



**Planning Commission Agenda  
November 4, 2009**

**Planning  
Commissioners**

- 5:30 P.M. Agenda Meeting
- 6:00 P.M. 1. Preliminary Activities
- a. Pledge of Allegiance
  - b. Approval of Minutes: October 7, 2009
- Del Robins
- David Stroud 2. Public Hearings
- a. **Bella Vista Zone Change**  
Applicant: Steve Maddox  
General Plan: Residential 5.5 to 8 units per acre  
Zoning: R-1-6 requested; R-3, R-1-6 and Rural Residential existing  
Location: approximately 900 North State Road 51
- Shane Marshall
- Rick Evans
- Tyler Cope
3. Staff Reports
- a. **Bella Vista Preliminary Plat**  
Applicant: Steve Maddox  
General Plan: Residential 5.5 to 8 units per acre  
Zoning: R-1-6 requested, R-3, R-1-6 and Rural Residential existing  
Location: approximately 900 North State Road 51
4. Other Discussion
- a. **Discussion on Planning Commission work program**

**Planning Commissioners, if you are unable to attend a meeting please let us know ASAP. Thanks.**

The public is invited to participate in all Planning Commission Meetings. If you need special accommodations to participate in the meeting, please contact the City Manager's Office at (801) 804-4530.

1 **Draft Minutes**  
2 **Spanish Fork City Planning Commission Meeting**  
3 **October 7, 2009**  
4  
5

6 Commission Members Present: Chairman Del Robins, Commissioners Shane  
7 Marshall, Michael Christianson, Rick Evans, Tyler Cope, and Dave Stroud.  
8

9 Staff Present: Dave Anderson, Community Development Director; Chris  
10 Thompson, Assistant Public Works Director; Marlo Smith, Engineering Secretary;  
11 and Kirk Nord, Assistant City Attorney.  
12

13 Citizens Present: Jordan Gross  
14

15 **CALL TO ORDER**  
16

17 Chairman Robins called the meeting to order at 7:00 p.m.  
18

19 **PRELIMINARY ACTIVITIES**  
20

21 **Pledge of Allegiance**  
22

23 Commissioner Stroud led the Pledge of Allegiance.  
24

25 **Adoption of Minutes: September 2, 2009**  
26

27 Commissioner Stroud made a **motion** to **approve** the minutes of September 2,  
28 2009, with the noted corrections. Commissioner Christianson **seconded** and the  
29 motion **passed** unanimously.  
30

31 Chairman Robins announced that starting November 4, 2009, the Spanish Fork  
32 City Planning Commission Meetings will start at 6:00 PM instead of the current  
33 time of 7:00 PM.  
34

35 **PUBLIC HEARING**  
36

37 **Proposed Amendment to the Transportation Element of the General**  
38 **Plan**

39 Applicant: Spanish Fork City

40 General Plan: City-wide

41 Zoning: City-wide

42 Location: City-wide  
43

44 Commissioner Evans **moved** to **open** into public hearing. Commissioner Stroud  
45 **seconded** and the motion **passed** all in favor at 7:05 PM.

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Mr. Anderson explained the need for the proposed changes to the Master Plan Map and the consideration of changing cross section standards included in the Transportation Element of the General Plan. He reviewed that a public hearing is required before action can be taken on changing the General Plan.

Mr. Anderson asked Mr. Thompson to review the proposed changes.

Mr. Thompson reviewed the changes to the map portion of the General Plan.

Discussion took place regarding the change on the northeast end of town that would change the alignment of what was previously anticipated to be Expressway Lane.

Chairman Robins asked if a bridge would be constructed over the railroad.

Mr. Thompson said yes. He explained that the bridge over the railroad would be a less expensive bridge to construct.

Commissioner Cope asked if this would border the Whispering Willows subdivision.

Mr. Thompson said it would.

Mr. Christianson asked how this project would be funded.

Mr. Thompson said the General Plan doesn't describe in detail how projects are funded, but the railroad crossing is a long-range project for MAG (Mountainland Association of Governments) that could be funded with different options such as grants, transportation impact fees or connector agreements.

Mr. Anderson stated that capital project plans are involved in the budget. He discussed the transportation impact fee study that Horrocks Engineering had completed. At this time the City hasn't proposed that the City Council take action to implement a transportation impact fee.

Discussion took place as to alternative options if a developer proposes a project prior to the railroad crossing being completed.

Mr. Anderson explained that the General Plan is a guiding document that is very detailed to help take the guess work out when the time comes to build roads.

Discussion took place regarding the capital facilities plan and different ways to fund projects.

91 Chairman Robins asked if the new location for the road near State Road 51 had  
92 been discussed with UDOT.  
93  
94 Commissioner Marshall said it was far enough away from other roads that he  
95 didn't see it being a problem with UDOT.  
96  
97 Commissioner Christianson asked about the proposed preliminary plat to the  
98 north.  
99  
100 Mr. Anderson said the project was never approved by the City Council.  
101  
102 Mr. Thompson discussed the 2<sup>nd</sup> change to the General Plan map section. He  
103 said it was a typo that a section of collector road was left out between Del Monte  
104 and the south end of Cal Pac.  
105  
106 Discussion took place regarding the signal light at Del Monte and Arrowhead  
107 Lane that should be completed next spring.  
108  
109 Mr. Thompson discussed the 3<sup>rd</sup> change in regards to the area near 1700 East  
110 and Scenic Drive.  
111  
112 Discussion took place regarding the ordinance that requires churches and schools  
113 to be built on collector roads.  
114  
115 Mr. Thompson reviewed the Major Arterial Cross Section Standard Drawing.  
116  
117 Commissioner Christianson asked if the wall proposed was masonry or precast.  
118  
119 Mr. Thompson stated that precast is masonry so that it is one option.  
120  
121 Commissioner Christianson asked about meandering sidewalks.  
122  
123 Mr. Thompson stated that the drawing reflects a straight sidewalk due to utility  
124 locations in the planter area.  
125  
126 Mr. Anderson said a meandering sidewalk is not as efficient.  
127  
128 Discussion took place regarding road section size.  
129  
130 Discussion took place on the shoulder section that could possibly be a future  
131 lane.  
132  
133 Mr. Thompson reviewed the Minor Arterial Cross Section Standard Drawing.  
134

135 Commissioner Marshall said he would like to see wording changes for optional  
136 lanes in the road pertaining to shoulder and future lanes.  
137  
138 Discussion took place regarding changing the standard to reflect a 12' lane and a  
139 10' shoulder/future lane.  
140  
141 Mr. Thompson reviewed the Collector Cross Section Standard Drawing.  
142  
143 Commissioner Marshall asked about the proposed 8' shoulder. He feels that  
144 width is too wide.  
145  
146 Mr. Thompson said an 8' shoulder allows for right turn movements that won't  
147 impede traffic.  
148  
149 Commissioner Christianson feels the 6' wide sidewalk is too wide.  
150  
151 Discussion took place regarding sidewalk widths and what is comfortable for  
152 people to use sidewalks instead of the road.  
153  
154 Mr. Thompson reviewed the Commercial Local Cross Section Standard Drawing.  
155  
156 Discussion took place regarding there not being a trail option.  
157  
158 Discussion took place regarding the wording about an approved preservation  
159 coat.  
160  
161 Mr. Thompson stated that the wording is not being approved at this time, only  
162 the right of way widths.  
163  
164 Mr. Thompson reviewed the Residential Local and Sub Local Cross Section  
165 Standard Drawing.  
166  
167 Commissioner Christianson asked whether the median in a major arterial and a  
168 minor arterial was always concrete or landscaping.  
169  
170 Mr. Thompson said a standard will be put into place on how to build the median.  
171 This standard will be part of the construction standards.  
172  
173 Commissioner Cope asked what the current widths were for the road rights-of-  
174 way.  
175  
176 Chairman Robins asked for public comment.  
177  
178 There was no public comment.  
179

180 Discussion took place regarding the proposed changes to the road rights-of-way.

181

182 Discussion took place regarding residential local roads being too wide.

183

184 Commissioner Christianson asked what the police department would prefer.

185

186 Mr. Anderson stated that the police department would prefer larger shoulders.

187

188 Discussion took place regarding bicycle lanes.

189

190 Discussion took place regarding the wording regarding the wall elimination as to  
191 be determined by the City Engineer or his/her designee.

192

193 Commissioner Christianson **moved to recommend approval** of the proposed  
194 Amendment to the Transportation Element of the General Plan with the following  
195 conditions:

196

- 197 1. Minor arterial cross section reflects a 10-foot shoulder instead of  
198 the 12-foot shoulder.
- 199 2. Major and Minor arterial cross sections to show the shoulder/future  
200 lane option instead of shoulder only.
- 201 3. Anywhere a 6-foot sidewalk is shown it will be reduced to a 5-foot  
202 sidewalk and increase the planter width by 1 foot.
- 203 4. Major arterial cross section shoulder lane width changed to an 11-  
204 foot shoulder/future lane.
- 205 5. Collector cross sections to show a 6-foot shoulder, a 13-foot  
206 median/lane and change right-of-way width to 85 feet.

207

208 Commissioner Marshall **seconded** the motion. A roll call vote was taken and the  
209 motion was **passed** unanimously.

210

211 Commissioner Evans **moved to close** the public hearing. Commissioner Stroud  
212 **seconded** and the motion **passed** unanimously.

213

### 214 **OTHER DISCUSSION**

215

216 Chairman Robins reminded everyone that starting November 4, 2009, the  
217 Spanish Fork City Planning Commission Meetings will start at 6:00 p.m. instead  
218 of the current time of 7:00 p.m.

219

220 Commissioner Evans discussed that the current chairman has been in his position  
221 for an excess of two years. After some discussion the conclusion is to give  
222 Chairman Robins a break and elect a new chairman. This change is not by any  
223 means reflecting Chairman Robin's job performance as chairman, just to give him  
224 a break.

225  
226 Commissioner Evans **moved** to **appoint** Commissioner Christianson as  
227 Chairman and Commissioner Marshall as Vice-Chairman. Commissioner Robins  
228 **seconded** and the motion **passed** unanimously.  
229

230 **ADJOURNMENT**

231  
232 Commissioner Robins made a **motion** to **adjourn**. Commission Marshall  
233 **seconded** and the motion **passed** all in favor at 8:20 p.m.  
234

235 **Adopted:**  
236  
237  
238

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Marlo Smith, Engineering Secretary



# REPORT TO THE PLANNING COMMISSION BELLA VISTA ZONE CHANGE AND PRELIMINARY PLAT APPROVAL REQUEST

**Agenda Date:** November 4, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee

**Request:** Steve Maddox is requesting a Zone Change and Preliminary Plat approval for a 100-lot Master Planned Development.

**Zoning:** R-1-6

**General Plan:** Residential 5.5 to 8 units per acre

**Project Size:** 26.14 acres

**Number of lots:** N/A

**Location:** approximately 900 North State Road 51

## Background Discussion

The City has fielded a number of development proposals in recent years for the properties that are now included in the proposed Bella Vista Preliminary Plat. The current proposal involves the development of single-family homes whereas other submitted versions have included townhomes.

Three different zoning districts are found within the proposed development area. R-3, Rural Residential and R-1-6 zoning currently exist. R-1-6 zoning is proposed for the entire development. The proposed R-1-6 zone is consistent with the Residential 5.5 to 8 units per acre General Plan designation.

The proposed development is presented as a Master Planned Development with a total of 100 building lots. One of the building lots, lot 100, currently houses a Residential Treatment Facility. The other 99 lots are designed to accommodate single-family dwellings.

One of the more unique factors of the proposal is the inclusion of lots that have as little as 40 feet of frontage and 4,000 square feet in area. The Master Planned Development section of Title 15 permits lots of this nature so long as the City Council makes specific findings relative to such lots being an enhancement from other development types. The specific language from Title 15 reads as follows:

Single family lots shall be a minimum of 6,000 square feet, with a minimum of 50 feet of frontage; twin home lots shall be a minimum of 4,000 square feet each, with a minimum of 40 feet of frontage each. The Council may grant a waiver of this requirement based on superior design. The Council has the absolute discretion in approving a request for such a waiver.

In this case, this City Council entertained the concept of granting this waiver in a meeting last month. In that meeting, the City Council indicated a willingness to approve the development with lots that may be as small as 4,000 square feet as long as no other issues surface as concerns relative to the proposed development.



Staff's main concerns with the proposal have involved the quality of construction and the functionality of providing basic utility services to lots with 40 feet of frontage.

