

# COUNCIL AGENDA SYNOPSIS



-----Initials-----			
Meeting Date	Prepared by	Mayor's review	Council review
<b>04/22/19</b>	<b>MD</b>	<i>CO</i>	<i>KPH</i>
<b>05/06/19</b>	<b>MD</b>	<i>CO</i>	<i>W</i>

**ITEM No.**  
  
**6.C.**

## ITEM INFORMATION

STAFF SPONSOR: **JACK PACE** ORIGINAL AGENDA DATE: **4/22/19**

AGENDA ITEM TITLE **An Ordinance/Development Agreement with Homestead**

CATEGORY  Discussion  Motion  Resolution  Ordinance  Bid Award  Public Hearing  Other  
 Mtg Date **04/22/19** Mtg Date Mtg Date Mtg Date **5/6/19** Mtg Date Mtg Date **04/22/19** Mtg Date

SPONSOR  Council  Mayor  HR  DCD  Finance  Fire  TS  P&R  Police  PW  Court

SPONSOR'S SUMMARY **The Council is being asked to review and Ordinance/Development Agreement with Homestead to develop affordable homeownership housing comprising of 18 compact single family homes on property located at 3118 S 140<sup>th</sup> St (King County parcel number 1623049060.**

REVIEWED BY  C.O.W. Mtg.  CDN Comm  Finance Comm.  Public Safety Comm.  
 Trans & Infrastructure  Arts Comm.  Parks Comm.  Planning Comm.  
 DATE: **4/9/19** COMMITTEE CHAIR: **QUINN**

RECOMMENDATIONS:  
 SPONSOR/ADMIN. **Department of Community Development**  
 COMMITTEE **Unanimous Approval; Forward to C.O.W. for public hearing/discussion**

### COST IMPACT / FUND SOURCE

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
\$	\$	\$

Fund Source:  
 Comments:

MTG. DATE	RECORD OF COUNCIL ACTION
<b>04/22/19</b>	<b>Forward to next Regular Meeting</b>

MTG. DATE	ATTACHMENTS
<b>04/22/19</b>	<b>Informational Memorandum dated 4/1/19</b>
	<b>Ordinance with Development with Attachments/Exhibits</b>
	<b>Minutes from the CDN meeting of 4/9/19</b>
	<b>Powerpoint presentation</b>
<b>5/6/19</b>	<b>Ordinance in final form with attachments</b>





# City of Tukwila

Washington

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, RELATING TO DEVELOPMENT AGREEMENTS AUTHORIZED PURSUANT TO CHAPTER 18.86 OF THE TUKWILA MUNICIPAL CODE; APPROVING AND AUTHORIZING THE PROPOSED RIVERTON CASCADE DEVELOPMENT AGREEMENT FOR KING COUNTY TAX PARCEL NUMBER 1623049060 WITH HOMESTEAD COMMUNITY LAND TRUST, A NON PROFIT CORPORATION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, RCW 36.70B.170, et seq. and Tukwila Municipal Code Chapter 18.86 authorize development agreements between the City and persons having ownership or control of real property in order to establish development standards to govern and vest the development, use and mitigation of real properties; and

**WHEREAS**, the City of Tukwila and Homestead Community Land Trust wish to enter into a Development Agreement for King County tax parcel number 1623049060, a map and description of which are attached hereto as included in Exhibit 1; and

**WHEREAS**, as required pursuant to Tukwila Municipal Code Section 18.86.050, a public hearing was conducted on the 22nd day of April 2019 to take public testimony regarding this Development Agreement, as proposed; and

**WHEREAS**, the City Council, pursuant to this City Ordinance No.xxxx, approves this Development Agreement as proposed and authorizes execution of this Development Agreement;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** Riverton Cascade Development Agreement by and between the City of Tukwila and Homestead Community Land Trust, a copy of which is attached hereto as Exhibit 1, is hereby approved, and the Mayor is authorized and directed to execute said Development Agreement on behalf of the City of Tukwila.

**Section 2. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**Section 3. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 4. Effective Date.** This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Christy O'Flaherty, MMC, City Clerk

\_\_\_\_\_  
Allan Ekberg, Mayor

APPROVED AS TO FORM BY:  
  
\_\_\_\_\_  
Rachel B. Turpin, City Attorney

Filed with the City Clerk: \_\_\_\_\_  
Passed by the City Council: \_\_\_\_\_  
Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Ordinance Number: \_\_\_\_\_

Exhibit 1: Development Agreement, plus its associated Exhibits A thru E



**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF TUKWILA  
AND HOMESTEAD COMMUNITY LAND TRUST FOR THE  
RIVERTON CASCADE DEVELOPMENT**

**I. PREAMBLE**

THIS DEVELOPMENT AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Tukwila, a noncharter, optional code Washington municipal corporation, hereinafter the “City,” and Homestead Community Land Trust, a nonprofit corporation organized under the laws of the State of Washington, hereinafter the “Developer.” The Developer owns the Subject Property. The City and Developer are collectively referred to in this Agreement as the “Parties,” and individually as a “Party.”

**II. RECITALS**

WHEREAS, development agreements between a local government and a person having ownership or control of real property within its jurisdiction are authorized by RCW 36.70B.170(1)) and Chapter 18.86 of the Tukwila Municipal Code (TMC); and

WHEREAS, a development agreement must set forth the Development Standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, pursuant to RCW 36.70B.170(1), a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW and the City’s regulations, including but not limited to TMC 18.86.020, *et. seq.*; and

WHEREAS, this Development Agreement by and between the City of Tukwila and the Developer (hereinafter the “Development Agreement” or “Agreement”), relates to the development known as Riverton Cascade, which is located at: 3118 South 140th Street, generally situated in the parcel behind the Riverton Park Methodist Church bounded on the south by S. 140th Street and on the west by Military Road, King County Tax Parcel Number 162304-9060 (hereinafter the “Subject Property”); and

WHEREAS, the Developer is the owner of the Subject Property; and

WHEREAS, the Developer desires to develop, in the City, an Affordable Homeownership Housing Project; and

WHEREAS, the Developer desires to develop a housing project that incorporates sustainability measures in the interest of both environmental responsibility and to promote affordability through maximizing homeowners’ ability to utilize renewable resources; and

