKSON  
 PROJECT MANAGER: J. HENDRICKSON  
 ISSUED: 08.30.19



**PRELIMINARY  
 LANDSCAPE  
 PLAN**

**L-100**



**PLANT SCHEDULE**

TREES	CODE	QTY	BOTANICAL / COMMON NAME	SIZE	CAL
	AC	24	ACER PLATANOIDES 'CRIMSON SENTRY' / CRIMSON SENTRY MAPLE	B&B	2" CAL
	BN	5	BETULA NIGRA / RIVER BIRCH MULTI-TRUNK	B&B	2" CAL
	GI	21	GLEDITSIA TRIACANTHOS 'IMPERIAL' // IMPERIAL HONEYLOCUST	B&B	2" CAL
	JW	6	JUNIPERUS SCOPULORUM 'BLUE ARROW' / BLUE ARROW JUNIPER	7' HT	
	PC	38	PICEA ABIES 'CUPRESSINA' / NORWAY SPRUCE	7' HT	
	PF	29	PINUS FLEXILIS 'VANDERWOLF'S PYRAMID' / VANDERWOLF'S PYRAMID PINE	7' HT	
	SI	35	SYRINGA RETICULATA 'IVORY SILK' / IVORY SILK JAPANESE TREE LILAC	B&B	2" CAL

**PLANTING NOTES:**

- PLANTING BEDS ARE TO HAVE EVERGREEN AND DECIDUOUS SHRUBS, PERENNIALS AND GRASSES. THE FOLLOWING PLANTS ARE INTENDED TO BE USED: CORNUS ALBA 'IVORY HALL', CORNUS SERICA 'ARCTIC FIRE', JUNIPERUS HORIZONTALIS 'BLUE CHIP', PINUS MUGO 'SLOW GROWING', RHAMNUS FRANGULA 'FINE LINE', RHUS AROMATICA 'GRO LOW', CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER', HEMEROCALLIS X 'STELLA DE ORO', SALVIA NEMEROSA 'CARADONNA'.

**IRRIGATION NOTES:**

- SITE IS TO BE IRRIGATED WITH AUTOMATIC IRRIGATION SYSTEM PER REQUIREMENTS OF HYRUM CITY.
- A REDUCED PRESSURE BACKFLOW PREVENTER (WILKINS 375 OR APPROVED EQUAL) IS TO BE INSTALLED AFTER THE CONNECTION TO THE CULINARY WATER SOURCE BUT BEFORE ALL CONTROL VALVES.

**REFERENCE NOTES SCHEDULE**

SYMBOL	DESCRIPTION	QTY
①	BERMS: APPROXIMATE LOCATION AND CONFIGURATION	
②	ARBOR	
③	PERIMETER FENCE	
④	DECORATIVE FENCE	
⑤	40' X 40' SIGHT TRIANGLE	
⑥	PERGOLA WITH CONCRETE PAD	
⑦	LANDSCAPE EDGING	

SYMBOL	DESCRIPTION	QTY
	TURF GRASS ("IMPERIAL BLUE" SOD FROM CHANSHARE SOD OR APPROVED EQUAL) INSTALLED OVER 5" TOPSOIL LAYER	77,876 SF
	PLANTING BED: 1" CRUSHED ROCK MULCH (WASATCH TAN FROM STAKER PARSONS OR APPROVED EQUAL), AND TREES (SHOWN ON PLAN), SHRUBS (DECIDUOUS AND EVERGREEN IN 5 GALLON CONTAINER), GRASSES, AND PERENNIALS. SEE PLANTING NOTE 1.	49,161 SF
	PLAYGROUND AREA WITH ENGINEERED WOOD FIBERS OR APPROVED EQUAL. PLAYGROUND EQUIPMENT BY OWNER. (EQUIPMENT SHOWN IS KOMPAN "MOMENTS PRESCHOOL" PCM 200310)	1,623 SF

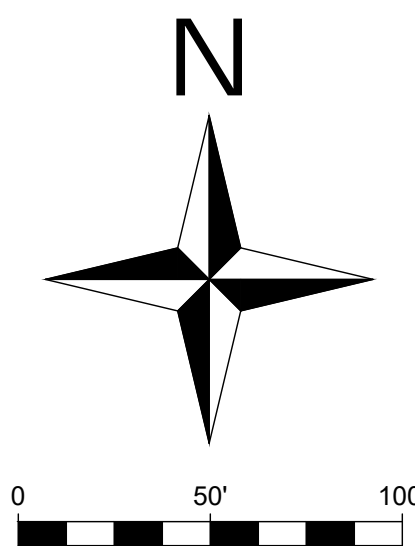
**HYRUM CITY - RESIDENTIAL ZONE R-2A  
 LANDSCAPE REQUIREMENTS**

PLANT TYPE	REQUIREMENT	NUMBER REQUIRED	NUMBER PLANNED
SITE TREES	1 tree per 1,000 s.f. of required landscape	155	155
EVERGREEN TREES (INCLUDED IN SITE TREE NUMBER)	Min. 30%	47	71
OPEN SPACE	50%	154,961	164,632
CHILDREN'S PLAYGROUND (SANDBOX, OPEN GRASS ETC.)	10%	30,992	34,200

DESCRIPTION	SQUARE FEET	% OF TOTAL
TOTAL PROPERTY	309,921	100%
BUILDINGS	63,822	21%
DRIVES	81,467	26%
OPEN SPACE	164,632	53%

**SITE CALCULATIONS**



NOT FOR CONSTRUCTION

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF CIVIL SOLUTIONS GROUP, INC. AND SHALL NOT BE PHOTOCOPIED, RE-DRAWN, OR USED ON ANY OTHER PROJECT OTHER THAN THE PROJECT SPECIFICALLY DESIGNED FOR, WITHOUT WRITTEN PERMISSION. THE OWNERS AND ENGINEERS OF CIVIL SOLUTIONS GROUP, INC. DISCLAIM ANY LIABILITY FOR ANY CHANGES OR MODIFICATIONS MADE TO THESE PLANS OR THE DESIGN THEREON WITHOUT THEIR CONSENT. THESE PLANS ARE DRAWN TO SCALE WHEN PLOTTED ON A 24" X 36" SHEET OF PAPER. THESE PLANS ARE PRODUCED IN COLOR AND SHOULD BE PLOTTED AS SUCH.



**REFERENCE NOTES SCHEDULE**

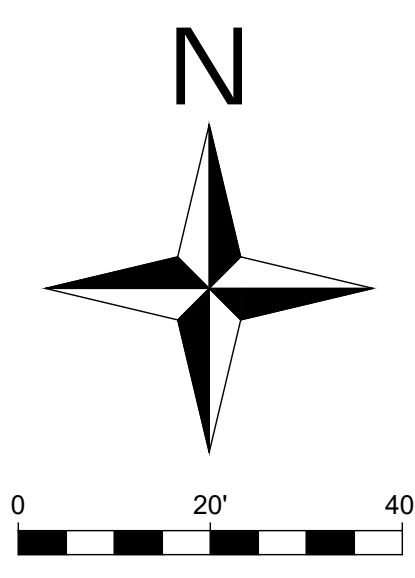
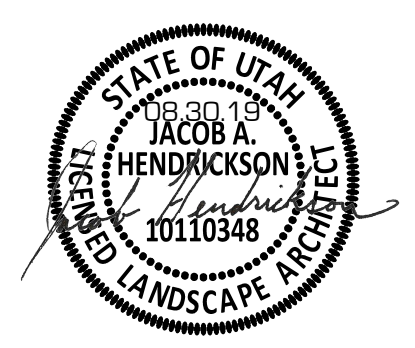
SYMBOL	DESCRIPTION	QTY
1	BERMS: APPROXIMATE LOCATION AND CONFIGURATION	
2	ARBOR	
3	PERIMETER FENCE	
4	DECORATIVE FENCE	
5	40' X 40' SIGHT TRIANGLE	
6	PERGOLA WITH CONCRETE PAD	
7	LANDSCAPE EDGING	
SYMBOL	DESCRIPTION	QTY
(Symbol: Turf Grass)	TURF GRASS ("IMPERIAL BLUE" SOD FROM CHANSHARE SOD OR APPROVED EQUAL) INSTALLED OVER 5" TOPSOIL LAYER	77,676 SF
(Symbol: Planting Bed)	PLANTING BED: 1" CRUSHED ROCK MULCH (WASATCH TAN FROM STAKER PARSONS OR APPROVED EQUAL) AND TREES (SHOWN ON PLAN), SHRUBS (DECIDUOUS AND EVERGREEN IN 5 GALLON CONTAINER), GRASSES, AND PERENNIALS. SEE PLANTING NOTE 1.	49,161 SF
(Symbol: Playground Area)	PLAYGROUND AREA WITH ENGINEERED WOOD FIBERS OR APPROVED EQUAL. PLAYGROUND EQUIPMENT BY OWNER. (EQUIPMENT SHOWN IS KOMPAN "MOMENTS PRESCHOOL" PCM 200310)	1,623 SF

**GENERAL NOTE:**

1. SEE L-100 FOR CITY TABLE, PLANTING LEGEND AND NOTES.

MARK:	DATE:	DESCRIPTION:

PROJECT #: 19-301  
 DRAWN BY: J. HENDRICKSON  
 PROJECT MANAGER: J. HENDRICKSON  
 ISSUED: 08.30.19



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NOT FOR CONSTRUCTION



# SCENIC MOUNTAIN SUBDIVISION

## MULTI-FAMILY RESIDENTIAL AND COMMERCIAL PLANNED UNIT DEVELOPMENT

HYRUM CITY, UTAH  
AUGUST 2019  
PRELIMINARY PLAT

### SHEET INDEX

NO.	TITLE
CS - 1	COVER SHEET
C-000	GENERAL NOTES/CONTACTS
C-100	EXISTING SITE
C-101	600 EAST EXISTING UTILITIES
C-200	PROPOSED DEVELOPMENT SITE
C-201	PROPOSED DEVELOPMENT ACCESS
C-202	OPEN SPACE CALCULATION
C-300	POTABLE WATER & SANITARY SEWER UTILITIES PLAN
C-301	POTABLE WATER & SANITARY SEWER UTILITIES PLAN
C-400	IRRIGATION/STORM WATER PLAN
C-500	GENERAL DETAILS
C-501	GENERAL DETAILS

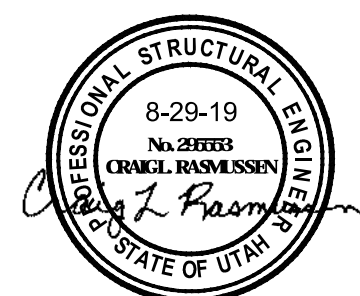
**OWNER/DEVELOPER:**  
**JOE DARGER**  
 GREEN HAVEN HOMES  
 13504 SOUTH 7530 WEST  
 HERRIMAN, UT 84096  
 801-633-7163  
 JOE@GREENHAVENUTAH.COM



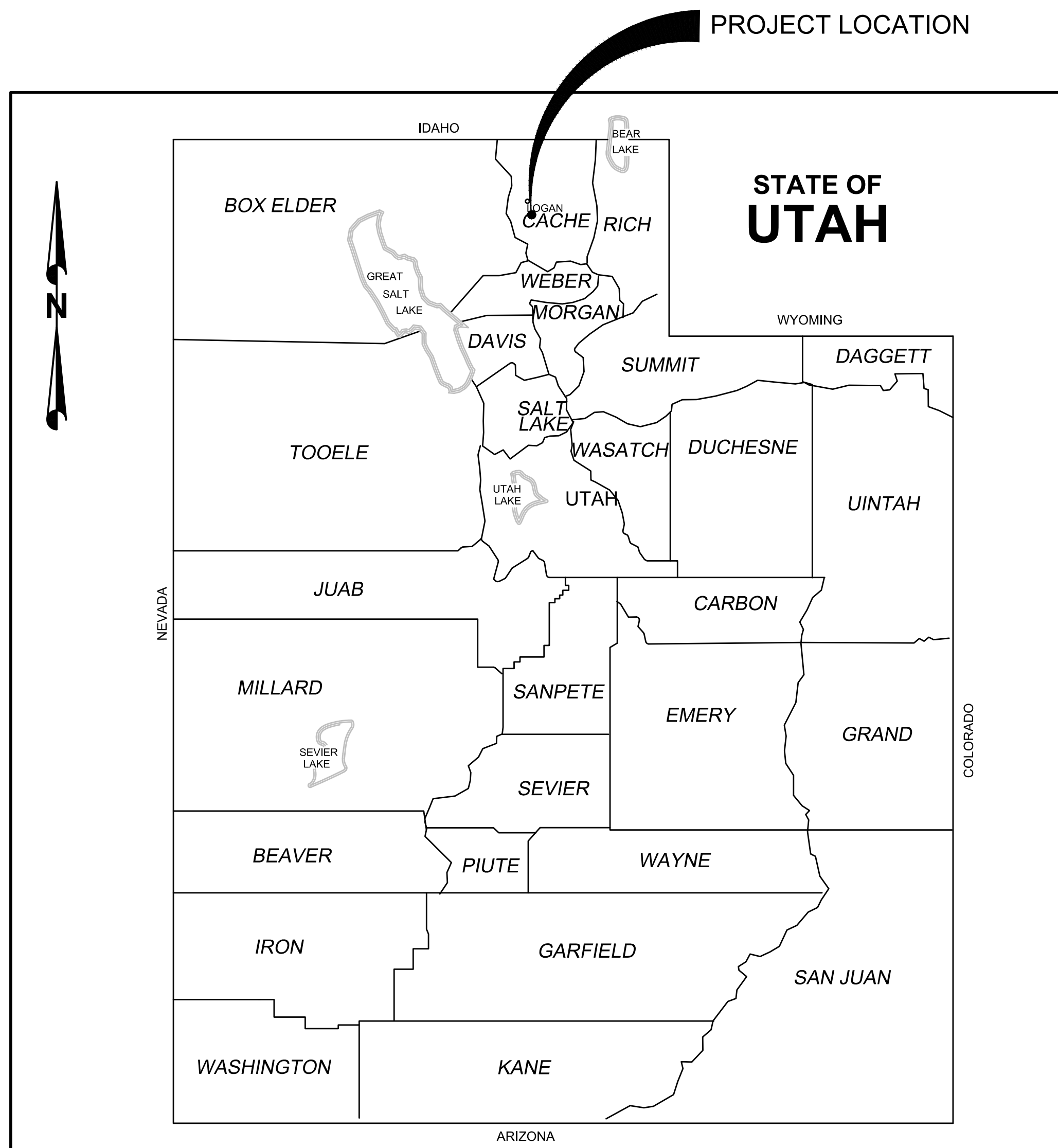
**ENGINEER:**  
 FORSGREN ASSOCIATES, INC  
 95 WEST 100 SOUTH, STE 115  
 LOGAN, UTAH 84321  
 TEL: (435) 227-0333  
 FAX: (435) 227-0334

DESIGN ENGINEER: TYLER MUNK, E.I.T.  
 PROJECT MANAGER: CRAIG RASMUSSEN, P.E., S.E.  
 PROJECT QA/QC: CRAIG RASMUSSEN, P.E., S.E.

