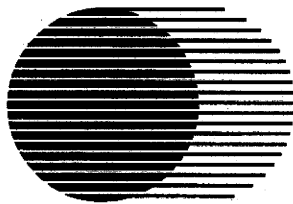


County Council

November 19, 2014

Public Hearing

6:00 p.m. Meeting



Consideration of a rezone of property referred to as the North Fields. The North Fields is bordered on the south by Highway 113 (Midway Lane), west by the Provo River Mitigation property, east by Highway 40 and north almost to the intersection of Highway 40 and River Road. The North Fields is currently zoned A-20 (Agricultural 20-acre lots minimum). The proposal is to rezone the north fields to A-10 (agricultural 10-acre lots minimum). This is a county initiated proposal that includes approximately 2,800 acres in all or parts of sections 18, 19, 24, 25, 29, 30, 31, 32, and 36 of Township 3 South Range 4 East and Township 3 South Range 5 East.

Attached you will find:

- Copy of the 11/13/2014 Planning Commission Packet
- When available a copy of the Planning Commission Report of Action
- Public Comments

WASATCH COUNTY
Planning Commission Staff Report
November 13, 2014

ITEM: 1

The Wasatch County Planning Commission will consider a rezone of property referred to as the North Fields. The North Fields is bordered on the south by Highway 113 (Midway Lane), west by the Provo River Mitigation property, east by Highway 40 and north almost to the intersection of Highway 40 and River Road. The North Fields is currently zoned A-20 (Agricultural 20-acre lots minimum). The proposal is to rezone the north fields to A-10 (agricultural 10-acre lots minimum). This is a county initiated proposal that includes approximately 2,800 acres in all or parts of sections 18, 19, 24, 25, 29, 30, 31, 32, and 36 of Township 3 South Range 4 East and Township 3 South Range 5 East.

BACKGROUND:

The proposed rezone is located in what is referred to as the North Fields area which is generally on the west side of Highway 40 from Midway Lane up to the intersection of Highway 40 and River Road. The proposed rezone would include approximately 2,800 acres.

This request is to amend the zoning map from A-20 (20-acre lots) to RA-10 (10-acre lots). If the rezone were approved RA-10 zoning regulations would have to be written that most likely would be substantially similar to the A-20 zone as determined by the County Council after a recommendation from the Planning Commission.

The property proposed to be rezoned is in the Central Planning Area of the General Plan which contains most of the ground in the Provo River corridor between the Jordanelle dam and Charleston.

In reviewing rezones the General Plan is the main document for determining the appropriateness of a rezone. The General Plan is broken into sections that individually represent geographic areas throughout the County. Each planning area has two sections; the settings and constraints and the land use plan sections. The General Plan is a mandatory document that is required to be followed by the legislative body or be amended by the legislative body.

As per state code 17-27a-205(4) enacted in the 2014 legislative session "courtesy letters" are required to be sent to all property owners within the area proposed to be rezoned. Also property owners can, no later than 10-days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment.

The applicable sections regarding regulations for the Central Planning area of the General Plan are quoted verbatim in the sections below. These sections were adopted in 2001

and, as far as I am aware, have not been updated since that time. Also included with this staff report is the entire Central planning area section of the General Plan so the Planning Commission can review the section in its entirety.

ANALYSIS:

General Plan recommendations – The Central Planning settings and constraints section of the General Plan states the following:

The Central Planning Area containing 6,103 acres (which runs from the Jordanelle dam to Charleston) is characterized by meadows, river and stream riparian environment, high ground water table, hydric soils, and unsuitable soils for building and infrastructure development. The Central Planning Area is located within the inundation area of sudden failure of the Jordanelle Dam and major flood area that extends beyond the Provo River Corridor.

Map 24 compiled from the Soil Survey of the Heber Valley Area, Utah shows soils that have water tables that rise to within 60 inches of the surface during some periods of the year except for Rasband, Crook Creek Little Pole and Henefer soils. This information is confirmed in Map 25 from the Department of Natural Resources Technical Publication No. 27 entitled Water Resources of The Heber-Kamas-Park City Area North-Central Utah which shows that most of the Central Planning Area has a water table within five feet of the surface during some periods of the year. This high ground water condition can have a profound effect on the infrastructure that would be required to support development in this planning area.

With the discontinuance of flood irrigation, it has been argued that the water table for much of the Central Planning Area would drop. This may be the case in some small areas, but since the majority of the soils within the Central Planning Area are hydric soils which have taken hundreds if not thousands of years to develop into a high ground water table environment, the abandonment of flood irrigation which has occurred for less than 140 years is unlikely to have much of an impact on the overall ground water table.

The Soil Survey of the Heber Valley Area further identifies that many of the soils shown on Map 24 have severe limitations for roads, foundations for dwellings and septic tank absorption fields. These severe conditions are a result of the high ground water table and high potential for frost action. While these limitations may be overcome with proper engineering, the cost is considerably higher and

should be considered when it comes to the maintenance and operation of a public infrastructure.

The above findings are further confirmed by the historical lack of development in the Central Planning Area due to the above identified physical constraints and the experiences of the Wasatch County Road Department in their efforts to maintain minimum standard gravel roads in the area and the Wasatch City County Health Department's experience in disapproving many requests for on-site waste water disposal systems in the planning area due to high ground water.

The Land Use section of the General plan for the Central Planning Area states the following:

An evaluation of physical constraints in the Central Planning Area suggests that providing necessary infrastructure to accommodate significant development in this area would be very costly to units of local governments to provide. Therefore governmental support of the extension of the infrastructure such as water and sewer facilities and the acceptance of new streets for maintenance by the County should not be granted while other areas which are more suited for development are available.

The physical constraints of the Central Planning Area by themselves will likely insure that the historical land use pattern for this planning area will largely be maintained. Therefore as a matter of public policy, the Central Planning Area is to be maintained in its historical land use pattern of open meadows, and river and small stream riparian habitat. The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.

The Central Planning Area is highly prized by many local residents of Heber Valley as open space. This area's scenic value contributes significantly to the real value of all land within the Heber Valley area. Therefore, the following strategies should assist the county in preserving some of this area as open space at the same time providing property owners with a reasonable value for the removal of development rights from their property.

The Development Code should provide for an increase in density credits when the development rights are removed from land in the Central Planning Area. Land within the Central Planning Area has been identified as having a public benefit as open space. In this area while development may occur at the underlying zone of one unit per 20 acres if a suitable area can be identified, an increase in transferable density credit for the is area should be allowed.

The County should adopt a general sales tax and/or bonding as an additional ways to fund the purchase of development rights and/or fee title to land identified as having a public benefit as open space.

The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway. The Development code should ensure that any development along SR 113 is set well back from the road and the rural character along this road is maintained.

POSSIBLE FINDINGS: (Following are sections of the General Plan)

- As a matter of public policy, the Central Planning Area is to be maintained in its historical land use pattern of open meadows, and river and small stream riparian habitat.
- The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.
- The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway.
- The Soil survey of the Heber Valley Area further identifies that many of the soils shown on Map 24 have severe limitations for roads, foundations for dwellings and septic tank absorption fields. These severe conditions are a result of the high ground water table and high potential for frost action. While these limitations may be overcome with proper engineering, the cost is considerably higher and should be considered when it comes to the maintenance and operation of a public infrastructure.
- The GP also recommends TDR's, bonds or general sales tax to purchase or move development rights.

Following are the purpose statements for the A-20 zone:

- Avoid excessive costs for public services in areas with high physical constraints.
- Protect the underground water supply from pollution“.
- Maintain an open rural buffer between Heber and Midway City. (2002 Code § 16.06.01)

As a condition, if the 10-acre zoning is approved, an (RA-10) zone would need to be created presumably similar in nature to the A-20 zone.

ALTERNATIVE ACTIONS:

1. Recommendation for Denial. This action may be taken if the Planning Commission concludes that the proposed zoning map amendment is not appropriate at this time.

Planning Commission Staff Report
Item 1 – Pg. 5
November 13, 2014

2. Recommendation for Continuance. This action may be taken if the Planning Commission needs additional information before a recommendation is made.
3. Recommendation for Approval. This action may be taken based upon a finding that the surrounding uses have changed, and the proposed zoning map amendment is appropriate at this time.

