

OGDEN CITY COUNCIL

ORDINANCE NO. 98-19

E# 1611676 BK 1990 PG2972  
DOUG CROFTS, WEBER COUNTY RECORDER  
08-FEB-99 11:4 PM FEE \$.00 DEP BCT  
REC FOR: OGDEN.CITY

**AN ORDINANCE ADOPTING THE ECONOMIC DEVELOPMENT PLAN FOR THE DEFENSE DEPOT OGDEN ECONOMIC DEVELOPMENT PROJECT AREA AS THE OFFICIAL ECONOMIC DEVELOPMENT PLAN FOR THE PROJECT.**

**WHEREAS** acting pursuant to the Utah Neighborhood Development Act, as amended (the "Act"), Title 17A, Chapter 2, Part 1200 of the Utah Code Annotated, the Ogden City Redevelopment Agency ("Agency"), in consultation with the Ogden City Planning Commission (the "Planning Commission") has prepared an Economic Development Plan for the Defense Depot Ogden Economic Development Project Area (the "Proposed Economic Development Plan"); and

**WHEREAS** the Agency has caused to be prepared and has approved the Agency's Report to Accompany the Redevelopment Plan for the Defense Depot Ogden Economic Development Project Area (the "Agency Report"); and

**WHEREAS** the City Council has considered the Agency Report, the Planning Commission Report, the matters contained in the record of the hearing, and all evidence and testimony for and against the adoption of the Proposed Economic Development Plan submitted to it at or prior to the hearing; and

**WHEREAS** the Agency has determined in its Report that the Defense Depot Ogden Economic Development Project Area (the "Project Area") meets the requirements of an economic development project area; and

**WHEREAS** the Ogden City Council ("Council") concurs in the findings that the Project Area meets the requirements of an economic development project area; and

**WHEREAS** the Planning Commission and the Agency have recommended the adoption of the proposed Economic Development Plan with the modifications, if any, and the Agency has submitted the same to the Council for its action; and

**WHEREAS** the Council has concurred in the modifications, if any, recommended by the Agency and the Planning Commission in the Proposed Economic Development Plan, has made the recommended modifications in the Proposed Redevelopment Plan, and has overruled all objections to the adoption of the Proposed Economic Development Plan received by the Council at or prior to the hearing, whether written or oral, except insofar as such objections are the basis for the modifications recommended by the Agency and subsequently made by the Council; and

**WHEREAS** the Council has determined that the owners of less than forty percent (40%) of the area of the property included within the Project Area proposed in the Proposed Economic Development Plan as modified (the "Official Economic Development Plan"), excluding property owned by the public agencies or dedicated to public use, made objections in writing prior to or at the hearing;

**WHEREAS** the Council finds and determines that the Official Economic Development Plan would develop the Project Area in conformity with the Utah Neighborhood Development Act, as amended; that it would further the interests of the public peace, health, safety and welfare; that the adoption and carrying out of the Official Economic Development Plan is economically sound and feasible; and that a number of other appropriate reasons call for the adoption and implementation of the Official Economic Development Plan for the Defense Depot Ogden Economic Development Project Area;



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**THEREFORE, BE IT ORDAINED BY THE OGDEN CITY COUNCIL AS FOLLOWS:**

**SECTION 1 Legal Description**

The legal description of the boundaries of the Defense Depot Ogden Economic Development Project Area (the "Project Area") are as provided in Exhibit A to this resolution, which Exhibit A is attached hereto and incorporated herein by this reference.

**SECTION 2 Purpose and Intent of the Ogden City Council**

The purpose and intent of the Ogden City Council with respect to the Project Area are as follows:

- § 2.1 To reduce and eliminate existing blighted conditions and to prevent further deterioration within the Project Area.
- § 2.2 To facilitate new development of the type and quality desired by the community, thereby creating new jobs for the City and the State.
- § 2.3 To encourage the businesses located in the Project Area to renovate and beautify the area.
- § 2.4 To take any or all additional steps which may be appropriate or necessary to promote or further the aim of improving the Project Area (and, indirectly, surrounding areas) and to prevent deterioration within the Project Area.

**SECTION 3 Designation, Adoption, and Incorporation of the Plan**

- § 3.1 The Proposed Defense Depot Ogden Economic Development Project Area Plan, as modified by the Council to incorporate changes recommended by the Agency, if any, is hereby designated the Official Defense Depot Ogden Economic Development Project Area Plan (the "Official Plan").
- § 3.2 The Ogden City Council hereby officially approves of and adopts the said Official Plan for the Defense Depot Ogden Economic Development Project Area.
- § 3.3 The Official Defense Depot Ogden Economic Development Project Area Plan, incorporating those modifications to the Proposed Defense Depot Ogden Economic Development Project Area Plan recommended by the Agency and made by the Council, and the final Report to accompany the Economic Development Plan for the Project Area, including the Report and Recommendations of the Planning Commission on the proposed Economic Development Plan for the Project Area, are incorporated herein by this reference.

