

## RESOLUTION 23-19

### A RESOLUTION OF THE SOUTH WEBER CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT FOR DEER RUN TOWNHOMES

**WHEREAS**, applicant Joseph Cook of Deer Run Investments LLC submitted an application to develop 3.175 acres located at 7870 S 2700 E into 35 townhomes; and

**WHEREAS**, a committee was formed to create a Development Agreement which would benefit both the city and the developer; and

**WHEREAS**, Planning Commission held a public hearing on February 9, 2023 and then continued their action to the following month; and

**WHEREAS**, on March 9, 2023 the Commission had a lengthy discussion as they continued their review and recommended the approval subject to conditions

1. Minimum 23-foot lot width
2. Minimum garage width of 22 feet for all units
3. Rental units no more than 50% during construction and lowered to 25% within one year of the final certificate of occupancy; and

**WHEREAS**, Council has reviewed the final draft of the development agreement and finds it to be acceptable;

**NOW THEREFORE BE IT RESOLVED** by the Council of South Weber City, Davis County, State of Utah, as follows:

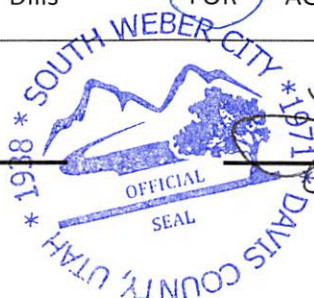
**Section 1. Approval:** The Development Agreement for Deer Run Townhomes is hereby approved as attached in Exhibit 1.

**Section 2: Repealer Clause:** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**PASSED AND ADOPTED** by the City Council of South Weber, Davis County, on the 13<sup>th</sup> day of June 2023.

Roll call vote is as follows:		
Council Member Halverson	FOR	AGAINST
Council Member Petty	FOR	AGAINST
Council Member Soderquist	FOR	AGAINST
Council Member Alberts	FOR	AGAINST
Council Member Dills	FOR	AGAINST

  
Rod Westbroek, Mayor



  
Attest: Lisa Smith, Recorder

# **EXHIBIT 1**

# **DEER RUN TOWNHOMES DEVELOPMENT AGREEMENT**

When recorded return to:  
South Weber City  
1600 East South Weber Drive  
South Weber, Utah 84405

**AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT  
FOR DEER RUN TOWNHOMES  
IN SOUTH WEBER CITY**

This **AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (THIS Amended and Restated “Agreement”) is made and entered into this 13th day of June, 2023, by and between **DEER RUN INVESTMENTS, LLC** OF 784 Parkway Drive, North Salt Lake, Utah 84054 (hereinafter referred to as “Developer”), and **DEER RUN PLAZA, LLC** of 10883 South Martingale Lane, South Jordan, Utah 84095 (hereinafter referred to as “Owner”), and **SOUTH WEBER CITY**, a municipal corporation of the State of Utah (hereinafter referred to as “City”), of 1600 East South Weber Drive, South Weber, Utah 84405. Developer, Owner, and City are heretofore referred to as the “**Parties.**”

RECITALS:

- A. Developer is the owner of approximately 3.198 acres, as more particularly described in **Exhibit A** attached hereto (the “Property”).
- B. Developer previously proposed a mixed-use development which includes residential and commercial buildings, the associated streets, and other required improvements collectively known as “The Lofts at Deer Run” (the “Development”), on the Property.
- C. On June 27, 2019, the Parties entered into a Development Agreement (the “Original Agreement”), a copy of which is attached as **Exhibit X** and incorporated herein by reference, for the purpose of establishing the approved criteria required for the Development prior to approval through the City’s required subdivision process.
- D. The Parties, in accordance with section 14.1 of the Original Agreement, entered into that Amended and Restated Agreement dated the 25<sup>th</sup> day of May 2021, (the “Restated Agreement”), a copy of which is attached as **Exhibit Y** and incorporated herein by reference, amending, and restating the Original Agreement to provide for the terms and conditions upon which the Property can be developed.

- E. Developer now proposes to modify the Concept Plan as shown on **Exhibit B** attached hereto and incorporated herein by reference.
- F. City, acting pursuant to its authority under Utah Code Ann. § 10-9-101, et seq., and its land use policies, ordinances and regulations, has made certain determinations with respect to the Subdivision and, in the exercise of its legislative discretion, has elected to approve this Agreement for the purpose of specifying the obligations of the parties with respect to establishing the land use of the Property, the installation of required infrastructure improvements, and such other matters as the Parties agree herein.

#### **AGREEMENT:**

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

1. **Incorporation of Recitals.** The foregoing Recitals and all Exhibits referenced herein are hereby incorporated by this reference and made part of this Agreement.
2. **Parties.** The Parties hereby acknowledge that Deer Run Plaza is no longer the Owner of the Property and is no longer relevant or a party to this transaction and that Deer Run Plaza is hereby eliminated and absolved from any future reference, rights, or obligations hereunder and that any future reference to "Owner" shall hereby refer to Deer Run Investments, LLC, and/or its successors in interest and/or assigns.
3. **City Laws and Purpose.** City determines that the provisions of this Agreement relating to establishment of Developer's rights and obligations are consistent with City laws, including the City's land use ordinances, the purposes set forth in the zoning district, and the City's General Plan. This Agreement is adopted by a City ordinance as a legislative act and hereby amends the City laws only to the extent within the authority of City and only to the extent necessary to give Developer the effect of the rights and obligations of this Agreement where such City laws may be inconsistent with this Agreement's intent.
4. **Subdivision Approval.** This Agreement does not remove the Developer from their obligation to adhere to the City's established Subdivision approval process. The developer shall comply with all time frames specified in the City Code. Approval will be based on substantial compliance with **Exhibit B**.
5. **Geotechnical.** The Development is located within the area identified in the General Plan as Sensitive Lands. As such, the Developer must comply with all provision of the City Code, Title 10 Zoning Regulations, Chapter 14 Sensitive Lands Development Regulations.

6. **Sewer Capacity**. The Sewer Capital Facilities Plan, dated August 2017, identifies the Property as requiring 4.0 Equivalent Residential Units (ERU's) based on an assumed commercial-only land use. The City acknowledges that the Development exceeds the anticipated demand, and the needed capacity will be addressed through future Capital Facilities Plans and future capital improvement projects. The Development's proportional share of the future capital improvement projects which will provide the desired capacity will be paid through the impact fees assessed when the Building Permits are issued. Building permit approval and occupancy will not be contingent upon sewer capacity.
7. **Density**. The Property shall be rezoned through an ordinance from Commercial Overlay (C-O) to Residential Multifamily (R5) with Strategic Growth Overlay (SG). In consideration for constructing the Development with the architectural features, layout, and other requirements in this Agreement that exceed the standard requirements of the Residential Multifamily (R5) with Strategic Growth Overlay (SG) zone, the City hereby grants the Project bonus density up to 35 residential units (total), notwithstanding any other zoning requirements to the contrary. No set of townhomes may contain more than four (4) units attached in any one single building, except for Units 101-105 & 301-305 as shown on **Exhibit B**.
8. **Lot Area**. There shall be no minimum lot area required for the Development.
9. **Lot Width**. There shall be a minimum lot width of 23 feet.
10. **Location of Structures**. Dwelling setbacks shall be as follows:
  - a. 10 feet minimum from any public street;
  - b. 10 feet front setback from any private street;
  - c. 10 feet side setback from any private street
  - d. 10 feet minimum from any property line; and
  - e. 10 feet minimum from any other non-attached structure.
11. **Zero Lot Line**. To facilitate separate ownership or leasehold of two-family, twin home, or multi-family dwellings a residential zero-lot-line setback shall be permitted. In no case shall a zero-lot-line setback be allowed adjacent to a property line that is not part of the subdivision.
12. **Maximum Structure Height**. No townhome unit shall exceed thirty-eight (38) feet in height when (a) measured from the lowest point (b) of the front perimeter finished grade (c) adjacent to the exterior foundation wall (d) of a specific townhome unit (e) to the highest point of its pitched roof (f) of that same townhome unit. Measurements shall not be taken from within window wells, if any.
13. **Private Rights of Way and Pedestrian Pathways**. Developer shall be entitled to use Private Roadway Street Section B with only one (1)-6' wide sidewalk adjacent

to the right of way, so long as a second sidewalk services the front facade of the residences and connects to a public right of way without having to cross a road. Private alleyways/driveways shall be 32' wide from building to building. All guest parking must have adjacent connections to the pedestrian rights of way through means of pedestrian walking path or sidewalk.

