Item 1 – Kit and Michael Kosakowski are appealing the issuance of a building permit on lot B in the Star Harbour Estates subdivision approved on October 23, 2025.

Project: [DEV-0000] | Appeal of the issuance of building permit 25-803
Meeting Date: 16 December 2025
Report Date: 9 December 2025
Report Author: Doug Smith, Planner,
with Quinn Davis, Director, Building Dept.
Council Action Required: No
Type of Action: Appeal
Applicant: Kit and Michael Kosakowski

Address: Lot B Star Harbour Estates 1687 W. Alpine
Owner: Julie Bruce, LLC
Acreage: .82 acres
Zoning Designation: JBOZ (Jordanelle Basin Overlay Zone)
Related Applications: Preliminary plat approval, Final plat approval, plat amendment amending Lot B to a buildable lot, recording of amended final plat, building permit issuance

DETERMINATION ISSUE

Whether or not the building department erred in issuing building permit 25-803 for Lot B of the Star Harbour Estates subdivision.

RECOMMENDATION

Based on the analysis in this staff report, staff recommends that the appeal be denied.

BACKGROUND

The appellant is requesting that the appeals hearing officer reverse the October 23, 2025, decision by the building department to issue building permit (25-803) to Julie Bruce, LLC, for Lot B of Star Harbour estates subdivision. The code section regarding appeals of decisions approving a building permit applying the building code is below.[1]

> *2.02.02 (G, 4) Appeals to the Appeals Hearing Officer or Panel:*
>
> *Appeals of Permit Applications and Exception Applications by the Engineering Department or Building Department: The Applicant or an adversely affected party may appeal the approval or denial of a permit or an exception issued by the Engineering Department or Building Department to the Appeals Hearing Officer. Appeals from the approval or denial of permit or exception applications shall be filed in the office of the respective Department within ten (10) days of the date the department issued or denied the permit or exception. The person or entity making the appeal has the burden of proving that an error has been made.*

The Star Harbour subdivision was recorded on June 7, 2001 (entry #233950), as a 33-lot residential development. The original plat showed "Lot B" with a note stating that, "In the event that the existing overhead utility transmission line is relocated to another location, then lot B may become a single-family lot, subject to review and approval by Wasatch County."

At the time of the approval of the Star Harbour plat the applicable County code for the review of the subdivision was the JBOZ (Jordanelle Basin Overlay Zone adopted December 1, 1997). The project is considered vested under that code with complete preliminary and final applications being submitted, processed and ultimately approved using the JBOZ code. *Keith v. Mt. Resorts Dev., L.L.C.*, 2014 UT 32, ¶31. [The vested right in a development "was the right not to have the county revoke approval of the development based on a change in the applicable zoning laws.")

On August 12, 2021, the planning commission approved an amended plat removing the utility easement therefore allowing Lot B to be a buildable lot, as the original plat contemplated. *Baker v. Park City Mun. Corp.*, 2017 UT App 190, ¶¶25, 26. (showing a plat amendment can be required to be compatible with the existing development, under the 'good cause' standard, as opposed to the county simply considering the current code). The August 12, 2021, approval lapsed so a new application was applied for and distributed to County staff and reviewers on October 20, 2022.

After DRC review and recommendation for approval the planning commission re-approved an amended plat on November 10, 2022, essentially removing the easement and allowing Lot B to be a buildable lot. As part of the review the DRC (Development Review Committee) provided technical sign off which included the engineering and planning departments.

On December 12, 2022, Kit and Michael Kosakowski filed an appeal of the planning commission approval citing 15 arguments why the plat amendment should not have been approved. Among the 15 arguments in the 2022 appeal are some of the same arguments in this appeal of the building permit. The Board of Adjustment, on February 26, 2023, found in favor of the planning commission and did not overturn the approval of the plat amendment. The ruling was not appealed to District Court within 30 days. UCA 17-27a-801(2).

After the planning commission approval of the amended plat was affirmed by the Board of Adjustment the amended plat was recorded on March 14, 2023 (Entry No. 530473).

[1] The appeal referenced WCC 2.02.02(G)(2) as the code authorizing the appeal. As will be further explained later, the County's position is WCC 2.02.02(G)(4), authorizes an appeal.

On or about March 27, 2024, Kit and Michael Kosakowski attempted to appeal the amended plat that was recorded due to "defects associated with the Lot B plat." This appeal was rejected by the County Manager and was not further appealed by the Kosakowskis.

A building permit application was applied for on lot B and was issued on October 23, 2025. The approval was appealed by the Kosakowskis on or about October 30, 2025.

The appeal has stayed the building permit, and no work has been allowed by Julie Bruce, LLC since the appeal. WCC 2.02.02(G)(10).

Jurisdiction:

The appeal referenced WCC 2.02.02(G)(2) as the code guiding the appeal. This applies to administrative decisions applying the building code, and is an appeal to the county manager, whose determination can then be appealed to the hearing officer. This subsection should be with WCC 14.01.08(B), providing for appeals to Appeals of Stop Work Orders, Notices of Violation, and Civil Fines, and Permit Denials, decisions of a Building Official. The correct section of code that clearly applies to this appeal is WCC 2.02.02(G)(4), which expressly applies to "the approval or denial of a permit or an exception issued by the Engineering Department or Building Department." Because the standard of review in (2) and (4) is the same (other than the appeal in 4 does not first require the manager appeal): "The person or entity making the appeal has the burden of proving that an error has been made," the County does not believe the difference in the code section the appeal was made under as being material to the substance of the appeal, as the primary difference is the initial appeal goes to the hearing officer, as opposed to the manager. However, the County believes the clear language of WCC 2.02.02(G)(4) requires that the appeal of a building permit approval goes to the hearing officer, not the manager. The is not an opinion of the staff; the code section states, that appeals go, "to the Appeals Hearing Officer." The Kosakowskis' provided copies of the appeal to the planning department, the building department, and the manager, among others, and paid the appropriate amount ($1,500) to appeal the building permit to the hearing officer, as opposed to the manager. WCC 4.09.02(G)(4).

Even if the Kosakowskis claim WCC 2.02.02(G)(2) & (4) are unclear, the hearing officer is obligated to interpret the rules in a manner supporting the land use application. UCA 17-27A-308. The land use applicant is the property owner, Julie Bruce, LLC, not the Appellant, the Kosakowskis. UCA 17-27a-103 (showing the 'land use application' is submitted by the 'land use applicant', which is defined as the 'property owner.') Allowing the Kosakowski's to further slow down the appeal process by having an initial appeal of their approved building permit to the manager, and then to the hearing officer, and then to the Utah courts, would increase the delay and costs to the property owner. The Hearing Officer should interpret WCC 2.02.02(G)(4) according to its plain meaning, and any ambiguity should be interpreted to favor Julie Bruce, LLC.

The process for determining jurisdiction is listed in WCC 2.02.02(I):

> The director of the department, which is responsible for the decision, land use application, or permit at issue shall make the determination as to whether or not the Appeals Hearing Officer has jurisdiction over the matter being appealed to the appeals hearing officer. If they determine the Appeals Hearing Officer does not have jurisdiction, they shall send a written decision to the applicant explaining the determination. The director's decision as to the Appeals Hearing Officer's jurisdiction may be appealed in accordance with this section, with another application fee. In such a case, the appeal shall be forwarded directly to the Appeals Hearing Officer without determination by the director regarding jurisdiction. The Officer shall first consider the jurisdiction issue, and then, if the Officer determines it does have jurisdiction, shall separately consider the merits of the appeal, preferably in a separate meeting.

The department head makes an initial determination of jurisdiction. They have no obligation to issue a decision granting jurisdiction; they simply move forward with scheduling the hearing. If they deny jurisdiction, they issue a decision to the

appellant denying jurisdiction, and the appellant can appeal that determination to the hearing officer through a separate appeal, that can be considered at the beginning of same hearing. This approach helps ensure that the rights of a land use applicant, the property owner, can expeditiously be determined, when third parties challenge an approved land use application, such as a building permit. In this case, the Department Head, directly or through an authorized person, scheduled the hearing with the hearing officer. The County's position is the hearing officer can have jurisdiction to hear an appeal of a building permit approval under WCC 2.02.02(G)(4), but not under WCC 2.02.02(G)(2).

Analysis:

The Kosakowski's submitted appeal documents dated October 30, 2025. On November 29, 2025, an addendum to their October 30th appeal was submitted after GRAMA requested information on the building permit was provided to the Kosakowskis[2]. The addendum cites several other items that will be addressed as part of this report. For purposes of simplicity the appeal arguments will be combined from the October and November appeal documents.

The Kosakowskis are requesting that the hearing officer find that building permit 25-803 be considered null and void because the building department erred in issuing the building permit for the following reasons:

1. Lot B is not buildable because its slope is equal to or greater than 30% (see WCC 16.27.9) and because a driveway cannot be located (less than) 40' from the intersection of West Alpine Ave. and Fox Bay Drive (see WCC 16.33.11, 16.04.02, 16.27.25).

2. The planning Commission conditioned its approval of Redus Park City, LLC's ("Redus") application to convert Lot B from an open space easement lot to a single-family residential lot on it being demonstrated that lot B was a buildable lot. Because that analysis was not performed, the conversion process is incomplete, and lot B remains an open space easement lot. A building permit cannot be issued for an open space easement lot.

3. On March 24, 2023, Redus presented, and the Wasatch County Recorder accepted for recording a fatally flawed amendment to the lot B plat. In addition to the buildability analysis mandated by the planning commission not having been completed, the plat amendment, inter alia, cited a 2005 Pacific Corp release of easement which had been rejected by the planning commission as referring to the utility easement on Lot B, instead of the 2021 Rock Mountain Power quitclaim release of easement, which was accepted by the planning commission as the actual release of utility easement on Lot B. This constituted a violation of the County's duty pursuant to Utah Code ann. 17.27a.609 as well as a violation of WCC 16.02.06 entitled "plat amendments" which provides: Plat amendments shall be processed in accordance with the requirements of Utah Code Annotated.

4. The appeals Hearing Officer does not yet have jurisdiction under a number of various code sections.

5. The Planning Department may not take lead on the appeal.

6. The record has yet to be provided.

7. Conditional use was not applied for.

[2] The County stipulated that it would not object to an addendum to the appeal based on the new documents, so as to avoid any due process violations that might be claimed by the Kosakowskis because of the new documents made available pursuant to the GRAMA appeal, that the Kosakowski's might consider in their appeal brief required under WCC 2.02.02(G)(6).

The above items will be individually addressed below.

ARGUMENT 1 – "Lot B is not buildable because its slope is equal to or greater than 30% (see WCC 16.27.9) and because a driveway cannot be located (less than) 40' from the intersection of West Alpine Ave. and Fox Bay Drive (see WCC 16.33.11, 16.04.02, 16.27.25)".

In this argument the applicant is making two separate 'buildable' arguments; one that the lot is too steep; and two that the driveway setbacks from the intersection are not being met.

First, the slope issue. This issue of buildability was raised in the December 12, 2022, appeal, with the alleged slope issue. The December 12, 2022, appeal alleged:

1. Lot B is not a buildable lot because its slope equals or exceeds 30%

> WCC §16.27.9 reads: "Slopes over thirty percent (30%) are not considered buildable. Lots must have a minimum of five thousand (5,000) square feet of contiguous area under thirty percent (30%) natural slope excluding slope irregularities as defined in 16.04. Any lot with a slope over 30% shall include building envelopes or constrained areas on the final plat."

This same issue is raised again in the current appeal. The issue was resolved by the Board of Adjustment, who upheld the approval of the amended plat. Exhibit H – BOA Report of Action. The Appellant cannot keep raising the same issue, have a ruling against them, fail to advance the appeal , and then raise the issue again with each step of the approval process. *Corbett v. Fitzgerald,* 709 P.2d 384, 386 (Utah, 1985).

Julie Bruce, LLC has the right to move forward with building on a lot that was approved as a building lot by the amended plat. *Keith v. Mt. Resorts Dev., L.L.C.*, 2014 UT 32, ¶¶31, 32. ("The rights obtained by the submission and later approval of a development plan are necessarily conditioned upon compliance with the approved plan. When a county approves property for development but then that property is sold to someone else, no additional approval is necessary 'so long as the [new owner's] use [is] consistent with what had already been approved.'" They do have to comply with the rules applicable to a building permit approval, but it also means they do not have to re-prove every aspect that went into the original subdivision approval, and the amended plat approval.

The subdivision was approved under the December 1, 1997, JBOZ ordinance, which is different than the code cited by the Kosakowskis. This matter was extensively reviewed when the plat amendment was approved, and when the appeal to the Board of Adjustment was made.

That the property is too steep was addressed by the County review engineer in the following reviews:

1. On August 12, 2021, the DRC (Development Review Committee) including the review engineer, recommended approval to change the parcel to a buildable parcel.
2. On October 20, 2022, due to a lapse in the approval of the application, the DRC again recommended approval of the plat amendment to change the parcel to a buildable parcel.
3. Due to the appeal of the plat amendment approval to the BOA a letter was written by the County review engineer, Ardurra, dated January 25, 2023, that stated:

> It was our professional opinion that the Lot B Plat Amendment meets County code and industry standards of care. Our assessment indicated that the lot is buildable. Please let us know if you have any questions or desire further comments on this topic.

This review is attached as Exhibit F.

The appellants may try to argue that the below statement that is part of the Ardurra January 25, 2023, letter requires that at building permit a slope analysis is required. The County does not agree that the statement requires an analysis. The final statement cited above is that the "lot is buildable".

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Any plans for or analysis of slope stabilization would need to be taken care of upon building permit application.

The appeal was not stating that necessary slope stabilization was not taken care of. They raised 'buildability' and a violation of the current code that is not applicable to this project. This issue was already resolved in the 2023 denial of the appellant's appeal to the BOA. Exhibit H.

The second aspect of the first argument is that the driveway is too close to the intersection. The following code sections were cited:

16.04.02 DRIVEWAY: A private roadway for access of vehicles to a residence, parking space, garage or other structure.

16.33.11: RESIDENTIAL REQUIREMENTS FOR TWO UNITS OR LESS

D. Access to parking spaces and private garages used in conjunction with dwellings of two (2) or less units shall be limited as follows:

a. Driveways shall be located a minimum of forty feet (40') from any street intersection;

Again, this matter was considered in the 2023 appeal before the Board of Adjustment. From the same letter dated January 25, 2023, written by the County Review Engineer (Exhibit F), the following statement was made:

Another concern discussed by the appeal is that the placement of the lot across from the intersection with Fox Bay Drive creates a hazardous situation. We were aware of several nearby examples of lots built in similar circumstances. Some even had the same situation as Lot B's where the intersecting roadway is on a downhill slope toward the lot. Some examples included 1280 Hailstone Drive, 9988 Vista Drive, and 337 E Big Dutch Drive. Additionally, the frontage of Lot B was long enough that the driveway access could be placed on the E side of the lot, therefore being offset from the intersection. We demonstrated this in our concept plan attached, which details our previous DRC analysis.

The 16.33.11 standard cited by the Kosakowski's has only been applied to corner lots. The point of beginning for measuring the 40' distance from an intersection is at the intersecting lines extending along the two frontages that intersect at a point in the street similar to the measurements for clear view as shown in the exhibit in 16.37.06 and as specified in 14.02.10(C,1,a,2). Even the term 'intersection is not defined in the code. The ordinance's safety-based purpose of avoiding conflict with turning and stop movements and preserving corner sight distance would not be furthered by applying the 40' requirement to the through-leg of a T-intersection. The County Review Engineer's letter noting specific instances where this standard was not applied in through street situations helps support the past practice of the County planning department in applying the code. (Exhibit F). Approving this building permit on the through leg of a T intersection is not unique to this project. It is in accordance with considering this a buildable lot compliant with applicable standards with the previous appeal, and the current building permit appeal. This decision of

staff is reasonable, consistent, and advances the ordinance's purpose, and it should be accorded any appropriate deference. *Baker v. Park City Mun. Corp*., 2017 UT App 190, ¶16.

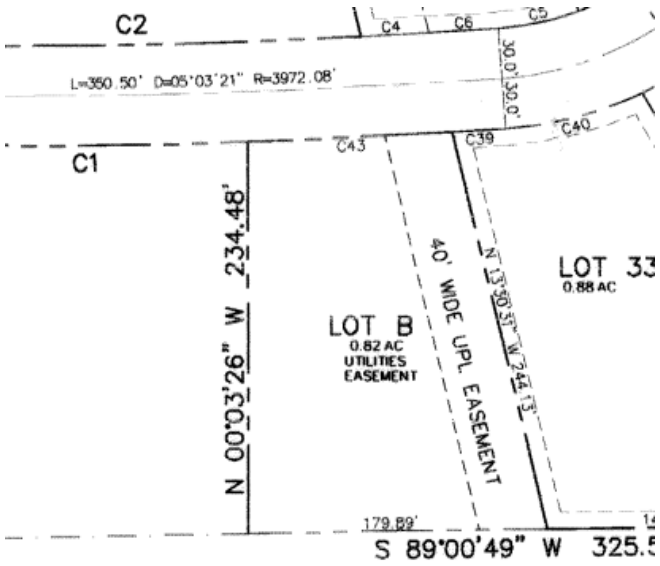
CONCLUSION TO ARGUMENT 1- The plat amendment was reviewed by the DRC (Development Review Committee) including the County Review Engineer as well as the planning department on two separate occasions (due to the lapse in the approval) and recommended for approval. After the plat amendment was approved by the planning commission and appealed by the Kosakowskis on December 12, 2022, the County review engineer, Ardurra was asked to provide a letter affirming whether lot B was buildable. In the letter dated January 25, 2023, (see exhibit F) slopes, including the code limiting buildable area to 30%, was discussed. Since the specific code sections referencing 30% slopes were mentioned it is expected that slopes were part of the assessment performed by Ardurra. The letter also mentions the driveway argument and again recommends approval of the lot as a building lot.

On February 26, 2023, the Board of Adjustment affirmed the plat amendment approval by the planning commission. The Kosakowskis did not appeal the decision of the Board of Adjustment to District Court. The plat was reviewed and approved; the appeal failed and was not further appealed. The County asserts that that the items brought up in argument 1 have been approved, appealed and upheld and not appealed to district court. On March 14, 2023, the amended plat was recorded creating a buildable lot. The Kosakowski's have not met their burden of proving an error has been made.

ARGUMENT – 2 – "The planning Commission conditioned its approval of Redus Park City, LLC's ("Redus") application to convert Lot B from an open space easement lot to a single-family residential lot on it being demonstrated that lot B was a buildable lot. Because that analysis was not performed, the conversion process is incomplete, and lot B remains an open space easement lot. A building permit cannot be issued for an open space easement lot."

This argument is redundant with argument 1 and the County asserts that there was an analysis done by Ardurra and is contained in the letter dated January 25, 2023 (exhibit F). In this argument the Kosakowskis refer to Lot B as an open space lot. There is no place on the plat that Lot B is ever referred to as an open space lot. To the contrary, the lot is referred to as a "single family lot" if approved by the County. It also shows on the plat that the lot is referred to as a "utilities easement". Lot C on the plat, not lot B, is referred to as an open space lot. See below portions of the unamended recorded plat.

4. LOT 'B' IS AN EASEMENT FOR AN EXISTING OVERHEAD UTILITY TRANSMISSION LINE. IN THE EVENT THAT THE EXISTING OVERHEAD UTILITY TRANSMISSION LINE IS RELOCATED TO ANOTHER LOCATION, THEN LOT 'B' MAY BECOME A SINGLE FAMILY LOT, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.



CONCLUSION ON ARGUMENT 2 – Argument 2 is redundant with argument 1 other than the assertion that the lot is an open space lot which it is not and never has been. An analysis was done by Ardurra and the County at the plat amendment approval stage and at the appeal stage in the form of the January 25, 2023, letter from the County review engineer, Ardurra.

AGUMENT 3 – "On March 24, 2023, Redus presented, and the Wasatch County Recorder accepted for recording a fatally flawed amendment to the lot B plat. In addition to the buildability analysis mandated by the planning commission not having been completed, the plat amendment, inter alia, cited a 2005 Pacific Corp release of easement which had been rejected by the planning commission as referring to the utility easement on Lot B, instead of the 2021 Rocky Mountain Power quitclaim release of easement, which was accepted by the planning commission as the actual release of utility easement on Lot B. This constituted a violation of the County's duty pursuant to Utah Code ann. 17.27a.609 as well as a violation of WCC 16.02.06 entitled "plat amendments" which provides: Plat amendments shall be processed in accordance with the requirements of Utah Code Annotated."

CONCLUSION ON ARGUMENT 3 - The appellant raised this concern at the Planning Commission meeting, and at the appeal. The Rocky Mountain Power Sr. property agent signed a "Release of easement" that was recorded on August 4, 2021, Entry #505042 (see exhibit I). The utility easement has been released and does not encumber Lot B.

ARGUMENT 4 – "The appeals Hearing Officer does not yet have jurisdiction."

The appellant cites a number of code sections as follows:

2.02.02(B)(1)(a) Powers and Duties: The Appeals Hearing Officer shall have the following powers and duties:

1. To hear and decide appeals from final administrative decisions applying the Land Use and Development Code or the Building and Engineering Code, including appeals from: **a) building permit denials, approvals, or final administrative decisions applying the Land Use and Development Code or Building and Engineering Code;** and b) enforcement actions under the Land Use and Development Code or the Building and Engineering Code; and

2.02.02(G)(1) Appeals to The Appeals Hearing Officer or Panel:

1. Appeals From Land Use Decisions: The applicant or any adversely affected party may appeal a land use decision or final administrative decision applying the Land Use and Development Code by alleging that there is an error in any order, requirement, decision or determination made by a county official. Appeals of land use decisions, final administrative decisions, or enforcement actions applying Land Use and Development Code shall be filed in the office of the Planning Department within ten (10) days of the date the county official issues the administrative decision. The person or entity making the appeal has the burden of proving that an error has been made.

2.02.02(G)(2) Appeals from Administrative Decision Applying the Building or Engineering Code: The applicant or any other person or entity adversely affected by a final administrative decision applying the Building or Engineering Code may appeal that decision by alleging that there is an error in an order, requirement, decision or determination made by a county official. Appeals of administrative decisions or enforcement actions applying the Building or Engineering Code shall be filed in the office of the County Manager within ten (10) days of the date the county official issues the administrative decision. **If the code provides for an appeal to the County Manager, this must be completed before appealing to the**

applicable appeal body. The person or entity making the appeal has the burden of proving that an error has been made.

CONCLUSION ON ARGUMENT 4 – 2.02.02(B)(1)(a) states that the appeals hearing officer has the following powers and duties, "building permit denials, approvals, or final administrative decisions applying the Land Use and Development Code or Building and Engineering Code". Code section 2.02.02 (G)(2) states, "If the code provides for an appeal to the County Manager, this must be completed before appealing to the applicable appeal body." A search of the rest of 2.02.02 does not have a provision for an appeal to the County Manager. WCC 2.02.02(G)(4) expressly requires an appeal of the approval of a permit to be made to the Appeals Hearing Officer, not the county manager. The appeals hearing officer is the appropriate person to hear this appeal and there is no provision for the County Manager to hear the appeal before the Appeals Hearing Officer.

ARGUMENT 5 – "The Planning Department may not take lead on the appeal." The appellant argues that the planning department cannot represent the building department by providing the staff report and presentation if requested to do so by the building department. The appellants quote the following code section:

2.02.02(G)(7) Determination of Hearing Date: After a receipt of a complete notice of appeal, including fees paid, and as soon as is reasonably possible to find a time the Appeals Hearing Officer can meet, the applicant will be informed of a date for the hearing before the Appeals Hearing Officer. The hearing date shall be no sooner than thirty (30) days thereafter, and no later than seventy-five (75) days thereafter, unless waived by the applicant and the director of the applicable department. The Planning Department shall coordinate the meeting time with the Appeals Hearing Officer, and will provide notice to the parties, and for the appeals to a *panel of qualified experts* (UCA 17-27a-507(2023, as amended), will assist the director of the affected department in complying with the Open and Public Meetings Act noticing requirements. For Engineering Department Code and Building Code appeal issues, **the scheduling and noticing of the meeting will be the only involvement of the Planning Department in the appeal**.

CONCLUSION ON ARGUMENT 5 – The ordinance was written the way it was to limit the involvement of the planning department in appeals of actions of other departments, because historically the planning department has handled appeals to the Board of Adjustment. It is not intended to mean that the building department cannot request to have the planning department represent them in the appeal or assist them in the appeal. The right and practice of a department delegating functions to another department is well established. IRC R202 definition of Building Official: "The officer or other designated authority charged with the administration and enforcement of this code, or a *duly authorized representative."* This especially makes sense in this case because the planning director is responsible to administer the Wasatch County Land Use and Development Code, and most of the codes cited by the Kosakowski's are in the Land Use and Development Code, as opposed to the Building Safety Department Code. WCC 16.01.05(D). Further, the building official has remained involved throughout this appeal.

Regardless of what department takes lead on the appeal does not materially change the facts or responses to the appeal.

ARGUMENT 6 – "The record has yet to be provided."

On November 21, 2025, an email with 12 attachments was sent to the appellants in response to a GRAMA request (see exhibit M). Any redacted information was due to copywrited or private information that cannot be shared by the building department in a GRAMA request, as this is not county records subject to GRAMA. Utah Code 63G-2-103 – 'record.' While the building department cannot release all information the appellants can and did review building permit information at the building department. The building department cannot allow copies or screen shots of the copywrited information, but the information can be reviewed on the computer screen and was. Any information not available through a GRAMA request can be viewed at the building department during business hours. After the November 21st information was provided the appellants were given additional time and submitted an addendum to their original appeal dated November 29th.

CONCLUSION ON ARGUMENT 6 – The record was provided on November 21, 2025. Time for an addendum, after the GRAMA information was provided, was allowed to be turned in by December 1st and an addendum was turned in on November 29th. All the information is available in person at the building department during business hours and the appellants did review information at the building department. Information allowed by law was provided through the GRAMA request with some information redacted. The record has been provided.

ARGUMENT 7 – "Conditional use was not applied for."

The planning department requires a conditional use for IADU's (Internal Accessory Dwelling Units). An IADU is considered a separate dwelling with a separate kitchen within a larger dwelling .In this instance, a key part of the application that determines a "kitchen" is a stove that requires a 220 line or a gas line. The applicant for building permit 25-803 initially showed a kitchen. The comment from the planning department review stated that the applicant would need to apply for a conditional use for the IADU. In response the applicant removed the stove allowing what we would consider as a wet bar which does not require a conditional use (see exhibit K).

CONCLUSION ON ARGUMENT 7 – The planning department would have required a conditional use for an IADU however the stove was removed on the second submittal so the requirement for a conditional was no longer necessary.

CONCLUSIONS

Based on the analysis of the arguments presented by the appellant, there does not appear to be any evidence that the building official violated any provisions of Wasatch County Code, Utah State Code, or other applicable law in making the decision to approve building permit (25-803). The county staff reviewed the plat amendment allowing lot B to be a buildable lot on two separate occasions, the planning commission approved the plat amendment on two separate occasions, the appellants appealed the planning commission approval to the Board of Adjustment, as part of the appeal analysis of the buildability of the lot was performed and the lot was determined to be buildable by the County review engineer, the Board of Adjustment affirmed the decision of the planning commission, the appellants did not appeal the Board of Adjustment decision to district court, an amended plat was recorded allowing lot B to be a building lot, and a building permit issued on a legal lot.

RECOMMENDED MOTION

Move to *Affirm* the Building Departments issuance of building permit 25-803 based on the following findings:
Findings:

1. Wasatch County Code 2.02.02(G, 4) allows an adversely affected party to appeal the approval or denial of a permit by the building department.
2. The appellant, Kit and Michael Kosakowki, allege that the Wasatch County Building Department erred in its approval of building permit 25-803.

3. Star Harbour Estates received preliminary approval on October 23, 2000, and final approval on February 26, 2001.
4. The approval was granted under the JBOZ (Jordanelle Basin Overlay Zone) land use code adopted December 1, 1997.
5. The application was processed after determining that it was a complete application.
6. Star Harbour is considered to be vested under the JBOZ code.
7. The recorded and approved plat showed what is referred to as “lot B.”
8. Lot B had a utility easement that encumbered the lot and was not considered buildable until the easement was removed.
9. Lot B had a note on the plat that stated, “In the event that the existing overhead utility transmission line is relocated to another location, then lot B may become a single-family lot, subject to review and approval by Wasatch County.”
10. At no time has lot B been referred to as an open space lot.
11. The final Star Harbour plat was recorded on June 7, 2001, and had the aforementioned Lot B with the above-mentioned note.
12. On August 12, 2021, the planning commission approved an amended plat removing the utility easement therefore allowing Lot B to be a buildable lot.
13. The plat amendment request did NOT include any removal of open space requirements from the subdivision.
14. Lot B does not have a public trail of record running through the lot.
15. The planning commission approval lapsed because a plat was not recorded within the required timeframe.
16. A new application was distributed to County staff and reviewers on October 20, 2022.
17. On November 2, 2022, a completed DRC report was provided to the applicant with technical sign off by all applicable County departments and reviewers.
18. On November 10, 2022, the Wasatch County planning commission granted approval to the amended plat to remove the utility easement and allow Lot B to be a buildable lot.
19. The plat amendment application followed applicable state and county laws for noticing.
20. On December 9, 2022, Michael and Kit Kosakowski filed an appeal of the approval of the plat amendment.
21. A staff report dated February 7, 2023, was provided for the Board of Adjustment meeting.
22. As part of the staff report there were a number of attachments including a letter from the County Review Engineer, Ardurra dated January 25, 2023.
23. In the January 25th letter the following statement was made, “It was our professional opinion that the lot B plat amendment meets County code and industry standards of care. Our assessment indicated that lot B is buildable.”
24. In another portion of the January 25th letter the author refers to 30% slopes and the code reference 16.27.25.A, and explains that in situations where the roadway cut and fill slopes have been stabilized, or when the road was constructed before current standards, the slopes may be steeper.
25. The January 25th letter cites several examples of driveways built on the through side of a T intersection without meeting a 40’ distance, and also states that, “a driveway to the site is buildable.”
26. A “release of easement” removing the utility easement from the plat was signed by a “Sr. property agent” for Rocky Mountain Power.
27. The January 25th letter further states, “any plans for or analysis of slope stabilization would need to be taken care of upon building permit application.”
28. On February 16, 2023, the Board of Adjustment affirmed the planning commission decision to approve the plat amendment allowing lot B to be a buildable lot.
29. The Kosakowskis did not appeal the BOA decision to district court.
30. On March 14, 2023, the amended plat was recorded that allowed Lot B as a building lot.
31. A building permit (25-803) was applied for on September 17, 2025.
32. The building permit was issued on October 23, 2025.
33. Michael and Kit Kosakowski filed an appeal on October 30, 2025.
34. Due to the appeal a stop work order was issued on the building permit on October 30, 2025.
35. Many of the same arguments that were addressed in the original appeal to the BOA are again part of this new appeal.

36. The County position is that old items in this appeal were addressed by the planning commission and affirmed by the BOA and were not appealed to district court.
37. The appeal to the hearing officer is the proper process to hear this appeal. There is no appeal by the County Manager that is allowed prior to the Hearing Officer hearing this appeal. WCC 2.02.02(G)(4).
38. The record was provided on November 21, 2025, in accordance with state law regarding GRAMA requests. UCA 63G-2-103(25)(b) – (Neither copyrighted materials, nor materials legally owned by an individual are records subject to GRAMA.)
39. A conditional use permit is not required because the "kitchen" has been removed and the home is no longer considered to have an IADU.
40. This staff report and its exhibits are incorporated into the findings.
41. Per state and county code the person or entity making the appeal has the burden of proving that an error has been made.
42. The staff analysis indicates the appeal lacks factual evidence and is without legal merit, and the appellant has failed to meet its burden of proving that an error was made.

ALTERNATIVE ACTIONS

The following is a list of possible motions the appeals hearing officer can consider. If the action taken is inconsistent with the potential findings listed in this staff report, the hearing officer should state new findings.

1. Affirm. This action may be taken if the hearing officer finds that the Appellant has not met its burden of proving that the Building Official erred.

2. Reverse. This action may be taken if the hearing officer finds that the Appellant demonstrated that the Building Official erred.

3. Reverse with Modification. This action can be taken if the hearing officer finds that the Appeal demonstrates that an error was made and modifies the decision or approval to address the error.

4. Continue. This action can be taken if the hearing officer needs additional information before making a determination.

EXHIBITS

Exhibit A – Vicinity Plan.....13
Exhibit B – Star Harbour Plat Notes for Lot B.....14
Exhibit C – Staff Report for Plat Amendment 15
Exhibit D – Planning Commission Minutes 11-10-2022 29
Exhibit E – Staff Report for Appeal of Plat Amendment 34
Exhibit F – Ardurra Letter – 11-25-2023.....47
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Exhibit I – 2012 RMP Release of Easement.....53
Exhibit J – Recorded Amended Plat Lot B 56
Exhibit K – Floorplan with Kitchen and Layout.....57
Exhibit L – Intersection of Fox Bay and Alpine Ave. 59
Exhibit M - GRAMA Letter from County Manager.....61

EXHIBIT A – Vicinity Plan

NOTES

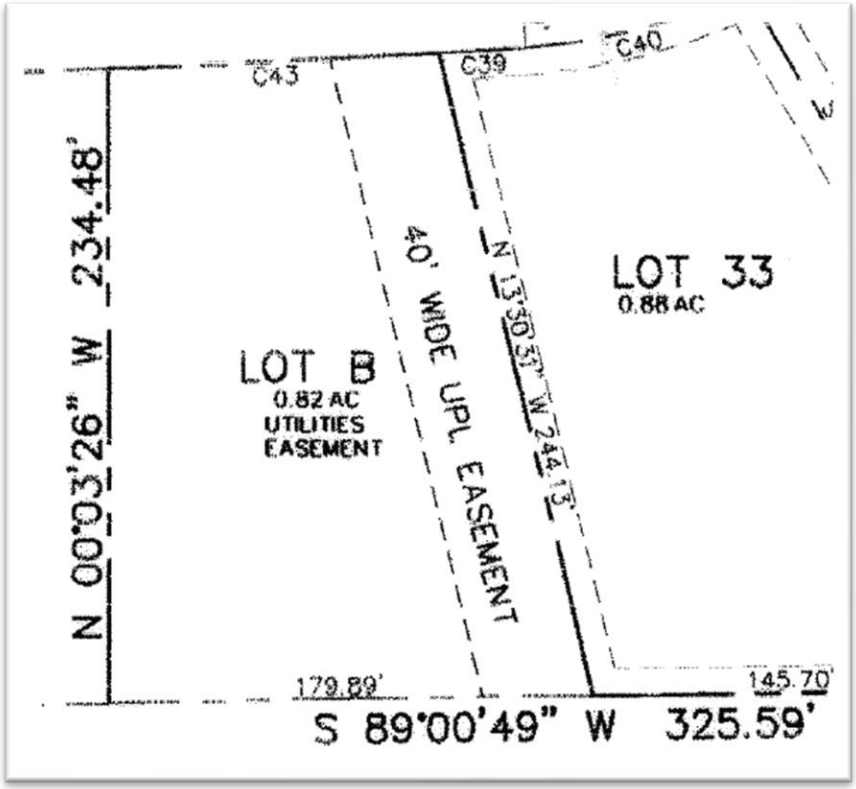
1. A 10 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT SHALL BE GRANTED ON ALL FRONT, SIDE, AND REAR LOT LINES, UNLESS OTHERWISE NOTED.

2. TYPICAL BUILDING SETBACK SHALL BE AS FOLLOWS:
   FRONT – 20 FEET
   SIDE – 12 FEET
   REAR – 30 FEET
   BUILDING SETBACKS SHALL NOT EXTEND INTO EASEMENTS SHOWN ON THIS PLAT.

3. PARCEL 2 CONTAINS A WATER QUALITY AND STORM DETENTION POND FOR STAR HARBOUR ESTATES AND OTHER SITES PER THE MASTER PLAN. PARCEL 2 SHALL BE DESIGNATED AS AN OPEN SPACE PARCEL.

4. LOT 'B' IS AN EASEMENT FOR AN EXISTING OVERHEAD UTILITY TRANSMISSION LINE. IN THE EVENT THAT THE EXISTING OVERHEAD UTILITY TRANSMISSION LINE IS RELOCATED TO ANOTHER LOCATION, THEN LOT 'B' MAY BECOME A SINGLE FAMILY LOT, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.

5. LOT 'C' IS AN OPEN SPACE PARCEL AND SHALL REMAIN AS SUCH, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS.



Wasatch County Planning Commission
November 10, 2022

Item #3

Star Harbour Estates Lot B
-Redus Park City LLC-

Minor Plat Amendment

PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

WASATCH COUNTY
Planning Commission Staff Report
Plat Amendment

ITEM 3 Redus Park City LLC requests approval of a Minor Plat Amendment to Star Harbour Estates which was previously approved under project DEV-4196, but which approval expired, in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-7213; Austin Corry)

PROJECT SUMMARY

Applicant: Redus Park City LLC (Doug Ogilvy)
Hearing Date: 10 November 2022
Property Owner(s): Redus Park City LLC
Related Applications: Final Subdivision (2001), Plat Amendment Approval – Expired (2021)

Existing Zone: JBOZ
Existing Land Use: Vacant
Existing Plat: 34 Lots and Open Space on 35.54 acres
Lots Affected: Lot B

BACKGROUND

The applicant is seeking to amend the Star Harbour Estates Subdivision Plat to convert Lot B to a residential parcel. The existing plat and approvals previously encumbered this lot with a utility easement for powerline infrastructure that was anticipated to be relocated or removed later on. That relocation has occurred and the owner now seeks to remove the easement from the plat. This request was approved in August 2021, but the applicant failed to present a mylar for recording or request an extension to the approval within the timeline required under Wasatch County Code 16.01.16. All of the conditions of approval were satisfied by the applicant, including the additional notes required from JSSD and the verification of constructability of a driveway through the engineering department. The only condition that was not met was the timeline for recording.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. State law requires a public hearing to amend any plat when the amendment is not signed by all the owners within the plat being amended. At the time of this report, no objections have been received in response to the notices sent.

Utah Code § 17-27a-609 allows the County to approve a plat amendment if the County finds that: (a) there is good cause for the vacation, alteration, or amendment; and (b) no public-street, right-of-way, or easement has been vacated or altered.

KEY ISSUES TO CONSIDER

- Lot B is 0.82 acres.
- The amendment will remove a utility easement that results in Lot B becoming a buildable lot.
- The utility company owning the easement has provided a written release of easement confirming no further interest in encumbering the lot.
- Previous approval for the subdivision stipulated that the lot could be converted in the future.

STAFF ANALYSIS

– GOOD CAUSE –

Wasatch County Code 16.04.02 has defined "good cause" as:

> *"Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County."*

Staff has reviewed the plat amendment and finds the proposal complies with the need to meet "good cause" as required by State Law. It is not anticipated that the proposed action would affect the neighboring landowners negatively. The intent of the original subdivision approval put neighbors on notice and the County acknowledged the future conversion of the lot at such time as the easement would be released. Plat note #4 of the existing plat states *"Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot 'B' may become a single family lot, subject to review and approval by Wasatch County."*

– PUBLIC RIGHT-OF-WAY OR EASEMENTS –

No public-street, right-of-way, or easement is proposed to be vacated or altered by this amendment. The UPL easement has been authorized by Rocky Mountain Power for release.

DEVELOPMENT REVIEW COMMITTEE

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for the Planning Commission to render a decision.

POTENTIAL MOTION

Move to *Approve* the request consistent with the findings and conditions presented in the staff report.
Findings:

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL has provided a release of easement for the utility easement.
5. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B.
6. No public or private roads are being vacated as part of this plat amendment.
7. This proposed revision conforms to the Wasatch County development standards.
8. The proposal is consistent with Utah Code § 17-27a-609.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

10. The proposal was heard and approved by the Planning Commission in August 2021, but the mylar was not recorded prior to the expiration deadlines in Wasatch County Code.
11. No changes to applicable laws have occurred in the last year that would affect the ability to approve the project as it was previously heard and approved.

Conditions:

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.

ALTERNATIVE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the Plat Amendment is compliant as proposed with Wasatch County Code and all other applicable ordinances.

2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that issues can be resolved prior to final approval.

3. Continue. This action can be taken if the Planning Commission needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.

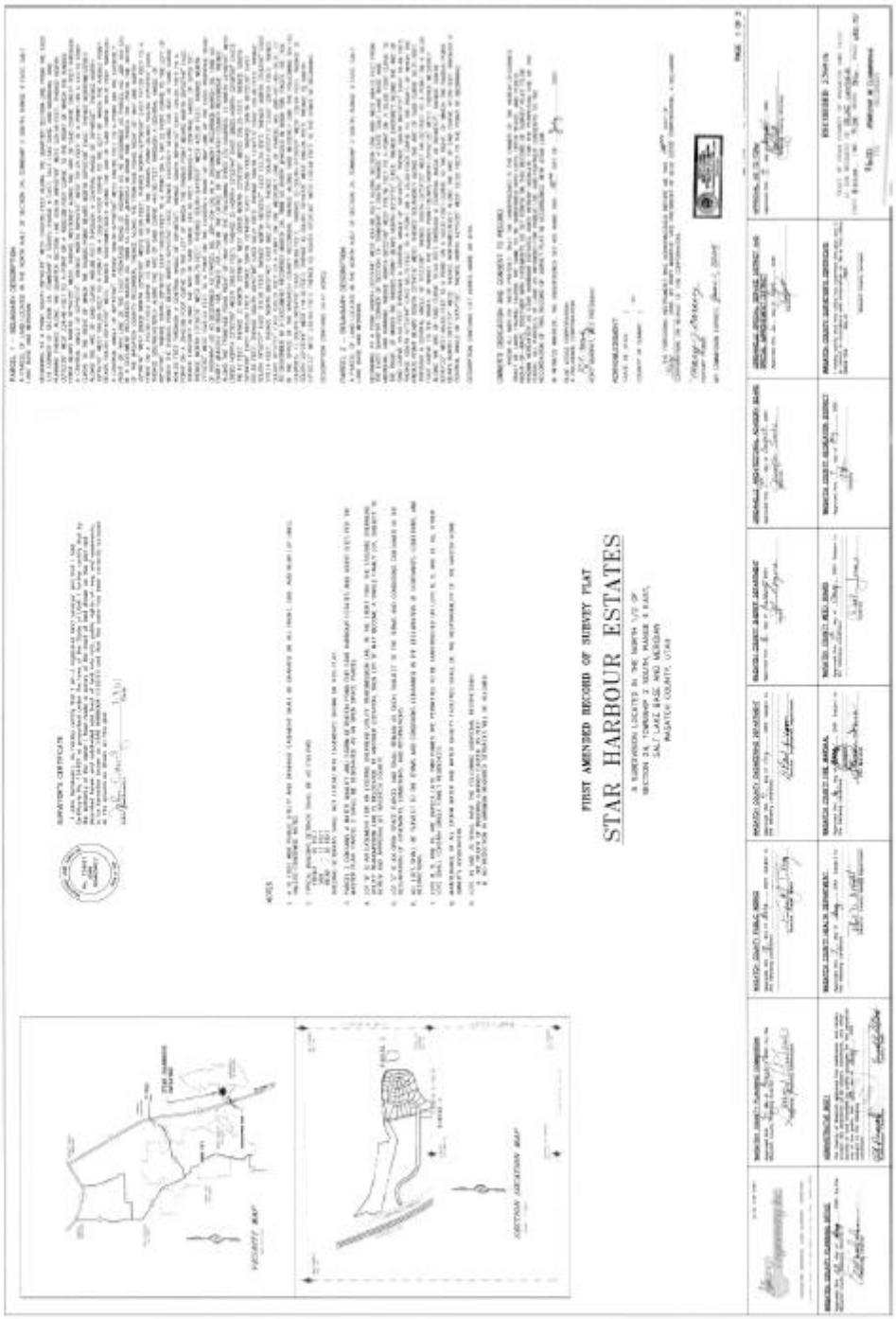
4. Recommendation for Denial. This action can be taken if the Planning Commission finds that the proposal does not meet the intent of the ordinance.

EXHIBITS

A. Vicinity Plan
B. Existing Subdivision Plat
C. Proposed Plat Amendment
D. DRC Report
E. Release of Easement
F. August 2021 ROA (Previous Approval)

EXHIBIT A – Vicinity Plan

EXHIBIT B – Existing Subdivision Plat



STAR HARBOUR ESTATES

EXHIBIT C – Proposed Plat Amendment

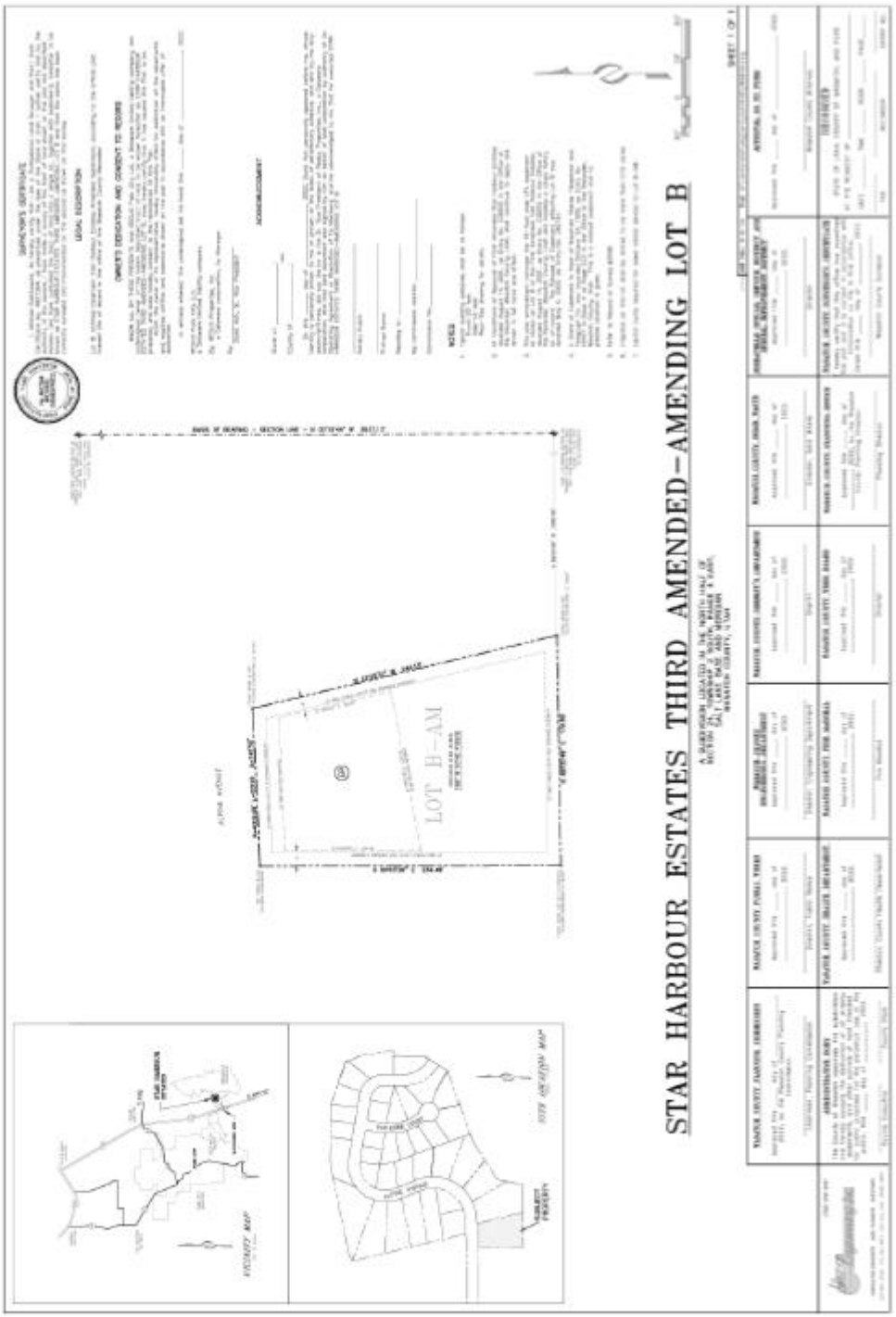


EXHIBIT D – DRC Report

Wasatch County Design Review Committee (DRC) Comments

Project ID: DEV-7213
Project Name: Plat Am - Star Harbor Lot B - ReApproval
Vesting Date: 10/20/2022
Review Cycle #: 1

Review Cycle Status: Ready For Decision

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Weed Department	Ready for Decision
Manager's office	Ready for Decision
County Surveyor	Ready for Decision
Planning Department	Ready for Decision
Public Works Department	Ready for Decision
Building Department	Ready for Decision
Health Department	Ready for Decision
Engineering Department	Ready for Decision
Fire SSD	Ready for Decision
Jordanelle SSD	Ready for Decision
GIS Department	Ready for Decision
Assessor's Office	No Action Taken
Sheriff's Office	No Action Taken
Recorder's Office	No Action Taken

Ready for Decision = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

Changes Required = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

No Action = Reviewing entity has not taken any action for the review cycle.

Overall Project Comments

Project Document Sheet Comments by Reviewing Entity

DRC – Planning Dept		
Comment ID	**Sheet Name**	**Comment**
DRC-PLN1	02b - Amended Plat	Should include a note 8 "Lot B-Am shall be subject to the Star Harbour Estates CC&Rs as a single family residence."

DRC - Surveyor Office		
Comment ID	**Sheet Name**	**Comment**
DRC-SUR1	02b - Amended Plat	We will send this plat forward but reserve the right to review the final signed plat.

EXHIBIT E – Release of Easement

Ent 505042 Bk 1368 Pg 1512-1514
Date: 04-AUG-2021 1:59:47PM
Fee: $40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: PACIFI CORP

Return to:
Rocky Mountain Power
Matt Janke / Agent
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name: Star Harbour Estates
WO#:
RW#:

RELEASE OF EASEMENT

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain easement described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

Legal Description: An easement shown as a 40' Wide UPL Easement across Lot 1, Lots 3-7, Lot B (including Note 4 of the plat, which states "Lot B is an easement for an existing overhead utility transmission line . . . ," which transmission line has been relocated), and Lot C of the Star Harbour Estates First Amended Subdivision located in the N1/2 of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, said Subdivision recorded as Entry 235915, Book 516, Pages 692-711, on August 14, 2001, in the Office of the Recorder of Wasatch County, Utah.

Assessor Parcel Nos. 00-0020-0815, 00-0020-0814, 00-0020-0780, 00-0020-0782, 00-0020-0783, 00-0020-0784, 00-0020-0785, 00-0020-0786

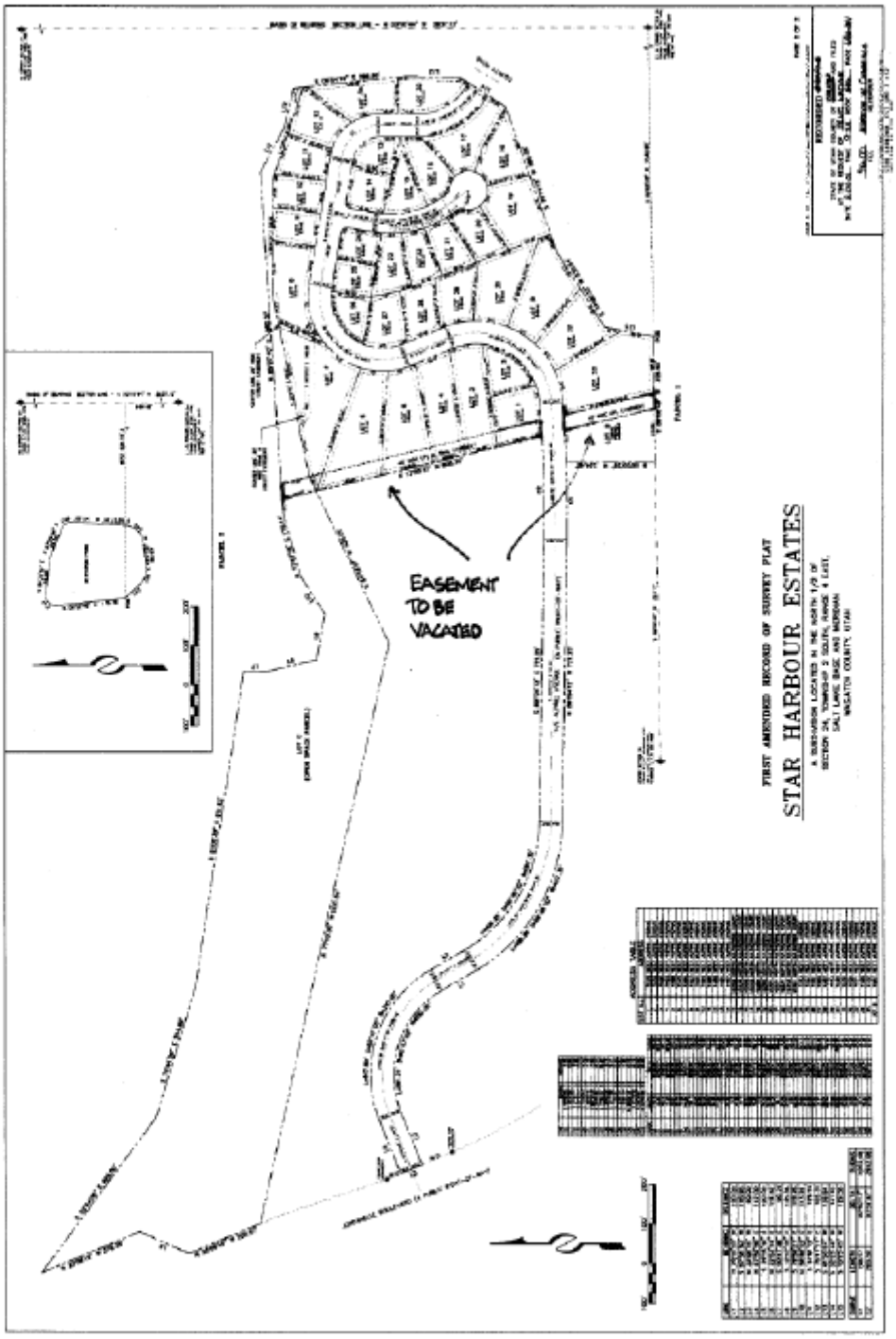
DATED this 14 day of JULY, 2021.

Rocky Mountain Power
an unincorporated division of PacifiCorp

By: Matthew Janke
Sr. Property Agent

Page 1 of 2

REV101512



Ent 505042 Bk 1368 Pg 1514

Exhibit A

Wasatch County Planning Commission

Report of Action

12-August-2021

Commissioner Zuercher was present as Chair.

ITEM #5 – Redus Park City LLC requests a Minor Plat Amendment to Star Harbour Estates in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). Continued from the July 8, 2021 meeting. (DEV-4196; Austin Corry)

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

APPLICANT AND PUBLIC COMMENT

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Doug Ogilvy, applicant, mentioned that in addition to what has been presented, the CC&R's also mention that the lot would be turned into a building lot and that no owner of property within the subdivision has the ability to protest the development of the lot.
- Mike Kosakowski mentioned that his wife Kit is on zoom and would like to comment.
- Kit Kosakowski joined by zoom and presented her points shared in a document sent electronically to the Planning Commission. She stated that they live right next door to the property. She felt that good cause has not been met. She believes that the easement should be made part of the record and wanted to be sure that the easement did not have rights for other utility companies.
- Ms. Kosakowski stated again that good cause has not been met. The property is referred to as open space in the development agreement, there are trails on the property that are used by the public, and there will be a loss of their view.
- Ms. Kosakowski contested that Lot B is not a buildable lot because it is greater than 30% slope. She believes that the slopes are up to 57% and there is no place to put a driveway. The driveway will conflict with the cross walk. There are too many houses now and we do not need one more.
- Linda O'Donnell, former president of Fox Bay HOA, noted that the original agreement is valid until 2026 that should keep this open and no decision should be made until that expires. Also, slopes are too steep, traffic is bad, and snow removal is a problem.
- Wade Budge, attorney for REDUS, stated that the CC&R's state that the lot would become a buildable lot when the easement was not needed and that owner's cannot protest this.
- *[PUBLIC COMMENTS SUBMITTED ELECTRONICALLY TO THE PLANNING COMMISSION HAVE BEEN ATTACHED TO THIS ROA].*

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner McMillan asked about the driveway and if it could meet code. Mr. Corry replied that he couldn't verify that because it doesn't fall under his review, but would assume that engineering considered that during the DRC review. Mr. Corry noted that conversion of the lot does not guarantee a building permit.
- Jon Woodard addressed a question form Chair Zuercher regarding the easement and its validity.
- Commissioner Grandquis asked about the development agreement and the reference to the open space parcels. Jon felt that this piece is not designated as open space. He was also asked if they (the planning commission) were required to approve this. Jon answered that they would need to make a finding of good cause and there is no requirement to approve it.

MOTION

Commissioner McMillan made a motion to approve the proposal with all the conditions and findings in the staff report with the addition of condition #5 as discussed.

Commissioner Rigby seconded the motion.

VOTE (5 TO 0)

Charles Zuercher	**AYE**	NAY	ABSTAIN	Doug Grandquis	**AYE**	NAY	ABSTAIN
Wendell Rigby	**AYE**	NAY	ABSTAIN	Kimberly Cook	**AYE**	NAY	ABSTAIN
Karl McMillan	**AYE**	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

Additional Report of Action for item previously continued after a public hearing or other discussion: 7/8/2021 – Item 1

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement.
5. The council may approve the amendment of a plat if the council finds that:
   (a) there is good cause for the amendment; and
   (b) no public street or county utility easement has been vacated or amended. UCA 17-27a-609(1)
6. No public or private road, or County Utility Easements are being vacated as part of this plat amendment.
7. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
8. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.
9. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.
10. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showing Parcels A and C as open space, but contain no similar notes or labels regarding Parcel B, indicating an intent that Parcel B not be treated as Open Space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on Parcel C, not showing open space throughout the project.
11. This proposed revision conforms to the Wasatch County development standards.
12. The proposal is consistent with Utah Code § 17-27a-609.
13. The Development Review Committee has reviewed the project and provided a favorable recommendation.

CONDITIONS

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. Note 6 regarding irrigation limits from the previous plat shall be added to the amended plat or additional water rights supplied to satisfy JSSD.
3. An approved water action report shall be provided by the applicant that reflects the water right resolution.
4. A signature block be added for Planning Commission per Wasatch County Code 16.27.12.
5. The approval is subject to review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes.

Charles R. Zuercher

Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

Chair Chuck Zuercher indicated that all matters listed here are considered routine by the Planning Commission and will be enacted by one motion with no separate discussion of the items unless any member of the Commission or public requests the item to be moved to the public hearing agenda for discussion.

ITEM 1 **APPROVAL OF THE 2023 PLANNING COMMISSION MEETING SCHEDULE.**

ITEM 2 **STORIED DEER VALLEY LLC REQUESTS A MINOR PLAT AMENDMENT TO DANCING SUN IN ORDER TO ADJUST THE PLATTED BUILDING ENVELOPE FOR LOT 108 LOCATED AT 2015 E PADDLEBOARD WAY IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-7111; NATHAN ROSVALL)**

ITEM 3 **REDUS PARK CITY LLC REQUESTS APPROVAL OF A MINOR PLAT AMENDMENT TO STAR HARBOUR ESTATES WHICH WAS PREVIOUSLY APPROVED UNDER PROJECT DEV-4196, BUT WHICH APPROVAL EXPIRED, IN ORDER TO CONVERT LOT B FROM A UTILITY EASEMENT PARCEL TO A SINGLE FAMILY RESIDENTIAL LOT LOCATED AT 1647 W ALPINE AVENUE IN SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-7213; AUSTIN CORRY)**

Public Comment

Chair Chuck Zuercher then opened the consent items for public comment.

Kit Kosakowski indicated that she would like to be heard regarding Redus Park City, Item 3.

Kit Kosakowski, Star Harbour resident, addressed the Wasatch County Planning Commission and indicated that we do have the right to be here because a year ago when this item was before you Redus said that we did not have the right to be here and they were relying on a provision in 2001 Star Harbour CC&R's and those CC&R's were completely replaced in 2008 and the provision that they were relying upon which was Section 12.14 was completely stricken from the CC&R's so we do have the right to be here to talk tonight and to oppose Redus' request.

The first comment we have is Lot B conversion would violate the County's density requirement. The staff report stated incorrectly that Star Harbour contains 34 lots and that is not correct. Star Harbour contains 35 lots and the conversion of Lot B would result in 36 lots. Only 35 ERU's are permitted in Star Harbour. An approval of the conversion of Lot B would violate this density requirement.

The next comment is that this conversion would violate the Star Harbour CC&R's. The CC&R's would only allow for 35 residential lots. That can be increased by amending the CC&R's, which requires a two thirds vote of the members of the HOA. We want you to honor our CC&R's and don't try to impose an additional lot.

The next comment is an important one and Section 12.14 is an interesting section. The original declarant reserved the right to convert Lot B to itself which means that nobody else possesses that right and only the original declarant possesses it. The right to convert was removed from the CC&R's in 2008. Redus is not the people that have the right to come and ask you if the lot can be converted.

The next comment is that the County has relied exclusively on Note #4 on the Star Harbour plat as the sole justification that good cause exists to amend the plat. Plat #4 gets its authority from defunct Section 12.14 of the 2000 CC&R's. In the absence of that section Note #4 is meaningless and it just doesn't have any affect. The County also ignored the term may in Note #4. The County has proceeded if all that had to happen was for the easement to be vacated and it was a done deal. Nothing else had to be demonstrated. That is not true. Vacating the easement was merely a threshold condition that permitted to the County to consider the proposal from the owner of the right to act which is not Redus.

The next comment is that the County did not perform a good cause analysis. The County did not address any of the criteria that are spelled out in County Code 16.04. 02 and there were no positive benefits demonstrated that would flow from this conversation and we and the folks from Fox Bay which is the condominium project immediately across the street from Fox Bay and we demonstrated that there are numerous negative effects that flow from the conversion. There is the loss of open space which is what Lot B is and always has been what it is designated as in the development agreement and what we have always been told by County

officials that it would be. It will result in the loss of hiking trails, loss of view shed, Fox Bay has lost a view, increase in density, increase in danger to drivers and pedestrians because what is already a dangerous intersection, loss of snow repository for the folks at Fox Bay.

The next comment is that we don't see how this can qualify as a minor plat amendment because none of the criteria that are spelled out in County Code 16.01.05 are met and this is not a combining of two or more lots that are owned by the same owner. Lot B is a single lot. Lot B has always been open space. Something that the public enjoys. Always been that way since Star Harbour came into being more than twenty years ago. This not just a modification of a plat note. There is a plat note that is not well placed and actually is a change to the plat itself to the Star Harbour Plat.

The next comment is that the plat amendment has not been signed by all of the property owners in the subdivision. It does increase density and a loss of open space and it affects more than just Lot B but affects lots 1, 3, 4, 5, 6 and 7 with this easement change if indeed it has changed.

The next comment is finally it is not related to changes in a building envelope. None of the criteria that was followed by this is a minor plat amendment exist.

The next comment is that a year ago we testified twice before you all and we raised issues at those times we don't think have been satisfactorily addressed and the first one is the sufficiency of the release that Rocky Mountain Power with the vacation of the easement. There is evidence that there are other easements there and there is evidence of a 1930's telecommunication easement. Also the Star Harbour development agreement identifies Lot B as open space and we have always relied on representations by County officials that Lot B will always be open space and Lot B is not a buildable lot. There was a lot of discussion about the slope as well as the driveway issues. One of the conditions that was in the August 2021 ROA that the approval was conditioned on the engineering department determining that Lot B is buildable. The recent Staff Report indicates that all those conditions have been fulfilled and a report of this was attached but could not find that report anywhere. From our perspective it has not been demonstrated that Lot B is a buildable lot. That is very quickly and in a nutshell is why we are speaking in opposition to this and we would respectfully request that you deny Redus' proposal and thank you all very much.

Commissioner Mark Hendricks indicated that you do a great job in organizing your thoughts and presenting your information and it is very familiar and very clear for me to follow what you are saying so thank you for that. We have only had your presentation for a few hours. Kit Kosakowski indicated that it is very hard to make comments when you haven't seen the staff report and it is very hard for you to respond to comments that come in very quickly.

Chuck Zuercher then asked if there is any other public comment and there was none so the public comment was closed.

Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that the request in front of you is for the conversion of this lot that is in Star Harbour which is referred to as Lot B on the plat. The Star Harbour subdivision has been amended since the initial plat and is likely the discrepancy that is being raised regarding 34 lots versus 35 lots. Both plats, the original plat and the amended plat, contained this Note #4 that has been referenced here that Lot B is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location then Lot B may become a single family lot subject to review and approval by Wasatch County. That was presented to you a year ago. There were some statements made that nothing was addressed but I do believe a year ago in the Planning Commission meeting that those were discussed and as a Planning Commission you made certain decisions in that meeting. The amendment is to remove that Note #4 that talks about it being a utility easement and to remove the label that is on Lot B making it a utility easement and since that easement is being removed and that makes this lot eligible for a single family home. The findings that I will present to you are reflective of your motion from a year ago more than they are in the staff report and a few that are missing that you added to your findings in the meeting a year ago so those ones have been added back in for the presentation. The application expired or the approval that you gave expired and requires a new application to come in and that has come in and that is what is before you now. The DRC has reviewed that new application and forwarded it onto you. The only comment that exists at this stage is the need to add a Note #8 to the plat if it were approved. The notes that are there right now still make it clear that Lot B is subject to the CC&R's and felt that it would be beneficial to clarify that Lot B is subject as a single family residence so there wasn't any confusion about whether the CC&R's apply or not but just clarifying that. Regarding the comments from Ms. Kosakowski the first being the planning documents being for 35 ERU's maximum and what is referenced is the JSPA Plan Book which Star Harbour is not a part of the JSPA right now. That planning document is not applicable to this request that is in front of you.

Austin Corry indicated the next point is referencing the CC&R's, again the County does not enforce CC&R's but that is not to say that the applicant might not be subject to them but the County doesn't review them and don't enforce them so any restrictions in the CC&R's that prevent them from asking for this we don't look to those CC&R's for our regulations to look to State Code and the local Wasatch County Code.

Austin Corry indicated that a statement was made that Redus potentially is not the rightful owner of Lot B but the official tax records state otherwise. By state code if somebody owns a property and make an application to the County we have an obligation that we have to hear that request.

Austin Corry indicated the request that is in front of you is to remove a plat note and to remove a plat label which we do believe falls under the category of a minor plat amendment.

Austin Corry indicated that, according to Mrs. Kosakowski, no good cause exists, we can cover that when we get to the findings section.

Austin Corry indicated that regarding the claim the development agreement says Lot B is to remain open space which was discussed a year ago as well. Lot B is not an open space lot. Austin Corry indicated that as far as anything we have not been able to find any actual evidence on the record that Lot B was actually intended or is legally designated as open space.

Austin Corry indicated that engineering review of the project for a driveway was completed back in June as a process of fulfilling conditions from your previous 2021 approval. Since the approval expired and the applicant reapplied the report that is being referenced in the staff report is the DRC report and the engineering department has forwarded this onto you with no further comments. Also there was a review of the slopes that were on the property.

Austin Corry indicated that lastly there was a claim, and I didn't hear this mentioned now but, there wasn't any notice provided. Our code and state code does require individual notices to be sent out for plat amendment and that was sent out on October 25 to 77 different property owners and the Kosakowski's were on that list.

Austin Corry then went through potential findings that if you, as a Planning Commission, chose to approve the project and these findings that I will read through include some that were not in the staff report which is completely my error but I included some that you as a Planning Commission added a year ago during the public hearing portion of the same proposal.

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL's successor in interest, RMP, has provided a release of easement for the 40 foot UPL utility easement. --That is the one I showed you previously.
5. No public or private roads are being vacated as part of this plat amendment.
6. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
7. Good cause for the amendment exists by acknowledgment of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.
8. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.
9. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showing parcels A and C as open space, but contain no similar notes or labels regarding parcel B, indicating an intent that parcel B not be treated as open space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on parcel C, not showing open space throughout the project. --It is probably worded a little bit confusing for right now that was one of the ones that was added during the public hearing when you made your motion and was directing response to the public comment that was made and given.
10. This proposed revision conforms to the Wasatch County development standards.
11. The proposal is consistent with Utah Code Section 17-27a-609.

12. The Development Review Committee has reviewed the project and provided a favorable recommendation.
13. Here now are the two new ones--: The proposal was heard and approved by the Planning Commission in August 2021, but the mylar was not recorded prior to the expiration deadlines in Wasatch County Code.
14. No changes to applicable laws have occurred in the last year that would affect the ability to approve the project as it was previously heard and approved. --So based on no changes of any kind of applicable laws we are not aware of any additional information that has been brought to light since the original approval.

Austin Corry then went over the one condition:

1. Although it is in code, it is a good reminder that-- The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.

Austin Corry indicated that as far as staff we forwarded this onto you with a recommendation for approval based on your previous approval and that is why the findings would be recommended to match that way. That is all that I have.

Commission Comments

Commissioner Mark Hendricks asked why did the application expire and why didn't it get recorded? Austin Corry replied that we weren't delivered a Mylar in time to get it through the signature process and recorded. Doug Ogilvy representing Redus Park City, replied that we submitted the plat on about July 1 which was prior to the expiration and then going through signature reviews, JSSD required us to reprint the plat to put an injector note on the plat and we reprinted with that. JSSD also determined that they wanted us to post a $13,000 bond on just extending the sewer and water from the center line of the road to the property line. We have done these things but it took more time and that is why it expired.

Commissioner Mark Hendricks asked if there are other utility easements on this property that are valid. Doug Ogilvy replied that there is the standard county utility around the parameter of a parcel. There is a telecom utility easement the location of which is not defined but probably related to the telephone line that is far away because there is no overhead telephone lines. Commissioner Mark Hendricks asked does the existence of the utility easements unknown or maybe known prevent us from changing the use of the lot and isn't that the risk of the land owner if they say that we want to build something here. And there is an old telegraph easement and they say wait a minute we have got a valid easement here is that the landowner's problem and does that impact our ability to act tonight. Jon Woodard, the Assistant Wasatch County Attorney, indicated that we don't like to approve a plat amendment unless there is not going to be any issues that will prevent somebody from building on the lot that are known at the time. In my review I didn't see anything that rose to the level of risk that would make it so that we wouldn't recognize approval. What Rocky Mountain Power signed I thought took care of the issues that made it so there would be no problem in developing lot. You did not see any other easements that gave you concern. Jon replied no. Commissioner Mark Hendricks asked if you reviewed the full title. Jon replied yes but it has been over a year so I don't remember the details of that but I do remember when I reviewed that a year ago there was nothing that made me think that we should not approve this. If I saw something I would have flagged it then.

Commissioner Mark Hendricks asked Jon Woodard to review what was sent. Jon replied that I looked it over starting about 5:30 p.m. The comments that were made appeared to be the same as what was brought to this body about a year ago. At that time I found none of the comments would make it so I wouldn't give a recommendation of approval. Also agreed with everything that Austin Corry said this evening. Also agree with regard to the CC&R's and agree with what Austin Corry said that the County doesn't get into the enforcement of the CC&R's in normal practices.

Commissioner Mark Hendricks asked to clarify that there was an original declarant in about 2001 something like that. Kit Kosakowski indicated that the sequence of events was the original declarant filed the original CC&R's in the middle of May or so of 2001. There was a first amendment very shortly after the original filing and 2008 is the second amendment.

Commissioner Mark Hendricks asked if you are representing yourself as a citizen or are you in any official capacity representing Star Harbour or Fox Bay. Kit indicated that she is only representing herself as an owner in Star Harbour and adjacent to Lot B. Redus became the owner about 2015 to 2016 or 2017. Also done as much work as I can regarding the easements. In my file I have a document with regard to a telecommunication easement in that area and I have that document at home. Commissioner Mark Hendricks asked if there is some evidence of some other easement that negatively impacts the applicant issue. Kit replied yes but don't have it with me.

Commissioner Mark Hendricks indicated that Kit Kosakowski does a good job in reviewing things and presenting issues but the biggest issue I find out of all of them is whether good cause exists. This is a very delicate balance for me but what tips the balance in favor of is we have already passed this and approved this once but for some administrative delays not the fault of the applicant it just didn't get across the finish line in time so I'm very reluctant to reopen that decision and rehash it and come up with some new arguments. There has been enough notice in historical records to recognize that there was good evidence of intent and it came together the way whoever bought it might come together. I just don't see a reason to go against our prior finding, which is my personal view.

Commissioner Scott Brubaker asked for clarification about having a JSPA master plan that had a certain number of units then something happened with that 35 that is on the map discounting one or did it ever count. Austin Corry replied that it isn't applicable because Star Harbour isn't in the JSPA. I don't feel strongly one way or the other. Also that could be a buildable lot on the plat.

Commissioner Karl McMillan seconded what Commissioner Mark Hendricks said and finds no reason to turn back at this point.

Motion

Commissioner Karl McMillan made a motion to approve Star Harbour Estates Lot B minor plat amendment in light of the findings that was read into the record by Austin Corry this evening and subject to the one condition.

Commissioner Mark Hendricks seconded the motion.

The motion carries with the following vote:
AYE: Chuck Zuercher, Mark Hendricks, Karl McMillan, Scott Brubaker, Doug Grandquis.
NAY: None.

Chair Chuck Zuercher then asked for a motion to approve Item 1 and Item 2 as consent items.

Motion

Commissioner Mark Hendricks made a motion to approve Item 1 and Item 2 as consent items in light of the findings and subject to the conditions for each item.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Scott Brubaker, Karl McMillan, Doug Grandquis.
NAY: None.

ITEM 4 **BLAYDE MCINTIRE, REPRESENTING PCL DEVELOPMENT LLC, REQUESTS FINAL SUBDIVISION AND SITE PLAN APPROVAL FOR INDI RIDGE, A PROPOSED 37 UNIT RESIDENTIAL PROJECT ON 21.27 ACRES AS PART OF THE TUHAYE MASTER DEVELOPMENT IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ) AND INCLUDING A REQUEST FOR CONDITIONAL USE PERMIT APPROVAL FOR RETAINING WALLS IN EXCESS OF 4 FEET HIGH AND 200 FEET IN LENGTH. (DEV-6982; AUSTIN CORRY)**

Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that the Tuhaye Master Development included a unique property north of Longview Drive that would be accessed outside of the existing Tuhaye gate. This property has been sold by Storied Deer Valley to the new owners and will be developed separate from the rest of the Tuhaye Master Development. However, the entitlement rights and conditions of the Tuhaye Development agreement still apply. The project is a 21 acre site and would consist of primarily attached twin home single family product. This would use 37 of the entitled 900 ERU's from the Tuhaye development.

Wasatch County
Board of Adjustment
February 7, 2023

Item #1

Kit and Michael Kosakowski

Appeal Star Harbour Lot B Planning Commission Approval

WASATCH COUNTY
Board of Adjustment Staff Report
Appeal of Planning Commission Action

ITEM 1 Kit and Michael Kosakowski, citing the provisions of Wasatch County Code §02.02.02 and §16.02.09, Appeal the Land Use Decision rendered by the Wasatch County Planning Commission to approve a Plat Amendment for Star Harbour Estates Lot B, DEV-7213, granted on November 10, 2022. (DEV-7391; Austin Corry)

PROJECT SUMMARY

Appellant: Kit and Michael Kosakowski
Hearing Date: 7 February 2023
Property Owner: Redus Park City LLC

Subject Application: Plat Amendment (DEV-7213)
Land Use Authority: Planning Commission
Land Use Decision: Approved
Decision Date: November 10, 2022

BACKGROUND

The appellant is requesting that the Board of Adjustment reverse the November 10, 2022 decision by the Wasatch County Planning Commission regarding a Minor Plat Amendment for the Star Harbour Estates subdivision. Star Harbour Estates is a residential subdivision consisting of single family homes both detached and attached. Wasatch County Code §16.02.09 (in part) reads as follows:

> ***16.02.09: APPEALS PROCEDURE***
> *Appeals of administrative decisions shall be made as follows:*
>
> *A. Standing to Appeal: Any person or entity (including a county department or elected official) affected by an administrative decision applying this title, or a decision by the planning commission in which it is acting as the land use authority, may appeal that decision to the board of adjustment by alleging that there is an error in any order, requirement, decision or determination by an official.*
>
> ...
>
> *G. (5)(a) . . . . The person or entity making the appeal has the burden of proving that an error has been made.*

Utah Code Annotated (UCA) 17-27a-707(4) authorizes the Board of Adjustment, on appeal of a land use application, to *"determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations."* The standard review procedure is de novo[1], or in other words, the Board of Adjustment is asked to consider all evidence of the proposal as presented in the hearing documents and is not limited to what the initial land use authority was presented. As such, the effect of a reversed decision action would be that the Minor Plat Amendment application is Denied.

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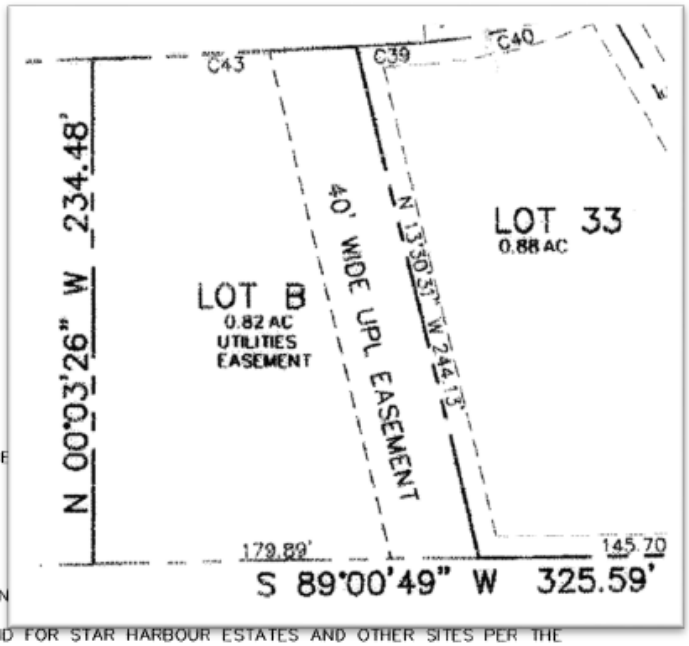
[1] 17-27a-707. Scope of review of factual matters on appeal -- Appeal authority requirements.
(1) A county may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.
(2) If the county fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.
Also, in a de novo hearing, the appeal authority can consider additional evidence. *Republic Outdoor Advert., LC v. Utah DOT*, 2011 UT App 198, ¶ 40, 258 P.3d 619; *Univ. of Utah v. Indus. Comm'n*, 736 P.2d 630, 633 (Utah Sup.Ct. 1987); *JLPR LLC v. Procurement Policy Bd.*, 2021 UT App 52, ¶ 19, 492 P.3d 784. See also the BOA Bylaws Section III(A) and WCC 2.02.02(H) which allow for additional evidence to be presented to the BOA.

The appellant claims that the Wasatch County Planning Commission erred in its approval of a land use application. If the appellant, who bears the burden of proof, has not provided evidence to support the claim that an error was made, the Board of Adjustment should affirm the Planning Commission decision. Wasatch County Code 02.02.02(H) requires that an appeal *"shall include copies of any documentary evidence or written arguments that will be presented to the Board of Adjustment."* A complete copy of the filed appeal is provided for the Board of Adjustment review as Exhibits F and G of this report.

The land use application ("Plat Amendment" or "2022 application") filed for the Wasatch County Planning Commission ("Planning Commission" or "PC") had two specific purposes: 1) to remove the label on Lot B as a *"utility easement"* and 2) to remove a plat note that reads *"Lot B is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot B may become a single family lot subject to review and approval by Wasatch County"*. The effect of the removal of the label and note would be that Lot B would then be able to apply for a building permit for a single family residence through the standard County procedures since the utility easement encumbrance would no longer preclude the construction of a single family residence on that lot. This request is considered a Minor Plat Amendment under the provisions of Wasatch County Code 16.01.16. The application for this was made by Redus Park City LLC ("Redus") on October 20, 2022 and was approved by the Planning Commission as the land use authority on November 10, 2022.

Excerpts from the Existing Recorded Star Harbour Estates Plat



NOTES

1. A 10 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT SHALL BE
UNLESS OTHERWISE NOTED.

2. TYPICAL BUILDING SETBACK SHALL BE AS FOLLOWS:
FRONT – 20 FEET
SIDE – 12 FEET
REAR – 30 FEET
BUILDING SETBACKS SHALL NOT EXTEND INTO EASEMENTS SHOWN ON

3. PARCEL 2 CONTAINS A WATER QUALITY AND STORM DETENTION POND FOR STAR HARBOUR ESTATES AND OTHER SITES PER THE MASTER PLAN. PARCEL 2 SHALL BE DESIGNATED AS AN OPEN SPACE PARCEL.

4. LOT 'B' IS AN EASEMENT FOR AN EXISTING OVERHEAD UTILITY TRANSMISSION LINE. IN THE EVENT THAT THE EXISTING OVERHEAD UTILITY TRANSMISSION LINE IS RELOCATED TO ANOTHER LOCATION, THEN LOT 'B' MAY BECOME A SINGLE FAMILY LOT, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.

5. LOT 'C' IS AN OPEN SPACE PARCEL AND SHALL REMAIN AS SUCH, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS.

SUMMARY OF APPEAL

The appeal documents provided by the applicant purports the following in summary:

1. The Planning Commission was not the correct Land Use Authority;
2. There was not sufficient or substantial evidence of "good cause" to approve a plat amendment;
3. Redus did not possess the right to seek the plat amendment;
4. Star Harbour owners were not on notice that Lot B would be converted;
5. The PC treated the CC&R's as irrelevant;
6. Lot B is not a "buildable lot";
7. The 2022 application wasn't treated like a new application;
8. The Planning Commission did not sufficiently protect Appellants' right to be heard;
9. Lot B is open space;
10. There are public trails on the lot that were not upheld by the planning commission;
11. The easement was not released;
12. The application lacked proper notice.

The applicant seeks to preserve additional arguments for appeal to the District Court, but does not indicate they seek for the Board of Adjustment to consider these issues. These include:

13. The Planning Commission and Planning Department lack independence and neutrality from Redus.
14. BOA fees are exorbitant and it lacks due process.
15. Issues associated with the JSPA.

ANALYSIS OF THE CONTENT OF THE APPEAL

The Appellant asserts that the Planning Commission erred in the decision to approve the plat amendment on November 10, 2022. As an affected entity, Redus Park City LLC, has also provided responses to the appeal letter that should be considered part of this same record.[2] As a matter of importance, many of these claimed errors were discussed by the Planning Commission and addressed during the public meeting prior to their decision. The appellant implies that these were arguments raised during public comment at the Planning Commission meeting that were ignored by the Planning Commission. However, the Board should understand that the comments were considered prior to the Planning Commission action.

Although the appeal filed lists 10 alleged errors in its preliminary summary, a review of the appeal letter shows 12 or 15 arguments made. In an effort to provide adequate information for the Board to make an informed decision, all 15 arguments are discussed below:

– ARGUMENT #1 – The Planning Commission erred in identifying itself as the land use authority in this matter because the conversion of Lot B does not qualify as a minor plat amendment –

This argument has been made by the appellant on multiple occasions and previously addressed. Wasatch County Code §16.01.05 designates the Planning Commission as the land use authority for minor plat amendments. As cited during the November 10, 2022 hearing, the request was to remove an existing note and label regarding a utility easement on Lot B. This qualifies as a minor plat amendment under WCC §16.01.05(A)(2)(b)[3]. The appellant has not demonstrated an error was made.

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[2] Exhibit H – Redus Park City LLC Response to Appeal, by Wade Budge, dated January 12, 2023

[3] A. The Planning Commission shall be the Land Use Authority for:

2. The following minor plat amendments:

b. Modification of plat title, notes, or labels so long as they were not placed on the plat due to findings or conditions adopted by the Wasatch County legislative body;

– ARGUMENT #2 – The Planning Commission erred in granting Redus's request to convert Lot B from an open space easement lot to a single-family lot because Redus did not present sufficient or substantial evidence that there was "good cause" for such a conversion –

During the Planning Commission meeting on November 10, 2022, the appellant raised this argument and cited similar conclusions to those included in the appeal letter as to why they believed the plat amendment would have no positive benefits. As a reminder to the Board, the context of a Planning Commission decision cannot be based on a single comment, but rather, should be based on the entirety of their review. In this particular instance, after hearing the public comment, and in light of the staff report and other discussions during the hearing, the Planning Commission ultimately decided to approve the request and included a list of findings of fact to support the basis of their decision. The concerns raised were not ignored, as suggested by the appellant, but instead were specifically discussed by the Planning Commission as lacking any evidence of easements or agreements that would have permitted the use of the property by the appellant or the public for open space, trails, viewshed, or snow storage in the manner the appellant states provides them with entitlement.

Finding 6 of the November 2022 Planning Commission action reiterated the legal standard for Good Cause as codified in WCC 16.04.02:

> *6. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.*

Findings numbered 7, 8, and 9 from the November 2022 action specifically state the good cause the Planning Commission believed were supported by the evidence on the record:

> *7. Good cause for the amendment exists by acknowledgment of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.*
> *8. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.*
> *9. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showing parcels A and C as open space, but contain no similar notes or labels regarding parcel B, indicating an intent that parcel B not be treated as open space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on parcel C, not showing open space throughout the project.*

These findings were ignored by the appellant. The appellant further claims that the Planning Commission ignored the word 'may' from the plat note 4.[4] However, this accusation is unsupported by evidence. In fact, if the term 'may' had been ignored and the amendment was determined to be automatic, all other findings made by the Planning Commission would have been irrelevant. The appellant has not demonstrated an error was made by the Planning Commission in finding good cause exists to amend the plat.

[4] Note 4 of the existing subdivision plat reads "Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot 'B' may become a single family lot, subject to review and approval by Wasatch County."

– ARGUMENT #3 – The Planning Commission erred in considering Redus's request because Redus does not possess the right to seek conversion of Lot B –

The appellant raised this issue at the November 2022 meeting as well and has not cited any provisions of applicable law that would support the argument. As discussed during the Planning Commission meeting, Utah Code 17-27a-608[5] allows a fee owner of a lot to seek a subdivision amendment. Wasatch County would be in violation of state law had the county refused to allow the application from Redus as the owner of record on official tax records. The appellant cites provisions of CC&Rs that supposedly prohibit Redus from applying. If the provisions of those CC&Rs are the basis for the appellant's argument, the appellant should be seeking recourse through the appropriate filing in civil court since Wasatch County was not a party to the CC&Rs, nor does the county have jurisdiction over a private contract. In no way does the Planning Commission action preclude the ability for the appellant to seek enforcement of the private CC&Rs through the correct procedures. The appellant has not demonstrated an error was made by the Planning Commission in following the UCA 17-27a-608 in allowing the property owner to apply for and obtain a plat amendment.

– ARGUMENT #4 – The Planning Commission erred in determining that Star Harbour owners were on notice that Lot B would be converted –

The appeal letter simply states that an amendment to the CC&Rs in 2008 caused that owners within Star Harbour had no way of knowing that the lot could be converted. Aside from the fact that no provisions of applicable law have been cited that would support this claim being an error in the Planning Commission decision, the Board should be aware that the plat, which is a public record, has had the note regarding the conversion of Lot B since the creation of the subdivision in June 2001. Additionally, the property owners have notice of the applicable laws, including Utah Code 17-27a-608 through 609, and WCC 16.02.06, that provide for amendment of a plat. The appellant has not demonstrated an error was made.

– ARGUMENT #5 – The Planning Commission erred in treating the Star Harbour governing documents, including its CC&R's, as irrelevant, i.e. as something the county does not regulate in accordance with WCC §16.01.17. –

Wasatch County Code 16.01.17, cited by the applicant, does indeed state that the county does not enforce private covenants, conditions and restrictions. However, the appellant is misleading in the claim that the County 'ignores' these contracts altogether. The County bases decisions on evidence on the record. The appellant claims that the County code to not enforce private contracts is "bad governance," however, the provisions cited by the appellant and the request from the appellant to deny the land use application because of an un-vetted contradiction in the private CC&Rs would be a violation of Wasatch County code and State Law. In contrast, since the County is not a party to the contract, nor has jurisdictional powers to govern them, it would be "bad governance" for the County to involve itself in such private matters. The meaning, scope, and enforceability of private CC&Rs can be complex, as is evidenced by the appellant indicating they have been in litigation for four years in seeking to enforce the CC&Rs in regards to another matter. In accordance with WCC 16.01.17, with very limited exceptions which the appellant has pointed out, the County legislative body has made a policy decision to leave CC&Rs, their content, interpretation, and enforcement, to the private property owners who have an interest in those matters. The appellant has not demonstrated an error was made.

– ARGUMENT #6 – The Planning Commission erred in finding that Lot B is a "buildable lot" –

While the appellant references an August 2021 approval of the project as the justification for why the Planning Commission should have imposed a similar condition on the current November 2022 approval, this justification is faulty and contradicts the following argument by the appellant that the applications should be independent of

[5] 17-27a-608. Subdivision amendments.
(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

each other. During the 2022 Planning Commission meeting, the appellant raised the concern about the ability to construct a driveway and referenced the August 2021 meeting. The appellant stated "There was a lot of discussion about the slope as well as the driveway issues. One of the conditions that was in the August 2021 ROA that the approval was conditioned on the engineering department determining that Lot B is buildable. The recent Staff Report indicates that all those conditions have been fulfilled and a report of this was attached but could not find that report anywhere."[6] The Planning Commission discussed this concern, using the term "buildable" as it was being used by the applicant. "Buildable lot" is not a defined term in the code, but in this context, it would assume to focus on the appellant concern regarding ability to construct a driveway and the steep slope of the site. In response to this, staff noted that the engineering department reviewed the ability to construct a driveway in as was a condition from the previous approval and the ability to do so was resolved in June 2022. When the new 2022 application was made in October, there was no need for the engineering department to make specific DRC comments related to the constructability of a driveway because it was now irrelevant to the current application because of previous knowledge the engineering department had.[7] This is evidenced by the DRC report which was included as part of the record for the Planning Commission where the engineering department identified the project as being *ready for decision.* In an effort to help the Board of Adjustment understand the considerations that the engineering department took when making the decision in June that slope or driveway issues would not create a "buildable" issue for Lot B, the engineering reviewer has submitted a letter providing detail on their analysis. The engineering department did determine that it appears to be possible to build a compliant driveway and to meet the slope requirements of the Wasatch County Code on Lot B.

The approval of the plat amendment application by the Planning Commission does not in itself make Lot B entitled to a building permit. It is important to note that the utility easement being vacated by Rocky Mountain Power, and the Planning Commission's approval of the removal of the plat notes regarding the utility easement from Lot B does not preclude the enforcement of other applicable laws, which are considered and applied when and if a building permit is applied for. The appellant has not demonstrated that the Planning Commission erred in removing the notes associated with the utility easement which would have precluded a single family residence from being built on the lot.

– ARGUMENT #7 – The Planning Commission erred in not requiring the application process to begin anew in compliance with WCC §16.01.16(G) –

The appellant's claim that the application did not begin anew is unfounded. In fact, it contradicts the appellant's previous argument that the Planning Commission should have imposed a condition on the November 2022 application that was imposed on the August 2021 approval. On the contrary, when the August 2021 approval reference by the appellant expired, Redus was required by the County to file a new application, new fees, new reviews, and a new public meeting which followed all adopted procedures for a new application. While reference was made to an August 2021 approval in the staff report and during the meeting, it was simply to provide helpful history of the project. The Planning Commission decision on November 2022 was based on the evidence on the record on November 2022 and is independent of the previously expired approval except to acknowledge that an approval did occur and that "no changes to applicable laws" had been made since the previous approval. The appellant has not demonstrated an error was made.

[6] Wasatch County Planning Commission Minutes. (November 10, 2022). p.3, Paragraph 5. Included in this report as Exhibit E.
[7] Wasatch County Planning Commission Minutes. (November 10, 2022). p.4, Paragraph 6. Included in this report as Exhibit E.

– ARGUMENT #8 – The Planning Commission erred in not sufficiently protecting [appellant's] right to participate in the public meeting process –

The appeal letter references some history of an August 2021 hearing and then states "These issues would be moot had the Planning Department and the Planning Commission conformed to the implicit requirement of WCC §16.01.16(G) and began the approval process afresh." Considering that the County did require a new application and followed the procedural requirements of a new application as demonstrated in the answer to Argument #7 provided above, the appellant has implicitly acknowledged that this argument is moot.

Throughout this argument, the appellant claims that the County staff had no knowledge of past histories of this project because the staff were not employed by the County at that time. This argument is misleading and unfounded. Staff researches projects and reviews proposals based on evidence available. It was stated that no evidence to the claims made by staff were supported by evidence, however, the presentation by the staff and the staff reports have consistently included evidence that the Planning Commission considers during its decisions.

If the appellant has evidence for the record to be considered, there are a number of methods available to provide this evidence for the Planning Commission record. The County makes efforts to outline meeting procedures and public comment options as clearly as possible. In addition to allowing public comment to be presented during the public meeting either in-person or electronically via live webinar, the public notice language includes an email address where public comments can be provided. If comments are provided prior to the staff reports being published, comments are included in the staff report as exhibits. If comments are sent to the email address after the publishing of the report, the comments are sent directly to the Planning Commission in electronic format and noted during the meeting as having been received.

In an effort to maintain meeting decorum, the Planning Commission chair follows a typical procedure to ensure that the meeting can move forward in an efficient manner.[8] This procedure is introduced at the beginning of every meeting.[9] In summary, an item is typically introduced by a staff planner, the Planning Commission then asks for a presentation by the applicant, then the chair will open the item for public comment. After time is given for public comment to be provided, the chair typically closes the public comment and the Planning Commission begins to deliberate. During deliberation, if the Planning Commission has questions, they can invite anyone to re-address them for the purpose of answering their question. The appellant claims that state law requires the Planning Commission to allow them to interrupt a public meeting at will. This is not the County's interpretation of the cited laws.

The right for public comment is a limited right. Under Utah Code 17-27a-608(2), the county is not required to hold a public hearing for this plat amendment because it does not change the existing boundaries or other attributes of lots that are not owned by the petitioner. However, the County does support public involvement and a chance for public concerns to be raised in the process by allowing public input. In this matter, the minutes show that the chair allowed the appellant to give extensive public comment, and then the minutes show, "Chuck Zuercher then asked if there is any other public comment and there was none so the public comment was closed." A decision making body can close any public input as the body deliberates. Dairy Prod. Servs. v. City of Wellsville, 2000 UT 81, ¶ 60, 13 P.3d 581 (Sup.Ct.). The appellant was given a greater right to give public input than the Utah Code requires, but the appellant was not allowed to interrupt the commission deliberation. The appellant has not demonstrated an error was made.

[8] Exhibit I of this report is the presentation slides introduced by the Planning Commission chair at the beginning of every Planning Commission meeting.
[9] Wasatch County Planning Commission Minutes. (November 2022). p.1. Included in this report as Exhibit E.

– ARGUMENT #9 – The Planning Commission erred not protecting open space –

No applicable law has been cited by the appellant to support this claim. This concern has been raised by the appellant during public comment and has been addressed each time. The opening sentence of the appellant's argument acknowledges the very position the County has when interpreting the applicable codes and development agreement for the project. "It is important to remember that Lot C is the open space for all three projects; it is the open space for Commerce Park…Fox Bay…and Star Harbour." This is consistent with the plat note 5, which indicates, "Lot C is an open space parcel that shall remain as such . . . ." Contrast this with note 4, which states, "Lot B is an Easement . . . in the event that the transmission is relocated . . ., then Lot 'B' may become a single family lot. . . ." During the public meeting it was noted that staff review of the applicable documents indicates that Lot C is the open space for Star Harbour and no other lots, including Lot B, have the same restriction.

It is important to note that while the appellant continually states that the proposal is to convert Lot B from an open space lot to a single family lot, this is inaccurate. The proposed plat amendment is to remove a utility easement from Lot B. Other than the appellant's claim that the lot is open space, no other party during any of the proceedings have referenced this lot as open space, and in some instances, have specifically cited the evidence supporting that the lot is not open space. There is no amendment to the open space requirements for Star Harbour included with the proposal. The appellant has not demonstrated an error was made.

– ARGUMENT #10 – The Planning Commission erred in not upholding preferences originally expressed by the Planning Commission regarding the placement of trails –

The appeal letter suggests that a County required trail traverses Lot B. Staff has been unable to identify any record of such a requirement and the appellant has not provided any evidence that would support the ability for the Planning Commission to impose such a requirement. To the contrary, the Exhibit C to the Star Harbour Estates Development Agreement, which is the "Map Depicting Approximate Location of Trails to be Constructed Within the Lot C Open Space Parcel," does show trails throughout the project, including trails outside of Lot C, but does not show any trails in what is now Lot B.[10] This is a public document recorded in the records of the County Recorder as Entry # 233949, Book 0506, Page 0633 and is included as Exhibit K of this report. The appellant has not demonstrated an error was made.

– ARGUMENT #11 – Release of Easement provided by Rocky Mountain Power is insufficient to settle the question of the easements on Lot B –

The appellant raised this concern at the Planning Commission meeting and it was determined by the Planning Commission that the documents on the records provided sufficient evidence for them to proceed with a decision. Finding #4 stated *"UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement."* Exhibit E of The staff report for the November 10, 2022 Planning Commission meeting included an Exhibit E[11] which is the Release of Easement, in which Rocky Mountain Power "releases any right, title, or interest in that certain easement," which includes a 40' Wide UPL Easement across Lot B of the Start Harbour Estates First Amended Subdivision plat. As the successor in interest to Utah Light and Power, Rocky Mountain Power is disclaiming any interest in the easement shown on Lot B of the plat. Since evidence on the

[10] Staff does note that this Exhibit C does have a label showing "Open Space" in the area near what is now Lot B. Lot B is not labeled on Exhibit C. However, the purpose of the Exhibit C, as stated in both Section 3.1(b)(4)(a) of the Development Agreement, and in Exhibit C, is to show the trails in Lot C. Open Space is referenced throughout the Development Agreement and the Plat, and nowhere is Lot B listed as open space in any portion of the documents showing open space requirements or limitations. There is nothing in these documents that would support that the County previously required Lot B to be open space, or could require Lot B to become open space.

[11] Wasatch County Planning Commission Staff Report (November 2022) is included in entirety as Exhibit A of this report.

record of the Planning Commission decision suggests that the easement was properly released and the appellant has not provided any evidence to suggest otherwise, there is nothing to support a reversal of the Planning Commission decision based on this claim. The appellant has not demonstrated an error was made.

– ARGUMENT #12 – Lack of Notice –

The appellant argues that the noticing for the meeting was inadequate. During the Planning Commission meeting, the proof of notice for the November 2022 meeting was provided on the record showing the appellant's address as being included in noticing. The appellant acknowledges that they did receive this notice later and that it was an error on their part that they hadn't seen it. The County provided all notices required under applicable law. The appellant's acknowledgement alone that they found the mailed notice in the mail their neighbors had collected while the appellants were out of town refutes this argument that proper notice was not given, because the basis of the appellant's claims are related to a different application. The County disagrees that the notice for the 2021 meeting was incorrect, but also cites UCA 17-27a-209 which states *"If notice given under authority of this part is not challenged under Section 17-27a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper."* The meeting referenced by the appellant as having been improperly noticed was held in August 2021. This far exceeds the 30 day challenge period as prescribed by state code. Again, this point is moot considering the August 2021 decision expired and is not the approval being appealed. The appellant has not demonstrated an error was made.

– ARGUMENT #13 – The Planning Commission and Planning Department lack independence and neutrality from Redus –

The County will not put much effort into refuting this claim, as it appears the Appellant only desired the District Court to consider these matters. However, the appellant has a duty to prove that an error was made. The County struggles to know what error(s) the appellant alleges was made.

Being on a first name basis with the applicant is certainly not illegal. The County has been working with the applicant on various projects for many years, and seeks to have good working relationships with all applicants.

The chair of the planning commission has discretion in how to manage the meeting. They do not have to allow equal time to every person in the room. In this case, the appellant was granted significant time to make their arguments, and the minutes show: "Chuck Zuercher then asked if there is any other public comment and there was none so the public comment was closed." The minutes show the appellant was granted time to be heard. The appellant fails to show any rules that were violated in allowing or closing public comment.

The appellant also appears to claim a due process violation by the planning department, the Planning Commission, and the Board of Adjustment because they are all advised by the same attorney. The County Attorney's office is tasked under Utah Code with advising all these entities. At times, when the Board of Adjustment may have a different role from the planning department or the Planning Commission, the County Attorney does have one attorney represent the staff/ Planning Commission, and another attorney represent the Board of Adjustment. Such is the case with this appeal. The appellant has failed to demonstrate the County has violated any case law, statute, or other law in its argument 13.

– ARGUMENT #14 – BOA fees are exorbitant and it lacks due process –

The County will not put much effort into refuting this claim as it appears the Appellant only desired the District Court to consider these matters. However, the appellant has a duty to prove that an error was made.

The only citation to an applicable law in argument 14 is *Boddie v. Connecticut,* 401 U.S. 371 (1971). This is a 50 year old United States Supreme Court case that found that required filing fees for obtaining a civil divorce were unconstitutional as a due process violation in some instances where indigent persons were denied a real right to

obtain a divorce due to the required fee. The Court was careful to limit the scope of the ruling by stating: We do not decide that access for all individuals to the courts is a right that is, in all circumstances, guaranteed by the Due Process Clause of the Fourteenth Amendment. Boddie v. Connecticut, 401 U.S. 371, 382, 91 S. Ct. 780, 788 (1971). The Utah Supreme Court has noted that the right stated in *Boddie* for indigent persons to obtain a divorce does not apply to other proceedings, such as bankruptcy proceedings. Zamora v. Draper, 635 P.2d 78, 82 n.9 (Utah Sup.Ct. 1981). In this case, the appellant has failed to demonstrate that they have any property right or other right to prohibit the plat amendment from being approved. The appellant has failed to prove that an error was made by the County in requiring a $1,500 appeal fee because they have failed to demonstrate any law that is being violated.

