



## **CITY COUNCIL MEETING**

PUBLIC NOTICE is hereby given that the City Council of Spanish Fork, Utah, will hold a regular public meeting in the Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:00 p.m. on March 20, 2007**.

### AGENDA ITEMS:

#### **1. CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:**

- a. Pledge

#### **2. PUBLIC COMMENTS:**

Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

#### **3. COUNCIL COMMENTS:**

#### **4. PUBLIC HEARINGS: 6:30 p.m.**

- a. Public Hearing to Receive Input with Regard to the City's Proposed Issuance of Sales Tax Revenue Bonds, Series 2007, in the Amount of Not to Exceed \$22,000,000.
- b. [Westfields Development Preliminary Plat](#)
- c. [Nate Jacobson Zone Change](#)
- d. [Maple Highlands Zone Change](#)

#### **5. CONSENT ITEMS:**

These items are considered by the City Council to be routine and will be enacted by a single motion. If discussion is desired on any particular consent item, that item may be removed from the consent agenda and considered separately.

- a. Deployed Military Benefit – Utility Credit for Deployed Military
- b. [Resolution of Intent to Adjust Common Boundary with Springville](#)
- c. [Sky Properties easement agreement with Strawberry Water](#)
- d. [Sky Properties Development Agreement](#)
- e. [Sky Properties Maintenance Agreement with Strawberry Water](#)

#### **6. NEW BUSINESS:**

- a. [Allied Waste Request](#)
- b. Discussion on the Larson Stewart Myrick & Link Proposal
- c. [Annexation Acceptance – Davis Annexation](#)
- d. [Preliminary Plat Maple Highlands](#)
- e. Boards and Commission Appointments

#### **7. OTHER BUSINESS:**

- a. Work Session - Capital Budget Review
- b. Executive Session If Needed – To be Announced in the Motion

### ADJOURN:

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.

SPANISH FORK CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. The public is invited to participate in all Spanish Fork City Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.

**SPANISH FORK CITY  
Staff Report to City Council**



<b>Agenda Date:</b>	<b>March 20, 2007</b>
<b>Staff Contacts:</b>	<b>Dave Anderson, Planning Director</b>
<b>Reviewed By:</b>	<b>the Development Review Committee</b>
<b>Subject:</b>	<b>Westfield's Development Preliminary Plat Approval Request</b>

**Background Discussion:**

The applicant, Westfield's Development, is requesting Preliminary Plat approval for a 48-acre site located at approximately 1000 North and 400 East. The zoning of the property is Commercial 2. The General Plan designates the property as General Commercial, Public Facilities and Residential 5.5 to 8 units per acre. As this is a commercial subdivision, a public hearing is required. The proper notice has been provided and a public hearing is scheduled as part of the City Council's review of the plat.



**Details**

The proposed Preliminary Plat would facilitate the development of fourteen commercial lots and four parcels that would be dedicated to the City for parks and trails. In staff's view, the most significant aspects of reviewing commercial developments occur as part of the Site Plan review process. Staff is currently reviewing a Site Plan as well as this proposed Preliminary Plat. It's customary for plats to be approved before

Site Plans and it appears as though that will be the case with this application. While the Preliminary Plat is approved by the City Council, the Site Plan is reviewed and approved by the D.R.C.

### **Development Review Committee**

The Development Review Committee reviewed this request in their February 28, 2007 meeting and recommended that it be approved. Draft minutes from the February 28 meeting read as follows:

#### **Westfield's Development**

Location: 1000 North 400 East

Zoning: Commercial 2

Applicant: Westfield's Development

Mr. Anderson explained the proposal and that we are focusing on the subdivision and not the Site Plan.

Mr. Anderson feels that there is one parcel adjacent to Chappell Drive and Highway 6 that should be included in this plat. The parcel is owned by Spanish Fork City. This parcel needs to be represented on the Plat, along with language that road improvements adjacent to the City's parcel will be constructed at this time. He also feels that there is a potential issue on storm water detention where the Site Plan has some of the park space designated for storm drain detention. He feels this needs to be changed and that this may impact the lot lines on the plat.

Mr. Nielson said water, pressurized irrigation, sewer and power across the various lots would need public utility easements and he suggests any area that is parking lot and planter strips be dedicated to public utility easements.

Mr. Heap would like the utility easements dedicated on the Plat.

Discussion was made regarding 6<sup>th</sup> East and a traffic study, parking lot and planter strips being dedicated for public easements for utilities, and 700 East.

Mr. Anderson made a **motion** to the City Council recommending approval of the Preliminary Plat for Westfield's Development located at 1000 North 400 East subject to the following finding and conditions:

#### **Finding:**

1. That the proposed conforms to the City's requirements for subdivisions in the Commercial 2 (C-2) zone.

#### **Conditions:**

1. That all utility plans be provided and approved by the City Engineer and Power Department as part of the Site Plan approval process.
2. That they make the correction to add the City parcel located at the corner of Chappell Drive and Highway 6 and the pertinent street improvements.
3. That the necessary easement language be added to the plat.

Mr. Nielson **seconded** and the motion **passed** all in favor.

### **Planning Commission**

#### **Westfield's Development Preliminary Plat**

Applicant: Westfield's Development

General Plan: Public Facilities/General Commercial/Residential 5.5 to 8 Units Per Acre

Zoning: Commercial 2  
Location: 400 East 1000 North

Mr. Anderson gave background and explained the proposal. He told the Commission that there had been one change made to the Plat which brings the plat into conformity with staff's recommendation.

Richard Medenhall

Mr. Medenhall addressed the Commission. He explained the proposal and the intended uses. A powerpoint presentation was provided.

Farron Lafevre

Mr. Lafevre addressed the Commission. He feels that he will lose the ability to park in front of his house and would like to know what will happen with the City services to his home such as garbage collection.

Chris

Mr. Chris addressed the Commission. He feels that widening the road would help and then he would be able to get out of his driveway easier.

Sherald James

Mr. James addressed the Commission. He feels that people are getting off of the Springville exit to enter into town. He feels that traffic is a big concern.

Kevin Payne

Mr. Payne addressed the Commission. He lives on 700 east. He feels that the widening of 700 east will encroach on his property and the entire design of the proposal needs to be addressed.

Rick Snow

Mr. Snow addressed the Commission. He feels that the roads in Spanish Fork City are terrible and need to be fixed.

Jay Birch

Mr. Birch addressed the Commission. His biggest concern is that he feels he is not being heard. He expressed his concern with traffic and ingress and egress to the development.

Tim Taylor, Traffic Engineer

Mr. Taylor addressed the Commission. He addressed the parking issues on 10<sup>th</sup> North.

Commissioner Christianson asked if there was a way to protect the parking on 10<sup>th</sup> North for the residents that live there.

Mr. Medenhall addressed the issue.

Mr. Taylor continued addressing the traffic issues on 700 East.

Gary Sandel

Mr. Sandel addressed the Commission regarding the road width on 700 East and stated that they are aware of the encroachment issues on 700 East.

Mr. Mendenhall addressed the Commission with regard to road width.

Discussion was held regarding road width encroachment and right-of-way easements, parking on the south side of 10<sup>th</sup> North, and traffic solutions.

Mr. Taylor addressed the Commission. He explained the process of a traffic analysis and explained the traffic solution mitigation.

Discussion was held regarding 10<sup>th</sup> North from 200 East to Main street.

Commissioner Christianson asked Mr. Taylor to address the traffic during peak hours.

Mr. Taylor addressed the issue number specific.

Discussion was held regarding growth, traffic, 800 north, Mr. Snow and Mr. Lefevre's properties, zoning, and the general plan in the areas adjacent to the proposal.

Mr. Anderson explained the zoning and the General Plan designations adjacent to the development proposal.

Commissioner Bradford recommended Commission discussion.

Discussion was held amongst the Commission with regard to traffic and parking on 10<sup>th</sup> north.

Commissioner Robins asked Mr. Taylor if the traffic study looked at the intersection by Conoco.

Mr. Taylor said that the traffic study did indeed cover that section of the City.

Discussion was held amongst the Commission with regard to landscaping within the development and the possibility of some way to camouflage the big box stores walls.

Commissioner Christianson would like something on the plat addressing the artesian well.

Mr. Thompson addressed the issues with the well.

Commissioner Robins asked Mr. Thompson if the Engineering Department was addressing 10<sup>th</sup> North from 200 East to Main Street.

Discussion was held regarding a specific mitigation process with regard to landscape buffering in the development.

