

COTTONWOOD HEIGHTS

ORDINANCE NO. 363-A

AN ORDINANCE ENACTING THE PDD-2 (WASATCH ROCK REDEVELOPMENT) ZONING ORDINANCE; RE-ZONING 21.56 ACRES OF REALTY AT 6695 SOUTH WASATCH BLVD. TO PDD-2 (WASATCH ROCK REDEVELOPMENT); AND AMENDING THE ZONING MAP

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “Act”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

WHEREAS, on 14 July 2005, the legislative body (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City; codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and adopting a zoning map (the “*Zoning Map*”) for the City; and

WHEREAS, thereafter, the Code was amended to include Chapter 19.51 (Planned Development District) (“*Chapter 19.51*”) creating an overlay zone in the City whereunder each of the parcels of realty designated in Chapter 19.51 (each, an “*eligible parcel*”) could be re-zoned to a unique “planned development” zone following development of a proposed customized zoning ordinance for each such parcel, recommendation by the City’s planning commission (the “*Planning Commission*”), and approval by the Council, all as provided in Chapter 19.51, the balance of the Code, and the Act; and

WHEREAS, the approximately 21.56 acres parcel of realty located at approximately 6695 South Wasatch Blvd. in the City (the “*Property*”), which currently is zoned F-1-21, is an eligible parcel for which a customized “planned development” zoning ordinance may be created and imposed on the Property as provided in Chapter 19.51; and

WHEREAS, following application by or on behalf of the owner of the Property, a customized “planned development” zoning ordinance (the “*PDD-2 Ordinance*”) for the “PDD-2 (Wasatch Rock Redevelopment)” zone (the “*Zone*”) was developed for possible enactment and imposition on the Property as provided in Chapter 19.51; and

WHEREAS, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed PDD-2 Ordinance and application of the Zone to the Property; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, following the public hearing, the Planning Commission recommended that the Council approve enactment of the PDD-2 Ordinance and imposition of the Zone on the Property; and

WHEREAS, the Council subsequently took additional public comment concerning the PDD-2 Ordinance and application of the Zone to the Property; and

WHEREAS, the Council has reviewed and is familiar with the PDD-2 Ordinance, a copy of which is annexed as an exhibit to this ordinance, and has formulated various revisions to the PDD-2 Ordinance following its receipt from the Planning Commission as authorized by UTAH CODE ANN. 10-9a-502(2); and

WHEREAS, on 3 August 2021, the Council met in regular meeting to consider, among other things, enacting the PDD-2 Ordinance, as revised, and re-zoning the Property from F-1-21 to the PDD-2 (Wasatch Rock Redevelopment) zone; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing and other public meetings, and other relevant input, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to enact the PDD-2 Ordinance and to re-zone the Property from F-1-21 to the PDD-2 (Wasatch Rock Redevelopment) zone as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Enactment and Re-zone.** The Council hereby enacts the PDD-2 Ordinance and re-zones the Property from F-1-21 to the PDD-2 (Wasatch Rock Redevelopment) zone.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance No. 363-A (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance, assigned no. 363-A, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City’s Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 3rd day of August 2021.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: 

Paula Melgar, Recorder



By: 

Michael J. Peterson, Mayor

VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Petersen	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input type="checkbox"/>	Nay <input checked="" type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 3rd day of August 2021.

POSTED this 3rd day of August 2021.

PDD-2 (WASATCH ROCK REDEVELOPMENT) ZONE

A Planned Development District Under Cottonwood Heights Code Chapter 19.51

- Section 1. Purpose.**
- Section 2. Findings.**
- Section 3. Approval of Development Plan; Phasing.**
- Section 4. Uses.**
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- Section 8. Outdoor lighting.**
- Section 9. Signage.**
- Section 10. Environmentally sustainable design.**
- Section 11. Reversionary clause.**
- Section 12. Contrary law.**
- Exhibit A Development Plan**
- Exhibit B Project Design Guidelines**

Section 1. Purpose.

A. The purpose of this ordinance (the “*ordinance*”) is to create a zone (the “*PDD-2 zone*”) to allow the phased development of approximately 21.56 acres of real property (the “*Property*”) that is located at approximately 6695 South Wasatch Boulevard in the city of Cottonwood Heights, Utah (the “*city*”) as shown in the development plan attached as Exhibit A (the “*Development Plan*”) and in the official zoning records of the city. The PDD-2 zone is applicable only to the Property.