– ARGUMENT #15 – Issues associated with the JSPA –

This section is even less developed than the other arguments, in attempting to preserve a number of issues through a vague single sentence. To make an argument:

> *A brief must go beyond providing conclusory statements and 'fully identify, analyze, and cite its legal arguments.' This analysis 'requires not just bald citation to authority but development of that authority and reasoned analysis based on that authority.*
> *Delaney v. Labor Comm'n, 2008 UT App 141*

The petitioners fail to develop authority or any reasoned analysis regarding this issue, and it is not the county's burden to divine what issues the Appellant may have with the JSPA as it relates to this application. The applicant has not demonstrated an error was made.

CONCLUSIONS

Based on the analysis of the arguments presented by the appellant, there does not appear to be any evidence that the Planning Commission violated any provisions of Wasatch County Code, Utah State Code, or other applicable law in making the decision to approve the plat amendment request (DEV-7213). The Planning Commission decision was rendered with substantial evidence on the record and included a list of findings of fact and conclusions of law to support the decision rendered. The appellant has not provided any evidence to suggest otherwise. Per Wasatch County Code §16.02.09(I) the *"person or entity making the appeal has the burden of proving that an error has been made."* With insufficient evidence that an error of applying the Wasatch County Code and applicable State Law was made, the Board of Adjustment should affirm the Planning Commission decision to approve the plat amendment.

RECOMMENDED MOTION

Move to *Affirm* the Planning Commission Approval of the Star Harbour Estates Lot B Minor Plat Amendment based on the following findings:

Findings:

1. Wasatch County Code 16.02.09 allows an affected person or entity to appeal a decision rendered by the Planning Commission when acting as the land use authority.
2. The appellant, Kit and Michael Kosakowki, allege that the Wasatch County Planning Commission erred in its approval of a land use application DEV-7213 ("plat amendment").
3. The plat amendment was a request to amend the Star Harbour Estates subdivision plat by removing a note indicating a 40'wide UPL utility easement on Lot B and an associated plat note indicating: *"Lot B is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility*

transmission line is relocated to another location, then Lot B may become a single family lot subject to review and approval by Wasatch County".

4. The plat amendment request did NOT include any removal of open space requirements from the subdivision.
5. The plat amendment application, including fees, was filed on October 20, 2022 through the Wasatch County Planning Department's online application portal and was determined to be complete.
6. The plat amendment was reviewed by the Wasatch County Development Review Committee in the same manner as other land use applications.
7. The plat amendment application followed applicable state and county laws for noticing.
8. The plat amendment was approved by the Wasatch County Planning Commission on November 10, 2022.
9. An appeal of the Planning Commission decision was filed by Kit and Michael Kosakowski on December 9, 2022.
10. Per state and county code the person or entity making the appeal has the burden of proving that an error has been made.
11. The staff analysis of the appellant's claims is hereby adopted by the Board of Adjustment. The staff analysis indicates the appeal lacks factual evidence and is without legal merit, and the appellant has failed to meet its burden of proving that an error was made.
12. Wasatch County Code §16.02.09(J) allows the Board of Adjustment reverse, affirm, wholly or partly, or modify an order, requirement, decision or determination appeal from and to make such order, requirement, condition, decision or determination as ought to be made.
13. The Board of Adjustment hereby also accepts all of the Planning Commission findings included in their November 10, 2022 approval of the Star Harbour Estates plat amendment as relevant and justified.
14. The Board of Adjustment also adopts Sections 2(a), (b), (c), (d), (e), the last paragraph of (f), (g), (h), (i), (j), (k), (l), (m), and Section 3 of the January 12, 2023 letter of Wade Budge on behalf of Redus Park City LLC to the Wasatch County Board of Adjustments.

ALTERNATIVE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Affirm. This action may be taken if the Board of Adjustment finds that the Appellant has not met its burden of proving that the Land Use Authority erred.

2. Reverse. This action may be taken if the Board of Adjustment finds that the Appellant demonstrated that the Land Use Authority erred.

3. Reverse with Modification. This action can be taken if the Board of Adjustment finds that the Appeal demonstrates that an error was made, and modifies the decision or approval to address the error.

4. Continue. This action can be taken if the Board of Adjustment needs additional information before making a determination.

EXHIBITS

A. November 2022 Planning Commission Staff Report
B. November 2022 Kosakowski Public Comment Presentation
C. November 2022 Planning Commission Staff Presentation
D. November 2022 Planning Commission Report of Action
E. November 2022 Planning Commission Minutes
F. Appellant Letter of Appeal
G. Exhibits to Appellant Letter
H. Redus Park City LLC Response to Appeal, by Wade Budge, Dated January 12, 2023
I. Planning Commission Meeting Procedure
J. Engineering Letter Regarding 'Buildable' Review
K. Exhibit C of the Star Harbour Estates Development Agreement.

ARDURRA

January 25, 2023

Dustin Grabau
County Manager
Wasatch County
25 N Main
Heber City, UT 84032

SUBJECT: Star Harbor Lot B – Appeal

Dear Mr. Grabau,

We understand that Mr. Michael W. Kosakowski and Kit R. Kosakowski have submitted an appeal of the Wasatch County Planning Commission November 10, 2022 decision to grant Redus Park City LLC's request to convert Lot B in Star Harbour Estates Subdivision from an open space easement lot to a single-family residential lot. The original approval carried the planning department ID of DEV-7213. We were requested to contribute more information describing our review and professional opinion of the plat amendment (DEV-7213). This letter details our review process and professional opinion regarding this application considering those issues raised in the appeal. It would extensively raise time and costs, and would turn every DRC review into an extensive report if we detailed our analysis of every issue and rule, we consider in the course of reviewing an application as part of the DRC.

In the appeal request letter, the applicant expresses concern that the site is too steep. There are a couple of items which the applicant may be referring to, which we considered as part of our review of DEV-7213. The first being the County code restriction against building on slopes over 30% slopes (WCC 16.27.25.A). When subdivisions are being built, roadways frequently have side slopes behind the curb and gutter or sidewalk as steep as 3H:1V (33%) which daylight to natural grade. In situations where the roadway cut and fill slopes have been stabilized, or when the road was constructed before current code standards, these slopes may be steeper. Based on an analysis of aerial imagery and LIDAR for Alpine Avenue, this appeared to explain the grade on Lot B. There is also an existing dirt access road currently crossing through the lot. The construction of this road/trail likely also affected the native slopes on the lot. Man- made slopes do not carry the same concern of mass movements that native slopes would. In analyzing the slop issue, we presumed that the site building envelope would be re-graded for the home.

2175 W 3000 S Suite 200 | Heber City, Utah 84032 | 435.315.3168 | www.ardurra.com

Any plans for or analysis of slope stabilization would need to be taken care of upon building permit application.

The other concern regarding site slopes would be the site accessibility. There are many homes in Wasatch County subdivisions whose driveway access points cut through cut and fill slopes constructed for the road the lot fronts on. We completed a rough concept grading plan for a driveway on Lot B using the record of survey submitted upon application to the DRC. Although potentially costly in design and construction, it appeared that with the construction of (3) 4-6' walls, a driveway to the site is buildable. This is especially true if the architect employs a home design with a walkout basement and a garage on the top level (if allowable per HOA and County codes). Our design did not employ this method but rather built a driveway approach to the building pad assuming a conventional home design.

Another concern discussed by the appeal is that the placement of the lot across from the intersection with Fox Bay Drive creates a hazardous situation. We were aware of several nearby examples of lots built in similar circumstances. Some even had the same situation as Lot B's where the intersecting roadway is on a downhill slope toward the lot. Some examples included 1280 Hailstone Drive, 9988 Vista Drive, and 337 E Big Dutch Drive. Additionally, the frontage of Lot B was long enough that the driveway access could be placed on the E side of the lot, therefore being offset from the intersection. We demonstrated this in our concept plan attached, which details our previous DRC analysis.

To minimize disturbance to the native vegetation and effect on the hillside, a building envelope was included on the plat to confine the construction of a residence to the front half of the lot (approximately). This building envelope was not included in the initial submission of the plat amendment that was approved by the county in 2021.

It was our professional opinion that the Lot B Plat Amendment meets County code and industry standards of care. Our assessment indicated that the lot is buildable. Please let us know if you have any questions or desire further comments on this topic.

Sincerely,

Ardurra Group

Dillon Bliler, PE (UT)
Project Engineer

2175 W 3000 S Suite 200 | Heber City, Utah 84032 | 435.315.3168 | www.ardurra.com

MINUTES OF THE WASATCH COUNTY BOARD OF ADJUSTMENT FEBRUARY 7, 2023

PRESENT:	Board Chair Merry Duggin, Board Vice Chair Greg McPhie (by phone), Board Member Anissa Wardell, Board Member Jay Eckersley.
STAFF:	Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner; Shelby Thurgood, Assistant Wasatch County Attorney representing the Wasatch County Planning Department and the Wasatch County Board of Adjustment; Rick Tatton, Court Reporter *(via Zoom)*

Board Chair Merry Duggin called the meeting to order at 5:12 p.m. and welcomed all the members of the Board and the staff who we appreciate very much. Also welcomed the applicant, Kit Kosakowski.

ITEM 1 **KIT AND MICHAEL KOSAKOWSKI, CITING THE PROVISIONS OF WASATCH COUNTY CODE §02.02.02 AND §16.02.09, APPEAL THE LAND USE DECISION RENDERED BY THE WASATCH COUNTY PLANNING COMMISSION TO APPROVE A PLAT AMENDMENT FOR STAR HARBOUR ESTATES LOT B, DEV-7213, GRANTED ON NOVEMBER 10, 2022. (DEV-7391; AUSTIN CORRY)**

Chair Merry Duggin indicated that this is the Wasatch County Board of Adjustment meeting on Tuesday February 7, 2023. We are starting at 5:12 p.m. We are a little bit late this evening because of difficulty in assembling a quorum. We have Board Member Jay Eckersley, Board Member Anissa Wardell, Chair Merry Duggin serving as the chair and we have Greg McPhie who is attending by phone. We have had a little bit of confusion concerning tonight's agenda. One of the items to be heard had quite a bit of documentation that needed to be considered by the Board. The Board did not receive all of the documentation all at the same time. We did not see that as a problem because we spent a significant amount of time on the documents and having one or two late was not really a deciding factor on how we would deliberate. However, in order to be fair and in order to follow due process to make sure that everyone felt like they would equally be heard we would like to propose that we continue tonight's agenda in its entirety. We are a volunteer board and there are only four board members right now so I hope that everyone will understand that getting all four of us together to assemble a Board is a difficult procedure at times. Tonight we determined that February 16, 2023 at 5:00 p.m. would be the first date that would be amenable to all of us. So I would like to propose that we would accept that date as a continued date for this agenda.

Motion

Board Member Anissa Wardell made a motion that we do continue this agenda until February 16, 2023 at 5:00 p.m.

Board Member Jay Eckersley seconded that motion.

Chair Merry Duggin asked the applicant if they would agree to that and the applicant, Kit Kosakowski, indicated that she would agree with that. Kit Kosakowski indicated that as long as you have the record that is perfectly fine with us. Chair Merry Duggin thanked Kit Kosakowski for the applicant's cooperation in this matter. We really do appreciate that. Board Member Greg McPhie indicated that is what he expected that we do and yes I understand the motion and the second. Austin Corry, Assistant Wasatch County Planner, indicated that there is a person online that is raising their hand, and you don't have to acknowledge that, but I just wanted to make sure you are aware that was there. Chair Merry Duggin indicated that she is sorry but we won't take any comments tonight if that is all right. I apologize to the person online but we would entertain comments at the meeting where we are going to hear the issue. Tonight we are just going to continue it if the motion passes. Chair Merry Duggin then called for the vote on the motion and the motion passes and so we will continue this agenda to February 16, 2023 at 5:00 p.m.

The motion passes with the following vote:

AYE: Board Chair Merry Duggin, Board Vice Chair Greg McPhie, Board Member Jay Eckersley, Board Member Anissa Wardell.

NAY: None.

Whereupon, the meeting was adjourned by acclamation.

Meeting adjourned at 5:15 p.m.

MERRY DUGGIN/CHAIR PERSON

Wasatch County Board of Adjustment

Report of Action

16-February-2023

Commissioner Merry Duggin was present as Chair.

ITEM #1 – Kit and Michael Kosakowski, citing the provisions of Wasatch County Code §02.02.02 and §16.02.09, Appeal the Land Use Decision rendered by the Wasatch County Planning Commission to approve a Plat Amendment for Star Harbour Estates Lot B, DEV-7213, granted on November 10, 2022. (DEV-7391; Austin Corry)

STAFF PRESENTATION - The Staff Report to the Board of Adjustment provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Additional items presented are as follows:

- Austin Corry presented some of the appeals procedures outlined in code, a brief timeline of the project and appeal, and then presented the project, a summary of the appeal, and a brief synopsis of the staff responses also included in the staff report.
- Jon Woodard approached the BOA after the appellant's presentation and provided a visual and responses to a few of the appellant claims.

APPELLANT AND PUBLIC COMMENT - Any comments received prior to completion of the Staff Report are included in the Staff Report to the Board of Adjustment. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Kit Kosakowski provided a presentation on the overhead projector.
- Wade Budge addressed the Board representing REDUS Park City and cited provisions of code and a history of ownership.
- Mr. Budge stated that they have done their own legal analysis of the CC&Rs and believe they are in compliance with them. Chair Duggin asked if he is going to make certain they comply with them and Mr. Budge replied that is their intention.
- Maused Albousi, the HOA president for Fox Bay, addressed the Board and mentioned that there will be issues with snow removal if the lot is made a building lot.

BOARD OF ADJUSTMENT DISCUSSION - Key points discussed by the Board of Adjustment included the following:

- Chair Duggin asked some questions of Jon Woodard.
- Board Member Wardell asked Jon some questions about the easement.
- Board member Jay Eckersley asked about the code that would allow this to have been considered a minor plat amendment. Jon Woodard addressed the board and mentioned the statement in the code regarding minor plat amendments.
- Chair Duggin felt that this was not increasing density because the lot already exists, this isn't creating a new lot.
- Austin Corry addressed Board members questions about a minor plat amendment and how this proposal was different from the other plat amendments raised by the appellant.
- Board Duggin went through the appellants 12 arguments one by one and asked the board to discuss if needed. The Board members commented on each of the 12 arguments.

MOTION

Commissioner McPhie made a motion to affirm the Planning Commission motion with all the findings and conditions of the November 10, 2022 planning commission meeting and the findings listed in the staff report to the Board of Adjustment.

Commissioner Wardell seconded the motion.

VOTE **(4 TO 0)**

Merry Duggin	**AYE**	NAY	ABSTAIN	Jay Eckersley	**AYE**	NAY	ABSTAIN
Greg McPhie	**AYE**	NAY	ABSTAIN	Anissa Wardell	**AYE**	NAY	ABSTAIN

FINDINGS / BASIS OF BOARD OF ADJUSTMENT DETERMINATION

1. Wasatch County Code 16.02.09 allows an affected person or entity to appeal a decision rendered by the Planning Commission when acting as the land use authority.
2. The appellant, Kit and Michael Kosakowki, allege that the Wasatch County Planning Commission erred in its approval of a land use application DEV-7213 ("plat amendment").
3. The plat amendment was a request to amend the Star Harbour Estates subdivision plat by removing a note indicating a 40'wide UPL utility easement on Lot B and an associated plat note indicating: *"Lot B is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another*

location, then Lot B may become a single family lot subject to review and approval by Wasatch County".

4. The plat amendment request did NOT include any removal of open space requirements from the subdivision.
5. The plat amendment application, including fees, was filed on October 20, 2022 through the Wasatch County Planning Department's online application portal and was determined to be complete.
6. The plat amendment was reviewed by the Wasatch County Development Review Committee in the same manner as other land use applications.
7. The plat amendment application followed applicable state and county laws for noticing.
8. The plat amendment was approved by the Wasatch County Planning Commission on November 10, 2022.
9. An appeal of the Planning Commission decision was filed by Kit and Michael Kosakowski on December 9, 2022.
10. Per state and county code the person or entity making the appeal has the burden of proving that an error has been made.
11. The staff analysis of the appellant's claims is hereby adopted by the Board of Adjustment. The staff analysis indicates the appeal lacks factual evidence and is without legal merit, and the appellant has failed to meet its burden of proving that an error was made.
12. Wasatch County Code §16.02.09(J) allows the Board of Adjustment reverse, affirm, wholly or partly, or modify an order, requirement, decision or determination appeal from and to make such order, requirement, condition, decision or determination as ought to be made.
13. The Board of Adjustment hereby also accepts all of the Planning Commission findings included in their November 10, 2022 approval of the Star Harbour Estates plat amendment as relevant and justified.
14. The Board of Adjustment also adopts Sections 2(a), (b), (c), (d), (e), the last paragraph of (f), (g), (h), (i), (j), (k), (l), (m), and Section 3 of the January 12, 2023 letter of Wade Budge on behalf of Redus Park City LLC to the Wasatch County Board of Adjustments.

Merry Duggin

Wasatch County Board of Adjustment - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Board of Adjustment differ from findings of Staff, those will be noted in this Report of Action. Official action of the Board of Adjustment on this item is subject to the approved minutes.

Ent 505042 Bk 1368 Pg 1512-1514
Date: 04-AUG-2021 1:59:47PM
Fee: $40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: PACIFI CORP

Return to:
Rocky Mountain Power
Matt Janke / Agent
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name: Star Harbour Estates
WO#:
RW#:

RELEASE OF EASEMENT

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain easement described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

Legal Description: An easement shown as a 40' Wide UPL Easement across Lot 1, Lots 3-7, Lot B (including Note 4 of the plat, which states "Lot B is an easement for an existing overhead utility transmission line . . . ," which transmission line has been relocated), and Lot C of the Star Harbour Estates First Amended Subdivision located in the N1/2 of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, said Subdivision recorded as Entry 235915, Book 516, Pages 692-711, on August 14, 2001, in the Office of the Recorder of Wasatch County, Utah.

Assessor Parcel Nos. 00-0020-0815, 00-0020-0814, 00-0020-0780, 00-0020-0782, 00-0020-0783, 00-0020-0784, 00-0020-0785, 00-0020-0786

DATED this 14 day of July, 2021.

Rocky Mountain Power
an unincorporated division of PacifiCorp

By: Matthew Janke
Sr. Property Agent

REV101512

ACKNOWLEDGEMENT

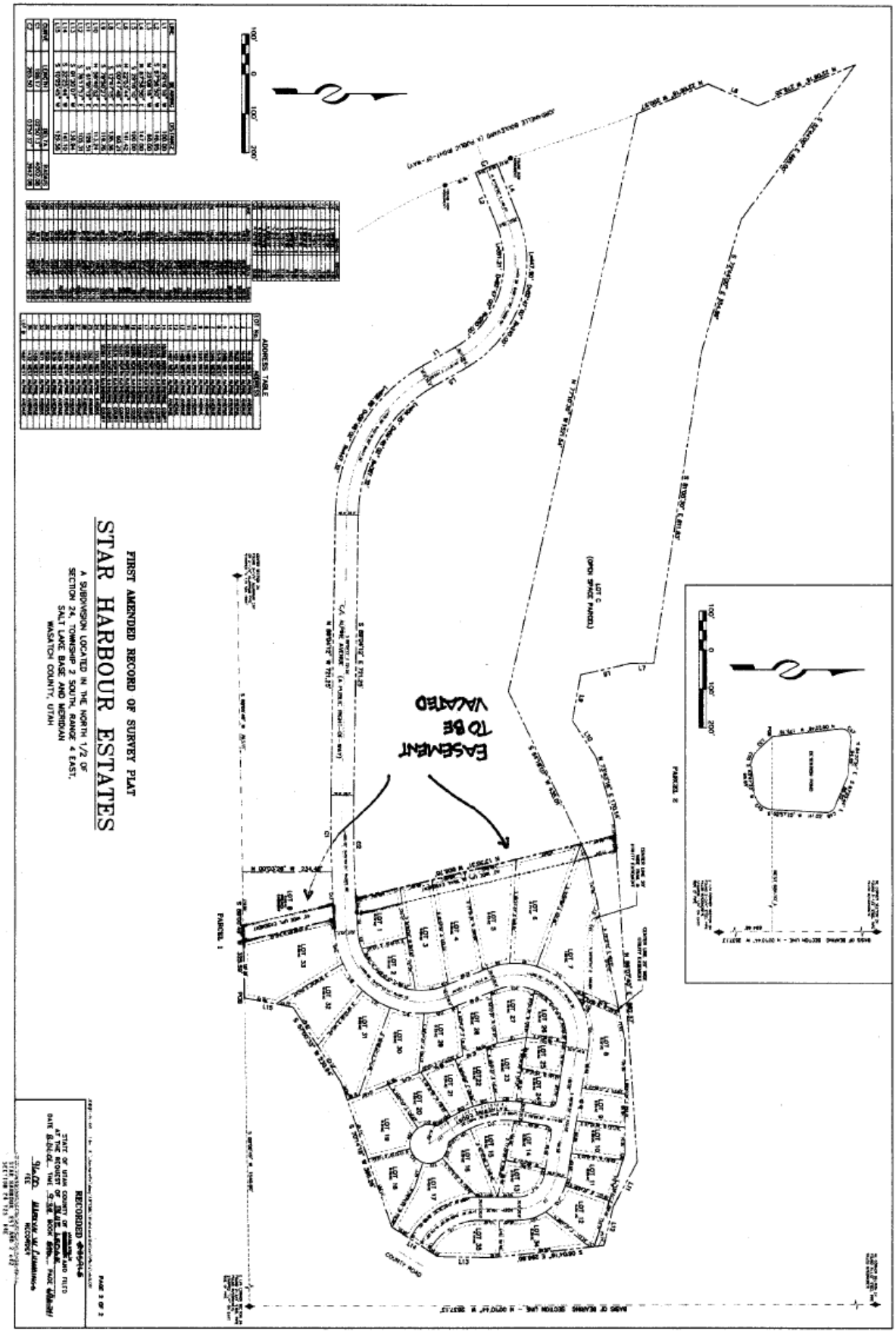
STATE OF UTAH)
:ss
COUNTY OF Salt Lake)

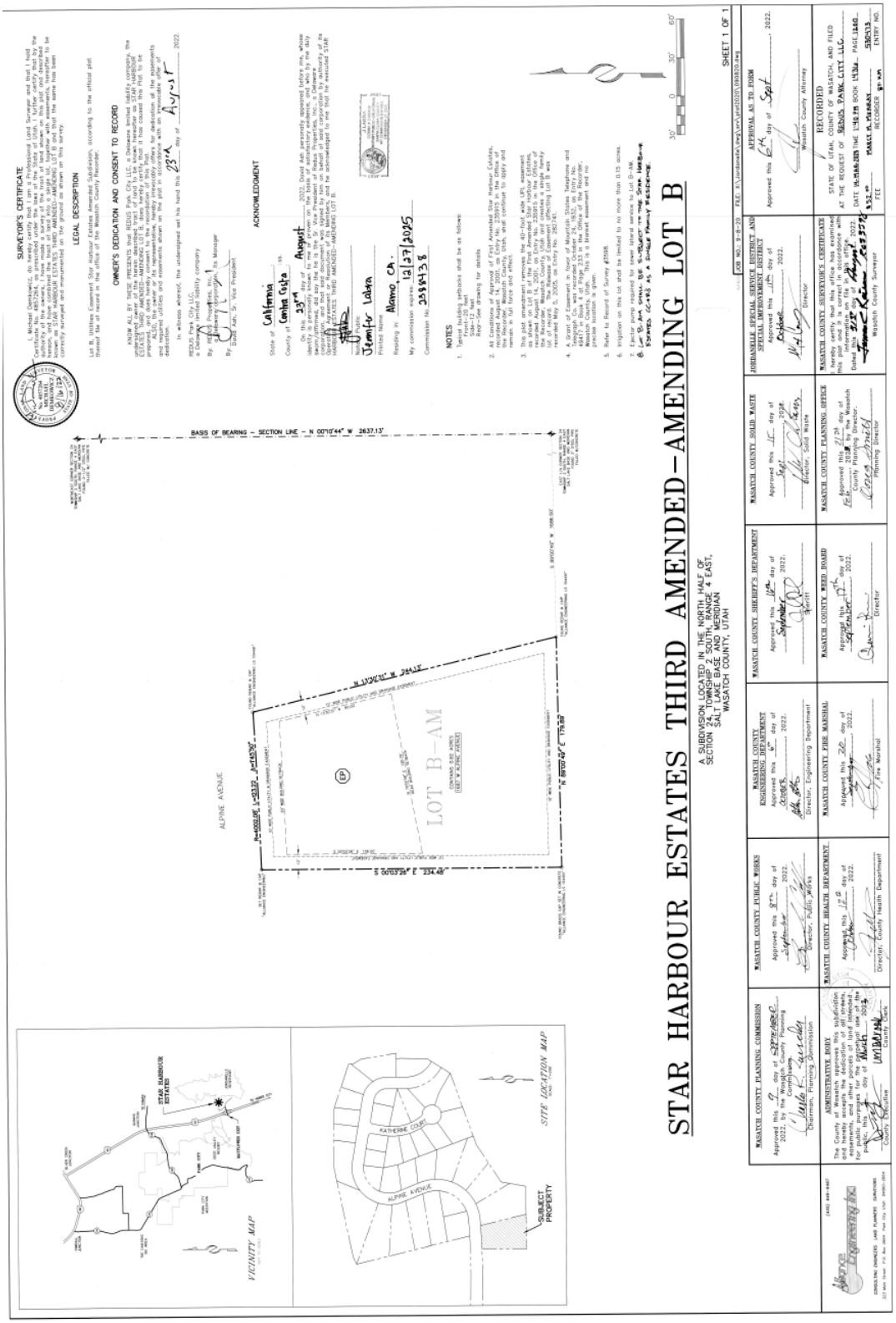
On the 14th day of July, 2021, personally appeared before me, Matthew Janke, who being duly sworn did say that he/she is the signer of the within instrument on behalf of Rocky Mountain Power, an unincorporated division of PacifiCorp, and that the within and foregoing instrument was signed by authority of said corporation and said Matthew Janke duly acknowledged to me that said corporation executed the same.

Notary Public

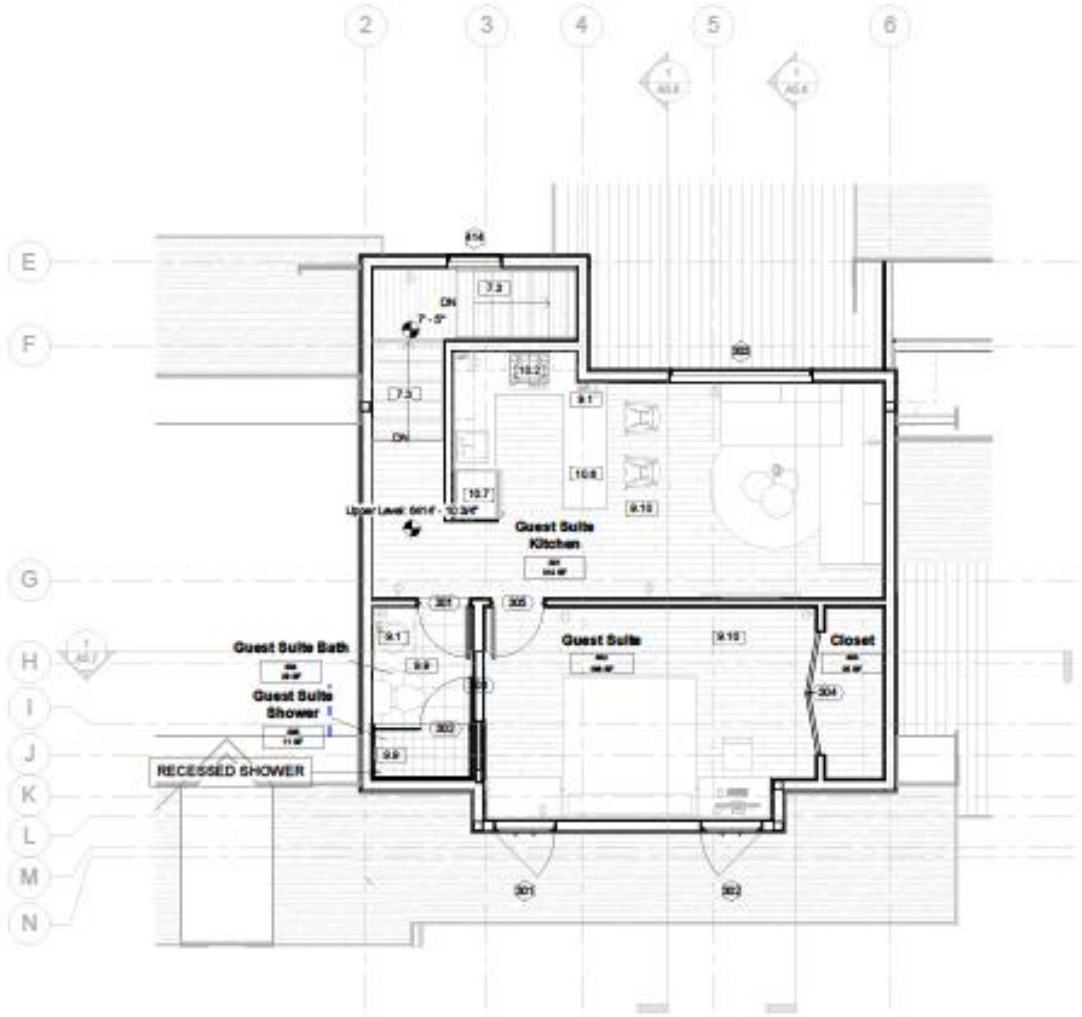
Notary Public - State of Utah
BRIAN A. YOUNG
Comm. #707854
My Commission Expires
August 20, 2023

Exhibit A


FIRST AMENDED RECORD OF SURVEY PLAT
STAR HARBOUR ESTATES
A SUBDIVISION LOCATED IN THE NORTH 1/2 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN WASATCH COUNTY, UTAH
EASEMENT TO BE VACATED
ADDRESS TABLE
PARCEL 1
PARCEL 2
LOT C (OPEN SPACE PARCEL)
COUNTY ROAD


STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B
A SUBDIVISION LOCATED IN THE NORTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN WASATCH COUNTY, UTAH
SHEET 1 OF 1
SURVEYOR'S CERTIFICATE
OWNER'S DEDICATION AND CONSENT TO RECORD
LEGAL DESCRIPTION
ACKNOWLEDGMENT
NOTES
BASIS OF BEARING – SECTION LINE – N 00°10'44" W 2637.13'
ALPINE AVENUE
LOT B-AM
VICINITY MAP
STAR LOCATION MAP
KATHERINE COURT
SUBJECT PROPERTY
WASATCH COUNTY PLANNING COMMISSION
WASATCH COUNTY PUBLIC WORKS
WASATCH COUNTY ENGINEERING DEPARTMENT
WASATCH COUNTY SHERIFF'S DEPARTMENT
WASATCH COUNTY SOLID WASTE
JORDANELLE SPECIAL SERVICE DISTRICT AND TIMBERLINE SERVICE AREA
WASATCH COUNTY SURVEYOR'S CERTIFICATE
WASATCH COUNTY PLANNING OFFICE
WASATCH COUNTY HEALTH DEPARTMENT
WASATCH COUNTY FIRE MARSHAL
WASATCH COUNTY ATTORNEY
WASATCH COUNTY RECORDER
ADMINISTRATIVE BODY
Jones Engineering Inc.

The first set of plans depicted a Guest Suite with a full kitchen, as seen below



A later revision shows that it was renamed to a Wetbar and the stove was taken out

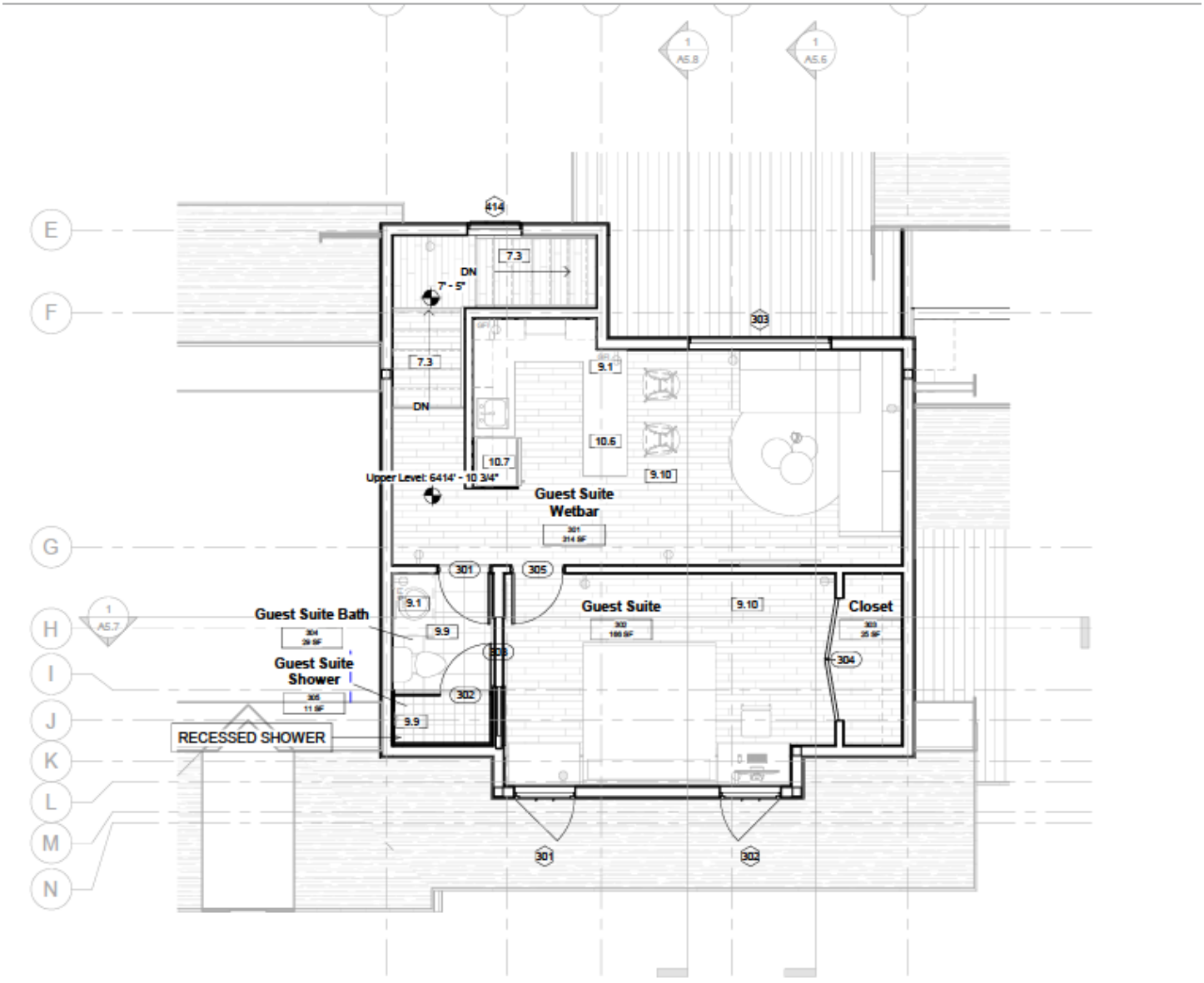


Exhibit L – Intersection of Fox Bay and Alpine Ave.

WASATCH COUNTY ATTORNEY

805 WEST 100 SOUTH
HEBER CITY, UTAH 84032
TELEPHONE (435) 654-2909
FACSIMILE (435) 654-2947

SCOTT H. SWEAT
COUNTY ATTORNEY
MCKAY G. KING
S. CASE WADE
JON WOODARD
MICHAEL A. SNELL
SHELBY M. THURGOOD
ALEX STOEDTER

November 19, 2025

Kit Kosakowski
krkphd@gmail.com

Dear Ms. Kit Kosakowski:

I am in receipt of your records request appeal dated October 24, 2025 requesting documents related to Lot B in Star Harbor.

Your appeal is granted. There are some documents that we cannot release

The building permit has been issued. Please find responsive documents sent via email. We have redacted documents that have personal information pursuant to Utah Code Ann. 63G-2-305(51).

Furthermore, the building permit application cannot be released in full, due to copyright laws and protections. Copyrighted materials, such as but not limited to building plans and engineering reports may be viewed at the Building Department offices. Pictures may not be taken. Copyrighted materials are not records subject to GRAMA. UCA 63G-2-103(25)(b). The County has previously provided the requestor access to visually inspect records requested.

Material legally owned by an individual is not a record. UCA 63G-2-103(25)(b).

The County is not required to compile, format, manipulate, package, summarize, or tailor a record, or provide the record in a format not maintained by the governmental entity. UCA 63G-2-201(7).

The County is not required to fulfill a request if it unreasonably duplicates prior requests. UCA 63G-2-201(7).

The County is not required to fulfill a request if it is accessible online. Online materials may be found at https://www.wasatchcounty.gov/.

You may have the right to appeal this response to the State Hearing officer. If you wish to appeal, please direct your appeal in writing to the State Hearing Officer at 346 S Rio Grande St Salt Lake City, UT 84101-1106. Your notice of appeal must be submitted within 30 days of the date of this response.

Sincerely,

Dustin Grabau
Wasatch County Manager

October 30, 2025

DELIVERED BY HAND TO WASATCH COUNTY PLANNING DEPARTMENT

Wasatch County Appeals Hearing Officer
25 N. Main Street
Heber City, UT 84032

RE: Wasatch County Code 2.02.02 Appeal of Wasatch County Building Department's Issuance of Building Permit No. 25-803 for Star Harbour – Lot B aka 1687 W. Alpine Ave., Heber City., Heber City, UT 84032

Dear Wasatch County Appeals Hearing Officer:

Section 2.02.02(B)(1) of the Wasatch County Code ("WCC") provides for the appeal of "building permit denials, approvals, or final administrative decisions applying the Land Use and Development Code or Building and Engineering Code…" Based on WCC 2.02.02(G)(2), it was our understanding that an appeal of a building permits was a two-step process with the appeal first being filed with the County Manager and then with the Wasatch County Appeals Hearing Officer. We appealed the issuance of Building Permit No. 25-803 for Star Harbour – Lot B aka 1687 W. Alpine Ave., Heber City., Heber City, UT 84032 to the County Manager, Dustin Grabau, by e-mail on October 29, 2025. We also visited his office on October 29, 2025 and again on October 30, 2025 in an effort to pay the $600.00 fee for that appeal.

On October 30, 2025, we were able to meet with Mr. Grabau in person. After speaking with the County Attorney, Scott Sweat, Mr. Grabau informed us that it was an appeal of a buldimg permit was not a two-step process, but a one-step process with the appeal to be filed directly with the Wasatch County Appeals Hearing Officer via the Wasatch County Building Department.

This correspondence constitutes our compliance Mr. Grabau's instructions. Our October 29, 2025 appeal to the County Manager (Enclosure 1) constitutes our appeal to the Wasatch County Appeals Hearing Officer. The enclosures we e-mailed to Mr. Grabau *et. al.* remain unchanged and are included in this submittal (Enclosure 2).

Enclosed please find a check in the amount of $2500.00 as specified by Mr. Grabau instead of the $1500.00 as required by Wasatch County Code (Enclosure 2).

As before, we reserve the right to modify this appeal when we are provided when we receive a copy of the Building Permit No. 25-803, including but not limited to all submittals made by the applicant and documents produced by the County in evaluating and ultimately issuing the permit.

Thank you in advance for your attention to this matter.

Sincerely,

Michael W. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
utahkos@gmail.com
202-255-4496

Kit R. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
krkphd@gmail.com
202-255-8131

cc: Dustin Grabau, County Manager (by e-mail only and w/o enclosures
Quinn Davis, Wasatch County Building Department (by e-mail only and w/o enclosures)
Scott Sweat, Wasatch County Attorney (by e-mail only and w/o enclosures)
Jon Woodard, Wasatch County Deputy Attorney (by e-mail only and w/o enclosures)
Austin Corry, Assistant Director, Wasatch County Planning Department (by e-mail only and w/o enclosures)

Enclosures

Enc 1

October 29, 2025

DELIVERED BY HAND (COVER LETTER ONLY) AND BY E-MAIL (COVER LETTER AND ENCLOSURES)

Mr. Dustin Grabau
Manager, Wasatch County
25 N. Main Street
Heber City, UT 84032

RE: Wasatch County Code Section 2.02.02 Appeal of Wasatch County Building Department's Issuance of Building Permit No. 25-803 for Star Harbour – Lot B aka 1687 W. Alpine Ave., Heber City, UT 84032

Dear Mr. Grabau:

Section 2.02.02(B)(1) of the Wasatch County Code ("WCC") provides for the appeal of "building permit denials, approvals, or final administrative decisions applying the Land Use and Development Code or Building and Engineering Code…" Section 2.02.02(G)(2) provides that appeals from administrative decisions applying the Building or Engineering Code must be filed with the office of the Wasatch County Manager prior to appealing to the Wasatch County Appeals Hearing Officer.

We are Kit and Michael Kosakowski, and we live at 1671 W. Alpine Ave., Heber City, UT 84032. Our home, which is on Lot 33, is next door to Lot B in Star Harbour Estates ("Star Harbour"). This correspondence constitutes our §2.02.02(G)(2) appeal to the County Manager of the Building Department's issuance of Building Permit No. 25-803 for Star Harbour – Lot B aka 1687 W. Alpine Ave., Heber City, UT 84032. A check for the appeal fee of $600.00 is attached.

WCC §16.01.06 entitled "Licenses to Conform" provides:

> All departments, officials and employees of Wasatch County that are vested with a duty or authority to issue permits and licenses shall do so in conformance with the provisions of this title. No permit or license for a use, building or purpose shall be issued where the same would be in conflict with the provisions of this title [Title 16]. A permit or license, if issued in conflict with the provisions of this title, shall be null and void.

We respectfully request that you find Building Permit No. 25-803 to be null and void because it conflicts with the provisions of Title 16 of the Wasatch County Code for the following reasons:

1. Lot B is not a buildable lot because its slope is equal to or greater than 30% (see WCC §16.27.9) and because a driveway cannot be located forty feet from the intersection of W. Alpine Ave and Fox Bay Drive (see WCC §16.33.11, §16.04.02, and §16.27.25). Unless certain variances have been obtained, which they have not, building permits may not be issued for non-buildable lots.

2. The Planning Commission conditioned its approval of Redus Park City, LLC's ("Redus") application to convert Lot B from an open space easement lot to a single-family residential

lot on it being demonstrated that Lot B was a buildable lot. Because that analysis was not performed, the conversion process is incomplete, and Lot B remains an open space easement lot. A building permit may not be issued for an open space easement lot.

3. On March 24, 2023 Redus presented and the Wasatch County Recorder accepted for recording a fatally-flawed amendment to the Lot B plat. In addition to the buildability analysis mandated by the Planning Commission not having been completed, the plat amendment, *inter alia,* cited a 2005 Pacific Corp release of easement, which had been rejected by the Planning Commission as referring to the utility easement on Lot B, instead of the 2021 Rocky Mountain Power quitclaim release of easement, which was accepted by the Planning Commission as the actual release of the utility easement on Lot B. This constituted a violation of the County's duty pursuant to Utah Code Ann. §17-27a-609 as well as a violation of WCC §16.02.06 entitled "Plat Amendments" which provides: Plat amendments shall be processed in accordance with the requirements of Utah Code Annotated.

In addition to our requesting that you find Building Permit No. 25-803 to be null and void, we also respectfully request that the County not entertain any application for another building permit for Lot B until the plat amendment process is undertaken and the County ensures that a correct Lot B plat is filed in conformance with Utah Code Ann. §17-27a-609.

Of course, **as per WCC §2.02.02(G)(10), this appeal stays all proceedings, including but not limited to the commencement of any construction on Lot B, until this an all other appeals described and provided for WCC §2.02.02(G)(10) are complete. Please ensure that the owner of Lot B, Julie Bruce, LLC, and the building permit applicant are aware of this.**

I. STATEMENT OF FACTS

In the early 2000's, Wasatch County approved proposals by Blue Ledge Corporation ("Blue Ledge") to develop three projects at the Route 40 Mayflower exit along what is now W. Alpine Ave. These three projects, originally known as Hailstone[1], were Star Harbour, Fox Bay Condominiums ("Fox Bay"), and Jordanelle Commerce Development Park ("Commerce Park") (Enclosure 1). Fox Bay, which was developed first, consists of approximately 130 condominium units housed within fifteen separate buildings on approximately eleven acres.

Blue Ledge did not develop the approximately 10-acre Commerce Park parcel. It ultimately came to be owned by Redus Park City, LLC ("Redus"), an agent of Wells Fargo, which sold it to S LO JORDANELLE FGMCD LLC, which is currently developing it as Keetley Ridge (single-family and townhomes) adjacent to Fox Bay and Keetley Square (commercial) on the other side of W. Alpine Ave.

Star Harbour exists on approximately thirty-five acres. Originally, it was composed of thirty-three residential lots -- thirty were single-family home lots and three, Lots 8, 9, and 10, were duplex lots – and non-residential Lots A, B, and C. Blue Ledge did not build any houses in Star Harbour but sold off individual lots to be developed by others. Currently, Star Harbour is a little more than 50% built out.

[1] Not to be confused with the existing Hailstone townhouse development also located at the Mayflower exit.

Lot A is approximate 0.91 acre, and it is located at the eastern end of W. Alpine Ave. Lot A was not a residential lot; it was to contain a detention pond. Lot B is approximately 0.82 acres, and it is located at the western end of Star Harbour on W. Alpine Ave. Lot B was not a residential lot; it was an open space easement lot. It lies directly across from Fox Bay Drive and serves as Fox Bay's snow repository during the winter months. Lot B also contains a double track dirt road that we and members of the public use as a recreational path. Lot C, which can only be accessed by foot from W. Alpine Ave but is accessible from the Jordanelle Parkway, is open space. Lot C is approximately 14.1 acres and some of it is occupied by Jordanelle Special Service District ("JSSD") facilities/equipment. While Lots A, B, and C are physically part of the Star Harbour Subdivision, the owners of Lots A, B, and C are not members of the HOA and have no voting rights.

On June 7, 2001, Blue Ledge recorded:

1. A Development Agreement between Blue Ledge and Wasatch County dated June 6, 2001[2] ("Development Agreement"). Exhibit C of the Development Agreement, Hailstone Development Trails Master Plan shows Lot B as Open Space (Enclosure 2).

2. A Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates[3] ("Original CC&Rs"). The Original CC&Rs contained a section 12.14 wherein Blue Ledge reserved to itself the right to re-locate the detention pond from Lot A and create additional single-family residential lots on Lot A and to convert Lot B into a single-family residential lot.[4] Rights so reserved by declarants are personal rights; they are not rights that run with the land. While personal rights may be transferred with the land, that transfer must be clear and unambiguous and should be recorded with the County as an Assignment of Developer or Declarant Rights. Moreover, rights that are reserved by a developer do not survive after a developer no longer has any interest in the development.

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[2] Entry 233949, Book 0506, Pg 0602-0654

[3] Entry No. 233951, Book 506, Pg 675-709

[4] Section 12.14 reads: "**Contemplated Amendment of the Plat and this Declaration**. Declarant hereby discloses that it is Declarant's intent, following the recording in the Office of the Recorder of Wasatch County, Utah of the Plat and this Declaration, to seek approval from the County to amend the Plat for the purpose of converting Lot A from a water quality/detention pond parcel to one or more single family residential lots and also to convert Lot B from a utility easement parcel to a single family residential lot. The conversion of Lot A to one or more single family residential lots shall be conditioned upon Declarant arranging for the Association to be granted a perpetual easement over and across an alternate site that shall satisfy the requirements of the County with respect to the detention pond for surface water run off that is presently contemplated for Lot A. The conversion of Lot B to single family residential use shall be conditioned upon Declarant arranging to relocate to another location satisfactory to the County the overhead power lines which presently exist on Lot B. All of the Owners of all of the Lots within the Subdivision, by acquiring title to any Lot within the Subdivision, shall be deemed to have consented to one or more amendments to this Declaration and to the Plat in order to convert Lot A into one or more single family residential lots within the Subdivision and to convert Lot B into a single family residential lot within the Subdivision. By acquiring title to any of the Lots within the Subdivision, the Owner of the Lot shall be deemed to have agreed to execute, acknowledge and deliver such written consent and approval documents as Declarant may reasonably request in order to evidence the consent of the Owner of each Lot within the Subdivision to the amendment of the Plat and the amendment of this Declaration in order to evidence the conversion of the uses of Lot A and Lot B as set forth in this Section 12.14, provided that the County grants all necessary consents and approvals to any such amendment."

(See Utah Code Ann. 57-8a-104 and *Todd Hollow v. Homes at Deer Mountain*, 2015 U.T. App 190, 357 P.3d 580.)

3. A subdivision plat for Star Harbour entitled "Record of Survey Plat – Star Harbour Estates"[5] ("Original Subdivision Plat") (Enclosure 3). This plat shows a forty-foot wide UPL easement running along the eastern border of Lot B and behind Lots 1,2,4,5, and 6, and into the corner of Lot 7. A trail easement of unspecified width also runs behind Lots 1,2,4,5, and 6, and into the corner of Lot 7.

This plat also includes a Note 4 which reads:

> Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the overhead utility transmission line is relocated to another location, then 'Lot B' may become a single-family lot, subject to review and approval by Wasatch County.

The UPL easement and the trail easement are easements by plat only; they were not otherwise recorded with Wasatch County.

In the middle of August 2001, Blue Ledge availed itself of its reserved right to move the detention pond to its present location near the JSSD water treatment plant and created Lots 34 and 35 on Lot A. Accordingly, it and the newly-formed Star Harbour HOA filed An Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates on August 8, 2001 by Blue Ledge[6] ("First Amended CC&Rs") (Enclosure 4) and a First Amended Record of Survey Plat -- Star Harbour Estates on August 14, 2001[7] ("First Amended Subdivision Plat") (Enclosure 5).

Section 12.14 remained unchanged in the First Amended CC&Rs.

The UPL easement, the trail easement, and Note 4 remained unchanged on the First Amended Subdivision Plat.

Blue Ledge never availed itself of its reserved right to seek conversion of Lot B to a single-family residential lot.

In 2005, Blue Ledge transferred several parcels of land to United Park City Mines ("UPCM") (Enclosure 6). Among these parcels were several Star Harbour lots, including Lot B, Lot C, the detention pond lot, and a sliver of land adjacent to Lot 35. Because this transfer was "subject to easements, covenants, conditions, restrictions and reservations of record", UPCM did not succeed to the right to seek conversion of Lot B as set forth in section 12.14 of the CC&Rs.

Blue Ledge was last registered with the Utah Department of Commerce in 2007 (Enclosure 7).

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[5] Entry No. 233950, Book 0506, Page 0655-0674
[6] Entry No. 236098, Book 517, Page 422-458
[7] Entry No. 235915, Book 516, Page 692-711

In late 2007, the then owners of the duplex lots, Lots 8, 9, and 10, asked the Star Harbour HOA to allow them to withdraw from the HOA and form a new condominium HOA, which would be subject to the Star Harbour HOA, so that they could sell each side of a duplex to separate parties. When the HOA amended its CC&Rs in 2008 to accommodate the requests of the owners of Lots 8, 9, and 10, it also removed section 12.14 from the CC&Rs (Enclosure 8), i.e., Blue Ledge's reservation of right to convert Lot B into a single-family home lot[8] ("Second Amended CC&Rs"). It did this after consultation with former Blue Ledge representatives and because Blue Ledge said it didn't need the right anymore.

The Second Amended CC&Rs included two references to a Second Amended Subdivision plat – Recitation #5 on page 1 and section 1.24 on page 4.

a. Recitation #5 reads: "Together with this Second Amended Declaration, Declarant has caused to be recorded a Second Amended Record of Survey Plat of Star Harbour Estates, which pertains to and affects that certain real property located in Wasatch County, Utah that is more particularly described in "Exhibit "A" attached hereto and incorporated herein by this reference."

b. Section 1.24 reads: ""Plat" shall mean and refer to the Second Amended Record of Survey Plat for Star Harbour Estates recorded in the official records of the County and all amendments and supplements thereto."

Presumably, the reason for filing a Second Amended Subdivision Plat was to remove Note 4, the companion to section 12.14, but there is no record any such plat having been created or recorded with Wasatch County.

A "Record of Condominium Map, First Amended Lot 10, First Amended Star Harbour Estates, Alpine Condominiums of Jordanelle" was recorded October 13, 2010 by Shaner Design Inc. on behalf of the owners of duplex Lot 10, Steve Tourkin, Heather Tourkin and Mark Gross[9] ("Lot 10 Plat Amendment"). A Declaration of Condominium for Alpine Condominiums of Jordanelle was filed the same day[10] ("Alpine Condo CC&Rs). Unfortunately, the owners of Lot 10 left out Lots 8 and 9 when they created the subservient condominium HOA. This led to a lawsuit in 2018 against the Star Harbour HOA and two members of the Star Harbour Board by Jeff and Chelsey Harding who purchased Lots 8 and 9 in 2015 ("Harding Lawsuit"). (NOTE: This lawsuit, which alleged mistakes in Star Harbour's governing documents and sought reformation of these documents, is irrelevant to the matter at hand except that as described below, Redus's efforts to have the HOA vote to amend its CC&Rs to accept Lot B into the HOA coincided with the HOA's efforts to implement the Harding Lawsuit Settlement Agreement, signed in September 2022, which, *inter alia,* required the preparation of a Second Amended Subdivision Plat and which to date, has not been prepared.)

At some point, Talisker Developments Inc., or other Talisker-related corporate entities ("Talisker") obtained some portion of the assets and holdings of UPCM. Talisker ran into

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[8] Entry No. 341641, Book 976, Page 1560-1592
[9] Entry No. 363463, Book No. 1023, Pg 639-668
[10] Entry No. 363464, Book No., 1023, Pg 669-716

financial difficulties and in 2015, the Third District Court awarded $159M to Wells Fargo and other Talisker debt-holders.

On August 30, 2217, Gary and Elvia Hennings recorded an amendment to Lot 34 entitled "Star Harbour Estates First Amended – Amending Lot 34"[11] ("Lot 34 Plat Amendment").

On November 16, 2017, UPCM quitclaimed its interests in many properties along Old Keetley Road to Redus (Enclosure 9).[12] This resulted in Redus in becoming interested in some Star Harbour properties.

On November 4, 2019, the Fourth District Court ordered the sale of Lot B, and Redus purchased Lot B at a Sheriff's sale on March 19, 2020 for $125,000 (Enclosure 10).

On January 15, 2020, Redus, identifying itself as the successor-in-interest to UPCM and stating that UPCM never had any interest in the property it quitclaimed on November 16, 2017, quitclaimed any interest in Lot 34 to the Gary and Elvia Hennings Family Trust, the current owners of Lot 34 (Enclosure 11).[13]

On June 15, 2020, Redus, identifying itself as the successor-in-interest to UPCM and stating that UPCM never had any interest in the property it quitclaimed on November 16, 2017, quitclaimed any interest in Lot 35 to the Robert and Pamela Buie Trust (Enclosure 12.)[14]

Redus first applied to convert Lot B into a single-family residential lot sometime thereafter the Sheriff's sale on March 19, 2020. Redus/Wells Fargo did not inform the HOA of its intent.

The Planning Commission held the first of three public hearings on Lot B on July 8, 2021. We provided written comments and attended the hearing (Enclosure 13). The Planning Commission continued the hearing until August 12, 2021 because it determined the 2005 Pacificorp release of the easement proffered by Redus was not the 40-foot-wide Lot B UPL easement depicted on the Original and First Amended Subdivision Plats (Enclosure 14).

We submitted written comments and testified at the August 12, 2021 meeting (Enclosure 15). At this meeting, Redus/Wells Fargo submitted a new release from Rocky Mountain Power dated July 4, 2021 and filed with the County on August 4, 2021[15] (Enclosure 16). The Planning Commission accepted the Rocky Mountain Power release and approved Redus's request with several conditions, including Condition #1, which reads:

> The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.

and Condition #5, which reads:

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[11] Entry No. 442155, Book No. 1199, Page 1857
[12] Entry No. 447604, Book No. 1213, Pg 290-292
[13] Entry No. 479402, Book No. 1297, Pg 528-530
[14] Entry No. 479403, Book 1297, Pg 531-533
[15] Entry No. 505042, Book 1368, Pg 1512-1514

The approval is subject to review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes.

Condition #5 was added as a result of our comments concerning the buildability of Lot B as it relates to slope and driveway location issues. These comments remain pertinent as Condition #5 was never fulfilled and the buildability of Lot B affects its eligibility for a building permit.

Redus failed to fulfill Condition #1, i.e., it did not record the Lot B plat within one year, which precipitated a third Planning Commission hearing on November 10, 2022. Again, we submitted written comments and testified at that meeting (Enclosure 17), and again, the Planning Commission approved Redus's application (Enclosure 18).

The Staff Report issued by the Planning Department on November 2, 2022 stated, "All of the conditions of approval were satisfied by the applicant, including…verification of constructability of a driveway through the engineering department." However, the Staff Report presented no analysis or other document prepared by either the Design Review Committee or the Engineering Department that demonstrated that Lot B is a buildable lot from either the perspective of slope or driveway placement. It simply presents a one-line entry in tabular form, which reads "Engineering Department – Ready for Decision".

On November 14, 2022, Kit Kosakowski requested a copy of the Design Review Committee/Engineering Department buildability analysis from the Planning Department. The November 15, 2022 reply e-mail did not provide any such analysis (Enclosure 19). To be on the safe side, Ms. Kosakowski also submitted a GRAMA request for the same document. On the same day, the Planning Department responded to the GRAMA request by providing a copy of the document that Ms. Kosakowski already had and had submitted as part of her GRAMA request, i.e., the November 12, 2022 Staff Report (Enclosure 20).

We could only conclude that no analyses or documentation as to the buildability of Lot B, as required by Condition #5, had been prepared and that none of the data that we presented at the August 12, 2021 meeting had been refuted or disproven by the Design Review Committee or the Engineering Department. That being the case, we appealed that portion of the Planning Commission November 10, 2025 decision applying the Wasatch County Engineering and Building Code to the Wasatch County Manager on November 18, 2022 in accordance with Wasatch County Code §2.02.02(G)(5)(c) (Enclosure 21). The County Manager tried to "plug this hole" by commissioning Ardurra to perform a buildability analyses (Enclosure 22).

On December 8, 2022, we also appealed the entirety of the November 10, 2022 decision to the Wasatch County Board of Adjustment ("BOA"). At its hearing on February 16, 2023, the BOA upheld the Planning Commission's November 10, 2022 decision. However, **the BOA disallowed the Ardurra January 23, 2023 report and other documents prepared after the administrative record closed, and it declined to address either buildability issue, stating those issues would be addressed during the building permit application process.**

Redus recorded a plat amendment to Lot B entitled "Star Harbour Estates Third Amended Amending Lot B" March 14, 2023[16] ("Lot B Plat Amendment"). **As documented below, this plat does not reflect the decision-making of the Planning Commission and it includes many mistakes.**

In an attempt to partially fulfill the Harding Lawsuit Settlement Agreement, the HOA recorded a "First Amendment to the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates & Bylaws of Star Harbour Estates Homeowners Association, Inc." on December 13, 2023[17] ("First Amendment to Second Amended CC&Rs") (Enclosure 24). Basically, this amendment re-admitted Lots 8 and 9 into the Star Harbour HOA and clarified voting rights between Lots 8 and 9 and the Alpine Condo HOA.

In an attempt to partially fulfill the Harding Lawsuit Settlement Agreement, Jeff Harding and Chelsey Anderson applied to convert Lots 8 and 9 from duplex lots to single-family lots. On October 12, 2023, the Planning Commission approved their application. The Hardings filed an amendment to Lots 8 and 9 entitled "Star Harbour Estates First Amended Amending Lots 8 and 9" on January 24, 2024[18] ("Lots 8 and 9 Plat Amendment") (Enclosure 25).

An Affidavit of Correction Related to the First Amendment to the Second Amended CC&Rs & Bylaws of Star Harbour Estates Homeowners Association, Inc. was filed February 8, 2024 by the HOA[19] (hereinafter, "Corrective Affidavit").

On March 5, 2024 and in accordance with WCC§2.02.22(D)(2), Kit Kosakowski filed a Request for Final Decision with the County Recorder. Ms. Kosakowski requested that the County Recorder take whatever steps were available to her to correct the mistakes in the Lot B plat (Enclosure 26).

Wade Budge of Snell and Wilmer, attorney for Redus, recorded a Second Amendment to the Second Amended CC&Rs & Bylaws of Star Harbour Estates Homeowners Association, Inc. on March 21, 2024[20] ("Second Amendment to Second Amended CC&Rs") (Enclosure 27).

As the County Recorder did not respond to Ms. Kosakowski within seven days of receiving her request, she filed an appeal with the Recorder's Review Board on March 27, 2024 via the County Manager (Enclosure 28).

By correspondence dated March 29, 2013 [2024], the County Manager refused to hear the appeal because the statutory requirements to hear such matters, i.e, Ordinance 23-11 enacted in fulfillment of HB351 (2023), did not exist at the time the Lot B plat was filed on March 14, 2023 (Enclosure 29). The County Manager did not respond to those obligations of the County that did exist on March 14, 2023. That is, the correspondence dated March 29, 2013 [2024] did not address the obligations imposed on the County by Utah Code Ann. §17-27a-609, which requires

[16] Entry No. 530473, Book No. 1436, Page 1200
[17] Entry No. 539780, Book 1461, Pg 310-318
[18] Entry No. 541131, Book No. 1464, Page 1076
[19] Entry No. 541635, Book 1465 Pg 1767-1774
[20] Entry No. 543209, Book 1469, Pg 976-980

land use authority to ensure that amended plats be recorded in the office of the county recorder in which the land is located, or Utah Code Ann. §57-3-106, which prohibits persons from presenting and authorizes the Recorder to refuse to accept a document that is not sufficiently legible to make certified copies of the document.

On April 1, 2024, Redus sold Lot B to Julie Bruce, LLC (Enclosure 30).

In conjunction with the annual HOA meeting in April 2025 and as a result of another owner's inquiry, the Kosakowski's learned that Julie Bruce, LLC had submitted house plans for review to the Star Harbour Architecture Committee.

On April 29, 2025, Kit Kosakowski e-mailed Quinn Davis, asking about the County's mechanism for noticing building permits. He replied that no notification mechanism for building permits existed (Enclosure 31).

Throughout the summer, Mike Kosakowski periodically stopped by or phoned the Building Department offices to find out if an application for a building permit had been filed for Lot B. In mid-September, he learned that "yes", a building permit application had been submitted around September 15, 2025.

On October 6, we submitted comments to the Building Department regarding the Lot B building permit application (Enclosure 32).

Because reviewing an unseen document is difficult, Kit Kosakowski filed a GRAMA request for the Lot B permit application on October 13, 2025 (Enclosure 33).

On October 22, 2025, Ms. Kosakowski received a letter from Frank Wilkerson stating that there were no responsive records because the permit had not yet been issued (Enclosure 34). (NOTE: Ms. Kosakowski did not ask for the permit; she asked for the permit application. While the County may have been able to deny documents prepared by the County in response to the Lot B permit application on the basis of their being pre-decisional, it should not have denied access to the permit application. By doing so, it has interfered with and hampered our ability to comment on that permit application and appeal the decision to issue the permit.)

Mr. Kosakowski continued phoning and in mid-October, Ms. Kosakowski began e-mailing the Building Department asking if a permit had been issued. On October 23, 2025, the Building Department informed us by e-mail that a building permit for Lot B was issued that day (Enclosure 35).

On October 24, 2025, the Kosakowski's visited the Building Department and asked to see the Lot B permit application, the permit itself and associated documentation. We were only allowed to look at the cover sheet of the permit and the permit application on the employee's computer screen with the employee scrolling through the pages. While we were able to get a rough idea of the looks of the proposed house as well as its placement on the lot and the location of the driveway, we didn't see any documentation that demonstrated that the Engineering or Building Department had determined that Lot B is a buildable lot as required by Condition #5 of the Planning Commission's approval and as committed to by the BOA. That being the case, we submitted a second GRAMA request to Mr. Wilkerson on October 24, 2025 requesting all documentation related to the permit application and the issuance of the permit.

II. FIRST BASIS FOR APPEAL-LOT B IS NOT A BUILDABLE LOT

All three of our comment letters to the Planning Commission as well as our appeals to the County Manager and BOA included our objections to the conversion of Lot B to a single-family residential lot on the basis of its not being a buildable lot because (1) the slope of Lot B equals or exceeds 30% and (2) because it is not possible to locate a driveway to comply with the requirements of WCC §16.33.11.

A. Lot B is not a buildable lot because the slope of Lot B equals or exceeds 30%.

WCC §16.27.9 reads: "Slopes over thirty percent (30%) are not considered buildable. Lots must have a minimum of five thousand (5,000) square feet of contiguous area under thirty percent (30%) natural slope excluding slope irregularities as defined in 16.04. Any lot with a slope over 30% shall include building envelopes or constrained areas on the final plat."

We have measured the inclination at several locations on Lot B; it ranged from 20 degrees to 35 degrees, which is a slope of 34% to 57%. The Alpine Avenue frontage is uniformly and especially steep; it is in the 57% range. Also, a back-of-the-envelope calculation based on Redus's 2020 survey results in a "rise over run" of 72 feet over 240 feet along the Fox Bay property line to yield a slope of 30%. Thus, as per WCC §16.27.9, Lot B is not a buildable lot.

WCC §16.04.02 defines BUILDABLE ENVELOPE: A three-dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty percent (30%) slope or less.

The building envelope shown on the Redus Lot B plat is located nearest Alpine Ave, which is the steepest part of Lot B – something on the order of 57% by our calculation. Nothing on the Lot B plat shows a building envelope of 5000 square feet on a slope of less than 30%.

WCC §16.27.25 which addresses physical constraints analyses reinforces this. It states: "Wasatch County will not allow building or development on constrained lands…(A)The project will not consist of any building envelopes on natural or manmade slopes over thirty percent (30%) grade; Natural slopes over twenty-five percent (25%) shall include special studies which verify stability; each lot shall have a contiguous, generally rectangular building area that is a minimum of five thousand (5,000) square feet at less than thirty percent (30%) slope."

As a frame of reference, on August 19, 2025, SK Hart presented a proposal to build a condominium project on a 4-acre site also located on Alpine Ave less than 700 feet to the east of Lot B (Enc 2). SK Hart has proposed that slopes greater than 25% be open space and that no structures be located on portions of the property with slopes greater than 25%.

Under the heading "Environmental Constraints Analysis", the Planning Department Staff Report stated with regard to the SK Hart proposal:

> Wasatch County Code 16.27.25 requires an environmental constraints analysis to be submitted with any master plan application which outlines the potential constraints on development activity. The documentation provided by the developer asserts that the only environmental constraint on the subject property are portions of slope exceeding 30%. These areas of steep slope are located in the proposed open space area of the development. There is a portion of slopes between 25% and 30% located in the RMD land use but there are no proposed structures in this area.

And under the heading, "Geotechnical Review", the Planning Department Staff Report stated with regard to the SJ Hart proposal:

> The applicant has provided a geotechnical report that has been reviewed by the county review engineer and determined that the soil's stability is generally acceptable. The report and plans have identified areas of 25-30% slopes and slopes over 30%. The proposed buildings are not located on any areas with slopes over 25%.

We have walked the trails along the southern edge of Alpine Ave many times. The topography of the portion of the SK Hart property designated as open space is no different than the topography on Lot B. It's hard to understand how Wasatch County can apply different criteria to Lot B than it is applying to the SK Hart property, only a few hundred feet distant.

B. Lot B is not a buildable lot because it is not possible to locate a driveway to comply with the requirements of WCC §16.33.11.

WCC §16.33.11 requires driveways to be located a minimum of 40 feet from an intersection and ten feet from a lot line. Utah Code §41-6a-102(28)(a) defines "Intersection" as "the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another…" In many jurisdictions, the intersection of two roads is deemed to begin where the double yellow lines cease, i.e., where drivers may legally begin to turn. Driveways for double car garages should be a minimum of 20 feet wide and more comfortably 24 feet wide.

Lot B lies directly opposite Fox Bay Drive. From what we could see of the plan for the Lot B house when we viewed it on October 24, 2025, the driveway is to be located 12 feet from our lot line and is to be 20 feet wide, 16 feet paved with two feet of gravel of each side. It appears to be located equidistant from the crosswalk and the termination of the sidewalk.

The distance between our lot line and the cross walk, which is also the distance between our lot line and the end of the double yellow line, is 42 feet and the distance to the curb is 63 feet. A 20-foot driveway, 12 feet off our lot line puts the Lot B driveway within 10 feet of the crosswalk and 31 feet of the curb, which marks the beginning of the intersection. Thus, it is not possible to locate a driveway on without violating Wasatch County Code §16.33.11, i.e., it is not possible to locate a driveway 40 feet from the intersection of Alpine Ave and Fox Bay Drive.

Adding a new driveway at the Lot B location will increase risks for pedestrians in the crosswalk and for us when exiting onto Alpine Ave. We already face hazards from vehicles speeding out of Fox Bay Drive, and a neighboring driveway obscured by trees and vegetation would worsen this blind spot.

It should also be noted that a Lot B driveway has the potential to interfere with the storm drain on Alpine Avenue and that Fox Bay will lose its snow repository.

III. SECOND BASIS FOR APPEAL-BUILDABILTY ANALYSIS WAS NOT COMPLETED

The Planning Commission conditioned its approval of Redus's application to convert Lot B to a single-family residential lot on "review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes." As detailed above, the Engineering Department never completed this analysis. Beyond identifying a building envelop on Lot B, the Ardurra report commissioned by your office after the fact and dated January 23, 2023 does not demonstrate that the slope or driveway placement issues had been resolved. It merely showed an impossibly-steep driveway that would not have been allowed under Star Harbour governing documents and gave the addresses of other properties in Wasatch County that are in violation of the 40-foot from an intersection rule.

Moreover, the BOA rejected the Ardurra report, stating the buildability issues would be addressed during the building permit application process. Of course, the BOA has no authority to do this. The BOA is a reviewing body; it is not a decision-making body. It does not have the right to pre-empt the decision making of the Planning Commission. It does not have the right to shift land use decision-making authority, i.e., the conversion of Lot B from an open space lot to a single-family residential lot, from the Planning Commission to the Building Department.

Even if the BOA could "kick the can down the road" and shift the timing of the buildability analysis to the building permit process and thereby shift the Lot B conversion land use decision from the Planning Commission to the Building Department, the buildability analysis still has not been performed. When we viewed the Lot B permit application on the Building Department employee's computer screen on October 24, 2025, we specifically asked if a physical constraints, environmental constraints, or geotechnical study had been performed. She responded that no soils study was done, and we saw nothing in the 83-pages that she scrolled through which looked like any report that addressed the buildability issues.

IV. THIRD BASIS FOR APPEAL-THE LOT B PLAT IS FATALLY FLAWED

Utah Code Ann. §17-27a-609 of the Utah County Land Use Development and Management Act obligates county land use authorities – in this case, the Planning Commission – to ensure that amended plats are recorded in the office of the county recorder.

In discussing the equivalent provision in the Utah Municipal Development and Management Act (Utah Code Ann. §10-9a-609), the Utah Property Right Ombudsman wrote in Advisory Opinion 50:

> There are multiple reasons behind placing the obligation on the City to ensure that a plat is recorded. A properly recorded plat gives notice of its contents to all, including

> subsequent purchasers…Although it may not be the City's responsibility to actually record the document, the statute clearly imposes a duty to ensure recording on the City…The City should not grant subsequent approvals of building permits until the document has been properly recorded…As soon as the City was aware that there was a problem , and that the plat was unrecorded, the City should have stopped development on both subdivisions until the issue could be resolved, and the correct plats recorded.

Although Advisory Opinion 50 dealt with an unrecorded plat, the rationale is equally applicable to a recorded plat that contains mistakes and does not accurately reflect the decision made by the land use authority.

As outlined below, the Lot B plat recorded by Redus contains multiple errors, and it is not in accordance with the decision made by the Planning Commission. That being the case, the County should not grant any further approvals, including a building permit, until an accurate Lot B plat has been recorded.

a. Note 3 in the Lot B Plat Amendment refers to a release of easement that the Planning Commission rejected as being the easement referred to on the Lot B Plat Amendment.

Note 3 of the Lot B Plat Amendment states, *inter alia*, "The release of easement affecting Lot B was recorded May 5, 2005, as Entry No. 282741."

At its July 8, 2001 meeting, the Planning Commission determined that the 2005 release of easement proffered by Redus and cited in Note 3 did not refer to the 40-foot-wide utility easement on Lots B,1,2,3,4,5,6,7.

Between the July 8, 2021, and the August 12, 2021, Planning Commission meetings, Redus obtained a quitclaim release of easement from Rocky Mountain Power. This release is dated July 14, 2025, and it was filed with the County Recorder on August 4, 2021. The Planning Commission accepted this 2021 quitclaim release as adequate evidence that the 40-foot-wide utility easement had been released.

That being the case, Note 3 on the Lot B is incorrect. Note 3 should read: "The release of easement affecting Lot B was recorded August 4, 2021, as Entry No. 505042."

b. Illegible Conditions were penciled in on the Lot B Plat.

A Condition No. 8 was penciled onto the Lot B plat. It reads: "Lot B AM(?) shall be subject to the Star Harbour Estates CC&Rs as a single family residence."

Utah Code Ann. §57-3-106 prohibits persons from presenting and authorizes the Recorder to refuse to accept a document that is not sufficiently legible to make certified copies of the document. Also, WCC §16.27.12 states: "Details and the workmanship on finished drawings shall be neat, clean-cut and readable. A poorly drawn or illegible plat is sufficient cause for rejection."

Part of Note 8 is illegible. Moreover, Note 8 is not printed as is the rest of the plat (excepting signatures, of course). Instead, it is penciled in, by hand, and there is no indication as to who penciled it in, when it was penciled in (before or after the signatures were affixed?), or why it was penciled in. Therefore, Note 8 is invalid on its face. Its presence renders the Lot B plat suspect on its face.

c. Most County officials signed the Lot B plat before it was approved by the Planning Commission on November 10, 2022.

Except for Doug Smith, Director, Planning Department, Dustin Grabau, County Executive, and M.F. Crook signing on behalf of the County Clerk, all County officials, including Charles Zeurcher, Chair of the Planning Commission, affixed their signatures to the Lot B plat one to almost three months prior to the Planning Commission's making its decision to approve the Lot B plat on November 10, 2022.

This is highly irregular and is a violation of WCC §16.01.16(G). Redus did not file a Lot B plat by August 12, 2022, one year after the August 12, 2021 Planning Commission meeting, and as per WCC §16.01.16(G), all prior approvals had expired. Those signatures are invalid; county officials should only have signed the Lot B plat after November 10, 2022.

e. Lot B Plat is incorrectly named.

The Original Subdivision Plat is entitled "Record of Survey Plat – Star Harbour Estates". This is a plat of the entire subdivision.

The First Amended Subdivision Plat is entitled "First Amended Record of Survey Plat -- Star Harbour Estates". This a plat of the entire subdivision.

The Lot 10 Plat is entitled "Record of Condominium Plat – First Amended Lot 10, First Amended Star Harbour Estates".

The Lot 34 Plat is entitled "Star Harbour Estates First Amended – Amending Lot 34".

On October 12, 2023, the Planning Commission approved an application to amend the plat for Lots 8 and 9 in Star Harbour. The Recorder rejected the Hardings' attempt to name the Lots 8 and 9 Plat Amendment as if it were a second amended plat, which they proposed to make it seem as if an amendment to Lots 8 and 9 equated to a Second Amended Subdivision as called for by the Settlement Agreement. The comment from the Recorder's Office was as follows:

> COA: Before printing the final mylar. Please have the title of the plat say
> STAR HARBOUR ESTATES FIRST AMENDED
> AMENDING LOTS 8 & 9.
> This should be on top of the plat and also on the right side of the plat right above the Recorder's stamp. Thanks.

The Lots 8 and 9 Amended Plat is entitled "Star Harbour Estates First Amended – Amending Lots 8 and 9".

The Lot B Plat amendment is entitled "Star Harbour Estates Third Amended – Amending Lot B".

The name of amended plat for Lot B cannot cite to a "Star Harbour Estates Third Amended" plat because no such amended subdivision plat exists. A Second Amended Subdivision Plat does not

exist, let alone a Third Amended Subdivision Plat. Based on the names the Recorder has historically assigned to all of other lot plat amendments in Star Harbour, she should have stipulated that the Lot B Plat Amendment be named: "Star Harbour Estates First Amended -- Amending Lot B".

c. Lot B plat is missing a signature block.

WCC §16.27.12(L) requires that a plat include a form of certification for a certain list of individuals and County officials. The Wasatch County Water Board is among the list of County officials who must sign off on plats (WCC §16.27.12(L)(13)). Although there is a signature block for the Jordanelle Special Service District, there is no signature block for the Wasatch County Water Board on the Lot B plat.

The responsibility imposed on the County by Utah Code Ann. §17-27a-609, in the case the Planning Commission, to ensure that plats are recorded must necessarily include the responsibility to ensure that the plats which are recorded are correct and faithfully reflect the County's decision-making. That is clearly not the case with the Lot B Plat Amendment, and the County should suspend all further decision-making with regard to Lot B, including issuing a Building Permit until the Lot B Plat Amendment has been corrected. Since the problems with the Lot B Plat Amendment are more serious than mere Scrivener's errors, it cannot be corrected pursuant to Utah Code Ann. §57-3-106(6). As per WCC §16.01.16(G), the process must be begin anew.

V. CONCLUSION AND REQUEST

Because (1) Lot B is not a buildable lot, (2) Lot B has not been converted from an open space easement lot to a single family-residential lot because a condition of that conversion imposed by the Planning Commission, i.e., that it be demonstrated that Lot B is a buildable lot, has never been met; and (3) the Lot B Plat Amendment filed by Redus with the County Recorder is fatally-flawed, we respectfully request that you declare Building Permit #25-803 null and void.

Because we have not had access to the building permit application and documents prepared by the County in response to that application – beyond the brief view of it on October 24, 2025 -- we reserve the right to modify our appeal. The 10-day deadline for filing an appeal with the County Manager is tolled until the documents are made available to us and other members of the public. Hopefully, these documents will be made available to us sooner rather than later – perhaps as a result of our October 24, 2025 GRAMA request.

All documents prepared during the course of the Lot B process are included herein by reference and therefore, made part of the administrative record.

Thank you for your attention to this matter.

Sincerely,

Michael W Kosakowski

Michael W. Kosakowski
1671 W. Alpine Ave

202-255-4496
utahkos@gmail.com

Kit R. Kosakowski
1671 W. Alpine Ave
202-255-8131
krkphd@gmail.com

cc: Quinn Davis, Wasatch County Building Department (by e-mail only)
Scott Sweat, Wasatch County Attorney (by e-mail only)
Jon Woodard, Wasatch County Deputy Attorney (by e-mail only)
Austin Corry, Assistant Director, Wasatch County Planning Department (by e-mail only)

Enclosures

LIST OF ENCLOSURES

1. Wasatch County Mapping Service Showing Spatial Relationship among Star Harbour, Fox Bay, and Commerce Park Parcel (now Keetley Ridge and Keetley Square).
2. Exhibit C to Star Harbour Estates Development Agreement
3. Original Star Harbour Subdivsion Plat
4. Star Harbour First Amended CC&Rs
5. Star Harbour First Amended Subdivision Plat
6. Blue Ledge 2005 Transfer to United Park City Mines
7. Final Blue Ledge Registration with Utah Department of Commerce
8. Star Harbour Second Amended CC&Rs
9. United Park City Mines Quitclaim to Old Keetley Road Properties
10. November 4, 2019 Sheriff's Sale to Redus
11. Redus Lot 34 Quitclaim
12. Redus Lot 35 Quitclaim
13. Kosakowski July 5, 2021 Comments for July 8, 2021 Planning Commission Hearing (w/o Enclosures)
14. Planning Department July 8, 2021 Staff Report and Planning Commission Report of Action
15. Kosakowski August 9, 2021 Comments for August 12, 2021 Planning Commission Hearing (w/o Enclosures)
16. Planning Department August 12, 2021 Staff Report and Planning Commission Report of Action
17. Kosakowski November 8, 2022 Comments for November 10, 2022 Planning Commission Hearing (w/o Enclosures)
18. Planning Department November 8, 2022 Staff Report and Planning Commission Report of Action
19. Kosakowski November 14, 2022 Request for Buildability Analysis and November 15, 2022 Reply from County
20. Kosakowski November 14, 2022 GRAMA Request and County Response
21. Kosakowski November 18, 2022 WCC §2.02.02 Appeal to County Manager (w/o Enclosures)
22. January 23, 2023 Ardurra Report
23. Redus Lot B Plat Amendment filed March 14, 2023
24. Star Harbour First Amendment to Second Amended CC&Rs
25. Lots 8 and 9 Plat Amendment
26. Kosakowski March 5, 2024 County Recorder Request for Final Decision (w/o Enclosures)
27. Star Harbour Second Amendment to Second Amended CC&Rs
28. Kosakowski March 27, 2024 Appeal to Recorder's Review Board
29. March 29, 2013 [2024] County Manager Reply
30. April 1, 2024 Sale of Lot B to Julie Bruce, LLC
31. Kosakowski April 29, 2025 E-mail to Quinn Davis and Reply

32. Kosakowski October 6, 2025 Comments to Building Department (w/o Enclosures)
33. Kosakowski October 13, 2025 GRAMA Request
34. Wilkerson October 22, 2025 Response
35. October 23, 2025 E-mail from Building Department
36. Kosakowski October 24, 2025 GRAMA Request

Enc 2

From: **Dustin A. Grabau** DGrabau@wasatch.utah.gov
Subject: Re: Appeal of Building Permit No. 25-803 -- Enclosures
Date: October 30, 2025 at 12:12 PM
To: Kit Kosakowski krkphd@gmail.com
Cc: Doug Smith dsmith@wasatch.utah.gov, Sherry Lawrence slawrence@wasatch.utah.gov

DG

Kit,

I just spoke with Doug and Scott. They confirmed that our planning staff can process the appeal on the building permit through them to the Hearing Officer. We also talked about the actual application materials and we settled that if you could provide a digital and physical copy of the appeal materials you'd like to submit to Doug's Office.

As for the amount, we'll need a check from you for the $1,500 appeal plus a $1,000 out of pocket account that the actual direct costs of the appeal will be billed against. This $1,000 amount is an estimate of the expected costs, and any remaining portion will be refunded to you upon the completion of the appeal. Sherry Lawrence (cc'd here) will work with you to set up an out-of-pocket account for the appeal.

So if you could be prepared with a $2,500 check for the appeal, we will be able to ensure that your appeal is processed as soon as possible.

Dustin Grabau
County Manager
435.657.3310
www.wasatch.utah.gov

WASATCH COUNTY

From: Kit Kosakowski <krkphd@gmail.com>
Sent: Thursday, October 30, 2025 9:40 AM
To: Dustin A. Grabau <DGrabau@wasatch.utah.gov>
Cc: Mike Kosakowski <utahkos@gmail.com>; Quinn Davis <qdavis@wasatch.utah.gov>; Building Department - Public Address <bldinfo@wasatch.utah.gov>; Jon Woodard <JWoodard@wasatch.utah.gov>; Austin Corry <ACorry@wasatchcounty.gov>; Scott Sweat <ssweat@wasatch.utah.gov>; Tiarra Cooper <TCooper@wasatch.utah.gov>; Heber Lefgren <HLefgren@wasatch.utah.gov>; Dustin A. Grabau <DGrabau@wasatch.utah.gov>
Subject: Appeal of Building Permit No. 25-803 -- Enclosures

Attachment available until Nov 29, 2025
Dustin –

Attached please find a compressed folder containing all the enclosures to our appeal of the building permit issued for Lot B as well as a scan of our $600 check. As this is a large file, please confirm receipt.

I will once again attempt to hand deliver the check to your office today.

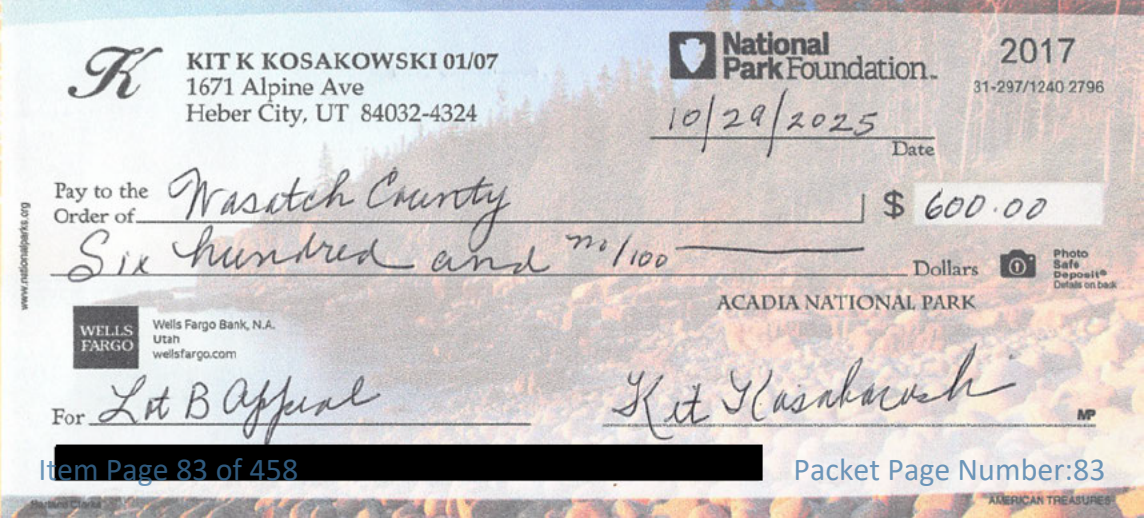
And again, I ask that you inform the permit holder of the appeal and that they are precluded from taking further action until the appeals have been exhausted as per WCC Section 2.02.02G)(10).

Thank you.

Sincerely,

Kit Kosakowski

Click to Download
LotBAppealEncs.zip
81.7 MB



KIT K KOSAKOWSKI 01/07
1671 Alpine Ave
Heber City, UT 84032-4324

National Park Foundation.

2017

31-297/1240 2796

10/29/2025
Date

Pay to the Order of Wasatch County $ 600.00

Six hundred and no/100 Dollars

Photo Safe Deposit® Details on back

ACADIA NATIONAL PARK

WELLS FARGO
Wells Fargo Bank, N.A.
Utah
wellsfargo.com

For Lot B Appeal

Kit Kosakowski

MP

www.nationalparks.org

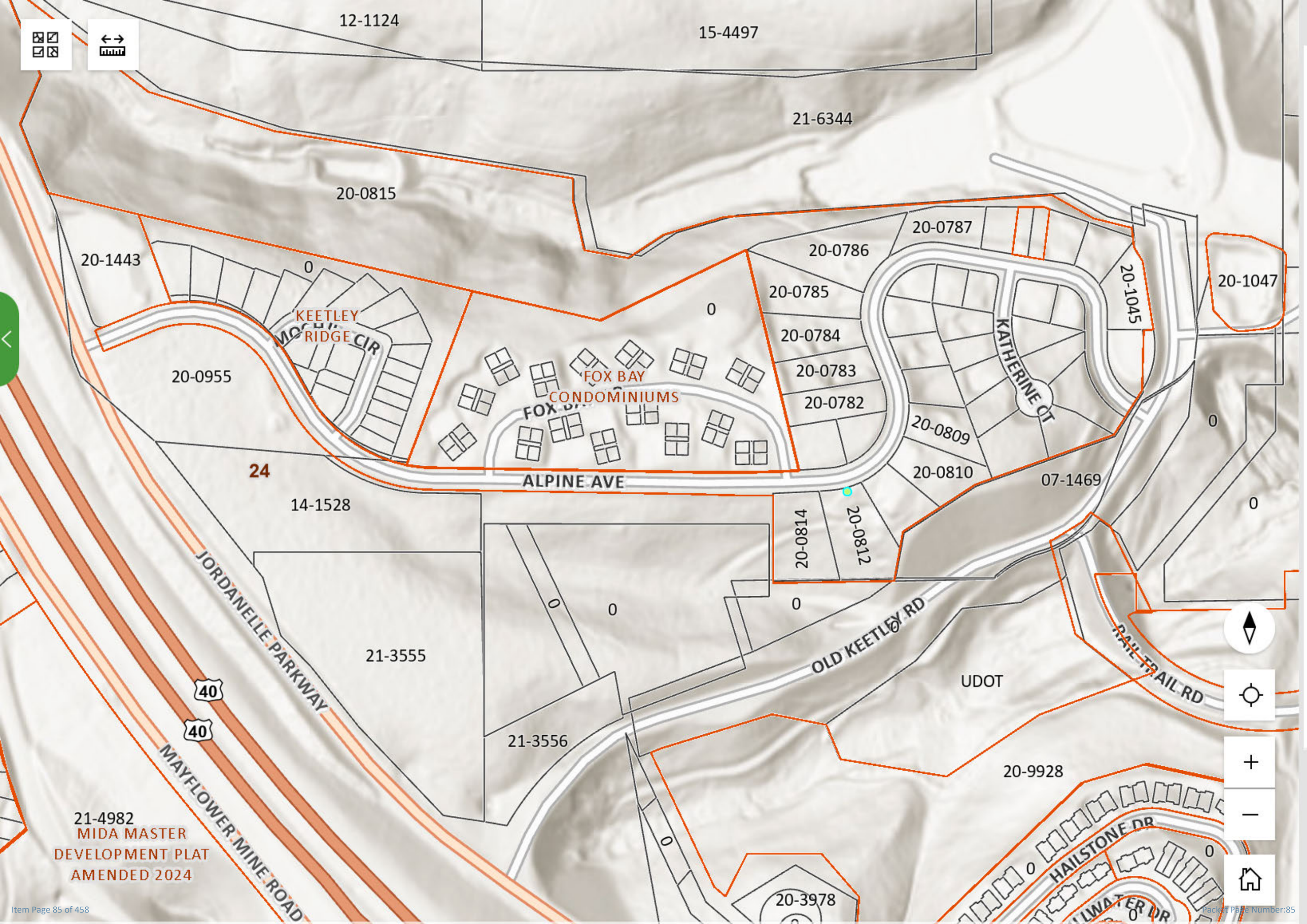
[redacted]

Portland Cleveland

AMERICAN TREASURES

ENCLOSURE 1

Wasatch County Mapping Service Showing Spatial Relationship among Star Harbour, Fox Bay, and Commerce Park Parcel (now Keetley Ridge and Keetley Square)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21-3556
OLD KEETLEY RD
UDOT
RAIL TRAIL RD
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40
JORDANELLE PARKWAY
MAYFLOWER MINE ROAD
21-4982
MIDA MASTER DEVELOPMENT PLAT AMENDED 2024
20-3978
HAILSTONE DR
0
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0

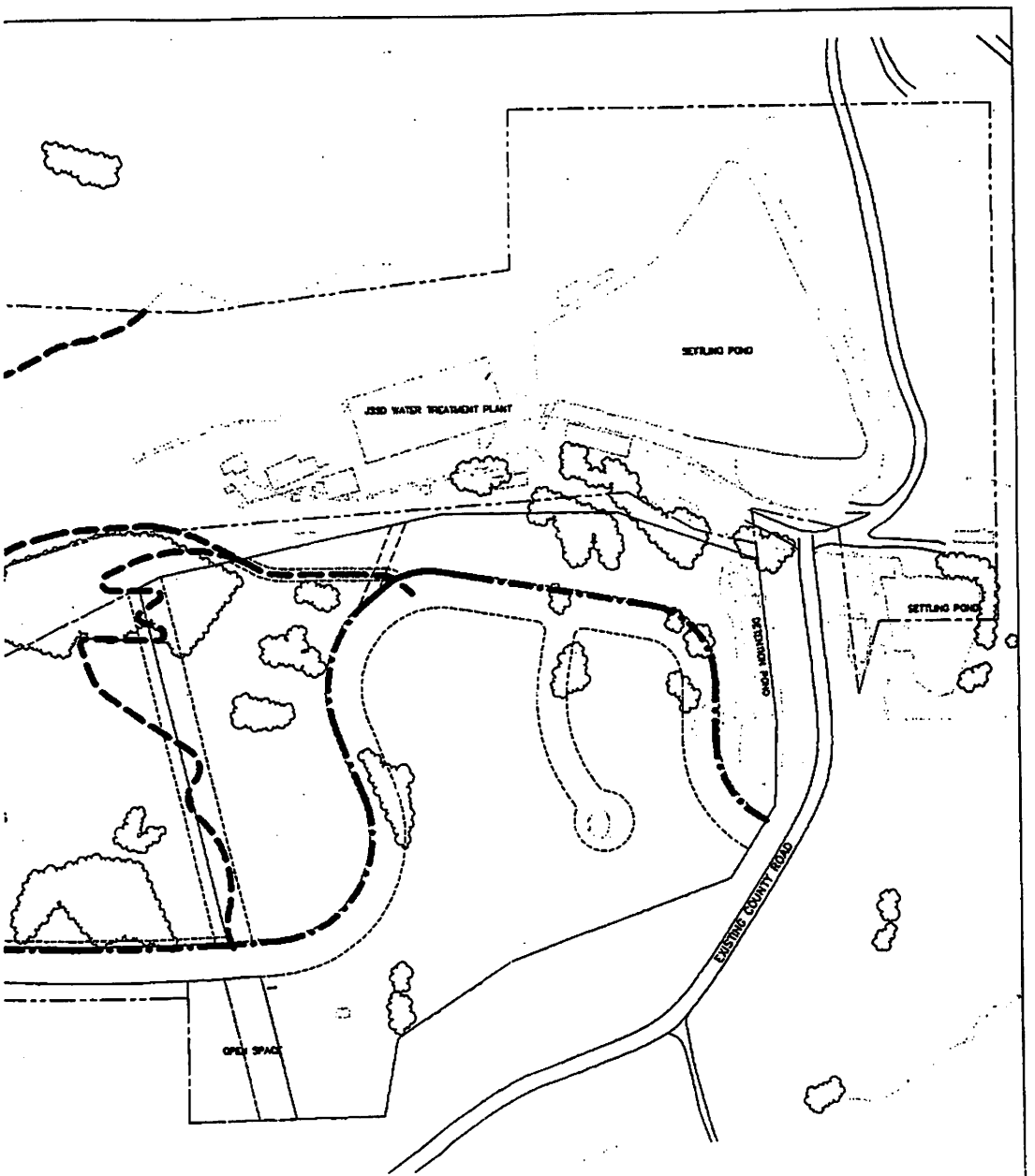
ENCLOSURE 2

Exhibit C to Star Harbour Estates Development Agreement

EXHIBIT C
TO
STAR HARBOUR ESTATES
DEVELOPMENT AGREEMENT

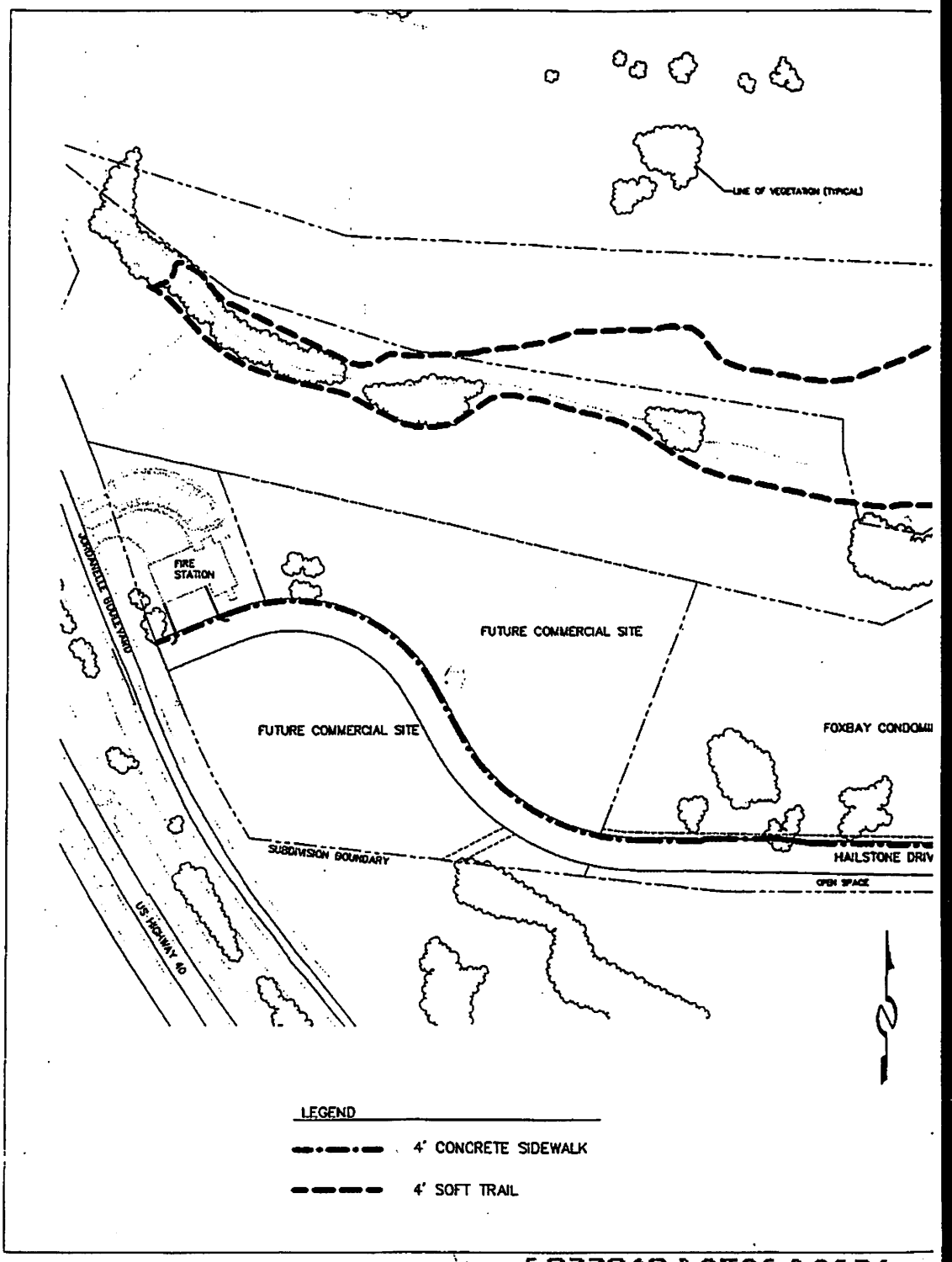
Map Depicting Approximate Location of Trails to be Constructed Within the Lot C Open Space Parcel

E 233949 B 0506 P 0632



HAILSTONE DEVELOPMENT
TRAILS MASTER PLAN

E 233949 B 0506 P 0633



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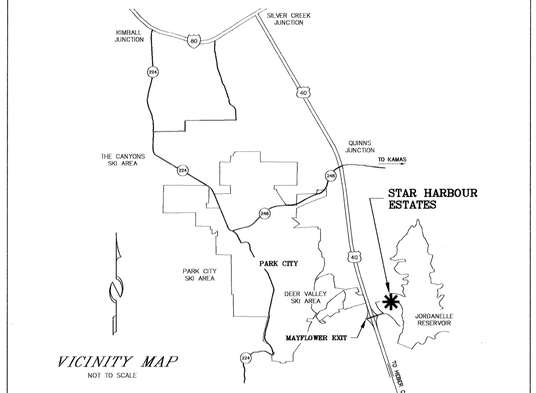
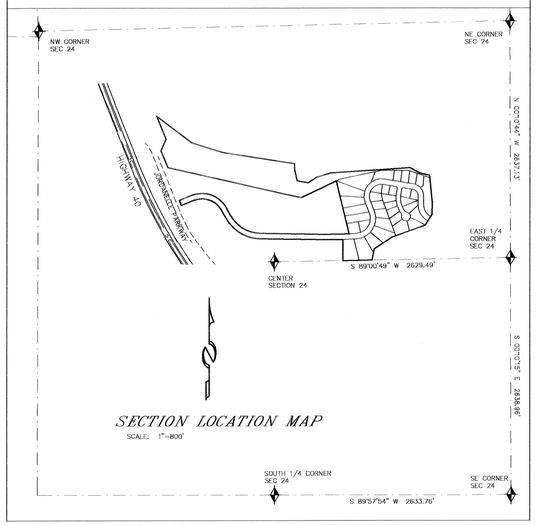
ENCLOSURE 3

ORIGINAL STAR HARBOUR SUBDIVISION PLAT



VICINITY MAP

NOT TO SCALE



SECTION LOCATION MAP

SCALE: 1"=800'

REGISTERED LAND SURVEYOR
No. 154491
JOHN DEMKOWICZ
State of Utah

SURVEYOR'S CERTIFICATE

I John Demkowicz, do hereby certify that I am a registered land surveyor and that I hold Certificate No. 154491 as prescribed under the laws of the State of Utah. I further certify that by the authority of the owner I have made a survey of the tract of land shown on this plat and described herein and subdivided said tract of land into lots, public rights-of-way, and easements, to be hereafter known as STAR HARBOUR ESTATES and that the same has been correctly surveyed on the ground as shown on this plat.