Accompanying this report is a package of information for the development that identifies what the elevation of homes constructed in the project are proposed to be. Additionally, the applicant has proffered the following standards relative to homes that would be constructed:

Home Size

R-1-6 Zone – Home size shall be no less than 1,550 finished square feet. Developer is proposing homes ranging from 1,700-2,400 square feet with many of the homes having basements.

Exterior Materials

Exterior material types – Exteriors shall be limited to brick, stone, hard board siding or stucco. A minimum of 50% of the homes constructed on project shall include a brick and / or stone architectural element on a portion of the front elevation of the home.

Home Plotting Restriction

Home plotting criteria – no identical home (i.e. the same floor plan and exterior elevation) shall be plotted within 200 feet of each other.

Exterior color schemes – no exterior color schemes may be plotted next to a home with the same scheme.

A schematic of homes will be on the final plat showing drive approaches / utility crossing to allow utilities / livability.

Home Design Elements

Garages – each home will have a minimum two (2) car garage and a three (3) car garage offered where lot permits.

Exterior Elevation – a minimum of three (3) exterior elevations per plan shall be provided. Variation in window, roof design, exterior relief and window treatments will be provided

Roof Pitch – a minimum roof pitch of 6:12 will be constructed.

Subdivision Facts

Each home will have full front yard landscaping provided by developer. (See CC&R's section 10.09)

A 3+ acre "Public" park will be provided as open space providing entertainment and enjoyment of community.

Each yard will be fenced for the privacy and livability for all.

Restrictive CC&R's will be recorded and enforced.

Relative to the provision of utilities to each lot, the proposed solution for staff's concerns is to design the location of each driveway and all lateral locations with the construction plans that are submitted with Final Plat applications. Our staff seems to agree that by designing to this higher level of detail we can avoid problems that have been experienced in other projects where space is limited.

A three-acre park is proposed as part of this development. The applicant has offered to improve the park as part of the amenity package for the overall project. In fact, the applicant has provided conceptual renditions to illustrate the types of improvements that they propose to make in the park.

Relative to a design for the park and the improvements that would be constructed therein, staff feels strongly that, as this would be a City park, City staff should be very involved in the design of the park. To that end, City staff met earlier this week with the applicant to discuss the basic design philosophy and level of improvement that the City expects to see within the park. The applicant has agreed to prepare a final design for the park that will be approved by the City with the approval of the Final Plat for the first phase of the development.

Also related to the design of the park are several images that the applicant included in the accompanying package of information that pertains to park improvements. Staff wishes to make clear that the examples of benches, playground equipment and other exhibited items do not necessarily conform to the City's expectations for that type of equipment in City parks. The applicant has been advised that different items will likely be required for the park and they have offered to work with staff to make sure that improvements designed for the park meet the City's standards.

The last park related issue involves the timing of its construction. City staff is very concerned about making sure that any facility proffered at the time that a development is approved is ultimately constructed in the manner described. Staff also understands some of the basic realities of financing a development and how potentially impractical it might be to require all amenities with a development's initial phase. In the hope of balancing the City's needs and the developer's ability, staff has proposed that the land for the

park be dedicated with the initial phase, that the applicant bond for 50% of the cost to construct the park with the second phase and that the applicant bond for the remaining cost to construct the park and then construct the park with the other public improvements in the third phase. Staff believes that this program ensures that the park will be constructed as approved.

### Development Review Committee

The Development Review Committee reviewed this request in their October 21, 2009 meeting and recommended that it be approved. Minutes from that meeting read as follows:

#### Bella Vista

Applicant: Steve Maddox

General: Residential 5.5 to 8 units per acre

Zoning: Rural Residential, R-2 and R-1-6 existing, R-1-6 requested

Location: approximately 900 North State Road 51

Discussion was held between the Committee and the applicant regarding the size of the park, access through the park for farm equipment, trails, stubbing utilities to the east boundary, table on the cover sheet of the Preliminary Plat needing to be updated, phasing and improving the park, the park being constructed with the public utilities in the third phase, that before the final plat is approved the park will need to be designed, meandering the sidewalk on the side of the park, specific language that refers to exterior materials, power and storm drain.

Mr. Anderson **moved** to recommend to the City Council **approval** of the Bella Vista Zone change from Rural Residential, R-2 and R-1-6 to all R-1-6, based on the following findings:

#### Findings

1. That the proposed zone is consistent with the General Plan.
2. That the zone would accommodate the proposed Bella Vista development which appears to conform to the City's requirements for Master Planned Developments.

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

Mr. Anderson **moved** to recommend to the City Council **approval** of the Bella Vista Preliminary Plat located at approximately 900 North State Road 51 with 100 building lots subject to the following conditions:

#### Conditions

1. That the applicant update the supportive materials prior to the project being presented to the Planning Commission.
2. That the applicant make any necessary corrections to the plat itself and receive approval from the City's Engineering Department prior to the project being presented to the Planning Commission.
3. That a design of the park be completed as part of the final plat review process on the project's first phase.
4. That the applicant dedicate the park land with the first phase.
5. That the applicant bond for a proportionate share of the park construction with the second and third phases.
6. That the park be constructed with the public improvements in the third phase.
7. That all of the landscaping that is visible from a public right-of-way be installed at the time of development or when the time homes are constructed.

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

#### Budgetary Impact

There is no immediate budgetary impact anticipated with the approval of this plat.

#### Zone Change Recommendation

Staff recommends that the proposed Zone Change, changing the zoning from R-3, R-1-6 and Rural Residential to R-1-6 be approved based on the following finding:

#### Finding

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

#### Preliminary Plat Recommendation

Staff recommends that the proposed Preliminary Plat be approved based on the following finding and subject to the following conditions:

**Finding**

1. That the proposed Preliminary Plat conforms to the City's requirements for Master Planned Developments in the R-1-6 zone.

**Conditions**

1. That a design of the park be completed as part of the final plat review process on the project's first phase.
2. That the applicant dedicate the park land with the first phase.
3. That the applicant bond for a proportionate share of the park construction with the second and third phases.
4. That the park be constructed with the public improvements in the third phase.
5. That all of the landscaping that is visible from a public right-of-way be installed at the time of development or when the time homes are constructed.

# Bella Vista Zone Change



1 Inch = 780 Feet

### Legend

- Bella\_Vista\_Zone\_Change
- Church Points
- School Points
- Roads**
- Other Roads
- Street
- Road
- Railroad
- County\_SF\_Parcel
- River
- Schools
- Private
- Public
- Spanish Fork Boundary

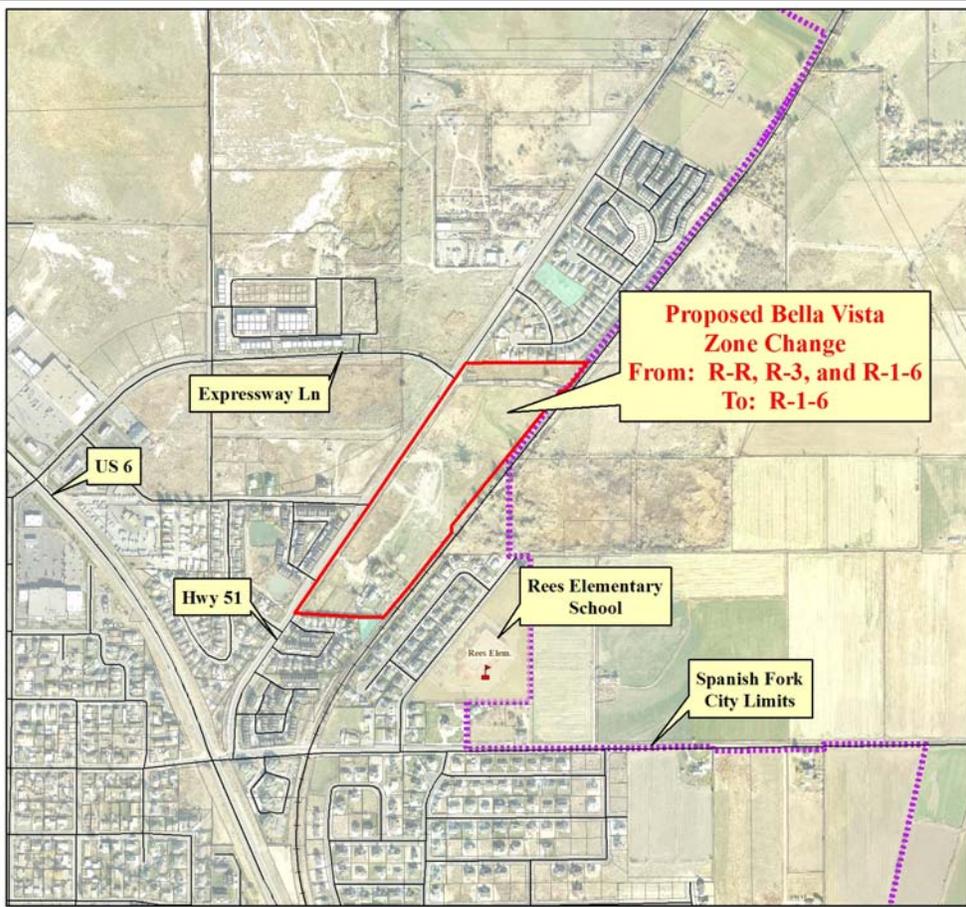
10/16/2009



Geographic Information Systems

**Spanish Fork City GIS**  
 40 South Main Street  
 Spanish Fork, UT 84660  
 (801) 798-5000

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# *Bella Vista*

Developer:  
Steve Maddox  
801-602-9839  
madd.ste@gmail.com

LEI Engineers  
Brian Gabler  
801-798-0555  
[www.lei-eng.com](http://www.lei-eng.com)



# Bella Vista Summary

Bella Vista is being presented as 99 single family units on over 26 acres of ground located approximately highway 51 approximately express way lane. The zone would be the R-1-6 zone, with some text modification. It has become very apparent, the current market conditions dictate an appetite for affordable single family homes. Young and old folks are demanding a private yard and separation from neighbors.

