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**DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on July 9, 2008, by and between Provo City Corporation, a Utah municipal corporation, hereinafter referred to as "City", and Block 29 Developers, LLC, a Utah limited liability company, hereinafter referred to as "Developer".

**RECITALS**

- A. Developer is the developer of certain property located generally at 180 North University Avenue in Provo, Utah (the "Property"), which is more fully described in Exhibit "A" attached hereto and incorporated herein.
- B. Developer proposes to develop and operate a mid-rise mixed-use building and parking structure (the "Project") on the Property.
- C. Developer has entered into a Joint Development Agreement dated March 17, 2008 (the "RDA Agreement") with the Redevelopment Agency of Provo City Corporation ("Agency") to effectuate the Community Development Project Area Plan for the Financial Center Community Development Project Area ("Project Area")
- D. Developer has requested a conditional use permit for the reduction of the off-street parking requirement for the Project.
- E. The Property is located one block north of the current Central Business District (the "CBD"). Within the CBD, the number of off-street parking spaces may be reduced by fifty percent (50%) upon approval of the Planning Commission.
- F. On February 27, 2008, after a duly noticed public hearing, City's Planning Commission approved Developer's application for a Conditional Use Permit subject to certain findings and conditions as set forth in Exhibit "B", attached hereto and incorporated herein.
- G. To allow development of the Property for the benefit of Developer, to ensure City that the development of the Property will conform to applicable policies, and address concerns of property owners in proximity to the Property, Developer and City desire to enter into this Agreement and are each willing to abide by the terms and conditions set forth herein.

**AGREEMENT**

Now, therefore, in consideration of the premises recited above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

- 1. Applicable Code Provisions. All provisions of the Provo City Code (the "Code") as constituted on the effective date of this Agreement shall be applicable to the Project on the Property except to the extent this Agreement is more restrictive or that the provisions of the Code are specifically modified herein. The parties acknowledge that in order to proceed with development of the Property, Developer shall comply with the requirements

of this Agreement, the Code, and other requirements generally applicable to development in Provo City.

2. Parking Adequacy Monitoring. Commencing on or before the date which is twelve months following the receipt of a Certificate of Occupancy for the Project, and at least once every twelve months thereafter, Developer shall conduct a study of parking adequacy for the Project (the "Parking Study").
  - a. The Parking Study shall address current parking demands and evaluate the sufficiency of parking for the uses of the Project by monitoring parking counts versus total parking spaces available over a two (2) week period. Said Parking Study shall only be conducted on business days between the hours of 8:00 A.M. and 6:00 P.M., and shall not be required for any time during which the Parking is open to the general public in accordance with the RDA Agreement.
  - b. The Parking Study shall be submitted to Planning Staff of City for review and administrative or Planning Commission action as hereafter provided, if required.
  - c. If the average parking demand as calculated in Section 2(a) of this Agreement exceeds ninety percent (90%) of the available parking capacity of the Project, Developer shall either: (i) provide additional parking to meet the then required parking standard or (ii) shall take other mitigating actions as reasonably determined by the Planning Commission to meet the purpose of the Code, Section 14.37.050(3) (d) including, but not limited to providing mass transit passes, imposing lease parking restrictions, providing satellite parking or leasing other parking.
3. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of police powers of City to enact zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of City to enact such legislation under its police power, such legislation shall not modify Developer's rights as set forth herein unless (a) facts and circumstances are present which meet the compelling, countervailing public interest exception to the vested rights doctrine, as set forth in Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah, 1988), or applicable successor case law or statute and (b) any such proposed change affecting Developer's rights shall be of general application to all development activity in City. Unless City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project.
4. Change in the Central Business District Boundaries. If (a) Developer applies to be included in the boundaries of the core parking area of the CBD zone or if the City changes, modifies or otherwise extends the boundaries of the core parking area of the CBD zone to include the Property in the revised core parking area of the CBD zone so that the Property is so included, and (b) Developer applies to the Planning Commission for a reduction in the parking requirement for the Project which is available to properties located in the core parking area of the CBD zone as noted in the Code, Section 14.37.050(2) and which may permit up to a 50% reduction in the required parking, then the conditional use permit which has been approved by the Planning Commission and granted to Developer and which allows a reduction in the number of required off-street

parking stalls for the Project and the provisions of this Agreement shall not be a basis for the denial of a reduction pursuant to Section 14.37.050(2). If, as provided above, the Planning Commission grants Developer a reduction of the off street parking requirement so that the number of off street parking stalls required is less than or equal to the number of off street parking stalls in the Developer's parking facility, then the Parking Study requirement of this Agreement shall be immediately terminated, no further mitigation shall thereafter be required, and this Agreement shall expire.

5. Final Project Approval. Developer shall cause final project plans and specifications (including site and building design plans) (the "Plans") to be prepared for the Project in accordance with all Code and City requirements, except as otherwise provided in the Conditional Use Permit, including both the reduction in the off street parking requirement or the provision for a awning, canopy or marquee.
  - a. Developer shall comply with all conditions of the Planning Commission Conditional Approval dated February 28, 2008 (attached hereto as Exhibit "B").
  
6. Successors and Assigns.
  - a. Change in Developer. This Agreement shall be binding on the successors and assigns of Developer. A purchaser of the Project or any portion thereof shall be responsible for performance of Developer's obligations hereunder as to any portion of the Project so transferred. In the event of a transfer of the Project or any portion thereof ("Transfer"), Developer and transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such Transfer (i) an agreement satisfactory to City, delineating and allocating between Developer and transferee the various rights and obligations of Developer under this Agreement, has been approved by City, or (ii) Developer obtains from transferee a letter acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by transferee, notarized, and delivered to City prior to the Transfer. Upon execution of an agreement or receipt of the letter described above, the transferee shall be substituted as Developer under this Agreement and the person or entity executing this Agreement as Developer shall be released from any further obligations under this Agreement as to the property so transferred. It is acknowledged that Developer has established the Project as condominiums under the Utah Condominium Ownership Act and that Developer will sell some or all of condominium units in the Project to separate unit owners. City acknowledges and agrees that rather than assigning the obligations under this Agreement to the separate unit owners, that Developer may assigned the obligations of Developer under this Agreement to the Condominium Owners Association and that City shall not reasonably withhold its consent or approval to the assignment of such obligations to the Condominium Owners Association.
  
7. Default.
  - a. Events of Default. Upon the happening of one (1) or more of the following events or conditions, Developer or City, as applicable, shall be in default ("Default") under this Agreement:

- i. A warranty, representation, or statement made or furnished by Developer under this Agreement is intentionally false or misleading in any material respect when it was made; or
- ii. A determination by City made upon the basis of substantial evidence that Developer has not complied in good faith with the terms or conditions of this Agreement; or
- iii. Any other event, condition, act or omission, either by City or Developer, (1) that violates the terms of, or (2) materially interferes with the intent and objectives of this Agreement.

b. Procedure Upon Default.

- i. Upon the occurrence of Default, the non-defaulting party shall give the other party thirty (30) days written notice specifying the nature of the alleged Default and, when appropriate, the manner in which said Default may be satisfactorily cured. In the event the Default cannot be reasonably cured within thirty (30) days, the defaulting party shall have such additional time as may be necessary to cure such Default so long as the defaulting party takes action to begin curing such Default within such thirty (30) day period and thereafter proceeds diligently to cure the Default. After proper notice and expiration of said thirty (30) day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take action specified in Paragraph 7(c) herein. Failure or delay in giving notice of Default shall not constitute a waiver of Default.
- ii. 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 therefore, 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.

- c. Breach of Agreement. Upon Default as set forth in Paragraphs 7(a) and 7(b) above, City may declare Developer to be in breach of this Agreement and City (i) may withhold approval of any or all building permits or certificates of occupancy applied for in the Project, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of occupancy for any building within the Project until the breach has been corrected by Developer. In addition to such remedies, either City or Developer (in the case of Default by City) may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.

