

# Mapleton City Planning Commission Staff Report

Meeting Date: December 11, 2014

**Applicant:** Central Bank & Meyer Family Limited Partnership

**Location:** Approximately 3050 S 800 W

**Prepared by:** Sean Conroy, Community Development Director

**Public Hearing Item:** Yes

**Zone:** N/A

## **REQUEST**

Consideration of recommendations to the City Council regarding a request to annex approximately 41.47 acres of property in unincorporated Utah County located at approximately 3050 S 800 W into Mapleton City. The request includes a General Plan designation of Medium Density Residential, a Zoning designation of Residential-Minor Agricultural (RA-2), a Development Agreement and a Concept Plan to include a maximum of 70 residential lots.

## **BACKGROUND AND PROJECT DESCRIPTION**

On August 24, 2007 an annexation petition was submitted for two parcels totaling 41.47 acres located at approximately 3050 South and 800 West. The applicants were also requesting approval of a development agreement and a concept plan for a development project that included 78 lots and included the dedication of a one acre lot to the City. On January 23, 2008 the City Council conditionally approved the development agreement. Ultimately, however, the applicants withdrew their request and did not finalize the annexation petition or the development agreement.

On May 14, 2013 the applicant approached the City Council about reinstating their annexation petition. The applicant presented a concept plan similar to the concept reviewed by the Council in 2008. Some concerns were raised regarding the potential traffic impacts that could result from the proposal, but overall the Council was generally supportive of the application moving forward (see attachment "6").

On August 20, 2013 the City received a new annexation petition for the 41.47 acres (see attachment "1"). The northern parcel is owned by the Meyer Family Limited Partnership and is approximately 21.3 acres in size. The southern parcel is owned by Central Bank and is approximately 20.2 acres in size. Both property owners have signed the petition.

In addition to the annexation petition, the applicants are requesting a General Plan designation of Medium Density Residential, a Zoning designation of Residential-Minor Agricultural (RA-2), a Development Agreement and a Concept Plan (see attachments "4" & "5"). The development agreement and concept plan include the following:

- A base density of 63 lots with the ability to increase to a maximum of 70 lots with the use of 7 TDRs.
- The northern parcel will include a maximum of 28 lots. The northern parcel includes one acre lots along the north and east borders with a mix of 1/3 to 1/2 acre lots on the interior.
- The southern parcel will include a maximum of 42 lots, primarily 1/3 acre in size.
- Two access points off of 800 West are proposed as well as two stub streets to the adjacent properties to the west.
- The existing ditch running through the property would be piped and relocated.

## **EVALUATION**

**Annexation Process:** Below is a brief summary of the annexation process according to the Utah Municipal Code, followed by a staff response:

1) *Submittal of an annexation petition with signatures from the owners of a majority of private real property (section 10-2-403).*

Response: An annexation petition was submitted on July 26, 2013.

2) *City Council accepts or rejects the petition (must act at the next regular City Council meeting that is at least 14 days after receipt of the petition – section 10-2-405).*

Response: The City Council accepted the petition on August 20, 2013. This does not guarantee that the final annexation petition will be granted by the Council, but allows the process to move forward.

3) *If accepted, within 30 days City reviews petition to determine if it meets the state code requirements. If rejected, the City informs the applicant within five days (section 10-2-405).*

Response: The City Attorney and the City Clerk have both reviewed the petition and determined it meets applicable state code requirements.

4) *If the City determines that an accepted petition meets applicable standards, the petition is certified by the City Recorder. If it is determined that the petition does not meet applicable standards the petition is rejected (section 10-2-405).*

Response: The petition was certified by the City Recorder on September 17, 2014.

5) *If the petition is certified, a public notification process takes place (section 10-2-406).*

Response: The City noticed the petition as required by law.

6) *A protest period occurs (section 10-2-407).*

Response: No formal protests were received.

7) *City Council holds a public hearing or hearings (10-2-407).*

8) *Council takes final action to grant the petition and by ordinance annex the area, or to deny the petition (10-2-407).*

9) *Within 30 days of adopting an ordinance annexing an area, the City provides the necessary documents to the lieutenant governor's office (10-2-425).*

10) *Upon approval from the lieutenant governor's office, City files appropriate documents with Utah County Recorder and the Department of Health and sends out notices to each affected entity (10-2-425).*

Response: Steps 7-10 will occur after the Planning Commission has made recommendations to the City Council regarding the proposal.

**General Plan, Zoning & Density:** The Land Use Element of the General Plan is designed as a guide to promote sound land use decisions. The Land Use Element includes a Land Use Designation Map that outlines the development potential of property throughout the City and within the annexation boundaries (see attachment “2”). The proposed annexation area has a general plan designation of Low Density Residential (approx. 1 unit per acre). The property to the north and east have a designation of Rural Residential (approx. 1 unit per 2 acres) and the property to the south and west have a designation of Medium Density Residential (approx. 3 units per acre). The subject site's designation of Low Density Residential acts as a buffer and

transition between the higher density designations to the south and west and the low density rural properties to the north and east.

The zoning designation that accompanies the Low Density Residential land use designation is the Residential Agricultural RA-1 zone and the zoning designation that accompanies the Medium Density Residential designation is RA-2. The applicant is requesting that the General Plan designation for the property be Medium Density Residential and the zoning for the property be RA-2.

Under the current land use designation of Low Density Residential, the allowed density for the site would be approximately 40 units. With the use of TDRs, the density could be increased to approximately 80 units. With the current request for Medium Density Residential, the allowed density for the site could be as high as 120 units without the use of TDRs.

The proposed development agreement would allow for 63 units without the use of TDRs and up to 70 units with the use of 7 TDRs. The proposal includes a mix of lots sizes ranging from over an acre to approximately 1/3 acre. The Commission should discuss whether the proposed General Plan designation, zoning designation and development agreement/concept plan are appropriate for the property.

<b>DENSITY COMPARISON</b>			
<b>Zone</b>	<b>With TDRs</b>	<b>Density</b>	<b>Total Units</b>
RA-1	No	1 unit per acre	40
RA-1	Yes	2 units per acre	80
RA-2	No	3 units per acre	120
RA-2 Development Agreement as proposed	Yes	1.75 units per acre	70

**Annexation Policy:** State law requires the City to adopt an annexation plan that includes a map of potential annexation properties and a statement of the criteria that will be used to guide annexation decisions. In accordance with state law, the City adopted an annexation policy in 2002. The policy identifies two primary annexation areas, Mapleton West and Mapleton South (see attachment “3”). The proposed annexation area is located in the Mapleton South area and is identified as a potential annexation candidate.

The Annexation Policy outlines several items the City should consider in its review of an annexation petition. These items are outlined below followed by a brief staff response.

1) *The character of the community.*

Response: The Mapleton City Vision Statement states that “*We are a unique community retaining a peaceful, country atmosphere through rural master planning.*” The surrounding lots to the north, east and west are large, rural lots of approximately 2 acres in size or larger. While the properties to the south have not yet been developed, concept plans have been approved that include high density clustered areas as well as some larger lot areas.

When the City Council reviewed the original concept plan in 2007-2008, the Council requested that the lots buffering existing development be at least one acre in size to allow for a transition to the smaller lots proposed throughout the rest of the project. The current concept plan does include a mix of lots between 1/3 of an acre to over one acre in size. The Commission should discuss whether the proposed annexation and development plan is consistent with the character of the community.

2) *The need for municipal services in developed or undeveloped areas, plans for expansion of utilities in the area, and how the expansion will be financed.*

**Response:** The draft development agreement indicates that the developer is responsible for installing all necessary utilities for the project, including any off-site improvements that may be required to service the area. The City will not be financing any utility installation in the area.

3) *An estimate of the tax consequences to residents both inside and outside of the expansion area.*

**Response:** The City does not currently collect any taxes for the property as it is not located within the City limits. Upon annexation, the City will begin to receive property taxes as assessed by the Utah County Assessor. Once the property begins to develop, the City will collect impact fees. Impact fees are designed to offset the cost of providing services to new development. If all 70 lots were developed under the City's current impact fee schedule, the City would receive approximately \$804,420 in impact fee revenue.

4) *The interest of all affected entities.*

**Response:** Part of the purpose of this meeting is to receive public input on the proposal and to consider the interest of all affected entities. The review of an annexation petition is considered a legislative decision. Legislative decisions are offered great deference by the courts. As long as the decision is "reasonably debatable" that it advances the general welfare, it will typically be upheld by the courts if challenged. The Commission and City Council **can** rely on public support or opposition in arriving at their decisions provided it is reasonably debatable that their decision advances the general health and welfare of the community.