John Demkowicz — Date 5/01/01

NOTES

1. A 10 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT SHALL BE GRANTED ON ALL FRONT, SIDE, AND REAR LOT LINES, UNLESS OTHERWISE NOTED.
2. TYPICAL BUILDING SETBACK SHALL BE AS FOLLOWS:
   FRONT – 20 FEET
   SIDE – 12 FEET
   REAR – 30 FEET
3. LOT 'A' CONTAINS A WATER QUALITY AND STORM DETENTION POND. IN THE EVENT THAT THE WATER QUALITY AND STORM DETENTION POND BE RELOCATED TO ANOTHER LOCATION, THEN LOT 'A' MAY BE FURTHER SUBDIVIDED INTO 2 ADDITIONAL LOTS, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.
4. LOT 'B' IS AN EASEMENT FOR AN EXISTING OVERHEAD UTILITY TRANSMISSION LINE. IN THE EVENT THAT THE EXISTING OVERHEAD UTILITY TRANSMISSION LINE IS RELOCATED TO ANOTHER LOCATION, THEN LOT 'B' MAY BECOME A SINGLE FAMILY LOT, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.
5. LOT 'C' IS AN OPEN SPACE PARCEL AND SHALL REMAIN AS SUCH, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, WHICH ARE RECORDED CONCURRENTLY WITH THIS PLAT.
6. ALL LOTS SHALL BE SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, WHICH ARE RECORDED CONCURRENTLY WITH THIS PLAT.
7. LOTS 8, 9, AND 10, ARE DUPLEX LOTS. TWIN HOMES ARE PERMITTED TO BE CONSTRUCTED ON LOTS 8, 9, AND 10. ALL OTHER LOTS SHALL CONTAIN SINGLE FAMILY RESIDENCES.
8. MAINTENANCE OF ALL STORM WATER AND WATER QUALITY FACILITIES SHALL BE THE RESPONSIBILITY OF THE MASTER HOME OWNER'S ASSOCIATION.

BOUNDARY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT SOUTH 89°00'49" WEST 1540.80 FEET ALONG THE QUARTER SECTION LINE FROM THE EAST 1/4 CORNER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE QUARTER SECTION LINE SOUTH 89°00'49" WEST 325.59 FEET; THENCE NORTH 00°03'26" WEST 234.48 FEET TO A POINT ON A 4002.08 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS NORTH 01°54'25" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE 198.17 FEET THROUGH A CENTRAL ANGLE OF 02°50'13"; THENCE NORTH 89°04'12" WEST 721.25 FEET TO A POINT ON A 447.32 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS NORTH 00°55'48" EAST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 466.88 FEET THROUGH A CENTRAL ANGLE OF 59°48'02"; THENCE NORTH 29°16'10" WEST 100.00 FEET TO A POINT ON A 250.00 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS SOUTH 60°43'50" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 361.21 FEET THROUGH A CENTRAL ANGLE OF 82°47'00"; THENCE SOUTH 67°56'50" WEST 146.95 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE EAST FRONTAGE ROAD OF HIGHWAY US 40 DESCRIBED AS PARCEL NO. JDR-104 (A) IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE FRONTAGE ROAD RIGHT-OF-WAY LINE NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 60.00 FEET; THENCE NORTH 67°56'50" EAST 147.00 FEET TO A POINT ON A 310.00 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS SOUTH 22°03'10" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 447.90 FEET THROUGH A CENTRAL ANGLE OF 82°47'00"; THENCE SOUTH 29°16'10" EAST 100.00 FEET TO A POINT ON A 387.32 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS NORTH 60°43'50" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 404.25 FEET THROUGH A CENTRAL ANGLE OF 59°48'02"; THENCE SOUTH 89°04'12" EAST 721.25 FEET TO A POINT ON A 3942.08 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS NORTH 00°55'48" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 265.50 FEET THROUGH A CENTRAL ANGLE OF 03°51'32"; THENCE NORTH 13°30'31" WEST 606.76 FEET; THENCE SOUTH 64°18'07" WEST 435.01 FEET; THENCE NORTH 77°10'30" WEST 1521.54 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE EAST FRONTAGE ROAD OF HIGHWAY US 40 DESCRIBED AS PARCEL NO. JDR-104 (A) IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE FRONTAGE ROAD RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: 1) NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 200.97 FEET; THENCE 2) NORTH 22°53'44" EAST (DEED NORTH 22°58'00" EAST) 141.42 FEET; THENCE 3) NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 276.35 FEET; THENCE SOUTH 52°44'00" EAST 495.00 FEET; THENCE SOUTH 72°44'00" EAST 354.89 FEET; THENCE SOUTH 81°05'30" EAST 811.83 FEET; THENCE SOUTH 00°47'48" EAST 60.21 FEET; THENCE SOUTH 12°47'15" EAST 135.36 FEET; THENCE SOUTH 79°50'27" EAST 119.76 FEET; THENCE NORTH 56°40'52" EAST 113.24 FEET; THENCE NORTH 73°43'16" EAST 170.14 FEET; THENCE NORTH 86°07'40" EAST 882.37 FEET; THENCE SOUTH 61°01'12" EAST 129.51 FEET; THENCE SOUTH 76°17'57" EAST 105.31 FEET TO A POINT ON THE WESTERLY LINE OF PARCEL NO. JDR-HY-40-19:21: ET AS DESCRIBED IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759, IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING SIX (6) COURSES: 1) SOUTH 06°04'16" EAST 296.60 FEET; THENCE 2) SOUTH 01°30'07" WEST 139.94 FEET; THENCE 3) SOUTH 32°25'44" WEST 141.10 FEET; THENCE 4) SOUTH 70°14'18" WEST 396.26 FEET; THENCE 5) SOUTH 57°00'33" WEST 230.94 FEET; THENCE 6) SOUTH 10°25'45" WEST 129.58 FEET TO THE POINT OF BEGINNING.

DESCRIPTION CONTAINS 34.47 ACRES.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT: THAT THE UNDERSIGNED IS THE OWNER OF THE HEREIN DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, OPEN SPACE, AND PUBLIC RIGHT-OF-WAYS, TOGETHER WITH EASEMENTS AS SET FORTH ON THIS RECORD OF SURVEY PLAT TO BE KNOWN HEREAFTER AS STAR HARBOUR ESTATES, DOES HEREBY DEDICATE FOR THE PERPETUAL USE OF THE PUBLIC, ALL PARCELS OF LAND AS INTENDED FOR PUBLIC USE AND FURTHER CONSENTS TO THE RECORDATION OF THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH UTAH LAW.

IN WITNESS WHEREOF, THE UNDERSIGNED SET HIS HAND THIS 2nd DAY OF May, 2001.

BLUE LEDGE CORPORATION
A DELAWARE CORPORATION

HANK ROTHWELL, PRESIDENT

ACKNOWLEDGMENT

STATE OF UTAH)
: ss
COUNTY OF SUMMIT)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 2nd DAY OF May, 2001, BY HANK ROTHWELL, PRESIDENT OF BLUE LEDGE CORPORATION, A DELAWARE CORPORATION, ON BEHALF OF THE CORPORATION.

NOTARY PUBLIC

MY COMMISSION EXPIRES: June 1, 2004

NOTARY PUBLIC MARY J. CARNEY 323 Main Street P.O. Box 2664 Park City, Utah 84060 My Commission Expires June 1, 2004 State of Utah

RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

JOB# 1-6-00 File: X:\Jordanelle\dwg\UPCMC\HallstoneStation\Plat\sht 01.dwg

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

WASATCH COUNTY PLANNING COMMISSION
Approved this 4th day of June, 2001, by the Wasatch County Planning Director.
Chairman, Planning Commission

WASATCH COUNTY PUBLIC WORKS
Approved this 4 day of June, 2001. Subject to the following conditions:
Director, Public Works

WASATCH COUNTY ENGINEERING DEPARTMENT
Approved this 4 day of June, 2001. Subject to the following conditions:
Director, Engineering Department

WASATCH COUNTY SHERIFF DEPARTMENT
Approved this 4TH day of JUNE, 2001.
Sheriff

JORDANELLE ARCHITECTURAL ADVISORY BOARD
Approved this 5th day of June, 2001.
Director

JORDANELLE SPECIAL SERVICE DISTRICT AND SPECIAL IMPROVEMENT DISTRICT
Approved this 7 day of June, 2001.
Director

APPROVAL AS TO FORM
Approved this 6 day of June, 2001.
Wasatch County Attorney

WASATCH COUNTY PLANNING OFFICE
Approved this 4th day of June, 2001, by the Wasatch County Planning Director.
Planning Director

ADMINISTRATIVE BODY
The County of Wasatch approves this subdivision and hereby accepts the dedication of all streets, easements, and other parcels of land intended for public purposes for the perpetual use of the public, this 6 day of June, 2001, subject to the following conditions:
Commission Chairman — Deputy County Clerk

WASATCH COUNTY HEALTH DEPARTMENT
Approved this 4 day of JUNE, 2001. Subject to the following conditions:
Director, County Health Department

WASATCH COUNTY FIRE MARSHAL
Approved this 6 day of MAY, 2001. Subject to the following conditions:
Fire Marshall

WASATCH COUNTY WEED BOARD
Approved this 7 day of MAY, 2001. Subject to the following conditions:
Director

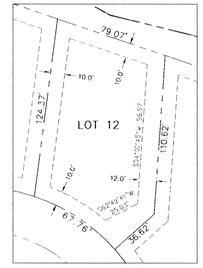
WASATCH COUNTY RECREATION DISTRICT
Approved this 5 day of JUNE, 2001.
Director

WASATCH COUNTY SURVEYOR'S CERTIFICATE
I hereby certify that this office has examined this plat and it is correct in accordance with information on file in this office. Dated this ____ day of ____, 2001.
Wasatch County Surveyor

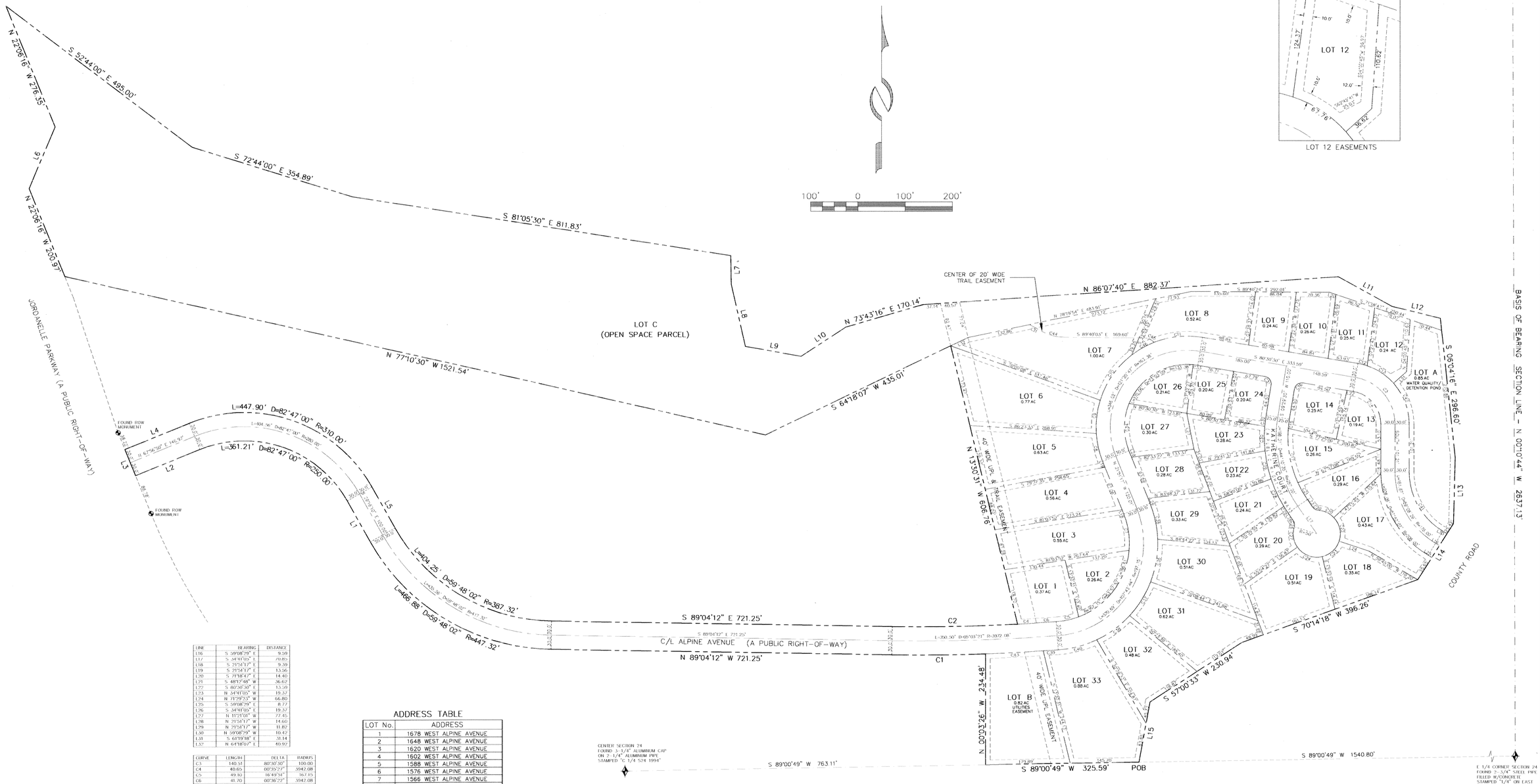
RECORDED #233950
STATE OF UTAH COUNTY OF WASATCH AND FILED AT THE REQUEST OF BLUE LEDGE CORP
DATE 6-7-01 TIME 8:01 BOOK 506 PAGE 655-679
95.00 FEE — MARILYN W CUMMINGS RECORDER

STAR HARBOUR ESTATES SHEET 1of2
SECTION 24 T.2S. R.4E.

NE CORNER SECTION 24
FOUND 3-1/2" STEEL PIPE
FILLED W/CONCRETE



LOT 12 EASEMENTS



BASIS OF BEARING SECTION LINE - N 00°10'44" W 2637.13'

LINE	BEARING	DISTANCE
L1	N 29°16'10" W	100.00
L2	S 67°56'50" W	146.95
L3	N 22°06'16" W	60.00
L4	N 67°56'50" E	147.00
L5	S 29°16'10" E	100.00
L6	N 22°53'44" E	141.42
L7	S 00°47'48" E	60.21
L8	S 12°47'15" E	135.36
L9	S 79°50'27" E	119.76
L10	N 56°40'52" E	113.24
L11	S 61°01'12" E	129.51
L12	S 76°17'57" E	105.31
L13	S 01°30'07" W	139.94
L14	S 32°25'44" W	141.10
L15	S 10°25'45" W	129.58

CURVE	LENGTH	DELTA	RADIUS
C1	198.17	02°50'13"	4002.08
C2	265.50	03°51'32"	3942.08

LINE	BEARING	DISTANCE
L16	S 59°08'29" E	9.59
L17	S 34°41'05" E	70.85
L18	S 21°54'17" E	9.39
L19	S 21°54'17" E	13.36
L20	S 71°18'47" E	14.40
L21	S 48°12'48" W	36.62
L22	S 80°30'30" E	13.59
L23	N 34°41'05" W	19.37
L24	N 71°29'53" W	66.80
L25	S 59°08'29" E	8.77
L26	S 34°41'05" E	19.37
L27	N 11°21'08" W	77.45
L28	N 21°54'17" W	14.60
L29	N 21°54'17" W	11.82
L30	N 59°08'29" W	10.42
L31	S 64°18'18" E	31.14
L32	N 64°18'07" E	40.92

CURVE	LENGTH	DELTA	RADIUS
C3	140.51	80°30'30"	100.00
C4	40.65	00°35'27"	3942.08
C5	49.10	16°49'54"	167.15
C6	41.70	00°36'22"	3942.08
C7	78.57	26°55'55"	167.15
C8	60.76	18°00'08"	193.38
C9	71.06	21°03'15"	193.38
C10	118.82	35°12'17"	193.38
C11	104.11	30°50'43"	193.38
C12	70.69	08°34'22"	130.00
C13	67.76	29°54'58"	130.00
C14	98.36	80°30'30"	70.00
C15	20.03	04°56'32"	232.20
C16	24.35	90°00'00"	15.50
C17	117.95	29°06'16"	232.20
C18	4.58	01°16'22"	206.00
C19	37.32	47°45'47"	50.00
C20	14.01	54°48'23"	15.50
C21	41.05	10°07'46"	232.20
C22	54.31	62°14'09"	50.00
C23	50.57	57°56'56"	50.00
C24	59.88	68°37'03"	50.00
C25	16.35	03°19'12"	282.70
C26	14.01	54°48'23"	15.50
C27	45.47	52°02'54"	50.00
C28	64.33	13°03'40"	282.70
C29	60.76	12°20'11"	282.70
C30	52.11	10°34'49"	282.70
C31	24.35	90°00'00"	15.50
C32	24.03	04°52'44"	282.70
C33	9.83	04°13'22"	133.38
C34	102.50	44°04'16"	133.38
C35	78.32	19°45'19"	227.15
C36	91.92	23°11'08"	227.15
C37	84.59	21°20'13"	227.15
C38	87.72	22°06'01"	227.15
C39	31.77	00°27'17"	4002.08
C40	85.04	21°27'04"	227.15
C41	150.70	59°08'29"	146.00
C42	94.81	41°47'11"	130.00
C43	173.72	01°45'50"	4002.08
C44	48.00	78°20'45"	97.02
C45	74.08	45°59'25"	30.00
C46	54.81	16°14'23"	193.38

ADDRESS TABLE

LOT No.	ADDRESS
1	1678 WEST ALPINE AVENUE
2	1648 WEST ALPINE AVENUE
3	1620 WEST ALPINE AVENUE
4	1602 WEST ALPINE AVENUE
5	1588 WEST ALPINE AVENUE
6	1576 WEST ALPINE AVENUE
7	1566 WEST ALPINE AVENUE
8	1522 WEST ALPINE AVENUE
9	1510 WEST ALPINE AVENUE
10	1494 WEST ALPINE AVENUE
11	1480 WEST ALPINE AVENUE
12	1468 WEST ALPINE AVENUE
13	1451 WEST ALPINE AVENUE
14	1487 WEST ALPINE AVENUE
14	10356 NORTH KATHERINE COURT
15	10336 NORTH KATHERINE COURT
16	10308 NORTH KATHERINE COURT
17	10292 NORTH KATHERINE COURT
18	10280 NORTH KATHERINE COURT
19	10285 NORTH KATHERINE COURT
20	10301 NORTH KATHERINE COURT
21	10321 NORTH KATHERINE COURT
22	10331 NORTH KATHERINE COURT
23	10343 NORTH KATHERINE COURT
24	10361 NORTH KATHERINE COURT
24	1513 WEST ALPINE AVENUE
25	1527 WEST ALPINE AVENUE
26	1551 WEST ALPINE AVENUE
27	1583 WEST ALPINE AVENUE
28	1597 WEST ALPINE AVENUE
29	1613 WEST ALPINE AVENUE
30	1629 WEST ALPINE AVENUE
31	1639 WEST ALPINE AVENUE
32	1655 WEST ALPINE AVENUE
33	1671 WEST ALPINE AVENUE
LOT A	1444 WEST ALPINE AVENUE
LOT B	1687 WEST ALPINE AVENUE

RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

JOB#1-6-00 File: X:\Jordanelle\dwg\UPCMC\Hailstone\Station\Plats\sht02.dwg

RECORDED #233950
STATE OF UTAH COUNTY OF ~~WASATCH~~ WASATCH AND FILED
AT THE REQUEST OF BLUE LEDGE CORP
DATE 6-7-01 TIME 8:01 BOOK 506 PAGE 655-674
95.00 FEE MARILYN W CUMMINGS RECORDER

ENCLOSURE 4

STAR HARBOUR FIRST AMENDED CC&RS
AUGUST 8, 2001

Recording Requested By And
When Recorded Return To:

Blue Ledge Corporation
P.O. Box 1450
Park City, Utah 84060
Attention: Rory Murphy

Ent 236098 Bk 0517 Pg 0421-0458
ELIZABETH PARCELL, Recorder
WASATCH COUNTY CORPORATION
2001 AUG 20 12:58pm Fee 123.00 MWC
FOR COALITION TITLE

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES (this "Declaration"), is executed as of the ____ day of August, 2001, by Blue Ledge Corporation, a Delaware corporation ("Declarant"), as owner of the Property described herein and by Star Harbour Estates Homeowners Association, Inc. a Utah non-profit corporation (the "Association").

RECITALS

A. Declarant previously executed that certain document entitled Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates (the "Prior Declaration"), dated as of May 3, 2001, which Prior Declaration was recorded in the Office of the Recorder of Wasatch County, Utah, on June 7, 2001 as Entry No. 233951 in Book 506 at Pages 675 through 709.

B. The Prior Declaration pertains to and affects that certain real property located in Wasatch County, Utah described as Parcel 1 on Exhibit "A" attached hereto, which real property is the subject of the Record of Survey Plat of Star Harbour Estates that Declarant previously caused to be recorded in the Office of the Recorder of Wasatch County, Utah.

C. Declarant has now caused to be recorded in the Office of the Recorder of Wasatch County, Utah that certain First Amended Record of Survey Plat of Star Harbour Estates, which pertains to and affects that certain real property located in Wasatch County, Utah that is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

D. As of the date of this Declaration, Declarant is the owner of all of the Lots described in this Declaration which are located on the Property.

E. By this Declaration, Declarant intends to amend and restate in its entirety the Prior Declaration, and Declarant hereby declares that this Declaration supersedes and replaces in its entirety the Prior Declaration.

F. Declarant intends that the various Lots described in this Declaration will be conveyed to Owners in fee simple.

G. Capitalized terms in this Declaration are defined in Article I.

H. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, and improvement of the Property and the interests therein conveyed and to establish thereon a residential subdivision in accordance with the terms hereof.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, conveyed, leased, rented, encumbered and used, subject to this Declaration and all of the terms, covenants, restrictions, limitations, and conditions set forth herein, all of which shall constitute covenants which run with the land and shall be binding upon and be for the benefit of Declarant, its successors and assigns and all Owners of all or any part of the Property, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, all as set forth herein.

ARTICLE I
DEFINITIONS

When used in this Declaration (including that portion hereof headed "**Recitals**") the following terms shall have the meanings indicated below.

1.1 "**Architectural Committee**" shall mean the committee created pursuant to Article VII of this Declaration entitled "**Architectural Committee**".

1.2 "**Articles**" or "**Articles of Incorporation**" shall mean and refer to the Articles of Incorporation of the Association, filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, and all subsequent modifications and amendments thereto.

1.3 **"Association"** shall mean and refer to **STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC.**, a Utah nonprofit corporation.

1.4 **"Board or Board of Trustees" or "Trustees"** shall mean and refer to the governing board of the Association, which shall be appointed or elected in accordance with this Declaration, the Articles of Incorporation and the Bylaws of the Association.

1.5 "**Bylaws**" shall mean the Bylaws of the Association attached to this Declaration as Exhibit "B" and recorded in the official records of the County concurrently with this Declaration and all subsequent modifications and amendments thereto.

1.6 **"County"** shall mean and refer to Wasatch County in the State of Utah.

1.7 "**Common Areas**" shall mean and refer to that part of the Property that is not included within the Lots, and that is not dedicated to the County or to a special service district

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created within the County, and that is specifically identified on the Plat as being Common Area. The Common Areas, if any, that are shown and identified as such on the Plat shall be owned by the Association. The Common Areas shall not include any portion of Lots 1 through 35, inclusive, nor any portion of Lot B, Lot C or the Parcel 2 Detention Pond.

1.8 **"Common Expense Fund"** shall mean and refer to the fund created or to be created pursuant to the provisions of Article V of this Declaration and into which all monies of the Association shall be deposited.

1.9 **"Common Expenses"** shall mean and refer to those costs and expenses arising out of or connected with the maintenance and operation of the Project and the Association as described in Article V hereof.

1.10 **"Declarant"** shall mean and refer to Blue Ledge Corporation, and/or any successor thereof, which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Property (or a portion thereof) as did its predecessor.

1.11 **"Declaration"** shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates, as the same may be hereafter modified, amended and supplemented. This Declaration amends and restates in its entirety the Prior Declaration. This Declaration supersedes and replaces in its entirety the Prior Declaration.

1.12 **"Dwelling"** shall mean the single family residential structure built or to be built on each Lot, except for Lots 8, 9 and 10, and with respect to Lots 8, 9 and 10, the term shall mean the duplex residential structures built or to be built on such Lots.

1.13 **"Excavation"** shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the ordinances and regulations as adopted by the County.

1.14 **"Fill"** shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from offsite or resulting from the regrading of excavated material from on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the ordinances and regulations as adopted by the County.

1.15 **"Improvement"** shall mean any structure or appurtenance thereto of every type and kind within the Project, including but not limited to buildings, walkways, gutters, curbs, pipes, sprinkler pipes, conduit, garages, room additions, patio covers, spas, recreational facilities, roads, driveways, parking areas, fences, walls, screening walls, retaining walls, stairs, decks, patios, porches, balconies, chimneys, antennas, edges, windbreaks, poles, signs, exterior air conditioning and water softening fixtures or equipment, plantings, planted trees, shrubs, flowers, plants and other vegetation, landscaping of every kind, nature, or description, whether temporary or permanent, excepting personal property or equipment within, or usually within, a structure.

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1.16 "**Lot**" shall mean and refer to any of the 35 separately numbered and individually described residential lots as shown on the Plat, which residential lots are designed and intended for use and occupancy as a single family residence, or with respect to Lots 8, 9 and 10 for use as residential duplexes. Lot B, Lot C and the Parcel 2 Detention Pond, as shown on the Plat, shall not be included within the definition of "Lot," unless this Declaration and the Plat are amended to identify all or any portion of Lot B, Lot C or the Parcel 2 Detention Pond as numbered residential lots.

1.17 "**Manager**" shall mean and refer to the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

1.18 "**Member**" shall mean and refer to every person who holds membership in the Association.

1.19 "**Mortgage**" shall mean any mortgage, deed of trust, or other document encumbering any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.20 "**Mortgagee**" shall mean a beneficiary of a Mortgage as identified therein.

1.21 "**Owner**" shall mean the person or persons, including the Declarant, owning in fee simple a Lot in the Project, as such ownership is shown on the official records of the County. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Lot pursuant to a judicial or nonjudicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure). The term "Owner" shall not refer to any person or persons purchasing a Lot under contract (until such contract is fully performed and legal title to the Lot is conveyed of record.)

1.22 "**Permitted Improvements**" shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

1.23 "**Plat**" shall mean and refer to the First Amended Record of Survey Plat for Star Harbour Estates recorded in the official records of the County and all amendments and supplements thereto.

1.24 "**Project**" shall mean and refer to the Property and the plan of development and ownership of the Property created and governed by this Declaration, the Articles and the Bylaws.

1.25 "**Property**" shall mean and refer that certain real property that is subject to this Declaration, the legal description of which is set forth on Exhibit "A" attached to this Declaration and incorporated herein by this reference.

1.26 "**State**" shall mean the State of Utah in the United States of America.

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ARTICLE II
PROPERTY DESCRIPTION

The Property initially associated with the Project, which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration, consists of the real property situated in the County and State as further described on **Exhibit "A"** attached hereto and incorporated herein by this reference.

ARTICLE III
THE ASSOCIATION

3.1 Membership. Each Owner shall automatically, by acquiring title to a Lot, be a Member of the Association. Membership will 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 membership 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. 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. No person or entity other than an Owner may be a Member of the Association, and membership in the Association cannot be transferred except in connection with the transfer of a Lot. The Association shall make available to the Owners and Mortgagees current copies of the Declaration, Articles, Bylaws and other rules governing the Project. The term "*available*" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

3.2 Board of Trustees. Except as otherwise expressly set forth in this Declaration or in the Bylaws, all decisions by the Board of Trustees shall be effected by a majority vote of all the Trustees. Until such time as the responsibility for electing the Board of Trustees of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and remove all such Trustees. This exclusive right of the Declarant to appoint the Trustees shall terminate after the first to occur of the following:

3.2.1 Five (5) years from the date on which the first Lot in the Project is conveyed by Declarant to an Owner other than Declarant; or;

3.2.2 One hundred twenty (120) days after ninety percent (90%) of the Lots have been conveyed by Declarant to an Owner other than Declarant; or

3.2.3 Upon the unilateral election by Declarant in its sole discretion to extinguish such exclusive right.

3.3 Votes. The Owner of each Lot (other than Lots 8, 9 and 10) shall be entitled to one (1) vote for each Lot owned. The Owners of Lots 8, 9 and 10, which Lots are identified on the Plat as duplex Lots, shall each be entitled to two (2) votes for each such Lot owned. The number of votes appurtenant to each Lot shall be permanent and shall not change. In the event that there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. The votes cast at any Association

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meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote pertaining to any such Lot shall not be counted for any purpose whatsoever, other than to determine the existence of a quorum. The Declarant shall have full voting rights with respect to each Lot that it owns. Except as otherwise expressly set forth in this Declaration or in the Bylaws, all decisions by the Owners shall be effected by a majority vote of all the Owners.

3.4 Professional Management. The Association may carry out through the Manager, those of its functions which are properly the subject of delegation as determined by the Association. The Manager so engaged shall be either an independent contractor or an agent or employee of the Association and shall be responsible for management of the Project for the benefit of the Association and the Owners. The Manager shall, to the extent permitted by law and by the terms of the management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

ARTICLE IV
PROPERTY RIGHTS IN COMMON AREAS AND LOTS

4.1 Description and Legal Status of Lots. The Plat shows each Lot, its location, its dimensions from which its size may be determined and the Common Areas. The Common Areas, if any, shall be owned by the Association for use by all of the Members. The Common Areas are not appurtenant to any of the Lots.

4.2 Estate of an Owner. The Project is hereby divided into the 35 residential Lots and also Lot B, Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of a fee simple interest.

4.3 Title. Title to a Lot may be held or owned by any person or more than one person and in any manner in which title to any other real property may be held or owned in the State, including, without limitation, joint tenants or tenancy in common.

4.4 Inseparability. No part of a Lot or the legal rights comprising ownership thereof may be separated from any other part thereof or subdivided, so that each Lot shall always be conveyed, devised, encumbered or otherwise affected only as a complete Lot. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot shall be presumed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Lot, together with all appurtenant rights created by law or by this Declaration. The Common Areas, if any, shall be owned by the Association for use by all of the Members, and no Owner may bring any action for partition of the Common Areas.

4.5 Separate Mortgages. Each Owner shall have the right separately to mortgage or otherwise encumber such Owner's Lot. No Owner shall have the right to mortgage or otherwise encumber the Common Areas. Any Mortgage or other encumbrance of any Property shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

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4.6 **Taxation.** Each Lot shall be deemed to be a parcel and shall be assessed separately for all taxes, district fees, assessments and other charges of any political subdivision or any special improvement district or of any other taxing or assessing authority. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot.

4.7 **Liens.** In the event that any judgment, claim, encumbrance or lien of any type attaches to any particular Lot, with or without the consent of the Owner of that Lot, that judgment, claim, encumbrance or lien shall not attach to or encumber any other Lot.

4.8 **Marketing by Declarant.** Declarant may maintain sales offices, trailers or model Lots in the Project in the number, size, location and time-periods to the extent determined by Declarant as necessary to market and sell the Lots in the Project.

4.9 **Easements for Utilities.**

4.9.1 **General.** Declarant and the Association desire to have utilities for water, sewer, electricity, fuel, power, cable television and all other utility services (collectively, the "**Utilities**"), provided to the Project and located in the areas within the Lots as noted and shown on the Plat (collectively the "**Easement Areas**"). The providers of all such utilities to the Project and their respective successors, assigns, agents and affiliates are hereinafter collectively called the "**Utility Providers**".

4.9.2 **Grant.** Declarant and the Association do hereby grant to the Utility Providers a non-exclusive easement (the "**Utility Easement**") to, from, across, over, upon and under all the Easement Areas to construct, maintain, operate, repair, inspect, protect, remove and replace all lines, pipes, valves, meters, equipment, facilities and other improvements reasonably and customarily necessary to provide and maintain all the Utilities to the Project and perform the Utility Providers' obligations under this Utility Easement (collectively, the "**Utility Improvements**"). This grant of Utility Easement is intended for the benefit of all individuals and entities comprising the Utility Providers. This Utility Easement shall include a right of ingress and egress for the Utility Providers within the Easement Areas.

4.9.3 **Utility Providers' Rights and Obligations.** The Utility Providers shall take all actions and pay all costs necessary to construct, maintain in good condition, operate, repair, inspect, protect, remove and replace all their respective Utility Improvements. The Utility Providers shall exercise all their rights and obligations under this Utility Easement in a reasonable and customary manner so as to minimize disruption and damage to the Project, the Declarant, the Association, the Owners and the residents, guests and invitees associated with the Project.

4.9.4 **Owners' Rights and Obligations With Respect to Easement Areas.** The Owner of each Lot shall have the right to use the surface of the Easement Areas with such Owner's Lots, provided such use does not interfere with the Utility Improvements, Utilities or any other rights granted to the Utility Providers hereunder. No Owner shall build or construct, or permit to be built or constructed, any building or other structure on, over or across the Easement Areas, nor change the contour thereof.

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4.9.5 Term. The Utility Easement shall commence as of the date that this Declaration is recorded in the official records of the County and shall continue in perpetuity.

4.9.6 Transfer. The Utility Easement within each Lot shall run with, and be appurtenant to such Lot and shall be transferred, assigned, sold, encumbered or otherwise conveyed with such Lot without the consent of any other person or entity.

4.9.7 Miscellaneous. The Utility Providers shall perform their respective obligations under the Utility Easement in compliance with all applicable laws, permits and agreements affecting the Project. Nothing in this Declaration shall be construed to create any partnership, joint venture or fiduciary relationship among the Declarant, the Association, the Owners and/or any of the Utility Providers.

4.10 Creation of Easements. Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots superior to all other encumbrances applied against or in favor of any portion of the Project. In furtherance of the easements provided for in this Declaration, the individual deeds whereby Lots are conveyed may, but shall not be required to, refer to said Utility Easements.

4.11 Entry Onto Lots. The Association and its representatives shall have the right to enter upon any Lot within the Project, without being liable to any Owner, to the extent such entry is necessary in connection with the enforcement of the provisions of this Declaration or with the performance by the Association of its duties and responsibilities under this Declaration, including, without limitation, the construction, maintenance or effectuation of emergency repairs for the benefit of the Lots, the Common Areas, or for any of the Owners within the Project. Reasonable advance notice shall be given to any Owner of a Property before such entry thereupon, except in the case of emergencies.

4.12 Easement of Enjoyment. Each Owner shall have a right of use and enjoyment in and to the Common Areas. Each Owner shall have an unrestricted right of ingress or egress to and from such Owner's Lot over and across such Common Areas. Such rights shall be appurtenant to such Owner's Lot and such right may be exercised and enjoyed by any family member, household guest, tenant, lessee, contract purchaser, or other person who resides in such Owner's Lot.

4.13 Transfer of Title in Common Areas. The Declarant agrees to cause the conveyance to the Association of the Common Areas (if any) free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities).

ARTICLE V
ASSESSMENTS BY THE ASSOCIATION

5.1 Agreement to Pay Assessments to the Association. The Declarant for each Lot owned by it within the Project 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 the Association

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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 V.

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

5.2.1 Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Project. Such estimated expenses may include, without limitation, the following: expenses of management, premiums for all insurance that the Association is required or permitted to maintain hereunder; landscaping; wages of Association employees, including fees for a Manager; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. The aggregate of all such items shall constitute the Common Expenses, and all funds received from assessments under this Section 5.2.1 shall be part of the Common Expense Fund.

5.2.2 Apportionment. Common Expenses shall be apportioned among and assessed to all Lots and their Owners in accordance with the following formula: The portion of the Common Expenses assessed to each Lot shall be a fraction, the numerator of which is the number of votes allocated to such Lot for purposes of voting at any meeting of the Association, and the denominator of which is the total of all of the votes allocated to all of the Lots within the Project for voting at a meeting of the Association. The effect of such apportionment shall be that the percentage of Common Expenses apportioned to each single family Lot shall be equal, and the portion of the Common Expenses apportioned to the duplex Lots shall be twice as much as the portion allocated to the single family Lots. The Declarant shall be liable for the payment of the amount of any assessments against Lots owned by Declarant.

5.2.3 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 conveyance of the first Lot by Declarant. On or before December 1, of each year thereafter, the Board of Trustees 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 amount of Common Expense 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.

5.2.4 Notice and Payment. Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Lot on or before November 1 each year for the fiscal year beginning on January 1, next following. Except as otherwise provided by the Board, each annual assessment shall be due and payable no later than the ensuing December 31; provided; however, the annual

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assessment for the first fiscal year shall be based upon such portion of the first fiscal year. All unpaid installments of any annual assessment shall bear interest at the rate established by the Board of Trustees, not to exceed eighteen percent (18%) per annum, commencing fifteen (15) days after the date such assessment becomes due, until paid. The Board of Trustees shall also have the right to assess a late fee of up to five percent (5%) of any assessment not paid within fifteen (15) days following the due date thereof. The failure of the Board of Trustees 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.

5.2.5 Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 5.3 below.

5.3 Emergency Assessment. The Board may increase assessments necessary for emergency situations. For purposes of this Section, an emergency situation is any of the following: (i) an extraordinary expense required by an order of the court; (ii) an extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety within the Project is discovered; or (iii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board. However, prior to the imposition or collection of such an emergency assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and such resolution shall be distributed to the Members with the notice of assessment.

5.4 Reimbursement Assessment. The term "**Reimbursement Assessment**" as used herein shall mean a charge against each Owner and that Owner's Lot for the purpose of reimbursing the Association for any costs incurred by the Association on behalf of an individual Owner. A Reimbursement Assessment may also be levied by the Association for purposes of collecting any monetary penalties which may be imposed by the Association against an Owner who fails to comply with provisions of this Declaration, the determinations of the Board or the Architectural Committee, or any rule or regulation adopted by the Association. The Association shall levy a Reimbursement Assessment against any Owner who fails to comply with the provisions of this Declaration, the determinations of the Architectural Committee or the Board, the Association's Articles or Bylaws, or any rule or regulation adopted by the Association, if such failure results in the expenditure of moneys by the Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Association. Except for collection of fines, such assessment shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended, and shall be due and payable to the Association when levied. All Reimbursement Assessments that are not paid by an Owner within (15) days following the receipt by such Owner of the written notice of assessment shall accrue interest at the rate of eighteen percent (18%) per annum, commencing fifteen (15) days after the written notice of assessment is received by such Owner, until paid.

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5.5 Notice and Quorum for Any Action Authorized Under Section 5.1. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.1 shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all votes (exclusive of suspended voting rights) of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.6 Lien for Assessments. All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article V, 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 V, the Board of Trustees 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 official records of the County. 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 judicial foreclosure of deeds of trust or mortgages, with the attorney for the Association being hereby designated as the trustee with power of sale, or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' 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 assessment 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 Trustees 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.

5.7 Personal Obligation of Owner. The amount of any 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 such Owner's Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment or unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

5.8 Personal Liability of Grantee. Except as expressly otherwise set forth herein, in a conveyance of a Lot, the grantee of that Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Lot, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Association setting forth the amounts of the unpaid assessments against the grantor, and the grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the

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amount set forth in that statement, except to the extent that additional penalties and interest accrue on the amount set forth in such statement.

5.9 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating:

5.9.1 That all assessments (including interest, costs and attorneys' fees, if any, as provided in this Article V) have been paid with respect to any specified Lot as of the date of such certificate, or

5.9.2 That certain annual assessments have not been paid, and the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may impose a reasonable charge for the issuance of such certificates, which charge must be paid at the time the request for any such certificate is issued. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Lot in question.

ARTICLE VI
GENERAL USE RESTRICTIONS

6.1 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interest of the Owners.

6.2 Use of Common Areas. The Common Areas (if any) shall be used only in a manner consistent with their community nature and with the rules, regulations and use restrictions promulgated by the Association.

6.3 Use of Lots. Each Lot shall be used for residential purposes only. No Lot or Dwelling shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owners. No part of the Project or a Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such non-residential purposes; except Declarant, its successors or assigns, may use any portion or portions of the Project for model homes sites and display and sales offices during the construction and sales period and to accomplish any of Declarant's other rights and obligations hereunder. The provisions of this Section shall not preclude professional and administrative occupations in a Lot without external evidence thereof, for so long as such occupations are in conformance with County ordinances, all other applicable governing laws and ordinances, and are merely incidental to the use of the Lot as a residential home.

6.4 Exception for Declarant. Notwithstanding the restrictions contained in this Article VI, for the five (5) year period following the date on which this Declaration is filed for record in the official records of the County, Declarant shall have the right to use any Lot owned by it in furtherance of any activities designed to accomplish or facilitate improvement and sale of

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all Lots owned by Declarant. Declarant shall have the right to maintain one or more sales offices and model Lots. Such offices and model Lots may be located on any Lot owned or leased by Declarant, or in one or more separate structures or facilities placed upon the Property for the purpose of aiding Declarant's sales efforts, or any combination of the foregoing. Declarant shall also have the right to maintain a reasonable number of promotional, advertising, or directional signs, banners, or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its sales offices, model Lots, signs, banners or similar devices.

6.5 Leases. Any lease agreement between an Owner and a lessee respecting a Lot shall be subject in all respects to the provisions of this Declaration, the Articles and the Bylaws. Any failure by a lessee to comply with the terms of such documents shall be a default under the lease. Other than the foregoing, there is no restriction on the right of any Owner to lease a Lot and the Dwelling located thereon. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

6.6 Toxic Materials. No Owner shall store, use, manufacture, process, distribute, treat, transport, handle, emit, dispose of, discharge or release any Toxic Materials in violation of environmental laws governing the Project. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against any liabilities, claims and/or expenses (including attorneys' fees) arising in connection with that Owner violation of this Section. The term "**Toxic Materials**" as used herein shall mean any flammable explosives, asbestos, industrial substances, pollutants, contaminants, chemicals, wastes, discharges, emissions, radioactive materials and other hazardous substances, whether injurious by themselves or in combination with other materials, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," or "toxic substances" described in the environmental laws governing the Project.

6.7 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render any part of the Property unsanitary or unsightly or which would be offensive or detrimental to any other part of the Property or to the occupants thereof. No noise or other nuisance shall be permitted to exist or operate upon any part of the Property so as to be offensive or detrimental to any other part of the Property or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Property without the prior written approval of the Association.

6.8 Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on or within any Lot, Dwelling, or otherwise within the Project, except that usual and ordinary dogs, cats, fish, birds and other household pets (excluding without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept on or within the Lots, subject to rules and regulations adopted by the Association, and provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or the Architectural Committee or other such person or entity as the Association may from time to time designate) may determine that a

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reasonable number in any instance may be more or less. The Association acting through the Board of Trustees, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Project must be either kept within an enclosure, or on a leash being held by a person capable of controlling said animals. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended, out of the enclosure, or not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Association or a person designated by the Association to do so, to a shelter under the jurisdiction of the local governmental entity in which the Project is situated and subject to the laws and rules governing such shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept within the Project by an Owner or by members of his family, his tenants or guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used area within the Project.

6.9 Trash. No rubbish, trash or garbage or other waste material shall be kept or permitted on or within any Lot, Dwelling, or otherwise within the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twenty-four (24) hours before and after scheduled trash collection hours). There shall be no exterior fires whatsoever except barbecue fires contained within appropriate receptacles therefor.

6.10 Temporary and Other Structures. No structures of a temporary nature, trailer, house, tent, shack, shed, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on the Property at any time. All Permitted Improvements erected and maintained within the Property shall be of good construction, of good quality, workmanship and material.

6.11 Unsightly Articles. No unsightly articles shall be permitted to remain on or near a Lot so as to be visible from any other Lot. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a covered container, and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except within an enclosed structure or when appropriately screened from view.

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6.12 No Further Subdividing. No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Association for the transfer or sale of any Lot, to more than one person to be held by them as tenants in common, joint tenants, or otherwise.

6.13 Signs. No sign of any kind shall be displayed to the public view without approval of the Association, except such signs as may be used by Declarant in connection with the development of the Project and the sale of Lots and except such signs of customary and reasonable dimensions as may be displayed on a Lot advertising a Lot for sale or lease. Display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible. Any existing street sign identifying the Project may not be changed without prior approval by the Association.

6.14 No Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property, and no open fires nor incinerators shall be lighted or permitted on the Property except in a contained barbecue receptacle while attended and in use for cooking purposes.

6.15 Repair of Buildings. No Improvement upon the Property shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof. In the event that the Owner of a Lot fails to maintain and repair the Improvements on such Owner's Lot as required by this Declaration, then the Association shall have the right, but not the obligation, to give written notice to such Owner of the repairs and maintenance work which the Owner must perform in order to comply with the terms of this Declaration. If the Owner fails to take such action as specified by the Association within 30 days following such Owner's receipt of the notice, then the Association shall have the right, but not the obligation, to cause the necessary maintenance and repair work to be performed on such Owner's Lot, and the Owner of such Lot shall be obligated to reimburse the Association for all costs and expenses incurred by the Association in causing such work to be performed. Such amounts shall be due and payable to the Association by such Owner immediately upon receipt by the Owner of a written invoice outlining the costs and expenses incurred by the Association with respect to such repair and maintenance work on the Owner's Lot. If the Owner fails to pay such invoice within 30 days following the receipt thereof by the Owner, then the Association shall be entitled to levy a Reimbursement Assessment against such Owner and such Owner's Lot for the amounts expended by the Association in performing such work, in accordance with the provisions of Section 5.4 of this Declaration.

6.16 Improvements and Alterations. There shall be no excavation, construction or alteration which in any way alters the exterior appearance or structure of any Improvement within the Project, no alteration of any structural component of any Lot, no plumbing or electrical work outside the Lot, no removal of any Improvement within the Project (other than

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repairs or rebuilding) without the prior written approval of the Architectural Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made unless and until the plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee. All Improvements and alterations shall be performed in compliance with all applicable laws. No Owner shall perform any work or make any alterations or changes which would jeopardize the soundness or safety of any portion of the Project, reduce its value or impair any easement, without in every such case the written consent of the Architectural Committee being first obtained.

6.17 **Outside Installations.** No television, ham radio, citizens band or radio antenna, satellite receiving or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any Dwelling or elsewhere if exposed to view from any other Lot without the prior consent of the Architectural Committee. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Lot Owner's premises or home entertainment facilities or equipment. Provided, however, Declarant reserves the right and option to install cable service lines and antennas as needed throughout the Project in connection with its development.

ARTICLE VII
ARCHITECTURAL COMMITTEE

7.1 **Introduction**. It is the intention and purpose of this Declaration to impose architectural design standards of a type and nature that result in Dwellings and Permitted Improvements which are compatible with the mountain landscape. The placement, massing, dimensions and materials of the Permitted Improvements will be guided, but still allow for diversity in style and design. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the provisions of this Declaration.

7.2 **Members of Architectural Committee.** The Architectural Committee shall consist of not less than three (3) members but not more than five (5) members as shall be determined by the Board. The Declarant shall appoint all of the original members of the Architectural Committee and all replacements until three (3) year following the date of the recording in the Office of the Recorder of the County of the Plat for the Project. Declarant shall have the right and power to appoint and remove a majority of the members of the Architectural Committee or to fill any vacancy of such majority until the "turnover date" which shall be the date on which either, (i) ninety percent (90%) of the Lots subject to this Declaration have been sold and the deeds recorded in the Office of the Recorder of the County, or (ii) five (5) years following the date of the recording in the Office of the Recorder of the County of the Plat for the Project, whichever occurs earlier. Commencing three (3) years after the date of close of escrow for the sale of the first Lot in the Project to a purchaser from Declarant, the Board shall have the power to appoint one (1) member to the Architectural Committee, until the turnover date. Thereafter, the Board shall have the power to appoint and remove all of the members of the Architectural Committee. Persons appointed to the Architectural Committee by the Board shall be Members of the Association, but persons appointed to the Architectural Committee by

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Declarant need not be Members of the Association. The Architectural Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article. The Architectural Committee may designate and appoint a representative who is a licensed architect, and a majority of the members of said Architectural Committee may, from time to time, remove or replace such representative. The designated representative of the Architectural Committee must be a member of the Architectural Committee.

7.3 Approval by Architectural Committee. No Improvements of any kind, including without limitation the construction or installation of any Dwelling, garage, out building or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Project without the prior written approval of the Architectural Committee. The construction of all Improvements must occur within the portion of a Lot which is approved for the construction of Improvements by the ordinances of the County. No Excavation, Fill, grading, filling or draining shall be made without the prior written approval of the Architectural Committee. Approval of the Architectural Committee will be sought in the following manner:

(a) *Plans submitted.* A complete set of plans for the construction of any Improvement must be signed by the applicant and submitted to the Architectural Committee for review. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plans must be in sufficient detail to show the location on the Lot of the Improvements, including without limitation the exterior walls of any Dwelling and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior materials and roofing materials and/or a sample, including color samples. In the case of an addition or modification to an existing Dwelling, the Architectural Committee may waive any of the foregoing requirements. The Architectural Committee may issue rules or guidelines setting forth the procedures for the submission of plans for approval. The Architectural Committee may require a fee payable to the Association to accompany each application for approval. The Architectural Committee may provide that the amount of such fees shall be uniform or that such fees may be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings or descriptions or samples of exterior materials and finishes. The Architectural Committee shall have the right to retain the services of a professional architect to review the plans and specifications submitted by an Owner, in which event the Owner who has submitted such plans and specifications shall be obligated to reimburse the Association for the costs and fees incurred by the Architectural Committee in having the plans and specifications reviewed by a professional architect.

(b) *Review.* The Architectural Committee shall exercise its best judgment in overseeing the construction of all Improvements on the Property within the Project. The Architectural Committee shall consider the materials to be used on the external features of all Improvements, including but not limited to exterior colors, harmony of external design with existing structures within the Project, location with respect to topography and finished grade elevations and harmony of landscaping with the natural settings and surroundings. While in receipt of a complete submission of the plans, the Architectural Committee will review the plans

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and make an initial determination whether or not the plans comply with the conditions imposed by this Declaration. If the plans do not comply, the plans will be rejected. If the plans are in compliance, the Architectural Committee will stamp and approve the plans. The Architectural Committee may approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans to the Architectural Committee for informal and preliminary approval or disapproval. The Architectural Committee will review preliminary plans, and the Architectural Committee will make its comments known to the Owner. However, no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission of plans as set forth in this Declaration. All preliminary sketches will be kept by the Architectural Committee. Upon final approval, the Architectural Committee and the Owner will each sign a copy of the approved plans, which shall be left with the Architectural Committee. Any construction that is not in strict compliance with the approved plans is prohibited. Notwithstanding any provisions in the Declaration, all construction of any nature upon any of the Lots within the Project shall be performed in compliance with the requirements of the land management code and the building and zoning ordinances of all governmental entities having jurisdiction with respect to the Project.

(c) *Written Record.* The Architectural Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years. All decisions by the Architectural Committee shall require a majority vote of all the members of the Architectural Committee.

(d) *Failure to Act.* If the Architectural Committee has not approved or rejected any submission within 45 days after the submission of complete plans, the submission shall be deemed to have been disapproved.

(e) *Permits and Approvals from the County.* Notwithstanding any other provision of this Declaration to the contrary, prior to commencing the construction of any Improvements on any Lot, the Owner of each Lot must obtain from the County all necessary permits and approvals required by the County in connection with the construction of any such Improvements.

7.4 Variances. The Architectural Committee has the authority to deviate from the requirements contained in this Declaration under extenuating circumstances, when compliance with this Declaration would create an unreasonable hardship or burden for a Lot Owner. No such variance may be granted without the unanimous written consent of the Architectural Committee. The Architectural Committee does not, however, have the authority to deviate beyond the requirements of the land management code and the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Project

7.5 General Design Review. The Architectural Committee will use its best efforts to provide a consistent pattern of enforcement and consistent application of this Declaration that results in a high quality, attractive, and well-designed Project.

7.6 Declarant, Association, Board of Trustees and Architectural Committee not Liable. The Declarant, the Association, the Board of Trustees, and the Architectural Committee and its members shall not be liable to the applicant or to the Owners of any Lots within the

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Project for damages or any other remedy as the result of their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant, the Association, the Board of Trustees, the Architectural Committee or its members as a result of the performance or failure to perform the duties created by this Declaration. Any person or persons acquiring title to any Lot in the Project shall be deemed to have agreed and covenanted that such Owner will not bring any action or suit to recover damages against the Declarant, the Association, the Board of Trustees, or the Architectural Committee or its members, or the advisors, officers, employees or agents of the any of the foregoing, as a result of the performance by the Architectural Committee of its duties and responsibilities under this Declaration. Each Owner has the right to enforce this Declaration against another Owner.

7.7 Limitations on Review. The Architectural Committee's review is limited to those matters expressly described in this Declaration. The Architectural Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. The Architectural Committee shall not be responsible for reviewing, nor shall the approval by the Architectural Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or compliance with any applicable building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of the Property. The structural integrity of any Improvements constructed within the Project is not the responsibility of the Architectural Committee. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable statutes, laws or ordinances must be reviewed and approved by the Architectural Committee prior to construction.

7.8 Approval to Proceed. The Architectural Committee shall stamp, date and sign the plans and deliver the plans to the applicant once the plans for any Permitted Improvements have been approved.

7.9 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

7.10 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

7.11 Appeal. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request for appeal must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. Within forty-five (45) days following the receipt of the request for appeal, the Board shall render its written

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decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

ARTICLE VIII
RESTRICTIONS ON LOTS

8.1 Dwelling and Ancillary Structures. No Dwelling or other Improvements shall be placed, erected, altered, or permitted to remain on any Lot (other than Lots 8, 9 and 10) other than one (1) single family Dwelling and one (1) garage together with related nonresidential Improvements which have been approved by the Architectural Committee. With respect to Lots 8, 9 and 10, no Dwelling or other Improvements shall be placed, erected, altered or permitted to remain on any such Lot other than a residential duplex and two (2) garages, together with related nonresidential Improvements which have been approved by the Architectural Committee. At the time of construction of the single family Dwelling on any Lot, said Lot must also be improved with a garage with at least a two (2) car side-by-side capacity. At the time of the construction of the duplex residential Dwelling on any of Lots 8, 9 and 10, said Lot must be improved with two (2) garages, each of which must have at least a two (2) car side-by-side capacity. No carports shall be constructed or erected on any Lot. No structure of any kind shall be moved from any other location and placed upon a Lot, nor shall any incomplete building or Improvement of any type be permitted to remain incomplete on a Lot for a period in excess of one (1) year from the date the Improvement was started, unless otherwise approved by the Architectural Committee. No structure of a temporary character nor any trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No outbuildings are allowed under normal circumstances. The primary garage may be separate from the residence provided it matches the architecture of the residence. Outbuildings may be approved by the Architectural Committee on a case-by-case basis, provided that: (a) the architecture matches the residence, (b) visual impacts are carefully considered, (c) it is a single-story structure, (d) no plumbing fixtures are included in the outbuilding, and (e) the structure does not exceed a 150 square foot footprint.

8.2 Minimum Usable Floor Area. The Dwelling constructed on each Lot in the Project shall have a minimum of 2,500 square feet of usable floor area.

8.3 Completion of the Exterior of Dwelling. All construction and alteration work on the exterior of any Dwelling shall be prosecuted diligently, and the construction or alteration work on the exterior of each Dwelling shall be entirely completed within twelve (12) months after commencement of construction. A three (3) month grace period after the initial twelve (12) month period has expired may be granted by the Architectural Committee upon the showing of just cause for such grace period.

8.4 Towers, Satellite Receivers and Antennas. No towers, exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae, shall be allowed or permitted to remain on any Lot. Satellite receivers, in excess of eighteen (18) inches in diameter, must have an enclosure to screen them from view from any surrounding Lot Owner. Satellite receivers may not be placed above the eaves of the roof and may not in any circumstances be in excess of 24 inches in diameter.

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8.5 Used or Temporary Structures. No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall be placed, erected, or allowed to remain on any Lot except during construction periods, and no Dwelling shall be occupied in any manner prior to its completion and the issuance of a certificate of occupancy by the County.

8.6 Minimum Architectural Requirements. The following shall be considered to be minimum architectural requirements with respect to Dwellings constructed within the Project, although the Architectural Committee shall have broad discretion in the approval of plans for Dwellings constructed within the Project and shall be entitled to consider factors in addition to the following minimum requirements:

(a) Exterior materials on all Dwellings shall be limited to stone, stucco, slate tiles, wood shingles, wood siding, heavy timber, logs, cedar or redwood board and batten (stained or painted) on wood framing. Upon the express written approval of the Architectural Committee, other exterior building materials may be used. Exterior materials may not be made of ceramic tile, plastic siding, aluminum siding, steel siding, simulated stone, brick, simulated brick or asphalt siding.

(b) No more than three different materials may be used on the exterior of a Dwelling, excluding the roof.

(c) Exterior walls shall continue all the way to the ground. Walls shall not be permitted to be held off the ground by thin members.

(d) Predominant exterior wall colors shall be subdued, earthy hues. Bright and dramatic colors are not permitted as the predominant tone. Bright or dramatic colors may be used as accents, provided they are permitted by the Architectural Committee.

(e) No dome, A-frame or modified A-frame Dwellings shall be allowed or constructed.

(f) No prefabricated Dwellings or trailers shall be allowed or constructed.

(g) Roofs slopes should be between 4½/12 and 8/12. Exceptions may be granted by the Architectural Committee. Domed and curvilinear roofs are not permitted. Roofs should not descend closer than seven feet from the ground. Flat roofs are not permitted as the predominant roof shape.

(h) Roof surfacing shall not include wood shingles without fire-resistant treatment. Roof murals are not permitted. Rolled asphalt or membrane roofing is not allowed. Asphalt shingles must be architectural grade 25 years or better. Roofs must overhang at least 18 inches, and fascias must be at least 8 inches.

(i) Area illumination and unshielded light sources are not permitted. Exterior lighting should be discreet and should illuminate only critical areas.

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(j) Views of adjacent lots must be respected in the building design. Wherever possible, neighbor's views of the Jordanelle Reservoir to the east and the mountains to the west should be respected and preserved.

(k) Solar collectors are permitted, but they must lie flat on pitched roofs. Solar collectors may not exceed a total of 200 square feet without written approval from the Architectural Committee.

(l) Construction limits shall be established on all Dwellings under construction and shall remain in effect throughout the duration of construction. Construction limits shall be established by orange LOD fencing. Construction limits may not exceed 20 feet from the building footprint.

(m) Fences are permitted pursuant to the JBOZ Land Use Plan.

(n) All dog kennels must be within a fenced enclosure. All fenced enclosures must be approved in writing by the Architectural Committee prior to their installation.

(o) Maximum building height is 28 feet. Building height is measured half-way between ridge and eave from existing grade. In no circumstances may any portion of a building exceed 33 feet in height at any point.

(p) Dwellings must exhibit architectural relief via stepping of exterior walls vertically and/or horizontally. Upper floors must be at least 10% smaller in area than the lower floor footprint, unless expressly approved in writing by the Architectural Committee. One-story buildings shall not exceed 30 feet on a side without stepping at least four feet horizontally.

(q) Varying roof pitches are allowed only with express written approval from the Architectural Committee.

8.7 Slope and Drainage Control. No Improvement, planting or other material shall be placed or permitted to remain, nor shall any other activities be undertaken, which may damage or interfere with established slope ratios, which create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all Improvements within them shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. All Lot Owners shall retain and control all water runoff from such Owner's Lot or Lots, so as not to damage or hinder other Lots or Owners. Whenever possible, the natural drainage pattern on any Lot shall be preserved. Any negative drainage impacts that are created as the result of the construction of a Dwelling shall be minimized and mitigated to the satisfaction of the Architectural Committee.

8.8 Landscaping.

(a) The Landscaping of the front yard of each Lot, including the planting of grass or the placement of sod, and the planting of at least a minimal number of shrubs or trees on the Lot, must be completed within twelve (12) months from the time the Dwelling receives its Certificate of Occupancy.

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(b) Landscaping should be harmonious with existing vegetation and should predominantly consist of vegetation native to the Wasatch mountains of Utah.

(c) A landscaping plan is required to be submitted to and approved by the Architectural Committee by the Owner of a Lot prior to the commencement of landscaping activities on any Lot.

(d) Wherever possible, existing site vegetation on any Lot should be preserved.

(e) The Owner of each Lot within the Project shall keep such Owner's Lot clean of weeds and trash. If the Owner fails to do so, the Association shall have the right to cause such maintenance work to be done and to cause the cost of such maintenance work to be charged to and paid by the Owner of such Lot. The recordation by the Association in the Office of the Recorder of the County of a notice of lien against the Owner of any Lot shall constitute a lien against such Lot, which lien shall remain in effect until such amount, together with interest thereon as provided in Article V hereof from the date of such notice of lien, is paid. Thereupon the notice of lien shall be released of record.

(f) Dead landscaping shall be replaced within twelve (12) months.

(g) All disturbed areas shall be revegetated within twelve (12) months of disturbance.

(h) Landscaping shall include a minimum of six trees of which two must be 3 inch caliper or larger spruce or fir.

(i) Amenities such as hot tubs or swimming pools shall be submitted for approval by the Architectural Committee for location, size, appearance and viewshed impact prior to their installation.

ARTICLE IX
OWNERS' MAINTENANCE OBLIGATIONS

9.1 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain properly such Owner's Lot and the Improvements to the Lot in a good state of repair and an attractive, safe, and healthy condition at all times in order to preserve and enhance the enjoyment of the Project.

9.2 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Architectural Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic, will be made without the advance written consent of the Architectural Committee.

9.3 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural Committee, provided however that

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alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE X
CONSTRUCTION COVENANTS

10.1 Introduction. In order to minimize the disturbance of the Property within the Project during any construction activities, and to minimize the inconvenience to adjoining Owners, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner shall be liable.

10.2 Construction Debris Removal. The builder must comply with the ordinances of the County and the requirements of the Architectural Committee requiring the placement and maintenance of a trash container or dumpster on the Lot. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind. Such container shall be regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. No concrete trucks may be cleaned out on the Lot or anywhere within the Project.

10.3 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside the Dwelling and out of sight, whenever practical and possible.

10.4 Sanitary Facilities. The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Architectural Committee and must be removed from the Lot at such time as the permanent plumbing system is operational.

10.5 Construction Parking and Vehicles. Construction crews must park their vehicles on the Lot on which they are working or on the street in front of such Lot and shall not use or park on any other Lot or any other Property within the Project. All vehicles must be parked to allow the free flow of traffic within the Project.

10.6 Removal of Mud. The builder is responsible for cleaning up and removing mud from the construction site that is deposited on the roadways of the Project.

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10.7 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from the County and any other governmental entity having jurisdiction over construction on the Lot. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the Lot prior to the issuance of the permit(s). It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of twelve months from commencement. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling.

10.8 Repair of Damage. Each Owner is responsible for the prompt repair of any damage to any Property within the Project caused by or incidental to such Owner's construction, including without limitation any cracked or broken sidewalks. The Declarant or the Association if necessary, may initiate legal action against any Owner for the repair of damage that occurs from construction activity pertaining to that Owner's Lot. The Declarant or the Association shall be entitled to record a notice of lien against such Owner's Lot until all such damage is repaired and paid for, in the manner described in Section 5.6 above.

ARTICLE XI
DEFAULTS AND REMEDIES

11.1 Default. An "**Event of Default**" shall occur under this Declaration if any party governed hereby fails to perform its obligations under this Declaration where those obligations are due and that party has not performed the delinquent obligations within thirty (30) days following delivery to that party of written notice of such delinquency (the "**Notice of Default**"). These provisions shall not supersede more restrictive requirements set forth elsewhere in this Declaration.

11.2 Remedies.

11.2.1 General. Upon the occurrence of an Event of Default, the Association shall have the right to exercise all rights and remedies available in this Declaration, at law and in equity, including injunctive relief and specific performance. The Owners acknowledge that their obligations under this Declaration are unique, and defaults may not be compensated by purely monetary damages. Those rights and remedies shall be cumulative. Under no circumstances, even an Event of Default, shall any Owner have the right to terminate this Declaration or take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners or their respective portions of the Project that are not in default under this Declaration.

11.2.2 Cure. Furthermore, the Association shall have the right to cure the default and seek reimbursement from the defaulting Owner for the costs incurred in effecting such cure. Notwithstanding any provision herein to the contrary, the Owner shall reimburse the Association for such costs of curing a default within fifteen (15) days following delivery to the defaulting Owner of a written notice of such costs along with reasonable support documentation.

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11.2.3 Additional Remedies. In addition to any other enforcement rights and remedies described in this Declaration, the Association may take any of the following actions against any Owner whose act or failure to act violates or threatens to violate any provision of this Declaration: impose monetary penalties, including late charges and interest; suspend voting rights in the Association; and/or remove the defaulting Owner from the Board and/or the Architectural Committee.

11.2.4 No Cross-Defaults. If any Owner shall create an Event of Default hereunder, only the defaulting Owner shall be subject to remedies and none of the other Owners governed by this Declaration shall be deemed to be in default or be penalized in any manner. For example, if an Owner shall cause an Event of Default, the Association may exercise its rights and remedies against the defaulting Owner, but shall not take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners that are not in default under this Declaration.

11.2.5 Jurisdiction. Any judicial or arbitration action associated with this Declaration shall be taken in the courts within the jurisdiction where the Project is located.

11.2.6 Enforcement by County. The County shall have the right, but not the obligation, to exercise all rights and enforce all provisions in this Declaration. The County shall have no obligations or liabilities under this Declaration except to the extent that the County seeks to exercise rights or remedies under this Declaration in breach thereof or in violation of any applicable laws.

11.2.7 Enforcement by Declarant and Owners. In addition to the Association, Declarant and any Owner or the successor-in-interest of an Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations, and the right to recover damages or other sums for such violation; provided, however, that with respect to assessment liens, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association, Declarant or by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.2.8 Non-liability of Officials. To the fullest extent permitted by law, the Declarant, the Association, the Board of Trustees, the Architectural Committee, the County and any other committees of the Association or any Member of such Board of Trustees or committee shall not be liable to any Owner or Member for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such entity, committees or persons reasonably believed to be the scope of their duties.

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ARTICLE XII
MISCELLANEOUS

12.1 No Representations. Each person that acquires a Lot is responsible to reasonably investigate that Lot and the Project. Declarant conveys each Lot in "as is" condition without any representation or warranty as to that Lot or the Project.

12.2 Conflicts. In case of any conflict between this Declaration and the Articles or Bylaws, this Declaration shall control.

12.3 Attorneys' Fees. In the event of any controversy or claim respecting this Declaration, or in connection with the enforcement of this Declaration, the prevailing party shall be entitled, in addition to all expenses, costs and damages, to reasonable attorneys' fees to be reimbursed by the non-prevailing party.

12.4 No Waiver. Any party's failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by another party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

12.5 Request for Notice. The Association hereby requests that a copy of any notice of default and a copy of a notice of sale under any mortgages, deeds of trust or other liens or encumbrances filed for record against any Lots or the Project be mailed to the Association as follows: Star Harbour Estates Homeowners Association, Inc., P.O. Box 1450, Park City, Utah 84060, pursuant to Utah Code Annotated Section 57-1-26, as amended.

12.6 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 mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Association at the time of mailing.

12.7 Amendment. Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the official records of the County of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control. Within ten (10) years from the date of recording this Declaration, and so long as the Declarant is the Owner of any Lot in the Project, this Declaration may be amended or terminated only with the written approval of the Declarant.

12.8 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

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12.9 Declarant's Rights Assignable. The rights of Declarant under this Declaration or in any way relating to the Property may be assigned whereupon the assignee of Declarant shall have all the rights of Declarant hereunder.

12.10 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and 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, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof; this Declaration shall be liberally construed to effect all of its purposes.

12.11 Covenants to Run With Land. This Declaration and all of 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 hereafter acquire any interest in a Lot and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner, user or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to and agrees to be bound by, each and every provision of this Declaration.

12.12 Lists of Owners. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Lot which is owned by such Owner. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the Office of the Recorder of the County. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot or Lots which is obtained from the Office of the Recorder of the County. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Board is otherwise advised.

12.13 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the Office of the Recorder of the County.

12.14 Contemplated Amendment of the Plat and this Declaration. Declarant hereby discloses that it is Declarant's intent, following the recording in the Office of the Recorder of Wasatch County, Utah of the Plat and this Declaration, to seek approval from the County to amend the Plat for the purpose of converting Lot A from a water quality/detention pond parcel to one or more single family residential lots and also to convert Lot B from a utility easement parcel to a single family residential lot. The conversion of Lot A to one or more single family residential lots shall be conditioned upon Declarant arranging for the Association to be granted a perpetual easement over and across an alternate site that shall satisfy the requirements of the County with respect to the detention pond for surface water run off that is presently contemplated for Lot A. The conversion of Lot B to single family residential use shall be conditioned upon Declarant arranging to relocate to another location satisfactory to the County

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the overhead power lines which presently exist on Lot B. All of the Owners of all of the Lots within the Subdivision, by acquiring title to any Lot within the Subdivision, shall be deemed to have consented to one or more amendments to this Declaration and to the Plat in order to convert Lot A into one or more single family residential lots within the Subdivision and to convert Lot B into a single family residential lot within the Subdivision. By acquiring title to any of the Lots within the Subdivision, the Owner of the Lot shall be deemed to have agreed to execute, acknowledge and deliver such written consent and approval documents as Declarant may reasonably request in order to evidence the consent of the Owner of each Lot within the Subdivision to the amendment of the Plat and the amendment of this Declaration in order to evidence the conversion of the uses of Lot A and Lot B as set forth in this Section 12.14, provided that the County grants all necessary consents and approvals to any such amendment.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by an officer duly authorized to execute the same as of the date first above written.

DECLARANT

BLUE LEDGE CORPORATION, a Delaware corporation

By:_____
Hank Rothwell
Title: President

THE ASSOCIATION

STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC., a Utah nonprofit corporation

By:_____
Hank Rothwell
Title: President

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STATE OF UTAH)
: ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 16th day of August, 2001 by Hank Rothwell, in his capacity as the President of Blue Ledge Corporation, a Delaware corporation.

Sherri L. Allsman
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:

3-9-03

SHERRI L ALLSMAN
Notary Public
State of Utah
My Comm. Expires Mar 9, 2003
201 South Main #1800 SLC UT 84111

STATE OF UTAH)
: ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 16th day of August, 2001 by Hank Rothwell, in his capacity as the President of Star Harbour Estates Homeowners Association, Inc., a Utah nonprofit corporation.

Sherri L. Allsman
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:

3-9-03

SHERRI L ALLSMAN
Notary Public
State of Utah
My Comm. Expires Mar 9, 2003
201 South Main #1800 SLC UT 84111

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EXHIBIT "A"
Legal Description of the Property

That certain real property located in Wasatch County, State of Utah, more particularly described as follows:

PARCEL 1

A parcel of land located in the North Half of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, beginning at a point South 89°00'49" West 1540.80 feet along the Quarter Section Line from the East 1/4 Corner of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence along the quarter section line South 89°00'49" West 325.59 feet; thence North 00°03'26" West 234.48 feet to a point on a 4002.08 foot curve to the right of which the radius point bears North 01°54'25" West; thence westerly along the arc of said curve 198.17 feet through a central angle of 02°50'13"; thence North 89°04'12" West 721.25 feet to a point on a 447.32 foot curve to the right of which the radius point bears North 00°55'48" East; thence northwesterly along the arc of said curve 466.88 feet through a central angle of 59°48'02"; thence North 29°16'10" West 100.00 feet to a point on a 250.00 foot curve to the left of which the radius point bears South 60°43'50" West; thence southwesterly along the arc of said curve 361.21 feet through a central angle of 82°47'00"; thence South 67°56'50" West 146.95 feet to a point on the easterly right-of-way line of the east frontage road of Highway US 40 described as parcel No. JDR-104 (A) in a document recorded March 29, 1988 as Entry #145253 in Book 198, Pages 701-759 in the office of the Wasatch County Recorder; thence along the frontage road right-of-way line North 22°06'16" West (Deed North 22°02'00" West) 60.00 feet; thence North 67°56'50" East 147.00 feet to a point on a 310.00 foot curve to the right of which the radius point bears South 22°03'10" East; thence southeasterly along the arc of said curve 447.90 feet through a central angle of 82°47'00"; thence South 29°16'10" East 100.00 feet to a point on a 387.32 foot curve to the left of which the radius point bears North 60°43'50" East; thence easterly along the arc of said curve 404.25 feet through a central angle of 59°48'02"; thence South 89°04'12" East 721.25 feet to a point on a 3942.08 foot curve to the left of which the radius point bears North 00°55'48" East; thence easterly along the arc of said curve 265.50 feet through a central angle of 03°51'32"; thence North 13°30'31" West 606.76 feet; thence South 64°18'07" West 435.01 feet; thence North 77°10'30" West 1521.54 feet to a point on the easterly right-of-way line of the east frontage road of Highway US 40 described as parcel No. JDR-104 (A) in a document recorded March 29, 1988 as Entry #145253 in Book 198, Pages 701-759 in the office of the Wasatch County Recorder; thence along the frontage road right-of-way line the following three (3) courses: 1) North 22°06'16" West (Deed North 22°02'00" West) 200.97 feet; thence 2) North 22°53'44" East (Deed North 22°58'00" East) 141.42 feet; thence 3) North 22°06'16" West (Deed North 22°02'00" West) 276.35 feet; thence South 52°44'00" East 495.00 feet; thence

South 72°44'00" East 354.89 feet; thence South 81°05'30" East 811.83 feet; thence South 00°47'48" East 60.21 feet; thence South 12°47'15" East 135.36 feet; thence South 79°50'27" East 119.76 feet; thence North 56°40'52" East 113.24 feet; thence North 73°43'16" East 170.14 feet; thence North 86°07'40" East 882.37 feet; thence South 61°01'12" East 129.51 feet; thence South 76°17'57" East 105.31 feet to a point on the westerly line of Parcel No. JDR-HY-40-19:21: ET as described in a document recorded March 29, 1988 as Entry #145253 in Book 198, Pages 701-759, in the office of the Wasatch County Recorder; thence along said westerly line the following six (6) courses: 1) South 06°04'16" East 296.60 feet; thence 2) South 01°30'07" West 139.94 feet; thence 3) South 32°25'44" West 141.10 feet; thence 4) South 70°14'18" West 396.26 feet; thence 5) South 57°00'33" West 230.94 feet; thence 6) South 10°25'45" West 129.58 feet to the point of beginning.

And also

PARCEL 2 DETENTION POND

A parcel of land located in the North Half of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, beginning at a point North 00°10'44" West 694.48 feet along section line and West 684.10 feet from the East Quarter Corner of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence North 06°22'48" West 179.76 feet to a point on a 25.00 foot curve to the right, of which the radius point bears North 83°37'12" East; thence easterly along the arc of said curve 44.40 feet through a central angle of 101°44'57"; thence South 84°37'51" East 94.49 feet; thence South 67°25'44" East 85.70 feet to a point on a 25.00 foot curve to the right, of which the radius point bears South 22°34'16" West; thence southerly along the arc of said curve 30.71 feet through a central angle of 70°23'08"; thence South 02°57'25" West 141.02 feet to a point on a 50.00 foot curve to the right, of which the radius point bears North 87°02'35" West; thence westerly along the arc of said curve 70.54 feet through a central angle of 80°49'57"; thence South 83°47'22" West 66.65 feet to a point on a 50.00 foot curve to the right, of which the radius point bears North 06°12'37" West; thence northwesterly along the arc of said curve 47.09 feet through a central angle of 53°57'32"; thence North 42°15'05" West 52.52 feet to the point of beginning.

OHB-0001 (lots 1-35)

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EXHIBIT "B"
Bylaws of Star Harbour Estates Homeowners Association, Inc.

[A copy of the Bylaws of Star Harbour Estates Homeowners Association, Inc. is attached hereto.]

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BY-LAWS

OF

STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC.

A Nonprofit Corporation of the State of Utah

Pursuant to the provisions of the Utah Nonprofit Corporation and Co-operative Association Act, the Board of Trustees of the Star Harbour Estates Homeowners Association, Inc. hereby adopts the following By-Laws.

ARTICLE I

NAME AND PRINCIPAL OFFICE

1.1 Name: The name of the corporation is "Star Harbour Estates Homeowners Association, Inc.," and it is referred to below as the "Association."

1.2 Offices. The initial principal office of the Association will be at 1.5 Miles South of Park City on Highway 224, Park City, Utah 84060.

ARTICLE II

MEMBERS AND MEETINGS

2.1 Annual Meetings. The annual meeting of the Members of the Association shall be held on the second Monday in April at 6:00 p.m. at the offices of the Association, beginning in the year following the year in which the Association is incorporated. The Board of Trustees may designate some other time, date and place for the annual meeting by giving proper notice of the change in advance of the meeting. The purpose of the annual meeting is to elect the Trustees, and to approve the annual assessments to be made by the Association upon the Members, as recommended by the Trustees, and to consider such other business that comes before the meeting. If the Trustees are not elected at the annual meeting, the existing Trustees shall continue to serve until their successors are named in a special meeting called for that purpose, or until the next annual meeting. The Trustees may change the date, time and place of the annual meeting as they see fit by formal resolution.

2.2 Special Meetings. Special meetings of the Members may be called by the Board of Trustees or by the President as they see fit, or by the Members of the Association representing not less than 33% of the total votes of the Association. Any notice of special meeting shall state the time, place, and date of the meeting and the matters to be considered at the meeting. When a special meeting is called by the Members of the Association, the notice shall be in writing and delivered to the President or the Chairman of the Board of Trustees.

2.3 Place of Meetings. All meetings will be held in Park City, Utah, or in such other location in the State of Utah as the Board of Trustees determine by formal resolution.

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2.4 Notice of Meeting. The Board of Trustees shall cause written or printed notice of the date, time place and purposes of all meetings of the Members to be sent to each of the Members not more than 60 but not less than 10 days prior to the meeting. Mailed notice is deemed delivered when it is deposited in the United States Mail, postage prepaid, addressed to the Member at the last known address. Each Member shall register his or her address with the Association, and it shall be the obligation of the Member to provide notice of any change of address to the Association. If no address is registered, the Association may mail that Member's notice to the Secretary of the Association as the agent for the Member. Only one notice will be mailed on each Lot, so if there are multiple owners of a Lot, they must designate one of them to receive the notice of the meeting on their behalf.

2.5 Members of Record. Upon purchasing a residential lot (the "Lot") in Star Harbour Estates located in Wasatch County, Utah (the "Subdivision"), each owner shall promptly furnish the Association with a copy of the deed or other instrument under which such owner acquired title to the Lot. The Members of the Association shall be the owners of the Lots in the Subdivision. Membership is deemed an appurtenance to each Lot and shall pass automatically to the owner of each Lot upon conveyance of title to such Lot. The Association shall not have stock or issue shares. For purposes of determining a quorum, determining the persons entitled to vote, and all other matters before a meeting of the Members, the Association may designate a record date, not more than 60 days nor less than 10 days prior to the meeting date, to determine the Members entitled to notice and to vote at the meeting. If no record date has been fixed, the record date is deemed to be the date on which notice of the meeting was mailed to the Members. The persons appearing as Members as of the record date are deemed entitled to notice and to vote at the meeting. Persons who become Members subsequent to the record date, or whose ownership is not registered with the Association until subsequent to the record date shall not be entitled to notice, shall not be counted in comprising a quorum, and shall not be entitled to vote at the meeting. This shall not preclude a person who acquires such person's Membership subsequent to the record date from voting the interest of his predecessor under a written proxy.

2.6 Quorum. At any meeting of the Members, the presence of Members, in person or by proxy, holding the right to cast more than 50% of the total votes of the Association shall constitute a quorum for the transaction of business. In the event that a quorum is not present at a meeting, the Members present, in person or by proxy, though less than a quorum, may adjourn the meeting to a later date set by those Members present. Notice of the re-scheduled meeting will be sent to the Members providing at least 10 days notice of the new meeting. At any re-scheduled meeting, a quorum will be deemed to exist comprised of those Members present in person or by proxy at the re-convened meeting.

2.7 Proxies. At each meeting of the Members, each Member entitled to cast a vote shall be entitled to vote in person or by written proxy. All proxies must be in writing, signed by the Member as shown on the records of the Association. When a Membership is jointly held, the proxy must be signed by all of the joint owners of the Membership. Proxies must be presented to the Secretary of the Meeting at the beginning of the meeting for purposes of determining a quorum. The secretary will make an entry of proxies in the minutes of the meeting.

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2.8 Voting Rights. With respect to each matter presented to the Members, including the election of Trustees, each Member that owns a Lot (other than Lots 8, 9 and 10 within the Subdivision) shall be entitled to cast one vote for each Lot that such Member owns on all matters presented to the Members for approval. Each Member that own any of Lots 8, 9 or 10 within the Subdivision, which Lots are identified on the plat of the Subdivision as duplex Lots, shall be entitled to two (2) votes for each such Lot owned. If a Lot is owned by more than one person or entity, then such persons or entities must decide among themselves how the one vote for such Lot (or the two votes for such Lot in the case of Lots 8, 9 and 10) shall be cast. In the event that a Lot is owned by multiple owners and only one of the multiple owners is present at a meeting, the other multiple owners who are not present shall be deemed to have consented to the owner who is present voting the interests of that Lot. In the event of Lots held subject to trust deeds or mortgages, the trustor or mortgagor will be entitled to vote, and the lender shall have no right to vote; provided however, that when a lender has taken possession of any Lot, the lender shall be deemed to have succeeded to the interest of the trustor or mortgagor, and shall then be entitled to cast the vote.

2.9 Simple Majority. Any matter placed before the Members for a vote shall pass if there is an affirmative vote of the majority of the Members present at the meeting (and there is a quorum present). Election of Trustees will be by secret ballot. Other matters may be voted by secret ballot or by show of hands or such other means as the officer conducting the meeting shall determine.

2.10 Waiver of Irregularities. Any inaccuracies, irregularities, or errors in any call for a meeting or in any notice of meeting, and any inaccuracies or irregularities in the determination of a quorum or acceptance of proxies at a meeting are deemed waived, unless there is an objection stated in the meeting prior to the vote being taken.

2.11 Informal Action. Any action which is required to be taken or approved at a meeting may be taken or approved without a formal meeting, if all of the Members consent to the action in writing prior to the action being taken. The Members may hold meetings for which formal notice was not given if the Members waive notice prior to the meeting.

ARTICLE III

BOARD OF TRUSTEES

3.1 General Powers. The Board of Trustees shall have authority to manage and control the property and affairs of the Association. The Board of Trustees may exercise all powers conferred upon them by law, by the Articles of Incorporation, by these By-Laws and by the terms of Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates dated May 31, 2001 (the "Declaration"), provided however, that those powers which are specifically reserved to the Members in these By-law or in the Articles of Incorporation shall be exercised only by the Members. The Board may delegate its powers to officers, managers, or to such others as are appropriately delegated.

3.2 Number and Tenure. There shall be three members of the Board of Trustees. They shall serve until the next annual meeting in which Trustees are elected, and shall continue

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to serve until their successors have been elected and assumed office. Trustees need not be residents of the State of Utah nor Members of the Association.

3.3 Board Meetings. The Board of Trustees shall have at least one meeting per year, which shall be within the 90 days preceding the Annual Meeting of Members for the purpose of setting the agenda for the Annual Meeting of Members, and for purposes of approving an annual budget for the operations of the Association, for approving (for recommendation to the Members) the assessments to be made by the Association upon the Members as contemplated by the Declaration, and for approving annual reports, tax returns, and similar matters. Special meetings may be called by the President or the Chairman, or by a majority of the Board by giving notice to the other Board members. Notice of Board meetings will be given in writing or by telephone not more than 15 days, and not less than 5 days prior to the date of the meeting.

3.4 Quorum. A quorum at a Board meeting will consist of a simple majority of the Board. Board members may be counted as present if they are participating in the meeting by telephone.

3.5 Deadlock. In the event of a deadlock on the Board, the Board shall immediately call for a special meeting of the Members and, at the direction of the Chairman of the Board, either call for the election of a new Board, or submit the matter to the Members for determination.

3.6 Compensation. The Board of Trustees shall serve without compensation, provided that their reasonable out of pocket expenses for Association business, including the costs of attending Board meetings, may be reimbursed by the Association.

3.7 Resignation or Removal. Any Trustee may resign at any time. Any Trustees may be removed prior to the end of his or her term of office by an affirmative vote of a simple majority of the Members of the Association at a regular or special meeting called for that purpose.

3.8 Vacancies. Vacancies on the Board of Trustees will be filled by appointment of a successor by the remainder of the Board, provided that any such appointee will be confirmed or rejected at the next regular meeting of the Members. Any such Trustee is to fill the balance of the vacant term which he or she has filled, and will stand for election at the expiration of that term.

3.9 Informal Action by Trustees. The Trustees may take any action they could take in a formal meeting without a formal meeting, provided that the action is authorized in advance in writing signed by all of the Trustees. The Trustees may waive notice of meetings by signing written waivers at the time of the meeting. Minutes of all Board meetings will be kept, and when a meeting is held without prior notice, the minutes will reflect the written waiver of notice.

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5.2 Indemnification Against Member Actions. The Association may defend and indemnify the Officers and Trustees against all actions, claims, and suits brought by Members of the Association against them individually which arise from the exercises of their obligations and duties as Officers and Trustees. This shall include all civil, administrative or investigative actions whether brought by an individual or a governmental agency. The indemnification shall extend to the payment of reasonable attorneys' fees incurred in the defense of such action, including fees for independent counsel, and the payment of any fine, settlement, or judgment. This indemnity is limited in scope to those acts or omissions arising from the good faith exercise of the authority of the office held, or the discharge of the duties as a Trustee on behalf of the Association.

5.3 Request for Indemnification. When any Officer, Trustee or employee of the Association receives notice of any action referred to above, he or she shall give notice to the President and to the Board of Trustees, stating the nature of the claim, the claimant, and providing all pertinent information about the claim. The Board, in the case of an action against an Officer or employee, or against a single Trustee, may vote to indemnify the Officer, employee or Trustee. In the event that the action is against the Board of Trustees as whole, or names more than a single Trustee individually, and the claim is entirely covered by and within the policy limits of the Association's insurance coverage, the Board may vote to indemnify itself and the individuals named. In the event that the claim exceeds the limits of any insurance coverage, or is not covered, the Board may not agree to indemnify itself without presenting the matter to the Association for a vote at a special meeting called for that purpose.

5.4 Amendment. These By-Laws may be amended by the Members of the Association from time to time as the Members see fit by a majority vote at a meeting called for that purpose.

Adopted this 3rd day of May, 2001.

Hank Fithill
President

Attest:

Rory C. Murphy
Secretary

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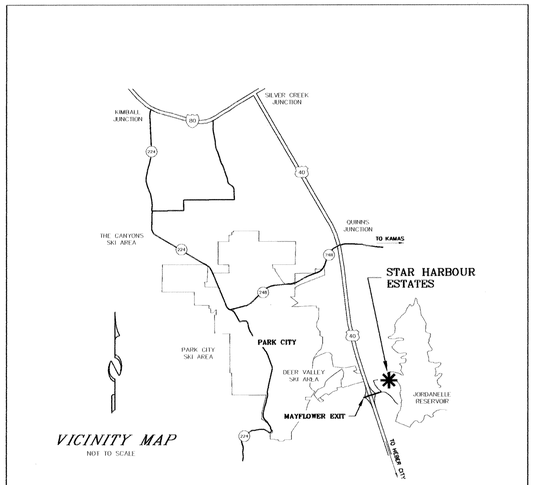
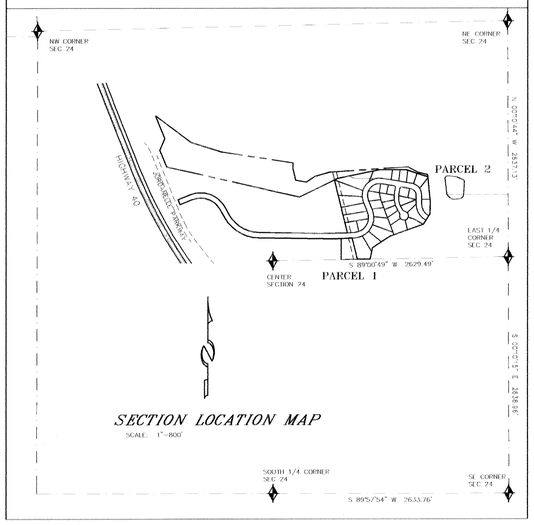
ENCLOSURE 5

STAR HARBOUR FIRST AMENDED SUBDIVISION PLAT
AUGUST 14, 2001



VICINITY MAP
NOT TO SCALE



SECTION LOCATION MAP
SCALE: 1"=800'

REGISTERED LAND SURVEYOR
No. 154491
JOHN
DEMKOWICZ
State of Utah

SURVEYOR'S CERTIFICATE

I John Demkowicz, do hereby certify that I am a registered land surveyor and that I hold Certificate No. 154491 as prescribed under the laws of the State of Utah. I further certify that by the authority of the owner I have made a survey of the tract of land shown on this plat and described herein and subdivided said tract of land into lots, public rights-of-way, and easements, to be hereafter known as STAR HARBOUR ESTATES and that the same has been correctly surveyed on the ground as shown on this plat.

7-9-01
John Demkowicz — Date

NOTES

1. A 10 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT SHALL BE GRANTED ON ALL FRONT, SIDE, AND REAR LOT LINES, UNLESS OTHERWISE NOTED.
2. TYPICAL BUILDING SETBACK SHALL BE AS FOLLOWS:
   FRONT – 20 FEET
   SIDE – 12 FEET
   REAR – 30 FEET
   BUILDING SETBACKS SHALL NOT EXTEND INTO EASEMENTS SHOWN ON THIS PLAT.
3. PARCEL 2 CONTAINS A WATER QUALITY AND STORM DETENTION POND FOR STAR HARBOUR ESTATES AND OTHER SITES PER THE MASTER PLAN. PARCEL 2 SHALL BE DESIGNATED AS AN OPEN SPACE PARCEL.
4. LOT 'B' IS AN EASEMENT FOR AN EXISTING OVERHEAD UTILITY TRANSMISSION LINE. IN THE EVENT THAT THE EXISTING OVERHEAD UTILITY TRANSMISSION LINE IS RELOCATED TO ANOTHER LOCATION, THEN LOT 'B' MAY BECOME A SINGLE FAMILY LOT, SUBJECT TO REVIEW AND APPROVAL BY WASATCH COUNTY.
5. LOT 'C' IS AN OPEN SPACE PARCEL AND SHALL REMAIN AS SUCH, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS.
6. ALL LOTS SHALL BE SUBJECT TO THE TERMS AND CONDITIONS CONTAINED IN THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS.
7. LOTS 8, 9, AND 10, ARE DUPLEX LOTS. TWIN HOMES ARE PERMITTED TO BE CONSTRUCTED ON LOTS 8, 9, AND 10. ALL OTHER LOTS SHALL CONTAIN SINGLE FAMILY RESIDENCES.
8. MAINTENANCE OF ALL STORM WATER AND WATER QUALITY FACILITIES SHALL BE THE RESPONSIBILITY OF THE MASTER HOME OWNER'S ASSOCIATION.
9. LOTS 34 AND 35 SHALL HAVE THE FOLLOWING ADDITIONAL RESTRICTIONS:
   A. THE HEIGHT OF BUILDING CANNOT EXCEED 35 FEET.
   B. NO REDUCTION IN MINIMUM REQUIRED SETBACKS WILL BE ALLOWED.

PARCEL 1 – BOUNDARY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT SOUTH 89°00'49" WEST 1540.80 FEET ALONG THE QUARTER SECTION LINE FROM THE EAST 1/4 CORNER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE QUARTER SECTION LINE SOUTH 89°00'49" WEST 325.59 FEET; THENCE NORTH 00°03'26" WEST 234.48 FEET TO A POINT ON A 4002.08 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS NORTH 01°54'25" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE 198.17 FEET THROUGH A CENTRAL ANGLE OF 02°50'13"; THENCE NORTH 89°04'12" WEST 721.25 FEET TO A POINT ON A 447.32 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS NORTH 00°55'48" EAST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 466.88 FEET THROUGH A CENTRAL ANGLE OF 59°48'02"; THENCE NORTH 29°16'10" WEST 100.00 FEET TO A POINT ON A 250.00 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS SOUTH 60°43'50" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 361.21 FEET THROUGH A CENTRAL ANGLE OF 82°47'00"; THENCE SOUTH 67°56'50" WEST 146.95 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE EAST FRONTAGE ROAD OF HIGHWAY US 40 DESCRIBED AS PARCEL NO. JDR-104 (A) IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE FRONTAGE ROAD RIGHT-OF-WAY LINE NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 60.00 FEET; THENCE NORTH 67°56'50" EAST 147.00 FEET TO A POINT ON A 310.00 FOOT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS SOUTH 22°03'10" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 447.90 FEET THROUGH A CENTRAL ANGLE OF 82°47'00"; THENCE SOUTH 29°16'10" EAST 100.00 FEET TO A POINT ON A 387.32 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS NORTH 60°43'50" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 404.25 FEET THROUGH A CENTRAL ANGLE OF 59°48'02"; THENCE SOUTH 89°04'12" EAST 721.25 FEET TO A POINT ON A 3942.08 FOOT CURVE TO THE LEFT OF WHICH THE RADIUS POINT BEARS NORTH 00°55'48" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 265.50 FEET THROUGH A CENTRAL ANGLE OF 03°51'32"; THENCE NORTH 13°30'31" WEST 606.76 FEET; THENCE SOUTH 64°18'07" WEST 435.01 FEET; THENCE NORTH 77°10'30" WEST 1521.54 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE EAST FRONTAGE ROAD OF HIGHWAY US 40 DESCRIBED AS PARCEL NO. JDR-104 (A) IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759 IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG THE FRONTAGE ROAD RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: 1) NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 200.97 FEET; THENCE 2) NORTH 22°53'44" EAST (DEED NORTH 22°58'00" EAST) 141.42 FEET; THENCE 3) NORTH 22°06'16" WEST (DEED NORTH 22°02'00" WEST) 276.35 FEET; THENCE SOUTH 52°44'00" EAST 495.00 FEET; THENCE SOUTH 72°44'00" EAST 354.89 FEET; THENCE SOUTH 81°05'30" EAST 811.83 FEET; THENCE SOUTH 00°47'48" EAST 60.21 FEET; THENCE SOUTH 12°47'15" EAST 135.36 FEET; THENCE SOUTH 79°50'27" EAST 119.76 FEET; THENCE NORTH 56°40'52" EAST 113.24 FEET; THENCE NORTH 73°43'16" EAST 170.14 FEET; THENCE NORTH 86°07'40" EAST 882.37 FEET; THENCE SOUTH 61°01'12" EAST 129.51 FEET; THENCE SOUTH 76°17'57" EAST 105.31 FEET TO A POINT ON THE WESTERLY LINE OF PARCEL NO. JDR-HY-40-19:21: ET AS DESCRIBED IN A DOCUMENT RECORDED MARCH 29, 1988 AS ENTRY #145253 IN BOOK 198, PAGES 701-759, IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING SIX (6) COURSES: 1) SOUTH 06°04'16" EAST 296.60 FEET; THENCE 2) SOUTH 01°30'07" WEST 139.94 FEET; THENCE 3) SOUTH 32°25'44" WEST 141.10 FEET; THENCE 4) SOUTH 70°14'18" WEST 396.26 FEET; THENCE 5) SOUTH 57°00'33" WEST 230.94 FEET; THENCE 6) SOUTH 10°25'45" WEST 129.58 FEET TO THE POINT OF BEGINNING.

DESCRIPTION CONTAINS 34.47 ACRES.

PARCEL 2 – BOUNDARY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT NORTH 00°10'44" WEST 694.48 FEET ALONG SECTION LINE AND WEST 684.10 FEET FROM THE EAST QUARTER CORNER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 06°22'48" WEST 179.76 FEET TO A POINT ON A 25.00 FOOT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT BEARS NORTH 83°37'12" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 44.40 FEET THROUGH A CENTRAL ANGLE OF 101°44'57"; THENCE SOUTH 84°37'51" EAST 94.49 FEET; THENCE SOUTH 67°25'44" EAST 85.70 FEET TO A POINT ON A 25.00 FOOT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT BEARS SOUTH 22°34'16" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 30.71 FEET THROUGH A CENTRAL ANGLE OF 70°23'08"; THENCE SOUTH 02°57'25" WEST 141.02 FEET TO A POINT ON A 50.00 FOOT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT BEARS NORTH 87°02'35" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE 70.54 FEET THROUGH A CENTRAL ANGLE OF 80°49'57"; THENCE SOUTH 83°47'22" WEST 66.65 FEET TO A POINT ON A 50.00 FOOT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT BEARS NORTH 06°12'37" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 47.09 FEET THROUGH A CENTRAL ANGLE OF 53°57'32"; THENCE NORTH 42°15'05" WEST 52.52 FEET TO THE POINT OF BEGINNING.

DESCRIPTION CONTAINS 1.07 ACRES, MORE OR LESS.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT: THAT THE UNDERSIGNED IS THE OWNER OF THE HEREIN DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, OPEN SPACE, AND PUBLIC RIGHT-OF-WAYS, TOGETHER WITH EASEMENTS AS SET FORTH ON THIS RECORD OF SURVEY PLAT TO BE KNOWN HEREAFTER AS STAR HARBOUR ESTATES, DOES HEREBY DEDICATE FOR THE PERPETUAL USE OF THE PUBLIC, ALL PARCELS OF LAND AS INTENDED FOR PUBLIC USE AND FURTHER CONSENTS TO THE RECORDATION OF THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH UTAH LAW.

IN WITNESS WHEREOF, THE UNDERSIGNED SET HIS HAND THIS 15TH DAY OF July, 2001.

BLUE LEDGE CORPORATION
A DELAWARE CORPORATION

RORY MURPHY, VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF UTAH)
:ss
COUNTY OF SUMMIT)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 18TH DAY OF July, 2001, BY RORY MURPHY, VICE PRESIDENT OF BLUE LEDGE CORPORATION, A DELAWARE CORPORATION, ON BEHALF OF THE CORPORATION.