WHEREAS, the Developer assures the City that it will invest in the development, own the land and manage the Project; is committed to involvement in the community; and has shown fiscal stability and long term commitment to its mission; and

WHEREAS, the Developer intends to develop the Subject Property consistent with the City's Comprehensive Plan, wherein the City identifies that Tukwila has a shortage of housing affordable to larger families and for those households earning less than 80% of King County median income; and

WHEREAS, Policy 3.3.3 of the Comprehensive Plan encourages the continued support of very low, low and moderate income housing as defined by King County income levels to address a Countywide need, by supporting regional affordable housing development and preservation efforts and this Project will provide affordable housing for low to moderate income households; and

WHEREAS, the Developer's conceptual site plan for the Project is depicted on Exhibit C, but the City and Developer understand that except as provided for herein, the Project is subject to all City reviews and permits that may require the modification of the plan as contemplated herein; and

WHEREAS, a development agreement must be approved by ordinance or resolution after a public hearing (RCW 36.70B.200); and

WHEREAS, a public hearing for this Development Agreement was held on April 22, 2019, and the City Council approved this Development Agreement by Ordinance No. xxxx on \_\_\_\_\_;

NOW THEREFORE, in consideration of the mutual promises set forth here, the parties hereto agree as follows:

**III. AGREEMENT**

**Section 1. The Project.** The Project is the development and use of the Subject Property as an Affordable Homeownership Housing Project on approximately 62,291 square feet. The Project will consist of a 20-parcel unit lot subdivision of which 18 will be developed for Cottage-Style Single-Family Residences. The remaining two lots are for parking and for open common area. The parking parcel will consist of 36 parking spaces, some which are covered and have electric car charging stations. The open common area parcel will be located in the center of the homes and will include walkways, gardens, recreation and playgrounds. The 18 residences will be approximately 1,385 to 1,600 square feet per unit, two-story structures with a mix of 3- and 4-bedroom units.

**Section 2. The Subject Property.** The Subject Property is legally described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by this reference.

**Section 3. Definitions.** As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

- a) “Adopting Ordinance” means the Ordinance which approves this Development Agreement, as required by RCW 36.70B.200.
- b) “Affordable Housing” means the standard HUD definition of low to moderate income (LMI) as defined by HUD.
- c) “Affordable Homeownership Housing Project” means a development in which at least 60% of the dwelling units will be sold at affordable sales prices to households earning less than 80% of Area Median Income as defined by HUD.
- d) “BARS” means the city of Tukwila’s Board of Architectural Review.
- e) “Commons” means that open common area lot or parcel located in the center of the Residential Parcels and including walkways, gardens, recreation and playgrounds.
- f) “Cottage-Style Single Family Residence” means an individual unit within a grouping of small, single family dwelling units clustered around a common area and developed with a coherent plan for the entire site.
- g) “Council” means the duly elected legislative body governing the City of Tukwila.
- h) “Design Guidelines” means the Tukwila Design Manual, as adopted by the City.
- i) “Development Standards” means, without limitation, all of the standards listed in RCW 36.70B.170(3).
- j) “Director” means the City’s Community Development Director.
- k) “Effective Date” means the effective date of the Adopting Ordinance.
- l) “Existing Land Use Regulations” means the ordinances adopted by the City Council of Tukwila in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Subject Property, including, but not limited to the Comprehensive Plan, the City’s Official Zoning Map and development standards (including without limit the amount and payment of impact fees imposed, reimbursement provisions, developer financial contributions, inspection fees and dedications agreed to in this Agreement consistent with RCW 36.70B.170), the Design Manual, the Public Works Standards, SEPA, Concurrency Ordinance, and all other ordinances, codes, rules and regulations of the City establishing subdivision standards, park regulations, and building standards. Existing Land Use Regulation does not include non-land use regulations, expressly including taxes.

- m) “Home Owner” is the party who has acquired a portion of the Subject Property or a residential structure located on the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement. The “Developer” is identified in Part III, Section 5 of this Agreement.
- n) “HOA” means homeowners’ association.
- o) “Infrastructure Improvements” means access drive, parking lot and electrical, sewer, water, and stormwater connections.
- p) “Parking Parcel” means the parcel of land containing 36 parking spaces located on the western portion of the site.
- q) “Project” means the anticipated development of the Subject Property, as specified in Part III, Section 1, and as provided for in all associated permits/approvals, and all incorporated exhibits.
- r) “Residential parcel” means each lot that will contain a residence.
- s) “Vesting date” means the effective date of this agreement.

**Section 4. Exhibits.** Exhibits to this Agreement are as follows:

- a) Exhibit A – Legal description of the Subject Property.
- b) Exhibit B – Map showing Subject Property.
- c) Exhibit C – Conceptual Site Plan of the Project.
- d) Exhibit D – Zoning Comparison Standards
- e) Exhibit E – Site Plan Lot Subdivisions

**Section 5. Parties to Development Agreement.** The parties to this Agreement are:

- a) The “City” is the City of Tukwila, 6200 Southcenter Blvd., Tukwila, WA 98188.
- b) The “Developer” is Homestead Community Land Trust, a Washington nonprofit corporation, whose principal office is located at 412 Maynard Avenue South, Suite 201, Seattle, WA 98104.
- c) The “Home Owner.” From time to time, as provided in this Agreement, the Developer may sell or otherwise lawfully dispose or transfer a portion of the Subject Property or a structure located on the Subject Property to a Home Owner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property or structure located on the Subject Property.

**Section 6. Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions or as explicitly outlined in this Agreement. It is agreed among the parties that the Developer, and any and all contractors selected by the Developer, are not acting as agents of the City. Neither Developer nor City is, nor will they be deemed to be, for any purpose, the agent, representative, contractor, subcontractor or employee of the other by reason of this Agreement.

**Section 7. Effective Date and Term.** This Agreement shall commence upon the effective date of the Adopting Ordinance approving this Agreement (a copy of which Adopting Ordinance shall be appended hereto upon passage), and shall continue in force for a period of five years from that date, unless extended or terminated as provided herein. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of the Developer or Landowner.

