

PLANNING COMMISSION

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*Clinton City
Planning Commission*

*Chairman
Jacob Briggs*

*Vice Chairman
Bob Buckles*

*Members
David Coombes
Jolene Cressall
Andy Hale
Jeff Ritchie
Anthony O. Thompson*

*City Staff
Will Wright*

AGENDA

November 1, 2016

7:00 pm

There will be a work session meeting of the Clinton City Planning Commission held on the date mentioned above in the **Council Chambers** of Clinton City; **City Hall located at 2267 North 1500 West.**

	Pledge	Appointed
	Invocation or Thought	Appointed
	Roll Call	Chair
	City Council Report	Staff
	Planning Commission Minutes for September 20, 2016	Chair
	Declaration of Conflicts	Chair
	PUBLIC HEARING:	
1.	Review and recommend adoption of Ordinance 16-02S to the City Council amending Chapters 1 and 3 of the Subdivision Ordinance of the City Code.	
2.	Consider and act upon a request by the Lakeside Community Church to extend the Site Plan Approval for an additional one year to November 2017.	
3.	WORK SESSION: Consider update of the City's Subdivision Ordinance with a review of Chapter 4. This review may also include a review of other chapters in this ordinance.	
4.	COMMISSION COMMENTS	
5.	ADJOURN	

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THE PUBLIC IS INVITED TO ATTEND ALL CITY MEETINGS.

If you need a special accommodation to participate in the meeting, please call Clinton City Community Development Department at least 3 working days prior to the meeting. Telephone (801) 614-0740.

THE ORDER OF AGENDA ITEMS MAY BE CHANGED OR TIMES ACCELERATED AS TIME PERMITS WITH THE EXCEPTION OF ITEMS AND TIMES PUBLISHED IN THE NEWSPAPER SUCH AS PUBLIC HEARINGS



**CLINTON CITY PLANNING COMMISSON
CITY HALL
2267 North 1500 W Clinton UT 84015**

Planning Commission Members

Chair – Jacob Briggs

Vice Chair – Bob Buckles

Tony Thompson

Dave Coombs

Jolene Cressall

Jeff Ritchie

Andy Hale

Date of Meeting	October 18, 2016	Call to Order	7:07 p.m.
Staff Present	Community Development Director Will Wright and Lisa Titensor recorded the minutes.		
Citizens Present	Spencor Wright, Wright Development; Brian Zoltz		
Pledge of Allegiance	Commissioner Cressall		
Prayer or Thought	Commissioner Hale		
Roll Call & Attendance	Present were: Commissioners’ Dave Coombs, Jolene Cressall, Andy Hale, Tony Thompson, Bob Buckles and Jacob Briggs		
City Council Report	Mr. Wright reported on the October 11, 2016 City Council meeting as recorded in the minutes.		
Declaration of Conflicts	There were none.		
Approval of Minutes	<p>Commissioner Cressall moved to approve the September 20, 2016 Planning Commission minutes. Commissioner Coombs seconded the motion. Commissioners Coombs, Cressall, Hale, Ritchie, Thompson and Briggs voted in favor. Commissioner Buckles abstained because he was not present at the meeting.</p> <p>Commissioner Coombs moved to approve the October 4, 2016 Planning Commission Work Session minutes. Commissioner Cressall seconded the motion. Commissioners Buckles, Coombs, Cressall, Ritchie, Thompson and Briggs voted in favor. Commissioner Hale abstained because he was not present at the meeting.</p>		
7:05 P.M PUBLIC HEARING - REVIEW AND ACTION UPON A REQUEST FROM THE WRIGHT DEVELOPMENT GROUP REPRESENTED BY SPENCER WRIGHT FOR A SITE PLAN REVIEW TO CONSTRUCT A COMMERCIAL CENTER COMPRISED OF FOUR (4) STORES IN THE PARK PLAZA SUBDIVISION LOCATED AT 1934 N 2000 W IN CLINTON.			
Petitioner	Community Development		
Discussion	<p>Mr. Wright reviewed the following information included in the staff report. This proposed commercial center is a part of the Park Plaza Subdivision that is zoned Performance Zone (PZ) and located in the City’s Central Business District (chapter 20). Several commercial pads in this subdivision were previously developed including, Pad E consisting of Costa Vida, Jimmy Johns and Papa Murphy’s. This proposed commercial development adds 64,528 square feet to an existing 6,600 square feet to Pad E totaling 71,128 square feet. This new center will house four stores, namely: Ross, Deseret Book, Downeast and Petco.</p> <p>These stores are located north of pad E with this site having 352.5 linear feet of frontage on 2000 West that increases to 630 feet, when combined with pad E, along 2000 West. Access to this site will be from a driveway north of these commercial pads off of 2000 West as well as a driveway just south of pad E from 2000 West. There is an extensive interior driveway through this commercial complex that is served by five (5) driveways (3 from 2000 West and 2 off of 1800 N). Parking totals 266 spaces and though the buildings total 71,128 square feet the actual retail space is only 53,346 or 75% and calculates to 266.7 spaces needed for these buildings, which is a very minor difference from what is proposed.</p>		

Site Plan

The Site Plan blends well with Pad E housing the Costa Vida, Jimmy Johns and Papa Murphy's and the surrounding stores from an aesthetic theme. Both an irrigation and landscape plan was provided that shows extensive planting along 2000 West on the western facade and in the landscape islands in the parking lot. This commercial pad has 352.5 feet linear frontage with a depth of about 473 feet. The frontage increases to about 630 feet along 2000 West when added to existing Pad E.

Building Design

The building is about 187 feet facing 2000 West and about 412 feet wide from the front that faces south to the parking lot. The building appears to have a flat roof that shields any mechanical equipment and is broken up on average every 20+ feet with depth, dimension and texture provided by bump outs, etc. These details will receive greater review as staff has more time to look at the building construction plans.

Brian Zoltz, the architect for the project presented the design as included in the staff report. He explained that the intent behind the design is to maintain consistent with the existing buildings.

Mr. Wright stated he used 28-19-14 on page 19-11, Class 8 Commercial Standards to determine the site development standards.

Commissioner Buckles suggested that 28-20-5 should be a consideration because it deals with Big Box design objectives.

The Planning Commission discussed a concern over traffic and requested that a right turn only sign be installed to encourage safety.

Commissioner Thompson suggested the rear of the building (north elevation) be enhanced similar to the Taco Time building with CMU columns every 40 feet to break up the long building.

Commissioner Hale suggested that because pets are allowed at Petco they should consider providing and maintaining a specified area for pet waste.

The Planning Commission discussed the stripes on the Ross building and expressed a concern that it could be considered a sign. They asked Mr. Wright to pay close attention to the sign requirements identified in the ordinance.

Mr. Spencer gave a summary of his understanding of the discussion:

- Architectural bump outs on the north side of the elevation;
- Right turn only sign on west drive isle;
- Grassy area for pets in front of Petco with signs and require Petco to maintain it;
- Striping on the road to the north of the building;
- Install signage at the intersection on the east side near Lowes;
- Address the signage question with Ross

Commissioner Briggs asked the Planning Commission to review table 20.1 the Architectural Design Review and page 20-3 Design Review Procedures.

Commissioner Briggs opened the public hearing at 8:31 p.m. with no public comment, he closed the public hearing at 8:32 p.m.

Commissioner Briggs directed the Planning Commission to 28-20-5 and asked them to use the criteria pertaining to big box stores for the scoring evaluation.

Big Box Design Objectives. The following design objectives apply to big box buildings, defined as having at least 25,000 square feet. Two or more buildings with less than 25,000 square feet each that are attached by an enclosed walkway must also comply with big box design requirements. Such buildings attached by open breezeways are not subject

to big box design requirements.

(1) Design Standards

(a) Applications of Prairie Style Architecture. Design options exist for the development of big box commercial operations in order to comply with the architectural standards. Big box design shall emphasize the use of:

(i) horizontal lines, massing and patterns

(ii) low pitch roofs with large overhangs, fascia

(iii) square columns contrasting color schemes

(iv) low wall planters in front of the building

(b) Roofing type / pitch. Roofing for all entrances, drive-throughs, accents, and special architectural features shall be compatible with Prairie style architecture, including the use of hipped or gabled roofs with a low roof pitch. Eaves shall be no less than three (3) feet, which will help maintain horizontality of the Prairie style architecture. Pitch of roofing should be no higher than 6 feet of rise to 12 feet of run. Drive through areas should be covered with a compatible roof style.

(c) Roof Line Length. For sides of the building facing a public street, roof lines shall vary in depth, shape or dimension every thirty (30) feet. For sides of the building which do not face a public street, roof lines shall vary in depth, shape or dimension every sixty (60) feet. The change in depth, shape or dimension must run the length of the changed roof line.

(d) Height Limitation. Buildings shall be limited to two stories with a maximum height limit 40 feet. Increased height or additional stories may be approved with a conditional use permit, considering whether the proportionate design of the building maintains a chiefly horizontal appearance.