**SURVEYOR:**  
 FORESIGHT SURVEYING  
 2005 NORTH 600 WEST  
 LOGAN, UTAH 84321  
 TEL: (435) 753-1910  
 SURVEYOR: JEFF NIELSEN, P.L.S.



PRELIMINARY  
DRAWING  
NOT FOR  
CONSTRUCTION



PROJECT LOCATION MAP

N.T.S.

### DIG LINE

**811**

CALL 2 BUSINESS DAYS IN ADVANCE BEFORE  
YOU DIG, GRADE, OR EXCAVATE FOR THE  
MARKING OF UNDERGROUND MEMBER  
UTILITIES

ALL IMPROVEMENTS NOT SPECIFICALLY COVERED HEREIN BY THE  
CONTRACT DOCUMENTS MUST MEET OR EXCEED THE CURRENT HYRUM  
CITY STANDARDS FOR PUBLIC WORKS CONSTRUCTION. WHERE  
IMPROVEMENTS ARE NOT COVERED BY THE CONTRACT DOCUMENTS,  
HYRUM CITY WILL DETERMINE APPROPRIATE STANDARDS.

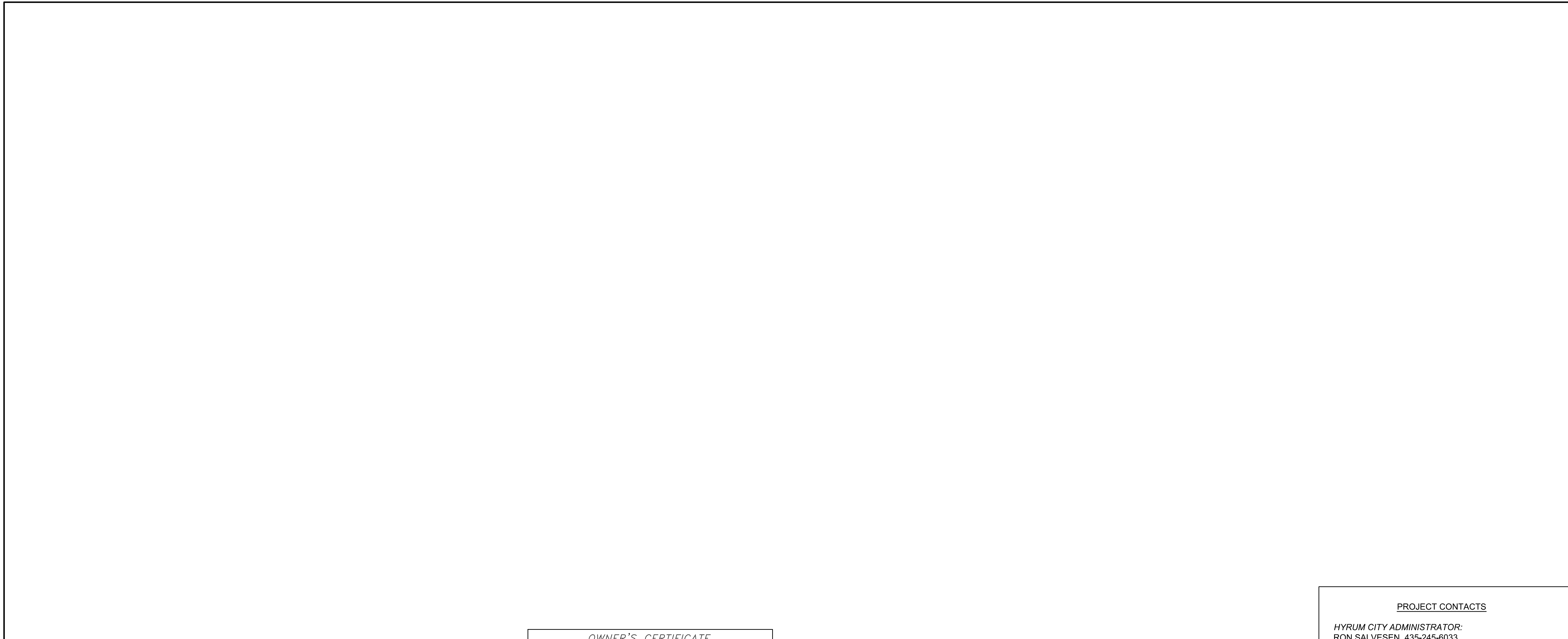


VICINITY MAP

N.T.S.



FA PROJECT NO. 14-19-0081



**UTILITY COMPANY APPROVALS**  
THE UTILITY EASEMENTS SHOWN ON THIS PLAT ARE APPROVED

HYRUM CITY CULINARY WATER AUTHORITY	DATE
HYRUM CITY SANITARY SEWER AUTHORITY	DATE
HYRUM CITY POWER	DATE
COMCAST	DATE
CENTURY LINK	DATE
DOMINION ENERGY	DATE

**OWNERS DEDICATION**  
KNOW ALL MEN BY THESE PRESENT THAT I THE UNDERSIGNED, WHO IS THE OWNER OF THE TRACT OF LAND DESCRIBED HEREON, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, THE WHOLE TO BE HEREINAFTER KNOWN AS THE SCENIC MOUNTAIN SUBDIVISION PLANNED UNIT DEVELOPMENT. DO HEREBY DEDICATE AND SET APART THE SAME AS A SUBDIVISION AND GRANT AND DEDICATE TO THE PERPETUAL USE OF THE PUBLIC ALL EASEMENTS AND IMPROVEMENTS SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

\_\_\_\_\_, HAVE EXECUTED THIS PLAT AND DEDICATION THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

**OWNER'S CERTIFICATE**  
I, THE APPLICANT, AM THE OWNER, OR AM AUTHORIZED IN WRITING FOR THE LAND PROPOSED TO BE SUBDIVIDED.

DATE \_\_\_\_\_ OWNER \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**  
I, \_\_\_\_\_, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. \_\_\_\_\_ AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH, I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED HEREIN, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS HEREAFTER TO BE KNOWN AS: THE SCENIC MOUNTAIN SUBDIVISION PLANNED UNIT DEVELOPMENT AND THE SAME HAS BEEN CORRECTLY SURVEYED AND ALL STREETS ARE THE DIMENSIONS SHOWN.

**COUNTY RECORDER'S NO.**  
STATE OF UTAH, COUNTY OF \_\_\_\_\_, RECORDED AND FILED AT THE REQUEST OF: \_\_\_\_\_  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ FEE: \_\_\_\_\_  
ABSTRACTED \_\_\_\_\_  
INDEX \_\_\_\_\_  
FILED IN: FILE OF PLATS \_\_\_\_\_ COUNTY RECORDER \_\_\_\_\_

**ACKNOWLEDGMENT**  
STATE OF UTAH )  
COUNTY OF CACHE ) SS.  
THE FOREGOING INSTRUMENT WAS PERSONALLY ACKNOWLEDGED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY \_\_\_\_\_, WHO PROVED ON BASIS OF \_\_\_\_\_ SATISFACTORY EVIDENCE TO BE \_\_\_\_\_ AND IS SAID PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT AND THAT SAID DOCUMENT WAS SIGNED BY HIM/HER IN BEHALF OF SAID \_\_\_\_\_ BY AUTHORITY OF ITS BYLAWS.  
WITNESS MY HAND AND OFFICIAL SEAL.  
\_\_\_\_\_  
NOTARY PUBLIC

**CITY COUNCIL APPROVAL AND ACCEPTANCE**  
PRESENTED TO THE HYRUM CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_, AT WHICH TIME THIS SUBDIVISION WAS APPROVED AND ACCEPTED.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
ATTEST

**PLANNING COMMISSION APPROVAL**  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_ BY THE HYRUM CITY PLANNING AND ZONING COMMISSION.

\_\_\_\_\_  
CHAIRPERSON

**CITY ENGINEER'S CERTIFICATE**  
I CERTIFY THAT I HAVE HAD THIS PLAT EXAMINED AND THAT IT IS CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
CITY ENGINEER

**CITY ATTORNEY APPROVAL**  
I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND APPROVE THE PLAT AS TO FORM AS REQUIRED BY STATE LAW AND CITY ORDINANCE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HYRUM CITY ATTORNEY

**PROJECT CONTACTS**

**HYRUM CITY ADMINISTRATOR:**  
RON SALVESEN, 435-245-6033

**HYRUM CITY SANITARY SEWER SUPERINTENDENT:**  
KEVIN MAUGHN, 435-245-6033

**HYRUM CITY ELECTRIC SUPERINTENDENT:**  
MATT DRAPER, 435-245-6033

**HYRUM CITY CULINARY WATER, PRESSURIZED IRRIGATION, ROADS SUPERINTENDENT:**  
COREY NIELSEN, 435-245-6033

**HYRUM IRRIGATION COMPANY (NOT HYRUM CITY):**  
JARED CLAWSON, PRESIDENT, 435-764-3531  
FLOYD BURNETT, SECRETARY, 435-770-4422

**BLACKSMITH FORK IRRIGATION COMPANY:**  
CLAIR PETERSEN, PRESIDENT,  
FLOYD BURNETT, SECRETARY, 435-770-4422

**CENTURY LINK:**  
MATT IVESTER, SR. ENGINEER, 801-626-5401

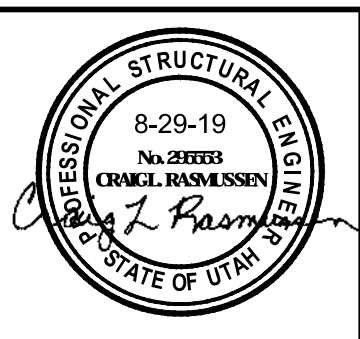
**COMCAST:**  
1-800-934-6489

**DOMINION ENERGY:**  
1-800-323-5517

NO.	REVISIONS	BY	DATE

DRAWN \_\_\_\_\_ TRM  
DESIGNED \_\_\_\_\_ TRM  
APPROVED \_\_\_\_\_ CLR  
QA \_\_\_\_\_ CLR

**ATTENTION**  
LINE IS 2 INCHES  
AT FULL SIZE  
(IF NOT 2" SCALE ACCORDINGLY)



**GREEN HAVEN HOMES**  
13504 SOUTH 7530 EAST, HERRIMAN, UT 84096

**FORSGREN Associates Inc.**  
95 WEST 100 SOUTH, STE. 115, LOGAN, UT 84321  
PH: 435.227.0333 FAX: 435.227.0334

**811**  
Know what's below.  
Call before you dig.

**SCENIC MOUNTAIN SUBDIVISION**  
MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT  
HYRUM, UTAH

**GENERAL NOTES**

PROJECT NO: 14-19-0081	PAGE NO: 2 OF 12
SHEET NO: C-000	DATE: 8-19

**EXISTING SITE NOTES:**

- THE EXISTING SITE IS CHARACTERIZED AS PASTURE. THERE ARE A FEW LARGE TREES ALONG THE PERIMETER FENCELINE. INCORPORATION OF PERIMETER TREES HAS NOT BEEN DETERMINED.
- HIGH GROUNDWATER MAY EXIST ON THE WESTERLY SIDE OF THE SITE. TO BE CONFIRMED WITH SITE SPECIFIC GEOTECHNICAL REPORT. NEIGHBORING PROPERTY OWNER HAVING A LONG HISTORY WITH THE PROPERTY INDICATES HIGH GROUNDWATER IS LIKELY, BUT HAS STATED THAT THE PROPERTY HAS BECOME DRIER SINCE THE STORAGE UNITS WERE INSTALLED TO THE NORTH.
- THIS SITE DOES NOT INCLUDE ANY CRITICAL HABITAT RELATED TO THREATENED OR ENDANGERED SPECIES IN CACHE COUNTY.



**SUBDIVISION BOUNDARY DESCRIPTION**

A PART OF THE SOUTHEAST QUARTER AND NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED SOUTH 00°01'36" EAST, A DISTANCE OF 36.42 FEET AND SOUTH 89°59'00" WEST, A DISTANCE OF 69.67 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 33, SAID POINT BEING A HIGHWAY RIGHT-OF-WAY MONUMENT MARKING THE INTERSECTION OF THE WEST LINE OF STATE ROAD 165 AND THE NORTHERLY LINE OF 600 EAST STREET AND RUNNING THENCE SOUTH 31°21'34" WEST, A DISTANCE OF 217.55 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THENCE NORTH 88°36'45" WEST, A DISTANCE OF 1,147.50 FEET; THENCE NORTH 00°29'11" EAST, A DISTANCE OF 353.23 FEET; THENCE SOUTH 88°45'56" EAST, A DISTANCE OF 1,089.91 FEET; THENCE NORTH 34°27'21" EAST, A DISTANCE OF 225.31 FEET; THENCE ALONG THE SOUTHERLY BANK OF A DITCH THE FOLLOWING THREE (3) COURSES: (1) NORTH 52°08'54" EAST, A DISTANCE OF 36.74 FEET; (2) NORTH 02°44'24" EAST, A DISTANCE OF 32.50 FEET; (3) NORTH 30°24'52" EAST, A DISTANCE OF 28.56 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID STATE ROAD 165; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: (1) SOUTH 00°01'00" EAST, A DISTANCE OF 82.70 FEET; (2) SOUTH 89°16'48" WEST, A DISTANCE OF 5.00 FEET; (3) SOUTH 00°01'59" EAST, A DISTANCE OF 354.41 FEET TO THE POINT OF BEGINNING. CONTAINING 10.49 ACRES

Line #	Length	Direction
L1	36.74'	N52°08'54"E
L2	32.50'	N2°44'24"E
L3	28.56'	N30°24'52"E
L4	82.70'	S0°01'00"E
L5	5.00'	S89°16'48"W

WITH A RIGHT-OF-WAY OVER THE WEST 60 FEET OF THE FOLLOWING: BEGINNING AT A POINT 89.25 RODS EAST AND 8 RODS NORTH OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 1 EAST, THENCE EAST 20 RODS; THENCE NORTH 40 RODS; THENCE WEST 20 RODS; THENCE SOUTH 40 RODS TO THE BEGINNING. CONTAINING 5 ACRES (TAX ID 03-063-0013, ENT 1211968).

NO.	REVISIONS	BY	DATE

DRAWN	TRM
DESIGNED	TRM
APPROVED	CLR
QA	CLR

**ATTENTION**  
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MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT  
HYRUM, UTAH

PROJECT NO:	14-19-0081
SHEET NO:	C-100
DATE:	8-19
PAGE NO:	3 OF 12

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

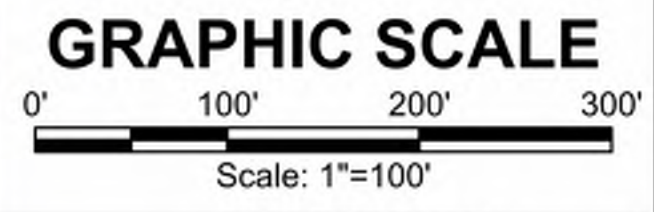
**GRAPHIC SCALE**  
0' 50' 100'  
Scale: 1"=50'

EXISTING SITE NOTES:

-EXISTING WELL RIGHTS FOR RESIDENTIAL PARCELS ALONG 600 EAST. THESE WELLS WILL NOT BE IMPACTED BY THE DEVELOPMENT.