NOTARY PUBLIC

MY COMMISSION EXPIRES: June 1, 2004

NOTARY PUBLIC
MARY J. CARNEY
323 Main Street, P.O. Box 2664
Park City, UT 84060
My Commission Expires June 1, 2004
State of Utah

FIRST AMENDED RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

JOB# 1-6-00 File: X:\Jordanelle\dwg\UPCMC\HailstoneStation\Plat\plat.DIR

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

WASATCH COUNTY PLANNING COMMISSION
Approved this 6 day of August 2001, by the Wasatch County Planning Director.
Chairman, Planning Commission

WASATCH COUNTY PUBLIC WORKS
Approved this 9 day of Aug, 2001. Subject to the following conditions:
Director, Public Works

WASATCH COUNTY ENGINEERING DEPARTMENT
Approved this 7 day of Aug, 2001. Subject to the following conditions:
Director, Engineering Department

WASATCH COUNTY SHERIFF DEPARTMENT
Approved this 8 day of August 2001.
Sheriff

JORDANELLE ARCHITECTURAL ADVISORY BOARD
Approved this 7th day of August, 2001.
Director

JORDANELLE SPECIAL SERVICE DISTRICT AND SPECIAL IMPROVEMENT DISTRICT
Approved this 6 day of Aug, 2001.
Director

APPROVAL AS TO FORM
Approved this 9 day of August, 2001.
Wasatch County Attorney

WASATCH COUNTY PLANNING OFFICE
Approved this 13 day of Aug, 2001, by the Wasatch County Planning Director.
Planning Director

ADMINISTRATIVE BODY
The County of Wasatch approves this subdivision and hereby accepts the dedication of all streets, easements, and other parcels of land intended for public purposes for the perpetual use of the public, this 15 day of Aug, 2001, subject to the following conditions:
Commission Chairman — County Clerk

WASATCH COUNTY HEALTH DEPARTMENT
Approved this 7 day of Aug, 2001. Subject to the following conditions:
Director, County Health Department

WASATCH COUNTY FIRE MARSHAL
Approved this 6 day of Aug, 2001. Subject to the following conditions:
Fire Marshall

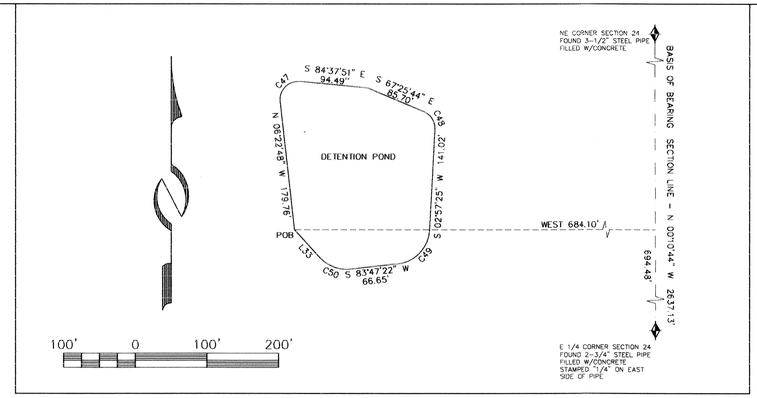
WASATCH COUNTY WEED BOARD
Approved this 7th day of Aug, 2001. Subject to the following conditions:
Director

WASATCH COUNTY RECREATION DISTRICT
Approved this 9 day of Aug, 2001.
Director

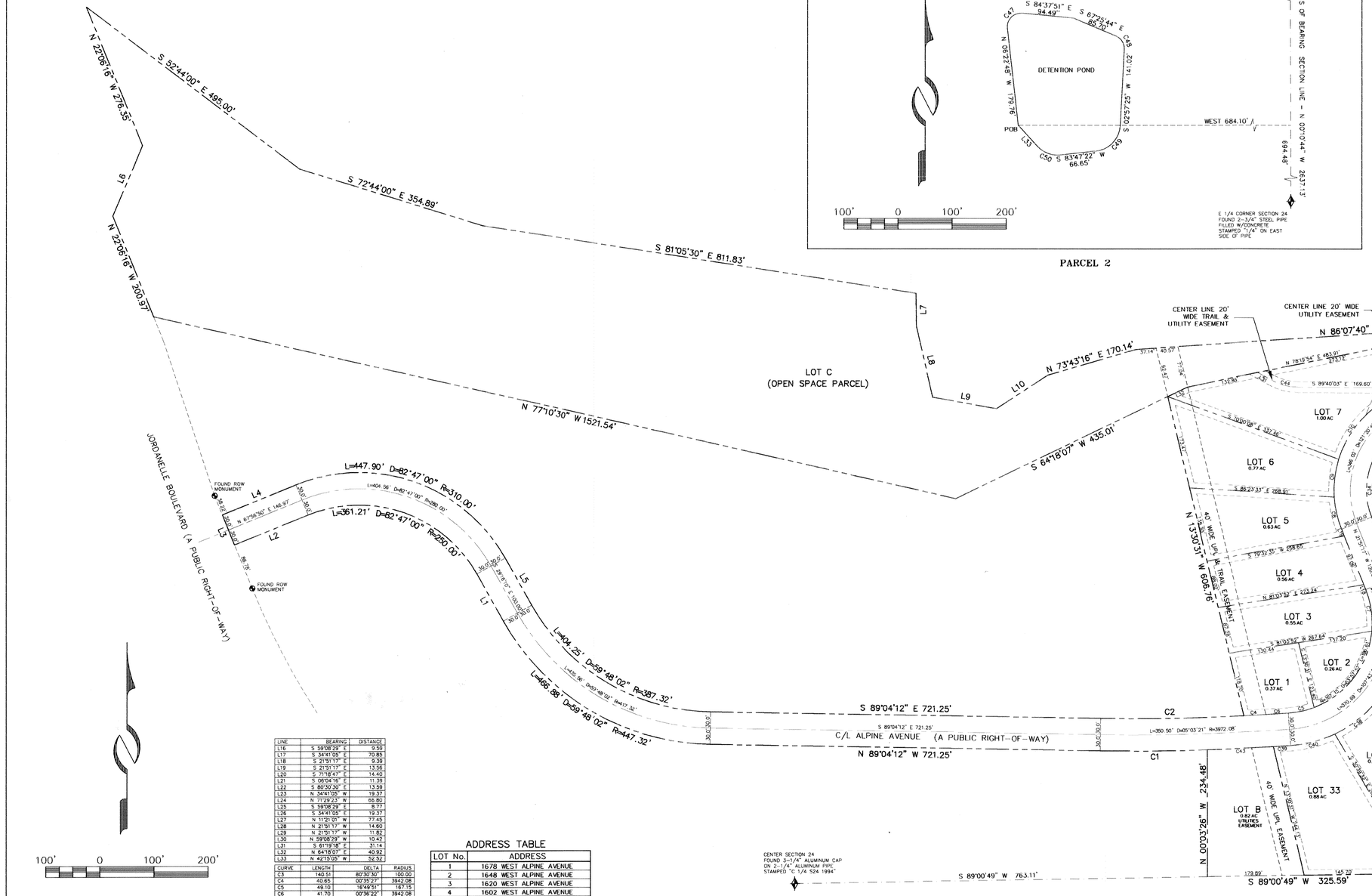
WASATCH COUNTY SURVEYOR'S CERTIFICATE
I hereby certify that this office has examined this plat and it is correct in accordance with information on file in this office. Dated this ____ day of ____, 2001.
Wasatch County Surveyor

RECORDED 235915
STATE OF UTAH COUNTY OF WASATCH AND FILED AT THE REQUEST OF BLUE LEDGE
DATE 8-14-01 TIME 9:34 BOOK 516 PAGE 692-711
96.00 FEE — MARILYN W CUMMINGS RECORDER

STAR HARBOUR EST AMND 1 of 2
SECTION 24 T2S R4E



PARCEL 2



PARCEL 1

LINE	BEARING	DISTANCE
L1	N 29°16'10" W	100.00
L2	S 67°56'50" W	146.95
L3	N 22°06'16" W	60.00
L4	N 67°56'50" E	147.00
L5	S 29°16'10" E	100.00
L6	N 22°53'44" E	141.42
L7	S 00°47'48" E	60.21
L8	S 12°47'15" E	135.36
L9	S 79°50'27" E	119.76
L10	N 56°40'52" E	113.24
L11	S 61°01'12" E	129.51
L12	S 76°17'57" E	105.31
L13	S 01°30'07" W	139.94
L14	S 32°25'44" W	141.10
L15	S 10°25'45" W	129.58

CURVE	LENGTH	DELTA	RADIUS
C1	198.17	02°50'13"	4002.08
C2	265.50	03°51'32"	3942.08

LINE	BEARING	DISTANCE
L16	S 59°08'29" E	9.59
L17	S 34°41'05" E	70.85
L18	S 21°51'17" E	9.39
L19	S 21°51'17" E	13.56
L20	S 71°18'47" E	14.40
L21	S 06°04'16" E	11.39
L22	S 80°30'30" E	13.59
L23	N 34°41'05" W	19.37
L24	N 71°29'23" W	66.80
L25	S 59°08'29" E	8.77
L26	S 34°41'05" E	19.37
L27	N 11°21'01" W	77.45
L28	N 21°51'17" W	14.60
L29	N 21°51'17" W	11.82
L30	N 59°08'29" W	10.42
L31	S 81°19'18" E	31.14
L32	N 64°18'07" E	40.92
L33	N 42°15'05" W	52.52

CURVE	LENGTH	DELTA	RADIUS
C3	140.51	80°30'30"	100.00
C4	40.65	00°35'27"	3942.08
C5	49.10	16°49'51"	167.15
C6	41.70	00°36'22"	3942.08
C7	78.57	26°55'55"	167.15
C8	60.76	18°00'08"	193.38
C9	71.06	21°03'15"	193.38
C10	118.82	35°12'13"	193.38
C11	104.11	30°50'43"	193.38
C12	20.09	08°51'15"	130.00
C13	85.59	37°43'29"	130.00
C14	98.36	80°30'30"	70.00
C15	20.03	04°56'32"	232.20
C16	24.35	90°00'00"	15.50
C17	117.95	29°06'16"	232.20
C18	4.58	01°16'22"	206.00
C19	37.32	42°45'42"	50.00
C20	14.01	51°48'23"	15.50
C21	41.05	10°07'46"	232.20
C22	54.31	62°14'09"	50.00
C23	50.57	57°56'56"	50.00
C24	59.88	68°37'03"	50.00
C25	16.35	03°19'12"	282.20
C26	14.01	51°48'23"	15.50
C27	45.42	52°02'51"	50.00
C28	64.33	13°03'40"	282.20
C29	60.76	12°20'11"	282.20
C30	52.11	10°34'49"	282.20
C31	24.35	90°00'00"	15.50
C32	24.03	04°52'44"	282.20
C33	9.83	04°13'22"	133.38
C34	102.59	44°04'16"	133.38
C35	78.32	19°45'19"	227.15
C36	91.92	23°11'08"	227.15
C37	84.59	21°20'12"	227.15
C38	87.22	22°00'01"	227.15
C39	31.77	00°27'17"	4002.08
C40	85.04	21°27'04"	227.15
C41	150.70	59°08'29"	146.00
C42	76.98	33°56'46"	130.00
C43	123.22	01°45'50"	4002.08
C44	48.00	28°20'45"	97.02
C45	24.08	45°59'25"	30.00
C46	54.81	16°14'23"	193.38
C47	44.40	10°34'57"	25.00
C48	30.71	70°23'08"	25.00
C49	70.54	80°49'37"	50.00
C50	47.09	53°57'32"	50.00

ADDRESS TABLE

LOT No.	ADDRESS
1	1678 WEST ALPINE AVENUE
2	1648 WEST ALPINE AVENUE
3	1620 WEST ALPINE AVENUE
4	1602 WEST ALPINE AVENUE
5	1588 WEST ALPINE AVENUE
6	1576 WEST ALPINE AVENUE
7	1566 WEST ALPINE AVENUE
8	1522 WEST ALPINE AVENUE
9	1510 WEST ALPINE AVENUE
10	1494 WEST ALPINE AVENUE
11	1480 WEST ALPINE AVENUE
12	1468 WEST ALPINE AVENUE
13	1451 WEST ALPINE AVENUE
14	1487 WEST ALPINE AVENUE
14	10356 NORTH KATHERINE COURT
15	10336 NORTH KATHERINE COURT
16	10308 NORTH KATHERINE COURT
17	10292 NORTH KATHERINE COURT
18	10280 NORTH KATHERINE COURT
19	10285 NORTH KATHERINE COURT
20	10301 NORTH KATHERINE COURT
21	10321 NORTH KATHERINE COURT
22	10331 NORTH KATHERINE COURT
23	10343 NORTH KATHERINE COURT
24	10361 NORTH KATHERINE COURT
24	1513 WEST ALPINE AVENUE
25	1527 WEST ALPINE AVENUE
26	1551 WEST ALPINE AVENUE
27	1583 WEST ALPINE AVENUE
28	1597 WEST ALPINE AVENUE
29	1613 WEST ALPINE AVENUE
30	1629 WEST ALPINE AVENUE
31	1639 WEST ALPINE AVENUE
32	1655 WEST ALPINE AVENUE
33	1671 WEST ALPINE AVENUE
34	1456 WEST ALPINE AVENUE
35	1432 WEST ALPINE AVENUE
LOT B	1687 WEST ALPINE AVENUE

FIRST AMENDED RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

JOB#1-6-00 File: X:\Jordanelle\dwg\UPCMC\Hailstone Station\Plats\sht02R

RECORDED 235915

STATE OF UTAH COUNTY OF ~~SUMMIT~~ WASATCH AND FILED
AT THE REQUEST OF BLUE LEDGE
DATE 8-14-01 TIME 9:34 BOOK 516 PAGE 692-711

$16.00 FEE
MARILYN W CUMMINGS RECORDER

STAR HARBOUR EST AMD 2 of 2
SECTION 24 T2S R4E

ENCLOSURE 6

BLUE LEDGE TRANSFER TO UPCM
FEBRUARY 3, 2005

EXECUTION COPY

Ent 279564 Bk 0734 Pg 0706-0709
ELIZABETH M PALMIER, Recorder
WASATCH COUNTY CORPORATION
2005 FEB 4 2:42pm Fee 22.00 MWC
FOR COALITION TITLE

WHEN RECORDED, RETURN TO:

Gregory P. Williams
Van Cott, Bagley, Cornwall & McCarthy, P.C.
50 South Main Street, Suite 1600
Salt Lake City, Utah 84144-0340

SPECIAL WARRANTY DEED

FOR VALUE RECEIVED, BLUE LEDGE CORPORATION, a Delaware corporation, as Grantor, does hereby convey unto UNITED PARK CITY MINES COMPANY, a Delaware corporation, whose current address is P.O. Box 1450, Park City, Utah 84060, as Grantee, the real property in Wasatch County, Utah, described on Exhibit A, attached hereto and incorporated herein by reference (the "Property");

TO HAVE AND TO HOLD the Property, with its appurtenances, unto Grantee and its assigns forever. Grantor does hereby covenant to and with Grantee that it will warrant and defend the Property unto Grantee and its successors and assigns from and against all lawful claims arising by, through or under Grantor, subject to easements, covenants, conditions, restrictions, and reservations of record.

This deed is given by Grantor to Grantee, the sole shareholder of Grantor, in connection with winding up the affairs of Grantor.

This deed shall be construed in accordance with the laws of the State of Utah.

[SIGNATURE ON FOLLOWING PAGE]

E 279564 B 0734 P 0707

IN WITNESS WHEREOF, Grantor has caused its name to be hereunder subscribed as of the 3rd day of February, 2005.

BLUE LEDGE CORPORATION, a Delaware corporation

By: _____
Jeff Levine
Its: Secretary and Treasurer

PROVINCE OF ONTARIO)
: ss.
CITY OF TORONTO)

The foregoing SPECIAL WARRANTY DEED was acknowledged before me this 3rd day of February, 2005, by Jeff Levine, the Secretary and Treasurer of Blue Ledge Corporation, a Delaware corporation.

_____
Notary Public
Residing at: Toronto

DAVID JOHN VAN DUSEN NOTARY PUBLIC ONTARIO

EXHIBIT A

WASATCH COUNTY, UTAH

Parcel 1

Serial No. 00-0016-8380

Private roads in Deer Crest Estates Subdivision, according to the official plat thereof filed of record in the Office of the Wasatch County Recorder.

Parcel 2

Part of Serial No. 00-0020-0814

Lot B, Overhead Utilities Easement, Star Harbour Estates Amended Subdivision, according to the official plat thereof filed of record in the Office of the Wasatch County Recorder.

Parcel 3

Serial No. 00-0020-0815

Lot C, Open Space Parcel, Star Harbour Estates Amended Subdivision according to the official plat thereof filed of record in the Office of the Wasatch County Recorder.

Parcel 4

Serial No. 00-0020-0955

BEGINNING S. 89°00'29" W. 1540.80 FT FROM E1/4 CORNER SEC 24 T2S R4E SLM: S. 89°00'49" W. 325.59 FT; N. 00°03'26" W. 206.24 FT; S. 89°56'34" W. 763.06 FT; N. 83°40'01" W. 888.70 FT; ALONG ARC OF A 1372.40 FT CURVE TO THE RIGHT 260.57 FT; N. 22°06'16" W. 185 FT; N. 18°17'25" W. 300.67 FT; N. 22°06'16" W. 49.03 FT; S. 77°10'30" E. 1521.54 FT; N. 64°18'07" E.475.93 FT; N. 78°19'54" E. 483.91 FT; S. 89°40'24" E. 292.01 FT; S. 71°18'47" E. 250.44 FT; S. 06°04'16" E. 270.86 FT; S.01°30'07" W. 139.94 FT; S. 32°25'44" W. 141.10 FT; S. 70°14'18" W. 396.26 FT; S 57°00'33" W. 230.94 FT; S. 10°25'45" W. 129.58 FT TO THE BEGINNING. AREA: 42.6567 ACRES (LESS 10.58 ACRES TO FOX BAY

CONDOS) (LESS 20.35 ACRES TO STAR HARBOUR ESTATES) NET AREA: 11.73 ACRES (LESS OWC-0027-F, 1.5 AC) NET AREA: 10.23

Parcel 5

Serial No. 00-0020-1047

Detention Pond, Star Harbour Estates Amended Subdivision according to the official plat thereof filed of record in the Office of the Wasatch County Recorder.

Parcel 6

Serial No. 00-0020-1201

BEGINNING NE CORNER LOT 35 STAR HOURBOUR AMENDED: E. 29.07 FT; S. 09°01'11" E. 9.12 FT; ALONG THE ARC OF A 221.30 FT RADIUS CURVE TO THE RIGHT 160.09 FT; N. 01°30'07" E. 139.94 FT; N. 06°04'16" W. 22.61 FT TO THE BEGINNING. AREA: 0.08 ACRES + - LOCATED IN SEC 24 T2S R4E SLM

ENCLOSURE 7

UTAH DIVISION OF COMMERCE REP0RT ON BLUE LEDGE
NOVEMBER 11, 2022

Registered Principal Search

More Information

Business Information	
Name of Entity:	BLUE LEDGE CORPORATION
Entity Type:	Corporation
Entity Number:	878416-0143
Registration Date:	08/31/1984
State of Origin:	DE

Address
15 MILES S OF PARK CITY ON HWY 224 PO BOX 1450, PARK CITY UT 84060

Status	
Status:	Expired
Status Description:	Failure to File Renewal
This Status Date:	12/04/2007
Last Renewed:	10/02/2006
License Type:	Corporation - Foreign - Profit
Delinquent Date:	08/31/2007

Registered Agent	
Registered Agent:	No agent, refer to UCA Â§16-17-301
Address Line 1:	
Address Line 2:	
City:	Unknown
State:	NA
Zip Code:	00000

Additional Information	
Additional Principals	N
Stock Class 2 Amount	0000000000

Stock Class 1 Amount	0000001000
Stock Class 1 Type	COMMON

Give Feedba

With this information, you can...	
	If you would like to receive information on the principal individuals associated with this entity, click the button on the left. You will be assessed a **$1.00 fee** for this information. *Note: You will only be able to access the Principal Information for this business entity once per payment.*

ENCLOSURE 8

STAR HARBOUR SECOND AMENDED CC&RS
NOVEMBER 8, 2008

WHEN RECORDED, RETURN TO:
Jim Kennicott
PO Box 683430
Park City, UT 84068

Ent 341641 Bk 0976 Pg 1560-1592
ELIZABETH M PALMIER, Recorder
WASATCH COUNTY CORPORATION
2008 NOV 04 12:23pm Fee 111.00 JP
FOR PARK CITY TITLE COMPANY
ELECTRONICALLY RECORDED

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

STAR HARBOUR ESTATES, A UTAH SUBDIVISION

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SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES (this "Declaration"), is executed as of the 30th day of October, 2008, by the Star Harbour Estates Homeowners' Association, Inc., a Utah non-profit corporation (the "Association").

RECITALS

1. Declarant, Blue Ledge Corporation, Inc., previously executed that certain document entitled Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates ("Original Declaration"), dated as of May 3, 2001, which was recorded in the Office of the Wasatch County Recorder on June 7, 2001 as Entry No. 233951 in Book 506 at Pages 675 through 709.

2. Declarant, Blue Ledge and Star Harbour Estates Homeowners' Association, subsequently executed that certain document entitled Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates and Bylaws of Star Harbour Estates Homeowners' Association, Inc.("Amended Declaration"), dated August 16, 2001, which was recorded in the office of the Wasatch County Recorder on August 20, 2001 as Entry No. 236098 in Book 517 at Pages 421 through 458 inclusive.

3. The Original Declaration and the Amended Declaration pertain to and affect that certain real property located in Wasatch County, Utah described as Parcel 1 on Exhibit "A" attached hereto, which real property is the subject of the Record of Survey Plat of Star Harbour Estates that Declarant previously caused to be recorded in the Office of the Recorder of Wasatch County, Utah.

4. Declarant subsequently caused to be recorded in the Office of the Recorder of Wasatch County, Utah that certain First Amended Record of Survey Plat of Star Harbour Estates, which pertains to and affects that certain real property located in Wasatch County, Utah that is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

5. Together with this Second Amended Declaration, Declarant has caused to be recorded a Second Amended Record of Survey Plat of Star Harbour Estates, which pertains to and affects that certain real property located in Wasatch County, Utah that is more particularly described in "Exhibit "A" attached hereto and incorporated herein by this reference.

6. By this Declaration Declarant intends to amend and restate in its entirety the Amended Declaration, and Declarant hereby declares that this Declaration supersedes and replaces in its entirety the Amended Declaration.

7. Declarant intends that the various Lots described in this Declaration will be conveyed to Owners in fee simple.

8. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, and improvement of the Property and the interests therein conveyed and to establish thereon a residential subdivision in accordance with the terms hereof.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold,

conveyed, leased, rented, encumbered and used, subject to this Declaration and all of the terms, covenants, restrictions, limitations, and conditions set forth herein, all of which shall constitute covenants which run with the land and shall be binding upon and be for the benefit of Declarant, its successors and assigns and all Owners of all or any part of the Property, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, all as set forth herein.

ARTICLE I
DEFINITIONS

When used in this Declaration (including that portion hereof headed "Recitals") the following terms shall have the meanings indicated below.

1.1 "Architectural Committee" shall mean the committee created pursuant to Article VII of this Declaration entitled "Architectural Committee".

1.2 "Articles" or "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, and all subsequent modifications and amendments thereto.

1.3 "Association" shall mean and refer to STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC., a Utah nonprofit corporation.

1.4 "Board or Board of Trustees" or "Trustees" shall mean and refer to the governing board of the Association, which shall be appointed or elected in accordance with this Declaration, the Articles of Incorporation and the Bylaws of the Association.

1.5 "Bylaws". shall mean the Bylaws of the Association attached to this Declaration as Exhibit "B" and recorded in the official records of the County concurrently with this Declaration and all subsequent modifications and amendments thereto.

1.6 "Common Areas" shall mean and refer to that part of the Property that is not included within the Lots, and that is not dedicated to the County or to a special service district created within the County, and that is specifically identified on the Plat as being Common Area. The Common Areas, if any, that are shown and identified as such on the Plat shall be owned by the Association. The Common Areas shall not include any portion of Lots 1 through 35, inclusive, nor any portion of Lot B, Lot C or the Parcel 2 Detention Pond.

1.7 "Condominiums" shall mean and refer to the Alpine Condominiums of Jordanelle, and the structures and land sited on former Lots 8, 9 and 10 in the Amended Survey Plat.

1.8 "County" shall mean and refer to Wasatch County in the State of Utah.

1.9 "Common Expense Fund" shall mean and refer to the fund created or to be created pursuant to the provisions of Article V of this Declaration and into which all monies of the Association shall be deposited.

1.10 "Common Expenses" shall mean and refer to those costs and expenses arising out of or connected with the maintenance and operation of the Project and the Association as described in Article V hereof.

1.11 "Declarant" shall mean and refer to the Star Harbour Estates Homeowners' Association, Inc., and/or any successor thereof, which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same

relation to the Property (or a portion thereof) as did its predecessor.

1.12 "Declaration" shall mean and refer to this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates, as the same may be hereafter modified, amended and supplemented. This Declaration amends and restates in its entirety the Amended Declaration. This Declaration supersedes and replaces in its entirety the Amended Declaration.

1.13 "Dwelling" shall mean the single family residential structure built or to be built on each Lot, except for former Lots 8, 9 and 10, and with respect to former Lots 8, 9 and 10, the term shall mean the residential condominium structures of the Alpine Condominums at Jordanelle built on those Lots.

1.14 "Excavation" shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the ordinances and regulations as adopted by the County.

1.15 "Fill" shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from offsite or resulting from the regrading of excavated material from on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the ordinances and regulations as adopted by the County.

1.16 "Improvement" shall mean any structure or appurtenance thereto of every type and kind within the Project, including but not limited to buildings, walkways, gutters, curbs, pipes, sprinkler pipes, conduit, garages, room additions, patio covers, spas, recreational facilities, roads, driveways, parking areas, fences, walls, screening walls, retaining walls, stairs, decks, patios, porches, balconies, chimneys, antennas, edges, windbreaks, poles, signs, exterior air conditioning and water softening fixtures or equipment, plantings, planted trees, shrubs, flowers, plants and other vegetation, landscaping of every kind, nature, or description, whether temporary or permanent, excepting personal property or equipment within, or usually within, a structure.

1.17 "Lot" shall mean and refer to any of the 32 separately numbered and individually described residential lots as shown on the Plat, which residential lots are designed and intended for use and occupancy as a single family residence, and the parcel created by the vacation of Lots 8, 9, and 10 to create the Alpine Condominiums of Jordanelle. Lot B, Lot C and the Parcel 2 Detention Pond, as shown on the Plat, shall not be included within the definition of "Lot," unless this Declaration and the Plat are amended to identify all or any portion of Lot B, Lot C or the Parcel 2 Detention Pond as numbered residential lots.

1.18 "Manager" shall mean and refer to the person, firm or company, if any, designated from dine to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

1.19 "Member" shall mean and refer to every person who holds membership in the Association, including the Alpine Condominiums of Jordanelle Owners Association, Inc.

1.20 "Mortgage" shall mean any mortgage, deed of trust, or other document encumbering any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.21 "Mortgagee" shall mean a beneficiary of a Mortgage as identified therein.

1.22 "Owner" shall mean the person or persons, owning in fee simple a Lot in the Project, as such ownership is shown on the official records of the County or in the case of the Alpine Condominiums of Jordanelle, the Alpine Condominiums of Jordanelle Owners Association, Inc. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Lot pursuant to a judicial or nonjudicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure). The term "Owner" shall not refer to any person or persons purchasing a Lot under contract (until such contract is fully performed and legal title to the Lot is conveyed of record.)

1.23 "Permitted Improvements" shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

1.24 "Plat" shall mean and refer to the Second Amended Record of Survey Plat for Star Harbour Estates recorded in the official records of the County and all amendments and supplements thereto.

1.25 "Project" shall mean and refer to the Property and the plan of development and ownership of the Property created and governed by this Declaration, the Articles and the Bylaws.

1.26 "Property" shall mean and refer that certain real property that is subject to this Declaration, the legal description of which is set forth on Exhibit "A" attached to this Declaration and incorporated herein by this reference.

1.27 "State" shall mean the State of Utah in the United States of America.

ARTICLE II
PROPERTY DESCRIPTION

The Property initially associated with the Project, which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration, consists of the real property situated in the County and State as further described on Exhibit "A" attached hereto and incorporated herein by this reference.

ARTICLE III
THE ASSOCIATION

3.1 Membership. Each Owner shall automatically, by acquiring title to a Lot, be a Member of the Association. Membership will 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 membership 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. 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. No person or entity other than an Owner may be a Member of the Association, and membership in the Association cannot be transferred except in connection with the transfer of a Lot. The Association shall make available to the Owners and Mortgagees current copies of the Declaration, Articles, Bylaws and other rules governing the Project. The term "available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

3.2 Board of Trustees. Except as otherwise expressly set forth in this Declaration or in the Bylaws, all decisions by the Board of Trustees shall be effected by a majority of all the Trustees.

3.3 Votes. The Owner of each Lot, other than the vacated Lots 8, 9 and 10, shall be entitled to one (1) vote for each Lot owned. The Owners of Alpine Condominiums of Jordanelle shall be entitled to three (3) votes to be voted by the Alpine Condominiums of Jordanelle Owners Association, Inc. The number of votes appurtenant to each Lot shall be permanent and shall not change. In the event that there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. The votes cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote pertaining to any such Lot shall not be counted for any purpose whatsoever, other than to determine the existence of a quorum. Except as otherwise expressly set forth in this Declaration or in the Bylaws, all decisions by the Owners shall be effected by a majority vote of all the Owners.

3.4 Professional Management. The Association may carry out through the Manager, those of its functions which are properly the subject of delegation as determined by the Association. The Manager so engaged shall be either an independent contractor or an agent or employee of the Association and shall be responsible for management of the Project for the benefit of the Association and the Owners. The Manager shall, to the extent permitted by law and by the terms of the management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

ARTICLE IV
PROPERTY RIGHTS IN COMMON AREAS AND LOTS

4.1 Description and Legal Status of Lots. The Plat shows each Lot, its location, its dimensions from which its size may be determined and the Common Areas. The Common Areas, if any, shall be owned by the Association for use by all of the Members. The Common Areas are not appurtenant to any of the Lots.
4.2 Estate of an Owner. The Project is hereby divided into the 32 residential Lots, the Alpine Condominiums of Jordanelle and also Lot B, Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of a fee simple interest.

4.3 Title. Title to a Lot may be held or owned by any person or more than one person and in any manner in which title to any other real property may be held or owned in the State, including, without limitation, joint tenants or tenancy in common.

4.4 Inseparability. No part of a Lot or the legal rights comprising ownership thereof may be separated from any other part thereof or subdivided, so that each Lot shall always be conveyed, devised, encumbered or otherwise affected only as a complete Lot. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot shall be presumed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Lot, together with all appurtenant rights created by law or by this Declaration. The Common Areas, if any, shall be owned by the Association for use by all of the Members, and no Owner may bring any action for partition of the Common Areas.

4.5 Separate Mortgages. Each Owner shall have the right separately to mortgage or otherwise encumber such Owner's Lot. No Owner shall have the right to mortgage or otherwise encumber the Common Areas. Any Mortgage or other encumbrance of any Property shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.6 Taxation. Each Lot shall be deemed to be a parcel and shall be assessed

separately for all taxes, district fees, assessments and other charges of any political subdivision or any special improvement district or of any other taxing or assessing authority. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot.

4.7 Liens. In the event that any judgment, claim, encumbrance or lien of any type attaches to any particular Lot, with or without the consent of the Owner of that Lot, that judgment, claim, encumbrance or lien shall not attach to or encumber any other Lot.

4.8 Easements for Utilities.

4.8.1 General. Declarant and the Association desire to have utilities for water, sewer, electricity, fuel, power, cable television and all other utility services (collectively, the "Utilities"), provided to the Project and located in the areas within the Lots as noted and shown on the Plat (collectively the "Easement Areas"). The providers of all such utilities to the Project and their respective successors, assigns, agents and affiliates are hereinafter collectively called the "Utility Providers".

4.8.2 Grant. Declarant and the Association do hereby grant to the Utility Providers a non-exclusive easement (the "Utility Easement") to, from, across, over, upon and under all the Easement Areas to construct, maintain, operate, repair, inspect, protect, remove and replace all lines, pipes, valves, meters, equipment, facilities and other improvements reasonably and customarily necessary to provide and maintain all the Utilities to the Project and perform the Utility Providers' obligations under this Utility Easement (collectively, the "Utility Improvements"). This grant of Utility Easement is intended for the benefit of all individuals and entities comprising the Utility Providers. This Utility Easement shall include a right of ingress and egress for the Utility Providers within the Easement Areas.

4.8.3 Utility Providers' Rights and Obligations. The Utility Providers shall take all actions and pay all costs necessary to construct, maintain in good condition, operate, repair, inspect, protect, remove and replace all their respective Utility Improvements. The Utility Providers shall exercise all their rights and obligations under this Utility Easement in a reasonable and customary manner so as to minimize disruption and damage to the Project, the Declarant, the Association, the Owners and the residents, guests and invitees associated with the Project.

4.8.4 Owners' Rights and Obligations With Respect to Easement Areas. The Owner of each Lot shall have the right to use the surface of the Easement Areas with such Owner's Lots, provided such use does not interfere with the Utility Improvements, Utilities or any other rights granted to the Utility Providers hereunder. No Owner shall build or construct, or permit to be built or constructed, any building or other structure on, over or across the Easement Areas, nor change the contour thereof.

4.8.5 Term. The Utility Easement shall commence as of the date that this Declaration is recorded in the official records of the County and shall continue in perpetuity.

4.8.6 Transfer. The Utility Easement within each Lot shall run with, and be appurtenant to such Lot and shall be transferred, assigned, sold, encumbered or otherwise conveyed with such Lot without the consent of any other person or entity.

4.8.7 Miscellaneous. The Utility Providers shall perform their respective obligations under the Utility Easement in compliance with all applicable laws,

permits and agreements affecting the Project. Nothing in this Declaration shall be construed to create any partnership, joint venture or fiduciary relationship among the Declarant, the Association, the Owners and/or any of the Utility Providers.

4.9 Creation of Easements. Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots superior to all other encumbrances applied against or in favor of any portion of the Project. In furtherance of the easements provided for in this Declaration, the individual deeds whereby Lots are conveyed may, but shall not be required to, refer to said Utility Easements.

4.10 Entry Onto Lots. The Association and its representatives shall have the right to enter upon any Lot within the Project, without being liable to any Owner, to the extent such entry is necessary in connection with the enforcement of the provisions of this Declaration or with the performance by the Association of its duties and responsibilities under this Declaration, including, without limitation, the construction, maintenance or effectuation of emergency repairs for the benefit of the Lots, the Common Areas, or for any of the Owners within the Project. Reasonable advance notice shall be given to any Owner of a Property before such entry thereupon, except in the case of emergencies.

4.11 Easement of Enjoyment. Each Owner shall have a right of use and enjoyment in and to the Common Areas. Each Owner shall have an unrestricted right of ingress or egress to and from such Owner's Lot over and across such Common Areas. Such rights shall be appurtenant to such Owner's Lot and such right may be exercised and enjoyed by any family member, household guest, tenant, lessee, contract purchaser, or other person who resides in such Owner's Lot.

ARTICLE V
ASSESSMENTS BY THE ASSOCIATION

5.1 Agreement to Pay Assessments to the Association. Each Owner of any Lot and the Alpine Condominiums of Jordanelle Owners Association, Inc. and its successors in interest, 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 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 V.

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

5.2.1 Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Project. Such estimated expenses may include, without limitation, the following: expenses of management, premiums for all insurance that the Association is required or permitted to maintain hereunder; landscaping; wages of Association employees, including fees for a Manager; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. The aggregate of all such items shall constitute the Common Expenses, and all funds received from assessments under this Section 5.2.1 shall be part of the Common Expense Fund.

5.2.2 Apportionment. Common Expenses shall be apportioned among and assessed to all Lots and their Owners in accordance with the following formula: The portion of the Common Expenses assessed to each Lot shall be a fraction, the numerator of which is the number of votes allocated to such Lot for purposes of voting at any meeting of the Association, and the denominator of which is the total of all of the votes allocated to all of the Lots within the Project for voting at a meeting of the Association. The effect of such apportionment shall be that the percentage of Common Expenses apportioned to each single family Lot shall be equal, and the portion of the Common Expenses apportioned to all of the Alpine Condominiums of Jordanelle shall be three (3) times as much as the portion allocated to the single family Lots.

5.2.3 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1, and ending December 31, next following. On or before November 1 of each year, the Board of Trustees 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 amount of Common Expense 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.

5.2.4 Notice and Payment. The Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Lot on or before December 1 each year for the fiscal year beginning on January 1, next following. Except as otherwise provided by the Board, each annual assessment shall be due and payable no later than the ensuing December 31. All unpaid installments of any annual assessment shall bear interest at the rate established by the Board of Trustees, not to exceed twenty-one percent (21%) per annum, commencing fifteen (15) days after the date such assessment becomes due, until paid. The Board of Trustees shall also have the right to assess a late fee of up to five percent (5%) of any assessment not paid within fifteen (15) days following the due date thereof. The failure of the Board of Trustees 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.

5.2.5 Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 5.3 below.

5.3 Emergency Assessment. The Board may increase assessments necessary for emergency situations. For purposes of this Section, an emergency situation is any of the following: (i) an extraordinary expense required by an order of the court or governmental entity; (ii) an extraordinary expense necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety within the Project is discovered; or (iii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board. However, prior to the imposition or collection of such an emergency assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and such resolution shall be distributed to the Members with the notice of assessment.

5.4 Reimbursement Assessment. The term "Reimbursement Assessment" as used herein shall mean a charge against each Owner and that Owner's Lot for the purpose of reimbursing the Association for any costs incurred by the Association on behalf of an individual Owner. A Reimbursement Assessment may also be levied by the Association for purposes of collecting any monetary penalties which may be imposed by the Association against an Owner who fails to comply with provisions of this Declaration, the determinations of the Board or the Architectural Committee, or any rule or regulation adopted by the Association. The Association shall levy a Reimbursement Assessment against any Owner who fails to comply with the provisions of this Declaration, the determinations of the Architectural Committee or the Board, the Association's Articles or Bylaws, or any rule or regulation adopted by the Association, if such failure results in the expenditure of moneys by the Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Association. Except for collection of fines, such assessment shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended, and shall be due and payable to the Association when levied. All Reimbursement Assessments that are not paid by an Owner within (15) days following the receipt by such Owner of the written notice of assessment shall accrue interest at the rate of eighteen percent (18%) per annum, commencing fifteen (15) days after the written notice of assessment is received by such Owner, until paid.

5.5 Lien for Assessments. All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article V, 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 V, the Board of Trustees 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 official records of the County. No notice of lien shall be recorded until there is a delinquency in payment of the assessment or Reimbursement 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 judicial foreclosure of deeds of trust or mortgages, with the attorney for the Association being hereby designated as the trustee with power of sale, or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' 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 assessment 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 Trustees 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.

5.6 Personal Obligation of Owner. The amount of any 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 such Owner's Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment or unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

5.7 Personal Liability of Grantee. Except as expressly otherwise set forth herein, in a conveyance of a Lot, the grantee of that Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Lot, without prejudice

to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Association setting forth the amounts of the unpaid assessments against the grantor, and the grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in that statement, except to the extent that additional penalties and interest accrue on the amount set forth in such statement.

5.8 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating:

5.8.1 That all assessments (including interest, costs and attorneys' fees, if any, as provided in this Article V) have been paid with respect to any specified Lot as of the date of such certificate, or

5.8.2 That certain annual assessments have not been paid, and the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may impose a reasonable charge for the issuance of such certificates, which charge must be paid at the time the request for any such certificate is issued. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Lot in question.

ARTICLE VI
GENERAL USE RESTRICTIONS

6.1 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interest of the Owners.

6.2 Use of Common Areas. The Common Areas (if any) shall be used only in a manner consistent with their community nature and with the rules, regulations and use restrictions promulgated by the Association.

6.3 Use of Lots. Each Lot shall be used for residential purposes only. No Lot or Dwelling shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owners. No part of the Project or a Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such non-residential purposes. The provisions of this Section shall not preclude professional and administrative occupations in a Lot without external evidence thereof, for so long as such occupations are in conformance with County ordinances, all other applicable governing laws and ordinances, and are merely incidental to the use of the Lot as a residential home.

6.4 Leases. Any lease agreement between an Owner and a lessee respecting a Lot or Condominium Unit shall be subject in all respects to the provisions of this Declaration, the Articles and the Bylaws. Any failure by a lessee to comply with the terms of such documents shall be a default under the lease. Other than the foregoing, there is no restriction on the right of any Owner to lease Condominium Unit, a Lot and the Dwelling located thereon. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

6.5 Toxic Materials. No Owner shall store, use, manufacture, process, distribute, treat,

transport, handle, emit, dispose of, discharge or release any Toxic Materials in violation of environmental laws governing the Project. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against any liabilities, claims and/or expenses (including attorneys' fees) arising in connection with that Owner violation of this Section. The term "Toxic Materials" as used herein shall mean any flammable explosives, asbestos, industrial substances, pollutants, contaminants, chemicals, wastes, discharges, emissions, radioactive materials and other hazardous substances, whether injurious by themselves or in combination with other materials, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," or "toxic substances" described in the environmental laws governing the Project.

6.6 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render any part of the Property unsanitary or unsightly or which would be offensive or detrimental to any other part of the Property or to the occupants thereof. No noise or other nuisance shall be permitted to exist or operate upon any part of the Property so as to be offensive or detrimental to any other part of the Property or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Property without the prior written approval of the Association.

6.7 Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on or within any Lot, Dwelling, or otherwise within the Project, except that usual and ordinary dogs, cats, fish, birds and other household pets (excluding without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept on or within the Lots, subject to rules and regulations adopted by the Association, and provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Board of Trustees (or the Architectural Committee or other such person or entity as the Board of Trustees may from time to time designate) may determine that a reasonable number in any instance may be more or less. The Association acting through the Board of Trustees, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Project must be either kept within an enclosure, or on a leash being held by a person capable of controlling said animals. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended, out of the enclosure, or not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Association or a person designated by the Association to do so, to a shelter under the jurisdiction of the local governmental entity in which the Project is situated and subject to the laws and rules governing such shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept within the Project by an Owner or by members of his family, his tenants or guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any Lot or Common Area within the Project.

6.8 Trash. No rubbish, trash or garbage or other waste material shall be kept or permitted on or within any Lot, Dwelling, or otherwise within the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Project, or any portion

thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twenty-four (24) hours before and after scheduled trash collection hours). There shall be no exterior fires whatsoever except barbecue fires contained within appropriate receptacles therefor.

6.9 Temporary and Other Structures. No structures of a temporary nature, trailer, house, tent, shack, shed, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on the Property at any time. All Permitted Improvements erected and maintained within the Property shall be of good construction, of good quality, workmanship and material.

6.10 Unsightly Articles. No unsightly articles shall be permitted to remain on or near a Lot so as to be visible from any other Lot. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. No unlicensed or inoperable vehicle shall be parked outside an enclosure and no more that two vehicles may be parked in a driveway of a Lot or a Condominium Unit. Refuse, garbage and trash shall be kept at all times in a covered container, and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except within an enclosed structure or when appropriately screened from view.

6.11 No Further Subdividing. No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Association for the transfer or sale of any Lot, to more than one person to be held by them as tenants in common, joint tenants, or otherwise.

6.12 Signs. No sign of any kind shall be displayed to the public view without approval of the Association, except such signs of customary and reasonable dimensions as may be displayed on a Lot advertising a Lot for sale or lease. Display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible. Any existing street sign identifying the Project may not be changed without prior approval by the Association.

6.13 No Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property, and no open fires nor incinerators shall be lighted or permitted on the Property except in a contained barbecue receptacle while attended and in use for cooking purposes.

6.14 Repair of Buildings. No Improvement upon the Property shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof. In the event that the Owner of a Lot fails to maintain and repair the Improvements on such Owner's Lot as required by this Declaration, then the Association shall have the right,

but not the obligation, to give written notice to such Owner of the repairs and maintenance work which the Owner must perform in order to comply with the terms of this Declaration. If the Owner fails to take such action as specified by the Association within 30 days following such Owner's receipt of the notice, then the Association shall have the right, but not the obligation, to cause the necessary maintenance and repair work to be performed on such Owner's Lot, and the Owner of such Lot shall be obligated to reimburse the Association for all costs and expenses incurred by the Association in causing such work to be performed. Such amounts shall be due and payable to the Association by such Owner immediately upon receipt by the Owner of a written invoice outlining the costs and expenses incurred by the Association with respect to such repair and maintenance work on the Owner's Lot. If the Owner fails to pay such invoice within 30 days following the receipt thereof by the Owner, then the Association shall be entitled to levy a Reimbursement Assessment against such Owner and such Owner's Lot for the amounts expended by the Association in performing such work, in accordance with the provisions of Section 5.4 of this Declaration.

6.15 Improvements and Alterations. There shall be no excavation, construction or alteration which in any way alters the exterior appearance or structure of any Improvement within the Project, no alteration of any structural component of any Lot, no plumbing or electrical work outside the Lot, no removal of any Improvement within the Project (other than repairs or rebuilding) without the prior written approval of the Architectural Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made unless and until the plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee. All Improvements and alterations shall be performed in compliance with all applicable laws. No Owner shall perform any work or make any alterations or changes which would jeopardize the soundness or safety of any portion of the Project, reduce its value or impair any easement, without in every such case the written consent of the Architectural Committee being first obtained.

6.16 Outside Installations. No television, ham radio, citizens band or radio antenna, satellite receiving or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any Dwelling or elsewhere if exposed to view from any other Lot without the prior consent of the Architectural Committee. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Lot Owner's premises or home entertainment facilities or equipment.

ARTICLE VII
ARCHITECTURAL COMMITTEE

7.1 Introduction. It is the intention and purpose of this Declaration to impose architectural design standards of a type and nature that result in Dwellings and Permitted Improvements which are compatible with the mountain landscape. The placement, massing, dimensions and materials of the Permitted Improvements will be guided, but still allow for diversity in style and design. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the provisions of this Declaration.

7.2 Members of Architectural Committee. The Architectural Committee shall consist of not less than three (3) members but not more than five (5) members as shall be determined by the Board. The Board shall have the power to appoint and remove all of the members of the Architectural Committee. Persons appointed to the Architectural Committee by the Board shall be Members of the Association. The Architectural Committee shall have the right and duty to promulgate reasonable standards against

which to examine any request made pursuant to this Article. The Architectural Committee may retain the services of a licensed architect to act in an advisory capcity to the Architectural Committee.

7.3 Approval by Architectural Committee. No Improvements of any kind, including without limitation the construction or installation of any Dwelling, garage, outbuilding or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Project without the prior written approval of the Architectural Committee. The construction of all Improvements must occur within the portion of a Lot which is approved for the construction of Improvements by the ordinances of the County. No Excavation, Fill, grading, filling or draining shall be made without the prior written approval of the Architectural Committee. Approval of the Architectural Committee will be sought in the following manner:

7.3.1 Plans submitted. A complete set of plans for the construction of any Improvement must be signed by the applicant and submitted to the Architectural Committee for review. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plans must be in sufficient detail to show the location on the Lot of the Improvements, including without limitation the exterior walls of any Dwelling and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior materials and roofing materials and/or a sample, including color samples. In the case of an addition or modification to an existing Dwelling, the Architectural Committee may waive any of the foregoing requirements. The Architectural Committee may issue rules or guidelines setting forth the procedures for the submission of plans for approval. The Architectural Committee may require a fee payable to the Association to accompany each application for approval. The Architectural Committee may provide that the amount of such fees shall be uniform or that such fees may be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings or descriptions or samples of exterior materials and finishes. The Architectural Committee shall have the right to retain the services of a professional architect to review the plans and specifications submitted by an Owner, in which event the Owner who has submitted such plans and specifications shall be obligated to reimburse the Association for the costs and fees incurred by the Architectural Committee in having the plans and specifications reviewed by a professional architect.

7.3.2 Review. The Architectural Committee shall exercise its best judgment in overseeing the construction of all Improvements on the Property within the Project. The Architectural Committee shall consider the materials to be used on the external features of all Improvements, including but not limited to exterior colors, harmony of external design with existing structures within the Project, location with respect to topography and finished grade elevations and harmony of landscaping with the natural settings and surroundings. While in receipt of a complete submission of the plans, the Architectural Committee will review the plans and make an initial determination whether or not the plans comply with the conditions imposed by this Declaration. If the plans do not comply, the plans will be rejected. If the plans are in compliance, the Architectural Committee will stamp and approve the plans. The Architectural Committee may approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans to the Architectural Committee for informal and preliminary approval or disapproval. The Architectural Committee will review

preliminary plans, and the Architectural Committee will make its comments known to the Owner. However, no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission of plans as set forth in this Declaration. All preliminary sketches will be kept by the Architectural Committee. Upon final approval, the Architectural Committee and the Owner will each sign a copy of the approved plans, which shall be left with the Architectural Committee. Any construction that is not in strict compliance with the approved plans is prohibited. Notwithstanding any provisions in the Declaration, all construction of any nature upon any of the Lots or the Alpine Condominiums of Jordanelle within the Project shall be performed in compliance with the requirements of the land management code and the building and zoning ordinances of all governmental entities having jurisdiction with respect to the Project.

7.3.3 Written Record. The Architectural Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years. All decisions by the Architectural Committee shall require a majority vote of all the members of the Architectural Committee.

7.3.4 Failure to Act. If the Architectural Committee has not approved or rejected any submission within 45 days after the submission of complete plans, the submission shall be deemed to have been disapproved.

7.3.5 Permits and Approvals from the County. Notwithstanding any other provision of this Declaration to the contrary, prior to commencing the construction of any Improvements on any Lot, the Owner of each Lot must obtain from the County all necessary permits and approvals required by the County in connection with the construction of any such Improvements.

7.4 Variances. The Architectural Committee has the authority to deviate from the requirements contained in this Declaration under extenuating circumstances, when compliance with this Declaration would create an unreasonable hardship or burden for a Lot Owner. No such variance may be granted without the unanimous written consent of the Architectural Committee. The Architectural Committee does not, however, have the authority to deviate from the requirements of the land management code and the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Project.

7.5 General Design Review. The Architectural Committee will use its best efforts to provide a consistent pattern of enforcement and consistent application of this Declaration that results in a high quality, attractive, and well-designed Project.

7.6 Association, Board of Trustees and Architectural Committee not Liable. The Association, the Board of Trustees, and the Architectural Committee and its members shall not be liable to the applicant or to the Owners of any Lots or the Alpine Condominiums of Jordanelle or its Unit Owners within the Project for damages or any other remedy as the result of their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant, the Association, the Board of Trustees, the Architectural Committee or its members as a result of the performance or failure to perform the duties created by this Declaration. Any person or persons acquiring title to any Lot in the Project shall be deemed to have agreed and covenanted that such Owner will not bring any action or suit to recover damages against the Declarant, the Association, the Board of Trustees, or the Architectural Committee or its members, or the advisors, officers, employees or agents of the any of the foregoing, as a result of the performance by the Architectural Committee of its duties and responsibilities under this Declaration. Each Owner has the right to enforce this Declaration against another Owner.

7.7 Limitations on Review. The Architectural Committee's review is limited to those matters expressly described in this Declaration. The Architectural Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. The Architectural Committee shall not be responsible for reviewing, nor shall the approval by the Architectural Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or compliance with any applicable building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of the Property. The structural integrity of any Improvements constructed within the Project is not the responsibility of the Architectural Committee. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable statutes, laws or ordinances must be reviewed and approved by the Architectural Committee prior to construction.

7.8 Approval to Proceed. The Architectural Committee shall stamp, date and sign the plans and deliver the plans to the applicant once the plans for any Permitted Improvements have been approved.

7.9 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

7.10 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

7.11 Appeal. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request for appeal must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. Within forty- five (45) days following the receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

ARTICLE VIII
RESTRICTIONS ON LOTS

8.1 Dwelling and Ancillary Structures. With the sole exception of the Alpine Condominiums of Jordanelle, no Dwelling or other Improvements shall be placed, erected, altered, or permitted to remain on any Lot other than one (1) single family Dwelling and one (1) garage together with related nonresidential Improvements which have been approved by the Architectural Committee. At the time of construction of the single family Dwelling on any Lot, said Lot must also be improved with a garage with at least a two (2) car side-by-side capacity. No carports shall be constructed or erected on any Lot. No structure of any kind shall be moved from any other location and placed anywhere in the Project, nor shall any incomplete building or Improvement of any type be permitted to remain incomplete anywhere in the Project for a period in excess of one (1) year from the date the Improvement was started, unless otherwise approved by the Architectural Committee. No structure of a temporary character nor any trailer, basement, tent, shack, garage, barn or other outbuilding shall be used anywhere in the

Project at any time as a residence, either temporarily or permanently. No outbuildings are allowed under normal circumstances. The primary garage may be separate from the residence provided it matches the architecture of the residence. Outbuildings may be approved by the Architectural Committee on a case-by-case basis, provided that: (a) the architecture matches the residence, (b) visual impacts are carefully considered, (c) it is a single-story structure, (d) no plumbing fixtures are included in the outbuilding, and (e) the structure does not exceed a 150 square foot footprint.

8.2 Minimum Usable Floor Area. The Dwelling constructed on each Lot in the Project shall have a minimum of 2,500 square feet of usable floor area.

8.3 Completion of the Exterior of Dwelling. All construction and alteration work on the exterior of any Dwelling shall be prosecuted diligently, and the construction or alteration work on the exterior of each Dwelling shall be entirely completed within twelve (12) months after commencement of construction. A three (3) month grace period after the initial twelve (12) month period has expired may be granted by the Architectural Committee upon the showing of just cause for such grace period.

8.4 Towers, Satellite Receivers and Antennas. No towers, exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae, shall be allowed or permitted to remain on any Lot. Satellite receivers, in excess of eighteen (18) inches in diameter, must have an enclosure to screen them from view from any surrounding Lot Owner. Satellite receivers may not be placed above the eaves of the roof and may not in any circumstances be in excess of 24 inches in diameter.

8.5 Used or Temporary Structures. No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall be placed, erected, or allowed to remain on any Lot except during construction periods, and no Dwelling shall be occupied in any manner prior to its completion and the issuance of a certificate of occupancy by the County.

8.6 Minimum Architectural Requirements. The following shall be considered to be minimum architectural requirements with respect to Dwellings constructed within the Project, although the Architectural Committee shall have broad discretion in the approval of plans for Dwellings constructed within the Project and shall be entitled to consider factors in addition to the following minimum requirements:

8.6.1 Exterior materials on all Dwellings shall be limited to stone, stucco, slate tiles, wood shingles, wood siding, heavy timber, logs, cedar or redwood board and batten (stained or painted) on wood framing. Upon the express written approval of the Architectural Committee, other exterior building materials may be used. Exterior materials may not be made of ceramic tile, plastic siding, aluminum siding, steel siding, simulated stone, brick, simulated brick or asphalt siding.

8.6.2 No more than three different materials may be used on the exterior of a Dwelling, excluding the roof.

8.6.3 Exterior walls shall continue all the way to the ground. Walls shall not be permitted to be held off the ground by thin members.

8.6.4 Predominant exterior wall colors shall be subdued, earthy hues. Bright and dramatic colors are not permitted as the predominant tone. Bright or dramatic colors may be used as accents, provided they are approved by the Architectural Committee.

8.6.5 No dome, A-frame or modified A-frame Dwellings shall be allowed or constructed.

8.6.6 No prefabricated Dwellings or trailers shall be allowed or constructed.

8.6.7 Roofs slopes should be between 4/12 and 8/12. Exceptions may be granted by the Architectural Committee. Domed and curvilinear roofs are not permitted. Roofs should not descend closer than seven feet from the ground. Flat roofs are not permitted as the predominant roof shape.

8.6.8 Roof surfacing shall not include wood shingles without fire-resistant treatment. Roof murals are not permitted. Rolled asphalt or membrane roofing is not allowed. Asphalt shingles must be architectural grade 25 years or better. Roofs must overhang at least 18 inches, and fascias must be at least 8 inches.

8.6.9 Area illumination and unshielded light sources are not permitted. Exterior lighting should be discreet and should illuminate only critical areas.

8.6.10 Views of adjacent lots must be respected in the building design. Wherever possible, neighbor's views of the Jordanelle Reservoir to the east and the mountains to the west should be respected and preserved.

8.6.11 Solar collectors are permitted, but they must lie flat on pitched roofs. Solar collectors may not exceed a total of 200 square feet without written approval from the Architectural Committee.

8.6.12 Construction limits shall be established on all Dwellings under construction and shall remain in effect throughout the duration of construction. Construction limits shall be established by orange LOD fencing. Construction limits may not exceed 20 feet from the building footprint.

8.6.13 Fences are permitted pursuant to the JBOZ Land Use Plan. All dog kennels must be within a fenced enclosure. All fenced enclosures must be approved in writing by the Architectural Committee prior to their installation.

8.6.14 Maximum building height is 28 feet. Building height is measured half-way between ridge and eave from existing grade. In no circumstances may any portion of a building exceed 33 feet in height at any point.

8.6.15 Dwellings must exhibit architectural relief via stepping of exterior walls vertically and/or horizontally. Upper floors must be at least 10% smaller in area than the lower floor footprint, unless expressly approved in writing by the Architectural Committee. One-story buildings shall not exceed 30 feet on a side without stepping at least four feet horizontally.

8.6.16 Varying roof pitches are allowed only with express written approval from the Architectural Committee.

8.7 Slope and Drainage Control. No Improvement, planting or other material shall be placed or permitted to remain, nor shall any other activities be undertaken, which may damage or interfere with established slope ratios, which create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all Improvements within them shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. All Lot Owners shall retain and control all water runoff from such Owner's Lot or Lots, so as not to damage or hinder other Lots or Owners.

Whenever possible, the natural drainage pattern on any Lot shall be preserved. Any negative drainage impacts that are created as the result of the construction of a Dwelling shall be minimized and mitigated to the satisfaction of the Architectural Committee.

8.8 Landscaping:

8.8.1 The Landscaping of the front yard of each Lot, including the planting of grass or the placement of sod, and the planting of at least a minimal number of shrubs or trees on the Lot, must be completed within twelve (12) months from the time the Dwelling receives its Certificate of Occupancy.

8.8.2 Landscaping should be harmonious with existing vegetation and should predominantly consist of vegetation native to the Wasatch Mountains of Utah.

8.8.3 A landscaping plan is required to be submitted to and approved by the Architectural Committee by the Owner of a Lot prior to the commencement of landscaping activities on any Lot.

8.8.4 Wherever possible, existing site vegetation on any Lot should be preserved.

8.8.5 The Owner of each Lot within the Project shall keep such Owner's Lot clean of weeds and trash. If the Owner fails to do so, the Association shall have the right to cause such maintenance work to be done and to cause the cost of such maintenance work to be charged to and paid by the Owner of such Lot as a Reimbursement Assessment.

8.8.6 Dead landscaping shall be replaced within twelve (12) months.

8.8.7 All disturbed areas shall be revegetated within twelve (12) months of disturbance.

8.8.8 Landscaping shall include a minimum of six trees of which two must be 3 inch caliper or larger spruce or fir.

8.8.9 Amenities such as hot tubs or swimming pools shall be submitted for approval by the Architectural Committee for location, size, appearance and viewshed impact prior to their installation.

ARTICLE IX
OWNERS' MAINTENANCE OBLIGATIONS

9.1 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain properly such Owner's Lot and the Improvements to the Lot in a good state of repair and an attractive, safe, and healthy condition at all times in order to preserve and enhance the enjoyment of the Project.

9.2 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Architectural Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic, will be made without the advance written consent of the Architectural Committee.

9.3 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural Committee,

provided however, that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE X
CONSTRUCTION COVENANTS

10.1 Introduction. In order to minimize the disturbance of the Property within the Project during any construction activities, and to minimize the inconvenience to adjoining Owners, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner shall be liable.

10.2 Construction Debris Removal. The builder must comply with the ordinances of the County and the requirements of the Architectural Committee requiring the placement and maintenance of a trash container or dumpster on the Lot. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind. Such container shall be regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. No concrete trucks may be cleaned out on the Lot or anywhere within the Project.

10.3 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside the Dwelling and out of sight, whenever practical and possible.

10.4 Sanitary Facilities. The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Architectural Committee and must be removed from the Lot at such time as the permanent plumbing system is operational.

10.5 Construction Parking and Vehicles. Construction crews must park their vehicles on the Lot on which they are working or on the street in front of such Lot and shall not use or park on any other Lot or any other Property within the Project. All vehicles must be parked so as to allow the free flow of traffic within the Project.

10.6 Removal of Mud, Debris. The builder is responsible for cleaning up and removing mud, rock and debris from the construction site that is deposited on the roadways of the Project.

10.7 Duration of Construction. No construction requiring a building permit shall be undertaken without a building permit and all other necessary permits from the County and any other governmental entity having jurisdiction over construction on the Lot. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the Lot prior to the

issuance of the permit(s). It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of twelve months from commencement. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling.

10.8 Repair of Damage. Each Owner is responsible for the prompt repair of any damage to any Property within the Project caused by or incidental to such Owner's construction, including without limitation any cracked or broken sidewalks. The Association may initiate legal action against any Owner for the repair of damage that occurs from construction activity pertaining to that Owner's Lot. The Association shall be entitled to record a notice of lien against such Owner's Lot until all such damage is repaired and paid for, in the manner described in Section 5.5 above.

ARTICLE XI
DEFAULTS AND REMEDIES

11.1 Default. An "Event of Default" shall occur under this Declaration if any party governed hereby fails to perform its obligations under this Declaration where those obligations are due and that party has not performed the delinquent obligations within thirty (30) days following delivery to that party of written notice of such delinquency (the "Notice of Default"). These provisions shall not supersede more restrictive requirements set forth elsewhere in this Declaration.

11.2 Remedies.

11.2.1 General. Upon the occurrence of an Event of Default, the Association shall have the right to exercise all rights and remedies available in this Declaration, at law and in equity, including injunctive relief and specific performance. The Owners acknowledge that their obligations under this Declaration are unique, and defaults may not be compensated by purely monetary damages. Those rights and remedies shall be cumulative. Under no circumstances, even an Event of Default, shall any Owner have the right to terminate this Declaration or take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners or their respective portions of the Project that are not in default under this Declaration.

11.2.2 Cure. Furthermore, the Association shall have the right to cure the default and seek reimbursement from the defaulting Owner for the costs incurred in effecting such cure. Notwithstanding any provision herein to the contrary, the Owner shall reimburse the Association for such costs of curing a default within fifteen (15) days following delivery to the defaulting Owner of a written notice of such costs along with reasonable supporting documentation.

11.2.3 Additional Remedies. In addition to any other enforcement rights and remedies described in this Declaration, the Association may take any of the following actions against any Owner whose act or failure to act violates or threatens to violate any provision of this Declaration: impose monetary penalties, including late charges and interest; suspend voting rights in the Association; and/or remove the defaulting Owner from the Board and/or the Architectural Committee.

11.2.4 No Cross-Defaults. If any Owner shall create an Event of Default hereunder, only the defaulting Owner shall be subject to remedies and none of the other Owners governed by this Declaration shall be deemed to be in default

or be penalized in any manner. For example, if an Owner shall cause an Event of Default, the Association may exercise its rights and remedies against the defaulting Owner, but shall not take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners that are not in default under this Declaration.

11.2.5 Jurisdiction. Owners stipulate that the jurisdiction for any court action or any arbitration shall be based exclusively upon the location of the Project.

11.2.6 Enforcement by County. The County shall have the right, but not the obligation, to exercise all rights and enforce all provisions in this Declaration. The County shall have no obligations or liabilities under this Declaration except to the extent that the County seeks to exercise rights or remedies under this Declaration in breach thereof or in violation of any applicable laws.

11.2.7 Enforcement by Owners. In addition to the Association, any Owner or the successor-in-interest of an Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations, and the right to recover damages or other sums for such violation; provided, however, that with respect to assessment liens, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association or by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to enforce that covenant, condition or restriction subsequently.

11.2.8 Non-liability of Officials. To the fullest extent permitted by law, the Association, the Board of Trustees, the Architectural Committee, the County and any other committees of the Association or any Member of such Board of Trustees or committee shall not be liable to any Owner or Member for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith which such entity, committees or persons reasonably believed to be the scope of their duties.

ARTICLE XII
MISCELLANEOUS

12.1 No Representations. Each person that acquires a Lot is responsible to reasonably investigate that Lot and the Project.

12.2 Conflicts. In case of any conflict between this Declaration, the Articles, Bylaws or the Declaration of Condominium for Alpine Condominiums of Jordanelle, this Declaration shall control.

12.3 Attorneys' Fees. In the event of any controversy or claim respecting this Declaration, or in connection with the enforcement of this Declaration, the prevailing party shall be entitled, in addition to all expenses, costs and damages, to reasonable attorneys' fees to be reimbursed by the non-prevailing party.

12.4 No Waiver. Any party's failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by another party shall not be construed as a waiver of

any succeeding breach of the same or other provisions.

12.5 Request for Notice. The Association hereby requests that a copy of any notice of default and a copy of a notice of sale under any mortgages, deeds of trust or other liens or encumbrances filed for record against any Lots or the Project be mailed to the Association as follows: Star Harbour Estates Homeowners Association, Inc., P.O. Box 1450, Park City, Utah 84060, pursuant to Utah Code Annotated Section 57-1-26, as amended.

12.6 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 mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Association at the time of mailing.

12.7 Amendment. Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the official records of the County of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred.

12.8 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

12.9 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and 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, the whole shall include any part thereof, and any gender shall include all genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof; this Declaration shall be liberally construed to effect all of its purposes.

12.11 Covenants to Run With Land. This Declaration and all of 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 all parties who hereafter acquire any interest in a Lot and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner, user or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to and agrees to be bound by, each and every provision of this Declaration.

12.12 Lists of Owners. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Lot which is owned by such Owner. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the Office of the Recorder of the County. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot or Lots which is obtained from the Office of the Recorder of the County. The address of an Owner shall be deemed to be

the address of the Lot owned by such person unless the Board is otherwise advised.

12.13 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the Office of the Recorder of the County.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by an officer duly authorized to execute the same as of the date first above written.

Vickie Burgess-Keene
VICKIE BURGESS-KEENE, President

SUBSCRIBED AND SWORN TO BEFORE ME THIS 30 th day of October, 2008 by Vickie Burgess-Keene, who identified herself to me by means of Photo identification, who being duly sworn, did say that she is the President of the Star Harbour Estates Homeowners' Association, Inc., and that she signed the foregoing Certificate on behalf of the Star Harbour Estates Homeowners' Association, Inc.

Kristyne Beal
NOTARY PUBLIC

NOTARY PUBLIC
KRISTYNE BEAL
569032
COMMISSION EXPIRES
APRIL 17, 2011
STATE OF UTAH

BY-LAWS OF STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC.
A Nonprofit Corporation of the Slate of Utah

Pursuant to the provisions of the Utah Revised Nonprofit Corporation Act, the Board of Trustees of the Star Harbour Estates Homeowners Association Inc. hereby adopts the following By-Laws.

ARTICLE I
NAME AND PRINCIPAL OFFICE

1.1 Name: The name of the corporation is "Star Harbour Estates Homeowners Association, Inc.," and it is referred to below as the "Association."

1.2 Offices. The principal office of the Association will be located in Wasatch County, State of Utah.

ARTICLE II
MEMBERS AND MEETINGS

2.1 Annual Meetings. The annual meeting of the Members of the Association shall be held on the second Monday in April at 6:00 p.m. at the offices of the Association, beginning in the year following the year in which the Association is incorporated. The Board of Trustees may designate some other time, date and place for the annual meeting by giving proper notice of the change in advance of the meeting. The purpose of the annual meeting is to elect the Trustees and to consider such other business that comes before the meeting. If the Trustees are not elected at the annual meeting, the existing Trustees shall continue to serve until their successors are named in a special meeting called for that purpose, or until the next annual meeting. The Trustees may change the date, time and place of the annual meeting as they see fit by formal resolution.

2.2 Special Meetings. Special meetings of the Members may be called by the Board of Trustees or by the President as they see fit, or by the Members of the Association representing not less than 33% of the total votes of the Association. Any notice of special meeting shall state the time, place, and date of the meeting and the matters to be considered at the meeting. When a special meeting is called by the Members of the Association, the notice shall be in writing and delivered to the President or the Chairman of the Board of Trustees.

2.3 Place of Meetings. All meetings will be held in Wasatch County, Utah, or in such other location in the State of Utah as the Board of Trustees determine by formal resolution.

2.4 Notice of Meeting. The Board of Trustees shall cause written or printed notice of the date, time, place and purposes of all meetings of the Members to be sent to each of the Members not more than 60 but not less than 10 days prior to the meeting. Mailed notice is deemed delivered when it is deposited in the United States Mail, postage prepaid, addressed to the Member at the last known address. Each Member shall register his or her address with the Association, and it shall be the obligation of the Member to provide notice of any change of address to the Association. If no address is registered, the Association may mail that Member's notice to the Secretary of the Association as the agent for the Member. Only one notice will be mailed on each Lot, so if there are multiple owners of a Lot, they must designate one of them to receive the notice of the meeting on their behalf.

2.5 Members of Record. Upon purchasing a residential lot (the "Lot") in Star Harbour Estates or a condominium in the Alpine Condominiums of Jordanelle, located in Wasatch County, Utah (the "Subdivision"), each owner shall promptly furnish the Association with a copy of the deed or other instrument under which such owner acquired title to

the Lot. The Members of the Association shall be the owners of the Lots in the Subdivision and the Alpine Condominiums of Jordanelle Owners' Association, Inc. Membership is deemed an appurtenance to each Lot and shall pass automatically to the owner of each Lot upon conveyance of title to such Lot. The Association shall not have stock or issue shares. For purposes of determining a quorum, determining the persons entitled to vote, and all other matters before a meeting of the Members, the Association may designate a record date, not more than 60 days nor less than 10 days prior to the meeting date, to determine the Members entitled to notice and to vote at the meeting. If no record date has been fixed, the record date is deemed to be the date on which notice of the meeting was mailed to the Members. The persons appearing as Members as of the record date are deemed entitled to notice and to vote at the meeting. Persons who become Members subsequent to the record date, or whose ownership is not registered with the Association until subsequent to the record date shall not be entitled to notice, shall not be counted in comprising a quorum, and shall not be entitled to vote at the meeting. This shall not preclude a person who acquires such person's Membership subsequent to the record date from voting the interest of his predecessor under a written proxy.

2.6 Quorum. At any meeting of the Members, the presence of Members, in person or by proxy, holding the right to cast more than 50% of the total votes of the Association shall constitute a quorum for the transaction of business. In the event that a quorum is not present at a meeting, the Members present, in person or by proxy, though less than a quorum, may adjourn the meeting to a later date set by those Members present. Notice of the re-scheduled meeting will be sent to the Members providing at least 10 days notice of the new meeting. At any rescheduled meeting, a quorum will be deemed to exist comprised of those Members present in person or by proxy at the re-convened meeting.

2.7 Proxies. At each meeting of the Members, each Member entitled to cast a vote shall be entitled to vote in person or by written proxy. All proxies must be in writing, signed by the Member as shown on the records of the Association. When a Membership is jointly held, the proxy must be signed by all of the joint owners of the Membership. Proxies must be presented to the Secretary of the Meeting at the beginning of the meeting for purposes of determining a quorum. The secretary will make an entry of proxies in the minutes of the meeting.

2.8 Voting Rights. With respect to each matter presented to the Members, including the election of Trustees, each Member who owns a Lot shall be entitled to cast one vote for each Lot that such Member owns on all matters presented to the Members for approval. The Alpine Condominiums of Jordanelle Owners' Association, Inc. Shall be entitled to six (6) votes. If a Lot is owned by more than one person or entity, then such persons or entities must decide among themselves how the vote for such Lot shall be cast. In the event that a Lot is owned by multiple owners and only one of the multiple owners is present at a meeting, the other multiple owners who are not present shall he deemed to have consented to the owner who is present voting the interests of that Lot. In the event of Lots held subject to trust deeds or mortgages, the trustor or mortgagor will be entitled to vote, and the lender shall have no right to vote; provided however, that when a lender has taken possession of any Lot, the lender shall be deemed to have succeeded to the interest of the trustor or mortgagor, and shall then be entitled to cast the vote.

2.9 Simple Majority. Any matter placed before the Members for a vote shall pass if there is an affirmative vote of the majority of the Members present at the meeting (and there is a quorum present). Election of Trustees will be by secret ballot. Other matters may be voted by secret ballot or by show of hands or such other means as the officer

conducting the meeting shall determine.

2.10 Waiver of Irregularities. Any inaccuracies, irregularities, or errors in any call for a meeting or in any notice of meeting, and any inaccuracies or irregularities in the determination of a quorum or acceptance of proxies at a meeting are deemed waived, unless there is an objection stated in the meeting prior to the vote being taken.

2.11 Informal Action. Any action which is required to be taken or approved at a meeting may be taken or approved without a formal meeting, if all of the Members consent to the action in writing prior to the action being taken. The Members may hold meetings for which formal notice was not given if the Members waive notice prior to the meeting.

ARTICLE III
BOARD OF TRUSTEES

3.1 General Powers. The Board of Trustees shall have authority to manage and control the property and affairs of the Association. The Board of Trustees may exercise all powers conferred upon them by law, by the Articles of Incorporation, by these By-Laws and by the terms of the Second Amended and Restated Declaration of Covenants. Conditions and Restrictions of Star Harbour Estates (the "Second Amended Declaration"), provided however, that those powers which are specifically reserved to the Members in these By-law or in the Articles of Incorporation shall be exercised only by the Members. The Board may delegate its powers to officers, managers, or to such others as are appropriately delegated.

3.2 Number and Tenure. There shall be three (3) members of the Board of Trustees. They shall serve until the next annual meeting in which Trustees are elected, and shall continue to serve until their successors have been elected and assumed office. Trustees need not he residents of the State of Utah nor Members of the Association.

3.3 Board Meetings. The Board of Trustees shall have at least one meeting per year, which shall be within the 90 days preceding the Annual Meeting of Members for the purpose of setting the agenda for the Annual Meeting of Members, and for purposes of approving an annual budget for the operations of the Association, for approving (for recommendation to the Members) the assessments to be made by the Association upon the Members as contemplated by the Declaration, and for approving annual reports, tax returns, and similar matters. Special meetings may he called by the President or the Chairman, or by a majority of the Board by giving notice to the other Board members. Notice of Board meetings will be given in writing or by telephone not more than 15 days, and not less than 5 days prior to the date of the meeting.

3.4 Quorum. A quorum at a Board meeting will consist of a simple majority of the Board. Board members may be counted as present if they are participating in the meeting by teleconference or other means which permit each Board Member to hear and be heard by each of the other Board Members.

3.5 Deadlock. In the event of a deadlock on the Board, the Board shall immediately call for a special meeting of the Members and, at the direction of the Chairman of the Board, either call for the election of a new Board, or submit the matter to the Members for determination.

3.6 Compensation. The Trustees shall serve without compensation, provided that their reasonable out of pocket expenses for Association business, including the costs of attending Board meetings, may be reimbursed by the Association.

3.7 Resignation or Removal. Any Trustee may resign at any time. Any Trustees may be removed prior to the end of his or her term of office by an affirmative vote of a simple majority of the Members of the Association at a regular or special meeting called for that purpose.

3.8 Vacancies. Vacancies on the Board of Trustees will be filled by appointment of a successor by the remainder of the Board, provided that any such appointee will be confirmed or rejected at the next regular meeting of the Members. Any such Trustee is to fill the balance of the vacant term which he or she has filled.

3.9 Informal Action by Trustees. The Trustees may take any action they could take in a formal meeting without a formal meeting, provided that the action is authorized in advance in writing signed by all of the Trustees. The Trustees may waive notice of meetings by signing written waivers at the time of the meeting. Minutes of all Board meetings will be kept, and when a meeting is held without prior notice, the minutes will reflect the written waiver of notice.

3.10 Committees. The Board of Trustees may, by a resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of two or more members of the Association, which may have and exercise such powers as the Board may delegate to such committee in the resolution. Committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees. The President may appoint replacement members to fill vacancies on committees.

ARTICLE IV
OFFICERS

4.1 Appointment of Officers. The Board of Trustees shall appoint the officers of the Association at the first Board meeting following the annual meeting of the members. The Board of Trustees may in its sole discretion, also appoint officers at any meeting of the Board.

4.2 Additional Officers. The Board of Trustees may appoint such other officers in addition to the President, Vice-President, Secretary and Treasurer, as it shall deem necessary.

4.3 Removal. All officers serve at the discretion of the Board and may be removed at any time by a vote of the majority of the Board of Trustees.

4.4 President. The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. The President shall sign on behalf of the Association all contracts, easements, conveyances and lending documents and shall do and perform all acts and things which the Board of Trustees may require of the President.

4.5 Vice-President. In the event of the President's absence or inability to act, the Vice-President shall have the powers of the President. The Vice-President shall also perform such other duties as the Board of Trustees shall require.

4.6 Secretary. The Secretary shall keep the minutes of the Association, its membership books, mailing lists, and such other books and records as these Bylaws or other resolution of the Board of Trustees may require. The Secretary shall also perform such other services as may be required by the Board of Trustees.

4.7 Treasurer. The Treasurer shall have custody and control of the funds of the

Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report on the state of the finances of the Association at the annual meeting of the members and at meetings of the Board of Trustees and shall perform such other services as may be imposed by the Board of Trustees.

ARTICLE V
INDEMNIFICATION

To the fullest extent permitted by the Utah Revised Business Corporation Act or the Utah Revised Nonprofit Corporation Act or any other applicable law as now in effect or as it may hereafter be amended, a Trustee or officer of the Association shall not be personally liable to the corporation or its members for monetary damages for any action taken or any failure to take any action, as a Trustee of officer. Neither any amendment nor repeal or this Article V, nor the adoption of any provision in these Bylaws inconsistent with this Article V, shall eliminate or reduce the effect of this Article V in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article V, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE VI
AMENDMENT

Amendment. These By-Laws may be amended by the Members of the Association from time to time as the Members see fit by a majority vote at a meeting called for that purpose.

ARTICLE VII
DISTRIBUTIONS

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to its Trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions.

LEGAL DESCRIPTION

All of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.

0HB-0001, 0HB-0002, 0HB-0003, 0HB-0004, 0HB-0005, 0HB-0006, 0HB-0007, 0HB-0008, 0HB-0009, 0HB-0010, 0HB-0011, 0HB-0012, 0HB-0013, 0HB-0014, 0HB-0015, 0HB-0016, 0HB-0017, 0HB-0018, 0HB-0019, 0HB-0020, 0HB-0021, 0HB-0022, 0HB-0023, 0HB-0024, 0HB-0025, 0HB-0026, 0HB-0027, 0HB-0028, 0HB-0029, 0HB-0030, 0HB-0031, 0HB-0032, 0HB-0033, 0HB-0034, 0HB-0035

Lot B, Overhead Utilities Easement, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.
0HB-000B

Detention Pond, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder. 0HB-0DTP

Lot C, Open Space Parcel, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder. 0HB-0OPN

When Recorded, return to:
Jim Kennicott
Post Office Box 683430
Park City, Utah 84068

CERTIFICATE OF THE SECRETARY FOR STAR HARBOUR ESTATES OWNERS' ASSOCIATION, INC., a Utah Not-for-Profit Corporation

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

Vickie Burgess-Keene, being first duly sworn, certifies as follows:

1. That she is the Secretary of the Star Harbour Estates Homeowners' Association, Inc, a Utah not-for-profit corporation.

2. That pursuant to Article 12.7 of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Star Harbour Estates, the owners of more than sixty-seven percent (67%) of the ownership interest in Star Harbour Estates voted to adopt and to record the Second Amended and Restated Declaration or Covenants, Conditions, and Restrictions and Bylaws attached hereto.

Vickie Burgess-Keene
VICKIE BURGESS-KEENE, Secretary

SUBSCRIBED AND SWORN TO BEFORE ME THIS 31 th day of October, 2008 by Vickie Burgess-Keene, who identified herself to me by means of drivers license, who being duly sworn, did say that she is the Secretary of the Star Harbour Estates Homeowners' Association, Inc., and that she signed the foregoing Certificate on behalf of the Star Harbour Estates Homeowners' Association, Inc.

Kathryn D. Hunter
NOTARY PUBLIC

KATHRYN D. HUNTER
NOTARY PUBLIC - STATE OF UTAH
3145 S. KENWOOD STREET
SALT LAKE CITY UT 84106
My Comm. Exp. 05/10/2010

ENCLOSURE 9

United Park City Mines Quitclaim to Old Keetley Road Properties

Ent 447604 Bk 1213 Pg 290 - 292
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
2018 Jan 22 03:03PM Fee: $14.00 TC
For: Jones Waldo
ELECTRONICALLY RECORDED

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Jones Waldo Holbrook & McDonough PC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84105
Attn: Keven M. Rowe, Esq.

QUITCLAIM DEED

UNITED PARK CITY MINES COMPANY, a Delaware corporation ("**Grantor**"), hereby bargains, sells, remises and QUIT CLAIMS to **REDUS PARK CITY LLC**, a Delaware limited liability company ("**Grantee**"), for the sum of TEN DOLLARS and other good and valuable consideration, the following described tracts of land in Wasatch County, State of Utah, described in **Exhibit "A"** attached hereto.

Subject to and except all matters of record or otherwise which are enforceable at law or in equity.

Witness the hand of said Grantor, this 16th day of November, 2017.

UNITED PARK CITY MINES COMPANY,
a Delaware corporation

By: _____
Name: Jack Bistricer
Title: President

STATE OF New York)
) ss:
COUNTY OF New York)

The foregoing instrument was acknowledged before me this 16th day of November, 2017, by Jack Bistricer, the President, of UNITED PARK CITY MINES COMPANY, a Delaware corporation, on behalf of such corporation.

Michelle Melohn
NOTARY PUBLIC
Residing at _____

My Commission Expires:
_____

Michelle A. Melohn
STATE OF NEW YORK
NOTARY PUBLIC
Qualified in New York County
01ME6343698
MY COMMISSION EXPIRES 06/13/2020

EXHIBIT A

OLD KEETLEY ROAD

All that certain real property located in Wasatch County, State of Utah, described as follows:

PARCEL NO. JDR-Hy-40-19:21:ET

A parcel of land in Lots Five (5) and Six (6) and in nondescript Lot No. 157 of the Blue Ledge Mining District, located in the Southeast Quarter of the Northeast Quarter (SE¼NE¼) of Section Twenty-four (24), Township Two (2) South, Range Four (4) East, Salt Lake Base and Meridian, Wasatch County, Utah, more particularly described as follows:

Beginning at the intersection of the South line of said Lots 5 and 6 and the southeasterly edge of roadway of an existing county road, which is also defined as the southeasterly boundary line of said entire tract, said point of beginning is approximately Twelve Hundred Seventy-six (1276.0) feet West (which equals highway bearing South 89°00'23" West) from the East Quarter corner of said Section 24; thence northeasterly Eight Hundred Twenty-eight and Ninety Hundredths (828.90) feet, more or less, along said southeasterly edge of roadway, more particularly described in the following six courses and distances: Northerly One Hundred Thirty-seven and Eighty-one Hundredths (137.81) feet along the arc of a Three Hundred (300.0) -foot radius curve to the right (chord bears North 60°23'17" East One Hundred Thirty-six and Sixty Hundredths (136.60) feet); thence northeasterly Two Hundred Thirty-three and Eighty-three Hundredths (233.83) feet along the arc of a Two Hundred Fifty (250.0) -foot radius curve to the left (chord bears North 48°57'27" East Two Hundred Twenty-five and Forty Hundredths (225.40) feet); thence North 20°33'40" East Two Hundred Twenty (220.0) feet; thence North 31°14'00" East Fifty-seven and Seventy Hundredths (57.70) feet; thence North 58°45'00" East One Hundred One and Fifty-two Hundredths (101.52) feet; thence northeasterly Seventy-eight and Four Hundredths (78.04) feet along the arc of a One Hundred Fifty (150.0) -foot radius curve to the left (chord bears North 43°50'42" East Seventy-seven and Sixteen Hundredths (77.16) feet); thence North 6°12'37" East Seventy-eight (78.0) feet to a point Sixty (60.0) feet perpendicularly distant easterly from the centerline of said access road known as "R" Line for said project at Engineer Station 34+4.44; thence North 6°00'00" West Three Hundred Five and Fifty-six Hundredths (305.56) feet; thence North 76°20'46" West One Hundred Forty-eight and Sixty-six Hundredths (148.66) feet; thence South 6°00'00" East Three Hundred Fifty-five and Fifty-six Hundredths (355.56) feet; thence South 1°34'23" West One Hundred Thirty-nine and Ninety-four Hundredths (139.94) feet to a point Fifty (50.0) feet perpendicularly distant northwesterly from said "R" Line at Engineer Station 32+41.10; thence South 32°30'00" West One Hundred Forty-one and Ten Hundredths (141.10) feet; thence South 70°18'34" West Three Hundred Ninety-six and Twenty-six Hundredths (396.26) feet; thence South 57°04'49" West Two Hundred Thirty and Ninety-four Hundredths (230.94) feet; thence South 10°30'01" West One Hundred Thirty and Seventy-five Hundredths (130.75) feet to said South line; thence East (North 89°00'23" East highway bearing) Two Hundred Sixty-four and Ninety-seven Hundredths (264.97) feet along said South line to the point of beginning.

Parcel No. JDR-Hy-40-19:21:ET contains a total of Four and Thirty-three Hundredths (4.33) acres, more or less.

Wasatch County Tax Serial Numbers: 00-0007-1469, OWC-0027-0-024-024

MAIL TAX NOTICES TO:
REDUS Park City LLC
Wells Fargo ORE Servicing Group
Attn: June Merritt
1 Independent Drive, 6th Floor
Suite 615, MAC Z3094-065
Jacksonville, Fl 32202

ENCLOSURE 10

SHERIFF'S DEED OF SALE OF LOT B TO REDUS/WELLS FARGO

Ent 476323 Bk 1287 Pg 1587 - 1593
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
2020 Apr 01 10:51AM Fee: $40.00 TC
For: Jones Waldo
ELECTRONICALLY RECORDED

RETURN TO:
George W. Pratt
170 S. Main St., #1500
Salt Lake City, UT 84101

MAIL TAX NOTICES TO:
REDUS Park City LLC
Wells Fargo ORE Servicing Group
Attn: June Merritt
1 Independent Drive, 6th Floor
Suite 615, MAC Z3094-065
Jacksonville, FL 32202

SHERIFF'S DEED

THIS SHERIFF'S DEED is made effective as of the 19th day of March, 2020 between Jared Rigby, Sheriff of Wasatch County, State of Utah ("**Grantor**"), and REDUS Park City LLC, a Delaware limited liability company ("**Grantee**").

WITNESSETH, WHEREAS, on April 15, 2015 a Judgment (the "**Judgment**") was entered by the Third Judicial District Court of Salt Lake County, State of Utah, in *WELLS FARGO BANK, NATIONAL ASSOCIATION, and MIDTOWN ACQUISITIONS L.P., Plaintiffs, vs. TALISKER PARTNERSHIP; TALISKER INVESTMENTS (CANADA) INC.; TALISKER INVESTMENTS (U.S.) INC.; TALISKER DEVELOPMENTS INC.; UNITED PARK CITY MINES COMPANY; TUHAYE LLC; TUHAYE GOLF, LLC; MOUNTAIN RESORTS DEVELOPMENT (PIOCHE), LLC; MOUNTAIN DEVELOPMENTS I, INC.; TOWER CLUB LLC; and TUHAYE ELM, INC., Defendants*, Civil No. 150902509.

AND WHEREAS, upon entry of the Judgment, an Abstract of the Judgment was filed in the Fourth Judicial District Court of Wasatch County, pursuant to Utah Code Ann. § 78B-5-202(3), where the Judgment now "ha[s] the same force and effect as a judgment entered in [this] court." *Id.*

AND WHEREAS, after the Judgment was filed in the Fourth Judicial District Court of Summit County, it was recorded with the Wasatch County Recorder on April 16, 2015, in Book 1127, at Pages 703-712, as Entry No. 411013.

AND WHEREAS, upon the Application of the Plaintiffs to the Clerk of Court, a Writ of Execution (the "**Writ**") was issued on November 4, 2019, which is attached as Exhibit "B", directed to the Sheriff of Wasatch County, directing the Sheriff to sell certain real property, owned by defendant United Park City Mines Company, as identified in the Writ.

AND WHEREAS, the Writ provides that Plaintiffs may credit bid up to the outstanding amount owed under the Judgment at the Sheriff's Sale.

AND WHEREAS, at the hour of ten o'clock a.m., on the 19th day of March, 2020, at the Wasatch County Courthouse in Heber City, after due public notice had been given, as required by Rule 69B, Utah Rules of Civil Procedure, Grantor did duly sell at public auction the real

property referenced in the Writ, which is described in Exhibit "A" attached hereto (the "**Property**"), at which sale the Property was sold to Wells Fargo Bank, N.A. ("**Wells Fargo**"), for the sum of One Hundred Twenty Five Thousand Dollars ($125,000), which was bid by Wells Fargo as a credit bid, and was the highest sum bid at said sale.

AND WHEREAS, the Writ recognizes that the Defendants have waived their 180-day right of redemption under Rule 69C(d), Utah Rules of Civil Procedure, and the Judgment therefore directs that Grantor shall not issue a certificate of sale, but shall instead issue a Sheriff's Deed to the purchaser at any sale, or its designee;

NOW, THEREFORE, in order to carry into effect the sale of the Property pursuant to the Writ of Execution, and in consideration of the money paid by credit bid by Wells Fargo, the receipt of which is hereby acknowledged, Grantor hereby grants, sells and conveys to Grantee the real property described in **Exhibit "A"** attached hereto, located in Wasatch County, State of Utah, together with all tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, to have and to hold the same unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal the day and year first above written.

_____ Sheriff of Wasatch County, Utah.
Jared Rigby

STATE OF UTAH)
:ss.
County of Wasatch)

On the 1ST day of April, 2020 before me Allie McKinney, a Notary Public in and for the County of Wasatch, State of Utah, personally appeared Jared Rigby, Sheriff of Wasatch County, State of Utah, personally known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same as such Sheriff, freely and voluntarily, and for the uses and purposes therein mentioned.

WITNESS my hand and notarial seal this 1ST day of April, 2020 by _____.

NOTARY PUBLIC

My Commission Expires: 08-02-2021
Residing in Heber City, Utah

ALLIE MCKINNEY
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 696279
COMM. EXP. 08-02-2021

1630501.1

EXHIBIT A

LEGAL DESCRIPTION

The following property located in Wasatch County, State of Utah, with the street address 1687 W Alpine Avenue, Heber City, Utah 84032;

LOT B, UTILITIES EASEMENT STAR HARBOUR ESTATES AMENDED SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF FILE OF RECORD IN THE OFFICE OF THE WASATCH COUNTY RECORDER.

(Tax Serial N. 0HB-000B and Parcel No. 00-0020-0814)

Exhibit B

The Order of the Court is stated below:
Dated: November 04, 2019 10:34 35 AM
/s/ TERI STUCKY
District Court Clerk

Keven M. Rowe (USB #4905)
George W. Pratt (USB #2642)
Jessica P. Wilde (USB #11801)
JONES, WALDO, HOLBROOK & McDONOUGH, P.C.
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200
gpratt@joneswaldo.com
Doc ID 1613321

Attorneys for Plaintiffs

IN THE FOURTH JUDICIAL DISTRICT COURT OF WASATCH COUNTY

STATE OF UTAH

WELLS FARGO BANK, NATIONAL ASSOCIATION, and MIDTOWN ACQUISITIONS L.P.,	
Plaintiffs,	**WRIT OF EXECUTION**
vs.	Civil No. 156500298
TALISKER PARTERSHIP, a Province of Ontario, Canada general partnership; TALISKER INVESTMENTS (CANADA) Inc., a Province of Ontario, Canada corporation; TALISKER INVESTMENTS (U.S.) INC., a Utah corporation; TALISKER DEVELOPMENTS INC., a Utah corporation; UNITED PARK CITY MINES COMPANY, a Delaware corporation; TUHAYE LLC, a Utah limited liability company; TUHAYE GOLF, LLC, a Utah limited liability company; MOUNTAIN RESORTS DEVELOPMENT (PIOCHE), LLC, a Delaware limited liability company; MOUNTAIN DEVELOPMENTS I, INC., a Delaware corporation; TOWER CLUB LLC, a Utah limited liability company; and TUHAYE ELM, INC., a Delaware corporation,	Honorable Jennifer A. Brown
Defendants.	

TO THE SHERIFF OF WASATCH COUNTY, STATE OF UTAH:

1. On April 15, 2015 the Third Judicial District Court for Salt Lake County, State of Utah, entered a Judgment in Civil No. 150902509 against all the defendants in this action, in the amount of $158,597,589.55, with interest to accrue as described in paragraph 2 of the Judgment.

2. The amount owed under the Judgment (not including accrued interest) is $67,460,330.38.

3. Upon entry of the Judgment, an Abstract of the Judgment was filed in the Fourth Judicial District Court of Wasatch County, pursuant to Utah Code Ann. Section 78B-5-202(3), where the Judgment now has the same force and effect as a judgment entered in this court.

4. You are directed to sell the real property, which is owned by defendant United Park City Mines Company and which is described on Exhibit A attached hereto. You are directed to sell enough of the property to satisfy the amount owed under the Judgment.

5. The Defendants have waived their 180-day right of redemption under Rule 69C(d), Utah Rules of Civil Procedure. Accordingly, because the statutory right of redemption has been waived, after the sale of the property you shall not issue a certificate of sale, but shall instead promptly issue a Sheriff's Deed to the purchaser at the sale, or its designee.

6. Plaintiffs may credit bid up to the outstanding amount owed under the Judgment at the sale.

7. The property to be sold, described on Exhibit A attached hereto, is not subject to any exemption.

8. You are directed to serve this Writ and all attachments on the defendant judgment debtors, and on Talisker Finance LLC, by serving their attorney of record, Clark K. Taylor, at the following address:

John A. Snow
Parsons Behle and Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111

9. You are to return this Writ within 10 days after receiving it, with a signed account of your actions in executing this Writ.

SIGNED BY THE CLERK OF COURT:
As indicated by the electronically added seal and date atop page 1

Jenni Greer
Third Judicial District Court Clerk

EXHIBIT A

The following property located in Wasatch County, State of Utah, with the street address 1687 W Alpine Avenue, Heber City, Utah 84032:

LOT B, UTILITIES EASEMENT STAR HARBOUR ESTATES AMENDED SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF FILE OF RECORD IN THE OFFICE OF THE WASATCH COUNTY RECORDER.

(Tax Serial No. 0HB-000B and Parcel No. 00-0020-0814)

ENCLOSURE 11

Redus Lot 34 Quitclaim

Ent 479402 Bk 1297 Pg 528 - 530
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
2020 Jun 16 01:43PM Fee: $40.00 TC
For: Snell & Wilmer LLP
ELECTRONICALLY RECORDED

WHEN RECORDED, RETURN TO, AND MAIL TAX NOTICES TO:

Gary and Elvia Hennings Family Trust
Attn. Gary J. Hennings
2587 Morning Sky Court
Park City, UT 84060

Affecting Tax Parcel No.: 00-0020-1045

QUITCLAIM DEED

[Lot 34]

THIS QUITCLAIM DEED ("**Deed**") is made by **REDUS PARK CITY LLC**, a Delaware limited liability company, with an address of 333 Market Street, 17th Floor, San Francisco, California 94105, ("**Grantor**"), as of this 15 day of June, 2020.

WHEREAS, by that certain Warranty Deed dated May 14, 2004 and recorded in the Wasatch County Recorder's Office on May 25, 2004 as Entry No. 271445, BLB Drywall, Inc. conveyed the Property [defined below] to Gary Hennings and Elvia Hennings, husband and wife as joint tenants;

WHEREAS, by that certain Warranty Deed dated June 7, 2017 and recorded in the Wasatch County Recorder's Office on June 7, 2017 as Entry No. 439022, Gary Hennings and Elvia Hennings conveyed the Property to **GARY J. HENNINGS AND ELVIA I. HENNINGS, TRUSTEES OF THE GARY AND ELVIA HENNINGS FAMILY TRUST**, under trust agreement dated November 21, 1996, as amended ("**Grantee**");

WHEREAS, by that certain Quitclaim Deed dated November 16, 2017 and recorded in the Wasatch County Recorder's Office on January 22, 2018 as Entry No. 447604, United Park City Mines Company, a Delaware corporation ("**UPK**"), quitclaimed UPK's interest in certain real property, including the Property, to Grantor; and

WHEREAS, UPK did not own any interest in the Property, Grantor, as successor-in-title to UPK, now executes this Deed for the purposes of quitclaiming all of Grantor's interest in the Property, if any, to Grantee, having an address first stated above.

NOW THEREFORE, for the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby quitclaims to Grantee all of Grantor's right, title, and interest in and to the following described tract of land in Wasatch County, Utah, to wit:

See Exhibit A attached hereto and incorporated herein by this reference (the "**Property**")

[Signature Page Follows]

WITNESS the hand of said Grantor this 15TH day of June, 2020.

GRANTOR:

REDUS PARK CITY LLC,
a Delaware limited liability company

By: **REDUS PROPERTIES, INC.,**
a Delaware corporation
Its: Manager

By: _____
David L. Ash, Senior Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Contra Costa)

On June 15, 2020 before me, Patricia A. Rivera, Notary Public, personally appeared **David L. Ash** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Patricia A. Rivera

PATRICIA A. RIVERA
Notary Public - California
Contra Costa County
Commission # 2324147
My Comm. Expires Apr 10, 2024

Signature Page to Quitclaim Deed [Lot 34]

EXHIBIT A
[Legal Description of the Property]

Beginning at the Southeast corner of Lot 34, First Amended Record of Survey Plat Star Harbour Estates, according to the Official Plat thereof, on file and of record in the Office of the Wasatch County Recorder; and running thence along the Eastern boundary of Lot 34 North 06°04'16" West 222.66 feet; thence South 31°26'43" East 43.23 feet; thence South 09°01'11" East 185.11 feet; thence West 29.07 feet to the point of beginning.

Tax Serial No. OHB-0034-A

ENCLOSURE 12

Redus Lot 35 Quitclaim

Ent 479403 Bk 1297 Pg 531 - 533
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
2020 Jun 16 01:43PM Fee: $40.00 TC
For: Snell & Wilmer LLP
ELECTRONICALLY RECORDED

WHEN RECORDED, RETURN TO, AND MAIL TAX NOTICES TO:

Robert F. Buie and Pamela I. Buie Family Trust
Attn. Robert F. Buie and Pamela I. Buie, Trustees
P.O. Box 8365
Rancho Santa Fe, CA 92067

Affecting Tax Parcel No.: 00-0020-1201

QUITCLAIM DEED

[Lot 35]

THIS QUITCLAIM DEED ("**Deed**") is made by **REDUS PARK CITY LLC**, a Delaware limited liability company, with an address of 333 Market Street, 17th Floor, San Francisco, California 94105, ("**Grantor**"), as of this 15 day of June, 2020.

WHEREAS, by that certain Special Warranty Deed dated November 13, 2001 recorded in the Wasatch County Recorder's Office on November 13, 2001 as Entry No. 238783, Blue Ledge Corporation, a Delaware corporation, conveyed the Property [defined below] and other real property to **ROBERT F. BUIE and PAMELA I. BUIE, TRUSTEES OF THE ROBERT F. BUIE AND PAMELA I. BUIE FAMILY TRUST DATED DECEMBER 16, 1999** ("**Grantee**");

WHEREAS, by that certain Quitclaim Deed dated November 16, 2017 recorded in the Wasatch County Recorder's Office on January 22, 2018 as Entry No. 447604, United Park City Mines Company, a Delaware corporation ("**UPK**"), quitclaimed UPK's interest in certain real property, including the Property, to Grantor; and

WHEREAS, UPK did not own any interest in the Property, Grantor, as successor-in-title to UPK, now executes this Deed for the purposes of quitclaiming all of Grantor's interest in the Property, if any, to Grantee, having an address first stated above.

NOW THEREFORE, for the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby quitclaims to Grantee all of Grantor's right, title, and interest in and to the following described tract of land in Wasatch County, Utah, to wit:

See Exhibit A attached hereto and incorporated herein by this reference (the "**Property**")

[Signature Page Follows]

WITNESS the hand of said Grantor this 15TH day of June, 2020.

GRANTOR:

REDUS PARK CITY LLC,
a Delaware limited liability company

By: **REDUS PROPERTIES, INC.**,
a Delaware corporation
Its: Manager

By: _____
David L. Ash, Senior Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Contra Costa)

On June 15, 2020 before me, Patricia A. Rivera, Notary Public, personally appeared **David L. Ash** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Patricia A. Rivera

PATRICIA A. RIVERA
Notary Public - California
Contra Costa County
Commission # 2324147
My Comm. Expires Apr 10, 2024

Signature Page to Quitclaim Deed

EXHIBIT A
[Legal Description of the Property]

BEGINNING AT THE NORTHEAST CORNER OF LOT 35, FIRST AMENDED RECORD OF SURVEY PLAT, STAR HARBOUR ESTATES ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, WASATCH COUNTY, UTAH: AND RUNNING THENCE EAST 29.07 FEET; THENCE SOUTH 09°01'11" EAST 9.12 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 221.30 FEET, OF WHICH THE RADIUS POINT BEARS SOUTH 80°58'49" WEST; THENCE ALONG THE ARC OF SAID CURVE 160.09 FEET THROUGH A CENTRAL ANGLE OF 41°26'55"; THENCE ALONG THE EASTERN BOUNDARY OF LOT 35 NORTH 01°30'07" EAST 139.94 FEET; THENCE ALONG THE EASTERN BOUNDARY OF LOT 35 NORTH 06°04'16" WEST 22.61 FEET TO THE POINT OF BEGINNING.

Tax Serial No. OWC-0027-D

ENCLOSURE 13

Kosakowski July 5, 2021 Comments for July 8, 2021 Planning Commission Hearing
(w/o Enclosures)

July 5, 2021

Mr. Charles Zuercher, Chair
Wasatch County Planning Commission
55 S 500 E
Heber City, UT 84032

RE: Item #1, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment

Dear Mr. Zuercher:

This letter constitutes our written comments on Item #1, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment, to be considered by the Wasatch County Planning Commission on July 8, 2021. Our home is located next to Lot B in the Star Harbour Estates subdivision ("Star Harbour"). We have occupied our home since 2005, and we were among the first homeowners in the subdivision. We appreciate the opportunity to comment and respectfully request that you deny Redus Park City LLC's ("Redus") request to amend the Lot B Plat designation from an open space easement parcel to a residential parcel for the following reasons:

1. Background

In the early 2000's, a single developer, Rory Murphy of Blue Ledge Corporation ("Blue Ledge") was responsible for three projects located at the Route 40 Mayflower exit. These three projects are Star Harbour, Fox Bay Condominiums ("Fox Bay") and the Jordanelle Commerce Development Park ("Commerce Park"). Fox Bay was developed first and is composed of approximately 130 condominium apartment units on approximately 11 acres. Star Harbour exists on approximately 35 acres and is primarily composed of single-family home lots. Blue Ledge did not develop Star Harbour but sold off individual lots to be developed by others. Star Harbour is a little more than 50% built out. Blue Ledge did not develop the approximately 10-acre Commerce Park parcel, and it is not yet developed. It ultimately came to be owned by Redus, and it is now on the market.

The three projects are not independent of one another but are connected and responsible to one another as defined by the Easement and Maintenance Agreement executed by the parties on July 16, 2001 (see Entry No. 235064, Book 0512, Pg. 0530-0545) (Enclosure 1) as well as a single Affordable Housing Agreement that applies to all three and that is part of the Star Harbour Development Agreement (see Entry No. 233949, Book 0512, Pg. 0530-0545). (Enclosure 2). Despite this interconnectivity, the County has placed Star Harbour and Fox Bay in the Jordanelle Basin Overlay Zone ("JBOZ") and therefore, under the jurisdiction of the County Planning Planning Commission and the Commerce Park Parcel in the Jordanelle Specially Planned Area ("JSPA") and therefore, under the jurisdiction of the JSPA Planning Commission.

2. The condition for converting Lot B from an open space easement lot to a residential lot set forth in the Star Harbour plat has not been met because the PacificCorp Release of Easement is not dispositive of the existing easements on Lot B.

The report provided by the Planning Staff to the Planning Commission points to a footnote on the Star Harbour plat as the basis for re-classifying Lot B from an open space easement lot to a residential lot. The report also recognizes that the extinguishment of any existing easements on Lot B is a pre-requisite to fulfilling the condition set forth in the footnote. The report presents the first page of a Release of Easement executed by PacificCorp on April 22, 2005 as evidence that the easement on Lot B is no longer in place (see Entry No. 282741, Book 0752, Pgs. 0698-0702) (Enclosure 3).

However, the staff report is incorrect in that it identifies only a single easement as existing on Lot B. The survey of Lot B commissioned by Redus in August 2020 shows two easements currently in place on Lot B (Enclosure 4). One is a 40-foot-wide easement held by UPL, presumably Utah Power and Light to which PacificCorp is a successor-in-interest, and a second 10-foot-wide public utility easement.

The report is also incorrect in that it represents the 2005 Release as conclusive evidence that both easements have been extinguished. If the easements were extinguished in 2005, why does a survey of the lot in 2020 include easements that had been relinquished fifteen years earlier? Why do the descriptions of the easements in the 2005 Release not match the easements on the 2020 survey? Also, why would Doug Smith have told us more than once during conversations that occurred after 2005 that the utility easement remains in place and the lot can't be built so long as that is the case?