(e) Building Materials. Acceptable materials include brick, stucco, horizontal rock, or split face block. No flat or smooth face block (CMU) is allowed. Additional materials compatible with the Prairie style may be approved by the Planning Commission.

(f) Color schemes. All structures shall have contrasting color schemes using earth tones.

(g) Fenestration. The use of windows shall include repetition and clustering of rectangular or tall, narrow windows. Window framing shall have a bold appearance.

(h) Façade Length. Façades lengths shall vary in depth, shape or dimension every thirty (30) feet at a minimum depth of twenty four (24) inches. For sides of the building which do not face a public street, façades shall vary in depth, shape or dimension every sixty (60) feet. The change in depth, shape or dimension must run the length of the changed façade length.

(i) Solid Waste Enclosure. Solid waste receptacles and compactors which are not located within a building, shall be enclosed on three sides with the same materials as used on the main structures, and reflect a style complimentary to the Prairie Architecture Style.

(j) Fencing / walls. When required, fencing should consist of long, low walls achieving a horizontal appearance. Columns are acceptable if overall appearance is horizontal. Chain link fencing is not permissible. If a chain link fence exists prior to the development occurs, replacement of the fence will be required.

(k) Lighting.

(i) Parking Lot Lights within the development shall have a decorative style reflecting the architectural style of the building, and shall be in accordance with City lighting requirements. No cobra-style light standards are allowed.

(ii) Exterior building lighting shall reflect the architectural style of the building

(l) Mechanical shielding. Mechanical equipment, solar panels, and other rooftop equipment shall be shielded from view with roofing materials or other architectural features with a horizontal appearance. This also includes screening and sound proofing of

the equipment that is on the ground.

(m) Ornamentation. Ornamentation consistent with Prairie style architecture is encouraged, including detailing on windows, handrails, columns, etc. Emphasis should be on the use horizontal lines.

(2) Landscaping. Residential landscaping should be compatible with the building architecture. The installation of well designed landscaping, including the use of green, drought resistant and native plants is encouraged. (see 28-3-20) Trees are encouraged to be planted, following the tree planting guidelines as shown on table 20.2.

Architectural Design Photos. Figure 3 on the following page displays several examples of the application of the Prairie style architecture on big box commercial buildings.

The Planning Commission scored the Architectural Design Review as follows:

Table 20.1 Architectural Design Review – Points Evaluation
Park Plaza Subdivision Amendment 3 for Ross, Deseret Book, Downeast and Petco

Building orientation	
To the street	0
For future infill	NA
Roofing type and pitch	1
Roof line length	2
Building height	1
Building materials – adequately meets intent	1
Façade length variation	-1
Color schemes	0
Location and proportion of porches, and entrances	1
Location and proportion of windows	1
10. Ornamentation and details	2
11. Parking integration	1
Sign integration	1
Site landscaping design	
Fencing/walls	0
Sidewalks	2
Trees	1
Solid waste enclosures	0
Additional features (fire lane around bldg.)	0
Exterior lighting	0
	TOTAL 19
	DESIGN REVIEW AVERAGE SCORE (Total / 19)

CONCLUSION

Architectural Review -Commissioner Thompson moved to approve the architectural review of Park Plaza 1978 N 2000 W with a positive score for site plan bonuses and recommend the north elevation add CMU block columns at the intervals of 60 feet to the elevation similar to the Pines development. Commissioner Ritchie seconded the motion. Voting by roll call is as follows: Commissioner Cressall, aye; Commissioner Hale, aye; Commissioner Buckles, aye; Commissioner Thompson, aye; Commissioner Coombs, aye; Commissioner Ritchie, aye; Commissioner Briggs, aye.

Site Plan Review - Commissioner Thompson moved to approve the site plan review of Park Plaza 1978 N 2000 W with staff’s comments and recommendations addressed and the City standards met along with 1) a right turn only on the north bound lanes on the drive access west of Ross; 2) a pet green space on the east island for Petco; 3) strike the travel lane on the north entrance road to the development on the north side of the building on the road; 4) provide a sidewalk or ramp connection from the 2000 West sidewalk to the development and 5) allow a bonus for the site plan review for 24 foot drive isles. Commissioner Cressall seconded the motion. Voting by roll call is as follows: Commissioner Cressall, aye; Commissioner Hale, aye; Commissioner Buckles, aye; Commissioner Thompson, aye; Commissioner Coombs, aye; Commissioner Ritchie, aye; Commissioner Briggs, aye.

Issues & Concerns	There were none.
ADJOURNMENT	Commissioner Coombs moved to adjourn. Commissioner Ritchie seconded the motion. Commissioners' Coombs, Thompson, Cressall, Hale, Ritchie and Briggs voted in favor of the motion., the meeting adjourned at 10:03 p.m.

CLINTON CITY PLANNING COMMISSION AGENDA ITEM

SUBJECT: Ordinance 16-02S, Amending Title 26 Chapters 1 and 3 of the City Code.	AGENDA ITEM: <b style="font-size: 1.5em; text-align: center;">1
PETITIONER: Planning Commission and Community Development Director	MEETING DATE: November 1, 2016
ORDINANCE REFERENCES: Review and recommend for City Council adoption Ordinance 16-02S amending Title 26 Chapters 1 and 3 of the City Code.	ROLL CALL VOTE: <b style="text-align: center;">YES NO
BACKGROUND: As you're all aware, the Planning Commission has been working on Chapter 1, General Provisions and Chapter 3, Subdivision Application Procedure and Approval Process of the Subdivision Ordinance. The Council is now reviewing these chapters which the Commission considers to be ready for adoption. Some important considerations in Chapter 1 are the vesting of land use authority among the City Council, Planning Commission and Community Development Director. Further, defining the public purpose, development guidelines and design standards are described. Chapter 3 classifies subdivisions by major and minor and details the preliminary and final plat requirements. Further, the application procedures for each of these subdivision plats are described.	
ALTERNATIVE ACTIONS:	
ATTACHMENTS: Ordinance 16-02S	
SEPARATE DOCUMENTS:	

Respectfully submitted,

Will Wright, Community Development Director

ORDINANCE 16-02S

AN ORDINANCE AMENDING TITLE 26 OF THE CLINTON CITY CODE BY
RESCINDING CHAPTERS 1 AND 3 AND ADOPTING NEW CHAPTERS 1 AND 3

Whereas, Clinton City has a City Code comprised of Ordinances adopted by the City Council; and

Whereas, this City Code needs to be in compliance with the Utah State Statutes; and

Whereas, the State Legislature has modified some of the Statutes pertaining to subdivisions in city government; and

Whereas, language of the City Code Title 26, Subdivisions, needs to be updated and revised.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF CLINTON, DAVIS COUNTY, UTAH**, that Chapters 1 and 3 of Title 26,
Subdivisions, be amended in the City Code as follows:

SECTION 1: Chapters 1 and 3 of Title 26, Subdivisions, of the City Code are hereby rescinded.

SECTION 2: New Chapters 1 and 3 of Title 26, Subdivisions, are hereby adopted:

Chapter 1. General Provisions

- 26-1-1** Title
- 26-1-2** Policy
- 26-1-3** Public Interest
- 26-1-4** Purpose
- 26-1-5** Availability of Utility Services
- 26-1-6** Land Use Authority
- 26-1-7** Jurisdiction
- 26-1-8** Interpretation, Conflict and Severability
- 26-1-9** Savings Provision
- 26-1-10** Reservations and Repeal
- 26-1-11** Amendments
- 26-1-12** Variances
- 26-1-13** Development Guidelines and Design Standards
- 26-1-14** Enforcement, Violations, and Penalties
- 26-1-15** Constructive Notice of Time Periods

26-1-1 Title. In order that land may be subdivided in accordance with the purposes and policies herein, these subdivision regulations are hereby adopted and made effective as of ****{the date**

of this ordinance}. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under the regulations existing at the time such application was made unless the City Council determines on the record that application of these regulations is necessary to avoid a risk of injury to public health, safety, and general welfare. These regulations shall officially be known, cited, and referred to as the Subdivision Ordinance of Clinton City.

26-1-2 Policy.

(1) Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this City. The developer has the duty of compliance with reasonable conditions of this Ordinance for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

(2) It is declared to be the policy of the city to consider the subdivision of land and any subsequent development of any portion of a subdivided piece or plat as subject to the control of the City pursuant to the General Plan of the City for the orderly, planned, efficient, and economical development of the City.

(3) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and land shall not be subdivided unless adequate public facilities and improvements will exist to properly provide for drainage, water, sewerage, and capital improvements such as parks, recreational facilities, transportation facilities, and improvements.

(4) The existing and proposed public improvements shall conform to and be properly related to the master infrastructure plans and the capital budget and program of the City. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulation(s) identified in Section 26-1-4.

26-1-3 Public Interest. Any proposed subdivision and its ultimate use shall be in the best interest of the public and shall be in harmony with good neighborhood development of the area concerned, and the subdivider shall present evidence to this effect when requested to do so by the Planning Commission.

