



\*W2855269\*

EN 2855269 PG 1 OF 71  
LEANN H KILTS, WEBER COUNTY RECORDER  
03-MAY-17 1152 AM FEE \$150.00 DEP TN  
REC FOR: URBAN LAND GROUP LLC

**DEVELOPMENT AGREEMENT  
FOR**

**1 East Harrison**

07-004-0014 <sup>KL</sup> & 07-004-0053 <sup>KL</sup>

DB

**TABLE OF CONTENTS**

	<b>Page</b>
1. Recitals.....	2
2. Conditions Precedent.....	2
3. Property Description, Uses, Residential Density and Commercial Intensities of Development.....	3
3.1 General Description of 1 East Harrison.....	3
3.2 Legal Description of the Property.....	3
3.3 Permitted and Conditional Uses.....	3
3.4 Approval of Conditional Uses.....	3
3.5 Commercial Development Intensities and Residential Density.....	3
3.6 Flexibility to Change Uses and Building Sizes.....	4
4. Conceptual Development Plan.....	4
4.1 Conceptual Development Plan.....	4
4.2 Amendments to the Project Development Plan.....	5
4.3 Offsite Transportation and Infrastructure Improvements.....	6
5. Development Standards.....	6
5.1 Vested Development Standards.....	6
5.2 Applicable City Codes and Inconsistent Development Standards.....	7
5.3 Vested Development Standard Modifications.....	7
5.4 Additional Development Standards.....	7
5.5 Parking Ratios and Approved Shared Parking Provisions.....	7
5.6 Additional Design and Landscape Guidelines.....	8
6. Fees and Exactions.....	8
6.1 Development Application and Review Fees.....	8
6.2 Plan Engineering Review Fees.....	8
6.3 Other Fees.....	8
6.4 Certain Impact Fees.....	8
6.5 Credits Against Road and other Impact Fees.....	8
6.6 Basis for Calculation of Certain Fees.....	9
7. Vesting and Compliance with Applicable Legal Requirements.....	9
7.1 Compliance With Requirements.....	9
7.2 Separate District.....	9
7.3 Vested Rights and Vested Projects.....	9
7.4 Compelling, Countervailing Public Interest.....	10
7.5 Duration.....	10
8. Project Agreements and Approval Conditions.....	10
8.1 Infrastructure Agreements.....	10

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
8.2	Reimbursement from Benefitted Property Owners..... 10
8.3	Developer Right to Subdivide; Requirement for Developer Controlled Design Review for Projects Located Within the Property..... 11
8.4	Road Access and Relocation Agreement..... 11
9.	Further Review Processes and Review Standards ..... 11
9.1	Further Conditional Use Review ..... 11
9.2	Project Development Plan Review ..... 11
9.3	Amendments ..... 14
9.4	Opportunity of Developer to Pay for Dedicated Outside Consultant to Assist in Permit Review and Inspection ..... 15
9.5	Fast Track Design and Permitting..... 15
10.	Assignment Provisions..... 15
10.1	Binding Effect ..... 15
10.2	Transfer of the Property ..... 16
10.3	Release of Developer ..... 16
10.4	Obligations and Rights of Mortgage Lenders ..... 16
11.	Review, Default, Termination and Disputes..... 17
11.1	Periodic Review ..... 17
11.2	Default..... 17
11.3	Termination..... 18
11.4	Disputes..... 20
11.5	Institution of Legal Action..... 21
11.6	Other Enforcement Provisions..... 21
12.	Relationship of the Parties; Hold Harmless; Release ..... 21
12.1	Relationship of Parties ..... 21
12.2	Hold Harmless ..... 21
13.	General Terms and Conditions ..... 22
13.1	Agreements to Run with the Land ..... 22
13.2	Construction of Agreement..... 22
13.3	Laws of General Applicability..... 22
13.4	State and Federal Law..... 22
13.5	No Waiver ..... 23
13.6	Entire Agreement ..... 23
13.7	Attorney's Fees ..... 23
13.8	Notices ..... 23
13.9	Applicable Law ..... 24
13.10	Exhibits ..... 24
13.11	Execution of Agreement ..... 24

WHEN RECORDED RETURN TO:

Urban Land Group LLC  
Attn: Ron Martinez  
1084 N Willow Wind Dr Unit 9  
Farmington, UT 84025

**DEVELOPMENT AGREEMENT  
FOR  
1 East Harrison**

THIS DEVELOPMENT AGREEMENT (the "Development Agreement") is entered into as of this \_\_\_ day of \_\_\_\_\_, 2017 by and between URBAN LAND GROUP LLC, a Utah limited liability company ("Developer"), and SOUTH OGDEN CITY, a Utah municipal corporation (the "City"); Developer and the City are sometimes referred to individually as a "Party" or collectively as the "Parties."

**RECITALS**

A. This Development Agreement shall cover the "Property," which comprises approximately eight (8) acres of land in South Ogden City, Weber County, Utah at approximately 5450 South and bounded by Harrison Boulevard on the West. The legal description of the Property is attached hereto as Exhibit A-1 and is depicted on Exhibit A-2. The Property may be expanded to include additional land as provided in Section 3.7. Developer has proposed the development of a new mixed-use project on the Property ("1 East Harrison"). 1 East Harrison may be constructed in phases comprising one or more buildings and related parking and other improvements (a "Project" or "Projects").

B. This Agreement has been approved under the Development Agreement provisions of Section 11-3-1-G et seq. (the "Development Agreement Provisions") of the South Ogden City Code (the "Code"), and as authorized by Section 10-9a-102(2) of the Utah Code.

C. Developer has created a Conceptual Development Plan ("CDP") (attached as Exhibit C hereto) regarding 1 East Harrison, and the City has determined that Developer has complied with all the standards and procedures contemplated by the Development Agreement Provisions. Projects will be governed by a Project Development Plan ("PDP"), as discussed in Section 9 of this Development Agreement.

D. Developer and the City desire to establish certain development standards, regulations, and procedures to be applied to certain additional administrative approvals contemplated in connection with the development of 1 East Harrison and the Projects and and constructing improvements on the Property and to establish certain standards for the phased development and construction of 1 East Harrison and the Projects.

E. The City also recognizes that developing 1 East Harrison and the Projects will create benefits to the City through the increase of the City's tax base and will enhance

development within the vicinity of 1 East Harrison, and the City agrees to vest the development of 1 East Harrison and the Projects under this Development Agreement against future legislative changes in the General Plan, the Code and the Regulations that would conflict with the provisions in this Development Agreement and following all necessary legislative processes.

F. The City, acting pursuant to its authority under Utah Code §§ 10-3-701 et seq. and 10-9a-101 et seq. and the Code, has made certain determinations regarding the proposed 1 East Harrison, and, in exercising its legislative discretion, has elected to process and approve the use, density, general configuration and development standards for 1 East Harrison, resulting in the negotiation, consideration and approval of this Development Agreement after all necessary public hearings.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Recitals.**

Recitals A through F set forth above are by this reference incorporated herein and made a part hereof.

**2. Conditions Precedent.**

This Development Agreement shall not take effect until each of the following conditions has been completed:

2.1 Developer has acquired fee simple ownership in the Property. Developer shall provide the City with written notice of the acquisition of the Property, which notice shall include a legal description of the Property and evidence, in a form reasonably acceptable by the City, of acquisition. In addition Developer shall record a Notice of Property Acquisition generally in form attached hereto as Exhibit A-3 ("Notice of Property Acquisition") in the office of the Weber County Recorder to evidence that the Property, and owner, successors, and assigns, are bound by the terms of this Development Agreement. Developer's acquisition of the Property shall not render this Development Agreement effective in its application to any portion of the property other than the Property.

2.2 If the Developer does not obtain title to the Property by the date of \_\_\_\_\_, this Agreement shall be of no further force and effect. This Agreement shall not benefit the Property if not acquired by Developer and shall benefit no other parcel of real Property described on Exhibit A-1 if not subsequently acquired by Developer or covered by a use right in favor of Developer.

### 3. **Property Description, Uses, Residential Density and Commercial Intensities of Development.**

3.1 General Description of 1 East Harrison. 1 East Harrison is proposed to incorporate one or more Projects containing a blend of retail, restaurant, office, other commercial and residential space and related parking and open space.

3.2 Legal Description of the Property. The legal description of the Property covered by this Development Agreement shall comprise the portions of the Property described in Exhibit A-1 attached hereto that are acquired by Developer from time to time as evidenced by one or more recorded Notice of Property Acquisition generally in the form attached hereto as Exhibit A-3. If Developer acquires or obtains the right to use any portion of the Property described in Exhibit A-1, any such land acquired or covered by a use right will be deemed to be a part of the "Property" and covered by the terms of this Development Agreement. Any such land described in Exhibit A-1 not acquired by Developer or covered by a use right in favor of Developer shall continue to be excluded from the definition of the "Property." Except as set forth in Section 3.7, no other property may be added to the legal description of the Property for purposes of this Development Agreement, except by written amendment. Except as set forth in this Agreement, this Development Agreement shall affect no land other than the Property.

3.3 Permitted and Conditional Uses. The approved land uses for the Property are shown on Exhibit C. The approved uses are consistent with the uses contemplated in: (a) the permitted and conditional commercial uses in the Table of Uses in Section 10-8A-5 of the Code; and (b) the permitted and conditional residential uses in Sections 10-7F-2 and 10-7F-3 of the Code. The uses set forth herein are vested under this Development Agreement, and any use set out or otherwise permitted may be combined with any other use on any lot or parcel within the Property. 1 East Harrison may be developed in phases and Projects, each of which may comprise one or more real estate products addressing one or more segments of the real estate market consistent with the approved uses set forth in this Development Agreement.

3.4 Approval of Conditional Uses. All uses listed as conditional uses in Exhibit C are deemed approved for the site, subject to the approval of the location of such uses under the approval process in Section 9.

3.5 Commercial Development Intensities and Residential Density. Developer may construct up to 22,000 net leasable square feet of building space containing retail, restaurant, office, and other commercial uses and up to 400,000 gross square feet of residential uses configured in not more than 240 dwelling units on the Property as reflected on Exhibit C, together with common areas, structured or surface parking, and other improvements typical in residential and commercial mixed use projects, which are not included in the above-referenced square footages. The foregoing approved development intensities shall be reasonably allocated on the Property based on the CDP.

3.6 Flexibility to Change Uses and Building Sizes. The City understands, and agrees that the description, use, location, size and/or nature of any Project or Development

Zone (as defined below) may change over time within the context of the commercial and residential mixed use project proposed by Development and shown on the CDP; provided, however that any changes which occur over time must otherwise comply with any approval procedures described in this Agreement which are then in effect. The descriptions or references in the CDP or this Development Agreement to particular Projects or the uses contemplated in particular Development Zones shall not limit the description, use, location, size and/or nature of any Project or Development Zone within the Property or the mix of real estate products within the Property that may be proposed and approved through administrative processes under this Development Agreement except with respect to matters within the Basic Configuration under Section 4.1.4 below, inconsistencies with required Vested Development Standards or matters otherwise requiring a Substantial Amendment under Section 9.3.1 below.

3.7 Additional Land. The Property abuts a parcel or parcels of real property located to the south presently utilized as a Starbucks and vacant land adjacent thereto. If a parcel or parcels of such real property is acquired by Developer or an affiliate or Developer, such additional land acquired may be incorporated into the Property by following the procedures in Section 3.2. The conceptual development exhibits to this Agreement depict the possible development of the additional land as a part of the Property.

#### 4. Conceptual Development Plan.

4.1 Conceptual Development Plan. The development configuration of 1 East Harrison is shown on the CDP, a copy of which is attached hereto as Exhibit B. Exhibit B includes all of the land described in Exhibit A-1 and the additional land that may be acquired pursuant to Section 3.7. Approval of the CDP constitutes conceptual plan approval of the development proposed for the entire Property or such lesser portion of the Property as has been acquired by Developer or covered by a use right in favor of Developer from time to time as limited or permitted by Section 3.6.

4.1.1 Conceptual Development Plan Narrative. The CDP includes the following information in narrative form: (a) description of 1 East Harrison, including land use and development concepts and distinguishing features of the development; (b) description of key development standards including for architectural design, landscaping, lighting and signage; and (c) description of two development zones: the "South Zone" and the "North Zone" (each a "Development Zone", collectively the "Zones").

4.1.2 Conceptual Development Plan Graphics. The CDP incorporates exhibits that includes the following additional information: (a) a conceptual diagram indicating the location of Development Zones within the Property and identifying the Starbucks parcel referenced in Section 3.7 as the "Expanded Land"; and (b) a conceptual site plan indicating a possible development plan for the Property including access points, public or private roads, possible building and parking locations and walkways for pedestrian circulation, and illustrating the features of the "Basic Configuration" (defined below).

4.1.3 Conceptual Development Plan Development Standards. The "Vested Development Standards" (defined below) have been included within the CDP to regulate the

design and approval of specific Projects, which shall be reviewed and approved under the PDP approval process in Section 9.

4.1.4 Development in Accordance with Basic Configuration and Vested Development Standards. Developer shall develop the Property substantially in accordance with the basic configuration described as follows (the “Basic Configuration”): (a) the Property shall be bordered by the major perimeter road known as Harrison Boulevard; and (b) the Property shall include those road connections and access points depicted on Exhibit B that create the proposed intersections on Harrison Boulevard, provided that such road connections may be located anywhere on the Property and with such design details and limitations as may be approved by the Utah Department of Transportation. Developer shall also develop the Property under the Vested Development Standards. Developer shall construct buildings within and adjacent to the areas designated for development of buildings in the diagrams and descriptions in Exhibit B, and may locate and construct all Projects within or adjacent to such areas, as approved under the approval processes set forth in this Development Agreement consistent with the principles in Section 3.6. Subject to maintaining consistency with the Basic Configuration and the Vested Development Standards, Developer may establish and thereafter modify the location and size of all landscaped areas, parking, drive aisles, sidewalks, and other on-site improvements as limited or permitted by Section 3.6. Such variations to the location and sizes of specific Projects, Development Zones or other improvements to the Property shall not require an amendment to the CDP under provisions of the Code.

#### 4.2 Amendments to the Conceptual Development Plan.

4.2.1 Major Conceptual Development Plan Amendments. The City Council recognizes, and Developer acknowledges, that certain modifications to the CDP will have potential impact on surrounding property owners or public infrastructure but agrees that such modifications may nevertheless be processed and approved as administrative amendments, provided that the proposed development of the Property, including such modifications, complies with the following: (i) the elements of the Basic Configuration described above, (ii) the approved uses, and only those uses, in Exhibit C to this Development Agreement, (iii) the “Vested Development Standards” (as defined below) set forth in this Development Agreement as amended to include the design, landscape, and lighting guidelines approved under Section 5.3 below, and (iv) the terms of this Development Agreement. Proposed modifications not in compliance with foregoing items (i) through (iv) shall be deemed major amendments requiring approval by the City Council upon recommendation of the Planning Commission.

4.2.2 Minor Conceptual Development Plan Amendments. The City Council designates the Planning Commission as the administrative body to review, approve, or deny proposed modifications to the CDP as minor amendments as set out under Section 9 below, provided such modifications meet the criteria of the items (i) through (v) in Section 4.2.1: (a) changes to the location of buildings outside of and not adjacent to the areas designated for development of buildings in the diagrams in Exhibit B; (b) changes in phasing or phase descriptions; (c) the reorientation of the development or any aspect of the development regarding any transportation facility (not including changes to any access or connection



points in the description of the Basic Configuration, which shall be deemed a major amendment); (d) movement of the boundaries of any Development Zone contemplated in the CDP, under the PDP approval process in Section 9; and (e) failing to include within the Property any approved use or category of uses. The approval by the City of such modifications shall not unreasonably be withheld or delayed, provided, however that such approval may be withheld if the Planning Commission finds that such modifications violate any requirement of this Development Agreement or the then Applicable City Codes. Any CDP modification constituting a minor amendment shall be deemed incorporated into the CDP upon approval by the Planning Commission of a PDP for the Project under the approval process in Section 9 that includes the modification. In addition, the City Council delegates to the Planning Commission the authority to review and approve those matters described in Section 5.3 as minor amendments to the CDP. Subject to this Section 4.2.2, any modification not a minor CDP amendment as described in this paragraph shall be approved as a major amendment to the CDP by the City Council after recommendation of the Planning Commission.