The answers lies in the document that the 2005 Release references, i.e., Instrument No. 154915 (see Entry No. 154915, Book 26, Pgs. 262-266) (Enclosure 5). Instrument 154915 is a Temporary Right of Entry Agreement granted by United Park City Mines Company ("UPCMC") to Utah Power and Light in 1990, which by its own terms terminated one year after the settlement of a lawsuit. That lawsuit, *United States of America v. 106.79 Acres of Land*, Civil No. 88C-0231W, was settled on Sep 21, 2000.[1] Therefore, the right of entry granted by Instrument 154915 automatically terminated on Sep 21, 2001. PacificCorp's 2005 release of the right of entry was gratuitous; the right had already lapsed.

Moreover, Instrument 154915 states that within one year of the settlement of the same lawsuit UPCMC and Utah Power and Light shall negotiate perpetual easements and rights-of-way along the same 70-foot right-of-way and the same 10-foot right-of-way described in Instrument 154915. PacificCorp's 2005 Release does not address the rights-of-way which were negotiated after the Temporary Right-of-Access expired in 2001 and which are the easements which do appear on the 2020 Redus and other surveys. The staff report does not present any evidence that these rights-of-way or easements, which arose via different agreements, have been terminated by any mechanism.

[1] This lawsuit related to the compensation that UPCMC would receive from the federal government pursuant to the federal government's having taken land for *inter alia* the relocation of highways 40 and 189 and construction of the Jordanelle dam and reservoir. The Declaration of Taking (Civil No. 88C-0331W) was filed with Wasatch County on Mar 29, 1988 and may be found at No. 145253, Book 198, Pgs. 701-759.

It is also important to note that the descriptions of the easements in the 2005 Release and Instrument 154915 do not match the descriptions of the easements on the 2020 Redus survey. The 2005 Release and Instrument 154915 describe a 70-foot-wide and a 10-foot-wide right-of-way, while the Redus 2020 survey describes a 40-foot-wide and a 10-foot-wide right-of-way. The 10-foot-wide rights-of-way may align but the 70-foot-wide and 40-foot-wide rights-of-way do not.

Additionally, at least the 40-foot-wide right-of-way is not contained within Lot B, i.e., it does not begin and end in Lot B. It extends across Alpine Ave and continues alongside Lot 1 and down the rear of Lots 3, 4, 5, 6, and 7 and is identified as a UPL public utility and trail easement.

Also, and perhaps importantly, the 2005 Release refers to an earlier 1981 conveyance of property (Special Warranty Deed recorded as Entry No. 124934 in Book 144, Pgs. 343-345.) that reserves rights-of-way for a telephone line easement[2], existing roadways, trails, etc.

Finally, it should also be noted that pursuant to Utah Code §54-3-27(7)[3] a utility's failure to possess, occupy, or use a protected utility easement does not diminish or extinguish any right that the utility has under the easement.

It is also important to keep in mind the close relationship between Mr. Murphy of Blue Ledge and UPCMC. Mr. Murphy was an executive with UPCMC in 2001; he would have been very familiar with *United States of America v. 106.79 Acres of Land*, Civil No. 88C-0231W and the terms and conditions of Instrument 154915. In 2001, Mr. Murphy would have known that the rights-of-way granted by Instrument 154915 were about to expire.

The first survey of Star Harbour was performed on behalf of UPCMC on May 18, 2001 and filed with the County on May 21, 2001 (see Survey No. 0001097, OWR-024-2-1097). Mr. Murphy signed the deed on behalf of UPCMC that conveyed the parcels comprising Star Harbour to Blue Ledge less than two weeks later on June 1, 2001. (see Entry No. 233782, Book 0505, Pgs 0751-0752). The County and Mr. Murphy on behalf of Blue Ledge signed the Star Harbour Development Agreement on June 6, 2001. On August 14, 2001, the Star Harbour Subdivision plat with all necessary County approvals was filed with the Recorder (see No. 235915). It was signed by Mr. Murphy as a Vice President of Blue Ledge. Even though Mr. Murphy would have known the Instrument 154915 temporary rights-of-way were to expire within a month, two easements were recorded on Lot B. Given Mr. Murphy's knowledge base, the easements shown on Lot B could not be the easements referred to in Instrument 154915 and the PacificCorp 2005 Release.

---

[2] The telephone easement was granted to Mountain States Telephone and Telegraph on September 16, 2932. This easement could not be found in the online County records although a Book and Page reference is provided.

[3] Paragraph (1) of the same section defines a "Protected Utility Easement" as "a recorded easement or right-of-way: (i) for the use and installation of a utility facility; and (ii) the ownership of which a gas corporation, electric corporation, or telephone corporation acquires and holds by any lawful means" and a "Public utility easement" as "the area on a recorded plat map or other recorded document that is dedicated to the use and installation of public utility facilities."

Because the easements referred to in the 2005 PacificCorp release cannot possible refer to the easements currently on Lot B, the condition set forth on the Star Harbour plat for converting Lot B from an open space easement lot to a residential lot has not been met. Therefore, Redus's request should be denied.

3. Wasatch County does not have the authority to vacate the easements.

While §17-27a-208 of the Utah County Land Use Development and Management Act ("CLUDMA") gives counties the authority to vacate county utility easements, the definition of "county utility easement" at §17-27a-103 specifically excludes protected and public utility easements as they are defined at Utah Code §54-3-27. The County's approving the proposed plat amendment and allowing such to be filed with the County Recorder is the functional equivalent of vacating the two public utility easements as shown on the Redus 2020 survey. As per CLUDMA, the County does not possess this authority.

4. The Star Harbour Development Agreement identifies Lot B as Open Space and the Development Agreement is in force until 2026.

As noted above, the Star Harbour Development Agreement was signed by the County and Blue Ledge on June 6, 2001, and it runs for a period of 25 years (Enclosure 2) (Thus, the Development Agreement is in force until 2026 (see paragraph 1.2).

As described in the Development Agreement, Star Harbour is a residential subdivision consisting of 30 single family lots and 3 duplex lots, and the related open space parcel, detention pond parcel, and utility easement parcel" (see Recitals, Paragraph e). One of the goals of the Development Agreement is "to provide for the preservation of substantial permanent open space" (see Recitals, paragraph e). The open space parcel (Parcel C), the detention pond parcel (Parcel A) and the utility easement parcel (Parcel B) are all open space parcels as that term, "open spaces" (in the plural), appears elsewhere in the Development Document (see Section 3 paragraph 5(d)). Moreover, Exhibit C of the Development Agreement clearly and explicitly labels Parcel B as Open Space. In conclusion, Redus's request to change the use of Parcel B from open space to a residential lot should not be granted because the Development Agreement identifies Parcel B as Open Space, states that open spaces are to be preserved, and the County is obliged to uphold the Development Agreement until it expires in 2026.

5. Parcel B constitutes the only viable Open Space available to Star Harbour, and the double track dirt road is heavily used by residents and the public.

While Parcels A and C are designated as Open Space by the Development Agreement, they are not used. Parcel C has been fenced off by Jordanelle Special Service District (JSSD), and no one can access it. JSSD facilities also occupy much of Parcel A making it something of an eyesore, a source of liability to its owner and therefore, of not much use for recreational activities. On the other hand and as shown on page 5 of the staff report, Parcel B contains portions of a significant dirt road that is heavily used by many people for hiking and biking. We walk the path at least once per day, and we often see others on it.

The developer of Mayflower Lakeside was recently required to develop a path that preserved and encompasses the wetlands between Route 40 and the Jordanelle Reservoir. Currently, the Mayflower Lakeside trail doesn't really go anywhere – it doesn't connect with any other path.

Maintaining the dirt road on Lot B as a hiking/biking trail will enable the Mayflower Lakeside Trail to interconnect with the trails that are called for by the Star Harbour Development Agreement as well as the extensive trail system that is called for in the JSPA and which is currently being developed.

6. <u>The area does not need one more residential building lot, and Lot B does not represent a financial burden to Redus.</u>

The area around the Jordanelle Reservoir is being developed and by the judgment of many, too rapidly and too densely. By a March 2020 count, 20,057 units were planned around the lake (Enclosure 6). At the Mayflower exchange alone, many thousands of dwelling units have already been approved by the JSPA Planning Commission or the Military Industrial Development Authority ("MIDA"). Approved projects include but are not limited to 483 single family lots for Skyridge, 1560 residential units and 825 hotel rooms for the Extell Mayflower Ski Resort development, 1200+ residential units plus hotel and retail for Deer Cove, 180 condos and 200 townhomes in Mayflower Lakeside, and 39 single family lots and 37,500 square feet of commercial for the Commerce Park parcel owned by Redus at the top of Alpine Ave. In a very small area, at least 3662 dwelling units will be built. Our neighborhood simply does not need 3663 dwelling units.

Redus is not a family seeking to build a home. Redus is an organizational unit of Wells Fargo. Wells Fargo's total assets are valued at $1.99 trillion in 2020, and its 2020 net income was $3.3 billin.[4] The 2020 and 2021 taxes on Parcel B was $73.85 (Enclosure 7). The expense associated with retaining the lot as does not represent a financial burden on Redus/Wells Fargo.

7. <u>Lot B is not a buildable lot.</u>

As noted above, Doug Smith has told us that Lot B is not a buildable lot not only because of the easements but also because it is too steep. As per Wasatch County Code §16.1714, construction on slopes greater than 30% is prohibited. Lot B can only be accessed from Alpine Ave, and the slope at Alpine Ave is in excess of 30%.

Also, Lot B affronts West Fox Bay Drive. The center of Lot B's frontage on Alpine Ave is directly opposite the center of West Fox Bay Drive. There is no way to locate a driveway on the Alpine Ave Lot B frontage without violating Wasatch County Code §16.33.11which requires driveways to be located a minimum of 40 feet from an intersection.

Also, Fox Bay uses Lot B as the repository for snow ploughed from the Fox Bay complex.

8. <u>Summary</u>

[4] https://en.wikipedia.org/wiki/Wells_Fargo

In summary, we respectfully submit that Redus's proposal to amend the plat for Lot B is not a minor request at all; it is a major request that if granted, will negatively impact the neighborhood's and the public's use of the trail on Lot B. We request that the Planning Commission deny Redus's request to amend the plat for Lot B to eliminate the easements and convert it into a residential lot because: (1) there is no conclusive evidence that the two Lot B easements have been extinguished, (2) the County does not have the authority to vacate the two Lot B easements, (3) as per the Star Harbour Development Agreement, which is in force until 2026, Lot B is to remain as Open Space, (4) it is in the public interest to maintain Lot B as open space the dirt road, a portion of which is on Lot B, is heavily used by residents and the public for hiking/biking and it can serve as a connector to the trail built by Mayflower Lakeside and the extensive trail system being developed in the JSPA, (5) an additional residential lot is not needed, and retaining Lot B does not represent a financial burden to Redus/Wells Fargo, and (6) Lot B is not a buildable lot.

Thank you again for the opportunity to comment. We look forward to your response to our comments.

Sincerely,

Michael W Kosakowski

Michael W. Kosakowski

Kit R. Kosakowski

Kit R. Kosakowski
1671 Alpine Ave.
Heber City, UT 84032

Enclosures

LIST OF ENCLOSURES

1. Easement and Maintenance Agreement
2. Star Harbour Development Agreement
3. Entry No. 282741
4. Redus 2020 Lot B Survey
5. Instrument No. 1549915
6. Diagram from March 8, 2020 article from Park Record byline Alex Cramer entiutled "With 20,000 Units Planned around the Jordanelle Reservoir, Officials Say Regionalization is Key to Dealing with Impacts"
7. Lot B Tax Bills

ENCLOSURE 14

Planning Department July 8, 2021 Staff Report and Planning Commission Report of Action

Wasatch County Planning Commission
July 8, 2021

Item #1

Star Harbour Estates Lot B
-Redus Park City LLC-

Minor Plat Amendment

PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

WASATCH COUNTY
Planning Commission Staff Report
Plat Amendment

ITEM 1 Redus Park City LLC requests a Minor Plat Amendment to Star Harbour Estates in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-4196; Austin Corry)

PROJECT SUMMARY

Applicant: Redus Park City LLC (Doug Ogilvy)
Hearing Date: 08 July 2021
Property Owner(s): Redus Park City LLC
Related Applications: Final Subdivision (2001)

Existing Zone: JBOZ
Existing Land Use: Vacant
Existing Plat: 34 Lots and Open Space on 35.54 acres
Lots Affected: Lot B

BACKGROUND

The applicant is seeking to amend the Star Harbour Estates Subdivision Plat to convert Lot B to a residential parcel. The plat and approvals previously encumbered this lot with a utility easement for powerline infrastructure that was anticipated to be relocated or removed later on. That relocation has occurred and the owner now seeks to remove the easement from the plat. Rocky Mountain Power, the owner of the easement, has provided a release of easement that confirms this is no longer necessary.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. State law requires a public hearing to amend any plat when the amendment is not signed by all the owners within the plat being amended. At the time of this report, no objections have been received in response to the notices sent.

Utah Code § 17-27a-609 allows the County to approve a plat amendment if the County finds that: (a) there is good cause for the vacation, alteration, or amendment; and (b) no public-street, right-of-way, or easement has been vacated or altered.

KEY ISSUES TO CONSIDER

- Lot B is 0.82 acres.
- The amendment will remove a utility easement that results in Lot B becoming a buildable lot.
- The utility company owning the easement has provided a written release of easement confirming no further interest in encumbering the lot.
- Previous approval for the subdivision stipulated that the lot could be converted in the future.

STAFF ANALYSIS

– GOOD CAUSE –

Wasatch County Code 16.04.02 has defined "good cause" as:

"Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County."

Staff has reviewed the plat amendment and finds the proposal complies with the need to meet "good cause" as required by State Law. It is not anticipated that the proposed action would affect the neighboring landowners negatively. The intent of the original subdivision approval put neighbors on notice and the County acknowledged the future converstion of the lot at such time as the easement would be released. Plat note #4 of the existing plat states *"Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot 'B' may become a single family lot, subject to review and approval by Wasatch County."*

– PUBLIC RIGHT-OF-WAY OR EASEMENTS –

No public-street, right-of-way, or easement is proposed to be vacated or altered by this amendment. The UPL easement has been authorized by UPL for release.

DEVELOPMENT REVIEW COMMITTEE

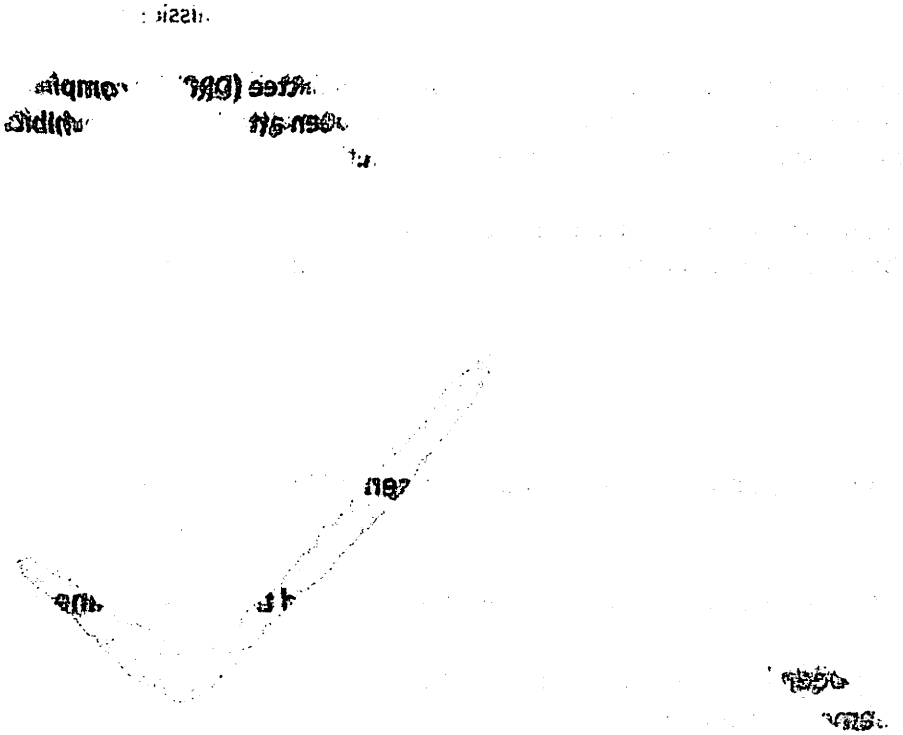
This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for the Planning Commission to render a decision.

The JSSD reviewer has noted that a previous note regarding a limit of 0.15 irragable acres did not get put on the proposed amended plat. That note should be added or the applicant will need to obtain additional water rights necessary to resolve the concern raised by JSSD.

POTENTIAL MOTION

Move to *Approve* the request consistent with the findings and conditions presented in the staff report.
Findings:

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL has provided a release of easement for the utility easement.
5. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B.
6. No public or private roads are being vacated as part of this plat amendment.
7. This proposed revision conforms to the Wasatch County development standards.



8. The proposal is consistent with Utah Code § 17-27a-609.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

Conditions:

1. The plat amendment approval shall expire if the plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. Note 6 regarding irrigation limits from the previous plat shall be added to the amended plat or additional water rights supplied to satisfy JSSD.
3. An approved water action report shall be provided by the applicant that reflects the water right resolution.
4. A signature block be added for Planning Commission per Wasatch County Code 16.27.12.

ALTERNATIVE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the Plat Amendment is compliant as proposed with Wasatch County Code and all other applicable ordinances.

2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that issues can be resolved prior to final approval.

3. Continue. This action can be taken if the Planning Commission needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.

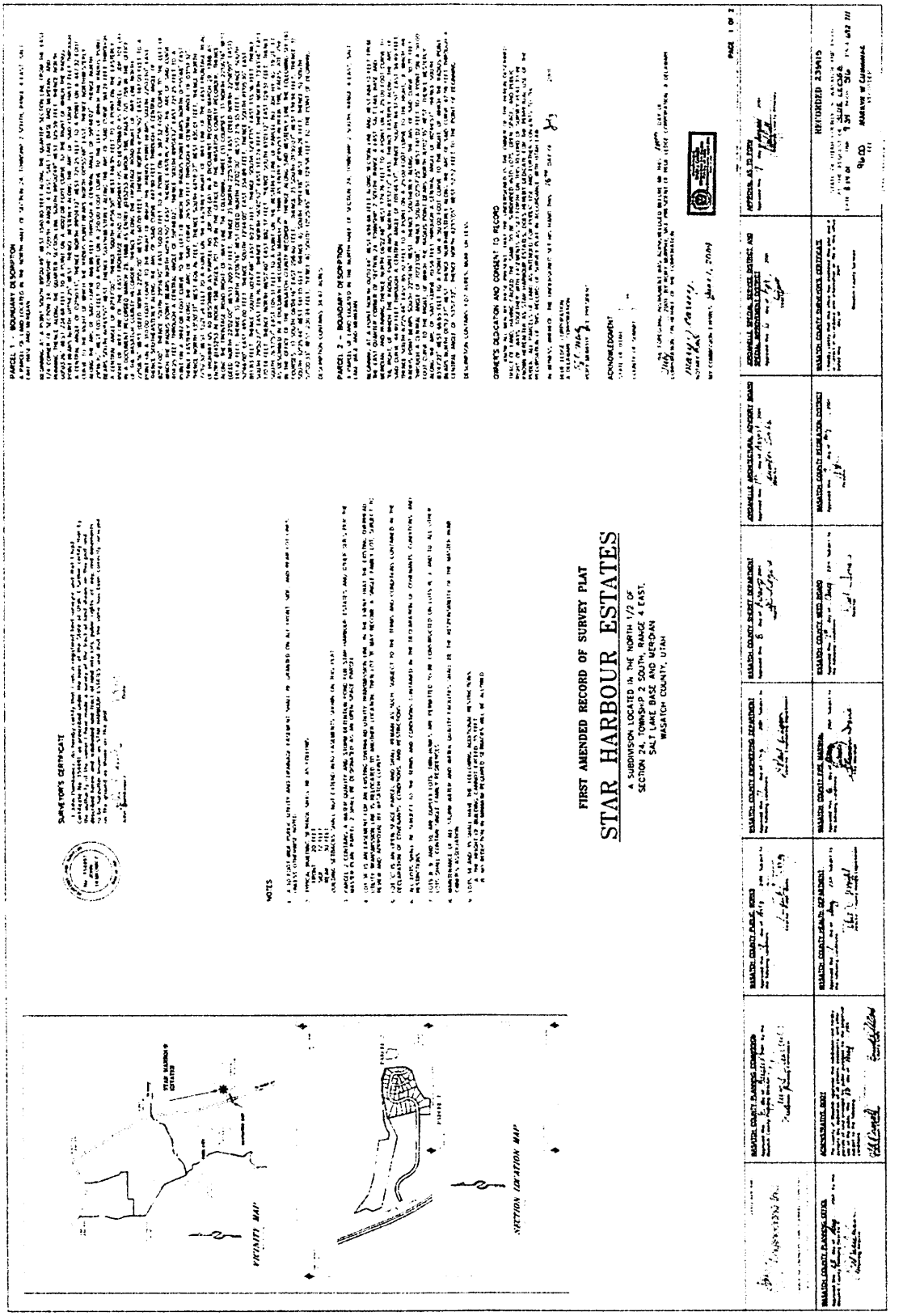
4. Recommendation for Denial. This action can be taken if the Planning Commission finds that the proposal does not meet the intent of the ordinance.

EXHIBITS

A. Vicinity Plan
B. Existing Subdivision Plat
C. Proposed Plat Amendment
D. DRC Report
E. Release of Easement

EXHIBIT A – Vicinity Plan

EXHIBIT B – Existing Subdivision Plat



FIRST AMENDED RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN WASATCH COUNTY, UTAH

SURVEYOR'S CERTIFICATE

NOTES

PARCEL 1 - BOUNDARY DESCRIPTION

PARCEL 2 - BOUNDARY DESCRIPTION

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGMENT

VICINITY MAP

SECTION LOCATION MAP

FIRST AMENDED RECORD OF SURVEY PLAT
STAR HARBOUR ESTATES
A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH
PARCEL 1
PARCEL 2
LOT C
(OPEN SPACE PARCEL)
JORDANELLE BOULEVARD (A PUBLIC RIGHT-OF-WAY)
ADDRESS TABLE

STAR HARBOUR ESTATES THIRD AMENDED-AMENDING LOT B

A SUBDIVISION LOCATED IN THE NORTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN WASATCH COUNTY, UTAH

SHEET 1 OF 1

SURVEYOR'S CERTIFICATE

LEGAL DESCRIPTION

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGMENT

NOTES

SITE LOCATION MAP

SUBJECT PROPERTY

VICINITY MAP

STAR HARBOUR ESTATES

WASATCH COUNTY PUBLIC WORKS

WASATCH COUNTY HEALTH DEPARTMENT

WASATCH COUNTY FIRE MARSHAL

WASATCH COUNTY RECREATION DEPARTMENT

WASATCH COUNTY PLANNING OFFICE

WASATCH COUNTY WEED BOARD

WASATCH COUNTY SOLID WASTE

MOUNTAINLAND SPECIAL SERVICE DISTRICT AND SPECIAL IMPROVEMENT DISTRICT

WASATCH COUNTY SURVEYOR'S CERTIFICATE

RECORDED

APPROVAL AS TO FORM

EXHIBIT D – DRC Report

DESIGN REVIEW COMMITTEE COMMENTS (DRC)

PROJECT ID: DEV-4196 **VESTING DATE: 4/28/2021**

PROJECT NAME: PLAT AM - STAR HARBOR LOT B **REVIEW CYCLE #: 2**

Project comments have been collected from reviewers and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. Resubmittals must include a plan review response letter outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

When uploading revisions please name your documents exactly the same as it was previously uploaded. This way we can track revisions. Please do not delete documents and then upload new ones.

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

REVIEW CYCLE – REVIEWING ENTITY'S RECOMMENDATIONS

Entity	Recommendation
INF - GIS Dept	Approved
DRC - Public Works Dept	Approved
DRC - Weed Dept	Approved
DRC - Manager Office	Approved
DRC - Fire SSD	Approved
BLD - Administration	Approved
DRC - Sheriff Office	Approved
SUR - Administration	Approved
REC - Administration	Approved
DRC - Health Dept	Approved
DRC - Engineering Dept	Approved
PLN - Planners	Approved
DRC - Jordanelle SSD	Approved
DRC - SSA 1 Water	Approved
ASR - Administration	No Action Taken
DRC - Affordable Housing Office	No Action Taken
EXT - MAG Regional Trail Planner	Approved

Approved = Reviewing entity recommends the project move forward to a Planning Commission meeting. Any open comments will need to be resolved before final approval.

Changes Required = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward to a Planning Commission meeting.

No Action = Reviewing entity has not taken any action for the review cycle.

Overall Project Comments

DRC Project Comments		
Comment ID	**Entity**	**Comment**
DRC-JSSD1	DRC - Jordanelle SSD	Previously, a note 6. had been added to the plat which limited the amount of irrigable acres to 0.15. That note is not present on this version of the plat, note 6. is required for approval.

Project Document Sheet Comments by Reviewing Entity

EXHIBIT E – Release of Easement

Ent 282741 Bk 0752 Pg 0698-0702
Date: 05-MAY-2005 10:10AM
Fee: $19.00 Check Filed By: BG
ELIZABETH PALMIER, Recorder
WASATCH COUNTY CORPORATION
For: PACIFICORP

Return to:
Ronald G. Olsen
1407 W. No. Temple #110
Salt Lake City, Utah 84116

WO#: DZWF/2003/C/052/2258733.02/~~KHD~~ RF
File No.58602R
RW 20040265

RELEASE OF EASEMENT

PACIFICORP, an Oregon Corporation, hereby disclaims and releases to the Owners of Record any right, title or interest it may have to that certain easement recorded respectively as Instrument No. 154915, on January 31, 1991 in Book 226 at Pages 262 through 266 in the office of the County Recorder of Wasatch County, State of Utah. being more particularly described on Exhibit "A" and/or shown on Exhibit "B" attached hereto and by this reference made a part hereof:

DATED this 22nd day of April, 2005.

PACIFICORP, an Oregon Corporation

By: Ernest E Ulmer

Its: Vice President

Notary Public
KEVIN R. DEIS
1410 South 500 West
Woods Cross, Utah 84087
My Commission Expires
October 14, 2008
State of Utah

PDQ

RGO\03 R\File 25724R

BLOCK

MINUTES OF THE
WASATCH COUNTY PLANNING COMMISSION
JULY 8, 2021

PRESENT:	Chair Chuck Zuercher, Kimberly Cook *(via Zoom)*, Doug Grandquis, Wendell Rigby, Scott Brubaker *(via Zoom)*, Mark Hendricks, Karl McMillan.
STAFF:	Jon Woodard, Deputy Wasatch County Attorney *(via Zoom)*; Doug Smith, Wasatch County Planner; Austin Corry, Assistant Wasatch County Planner; Grant Amann, Assistant Wasatch County Planner; Elizabeth Arnold, Assistant Wasatch County Planner *(via Zoom)*; Rick Tatton, Court Reporter *(via Zoom)*.
PRAYER:	Commissioner Wendell Rigby
PLEDGE OF ALLEGIANCE:	Led by Commissioner Karl McMillan and repeated by everyone.

Chair Chuck Zuercher called the meeting to order at 6:00 p.m. and welcomed any public who were in attendance electronically or in person. Also indicated that Commissioner Kimberly Cook is here via Zoom along with Scott Brubaker who is here via Zoom. Also thanked the Planning Department Staff for all the work they do because it makes our job much easier.

Chair Chuck Zuercher then read the following:

> "As indicated on the screen, a required public hearing will be held for certain agenda items prior to Planning Commission action. After each such item has been presented, time to comment will be provided for all those who wish to speak.
>
> For items that do not require a public hearing, public comment may still be taken following presentation of the item, however, please keep in mind the following: In making land use decisions, the Planning Commission can only rely on substantial evidence on the record, which is that amount and quality of evidence relevant to proving or disproving a specific requirement of the applicable law. The Planning Commission cannot base land use decisions on public clamor, nor should they make a recommendation to the Council based on public clamor.
>
> During any public comment period, each speaker will generally be limited to three minutes. Additional time may be given to individuals specifically invited to speak by the Planning Commission."

Chair Chuck Zuercher then called the first agenda item.

APPROVAL OF THE MINUTES FROM THE JUNE 10, 2021 MEETING

Motion

Commissioner Doug Grandquis made a motion to approve the minutes as written.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Kimberly Cook, Mark Hendricks, Doug Grandquis, Scott Brubaker, Wendell Rigby, Karl McMillan
NAY: None.

CONSENT AGENDA

Chair Chuck Zuercher indicated that all matters listed on the Consent Agenda are considered routine by the Planning Commission and will be enacted by one motion with no separate discussion of the items unless any member of the Commission, after a public comment period, requests the item be moved to the public hearing agenda for discussion.

ITEM 4 **CHRISTOPHER GUESS, REPRESENTING GLOBAL SIGNAL ACQUISITION, REQUESTS CONDITIONAL USE PERMIT APPROVAL TO MODIFY AN EXISTING TELECOMMUNICATIONS TOWER BY REPLACING EQUIPMENT AND ADDING THREE ANTENNA TO THE STRUCTURE LOCATED AT APPROXIMATELY 299 W. MAIN CANYON RD IN SECTION 18, TOWNSHIP 5 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 5 (RA-5) ZONE. (DEV-4204; GRANT AMANN)**

Public Comment

Chair Chuck Zuercher then opened the public hearing up for public comment and there was none so the public comment period was closed.

Motion

Commissioner Doug Grandquis made a motion to accept this matter as a consent item and continue this matter indefinitely.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Scott Brubaker, Kimberly Cook, Wendell Rigby, Doug Grandquis, Karl McMillan.
NAY: None.

ITEM 5 **HUGO JACOBSMEYER REQUESTS A MINOR PLAT AMENDMENT TO K & J SUMMER HOMESITE PLAT 1 SUBDIVISION IN ORDER TO COMBINE LOTS 48 AND 49 INTO ONE LOT TOTALING .662 ACRES LOCATED IN SECTION 17, TOWNSHIP 3 SOUTH, RANGE 4 EAST IN THE MOUNTAIN (M) ZONE. (DEV-4195; GRANT AMANN)**

Public Comment

Chair Chuck Zuercher opened the public hearing for public comment and there was none so the public comment period was closed.

Motion

Commissioner Karl McMillan made a motion that we accept Item No. 5 as presently stated as a consent item, which is the combination of the two lots to .662 acres and adopt the findings and subject to the conditions listed in the staff report.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:
AYE: Chuck Zuercher, Kimberly Cook, Scott Brubaker, Mark Hendricks, Wendell Rigby, Doug Grandquis, Karl McMillan
NAY: None.

ITEM 6 **ALAN SIBSON, REPRESENTING ROBERT MCPHIE, REQUESTS A MINOR PLAT AMENDMENT TO ADJUST A COMMON BOUNDARY LINE BETWEEN THE CLYDE SUBDIVISION AND THE MCPHIE SUBDIVISION LOCATED AT APPROXIMATELY 3580 EAST 1200 SOUTH IN SECTION 10, TOWNSHIP 4 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. (DEV-3855; ELIZABETH ARNOLD)**

Public Comment

Chair Chuck Zuercher then opened the public hearing up for public comment and there was none so the public comment period was closed.

Motion

Commissioner Wendell Rigby made a motion that we accept Item No. 6 as a consent item and adopt the findings and subject to the conditions as listed in the staff report.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Kimberly Cook, Wendell Rigby, Scott Brubaker, Karl McMillan, Doug Grandquis.
NAY: None.

ITEM 1 **REDUS PARK CITY LLC REQUESTS A MINOR PLAT AMENDMENT TO STAR HARBOUR ESTATES IN ORDER TO CONVERT LOT B FROM A UTILITY EASEMENT PARCEL TO A SINGLE FAMILY RESIDENTIAL LOT LOCATED AT 1647 W ALPINE AVENUE IN SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-4196; AUSTIN CORRY)**

Staff

Austin Corry, Assistant Wasatch County Planner, addressed the Wasatch County Planning Commission and presented a Power Point presentation and then indicated that the applicant is seeking to amend the Star Harbour Estates Subdivision Plat to convert Lot 8 to a residential parcel. The plat and approvals previously encumbered this lot with a utility easement for power line infrastructure that was anticipated to be relocated or removed later on. That relocation has occurred and the owner now seeks to remove the easement from the plat. A release of easement was provided by the applicant, although it is uncertain that this release addresses the specific easement on the plat.

Austin Corry indicated that Lot B in the plat is encumbered by a utility easement for an overhead transmission line. The plat even specifically has a note on it stating that at such time as that utility easement went away the lot could be converted to a single family residential home so it was applied for and there was a release of easement that was included in the application. The public comment that you received has challenged that release and so we reached out to the applicant and he is in agreement that the provided release may not adequately address the easement in question. The item should be continued from the agenda so he has opportunity to respond to the public comment. We are asking for a continuance to the August 12, 2021 meeting.

Public Comment

Chair Chuck Zuercher then opened the public hearing for public comment.

Linda O'Donnell, Fox Bay HOA President, addressed the Wasatch County Planning Commission and indicated that the HOA owns thirty feet opposite our thing which is adjacent to this requested easement area. The reason why I am here on behalf of us and this basically is an intersection that in the summer works just wonderful in the summer and we make sure that property is well maintained and cared for. The problem is that in the wintertime it is a problem when it comes to snow removal. Having

anything at that junction is just going to be awful and should remain an easement and as a result we would like to request that you do not do this because one more lot is just too many.

Kit Kosakowski, resident who submitted a written comment, indicated that we can certainly hold our oral presentation until the August 12, 2021 meeting if you are going to vote to continue this item until that meeting.

Chair Chuck Zuercher then closed the public comment period.

Motion

Commissioner Mark Hendricks made a motion that we continue Item No. 1, Star Harbour Estates Lot B a request for a minor plat amendment, until the next meeting of the Planning Commission which is scheduled for August 12, 2021.

Commissioner Scott Brubaker seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Karl McMillan, Wendell Rigby, Doug Grandquis, Kimberly Cook, Scott Brubaker.
NAY: None.

ITEM 2 JEFF AND ANGIE EVANS REQUEST A CONDITIONAL USE PERMIT TO CONSTRUCT A 1,500 SF STRUCTURE AS AN ACCESSORY BUILDING TO AN EXISTING HOME LOCATED AT 9042 E STRAWBERRY DR. IN SECTION 32, TOWNSHIP 3 SOUTH, RANGE 10 WEST, IN THE PRESERVATION (P-160) ZONE. (DEV-4296; GRANT AMANN)

Staff

Grant Amann, Assistant Wasatch County Planner, went through a Power Point presentation and then addressed the Wasatch County Planning Commission. He then indicated that this proposal is a request for a 30 foot wide by 50 foot long by 21 foot tall 1,500 square foot pole barn structure to be located in the Strawberry Lake Estates subdivision which is in the P-160 zone. The code allows for barns of this size as a conditional use in the P-160 zone. The lot, lot 17, does currently have a home. This structure would have to be in either the rear yard according to County Code 16.21.08. Wasatch County Code requires notice to be sent to all property owners within 500 feet of the property. At the time the staff report was written, two objections had been received in response to the notices sent.

Grant Amann then went through the proposed findings:

1. The subject property is 0.95 acres.
2. An existing home is located on the subject property.
3. The proposed accessory structure is 1,500 square feet and 21 feet in height.
4. The staff analysis indicates the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses.
5. The staff analysis indicates the proposal complies with Section 16.21.08 of the Wasatch County Code regarding Accessory Structure Standards.
6. Notice has been sent to neighboring property owners within 500 feet of the property.
7. There are no known zoning violations on the property at this time.
8. The Development Review Committee has reviewed the project and accepted the item for Planning Commission to render a decision.

Grant Amann then went through the proposed conditions:

1. The structure will need to continue to comply with the requirements outlined in 16.23.07 of the county code.
2. The applicant will need to obtain a building permit as required by the Building Department.
3. Any lights must be dark sky compliant.

4. Must maintain emergency vehicle access for fire, police, EMS.
5. Approval is valid for 1 year and will lapse if not acted upon in that time.
6. Applicant will need to sign, and have notarized, a permit outlining the applicable code sections and the conditions of approval as provided by staff.

Public Comment

Chair Chuck Zuercher then opened the public hearing for public comment and there was none so the public comment period was closed.

Motion

Commissioner Scott Brubaker made a motion that we approve the request for Item No. 2, to allow for the construction of a barn or garage accessory building, as outlined in the request and adopt the findings and subject to the conditions as outlined in the staff report.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Wendell Rigby, Karl McMillan, Doug Grandquis, Kimberly Cook, Scott Brubaker.
NAY: None.

ITEM 3 BEN WITT REQUESTS A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,925 SF STRUCTURE AS AN ACCESSORY BUILDING TO AN EXISTING HOME LOCATED AT 1560 E 1200 S IN SECTION 9, TOWNSHIP 4 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. (DEV-4293; GRANT AMANN)

Staff

Grant Amann, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that this proposal is a request for a 55 foot wide by 110 feet long by 30 feet and nine inches tall garage. The first level is 4,925 square feet and includes attic storage of 2,923 square feet. Removal of any type of egress window on the upper level is required in order to exclude the square footage from the usable floor area, otherwise the second level would be counted as additional square footage. No plumbing or electrical other than lighting is permitted either. With no egress windows, it will be clear that the upper level will be used strictly as attic storage. The structure is proposed to be located at 1560 East 1200 South in the RA-1 zone. The code allows for accessory structures of up to 5,000 square feet as a conditional use for lots larger than 2 acres in the RA-1 zone.

The lot does currently have a home. Wasatch County Code requires notice to be sent to all property owners within 500 feet of the property. At the time the staff report was written, a written objection with multiple signatures had been received in response to the notices sent. These concerns center on the use of the barn, specifically a concern the intent of the structure is for business related activity. Building plans indicate that the structure will be used for primarily garage and storage purposes and do not provide any information for a commercial request.

Grant Amann then went through the DRC comments:

PLANNING comments:

- Condition of Approval Regarding Usage: Any business related activity will be required to obtain a Home Occupation Business License and follow all Wasatch County Code requirements of the Zone.
- Condition of Approval: Any window on the second level shall be removed to avoid consideration in the 5,000 square footage limitation, and to avoid being considered residential space.

Grant Amann then went through the proposed findings:

1. The subject property is 2.5 acres.
2. An existing home is located on the subject property.
3. The proposed accessory structure is 4,925 square feet and 30' 9" in height.
4. The structure is located in the rear yard and setback a minimum of 30 feet from all property lines.
5. The structure is called a barn on application documents, but is entirely a garage in stated use. It is a personal garage and will be used for personal storage.
6. The staff analysis indicates the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses as long as the structure is used for storage and not business related activity.
7. The garage cannot be used as part of a business which is not a permitted use in the RA-1 zone and would violate the home occupation (16.25.03) section of the code which does not allow an outbuilding to be used for a business.
8. The staff analysis indicates the proposal complies with Section 16.21.08 of the Wasatch County Code regarding Accessory Structure Standards.
9. Notice has been sent to neighboring property owners within 500 feet of the property.
10. There are no known zoning violations on the property at this time.
11. The Development Review Committee has reviewed the project and accepted the item for Planning Commission to render a decision.

Grant Amann then went through the proposed conditions:

1. There shall be no egress windows on the upper level so as to ensure that the upper level is strictly used as attic storage and not counted towards the overall square footage, nor be considered residential space.
2. The structure will need to continue to comply with the requirements outlined in 16.23.07 of the county code.
3. The structure is a garage and must be used for personal storage and not be used for Home Occupation business related activity.
4. 16.23.06(D) allows for the Planning Commission to revoke conditional uses that have impacts that were not anticipated or uses that are not consistent with what was approved.
5. The use of the structure will be limited by Wasatch County Code.
6. The applicant will need to obtain a building permit as required by the Building Department.
7. Any lights must be dark sky compliant.
8. Must maintain emergency vehicle access for fire, police, EMS.
9. Approval is valid for 1 year and will lapse if not acted upon in that time.
10. Applicant will need to sign, and have notarized, a permit outlining the applicable code sections and the conditions of approval as provided by staff.

Applicant

Ben Witt, the applicant, addressed the Wasatch County Planning Commission and indicated that he would like to build a barn on the property. Chair Chuck Zuercher indicated that the question is that it is just going to be used for personal stuff and not a business. Ben Witt indicated that he does run a small business out of the garage and has several trailers and things that I want to keep indoors which is the reason for a second building there. There are pipes there presently that I stored because of the pipe shortage. The business we do is we do septic systems and sewer scoping. Ben Witt also indicated that this is the first time that he has seen the letter that was sent by residents objecting to this. The business is a solely owned business that I am running by myself. I would like to keep all of my stuff indoors where it is not looked at and people are seeing it. I would love to have a conversation with the people objecting to this. We have three work vehicles that come in and out and parked inside of a garage that is on the property currently.

Public Comment

Chair Chuck Zuercher then opened the matter up for public comment.

Gregory Glissmeyer, resident residing at 1410 Country Side Lane, and within 500 feet of the subject property. The concern that I have with this project is that the property is currently being used for a commercial use for a construction yard which is not a permitted use in the RA-1 zone and have sent pictures to the planning staff of the stuff being stored there. The objection is that we are opposed to this building because it is an extension of a use that is going on, on this property that is not a permitted use. Also my wife and I both signed the letter.

Mrs. Gregory Glissmeyer addressed the Wasatch County Planning Commission and indicated that we didn't contact Mr. Witt because we went through the proper channels. This is presently used as a construction yard. It is not a barn but a warehouse that is going up. The house is a rental property. Ben Witt does not live on the property and it is not his residence. We are opposed to having a commercial project such as this in our residential neighborhood. Would like to maintain the quietness and good healthy family and not have the noise of a construction business.

Mrs. Matt Holdaway, resident down the road from this proposal, indicated that they signed the letter. Our concern is basically if this is done it sets a precedence and that is something that really needs to be considered and needs to maintain agricultural residential situations.

Chair Chuck Zuercher then closed the public comment period.

Commission Comments

Chair Chuck Zuercher indicated that presently there is pipe stored on the property. Ben Witt indicated that he had to buy a lot of pipe because of the shortage of pipe that is taking place.

Commissioner Doug Grandquis indicated that you are using this property primarily as a business, right? Ben Witt indicated that is right.

Commissioner Mark Hendricks indicated that your approach and design is the right approach, but concerned more about the use side of this. You have gone on record saying that this building is to put my pipe in and got a business going on there. What do you need to do to run a business on that property? Ben Witt indicated that there is no business taking place on the property but storing stuff on the property. People don't come in and load them but my own equipment in my own name that is stored on the property. This is a family drawn business on the property with myself and my nephew. Doug Smith, the Wasatch County Planner, indicated that the request is for a garage which means it is a personal use situation. This building cannot be used as a business. The County's Home Occupation Permit is very clear that the home occupation cannot use out buildings for part of the business. This is prohibitive. The home occupation permit does not allow out buildings to be used as part of the business. Also it is not permitted under the current zoning.

Commissioner Mark Hendricks indicated that I know that you want to be good neighbors but there is an issue here. Mr. Witt has been exceptionally candid with this matter and hasn't made up a story. He has been honest and that is noteworthy.

Commissioner Wendell Rigby indicated that what we have heard this evening, from comments from everybody, is the bottom line is this is a business.

Commissioner Scott Brubaker indicated that we have established, according to the law that we have in the zoning, that in this particular zone there is not to be a business use. If there is a home occupied business it has to be within the main structure not in an accessory out building. There is no real way to grant this approval as a conditional use and there is no way to go except for a denial.

Motion

Commissioner Wendell Rigby indicated that based on what has been said by the applicant, the public and the staff I would make a motion and recommend that this conditional use permit application be denied.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Wendell Rigby, Doug Grandquis, Mark Hendricks, Karl McMillan, Kimberly Cook, Scott Brubaker.
NAY: None.

Jon Woodard, Deputy Wasatch County Attorney, indicated that you should put some reasons why this was denied because if this were to be appealed we would have the basis to defend it by.

Commissioner Mark Hendricks indicated that among our findings we include that we note Mr. Witt's candor and efforts to improve an existing situation and to make esthetic adjustments at additional expense in his application, but that the denial is not based on any of that necessarily, but the denial flows from his stated use which based on Mr. Witt's testimony and information from some of the neighbors as well that it is primarily for a business use which is not permitted in this zone according to the analysis by staff. It is on that use basis that we were unable to grant the conditional use permit. Jon Woodard indicated that if the motion was so amended that would be much more defendable thank you.

Commissioner Wendell Rigby indicated that he would amend his motion to reflect what has just been said.

Commissioner Doug Grandquis indicated that he would second that amendment.

The amendment to the motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Wendell Rigby, Doug Grandquis, Karl McMillan, Kimberly Cook, Scott Brubaker.
NAY: None.

ITEM 7 RHETT RIDING, REPRESENTING STORIED DEER VALLEY, REQUESTS LARGE SCALE FINAL SUBDIVISION APPROVAL FOR DANCING SUN PHASE 5, A PROPOSED 21 LOT RESIDENTIAL PHASE CONTAINING 10.25 ACRES OF THE OVERALL TUHAYE MASTER DEVELOPMENT LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 5 EAST IN THE JORDANELLE BASIN OVERLAY ZONE (JBOZ). (DEV-4188; ELIZABETH ARNOLD)

Staff

Elizabeth Arnold, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and then indicated that Dancing Sun is a neighborhood located at the west edge of the Tuhaye large scale development, a 1,725 acre, 900 ERU master planned project. The comprehensive plan shows this property having a mixture of Residential Country estates, Medium Density Residential, and Resort Mixed Use. The applicant is requesting detached single family lots in the lower density areas, and attached duplex pad sites in the medium density area closer to Uinta Drive. Preliminary approval for this neighborhood was granted on March 17, 2021 and no changes to lot or road layouts have been made since that approval.

Commissioner Scott Brubaker indicated that the question that I have on this whole issue of planning the roads is, is it the responsibility of the County to plan the roads, or is it more typical that we would ask the developers to hire a planner to come up with a plan that could then be presented to the County to review? Elizabeth Arnold indicated that in part of their application it was asked for a connectivity plan to see if there are opportunities to connect to adjacent properties so they are anticipating some connectivity plans to adjacent properties, but where the topography limits it with the Dancing Sun Development and the County is all right with what was anticipated with the area being north and their access with that loop road, but the County does have to see their connectivity that adjacent properties as part of their application. Austin Corry, Assistant Wasatch County Planner, indicated that in the Jordanelle Basin Plan that calls for a local street plan which is above and beyond this connectivity plan that Elizabeth is referring to and that plan has been done. The individual property owners would need to work together to actually figure how to complete and construct those roads.

Elizabeth Arnold then went through the DRC comments:

JORDANELLE SSD comments:

- Detailed plan review comments are to be coordinated and addressed with the Twin Creeks Special Service District review engineer.

ENGINEERING comments:

- Condition of approval: Provide a maximum high water elevation for Detention Basin B's landscape feature storage to allow for the required stormwater detention volume.

GIS comments:

- I could not find the address for lot 105 on the plat. I gave it an address assuming it was a building lot. If it is, please add this address to the address table. Lot 105, 9804 North Uinta Drive.

SURVEYOR comments:

- Add road centerline monuments as necessary.
- Complete the address table.

Elizabeth Arnold then went through the proposed findings:

1. The density being proposed is consistent with what was approved in the original master plan and preliminary plan approvals.
2. The subdivision conforms to Title 16 of the Wasatch County Code.
3. The proposed subdivision is in the Residential Low Density land use designation of the Jordanelle Basin Overlay Zone (JBOZ).
4. The approved Moderate Income Housing Plan is outlined in the Development Agreement and the developer currently has a credit balance of fee-in-lieu that is sufficient to meet the 13.1 AUE requirement of this proposal.
5. The proposed development complies with the product types required by code and approved during the Master Plan approval.
6. The Development Review Committee has reviewed the project and recommends approval.

Elizabeth Arnold then went through the proposed conditions:

1. All comments included in the DRC report shall be resolved to the satisfaction of the applicable review department prior to final approval.
2. A site inspection by the County trail planner will need to be performed with property corners staked to ensure that the trails meet grade requirements. Once the trails are constructed, the developer is required to record a public trail easement extending five feet on each side from the centerline of the trail.
3. Any review comments made regarding the site specific geotechnical report should be resolved before any building permits are issued on those lots.

Applicant

Jeff Butterworth, representing Storied Deer Valley, addressed the Wasatch County Planning Commission and indicated that we are happy to do a connectivity plan.

Public Comment

Chair Chuck Zuercher then opened the public hearing for public comment and there was none so the public comment period was closed.

Motion

Commissioner Wendell Rigby made a motion to approve with conditions and adopt the findings and subject to the conditions in the staff report.

Commissioner Mark Hendricks seconded the motion.

The motion carries with the following vote:

AYE: Chair Chuck Zuercher, Mark Hendricks, Wendell Rigby, Doug Grandquis, Karl McMillan, Kimberly Cook, Scott Brubaker

NAY: None.

ITEM 8 GREG GAGON REQUESTS LARGE SCALE FINAL SUBDIVISION APPROVAL FOR BLUE SAGE RANCH, A PROPOSED RESIDENTIAL SUBDIVISION CONSISTING OF 21 LOTS AND 80 ACRES OF OPEN SPACE ON 293.22 ACRES LOCATED IN SECTIONS 1 AND 12, TOWNSHIP 4 SOUTH,

RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1 (RA-1), RESIDENTIAL AGRICULTURE 5 (RA-5) AND MOUNTAIN (M) ZONES. (DEV-4192; AUSTIN CORRY)

Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that Greg Gagon represents a group seeking to develop a residential subdivision on the east end of the valley floor near the end of 1200 South. The subject property borders the edge of the valley as a transition from the RA-1 zoning to the Mountain zoning as the topography begins to increase. The development includes single family residential lots as well as a lot reserved for use as a special needs educational center and trail head and an 80 acre open space area with proposed trails is included at the south. It would be anticipated that the open space area would eventually become a hub that can feed to other connections as adjacent properties develop.

Austin Corry then presented some key issues to consider.

1. The development has RA1, RA5, and M zoning. Lots sizes throughout the development are consistent with the applicable zones.
2. A local road plan was adopted for this area to delineate a collector road alignment to meet the County Master Road Plan.
3. The subject property has a number of constraints that limit development potential and buildability in areas.
4. The proposal includes public trails and an 80 acre open space area.
5. The proposal includes 20 single family home lots.
6. The proposal includes a lot for a special needs center and trailhead.
7. Topography and location of the site require use of booster pumps for a few of the lots.

Austin Corry then went through the DRC comments:

ENGINEERING comments:

- Closing the cycle based on a discussion to upload current files which have been mutually discussed.
- Provide a temporary turn-around meeting County code at the end of Skyline View Road. An easement should be in place on the plat for this turnaround.

COUNTY MANAGER comments:

- All roads must meet all County road standards including road grade and intersection grade.
- Application must include street snow removal plan and necessary easements.
- Street lights must be County standard.
- Temporary turn around on South side must meet County standards for cul-de-sac.
- Snow storage areas require calculations to show that the easements are large enough for the storage of snow.

JORDANELLE SSD comments:

- Detailed plan review comments are to be coordinated and addressed with TCSSD review engineer.

PLANNING comments:

- There should be a plat note for the lots in Flood zone X to alert future buyers to the restrictions on building and to state the elevation required for building.
- Add a note referencing the 50 foot setback requirement from wetlands.
- Add sizes and a few reference dimensions for the building envelopes for the constrained lots.
- Add a note that the building envelopes on lots are due to physical constraints that preclude structures outside of the buildable areas.
- Plat needs to show 25-30 percent slope areas and 30 percent plus areas. Previous plats showed it, but this final looks to have misprinted.
- Plat is missing signature block for Public Works.

PUBLIC WORKS comments:

- No sign or light detail. County standard lights and signs? Or other maintained by HOA?
- Skyline View Road needs to have temporary turn around at the end.

SURVEYOR comments:

- Address Table?
- Please show road width dimensions.
- Please show the County Surveyor's signature box the same wording as the attorney, approved as to form.

WEED comments:

- You will need a weed plan and a cash bond. You can find them on the County Website under Public Works then Weed department.

Austin Corry then went through the proposed findings:

1. The subject property is approximately 280 acres located at the east end of the valley floor.
2. The proposal includes 20 residential lots, one lot for a special needs center and trailhead, 80 plus acres of open space, and public trails. -They are being committed to as part of that. One lot that is not six acres was granted a conditional rezone from the Council and that lot is 21 proffered by the developer. The intent is to develop it as a special needs center for adults with special needs. That has been described in the Development Agreement and is noted on the plat as well and that is why that lot was allowed to go a little bit smaller it was granted an RA-1 Zone which is consistent with the property directly to the east. That is where the public trail head would also be located is on that parcel.
3. The density being proposed is consistent with what was approved in the original master plan and preliminary plan.
4. The development agreement notes a $58,800 moderate income housing fee-in-lieu to be paid by the developer. The Housing Authority has provided a letter stating a fee-in-lieu of $56,000 is required. -There is a discrepancy and the Development Agreement notes a $58,800 dollar moderate income housing fee-in-lieu needs to be paid by the developer. The housing letter that typically comes as an attachment to that states $56,000 is required and I think that is a discrepancy in the ERU's that the housing authority understood but that can be resolved as staff.
5. The Development Review Committee has reviewed the project and provided a favorable recommendation.

Austin Corry then went through the proposed conditions;

1. The applicant will need to work with Planning staff and the Regional Trail Planner to ensure that the trail that has been proposed makes meaningful connections per 16.21.18, Wasatch County Code as the final alignments get determined during construction.
2. All issues raised by the DRC, as noted in the DRC report dated June 29, 2021, shall be resolved to the satisfaction of the applicable review department prior to plat recording.
3. The draft development agreement shall be finalized to memorialize the commitments made during the zone map amendment and preliminary plan applications.
4. The development agreement shall be signed and recorded which includes the affordable housing agreement, details for open space ownership and maintenance, trail and trailhead construction and timing, and right-of-way improvement agreements for the Blue Sage Drive collector road. -That is the Master Plan road that they came through with a local road plan.
5. The discrepancy between the preliminary approval AUE requirement and the Housing Authority approval letter will need to be resolved prior to plat recording.
6. Notes shall be added to the plat to clarify each of the constraints that exist to put future buyers on notice of constraints that can impact the buildability of a lot.

Applicant

Greg Gagon, the applicant, addressed the Wasatch County Planning Commission and indicated that he is very familiar with all the details and understands what we need to do and agree with what Austin Corry has presented.

Public Comment

Chair Chuck Zuercher then opened the public hearing for public comment and there was none so the public comment period was closed.

Commission Comments

Commissioner Mark Hendricks indicated that Austin Corry did a good job in presenting the matter and he is fine with what is being proposed.

Motion

Commissioner Mark Hendricks made a motion that we approve Item No. 8, a large scale final subdivision of Blue Sage Ranch, and adopt the findings and subject to each of the conditions outlined in the staff report.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Karl McMillan, Doug Grandquis, Wendell Rigby, Kimberly Cook, Scott Brubaker, Mark Hendricks.
NAY: None.

ITEM 9 **BRIAN BALLS, REPRESENTING CHRISTENSEN FARMS LOTS LLC, REQUESTS A TEXT AMENDMENT TO WASATCH COUNTY CODE 16.27.34, REGIONAL PARKS, TO MODIFY MINIMUM REQUIREMENTS FOR A PARK DONATION IN CONSIDERATION OF A DENSITY BONUS. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JULY 21, 2021.* (DEV-4104; AUSTIN CORRY)**

Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then indicated that Christensen Farms Lots LLC has been working on plans for a request to donate to the County a regional park in exchange for a bonus density of a proposed subdivision called Christensen Farm Phase 2 and to apply a bonus density to the already platted Christensen Farm Phase 1. As they have been working on plans to negotiate a higher bonus density than what is suggested in the code, they are also seeking to modify the minimum requirements for a park donation. The applicant is intending to use seed instead of the required sod. The main request is to remove sod from the minimum requirements and add the requirement for playground structures. The rest of the applicant's suggested language is to attempt to clarify the terms the County will accept the park under.

Austin Corry also indicated that the next three items on the agenda he will address at the same time and take the public comment together on all three items for simplicity sake. This matter really affects countywide decisions and not just on these three items. Also a donation of a park can be done in two ways, one just raw ground can be donated and water for it but not include any improvements to the park such as grass, playground equipment, etc.

Basically there are two things that are being asked for here. The first is they are asking to remove sod as a requirement and to add playground systems as a requirement. The second is that turf grasses can be hydroseeded or sod so it is just not only sod. Also the final acceptance of the park improvements shall not be granted until a final inspection by Wasatch County has been determined in all areas especially vegetated areas established to a point sufficient to handle public use. Once the County were to accept something as meeting those requirements of sufficient for public use a warranty bond would be posted that would fund an additional period of a year and if something goes wrong then you could draw on that bond and the bond would be foreclosed on. The question from staff would be how to interpret "sufficient for public use."

Austin Corry then went through key issues to consider.

1. WCC 16.27.34 allows an applicant to request a bonus density in exchange for a park donation.
2. The proposal seeks to modify the minimum requirements for a park donation under 16.27.34.
3. The proposal strikes sod from the minimum requirements.
4. The proposal adds playground structures to the minimum requirements.
5. The proposal suggests that building permits for bonus density lots may be withheld by the County until such time as a final acceptance is granted.
6. What criteria does the Council feel is an appropriate standard to determine when the improvements to the park have been adequately installed and established?

Austin Corry then went through some proposed findings if the recommendation is to approve.

1. The proposed amendment eliminates 'sod' as a required minimum improvement for a park donation provided under WCC 16.27.34 in exchange for a bonus density.
2. The proposed amendment adds 'playground systems' as a required minimum improvement.
3. The proposed amendment states 'Building permits associated with any bonus density shall not be issued unless all requirements of this section 16.27.34 have been fully completed'.
4. Reasons to withhold permits could be seen as arbitrary without some type of objective measure.
5. Section 16.27.34 gives the Council, as the legislative body, discretion on the amount of density bonus granted in exchange for a park donation that meets the minimum requirements of the code.
6. The proposed amendment is in the interest of the public, and does not conflict with provisions set forth in the General Plan.
7. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.27.34.
8. Positive impact of the proposed changes is a reduction of cost for a developer potentially encouraging more use of the density bonus option if the County desires. Playgrounds would also become a standard fixture and expectation in all park donations.
9. Negative impact of the proposed changes would be a longer establishment period for the County to have a usable park. Also, disagreements could result from the uncertainty of "final acceptance" based on an undefined term of "sufficient for public use".
10. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Austin Corry then went through some proposed findings if the recommendation was for denial.

1. The proposed amendment eliminates 'sod' as a required minimum improvement for a park donation provided under WCC 16.27.34 in exchange for a bonus density.
2. The proposed amendment adds 'playground systems' as a required minimum improvement.
3. The proposed amendment states 'Building permits associated with any bonus density shall not be issued unless all requirements of this section 16.27.34 have been fully completed'.
4. Reasons to withhold permits could be seen as arbitrary without some type of objective measure.
5. Section 16.27.34 gives the Council, as the legislative body, discretion on the amount of density bonus granted in exchange for a park donation that meets the minimum requirements of the code.
6. The proposed amendment is not in the interest of the public as it adds uncertainty to the establishment and opening of County recreational facilities.
7. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.27.34, but not required for the purposes to be achieved.
8. Positive impact of the proposed changes is a reduction of cost for a developer potentially encouraging more use of the density bonus option if the County desires. Playgrounds would also become a standard fixture and expectation in all park donations.
9. Negative impact of the proposed changes would be a longer establishment period for the County to have a usable park. Also, disagreements could result from the uncertainty of "final acceptance" based on an undefined term of "sufficient for public use".
10. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Applicant

Brian Balls, representative for the applicant, addressed the Wasatch County Planning Commission and indicated that building permits would not be granted until the seed or the sod was acceptable and established is a great protection for the County there. It gives the applicant flexibility on our side. It was recommended to us that the best play fields would come from seed instead of sod. The language that is before you has come about with conversations back and forth with County staff.

Commission Comments:

Commissioner Mark Hendricks asked, how broad is the Council's discretion with regard to the density? Austin Corry indicated that the way the code is written there is no cap on anything. The suggested bonus for an unimproved park is 1.1 acres per unit. 1 acre for an improved park. For a bonus density it is based on the zone that you are in. The base density for a project that is in the RA-1 Zone is 1.3 acres per unit. Commissioner Mark Hendricks indicated that in his experience sod is better than seed. Also if the

County doesn't approve the turf then it may take quite a long time for the developer to get building permits while the field is being repaired and sod would be a better way to go in my opinion.

Austin Corry indicated that this matter refers to any regional park County wide. The County would have to pass this for it to become a law that is in effect and if they did pass it, it would apply to any requested donations going forward, not the just park the applicant is proposing in their other applications. Commissioner Mark Hendricks indicated that the way this is written gives the County Council, at the time, the chance to say that we really need a park there and that is a prime piece and the Council is going to do whatever. Things such as that really affects the bonus density that could be given and the flexibility to adjust density is great for something like this.

Commissioner Scott Brubaker asked if this has to do with sod versus seed because it lengthens the time before the public could use the park. Austin Corry indicated that is what prompted the request for the code amendment from the applicant. The code right now requires that to be done as sod and if somebody wanted to seed it is not even an option in the code, but if seed is used the establishment period is longer so what kind of protections would the County need to be able to move forward. Commissioner Scott Brubaker indicated that he is a proponent of seed because it makes things flatter and easier to maintain. Some seed today can have grass ready for public use under a year and a half and possibly a year. Austin Corry indicated that the proposed language that is in front of you right now requires a warranty bond after the County determines that it is acceptable so that would assume that the County doesn't determine it acceptable until after the seed is already established. How that can be determined is one of the questions that is out there. The language before you if approved would allow for seed to be used and the County to determine that it is acceptable before any of the bonus lots could pull a building permit and requires a warranty of one year.

Commissioner Wendell Rigby indicated that there is a way to make a park work with seed, but you end up with a quality issue. There is always weed seed that blows in. The developer should be responsible for the seeding and the maintenance for a two year period or a two year growing season then a period after that they would have to maintain it. Also it takes a lot of water. It takes two growing seasons before you can use the area. Because of these things that I have mentioned that has been in my experience I would not recommend going with a seed over sod and would want more of a guaranteed product for the County.

Commissioner Doug Grandquis indicated that he is highly concerned with the language here that says a recommendation for denial and it says that the proposed amendment is not in the interest of the public as it adds uncertainty to the establishment and opening in the County's recreational facilities. We don't need any more in this age of uncertainties. Our County is seeing a great influx of development and highly concerned with affordability of housing, etc., and where are the funds going to come from for these things. I am very highly concerned with the language of this particular amendment to the code. We presently are in a drought situation and that needs to be taken into account also.

Commissioner Karl McMillan indicated that what he has been exposed to is that the use of seed is a long time two to three years before it can be used. We need to sod parks.

Commissioner Kimberly Cook indicated that she is really concerned about the density increase and just changing the whole code of the County is it a good thing for the County as it opens up the door for more density and more parks and don't think that is necessarily a good trade off.

Jon Woodard, Deputy Wasatch County Attorney, indicated that the legislature passed HB 1003 and on the surface it looked like it was dealing with the Building department, but how the effects may affect other departments including using development agreements and building permits as a means of making sure the required improvements are completed is a little bit in the air. I interpret it to say that we can still do that, but I have heard others that I consider credible who don't think that we can. So, HB 1003 has thrown a lot of questions into the air.

Public Comment

Chair Chuck Zuercher then opened the matter up for public comment:

Joe Reese, building a house in one of the subdivisions in question, addressed the Wasatch County Planning Commission and indicated that sod is a guaranteed outcome for the public and grass seed becomes a quality issue. I would never use seed for any grass that I would plant. You will get a more predictable outcome with sod and the applicant is just looking to save money here more than anything. Density is hard for me to understand. A density bonus should be relative to the amount of park you should get.

Chair Chuck Zuercher then closed the public comment period.

Doug Smith, the Wasatch County Planner, indicated that in the interest of moving forward, and there are a lot of questions that need to be answered, and possibly the best move would be to continue this matter and get some expertise and advise both ways on the way to proceed with sod versus seed.

Commissioner Mark Hendricks indicated that he likes the idea of giving the County tools to possibly make a decision. I think we should continue this and refine this a little bit more and the applicant can help the County refine it.

Commissioner Wendell Rigby indicated that he would like to know what the Parks Department feels toward this.

Brian Balls indicated that something such as this just gives some flexibility, that seed just adds an option for the developer.

Motion

Commissioner Mark Hendricks made a motion to continue Item No. 9, the proposed text amendment to Wasatch County Code 16.27.34, and continue it indefinitely until such time as the applicant and staff are ready.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Wendell Rigby, Mark Hendricks, Karl McMillan, Doug Grandquis, Scott Brubaker, Kimberly Cook.
NAY: None.

Jon Woodard indicated that it would be helpful to give the applicant and staff a list of some specific things to look into.
Chair Chuck Zuercher indicated that the best suggestion is to get the Parks people involved. Find people that could make the best recommendation for either sod or seed.

Commissioner Mark Hendricks also indicated to get somebody that has a good understanding of sod versus seed. More understanding about whether we should have a more defined timeline and more specifics and detail on bonding to make sure that things happen because developers come and go. Also check into the type of seed mix that is best to use. In creating a code you want to get flexibility.

Commissioner Doug Grandquis indicated that we need to look at this item that says about the public's uncertainty in establishing and opening recreational facilities because it is not just opening a facility but maintaining a facility. What is the expense going to be down the road and who is going to bear the cost of those kinds of expenses?

ITEM 10 **BRIAN BALLS, REPRESENTING CLASSIC JACK CONSTRUCTION LLC, REQUESTS FINAL SITE PLAN APPROVAL AND GRANTING OF A DENSITY BONUS UNDER THE PROVISIONS OF WASATCH COUNTY CODE 16.27.34, REGIONAL PARKS, FOR A PROPOSED REGIONAL PARK TOTALING 12.97 ACRES CONSISTING OF TURF GRASS SPORTS FIELDS, A PAVILION WITH PICNIC TABLES, RESTROOM FACILITIES, A PLAYGROUND, PARKING AREA, AND TWO PICKLEBALL COURTS IN EXCHANGE FOR A BONUS DENSITY OF 38 ADDITIONAL LOTS (61.3% DENSITY INCREASE) TO BE ADDED TO A PROPOSED CHRISTENSEN FARMS PHASE 2 & 3 SUBDIVISION LOCATED AT 1920 EAST 1200 SOUTH IN SECTION 9, TOWNSHIP 4 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1-ACRE (RA-1) ZONE AND TO GRANT A BONUS TO THE PLATTED CHRISTENSEN FARM PHASE 1 SUBDIVISION BY ALLOWING THE REMOVAL OF 4.19 ACRES OF PLATTED PROPERTY RESULTING IN THE EQUIVALENT OF A 3 LOT BONUS (10% DENSITY INCREASE) TO THE RESULTING AMENDED PHASE 1 SUBDIVISION. CONTINUED FROM THE APRIL 8, 2021 MEETING.** ***IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JULY 21, 2021.*** **(DEV-3733; AUSTIN CORRY)**

ITEM 11 **BRIAN BALLS, REPRESENTING CHRISTENSEN FARMS LOTS LLC, REQUESTS A PLAT VACATE TO REMOVE 4.19 ACRES FROM CHRISTENSEN FARMS PHASE 1 WITH THE INTENT TO INCLUDE THE ACREAGE IN A NEW PROPOSED SUBDIVISION LOCATED AT APPROXIMATELY 1460 S 2130 E IN SECTION 9, TOWNSHIP 4 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1 (RA-1) ZONE. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JULY 21, 2021.* (DEV-4103; AUSTIN CORRY)**

ITEM 12 **BRIAN BALLS, REPRESENTING CLASSIC JACK CONSTRUCTION LLC, REQUESTS OVERALL PRELIMINARY APPROVAL FOR CHRISTENSEN FARMS PHASE 2 & 3, A PROPOSED RESIDENTIAL SUBDIVISION CONSISTING OF 100 LOTS ON 85.099 ACRES IN SECTION 9, TOWNSHIP 4 SOUTH, RANGE 5 EAST IN THE RESIDENTIAL AGRICULTURE 1-ACRE (RA-1) ZONE. THE PROPOSED DENSITY IS RELIANT ON A BONUS DENSITY REQUEST BEING APPROVED FOR DONATION OF A REGIONAL PARK AND ALLOWANCE OF 4.19 ACRES OF PROPERTY FROM AN ADJACENT SUBDIVISION, CHRISTENSEN FARMS PHASE 1, TO BE VACATED FOR USE IN THIS PROJECT. CONTINUED FROM THE APRIL 8, 2021 MEETING. **IF FORWARDED, THE RECOMMENDATION BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LAND USE AUTHORITY, AT A PUBLIC HEARING ON JULY 21, 2021.* (DEV-2762; AUSTIN CORRY)**

Staff

Austin Corry, Assistant Wasatch County Planner, presented a Power Point presentation and then addressed the Wasatch County Planning Commission and indicated that Item No. 10 pertains to the donation of a regional park. The code allows an applicant to request this. Item No. 11 is a plat vacate which would affect Christensen Farms Phase 1 which is a platted subdivision and Item No. 12 is a proposed preliminary subdivision plan that would be the execution of the bonus density being requested from Item No. 10 and the plat vacate from Item No. 11. The code allows for two ways of making a donation - either unimproved raw ground or donation of an improved park. While the code establishes the anticipated densities, it also includes a note that "The County Council may adjust the density bonus rates in the RA-1, NVOZ, and JSPA as necessary". This gives the legislative body the authority to view additional proffers from a developer to potentially increase density further if the Council deems the improvements are beneficial for the County and warrant additional density as a compensation for the developers expenses to the improvements. The developer is seeking 38 additional lots to use in a proposed Christensen Farms 2 and 3 subdivision.

Austin Corry indicated that a map was made of potential future park locations. The specific project that we are looking at in the proposed donation happens to be right off 1200 South directly west of the Christensen Farms Phase 1 subdivision and south of the Cobblestone Development which is fairly well known in the County as well. The minimum acreage for a regional park is ten acres, slope of less than five percent. The important point is that this is solely at the County Council discretion. In a donation of an improved park the minimum requirements are bathrooms, irrigation, sod, asphalt or concrete parking, completing curb/gutter and storm drainage, improvements along all the public streets including the landscaping. The park can be used as part of a regional storm drain plan and should have guidance and improvement input by the Parks and Recreation Director and as recommended by the Planning Commission.

The request before you is for one hundred lots total in the 2 and 3 development, which is .81 acres per unit which is an increase of 38 lots, 61.3 percent bonus density. They are requesting a vacate of 4.19 acres of that project which was platted at the maximum density and a density bonus would also have to be applied to that plat if it were granted a vacate and that density bonus would be about ten percent. The amenities the applicant is offering that are above and beyond the minimum code requirements is there are three additional acres, pickle ball courts, a playground structure, and a pavilion. Fencing is required, but the developer is offering a vinyl coated fence instead of basic chainlink. The developer has been working on their landscape plan which was one of the listed deficiencies. Water was a concern previously raised and the planting design that is being provided is adequate enough to justify they are attempting to address that.

Austin Corry indicated that the DRC has forwarded this on for a hearing and then went through the DRC comments for Item 10:

JORDANELLE SSD comments:

- Secondary water provider needs to be determined.

- Water rights need to be assigned and conveyed. DA needed for this service. The park plan depicts a 4 inch irrigation meter connection point. Also culinary water needs for restroom and drinking fountain. Plan does not depict connection to water main and irrigation main lines. This will need to be understood and approved by Twin Creeks Special Service District.
- Wasatch County will hold the water rights for the secondary water. Twin Creeks Special Service District will provide a connection point and maintain to the meters for the irrigation, after the meters the County will take ownership of the remaining infrastructure. Twin Creeks Special Service District will provide culinary water and sewer for the restroom and drinking fountain. Water rights used to satisfy both indoor and outdoor demands must meet the requirements for each type of use as outlined in the District water dedication policy.

ASSESSOR comments:

- Greenbelt rollback required upon approval of project.

ENGINEERING comments:

- The Acorn style light shown on sheet DET 2 is an old Heber Light and Power design. Lights should match those used in phase 1 of Christensen Farms. You need to update your detail.

COUNTY MANAGER comments:

- All lighting in the park and development must be dark sky compliant and meet Wasatch County standards.

PLANNING comments:

- Asphalt thickness on trail required to be 3 inches per WCC 16.38 as opposed to the 2 inch thickness shown on the drawings.
- The area where the trail diverts next to the parking area for the crossing at 1870 East should be widened to the 10 foot width to match the rest of the trail and prevent conflicts with vehicle overhang. The alignment of the crosswalk also doesn't match on the west side of the road.

Austin Corry indicated that for the sake of time and other things he did not read the findings for denial and findings for approval and the conditions into the record, but is part of the Wasatch County Planning Staff Report.

Austin Corry then went through the key issues to consider for Item 10:

1. The County Council has sole discretion to approve/accept a park and to grant an associated bonus density.
2. The code suggests a density of 1.1 a/u for unimproved donations and 1 a/u for improved donations. The applicant is requesting 0.81 a/u as a density, resulting in a bonus of 38 additional lots or 61.3 percent more lots than the base density of 62 lots at 1.3 a/u.
3. The code allows the Council to adjust the bonus density allotted to a donation at their discretion.
4. Do the proposed improvements justify the applicant's requested density?

Item No. 11 has to do with the plat vacate and talking about the northwest corner of the Christensen Farms Phase 1 plat which is currently a retention area. The DRC has forwarded this on with a vacate considering the impacts and everything there. The DRC doesn't really have a lot of technical requirements that we could really weigh in on and so we typically just send vacate requests on for the County Council decision. The main key here is focusing on the definition of good cause and you need to meet a requirement for good cause in order to vacate. It says that if you don't meet good cause we would deny it and if you do meet good cause then we can consider it. The Wasatch County Code has a definition of what good cause is.

Now one of the requirements of a plat amendment request is that notice is sent to all property owners within a plat and every property owner within 500 feet of the affected property that is being discussed. Based on phone calls that the Planning Department has received today it was discovered that the addresses provided by the applicant did not meet the noticing requirements. As a Planning Commission you cannot act on the plat amendment because the County code has not been satisfied and Utah code is not satisfied. It did not include advertising for every individual within the plat. What was sent by the applicant was just the five hundred foot radius. This just came to light today and we didn't feel like it was very fair to just continue it with people being here wanting to talk to the Planning Commission and weigh in. Staff suggests you should still take public comment.

Austin Corry then went through the DRC comments for Item No. 11.

PLANNER comments:

- The proposal can move forward for a Council decision, but conditions are needed and/or additional information is necessary from the applicant before the County can record a vacate.
- The proposed vacate will violate density allowances of the code for this plat if the Council does not deem this plat as being allowed a density bonus.
- This vacate would be contingent on a new stormwater plan being approved, otherwise the parcel can't be removed from the subdivision.
- Applicant should prepare their justification of how this request meets the requirements of 'good cause' as outlined in 16.02.06 and 16.04 of the County code.

ENGINEERING comments:

- The drainage report in my opinion shows sufficiently that the ball fields and detention basin to the west is more than adequate to handle detention for a 100 year flood event. I do have some minor comments that can be addressed in the preliminary review for Phases 2 and 3.

COUNTY MANAGER comments:

- I thought that phase one received density based on the open space of the drainage pond. Can't count open space twice.
- Again. The density for phase one was based on the total acreage of phase one plat. Cannot vacate some of that acreage out of phase one plat and then count for additional acreage in future phases. That would be counting the acreage twice. Which lots in phase one are being taken out? That is what would have to be done if acreage is reduced.

Item No. 12 is the proposed subdivision that would be utilizing the bonus density from the park. If the bonus density was denied it needs to be very clear that if the park was not accepted and the bonus density were denied this subdivision does not meet code. If it were approved then it can meet code.

Austin Corry then went through the DRC comments for Item 12:

ASSESSOR comments:

- All Greenbelt Rollback taxes to be paid before phase 2 and 3 are recorded.
- All Greenbelt Rollback taxes must be paid before the final phases are recorded.
- Greenbelt Rollback will be applied upon approval for both lots.
- Greenbelt Rollback taxes will be applied upon approval for both parcels.
- Greenbelt Rollback to be applied prior to platting.
- Greenbelt Rollback required upon approval

ENGINEERING comments:

- For preliminary approval the developer is required to provide plans that are a minimum of 70 percent complete. This application package is not. There has been enough discussion within the DRC to have a more complete set. The high level information is great, the details are lacking: No plan and profiles. Little to no vertical information. No typical sections for the roads??? No detail information in the drainage report. No irrigation plan for the park, etc. If this project was not in a hay field, and we didn't know as much what the ground conditions are, I would not approve. The one caveat to this is, it is highly unlikely if this application gets approved for preliminary that it will not take one or two more iterations to be approved for final. Too many details to work out.
- The drainage report really does not represent what is shown on the drainage plan. The drainage plan shows a good majority of the storm water going to a detention basin west off the park. There is not enough information submitted to determine if the detention basin area can handle the volume of run-off that will be generated in a 100 year storm event.
- The drainage report is still lacking information. The current plan shows 2 detention ponds. There is nothing differentiated in the report. Hard to track the report because nothing is labeled. There is no data supporting the sumps in the cul-de-sacs. There is no pre-existing condition data. There is no data concerning maximum pipe capacity. No data on how much overflow is coming from phase 1.
  -Because the park is such a big area and the geotechnical report did not show anything unusual, I am confident a viable drainage plan can be engineered. All the details and a better drainage report will be required prior to final approval.

- Need will serve letters from Wasatch County Solid Waste and phone.
- One of the recent challenges we see in construction is the contractors are all using the model provided from the engineer and building the project using GPS. One of the challenges is operators cannot see past their screen and making field changes is hard. That makes the design so much more critical. The details need to be in the model. Per the code the asphalt trail needs to meander. It can meander vertically or horizontally. I am done arguing with contractors how to meander a trail. Not only does having the trail meander in the model help the construction of the trail, it helps with utility locations. I am requiring for final that the trail meanders on the plans, in the model, and ultimately in the field. Change the cross slope on the trail to 1 percent.
- Provide a relevant road section for the work on 1200 South. I don't see where you need to install any utilities. If you show existing utilities label them as such. The trail may be the only thing required. You need to show the existing conditions on the plan.

JORDANELLE SSD comments:

- Prior to final plat approval, the developer must identify whether secondary service to this development will be provided by TCSSD, Timpanogos Irrigation Company, or another source. The developer is encouraged to pursue this determination as soon as possible since this will affect how water dedications will need to be conducted. Water dedications will need to be completed in accordance with the TCSSD water dedication policy also prior to final plat approval.

TWIN CREEKS SSD comments:

- The developer should carefully review the draft will serve letter from TCSSD, which outlines requirements which must be met to receive final plat approval from TCSSD.

GIS comments:

- Street names do not match County GIS. Please change them to match. Streets can be found on County online map.

COUNTY MANAGER comments:

- Does road offset on road entering 1200 South meet offset requirements? Should it line up with road across from it?
- Islands within County roads not acceptable.
- Number of lots does not match ERU calc. sheet. 62 ERU allowed.
- Number of lots does not match ERU calc. sheet.
- This feasibility letter does not match submitted plat. This requires a will serve letter, not a feasibility letter.
- No snow storage shown for plowing roads. Lot frontage too small for County snow plowing. Should be private roads.
- I don't believe that the County Council has actually approved the additional density that is requested.

PLANNING comments:

- Lot 75 and 100 have an error on your dimension line for width.

PUBLIC WORKS comments:

- How wide are the park strips where these trees are placed?
- Island needs to be removed if these are not private roads
  -In the development agreement I see where it states these roads are private. Then a few pages down where they will be public.

RECORDER comments:

- You might want to reconsider the open space and name it common area.

SURVEYOR comments:

- 1. Bearing and distances not shown on all lot lines.
  2. Road or street widths must be shown on all roadways.
  3. There is retention pond of 4 plus acres on plat 1 that is now full of lots on plat 2/3. Was plat 1 amended?
- This is an unsigned preliminary plat. We are allowing this project to go forward but retain the right to fully review the project when a final plat is submitted.

WEED comments:

- You will need to fill out a weed plan from County website and pay a cash bond.
- You will need a weed plan and cash bond. You can get it on the County Website under Public Works then Weed Department.

Austin Corry then indicated that the recommendation to you is the following motion: move to continue Items 10, 11 and 12 in light of the evidence discovered today that the noticing addresses provided by the applicant failed to meet Utah Code Annotated 17-27a-207 and Wasatch County Code 16.02.06 in that the application did not provide for notice to all owners of property within the Christensen Farms Phase 1 plat. Without proper noticing, the application is incomplete and noticing requirements have not been met in order for the Planning Commission to act on the vacate application. Considering the relationship of all three applications it would be reasonable to wait to act on each application until the proper noticing has occurred.

That is our recommendation to you, but I would recommend that you still take public comment before doing so.

Commissioner Mark Hendricks indicated that is a good idea and we need to pay attention and would ask that a good record is made of the public comment that will be made because we won't be able to or want to hear the same thing the second time and we need to consider it in the future.

Commissioner Mark Hendricks asked for them to tell him how that retention basin works and what happens to that. Austin Corry indicated there is two terminologies used when you are talking about storm water mitigation. One is detention and one is retention. Detention is that we are going to capture it for a period of time, but there is an outlet and going through a pipe at a controlled rate and slower than letting it down in an open stream. There will be control to how quickly it disappears from the site. Retention is that we are going to capture it in the pond and it stays here and percolates into the ground so there are no pipes or anything that take it anywhere outside of that. This park is retention. Commissioner Doug Grandquis indicated that the quality of the water in the retention pond needs to be looked at for contamination purposes and should be dumped where there is no damage to be done or serious health issues could arise. Austin Corry indicated that is all part of it too regardless of detention or retention.

Commissioner Wendell Rigby indicated that we have heard several times that there was a committee appointed to study this regional park matter with the applicant. Do we know what took place with that committee? Austin Corry: they met about three to four times and there was only three that met and no decision could be made with only three County Council members present. The purpose of the committee was to look at the pros and cons of having a regional park or not and the density issue was talked about and what amenities could be given for a regional park both improved and unimproved. The Committee was to give the applicant input on what kind of amenities to include in a park with an understanding that they were not a deciding body.

Commissioner Wendell Rigby indicated that the applicant is asking for 4.1 acres to be given back so they are only really donating nine acres. Also after reading the staff report there seems to be a lot of engineering issues that need to be done or addressed.

Applicant

Brian Balls, representative of the applicant, addressed the Wasatch County Planning Commission and indicated that the committee was formed to help us through this matter and discussed many items relating to this matter. What we now have is part of that package. Also the Council did approach us about this regional park and we did not approach them initially about having a regional park in this area.

Bryon Prince, member of Ivory Development, addressed the Wasatch County Planning Commission and indicated that the Wasatch County Council did approach the applicant with this idea. Ivory was not involved at that stage. Later on we became involved and came back with the idea of the turn key park. The Council wanted some bells and whistles with this park. The four acres were never dedicated and they are privately owned today and could stay that way as a retention facility for that phase 1 but privately owned and potentially a challenge down the road.

Public Comment

Chair Chuck Zuercher then opened the meeting up for public comment.

Butch Brandeu, Lot 16 owner in Christensen Farms Phase 1, addressed the Wasatch County Planning Commission and indicated that his property butts up exactly against Phase 3. From being in this room tonight there was a lot of information that came out that we didn't know about. We moved here from Utah County because the open area we were in got too populated over the course of 20 years and the density was crazy. So we came to Wasatch County and bought a one acre lot. It was all zoned RA-1 and we

were told that Phase 2 and 3 would be zoned RA-1. We were told that the four acres was a park when we bought our house and those were the assumptions that we were operating under when we bought our house. Things were going on in the last two to three years that we didn't know about. The proposed density is not what we were expecting and were told. To me I would rather have RA-1 Zoning than the park and respectfully request that you look at the deal for the density. The park if done the County will have to maintain it. If it stays residential we will take care of our properties.

Nancy Perry, resident of the neighboring subdivision, Eagle View Estates, which backs right up to Christensen Farms, addressed the Wasatch County Planning Commission and indicated that they moved from the Seattle area. We were never approached or had it discussed that this regional park was being discussed. I would second what Butch just said and this gives me a heart ache also looking on how close those homes are and when we bought our place we weren't expecting that type of density. The property values will be affected.

Curt Severence, Lot 21 Christensen Farm owner, addressed the Wasatch County Planning Commission and indicated that he has a problem with the added density and bonus. A park would be fine but homes would be more reasonable. To get a 61 percent increase in the density just is not a reasonable request. Also consider what is a reasonable bonus density and the 61 percent cannot be considered a reasonable increase.

Joe Reese, resident, addressed the Wasatch County Planning Commission and indicated that his concern is that most of these people heard this information through the grape vine and was a topic that nobody had even heard about any of this. The people in this area were not notified of any of this and just happened to hear about it myself. Public parks draw people coming to them from all over the place which increases people, traffic, etc. Having a retention basin makes it less useable. We do have a notification process so that people know what is happening in the area.

Ned Holdaway, resident, addressed the Wasatch County Planning Commission and indicated that the County needs to be careful in setting a precedence here. If you give more density with a bonus here somebody else will come along and want the same thing. You need to vote against that bonus density. The valley needs to stay as rural as it can. We don't agree with the high density.

Gil Chateauvert, resident in Eagle View Estates, addressed the Wasatch County Planning Commission and indicated that our property taxes will go up to maintain the park. Had a frustration of the original owner promising the one acre lot. The value of homes will go down. Also agree with what everyone else has said.

Michelle Denna, resident, addressed the Wasatch County Planning Commission and asked what kind of consideration is given as far as public comment. I agree with what everyone has said this evening. What percentage of your decision is determined based on what the general public is suggesting? Chair Chuck Zuercher indicated that we do take into consideration what the public says, but we are governed by the codes and then we recommend things to the Wasatch County Council. The Wasatch County Council makes that final decision. Commissioner Mark Hendricks indicated that we listen and we care. We try to balance people's concerns with the rights that the law gives them and the applicant.

April Mordin, resident of Eagle View Estates, addressed the Wasatch County Planning Commission and indicated that she backs up to that four acre parcel that has been talked about. I would also second everything that people have said here tonight. I would hope that you would recommend that they don't go under that one home for one acre. The growth needs to be controlled.

Chair Chuck Zuercher then closed the public comment period for tonight, but still intend on taking public comment again on these items.

Austin Corry indicated that the requirement for noticing applies for the plat vacate itself and that is why we worded the recommended motion the way that we did. These Items 10, 11, and 12 are so interrelated it would be our recommendation that you just continue all of them.

Motion

Commissioner Karl McMillan made a motion that we continue Items 10, 11 and 12 indefinitely in light of the evidence discovered today that the noticing addresses provided by the applicant fail to meet Utah Code Annotated 17.27a207 and Wasatch County Code 16.02.06 in that the application did not provide for notice to all owners of property within the Christensen Farm Phase 1 plat. Without proper noticing the application is incomplete and noticing requirements have not been met in order for the Planning commission to act on the vacate application. Considering the relationship of all three applications, it would be reasonable to wait to act on each application until the proper noticing has occurred.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Wendell Rigby, Doug Grandquis, Kimberly Cook, Karl McMillan, Scott Brubaker.
NAY: None.

ITEM 13 JOVID MARK LLC REQUESTS PLAT AMENDMENTS TO THE JOVID MARK SUBDIVISION. THE HOTEL HAS HAD THREE PREVIOUSLY RECORDED PLAT AMENDMENTS. THE NEW PLAT AMENDMENTS STARTING WITH THE FOURTH AMENDMENT ARE AS FOLLOWS: AMENDMENT 4 IS A NEW PLAT CONVERTING PARCEL 6 OF PHASE 4 TO CONDO AIR SPACE THAT INCLUDES PARKING, RESIDENTIAL UNITS, COMMON AREA AND LIMITED COMMON AREA. PARCEL 6 WAS FORMERLY SHOWN AS A BUILDING ENVELOPE AREA; AMENDMENT 5 IS A NEW PLAT CONVERTING THE LAND, SHOWN AS PHASES, TO AIR SPACE FOR PARCELS 8 AND 9 FOR PARKING, RESIDENTIAL UNITS, COMMON AREA AND LIMITED COMMON AREA; AMENDMENT 6 IS CHANGING COMMERCIAL BOUNDARIES OF COMMERCIAL AND COMMON AREA BUT RESIDENTIAL STAYS THE SAME; AMENDMENT 7 IS CHANGING COMMERCIAL AND RESIDENTIAL BOUNDARIES BUT COMMON AREA STAYS THE SAME; AMENDMENT 8 IS CHANGING COMMERCIAL AND COMMON AREA BOUNDARIES BUT RESIDENTIAL STAYS THE SAME AND AMENDMENT 9 IS CHANGING PARCEL "A" INTO TWO PARCELS SO THAT THE POOL CAN BE ON A SEPARATE PARCEL. (DEV-4292; DOUG SMITH)

Staff

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and presented a Power Point presentation and then indicated that the hotel was approved as a condo hotel and was intended to be a full service hotel with certain amenities required and outlined in the development agreement. The plat initially recorded created a building envelope and allowed for issuance of a shell permit to construct the outside shell of the building. The hotel has had three previously recorded plat amendments. Since this is a condominium hotel the walls of each unit are property lines. A plat is recorded which divides the units into what is referred to as an air space plat. If units and common areas are consistent with the recorded air space plat a new plat is not required. The plat must reflect accurately what has been built not only with the units but the common amenities so that square footages and uses can be appraised correctly and taxed accordingly. Also the amenities, the units, the hallways all of those things in some scenarios they were not correct with what they initially platted so that is why we are amending several of these. Doug Smith then went through the amendments. Also taking these plats and making them as built plats and correcting everything. Doug Smith indicated that the bottom line is that we are taking recorded plats that are incorrect and changing them to correct plats so that they can be assessed and valued appropriately and taxed accordingly.

Doug Smith indicated that DRC reviewed this and recommended approval of this.

Doug Smith then went through some proposed findings:

1. Amendments 4 and 5 are creating air space plats for the designated phases. Amendments 6, 7, and 8 are correcting inconsistencies between recorded plats and "as built" areas. Amendment 9 is dividing out the pool from a lager common area piece.
2. In some instances the recorded plats do not reflect what is actually built.
3. The air space plats must be recorded to create the individual units and common and limited common space.

4. The proposed plat amendments correct the changes made during construction.
5. The proposed amendments maintain the required amenities that were part of the approval requirements.
6. The Assessor's office needs to have accurate plats so values and uses can be tied to the particular parcels and can be taxed properly.

Doug Smith then went through some proposed conditions:

1. Front pages of plats containing notes may require some changes prior to recording.
2. Conditions, if any, by the DRC must be complied with.

Commission Comments

Commissioner Mark Hendricks asked if these changes were done in bad faith by the developer. Doug Smith indicated that he believes the changes were made in some of the instances because they realized that in some case things would work better if changes were made. Also, the Building department caught the changes during their inspections. These things were discussed with the Building and Assessor's offices and determined that the plat amendments must be made.

Applicant

Paul Watson, engineer for the applicant, addressed the Wasatch County Planning Commission and indicated that Doug Smith presented the reasons for the amendments accurately. The ice rink is scheduled for this year and working on drawings right now and are close.

Public Comment

Chair Chuck Zuercher then opened the public hearing up for public comment and there was none so the public comment was closed.

Motion

Commissioner Doug Grandquis made a motion that we approve the plat amendments of Item No. 13, the Jovid Mark Subdivision and adopt the findings and subject to the conditions.

Commissioner Karl McMillan seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Karl McMillan, Doug Grandquis, Wendell Rigby, Kimberly Cook, Scott Brubaker.
NAY: None.

ITEM 14 CONSIDERATION OF A PROPOSED UPDATE TO THE TRANSPORTATION ELEMENT OF THE GENERAL PLAN AND AN IMPLEMENTATION PLAN PRESENTED BY ALTA PLANNING AND DESIGN. THE FINDINGS AND RECOMMENDATIONS ARE TO UPDATE THE VISION, GOALS, AND POLICIES FOR CONNECTIVITY STANDARDS THROUGHOUT WASATCH COUNTY. **RECOMMENDATIONS BY THE PLANNING COMMISSION ON THIS ITEM WILL BE CONSIDERED BY THE COUNTY COUNCIL AS THE LEGISLATIVE BODY, AT A PUBLIC HEARING ON JULY 21, 2021.* (AUSTIN CORRY)

The record should show that Commissioner Scott Brubaker, attending via Zoom, left the Planning Commission meeting for another engagement. Commissioner Kimberly Cook, attending via Zoom, also left the Planning Commission meeting.

Staff

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Planning Commission and indicated that the County Planning Department applied for and received a local planning grant through UDOT. The grant was for $50,000.00 and was to

update the transportation elements of the General Plan and to provide suggestions for updates to the County Code regarding transportation. As a result of that the County selected ALTA Planning and Design as a consultant with a sub-consultant, Township and Range. The consulting group has performed community surveys, given a feedback presentation to the Council, and analyzed our existing policies and codes to identify opportunities and conflicts. Collectively these efforts have resulted in draft recommendations for updates to the General Plan. After this we will come back with the General Plan language. This will be a first reading of the updates to the General Plan and would like comments from you to forward to the Council. After this the matter will come back to you with a formal ordinance and formal General Plan language that a recommendation would then be made by you to the Wasatch County Council.

Doug Smith then went through some proposed findings:

1. The current County code requires a specific block length and cul-de-sac maximum length of 1,300 feet regardless of development context.
2. The County has a variety of topography and development types ranging from urban center resorts to large agricultural lots which makes a "one size fits all" approach difficult.
3. Urban projects with higher density require more connectivity than low density rural projects.
4. Citizen surveys showed a great deal of support for multi-modal transportation options.
5. Proposed language for the General Plan emphasizes planning for transportation options including non-motorized and recreational pursuits.
6. There is a need to incorporate multiple modes of transportation in all of our transportation planning and update current codes to accomplish this.
7. Multi-modal transportation requirements will increase travel options for residents decreasing dependence on motorized vehicles.
8. Pedestrian traffic is higher in the immediate vicinity to commercial centers where pedestrian access should be a higher priority than rural areas.
9. Recreational needs are prevalent regardless of development context, but need more careful planning in less dense areas due to a lower level of connectivity on the traditional road network.

Erin David with ALTA and Tim Sullivan with Township and Range then presented a Power Point presentation regarding the proposed new General Plan language and context sensitive transportation planning. The things they went through were Valley Community Network which included a range of lot sizes, a range of ways to connect streets, connecting to future development, collector lot frontage, network adapts to natural feature preservation, connections to major streets, maximize connection to schools and parks and cul-de-sacs are connected. Valley Community with Active Transportation supports access to local destinations such as schools, neighborhood parks, and services. Facilities provide for all ages and abilities travel, including separated facilities on major roadways, connected low-stress local networks and frequent safe crossing opportunities.

Foothill Community Network includes a range of lot sizes, streets along the contours, longer blocks along the contours, foothill open space access, paths connect where streets can't. Parks connect to natural open space, corridors linking subdivisions, cul-de-sacs discouraged, network adapts to natural feature preservation. Active Transportation supports daily trips for area residents including access to local destinations as well as recreation focused trips. Facilities should generally provide for people of all ages and abilities with trail segments supporting network connectivity in areas of steeper slopes or other topographical challenges. These facilities should support connections to open space and public lands.

Valley Rural Network includes low density can also be well connected, incorporation of agriculture, allow for future development, future active transportation connections, cul-de-sacs discouraged, preserve rural collector streets, preserve riparian features. Valley rural active transportation supports recreational trips including connections to recreation areas, and can support access to service oriented destinations for confident walkers and bicyclists. Local networks can support short community based trips e.g. visiting a neighbor or local park for most residents. Explore opportunities to create more frequent pedestrian and bicycle connections and support a higher level of connectivity for non-motorized networks.

Mountain Rural Network includes large lots, streets designed with the contours, natural system reservation, public lands access, redundant egress, paths where streets can't go, strategically located internal open spaces, limit cul-de-sacs Mountain Rural active transportation facilities will support recreational trips for area residents, prioritizing connections to trails, trail heads and scenic vistas. This includes direct connections to open space and public lands. Mountain Rural active transportation networks support safe travel through on street facilities, paved and natural surface trails, and safe crossings of major roadways at key intersections. Bikeways and pedestrian accommodations should support travel for confident bicyclists and pedestrians. Regionally significant trail heads should be located on major roadways or other locations to minimize impact to local neighborhoods.

Resort Network includes a range of densities, streets designed with the contours, connected comprehensive trail system, public lands access, connect on a disconnected landscape place activity centers at fulcrum of network, ensure extension of network to future development. Limit cul-de-sacs. Resort Active Transportation includes facilities to support daily trips for area residents and visitors prioritizing connections to services and recreation destinations, such as ski resorts, trail heads, public trails, boat launches and other common destinations, bicycle and pedestrian accommodations should support travel for people of all ages and abilities.

In conclusion the tasks associated with the Transportation Element update seek to evaluate existing support for and levels of network connectivity in Wasatch County while identifying opportunities to advance network connectivity. As the region continues to grow, improving network connectivity provides opportunities for the County to alleviate pinch points in the network, improve transportation safety, increase access to recreation opportunities and support increased mode choice. The updated Transportation Element strengthens the existing vision for a connected, multi-modal transportation network while outlining a framework for encouraging context sensitive approaches to network development. To further advance the vision set out in the Transportation Element, it is recommended that Wasatch County continues to pursue both code updates that can translate this vision into action as well as implement high quality active transportation facilities that advance network connectivity objectives.

Commission Comments

Commissioner Hendricks wanted to know how the proposed language translates into code. Also asked how our transportation system would integrate with other municipalities. There are holes in the County that are made up of cities that would have different regulations than the County. Also take into consideration climate, weather affecting transportation.

Commissioner Wendell Rigby asked about the east bypass and why it was not shown on one of the maps. Also talk about public transportation coming in and out of the valley.

The Planning Commission members were in general consensus that the Planning Staff is on the right track

Commissioner Doug Grandquis indicated to look into how much traffic will be created with the development in the Jordanelle.

Public Comment

Chair Chuck Zuercher then opened the public hearing up for public comment and there was none so the public comment period was closed.

Motion

Commissioner Wendell Rigby made a motion to forward this study to the Wasatch County Council with our recommendation as a first reading so comments can be received by the Council.

Commissioner Doug Grandquis seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Wendell Rigby, Karl McMillan, Doug Grandquis.
NAY: None.

ADJOURNMENT

Motion

Commissioner Mark Hendricks made a motion to adjourn.

Commissioner Wendell Rigby seconded the motion.

The motion carries with the following vote:
AYE: Chair Chuck Zuercher, Mark Hendricks, Karl McMillan, Wendell Rigby, Doug Grandquis.

NAY: None.

Meeting adjourned at 11:30 p.m.

CHUCK ZUERCHER/CHAIRMAN

ENCLOSURE 15

WRITTEN COMMENTS SUBMITTED BY THE KOSAKOWSKIS IN CONJUNCTION WITH AUGUST 12, 2021 PLANNING COMMISSION MEETING

August 9, 2021

Mr. Charles Zuercher, Chair
Wasatch County Planning Commission
55 S 500 E
Heber City, UT 84032

RE: Item #5, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment

Dear Mr. Zuercher:

This letter constitutes our written comments on Item #5, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment, to be considered by the Wasatch County Planning Commission on August 12, 2021. These comments are made in addition to our July 5, 2021 comments submitted on the same proposal in the context of the July 8, 2021 meeting of the Wasatch County Planning Commission, and our July 5, 2021 comments are incorporated by reference herein. As previously stated, our home is located next to Lot B in the Star Harbour Estates subdivision ("Star Harbour"). We have occupied our home since 2005, and we are among the first homeowners in the subdivision.

Again, we appreciate the opportunity to comment and look forward to your response to our comments and questions. However, we respectfully request that you deny Redus Park City LLC's ("Redus") request to amend the Lot B Plat designation from an open space easement parcel to a single-family residential parcel for the following reasons:

1. Release of Easement provided by Rocky Mountain Power is insufficient to settle the question of the easements on Lot B.

The Redus proposal to reclassify Lot B in Star Harbour from an open space easement lot to a residential lot was continued from the July 8, 2021 meeting due to concerns raised regarding the validity of a release executed by PacifiCorp in 2005. Redus has now presented a release executed by Rocky Mountain Power, an unincorporated division of PacifiCorp, on July 19, 2021 as evidence that the easements on Lot B have been extinguished.

However, this newly-executed release only addresses the 40-foot easement that was granted to Utah Power and Light. Moreover, this release is not dispositive of the 40-foot easement having been extinguished because it does not provide a copy of or reference to the legal instrument which granted Utah Power and Light the 40-foot easement in the first place and in accordance with the intent stated in Instrument 154915 (see Enclosure 5 of July 5, 20210 comment letter). The document referenced in the new release is the Star Harbour plat, which itself only acknowledges the presence of the easements. For this release to be conclusive, the original grant of easement as well as documentation that Rocky Mountain Power is the most recent successor-interest needs to be made part of the record.

Also, the July 19, 2021 Rocky Mountain Power release does not address the 10-foot easement, which also exists on Lot B and is shown on the survey completed by Redus in August 2020 and other documents. Presumably, Rocky Mountain Power did not release the 10-foot easement because it does not own it and therefore, does not have the authority to release it. In the absence of a valid release of the 10-foot easement from the entity owning the easement, the condition on the Star Harbour plat for converting Lot B from an open space easement lot to a residential lot has not been met. The relevance and continued existence of easements and rights-of-way described in the 1981 Special Warranty Deed (Entry No. 124934 in Book 144, Pgs. 343-345.) referred to in the release that Redus originally relied upon need to be investigated.

It should also be noted that Rocky Mountain Power's July 19, 2021 release encompasses Star Harbour Lots 1 and 3-7. Since the release is not confined to Lot B, the owners of Lots 1 and 3-7 must be notified of the release, and Lots 1 and 3-7, and perhaps the entire subdivision, should be re-surveyed and platted. Neither the owners of these lots of the Star Harbour HOA should have to bear the costs of these activities. Redus should bear the costs.