8. General Terms and Conditions.

- a. Recording of Agreement. This Agreement shall be recorded to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.
- b. Severability. Each and every provision of this Agreement shall be separate, several and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provision shall not affect the enforceability of any other provision hereof.
- c. Time of Performance. Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties, each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.
- d. Construction of Agreement. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of City.
- e. State and Federal Law; Invalidity. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with 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, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's approval of the Project is held invalid by a court of competent jurisdiction, this Agreement shall be null and void.
- f. Enforcement. The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Developer violates the rules, policies, regulations or ordinances of City, or violates the terms of this Agreement, City may, without declaring a default hereunder or electing to seek an injunction, and after thirty (30) days prior written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation), take actions as shall be deemed appropriate under law until such conditions have been rectified by Developer. City shall be free from any liability arising out of the exercise of its rights under this paragraph.
- g. 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 right it may have hereunder. Unless approved by vote of City's Planning Commission taken with the same formality approving this Agreement, no officer, official or agent of City has the power to waive any of its conditions as to bind City by making any promise or representation contained herein.
- h. Entire Agreement. This Agreement shall supersede all prior agreements with respect to the subject matter hereof, not incorporated herein, and all prior agreements and understandings are merged herein.

- i. Amendment of Agreement. This Agreement shall not be modified or amended except in written form mutually agreed to and signed by each of the parties. No change shall be made to any provision of this Agreement unless this Agreement is amended pursuant to a vote of City's Planning Commission taken with the same formality as the vote approving this Agreement.
- j. Attorney's Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorney's fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein.
- k. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be deemed to have been sufficiently given or served for all purposes when presented personally, or four (4) days after being sent by registered or certified mail, properly addressed to the parties as follows (or to other such address as the receiving party shall have notified the sending party in accordance with the provisions hereof):

To Developer:                   Block 29 Developers, LLC  
                                           One East Center Street, Suite 300  
                                           Provo, Utah 84606

With a copy to:                 David Jeffs  
                                           Jeffs & Jeffs P.C.  
                                           P.O. Box 888  
                                           90 North 100 East  
                                           Provo, Utah 84603

To City:                           Community Development Director  
                                           P.O. Box 1849  
                                           Provo, Utah 84603

With a copy to:                 Mayor's Office  
                                           P.O. Box 1849  
                                           Provo, Utah 84603

- l. Applicable Law. This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder are to be construed and enforced in accordance with the laws of the State of Utah.
- m. 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 said facsimile copy.

- n. Hold Harmless. Developer agrees to and shall hold City, its officers, agents, employees, consultants, special counsel, and representatives harmless from liability for damages, just compensation, restitution, or judicial or equitable relief which may arise from or are related to any activity connected with the Project, including approval of the Project; the direct or indirect operations of Developer or its contractors, subcontractors, agents, employees or other persons acting on its behalf which relates to the Project; or which arises out of claims for personal injury, including health, and claims for property damage.
- i. The agreements of Developer in this Paragraph shall not be applicable to (1) any claim arising by reason of negligence or intentional tort actions of City, or (2) attorney's fees under Paragraph 7(j) herein.
  - ii. 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 thirty (30) days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, Developer shall be entitled to 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.
- o. Relationship of Parties. The contractual relationship between City and Developer arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights. It is specifically understood by the parties that: (1) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Developer; (2) the Project is a private development; (3) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (4) Developer shall have full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.
- p. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Developer has complied with the terms of this Agreement. If the City finds, on the basis of substantial evidence, that Developer has failed to comply with the terms hereof, City may declare Developer to be in Default as provided in Paragraph 7 herein. 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 Default under this Agreement by Developer or City.
- q. Institution of Legal Action. In addition to any other rights and remedies, either party may institute legal action to cure, correct or remedy any Default or breach, to specifically enforce any covenants or agreements set forth in this Agreement or to enjoin any threatened or attempted violation of this Agreement; or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth District Court, State of Utah, or in the Federal District Court for the District of Utah.
- r. Title and Authority. Developer expressly warrants and represents to City that Developer (1) owns all right, title and interest in and to the Property, and (2) that

prior to the execution of this Agreement no right, title or interest in the Property has been sold, assigned, or otherwise transferred to any entity or individual other than to Developer. Developer further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind. Developer warrants that the undersigned individual(s) has/have full power and authority to enter into this Agreement on behalf of Developer. Developer understands that City is relying on these representations and warranties in executing this Agreement.

- s. Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

[signatures on following page]



IN WITNESS WHEREOF, this Agreement has been executed by City and by Developer as of the date first written above.

COMMUNITY DEVELOPMENT DEPARTMENT

PROVO CITY, a political subdivision of the State of Utah

By: [Signature]  
Gary McGinn, Director

By: [Signature]  
Lewis K. Billings, Mayor

Attest:

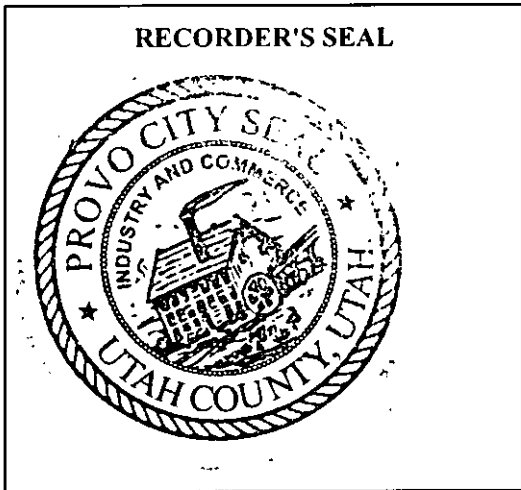
DEVELOPER  
Block 29 Developers, LLC, a Utah limited liability company

[Signature]  
City Recorder

By: P.E.G. Development, LLC, a Utah limited liability company, its manager  
[Signature]  
Cameron Gunter, Manager

By: Earl Corporation, a Utah corporation, its manager

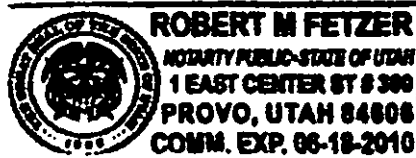
By: [Signature]  
Bruce T. Earl, President



State of Utah )  
                  :SS  
County of Utah )

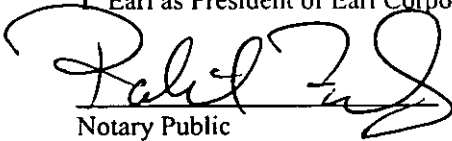
The foregoing instrument was acknowledged before me on this 9<sup>th</sup> day of July, 2008, by  
Cameron Gunter as Manager of P.E.G. Development, LLC, a Manager of Block 29 Developers, LLC.

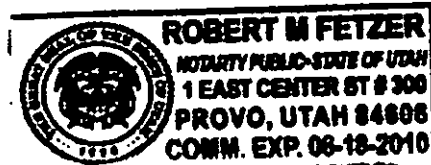
  
Notary Public



State of Utah )  
                  :SS  
County of Utah )

The foregoing instrument was acknowledged before me on this 8<sup>th</sup> day of July, 2008, by Bruce  
T. Earl as President of Earl Corporation, a Manager of Block 29 Developers, LLC.