**Section 8. Terms.** TMC Section 18.86.030 explicitly allows for flexibility in development standards applicable to a property developed under a development agreement to achieve public benefits, respond to changing community needs or encourage modifications that provide the functional equivalent or adequately achieve the purposes of otherwise applicable City standards.

Pursuant thereto and during the term of this Agreement, the provisions of this Section set forth the development standards that differ from or supplement those standards set forth in the City's Existing Development Regulations. Accordingly, the following development standards shall apply to and govern and vest the development, use and mitigation of the Project in lieu of any conflicting or different standards or regulations elsewhere in the Existing Development Regulations.

- a) Density: There is no density standard in the City of Tukwila's LDR (Low Density Residential) development regulations, just a minimum lot size requirement of 6,500 square feet per lot. Under the LDR the Subject Property could house up to 9 lots (depending on lot layout and access). The proposed density of the development of the Project on the Subject Property will provide for 18 residential lots and each lot will hold one Cottage-Style Single Family Residence on it. The Project also includes a Commons parcel and a Parking parcel. See Exhibit C, "Site Plan," which shows the layout of the 18 residential lots, the Commons parcel and the Parking parcel. See Exhibit D, "Zoning Comparison Standards," for comparison of Project proposed Standards to current LDR Development Standards.
- b) Lot Dimension are shown in Exhibit E, "Site Plan Lot Subdivisions." The square foot area per lot is a reduction in minimum lot size from the LDR. The Project's residential lot sizes range from 1,367 to 2,214 square feet; see Exhibit E's Lot Subdivision Schedule Legend. The Commons lot is 9,189 square feet and the Parking lot is 13,481 square feet. Required lot width in the LDR zone is 50 feet. Lot width at the Project will be a minimum of 27 feet.

- c) Setbacks: Required front yard setbacks in the LDR zone are 20 feet, and 15 feet from a porch or deck. The front yard setbacks for the Project will be minimum 2 feet, with an average of 7 feet. Front setbacks from porches or decks will be a minimum of 2 feet, with an average setback of 6 feet. Front yards will face the Commons lot or Parking lot. Required side yard setbacks in the LDR zone are 5 feet. Side yard setbacks for the Project will be 3 feet. Required rear yard setbacks for the LDR zone are 10 feet. Rear yard setbacks for the Project will be a minimum of 5 feet.
- d) Lot Coverage: Maximum lot coverage allowed in the LDR zone is 35%. Maximum lot coverage at the Project will be 75%.
- e) Parking: The project will have the Code required 36 onsite parking spaces.
- f) Private access road from the public street to the subject property shall be paved minimum 20 feet wide to support fire apparatus; unless waiver is obtained from the City's Fire Marshal and Director of Public Works.
- g) The required perimeter landscape buffer in the LDR zone is 10 feet for side and rear yards. This requirement will be waived for the access drive and pedestrian Safe Route to School pathway on the eastern property line and in the access easement over the Riverton United Methodist Church property.
- h) Subdivision: The entitlement process to be used for the Unit Lot Subdivision to create the Residential Parcels, Parking Parcel and Commons Parcel will be a process under TMC Section 17.14.060, provided that the review applies the development standards, vested land use regulations and other provisions contained in this Development Agreement in the event there are inconsistencies between the Development Agreement and TMC Section 17.14.060.
- i) Construction of the Infrastructure Improvements of the Project shall be commenced or bonded in accordance with TMC Section 17.24.030 within three years of the effective date of this Development Agreement, or this Development Agreement becomes null and void.
- j) The build-out time (certificate of completion of the last home) for the Project will be five years from the date of the subdivision approval.
- k) A Homeowners Association (HOA) will be created prior to the issuance of and shall become effective and operational immediately upon the first certificate of occupancy for a residence in the Project. The HOA will be responsible for the management of the association of the 18 homes, Commons and the parking lot.
- l) Review process: The Project will apply for design review under the Board of Architectural Review (BAR). The BAR will apply this Development Agreement to their review of the Project and shall be the decision maker for design review; preliminary plat and final plat.



**Section 9. Vested Rights.** During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Subject Property consistent with the Project described herein, Developer is assured, and the City agrees, that the development rights, obligations, terms and conditions specified in this Agreement, are fully vested in the Developer and may not be changed or modified by the City, except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, including the Exhibits hereto, or as expressly consented thereto by the Developer.

**Section 10. Major and Minor Modifications.** Modifications from the approved permits or the exhibits attached hereto may be approved as outlined below:

A. Minor Modifications. A proposed modification to the permits or exhibits shall be considered a minor modification if the proposal does not materially modify the size or scope of the Project as defined by the Agreement. The Mayor or his/her designee may approve minor modifications upon submission of a written application by the Developer describing the proposal in sufficient detail to determine whether the proposal qualifies as a minor modification. If the application does not provide sufficient information, the Mayor or his/her designee may request additional information from the Developer or reject the application. If the Mayor or his/her designee determines that the proposal qualifies as a minor modification, the modification may be administratively approved by noting the changes in Land Use File L19-0035. Minor modifications will include, but are not limited to, changes in the layout and location of houses on each lot, provided that the number of residential lots and the Commons and Parking lots remain the same.

B. Major Modifications. A proposed modification to the permits or exhibits shall be considered a major modification if the proposal does not constitute a minor modification. If the Mayor or his/her designee determines that the proposal constitutes a major modification, the Developer shall submit the proposal for an amendment to this Agreement by following the process established by law for the adoption of a development agreement in accordance with Part IV, Section 15. Major modifications will include, but not be limited to, a change in the number of residential, Parking or Common area lots.

C. The Mayor's determination on modifications shall be a final decision of the City for purposes of RCW 36.70C, the Land Use Petition Act.

**Section 11. Further Discretionary Actions.** Developer acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under the City's Design Review. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying Existing Land Use Regulations.

**Section 12. Existing Land Use Fees and Impact Fees.**

A. Land use and building permit application fees adopted by the City by ordinance as of the Effective Date of this Agreement may be increased by the City from time to time, and are

applicable to land use and construction permits and approvals for the Subject Property, as long as such fees apply to similar applications and projects in the City.