2. Neither Redus nor the Planning Staff responded substantively to our other comments, apparently not considering them to be "matters of substance."

The Planning Staff did not respond to any of our comments.

a. Redus did not substantively respond to our comment regarding the fact that the Star Harbour Development Agreement identifies Lot B as Open Space and that Development Agreement is in force until 2026 (Our original Comment #4).

Redus provided a two-sentence response to our Comment #4: "The exhibit in question is entitled "Map Depicting Location of Trails to be Constructed within Lot C Open Space Parcel". This is not a map depicting open space parcels."

Redus seems to be saying that because the map is not labeled "Open Space Parcel Map" – although the label does contain the term, "open space," – the Planning Commission should pay no attention to the fact that the map clearly and unambiguously shows Lot B to be Open Space (See Packet Page #130 and Item Page #71 of 111). How could it possibly be appropriate for the Planning Commission to ignore this map?

The County is party to the Development Agreement and should uphold the terms and conditions of the Development Agreement until such time that it expires in 2026 or is modified by the parties. If the County is not under such an obligation, what is the point of Development Agreements?

b. Redus's criticism of our statements of fact regarding the use of the double track dirt road on Lot B and adjacent parcels by us and the public for hiking and biking does not change these facts (our original Comment #5).

We never asserted that any document shows trails on Lot B; we know of none that does. We did assert that there are actual trails in the form of a double track road on Lot B and

other adjacent lots which we understand are owned by the U.S. Bureau of Reclamation ("BOR"). These trails are visible on the aerial photos provided in the Staff Report. And we did assert that we and many other people use these trails. These are facts.

Redus criticizes Star Harbour and Fox Bay for not creating and/or maintaining the trails on Lot C that are shown in the Star Harbour Development Agreement, but this criticism omits the fact that Redus as the current owner of the Commerce Park parcels is as responsible as Star Harbour and Fox Bay for creating and/or maintaining these trails as per the Easement and Maintenance Agreement executed by the parties on July 16, 2001 (see Entry No. 235064, Book 0512, Pg. 0530-0545) (Enclosure 1 of our July 5, 2021 comment letter).

We have no knowledge as to the circumstances under which the Jordanelle Special Service District ("JSSD") gained access to Lots A and C. The fact remains that Lot C is occupied by the Jordanelle Special Service District ("JSSD"), -- it has constructed a berm and created a pond, which is now empty because of the drought but which has been full in past years, it has re-routed the stream, and it stores and uses heavy equipment of the site, -- and that this occupation makes Lot C unattractive and potentially unsafe for recreational use. Similarly, and as admitted by Redus, Lot A is a fenced detention pond and not available for recreational use such as hiking and biking.

We, Star Harbour and Fox Bay, are frequently referred to as the "doughnut hole" by County and Utah's Military Installation Development Authority ("MIDA") because we are surrounded by but excluded from both the MIDA project area and the Jordanelle Specially Planned Area ("JSPA"). This is the equivalent of telling us that we are nothing in the middle of something.

And it is true – we are nothing in the middle of something. Our neighborhood has been and will continue to be left out of the trails and transportation systems and other amenities that are part of the massive development that is going on with regard to both sides of Route 40 at the Mayflower exit.

The bottom line is that the only open space that is actually available to Star Harbour and Fox Bay residents as well as the public is the hiking trail, i.e., the double track road, on Lot B which connects with trails on adjacent BOR land.

Finally, it should also be noted that JSSD occupation and Lots A and C coupled with Lot B being converted into a single family lot will result in Star Harbour not being able to meet the 20% open space requirement set forth in section 16.15.13 of the Wasatch County Code.

c. Redus asserts that our comment regarding the minimal financial burden to Redus in continuing to own Lot B as an open space lot is irrelevant (our original Comment #6).

Redus is certainly correct in identifying its proper motive as its fiduciary duty to maximize recovery on a defaulted loan. Wells Fargo has a duty is to its shareholders to

maximize profit. But that is not the duty of the County. The County's duty is to its residents, its taxpayers, its voters; the County's duty is to the people who live in and support the County.

In making decisions such as this one, the Planning Commission should weigh the hardship that is visited on both sides. Our point is that the hardship that would be visited on Wells Fargo in continuing to own Lot B is next to nothing compared to the hardship that will be visited on us and other users of the trail on Lot B as well as to us in our loss of viewshed (See Comment #3 below).

Also, it may be that the cost-benefit analysis performed by Redus and/or Wells Fargo is making the decision to attempt to convert Lot B from an easement open space lot to a residential single-family lot has not taken into account all the costs of such an action. It may not have considered the much-increased tax burden – taxes on Lot B would go from approximately $74.00 per year to approximately $2600.00 per year. Lot B would become subject to Star Harbour $200.00 per year dues, which it does not now pay because Lot B is open space. And Redus would become a named party is an on-going lawsuit, and a *lis pendens* would be filed against Lot B as it has been filed against every other property in Star Harbour.[1] This, in turn, will make it difficult for Redus to market and sell Lot B.

It would cost Redus/Wells Fargo less to retain ownership of Lot B as an open space lot for a period of 30 years, i.e., $2220.00 plus the minimal administrative cost of keeping the lot of its books, than it will cost Redus/Wells Fargo to own Lot B as a residential single family lot for one year, i.e, $2800.00. Redus/Wells Fargo's shareholders might be better served by Redus's donating the lot to a non-profit organization and taking a tax deduction for a charitable contribution.

d. <u>Lot B is not a buildable lot (our original Comment #7)</u>.

Redus asserts that Lot B is a buildable lot, but there are significant slope and placement of driveway issues associated with Lot B.

As per Wasatch County Code §16.17.14, construction on slopes greater than 30% is prohibited. Also, in determining the "buildable envelope"[2] of a lot, the area in which a structure may be built must itself be less than 30% slope.

We have measured the inclination at several locations on Lot B; it ranged from 20 degrees to 35 degrees, which is a slope of 34% to 57%. The Alpine Avenue frontage is uniformly and especially steep. Also, a back-of-the-envelope calculation based on Redus's 2020 survey results in a "rise over run" of 72 feet over 240 feet along the Fox Bay property line to yield at slope of 30%.

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[1] See *Harding v. Star Harbour Estates HOA, Inc., et. al.,* Civil Case No. 180500031.

[2] Wasatch County Code §16.04.02 defines BUILDABLE ENVELOPE: A three-dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty percent (30%) slope or less.

The fact remains that the center of Lot B is directly opposite Fox Bay Drive. This is clear from Exhibit A – Vicinity Plan of the Staff Report (Packet Page 64, Item Page 5 of 111). The enclosed photos show the relationship between the Alpine Avenue frontage of Lot B and Fox Bay Drive. Enclosure 1 shows the Alpine Avenue frontage Lot B property line. The property line between our home and Lot B, the east end, is at the 20 mph sign. The property line between the Fox Bay property on the south side of Alpine Ave and Lot B, the west end, is at the vertical white line. Enclosures 2 and 3 show a close up of the west end stake and its location relative to the double yellow line and the Fox Bay Avenue curb. Enclosure 4 shows spatial relationship between the east end boundary, the crosswalk, the double yellow line, and the Fox Bay Drive curb.

The distance between the property line at the 20 mph sign, the east end, and the cross walk, which is also the distance between the property line and the end of the double yellow line, is 42 feet and the distance to the curb is 63 feet. The distance between the property line at the stake, the west end, and the end of the double yellow line is one foot, and the distance between the property line at the stake and the curb is 20 feet.

Wasatch County Code §16.33.11 requires driveways to be located a minimum of 40 feet from an intersection and ten feet from a lot line. Driveways for double car garages should be a minimum of 20 feet wide and more comfortably 24 feet wide. A 20-foot wide driveway at the east end of Lot will be within 12 feet of the crosswalk and 33 feet of the curb, which by Utah law marks the beginning of the intersection.[3] It is not possible to locate an adequate driveway without violating Wasatch County Code §16.33.11.

And the addition of a new driveway, especially at the east end of Lot B, will represent an added danger to pedestrians in the crosswalk as well as to us when we exit our driveway onto Alpine Ave. Already, we frequently must brake because a vehicle speeds out of Fox Bay Drive in front of us. This danger will be compounded because a driveway adjacent to ours will be in a blind spot for us due to the presence of trees and other vegetation, which must be preserved as per Star Harbour Architectural Guidelines. Also, Star Harbour has historically frowned upon designs that include driveways along property lines.

It should also be noted that a Lot B driveway has the potential to interfere with the storm drain on Alpine Avenue.

Redus's response seems to import that Fox Bay is trespassing when it uses Lot B for a repository for snow. But it is not possible to trespass on open space because by definition open space is open to the public. The fact remains that Fox Bay has no other repository for its snow during the winter other than Lot B.

3. "Good cause" does not exist to grant Redus's request.

[3] "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another. Utah Code Section 41-6a-102(28)(a). In many jurisdictions, the intersection of two roads is deemed to begin where the double yellow lines cease, i.e., where drivers may legally begin to turn.

In recommending that the Planning Commission approve Redus's request, the Staff report presents one paragraph based on the Wasatch County Code "good cause" provision at section 16.04.02. This one paragraph is not adequate; it is simply three conclusory, unsupported statements, which don't address the factors set forth in section 16.04.02. And as noted above, it does not address any of the issues previously raised by us.

For "good cause" to exist to approve a proposal, the proposal must provide positive benefits and mitigate negative impacts. The Staff Report does not demonstrate that the Redus proposal provides any positive benefits except those that would potentially accrue to Redus. There are no positive benefits to us as the adjacent neighbor to Lot B; there are no positive benefits to the neighborhood or to the community at large. Indeed, there are numerous negative effects, which were well-described in our July 5, 2021 comment letter and are reiterated in, expanded on, and added to in this comment letter.

Including the loss of hiking trails, the loss of open space, and the loss of a snow depository, we will lose our unobstructed view of the mountains. We purchased our home for two reasons – proximity to the Deer Valley gondola and the view – we have views of both the lake and the ski hill. Any structure on Lot B will impinge on and degrade our unobstructed view of the mountains. These are certainly negative impacts, and Redus has made no offer of mitigation.

The Staff Report does not demonstrate that Redus is providing any public amenity or benefit. Indeed, Redus is removing a public benefit and amenity, i.e., the hiking trail and open space.

The Staff Report does not demonstrate that the Redus proposal resolves existing issues. The Redus proposal does not resolve the issue associated with the two easements currently extant on Lot B.

The Staff Report does not demonstrate that the Redus proposal addresses issues related to density. In fact, the Redus proposal only increases density – something that the neighborhood does not need as documented in our original Comment #6.

The Staff Report does not demonstrate that the Redus proposal includes any element of excellent and sustainable design. In fact, the Redus proposal will result in a driveway that is dangerously close to the intersection of Alpine Ave and Fox Bay Drive as well as our driveway and which would probably not be approved by the Star Harbour Architectural Review Committee.

The Staff Report does not demonstrate that the Redus proposal preserves the character of the neighborhood. In fact, the Redus proposal changes the character of the neighborhood by reducing the amount of open space, possibly to the point that Star Harbour cannot meet the open space requirements set for by Wasatch County Code, by eliminating a trail that is used by the neighborhood and the public, by depriving Fox Bay of a snow storage area that is sorely needed during the winter months, and by changing the viewshed.

The Staff Report does not demonstrate that the Redus proposal furthers the health, safety, and welfare of Wasatch County.

The Staff Report includes a surprising and disturbing sentence: "It is not anticipated that the proposed action would affect the neighboring landowners negatively." How could such a sentence have made its way into the Staff Report given the written comments submitted by us on July 5, 2021 and the oral comments made by Linda O'Donnell at the July 8, 2021 public hearing?! Nothing could be further from the truth based on the statements made by us and Ms. O'Donnell.

The County and Redus rely heavily on a footnote to the Star Harbour plat. The Staff Report states that Star Harbour owners should be on notice that this conversion would occur when the easements were removed. It is essential to note that the operative word in this footnote is "may"; it is not "will" or "shall." Redus does not have any right to have Lot B converted from an open space easement lot to a residential single-family lot even if the easements are extinguished.

Clearly, the detrimental effects to us as the next-door neighbor to Lot B and to the communities of Fox Bay and Star Harbour result in there being no "good cause" to grant Redus's request.

4. <u>We have been repeatedly told by County officials that Lot B will always remain open space and have relied on those statements</u>.

In the past, both in our capacity as private homeowners and Mr. Kosakowski in his capacity as a then-member of the Star Harbour HOA Board, we have asked Doug Smith, the Director of the Wasatch County Planning Department about the future of Lot B. Based on her testimony at the July 8, 2021 Planning Commission hearing, Ms. O'Donnel apparently has made similar inquiries of Wasatch County officials. We have always been assured by Mr. Smith that Lot B will always remain open space due to the easements and the steepness of the lot and the fact that adjacent public lands preclude it from being accessed from Old Keetley Road. Citizens should be able to rely on the statements of government officials and such reliance should not be to their detriment.

5. <u>We received no written notice of the August 12, 2021 Wasatch County Planning Commission meeting</u>.

The Staff Report states that Wasatch County Code requires notice to be sent to all property owners within a plat, as well as property owners within 500 feet of a plat amendment. We received no written notice of the August 12, 2021 Planning Commission meeting. Redus's proposal cannot be granted in the absence of adequate notice.

6. <u>Summary</u>

Again, we respectfully request that the Planning Commission deny Redus's request to convert Lot B from an open space easement lot to a residential single-family lot be denied because:

(1) A residence on Lot B will impinge upon and substantially degrade our view of the mountains;

(2) A residence on Lot B will deprive us, the neighborhood, and the public of a hiking/biking trail;

(3) Lot B is to remain open space until at least 2026 as per the Development Agreement signed by the County.

(4) Star Harbour has already lost significant open space due to the activities of JSSD on Lots A and C. The loss of Lot B as open space has the potential to put Star Harbour in violation of the County's 20% open space requirement.

(5) Redus does not have right to change Lot B from an open space easement lot to a single-family lot. The notation on the plat is "may", not "will" or "shall". Neither Redus nor the County has demonstrated that there is "good cause" to change the designation of Lot B. Neither Redus nor the County has demonstrated that there are any positive benefits except those that may accrue to Redus/Wells Fargo financially. But there are significant adverse effects to immediate neighbors, Fox Bay, Star Harbour, and the public at large, i.e., loss of viewshed, loss of hiking trail, loss of open space, and loss of snow repository. Moreover, there has been no offer to mitigate these losses.

(6) There is no place to locate a driveway on Lot B that would satisfy the 40-foot distance from an intersection requirement at Wasatch County Code §16.33.1. The proposed location of a driveway along our property line, the east end, -- even if it were possible -- would result in increased danger to us when exiting our driveway and to pedestrians in the crosswalk.

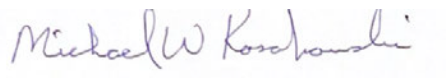
(7) Lot B is an extremely steep lot. Any driveway would have to traverse a slope of 57%, which exists along the Alpine Avenue frontage, and the entirety of the lot is either at or very close to a slope of 30%. County Code prevents building on slopes in excess of 30%.

(8) The issues associated with the existence of the two easements on Lot B have not been conclusively settled because the original grants of easement have not been made available and there is no way of knowing if there are other holders of the easements and/or Rocky Mountain Power is the most recent successor-in-interest. Moreover, the second easement on Lot B has not been addressed.

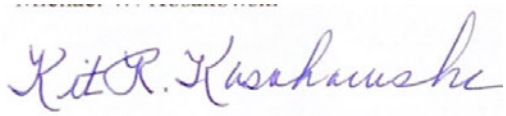
(9) We did not receive written notification of the August 12, 2021 Planning Commission meeting.

Thank you again for the opportunity to comment and your consideration of our comments.

Sincerely,



Michael W. Kosakowski



Kit R. Kosakowski
1671 Alpine Avenue
Heber City, UT 84032

Enclosures

ENCLOSURE 16

Planning Department August 12, 2021 Staff Report and Planning Commission Report of Action

Wasatch County Planning Commission
August 12, 2021

Item #5

Star Harbour Estates Lot B
-Redus Park City LLC-

Minor Plat Amendr

PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

WASATCH COUNTY
Planning Commission Staff Report
Plat Amendment

ITEM 5 Redus Park City LLC requests a Minor Plat Amendment to Star Harbour Estates in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-4196; Austin Corry)

PROJECT SUMMARY

Applicant: Redus Park City LLC (Doug Ogilvy)
Hearing Date: 12 August 2021
Property Owner(s): Redus Park City LLC
Related Applications: Final Subdivision (2001)

Existing Zone: JBOZ
Existing Land Use: Vacant
Existing Plat: 34 Lots and Open Space on 35.54 acres
Lots Affected: Lot B

BACKGROUND

The applicant is seeking to amend the Star Harbour Estates Subdivision Plat to convert Lot B to a residential parcel. The plat and approvals previously encumbered this lot with a utility easement for powerline infrastructure that was anticipated to be relocated or removed later on. That relocation has occurred and the owner now seeks to remove the easement from the plat. At the last Planning Commission meeting, it was discussed whether the release of easement provided in the application adequately removed the easement from the lot. Since that meeting, the applicant and Rocky Mountain Power, the owner of the easement, have provided an additional release of easement that has been written to describe the 40 foot power easement specifically.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. State law requires a public hearing to amend any plat when the amendment is not signed by all the owners within the plat being amended. At the time of this report, no objections have been received in response to the notices sent.

Utah Code § 17-27a-609 allows the County to approve a plat amendment if the County finds that: (a) there is good cause for the vacation, alteration, or amendment; and (b) no public-street, right-of-way, or easement has been vacated or altered.

KEY ISSUES TO CONSIDER

- Lot B is 0.82 acres.
- The amendment will remove a utility easement that results in Lot B becoming a buildable lot.
- The utility company owning the easement has provided a written release of easement confirming no further interest in encumbering the lot.
- Previous approval for the subdivision stipulated that the lot could be converted in the future.

STAFF ANALYSIS

– GOOD CAUSE –

Wasatch County Code 16.04.02 has defined "good cause" as:

> *"Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County."*

Staff has reviewed the plat amendment and finds the proposal complies with the need to meet "good cause" as required by State Law. It is not anticipated that the proposed action would affect the neighboring landowners negatively. The intent of the original subdivision approval put neighbors on notice and the County acknowledged the future converstion of the lot at such time as the easement would be released. Plat note #4 of the existing plat states *"Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot 'B' may become a single family lot, subject to review and approval by Wasatch County."*

– PUBLIC RIGHT-OF-WAY OR EASEMENTS –

No public-street, right-of-way, or easement is proposed to be vacated or altered by this amendment. The UPL easement has been authorized by Rocky Mountain Power for release.

DEVELOPMENT REVIEW COMMITTEE

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for the Planning Commission to render a decision.

The JSSD reviewer has noted that a previous note regarding a limit of 0.15 irragable acres did not get put on the proposed amended plat. That note should be added or the applicant will need to obtain additional water rights necessary to resolve the concern raised by JSSD.

POTENTIAL MOTION

Move to *Approve* the request consistent with the findings and conditions presented in the staff report.
Findings:

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL has provided a release of easement for the utility easement.
5. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B.

6. No public or private roads are being vacated as part of this plat amendment.
7. This proposed revision conforms to the Wasatch County development standards.
8. The proposal is consistent with Utah Code § 17-27a-609.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

Conditions:

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. Note 6 regarding irrigation limits from the previous plat shall be added to the amended plat or additional water rights supplied to satisfy JSSD.
3. An approved water action report shall be provided by the applicant that reflects the water right resolution.
4. A signature block be added for Planning Commission per Wasatch County Code 16.27.12.

ALTERNATIVE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the Plat Amendment is compliant as proposed with Wasatch County Code and all other applicable ordinances.

2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that issues can be resolved prior to final approval.

3. Continue. This action can be taken if the Planning Commission needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.

4. Recommendation for Denial. This action can be taken if the Planning Commission finds that the proposal does not meet the intent of the ordinance.

EXHIBITS

A. Vicinity Plan
B. Existing Subdivision Plat
C. Proposed Plat Amendment
D. DRC Report
E. Release of Easement
F. July 2021 ROA
G. Applicant Response to Public Comment from July 2021

The 97 page public comment letter received at the July 2021 meeting has been provided to the Planning Commission electronically and is available on the public agenda website. It has not been included in this report to reduce printing.

EXHIBIT A – Vicinity Plan

EXHIBIT E – Release of Easement

Ent 505042 Bk 1368 Pg 1512-1514
Date: 04-AUG-2021 1:59:47PM
Fee: $40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: PACIFI CORP

Return to:
Rocky Mountain Power
Matt Janke / Agent
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name: Star Harbour Estates
WO#:
RW#:

RELEASE OF EASEMENT

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain easement described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

Legal Description: An easement shown as a 40' Wide UPL Easement across Lot 1, Lots 3-7, Lot B (including Note 4 of the plat, which states "Lot B is an easement for an existing overhead utility transmission line . . . ," which transmission line has been relocated), and Lot C of the Star Harbour Estates First Amended Subdivision located in the N1/2 of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, said Subdivision recorded as Entry 235915, Book 516, Pages 692-711, on August 14, 2001, in the Office of the Recorder of Wasatch County, Utah.

Assessor Parcel Nos. 00-0020-0815, 00-0020-0814, 00-0020-0780, 00-0020-0782, 00-0020-0783, 00-0020-0784, 00-0020-0785, 00-0020-0786

DATED this 14 day of July, 2021.

Rocky Mountain Power
an unincorporated division of PacifiCorp

By: Matthew Janke
Sr. Property Agent

REV101512

EXHIBIT G – Applicant Response to Public Comment from July 2021

Thu 7/29/2021 8:54 AM

Douglas Ogilvy <douglas.ogilvy@gmail.com>

Star Harbor

To Austin Corry

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Austin,

August 12th is creeping up quickly!

Reviewing our neighbor's objections, the easement issue seems to be the only matter of substance and that has now been addressed. (Still waiting on recorded release).

Other objections raised by neighbor:

Page 4 - **"Lot B identified as Open Space in DA exhibit".** The exhibit in question is entitled "Map Depicting Approximate Location of Trails to be Constructed within Lot C Open Space Parcel." This is not a map depicting Open Space Parcels.

Page 4 - **"Parcel B only viable Open Space available to Star Harbor and double track dirt road is heavily used.."** There are no trails on Lot B shown on Map Depicting Trails nor references to trails on Lot B in CCRs or plat map.
There are well established (but poorly maintained) trails within Lot C. Failure of Fox Bay and Star Harbor to maintain these trails as required by CCRs does not grant trail easement rights on Lot B. Lot A is a detention pond, not a recreation area.

Page 5 - **"Lot B does not represent a financial burden to REDUS."** This is not relevant. REDUS has a fiduciary duty to maximize recovery on loan defaulted by former property owner, United Park City Mines.

Page 5 - **"Lot B is not a buildable lot."** Lot B was identified as a buildable lot on original Star Harbor plat map (subject to easement vacation). The steep slope below Alpine Avenue is the fill from construction of the road and is within the front setback. Driveway will be at the eastern edge of lot frontage with CL driveway ~70' from CL of Fox Bay Drive. DRC and Engineering have reviewed, and lot was approved as a buildable lot on 2001 plat. Unauthorized snow storage (trespassing) does not preclude development of a vacant lot.

We look forward to advancing this project at the August 12th Planning Commission meeting.

Douglas

Wasatch County Planning Commission

Report of Action

12-August-2021

Commissioner Zuercher was present as Chair.

ITEM #5 – Redus Park City LLC requests a Minor Plat Amendment to Star Harbour Estates in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). Continued from the July 8, 2021 meeting. (DEV-4196; Austin Corry)

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

APPLICANT AND PUBLIC COMMENT

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Doug Ogilvy, applicant, mentioned that in addition to what has been presented, the CC&R's also mention that the lot would be turned into a building lot and that no owner of property within the subdivision has the ability to protest the development of the lot.
- Mike Kosakowski mentioned that his wife Kit is on zoom and would like to comment.
- Kit Kosakowski joined by zoom and presented her points shared in a document sent electronically to the Planning Commission. She stated that they live right next door to the property. She felt that good cause has not been met. She believes that the easement should be made part of the record and wanted to be sure that the easement did not have rights for other utility companies.
- Ms. Kosakowski stated again that good cause has not been met. The property is referred to as open space in the development agreement, there are trails on the property that are used by the public, and there will be a loss of their view.
- Ms. Kosakowski contested that Lot B is not a buildable lot because it is greater than 30% slope. She believes that the slopes are up to 57% and there is no place to put a driveway. The driveway will conflict with the cross walk. There are too many houses now and we do not need one more.
- Linda O'Donnell, former president of Fox Bay HOA, noted that the original agreement is valid until 2026 that should keep this open and no decision should be made until that expires. Also, slopes are too steep, traffic is bad, and snow removal is a problem.
- Wade Budge, attorney for REDUS, stated that the CC&R's state that the lot would become a buildable lot when the easement was not needed and that owner's cannot protest this.
- *[PUBLIC COMMENTS SUBMITTED ELECTRONICALLY TO THE PLANNING COMMISSION HAVE BEEN ATTACHED TO THIS ROA].*

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner McMillan asked about the driveway and if it could meet code. Mr. Corry replied that he couldn't verify that because it doesn't fall under his review, but would assume that engineering considered that during the DRC review. Mr. Corry noted that conversion of the lot does not guarantee a building permit.
- Jon Woodard addressed a question form Chair Zuercher regarding the easement and its validity.
- Commissioner Grandquis asked about the development agreement and the reference to the open space parcels. Jon felt that this piece is not designated as open space. He was also asked if they (the planning commission) were required to approve this. Jon answered that they would need to make a finding of good cause and there is no requirement to approve it.

MOTION

Commissioner McMillan made a motion to approve the proposal with all the conditions and findings in the staff report with the addition of condition #5 as discussed.

Commissioner Rigby seconded the motion.

VOTE (5 TO 0)

Charles Zuercher	**AYE**	NAY	ABSTAIN	Doug Grandquis	**AYE**	NAY	ABSTAIN
Wendell Rigby	**AYE**	NAY	ABSTAIN	Kimberly Cook	**AYE**	NAY	ABSTAIN
Karl McMillan	**AYE**	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

Additional Report of Action for item previously continued after a public hearing or other discussion: 7/8/2021 – Item 1

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement.
5. The council may approve the amendment of a plat if the council finds that:
   (a) there is good cause for the amendment; and
   (b) no public street or county utility easement has been vacated or amended. UCA 17-27a-609(1)
6. No public or private road, or County Utility Easements are being vacated as part of this plat amendment.
7. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
8. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.
9. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.
10. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showing Parcels A and C as open space, but contain no similar notes or labels regarding Parcel B, indicating an intent that Parcel B not be treated as Open Space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on Parcel C, not showing open space throughout the project.
11. This proposed revision conforms to the Wasatch County development standards.
12. The proposal is consistent with Utah Code § 17-27a-609.
13. The Development Review Committee has reviewed the project and provided a favorable recommendation.

CONDITIONS

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. Note 6 regarding irrigation limits from the previous plat shall be added to the amended plat or additional water rights supplied to satisfy JSSD.
3. An approved water action report shall be provided by the applicant that reflects the water right resolution.
4. A signature block be added for Planning Commission per Wasatch County Code 16.27.12.
5. The approval is subject to review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes.

Charles R. Zuercher

Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

August 9, 2021

Mr. Charles Zuercher, Chair
Wasatch County Planning Commission
55 S 500 E
Heber City, UT 84032

RE: Item #5, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment

Dear Mr. Zuercher:

This letter constitutes our written comments on Item #5, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment, to be considered by the Wasatch County Planning Commission on August 12, 2021. These comments are made in addition to our July 5, 2021 comments submitted on the same proposal in the context of the July 8, 2021 meeting of the Wasatch County Planning Commission, and our July 5, 2021 comments are incorporated by reference herein. As previously stated, our home is located next to Lot B in the Star Harbour Estates subdivision ("Star Harbour"). We have occupied our home since 2005, and we are among the first homeowners in the subdivision.

Again, we appreciate the opportunity to comment and look forward to your response to our comments and questions. However, we respectfully request that you deny Redus Park City LLC's ("Redus") request to amend the Lot B Plat designation from an open space easement parcel to a single-family residential parcel for the following reasons:

1. Release of Easement provided by Rocky Mountain Power is insufficient to settle the question of the easements on Lot B.

The Redus proposal to reclassify Lot B in Star Harbour from an open space easement lot to a residential lot was continued from the July 8, 2021 meeting due to concerns raised regarding the validity of a release executed by PacifiCorp in 2005. Redus has now presented a release executed by Rocky Mountain Power, an unincorporated division of PacifiCorp, on July 19, 2021 as evidence that the easements on Lot B have been extinguished.

However, this newly-executed release only addresses the 40-foot easement that was granted to Utah Power and Light. Moreover, this release is not dispositive of the 40-foot easement having been extinguished because it does not provide a copy of or reference to the legal instrument which granted Utah Power and Light the 40-foot easement in the first place and in accordance with the intent stated in Instrument 154915 (see Enclosure 5 of July 5, 20210 comment letter). The document referenced in the new release is the Star Harbour plat, which itself only acknowledges the presence of the easements. For this release to be conclusive, the original grant of easement as well as documentation that Rocky Mountain Power is the most recent successor-interest needs to be made part of the record.

Also, the July 19, 2021 Rocky Mountain Power release does not address the 10-foot easement, which also exists on Lot B and is shown on the survey completed by Redus in August 2020 and other documents. Presumably, Rocky Mountain Power did not release the 10-foot easement because it does not own it and therefore, does not have the authority to release it. In the absence of a valid release of the 10-foot easement from the entity owning the easement, the condition on the Star Harbour plat for converting Lot B from an open space easement lot to a residential lot has not been met. The relevance and continued existence of easements and rights-of-way described in the 1981 Special Warranty Deed (Entry No. 124934 in Book 144, Pgs. 343-345.) referred to in the release that Redus originally relied upon need to be investigated.

It should also be noted that Rocky Mountain Power's July 19, 2021 release encompasses Star Harbour Lots 1 and 3-7. Since the release is not confined to Lot B, the owners of Lots 1 and 3-7 must be notified of the release, and Lots 1 and 3-7, and perhaps the entire subdivision, should be re-surveyed and platted. Neither the owners of these lots of the Star Harbour HOA should have to bear the costs of these activities. Redus should bear the costs.

2. Neither Redus nor the Planning Staff responded substantively to our other comments, apparently not considering them to be "matters of substance."

The Planning Staff did not respond to any of our comments.

a. Redus did not substantively respond to our comment regarding the fact that the Star Harbour Development Agreement identifies Lot B as Open Space and that Development Agreement is in force until 2026 (Our original Comment #4).

Redus provided a two-sentence response to our Comment #4: "The exhibit in question is entitled "Map Depicting Location of Trails to be Constructed within Lot C Open Space Parcel". This is not a map depicting open space parcels."

Redus seems to be saying that because the map is not labeled "Open Space Parcel Map" – although the label does contain the term, "open space," – the Planning Commission should pay no attention to the fact that the map clearly and unambiguously shows Lot B to be Open Space (See Packet Page #130 and Item Page #71 of 111). How could it possibly be appropriate for the Planning Commission to ignore this map?

The County is party to the Development Agreement and should uphold the terms and conditions of the Development Agreement until such time that it expires in 2026 or is modified by the parties. If the County is not under such an obligation, what is the point of Development Agreements?

b. Redus's criticism of our statements of fact regarding the use of the double track dirt road on Lot B and adjacent parcels by us and the public for hiking and biking does not change these facts (our original Comment #5).

We never asserted that any document shows trails on Lot B; we know of none that does. We did assert that there are actual trails in the form of a double track road on Lot B and

other adjacent lots which we understand are owned by the U.S. Bureau of Reclamation ("BOR"). These trails are visible on the aerial photos provided in the Staff Report. And we did assert that we and many other people use these trails. These are facts.

Redus criticizes Star Harbour and Fox Bay for not creating and/or maintaining the trails on Lot C that are shown in the Star Harbour Development Agreement, but this criticism omits the fact that Redus as the current owner of the Commerce Park parcels is as responsible as Star Harbour and Fox Bay for creating and/or maintaining these trails as per the Easement and Maintenance Agreement executed by the parties on July 16, 2001 (see Entry No. 235064, Book 0512, Pg. 0530-0545) (Enclosure 1 of our July 5, 2021 comment letter).

We have no knowledge as to the circumstances under which the Jordanelle Special Service District ("JSSD") gained access to Lots A and C. The fact remains that Lot C is occupied by the Jordanelle Special Service District ("JSSD"), -- it has constructed a berm and created a pond, which is now empty because of the drought but which has been full in past years, it has re-routed the stream, and it stores and uses heavy equipment of the site, -- and that this occupation makes Lot C unattractive and potentially unsafe for recreational use. Similarly, and as admitted by Redus, Lot A is a fenced detention pond and not available for recreational use such as hiking and biking.

We, Star Harbour and Fox Bay, are frequently referred to as the "doughnut hole" by County and Utah's Military Installation Development Authority ("MIDA") because we are surrounded by but excluded from both the MIDA project area and the Jordanelle Specially Planned Area ("JSPA"). This is the equivalent of telling us that we are nothing in the middle of something.

And it is true – we are nothing in the middle of something. Our neighborhood has been and will continue to be left out of the trails and transportation systems and other amenities that are part of the massive development that is going on with regard to both sides of Route 40 at the Mayflower exit.

The bottom line is that the only open space that is actually available to Star Harbour and Fox Bay residents as well as the public is the hiking trail, i.e., the double track road, on Lot B which connects with trails on adjacent BOR land.

Finally, it should also be noted that JSSD occupation and Lots A and C coupled with Lot B being converted into a single family lot will result in Star Harbour not being able to meet the 20% open space requirement set forth in section 16.15.13 of the Wasatch County Code.

c. <u>Redus asserts that our comment regarding the minimal financial burden to Redus in continuing to own Lot B as an open space lot is irrelevant (our original Comment #6)</u>.

Redus is certainly correct in identifying its proper motive as its fiduciary duty to maximize recovery on a defaulted loan. Wells Fargo has a duty is to its shareholders to

maximize profit. But that is not the duty of the County. The County's duty is to its residents, its taxpayers, its voters; the County's duty is to the people who live in and support the County.

In making decisions such as this one, the Planning Commission should weigh the hardship that is visited on both sides. Our point is that the hardship that would be visited on Wells Fargo in continuing to own Lot B is next to nothing compared to the hardship that will be visited on us and other users of the trail on Lot B as well as to us in our loss of viewshed (See Comment #3 below).

Also, it may be that the cost-benefit analysis performed by Redus and/or Wells Fargo is making the decision to attempt to convert Lot B from an easement open space lot to a residential single-family lot has not taken into account all the costs of such an action. It may not have considered the much-increased tax burden – taxes on Lot B would go from approximately $74.00 per year to approximately $2600.00 per year. Lot B would become subject to Star Harbour $200.00 per year dues, which it does not now pay because Lot B is open space. And Redus would become a named party is an on-going lawsuit, and a *lis pendens* would be filed against Lot B as it has been filed against every other property in Star Harbour.[1] This, in turn, will make it difficult for Redus to market and sell Lot B.

It would cost Redus/Wells Fargo less to retain ownership of Lot B as an open space lot for a period of 30 years, i.e., $2220.00 plus the minimal administrative cost of keeping the lot of its books, than it will cost Redus/Wells Fargo to own Lot B as a residential single family lot for one year, i.e, $2800.00. Redus/Wells Fargo's shareholders might be better served by Redus's donating the lot to a non-profit organization and taking a tax deduction for a charitable contribution.

d. Lot B is not a buildable lot (our original Comment #7).

Redus asserts that Lot B is a buildable lot, but there are significant slope and placement of driveway issues associated with Lot B.

As per Wasatch County Code §16.17.14, construction on slopes greater than 30% is prohibited. Also, in determining the "buildable envelope"[2] of a lot, the area in which a structure may be built must itself be less than 30% slope.

We have measured the inclination at several locations on Lot B; it ranged from 20 degrees to 35 degrees, which is a slope of 34% to 57%. The Alpine Avenue frontage is uniformly and especially steep. Also, a back-of-the-envelope calculation based on Redus's 2020 survey results in a "rise over run" of 72 feet over 240 feet along the Fox Bay property line to yield at slope of 30%.

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[1] See *Harding v. Star Harbour Estates HOA, Inc., et. al.,* Civil Case No. 180500031.

[2] Wasatch County Code §16.04.02 defines BUILDABLE ENVELOPE: A three-dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty percent (30%) slope or less.

The fact remains that the center of Lot B is directly opposite Fox Bay Drive. This is clear from Exhibit A – Vicinity Plan of the Staff Report (Packet Page 64, Item Page 5 of 111). The enclosed photos show the relationship between the Alpine Avenue frontage of Lot B and Fox Bay Drive. Enclosure 1 shows the Alpine Avenue frontage Lot B property line. The property line between our home and Lot B, the east end, is at the 20 mph sign. The property line between the Fox Bay property on the south side of Alpine Ave and Lot B, the west end, is at the vertical white line. Enclosures 2 and 3 show a close up of the west end stake and its location relative to the double yellow line and the Fox Bay Avenue curb. Enclosure 4 shows spatial relationship between the east end boundary, the crosswalk, the double yellow line, and the Fox Bay Drive curb.

The distance between the property line at the 20 mph sign, the east end, and the cross walk, which is also the distance between the property line and the end of the double yellow line, is 42 feet and the distance to the curb is 63 feet. The distance between the property line at the stake, the west end, and the end of the double yellow line is one foot, and the distance between the property line at the stake and the curb is 20 feet.

Wasatch County Code §16.33.11 requires driveways to be located a minimum of 40 feet from an intersection and ten feet from a lot line. Driveways for double car garages should be a minimum of 20 feet wide and more comfortably 24 feet wide. A 20-foot wide driveway at the east end of Lot will be within 12 feet of the crosswalk and 33 feet of the curb, which by Utah law marks the beginning of the intersection.[3] It is not possible to locate an adequate driveway without violating Wasatch County Code §16.33.11.

And the addition of a new driveway, especially at the east end of Lot B, will represent an added danger to pedestrians in the crosswalk as well as to us when we exit our driveway onto Alpine Ave. Already, we frequently must brake because a vehicle speeds out of Fox Bay Drive in front of us. This danger will be compounded because a driveway adjacent to ours will be in a blind spot for us due to the presence of trees and other vegetation, which must be preserved as per Star Harbour Architectural Guidelines. Also, Star Harbour has historically frowned upon designs that include driveways along property lines.

It should also be noted that a Lot B driveway has the potential to interfere with the storm drain on Alpine Avenue.

Redus's response seems to import that Fox Bay is trespassing when it uses Lot B for a repository for snow. But it is not possible to trespass on open space because by definition open space is open to the public. The fact remains that Fox Bay has no other repository for its snow during the winter other than Lot B.

3. "Good cause" does not exist to grant Redus's request.

[3] "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another. Utah Code Section 41-6a-102(28)(a). In many jurisdictions, the intersection of two roads is deemed to begin where the double yellow lines cease, i.e., where drivers may legally begin to turn.

In recommending that the Planning Commission approve Redus's request, the Staff report presents one paragraph based on the Wasatch County Code "good cause" provision at section 16.04.02. This one paragraph is not adequate; it is simply three conclusory, unsupported statements, which don't address the factors set forth in section 16.04.02. And as noted above, it does not address any of the issues previously raised by us.

For "good cause" to exist to approve a proposal, the proposal must provide positive benefits and mitigate negative impacts. The Staff Report does not demonstrate that the Redus proposal provides any positive benefits except those that would potentially accrue to Redus. There are no positive benefits to us as the adjacent neighbor to Lot B; there are no positive benefits to the neighborhood or to the community at large. Indeed, there are numerous negative effects, which were well-described in our July 5, 2021 comment letter and are reiterated in, expanded on, and added to in this comment letter.

Including the loss of hiking trails, the loss of open space, and the loss of a snow depository, we will lose our unobstructed view of the mountains. We purchased our home for two reasons – proximity to the Deer Valley gondola and the view – we have views of both the lake and the ski hill. Any structure on Lot B will impinge on and degrade our unobstructed view of the mountains. These are certainly negative impacts, and Redus has made no offer of mitigation.

The Staff Report does not demonstrate that Redus is providing any public amenity or benefit. Indeed, Redus is removing a public benefit and amenity, i.e., the hiking trail and open space.

The Staff Report does not demonstrate that the Redus proposal resolves existing issues. The Redus proposal does not resolve the issue associated with the two easements currently extant on Lot B.

The Staff Report does not demonstrate that the Redus proposal addresses issues related to density. In fact, the Redus proposal only increases density – something that the neighborhood does not need as documented in our original Comment #6.

The Staff Report does not demonstrate that the Redus proposal includes any element of excellent and sustainable design. In fact, the Redus proposal will result in a driveway that is dangerously close to the intersection of Alpine Ave and Fox Bay Drive as well as our driveway and which would probably not be approved by the Star Harbour Architectural Review Committee.

The Staff Report does not demonstrate that the Redus proposal preserves the character of the neighborhood. In fact, the Redus proposal changes the character of the neighborhood by reducing the amount of open space, possibly to the point that Star Harbour cannot meet the open space requirements set for by Wasatch County Code, by eliminating a trail that is used by the neighborhood and the public, by depriving Fox Bay of a snow storage area that is sorely needed during the winter months, and by changing the viewshed.

The Staff Report does not demonstrate that the Redus proposal furthers the health, safety, and welfare of Wasatch County.

The Staff Report includes a surprising and disturbing sentence: "It is not anticipated that the proposed action would affect the neighboring landowners negatively." How could such a sentence have made its way into the Staff Report given the written comments submitted by us on July 5, 2021 and the oral comments made by Linda O'Donnell at the July 8, 2021 public hearing?! Nothing could be further from the truth based on the statements made by us and Ms. O'Donnell.

The County and Redus rely heavily on a footnote to the Star Harbour plat. The Staff Report states that Star Harbour owners should be on notice that this conversion would occur when the easements were removed. It is essential to note that the operative word in this footnote is "may"; it is not "will" or "shall." Redus does not have any right to have Lot B converted from an open space easement lot to a residential single-family lot even if the easements are extinguished.

Clearly, the detrimental effects to us as the next-door neighbor to Lot B and to the communities of Fox Bay and Star Harbour result in there being no "good cause" to grant Redus's request.

4. <u>We have been repeatedly told by County officials that Lot B will always remain open space and have relied on those statements</u>.

In the past, both in our capacity as private homeowners and Mr. Kosakowski in his capacity as a then-member of the Star Harbour HOA Board, we have asked Doug Smith, the Director of the Wasatch County Planning Department about the future of Lot B. Based on her testimony at the July 8, 2021 Planning Commission hearing, Ms. O'Donnel apparently has made similar inquiries of Wasatch County officials. We have always been assured by Mr. Smith that Lot B will always remain open space due to the easements and the steepness of the lot and the fact that adjacent public lands preclude it from being accessed from Old Keetley Road. Citizens should be able to rely on the statements of government officials and such reliance should not be to their detriment.

5. <u>We received no written notice of the August 12, 2021 Wasatch County Planning Commission meeting</u>.

The Staff Report states that Wasatch County Code requires notice to be sent to all property owners within a plat, as well as property owners within 500 feet of a plat amendment. We received no written notice of the August 12, 2021 Planning Commission meeting. Redus's proposal cannot be granted in the absence of adequate notice.

6. <u>Summary</u>

Again, we respectfully request that the Planning Commission deny Redus's request to convert Lot B from an open space easement lot to a residential single-family lot be denied because:

(1) A residence on Lot B will impinge upon and substantially degrade our view of the mountains;

(2) A residence on Lot B will deprive us, the neighborhood, and the public of a hiking/biking trail;

(3) Lot B is to remain open space until at least 2026 as per the Development Agreement signed by the County.

(4) Star Harbour has already lost significant open space due to the activities of JSSD on Lots A and C. The loss of Lot B as open space has the potential to put Star Harbour in violation of the County's 20% open space requirement.

(5) Redus does not have right to change Lot B from an open space easement lot to a single-family lot. The notation on the plat is "may", not "will" or "shall". Neither Redus nor the County has demonstrated that there is "good cause" to change the designation of Lot B. Neither Redus nor the County has demonstrated that there are any positive benefits except those that may accrue to Redus/Wells Fargo financially. But there are significant adverse effects to immediate neighbors, Fox Bay, Star Harbour, and the public at large, i.e., loss of viewshed, loss of hiking trail, loss of open space, and loss of snow repository. Moreover, there has been no offer to mitigate these losses.

(6) There is no place to locate a driveway on Lot B that would satisfy the 40-foot distance from an intersection requirement at Wasatch County Code §16.33.1. The proposed location of a driveway along our property line, the east end, -- even if it were possible -- would result in increased danger to us when exiting our driveway and to pedestrians in the crosswalk.

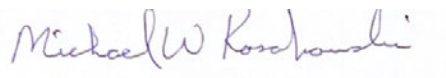
(7) Lot B is an extremely steep lot. Any driveway would have to traverse a slope of 57%, which exists along the Alpine Avenue frontage, and the entirety of the lot is either at or very close to a slope of 30%. County Code prevents building on slopes in excess of 30%.

(8) The issues associated with the existence of the two easements on Lot B have not been conclusively settled because the original grants of easement have not been made available and there is no way of knowing if there are other holders of the easements and/or Rocky Mountain Power is the most recent successor-in-interest. Moreover, the second easement on Lot B has not been addressed.

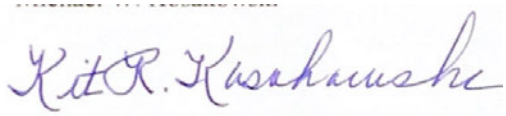
(9) We did not receive written notification of the August 12, 2021 Planning Commission meeting.

Thank you again for the opportunity to comment and your consideration of our comments.

Sincerely,



Michael W. Kosakowski



Kit R. Kosakowski
1671 Alpine Avenue
Heber City, UT 84032

Enclosures

Fox Bay

ENCLOSURE 17

Kosakowski November 8, 2022 Comments for November 10, 2022 Planning Commission Hearing
(w/o Enclosures)

November 8, 2022

Mr. Charles Zuercher, Chair
Wasatch County Planning Commission
55 S 500 E
Heber City, UT 84032

RE: Item #3, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment

Dear Mr. Zuercher:

This letter constitutes our written comments on Item #3, Star Harbour Estates Lot B - Redus Park City LLC – Minor Plat Amendment, to be considered by the Wasatch County Planning Commission ("Planning Commission") on November 10, 2022. These comments are made in addition to our July 5, 2021 comments and our August 9, 2021 comments submitted on the same proposal in the context of the July 8, 2021 and the August 12, 2021 meetings of the Planning Commission, and both sets of comments are incorporated by reference herein. Also incorporated by reference herein is the oral testimony presented at both the July 5, 2021 and the August 12, 2021 hearings.

As previously stated, our home is located next to Lot B in the Star Harbour Estates subdivision ("Star Harbour"). We have occupied our home since 2005, and we are among the first homeowners in the subdivision.

While we appreciate the opportunity to comment and look forward to your response to our comments and questions, we respectfully request that you deny Redus Park City LLC's ("Redus") request to amend the Lot B Plat designation from an open space easement parcel to a single-family residential parcel for the following reasons set forth below.

1. **The Staff Report contains several factual errors, any one of which is sufficient grounds for denying Redus's request.**

    a. <u>The Staff Report incorrectly identifies Star Harbour as containing thirty-four (34) lots.</u>

    Under the heading of "Project Summary", the Staff Report states that there are thirty-four (34) lots on the existing plat. This is incorrect. There are thirty-five (35) lots on the existing plat. If the Planning Commission approves the conversion of easement/open space Lot B to a residential lot, there will be thirty-six (36) lots in Star Harbour.

    This will result in a violation of both the density limitations set forth in the Jordanelle Specially Planned Area Plan Book ("Plan Book") as well as the current Star Harbour CC&R's. The Plan Book allows for only thirty-five (35) ERUs in Star Harbour (Enclosure 1), and the CC&R's allow for only thirty-five residential lots (See the Legal Description as well as sections 1.13 and 1.17 of the CC&Rs.) (Enclosure 2).

The existing plat also shows thirty-five (35) lots. Lot 33, the location of our home is at one end of Star Harbour on Alpine Ave and Lots 34 and 35 are at the other end of Alpine Ave. (See Packet Page Number 18 of the Staff Report.)

This error is a critical one in that it defeats Redus's proposal. The Planning Commission does not have the authority to grant additional ERU's beyond those shown in the Plan Book. Only Wasatch County Council ("County Council") has the authority to increase density by increasing the allowable ERUs, and County Council must do that by amending the Plan Book.

Similarly, the Planning Commission does not have the authority to add by fiat an additional residential lot to Star Harbour. As per the Utah Community Association Act (UCA §§57-8a-101 *et al.*) such an action can only be accomplished by amending the CC&R's, which in turn, can only be accomplished by the members of the Star Harbour Homeowners Association ("HOA"). Moreover, two-thirds of the members of the HOA would have to vote in favor of such an amendment.

b. <u>The Staff Report mistakenly relies on the note on the plat regarding Lot B as the sole reason that "good cause" exists for the amendment</u>.

UCA §17-27A-609 provides that the land use authority may approve a plat amendment if it finds that there is "good cause" for the amendment. The Staff Report correctly identifies Wasatch County Code ("WCC") §16.04.02 as articulating Wasatch County's standard of "good cause":

> *Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.*

Unfortunately, the Staff Report does not address any of the criteria called out in WCC §16.04.02. Instead, the Starr Report relies exclusively on Plat Note #4 as constituting the only "good cause" for granting Redus's request.

Plat Note #4 reads:

> Lot B is an easement for an existing utility transmission line. In the event, the overhead utility line is relocated to another location, then Lot B **may** [emphasis added] become a single-family lot, subject to review and approval by Wasatch County.

The Staff Report contains these two sentences:

First, under Staff Analysis - "The intent of the original subdivision approval put owners on notice and the County acknowledged the future conversion of the lot as such time as the easement would be released."

And second, item 5, under Potential Motion: "Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B."

This analysis misses the presence of the word, "may," in Note #4. The Staff incorrectly assumes that upon release of the easement, the conversion of Lot B is automatic. The presence of the word, "may," negates this assumption. The release of the easement is merely a threshold condition that allows the County to consider conversion of Lot B; it is not a dispositive condition. The Staff must proceed further and analyze the situation in the context of the criteria set forth in WCC §16.04.02. It failed to do this.

Even more fatally, the Staff Report was penned based on the assumption that the CC&Rs filed in 2001 are the current CC&Rs. That is not the case; the 2001 CC&Rs were completely replaced in 2008 (Enclosure 2).

The provision that provided for the conversion of Lot B, §12.14 by the Declarant, was removed in its entirety from the CC&R's in 2008. It reads in relevant part:

> *12.14 Contemplated Amendment of the Plat and this Declaration. Declarant hereby discloses that it is Declarant's intent, following the recording in the Office of the Recorder of Wasatch County, Utah of the Plat and this Declaration, to seek approval from the County to amend the Plat for the purpose of converting... Lot B from a utility easement parcel to a single family residential lot....The conversion of Lot B to single family residential use shall be conditioned upon Declarant arranging to relocate to another location satisfactory to the County the overhead power lines which presently exist on Lot B. All of the Owners of all of the Lots within the Subdivision, by acquiring title to any Lot within the Subdivision, shall be deemed to have consented to one or more amendments to the Declaration in order to...convert Lot B into a single family residential lot within the Subdivision...."*

Note #4 on the plat would only have meaning if §12.14 was still in existence; it is not. Section 12.14 was a reservation of rights by the Declarant. Having reserved the right to itself, no other entity but the Declarant possessed the right to seek to have Lot B converted.

Even if that reservation of right continues, it can only reside in the Declarant or in the HOA as the Declarant's successor-in-interest as defined in §1.11 of the CC&R's. Thus, even if Redus is the current owner of Lot B, Redus does not possess the right to even ask the County to convert Lot B.

Striking §12.14 from the CC&R's in 2008 contradicts the Staff Report's statement to the effect that the Star Harbour owners were on notice that the conversion of Lot B was

inevitable. In fact, the owners were on notice of exactly the opposite. The removal of section 12.14 signaled a change in intent on the part of the new Declarant, the HOA, to seek conversion of Lot B. By removing section 12.14, the HOA signaled that it did not intend to ever seek conversion of Lot B.

Because Redus does not have the right to ask the County to grant permission to convert Lot B, the County should never have accepted the application in the first place and the Planning Commission had no jurisdiction to act on the application.

It should be noted that this defect was pointed out to Austin Corry of the Planning Department in an e-mail dated August 16, 2021 (Enclosure 3) and in a formal letter to Chuck Zeurcher, the Chair of the Planning Commission, in correspondence dated August 17, 2021 (Enclosure 4). These transmittals were triggered by the testimony of Doug Ogilvey of Redus and Redus's attorney, Wade Budge, at the August 12, 2021 hearing to the effect that §12.14 prohibited Mike Kosakowski and me from opposing the conversion of Lot B. That Messrs, Ogilvey's and Budge's assertions were highly prejudicial to us is evidenced by the dunning remarks made by Doug Grandquis at the close of the hearing.

It's hard to understand how the Staff Report could continue to rely exclusively on Note #4 given the information that was presented in the August 2021 transmittals to Mr. Corry and Mr. Zeurcher. But perhaps the answer lies in the fact that in his reply e-mail Mr. Corry stated that he "didn't thoroughly read through the rest of your email because it appears to be related to private CC&Rs…" and Mr. Zeurcher replied not at all.

c. The statement in the Staff Report, "It is not anticipated that the action would affect the neighboring landowners negatively" is false.

We are the neighboring landowners, and we have testified as to the negative effects to us, the subdivision, and the public. Linda O'Donnell, President of the Fox Bay Homeowners Association, has testified as to the negative effects on Fox Bay. To summarize,

- Lot B is an open space lot and is so identified in the Development Agreement. Converting Lot B to a residential lot deprives us, Star Harbour, Fox Bay and the community of open space. Such a conversion will result in a negative impact to the above-named entities.

- Lot B contains a double-track dirt road, which in connection with trails on adjacent parcels, form a trail system that is used by us, residents of Fox Bay, residents of Star Harbour, and the public. Loss of this trail will result in a negative impact to the above-named entities.

- Fox Bay uses Lot B as a snow repository during the winter. Eliminating this repository would have a negative effect on Fox Bay as no other place to deposit snow exists near Fox Bay.

- The construction of any structure on Lot B will negatively impact us as Lot B's neighbor in that it will destroy our unobstructed view of the Deer Valley ski hills.

2. **Wasatch County's legal position that CC&R's are private contracts that do not concern the County is inconsistent with County Code.**

We have been in numerous public hearings before the County's two planning commissions and Count Council during which issues that relate to HOAs' CC&Rs were summarily dismissed and ignored based on Jon Woodard's assertion that CC&Rs are private contracts that do not concern the County. Mr. Corry re-iterated this position in his August 16, 2021 email. As noted above, he didn't think he had any obligation to address our concerns because they "appear[ed] to be related to private CC&s…[and] the County does not regulate private CC&Rs…" (Enclosure 3).

This position is not consistent with County Code. There are many provisions in the County Code that demonstrate that the County does indeed concern itself with CC&Rs and the business of HOAs. For example, as per §§11.08.05, 11.08.07, 16.21.45 and 16.21.46, the County will not issue permits for short term rentals unless short-term rentals are permitted in the CC&Rs. Section 16.16.11 requires CC&Rs to prohibit the addition of inexpensive decks or balconies in the North Village Overlay. Section 16.21.18 requires CC&Rs to provide for the funding of trails. And most telling, §1.41.09 mandates the formation of a Master Association in the JSPA and compels that Master Association to enter into CC&Rs that are consistent with the terms and conditions of the County's own Implementation Guidelines and Standards.

This position is also not consistent with the Planning Department's own policy that it won't approve a design for a structure on a lot within an HOA unless the HOA has signed off on the design.

3. **Wasatch County's legal position that CC&R's are private contracts that do not concern the County is related to potential violations of the contracts clause of both the U.S. and Utah Constitutions.**

Over the years, we have seen many land use applications granted even though requests were not consistent with and in many instances led to violation of CC&Rs. As demonstrated above, this will certainly be the case if the Planning Commission approves Redus's request.

While the County absolved itself of any responsibility to enforce CC&Rs when it enacted WCC §16.01.17[1], it cannot take positive actions that would lead to the violation of CC&Rs by itself or others.

Article I, Section 10 of the U.S. Constitution states that no state shall pass any Law impairing the obligation of contracts. Article 1, Section 18 states that no law impairing the obligation of contracts shall be passed.

[1] WCC §16.01.17 states "Enforcement of private covenants, conditions and restrictions shall not be the responsibility of Wasatch County."

CC&Rs are undoubtedly contracts among private parties. If the County to consciously and proactively promotes the violation of CC&Rs by its decision-making, it impairs those contracts and accordingly violates both the U.S. and Utah Constitutions prohibitions against the impairment of contracts.

4. **Wasatch County Council, not the Wasatch County Planning Commission, is the land use authority in this matter because the Redus proposal is not a minor plat amendment.**

As per Wasatch County Code ("WCC") §16.01.05 Wasatch County Council ("County Council") is the default land use authority in Wasatch County. The Wasatch County Planning Commission ("Planning Commission") is the land use authority only in certain limited situations, including minor plat amendments. The Wasatch County Planning Department (hereinafter, "Planning Department") has billed the conversion of Lot B in Star Harbour from an open space easement lot to a single-family residential lot as a minor plat amendment, but it does not fit into any of the criteria identified in WCC §16.01.05(A)(2). The criteria are:

§16.01.05(A)(2)(a) -- Combining two or more lots, all of which are owned by the same owner, and none of which have been dedicated for public use, common use, or a similar designation;

Converting Lot B is not a combining of two or more lots owned by the same owner; Lot B is a single lot. Moreover, Lot B contains has been designated as open space in the Star Harbour Development Agreement and has been so used since Star Harbour came into being.

§16.01.05(A)(2)(b) -- Modification of plat title, notes, or labels so long as they were not placed on the plat due to findings or conditions adopted by the Wasatch County legislative body;

Converting Lot B is not a modification of a plat title, note, or label. While Redus and the Planning Department are relying on a note on the Star Harbour plat, they are not modifying the note, and their reliance is based on a misplaced effort to divorce the plat from the Star Harbour governing documents.

§16.01.05(A)(2)(c) -- Plat Amendments applied for and signed by all property owners in the original subdivision and that do not increase density or significantly affect the layout of infrastructure, open space, or common areas;

Converting Lot B has not been applied for and signed by all property owners in Star Harbour. Indeed, Redus has not consulted with the Star Harbour HOA at all in this effort. Moreover, the conversion does increase density, and it does affect open space.

§16.01.05(A)(2)(d) -- Changes to a building envelope consistent with Wasatch County Code.

Converting Lot B is not connected to changing a building envelope.

Since none of the criteria listed in section 16.01.05(A)(2) has been met, converting Lot B from an open space easement lot to a single-family lot is not a minor plat amendment. Therefore, the Planning Commission is not the land use authority. County Council is the land use authority.

5. **Wells Fargo may not be the rightful owner of Lot B.**

When Talisker Corporation ("Talisker") came to the Park City area in 2002, and it acquired the holdings of United Park City Mines in 2003. A portion of Talisker's several developments in the Park City area was financed by Wells Fargo. At some point, financial troubles overtook Talisker, and ultimately on April 15, 2005, the Third District Court ordered Talisker to pay Wells Fargo approximately $160M.[2]

Redus is an organizational unit of Wells Fargo tasked with collecting the $160M from Talisker.

Talisker responded by executing several quitclaim deeds on behalf of United Park City Mines relative to United Park City Mines property. See for example, Entry No 447604, Bk 1213, Pg. 291, which transferred certain United Park City Mines Keetley Road properties to Wells Fargo on November 16, 2017.

Wells Fargo came to have what it believes is an interest in Lot B, Lots 34 and 35, and the detention pond lot within the Star Harbour subdivision, as well as the Commerce Park Parcel lot due to these quitclaim deeds. Additionally, the County GIS mapping system shows Redus as the owner of slope along Old Keetley Road behind Star Harbour Lots 17, 18, 19, 31, 32, 34, and 35.

But United Park City Mines did not own these parcels; they were not theirs to transfer to Redus/Wells Fargo. In the 2001- and 2002-time frame; it sold these parcels to Blue Ledge Corporation, the developer of Star Harbour and Fox Bay, and the entity that obtained the original approvals for the Commerce Park parcel.

Redus tried to assert an ownership interest in Lots 34 and 35 in Star Harbour, which are currently owned by Gary and Elvia Hennings and Robert Buie, respectively. Ultimately, Redus acknowledged that United Park City Mines quitclaimed an interest in property it did not own and Redus quitclaimed Lots 34 and 35 to Mr. and Mrs. Hennings (Enclosure 5) and Mr. Buie, respectively.

If United Park City Mines erroneously quitclaimed Lots 34 and 35 to Redus, might it not have also erroneously quitclaimed Lot B, the detention pond lot and the Commerce Park parcel?

Certainly, it is odd that the detention pond lot, which is undeniably part of the Star Harbour subdivision, was sold by Wells Fargo as part of the Commerce Park parcel. And it is clear that the notice of tax sale for Lot B was not sufficient. A large billboard was erected at the corner of Alpine Ave and the Jordanelle Parkway to advertise the sale of the Commerce Park parcel. An 81/2 x 11 sheet of typing paper was wrapped around itself on the post of the 20 mph sign to announce the sale of Lot B.

6. **Neither Redus nor the County responded to most of our previous comments on the same proposal, and we are re-submitting these comments with this transmittal.**

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[2] See Entry 411013, Bk 1127, Pgs 703-712.

As noted above, we are incorporating our previous two sets of comments into the record of this decision-making (Enclosures 6 and 7). These comments are summarized below:

a. The sufficiency of the release provided by Rocky Mountain Power (See Comment #2 of the July 5, 2021 Comment Letter and Comment #1 of the August 9, 2021 Comment Letter.)
b. The fact that the Star Harbour Development Agreement identifies Lot B as an open space parcel (See Comment #4 of the July 5, 2021 Comment Letter and Comment #2 of the August 9, 2021 Comment Letter.)
c. Lot B is not a buildable lot (See Comment #7 of the July 5, 2021 Comment Letter and Comment #2d of the August 9, 2021 Comment Letter.) We provided a great deal of evidence at the August 9, 2021 hearing that the slope of Lot B exceeds 30% and that it is not possible to locate a driveway without violating WCC §16.33.11. The Report of Action from the August 12, 2021 states that the Planning Commission's approval is condition, *inter alia*, on the Engineering Department's finding that a driveway is possible and the lot can be buildable under applicable codes. More than a year has passed since the original approval, and it should now be possible to have an answer to the concerns raised by us relative to whether Lot B is a buildable lot.
d. Detrimental reliance on representations made by County officials (See Comment #4 of the August 9, 2021 Comment Letter.)
e. No "good cause" exists to convert Lot B (See Comment #3 of the August 9, 2021 Comment Letter.)

7. We did not receive written notice of the November 19, 2021 Planning Commission meeting.

The Staff Report states that Wasatch County Code requires notice to be sent to all property owners within a plat, as well as property owners within 500 feet of a plat amendment. We received no written notice of the November 10, 2022 Planning Commission meeting. Redus's proposal cannot be granted in the absence of adequate notice.

8. Summary

Again, we respectfully request that the Planning Commission deny Redus's request to convert Lot B from an open space easement lot to a residential single-family lot be denied because:

a. County planning documents allow for a density of only 35 ERUs in Star Harbour, and Star Harbour currently has thrity-five (35) residential lots. Granting Redus's request will result in thirty-six residential units or ERUs in Star Harbour, which is a violation of the County's planning documents.

b. Similarly, Star Harbour's CC&Rs allow for only thirty-five residential lots, and that number may not be increased except by amending the CC&Rs. The CC&Rs have not been so amended. Granting Redus's request will result in a violation of the CC&Rs, which may constitute a violation of both the U.S. and Utah Constitutions contracts clauses.

c. Redus may not be the rightful owner of Lot B. Even if it is the rightful owner, it does not possess the right to seek conversion of Lot B. That right was reserved by the Declarant to itself in 2001. Redus is neither the Declarant or the Declarant's successor-in-interest. Moreover, the right to convert Lot B no longer exists because it was removed from the CC&Rs in 2008. This deprives the Planning Commission of jurisdiction.

d. The Planning Commission does not have jurisdiction because it is not the land use authority in this matter because Redus's proposal does not meet the criteria of a minor plat amendment.

e. No "good cause" has been presented to convert Lot B. In fact, many adverse effects to us, Fox Bay, Star Harbour and the public will accrue from the conversion of Lot B.

f. As per the Development Agreement, Lot B is to remain as open space until at least the expiration of the Developmentn Agreement.

g. It has not been demonstrated that Lot B is a buildable lot.

h. Notice of the November 10, 2022 meeting was not in accordance with the law.

Thank you again for the opportunity to comment and your consideration of our comments.

Sincerely,

Michael W. Kosakowski

Kit R. Kosakowski

Kit R. Kosakowski
1671 Alpine Avenue
Heber City, UT 84032

LIST OF ENCLOSURES

1. Jordanelle Specially Planned Area Plan Book – page B-6
2. Current Star Harbour CC&Rs – 2008
3. August 16, 2021 Exchange of Emails between Kit Kosakowski and Austin Corry, Planning Department
4. Augusut 17, 2021 Correspondence to Chuck Zuercher, Chair, Planning Commission
5. Redus Quitclaim Deed Concerning Lot 34 in Star Harbour
6. Comments submitted by Kit and Mike Kosakowski dated July 5, 2021
7. Comments submitted by Kit and Mike Kosakowski dated August 12, 2021.

ENCLOSURE 18

Planning Department November 8, 2022 Staff Report and Planning Commission Report of Action

Wasatch County Planning Commission
November 10, 2022

Item #3

Star Harbour Estates Lot B
-Redus Park City LLC-

Minor Plat Amendment

PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

WASATCH COUNTY
Planning Commission Staff Report
Plat Amendment

ITEM 3 Redus Park City LLC requests approval of a Minor Plat Amendment to Star Harbour Estates which was previously approved under project DEV-4196, but which approval expired, in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-7213; Austin Corry)

PROJECT SUMMARY

Applicant: Redus Park City LLC (Doug Ogilvy)
Hearing Date: 10 November 2022
Property Owner(s): Redus Park City LLC
Related Applications: Final Subdivision (2001), Plat Amendment Approval – Expired (2021)

Existing Zone: JBOZ
Existing Land Use: Vacant
Existing Plat: 34 Lots and Open Space on 35.54 acres
Lots Affected: Lot B

BACKGROUND

The applicant is seeking to amend the Star Harbour Estates Subdivision Plat to convert Lot B to a residential parcel. The existing plat and approvals previously encumbered this lot with a utility easement for powerline infrastructure that was anticipated to be relocated or removed later on. That relocation has occurred and the owner now seeks to remove the easement from the plat. This request was approved in August 2021, but the applicant failed to present a mylar for recording or request an extension to the approval within the timeline required under Wasatch County Code 16.01.16. All of the conditions of approval were satisfied by the applicant, including the additional notes required from JSSD and the verification of constructability of a driveway through the engineering department. The only condition that was not met was the timeline for recording.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. State law requires a public hearing to amend any plat when the amendment is not signed by all the owners within the plat being amended. At the time of this report, no objections have been received in response to the notices sent.

Utah Code § 17-27a-609 allows the County to approve a plat amendment if the County finds that: (a) there is good cause for the vacation, alteration, or amendment; and (b) no public-street, right-of-way, or easement has been vacated or altered.

KEY ISSUES TO CONSIDER

- Lot B is 0.82 acres.
- The amendment will remove a utility easement that results in Lot B becoming a buildable lot.
- The utility company owning the easement has provided a written release of easement confirming no further interest in encumbering the lot.
- Previous approval for the subdivision stipulated that the lot could be converted in the future.

STAFF ANALYSIS

– GOOD CAUSE –

Wasatch County Code 16.04.02 has defined "good cause" as:

"Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County."

Staff has reviewed the plat amendment and finds the proposal complies with the need to meet "good cause" as required by State Law. It is not anticipated that the proposed action would affect the neighboring landowners negatively. The intent of the original subdivision approval put neighbors on notice and the County acknowledged the future conversion of the lot at such time as the easement would be released. Plat note #4 of the existing plat states *"Lot 'B' is an easement for an existing overhead utility transmission line. In the event that the existing overhead utility transmission line is relocated to another location, then Lot 'B' may become a single family lot, subject to review and approval by Wasatch County."*

– PUBLIC RIGHT-OF-WAY OR EASEMENTS –

No public-street, right-of-way, or easement is proposed to be vacated or altered by this amendment. The UPL easement has been authorized by Rocky Mountain Power for release.

DEVELOPMENT REVIEW COMMITTEE

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for the Planning Commission to render a decision.

POTENTIAL MOTION

Move to *Approve* the request consistent with the findings and conditions presented in the staff report.
Findings:

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL has provided a release of easement for the utility easement.
5. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B.
6. No public or private roads are being vacated as part of this plat amendment.
7. This proposed revision conforms to the Wasatch County development standards.
8. The proposal is consistent with Utah Code § 17-27a-609.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

10. The proposal was heard and approved by the Planning Commission in August 2021, but the mylar was not recorded prior to the expiration deadlines in Wasatch County Code.
11. No changes to applicable laws have occurred in the last year that would affect the ability to approve the project as it was previously heard and approved.

Conditions:

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.

ALTERNATIVE ACTIONS

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the Plat Amendment is compliant as proposed with Wasatch County Code and all other applicable ordinances.

2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that issues can be resolved prior to final approval.

3. Continue. This action can be taken if the Planning Commission needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.

4. Recommendation for Denial. This action can be taken if the Planning Commission finds that the proposal does not meet the intent of the ordinance.

EXHIBITS

A. Vicinity Plan
B. Existing Subdivision Plat
C. Proposed Plat Amendment
D. DRC Report
E. Release of Easement
F. August 2021 ROA (Previous Approval)

EXHIBIT A – Vicinity Plan

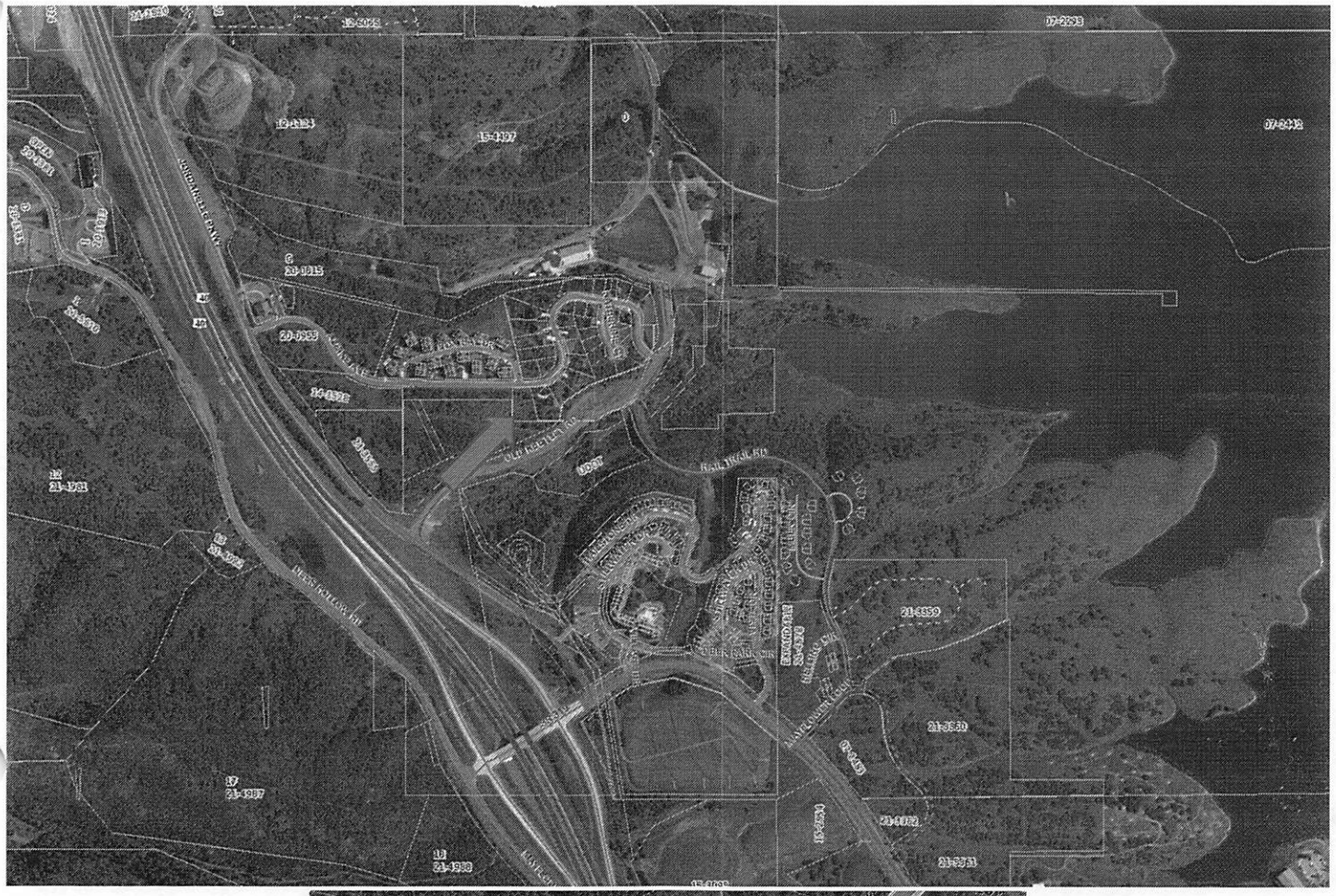


EXHIBIT B – Existing Subdivision Plat

FIRST AMENDED RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN WASATCH COUNTY, UTAH

SURVEYOR'S CERTIFICATE

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGMENT

PARCEL 1 - BOUNDARY DESCRIPTION

PARCEL 2 - BOUNDARY DESCRIPTION

NOTES

VICINITY MAP

SECTION LOCATION MAP

RECORDED 234415

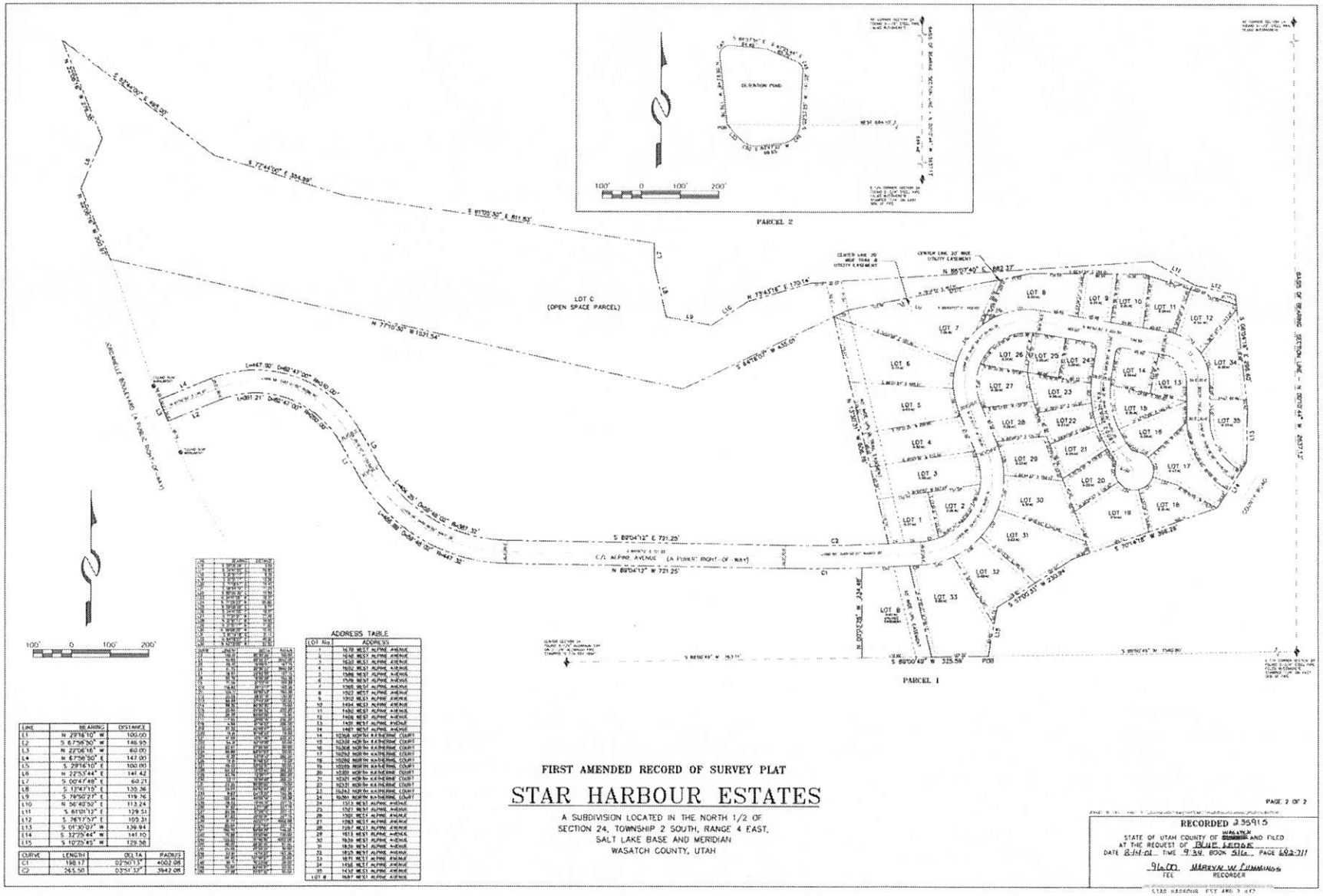

PARCEL 2
DETENTION POND
LOT C
(OPEN SPACE PARCEL)
PARCEL 1
C/L ALPINE AVENUE (A PUBLIC RIGHT-OF-WAY)
N 89°04'12" W 721.25'
S 89°04'12" E 721.25'
POB
ADDRESS TABLE
LOT No
ADDRESS
FIRST AMENDED RECORD OF SURVEY PLAT
STAR HARBOUR ESTATES
A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH
PAGE 2 OF 2
RECORDED 235915
STATE OF UTAH COUNTY OF WASATCH AND FILED
AT THE REQUEST OF BLUE LEDGE
DATE 8-14-01 TIME 9:39 BOOK 516 PAGE 692-711
9.00 MARVIN W. CUMMINGS
FEE RECORDER

EXHIBIT C – Proposed Plat Amendment

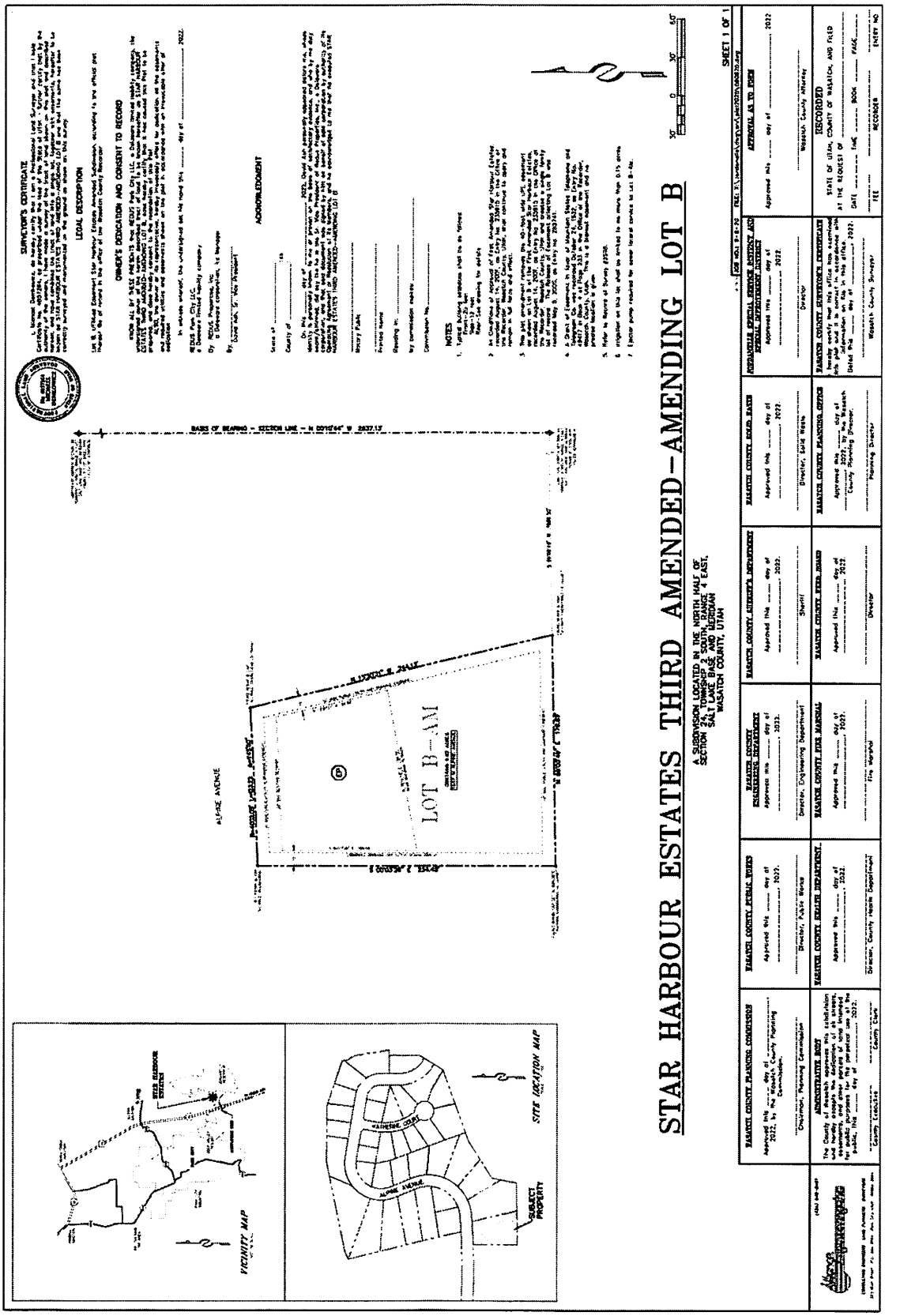


EXHIBIT D – DRC Report

Wasatch County Design Review Committee (DRC) Comments

Project ID: DEV-7213
Project Name: Plat Am - Star Harbor Lot B - ReApproval
Vesting Date: 10/20/2022
Review Cycle #: 1

Review Cycle Status: Ready For Decision

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Weed Department	Ready for Decision
Manager's office	Ready for Decision
County Surveyor	Ready for Decision
Planning Department	Ready for Decision
Public Works Department	Ready for Decision
Building Department	Ready for Decision
Health Department	Ready for Decision
Engineering Department	Ready for Decision
Fire SSD	Ready for Decision
Jordanelle SSD	Ready for Decision
GIS Department	Ready for Decision
Assessor's Office	No Action Taken
Sheriff's Office	No Action Taken
Recorder's Office	No Action Taken

Ready for Decision = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

Changes Required = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

No Action = Reviewing entity has not taken any action for the review cycle.

Overall Project Comments

Project Document Sheet Comments by Reviewing Entity

DRC – Planning Dept		
Comment ID	**Sheet Name**	**Comment**
DRC-PLN1	02b - Amended Plat	Should include a note 8 "Lot B-Am shall be subject to the Star Harbour Estates CC&Rs as a single family residence."

DRC - Surveyor Office		
Comment ID	**Sheet Name**	**Comment**
DRC-SUR1	02b - Amended Plat	We will send this plat forward but reserve the right to review the final signed plat.

EXHIBIT E – Release of Easement

Ent 505042 Bk 1368 Pg 1512-1514
Date: 04-AUG-2021 1:59:47PM
Fee: $40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: PACIFI CORP

Return to:
Rocky Mountain Power
Matt Janke / Agent
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name: Star Harbour Estates
WO#:
RW#:

RELEASE OF EASEMENT

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain easement described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

Legal Description: An easement shown as a 40' Wide UPL Easement across Lot 1, Lots 3-7, Lot B (including Note 4 of the plat, which states "Lot B is an easement for an existing overhead utility transmission line . . . ," which transmission line has been relocated), and Lot C of the Star Harbour Estates First Amended Subdivision located in the N1/2 of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, said Subdivision recorded as Entry 235915, Book 516, Pages 692-711, on August 14, 2001, in the Office of the Recorder of Wasatch County, Utah.

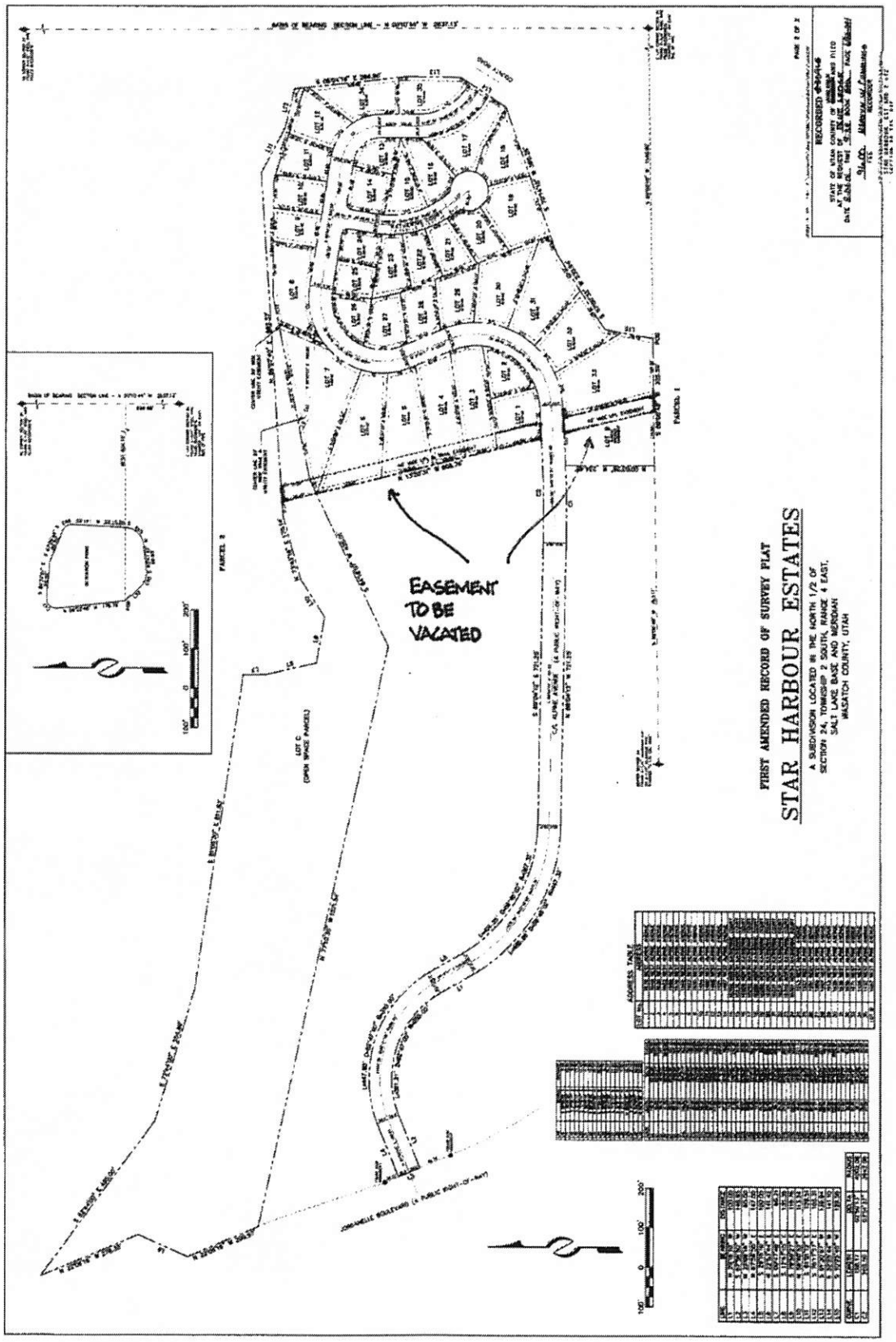
Assessor Parcel Nos. 00-0020-0815, 00-0020-0814, 00-0020-0780, 00-0020-0782, 00-0020-0783, 00-0020-0784, 00-0020-0785, 00-0020-0786

DATED this 14 day of July, 2021.

Rocky Mountain Power
an unincorporated division of PacifiCorp

By: Matthew Janke
Sr. Property Agent

REV101512



Ent 505042 Bk 1368 Pg 1514

Exhibit A

EXHIBIT F – August 2021 ROA (Previous Approval)

Wasatch County Planning Commission

Report of Action

12-August-2021

Commissioner Zuercher was present as Chair.

ITEM #5 – Redus Park City LLC requests a Minor Plat Amendment to Star Harbour Estates in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). Continued from the July 8, 2021 meeting. (DEV-4196; Austin Corry)

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

APPLICANT AND PUBLIC COMMENT

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Doug Ogilvy, applicant, mentioned that in addition to what has been presented, the CC&R's also mention that the lot would be turned into a building lot and that no owner of property within the subdivision has the ability to protest the development of the lot.
- Mike Kosakowski mentioned that his wife Kit is on zoom and would like to comment.
- Kit Kosakowski joined by zoom and presented her points shared in a document sent electronically to the Planning Commission. She stated that they live right next door to the property. She felt that good cause has not been met. She believes that the easement should be made part of the record and wanted to be sure that the easement did not have rights for other utility companies.
- Ms. Kosakowski stated again that good cause has not been met. The property is referred to as open space in the development agreement, there are trails on the property that are used by the public, and there will be a loss of their view.
- Ms. Kosakowski contested that Lot B is not a buildable lot because it is greater than 30% slope. She believes that the slopes are up to 57% and there is no place to put a driveway. The driveway will conflict with the cross walk. There are too many houses now and we do not need one more.
- Linda O'Donnell, former president of Fox Bay HOA, noted that the original agreement is valid until 2026 that should keep this open and no decision should be made until that expires. Also, slopes are too steep, traffic is bad, and snow removal is a problem.
- Wade Budge, attorney for REDUS, stated that the CC&R's state that the lot would become a buildable lot when the easement was not needed and that owner's cannot protest this.
- *[PUBLIC COMMENTS SUBMITTED ELECTRONICALLY TO THE PLANNING COMMISSION HAVE BEEN ATTACHED TO THIS ROA].*

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner McMillan asked about the driveway and if it could meet code. Mr. Corry replied that he couldn't verify that because it doesn't fall under his review, but would assume that engineering considered that during the DRC review. Mr. Corry noted that conversion of the lot does not guarantee a building permit.
- Jon Woodard addressed a question form Chair Zuercher regarding the easement and its validity.
- Commissioner Grandquis asked about the development agreement and the reference to the open space parcels. Jon felt that this piece is not designated as open space. He was also asked if they (the planning commission) were required to approve this. Jon answered that they would need to make a finding of good cause and there is no requirement to approve it.

MOTION

Commissioner McMillan made a motion to approve the proposal with all the conditions and findings in the staff report with the addition of condition #5 as discussed.

Commissioner Rigby seconded the motion.

VOTE **(5 TO 0)**

Charles Zuercher	**AYE**	NAY	ABSTAIN	Doug Grandquis	**AYE**	NAY	ABSTAIN
Wendell Rigby	**AYE**	NAY	ABSTAIN	Kimberly Cook	**AYE**	NAY	ABSTAIN
Karl McMillan	**AYE**	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

Additional Report of Action for item previously continued after a public hearing or other discussion: 7/8/2021 – Item 1

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement.
5. The council may approve the amendment of a plat if the council finds that:
   (a) there is good cause for the amendment; and
   (b) no public street or county utility easement has been vacated or amended. UCA 17-27a-609(1)
6. No public or private road, or County Utility Easements are being vacated as part of this plat amendment.
7. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
8. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.
9. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.
10. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showing Parcels A and C as open space, but contain no similar notes or labels regarding Parcel B, indicating an intent that Parcel B not be treated as Open Space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on Parcel C, not showing open space throughout the project.
11. This proposed revision conforms to the Wasatch County development standards.
12. The proposal is consistent with Utah Code § 17-27a-609.
13. The Development Review Committee has reviewed the project and provided a favorable recommendation.

CONDITIONS

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
2. Note 6 regarding irrigation limits from the previous plat shall be added to the amended plat or additional water rights supplied to satisfy JSSD.
3. An approved water action report shall be provided by the applicant that reflects the water right resolution.
4. A signature block be added for Planning Commission per Wasatch County Code 16.27.12.
5. The approval is subject to review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes.

Charles R. Zuercher

Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

Wasatch County Planning Commission

Report of Action

10-November-2022

Commissioner Zuercher was present as Chair.

ITEM #3 - Redus Park City LLC requests approval of a Minor Plat Amendment to Star Harbour Estates which was previously approved under project DEV-4196, but which approval expired, in order to convert Lot B from a utility easement parcel to a single family residential lot located at 1647 W Alpine Avenue in Section 24, Township 2 South, Range 4 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-7213; Austin Corry)

STAFF PRESENTATION - The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

- Austin Corry went through a presentation after Kit Kosakowski and addressed Ms. Kosakowski's specific points.
- Austin went through the specific findings and conditions including the findings the Planning Commission last made when the proposal was before them in August 2021.

APPLICANT AND PUBLIC COMMENT - Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Kit Kosakowski addressed the commission. Kit mentioned that the amendment would violate county density. Kit showed the density shown in the County JSPA plan book and stated that it would violate that as well as the CC&R's.
- Kit stated that REDUS did not have the right to convert lot B to itself since they are not the original declarant and the right was removed from the CC&R's.
- Kit stated that section 12.14 no longer exists so the ability to vacate the easement and create the lot is no longer possible.
- Kit presented a number of negative impacts if the plat amendment is approved.
- Kit stated that this proposal cannot be considered a minor plat amendment.
- Kit stated that the issues that were raised when the amendment was originally approved have not been addressed.
- Kit stated that they respectfully ask that the item be denied.
- Doug Ogilvy was asked why the plat was not recorded in a timely manner. Doug stated that they had issues with notes on the plat and paying some JSSD fees.
- Commissioner Hendricks asked a number of questions to staff and Kit Kosakowski as well as the applicant Doug Ogilvy.

PLANNING COMMISSION DISCUSSION - Key points discussed by the Planning Commission included the following:

- Commissioner Hendricks asked Jon Woodard about the utility easement and the quit claim deed signed by Rocky Mountain Power.
- Jon Woodard addressed the commission and stated that they do not enforce CC&R's which the County is typically not a party to.
- Commissioner Brubaker asked about the density and what overlay this was approved under. It was stated that this was approved under the JBOZ and is not part of the JSPA.

MOTION

Commissioner McMillan made a motion to approve the proposal with all the findings and conditions as presented by staff. Commissioner Hendricks seconded the motion.

VOTE (5 TO 0)

Charles Zuercher	**AYE**	NAY	ABSTAIN	Doug Grandquis	**AYE**	NAY	ABSTAIN
Scott Brubaker	**AYE**	NAY	ABSTAIN	Karl McMillan	**AYE**	NAY	ABSTAIN
Mark Hendricks	**AYE**	NAY	ABSTAIN				

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

1. The subject property is 0.82 acres.
2. The existing plat states that Lot 'B' may be converted in the event the overhead transmission line is relocated.
3. The overhead transmission line has been located to the west of the subject property.
4. UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement.
5. No public or private roads are being vacated as part of this plat amendment.

6. Good cause is defined as providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.
7. Good cause for the amendment exists by acknowledgement of the original plat intent for Lot B to become a buildable lot if the utility line is vacated.
8. Good cause exists because the character of the neighborhood will be preserved by allowing a non-buildable parcel that is of similar size as other buildable lots in the subdivision to be developed like those other similar properties, and in accordance with notes from the original plat which gave recorded notice that this lot could be developed.
9. Good cause exists by bringing the plat into conformity with the Development Agreement and Plats showings parcels A and C as open space, but contain no similar notes or labels regarding parcel B, indicating an intent that parcel B not be treated as Open Space. While Exhibit C to the Development Agreement shows an open space label on the property, the exhibit is only for purposes of showing the trails on parcel C, not showing open space throughout the project.
10. This proposed revision conforms to the Wasatch County development standards.
11. The proposal is consistent with Utah Code § 17-27a-609.
12. The Development Review Committee has reviewed the project and provided a favorable recommendation.
13. The proposal was heard and approved by the Planning Commission in August 2021, but the mylar was not recorded prior to the expiration deadlines in Wasatch County Code.
14. No changes to applicable laws have occurred in the last year that would affect the ability to approve the project as it was previously heard and approved.

CONDITIONS

1. The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.

Charles R. Zgerelee

Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff. those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

ENCLOSURE 19

Kosakowski November 14, 2022 Request for Buildability Analysis and November 15, 2022 Reply from County

From: **Austin Corry** acorry@wasatch.utah.gov
Subject: RE: Star Harbour Lot B
Date: November 14, 2022 at 4:23 PM
To: Kit Kosakowski krkphd@gmail.com
Cc: Mike Kosakowski utahkos@gmail.com

AC

Kit,

Attached is the ROA from last week's hearing from the Planning Commission. It appears that you've done your research on the code for appeal procedures. We would follow any processes, including timelines, outlined in the applicable codes. The instruction for applications are available on our webpage here. I'm not very familiar with how the portal looks from the applicant side, but our office specialist is. If you are having trouble finding things as you are working through the online application, you are welcome to contact Amy at our front desk.

Since the discussion regarding the engineering decision was already had during the Planning Commission meeting where you were in attendance, I would refer you to the recording of that meeting. Since I don't have any purview over the engineering department, it would be inappropriate for me to provide any further interpretations of their codes and processes.

Regards,

Austin Corry, PLA, AICP
Wasatch County Planning Department
35 South 500 East
Heber City, UT 84032
435.657.3205

From: Kit Kosakowski <krkphd@gmail.com>
Sent: Monday, November 14, 2022 7:58 AM
To: Austin Corry <ACorry@wasatch.utah.gov>
Cc: Mike Kosakowski <utahkos@gmail.com>; Jon Woodard <JWoodard@wasatch.utah.gov>; Doug Smith <dsmith@wasatch.utah.gov>
Subject: Star Harbour Lot B

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Austin –

I want to thank you again for being willing to retrieve my laptop. That was very considerate of you.

I also want to make sure that I am clear on the appeal procedure to the Board of Adjustment. There used to be a discrepancy between section 2.02.02 and 16.02.09 of the Code. Section 2.02.02 said 10 days to appeal, and section 16.02.09 said 30 days to appeal. In looking at the sections over the weekend, it appears that the discrepancy has been removed, and the time to appeal is 30 days. Therefore, interested parties have until Monday, Dec 12, 2022, to appeal the Planning Commission's November 10, 2022 decision regarding Lot B in Star Harbour. Is that correct?

Please forward a copy of the Planning Commission's ROA concerning Lot B as soon as it is available.

Looking at section 2.02.02(G)(5)(c), must I separately appeal the decision made by the Engineering Department relative to the buildability of Lot B (slope and driveway issues) and must I file that appeal within ten (10) days of November 10, 2022, which I calculate to be Monday, November 21, 2022 because November 20, 2022 falls on a Sunday, with the County Manager?

Please forward a copy of the Engineering Department's decision and analysis relative to Lot B ASAP. It was not included in the package made available to the public for the November 20, 2022 meeting.

I understand that the Planning Department prefers that appeals be filed electronically. Although the portal was difficult for me to work with in the past, I'm happy to do that. I already have an account, and I signed on over the weekend to see if the portal interface had changed and it might be easier to work with. I didn't see an option in the menu relative to a BOA appeal. As I recall, it is hidden behind another menu option, but I don't remember which one. If you could provide some information/instruction on how to interface with the portal, I would appreciate it.

Finally, as a point of clarification – someone (I think it was you, but it might have been Jon Woodard) testified at the November 10 meeting that Star Harbour had never applied to become part of the JSPA. That's not correct. Star Harbour applied to be part of the JSPA on July 8, 2016 (Attch 1).

We had several meetings with County officials, and the application was made in accordance with the advice and instructions provided by Craig Chambers, Jon's predecessor in the County Attorney's office, Travis Hair, your predecessor in the Planning Department and Doug Smith (Attch 2). On July 26, 2016, Doug informed Star Harbour that the Panning Department would not process the Star Harbour JSPA application and imposed four new conditions, which were not in the law, which Star Harbour could not meet, and which had not been imposed others, i.e., East Park (Attch 3).

Thanks in advance for providing the answers to the questions above and for providing copies of the Planning Commission's ROA and the Engineering Department's analysis.

Sincerely,

Kit Kosakowski

PC Motion ROA 11-10-2022 - Item 3 - Star Harbour Lot B.pdf

ENCLOSURE 20

Kosakowski November 14, 2022 GRAMA Request and County Response

From: openrecordsportal@utah.gov
Subject: Your records request has been submitted
Date: November 15, 2022 at 7:12 AM
To: krkphd@gmail.com

Request Title:
Documents Related to Lot B Buildability Determination

Submitted To:
Wasatch Co.

Submission Date:
11/15/2022 07:12 50

Submitted By:
Kit Kosakowski

Records Officer:
Barry Hallows
bhallows@wasatch.utah.gov
435-657-3192

Text of Request:

***

Please note that the time limit does not start until the records officer receives (opens) the request.

Thank you.

Open Records Portal Team
openrecordsadmin@utah.gov
openrecords.utah.gov

***

Please do not respond to this email. For questions, email the Portal Administrator at openrecordsadmin@utah.gov

From: openrecordsportal@utah.gov
Subject: Request Received
Date: November 15, 2022 at 9:46 AM
To: krkphd@gmail.com

Kit Kosakowski,

Your request, "Documents Related to Lot B Buildability Determination," has been successfully received by the records officer for Wasatch Co.. The due date assigned to your request is 11/30/2022.