B. The project (the “*Project*”) described in the Development Plan is a mixed-use project located in a manner and an environment that reflects attention to the Property’s topography, location, and specific features and sets forth the approved concepts for architectural, landscaping and urban design principles consistent with the Cottonwood Heights Code of Ordinances (the “*Code*”). The PDD-2 zone and the Project promote the goals and objectives set forth in Code Section 19.51.020 and the city’s general and master plans. The Project as depicted on the Development Plan will be adequately served by public streets, municipal services and public utilities of adequate capacity.

C. This ordinance is a “PDZ ordinance” as that term is defined in Code Section 19.51.020(C), and the PDD-2 zone is a Tier 1 Planned Development District project as described in Code Section 19.51.060.

Section 2. Findings.

Creation and adoption of the PDD-2 zone is based on, *inter alia*, the following findings by the city’s city council (the “*Council*”):

A. Development in the PDD-2 zone will support existing retail and commercial business in and near the Wasatch Boulevard area. Development in the PDD-2 zone will include residential and commercial properties. The development is located along major UTA bus corridors and adjacent to UTA bus stops with routes to and from many office and retail businesses.

B. The PDD-2 zone includes a mix of uses, including hotel, retail, office and other commercial uses together with residential uses. The different uses in the PDD-2 zone have a pedestrian orientation and have been located to accommodate each of those uses. The multi-family residential units have access to a variety of pedestrian amenities on the site, including pools, plazas, walkways, etc.

C. The PDD-2 zone is compatible with the city's general plan, as it provides for residential and commercial uses that are compatible with the land use designations on the site and compatible with the commercial and public amenity features within and near the Property.

D. Site features, uses, public amenities and aesthetic characteristics required in the PDD-2 zone encourage pedestrian activity within the site, and provide safe access to multi-modal transportation opportunities at a scale appropriate for the context of the site.

E. The PDD-2 zone properly integrates the physical characteristics of the site with the proposed development by providing important trail connectivity through the Property. The building height, architectural massing, and spatial relationship of proposed structures is appropriate for the area, and is valuable reuse and redevelopment of a site no longer suitable for extractive or other sand and gravel operations.

F. With the design of an appropriate entryway and signal, the PDD-2 zone site is properly served by public streets and services.

G. The PDD-2 zone furthers the goals of the city's Wasatch Boulevard Master Plan by creating a dense, mixed-use, walkable development with appropriate outdoor amenities in proper context at the site historically known as the "gravel pit."

H. The PDD-2 zone helps achieve the city's affordable housing goals by requiring deed-restricted affordable housing units.

Section 3. Approval of Development Plan; Phasing.

A. This ordinance constitutes the Council's legislative approval of the PDD-2 zone and the Development Plan, subject to any additional Council approvals required by this ordinance.

B. Construction of the Project improvements shown on the Development Plan may be done in phases pursuant to a phasing plan reviewed and approved by the director of city's community and economic development department or designee (the "*Director*").

C. This ordinance approves a residential condominium use in the Project, provided that this ordinance does not constitute city approval of the final density and massing of the condominium use but instead only represents entitlement for that land use in the general location depicted in the Development Plan. Final building height, size, footprint, total unit count, parking, and other details concerning the proposed condominium use shall be determined through an amendment to this ordinance and the Development Plan reviewed and approved by the Council, in its legislative discretion, following recommendation by the city's planning commission ("*Planning Commission*"), city's planning department ("*Department*") staff, city's development review committee ("*DRC*"), city's architectural review commission ("*ARC*"), city's geologist, or other city-related individuals or advisory bodies in accordance with city's requirements and normal development review processes.

D. Site plans for each phase, subdivision plats, densities, building heights, massing, site layout and uses shall conform to the requirements of the Code, this ordinance and the Development Plan. Prior to development, each phase shall be reviewed and approved by the city (including ARC review and approval of the site plan for that phase) to ensure compliance with this ordinance, the Development Plan, Project-specific design guidelines, all relevant provisions of the Code, and other relevant site plan requirements.

E. Approval of subdivision plats with fewer than ten lots may be approved administratively by the Department subject to Code Title 12 (Subdivisions).

