

## DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (“Agreement”) effective as of the date the last Party signs below (“Effective Date”) by and among Lehi City, a political subdivision of the State of Utah (“City”) and Boyer NW Quadrant, L.C., a Utah Limited Liability Company (“Developer”). The City and the Developer are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

### RECITALS

A. City, acting pursuant to its authority under Municipal Land Use, Development, and Management Act, Utah Code Ann. §§ 10-9a-101, -803, as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations of Lehi City, in the exercise of its legislative discretion, has elected to approve and enter into this Agreement.

B. Developer is developing a subdivision known as Lehi Block located at approximately 2300 N 1200 W in Lehi City (“Project”). The property is currently zoned Industrial and Developer has submitted a General Plan amendment application for the property to be designated Commercial (“Application”).

C. Given the location of the Project, the Parties desire that multi-family apartment or condo uses, which are not permitted uses in the Commercial Zone, be added to the allowable uses per the terms and conditions of this Agreement.



### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

#### ARTICLE 1

1.1 Allowable Uses. Upon approval of the Agreement, allowable uses within the Lehi Block subdivision shall be uses allowed in the Commercial Zone and multi-family residential.

If multi-family residential is constructed, the type of units shall be condominiums or apartments, and the total density shall not exceed 250 units. All construction shall comply with the Lehi City Development Code standards, the variances included in Exhibit A and Exhibit A-1, and the comments from the Reviewing Departments included in Exhibit B.

Water Rights. Additional water rights shall be required for any multi-family development as a condition of site plan approval per Section 27.070 of the Lehi City Development Code.

1.2 Vested Rights. Developer is vested with the right to develop and locate on the property the uses, densities and intensities in accordance with this Agreement as allowed by City’s current laws (as amended by this Agreement).

1.3 **Approval.** As a condition precedent to the obligations of the Parties hereunder, this Agreement is contingent upon and shall only become effective at such time, and in the event that, the City Council, in the independent exercise of its legislative discretion, elects to approve the Agreement. This Agreement is not intended to and does not affect or in any way bind or supersede the independent exercise of legislative discretion by the City Council in deciding whether to approve or deny the Agreement.

1.4 **Covenant Running with the Land.** This Agreement constitutes a covenant running with the land and shall be recorded against the property.

1.5 **Interpretation.** The modifications outlined in Exhibit A shall supersede Lehi City Code. Lehi City Code shall be the default when a code provision is not specifically outlined in Exhibit A.

## ARTICLE 2

2.1 **Breach and Cure.** Any material failure by any Party to perform any term or provision of this Agreement, which breach continues uncured for a period of ten (10) days following written notice of such failure from the non-defaulting Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged breach and, where appropriate, the manner in which said breach satisfactorily may be cured. If the nature of the alleged breach is such that it cannot reasonably be cured within such 10-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 10-day period. Upon the occurrence of an uncured breach or default under this Agreement, this Agreement shall be terminated and the non-defaulting Party may pursue any and all available legal or equitable remedies.

## ARTICLE 3

3.1 **Indemnification.** Developer agrees to indemnify, hold harmless and defend the City from and against any and all loss, damage, or expense which the City may suffer or for which the City may be held liable by reason of any injury (including death) or damage to any property to the extent arising out of the conduct of the Developer related to the matters referred to herein. This indemnity provision shall not apply to claims arising from or attributable to the negligence or intentional conduct of the City.

3.2 **No Agency, Joint Venture or Partnership.** It is specifically understood and agreed to by and between the Parties that this Agreement does not create any form of agency relationship, joint venture, or partnership expressed or implied between them.

3.3 **Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

3.4 **Other Necessary Acts.** Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

3.5 **Construction/Interpretation.** The Parties acknowledge that each has had the opportunity to have this Agreement reviewed and revised by legal counsel and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

3.6 **Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive.

3.7 **Waiver.** No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach, except as outlined in Article 4.1 above.

3.8 **Utah Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

3.9 **Covenant of Good Faith and Fair Dealing.** Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement to ensure that the rights secured by the other Parties through this Agreement can be enjoyed.

3.10 **Representations.** Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party;

(a) Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.

(b) Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent.

(c) This Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

3.11 **No Third-Party Beneficiaries.** This Agreement is between the City and the Developer. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

3.12 **Force Majeure.** No liability or breach of this Agreement shall result from delay in performance or nonperformance caused, directly or indirectly, by circumstances beyond the reasonable control of the Party affected (“Force Majeure”), including, but not limited to, fire, extreme weather, terrorism, explosion, flood, war, power interruptions, the act of other

governmental bodies, accident, labor trouble or the shortage or inability to obtain material, service, personnel, equipment or transportation, failure of performance by a common carrier, failure of performance by a public utility, or vandalism.