B. All impact fees shall be paid as set forth in the approved permit or approval, or as addressed in chapters 9.48, 16.04, 16.26 and 16.28 of the Tukwila Municipal Code, except that the Affordable Housing units will be granted an exemption from 80% of the applicable transportation, fire, and parks impact fees and Land Use, Building and Public Works permit fees, provided that they comply with the criteria in TMC Sections 9.48, 16,04, 16.26 and 16.28.

**Section 13. Building Permit Review.** Provided that the Developer provides a bond or other surety device allowed in the Tukwila Municipal Code ensuring that the Infrastructure Improvements will be completed prior to construction of the Cottage Style Single Family Residences, the City agrees to review applications for building permits for the Project prior to the construction of Infrastructure Improvement.

#### IV. GENERAL PROVISIONS

**Section 1. Assignment of Interests, Rights, and Obligations.** This Agreement shall be binding and inure to the benefit of the Parties. No Party may assign its rights under this Agreement without the written consent of the other Party, which consent shall not unreasonably be withheld provided that Developer is permitted to assign its rights to an LLC which is wholly owned by Developer. This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors, and assigns of Developer and the City.

**Section 2. Incorporation of Recitals.** The Recitals contained in this Agreement, and the Preamble paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

**Section 3. Severability.** The provisions of this Agreement are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Agreement, or the validity of its application to other persons or circumstances.

**Section 4. Termination.** This Agreement shall expire and/or terminate as provided below:

A. This Agreement shall expire and be of no further force and effect if the Developer fails to submit a complete building permit application for the Project within 5 year(s), if the Project construction is not substantially underway prior to expiration of such permits and/or approvals, or upon expiration of any building permit issued by the City. Nothing in this Agreement shall extend the expiration date of any permit or approval issued by the City for any development.

B. This Agreement shall terminate upon the expiration of the term identified in Part III, Section 7 or when the Subject Property has been fully developed, whichever first occurs, and all of the Developer's obligations in connection therewith are satisfied as determined by the City. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. This Agreement shall



automatically terminate and be of no further force and effect as to any single-family residence, any other residential dwelling unit or any non-residential building and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

C. This Agreement shall terminate upon the abandonment of the Project by the Developer. The Developer shall be deemed to have abandoned the Project upon written notice to the City of the intent to abandon.

D. This Agreement may terminate pursuant to Part IV, Section 3, "Severability," or Part IV, Section 10, "Default," or as otherwise outlined in this Agreement.

**Section 5. Effect upon Termination on Developer Obligations.** Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

**Section 6. Effects upon Termination on City.** Upon any termination of this Agreement as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to then-existing planning and zoning laws).

**Section 7. Specific Performance.** The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

**Section 8. Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in King County Superior Court or the U.S. District Court for Western Washington.

**Section 9. Attorneys' Fees.** In the event of any litigation or dispute resolution process between the Parties regarding an alleged breach of this Agreement, the prevailing party shall be entitled to an award of attorneys' fees.

**Section 10. Notice of Default/Opportunity to Cure/Dispute Resolution.**

A. In the event a Party, acting in good faith, believes the other Party has violated the terms of this Agreement, the aggrieved Party shall give the alleged offending Party written notice of the alleged violation by sending a detailed written statement of the alleged breach. The alleged offending Party shall have 30 days from receipt of written notice in which to cure the alleged breach unless the Parties agree, in writing, to additional time. This notice requirement is intended to facilitate a resolution by the Parties of any dispute prior to the initiation of litigation. Upon

providing notice of an alleged breach, the Parties agree to meet and agree upon a process for attempting to resolve any dispute arising out of this Agreement. A lawsuit to enforce the terms of this Agreement shall not be filed until the latter of (a) the end of the cure period, or (b) the conclusion of any dispute resolution process.

B. After notice and expiration of the cure period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Tukwila Municipal Code for violations of this Development Agreement and the Code.

C. Within 14 days of either party providing notice of an alleged breach, Developer shall notify any lenders with lien rights on the Property of the alleged breach, and provide them with a copy of the notice of alleged breach.

**Section 11. No Third-Party Beneficiaries.** Except as provided herein, this Agreement is for the benefit of the Parties hereto only and is not intended to benefit any other person or entity, and no person or entity not a signatory to this Agreement shall have any third-party beneficiary or other rights whatsoever under this Agreement. Except as provided herein, no other person or entity not a Party to this Agreement may enforce the terms and provisions of this Agreement.

**Section 12. Integration.** This Agreement and its exhibits represent the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

**Section 13. Authority.** The Parties each represent and warrant that they have full power and actual authority to enter into this Agreement and to carry out all actions required of them by this Agreement. All persons are executing this Agreement in their representative capacities and represent and warrant that they have full power and authority to bind their respective organizations.

**Section 14. Covenants Running with the Land.** The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

**Section 15. Amendment to Agreement; Effect of Agreement on Future Actions.** This Agreement may be amended by mutual consent of all of the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (see, RCW 36.70B.200). However, nothing in this Agreement shall prevent the City

Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations affecting the Subject Property during the term of this Agreement, as the City Council may deem necessary to the extent required by a serious threat to public health and safety. Nothing in this Development Agreement shall prevent the City Council from making any amendments of any type to the Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations relating to the Subject Property upon termination of this Agreement.

**Section 16. Releases.** Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee or transferee expressly assumes the obligations under this Agreement as provided herein.

**Section 17. Notices.** Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Part III, Section 5 or upon hand-delivery. Notice to the City shall be to the attention of the City Administrator, City Attorney and City Clerk. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

**Section 18. Reimbursement for Agreement Expenses of the City.** Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as incurred by City directly relating to this Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the Project are paid to the City. This Agreement shall be terminated if the Developer does not pay to the City the fees provided for in this section. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within 30 days from the City's presentation of a written statement of charges to the Developer.

**Section 19. Police Power.** Nothing in this Agreement shall be construed to diminish, restrict or limit the police powers of the City granted by the Washington State Constitution or by general law.

**Section 20. Third Party Legal Challenge.** In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer and/or Landowner(s). In such event, Developer and/or such Landowners shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation, and damages awarded to the prevailing party or parties in such litigation. The Developer and/or Landowner shall not settle any lawsuit without the consent of the City. The City shall act in good faith and shall not unreasonably withhold consent to settle.