If you have any questions, you may contact the records officer by logging in to the Open Records Portal, opening your request, and clicking "Contact Records Officer."

Thank you.

Open Records Portal Team
openrecords.utah.gov

****

Questions? Help is available!
GRAMA questions: grama@utah.gov
Website questions: openrecordsadmin@utah.gov

From: **Barry Hallows** bhallows@wasatch.utah.gov
Subject: FW: GRAMA
Date: November 15, 2022 at 4:40 PM
To: Kit Kosakowski krkphd@gmail.com

BH

Kit,
Please see the attached as response to your recent request.

Regards,

Barry Hallows
Wasatch County
Deputy Auditor
435 657-3192

-----Original Message-----
From: Amy Graves <AGraves@wasatch.utah.gov>
Sent: Tuesday, November 15, 2022 4:06 PM
To: Barry Hallows <bhallows@wasatch.utah.gov>; Natalie D. Foster <NFoster@wasatch.utah.gov>; Doug Smith <dsmith@wasatch.utah.gov>
Subject: RE: GRAMA

Attached is the Staff Report from 11-10-2022. The documents and records referenced are included in the Exhibits.

Amy Graves
Wasatch County Planning Dept
35 S 500 E
Heber City UT 84032
(435) 657-3205

-----Original Message-----
From: Barry Hallows <bhallows@wasatch.utah.gov>
Sent: Tuesday, November 15, 2022 3:16 PM
To: Natalie D. Foster <NFoster@wasatch.utah.gov>; Doug Smith <dsmith@wasatch.utah.gov>; Amy Graves <AGraves@wasatch.utah.gov>
Subject: RE: GRAMA

-----Original Message-----
From: Barry Hallows <bhallows@wasatch.utah.gov>
Sent: Tuesday, November 15, 2022 10:05 AM
To: Doug Smith <dsmith@wasatch.utah.gov>; Amy Graves <AGraves@wasatch.utah.gov>; Natalie D. Foster <NFoster@wasatch.utah.gov>
Subject: GRAMA

Hi All.
Please see the attached request and let me know if you have the information for it.

Thank you.

Barry Hallows
Wasatch County
Deputy Auditor
435 657-3192

-----Original Message-----
From: NoReply@wasatch.utah.gov <NoReply@wasatch.utah.gov>
Sent: Tuesday, November 15, 2022 10:01 AM
To: Barry Hallows <bhallows@wasatch.utah.gov>
Subject: Scanned from a Xerox Multifunction Printer

PC Staff Report 11-10-2022 - Item 3 - Star Harbour Estates Lot B...

ENCLOSURE 21

Kosakowski November 18, 2022 WCC §2.02.02 Appeal to County Manager (w/o Enclosures)

DELIVERED BY E-MAIL AND BY HAND

November 18, 2022

Mr. Dustin Grabau
Manager, Wasatch County
25 N. Main Street
Heber City, UT 84032

RE: Appeal of that Portion of the Administrative Decision Applying the Wasatch County Engineering Department Code made by Wasatch County Planning Commission on November 10, 2022 Relative to Item #3 Star Harbour Estates Lot B

Dear Mr. Grabau:

On November 10, 2022, the Wasatch County Planning Commission ("Planning Commission") granted Redus Park City LLC ("Redus") request to convert Lot B in Star Harbour Estates, which is an open space easement lot, into a residential lot. We are appealing that portion of the decision which applied Engineering Department Code of the Wasatch County Code ("WCC"). Specifically, we are appealing the determination that Lot B is a buildable lot.

This appeal is made in accordance with WCC §2.02.02(G)(5)(c) which provides that appeals from administrative decisions applying the Engineering Department Code are to be filed in the office of the County Manager within ten (10) of the date the county official issues the administrative decision. Moreover, this appeal must be completed before appealing to the Board of Adjustment ("BOA"). If necessary, we will be appealing other aspects of Planning Commission's decision, but this appeal to you tolls the thirty-day (30) deadline for appealing to the BOA.

The Planning Commission held three meetings on Redus's application. These meetings were held on July 8, 2021 (Enc 1), August 12, 2021 (Enc 2), and November 10, 2022 (Enc 3). While the application was approved on August 12, 2021, Redus failed to meet the deadline for filing the mylar, thus re-opening the decision-making process and triggering the November 10, 2022 Planning Commission meeting.

We submitted written comments prior to and provided oral testimony at all three meetings. The written comments are dated July 5, 2021 (Enc 4), August 9, 2021 (Enc 5), and November 8, 2022 (Enc 6). All three sets of comments questioned whether Lot B was a buildable lot, and there was extensive discussion during the August 12, 2021 meeting on the buildability issue. It should also be noted that on more than one occasion we have been told by county officials that Lot B is not a buildable lot because the slope makes it inaccessible from Alpine Ave.

Our August 9, 2021 comments (Enc 5), which were the most detailed and extensive on the buildability issue, are summarized below:

1. Lot B is not a buildable lot because its slope equals or exceeds 30%

WCC §16.27.9 reads: “Slopes over thirty percent (30%) are not considered buildable. Lots must have a minimum of five thousand (5,000) square feet of contiguous area under thirty percent (30%) natural slope excluding slope irregularities as defined in 16.04. Any lot with a slope over 30% shall include building envelopes or constrained areas on the final plat.”

WDD §16.04.02 defines BUILDABLE ENVELOPE: A three-dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty percent (30%) slope or less.

We have measured the inclination at several locations on Lot B; it ranged from 20 degrees to 35 degrees, which is a slope of 34% to 57%. The Alpine Avenue frontage is uniformly and especially steep; it is in the 57% range. Also, a back-of-the-envelope calculation based on Redus’s 2020 survey results in a “rise over run” of 72 feet over 240 feet along the Fox Bay property line to yield a slope of 30%.

2. Lot B is not a buildable lot because it is not possible to locate a driveway to comply with the requirements of WCC §16.33.11.

WCC §16.33.11 requires driveways to be located a minimum of 40 feet from an intersection and ten feet from a lot line. Utah Code §41-6a-102(28)(a) defines "Intersection" as “the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another…” In many jurisdictions, the intersection of two roads is deemed to begin where the double yellow lines cease, i.e., where drivers may legally begin to turn. Driveways for double car garages should be a minimum of 20 feet wide and more comfortably 24 feet wide.

The center of Lot B is directly opposite Fox Bay Drive. This is clear from Exhibit A – Vicinity Plan of all three Staff Reports. The photos enclosed with our August 9, 22021 comment letter (Enc 6) show the relationship between the Alpine Avenue frontage of Lot B and Fox Bay Drive. Photo 1 shows the Alpine Avenue frontage Lot B property line. The property line between our home and Lot B, the east end, is at the 20 mph sign. The property line between the Fox Bay property on the south side of Alpine Ave and Lot B, the west end, is at the vertical white line. Photos 2 and 3 show a close up of the west end stake and its location relative to the double yellow line and the Fox Bay Avenue curb. Photo 4 shows spatial relationship between the east end boundary, the crosswalk, the double yellow line, and the Fox Bay Drive curb.

The distance between the property line at the 20 mph sign, the east end, and the cross walk, which is also the distance between the property line and the end of the double yellow line, is 42 feet and the distance to the curb is 63 feet. The distance between the property line at the stake, the west end, and the end of the double yellow line is one foot, and the distance between the property line at the stake and the curb is 20 feet.

20-foot-wide driveway 10 feet off the property line at the east end of Lot will be within 12 feet of the crosswalk and 33 feet of the curb, which marks the beginning of the intersection. It is not possible to locate a driveway without violating Wasatch County Code §16.33.11, i.e., it is not possible to locate a driveway 40 feet from the intersection of Alpine Ave and Fox Bay Drive.

And the addition of a new driveway, especially at the east end of Lot B, will represent an added danger to pedestrians in the crosswalk as well as to us when we exit our driveway onto Alpine Ave. Already, we frequently must brake because a vehicle speeds out of Fox Bay Drive in front of us. This danger will be compounded because a driveway adjacent to ours will be in a blind spot for us due to the presence of trees and other vegetation.

It should also be noted that a Lot B driveway has the potential to interfere with the storm drain on Alpine Avenue and that Fox Bay will lose its snow repository.

The Record of Action ("ROA") issued by the Planning Commission on August 12, 2021 conditioned its approval on "review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes." (See Condition #5 on page 13 of Enc 3.)

The Staff Report issued by the Planning Department on November 2, 2022 stated, "All of the conditions of approval were satisfied by the applicant, including…verification of constructability of a driveway through the engineering department." (See page 1 of Enc 3.) However, the Staff Report presents no analysis or other document prepared by either the Design Review Committee or the Engineering Department that demonstrates that Lot B is a buildable lot from either the perspective of slope or driveway placement. It simply presents a one-line entry in tabular form on page 8 of 13 of Enc 3, which reads, "Engineering Department – Ready for Decision".

On November 14, 2022, Kit Kosakowski requested a copy of the Design Review Committee/Engineering Department buildability analysis from the Planning Department. The November 15, 2022 reply e-mail did not provide any such analysis (Enc 5). To be on the safe side, Ms, Kosakowski also submitted a GRAMA request for the same document. On the same day, the Planning Department responded to the GRAMA request by providing a copy of the document that Ms. Kosakowski already had and had submitted as part of her GRAMA request, i.e., the November 2, 2022 Staff Report (Enc 3) (Enc 6).

It can only be concluded that no analyses or documentation as to the buildability of Lot B exists and that none of the data that we presented at the August 12, 2021 meeting has been refuted or disproven by the Design Review Committee or the Engineering Department.

Also, §16.01.16(G) provides that any time any approval expires under §16.01.16, which it has relative to the Redus application, all prior approvals also expire. Even if an analysis or document was prepared by the Design Review Committee and/or the Engineering Department, which demonstrated that Lot B is a buildable lot and the Design Review Committee and/or the Engineering Department approved the Redus application based on that analysis or document, that approval has expired. It did not carry over to the November 10, 2022 Planning Commission

meeting. Everyone, Redus, the applicant, the Planning Department, the Design Review Committee/Engineering Department, the Planning Commission, and the public should have been back to square one. The process should have started over again with Redus re-applying to the Planning Department.

We respectfully request that you reverse and vacate the decision of the Design Review Committee/Engineering Department that Lot B is a buildable lot because:

(1) the Design Review Committee/Engineering Department has not demonstrated that Lot B is a buildable lot either from the perspective of slope or placement of a driveway;

(2) the buildable envelope is not identified on the plat; and

(3) even if the Design Review Committee/Engineering Department had rightfully approved the Redus's application on the basis that Lot B is a buildable lot that approval has expired pursuant to WCC§16.01.16(G).

Thank you in advance for your attention to this matter.

Sincerely,

Michael W. Kosakowski

Kit R. Kosakowski

Kit R. Kosakowski
1671 Alpine Ave
Heber City, UT 84032

cc: Austin Corry, Planning Department (via e-mail only)
Doug Smith, Planning Department (via e-mail only)

Enclosures

LIST OF ENCLOSURES

1. Planning Department July 8, 2021 Staff Report
2. Planning Department August 12, 2021 Staff Report
3. Planning Department November 2, 2022 Staff Report
4. Written comments submitted by Michael and Kit Kosakowski dated July 5, 2021 (w/o Enclosures)
5. Written comments submitted by Michael and Kit Kosakowski dated August 9, 2021
6. Written comments submitted by Michael and Kit Kosakowski dated November 8, 2022 (w/o Enclosures)
7. Planning Commission November 10, 2022 Record of Action
8. E-mail Exchange between Kit Kosakowski and Austin Corry, November 14, 2022 and November 15, 2022
9. GRAMA Request and GRAMA Response dated November 16, 2022

ENCLOSURE 22

January 23, 2023 Ardurra Report

ARDURRA

January 25, 2023

Dustin Grabau
County Manager
Wasatch County
25 N Main
Heber City, UT 84032

SUBJECT: Star Harbor Lot B – Appeal

Dear Mr. Grabau,

We understand that Mr. Michael W. Kosakowski and Kit R. Kosakowski have submitted an appeal of the Wasatch County Planning Commission November 10, 2022 decision to grant Redus Park City LLC's request to convert Lot B in Star Harbour Estates Subdivision from an open space easement lot to a single-family residential lot. The original approval carried the planning department ID of DEV-7213. We were requested to contribute more information describing our review and professional opinion of the plat amendment (DEV-7213). This letter details our review process and professional opinion regarding this application considering those issues raised in the appeal. It would extensively raise time and costs, and would turn every DRC review into an extensive report if we detailed our analysis of every issue and rule, we consider in the course of reviewing an application as part of the DRC.

In the appeal request letter, the applicant expresses concern that the site is too steep. There are a couple of items which the applicant may be referring to, which we considered as part of our review of DEV-7213. The first being the County code restriction against building on slopes over 30% slopes (WCC 16.27.25.A). When subdivisions are being built, roadways frequently have side slopes behind the curb and gutter or sidewalk as steep as 3H:1V (33%) which daylight to natural grade. In situations where the roadway cut and fill slopes have been stabilized, or when the road was constructed before current code standards, these slopes may be steeper. Based on an analysis of aerial imagery and LIDAR for Alpine Avenue, this appeared to explain the grade on Lot B. There is also an existing dirt access road currently crossing through the lot. The construction of this road/trail likely also affected the native slopes on the lot. Man- made slopes do not carry the same concern of mass movements that native slopes would. In analyzing the slop issue, we presumed that the site building envelope would be re-graded for the home.

Any plans for or analysis of slope stabilization would need to be taken care of upon building permit application.

The other concern regarding site slopes would be the site accessibility. There are many homes in Wasatch County subdivisions whose driveway access points cut through cut and fill slopes constructed for the road the lot fronts on. We completed a rough concept grading plan for a driveway on Lot B using the record of survey submitted upon application to the DRC. Although potentially costly in design and construction, it appeared that with the construction of (3) 4-6' walls, a driveway to the site is buildable. This is especially true if the architect employs a home design with a walkout basement and a garage on the top level (if allowable per HOA and County codes). Our design did not employ this method but rather built a driveway approach to the building pad assuming a conventional home design.

Another concern discussed by the appeal is that the placement of the lot across from the intersection with Fox Bay Drive creates a hazardous situation. We were aware of several nearby examples of lots built in similar circumstances. Some even had the same situation as Lot B's where the intersecting roadway is on a downhill slope toward the lot. Some examples included 1280 Hailstone Drive, 9988 Vista Drive, and 337 E Big Dutch Drive. Additionally, the frontage of Lot B was long enough that the driveway access could be placed on the E side of the lot, therefore being offset from the intersection. We demonstrated this in our concept plan attached, which details our previous DRC analysis.

To minimize disturbance to the native vegetation and effect on the hillside, a building envelope was included on the plat to confine the construction of a residence to the front half of the lot (approximately). This building envelope was not included in the initial submission of the plat amendment that was approved by the county in 2021.

It was our professional opinion that the Lot B Plat Amendment meets County code and industry standards of care. Our assessment indicated that the lot is buildable. Please let us know if you have any questions or desire further comments on this topic.

Sincerely,

Ardurra Group

Dillon Bliler, PE (UT)
Project Engineer

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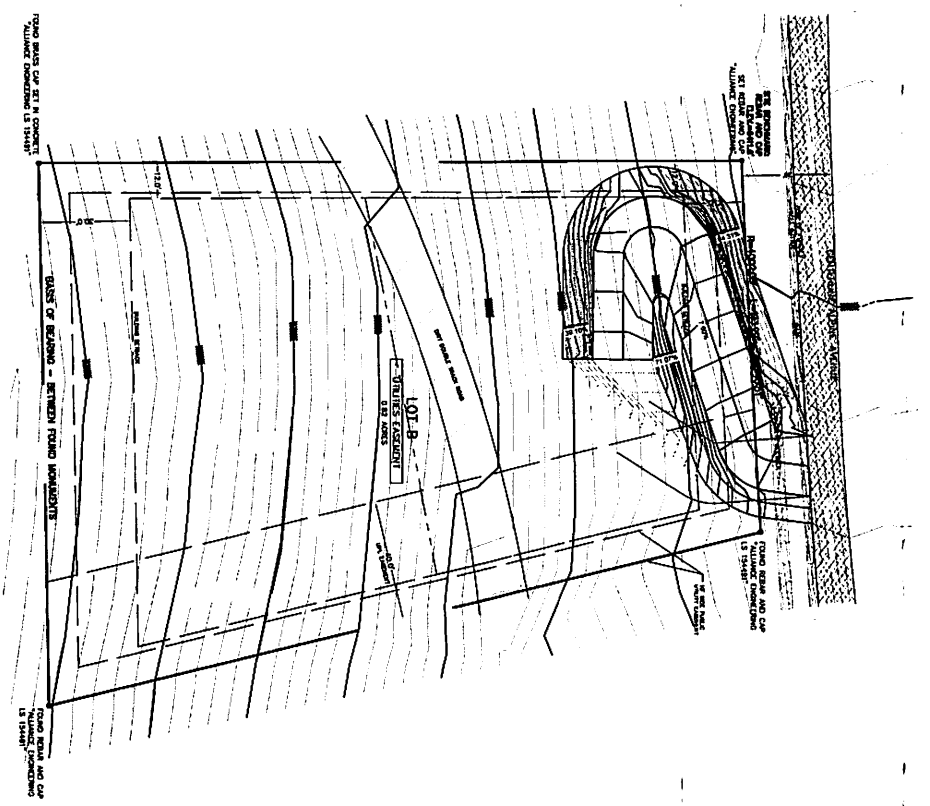


CONCEPT ONLY - NOT TO BE USED FOR DESIGN OR CONSTRUCTION PURPOSES

WASATCH COUNTY

STAR HARBOR LOT B APPEAL

CONCEPT DRIVEWAY GRADING

ARDURRA
3471 S. TITANIUM PLACE
MERIDIAN, IDAHO 83642
208-323-2288 | WWW.ARDURRA.COM

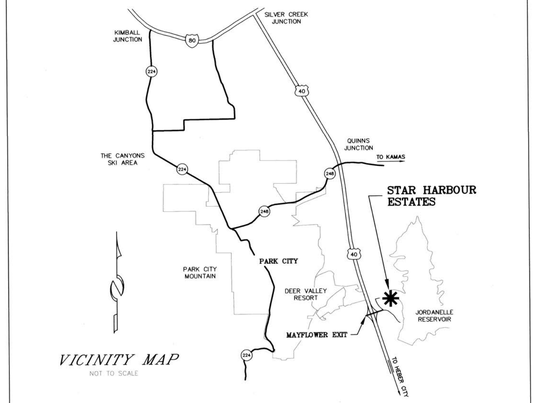
REVISIONS			
NO	DESCRIPTION	DATE	BORDER SIZE 22"x34"
			DESIGNED N/A
			DRAWN DJB
			CHECKED N/A
			APPROVED N/A

ATTENTION
IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

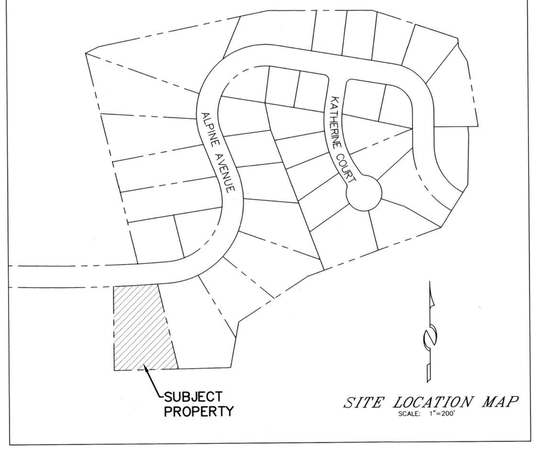
DATE
PROJECT 22214
SHEET 1.0

ENCLOSURE 23

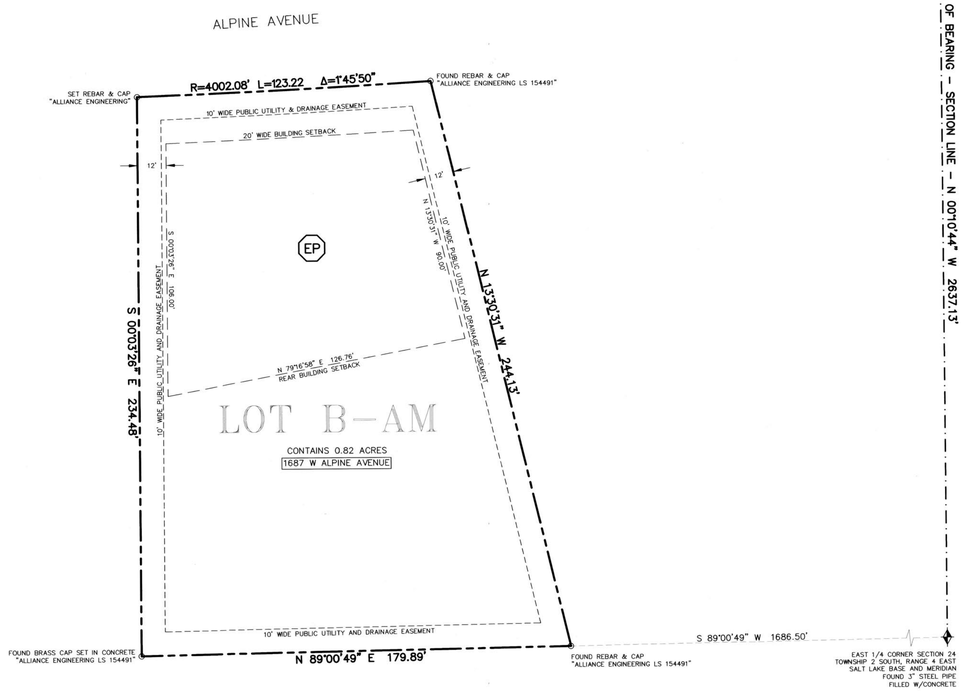
LOT B PLAT AMENDMENT
MARCH 14, 2023



VICINITY MAP
NOT TO SCALE



SITE LOCATION MAP
SCALE: 1"=200'



SURVEYOR'S CERTIFICATE

I, Michael Demkowicz, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 4857264, as prescribed under the laws of the State of Utah. I further certify that by the authority of the owners, I have made a survey of the tract of land shown on this plat and described hereon, and have combined the tract of land into a single lot, together with easements, hereafter to be known as STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B and that the same has been correctly surveyed and monumented on the ground as shown on this survey.

PROFESSIONAL LAND SURVEYOR — No. 4857264 — MICHAEL DEMKOWICZ — 9/16/22 — STATE OF UTAH

LEGAL DESCRIPTION

Lot B, Utilities Easement Star Harbour Estates Amended Subdivision, according to the official plat thereof file of record in the office of the Wasatch County Recorder.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that REDUS Park City LLC, a Delaware limited liability company, the undersigned owner of the herein described tract of land to be known hereafter as STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner or its representative, hereby irrevocably offers for dedication all the easements and required utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this 23rd day of August, 2022.

REDUS Park City LLC,
a Delaware limited liability company

By: REDUS Properties, Inc.,
a Delaware corporation, its Manager

By: _____
David Ash, Sr. Vice President

ACKNOWLEDGMENT

State of California :
County of Contra Costa : ss.

On this 23rd day of August, 2022, David Ash personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn/affirmed, did say the he is the Sr. Vice President of Redus Properties, Inc., a Delaware corporation, and that said document was signed by him on behalf of said corporation by authority of its Operating Agreement or Resolution of its Members, and he acknowledged to me that he executed STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B.

_____
Notary Public
Jennifer Labra
Printed Name
Residing in: Alamo, CA.
My commission expires: 12/27/2025
Commission No. 2388438

J. LABRA — COMM. # 2388438 — NOTARY PUBLIC - CALIFORNIA — SANTA CLARA COUNTY — MY COMMISSION EXPIRES DECEMBER 27, 2025

NOTES

1. Typical building setbacks shall be as follows:
   Front–20 feet
   Side–12 feet
   Rear–See drawing for details
2. All Conditions of Approval of First Amended Star Harbour Estates, recorded August 14, 2001, as Entry No. 235915 in the Office of the Recorder, Wasatch County, Utah, shall continue to apply and remain in full force and effect.
3. This plat amendment removes the 40–foot wide UPL easement as shown on Lot B of the First Amended Star Harbour Estates, recorded August 14, 2001, as Entry No. 235915 in the Office of the Recorder, Wasatch County, Utah and creates a single family lot of record. The Release of Easement affecting Lot B was recorded May 5, 2005, as Entry No. 282741.
4. A Grant of Easement in favor of Mountain States Telephone and Telegraph Co. was recorded October 24, 1932, as Entry No. 49417 in Book 4 at Page 233 in the Office of the Recorder, Wasatch County, Utah. This is a blanket easement and no precise location is given.
5. Refer to Record of Survey #3598.
6. Irrigation on this lot shall be limited to no more than 0.15 acres.
7. Ejector pump required for sewer lateral service to Lot B–AM.
8. LOT B-AM SHALL BE SUBJECT TO THE STAR HARBOUR ESTATES CC&RS AS A SINGLE FAMILY RESIDENCE.

30' 0 30' 60'

STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B

A SUBDIVISION LOCATED IN THE NORTH HALF OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

SHEET 1 OF 1

9/16/22 JOB NO.: 9-8-20 FILE: X:\Jordanelle\dwg\srv\plat2020\090820.dwg

WASATCH COUNTY PLANNING COMMISSION
Approved this 9 day of SEPTEMBER, 2022, by the Wasatch County Planning Commission.
Chairman, Planning Commission

WASATCH COUNTY PUBLIC WORKS
Approved this 8TH day of September, 2022.
Director, Public Works

WASATCH COUNTY ENGINEERING DEPARTMENT
Approved this 6th day of OCTOBER, 2022.
Director, Engineering Department

WASATCH COUNTY SHERIFF'S DEPARTMENT
Approved this 16th day of September, 2022.
Sheriff

WASATCH COUNTY SOLID WASTE
Approved this 15 day of Sept, 2022.
Director, Solid Waste

JORDANELLE SPECIAL SERVICE DISTRICT AND SPECIAL IMPROVEMENT DISTRICT
Approved this 14th day of October, 2022.
Director

APPROVAL AS TO FORM
Approved this 6th day of Sept, 2022.
Wasatch County Attorney

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

ADMINISTRATIVE BODY
The County of Wasatch approves this subdivision and hereby accepts the dedication of all streets, easements, and other parcels of land intended for public purposes for the perpetual use of the public, this 4 day of March, 2023
County Executive — County Clerk

WASATCH COUNTY HEALTH DEPARTMENT
Approved this 12th day of October, 2022.
Director, County Health Department

WASATCH COUNTY FIRE MARSHAL
Approved this 20 day of September, 2022.
Fire Marshal

WASATCH COUNTY WEED BOARD
Approved this 19th day of September, 2022.
Director

WASATCH COUNTY PLANNING OFFICE
Approved this 21st day of Feb, 2023, by the Wasatch County Planning Director.
Planning Director

WASATCH COUNTY SURVEYOR'S CERTIFICATE
I hereby certify that this office has examined this plat and it is correct in accordance with information on file in this office.
Dated this 3rd day of March, 2023.
Wasatch County Surveyor

RECORDED
STATE OF UTAH, COUNTY OF WASATCH, AND FILED AT THE REQUEST OF REDUS PARK CITY LLC
DATE 14-MAR-2023 TIME 1:40 PM BOOK 1436 PAGE 1200
$52.00 FEE — MARCY M. MURRAY RECORDER — 530473 ENTRY NO.

ENCLOSURE 24

FIRST AMENDMENT TO THE SECOND AMENDED CC&RS
DECEMBER 13, 2023

Ent 539780 Bk 1461 Pg 310-318
Date: 13-DEC-2023 1:25:02PM
Fee: $96.00 Check Filed By: LA
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION

When Recorded Return to:

MORRIS DEVOE
7070 South Union Park Avenue Suite 220
Midvale, UT 84047

FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR STAR HARBOUR ESTATES

&

BY-LAWS OF STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC.

RECITALS

A. Certain real property in Wasatch County, Utah, known as Star Harbour Estates, a Utah Subdivision and planned unit development, is or was subjected to certain covenants, conditions, and restrictions and plats, as set forth in paragraphs B through F, below.
B. Declarant, Blue Ledge Corporation, Inc., previously executed that certain document entitled Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates dated May 3, 2001, which was recorded in the Office of the Wasatch County Recorder on June 7, 2001, as Entry No. 233951 in Book 506 at Pages 675 through 709.
C. A Record of Survey Plat of Star Harbour Estates was recorded in the Office of the Recorder of Wasatch County, Utah on June 7, 2001, as Entry No. 233950 in Book 506 at Pages 655-674.
D. An Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates and Bylaws of Star Harbour Estates Homeowners' Association, Inc., dated August 16, 2001, which was recorded in the office of the Wasatch County Recorder on August 20, 2001, as Entry No. 236098 in Book 517 at Pages 421 through 458 inclusive.
E. On August 14, 2001, that certain First Amended Record of Survey Plat of Star Harbour Estates was recorded in Book 516 at Pages 692-711 in the Office of the Recorder of Wasatch County, Utah as Entry No. 235915.
F. On November 12, 2008, the Association caused to be recorded the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates, a Utah Subdivision (the "**Second Amended Declaration**") in the Office of the Wasatch County Recorder as Entry No. 341641 in Book 976 at Pages 1560-1592.
G. On October 13, 2010, the Owners of Lot 10 caused to be recorded in the Office of the Wasatch County Recorder the Record of Condominium Map. First Amended Lot 10. First Amended Star Harbour Estates. Alpine Condominiums of Jordanelle. a Utah Condominium Project as Entry No. 363463 in Book 1022 at Pages 639-668.

H. On October 13. 2010, the Owners of Lot 10 caused to be recorded in the Office of the Wasatch County Recorder the Declaration of Condominium for Alpine Condominiums of Jordanelle as Entry No. 363464 in Book 1023 at Pages 669-716.
I. On August 8, 2017, a survey plat of Star Harbour Estates First Amended — Amending Lot 34 was recorded as Entry No. 442155 in Book 1199 at Pages 1857-1866.
J. A Star Harbour Estates Lots 8 & 9 Amended plat will be recorded contemporaneously with this First Amendment to the Second Amended And Restated Declaration Of Covenants, Conditions, and Restrictions for Star Harbour Estates & By-Laws of Star Harbour Estates Homeowners Association, Inc., ("First Amendment"). The approval and recording of the Lots 8 & 9 Amended Plat is a condition of the recording of this First Amendment.
K. This First Amendment is adopted to effectuate a solution to existing discrepancies in CC&R's regarding Lots 8 and 9.

NOW THEREFORE, in consideration of the foregoing Recitals, the Association hereby executes this First Amendment, which shall be effective as of the date of its recording in the office of the Wasatch County Recorder.

AMENDMENT

1. Article I, Section 1.7 of the Second Amended Declaration is amended to replace the existing language with:

   1.7 "Condominiums" shall mean and refer to the Alpine Condominiums of Jordanelle, and the structures and land sited on Lot 10, as depicted on the Lot 10 Plat.

   (Existing Language – For Reference Only)

   1.7 "Condominiums" shall mean and refer to the Alpine Condominiums of Jordanelle, and the structures and land sited on former Lots 8, 9 and 10 in the Amended Survey Plat.

2. Article I, Section 1.13 of the Second Amended Declaration is amended to replace the existing language with:

   1.13 "Dwelling" shall mean the single family residential structure built or to be built on each Lot, and with respect to Lot 10, the term shall mean the two-unit residential condominium structure built on that Lot.

   (Existing Language – For Reference Only)

   1.13 "Dwelling" shall mean the single family residential structure built or to be built on each Lot, except for former Lots 8, 9 and 10, and with respect to former Lots 8, 9 and 10, the term shall mean the residential condominium structures of the Alpine Condominums at Jordanelle built on those Lots.

3. The first sentence of Article I, Section 1.17 of the Second Amended Declaration is amended to replace the existing language with:

"Lot" shall mean and refer to any of the 35 separately numbered and individually described residential lots as shown on the Amended Plat, which residential lots are designed and intended for use and occupancy as a single family residence, except for Lot 10, which is designed and intended for a two-unit condominium.

(Existing Language with Amended Sentence Underlined – For Reference Only)

1.17 "Lot" shall mean and refer to any of the 32 separately numbered and individually described residential lots as shown on the Plat, which residential lots are designed and intended for use and occupancy as a single family residence, and the parcel created by the vacation of Lots 8, 9, and 10 to create the Alpine Condominiums of Jordanelle. Lot B, Lot C and the Parcel 2 Detention Pond, as shown on the Plat, shall not be included within the definition of "Lot," unless this Declaration and the Plat are amended to identify all or any portion of Lot B, Lot C or the Parcel 2 Detention Pond as numbered residential lots.

4. The first two sentences of Article III, Section 3.3 of the Second Amended Declaration are amended to replace the current sentences with:

The Owner of each Lot shall be entitled to (1) vote for each Lot owned. The owners of Alpine Condominiums of Jordanelle shall be entitled to (1) vote to be voted by the Alpine Condominiums of Jordanelle Owners Association, Inc.

(Existing Language with Amended Sentence Underlined – For Reference Only)

3.3 Votes. The Owner of each Lot, other than the vacated Lots 8, 9 and 10, shall be entitled to one (1) vote for each Lot owned. The Owners of Alpine Condominiums of Jordanelle shall be entitled to three (3) votes to be voted by the Alpine Condominiums of Jordanelle Owners Association, Inc. The number of votes appurtenant to each Lot shall be permanent and shall not change. In the event that there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. The votes cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote pertaining to any such Lot shall not be counted for any purpose whatsoever, other than to determine the existence of a quorum. Except as otherwise expressly set forth in this Declaration or in the Bylaws, all decisions by the Owners shall be effected by a majority vote of all the Owners.

5. Article IV. Section 4.2 of the Second Amended Declaration is amended to replace the existing language with:

4.2 Estate of an Owner. The Project is hereby divided into the 35 residential Lots, including Lot 10 which is the Alpine Condominiums of Jordanelle, and also Lot B, Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of fee simple interests.

(Existing Language -- For Reference Only)

4.2 Estate of an Owner. The Project is hereby divided into the 32 residential Lots, the Alpine Condominiums of Jordanelle and also Lot B, Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of a fee simple interest.

6. Article V, Section 5.2.2 of the Second Amended Declaration is amended to replace the last sentence of this section with:

The effect of such apportionment shall be that the percentage of Common Expenses apportioned to each single family Lot shall be equal and the portion of the Common Expenses apportioned to all of the Alpine Condominiums of Jordanelle shall be the same as the portion allocated to a single family Lot.

(Existing Language with Amended Sentence Underlined -- For Reference Only)

5.2.2 Apportionment. Common Expenses shall be apportioned among and assessed to all Lots and their Owners in accordance with the following formula: The portion of the Common Expenses assessed to each Lot shall be a fraction, the numerator of which is the number of votes allocated to such Lot for purposes of voting at any meeting of the Association, and the denominator of which is the total of all of the votes allocated to all of the Lots within the Project for voting at a meeting of the Association. The effect of such apportionment shall be that the percentage of Common Expenses apportioned to each single family Lot shall be equal, and the portion of the Common Expenses apportioned to all of the Alpine Condominiums of Jordanelle shall be three (3) times as much as the portion allocated to the single family Lots.

7. The second sentence of Article II, Section 2.8 of the Bylaws is amended to replace the existing sentence with:

   The Alpine Condominiums at Jordanelle Owners' Association, Inc. shall be entitled to one (1) vote and the owners of the Condominium Units shall not be entitled to vote.

   (Existing Language with Amended Sentence Underlined -- For Reference Only)

   2.8 Voting Rights. With respect to each matter presented to the Members, including the election of Trustees, each Member who owns a Lot shall be entitled to cast one vote for each Lot that such Member owns on all matters presented to the Members for approval. The Alpine Condominiums of Jordanelle Owners' Association, Inc. Shall be entitled to six (6) votes. If a Lot is owned by more than one person or entity, then such persons or entities must decide among themselves how the vote for such Lot shall be cast. In the event that a Lot is owned by multiple owners and only one of the multiple owners is present at a meeting, the other multiple owners who are not present shall he deemed to have consented to the owner who is present voting the interests of that Lot. In the event of Lots held subject to trust deeds or mortgages, the trustor or mortgagor will be entitled to vote, and the lender shall have no right to vote; provided however, that when a lender has taken possession of any Lot, the lender shall be deemed to have succeeded to the interest of the trustor or mortgagor, and shall then be entitled to cast the vote.

8. The second sentence of Article III, Section 3.1 of the Bylaws is amended to add the words "as amended" after the words "Restated Declaration of Covenants. Conditions and Restrictions of Star Harbour Estates" and before the parenthetical "(the "Second Amended Declaration")"

   (Existing Language with Amended Sentence Underlined -- For Reference Only)

   3.1 General Powers. The Board of Trustees shall have authority to manage and control the property and affairs of the Association. The Board of Trustees may exercise all powers conferred upon them by law, by the Articles of Incorporation, by these By-Laws and by the terms of the Second Amended and Restated Declaration of Covenants. Conditions and Restrictions of Star Harbour Estates (the "Second Amended Declaration"), provided however, that those powers which are specifically reserved to the Members in these By-law or in the Articles of Incorporation shall be exercised only by the Members. The Board may delegate its powers to officers, managers, or to such others as are appropriately delegated.

IN WITNESS THEREOF. I certify that the vote required by Article XII, Section 12.7 of the Second Amended Declaration and the vote required by Article VI of the Bylaws has occurred for the approval of this FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR

HARBOUR ESTATES. A UTAH SUBDIVISION & BY-LAWS OF STAR HARBOUR SETATES HOMEOWNERS ASSOCIATION. INC., as of the day and year written below.

DATED as of the 11 day of DECEMBER, 2023.

STAR HARBOUR ESTATES HOMEOWNERS' ASSOCIATION

By: _____
Name: Craig J. Libby
its: PRESIDENT, STAR HARBOUR ESTATES HOME OWNERS ASSOCIATION

STATE OF UTAH)
) ss.
COUNTY OF ~~WASATCH~~ Summit)

On this 11th, day of December, 2023, personally appeared before me Craig Libby, whose identity is personally known to me.
(Name of Document Signer)
(proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the PRESIDENT, of the Star Harbour Estates
(Title or Office)
Homeowners' Association and that said document was signed by him/her on behalf of the Association with all necessary authority, and acknowledged to me that said Association executed the same.

_____
Notary Public

ALLISON WASILEWSKI
NOTARY PUBLIC~STATE OF UTAH
COMMISSION EXP. 11/15/2027
COMMISSION NO. 734196

HARBOUR ESTATES. A UTAH SUBDIVISION & BY-LAWS OF STAR HARBOUR SETATES HOMEOWNERS ASSOCIATION. INC., as of the day and year written below.

DATED as of the 11 day of December, 2023.

STAR HARBOUR ESTATES HOMEOWNERS' ASSOCIATION

By: _____

Name: John McAndrew

its: VP, Starharbour Estates

STATE OF UTAH)
) ss.
COUNTY OF ~~WASATCH~~ Summit)

On this 11, day of December, 2023, personally appeared before me John McAndrew, whose identity is personally known to me.
(Name of Document Signer)
(proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the VP, Starharbour Estates, of the Star Harbour Estates
(Title or Office)
Homeowners' Association and that said document was signed by him/her on behalf of the Association with all necessary authority, and acknowledged to me that said Association executed the same.

_____
Notary Public

ALLISON WASILEWSKI
NOTARY PUBLIC-STATE OF UTAH
COMMISSION EXP. 11/15/2027
COMMISSION NO. 734196

HARBOUR ESTATES. A UTAH SUBDIVISION & BY-LAWS OF STAR HARBOUR SETATES HOMEOWNERS ASSOCIATION, INC., as of the day and year written below.

DATED as of the 11 day of December, 20 23

STAR HARBOUR ESTATES HOMEOWNERS' ASSOCIATION

By: _____
Name: Jill Ziter
its: Secretary, Star Harbour Estates HOA

STATE OF UTAH)
Summit) ss.
COUNTY OF ~~WASATCH~~)

On this 11th, day of December, 2023, personally appeared before me Jill Ziter, whose identity is personally known to me.
(Name of Document Signer)
(proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the Secretary, of the Star Harbour Estates
(Title or Office)
Homeowners' Association and that said document was signed by him/her on behalf of the Association with all necessary authority, and acknowledged to me that said Association executed the same.

_____
Notary Public

ALLISON WASILEWSKI
NOTARY PUBLIC~STATE OF UTAH
COMMISSION EXP. 11/15/2027
COMMISSION NO. 734196

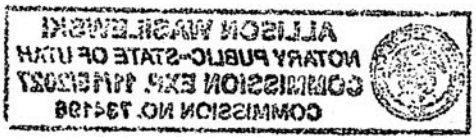

ALLISON WASILEWSKI
NOTARY PUBLIC-STATE OF UTAH
COMMISSION EXP. 11/1/2027
COMMISSION NO. 734198

EXHIBIT A

LEGAL DESCRIPTION

The real property located in Star Harbour Estates, a Utah Subdivision, as shown in the Plats recorded in the Wasatch Recorder's office, more particularly described as follows:

LEGAL DESCRIPTION

All of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.

0HB-0001, 0HB-0002, 0HB-0003, 0HB-0004, 0HB-0005, 0HB-0006, 0HB-0007, 0HB-0008, 0HB-0009, 0HB-0010, 0HB-0011, 0HB-0012, 0HB-0013, 0HB-0014, 0HB-0015, 0HB-0016, 0HB-0017, 0HB-0018, 0HB-0019, 0HB-0020, 0HB-0021, 0HB-0022, 0HB-0023, 0HB-0024, 0HB-0025, 0HB-0026, 0HB-0027, 0HB-0028, 0HB-0029, 0HB-0030, 0HB-0031, 0HB-0032, 0HB-0033, 0HB-0034, 0HB-0035

Lot B, Overhead Utilities Easement, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.
0HB-000B

Detention Pond, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder. 0HB-0DTP

Lot C, Open Space Parcel, STAR HARBOUR ESTATES, First Amended, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder. 0HB-0OPN

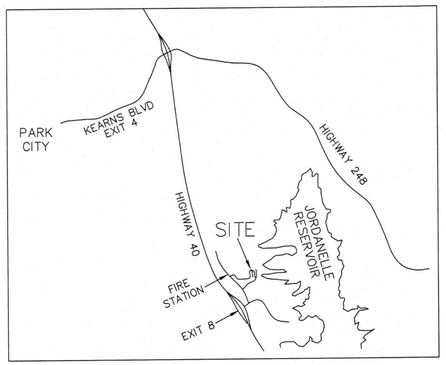
ENCLOSURE 25

LOTS 8 & 9 PLAT AMENDMENT
JANUARY 24, 2024

STAR HARBOUR ESTATES FIRST AMENDED
AMENDING LOTS 8 & 9

A RESIDENTIAL SUBDIVISION

LOCATED IN THE NORTH HALF OF SECTION 24,
TOWNSHIP 2 SOUTH, RANGE 4 WEST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH



VICINITY MAP

GRAPHIC SCALE

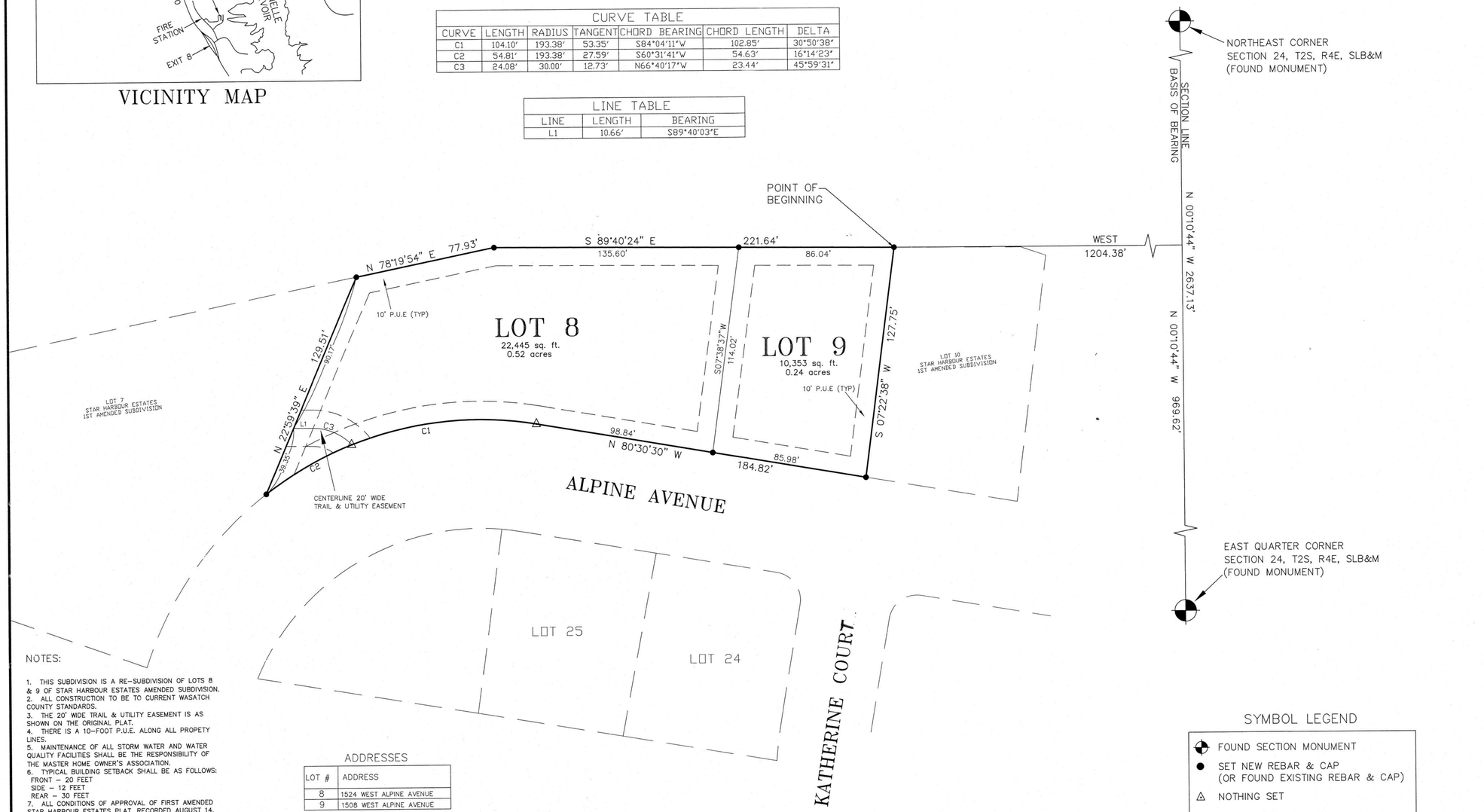
30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

NORTH

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD BEARING	CHORD LENGTH	DELTA
C1	104.10'	193.38'	53.35'	S84°04'11"W	102.85'	30°50'38"
C2	54.81'	193.38'	27.59'	S60°31'41"W	54.63'	16°14'23"
C3	24.08'	30.00'	12.73'	N66°40'17"W	23.44'	45°59'31"

LINE TABLE		
LINE	LENGTH	BEARING
L1	10.66'	S89°40'03"E



NOTES:

1. THIS SUBDIVISION IS A RE-SUBDIVISION OF LOTS 8 & 9 OF STAR HARBOUR ESTATES AMENDED SUBDIVISION.
2. ALL CONSTRUCTION TO BE TO CURRENT WASATCH COUNTY STANDARDS.
3. THE 20' WIDE TRAIL & UTILITY EASEMENT IS AS SHOWN ON THE ORIGINAL PLAT.
4. THERE IS A 10-FOOT P.U.E. ALONG ALL PROPETY LINES.
5. MAINTENANCE OF ALL STORM WATER AND WATER QUALITY FACILITIES SHALL BE THE RESPONSIBILITY OF THE MASTER HOME OWNER'S ASSOCIATION.
6. TYPICAL BUILDING SETBACK SHALL BE AS FOLLOWS:
   FRONT – 20 FEET
   SIDE – 12 FEET
   REAR – 30 FEET
7. ALL CONDITIONS OF APPROVAL OF FIRST AMENDED STAR HARBOUR ESTATES PLAT, RECORDED AUGUST 14, 2001 AS ENTRY NO. 235915 SHALL CONTINUE TO APPLY, WITH THE EXCEPTION OF NOTE #7. LOTS 8 & 9 ARE NOT DUPLEX LOTS AND TWN HOMES ARE NOT PERMITTED TO BE CONSTRUCTED. LOTS 8 & 9 SHALL CONTAIN SINGLE-FAMILY RESIDENCES.
8. ANY NOTE ON THIS PLAT THAT CREATES AMBIGUITY OR IS IN CONFLICT WITH THE ORIGINAL PLAT SHALL BE SUPERSEDED BY THE NOTES ON THE ORIGINAL PLAT.

ADDRESSES

LOT #	ADDRESS
8	1524 WEST ALPINE AVENUE
9	1508 WEST ALPINE AVENUE

SYMBOL LEGEND

- FOUND SECTION MONUMENT
- SET NEW REBAR & CAP (OR FOUND EXISTING REBAR & CAP)
- NOTHING SET

SURVEYOR'S CERTIFICATE

I, DAVID F. HUNT, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 5243543-2201 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.

BOUNDARY DESCRIPTION

COMMENCING AT THE NORTHEAST CORNER OF LOT 9, STAR HARBOUR ESTATES FIRST AMENDED SUBDIVISION PLAT ACCORDING TO THE OFFICIAL PLAT OF RECORD ON FILE AT THE WASATCH COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED NORTH 00°10'44" WEST ALONG THE SECTION LINE 969.62 FEET AND WEST 1204.38 FEET FROM THE EAST QUARTER CORNER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 07°22'38" WEST 127.75 FEET; THENCE NORTH 80°30'30" WEST 184.82 FEET; THENCE ALONG THE ARC OF A 193.38-FOOT RADIUS CURVE TO THE LEFT 104.10 FEET (CHORD BEARS S 84°04'11" W 102.85 FEET); THENCE ALONG THE ARC OF A 193.38-FOOT RADIUS CURVE TO THE LEFT 54.81 FEET (CHORD BEARS S 60°31'41" W 54.63 FEET); THENCE NORTH 22°59'39" EAST 129.51 FEET; THENCE NORTH 78°19'54" EAST 77.93 FEET; THENCE SOUTH 89°40'24" EAST 221.64 FEET TO THE POINT OF BEGINNING.

AREA = 0.7530 ACRES

2 LOTS

11-14-23
DATE

David F Hunt
SURVEYOR

BASIS OF BEARING:

NORTH 00°10'44" WEST ALONG THE SECTION LINE FROM THE EAST QUARTER CORNER TO THE NORTHEAST CORNER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP AND SUBJECT TO ANY CONDITIONS AND RESTRICTIONS STATED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCK, STREETS, AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AND OTHER PUBLIC AREAS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC.

IN WITNESS HEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 16 DAY OF November A.D. 2023

Jeff Harding — Chelsey Anderson

ACCEPTANCE OF LEGISLATIVE BODY

THE COUNTY OF WASATCH, APPROVES THIS SUBDIVISION, KNOWN AS PARK'S EDGE PLAT 'I', SUBJECT TO THE CONDITIONS AND RESTRICTIONS STATED HEREON, AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS, EASEMENTS AND OTHER PARCELS OF LAND INTENDED FOR THE PUBLIC PURPOSE OF THE PERPETUAL USE OF THE PUBLIC THIS 23 DAY OF Jan 24 A.D. 20

WASATCH COUNTY EXECUTIVE

ATTEST: Michelle M. Crook
COUNTY CLERK
(See Seal Below)

WASATCH COUNTY PLANNING OFFICE
APPROVED THIS 19 DAY OF Jan A.D. 2024
Doug Smith
DIRECTOR, PLANNING OFFICE

WASATCH COUNTY PLANNING COMMISSION JSPA
APPROVED THIS 5th DAY OF January A.D. 2024
CHAIR, WASATCH PLANNING COMMISSION JSPA

WASATCH COUNTY FIRE CHIEF
APPROVED THIS 9 DAY OF January A.D. 2024
FIRE CHIEF

WASATCH COUNTY HEALTH DEPARTMENT
APPROVED THIS 17 DAY OF Jan A.D. 2024
HEALTH DEPARTMENT DIRECTOR

WASATCH COUNTY PUBLIC WORKS
APPROVED THIS 3rd DAY OF January A.D. 2024
PUBLIC WORKS DIRECTOR

WASATCH COUNTY ENGINEERING
APPROVED THIS 18th DAY OF January A.D. 2024
DIRECTOR, ENGINEERING DEPARTMENT
(See Seal Below)

WASATCH COUNTY SHERIFF DEPARTMENT
APPROVED THIS ___ DAY OF ___ A.D. 20___
COUNTY SHERIFF

WASATCH COUNTY ~~WEED~~ WATER BOARD
APPROVED THIS 12 DAY OF January A.D. 2024
SUPERVISOR, ~~WEED~~ WATER DEPARTMENT

JORDANELLE SPECIAL SERVICE DISTRICT
APPROVED THIS 8th DAY OF January A.D. 2024
JSSD AUTHORIZED REPRESENTATIVE

APPROVAL AS TO FORM
APPROVED THIS 2nd DAY OF Jan A.D. 2024
ATTORNEY, WASATCH COUNTY

WASATCH COUNTY SURVEYOR
APPROVED AS TO FORM THIS 20th DAY OF Dec A.D. 2023
ROS # 2177
COUNTY SURVEYOR

STAR HARBOUR ESTATES FIRST AMENDED AMENDING LOTS 8 & 9

BEING AN AMENDMENT OF A LOTS 8 & 9 STAR HARBOUR ESTATES AMENDED SUBDIVISION

A RESIDENTIAL SUBDIVISION — WASATCH COUNTY, UTAH
SCALE: 1" = 30 FEET — SHEET 1 OF 1

PREPARED BY:

LEVEL OF FOCUS, INC
1334 East 1150 South
Spanish Fork, Utah 84660
(801) 319-5441

OWNER

JEFF HARDING
573 INVERNESS LANE
HEBER, UT 84032

STATE OF UTAH S.S. **ACKNOWLEDGEMENT ~~(CORPORATE)~~**
COUNTY OF WASATCH

ON THE 16 DAY OF November A.D. 2023 PERSONALLY APPEARED BEFORE ME Chelsey Anderson AND ~~HE~~ Harding WHO BEING BY ME DULY SWORN ~~DID SAY, EACH FOR HIMSELF, THAT HE, THE SAID _____ IS THE PRESIDENT AND HE THE SAID _____ IS THE SECRETARY OF _____ CORPORATION, AND THAT THE WITHIN AND FOREGOING INSTRUMENT WAS SIGNED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF A RESOLUTION OF ITS BOARD OF DIRECTORS AND SAID _____ AND _____ EACH DULY ACKNOWLEDGE TO ME THAT SAID CORPORATION~~ EXECUTED THE SAME AND THAT THE SEAL AFFIXED IS THE SEAL OF SAID CORPORATION.

Jan. 11, 2024
MY COMMISSION EXPIRES

Sherry Lawrence
NOTARY PUBLIC
Wasatch County
RESIDING AT

NOTARY PUBLIC SEAL
SHERRY LAWRENCE
Notary Public State of Utah
My Commission Expires on:
January 11, 2024
Comm. Number: 709662
Exp January 11, 2024
#709662

TOWN CLERK SEAL

CLERK-RECORDER SEAL

CORPORATE SEAL

SURVEYOR'S SEAL
PROFESSIONAL LAND SURVEYOR
12-14-23
DAVID F. HUNT
LICENSE NO. 5243543-2201
STATE OF UTAH

COUNTY RECORDER
ENTRY # 541131 DATE JAN 24 2024 TIME 3:05 PM
FEE $40.00 BOOK 1464 PAGE 1076
FOR HARDING JEFF + ANDERSON CHELSEY
BY KM
WASATCH COUNTY RECORDER
MURRAY M MARCY

ENCLOSURE

Kosakowski March 5, 2024 County Recorder Request for Final Decision (w/o Enclosures)

Ms. Marcy Murray
Wasatch County Recorder
25 North Main Street
Heber City, UT 84032

REQUEST FOR FINAL DECISION

DELIVERED BY E-MAIL AND U.S. MAIL CERTIFIED

Dear Ms. Murray:

This request for a final decision is made pursuant to Wasatch County Code ("WCC") §2.02.22(D)(2). Specifically, I am requesting that the County Recorder take whatever steps are available to that office to correct the mistakes in the plat for Lot B in Star Harbour filed by Redus on March 14, 2023 (Entry No. 530473, Book 1436, Page 1200) (Enclosure 1).

Note 3 on the plat is incorrect. It states that the release of the 40-foot easement was recorded May 5, 2005, as Entry No 282741. Note 3 should refer to the release of easement executed by Rocky Mountain Power on July 14, 2021 and recorded on August 4, 2021 (Entry 505042, Book 1368, Pages 1512-1514) (Enclosure 2).

The Planning Commission held three hearings on Lot B. At the first hearing on July 10, 2021, the Planning Commission rejected the May 5, 2005 release of easement presented by Redus as insufficient evidence that the 40-foot easement had been released. In response, Redus obtained the July 14, 2021 release from Rocky Mountain Power, which was accepted by the Planning Commission at its August 12, 2021 hearing.

Redus did not file the plat for Lot B within the one-year time frame stipulated by the Planning Commission at its August 12, 2021 hearing, and another hearing was held on November 10, 2022. At this hearing, the Planning Commission also stipulated that the plat be recorded within one year of that Planning Commission decision. The Board of Adjustment held a hearing on Lot B on February 16, 2023.

A correct plat for Lot B was NOT filed within one year of the Planning Commission November 10, 2022 decision. Even allowing for an extension of the one-year deadline to the Board of Adjustment's decision on February 16, 2023, a correct plat for Lot B was NOT recorded within one year from that date.

The Lot B plat that was filed appears to be a "leftover" plat that was not updated to reflect the Planning Commission's decisions.

Also, except for Doug Smith's signature, all the signatures, including the signature of the Chair of the Planning Commission, were affixed in the September-October 2022 timeframe. This gives the impression that the November 10, 2022 Planning Commission meeting was perfunctory with the sole purpose of producing a foregone conclusion.

Finally, the title of the Lot B plat doesn't conform to what I understand to be the County Recorder's naming convention. Based on the names she recently assigned to the plat of Lots 8 and 9 in Star Harbour, the Lot B plat should be entitled "Star Harbour Estates First Amended Amending Lot B".

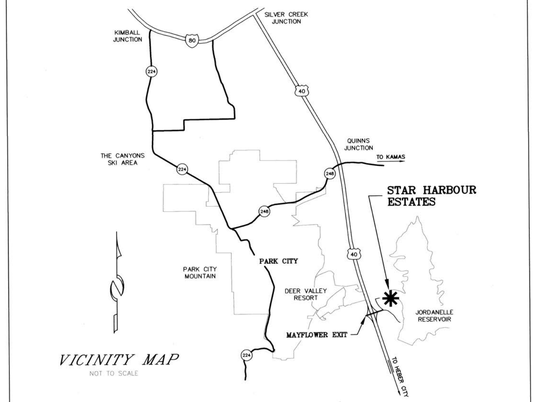
Please let me know how the County Recorder is going to correct this problem.

Thank you in advance for your attention to this matter.

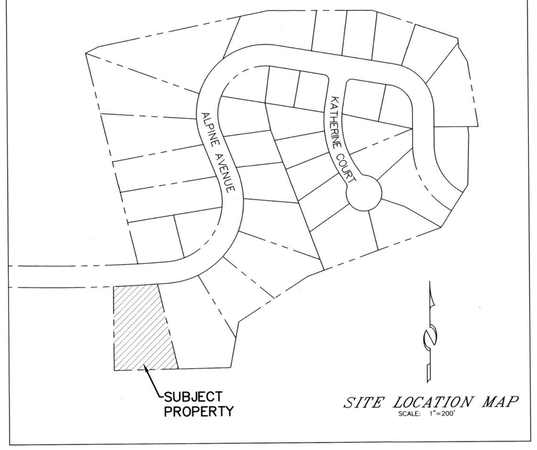
Sincerely,

Kit Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
(202) 255-8131
krkphd@gmail.com

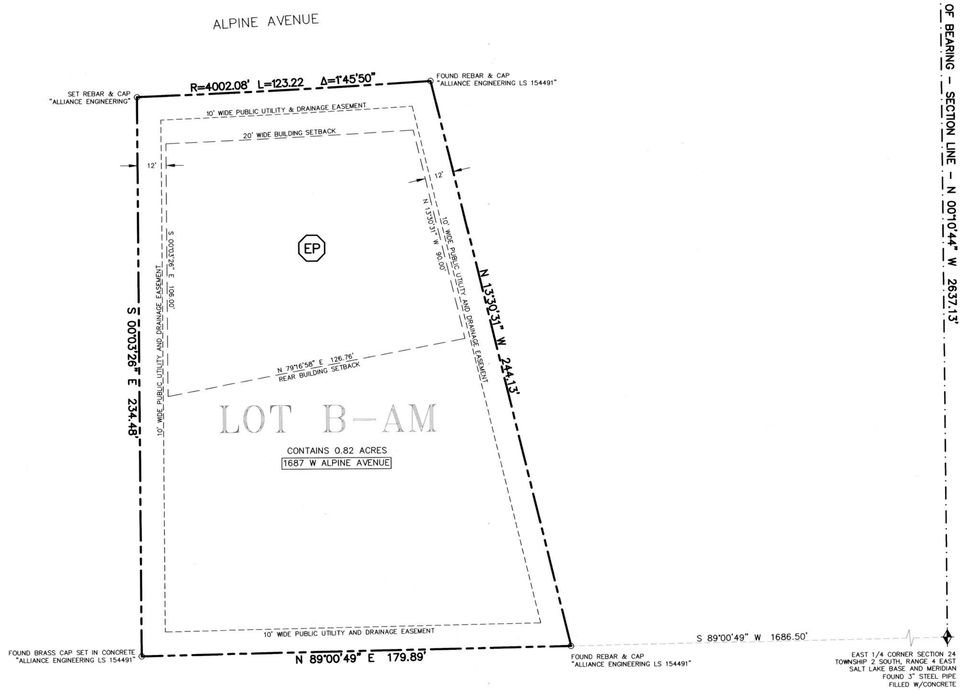
Enclosures



VICINITY MAP
NOT TO SCALE



SITE LOCATION MAP
SCALE: 1"=200'



SURVEYOR'S CERTIFICATE

I, Michael Demkowicz, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 4857264, as prescribed under the laws of the State of Utah. I further certify that by the authority of the owners, I have made a survey of the tract of land shown on this plat and described hereon, and have combined the tract of land into a single lot, together with easements, hereafter to be known as STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B and that the same has been correctly surveyed and monumented on the ground as shown on this survey.

PROFESSIONAL LAND SURVEYOR — No. 4857264 — MICHAEL DEMKOWICZ — 9/16/22 — STATE OF UTAH

LEGAL DESCRIPTION

Lot B, Utilities Easement Star Harbour Estates Amended Subdivision, according to the official plat thereof file of record in the office of the Wasatch County Recorder.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that REDUS Park City LLC, a Delaware limited liability company, the undersigned owner of the herein described tract of land to be known hereafter as STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner or its representative, hereby irrevocably offers for dedication all the easements and required utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this 23rd day of August, 2022.

REDUS Park City LLC,
a Delaware limited liability company

By: REDUS Properties, Inc.,
a Delaware corporation, its Manager

By: _____
David Ash, Sr. Vice President

ACKNOWLEDGMENT

State of California :
County of Contra Costa : ss.

On this 23rd day of August, 2022, David Ash personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn/affirmed, did say the he is the Sr. Vice President of Redus Properties, Inc., a Delaware corporation, and that said document was signed by him on behalf of said corporation by authority of its Operating Agreement or Resolution of its Members, and he acknowledged to me that he executed STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B.

_____
Notary Public
Jennifer Labra
Printed Name
Residing in: Alamo, CA.
My commission expires: 12/27/2025
Commission No. 2388438

J. LABRA — COMM. # 2388438 — NOTARY PUBLIC - CALIFORNIA — SANTA CLARA COUNTY — MY COMMISSION EXPIRES DECEMBER 27, 2025

NOTES

1. Typical building setbacks shall be as follows:
   Front–20 feet
   Side–12 feet
   Rear–See drawing for details
2. All Conditions of Approval of First Amended Star Harbour Estates, recorded August 14, 2001, as Entry No. 235915 in the Office of the Recorder, Wasatch County, Utah, shall continue to apply and remain in full force and effect.
3. This plat amendment removes the 40–foot wide UPL easement as shown on Lot B of the First Amended Star Harbour Estates, recorded August 14, 2001, as Entry No. 235915 in the Office of the Recorder, Wasatch County, Utah and creates a single family lot of record. The Release of Easement affecting Lot B was recorded May 5, 2005, as Entry No. 282741.
4. A Grant of Easement in favor of Mountain States Telephone and Telegraph Co. was recorded October 24, 1932, as Entry No. 49417 in Book 4 at Page 233 in the Office of the Recorder, Wasatch County, Utah. This is a blanket easement and no precise location is given.
5. Refer to Record of Survey #3598.
6. Irrigation on this lot shall be limited to no more than 0.15 acres.
7. Ejector pump required for sewer lateral service to Lot B–AM.
8. LOT B-AM SHALL BE SUBJECT TO THE STAR HARBOUR ESTATES CC&RS AS A SINGLE FAMILY RESIDENCE.

30' 0 30' 60'

STAR HARBOUR ESTATES THIRD AMENDED–AMENDING LOT B

A SUBDIVISION LOCATED IN THE NORTH HALF OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

SHEET 1 OF 1

9/16/22 JOB NO.: 9-8-20 FILE: X:\Jordanelle\dwg\srv\plat2020\090820.dwg

WASATCH COUNTY PLANNING COMMISSION
Approved this 9 day of SEPTEMBER, 2022, by the Wasatch County Planning Commission.
Chairman, Planning Commission

WASATCH COUNTY PUBLIC WORKS
Approved this 8TH day of September, 2022.
Director, Public Works

WASATCH COUNTY ENGINEERING DEPARTMENT
Approved this 6th day of OCTOBER, 2022.
Director, Engineering Department

WASATCH COUNTY SHERIFF'S DEPARTMENT
Approved this 16th day of September, 2022.
Sheriff

WASATCH COUNTY SOLID WASTE
Approved this 15 day of Sept, 2022.
Director, Solid Waste

JORDANELLE SPECIAL SERVICE DISTRICT AND SPECIAL IMPROVEMENT DISTRICT
Approved this 14th day of October, 2022.
Director

APPROVAL AS TO FORM
Approved this 6th day of Sept, 2022.
Wasatch County Attorney

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

ADMINISTRATIVE BODY
The County of Wasatch approves this subdivision and hereby accepts the dedication of all streets, easements, and other parcels of land intended for public purposes for the perpetual use of the public, this 4 day of March, 2023
County Executive — County Clerk

WASATCH COUNTY HEALTH DEPARTMENT
Approved this 12th day of October, 2022.
Director, County Health Department

WASATCH COUNTY FIRE MARSHAL
Approved this 20 day of September, 2022.
Fire Marshal

WASATCH COUNTY WEED BOARD
Approved this 19th day of September, 2022.
Director

WASATCH COUNTY PLANNING OFFICE
Approved this 21st day of Feb, 2023, by the Wasatch County Planning Director.
Planning Director

WASATCH COUNTY SURVEYOR'S CERTIFICATE
I hereby certify that this office has examined this plat and it is correct in accordance with information on file in this office.
Dated this 3rd day of March, 2023.
Wasatch County Surveyor

RECORDED
STATE OF UTAH, COUNTY OF WASATCH, AND FILED
AT THE REQUEST OF REDUS PARK CITY LLC
DATE 14-MAR-2023 TIME 1:40 PM BOOK 1436 PAGE 1200
$52.00 FEE — MARCY M. MURRAY RECORDER — 530473 ENTRY NO.

Ent 505042 Bk 1368 Pg 1512-1514
Date: 04-AUG-2021 1:59:47PM
Fee: $40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: PACIFI CORP

Return to:
Rocky Mountain Power
Matt Janke / Agent
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name: Star Harbour Estates
WO#:
RW#:

RELEASE OF EASEMENT

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain easement described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

Legal Description: An easement shown as a 40' Wide UPL Easement across Lot 1, Lots 3-7, Lot B (including Note 4 of the plat, which states "Lot B is an easement for an existing overhead utility transmission line . . . ," which transmission line has been relocated), and Lot C of the Star Harbour Estates First Amended Subdivision located in the N1/2 of Section 24, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, said Subdivision recorded as Entry 235915, Book 516, Pages 692-711, on August 14, 2001, in the Office of the Recorder of Wasatch County, Utah.

Assessor Parcel Nos. 00-0020-0815, 00-0020-0814, 00-0020-0780, 00-0020-0782, 00-0020-0783, 00-0020-0784, 00-0020-0785, 00-0020-0786

DATED this 14 day of JULY, 2021.

Rocky Mountain Power
an unincorporated division of PacifiCorp

By: Matthew Janke
Sr. Property Agent

REV101512

ACKNOWLEDGEMENT

STATE OF UTAH)
:ss
COUNTY OF Salt Lake)

On the 14th day of July, 2021, personally appeared before me, Matthew Janke, who being duly sworn did say that he/she is the signer of the within instrument on behalf of Rocky Mountain Power, an unincorporated division of PacifiCorp, and that the within and foregoing instrument was signed by authority of said corporation and said Matthew Janke duly acknowledged to me that said corporation executed the same.

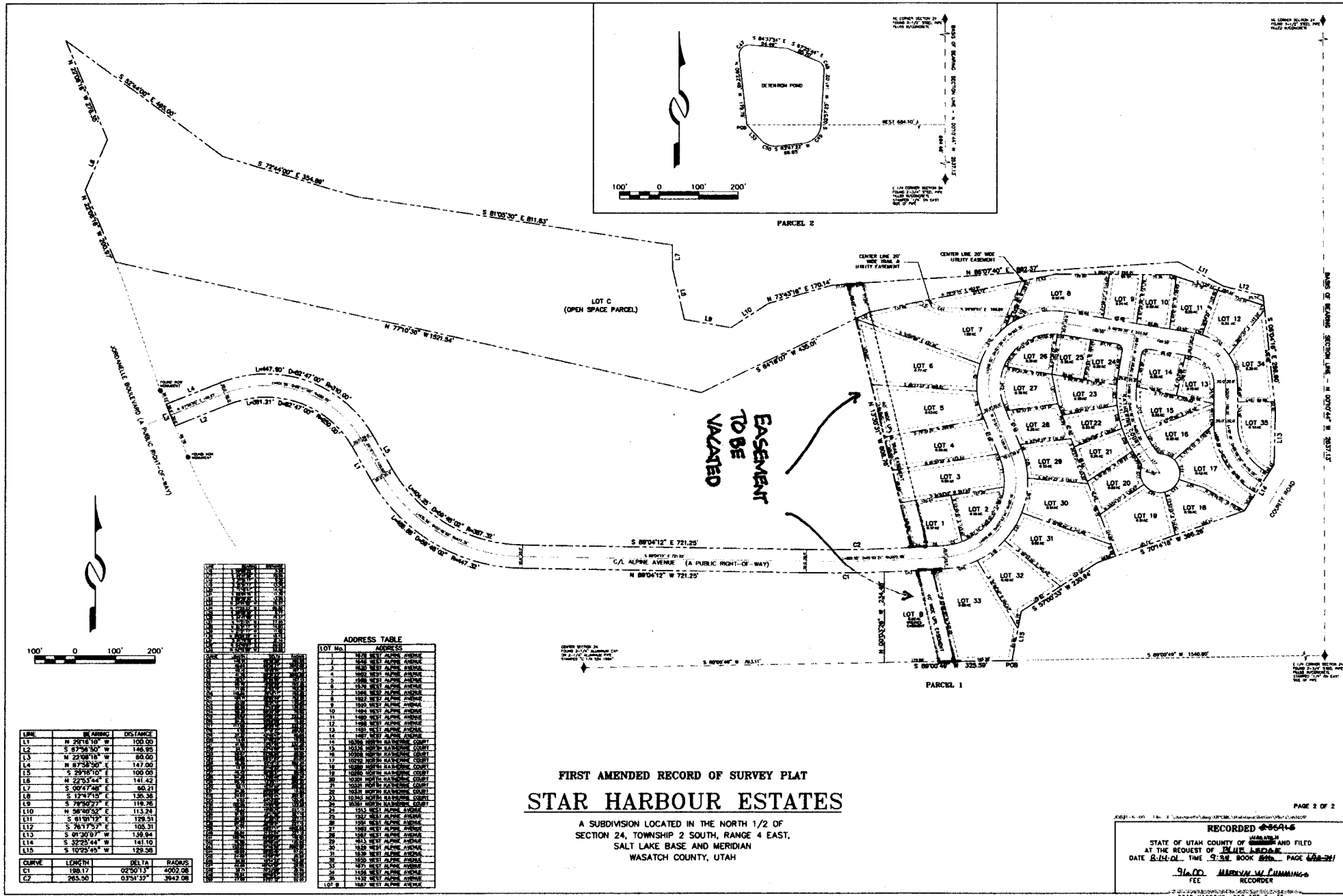
Notary Public

Notary Public - State of Utah
BRIAN A. YOUNG
Comm. #707854
My Commission Expires
August 20, 2023

REV101512

Ent 505042 Bk 1368 Pg 1514

Exhibit A



LINE	BEARING	DISTANCE
L1	N 26°16'19" W	100.00
L2	S 87°58'50" W	146.95
L3	N 22°08'18" W	80.00
L4	N 87°58'50" E	147.00
L5	S 29°18'10" E	100.00
L6	N 22°53'44" E	141.42
L7	S 00°47'48" E	80.21
L8	S 12°47'15" E	135.38
L9	S 79°50'27" E	119.76
L10	N 56°40'52" E	113.24
L11	S 61°31'12" E	129.51
L12	S 76°17'57" E	105.31
L13	S 01°30'07" W	139.94
L14	S 32°25'44" W	141.10
L15	S 10°25'45" W	129.38

CURVE	LENGTH	DELTA	RADIUS
C1	198.17	02°50'13"	4002.08
C2	265.50	03°54'39"	3942.08

ADDRESS TABLE

LOT No.	ADDRESS
1	1678 WEST ALPINE AVENUE
2	1654 WEST ALPINE AVENUE
3	1638 WEST ALPINE AVENUE
4	1602 WEST ALPINE AVENUE
5	1588 WEST ALPINE AVENUE
6	1574 WEST ALPINE AVENUE
7	1566 WEST ALPINE AVENUE
8	1802 WEST ALPINE AVENUE
9	1930 WEST ALPINE AVENUE
10	1964 WEST ALPINE AVENUE
11	1990 WEST ALPINE AVENUE
12	1998 WEST ALPINE AVENUE
13	1981 WEST ALPINE AVENUE
14	1957 WEST ALPINE AVENUE
15	10356 NORTH RAINBOW COURT
16	10332 NORTH RAINBOW COURT
17	10308 NORTH RAINBOW COURT
18	10284 NORTH RAINBOW COURT
19	10260 NORTH RAINBOW COURT
20	10330 NORTH RAINBOW COURT
21	10320 NORTH RAINBOW COURT
22	10320 NORTH RAINBOW COURT
23	10340 NORTH RAINBOW COURT
24	10361 NORTH RAINBOW COURT
25	1353 WEST ALPINE AVENUE
26	1367 WEST ALPINE AVENUE
27	1391 WEST ALPINE AVENUE
28	1593 WEST ALPINE AVENUE
29	1567 WEST ALPINE AVENUE
30	1613 WEST ALPINE AVENUE
31	1639 WEST ALPINE AVENUE
32	1639 WEST ALPINE AVENUE
33	1671 WEST ALPINE AVENUE
34	1698 WEST ALPINE AVENUE
35	1678 WEST ALPINE AVENUE
LOT B	1687 WEST ALPINE AVENUE

FIRST AMENDED RECORD OF SURVEY PLAT

STAR HARBOUR ESTATES

A SUBDIVISION LOCATED IN THE NORTH 1/2 OF
SECTION 24, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
WASATCH COUNTY, UTAH

PAGE 2 OF 2

RECORDED #85415

STATE OF UTAH COUNTY OF WASATCH AND FILED
AT THE REQUEST OF BLUE LEDGE
DATE 8-14-00 TIME 9:32 BOOK 515 PAGE 678-741

9.00 FEE MARVIN W. CUMMINGS RECORDER

STAR HARBOUR EST AMD 2 of 2
SECTION 24 T2S R4E

Item Page 345 of 458

Packet Page Number:345

ENCLOSURE 27

SECOND AMENDMENT TO THE SECOND AMENDED CC&RS
MARCH 21, 2024

Ent 543209 Bk 1469 Pg 976-980
Date: 21-MAR-2024 3:45:46PM
Fee: $104.00 Check Filed By: CO
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION

WHEN RECORDED RETURN TO:

Wade Budge
SNELL AND WILMER L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

SECOND AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES & BYLAWS OF STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC.

This Second Amendment to Second Amended and Restated Declaration of Covenants, Conditions and Restriction of Star Harbour Estates & Bylaws of Star Harbour Estates Homeowners Association, Inc. (this "**Amendment**") is recorded by the Star Harbour Estates Homeowners' Association, Inc., a Utah nonprofit corporation (the "**Association**"), and is effective as of the date that it is recorded in the Office of the Recorder of Wasatch County, Utah (the "**Effective Date**").

RECITALS

A. Blue Ledge Corporation, Inc., as Declarant, previously executed that certain document entitled Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates dated May 3, 2001, which was recorded in the Office of the Wasatch County Recorder on June 7, 2001, as Entry No. 233951 in Book 506 at Pages 675 through 709 (the "**Original Declaration**").

B. The Original Declaration was amended and restated by that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates and Bylaws of Star Harbour Estates Homeowners' Association, Inc., dated August 16, 2001, which was recorded in the Office of the Wasatch County Recorder on August 20, 2001, as Entry No. 236098 in Book 517 at Pages 421 through 458 inclusive (the "**First Amended Declaration**")

C. The First Amended Declaration was subsequently amended and restated by that certain Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates, a Utah Subdivision, which was recorded in the Office of the Wasatch County Recorder on November 4, 2008, as Entry No. 341641 in Book 976 at Pages 1560-1592 (the "**Second Amended Declaration**").

D. The Second Amended Declaration was amended by that certain First Amendment to the Second Amended And Restated Declaration Of Covenants, Conditions, and Restrictions for Star Harbour Estates & Bylaws of Star Harbour Estates Homeowners Association, Inc., which was recorded in the Office of the Wasatch County Recorder on December 13, 2023 as Entry No. 539780 in Book 1461 at Pages 310-318 (the "**First Amendment to Second Amended Declaration**").

E. The Original Declaration, as amended and restated by the First Amended Declaration and then the Second Amended Declaration, as further amended by the First Amendment to Second Amended

Declaration are collectively referred to herein as the "**Declaration**". Capitalized terms used but not defined in this Amendment shall have the meanings given to such terms in the Declaration.

F. Pursuant to Article XII, Section 12.7 of the Declaration, except as otherwise provided in the Declaration, the Declaration may be amended by the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Owners.

G. The Association by signature hereunder confirms that the votes required by the Declaration have occurred for the approval of this Amendment.

H. The Association on behalf of said approving Members does hereby amend the Declaration as set forth below.

AMENDMENT

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. **Plat**. Article 1, Section 1.24 of the Declaration is hereby deleted in its entirety and replaced with the following:

> 1.24 "**Plat**" shall mean and refer to collectively, that certain Record of Survey Plat of Star Harbour Estates recorded in the Office of the Wasatch County Recorder on June 7, 2001, as Entry No. 233950 in Book 506 at Pages 655-674, and any recorded amendments thereto, including but not limited to, that certain First Amended Record of Survey Plat of Star Harbour Estates recorded on August 14, 2001 as Entry No. 235915 in Book 516 at Pages 692-711; that certain Second Amended Record of Survey Plat for Star Harbour Estates recorded in the official records of the Wasatch County Recorder; that certain Record of Condominium Map, First Amended Lot 10, First Amended Star Harbour Estates, Alpine Condominiums of Jordanelle, a Utah Condominium Project, recorded on October 13, 2010 as Entry No. 363463 in Book 1022 at Pages 639-668; that certain survey plat of Star Harbour Estates First Amended — Amending Lot 34 recorded on August 8, 2017 as Entry No. 442155 in Book 1199 at Pages 1857-1866; that certain survey plat of Star Harbour Estates Third Amended – Amending Lot B recorded on March 3, 2023 as Entry No. 530473 in Book 1436 at Pages 1200; and that certain Star Harbour Estates First Amended Amending Lots 8 & 9 recorded on January 24, 2024 as Entry No. 541131 in Book 1464 at Page 1076.

(*Prior Language – For Reference Only*)

1.24 "Plat" shall mean and refer to the Second Amended Record of Survey Plat for Star Harbour Estates recorded in the official records of the County and all amendments and supplements thereto.

2. **Lot**. Article I, Section 1.17 of the Declaration is hereby deleted in its entirety and replaced with the following:

> "Lot" shall mean and refer to Lot B and any of the 35 separately numbered and individually described residential lots as shown on the Plat, which residential lots are designed and intended for use and occupancy as a single family residence, except for Lot 10, which is designed and intended for a two-unit condominium. Lot C and the Parcel 2

Detention Pond, as shown on the Plat, shall not be included within the definition of "Lot".

(*Prior Language – For Reference Only*)
"Lot" shall mean and refer to any of the 35 separately numbered and individually described residential lots as shown on the Amended Plat, which residential lots are designed and intended for use and occupancy as a single family residence, except for Lot 10, which is designed and intended for a two-unit condominium.

Lot
B, Lot C and the Parcel 2 Detention Pond, as shown on the Plat, shall not be included within the definition of "Lot," unless this Declaration and the Plat are amended to identify all or any portion of Lot B, Lot C or the Parcel 2 Detention Pond as numbered residential lots.

3. **Estate of an Owner**. Article IV, Section 4.2 of the Declaration is deleted in its entirety and replaced with the following:

4.2 Estate of an Owner. The Project is hereby divided into 36 residential Lots (being comprised of Lots 1-9, Lot 10 which is the Alpine Condominiums of Jordanelle, Lots 11-35 and Lot B), and also Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of fee simple interests.

(Prior Language – For Reference Only)
4.2 Estate of an Owner. The Project is hereby divided into the 32 residential Lots, the Alpine Condominiums of Jordanelle and also Lot B, Lot C and the Parcel 2 Detention Pond, as identified on the Plat, each consisting of a fee simple interest.

4. **Exhibit A; Legal Description**. Exhibit A of the Declaration is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

5. **Declaration Terms Apply; Amendment Controls**. Except as specifically provided in this Amendment, the terms and conditions of the Declaration shall remain in full force and effect. If any provision of the Declaration is in conflict with any provisions of this Amendment, the terms of this Amendment shall control.

[Remainder of Page Intentionally Blank; Signature Page Follows]

IN WITNESS THEREOF, I certify that the vote required by Article XII, Section 12.7 of the Declaration has occurred for the approval of this SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF STAR HARBOUR ESTATES, A UTAH SUBDIVISION & BYLAWS OF THE STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC., as of the day and year written below.

DATED as of the 21st day of March, 2024.

STAR HARBOUR ESTATES HOMEOWNERS ASSOCIATION, INC,
a Utah nonprofit corporation

By: _____
Name: Craig J. Libby
Its: President, Star Harbour HOA

State of Utah)
: ss.
County of Wasatch)

On this 21 day of March, 2024, personally appeared before me Craig J. Libby, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the President of the Star Harbour Estates Homeowners Association, Inc, a Utah nonprofit corporation and that said document was signed by him/her on behalf of said corporation with all necessary authority, and acknowledged to me that said corporation executed the same.

_____
Notary Public

JULIE C GILES
Notary Public
State Of Utah
My Commission Expires 11-22-2026
COMMISSION NO. 728066

Signature Page to
Second Amendment to Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Star Harbour Estates

JULIE C GILES
Notary Public
State Of Utah
My Commission Expires 11-25-2020
COMMISSION NO. 692088

EXHIBIT A

LEGAL DESCRIPTION

The real property located in Star Harbour Estates, a Utah Subdivision, as shown in the Plats recorded in the Wasatch Recorder's office, more particularly described as follows:

All of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 29, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, STAR HARBOUR ESTATES, FIRST AMENDED, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.

0HB-0001, 0HB-0002, 0HB-0003, 0HB-0004, 0HB-0005, 0HB-0006, 0HB-0007, 0HB-0008, 0HB-0009, 0HB-0011, 0HB-0012, 0HB-0013, 0HB-0014, 0HB-0015, 0HB-0016, 0HB-0017, 0HB-0018, 0HB-0019, 0HB-0020, 0HB-0021, 0HB-0022, 0HB-0023, 0HB-0024, 0HB-0025, 0HB-0026, 0HB-0027, 0HB-0028, 0HB-0029, 0HB-0030, 0HB-0031, 0HB-0032, 0HB-0033, 0HB-00034, 0HB-0035

All of Units 1490 and 1494, ALPINE CONDOMINIUMS OF JORDANELLE, a Utah condominium project, as the same are identified and established in that certain Record of Survey Map, recorded October 13, 2010 as Entry No. 363463 in Book 1023 and page 639 of Official Records; and in the Declaration of Condominium for Alpine Condominiums of Jordanelle recorded October 13, 2010 as Entry No. 363464 in Book 1023 at Page 669 of Official Records.
0AJ-1490, 0AJ-1494

Lot B Amended, STAR HARBOUR ESTATES, THIRD AMENDED, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.
0HB-000B-A

Detention Pond, STAR HARBOUR ESTATES, FIRST AMENDED, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.
0HB-0DTP

Lot C, Open Space Parcel, STAR HARBOUR ESTATES, FIRST AMENDED, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder.
0HP-0OPN

ENCLOSURE 28

Kosakowski March 5, 2024 County Recorder Request for Final Decision (w/o Enclosures)

March 27, 2024

DELIVERED BY HAND

Mr. Dustin Grabau
Manager, Wasatch County
25 N. Main Street
Heber City, UT 84032

RE: Wasatch County Code Section 2.02.22 Appeal of Wasatch County Recorder's Lack of Response to Request for Final Decision Submitted to County Recorder on March 5, 2024

Dear Mr. Grabau:

By written correspondence, which was delivered by certified mail to the Wasatch County Recorder ("Recorder") on March 5, 2024, I submitted a Request for Final Decision in accordance with Wasatch County Code ("WCC") §2.02.22(D)(2) (Enclosure 1). Specifically, I requested that the Recorder take whatever steps were available to the Recorder's office to correct certain mistakes and other problems associated with the amended plat filed for Lot B in Star Harbour Subdivision by Redus Park City LLC ("Redus") on March 14, 2023 (Entry No. 530473, Book 1436, Page 1200) ("Lot B Plat").

As the Recorder did not respond to my Request for Final Decision within seven days of receiving it, I am filing this appeal in accordance with WCC §2.02.22(D)(1). With this appeal, I am asking that the Recorder's Review Board act to correct the following defects associated with the Lot B plat:

1. Entity name discrepancies
2. Unauthorized illegible conditions penciled in
3. Missing signature block
4. Reference in Note 3 to an incorrect release of the 40-foot easement on Lot B.
5. Correct plat not filed within one-year of the Planning Commission's having approved it.
6. County officials signing the plat prior to the Planning Commission's approving it.
7. The plat not being named in conformance with naming conventions.
8. Process as conducted to date fatally flawed.

A. BACKGROUND

Lot B is an open space easement lot located at the western end of Star Harbour on Alpine Ave. It lies directly across from Fox Bay Drive and serves as Fox Bay Condominium's snow repository during the winter months. Lot B also contains a double track dirt road that we and members of the public use as a recreational path.

Wells Fargo Bank acquired Lot B for $125,000 at a Sheriff's sale on March 19, 2020 (Enclosure 2). Redus, a Wells Fargo affiliate, first applied to convert Lot B into a single-family residential lot sometime thereafter. The Planning Commission held the first of three meetings on Redus's

application on July 8, 2021 (Enclosure 3). The application was continued until the August 12, 2021 meeting because questions arose as to the validity of the release of easement presented by Redus.

While the Planning Commission approved Redus's application at the August 12, 2021 meeting (Enclosure 4), Redus did not record the mylar within the required one-year timeframe. This precipitated another Planning Commission hearing on November 10, 2022 at which the Planning Commission again approved Redus's application (Enclosure 5).

Mike and Kit Kosakowski submitted written comments and testified at all three Planning Commission meetings. We also appealed that portion of the November 10, 2022 Planning Commission decision applying the Engineering Department Code to the County Manager on November 18, 2022 and the entirety of the decision to the Wasatch County Board of Adjustment ("BOA") on December 8, 2022 (Enclosure 6). The latter heard the appeal on February 16, 2023. Declining to address the buildability issues, the BOA affirmed the November 10, 2022 Planning Commission decision (Enclosure 7).

B. ENTITY NAME DISCREPANCIES

As per Utah Recording Standards, Name Discrepancies: Entities approved by the County Recorder Standards Committee, the name of the Record owner entity and the grantor of the document should match exactly. The Owner's Dedication and Consent to Record is signed by Redus Properties, Inc., but as per the Sheriff's Deed Lot B was sold to Wells Fargo N.A. with the deed being between Redus Park City LLC and the Sheriff of Wasatch County (Enclosure 2). The names do not match.

C. ILLEGIBLE UNAUTHORIZED CONDITIONS PENCILED IN

A Condition No. 8 was penciled onto the Lot B plat. It reads: "Lot B AM(?) shall be subject to the Star Harbour Estates CC&Rs as a single family residence."

While the Recorder has no independent obligation to verify the accuracy of the Notes on a plat, Utah Code Ann. §57-3-106 prohibits persons from presenting and authorizes the Recorder to refuse to accept a document that is not sufficiently legible to make certified copies of the document. Also, WCC §16.27.12 states: "Details and the workmanship on finished drawings shall be neat, clean-cut and readable. A poorly drawn or illegible plat is sufficient cause for rejection." Part of Note 8 is illegible; the Recorder should have refused to record the Lot B plat.

Note No. 8 is not printed as is the rest of the plat (excepting signatures, of course). Instead, it is penciled in, and there is no indication as to who penciled it in, when it was penciled in (before or after the signatures were affixed), or why it was penciled in. Therefore, Note 8 is invalid on its face. Its presence renders the Lot B plat suspect, and the Recorder should have refused to record it.

In fact, the condition set forth in Note 8 was never authorized by the Planning Commission at any of the three meetings held on Lot B. Moreover, the County cannot impose compliance with

CC&Rs upon an entity that is not a member of the HOA. CC&RS are contracts, and their terms do not apply to non-parties.

D. MISSING SIGNATURE BLOCK

WCC §16.27.12(L) requires that a plat include a form of certification for a certain list of individuals and County entities. The Wasatch County Water Board is among the list of County entities that must sign off on plats (WCC §16.27.12(L)(13).

There is no signature block for the Wasatch County Water Board on the Lot B plat. The Recorder should have noticed this and rejected the Lot B plat for filing.

E. NOTE 3 REFERS TO INCORRECT RELEASE OF EASEMENT

Note 3 of the Lot B plat states, *inter alia*, "The release of easement affecting Lot B was recorded May 5, 2005, as Entry No. 282741." The 2005 release of easement is included as Exhibit 5 of the Planning Department's Staff Report for the July 8, 2021 meeting (Enclosure 3).

The reference in Note 3 to the 2005 release of easement is contrary to the decision reached by the Planning Commission at its July 8, 2021 meeting. The Report of Action "("ROA") for that meeting states:

> Public comment was received from a Kit Kosakowski that has raised some claims regarding the release of easement and whether it is the correct release or not. Mr. Corry has spoken with the applicant and both staff and the applicant concur that the appropriate action would be to continue the item to provide time for the applicant to reseach the claims made in public comment.

As reported in the minutes of the July 8, 2021 meeting, the following motion was carried unanimously:

> Commissioner Mark Hendricks made a motion that we continue Item No. 1, Star Harbour Estates Lot B a request for a minor plat amendment, until the next meeting of the Planning Commission which is scheduled for August 12, 2021.

At the August 12, 2021 Planning Commission meeting, the Staff Report included a new release of easement executed by Rocky Mountain Power on July 14, 2021, which was filed with the Recorder on August 4, 2021, as Entry No. 505042. This is included as Exhibit E of the Planning Department's Staff Report for the August 12, 2021 meeting (Enclosure 4).

As shown in the ROA and the minutes of the August 12, 2021 meeting, the Planning Commission accepted the July 14, 2021 release of easement as a release of the 40-foot wide easement on Lot B. Item 4 of the List of Findings in the ROA reads "UPL's successor in interest, RMP, has provided a release of easement for the 40' UPL utility easement." And as reported in the minutes of the August 12, 2021 meeting, the following motion was carried unanimously:

> Commissioner Karl McMillan made a motion that we approve the proposal with the findings, and there is a note in here for the water by the Jordanelle Special Service District and accept as it is. The engineering must determine that Lot B would be an approved buildable lot and would add that as a condition. Also accept the Staff report and subject to the conditions as outlined by the Planning Staff.

It is clear from the ROA's and the minutes from both the July 8, 2021 and August 12, 2021 Planning Commission meetings that the 2005 release of easement was not accepted as a release of the 40-foot wide easement on Lot B but that the 2021 release of easement was accepted. That being the case, Note 3 on the Lot B is incorrect. Note 3 should read: "The release of easement affecting Lot B was recorded August 4, 2021, as Entry No. 505042."

F. FAILURE TO RECORD A CORRECT PLAT WITHIN ONE YEAR

When the Planning Commission approved the Lot B plat on August 12, 2021, it included the following condition, "The plat amendment shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission." Because Redus did not file the Lot B plat by August 12, 2022, a new application process was triggered in accordance with WCC §16.01.16(G) which states: "Any time any approval expires under this section, all prior approvals which were necessary to receive that now expired approval also expires, as the applicant has not implemented the approval with reasonable diligence."

Accordingly, the Planning Commission held another meeting on November 10, 2022 during which the 2021 release of easement was again presented and accepted by the Planning Commission as a release of the 40-foot easement on Lot B (See Exhibit E of the Staff Report (Enclosure 5)). The Planning Commission approved Redus's application, and the November 10, 2022 ROA included the same condition as the August 12, 2021 ROA, "The plat amendment approval shall expire if the amended plat is not recorded within one year from the date of receipt of final approval by the Planning Commission." (Enclosure 5).

Mr. and Mrs. Kosakowski appealed the Planning Commission's November 10, 2022 decision to the BOA on Dec 8, 2022 (Enclosure 6). The BOA heard the matter on February 16, 2024. The BOA confirmed the Planning Commission's November 10, 2022 decision, and Redus filed the Lot B plat on March 14, 2023. While March 14, 2023 is within one year of November 10, 2022 or February 16, 2024, depending on how you count, the Lot B plat was not correct. As demonstrated above, Note 3 does not accurately reflect the Planning Commission's decision. Therefore, the one-year deadline for filing a plat set forth in the Planning Commission's November 10, 2022 ROA was not met, and as per WCC §16.01.16(G), the requirement to begin anew has been triggered again.

It should also be noted that there are criminal penalties associated with recording false documents, e.g., Utah Code Ann. §§76-8-414 and 76-8-511.

G. UNTIMELY SIGNATURES

Except for Doug Smith, Director, Planning Department, Dustin Grabau, County Executive, and M.F. Crook signing on behalf of the County Clerk, all County officials, including Charles Zeurcher, Chair of the Planning Commission, affixed their signatures to the Lot B plat one to almost three months prior to the Planning Commission's making its decision to approve the Lot B plat on November 10, 2022.[1]

This creates the impression that the November 10, 2022 meeting was perfunctory, i.e., that the Planning Commission had already made its decision to approve Redus's application and had no intention of considering and did not consider any of the comments offered in conjunction with the November 10, 2022 meeting.

This is inconsistent with WCC §16.01.16(G). Redus did not file a Lot B plat by August 12, 2022, one year after the August 12, 2021 Planning Commission meeting, and as per WCC §16.01.16(G), all prior approvals had expired.

This calls into question whether the Planning Commission fulfilled the duty imposed upon it by Utah Code Ann. §17-27a-609, which requires the Planning Commission as the land use authority to ensure that amended plats be recorded in the office of the county recorder in which the land is located. That the plat be accurate and executed in accordance with the law is implicit in this duty.

Claims may also arise pursuant to the Utah Governmental Immunity Act (Utah Code Ann. §63G-7-401) and the Utah Public Officers' and Employees' Ethics Act (Utah Code Ann. §§67-16-1 *et. seq.*,).

H. NAMING CONVENTIONS

The Lot B plat is entitled "Star Harbour Estates Third Amended – Amending Lot B".

The original subdivision plat for Star Harbour Estates was recorded on June 7, 2001 (Entry No. 233950, Book 0506, Page 0655-0674). It is entitled "Record of Survey Plat – Star Harbour Estates". This is a plat of the entire subdivision.

The First Amended Record of Survey Plat -- Star Harbour Estates was recorded on August 14, 2001 (Entry No. 235915, Book 516, Page 692-711). This a plat of the entire subdivision.

---

[1] Charles Zeurcher, Chair, Planning Commission affixed his signature on September 9, 2022. Brandon Cluff, Director, Public Works affixed his signature on September 8, 2022. Dalton (illegible), Director, Engineering Department, affixed his signature on October 6, 2022. Jared Rigby, Wasatch County Sheriff, affixed his signature on September 16, 2022, (Illegible), Director, Solid Waste affixed his signature on September 15, 2022. Max Covey, Director, JSSD affixed his signature on October 11, 2022. John Woodard, Wasatch County Attorney affixed his signature on September 6, 2022. (Illegible), Director, County Health Department affixed her signature on October 12, 2022. Eric Hales, Wasatch County Fire Marshall affixed his signature on September 20, 2022. Quintin Lewis, Director, Wasatch County Weed Board affixed his signature on September 19, 2022. James Kaiserman, Wasatch County Surveyor affixed his signature on August 31, 2022. Dustin Grabau, County Executive and M.B. Crook on behalf of County Clerk affixed their signatures on March 2, 2023. Doug Smith, Director, Wasatch County Planning Department affixed his signature on February 21, 2023.

An amended plat for Lot 10 was recorded on October 13, 2010 (Entry No. 363463, Book 1023, Page 0639-668. The title of this plat is "Record of Condominium Plat – First Amended Lot 10, First Amended Star Harbour Estates".

An amended plat for Lot 34 was recorded on August 30, 2017 (Entry No. 442155, Book 1199, Page 1857). The title of this plat is "Star Harbour Estates First Amended – Amending Lot 34".

On October 12, 2023, the Planning Commission approved an application to amend the plat for Lots 8 and 9 in Star Harbour, The comment from the Recorder's Office was as follows (Enclosure 8):

> COA: Before printing the final mylar. Please have the title of the plat say
> STAR HARBOUR ESTATES FIRST AMENDED
> AMENDING LOTS 8 & 9.
> This should be on top of the plat and also on the right side of the plat right above the Recorder's stamp. Thanks.

An amended plat for Lots 8 and 9 was filed on January 24, 2024 (Entry No. 541131, Book 1464, Page 1076). It is entitled "Star Harbour Estates First Amended – Amending Lots 8 and 9".

Based on the names of the amended plats for Lots 10, 34 and 8 and 9, the name of amended plat for Lot B cannot cite to a "Star Harbour Estates Third Amended" plat because no such amended subdivision plat exists. Based on the name the Recorder most recently assigned to the plat of Lots 8 and 9 in Star Harbour, the Lot B plat should be entitled "Star Harbour Estates First Amended -- Amending Lot B".

As the Recorder has actively participated in the plat approval process and apparently is responsible for seeing that plats are correctly named, she should have rejected the Lot B plat because it is incorrectly named.

I. FATALLY FLAWED PROCESS

The process, as conducted to date, is fatally flawed. At the August 12, 2021 meeting, Redus representatives repeatedly cited to defunct section 12.14 of the Star Harbour CC&Rs – it was removed from the CC&Rs in 2008 – which they maintained deprived the Kosakowskis of their right to comment. As evidenced by the dunning remarks made by Commissioner Grandquis at the close of the August 12, 2021 meeting, this resulted in discrediting the Kosakowskis and their written and oral comments.

The Planning Department did not re-start the application process when Redus failed to record a Lot B plat within the one-year time frame as is required by WCC §16.01.16(G), and the Planning Commission treated the November 10, 2022 meeting as a follow-up to the August 12, 2021 meeting. This is evidenced by the Commissioner Hendrick's voicing reservations as whether 'good cause' existed to amend the Lot B plat but not wanting to disturb the prior decision and the Planning Commission's making Mrs. Kosakowski speak first without requiring the Planning Department to present the application and its 'good cause' analysis. Moreover, the Engineering

Department did not fulfill the condition imposed on it by the Planning Commission at the August 12, 2021 meeting. That is, the Engineering Department failed to determine whether Lot B was a buildable lot by the time of the November 10, 2022 meeting.

BOA hearings are quasi-judicial hearings, which are limited to a review of the record and which must safeguard due process rights. Records open and close on dates certain. Documents generated after a record closes may not be considered by the BOA unless the BOA re-opens the record at the BOA hearing and admits those documents. If that occurs, the BOA must adjourn the hearing and allow the appellant ample time to respond to the newly-admitted record.

In this instance, the record closed on December 12, 2022. The Planning Department attempted to include correspondence from Redus's attorney dated January 12, 2023 in the record it transmitted to the BOA. At the beginning of the hearing, the BOA disallowed the January 12, 2023 correspondence. But then it permitted Redus's attorney to testify during a public comment period – something that should not be occurring because the February 16, 2023 hearing is not a *de novo* hearing – thereby admitting the January 12, 2023 correspondence but depriving the appellants of their right to respond to the January 12, 2023 correspondence. The BOA even went so far as to include certain paragraphs from the January 12, 2023 in its ROA, which mimicked the Planning Department's findings. The BOA deprived appellants of their due process rights.