Commissioner Lewis made a **motion** recommending **approval** of the proposed Preliminary Plat for the Westfield's Development based on the following finding and subject to the following conditions:

**Finding:**

1. That the proposed plat does conform to the City's requirements for subdivision in the Commercial 2 (C-2) zone.

**Conditions:**

1. That all utility plans be provided and approved by the City Engineer and Power Department as part of the Site Plan approval process.
2. That they make the correction to add the City parcel located at the corner of Chappell Drive and Highway 6 and the pertinent street improvements.
3. That the necessary easement language be added to the plat.
4. That the City Council be provided details of the proposed street improvements from Main to 200 East.
5. That the City Council be provided details of the proposed street improvements from Highway 6 to 800 North on 700 East.
6. Developers provide Landscape Plans that mitigate impacts to dwelling on the south side of 10<sup>th</sup> North.

Commissioner Miya **seconded** and the motion **passed** by a unanimous roll call vote.

**Budgetary Impact:**

The development of this property with commercial uses will in all likelihood result in an increase in revenue for the City. Property taxes will increase with the development of the lots and sales tax may be generated by some or all of the businesses that might eventually be located in this development. Generally speaking, commercial and industrial developments generate more revenue than expenses for municipalities. In this case it is certainly anticipated that this development will generate more revenue than expense for the City.

**Alternatives:**

The proposed Preliminary Plat is consistent with the City's standards for developments in the Commercial 2 zone. Given the development's conformity with the City's standards the Development Review Committee recommended that it be approved in its current form with two minor modifications.

**Recommendation:**

Staff recommends that the City Council approve the proposed Preliminary Plat for the Westfield's Development based on the following finding and subject to the following conditions:

**Finding:**

1. That the proposed plat does conform to the City's requirements for subdivisions in the Commercial 2 (C-2) zone.

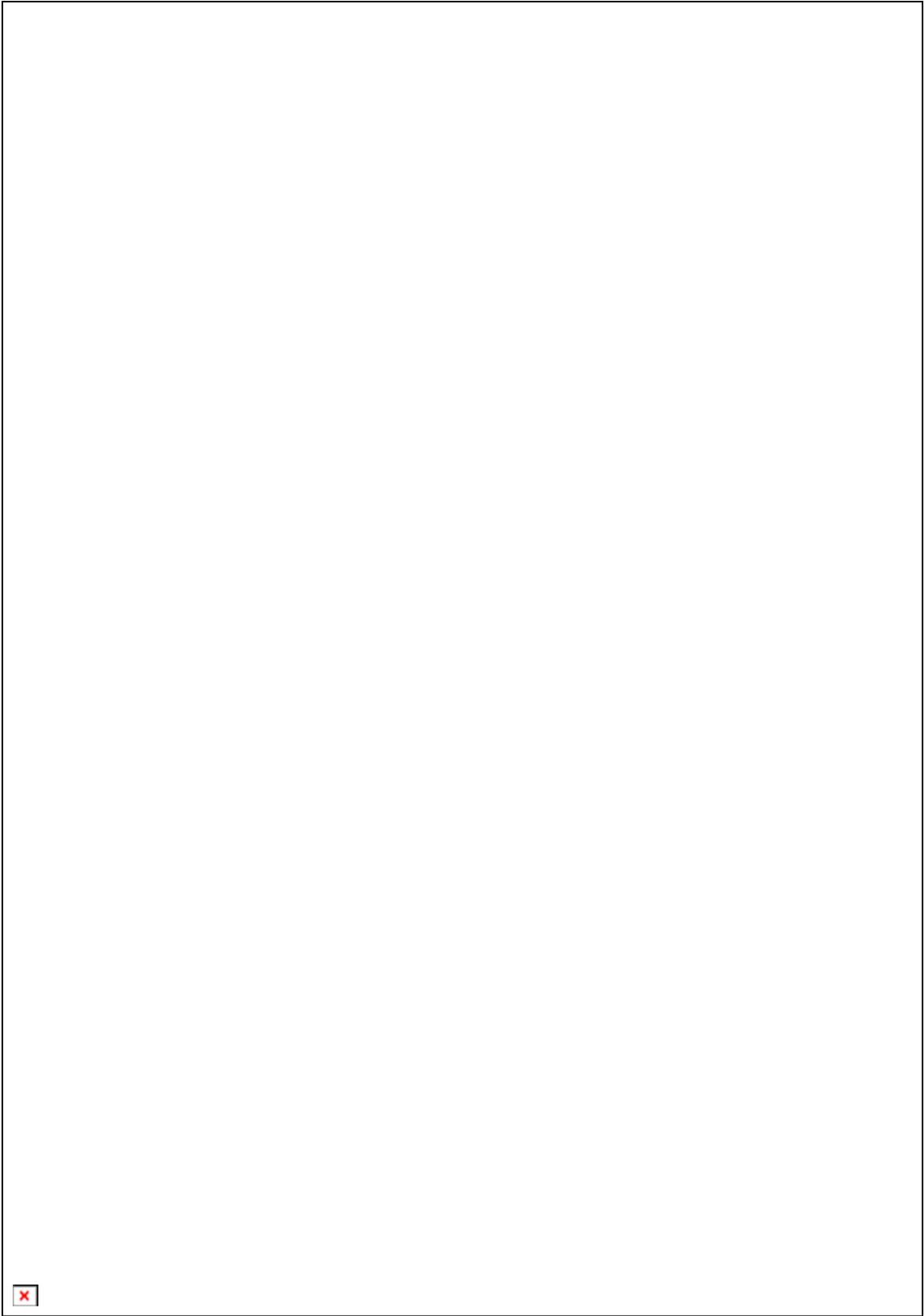
**Conditions:**

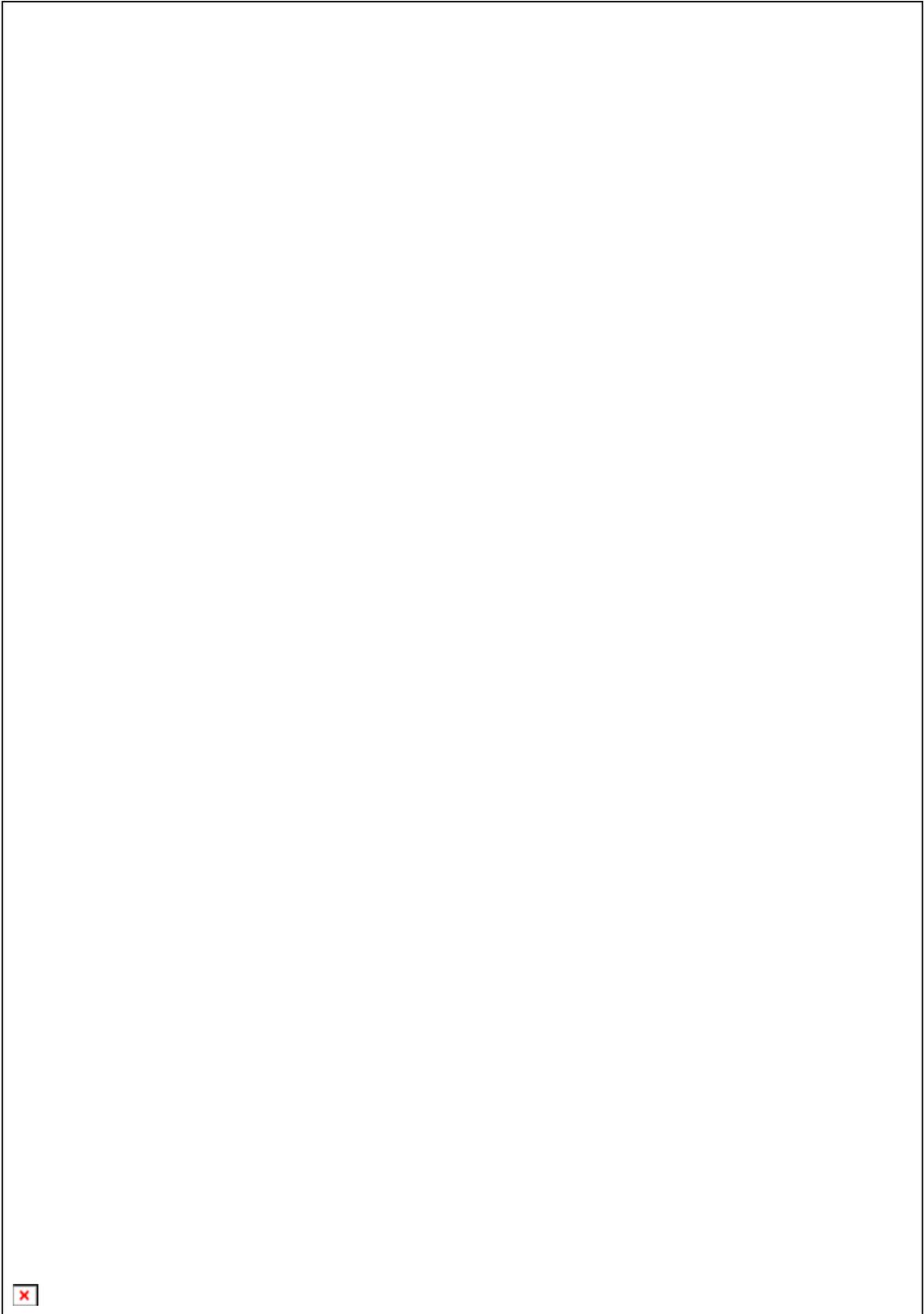
1. That all utility plans be provided and approved by the City Engineer and Power Department as part of the Site Plan approval process.
2. That they make the correction to add the City parcel located at the corner of Chappell Drive and Highway 6 and the pertinent street improvements.
3. That the necessary easement language be added to the plat.