**Section 21. No Presumption Against Drafter.** This Agreement has been reviewed and revised by legal counsel for both Parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

**Section 22. Headings.** The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

**Section 23. Recording.** Developer shall record a Memorandum of this Agreement with the King County Auditor, pursuant to RCW 36.70B.190, no later than 14 days after the Effective Date.

**Section 24. Legal Representation.** In entering into this Agreement, Developer represents that it has been advised to seek legal advice and counsel from its attorney concerning the legal consequences of this Agreement; that it has carefully read the foregoing Agreement and knows the contents thereof, and signs the same of its own free act; and that it fully understands and voluntarily accepts the terms and conditions of this Agreement.

**Section 25. Transfers and Assignments.**

A. Binding. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Developer and upon the City.

B. Assignment. The parties acknowledge that the Project may be assigned or transferred to a sole member limited liability company who will own and/or develop the Property, common area and buildings thereon. Upon the transfer under this Section, the transferee shall be entitled to all interests and rights and be subject to all obligations under this Agreement, and Developer released of liability with respect to such portion as has been assigned and assumed.

i. Transfers Not Requiring Consent. Developer shall have the right to assign or transfer all or any portion of the respective interests, rights or obligations under this Agreement or in the Project to a sole member limited liability company acquiring an interest or estate in all or any portion of the Property, including transfer of all interests through foreclosure (judicial or nonjudicial) or by deed in lieu of foreclosure, without notice or consent from the City, if the transfer is within the scope of one of the following: (a) any property that has been established as a separate legal parcel, provided that the transferee assumes in writing all obligations of Developer pertaining or proportionate to the parcel being transferred, and the transferee has not breached a similar written agreement with, or obligation to, another municipal corporation; or (b) a transfer where Developer has bonded for, or provided other suitable assurance of performance, of all conditions set forth in the Agreement that are applicable to the parcel that is being transferred.

ii. **Transfers Requiring Consent.** Any transfer that is not within the scope of Part IV, Section 1, shall not release Developer from its obligations under this Agreement unless the City has consented in writing to such transfer. The City shall not unreasonably withhold, condition, or delay its consent, and in the event the City withholds, conditions, or delays consent, the City shall provide express findings therefore. The City agrees to cooperate in executing such documentation as reasonably necessary to evidence any obligations under this Agreement that have been satisfied with respect to a piece of Property that is proposed for transfer.

iii. **Release of Liability.** If the conditions for assignment are met under this subsection, then from and after the date of transfer, Developer shall be released of all liabilities and obligations under this Agreement that arise in relation to events occurring after the date of transfer and that are associated with the portion of Property being transferred.

**Section 26. Estoppel Certificate.** Within 30 days following any written request which any party or a Mortgagee may make from time to time, the other party to this Agreement shall execute and deliver to the requesting person a statement certifying that: (a) this Agreement is unmodified and in full force and effect, or stating the date and nature of any modification; and (b) to the best knowledge of the certifying party (i) no notice of default has been sent under Part IV, Section 10 of this Agreement or specifying the date(s) and nature of the notice of such default; and (ii) no written notice of infraction has been issued in connection with the Project. Failure to deliver such statement to the requesting party within the 30-day period shall constitute a conclusive presumption against the party failing to deliver such statement that this Agreement is in full force and effect without modification (except as may be represented by the requesting party) and that there are no notices of default nor infraction (except as may be represented by the requesting party). The delivery of an estoppel certificate on behalf of the City pursuant to this section shall be deemed an administrative matter and shall not require legislative action. The City shall not have any liability to the requesting party or to any third party for inaccurate information if it provides the estoppel certificate in good faith and with reasonable care.

**Section 27. Delays.** If either party is delayed in the performance of its obligations under this Agreement due to Force Majeure, then performance of those obligations shall be excused for the period of delay.

**Section 28. Severability.** Invalidation or unenforceability of any provision of this Agreement shall in no way invalidate or nullify the balance of this Agreement. If any provisions of this Agreement are determined to be unenforceable or invalid by a court of competent jurisdiction, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law. If a court finds unenforceability or invalidity of any portion of this Agreement, the parties agree to seek diligently to modify the Agreement consistent with the court decision, and no party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed. If the parties do not mutually agree to modifications within 45 days after the court ruling, then either party may initiate the dispute resolution proceedings in Part IV, Section 10.A for determination of the modifications which implement the intent of this Agreement and the court decision.





STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared \_\_\_\_\_, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged as the \_\_\_\_\_ of the City of Tukwila to be the free and voluntary act of said party for the uses and purposes mentioned in this instrument.

\_\_\_\_\_  
Print name: \_\_\_\_\_

NOTARY PUBLIC in and for the State of Washington

Residing at \_\_\_\_\_

Commission expires: \_\_\_\_\_





**EXHIBIT A  
LEGAL DESCRIPTION**

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 23 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THE EAST 216 FEET IN WIDTH OF THE FOLLOWING:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER;

THENCE NORTHERLY ALONG THE EASTERLY LINE THEREOF, 695 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE WESTERLY, ALONG A LINE PARALLEL TO THE NORTHERLY LINE OF SAID SUBDIVISION, 620 FEET, MORE OR LESS, TO THE EASTERLY LINE OF THE ORIGINAL OLD MILITARY ROAD;

THENCE SOUTHEASTERLY ALONG SAID ORIGINAL LINE, TO ITS INTERSECTION WITH THE EASTERLY LINE OF THE NEW LOCATION OF MILITARY ROAD AS NOW LAID OUT AND ESTABLISHED;

THENCE SOUTHEASTERLY ALONG SAID EASTERLY LINE OF NEW LOCATION OF MILITARY ROAD, TO ITS INTERSECTION WITH A LINE 300 FEET SOUTH OF AND PARALLEL TO THE FIRST COURSE OF THIS DESCRIPTION;

THENCE EASTERLY ALONG SAID PARALLEL LINE, 510 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER;

THENCE NORTHERLY ALONG SAID EASTERLY LINE, 300 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING; EXCEPT THAT PORTION, IF ANY, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 16, SOUTH 01°40'11" WEST 673.42 FEET FROM THE EAST QUARTER CORNER THEREOF;

THENCE NORTH 89°52'59" WEST 619.26 FEET, MORE OR LESS, TO THE EASTERLY LINE OF MILITARY ROAD AND THE TERMINUS OF SAID DESCRIBED LINE;

TOGETHER WITH THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 23 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 16, DISTANT SOUTH 01°40'11" WEST, 663.42 FEET FROM THE EAST QUARTER CORNER THEREOF;

THENCE CONTINUING SOUTH 01°40'11" WEST 10 FEET;

THENCE NORTH 89°52'59" WEST 619.26 FEET, MORE OR LESS, TO THE NORTHEASTERLY MARGIN OF MILITARY ROAD AS ESTABLISHED ON JULY 3, 1962;

THENCE NORTHWESTERLY ALONG SAID MARGIN TO A POINT WHICH BEARS NORTH 89°52'59" WEST FROM THE POINT OF BEGINNING;

THENCE SOUTH 89°52'59" EAST TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 16;

THENCE SOUTH 01°40'11" WEST ALONG THE EAST LINE OF SAID SUBDIVISION 673.42 FEET;

THENCE NORTH 89°52'59" WEST 216.08 FEET TO A POINT 216 FEET FROM SAID EAST LINE, AS MEASURED AT RIGHT ANGLES;

THENCE CONTINUING NORTH 89°52'59" WEST 3.00 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING NORTH 89°52'59" WEST 395.57 FEET, MORE OR LESS, TO THE EASTERLY  
LINE OF MILITARY ROAD;  
THENCE NORTH 19°45'42" WEST ALONG SAID EASTERLY LINE OF MILITARY ROAD 12.73 FEET;  
THENCE SOUTH 89°42'01" EAST 400.19 FEET;  
THENCE SOUTH 01°40'11" WEST 10.70 FEET TO THE TRUE POINT OF BEGINNING.  
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

VICINITY MAP

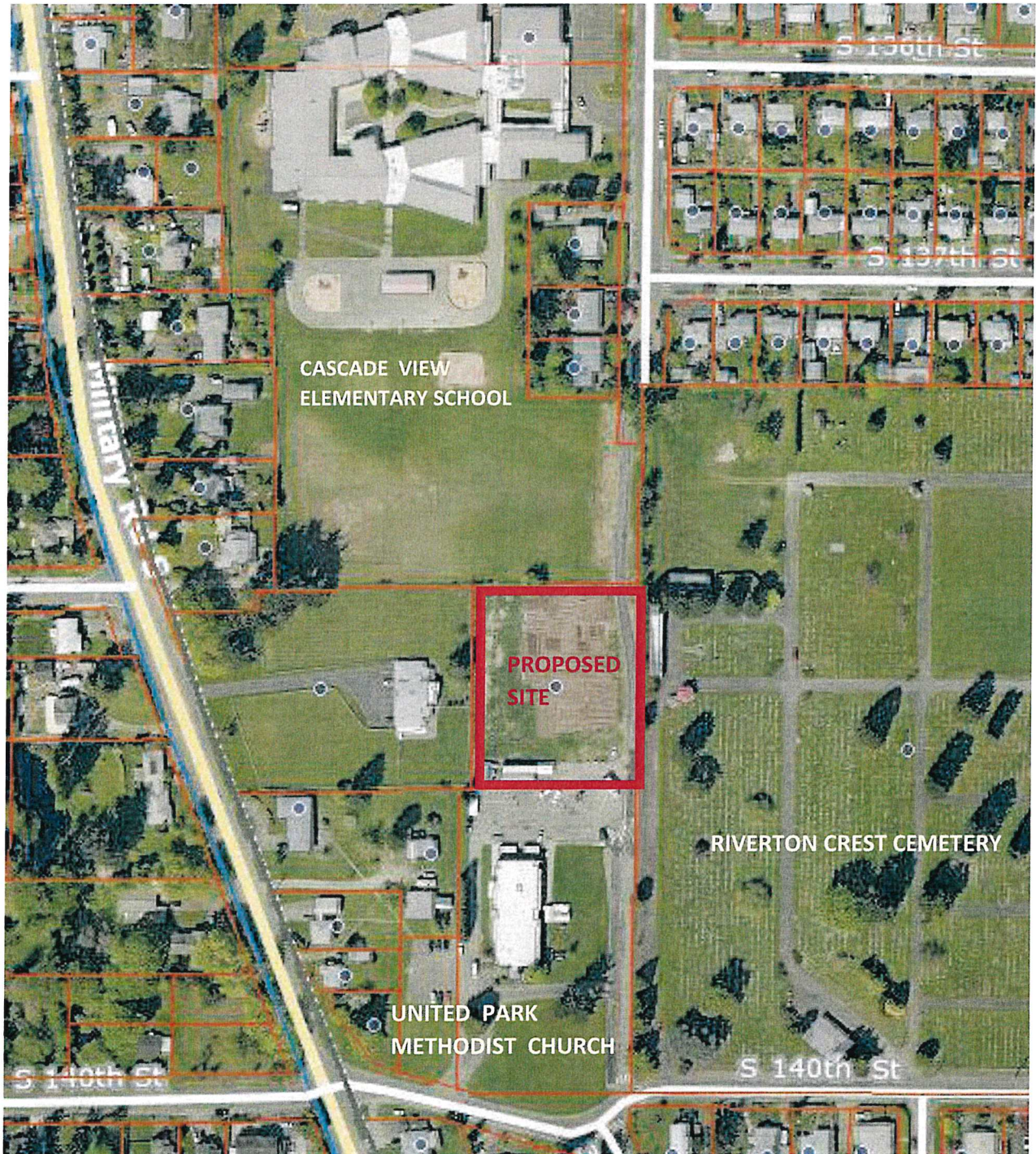






EXHIBIT C

**PHASE 1 & PHASE 2**

**PHASE 1 - HOMESTEAD UNITS**  
 NEW CONSTRUCTION  
 (6) 3 BEDROOM  
 (9) 4 BEDROOM

TOTAL: 11 SINGLE FAMILY HOMES

**PHASE 1**  
 NEW PARKING

ON SITE: 36 NEW STALLS  
 (21) REGULARS  
 (1) COMPACTS

CHARGING STATION  
 CHURCH SITE: 10 NEW STALLS  
 (10) REGULARS  
 CHURCH EXIST PARKING: 30  
 RESTRIPE  
 (19) REGULARS  
 (11) COMPACTS