26-1-4 Purpose. These regulations are adopted for the following purposes:

(1) To protect and provide for the public health, safety, and general welfare of the City.

(2) To guide the future growth and development of the City in accordance with the General Plan.

(3) To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.

(4) To protect the character, the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and nonresidential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.

(5) To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

(6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, parks, playgrounds, recreation, and other public requirements and facilities.

(7) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

(8) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and establishment of survey monuments of subdivided land.

(9) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services though requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.

(10) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the community and the value of the land.

(11) To preserve and/or improve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features.

(12) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning ordinance of the City.

(13) To remedy the problems associated with inappropriately subdivided lands.

(14) To provide for safety and security of residents,

subdivisions, commercial properties, and traffic by planning, developing, executing and requiring a city wide street lighting and general lighting design and requirement.

26-1-5 Availability of Utility Services. No development, nor permit for development, shall be granted, approved, or issued unless the necessary public facilities in the applicable area have been determined to exist and have adequate capacity to accommodate the proposed development and are available or are to be available when the development occurs. The applicable area includes all facilities that directly or indirectly deliver the services to or are impacted by the proposed development. Such a determination is to be made by the Public Works Department based upon the approved infrastructure master plans.

26-1-6 Land Use Authority.

(1) City Council. The City Council is vested with the authority to approve, amend and approve, conditionally approve or disapprove an application for the final plat of a subdivision of land unless specifically excepted by this ordinance. The Board of Zoning Adjustment is the appeal authority to hear and decide appeals from decisions regarding final plats.

(2) Planning Commission.

(a) The Planning Commission is vested with the authority to review, approve, conditionally approve, and disapprove applications for the preliminary plats of subdivision of land. The City Council is the appeal authority to hear and decide appeals from decisions regarding preliminary plats.

(b) The Planning Commission is vested with the responsibility to review and make recommendation to the City Council concerning the approval, conditional approval, or disapproval of the final plat of a subdivision of land unless specifically excepted by this ordinance.

26-1-7 Jurisdiction.

(1) Applicability. These regulations apply to all subdivisions of land, as defined herein and in Chapter 2, located within the corporate limits of the City or outside the corporate limits as provided by law.

(2) Means. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the City Council, in accordance with this Ordinance, except as specifically stated otherwise in this Ordinance.

(3) Issue of Permits.

(a) The subdivision of any lot or any parcel of land by the use of deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument for the purpose of sale, transfer, lease, or development is prohibited.

(b) No building permit or certificate of occupancy shall be issued, nor shall the City have any obligation to extend utility services to any parcel created in violation of these regulations, for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this Ordinance, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this Ordinance and applicable regulations unless otherwise allowed by law.

(4) Requirements. No land described in this section shall be subdivided or developed until each of the following conditions has been met in accordance with these regulations:

(a) The subdivider or his agent has submitted a conforming preliminary plat and final plat of the subdivision to the Community Development Director as outlined by this ordinance; and

(b) The subdivider or his agent has obtained approval of the preliminary plat when required, and the final plat as outlined by this ordinance; and

(c) The final plat and construction drawings have been approved for construction by the Clinton City Engineer and the construction drawings have been marked "APPROVED FOR CONSTRUCTION" and issued by the Community Development Department; and

(d) The subdivider or his agent has paid fees associated with the subdivision of property and inspection of improvements related to the development of a subdivision as outlined by this ordinance; and

(e) The subdivider has provided to the City documentation from the Davis and Weber Counties Canal Company indicating that all fees associated with the secondary water system have been paid; and

(f) The subdivider or his agent files and causes to have recorded the final plat with the Recorder for Davis County; or the City Council has authorized the subdivider to start construction prior to recording of the final plat.

26-1-8 Interpretation, Conflict, and Severability.

(1) **Interpretation:** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(2) **Public Provisions:** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(3) **Private Provisions:** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the City Council in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(4) **Severability.** If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, as provided by Utah law, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

26-1-9 Savings Provision. These regulations shall not be construed as abating any action now pending

under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

26-1-10 Reservations and Repeals. Upon the adoption of these regulations according to law, the Subdivision Regulations of Clinton City adopted April 9, 1985, as amended, are hereby repealed, except to the extent expressly retained in these regulations.

26-1-11 Amendments.

(1) **Amendments to the Ordinance.**

This Ordinance may be amended from time to time in accordance with Utah law governing amendments to a land use ordinance, currently found at Utah Code Section 10-9a-503.

26-1-12 Variances.

Any person or entity desiring a waiver or modification of the requirements of this Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Zoning Adjustments for a variance from the terms of the Ordinance. The Board of Zoning Adjustments is bound by Utah law governing variances, currently found at Utah Code Section 10-9a-702, and may only grant a variance if the application meets the requirements found therein.

26-1-13 Development Guidelines and Design Standards. The Community Development Director with the assistance of the City Engineer, or a designee of the City Engineer may draft, interpret and recommend a set of development guidelines and design standards for subdivision approvals in the City. Such guidelines and standards are subject to approval by the City Council. The standards and guidelines shall be based upon reasonable engineering standards and practices. Any appeal from a guideline or design standard imposed by the guidelines and standards, shall be made to the Board of Adjustment, pursuant to Chapter 10 of the Zoning Ordinance of the City of Clinton.

26-1-14 Enforcement, Violations, and Penalties.

(1) **General.**

(a) It shall be the duty of the Community Development Director to enforce these requirements and to bring to the attention of the City Attorney or his designated agent any violations of these regulations.

(b) No owner or agent of the owner, of any parcel of the land located in a final plat of a subdivision that has been approved by the Land Use Authority in accordance with the provisions of these regulations may transfer or sell any part of the parcel before the final plat has been recorded with the Davis County Recorder's Office.

(2) Inspections. Appropriate departments of Clinton City shall inspect or cause to be inspected all buildings, streets, cement work, fire hydrants, and water supply, storm water disposal and waste water disposal systems in the course of construction, installation or repair. Excavation for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by Clinton City. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. Funds held in bond or escrow will not be released for any work that has not been inspected by the appropriate City Department. Fees related to inspections shall be paid by the subdivider, developer or his representative as outlined in the Consolidated Fee Schedule.

(3) Violations and Penalties. Any violations of this Ordinance shall be a Class 'C' misdemeanor.

Where applicable, each day of noncompliance shall constitute a separate violation.

(4) Civil Enforcement. Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

26-1-15 Constructive Notice of Time Periods.

(1) All land owners, subdividers, contractors, developers, or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Ordinance relating to the application, processing and approval or other action relating to the development and subdivision of a project.

(2) Nothing in this Ordinance shall be construed as requiring the City to take any affirmative action to notify land owners, subdividers, developers, owners, builders, or applicants of any time periods and/or deadlines or the effect of noncompliance with said processing requirements set forth in this Ordinance relating to the processing and approval or other action relating to the development and subdivision of a project.

Chapter 3. Subdivision Application Procedure and Approval Process

- 26-3-1** General Procedure
- 26-3-2** Notice of Public Hearing
- 26-3-3** Preliminary Plat
- 26-3-4** Amendments to Preliminary Plat
- 26-3-5** Final Subdivision Plat
- 26-3-6** Vested Rights and Development Agreements
- 26-3-7** Signing and Recordation of Subdivision Plat
- 26-3-8** Suspension and Invalidation of Final Plat

26-3-1 General Procedure:

(1) Classification of Subdivisions: Before any land is subdivided the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which includes one (1) principal steps for a minor subdivision and two (2) principal steps for a major subdivision:

- (a) Minor Subdivision.
- (i) Final Subdivision Plat
- (b) Major Subdivision.
- (i) Preliminary Plat
- (ii) Final Subdivision Plat

(2) Discussion of Requirements: Before preparing the plat, either preliminary or final for a minor or major subdivision, the applicant shall schedule an appointment and meet with the Community Development Director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services. The Community Development Director shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The Community Development Director shall determine whether the development constitutes a minor or major subdivision and notify the applicant of the classification within thirty (30) working days.

26-3-2 Notice of Public Hearing:

(1) Notice: Notice of City Council, Planning Commission or other meetings, addressing the

subdivision of land which requires Public Notice, the required notice shall be provided as required by Utah Code 10-9a-205.

(2) Assumption of Validity of Notice of Hearing: If no protest of the processing of the public hearing has been received in writing by the Community Development Director within 30 days of the public hearing the notice of public hearing is assumed to have been processed properly.

26-3-3 Preliminary Plat:

(1) Phasing Major Subdivision Plats: A preliminary plat may be divided into two or more phases and the Planning Commission may impose such conditions upon the filing of the phases as it may deem necessary to assure the orderly development of the subdivision. Such phases must contain at least ten percent (10%) of the total number of lots contained in the approved plat.