Attachments: The Central Planning Area portion of the General Plan including maps
Health Department Letter

Central Planning Area

Setting and Constraints

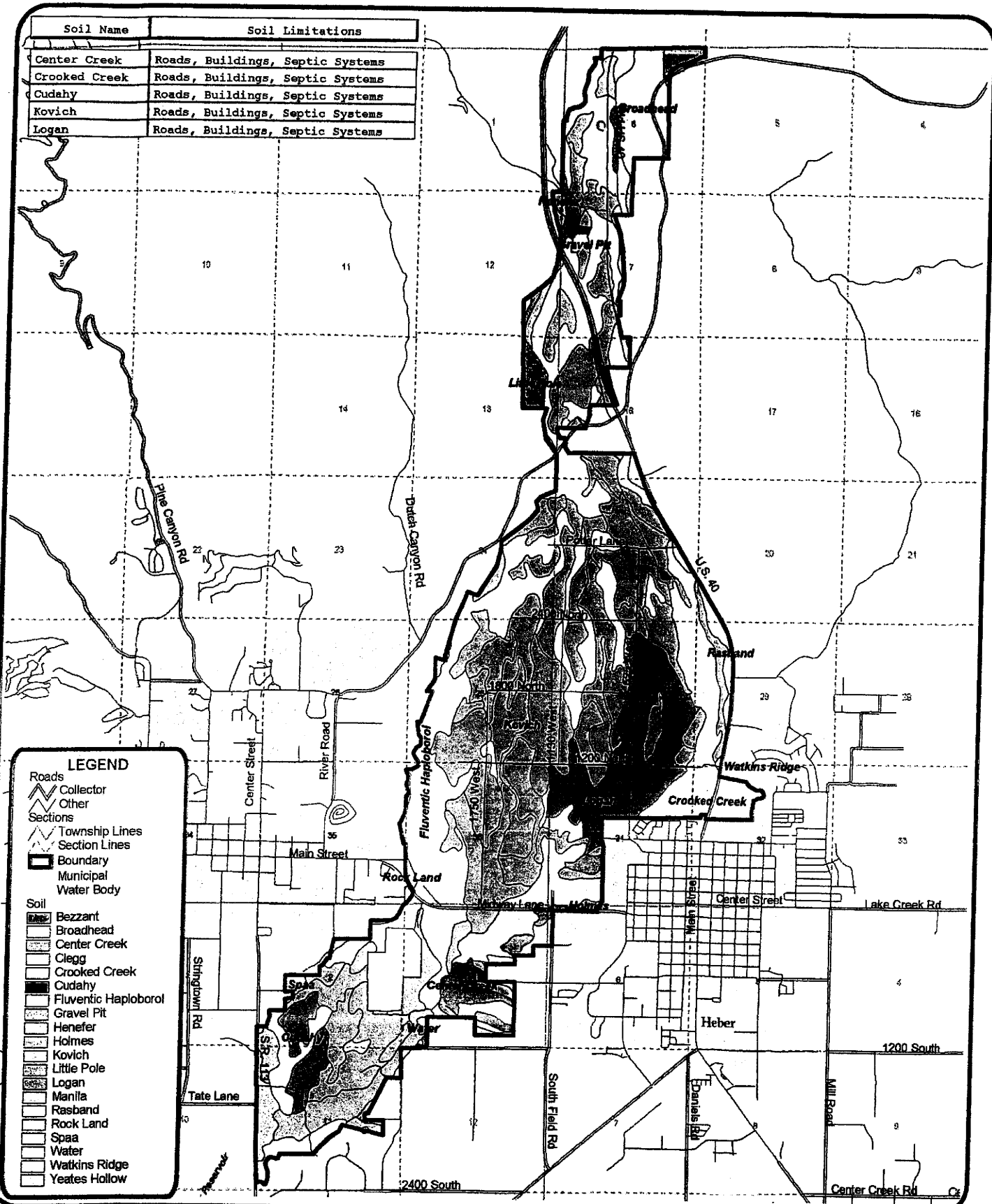
The Central Planning Area containing 6,103 acres is characterized by meadows, river and stream riparian environment, high ground water table, hydric soils, and unsuitable soils for building and infrastructure development. The Central Planning Area is located within the inundation area of sudden failure of the Jordanelle Dam and major flood area that extends beyond the Provo River Corridor. This planning area contains a total of 28 dwellings.

Map 24 compiled from the Soil Survey of the Heber Valley Area, Utah shows soils that have water tables that rise to within 60 inches of the surface during some period of the year except for Rasband, Crook Creek, Little Pole and Henefer soils. This information is confirmed in Map 25 from the Department of Natural Resources Technical Publication No. 27 entitled Water Resources of The Heber-Kamas-Park City Area North-Central Utah which shows that most of the Central Planning Area has a water table within five feet of the surface during some period of the year. This high ground water condition can have a profound effect on the infrastructure that would be required to support development in this planning area.

A high ground water table results, in almost all cases, in the infiltration of ground water into the sewer system which adds an additional cost to sewage treatment. This condition should be avoided where possible. A high ground water table also causes difficulties in the maintenance of culinary systems. When a water line break occurs in a high ground water table, it is impossible to prevent ground water from entering the culinary water system on the non-pressurized side of a leak. In the Heber Valley environment, most water line pipings are located at depths of six feet with a required five feet of cover over the top of the pipe placing lines well within the water table of the Central Planning Area.

Some would suggest that the water table be lowered in the Central Planning Area by the installation of underground drains. If drains were installed, they would likely result in the destruction of wetlands that have been identified in the Central Planning Area (see Figure 25) which would result in the violation of Federal Law.

Soil Name	Soil Limitations
Center Creek	Roads, Buildings, Septic Systems
Crooked Creek	Roads, Buildings, Septic Systems
Cudahy	Roads, Buildings, Septic Systems
Kovich	Roads, Buildings, Septic Systems
Logan	Roads, Buildings, Septic Systems



LEGEND

Roads
 Collector
 Other

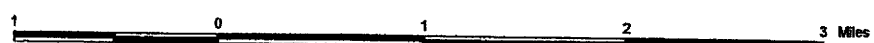
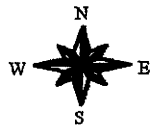
Sections
 Township Lines
 Section Lines

Boundary
 Municipal
 Water Body

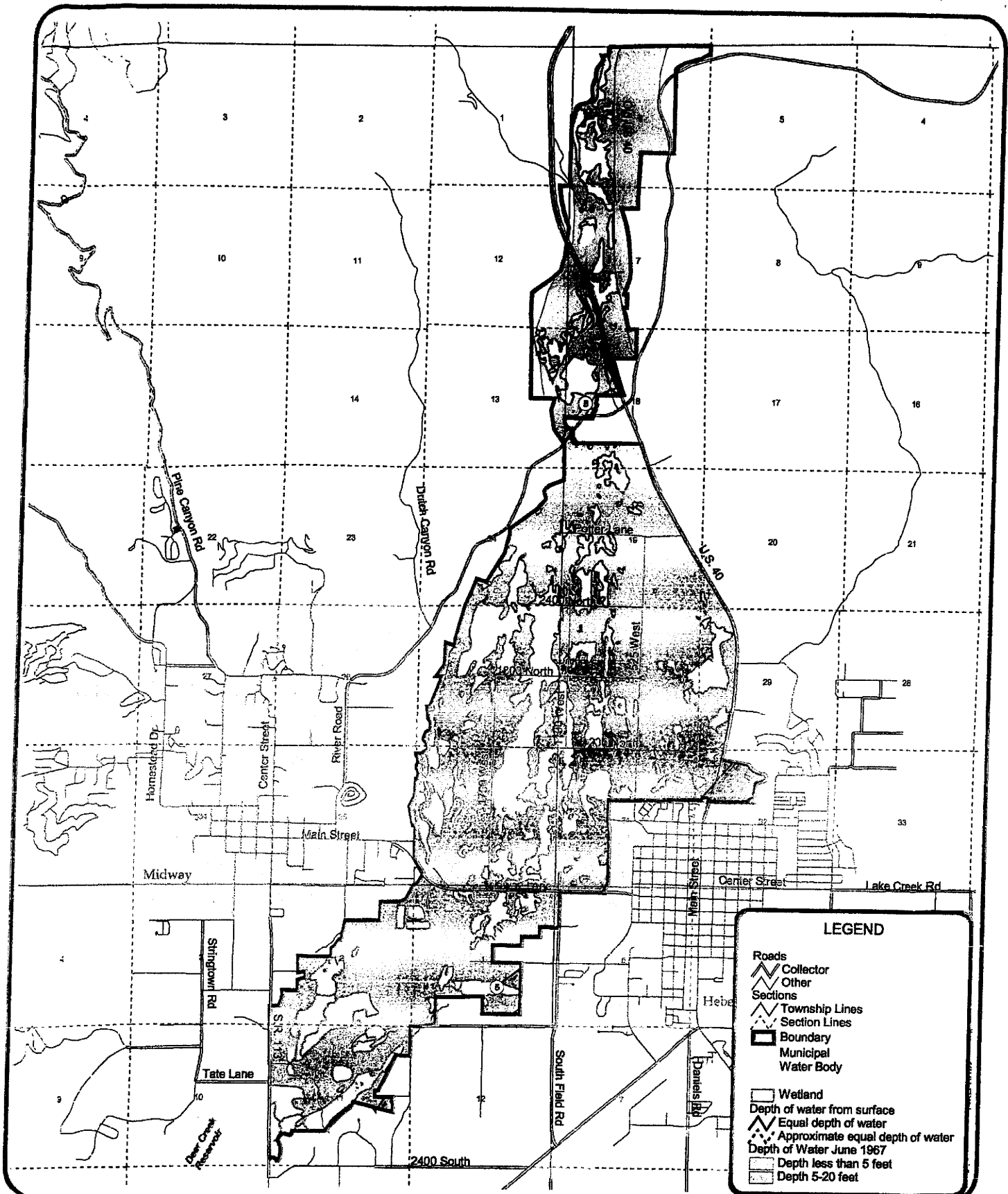
Soil
 Bezzant
 Broadhead
 Center Creek
 Clegg
 Crooked Creek
 Cudahy
 Fluventic Haploborol
 Gravel Pit
 Henefer
 Holmes
 Kovich
 Little Pole
 Logan
 Manila
 Rasband
 Rock Land
 Spaa
 Water
 Watkins Ridge
 Yeates Hollow

Wasatch County

Central Planning Area - Soils Map



141



Wasatch County

Central Planning Area - Depth of Ground Water Table and Wetlands



Map 25

13

It has been argued by others that if flood irrigation was discontinued, the water table for much of the Central Planning Area would drop. This may be the case in some small areas, but since the majority of the soils within the Central Planning Area are hydric soils which have taken hundreds if not thousands of years to develop into a high ground water table environment, the abandonment of flood irrigation which has occurred for less than 140 years is unlikely to have much of an impact on the overall ground water table.