**Options:** The Planning Commission is advisory to the City Council on this application. The following is a list of possible options for the Commission's consideration:

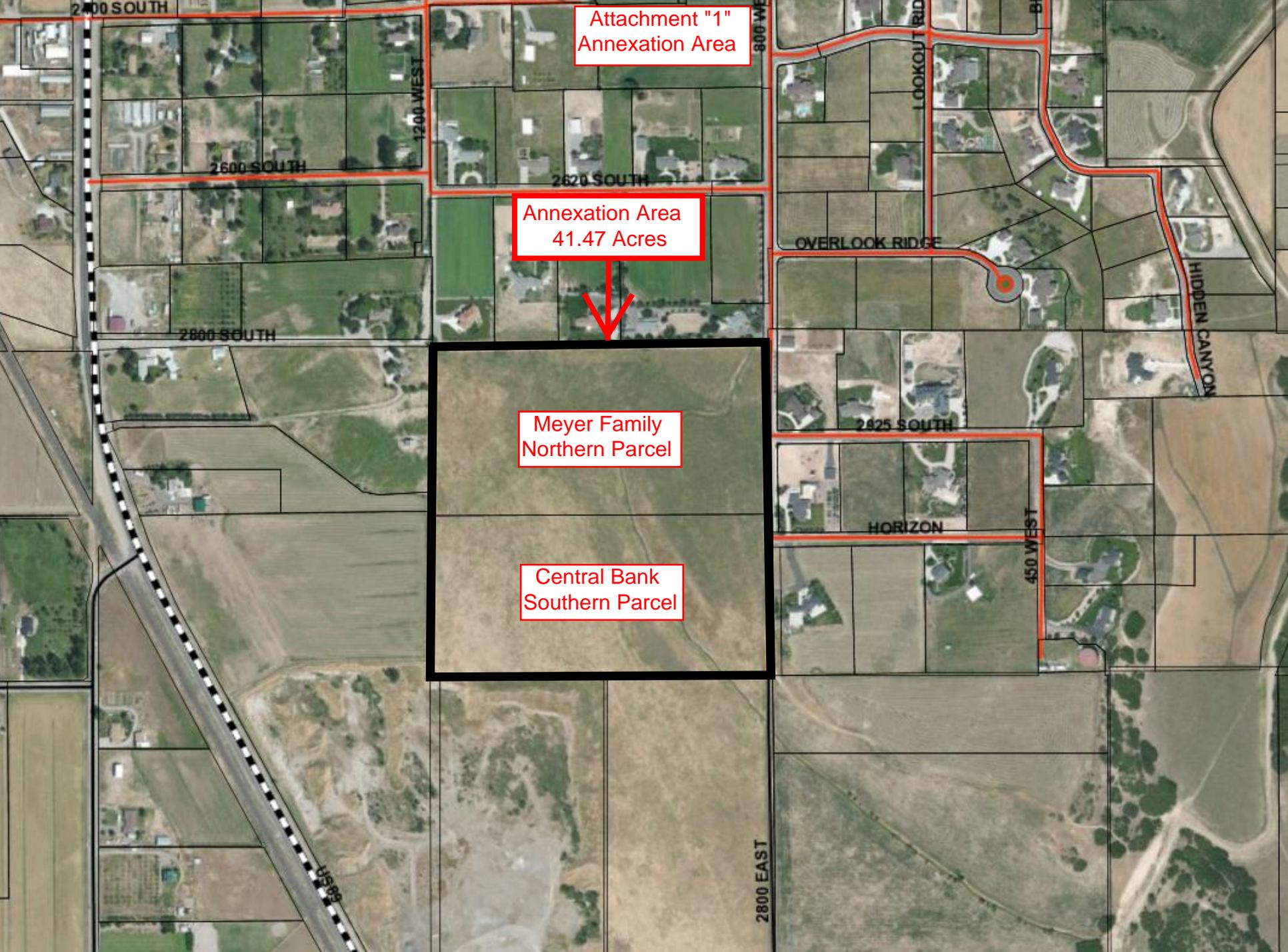
- 1) Recommend approval of the Annexation Petition, General Plan Designation, Zoning Designation, Development Agreement and Concept Plan as proposed to the City Council.
- 2) Recommend approval of the Annexation Petition, General Plan Designation, Zoning Designation, Development Agreement and Concept Plan with changes to the City Council. Changes could include requiring a different land use designation, zoning designation, and/or concept plan.
- 3) Continue consideration of this application with a request for changes and/or additional information.
- 4) Recommend denial of the application to the City Council.

### **STAFF RECCOMENDATION**

Review the proposed application and determine the appropriate action.

### **ATTACHMENTS**

1. Proposed Annexation Area.
2. General Plan Land Use Designation Map.
3. Annexation Policy Map.
4. Concept Plan.
5. Draft Development Agreement.
6. City Council minutes dated 5/14/13 & 8/20/13.



