



1600 E. South Weber Drive
South Weber, UT 84405

www.southwebercity.com

801-479-3177
FAX 801-479-0066

Conditional Use Permit #2020-01

Applicant: Riverside RV Park

Proposed Use: RV Park

Address: 855 E Cottonwood Drive, South Weber UT 84405

Zone: Commercial Recreation

Along with compliance to all applicable State and City Code, the Conditional Use Permit has been approved with the following conditions:

1. 24-hour on-site management shall be provided.
2. Quiet hours shall be from 10:00 p.m. to 7:00 a.m.
3. RV Park rules must be posted on-site and given to all patrons.
4. Management must enforce park rules. Any changes to the park rules shall be provided to the City within 1 week.
5. Tenants may remain in a campsite a maximum of 60 days. They must move to a different site on day 61.

Note: City Staff shall have the right to inspect and enforce conditions. Any non-compliance will be subject to cancellation of this permit. Any requests for change must be made in writing and approved by the City Council.

The Conditional Use Permit is approved on this, _____ day of _____, 2020.

Applicant: _____

Planning Commission: Rob Osborne, Chair _____

Fire Department: Derek Tolman, Chief _____

City Council: Jolene Sjoblom, Mayor _____

Attest: Lisa Smith, City Recorder _____

When recorded return to:
South Weber City
1600 East South Weber Drive
South Weber, UT 84405

**DEVELOPMENT AGREEMENT
FOR RIVERSIDE RV PARK
IN SOUTH WEBER CITY**

This **DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into as of this ____ day of _____, 2020, by and between **F.M. Winkel Family L.L.C.**, a Limited Liability Corporation Company having its principal business address as 3651 North 100 East #125, Provo, Utah (hereinafter referred to as “Owner”), and **SOUTH WEBER CITY**, a municipal corporation of the State of Utah (hereinafter referred to as “City”), of 1600 East South Weber Drive, South Weber, UT 84405. Owner and City are heretofore individually referred to as “Party” or collectively referred to as “Parties.”

RECITALS:

- A. Owner is the owner of fee simple title property of approximately 11.66 acres; more particularly described in **Exhibit A** attached hereto (the “Property”). A Site Plan of the development is attached hereto as **Exhibit B** (the “Development”).
- B. Owner proposes the development of a Recreational Vehicle Park, including campsites, park-owned rental units and facilities, and other related amenities, “Riverside RV Park” (the “Development”), on the Property.
- C. The purpose of this Agreement is to establish the approved criteria required for the Development prior to approval through the City’s required approval process.
- D. City, acting pursuant to its authority under Utah Code Ann. § 10-9a-101, *et seq.*, and its land use policies, ordinances and regulations has made certain determinations with respect to the Development and, in the exercise of its legislative discretion, has elected to approve this Development Agreement for the purpose of specifying the obligations of the respective parties with respect to the installation of required infrastructure improvements and such other matters as the Parties agree herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals and Exhibits**. The foregoing Recitals and all Exhibits referenced herein are hereby incorporated by this reference and made part of this Agreement.

2. **City Laws and Purpose.** City determines that the provisions of this Agreement relating to establishment of Owner's rights and obligations are consistent with City laws, including the City's land use ordinances, the purposes set forth in the zoning district, and the City's General Plan. This Agreement is adopted by a City ordinance as a legislative act and hereby amends the City laws only to the extent within the authority of City and only to the extent necessary to give Owner the effect of the rights and obligations of this Agreement where such City laws may be inconsistent with this Agreement's intent.
3. **Approval.** This Agreement does not remove the Owner from their obligation to adhere to the City's established approval process. The Owner shall comply with all applicable time frames as specified in City Code.
4. **Boundary Resolution.** A portion of the Development adjacent to the Weber River has Weber County parcel numbers although indications are that the property is within Davis County. The Owner is responsible for resolution of this boundary conflict prior to the granting of Occupancy. Resolution shall mean, 1) Documentation provided by the proper authorities of both Weber and Davis Counties showing that the entire Development is located within Davis County, or 2) The written approval of the Development from Weber County for the portion of the Development located in Weber County.
5. **Flood Plain.** A FEMA Elevation Certificate will be required prior to occupancy of any permanent structure in order to remove the structure from the FEMA flood zone.
6. **Culinary for Outdoor Use.** There are no irrigation companies that currently serve the subject property or can feasibly do so. Therefore, City is allowing culinary water to be used for outdoor purposes. The use of the water will be charged in accordance with the City's adopted water rates. All irrigation connections must be constructed in accordance with City and State drinking water requirements. If the Owner acquires another source of water for irrigation purposes at a future date, the Owner shall disconnect irrigation connections in accordance with City and State drinking water requirements.
7. **Stream Alteration Permit.** A Stream Alteration Permit from the State is required for any qualifying activity along the Weber River.
8. **Trail.** Prior to occupancy, a 15' wide easement shall be dedicated to Weber Pathways and recorded with the Davis County Recorder's Office, and a 10' minimum trail must be graded, constructed and completed in accordance with Weber Pathways standards. The extent of the trail shall include the frontage of the Development on Cottonwood Drive/6600 South and along the north property line adjacent to the Weber River.
9. **Water and Sewer.**
 - 12.1 **Owner Responsibility.** The Owner is responsible for the initial construction of all utility infrastructure. The Owner will remain responsible for all water services (starting at the main) and all sewer laterals (starting at the main).