The Soil Survey of the Heber Valley Area further identifies that many of the soils shown on Map 24 have severe limitations for roads, foundations for dwellings and septic tank absorption field. These severe conditions are a result of the high ground water table and high potential for frost action.

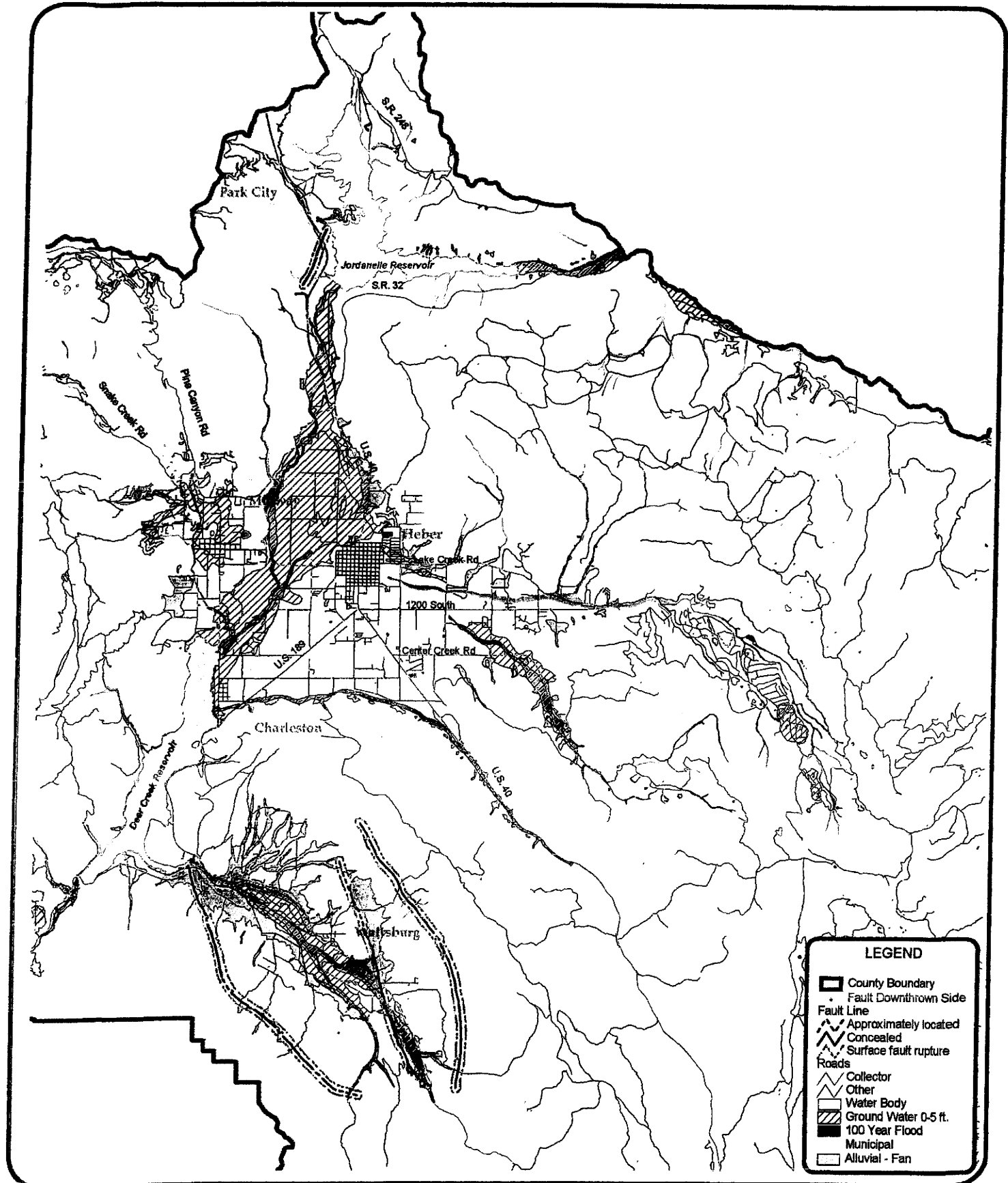
While these limitations may be overcome with proper engineering, the cost is considerably higher and should be considered when it comes to the maintenance and operation of a public infrastructure.

The above findings are further confirmed by the historical lack of development in the Central Planning Area due to the above identified physical constraints and the experiences of the Wasatch County Road Department in their efforts to maintain minimum standard gravel roads in the area and the Wasatch City County Health Department's experience in disapproving many requests for on-site waste water disposal systems in the planning area due to high ground water. Additional physical constraints that may limit the development of lands in this planning area are shown in the following figures. Map 26 shows flood hazards, earthquake hazards, and problem soil. Map 27 identifies suitability for wastewater disposal in septic-tank soils absorption systems. Table 28 shows landslide hazards.

The Central Planning Area is completely located within the inundation area of a sudden Jordanelle Dam failure as shown in Map 29. Map 29 also shows the area that would be affected by a major flood even with Jordanelle Dam.

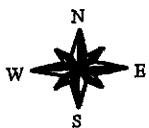
The Provo River is currently undergoing a restoration program to remove diking that was installed in the 1950s and to restore the river to its natural pattern with a meandering channel and restored river riparian and in-stream habitats. The corridor for this project is 800 to 2,200 feet wide along the river and is shown in Map 30 Central Planning Area, existing land use. Map 31 shows existing ownership with parcel sizes for private land.

Also located in the Central Planning Area are the Heber Valley Special Service District's waste water treatment lagoons. As the area continues to grow, a mechanical treatment facility will in all likelihood replace the present lagoon treatment system. These lagoons could still be utilized to store the winter flows for the mechanical treatment facility and made available for reuse through the valley pressurized irrigation system.

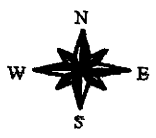
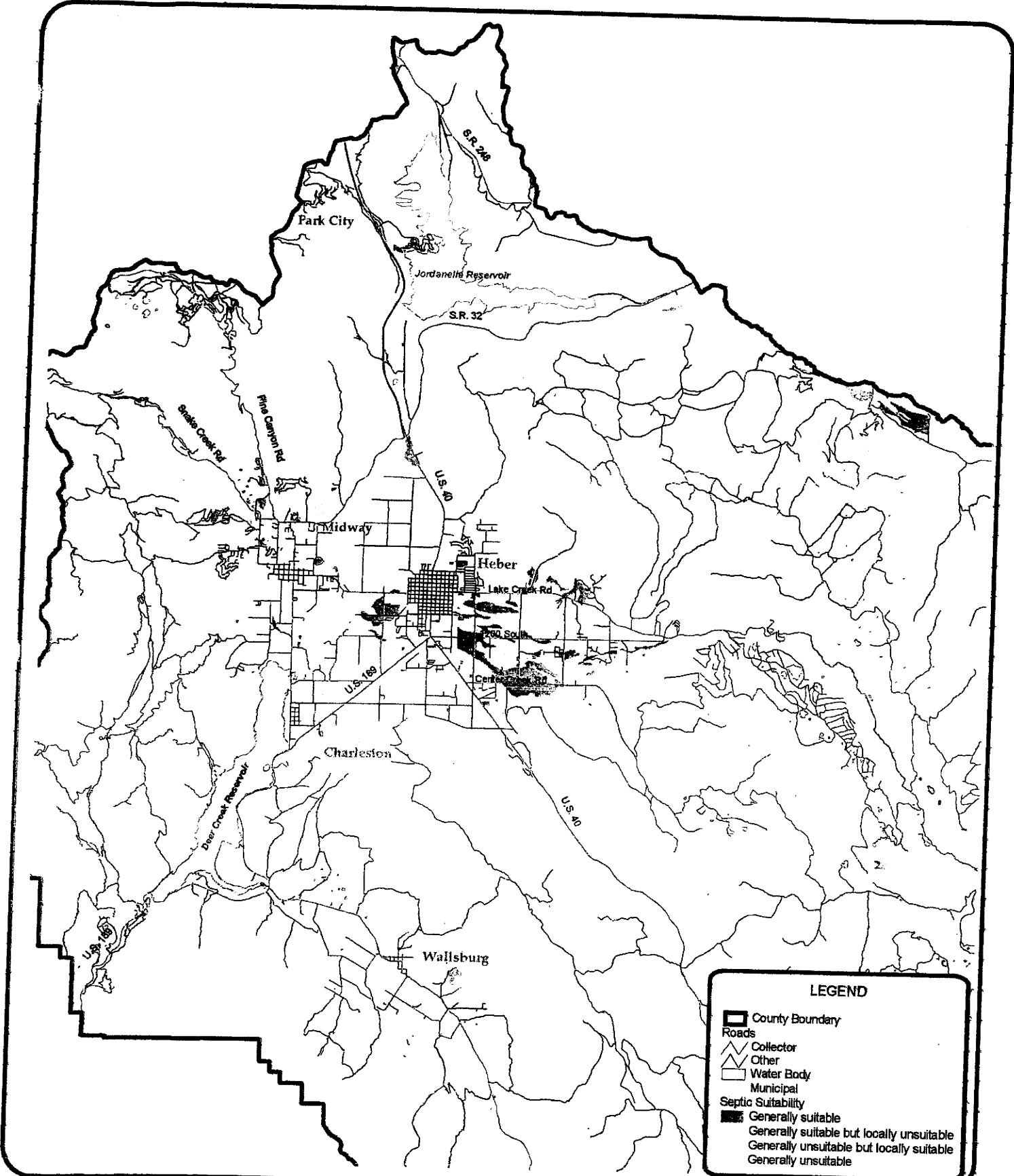