(2) Application Procedure and Requirements: The application for preliminary plat shall:

- (a) Be made on forms available at the office of the Community Development Director together with a fee that is set, from time to time and passed in resolution by the City Council;
- (b) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet from the subject property, or if applicable, of that directly opposite the subject property, extending one hundred (100) feet from the street frontage of opposite land, with the names of owners as shown in the County Assessor's files. This information may be shown on a separate current Tax Map reproduction from the County Recorder's Office showing the subdivision superimposed on the Tax Map;
- (c) Be accompanied by a minimum of six (6) copies of the existing condition drawings as described in these regulations;
- (d) Be accompanied by a minimum of six (6) copies of the complete preliminary plat as described in these regulations;
- (e) Be accompanied by a minimum of six (6) copies of construction plans for the preliminary plat as described in these regulations;
- (f) Additional copies of the preliminary plans may be required when dealing with services, districts, or roadways that are not under the control of the City; and

(g) Be presented to the Community Development Director a minimum of four (4) weeks prior to a regular meeting of the Planning Commission.

(3) Public Hearing: Upon determination that the application for preliminary plat is complete, the Community Development Director shall notice a public hearing before the Planning Commission in accordance with 26-3-2.

(4) Preliminary Approval: After the Planning Commission has reviewed the preliminary plat and construction plans, the report of the Community Development Director, any municipal recommendations and testimony and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Planning Commission shall approve, conditionally approve, or disapprove the preliminary plat. One (1) copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. If the preliminary plat is disapproved by the Planning Commission, the applicant may appeal to the City Council as provided in 26-1-6(2)(a). Subsequent to an approval or conditional approval by the Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations. The applicant shall have 120 days from the date that the preliminary plat is approved by the Planning Commission (or City Council upon appeal) to submit a final subdivision plat, after which time a new preliminary plat must be submitted for approval.

(5) Standards for Approval of Preliminary Plats: No preliminary plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

(a) Definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

(b) If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;

(c) All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;

(d) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state, and local laws and regulations;

(e) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;

(f) The subdivider has taken every effort to mitigate the impact of the proposed subdivision of public health, safety, and welfare.

(6) Disapproval on Appropriate Findings: The Planning Commission is authorized to disapprove the preliminary plat based on findings even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the General Plan.

(7) Effective Period of Preliminary Plat Approval: All approvals, conditions, and agreements regarding a preliminary plat shall expire one (1) year from the date of preliminary plat approval, by either the Planning Commission or City Council, if required, whichever is later, unless:

(a) The respective final plat, or a phase thereof, has been approved; or

(b) The respective final plat, or a phase thereof, has been submitted to the City, is scheduled for review, and it complies with the City Codes and the preliminary plat approval and requirements.

(c) If done by phases, the developer must continually file for the approval of at least one phase within one year of the most recent plat or phase approval. Said filing must comply with the City Code and the preliminary plat approval and requirements.

(8) Zoning and Subdivision Regulations: Every preliminary plat shall conform to existing zoning regulations and subdivision regulations applicable at the time that the proposed preliminary is submitted for the approval of the Planning Commission unless the Planning Commission or City Council has taken official action toward amending the applicable zoning and subdivision regulations and the applicant has reason to know of that action.

(9) Grading of Site Prior to Final Approval: Subsequent to preliminary approval the developer may apply for a topsoil and excavation permit from the City or such other agency or person as the City Council shall direct, and upon receipt of the permit may commence construction to the grades and elevations required by the approved preliminary plat.

(10) Model Homes: For the purpose of allowing the

early construction of model homes in a subdivision, the Planning Commission may permit a portion of a major subdivision involving no more than two (2) lots to be created in accordance with the procedures for minor subdivisions, provided the portion derives access from an existing city, county, or state roadway, and provided no future road or other improvement is anticipated where the lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary approval, the model homes may be constructed, subject to such additional requirements as the Planning Commission may require.

26-3-4 Amendments to Preliminary Plat: At any time after preliminary plat approval and before submission of a final plat, the applicant may request of the Community Development Director that an amendment be made in the approval or conditional approval of the preliminary plat. The Community Development Director may agree to proposed amendments that are deemed to be minor. If the proposed amendment is major, the Planning Commission shall hold a public hearing on the proposed major amendment in accordance with the same notice requirements found in Section 26-3-2. Any public hearing on a proposed major amendment shall be limited to whether the proposed major amendment should or should not be approved. The Planning Commission shall approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed major amendment under the terms and conditions required by the Planning Commission, the applicant may withdraw the proposed major amendment. A major amendment shall include, but is not limited to, any amendment that results in or has the effect of decreasing open space in the subdivision by ten percent (10%) or more or increasing density in the subdivision by ten percent (10%) or more. An applicant may not propose more than two (2) major amendments to any preliminary plat. The Planning Commission shall, approve, conditionally approve, or disapprove the proposed major amendment.

26-3-5 Final Subdivision Plat:

(1) Application Procedure and Requirements: Following the approval of the preliminary plat the applicant, if wishing to proceed with the subdivision, shall file with the Planning Commission an application for recommendation to the City Council

for approval of a subdivision final plat. The application shall:

- (a) Be made on forms available at the Office of the Community Development Director, together with a fee as set forth in the Consolidated Fee Schedule.
- (b) Include the entire subdivision, or section thereof, which derives access from an existing state, county, or City street.
- (c) Be accompanied by a minimum of six (6) copies of the subdivision plat and the construction plans, as described in these regulations.
- (d) Comply in all respects with the preliminary plat, as approved.
- (e) Be presented to the Community Development Director at least four (4) weeks prior to a regular meeting of the Commission in order that a public meeting may be scheduled.
- (f) Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities, parks, and easements, in a form approved by Clinton City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication. The applicant shall deliver a full covenant and warranty deed to all dedicated lands and improvements in proper form for recording, together with a title policy for Clinton City in the sum not less than ten thousand dollars (\$10,000), which sum shall be determined by Clinton City Attorney before signing of the final subdivision plat.
- (g) Be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to Clinton City Attorney and in an amount established by the City Council upon recommendation of Clinton City Engineer and shall include a provision that the subdivider shall comply with all the terms of the resolution of final subdivision plat approval as determined by the City Council and shall include, but not be limited to, the performance of all required subdivision and offsite improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to Clinton City free and clear of all liens and encumbrances on the premises.
- (h) Be accompanied by an inspection fee in an amount to be set from time to time by the City Council and published in the Clinton City Consolidated Fee Schedule and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement districts as required by the Planning

Commission upon preliminary plat approval. The applicant shall also pay for each street sign required in the subdivision as outlined in the Consolidated Fee Schedule.

(2) Planning Commission Action: Following the public hearing noticed in accordance with 26-3-2, the Planning Commission will review the application for subdivision and shall forward to the City Council a recommendation for approval, approval with conditions or disapproval.

(3) Notice of Public Hearing: Upon recommendation of the Planning Commission the Community Development Director shall notice a public hearing before the City Council in accordance with 26-3-2.

(4) Public Hearing and Determination: After the date of the public hearing, including any adjourned date thereof, is closed, the City Council shall approve or disapprove the subdivision application by resolution which shall set forth in detail any reasons for disapproval. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval accompanying the plat.

(5) Submission Requirements: Subsequent to the resolution of the City Council, six (6) paper copies of the construction plans and plat, and one (1) copy of the original of the subdivision plat on tracing cloth, and/or reproduction Mylar, and one (1) electronic file of the subdivision plat and one (1) copy of the subdivision plat on an 11" x 17" paper shall be submitted to the Community Development Director for final review. A check payable to the County Recorder in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met.

26-3-6 Vested Rights and Development Agreements:

(1) Effect of Approval: Except as otherwise provided in this Section 3-6, no vested rights shall accrue to the owner or developer of any subdivision by reason of preliminary or final plat approval until the actual signing of the final plat by the Mayor.

(2) Effect of Recordation: Except as otherwise provided in this Section 3-6, no vested rights shall accrue to the owner or developer of any subdivision by virtue of the recordation of a final plat.

(3) Applicable Laws: To obtain final plat approval, the applicant shall be in compliance with all federal and state laws applicable at the time that the final plat is considered for approval by the City Council. The

applicant also shall be in compliance with all local laws and regulations applicable at the time that the preliminary plat was submitted to the Planning Commission in accordance with Section 3-3, except that the applicant shall comply with those local laws and regulations in effect at the time that the final plat is considered for approval by the City Council if the City Council makes a determination on the record that compliance with any of those local laws and regulations is reasonably necessary to protect public health and safety.

(4) Development Agreements: The City Council is hereby authorized, but under no circumstances is required to, enter into development agreements with individuals and/or entities.

(a) Requirements: The City Council may enter into a development agreement for any development, rehabilitation, reconstruction, or placement of improvements upon any property, for which a permit would be required, for the purpose of:

(i) Protecting the health, welfare, and safety of the citizenry;

(ii) Developing or maintaining aesthetics within a neighborhood or district;

(iii) Addressing proposed projects, and the impacts of such projects, which may not have been contemplated by the Code;

(iv) Addressing issues of the density of developments when required to balance competing interests;

(v) Refining uses within the development in furtherance of the general plan when considering neighboring properties;

(vi) Resolving issues regarding unique features or challenges confronting development;

(vii) Protecting sensitive lands;

(viii) Protecting public properties and interests, both tangible and intangible;

(ix) Clarifying the application of code requirements or City standards;

(x) Ensuring adherence to the overall intent of the City Code; and

(xi) For any other purpose consistent herewith; or,

(xii) When mutually agreed upon with the developer.

(b) General: The Development Agreement shall constitute a binding contract between the subdivider of the proposed subdivision and the municipality (the "parties") and shall contain those terms and conditions agreed to by the parties and those required

by this section. The Community Development Director is authorized to negotiate Development Agreements on behalf of the City.

(c) Covenants: Any covenant by the municipality contained in the Development Agreement to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period of five (5) years. The covenant shall also contain a provision that the municipality may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.

(d) Third Party Rights: Except as otherwise expressly provided in the Development Agreement, the Development Agreement shall create no rights enforceable by any party who/which is not a party to the Development Agreement.

(e) Limitation on Liability: The Development Agreement shall contain a clause that any breach of the Development Agreement by the municipality shall give rise only to damages under state contract law and shall not give rise to any liability for violation of the fifth and fourteenth amendments of the U.S. Constitution or similar state constitutional provisions.

(f) Developer's Compliance: The Development Agreement shall include a clause that the City's duties under the Agreement are expressly conditioned upon the subdivider's substantial compliance with each and every term, condition, provision, and covenant of the Agreement, all applicable federal, state and local laws and regulations, and its obligations under the subdivision improvement agreement.

(g) Adoption: The approved Development Agreement shall be adopted by the City Council pursuant to applicable state and local laws and shall be recorded in the Recorder's Office of Davis County.

(h) Incorporation as Matter of Law: All clauses, covenants, and provisions required by these regulations to be included in a Development Agreement shall be incorporated into the Development Agreement as a matter of law without respect to the intent of the parties.

26-3-7 Signing and Recordation of Subdivision

Plat:

(1) Signing of Plat:

(a) When a subdivision improvement agreement and security are required, the Mayor shall endorse approval on the final plat after the agreement and security have been approved by the Community Development Director and City Engineer, and all the conditions of the resolution pertaining to the final plat have been satisfied.

(b) When installation of improvement is required prior to recordation of the final plat, the Mayor shall endorse approval on the final plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to Clinton City as shown by a certificate signed by Clinton City Engineer/Public Facilities Inspector and Clinton City Attorney stating that the necessary dedication of public lands and improvements have been accomplished.

(2) Recordation of Plat: It shall be the responsibility of the Community Development Director to file the final plat with the County Recorder's Office within ten (10) days of the date of the last signature on the final plat. Simultaneously with the filing of the final plat, the Community Development Director shall record the agreement of dedication together with such legal documents as shall be required to be recorded by Clinton City Attorney.

26-3-8 Suspension and Invalidation of Final Plat:

If the municipality suspends final plat approval for any subdivision plat under these regulations, it shall record a document with the Recorder's Office for Davis County declaring that final approval for the subdivision is suspended and that the further sale, lease, or development of property within the subdivision is prohibited except that this prohibition shall not apply to persons or parties who have acquired property from the subdivider unless the person or party acquiring property meets the definition of "common ownership" in Chapter 2. If any court of competent jurisdiction invalidates final plat approval for any subdivision, the City shall record a document with the Recorder's Office for Davis County declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited.

CLINTON CITY PLANNING COMMISSION AGENDA ITEM

SUBJECT: Request to extend eighteen month Site Plan Approval for the Lakeside Community Church, which terminated in May 2016, for another year until 11/2017.	AGENDA ITEM: 2
PETITIONER: Lonnie Campbell, Pastor Lakeside Community Church	MEETING DATE: November 1, 2016
ORDINANCE REFERENCES: The Site Plan Approval issued on November 4, 2014 stipulated under the Expiration paragraph that this approval was good for eighteen months and also indicated that applicant could request an extension.	ROLL CALL VOTE: YES NO
BACKGROUND: The Site Plan Approval for the Lakeside Community Church granted on November 4, 2014 stipulated that the approval was for only eighteen (18) months but also indicated that the petitioner could request an extension through the Planning Commission. Staff wrote Lonnie a letter indicating this Site Approval was expired but he could request an extension which is what he's requesting with this application.	
ALTERNATIVE ACTIONS: The Planning Commission has	
ATTACHMENTS:	
SEPARATE DOCUMENTS:	

Respectfully submitted,

Will Wright, Community Development Director



Mr. Will Wright
Community Development Dept.
Clinton City Planning Commission

To all those Concerned;

This letter is to apply for an extension of the site plan approval and Conditional Use Permit.

Since this site plan was presented and approved there have been changes to the plan.

1. Storm drainage: We have secured approval from Jordan Valley Water Conservancy District to cross their easement so that the drainage system can connect to the system on 1235 W.
2. Utility Access: Under the original plan utilities were to be accessed from 1000 W. as there was a piece of the property that connected the property now known as Lonnie Campbell Subdivision lot #1 to 1000 W. through lot #3. After we had the survey done it came to our attention that lot #3 was only 3 feet wide. I approached the property owners on both sides of the piece we own and neither one of them would give us an easement through their property for the utility access.

Since that time we have acquired what is now known as Lonnie Campbell Subdivision lot #2, (recognized as 1038 W. 800 N.) I have received approval to bring utilities in from 800 N. along the west side of that property. This year we also demolished the very unsightly shed that was between the house and the barn on the 1038 W. 800 N. property.

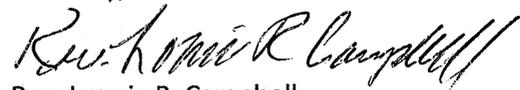
Cross Engineering Services has mapped the utilities from 800 N. to lot #1 including Fire Hydrants, water, secondary water, sewer and gas.

The final building plans are almost complete and are expected to be finished in January 2017. We have a bid for the steel and are continuing to work at raising money to get the building project started. We are attempting to pay for this project as we go and it is going some slower than we had first anticipated. During this time I have also travelled to South Africa on two occasions on missionary efforts, teaching at a college in Rustenburg. I have also been invited back to teach again in May of 2017. Each of these trips lasts for three weeks and cause a disruption in the work I am doing on the building project fund raising. However, I must say that the ministry is more valuable to us that getting the building completed quickly.

I am asking for some grace with this project and desire that you grant us a 1 year extension on the site plan approval and Conditional Use Permit.

If you have questions please contact me. (801)644-6976; pstrlonnie@gmail.com

Sincerely,


Rev. Lonnie R. Campbell
Pastor

Clinton City

Community Development
2267 North 1500 West
Clinton, Utah 84015

Phone (801) 614-0740 Fax (801) 614-0752
www.clintoncity.net



October 18, 2016

Mr. Lonnie Campbell
3840 W 6050 S
Roy, UT 84067

Dear Mr. Campbell:

This letter is to notify you that the Conditional Use permit (CUP) for the Lakeside Community Church Assembly of God at 897 North 1000 West approved by Clinton City Planning Commission on November 4, 2014 has now expired. As you can see in the final paragraph of the Site Plan Approval, Expiration states, "This site plan approval will expire in eighteen (18) months, from the Date of Action stated above, if a building permit has not been obtained for the planned structure.

I've attached the Site Plan Approval from your initial application that indicates a request for an extension can be presented to the Planning Commission." The eighteen month limit stipulated in the Site Plan Approval actually ended on May 4, 2016 or about five (5) months ago.

I would think some definitive dates for actions regarding the construction and operation of this church as approved by this CUP should be a part of any discussion/action of any new request for an extension. This would provide the Commission with pertinent information that would permit them to make an informed decision regarding an extension request. Further, any change to the originally approved CUP would result in submitting a new application for a CUP on this site.

Let me know if you have any questions or concerns about this letter, which is meant to inform you of changes to the approved CUP granted to the Lakeside Community Church at 897 North 1000 West, Clinton.

Sincerely,

A handwritten signature in black ink that reads "Will Wright". The signature is written in a cursive style.