Attachment "1"  
Annexation Area

Annexation Area  
41.47 Acres



Meyer Family  
Northern Parcel

Central Bank  
Southern Parcel

2400 SOUTH

2600 SOUTH

2620 SOUTH

2800 SOUTH

2925 SOUTH

HORIZON

1200 WEST

2800 EAST

LOOKOUT RIDGE

OVERLOOK RIDGE

450 WEST

HIDDEN CANYON

US 99

# Mapleton

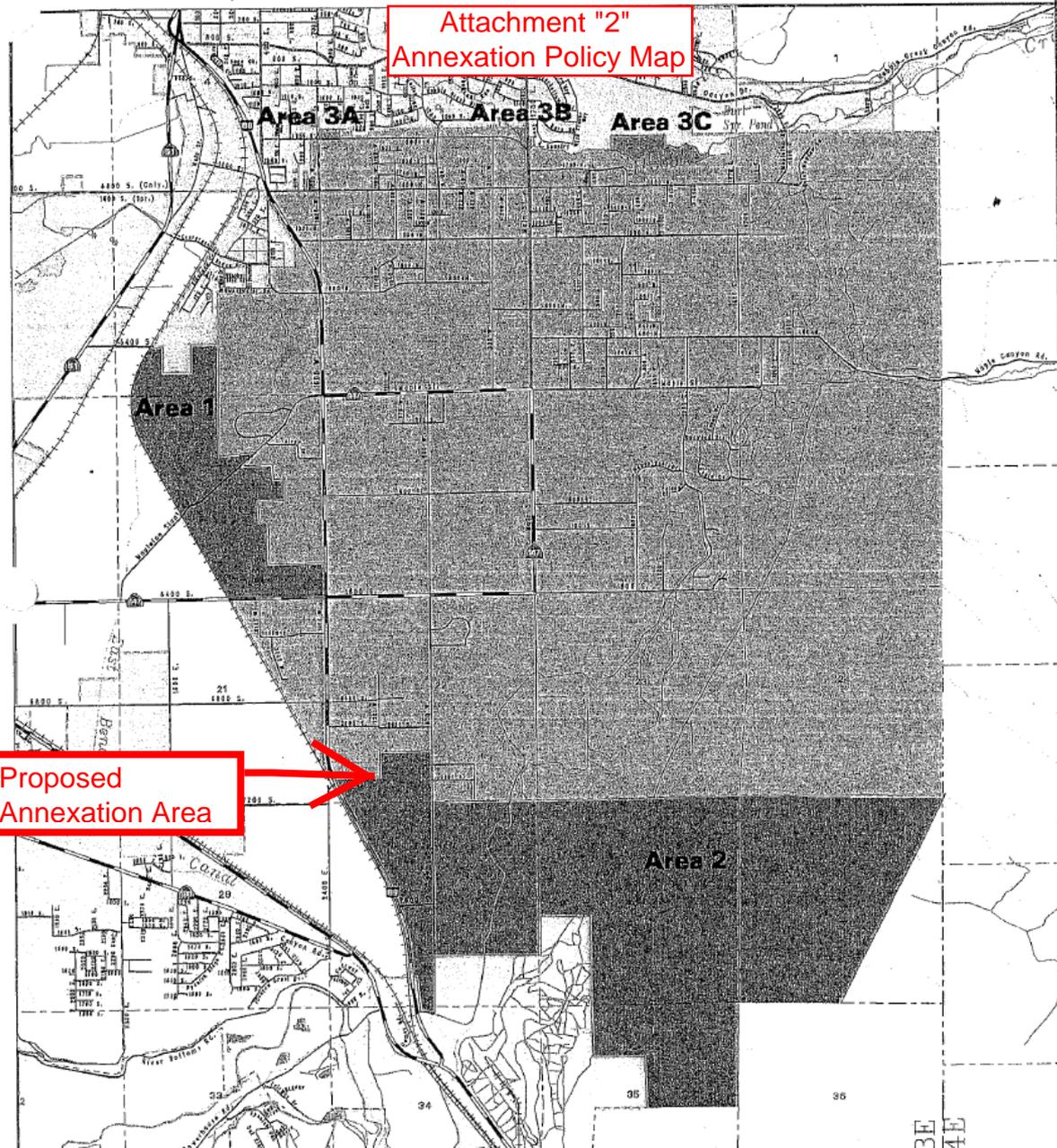
## Annex Declaration

-  Annexation Declaration
-  De-annexation Declaration
-  Incorporated Cities



Scale 1:10000

Attachment "2"  
Annexation Policy Map



Proposed  
Annexation Area

Attachment "3"  
General Plan Map

Rural Residential  
1 unit per 2 acres

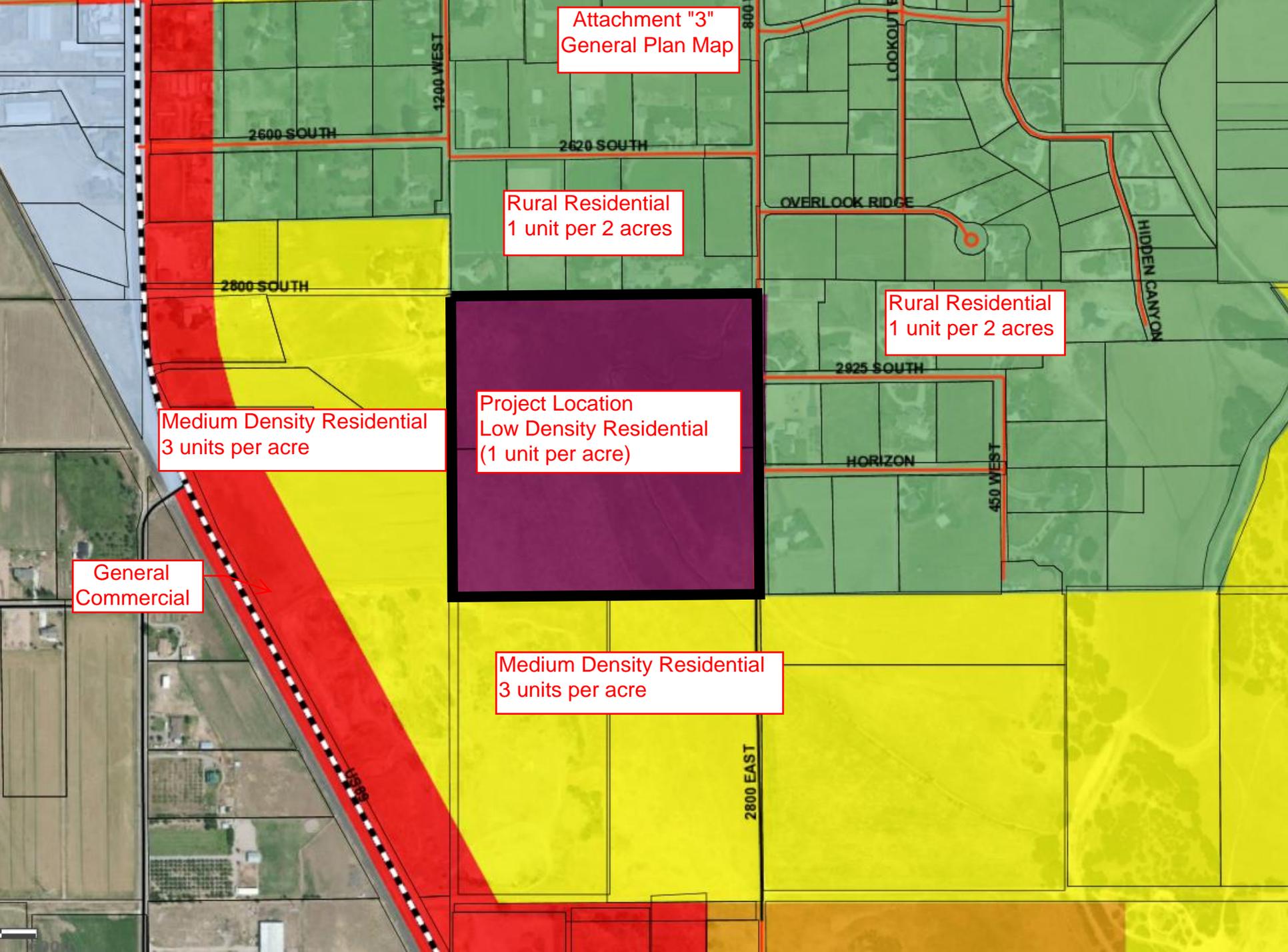
Rural Residential  
1 unit per 2 acres

Project Location  
Low Density Residential  
(1 unit per acre)

Medium Density Residential  
3 units per acre

General  
Commercial

Medium Density Residential  
3 units per acre



Attachment "4"

ANNEXATION AND DEVELOPMENT AGREEMENT

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THE POINT AT MAPLE MOUNTAIN

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# THE POINT AT MAPLE MOUNTAIN ANNEXATION AND DEVELOPMENT AGREEMENT

Central Bank and the Meyer Family Properties LLC (“**the Developer**”) and Mapleton City Corporation, a Utah Municipal Corporation (“**the City**”) hereby make and enter into this Annexation and Development Agreement (“**the Agreement**”) this \_\_\_\_ day of \_\_\_\_\_, 2015, in connection with and to govern the annexation and development of two separate pieces of property, more particularly described hereafter.

## RECITALS

**A. WHEREAS** the Developer desires to annex real property into the City’s boundaries that lies adjacent to the City;

**B. WHEREAS** the annexation consists of two separately owned properties, which are legally described in Exhibit A attached hereto, said owners not being partners in this development, the first property hereinafter referred to as the North Parcel and the second property hereinafter referred to as the South Parcel;

**C. WHEREAS** the owner of the North Parcel is Meyer Family Properties LLC and the owner of the South Parcel is Edge Homes;

**D. WHEREAS** the City has previously adopted the Mapleton Annexation Declaration whereby it declared its desire and intention to annex the unincorporated areas lying immediately to the south of the City’s corporate boundaries and east of Highway 89;

**E. WHEREAS** the Developer and the City have entered into negotiation to outline certain conditions and terms for development under which Developer would like to petition for annexation;

**F. WHEREAS** the Parties intend to enter into this Agreement to allow Developer and the City to agree on issues considered essential to the annexation, and this process will lead to development of the North and South Parcels into an attractive community (“**Project**”) that functions in a way that will add quality of life to future residents while allowing the City to provide municipal services in a cost effective and efficient manner and in accordance with the City’s Comprehensive General Plan, applicable zoning ordinances, and the construction and development standards of the City;

**G. WHEREAS** development of the Project pursuant to this Agreement is acknowledged by the parties to be generally consistent with the Act, and the Code and to operate to the benefit of the City, Developer, and the general public;

**H. WHEREAS** approval of this Agreement does not grant subdivision approval, site plan approval, or approval of any building permit, or other land use activity regulated by the City’s ordinances, and Developer expressly acknowledges that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of the City necessary for approval and recordation of subdivision plats, nor does it limit the future exercise of the police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement;

**I. WHEREAS** acting pursuant to its legislative authority under Utah Code Ann. § 10-9a-101, et seq., and after all required public notice and execution of this Agreement by Developer, the City Council of the City, in exercising its legislative discretion, has determined that entering into this Agreement generally furthers the purposes of the Utah Municipal Land Development and Management Act, the City’s General Plan, and the Mapleton City Code (collectively, the “**Public Purposes**”). As a result of such determination, the City has elected to consider the Project and the development authorized hereunder in accordance with the provisions of this Agreement;

**J. WHEREAS** the Developer, in compliance with Utah law and its governing documents, has authorized the undersigned to execute this Agreement;

**K. WHEREAS** the Parties intend to take all steps necessary to finalize the annexation of the North and South and to develop the Project according to this Agreement;

**L. WHEREAS** Developer and the City have cooperated in the preparation of this Agreement;

**M. WHEREAS** the Developer, in compliance with Utah law and its governing documents, has authorized the undersigned to execute this Agreement; and

**N. WHEREAS** the Parties intend to take all steps necessary to finalize the annexation of the North and South and to develop the Project according to this Agreement,

Now, therefore, in consideration of the premises recited above and the terms, conditions, and promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer hereby agree as follows:

### **SECTION I – DEFINITIONS**

Unless the context requires a different meaning, any term or phrase used in this Agreement shall have that meaning given to it by the City’s Zoning Ordinance in effect on the date a complete application is received by the City. Certain other terms and

phrases are referenced below. In the event of a conflict between two or more definitions, that definition which provides the most restrictive development latitude shall prevail.