#### 4.2.3 Matters Not Within the Scope of the Conceptual Development Plan.

The following matters shall be deemed to be Project details not required for a CDP and may be proposed and administered in accordance with PDP approval processes, plat approval processes or building permit review without an amendment to the CDP so long as such details comply with the Vested Development Standards: (a) relocating or changing the size of buildings, roads except the connection and access points to major perimeter roads as set forth in the description of the Basic Configuration, parking areas, open space, or other improvements from the locations and improvement dimensions shown on the then applicable version of the CDP under Section 4.1.4; (b) the design of any specific proposed improvement, including buildings, landscaping, signage and alterations to any such existing improvements; and (c) any platting of commercial parcels or condominium units within the Property and amendments to such plats.

4.3 Offsite Transportation and Infrastructure Improvements. Although connections to offsite roads and utilities are contemplated by the CDP, Developer shall have no responsibility to construct any transportation or infrastructure improvement located outside of the boundaries of the Property, dedicate land or otherwise implement any transportation, utility or public works plan.

## 5. **Development Standards.**

5.1 Vested Development Standards. The development standards in Exhibit D (the "Vested Development Standards") are development standards voluntarily adopted by Developer and approved by the City to further govern development within the Property. The Vested Development Standards include standards for parking, signage, landscaping, lighting, and architectural design and other similar matters, but shall not modify building or fire codes. Any alternative or additional development standards approved by the City for application to other projects in the City may not retroactively be applied to modify the vested development rights of Developer under this Development Agreement.

5.2 Applicable City Codes and Inconsistent Development Standards. The Development Agreement Provisions of the Code authorize the City to adopt development regulations that apply to specific development Projects, and, under this Development Agreement, such regulations shall control over any inconsistent regulations otherwise applicable. Under such authority, and the legislative authority of the City Council in approving this Development Agreement, the development and construction of 1 East Harrison may proceed consistent with the requirements of the South Ogden City Code in existence on the date of this Agreement not in conflict with this Development Agreement including all exhibits hereto (as qualified more fully by the following phrase: the "Applicable City Codes"), the Vested Development Standards and the terms and conditions of the balance of this Agreement and balance of the exhibits attached hereto. Without limiting the provisions that may be deemed in conflict with this Development Agreement, the phrase "Applicable City Codes" shall include none of Code Sections 10-11 (Planned Residential Unit Development), 10-12 (Cluster Subdivisions Special Regulations), 10-13 (Multiple Residential Buildings on a Single Lot), 10-14 (Regulations Applicable to All Zones), 10-17 (Parking and Loading Space, Vehicular Traffic and Access Regulations), and 10-23 (Landscape Regulations), the relevant provisions of which have been incorporated in or superseded by this Development Agreement, including the CDP. In addition, other provisions of the Code are deemed inapplicable to the extent such provisions contradict the CDP, including any of the Vested Development Standards.

5.3 Vested Development Standard Modifications. Developer may propose modifications to existing dimensional, architectural, open space, landscape, lighting, street, parking, and signage guidelines approved in the Vested Development Standards to permit 1 East Harrison to meet market requirements to the extent proposed modifications are not in conflict with any requirement of this Development Agreement or then Applicable City Codes. Such modifications may be approved by the City Planning Commission, as set out in Section 4.2.2, as minor amendments to the CDP. The approval by the City of such modifications shall not unreasonably be withheld or delayed, provided, however that such approval may be withheld if the City Planning Commission, in its sole discretion, finds that such modified standards violate any requirement of this Development Agreement or then Applicable City Codes.

5.4 Additional Development Standards. To permit the design and construction of unique real estate products within 1 East Harrison, Developer may, following approval from the Planning Commission, use development standards for each Project, phase or Development Zone different from or in addition to the Vested Development Standards (but not in violation of any requirement of this Development Agreement or Applicable City Codes), which different or additional development standards may address such issues as setbacks, building height, parking requirements and other similar standards but which maintain the overall integrity and feel of the Project, as determined by the Planning Commission. Any such Project, phase or Development Zone development standards shall be deemed added to the Vested Development Standards and deemed included in this Development Agreement as an amendment to the CDP when approved by the City.

5.5 Parking Ratios and Approved Shared Parking Provisions. The approved parking ratios, shared parking standards, off-street loading, access to parking and parking lot

development, standards and maintenance for the Property are described more fully in the Vested Development Standards. The parking ratios, shared parking, off-street loading, access to parking and parking lot development, standards and maintenance within the Project shall be deemed vested, subject to Section 5.1 above.

5.6 Additional Design and Landscape Guidelines. The Vested Development Standards in Exhibit D shall be deemed amended to include any design and landscape guidelines imposed by Developer for the sale of any parcels within the Property as contemplated by Section 8.3.2 below.

## 6. Fees and Exactions.

6.1 Development Application and Review Fees. Developer has paid application and review fees for the following applications: (i) the consideration and approval of this Development Agreement and (ii) the submission of the CDP. No further fees or engineering expenses shall be charged to Developer for these two approvals. All application and review fees for development or construction approvals, plan amendments and all applicable impact fees for each phase of 1 East Harrison and each Project shall be paid at the time and in the non-discriminatory amounts set forth in the existing City Codes, rules and regulations, or as customarily applied, for any such phase or Project.

6.2 Plan Engineering Review Fees. The City may charge such standard engineering review fees for development or construction approvals for 1 East Harrison or a Project as generally apply on a non-discriminatory basis at the time of application for any such approval.

6.3 Other Fees. The City may charge other fees generally applicable, including, without limitation, standard building permit review fees for improvements to be constructed on improved parcels.

6.4 Certain Impact Fees. Developer agrees that 1 East Harrison shall be subject to all impact fees which (a) have been properly imposed under the requirements of applicable federal and state law as those fees were in place prior to March 1, 2016 and (b) are applicable to other property in South Ogden City. If fees are properly imposed under the preceding tests, the fees shall be payable under the payment requirements of the impact fee provisions of the Code. Such fees shall not exceed fees existing on March 1, 2016 unless subjected to increase in accordance with applicable law. Developer has, with such due diligence as, in its sole discretion, it has found to be necessary and sufficient, reviewed all existing impact fees potentially applicable to the Project, and by the adoption and execution of this Development Agreement, hereby waives any Developer's rights to challenge the legality of the amount of the fees charged to or imposed on the Project. Developer agrees that such challenges, if any, shall be resolved before the execution of this Agreement. Developer reserves all rights to challenge any changes to impact fees adopted after the execution of this Agreement.

6.5 Credits Against Road and other Impact Fees. If Developer pays for or constructs any system improvement (determined under applicable impact fee law

standards), where such system improvement does not directly affect or benefit only the Project (e.g., Developer would not have had to construct or pay for the improvement to make the Project complete or fully functional (or, said another way, the improvement benefits the City or a third party rather than the Developer only)), Developer may apply to the City to receive a proportional credit for any impact fees imposed by the City against the Developer or to be reimbursed from any impact fees imposed by the City on any third parties for any such system improvements paid for or constructed by Developer prorated to the extent of benefit to Developer. The City agrees to use reasonable engineering and other standards to equitably determine the portion of the costs of any road or any other public improvement that Developer must pay for or construct that is a system improvement (determined under applicable impact fee law standards), a project improvement (determined under applicable impact fee law standards) or an improvement that benefits another Property owner. In addition, Developer shall be entitled to proportional reimbursement of impact fees paid to the City for system improvements of the same type constructed or paid for by Developer to the extent such fees were paid in connection with the development of any portion of the Property by someone other than Developer. Any reimbursement, under this section, for the construction of a system improvement from third party impact fee payments arising from developing land outside of the Property shall be subject to the normal and customary practices of City in allocating collected impact fees among various system improvements identified in the City's impact fee facilities plans and under any priority allocation system or procedure provided in the impact fee facilities plans. Developer shall be entitled to impact fee credits and reimbursements provided above in this Section until the total of all such credits and any impact fee reimbursements for improvements of the same type total the Developer's proportional cost of the system improvement component or the proportional improvements constructed or paid for by Developer.

6.6 Basis for Calculation of Certain Fees. The parties acknowledge that the Property will be developed in separate Projects and with many separate permits and fee calculations. City agrees that any fee calculated regarding any multi-phase Project on the Property by one permit applicant shall be calculated based on the overall size of all of the development contemplated for the multi-phase Project and not just the value or size of a phase of the Project where consideration of the large size of the development contemplated by the multi-phase Project on the Property would be advantageous to Developer (or another permit applicant on the Property) in the calculation of the fee amounts.

## 7. Vesting and Compliance with Applicable Legal Requirements.

7.1 Compliance With Requirements. The City Council finds, based on its own review and the recommendation of the Planning Commission after all appropriately noticed public hearings, that the CDP and this Development Agreement meet the following criteria: the CDP and this Development Agreement (a) are consistent with the South Ogden City General Plan, (b) comply with the Applicable City Codes, (c) comply with the Development Agreement Provisions, and (d) appropriately establish and are consistent with the Vested Development Standards set forth in this Development Agreement.

7.2 Separate District. The adoption of this Development Agreement to provide the regulations for development activities on the Property creates a separate district to establish and enforce the development regulations set forth herein.

7.3 Vested Rights and Vested Projects. Subject to Section 7.4, Developer shall have the vested right to develop and construct 1 East Harrison, to develop and construct 1 East Harrison facilities and to develop and construct Projects within the Property under the uses, densities, intensities, configuration of development, terms of the CDP, the Vested Development Standards described and incorporated in Sections 3, 4, 5, 6, 7 and 8 and the Applicable City Codes in existence and effective on March 1, 2016 (the "Vesting Date"). Under the vested rights granted by this Development Agreement, but subject to Section 7.4, Developer shall have development or construction applications for Projects within 1 East Harrison processed and approved under the procedures and standards set forth in this Development Agreement and the Applicable City Codes so long as such applications comply with the requirements of this Development Agreement. Any Projects so approved shall also be deemed vested under this Agreement as of the Vesting Date.

7.4 Compelling, Countervailing Public Interest. Nothing in this Agreement shall limit the future exercise of the police power of the City in enacting land use laws after the date of this Agreement. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights described in Section 7.3 based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. (Western Land Equities, Inc., v. City of Logan, 617 P.2d 388 (Utah 1980) or successor case and statutory law). Any such proposed change affecting the vested rights of 1 East Harrison or any Project shall be of general application to all development activity in South Ogden City; and, unless the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard regarding the proposed change and its applicability to 1 East Harrison or any Project under the compelling, countervailing public policy exception to the vested rights doctrine. The regulations, Codes, policies and plans governing the permitted uses, densities, intensities, configuration, CDP, and Vested Development Standards of 1 East Harrison or any Project hereby vested shall be the terms and conditions of this Development Agreement and the Applicable City Codes in effect on the Vesting Date.

7.5 Duration. The term of this Development Agreement (the "Term") shall commence on the date set forth above and shall extend for fifteen (15) years unless the Development Agreement is earlier terminated, or its Term is modified by written amendment to this Development Agreement, but this Development Agreement shall continue to be effective to applications and development within the Property notwithstanding the termination of this Development Agreement under Section 11.

## **8. Specific Project Agreements and Approval Conditions.**

8.1 Infrastructure Agreements. Developer shall have no obligation to construct or pay for any infrastructure located outside of the boundaries of the Property or that otherwise constitutes a system improvement to any such infrastructure.

8.2 Reimbursement from Benefitted Property Owners. To the extent the final plans for any portion of the Property involve the construction of any public improvement abutted by or benefiting another benefited landowner, Developer may request that the City contract to assure abutting or other properties benefiting from any such public improvements pay their fair share (determined under the standards referred to in Section 6.5 above) at the time of development of the abutting or benefited properties. The City will in good faith endeavor to enter into such an agreement.

8.3 Developer Right to Subdivide; Requirement for Developer Controlled Design Review for Projects Located Within the Property.

8.3.1 Right to Plat and Dedicate Public or Private Streets. Developer may apply to subdivide and plat the Property into separate parcels, which may include publicly dedicated or private streets. Such plats shall be reviewed and approved provided that such plats conform to the CDP and this Development Agreement. All such dedications proposed in all plats shall be accepted subject to Developer's compliance with Vested Development Standards.

8.3.2 Sale of Portion of the Property to Third Parties. Developer may subdivide, sell and transfer portions of the Property to sub-developers in connection with the developing and improving of the Property. To facilitate any such proposed sale, the City agrees to approve any such subdivision by approval of master parcel plat or approval of a metes and bounds legal description, and any such master parcel approval shall be subject to obligation of any sub-developer to comply with this Development Agreement to the extent applicable to that master parcel and to the further obligation of a sub-developer to subdivide any such master parcel by plat before the sale of any lots or units within such master parcel to other parties. Before the first conveyance of any portion of the Property to any third party, the following requirements of this Section 8.3.2 shall be followed: For the plat application or otherwise prior to the first conveyance of subdivided land, Developer shall provide to the City for review and comment a proposed declaration of reciprocal easements and agreements, and information relating to a Developer controlled design review process on all development activities within the Property not conducted by Developer. If any portion of the Property is transferred to an unrelated third party, Developer shall implement the design and landscape guidelines required by this Development Agreement, through a Developer controlled review process.

## **9. Further Review Processes and Review Standards.**

9.1 Further Conditional Use Review. No further conditional use review process is required to approve conditional uses approved by the City as provided in Section 4.3 of this Development Agreement. Any conditional use review of any conditional use not approved by this Development Agreement shall be conducted under the City's customary processes, but the review shall be limited to imposing additional conditions on such uses to the extent such additional conditions are required to meet the approval standards of that Code section.

9.2 Project Development Plan Review. PDP review by the City of Projects within the Property shall be conducted under the following provisions, which assure that any proposed construction complies with the terms and conditions of the PDP, the Vested Development Standards, and the Applicable City Codes, which, together, are referred to as the “Sole Plan Requirements.” The PDP review shall be conducted by the Planning Commission under the following provisions.

9.2.1 Project Development Plan Review Process.

(1) For each Project, Developer shall prepare and make a submission to the City of the PDP consistent with this Section 9.2. The application may cover all or any portion of a Project. Developer shall not engage in any building construction relating to a Project or portion thereof until the approvals, have been obtained, but may apply for site development approval while an application for PDP approval is pending if Developer accepts the risk of plan changes during the PDP approval process.

(2) Proposed PDP shall be delivered by Developer to the City department(s), special districts, governmental boards, bureaus, utility companies, and other agencies, which will need to provide facilities and services to the site, for their information and comment.

(3) The Planning Department shall review the PDP for conformance with the Sole Plan Requirements and shall use reasonable efforts to issue a staff report regarding the application within twenty (20) business days after receipt of the application. As a part of that review and reporting, the City Planning Director shall review architectural standards, elevations, materials, colors, and other design elements of any Project that includes substantial building improvements.

(4) The City Engineer and Public Works Department shall review the PDP with comments from affected entities and make recommendations concerning flood control requirements, engineering requirements, sewer and water requirements, and other requirements not in conflict with the PDP and the Vested Development Standards, and shall be responsible for the approval and inspection of all public improvements. The City Engineer and the Public Works Department shall use reasonable efforts to issue a staff report regarding the application within twenty (20) business days after receipt of the application.