  
Notary Public



**EXHIBIT "A"**  
**Legal Description of Property**  
**Zions Bank Tower**  
**180 North University Avenue**

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**SURVEYOR'S NARRATIVE**

I, Dusty L. Bishop do hereby state that I am a Registered Professional Land Surveyor and that I hold certificate no. 4938720 as prescribed by the laws of the State of Utah and represent that I have made a survey of the following described property. The Purpose of this survey is to provide an ALTA/ACSM Land Title Survey with topography for use by the client. The Basis of Bearing is the line between the Southeast Corner and the East Quarter Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, which bears North 0°59'03" West 2652.43 feet (Record bearing on Subdivision Plat is North 0°19'49" West).d

**BOUNDARY DESCRIPTION**  
**Combined Parcel**

A parcel of land, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point on the south line of 200 North Street, which is located North 0°59'03" West 1615.14 feet along the Section line and West 164.11 feet to the Northeast Corner of said Block 29, and North 89°40'19" West 147.62 feet along the south line of said 200 North Street from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence South 0°17'52" West 81.21 feet to a found rebar and cap marked A.F.J. L.S. 3373;  
thence North 89°47'22" West 52.53 feet to another found rebar and cap, so marked;  
thence South 0°12'52" West 186.01 feet;  
thence North 89°38'32" West 32.91 feet;  
thence South 0°19'41" West 31.00 feet;  
thence North 89°39'51" West 166.87 feet to the east line of University Avenue;  
thence North 0°24'37" East 298.29 feet along said east line to the Northwest Corner of said Block 29;  
thence South 89°40'19" East 251.47 feet along the south line of 200 North Street to the Point of Beginning.

Parcel contains: 62,714 square feet or 1.44 acres.

**EXHIBIT "B"**  
**Planning Commission Report of Action**  
**February 27, 2008**  
**Conditional Use Permit – Off-Street Parking Reduction**

Provo City Planning Commission

Report of Action

February 27, 2008

REQUEST FOR COUNCIL ACTION

Type of Action Requested: X  
 Resolution \_\_\_\_\_  
 Ordinance \_\_\_\_\_  
 Formal Action/Motion \_\_\_\_\_  
 Review at Study Session \_\_\_\_\_  
 Administrative: No Action X

ITEM 1 Block 29 Developers request approval for the Zions Financial Center, a 10 story office building generally located at 200 North University Avenue within the CBD (Central Business District Commercial) zone. *CBD Neighborhood. Continued from the February 13, 2008 meeting.* The following actions are requested:

- (a) Final plan approval for a 141,764 sq. ft. office building on approximately 1.35 acres of property (07-0061PPA).
- (b) Conditional use permit approval to allow an awning to encroach into the public right-of-way along University Avenue (08-0002CUP).
- (c) Conditional use permit approval to allow a reduction in the number of required off-street parking stalls (08-0003CUP).

The following action was taken by the Planning Commission on the above described project plan application at its regular meeting of February 27, 2008:

(a) **CONDITIONAL APPROVAL**

On a vote of 5:0, the Planning Commission approved the above noted project plan application, with the following conditions:

Conditions of Approval:

- 1. That the project plans comply with all code requirements identified by the departmental review before issuance of a building permit.
- 2. That the applicant comply with all traffic mitigation measures required by the Engineering Division before issuance of a building permit.
- 3. That the applicant return to the Design Review Committee to resolve design issues identified in the Design Review Committee Report of Action (including concerns with the parking garage design) and receive final design approval before issuance of a building permit.
- 4. That the associated plat be signed and recorded before issuance of a building permit.
- 5. That a condo plat be approved and recorded before issuance of a certificate of occupancy.
- 6. That the applicant obtain a sign permit from Provo City Community Development before installation of any signs.

Motion By: Roy Peterman

Second By: Pam Boshard

Votes in Favor of Motion: Roy Peterman, Pam Boshard, Ron Madsen, Coy Porter, Ron Phillips

Votes Opposed to Motion: None

*Leonard Mackay was present as Chair.*

- Additional Report of Action for item previously continued after a public hearing or other discussion: February 13, 2008.
- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination *is generally consistent* with the Staff analysis and determination.

The following action was taken by the Planning Commission on the above described conditional use permit application at its regular meeting of February 27, 2008:

### (b) CONDITIONAL APPROVAL

On a vote of 5:0, the Planning Commission approved the above noted conditional use permit application, with the following conditions:

Conditions of Approval:

1. That the applicant enter into a hold harmless agreement with the city as outlined in 14.21.150(4) of the Provo City Code before issuance of a building permit.
2. That the proposed awning maintain compliance at all times with the code requirements outlined in 14.21.150(4) of the Provo City.

Motion By: Ron Madsen

Second By: Roy Peterman

Votes in Favor of Motion: Roy Peterman, Pam Boshard, Ron Madsen, Coy Porter, Ron Phillips

Votes Opposed to Motion: None

*Leonard Mackay was present as Chair.*

- Additional Report of Action for item previously continued after a public hearing or other discussion: February 13, 2008.
- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination *is generally consistent* with the Staff analysis and determination.

The following action was taken by the Planning Commission on the above described conditional use permit application at its regular meeting of February 27, 2008:

### (c) CONDITIONAL APPROVAL

On a vote of 4:1, the Planning Commission approved the above noted conditional use permit application, with the following conditions:

Conditions of Approval:

1. That, according to 14.37.050(3)(c), a development agreement be recorded between the property owner and Provo City governing the provision of parking on the subject lot. Such agreement shall include provisions for:
  - a. Monitoring of parking lot adequacy on at least an annual basis.
  - b. Construction of additional parking spaces, implementation of parking demand mitigation measures, or compliance with the usual Provo City Code parking standards if trip generation rates for uses within the development change from that set forth in the parking count justification study.
2. That, according to 14.37.050(3)(d), if the Planning Commission reasonably determines at a future date that parking on the lot is insufficient, or that demand exceeds ninety percent (90%) of the parking lot capacity as measured over a (2) two week period, the property owner shall provide additional parking spaces to meet the then required parking standard or shall take other mitigating actions as reasonably determined by the Planning Commission to meet the purpose of Section 14.37.050 of Provo City Code.

Motion By: Ron Madsen

Second By: Roy Peterman

Votes in Favor of Motion: Roy Peterman, Pam Boshard, Ron Madsen, Ron Phillips

Votes Opposed to Motion: Cov Porter

*Leonard Mackay was present as Chair.*

- Additional Report of Action for item previously continued after a public hearing or other discussion: February 13, 2008.
- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination *is generally consistent* with the Staff analysis and determination.

### **RELATED ACTIONS**

Administrative Hearing approval of the project's associate one-lot (casefile # 07-0043SF, January 22, 2008).

### **DEVELOPMENT AGREEMENT**

- Applies to parking reduction request - referred applicant to City Administration.

### **STAFF PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- If the conditions of approval listed in the staff report are included in the Planning Commission's motion, the project plan application will comply with all applicable city codes before issuance of a building permit.
- If the conditions of approval listed in the staff report are included in the Planning Commission's motion, the awning CUP request will comply with all applicable city codes before issuance of a building permit.
- The parking justification study reasonably reflects expected parking demand and the parking reduction request meets the CUP requirements of 14.02.040(2) of the Provo City code.
- In response to concerns voiced about the parking reduction, staff indicated that in a downtown area it was not only important to not under build parking but that it was equally important not to over build parking. Typically a generous amount of parking for a downtown development is 3 stalls per 1,000 sq. ft. of floor space, and in this instance the developer was proposing more than enough parking to satisfy this standard. Staff also mentioned that as commuter rail and bus rapid transit become viable transportation alternatives in the near future that parking demand should decrease in the downtown area.
- Paul Glauser of the Provo City Redevelopment agency also made a few comments about the project. He mentioned that the Redevelopment agency was supporting this project by assisting in land acquisition and providing tax increment financing for the parking garage. He mentioned that downtown parking was much different than suburban parking because it costs so much more to build, and therefore can affect lease rates in the building. He also indicated that downtown parking should not be overbuilt because of the potential of a tall parking garage to block views and be an eye sore in the neighborhood.

### **CITY DEPARTMENTAL ISSUES**

- Environmental thresholds or physical capacities of impacted roadway(s) will not exceeded if the traffic engineering mitigation measures are implemented.
- Traffic study required and reviewed at this stage of project review or approval.
- Important issues raised by other departments – addressed in Staff Report to Planning Commission.

### **NEIGHBORHOOD MEETING DATE**

- A neighborhood meeting was held on January 10, 2008.

### **NEIGHBORHOOD AND PUBLIC COMMENT**

- Multiple Neighborhood Chair(s) were present and addressed the Planning Commission.
- Neighbors or other interested parties were present and addressed the Planning Commission.

### CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Judy Kelsch, Area Representative, mentioned that she was excited about this project and felt that it should set the bar for future downtown redevelopment. Judy also indicated that the neighborhood had expressed concerns over traffic and that neighbors had suggested that no right turns be allowed out of the bank drive through lanes. In addition, Judy mentioned that signage should be posted in the parking garage indicating that drivers could exit the parking garage onto 100 North. She also expressed concern over the design of the parking garage because it did not reflect the architecture of the main tower. Lastly, Judy asked if the retail parking stalls would be marked as such and suggested that the developer build enough parking in the garage to incorporate any future building expansion. In response to this last concern, staff indicated that future building projects were beyond the scope of tonight's hearing, but that any future building would be required to provide adequate parking and be reviewed through a separate project plan application.
- Kirk Peterson, Joaquin Neighborhood Chair, said that he liked the project generally, but had a specific concern about the requested parking reduction. He questioned the comparability of the proposed development and the buildings used in the parking study and suggested that the Utah Community Credit Union building was a more comparable building for the parking study. He also expressed concern that the design of the parking garage was not compatible with the historic architecture of downtown and suggested that landscaping or other architectural elements be used to improve its appearance. In response to his concern about the applicant's parking study, staff indicated that the buildings were chosen because of their suburban location and because of the land uses that occupied the buildings. Since the buildings used in the study were located in a suburban, car-dominated setting, staff had determined that such locations would yield a more conservative parking reduction request than a study conducted on buildings in downtown Salt Lake. In addition, staff considered the land uses within these buildings, such as an HR management company, marketing firm, lawyers office, and financial investment company, to be comparable to the land uses that are likely to occupy the proposed Zions Bank tower.

### APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- In response to the concerns voiced about the design of the parking garage, the applicant indicated that he had revised the design of the garage and that he now planned to stucco or hard surface the parking structure to match the color of the main tower. In response to concerns raised about the parking reduction, the applicant mentioned that the proposed development was just across the street from the core CBD parking area where he could request up to a 50% reduction with no study. He indicated that since the project was in the center of downtown that the parking requirement should match that of a typical downtown development, such as buildings in downtown Salt Lake City that only park 2.4 stalls per 1000 sq. ft. of floor space. Staff indicated that a suburban setting had been required for the applicant's parking study because at the current time these higher parking counts were more appropriate for Provo City than national parking figures or parking counts from downtown Salt Lake City. Moreover, despite the higher parking counts that the study obtained because of its suburban setting, the study still indicated that the applicant was providing adequate parking for the development.
- Kelly Ward, Area President of Zions Bank, made several comments about the project. First, he said that over the past 8 years of planning, Zions Bank has tried to be a good corporate partner in the process. He mentioned that although his regional Zions Bank organization was the 4<sup>th</sup> largest bank in Utah, they have never had an aesthetically pleasing headquarter facility. Kelly also mentioned that it is difficult to do a downtown project like this because of challenges with land acquisition and consolidation. Kelly also indicated that parking is a difficult issue in a downtown area because of the high cost of stall construction. However, despite the high cost of building downtown parking, Kelly indicated that enough parking was being proposed to satisfy the parking demand that the bank's 40,000 sq. ft. of office space would generate.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Ron Madsen asked how public parking would work in the parking garage. In response, the applicant mentioned that the parking garage would be open to the public after 6pm and on certain holidays and that the parking located in the drive through lanes will be limited 30 minute parking. Ron also indicated that planners today would encourage less parking



in down towns and that he felt comfortable with the amount of parking the applicant was proposing. Ron said that to keep downtown healthy, economic development is needed and that this project is balancing the need for new economic activity with the need to maintain the historic nature of downtown.

- Leonard Mackay said he liked the look and feel of the proposed building.
- Pam Boshard asked why the Wells Fargo building was not used in the parking study. In response, staff indicated that the Wells Fargo tower was not incorporated into the parking study because of incomplete information regarding the parking structure's lease agreements. Pam also said that she appreciated the parking discussion and that she hesitates to ever reduce parking standards because she wants to ensure that there is enough parking for workers and customers traveling to the building. In addition, Pam mentioned that she wanted to ensure that the retail parking stalls were protected for retail customers.
- Roy Peterman asked what offices uses would occupy the building. In response, the applicant mentioned that likely land uses for the office tower excluded corporate offices, but included uses such as law offices, a data center, and other types of professional office uses. Roy also mentioned that since the project was only a block away from the core CBD parking area that he could see a valid argument for including this project within the core CBD parking area.
- Ron Philips agreed that the facade of the parking structure needed to match the architecture of the main tower. He also questioned whether the applicant was planning to charge for parking. To this question the applicant responded that he wasn't planning to charge for parking at the current time. Ron also mentioned that, although in general he didn't support parking reductions in office towers where uses can easily change, with this project he felt comfortable with the requested parking reduction because the developer's experience, willingness to provide 100% of the retail parking stalls, and the project's close proximity to the core CBD parking area.
- Coy Porter congratulated the developer on creating a nice project and investing in downtown Provo.

#### **FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

The Planning Commission identified the following findings as the basis of there decision regarding the parking reduction request:

- The Planning Commission found that the parking justification study reasonably reflected expected parking demand and that the parking reduction request met the CUP criteria outlined in 14.02.040(2) of the Provo City code. However, the Planning Commission also found that in order to ensure that the proposed development would maintain adequate parking that the procedures outlined in 14.37.050(3)(c-d) should be adhered to by the applicant, including the requirement to enter into a development agreement with Provo City to govern the provision of adequate parking.

  
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 Planning Commission Chair

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (\*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

**BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS**

**EXHIBIT "C"**  
**Planning Commission Staff Report**  
**February 27, 2008**

**Provo City Planning Commission Staff Report  
Project Plan Approval & Conditional Use Permit  
Hearing Date: February 27, 2008**

<p><b><u>Agenda Item:</u></b> 1</p> <p><b><u>Applicant:</u></b> Block 29 Developers, LLC <b><u>Staff Coordinator:</u></b> David Kay</p> <p><b><u>Parcel ID#:</u></b> 05:029:0004 <b><u>Current Zone:</u></b> CBD <b><u>General Plan Des.:</u></b> Com <b><u>Acreage:</u></b> 1.35 <b><u>Number of Properties:</u></b> <b><u>Number of Lots:</u></b> 1 <b><u>Total Building Sq. Ft.:</u></b> 141, 764 sq. ft.</p> <p><b><u>Development Agreement Proffered:</u></b> N/A</p> <p><b><u>Council Action Required:</u></b> No</p> <p><b><u>Related Casefiles:</u></b> 07-0043SF</p>	<p><b><u>REQUEST</u></b> Block 29 Developers request approval for the Zions Financial Center, a 10 story office building generally located at 200 North University Avenue within the CBD (Central Business District Commercial) zone. <i>CBD Neighborhood.</i> The following actions are requested:</p> <ul style="list-style-type: none"> <li>(a) Final plan approval for a 141,764 sq. ft. office building on approximately 1.35 acres of property (07-0061PPA).</li> <li>(b) Conditional use permit approval to allow an awning to encroach into the public right-of-way along University Avenue (08-0002CUP).</li> <li>(c) Conditional use permit approval to allow a reduction in the number of required off-street parking stalls (08-0003CUP).</li> </ul> <p><b><u>NEIGHBORHOOD ISSUES</u></b> A neighborhood meeting was held on January 10, 2008. Please refer to the Neighborhood Meeting section of the report for more detail.</p> <p><b><u>STAFF RECOMMENDED ACTIONS</u></b> <b>Project Plan Approval</b> (a) <b>Approve</b> the requested Project Plans, <b>with conditions.</b> <i>Staff has provided recommended conditions of approval in the event that the Planning Commission approves the project plans.</i></p> <p><b>Awning CUP Request</b> (b) <b>Approve</b> the requested Awning CUP request, <b>with conditions.</b> <i>Staff has provided recommended conditions of approval in the event that the Planning Commission approves the awning CUP request.</i></p> <p><b>Parking Reduction CUP Request</b> (c) <b>Approve</b> the requested Parking Reduction CUP request.</p>
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**OVERVIEW**

Block 29 Developers request approval for the Zions Financial Center, a 10 story, 141,764 sq. ft., mixed-use office building on 1.35 acres generally located at 200 North University Avenue within the CBD (Central Business District Commercial) zone. This development will include 96,963 sq. ft. of usable office space, 9,434 sq. ft. of ground level retail space, and a 4 story parking structure. This approval of this project will involve three separate motions. One motion for the project plans, another motion for the parking reduction CUP request, and another for the awning CUP request.

**FINDINGS OF FACT**

**Project Plan Approval:**

1. **Applicable Regulations:** The project is regulated by CBD zoning ordinance (14.21, Provo City Code) as well as other applicable city ordinances such as outdoor lighting (14.38), landscaping (15.21), and other land use development codes (15.03).
2. **Zoning Code Compliance:** The project complies with height, area and yard requirements as outlined in the CBD zone as well as applicable outdoor lighting and landscaping requirements.

3. **Traffic Study:** The Engineering Division is finalizing their review of the applicant's traffic study and at the time this report was published Staff had not received a list of required traffic mitigation measures. However, the City Engineer has indicated to Staff that the project's impact on the street network is not unreasonable and that with minor traffic mitigation, the surrounding streets will not fall below acceptable levels of service or environmental thresholds. A list of required traffic mitigation will be forthcoming in the near future and the applicant will be required to comply with these measures before the Engineering Division will approve his site plan.
4. **Design Approval:** On January 10, 2008, the project plans have received conditional approval from the Design Review Committee with the following conditions:
 

*That the applicant return to the committee for final approval with revised drawings that address the following:*

  - A. *That the lower cornice be more consistent with the detail on the northwest corner of the building.*
  - B. *That the parking garage detail be more consistent with the forms, proportions and colors of the main tower.*
  - C. *That the doorway on 200 North be consistent with that shown in the color rendering.*
  - D. *That the size and proportion of the northwest corner of the building, above the fourth story windows, be consistent with other major elements of the building.*
  - E. *That the size of the sign letters near the top of the building be no more than 4 feet in height.*
  - F. *That the applicant submit sample materials for the glass windows, window frames and base.*
  - G. *That the window panels in the two most eastern window columns be similarly proportioned to the other window panels of the building.*
5. **Departmental Review:** The project is currently being reviewed by the city departments for compliance with applicable land use development standards. The Departmental Review Committee has determined that the project will comply with all applicable codes if the conditions listed at the end of this staff report are included in the Planning Commission's motion.

***Parking Reduction CUP Request:***

1. **Parking Requirements:** The project contains 96,963 sq. ft. of usable office space and 9,434 sq. ft. of usable retail space. According to the Provo City parking ordinance (14.37, Provo City Code), this amount of office/retail space requires 388 parking stalls and 47 parking stalls, respectively. Thus producing a total parking stall requirement of 435 stalls. The site plans illustrate 340 parking stalls, 293 parking stalls for office use and 47 parking stalls for retail use.
2. **Office Use Parking Reduction:** The applicant has recently submitted a parking study to justify a reduced number of parking stalls for the office portion of the building. The study gathered parking count and occupancy data from the ESG Building located at approximately 300 West 4800 North in Provo City, and the Squire Business Complex located at approximately 800 East University Parkway in Orem City. Although these buildings are located in suburban commercial settings, because most persons traveling to the Zions Bank Tower will come by car and because the uses in these existing buildings are similar to potential office uses that may be located in the Zions Bank Tower, the buildings were considered comparable to the proposed Zions Bank tower. Using the parking count and occupancy data gathered from these existing buildings, the parking study indicated that the Zions Bank tower will likely require between 279-293 parking stalls for the office uses located within the building. The current site plan provides 293 parking stalls for office use, which meets the higher level of parking demand demonstrated in the parking study.
3. **Retail Use Parking Standard:** It is important to note that the parking study only deals with the office portion of the building. The retail portion of the project has not been dealt with in the parking study and therefore the retail parking requirement was calculated using Provo City's retail parking standard. According to code, forty-seven (47) parking stalls are required for the retail portion of the building. The current site plan provides 47 stalls for retail use which meets the requirements of code.

***Awning CUP Request:***

1. **Awning Request:** The applicant has requested approval to allow a new awning to extend 8 feet into the public right of way along University Avenue. This awning will hang 15 feet above grade (see attachment). As illustrated on the building elevations, the lettering on the awning appears to be approximately 2.5 feet in height. Code requirements for granting an awning CUP in the CBD zone are listed in section 14.21.150(4) of the Provo City code. It is important to note that any sign intended to be placed on this awning must be approved through the sign permitting process.

**Neighborhood Meeting:**

1. **Neighborhood Meeting Summary:** A neighborhood meeting was held on January 24, 2008 and 13 residents attended this meeting. At the meeting several concerns were voiced and several suggestions submitted:
  - a. The Area representative mentioned that in future years the applicant may want to develop the property directly south of the current site on University Ave. She suggested that the applicant should plan for this future development by providing excess parking in the proposed parking garage. In response to this concern, the applicant has mentioned to staff that his ability to develop this property is currently limited by existing long term business leases and therefore his plans to develop this property are very uncertain at the current time. In either case, the future development potential of this parcel is outside the scope of this project and staff has determined that it should not be considered as part of this project plan review. If this parcel does develop in the future, the developer will be required to submit project plans for review, and at this point it would be appropriate to determine parking requirements for this parcel.
  - b. Some neighbors expressed concern that the facade of the parking garage did not incorporate well into the architecture of the main building. This issue was also brought up by the Design Review Committee when they granted the project conditional approval. One of the conditions of design approval is that the architect return to the Design Review Committee with revised plans that demonstrate a parking garage facade that is *more consistent with the forms, proportions and colors of the main tower*. In response to this concern, staff has recommended as a condition of approval that the applicant return to the Design Review Committee to resolve this issue and receive final design approval.
  - c. Neighbors also expressed concerns about traffic congestion on 200 North and suggested several solutions to mitigate traffic problems, such as constructing additional right and left turn lanes on 200 North as it intersects with University Ave, restricting traffic egress from the bank drive through lanes and parking garage to right turns only onto 200 North, and moving UTA and Provo School District bus routes back to 100 North. In response to these concerns, it is important to note that UTA or School District bus routing is beyond the scope of this project and that the City has no jurisdiction over the bus routes that these entities chose to implement. In terms of the other traffic mitigation measures proposed by the neighborhood chair, the City's professional traffic engineers are currently completing their review of the traffic study and will provide information regarding traffic mitigation measures in the very near future.

**CUP Approval Criteria:**

1. **CUP Approval Criteria:** Conditional Uses are regulated by Section 14.02.040 Provo City Code, as follows:

*(1) The Planning Commission may, subject to the procedures and standards set forth in this Chapter, grant, conditionally grant, or deny an application for a Conditional Use Permit for uses allowed by the chapter for the applicable zone. The purpose of a Conditional Use Permit is to allow proper integration of uses into the community which may only be suitable in specific locations and may have potentially detrimental characteristics if not properly designed, located, and conditioned.*

*(2) The following standards shall apply to any request for a Conditional Use Permit:*

*(a) A proposed conditional use shall be granted unless the subject use will be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.*

*(b) A proposed conditional use shall be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity:*

*(i) if the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;*

- (ii) if the proposed use will unreasonably interfere with the lawful use of surrounding property;
  - (iii) if the proposed use will create a need for essential municipal services which cannot be reasonably met;
  - (iv) if the proposed use will in any other way be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity.
- (c) A change in the market value of real estate shall not be a basis for the denial of a proposed conditional use.
- (d) If a part of a proposed conditional use is found to be contrary to the standards described in this section, the applicant may propose or consent to curative measures which will make the proposed use not contrary to the standards described in this section.

## **STAFF ANALYSIS**

### ***Final Plan Approval:***

1. Because the City Engineer has indicated that only minor traffic mitigation will be required to prevent the project's impact from causing unreasonable degradation of levels of service in the street network, Staff has determined that the project plans may be approved on condition that the site plans comply with all required traffic mitigation measures identified by the Engineering Division before issuance of a building permit. Furthermore, if the conditions listed below are included in the Planning Commission's motion the project is anticipated to comply with all applicable development codes.

### ***Parking Reduction CUP Request:***

1. The parking study and retail parking standard indicate that the officer tower is likely to demand between 326-340 parking stalls. The site plan currently illustrates 340 parking stalls which provides adequate parking for the higher demand number. Based on the parking study and site plans, staff has determined that the applicant has provided adequate parking for the project and that the requested parking reduction will not cause unreasonable risks to the safety of persons or property because of insufficient parking. Therefore, the proposed parking reduction will not be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity, and as a result, staff recommends that the Planning Commission approve the parking reduction CUP request.

### ***Awning CUP Request:***

1. Staff has reviewed the awning request for compliance with requirements outlined in 14.21.150(4) of the Provo City Code and has found that the proposed awning will comply with these standards. In addition, the proposed awning does not inhibit movement along the public sidewalk, will not be harmful to any street trees, provides 15 feet of vertical clearance, is harmonious with the architecture of the building, and will tend to improve the visual environment of downtown Provo.

Staff has determined that this arrangement will not be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity. Therefore, staff recommends that the Planning Commission approve the awning CUP request with conditions that the applicant enter into a hold harmless agreement with the city as outlined in 14.21.150(4) of the Provo City Code and that the proposed awning maintain compliance at all times with the code requirements outlined in 14.21.150(4) of the Provo City.

## **CONCLUSIONS**

The applicant's parking study positively justifies the requested reduction in the number of required off-street parking stalls, the traffic study indicates that with minor mitigation the project will not cause degradation in levels of service in the street network, and the proposed awning does not appear to impede pedestrian traffic within the public right-of-way. In summary, it appears that if the conditions listed below are included in the Planning Commission's motion that the project will comply with applicable land use and development codes. Therefore staff recommends approval of the proposed project plan and CUP requests.

**STAFF RECOMMENDED ACTIONS****Project Plan Approval**

- (a) **Approve** the requested Project Plans, **with conditions**. *Staff has provided recommended conditions of approval in the event that the Planning Commission approves the project plans.*

**Awning CUP Request**

- (b) **Approve** the requested Awning CUP request, **with conditions**. *Staff has provided recommended conditions of approval in the event that the Planning Commission approves the Awning CUP request.*

**Parking Reduction CUP Request**

- (c) **Approve** the requested Parking Reduction CUP request.

**CONDITIONS OF APPROVAL****Project Plans**

1. That the project plans comply with all code requirements identified by the departmental review before issuance of a building permit.
2. That the applicant comply with all traffic mitigation measures required by the Engineering Division before issuance of a building permit.
3. That the applicant return to the Design Review Committee to resolve design issues identified in the Design Review Committee Report of Action and receive final design approval before issuance of a building permit.
4. That the associated plat be signed and recorded before issuance of a building permit.
5. That a condo plat be approved and recorded before issuance of a certificate of occupancy.
6. That the applicant obtain a sign permit from Provo City Community Development before installation of any signs.

**Awning CUP Request**

1. That the applicant enter into a hold harmless agreement with the city as outlined in 14.21.150(4) of the Provo City Code before issuance of a building permit.
2. That the proposed awning maintain compliance at all times with the code requirements outlined in 14.21.150(4) of the Provo City.

**Parking Reduction CUP Request**

None

**ALTERNATIVE ACTIONS****Project Plan Approval**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is March 26, 2008 at 6:00 p.m.*
2. **Deny** the requested Project Plan Approval. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

**Awning CUP Request**

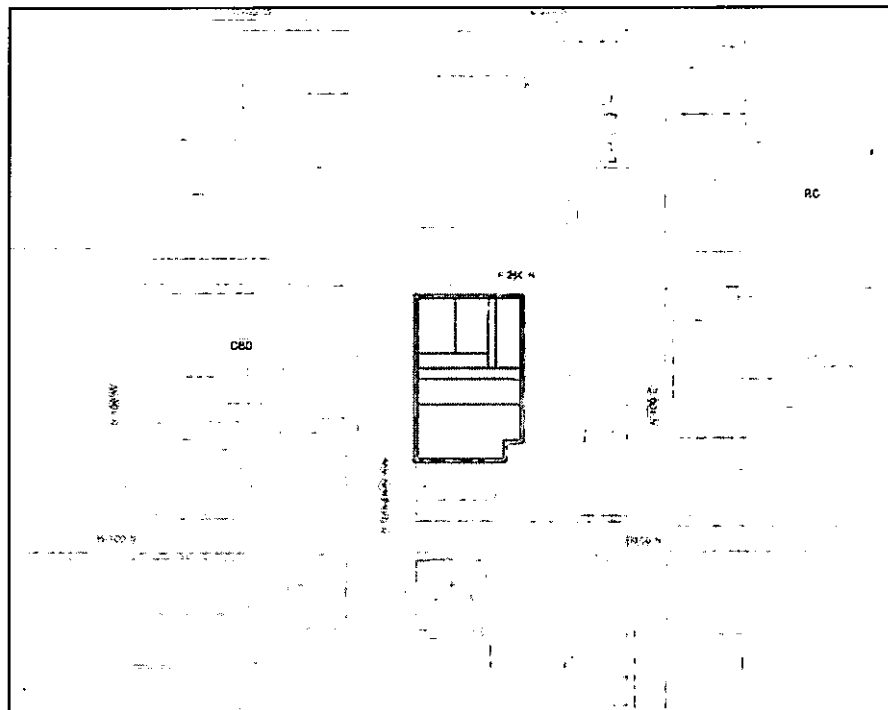
1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is March 26, 2008 at 6:00 p.m.*
2. **Deny** the Awning CUP request. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

**Parking Reduction CUP Request**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is March 26, 2008 at 6:00 p.m.*
2. **Deny** the Parking Reduction CUP request. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

**FIGURE & ATTACHMENTS**

1. Zoning Map
2. Vicinity Photo
3. Perspective Photo
4. Color Rendering
5. Site Plan
6. Landscape Plan
7. Elevations
8. Floor Plans
9. Awning Plan
10. Plat
11. Parking Study
12. Neighborhood Comments