Wasatch County

Flood Hazards, Earthquake Hazards and Problem Soils



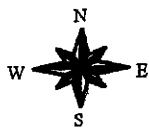
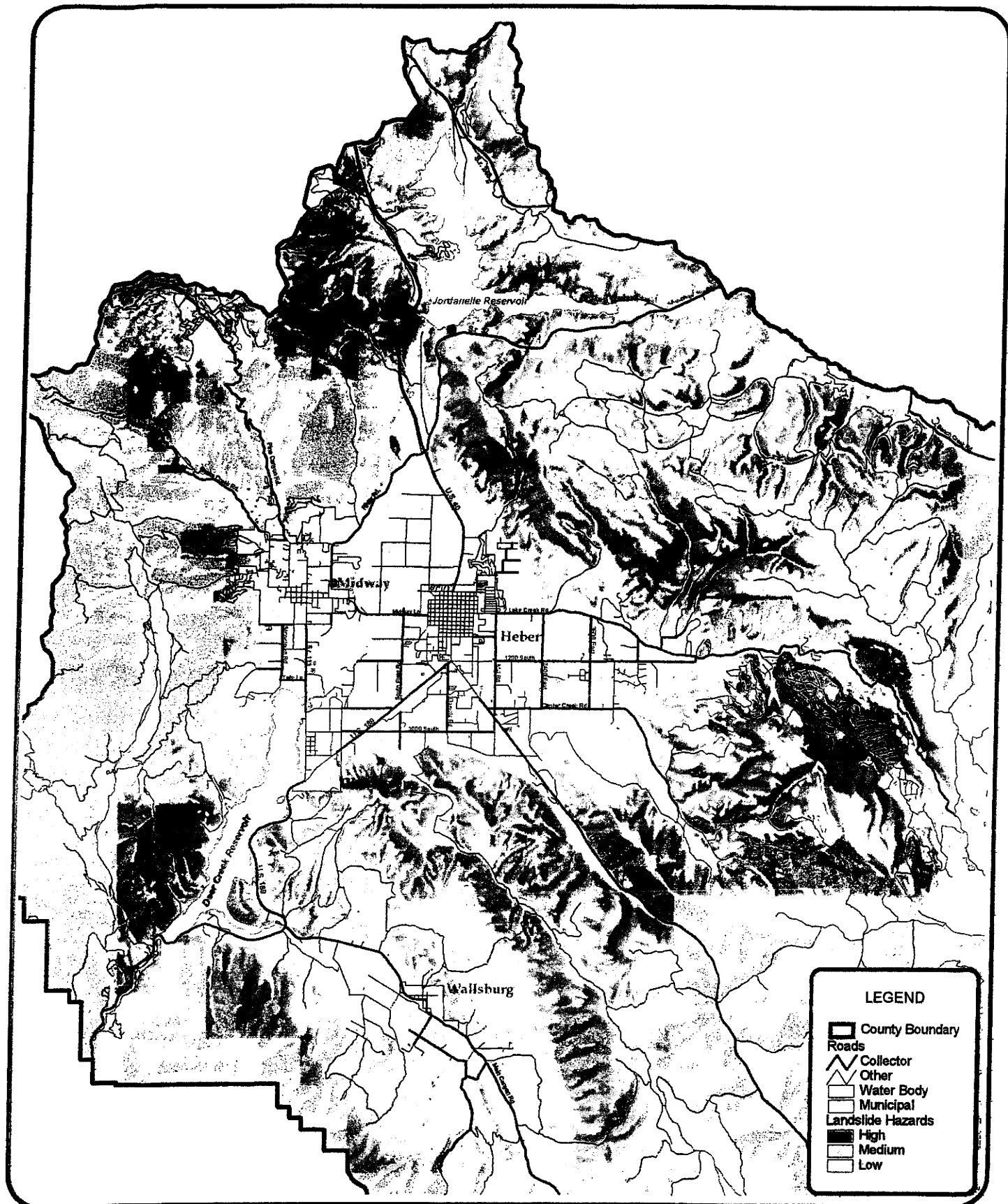
Map 26



Wasatch County
 Suitability for Wastewater Disposal
 in Septic-Tank Soil Absorption Systems

2 0 2 4 Miles

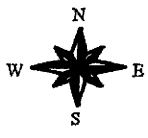
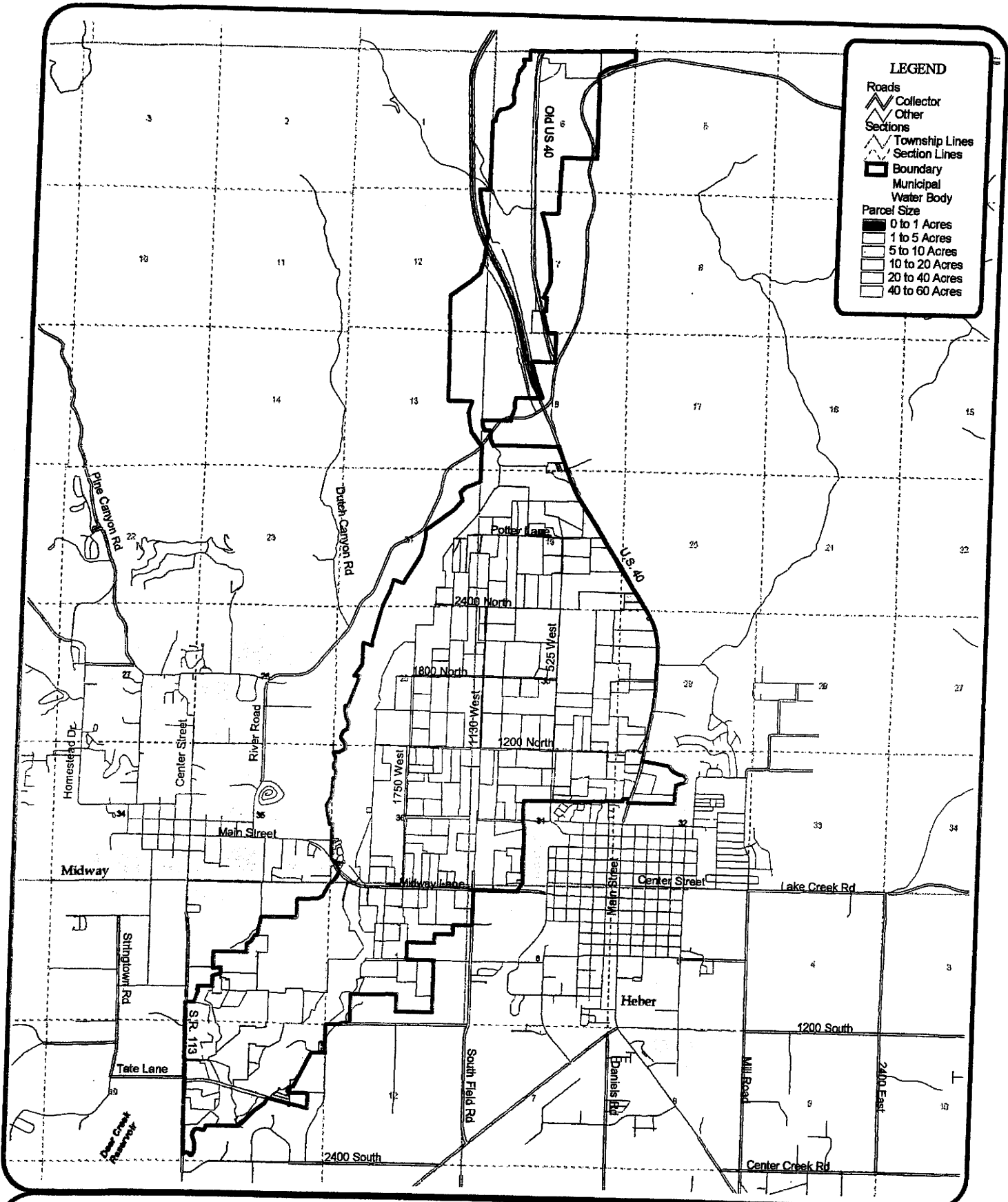




