

CACHE COUNTY COUNCIL

May 9, 2023 at 5:00 p.m. - Cache County Chamber at 199 North Main, Logan, Utah.

In accordance with the requirements of Utah Code Annotated Section 52-4-203, the County Clerk records in the minutes the names of all persons who appear and speak at a County Council meeting and the substance "in brief" of their comments. Such statements may include opinions or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.

MEMBERS PRESENT: Chair David Erickson, Councilmember Barbara Tidwell, Councilmember Kathryn Beus, Councilmember Sandi Goodlander, Councilmember Mark Hurd, Councilmember Karl Ward, Councilmember Nolan Gunnell

MEMEBERS EXCUSED:

STAFF PRESENT: County Executive David Zook, Chief Deputy Executive Dirk Anderson, Attorney Dane Murray, Taylor Sorenson, Chief Deputy Clerk Bryson Behm, Bartt Nelson, Bart Esplin, Terryl Warner, Scott Bodily, Matt Phillips

OTHER ATTENDANCE: Lyle Hilliard

Council Meeting

1. Call to Order 5:00p.m. – Council Chair David Erickson

2. Opening – Councilmember Kathryn Beus [0:35](#)

Presentation of the Colors and Pledge of Allegiance – Cache County Sheriff Honor Guard [1:37](#)

Action: Motion made by Councilmember Nolan Gunnell to accept the Proclamation for Law Enforcement Week / Peace Officer's Memorial Day; seconded by Councilmember Barbara Tidwell [5:50](#)

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

3. Review and Approval of Agenda APPROVED [7:21](#)

Action: Motion made by Councilmember Kathryn Beus to approve the agenda; seconded by Councilmember Nolan Gunnell

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

4. Review and Approval of Minutes APPROVED [7:35](#)

a. Approval of Minutes (4/25/2023)

Action: Motion made by Councilmember Barbara Tidwell to approve the minutes pending corrections; seconded by Councilmember Nolan Gunnell

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

b. Corrections for Minutes (4/25/2023) [9:30](#)

Action: Motion made by Councilmember Barbara Tidwell to approve the appointment of Val J. Rigby to the Planning Commission and Stephen Nelson to the position of Development Services Director; seconded by Councilmember Kathryn Beus

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

5. Report of the County Executive [2:32:54](#)

a. A report from County Executive David Zook.

6. Items of Special Interest [10:48](#)

a. **Proclamation – Law Enforcement Week/Peace Officers' Memorial Day** – Cache County Sheriff's Office [11:04](#) **ATTACHMENT 1**

b. Presentation of Awards – Sheriff Chad Jensen [12:38](#)

c. Presentation Honoring Terryl Warner for 25 Years of Service to the County – Dane Murray [52:49](#)

7. Department or Committee Reports [1:04:01](#)

a. USU Extension Services – JayDee Gunnell, Director [1:04:48](#)

8. Tax Sale Report – Chief Deputy Clerk Bryson Behm [1:16:19](#)

9. Public Hearings [49:04](#)

a. **Public Hearing - Ordinance 2023-17 – Clair and Jennifer Anderson Rezone** [49:10](#)

A request to rezone 5.0 acres located at 1200 West 3600 South, near Nibley, from the Agricultural (A10) Zone to the Commercial (C) Zone.

Discussion: Tim Watkins spoke to the ordinance [49:58](#).

Action: Motion made by Councilmember Nolan Gunnell to close the public hearing; seconded by Councilmember Barbara Tidwell [52:31](#)

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

10. Pending Action [1:17:22](#)

a. **Ordinance 2023-13** [1:17:28](#) **ATTACHMENT 2**

An Ordinance amending 17.02 of the Cache County Code and amending 2.20.050 of the Cache County Code to change the appeal authority

Discussion: Taylor Sorenson spoke to the ordinance [1:17:42](#). Councilmember questions and discussion ensued.

Action: Motion made by Councilmember Karl Ward to approve the ordinance; seconded by Councilmember Barbara Tidwell [1:30:23](#)

Action: Motion made by Councilmember Nolan Gunnell to amend the motion to clarify that the Land Use Authority Director shall be “appointed by the County Executive with the advice and consent of the County Council” in the ordinance; seconded by Councilmember Barbara Tidwell [1:31:31](#)

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

11. Initial Proposals for Consideration of Action [1:33:11](#)

a. **Ordinance 2023-17 - Clair and Jennifer Anderson Rezone** [1:33:16](#) **ATTACHMENT 3**

A request to rezone 5.0 acres located at 1200 West 3600 South, near Nibley, from the Agricultural (A10) Zone to the Commercial (C) Zone.

Action: Motion made by Councilmember Nolan Gunnell to waive the rules and deny the proposed rezone as recommended by the Planning and Zoning Commission; seconded by Councilmember Kathryn Beus [1:33:18](#)

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

b. **Ordinance 2023-18** [1:33:50](#) **ATTACHMENT 4**

An Ordinance Amending Chapter 2.16 of the Cache County Code Regarding Creating the Office of the District Attorney

Discussion: Attorney Dane Murray spoke to the ordinance [1:34:06](#). Councilmember questions and discussion ensued. Lyle Hilliard spoke [1:51:02](#).

Action: Motion made by Councilmember Nolan Gunnell to waive the rules and approve the ordinance; seconded by Councilmember Barbara Tidwell [1:49:50](#) (vote at [1:56:17](#))

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

c. **Consideration and Approval of RAPZ Board Decisions** [1:56:40](#)

Discussion: County Executive David Zook spoke [1:58:17](#). Karl Ward spoke [2:02:02](#). Discussion ensued. Lyle Hilliard spoke [2:11:00](#).

d. **Providence Landing Annexation Petition to the City of Providence** [2:13:52](#) **ATTACHMENT 5**

Review a petition submitted to the City of Providence for the annexation of ~10 acres of property, and then act to agree or disagree with the annexation request.

Discussion: Tim Watkins spoke [2:14:19](#).

Action: Motion made by Councilmember Barbara Tidwell to waive the rules and approve the annexation petition; seconded by Councilmember Kathryn Beus [2:17:46](#)

Motion passes.

Aye: 7 David Erickson, Barbara Tidwell, Kathryn Beus, Nolan Gunnell, Sandi Goodlander, Mark Hurd, Karl Ward

Nay: 0

12. Other Business [2:18:43](#)

a. NACo WIR Conference

May 17-19, 2023 – Washington County, St. George

b. Smithfield Health Days Parade

May 13, 2023 at 10:00 am

c. Richmond Black and White Days Parade

May 20, 2023 at 5:00 pm

13. Councilmember Reports [2:22:26](#)

David Erickson – Commented on Sheriff's Office awards

Sandi Goodlander – Spoke about a meeting with the Bear River Homeless Council and the CJC.

Karl Ward – Commented on Audit Committee meeting.

Barbara Tidwell – Spoke about a presentation at the Veteran's Center.

Mark Hurd – Commented on a meeting with Clerk/Auditor Jess Bradfield, and Budget Committee meetings.

Nolan Gunnell – Raised question about expense reports.

Kathryn Beus – Commented on UAC Management Conference.

Adjourn: approximately 7:45 PM



ATTEST: Jess W. Bradfield
County Clerk/Auditor



APPROVAL: David Erickson
Chair



CACHE COUNTY COUNCIL MEETING
MAY 9, 2023

ATTACHMENT 1

DAVID N. ZOOK
COUNTY EXECUTIVE

NORTH MAIN STREET
LOGAN, UT 84321
435-755-1850
WWW.CACHECOUNTY.ORG



COUNTY COUNCIL

DAVID L. ERICKSON, *CHAIR*
BARBARA Y. TIDWELL, *VICE CHAIR*
KATHRYN A BEUS
SANDI GOODLANDER
NOLAN P. GUNNELL
MARK R. HURD
KARL B. WARD

PROCLAMATION

WHEREAS, the Congress and President of the United States have designated May 15, 2023 as Peace Officers Memorial Day, and the week of May 14– 20, 2023 as National Law Enforcement Week; and

WHEREAS, the members of the Cache County Sheriff's Office play an essential role in safeguarding the rights and freedoms of Cache County; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the Cache County Sheriff's Office unceasingly provide a vital public service;

NOW THEREFORE, in recognition of all law enforcement officers and in particular the men and women in the Cache County Sheriff's Office, be it resolved that the Cache County Council and the Cache County Executive, County of Cache, State of Utah, hereby proclaim the week of May 14 through May 20, 2023 as

LAW ENFORCEMENT WEEK

and call upon all citizens of Cache County and all patriotic, civic and educational organizations to observe this week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens,

and Monday, May 15, 2023 as

PEACE OFFICERS MEMORIAL DAY

and further call upon all citizens of Cache County to honor those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, as Chair of the County Council and County Executive, we have hereunto set our hand this 9th day of May, 2023.

CACHE COUNTY

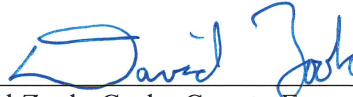
Attest:



David Erickson, Cache County Council Chair



Jess W. Bradfield, County Clerk/Auditor



David Zook, Cache County Executive

CACHE COUNTY COUNCIL MEETING
MAY 9, 2023

ATTACHMENT 2



CACHE COUNTY ORDINANCE No. 2023-13

**AN ORDINANCE AMENDING 17.02 OF THE CACHE COUNTY CODE AND
AMENDING 2.20.050 OF THE CACHE COUNTY CODE TO CHANGE THE
APPEAL AUTHORITY**

- (A) WHEREAS, Utah Code 17-27a-701 requires that each local government that regulates land use must appoint an “appeal authority” to hear appeals from decisions applying those land use regulations to a particular application or property; and
- (B) WHEREAS, appeal authorities are authorized to consider appeals of administrative land use decisions, and may grant variances to land use regulations; and
- (C) WHEREAS, a board of adjustment has been the appeal authority for land use decisions in Cache County; and
- (D) WHEREAS, The Cache County Council may designate a hearing officer as the appeal authority, in place of a Board of Adjustment; and
- (E) WHEREAS, hearing officers are more likely to make determinations based on law and create better records, and generally resolve appeals in a more efficient and timely manner than the current Board of Adjustments; and
- (F) WHEREAS, HB 351 was passed by the Utah State Legislature, enacting Utah Code 17-50-340, requires the County Council to create an appeal authority to hear and decide appeals from the County Recorder’s application of the rules; and
- (G) WHEREAS, hearing officers are more likely to make determinations based on law and create better records, and generally resolve appeals in a more efficient and timely manner than a yet-to-be-created Board of Records;

NOW, THEREFORE, the County Legislative Body of Cache County ordains as follows:

SECTION 1: Section 17.02 of the Cache County Code is amended to read in full as follows, with a redline copy attached as Exhibit 1:

**CHAPTER 17.02
ADMINISTRATION**

SECTION:

17.02.010: Purpose



17.02.020: Rules Of Procedure

17.02.030: Establishing Land Use Authority Duties, Authorities, And Powers

17.02.040: Request A Variance

17.02.050: Effective Period Of Land Use Authority Approval

17.02.060: Appeal A Land Use Authority Decision

17.02.070: Notice For Public Meetings

17.02.010: PURPOSE:

A. The purpose of this chapter is to:

1. Establish the Land Use Authority for Cache County land use ordinance decisions; and
2. Establish the Appeal Authority for Cache County land use ordinance variance and appeal decisions; and
3. Provide direction for the process of land use review and appeal. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.020: RULES OF PROCEDURE:

A. The Development Services Department shall adopt rules of procedure establishing the application and decision making process for required permits and approvals. These policies and procedures, including preparation of applications, must reflect the requirements of this code. Permitting fees must be approved by resolution by the County Council. The collected fees must be used to defray the costs of administering land use requests or appeals. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018; amd. Ord. 2020-02, - - 2020)

17.02.030: ESTABLISHING LAND USE AUTHORITY DUTIES, AUTHORITIES, AND POWERS:

A. Director:

1. The Cache County Director of Development Services is established and functions as specified in chapter 2.40 of this code and in this chapter;
2. The Director must be appointed by the Cache County Executive, with the advice and consent of the County Council;
3. The Director has the duties, authority, and powers as set forth in this chapter.