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



NO.	REVISIONS	BY	DATE

DRAWN	TRM
DESIGNED	TRM
APPROVED	CLR
QA	CLR

**ATTENTION**  
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**GREEN HAVEN**  
HOMES

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**FORSGREN**  
*Associates Inc.*

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PH: 435.227.0333 FAX: 435.227.0334

**SCENIC MOUNTAIN SUBDIVISION**  
MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT

HYRUM, UTAH

**600 EAST EXISTING UTILITIES**

PROJECT NO:	14-19-0081
SHEET NO:	C-101
DATE:	8-19
PAGE NO:	4 OF 12



SITE NOTES:  
--CONTOURS ARE 2.0' INTERVALS.

**PROJECT INFORMATION**

--LOT 1--  
AREA: 7.11 ACRES  
TYPE: 71 RESIDENTIAL UNITS

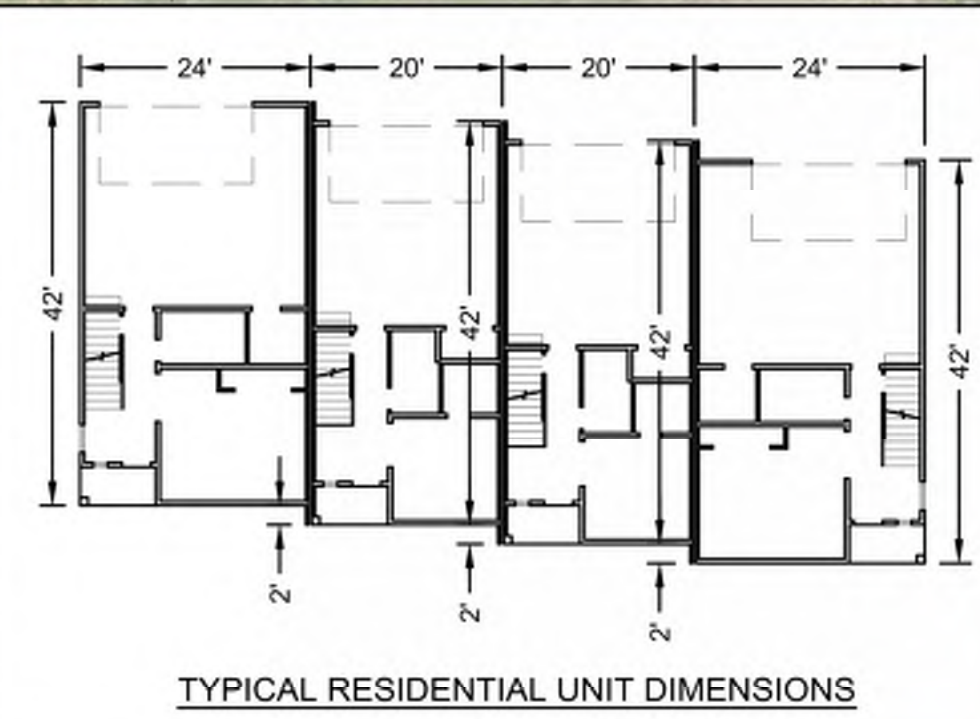
--OPEN SPACE CALCULATION--  
TOTAL PROJECT AREA: 309,921 SQUARE FEET (SF)  
HARDSCAPE AREA: 146,416 SF  
OPEN SPACE AREA: (309,921-146,416) SF = 163,505 SF  
OPEN SPACE PERCENT = (163,505/309,921) SF = 52.8%

P.U.D. TOTAL AREA: 10.49 ACRES  
RESIDENTIAL AREA: 7.11 ACRES  
DENSITY: 71/7.11 = 9.98 UNITS PER ACRE

UNIT #:	ADDRESS:
1	701 EAST 730 NORTH
2	705 EAST 730 NORTH
3	707 EAST 730 NORTH
4	702 EAST 730 NORTH
5	704 EAST 730 NORTH
6	706 EAST 730 NORTH
7	708 EAST 730 NORTH
8	691 EAST 730 NORTH
9	693 EAST 730 NORTH
10	695 EAST 730 NORTH
11	697 EAST 730 NORTH
12	692 EAST 730 NORTH
13	694 EAST 730 NORTH
14	696 EAST 730 NORTH
15	698 EAST 730 NORTH
16	681 EAST 730 NORTH
17	683 EAST 730 NORTH
18	685 EAST 730 NORTH
19	687 EAST 730 NORTH
20	682 EAST 730 NORTH
21	684 EAST 730 NORTH
22	686 EAST 730 NORTH
23	688 EAST 730 NORTH
24	671 EAST 730 NORTH
25	673 EAST 730 NORTH
26	675 EAST 730 NORTH
27	677 EAST 730 NORTH
28	672 EAST 730 NORTH
29	674 EAST 730 NORTH
30	676 EAST 730 NORTH
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33	663 EAST 730 NORTH
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36	662 EAST 730 NORTH
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64	635 EAST 730 NORTH
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66	630 EAST 730 NORTH
67	632 EAST 730 NORTH
68	634 EAST 730 NORTH
69	636 EAST 730 NORTH
70	638 EAST 730 NORTH
71	638 EAST 730 NORTH



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



NO.	REVISIONS	BY	DATE

DRAWN	TRM
DESIGNED	TRM
APPROVED	CLR
QA	CLR

**ATTENTION**  
LINE IS 2 INCHES  
AT FULL SIZE  
(IF NOT 2" SCALE ACCORDINGLY)



**GREEN HAVEN HOMES**  
13504 SOUTH 7530 EAST, HERRIMAN, UT 84096

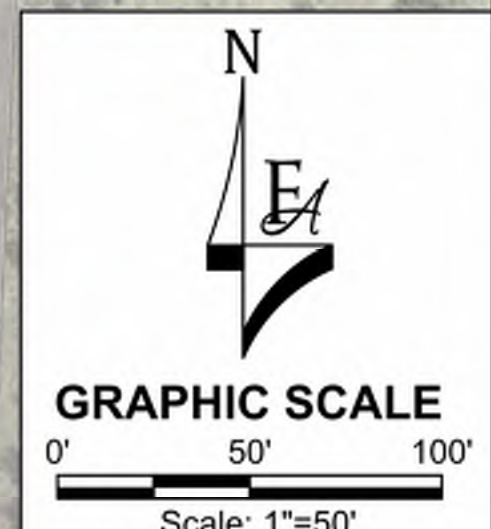
**FORSGREN Associates Inc.**  
95 WEST 100 SOUTH, STE. 115, LOGAN, UT 84321  
PH: 435.227.0333 FAX: 435.227.0334

**811**  
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**SCENIC MOUNTAIN SUBDIVISION**  
MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT  
HYRUM, UTAH

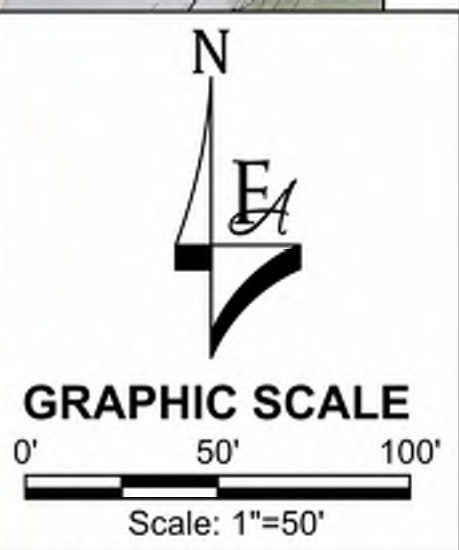
**PROPOSED DEVELOPMENT SITE**

PROJECT NO:	14-19-0081
SHEET NO:	C-200
DATE:	8-19
PAGE NO:	5 OF 12





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HYRUM, UTAH

**PROPOSED DEVELOPMENT ACCESS**

PROJECT NO:	14-19-0081
SHEET NO:	C-201
DATE:	8-19
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**PROJECT INFORMATION**

**--LOT 1--**

AREA: 7.11 ACRES  
TYPE: 71 RESIDENTIAL UNITS

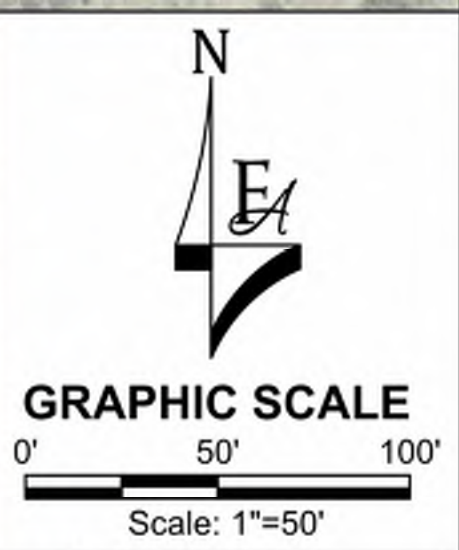
**--OPEN SPACE CALCULATION--**

TOTAL PROJECT AREA: 309,921 SQUARE FEET (SF)  
HARDSCAPE AREA: 146,416 SF  
OPEN SPACE AREA: (309,921-146,416) SF = 163,505 SF  
OPEN SPACE PERCENT = (163,505/309,921) SF = 52.8%

P.U.D. TOTAL AREA: 10.49 ACRES  
RESIDENTIAL AREA: 7.11 ACRES  
DENSITY: 71/7.11 = 9.98 UNITS PER ACRE



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



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DRAWN	TRM
DESIGNED	TRM
APPROVED	CLR
QA	CLR

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**OPEN SPACE CALCULATION**

PROJECT NO:	14-19-0081
SHEET NO:	C-202
DATE:	8-19
PAGE NO:	7 OF 12

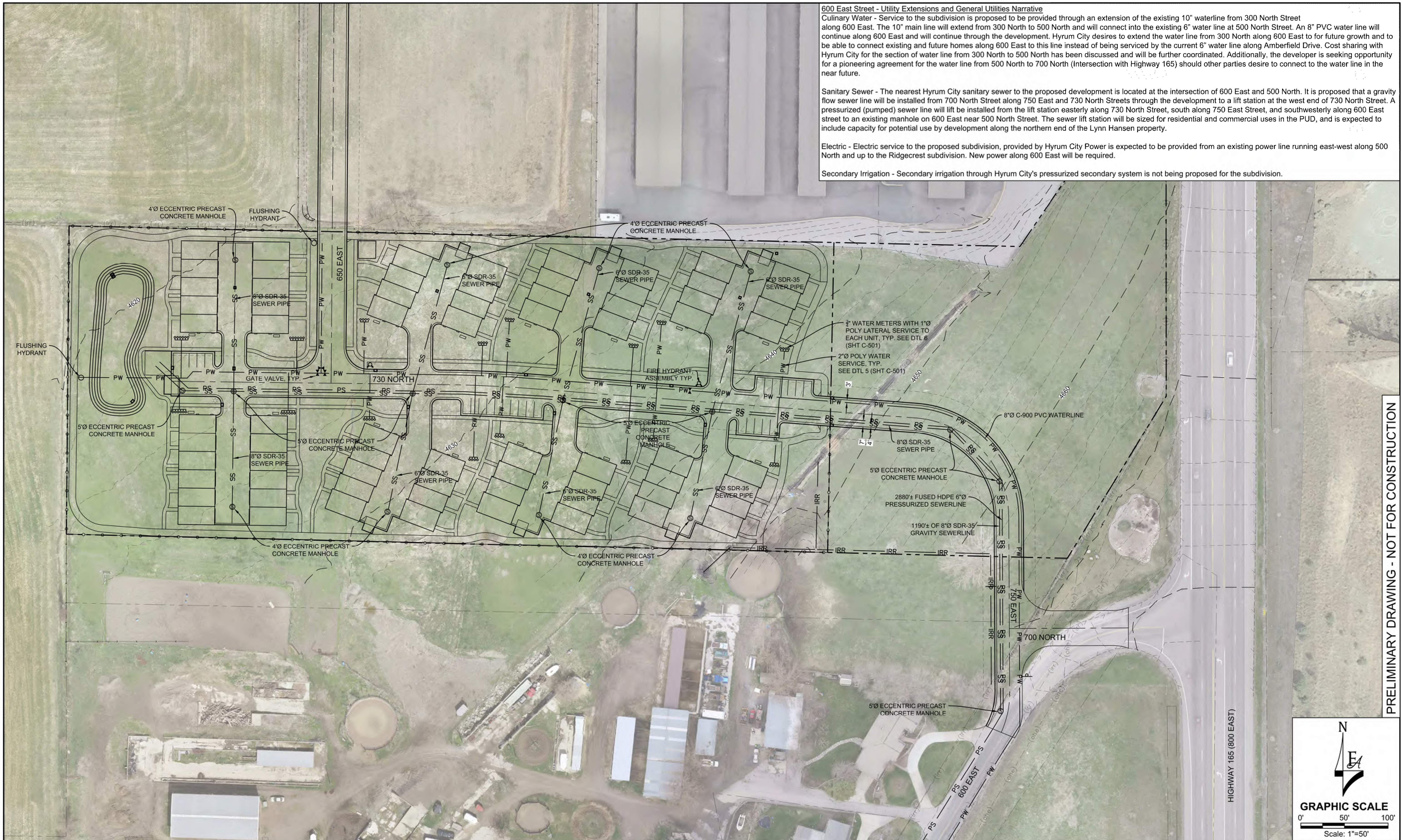
**600 East Street - Utility Extensions and General Utilities Narrative**

**Culinary Water** - Service to the subdivision is proposed to be provided through an extension of the existing 10" waterline from 300 North Street along 600 East. The 10" main line will extend from 300 North to 500 North and will connect into the existing 6" water line at 500 North Street. An 8" PVC water line will continue along 600 East and will continue through the development. Hyrum City desires to extend the water line from 300 North along 600 East to for future growth and to be able to connect existing and future homes along 600 East to this line instead of being serviced by the current 6" water line along Amberfield Drive. Cost sharing with Hyrum City for the section of water line from 300 North to 500 North has been discussed and will be further coordinated. Additionally, the developer is seeking opportunity for a pioneering agreement for the water line from 500 North to 700 North (Intersection with Highway 165) should other parties desire to connect to the water line in the near future.

**Sanitary Sewer** - The nearest Hyrum City sanitary sewer to the proposed development is located at the intersection of 600 East and 500 North. It is proposed that a gravity flow sewer line will be installed from 700 North Street along 750 East and 730 North Streets through the development to a lift station at the west end of 730 North Street. A pressurized (pumped) sewer line will lift be installed from the lift station easterly along 730 North Street, south along 750 East Street, and southwesterly along 600 East street to an existing manhole on 600 East near 500 North Street. The sewer lift station will be sized for residential and commercial uses in the PUD, and is expected to include capacity for potential use by development along the northern end of the Lynn Hansen property.

**Electric** - Electric service to the proposed subdivision, provided by Hyrum City Power is expected to be provided from an existing power line running east-west along 500 North and up to the Ridgecrest subdivision. New power along 600 East will be required.