Mr. Nielson **seconded** and the motion **passed** all in favor.

**Attachment:**

proposed Preliminary Plat for the Westfield's Development





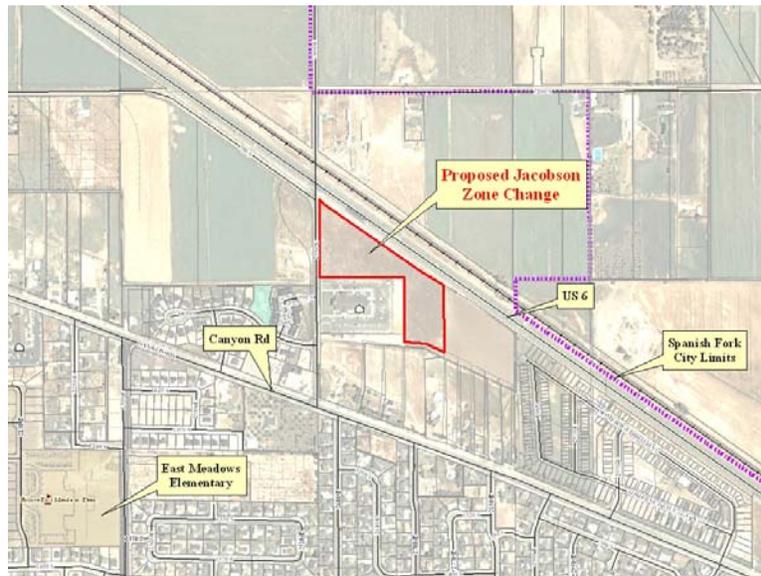
**SPANISH FORK CITY  
Staff Report to City Council**



<b>Agenda Date:</b>	<b>March 20, 2007</b>
<b>Staff Contacts:</b>	<b>Dave Anderson, Planning Director</b>
<b>Reviewed By:</b>	<b>the Development Review Committee</b>
<b>Subject:</b>	<b>Nate Jacobson Zone Change Request</b>

**Background Discussion:**

The applicant, Nathan Jacobson, is requesting a Zone Change for a 7.18-acre parcel located on the southeast corner of the intersection of 2550 East and Highway 6. The current zoning of the property is Rural Residential; the applicant has requested that the zoning be changed to R-1-6. The General Plan designates the parcel as Residential 5.5 to 8 units per acre.



The R-1-6 zoning district allows for residential development that is consistent with the General Plan's density range. As such, staff and the Development Review Committee feel comfortable recommending that the proposed Zone Change request be approved.

**Budgetary Impact:**

Staff anticipates providing the City Council with a more detailed analysis of the budgetary impact of residential development in the future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

## **Development Review Committee**

The Development Review Committee reviewed this request in their February 28, 2007 meeting and recommended that it be approved. Minutes from that meeting read as follows:

### **Jacobson Zone Change**

Location: 2500 East Highway 6

General Plan: Residential 5.5 to 8 units per acre

Zoning: R-1-6 requested

Applicant: Nathan Jacobson

Mr. Anderson explained the proposal.

Discussion was made regarding access by 2550 East and the canal.

Mr. Nielson made a **motion** to the City Council recommending approval of the Zone Change for Jacobson located at 2500 East Highway 6 from R-R to R-1-6 subject to the following finding:

### **Finding:**

1. That it is consistent with the general plan of 5.5 to 8 units per acre.

Mr. Hendrickson **seconded** and the motion **passed** all in favor.

## **Planning Commission**

The Planning Commission reviewed this request in their March 7, 2007 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

### **Nate Jacobson Zone Change**

Applicant: Nate Jacobson

General Plan: Residential 5.5 to 8 Units Per Acre

Zone: Rural Residential existing, R-1-6 proposed

Location: 2550 East Highway 6

Mr. Anderson gave background and explained the proposal.

Discussion was held regarding roads and connecting parcels of properties.

Nate Jacobson

Mr. Jacobson addressed the Commission. He would be fine with purchasing the property adjacent to his property at a fair market value price.

Discussion was made regarding the property that the City owns, ingress and egress.

Les Allen

Mr. Allen addressed the Commission. He showed them the property that he owns and the private roads.

Discussion was held amongst the Commission regarding Mr. Jacobson purchasing the parcel that the City owns, and the need for better planning with adjacent properties for roads.

Commissioner Robins made a **motion** recommending **approval** of the proposed Nate Jacobson Zone Change request, changing the zoning at approximately 2550 East and Highway 6 from Rural Residential to R-1-6, based on the following finding:

**Finding:**

1. That the proposed Zone Change is consistent with the General Plan designation.

Commissioner Christianson **seconded** and the motion **passed** by a unanimous roll call vote.

**Alternatives:**

The City maintains considerable discretion with respect to approving or denying Zone Change requests. Given the General Plan designation, Residential 5.5 to 8 units per acre, the R-1-6 zoning designation is consistent with the General Plan.

**Recommendation:**

Staff recommends that the City Council approve the proposed Nate Jacobson Zone Change request, changing the zoning at approximately 2550 East and Highway 6 from Rural Residential to R-1-6, based on the following finding:

**Finding:**

1. That the proposed Zone Change is consistent with the General Plan designation.

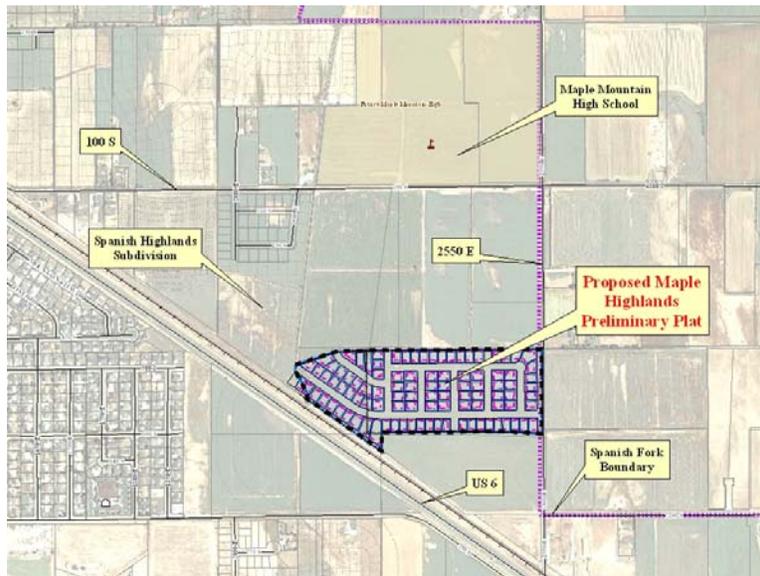
**SPANISH FORK CITY  
Staff Report to City Council**



<b>Agenda Date:</b>	<b>March 20, 2007</b>
<b>Staff Contacts:</b>	<b>Dave Anderson, Planning Director</b>
<b>Reviewed By:</b>	<b>the Development Review Committee</b>
<b>Subject:</b>	<b>Maple Highlands Zone Change and Preliminary Plat Approval Request</b>

**Background Discussion:**

The applicant, Spanish Fork East Land L.L.C., is requesting Zone Change and Preliminary Plat approval for a 28.56-acre parcel located at 2550 East 350 South. The property is currently zoned Rural Residential. The General Plan designates the property as Residential 2.5 to 3.5 units per acre. The applicant has requested R-1-12 zoning.



**Details**

The proposed Preliminary Plat is a Master Planned Development that contains 100 building lots for the maximum allowable density of 3.5 units per acre. The development is being proposed as a Master Planned Development, the last Master Planned Development to be submitted under the existing ordinance.