The following are bullet points of Bella Vista

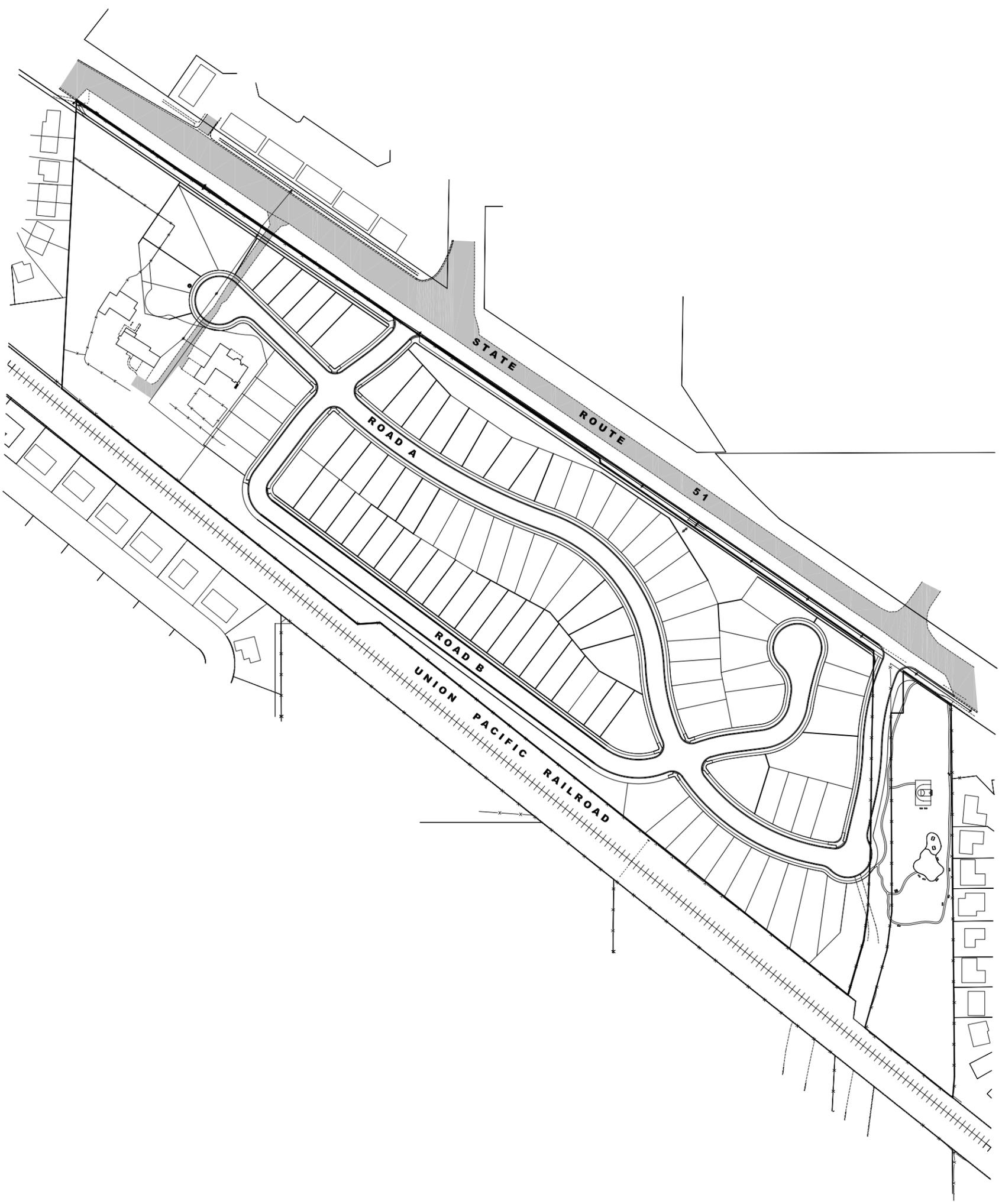
- Home Size
  - R-1-6 Zone – Home size shall be no less than 1,550 finished square feet. Developer is proposing homes ranging from 1,700-2,400 square feet with many of the homes having basements.
- Exterior Materials
  - Exterior material types – Exteriors shall be limited to brick, stone, hard board siding or stucco. A minimum of 50% of the homes constructed on project shall include a brick and / or stone architectural element on a portion of the front elevation of the home.
- Home Plotting Restriction
  - Home plotting criteria – no identical home (i.e. the same floor plan and exterior elevation) shall be plotted within 200 feet of each other. Exterior color schemes – no exterior color schemes may be plotted next to a home with the same scheme.
  - A schematic of homes will be on the final plat showing drive approaches / utility crossing to allow utilities / livability.
- Home Design Elements
  - Garages – each home will have a minimum two (2) car garage and a three (3) car garage offered where lot permits.
  - Exterior Elevation – a minimum of three (3) exterior elevations per plan shall be provided. Variation in window, roof design, exterior relief and window treatments will be provided
  - Roof Pitch – a minimum roof pitch of 6:12 will be constructed.
- Subdivision Facts
  - Each home will have full front yard landscaping provided by developer. (See CC&R's section 10.09)
  - A 3+ acre “Public” park will be provided as open space providing entertainment and enjoyment of community.
  - Each yard will be fenced for the privacy and livability for all.
  - Restrictive CC&R's will be recorded and enforced.
  - Restrictive use of R.V., boat, trailer, etc parking (See CC&R's section 6.03)



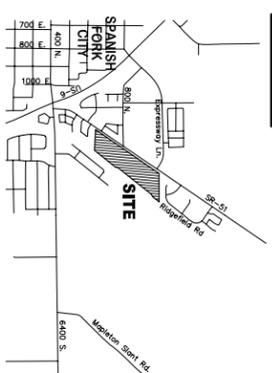
# BELLA VISTA SUBDIVISION

## PRELIMINARY PLAN

AUGUST 2009



### VICINITY MAP



### TABULATIONS

ZONE	R-1-6
TOTAL AREA	= 28.14 ACRES
OPEN SPACE	= 2.00 ACRES
EXPRESSWAY LANE DEDICATION	= 3.97 ACRES
TOTAL # UNITS*	= 100 UNITS
TOTAL DENSITY	= 4.54 UNITS/ACRE

\*INCLUDES EXISTING HOUSES

### TABLE OF CONTENTS

COVER	SHEET 1
LOT LAYOUT	SHEET 2
UTILITY LAYOUT	SHEET 3
DETAILS	SHEET 4
DETAILS	SHEET 5

### NOTES

- ALL CONSTRUCTION TO BE DONE ACCORDING TO THE LATEST EDITION OF SPANISH FORK CITY STANDARDS AND SPECIFICATIONS.
- CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS AND UTILITIES PRIOR TO CONSTRUCTION.
- ALL SEWER LINES TO BE 8" UNLESS NOTED OTHERWISE.
- ALL CULINARY WATER LINES TO BE 8" UNLESS NOTED OTHERWISE.
- PRESSURIZED IRRIGATION LINES TO BE 6" UNLESS NOTED OTHERWISE.
- ALL ROAD GRADES ARE ANTICIPATED TO BE BETWEEN 0.45% AND 1.0%.
- ALL INTERSECTIONS TO HAVE ADA HANDICAP RAMPS ACCORDING TO CITY STANDARDS.
- ALL CULINARY WATER AND PRESSURIZED IRRIGATION LINES UP TO 100' SHALL BE UNDERGROUND WITH 12" POLYETHYLENE GLYCOL (PE) UNDERGROUND SERVICE LINES UP TO THE LAST ON OVERHEAD COMMUNICATION SERVICE LINES UP TO THE LAST ON OVERHEAD COMMUNICATION SERVICE LINES.
- ALL ELECTRICAL METERS AND ALL ELECTRICAL AND SWN UNDERGROUND INSTALLATIONS ARE DEDICATED TO SPANISH FORK.
- LOCATION OF PRESSURIZED IRRIGATION AIR RELEASE VALVES SHALL BE DETERMINED WITH FINAL IMPROVEMENT DRAWINGS.
- ALL UTILITY SERVICE LATERALS TO BE PLACED ACCORDING TO THE CITY STANDARDS.
- ALL OPEN SPACE / COMMON AREA TO BE PUBLIC UTILITY EASEMENT.
- EXISTING PIPE COMING FROM BALDHEAD INTO LOT 57 WILL BE CLEANED AND THE PIPE SHALL BE VENTED.

### LEGEND

- WATER VALVE
- BUTTERFLY VALVE (10" AND LARGER)
- STORM SOUP
- STORM DRAIN
- FIRE HYDRANT
- STREET LIGHT
- SEWER MANHOLE
- STREET SIGN
- STREET REGULATION SIGN
- 30"x41" CURB INLET
- CATCH BASIN
- EXISTING WATER METER
- PROPOSED WATER METER
- TELEPHONE JUNC. BOX
- EXIST. POWER POLE
- MONUMENT
- TIC GRADE U.N.O.
- PRE-TREATMENT BOX
- BLOW OFF
- TYPE II (ALUM CAP & REBAR) MONUMENT
- SEWER (SDR-35 PVC)
- STORM DRAIN (GPC OR ADS AS NOTED)
- PRESSURIZED IRRIGATION (DR-18 C-800 PVC PIPE)
- CULINARY (SDR-21 C-200 PVC)

### DEVELOPER

STEVE MADDOX  
574 S STATE ST  
ORSK. UTAH 844096  
(801) 428-0611

### ENGINEER

LEI CONSULTING ENGINEERS AND SURVEYORS  
3302 NORTH MAIN  
SPANISH FORK, UTAH 84660  
(801)798-0555

### PROJECT NAME

BELLA VISTA SUBDIVISION  
SPANISH FORK CITY, UTAH

REVISION	DATE	BY

3302 No. Main St.  
Spanish Fork, UT 84660  
801-798-0555  
www.lei-eng.com



## BELLA VISTA SUBDIVISION

LOCATION: SPANISH FORK CITY, UTAH

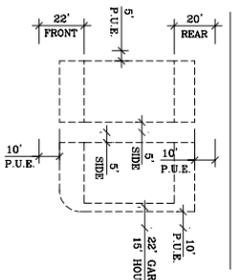
### COVER

DESIGNER :	BTG	PROJECT :	08-0549
DATE :	09/25/2009	SCALE :	1" = 100'
DRAWN BY :	RWH	CHECKED BY :	CJP

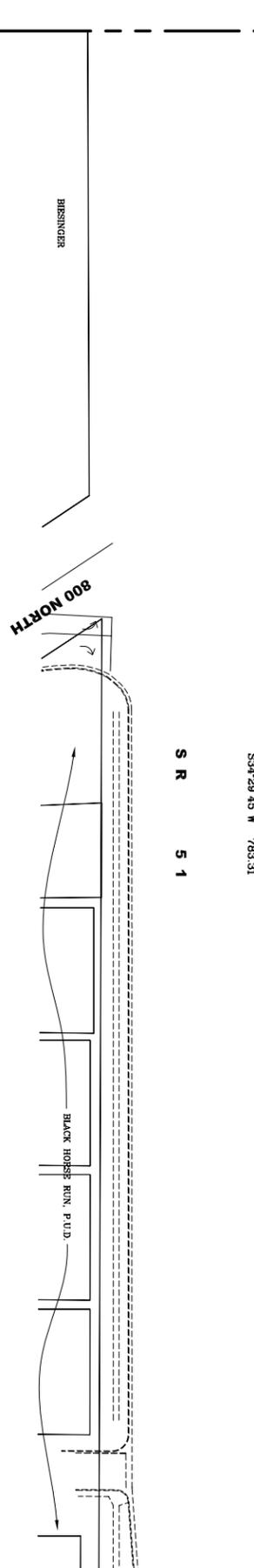
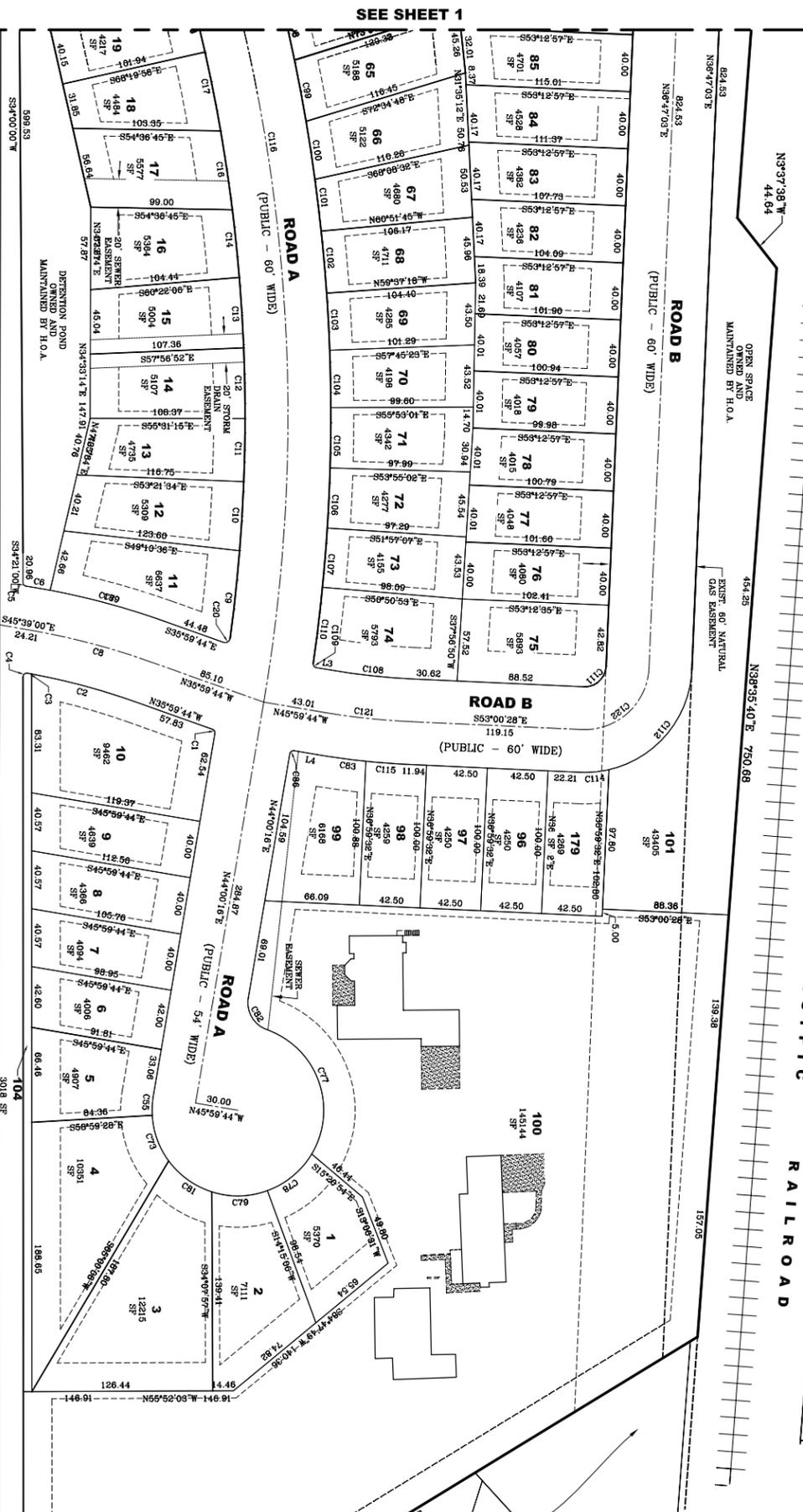
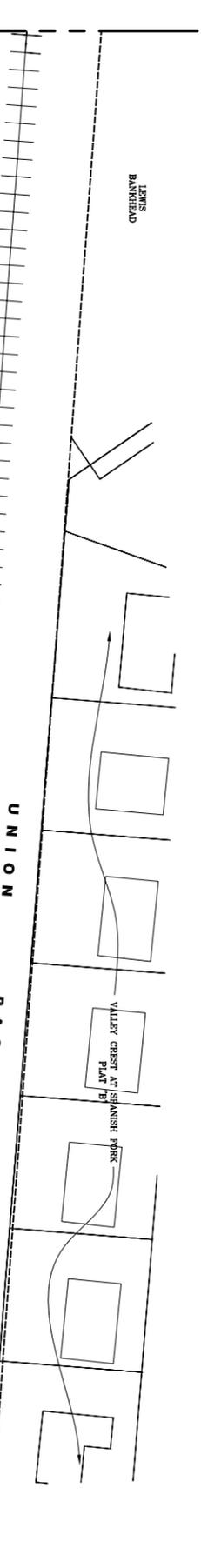
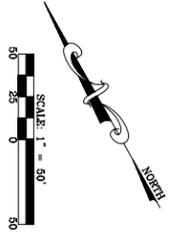
### SHEET COVER



