

**RESOLUTION NO. R-13 -2021**

**A RESOLUTION OF EAGLE MOUNTAIN CITY, UTAH, APPROVING  
A MASTER DEVELOPMENT AGREEMENT FOR THE PINNACLES**

*PREAMBLE*

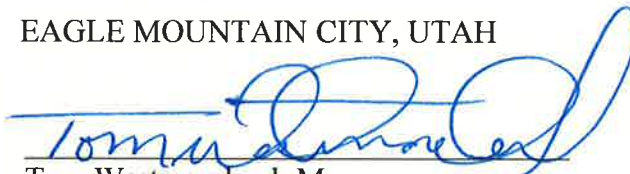
The City Council of Eagle Mountain City, Utah, finds that it is in the public interest to approve the Master Development Agreement for The Pinnacles, as set forth more specifically in Exhibit A.

BE IT RESOLVED by the City Council of Eagle Mountain City, Utah:

1. The City Council finds that all required notices and hearings have been completed as required by law to consider and approve the Master Development Agreement for The Pinnacles, as set forth in Exhibit A.
2. The Master Development Agreement for The Pinnacles is hereby approved, as set forth more specifically in Exhibit A.
3. This Resolution shall take effect upon its first publication or posting.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 16<sup>th</sup> day of November, 2021.

EAGLE MOUNTAIN CITY, UTAH

  
Tom Westmoreland, Mayor

ATTEST:

  
Fionnuala B. Kofoed, MMC  
Director of Administrative Services/City Recorder



**CERTIFICATION**

The above resolution was adopted by the City Council of Eagle Mountain City on the 16<sup>th</sup> day of November, 2021.

Those voting aye:	Those voting nay:	Those excused:	Those abstaining:
<input checked="" type="checkbox"/> Donna Burnham	<input type="checkbox"/> Donna Burnham	<input type="checkbox"/> Donna Burnham	<input type="checkbox"/> Donna Burnham
<input checked="" type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark
<input checked="" type="checkbox"/> Colby Curtis	<input type="checkbox"/> Colby Curtis	<input type="checkbox"/> Colby Curtis	<input type="checkbox"/> Colby Curtis
<input checked="" type="checkbox"/> Jared Gray	<input type="checkbox"/> Jared Gray	<input type="checkbox"/> Jared Gray	<input type="checkbox"/> Jared Gray
<input checked="" type="checkbox"/> Carolyn Love	<input type="checkbox"/> Carolyn Love	<input type="checkbox"/> Carolyn Love	<input type="checkbox"/> Carolyn Love



\_\_\_\_\_  
Fionnuala B. Kofoed, MMC  
Director of Administrative Services/City Recorder

Posted on 11/23/2021 by CB.

# Exhibit A

**WHEN RECORDED, RETURN TO:**

City Recorder  
Eagle Mountain City  
1650 E. Stagecoach Run  
Eagle Mountain, UT 84005

**MASTER DEVELOPMENT AGREEMENT  
FOR  
THE PINNACLES**

THIS MASTER DEVELOPMENT AGREEMENT (this “**Agreement**” or “**MDA**”) is made and entered as of the last date executed by the parties below (the “**Effective Date**”), by and between **Eagle Mountain City**, a Utah municipal corporation (“**Eagle Mountain**” or “**City**”) and **B&H Land Holding, LLC**, a Utah limited liability company (“**Developer**”).

**RECITALS**

A. Developer is the owner of approximately 161 acres of real property as described in Exhibit A (the “**Property**”).

B. On April 6, 2021, the Eagle Mountain City Council approved the rezone of portions of the Property (Exhibit B, the “**Rezone Exhibit**”) and a general plan amendment, which included review of the Concept Plan which is attached hereto as Exhibit C (the “**Concept Plan**”).

C. Developer and Eagle Mountain desire that the Property be developed in a unified and consistent fashion pursuant to the approved exhibits.

D. The Parties desire to enter into this MDA to specify the rights and responsibilities of the Developer to develop the Property as expressed in this MDA and the rights and responsibilities of Eagle Mountain to allow and regulate such development pursuant to the requirements of this MDA.

E. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2021) *et seq.*

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Eagle Mountain and Developer hereby agree to the following:

1. **DEFINITIONS.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2021), *et seq.*

1.2. **Applicant** means a person or entity submitting a Development Application.

1.3. **Buildout** means the completion of all of the development on the entire Project in accordance with the Site Plan.

1.4. **Business Campus Parcel** means that portion of the Property consisting of approximately 65.34 acres as shown on Concept Plan as the “Business Campus.”

1.5. **City** means Eagle Mountain City, a political subdivision of the State of Utah.

1.6. **City’s Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.7. **City’s Vested Laws** means the ordinances, policies, standards and procedures of Eagle Mountain in effect as of the date of this MDA.

1.8. **Commercial Parcel** means that portion of the Property consisting of approximately 16.7 acres shown on the Concept Plan as “Commercial.”

1.9. **Concept Plan** means the Concept Plan for the Project reviewed by the Eagle Mountain City Council, and attached hereto as Exhibit C.

1.10. **Conditions of Approval** means those conditions and stipulations imposed by the Council (defined below) in connection with the approval of the Rezone and General Plan Amendment, as specifically set forth in the Notice of Decision (defined below).

1.11. **Council** means the elected City Council of Eagle Mountain.

1.12. **Default** means a breach of this MDA as specified herein.

1.13. **Developer** means B&H Land Holding, LLC, and its successors in interest or assignees as permitted by this MDA.