**Figure 1 - Zoning Map**



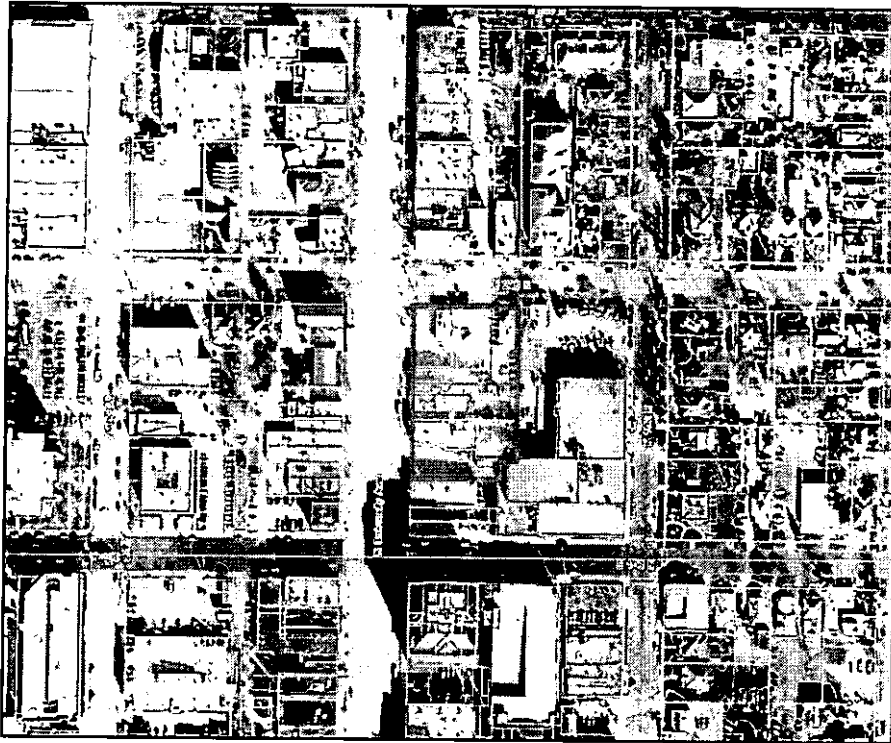


Figure 2 - Vicinity Photo



Figure 3 - Perspective Photo

**EXHIBIT "D"**  
**Applicant's Parking Study**  
**February 11, 2008**



Page 1 of 4

**MEMORANDUM**

Date: February 11, 2008  
To: PEG Development  
From: Ryan Hales, PE, PTOE, AICP  
Subject: **Provo Zions Bank Financial Center Parking Study**

UT07-104

**Purpose**

This memorandum addresses the parking needs for the proposed Provo Zions Bank Financial Center development located in Provo, Utah. The proposed development is located east of University Avenue (US-189) between 100 North and 200 North in Provo, Utah, see the attached Site Plan.

This study analyzed the parking needs for the development, which consists of an office tower with a parking garage for a total of 106,749 square feet of net usable area.

**Analysis**Site Plan

The existing site plan identifies that the overall project (106,749 square feet of net usable area) will consist of a bank (4,004 square feet of net usable area), commercial offices (93,300 square feet of net usable area), and retail (9,445 square feet of net usable area). The site demonstrates the ability to park 340 vehicles including disabled persons parking stalls.

National Standards

According to the *ITE Parking Generation*, 3<sup>rd</sup> Edition, 2004, Land Use:

Office Building (Land Use: 701) will require the following parking spaces based on 173 studies:

$$P = 2.51(\text{GFA}/1,000) + 27 = 2.51 (93.3) + 27 = 261 \text{ parking spaces}$$

With a correlation coefficient of 0.91



Page 2 of 4

Drive-In Bank (Land Use: 912) will require the following parking spaces based on 49 studies:

$$P = 4.14(\text{GFA}/1,000) = 4.14 (4) = 17 \text{ parking spaces}$$

The retail space was assumed based upon a typical type use in a downtown setting. For the purposes of this analysis, Land Use 880 was used; however, the retail space could be any one of a multitude of land uses. Pharmacy/Drugstore without Drive-Through Window (Land Use: 880) will require the following parking spaces based on 3 studies:

$$P = 2.07(\text{GFA}/1,000) = 2.07 (9.445) = 20 \text{ parking spaces}$$

The site plan for the proposed Provo Zions Bank Financial Center identifies 340 available parking stalls on site and the National Standards identify that a maximum of 298 stalls are required, including 261 stalls from Office, 17 stalls from Bank, and 20 stalls from Retail. The conclusion of this study is that a 12.0% surplus above the National Standard is available to meet the available parking stalls identified by the Provo Zions Bank Financial Center.

#### **Local Parking Studies**

Additionally, a local parking study was performed in order to analyze the parking needs for the proposed Provo Zions Bank Financial Center development. The studies were conducted at two building site locations. The first was the ESG Office Building located at 4800 North and 300 West in Provo, Utah. The second was the Temple View Terrace Office Building located at University Avenue and 800 East in Orem, Utah.

#### ***ESG Office Building (Provo)***

The building is 37,500 square feet and demonstrates the ability to park 140 vehicles. Therefore, the total amount of parking spaces per 1,000 square feet was 3.73. In the study, a parking lot occupancy count was taken on three separate weekdays including: Friday, January 25, Wednesday and Thursday, January 30 and 31<sup>st</sup>, 2008. The parking counts were taken every half-hour from 7:30 am to 5:30 p.m. According to the results, the average peak parking lot vehicle occupancy was 108 vehicles. Therefore, the actual amount of parking spaces occupied per 1,000 square feet was 3.47.

#### **Provo City Standards**

From the Provo City Code, Chapter 14.37 Off-Street Parking Standards (Amended December 6, 2007), the following parking requirements have been identified in section 14.37.060, Parking Spaces Required:



Page 3 of 4

**Professional Offices:**

37,500 square feet divided by 250 square feet per stall = 150 required parking spaces

National Standards

According to the *ITE Parking Generation*, 3<sup>rd</sup> Edition, 2004, Land Use:

Office Building (Land Use: 701) will require the following parking spaces based on 173 studies:

$$P = 2.51(\text{GFA}/1,000) + 27 = 2.51(37.5) + 27 = 121 \text{ parking spaces}$$

With a correlation coefficient of 0.91

The conclusion of this study is that the actual parking lot vehicle occupancy is 72% of the Provo City Standard and 89% of the National Standard.

***Temple View Terrace Office Complex (Orem)***

The complex consists of three separate buildings and is 43,864 total square feet, with 35,664 square feet in use, and demonstrates the ability to park 179 vehicles. Therefore, the total amount of parking spaces provided (supply) per 1,000 square feet was 4.08. In the study, a parking lot occupancy count was taken on three separate weekdays including: Friday, January 25, Wednesday and Thursday, January 30 and 31<sup>st</sup>, 2008. The parking counts were taken every half-hour from 7:40 am to 5:40 p.m. According to the results, the average peak parking lot vehicle occupancy was 108 vehicles. Therefore, the actual amount of parking spaces occupied per 1,000 square feet was 3.03.

Provo City Requirements

From the Provo City Code, Chapter 14.37 Off-Street Parking Standards (Amended December 6, 2007), the following parking requirements have been identified in section 14.37.060, Parking Spaces Required:

**Professional Offices:**

35,664 square feet (occupied) divided by 250 square feet per stall = 142 required parking spaces per occupied square feet



Page 4 of 4

### National Standards

According to the *ITE Parking Generation*, 3<sup>rd</sup> Edition, 2004, Land Use:

Office Building (Land Use: 701) will require the following parking spaces based on 173 studies:

$$P = 2.51(\text{GFA}/1,000) + 27 = 2.51(35.6) + 27 = 117 \text{ parking spaces}$$

With a correlation coefficient of 0.91

The conclusion of this study is that actual parking lot vehicle occupancy is 76% of the Provo City Standard and 92% of the National Standard.

The ESG building was identified by Provo City as being a similar type use that could be studied to evaluate the parking needs in the City for a general office building. The development Team had identified Temple View Terrace as an office building on the Provo / Orem hill that they could obtain the necessary leaseable area of the building for calculation purposes and which was close to Provo.