EASMENT/SETBACK DETAIL



LINE	DIRECTION	LENGTH
1	S 89°46'00" W	8.97
2	N 89°54'44" W	10.84
3	N 89°54'44" W	18.81



CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	2.50	89.0000°	3.49	3.49
C2	470.00	92.6247°	74.73	146.931376 74.66
C3	470.00	92.6247°	3.11	146.931376 3.11
C4	2.50	100.7905°	4.37	8.74201076 4.37
C5	500.00	110.0371°	3.54	3.54
C6	500.00	110.0371°	17.10	34.20000000 17.10
C7	500.00	92.6247°	8.25	16.50000000 8.25
C8	500.00	92.6247°	84.25	168.50000000 84.25
C9	1170.00	320.1137°	61.87	123.74000000 61.87
C10	1170.00	320.1137°	44.14	88.28000000 44.14
C11	1170.00	320.1137°	44.14	88.28000000 44.14
C12	1170.00	320.1137°	44.14	88.28000000 44.14
C13	1170.00	320.1137°	44.14	88.28000000 44.14
C14	1170.00	320.1137°	44.14	88.28000000 44.14
C15	2.50	72.9211°	3.18	6.36000000 3.18
C16	1170.00	243.1071°	55.78	111.56000000 55.78
C17	1170.00	243.1071°	54.38	108.76000000 54.38
C18	1170.00	170.9211°	40.34	80.68000000 40.34
C19	500.00	92.6247°	2.29	4.58000000 2.29
C20	500.00	92.6247°	6.23	12.46000000 6.23
C21	500.00	92.6247°	48.15	96.30000000 48.15
C22	500.00	92.6247°	38.53	77.06000000 38.53
C23	500.00	92.6247°	38.53	77.06000000 38.53
C24	500.00	92.6247°	38.53	77.06000000 38.53
C25	500.00	92.6247°	38.53	77.06000000 38.53
C26	500.00	92.6247°	38.53	77.06000000 38.53
C27	500.00	92.6247°	38.53	77.06000000 38.53
C28	500.00	92.6247°	38.53	77.06000000 38.53
C29	500.00	92.6247°	38.53	77.06000000 38.53
C30	500.00	92.6247°	38.53	77.06000000 38.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C31	500.00	120.9211°	8.50	17.00000000 8.50
C32	470.00	92.6247°	39.42	77.84000000 39.42
C33	470.00	92.6247°	48.83	97.66000000 48.83
C34	500.00	92.6247°	40.01	80.02000000 40.01
C35	500.00	92.6247°	78.37	156.74000000 78.37
C36	2.50	84.1341°	3.66	7.32000000 3.66
C37	684.00	114.9711°	19.46	38.92000000 19.46
C38	500.00	120.9211°	84.25	168.50000000 84.25
C39	500.00	120.9211°	18.83	37.66000000 18.83
C40	500.00	120.9211°	80.31	160.62000000 80.31
C41	500.00	120.9211°	31.40	62.80000000 31.40
C42	500.00	120.9211°	78.42	156.84000000 78.42
C43	500.00	120.9211°	38.53	77.06000000 38.53
C44	500.00	120.9211°	38.53	77.06000000 38.53
C45	500.00	120.9211°	38.53	77.06000000 38.53
C46	500.00	120.9211°	38.53	77.06000000 38.53
C47	500.00	120.9211°	38.53	77.06000000 38.53
C48	500.00	120.9211°	38.53	77.06000000 38.53
C49	500.00	120.9211°	38.53	77.06000000 38.53
C50	500.00	120.9211°	38.53	77.06000000 38.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C51	500.00	120.9211°	38.53	77.06000000 38.53
C52	500.00	120.9211°	38.53	77.06000000 38.53
C53	500.00	120.9211°	38.53	77.06000000 38.53
C54	500.00	120.9211°	38.53	77.06000000 38.53
C55	500.00	120.9211°	38.53	77.06000000 38.53
C56	500.00	120.9211°	38.53	77.06000000 38.53
C57	500.00	120.9211°	38.53	77.06000000 38.53
C58	500.00	120.9211°	38.53	77.06000000 38.53
C59	500.00	120.9211°	38.53	77.06000000 38.53
C60	500.00	120.9211°	38.53	77.06000000 38.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C61	500.00	120.9211°	38.53	77.06000000 38.53
C62	500.00	120.9211°	38.53	77.06000000 38.53
C63	500.00	120.9211°	38.53	77.06000000 38.53
C64	500.00	120.9211°	38.53	77.06000000 38.53
C65	500.00	120.9211°	38.53	77.06000000 38.53
C66	500.00	120.9211°	38.53	77.06000000 38.53
C67	500.00	120.9211°	38.53	77.06000000 38.53
C68	500.00	120.9211°	38.53	77.06000000 38.53
C69	500.00	120.9211°	38.53	77.06000000 38.53
C70	500.00	120.9211°	38.53	77.06000000 38.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C71	500.00	120.9211°	38.53	77.06000000 38.53
C72	500.00	120.9211°	38.53	77.06000000 38.53
C73	500.00	120.9211°	38.53	77.06000000 38.53
C74	500.00	120.9211°	38.53	77.06000000 38.53
C75	500.00	120.9211°	38.53	77.06000000 38.53
C76	500.00	120.9211°	38.53	77.06000000 38.53
C77	500.00	120.9211°	38.53	77.06000000 38.53
C78	500.00	120.9211°	38.53	77.06000000 38.53
C79	500.00	120.9211°	38.53	77.06000000 38.53
C80	500.00	120.9211°	38.53	77.06000000 38.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C81	500.00	120.9211°	38.53	77.06000000 38.53
C82	500.00	120.9211°	38.53	77.06000000 38.53
C83	500.00	120.9211°	38.53	77.06000000 38.53
C84	500.00	120.9211°	38.53	77.06000000 38.53
C85	500.00	120.9211°	38.53	77.06000000 38.53
C86	500.00	120.9211°	38.53	77.06000000 38.53
C87	500.00	120.9211°	38.53	77.06000000 38.53
C88	500.00	120.9211°	38.53	77.06000000 38.53
C89	500.00	120.9211°	38.53	77.06000000 38.53
C90	500.00	120.9211°	38.53	77.06000000 38.53

SEE SHEET 1

SR 51

**BELLA VISTA SUBDIVISION**  
 LOCATION: SPANISH FORK CITY, UTAH  
**PRELIMINARY LOT LAYOUT**



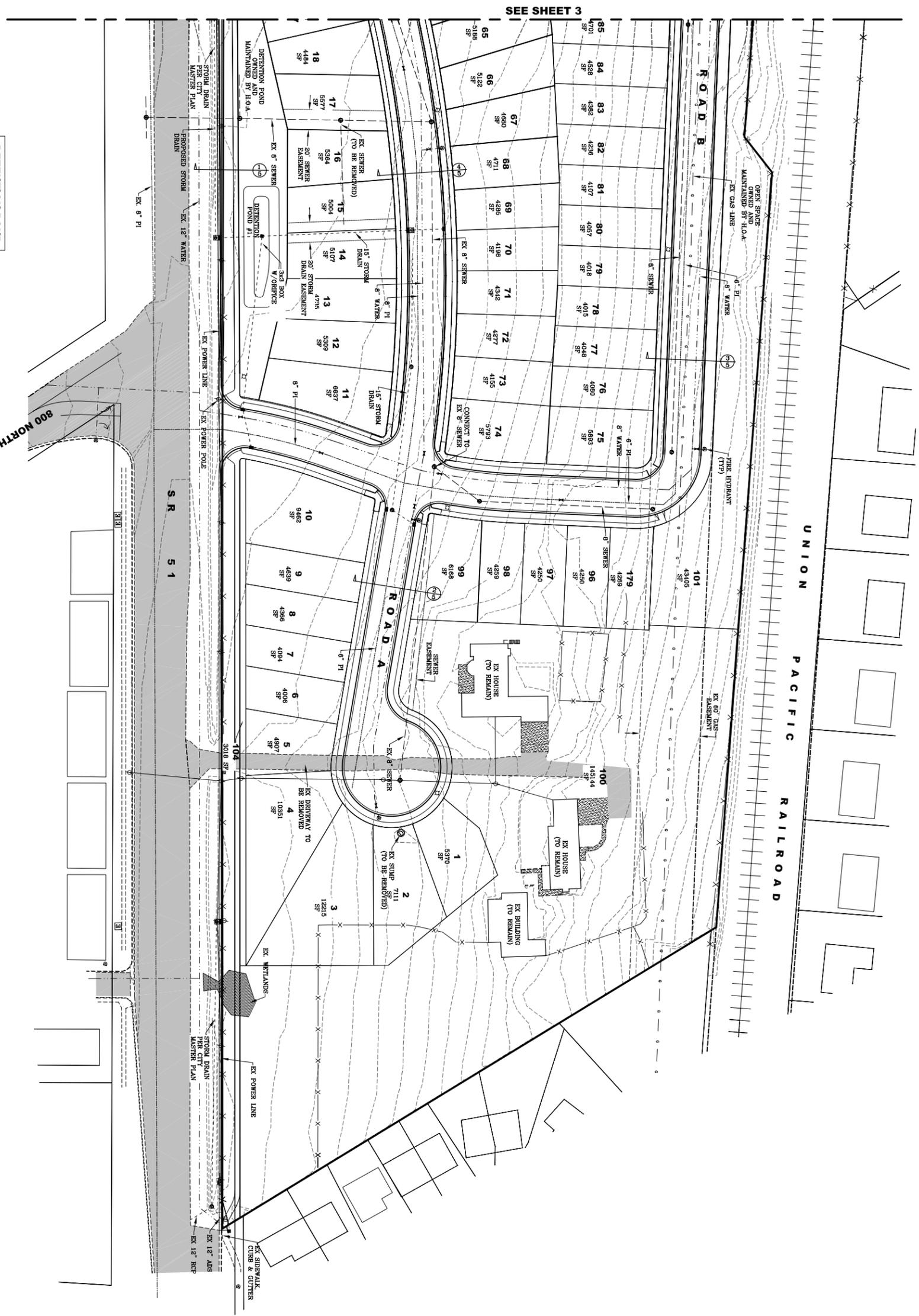
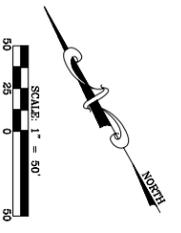
3302 No. Main St.  
 Spanish Fork, UT 84660  
 801-798-0555  
 www.lei-eng.com