**SECTION 4 Findings and Determinations of the Ogden City Council**

The Council hereby makes the following findings and determinations:

**§ 4.1 Need to Effectuate a Public Purpose**

As detailed in the Agency Report, adoption of the Official Economic Development Plan is needed in order to support the variety of public purposes identified therein. In particular, adoption of the Official Economic Development Plan will help to bring about development of a business park which will promote creation of jobs for Ogden City residents and will strengthen the Ogden City tax base as well as that of other affected taxing entities.

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**§ 4.2 Assurance of Public Benefit**

An analysis of the nature and scope of public benefits to be derived from adoption of the Official Economic Development Plan is set forth in Section VII of the Agency Report. The City Council hereby reaffirms the findings made in that Section. Several key types of benefits are identified there. First, current and future occupants of the proposed Defense Depot Ogden Business Park will benefit in that needed infrastructure will be upgraded and/or installed, land will be assembled, and problems currently standing in the way of development of the Project Area will be eliminated. This in turn will make it possible to help bring about the high community priorities on strengthening Ogden's tax base and creating additional jobs in Ogden. In addition to these general benefits, the Official Economic Development Plan requires that each of the items to be analyzed under Section 17A-2-1220 of the Act in terms of identifying specific public benefits and subsidies provided to a particular development (i.e., to each subpart of the overall economic development project contemplated by the Official Economic Development Plan) as well as the resulting public benefit to the community must be reanalyzed, both as to the specific development and in terms of the impact of that development on the whole Project, at any time new funds are approved by the Taxing Agency Committee and committed to the Project. See Sections 601 and 605 of the Official Economic Development Plan. Thus, each major step in the implementation of the Official Economic Development Plan may only be undertaken after ongoing benefit analysis is completed, and this process, as set forth in the Official Economic Development Plan, will provide the best possible assurance that the benefits contemplated by the Act will be achieved.

**§ 4.3 Conformity with the Utah Neighborhood Development Act and Other Public Purposes**

The Official Plan will develop the Project Area in conformity with the Act and in the interests of the public peace, health, safety and welfare in that:

- § 4.31 It will enable the Agency to make financing alternatives available to parties electing to become participants in the Economic Development Project and to developers, thereby providing necessary assistance for investment, economic development, and rehabilitation of the Project Area.
- § 4.32 It will help to prevent erosion of the City's economic base.
- § 4.33 It will help attract desirable businesses to locate and expand within the Project Area and increase job opportunities for the City and State.
- § 4.34 It will facilitate revitalization of the Project Area.
- § 4.35 It will contribute in a variety of other ways to the Economic Development of the Project Area in conformity with the Act, and to the furthering of the interests of public peace, health, safety, and welfare.

**§ 4.4 Feasibility**

The adoption and carrying out of the Official Economic Development Plan is economically sound and feasible in that under Section 601 of the Official Economic Development Plan, developments proposed pursuant to and in furtherance of the Official Economic Development Plan will proceed and be carried out only if and when financing becomes available, and the financing of projects is primarily based upon the willingness of public and private entities to invest and develop in the Project Area. Furthermore, as set forth in Section 605 of the Official Economic Development Plan, feasibility of specific projects and the overall feasibility of the Plan will be reanalyzed by the Taxing Agency Committee each time the commitment of additional tax increment funds is authorized by that Committee. Thus, there will be ongoing checks to assess the feasibility of the Project as a

whole and individual components of the Project, and this process, as set forth in the Official Economic Development Plan and the Agency Report, will provide the best possible assurance that the Project will be feasible as contemplated by the Act.

**§ 4.5 Conformity to Comprehensive Plan**

The Official Economic Development Plan conforms to the Ogden City Master Plan adopted in September, 1997, as more particularly shown in the Agency Report.

**§ 4.6 Effects of Carrying Out the Official Economic Development Plan**

The carrying out of the Official Economic Development Plan will promote the public peace, health, safety, and welfare of the community, and will effectuate the purpose and policy of the Act in that it will promote and facilitate:

- § 4.61 The promotion of economic development in the Project Area;
- § 4.62 Measures which will eliminate current sources of stagnation and inability to develop within the Project Area;
- § 4.63 The attraction of desirable businesses into the Project Area;
- § 4.64 The encouragement of attractive, high quality development within the Project Area;
- § 4.65 The provision of enhanced parking, traffic circulation, infrastructure, and other such improvements;
- § 4.66 Other measures which will promote the public peace, health, safety, and welfare and which would be consistent with the purposes of the Act.

**§ 4.7 Eminent Domain**

Under the requirements of the Utah Neighborhood Development Act, economic development project areas do not have the power of eminent domain. Therefore, the inclusion of the power of eminent domain will not be allowed in the plan or this project area.

**§ 4.8 Relocation**

The Agency has a feasible method or plan for the relocation of families and persons displaced from the Project Area in the event that the Economic Development Plan may result in the temporary or permanent displacement of any occupants of housing facilities in the Project Area, in that the Economic Development Plan specifies that the Relocation Rules and Regulations for Implementation of the Utah Relocation Assistance Act for the Economic Development Project Area ("Relocation Rules") shall govern relocation of persons, businesses, and other entities displaced by any Agency action. Section 503 of the Relocation Rules specifies that "[n]o person shall be required to move from his dwelling on account of any project of the Agency unless the Agency's Executive Director is satisfied that replacement housing is available to this person." The Executive Director's determination in this regard may be appealed to the Agency's Governing Board. That is, unless a feasible method or plan for relocation exists, execution of the Official Economic Development Plan cannot go forward. In fact, since the Agency will not be authorized to exercise eminent domain under the Official Economic Development Plan, no one will be forcibly "displaced" in the sense contemplated by the Act, and in any event, as found in the Agency Report, it is highly unlikely that involuntary relocation of any kind will be necessary.

**§ 4.9 Relocation Dwellings**

The Relocation Rules which govern relocation of persons displaced from the Project Area under the Official Economic Development Plan as indicated in § 4.8 hereof, also provide in Section 501 thereof that "[n]o person shall be required to move or be relocated from land used as his residence and acquired under any of the condemnation or eminent domain laws of this state until he has been offered a comparable replacement dwelling which is a safe, clean and sanitary dwelling adequate to accommodate this person, reasonably accessible to public services and places of employment, and available on the private market." Thus, there are or will be provided in the Project Area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the Project Area, decent, safe, and sanitary dwellings equal in number to the number of and available to such families and persons as may be displaced by the Official Economic Development Plan and reasonably accessible to their places of employment.

**SECTION 5 Availability of Replacement Housing**

The Ogden City Council is satisfied that permanent housing facilities will be available within three years from the time occupants of the Project Area may be or are displaced, and that pending the development of such facilities there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement. Significantly, the Relocation Rules, which govern relocation and persons displaced from the Project Area under the Official Economic Development Plan as indicated in § 4.8 hereof, impose a very stringent requirement. They provide in Section 503 thereof that "[n]o person shall be required to move from his dwelling on account of any project of the Agency unless the Agency's Executive Director is satisfied that replacement housing is available to this person." Persons may not be displaced from property pursuant to the Official Economic Development Plan unless or until this condition is met, and meeting this requirement assures (and shall be construed to require) that replacement housing be available in substantially less than three years. In all likelihood, inhabitants of the affected residential structures will voluntarily seek and find alternative housing before any action is taken by the Agency that would necessitate their moving.

**SECTION 8 Participation Rules**

The Official Economic Development Plan shall operate subject to the Rules Governing Participation and Preferences by Owners, Operators of Businesses, and Tenants in the Defense Depot Ogden Economic Development Project Area, as adopted by ordinance by the Ogden City Council.

**SECTION 9 The Agency's Governing Board**

As required by the Utah Neighborhood Development Act, as amended, and as specifically provided for in the Agency's bylaws, the governing body of the Ogden City Economic Development Agency shall be of the same individuals who constitute the legislative body of the Ogden City Council.

**SECTION 10 Public Hearings;**

The Agency may hold a public hearing on any proposed development within the Project Area with respect to which the Agency proposes to enter into a legally binding agreement (e.g., a participation agreement or a development agreement) that will obligate the financial resources of the Agency, including but not limited to the tax increment financing. For any public hearing the Agency may give such general public notice as the City would normally provided in connection with a hearing on a proposed zoning change by the Ogden City Planning Commission. This notice shall be provided in the same manner that individualized notice is given prior to making any zoning changes in the City.

**SECTION 11 Severability**

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this Ordinance or the application thereof to any person, property or circumstance is found to be unconstitutional or otherwise contrary to law, the same is declared to be severable and the balance of this Ordinance shall remain effective. The City hereby declares that it would have passed this Ordinance and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, section, subsection, clause, phrase, or word be declared unconstitutional or otherwise contrary to law.

**SECTION 12 Effective Date**

This Ordinance shall become effective on the date on which a summary hereof is posted or published as required by the Utah Neighborhood Development Act.

PASSED AND ADOPTED this 24<sup>th</sup> day of February, 1998.

ATTEST:

Heoria J. Bennett  
CITY RECORDER



Keneth J. Alfred  
COUNCIL CHAIR



ATTEST:

Heoria J. Bennett  
CITY RECORDER

Transmitted to the Mayor on 27 February 1998

Mayor's Action:  Approved  Vetoed

Shirley J. Johnson  
MAYOR

Approved as to Form:

M. [Signature] 2/24/98  
LEGAL Date

Publication date: 3/8/98

Effective Date: 3/8/98

E# 1611676 BK1990 PG2977

When recorded mail to:  
Gloria J. Berrett  
Ogden City Recorder  
2484 Washington Blvd, Suite 300  
Ogden, Utah 84401-2319

RE: Recording Statement for the Defense Depot of Ogden Economic Development Project Area

The following information is being recorded by the Ogden City Recorder on all property located within the Defense Depot of Ogden Economic Development Project Area. This is being done in accordance with Section 17A-2-1257 of the Utah Neighborhood Development Act, as amended.

1. Description of Land Within the Project Area

T. 11-023-0039 (11-023-0022)

The description of the Defense Depot of Ogden Economic Development Project Area is as follows:

15-033-0017 15-035-0001 12-098-0024 12-094-0011  
12-094-0033 11-023-0026

All that certain land situated Sections 6, 7, 17, and 18, Township 6 North, Range 1 West, and in Sections 12 and 13, Township 6 North, Range 2 West, Salt Lake Meridian, in Weber County, State of Utah, and more particularly described as follows:

Commencing at the Ogden City Survey Monument at the intersection of the monument line on 12<sup>th</sup> Street and the West line of the Northeast Quarter of said Section 19 with the Utah State Plane Coordinates of X=1863765.56Y=332349.88 based on the Lambert Conformal Projection, Utah Coordinate System, North Zone (NAD27); thence North 88D41'21" West along the center line of 12<sup>th</sup> Street, 259.43 feet; thence North 1D18'39" East, 67.00 feet to a point on the North line of 12<sup>th</sup> Street and the true point of beginning; thence North 03D36'07" West, 1470.38 feet to a point; thence south 86D22'54" West, 550.00 feet to a point; thence North 03D37'06" West, 400.00 feet to a point; thence North 86D22'54" East, 550.00 feet to a point; thence North 03D37'06" West, 915.00 feet to a point; thence South 82.09'50" West, 997.81 feet to a point; thence South 89D54'46" West, 1264.92 feet to a point; thence North 01D50'25" West, 1237.06 feet to a point; thence South 88D20'47" West, 741.94 feet to a point on the Easterly line of 1200 West Street; thence North 00D46'09" East, 1554.42 feet to a point; thence North 00D38'09" East, 2794.92 feet to a point; thence North 02D38'09" East, 1267.81 feet to a point; thence North 02D22'39" East, 385.86 feet to a point; thence North 01D16'39" East, 1021.70 feet to a point; thence North 01D26'39"

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East, 488.36 feet to a point; leaving said Easterly line of 1200 West Street thence North 86D29'24" East, 2397.89 feet to a point; thence South 03D25'43" East, 655.22 feet to a point; thence North 86D28'27" East, 1457.23 feet to a point; thence around a curve to the left through a central angle of 74D06'19" an arc distance of 763.28 feet a chord bearing of North 48D58'04" East, 711.18 feet to a point; thence North 09D13'00" East, 633.80 feet to a point on the Westerly right-of-way line of Union Pacific Railroad; thence around a curve to the right through a central angle of 09D13'56" and arc distance of 912.06 feet a chord bearing of South 12D24'37" East, 911.07 feet to a point; thence South 89D35'58" East, 5.00 feet to a point; thence South 05D39'13" East, 444.62 feet to a point, thence South 03D27'13" East, 1272.60 feet to a point; thence North 87D32'47" East, 20.02 feet to a point; thence South 03D27'13" East, 4067.37 feet to a point; thence South 21D13'26" East, 78.66 feet to a point; thence South 00D59'09" West, 2125.15 feet to a point; thence South 03D34'24" West, 88.59 feet to a point; thence South 00D59'09" West, 3140.40 feet to the intersection of said U.P.R.R. right-of-way with the North line of 12<sup>th</sup> Street; thence North 88D41'26" West along said North line of 12<sup>th</sup> Street, 1998.69 feet to the point of beginning.

Contains 48694323.4791 square feet or 1117.8678 acres more or less.

**2. Statement that the Plan for the Economic Development Project Area has been Adopted.**

The Ogden Redevelopment Agency, in conjunction with the Ogden City Planning Commission has prepared the required plan for the Defense Depot of Ogden Economic Development Project Area. The plan was adopted by ordinance by the Ogden City Council and by resolution by the Ogden Redevelopment Project Area.

**3. Date of Approval**

The Economic Development Plan for the Defense Depot of Ogden was approved after the required public hearing was held on February 25, 1998.

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