F. If substantial discrepancies are discovered during review of site plans or subdivision plats, applications may be referred to the Planning Commission for final consideration or recommendation to the Council, as appropriate.

G. Material changes to this ordinance or the Development Plan arising from a submittal; the discovery of unanticipated geotechnical, geologic, or other site hazards; or for any other reason shall require an amendment to this ordinance following review, recommendation and/or approval by the DRC, ARC, Planning Commission and Council as specified in Code Chapter 19.51 (Planned Development District) ("*Chapter 19.51*") and other Code provisions.

Section 4. Uses.

A. The permitted uses in the PDD-2 zone include:

1. Multi-family residential dwellings;
2. General retail;
3. Office;
4. Restaurant;
5. Hotels;
6. Entertainment venues;

7. Public and quasi-public outdoor recreation and gathering amenities, including but not limited to trails, plazas, courtyards, etc.; and

8. Home occupations, as defined by and in accordance with Code Section 19.76.040(F).

B. Uses not listed as permitted in this section shall be prohibited.

Section 5. Development requirements.

Property in the PDD-2 zone shall be developed in conformance with this ordinance, including the Development Plan attached as Exhibit A and incorporated herein by reference; the applicable requirements of Chapter 19.51, including all applicable base Tier 1 regulations set forth in Table 1 of Chapter 19.51 attached as Exhibit B; the balance of the Code, including Title 12 (Subdivisions); all applicable APWA standards; the International Building Code; the International Fire Code; such other city standards as may be applicable to development in the PDD-2 zone as determined by the DRC; and the following additional standards:

A. Height. Building heights shall be no taller than as described in the Development Plan and measured from the average grade elevation of Wasatch Boulevard as specified in Code Section 19.51.060(B)(3).

B. Setbacks. The setbacks for all buildings in the PDD-2 zone shall be as generally depicted in the Development Plan. The western boundary of the PDD-2 zone site shall be considered the front yard.

C. Residential Units. Initially, the PDD-2 zone shall contain no more than 325 residential dwelling units, as depicted in the Development Plan. Those 325 units shall be developed in Phase 1 of the Project with construction of the multi-family apartment building. Additional condominiumized residential units may be constructed in the Project subject to and contingent upon future approval of massing and density of the proposed condominium use by the Council following recommendation by the Planning Commission. Except as specified, no additional residential units shall be added to the PDD-2 zone without a Council-approved amendment to this ordinance and revision to the Development Plan following recommendation by the Planning Commission.

D. Coverage. The maximum lot coverage for in the PDD-2 zone shall be as depicted in the Development Plan.

E. Lot dimensions. Subject to Section 19.52.030, the minimum lot dimensions shall be as generally depicted in the Development Plan.

F. Storefronts and access (retail and commercial areas). A minimum of 50% of the height and width of the ground-floor frontage of retail and commercial buildings shall consist of windows, window displays, doors, or a combination thereof. Such windows, window displays, or doors shall be provided between two and eight feet above grade adjacent to the principal building frontage.

G. Parking.

1. The PDD-2 zone shall include parking stalls per unit and otherwise as shown in the Development Plan. All required accessible parking stalls shall be designed in accordance with applicable building code standards and the provisions of Chapter 19.80 (Off-Street Parking Requirements). Any parking spaces located within the city right-of-way will require a maintenance agreement reasonably acceptable to the city for snow removal, maintenance and repair of such parking areas.

2. Shared parking is being utilized to create a more efficient use of land. As such, agreements must be in place prior to building permit approval providing formalized shared parking and cross-access agreements. All proposed proprietary and shared parking arrangements and agreements are subject to review and approval by the Director.

3. Shared parking areas shall be open to the general public for access to public and quasi-public outdoor recreation and gathering amenities within the Project. Structured parking for multi-family residential uses may be excluded from this requirement.

H. Utilities. Utilities shall be buried unless otherwise prohibited. Any proposed unburied utilities are subject to DRC review and approval. City-standard street lights shall be installed on all public roads, subject to DRC review and approval.

I. Amenities. Amenities in the PDD-2 zone shall be as generally depicted in the Development Plan and shall include the following:

1. Public trails;
2. Plazas, courtyards, enhanced crosswalks, and water features;
3. Public pedestrian walkways, sidewalks, and bicycle lanes; and
4. Public and private common green areas.