TOTAL: 76 STALLS

**PHASE 2 - HOMESTEAD UNITS**  
 NEW CONSTRUCTION  
 (5) 3 BEDROOM

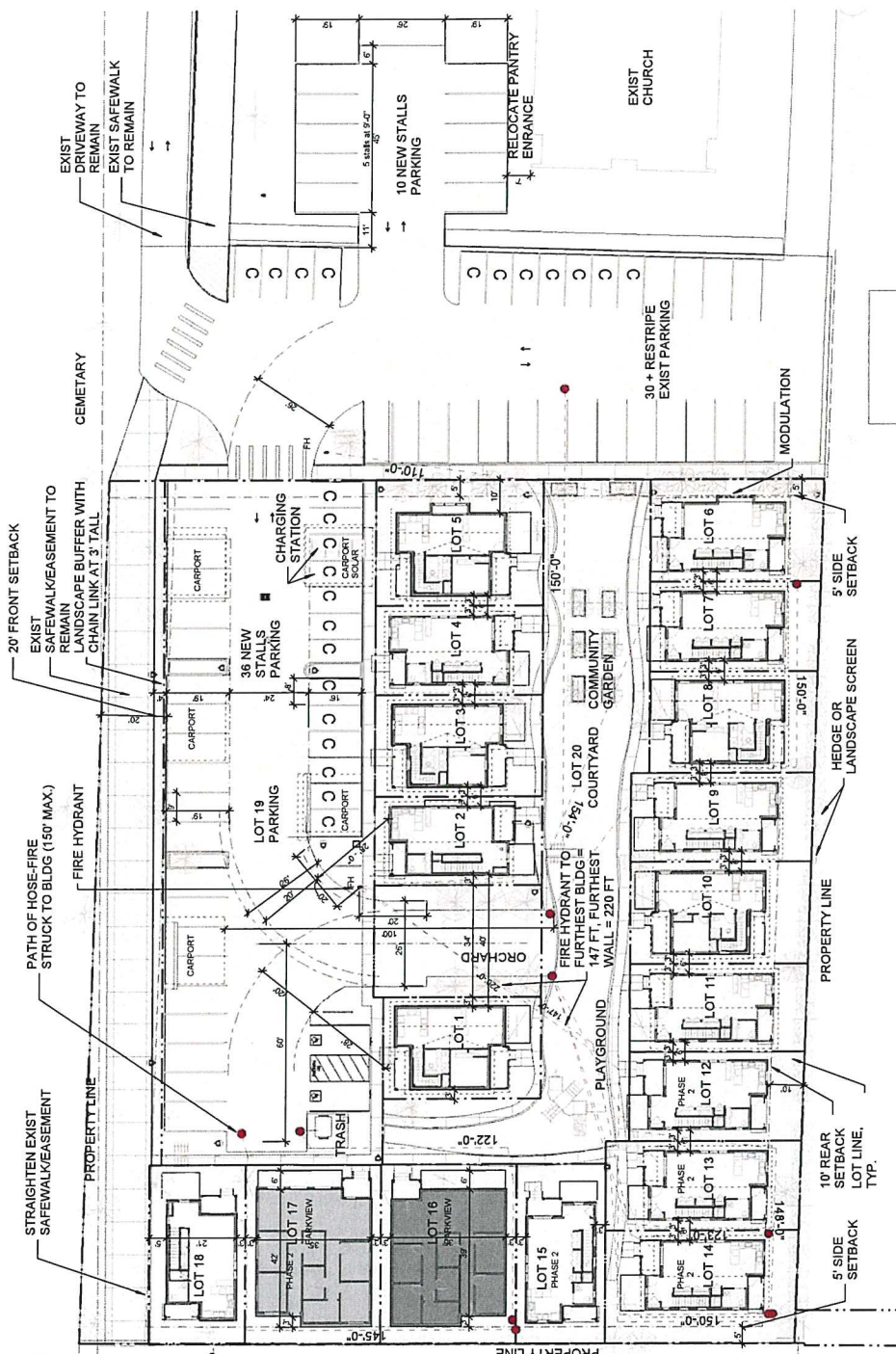
TOTAL: 5 SINGLE FAMILY HOMES

**PHASE 2**  
 NO ADDITIONAL PARKING

**PARKVIEW UNITS (PHASING TBD)**  
 (2) 4 BEDROOM

GRAND TOTAL  
 16 SINGLE FAMILY HOMES  
 76 STALLS

SEE PAGE 8A FOR LOT  
 SUB DIVISIONS IN  
 DETAILS



PROPOSED SITE PLAN DETAIL  
 0' 10' 20'

PROPOSED PHASE 1 + 2 SITE PLAN DETAIL

RIVERTON CASCADE HOMEOWNERSHIP PROJECT



ARCHITECTURAL  
 SAGE ALLIANCE



## EXHIBIT D

### Comparison of Current Riverton Cascade Proposal to Zoning Standards

*LDR Development Standards – TMC 18.10.060*

*Landscape – TMC 18.52.030*

Standard	Current Code	Proposed @ Riverton
Lot area, minimum	6,500 sq. ft.	1,310 sq. ft.
Dwelling Units per Acre	LDR 6.7 du/net acre	12.6 du per net acre
Average lot width (min. 20 ft street frontage width), minimum	50 feet	29 feet (min 27 ft width)
Development Area, maximum (only for single family development)	75% on lots less than 13,000 sq. ft. up to a maximum of 5,850 sq. ft.	75% Maximum 1,500 sq. ft.
Setbacks to yards		Setbacks from property line
• Front	20 ft	2 ft, Average 7 ft , Facing Internal Commons or Parking Lot
• Front, decks or porches	15 ft	2 ft, Average 6 ft , Facing Internal Commons or Parking Lot
• Second front	10 ft	5 ft
• Sides	5 ft	3 ft
• Rear	10 ft	5 ft facing school, 10 ft facing private lot line
Housing Type	LDR Single Family	Single Family Cottage
House Size	HOP Duplex 1,500 Max	1,350 SF, 1,500 SF,
Height, maximum	LDR 30 ft	30 ft
Off-street parking	LDR & MDR 2 spaces - 3 bedroom house 3 spaces - 4 bedroom house Housing Options Program 1.5 spaces up to 1,000 SF 2 spaces over 1,000 SF	36 On Site/18units w/2 Spaces per unit
Maximum building footprint	LDR 35% of lot area	75% maximum, average 60% of lot area
Parking Lot Landscape		
Area of Landscape	15 sq ft per stall	15 sq ft per stall, 5 ft wide islands