**Bonus Density**

The applicant has requested density bonus of 24 lots. The base density in the R-1-12 zone of 2.69 units per acre allows for the development of 76 lots. In this case, the applicant is requesting a density bonus of 31 percent. The Development Review Committee reviewed the applicant's proposal on bonus density and, after making revisions, concluded that the plat may be approved based on the bonus density calculation provided below:

<b>Project Name:</b>	<b>Maple Highlands, Master Planned Development</b>			
<b>Total Acres</b>	<b>28.56</b>			
<b>Low End Density</b>	<b>2.5</b>	<b>U/A</b>	<b>76.72</b>	<b>Units</b>
<b>High End Density</b>	<b>3.5</b>	<b>U/A</b>	<b>100.0</b>	<b>Units</b>

Density Bonus	Percent Allowed	Actual Given	Units	Running Total	Items provided
Active recreation	10%	5%	3.84	80.6	installation of pedestrian trail along Railroad
Common buildings	10%	0%	0.00	80.6	
Fencing	5%	0%	0.00	80.6	
Front setback variation	3%	3%	2.30	82.9	setback variation in 5' increments
Garage - three car	3%	0%	0.00	82.9	
Garage - setback	3%	0%	0.00	82.9	
Open space	5%	0%	0.00	82.9	
Landscaping	7%	7%	5.37	88.2	Front yard landscaping according to ordinance
Lot size variation	3%	0%	0.00	88.2	
Materials on front façade	5%	5%	3.84	92.1	brick and stone as major material on front elevation on 100% of homes
Mixture of housing types	5%	0%	0.00	92.1	
Off-setting lots	3%	0%	0.00	92.1	1/3 of lots are offsetting
Roof pitch start 6/12	3%	2%	1.53	93.6	minimum roof pitch of 7/12 throughout the development
Home sizes	7%	0%	0.00	93.6	
Miscellaneous	7%	5%	3.84	97.4	2550 East Trail, 14 Ft Landscaped Area, 6 Ft Wall
Miscellaneous	7%	5%	3.84	101.3	Hard surface on all sides of the home
Miscellaneous	7%	3%	2.30	103.6	Upgrade landscaping to sod, shrubs and curbing with additional trees
		<b>Total Units</b>		<b>104</b>	
<b>Without MPD</b>					
<b>Total Acres</b>	<b>28.56</b>				
<b>Development in ROW (Acres)</b>	<b>7.4256</b>		<b>26%</b>		
<b>Total Developable Acres</b>	<b>21.1344</b>				
<b>Zoning (R-1) (square feet)</b>	<b>12,000</b>	(sq. ft. based on proposed zone)			
<b>Total Lots/Units - straight zoning</b>		<b>76.72</b>	<b>Units</b>		
<b>U/A - straight zoning</b>		<b>2.69</b>			

### Development Review Committee

#### Maple Highlands Preliminary Plat

Location: 2550 East 350 South

General Plan: Residential 2.5 to 3.5 Units Per Acre

Zoning: Rural Residential existing, R-1-12 proposed

Applicant: Highland Homes

Mr. Anderson gave background and explained the proposal.

Greg Magleby

Mr. Magleby addressed the Committee and explained the changes they would like to make to the density

bonus table of the proposed Master Planned Development

Discussion was made regarding density bonus points of the Master Planned Development, the compounding of the density points, which plat lots 99 & 100 will be on, and easements.

Mr. Anderson stated that he does not believe the applicant should be given miscellaneous bonus density for landscaping where they've already requested the maximum bonus density on landscaping.

Mr. Shorts feels that runoff from the rain gutters on the units should not run into the planter strips, that they should put bubblers on instead.

Mr. Nielson made a **motion** to the Planning Commission recommending approval of the Zone Change for Maple Highlands located at 2550 East 350 South from Rural Residential to R-1-12 subject to the following finding:

**Finding:**

1. It is consistent with the General Plan.

Mr. Foster **seconded** and the motion **passed** all in favor.

Mr. Nielson made a **motion** to the Planning Commission recommending approval of the Preliminary Plat for Maple Highlands located 2550 East 350 South subject to the following conditions:

**Conditions:**

1. That the density matrix for the Master Planned Development be followed as outlined.
2. That they obtain an easement on 2550 East at the City's request.
3. That they meet the City's Construction and Development Standards.
4. That they obtain a connectors agreement with Nebo School District for the utilities.
5. That lots 99 & 100 be included in this plat.

Mr. Foster **seconded** and the motion **passed** all in favor.

**Planning Commission**

**Maple Highlands Zone Change**

Applicant: Highland Homes

General Plan: Residential 2.5 to 3.5 Units Per Acre

Zone: Rural Residential existing, R-1-12 proposed

Location: 2550 East 350 South

Mr. Anderson gave background and explained the proposal.

Commissioner Lewis asked when the railroad crossing on 2550 East will be finished.

Mr. Thompson said that the City and UDOT are finished with their work. The railroad is not done with theirs.

Discussion was held regarding the streets within the development and adjacent proposals.

Commissioner Christianson asked about bonus density points.

Mr. Anderson addressed the issue.

Commissioner Miya asked for clarification on the landscape bonus density.

Greg Magleby

Mr. Magleby addressed the Commission. He explained the request of the additional bonus density points for landscape.

Discussion was held regarding the bonus density matrix, lots 99 & 100, and the irrigation ditch.

Mrs. Johnson addressed the landscape issue with the Municipal Code.

Mrs. Curtis feels that there should be some green space within this proposal for a place for kids to play.

Evelyn Odermatt

Ms. Odermatt is concerned about where the kids are going to go to school.

Discussion was held amongst the Commission with regard to the railroad, the bonus density matrix, and whether or not to maintain consistency on Master Planned Developments.

Mrs. Johnson feels that we open ourselves up for liability if we do not maintain consistency and that is her recommendation.

Commissioner Miya made a **motion** recommending **approval** of the proposed Zone Change for Maple Highlands based on the following finding:

**Finding:**

1. That the proposed zoning is consistent with the General Plan.

Commissioner Lewis **seconded** and the motion **passed** by a roll call vote. Commissioner Christianson voted nay.

Commissioner Miya **moved** to close Public Hearing. Commissioner Lewis **seconded** and the motion **passed** by a unanimous roll call vote.

**Maple Highlands Preliminary Plat**

Applicant: Highland Homes

General Plan: Residential 2.5 to 3.5 Units Per Acre

Zone: Rural Residential existing, R-1-12 proposed

Location: 2550 East 350 South

Commissioner Miya made a **motion** recommending approval of the proposed Preliminary Plat for Maple Highlands based on the following findings and subject to the following conditions:

**Findings:**

1. That the proposed Preliminary Plat conforms to the City's standards for Master Planned Developments in the R-1-12 zone.
2. That the proposed features warrant the requested density bonus.

**Conditions:**

1. That the density matrix for the Master Planned Development be followed as outlined.
2. That they obtain an easement on 2550 East at the City's request.
3. That they meet the City's Construction and Development Standards.
4. That they obtain a connectors agreement with Nebo School District for the utilities.
5. That all of lots 99 & 100 be included in this plat or excluded from this plat.

Commissioner Robins **seconded** and the **motion passed** by a roll call vote. Commissioner Christianson voted nay.

Commissioner Robins **moved** to open into Public Hearing. Commissioner Miya **seconded** and the motion **passed** all in favor.

### **Budgetary Impact:**

Staff anticipates providing the City Council with a more detailed analysis of the monetary impact of residential development in the near future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

### **Alternatives:**

As the proposed Preliminary Plat is consistent with the City's standards for Master Planned Developments in the R-1-12 zone, there are not many options that the City may pursue to require modifications. Given the fact that the applicant has requested Master Development Plan approval, the manner in which points are allocated for bonus density may be regulated. In this case, the applicant has requested a bonus density of 24 lots which represents a 31 percent increase. As noted above, the Development Review Committee found that the proposed features warrant the requested bonus density. Even so, that is something that the City Council may be inclined to disagree with which may result in changes to the number of allowed units. Should the Council choose to modify the manner in which points for bonus density are allocated, staff recommends that the Council make a significant effort to do so based on the manner in which points have been allocated to projects that have been previously approved by the City. That is to say, staff believes it is very important to maintain consistency from one development proposal to another when points are allocated for bonus density.

### **Recommendation:**

Staff recommends that the City Council approve the proposed Zone Change for Maple Highlands, changing the zoning from Rural Residential to R-1-12, based on the following finding:

#### **Finding:**

1. That the proposed zoning is consistent with the General Plan.

Staff recommends that the City Council approve the proposed Preliminary Plat for Maple Highlands based on the following findings and subject to the following conditions:

#### **Findings:**

1. That the proposed Preliminary Plat conforms to the City's standards for Master Planned Developments in the R-1-12 zone.
2. That the proposed features warrant the requested density bonus.

**Conditions:**

1. That the density matrix for the Master Planned Development be followed as outlined.
2. That they obtain an easement on 2550 East at the City's request.
3. That they meet the City's Construction and Development Standards.
4. That they obtain a connectors agreement with Nebo School District for the utilities.
5. That lots 99 & 100 be included in this plat.