J. Pedestrian circulation. Pedestrian circulation in the PDD-2 zone shall comply with the following requirements:

1. Sidewalks and pedestrian walkways shall be as shown in the Development Plan;

2. As depicted in the Development Plan and subject to final approval by the ARC during site plan review for each phase of the Project, minimum requirements for public sidewalks in the PDD-2 zone include:

(a) Continuous sidewalks with a width of at least eight feet shall be located along collector and arterial public streets; and

(b) Sidewalk(s) along the private street(s) shall be located as shown on the Development Plan.

(c) Minimum requirements for private pedestrian walkways in the PDD-2 zone include:

(i) Hard-surfaced sidewalks with a minimum width of five feet;

(ii) Readily visible sidewalks free of encroachment by parked vehicles;

(iii) Paving consisting of concrete or other masonry materials differentiated from the driveway and parking areas through the use of color, texture, or materials;

(iv) Shade provided by deciduous shade trees spaced at one per 30 linear feet of walkway or building canopy; *provided, however*, that shade trees within the aqueduct easement (the "MWD

Easement”) across the Property benefitting of the Metropolitan Water District (“MWD”) will not be required to be installed if the city receives a written determination by MWD during site plan review prohibiting such installation;

(v) Lighting with pedestrian-scaled fixtures; and

(vi) A six-foot wide pedestrian trail shall be located through the Project beginning at Gun Club Road and terminating at the South property line (the “*Bonneville Shoreline Connector Trail*”) shall be developed with an appropriate surface as shown on the Development Plan, subject to ARC review and approval. The Bonneville Shoreline Connector Trail shall be improved and maintained at the Project’s cost; shall be perpetually open to the public, allowing the public to traverse the Property from one side to the other; and may in the future be included in a public trail system sponsored by the city. If formally requested by the city as part of a city-sponsored trail system involving trail improvements and a trail easement on either or both sides of the site, so long as one side connects to a trailhead or access point accessible to the general public, the then owner(s) of the affected portions of the Property shall grant a non-exclusive public trail easement to the city in the location of Bonneville Shoreline Connector Trail, in which event the city would thereafter assume responsibility for the trail improvements and their maintenance. The form of such easement grant shall be one that is reasonably proposed by the city and reasonably acceptable to such owner(s). Trail users shall be permitted to utilize shared parking areas within the Project, excluding structure parking for multi-family residential uses.

3. In order to create a safe pedestrian environment, multi-family residential buildings shall be sited so that all required internal sidewalks are in view of at least one unit’s living area windows.

4. Internal sidewalks parallel and adjacent to a street or drive aisle shall be raised or separated from the street or drive aisle by a raised curb, landscaping or other physical barrier. If a raised internal sidewalk is used, the ends of the raised portions must be equipped with curb ramps.

5. When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian sidewalk must be increased to a width of seven feet when parking is located on one side, and a minimum width of nine feet when parking is located on both sides.

K. *Open space*. Open space shall be provided in the form of natural areas meriting preservation, landscaping, pedestrian plazas/courtyards, trails, atriums and/or other significant spaces open to the public. Public open space shall include trails and such other portions of the Project that are so identified on the Development Plan. Vehicular circulation and parking shall not qualify as open space but are required to meet parking and landscaping requirements. Open space amenities shall be approved and installed in a timely manner and consistent with development of adjacent Project phases. During Phase 1 of Project development, an open space phasing plan shall be submitted for review and approval by the ARC.

L. *Landscaping*. Prior to the use or occupancy of any premises in the PDD-2 zone, the following landscaping requirements shall be met, as depicted in the Development Plan and subject to approval by the ARC during site plan review for each phase of the Project:

1. At least 60% of the landscaped area shall be vegetated, subject to vegetation and landscaping limitations related to the MWD Easement.

2. Provide a ground-level landscaped area equal to at least 25% of the gross land area in the PDD-2 zone.

3. For landscaped areas designed as buffers, setbacks or visual backdrops, 40% of the area shall be vegetated with a combination of groundcover, vines, shrubs, and trees. These areas must be at least eight feet wide.