### **Conclusions**

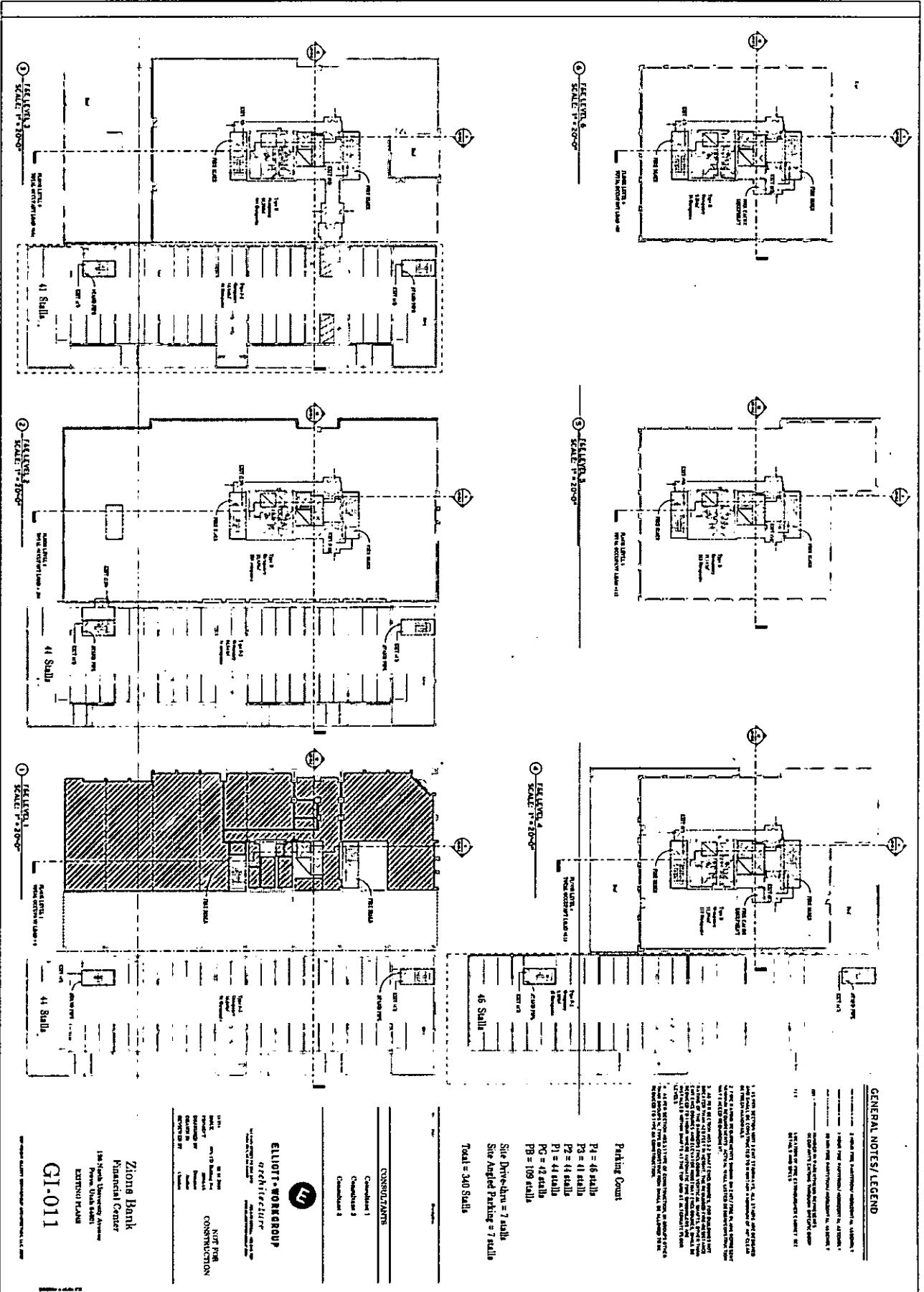
According to the local parking studies conducted at two different locations, the actual parking lot vehicle occupancy was on average, 74% and 91% of the total parking stalls required by the Provo City Code and the National Standard, respectively. The conclusion of the local parking study shows that the Provo City standard requires 26% more parking and that the National Standard requires 9% more parking than will be needed by a standard office building. By exceeding the National Parking Standard for parking on site, the building is adequately parked and has a reserve capacity of 42 stalls.

If you have any questions about the parking calculations, please feel free to call me.

**EXHIBIT "E"**  
**Applicant's Parking Plans**  
**January 15, 2008**







**GENERAL NOTES/LEGEND**

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES INFORMATION AND SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
5. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
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10. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.

**Parking Count**

P1 = 46 stalls  
 P2 = 41 stalls  
 P3 = 41 stalls  
 P4 = 41 stalls  
 P5 = 42 stalls  
 P6 = 109 stalls

**Site Drive-in = 7 stalls**  
**Site Angled Parking = 7 stalls**  
**Total = 340 Stalls**

**CONSULTANTS**

- Consultant 1
- Consultant 2
- Consultant 3

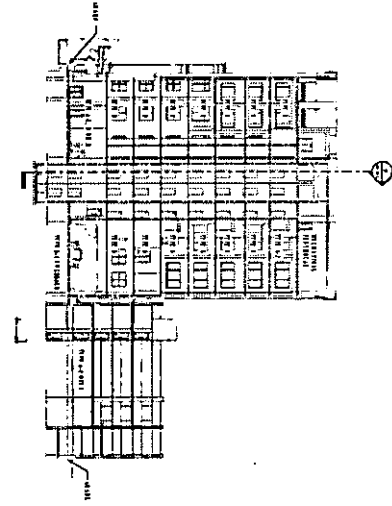


**ELLIOTT'S WORKGROUP**  
 ARCHITECT

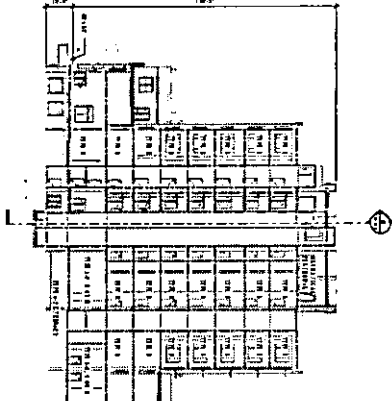
100 N. 10th Street  
 Suite 100  
 Minneapolis, MN 55401  
 Phone: 612.338.1111  
 Fax: 612.338.1112  
 Website: www.elliottsw.com

Zions Bank  
 Financial Center  
 136 North University Avenue  
 Provo, Utah 84601  
 EXISTING PLANS  
**GI-011**

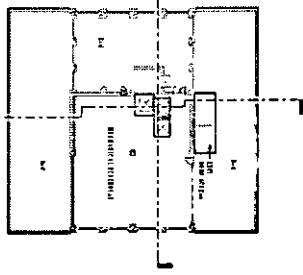
NOT FOR CONSTRUCTION



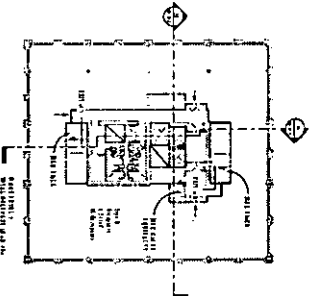
5th Building Section 5  
SCALE: 1/8" = 1'-0"



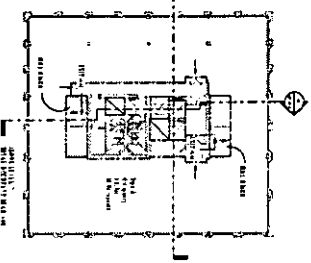
10th Building Section 10  
SCALE: 1/8" = 1'-0"



20th Building Section 20  
SCALE: 1/8" = 1'-0"



3rd Building Section 3  
SCALE: 1/8" = 1'-0"



1st Building Section 1  
SCALE: 1/8" = 1'-0"

**GENERAL NOTES/LEGEND**

- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
- 2. ALL MATERIALS SHALL BE OF THE BEST QUALITY AVAILABLE AND SHALL BE SUBMITTED FOR APPROVAL BY THE ARCHITECT PRIOR TO INSTALLATION.
- 3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
- 5. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SCHEDULE OF WORK.
- 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
- 7. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SPECIFICATIONS AND DRAWINGS.
- 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL ACCESSWAYS AND EGRESS ROUTES.
- 9. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE LOCAL AND STATE LAWS AND REGULATIONS.
- 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND STRUCTURES.
- 11. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SCHEDULE OF WORK.

**CONSULTANTS**

- Consultant 1
- Consultant 2
- Consultant 3



**ELLIOTT-WORSNOP**  
ARCHITECTS

1111 10th Street, Suite 1000  
Denver, CO 80202  
Tel: 303.733.1111  
Fax: 303.733.1112  
www.elliott-worsnop.com

**Zions Bank**  
Financial Center  
1000 14th Street, Suite 1000  
Denver, CO 80202

**G1-012**