BY	DATE	REVISION

DESIGNER :	GDM	PROJECT :	08-0549
DATE :	09/25/2009	SCALE :	1" = 50'
DRAWN BY :	RWH	CHECKED BY :	CJP

**SHEET 2**





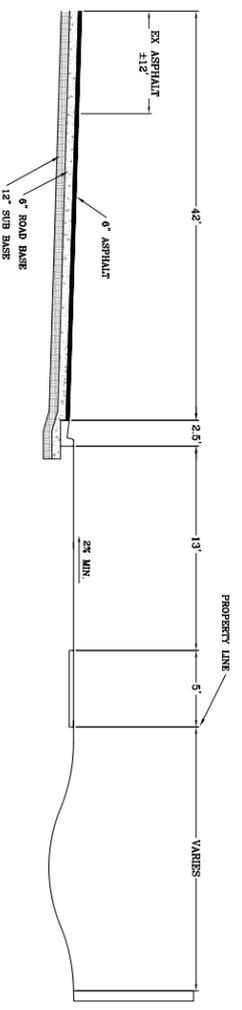
SEE SHEET 3

**LEGEND**

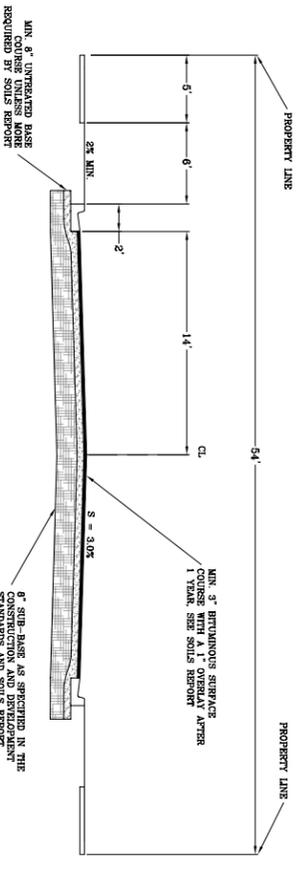
- EX WATER LINE
- EX PI LINE
- EX SEWER LINE
- WATER LINE
- PI LINE
- SEWER LINE
- WATER VALVE
- PI VALVE
- SEWER MANHOLE
- STORM DRAIN MANHOLE
- CURB INLET
- FIRE HYDRANT
- STREET LIGHT
- COULO BOX
- SLUMP

**DETENTION POND**  
 DETENTION POND #1  
 VOL=5250 CF  
 DPTH=1.5 FT

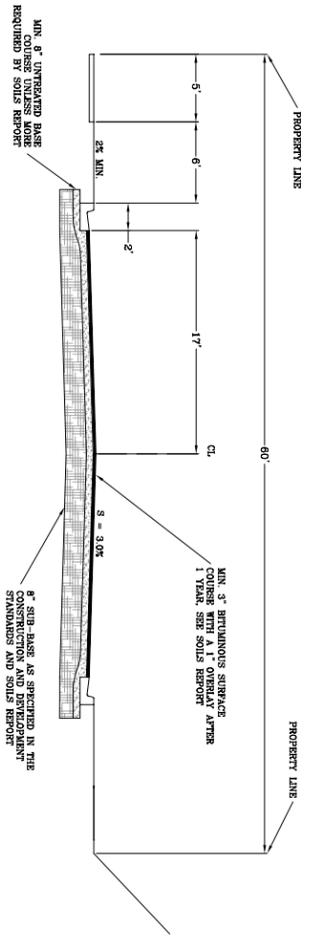
<b>4</b> SHEET	DESIGNER: GDM	PROJECT: 08-0549	<b>BELLA VISTA SUBDIVISION</b> LOCATION: SPANISH FORK CITY, UTAH <b>PRELIMINARY UTILITY LAYOUT</b>	<b>Engineers + Surveyors</b>	3302 No. Main St. Spanish Fork, UT 84660 801-798-0555 www.lei-eng.com	REVISION	DATE	BY
	DATE: 09/25/2009	SCALE: 1" = 50'						
	DRAWN BY: RWH	CHECKED BY:						



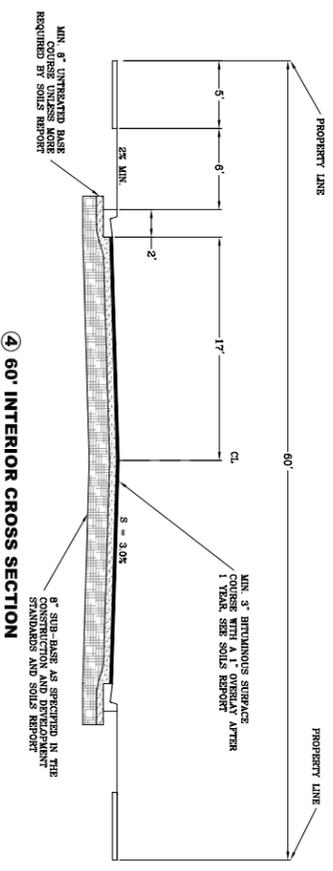
① SR 51 CROSS SECTION



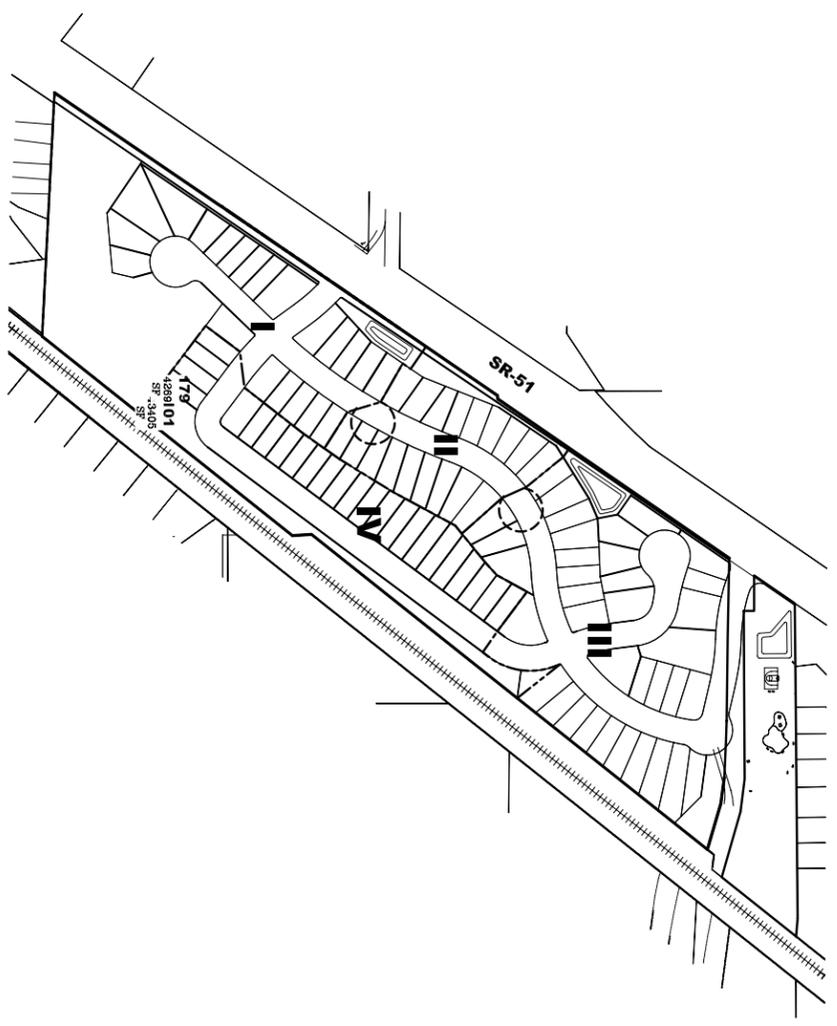
② 54' INTERIOR CROSS SECTION



③ 60' INTERIOR CROSS SECTION



④ 60' INTERIOR CROSS SECTION



PHASING PLAN

**BELLA VISTA SUBDIVISION**  
 LOCATION: SPANISH FORK CITY, UTAH  
**PRELIMINARY DETAILS**

DESIGNER : GDM	PROJECT : 08-0549
DATE : 09/25/2009	SCALE : 1" = 50'
DRAWN BY : RWH	CHECKED BY : CJP



3302 No. Main St.  
 Spanish Fork, UT 84660  
 801-798-0555  
 www.lei-eng.com

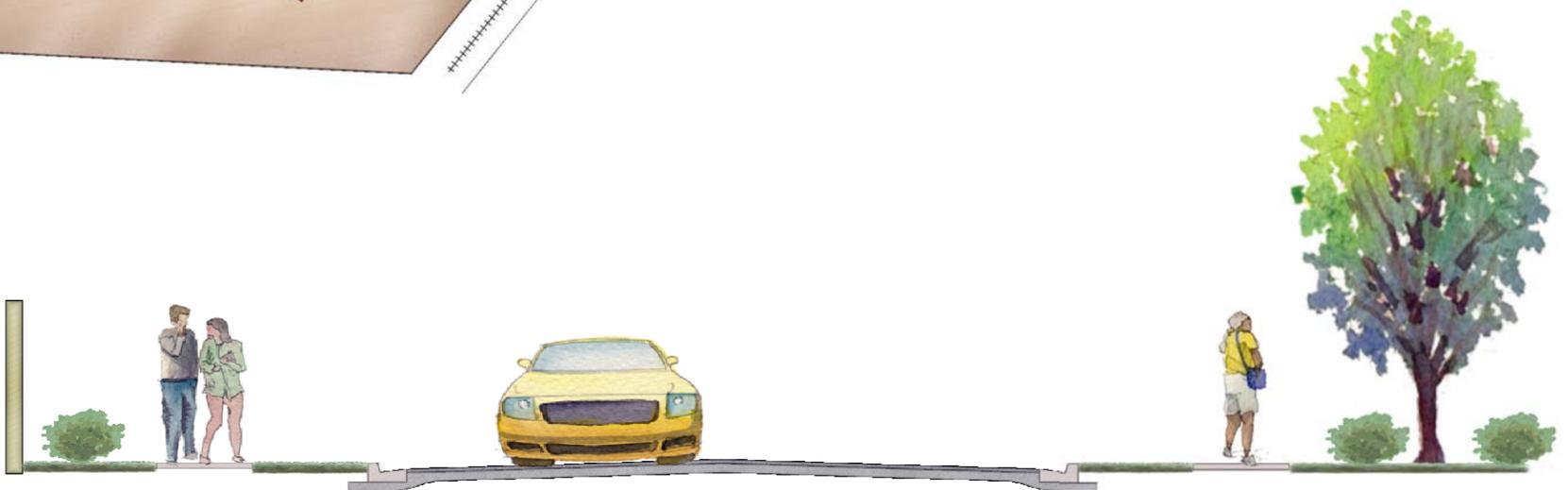
REVISION	DATE	BY



# BELLA VISTA

SPANISH FORK, UTAH

- OPEN SPACE
- BUILDING LOTS
- STORM DETENTION AREA
- EXISTING BUILDINGS
- EXISTING LOTS INSIDE PROJECT BOUNDARY



TYPICAL SECTION

# BELLA VISTA PARK

SPANISH FORK, UTAH



# BELLA VISTA

TYPICAL LOT CONFIGURATION

SPANISH FORK, UTAH



## LEGEND

- TRANSFORMER
- SWITCH
- PHONE
- CABLE TV
- WATER METER
- PRESSURIZED IRRIGATION METER



Specific Highlights to Bella Vista Restrictive CC&R's.  
Full copy of CC&R's enclosed in this packet

10.09 Landscaping.

- (a) All landscaping of the front and side yards must be completed by the Declarant prior to an Owner taking occupancy of a Unit.

6.03 Prohibited Use and Nuisance.

- (d) No parking of vehicles of any kind within the Development and outside of a Unit shall be permitted unless the vehicle fits entirely on the driveway that is part of the original construction of the Unit without blocking any sidewalks. Trailers and RVs will only be allowed in the Development provided that they are parked in a garage and that the garage door can close with the trailer or RV inside. In addition, the Board may establish Rules and Regulations pursuant to the Bylaws further governing parking.

When Recorded, Mail To:  
Daniel K. Watkins  
BEARNSON & PECK, L.C.  
399 N. Main  
Suite 300, Third Floor  
Logan, Utah 84321  
(435) 787-9700

DRAFT #3

**DECLARATION OF PROTECTIVE EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**OF**

**BELLA VISTA**

**A Planned Residential Community**

THIS DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this \_\_\_ day of \_\_\_\_\_, 2009, by, \_\_\_\_\_, LLC, a Utah limited liability company ("Declarant"), in its capacity as the owner and developer of Bella Vista, a development in Utah County, Utah.