## **SECTION II – SPECIFIC TERMS AND CONDITIONS**

**1. Term.** The term of this Agreement shall commence on, and the effective date of this Agreement shall be, the effective date of City action approving this Agreement. This Agreement shall terminate when a certificate of occupancy, has been issued for 50% of buildings included in the Project and 50% of any bonds associated with the Project, including durability bonds, have been released by the City.

**2. Agricultural Use To Remain in Undeveloped Areas - Irrigation Ditches.** Any portion of the Property for which a plat has not been recorded shall be maintained in agricultural use and Greenbelt Status. The City will cooperate fully with the Developer in maintaining Greenbelt Status (as contemplated by the Utah Farmland Assessment Act, U.C.A. Section 59-2-501, et seq) for any portion of the Property that is not part of a recorded plat, recognizing that Greenbelt Status is ultimately decided by the Utah County Assessor. Agricultural use need not be maintained for any portion of the Property which is subject to a recorded plat. Irrigation ditches on the Property shall be maintained as at present unless the ditch owner in consultation with the applicable irrigation company approves piping, realignment, abandonment, or otherwise authorizes a change in the configuration or use of a ditch. There is no required timetable by which any portion of the Property in agricultural use must be subject of a recorded plat or otherwise developed.

**3. Conditions Precedent.** City and Developer's obligations under this Agreement shall be subject to completion of the Specific conditions (“**Conditions Precedent**”) set forth in Exhibit C attached hereto and hereby made a part of this Agreement. Upon fulfillment of the Conditions Precedent and City approval of the Project pursuant to applicable requirements of the Mapleton City Code and this Agreement, development of the Property shall be subject to the terms and conditions of this Agreement. In the event City disapproves the Project this Agreement shall be null and void and neither Developer nor City shall have any obligation hereunder.

**4. Zoning Classification – Allowed Uses.** Subject to the recitals and terms of this Agreement, the zoning classification on the Property shall be the Residential-Minor Agricultural RA-2 Zone with a Transferable Development Rights Receiving Site (TDR-R) Overlay. Exhibits A & B, specify the Legal Description of the land and proposed Concept Plan for the layout of the lots.

**5. Compliance with City Requirements and Standards.** All provisions of the Mapleton City Code and Utah Code § 10-9a-509, as constituted on the effective date of this Agreement shall be applicable to the project proposed on the Property except as expressly modified by this Agreement. The parties acknowledge that in order to proceed with development of the Property, Developer shall comply with the requirements of this Agreement and other requirements generally applicable to development in Mapleton

City. Developer expressly acknowledges that nothing in this Agreement shall be deemed to relieve it from its obligations to comply with all applicable requirements of the City necessary for approval and recordation of subdivision plats and site plans for the Project, or any other portion of the property involved in the Project, in effect at the time of developmental approval, or re-approval in the event of expiration, including the payment of unpaid fees, the approval of subdivision plats and site plans, the approval of building permits and construction permits, and compliance with all applicable ordinances, resolutions, policies, and procedures of the City.

**6. Infrastructure.** The Developer expressly acknowledges and agrees to the requirement to install all necessary infrastructure as stated in Mapleton City Code Chapter 17.16, at their own expense, and further acknowledges and agrees, as a condition precedent to the City's issuance of a building permit or approval of a subdivision application, to pay all applicable fees associated with connection to water, sewer, storm drainage, and/or any pressurized irrigation water facilities, in addition to any other connection fees that may apply. The City provides or is soon to provide the following utilities, which need to be brought to the property by the Developer, at no cost to the City, in order to develop the Property: culinary water; sewer; and storm drain. Developer shall design, build, and dedicate to the City adequate delivery systems for each of these utilities according to the City specifications and standards including all distribution lines, valving, fire hydrants, meters, and other required services to meet the needs for the Project as a condition of development. All facilities necessary to provide adequate utility services installed within the Project, upon formal acceptance by the City through a recorded dedication deed, shall be owned, operated, and maintained by the City. Developer or its successors or assigns shall be responsible for such infrastructure until such time as the City accepts the improvements in the manner set forth herein.

**7. Easements.** Developer shall grant to the City, at no cost to the City, all easements necessary for the operation, maintenance, and replacement of all utilities located within the Project as the City determines to be necessary.

**8. Conditions of Approval and Annexation Fees.** With respect to the development of the Subject Area, Developer accepts and agrees to pay an annexation fee for each Equivalent Residential Unit (ERU) proposed as part of the project. The annexation fee shall be equal to the most recently adopted City residential impact fees and shall be paid in the same manner (i.e. water and sewer portion due at plat recoding and public safety, pressurized irrigation and recreation due at building permit). Petitioner acknowledges that the development requires infrastructure supported by annexation fees and finds the fees currently imposed to be a reasonably monetary expression of exaction that would otherwise be required. Developer agrees not to challenge, contest, or bring a judicial action seeking to avoid payment of or to seek reimbursement for such fees, so long as such fees are applied uniformly within the City or service area.

**9. Reserved Legislative Powers.** This Agreement shall not limit the future exercise of the police powers of the City to enact ordinances, standards, or rules regulating development or zoning. Nothing herein shall be construed to limit the ability

of the City Council to exercise its police powers to enact zoning ordinances, some of which may affect the Project.

**10. Subdivision Plat Approval.** Either concurrently with, or subsequent to, approval of the annexation petition, as determined by Developer pursuant to applicable requirements of the Mapleton City Code, Developer shall cause one or more subdivision plats (the “**Subdivision Plats**”) to be prepared for the Project Property. Such plats shall conform to applicable requirements of the Mapleton City Code.

- A. Installation of Subdivision Improvements: No subdivision plat shall be recorded until either:
- (1) The required improvements have been completed in accordance with Mapleton City Code Chapter 17.16.010; or
  - (2) A performance guarantee and a durability bond have been submitted in accordance with Mapleton City Code Chapter 17.20.

**11. Standard for Approval of Subdivision Plats.** All subdivision plats must be approved in accordance with Mapleton City Code Chapter 17 and must conform to applicable requirements of the Mapleton City Code, State and Federal Law, and this Agreement.

**12. Satisfaction of Water Rights Requirements.** Developer agrees that prior to either approval of a final plat for, or issuance of a building permit on, any parcel of property that is included in the Project, the owner of the subject parcel shall either dedicate water rights to the City, or pay a cash equivalent in value to the cost of the required water rights, as specified by, or as determined in accordance with the provisions of the City Code or other applicable law. The City shall not be required to approve any plat, or issue any building permit, until such requirements are fully satisfied.

**13. Commencement of Site Preparation.** Developer shall not commence site preparation or construction of any Project improvement on the Property until such time as subdivision plat or plats have been approved by City in accordance with the terms and conditions of this Agreement.

**14. Construction Mitigation.** Developer shall provide the following measures, all to the reasonable satisfaction of the City, to mitigate the impact of any construction within the Project. Developer shall also adhere to existing construction impact mitigation measures required by the City Code. Additional reasonable site-specific mitigation measures may be required. The following measures shall be included in each application for development of any final plat:

- A. Limits on disturbance, vegetation protection, and the re-vegetation plan for all construction, including construction of public improvements;
- B. Protection of existing infrastructure improvements from abuse or damage while new infrastructure improvements are being constructed.

**15. Project Phasing and Timing.** Upon approval of a Subdivision Plat or Plats, Developer shall proceed by constructing the entire Project at one time or in a minimum of two (2) approved phases.