**Secondary Irrigation** - Secondary irrigation through Hyrum City's pressurized secondary system is not being proposed for the subdivision.



PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

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E  
S

**GRAPHIC SCALE**  
0' 50' 100'  
Scale: 1"=50'

NO.	REVISIONS	BY	DATE

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DESIGNED	TRM
APPROVED	CLR
QA	CLR

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HOMES  
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Associates Inc.  
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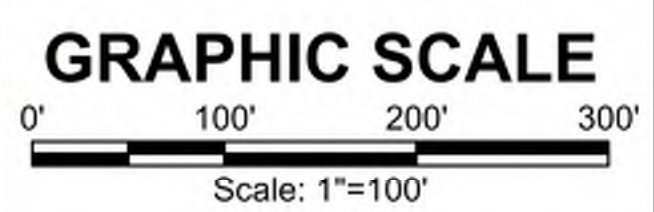
**SCENIC MOUNTAIN SUBDIVISION**  
MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT  
HYRUM, UTAH

**POTABLE WATER & SANITARY SEWER UTILITY PLAN**

PROJECT NO:	14-19-0081
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DATE:	8-19
PAGE NO:	8 OF 12



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*Associates Inc.*

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**SCENIC MOUNTAIN SUBDIVISION**  
MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
PLANNED UNIT DEVELOPMENT

HYRUM, UTAH

**POTABLE WATER & SANITARY SEWER UTILITY PLAN**

PROJECT NO:	14-19-0081
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DATE:	8-19
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**Storm Water Narrative**  
 Storm water runoff is collected via surface flow to catch basins with conveyance piping to the storm water retention/detention area at the westerly end of the property. Storm water for the 90th percentile storm event (0.67 inch rainfall) is retained on-site with infiltration into the soils prior to runoff, and infiltration at the retention basin. Storm water runoff from events exceeding the 90th percentile storm will be detained on-site with a controlled release via an orifice plate sized to allow the pre-development runoff of 0.2 cubic feet per second per acre. The stormwater handling facilities will be constructed as part of Phase 1 in accordance with Hyrum City standards, including maximum side slopes of 3:1, minimum freeboard of 1 foot, sloped bottom for drainage, and a sprinkler system installed. Maintenance of the storm water system will be provided by the HOA. Storm water runoff from 750 East Street is included in the calculations for Phase 1 runoff area. Storm water from commercial development will be similarly retained and detained on-site for the 90th percentile storm and the 100 year design storm, respectively, in the commercial area. Controlled discharge from the commercial lot storm water system will flow into the collection system for the residential development or will be discharged to the Hyrum Blacksmith Fork Irrigation Ditch, with approval by the irrigation company. Discharge from the residential storm water handling facilities is proposed to release to an existing Hyrum Blacksmith Fork Irrigation ditch along the northerly side of the residential property adjacent to the storm water handling area with flow to the west to the main canal of the Hyrum Blacksmith Fork Irrigation Company. Coordination and a letter of acceptance is in process.

**Irrigation Narrative**  
 Irrigation of landscape area is proposed to be provided with Hyrum City culinary water, via metered irrigation service connections installed with back flow prevention according to City and State requirements. An existing Hyrum Irrigation Company ditch terminates at the easterly side of the commercial lot and will be abandoned as part of the development. The Hyrum Irrigation Company ditch will be piped westerly to connect into the Hyrum Blacksmith Fork Irrigation ditch, currently piped across the subject property with a relocation of piping at the southeast corner of the residential development. Irrigation changes have been discussed with the respective irrigation companies and a letter of acceptance is being coordinated.



Land Use	Area (sqft)	"C" Values	Composite
Grass	129,520	0.35	45332
Concrete/Pavement/Roof	199,888	0.9	179899.2
<b>Total Area</b>	<b>329,408</b>		<b>225231.2</b>
<b>7.56 acres</b>			
<b>Average "C" = Composite/Area:</b>		<b>0.68</b>	

**Allowable Discharge Rate at 0.2 cfs per acre = 1.51 cfs**  
**100-Year Return Period, 24 Hour Storm, (USU, Logan, Utah)**

Duration (min)	Intensity (in/hr)	Runoff (cfs)	Total Runoff (cubic feet)	Allowable Discharge (cubic feet)	Storage Required (cubic feet)
5	5.3	27.63	8,289.8	(453.7)	8,743.5
10	4.04	21.06	12,638.0	-	12,638.0
15	3.34	17.41	15,672.3	453.7	15,218.6
30	2.25	11.73	21,115.4	1,814.9	19,300.5
60	1.39	7.25	26,089.3	4,537.3	21,552.0
120	0.806	4.20	30,256.1	9,982.1	20,274.0
180	0.574	2.99	32,320.7	15,426.8	16,893.9
360	0.354	1.85	39,865.9	31,761.1	8,104.8
720	0.219	1.14	49,325.6	64,429.7	0
1440	0.134	0.70	60,362.0	129,766.8	0
<b>Minimum Volume of Detention Basin:</b>				<b>21,552.0</b>	

90TH PERCENTILE STORAGE VOLUME	
Storm Water Management Area (sqft)	329,408
90th % Rain Depth (in)	0.66
90th % Storm Volume (cuft)	18,117 (=90th % Storm Volume * SWM Area)
<b>Retain in Basin (cuft)</b>	<b>12,388 (=90th % Storm Volume * Weighted "C")</b>
Infiltrate on Site (cuft)	5,730 (=90th % Storm Volume * (1 - Weighted "C"))

RATIONAL METHOD	
<b>Time of Concentration</b>	
Length of longest drainage path =	1280 ft
Elevation Difference =	58 ft
$T_c = (0.00013 * L^{0.77} * S^{-0.385})^{*60}$	10.0 min
Elev Beg:	4680
Elev End:	4622
Slope:	4.5%
$T_c$ Calculated:	6.3

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

NO.	REVISIONS	BY	DATE

DRAWN	TRM
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APPROVED	CLR
QA	CLR

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 13504 SOUTH 7530 EAST, HERRIMAN, UT 84096

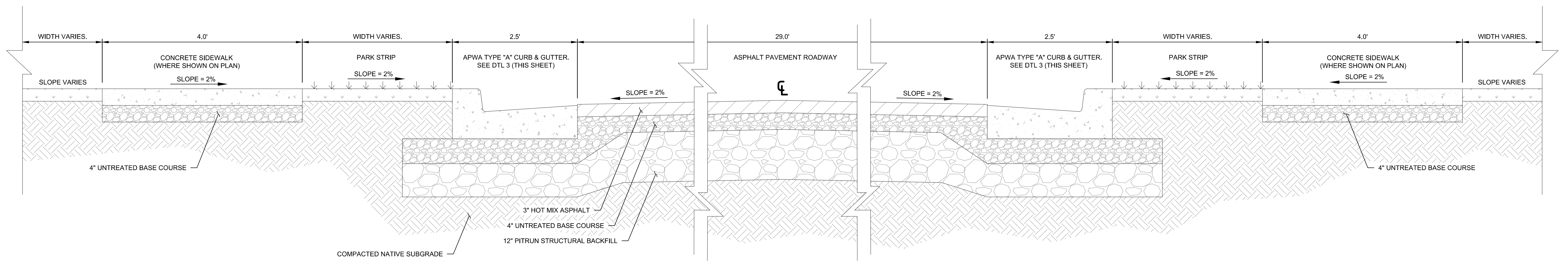
**FORSGREN Associates Inc.**  
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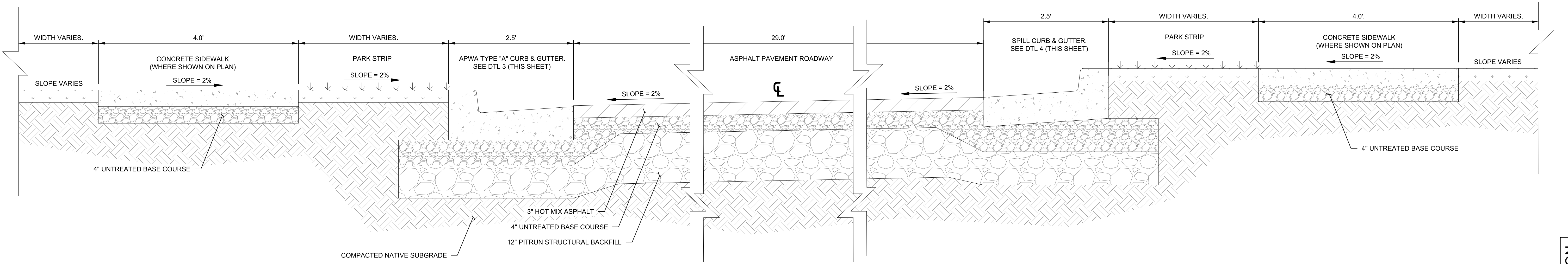
**SCENIC MOUNTAIN SUBDIVISION**  
 MULTI-FAMILY RESIDENTIAL AND COMMERCIAL  
 PLANNED UNIT DEVELOPMENT  
 HYRUM, UTAH

PROJECT NO:	14-19-0081
SHEET NO:	C-400
DATE:	8-19
PAGE NO:	10 OF 12

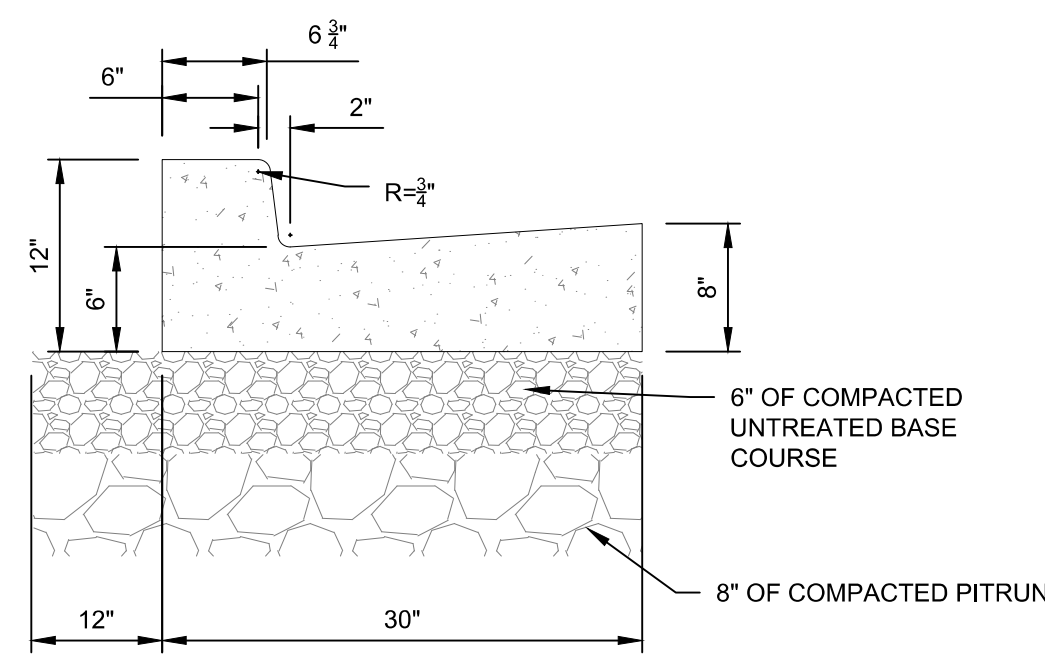
**GRAPHIC SCALE**  
 Scale: 1"=50'  
 0' 50' 100'



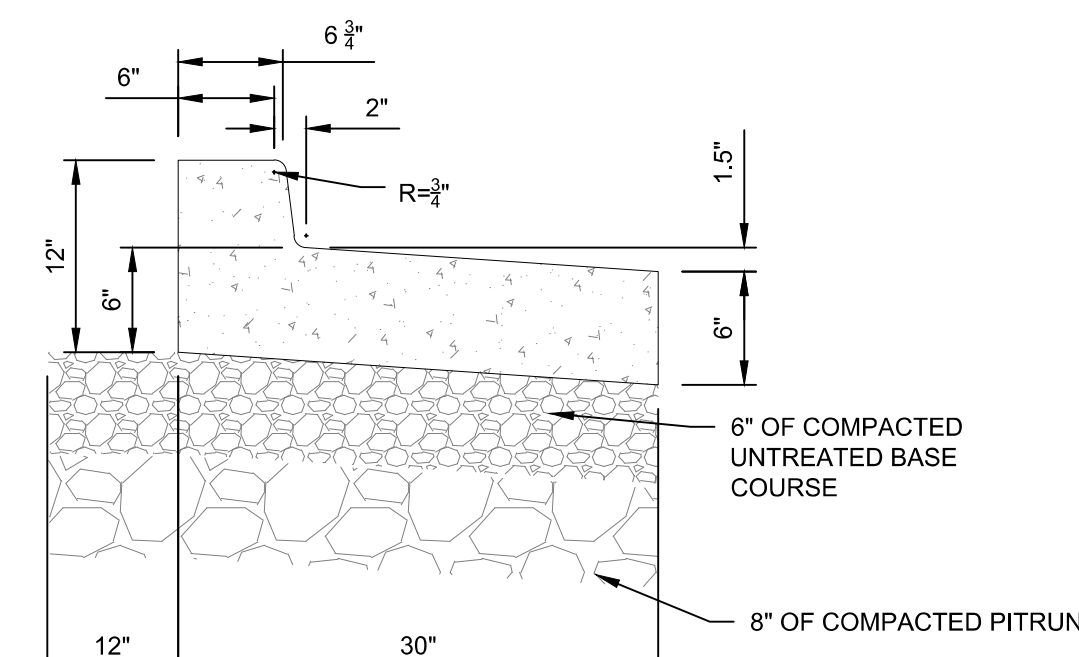
**CROWNED ROAD PROFILE 1**  
SCALE: NTS



**SLOPED ROAD PROFILE 2**  
SCALE: NTS



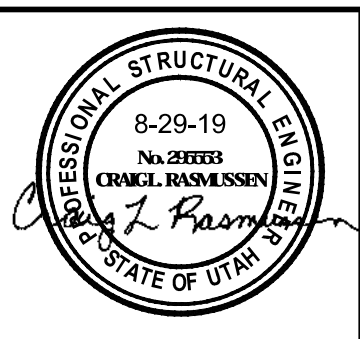
**APWA TYPE "A" CURB & GUTTER**  
SCALE: NTS