1.14. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.15. **Development Application** means an application to Eagle Mountain for development of a portion of the Project or any other permit, certificate or other authorization from the Eagle Mountain required for development of the Project.

1.16. **Eagle Mountain** means Eagle Mountain City, a political subdivision of the State of Utah.

1.17. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2021), or any successor provision, and approved by the Eagle Mountain, effectuating a subdivision of any portion of the Project.

1.18. **Multi-Family Parcels** means that portion of the Property consisting of approximately 13.98 acres as shown on Concept Plan as the “MF1 Zone” and the “MF2 Zone.”

1.19. **Multi-Family Unit** means a unit that is one of the Residential Units in the Multi-Family Parcel.

1.20. **MDA** means this Master Development Agreement including all of its Exhibits.

1.21. **Notice** means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.22. **Notice of Decision** means the Rezone and General Plan Amendment Notice of Decision, which include certain terms and conditions for development of the Project. A copy of the Notice of Decision is attached hereto as Exhibit D.

1.23. **Parcel** means an area within the Property that has been conveyed by or is proposed to be conveyed by metes and bounds prior to recordation of a plat of subdivision, which conveyance has occurred or is proposed to occur with the approval of the City pursuant to the provisions of Utah Code Ann. §10-9a-103(69)(c)(vi)(2021).

1.24. **Party/Parties** means, in the singular, Developer or the Eagle Mountain; in the plural Developer and Eagle Mountain.

1.25. **Project** means the Pinnacles project to be constructed on the Property pursuant to this MDA with the associated Public Infrastructure and private facilities, and all of the other aspects approved as part of this MDA.

1.26. **Property** means the approximately 161 acres of real property owned by and to be developed by Developer more fully described in Exhibit A.

1.27. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the Eagle Mountain or other public entities as a condition of the approval of a Development Application.

1.28. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as residence as illustrated on the Concept Plan.

1.29. **Residential Parcel** means that portion of the Property consisting of approximately 65 acres as shown on Concept Plan and designated as R2 Lots, R3 Lots or RC Lots.

**2. GENERAL DEVELOPMENT OF THE PROJECT.**

2.1. **Compliance with the Concept Plan and this MDA.** Development of the Project shall be in accordance with the City’s Vested Laws, the Eagle Mountain’s Future Laws (to the extent they are applicable as specified in this MDA), the Concept Plan, the Notice of Decision, and this MDA.

2.2. **Development Requirements.** Eagle Mountain has approved the Concept Plan for the Project which shall serve as the Master Development Plan map. Developer shall construct the Project in accordance with the Concept Plan and the Conditions of Approval as set out in the Notice of Decision.

**3. PROPERTY ZONING AND DEVELOPMENT.**

3.1. **Business Campus.** The Business Campus Parcel is currently zoned Agriculture. The parties acknowledge that “business campus” is based on a designation within the General Plan and not a zoning designation. Subject to a future rezoning approval, the Business Campus Parcel shall be developed with commercial uses consistent with the Employment Center Campus designation in the General Plan. Developer acknowledges that the City’s Future Land Use and Transportation Corridors Map (and Transportation Master Plan) includes a future freeway that traverses a portion of the Business Campus parcel. Without waiving the right to seek compensation for dedication of the land for the future freeway, Developer acknowledges and agrees to work with the City and/or UDOT to preserve the freeway right-of-way for future freeway development.

3.2. **Commercial Neighborhood.** The Commercial Parcel is zoned Commercial Neighborhood (CN). The Commercial Parcel shall be developed in accordance with Chapter 17.35 of the City’s Vested Laws.

3.3. **Multi-Family Parcels.** The Multi Family Parcel is zoned as follows:

Zoning	Area (acres)
MF2	Approx. 5.6
MF1	Approx. 8.4

The Multi-Family Parcels shall be developed in accordance with Chapter 17.25 of the City’s Vested Laws. Prior to development in the MF1 and MF2 zones, Developer shall submit to the City and receive approval of a Site Plan that meets the zoning and development requirements of the City’s Vested Laws for the MF1 and MF2 zones.

Developer acknowledges that the future freeway traverses the northwest corner of the MF2 parcel. Without waiving the right to seek compensation for dedication of the land for the future freeway, Developer acknowledges and agrees to work with the City and/or UDOT to preserve the freeway right-of-way for future freeway development.

3.4 **Single Family Residential Parcel.** The Residential Parcel is zoned as follows:

Zoning	Acres
RC	Approx. 18.25
R3	Approx. 23.17
R2	Approx. 17.03

The Residential Parcel shall be developed in accordance with Chapter 17.25 of the City’s Vested Laws. The lot configuration and road location within the RC, R3, and R2 areas shall be consistent with the configuration on the Concept Plan.

4. **ROADS AND TRAFFIC.**

4.1 **Internal Roadways.** The Land Use Plan depicts the major proposed roadways and access for the Project. Developer shall be responsible for constructing all roads within the Project at Developer’s expense.

4.2 **Aviator Avenue.** Developer shall dedicate to the City by plat map 38.5 feet along the south edge of the Project in conjunction with the recording of the first plat for the Project, and Developer shall construct improvements to complete Aviator Avenue to the City’s standard 77’ right-of-way as follows: 1) Aviator Avenue east of the eastern access road shall be



completed prior to the first plat in the Residential Parcel or Developer shall provide completion assurance in accordance with Chapter 16.30 of the City's Vested Laws; 2) Aviator Avenue between the eastern access road and the western property line shall be completed prior to the western access road, but not later than the first plat in the RC, MF1, or MF2 zones, or Developer shall provide completion assurance in accordance with Chapter 16.30 of the City's Vested Laws.