**16. Changes to Project.** No material modifications to Subdivision Plats shall be made after approval by City without City Council's written approval of such modification. Developer may request approval of material modifications to Project Plans from time to time as Developer may determine necessary or appropriate. For purposes of this Agreement, a material modification shall mean any modification which (i) increases the number of lots in a subdivision plat, or (ii) substantially changes the location of public roads. Modifications to the Subdivision Plat which do not constitute material modifications may be made without the consent of City Council prior to plat recording. In the event of a dispute between Developer and City as to the meaning of "material modification," no modification shall be made without express City Council approval. Modifications shall be approved by the City Council if such proposed modifications are consistent with City's then-applicable rules and regulations and are consistent with the standard for approval set forth in this Agreement.

**17. Time of Approval.** Any approval required by this Agreement shall not be unreasonably withheld or delayed and shall be made in accordance with applicable procedures set forth in the Mapleton City Code.

**18. Successors and Assigns.** This Agreement shall be binding on the successors and assigns of Developer. Notwithstanding the foregoing, a purchaser of the Project or any portion thereof shall be responsible for performance of Developer's obligations hereunder as to any portion of the Project so transferred. In the event of a sale or transfer of the Project, or any portion thereof, the seller or transferor and the buyer or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such transfer an agreement satisfactory to City, delineating and allocating between Developer and transferee the various rights and obligations of Developer under this Agreement, has been approved by City.

**19. Default.**

- A. Events of Default. Upon the happening of one or more of the following events or conditions Developer or City, as applicable, shall be in default ("Default") under this Agreement:

- (1) A warranty, representation or statement made or furnished by Developer under this Agreement is intentionally false or misleading in any material respect when it was made.
- (2) A determination made upon the basis of substantial evidence that Developer or City has not complied in good faith with one or more of the material terms or conditions of this Agreement.
- (3) Any other event, condition, act or omission, either by City or Developer, (i) violates the terms of, or (ii) materially interferes with the intent and objectives of this Agreement.

B. Procedure Upon Default.

- (1) Upon the occurrence of Default, the non-defaulting party shall give the other party thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event that the Default cannot reasonably be cured within thirty (30) days, the defaulting party shall have such additional time as may be necessary to cure such default so long as the defaulting party takes action to begin curing such default within such thirty (30) day period and thereafter proceeds diligently to cure the default. After proper notice and expiration of said thirty (30) day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in Paragraph C herein. Failure or delay in giving notice of default shall not constitute a waiver of any default.
- (2) Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a Default.

- C. Breach of Agreement. Upon Default as set forth in Paragraphs A and B above, City may declare Developer to be in breach of this Agreement and City (i) may withhold approval of any or all building permits or certificates of occupancy applied for in the Project, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of zoning compliance for any building within the Project until the breach has been corrected by Developer. In addition to such remedies, either City or Developer (in the case of a default by the City) may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.
- D. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in this Agreement or to enjoin any threatened or attempted violation of this Agreement; or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth District Court, State of Utah, or in the Federal District Court for the District of Utah. The option to institute legal action, at least in the case of defaults, is available only after the cure provisions are complied with.

### **Section III – GENERAL TERMS AND CONDITIONS**

**1. Scope of Agreement.** The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with local, state, and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with local, state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with local, state, or federal law, as the case may be, and the balance of this Agreement shall remain in full force and effect.

**2. Recording of Agreement.** In the event City approves the Project and all Conditions Precedent have been met, the provisions of this Agreement shall constitute real covenants, contracts and property rights, and equitable servitudes which shall run with all of the land subject to this Agreement. The burdens and benefits hereof shall bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto. This Agreement shall be recorded as a covenant running with the Property herein described in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof. The City or Developer may cause this Agreement, or a notice concerning this Agreement, to be recorded with the Utah County Recorder.

**3. Transfer/Assignment of Property.**

- A. General. The Developer shall have the right, with the City's written consent, to assign or transfer all or any portion of its rights and obligations under this Agreement to any party acquiring an interest or estate in the Project or any portion thereof, except as specifically set forth below.
- B. Consent. The City may not unreasonably withhold its consent to such an assignment.
- C. Notice. Developer shall provide written notice acknowledged by the City of any proposed or completed assignment or transfer. In the event the City does not object in writing within thirty (30) days of receipt of said written notice, the City shall be deemed to have approved of and consented to the assignment.
- D. Rights and Obligations. In the event of an assignment, the transferee shall succeed to all of Developer's rights and obligations under this Agreement. Notwithstanding, Developer selling or conveying individual lots or parcels of land to builders, individuals, or other developers shall not be deemed to be an assignment subject to the above requirement for approval unless specifically designated as an assignment by Developer.
- E. Related Party Transfer. Developer's transfer of all or any part of the Property to any entity "related" to Developer (as defined by regulations of the Internal Revenue Service), Developer's entry into a joint venture for the development of the Project or Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Developer.
- F. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

**4. Severability.** If any paragraph of this Agreement, or portion thereof, is declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will not be affected and each paragraph of this Agreement will be valid and enforceable to the fullest extent permitted by law.

**5. Time of Performance.** Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.

**6. Construction of Agreement.** This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of City. This Agreement has been reviewed and revised by legal counsel for each of the Parties and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

**7. State and Federal Law.** The parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's approval of the Project is held invalid by a court of competent jurisdiction, this agreement shall be null and void.

**8. Enforcement.** The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Developer violates the rules, policies, regulations or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty (30) days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation within such thirty (30) days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been rectified by Developer.

**9. No Waiver.** Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council of City, taken with the same formality as the vote approving this agreement, no officer, official or agent of City has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind City by making any promise or representation not contained herein.

**10. Entire Agreement.** This Agreement shall supersede all prior agreements with respect to the subject matter hereof, not incorporated herein, and all prior agreements and understandings are merged herein. This Agreement shall not be modified or amended except in written form mutually agreed to and signed by each of the parties.

**11. Attorneys Fees.** If either party commences any litigation whatsoever, including but not limited to insolvency, bankruptcy, arbitration, declaratory relief, or other litigation proceedings, including appeals or rehearings, and whether or not an action has actually commenced, for the judicial interpretation, reformation, enforcement, or rescission of this Agreement or any addenda or attachments whatsoever, the prevailing party will be entitled to a judgment against the other for an amount equal to reasonable attorneys' fees and court and other costs incurred. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for the purposes of determining whether a party is entitled to recover its costs or attorneys' fees. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein.

**12. Applicable law.** This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder, are to be construed and enforced in accordance with the laws of the State of Utah.

**13. Notices.** Any notices required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally, or four (4) days after being sent by registered or certified mail, properly addressed to the parties as follows:

To the Developer:      Central Bank  
                                    75 N University Ave  
                                    Provo, UT 84601

Meyer Family Limited Partnership  
2629 Pacific Ave  
San Francisco, CA 94115-1127

To the City:              Mapleton City Attorney  
                                    125 N Community Center Way  
                                    Mapleton, Utah 84664

**14. Execution of Agreement.** This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

**15. Hold Harmless.** Developer shall hold City, its officers, agents, employees, consultants, special counsel, and representatives harmless from liability for damages or equitable relief arising out of claims for personal injury or property damage arising from direct or indirect operations of Developer or its contractors, subcontractors, agents, employees or other persons acting on its behalf, in connection with the Project.

- A. The agreements of Developer in Paragraph M shall not be applicable to (1) any claim arising by reason of the negligence or intentional actions of City, or (2) attorneys' fees under Paragraph I herein.
- B. City shall give written notice of any claim, demand, action or proceeding which is the subject of Developer's hold harmless agreement as soon as practicable but not later than thirty (30) days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, Developer shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

**16. Relationship of Parties.** This Agreement is not intended to create any partnership, joint venture or other arrangement between City and Developer. This Agreement is not intended to create any third party beneficiary rights for any person or entity not a party to this Agreement. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Developer, (ii) the Project is a private development; (iii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) Developer shall have the full power and exclusive control of the Property subject to the obligations of Developer set forth in this Agreement.

**17. Title and Authority.** Developer expressly warrants and represents to City that it is a limited liability company in good standing and that such company owns or controls all right, title and interest in and to the Property and that no portion of the Property, or any right, title or interest therein has been sold, assigned or otherwise transferred to any other entity or individual. Developer further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind. Developer warrants that the undersigned individual has full power and authority to enter into this Agreement on behalf of Developer. Developer understands that City is relying on such representations and warranties in executing this Agreement.

**18. Headings for Convenience.** All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

**19. Exhibits.** All exhibits referred to herein are made a part of this Agreement as incorporated by reference date.

**20. Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory, "may" is permissive.

**21. Further Assurances, Documents, and Acts.** Each of the Parties agrees to cooperate in good faith with the other and to execute and deliver such further

documents, and to take all further acts reasonably necessary in order to carry out the intent and purposes of this Agreement and the actions contemplated hereby. All provisions and requirements of this Agreement shall be carried out by each party as allowed by law.