14. **Special Conditions.** The Parties hereby acknowledge and agree Development shall meet all conditions found within South Weber City Code 10-5C-10. Open space shall be accessible to the residents of the Development and configured in a manner to promote outdoor leisure.
15. **Landscaping Requirements.** At least 15% of the total site shall be thoroughly landscaped and meet the requirements of Title 10 Chapter 15 of South Weber City Code. A six (6) foot tall solid vinyl, masonry, or equivalent fence shall be required between the development and all lower density residential zones and along the Davis Weber Canal. Fencing shall be rated to withstand the proper wind load dictated in South Weber City Standards.
16. **Design Standards.** The Development shall be subject to an architectural site plan review as outlined in South Weber City Code 10-12-3. Finishes of the exterior of the buildings will be subject to the following conditions:
  - a. **Exterior Finishes.** All structures within the development shall use durable materials on exterior finishes, including brick, stone, Hardie board, architectural metal, or engineered wood on all four (4) of the building's facades. Rock, stone, or masonry wainscoting shall be used on all sides of the structure. Aluminum or vinyl siding shall not be used as an exterior finish. Exterior finishes shall be substantially similar to **Exhibit C**.
  - b. **Architectural Variation.** The structures within the development shall provide variable articulation in their design. Articulation shall be required on each side of the structures.
  - c. **Garage Dimensions.** Type A units shall have a garage with interior dimensions of 22' X 22'. Type B units shall have a garage with interior dimensions of 20' X 20'.
  - d. **Driveways.** In areas of the development that use single driveways to access one unit, driveways shall be no less than 20 feet in length to the back of the sidewalk.
  - e. **Roof Style.** Roof design shall not include the use of flat roofs.
17. **Homeowners Association Rental Regulation.** The development shall be required to include within the Covenants, Conditions and Restrictions provisions to limit the number of rental (regardless of length of term) units allowed and includes the right to enforce rental restrictions. The provisions shall be to allow no more than 25% of the available units to be rented. The Covenants, Conditions, and Restrictions may allow additional units to be rented upon a showing of financial hardship such as divorce, illness or death, loss of job, transfer, family growth, military permanent change of station, etc. Short-term rentals shall be subject to South Weber City Code 10-18.

18. **Garbage Collection.** Due to the layout constraints the development shall provide adequate garbage collection solutions to limit impact to travel lanes. This can include but is not limited to single large waste collection locations.

19. **Parking.** In order to accommodate the parking needs of the residential users within the Development, the Development shall provide 26 guest parking stalls. All other provisions of Title 10, Chapter 8 of South Weber City Code shall apply and shall be in full force and effect.

20. **Detention Basin.** A detention basin is required in order to control the flow of storm water leaving the site. The basin is the sole responsibility of the Development and will be privately owned and maintained. However, the sizing, design, location, and construction of the basin must comply with City Code and City Standards.

21. **Successors and Assigns.**

21.1 **Binding Effect.** This Agreement shall be binding upon the successors and assigns of the Parties. Owners acknowledge and agree that if the City is not paid in full in a timely fashion by Developer of all monies as stated in this Agreement, no future development will be permitted by City on the Property until full payment is made.

21.2 **Assignment.** Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other Party, individual, or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to South Weber City, and the prior written consent of City may also be evidenced by letter from City to Developer.

22. **Default.** In the event either Party fails to perform its obligations hereunder or to comply with the terms and commitments hereof, within thirty (30) days after having been given written notice of default from the other Party, the non-defaulting Party may, at its election, have the following remedies, which shall be cumulative:

22.1 all rights and remedies available at law and in equity, including but not limited to injunctive relief, specific performance, and/or damages;

22.2 to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and

22.3 the right to withhold all further approvals, licenses, permits, or other rights associated with any activity or development described in this Agreement until such default is cured.

23. **Court Costs and Attorneys' Fees.** In the event of any legal action or defense between the Parties arising out of or related to this Agreement or any of the documents provided for herein, the prevailing Party or Parties shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.
24. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended, or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at:

Developer: Deer Run Investments, LLC  
784 Parkway Drive PO BOX 540395  
North Salt Lake, UT 84054

City: South Weber City  
Attention: City Manager  
1600 East South Weber Drive South  
Weber, UT 84405

Owner: Deer Run Investments, LLC  
784 Parkway Drive PO BOX 540395  
North Salt Lake, UT 84054

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this section.

25. **General Terms and Conditions.**

25.1 **Amendments.** Any alteration or change to this Agreement shall be made only after complying with any applicable notice and hearing provisions of MLUDMA and applicable provisions of the City Laws.

25.2 **Captions and Construction.** This Agreement shall be construed according to its fair meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed to effectuate the public purposes, objectives and benefits set forth herein while protecting any compelling countervailing public interest and providing to Developer vested development rights as described herein. As used in this Agreement, the words "include" and "including" shall mean "including, but not limited to" and shall not be interpreted to limit the generality of the terms preceding such word.



25.3 Term of Agreement. The term of this Agreement shall be for a period of five (5) years following the date of its adoption. If work has not commenced within this time frame on the vertical construction of the site, the Agreement shall be null and void.

25.4 Agreement to Run with the Land. This Agreement shall be recorded in the office of the Davis County Recorder against the Property and is intended to and shall be deemed to run with the land and shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall be construed in accordance with the City Laws. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Davis County, Utah.

25.5 Legal Representation. Each of the Parties hereto acknowledge that they each have been represented by legal counsel in negotiating this Agreement and that no Party shall have been deemed to have been the drafter of this Agreement.

25.6 Non-Liability of City Officials. No officer, representative, agent, or employee of the City shall be personally liable to any other Party hereto or any successor in interest or assignee of such Party in the event of any default or breach by the defaulting Party, or for any amount which may become due the non-defaulting Party, its successors or assigns, or for any obligation arising under the terms of this Agreement.

25.7 Entire Agreement. This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.

25.8 No Third-Party Rights. The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Parties named herein. The Parties alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.

25.9 Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of nature, government restrictions, regulations or controls, judicial orders, enemy or hostile government actions, war, civil commotions, fires, floods, earthquakes or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage. Any Party seeking relief under the provisions

of this paragraph must have noticed the other parties in writing of a force majeure event within thirty (30) days following the occurrence of the claimed force majeure event.

25.10 Severability. Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

25.11 Waiver. No waiver of any of the provisions of this Agreement shall operate as waiver of any other provision regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.

25.12 Governing Law. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

25.13 Exhibits. Any exhibit to this Agreement is incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first written above.

Signatures on the following page.

**"Developer" and/or "Owner"  
DEER RUN INVESTMENTS, LLC**

X By: *[Signature]*

Title: Manager

Witness the hand of said grantors, this \_\_\_ day of \_\_\_\_\_, 2023.

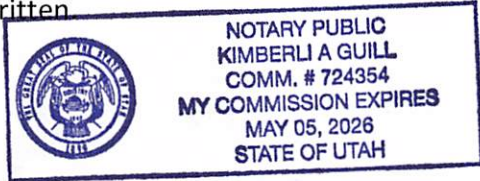
X *[Signature]*

Deer Run Investments, LLC

State of Utah                    )  
  ) ss  
County of Davis                 )

On this 23 day of AUGUST, 2023 personally appeared before me,  
Joseph Cook signer of the foregoing instrument, who duly acknowledged that he/she  
is the MANAGER of Deer Run Investments, a Limited Liability Company  
and signed said document in behalf of said Deer Run Investments, LLC, by authority of  
its Bylaws or Resolution of its Board of Directors, and said,  
MANAGER acknowledged to me said limited liability company  
executed the same.

WITNESS my hand and official seal the day and year in this certificate first above  
written



*[Signature]*  
NOTARY PUBLIC  
Commission Expires:

"City"  
SOUTH WEBER CITY

By: *[Signature]*  
Title: City Manager David Larson

Witness the hand of said grantors, this 13th day of June, 2023.