## **5. PARKS AND OPEN SPACE.**

5.1. **Park Plan.** The Concept Plan shows the location of an approximately 6.5-acre park within the Residential Parcel ("**City Park**"). A concept plan for the City Park is included in the Utility Plan attached as Exhibit E. Developer shall improve the City Park in accordance with Sections 16.35.105 and 17.25.040 of the City's Vested Laws to meet the parks and open space requirements for the Project. The City may approve Developer constructing improved open space within the Multi-Family Parcels to meet a portion of the park and improved open space requirements for the Project. Prior to recording the first preliminary plat for the Project, Developer shall submit a detailed plan for the City Park and receive approval for the park plan from the City Parks and Recreation Director and the Planning Director. Developer acknowledges and agrees that the City Park does not fulfill the clubhouse and swimming pool requirement for the Multi-Family Parcels set forth in Section 17.25.050(L) of the City's Vested Laws.

5.2 **Dedication of Park Improvements.** The City may require Developer to dedicate all Improved Open Space areas to either the City or an HOA for the Project based on the final configuration of the Improved Open Space. The City may require that Improved Open Space areas be dedicated to the City in conjunction with the subdivision plats that utilize the areas for Improved Open Space credit or with the recording of adjacent plats. The parties anticipate that all large Improved Open Space areas (larger than 2 acres and specifically including the City Park) with play field or other amenities will be dedicated to and maintained by the City and small open space areas will be dedicated to and maintained by the HOA.

## **6. VESTED RIGHTS.**

6.1. **Vested Rights Granted by Approval of this MDA.** The Parties intend that this MDA grants to Developer all rights to develop the Project in fulfillment of this MDA, City's Vested Laws, and the Site Plan except as specifically provided herein. The Parties specifically intend that this MDA grant to Developer the "vested rights" identified herein as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2021).

6.2. **Exceptions.** The vested rights and the restrictions on the applicability of Eagle Mountain's Future Laws to the Project as specified in Section 9 are subject to the following exceptions:

6.2.1. Master Developer Agreement. Eagle Mountain's Future Laws or other regulations to which the Developer agrees in writing;

6.2.2. State and Federal Compliance. Eagle Mountain’s Future Laws or other regulations which are generally applicable to all properties in Eagle Mountain and which are required to comply with State and Federal laws and regulations affecting the Project;

6.2.3. Codes. Any Eagle Mountain’s Future Laws that are updates or amendments to existing building, fire, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

6.2.4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by Eagle Mountain to all properties, applications, persons and entities similarly situated;

6.2.5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the Eagle Mountain (or a portion of Eagle Mountain as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law;

6.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by Eagle Mountain pursuant to Utah Code Ann. Section 11-36a-101 (2021) *et seq*; or,

6.2.7. Compelling, Countervailing Interest. Laws, rules or regulations that Eagle Mountain’s land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2021).

7. **TERM OF AGREEMENT.** In accordance with Section 16.10.080 of the City’s Vested Laws, this MDA shall expire and terminate six (6) years from the Effective Date. This MDA shall also terminate automatically at Buildout. Notwithstanding the foregoing, any obligations of the Developer, including any obligations for which the Developer has provided a bond or other form of completion assurance, shall survive termination of this MDA.

8. **BENCHMARKS.** As required by Section 16.10.080(B) of the City’s Vested Laws, the following development benchmarks shall occur. The parties acknowledge that Developer may plat and/or develop the project in multiple separate phases.

8.1. **First Preliminary Plat or Site Plan.** The first preliminary plat or site plan for the Project shall be submitted for approval within one (1) year from the Effective Date. The site work for the first final plat or site plan shall commence within two (2) years from the Effective Date, including required public infrastructure (including but not limited to curb, gutter, roads) as

noted in this MDA, provided that approval of the site plan or final plat has not been unreasonably delayed by the City.

8.2. **City Park.** In accordance with 16.35.105(A)(10) of the City's Vested Laws, the approximately 6.5-acre park shall be fully completed prior to recording of the first plat, or a separate cash escrow of \$3,750 per lot/unit must be put in place with the City with each plat to cover the anticipated cost of park improvements. For example: final plat = 20 lots; cash escrow for final plat = \$75,000 (\$3,750 x 20). In addition, the City Park must be completed prior to the City recording a final plat that includes more than 50% of the area within the RC, R3, and R2 zones. In the case of inclement weather the applicant may request an extension to this timeline, to be considered at the discretion of the City.

9. **PROCESSING OF DEVELOPMENT APPLICATIONS.** The procedure for processing Development Applications shall be in accordance with the procedural provisions of City's Future Laws. If Eagle Mountain denies a Development Application Eagle Mountain shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons Eagle Mountain believes that the Development Application is not consistent with this MDA, the Zoning and/or City's Vested Laws (or, if applicable, City's Future Laws).

10. **PUBLIC INFRASTRUCTURE.**

10.1. **Construction by Developer.** Developer, at Developer's cost and expense, shall have the right and the obligation to construct or cause to be constructed and install all Public Infrastructure reasonably and lawfully required as a condition of approval of a Development Application pursuant to City's Vested Laws. Such construction must meet all applicable standards and requirements and must be approved by Eagle Mountain's engineer, or his designee.

10.2. **Utility Plan.** Attached hereto as Exhibit E is the Utility Plan for the Residential Parcel. Developer will construct the public utilities in accordance with the provided Utility Plan. Developer may utilize a private sewer lift station located in the southwest corner of the City Park, provided that the lift station is owned and maintained by the HOA.