**RECITALS**

- A. Declarant is the record title owner of the following described parcel of land, referred to hereinafter as the "Land", which is located in Utah County, State of Utah, as more particularly described on Exhibit "A" hereto.
- B. Declarant intends to subdivide and improve the Land as shown more specifically on the Map (as defined below);
- C. Declarant shall execute and record the Map in the office of the Utah County Recorder concurrently with the recording of this Declaration;
- D. Declarant, by recording this Declaration and the Record of Survey Map as required by statute, intends to submit the Land, buildings and other improvements presently existing or to be constructed upon the Land to the mutually beneficial covenants, conditions and restrictions pursuant to a general plan of improvement for the benefit of all Lots and Units in the Project as well as the Owners thereof;
- E. The administration of the Project shall be governed by this Declaration, and the Articles of Incorporation and Bylaws of the Association as from time to time in effect;

NOW, THEREFORE, pursuant to the foregoing, Declarant hereby makes the following Declaration:

**ARTICLE I**  
**PURPOSE AND EFFECTUATION**

1.01 Purpose. The purpose of this instrument is to provide for the preservation of the values of both Lots and Common Areas within Bella Vista, a development in Utah County, Utah, (the "Development"), and for the maintenance of any private roads, driveways, open spaces, landscaping, and all other Common Areas therein.

1.02 Effectiveness. From and after the effective date hereof: (a) Each part of the Development and each Lot and Unit lying within the boundaries of the Development shall constitute but constituent parts of a single development; (b) The Development shall consist of the Lots and of the Common Areas which are described and depicted on the Plat, together with such additional Lots and Common Areas as may come into existence pursuant to the provisions hereof relating to annexation or expansion of the Development; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The initial Plat of the Development shall consist of the instrument identified as Bella Vista Final Plat, Utah County, Utah, and thereafter recorded concurrently herewith in the Public Records as the same may thereafter be amended.

**ARTICLE II**  
**DEFINITIONS**

When used in this Declaration each of the following terms shall have the meaning indicated:

2.01 "Articles" shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.

2.02 "Assessment" shall mean the charge which is to be levied and assessed against each Owner and the Owner's Lot and Unit for Association expenses as set forth herein.

2.03 "Association" shall mean Bella Vista Homeowners Association, a Utah nonprofit corporation, to be established, its successors and assigns.

2.04 "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

2.05 "Bylaws" shall mean and refer to the Bylaws of the Association.

2.06 “Common Areas” shall mean all portions of the Development except the Lots and Units, and shall include all property to be owned by the Association for the common use and enjoyment of the Owners such as all private undedicated roadways, open spaces, landscaping, structural common areas, if any, and the like, together with all easements appurtenant thereto, as may be reflected herein or on the Plat.

2.07 “Declarant” shall mean \_\_\_\_\_, LLC, a Utah limited liability company, its successors and assigns, if any, as developers of the Development.

2.08 “Declaration” shall mean this Declaration of Protective Easements, Covenants, Conditions and Restrictions as the same may be supplemented or amended from time to time.

2.09 “Development” shall mean the Bella Vista development as it exists at any given time.

2.10 “Lot” shall mean and refer to any of the separately numbered, individually described lots within the Development as designated on the Plat and intended for single family residential use, unless indicated otherwise on the Plat.

2.11 “Managing Agent” shall mean any person or entity appointed or employed as Managing Agent by the Association.

2.12 “Mortgage” shall mean any recorded first mortgage or first deed of trust encumbering a Lot; and Mortgagee shall mean the mortgagee or beneficiary named in a Mortgage.

2.13 “Owner” shall mean any person who is the owner of record (as reflected by the Public Records) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an owner of a Lot unless such party acquires fee title thereto pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple owners of a particular Lot shall be jointly and severally liable as to all responsibilities of an Owner.

2.14 “Plat” shall mean the recorded plat map for Bella Vista Final Plat, recorded contemporaneously with this Declaration, and any supplemental maps pertaining to the Development and recorded or to be recorded in the office of the County Recorder of Utah County, State of Utah.

2.15 “Property” shall mean all land covered by this Declaration, including Common Areas and Lots. The Property shall consist of the land described on Exhibit “A”, attached hereto.

2.16 “Project” shall mean the BELLA VISTA project.

2.17 “Public Records” shall mean the Office of the Utah County Recorder.

2.18 "Special Assessment" shall mean a charge against a particular Owner or his Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Lot or Unit into compliance with the provisions of this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, together with costs, interest, attorney's fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

2.19 "Rules and Regulations" shall mean and refer to those Rules and Regulations authorized, adopted and promulgated to the Owners from time to time by the Board.

2.20 "Unit" shall mean an attached structure which is designed, constructed and intended for use or occupancy as a single family residence on a Lot, including anything located within said Unit.

### **ARTICLE III** **PROPERTY DESCRIPTION**

3.01 Submission. The Property which initially is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property described on Exhibit "A", attached hereto and made a part hereof.

3.02 Description of Improvements. The improvements included in this Project are now, or will be, located on the Property.

3.03 Legal Status of Units. All Units are residential units that are capable of being independently owned, encumbered, and conveyed.

3.04 Division into Lots. The Development is hereby divided into \_\_\_\_\_  
( ) Lots, as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the Common Areas, as well as appurtenant obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

### **ARTICLE IV** **DUTIES AND OBLIGATIONS OF OWNERS**

4.01 Maintenance and Repairs. Each Owner shall at his own cost maintain his Lot and any improvements constructed thereon in good condition and repair at all times. In the event of the damage or destruction of any Unit, the Owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. The painting or repainting, remodeling, rebuilding or modification of any Unit exteriors or parts thereof must first be submitted to and approved by the Design Review Committee pursuant to its procedures. No Owner of any Lot in the Development shall openly or wantonly neglect or fail to do everything possible to keep his Lot and Unit in good and attractive condition and repair at all times. Should the Design Review Committee determine that an Owner

has failed to maintain its Lot, and after giving the Owner thirty (30) days written notice to correct the problem, the Design Review Committee may order that the necessary work be done at the Owner's expense.

4.02 Owners Insurance. Notwithstanding any insurance coverage required to be provided herein by the Association, each Unit Owner shall be responsible to procure and maintain in force at his own cost hazard insurance on his Unit and personal contents and such liability coverage as may be customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

4.03 Assessments and Rules Observance. Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of the Rules and Regulations promulgated by the Association from time to time pursuant to the Bylaws.

4.04 Transfer of Interests. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

## **ARTICLE V**

### **PROPERTY RIGHTS AND CONVEYANCES**

5.01 Easement Concerning Common Areas. Each Lot shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall in no event be separated therefrom.

5.02 Form of Conveyancing: Leases. Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. \_\_\_\_ as identified in the Plat recorded in the office of the Utah County Recorder as Entry \_\_\_\_, Map Filing No. \_\_\_\_ contained within Plat \_\_\_\_ of Bella Vista, Utah County, Utah, SUBJECT TO the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Bella Vista Development, recorded in the office of the Utah County Recorder as Entry \_\_\_\_, Book \_\_\_\_, at Page \_\_\_\_ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

5.03 Title to Common Areas; Taxes. Concurrent with or as soon as possible following the recordation of this Declaration and the Plat, Declarant shall convey to the Association title to the various Common Areas free and clear of all liens, if possible, other than the lien of current general taxes and the lien of any nondelinquent assessments, charges, or taxes imposed by governmental or quasi-governmental authorities, which, to the extent possible, shall be prorated equally among all of the Lots in the Development and assessed by the applicable governmental authorities to each Owner as opposed to the Association separately. Declarant shall make every effort to release any liens on Common Areas which secure construction financing for the Development, leaving only the Lots as security therefor.

5.04 Limitation on Easement. Each Lot's appurtenant right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by reasonable Rules and Regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners;

(b) The right of any governmental or quasi-governmental body having jurisdiction over the Property within the Development to enjoy access and rights of ingress and egress over and across any street or driveway, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and

(c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be deemed inconsequential and agreed to by the Association; provided that any such dedication or transfer deemed to have major consequences must first be assented to in writing by (i) the Mortgagee of each and every Mortgage that encumbers any Lot and (ii) the Owners of Lots to which at least sixty percent (60%) of the total votes in the Association appertain.

5.05 Utility Easements. Each Lot is subject to appurtenant easements for underground lines for utility purposes under and through such portions of the Common Areas as are comprised of roads, walkways and landscaped areas. If any Owner utilizes such easement rights with respect to his Lot or Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas which may have been disturbed or damaged as a result.

5.06 Reservation. Declarant reserves for itself such easements and rights of ingress and egress over, across, through, and under the Property and any improvements thereon as may be reasonably necessary for Declarant (in a manner that is reasonable and consistent with the provisions of this Declaration) to complete development of each of the Lots and all of the other improvements described in this Declaration or in the Plat. If, under the foregoing reservations, the Property or any improvement on the Property is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations provided in this

Subsection 5.06 will, unless sooner terminated, expire 10 years after the date on which this Declaration is recorded in the Public Records.

**ARTICLE VI**  
**USE RESTRICTIONS**

6.01 Use of Common Area. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Units set forth herein.

6.02 Residential Use. The Property is zoned residential and is restricted to single family residential use pursuant to applicable provisions of applicable municipal zoning ordinances. Each Lot, Unit and Owner are subject to the uses and restrictions imposed by such zoning, including parking restrictions, and no Lot or Unit shall be used, occupied, or altered in violation of such ordinances or so as to create a nuisance or to interfere with the rights of any other Owner. All Units shall be used for private single family residential purposes. The term "residential" as used herein shall be held and construed to exclude individual room letting or boarding and commercial and professional uses which are not the subject of a permit granted by the applicable municipality pursuant to its then current home occupation ordinance.

6.03 Prohibited Use and Nuisances. The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board in Rules and Regulations pursuant to the Bylaws:

(a) No Unit or any part thereof shall be used or occupied by any persons not coming within the definition of "Family" as such term is defined and intended in the applicable municipal zoning ordinances as of the date hereof.

(b) No lease of any Unit shall be for less than the whole thereof. Leases shall contain a provision that the same are subject to the provisions of this Declaration.

(c) No animals, livestock, or poultry of any kind shall be permitted on any Lot or within any Unit except such domesticated household pets or birds as are allowed pursuant to the Rules and Regulations, including leash laws, adopted by the Board pursuant to the Bylaws.

(d) No parking of vehicles of any kind within the Development and outside of a Unit shall be permitted unless the vehicle fits entirely on the driveway that is part of the original construction of the Unit without blocking any sidewalks. Trailers and RVs will only be allowed in the Development provided that they are parked in a garage and that the garage door can close with the trailer or RV inside. In addition, the Board may establish Rules and Regulations pursuant to the Bylaws further governing parking.

(e) No private outside television or radio aerial or antenna, or other similar device for reception or transmission shall be permitted on any Lot (except the rear patio

area) or on the exterior of any Unit except pursuant to written approval of the Committee pursuant to its standards and procedures.

(f) No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Directors shall consent thereto in writing.

(g) No Owner shall, without the prior written consent of the Board in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

(h) No Owner will be allowed to reduce the amount of landscaping that is initially installed on the front and side yards of a Lot without approval by the Board.

(i) No inoperative automobiles shall be placed or remain on any lot or adjacent street for more than forty-eight (48) hours. No commercial vehicles, trailers, mobile homes, trucks with over three-quarter ton capacity, boats, campers not on a truck bed, motor homes, buses, tractors, and maintenance or commercial equipment of any kind may be parked or stored on the public streets or in the front yard setback of any lot, except when those vehicles are temporarily parked in such areas while conducting a trade or business.

6.04 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole discretion of its Board.

6.05 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

6.06 Declarant's Right to Sell Units. Until Declarant, or any entity designated by the Declarant in a writing delivered to the Association, has completed and sold all of the Units within the Project, the Unit Owners who have purchased Units from Declarant, or Declarant's successor in interest, shall not interfere with the completion of the contemplated improvements and the sale of all remaining Units. Notwithstanding anything to the contrary in this Declaration, Declarant, or any other entity designated by Declarant in a writing delivered to the Association, may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office and models, the showing of the Units, and the display of signs.

6.07 Signs. No signs or other advertising shall be displayed which are visible from the exterior of any Unit, or on the Common Areas, including "For Sale" signs or "For Rent" signs, except in conformity with the Rules and Regulations established by the Board. No Owner will display any sign advertising a Unit as either "For Sale" or "For Rent" for as long as the Declarant, or any entity designated by the Declarant in a writing delivered to the Association, is continuing to market and sell previously unoccupied Units.