4. The Director must:

- a. Adopt procedures for land use application processes;
- b. Administer and enforce the Land Use Ordinance, the Cache County Subdivision Ordinance, and any associated policies or procedures;
- c. Determine the mapped location of a base or overlay zoning district boundary in instances where the location may be unclear. The Director must consider the following criteria in reaching a decision:

- (1) The policies and development standards that apply to the base or overlay zoning district; and

- (2) Where a base or overlay zoning district map boundary is shown following a road, right-of-way line, interstate highway, public utility right-of-way, railroad line, a stream or watercourse, or a line located midway between the main track of a railroad, the base or overlay zoning district map boundary is deemed to be changed automatically whenever such centerline is changed by natural or artificial means; and

- d. Interpret the use related definitions in the applicable base or overlay zoning district as contained in chapter 17.09 Schedule of Zoning Uses, of this title; and

5. Designee: The Director may assign a designee to act as the land use authority in the place of the Director. Any designee must be identified in writing by the Director prior to any land use decision by the designee.

B. Planning Commission:

1. The Cache County Planning Commission is established as required by Utah Code Annotated section 17-27a-301, and has the duties, authority, and powers as found in Utah Code Annotated section 17-27a-302, as amended, and in this chapter; and

2. The Executive must appoint a Planning Commission with the advice and majority consent of the Council; and

3. The Planning Commission must be composed of seven (7) members. All members serve a term of three (3) years; and

4. The Executive, with the advice and consent of the Council, may remove a member of the Planning Commission with or without cause; and

5. The Planning Commission must adopt bylaws and rules of procedure establishing membership, the duties of officers and their selection, and for other purposes considered necessary for the functioning of the Planning Commission. These bylaws and rules of procedure must be approved by the Council; and

6. The Planning Commission must provide land use review to the Council in the following:



- a. Preparing and recommending a General Plan and amendments to the General Plan; and
- b. Recommending land use ordinances and maps, and amendments to land use ordinances and maps; and
- c. On other items as the Council directs.

C. Land Use Hearing Officer:

1. Procedures.

- a. The land use hearing officer may administer oaths and compel the attendance of witnesses.
- b. All hearings before the land use hearing officer shall comply with the requirements of Chapter 4, Title 52, Utah Code, Open and Public Meetings.
- c. The land use hearing officer shall:
 - i. Keep minutes of his or her proceedings; and
 - ii. Keep records of his or her examinations and other official actions.
- d. The land use hearing officer shall file his or her records in the office of the development services division. All such records are public records.
- e. Decisions of the land use hearing officer become effective at the meeting in which the decision is made, unless a different time is designated at the time the decision is made.

2. Qualifications.

- a. The land use hearing officer shall be appointed by the County Executive with the advice and consent of the County council. The Executive shall appoint more than one hearing officer, but only one hearing officer shall consider and decide upon any matter properly presented for hearing officer review.
- b. A hearing officer may serve a maximum of two (2) consecutive full terms of five (5) years each. The hearing officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.

3. Conflict of Interest and Removal.

- a. The hearing officer shall not participate in any appeal in which the hearing officer has a conflict of interest.
- b. The hearing officer may be removed by the Executive with advice and consent of the Council for violation of this title or any policies and procedures adopted by the Development Services director following



receipt by the Executive of a written complaint filed against the hearing officer.

4. Powers and Duties

a. The land use hearing officer shall:

- i. Act as the appeal authority for administrative decisions by the Development Services Director and decisions by the planning commission; and
- ii. Hear and decide variances from the terms of the zoning ordinance; and
- iii. Hear and decide applications for the expansion or modification of nonconforming uses.

D. County Council:

1. The Cache County Council is established as found in Utah Code Annotated section 17-52a-504 as amended, and in title 2, chapter 2.12 of this Code, and has the land use duties, authority, and powers as represented in title 2, chapter 2.12 of this Code, Utah Code Annotated section 17-53 part 2 as amended, and this chapter.

E. Authority For Land Use Actions:

1. The Land Use Authority is responsible for the land use actions as noted in the table below:

TABLE 17.02.030
AUTHORITY FOR LAND USE ACTIONS

Land Use Authority	Land Use Action
Director	Zoning clearance
	Floodplain permit
	Variance for maximum structure height or minimum setback distances
Planning Commission	Subdivision
	Subdivision amendment
	Conditional use permit
Land Use Hearing Officer	Variance (except as listed under Director)
	Appeal
Council	Ordinance or ordinance amendment
	Rezone



	General Plan or General Plan amendment
	Annexation/disconnection

(Ord. 2018-02, 3-27-2018, eff. 4-12-2018; amd. Ord. 2020-02, - -2020)

17.02.040: REQUEST A VARIANCE:

A. Any person or entity desiring a waiver or modification of the requirements of the land use ordinance as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest must be filed with the Cache County Development Services Department for a variance from the terms of this title. The designated Appeal Authority may grant a variance if the requirements of Utah Code Annotated section 17-27a-702 as amended have been met; and

B. A request for a variance must:

1. Be filed with Development Services Department; and

C. When a request for a variance is filed, notice is given as required by this chapter. The Appeal Authority hears that issue at the next regularly scheduled meeting, unless such time is extended for good cause or stipulation of the parties; and

D. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-27a-8 as amended. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.050: EFFECTIVE PERIOD OF LAND USE AUTHORITY APPROVAL:

A. Administrative land use decisions of approval are effective for a period of one year from the date of Land Use Authority approval; and

B. The Director must issue a notice of expiration to the agent of a project no less than ninety (90) calendar days prior to the end of the effective period of approval; and

C. All final documents required to record a permit or subdivision must be submitted to the Development Services Office no less than four (4) weeks before the approval deadline; and

D. Any approval that has lapsed beyond its effective period is void and any new application must conform to the ordinance currently in effect; and

E. No refunds are issued for void applications or permits; and

F. At the discretion of the Land Use Authority, the effective period of approval may be extended for up to six (6) months beyond the one year period of the original approval.



Within that extension no development or active use of the site is allowed until the permit or subdivision plat has been recorded and all conditions have been met.

1. To request an extension an applicant must submit an application to the Development Services Office a minimum of six (6) weeks prior to the expiration of the original one year period of approval.

2. Extension requests must be reviewed by the Land Use Authority. The Land Use Authority may approve an extension request only if:

- a. The reason for the extension is not economic.
 - b. The applicant has shown a clear pattern of working to record the plat or permit throughout the entirety of the approval period.
3. The applicant bears the burden of proving that the conditions justifying an extension have been met.

G. Where an appeal of an approval has been made, the effective period for the approval does not begin until a final decision has been issued by the Appeal Authority or Judge of the First District Court. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.060: APPEAL A LAND USE AUTHORITY DECISION:

A. The Appeal Authority for Land Use Authority actions is assigned as noted in the table below:

TABLE 17.02.060
APPEAL A LAND USE AUTHORITY DECISION

Acting Authority	Appeal Authority
Director	Land Use Hearing Officer
Planning Commission	Land Use Hearing Officer
Land Use Hearing Officer	First District Court
Council	First District Court

B. Land use decisions may be appealed:

1. By a person with standing that is adversely affected as a result of a Land Use Authority's decision by alleging that any order, requirement, decision, or determination of the Land Use Authority is arbitrary, capricious or illegal; and



2. Only if it is the final decision issued by the proper Land Use Authority. The appeal of decisions made by supporting staff must be reviewed by the Land Use Authority that issued the final decision; and

3. If commenced within ten (10) business days of the adverse order, requirement, decision, or determination by filing a written notice of appeal with the Cache County Development Services Department. The notice of appeal must identify the decision being appealed and parties making the appeal; and

a. The appellant has the burden of showing the evidence and proving that the decision of the Land Use Authority is arbitrary, capricious (unsupported by the evidence or facts of record), or illegal; and

C. When a notice of appeal is filed, notice must be given as required by this chapter. The Appeal Authority then hears that issue at the next regularly scheduled meeting for a hearing, unless such time is extended for good cause or stipulation of the parties; and

D. The Appeal Authority may require written briefs or memorandum of the parties as the Appeal Authority deems necessary. At the hearing, the appellant must appear in person or by agent; and

E. Using substantial evidence as the standard of review, the Appeal Authority determines the correctness of a decision of the Land Use Authority in its interpretation and application of a land use or subdivision ordinance. Only those decisions in which a Land Use Authority has applied a land use ordinance to a particular application, person, or parcel may be appealed; and

F. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-27a-8 as amended; and

G. Any person adversely affected by a final decision of the Appeal Authority may petition the First District Court for review of the decision as permitted by law. Such a petition is barred unless filed within thirty (30) days after the Appeal Authority's decision is final in compliance with Utah Code Annotated section 17-27a-801(2) as amended; and

1. The Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the County. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.070: NOTICE FOR PUBLIC MEETINGS:

A. Notice for public meetings and public hearings must comply with the Open and Public Meetings Act Utah Code Annotated chapter 52-4 and Utah Code Annotated section 17-27a-2 as amended. At the discretion of the Land Use Authority additional notice requirements may be applied; and



B. Notice of the time, place, and subject matter of a meeting must be given to the person making a request, the Land Use Authority or official, other affected parties as directed by law, and all adjoining property owners within a three hundred foot (300') radius of the boundary of the subject property. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

SECTION 2:

Section 2.20.050 of the Cache County Code is amended to read in full as follows, with a redline copy attached as Exhibit 2

2.20.050: COUNTY RECORDER:

1. There shall be an office of county recorder, headed by an elected county recorder. The office of county recorder shall have all the functions, responsibilities and powers provided by law.
2. Appeal of a Recorder Decision:
 - a. County Recorder decisions may be appealed:
 - i. By a person with standing that is adversely affected as a result of The Recorder's decision by alleging that The Recorder's decision did not comply with rules made by the County Recorder Standards Board under Section 63C-29-20; and
 - ii. Only if it is the final decision issued by The Recorder, as appeals of decisions made by supporting staff must be reviewed by the Recorder.
 - b. Notices of Appeals must:
 - i. Commence within ten (10) business days of the adverse order, requirement, decision, or determination by filing a written notice of appeal with the Cache County Recorder's Office;
 - ii. Identify the decision being appealed and parties making the appeal; and
 - c. The appellant has the burden of showing the evidence and proving that The Recorder's decision did not comply with rules made by the County Recorder Standards Board under Section 63C-29-202.
 - d. The Appeal Authority shall be the same Hearing Officer used for appeals of Land Use Authority Decisions.
 - e. When a notice of appeal is filed, the Appeal Authority then hears that issue at the next regularly scheduled meeting for a hearing, unless such time is extended for good cause or stipulation of the parties; and
 - f. The Appeal Authority may require written briefs or memorandum of the parties as the Appeal Authority deems necessary. At the hearing, the appellant must appear in person or by agent; and
 - g. Using substantial evidence as the standard of review, the Appeal Authority determines the correctness of a decision of the Recorder in its interpretation and application rules made by the County Recorder



Standards Board under Section 63C-29-20. Only those decisions in which the Recorder has applied rules made by the County Recorder Standards Board under Section 63C-29-20 may be appealed; and

- h. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-50-340 as amended; and
- i. Any person adversely affected by a final decision of the Appeal Authority may petition the First District Court for review of the decision as permitted by law; and
- j. The Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the County.

SECTION 3:

This ordinance takes effect 15 days following its passage and approval by the County Council.

PASSED AND APPROVED BY THE COUNTY COUNCIL OF CACHE COUNTY,
UTAH THIS 9 DAY OF May 2023.