10.3. **Bonding.** In connection with any Development Application, Developer shall provide bonds or other development security, including warranty bonds, to the extent required by City's Vested Laws, unless otherwise provided by Utah Code § 10-9a-101, *et seq.*, as amended. The Applicant shall provide such bonds or security in a form acceptable to Eagle Mountain or as specified in Eagle Mountain's Vested Laws. Partial releases of any such required security shall be made as work progresses based on City's Vested Laws.

11. **UPSIZING/REIMBURSEMENTS TO DEVELOPER.** Eagle Mountain may require Developer to reasonably "upsized" Public Infrastructure (i.e., to construct the infrastructure to a size larger than is reasonably required to service the Project) to accommodate future growth

around the Project. If City requires upsizing, City and Developer shall first enter into an Impact Fee Reimbursement Agreement or similar payment reimbursement agreement to compensate Developer for the incremental or additive costs of such upsizing to the extent required by law. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, Eagle Mountain shall only be responsible to compensate Developer for the 10% cost increase. Notwithstanding the foregoing or anything else to the contrary contained herein, in no event shall Developer be required to upsize any improvements (or incur any costs for upsizing any improvements) if the Impact Fee Reimbursements available to Developer are not sufficient to cover the increased costs of such upsizing.

**12. DEFAULT.**

12.1. **Notice.** If Developer or Eagle Mountain fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other Party.

12.2. **Contents of the Notice of Default.** The Notice of Default shall:

12.2.1. Specific Claim. Specify the claimed event of Default;

12.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default; and

12.2.3. Optional Cure. If Eagle Mountain chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days duration.

12.3. **Mediation.** Upon the issuance of a Notice of Default the parties may engage a mediation or other dispute resolution process. Neither side shall be obligated to mediate if doing so would delay or otherwise prejudice any remedy available at law.

12.4. **Public Meeting.** Before any remedy in Section 10.4.3 may be imposed by Eagle Mountain the party allegedly in Default shall be afforded the right to attend a public meeting before the Eagle Mountain City Council and address the Eagle Mountain City Council regarding the claimed Default.

12.5. **Default of Assignee.** A default of any obligations expressly assumed by an assignee shall not be deemed a default of Developer.

**13. DEVELOPER’S EXCLUSIVE REMEDY.** Developer’s sole and exclusive remedy under this MDA shall be specific performance of the rights granted in this MDA and Eagle Mountain’s obligations under this MDA. IN NO EVENT SHALL EAGLE MOUNTAIN BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, FOR ANY INDIRECT,

SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.

**14. EAGLE MOUNTAIN'S REMEDIES UPON DEFAULT.** Eagle Mountain shall have the right to withhold all further reviews, approvals, licenses, building permits and other permits for development of the Property in the case of a Default by Developer until the Default has been cured. Eagle Mountain shall further have the right to draw on any security posted or provided in connection with the Property and relating to remedying of the particular Default.

**15. NOTICES.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Developer:**

B&H Land Holdings, LLC  
Attn: Brandon Harrison  
10769 S Rippling Bay  
South Jordan, UT 84009

**To Eagle Mountain:**

City Recorder  
Eagle Mountain City  
1650 E. Stagecoach Run  
Eagle Mountain, UT 84005

**16. HEADINGS.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

**17. NO THIRD-PARTY RIGHTS/NO JOINT VENTURE.** This MDA does not create a joint venture relationship, partnership or agency relationship between Eagle Mountain, or Developer. Further, except as specifically set forth herein, the parties do not intend this MDA to create any third-party beneficiary rights.

**18. ASSIGNABILITY.** The rights and responsibilities of Developer under this MDA shall run with the land and be binding on Developer and Developer's successors in interest. Developer may assign its obligations hereunder, in whole or in part, to other parties with the consent of Eagle Mountain as provided herein. The City's consent shall not be unreasonably withheld, conditioned or delayed. A denial of consent shall only be allowed if the proposed assignee does not have the financial capability of fulfilling the assigned rights and responsibilities.

18.1. **Sale of Lots.** Developer's selling or conveying lots to residential purchasers shall not be deemed to be an "assignment" subject to the above-referenced approval by Eagle Mountain unless specifically designated as such an assignment by Developer and approved by Eagle Mountain.

18.2. **Notice.** Developer shall give Notice to the Eagle Mountain of any proposed assignment and provide such information regarding the proposed assignee that the Eagle Mountain may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the Eagle Mountain with all necessary contact information for the proposed assignee.

18.3. **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 MDA to which the assignee succeeds.

18.4. **Sale of a Parcel.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Developer may sell a Parcel as provided in Utah Code Ann. § 10-a-103(62)(c)(vi) (2019) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Developer or a Subdeveloper upon a subsequent subdivision of the Parcel that creates individually developable lots.

18.5. **Assignees and Successors in Interest Bound by MDA.** Developer's successors in interest as holders of title to the Property (except purchasers of completed Residential Dwelling Units) and assignees shall be bound by the terms of this MDA.

19. **NO WAIVER.** Failure of any 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 date any such right or any other right it may have.

20. **SEVERABILITY.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

21. **FORCE MAJEURE.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party

obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

22. **TIME IS OF THE ESSENCE.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

23. **APPLICABLE LAW.** This MDA is entered into in Utah County in the State of Utah and shall be construed in accordance with the laws of the State of Utah.

24. **VENUE.** Any action to enforce this MDA shall be brought only in the Fourth District Court for the State of Utah.

25. **ENTIRE AGREEMENT.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

26. **MUTUAL DRAFTING.** Each Party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any particular portion of this MDA.