Will Wright, Director

Community Development Department



**Site Plan Approval
Community Development**

2267 North 1500 West
Clinton City, UT 84015

Phone: (801) 614-0740

Fax: (801) 614-0752

Web-site: clintoncity.net

Project Information			
Applicant	Lakeside Community Church AG, Pastor Lonnie Campbell	Building Square Footage	Phase 1 = 10,000 sq.ft. Phase 2 = 10,000 sq.ft.
Property Address	897 North 1000 West	Building Perimeter	N/A
Zoning	R-1-10	Site Gross Size	N/A
Date of Hearing	November 4, 2014	Site Net Size	N/A
Date of Action	November 4, 2014	Architectural Score	N/A

Site Information
Landscape Requirements – Parking lot landscape requirements

Parking Requirements		
Type of Space (ref. § 28-4-5)	Seats	Stalls Required
1 per 4 seats in auditorium	211	53
Total Stalls Available		68

Additional Approval Requirements / Comments

- Signage Site: All site signage shall meet the Clinton City Sign Ordinance.
- Building Signage: All building signage shall meet the Clinton City Sign Ordinance.
- Fencing: Fencing on the north side is to be heavy duty vinyl; staff has review and approval authority. Discrepancies between staff and the petitioner shall be brought to the Commission for final review. No requirement for connecting to existing fences is established; this is entirely up to adjoining land owners and the developer.
- Parking: All required parking shall be on a hard surface. Parking lot requirements shall be as established in the Zoning Ordinance.
- Lighting, Parking: A photometric is to be presented along with the construction plans. Lighting shall not spread onto adjoining property.
- Lighting, Exterior: All exterior building lighting and security lighting shall be non invasive upon adjoining property based upon ambient light evaluation similar to that required for a sign with an EMC.
- Landscaping: A complete landscaping plan shall be provided with the construction drawings. Parking lot landscaping shall be as established in the Zoning Ordinance, however trees required for parking lot lighting that would be in the Jordan Valley Water Easement are to be located outside of the easement in addition to all other landscaping.



Site Plan Approval Community Development

2267 North 1500 West
Clinton City, UT 84015

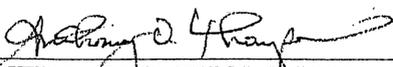
Phone: (801) 614-0740

Fax: (801) 614-0752

Web-site: clintoncity.net

- Storm Water:** Full storm water detention calculations are to be provided with the Construction Drawings. Storm drainage is to connect with the City system in 1235 West, the developer is to make improvements from their detention basin to the connection with 1235 West. City drainage from 1000 West shall not be interrupted.
- Future Development:** This site approval is intended to include the future 10,000 square foot addition depicted on the attached site plan based upon the proposed architecture and size. If there are changes to the architecture or size the changes are to be brought back to the Planning Commission for review and approval. This extended approval is valid for ten (10) years from the time of occupancy of the first building.
- Storm Drainage:** Approval is dependent upon an adequate easement being secured to facilitate piping of the drainage to the west to join the drainage in 1235 West.
- Dumpster Enclosure:** Solid wall enclosure with solid gates.
- Utility Access:** This approval does not ensure that utilities can be extended from 1000 West or out to 1235 West. It is up to the developer to secure that utility access necessary for utilities from 1000 West and/or out to 1235 West if necessary.
- Expiration:** This site plan approval will expire in eighteen (18) months, from the Date of Action stated above, if a building permit has not been obtained for the planned structure. A request for an extension can be presented to the Planning Commission.

Any disagreements between the Community Development Director and Developer as to the intent or meaning of this approval shall be brought back to the Planning Commission for clarification.



ANTHONY O. THOMPSON
Planning Commission Chair

Nov. 4, 2014

Date

LONNIE CAMPBELL SUBDIVISION

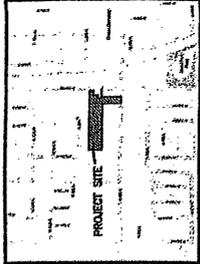
PART OF THE NORTHEAST QUARTER OF SECTION 34, T.5N., R.2W., S.L.B.&M., U.S. SURVEY
CLINTON CITY, DAVIS COUNTY, UTAH
JUNE, 2014

Note
MANY AREAS IN CLINTON CITY HAVE WATER PROBLEMS DUE TO SEASONAL SWELLING OF CLAY SOILS. INTERESTED PARTIES TO THIS PROJECT SHOULD CONSIDER THE POSSIBILITY OF THESE PROBLEMS. THE CITY ENGINEER HAS EXAMINED THIS PLAN AND THE PROPOSED PROJECT IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE.

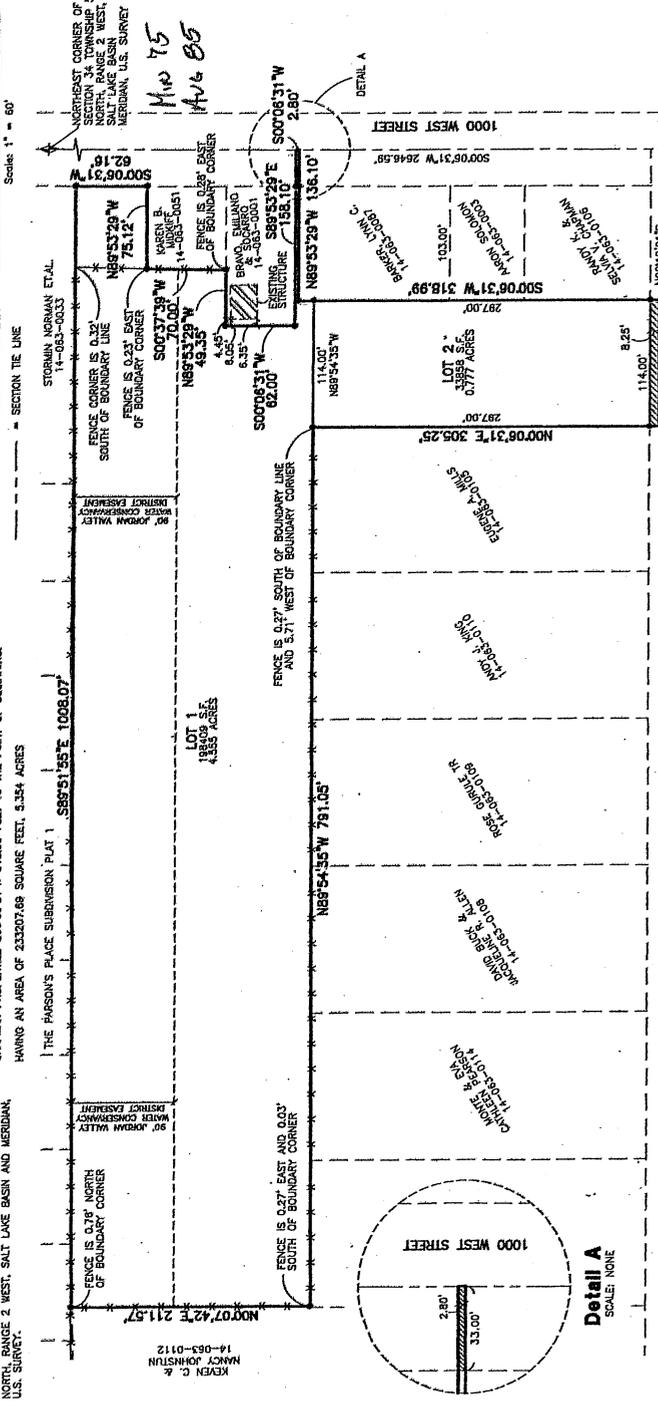
Narrative
THE PURPOSE OF THIS PLAN IS TO DIVIDE THIS PARCEL INTO TWO LOTS OF APPROXIMATELY EQUAL SIZE AND THE LOT LINE BY THE DIRECTION OF THE OWNER.

Basis of Bearings
THE BASIS OF BEARINGS FOR THIS PLAN IS THE SECTION CORNER OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASIN AND MERIDIAN, U.S. SURVEY.

Boundary Description
A PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASIN AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT IN 800 NORTH STREET WHICH LIES N89°54'35"W 138.09 FEET AND N00°19'01"E 24.75 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 34 AND RUNNING N00°08'31"E 791.08 FEET, THENCE N02°07'43"E 211.87 FEET, THENCE S89°51'55"E 1008.07 FEET TO THE WESTERLY RIGHT OF WAY LINE OF 1000 WEST STREET, THENCE ALONG SAID RIGHT OF WAY LINE S00°08'31"W 62.18 FEET TO THE MIDKIFF PROPERTY, THENCE ALONG SAID PROPERTY LINE S89°53'29"E 136.10 FEET TO THE CENTER OF 1000 WEST STREET, THENCE ALONG SAID STREET S89°53'29"E 136.10 FEET TO THE CENTER OF 1000 WEST STREET, THENCE ALONG SAID CENTER LINE S00°08'31"W 2.80 FEET TO THE CENTER OF 1000 WEST STREET, THENCE ALONG SAID PROPERTY LINE N89°53'29"W 138.10 FEET, THENCE ALONG THE WEST LINE OF BARKER, SOLOMON AND CHAPMAN PROPERTIES S00°08'31"W 318.99 FEET TO THE POINT OF BEGINNING.
HAVING AN AREA OF 233207.68 SQUARE FEET, 5.354 ACRES



Vicinity Map
SCALE: NONE
Scale: 1" = 60'



Detail A
SCALE: NONE
2.80'
35.00'

SURVEYOR'S CERTIFICATE
ROBERT D. KUNZ DO HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR IN THE STATE OF UTAH AND THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY REPRESENTED ON THIS PLAN AND THAT THE PLAT OF THIS SUBDIVISION IS IN ACCORDANCE WITH THE STATUTES AND ORDINANCES OF CLINTON CITY, DAVIS COUNTY CONCERNING THE REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.
SIGNED THIS _____ DAY OF _____ 20____
ROBERT D. KUNZ
10024-200
UTAH LICENSE NUMBER ROBERT D. KUNZ