	In Favor	Against	Abstained	Absent
Sandi Goodlander	✓			
David Erickson	✓			
Nolan Gunnell	✓			
Barbara Tidwell	✓			
Karl Ward	✓			
Mark Hurd	✓			
Kathryn Beus	✓			
Total	7	—	—	—

CACHE COUNTY COUNCIL:

By: [Signature]
David Erickson, Chair
Cache County Council

ATTEST:

By: [Signature]
Jess Bradfield, Clerk



ACTION OF THE COUNTY EXECUTIVE:

 Y Approve

 Disapprove (Written Statement of Objection attached)

 David Zook
David Zook, Executive

 5/17/23
Date

EXHIBIT 1

**CHAPTER 17.02
ADMINISTRATION**

SECTION:

17.02.010: Purpose

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17.02.040: Request A Variance

17.02.050: Effective Period Of Land Use Authority Approval

17.02.060: Appeal A Land Use Authority Decision

17.02.070: Notice For Public Meetings

17.02.010: PURPOSE:

A. The purpose of this chapter is to:

1. Establish the Land Use Authority for Cache County land use ordinance decisions;
and
2. Establish the Appeal Authority for Cache County land use ordinance variance and
appeal decisions; and



3. Provide direction for the process of land use review and appeal. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.020: RULES OF PROCEDURE:

A. The Development Services Department shall adopt rules of procedure establishing the application and decision making process for required permits and approvals. These policies and procedures, including preparation of applications, must reflect the requirements of this code. Permitting fees must be approved by resolution by the County Council. The collected fees must be used to defray the costs of administering land use requests or appeals. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018; amd. Ord. 2020-02, - - 2020)

17.02.030: ESTABLISHING LAND USE AUTHORITY DUTIES, AUTHORITIES, AND POWERS:

A. Director:

1. The Cache County Director of Development Services is established and functions as specified in chapter 2.40 of this code and in this chapter;

2. The Director must be appointed by the Cache County Executive, with the advice and consent of the County Council;

3. The Director has the duties, authority, and powers as set forth in this chapter.

4. The Director must:

a. Adopt procedures for land use application processes;

b. Administer and enforce the Land Use Ordinance, the Cache County Subdivision Ordinance, and any associated policies or procedures;

c. Determine the mapped location of a base or overlay zoning district boundary in instances where the location may be unclear. The Director must consider the following criteria in reaching a decision:

(1) The policies and development standards that apply to the base or overlay zoning district; and

(2) Where a base or overlay zoning district map boundary is shown following a road, right-of-way line, interstate highway, public utility right-of-way, railroad line, a stream or watercourse, or a line located midway between the main track of a railroad, the base or overlay zoning district map boundary is deemed to be changed automatically whenever such centerline is changed by natural or artificial means; and



d. Interpret the use related definitions in the applicable base or overlay zoning district as contained in chapter 17.09 Schedule of Zoning Uses, of this title; and

5. Designee: The Director may assign a designee to act as the land use authority in the place of the Director. Any designee must be identified in writing by the Director prior to any land use decision by the designee.

B. Planning Commission:

1. The Cache County Planning Commission is established as required by Utah Code Annotated section 17-27a-301, and has the duties, authority, and powers as found in Utah Code Annotated section 17-27a-302, as amended, and in this chapter; and

2. The Executive must appoint a Planning Commission with the advice and majority consent of the Council; and

3. The Planning Commission must be composed of seven (7) members. All members serve a term of three (3) years; and

4. The Executive, with the advice and consent of the Council, may remove a member of the Planning Commission with or without cause; and

5. The Planning Commission must adopt bylaws and rules of procedure establishing membership, the duties of officers and their selection, and for other purposes considered necessary for the functioning of the Planning Commission. These bylaws and rules of procedure must be approved by the Council; and

6. The Planning Commission must provide land use review to the Council in the following:

a. Preparing and recommending a General Plan and amendments to the General Plan; and

b. Recommending land use ordinances and maps, and amendments to land use ordinances and maps; and

c. On other items as the Council directs.

C. Land Use Hearing Officer:

1. Procedures.

a. The land use hearing officer may administer oaths and compel the attendance of witnesses.

b. All hearings before the land use hearing officer shall comply with the requirements of Chapter 4, Title 52, Utah Code, Open and Public Meetings.

c. The land use hearing officer shall:

i. Keep minutes of his or her proceedings; and



- ii. Keep records of his or her examinations and other official actions.
 - d. The land use hearing officer shall file his or her records in the office of the development services division. All such records are public records.
 - e. Decisions of the land use hearing officer become effective at the meeting in which the decision is made, unless a different time is designated at the time the decision is made.
2. Qualifications.
- a. The land use hearing officer shall be appointed by the County Executive with the advice and consent of the County council. The Executive shall appoint more than one hearing officer, but only one hearing officer shall consider and decide upon any matter properly presented for hearing officer review.
 - b. A hearing officer may serve a maximum of two (2) consecutive full terms of five (5) years each. The hearing officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.
3. Conflict of Interest and Removal.
- a. The hearing officer shall not participate in any appeal in which the hearing officer has a conflict of interest.
 - b. The hearing officer may be removed by the Executive for violation of this title or any policies and procedures adopted by the Development Services director following receipt by the Executive of a written complaint filed against the hearing officer.
4. Powers and Duties
- a. The land use hearing officer shall:
 - i. Act as the appeal authority for administrative decisions by the Development Services Director and decisions by the planning commission; and
 - ii. Hear and decide variances from the terms of the zoning ordinance; and
 - iii. Hear and decide applications for the expansion or modification of nonconforming uses.
- D. County Council:
1. The Cache County Council is established as found in Utah Code Annotated section 17-52a-504 as amended, and in title 2, chapter 2.12 of this Code, and has the land use duties, authority, and powers as represented in title 2, chapter 2.12 of this Code, Utah Code Annotated section 17-53 part 2 as amended, and this chapter.
- E. Authority For Land Use Actions:



1. The Land Use Authority is responsible for the land use actions as noted in the table below:

**TABLE 17.02.030
AUTHORITY FOR LAND USE ACTIONS**

Land Use Authority	Land Use Action
Director	Zoning clearance
	Floodplain permit
	Variance for maximum structure height or minimum setback distances
Planning Commission	Subdivision
	Subdivision amendment
	Conditional use permit
Land Use Hearing Officer	Variance (except as listed under Director)
	Appeal
Council	Ordinance or ordinance amendment
	Rezone
	General Plan or General Plan amendment
	Annexation/disconnection

(Ord. 2018-02, 3-27-2018, eff. 4-12-2018; amd. Ord. 2020-02, - -2020)

17.02.040: REQUEST A VARIANCE:

A. Any person or entity desiring a waiver or modification of the requirements of the land use ordinance as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest must be filed with the Cache County Development Services Department for a variance from the terms of this title. The designated Appeal Authority may grant a variance if the requirements of Utah Code Annotated section 17-27a-702 as amended have been met; and

B. A request for a variance must:

1. Be filed with Development Services Department; and

C. When a request for a variance is filed, notice is given as required by this chapter. The Appeal Authority hears that issue at the next regularly scheduled meeting, unless such time is extended for good cause or stipulation of the parties; and



D. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-27a-8 as amended. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.050: EFFECTIVE PERIOD OF LAND USE AUTHORITY APPROVAL:

A. Administrative land use decisions of approval are effective for a period of one year from the date of Land Use Authority approval; and

B. The Director must issue a notice of expiration to the agent of a project no less than ninety (90) calendar days prior to the end of the effective period of approval; and

C. All final documents required to record a permit or subdivision must be submitted to the Development Services Office no less than four (4) weeks before the approval deadline; and

D. Any approval that has lapsed beyond its effective period is void and any new application must conform to the ordinance currently in effect; and

E. No refunds are issued for void applications or permits; and

F. At the discretion of the Land Use Authority, the effective period of approval may be extended for up to six (6) months beyond the one year period of the original approval. Within that extension no development or active use of the site is allowed until the permit or subdivision plat has been recorded and all conditions have been met.

1. To request an extension an applicant must submit an application to the Development Services Office a minimum of six (6) weeks prior to the expiration of the original one year period of approval.

2. Extension requests must be reviewed by the Land Use Authority. The Land Use Authority may approve an extension request only if:

a. The reason for the extension is not economic.

b. The applicant has shown a clear pattern of working to record the plat or permit throughout the entirety of the approval period.

3. The applicant bears the burden of proving that the conditions justifying an extension have been met.

G. Where an appeal of an approval has been made, the effective period for the approval does not begin until a final decision has been issued by the Appeal Authority or Judge of the First District Court. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.060: APPEAL A LAND USE AUTHORITY DECISION:



A. The Appeal Authority for Land Use Authority actions is assigned as noted in the table below:

TABLE 17.02.060
APPEAL A LAND USE AUTHORITY DECISION

Acting Authority	Appeal Authority
Director	Land Use Hearing Officer
Planning Commission	Land Use Hearing Officer
Land Use Hearing Officer	First District Court
Council	First District Court

B. Land use decisions may be appealed:

1. By a person with standing that is adversely affected as a result of a Land Use Authority's decision by alleging that any order, requirement, decision, or determination of the Land Use Authority is arbitrary, capricious or illegal; and

2. Only if it is the final decision issued by the proper Land Use Authority. The appeal of decisions made by supporting staff must be reviewed by the Land Use Authority that issued the final decision; and

3. If commenced within ten (10) business days of the adverse order, requirement, decision, or determination by filing a written notice of appeal with the Cache County Development Services Department. The notice of appeal must identify the decision being appealed and parties making the appeal; and

- a. The appellant has the burden of showing the evidence and proving that the decision of the Land Use Authority is arbitrary, capricious (unsupported by the evidence or facts of record), or illegal; and

- C. When a notice of appeal is filed, notice must be given as required by this chapter. The Appeal Authority then hears that issue at the next regularly scheduled meeting for a hearing, unless such time is extended for good cause or stipulation of the parties; and

- D. The Appeal Authority may require written briefs or memorandum of the parties as the Appeal Authority deems necessary. At the hearing, the appellant must appear in person or by agent; and

- E. Using substantial evidence as the standard of review, the Appeal Authority determines the correctness of a decision of the Land Use Authority in its interpretation and application of a land use or subdivision ordinance. Only those decisions in which a Land Use Authority has applied a land use ordinance to a particular application, person, or parcel may be appealed; and



F. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-27a-8 as amended; and

G. Any person adversely affected by a final decision of the Appeal Authority may petition the First District Court for review of the decision as permitted by law. Such a petition is barred unless filed within thirty (30) days after the Appeal Authority's decision is final in compliance with Utah Code Annotated section 17-27a-801(2) as amended; and

1. The Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the County. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

17.02.070: NOTICE FOR PUBLIC MEETINGS:

A. Notice for public meetings and public hearings must comply with the Open and Public Meetings Act Utah Code Annotated chapter 52-4 and Utah Code Annotated section 17-27a-2 as amended. At the discretion of the Land Use Authority additional notice requirements may be applied; and

B. Notice of the time, place, and subject matter of a meeting must be given to the person making a request, the Land Use Authority or official, other affected parties as directed by law, and all adjoining property owners within a three hundred foot (300') radius of the boundary of the subject property. (Ord. 2018-02, 3-27-2018, eff. 4-12-2018)

EXHIBIT 2

2.20.050: COUNTY RECORDER:

1. There shall be an office of county recorder, headed by an elected county recorder. The office of county recorder shall have all the functions, responsibilities and powers provided by law.