**Attachments:**

amenity package

# RESOLUTION

## ROLL CALL

VOTING	YES	NO
<b>MAYOR JOE L THOMAS</b> (votes only in case of tie)		
<b>G. WAYNE ANDERSEN</b> City Councilman		
<b>MATTHEW D. BARBER</b> City Councilman		
<b>STEVE LEIFSON</b> City Councilman		
<b>SETH V. SORENSEN</b> City Councilman		
<b>CHRIS C. WADSWORTH</b> City Councilman		

I MOVE this resolution be adopted: \_\_\_\_\_  
City Councilperson

I SECOND the foregoing motion: \_\_\_\_\_  
City Councilperson

## RESOLUTION \_\_\_\_\_

### RESOLUTION OF INTENT TO ADJUST A COMMON BOUNDARY

WHEREAS, Spanish Fork City shares a common boundary with Springville City; and

WHEREAS, MD and SK Forbush Investment Trust Dated December 1, 2003 owns a parcel  
of property in both jurisdictions; and

WHEREAS, MD and SK Forbush Investment Trust Dated December 1, 2003 owns other  
parcels within Spanish Fork City and desires the split parcel to be in Spanish Fork City; and

WHEREAS, Spanish Fork City is willing to accept the split parcel and provide municipal services to such property; and

WHEREAS, Springville City is willing to release the split parcel; and

WHEREAS, Utah Code Annotated §10-2-419 sets forth the procedure and requirements for municipalities with common boundaries to adjust such boundaries without the need to disconnect from one and annex to the other; and

WHEREAS, it is in the best interest of all parties to adjust the common boundary to bring all of the MD and SK Forbush Investment Trust Dated December 1, 2003 property into Spanish Fork City;

NOW THEREFORE, be it resolved by the Spanish Fork City Council as follows:

1. Spanish Fork City intends to adjust its common boundary with Springville City by incorporating all of the MD and Sk Forbush Investment Trust Dated December 1, 2003 property located within Springville City into the Spanish Fork City municipal boundaries.
2. Spanish Fork City staff is directed to publish notice of this intent and schedule a public hearing and is further directed to follow all of the requirements of U.C. A. §10-2-419 to accomplish the boundary adjustment.
3. That the MD and SK Forbush Investment Trust Dated December 1, 2003 property to be removed from Springville City and incorporated into Spanish Fork City is described as follows:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°31'22" WEST 1,327.97 FEET ALONG THE SECTION LINE

AND THE EXISTING SPRINGVILLE / SPANISH FORK CITY BOUNDARY LINE TO A FENCE; THENCE NORTH 00°34'04" WEST 259.31 FEET ALONG SAID FENCE TO A FENCE CORNER; THENCE ALONG EXISTING FENCES ALL OF THE FOLLOWING COURSES TO WIT: NORTH 89°52'50" EAST 905.07 FEET, SOUTH 89°52'34" EAST 457.56 FEET, NORTH 88°07'28" EAST 89.29 FEET, SOUTH 88°54'36" EAST 168.89 FEET, SOUTH 89°47'51" EAST 167.13 FEET, NORTH 89°42'22" EAST 287.57 FEET, SOUTH 89°30'41" EAST 164.27 FEET, SOUTH 88°37'31" EAST 105.43 FEET, SOUTH 85°55'46" EAST 26.53 FEET; THENCE SOUTH 34°17'43" WEST 282.13 FEET ALONG A FENCE ALONG THE WEST LINE OF HIGHWAY 91; THENCE SOUTH 58°23'26" EAST 6.72 FEET ALONG THE EXTENSION OF THE EXISTING SPANISH FORK CITY BOUNDARY LINE TO THE SECTION LINE; THENCE ALONG THE EXISTING SPRINGVILLE / SPANISH FORK BOUNDARY LINE AND ALONG SAID SECTION LINE SOUTH 89°31'41" WEST 887.83 FEET TO THE POINT OF BEGINNING.

AREA = 13.19 ACRES.

4. This resolution is effective immediately upon passage.

DATED this \_\_\_\_\_ day of March, 2007.

\_\_\_\_\_  
JOE L THOMAS, Mayor

Attest:

\_\_\_\_\_  
KENT R. CLARK, City Recorder

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
STRAWBERRY POWER CANAL  
STRAWBERRY VALLEY PROJECT

EASEMENT ENCROACHMENT AGREEMENT  
BETWEEN THE  
UNITED STATES OF AMERICA  
AND  
SPANISH FORK CITY

This Easement Encroachment Agreement made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, acting pursuant to the Act of June 17, 1902 (32 Stat. 388), and all acts amendatory thereof or supplementary thereto; and Spanish Fork City, hereinafter referred to as the Permittee,.

WITNESSETH THAT:

WHEREAS, The United States holds an easement under the authority of the Act of August 30, 1890 (26 Stat. 371), commonly known as the Canal Act, and utilizes it for the construction, operation, and maintenance of Strawberry Power Canal, hereinafter referred to as the Easement of the United States; and

WHEREAS, the Permittee has requested permission to encroach upon the Easement of the United States in a manner more particularly specified hereinafter; and

WHEREAS, the United States is willing to agree to said encroachment, upon conditions more particularly specified hereinafter;

NOW, THEREFORE, the United States hereby agrees to encroachment upon the easement of the United States by the Permittee only to the extent and for the purposes set forth below:

Spanish Fork City or its contractor may construct a roadway and associated features, various utility crossings and casings, fencing and gates, and to enclose approximately 550 ft of canal as designed and shown on Exhibit "C" and Exhibit "D" attached hereto. The crossing is located approximately along the East section line of Section 33.Township 8 South Range 3 East, Salt Lake Base & Meridian, and at approximate Canal centerline station 150+00 as shown on Exhibit "B".

1. United States guidelines for agreeing to such encroachment upon the Easement of the United States are shown on Exhibit A, attached hereto and by this reference made a part hereof.

2. The Permittee, or its Contractor, shall perform all work within the encroachment area in accordance with the plans, drawings, guidelines, and maps attached hereto, and in a manner satisfactory to the United States and the Strawberry Water Users Association, hereinafter called the Association.

3. In consideration of the United States agreeing to encroachment upon the Right-of-way of the United States by the Permittee, the Permittee hereby agrees to indemnify and hold the United States and the Association, their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of *the encroachment* upon the Right-of-way of the United States, regardless of the cause of said injuries or damages; provided, however, that nothing in this agreement shall be construed as releasing the United States or the Association from responsibility for their own negligence. . Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.

4. In consideration of the United States agreeing to encroaching upon the Right-of-way of the United States by the Permittee, the Permittee hereby releases the United States and the Association, their officer, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever which may result to the Permittee from the construction, operation, and maintenance of *Project works* upon said lands; provided that nothing in this Agreement shall be construed as releasing the United States or the Association from liability for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.

5. The provisions of this agreement are valid for 25 years and are renewable for an additional 25 year. This agreement is not transferable except with written permission of the United States. The United States, at its option, may terminate this Agreement for non-use for a period of two (2) continuous years. In any event this agreement shall expire by limitation 50 years from the date first mentioned above. All rights granted to the Permittee under this Agreement are subject to termination upon failure of Permittee to comply with the terms of this Agreement.

6. The Permittee agrees that if the maintenance or repair of any or all project structures and facilities located on such lands should be made more expensive by reason of the existence of improvements or works of the encroachment thereon, Permittee will pay to the United States and/or the Association, their agents or assigns responsible for Project operation and maintenance, the full amount of such additional expense within thirty (30) days of receipt of an itemized bill therefore.

7. This agreement makes no finding as to the right, title, or validity of the Landowner or the encroaching interest, but merely defines the conditions under which the encroachment will not be deemed unreasonable by the United States.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

SPANISH FORK CITY

UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Title:

By: \_\_\_\_\_  
Bruce C. Barrett  
Area Manager, Provo Area Office

CONCUR:

STRAWBERRY WATER USERS ASSOCIATION

OAKRIDGE HOMES DEVELOPMENT,  
L.L.C.

By: \_\_\_\_\_  
Title:

By: \_\_\_\_\_  
Title:

ACKNOWLEDGMENT OF THE UNITED STATES

State of            )  
                          ) ss.  
County of         )

On the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me  
, Known to me to be the \_\_\_\_\_, of the Provo Area Office, Bureau of  
Reclamation, Upper Colorado Region, United States Department of the Interior, the signer of the above  
instrument, who duly acknowledged to me that he executed the same on behalf of the United States of  
America pursuant to authority delegated to him.

(NOTARY SEAL) Notary Public in and for the  
                          State of  
                          Residing at  
                          My commission expires:

ACKNOWLEDGMENT OF THE SPANISH FORK CITY

State of            )  
                          ) ss.  
County of         )

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me \_\_\_\_\_, to me  
known to be the individual described in and who executed the within and foregoing instrument, and  
acknowledged that he/she signed the within and foregoing instrument as his/her free and voluntary act  
and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day  
and year first above written.