**SPILL CURB & GUTTER**  
SCALE: NTS

NO.	REVISIONS	BY	DATE

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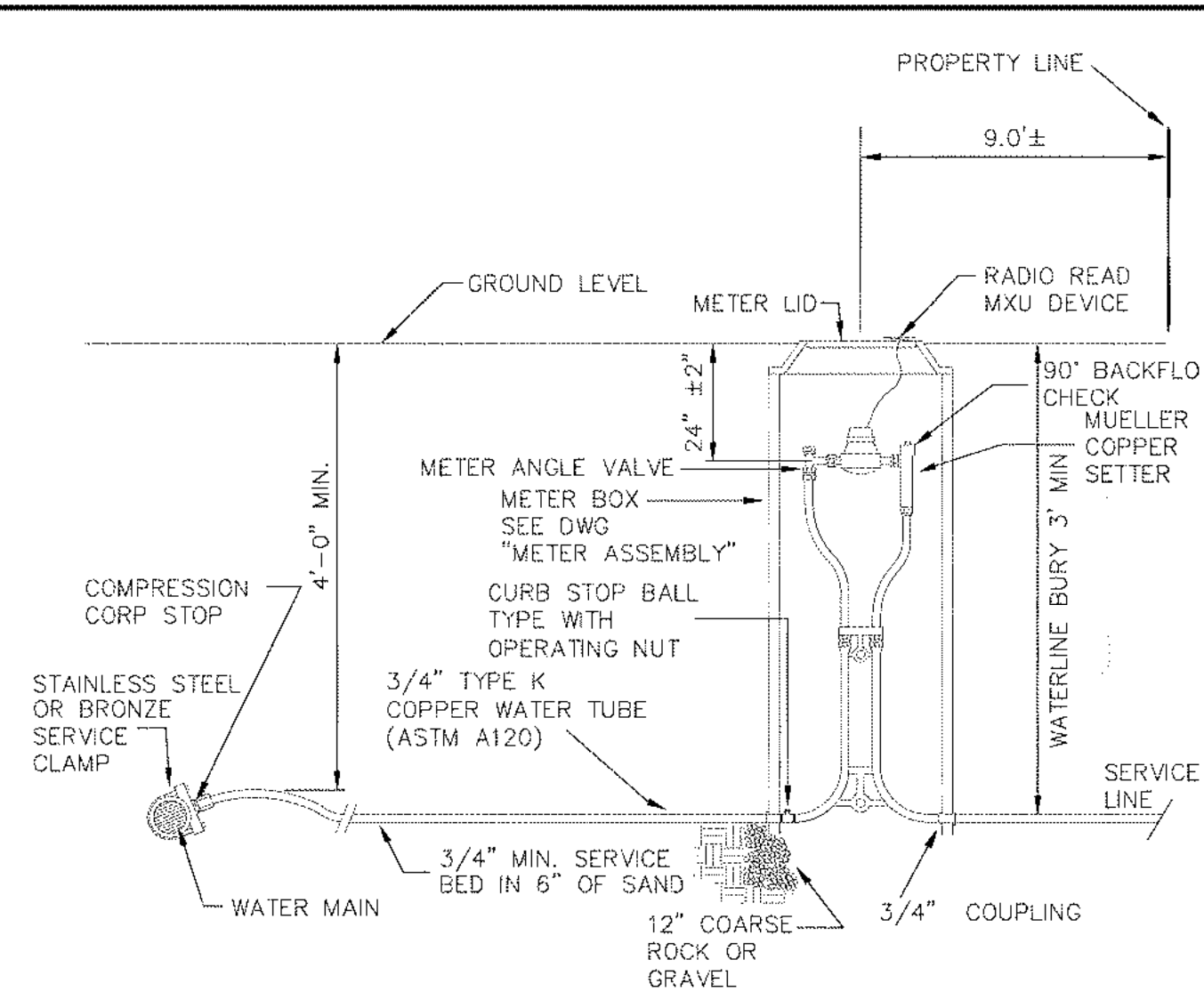
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HYRUM, UTAH

PROJECT NO: 14-19-0081	PAGE NO: 11 OF 12
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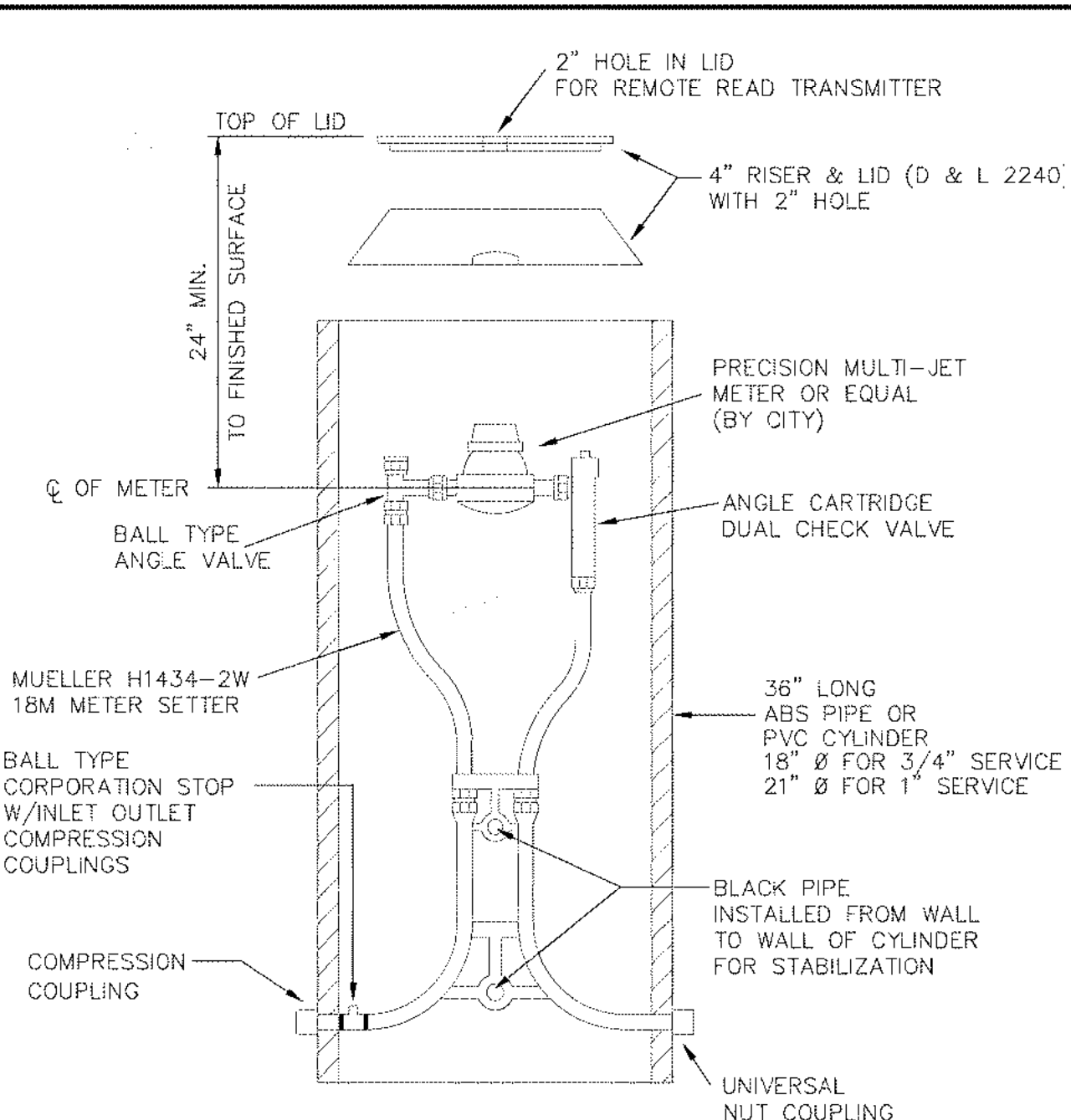


**NOTES:**

1. METER BOX SHALL BE SET PLUMB
2. THREADS ON TAP SHALL MATCH THREADS ON CORPORATION STOP.
3. REFER TO WRITTEN SPECIFICATIONS FOR ADDITIONAL DETAILS.
4. NO METERS ARE TO BE INSTALLED IN SIDEWALK OR DRIVEWAYS UNLESS FIRST APPROVED BY THE CITY.
5. FOR DETAILED INFORMATION SEE SPECIFICATIONS.
6. METER BOX DIAMETERS (MINIMUMS):  
 18" Ø FOR 3/4" SERVICE  
 24" Ø FOR 1" SERVICE  
 48" Ø FOR 1-1/2" OR 2" SERVICE (CONCRETE PIPE SECTION OR MANHOLE)
7. 2" POLY PIPE SERVICE FROM WATER MAINLINE TO A SERVICE MANIFOLD CONSTRUCTED PRIOR TO METER BARREL.

**SERVICE CONNECTION  
AND METER ASSEMBLY**  
SCALE: NTS

5



**NOTE**

ALL COMPONENTS EXCEPT METER PROVIDED BY CONTRACTOR. METER PROVIDED BY PUBLIC WORKS DEPT.

**3/4" - 1" METER ASSEMBLY**  
SCALE: NTS

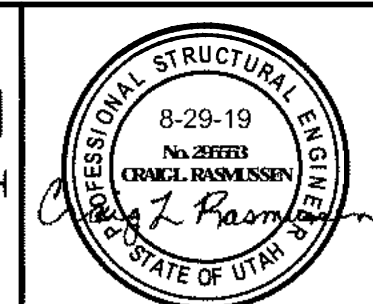
6

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DESIGNED	TRM
APPROVED	CLR
QA	CLR

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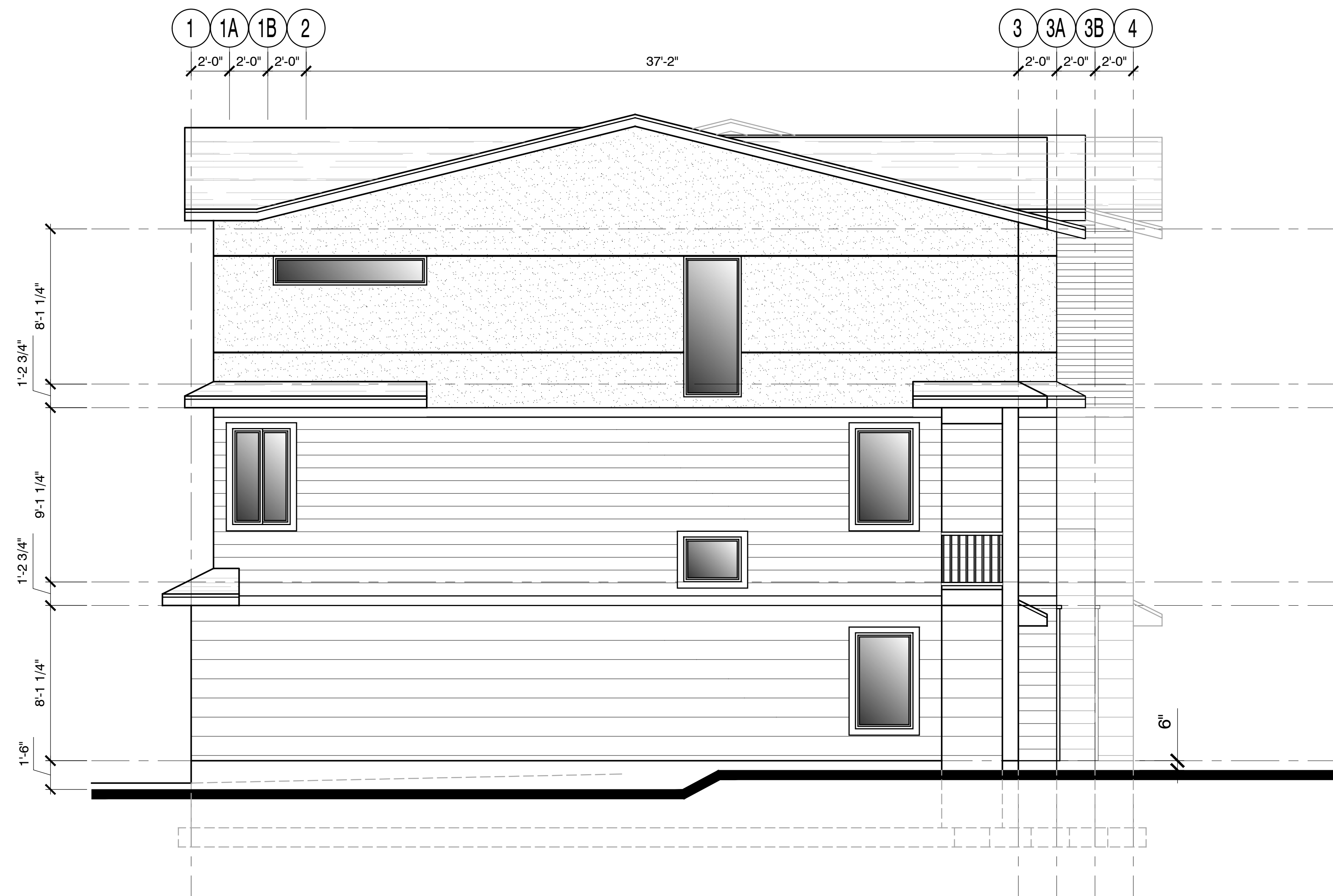
HYRUM, UTAH