2. Appeal of a Recorder Decision:

- a. County Recorder decisions may be appealed:
 - i. By a person with standing that is adversely affected as a result of The Recorder's decision by alleging that The Recorder's decision did not comply with rules made by the County Recorder Standards Board under Section 63C-29-20; and
 - ii. Only if it is the final decision issued by The Recorder, as appeals of decisions made by supporting staff must be reviewed by the Recorder.
- b. Notices of Appeals must:
 - i. Commence within ten (10) business days of the adverse order, requirement, decision, or determination by filing a written notice of appeal with the Cache County Recorder's Office;
 - ii. Identify the decision being appealed and parties making the appeal; and
- c. The appellant has the burden of showing the evidence and proving that The Recorder's decision did not comply with rules made by the County Recorder Standards Board under Section 63C-29-202.
- d. The Appeal Authority shall be the same Hearing Officer used for appeals of Land Use Authority Decisions.
- e. When a notice of appeal is filed, the Appeal Authority then hears that issue at the next regularly scheduled meeting for a hearing, unless such time is extended for good cause or stipulation of the parties; and
- f. The Appeal Authority may require written briefs or memorandum of the parties as the Appeal Authority deems necessary. At the hearing, the appellant must appear in person or by agent; and
- g. Using substantial evidence as the standard of review, the Appeal Authority determines the correctness of a decision of the Recorder in its interpretation and application rules made by the County Recorder Standards Board under Section 63C-29-20. Only those decisions in which the Recorder has applied rules made by the County Recorder Standards Board under Section 63C-29-20 may be appealed; and
- h. The Appeal Authority must issue a decision in writing within fifteen (15) business days of the final hearing, which constitutes a final decision under Utah Code Annotated section 17-50-340 as amended; and
- i. Any person adversely affected by a final decision of the Appeal Authority may petition the First District Court for review of the decision as permitted by law; and
- j. The Appeal Authority may order its decision stayed pending District Court review if the Appeal Authority finds it to be in the best interest of the County.

CACHE COUNTY COUNCIL MEETING
MAY 9, 2023

ATTACHMENT 3

Ordinance No. 2023-17
Cache County, Utah

DENIED

Clair and Jennifer Anderson Rezone

An ordinance amending the County Zoning Map by rezoning 5.0 acres from the Agricultural (A10) Zone to the Commercial (C) Zone

Whereas, the “County Land Use Development and Management Act,” Utah Code Ann. §17-27a-101 et seq., as amended (the “Act”), provides that each county may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

Whereas, pursuant to the Act, the County’s Planning Commission (the “Planning Commission”) shall prepare and recommend to the county’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represent the Planning Commission’s recommendations for zoning the area within the county; and

Whereas, the Planning Commission caused notice of a public hearing for the rezone to be posted at least ten (10) days before the date of the public hearing; and

Whereas, on March 2, 2023, the Planning Commission held a public hearing, accepted all comments, and accepted all comments, and continued the request up to 90 days to allow time for the Nibley City Council to provide their recommendation to the Cache County Planning Commission. On April 6, 2023, the Planning Commission recommended the denial of the proposed amendments to the County Council for final action as follows:

- A. The location of the subject property to be rezoned is not compatible with the purpose of the Commercial (C) Zone:
 - i. “To provide compatible locations for retail, office, and business/commerce activities, to enhance employment opportunities, to encourage the efficient use of land, to enhance, property values, and to strengthen the county’s tax base”;
 - ii. And will conflict or have deleterious effects upon surrounding properties.
- B. The subject parcel to be rezoned is accessed from a Nibley City road, is located immediately adjacent to the Nibley City municipal boundary within the City’s future annexation area, and has been identified on their future land use map as “Medium density residential” which does not allow storage units. The future development of this parcel would be better served as part of a Nibley City development through annexation.
- C. The Nibley City Council does not recommend approval of the rezone as per a unanimous vote on a discussion and recommendation motion during their 9 March 2023 council meeting.

Whereas, the Act also provides certain procedures for the county legislative body to adopt or reject amendments to the land use ordinance and zoning map for the county; and

Whereas, following proper notice, the County Council held a public hearing on May 9, 2023, to consider any comments regarding the proposed rezone. The County Council accepted all comments.

Now, therefore, the County Legislative Body of Cache County ordains as follows regarding the Clair and Jennifer Anderson Rezone request:

1. Statutory Authority

The statutory authority for acting on this ordinance is Utah Code Annotated Sections 17-27a Part 1 and Part 3, and 17-53 part 2(1953, as amended to date).

2. Exhibits

A. Exhibit A: Rezone summary and information

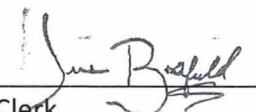
Council Vote and Final Action

Date: <u>5 / 9 / 2023</u>	<u>Council Votes</u>			
<u>Council members</u>	In Favor	Against	Abstain	Absent
Kathryn Beus		✓		
Dave Erickson		✓		
Sandi Goodlander		✓		
Nolan Gunnell		✓		
Mark Hurd		✓		
Barbara Tidwell		✓		
Karl Ward		✓		
Total:		7		
Final action:	<u> </u> Adopt <u>✓</u> Reject			

Cache County Council:

Attest:


Dave Erickson, Chair


Jess Bradfield, Clerk
Cache County

Action of the County Executive

Regarding Ordinance 2023-17, the Clair and Jennifer Anderson Rezone

_____ Approve

_____ Disapprove (A Statement of Objection is attached)

David Zook, Executive
Cache County

_____ Date

Ord 2023-17
Clair and Jennifer Anderson Rezone
Amending the Cache County Zoning Map by rezoning
5.00 acres of property from the Agricultural (A10) Zone to the
Commercial (C) Zone.

County Council action

Hold a public hearing on May 9, 2023.

If approved, the rezone will take effect 15 days from the date of approval.

Planning Commission action

Recommend Denial (4-yea; 0-nay) on April 6, 2023.

Public hearing held on March 2, 2023.

Conclusion: Based on the findings of fact noted herein, the Clair and Jennifer Anderson Rezone is hereby recommended for denial to the County Council as follows:

1. The location of the subject property to be rezoned is not compatible with the purpose of the Commercial (C) Zone:
 - a. "To provide compatible locations for retail, office, and business/commerce activities, to enhance employment opportunities, to encourage the efficient use of land, to enhance, property values, and to strengthen the county's tax base";
 - b. And will conflict or have deleterious effects upon surrounding properties.
2. The subject parcel to be rezoned is accessed from a Nibley City road, is located immediately adjacent to the Nibley City municipal boundary within the City's future annexation area, and has been identified on their future land use map as "Medium density residential" which does not allow storage units. The future development of this parcel would be better served as part of a Nibley City development through annexation.
3. The Nibley City Council does not recommend approval of the rezone as per a unanimous vote on a discussion and recommendation motion during their 9 March 2023 council meeting.

Staff Report review by Development Services Planning Manager

Tim Watkins

Staff Report by County Planner

Angie Zetterquist

General Description

This ordinance amends the County Zoning Map by rezoning 5.0 acres from the Agricultural (A10) Zone to the Commercial (C) Zone.

Additional review materials included as part of Exhibit A

Staff Report to Planning Commission

Staff Report: Clair and Jennifer Anderson Rezone

6 April 2023

This staff report is an analysis of the application based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the application. Additional information may be provided that supplements or amends this staff report.

Agent: Clair and Jennifer Anderson

Parcel ID#: 03-050-0002

Staff Recommendation: Denial

Type of Action: Legislative

Land Use Authority: Cache County Council

Location

Reviewed by Angie Zetterquist

Project Address:

Acres: 5.0

1200 West 3600 South

Near Nibley

Surrounding Uses:

North – Agricultural/Nibley City

South – Agricultural

East – Agricultural

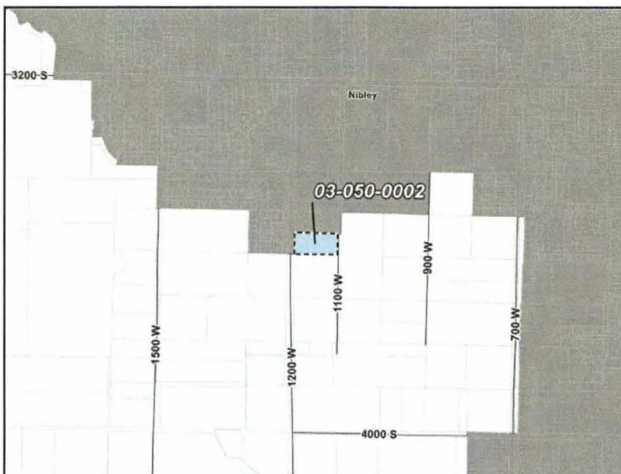
West – Residential/Nibley City

Current Zoning:

Agricultural (A10)

Proposed Zoning:

Commercial (C)



Findings of Fact

A. Request description

1. A request to rezone 5.0 acres from the Agricultural (A10) to the Commercial (C) Zone.
2. This request was presented to the Planning Commission on March 2, 2023, and a public hearing was held. After discussion, the Commission moved to continue the request up to 90 days to allow for Nibley City to provide a formal statement whether or not they support the rezone request.
3. During a regularly scheduled Nibley City Council meeting held on Thursday, March 9, 2023, this rezone request was brought up as a discussion and consideration item. At the conclusion of the discussion, the Council moved to not recommend approval to the Cache County Council. The motion was passed unanimously 5, 0 to recommend denial of the rezone request. The draft minutes of that meeting are attached to this staff report as Attachment C.

Exhibit A

4. This rezone may allow the parcel to establish uses permitted in the Commercial (C) Zone. A rezone request is general in nature and is not tied to any proposed use. Any impacts related to permitted and conditional uses allowed within the Commercial Zone will be addressed as part of each respective approval process required prior to site development activities.
5. Staff has identified general information as pertains to the subject property to assist the Planning Commission and County Council in arriving at a decision. This information is reflected in the attached map (Attachment A) and in the following text:
 - a. Land Use Context:
 - i. Parcel status: The subject property is legal as it in the same size and configuration since August 8, 2006. In March 2019, the property immediately adjacent to the subject parcel to the north and west, including 1200 West along the frontage of the subject parcel was annexed into Nibley City (i.e., Riggs Annexation).
 - ii. The Commercial (C) Zone allows for a variety of uses with the approval of a zoning clearance and/or conditional use permit, including the following uses, that are not permitted in the current Agricultural (A10) Zone:
 - Commercial Business
 - Commercial Kennel/Animal Shelter
 - Self Service Storage Facility
 - General Vehicle Repair
 - Medical Services/Facilities
 - Human Care Services
 - Transient Lodging
 - Restaurant
 - Mobile Food Truck
 - Educational Facility
 - Telecommunications Facility, Major
 - Telecommunications Facility, Minor
 - Private Airport
 - iii. Adjacent uses: The properties adjacent to the subject parcel to the north, east, and south are primarily used for agricultural purposes. The properties to the north and west are located within the Nibley City municipal boundary. The properties to the west also have approved subdivision plats, the Nibley Farms Phase 5 and Phase 6, which is part of a larger 67-lot subdivision in Nibley City.

The nearest parcels in the Commercial (C) Zone are located south of the subject parcel at approximately 3800 South to 4000 South off of 1200 West (between a ¼ and a ½ mile south of the subject parcel).

The Nibley Office Park Rezone was approved on 10 acres (#'s03-049-0015, 03-051-0003) in 2008 as Ordinance 2008-04. No development has occurred on that property since the rezone approval.

Immediately to the south of the Nibley Office Park Rezone on parcel #03-051-0007, a rezone of 9.75 acres to the Commercial Zone was approved in 2007 as Ordinance #2007-12. However, in 2006 and 2007 prior to the approval of the rezone, two Conditional Use Permits (i.e., CUPs) were approved for a self-service storage facility on the parcel. At that time, storage facilities were allowed in the Agricultural (A10) Zone with approval of a CUP; it appears from the staff report that the rezone was processed to allow more signage for the facility. A storage facility was ultimately developed on the parcel, which is now considered legal, non-conforming as it does

Exhibit A

not meet the current definition or development standards for a self-service storage facility (Use Type 3410).

- iv. Annexation Areas: The subject property is located within the Nibley City future annexation area. At the time of application, the applicant submitted a letter from Nibley City regarding the proposed rezone and potential future commercial development (Attachment B).

In the letter, Nibley City states that water and sewer services are only provided for parcels located within their municipal boundary. Consequently, if the rezone were approved and the applicant pursued his stated goal of constructing a self-service storage facility on the site, the development would not have access to Nibley City services to provide water for any required fire suppression requirements, etc.

Nibley City further points out the subject parcel is located within their future annexation area and the future land use map assigned this property as “Medium density residential”. Per Nibley City’s zoning regulations, storage units are only allowed within their “Industrial” Zones.

On March 9, 2023, the Nibley City Council discussed the proposed rezone and unanimously moved to recommend denial of the rezone request to the Cache County Council (Attachment C).