(NOTARY SEAL) Notary Public in and for the  
                          State of  
                          Residing at  
                          My commission expires:

## EXHIBIT A

### ENCROACHMENT GUIDELINES FOR CANAL CROSSINGS

1. Surface structures generally may not be constructed in, on, or along United States rights-of-way; however, it is understood that all surface structures shall be analyzed and considered on an individual basis.
2. The Permittee shall use, occupy, and maintain his encroaching facilities or structures with due care to avoid damage to or obstruction of the Strawberry Power Canal or other structures of the United States, or any interference in any way with the operation and maintenance of the same.
3. Except as approve by this agreement, surface structures will not generally be allowed to be constructed within United States rights-of-way
4. No trees, vines, or deep-rooted plants will be allowed within the United States easement for conveyance systems.
5. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered to be encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States and the Association.
6. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way. Small transverse drainage channels may be unlined; however, major transverse drainage channels must be concrete lined or protected by adequately sized riprap for a distance of at least 20 feet normal to the centerline on each side of the facility or within the easement, whichever is less.
7. Surface drainage from any roads crossing or adjacent to the canal and from collection above the canal shall not be allowed to enter the canal, and must be disposed outside the United States right-of-way according to a plan approved by Reclamation and Spanish Fork City.
8. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroachment and the structure previously approved, and construct the improvements strictly in accordance with plans or specifications approved by the United States and the Association.
9. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.

10. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the Association and/or the United States upon completion of construction and shall provide the Association with one copy and the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way. One copy of the drawings for the United States shall in electronic format compatible with the latest version of AutoCAD, on IBM formatted floppy disks, CD's, or DVD's.

11. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the Association at least (ten) 10 days notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

12. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

13. Permittee or permittee's contractor will notify Reclamation and the Association at least Twenty-four (24) hours prior to the beginning of construction work on the crossing facilities, and will re-notify Reclamation and the Association of any re-commencement of work following cessation of work for more than four days. All work in progress will be available during normal business hours for reasonable inspection. Reclamation and the Association will have the right, but no obligation, to inspect the work for compliance with plans, drawings and specifications.

14. All backfill material within United States rights-of-way shall be compacted in layers not to exceed 6 inches to 95 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within 18 inches horizontally of the projects works.

15. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.

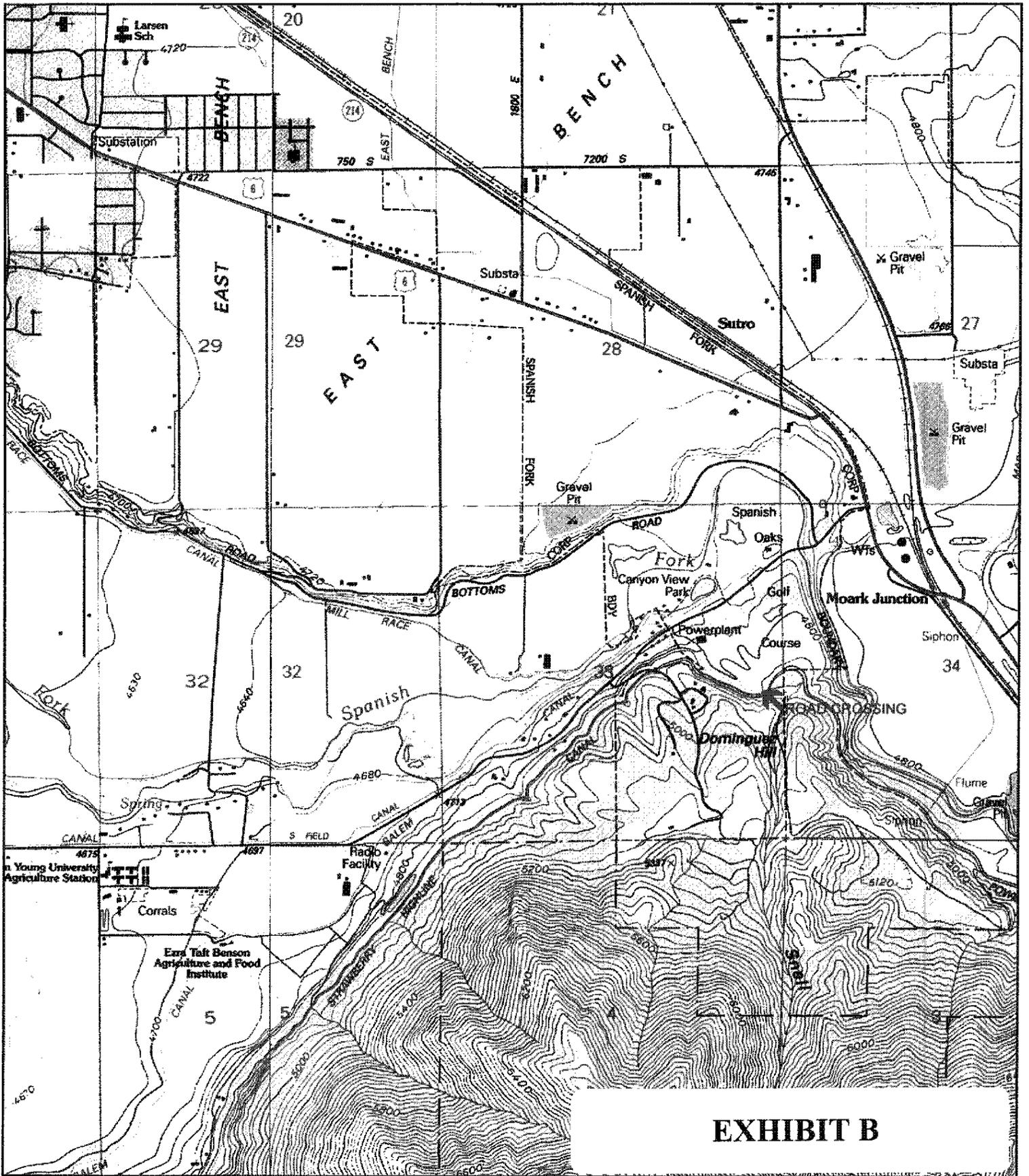
16. No use of United States lands or rights-of-way shall be permitted that involve the storage of hazardous material, septic tanks, or any other form of contamination.

17. Permittee and its contractors will at all times keep the operations and maintenance road, (the "O&M Road") free from obstructions and provide full access to project facilities for Reclamation and the Association. The O&M Road will be returned to its pre-construction condition following completion of construction. Best efforts will be made to keep Strawberry Power Canal operations interruptions to an absolute minimum. Strawberry Power Canal operations will not be interrupted without express, written permission from the Association or Reclamation.

18. All pipes crossing under Reclamation canals shall be placed in ductile iron carrier pipe with mechanical joints. Carrier pipe shall extend the full width of the easement each direction from the centerline of the canal (total easement width 150 Feet horizontal distance).

19. Fences shall be erected along the road, adjacent to the canal and around the settling pond as shown on Exhibit "C". Fences shall be chain link 6 ft. high as shown by Exhibit "D", and will include two automatic gates and one manually operated gate, of types approved by the Association, to provide access to the project works. The location of the gates is also shown on Exhibit "C". Signage for the access gates shall be coordinated with the Association and Spanish Fork City and shall be installed by Sky Properties or their contractor.

20. The canal shall be enclosed by installation of pre-cast concrete panels from the outlet of the settling pond to the area that is presently covered (approximately 550 feet in length). The design of pre-cast concrete segments used to cover the existing concrete lined canal shall be approved by the United States prior to manufacture. The United States shall be notified at least 10 days prior to manufacture of the pre-cast segments so that an inspector may be on site to insure acceptability of methods, materials, and final product. Contact Mr. Kieth Marvin at (801) 379-1193. The inspector shall have authority to reject any panel not meeting the approved design specifications.