- a. Escrow. Prior to construction, the Owner is responsible to establish a cash escrow account in the amount of the total cost for the construction of the water and sewer improvements, plus 15% for contingencies and 10% for the guarantee of the improvements installed, as approved by the City. Upon request from the Owner, escrow monies for construction may be released as improvements are completed.
- b. Easement. Following the installation of the water and sewer main lines, the Owner shall dedicate to City and record with the Davis County Recorder's Office a general utility easement(s) for said lines. The easement shall be a minimum width of 15' with the main located in the center of the easement.
- c. Conditional Acceptance. Following completion of the water and sewer, the Owner shall be shall responsible to request final inspection of the improvements installed and complete any punchlist items resulting from the inspection. Upon satisfactory completion of punchlist items and recording of said easements, the City will grant the release of remaining escrow monies for the construction costs and the 15% Contingency. The 10% Guarantee shall remain in place through the 1-year Guarantee Period.
- d. Guarantee Period. The Owner is responsible to guarantee the installation of all utility infrastructure for 1 year following Conditional Acceptance. During the 1-year period, the Owner shall be responsible for all repairs and/or replacement of any infrastructure found to be deficient or not in working order.
- e. Final Acceptance. Following the 1-year Guarantee Period, the Owner shall be responsible to request inspection of the improvements installed and complete any punchlist items resulting from the inspection. Upon satisfactory completion of punchlist items, the City will grant the release of all remaining escrow monies.

12.2 City Responsibility. Following Final Acceptance, the City shall become the owner, and therefore responsible for the maintenance of the water meter and vault, 8" water mains, fire hydrants, and 8" sewer mains.

10. **Storm Drain**. The storm drain system will be privately owned and maintained by the Owner and is connected to UDOT's drainage system that ultimately drains into the Weber River. The Owner must comply with all requirements of UDOT and the State relating to this drainage, including storm water pollution prevention and the Clean Water Act.
11. **Cottonwood Drive Waterline Project**. Currently, an existing 6" waterline serves the residents on Cottonwood Drive with culinary water.

11.1 Waterline Project. The City identified the need to replace and upsize the waterline in Cottonwood Drive in the Culinary Water Capital Facilities Plan (CFP), dated June 2016 (“Project”). The current Capital Improvement Plan (CIP) identifies the Project to be completed in the year 2026.

- a. Reprioritization. As additional study has been conducted in this area, it has been discovered that Uintah City also has the need to replace their waterline in Cottonwood Drive. Uintah City is willing to share the cost of replacement if a joint-use waterline can be constructed. In addition, the City has plans to resurface Cottonwood Drive as soon as possible, but replacement of the waterline would be detrimental to the resurfacing if done prior to replacement of the waterline. Therefore, the roadway should not be resurfaced until the waterline is replaced. For these reasons, the City feels that a reprioritization of the Project is needed.
- b. Owner’s Contribution. Owner agrees to contribute **thirty-five thousand dollars (\$35,000)** towards engineering and construction of the Project. Payment will be due within 30 days following Substantial Completion of the Project, as notified in writing by the City.
- c. City’s Responsibility. The City will be responsible for the design, bidding and construction of the Project, and agrees to have the Project completed and in service by **August 1, 2020**.

12. Transportation Utility Fee. The City has adopted a transportation utility fee that is based on Equivalent Residential Units (ERU). The ERU is calculated using the number of trips generated by the use of the property. For all non-residential uses, the number of trips is calculated based on the current edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual.

12.1 ERU Calculation. The fee for this Development will be calculated based on the number of sites used for long-term stays versus short-term stays. For the purpose of this Agreement, a long-term stay shall be considered 31 days or more, and a short-term stay is 30 days or less. The Owner has chosen to allow up to 50 sites to be long-term stays and 52 sites to be short-term stays. This calculates as 50 ERU’s and will be charged according to the City’s current adopted fee schedule.

12.2 Long-term Stay Restriction. The Owner agrees that at no time will the number of sites for long-term stays exceed 50.

12.3 ERU Adjustment. Should the Owner desire to adjust the number of long-term stays, the ERU calculation may be adjusted annually upon submission of supporting documentation from the Owner and approved administratively; which approval shall not be unreasonably withheld.

13. Parking. The Development is responsible to provide sufficient on-site parking as required in City Code. All on-site parking will be in designated parking areas. Parking of vehicles related

to the use of the RV Park shall be contained within the Development and shall not be permitted off-site.

14. **Landscaping.** All proposed landscaping shall be installed prior to the granting of Occupancy and shall be in accordance with the approved Landscape Plans, dated March 21, 2019, by Berg Landscape Architects. The removal of existing trees and shrubs shall be directed by a Wildlife Resource Arborist.