**22. Assignments.** Neither this Agreement nor any of the provisions, terms, or conditions hereof can be assigned by the Developer to any other party, individual, or entity without assigning the rights as well as the obligations under this Agreement. The rights of the City under this Agreement shall not be assigned.

**23. Electronic Transmission and Counterparts.** Electronic transmission (including email and fax) of a signed copy of this Agreement, any addenda, and any exhibits, and the retransmission of any signed electronic transmission, shall be the same as delivery of an original. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but only all of which together shall constitute one instrument and execution.

[signature pages follow]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the day and year first above written.

**Central Bank**

By: \_\_\_\_\_ Its: \_\_\_\_\_

STATE OF UTAH            )  
  )ss.  
COUNTY OF UTAH        )

On this \_\_\_\_ Day of \_\_\_\_\_, 2014 \_\_\_\_\_ personally appeared before me, \_\_\_\_\_, the signer(s) of the foregoing agreement, who duly acknowledged to me that he/she executed the same.

**NOTARY PUBLIC**

(Print Name): \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

Signature: \_\_\_\_\_ Residing in \_\_\_\_\_

**Meyers Family Limited Patnership**

By: \_\_\_\_\_ Its: \_\_\_\_\_

STATE OF UTAH            )  
  )ss.  
COUNTY OF UTAH        )

On this \_\_\_\_ Day of \_\_\_\_\_, 2014 \_\_\_\_\_ personally appeared before me, \_\_\_\_\_, the signer(s) of the foregoing agreement, who duly acknowledged to me that he/she executed the same.

**NOTARY PUBLIC**

(Print Name): \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

Signature: \_\_\_\_\_ Residing in \_\_\_\_\_

**Attest: Mapleton City, a Utah municipal corporation**

By: \_\_\_\_\_

Mayor

By: \_\_\_\_\_  
City Recorder

STATE OF UTAH            )  
  )ss.  
COUNTY OF UTAH        )

On this \_\_\_\_ Day of \_\_\_\_\_, 2014 \_\_\_\_\_ personally  
appeared before me, \_\_\_\_\_, the signer(s) of the foregoing  
agreement, who duly acknowledged to me that he/she executed the same.

**NOTARY PUBLIC**

(Print Name): \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

Signature: \_\_\_\_\_ Residing in \_\_\_\_\_

## EXHIBIT A

### Legal Description

#### **Northern Parcel (27:033:0202)**

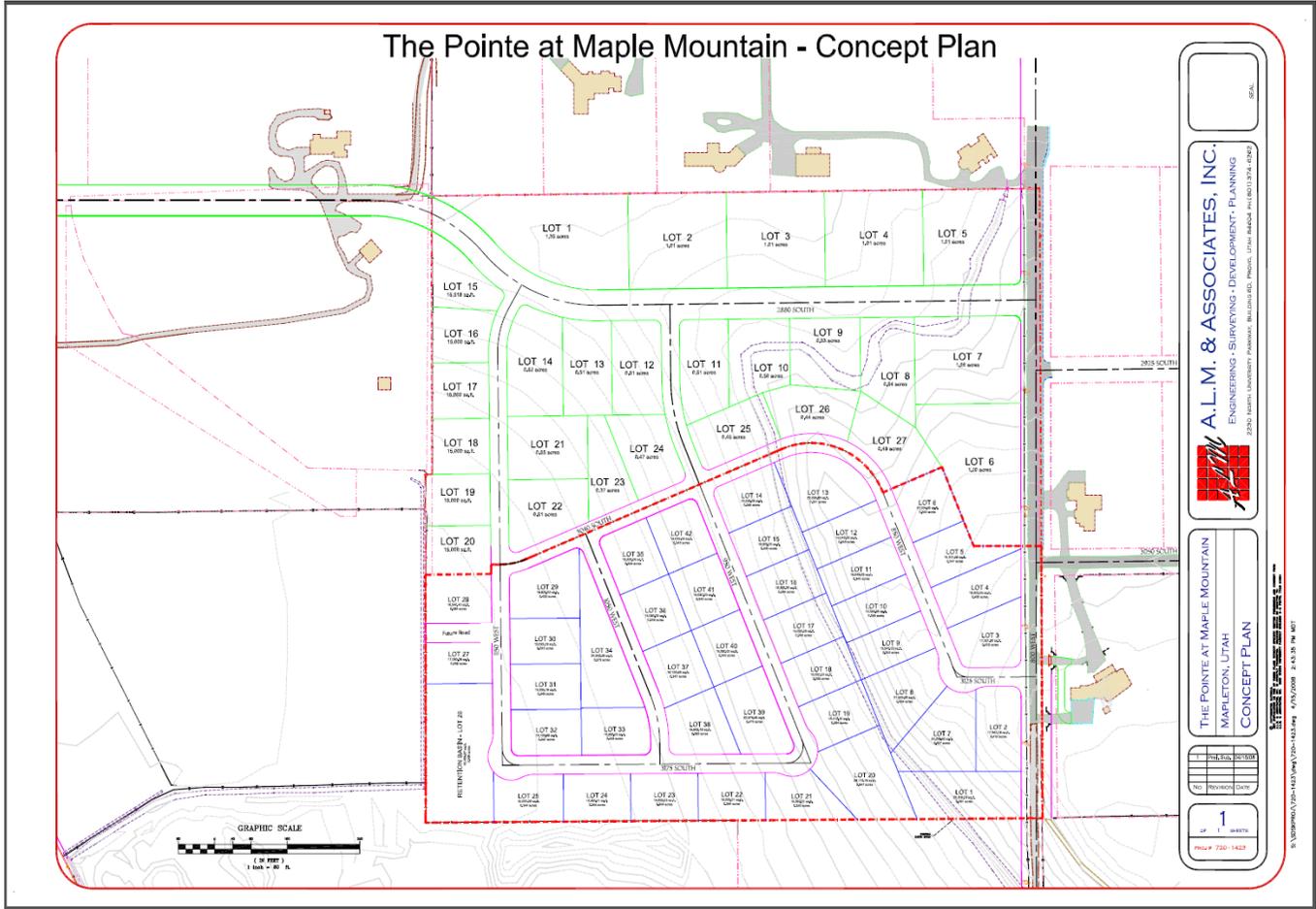
COM N 648.08 FT & W 3.19 FT FR S 1/4 COR. SEC. 22, T8S, R3E, SLB&M.; S 89 DEG 35' 4" W 1342.91 FT; N 0 DEG 6' 57" W 685.61 FT; N 89 DEG 18' 30" E 1340.95 FT; S 0 DEG 16' 55" E 692.07 FT TO BEG.  
AREA 21.220 AC.

And

#### **Southern Parcel (27:033:0226)**

COM AT S 1/4 COR. SEC. 22, T8S, R3E, SLB&M.; S 89 DEG 35' 4" W 1345.26 FT; N 0 DEG 6' 25" W 648.1 FT; N 89 DEG 35' 4" E 1343.25 FT; S 0 DEG 17' 4" E 648.09 FT TO BEG. AREA 19.989 AC.

# EXHIBIT B Concept Plan



## EXHIBIT C

### Conditions Precedent

#### Agreements of the Developer

1. Developer acknowledges that the City is required to follow the annexation requirements and procedures codified at Utah Code Ann. § 10-2-101 et seq. and the zoning and development requirements and procedures of the Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 et seq., and that the City cannot agree to annex, rezone, or approve development without following said requirements and procedures.

2. The project shall be constructed in accordance with the approved Concept Plan and will be divided into two parcels referred to as the North Parcel and the South Parcel (see exhibit “B”). Changes to the approved Concept Plan shall require City Council approval.

3. Assuming there are no objections in the public process and Developer complies with the terms herein, the base density for the project shall be 63 residential lots. Density may be increased to a maximum of 70 residential lots with the submittal of seven (7) transferable development rights (TDRs) from Developer to the City, which is the equivalent of one additional home site per TDR. Developer agrees to abide by and comply with all requirements for utilizing TDRs, including those set forth in Title 18, Chapter 76 of the Mapleton City Code.

4. Assuming there are no objections in the public process and Developer complies with the terms herein, the North Parcel shall be entitled to an initial density of 21 lots, which may be increased to a maximum (at the owner of the North parcel’s discretion) of up to 28 lots with the submittal of up to 7 transferable development rights. The South parcel shall be entitled to a maximum of 42 lots.

5. Developer agrees to use its best efforts at all times to promptly provide the City with all applications, technical, planning and engineering information, and legal review of all agreements requested by the City.

6. Developer acknowledges that annexation into the City shall be subject to final approval by the Lieutenant Governor’s Office of the state of Utah.

7. Developer agrees to border existing development to the north with minimum lot sizes of one (1) acre, as described in the Concept Plan (see exhibit “B”).

8. Developer agrees to install the necessary utility lines (sewer, culinary water, pressurized irrigation) to the site, including any off-site improvements that may be necessary to properly service the project. Any water line improvements shall ensure the needed looping and redundancy to serve the Project according to normal, peak and emergency flow pressure criteria as adopted in state code.

9. Central Bank or its successors agree to bear all costs and/or bonds associated with the street cutting through the North Parcel and the street to become the border between North and South Parcels as depicted on the Concept Plan. Central Bank or its successors will not seek reimbursement for the Meyers Family or their successors for the streets at any time.

### **Agreements of the City**

1. Developer acknowledges that the City is required to follow the annexation requirements and procedures codified at Utah Code Ann. § 10-2-101 et seq. and the zoning and development requirements and procedures of the Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 et seq., and that the City cannot agree to annex, rezone, or approve development without following said requirements and procedures.

2. The City agrees not to oppose Developer's annexation petition and not to oppose the Developer's requested zoning designation of Residential-Minor Agricultural (RA-2) with a Transferable Development Rights Receiving Site (TDR-R) Overlay that has a base density of 63 residential lots and not to oppose Developer's proposal that density may be increased to a maximum of 70 residential lots with the submittal of seven (7) transferable development rights (TDRs) by Developer to the City, which is the equivalent of one additional residential lot per TDR.

3. The City agrees to process all necessary work to complete the proposed annexation by Developer and, assuming no objections in the public process and Applicant's compliance with the terms herein, to grant preliminary and final plat approval of those phases as requested by the applicant within a reasonable time after filing of the petition.

4. The City agrees to use its best efforts to complete all reviews, evaluations, and recommendations regarding the processing of Applicant's applications.

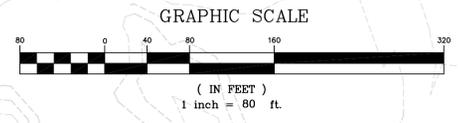
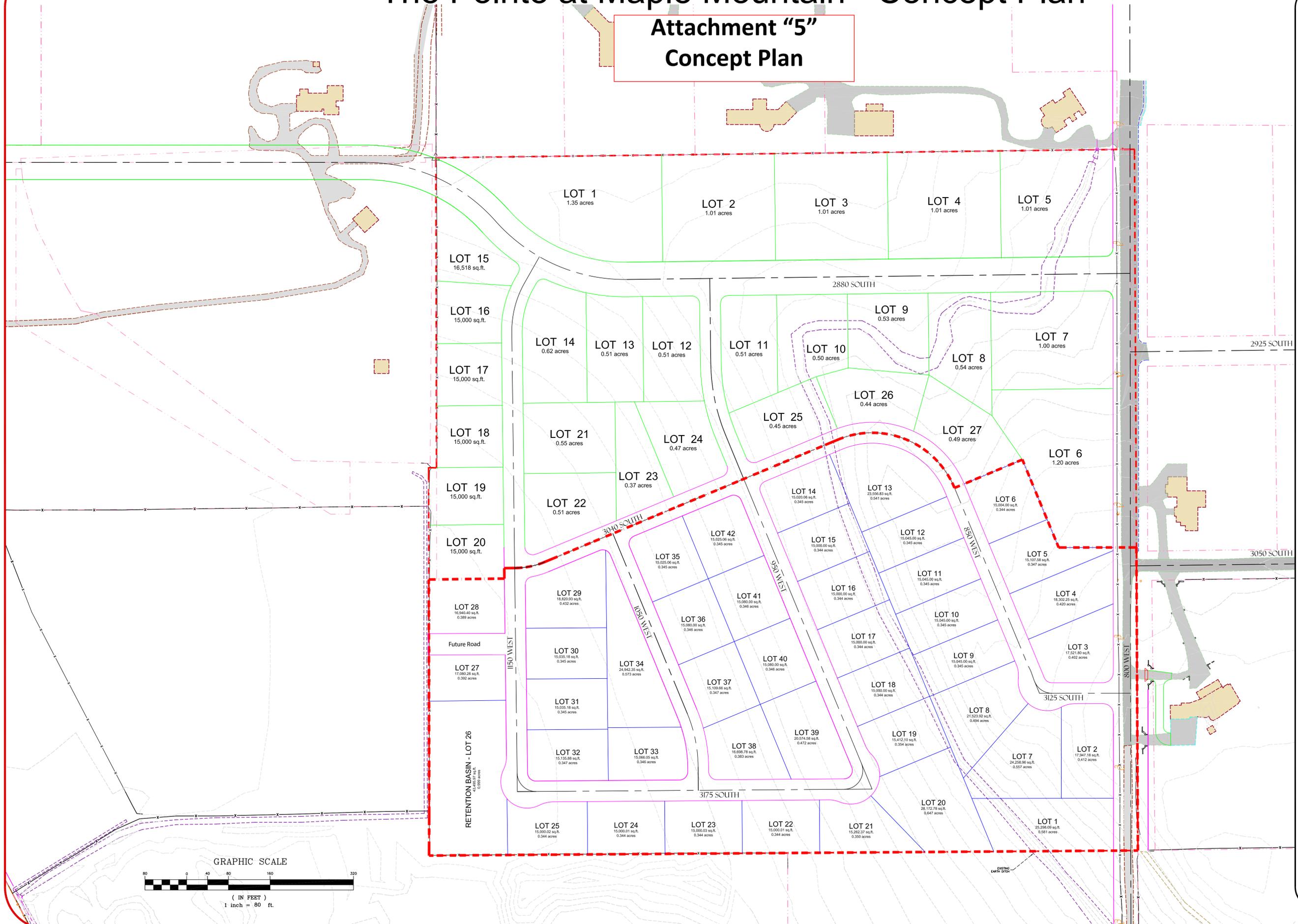
5. Assuming the above-referenced annexation and rezoning is approved and finalized, the City agrees: selection and siting of any required storm water retention basins shall not impact the initial lot densities and transferable development rights that may be utilized on the north parcel; and to allow the developer the option to find equivalent offsite retention.

6. Assuming the above-referenced annexation and rezoning is approved and finalized, the City agrees: the North Parcel shall be entitled to an initial density of 21 lots, which may be increased to a maximum (at the owner of the North parcel's discretion) of up to 28 lots with the submittal of up to 7 transferable development rights; and the South parcel shall be entitled to a maximum of 42 lots.

7. The provision of this agreement shall run with the land, and be binding and enforceable by any successors, transferees, or assigns.

# The Pointe at Maple Mountain - Concept Plan

## Attachment "5" Concept Plan



**A.L.M. & ASSOCIATES, INC.**  
ENGINEERING • SURVEYING • DEVELOPMENT • PLANNING  
2230 NORTH UNIVERSITY PARKWAY, BUILDING 6D, PROVO, UTAH 84604 PH: (801) 374-6262

THE POINTE AT MAPLE MOUNTAIN  
MAPLETON, UTAH  
CONCEPT PLAN

NO.	REVISION	DATE
1	Prel. Sub.	04/15/08

1  
OF 1 SHEETS  
PROJ # 720-1423

**MAPLETON CITY COUNCIL MEETING**

**May 14, 2013**

**PRESIDING AND CONDUCTING:** Mayor Pro-tem Jim Lundberg

Mayor Brian Wall- Arrived Late

**Council Members:** Ryan Farnworth  
Scott Hansen  
Jim Lundberg  
Mike Nelson  
Jonathan Reid

**Also Present:** Cory Branch- City Administrator  
Camille Brown- City Recorder  
Gary Calder- City Engineer/Public Works Director  
Sean Conroy- Community Development Director  
Eric Johnson, City Attorney  
Chief Pettersson- Police Chief

**Minutes Recorded by:** Camille Brown- City Recorder

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**CALL TO ORDER:** Mayor Pro-tem Lundberg called the meeting to order at 7:00 pm. Cory Branch gave the invocation and Sean Conroy led the pledge of allegiance.