(5) After receiving the reports and recommendations of the Planning Department, the City Engineer, and the Public Works Department, the City Planning Director shall submit the Project Development Plan and the reports and recommendations to the Planning Commission for review and decision. The PDP shall be approved if it complies with the Sole Plan Requirements. The Planning Commission may impose no condition on the issuance of PDP approval that would contravene the PDP or the Vested Development Standards. The City Planning Director shall use reasonable efforts to cause the Planning Commission to review the application within thirty (30) business days after receipt of the application. The applicant shall be notified of the decision of the Planning Commission within two (2) business days after the decision is made. The applicant shall have the appeal rights provided in Section 9.2.6 below.

9.2.2 Application.

(1) Application for PDP review shall be made by Developer, or an authorized agent certified in writing by Developer, by submitting to the City Planning Director site plans and other information required by Exhibit E attached hereto. The City Planning Director for purposes application review only, has the authority to waive or modify any requirement or specification where compliance with the request or standard is unnecessary to accomplish a review of the Application.

(2) PDP applications for structures shall include architectural drawings, sketches, perspectives, and/or exterior elevations of proposed structures in sufficient detail to ascertain compliance with the Vested Development Standards, including an indication of the materials and colors to be used. Drawing shall include height of structures and indicate any screening of roof-based mechanical equipment, loading areas and dumpsters, etc. The application shall also address parking, pedestrian walkways, loading areas, and other non-building improvements to the site.

(3) A landscape plan shall be submitted as part of each PDP application. The landscape plan will illustrate proposed landscaping and any fencing in enough detail that the screening and aesthetic qualities of the landscaping can be effectively reviewed. All required landscape plans shall include reasonable detail concerning the areas of the site to be landscaped, a plant legend specifying the number, type, and size of plants to be installed, the location of individual trees, shrubs, groundcovers, and a description, location, and dimensions of fences and landscaping protective devices.

(4) For developments for which outdoor lighting is proposed, the information shall be provided regarding outdoor lighting concepts including general information regarding the type and general location of lighting proposed for structures, walkways and parking lots.

(5) Conceptual sign plans shall indicate sign plan concepts and the general location and appearance of signs contemplated for the Project in sufficient detail to assure compliance with the Vested Development Standards.

9.2.3 Compliance with the Approved Project Development Plan. The Building Official and City Planning Director shall insure that the development is undertaken and completed in compliance with the approved PDP and any conditions pertaining thereto.

9.2.4 Final Project Development Plan Requirements. The following information shall be required after a PDP is approved, and must be received by the Planning Department prior to issuance of any Building Permits:

(1) Revised PDP incorporating all recommendations and requirements established during the review and approval process not in conflict with the PDP or the Vested Development Standards;

(2) Final landscape plans and details;



- (3) Final building construction plans and details;
- (4) Complete engineering plans including final construction drawings for streets, sewer, water and other utilities, grading, and storm drainage under city or applicable service provider standards not in conflict with the PDP or the Vested Development Standards; and
- (5) All required public improvements shall be installed or bonded for as required by the Code.
- (6) For developments for which outdoor lighting is proposed, lighting plans shall be required which illustrate the type and location of lighting proposed for structures, walkways and parking lots; and
- (7) Sign plans shall indicate the location, height and appearance of signs upon the site and the effects upon parking, ingress and egress, and adjacent properties.

9.2.5 Amendment or Modifications to Approved Project Development Plans.

(1) Modifications to an approved PDP may be granted when it can be determined that such changes or modifications are necessary or desirable to accommodate special circumstances related to the location, siting, or implementation of the approved development. The request for amendment shall be made in writing and documented on the PDP. After favorable review by the City Engineer, Building Inspector, and planning staff, the City Planning Director shall review and approve the modifications. Amendments determined to constitute a significant change to a PDP shall be referred to the Planning Commission for review and approval.

(2) Once revisions are approved, they shall be marked and dated on the approved PDP and kept on file in the office of the Planning Department.

9.2.6 Project Development Plan Appeal. The Applicant or any person aggrieved by a PDP decision may appeal the decision to the designated appeal authority for site plan reviews by following the appeal procedures in the Code. Such appeal shall be scheduled at the direction of the appeal authority.

9.3 Amendments.

9.3.1 Substantial Amendments. Any amendment to this Agreement that alters or modifies the Term of this Agreement, the permitted uses, the approved density or intensity of use, the text of the Development Agreement itself, the requirement of any improvement described that is available to the public, or provisions of the Development Agreement that imposes financial obligations on Developer or Property owners within the Property shall be deemed a "Substantial Amendment" and shall require a noticed public hearing and recommendation by the Planning Commission and a noticed public hearing and decision by the City Council prior to the execution of such an amendment.

9.3.2 Administrative Amendments. Unless otherwise provided by law, all amendments to this Development Agreement that are not Substantial Amendments shall be deemed "Administrative Amendments" and may be approved and executed by the City Planning Director without a noticed public hearing, recommendation by the Planning Commission or action by the City Council. Administrative Amendments may be reflected in a written approval or formal written amendment to this Development Agreement. Administrative Amendments will be deemed approved with the issuance of the applicable building permit if not covered by a specific, separate approval or a written amendment to this Development Agreement. Amendments to an approved PDP shall be deemed to be an Administrative Amendment to this Development Agreement when approved by the administrative process set forth herein. Amendments to the provision of the Vested Development Standards shall be administered as a minor PDP amendment.

9.3.3 Effect of Amendment. Any amendment to this Agreement shall be operative only as to those specific portions of this Agreement expressly subject to the amendment, with all other terms and conditions remaining in full force and effect without interruption.

9.4 Opportunity of Developer to Pay for Dedicated Outside Consultant to Assist in Permit Review and Inspection. The City agrees that the following special provisions are appropriate to allow development to proceed in the Property at an appropriate pace while also limiting the City's need to expand its full-time staff to meet temporary requirements: If a temporary backlog in the processing of applications occurs within the City and Developer offers to pay to the City the full cost of providing one or more qualified outside development application, construction application, subdivision and/or building permit reviewers on a temporary basis, the City may select at its sole discretion and retain the services of qualified outside development application, construction application, subdivision and/or building permit reviewers as may be necessary to process subdivision and permit applications for development in the Property. The reviewer or reviewers, thus retained, will operate under the direction and supervision of the City; however, said reviewer or reviewers will be dedicated exclusively to review the development applications, construction applications, subdivision and/or building permit applications for development in the Property, and Developer will receive a credit against review and permit application fees otherwise payable for development activity reviewed by the dedicated reviewer or reviewers. In the event the City determines to utilize such outsourcing, the Developer will deposit in advance with the City the City's estimated cost for that outsourcing for review of the application. Upon completion of the outsourcing services, Developer shall immediately pay, or receive credit for, any differential in the actual costs incurred by the City to obtain outside or overtime review of any submitted plats, drawings and supporting materials. The City's obligation to complete the review process as outlined above is subject to the Developer and/or Developers' submittal, in a timely manner, of a complete application including all the data, drawings and engineering required by the City to complete the review process.

9.5 Fast Track Design and Permitting. The City agrees that Developer may apply for building permits on a fast track basis in accordance with typical industry practice using separate applications for grading, excavation, footings and foundation, general shell building and tenant finish permits for Projects within the Property.

## 10. Assignment Provisions.

10.1 Binding Effect. This Agreement shall bind the successors and assigns of the Developer in the ownership or development of any portion of the Property.

10.2 Transfer of the Property. Developer may transfer any portion of the Property subject to the terms of this Development Agreement upon written notice to the City. Any such transfer of a portion of the Property shall be deemed to constitute a partial assignment of this Development Agreement and the rights and obligations regarding the portion of the Property transferred. Developer's notice to the City shall specify the portion of the Property being transferred, the development rights and obligations assigned in connection with the transfer, and the identity of the transferee. Developer also may transfer Developer's entire remaining interest in the Property subject to the terms of this Development Agreement with the approval of the City, such approval not to be unreasonably withheld. No such approval shall be required with a transfer to an affiliate of Developer, which controls, is controlled by, or is under common control with Developer or after Developer has substantially completed development of the Property. For a request for approval, Developer shall provide information to the City relating to the financial, development, and construction qualifications of the proposed transferee. If any such complete transfer of Developer's interests in the Property occurs, the transferee shall be deemed to be Developer for all purposes under this Development Agreement regarding that portion of the Property transferred. This Development Agreement shall not restrict a change in the ownership or control of Developer.

10.3 Release of Developer. If a transfer of a portion of the Property occurs, Developer may obtain an assumption by the transferee of the Developer's obligations under this Agreement regarding the portion of the Property transferred. Developer shall be released of all obligations under this Development Agreement to the extent any such obligations are assumed by a transferee. If a transfer occurs of all of the remaining portion of the Property, Developer shall obtain an assumption by the transferee of the Developer's obligations under this Agreement, and, in such an event, the transferee shall be fully substituted as Developer under this Agreement and the Developer executing this Agreement shall be released from any further obligations regarding this Development Agreement.

10.4 Obligations and Rights of Mortgage Lenders. Developer may finance the Property and may execute one or more mortgages, deeds of trust or other security arrangements regarding the Property and may assign this Development Agreement to a holder of any such financial instrument without prior written notice to, or consent of, the City. The holder of any mortgage, deed of trust, or other security arrangement regarding the Property, or any portion thereof, shall not be obligated under this Agreement by such assignment to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement which pertain to the Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Property, or any portion thereof, under a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to all requirements and obligations of this Agreement and any pro rata claims for payments or charges against the Property, or such

portion thereof, deed restrictions, or other obligations which accrue before such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, and, as would be the case in any assignment, the purchaser of the Property from the holder shall be subject to all of the terms and conditions of this Agreement, including the obligation to complete all required improvements. Nothing herein shall be construed to prohibit a mortgage or deed of trust holder from providing security for the standard installation of development improvements under standard City practice.

## 11. Review, Default, Termination and Disputes.

11.1 Periodic Review. The City may initiate a formal review of progress under this Agreement from time to time to determine if there has been demonstrated compliance with the terms hereof. If the City finds, on the basis of substantial competent evidence, there has been a failure to comply with the terms hereof, this Agreement may be revoked or modified by the City under this Agreement, after a public hearing noticed by publication, and for which notice has been expressly provided to Developer. City's failure to review at least annually Developer's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a breach of, or waiver of any rights under, this Agreement by Developer or City. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, and, as would be the case in any assignment, the purchaser of the Property from the holder shall be subject to all of the terms and conditions of this Agreement, including the obligation to complete all required improvements.

### 11.2 Default.

11.2.1 Events of Default. Developer is in default under this Agreement upon the happening of one or more of the following events or conditions.

(1) If a warranty, representation or statement made or furnished by Developer to the City is false or proves to have been false in any material respect when it was made.

(2) A finding and determination made by the City that, upon the basis of substantial evidence, Developer has not complied in good faith with one or more of the terms or conditions of this Agreement.

(3) Any other event, condition, act or omission which materially interferes with the intent and objectives of this Agreement.

(4) Developer shall have failed to submit at least one complete development or construction application within the five (5) year period after execution of this Development Agreement.

### 11.2.2 Procedure Upon Default.

(1) After a transfer of a portion of the Property and the assignment and assumption of Development Agreement obligations by a transferee, the default standards and procedures shall be applied separately regarding each Project, and any such transferee shall be deemed to be the "Developer" for purposes of applying such standards and procedures. After a default under Section 12.2.1, the City Council may exercise a right to declare an "Event of Default" by authorizing the City to give Developer written notice specifying the alleged default and, when appropriate, the manner in which the Event of Default must be satisfactorily cured. Developer shall have ninety (90) days after receipt of written notice to cure the Event of Default. After proper notice and expiration of the ninety (90) day cure period without cure, City may terminate or amend this Agreement by giving written notice under the procedure adopted by the City. Failure or delay in declaring or giving notice of an Event of Default shall not constitute a waiver of any default by Developer under Section 12.2.1, nor shall it change the time of such default. Notwithstanding the ninety-day cure period provided above, in the event more than ninety days is reasonably required to cure an Event of Default and Developer, within the ninety-day cure period, commences actions reasonably designed to cure the Event of Default, then the cure period shall be extended for such additional period as Developer is prosecuting those actions diligently to completion. Any exercise by the City of a termination right after notice and opportunity to cure shall be subject to Section 12.3 below.

(2) City waives no claim of default in performance by Developer, if on periodic review the City does not propose to modify or terminate this Agreement.

(3) Any default or inability to cure a default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a default.

(4) All other remedies at law or in equity which are not inconsistent with this Agreement are available to the parties to pursue if there is an uncured Event of Default.

### 11.3 Termination.

11.3.1 Termination Upon Completion of Development. This Agreement may be terminated by agreement of both parties that "Completion of Development" (defined below) has occurred and the last to be satisfied of the Developer's and the City's obligations under this Development Agreement have been satisfied (except those obligations of the parties which expressly survive the termination of this Development Agreement as provided below). The phrase "Completion of Development" means that (i) all of the Projects within the Property have been fully completed (or permits have been issued for constructing any such improvements not fully completed), and (ii) all public dedications identified and completed within the Property have been identified and preserved with restrictive covenants, plat

restrictions, conservation easements or other similar instruments. In the event either party believes the requirements of this Section for termination of the Agreement have been met, the party may give to the other party a notice of Completion of Development. The party receiving the notice may disagree with the position of the party giving the notice of Completion of Development by giving a written objection within thirty (30) days after the notice of Completion of Development is received. When the parties are in agreement that requirements of this Section have been met, the City shall record a notice that the Agreement has been terminated (other than the obligations of the parties which expressly survive the termination of the Development Agreement) by agreement of the parties upon Completion of Development as contemplated by this Section.

#### 11.3.2 Termination Before Completion of Development.

(1) This Agreement shall terminate at the end of its Term unless the Term is extended by the City Council as a Substantial Amendment.

(2) This Agreement may be terminated by the City Council prior to Completion of Development when an Event of Default by Developer remains uncured after notice and opportunity to cure as provided in this Section 11. The termination of this Agreement shall be exercised by the City Council after written notice to all owners of the remaining undeveloped land within the Property and after a hearing before the City Council, providing an opportunity of all such parties to be heard on the appropriateness of termination.

(3) If a termination occurs under this Section 11.3.2, the City shall record a notice against the remaining undeveloped land within the Property indicating that the Agreement has been terminated that further development activity shall be governed by the terms of the Code as it then exists and is thereafter amended from time to time.

#### 11.3.3 Effect of Termination on Future Land Uses.

(1) Notwithstanding the termination of this Agreement for any reason, any portion of the Property improved under this Agreement and the development plan and subdivision and other approvals contemplated hereby may be used and improved, and any improvements located or permitted to be located thereon at the time of termination may be constructed, used, remodeled and reconstructed under this Agreement. The foregoing provisions shall apply even if such use or improvements authorized by this Agreement do not conform to the requirements of otherwise applicable South Ogden City laws and regulations at the time of termination; provided, however that if any such use does not conform with the then applicable use provisions of the Code, the use may be terminated under any applicable non-conforming use provisions of then applicable law.

(2) Notwithstanding the termination of this Agreement for any reason, any portion of the Property that is the subject of a pending or approved application for a development or construction approval may be processed, approved or not approved, used and improved, and any improvements located or permitted to be located thereon at the time of termination may be constructed, used, remodeled and reconstructed under this Agreement provided the owner of the portion of the Property that is the subject of the application

proceeds in a commercially reasonable manner to finalize necessary approvals and thereafter proceeds in a commercially reasonable manner to commence and complete the improvements required by the application. The foregoing provisions shall apply even if such use or the improvements authorized by this Agreement do not conform to the requirements of otherwise applicable South Ogden City laws and regulations at the time of termination of this Agreement.

(3) The benefits extended by the preceding two subsections shall apply to the uses (subject to non-conforming use termination provisions of then applicable law) and structures permitted at the time of the termination to be constructed on parcels approved and subdivided under those subsections, regardless of when an application for a building permit is submitted for structures on any such parcel.