*[Signature]*  
Attest: City Recorder Lisa Smith



**EXHIBIT "A"**  
**Deer Run Townhomes Boundary Description**

Part of Lot 1 and all of Parcel "A", Lofts at Deer Run (Entry #3487887, Davis County Recorder [D.C.R.]), and an additional parcel, located in the West half of Section 36, Township 5 North, Range 1 West, Salt Lake Base and Meridian, Davis County, Utah, described as follows:

Beginning at the intersection of the southeasterly right-of-way line of the Davis and Weber Canal, and the west right-of-way line of the Frontage Road, said Point being South 89°45'31" East 555.77 feet along the quarter section line and South 00°02'01" West 295.04 feet from the West Quarter Corner of said Section 36, and running thence along said west right-of-way line the following two (2) courses:

(1) Southerly 45.54 feet along the arc of a 626.80-foot-radius curve to the right (central angle equals 04°09'47" chord bears South 01°43'45" West 45.53 feet); (2) South 04°12'50" West 536.76 feet to the north right-of-way line of 7950 South Street; thence Southwesterly 77.32 feet along said north right-of-way line and along a non-tangent, 318.165-foot-radius curve to the left (central angle equals 13°55'26" and chord bears South 68°26'37" West 77.13 feet) to the east line of Lot 3, Deer Run Estates Unit No. 5 subdivision (Entry #726472, D.C.R.); thence North 28°31'06" West 234.73 feet along west lot line to the northwest corner of said Lot 3, marked by a rebar with no cap; thence North 87°57'40" West 116.32 feet along the north line of said Deer Run Estates Unit No. 5 subdivision to the southeasterly right-of-way line of said canal; thence along said southeasterly right-of-way line the following six (6) courses:

(1) North 17°15'00" East 118.53 feet; (2) North 07°55'00" East 144.20 feet; (3) North 33°15'00" East 44.30 feet; (4) North 53°01'00" East 35.40 feet; (5) North 67°01'00" East 219.00 feet; (6) North 83°46'00" East 29.50 feet to the west right-of-way line of the Frontage Road and to the point of beginning.

Beginning at the intersection of the northerly right-of-way line of the Davis and Weber Canal, and the west right-of-way line of the Frontage Road, said Point being South 89°45'31" East 555.77 feet along the quarter section line and South 00°02'01" West 295.04 feet and North 06°46'21" West 140.18 feet from said west quarter corner of Section 36 and running thence South 83°46'00" West (South 83°21'47" West, by record) 47.65 feet along said northerly line; thence South 67°01'00" West 62.83 feet (South 66°36'47" West 63.92 feet, by record) along said northerly line; thence North 00°11'51" East 70.70 feet (North 71.41 feet, by record); thence North 90°00'00" East 6.00 feet; thence North 00°00'00" East 52.00 feet; thence South 90°00'00" West 6.00 feet; thence North 00°00'00" East 64.67 feet; thence South 89°58'06" East 44.68 feet to the west right-of-way line of said Frontage Road; thence Southeasterly 169.29 feet along said west right-of-way line and along the arc of a non-tangent, 626.80-foot-radius curve to the right (central angle equals 15°28'29" and chord bears South 20°55'48" East 168.78 feet) to the northerly right-of-way line of the Davis and Weber Canal and to the point of beginning.

Whole parcel contains 3.198 acres.

# EXHIBIT "B"

## THE LOFTS AT DEER RUN CONCEPT PLAN



**Know what's below.**  
**Call before you dig.**

**BLUE STAKES OF UTAH**  
 UTILITY NOTIFICATION CENTER, INC.  
 www.bluestakes.org  
 1-800-662-4111

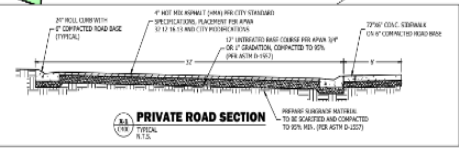
LAND OWNERSHIP	
ACRES	%
PRIVATE (UTAH STATE LAND)	0.00
EMPOWER ENERGY GROUP (EMPOWER ENERGY)	0.00
EMPOWER ENERGY	0.00
TOTAL	0.00

AREA TABULATION	
ACRES	%
BLANK	0.00
CONCRETE DRIVE	0.00
LANDSCAPE	0.00
TOTAL	0.00

PROJECT DATA	
ITEM	QUANTITY
CONCRETE DRIVE	0.00
LANDSCAPE	0.00
CONCRETE DRIVE	0.00
LANDSCAPE	0.00
TOTAL	0.00

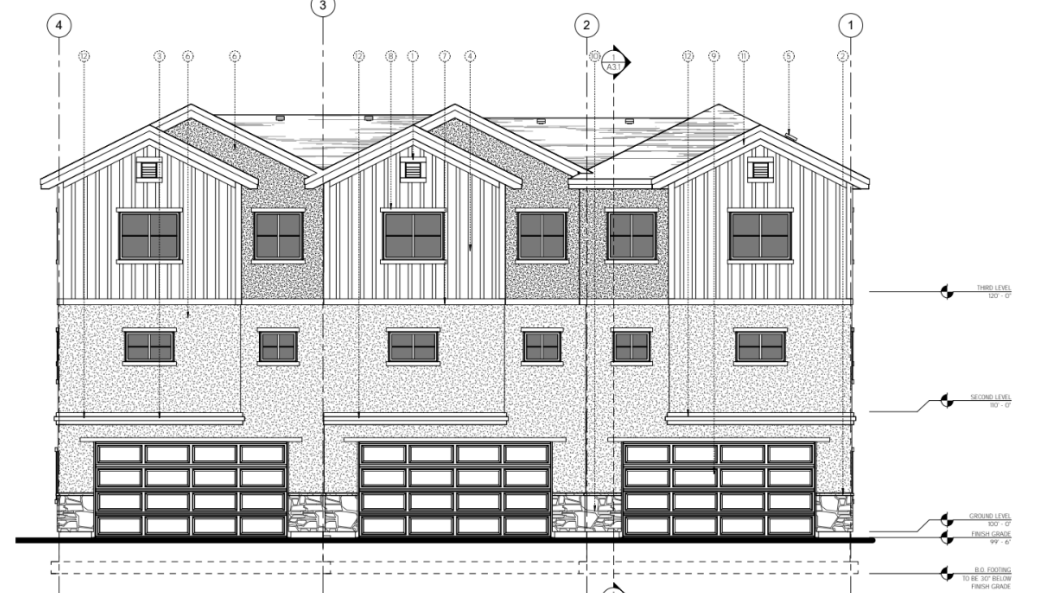


# EXHIBIT "C"

## THE LOFTS AT DEER RUN ARCHITECTURAL ELEVATIONS



**FRONT ELEVATION**  
 $\frac{1}{4}'' = 1'-0''$   
 PROVIDE A 1/2\"/>



**REAR ELEVATION**  
 $\frac{1}{4}'' = 1'-0''$

- KEYED NOTES**
- ① SEE FLOOR PLANS AND GENERAL NOTES FOR RAILING REQUIREMENTS.
  - ② FRONT ENTRY DOOR UNIT AS PER DOOR SCHEDULE.
  - ③ STONE VENEER
  - ④ BATT AND BOARD
  - ⑤ STUCCO
  - ⑥ ARCHITECTURAL ASPHALT SHINGLES. INSTALL AS PER MANUFACTURER'S RECOMMENDATIONS.
  - ⑦ ROOF VENT - REFER TO ROOF PLAN
  - ⑧ 1" x 10" TRIM
  - ⑨ STEP FOOTING AND FOUNDATION AS INDICATED.
  - ⑩ COORDINATE ALL POSTS WITH STRUCTURAL COLUMNS TO BE. PAINT OVER WOOD FRAME AND POST.
  - ⑪ ALUMINUM FASCIA AND SOFFIT
  - ⑫ 1" x 6" TRIM
  - ⑬ FIBER CEMENT TRIM AROUND WINDOWS AND DOORS.

- GENERAL NOTES**
- ① SEE GENERAL NOTES ON SHEET T1.2 FOR ADDITIONAL REQUIREMENTS.
  - ② COORDINATE WINDOW HEIGHTS WITH WINDOW SCHEDULE.
  - ③ FINISH ROOF TO BE ASPHALT SHINGLES. INSTALL AS PER MANUFACTURER'S RECOMMENDATIONS. MATCH
  - ④ PROVIDE RAIN GUTTERS AND DOWN SPOUTS AS REQUIRED.
  - ⑤ COORDINATE ALL BEARING ELEVATIONS WITH ROOF FRAMING PLAN. SEE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL FRAMING REQUIREMENTS.
  - ⑥ SEE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL STRUCTURAL REQUIREMENTS, INCLUDING FOUNDATION WALL, SPOUTPLAYERS, AND SHEARWALL AND HOLD-DOWN REQUIREMENTS.
  - ⑦ SEE ROOF FRAMING PLAN FOR ALL ROOF SLOPES.