**GENERAL DETAILS**

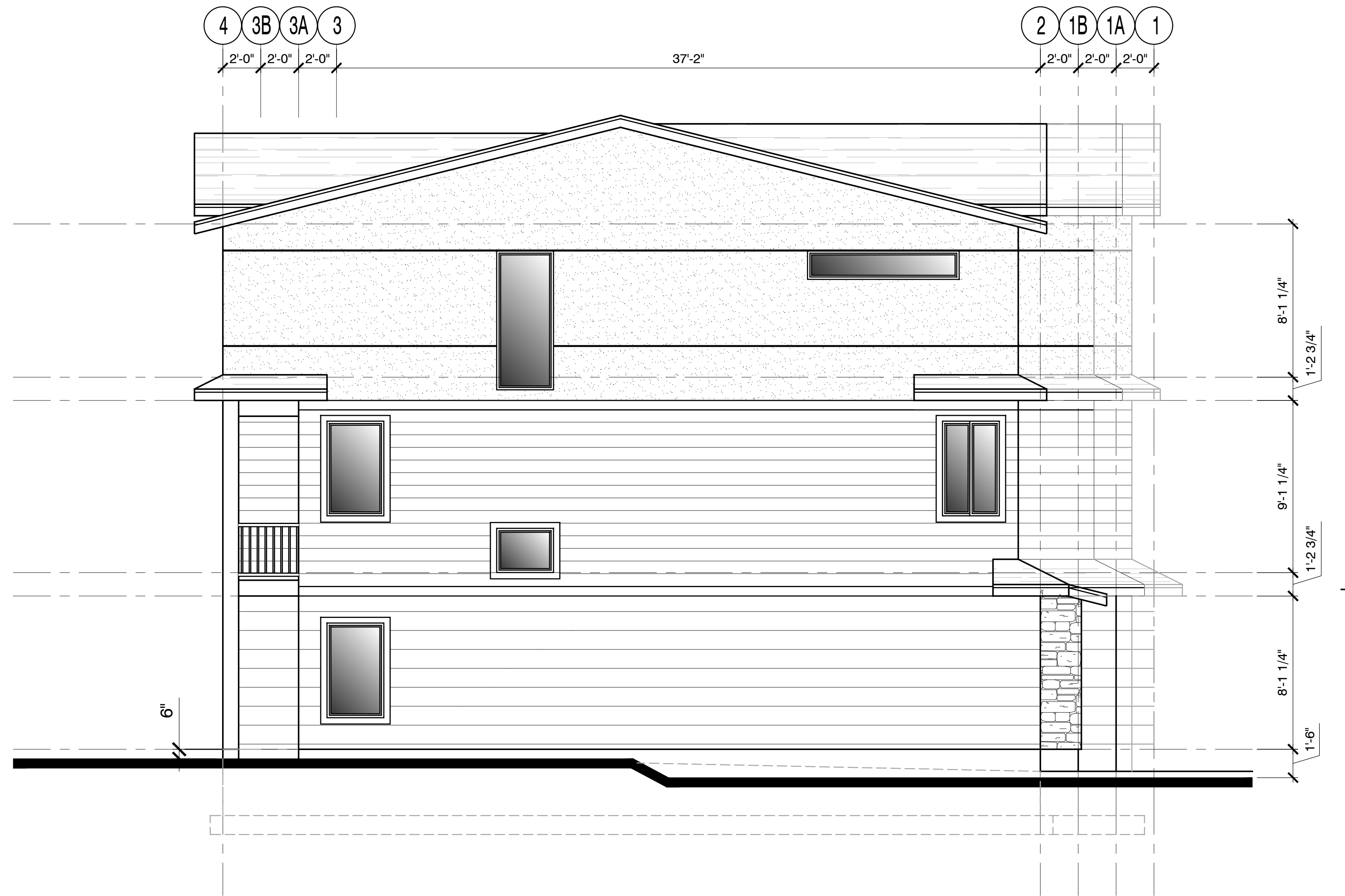
PROJECT NO:	14-19-0081
SHEET NO:	C-501
DATE:	8-19
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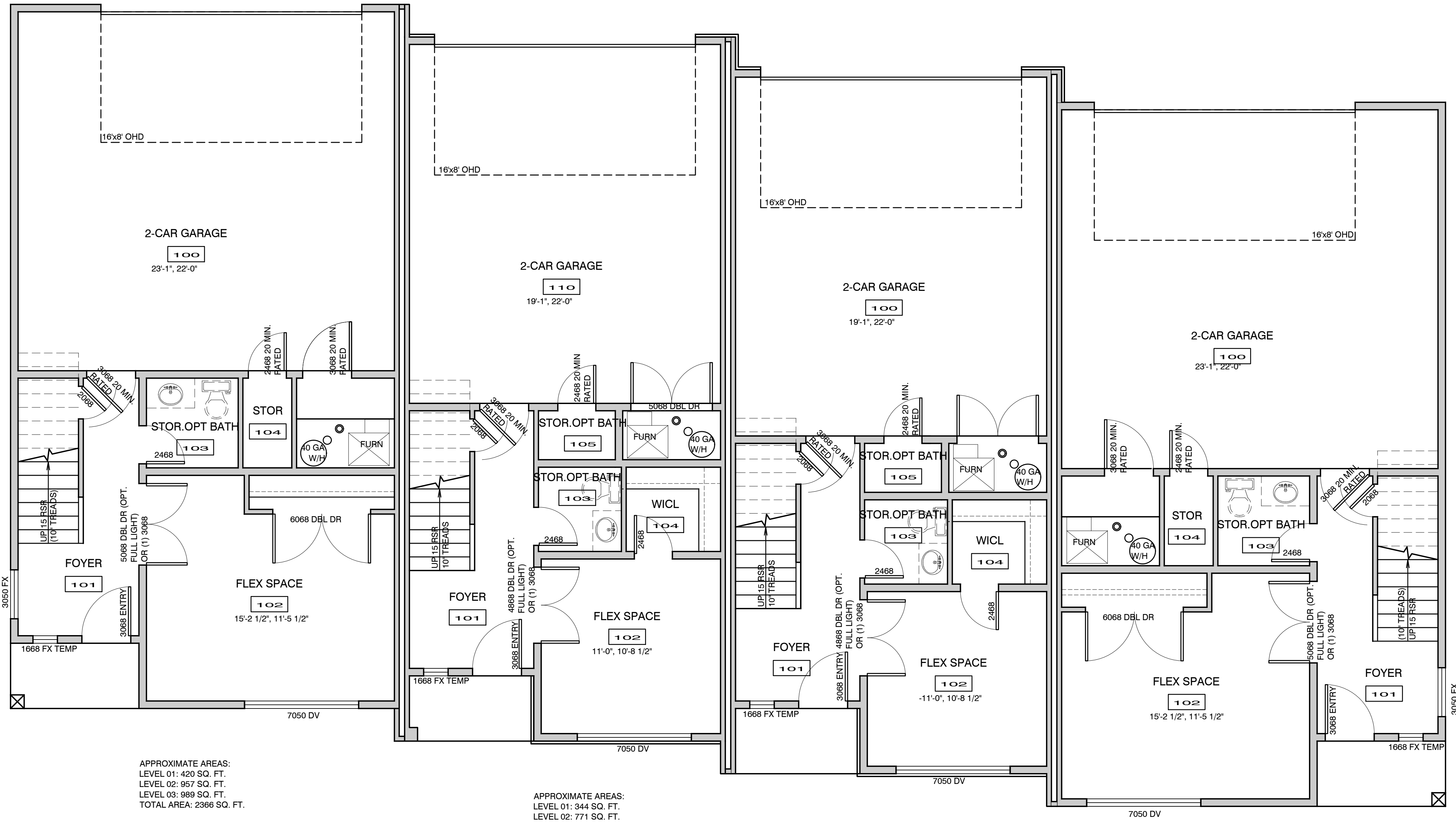










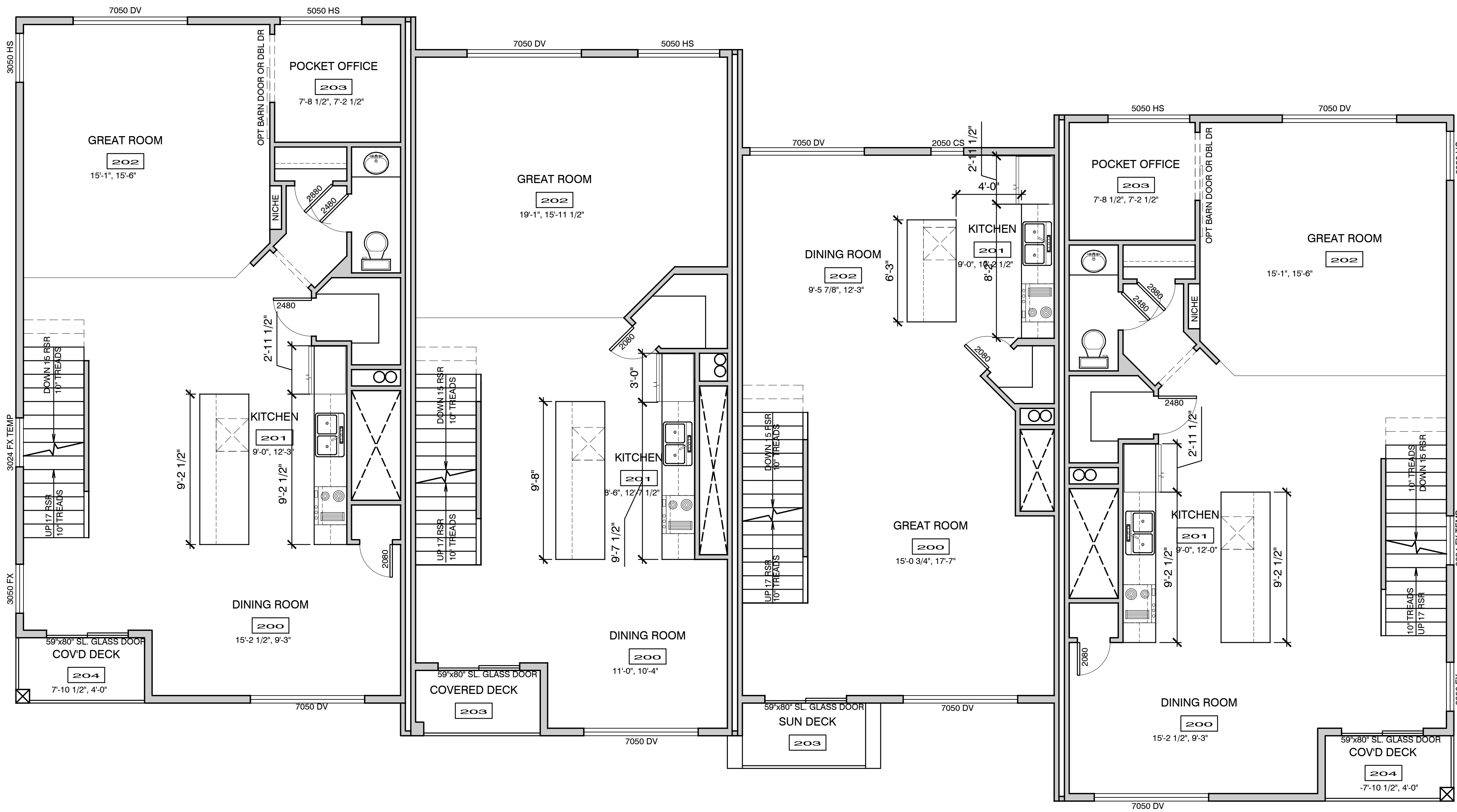


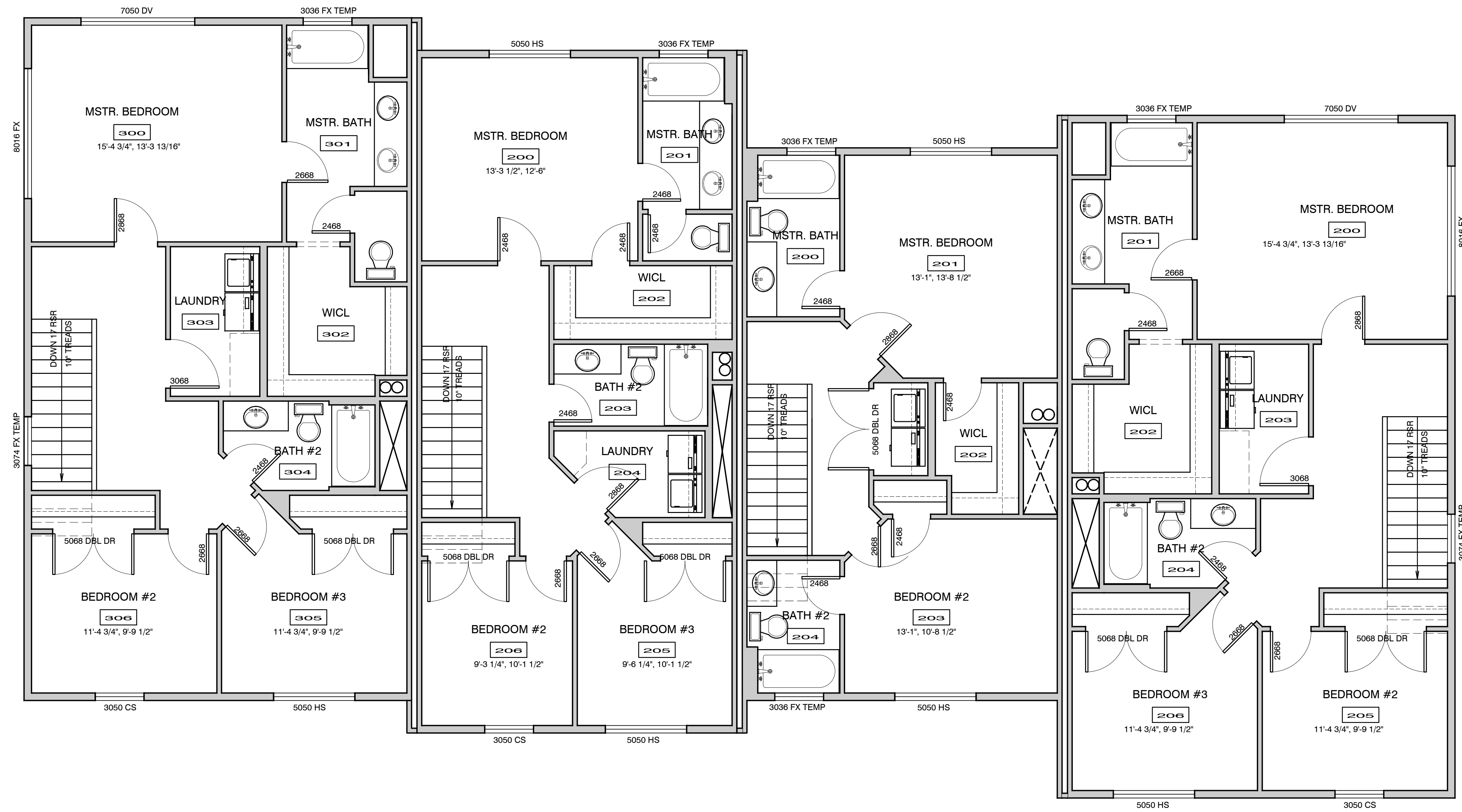
APPROXIMATE AREAS:  
 LEVEL 01: 420 SQ. FT.  
 LEVEL 02: 957 SQ. FT.  
 LEVEL 03: 989 SQ. FT.  
 TOTAL AREA: 2366 SQ. FT.

APPROXIMATE AREAS:  
 LEVEL 01: 344 SQ. FT.  
 LEVEL 02: 771 SQ. FT.  
 LEVEL 03: 801 SQ. FT.  
 TOTAL AREA: 1917 SQ. FT.

APPROXIMATE AREAS:  
 LEVEL 01: 344 SQ. FT.  
 LEVEL 02: 649 SQ. FT.  
 LEVEL 03: 649 SQ. FT.  
 TOTAL AREA: 1642 SQ. FT.

APPROXIMATE AREAS:  
 LEVEL 01: 420 SQ. FT.  
 LEVEL 02: 957 SQ. FT.  
 LEVEL 03: 989 SQ. FT.  
 TOTAL AREA: 2366 SQ. FT.





**DECLARATION OF COVENANTS,  
CONDITIONS & RESTRICTIONS**

For

Scenic Mountain Townhomes, a Planned Unit Development  
In Cache County, Utah

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SCENIC MOUNTAIN TOWNHOMES, a Planned Unit Development (this "Declaration") is made and executed as of the last date set forth in the notarized signature below, by Atlanta Income & Asset Group, Inc., a Utah corporation (the "Declarant").

**RECITALS:**

(A) This Declaration will take effect on the date recorded at the office of the Cache County Recorder's Office (the "Effective Date").

(B) The Declarant is the record owners of certain real property located in Cache County, Utah and more particularly set forth in **Exhibit "A"** (the "Property").

(C) Declarant desires to subject the Property to the terms of this Declaration. Declarant intends to develop a residential subdivision on the Property pursuant to the Community Association Act, Utah Code Sections 57-8a-101, *et. seq.* Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Subdivision. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Declaration. The Subdivision does not constitute a cooperative.

(D) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and Limited Common Areas (where applicable) and otherwise administer and enforce the provisions of this Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce Scenic Mountain Homeowners Association, Inc. (the "Association").

(E) The Association is governed by the terms of this Declaration, the Articles of Incorporation for Scenic Mountain Townhomes Homeowners Association, Inc. ("Articles"), and the Bylaws for Scenic Mountain Townhomes Homeowners Association, Inc. ("Bylaws"), which



Bylaws are attached hereto as **Exhibit “B”** and shall be recorded in Cache County Recorder’s Office contemporaneously with the recording of this Declaration.