4. For large paved pedestrian spaces such as courtyards or plazas, a 12-foot tall/two-inch caliper conifer or a 15-gallon/eight-foot tall deciduous tree shall be required for every 200 square feet of paved area. A 50% reduction in the number of trees in such areas may be permitted if at

least 25% of the ground plane is vegetated with potted plants, vines, shrubs, or groundcover. Landscaping plans for all paved spaces and pedestrian areas shall be subject to review and approval by the ARC.

5. Landscaping shall be installed in accordance with the Development Plan or as otherwise outline in this ordinance. A sustainable, water-efficient, and context-sensitive landscaping palette shall be utilized in all landscaped areas.

6. Except as otherwise provided in subsection (L)(4), all new deciduous trees shall have a minimum caliper size of two inches and all evergreen trees shall be planted at a minimum height of five feet.

7. Landscaping adjacent to Wasatch Boulevard shall provide a satisfactory combination of landscaping, retaining, and fencing so that the view of standard parked cars within the shared parking areas are obstructed from Wasatch Boulevard.

M. Access/Cross-Parking. Access to all development in the PDD-2 zone shall be constructed as depicted in the Development Plan. Covenants, conditions, restrictions and agreements reasonably acceptable to the city shall be recorded against the Property to provide for cross-access and cross-parking among and between the lots and uses within the PDD-2 zone.

N. Site Reclamation. Site reclamation shall occur as set forth in the Development Plan. Prior to the issuance of a building permit for a portion of the Project, final studies and engineering drawings pertaining to such portion of the Project will be submitted for review and approval by the city engineer as reasonably requested by the city engineer. Reclamation of the large natural hillside shall be reviewed and approved during Phase 1 of the Project's development.

Section 6. Development and architectural standards.

A. Development shall be allowed as generally depicted in the Development Plan subject to compliance with all applicable city standards, ordinances, and Tier 1 requirements as specified in Code Section 19.51.060 and the accompanying "Table 1" unless otherwise expressly provided herein. Development and architectural and site design standards for each Project phase and all open or common areas shall be in compliance with the intent of the Development Plan, the Gateway Overlay District (*see* Code Chapter 19.49), and the supplemental design guidelines outlined in Exhibit B, which standards are approved architectural examples and illustrations for the entire Project to be located on the Property.

B. The use of aluminum and vinyl siding shall be prohibited. Materials depicted in the Development Plan or described in the Supplemental Design Guidelines shall be allowed.

C. Development in the PDD-2 zone is subject to all applicable sensitive lands development standards detailed in Code Chapter 19.72, and each phase of the Project shall be required to properly complete requisite site studies and reports and comply with findings of required sensitive lands studies (e.g. slope stability analyses, fault hazard studies, liquefaction studies, soils reports, etc.). Such requirements shall be complete, and reviewed and approved by the DRC, for each of the Project's development phases before building permits are issued for such phase. No vertical construction may take place for any development phase until all required sensitive lands studies have been submitted, and reviewed and approved by the DRC, for the that development phase.

Section 7. BMR units.

A. The provisions of this Section 7 shall control and supersede any contrary provisions concerning BMR units contained in Chapter 19.51.

B. For purposes of this Subsection, the following definitions shall be used:

1. “*Affordable.*” Housing costs that are affordable to households earning not more than eighty percent (80%) of the AMI. Housing costs that do not exceed thirty percent (30%) of the household income of a qualifying household shall be deemed affordable hereunder.

2. “*Area median income*” or “*AMI.*” As described in the city’s most recently approved affordable housing plan (the “*Housing Plan*”), area median income is the annual median income of households within the city. AMI shall be updated annually using the most recent U.S. Census Bureau statistics for the area within the city, using the methodology used in the Housing Plan or such other methodology as both the residential project operator and the city approve in writing as an appropriate substitute protocol for determining the AMI. The residential project operator shall reimburse all costs reasonably incurred by the city to engage experts to advise the city concerning such updates, so long as the city gives the operator reasonable prior written notice of its intent to engage such expert.

3. “*Bedroom.*” A room designated to be used for sleeping purposes and which contains one or more closets and meets all applicable city building code requirements for light, ventilation, sanitation and egress.

4. “*BMR units.*” Residential dwelling units that are BMR units required by Chapter 19.51 and are deed-restricted to the housing size and type for individuals meeting the occupancy guidelines approved by the city.

