

ZONE CHANGE  
AGREEMENT AND  
COVENANT RUNNING WITH THE  
LAND

(MILLHAVEN HOMES)

THIS AGREEMENT entered into this 19 day of December, 2017, by and between Heber City, hereinafter referred to as "City" and the undersigned as "Developer".

WHEREAS, the Developer/petitioner has proposed a zone change from R-1 and PCMU to R-3 and PCMU;

WHEREAS, the Developer/petitioner desires the proposed zone change not for more density than what exists in the current zoning, but for more flexibility in subdivision design;

NOW, THEREFORE, the parties hereby agree as follows:

Developer shall:

**1. Streets**

- a. Provide 10-foot-wide planter strips in cul-de-sac bulbs or replace the cul-de-sacs with through streets.
- b. Provide a continuous street connection from 1200 East to 800 East that aligns with the planned street network to the west in the Sawmill development as illustrated in Exhibit C. This street is part of the city's master street plan that connects Mill Road to Highway 40.
- c. Avoid centering streets on existing houses along Mill Road.
- d. Provide landscaped 8-foot planter strips with landscaping and trees along 800 East.
- e. Prohibit driveway access to Mill Road, 1200 South, or 800 East
- f. Assist in paying for a school crossing at a location yet to be determined.

**2. Density**

- a. Cap gross density at the current permitted density of 3.35 units per acre (R-1 Density 48.28 acres = 161 lots max).
- b. Within 400 Feet of Mill Road, establish a maximum density of 3.35 units per acre as shown in Exhibit A.

**3. Mill Road Open Space**

- a. Dedicate and construct an 8-foot minimum width public trail within a bermed open space area with landscaping and trees at least 30 feet in width beyond the Mill Road right of way as illustrated in Exhibit B.1 and B.2. The trail would replace the sidewalk along Mill Road. The berm and other improvements shall be installed as per the construction detail as shown in Exhibit E, as high as grading will allow at a minimum 3:1 slope, but its

- height may fluctuate as the trail and berm meander in a natural manner.
- b. The Developer shall establish CCR's requiring that fences along double frontage lots maintain with consistent materials and colors. The fence shall be a 6-foot-tall sight obscuring fence along Mill Road, 1200 South and 800 East.
- c. Establish a home owner's association for the maintenance of common area along Mill Road and 800 East.

**4. Center Creek**

- a. Provide open space along Center Creek, no less than 50 feet wide, along Center Creek.
- b. Keep Center Creek open, not in culvert.
- c. Landscape and maintain open space along creek.
- d. Provide an 8-foot minimum width public trail along creek from 800 East to Mill Road within the open space along Center Creek.
- e. Provide intermittent open space and trail connectivity from Center Creek to the streets paralleling the creek.

**5. Setbacks**

- a. For the larger lots in the development (i.e., the non-patio lots), each lot is required to provide a minimum of 20 feet of total combined side yard setback, with no side less than 7 feet.
- b. Provide 30-foot minimum rear setbacks and 20-foot minimum rear setbacks on corners.

**6. Right to Farm**

- a. Provide a right to farm notice on the subdivision plats that notify future buyers about the right of neighboring properties to farm and operate kennels on adjoining properties to the east.

- 7. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.
- 8. This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified or altered except in writing approved by the parties.
- 9. Time is of the essence of this Agreement. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.

10. This Agreement shall be a covenant running with the land, and shall be binding upon the parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

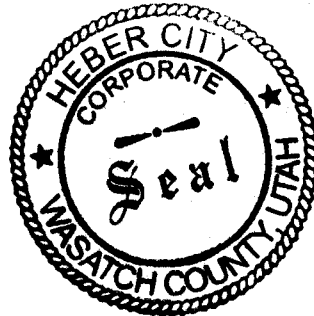
DATED this 19 day of

DEC 2017. HEBER CITY:

By: Alan McDonald  
Alan McDonald, Mayor

ATTEST:

Jodi Ann Bates  
Heber City Recorder



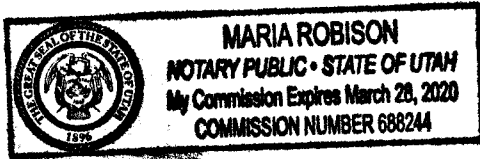
OWNER, MILLHAVEN HOMES

By: [Signature]  
Owner/Manager

STATE OF UTAH     )  
                  : ss.  
COUNTY OF WASATCH )


On this 12<sup>th</sup> day of December, 2017, personally appeared before me the above named Owner, who duly acknowledged to me that he is the owner in fee and executed the same as such.

[Signature]  
NOTARY PUBLIC



Maria Robison  
Commission number - 688244

OWNER, TIOGA FUNDING REAL ESTATE GROUP, LLC

By:   
Owner/Manager

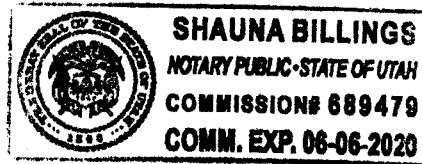
STATE OF UTAH )

:ss.

COUNTY OF WASATCH )

On this 13 day of December, 2017, personally appeared before me the above named Owner, who duly acknowledged to me that he is the owner in fee and executed the same as such.

  
NOTARY PUBLIC



### EXHIBIT A: SUBDIVISION CONCEPT

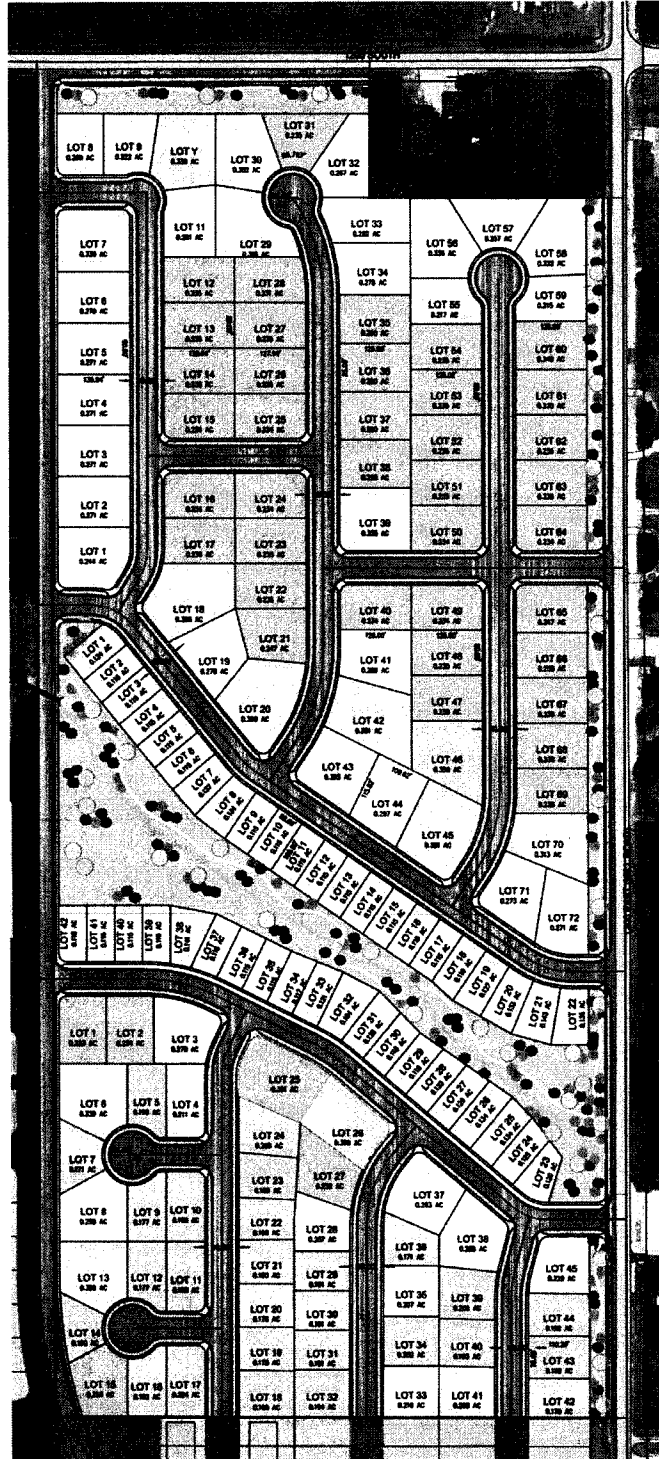
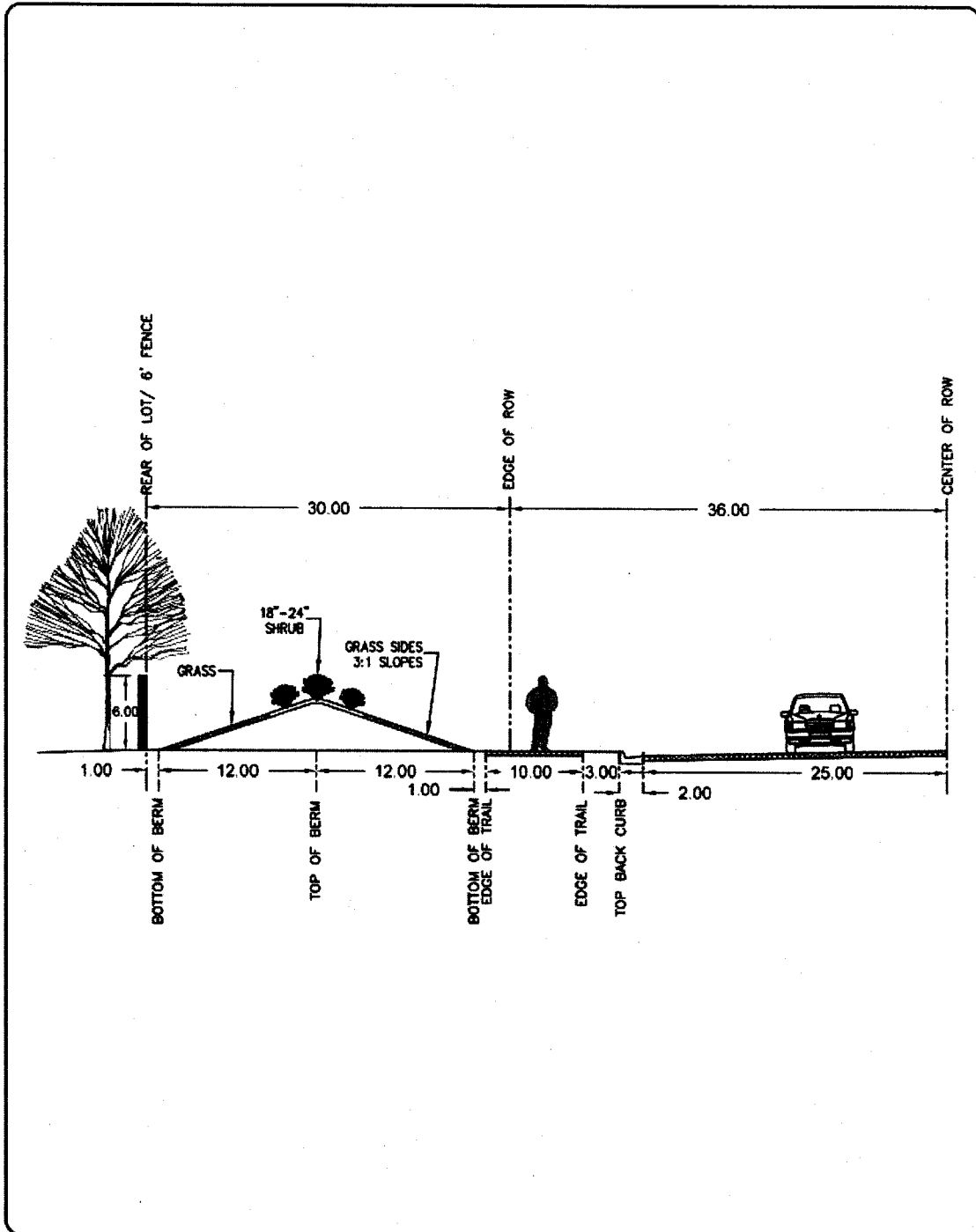


EXHIBIT B.1: MILL ROAD LANDSCAPED BERM




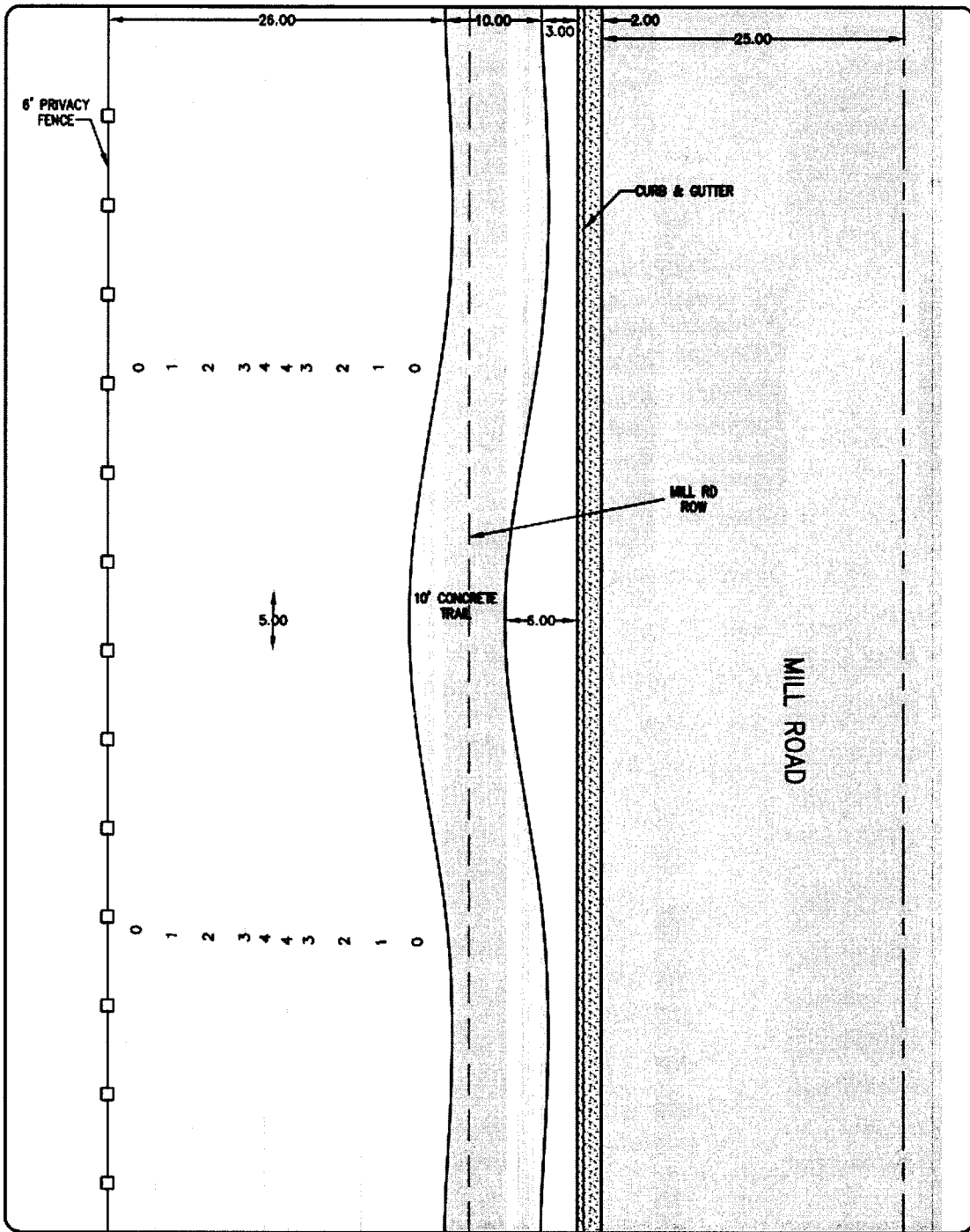
PROJECT C17-029	PROJECT BROOKSIDE SUBDIVISION	
SHEET 2	MILL ROAD BERM EXHIBIT E	Summit Engineering Group Inc. <small>Structural • Civil • Surveying</small>

EXHIBIT B.2: MILL ROAD LANDSCAPED BERM




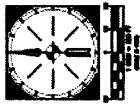
PROJECT C17-029	PROJECT BROOKSIDE SUBDIVISION	 Summit Engineering Group Inc. Structural • Civil • Surveying
SHEET 1	MILL ROAD BERM EXHIBIT E	





EXHIBIT D: LEGAL DESCRIPTIONS



Summit Engineering Group  
 10000 Old County Road, Suite 100  
 Brookside, MD 21033  
 Phone: 410-326-1100  
 Fax: 410-326-1101  
 Website: www.summiteng.com

Prepared by: [Name]  
 Checked by: [Name]  
 Date: [Date]

# REGIONAL ROAD CONCEPT PLAN

WILL HAVEN HOMES  
 BROOKSIDE

CITY OF  
 1 OF 1

PARCEL 1:

BEGINNING AT A POINT THAT IS SOUTH 33 FEET AND WEST 437.10 FEET FROM THE NORTHEAST CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, THENCE SOUTH 217.28 FEET, THENCE WEST 594.15 FEET, THENCE NORTH 217.28 FEET, THENCE NORTH 89° 50' 43" EAST 594.15 FEET TO THE PLACE OF BEGINNING.

PARCEL 2:

BEGINNING 250.285 FEET SOUTH OF THE NORTHEAST CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE MERIDIAN AND RUNNING THENCE WEST 1031.25 FEET; THENCE SOUTH 233.785 FEET; THENCE EAST 1031.25 FEET; THENCE NORTH 233.785 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

BEGINNING 484.06 FEET SOUTH OF THE NORTHEAST CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, OF THE SALT LAKE BASE AND MERIDIAN; RUNNING THENCE SOUTH 844.19 FEET; THENCE WEST 1031.25 FEET; THENCE NORTH 844.19 FEET; AND EAST 1031.25 FEET MORE OR LESS, TO THE POINT OF BEGINNING.

LESS AND EXCEPTING:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE WEST 1031.25 FEET; THENCE WEST 1031.25 FEET; THENCE SOUTH 16.5 FEET; THENCE EAST 1031.25 FEET; THENCE NORTH 16.5 FEET TO THE POINT OF BEGINNING.

Parcel 4:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE WEST 62.5 RODS; THENCE NORTH 79.5 RODS; THENCE EAST 62.5 RODS; THENCE SOUTH 79.5 RODS TO THE PLACE OF BEGINNING;

LESS AND EXCEPTING THE FOLLOWING PARCELS, WHICH ARE NOT OWNED BY THE ELLA E. THOMPSON ESTATE:

PARCEL 1: BEGINNING AT A POINT WHICH IS NORTH 0°25'29" WEST 1164.21 FEET FROM THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST OF THE SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°51'48" WEST 1016.65 FEET; THENCE NORTH 0°14'09" WEST 160.0 FEET ALONG A FENCE LINE; THENCE NORTH 89°15'48" EAST 1016.122 FEET ALONG A SECOND FENCE LINE; THENCE SOUTH 0°25'29" EAST ALONG A THIRD FENCE LINE TO THE POINT OF BEGINNING.

PARCEL 2: BEGINNING AT THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 89°55'02" WEST 1020.50 FEET ALONG A FENCE LINE; THENCE NORTH 0°14'09" WEST 263.5 FEET ALONG A SECOND FENCE LINE; THENCE SOUTH 89°55'03" EAST 1019.63 FEET; THENCE SOUTH 0°25'29" EAST 263.5 FEET ALONG A THIRD FENCE LINE TO THE POINT OF BEGINNING.

PARCEL 1: BEGINNING at a point which is North 0°25'29" West 1164.21 feet from the East Quarter Corner of Section 8, Township 4 South, Range 5 East of the Salt Lake Base and Meridian; thence South 89°51'48" West 1016.65 feet; thence North 0°14'09" West 160.0 feet along a fence line; thence North 89°15'48" East 1016.122 feet along a second fence line; thence South 0°25'29" East 160.0 feet along a third fence line to the point of beginning. Contains 3.733 acres.

Parcel Serial Numbers:

- OHE-2008-0-008-045
- OHE-2006-0-008-045
- OHE-2005-0-008-045
- OHE-2004-0-008-045
- OHE-2009-0-008-045