



## **DETERMINATION RE ERDA CITY PLAT**

### **December 24, 2021**

State law requires the mayor of a future municipality to file a copy of a notice of an impending boundary action and a copy of an approved final local entity plat with the Lieutenant Governor's Office within 30 days after the canvass of the final election of municipal officers. Utah Code Ann. §10-2a-217(1).

An approved final local entity plat is a final local entity plat that has been approved by the county surveyor. Utah Code Ann. §67-1a-6.5(1)(b).

Utah Code Ann. §17-23-20(4) states that a plat may not be approved as a final local entity plat unless several specified criteria are met. If all of those criteria are met, "the county surveyor shall approve the plat as a final local entity plat." Utah Code Ann. §17-23-20(3).

I have thoroughly reviewed the proposed plat, conducted extensive research, and discussed the legal requirements with county counsel, representatives of future Erda City, the Lieutenant Governor's staff, and the assistant attorney general who represents the Lieutenant Governor's Office. I conclude that the plat does not meet all of the criteria specified in Section 17-23-20(4), and I therefore decline to approve the plat, as submitted, as a final local entity plat.

Section 17-23-20(4)(a)(i) requires that the plat depict the "boundary of the proposed local entity." And Section 17-23-20(4)(d) requires the plat to contain "complete and accurate" boundary information. Although the plat depicts a boundary, the depicted boundary violates state law and therefore cannot constitute the boundary of future Erda City. For the same reason, the proposed boundary is neither complete nor accurate. Utah Code Ann. §10-2a-201.5(5), effective March 16, 2021, states:

(a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

The plat contains several parcels that are partially included within the boundary and are partially excluded from the boundary. I have previously identified those parcels and will not do so again here. Unless the identified parcels are excluded from the boundary, or unless the owners of the identified parcels give written consent to the dissection of their parcels, I cannot approve the plat as a final local entity plat.

Regarding fees, Utah Code Ann. §17-23-20(5) states that the county surveyor may charge and collect a reasonable fee for costs associated with the plat approval process. County fees are established by ordinance, as required by state law. For plat reviews, the currently established fee is \$300 plus \$75 per parcel. Because of the large number of parcels involved, the fee for this review is \$116,250. I do not have the authority to waive or reduce the fee. Those matters are reserved to the county council.

DATED this 24th day of December, 2021.

/s/ Jerry Houghton  
Tooele County Recorder/Surveyor