5. “*Deed restriction.*” The recording of an encumbrance on legal title to the to the Property of this ordinance or a notice of this ordinance, as determined by the city.

6. “*Household.*” All related and unrelated individuals occupying a unit.

7. “*Market units.*” Residential dwelling units in the PDD-2 zone that are not BMR units and are subject to rental at full market rates.

8. “*Operator.*” The owner or manager of the BMR units and market units, respectively.

9. “*Qualifying household.*” A household earning not more than eighty percent (80%) of the AMI.

C. Fifteen percent (15%) of the total number of residential dwelling units within the PDD-2 zone shall be BMR units; *provided, however*, that the BMR units in the PDD-2 zone may be located entirely in the multi-family apartment building(s) and not in the residential condominium building(s). At no time may fewer than 15% of total multi-family residential units in the Project (including any future condominium units) be dedicated as BMR units. BMR units shall be rented to qualifying households at a price which is affordable. The maximum rent shall be adjusted annually in accordance with changes to the city’s AMI. As applied to qualifying households, the lease term shall be one year and shall be renewable at the tenant’s option if the tenant remains a qualifying household and has complied with the terms and conditions of the lease.

D. BMR units developed in accordance with the requirements of this ordinance are not included in the density calculation for the Project and shall not be subject to the city’s impact or similar fees. Required BMR units shall be disbursed throughout all floors of the multi-family apartment buildings in the PDD-2 zone. Further, in order to assure livability, all BMR units shall be no smaller than the minimum gross square footages for the following unit types:

1. Studio – 500 sq. ft. minimum;
2. 1-bedroom unit – 650 sq. ft. minimum;
3. 2-bedroom unit – 900 sq. ft. minimum;
4. 3-bedroom unit – 1,150 sq. ft. minimum.

E. The operator of the BMR units shall reasonably determine which units are BMR units, provided that each of the four unit types described above shall be included among the Project’s BMR units in the same proportion as each of such unit types is included among the Project’s

market units unless otherwise agreed by the city in writing based on a competent, third-party market analysis.

F. BMR units may differ from the Project's market units with regard to interior amenities and gross floor area, provided that:

1. Such differences are not apparent in the general exterior appearances of the Project's dwelling units;
2. Such differences do not include insulation, windows, heating systems and other improvements related to the energy efficiency of the Project's residential dwelling units; and
3. The square footage of the BMR units shall not be less than the minimum square footage requirements set forth above.

G. All BMR units shall be constructed and made ready for occupancy on approximately the same schedule as the Project's market units; *provided, however*, that certificates of occupancy (whether temporary or permanent) for the last ten percent (10%) of the market units shall be withheld by the city until certificates of occupancy have been issued for all of the BMR units. If market units are to be developed in phases, all BMR units shall be developed proportionately. In the required schedule for phased development, details shall be included for all BMR units.

H. Prior to issuance of a building permit:

1. A deed restriction approved by the city shall be recorded in the office of the Salt Lake County Recorder against legal title to the Property; and
2. The city shall have reasonably determined that, due to its senior priority against legal title to the Project (achieved as a result of recording priority, subordination of senior lienholders, or similar), as evidenced by a title commitment provided at the operator's cost and issued by a licensed title insurer reasonably acceptable to the city, the deed restriction is not subject to being voided by foreclosure or other legal action.

H. The operator of the BMR units shall:

1. Use commercially reasonable efforts to advise the public of the existence and possible availability of the Project's BMR units, including, without limitation, annually so informing public and quasi-public bodies in Salt Lake County which provide affordable housing counseling or similar services to qualifying household populations, such as the Housing Authority of the County of Salt Lake and Utah Community Action.
2. Maintain a list, and allow the city to maintain a list, of those who have indicated interest in renting a BMR unit in the Project after the operator has verified each such person's status as a qualifying household under applicable AMI requirements.
3. Promptly contact the Director and such persons, based on their relative priority on such lists, when a BMR unit becomes available to rent.
4. Use diligent, commercially reasonable efforts to endeavor to rent a vacant BMR unit to a qualifying household tenant before renting the vacant BMR unit to a non-qualifying household tenant, including holding such BMR unit available for at least 45 calendar days (the "*Hold Period*") while diligently seeking a qualifying household tenant.

(a) The Hold Period shall commence immediately upon the operator receiving notice from the tenant of a BMR unit indicating the tenant's intent to not renew the lease. The Hold Period shall not expire before the subject unit becomes vacant and ready for occupancy by a replacement tenant.

(b) If a qualifying household tenant is not located within the Hold Period, then the vacant BMR unit may be rented to a non-qualifying household tenant for a lease term not exceeding six months in duration, whereupon the BMR unit shall again be made available for rent to qualifying household tenants for a new 45-day Hold Period before it may be rented to a non-qualifying household tenant as provided in this Section.

(c) Because the maximum lease term to a non-qualifying tenant is half the duration of the standard lease term to a qualifying tenant, it is anticipated that the rental of BMR units to non-qualifying household tenants (in the absence of available qualifying household tenants as provided in this Subsection 4) will result in more frequent “roll-over” of tenants in the BMR units, which in turn will necessitate more frequent readying of the BMR units for occupancy by replacement tenants. To provide a source of maintenance funds to the operator to repair any damage, clean carpets, etc. of a vacated BMR unit to make the unit ready for occupancy by a replacement tenant, the rental for a BMR unit charged to a non-qualifying household tenant (who comes to occupy such unit as provided in this Subsection 4) may exceed the rental charged to a qualifying household tenant, but only to the extent reasonably necessary to generate such maintenance/repair funding for the BMR units after taking into account other sources of maintenance funding such as forfeited deposits from the prior tenant(s). The city shall be entitled to verify that such additional rental amounts are both reasonable and being used only to defray such increased maintenance/repair costs (also called “direct unit turn costs”) of the BMR units, and the operator shall cooperate in such verification process by providing a ledger of (i) the direct unit turn costs associated with the tenant replacement of BMR units if rented to non-qualifying household tenants, and (ii) the increased rental amounts charged to such non-qualifying households occupying BMR units.

I. At the end of each calendar quarter, the operator shall file with the Director a written report in such form as the Director may reasonably require, including a log of the Project’s BMR units with details on rents charged, tenant qualifications and rental status of each BMR unit. The city shall be entitled to further verify compliance with this ordinance at any time or from time to time, and the operator shall reasonably cooperate in such verification process.

J. Future conversion of rental units to for-sale units shall require a Council-approved amendment to this ordinance, subject to all applicable city hearings and approvals.

Section 8. Outdoor lighting.

Outdoor lighting in the Project shall comply with Code Chapter 19.77 (Outdoor Lighting).

Section 9. Signage.

The type, material, color and location of signage in the Project shall comply with the requirements set forth in Code Section 19.51.060(B)(11) and Code Chapter 19.82 (Signs), as well as the sign locations approved in the Development Plan, which approval includes sign types, dimensions and numbers approved for this Project. Final signage plans shall be reviewed by the ARC to determine compliance with this ordinance and the Development Plan. The ARC will review all signs for design compliance, location, size and other applicable “time, place, and manner” considerations.

Section 10. Environmentally sustainable design.

The Project shall be developed utilizing sustainable development practices included in the Development Plan, as verified and approved by the ARC during site plan review for each Project phase and confirmed by city staff prior to issuance of building permits for each phase. A written summary of sustainability measures shall be submitted during site plan review of each phase. Additional sustainable development practices, including electric vehicle chargers, are encouraged and will be reviewed on a case-by-case basis by the Director and city sustainability staff.

Section 11. Reversionary clause.

If a building permit is not issued for the principal improvements to be constructed in the PDD-2 zone within ten years after the effective date of this ordinance, this ordinance shall be

deemed retroactively repealed and the Property shall revert back to its zoning designation in effect immediately prior to the passage of this ordinance (or the equivalent of such zoning designation that is in existence on the date of such reversion), subject to all applicable city processes for repealing ordinances and modifying zoning designations. An applicant may request an extension for one additional year provided that:

(A) The extension is applied for prior to the fifth anniversary of enactment of this ordinance;
and

(B) The Director determines that good cause exists for the granting of such requested extension.

Section 12. Contrary law.

This ordinance is subject to any contrary federal or Utah state law.

EXHIBIT A

[The approved Development Plan is on file and of record with the Cottonwood Heights Community and Economic Development Department]

EXHIBIT B

[The approved Project Design Guidelines are on file and of record with the Cottonwood Heights Community and Economic Development Department]