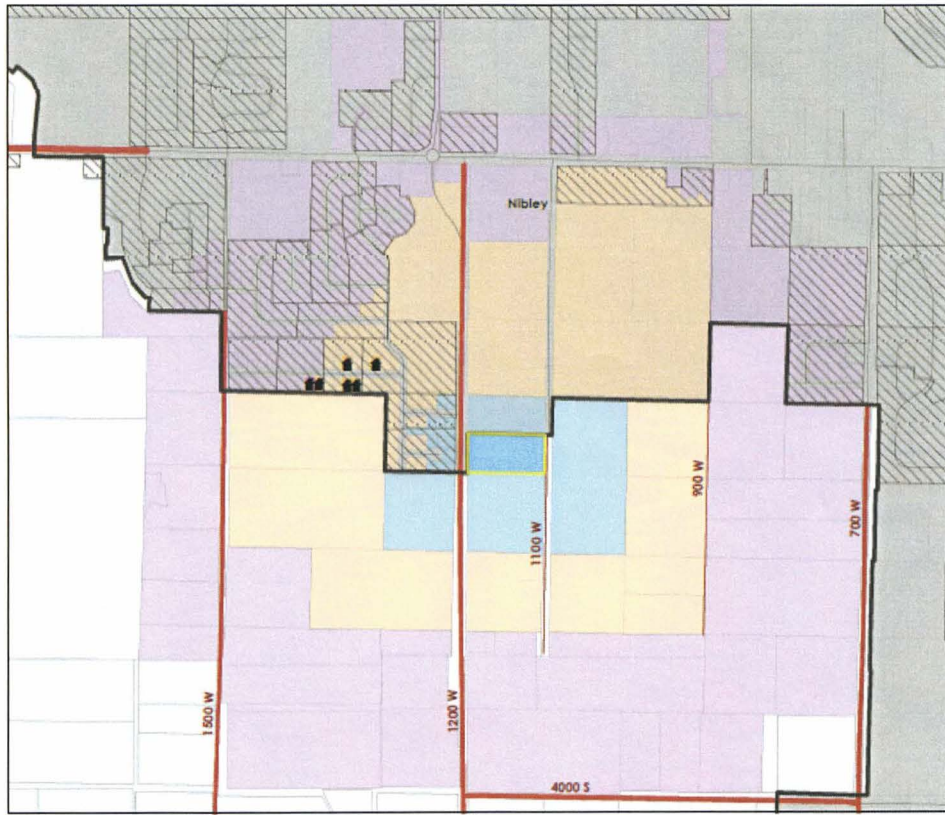


Exhibit A

v. Average Parcel Size:

Average Parcel Size	
Adjacent Parcels	Without a Home: 11.1 Acres (4 Parcels)
	Without a Home in Nibley City: 0.6 Acres (13 Parcels)
1/4 Mile Buffer	With a Home in Nibley City: 0.2 Acres (5 Parcels)
	Without a Home: 11.8 Acres (13 Parcels)
	Without a Home in Nibley City: 1.8 Acres (66 Parcels)
1/2 Mile Buffer	With a Home in Nibley City: 0.2 Acres (6 Parcels)
	Without a Home: 9.4 Acres (46 Parcels)
	Without a Home in Nibley City: 1.1 Acres (237 Parcels)

B. Ordinance—§12.02.010, §17.02.060; §17.08.030 [E]

6. As per §17.02.060, Establishment of Land Use Authority, the County Council is authorized to act as the Land Use Authority for this application.
7. The current County Land Use Ordinance does not specify appropriate locations for the Commercial (C) Zone but does contain general guidelines for its implementation. County Land Use Ordinance §17.08.030 [E] identifies the purpose of the Commercial Zone and includes the following:
 - a. “To provide compatible locations for retail, office, and business/commerce activities, to enhance employment opportunities, to encourage the efficient use of land, to enhance, property values, and to strengthen the county’s tax base.
 - b. This zone must be appropriately served by suitable public roads, have access to the necessary water and utilities, and have adequate provision of public services.”
8. Any impacts related to permitted and conditional uses allowed within the Commercial (C) Zone will be addressed as part of each respective approval process required prior to site development activities.

C. Access—16.04.040 [A], 16.04.080 [E], Road Manual

9. §12.02.010 adopts the Manual of Roadway Design and Construction Standards (Road Manual) for roadway improvement requirements.
10. §16.02.010 Standards and Lot Size – All subdivisions must meet the minimum lot and development standards as outlined in each base zone of the Cache County Zoning Ordinance and within this title.
11. Table 17.10.040 Site Development Standards – Minimum lot frontage required in the Commercial Zone is 150 feet.
12. §17.07.040 General Definitions – Lot/Parcel Frontage: that portion of a development site that abuts a public or private roadway. For the purposes of determining setback requirements on corner lots, all sides of a lot adjacent to a roadway shall be considered frontage
13. §16.04.040 [A] Roads – All roads must be designed and constructed in accordance with Title 12 of the County Code.
14. §12.02.010 Roadway Standards – Requirements for roadway improvement are provided in the current Manual of Roadway Design and Construction Standards (Road Manual).
15. Section 5.6 of the Cache County Manual of Road Design and Construction Standards states, “No development within the unincorporated County shall be permitted to utilize a roadway for direct access that is under the jurisdiction of a municipality without express written approval from the affected municipality. Unincorporated development shall be required to meet all standards and requirements as established by the municipality as part of the conditions for development. Direct access shall constitute driveway or private road access from a public roadway.”
16. A basic review of the access to the subject property identifies the following:

Exhibit A

- a. Primary access to the subject property is 1200 West.
- 17. 1200 West – Nibley City Road:
 - a. Along the frontage of the subject parcel and to the north, it is a Nibley City road.
 - b. Nibley City classifies this road as a Minor Arterial.
 - c. Provides access to a few residential dwellings, City owned property, church property, and vacant land in Nibley.
 - d. Per AASHTO standards, Minor Arterial roads link cities, larger towns, and other large traffic generators and are capable of facilitating travel over long distances. These routes have relatively high travel speeds and minimal interferences to the through movement of traffic.
 - e. Nibley City Transportation Master Plan has the road proposed as a narrow 2-lane road with large park strips and trail facilities more in line with a Collector type road classification.
 - f. Access for any future development on the subject parcel off of 1200 West will require approval from Nibley City. Further, as a “Multi-Jurisdictional Development” (i.e., County development accessing a municipal road), any future development must also meet all of Nibley City’s road improvement requirements (i.e., 80 feet ROW, 2-lane road with buffered bike lane and trail facility).
- 18. 1200 West – south – County Road:
 - a. South of the subject parcel, 1200 West is a County road classified as a Major Collector.
 - b. The road provides access to agricultural lands, JBS meat manufacturing facility, and is a vital link between Nibley and Hyrum.
 - c. Has a 99-foot- right-of-way, a paved width of 32 feet, and a posted speed limit of 50 mph.
 - d. The County’s transportation plan is for 1200 West to have 12-foot wide travel lanes, wide shoulders, and a paved width of 40 feet, which is consistent with Hyrum City’s transportation plan.

D. Service Provisions:

- 19. §16.04.080 [C] Fire Control – The County Fire District will require an adequate on-site water supply and fire department access for future development in the Commercial CI) Zone.
- 20. §16.04.080 [F] Solid Waste Disposal – Logan City Environmental had no comments on the rezone request.

E. Public Notice and Comment—§17.02.040 Notice of Meetings

- 21. Public notice was posted online to the Utah Public Notice Website on 17 February 2023.
- 22. Notices were posted in three public places on 17 February 2023.
- 23. Notices were mailed to all property owners within 300 feet and Nibley City on 17 February 2023.
- 24. A public hearing was held during the 2 March 2023 Planning Commission meeting and after closing the public hearing, the Planning Commission moved to continue the request for up to 90 days to allow for Nibley City to provide a formal recommendation.
- 25. At this time, no written public comment regarding this proposal has been received by the Development Services Office.

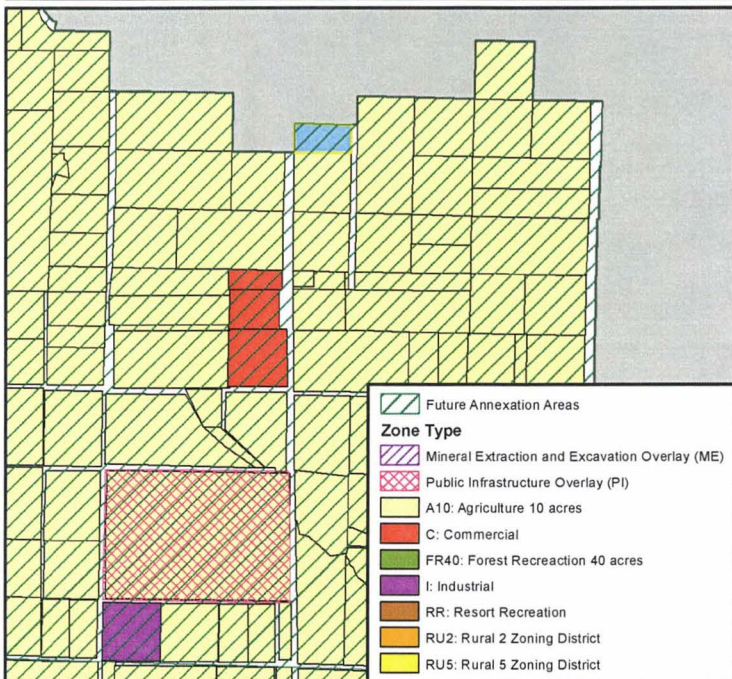
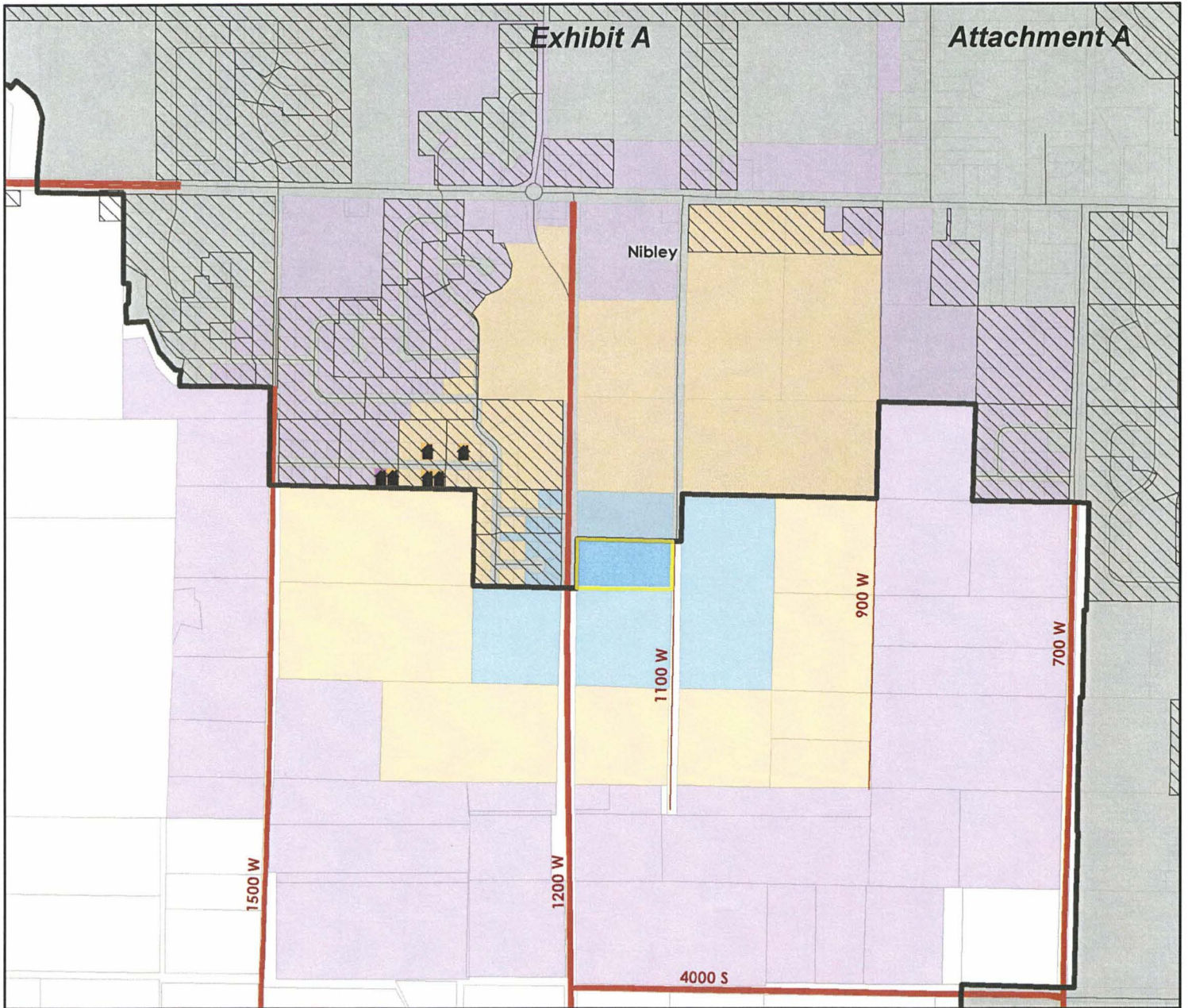
Conclusion