# EXHIBIT X

E 3169718 B 7295 P 562-570  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
07/01/2019 11:04 AM  
FEE \$0.00 Pgs: 9  
DEP RT REC'D FOR SOUTH WEBER CITY

When recorded return to:  
South Weber City  
1600 East South Weber Drive  
South Weber, UT 84405

## DEVELOPMENT AGREEMENT FOR THE LOFTS AT DEER RUN IN SOUTH WEBER CITY

This **DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into as of this 27<sup>th</sup> day of July, 2019, by and between **DEER RUN INVESTMENTS, LLC** of 784 Parkway Drive, North Salt Lake, UT 84054 (hereinafter referred to as "Developer"), and **DEER RUN PLAZA LLC** of 10883 South Martingale Lane, South Jordan, UT 84095 (hereinafter referred to as "Owner"), and **SOUTH WEBER CITY**, a municipal corporation of the State of Utah (hereinafter referred to as "City"), of 1600 East South Weber Drive, South Weber, UT 84405. Developer, Owner, and City are heretofore referred to as the "**Parties.**"

### RECITALS:

- A. Owner acknowledge that Developer is their authorized agent to represent their interest in development of their fee simple title property, approximately 3.22 acres, as more particularly described in **Exhibit A** attached hereto (the "Property"). A Concept Plan of the site is attached hereto as **Exhibit B**.
- B. Developer proposes a mixed-use development which includes residential and commercial buildings and associated streets, shared parking, and other required improvements collectively known as the "The Lofts at Deer Run" (the "Development"), on the Property.
- C. The purpose of this Agreement is to establish the approved criteria required for the development of the Development prior to approval through the City's required subdivision process.
- D. City, acting pursuant to its authority under Utah Code Ann. § 10-9-101, *et seq.*, and its land use policies, ordinances and regulations has made certain determinations with respect to the Subdivision and, in the exercise of its legislative discretion, has elected to approve this Development Agreement for the purpose of specifying the obligations of the respective parties with respect to the installation of required infrastructure improvements and such other matters as the Parties agree herein.

### AGREEMENT

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

1. **Incorporation of Recitals and Exhibits.** The foregoing Recitals and all Exhibits referenced herein are hereby incorporated by this reference and made part of this Agreement.

2. **City Laws and Purpose.** City determines that the provisions of this Agreement relating to establishment of Developer's rights and obligations are consistent with City laws, including the City's land use ordinances, the purposes set forth in the zoning district, and the City's General Plan. This Agreement is adopted by a City ordinance as a legislative act and hereby amends the City laws only to the extent within the authority of City and only to the extent necessary to give Developer the effect of the rights and obligations of this Agreement where such City laws may be inconsistent with this Agreement's intent.
3. **Subdivision Approval.** This Agreement does not remove the Developer from their obligation to adhere to the City's established Subdivision approval process. The Developer shall comply with all applicable time frames as specified in City Code. Approval will be based on substantial compliance with Exhibit B.
4. **Geotechnical.** The Development is located within the area identified in the General Plan as Sensitive Lands. As such, the Developer must comply with all provision of City Code, Title 10 Zoning Regulations, Chapter 14 Sensitive Lands Development Regulations.
5. **Sewer Capacity.** The Sewer Capital Facilities Plan, dated August 2017, identifies the Property as requiring 4.0 Equivalent Residential Units (ERU's) based on an assumed commercial-only land use. The City acknowledges that the Development exceeds the anticipated demand and the needed capacity will be addressed through future Capital Facilities Plans and future capital improvement projects. The Development's proportional share of the future capital improvement projects which will provide the desired capacity will be paid through the impact fees assessed when the Building Permits are issued. Building permit approval and occupancy will not be contingent upon sewer capacity.
6. **Density.** The Development will be limited to not more than seventy-four (74) new residential units. There shall be a minimum of 27,000 square feet of commercial space.
7. **Parking.** In order to accommodate the parking needs of both the residential and commercial users within the Development, there shall be at least one hundred and sixty-four (164) parking spaces. Of these spaces, there shall be one (1) space dedicated solely for each residential unit with the remaining spaces being shared by both commercial and residential occupants. In order to ensure parking requirements are followed, Developer agrees that future residents and commercial tenants/operators are made aware in writing of the dedicated and shared parking requirement. Signage and pavement marking must be provided designating a specific parking stall to each residential unit. Signage is not required for any remaining parking spaces.
8. **Hours of Operation.** Commercial buildings shall limit the hours of operation of all businesses within the Development to the hours between 5:00 am to 6:00 pm.
9. **Detention Basin.** A detention basin is required in order to control the flow of storm water leaving the site. The basin is the sole responsibility of the Development and will be privately owned and maintained. However, the sizing, design, location and construction of the basin must comply with City Code and City Standards.



**10. Successors and Assigns.**

10.1 **Binding Effect.** This Agreement shall be binding upon the successors and assigns of the Parties. Owners acknowledge and agree that if the City is not paid in full in a timely fashion by Developer of all monies as stated in this Agreement, no future development will be permitted by City on the Property until full payment is made.

10.2 **Assignment.** Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other Party, individual, or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to South Weber City, and the prior written consent of City may also be evidenced by letter from City to Developer.

**11. Default.** In the event either Party fails to perform its obligations hereunder or to comply with the terms and commitments hereof, within thirty (30) days after having been given written notice of default from the other Party, the non-defaulting Party may, at its election, have the following remedies, which shall be cumulative:

11.1 all rights and remedies available at law and in equity, including but not limited to injunctive relief, specific performance, and/or damages;

11.2 to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and

11.3 the right to withhold all further approvals, licenses, permits, or other rights associated with any activity or development described in this Agreement until such default is cured.

**12. Court Costs and Attorneys' Fees.** In the event of any legal action or defense between the Parties arising out of or related to this Agreement or any of the documents provided for herein, the prevailing Party or Parties shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.

**13. Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended, or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at:

Developer: Deer Run Investments, LLC  
784 Parkway Drive  
PO BOX 540395  
North Salt Lake, UT 84054

City: South Weber City  
Attention: City Manager  
1600 East South Weber Drive  
South Weber, UT 84405

Owner: Deer Run Plaza LLC  
10883 South Martingale Lane  
South Jordan, UT 84095

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this section.

**14. General Terms and Conditions.**

- 14.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with any applicable notice and hearing provisions of MLUDMA and applicable provisions of the City Laws.
- 14.2 Captions and Construction. This Agreement shall be construed according to its fair meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed to effectuate the public purposes, objectives and benefits set forth herein while protecting any compelling countervailing public interest and providing to Developer vested development rights as described herein. As used in this Agreement, the words “include” and “including” shall mean “including, but not limited to” and shall not be interpreted to limit the generality of the terms preceding such word.
- 14.3 Term of Agreement. The term of this Agreement shall be for a period of seven (7) years following the date of its adoption.
- 14.4 Agreement to Run with the Land. This Agreement shall be recorded in the office of the Davis County Recorder against the Property and is intended to and shall be deemed to run with the land and shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall be construed in accordance with the City Laws. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Davis County, Utah.
- 14.5 Legal Representation. Each of the Parties hereto acknowledge that they each have been represented by legal counsel in negotiating this Agreement and that no Party shall have been deemed to have been the drafter of this Agreement
- 14.6 Non-Liability of City Officials. No officer, representative, agent or employee of the City shall be personally liable to any other Party hereto or any successor in interest or assignee of such Party in the event of any default or breach by the defaulting Party, or for any amount which may become due the non-defaulting Party, its successors or assigns, or for any obligation arising under the terms of this Agreement.

- 14.7 **Entire Agreement.** This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.
- 14.8 **No Third-Party Rights.** The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Parties named herein. The Parties alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.
- 14.9 **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of nature, government restrictions, regulations or controls, judicial orders, enemy or hostile government actions, war, civil commotions, fires, floods, earthquakes or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage. Any Party seeking relief under the provisions of this paragraph must have noticed the other parties in writing of a force majeure event within thirty (30) days following the occurrence of the claimed force majeure event.
- 14.10 **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
- 14.11 **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.
- 14.12 **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.
- 14.13 **Exhibits.** Any exhibit to this Agreement is incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first written above.

Development Agreement for The Lofts at Deer Run in South Weber City

“Developer”  
DEER RUN INVESTMENTS, LLC

By Joseph M. Cook Title Manager

Witness the hand of said grantors, this 27th day of June, A.D. 2019.