*Supplemental Development Standards – TMC 18.50.050*

Standard	Proposed @ Riverton
Set upon a permanent foundation	Meets Code
Thermally equivalent to State's energy code	Exceeds Code

Exterior siding residential in appearance	Meets Code
Front door facing the front or second front	Faces parking or common open space
Roofing material residential in appearance with minimum roof pitch 5:12	Meets Code

February 10, 2019



EXHIBIT E

PHASE 1 & PHASE 2

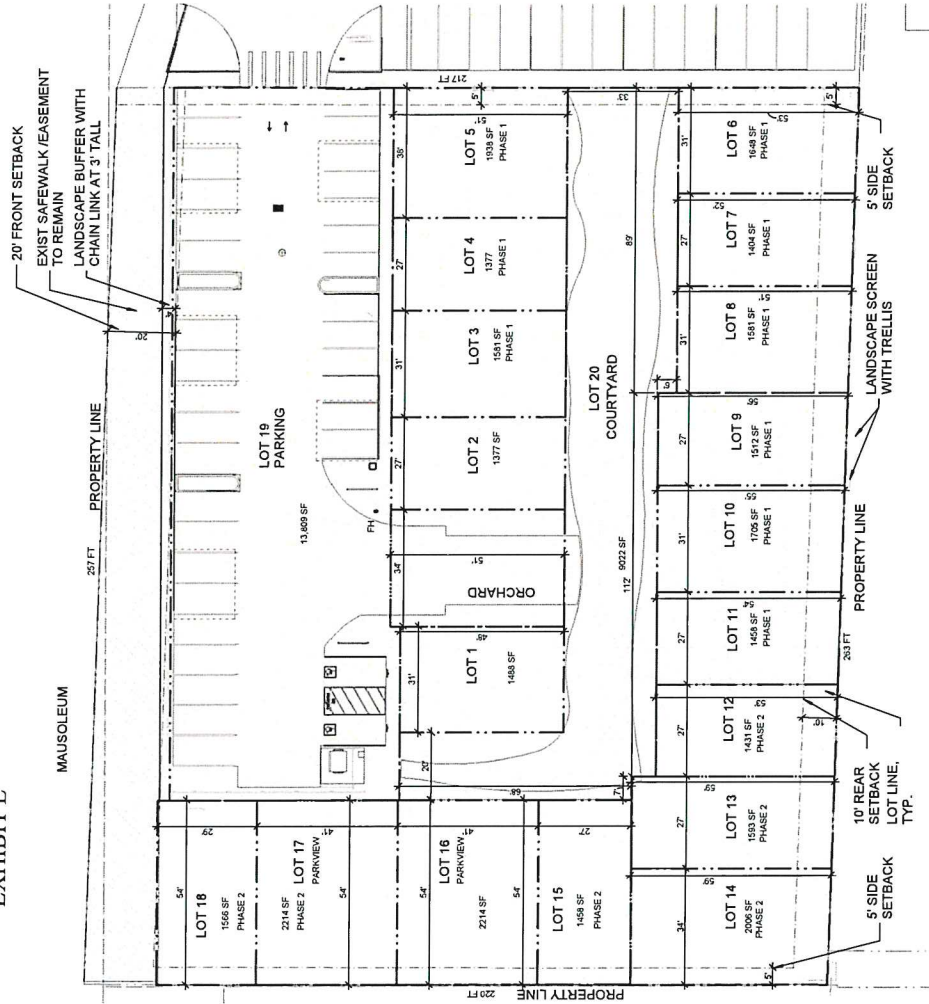
- PHASE 1 - HOMESTEAD UNITS  
NEW CONSTRUCTION
- (8) 3 BEDROOM
- (5) 4 BEDROOM

TOTAL: 11 SINGLE FAMILY HOMES

- PHASE 2 - HOMESTEAD UNITS  
NEW CONSTRUCTION
- (9) 3 BEDROOM
- TOTAL: 9 SINGLE FAMILY HOMES

- PHASE 2 - PARKVIEW UNITS  
(2) 4 BEDROOM

- EXISTING PROPERTY LINES
- PROPOSED SUB DIVISION LINES
- SETBACKS



LOT SUB DIVISIONS SCHEDULE LEGEND				
LOT #	LOT USAGE	PARTNERS	LOT SF	BLDG SF FOOTPRINT
1	4 BR	HS	1488	750
2	3BR	HS	1387	687
3	4BR	HS	1591	750
4	3BR	HS	1377	667
5	4BR	HS	1938	750
6	3BR	HS	1628	667
7	3BR	HS	1391	667
8	4BR	HS	1566	750
9	3BR	HS	1499	687
10	4BR	HS	1690	750
11	3BR	HS	1445	667
12	3BR	HS	1418	667
13	3BR	HS	1593	667
14	3BR	HS	1972	667
15	3BR	HS	1458	667
16	4BR	PV	2214	1393
17	4BR	PV	2214	1393
18	3BR	HS	2	1566
19	PARKING	HS	1	13481
20	COMMONS	HS	1	9189
21	SAFE WALK OF	HS	1	5511
22	WEST LEG OF PROPERTY	HS	1	4665
23			TOTAL	62291

PV-PARKVIEW  
HS-HOMESTEAD  
BLD-BUILDING  
SF-SQUARE FOOTAGE



SITE PLAN LOT SUB DIVISIONS

RIVERTON CASCADE HOMEOWNERSHIP PROJECT

ARCHITECTURAL ALLIANCE 8A

PROPOSED SITE PLAN SUBLOT