## **ARTICLE VII THE ASSOCIATION**

7.01 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the Memberships appurtenant to the Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one Membership for each Lot owned by him. Each Membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from Membership in the Association appurtenant thereto, and any attempted devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's Membership in the Association and rights appurtenant thereto separate to Lot ownership shall be null and void ab initio. No person or entity other than an Owner may be a Member of the Association, and Membership in the Association may not be transferred except in connection with the transfer of a Lot.

7.02 Board of Directors. Until such time as the responsibility for appointing the Board of Directors of the Association is turned over to the Owners in accordance with this Declaration, Declarant shall have the exclusive right to appoint and to remove all such directors. This exclusive right shall terminate after the first to occur of the following:

- (a) Six (6) years from the date on which the first Lot in the Project is conveyed; or
- (b) The date of the sale of three-fourths (3/4) of the total Lots in the Project.

The termination of the exclusive right shall not, however, affect Declarant's rights, as an Owner, to exercise the votes allocated to Units which Declarant owns.

7.03 Right to Bind Association. Until such time as the responsibility for electing the Board of Directors of the Association is turned over to the Owners in accordance with Section 7.02., the Board of Directors or officers of the Corporation shall not have any authority to enter into any contracts, agreements or leases on behalf of the Association, either directly or indirectly, unless such contracts, agreements or leases may be terminated by the Association at any time without cause or penalty after such transfer of control upon ninety (90) days prior written notice.

7.04 Votes. The number of votes appurtenant to each respective Lot shall be set forth according to the following principles. \_\_\_\_\_. The number of votes appurtenant to the Lots, as set forth in this paragraph, shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration.

7.05 Amplification. The provisions of this Article VII may be amplified by the Articles and Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

7.06 Required Approvals. Any Owners that want to have an owner occupied accessory apartment or a home occupation must first obtain the written approval of the Association.

**ARTICLES VIII  
CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION  
AND BOARD OF DIRECTORS**

8.01 The Common Areas. The Board of Directors, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in the Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon, and shall keep the same in good, clean, attractive, safe, and sanitary condition, order, and repair. All goods and services procured by the Board of Directors in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02 Manager. If desired by the Board of Directors, the Board of Directors shall retain the services of an experienced, professional Manager to manage the Project. Appropriate fidelity bond coverage shall be required for any employee of the Manager who handles funds for the Association. The Board of Directors may by written contract delegate in whole or in part to a Manager such of the duties, responsibilities, functions, and powers hereunder of the Board of Directors as are delegable under the Act. The services of any Manager retained by the Board of Directors shall be paid for with funds from the Common Expense Fund. Any management agreement or contract providing for services of Declarant for the Project will be terminable by the Board of Directors for cause upon thirty (30) days written notice thereof, and such Agreement may be terminated by either party without cause and without payment of a termination fee on ninety (90) days written notice. The terms of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

8.03 Miscellaneous Goods and Services. The Board of Directors may, on behalf of the Association, obtain and pay for the services of such personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Board of Directors may, on behalf of the Association, obtain and pay for the legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

8.04 Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any acquisition or disposition of any real, personal or mixed property by the Association wherein the value of such property exceeds \$5,000.00 must be approved by a vote of at least fifty-one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. All such property, including and facilities located in the Common Area, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

8.05 Rules and Regulations. The Board of Directors may make reasonable rules and regulations governing the use of the Common Areas, which rules and regulations shall be consistent with the rights and duties established for any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain such damages for noncompliance therewith, as permitted by law. In the event of judicial action, the Association shall be entitled to recover its costs, including reasonable attorney's fees, from the offending Owner.

8.06 Granting Easements. The Board of Directors may, without the vote or consent of the owners or of any other person, grant or create, on such terms as it deems advisable, easements, licenses and rights-of-way over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the property maintenance or operation of the Project.

8.07 Implied Rights. This Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE IX** **ASSESSMENTS**

9.01 Agreement to Pay Assessments. Declarant, for each Lot owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants and each Owner of any Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article IX. So long as a Lot shall be owned by Declarant and shall remain vacant and not occupied for actual use by Declarant its guest or invitees, whether for compensation or otherwise, the Association may enter into an agreement with Declarant for the payment of such portion of the costs and expenses actually incurred by the Association in the operation of the Project attributable to the existence of such Lot or Lots owned by Declarant in lieu of payment of assessments for Lots sold to parties other than Declarant.

9.02 Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Project as follows:

(a) Assessments. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for maintenance and operation of the Common Area. Such estimated expenses may include, without limitation, the following: the expenses of management; all expenses to maintain the Common Area; legal and accounting fees; any deficit remaining from a previous period; creation or an adequate contingency reserve, major maintenance reserve, and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis, and such reserve shall be funded by monthly payments rather than extraordinary special assessments; and any other expenses and liabilities which may be incurred by the Association for the benefit of all the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.02 shall be part of the Common Expense Fund.

(b) Apportionment. All assessments shall be fixed at a uniform rate for all Lots, in the same manner that votes are allocated hereunder.

(c) Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following; provided the first fiscal year shall begin on the date of this Declaration. On or before December 15 of each year thereafter, the Board of Directors shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(e) Notice and Payment. Except with respect to the first fiscal year, the Board of Directors shall notify each Owner as to the amount of the annual assessment against his Lot on or before December 31 each year for the fiscal year beginning on January 1 next following. Each annual assessment shall be payable in twelve (12) equal monthly installments, one (1) such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. The Owners shall commence payment of the full monthly assessments against their respective Lots no later than sixty (60) days after the conveyance of the first Lot in the Project or phase. All unpaid installments of any annual assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment became due until paid. The failure of the Board of Directors to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the

payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(f) Inadequate Funds. In the event that the Common Expense Fund provides inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Board of Directors may on behalf of the Association levy additional assessments in accordance with the procedure set forth in Section 9.03. below, except that the vote therein specified shall be unnecessary.

9.03 Special Assessments. In addition to annual assessments authorized by this Article, the Board of Directors may, on behalf of the Association, levy, at any time and from time to time, upon affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, Special Assessments, payable over such periods as the Board of Directors may determine for the purpose of defraying, in whole or in part, the cost of any or any part thereof, or of any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners; no payments shall be due less than thirty (30) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

9.04 Lien for Assessments. All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article IX, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Board of Directors may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, and a description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Utah County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law by the Association in the same manner in which mortgages on real property may be foreclosed under the laws of the State of Utah. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings (including reasonable attorney's fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Directors shall have the right and power in behalf of the Association to

bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Lot in the name of the Association.

9.05 Personal Obligation of Owner. The amount of any annual or special assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorney's fees.

9.06 Statement of Account. Upon payment of a reasonable fee not to exceed \$25.00 and upon written request of any Owner, Mortgagee, or prospective purchaser of a Lot, the Board of Directors shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Lot; the amount of the current annual assessment and the date or dates upon which installments thereof become due; credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statements shall be conclusive upon the Association in favor of persons who rely thereon in good faith. In the event that the Board of Directors fails upon written request to issue such a written statement, any unpaid assessments with respect to such Lot which became due prior to the written receipt of such written request by the Board of Directors shall become subordinate to a lien held by the person or entity requesting such statement.

9.07 Personal Liability of Purchaser. Subject to the provisions of Section 9.06, a purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Lot up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

9.08 Reserves and Working Capital. The Association shall establish the following funds:

(a) Capital Reserve Fund. The Association may establish and maintain an adequate capital reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The reserve fund shall be maintained out of regular assessments for common expenses. The purpose of the capital reserve fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to pay the cost of periodic anticipated major repairs or improvements due to normal wear and tear to the Common Areas and facilities. Amounts paid into the capital reserve fund are not to be considered adverse payment of any regular assessment. Each budget shall disclose that percentage of the annual assessment which shall be added to the capital reserve fund and each owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Owner.

(b) Working Expense Fund. The Association shall also establish and maintain for the initial months of the Project, a working expense fund equal to at least two (2) months' Common Area charges for each Lot. The purposes of this fund are to provide for the normal day-to-day expenses of operating the Association and the Project. Each Lot's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Lot. The working expense fund must be budgeted for separately and maintained in a segregated account for the use and benefit of the Association. The contribution to the working expense fund for each unsold Lot in a legal phase of the Project shall be paid to the Association within sixty (60) days after the date of conveyance of the first Lot in such legal phase of the Project.

9.09 Amendment of Article. This Article IX shall not be amended unless seventy-five percent (75%) of the Owners of the Lots in the Project consent and agree to such amendment in a duly recorded instrument.

## **ARTICLE X**

### **DESIGN REVIEW**

10.01 Original Construction. Declarant intends to develop the Lots and construct the Units pursuant to applicable municipal approvals, planning and zoning approvals and permits, development agreements and construction plans and specifications (herein together called "design guidelines"). All original construction by Declarant pursuant to the design guidelines, as they may be amended from time to time, shall be and hereby are approved.

10.02 Design Review Committee. The Board of Directors of the Association shall appoint a three-member Design Review Committee (the "Committee"), the function of which shall be to ensure that all improvements and landscaping within the Development harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself, or certain appointed members thereof, shall perform the duties required of the Committee.

10.03 Submission to Committee. No Unit, accessory of or addition to a Unit, or any accessory building shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit, accessory building, or any part thereof except glass surfaces, shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee. This provision shall not apply to any Units that are built by the Declarant, or by an assignee of the Declarant.

10.04 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Development conform to and harmonize with the design guidelines and with existing surroundings and structures. Any structure hereafter constructed on any Lot in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural

style and be approximately the same size as the prior structure; and, if the plans and specifications therefor meet such criteria, the Committee must approve the same.

10.05 Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within 30 days after submission; provided, however, that plans and specifications for any replacement structure to be constructed in substantially the same configuration, location, architectural style and to be of substantially the same size as its predecessor shall be approved or disapproved within 10 days after submission. In the event the Committee fails to take any action within such specified periods, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved.

10.06 Construction. Once begun, any improvements, construction, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity provided that they shall promptly restore such areas to their prior condition when the use thereof is no longer required. The Committee shall have the right to stop any construction that does not conform to the approved plans.

10.07 Liability for Damages. Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the Committee with respect to any request made pursuant to this Article X.

10.08 Declarant's Obligation. Declarant hereby covenants in favor of each Owner (a) that all Units to be erected by it and all improvements of the Common Areas to be accomplished by it in the Development will be architecturally compatible with respect to one another; and (b) that on the date on which this Declaration is recorded in the Public Records, all Lots and Common Areas of the Development will be located approximately in the locations shown on the Plat.

10.09 Landscaping.

(a) All landscaping of the front and side yards must be completed by the Declarant prior to an Owner taking occupancy of a Unit.

(b) In no event will an Owner be allowed to reduce the amount of area that is landscaped in the front yard of a Lot. This includes a prohibition of increasing the size or any existing driveway or installing an additional driveway that is not a part of the original construction on a Lot.

10.10 Fencing. All fencing designs and locations must be approved by the Committee. Once construction of a fence has begun, it must be fully completed within sixty (60) days.

## ARTICLE XI INSURANCE

11.01 Liability Insurance. The Board shall procure and maintain from a company or companies holding a financial rating of Class A or better from Best's Key Rating Guide a policy or policies of public liability insurance to insure the Association, the Board, the Managing Agent and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the county in which the Development is located nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least 30 days' prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

11.02 Additional Insurance: Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

- (a) a waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants;
- (b) that it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;
- (c) that it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

11.03 Fidelity Coverage. The Association may maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association and all others (including volunteers) who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

- (a) name the Association as an obligee;
- (b) be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association or the Managing Agent at any given time during the term of each bond, but in no event be less than a sum equal to three months' assessment on all Lots plus reserve funds;
- (c) contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar expression; and
- (d) provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the insured.

11.04 Review of Insurance. The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.

11.05 Unit Owners Policies. Each Unit Owner shall be responsible to purchase and maintain in force appropriate hazard, content and liability insurance as such Owner shall determine what is appropriate to the Owner's needs and circumstances. The Association will not be required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

11.06 Other Insurance Provisions. All insurance required pursuant to this Article XI shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this Article XI to the contrary, any insurance required to be obtained by the Association pursuant to this Article XI shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Areas or risks being insured.