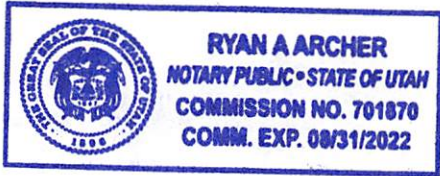
Deer Run Investments, LLC

State of Utah )  
                                ) ss.  
County of Davis )

On this 27 day of June, A.D. 2019, personally appeared before me,  
Joseph M. Cook, the signer of the foregoing instrument, who duly  
acknowledged that he/she is the Developer of Deer Run Investments, a Limited  
Liability Company and signed said document in behalf of said Deer Run Investments, LLC by  
Authority of its Bylaws or Resolution of its Board of Directors, and said  
developer acknowledged to me said Limited Liability Company  
executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.

RA  
NOTARY PUBLIC  
Commission Expires: 08/31/2022



Development Agreement for The Lofts at Deer Run in South Weber City

“Owner”

DEER RUN PLAZA LLC

By Laurie Gale *Laurie Gale* Title Member - Registered Agent

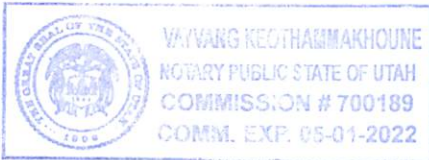
On this 27<sup>th</sup> day of June, A.D. 2019, personally appeared before me,

Laurie Gale, the signer of the foregoing instrument, who duly acknowledged that he/she is the Registered Agent of Deer Run Plaza, a Limited Liability Company and signed said document in behalf of said Deer Run Plaza LLC by

Authority of its Bylaws or Resolution of its Board of Directors, and said

Laurie Gale acknowledged to me said Limited Liability Company executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.



*Vayvang Keothammakhoune*  
NOTARY PUBLIC  
Commission Expires: 5/1/22

“City”

SOUTH WEBER CITY

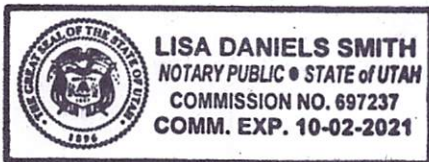
By *David Larson*  
David Larson, City Manager

*Lisa Smith*  
Attest: Lisa Smith, City Recorder

State of Utah )  
                          ) ss.  
County of Davis )

Subscribed and sworn to before me on this 1<sup>st</sup> day of July 2019, by David Larson.

WITNESS my hand and official seal the day and year in this certificate first above written,



*Lisa Daniels Smith*  
NOTARY PUBLIC  
Commission Expires: 10/02/2021

**EXHIBIT "A"**  
**THE LOFTS AT DEER RUN**  
**BOUNDARY DESCRIPTION**

13-041-0062

BEG ON THE W LINE OF A HWY, 125 FT PERP'LY DISTANT W'LY FR THE CENTER LINE THEREOF, AT A PT 692.5 FT E & S 4°12' W 479.28 FT & N 85°48' W 142 FT, M/L, FR THE NW COR OF THE SW 1/4 OF SEC 36-T5N-R1W, SLM; RUN TH S 4° W 243.47 FT, M/L, ALG W LINE SD HWY TO DEER RUN ESTATES UNIT NO 5; TH N 87°57'40" W 289.07 FT TO THE E'LY LINE OF THE DAVIS & WEBER CO CANAL COMPANY R/W; TH NE'LY ALG THE E'LY & S'LY LINE OF SD CANAL R/W TO A PT S 83°46' W 136.27 FT, M/L, & S 67°01' W 74.64 FT ALG SD R/W FR THE W LINE OF SD HWY; TH S 4°12' W 133.40 FT; TH S 85°48' E 66.0 FT TO THE POB. CONT. 1.581 ACRES.

13-041-0115

A TRACT OF LAND IN FEE SIT IN THE NW 1/4 SW 1/4 OF SEC 36-T5N-R1W, SLM, THE BNDRY OF SD TRACT OF LAND ARE DESC AS FOLLOWS: BEG AT THE NW COR OF SD TRACT, WH PT IS E 434.00 FT FR THE W 1/4 COR OF SD SEC 36; & RUN TH E 45.36 FT; TH SE'LY 169.29 FT ALG THE ARC OF A 626.80 FT RAD CURVE TO THE RIGHT (NOTE: CHORD BEARS S 21°03'13" E 168.80 FT); TH S 83°21'47" W 47.65 FT; TH S 66°36'47" W 63.92 FT; TH N 71.41 FT; TH E 6.00 FT; TH N 52.00 FT; TH W 6.00 FT; TH N 65.00 FT TO THE POB. CONT 0.31 ACRES

13-041-0068

BEG AT A PT 707.37 FT E & S 4°12' W 283.3 FT & S 83°46' W 152.07 FT FR NW COR OF SW 1/4 OF SEC 36-T5N-R1W, SLM; TH S 83°46' W ALG CANAL R/W 9.20 FT; TH S 67°01' W 74.64 FT; TH S 4°12' W 133.4 FT; TH S 85°48' E 76.00 FT, M/L, TO W'LY R/W LINE OF FRONTAGE RD; TH N 4°00' E 170.08 FT, M/L, TO POB. CONT. 0.388 ACRES

13-041-0118

A TRACT OF LAND IN FEE SIT IN THE NW 1/4 SW 1/4 OF SEC 36-T5N-R1W, SLM, THE BNDRY OF SD TRACT OF LAND ARE DESC AS FOLLOWS: BEG AT THE N'LY BNDRY LINE OF SD TRACT AT A PT 200.00 FT PERP'LY DIST W'LY FR THE CENTERLINE OF SD PROJECT, WH PT IS E 707.37 FT & S 4°12' W 283.30 FT & S 83°46'00" W 127.07 FT FR THE NW COR OF THE SW 1/4 OF SD SEC 36 SD PT BEING THE S'LY R/W LINE OF THE WEBER COUNTY CANAL COMPANY; & RUN TH S 4°00'00" W 413.55 FT; TH N 87°57'40" W 7.19 FT; TH S 12°25'38" E 106.71 FT; TH N 4°00' E 520.30 FT; TH S 83°46'00" W 23.37 FT TO THE POB. CONT 0.26 ACRES

13-140-0010

ALL OF LOT 2, DEER RUN ESTATES UNIT NO 5. EXCEPT THEREFR THE FOLLOWING: A PARCEL OF LAND IN FEE FOR THE WIDENING OF EXIST STATE HWY 89 KNOWN AS PROJECT NO 0089, BEING PART OF AN ENTIRE TRACT OF PPTY SIT IN LOT 2, DEER RUN ESTATES UNIT NO 5, A SUB IN THE SW 1/4 OF SEC 36-T5N-R1W, SLM; THE BNDRY OF SD PARCEL OF LAND ARE DESC AS FOLLOWS: BEG AT THE SE COR OF SD LOT 2, AT A PT 20.751 M (68.08 FT) PERP'LY DISTANT N'LY FR THE CENTER LINE OF DEER RUN DRIVE (7950 SOUTH STR) OF SD PROJECT, AT ENGINEER STATION 0+003.570; & RUN TH N 12°25'38" W 19.039 M (62.46 FT) ALG THE E'LY BNDRY LINE OF SD LOT 2; TH S 3°59'37" W 20.019 M (65.68 FT) TO THE S'LY BNDRY LINE OF SD LOT 2; TH E'LY 5.662 M (18.58 FT) ALG THE ARC OF A 96.978 M (318.17 FT) RAD CURVE TO THE RIGHT (NOTE: CHORD TO SD CURVE BEARS N 75°54'58" E FOR A DIST OF 5.662 M (18.58 FT)) TO THE POB. CONT 0.51 ACRES