Wasatch County

Landslide Hazards





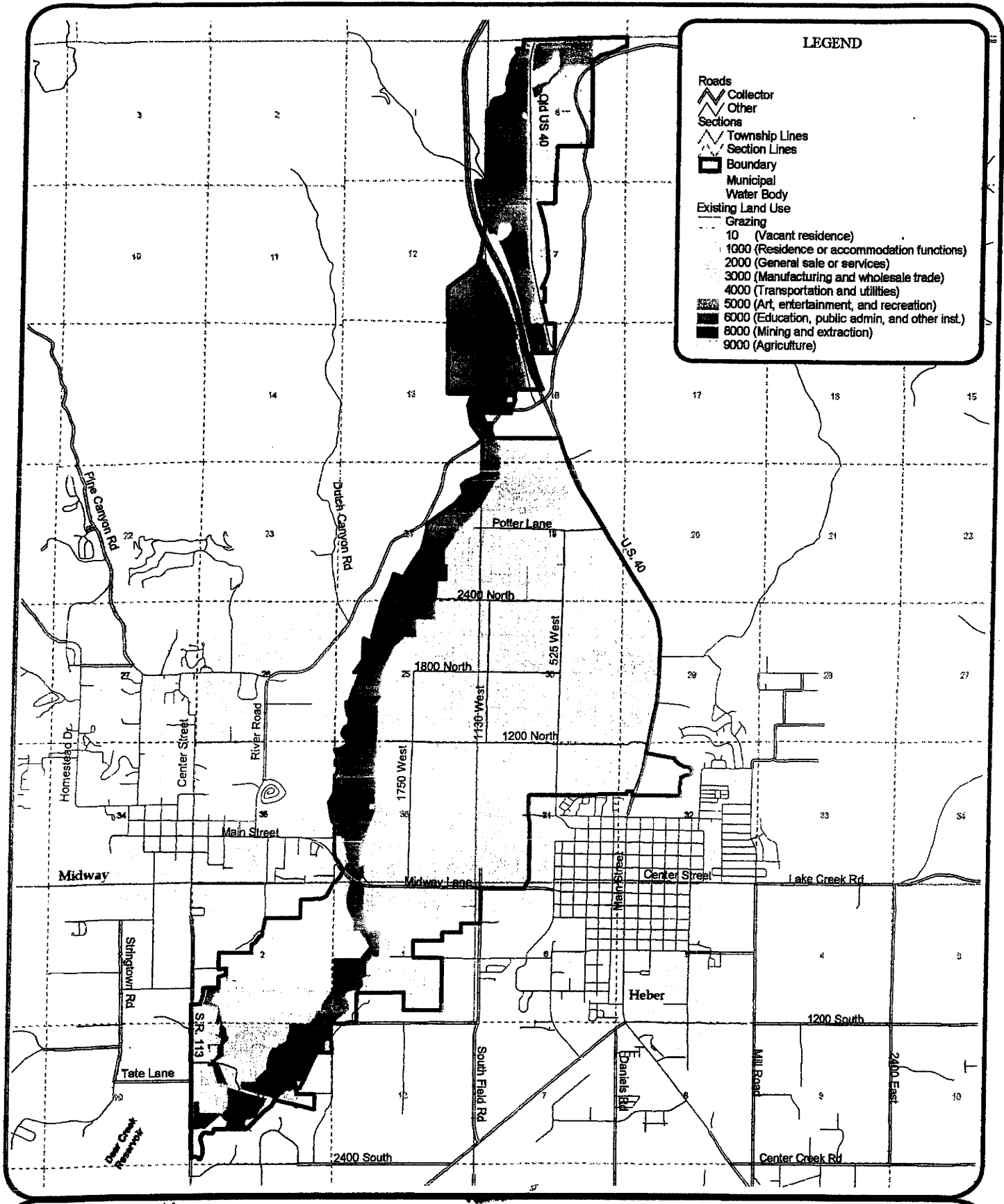
Wasatch County

Central Planning Area - Existing Land Ownership
with Parcel Sizes for Private Land



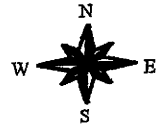
LEGEND

- Roads
 - Collector
 - Other
- Sections
 - Township Lines
 - Section Lines
- Boundary
 - Municipal
 - Water Body
- Existing Land Use
 - Grazing
 - 10 (Vacant residence)
 - 1000 (Residence or accommodation functions)
 - 2000 (General sale or services)
 - 3000 (Manufacturing and wholesale trade)
 - 4000 (Transportation and utilities)
 - 5000 (Art, entertainment, and recreation)
 - 6000 (Education, public admin, and other inst.)
 - 8000 (Mining and extraction)
 - 9000 (Agriculture)



Wasatch County

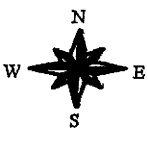
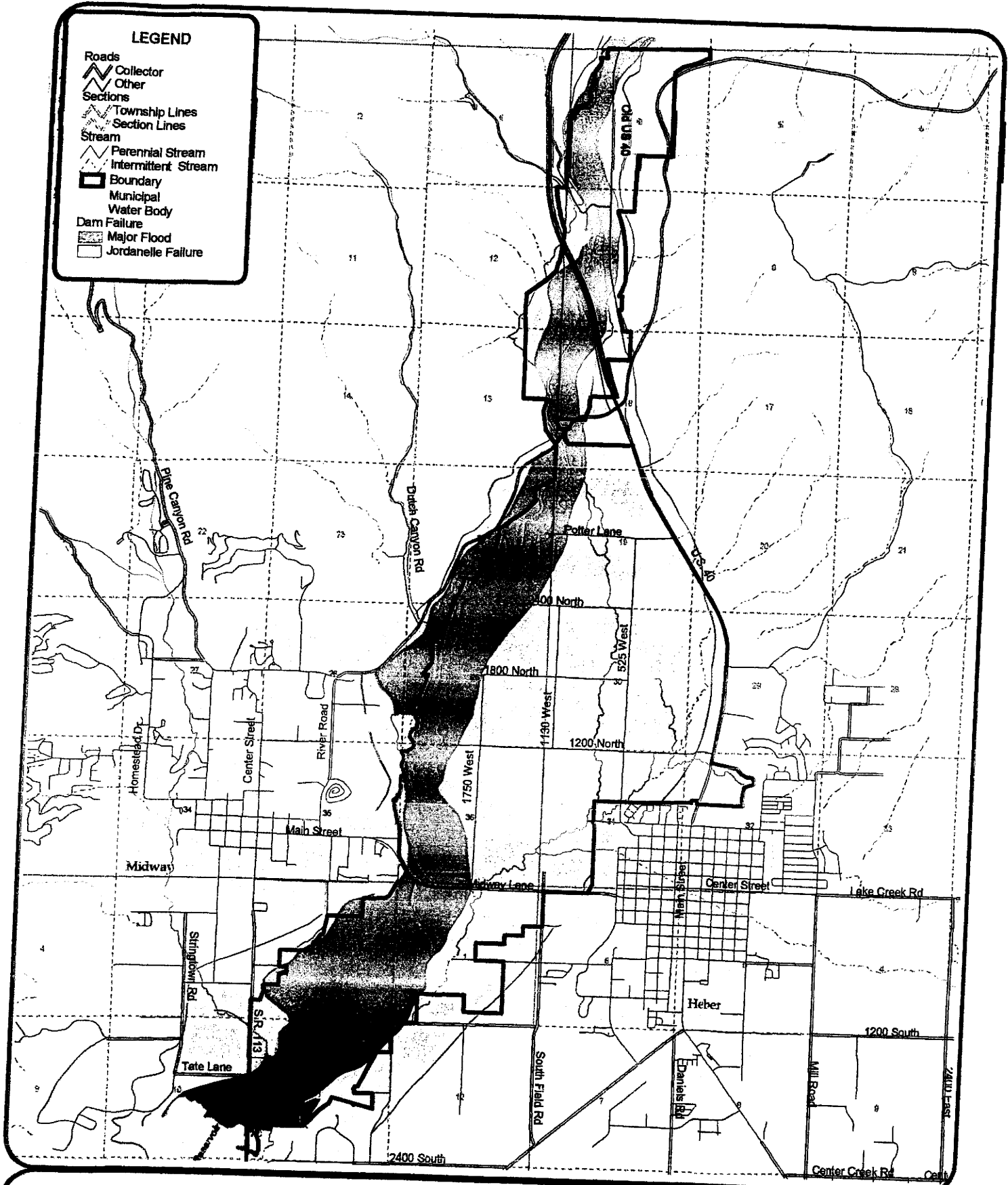
Central Planning Area - Existing Land Use



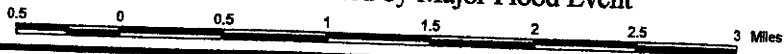
Map 30

LEGEND

- Roads
 - Collector
 - Other
- Sections
 - Township Lines
 - Section Lines
- Stream
 - Perennial Stream
 - Intermittent Stream
- Boundary
 - Municipal
 - Water Body
- Dam Failure
- Major Flood
- Jordanelle Failure



Wasatch County
 Central Planning Area - Inundation Area of Sudden Jordanelle Dam Failure
 and Area Affected by Major Flood Event



Central Planning Area

Land Use Plan

An evaluation of physical constraints in the Central Planning Area suggests that providing necessary infrastructure to accommodate significant development in this area would be very costly to units of local governments to provide. Therefore governmental support of the extension of the infrastructure such as water and sewer facilities and the acceptance of new streets for maintenance by the County should not be granted while other areas which are more suited for development are available.