### 3.13 Notices.

Any notice or communication required hereunder between the parties must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the City:

The Honorable Mayor Mark Johnson  
Lehi City  
153 North 100 East  
Lehi, UT 84043

With Copies to:

Ryan Wood  
Lehi City Attorney  
153 North 100 East  
Lehi, UT 84043

If to Developer:

The Boyer Company  
Nathan Boyer  
101 S 200 E #200  
SLC, UT 84111

### 3.14 Entire Agreement, Counterparts and Exhibits

Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The exhibits attached hereto and hereby incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, this Agreement has been entered into by and between City, and Developer as of the date the last party signs blow.

LEHI CITY CORPORATION

[Signature]

By: Mark Johnson

Its: Mayor

Date: 12/2/21

ATTEST:

[Signature]

Teisha Wilson  
City Recorder



Boyer N.W. Quadrant, L.C.

[Signature]

By: Brian Gochnour

Its: Manager

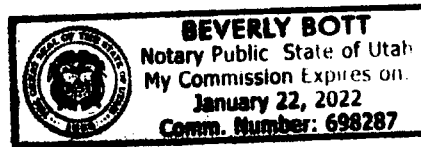
Date: 11-23-2021

STATE OF UTAH )  
SS:  
COUNTY OF SALT LAKE )

On this 23 day of November, <sup>2021</sup>~~2020~~ before me, Beverly Bott a notary public, personally appeared before me Brian Gochnour, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the MANAGER of Boyer N.W. Quadrant, L.C. and that said document was signed by him in behalf of said Company by Authority of its Articles of Organization, Operating Agreement, or (Resolution of its Manager(s)), and said MANAGER acknowledged to me that said Company executed the same.

Witness my hand and official seal.

[Signature]  
Notary Public





(notary seal)

***Exhibit A – Development Standards***

***Exhibit A-1 – Concept Site Plan and Elevations***

***Exhibit B – DRC Comments***

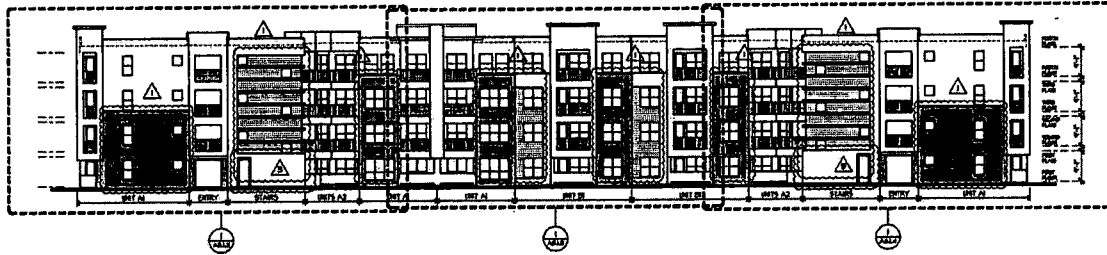
**Exhibit A- Development Standards**

None	Note	The multi-family buildings are going to be an original design. The Conceptual Elevations provided in Exhibit A-1.
37-54	<p>Stucco and EIFS may be used up to <u>20 percent of each wall area</u> as a secondary material only. Stucco and EIFS shall not be used on hierarchal architectural features, pop-outs in a facade, or for wainscots, but shall be allowed on recessed wall areas, walls between entrances, and between hierarchal architectural features (see Figure 110).</p>	<p>-All buildings shall utilize 3 material types (stucco, cement board, brick, etc.) on all elevations.</p> <p>-Building elevations shall have not more than 50% stucco and at least a minimum of 16% cement board and 17% brick or synthetic stone, not including openings %. Each material % may be adjusted up or down by 1% to match architectural planes/features.</p> <p>-See conceptual elevations</p>
37-66	If a development contains more than one building, structures shall be varied to prevent repetitive design. 	No structural variation shall be required
37-66	<p>Building Materials. The majority of each facade, meaning 51 percent or more of the wall area excluding windows and doors, shall be constructed of brick, stone, architectural textured concrete, fiber cement siding, wood, or other durable building material as approved by the Planning Commission. Stucco, EIFS, or untreated concrete block (CMU) shall be allowed only as an accent or secondary material. Stucco and EIFS shall not be used on hierarchal architectural features, pop- outs in a facade, or for wainscots, but shall be allowed on recessed wall areas, walls between entrances, and between hierarchal architectural features. </p>	<p>Not applicable – see modification for 37-54.</p> <p>The architectural scheme of the buildings is contemporary and will utilize 3 material types including stucco as a primary.</p> <p>Project - shall have two stucco color schemes.</p>
37-67	Color. All buildings within a development shall have a coordinating color scheme; however not every building should be constructed from the same color scheme. Building colors should be	Project shall have two stucco schemes.