# - EXHIBIT B -



No.	Revisions	Date

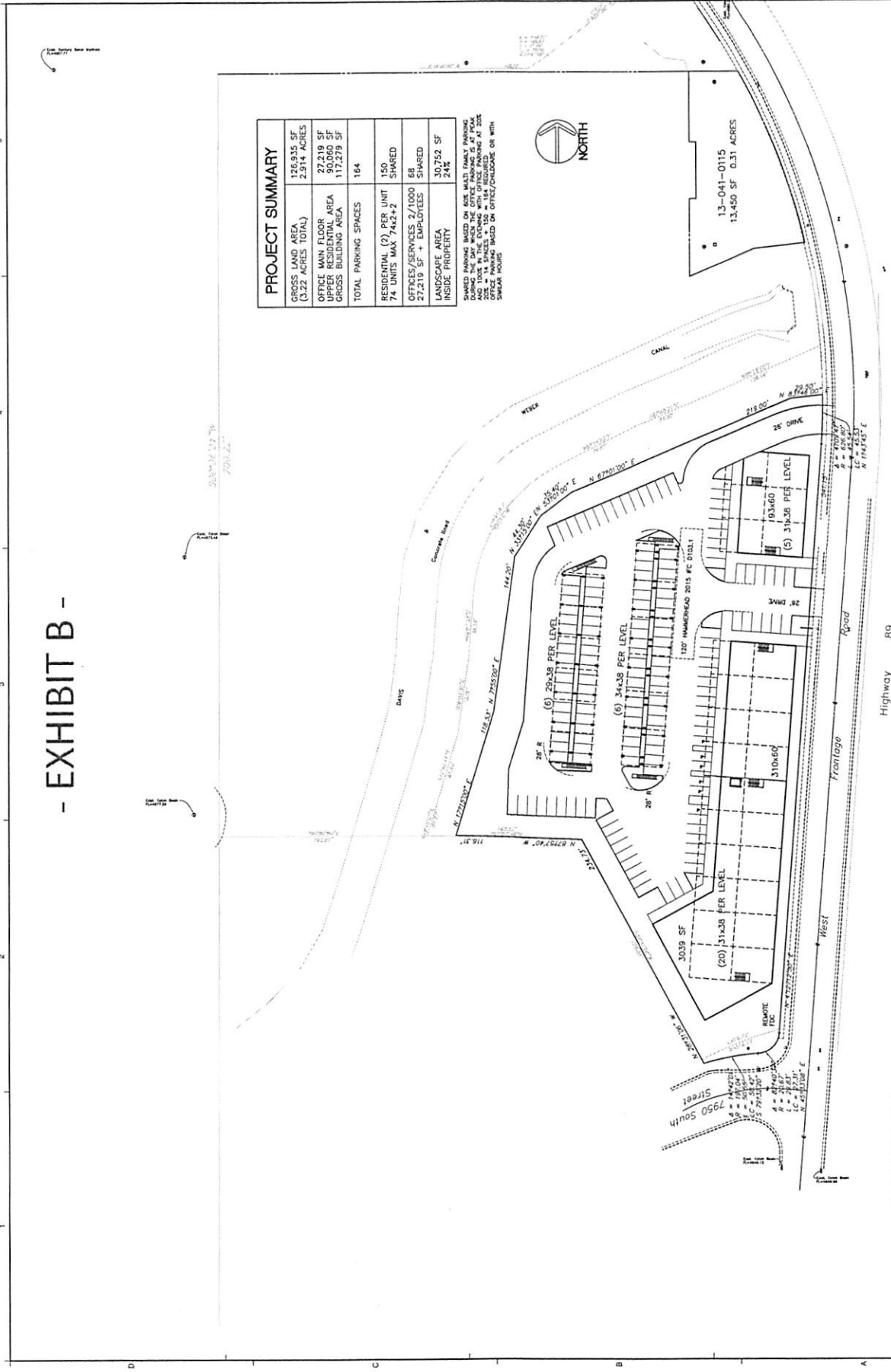
**SITE PLAN**  
7870 S. 2700 EAST  
SOUTH WEBER, UTAH

File No: COMB-AD01-ED24  
Project: 13-041-0115  
Reviewed by: [Signature]  
Date: MAY 24, 2019  
Scale: 1" = 40'

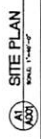
Sheet No: **A001**

PROJECT SUMMARY	
GROSS LAND AREA (3.22 ACRES TOTAL)	126,535 SF
OFFICE MAIN FLOOR	27,219 SF
UPPER RESIDENTIAL AREA	90,060 SF
GROSS BUILDING AREA	117,279 SF
TOTAL PARKING SPACES	164
RESIDENTIAL (2) PER UNIT	150 SHARED
74 UNITS MAX 74x2+2	68 SHARED
OFFICES/SERVICES 9/1000	68 SHARED
27,219 SF - EMPLOYEES	30,752 SF
LANDSCAPE AREA INSIDE PROPERTY	2%

SHARED PARKING BASED ON 600 MULTI-FAMILY PARKING SPACES PER 100,000 SF OF RESIDENTIAL AREA AND 1500 IN THE EVENING WITH OFFICE PARKING AT 20% PERCENTAGE OF OFFICE PARKING SPACES. OFFICE PARKING BASED ON 20% OFF-ROADSIDE OR WITH SIMILAR HOUSE



DIMENSIONS ARE BASED ON SURVEYS BY GREAT BAYN LTD.



# EXHIBIT Y

E 3394968 B 7790 P 1792-1800  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
06/28/2021 12:35 PM  
FEE \$0.00 Pgs: 9  
DEP RTT REC'D FOR SOUTH WEBER CITY

When recorded return to:  
South Weber City  
1600 East South Weber Drive  
South Weber, Utah 84405

13-041 - 0062.0068, 0115  
13-140 - 0009, 0010

## AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR THE LOFTS AT DEER RUN IN SOUTH WEBER CITY

This **AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (THIS Amended and Restated “Agreement”) is made and entered into this 25<sup>th</sup> day of May, 2021, by and between **DEER RUN INVESTMENTS, LLC** of 782 Parkway Drive, North Salt Lake, Utah 84054 (hereinafter referred to as “Developer”), and **DEER RUN PLAZA, LLC** of 10883 South Martingale Lane, South Jordan, Utah 84095 (hereinafter referred to as “Owner”), and **SOUTH WEBER CITY**, a municipal corporation of the State of Utah (hereinafter referred to as “City”), of 1600 East South Weber Drive, South Weber, Utah 84405. Developer, Owner, and City are heretofore referred to as the “Parties.”

### RECITALS:

- A. Owner acknowledges that Developer is its authorized agent to represent its interest in development of its fee simple title property, approximately 3.175 acres, as more particularly described in **Exhibit A** attached hereto (the “Property”). A Concept Plan of the site is attached hereto as **Exhibit B**.
- B. Developer proposes a mixed-use development which includes residential and commercial buildings, the associated streets, and other required improvements collectively known as “The Lofts at Deer Run” (the “Development”), on the Property.
- C. On June 27, 2019, the Parties entered into a Development Agreement (the “Original Agreement”) for the purpose of establishing the approved criteria required for the Development prior to approval through the City’s required subdivision process.
- D. The Parties, in accordance with section 14.1 of the Original Agreement, desire to enter into this Amended and Restated Agreement amending and restating the Original Agreement to provide for the terms and conditions upon which the Property can be developed.



- E. City, acting pursuant to its authority under Utah Code Ann. § 10-9-101, *et seq.*, and its land use policies, ordinances and regulations, has made certain determinations with respect to the Subdivision and, in the exercise of its legislative discretion, has elected to approve this Agreement for the purpose of specifying the obligations of the parties with respect to the installation of required infrastructure improvements and such other matters as the Parties agree herein.

#### **AGREEMENT:**

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

1. **Incorporation of Recitals**. The foregoing Recitals and all Exhibits referenced herein are hereby incorporated by this reference and made part of this Agreement.
2. **City Laws and Purpose**. City determines that the provisions of this Agreement relating to establishment of Developer's rights and obligations are consistent with City laws, including the City's land use ordinances, the purposes set forth in the zoning district, and the City's General Plan. This Agreement is adopted by a City ordinance as a legislative act and hereby amends the City laws only to the extent within the authority of City and only to the extent necessary to give Developer the effect of the rights and obligations of this Agreement where such City laws may be inconsistent with this Agreement's intent.
3. **Subdivision Approval**. This Agreement does not remove the Developer from their obligation to adhere to the City's established Subdivision approval process. The Developer shall comply with all applicable time frames as specified in City Code. Approval will be based on substantial compliance with Exhibit B.
4. **Geotechnical**. The Development is located within the area identified in the General Plan as Sensitive Lands. As such, the Developer must comply with all provision of City Code, Title 10 Zoning Regulations, Chapter 14 Sensitive Lands Development Regulations.
5. **Sewer Capacity**. The Sewer Capital Facilities Plan, dated August 2017, identifies the Property as requiring 4.0 Equivalent Residential Units (ERU's) based on an assumed commercial-only land use. The City acknowledges that the Development exceeds the anticipated demand and the needed capacity will be addressed through future Capital Facilities Plans and future capital improvement projects. The Development's proportional share of the future capital improvement projects which will provide the desired capacity will be paid through the impact fees assessed when the Building Permits are issued. Building permit approval and occupancy will not be contingent upon sewer capacity.
6. **Density**. The Development will be limited to not more than sixty (60) new residential units. The Development shall include a ground floor commercial component fronting 2700 East Street. However, that portion of the Development fronting 2700 East Street

shall have no less than fifty percent (50%) of the floor area on the first level of that structure be commercial.