The physical constraints of the Central Planning Area by themselves will likely insure that the historical land use pattern for this planning area will largely be maintained. Therefore as a matter of public policy, the Central Planning Area is to be maintained in its historical land use pattern of open meadows and river and small stream riparian habitat. The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.

The Central Planning Area is highly prized by many local residents of Heber Valley as open space. This area's scenic value contributes significantly to the real value of all land within the Heber Valley area. Therefore, the following strategies should assist the county in preserving some of this area as open space at the same time providing property owners with a reasonable value for the removal of development rights from their property.

The Development Code should provide for an increase in density credits when the development rights are removed from land in the Central Planning Area.

Land within the Central Planning Area has been identified as having a public benefit as open space. In this area while development may occur at the underlying zone of one unit per 20 acres if a suitable area can be identified, an increase in transferable density credit for this area should be allowed.

The County should adopt a general sales tax and/or bonding as an additional ways to fund the purchase of development rights and/or fee title to land identified as having a public benefit as open space.

The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway. The Development Code should ensure that any development along SR 113 is set well back from the road and the rural character along this road is maintained.

A major impact to the green belt area between Heber City and Midway will be the construction of the Heber City truck route which would allow trucks to bypass Heber City's Main Street. Care must be taken to see that this road is constructed as close to Heber City as possible. Map 32 shows the proposed alignment of the truck route. New developments along the truck route corridor should be required to provide the required right-of-way as a condition of any project approval. The truck route intersection with Midway Lane should not become an area of commercial activity. Allowing commercial development at this intersection would in all likelihood only shift wealth from existing Heber City businesses and not create any new wealth. To avoid the potential of commercial development, an overpass without exits could be used to cross Midway Lane.

The Cental Planning Area has also been identified as an area where paths and trails for walking and riding of bikes should be provided. Efforts should be made to have a trail constructed along the Provo River corridor between the Jordanelle and Deer Creek Reservoirs and one from Heber City to Midway.



WASATCH COUNTY

November 4, 2014

Wasatch County Planning Commission
55 S. 500 E.
Heber City, UT 84032

RE: North Fields Rezone Proposal

Dear Planning Commission Members,

Part of the responsibility of the Wasatch County Health Department is to protect the groundwater resources of the County. This letter is to provide formal comment regarding the proposed rezoning of the North Fields from A20 (Agriculture 20-acre lots minimum) to A10 (Agriculture 10-acre lots minimum). Given the current information and data available, the Wasatch County Health Department and Board of Health is not in support of the proposal for the following reasons:

1. The North Fields area has been identified by the Utah Geologic Survey (Open File – Report 319) as ‘Generally Unsuitable’ for conventional septic systems due to high groundwater and fast soils. The protection of our groundwater resource is critical and increasing the density of septic systems in an unsuitable area poses a greater risk to water quality than the currently allowed density.
2. The Hydrogeologic/Water Quality Study completed in 1994 used the existing zoning and lots available for development in determining levels of water quality degradation due to septic systems. The proposed smaller lot sizes would increase the number of potentially developable lots, thus impacting the water quality model. Before allowing a greater density of systems, the study would require updating and the models run with the additional lots to verify the impact on groundwater quality. The study and models should periodically be updated to reflect current conditions and to ensure the on-going protection of our ground water resources.

The Health Department could support smaller lots if there were no evidence of net loss of water quality based on an updated Water Quality Study.

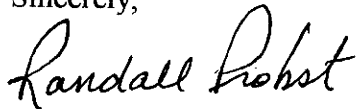
The Wasatch County Health Department also offers the following items for additional informational consideration:

1. Monitoring groundwater elevations is critical in protecting our groundwater resource. Before any septic system is approved, the large majority of the areas in the North Fields will require ground water monitoring. This process could become lengthy and costly, especially through consecutive dry years.

2. There is an extremely high probability that alternative systems will have to be used for those areas which may be suitable for a septic system. The Health Department infrastructure is set up to work with alternative systems, but the significant higher costs of these systems must be communicated to and clearly recognized by property owners and potential property owners.
3. Alternative systems on the proposed smaller lot size must reduce nitrogen loading in groundwater such that levels do not exceed those anticipated by the Hydrogeologic/Water Quality Study.

Based on the current available data, we do not recommend the proposed rezoning of the North Fields area.

Sincerely,



Randall Probst
Health Officer

CC: Jay Eckersley, Board Chair
Board of Health Members

CONFIDENTIAL

MEMORANDUM

TO: Doug Smith, Planning Director
FROM: Craig N. Chambers
DATE: Wednesday, November 5, 2014
RE: Conflicts of Interest

*Protected by the Attorney-Client Privilege
and Work Product Doctrine*

ISSUE

Potential conflicts of interest regarding the North Fields rezone agenda item.

ANSWER

Planning Commission members who own property in the North Fields should disclose publicly, to the other commissioners, and also in a sworn statement filed with the County Council, the nature of their investments in the North Fields area. They may also need to recuse themselves from participating in the discussion and vote regarding the rezone if their investments create a "substantial conflict of interest."

EXPLANATION

The Planning Department, received comments from citizens regarding conflicts of interest specifically regarding the North Fields rezone. The Attorney's office was asked by the Planning Department to prepare this memorandum in order to educate the department as well as

the Planning Commission members regarding conflicts of interest. In essence, this memo is to present the law to protect all parties involved.

What the Law Requires

Utah Code Section 17-16a-8 requires that any personal interest of, or investment by any elected or appointed official of a county which creates a *potential or actual* conflict between the official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by section 17-16a-6 (emphasis added). Section 17-16a-6 requires disclosure by sworn affidavit to the County Council if the interest is a business interest. The disclosure should also be made publicly. Only financial interests less than \$2,000 in a business entity are exempted. 17-16a-6. Other investments, ownership or financial interests i.e., those that aren't in a "business entity" have no minimum threshold. Consequences for failing to make a disclosure include conviction of a class A misdemeanor and removal from office. 17-16a-10.

While state law is strict on requiring *disclosure* of potential conflicts, it does not easily settle the issue of whether a conflict of interest *actually exists* sufficient to require abstention. The statute requires disclosure of both potential and actual conflicts of interest. It does not define the difference between the two.¹ Only actual conflicts require abstention. Therefore, after a Planning Commission member has disclosed an ownership interest in property in the North Fields, who decides whether it creates an actual conflict instead or only a potential one?

Black's Law Dictionary defines a conflict of interest as, a real or seeming incompatibility between one's private interests and one's public or fiduciary duties. It is important to notice the definition's inclusion of seeming incompatibilities: one reason we avoid conflicts of interest is because the public might *think* that we're acting out of personal interest even if we aren't. To maintain the public's trust, it is usually recommended that we be very careful about appearances.

Another definition, provided by Robert's Rules of Order, defines a conflict of interest as involving a direct personal or monetary interest that is not common to other members of the

¹ Admittedly, in real life, there usually isn't much difference between potential and actual conflicts of interest.

board. *Robert's Rules of Order, Simplified and Applied, 2nd Edition* (2001), p. 308. In the present situation, if the ordinance to be discussed treats the North Fields differently from other properties in the A-20 zone, or if the North Fields is realistically the only area that is going to be affected by the proposed rezone, then the ownership of property in the North Fields could create a "direct personal or monetary interest that is not common to other members" of the commission. However, if the ordinance is going to have broad application, and the North Fields will not be treated any differently from the other properties throughout the County, then there is not likely any issues regarding a conflict of interest.

How the Law is Enforced

There are four levels of authority at play in determining whether a planning commissioner is acting appropriately in deciding whether to abstain from a debate and vote. The first is with the commissioner himself. He is first to decide whether he has a conflict of interest.

The second level of authority is the Chair of the Planning Commission. Section XI(D) of the Commission's bylaws state, "No member shall act or vote on any matter which he or she has a direct financial interest, which involve a conflict of interest as found in the Utah Code, or which the member cannot fairly and impartially act or vote on Any member declaring one of these three conflicts is disqualified and must leave the room.² Any dispute as to whether the disclosed conflict is sufficient to require disqualification is resolved by the Chair. " XI(D)(2).

The third level of authority is the County Manager and the County Council. Wasatch County Code Section 2.2.08(4) allows the Manager, with the advice and consent of the Council, to remove any member of the Planning Commission for cause if written charges are filed against the member with the Manager. Refusal to comply with state law relating to conflicts of interest could constitute cause for removal. In fact, section 17-16a-10 of the Utah Code *requires* removal from office for such a violation.