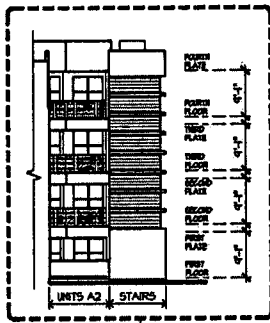
	varied to give diversity and variety to the project. [11] SEP	
37-71	Open Space.	Not applicable. Open space location and building location will be based on conceptual site plan.
37-71	<p>Amenities. (Table 37.060) Rough equivalent would be:</p> <ul style="list-style-type: none"> <li>-750 sq. ft. clubhouse</li> <li>-no fitness center required</li> <li>-10 picnic areas</li> <li>-2 sport courts</li> <li>-4 playgrounds</li> </ul>	Given the Urban style site plan, Residential amenities substantially similar to those shown in the Conceptual Site plan shall be acceptable: 1 clubhouse with a clubroom, a kitchen, and a fitness center, pool deck with 1 pool, 1 spa and 1 cabana. 1 outdoor kitchen area with 2 BBQs, counter space and tables with seating. 1 plaza will be required for each livable residential building. Each plaza will have seating plus 1 of the following elements: raised planter, water feature or public art.
37-103	Off-Street parking (37.070)	The parking counts shall equal those required in section 37.070. Parking stalls from onsite parking and through a recorded cross parking agreement with the adjacent Office parcels shall be counted towards the total required. The total number of garages required shall be greater than or equal to 30% of the total number of units.
23-1	Sign Ordinance.	Permanent signage. The multi-family project shall be allowed the following: 2 monument signs 8'x10' and 2 wall mounted signs up to 40 sq. ft. per sign total for the project
	Setbacks	Footings for residential buildings shall be built at least 12 feet from property line.



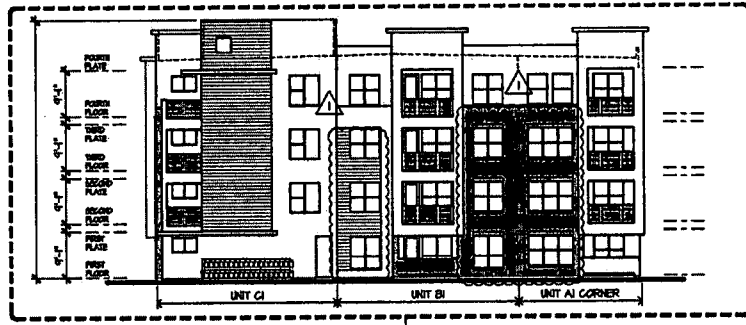
**Exhibit A-1 Concept Site Plan and Elevations**



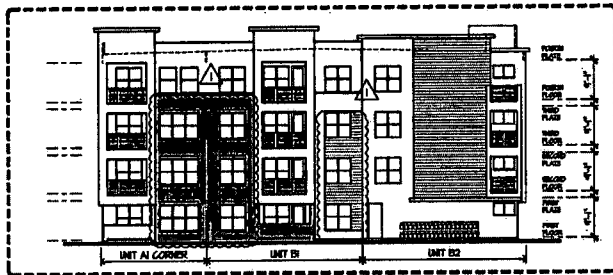
**1 Front Elevation**  
SCALE: 1/8"=1'-0"



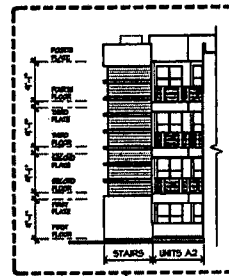
**5 Partial Left Elevation**  
SCALE: 1/8"=1'-0"



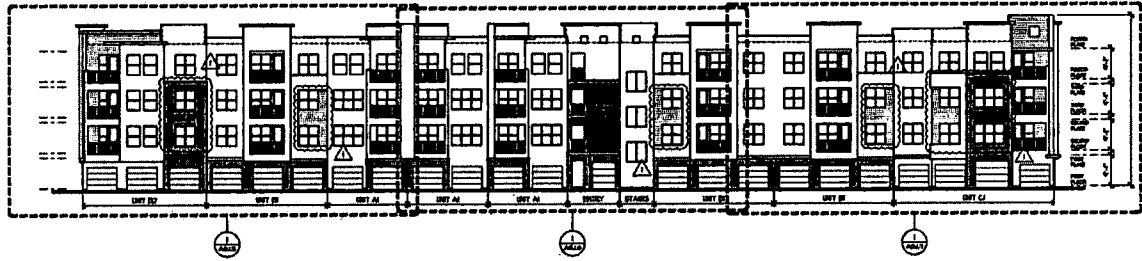
**2 Left Elevation**  
SCALE: 1/8"=1'-0"