7. **Parking.** In order to accommodate the parking needs of both the residential and commercial users within the Development, the provisions of Title 10, Chapter 8 of South Weber City Code shall apply and shall be in full force and effect.
8. **Detention Basin.** A detention basin is required in order to control the flow of storm water leaving the site. The basin is the sole responsibility of the Development and will be privately owned and maintained. However, the sizing, design, location and construction of the basin must comply with City Code and City Standards.
9. **Successors and Assigns.**

10.1 **Binding Effect.** This Agreement shall be binding upon the successors and assigns of the Parties. Owners acknowledge and agree that if the City is not paid in full in a timely fashion by Developer of all monies as stated in this Agreement, no future development will be permitted by City on the Property until full payment is made.

10.2 **Assignment.** Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other Party, individual, or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to South Weber City, and the prior written consent of City may also be evidenced by letter from City to Developer.

10. **Default.** In the event either Party fails to perform its obligations hereunder or to comply with the terms and commitments hereof, within thirty (30) days after having been given written notice of default from the other Party, the non-defaulting Party may, at its election, have the following remedies, which shall be cumulative:

11.1 all rights and remedies available at law and in equity, including but not limited to injunctive relief, specific performance, and/or damages;

11.2 to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and

11.3 the right to withhold all further approvals, licenses, permits, or other rights associated with any activity or development described in this Agreement until such default is cured.

11. **Court Costs and Attorneys' Fees.** In the event of any legal action or defense between the Parties arising out of or related to this Agreement or any of the documents provided for herein, the prevailing Party or Parties shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.

**12. Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended, or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at:

Developer: Deer Run Investments, LLC  
784 Parkway Drive  
PO BOX 540395  
North Salt Lake, UT 84054

City: South Weber City  
Attention: City Manager  
1600 East South Weber Drive  
South Weber, UT 84405

Owner: Deer Run Plaza LLC  
10883 South Martingale Lane  
South Jordan, UT 84095

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this section.

**13. General Terms and Conditions.**

14.1 Amendments. Any alteration or change to this Agreement shall be made only after complying with any applicable notice and hearing provisions of MLUDMA and applicable provisions of the City Laws.

14.2 Captions and Construction. This Agreement shall be construed according to its fair meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed to effectuate the public purposes, objectives and benefits set forth herein while protecting any compelling countervailing public interest and providing to Developer vested development rights as described herein. As used in this Agreement, the words "include" and "including" shall mean "including, but not limited to" and shall not be interpreted to limit the generality of the terms preceding such word.

14.3 Term of Agreement. The term of this Agreement shall be for a period of five (5) years following the date of its adoption. The Developer may be granted additional time if requested provided adequate progress has been made as deemed by the City.

14.4 Agreement to Run with the Land. This Agreement shall be recorded in the office of the Davis County Recorder against the Property and is intended to and shall be deemed

to run with the land and shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall be construed in accordance with the City Laws. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Davis County, Utah.

14.5 Legal Representation. Each of the Parties hereto acknowledge that they each have been represented by legal counsel in negotiating this Agreement and that no Party shall have been deemed to have been the drafter of this Agreement.

14.6 Non-Liability of City Officials. No officer, representative, agent or employee of the City shall be personally liable to any other Party hereto or any successor in interest or assignee of such Party in the event of any default or breach by the defaulting Party, or for any amount which may become due the non-defaulting Party, its successors or assigns, or for any obligation arising under the terms of this Agreement.

14.7 Entire Agreement. This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.

14.8 No Third-Party Rights. The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Parties named herein. The Parties alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.

14.9 Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of nature, government restrictions, regulations or controls, judicial orders, enemy or hostile government actions, war, civil commotions, fires, floods, earthquakes or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage. Any Party seeking relief under the provisions of this paragraph must have noticed the other parties in writing of a force majeure event within thirty (30) days following the occurrence of the claimed force majeure event.

14.10 Severability. Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

14.11 Waiver. No waiver of any of the provisions of this Agreement shall operate as waiver of any other provision regardless of any similarity that may exist between such

provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.

14.12 Governing Law. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

14.13 Exhibits. Any exhibit to this Agreement is incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first written above.

"Developer"  
DEER RUN INVESTMENTS, LLC

By: [Signature] Title: Manager

Witness the hand of said grantors, this 8 day of June, 2020!

Deer Run Investments, LLC

State of Utah )  
) ss  
County of Davis )



On this 8 day of June, 2020, personally appeared before me, Joseph Cook, the signer of the foregoing instrument, who duly acknowledged that he/she is the manager of Deer Run Investments, a Limited Liability Company and signed said document in behalf of said Deer Run Investments, LLC, by authority of its Bylaws or Resolution of its Board of Directors, and said, Joseph Cook acknowledged to me said limited liability company executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.

[Signature]  
NOTARY PUBLIC  
Commission Expires:

“Owner”

DEER RUN PLAZA, LLC

By:

Lauree F. Gale

Title:

Managing Member

Witness the hand of said grantors, this 8<sup>th</sup> day of June, 2021.

Lauree F. Gale

Deer Run Plaza, LLC

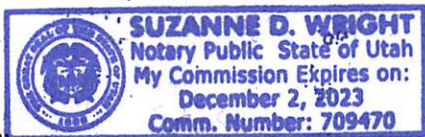
State of Utah )

) ss

County of Davis )

On this 8<sup>th</sup> day of June, 2021, personally appeared before me, Lauree F. Gale the signer of the foregoing instrument, who duly acknowledged that he/she is the Managing Member of Deer Run Plaza, a Limited Liability Company and signed said document in behalf of said Deer Run Plaza, LLC, by authority of its Bylaws or Resolution of its Board of Directors, and said, Managing Member acknowledged to me said limited liability company executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.



Suzanne D. Wright  
NOTARY PUBLIC  
Commission Expires: 12-02-2023

“City”

SOUTH WEBER CITY

By:

David Larson  
David Larson, City Manager

Lisa Smith  
Attest: Lisa Smith, City Recorder

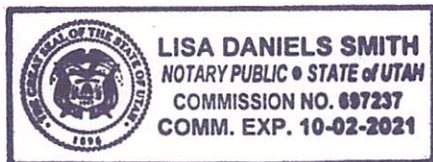
State of Utah )

) ss

County of Davis )

Subscribed and sworn to before me on this 27<sup>th</sup> day of May, 2021, by David Larson.

WITNESS my hand and official seal the day and year in this certificate first above written.



Lisa Daniels Smith  
NOTARY PUBLIC  
Commission Expires: 10-02-2021

**EXHIBIT "A"**  
**THE LOFTS AT DEER RUN**  
**BOUNDARY DESCRIPTION**

**A part of Lot 2, Deer Run Estates Unit No. 5. And A part of the Southwest Quarter of Section 36, T5N Range 1 West Salt Lake Base and Meridian**

**Beginning at the intersection of the Southeasterly right of way line of the Davis and Weber Canal, and the West right of way line of the Frontage Road said point being 555.59 feet South 89°58'06" East along the Section line; and 296.80 feet South 00°02'01" West from the West Quarter Corner of said Section, and running thence two (2) courses along said West right of way line as follows: (1) Southerly along the Arc of a 626.80 foot radius curve to the right a distance of 45.54 foot radius point bears South 89°38'52" West, (Central Angle equals 04°09'47", and Center Bears South 89°38'52" West); and (2) South 04°12'50" West 541.15 feet to the North right of way line of 7950 South Street, being a point of curvature; thence two (2) courses along said North right of way line as follows: (1) Southwesterly along the arc of a 20.67 foot radius curve to the right a distance of 29.83 feet (Central Angle equals 82°40'37", and Long Chord bears South 45°33'08" West 27.31 feet) to a point of non-tangent curvature of which the radius point lies South 03°06'39" East; and (2) Westerly along the arc of a 197.04 foot radius curve to the left a distance of 50.55 feet (Central angle equals 14°42'01", and Long Chord bears South 79°32'20" West 50.42 feet) to the West line of said Lot 2; thence North 28°31'06" West 234.73 feet along said West line to the Northwest corner of said lot marked by a rebar with no cap; thence North 87°57'40" West 116.31 feet along the North line of said Deer Run Estates Unit No. 5 to said Southeasterly right of way line of said Canal; thence six (6) courses along said Southeasterly right of way line as follows: (1) North 17°15'00" East 118.53 feet; (2) North 07°55'00" East 144.20 feet; (3) North 33°15'00" East 44.30 feet; (4) North 53°01'00" East 35.40 feet; (5) North 67°01'00" East 219.00 feet; and (6) North 83°46'00" East 29.50 feet to the POINT OF BEGINNING.**