Based on the findings of fact noted herein, the Clair and Jennifer Anderson Rezone is hereby recommended for denial to the County Council as follows:

- 1. The location of the subject property to be rezoned is not compatible with the purpose of the Commercial (C) Zone:

Exhibit A

- a. “To provide compatible locations for retail, office, and business/commerce activities, to enhance employment opportunities, to encourage the efficient use of land, to enhance, property values, and to strengthen the county’s tax base”;
 - b. And will conflict or have deleterious effects upon surrounding properties.
2. The subject parcel to be rezoned is accessed from a Nibley City road, is located immediately adjacent to the Nibley City municipal boundary within the City’s future annexation area, and has been identified on their future land use map as “Medium density residential” which does not allow storage units. The future development of this parcel would be better served as part of a Nibley City development through annexation.
3. The Nibley City Council does not recommend approval of the rezone as per a unanimous vote on a discussion and recommendation motion during their 9 March 2023 council meeting.



Legend

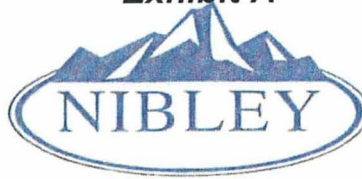
- Proposed Rezone
- Municipal Boundaries
- Subdivisions
- Parcels
- Winter Maintenance
- County Roads
- Highways

Average Parcel Size

Adjacent Parcels	Without a Home: 11.1 Acres (4 Parcels)
	Without a Home in Nibley City: 0.6 Acres (13 Parcels)
1/4 Mile Buffer	With a Home in Nibley City: 0.2 Acres (5 Parcels)
	Without a Home: 11.8 Acres (13 Parcels)
1/2 Mile Buffer	Without a Home in Nibley City: 1.8 Acres (66 Parcels)
	With a Home in Nibley City: 0.2 Acres (6 Parcels)
1/2 Mile Buffer	Without a Home: 9.4 Acres (46 Parcels)
	Without a Home in Nibley City: 1.1 Acres (237 Parcels)



Mayor
Larry Jacobsen



Council Members
Tom Bernhardt
Norman Larsen
Nathan Laursen
Kay Sweeten
Erin Mann

January 19, 2023

To Cache County representatives,

It was brought to our attention that Mr. Clair Anderson is working on submitting a Rezone application for Parcel# 03-050-0002, a 5 acre property located at approximately 3500 S 1200 W. The property abuts Nibley City boundaries to the north and west with frontage along 1200 West, a Nibley City Right-of-Way. It is our understanding that the purpose of the Rezone is to develop the property with Storage Units.

Because the property is located contiguous to our municipality, it is our understanding that the County requires that the applicant provide a letter in regard to annexation and services to the property. Nibley City currently provides water and sewer services to Nibley City properties. However, Nibley City Code 15.02.020(D) provides the following:

No landowner, person, subdivider or developer's application to connect to Nibley City's water and sewer system will be considered unless the property noted on the application is within Nibley City limits. No application for connection or service will be considered from outside Nibley City limits until the property is properly annexed into Nibley City. The City Council may make exceptions for public entities.

Therefore, any connection to Nibley City's water or sewer service would require annexation to Nibley City.

The proposed construction of storage units will need to be provided with adequate water supply to meet fire-flow requirements or be provided with alternative emergency water storage as determined by the Fire Marshal. Because the property is located outside the Nibley City Municipal boundary, the City's water infrastructure should not be considered when determining required fire-flow or to meet alternative emergency water storage requirements. Use of Nibley City's water system for culinary use, irrigation use, or to meet fire-flow requirements would require the property to be annexed into Nibley City and compliance with City Code and Nibley City Design Standards.

Regarding annexation and future land use plans for this parcel, the property is located within Nibley City's Annexation Declaration Area of the Future Annexation Plan. The Nibley City Future Land Use Map assigns this property as 'Medium density residential.' Currently, storage units are not an allowed use within any residential zones within the City. Storage units are only allowed within 'Industrial' zones.

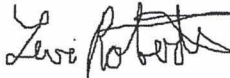
Because the property's entire frontage is along a Nibley City Street, the project is considered a 'Multi-jurisdictional Development' and requires written approval for access to the roadway and the development must also meet all of Nibley City's road improvements requirements. Nibley City

Code requires that developers of property improve roadways according to the City's Transportation Master Plan and Engineering Design Standards. 1200 West is classified as an arterial roadway with a typical cross section including 80 feet of right-of-way and a '2-lane street with buffered bike land and trail facility.'

Regarding driveway access, Nibley City Engineering Design Standards Section 8.8(B) states that driveways on arterial streets are only allowed with prior approval from the Public Works Director. Section 8.8(A)(6) states "Commercial Driveways shall be located a minimum of 200-feet from the centerline of an intersection with a collector or arterial street."

To gain approval for the roadway design and driveway access, the applicant will need to submit construction drawings of the proposed improvements which will be reviewed by the City Engineer for compliance with Engineering Standards, City Code and Nibley City Design Standards. To determine an acceptable location for a driveway or access, consideration should be given to aligning accesses with those on opposing sides of the street, separation of driveway from future gridded street alignments, adequate separation of driveway from turn lanes and other intersections, etc.

Sincerely,



Levi Roberts, AICP
Nibley City Planner

Exhibit A

1 A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South,
2 Nibley, Utah, on Thursday, March 9, 2023.

3
4 The following actions were made during the meeting:

5
6 **Councilmember Laursen moved to approve Ordinance 23-11 Adopting an Impact Fee**
7 **Analysis and Adjusting Impact Fees for Water, Sewer and Parks, with the maximum**
8 **impact fees, as recommend by staff. Councilmember Sweeten seconded the motion.**
9

10 **Voting on the motion to approve Ordinance 23-11—Adopting an Impact Fee**
11 **Analysis and Adjusting Impact Fees for Water, Sewer and Parks was as follows:**
12 **Councilmember Bernhardt voted in favor.**
13 **Councilmember Larsen voted in favor.**
14 **Councilmember Laursen voted in favor.**
15 **Councilmember Mann voted in favor.**
16 **Councilmember Sweeten voted in favor.**
17

18 **The motion passed 5-0; with Councilmember Laursen, Councilmember Sweeten,**
19 **Councilmember Bernhardt, Councilmember Larsen, and Councilmember Mann all in**
20 **favor.**
21

22 **Mayor Jacobsen moved to adopt Ordinance 23-05—Amending NCC 19.24.250 to**
23 **Remove Requirements for Impact Fees for Accessory Dwelling Units with the**
24 **proposed changes. Amending 19.24.250.D.11, to read:**
25

26 **“Impact Fees: Accessory dwelling units shall be subject to impact fees as set**
27 **forth in the latest associated Impact Fee Ordinance adjustment”**
28

29 **And include back into the ordinance:**
30

31 **a. “Owners may petition the City for a rebate of impact fees for accessory**
32 **dwelling units which provide rent that is considered affordable, as described**
33 **below. The maximum rebate amount shall be set at 20% annually of the total**
34 **collected impact fee for a period of five (5) years. City Staff shall determine**
35 **if documentation of rent collected is acceptable. If documentation is not**
36 **provided within 30 days of each anniversary of the issuance of the certificate**
37 **of occupancy, the rebate shall be forfeited for that year. The rebate shall be**
38 **non-transferrable.**

39 **1) The unit’s rent is considered affordable to a household of four (4) earning**
40 **50% of the area median income of the Logan, UT-ID Metropolitan**
41 **Statistical Area (MSA), according to income limits set by the US**
42 **Department of Housing and Urban Development (HUD) for a period of**
43 **five (5) years.**

Exhibit A

1 *areas not identified in the Parks Master Plan must be approved by Nibley*
2 *City Council in order to receive the 5 credit per acre transfer ratio."*

3
4 *Councilmember Mann seconded the amendment. The amendment passed 5-0;*
5 *with Councilmember Mann, Councilmember Bernhardt, Councilmember Larsen,*
6 *Councilmember Laursen, and Councilmember Sweeten all in favor.*

7
8 *Mayor Jacobsen made a motion to amend Ordinance 22-19: 5. Table, changing*
9 *the RM ordinance to match and change 20 units to 10 units in the R-M eligible*
10 *areas. Councilmember Larsen seconded the amendment. The amendment passed*
11 *unanimously 5-0; with Councilmember Larsen, Councilmember Bernhardt,*
12 *Councilmember Laursen, Councilmember Sweeten, and Councilmember Mann all*
13 *in favor.*

14
15 Councilmember Laursen discussed allowing for partial development rights. He
16 questioned of a current zoning or potential zoning options had been considered as
17 opposed to a credit-based option. Mr. Roberts said this had been discussed but not
18 considered because a lot of the area were outside of Nibley City and had no zoning
19 designation and a lot of the areas could easily get a rezone and be developed as
20 subdivisions. Even if the current zoning limited their development potential.

21
22 *Voting on the amended motion to approve Ordinance 22-19 Transfer of*
23 *Development Rights (TDR) Ordinance and Zoning Several Parcels as a TDR*
24 *Sending Overlay Zone or a TDR Receiving Overlay Zone was as follows:*
25 *Councilmember Bernhardt voted in favor.*
26 *Councilmember Larsen voted in favor.*
27 *Councilmember Laursen voted yes.*
28 *Councilmember Mann voted in favor.*
29 *Councilmember Sweeten voted opposed.*

30
31 *The amended motion passed 4-1; with Councilmember Bernhardt, Councilmember*
32 *Mann, Councilmember Larsen, and Councilmember Laursen in favor. Councilmember*
33 *Sweeten was opposed.*

34
35 Councilmember Laursen moved to suspend the rules and move agenda item 16
36 (Recommendation to Cache County Planning Commission regarding Clair & Jennifer
37 Anderson Rezone request of Parcel 03-050-0002, located at 3600 S 1200 W from
38 Agricultural (A10) to Commercial (C)) after item 12. Councilmember Larsen seconded
39 the motion.

40
41 **Discussion and Consideration: Recommendation to Cache County Planning**
42 **Commission regarding Clair & Jennifer Anderson Rezone request of Parcel 03-050-**
43 **0002, located at 3600 S 1200 W from Agricultural (A10) to Commercial (C)**

Exhibit A

1 Mr. Clair Anderson, the property owner of parcel 03-050-0002 was present for this
2 discussion.

3
4 Mr. Roberts led discussion with a presentation. He used an electronic presentation
5 entitled *Nibley City Council, March 9, 2023* (a printed version of this presentation is
6 included in the written meeting minutes). The topics of his presentation included the
7 following: Clair & Anderson – County Rezone Recommendation, Background, a view of
8 the parcel using the Cache County Parcel Viewer, the property as reflected on Nibley
9 City's zoning map, and Staff Recommendation.

10
11 Mr. Anderson described that he intended to put storage units on the parcel and
12 expressed his desire to have a family legacy. He argued that storage units would
13 preserve property value because of the number of units going in the area and the need
14 for storage in the area.

15
16 Councilmember Larsen asked if there would be utilities including water and sewer on
17 the property. Mr. Anderson said there would be anything that was required. Mr.
18 Anderson said he would like to be annexed into Nibley if he were to be able to do what
19 he wanted on the property and discussed the location of a hydrant owned by Nibley City
20 right next to his property. Councilmember Mann asked if Mr. Anderson had ever
21 considered building an indoor sporting facility to accommodate youth sports. Mr.
22 Anderson said he hadn't considered this but used to be an athletic director and was very
23 tied to that world. Councilmember Mann discussed the strong need for that type of
24 facility. Councilmember Mann felt storage units were a visual blight but it was Mr.
25 Anderson's right to do storage units. Referring to higher density residential
26 development next to Mr. Anderson's property, Councilmember Bernhardt's felt HOA
27 might help self-police clutter in people's yards. He also expressed that he felt storage
28 units were not attractive. Councilmember Sweeten said her concern was seeing people
29 wanting to live right next to a storage unit. She asked how Mr. Anderson would suggest
30 making this facility appealing so a resident might want it as a neighbor. Councilmember
31 Bernhardt discussed that there might be decreased value to 7-points Royal development
32 who was in Nibley City's boundaries

33
34 *Councilmember Bernhardt moved to not recommend approval to the Cache County*
35 *Planning Commission regarding Clair & Jennifer Anderson Rezone request of Parcel 03-*
36 *050-0002, located at 3600 S 1200 W from Agricultural (A10) to Commercial (C).*
37 *Councilmember Larsen seconded the motion.*

38
39 Councilmember Larsen discussed that he ran mechanics shops in the valley and ran
40 under a conditional use and said everyone needed a mechanic but no one wanted them
41 near them. He felt Mr. Anderson's pain.

42
43 Mayor Jacobsen gave Mr. Anderson suggestions about what he could do with the
44 property if he were interested in being in Nibley.

Exhibit A

Councilmember Laursen said they saw an opportunity for Mr. Anderson to come to Nibley and felt staff would give him some ideas of what was allowed in Nibley and could motivate him to chat with his neighbors. He felt he could come up with a plan that was better for him and for the City. Councilmember Mann agreed with Councilmember Laursen, that there were a lot of options if they came to Nibley.

The motion passed unanimously 5-0; with Councilmember Bernhardt, Councilmember Larsen, Councilmember Laursen, Councilmember Sweeten and Councilmember Mann all in favor.

Seeing no objection, Mayor Jacobsen called for a short meeting recess at 10:07 p.m.

Councilmember Sweeten left at 10:09 p.m.

The meeting resumed at 10:11 p.m.

Discussion & Consideration: Resolution 23-04—Interlocal Agreement Between Cache County and Nibley City for the Administration of 2023 Municipal Elections (First Reading)

Dustin Hansen, Election Supervisor with the Cache County Election office and Nibley City resident, was present for this discussion.

Ms. Bodily described that she'd reached out to Rich, Weber and Box Elder Counties who'd all indicated they would not offer alternative voting methods in their county boundaries. She also presented that Salt Lake County was offering alternative voting methods or Ranked Choice Voting (RCV) but they were unwilling to contract with an entity outside their boundary because of logistics and complication. Ms. Bodily reminded the City Council the Cache County was also not offered Ranked Choice Voting so if the City Council voted to enter the Interlocal Agreement they would essentially be choosing to not use Ranked Choice Voting for the 2023 Nibley City municipal election.

Ms. Bodily reviewed the cost and variations of costs included in the interlocal agreement for election services with Cache County. Ms. Bodily said the City attorney had reviewed the agreement and seen no issues. Ms. Bodily said unless the City Council had further direction regarding Ranked Choice Voting and she saw no reason the City Council couldn't pass the resolution and waive the second reading of the agreement.

Mayor Jacobsen asked Mr. Hansen how he felt about Ranked Choice Voting. Mr. Hansen said in terms of voter participation it was harder because it was different. Empirically, there was more choice and led to better, more democratic outcomes.

CACHE COUNTY COUNCIL MEETING
MAY 9, 2023

ATTACHMENT 4



**CACHE COUNTY
ORDINANCE NO. 2023-18**

**AN ORDINANCE AMENDING CHAPTER 2.16 OF THE CACHE COUNTY CODE
REGARDING CREATING THE OFFICE OF THE DISTRICT ATTORNEY**

- (A) WHEREAS, Utah Code Annotated § 17-53-223(1)(a) permits the Cache County Council to pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging its powers and duties conferred by State law; and
- (B) WHEREAS, Utah Code Annotated § 17-18a-701 permits the Cache County Council to create a countywide prosecution district by ordinance; and
- (C) WHEREAS, the County Council seeks to establish a countywide prosecution district; and
- (D) WHEREAS, Utah Code Annotated § 17-16-3 permits the Cache County Council to pass an ordinance to consolidate county offices, in particular the Office of the District Attorney and the Office of the County Attorney; and
- (E) WHEREAS, the County Council seeks to consolidate the Office of County Attorney and the Office of District Attorney into the consolidated Office of the District Attorney of Cache County; and
- (F) WHEREAS, Utah Code Annotated § 17-16-3 also permits the Cache County Council to establish the duties of those consolidated offices; and
- (G) WHEREAS, the County Council seeks to establish duties and requirements of the District Attorney;
- (H) WHEREAS, Utah Code Annotated § 17-18a-301 establishes the District Attorney within a county as an elected official;

NOW, THEREFORE, Be it ordained by the County Council of Cache County, Utah:

SECTION 1:

2.16.010: OFFICE OF DISTRICT AND COUNTY ATTORNEY:

A. The Cache County Council hereby establishes a countywide prosecution district and creates the office of District Attorney pursuant to Title 17 Chapter 18a of the Utah Code (hereinafter “The Act”).

B. The Office of the District Attorney



1. The District Attorney for Cache County shall be considered an officer of the County, as provided in the Act.
2. The qualifications, election, and term of office of the District Attorney shall be as provided in the Act.
3. The District Attorney shall act as full-time public prosecutor in the County and shall perform the functions, exercise the powers, and be subject to the duties and responsibilities set out in the Act.
4. The District Attorney shall not engage in the private practice of law as required by the Act.

C. The Office of the County Attorney

1. The County Attorney shall be considered an officer of the County, as provided in the Act.
2. The qualifications, election, and term of office of the County Attorney shall be as provided in the Act.
3. The County Attorney shall be the civil counsel for the County and shall perform each civil counsel duty as provided by the Act.

D. Consolidated Office of District Attorney

1. The offices of District Attorney and County Attorney are consolidated into a single office pursuant to Utah Code sections 17-18a-204 and 17-16-3. The consolidated office shall be known as the Office of the District Attorney of Cache County and may be referred to in this code as “District Attorney,” “County Attorney,” or “Attorney.”
2. The consolidation set out in this section shall become effective at twelve noon on Monday, January 06, 2025.

2.16.060: FULL TIME EMPLOYMENT:

- A. Deputy County Attorneys in a career status shall be full time employees and shall not engage in the private practice of law, nor shall they receive any fee for any legal service rendered to any person, corporation, partnership, or other legal entity.
- B. This section shall not apply to special deputy county attorneys retained on a fee basis to render services in connection with a single case or specific cases.
- C. “Practice of law” means representing the interests of another person, entity, or organization by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person, entity, or organization’s facts and circumstances.



1. “Practice of law” does not include pro bono work performed consistent with the Utah Rules of Professional Conduct.
2. “Practice of law” does not include work performed for a registered non-profit entity so long as the work is disclosed on the deputy district attorney’s yearly conflict of interest disclosure and the work complies with the Utah Rules of Professional Conduct.
3. “Practice of law” does not include legal work performed by deputy district attorneys who are members of the Utah National Guard, the Utah Air National Guard, the reserve of any branch of the United States Military, or are engaged in work as a cross-deputized Special Assistant United States Attorney.
4. Deputy district attorneys may not use Cache County resources or personnel in any allowed pro bono or non-profit work under this section unless those resources have been specifically donated for that purpose by Cache County after the passing of a resolution by the Cache County Council.

2.16.090: DEPUTY ATTORNEYS:

A. Under this section, deputy district attorneys may be referred to as “Deputy District Attorney,” “Deputy County Attorney,” or “Deputy Attorney.”

SECTION 2:

This ordinance takes effect at twelve noon on Monday, January 6, 2025.

[Remainder of page blank]



PASSED AND APPROVED BY THE COUNTY COUNCIL OF CACHE COUNTY, UTAH
THIS 9 DAY OF May 2023.

	In Favor	Against	Abstained	Absent
Sandi Goodlander	✓			
David Erickson	✓			
Nolan Gunnell	✓			
Barbara Tidwell	✓			
Karl Ward	✓			
Mark Hurd	✓			
Kathryn Beus	✓			
Total	7	—	—	—

CACHE COUNTY:

By: [Signature]
David L. Erickson, Chair

ATTEST:

By: [Signature]
Jess Bradfield, County Clerk / Auditor

ACTION OF THE COUNTY EXECUTIVE:

3 Approved
____ Disapproved (written statement of objection attached)

By: [Signature]
David Zook, County Executive

5/17/23
Date

[Remainder of page blank]



Redline Version of Proposed Amendment

2.16.010: OFFICE OF DISTRICT AND COUNTY ATTORNEY:

A. ~~There shall be an office of county attorney, which shall be headed and directed by the county attorney.~~ The Cache County Council hereby establishes a countywide prosecution district and creates the office of District Attorney pursuant to Title 17 Chapter 18a of the Utah Code (hereinafter "The Act").

B. ~~The county attorney shall be elected by the qualified voters as provided by law. His duties shall be prescribed by the legislature of the state and shall include all duties assigned to county attorneys. The office of county attorney shall have all the functions, responsibilities and powers provided by law and such other duties as shall be assigned by the county council and county executive.~~ The Office of the District Attorney

1. The District Attorney for Cache County shall be considered an officer of the County, as provided in the Act.

2. The qualifications, election, and term of office of the District Attorney shall be as provided in the Act.

3. The District Attorney shall act as full-time public prosecutor in the County and shall perform the functions, exercise the powers, and be subject to the duties and responsibilities set out in the Act.

4. The District Attorney shall not engage in the private practice of law as required by the Act.

C. The Office of the County Attorney

1. The County Attorney shall be considered an officer of the County, as provided in the Act.

2. The qualifications, election, and term of office of the County Attorney shall be as provided in the Act.

3. The County Attorney shall be the civil counsel for the County and shall perform each civil counsel duty as provided by the Act.

D. Consolidated Office of District Attorney

1. The offices of District Attorney and County Attorney are consolidated into a single office pursuant to Utah Code sections 17-18a-204 and 17-16-3. The consolidated office shall be known



as the Office of the District Attorney of Cache County and may be referred to in this code as “District Attorney,” “County Attorney,” or “Attorney.”

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B. This section shall not apply to special deputy county attorneys retained on a fee basis to render services in connection with a single case or specific cases.

C. “Practice of law” means representing the interests of another person, entity, or organization by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person, entity, or organization’s facts and circumstances.

1. “Practice of law” does not include pro bono work performed consistent with the Utah Rules of Professional Conduct.

2. “Practice of law” does not include work performed for a registered non-profit entity so long as the work is disclosed on the deputy district attorney’s yearly conflict of interest disclosure and the work complies with the Utah Rules of Professional Conduct.

3. “Practice of law” does not include legal work performed by deputy district attorneys who are members of the Utah National Guard, the Utah Air National Guard, the reserve of any branch of the United States Military, or are engaged in work as a cross-deputized Special Assistant United States Attorney.

4. Deputy district attorneys may not use Cache County resources or personnel in any allowed pro bono or non-profit work under this section unless those resources have been specifically donated for that purpose by Cache County after the passing of a resolution by the Cache County Council.

2.16.090: DEPUTY ATTORNEYS:

A. Under this section, deputy district attorneys may be referred to as “Deputy District Attorney,” “Deputy County Attorney,” or “Deputy Attorney.”

CACHE COUNTY COUNCIL MEETING
MAY 9, 2023

ATTACHMENT 5



This staff report is an analysis of the request based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the request. Additional information may be provided that supplements or amends this staff report.

Staff Report

May 9, 2023

Providence Landing Annexation Petition to the City of Providence

Purpose

To review a petition (Attachment 1) for the annexation of property owned by Trillo Group, LLC from unincorporated Cache County to the City of Providence, and then act to agree or disagree with the annexation request. The proposed annexation will reduce the size of an existing unincorporated island of ~25.13 acres between Providence City and Millville City. The continuation of an unincorporated island requires that the County agree to the request for the annexation petition to move forward.

Property Information

Parcel for Annexation: 02-117-0022

Total Acreage: ~10.64 acres

Contact Sponsor: Michael Jewell



Staff Recommendation

Staff recommends the Council agree to allow the continuation of a reduced unincorporated island area between Providence City and Millville City resulting from the Providence Landing property annexation into the City of Providence.

Findings of Fact

A. Applicable Ordinance

1. Annexation of unincorporated property into a municipality is governed by State Code section 10-2, part 4 Annexation.
2. If approved the ~10.64 acre area proposed for annexation will result in the reduction of an unincorporated island area from ~25.13 acres to ~14.49 acres in the County.
3. Utah Code sections 10-2-418-1-b and 10-2-402-1-b-iii-B require that unincorporated islands and peninsulas are not permitted unless agreed to by the county.
4. No formal action has been taken by the county to prohibit or agree to allow an unincorporated island at this location.

B. No Findings of Impacts to County Facilities

1. This annexation request would bring ~10.64 acre parcel (# 02-117-0022) into Providence City for residential development.
2. Providence City roads are stubbed with utilities to service the property from 480 West Street, Garden Drive (400 West), and 700 South.
3. 2100 S is a private road within the County island area that extending west from 750 North in Millville, and provides access to three unincorporated parcels with single family dwellings and accessory structures.

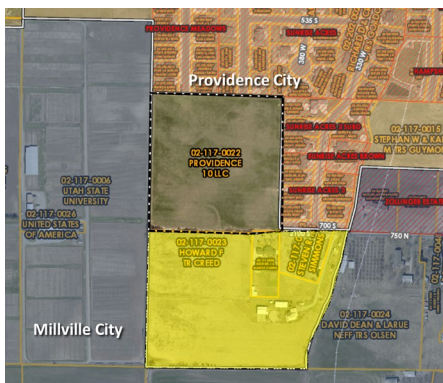
C. Possible Actions

1. Agree – Agree to allow the annexation and resultant reduction in the total unincorporated island area.
2. Disagree – Disagree with the annexation and resultant reduction in the total unincorporated island area and formally protest the annexation request.

Findings

Based on the findings of fact noted herein, staff recommends that the County Council agree to allow a reduced unincorporated island area resulting from the Providence Landing property annexation to the City of Providence as:

1. The County Council is the county legislative body of Cache County.
2. There are no increased impacts to County facilities.
3. The owners of the three remaining unincorporated island area properties could petition to annex into Providence City for future development services to remove the island.



(Left) The remaining reduced island area of ~14.49 resulting from the annexation of parcel 02-117-0022 is highlighted. This island is not believed to create increased impacts to County facilities.

Attachment 1



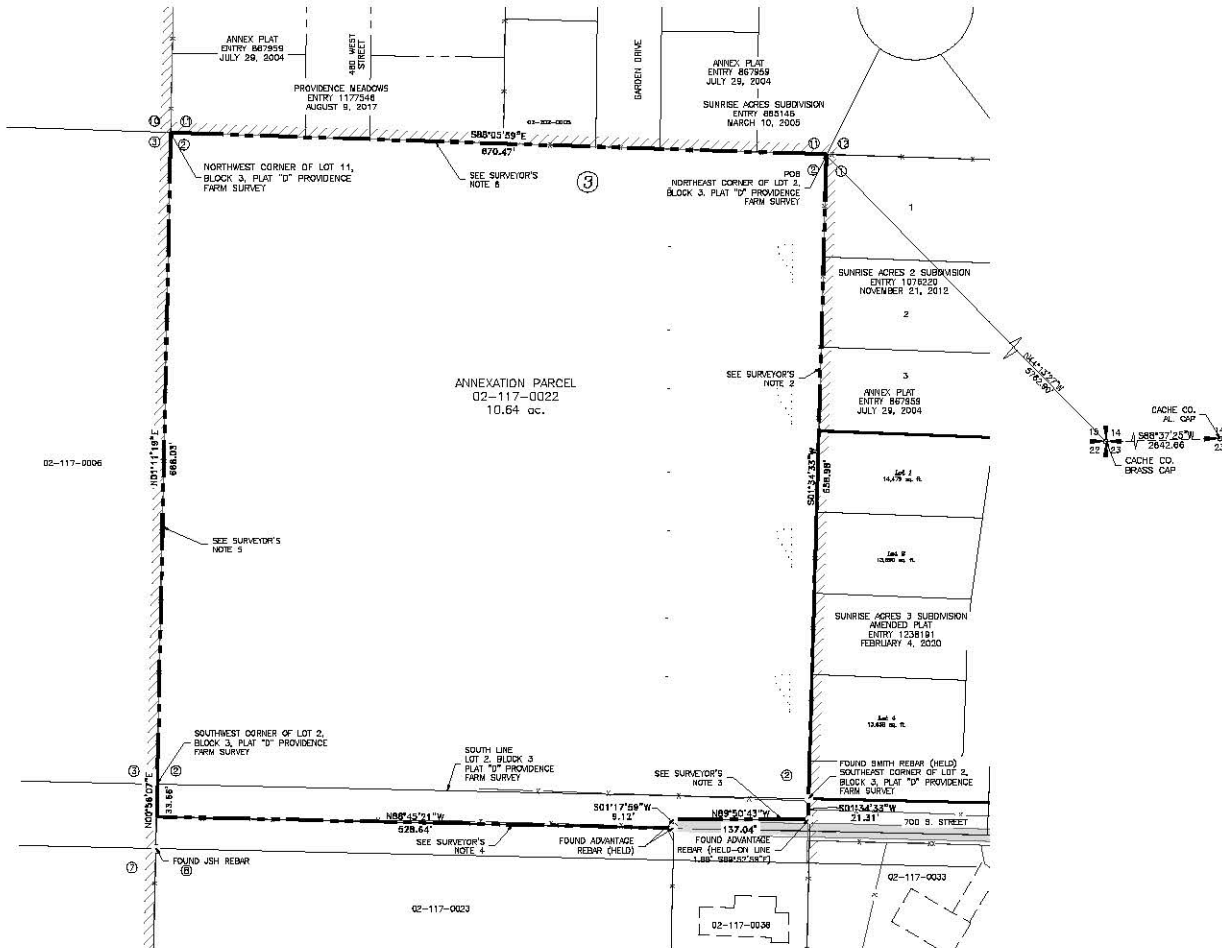
PROVIDENCE LANDING ANNEXATION

TO THE CITY OF PROVIDENCE

LOT 2, BLOCK 3, PLAT "D"
PROVIDENCE FARM SURVEY
ALSO
PART OF THE NORTHWEST QUARTER OF SECTION 15
TOWNSHIP 11 NORTH, RANGE 1 EAST
SALT LAKE BASELINE AND MERIDIAN
CACHE COUNTY, UTAH

LEGEND

- BOUNDARY TO BE INCORPORATED INTO PROVIDENCE CITY
- EXISTING CITY CORPORATE BOUNDARIES
- FENCE LINE
- ② PROVIDENCE FARM SURVEY LOT NUMBER
- ③ PROVIDENCE FARM SURVEY BLOCK NUMBER
- FOUND REBAR AS NOTED



ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, THE PROVIDENCE CITY COUNCIL, HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO PROVIDENCE CITY, AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH CODE SECTION 10-2-403, AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____, 20____.

RECORDER

APPROVED: _____ MAYOR

DEPUTY COUNTY SURVEYOR APPROVAL

THIS PLAT HAS BEEN PROVIDED BY THE COUNTY SURVEYOR AND IS HEREBY APPROVED AS A FINAL LOCAL ENTRY PLAT, PURSUANT TO UTAH CODE ANNOTATED 17-23-20 AMENDED.

Date _____ Deputy County Surveyor _____

SURVEYOR'S CERTIFICATE

I, BRIAN B. LYNN, HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO PROVIDENCE CITY, CACHE COUNTY, UTAH.



SURVEYOR NOTES AND NARRATIVE

- The purpose of this survey was to locate the subject property for annexation into the Providence City. This survey was requested by Brian B. Lynn, the Mayor of Providence, Utah. The survey was conducted on the east line of Lot 2, Block 3, Plat 'D', Providence Farm Survey and on the east line of the Sunnyside Acres 2 Subdivision and Sunnyside Acres 3 Subdivision.
- Line was established along the east line of Lot 2, Block 3, Plat 'D', Providence Farm Survey and the east line of the Sunnyside Acres 2 Subdivision and Sunnyside Acres 3 Subdivision.
- Line was established using Advantage Surveying and record of survey 2017-0111 and 2018-0078.
- Line was established along an existing fence and an Advantage Surveying note on the east side.
- Line was established along the east line of Lot 2, Block 3, Plat 'D', Providence Farm Survey and an existing fence line.
- Line was established along the north line of Lot 2, Block 3, Plat 'D', Providence Farm Survey and the north line of the Sunnyside Acres 2 Subdivision and Sunnyside Acres 3 Subdivision.

BOUNDARY DESCRIPTION

Lot 2, Block 3, Plat "D", Providence Farm Survey, also part of the Northwest Quarter of Section 15, Township 11 North, Range 1 East of the Salt Lake Base and Meridian described as follows:

Commencing at the South Quarter Corner of Section 14, Township 11 North, Range 1 East thence S 89°37'29" W 2642.88 feet to the Southwest Corner of Section 15; thence N 44°13'27" W 2782.80 feet to the Northeast Corner of Lot 2, Block 3, Plat "D" Providence Farm Survey and the POINT OF BEGINNING and running
thence S 01°34'33" W 208.88 feet along the east line of Lot 2, Block 3, Plat "D" Providence Farm Survey and also being the east line of Sunnyside Acres 2 Subdivision and Sunnyside Acres 3 Subdivision Amended Plat to a Smith Rebar at the Southeast Corner of said Lot 2;
thence S 01°34'33" W 21.31 feet;
thence N 89°30'43" W 137.04 feet to an Advantage Rebar;
thence S 01°17'58" W 8.12 feet to an Advantage Rebar;
thence N 89°45'21" W 528.84 feet along an existing fence line;
thence N 00°56'07" E 33.88 feet to the Southwest Corner of Lot 2, Block 3, Plat "D", Providence Farm Survey;
thence N 01°11'18" E 466.25 feet along an existing fence line also being the west line of Lot 3, Block 3, Plat "D", Providence Farm Survey to the Northwest Corner of said Lot 2;
thence S 89°05'59" E 870.47 feet along the north line of said Lot 2 and the east line of Providence Meadows Subdivision and Sunnyside Acres Subdivision to this point of beginning, containing 10.64 acres, more or less.

PROVIDENCE LANDING ANNEXATION

TO THE CITY OF PROVIDENCE

LOT 2, BLOCK 3, PLAT "D"
PROVIDENCE FARM SURVEY
ALSO
PART OF THE NORTHWEST QUARTER OF SECTION 15
TOWNSHIP 11 NORTH, RANGE 1 EAST
SALT LAKE BASELINE AND MERIDIAN
CACHE COUNTY, UTAH

ALLIANCE CONSULTING ENGINEERS

150 EAST 200 NORTH SUITE P
LOGAN, UTAH 84321
(435) 755-5121