**EXHIBIT B**

**EXHIBIT C**  
Revised

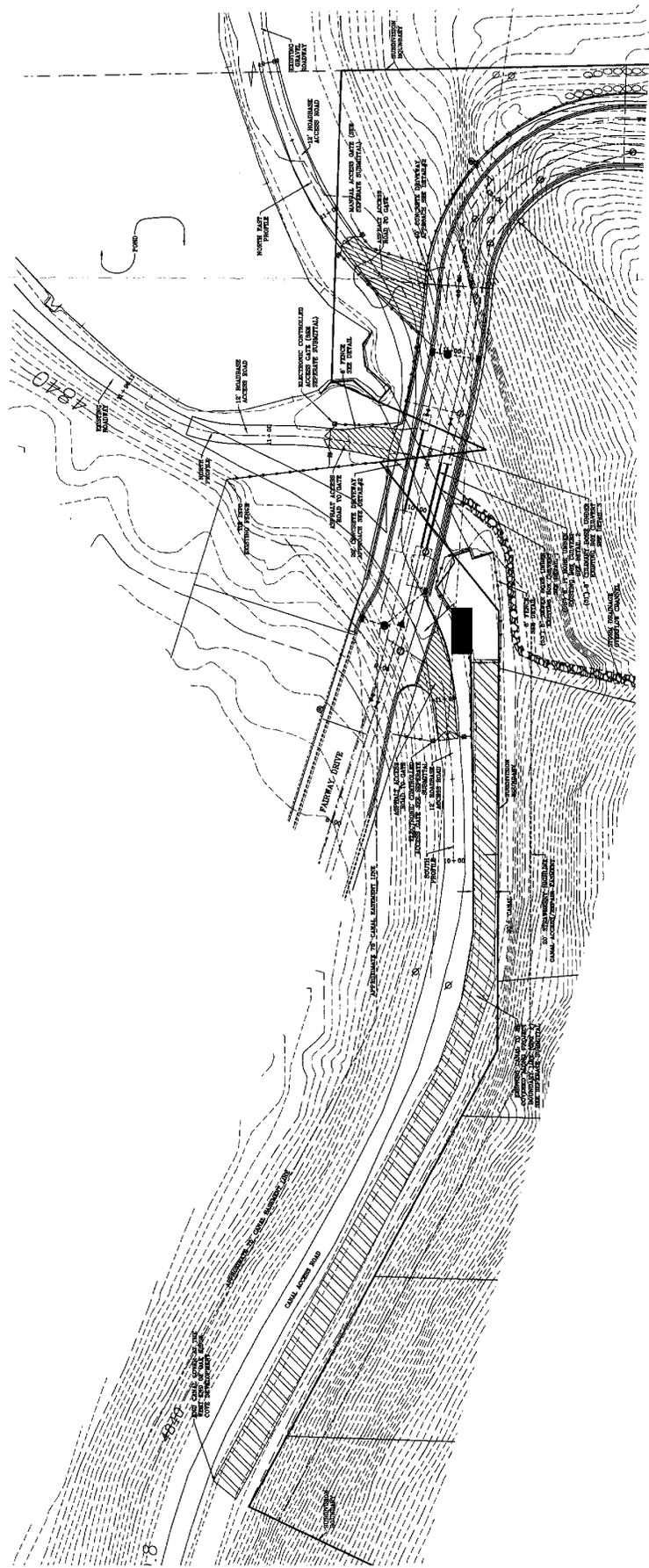
**SHEET 1**

DATE:	02/07/2007
PROJECT:	CDM
SCALE:	1" = 90'
SHEET:	1 OF 2

**EXHIBIT**  
**SPANISH FORK, UTAH**  
**STRAWBERRY CANAL ACCESS ROADWAYS**

3302 No. Main St.  
Spanish Fork, UT 84660  
801-798-0555  
801-798-9383  
Fax

DATE BY	10/13/07	REVISION
DATE BY		





## **DEVELOPMENT AGREEMENT**

This Development Agreement is made this \_\_\_\_\_ day of March, 2007, by and between **SPANISH FORK CITY**, a Utah municipal corporation and a political subdivision of the State of Utah (the "City"); and **OAKRIDGE HOMES DEVELOPMENT, L.L.C.**, a Utah limited liability company ("Developer"); in contemplation of the following facts and circumstances:

A. Developer is the fee title owner or has the right to acquire fee title to a certain parcel of real property, the Property and the development scheme thereof is depicted on the Preliminary Plat Map attached hereto as Exhibit "A".

B. The City is a municipal corporation that has jurisdiction over the development of real property that is located within its corporate boundaries.

C. The City has enacted certain municipal ordinances setting forth the requirements for the design, approval and development of subdivisions within the corporate limits of the City. Said ordinances are more specifically described in Section 15.4.04.010 of the Spanish Fork Municipal Code (hereinafter collectively the "Subdivision Ordinances").

D. Developer has submitted to the City preliminary development improvement plans for 94 residential building lots (the "Lots") shown on the Preliminary Plat Map within the Development Property (hereinafter the "Preliminary Plat Map"), and on September 26, 2006, the City granted Preliminary Approval of the Preliminary Plat Map in accordance with the applicable Subdivision Ordinances.

E. In accordance with the Preliminary Plat Map previously submitted to the City and as required by the Subdivision Ordinances, Developer has submitted to the City the proposed Final Plat for the development of 48 residential building lots (the "Plat A Lots") upon the Development Property for a residential subdivision to be known as Oakridge Cove, Plat "A" (hereinafter the "Final Plat"). The "Subdivision Improvements" to be installed by Developer upon the property described in the Final Plat, the quantities thereof, and the estimated costs of said improvements as estimated by the City's engineer, are more fully set forth in the Escrow Bond Security Agreement attached hereto as Exhibit "B". The improvements set forth on Exhibit "B" are hereinafter collectively referred to as the "Subdivision Improvements".

F. Developer is desirous that the City approve the Final Plat, cause the Final Plat to be recorded with the Utah County Recorder, and allow the Developer to connect to the City's sanitary sewer system, the City's storm system and the City's culinary water system (collectively the "City's Underground Utilities") in order to provide said services to the Plat A Lots to be developed by Developer.

G. The City is willing to approve the Final Plat, cause the Final Plat to be recorded with the Utah County Recorder, and allow the Developer to connect to the City's Underground Utilities provided that: (i) Developer agrees to comply with the provisions of the Subdivision Ordinances; (ii) Developer guarantees the installation of the Subdivision Improvements and provides the Completion Bond as set forth herein; and (iii) Developer satisfies all other legally required conditions for approval and recordation of the Final Plat.

**NOW, THEREFORE**, in furtherance of the objectives of the parties, and in

consideration of the terms of this Agreement and the mutual covenants and promises of the parties, the parties agree as follows:

**1. Developer to Comply with the Subdivision Ordinances:** On February 28, 2007 the Development Review Committee approved the Final Plat. Developer agrees to be bound by all the provisions of the Subdivision Ordinances and shall also install, construct and complete the Subdivision Improvements within one year from the date of the final plat approval. Developer agrees to guarantee the Subdivision Improvements for a one year period (the "Developer Guarantee Period") following completion of the construction and acceptance thereof by the City.

**2. Developer to Provide Completion Bond.** Developer hereby agrees to provide a completion bond in accordance with the terms and conditions of that certain Escrow Bond Agreement attached hereto as Exhibit "B".

**3. Developer to Connect to City's Underground Utilities.** The City hereby consents to and agrees to allow Developer to connect to the City's Underground Utilities so that the 94 Lots shown on the Preliminary Plat Map may use the services provided by the City's Underground Utilities.

**4. City to Assume Obligation to Maintain Road and Crossing Improvements.** After the expiration of the Developer Guarantee Period, the City agrees to assume all rights and responsibilities with respect to the operation and maintenance of the Subdivision Improvements, including, without limitation, the crossing over the Strawberry Water Users Canal. The form and substance of the Agreement for the Assumption of All Rights and Responsibilities with Respect to Operation and Maintenance is attached hereto as Exhibit "C".

**5. Miscellaneous Provisions:**

a. **Binding Effect:** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

b. **Attorneys Fees:** In the event it becomes necessary for any party to this Agreement to commence legal action to enforce its rights under this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

c. **Notices:** All notices shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or when deposited in the United States mail, by registered or certified mail, return receipt requested and addressed as follows:

The City:  
Spanish Fork City  
40 South Main Street  
Spanish Fork, Utah 84660  
(801) 798-5000; Fax (801)798-5005

The Developer:  
Oakridge Homes Development, L.L.C  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Such addresses may be changed by notice to the other party given in the same manner as above provided. Any notice given hereunder shall be deemed given as of the date delivered or

mailed.

d. **Severability:** If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable or unenforceable, such void, voidable or unenforceable term or provision shall not affect any other term or provision of this Agreement.

e. **Captions:** The article and section headings contained in this Agreement are for purposes of reference only and shall not limit, expand or otherwise affect the construction of any provisions hereof.

f. **Governing Law:** This Agreement and all matters relating hereto shall be governed by, construed and interpreted in accordance with the laws of the State of Utah.

g. **Entire Agreement:** This Agreement constitutes the entire understanding and agreement between the parties hereto and supersedes all prior agreements, representations or understandings between them relating to the subject matter hereof. All preceding agreements relating to the subject matter hereof, whether written or oral, are hereby merged into this Agreement.

h. **Construction:** As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

i. **Further Action:** The parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

j. **Recitals; Exhibits:** All factual Recitals set forth herein shall be considered part of this Agreement. All Exhibits attached to this Agreement are expressly made a part hereof as fully as though they were completely set forth herein.