**Containing 2.9140 acres, more or less.**

**TOGETHER WITH**

**A part of the Southwest Quarter of Section 36, T5N Range 1 West Salt Lake Base and Meridian**

**Beginning at the intersection of the Northwesterly right of way line of the Davis and Weber Canal, and the West right of way line of the Frontage Road said point being 535.54 feet South 89°58'06" East along the Section line; and 143.69 feet South 00°02'01" West from the West Quarter Corner of said Section, and running; thence two (2) course along said Northwesterly right of way line as follows: (1) South 89°46'00" West 45.57 feet; and (2) South 67°01'00" West 60.99 feet; thence North 00°11'51" East 51.08 feet; thence East 6.00 feet; thence North 52.00 feet; thence West 6.00 feet; thence North 64.67 feet; thence South 89°58'06" East 44.68 feet to said Westerly right of way line of Frontage Road, being a point of non-tangent curvature of which the radius point lies South 61°19'57" West; thence Southerly along the arc of a 626.80 foot radius curve to the right a distance of 154.95 feet (Central Angle equals 14°09'52", and Long Chord bears South 21°35'07" East 154.56 feet) along said Westerly right of way line to the POINT OF BEGINNING.**

**Containing 11,372 square feet more or less.**

13-041-0068, 0062  
13-140-0009, 0010

13-041-0115

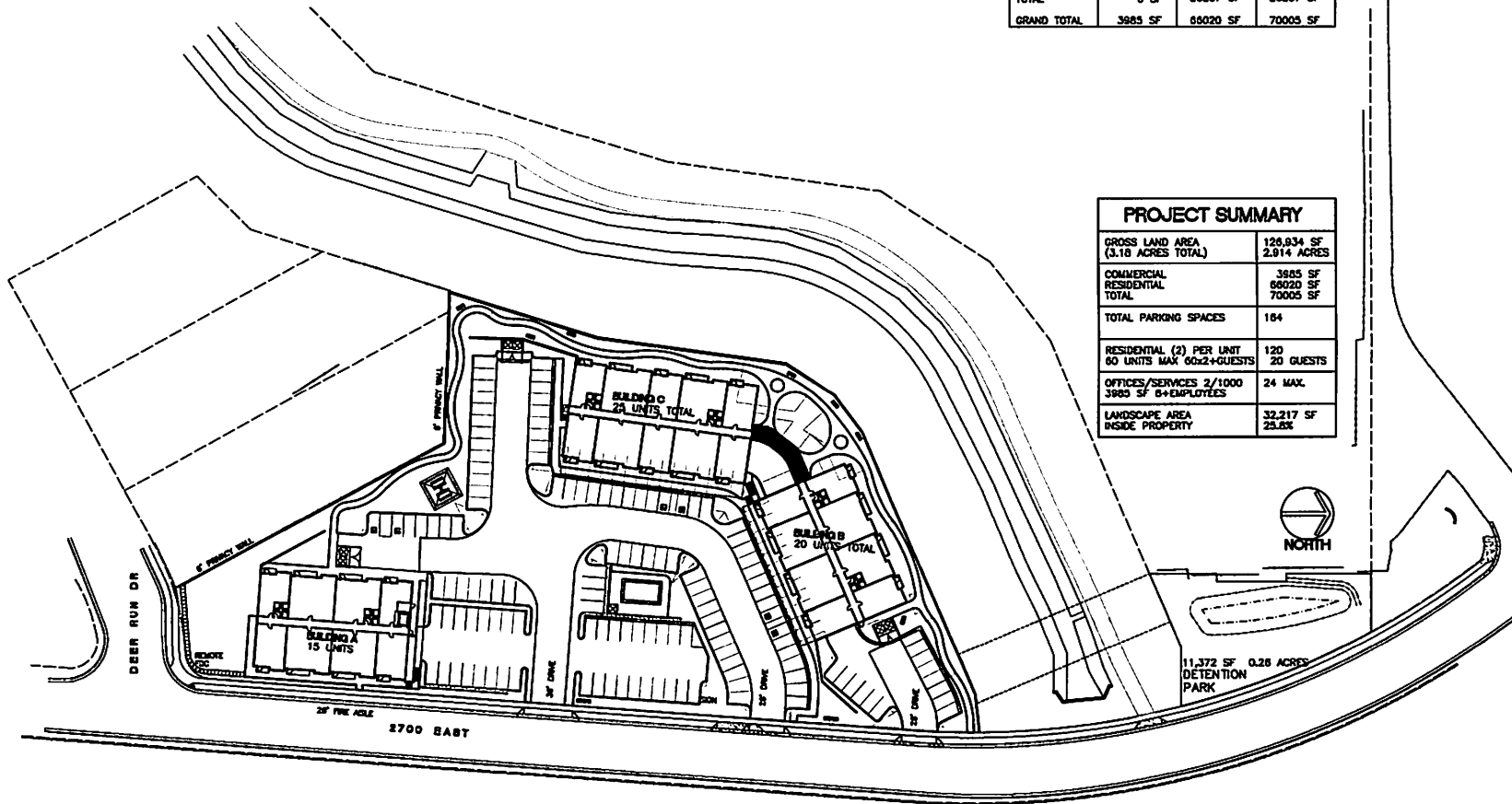
BLDG CODE INFO	
S BUILDING A	OCCUPANCIES, B, M, R-2
	TYPE V-B
	NFPA 13
N BUILDING B	OCCUPANCY: R-2
	V-B
	NFPA 13
W BUILDING C	OCCUPANCY: R-2
	V-B
	NFPA 13

PROJECT SUMMARY			
BUILDING A	COMMERCIAL	RESIDENTIAL	TOTAL
	1ST FLOOR	4885 SF	4885 SF
	2ND FLOOR	4807 SF	8592 SF
	3RD FLOOR	0 SF	8592 SF
TOTAL	3985 SF	17884 SF	21869 SF
N BUILDING B	COMMERCIAL	RESIDENTIAL	TOTAL
	1ST FLOOR	4685 SF	4685 SF
	2ND FLOOR	0 SF	8592 SF
	3RD FLOOR	0 SF	8592 SF
TOTAL	0 SF	21869 SF	21869 SF
W BUILDING C	COMMERCIAL	RESIDENTIAL	TOTAL
	1ST FLOOR	5627 SF	5627 SF
	2ND FLOOR	0 SF	10320 SF
	3RD FLOOR	0 SF	10320 SF
TOTAL	0 SF	28287 SF	28287 SF
GRAND TOTAL	3985 SF	66020 SF	70005 SF

**Fred C. Cox,**  
**Architect**  
 4466 Early Duke St.  
 West Valley City,  
 Utah 84120-5723  
 Phone: 801-966-3733  
 Email: fcc@fredccox.com

THIS DOCUMENT IS FOR CITY APPROVAL OF THE PROJECT NOTED AND IS ALSO FOR CONSTRUCTION. ACTUAL SITE DIMENSIONS COULD VARY. USE OF THIS DOCUMENT FOR ANY OTHER PROJECT IS NOT PERMITTED.

PROJECT SUMMARY	
GROSS LAND AREA (3.18 ACRES TOTAL)	126,934 SF 2,914 ACRES
COMMERCIAL	3985 SF
RESIDENTIAL	66020 SF
TOTAL	70005 SF
TOTAL PARKING SPACES	184
RESIDENTIAL (2) PER UNIT	120
60 UNITS MAX 60x2+GUESTS	20 GUESTS
OFFICES/SERVICES 2/1000	24 MAX.
3985 SF 6+EMPLOYEES	
LANDSCAPE AREA INSIDE PROPERTY	32,217 SF 25.6%



DEER RUN INVESTMENTS, LLC

LOFTS AT DEER RUN

7670 SOUTH 5700 EAST  
 SOUTH WEBER, UTAH  
 SITE PLAN

SCALE: 1" = 40'-0"  
 OCTOBER 16, 2020  
 194001-A01-K016

DRAWINGS ARE BASED ON SURVEYS BY GREAT BASH ENR. AND CIVIL BY EXTELLE.