27. **RECORDATION AND RUNNING WITH THE LAND.** This MDA or notice of this MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. Upon the sale of a completed Residential Dwelling Unit to a retail purchaser, this Agreement shall automatically terminate and be deemed released as an encumbrance against such Residential Dwelling Unit. An electronic copy of City's Vested Laws may be included as part of the original copy of this MDA with the Eagle Mountain Recorder.

28. **AUTHORITY.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA.

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

DATED this 18 day of NOVEMBER, 2021.

**B&H LAND HOLDING, LLC**

By: [Signature]

Print Name: BRANDON HARRISON

Title: MEMBER

**DEVELOPER ACKNOWLEDGMENT**

STATE OF UTAH )  
 ) :ss.  
COUNTY OF SALT LAKE )

On the 18 day of NOVEMBER, 2021, personally appeared before me BRANDON V. HARRISON, who being by me duly sworn, did say that (s)he is the MEMBER of **B&H Land Holding, LLC**, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

[Signature]  
NOTARY PUBLIC



DATED this 18 day of NOVEMBER, 2021.

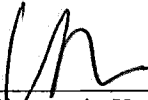
**EAGLE MOUNTAIN CITY**

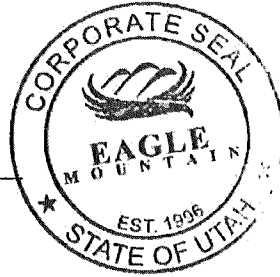
[Signature]  
Tom Westmoreland, Mayor

ATTEST:




ATTEST:

  
BY: *Lianne Pengra*  
Fiannuala Kofoed, City Recorder



Approved as to form:

  
City Attorney

**TABLE OF EXHIBITS**

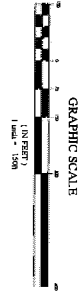
Exhibit "A"	Legal Description of Property
Exhibit "B"	Rezone Exhibit
Exhibit "C"	Concept Plan
Exhibit "D"	Notice of Decision
Exhibit "E"	Utility Plan

Exhibit "A"  
Legal Description of Property

The Southwest Quarter of Section 2, Township 6 South, Range 2 West, Salt Lake Base and Meridian; also being described as follows:

Beginning at the West quarter corner of Section 2, Township 6 South, Range 2 West, Salt Lake Base and Meridian; thence North 89°42'28" East along quarter section line 2662.37 feet; thence South 0°51'19" West along quarter section line 2662.08 feet to the South Quarter Corner of said Section 2; thence North 89°50'15" West along section line 2638.96 feet to the Southwest Corner of said Section 2; thence North 0°21'17" East along section line 2640.78 feet to the point of beginning.

Area = 161.33 Acres



ZONING DESIGNATIONS

CN	16.7 ACRES
R2	17.0 ACRES
R3	23.2 ACRES
RC	18.3 ACRES
MF1	8.4 ACRES
MF2	5.6 ACRES
OS-1	6.5 ACRES
<b>TOTAL ACREAGE</b>	<b>99.7 ACRES</b>



**THE PINNACLES zoning exhibit**

EAGLE MOUNTAIN CITY, UTAH COUNTY

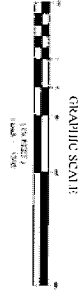
11/5/2021

21-0916

Note: This plan is for illustrative purposes only. Boundaries may be based on particular information through public GIS data. It is recommended that a survey be performed to determine actual boundary area and dimensions as well as other potential boundary conflicts.



Exhibit "C"  
Concept Plan



**PROPERTY OVERVIEW**

SINGLE FAMILY ACREAGE	65.0 ACRES
MULTI FAMILY ACREAGE	14.0 ACRES
COMMERCIAL ACREAGE	16.7 ACRES
BUSINESS CAMPUS ACREAGE	65.7 ACRES
<b>TOTAL ACREAGE</b>	<b>161.3 ACRES</b>