**In Witness Whereof**, the parties hereto have executed this Development Agreement as of the date first above written.

**Attest:**

**CITY OF SPANISH FORK,**  
a Utah Municipal Corporation

\_\_\_\_\_  
, City Recorder

By: \_\_\_\_\_  
, its Mayor

**OAKRIDGE HOMES DEVELOPMENT, L.L.C.,**  
a Utah limited liability company

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

Its \_\_\_\_\_

**Exhibits to This Agreement:**

- A - Preliminary Plat Map
- B - Escrow Bond Agreement
- C- Agreement for the Assumption of All Rights and Responsibilities with Respect to Operation and Maintenance

**Exhibit "A"**  
**to**  
**Development Agreement**

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Plat Map

**Exhibit "B"**  
**to**  
**Development Agreement**

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Escrow Bond Agreement

[attach copy of Escrow Bond Agreement with completed numbers as supplied by City]

**Exhibit "C"**  
**to**  
**Development Agreement**

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Agreement for the Assumption of All Rights and Responsibilities  
with Respect to Operation and Maintenance

[Attach approved copy of Agreement]

**AGREEMENT FOR THE ASSUMPTION OF ALL RIGHTS AND RESPONSIBILITIES  
WITH RESPECT TO OPERATION AND MAINTENANCE**

This Agreement is entered into the \_\_\_\_ day of \_\_\_\_\_, 2007, by and between **STRAWBERRY WATER USERS ASSOCIATION**, a Utah nonprofit corporation ("Strawberry"); **SPANISH FORK CITY**, a Utah municipal corporation (the "City"); and **OAKRIDGE HOMES, L.L.C.**, a Utah limited liability company (the "Developer"); in contemplation of the following facts and circumstances:

A. Pursuant to certain federal regulations Strawberry is authorized to construct and operate a certain irrigation canal (the "Strawberry Canal"), a portion of which Strawberry Canal is located within the City of Spanish Fork, Utah.

B. The City is a municipal corporation that has jurisdiction over the development of real property that is located within its corporate boundaries.

C. Developer is the fee title owner or has the right to acquire fee title to a certain parcel of real property located within the corporate boundaries of the City, which parcel of real property is otherwise known as the Oakridge Cove Subdivision Phase 1, which subdivision comprises approximately 47 residential building lots.

D. Pursuant to that certain Development Agreement between the City and the Developer, the Developer has agreed to construct and install certain roadway improvements, including crossing facilities (collectively the "Strawberry Crossing Facilities") over and across the Strawberry Canal.

E. Pursuant to that certain Right of Use Agreement (the "Right of Use Agreement") between Strawberry, the Developer, and the City, Strawberry has agreed to permit Developer to construct the Strawberry Crossing Facilities across the Strawberry Canal provided that the City agree to assume all rights and responsibilities with respect to the operation and maintenance of the Strawberry Crossing Facilities upon the expiration of the "Developer Guarantee Period", as such term is defined in paragraph 1 below.

F. The parties hereto desire to provide for the construction and maintenance of the Strawberry Crossing Facilities.

NOW, THEREFORE, in furtherance of the objectives of the parties, and in consideration of the terms of this Agreement and the mutual covenants and promises of the parties, the parties agree as follows:

**1. Construction of the Roadway Improvements and Strawberry Crossing Facilities.** Developer hereby agrees to construct and install the Strawberry Crossing Facilities in accordance with the plans and specifications attached to the Right of Use Agreement within one year after the date of receipt from the City of final plat approval for Oakridge Cove Subdivision Phase 1. In

accordance with the terms and conditions of the Development Agreement Developer agrees to guarantee the Strawberry Crossing Facilities for a one year period (the "Developer Guarantee Period") following completion of the construction and acceptance thereof by the City.

**2. Developer to Provide Completion Bond.** Developer hereby agrees to provide a completion bond for the Developer Guarantee Period in accordance with the terms and conditions the Development Agreement.

**4. City to Assume Obligation to Maintain Road and Crossing Improvements.** Upon the expiration of the Developer Guarantee Period, the City agrees to thereafter assume all rights and responsibilities with respect to the operation and maintenance of the Strawberry Crossing Facilities.

**5. General Provisions.**

(a) Time of Essence. Except as otherwise specifically provided in this Agreement, time is of the essence of each and every provision of this Agreement.

(b) Assignments and Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. No party may assign or otherwise transfer any interest in this Agreement without the prior written consent of the other party. Such consent shall not be unreasonably denied or delayed.

(c) Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

(d) Prior Agreements. This Agreement supersedes and replaces all written and oral agreements previously made or existing between the parties.

(e) Applicable Law. This Agreement shall be construed, applied and enforced in accordance with the laws of the State of Utah.

(f) Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, which, when executed and delivered, shall be deemed to be an original, binding between the executing parties, and all of which shall together constitute one and the same instrument. Original, facsimile or power of attorney signatures shall be binding upon the executing party.

(g) Authority. Those persons signing as representatives of the parties warrant and represent they have been duly authorized to sign on behalf of the party they represent.

(h) Remedies. If suit is brought to enforce or interpret this Agreement, the prevailing party or parties shall be entitled to recovery reasonable attorney's fees, expert fees and

costs. Any such action shall be brought in the Fourth Judicial District Court in and for Utah County. The Parties agree that the United States is not a necessary party to any action brought to enforce or interpret this Agreement.

DATED effective on the day and date first written above.

Strawberry:

**STRAWBERRY WATER USERS ASSOCIATION,**  
a Utah non-profit corporation

By: \_\_\_\_\_  
Wm. Garry Brown, its President

Developer:

**OAKRIDGE COVE HOMES, L.L.C.,**  
a Utah limited liability company

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

Its \_\_\_\_\_

CITY:

**CITY OF SPANISH FORK,**  
a Utah municipal corporation

Attest:

\_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Its Mayor

March 12, 2007

Mr. David Oyler  
City Manager  
40 South Main  
Spanish Fork, Utah 84660

Dear Mr. Oyler,

Thank you for taking the time to meet with me last week. I appreciated the opportunity to discuss the current situation that Allied Waste Services finds itself in.

As discussed, a thorough analysis of our current agreements has shown that we are “underwater” in several of our current residential contracts. Spanish Fork being one of these, has forced us to look at what options may be available to rectify our current situation. We have identified two possibilities to address this issue.

- 1- Increase our monthly rate by \$1.40 per cart. This would apply to both 1<sup>st</sup> and 2<sup>nd</sup> carts.
- 2- Assist Spanish Fork in placing the services out for Request for Proposal prior to the end of our current agreement. This assistance may include helping absorb some of the cost for the RFP process.

Allied Waste Services understands that neither of these options is preferred for Spanish Fork, but we do appreciate your consideration of these options.

We take very seriously our commitment and obligation to the cities we serve. This type of action is not a normal business practice, but underscores the serious financial implications of these contracts on our business. While these options are significant, the increase in energy and other operating expenses has significantly changed the market in which we operate.

I would be happy to meet with you concerning this request. Please feel free to contact me at 801-924-8468.

Sincerely,

Gordon Raymond  
Allied Waste

Cc: Kent Clark, Finance Director



**MEMO  
SPANISH FORK CITY  
PUBLIC WORKS DEPARTMENT**

**DATE:** March 15, 2007

**TO:** Mayor Thomas and City Council

**FROM:** Richard J. Nielson, Assistant Public Works Director

**RE:** Rate Increase request – Allied Waste

Allied Waste entered into a contract with the City in June of 2005 to provide solid waste collection for the City. This contract was for the period of five years. In July of 2006 Allied requested an amendment to the contract to provide for a fuel surcharge when diesel fuel exceeds \$2.49 per gallon. This amendment was approved by the City Council on July 18, 2006. In a letter addressed to the City Manager, dated March 12, 2007, Allied Waste has requested that Spanish Fork City grant an increase in the monthly rate in the amount of \$1.40. The current rate without the fuel surcharge is \$3.15. This increase would represent an increase of 44%. I feel that the City has addressed Allied's concerns about fuel costs with the amendment to the contract in 2006 and recommend that the City not approve the request for the increase.

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# SPANISH FORK CITY

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## MEMORANDUM

**TO:** Mayor and City Council  
**FROM:** Dave Anderson, Planning Director  
**DATE:** March 15, 2007  
**RE:** Davis Annexation

Mr. Mike Davis recently submitted an Annexation application for your consideration. The Development Review Committee reviewed the proposed Annexation and has recommended that the City Council accept the petition for further study. Accepting the petition will not bind the Council to ultimately approve the Annexation but would initiate the formal process of reviewing the proposal. Minutes from the Development Review Committee's March 14, 2007 meeting are still being prepared but staff anticipates having them ready for review by your meeting next week.