OWNERS DEDICATION AND CERTIFICATION
WE THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, AS SHOWN ON THE PLAT AND HAVE SAID TRACT LOANED CAMPBELL SUBDIVISION AND DO HEREBY DEDICATE TO PUBLIC USE ALL THESE PARTS TO BE USED AS PUBLIC THROUGHWAYS ALSO TO GRANT AND RESERVE A PERPETUAL RIGHT AND EASEMENT OVER UPON AND UNDER THE LANDS DEDICATED HEREIN AS PUBLIC UTILITY STORM WATER DETENTION POND, USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINE STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR STATE HIGHWAYS OR HIGHWAYS UNDER THE AUTHORITY OF THE STATE GOVERNING AUTHORITY, WITH NO BUILDINGS OR STRUCTURES BEING ERECTED WITHIN SUCH EASEMENTS.
SIGNED THIS _____ DAY OF _____ 20____

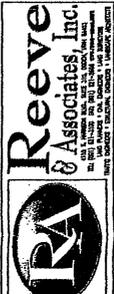
ACKNOWLEDGMENT
STATE OF UTAH _____ COUNTY OF _____
ON THE _____ DAY OF _____ 20____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, _____ (NAME OF SAID PARTY) WHOSE SIGNATURE AND SEAL I HAVE VOLUNTARILY AND FOR THE PURPOSES THEREIN MENTIONED.

ACKNOWLEDGMENT
COMMISSION EXPRESSES _____ NOTARY PUBLIC
STATE OF UTAH _____ COUNTY OF _____
ON THE _____ DAY OF _____ 20____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, _____ (NAME OF SAID PARTY) WHOSE SIGNATURE AND SEAL I HAVE VOLUNTARILY AND FOR THE PURPOSES THEREIN MENTIONED.

PROJECT INFORMATION
Project Name: _____
Developer: B. KUNZ
Scale: _____
Begin Date: 6/24/14

DAVIS COUNTY RECORDER
Entry No. _____
Filed for Record _____
The Official Record, Page _____
Recorded For _____

DAVIS COUNTY RECORDER
DAVIS COUNTY RECORDER
DEPUTY



08-14-14P.333 RCV

Chapter 4. Assurance for Completion and Maintenance of Improvements

- 26-4-1 Improvements and Subdivision Improvement Agreement
- 26-4-2 Inspection of Improvements
- 26-4-3 Acceptance of Off-Site Improvements
- 26-4-4 Maintenance of Improvements
- 26-4-5 Deferral of Waiver of Required Improvements
- 26-4-6 Escrow Deposits for Lot Improvements
- 26-4-7 Issuance of Building Permits and Certificates of Occupancy
- 26-4-8 ~~Permits and Certificates of Occupancy~~

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26-4-1 Improvements and Subdivision Improvement Agreement:

(1) **Development Agreement:** Upon approval of the preliminary plat the subdivider shall provide that the conditions contained in the Subdivision Development Agreement shall run with the land and bind all successors, heirs, and assignees of the Subdivider. When the Subdivision Development Agreement is adopted by the Council, pursuant to applicable state and local laws, it shall be recorded against all properties in the subdivision in the Recorder's Office of Davis County. The Subdivision Development Agreement shall outline the conditions of approval related to the zone, density, lot sizes, average dimensions, and other factors pertinent to the preliminary approval.

(2) **Completion of Improvements:** Before the final plat of the subdivision is signed by the Mayor or recorded with the Davis County Recorder's Office, all subdividers shall be required to complete, in accordance with the Council's decision and to the satisfaction of the Public ~~Facilities Works~~ Inspector. All the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the final plat of the subdivision and approved construction drawings as approved by the Council. The subdivider is to dedicate those public improvements to the City, free and clear of all liens and encumbrances on the dedicated property and public improvements.

(3) Subdivision Improvement Agreement and Guarantee:

(a) **Agreement:** The Community Development Director may waive the requirement that the subdivider complete and dedicate all public improvements prior to recording the final plat of the subdivision and, as an alternative, permit the subdivider to enter into a Subdivision Improvement Agreement by which the Subdivider covenants to complete all required public improvements no later than two (2) years following the date on which the Council approves the final plat of the subdivision. The subdivider shall covenant to maintain each required public improvement for a period of two (2) years following the conditional acceptance by the Council of the dedication of that completed public improvement. Additionally, the subdivider shall warrant that all required public improvements will be free from defect for the same ~~two (2), one (1)~~ years following the conditional acceptance. The Subdivision Improvement Agreement shall contain such other terms and conditions agreed to by the subdivider and the Council.

(b) **Security:** Whenever the Community Development Director permits a subdivider to enter into a Subdivision Improvement Agreement, it shall require the subdivider to provide a cash escrow as security for the promises contained in the Subdivision Improvement Agreement. Security shall be in an amount equal to one hundred ~~fifteen~~ ten percent (~~145~~ 10%) of the estimated cost of completion of the required public improvements, including lot improvements. The estimated cost shall be reviewed and verified by the City Engineer. The escrow agent shall be a state-licensed institution approved to conduct business in this capacity and shall be acceptable to the Community Development Director. They can also have a cash escrow with the City, but without interest amenities available with banks.

(c) **Cash Escrow:** When the subdivider posts a cash escrow as security for its promises contained in the Subdivision Improvement Agreement, the escrow instructions shall provide:

(i) That the Subdivider will have no right to a return of any of the funds except as provided in section 4.02.2.; and

(ii) That should the subdivider fail or refuse to make the improvements required as outlined in this agreement, the City Subdivision Ordinance or approved construction drawings within two (2) years following the date on which the Council approves the final subdivision plat, the City may declare the funds on deposit with the Escrow Agent forfeited, and the escrow agent shall have a legal duty to deliver the proceeds of the account. The funds shall be used to install the improvements required by the City Subdivision Ordinance and approved construction drawings.

(d) **Escrow Deficiency:** If at any time prior to completion of the subdivision or acceptance of the improvements by the City, the City determines the amount held in escrow (exclusive of the 105% reserve) is not sufficient to complete the needed improvements, subdivider shall put such additional amounts into escrow within 30 days of receiving written notice from the City.

(e) **Appeal:** The Subdivider may request a hearing before the City Council for a review of the opinion of the Community Development Director, Public Facilities Inspector or City Engineer or upon action by the City to seize a cash escrow, provided said request is made in writing and served by certified mail within thirty (30) days after written notification of any nonconformity with City ordinances, rules, regulations, requirements and standards or the Subdivision Improvement Agreement or Approved Construction Drawing or as to the insufficiency of any work.

If and when the municipality conditionally accepts the offer of dedication for the last completed required public improvement, the municipality shall execute a waiver of its right to receive all but fifteen ten percent (105%) of the funds represented by the cash escrow if the Subdivider is not in breach of the Subdivision Improvement Agreement. The residual funds shall be security for the Subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

~~(4) Surety Bond as Guarantee:~~

~~(i) Once all the required public improvements, including lot improvements are completed and the City has granted conditional acceptance the subdivider may replace the cash escrow with a surety bond an amount equal to the required 15% guarantee. Any surety bond established is subject to all stipulations of cash escrow outlined in this Chapter.~~

~~(5)(4) Temporary Improvement:~~ The subdivider shall build and pay for all costs of temporary improvements required by the Council and shall maintain those temporary improvements for the period specified by the Council. Prior to construction of any temporary facility or improvement, the developer shall file with the City a separate Subdivision Improvement Agreement and a cash escrow in an appropriate amount for the temporary facilities to be properly constructed, maintained, and removed.

~~(6)(5) Required Improvements:~~ All required improvements shall be made by the developer, at its expense, without reimbursement by the City or any improvement district except that, as may be allowed under state law and approved by the Council.

~~(7)(6) Governmental Units:~~ Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Ordinance.

~~(8)(7) Failure to Complete Improvement:~~

(a) For subdivisions for which no Subdivision Improvement Agreement has been executed and no security has been posted, if the improvements are not completed within the period specified by the Council in the action approving the final plat any such approval shall be deemed to have expired. Additionally:

(i) If the city is required to disconnect public utilities that may have been connected the city may file a lien against the property to recoup any costs incurred;

(ii) The city may, for the purpose of public notice record a document with the Davis County Recorder's Office indicating the incomplete status of the subdivision.

(b) In those cases where a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may then:

- (i) Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;
 - (ii) Suspend approval of the final plat of the subdivision until the improvements are completed and record a document to that effect for the purpose of public notice;
 - (iii) Obtain funds under the security and complete improvements itself or through a third party;
 - (iv) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; or
 - (v) Exercise any other rights available under the law.
- (c) Prior to the end of the two-year period, the City Council may grant an extension of up to one (1) year for completion of the improvements within the subdivision. The Subdivider, in writing shall make application for an extension with a copy provided to the Escrow Agent of record, if any. Upon action by the Council the Community Development Director shall notify the Subdivider and Escrow Agent, if any of the action taken by the Council. The decision to grant any extension period shall be within the sole discretion of the City.