The fourth and last level of authority is the County Attorney and Attorney General. As already stated, it is a class A misdemeanor, with mandatory removal from office, to fail to

² The by-laws allow the commissioner to participate through an agent after recusal.

disclose a potential conflict of interest. 17-16a-10. The Attorney's office would probably have to prosecute that or refer the matter to the Attorney General. Failing to abstain under circumstances where one should have done so is potentially a more serious offense. It is a second-degree felony if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000. 67-16-12(2)(a). In the North Fields, where the value of a single development right is well in excess of \$1,000, it would be very difficult to stay below this threshold under these circumstances. But continuing to act on a matter (after properly disclosing a potential conflict of interest) can only be a crime if the conflict of interest is "substantial." Therefore, if a proper disclosure is made, it is difficult to see how continuing to act on the matter could constitute a crime.

CONCLUSION

People may have a variety of understandings regarding what constitutes an actual conflict of interest. However, state law is very clear that even *potential* conflicts must be disclosed publicly and might need to file an affidavit to the County Council. I would recommend that the members of the Planning Commission be reminded to make these disclosures as it relates to ownership of property or interest in the North Fields if the proposed rezone has any potential to treat the North Fields differently from other similarly situated properties in the county. Once these disclosures are made, the dialogue regarding whether those investments constitute an actual conflict of interest can occur more openly, and without suspicion.

As always, thank you for letting me be of service to you. If you have any questions about this memo, please do not hesitate to ask.

Sincerely,

/s/

Craig N. Chambers
Deputy County Attorney

Wasatch County
Planning Commission

Report of Action

Preliminary Approval	_____
For Discussion Only	_____
Resolution	_____
Ordinance	_____
General Plan	_____
Zone Change	_____ X _____
Plat Amendment	_____
Road Vacation	_____
Condition Use Permit	_____
Final Approval	_____
Temp. Use	_____
Master Plan	_____

Meeting Date: November 13, 2014

ITEM #1. The Wasatch County Planning Commission will consider a rezone of property referred to as the North Fields. The North Fields is bordered on the south by Highway 113 (Midway Lane), west by the Provo River Mitigation property, east by Highway 40 and north almost to the intersection of Highway 40 and River Road. The North Fields is currently zoned A-20 (Agricultural 20-acre lots minimum). The proposal is to rezone the north fields to A-10 (agricultural 10-acre lots minimum). This is a county initiated proposal that includes approximately 2,800 acres in all or parts of sections 18, 19, 24, 25, 29, 30, 31, 32, and 36 of Township 3 South Range 4 East and Township 3 South Range 5 East. **Recommendation by the Planning Commission on this item will be considered by the County Council as the Land Use Authority, at a Public Hearing on November 19, 2014.*

Commissioner ___ Gappmayer ___ was present as Chair.

FINDINGS

Following are sections of the General Plan

- As a matter of public policy, the Central Planning Area is to be maintained in its historical land use pattern of open meadows, and river and small stream riparian habitat.
- The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.
- The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway.
- The Soil survey of the Heber Valley Area further identifies that many of the soils shown on Map 24 have severe limitations for roads, foundations for dwellings and septic tank absorption fields. These severe conditions are a result of the high ground water table and high potential for frost action. While these limitations may be overcome with proper engineering, the cost is considerably higher and should be considered when it comes to the maintenance and operation of a public infrastructure.
- The GP also recommends TDR's, bonds or general sales tax to purchase or move development rights.

Following are the purpose statements for the A-20 zone:

- Avoid excessive costs for public services in areas with high physical constraints.
- Protect the underground water supply from pollution.
- Maintain an open rural buffer between Heber and Midway City. (2002 Code § 16.06.01)

CONDITIONS

- Doug Smith Presented the Planning Staffs findings.
- Spencer Duke wanted to know what recommendations were of previous studies.
 - Paul Probst mentioned that the recommendation from the committee in 2005-2007 was a 10 acre zone.
- Commissioner Probst, Lewis have recused themselves and left the room.
- Commissioner Duke stated that he owns a 5 acre lot or record that will not be affected by the rezone and owns ag land that he will n not be getting financial gain on via the rezone. He then stated that he doesn't think he has a conflict, but if the Commissioner wants him to recuse himself he will.
- Commissioner Gappmayer stated he didn't see an issue and that he felt that Commissioner Duke is okay to stay

and participate.

- Ray Hult - Inquired about what year lots of record are approved.
 - Doug Smith indicated there was no particular year, but 1965 was the first year of zoning.
 - Thought the scope of what would actually happen if it was rezoned would be fairly insignificant.
 - Is in favor of the zone change.
- Robert McDonald
 - Lives in North Fields
 - Hopefully the pristine green way is preserved.
- Ginny Tuite – Owns property
 - Wants to know if PC has thought about water rights and how ground water may be affected. Preserve the historic character.
- Dennis Jensen – Troubled at thoughts of rezone. Thinks rezoning would be irresponsible. Concerned of public expense for public facilities. Water pollution. Lives in Heber City.
- Mike Johnston – Lives in Heber
 - Thinks that rezone would create rural sprawl. Didn't see a need in valley to create zoning. Utah is ranked #2 for converting AG land to development. Shared a dozen points about not rezoning.
- Gordon Peterson – Chaired a committee in 2006 to find way of preserving the valley. Thinks that there is options that could be a win-win and those need to be explored. Thinks matching funds through government grants would be a great option.
- Kenn Amir – Thinks there is a small pool of people who will benefit. Thinks that it should be continued so the new council can address. Lives in Wasatch County.
- Jane Kinsel (Montgomery Family) – In support of rezone and family owns property in North Fields. Said that most property cannot be built on.
- Steve North – Family has been there for many years. In support of rezone.
- Larry Culley – Lives in Midway. Is opposed to rezone. Doesn't see a compelling reason to do so.
- Terry Murdock – Supports the change. Thinks if people can build on less than 8 acres they should grant rezone.
- Jim Ritchie – Thinks finding a way to compensate people while maintaining the 20 acres needs to happen. Need to do so as a community. Concerned about property values with a rezone. Doesn't want to see the area become a West Valley.
 - Spencer Duke asked when do we actually do something as a community to preserve it. When is that point.
 - Mr. Ritchie agreed and said it needs to happen we all need to get together and work.
- Dana Edwards – Heber City resident. Thinks people from outside the valley may be able see what happened with overdeveloping elsewhere. Wants it preserved and to find a way to compensate property owners.
- Ken Probst – Owns Property in north fields. Concerned that everyone else in the valley will be able to develop and he'll be the open space. Wishes that something could happen to preserve, but does not see it happening.
- Heidi Franco – Member of Heber City Council. Worked to preserve open space through the Wasatch Openlands Board. Thinks that there are other options than rezone, and a good opportunity to resurrect the board. Thinks a tax would be able to work. Thinks all the cities need to work together.
- Loren Gertch – Thinks he is the largest landowner 200+ acres. Thinks he would be open to 10 acre zoning, but doesn't think he necessarily want to develop, but wants the option for kids to build.
- Dwayne Buell – Would love to be involved in alternative options for preserving North Fields, but thinks something needs to be done. Thinks that purchasing development rights could work. Would like to preserve it and get involved. Wants it to stay 20 acres.
- Margo France – Owns property in North Fields and thinks it needs to be preserved. Bought with intention to build, but couldn't. Doesn't want to see rezone.
- Christian Heimberger – Wants it preserved for his children. Would be willing to be taxed and willing to pay for it.

Public Comment is closed.

Jacobsmeyer – Doesn't think that others should be taxed, let the landowners should have be compensated.

Olsen - Wanted to know what the study was. Spencer Duke said the study in 2006 said it could be rezoned, but it never was pushed through.

Spencer Duke – Thinks that a few landowners in the North Fields are bearing the burden so everyone else can enjoy.

Gerald Hayward – Said property rights have always been regulated for the common good. Idea of inheritance reignites with him, but sees less of the people who pass it on actually have kids that build. They usually sell for the money. Thinks that many property owners in the North fields would like to preserve, but life situations make it a non-reality. Not an easy decision, but thinks it's a jewel that needs to be preserved. Thinks that once it's gone, it's not recoverable.

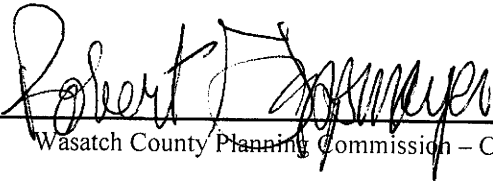
MOTION

Commissioner _____ Duke _____ made a motion to _____ recommend with all findings to the Wasatch council _____.

Commissioner _____ Olsen _____ seconded the motion.