**CONCEPT DESIGN**

R2 LOTS	47
R3 LOTS	87
RC LOTS	88
<b>TOTAL UNITS</b>	<b>222</b>

**OPEN SPACE**

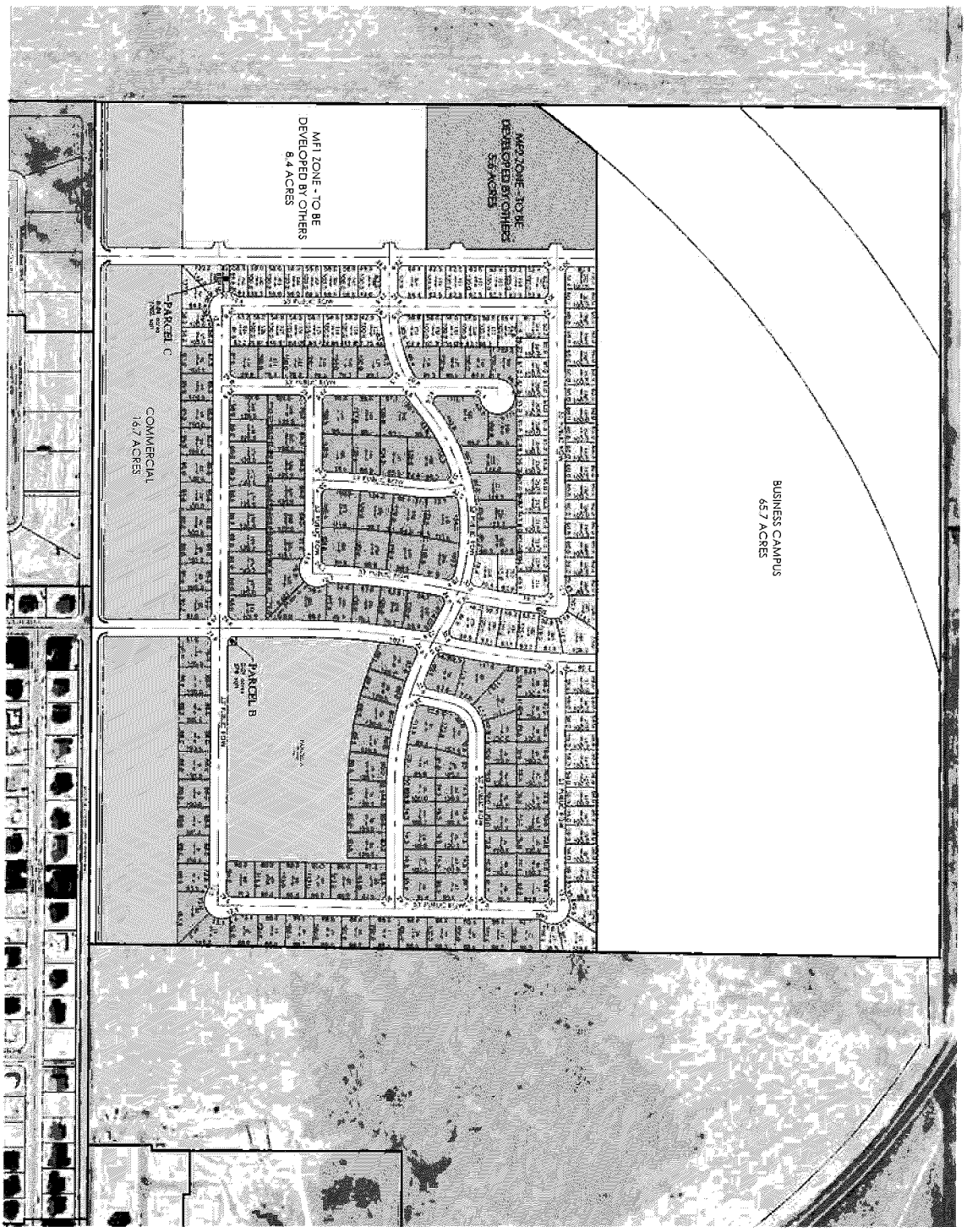
REQUIRED	5.0 ACRES (173,000 SQFT)
PROVIDED	6.6 ACRES (230,224 SQFT)

**AVERAGE LOT SIZE**

R2 LOTS	11,430 SQFT
R3 LOTS	8,504 SQFT
RC LOTS	6,406 SQFT

**ZONING REQUIREMENTS**

	R2	R3	RC
MAX GROSS DENSITY			
MIN LOT SIZE	4,000 SQFT	5,500 SQFT	4,000 SQFT
MIN IMPROVED LOT SIZE	10,800 SQFT	13,500 SQFT	4,000 SQFT
REQUIRED IMPROVED OPEN SPACE	500 SQFT/LOT	1,000 SQFT/LOT	1,000 SQFT/LOT
MIN LOT FRONT SETBACK (FEET)	20	25	15
MIN LOT SIDE SETBACK (FEET)	40	25	20
MIN LOT REAR SETBACK (FEET)	25	25	15
FRONT GARAGE SETBACK	25	20	22
ALIAS SETBACK	20	20	20
SIDE SETBACK OVERHEAD SIGN	0	0	0
TOP SETBACK OVERHEAD SIGN	10	10	10
SIDE SETBACK STREET LIGHT	15	15	15
PARKING REQUIREMENTS	2.5 STALL/UNIT PROVIDED IN GARAGES		



**THE PINNACLES concept plan**

EAGLE MOUNTAIN CITY, UTAH COUNTY  
 11/5/2021  
 21.07.21

Note: This plan is for illustrative purposes only. Dimensions may be based on given or assumed through plat. All data is for informational use only and is not intended to determine actual boundary locations and dimensions as well as other facts of the described estate.



Exhibit "D"  
Notice of Decision



# REZONE & GENERAL PLAN AMENDMENT NOTICE OF DECISION The Pinnacles

On April 6, 2021, the Eagle Mountain City Council approved the Pinnacles rezone and general plan amendment applications for parcel 59:034:0003 (about 161 acres – see attachment) with the following condition:

1. That the two rows of lots facing the road south of the park be changed from the R3 to the R2 zoning district.

The City may require specific performance of Developer's obligations and City may withhold issuance of any further approvals or permits with the Project until the Developer has fully complied with these conditions of approval.

In no event shall the City be liable to the Developer, its successors or assigns, for any indirect, special, punitive, incidental or consequential damages, including, without limitation, lost profits, costs of delay, or liabilities to third parties.

## EAGLE MOUNTAIN CITY

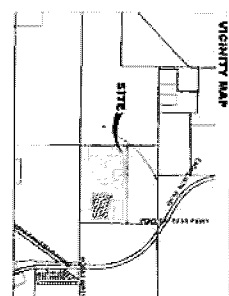
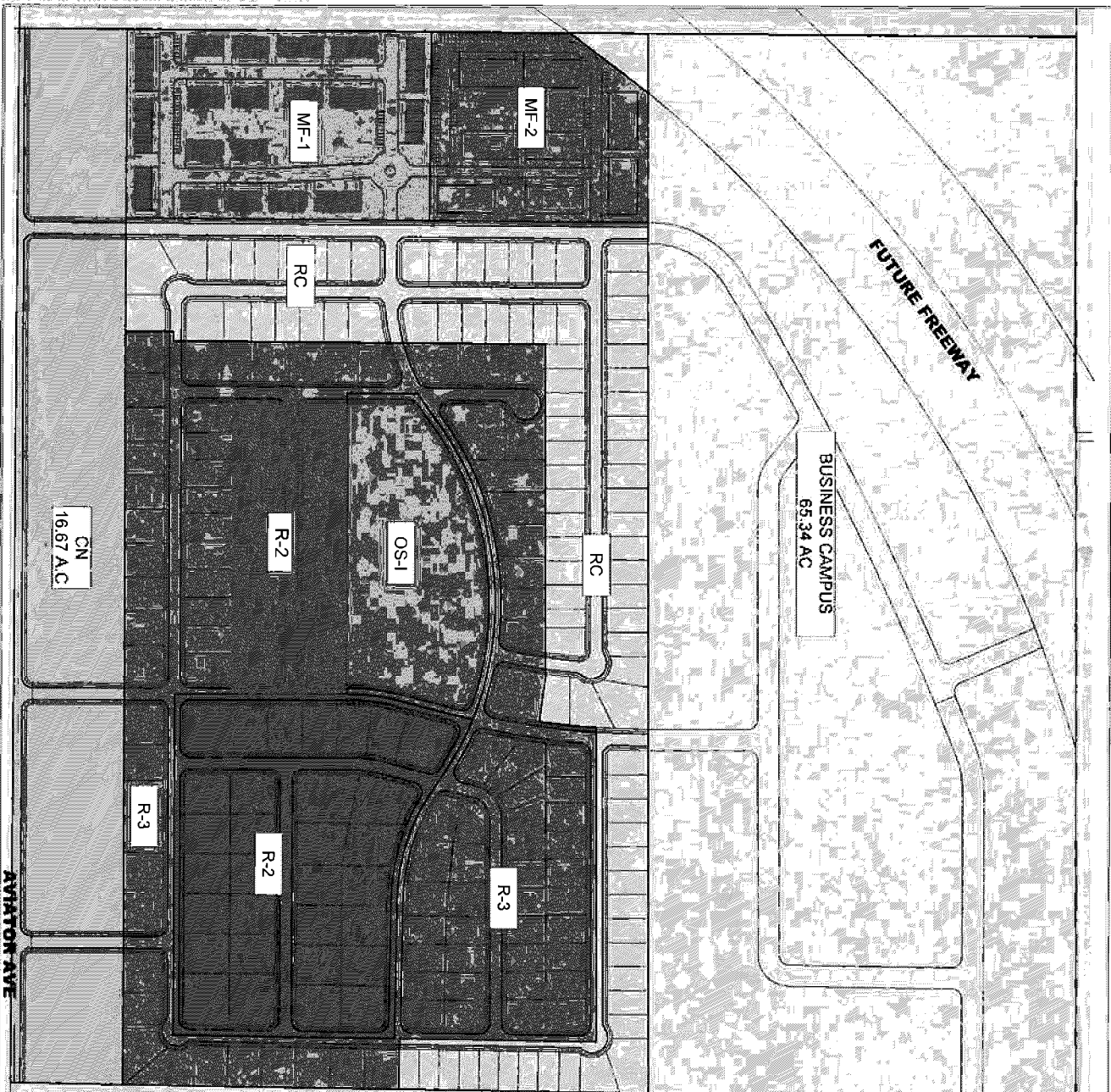
By:   
Steve Murrford, AICP  
Community Development Director

Date: 4/12/21

## ATTACHMENTS

- Exhibit A : Rezone Exhibit
- Exhibit B : General Plan Amendment

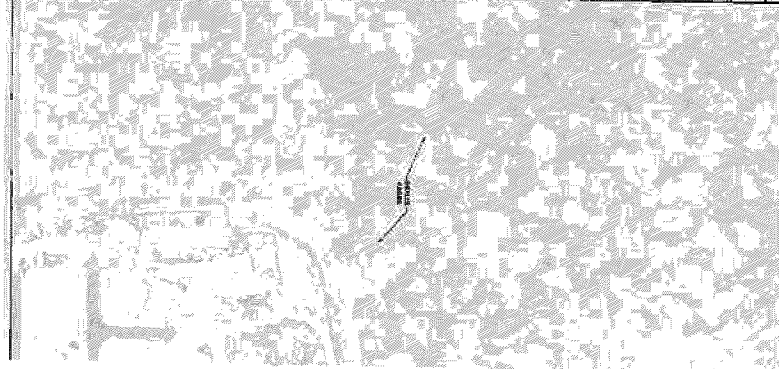




**LEGEND**

MF-1	Medium Density Residential
MF-2	Medium Density Residential
RC	Residential Community
OS-1	Office
R-2	Residential Single-Family
R-3	Residential Single-Family
CN	Community Neighborhood
Business Campus	Business Campus

NOT TO SCALE. DISTANCES ARE APPROXIMATE.



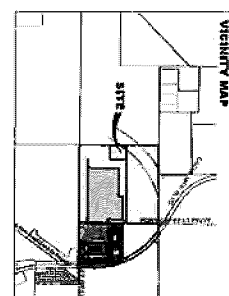
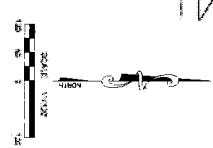
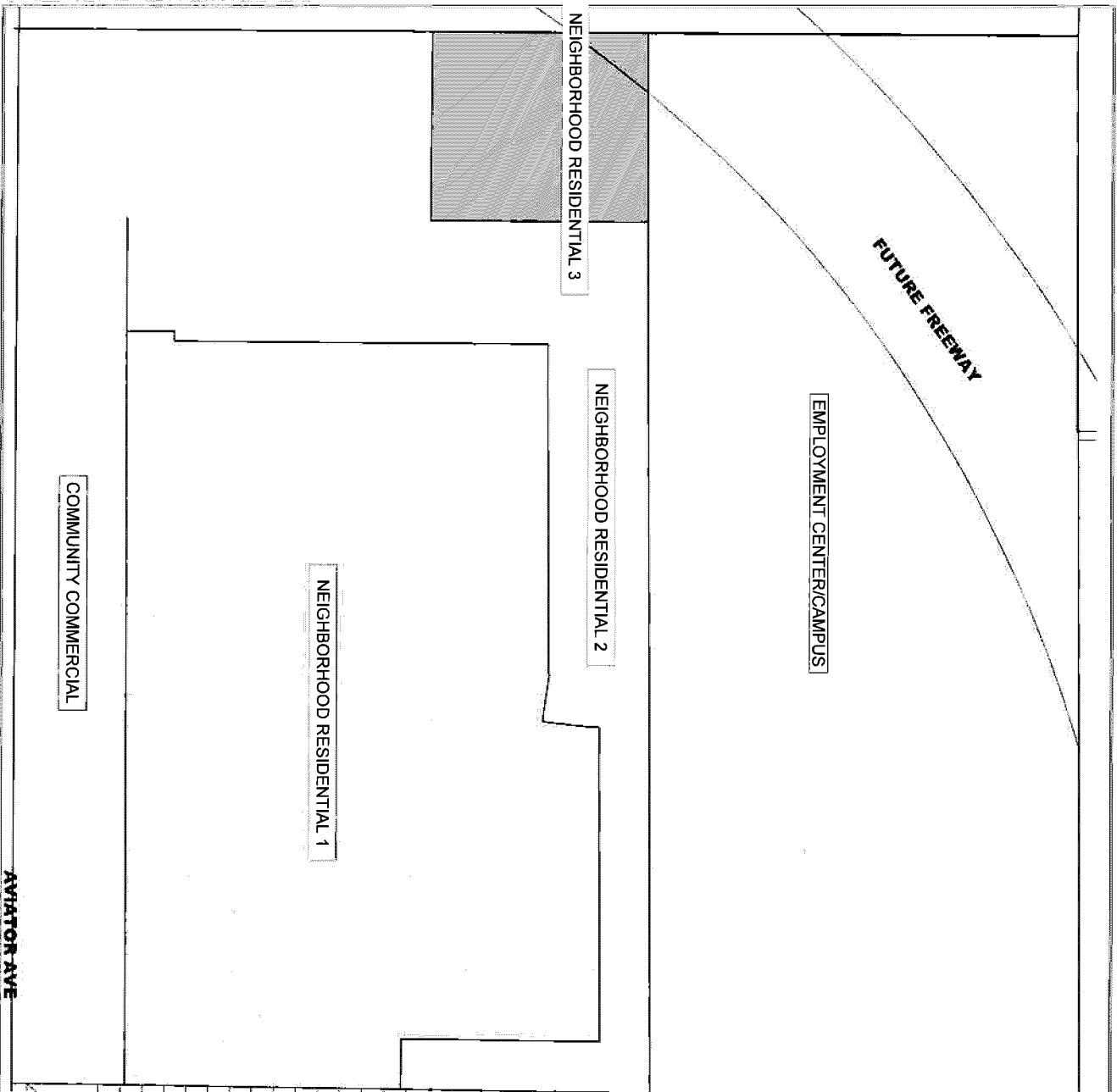
**B&H HOLDINGS**  
EAGLE MOUNTAIN, UTAH

REZONE EXHIBIT

Blair Gault  
Surveyors & Planners

**B&H**  
ENGINEERS  
SURVEYORS  
PLANNERS  
3102 N. Main Street  
Salt Lake City, UT 84143  
Phone: 313.788.8888  
Fax: 313.788.8888  
www.blairgault.com

DATE	4/6/2021
BY	BLG
PROJECT	2020-0039
OWNER	BHO
SCALE	AS SHOWN
PROJECT	1



LAND USE	ACRES	% OF TOTAL
TOTAL	145.09 AC	100%
EMPLOYMENT CENTER/CAMPUS	64.00 AC	44%
NEIGHBORHOOD RESIDENTIAL 1	44.00 AC	30%
NEIGHBORHOOD RESIDENTIAL 2	27.00 AC	19%
NEIGHBORHOOD RESIDENTIAL 3	14.00 AC	10%
COMMUNITY COMMERCIAL	14.00 AC	10%

NEIGHBORHOOD RESIDENTIAL 1

NEIGHBORHOOD RESIDENTIAL 2

NEIGHBORHOOD RESIDENTIAL 3

EMPLOYMENT CENTER/CAMPUS

COMMUNITY COMMERCIAL

AVIATOR AVE

**B&H HOLDINGS**  
EAGLE MOUNTAIN, UTAH

GENERAL PLAN AMENDMENT

**B&H**  
A UTAH CORPORATION  
ENGINEERS  
SURVEYORS  
PLANNERS  
3100 N. MAIN STREET  
SPOKANE, IDAHO 83406  
PH: 208.325.8888  
FAX: 208.325.8888  
WWW.BANDH.COM

DATE: 4/27/2021  
BY: [Signature]  
CHECKED BY: [Signature]  
APPROVED BY: [Signature]  
2020-0059  
DRAFT  
CORNER ST  
BTG

Exhibit "E"  
Utility Plan