(4) Developer waives no rights Developer may have to assert the vested right to develop the Property after the expiration of the Development Agreement under then applicable laws or regulations.

11.3.4 Effect of Termination on Developer Obligations. Termination of this Agreement as to any Developer of the Property or any portion thereof shall affect none of such Developer's obligations to comply with the terms and conditions of any zoning, or subdivision plat, site plan, development plan, building permit, or other land use entitlements approved regarding the Property, nor shall it affect any other covenants or any other development requirements specified or created under this Agreement. Termination of this Agreement shall not affect or invalidate in any manner the following obligation of Developer, which shall survive the termination of this Agreement: the obligation of Developer to complete any improvements covered by any issued permit (including permits issued after the termination of this Agreement based on vested applications or Section 11.3.3).

11.3.5 Effect of Termination on the City Obligations. Upon any termination of this Agreement, the entitlements, conditions of development, limitations on fees, and all other terms and conditions of this Agreement shall no longer be vested by this Agreement regarding the remaining undeveloped land within the Property except to the extent in Section 11.3.3. The remaining undeveloped land within the Property may thereafter be subject to then existing planning and zoning law to the extent not inconsistent with Section 11.3.3. Upon such a termination, the City shall no longer be prohibited by this Agreement from making any changes or modifications to such entitlements or fees applicable to such undeveloped portions of the Property subject to the effect of Section 11.3.3. The City shall remain obligated after termination of this Agreement to recognize and apply Section 11.3.3, which incorporates the use, density, development standards and configuration in this Development Agreement under the circumstances described therein for any portion of the Property that is the subject of a pending or approved application for a development or construction approval.

11.3.6 Damages upon Termination. Except regarding just compensation and attorneys' fees under this Agreement and the enforcement of the terms hereof, Developer shall not be entitled to any damages, including consequential or punitive damages against the City upon the unlawful termination of this Agreement.

11.3.7 Survival of Provisions. The following provisions of this Development Agreement (and any provisions referred to or otherwise necessary for the interpretation thereof) shall survive Agreement termination: Sections 10, 11, 12 and 13.

11.4 Disputes. If a dispute arises in the interpretation or administration of this Agreement or if the default mechanism contained herein shall not resolve a default under this Agreement, then prior to taking any action to terminate this Agreement and subject to the right of the City to exercise enforcement of its police powers if Developer directly violates a provision of this Agreement or of any otherwise applicable law or regulation not in conflict with this Agreement, every continuing dispute, difference, and disagreement shall be referred to a single mediator agreed upon by the parties, or if no single mediator can be agreed upon, a mediator or mediators shall be selected from the mediation panel maintained by the United States District Court for the District of Utah under any designation process maintained by such court. The parties shall mediate such dispute, difference, or disagreement in a good faith attempt to resolve such dispute, difference or disagreement. The mediation shall be non-binding.

11.5 Institution of Legal Action. Besides any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Second Judicial District Court of the County of Weber, State of Utah.

11.6 Other Enforcement Provisions. The parties to this Agreement recognize that the City may enforce its rules, policies, regulations, Codes, and the terms of this Agreement by seeking an injunction to compel compliance with the terms of this Agreement. If Developer or any user on the Property violates the rules, policies, regulations or Codes of the City or violates this Agreement, the City may, without seeking an injunction and after thirty (30) days written notice to correct the violation, take such actions as deemed appropriate under law until such violations have been corrected by Developer. The City shall be free from any liability arising out of exercising its rights under this paragraph.

## **12. Relationship of the Parties; Hold Harmless; Release.**

12.1 Relationship of Parties. The contractual relationship between the City and Developer arising out of this Agreement is one of separate independent contractors and not agency. This Agreement creates no third party beneficiary rights. It is specifically understood by the parties that: (a) 1 East Harrison is a private development; (b) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property unless the City accepts dedication, ownership or maintenance of the improvements under a specific written agreement or recordation of a plat containing such a dedication; and (c) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer in this Agreement.

12.2 Hold Harmless.



12.2.1 Agreement of Developer. Developer agrees to and shall hold the City, its officers, agents, employees, consultants, attorneys, special counsel and representatives harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for Property damage which may arise from the direct or indirect operations of Developer or its contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Property or the actions of Developer taken under or the failure of Developer to comply with the terms of this Development Agreement. Any such action shall be an "indemnified claim." Developer agrees to pay all costs for the defense of the City and its officers, agents, employees, consultants, attorneys, special counsel and representatives regarding any indemnified claim. This hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this section whether or not the City prepared, supplied or approved this Agreement, plans or specifications, or both, for 1 East Harrison or any Project. City may make all reasonable decisions regarding its representation in any legal proceeding relating to an indemnified claim.

12.2.2 Exceptions to Hold Harmless. The agreements of Developer in Section 12.2.1 shall not apply to (i) any claim arising from the negligence or intentional actions of the City, or (ii) any claim reserved by Developer for itself or any owner of any portion of the Property under the terms of this Agreement for just compensation or attorney fees.

12.2.3 Hold Harmless Procedures. The City shall give written notice of any claim, demand, action or proceeding which is the subject of Developer's hold harmless agreement as soon as practicable but not later than 10 days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, the City shall may participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

### 13. General Terms and Conditions.

13.1 Agreements to Run with the Land. This Agreement shall be recorded against the Property as described in Exhibit A hereto. The agreements contained herein shall be deemed to run with the land and shall bind all successors in the ownership of the Property.

13.2 Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of implementing long-range planning objectives, obtaining public benefits and protecting any compelling, countervailing public interest while providing reasonable assurances of continuing vested development rights. The vested rights granted in this Agreement and the rights that survive the termination of this Agreement shall be construed to be in addition to any vested rights, nonconforming use or improvement rights or other similar rights granted by applicable law, subject to any limitations imposed by this Agreement on such continuing rights.

13.3 Laws of General Applicability. Where this Agreement refers to laws of general applicability to the Property or 1 East Harrison and other properties, this Agreement

shall be deemed to refer to other developed and subdivided properties in South Ogden City, Utah.

13.4 State and Federal Law. The parties agree, intend and understand that the obligations imposed by this Agreement are only such as follow state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law and the balance of the Agreement shall remain in full force and effect.

13.5 No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have. No officer, official or agent of the City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the City by making any promise or representation not contained herein.

13.6 Entire Agreement. Except as specifically stated, this Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

13.7 Attorney's Fees. If any legal action is filed regarding the interpretation or enforcement of this Agreement, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses incurred in connection with the aforementioned legal proceedings. Should any judgment or final order be issued in those proceedings, the reimbursement amount shall be specified therein. Legal expenses incurred during mediation shall not be reimbursable under this paragraph.

13.8 Notices. All notices shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the City:

City of South Ogden  
[ ]

With copies to:

[ ]

To Developer:

Urban Land Group LLC  
Attn: Ron Martinez

1084 N Willow Wind Dr Unit 9  
Farmington, UT 84025

With copies to:

Stoel Rives LLP  
Attn: Tom Ellison  
201 S Main, Suite 1100  
Salt Lake City, UT 84111

13.9 Applicable Law. This Agreement is entered into under, and is to be construed and enforceable under, the laws of the State of Utah.

13.10 Exhibits. This Agreement contains the following exhibits, which by this reference are incorporated and made a part hereof:

Exhibit "A-1" Description of the Property for 1 East Harrison  
Exhibit "A-2" Depiction of the Property for 1 East Harrison  
Exhibit "A-3" Notice of Property Acquisition  
Exhibit "B" Conceptual Development Plan  
Exhibit "C" 1 East Harrison Allowed Land Uses  
Exhibit "D" Vested Development Standards

13.11 Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of the facsimile copy.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, this Development Agreement has been executed by South Ogden City, acting through the City Council of South Ogden City, Weber County, State of Utah, under Ord. 17-00, authorizing such execution, as of the above-stated date.

ATTEST:

SOUTH OGDEN CITY,  
a Utah municipal corporation

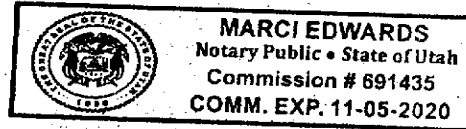
By: [Signature] City Recorder  
By: [Signature] Title: City Manager

STATE OF UTAH )  
:ss.  
COUNTY OF WEBER )

On the 1st day of May, 2017, personally appeared before me Matt Dixon who being duly sworn, said that he is the City Manager of SOUTH OGDEN CITY, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Matt Dixon acknowledged to me that the City executed the same.

[Signature]  
NOTARY PUBLIC  
Residing at: South Ogden Rd

My Commission Expires:  
11-5-20



IN WITNESS WHEREOF, this Development Agreement has been executed by a duly authorized representative of Developer as of the above-stated date.

DEVELOPER:

URBAN LAND GROUP LLC,  
a Utah limited liability company

By: *Ron Martinez*  
Title: *Member*

STATE OF *Utah* )  
  )  
  ):ss.  
COUNTY OF *Weber* )

On the *3* day of *May*, 2017, personally appeared before me *Ron Martinez*, who being by me duly sworn, did say that as a *Member* of Urban Land Group LLC he has signature authority for said LLC, and that the foregoing instrument was signed in behalf of said Urban Land Group LLC, and acknowledged to me that said company executed the same pursuant to authority under or as authorized by its operating agreement or other proper authority.

*Angela Martin*  
NOTARY PUBLIC  
Residing at: *Lyden Ut*

My Commission Expires:  
*11-24-2019*



**EXHIBIT A-1**  
**DESCRIPTION OF PROPERTY FOR**  
**1 East Harrison**

**A part of the Southwest Quarter of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Weber County, Utah**

**Beginning at a point on the Quarter Section line, being 396.40 feet North 0°35'07" East along said Quarter Section line from the South Quarter Corner of said Section 15, and running thence South 86°39'36" West 186.82 feet to the East line of Harrison Boulevard (Highway 203), said point being 80.00 feet perpendicularly distant Easterly from the Centerline of said Highway, and being a point on the arc of a curve; thence three (3) courses along said East of Harrison Boulevard as follows: (1) Northerly along the arc of a 3899.80 foot Radius curve to the left a distance of 136.51 feet (Delta Angle equals 2°00'20", Center bears South 70°19'37" West, and Long Chord bears North 20°40'33" West 136.50 feet); (2) North 22°30'05" West 657.89 feet to a point 125.00 feet perpendicularly distant Easterly from the centerline of said Highway; and (3) North 30°25'36" West 213.49 feet to the Historical North line of the South Half of the Southwest Quarter of said Section 15; thence South 89°24'54" East 603.85 feet to the Historical Northeast Corner of said South Half of the Southwest Quarter of Section 15; thence South 0°35'06" West 898.23 feet along said Quarter Section line to the point of beginning.**

**Contains: 7.963 acres**

**EXHIBIT A-2**  
**DEPICTION OF PROPERTY FOR**  
**1 East Harrison**

Exhibit A-2

**EXHIBIT A-3**

**NOTICE OF PROPERTY ACQUISITION**

**When Recorded, Mail To:**

Urban Land Group LLC  
Attn: Ron Martinez  
1084 N Willow Wind Dr Unit 9  
Farmington, UT 84025

**NOTICE OF PROPERTY ACQUISITION**

URBAN LAND GROUP LLC hereby gives notice that it has consummated the purchase of the real Property described on Exhibit A attached hereto (the "Parcel").

This Notice is given pursuant to Sections 2.2 and 3.2 of the Development Agreement for 1 East Harrison (the "Development Agreement") entered into as of the \_\_\_ day of \_\_\_\_\_, 2016, by and among Urban Land Group LLC, a Utah limited liability company ("Developer"), and South Ogden City, a Utah municipal corporation (the "City"), and recorded as Entry No. \_\_\_\_\_ in Book \_\_\_\_\_ at Page \_\_\_\_\_, in the official records of the Weber County Recorder. The Development Agreement relates to the Property more particularly described in Exhibit B.

Pursuant to Sections 2.2 and 3.2 of the Development Agreement, the Parcel shall become part of the "Property" as defined in the Development Agreement, and shall become subject to and benefitted by the terms of the Development Agreement. By reason of this Notice, the terms and conditions of the Development Agreement shall be binding upon the undersigned as Owner of the Parcel and its successors and assigns in the ownership of the Parcel.

IN WITNESS WHEREOF, the undersigned has executed this Notice of Property Acquisition as of the \_\_\_ day of \_\_\_\_\_, 201\_.

**[signature page follows]**



URBAN LAND GROUP LLC,  
a Utah limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  :ss.  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared before me \_\_\_\_\_, who being by me duly sworn, did say that as a \_\_\_\_\_ of Urban Land Group LLC he has signature authority for said LLC, and that the foregoing instrument was signed in behalf of said Urban Land Group LLC, and acknowledged to me that said company executed the same pursuant to authority under or as authorized by its operating agreement or other proper authority.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

**Exhibit A to Notice of Property Acquisition**

**Parcel Legal Description**

**A part of the Southwest Quarter of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Weber County, Utah**

**Beginning at a point on the Quarter Section line, being 396.40 feet North 0°35'07" East along said Quarter Section line from the South Quarter Corner of said Section 15, and running thence South 86°39'36" West 186.82 feet to the East line of Harrison Boulevard (Highway 203), said point being 80.00 feet perpendicularly distant Easterly from the Centerline of said Highway, and being a point on the arc of a curve; thence three (3) courses along said East of Harrison Boulevard as follows: (1) Northerly along the arc of a 3899.80 foot Radius curve to the left a distance of 136.51 feet (Delta Angle equals 2°00'20", Center bears South 70°19'37" West, and Long Chord bears North 20°40'33" West 136.50 feet); (2) North 22°30'05" West 657.89 feet to a point 125.00 feet perpendicularly distant Easterly from the centerline of said Highway; and (3) North 30°25'36" West 213.49 feet to the Historical North line of the South Half of the Southwest Quarter of said Section 15; thence South 89°24'54" East 603.85 feet to the Historical Northeast Corner of said South Half of the Southwest Quarter of Section 15; thence South 0°35'06" West 898.23 feet along said Quarter Section line to the point of beginning.**

**Contains: 7.963 acres**

**Exhibit B to Notice of Property Acquisition  
Legal Description of 1 East Harrison Property**

**A part of the Southwest Quarter of Section 15, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Weber County, Utah**

**Beginning at a point on the Quarter Section line, being 396.40 feet North 0°35'07" East along said Quarter Section line from the South Quarter Corner of said Section 15, and running thence South 86°39'36" West 186.82 feet to the East line of Harrison Boulevard (Highway 203), said point being 80.00 feet perpendicularly distant Easterly from the Centerline of said Highway, and being a point on the arc of a curve; thence three (3) courses along said East of Harrison Boulevard as follows: (1) Northerly along the arc of a 3899.80 foot Radius curve to the left a distance of 136.51 feet (Delta Angle equals 2°00'20", Center bears South 70°19'37" West, and Long Chord bears North 20°40'33" West 136.50 feet); (2) North 22°30'05" West 657.89 feet to a point 125.00 feet perpendicularly distant Easterly from the centerline of said Highway; and (3) North 30°25'36" West 213.49 feet to the Historical North line of the South Half of the Southwest Quarter of said Section 15; thence South 89°24'54" East 603.85 feet to the Historical Northeast Corner of said South Half of the Southwest Quarter of Section 15; thence South 0°35'06" West 898.23 feet along said Quarter Section line to the point of beginning.**

**Contains: 7.963 acres**

**EXHIBIT B****1 EAST HARRISON CONCEPTUAL DEVELOPMENT PLAN****1. INTRODUCTION**

**1.1 Description of Development.** This Development Agreement for 1 East Harrison, adopted under the development agreement provisions in Section 11-3-1-G et seq. (the "Development Agreement Provisions") of the South Ogden City Code (the "Code"), encompasses an exciting new mixed-use development located on approximately 9 acres in South Ogden, Utah (the "Property"). The new project is located at approximately 5450 South Harrison Boulevard between Harrison Boulevard to the West and South Harrison Plaza Condominiums and South Ogden City to the East. Urban Land Group LLC (the "Developer") is developing a mixed-use concept for the site that will include up to 22,000 square feet of retail, restaurant, office, and other commercial uses and up to 200,000 square feet of multi-family and 200,000 square feet of single-family attached and detached residential uses in buildings reflecting contemporary architecture and high quality building materials. The preceding square footage estimates may be revised based on market demand and the mix of Projects submitted at the initial application stage. The mix of uses, design, height and density of the project will follow, and help further the goals of South Ogden City, but are not accommodated by the Code and may not be appropriate elsewhere in the City. Therefore, the City has elected to adopt this Development Agreement apply its terms as contemplated by the Development Agreement Provisions, a list of allowed uses, the density and intensity of allowed uses, a conceptual development plan and vested development standards to be submitted to the City for approval to encourage and govern the development activities of Developer on the Property.