15. **Lighting.** All on-site lighting must follow quiet hours and be dark-sky compliant.

16. **Successors and Assigns.**

16.1 **Binding Effect.** This Agreement shall be binding upon the successors and assigns of the Parties. Owners acknowledge and agree that if the City is not paid in full in a timely fashion by Developer of all monies as stated in this Agreement, no future development will be permitted by City on the Property until full payment is made.

16.2 **Assignment.** Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other Party, individual, or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to South Weber City, and the prior written consent of City may also be evidenced by letter from City to Developer.

17. **Default.** In the event either Party fails to perform its obligations hereunder or to comply with the terms and commitments hereof, within thirty (30) days after having been given written notice of default from the other Party, the non-defaulting Party may, at its election, have the following remedies, which shall be cumulative:

17.1 all rights and remedies available at law and in equity, including but not limited to injunctive relief, specific performance, and/or damages;

17.2 to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and

17.3 the right to withhold all further approvals, licenses, permits, or other rights associated with any activity or development described in this Agreement until such default is cured.

18. **Insolvency.** Insolvency, bankruptcy, or any voluntary or involuntary assignment by any Party for the benefit of creditors, which action is unresolved for a period of one hundred eighty (180) days, shall be deemed to be a default by such Party under this Agreement.

19. **Court Costs and Attorneys' Fees.** In the event of any legal action or defense between the Parties arising out of or related to this Agreement or any of the documents provided for

herein, the prevailing Party or Parties shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.

20. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended, or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at:

Owner: F.M. Winkel Family, L.L.C.
3651 North 100 East #125
Provo, UT 84604

City: South Weber City
Attention: City Manager
1600 East South Weber Drive
South Weber, UT 84405

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this section.

21. **General Terms and Conditions.**

21.1 **Amendments.** Any alteration or change to this Agreement shall be made only after complying with any applicable notice and hearing provisions of MLUDMA and applicable provisions of the City Laws.

21.2 **Captions and Construction.** This Agreement shall be construed according to its fair meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed to effectuate the public purposes, objectives and benefits set forth herein while protecting any compelling countervailing public interest and providing to Developer vested development rights as described herein. As used in this Agreement, the words "include" and "including" shall mean "including, but not limited to" and shall not be interpreted to limit the generality of the terms preceding such word.

21.3 **Term of Agreement.** The term of this Agreement shall be for a period of ten (10) years following the date of its adoption.

21.4 **Agreement to Run with the Land.** This Agreement shall be recorded in the office of the Davis County Recorder against the Property and is intended to and shall be deemed to run with the land and shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall be

construed in accordance with the City Laws. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Davis County, Utah.

- 21.5 Legal Representation. Each of the Parties hereto acknowledge that they each have been represented by legal counsel in negotiating this Agreement and that no Party shall have been deemed to have been the drafter of this Agreement
- 21.6 Non-Liability of City Officials. No officer, representative, agent or employee of the City shall be personally liable to any other Party hereto or any successor in interest or assignee of such Party in the event of any default or breach by the defaulting Party, or for any amount which may become due the non-defaulting Party, its successors or assigns, or for any obligation arising under the terms of this Agreement.
- 21.7 Entire Agreement. This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.
- 21.8 No Third-Party Rights. The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Parties named herein. The Parties alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.
- 21.9 Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of nature, government restrictions, regulations or controls, judicial orders, enemy or hostile government actions, war, civil commotions, fires, floods, earthquakes or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage. Any Party seeking relief under the provisions of this paragraph must have noticed the other parties in writing of a force majeure event within thirty (30) days following the occurrence of the claimed force majeure event.
- 21.10 Severability. Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

21.11 Waiver. No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.

21.12 Governing Law. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

21.13 Exhibits. Any exhibit to this Agreement is incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit.

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

*Development Agreement for Riverside RV Park
in South Weber City*

“Owner”

F.M. WINKEL FAMILY, L.L.C.

By _____

Title _____

Witness the hand of said grantors, this _____ day of _____, A.D. 2020.

F.M. Winkel Family, L.L.C.

State of Utah)

) ss.

County of Davis)

On this ____ day of _____, A.D. 2020, personally appeared before me,

_____, the signer of the foregoing instrument, who duly

acknowledged that he/she is the _____ of F.M. Winkel Family, a Limited

Liability Company and signed said document in behalf of said F.M. Winkel Family, L.L.C. by

Authority of its Bylaws or Resolution of its Board of Directors, and said

_____ acknowledged to me said Limited Liability Company

executed the same.

WITNESS my hand and official seal the day and year in this certificate first above written.

NOTARY PUBLIC
Commission Expires:

*Development Agreement for Riverside RV Park
in South Weber City*

“City”

SOUTH WEBER CITY

By _____
David Larson, City Manager

Attest: Lisa Smith, City Recorder

State of Utah)
) ss.
County of Davis)

Subscribed and sworn to before me on this _____ day of _____ 2020, by David
Larson.

WITNESS my hand and official seal the day and year in this certificate first above written,

NOTARY PUBLIC
Commission Expires: