

**MIDVALE CITY, UTAH
RESOLUTION 2014-R-39**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A
DEVELOPMENT AGREEMENT BETWEEN MIDVALE CITY CORPORATION
AND ARBOR GARDNER BINGHAM JUNCTION HOLDINGS, L.C. FOR THE
VIEW 8 OFFICE BUILDING DEVELOPMENT**

WHEREAS, pursuant to Section 10-9a-102 (2) of the Utah State Code, the City is authorized as follows: “To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, trees, and landscaping, unless expressly prohibited by law”; and

WHEREAS, due to the unique circumstances involved in the development of the Midvale Slag Superfund Site, the City has found it necessary and beneficial to the Property Owner, Developer and the City to enter into a Development Agreement detailing improvements to be installed by all parties, time frames in which they must be completed, and limits to the cost of those improvements; and

WHEREAS, all parties have negotiated such agreement, and, as of the date of this Resolution, agree to enter into said agreement; and

WHEREAS, the City Council has thoroughly reviewed said Development Agreement and agrees that entering into such agreement will help further the development of the area.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
MIDVALE CITY, STATE OF UTAH, AS FOLLOWS:**

Section 1. The Midvale City Council has thoroughly reviewed the attached Development Agreement between Midvale City Corporation and Arbor Gardner Bingham Junction Holdings, L.C.

Section 2. The Midvale City Council, through its understanding of the development challenges associated with the development of the View 8 property, formerly a Superfund Site, believe it is in the best interest of the Property Owner, Developer and the City to enter into such agreement.

Section 3. The Midvale City Council on this date does hereby authorize the Mayor to enter into the attached agreement on behalf of the City.

PASSED AND APPROVED this 2nd day of September, 2014.

ATTEST:

Rori L. Andreason
Rori Andreason, MMC
City Recorder



JoAnn B. Seghini
JoAnn B. Seghini, Mayor

Voting by City Council
Stephen Brown
Paul Glover
Robert Hale
Paul Hunt
Wayne Sharp

"Aye"

✓
✓
✓
✓
✓

"Nay"

When recorded, return to:
Midvale City
655 W. Center St.
Midvale, UT 84047

Parcel ID: 21-26-202-004

**DEVELOPMENT AGREEMENT
VIEW 8 OFFICE BUILDING DEVELOPMENT-MIDVALE CITY, UTAH**

THIS DEVELOPMENT AGREEMENT (this "Development Agreement") is entered into as of this 21st day of April, 2014 by and among Arbor Gardner Bingham Junction Holdings, L.C. ("Developer"), its successors and assigns; and Midvale City Corporation, a Utah municipal corporation (the "City"), for the View 8 Office Building Development, which is located on Lot 1 of Bingham Junction Savage Subdivision in Midvale City, Utah and is a portion of The Junction at Midvale Subarea of the Bingham Junction Project. For purposes of this Development Agreement, Developer and the City may be referred to herein collectively as the "Parties" and individually as a "Party."

A. Master Development Agreement. The Parties hereby acknowledge the existence and continuing applicability of that certain Master Development Agreement (the "MDA") for the Bingham Junction Project dated April 6, 2005, and that certain Development Agreement for The Junction at Midvale Sub Area of the Bingham Junction Project dated November 14, 2007 (the "Junction Agreement"). The Parties further agree that both the MDA and Junction Agreement are in full force and effect and inure to the benefit of the Parties in the ownership and development of the portion of the Bingham Junction Project subject to the terms and conditions of this Development Agreement. The Parties desire to enter into this Development Agreement in order to address various issues specific to this portion of the Bingham Junction Project, which are not specifically addressed in the above-referenced documents.

B. View 8 Office Building Project. The View 8 Office Building Development is located on property recorded as Lot 1 of the Bingham Junction Savage Subdivision (the "Property"), approximately 10.37 acres and includes the private drive located along the southern side. The Property is located at the southwest corner of 7200 South and Bingham Junction Boulevard, and is specifically described in **Exhibit A** attached hereto. The development intent for the Property is an office building(s), which may include, without limitation, office and related uses (the "Approved Use"). This project is to be known as the "View 8 Office Building Development," which will sometimes be referred to herein as the "Project."

C. Variance to build-to-line requirement. On October 10, 2013, a variance was granted by the Midvale City Appeals and Variance Hearing Officer, permitting a modification to the build-to-line requirement along the North property boundary, due to

the presence of a wing wall for Salt Lake County's constructed box culvert. A copy of this variance is attached as **Exhibit B**.

D. Small Scale Master Plan for Phase I. City approved a Small Scale Master Plan for the first phase of this Project, as shown on **Exhibit D**. This approval is subject to specific conditions of approval from the Midvale City Planning Commission on November 13, 2013, which are attached as **Exhibit C**.

E. Exterior Finish And Pedestrian Plaza. The exterior building finish and pedestrian plaza were later approved by the Planning Commission on January 22, 2014. The inclusion of the pedestrian plaza and associated amenities into the plan allowed a five foot increase to the depth of the required build-to line along Bingham Junction Boulevard. This approval language is included in **Exhibit C**, with the pedestrian plaza shown on **Exhibit E** and the building elevations with colors and materials shown in **Exhibit F**.

F. City, acting pursuant to its authority under Utah Code Section 10-9a-101, et seq., and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has elected to approve this Agreement.

G. Property Owner, Developer, and City desire to enter into this Agreement to ensure the orderly development of the Property which is consistent with the approved Small Scale Master Plan and subsequent refined development plans. This Agreement contains various general requirements and conditions for the design and development of the Property, including timing of specified improvements. Some of these are in addition to the other applicable ordinances and regulations of the City.

NOW, THEREFORE, in consideration of the above recitals, terms of this Development Agreement, and the mutual benefits to be derived here from, the Parties agree as follows:

Article 1

The View 8 Office Building Project

1.1 Legal Description of Property. The Property covered by this Development Agreement consists of approximately 10.37 acres of land located at the southwest corner of 7200 South and Bingham Junction Boulevard. The Property is more fully described in **Exhibit A**, Legal Description, attached hereto.

1.2 Project Description. Phase I of the Project consists of approximately 106,250 square feet of office space, associated parking, landscaping, pedestrian plazas and specified access points on Bingham Junction Boulevard, FL Smidth Drive, and a private internal street to the south, as shown on **Exhibits D & E**.

1.3 Project Approval. The Project has been approved under the amended BJ zone (Chapter 17-7-9) in effect as of the date of this Development Agreement, and the

Junction at Midvale Zone provisions (Chapter 17-7-9-12.2) in effect as of the date of this Development Agreement. The approval includes a Small Scale Master Plan for Phase I. The review and approval process included a lawfully advertised public hearing before the Midvale City Planning Commission on November 13, 2013. The City acknowledges and agrees that Developer has the vested right to develop and construct the Project in accordance with the provisions of the Amended BJ Zone, the Junction at Midvale City Zone, the MDA, the Junction at Midvale City Agreement, this Development Agreement, the Small Scale Master Plan for the designated portion of Lot 1, and other applicable ordinances and regulations of the City in effect as of the date of this Development Agreement. Planning Commission approval of a Small Scale Master Plan and City Staff approval of a Final Site Plan will be required for the "Future Project" area before development can occur within this area.

Article 2

Guarantee of Perimeter Open Space Improvements

2.1 Guarantee of Perimeter Public Open Space Improvements. At the same time as Developer completes the Project, Developer agrees to complete the required perimeter public open space improvements in accordance with **Exhibit E** and the approved final site plan for the Project. The Project includes perimeter perpetual open space areas for public use. These areas include a fifty foot wide perpetual open space easement along Bingham Junction Boulevard and a seventy foot wide perpetual open space easement along 7200 South. These areas shall become improved public open space, to include landscaping, irrigation, pedestrian pathways and pedestrian amenities. Prior to a Certificate of Occupancy being issued by the City for the Project, all public open space improvements including the sidewalk, park strip, landscaping, and lighting as depicted in **Exhibit E** of the Property, shall be installed as required by Section 17-7-9.12.2.8 of the Midvale City Code. Alternately, Developer may guarantee completion of these improvements through an irrevocable commitment of funds in the form of a check to be provided by Developer and held by the City in a reserve account established for such purpose. The irrevocable commitment of funds shall be made available to the City to complete the required improvements if Developer fails to complete this requirement within the allotted time frame, which shall be the City's sole remedy in the event of any such failure. The fund amount shall include the estimated cost of the materials and work to complete the perimeter public open space and sidewalk improvements. The list of improvements to complete the public open space areas is included in **Exhibit G**.

Article 3

Specific Conditions of Master Planned Development

3.1 Agreement to Comply with Specific Conditions of Approval. Developer agrees to comply with the Midvale City Planning Commission's conditions of approval as noted in **Exhibit C**, as well as the following conditions:

- 3.1.1 As allowed by the Zoning Ordinance, the build-to-line for the building may be increased an additional five feet in depth to promote

a pedestrian-oriented use. In order to satisfy the build-to-line requirement along Bingham Junction Boulevard and Junction View Drive for the Project, the public plaza shown on the site plan in **Exhibits E** is required to be constructed, as shown.

- 3.1.2 The south access road located between FL Smidth Drive and Bingham Junction Boulevard, as shown on **Exhibit D**, is located on property owned by the Developer. This road will function as a private internal driveway between the Project and development to the south known as the "Savage Project." The road will be constructed by the Developer and will remain under private ownership, and will not exceed twenty-six feet in width. Since this road is considered an internal driveway for this area, the Project does not need to comply with the build-to-line or thirty-foot (30') landscape setback along this road.
- 3.1.3 The undeveloped portions of the Property shall be maintained, at a minimum, in accordance with the "Institutional Controls" set forth in Chapter 8.10 of the Midvale City Municipal Code (the "Institutional Controls") and the Environmental Plan for Savage at The Junction at Midvale including without limitation the requirements relating to demarcation layer and surface cover. These areas shall also be seeded, appropriately irrigated, and maintained until such time as these areas are utilized for future development. This work shall be completed as part of the landscaping work and completed prior to issuance of a Certificate of Occupancy.
- 3.1.4 Institutional Controls. The Project construction shall comply with all applicable requirements set forth in the Institutional Controls (MMC Chapter 8.10; Section 8.10.090).

3.2 Development Application Process.

Developer shall prepare and submit a Final Site Plan for the Project that is consistent with the approved Small Scale Master Plan. This Final Site Plan shall be reviewed and approved by Midvale City prior to any construction activity on the Property. Performance bonds for public improvements shall be in place prior to any construction on the site.

Article 4 Future Project Area

4.1 Future Phases for the Bingham Junction Savage Subdivision. This Development Agreement anticipates future development to occur within the area designated as "Future Project" on the development plan included in **Exhibit D** and does not need to be amended as a result of this future development. All development within this "Future Project" area shall comply with the amended Bingham Junction Zone (Chapter 17-7-9) and the Junction at Midvale Zone provisions (Chapter 17-7-9-12.2). Prior to any

development occurring within this “Future Project” area, developer must receive Small Scale Master Plan and Final Site Plan approvals from the Planning Commission and Staff.

Article 5

General Terms and Conditions

5.1 Construction of Agreement: This Development Agreement shall be constructed and interpreted to ensure all Parties strictly comply with the requirements and conditions of the Small Scale Master Plan, and applicable Zoning Ordinance.

5.2 Laws of General Applicability. Where this Development Agreement refers to laws of general applicability to the Project, that language shall be deemed to refer to laws which apply to all other subdivided properties within Midvale City.

5.3 Agreements to Run with the Land. This Development Agreement shall be recorded against the Property. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors and assigns as described in 4.4 below.

5.4 Binding Effect. This Development Agreement shall be binding on any and all successors and assigns of the Parties in the ownership or development of any portion of the Project or Property.

5.5 Assignment and Transfer of Project. Any transfer or assignment of this Development Agreement shall comply with the provisions of Section 11.2 of the MDA.

5.6 Duration. The term of this Development Agreement shall commence on the date the Development Agreement is executed by all parties. The term of this Development Agreement shall extend for the period of time Developer, its successors or assigns, and Developer, its successors or assigns, own any portion of the Property, but in no event longer than the term of the MDA as set forth in Section 12.1 thereof.

5.7 Notices. Any notice, confirmation or other communication hereunder shall be given in writing by certified mail at the following addresses or numbers:

Midvale City:

Midvale City Manager
655 W. Center St.
Midvale, UT 84047

Midvale City Community & Economic Development Director
655 W. Center St.
Midvale, UT 84047

Midvale City Attorney
655 W. Center St.
Midvale, UT 84047

Developer:

K.C. Gardner Company, L.C.
90 South 400 West, Suite 360
Salt Lake City, Utah 84101
Attention: Christian Gardner

Any Party hereto may change its address by notice given to the other Parties in the manner required for other notices above.

5.8 Savings Clause. If any provision of this Development Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remaining provisions of the Development Agreement, or the application of such provision to the persons or circumstances other than those to which it is held invalid, shall not be affected thereby or considered invalid.

5.9 Continuation of Terms of MDA and Development Agreement. All of the other provisions of the MDA and the Junction at Midvale Agreement which apply to the Property, except as specifically modified herein, shall remain in full force and effect.

(Signatures begin on following page)

IN WITNESS WHEREOF, this Development Agreement has been executed by Midvale City Corporation, acting by and through the Midvale City Council, and by a duly authorized representative of Arbor Gardner Bingham Junctions Holdings, LC.

CITY:

MIDVALE CITY CORPORATION



By:

JoAnn B. Seghini
JoAnn B. Seghini, Mayor

ATTEST:

Rori L. Andreason
Rori L. Andreason, MMC
City Recorder

DEVELOPER:

ARBOR GARDNER BINGHAM JUNCTION
HOLDINGS, L.C., a Utah limited liability
company, by its Managers

By: K.C. Gardner Company, L.C., a Utah
limited liability company

By:

Christa Gardner

Name:

Christa Gardner

Its:

Manager

Subscribed and sworn to me this 21 day of APRIL, 2014



[Signature]
(Notary)
Residing in DAVIS County, Utah
My Commission expires: 10-16-16

INDEX OF EXHIBITS

EXHIBIT

DESCRIPTION

A	Legal Description of Property
B	Variance Approval
C	Conditions of Approval
D	Site Plan
E	Perimeter Open Space and Pedestrian Plaza
F	Building Elevations and Materials
G	Public Open Space Improvements

EXHIBIT A

LEGAL DESCRIPTION

Boundary Description

All of Lot 1, The Bingham Junction Savage Subdivision, according to the official plat thereof, filed in Book 2012 P at Page 54 (Recorded # 11386657) of the Official Records of the Recorder of Salt Lake County, State of Utah.

Contains 451,775 square feet or 10.371 acres.

Driveway South of Bingham Junction Savage Subdivision

Beginning at a point on the Westerly Right-of-Way Line of Bingham Junction Boulevard, said point being South 00°17'30" West 1,356.67 feet along the Section Line and West 1,438.94 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running thence South 33°11'04" West 31.00 feet along the Westerly Right-of-Way Line of said Bingham Junction Boulevard; thence North 56°55'12" West 296.92 feet; thence Northwesterly 69.25 feet along the arc of a 500.00 foot radius curve to the left (center bears South 33°04'48" West and the chord bears North 60°53'15" West 69.19 feet with a central angle of 07°56'06"); thence North 64°51'18" West 213.12 feet; thence Northwesterly 139.66 feet along the arc of a 500.00 foot radius curve to the left (center bears South 25°08'42" West and the chord bears North 72°51'25" West 139.21 feet with a central angle of 16°00'14"); thence North 80°51'32" West 109.02 feet to the Easterly Right-of-Way Line of FL Smidth Road; thence North 08°44'46" East 31.00 feet along the Easterly Right-of-Way Line of said FL Smidth Road; thence South 80°51'32" East 109.23 feet; thence Southeasterly 148.32 feet along the arc of a 531.00 foot radius curve to the right (center bears South 09°08'28" West and the chord bears South 72°51'25" East 147.84 feet with a central angle of 16°00'14"); thence South 64°51'18" East 213.12 feet; thence Southeasterly 73.54 feet along the arc of a 531.00 foot radius curve to the right (center bears South 25°08'42" West and the chord bears South 60°53'15" East 73.48 feet with a central angle of 07°56'06"); thence South 56°55'12" East 296.98 feet to the point of beginning.

Contains 25,872 Square Feet or 0.594 Acres

EXHIBIT B

Variance Approval

**BEFORE THE BOARD OF ADJUSTMENT
PLANNING AND ZONING DEPARTMENT
COMMUNITY AND ECONOMIC DEVELOPMENT
MIDVALE CITY, STATE OF UTAH**

IN THE MATTER OF:

VARIANCE REQUEST OF:

VIEW 72
C/O Mark Murdock

Applicant,

regarding:

Variance to build-to-line requirement located at
7160 South Bingham Junction Boulevard
Midvale, Utah 84047
(Property Address)

ORDER ON HEARING
(Administrative Hearing)

(Midvale City Code:
Sec.17-3-13 "Variance Process")

VAR-21-26-202-004

Mark E. Kleinfeld,
Hearing Officer

STATEMENT OF THE CASE

THIS MATTER concerning whether Applicant View 72 should be granted a variance to allow a waiver and modification to the build-to-line requirement as to a proposed permitted use building to be located at the southwest corner of the junction of 7200 South and Bingham Junction Boulevard, Midvale, Salt Lake County, Utah due to the presence of the west wing wall of a previously Salt Lake County ordered constructed box culvert came on to be heard before the Board of Adjustment Hearing Officer on October 8, 2013 at 2:00 o'clock P. M. Mountain Time, with Mark E. Kleinfeld serving as Hearing Officer.

Said hearing being held at the Midvale City offices located at 655 West Center Street, Midvale, Utah 84047, having been convened at the designated time of 2:00 (2:11) P. M., October 8, 2012 and adjourned at 2:47 P. M. on said same day.

Appearances:

Craig Hall, City Attorney, Midvale City, 655 West Center Street, Midvale, Utah 84047.

Mark Murdock, Gardner Company, Applicant, 400 West 90 South, Suite 360, Salt Lake City, Utah 84108

Also present were: Lesley Burns (City Planner), Matt Hilderman (Associate Planner) and Robert Elder (Ensign Engineering).

By the Presiding Officer:

Pursuant to Applicant View 72's variance request an Administrative Hearing was conducted on October 8, 2012 in the above-entitled proceeding. The Applicant was present at that time.

The hearing was convened and conducted in accordance with Midvale City Code Sections 17-3-13 and 17-5-1, et seq.

ISSUE, BURDEN and "STANDARD OF PROOF"

1. The basic issue in this case is:

"Should the Applicant View 72 be granted a variance to allow a waiver and modification to the build-to-line requirement as to a proposed permitted use building to be located at the southwest corner of the junction of 7200 South and Bingham Junction Boulevard, Midvale, Salt Lake County, Utah due to the presence of the west wing wall of a previously Salt Lake County ordered constructed box culvert"?

2. The "*burden of proof*" or "*burden of going forward*" in this case as to the above issue is on the Applicant. (Section 17-3-13 A. 3.)

3. As to the above and foregoing "issue" or "question" to be answered the "*standard of proof*" as to issues of fact is to be proven by a "*preponderance of the evidence*".

Formal opening statements were waived by the parties.

Thereafter, evidence was pro-offered and received.

SUMMARY OF THE EVIDENCE

Witnesses:

Referenced attendees, Mark Murdock, Lesley Burns, Matt Hilderman and Robert Elder were placed on their respective oaths. City legal counsel was allowed to "pro-offer" his respective testimony.

Exhibits:

The City and Applicant offered the following joint exhibits:

1. **Exhibit No. "A"**, comprising a copy of Midvale City's Department of Community and Economic Development Planning and Zoning Department "Variance Request Staff Report" concerning the instant variance request being File # VAR-21-26-202-004, containing eleven (11) pages of type-written or printed pages, including Exh. "1" and two (2) Exh.s numbered "C100".

(No objection being made Exhibit No. "A" was accepted and entered of record.)

The Hearing Officer being fully advised in the premises and taking administrative notice of the files and records of Midvale City, now enters his *Findings of Fact, Conclusions of Law, and Order*, as follows:

FINDINGS OF FACT

I, find by a preponderance of the evidence, the following facts:

1. Midvale City ("City") is a municipal corporation and political subdivision of the State of Utah. Midvale City is empowered to administer and enforce the Midvale City Zoning Code.
2. The Applicant View 72 ("Applicant") is the record owner of certain real property located at 7160 South Bingham Junction Boulevard, Midvale, Salt Lake County, Utah 84047, having acquired the property sometime in 2004 or 2005.
- 3.a. The Applicant anticipates the building of permitted use office building ("View 8") on the subject property.
- b. Prior to and or simultaneously with acquisition of the subject property the instant box culvert was installed at the direction Salt Lake County in 2004 or 2005.

c. Building to the build-to-line will substantially impact Applicant's real property.

d. Absent the granting of the present variance request the enjoyment of the subject property will be limited, if not fully negated due to the apparent fact that moving the planned building further west away from the box culvert so as to resolve the present 7200 South build-to-line issue would cause a build-to-line deficiency as to Bingham Junction Boulevard to the east. .

e. The Applicant filed its variance request on or about September 27, 2013.

4. That based on the preliminary facts as set forth in Paragraphs 1 through 3, immediately above, by mutual agreement of the parties and the Hearing Officer October 8, 2013 at 2:00 P. M. at the City Offices at 655 West Center Street, Midvale, Utah 8404 was set as the time and place for hearing.

DISCUSSION-ANALYSIS

The parties in large measure concur as to both the basic chronology and facts of the present circumstance.

The only real matter in "*dispute*" is whether the Applicant meets the criteria allowing the granting of a variance as per Section 17-3-13 A. 1 a through e., namely:

17-3-13 Variance process. (states in part)

"Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply for a variance from the terms of the zoning ordinance.

A. Variance Criteria.

1. Standards. A variance may only be granted if all of the following conditions are met:

- a. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
- b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

- d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
- e. The spirit of the zoning ordinance is observed and substantial justice done."

(Based on Section 10-9a-702, Utah Code)

All of the attendees acknowledge that building to the build-to-line along 7200 South would create a possible safety issue that would not be in the public interest.

Also all of the attendees concur that literal enforcement of the zoning ordinance in the present instance would cause an unreasonable hardship and the general purpose of the zoning ordinance would not be set aside in granting such variance nor contrary to the public interest. Additionally the granting of the variance is essential to the enjoyment of substantial property rights as to the Applicant's property that are present in other properties in the surrounding district.

Also none of the instant circumstances were caused or self-imposed by the Applicant.

Additionally all of the attendees concur that the requested variance modification would remedy the situation.

All of the attendees concur that the variance criteria of Section 17-3-13 A. 1. a through e is applicable and has been proven by the Applicant.

BASED ON THE ABOVE AND FOREGOING FINDINGS OF FACT the Presiding Officer enters the following:

CONCLUSIONS OF LAW

1. The Applicant has met the variance criteria of Section 17-3-13 A.
2. The Applicant should be granted a variance in accordance with its request.

AND BASED ON THE ABOVE AND FOREGOING CONCLUSIONS OF LAW the Presiding Officer enters the following:

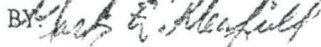
ORDER

WHEREFORE, IT IS ORDERED that:

1. The Applicant View 72 is granted a variance in accordance with its request permitting a modification and variance to the build-to-line requirements due to the presence of the west wing wall of a previously Salt Lake County ordered constructed box culvert; and
2. That such modification and variance shall be had and done in accordance with Exhibit "1" of Exhibit "A" and limited to an approximate 18.1" variance as set forth in said exhibit and or as otherwise modified by mutual agreement of the Applicant and the City, subject to and overseen and signed off by the Midvale City Department of Community Development Planning and Zoning Department.

DATED and ENTERED this 16 day of October, 2013.

MIDVALE CITY, UTAH

BY 

MARK E. KLEINFELD,
HEARING OFFICER
2450 East 3700 North
Layton, Utah 84040
Telephone: (801) 755-5532
Facsimile: (801) 771-0728

JUDICIAL REVIEW

As an "Administrative Hearing" judicial review of this Order may be obtained by filing a petition for such review consistent with Midvale City Code Section 17-3-14 within thirty (30) days of the date of this Order with the Third District Court, Salt Lake County, State of Utah.

CERTIFICATE OF MAILING

I hereby certify that on the 10 day of October, 2013 a true and correct copy of the above and foregoing **ORDER ON HEARING (Administrative Hearing)** was sent first class mail, postage prepaid to the following:

Mark Murdock
Gardner Company
400 West 90 South, Suite 360
Salt Lake City, Utah 84108

Craig Hall
City Attorney
Midvale City
655 West Center Street
Midvale, Utah 84047

Leslie M. Mascaro
City Planner
Midvale City
655 West Center Street
Midvale, Utah 84047

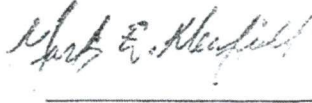


EXHIBIT C

Conditions of Approval



MIDVALE

In the Middle of Everything

655 West Center Street
Midvale, UT 84047
Phone (801) 567-7200

Thursday, November 14, 2013

Gardner Company
C/o: Mark Murdock, VP Development
90 South 400 West
Salt Lake City, Utah 84101

SUBJECT: Small Scale Master Plan – View 72 Office Building /
View 8 Spec Building

PROJECT LOCATION: SW Corner 7200 South / Bingham Junction Boulevard

Dear Mr. Murdock:

This letter is to confirm action taken by the Midvale City Planning Commission on Wednesday, November 13, 2013 and shall serve as the official decision with regard to the above application request. The Small Scale Master Plan was approved with the following conditions:

1. *The applicant shall revise the proposed architectural exterior finishes on the proposed office building by incorporating the required base or foundation material. This revised plan shall be reviewed and approved by the Planning Commission before submittal of the final site plan.*
2. *The applicant shall address the build-to line requirement along Bingham Junction Boulevard by incorporating a pedestrian plaza or changing the building to include at least 30% of the east elevation being built at the build-to line. This plan shall be reviewed and approved by the Planning Commission before submittal of a final site plan.*
3. *The required public open space bump out along Bingham Junction Boulevard shall be addressed on the final site.*
4. *Bollard lights shall be included along the public open space walkways. These lights shall be spaced at approximately 45 feet.*
5. *The walkway along the private access drive shall be five feet in width.*
6. *Stamped, colored concrete or asphalt walkways shall be added across the two driveways into the parking lot along the south side of the project.*
7. *Landscape islands shall be added at the north end of the parking lot to comply with the required landscape island for every 15 parking stalls.*
8. *A complete Landscape and Irrigation Plan shall be submitted with the final site plan submittal and comply with Section 17-7-9.5.*
9. *Details on the trash enclosure and screening of mechanical equipment shall be provided. The materials and colors of these enclosures and walls shall be compatible with the building.*

VIEW 8 DEVELOPMENT AGREEMENT

- 10. An exterior lighting plan, to include light locations, fixture details, and photometric information as required in Section 17-7-9.6 F of the Zoning Ordinance shall be prepared and included in the final site plan submittal.*
- 11. The final site plan shall be prepared in accordance with Section 17-3-3E of the Zoning Ordinance and shall be reviewed and approved by the City Engineer, Fire Marshall and City Planner.*
- 12. The applicant shall work with the City in drafting a Development Agreement for this project site. This agreement will need to be done prior to a final site plan approval for this project.*

We have appreciated working with you on this project and look forward to future collaborations. If you have any further questions or concerns, please feel free to contact our office.

Thank you.

A handwritten signature in blue ink, appearing to read "Matt Hilderman", with a long horizontal flourish extending to the right.

Matt Hilderman, Associate Planner
Ph. 801-567-7231
mhilderman@midvale.com



MIDVALE

In the Middle of Everything

655 West Center Street
Midvale, UT 84047
Phone (801) 567-7200

Thursday, January 23, 2014

Gardner Company
C/o Mark Murdock, VP Development
90 South 400 West
Salt Lake City, Utah 84101

SUBJECT: Small Scale Master Plan – View 72 Office Building /
View 8 Spec Building

PROJECT LOCATION: SW Corner 7200 South / Bingham Junction Boulevard

Dear Mr. Murdock:

This letter is to confirm action taken by the Midvale City Planning Commission on Wednesday, January 22, 2014 and shall serve as the official decision with regard to the above application request. The Small Scale Master Plan was approved with the following conditions:

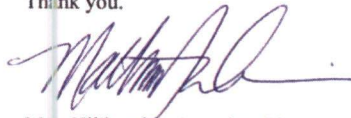
1. *We find that the revised building elevations include an appropriate base material that creates a larger mass at the base of the building and terminates at appropriate visual breaks in the architecture, complying with the intent of the ordinance, and we therefore approve the revised building elevations, as proposed.*
2. *We find that the proposed pedestrian plaza and associated amenities promotes a pedestrian-oriented use, therefore allowing an increase to the depth of the build-to line by approximately five-feet, as provided in Section 17-7-9.12.2.6 of the ordinance.*
3. *The required public open space bump out along Bingham Junction Boulevard shall be addressed on the final site.*
4. *Bollard lights shall be included along the public open space walkways. These lights shall be spaced at approximately 45 feet.*
5. *The walkway along the private access drive shall be five feet in width.*
6. *Stamped, colored concrete or asphalt walkways shall be added across the two driveways into the parking lot along the south side of the project.*
7. *Landscape islands shall be added at the north end of the parking lot to comply with the required landscape island for every 15 parking stalls.*
8. *A complete Landscape and Irrigation Plan shall be submitted with the final site plan submittal and comply with Section 17-7-9.5.*
9. *Details on the trash enclosure and screening of mechanical equipment shall be provided. The materials and colors of these enclosures and walls shall be compatible with the building.*

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- 10. An exterior lighting plan, to include light locations, fixture details, and photometric information as required in Section 17-7-9.6 F of the Zoning Ordinance shall be prepared and included in the final site plan submittal.*
- 11. The final site plan shall be prepared in accordance with Section 17-3-3E of the Zoning Ordinance and shall be reviewed and approved by the City Engineer, Fire Marshall and City Planner.*
- 12. The applicant shall work with the City in drafting a Development Agreement for this project site. This agreement will need to be done prior to a final site plan approval for this project.*

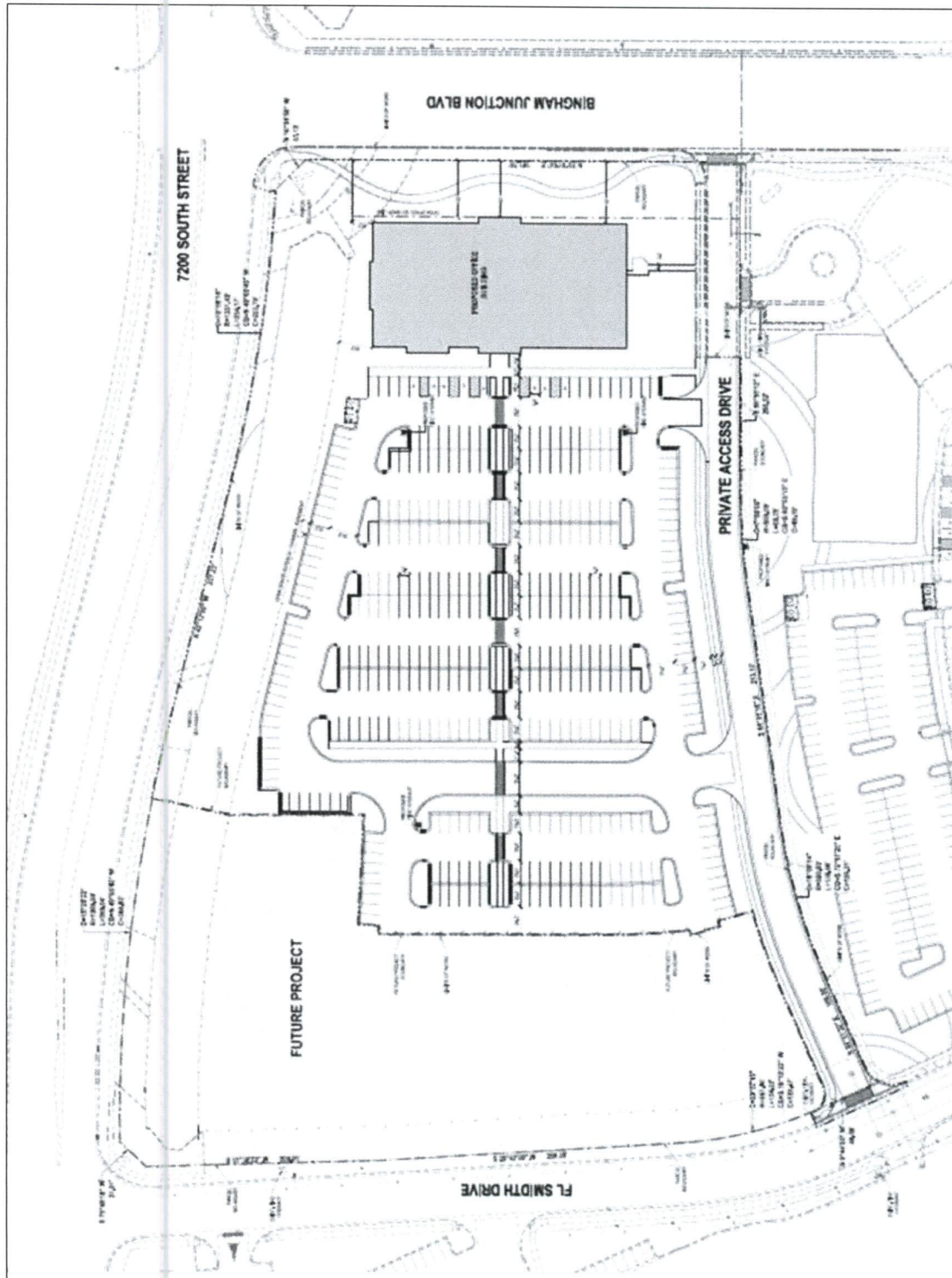
We have appreciated working with you on this project and look forward to future collaborations. If you have any further questions or concerns, please feel free to contact our office.

Thank you.

A handwritten signature in blue ink, appearing to read "Matt Hilderman", with a stylized flourish at the end.

Matt Hilderman, Associate Planner
Ph. 801-567-7231
mhilderman@midvale.com

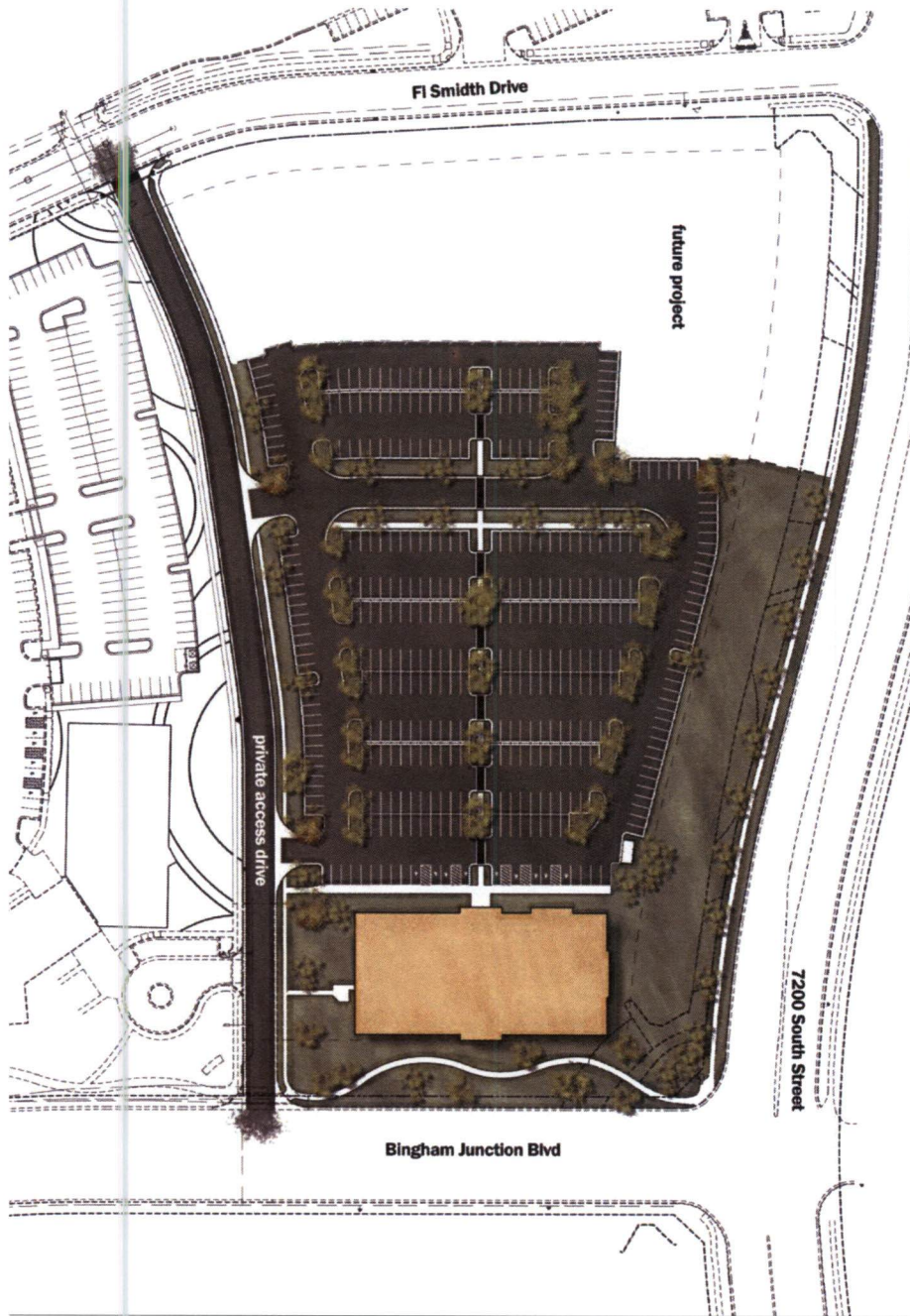
Project Description



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EXHIBIT E

Perimeter Public Open Space Improvements

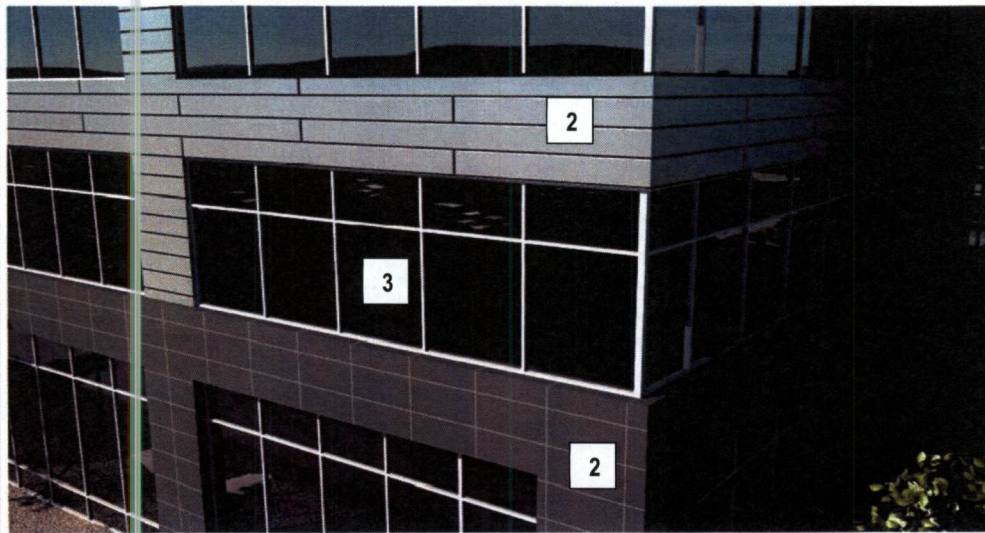


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EXHIBIT F

Building Elevations and Materials



1. 1 1/2" EIFS, Color Kwal CL3236A
2. Metal Wall Panel System, Texture matte Glacier Grey
3. Aluminum storefront window system, Clear anodized finish

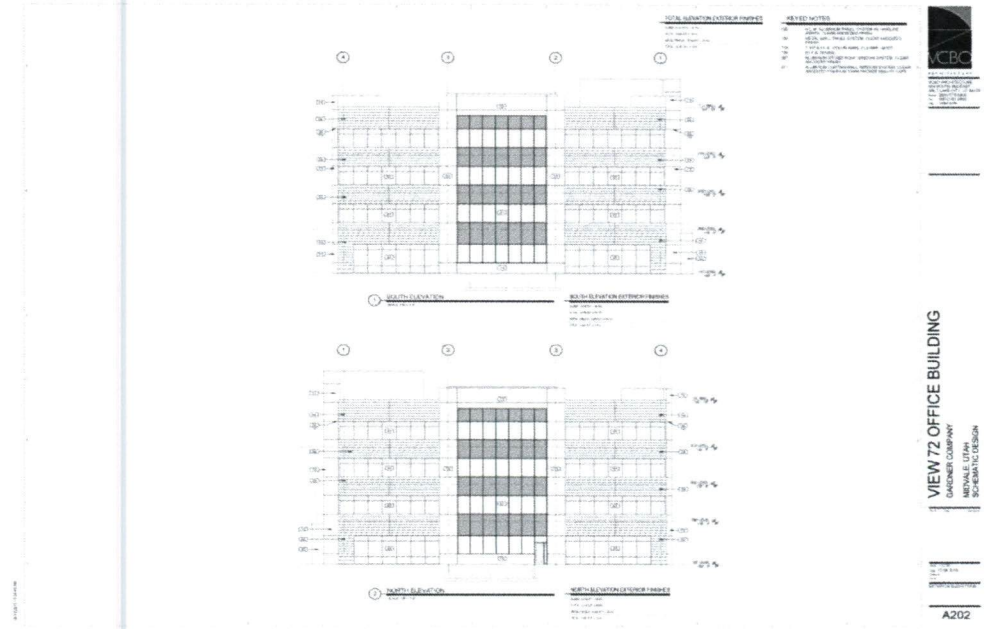
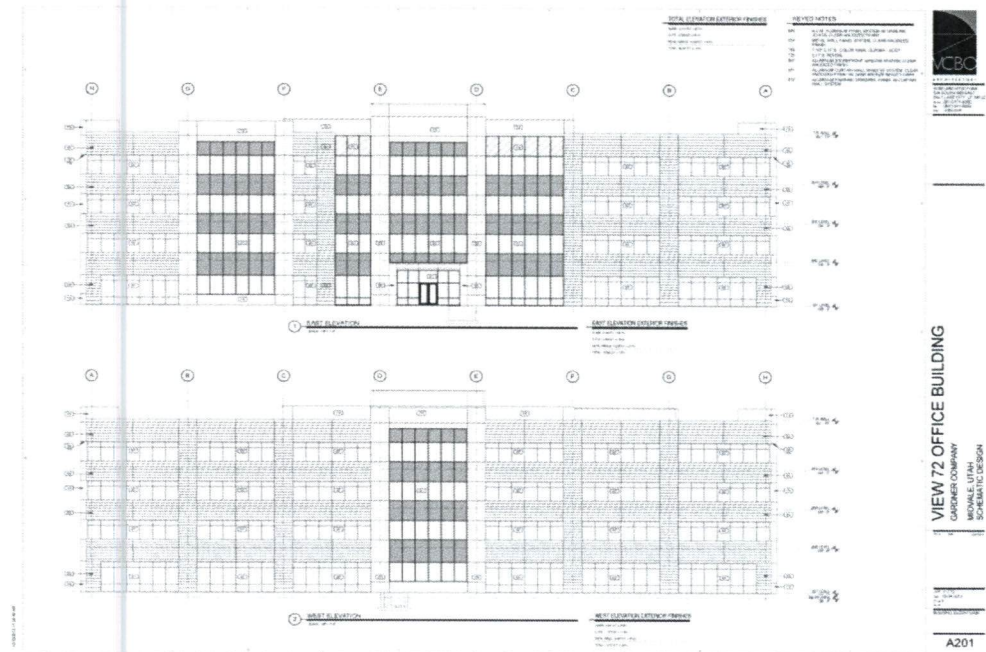


EXHIBIT G

Items to be completed:

1. Grading
2. Sidewalk
3. Curbing
4. Demark
5. Landscaping
6. Irrigation system
7. Bollard lighting
8. Ground cover