**1.2 Contents of the Project Development Plan.** The Conceptual Development Plan ("CDP") shall consist of three components: (a) this text of Exhibit B to the Development Agreement, (b) the exhibits attached hereto and incorporated as a part of this Exhibit B (the "Exhibits"), and (c) the Vested Development Standards attached to the Development Agreement as Exhibit D. Together, these exhibits articulate and depict a conceptual plan for developing the Property including the specification of Development Zones (as defined in the Development Agreement), the design intent for vertical improvements, and the development standards for building, landscaping, lighting, signage and other improvements. This CDP has been submitted as a part of the Development Agreement and provides the governing standards for developing the Property. Consistent with that intent, the CDP including the Vested Development Standards shall supersede any inconsistent provisions of the Code.

**1.3 Administration of the Project Development Plan.** The concepts and standards of the CDP shall be applied as provided in the Development Agreement, specifically including the amendment processes specified therein and the approval processes for "Project Development Plans" for specific "Projects" and "Development Zones" within the Property as those terms are defined in the Development Agreement. The Development Agreement shall govern over any inconsistent provisions of the Code.

## 2. DEVELOPMENT CONFIGURATION AND DISTINGUISHING DEVELOPMENT CONCEPTS

**2.1 Basic Configuration.** The "Basic Configuration" (as defined in the Development Agreement) of the Property is depicted in the conceptual site plan in the book of exhibits attached to this Exhibit B and incorporated by this reference (the "Book of Exhibits"). The Basic Configuration requires the development of Projects within the Property to reflect the following elements: (a) the Property shall be bordered by the major perimeter road known as Harrison Boulevard; and (b) the Property shall include those road connections and access points depicted on the conceptual site plan that create the proposed intersections on Harrison Boulevard, provided that such road connections may be located anywhere and with such design details and limitations as approved by the Utah Department of Transportation.

**2.2 Development Zones.** The development zone diagram in the Book of Exhibits reflects the areas within which certain types of development are anticipated to occur, as described in the following subparagraphs. At the election of Developer, and with the approval of the City, which approval may not be unreasonably withheld, the South Zone may be eliminated and the Property developed under the description of the North Zone. The development concepts for the development zones are described as follows:

**2.2.1 North Zone.** The North Zone may comprise approximately 7 to 9 acres of one to seven story attached and unattached single family, two family and multi-family residential uses with structured and unstructured parking and additional amenities typical of townhouse, condominium, apartment or single family projects in the Ogden, Utah area.

**2.2.2 South Zone.** The South Zone will comprise from 0 to approximately 2 acres and will include retail, office, commercial or mixed use, in one or more structures with surface or structured parking. The mix of uses will include any of the uses approved on Exhibit C. The South Zone shall be deemed expanded to include the property to the south of the designated South Zone under Section 3.7 of the Development Agreement

**2.3 Conceptual Site Plan.** A conceptual site plan is included in the Book of Exhibits. This conceptual site plan illustrates how the above-referenced Development Zones may be improved with buildings, parking, landscaping and other improvements. Actual development will be located in accordance with the Development Agreement, which implement the concepts and standards of this CDP.

**2.4 Project Phasing and Infrastructure.** The Property will be developed constructed in one or more phases to be established by Developer based on market conditions. The Property will be benefitted by existing offsite infrastructure and new infrastructure to be constructed to service the Property. Developer shall be required to coordinate with the City and other service providers in the design of such infrastructure. Developer has done such due diligence as it, in its sole determination finds sufficient for its purposes and specifically finds that sufficient utility capacity exists to allow Developer to develop the Property. Developer shall connect to utilities at locations mutually acceptable to

Developer and applicable service providers. The timing or phasing of developing the Property shall not be limited by the timing of road or utility infrastructure construction that may benefit the Property.

### 3. DESIGN INTENT

3.1 **Building Architecture and Materials.** Building architecture in the Development Zones is illustrated by the mix of facades, materials, and signage depicted in the Book of Exhibits.

3.2 **Landscaping and Landscape Materials.** Landscaping concepts for the Property are included in the Book of Exhibits.

3.3 **Lighting.** Lighting concepts for the Property are included in the Book of Exhibits.

3.4 **Signage.** Project signage concepts are included in the Book of Exhibits. Retail and any office or commercial or building signage shall be harmoniously integrated with the architecture of the buildings to express the individual nature of retail tenants and building users and shall conform to the City's sign ordinance requirements.

### 4. VESTED DEVELOPMENT STANDARDS

Vested Development Standards in Exhibit D of the Development Agreement are hereby incorporated into the CDP.

### 5. CONTENTS OF EXHIBITS

**The following drawings and other exhibits are incorporated into this Exhibit B as the Book of Exhibits and shall be attached to original copies of the Development Agreement to be retained by the City Recorder and City Building Inspector. The recorded version of the Development Agreement need not contain copies of the following:**

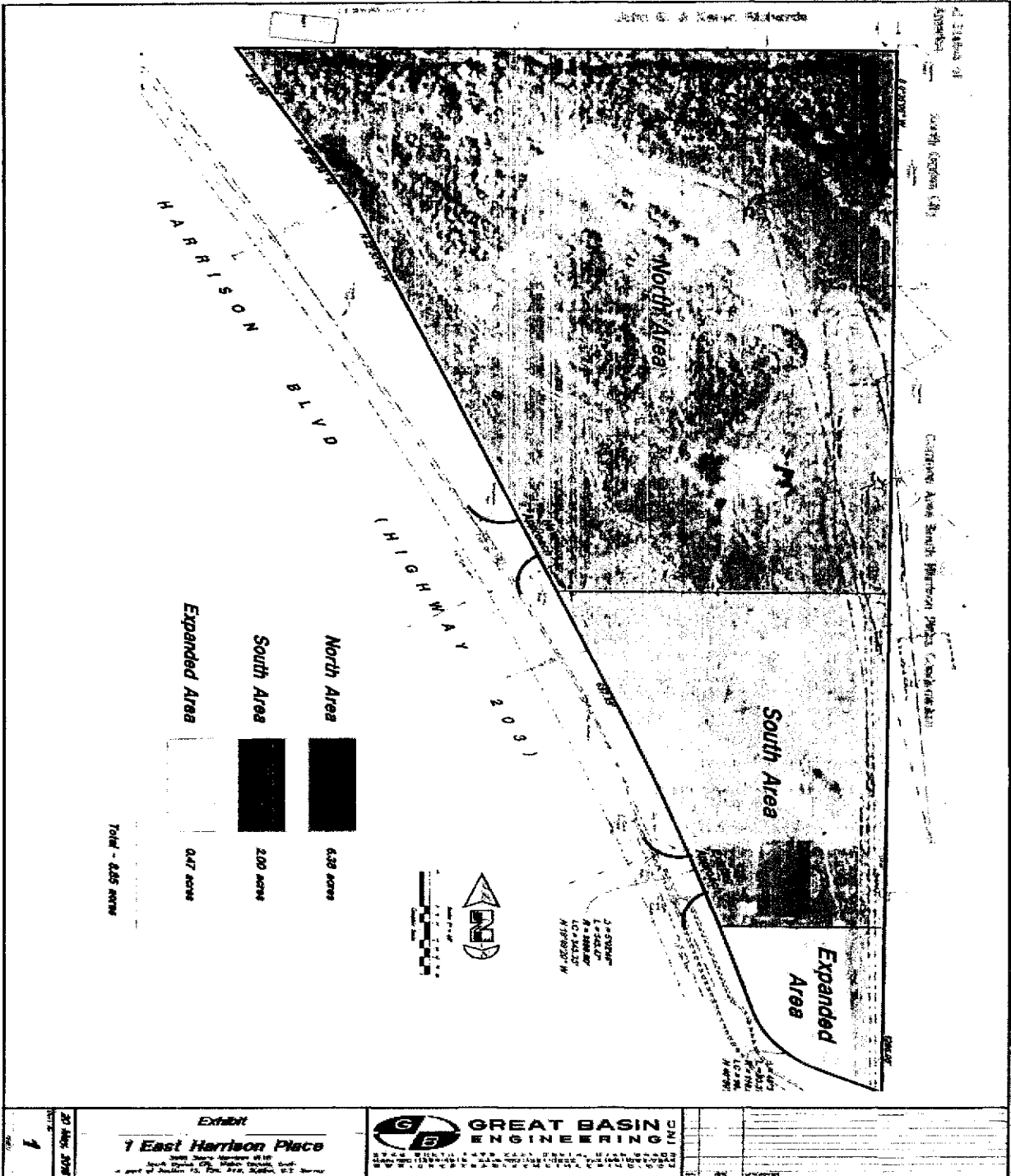
**Development Zone Diagram dated May 20, 2016 from Great Basin Engineering**

**Conceptual Site Plan entitled 1 East Harrison Site-OB-2016-12-20 from Think Architecture**

**One East Harrison – Conceptual Image Package dated August 23, 2016 from Think Architecture**

**Alternative Conceptual Site Plan (option if additional land is acquired) entitled 1 East Harrison Site-OA-2016-12-20 from Think Architecture**







**ek** Think Architecture

Architecture  
Interior Design  
Landscape Architecture  
Urban Planning  
Construction Management

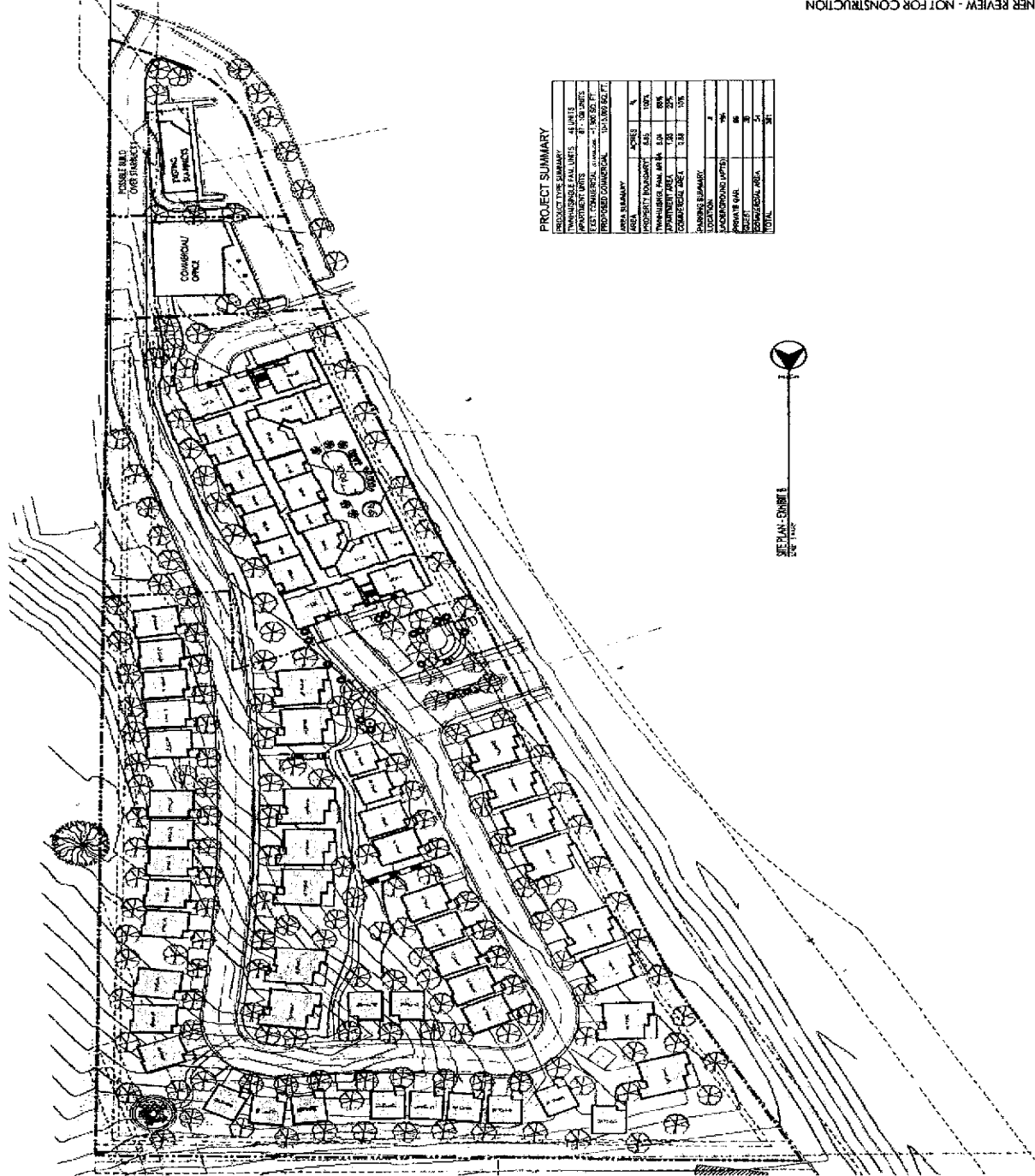
200 South Main Street  
Suite 100  
Portland, ME 04101  
Tel: 603.761.1234  
Fax: 603.761.1235  
www.ekthink.com

1 EAST HARRISON  
SOUTH OGDEN, VT

PROJECT NO. 1311  
DATE: 01/26/2011  
REVISIONS

REPORT: EAST-HARRISON  
MASTER PLAN  
SHEET NO. A100

OWNER REVIEW - NOT FOR CONSTRUCTION



**PROJECT SUMMARY**

PRODUCT TYPE SUMMARY:  
TOWNHOMES/PAVILIONS: 4 UNITS  
APARTMENT UNITS: 81 UNITS  
EST. COMMERCIAL: 1 UNIT (21,000 SF)  
ESTIMATED COMMERCIAL: 10,000 SF (21,000 SF)

AREA	ACRES	%
RESIDENTIAL FOOTPRINT	4.5	10%
RESIDENTIAL DRIVE	1.0	2%
APARTMENT FOOTPRINT	1.0	2%
COMMERCIAL FOOTPRINT	1.0	2%
LANDSCAPE	1.0	2%
LANDSCAPE (PARKS)	2	4%
LANDSCAPE (PARKS)	2	4%
PRIVATE DRIVE	0.5	1%
WALKWAY	0.5	1%
COMMERCIAL DRIVE	0.5	1%
TOTAL	21	47%

SITE PLAN SHEET 1  
01/26/2011

# Architecture for LIVING

ONE EAST HARRISON - CONCEPTUAL IMAGE PACKAGE // August 23, 2016



SUBMITTED TO:  
Ron Martinez  
Urban Land Group, LLC  
801-540-4234

SUBMITTED BY:  
Think Architecture, Inc.  
5151 South 900 East, Suite 200  
Salt Lake City, Utah 84117



Architecture

# TABLE OF CONTENTS

1.0 Introduction	3
2.0 Architectural Concepts	4
3.0 Landscape Concepts	8
4.0 Site Features	10

# 1.0 INTRODUCTION

August 23, 2016

Mr. Ron Martinez,

Per your request, this conceptual package contains imagery showing the potential design direction for your "One East Harrison Project" located in South Ogden. I tried to best capture imagery that was reflective of the given site topography and your desired design goals. While the intent here was not to provide design solutions, but rather to represent concepts or design direction from some of our past projects that may be influential to this one.