## **ARTICLE XII**

### **RIGHTS OF MORTGAGEES**

12.01 Title and Mortgagee Protection. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property .A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title

pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give the same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

12.02 Preservation of Common Area. The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots and (b) the Owners of all Lots, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

12.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice whenever:

(a) there is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within 60 days after default occurs; or

(b) damage to the Common Areas from anyone occurrence exceeds \$10,000;  
or

(c) there is any condemnation or taking by eminent domain of any material portion of the Common Areas.

12.04 Notice of Meetings. The Board shall give to any Mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend any or all such meetings.

12.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

12.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse

of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

12.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Areas.

12.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

### **ARTICLE XIII** **MISCELLANEOUS**

13.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association. Any notice required or permitted to be given to the Design Review Committee may be given by delivering or mailing the same to the Managing Agent or the Association or any member of the Design Review Committee.

13.02 Amendment. This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records, which is executed either by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association or by the Association which shall certify that the required sixty percent (60%) vote was obtained in a Member meeting or by consent and is so documented in the records of the Association. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), or to a Mortgagee, Owner or the Association shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant or by such Mortgagee, Owner or the Association, as the case may be.

13.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 13.03:

(a) All necessary consents must be obtained prior to the expiration of 90 days after the first consent is given by any Owner;

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed;

(c) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot are secured, the consent of none of such Owners shall be effective.

13.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property or the Additional Land may be assigned.

13.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

13.06 Condemnation. If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

13.07 Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13.08 Enforcement of Restrictions. The Association, any Owner or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce

compliance with or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

13.09 Duration/Termination. This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of the applicable municipalities authorizing such termination, an instrument of termination which is executed by seventy-five percent (75% ) of the total outstanding votes of the Association, plus the Mortgagee of each and every Lot.

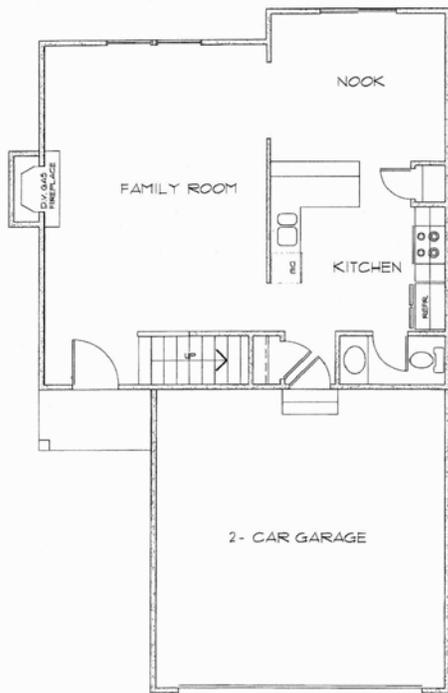
13.10 Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat shall take effect upon its being filed for record in the Public Records.

EXECUTED by Declarant on the day and year first above written.

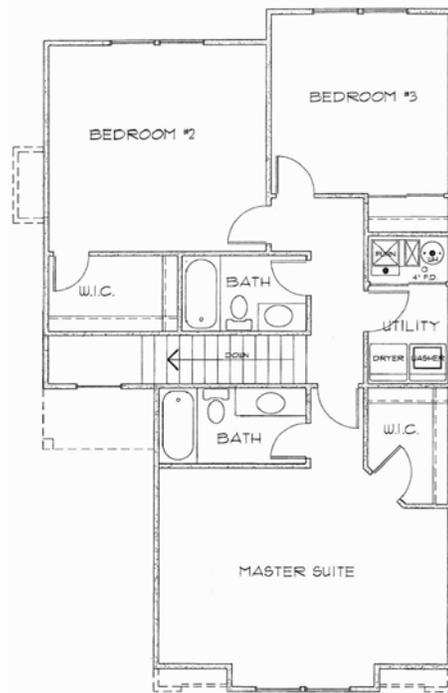
By: \_\_\_\_\_

**EXHIBIT A**  
PROPERTY DESCRIPTION



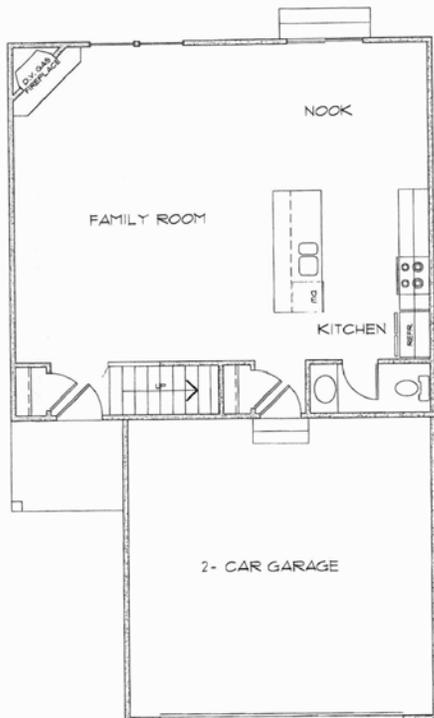


MAIN FLOOR PLAN

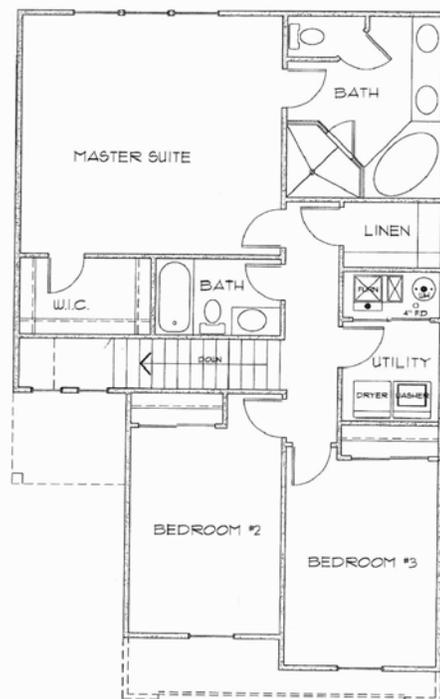


UPPER FLOOR PLAN

**BELLA VISTA #1**  
N.T.S.

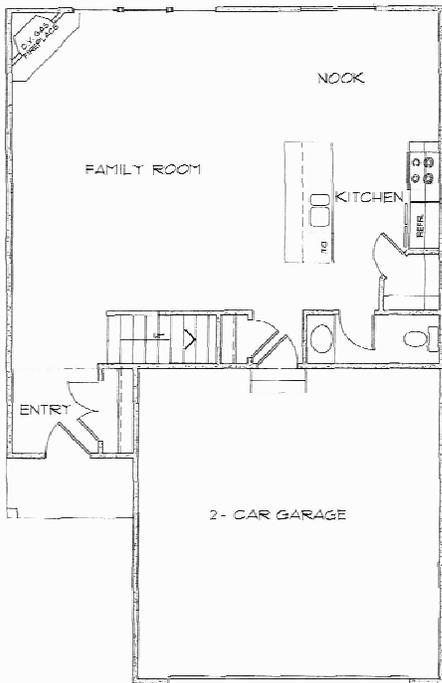


MAIN FLOOR PLAN

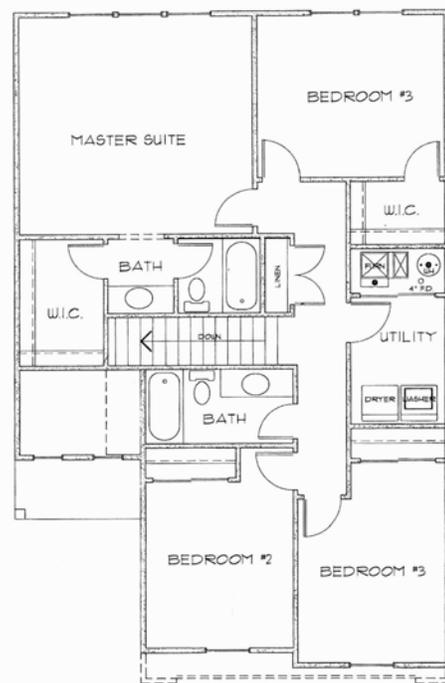


UPPER FLOOR PLAN

**BELLA VISTA #2**  
N.T.S.

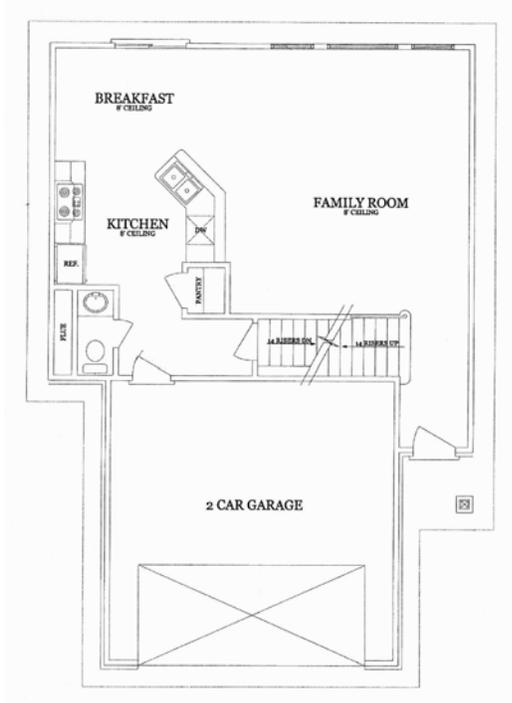


MAIN FLOOR PLAN

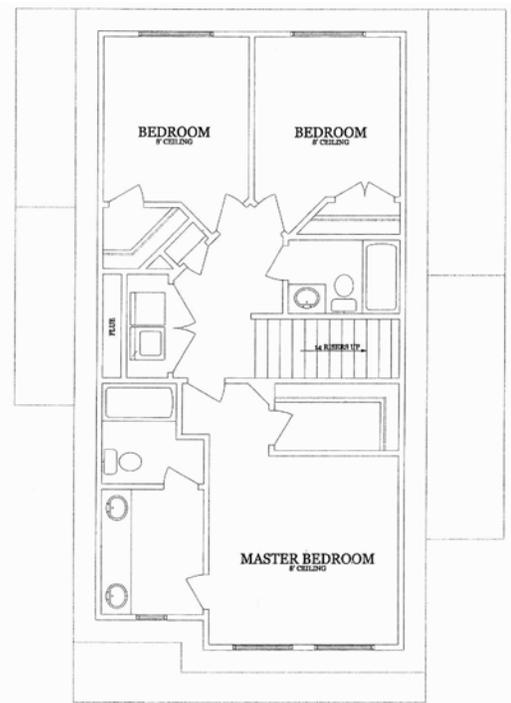


UPPER FLOOR PLAN

**BELLA VISTA #3**  
N.T.S.



MAIN FLOOR PLAN



UPPER FLOOR PLAN

**BELLA VISTA #4**  
N.T.S.



MAIN FLOOR PLAN



UPPER FLOOR PLAN

**BELLA VISTA #5**  
N.T.S.



# Sport Court



## Picnic Tables and BBQ Stand

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Picnic Table (or equivalent)



BBQ. Stand (or equivalent)

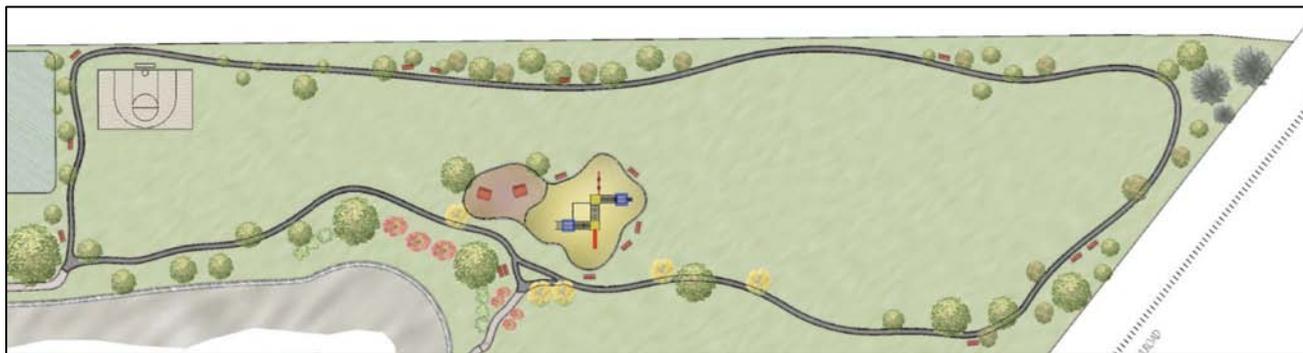
# Tot Lot / Play Area



# Fencing



# Trail System



# Benches