(F) Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Lot located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by the Association and the Declarant and their successors in interest.

(G) Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant’ reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; and (4) assignment of Declarant’ rights under this Declaration in whole or part.

(H) These Recitals are made a part of this Declaration.

## **COVENANTS, CONDITIONS AND RESTRICTIONS**

### **ARTICLE I** **DEFINITIONS**

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

(A) “Act” means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) “Architectural Control Committee” or “ACC” shall mean the Architectural Control Committee created by this Declaration, the Bylaws, and/or Articles.

(C) “Assessment” shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of

whether said assessment is identified as an assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

(D) “Articles” shall mean the Articles of the Association, as amended from time to time.

(E) “Association” shall mean Scenic Mountain Townhomes Homeowners Association, Inc., and as the context requires, the officers or directors of that Association.

(F) “Board” or “Board of Directors” shall mean the duly elected and acting Board of Directors of the Association.

(G) “Bylaws” shall mean the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as **Exhibit “B.”**

(H) “City” shall mean Hyrum, Utah and its appropriate departments, officials and boards.

(I) “County” shall mean Cache County, Utah and its appropriate departments, officials and boards.

(J) “Common Areas” shall mean all property designated on the recorded Plat(s) or described in this Declaration as Common Area, being intended ultimately to be owned by the Association for the common use and enjoyment of all Owners, together with all improvements thereon and all of the easements appurtenant thereto, including, but not limited to: open space, detention basin (if any), private utility lines (not owned and maintained by the City/County or serving a single Dwelling), community signage, entryway private roads and visitor parking.

(K) “Common Expenses” means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas and Limited Common Area (if specifically assigned to the Association); (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges, fines, penalties and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.

(L) “Declarant” shall mean and refer to Atlanta Income & Assets Group, Inc., and its successors and assigns.

(M) “Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions for Scenic Mountain Townhomes, a Planned Unit Development, together with any subsequent amendments or additions through supplemental declarations.

(N) “Dwelling” shall mean the single-family residence built or to be built within the Lot, together with all Improvements located on or with respect to the Lot concerned that are used in connection with such residence such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures, etc. serving that Dwelling shall be considered part of the Dwelling. All sidewalks, pipes, wires, conduits, or other public utility lines or installations constituting a part of the Dwelling or serving only the Dwelling shall be part of the Dwelling, whether or not such item is located within the private area on the Plat.

(O) “Governing Documents” shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.

(P) “Improvement” shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

(Q) “Limited Common Area” shall mean all property designated on the recorded Plat Map(s), or as described in this Declaration as Limited Common Area, being intended ultimately to be owned by the Association but for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots, including but not limited to front yards, driveways, and patio/deck areas.

(R) “Lot” shall mean any numbered building Lot shown on any official and recorded Plat(s), including the Dwelling and all Improvements located thereon.

(S) “Manager” shall mean any entity or person engaged by the Board of Directors to manage the Project.

(T) “Member” shall mean and refer to every person who holds membership in the Association, including an Owner and the Declarant as set forth herein.

(U) “Owner” shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Cache County, Utah) of a fee simple or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term “Owner” shall not mean or include a mortgagee or a beneficiary of trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

(V) “Party Wall” shall have the meaning set forth in the Declaration.

(W) “Person” shall mean a natural person or any legal entity with a right to hold title to

real property in its own name in the State of Utah.

(X) "Plat(s)" shall mean an official and recorded plat of Scenic Mountain Townhomes, including all subsequent phases, if any, when recorded, as approved by the City and recorded in the office of the Davis Recorder, as it may be amended from time to time.

(Y) "Property" shall have the meaning set forth in the recitals.

(Z) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(AA) "Subdivision" or "Project" shall mean all phases of Scenic Mountain Townhomes and all Lots, and other property within the Subdivision, as shown on the Plat(s) and any future Plat(s) covering the Property.

(BB) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and/or private road access and utility service to the Lots, and including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

## ARTICLE II EASEMENTS

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Easement Concerning Limited Common Area. The Association shall have a non-exclusive easement for any utility or any required maintenance in and through the Limited Common Area. With the exception of the rights and easements granted to the Association, the Owner(s) of a Lot shall have the exclusive use of all Limited Common Area appurtenant to their Lot.

2.3 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.4 Reservation of Access and Utility Easements. Declarant hereby reserve an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

2.5 Easements for Encroachments. If any part of the Common Areas as improved by Declarant now or hereafter encroaches upon any Lot or if any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot or upon any portion of the Common Area, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Area due to such reconstruction shall be

permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.6 Easements for Construction and Development Activities. Declarant reserve easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Dwellings on Lots, (b) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Project, (c) improvement of the Common Area, and construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property of roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities.

2.7 Easement in Favor of Association. The Lots, Common Area and Limited Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(a) For inspection during reasonable hours of the Lots, Common Area and Limited Common in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;

(b) For inspection, maintenance, repair and replacement of portions of the Common Area;

(c) For correction of emergency conditions on one or more Lots or on portions of the Common Area and Limited Common Area;

(d) For the purpose of enabling the Association, the Architectural Control Committee or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;

(e) For inspection during reasonable hours of the Lots, Common Area and Limited Common in order to verify that the Owners and occupants, and their guests, tenants and invitees, are complying with the provisions of the Governing Documents.

2.8 Landscaping Easement. The Association shall have an easement and related access rights in order to maintain the landscaping and snow removal, as set forth in this Declaration.

2.9 Income Generated from Service Providers. Declarant, as owner of the real property at the time it is annexed into the Subdivision through recordation of a plat, which includes the dedication of certain utility easements to the City or County, may negotiate terms with service

providers that desire to install infrastructure to provide services to owners in the Subdivision. During the Declarant' Control Period, any income gained from these negotiations with service providers by Declarant may be retained by the Declarant.

**ARTICLE III**  
**COMMON AREAS, LIMITED COMMON AREAS, DWELLING**  
**& PARTY WALL MAINTENANCE**

3.1 Common Areas. The Common Areas consist of areas designated as Common Areas on the recorded Plat(s) or described in this Declaration, including any structures related to the operation or maintenance of the Common Areas, together with any rights of way and utilities, as shown on the recorded Plat(s). Notwithstanding anything contained in this Declaration to the contrary, all Common Areas appurtenant to each recorded Plat of the Project shall be conveyed to the Association upon recordation of a Plat depicting such Common Areas, reserving all easements as set forth in this Declaration.

(a) Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain all Common Areas, including, without limitation, the Improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate all Common Areas as it deems necessary and appropriate. The Association shall have the authority to assess its members for the costs of said maintenance in accordance with the terms of this Declaration.

3.2 Limited Common Areas. The Owners shall maintain, repair and replace all Limited Common Areas elements such as patio/deck areas. Notwithstanding, the Association may perform landscaping and snow removal services within certain Limited Common Areas, such as patios.

3.3 Landscaping. The Association shall contract with a third party to perform general landscaping maintenance within Subdivision, which generally includes mowing, edging, and blowing and leaf disposal. The Association may adopt Rules to add further detail with regard specific landscape maintenance services provided by the Association and those responsibilities of Owners concerning such items including, but not limited to: gardens, flowerbeds, bushes, trees, and other landscaping elements.

3.4 Snow Removal. The Association shall make reasonable and prudent efforts to contract with a third party for the removal of snow from sidewalks, driveways and Common Areas within the Subdivision. Owners shall be responsible for removing snow from entryways, porches, patio areas, and other applicable areas on their Lot. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow will be delegated to a third party, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. The Association shall not be responsible or liable for said third party's discretion and removal of snow.

3.5 General Rules of Law to Apply to Party Walls. Each wall which is built as a part of the original construction of a Dwelling within the Project and placed on the dividing line between two Dwellings shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

3.6 Party Wall Maintenance. Each Dwelling that shares one or more Party Wall(s), will also share elements of a common roof, a common exterior wall, or other common exterior elements with adjacent Dwelling(s). The Owners acknowledge that certain repairs or maintenance to Dwellings with a Party Wall(s) may become necessary, which repairs or maintenance may not be able to be performed on one Dwelling only.

3.7 Party Wall Insurance. The existence of Party Walls within the Project will require blanket property insurance coverage as required by the Governing Documents and/or Act on all attached Dwellings.

3.8 Association Maintenance of Dwellings. The Association shall maintain, repair and replace the roofs, rain gutters and downspouts on the Dwellings, and the normal wear and tear on exterior wall finishes of the Dwellings. All necessary structural repairs of exterior walls will be the responsibility of the affected Owners. Exterior wall maintenance by the Association does not include: doors, doorframes, garage doors, windows, window frames, window wells, skylights, patio doors, or glass of any kind. All other components or Improvements within the Lot, including the Dwelling that are not specifically assigned to the Association herein shall be maintained by Owners.

#### **ARTICLE IV** **OWNERS' MAINTENANCE OBLIGATIONS**

4.1 Duty to Maintain. It is the obligation of each Owner to maintain his Lot, Dwelling and Improvements located thereon (**subject to Article 3.8**) in a clean and sanitary condition, free of pests and rodents, and uncluttered at all times in order to preserve and enhance the enjoyment of the Project.

4.2 Repairs by Association. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision, plus 15%. In addition, each Owner hereby grants to the Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in



Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

4.3 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Board. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Board. Declarant shall be exempt from this provision.

4.4 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

## ARTICLE V MEMBERSHIP

5.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held. Notwithstanding the foregoing, the Declarant shall also be granted voting rights as a Class "B" Member, as defined below.

## ARTICLE VI VOTING

6.1 The Association shall have two (2) classes of voting membership, Class "A" and

Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each recorded Lot owned by Declarant. The Class "B" membership shall also be entitled to appoint the members of the Board and Association during the Class "B" Control Period.

## ARTICLE VII CONTROL PERIOD

7.1 The Class "B" Control Period runs until ninety (90) days after the first to occur of the following:

- (a) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (b) When, at its discretion, the Class B Member so determines.

7.2 Notwithstanding anything to the contrary in this Declaration, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Subdivision at its sole election and determination. In doing so as to a portion of the Subdivision, it does not waive any reversionary or remaining control as to all other portions of the Subdivision, the control of which is not expressly terminated by Declarant.

## ARTICLE VIII HOMEOWNER ASSOCIATION

8.1 Organization. The Association has been created to effectively enforce the

Governing Documents and shall operate as a non-profit corporation. The Association shall be comprised of the Owners within the Project, and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Association is deemed an appurtenance to the Lot, and is transferable only in conjunction with the transfer of the title to the Lot. The Association shall serve as the organizational body for all Owners.

8.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense (with the exception of water, sewer, power and natural gas); (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Project at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

8.3 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy assessments against each Lot as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Lot, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) **Special Assessment.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas.

(c) **Individual Assessment.** The Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Project or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(d) **Reserve Fund.** The Association may levy a reserve fund assessment, as set forth in this article.

(e) The Association may levy other assessments or fees, as authorized by the Governing Documents.

8.4 **Budget.** The Board is authorized and required to adopt a budget annually, which shall be presented to the Owners at a meeting of members.

(a) The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget.

(b) The budget shall estimate and include the total amount for the Common Expenses, shall contain an appropriate amount for reserves, and may include an amount

for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories.

(c) Unless otherwise established by the Board, regular Assessments shall be paid in equal monthly installments.

8.5 Reserve Fund Analysis. Following the Class B Period, the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

8.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account.

8.7 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount of one half of one percent (1/2%) of the sales price, unless a lesser amount is determined by the Board.

8.8 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Lots owned by Declarant or their assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Dwellings on the Lot (collectively "Declarant's Related Entities") shall not commence until the completed Dwelling is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

8.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner (or their Lot) for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

8.10 Hearing Process. The Board shall have authority to create a reasonable hearing process, consistent with the Act, applicable when the Association takes an adverse action related to any particular Owner(s).

8.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Project; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.

8.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of his/her Lot, the Association may charge a fee not to exceed \$50.00.

8.13 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

8.14 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents and Board of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.

8.15 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Articles of Incorporation and Bylaws of the Association.

8.16 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Bylaws and Articles. Members of the Board of Directors may serve consecutive terms, and may also serve as officers of the Association.

8.17 Independent Accountant/Bookkeeper. The Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Association.

## **ARTICLE IX**

### **NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE**

9.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

9.2 Due Date, Charges & Interest. Unless otherwise established by the Board, monthly assessments shall be due and payable on the first of each month and late if not received by the 10<sup>th</sup> of each month. The Board may charge a late fee in an amount set by the Board, but not to exceed 10% of the assessment amount due. Thereafter, the Association may charge \$3 per day for each day payment continues delinquent. In addition to late fees, interest shall accrue on all unpaid balances, including prior, unpaid interest and attorney fees (resulting in compounding interest), late fees, and assessments at 18% per annum or 1.5% per month. The Board may also impose other reasonable charges imposed by a Manager related to collections.

9.3 Lien. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

9.4 Foreclosure. The Association shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

9.5 Other Remedies. All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

9.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

9.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research,

memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

9.8 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Blake D. Johnson, Esq., a licensed member of the Utah State Bar, with power of sale, the Lot and all Improvements to the lot for the purpose of securing payment of assessments under the terms of this Declaration.

**ARTICLE X**  
**SUBORDINATION OF LIEN TO INSTITUTIONAL**  
**FIRST AND SECOND MORTGAGES**

10.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Association. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a prior, recorded institutional first or second mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer; provided, that to the extent there are any proceeds of the sale on foreclosure of such mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the mortgagee holding an institutional first or second mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the mortgage, its successors and assigns shall not be liable for the share of the assessments by the Association chargeable to such Lot that became due prior to the acquisition of title to such Lot by such acquirer. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

**ARTICLE XI**  
**USE LIMITATIONS & RESTRICTIONS**

11.1 Single Family. All Lots shall be used only for single-family residential purposes. “Single Family” shall mean one household of persons related to each other by blood, marriage, or adoption, or one group of not more than one unrelated individual per bedroom.

11.2 Zoning Regulations. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Project. No Lot may be occupied in a manner that is in violation of any statute, law or ordinance.

11.3 Acceptable Business Uses. No portion of the Subdivision may be used for any



commercial business use. Notwithstanding, nothing in this provision is intended to prevent (a) the Declarant, or other builders, from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the Lots are sold in the Subdivision, whichever occurs later; or (b) the use by any Owner of his Lot for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not: require heavy equipment, create a nuisance within the Project, or unreasonably increase the traffic flow to the Project.

11.4 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot or the Project, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots. No Owner or occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

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

11.6 No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during construction of an Improvement); open storage or parking of construction equipment; open storage or parking of vehicles, trailers or other pieces of equipment that are unusable, in poor condition or unsightly; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; and the storage or accumulation of any other material that is unsightly.

11.7 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and reasonably limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City and/or County. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted.

11.8 No Annoying Sounds. No speakers, wind bells, windchimes, or other noise making devices may be used or maintained on any Lot which creates noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

11.9 Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Lot, except:

- (i) Such signs as may be required by legal proceedings.

- (ii) Construction identification signs 2 feet by 3 feet or less for each Dwelling,
- (iii) A "For Sale" or "For Rent" sign, not more than 2 feet by 3 feet, and consistent with other requirements adopted by the Board.

11.10 Trash Containers and Collection. All garbage, trash and recycling shall be placed and kept in covered containers as provided by the local collection agencies. Insofar as possible, such containers shall be maintained as not to be visible from neighboring Lots. Containers shall be returned to their hidden location no later than the end of the pick-up day.

11.11 Pets. No animals other than household pets up to a maximum of two (2) shall be kept or allowed within the Subdivision. Whenever a pet is allowed to leave a Dwelling, it shall be kept on a leash or in a cage. No animals may be bred for commercial purposes. Dogs may not exceed 60 pounds in weight. There shall be no exterior structure for the care, housing or confinement of such pets. It is prohibited to leave unattended pet food outside of the Dwelling because this attracts insects, mice, rats and other undesirable creatures. All pets shall be kept on a leash or within an approved fenced area on the Owner's Lot. Pet owners will pick up any droppings by their pets and dispose of them in their respective trash cans. Anyone wishing to report a violation of the above rules should attempt to photograph or find a witness to observe the violation and to identify the animal. For repeated violations, the owner will be required to remove the pet from Subdivision. If a pet damages or destroys the property of another, the pet owner will be required to repair or replace the damaged property. Any Owner or other resident within the Subdivision who violates this provision shall be subject to such penalties, fines, and/or legal action. The Association may adopt further rules and policies for management of pets in the Subdivision, including procedures for approval of service/assistance animals.

11.12 Vehicles & Recreational Vehicles. No boats, trailers, recreational vehicles, large trucks and commercial vehicles shall be parked within the Subdivision, unless such vehicles fit within the Owner's garage. Temporary parking for recreational vehicles, trailers and boats, not to exceed seventy-two (72) hours for loading/unloading, shall be allowed. No vehicle of any kind shall be repaired, constructed or reconstructed within the Subdivision (outside of an Owner's garage), except that these restrictions shall not apply to emergency repairs to vehicles. Non-commercial, passenger vehicles must be kept in an enclosed garage or within the confines of the Owner's driveway. If such vehicles are too large for the garage or hang over the driveways onto the yard or sidewalk, such vehicles shall not be allowed. The Association reserves the right to adopt Rules relating to the parking of vehicles within the Project including, without limitation: (1) the right to immediately remove or cause to be removed any vehicles that are improperly parked, (2) restrictions on the time period and duration that any guest or visitor parking may be utilized; (3) restrictions or bans on vehicles without Department of Transportation compliant mufflers and exhaust systems, and (4) the assessment of fines to Owners and occupants who violate such Rules.

11.13 Firearms, Incendiary Devices and Graffiti. The use of firearms, incendiary devices, or graffiti within the Project is prohibited. The term firearms include, but is not limited to: all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, air-soft guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size. Notwithstanding, this provision is not intended to regulate the ownership of

firearms, or the carrying of a firearm to and from an Owner's Dwelling, as otherwise authorized by Utah law.

11.14 Temporary Structures. No Owner or resident shall place upon any part of the Project any temporary structures including, but not limited to tents, trailers, or sheds, without the prior written consent of the Board of Directors.

11.15 Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Dwelling.

11.16 No Re-Subdivision. No Lot may be re-subdivided.

11.17 Combination of Lots. No Lot may be combined with another Lot without the consent of the Architectural Control Committee.

11.18 Miscellaneous

(a) Explosives or articles deemed extra hazardous to life shall not be brought onto or stored anywhere in Project.

(b) Seasonal lights and decorations must be removed within 60 days after the declared holiday date.

(c) Between 10:00 p.m. and 7:00 a.m. all noise shall be held to a minimum.

(d) Open-flame outdoor stoves, chimneys, portable or non-portable fire pits, tiki-torches, or anything with an open flame are not permitted in the Project.

(e) Smoking materials, such as cigarette butts, cigar ends, etc. must be properly disposed of by the smoker in a proper receptacle. Any smoking must be 30 feet away from other Dwellings. Smokers are required to obey the Utah Clean Air Act regarding smoking.

(f) The roads in the Project are public and therefore all city codes and requirements apply. Skateboards, mountain bikes, scooters, etc. must be operated respectfully.

## ARTICLE XII RENTAL/LEASE RESTRICTIONS

12.1 No Short Term or Nightly Rentals. Daily, nightly, weekly or monthly occupation is prohibited (whether pay or not), and Dwellings shall not be advertised or listed for short term rental on such sites as Airbnb, VRBO, HomeAway, Flipkey, Wimdu, House Trip and similar international, national or local providers.

12.2 Long Term Leasing. Any occupancy by tenant(s) for longer than six months shall be considered a long-term lease. Any long-term lease shall be in writing, shall be for an initial term of at least six months, and shall provide as a term of the agreement that the occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease. If a lease does not include these provisions, they shall nonetheless be deemed to be part of the lease and binding on the Owner and the occupant.

(a) An Owner shall provide the Board with information identifying the occupants, vehicles, phone numbers, and other applicable contact information.

(b) A copy of any lease agreement shall be delivered to the Association upon request.

(c) Long Term Leasing shall be limited to no more than 40% of the total Dwellings. As 100% of the Owners are approving this restriction at the time of this recording, no exceptions shall be given to exceed the 40% total.

(d) The Owner(s) of a Dwelling shall be responsible for the occupant's or any guest's compliance with the Governing Documents. In addition to any other remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Dwelling expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending non-owner occupant.

(f) The Board of Directors may adopt Rules requiring:

(i) Reporting and procedural requirement related to non-owner-occupied dwellings; and

(ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.

### **ARTICLE XIII** **ARCHITECTURAL CONTROL COMMITTEE**

13.1 Architectural Control Committee. Following the Class B Control Period, the Board may appoint a three-member Committee, the function of which shall be to ensure that all remodeling or modification to Improvements and landscaping originally installed by the Declarant harmonize with existing surroundings and structures. If such a Committee is not appointed the Board shall perform the duties required of the Committee.

13.2 Submission to Committee. Following the Class B Control Period, no Dwelling, accessory building or structure, addition, landscape changes shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Dwelling shall be performed, unless plans and specifications therefor have first been submitted to and approved by the Committee. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Board.

13.3 Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee. A preliminary review of design drawings will be required with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Association, one set will be retained by the reviewing architect (if any) and the remaining set of plans will be returned to the property owner. All plans and specifications shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted provide such plans otherwise comply with the Governing Documents.

13.4 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. The exterior construction of all structures on any Lot shall be completed within a period of one (1) year following commencement of construction.

13.5 Liability for Damages. The Owner is responsible for any and all damage to concrete, sidewalks or subdivision infrastructure. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article.

13.6 Exception for Declarant and Declarant Related Entities. The foregoing provisions of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant or Declarant Related Entities on any Lot or on any part of the Common Areas and which occurs at any time during Class B Control Period.

13.7 Approved Builder. During the Class B Control Period, only contractors approved in advance by Declarant, in their sole discretion, may construct Improvement(s) upon the Lots.

## **ARTICLE XIV** **ANNEXATION & DE-ANNEXATION**

14.1 Annexation. Additional phases of Subdivision may be added to the Property pursuant to the following procedures, and subject to the limitations as follows:

14.2 Annexation by Declarant. Declarant may from time to time expand the Property subject to this Declaration by the annexation of additional property. The annexation of any such land shall become effective upon the recordation in the office of the County Recorder of Cache

County, Utah, of a subdivision plat covering the land to be annexed. If applicable, Declarant may record a supplemental declaration when additional limitations, restrictions, covenants and conditions as are applicable to the annexed land. When any such annexation becomes effective, the annexed land shall become part of the Subdivision and subject to this Declaration.

14.3 Annexation by the Association. Following the Class B Control Period, the Association may annex land to the Subdivision by obtaining approval of such annexation from (a) the owner or owners of the land to be annexed and (b) 67% of the Owners. Nothing in this paragraph shall be construed to require any prior approval for, or to limit or present, any annexation performed by Declarant, so long as such annexation satisfies the limitations set forth herein.

14.4 No Obligation to Annex or Develop. Declarant have no obligation hereunder to annex any additional land to the Subdivision or to develop or preserve any portion of the Undeveloped Land in any particular way or according to any particular time schedule. No land other than the Property as defined on the date hereof and land annexed thereto in accordance with the terms of this Declaration shall be deemed to be subject to this Declaration, whether or not shown on any subdivision plat or map filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

## ARTICLE XV INSURANCE

15.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by the Act. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.

As used in this Article:

- (1) “Covered Loss” means a loss, resulting from a single event or occurrence that is covered by the Association’s property insurance policy.
- (2) “Dwelling Damage” means damage to a Dwelling.
- (3) “Dwelling Damage Percentage” means the percentage of total damage resulting in covered loss that is attributable to Dwelling Damage.

15.2 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited Common Areas and attached Dwellings.

(1) At a minimum, any required blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, theft, and storm water run-off, if reasonably available; and (2) all perils normally covered by “special form” property coverage.

(2) Any blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(b) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(c) Earthquake Insurance. The Association may nonetheless, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.

(d) Associations Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association’s property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

(e) Association’s Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association’s property insurance policy deductible the Association need not tender the claim to the Association’s insurer.

15.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence.

15.4 Director’s and Officer’s Insurance. The Association shall obtain Directors’ and Officers’ liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

15.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (a) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by:
  - (i) Officers and Board of Directors member of the Association;
  - (ii) Employees and volunteers of the Association;
  - (iii) Any manager of the Association; and
  - (iv) Officers, directors and employees of any manager of the Association.

15.6 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Dwellings. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

15.7 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.



15.8 Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

15.9 Owners' Individual Coverage. **EACH OWNER SHOULD PURCHASE INDIVIDUAL INSURANCE COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INSURANCE AGENT.**

**ARTICLE XVI**  
**DAMAGE & DESTRUCTION**

16.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

16.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

16.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

**ARTICLE XVII**  
**DISBURSEMENT OF PROCEEDS**

17.1 If the damage or destruction for which the proceeds of insurance policies are paid

is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account.

**ARTICLE XVIII**  
**REPAIR AND RECONSTRUCTION**

18.1 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

**ARTICLE XIX**  
**CONDEMNATION**

19.1 Whenever all of any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Association vote by any authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**ARTICLE XX**  
**MISCELLANEOUS PROVISIONS**

20.1 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance, and is subject to abatement by the Association or by any other Owner.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by an Owner or by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

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

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

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

## 20.2 Association Litigation.

(a) In recognition of the expenses and disruption associated with litigation, the Association shall not commence a judicial or administrative proceeding without the approval of the Declarant for so long as the Members govern the Association and thereafter only upon the approval of Owners representing at least 80% of the total vote of the Association.

(b) Neither the Association nor any Owner shall institute an action against any person which arises out of an alleged defect in the development of the Subdivision until: (i) Declarant and the person(s) who physically constructed the portion of the subdivision in which the alleged defect exists have been notified and given a reasonable time and opportunity in which to inspect, assess, correct, or redesign any alleged defect or other portions of the Subdivision (provided, however, that the terms of this Section shall not create an obligation of any person to effect a repair of an alleged defect); (ii) the Association or Owner(s) have pursued their remedies under any express warranty covering all or any portion of the alleged defect; (iii) the Declarant and the affected contractor(s) have been given the opportunity to be heard at a meeting of the Association regarding the alleged defect; and (iv) all proposed parties to the action have been given a reasonable opportunity to mediate any dispute or disagreement relating to the alleged defect, and have either participated or refused to participate in such mediation.

(c) Notwithstanding any other provision to the contrary in this Declaration, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual managers, owners, members or officers of Declarant,

Declarant' contractors, or any other person or entity involved in the construction of the Dwellings unless and until all of the following requirements have been satisfied:

(i) The Association has obtained a legal opinion from an attorney licensed to practice law in Utah having at least ten (10) years of experience in litigation practice, with the legal opinion providing in substance the following: (i) a description of the factual allegations and legal claims to be asserted in the action; (ii) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (iii) providing a budget of the estimated amounts of legal fees, costs, expert witness fees and other expenses likely to be incurred in connection with such action (the "Litigation Budget"); and

(ii) The Association has collected funds from the Owners, by special assessment or otherwise, equal to at least one-half (1/2) of the Litigation Budget.

(d) If any claims or actions falling within the scope of this Section are filed without satisfying all of the requirements set forth above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this Section, the prevailing party shall be entitled to an award of reasonable attorney fees and costs. Individual Owners, however, shall not be allowed to file or pursue any actions or claims belonging to other Owners or to the Association.

(e) No action affected by this Section shall be conducted utilizing legal counsel who are compensated on a contingency fee or similar means of compensation in which litigation costs and attorney's fees are not paid on a current basis or are paid out of the settlement or judgment amount recovered by the Association in such action.

(f) This Section shall not apply to: (i) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; or, (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Association or its manager for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

20.3 Repurchase Option for Construction Defect Claims. In the event any Owner shall commence action against Declarant or Declarant' Related Entities for the purpose of constructing Dwellings on the Lot (collectively "Declarant") in connection with any alleged construction defects in such Owner's Dwelling, Declarant shall have the option, but not the obligation, to purchase such Dwelling on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:

(i) The purchase price paid by the original Owner of the Dwelling & Lot when originally purchased from Declarant;

(ii) The agreed upon value of any improvements made to the Dwelling by anyone other than Declarant; and

(iii) The Owner's reasonable moving costs.

(b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant' intent to exercise the option herein.

(c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.

(d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Dwelling and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

(e) Declarant's option to repurchase granted herein with respect to any particular Dwelling and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Dwelling and Lot including all applicable tolling periods.

20.4 Amendment Requires Consent of Declarant. Notwithstanding any other provision of this Declaration, this Article and its subsections may not be amended except with the prior written consent of the Declarant.

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

20.6 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Dwelling, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

20.7 No Representations and Warranties. Each Owner and occupant understands, agrees, and acknowledges through taking title or residing in the Project that the Declarant, Association and the Board have not made any representations or warranties of any kind related to the Project and that each Owner or occupant has not relied upon any reorientations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Project.

20.8 Amendment. At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

20.9 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against his/her Lot, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Lot.

20.10 Notices. All notices under this Declaration are provided as set forth in the Bylaws.

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

20.12 Right to Modify Lot Boundaries and Interior Boundary Lines. Declarant reserve the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots or

Dwellings so long as it owns the Lots; provided, however, such changes may not extensively alter the boundaries of the Common Area and Facilities nor change the percentages of ownership interest.

**ATLANTA INOME & ASSET GROUP, INC., the Declarant**

\_\_\_\_\_  
By: David Bailey  
Its: Authorized Member

STATE OF UTAH                    )  
  : ss  
COUNTY OF DAVIS)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared before me David Bailey, who being by me duly sworn, did say that he/she is a Member of **ATLANTA INOME & ASSET GROUP, INC.**, a Utah corporation, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority and said member duly acknowledged to me that said limited liability company approved the same.

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Exhibit "A"**  
**Legal Description**



**Exhibit "B"**  
**Bylaws**