**APPROVAL OF MINUTES:**

**1. Approval of City Council meeting minutes- April 30, 2013**

**Motion:** Cl. Farnworth moved to approve the minutes of the April 30, 2013 City Council meeting.

**Second:** Cl. Nelson seconded the motion.

**Vote:** Passed 5:0

**PUBLIC HEARING ITEM:**

**2. Consideration of Final Plat approval for the Harvest Park Plat "G" subdivision consisting of forty (40) lots located in the Specific Development Plan (SDP-1) zone (approximately 1750 W Elm).**

Sean Conroy, Community Development Director, stated that he has spoken with the applicant and they are working through a few issues and would recommend continuing the item to the June 4, 2013 City Council meeting.

**Motion:** Cl. Nelson moved to continue the item to the June 4<sup>th</sup> meeting.

**Second:** Cl. Farnworth seconded the motion

Reid           Aye  
Nelson        Aye  
Hansen       Aye  
Lundberg     Aye  
Farnworth    Aye  
Vote:         5:0

**ACTION ITEM:**

**3. Consideration to approve an Electric Utility Franchise and General Utility Easement Agreement between Mapleton City and Rocky Mountain Power.**

Cory Branch, City Administrator, stated that he received the Franchise Agreement from Rocky Mountain Power and he had contacted them regarding concerns pertaining to the proposed Section 18 of the agreement which waives the right to a jury trial in the event of litigation. Mr. Branch stated that Rocky Mountain Power requests this item be continued until this issue is resolved.

**Motion:**       Cl. Nelson moved to continue the Electric Utility Franchise and General Utility Easement Agreement between Mapleton City and Rocky Mountain Power to the June 4, 2013 meeting.

**Second:**      Cl. Hansen seconded the motion

Reid           Aye  
Nelson        Aye  
Hansen       Aye  
Lundberg     Aye  
Farnworth    Aye  
Vote:         5:0

**DISCUSSION ITEM:**

**4. Consideration of a request from Dave Scoville for a discussion item regarding a potential annexation proposal and concept plan for 41 acres located at approximately 3125 South and 800 West**

Sean Conroy, Community Development Director, reviewed the staff report for those in attendance. The subject parcel consists of 41 acres and is currently outside the city limits located in the unincorporated area within Utah County.

Mr. Conroy presented the proposed concept plan. The proposed plan consists of 69 units. The plan which was proposed previous to this plan consisted of 63 units, but could go up to 78 units with the use of 15 TDR's. The one acre lot that was previously being proposed as being donated to the City is now being showed as a retention basin.

Cl. Farnworth stated that he was concerned with traffic measures as it related to access points to Hwy 89 and whether or not the existing 2600 South Street could handle additional traffic. Sean Conroy stated that the applicant is requesting a range of unit sizes from .23 acres to 1.35 acres. The applicant would prefer RA-2 zoning for the southern 20 acres thus allowing for 1/3 acre lots. Mr. Conroy stated that they are in compliance with the General Plan. The applicant stated that the property would be lined with 1 acre lots as a buffer to the north. Cl. Farnworth stated that it is up to the council to change a zone, the annexations we have done recently have had a benefit to the city, with different utilities and such, if the zone is changed he would like to see TDRs used. Cl. Hansen stated that he is for the annexation and thinks that there should be a place in Mapleton for smaller lots. Cl. Nelson stated that he thinks there needs to be a stub street near the southwest corner of the property. The applicant stated that the reason they are here tonight is to get ideas from the council. He also stated that he believes having a 1 acre retention basin would be a benefit to the city. The applicant inquired of Gary Calder, City Engineer if this proposed basin would help with the Storm Water Master Plan. Mr. Calder stated that the Boggess parcel would be a good use for a retention basin, but they are still in negotiations. He also thinks that full improvements should be required for all proposed roads. Cl. Lundberg inquired if this would be a joint annexation with the Boggess property. Bart Boggess was in the audience and stated that they are very close to submitting for annexation. Cl. Farnworth stated that there needs to be some major improvements to the roads.

#### **PUBLIC HEARING ITEM:**

##### **5. Consideration of a request from Wendell Gibby for Preliminary Plat approval for the Freedom Vista Subdivision Plats A-D and Final Plat approval of Plat A located generally at 2000 E Maple Street in the RA-1 and CE-1 zones.**

Sean Conroy, Community Development Director, reviewed the staff report for those in attendance.

Cl. Farnworth stated that the lots up against the mountain would have to have regulations as to what can be built. Sean Conroy stated they would work with the constraints of each lot.

Cl. Lundberg stated that there are regulations in the CE-1 zone and asked what remediation could be done to the existing areas in the CE-1 zone that have been altered. As part of the approval could remediation in the CE-1 Zone be required. Mr. Conroy stated that as part of the approval a landscape plan would be required that would address remediation. Mr. Calder stated that Rocky Mountain Power would continue to want the power line road as a way of access for a fixing the power lines. Mr. Calder stated that in the CE-1 zone, there has been much excavation on the hillside and that remediation should be required as a condition of final plat approval.

#### **Mayor Wall arrived at 7:50 pm**

Mayor Wall stated that the city agreed to treat Mr. Gibby like any other developer and when he does excavation Mr. Gibby should be treated the same as anyone else.

**MAPLETON CITY COUNCIL MEETING**

**August 20, 2013**

**PRESIDING AND CONDUCTING: Mayor Brain Wall**

**Council Members:**  
**Ryan Farnworth**  
**Scott Hansen**  
**Jim Lundberg**  
**Mike Nelson**  
**Jonathan Reid**

**Also Present:**  
**Cory Branch- City Administrator**  
**Camille Brown- City Recorder**  
**Gary Calder- City Engineer/Public Works Director**  
**Sean Conroy- Community Development Director**

**Minutes Recorded by: Camille Brown- City Recorder**

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**CALL TO ORDER:** Mayor Wall called the meeting to order at 7:05 p.m. Cl. Farnworth gave the invocation and Camille Brown led the pledge of allegiance.

**PUBLIC FORUM:** No comments were made.

**APPROVAL OF MINUTES:**

**1. Approval of City Council meeting minutes- August 6, 2013**

**Motion:** Cl. Nelson moved to approve the minutes of the August 6, 2013 City Council meeting.  
**Second:** Cl. Farnworth seconded the motion.  
**Vote:** Passed 4:0

**2. Approval of City Council meeting minutes- August 13, 2013**

**Motion:** Cl. Nelson moved to approve the minutes of the August 13, 2013 City Council meeting.  
**Second:** Cl. Farnworth seconded the motion.  
**Vote:** Passed 4:0

**ACTION ITEMS:**

**3. Consideration of an Annexation Petition to annex approximately 41.47 acres of property in unincorporated Utah County located at approximately 3050 S. 800 W. into Mapleton City.**

Sean Conroy, Community Development Director, reviewed the staff report with those in attendance. This acreage includes the Meyer property and a parcel owned by Central Bank that is under contract by Dave Scoville. The annexation petition is in compliance with the general plan designation for low density. The applicant would like to negotiate a development agreement with an RA-2 zoning. The annexation process was outlined for the council. There is one application for both parcels. Both applicants have signed the petition. Staff would recommend the council to accept this annexation petition.

**Motion:** Cl. Hansen moved to approve the Annexation Petition to annex approximately 41.47 acres of property in unincorporated Utah County located at approximately 3050 S. 800 W.

**Second:** Cl. Nelson seconded the motion

Cl. Reid Aye

Cl. Nelson Aye

Cl. Hansen Aye

Cl. Farnworth Aye

Vote: 4:0

Resolution No. 2013-30

**4. Consideration of an Annexation Petition to annex approximately 180 acres of property in unincorporated Utah County located at approximately 3000 S. Hwy 89 into Mapleton City.**

Sean Conroy, Community Development Director, reviewed the staff report with those in attendance. The annexation process was reviewed. Cl. Farnworth inquired if the BYU parcel was included in this annexation. He further stated that this is currently a compost yard and is concerned of the smell in this area and potential problem it could cause.

Dan Ford stated that they are very excited to begin this project.

David Meyer stated that they are supportive of the annexation if their property is located within the General Commercial zone.

**Motion:** Cl. Hansen moved to approve Annexation Petition to annex approximately 180 acres of property in unincorporated Utah County located at approximately 3000 S. Hwy 89 into Mapleton City.

**Second:** Cl. Nelson seconded the motion

Cl. Nelson Aye

Cl. Hansen Aye

Cl. Farnworth Aye

Cl. Reid Aye