For the architectural components, I included imagery reflective of the anticipated building massing we may end up with, while maintaining some flexibility to work within the given site constraints.

The landscaping components of this project could end up quite diverse. We will have scenarios with retaining walls, plazas, walkways and paths. Again, the imagery shown is reflective of those various anticipated needs. Given that we are in a more mountain desert landscape, some of the planting material shown will likely be different than the final selections.

For the entry monument signage, I recognize that we may have a few different needs depending on the final development of the site. We may need both master project signage and signage for smaller internal project identification, such as identifying the apartment component within the master development. Thus, the imagery chosen was selected to show various options given those anticipated conditions.

Last, I have included imagery for site lighting. We will of course need

both street lights and pedestrian scale lighting. Both conditions will be critical to provide necessary feelings of safety as well as adequate lighting for circulation. Again, the conceptual lighting options shown are reflective of meeting those various needs.

I hope you find this information beneficial as we begin establishing a basis of design language for the development of this project.

Sincerely,  
THINK ARCHITECTURE, INC.



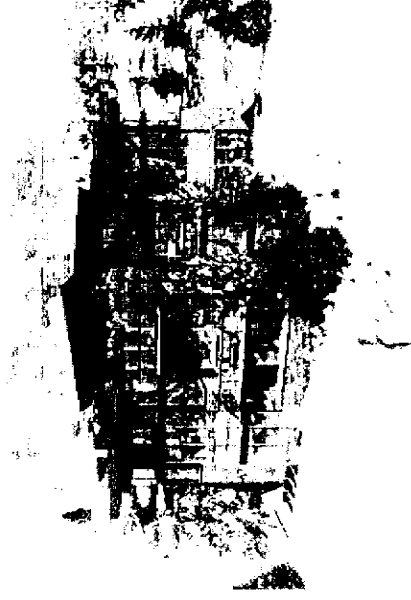
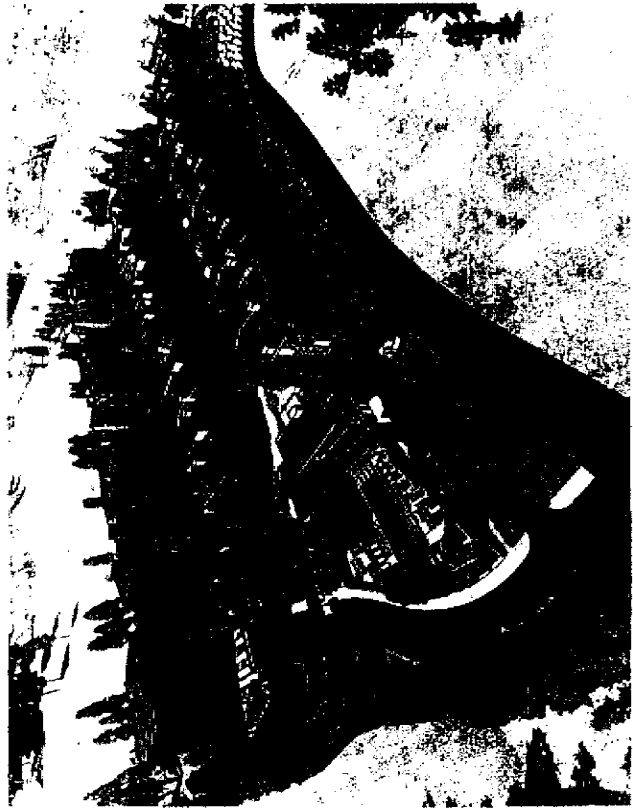
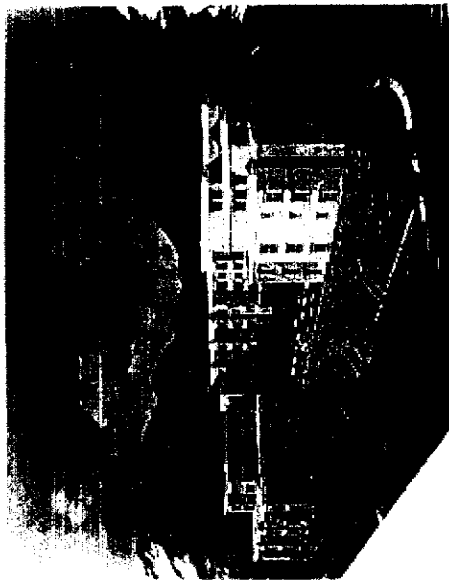
Tyler K. Kirk, AIA - LEED AP  
Principal

# 2.0 ARCHITECTURAL CONCEPTS

## MULTI-FAMILY APARTMENTS

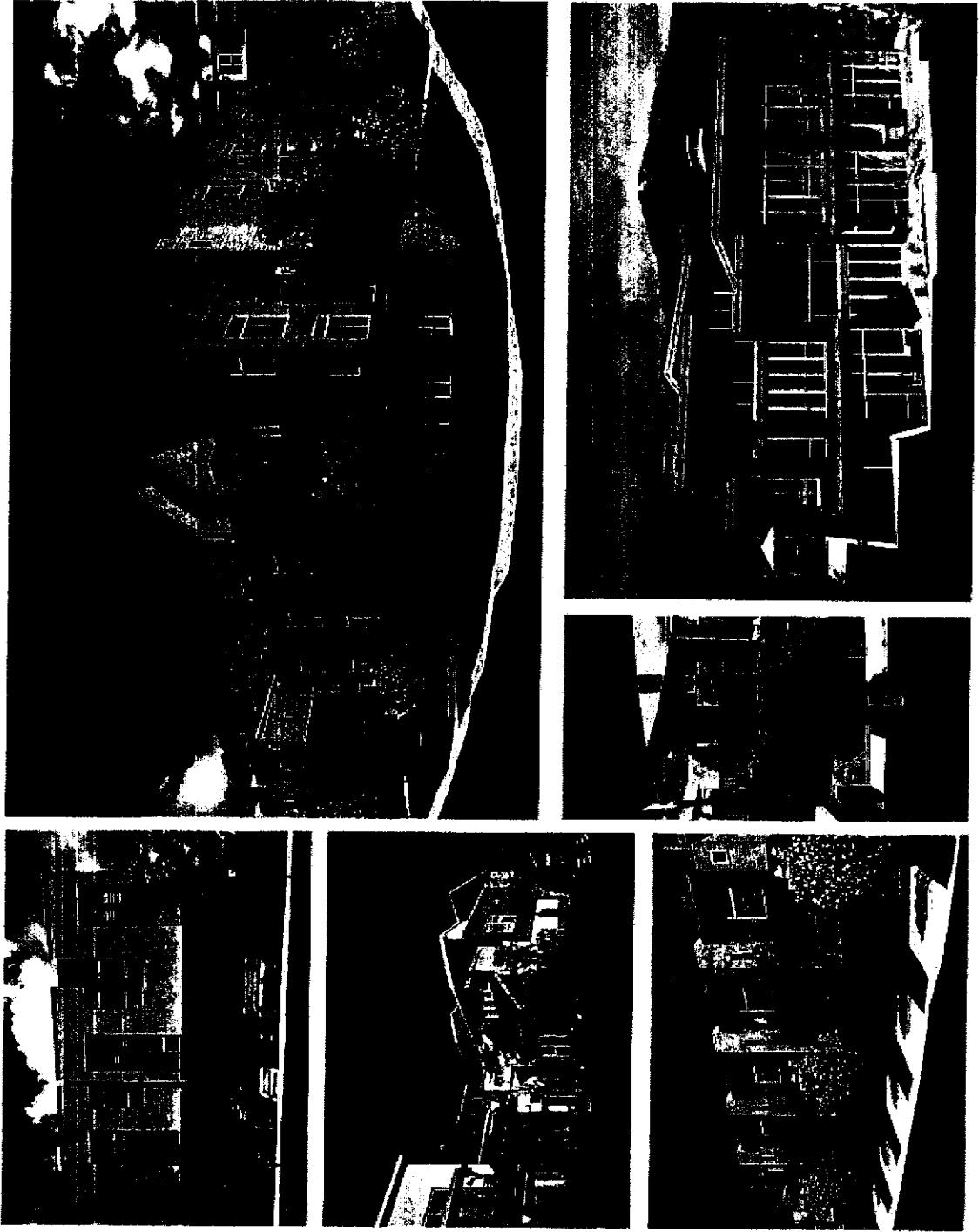


MULTI-FAMILY APARTMENTS/TOWNHOMES

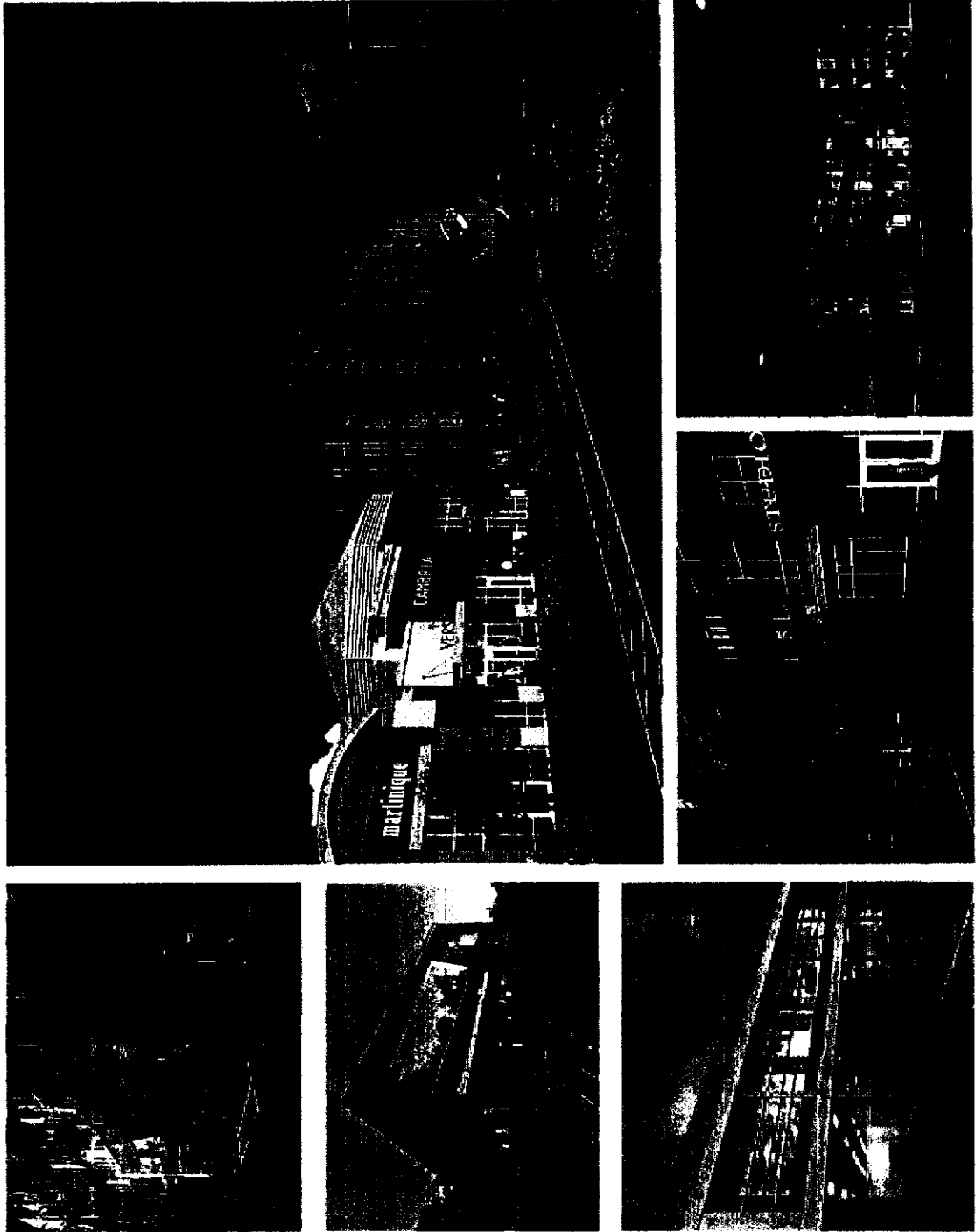


# 2.0 ARCHITECTURAL CONCEPTS

## MULTI-FAMILY TOWNHOMES/CONDOMINIUMS



COMMERCIAL



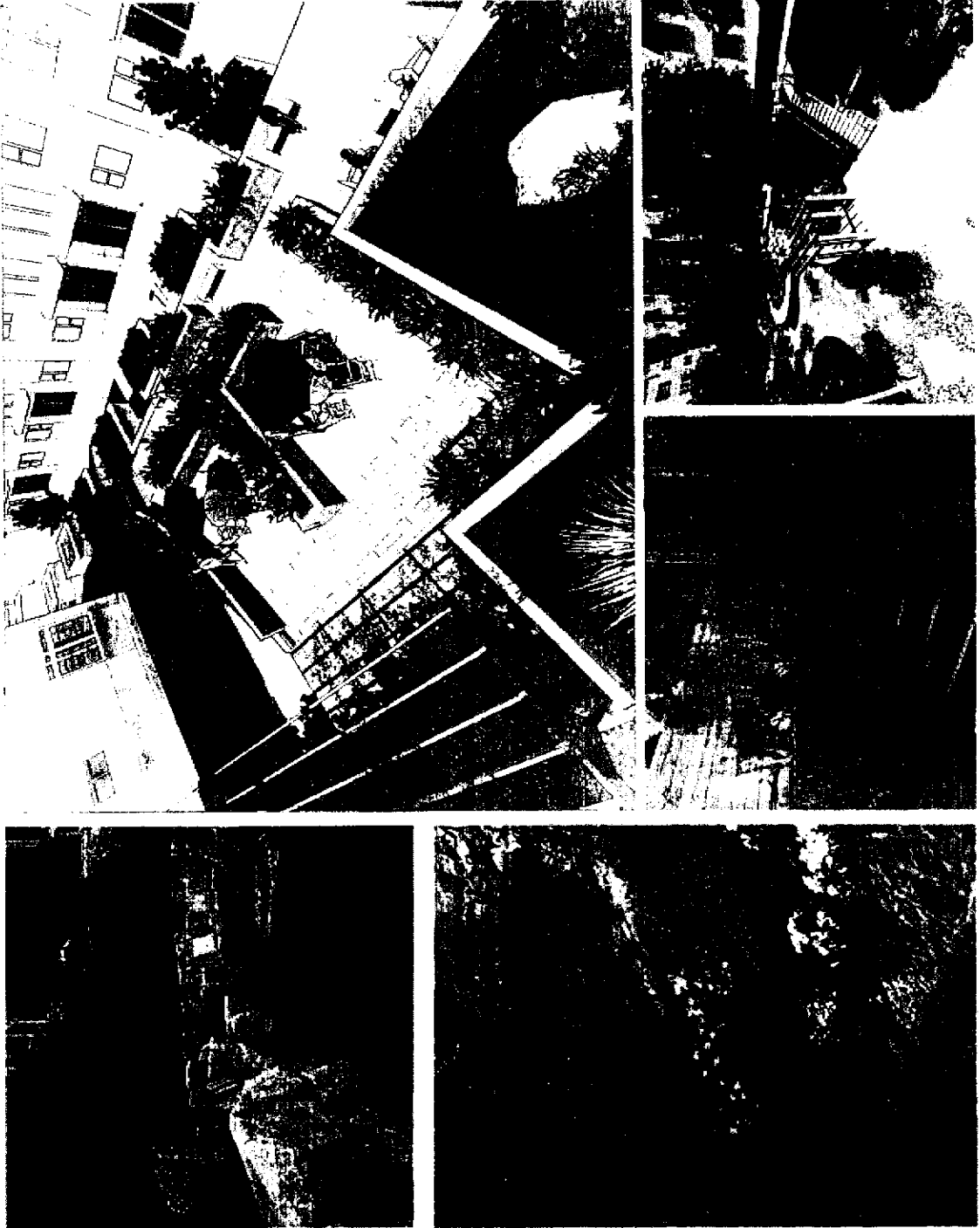


### 3.0 LANDSCAPE CONCEPTS

#### PLANTING, WALLS AND PLAZAS

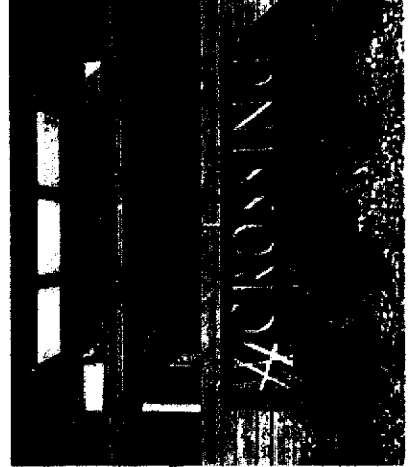
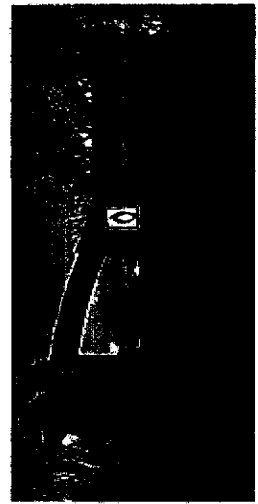