**3 Right Elevation**  
SCALE: 1/8"=1'-0"



**6 Partial Right Elevation**  
SCALE: 1/8"=1'-0"



④ **Rear Elevation**  
SCALE: 1/8"=1'-0"





***Exhibit B- DRC Comments***  
**Lehi Block Concept Plan**  
**DRC Redline Comments**

*Ryan Simmons- requests review of the Lehi Block Concept, a 30-acre TOD development located at 2303 North 1200 West in a proposed TOD zone.*

DRC Members Present: Glade Kirkham, Kerry Evans, Greg Allred, Kim Struthers, Gary Smith, Joshua Bunnell, Ross Dinsdale, Trent Dyer

Representatives of the Applicant Present: Ryan Simmons

Date of Plans Reviewed: 9/12/19

Time Start: 1:57

Time End: 2:24

**DRC REDLINE COMMENTS:**

**Glade – Power:** No comments

**Kerry – Fire:** No comments

**Greg – Water/Sewer:** No comments

**Kim – Planning:**

1. Multi-family buildings should wrap the corner of 1200 W and Quantum Drive.
2. The hotel in phase 2 should be oriented to the corner, with no parking on the north or east sides of the building.
3. A primary pedestrian corridor must be included according to Section 38.070.F.3 of the Development Code. The pedestrian corridor is required to be 10' wide and must include a minimum 10' of landscaping on both sides with some additional requirements.
4. The concept plan layout musts comply with the maximum block length of 600' and the connectivity requirements.
5. 60% building frontage requirement needs to be met.
6. On the retail area, the drive thrus and surface parking are not conducive to a TOD environment.
7. The drive that wraps around the north side of the wrapped building with parking structure needs to be designed as a street including sidewalk on both sides and possible angled parking.
8. Amenities will be required for the residential units and must include (but are not limited to) the following:
  - o Club house
  - o Gym/exercise room
  - o Swimming pool/spa
  - o Lobby and internal corridor areas
9. A minimum of ten percent (10%) of the total gross acreage must be open space. Open space areas within the TOD must be constructed by the developer as a part of the TOD project, and may include “urbanized” open spaces, in addition to more traditional open spaces areas such as parks and playgrounds.
10. The front façade of all principle buildings shall face onto the street and shall not be oriented towards a parking lot or parking structure. All buildings shall be located as near the sidewalk edge with as minimal a setback as possible.
11. All building and structures, including residential buildings and dwellings, will be required conform to the design standards from Chapters 37 (Design Standards) and 38 (Transit Oriented Development) of the Development Code.
12. Unless an exception is approved, the TOD All must meet a minimum floor to area ratio of 2.0 at full buildout. The required floor to area ratio shall be addressed as part of the phasing plan. A development agreement shall be required for phased projects with custom triggers to ensure the floor to area ratio of 2.0 is met at full build-out.
13. Street trees shall be provided on all street frontages, at a minimum of one (1) tree for eve-ry twenty-five (25) feet of right-of-way.
14. Pedestrian walkways shall interconnect all building entrances, sidewalks, parking areas, open spaces, public and private streets, and the transit station.
15. A primary pedestrian corridor shall be developed through the TOD to collect pedestrians and direct them to the transit station.
16. Need to provide a parking analysis to show how parking will be handled, how shared parking will be

- coordinated, etc.
- 17. Bike paths, lanes, and sharrows shall be provided, and shall be clearly delineated from the rest of the street place with a demarcated path.
- 18. A primary pedestrian corridor must be included according to Section 38.070.F.3 of the Development Code. The pedestrian corridor is required to be 10' wide and must include a minimum 10' of landscaping on both sides with some additional requirements.
- 19. The concept plan layout musts comply with the maximum block length of 600' and the connectivity requirements.
- 20. In the phase 2 concept, there is still a lot of surface parking and lower FAR. Recommend looking at a phase 3 where additional surface parking could be replaced with additional parking structure and more building area.
- 21. All roads must have sidewalk on both sides and meet the streetside treatment requirements for TODs.

**Gary – Building/Inspections:** No comments

**JD – Streets:** No comments

**Ross – Engineering:**

- 22. Sewer service to the site will be need to be provided and capacity downstream evaluated to determine any needed upgrades
- 23. Access onto the frontage road will require UDOT approval
- 24. Access onto 1200 West needs to line up with existing 2100 North
- 25. A traffic impact study will be required for the site will be required at time of land use plan
- 26. Up to 300 residential units can be served on this site
- 27. Culinary and PI water utilities will need to be sized for the whole project. Water looping will need to be provided through the site.

**Trent – Parks:** No comments

THIS ITEM WILL GO TO PLANNING COMMISSION OCTOBER 10<sup>th</sup>