VOTE (3 to 2)

Robert Gappmayer	<u>AYE</u>	NAY	ABSTAIN
Paul Probst	AYE	NAY	<u>ABSTAIN</u>
Shelly Olsen	<u>AYE</u>	NAY	ABSTAIN
Jon Jacobsmeyer	AYE	<u>NAY</u>	ABSTAIN
Liz Lewis	AYE	NAY	<u>ABSTAIN</u>
Gerald Hayward	AYE	<u>NAY</u>	ABSTAIN
Spencer Duke	<u>AYE</u>	NAY	ABSTAIN



Wasatch County Planning Commission – Chairman

Official action of the Planning Commission on this item

10 October 2014

Doug Smith
Wasatch County Planning Department
55 South 500 East
Heber City, UT 84032

Re: Re-zoning of Heber North Fields

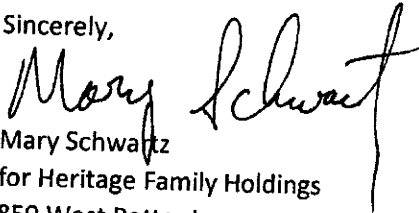
Dear Mr. Smith and Planning Department:

Please confirm with the Wasatch County Planning Department that we **oppose** the re-zoning of Heber North Fields from 20 acres/home to 10 acres/home.

We hope that the Planning Department will not recommend this proposal to the County Council. We believe this change would directly impact and degrade the quality of the North Fields and the large rural zone that the present law allows.

Thank you.

Sincerely,



Mary Schwartz
for Heritage Family Holdings
850 West Potter Lane
Heber City, UT

RECEIVED
NOV 12 2014

WASATCH COUNTY
PLANNING DEPARTMENT

Doug Smith

From: Sheila Siggard <swisscheese707@gmail.com>
Sent: Monday, November 10, 2014 4:57 PM
To: Doug Smith
Subject: ReZoning of North Fields

Dear Director Smith,

Thank you for your letter of notification of the public hearing on the ReZoning of the North Fields. Unfortunately I will be unable to attend as I am recovering from a recent surgery.

I am strongly opposed to this rezoning! People have said that it is probably a matter of time until "the developers win" over keeping this beautiful part of our valley undeveloped. It is pastoral, and adding density to this area takes away from our beauty and uniqueness. I grew up in this valley, and have seen development after development. Let's keep the local values and encourage increase of population in other fast growing areas of the Intermountain Area. Let's not spoil the unique beauty and make our valley become more population-dense like Salt Lake or Sandy. Let those who like that go there! Please hold fast to our community values.

Water is another high consideration. We do not have an unlimited supply in this valley, and I am in awe at the many new water sites that come with new developments. Please remember the feelings of many citizens who do not own property in this area who are perhaps unaware or unable to attend the public hearing. How I've seen persuasive developers come to civic meetings and lobby and plan month after month. So often the majority of citizens, opposed to their money-making plans, don't have the time or early enough information to come and oppose More Wasatch County Development. One respected gentleman who retired here from Las Vegas commented that he and his wife were surprised at the disregard they've witnessed for the land here that has been allowed for others to make money.

Another consideration in these times is saving agricultural areas. With the US dollar in the state it is presently, it is wise for our community to be prepared. Having this agricultural area for livestock grazing and crop production could be very beneficial.

Thank you for your consideration. Please send a note that you received this email.

We appreciate your fine service,

Sheila Probst Siggard

Doug Smith

From: Sherry Lawrence
Sent: Monday, November 10, 2014 8:17 AM
To: Doug Smith
Subject: FW: North Fields Zoning Change

Doug,

Please see below.

Thanks,

Sherry

From: marynewsemail@gmail.com [mailto:marynewsemail@gmail.com] **On Behalf Of** Mary Schwartz
Sent: Sunday, November 09, 2014 12:28 PM
To: Sherry Lawrence
Subject: North Fields Zoning Change

My family and I own property in the North Fields. We oppose the zoning change to 1 home per 10 acres and do not want this change. The hearing will be November 13, 2014 and we will try to attend,
Thank you.

Mary Schwartz for Heritage Family Holdings
850 West Potter Lane

Doug Smith

From: Sherry Lawrence
Sent: Wednesday, November 12, 2014 8:23 AM
To: Doug Smith
Subject: FW: Re-zoning the North Fields

Doug,

Please see below.

Sherry

From: agnestucker1214@aol.com [mailto:agnestucker1214@aol.com]
Sent: Tuesday, November 11, 2014 3:24 PM
To: Sherry Lawrence
Subject: Re-zoning the North Fields

To Whom It May Concern: Please leave the North Fields at 1 house per 20 acres like it is. Quit padding your own pockets. Also, do what you can to keep people from moving to our valley. You can stop growth in many ways - it is time. We don't want more growth here.

Doug Smith

From: David and Lena Frandsen <lenaanddavid@gmail.com>
Sent: Wednesday, November 12, 2014 8:01 AM
To: Doug Smith
Cc: Mary Schwartz; Beau McDonald
Subject: North Fields proposed zoning change

Dear Doug,

My wife and I are very concerned about changing the zoning from 20 acres to 10 acres in the North Fields. We live in the North Fields. They are the crown jewel of tranquil, pastoral Heber Valley. Nearly every visitor we talk with comments about the beauty of the green/sometimes white, fields as they enter the Heber Valley from the North on Highway 40. The North Fields are part of the heritage of Heber, and once they are turned into a residential area, the charm and heritage of Heber Valley will be lost forever, while they who sell lots in the fields will be richer for awhile, at the expense of the rest of the valley residents.

The property in the North Fields was not purchased for residential purposes, and should remain zoned as it is, for agriculture. There are plenty of nonconforming lots of record available for building in the North Fields. Those lots should be built upon before there is even any consideration of changing the zoning.

Such a change in zoning will be to the detriment of every business and resident of the valley. We all know that if the density is lowered to 10 acres, next it will be 5 acres and then 2.5 acres and eventually 1/4 acre lots. Such a zoning change will soon lead to Heber Valley looking like Orem and not the peaceful, tranquil valley that we all cherish and chose to live here for. It will be forever gone. Heber Valley has already experienced enough conversion of agricultural land to residential land. We do not, and should not, change any more of the agricultural zoning to residential.

We are out of town and will not be able to attend the meeting, so please accept this letter as our response to the proposed zoning change. **Please don't change the zoning so a few can profit and the rest of us regret forever the loss to our beautiful, pastoral valley.**

Thank you,

David and Lena Frandsen
1150 W. Potter Lane
Heber, UT 84032

Doug Smith

From: Sherry Lawrence
Sent: Wednesday, November 12, 2014 1:05 PM
To: Doug Smith
Subject: FW: Northfields

Doug,

Please see below.

Sherry

From: Stephanie Donovan [mailto:steph.mills.donovan@gmail.com]
Sent: Wednesday, November 12, 2014 1:03 PM
To: Sherry Lawrence
Subject: Northfields

Dear Commissioners -

I read with great dismay that you are considering rezoning the Northfield properties. This is a spectacular piece of rural ranch land which needs to be preserved not subdivided into additional sprawl. Please protect this lovely place!

Thanks for your consideration,
Stephanie Donovan

Doug Smith

From: Dennis Jensen <d3b4jensen@outlook.com>
Sent: Thursday, November 13, 2014 3:58 PM
To: Doug Smith
Subject: North Fields proposal

Doug:

I understand that there is a proposal to the County Planning Commission to permit building homes in the north fields with one home per 10 acres. Currently only one home per 20 acres is permitted. A proposal to increase density of housing in the north fields is deeply troubling for reasons including the following:

1. Beauty of the area. The first thing you see when you drive into Heber Valley from the north is the beautiful north fields. This is the crown jewel of Heber Valley. It would be irresponsible to build a bunch of additional homes with attendant roads, sewer lines and water lines in that area.
2. Homes with necessary roads, sewer lines and water lines and the activities of human waste, other waste disposal and possibly pesticides would pollute the ground water in this area, where the ground water is very near to, or at the surface.
3. It would be prohibitively expensive to county taxpayers to provide and maintain roads, sewer lines and water lines in this swampy area. It would be very difficult, very expensive and possibly dangerous to operate heavy equipment such as a back-hoe to build sewer and water and utility lines in this swampy area.
4. Getting sewage from this low-lying area to the county sewage ponds would possibly require pumping it. Or if such disposal is not used, then some method such as leach fields would be needed. This would not only be prohibitively expensive but would introduce a great hazard of polluting the ground water.

I would appreciate it if you would see that these concerns are made to be part of the record used by the Planning Commission and the County Council as they consider this proposal.

Dennis B. Jensen

Doug Smith

From: Sherry Lawrence
Sent: Friday, November 14, 2014 8:43 AM
To: Doug Smith
Subject: FW: North Fields

Doug,

Please see below.

Sherry

From: Brenna Schaffer [mailto:brennaschaffer@outlook.com]
Sent: Thursday, November 13, 2014 5:40 PM
To: Sherry Lawrence
Subject: North Fields

To Whom It May Concern,

We were not able to attend tonight's meeting on the rezoning proposal for the north fields in Heber City, Utah. At this time I would like to let you know that we strongly OPPOSE the rezoning of this magnificently beautiful historic land! LEAVE IT ALONE. The beauty and peace that brought everyone to the Heber Valley is quickly being erased. Let this land remain as it is, so that we can all have a sense of historical beauty and peace right here in this valley.

-Brian and Brenna Schaffer
2013 Baxter Drive
Heber City, Utah