PLANTING WALLS AND PLAZAS

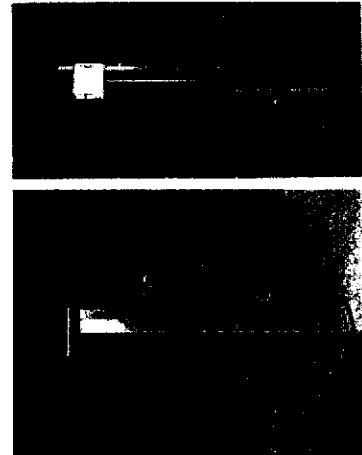
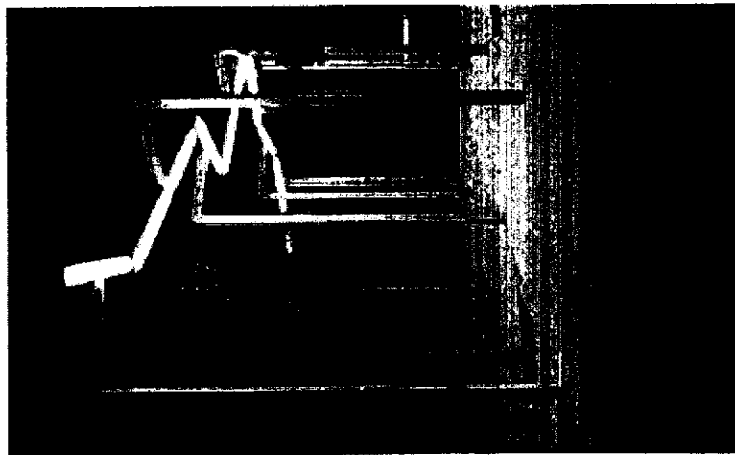
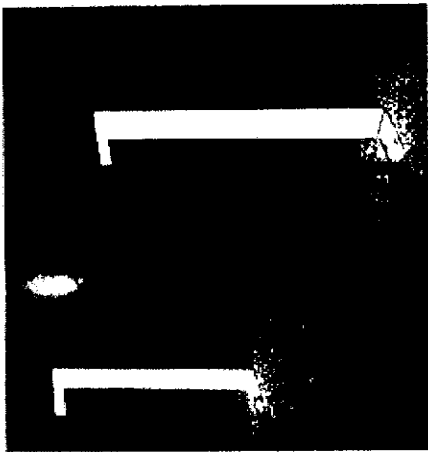
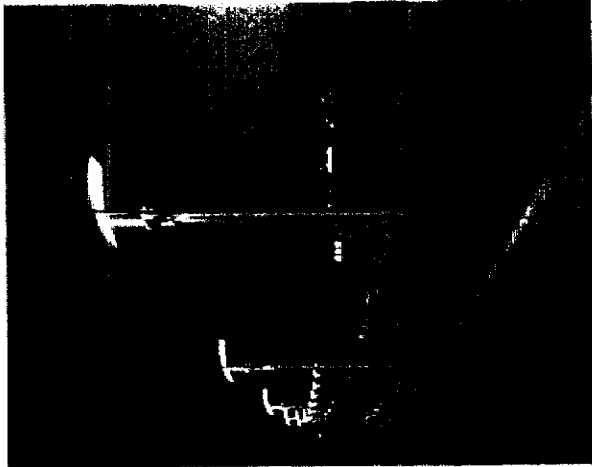


# 4.0 SITE FEATURES

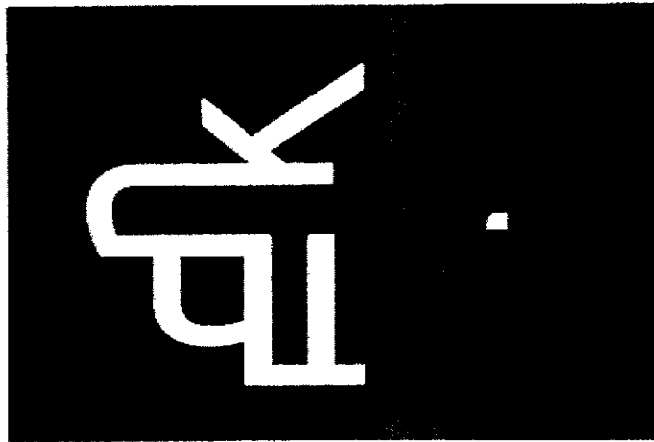
## MONUMENT SIGNAGE



LIGHTING



11



Architecture

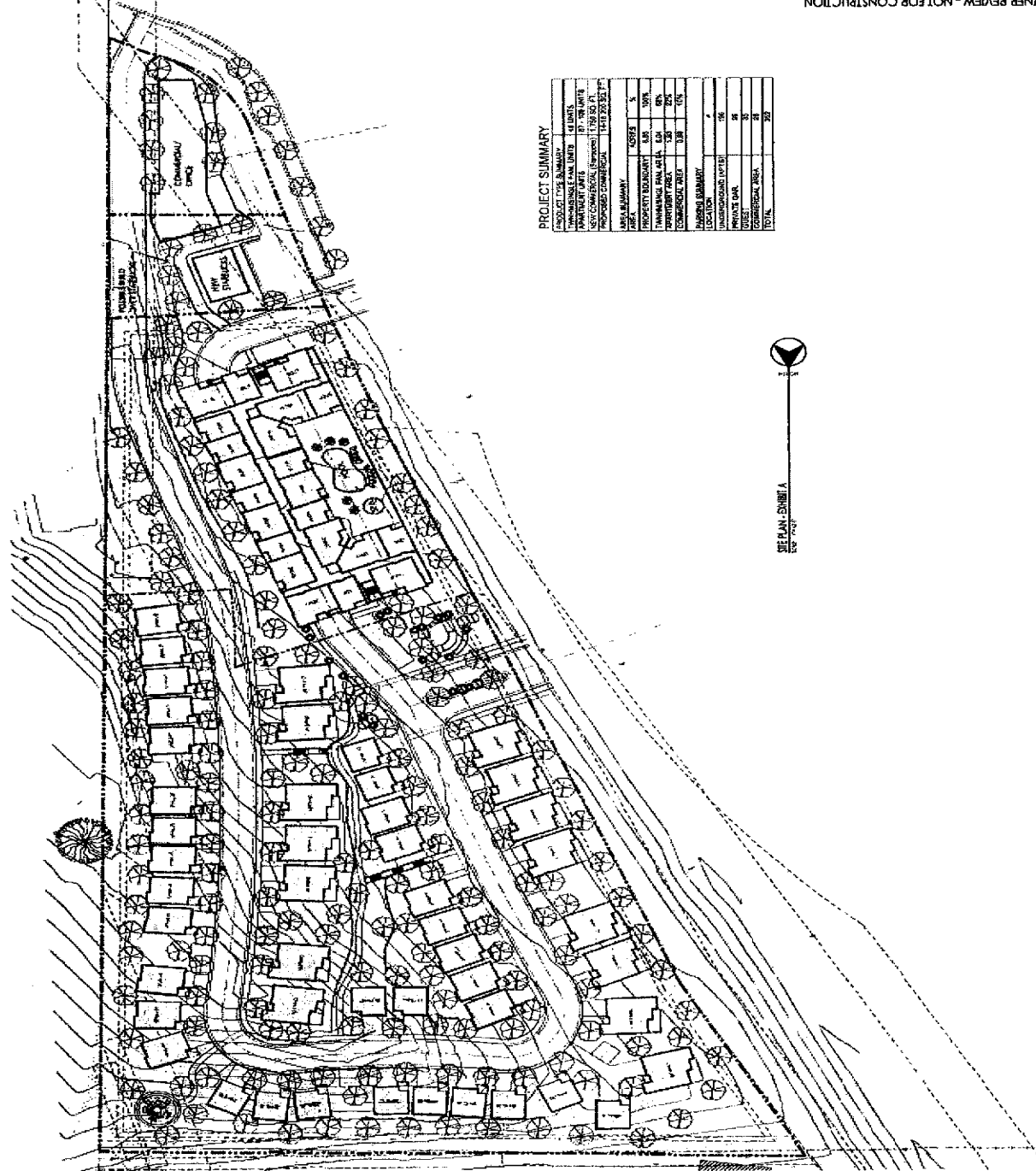
**pk** Think Architecture

ARCHITECTURE  
 Interior Design  
 Landscape Architecture  
 Drafting  
 Construction Management

3375 South 2000 West  
 Suite 100, Salt Lake City, UT 84119  
 Tel: 313.200.8800  
 Fax: 313.200.8801  
 www.thinkpk.com

1 EAST HARRISON  
 SOUTH OGDEN, UTAH

PROJECT NO. 10711  
 DATE 20 DEC 2014  
 REPORT  
 SITE: 1 EAST HARRISON  
 MASTER PLAN  
 PERMITS: A100  
 OWNER REVIEW - NOT FOR CONSTRUCTION



PROJECT SUMMARY

PROJECT TYPE	THREATS
RESIDENTIAL	100%
COMMERCIAL	0%
INDUSTRIAL	0%
NEW COMMERCIAL (EMPLOY)	1,000 SQ FT
INDUSTRIAL	0
NEW COMMERCIAL	1,000 SQ FT

AREA SUMMARY	ACRES	%
PROPERTY BOUNDARY	5.00	100%
THREATING AREA	0.00	0%
PROPERTY FLOOR	1.00	20%
COMMERCIAL FLOOR	0.00	0%
INDUSTRIAL FLOOR	0.00	0%
RESIDENTIAL FLOOR	4.00	80%
UNDEVELOPED FLOOR	0.00	0%
TOTAL	5.00	100%

SITE PLAN - SHEET A  
 10/20/14

**EXHIBIT C**

**1 East Harrison ALLOWED LAND USES**

[Exhibit to be further developed.]

Permitted Uses, Uses Not Permitted, and Conditional Uses

P = Permitted  
 NP = Not Permitted  
 C = Conditional

**COMMERCIAL USES (from C-2 Zone):**

Accessory building and uses customarily incidental to a permitted use	P
Air conditioning, sales and service	N
Altering, pressing and repairing of wearing apparel	P
Amusement arcade	N
Amusement enterprises	N
Animal hospital, small animals only and provided conducted within completely enclosed building	N
Antique, import or souvenir shop	P
Archery shop and range, provided conducted within completely enclosed building	P
Art and artists supply store	P
Athletic and sporting goods store, excluding sale or repair of motor vehicles, motorboats or motors	P
Athletic club	P
Auction establishment	N
Auto gas station/convenience store	P
Auto service center providing there is no outside storage of parts or materials and any customer vehicles stored outside between seven o'clock (7:00) P.M. and six o'clock (6:00) A.M. shall be screened from view by a fence or wall	P
Automobile, new or used, sales and service	C(N)
Automobile parts sales	P
Automobile repair, including paint, body and fender, brake, muffler, upholstery or transmission work, provided conducted within completely enclosed building	N

Awning sales and service	P
Baby formula service	P
Bakery manufacture limited to goods retailed on premises	P
Bank or financial institution, including temporary bank or financial institution	P
Barbershop	P
Bath and massage establishment	P
Beauty culture school	C
Beauty parlor for cats and dogs	P
Beauty shop	P
Beer parlor, sale of draft beer	N
Bicycle sales and service	P
Billiard parlor	N
Blueprinting and photostating	P
Boarding house	C
Boat sales and service	C
Body art (tattooing)	P(N)
Bookbinding	N
Bookstore, retail	P
Bottling and distribution plant	N
Bowling alley	C
Boxing arena	N
Building materials sales or yard	N
Bus terminal	P
Cafe or cafeteria	P
Camera store	P
Candy manufacture	N
Candy store, confectionery	P
Car wash, laundry type	C
Car wash, manual spray	P
Carbonated water sales	N



Carpet, rug and linoleum service	P
Cash register sales and service	P
Catering establishment	P
China, crystal and silver shop	P
Christmas tree sales	P
Church	C
Church, temporary revival	C
Circus, carnival or other transient amusement	N
Cleaning and dyeing establishment	P
Clinics, medical or dental	P
Clothing and accessory store	P
Cluster sign	P
Coal and fuel sales office	N
Communication equipment building	P
Contractor shop, provided work conducted within a completely enclosed building	N
Costume rental	P
Dairy products store	P
Dance hall	N
Data processing service and supplies	P
Delicatessen	P
Department store	P
Detective agency	P
Diaper service, including cleaning	P
Drapery and curtain store	P
Drive it yourself agency or business	P
Drug store	P
Dry cleaning establishment	P
Dry cleaning pick up station	P
Dwelling unit for proprietor or night watchman and family	C
Educational institution	P

Egg and poultry store, providing no live bird slaughtering or eviscerating permitted	P
Electrical and heating appliances and fixtures sales and service	P
Employment agency	P
Express and transfer service	N
Fabric and textile store	P
Farm implement sales	N
Film exchange establishment	P
Five and ten cent store	P(C)
Florist shop	P
Frozen food lockers, incidental to a grocery store or food business	P(N)
Fruit store or stand	P
Fur apparel sales, storage or repair	P
Furniture sales and repair	P
Garden supplies and plant materials sales	P
Gift store	P
Glass sales and service	P
Government buildings or uses, nonindustrial	P
Greenhouse and nursery; soil and lawn service	P
Grocery store	P
Gunsmith	P(N)
Gymnasium	P
Hardware store	P
Health club	P
Health food store	P
Heliport	C
Hobby and crafts store	P
Hospital supplies	C
Hotel	C
House cleaning and repair	P

House equipment display	P
Household appliance sales and service	C
Household pets, dwelling units only	P(N)
Ice cream manufacture	N
Ice cream parlor	P
Ice manufacture and storage	N
Ice store or vending station	P
Indoor storage units	P(N)
Insulation sales	P(N)
Insurance agency	P
Interior decorating and design	P
Janitor service and supply	P(C)
Jewelry store sales and service	P
Knitting mills	N
Laboratory, dental and medical	P
Launderette or laundromat	P(N)
Laundry or dry cleaners, laundromat type	P(N)
Laundry or dry cleaning establishment	N
Lawn mower sales and service	P(N)
Leather goods, sales and service	P
Legal office	P
Library	P
Linen store	P
Linen supply service	N
Liquor store	P(N)
Locksmith	P
Lodge or social hall	P
Lodging house	C
Lounge	N
Luggage store	P

Lumberyard	N
Machine shop operations incidental to any use permitted in C-3 zone	N
Manufacture of goods retailed on premises	€(N)
Meat, fish and seafood store	P(N)
Medical office	P
Millinery	P
Miniature golf	N
Mobile home sales lot and service	N
Monument works and sales	P(C)
Mortuary	€(N)
Motel	C
Motorcycle and motor scooters, sales and service	C
Museum	P
Music store	P
Needlework, embroidery or knitting store	P
Newsstand	P
Nightclub or social club	N
Notions store	P
Novelty store	P(N)
Nursery school	P
Office in which goods or merchandise are not commercially created, exchanged or sold	P
Office machines sales and service	P
Office supply	P
Oil burner shop	N
Optometrist, optician or oculist	P
Ornamental iron sales or repair	C
Outcall services	P(N)
Paint and wallpaper store	P
Paperhanger shop	P

Park and playground	P
Parking lot or garage for passenger automobiles	E(N)
Pawnshop	N
Penny arcade	N
Pest control and extermination	P
Pet and pet supply store	P(N)
Pharmacy	P
Photo studio	P
Photographic supplies	P
Physician or surgeon	P
Pie manufacture	P
Plumbing shop	C
Pony ring, without stables	N
Pool hall	N
Popcorn or nut shop	P
Post office	P
Printing, lithographing, publishing or reproductions, sales and service	C
Private club	P(N)
Professional office	P
Public utilities substation	E(N)
Radio and television, sales and service	P
Radio, television or FM broadcasting station	P(N)
Real estate agency	P
Reception center or wedding chapel	C
Recreation center	C
Recreational vehicle storage	E(N)
Rental agency for home and garden equipment	P
Restaurant, drive-in	P
Roller skating rink	C
Roofing sales or shop	P

Secondhand store	P(N)
Seed and feed store, retail	P(C)
Sewing machine sales and service	P
Sexually oriented businesses	N
Sheet metal shop and retinning, provided all operations conducted within completely enclosed building	N
Shoe repair and shine shop	P(C)
Shoe store	P
Shooting gallery	N
Short term lending business	P(N)
Supermarket	P
Tailor shop	P
Tavern	N
Taxicab stand	P(N)
Taxidermist	P(N)
Telegraph office	P(N)
Temporary building for uses incidental to construction work. Such buildings shall be removed upon the completion of the construction work	P
Theater, indoor	P
Theater, outdoor	N
Tire recapping or retreading sales and services	N
Tobacco shop	P(N)
Tool design (precision), repair and manufacture	N
Toy store, retail	P
Trade or industrial school	C
Trailer agency	P(N)
Trailer sales and service	N
Truck terminal	N
Upholstery shop	P(N)
Variety store	P

Vegetable store or stand	P
Ventilating equipment sales and service	C(N)
Warehouse storage	N
Weather stripping shop	P
Wedding chapel	P(N)
Welding shop	N
Wholesale business	N
Window washing establishment	P

**PERMITTED RESIDENTIAL USES (from R-5 Zone):**

1. Accessory building and use customarily incidental to any permitted use
2. Home occupation
3. Multiple dwellings on a single lot with the number of dwelling units to be approved in the PDP approval process
4. Multiple-family dwelling with the number of dwelling units to be approved in the PDP approval process
5. Parking lots accessory to uses permitted in this zone
6. Planned residential unit development
7. Residential facility for disabled persons
8. Single-family dwelling
9. Temporary building for use incidental to construction work (Such building shall be removed upon the completion or abandonment of the construction work)
10. Two-family dwelling

**CONDITIONAL RESIDENTIAL USES (From R-5 Zone):**

1. Nursing home



**EXHIBIT D**  
**VESTED DEVELOPMENT STANDARDS**

These Development Standards are intended to ensure high quality site planning within the 1 East Harrison Property under the Development Agreement. These Vested Development Standards apply to development within the Property. These Vested Development Standards provide minimum standards for development and have been finalized in a form that would be appropriate for application within the entire Property. These Vested Development Standards shall supersede any inconsistent requirements of the Code.

**GENERAL DEVELOPMENT STANDARDS:**

**A. Relation to Adjoining Street System:**

1. Streets from the development shall approach Public streets at an angle of not less than eighty degrees (80°).
2. Developer shall not be required by this Development Agreement to make any improvements to or to install landscaping within the Harrison Blvd. right-of-way unless required so to do by appropriate UDOT authority.

**B. Streets:**

1. Public or Private Streets: All streets within the Property shall be private; and, streets serving the Property shall be public.
2. Street Cross Section Standards: All proposed streets providing primary access to, or located within the Project, shall be designed and constructed to meet minimum fire code requirements and to conform the the City's then existing Public Works Standards..
3. Street Grades: Except where due to special circumstances, as approved by the Planning Commission, street grades over any sustained length, as that term is defined in the City's public works standards or, if not listed, as determined by the City Engineer, shall not exceed twelve percent (12%).
4. Harrison Blvd Access: The cross section for the main Harrison Blvd access point approved by the City is attached hereto, but the final location and configuration of such access shall be determined by UDOT.
5. Driveways. Developer may propose access driveways leading to the garage or garages serving multiple residential units with a minimum driveable surface width of twenty (20) feet.

**C. Lots:**

1. Commercial, Multi-family and Mixed Use Development Parcels: Such parcels shall not be required to have any minimum parcel area or meet any setback requirements.

2. Residential Lot Area and Width: All residential lots within the Property must be at least twenty-five (25) feet wide along a public or private street, have at least 1,300 square feet and have minimum eighteen (18) foot front yard setback and a minimum fifteen (15) foot rear yard setback. Structures on residential lots may be constructed as attached on a lot line without a side yard setback except to the extent a side yard utility easement is necessary to serve one or more lots and except on corner lots, where each street shall be treated as having a front yard setback.

3. Natural Drainage and Other Easements: Easements for drainage, water, sewer, power lines and other utilities shall be provided as required and necessary for the installation, service and maintenance of utilities necessary to adequately service the development and as required to deal with any existing natural drainage areas on the Property. For residential lots, such easements shall only be required along front and rear lot lines unless another location is otherwise necessary to serve one or more lots.

D. Structures:

1. Retail, Office or Other Commercial Structures: Commercial structures in the South Zone shall not exceed eighty-five (85) feet in height, measured to the top of structure from the highest level of finished grade abutting the structure but excluding the height of any rooftop equipment and any parapet wall that screens rooftop equipment.

2. Multifamily: Multifamily structures shall not exceed eighty-five (85) feet in height, measured from the highest level of finished grade abutting the structure to the top of structure but excluding the height of any rooftop equipment or any parapet wall that screens rooftop equipment.

3. Residential Structures on Lots: Residential structures on lots shall not exceed forty (40) feet in height measured from the highest level of finished grade abutting the structure to top of roof.

E. Parking:

1. Off-street Parking: Off-street parking shall be provided under the following standard: Developer shall provide parking at the rate of 1.0 space for each dwelling unit, 4 spaces per 1000 square feet of retail, and 3 spaces per 1000 square feet for all other uses. Structured parking shall be permitted. Parking requirements shall be determined for the Property by the city engineer and adjusted, up or down, as Projects are designed and approved. Each Project shall be individually evaluated and shall provide parking as required above unless Developer can demonstrate compliance with parking requirements by showing parking is otherwise reasonably anticipated to be available in the overall developed portions of the Property. Developer may configure parking stalls and drive aisles using commercially reasonable dimensions, including the use of compact vehicle

parking stalls.

2. Shared Parking: Developer may implement shared parking arrangements and transportation system management plans applying broadly recognized standards or criteria to calculate, construct and operate parking to minimize the land area dedicated to parking. The intent of this provision is to assure these mixed use projects are not required to construct parking spaces in excess of the reasonable estimate of the parking that may be required during typical periods of peak parking demand. The foregoing provisions shall not be construed to limit the construction of parking spaces besides the amount calculated under the preceding standards.

F. Exterior Lighting:

1. General Lighting Standards: Lighting of streets, pedestrian walkways, parking areas and any open space is required and shall be designed and installed under the lighting concepts approved in Exhibit B. Exterior wall-mounted flood lights are prohibited other than in loading and service areas at the back of commercial and multifamily buildings. Indirect lighting, bollard lighting and landscape lighting is preferred. Lighting fixtures shall not cast light beyond the mixed-use project, except for the public rights-of-way. Design and location of standards and fixtures shall be specified on an overall lighting plan approved for the entire Property before or with the first Project Development Plan approval or otherwise incorporate with Project Development Plan approval submittals.

SUBDIVISION IMPROVEMENTS:

1. Water Lines: Developer shall install water lines to provide the water supply, both potable and secondary, as may be necessary, to each lot and development parcel within the development, including laterals to service each lot. The size of water mains shall be approved by the city engineer.

2. Sewage Disposal: Developer shall connect with the sanitary sewer and provide adequate sewer lateral lines to the property line of each lot. Where necessary to serve a lot or portions of the development, Developer may utilize sewage lift stations or pumps to access main sewer lines. Such sewer connections and subdivision sewer systems shall comply with the regulations and specifications of, and shall be approved by, the planning commission and city engineer.

3. Curbs and Gutters: Curbs and gutters shall be installed per the standard street section, as set out in the City's public works standards, attached hereto.

4. Street Drainage and Drainage Structures: Street drainage and drainage structures shall be installed as necessary to adequately facilitate stormwater and drainage requirements of the project site under existing City standards.

5. Sidewalks: Sidewalks shall be installed per the standard public works standards street section attached hereto.

6. Fire Hydrants: Fire hydrants shall be installed. Such fire hydrants shall be of the type, size, and number and installed in such locations as determined by the fire department.

7. Street Lighting: Street lighting depicted in Exhibit B shall be installed by the Developer at road intersections and intersections of roads and parking lot access points and at such other locations as determined appropriate by Developer or the City.

8. Site Grading and Retention: All site grading and any necessary slope stabilization and retention shall be accomplished under standard engineering standards and best practices. Where reasonably possible, slope retention will be incorporated into the design of structures that will abut and support finished slopes, but freestanding walls shall be allowed to the extent such walls may be constructed under standard engineering standards and best practices. Subject to complying with such standards and practices, Developer may make such modifications to existing site conditions and grades as may be necessary to construct all Projects and improvements to the Property.

#### SPECIFIC DESIGN STANDARDS:

##### A. Architectural Design:

1. Architectural Treatment: The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site in general character with other buildings within the Property as described and depicted in Exhibit B. Specific Project designs may nevertheless provide diversity or variation in specific design and architectural elements where appropriate or as required to meet specific tenant requirements upon approval of the city.

2. Screening: All mechanical units or equipment on the roof of a building shall be screened, and the height of such screening shall be higher than the height of such equipment. Where practicable considering the topography of the site relative to adjacent roadways, mechanical units on roofs within the Property and all trash receptacles shall be screened to minimize visibility from public streets abutting the perimeter of the Property.

3. Fences and Walls: Walls constructed to retain slopes shall be addressed by the site grading and retention standards set forth above. Other fences and walls shall be compatible in color and design with the features of nearby building materials. The rear yards of residential lots may be enclosed by fences or walls. A single style of fence or wall used to separate lots shall be utilized within any one Project.

##### B. Landscape Design:

1. General Landscape Standards: Landscape treatment of those areas available for planting shall provide a strong visual identity for the Property and shall implement the landscaping concepts in Exhibit B. There shall be no quantity of landscaping required for

any Project or the Property; rather landscaping shall be incorporated into the Projects and Property as described in the text and shown on the conceptual plans in Exhibit B. Site landscaping shall contribute to the visual unity of the developed Property considered as a whole, rather than call attention to individual sites. Front, side and rear yard landscaping for individual sites shall integrate with landscaping of streets and properties near such sites. Species shall be selected from an approved plant list incorporated in Exhibit B.

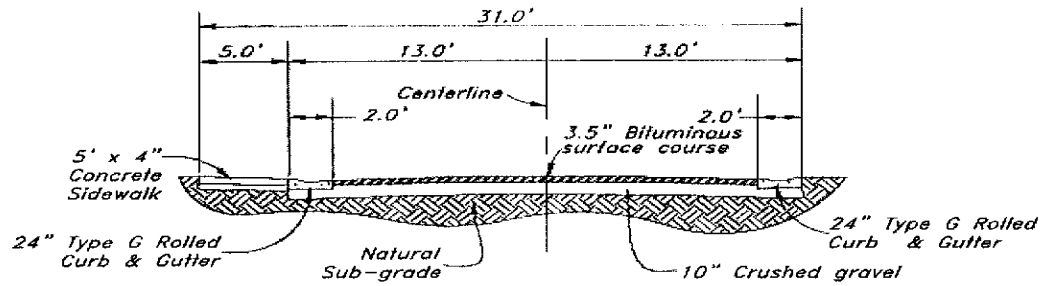
2. Landscape Plans: Landscape plans shall be submitted and approved with a Project Development Plan approval.

**C. Signage:**

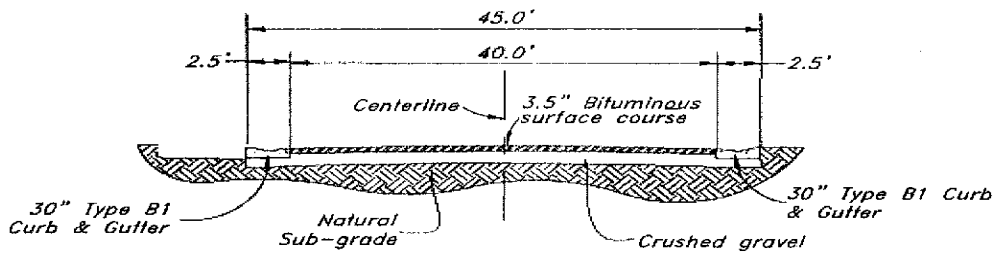
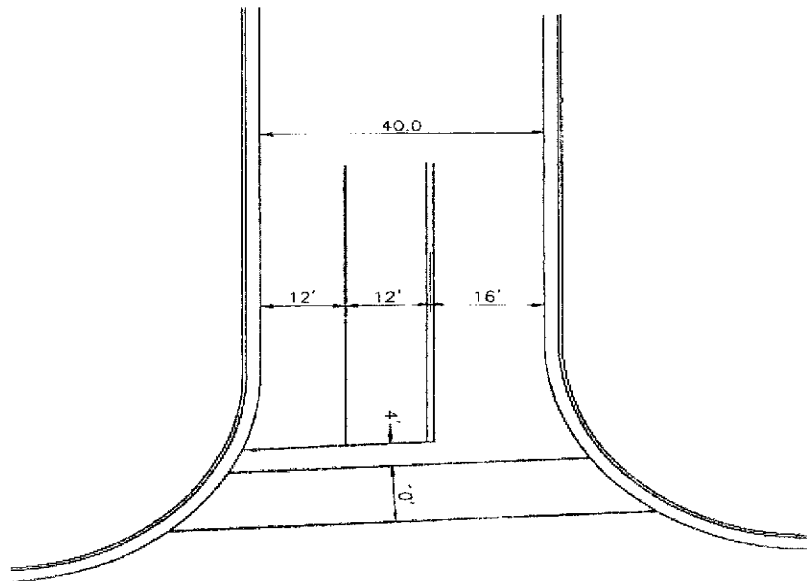
1. General Signage Standards: Signs shall implement the signage concepts in Exhibit B. Specific signage plans shall be submitted and approved with a Project Development Plan approval.

**List of Attachments:**

Typical Street Section  
Entrance Street Section



***Typical Street Section***



**Entrance Street Section**