~~(9)~~(8) **Acceptance of Dedication Offers:** Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by motion of the Council with such motion authorizing the Mayor to sign the final plat of the subdivision. The approval of a subdivision plat by the Planning Commission or Council, whether sketch, preliminary or final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement, or park shown on the final plat. The Council may require the final plat to be endorsed with appropriate notes to this effect.

26-4-2 Inspection of Improvements:

(1) **General Procedure and Fees:** The Public Facilities Inspector shall inspect required improvements during construction and ensure their satisfactory completion. The subdivider shall pay to the municipality an inspection fee based on the estimated cost of inspection, and where the improvements are completed prior to approval of the final plat of the subdivision, the subdivision plat shall not be signed by the Mayor unless the inspection fee has been paid at the time of application. These fees shall be due and payable upon demand of the Community Development Director and no building permits or certificates of occupancy shall be issued until all fees are paid. The amount of the fees shall be established by resolution, from time to time by the Council and included in the Consolidated Fee Schedule. If the Public Facilities Inspector finds upon inspection that any one or more of the required improvements have not been constructed in accordance with the municipality's construction standards, specifications or approved construction drawings, the subdivider shall be responsible for properly completing the improvements.

(2) **Release or Reduction of Security:** The Community Development Director may release funds from an established escrow in an amount equal to that set in the Subdivision Escrow Agreement for said improvements. Prior to release of any funds the Public Facilities Inspector shall inspect all improvements for which the release of funds is being requested and verify proper material, construction, and compliance with city standards and approved construction drawings. For improvements that are not to be city owned infrastructure inspection shall be done by and verified by an inspector authorized by the appropriate utility. The amount of the escrow shall be reduced upon satisfactory inspection of the public improvements and then only to the ratio that the cost of the public improvement inspected bears to the total cost of public improvements for the subdivision. In no event shall a release be greater than the amount of the inspected item established in the escrow or shall the cash escrow be reduced below ~~fifteen ten~~ percent (10~~5~~%) of the principal amount.

26-4-3 Acceptance of Off-Site Improvements:

(1) **Conditional Acceptance of Improvements:** The Council will not conditionally accept dedication of required improvements, nor release nor reduce the amount of any security posted by the Subdivider until the Public Facilities Inspector has submitted a certificate stating that all required improvements have been satisfactorily completed and until:

(a) The Community Development Director has verified that all fees, charges, transfers, and deposits related to the development have been paid to the city;

(b) The subdivider's engineer or surveyor has certified to the Public Facilities Inspector, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the Public Facilities Inspector, that the layout of the line and grade of all public improvements are in accordance with construction plans for the subdivision;

(c) A title insurance policy has been furnished to and approved by the Community Development Director indicating that the improvements have been completed, are ready for dedication to the City, and are free and clear of any and all liens and encumbrances; and

(d) Upon such approval and recommendation by the Public Facilities Inspector, the Community Development Director shall present to the Council and the Council shall thereafter conditionally accept the improvements for dedication in accordance with the established procedure.

(2) **Special Exceptions to Conditional Acceptance:** At the time of conditional acceptance the Council may hold back, in addition to the required guarantee funds the amount for seal coat, ~~and for sidewalk~~ provided that:

~~(a) The subdivision does not front on an arterial street, where installation of the sidewalks is necessary for the safety of the public;~~

~~(b) All lots built on in the subdivision have sidewalk installed on the lot where shown on the construction plans. Sidewalk must be installed prior to the issuance of a Certificate of Occupancy for any dwelling in the subdivision;~~

~~(c) There are dwelling building permits issued for less than 75% of the lots on in the subdivision;~~

~~(d) The City shall not conditionally accept any of the sidewalk prior to the installation of all the sidewalk required in the subdivision;~~

~~(e) All sidewalk shall be installed within one year of conditional acceptance and final acceptance shall not be granted until all sidewalk has been in place for one year;~~

~~(a)~~ The asphalt within the subdivision has not been down for at least one-year, or the season is not right for seal coat, and the Subdivider has indicated his willingness to participate in the city annual seal coat contract.

(3) **Final Acceptance:**

(a) The Subdivider shall request final acceptance of all improvements ~~two one~~ years after conditional acceptance. Final inspection by the Public Facilities Inspector shall be made upon the request of the Subdivider but no sooner than two years after conditional acceptance. All defects as noted in the final inspection report of the Inspector shall be corrected to the satisfaction of the Inspector. Final acceptance shall be by approval of the Council after written approval is received from the Inspector.

(b) Where repairs are necessary to be performed by the subdivider final acceptance may be delayed by the Council a specific amount of time if, in the opinion of the Public Facilities Inspector the severity of the repairs requires an extended guarantee period.

(4) **Authority to Release:** Funds held in the escrow account shall not be released to the Subdivider, in whole or part, except upon express written instructions of the City. At the end of the maintenance and warranty periods and after final acceptance by the city, all escrowed funds shall be released to the Subdivider.

26-4-4 Maintenance of Improvements: The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the Council, until acceptance of the improvements by the Council. If there are any certificates of occupancy on a street not dedicated to the City, the City may on twelve (12) hours notice plow the street or effect emergency repairs and charge those costs to the developer. Following the conditional acceptance of the dedication of any public improvement by the City, the City may, in its sole discretion require the Subdivider to maintain the improvement for a period of ~~two one~~ (21) years from the date of acceptance.

26-4-5 Deferral or Waiver of Required Improvements:

(1) **Council Action:** The Council may defer or waive, at the time of approval of the final plat of the subdivision, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy or inexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(2) **Subdivider's Obligation:** Whenever it is deemed necessary by the Council to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the Subdivider shall pay his share of the cost of the future improvements to the City prior to signing of the final plat of the subdivision by the Mayor, or the developer may execute a separate Subdivision Improvement Agreement secured by a cash escrow guaranteeing completion of the deferred improvements upon demand of the City.

26-4-6 Escrow Deposits for Lot Improvements:

(1) Non-Developer Builders:

(a) Builders seeking a building permit in a subdivision that they are not the guarantor for shall deposit with the city a cash escrow in the amount established by resolution by the Council and published in the Consolidated Fee Schedule. Said bond shall be paid at the time a building permit is issued and shall insure and guarantee the lot improvements from damage during construction. Such improvements include but are not limited to curb, gutter, sidewalk, water meter structures, streetlights, grading, and other on lot improvements.

(b) Escrows deposited by non-developer builders shall not be returned until a structure has passed final inspection, a certificate of occupancy has been issued and the Public Facilities/Building Inspector has approved all lot improvements. Once authorized, escrows shall be returned to the person paying for the building permit by the end of the month following the date of authorization of approval for release. No interest shall be paid at the time of release of escrows deposited with the city.

(2) **Acceptance of Escrow Funds:** Whenever, by reason of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, a certificate of occupancy may be issued, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Community Development Director for the cost of the needed lot improvements. The Subdivision Improvement Agreement and security covering the lot improvements shall remain in full force and effect.

(3) **Procedures on Escrow Fund:** All required improvements for which escrow monies have been accepted by the Community Development Director at the time of issuance of a certificate of occupancy shall be installed by the Subdivider within a period of six (6) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Community Development Director shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Community Development Director may request the Council to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the City, the builder shall obtain and file with the City prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the City to have the improvements installed at the end of the six-month period if the improvements have not been duly installed by the Subdivider.

(4) Escrow With Authorized Agent:

(a) The Community Development Director may accept proof of an escrow, established with a state licensed title company that guarantees any lot improvements required by the subdivision regulations. The escrow shall guarantee any lot improvements not completed due to seasonal conditions as outlined in 4.06.2. above. Upon acceptance of the Title Company escrow the certificate of occupancy may be issued, provided there is no danger to health, safety, or general welfare. The amount of the escrow is to be determined by Community Development Director for the cost of the lot improvements being escrowed.

(b) The guarantee from the Title Company shall state that the Title Company will have the required improvements installed by a professional contractor upon demand of the city.

26-4-7 Issuance of Building Permits and Certificates of Occupancy:

(1) **Security Required:** When a security has not been provided for a subdivision, no building permit or certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the City unless otherwise stipulated in the Council's approval of the final plat of the subdivision.

(2) **Street Improvements Required:** The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of a certificate of occupancy. For the purposes of this section, adequate generally means "Hard Surfaced", however at the discretion of the Fire Chief and Community Development Director a temporary certificate of occupancy may be granted under the following conditions:

(a) The developer can show that asphalt for the subdivision has been scheduled;

(b) All underground improvements that would cause a street to be dug in are installed and inspected and approved by the Public Facilities Inspector; and

(c) Required road base is to be installed and compacted, and it may be reasonably assumed that the weather will not preclude access to a structure. Prior to the temporary certificate of occupancy being issued the developer shall provide a letter to the city signed by the occupants and stating that they are aware of limitations of service and that the city will not service the roadway until after the subdivision is accepted by the city.