J. CONCLUSION AND REQUEST

Utah Code Ann. §7-27a-609(5) provides that a plat may be corrected as provided in Utah Code Ann. §57-3-106. As the above are not minor typographical or clerical errors, Utah Code Ann. §57-3-106(8) applies. Utah Code Ann. §57-3-106(8) allows for the re-recording of a document so long as it is re-executed by all parties who executed the original document, and the document contains a brief statement explaining the reason for rerecording.

Because an accurate, correctly-named Lot B plat was not filed within the mandated one-year and must now be re-executed by all the parties as per Utah Code Ann. §57-3-106(8), all the prior permissions have expired as per WCC §16.01.16(G). That being the case, we respectfully request that the Records Review Board "wipe the slate clean" and find that the application and approval process must begin anew.

Sincerely,

Kit R. Kosakowski

Kit R. Kosakowski
1671 W. Alpine Avenue
Heber City, UT 84032
202-255-8131
krkphd@gmailcom

Enclosures

LIST OF ENCLOSURES

1. March 5, 2024 Request for Final Decision to Wasatch County Recorder
2. Sheriff's Sale Deed
3. Record of July 8, 2021 Planning Commission Meeting
4. Record of August 12, 2021 Planning Commission Meeting
5. Record of November 10, 2022 Planning Commission Meeting
6. Record of Written Submittals by Mike and Kit Kosakowski
7. Record of BOA February 16, 2023 Meeting
8. Excerpt from Lots 8 and 9 October 12, 2023 Planning Commission Meeting

ENCLOSURE 29

March 29, 2013 [2024] County Manager Reply

BETTER BY NATURE

WASATCH COUNTY

MANAGER'S OFFICE

Kit R. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032

March 29, 2013

Re: Denial/ Dismissal of the March 27, 2024 WCC 2.02.22 Appeal of Kit R. Kosakowski

Dear Kit R. Kosakowski,

I have reviewed the appeal application filed March 27, 2024. You state that you are asking the Recorder's Review Board to correct "defects associated with the Lot B plat." You define the Lot B Plat as "the amended plat filed for Lot B in Star Harbour Subdivision by Redus Park City LLC ("Redus") on March 14, 2023 (Entry No. 530473, Book 1436, Page 1200)." You state, "I am filing this appeal in accordance with WCC § 2.02.22(D)(1)." WCC § 2.02.22 was adopted by Ordinance 23-11, which was passed on July 5, 2023 by the Wasatch County Council.[1] It was passed pursuant to HB 351(2023)[2], which required, in part:

> **17-50-340. Establishment of county recorder appeal authority.**
>
> (1) On or before July 1, 2023, a county legislative body shall, by ordinance, establish an appeal authority to hear and decide appeals from a county recorder's application of rules made by the County Recorder Standards Board under Section 63C-29-201.

HB 351 (2023) was signed into law on March 20, 2023, and went into effect on May 3, 2023.[3] HB 351 (2023) also created a "County Recorder Standards Board," to "establish statewide standards for county recorders." UCA § 63C-29-201 & 202.

The purpose of this letter is to deny or dismiss the appeal application for: 1) failure to state a claim upon which relief can be granted, and 2) for the lack of jurisdiction of the Recorder's Review Board.

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[1] https://s3-us-west-2.amazonaws.com/municipalcodeonline.com-new/wasatch/ordinances/documents/1692918822_Ordinance%20No.%2023-11.pdf
[2] https://le.utah.gov/~2023/bills/static/HB0351.html
[3] Id.

1) FAILURE TO STATE A CLAIM UPON WHICH RELEIF CAN BE GRANTED

The Recorder's Review Board you are seeking to appeal too did not exist until approximately three months after the date the Lot B Plat was recorded. HB 351, the bill authorizing the Recorder's Review Board did not go into effect till over a month after the date the Lot B Plat was recorded. The very standards the Recorder's Review Board are required to review, "the county recorder's application of rules made by the County Recorder Standards Board," could not exist till after HB 351 went into effect, which was over a month after the date the Lot B Plat was recorded.

Neither Ordinance 23-11 nor HB 351(2023) provide you rights to appeal the alleged defects with the Lot B Plat to the County Recorder or the Recorder's Review Board. "Fairness and good conscience require that [a law] should not be applied retroactively to adversely affect rights as they existed at the time a particular controversy arose." *Irvine v. Salt Lake County*, 785 P.2d 411, 413 (Utah 1989), quoting *State v. Kelbach*, 569 P.2d 1100, 1102 (Utah 1977). This follows the more general principal that "a statute shall not be given retroactive effect unless such construction is required by explicit language or by necessary implication." *Fernandez-Vargas v. Gonzales*, 548 U.S. 30, 37 (2006).

The Recorder's Review Board did not exist on March 14, 2023, and has no power or authority to consider alleged defects in the Lot B Plat, the rule you seek to have the application reviewed under did not exist on March 14, 2023. I further have no authority to accept an appeal regarding a defect from a document recorded on March 14, 2023 and forward it to the Recorder's Review Board. Your appeal application is therefore rejected.

2) LACK OF JURISDICTION

Additionally, the Recorder's Review Board does not have jurisdiction to hear the appeal. The jurisdiction of the Recorder's Review Board is determined by WCC § 2.02.22(B):

> 1. The Recorder's Review Board shall have the following powers and duties:
> a. To hear and decide appeals from a county recorder's application of rules made by the County Recorder Standards Board under Utah Code 63C-30-201; and
> b. To hear and decide appeals from an official action or omission of the County Recorder, if such an appeal is requested and agreed by an aggrieved person and the County Recorder in writing.

The Appellant has the duty of presenting sufficient facts to invoke the jurisdiction of the Recorder's Review Board.[4] In this case the Appellant has not, and cannot, assert facts that invoke the jurisdiction of the Recorder's Review Board. The first way that jurisdiction could be obtained is by appealing the recorder's application of the rules made by the County Recorder Standards Board. The Recorder cannot have applied the County Recorder Standards Board rules to the recording of the Lot B Plat because the rules did not exist when the plat was recorded. The

[4] It is axiomatic that a party wishing to bring a matter before a tribunal with limited subject matter jurisdiction must present sufficient facts to invoke the limited jurisdiction of that tribunal. *Olson v. Utah Dep't of Health*, 2009 UT App 303, ¶13.

second way that the Recorder's Review Board can have jurisdiction is if the "an appeal is requested and agreed by an aggrieved person and the County Recorder in writing." WCC § 2.02.22(B)(1)(b). Here, the facts the appellant do not state the Recorder agreed to the appeal. To the contrary, the appeal shows the Recorder did not agree to this appeal: "the Recorder did not respond to my Request for Final Decision . . . ."

In an informative case on the importance of jurisdiction, and how jurisdiction is determined is *Olson v. Utah Dep't of Health*. In this case, an aggrieved employee, Olson, filed an appeal of an adverse employment action by the Department of Health to the Career Service Review Board (CRSB). The CSRB went ahead and scheduled a hearing on the appeal. *Olson v. Utah Dep't of Health*, 2009 UT App 303, ¶3. However, the Department of Health filed a motion to dismiss, asserting that the CSRB lacked jurisdiction. The CSRB Administrator reviewed the file, and *the CSRB Administrator* summarily dismissed with prejudice Olson's appeal before the CSRB for lack of jurisdiction. *Olson*, 2009 UT App 303, at ¶4. In upholding the dismissal by the administrator, the Court explained, "the facts of Olson's grievance . . ., are not sufficient to invoke the jurisdiction of the CSRB." *Olson*, 2009 UT App 303, ¶13.

As the administrator of Wasatch County, I am statutorily required to receive appeals to the Recorder's Review Board and to schedule the hearings. WCC § 2.02.22(D)(3). I am the chief executive officer of Wasatch County, vested with all executive and administrative powers and duties except those executive and administrative responsibilities vested, by state statute or county ordinance, in independent elected officials. WCC § 1.05.3.04. I am required to "manage and direct the activities of the county," "carry out and enforce the programs and policies of the county council", and to "faithfully execute the laws and ordinances of the county." WCC § 1.05.3.04 (A), (C), & (D). As was explained above, the Appellant has not, and cannot, plead facts sufficient to support the Recorder's Review Board jurisdiction. Therefore, the appeal is hereby dismissed and the appeal application is rejected.

Please find enclosed check returning the $150 appeal fee.

Regards,

Dustin Grabau
Wasatch County Manager

ENCLOSURE 30

April 1, 2024 Sale of Lot B to Julie Bruce, LLC

Ent 543543 Bk 1470 Pg 1013 - 1018
MARCY M. MURRAY, Recorder
WASATCH COUNTY CORPORATION
2024 Apr 01 02:21PM Fee: $40.00 CO
For: Coalition Title Agency, Inc.
ELECTRONICALLY RECORDED

WHEN RECORDED RETURN TO,
AND MAIL TAX NOTICES TO:

JULIE BRUCE, LLC
14 Gatehouse Lane
Sandy, Utah 84092

APN(s): See Exhibit A

SPECIAL WARRANTY DEED

[Star Harbour Lot B]

REDUS PARK CITY LLC, a Delaware limited liability company, with an address of 333 Market Street, 17th Floor, San Francisco, California 94105, Grantor, hereby CONVEYS AND WARRANTS against all who claim by, through, or under the Grantor, to **JULIE BRUCE, LLC**, a Utah limited liability company, with the address first stated above, Grantee, for the sum of TEN DOLLARS and other good and valuable consideration, the following described tract of land in Wasatch County, Utah, to wit:

See attached Exhibit A (the "Property")

20092

SUBJECT TO (i) all declarations, easements, rights-of-way, restrictions, covenants, and other matters of public record; (ii) all gas, water, and mineral rights of others; (iii) any matters that would be disclosed by an accurate, current survey and inspection of the Property; (iv) current taxes and assessments; and (v) all matters identified and listed on the attached **Exhibit B** (**"Permitted Exceptions"**).

[Signature and Acknowledgement Follow]

WITNESS the hand of said Grantor this 29th day of March 2024.

GRANTOR:

REDUS PARK CITY LLC,
a Delaware limited liability company

By: REDUS PROPERTIES, INC.,
a Delaware corporation
Its: Manager

By: _____
David L. Ash, Senior Vice President

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa)

On 03/28/2024 before me, Sultan Ayca Atkin, notary public
(insert name and title of the officer)

personally appeared David L Ash,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

SULTAN AYCA ATKIN
COMM. #2461529
NOTARY PUBLIC - CALIFORNIA
CONTRA COSTA COUNTY
My Commission Expires 08/29/2027

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
Legal Description

LOT B-AM, STAR HARBOUR ESTATES THIRD AMENDED - AMENDING LOT B, ACCORDING TO THE OFFICIAL PLAT THEREOF FILED OF RECORD IN THE OFFICE OF THE WASATCH COUNTY RECORDER.

(Tax Serial No. 0HB-000B and Parcel No. 00-0020-0814)

EXHIBIT B
Permitted Exceptions

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between February 21, 2024 and the date this Special Warranty Deed is recorded in the public records.

2. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

3. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of the Property or by making inquiry of persons in possession thereof.

4. Easements, liens, or encumbrances, or claims thereof, which are not shown by the public records.

5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Property and not shown by the public records.

6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in acts authorizing the issuance thereof; (c) water rights, claims or title to water; ditch rights; (d) minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel and other hydrocarbons in, on, under and that may be produced from the Property, together with all rights, privileges, and immunities related thereto, whether or not the matters excepted under (a), (b), (c) or (d) are shown by the public records.

7. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

8. Taxes for the year are now accruing as a lien, but are not yet due and payable. Taxes for the year 2023 have been paid in the amount of $52.86 (Serial No. 0HB-000B and Parcel No. 00-0020-0814).

9. Star Harbour Estates Development Agreement, dated JUNE 6, 2001, by and between BLUE LEDGE CORPORATION, A DELAWARE CORPORATION and WASATCH COUNTY, recorded JUNE 7, 2001, as Entry No. 233949, in Book 506, at Page 602, WASATCH County Recorder's Office.

10. Parkway Construction Agreement, dated JUNE 4, 2001, by and between WASATCH COUNTY, JORDANELLE SPECIAL SERVICE DISTRICT and BLUE LEDGE CORPORATION, A DELAWARE CORPORATION, recorded JUNE 12, 2001, as Entry No. 234063, in Book 507, at Page 333, WASATCH County Recorder's Office.

11. All Matters contained in that certain HAILSTONE STATION, existing condition survey dated JULY 17, 2000, JOB NO: 1-6-00, including but not limited to: existing water, snowmaking, power and sanitary sewer easements.

12. Grant of Easement in favor of MOUNTAIN STATES TELEPHONE AND TELEGRAPH CO. the right, privilege and authority to construct, operate and maintain its lines of telephone and telegraph, including the necessary, poles, cables, wires and fixtures upon, over and across the subject property. Said Easement recorded OCTOBER 24, 1932 as Entry No. 49417, in Book 4, at Page 233, WASATCH County Recorder's Office.

13. A TEN (10) foot PUBLIC UTILITY AND DRAINAGE EASEMENT, running along the ALL SIDES of the subject property as shown on the recorded plat of said subdivision.

14. Conditions, Restrictions, and Notes as shown on the recorded plat.

15. Declaration of Covenants, Conditions and Restrictions for STAR HARBOUR ESTATES, but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, recorded JUNE 7, 2001, as Entry No. 233951, in Book 506, Page 675, WASATCH County Recorder's Office.

    Amended and Restated Declaration of Covenants, Conditions and Restrictions for STAR HARBOUR ESTATES, recorded AUGUST 20, 2001, as Entry No. 236098, in Book 517, at Page 421, WASATCH County Recorder's Office.

    Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for STAR HARBOUR ESTATES, recorded NOVEMBER 4, 2008, as Entry No. 341641, in Book 976, at Page 1560, WASATCH County Recorder's Office.

    FIRST AMENDMENT TO THE ARTICLES OF INCORPORATION for STAR HARBOUR HOMEOWNERS ASSOCIATION, INC., recorded DECEMBER 13, 2023, as Entry No. 539779, in Book 1461, at Page 306, WASATCH County Recorder's Office.

    FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for STAR HARBOUR ESTATES & BY-LAWS OF STAR HARBOUR HOMEOWNERS ASSOCIATION, INC., recorded DECEMBER 13, 2023, as Entry No. 539780, in Book 1461, at Page 310, WASATCH County Recorder's Office.

    AFFIDAVIT OF CORRECTION RELATED TO THE FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for STAR HARBOUR ESTATES & BY-LAWS OF STAR HARBOUR HOMEOWNERS ASSOCIATION, INC., recorded FEBRUARY 8, 2024, as Entry No. 541635, in Book 1465, at Page 1767, WASATCH County Recorder's Office.

    SECOND AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for STAR HARBOUR ESTATES & BY-LAWS OF STAR HARBOUR HOMEOWNERS ASSOCIATION, INC., recorded MARCH 21, 2024, as Entry No. 543209, in Book 1469, at Page 976, SUMMIT County Recorder's Office.

16. The Conditions, Restrictions and Easements as shown in that certain Declaration of taking, recorded MARCH 29, 1988, as Entry No. 145253, in Book 198, at Page 701 and amended

complaint in condemnation recorded JULY 18, 1996, as Entry No. 188229, in Book 327, at Page 270, WASATCH County Recorder's Office.

17. Excepting therefrom all minerals and ores situated in, upon or under the above described tract of land, together with all rights in connection with or relative to the mining, removal or sale of the same (but not including the right to enter upon the surface of the premises).

18. A Resolution for the Relocation of SR-40 and SR-189, Addition SR-32 along with Redesignation of SR-35 and Extension of FAS-184, Addition SR-319, Deletion Portion of SR-248, Transfer of State Constructed Roads at Various Locations Throughout Project Plans NF-19(13), NF-19(14) & NF-61(3), recorded October 24, 1991, as Entry No. 157889, in Book 234, at Page 618, Wasatch County Recorder's Office.

19. Resolution No. 95-11, a resolution creating the Wasatch County Special Service District No. 21 for recreation commonly known as the "Wasatch County Recreation District", recorded December 3, 1996, as Entry No. 191048, in Book 337, on Page 483, in the office of the Wasatch County Recorder.

20. Said property lies within the boundaries of the WASATCH COUNTY WATER DISTRICT NO. 1, and is subject to the charges and assessments levied thereunder.

21. Notice of Encumbrance and Assessment Area Designation, recorded DECEMBER 18, 2012, as Entry No. 385110, in Book 1070, at Page 615, WASATCH County Recorder's Office, to wit:

    "County Council (the "Council") of Wasatch County, (the "County") acting as the governing body of the Wasatch County Fire Protection Special Service District, Wasatch County, Utah (the "District"), (i) has designated the Wasatch Fire Assessment Area (the "Assessment Area"), for the purpose of financing the operation and maintenance costs (the "O&M Costs") of the District, including, the fire protection service costs for a portion of the full-time firefighters housed at the Jordanelle Fire Station ("Services") and (ii) intends to finance said O&M costs and Services by levying an assessment against those properties located within the Assessment Area. For information call the Wasatch County Auditor/Clerk's office at (435) 657-3190."

22. Said property is located within the boundaries of WASATCH COUNTY LEVY, WASATCH COUNTY SCHOOL DISTRICT, WASATCH COUNTY GENERAL HEALTH, WASATCH COUNTY FIRE PROTECTION DISTRICT, WASATCH COUNTY LIBRARY, CENTRAL UTAH WATER DISTRICT and is subject to charges and assessments levied thereunder.

ENCLOSURE 31

Kosakowski April 29, 2025 E-mail to Quinn Davis and Reply

From: **Kit Kosakowski** krkphd@gmail.com
Subject: Re: Public Notice -- Building Permits
Date: May 5, 2025 at 6:03 AM
To: Quinn Davis qdavis@wasatch.utah.gov
Cc: Bldinfo@wasatch.utah.gov
Bcc: utahkos@gmail.com

KK

Quinn —

Thanks for getting back to me.

I am interested in any application for or issuance of a building or engineering permit for 1687 W. Alpine Ave., Heber City, UT 84032.

Would it be best for me to simply phone the Building Department every morning to to ask if a building permit application has been filed or issued relative to 1687 W. Alpine Ave?

Could you give me a specific contact?

Thanks.

Kit Kosakowski.

> On May 1, 2025, at 11:11 AM, Quinn Davis <qdavis@wasatch.utah.gov> wrote:
>
> Kit,
>
> Wasatch County's Building Department does not provide public notice of building permit applications or the issuance of building permits. As Dustin noted, *"We don't typically notice issuances of permits to anyone other than the permit holders and, in some instances, [permits are] recorded against the property itself."*
>
> If you have a question regarding a specific property or permit, you are welcome to contact the Building Department directly for more information.
>
> Quinn Davis
> Building Official
> qdavis@wasatch.utah.gov
> 435-657-3200 O
> 435-671-1009 C
>
> WASATCH COUNTY
>
> ---
>
> **From:** Kit Kosakowski <krkphd@gmail.com>
> **Sent:** Tuesday, April 29, 2025 9:08 AM
> **To:** Quinn Davis <qdavis@wasatch.utah.gov>
> **Subject:** Public Notice -- Building Permits
>
> [You don't often get email from krkphd@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]
>
> CAUTION: This email originated from outside the organization. Exercise caution and

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Quinn —

Could you please tell me when and how Wasatch County provides public notice of applications for and issuance of building permits?

Thank you.

Kit Kosakowski

ENCLOSURE 32

Kosakowski October 6, 2025 Comments to Building Department (w/o Enclosures)

DELIVERED BY E-MAIL TO Bldinfo@wasatch.utah.gov AND BY U.S. MAIL CERTIFIED

October 6, 2025

Mr. Terry Ekker
Director, Wasatch County Building Department
1891 W 3000 S
Heber City, UT 84032

RE: Building Permit Application for Lot B, Star Harbour Subdivision (1687 W. Alpine Ave., Heber City, UT 84032)

We are Kit and Michael Kosakowski, and we live at 1671 W. Alpine Ave, Heber City, UT. Our home, which we have owned since June 2005, is located next door to Lot B in the Star Harbour Subdivision (1687 W. Alpine Ave., Heber City, UT 84032) ("Lot B").

Based on an October 3, 2025 telephone conversation with your staff, we understand that the owner of Lot B made application for a building permit on September 15, 2025. We are writing to respectfully request that the Building Department deny this permit application because (1) Lot B is not a buildable lot because the slope equals or exceeds 30% (Wasatch County Code ("WCC") §§16.27.9) and a driveway cannot be located to satisfy the requirements of WCC §16.33.11 and (2) the County has a legal obligation to ensure that the mistakes on the Lot B plat are corrected prior to issuing additional approvals.

I. Background

Historically, Lot B was an open space easement lot located at the western end of Star Harbour on W. Alpine Ave. It lies directly across from Fox Bay Drive and serves as Fox Bay Condominium's snow repository during the winter months. Lot B also contains a double-track dirt road that we and members of the public use as a recreational path. Lot B is identified as open space in the Star Harbour Development Agreement.

Wells Fargo Bank acquired Lot B for $125,000 at a Sheriff's sale on March 19, 2020. Redus, a Wells Fargo affiliate, first applied to convert Lot B into a single-family residential lot sometime thereafter. The Planning Commission held the first of three meetings on Redus's application on July 8, 2021. The application was continued until the August 12, 2021 meeting because it was determined that the 2005 Pacificorp release of easement presented by Redus did not refer to the 40-foot utility easement that stretches along the eastern boundary of Lot B and behind Lots 1,3,4,5,6, and into Lot 7. A trail easement of unknown width occupies the same stretch behind Lots 1,3,4,5,6, and into Lot 7.

At the August 12, 2021 meeting, Redus presented a new quitclaim release of easement executed by Rocky Mountain Power, and the Planning Commission approved Redus's application to convert Lot B. However, Redus did not record the Lot B plat mylar within the one-year timeframe stipulated by the Planning Commission. This precipitated another Planning

Commission hearing on November 10, 2022 at which the Planning Commission again approved Redus's application.

We submitted written comments and testified at all three Planning Commission meetings. We also appealed that portion of the November 10, 2022 Planning Commission decision applying the Engineering Department Code to the County Manager on November 18, 2022 and the entirety of the decision to the Wasatch County Board of Adjustment ("BOA") on December 8, 2022. The latter heard the appeal on February 16, 2023. While it affirmed the November 10, 2022 Planning Commission decision, **the BOA declined to address the buildability issues, saying they would be addressed during the building permit application process**.

Redus filed the Lot B plat on March 14, 2023 (Enc 1).

On March 5, 2024, we filed a Request for Final Decision with the Wasatch County Recorder in accordance with WCC §2.02.22(D)(2) requesting that the County Recorder take the steps that are available to her to correct mistakes and other problems associated with the Lot B plat. She did not respond to this request, and on March 27, 2024, we filed an appeal in accordance with WCC §2.02.22(D)(1) with the County Manager who refused to hear the appeal.

Redus sold Lot B to Julie Bruce, LLC on April 1, 2024.

All our submittals as well as the Staff Reports, Records of Actions, correspondence and other documents prepared by the County during the Lot B process are included herein by reference.

II. Lot B is not a buildable lot.

a. Lot B is not a buildable lot because its slope exceeds 30%.

WCC §16.27.9 reads: "Slopes over thirty percent (30%) are not considered buildable. Lots must have a minimum of five thousand (5,000) square feet of contiguous area under thirty percent (30%) natural slope excluding slope irregularities as defined in 16.04. Any lot with a slope over 30% shall include building envelopes or constrained areas on the final plat."

We have measured the inclination at several locations on Lot B; it ranged from 20 degrees to 35 degrees, which is a slope of 34% to 57%. The Alpine Avenue frontage is uniformly and especially steep; it is in the 57% range. Also, a back-of-the-envelope calculation based on Redus's 2020 survey results in a "rise over run" of 72 feet over 240 feet along the Fox Bay property line to yield a slope of 30%. Thus, as per WCC §16.27.9, Lot B is not a buildable lot.

WCC §16.04.02 defines BUILDABLE ENVELOPE: A three-dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats in areas of thirty percent (30%) slope or less.

The building envelope shown on the Redus Lot B plat is located nearest Alpine Ave, which is the steepest part of Lot B – something on the order of 57% by our calculation. Nothing on the Lot B plat shows a building envelope of 5000 square feet on a slope of less than 30%.

WCC §16.27.25 which addresses physical constraints analyses reinforces this. It states: "Wasatch County will not allow building or development on constrained lands…(A)The project will not consist of any building envelopes on natural or manmade slopes over thirty percent (30%) grade; Natural slopes over twenty-five percent (25%) shall include special studies which verify stability; each lot shall have a contiguous, generally rectangular building area that is a minimum of five thousand (5,000) square feet at less than thirty percent (30%) slope."

As a frame of reference, on August 19, 2025, SK Hart presented a proposal to build a condominium project on a 4-acre site also located on Alpine Ave less than 700 feet to the east of Lot B (Enc 2). SK Hart has proposed that slopes greater than 25% be open space and that no structures be located on portions of the property with slopes greater than 25%.

Under the heading "Environmental Constraints Analysis", the Planning Department Staff Report stated with regard to the SK Hart proposal:

> Wasatch County Code 16.27.25 requires an environmental constraints analysis to be submitted with any master plan application which outlines the potential constraints on development activity. The documentation provided by the developer asserts that the only environmental constraint on the subject property are portions of slope exceeding 30%. These areas of steep slope are located in the proposed open space area of the development. There is a portion of slopes between 25% and 30% located in the RMD land use but there are no proposed structures in this area.

And under the heading, "Geotechnical Review", the Planning Department Staff Report stated with regard to the SJ Hart proposal:

> The applicant has provided a geotechnical report that has been reviewed by the county review engineer and determined that the soil's stability is generally acceptable. The report and plans have identified areas of 25-30% slopes and slopes over 30%. The proposed buildings are not located on any areas with slopes over 25%.

We have walked the trails along the southern edge of Alpine Ave many times. The topography of the portion of the SK Hart property designated as open space is no different than the topography on Lot B. It's hard to understand how Wasatch County can apply different criteria to Lot B than it is applying to the SK Hart property, only a few hundred feet distant.

b. <u>Lot B is not a buildable lot because it is not possible to locate a driveway to comply with the separation requirements of WCC §16.33.11.</u>

WCC §16.33.11 requires driveways to be located a minimum of 40 feet from an

intersection and ten feet from a lot line. Utah Code §41-6a-102(28)(a) defines "Intersection" as "the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another…"

In many jurisdictions, the intersection of two roads is deemed to begin where the double yellow lines cease, i.e., where drivers may legally begin to turn. Driveways for double car garages should be a minimum of 20 feet wide and more comfortably 24 feet wide. Star Harbour governing documents require all residences to have at least double garages.

The center of Lot B is directly opposite Fox Bay Drive. This is clear from Exhibit A – Vicinity Plan of all three Staff Reports (Enc 3). The photos enclosed with our August 9, 2021 comment letter show the relationship between the Alpine Avenue frontage of Lot B and Fox Bay Drive (Enc 4). Photo 1 shows the Alpine Avenue frontage Lot B property line. The property line between our home and Lot B, the east end, is at the 20 mph sign. The property line between the Fox Bay property on the south side of Alpine Ave and Lot B, the west end, is at the vertical white line. Photos 2 and 3 show a close up of the west end stake and its location relative to the double yellow line and the Fox Bay Avenue curb. Photo 4 shows spatial relationship between the east end boundary, the crosswalk, the double yellow line, and the Fox Bay Drive curb.

The distance between the property line at the stake, the west end, and the end of the double yellow line is one foot, and the distance between the property line at the stake and the curb is 20 feet. A 20-foot-wide driveway 10 feet off the property line west end of Lot B will extend into the intersection by at least 10 feet. Thus, it is not possible to locate a driveway off the west end of Lot B without violating WCC §16.33.11, i.e., it is not possible to locate a driveway 40 feet from the intersection of Alpine Ave and Fox Bay Drive.

The distance between the property line at the 20 mph sign, the east end, and the cross walk, which is also the distance between the property line and the end of the double yellow line, is 42 feet and the distance to the curb is 63 feet. A 20-foot-wide driveway 10 feet off the property line at the east end of Lot B will be within 12 feet of the crosswalk and 33 feet of the curb, which marks the beginning of the intersection. This is seven (7) feet short of the required 40-foot separation. Thus, it is not possible to locate a driveway at the east end of Lot B without violating WCC §16.33.11, i.e., it is not possible to locate a driveway 40 feet from the intersection of Alpine Ave and Fox Bay Drive.

Also, the addition of a new driveway, especially at the east end of Lot B, will represent an added danger to pedestrians in the crosswalk as well as to us when we exit our driveway onto Alpine Ave. Already, we frequently must brake because a vehicle speeds out of Fox Bay Drive in front of us. This danger will be compounded because a driveway adjacent to ours will be in a blind spot for us due to the presence of trees and other vegetation.

It should also be noted that a Lot B driveway has the potential to interfere with the storm drain on Alpine Avenue and that Fox Bay will lose its snow repository.

c. <u>No "buildability" analysis was conducted even though the Planning Commission's approval of Redus's application to convert Lot B was conditioned on such an analysis.</u>

The Record of Action ("ROA") issued by the Planning Commission on August 12, 2021 conditioned its approval on "review from the engineering department that a driveway is possible and the lot can be buildable under applicable codes."

The Staff Report issued by the Planning Department on November 2, 2022 stated, "All of the conditions of approval were satisfied by the applicant, including…verification of constructability of a driveway through the engineering department."

However, the Staff Report presented no analysis or other document prepared by either the Design Review Committee or the Engineering Department that demonstrates that Lot B is a buildable lot from either the perspective of slope or driveway placement. It simply presents a one-line entry in tabular form on page 8 of 13 of Enc 3, which reads, "Engineering Department – Ready for Decision".

.

On November 14, 2022, Kit Kosakowski requested a copy of the Design Review Committee/Engineering Department buildability analysis from the Planning Department. The November 15, 2022 reply e-mail did not provide any such analysis.

To be on the safe side, Ms, Kosakowski also submitted a GRAMA request for the same document. On the same day, the Planning Department responded to the GRAMA request by providing a copy of the document that Ms. Kosakowski already had and had submitted as part of her GRAMA request, i.e., the November 2, 2022 Staff Report.

This precipitated the appeal to the County Manager on November 18, 2022. Mr. Grabau tried to the "plug the hole" created by the failure of the County to fulfill the "buildability" condition imposed by the Planning Commission at the August 12, 2021 meeting by commissioning a study by Ardurra. Unfortunately, their report did nothing to demonstrate that Lot B is a buildable lot, and the BOA refused to admit the Ardurra report into the administrative record.

III. <u>The Lot B plat is defective on its face.</u>

Utah Code Ann. §17-27a-609 of the Utah County Land Use Development and Management Act obligates county land use authorities – in this case, the Planning Commission – to ensure that amended plats are recorded in the office of the county recorder.

In discussing the equivalent provision in the Utah Municipal Development and Management Act (Utah Code Ann. §10-9a-609), the Utah Property Right Ombudsman wrote in Advisory Opinion 50:

> There are multiple reasons behind placing the obligation on the City to ensure that a plat is recorded. A properly recorded plat gives notice of its contents to all, including subsequent purchasers…Although it may not be the City's responsibility to actually record the document, the statute clearly imposes a duty to ensure recording on the City…The City should not grant subsequent approvals of building permits until the document has been properly recorded…As soon as the City was aware that there was a

problem , and that the plat was unrecorded, the City should have stopped development on both subdivisions until the issue could be resolved, and the correct plats recorded.

Although Advisory Opinion 50 dealt with an unrecorded plat, the rationale is equally applicable to a recorded plat that does not accurately reflect the decision made by the land use authority.

As outlined below, the Lot B plat recorded by Redus contains multiple errors, and it is not in accordance with the decision made by the Planning Commission. That being the case, Julie Barnes, LLC, which purchased Lot B, did not have the notice to which it was legally entitled. Moreover, the County should not grant any further approvals, including a building permit, until an accurate Lot B plat has been recorded.

a. Note 3 in the Lot B Plat refers to a release of easement that the planning commission rejected.

Note 3 of the Lot B plat states, *inter alia*, "The release of easement affecting Lot B was recorded May 5, 2005, as Entry No. 282741." At its July 8, 2001 meeting, the Planning Commission determined that the 2005 release of easement proffered by Redus and cited in Note 3 did not refer to the 40-foot-wide utility easement on Lots B,1,2,3,4,5,6,7.

Between the July 8, 2021, and the August 12, 2021, Planning Commission meetings, Redus obtained a quitclaim release of easement from Rocky Mountain Power . This release is dated July 14, 2025, and it was filed with the County Recorder on August 4, 2021 as Entry No. 505042. The Planning Commission accepted this 2021 quitclaim release as adequate evidence that the 40-foot-wide utility easement.

That being the case, Note 3 on the Lot B is incorrect. Note 3 should read: "The release of easement affecting Lot B was recorded August 4, 2021, as Entry No. 505042."

b. Unauthorized and Illegible Conditions were penciled in on the Lot B Plat.

A Condition No. 8 was penciled onto the Lot B plat. It reads: "Lot B AM(?) shall be subject to the Star Harbour Estates CC&Rs as a single family residence."

Utah Code Ann. §57-3-106 prohibits persons from presenting and authorizes the Recorder to refuse to accept a document that is not sufficiently legible to make certified copies of the document. Also, WCC §16.27.12 states: "Details and the workmanship on finished drawings shall be neat, clean-cut and readable. A poorly drawn or illegible plat is sufficient cause for rejection."

Part of Note 8 is illegible. Moreover, Note 8 is not printed as is the rest of the plat (excepting signatures, of course). Instead, it is penciled in, by hand, and there is no indication as to who penciled it in, when it was penciled in (before or after the signatures were affixed?), or why it was penciled in. Therefore, Note 8 is invalid on its face. Its presence renders the Lot B plat suspect on its face.

In fact, the condition set forth in Note 8 was never authorized by the Planning Commission at any of the three meetings held on Lot B. Moreover, the County cannot impose compliance with CC&Rs upon an entity that is not a member of the HOA. CC&RS are contracts, and their terms do not apply to non-parties.

c. Lot B plat is missing a signature block.

WCC §16.27.12(L) requires that a plat include a form of certification for a certain list of individuals and County officials. The Wasatch County Water Board is among the list of County officials who must sign off on plats (WCC §16.27.12(L)(13). There is no signature block for the Wasatch County Water Board on the Lot B plat.

d. Most County officials signed the Lot B plat before it was approved by the Planning Commission on November 10, 2021.

Except for Doug Smith, Director, Planning Department, Dustin Grabau, County Executive, and M.F. Crook signing on behalf of the County Clerk, all County officials, including Charles Zeurcher, Chair of the Planning Commission, affixed their signatures to the Lot B plat one to almost three months prior to the Planning Commission's making its decision to approve the Lot B plat on November 10, 2022.1

This creates the impression that the November 10, 2022 meeting was perfunctory, i.e., that the Planning Commission had already made its decision to approve Redus's application and had no intention of considering and did not consider any of the comments offered in conjunction with the November 10, 2022 meeting.

This is inconsistent with WCC §16.01.16(G). Redus did not file a Lot B plat by August 12, 2022, one year after the August 12, 2021 Planning Commission meeting, and as per WCC §16.01.16(G), all prior approvals had expired.

In addition to this being a breach of the duty imposed by Utah Code Ann. §17-27a-609, claims may also arise pursuant to the Utah Governmental Immunity Act (Utah Code Ann. §63G-7-401) and the Utah Public Officers' and Employees' Ethics Act (Utah Code Ann. §§67-16-1 *et. seq*.,). Moreover, there are criminal penalties associated with recording false documents, e.g., Utah Code Ann. §§76-8-414 and 76-8-511.

e. Lot B Plat is incorrectly named.

The Lot B plat is entitled "Star Harbour Estates Third Amended – Amending Lot B".

The original subdivision plat for Star Harbour Estates was recorded on June 7, 2001 (Entry No. 233950, Book 0506, Page 0655-0674). It is entitled "Record of Survey Plat – Star Harbour Estates". This is a plat of the entire subdivision. The first amendment to the subdivision plat is entitled "First Amended Record of Survey Plat -- Star Harbour Estates". It was recorded on

August 14, 2001 (Entry No. 235915, Book 516, Page 692-711). This a plat of the entire subdivision.

An amended plat for Lot 10 was recorded on October 13, 2010 (Entry No. 363463, Book 1023, Page 0639-668. The title of this plat is "Record of Condominium Plat – First Amended Lot 10, First Amended Star Harbour Estates".

An amended plat for Lot 34 was recorded on August 30, 2017 (Entry No. 442155, Book 1199, Page 1857). The title of this plat is "Star Harbour Estates First Amended – Amending Lot 34".

On October 12, 2023, the Planning Commission approved an application to amend the plat for Lots 8 and 9 in Star Harbour, The comment from the Recorder's Office was as follows:

> COA: Before printing the final mylar. Please have the title of the plat say
> STAR HARBOUR ESTATES FIRST AMENDED
> AMENDING LOTS 8 & 9.
> This should be on top of the plat and also on the right side of the plat right above the Recorder's stamp. Thanks.

An amended plat for Lots 8 and 9 was filed on January 24, 2024 (Entry No. 541131, Book 1464, Page 1076). It is entitled "Star Harbour Estates First Amended – Amending Lots 8 and 9".

Based on the names of the amended plats for Lots 10, 34 and 8 and 9, the name of amended plat for Lot B cannot cite to a "Star Harbour Estates Third Amended" plat because no such amended subdivision plat exists. Based on the name the Recorder most recently assigned to the plat of Lots 8 and 9 in Star Harbour, the Lot B plat should be entitled "Star Harbour Estates First Amended -- Amending Lot B".

IV. Conclusion

For the reasons stated above, we respectfully request that the Building Department deny the application for a building permit for Lot B on the grounds that it is not a buildable lot from either the standpoint of slope or driveway placement and because the Lot B plat is fatally flawed.

We will be filing a GRAMA request for the documents associated with the Lot B building permit application and reserve the right to supplement this request once we have received those documents.

Given the County's past treatment of our concerns, we will not be surprised if our legitimate concerns are again overruled and a building permit is granted. Please do us the courtesy of informing us of your action, so that we may appeal that decision in accordance with WCC §2.02.02(G)(5)(c).

Sincerely,

Michael W. Kosakowski
(202) 255-4496

Kit R. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
(202) 255-8131

Enclosures

cc: Dustin Grabau, Wasatch County Manager (via e-mail only)

List of Enclosures

1. Lot B Plat filed by Redus on March 14, 2023.
2. Schematic from SK Hart Proposal
3. Vicinity Plan from Lot B Planning Department Staff Reports
4. Photos of Intersection of Alpine Ave and Fox Box Drive

ENCLOSURE 33

Kosakowski October 13, 2025 GRAMA Request

From: **Barry Hallows** bhallows@wasatch.utah.gov
Subject: RE: GRAMA Request - Lot B Star Harbour, 1687 W Alpine Ave
Date: October 14, 2025 at 8:57 AM
To: Kit Kosakowski krkphd@gmail.com

BH

I am no longer the records officer but I will forward this to the appropriate party. For future reference, it's with the attorney's office now.

Barry Hallows
HR Analyst
435.657.3328
www.wasatch.utah.gov

-----Original Message-----
From: Kit Kosakowski <krkphd@gmail.com>
Sent: Monday, October 13, 2025 7:13 AM
To: Barry Hallows <bhallows@wasatch.utah.gov>; Public Records Distribution Group <PublicRecords@wasatchcounty.gov>
Cc: Quinn Davis <qdavis@wasatch.utah.gov>; Dustin A. Grabau <DGrabau@wasatch.utah.gov>
Subject: GRAMA Request - Lot B Star Harbour, 1687 W Alpine Ave

[You don't often get email from krkphd@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Barry —

Attached please find a GRAMA request for building permit records associated with Lot B in Star Harbour.

Thank you.

Kit Kosakowski

GRAMA Request Form

used to request records from any governmental entity

Note: Utah Code § 63G-2-204(1) (GRAMA) requires a person making a records request to furnish the governmental entity with a written request containing the requester's name, mailing address, daytime telephone number, and email address if the person is willing to receive communications by email. The request must also include a description of the being record requested that identifies the record with reasonable specificity. The request must be made to the governmental entity that created or maintains the records.

Requester information:

Name: Kit Kosakowski Date: 13 October 2025

Address: 1671 W Alpine Ave

City: Heber City State: UT ZIP code: 84032

Daytime phone number: 202-255-8131 Email address: krkphd@gmail.com

Request made to:

Government agency or office: Wasatch County Building Department

Records officer's name (if known): Quinn Davis

Address: 1891 W 3000 S

City: Heber City State: Utah ZIP code: 84032

Phone number: (435) 657-3200 Email address: Bldinfo@wasatch.utah.gov

Records requested:

Note: The more specific the request, the easier it will be for records officers to respond.

Title or subject of records: Lot B Star Harbour - 1687 W Alpine Ave

Description of records including all relevant information -- date range of records, name of involved person(s), location of event(s), and other descriptive information:

Building permit application submitted by Lot B owner, Julie Bruce, LLC or other entity on or about September 15, 2025, including but not limited to geotechnical survey and physical/environmental constraints analysis, and all documents prepared by Wasatch County in response to application.

Details for records that may have restricted access:

Note: Some records may be classified as private, controlled, or protected, or access may be limited by another statute. Access to restricted records is provided for in the relevant other statutes or in Utah Code § 63G-2-202(1)(2)(4).

If the requested records could have a restricted classification, please supply the following information:

Are you the subject of the record? ○ Yes ◉ No

Are you an authorized representative of the subject of the record (parent, guardian, someone with power of attorney or notarized release: ○ Yes ◉ No

If yes, explain and attach documentation:

Did you provide the record to the governmental entity? ○ Yes ◉ No

Describe your connection to an incident or event that is the subject of the record:

There is no reason for access to these records to be restricted.

Details for records the release of which may be in the public interest:

Note: Release of some records is in the public interest. Such records may be eligible for a fee waiver and/or expedited response as provided in Utah Code § 63G-2-203(4) and Utah Code § 63G-2-204(4)(5).

If release of the requested records will benefit the public, please supply the following information:

Are you requesting an expedited response? ○ Yes ◉ No

Will the record be used for a news story or publication? ○ Yes ◉ No

If yes, which channel or publication?

Explain other justification that release of the record will benefit the public.

Details for records that may be eligible for a fee waiver:

Note: Government entities are encouraged to waive fees in certain circumstances as outlined in Utah Code § 63G-2-203(4).

Do you want this request to be considered for a fee waiver? ○ Yes ◉ No

If yes, please provide the following information:

Does release of these records benefit the public? ◉ Yes ○ No

Are you the subject of the record? ○ Yes ◉ No

Are you an impecunious (without money) individual whose legal rights are affected by access to the requested records? ○ Yes ◉ No

Additional access considerations:

Note: Additional details about obtaining access to records are outlined in Utah Code § 63G-2-201, 203, and 204.

Would you like the records to be provided in a particular format? ○ Yes ◉ No

If yes, explain I'm happy to receive the records electronically

Do you want to be contacted if the cost of providing records exceeds a certain amount? ◉ Yes ○ No

If yes, state the amount $100

Rather than receiving copies of the requested records, would you like to view them in the office of the governmental entity? ○ Yes ◉ No

If yes, arrangements must be made with the entity's record officer.

Explain anything else you would like to be taken into consideration regarding this request:

Although time is of the essence, I am happy to view the records on-site so long as that review does not compromise my right to appeal the County's decision and the viewing is after Oct 25, 2025.

Note: Governmental entities are required to respond within 10 business days as outlined in Utah Code § 63G-2-204(4)(b) or 5 days for expedited response.

RESET PRINT

ENCLOSURE 34

Wilkerson October 22, 2025 Response

From: **Frank Wilkerson** FWilkerson@wasatch.utah.gov
Subject: GRAMA request response
Date: October 21, 2025 at 9:00 AM
To: krkphd@gmail.com
Cc: Shelby Thurgood SThurgood@wasatch.utah.gov

FW

Ms. Kosakowski,

Here is a response to your GRAMA request.

Have a nice day,

Frank Wilkerson
Paralegal
Wasatch County Attorney's Office
(435)-657-3286
fwilkerson@wasatch.utah.gov

WASATCH COUNTY

Kosakowski GRAMA request response.docx

WASATCH COUNTY ATTORNEY

805 WEST 100 SOUTH
HEBER CITY, UTAH 84032
TELEPHONE (435) 654-2909
FACSIMILE (435) 654-2947

SCOTT H. SWEAT
COUNTY ATTORNEY
MCKAY G. KING
S. CASE WADE
JON WOODARD
MICHAEL A. SNELL
SHELBY M. THURGOOD
ALEX STOEDTER

October 22, 2025

Kit Kosakowski
krkphd@gmail.com

Dear Ms. Kit Kosakowski:

I am in receipt of your records request dated October 14, 2025 requesting documents related to Lot B in Star Harbor.

The building permit has not yet been issued and therefore there are no responsive records that would fulfill your request at this time. I do not know a specific date when the permit will be issued.

You may have the right to appeal this response to the chief administrative officer. If you wish to appeal, please direct your appeal in writing to Dustin Grabau, Wasatch County Manager, 25 North Main, Heber City, Utah 84032, dgrabau@wasatch.utah.gov. Your notice of appeal must be submitted within 30 days of the date of this response.

Sincerely,

Frank Wilkerson
Paralegal
Wasatch County Attorney's Office

ENCLOSURE 35

October 23, 2025 E-mail from Building Department

From: **Callie Payne** calliep@wasatch.utah.gov
Subject: RE: Building Permit _ Lot B Star Harbour
Date: October 23, 2025 at 9:32 AM
To: Kit Kosakowski krkphd@gmail.com
Cc: Mike Kosakowski utahkos@gmail.com, Melissa McDaniel mmcdaniel@wasatch.utah.gov, Tiffany L. Horrocks tlhorrocks@wasatchcounty.gov

CP

Yes, the permit has been issued as of today 10/23/2025

Wasatch County Building Dept.
Callie Payne
Permit Technician
(435) 657-3200
calliep@wasatch.utah.gov

-----Original Message-----
From: Kit Kosakowski <krkphd@gmail.com>
Sent: Thursday, October 23, 2025 8:07 AM
To: Building Department - Public Address <bldinfo@wasatch.utah.gov>
Cc: Mike Kosakowski <utahkos@gmail.com>
Subject: Building Permit _ Lot B Star Harbour

Please let me know if the Building Department has issued a building permit for Lot B in Star Harbour - 1687 W Alpine Ave.

Thank you.

Kit Kosakoeski

ENCLOSURE 36

Kosakowski October 24, 2025 GRAMA Request

From: **Kit Kosakowski** krkphd@gmail.com
Subject: Re: GRAMA request response
Date: October 24, 2025 at 4:07 PM
To: Frank Wilkerson FWilkerson@wasatch.utah.gov
Cc: Dustin A. Grabau DGrabau@wasatch.utah.gov, Mike Kosakowski utahkos@gmail.com, Manager@wasatch.utah.gov
Bcc: Kit Kosakowski krkphd@gmail.com

KK

Mr. Wilkerson —

The referenced building permit was issued yesterday, October 23, 2025.

That being the case, I am re-submitting the GRAMA request.

Sincerely,

Kit Kosakowski

GRAMARequestLotB102425.1.pdf
497 KB

> On Oct 21, 2025, at 9:00 AM, Frank Wilkerson <FWilkerson@wasatch.utah.gov> wrote:
>
> Ms. Kosakowski,
>
> Here is a response to your GRAMA request.
>
> Have a nice day,
>
> Frank Wilkerson
> Paralegal
> Wasatch County Attorney's Office
> (435)-657-3286
> fwilkerson@wasatch.utah.gov

WASATCH COUNTY

Kosakowski GRAMA request response.docx
47 KB

GRAMA Request Form

used to request records from any governmental entity

Note: Utah Code § 63G-2-204(1) (GRAMA) requires a person making a records request to furnish the governmental entity with a written request containing the requester's name, mailing address, daytime telephone number, and email address if the person is willing to receive communications by email. The request must also include a description of the being record requested that identifies the record with reasonable specificity. The request must be made to the governmental entity that created or maintains the records.

Requester information:

Name: Kit Kosakowski Date: 24 October 2025

Address: 1671 W Alpine Ave

City: Heber City State: UT ZIP code: 84032

Daytime phone number: 202-255-8131 Email address: krkphd@gmail.com

Request made to:

Government agency or office: Wasatch County Building Department

Records officer's name (if known): Quinn Davis

Address: 1891 W 3000 S

City: Heber City State: Utah ZIP code: 84032

Phone number: (435) 657-3200 Email address: Bldinfo@wasatch.utah.gov

Records requested:

Note: The more specific the request, the easier it will be for records officers to respond.

Title or subject of records: Lot B Star Harbour - 1687 W Alpine Ave

Description of records including all relevant information -- date range of records, name of involved person(s), location of event(s), and other descriptive information:

Building permit application submitted by Lot B owner, Julie Bruce, LLC or other entity on or about September 15, 2025, including but not limited to geotechnical survey and physical/environmental constraints analysis, and all documents prepared by Wasatch County in response to the application, including but not limited to the issued bulding permit. Please ensure that the buildability analysis that the Board of Adjustment stated would be performed during the building permit application process is included.

Details for records that may have restricted access:

Note: Some records may be classified as private, controlled, or protected, or access may be limited by another statute. Access to restricted records is provided for in the relevant other statutes or in Utah Code § 63G-2-202(1)(2)(4).

If the requested records could have a restricted classification, please supply the following information:

Are you the subject of the record? ○ Yes ◉ No

Are you an authorized representative of the subject of the record (parent, guardian, someone with power of attorney or notarized release: ○ Yes ◉ No

If yes, explain and attach documentation:

Did you provide the record to the governmental entity? ○ Yes ◉ No

Describe your connection to an incident or event that is the subject of the record:

There is no reason for access to these records to be restricted.

Details for records the release of which may be in the public interest:

Note: Release of some records is in the public interest. Such records may be eligible for a fee waiver and/or expedited response as provided in Utah Code § 63G-2-203(4) and Utah Code § 63G-2-204(4)(5).

If release of the requested records will benefit the public, please supply the following information:

Are you requesting an expedited response? ○ Yes ◉ No

Will the record be used for a news story or publication? ○ Yes ◉ No

If yes, which channel or publication?

Explain other justification that release of the record will benefit the public.

Details for records that may be eligible for a fee waiver:

Note: Government entities are encouraged to waive fees in certain circumstances as outlined in Utah Code § 63G-2-203(4).

Do you want this request to be considered for a fee waiver? ○ Yes ◉ No

If yes, please provide the following information:

Does release of these records benefit the public? ◉ Yes ○ No

Are you the subject of the record? ○ Yes ◉ No

Are you an impecunious (without money) individual whose legal rights are affected by access to the requested records? ○ Yes ◉ No

Additional access considerations:

Note: Additional details about obtaining access to records are outlined in Utah Code § 63G-2-201, 203, and 204.

Would you like the records to be provided in a particular format? ○ Yes ◉ No

If yes, explain I'm happy to receive the records electronically

Do you want to be contacted if the cost of providing records exceeds a certain amount? ◉ Yes ○ No

If yes, state the amount $100

Rather than receiving copies of the requested records, would you like to view them in the office of the governmental entity? ○ Yes ◉ No

If yes, arrangements must be made with the entity's record officer.

([SlaLQ anything else you would like to be taken into consideration regarding this request:

Although time is of the essence, I am happy to view the records on-site so long as that review does not compromise my right to appeal the County's decision.

Note: Governmental entities are required to respond within 10 business days as outlined in Utah Code § 63G-2-204(4)(b) or 5 days for expedited response.

RESET PRINT

November 29, 2025
DELIVERED BY E-MAIL
Wasatch County Appeals Hearing Officer
25 N. Main Street
Heber City, UT 84032

RE: Wasatch County Code 2.02.02 Appeal of Wasatch County Building Department's Issuance of Building Permit No. 25-803 for Star Harbour – Lot B aka 1687 W. Alpine Ave., Heber City., Heber City, UT 84032

Dear Wasatch County Appeals Hearing Officer:

On November 21, 2025, we received the enclosed e-mails from Jon Woodard (Enclosure 1) and Frank Wilkerson (Enclosure 2) of the Wasatch County Attorney's Office. Mr. Wilkerson's e-mail purports to provide us with the administrative record associated with Building Permit No. 25-803, and Mr. Woodard's e-mail permits us to augment our October 30, 2025 appeal based on that record until December 1, 2025.

This correspondence constitutes an addendum to that appeal based on the record provided by Mr. Wilkerson. However, because we believe the documents forwarded by Mr. Wilkerson do not constitute the entire record, we continue to reserve our right to modify our appeal. This correspondence also presents and requests that you rule on certain procedural issues prior to addressing the substantive issues.

PROCEDURAL ISSUES

a. <u>The Appeals Hearing Officer Does Not Yet Have Jurisdiction.</u>

Section 2.02.02 of the Wasatch County Code ("WCC") sets up a two-tiered system for reviewing final administrative decisions apply the Land Use and Development Code or the Building and Engineering Code. This two-tiered systems relies on a common legislative drafting technique. First, like decisions are grouped into Basket A -- in this case, final administrative decisions applying the Land Use and Development Code or the Building and Engineering Code WCC §2.02.02(B)(1)(a), and certain conditions are applied to them, in this case, those decisions must first be appealed to the Appeals Hearing Officer prior to their being appealing to district court (WCC §2.02.02(G)(1) and §2.02.02(G)(4)).

Second, a subset of like decisions is grouped into a smaller Basket B, which remains within Basket A, i.e., the Basket A conditions are still in effect, and another set of conditions are imposed in addition to the Basket A conditions. In this case, administrative decisions applying the Building and Engineering Code have been placed in basket B and the additional condition of appealing to the County Manager prior to appealing to the Appeals Hearing Officer has been imposed on those administrative decisions (WCC §2.02.02(G)(2)).

This makes perfect sense because administrative decisions apply the Building and Engineering Code are more fact-based and technically-oriented than administrative decisions applying the

Land Use and Development Code which are more likely to turn on legal and policy interpretations. It is logical that these fact-based decisions should first be addressed by those who are trained in the scientific and engineering disciplines because they are more easily resolved and appeals to the Appeals Hearing Officer may not be necessary.

It is clear from WCC §§2.02.02(B)(1) that approval of a building permit is an administrative decision applying the Land Use and Development Code or the Building and Engineering Code. It is clear from WCC §2.02.02(G)(2) that appeal from administrative decisions applying the Building or Engineering Code must be appealed to the County Manager before appealing to the Appeals Hearing Officer. How can approval of a building permit not be an administrative decision applying the Building and Engineering Code, i.e., a Basket B decision, which triggers review by the County Manager prior to review by the Appeals Hearing Officer? If approval of a building permit is not an administrative decision applying the Building and Engineering Code, then what it is?

We followed this two-step appeal process in late 2022 when we appealed the Planning Commission's decision to grant Wells Fargo/Redus's application to convert Lot B in Star Harbour from an open space easement lot to a single-family residential lot. We followed this process after consulting with the Planning Department, and the County Manager readily accepted our appeal as it related to application of the Engineering Code in that decision[1].

We attempted to follow the same two-step process in appealing the County's decision to issue Permit No. 25-803[2] and so signaled our intent to do so in an October 13, 2025 e-mail to Quinn Davis and Dustin Grabau (Enclosure 3). No one ever corrected us. But the County Manager's office refused to accept our appeal and our $600.00 check when we tried to deliver it on October 29, 2025. On October 30, 2025, the County Manager said he had no way of accepting any appeal and directed us to submit the appeal to the Planning Department along with a $2500.00 check, which we did on the same day.

We went along with this because we were desperate to stop the destruction of the vegetation of Lot B that was then on-going. In the 24 hours between the time we tried to submit our appeal on October 29, 2025 and the time the Planning Department accepted it on October 30, 2025, a decades-old, majestic pine tree and scrub oak were bulldozed to the ground. However, our concern that the Appeals Hearing Officer won't have jurisdiction until the appeal to the County Manager has been completed remains.

b. Planning Department May Not Take the Lead on the Appeal.

Mr. Woodard's e-mail (Enclosure 1) states: "The building department authorized the planning department to lead on the appeal." However, there is nothing in WCC §2.02.02 that allows

[1] See page 7 and Enclosure 21 of October 30, 2025 appeal.

[2] We realize that Ordinance No. 23-20 substantially revised section 2.02.02. However, the three sections at issue are almost identical with the sections in force in 2022. That is, §2.02.02(G)(1) is almost identical to old §2.02.02(G)(5)(a), §2.02.02(G)(2) is almost identical with old §2.02.02(G)(5)(c), §2.02.02(G)(4) is almost identical to 2.02.02(G)(5)(d).

Wasatch County Department to transfer responsibility for conducting an appeal, whether it be to the County Manager or the Appeals Hearing Officer, to another department.

Moreover, WCC §2.02.02(G)(7) states: "For Engineering Department and Building Code appeal issues, the scheduling and noticing of the meeting will be the only involvement of the Planning Department in the appeal." The Planning Department has no proper role in our appeal of Permit No. 25-803 other than to perform this ministerial function.

And as documented in our October 30, 2025 appeal, the Planning Department maintained that it had no responsibility for fulfilling the two buildability criteria imposed by the Planning Commission at its August 12, 2021 hearing.[3]

c. The Record Has Yet to be Provided.

Prior to filing our October 30, 2025 appeal, we submitted two GRAMA requests – one on October 13, 2025[4] and a second on October 24, 2025. Our reasons for doing so were twofold: (1) to determine if the buildability analysis had been completed and (2) to ensure that we would not be blindsided. The County summarily denied the first request[5]and failed to respond to the second within the ten-day deadline. The County did respond on November 21, 2025 with the documents provided by Mr. Wilkerson (Enclosure 2). By its own admission, the County's November 21, 2025 response does not include many documents.

Our obligation to seek a copy of the administrative record via GRAMA ended on October 30, 2025 when we filed the appeal. On that date, we initiated a quasi-judicial proceeding and acquired a right to the entire administrative record without limit. That is, while the County may define the administrative record, it may not withhold documents from us that it intends to rely on during the appeal proceeding. Neither may it provide records to the decision-maker, whether it be the County Manager or the Appeals Hearing Officer, that it refuses to provide to us.

SUBSTANTIVE ISSUES

a. It is impossible to meet Driveway Placement Requirements

The Building Permit Application includes the following Planning Notes:

> After measurement and according to plans, the driveway meets 40ft distance requirement from center of intersection and meets 10ft distance requirement from side lot line. Planning Commission approval for plat on Sep 9, 2022. ROA signed by Planning Commission Chairman on Nov 10, 2022[.] Board of Adjustment (BOA) confirmed Planning Commission approval and thereby denied the appeal to the BOA on February 16, 2023 on the Wasatch County Board of Adjustment ROA.

[3] See page 7 and Enclosures 19 and 20 of October 30, 2025 appeal.
[4] Enclosure 33 of October 30, 2025 appeal.
[5] Enclosure 34 of October 30, 2025 appeal.

This Note is problematic from several perspectives. First, it highlights one of the problem with the Lot B plat, i.e., the Planning Commission's approving the plat before it held the hearing to approve the plat.

Second, the distance from the lot line is to be 12 feet, not 10 feet.

Third, the measurement is not taken from the center of the intersection; it is taken from the lateral elongation of the curblines. This is shown in WCC §16.37.06. (Enclosure 4).

Fourth, the Note also refers to a measurement, but there is nothing the record provided that shows any physical measurement. By contrast, the measurements taken from the County's GIS website demonstrate that it is impossible for a 20-foot driveway to be located on Lot B such that it is 12 (or even 10 feet) from the property line and 40 feet from the intersection of W Alpine Ave and Fox Bay Drive. A total of 72 (or 70) feet from the property line would need to be 40 feet from the intersection. The figures included in Enclosure 5 demonstrate that this is impossible.

b. Conditional Use Permit Not Applied For

The document entitled, "Building Permit Plan Review Comments", with the Letter Date: 9/30/25 includes the following comment: "It looks like there is a guest area of the house. This would require a conditional use permit for an Accessory Dwelling Unit (ADU). Please apply for a conditional use permit."

Neither the lot owner nor the applicant for the building permit has applied for a conditional use permit. If a conditional use permit is required, it must be obtained before a building permit may be issued. Utah Code Ann. §17-79-901(2)(c) states: "The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect."[6]

---

[6] See also Farmington, UT -- **11-8-090: ISSUANCE OF CONDITIONAL USE PERMIT AND BUILDING PERMIT:**
A building permit shall not be issued for any building or structure requiring a conditional use permit until the permit is approved by the planning commission. The city planner shall review and approve the final plans and, if all conditions are met, may sign and issue the conditional use permit on behalf of the planning commission and may recommend approval of the building permit. (Ord. 1991-27, 7-17-1991)
Pleasant Grove, UT -- No building permit shall be issued until any required conditional use permit has been obtained. §10-2-4-(E)
Eagle Mountain, UT -- 17.95.030 Conditional use permit required.
A conditional use permit shall be required for all land uses allowed as conditional uses in the zoning district regulations of this title. The conditional use permit must be granted before a building permit, a certificate of occupancy, and/or the operation of the proposed land use commences. [Ord. O-02-2006 § 3 (Exh. 1 § 19.3); Ord. O-23-2005 § 3 (Exh. 1(1) § 19.3)].
Brian Head UT -- Brian Head Town requires a conditional use permit for certain uses in any given zone which may have potential for adverse impact on the character of the zone. Those uses are specified within each zone in the Land Management Code (see Title 9 Chapter 7). Before using an existing parcel or structure for one of these uses or obtaining a building permit for a new structure intended for conditional use, one must first follow this process to obtain a conditional use permit. https://brianheadtown.utah.gov/conditional-use-permit/#:~:text=Description,obtain%20a%20conditional%20use%20permit

Thank you in advance for your attention to these matters.

Sincerely,

Michael W. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
utahkos@gmail.com
202-255-4496

Kit R. Kosakowski
1671 W. Alpine Ave.
Heber City, UT 84032
krkphd@gmail.com
202-255-8131

cc:Dustin Grabau, County Manager
Quinn Davis, Wasatch County Building Department
Doug Smith, Director, Wasatch County Planning Department
Jon Woodard, Wasatch County Deputy Attorney

Enclosures

LIST OF ENCLOSURES

1. November 21, 2025 E-mail from Jon Woodward
2. November 21, 2025 E-mail from Frank Wilkerson
3. October 13, 2025 E-mail from Kit Kosakowski
4. WCC §16.37.06
5. Lot B Measurements from Wasatch County GIS Website

ENCLOSURE 1

Jon Woodard November 21, 2025 E-mail

From: **Jon Woodard** JWoodard@wasatch.utah.gov
Subject: RE: Appeal Hearing Date
Date: November 21, 2025 at 1:34 PM
To: krkphd@gmail.com
Cc: Doug Smith dsmith@wasatch.utah.gov, Quinn Davis qdavis@wasatch.utah.gov, utahkos@gmail.com

JW

Ms. Kosakowski–

The building department authorized the planning department to lead on the appeal. While WCC 2.02.02(G)(4) does indicate that an appeal of a building permit approval should be made to the building department, the building department asked the planning department to take lead on receiving and managing this appeal for them. The County does not plan on challenging that the appeal was improperly filed with the planning department under 2.02.02(G)(4), as the place where you filed the appeal was done at the direction of the county manager after the building department requested the planning department lead on receiving the appeal.

The Wasatch County Attorney's office will act as legal counsel for the County in the appeal. I am currently lead attorney on this, but that can change at any time.

The planning department coordinates the hearing date, in accordance with WCC 2.02.02 (G)(7). They have determined to maintain the December 16, 2025 date previously provided. They will advertise on Wednesday, November 26th. The time during which the property owner cannot proceed with construction because of appeals can be costly to the property owner that was issued a building permit, so maintaining a timeframe in accordance with WCC 2.02.02(G)(7) is important, and the holidays would make a later date that meets the 75 day limit very difficult for the County.

The manager's office considered the GRAMA appeal you made, and determined that some documents could be provided that were not provided in the original request. The County does not know if you will make any additional arguments, or if you will try to rely on the new documents provided in the GRAMA appeal response in your appeal of the building permit approval. The Planning Director, with permission from the building department, has determined that it would not oppose allowing you ten more days from today, to augment your appeal brief, based on the new material provided in response to your GRAMA appeal. The County will consider an addendum to the appeal dated October 29, 2025, provided it is received by the planning office on or before December 1, 2025, in drafting its briefing under WCC 2.02.02(8). We understand this is somewhat outside of the WCC 2.02.02(6)&(7) process, but we would not oppose additional briefing due to the new documents being provided in response to the GRAMA appeal, as described. Ultimately, it would be up to the hearing officer to determine what evidence and briefing she will consider.

We appreciate your not engaging in ex-parte communication with the hearing officer. The County also honors this, and engages with the hearing officer to set a hearing date, and provide the appeal, briefing, and the record as provided in WCC 2.02.02, but we are careful to not engage in any substantive matters with the hearing officer regarding an appeal.

It is not the County's responsibility to provide you legal advice regarding your appeal.

I wrote this email with permission from Doug Smith, who is currently lead on performing the duties of the Planning Department and the Building Department in regards to your appeal.

Regards,

Jon Woodard
Deputy Wasatch County Attorney
(435) 657-3273

NOTICES: This message, including attachments, is confidential and may contain information protected by the attorney-client privilege or work product doctrine. If you are not the addressee, any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this email in error, please destroy it and notify me immediately.

From: Doug Smith <dsmith@wasatch.utah.gov>
Sent: Friday, November 14, 2025 8:30 AM
To: Jon Woodard <JWoodard@wasatch.utah.gov>
Subject: FW: Appeal Hearing Date

FYI

From: Kit Kosakowski <krkphd@gmail.com>
Sent: Friday, November 14, 2025 8:23 AM
To: Sherry Lawrence <slawrence@wasatch.utah.gov>; Dustin A. Grabau <DGrabau@wasatch.utah.gov>; Scott Sweat <ssweat@wasatch.utah.gov>; Quinn Davis <qdavis@wasatch.utah.gov>; Doug Smith <dsmith@wasatch.utah.gov>
Cc: utahkos@gmail.com
Subject: Re: Appeal Hearing Date

You don't often get email from krkphd@gmail.com. Learn why this is important

Sherry –

Thank you for your e-mail.

Dustin, Quinn, Doug, and Scott -

Unfortunately, the County has not yet provided us with a copy to the Building Permit No. 25-803 record. It should have done so automatically within 24 hours of our having filed our appeal, but so far, we have received nothing. It is premature to schedule a hearing until we have received the record and been given adequate time to modify our appeal, a right which we reserved in our appeal because we could not gain access to the record.

We have done everything in our power to gain this access. We submitted a GRAMA request for the permit application on October 14, 2025. It was denied in its entirety on October 22, 2025. We visited the Building Department's offices on October 24, 2025, the day after we learned the building permit had been issued. But we were only allowed to look at the record on an employee's computer screen while she scrolled rapidly through it. Finally, we filed a second GRAMA request on October 24, 2025, to which no one has responded even though the ten-day deadline is long past (Attch

1).

The County's failure to provide us with the record contrasts strikingly with its release of our Permit No. 25-803 submittal to a non-party. The County won't be surprised to learn that we have pursued the legal remedies that are available to us with the Star Harbour HOA to correct the Lot B plat problems. At his invitation, we recently met with the HOA's attorney to identify a way out of the problem that would avoid litigation. During that discussion, the attorney revealed that he had a copy of our Building Permit No. 25-803 submittal. He refused to disclose how he got it, saying only that "he had friends in high places." He did delight in telling us how much the County despised us. This is very concerning. From our perspective, the appeal process was compromised before it even began.

The County has not identified a contact with whom we should communicate. What if we want to modify our appeal after we review the record? To whom, should we write? It can't be somebody in the Planning Department. As per section 2.02.02(G)(7) of the Wasatch County Code, the Planning Department is not involved in Engineering Department Code and Building Code appeal issues except to schedule and notice the meeting. Our contact must be someone in the Building Department. We also need to know who will serve as the Building Department's legal representative.

We continue to be very concerned about jurisdictional issues. While Ordinance No. 23-20 substantially revised section 2.02.02, section 2.02.02(G)(2) is almost identical with old section 2.02.02(G)(5)(c); the only difference being that section 2.02.02(G)(2) includes appeals from administrative decisions applying the Building or Engineering Code while old section 2.02.02(G)(5)(c) included only appeals from administrative decisions applying the Engineering Code. Both section 2.02.02(G)(2) and old section 2.02.02(G)(5)(c) required that such appeals be made to the County Manager before they go to the Appeals Hearing Officer.

We followed this two-step appeal process in late 2022 when we appealed the Planning Commission's decision to grant Wells Fargo/Redus's application to convert Lot B in Star Harbour from an open space easement lot to a single-family residential lot. We followed this process after consulting with the Planning Department (Attch 2), and the County Manager readily accepted our appeal as it related to application of the Engineering Code in that decision.

We attempted to follow the same two-step process in appealing the County's decision to issue Permit No. 25-803 and so signaled our intent to do so in an October 13, 2025 e-mail to Quinn Davis and Dustin Grabau (Attch 3). No one ever corrected us. But the County Manager's office refused to accept our appeal and our $600.00 check when we tried to deliver it on October 29, 2025. On October 30, 2025, Dustin said he had no way of accepting any appeal and directed us to submit the appeal to the Planning Department along with a $2500.00 check (Attch 4), which we did on the same day.

We went along with this because we were desperate to stop the destruction of the vegetation of Lot B that was then on-going. In the 24 hours between the time we tried to submit our appeal on October 29, 2025 and the time the Planning Department accepted it on October 30, 2025, a decades-old, majestic pine tree and scrub oak were bulldozed to the ground. However, our concern that the Appeals Hearing Officer won't have jurisdiction until the appeal to the County Manager has been completed remains.
We would very much like to have the Appeals Hearing Officer rule on the jurisdictional issue before she addresses the substantive issues. We are unwilling to engage in *ex parte* communications, so please let us know who serves as the Appeals Hearing Officer's "gatekeeper" and as previously requested, the name of the Building Department's technical and legal representatives, so that we may make the request via the appropriate channels.

Again, please immediately forward the record for Building Permit No. 25-803 to us. We are happy to receive it electronically.

Thank you.

Kit & Mike Kosakowski

WASATCH COUNTY

On Nov 12, 2025, at 4:41 PM, Sherry Lawrence <slawrence@wasatch.utah.gov> wrote:

Mike and Kit,

The appeal hearing date, for your appeal of Building Permit No. 25-803 for Star Harbour Lot B, is being scheduled for **Tuesday, December 16th at 2:00 p.m.**

Thank you,

Sherry Lawrence
Wasatch County Planning
35 South 500 East
Heber City, UT 84032
435.657.3205

ENCLOSURE 2

Frank Wilkersen November 21, 2025 E-mail

From: **Frank Wilkerson** FWilkerson@wasatch.utah.gov
Subject: GRAMA Appeal response
Date: November 21, 2025 at 1:18 PM
To: krkphd@gmail.com
Cc: Shelby Thurgood SThurgood@wasatch.utah.gov, Jon Woodard JWoodard@wasatch.utah.gov, Dustin A. Grabau DGrabau@wasatch.utah.gov, Doug Smith dsmith@wasatch.utah.gov

FW

Ms. Kit Kosakowski,

We have received your request for records and we are treating it as an appeal under the GRAMA statutes. Please find our response and the documents we are able to release under the GRAMA statutes. Dustin Grabau, the County Manager, asked me to also forward a letter to you and it is attached.

Have a nice day,

Frank Wilkerson
Paralegal
Wasatch County Attorney's Office
(435)-657-3286
fwilkerson@wasatch.utah.gov

WASATCH COUNTY

25-803 Building Permit_Redacted .pdf

Bruce Soils Report - PLAN REVIEW - OTHER (25-803).pdf

Building Permit Application_Redacted.pdf

Building Permit Packet 10.23.2025.pdf

GRAMARequestLotB.pdf

Incomplete Submittal Letter 9.18.2025.pdf
597 KB

BETTER BY NATURE
WASATCH

Wasatch County
1891 W 3000 S, Heber City, Utah 84032
(435) 657-3200

Building Permit Application

Application Start Date	Complete Submittal Date	Plan Review Completion Date	Permit Issued Date	Permit No.
9/22/2025	9/26/2025	10/06/2025	10/23/2025	25-803

Property Owner	Phone
Julie Bruce LLC	[redacted]
Property Owner Address	City
[redacted]	[redacted]
State, ZIP	E-Mail
[redacted]	[redacted]
New Structure Address	City
1687 W ALPINE AVE	HEBER
State, ZIP	Proposed Construction
UTAH, 0	Single Family Dwelling
Serial No.	Parcel No.
0HB-000B-A-024-024	00-0020-0814
Architect or Engineer	Phone
Jared Rakisits/Wayne Staker	(435)640-6749
General Contractor	Phone
Olympus Valley Homes LLC	(385)775-1043
Business Address	City
10955 S KELSO DUNE DR	LEHI
State, ZIP	State Lic. No.
Utah, 84043	12362036-5501
Email	
admin@olympusvalley.com	
Electrical Contractor	Phone
Earnshaw Electric Inc	(435)671-0388
Email	State Lic. No.
earnshawelectric@yahoo.com	314358-5501
Plumbing Contractor	Phone
Paramount Plumbing	(801)420-0754
Email	State Lic. No.
paramountplumbing72@gmail.com	5247136-5501
Mechanical Contractor	Phone
Brad Wilson Construction Inc	(385)775-1043
Email	State Lic. No
brad.wcs@gmail.com	5070880-5501
Subdivision Name	Lot #
Star Harbor	B

Zoning Compliance Certificate Issued:

Building Type: Residential

# of Residential Units: 1	Land Use Code: 1111
# of Families Residing: 1	Off Street Parking: 2

Zone	Date	Approved By
M	10/7/2025	Caden Lyon

Planning Notes:

After measurement and according to plans, driveway meets 40ft distance requirement from center of intersection and meets 10ft distance requirement from side lot line.

Planning Commission approval for plat on Sep 9, 2022. ROA signed by Planning Commission Chairman on Nov 10, 2022

Board of Adjustment (BOA) confirmed Planning Commission approval and thereby denied the appeal to the BOA on February 16, 2023 on the Wasatch County Board of Adjustment ROA

MINIMUM SETBACKS IN FEET

Front	Right Side	Left Side	Rear
30	12	12	30

NOTE: 24 Hour notice is required for all inspections.

SQUARE FOOTAGE	
Main Floor	2161
Upper Floor	632
Lower Floor	2117
Rough Basement	
Finished Basement	
Garage	1044
Deck/Porch	962
Deck/Porch Cover	1043
Carport	
Total Square Footage	**7959**
Const. Type	VB
Occ. Group	R3/U1
Fire Sprinkler Req?	

Fire District Notes:

BUILDING FEE SCHEDULE	
Valuation: $1,247,975	
Fee Type	**Amount**
Water SSD Impact	$900.00
Sewer SSD Impact	$4,392.00
HVSSD Impact	
County Impact	$3,293.48
Fire District SSD	$699.13
Fire Impact Fee	$937.66
Solid Waste SSD	$172.50
Wildland Fire	$275.00
Plan Check	$4,234.01
Building Fees	$6,513.86
1% State	$65.14
T. Power	$75.00
IT Fee	$249.60
Recording Fee	$84.50
MIDA Admin Fee	
Misc.	
SUBTOTAL	$21,891.88
Less Plan Fee	-$4,234.01
TOTAL	$17,657.87

Special Approvals	Required	Received	By
Board of Adjustment			
Fire Department			
Geologic Hazard			
Flood Hazard			
Nonconforming Lot			

Water/Sewer Approval

Water System	YES	Sewer System?	YES
SSD: JSSD		SSD: JSSD	

Septic Approval

Approved:

Plan Check Approval

Approved By: QD	Date: 10/06/2025

Owner hereby consents to a Notice of Open Building Permit being recorded on the subject property. Structure use is unlawful without a Certificate of Occupancy. This permit becomes null and void if work or construction is not commenced within 180 days or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not, including building setbacks and the height of the structure from natural grade. Actual construction will comply with applicable local ordinances and building codes. The granting of a permit does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction. I declare under criminal penalty under the law of Utah that I am the responsible person for ensuring the requirements of the permit and site plan are met and that the foregoing is true and correct. Signed electronically on the date of this application in Wasatch County, Utah.

Steven Stange / Olympus Valley Homes — 9/26/2025

Owner or Authorized Agent — Date

Bruce Soils Report

No soils report needed.

GRAMA Request Form

used to request records from any governmental entity

Note: Utah Code § 63G-2-204(1) (GRAMA) requires a person making a records request to furnish the governmental entity with a written request containing the requester's name, mailing address, daytime telephone number, and email address if the person is willing to receive communications by email. The request must also include a description of the being record requested that identifies the record with reasonable specificity. The request must be made to the governmental entity that created or maintains the records.

Requester information:

Name: Kit Kosakowski Date: 13 October 2025

Address: 1671 W Alpine Ave

City: Heber City State: UT ZIP code: 84032

Daytime phone number: 202-255-8131 Email address: krkphd@gmail.com

Request made to:

Government agency or office: Wasatch County Building Department

Records officer's name (if known): Quinn Davis

Address: 1891 W 3000 S

City: Heber City State: Utah ZIP code: 84032

Phone number: (435) 657-3200 Email address: Bldinfo@wasatch.utah.gov

Records requested:

Note: The more specific the request, the easier it will be for records officers to respond.

Title or subject of records: Lot B Star Harbour - 1687 W Alpine Ave

Description of records including all relevant information -- date range of records, name of involved person(s), location of event(s), and other descriptive information:

Building permit application submitted by Lot B owner, Julie Bruce, LLC or other entity on or about September 15, 2025, including but not limited to geotechnical survey and physical/environmental constraints analysis, and all documents prepared by Wasatch County in response to application.

Details for records that may have restricted access:

Note: Some records may be classified as private, controlled, or protected, or access may be limited by another statute. Access to restricted records is provided for in the relevant other statutes or in Utah Code § 63G-2-202(1)(2)(4).

If the requested records could have a restricted classification, please supply the following information:

Are you the subject of the record? ○ Yes ◉ No

Are you an authorized representative of the subject of the record (parent, guardian, someone with power of attorney or notarized release: ○ Yes ◉ No

If yes, explain and attach documentation:

Did you provide the record to the governmental entity? ○ Yes ◉ No

Describe your connection to an incident or event that is the subject of the record:

There is no reason for access to these records to be restricted.

Details for records the release of which may be in the public interest:

Note: Release of some records is in the public interest. Such records may be eligible for a fee waiver and/or expedited response as provided in Utah Code § 63G-2-203(4) and Utah Code § 63G-2-204(4)(5).

If release of the requested records will benefit the public, please supply the following information:

Are you requesting an expedited response? ○ Yes ◉ No

Will the record be used for a news story or publication? ○ Yes ◉ No

If yes, which channel or publication?

Explain other justification that release of the record will benefit the public.

Details for records that may be eligible for a fee waiver:

Note: Government entities are encouraged to waive fees in certain circumstances as outlined in Utah Code § 63G-2-203(4).

Do you want this request to be considered for a fee waiver? ○ Yes ◉ No

If yes, please provide the following information:

Does release of these records benefit the public? ◉ Yes ○ No

Are you the subject of the record? ○ Yes ◉ No

Are you an impecunious (without money) individual whose legal rights are affected by access to the requested records? ○ Yes ◉ No

Additional access considerations:

Note: Additional details about obtaining access to records are outlined in Utah Code § 63G-2-201, 203, and 204.

Would you like the records to be provided in a particular format? ○ Yes ◉ No

If yes, explain I'm happy to receive the records electronically

Do you want to be contacted if the cost of providing records exceeds a certain amount? ◉ Yes ○ No

If yes, state the amount $100

Rather than receiving copies of the requested records, would you like to view them in the office of the governmental entity? ○ Yes ◉ No

If yes, arrangements must be made with the entity's record officer.

Explain anything else you would like to be taken into consideration regarding this request:

Although time is of the essence, I am happy to view the records on-site so long as that review does not compromise my right to appeal the County's decision and the viewing is after Oct 25, 2025.

Note: Governmental entities are required to respond within 10 business days as outlined in Utah Code § 63G-2-204(4)(b) or 5 days for expedited response.

RESET PRINT

Project Identifier: 25-803

9/18/2025

Your submittal is incomplete. Please upload/revise the following and then resubmit:

Owner authorization form is no longer required. The form has been deleted from the plan documents

*Site Plan needs to reflect driveway width and slope

* Structural Engineering Calcs needed (Be sure the calcs are electronically stamped & signed by the Engineer of Record and designed to and reflect the 2021 IBC)

* $ 4,234.01 Plan Check Deposit. See separate email for invoice and payment link.

***The following documents are no longer required for a complete submittal. If they were uploaded with your review documents, they have now been removed.*

- *Gas Schematic—required to be onsite for Gas Line Test & Schematic inspection.*
- *Manual J & D Heat Loss Calculations/Duct Design—required to be onsite for 4-Way inspection.*
- *Fireplace Specifications*
- *Truss Package (manufactured trusses)—required to be uploaded to the inspection portal and approved prior to requesting your roof framing inspection.*
- *Fire Sprinkler Plans and Calculations—If required, will need to be submitted for review and approved prior to requesting your Fire Sprinkler Rough Inspection. The documents will also need to be onsite at the time the inspection occurs.*

*Please be sure that the email address you have entered for the general contractor in the application is the person that will be requesting inspections. The permit will be automatically linked to that email address in our inspection portal once the permit is issued. (Please note: that person may then invite/add as many people as they want to the project to request inspections)

*If additional documents are needed for a complete submittal, please be sure files are named according to the naming pattern found on the Building Inspection department web page https://www.wasatchcounty.gov/building-permit-application

Please do not resubmit your application until you have resolved all the above-mentioned items.

NOTE: The above list is a list of items needed for your submittal to be complete. A plan review will NOT be completed until your submittal is complete

Project Identifier: 25-803 **9/24/2025**

Your submittal is incomplete. Please upload/revise the following and then resubmit:

*The Complete Plan Set uploaded 9/23 is missing all of the structural plan sheets. Please upload one complete plan set file that has all architectural and structural plan sheets included.

*All uploaded documents have been renamed for you. Please be sure when uploading your documents that they are named according to the instructions and naming pattern on our website. Future submittals will be returned to you if files are named correctly.

Please do not re-submit your application until you have resolved all the above-mentioned items.

NOTE: The above list is a list of items needed for your submittal to be complete. A plan review will NOT be completed until your submittal is complete

1891 West 3000 South | Heber City, UT 84032 | 435.657.3200 |
wasatch.utah.gov/building

Wasatch County
Building Inspection Department
1891 W 3000 S
Heber City, Utah 84032
(435) 657-3200

BUILDING PERMIT PLAN REVIEW COMMENTS

Project ID: 25-803

Project Name: Julie Bruce LLC - 1687 W ALPINE AVE

Submittal Date: 9/16/2025 7:37:12 PM

Letter Date: 9/30/2025

Review Cycle: 1

COMMENTS AND FEEDBACK

Project comments have been collected from plan reviewers and compiled for your reference below. Please review the comments, provide revised plans/documents if necessary, and upload a plan review response letter so our department knows where to find the correction item on the plans.

When uploading revisions please name your documents exactly the same as it was previously uploaded. This way we can track revisions. Please do not delete documents and then upload new ones.

Once you have addressed all of your items and successfully uploaded your revisions, please be sure to submit your project for review.

REVIEW CYCLE – REVIEWING ENTITY'S RECOMMENDATIONS

ENTITY	RECOMMENDATION
PLN - COUNTY PLANNING APPROVAL	CHANGES REQUIRED

Changes Required = Reviewing entity has identified an issue(s) that needs to be resolved before approving the permit request.

OVERALL PROJECT COMMENTS

DEPARTMENT	COMMENT ID	TEXT
PLN - COUNTY PLANNING APPROVAL	C-PLN-APP-1	FRONT SETBACK NEEDS TO BE 20FT
PLN - COUNTY PLANNING APPROVAL	C-PLN-APP-2	IT LOOKS LIKE THERE IS A GUEST AREA OF THE HOUSE. THIS WOULD REQUIRE A CONDITIONAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT (ADU). PLEASE APPLY FOR A CONDITIONAL USE PERMIT

REVIEWING ENTITY CONTACT INFORMATION

You are welcome to contact any of the Wasatch County DRC reviewing entities.

Department	Contact	Phone
PLN - County Planning Approval	Wasatch County Planning Dept.	435-657-3205

Compliance Certificate

Project Information

Project Title:	**Port Des Etoiles**
Energy Code:	2021 IECC
Location:	Heber City, Utah
Construction Type:	Single Family
Project Type:	New Construction
Project Sub Type:	None
Conditioned Floor Area:	4636 ft2
Glazing Area:	41%
Climate Zone:	6b (7544 HDD)
All Electric:	false
Is Renewable:	false
Has Battery:	false
Has Charger:	false
Has Heat Pump	false

Construction Site:

1687 W Alpine Ave
Heber City , UT

Owner/Agent:

Designer/Contractor:

Project Notes:

Energy Credits

Description	Credits
More Efficient HVAC Equipment Option - R408.2.2	1.0
Enhanced Envelope Performance Option - R408.2.1	1.0

Required: 1 Proposed: 2

Envelope Assemblies

Assembly	Gross Area or Perimeter	Cavity R-Value	Cont. R-Value	Prop. U-Factor/ F-Factor	Req. U-Factor/ F-Factor	Prop. UA	Req. UA
Ceiling: Flat Ceiling or Scissor Truss	2173	31.0	20.0	0.020	0.024	43	52
Vaulted Ceiling: Cathedral Ceiling	589	31.0	20.0	0.020	0.024	12	14
Floor above Garage: All-Wood Joist/Truss	595	50.0	0.0	0.021	0.033	12	20
Slab: Slab-On-Grade (Unheated) Insulation depth: 4.00' Insulation position: Vertical Insulation	350		10.0	0.480	0.480	0	0
Wall: Wood Frame, 24" o.c.	2526	24.0	10.0	0.032	0.045	55	78
Window: Vinyl Frame	462			0.320	0.320	148	148
Door 3: Solid Door (under 50% glazing)	48			0.200	0.320	10	15
Door 3: Solid Door (under 50% glazing)	48			0.200	0.320	10	15
Door 1: Glass Door (over 50% glazing)	245			0.320	0.320	78	78
Basement Wall: Solid Concrete or Masonry Wall height: 10.00 Insulation depth: 10.00' Insulation position: Integral Insulation	2526	24.0	0.0	0.050	0.050	110	110
Window: Vinyl Frame	107			0.320	0.320	34	34
Door: Glass Door (over 50% glazing)	225			0.320	0.320	72	72

Compliance: Passes using UA trade-off

Compliance: 3.3% Better Than Code **Max UA: 604** **Your UA: 584**

The % Better or Worse Than Code Index reflects how close to compliance the house is based on code trade-off rules. It DOES NOT provide an estimate of energy use or cost relative to a minimum-code home.

Slab-on-grade tradeoffs are no longer considered in the UA or performance compliance path in REScheck. Each slab-on-grade assembly in the specified climate zone must meet the minimum energy code insulation R-value and depth requirements.

Compliance Statement

The proposed building design described here is consistent with the building plans, specifications, and other calculations submitted with the permit application. The proposed building has been designed to meet the 2021 IECC requirements in RES*check*-Web and to comply with the mandatory requirements listed in the REScheck Inspection Checklist.

Tiffany Morrison - Designer	Tiffany Morrison Verified by pdfFiller 09/03/2025	09.03.2025
Name - Title	**Signature**	**Date**

Inspection Checklist

Energy Code: 2021 IECC

Requirements: 100% were addressed directly in the RES*check* software

Text in the "Comments/Assumptions" column is provided by the user in the REScheck Requirements screen. For each requirement, the user certifies that a code requirement will be met and how that is documented, or that an exception is being claimed. Where compliance is itemized in a separate table, a reference to that table is provided.

Pre-Inspection/Plan Review

Section # & Req.ID	Pre-Inspection/Plan Review	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
103.1, 103.2 [PR1][1]	Construction drawings and documentation demonstrate energy code compliance for the building envelope. Thermal envelope and energy compliance path represented on construction documents.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
103.1, 103.2, 403.8 [PR3][1]	Construction drawings and documentation demonstrate energy code compliance for lighting and mechanical systems. Systems serving multiple dwelling units must demonstrate compliance with the IECC Commercial Provisions.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
302.1, 403.7 [PR2][2]	Heating and cooling equipment is sized per ACCA Manual S based on loads calculated per ACCA Manual J or other methods approved by the code official.	Heating: Btu/hr Cooling: Btu/hr	Heating: Btu/hr Cooling: Btu/hr	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Additional Comments/Assumptions:

1	High Impact (Tier 1)	2	Medium Impact (Tier 2)	3	Low Impact (Tier 3)

Foundation Inspection

Section # & Req.ID	Foundation Inspection	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
402.1.2 [FO1][1]	Slab edge insulation R-value.	R- ☐ Unheated ☐ Heated	R- ☐ Unheated ☐ Heated	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
303.2, 402.2.10 [FO2][1]	Slab edge insulation installed per manufacturer's instructions.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
303.2.1 [FO11][2]	A protective covering is installed to protect exposed exterior insulation and extends a minimum of 6 in. below grade.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.9 [FO12][2]	Snow and ice-melting system controls installed to shut off system when pavement temperature > 50F and no precipitation.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.1.2 [FO3][1]	Slab edge insulation depth/length.	☐ ft	☐ ft	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
402.1.2 [FO4][1]	Conditioned basement wall insulation R-value. Where interior insulation is used, verification may need to occur during Insulation Inspection. Not required in warm-humid locations in Climate Zone 3.	R- R-	R- R-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
303.2 [FO5][1]	Conditioned basement wall insulation installed per manufacturer's instructions.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.2.8 [FO6][1]	Conditioned basement wall insulated in accordance with Table R402.1.3 with insulation depth the minimum of 10 ft below grade or to the basement floor.	☐ ft	☐ ft	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*

Additional Comments/Assumptions:

1	High Impact (Tier 1)	2	Medium Impact (Tier 2)	3	Low Impact (Tier 3)

Framing / Rough-In Inspection

Section # & Req.ID	Framing / Rough-In Inspection	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
402.1, 402.3.4 [FR1][1]	Door U-factor.	U-	U-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
402.1, 402.3.1, 402.3.3, 402.5 [FR2][1]	Glazing U-factor (area-weighted average).	U-	U-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
402.4.1.1 [FR23][1]	Air barrier and thermal barrier installed per manufacturer's instructions.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.4.3 [FR20][1]	Fenestration that is not site built is listed and labeled as meeting AAMA /WDMA/CSA 101/I.S.2/A440 or has infiltration rates per NFRC 400 that do not exceed code limits.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.4.5 [FR16][2]	IC-rated recessed lighting fixtures sealed at housing/interior finish and labeled to indicate ≤2.0 cfm leakage at 75 Pa.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.1 [FR12][1]	Supply and return ducts in attics insulated >= R-8 where duct is >= 3 inches in diameter and >= R-6 where < 3 inches.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.4 [FR13][1]	Ducts, air handlers and filter boxes are sealed with joints/seams compliant with International Mechanical Code or International Residential Code, as applicable.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.7 [FR15][3]	Building cavities are not used as ducts or plenums.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Section # & Req.ID	Framing / Rough-In Inspection	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
403.4 [FR17][2]	HVAC piping conveying fluids above 105 ºF or chilled fluids below 55 ºF are insulated to ≥R-3.	R-	R-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.4.6 [FR29][3]	Electrical and communication boxes installed in the thermal boundary of the envelope sealed to limit air leakage between conditioned and unconditioned spaces.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.4.1 [FR24][1]	Protection of insulation on HVAC piping.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.2 [FR18][2]	Hot water pipes are insulated to ≥R-3.	R-	R-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.6 [FR19][2]	Automatic or gravity dampers are installed on all outdoor air intakes and exhausts for mechanical ventilation systems.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.6.1 [FR30][2]	Ventilation systems in climate zones 7 & 8 shall utilize heat or energy recovery			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
303.1.3 [FR4][1]	U-factors of fenestration products are determined in accordance with the NFRC test procedure or taken from the default table.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Additional Comments/Assumptions:

1	High Impact (Tier 1)	2	Medium Impact (Tier 2)	3	Low Impact (Tier 3)

Insulation Inspection

Section # & Req.ID	Insulation Inspection	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
303.1 [IN13][2]	All installed insulation is labeled or the installed R-values provided.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.1, 402.2.7 [IN1][1]	Floor insulation R-value.	R-☐ ☐ Wood ☐ Steel	R-☐ ☐ Wood ☐ Steel	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
402.1, 402.2.5, 402.2.6 [IN3][1]	Wall insulation R-value. If this is a mass wall with at least ½ of the wall insulation on the wall exterior, the exterior insulation requirement applies (FR10).	R-☐ ☐ Wood ☐ Mass ☐ Steel	R-☐ ☐ Wood ☐ Mass ☐ Steel	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
303.2 [IN4][1]	Wall insulation is installed per manufacturer's instructions.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Additional Comments/Assumptions:

1	High Impact (Tier 1)	2	Medium Impact (Tier 2)	3	Low Impact (Tier 3)

Final Inspection Provisions

Section # & Req.ID	Final Inspection Provisions	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
402.1, 402.2.1, 402.2.2, 402.2.6 [FI1][1]	Ceiling insulation R-value.	R- ☐ Wood ☐ Steel	R- ☐ Wood ☐ Steel	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	*See the Envelope Assemblies table for values*
303.1.1.1, 303.2 [FI2][1]	Ceiling insulation installed per manufacturer's instructions. Blown insulation marked every 300 ft².			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.1 [FI11][2]	Circulating service hot water systems have automatic or accessible manual controls.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.2 [FI26][2]	Hot water boilers supplying heat through one- or two-pipe heating systems have automatic outdoor setback control to lower boiler water temperature based on outdoor temperature, indoor temperature or water temperature sensing.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.1.1 [FI28][2]	Heated water circulation systems have a circulation pump. The system return pipe is a dedicated return pipe or a cold water supply pipe. Gravity and thermos-syphon circulation systems are not present. Controls for circulating hot water system pumps start the pump with signal for hot water demand within the occupancy. Controls automatically turn off the pump when water is in circulation loop is at set-point temperature and no demand for hot water exists.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.1.2 [FI29][2]	Electric heat trace systems comply with IEEE 515.1 or UL 515. Controls automatically adjust the energy input to the heat tracing to maintain the desired water temperature in the piping.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.3 [FI31][2]	Drain water heat recovery units tested in accordance with CSA B55.1. Potable water-side pressure loss of drain water heat recovery units < 3 psi for individual units connected to one or two showers. Potable water-side pressure loss of drain water heat recovery units < 2 psi for individual units connected to three or more showers.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.6.2 [FI25][2]	All mechanical ventilation system fans not part of tested and listed HVAC equipment meet efficacy and air flow limits per Table R403.6.2.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Section # & Req.ID	Final Inspection Provisions	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
403.6.3 [FI33][2]	Mechanical ventilation systems tested and verified to meet the minimum flow rates required by Section R403.6.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.5.1.1.1 [FI32][2]	Demand recirculation water systems have automatic controls to start pump when hot water is requested.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
404.1 [FI6][1]	100% of permanent fixtures have high efficacy lamps.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
404.1.2 [FI23][3]	Fuel gas lighting systems have no continuous pilot light.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
404.1.1 [FI35][3]	Exterior lighting for multifamily buildings shall comply with Section C405.4.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
404.2 [FI36][3]	Permanent interior lighting shall be controlled with either a dimmer, occupancy sensor or other control built into the fixture.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
404.3 [FI37][3]	Exterior lighting >= 30 watts shall have the following controls: manual on/off switch with automatic shut-off, automatic shut-off in daylight hours, and controls that override automatic shutoff that returns to automatic control within 24 hours.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
401.3 [FI7][2]	Compliance certificate posted with building specifications and compliance path and results.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
303.3 [FI18][3]	Manufacturer manuals for mechanical and water heating systems have been provided.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Section # & Req.ID	Final Inspection Provisions	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
408.2.1 [FI38][3]	Enhanced Envelope Performance Option: Proposed building UA = 0.95 UA of 2021 IECC Standard Reference Design.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
408.2.2 [FI39][3]	Efficiency HVAC Package: Efficiencies >= 95 AFUE gas furnace, 16 SEER air conditioner, 10 HSPF/16 SEER heat pump or 3.5 COP ground source heat pump.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.2.3 [FI22][2]	Vented attics with air permeable insulation include baffle adjacent to soffit and eave vents that extends over insulation.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.2.4 [FI3][1]	Attic access hatch and door insulation ≥R-value of the adjacent assembly.	R-	R-	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
402.4.1.3 [FI17][1]	Blower door test @ 50 Pa. <=5.0 ach in Climate Zones 1-2, and <=3.0 ach in Climate Zones 3-8.	ACH 50 =	ACH 50 =	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.5 [FI27][1]	Ducts are pressure tested in accordance with ANEI/RESNET/ICC 380 or ASTME1554 to determine air leakage with either: Rough-in test: Total leakage measured with a pressure differential of 0.1 inch w.g. across the system including the manufacturer's air handler enclosure if installed at time of test. Postconstruction test: Total leakage measured with a pressure differential of 0.1 inch w.g. across the entire system including the manufacturer's air handler enclosure.	cfm/100 ft^2	cfm/100 ft^2	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.6 [FI4][1]	Duct tightness test result of <=4 cfm/100 ft2 across the system or <=3 cfm/100 ft2 without air handler @ 25 Pa. Duct tightness <= 8 cfm/100 ft2 for ducts within thermal envelope. For rough-in tests, verification may need to occur during Framing Inspection.	cfm/100 ft^2	cfm/100 ft^2	☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	
403.3.4.1 [FI24][1]	Air handler leakage designated by manufacturer at <=2% of design air flow.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Section # & Req.ID	Final Inspection Provisions	Plans Verified Value	Field Verified Value	Complies?	Comments/Assumptions
403.1.1 [FI9][2]	Programmable thermostats installed for control of primary heating and cooling systems and initially set by manufacturer to code specifications.			☐ Complies ☐ Does Not Comply ☐ Not Observable ☐ Not Applicable	

Additional Comments/Assumptions:

1	High Impact (Tier 1)	2	Medium Impact (Tier 2)	3	Low Impact (Tier 3)

2021 IECC Energy Efficiency Certificate

Insulation Rating	R-Value
Above-Grade Wall	34.00
Below-Grade Wall	24.00
Floor	50.00
Ceiling / Roof	51.00
Ductwork (unconditioned spaces):	____

Glass & Door Rating	U-Factor	SHGC
Window	0.32	
Door	0.32	
Skylight	0.00	

Heating & Cooling Equipment	Efficiency
Heating System: _____	_____
Cooling System: _____	_____
Water Heater: _____	_____

Signature

Name: _____ **Date:** _____

Comments:

WASATCH FIRE DISTRICT

10420 N. Jordanelle Blvd. Heber City, UT 84032
435-940-9636

General Contractor must upload all documents required and approved at permit submission/approval to https://wfd.cityinspect.com/login

UPLOAD APPROVED

- Fire Hazard Severity Form
- Landscape Plan
- Site Plan
- Any other required documents dependent occupancy (Residential / Commercial / Multi Family)

Directions and registration link can be found at www.wasatchcountyfire.com under the building permits tab. All documents must be uploaded to a single permit, if sub-contractor uploads document, it must be added under general contractor's permit.

INSPECTIONS WILL NOT BE SCHEDULED IF PERMIT IS NOT CREATED ON FIRE DISTRICT PORTAL FOR PROPERTY

APPENDIX C
FIRE HAZARD SEVERITY FORM

This appendix is to be used to determine the fire hazard severity.

Owner Name: Julie Bruce **Building Address:** 1687 W Alpine Ave. Heber, Ut 84032

A. Subdivision Design (Fire District)

1. Ingress/Egress

Two or more primary roads	1_____
One road	10_____
One-lane road in, one-lane road out	15_____

2. Width of Primary Road

20 feet or more	1_____
Less than 20 feet	5_____

3. Accessibility

Road grade 5% or less	1_____
Road grade 5-10%	5_____
Road grade greater than 10%	10_____

4. Secondary Road Terminus

Loop roads, cul-de-sacs with an outside turning radius of 45 feet or greater	1_____
Cul-de-sac turnaround	5_____
Dead-end roads 200 feet or less in length	8_____
Dead-end roads greater than 200 feet in length	10_____

5. Street Signs

Present and approved	0_____
Present but unapproved	3_____
Not present	5_____

B. Vegetation (IUWIC Definitions)

1. Fuel Types (within the defensible space)

Surface	Lawn/noncombustible	1_____
	Grass/short brush	5_____
	Scattered dead/down woody material	10_____
	Abundant dead/down wood material	15_____
Overstory		
	Deciduous trees (except tall brush)	3_____
	Mixed deciduous trees and tall brush	10_____
	Clumped/scattered conifers and/or tall brush	15_____1
	Contiguous conifer and/or tall brush	20_____

2. Defensible Space (Lot Specific)

70% or more of lots completed	1_____
30% to 70% of lots completed	10_____
Less than 30% of lots completed	20_____

C. Topography

Located on flat, base of hill or setback at crest of hill	1_____
On slope with 0-20% grade	5_____
On slope with 21-30% grade	10_____
On slope with 31% grade or greater	15_____
At crest of hill with unmitigated vegetation below	20_____

D. Roofing Material

Class A Fire Rated	1_____
Class B Fire Rated	5_____
Class C Fire Rated	10_____
Non-rated	20_____

E. Fire Protection—Water Source

1000 GPM hydrant within 600 feet	1_____
Hydrant farther than 600 feet or draft site	5_____
Approved water source 20 min or less round trip	10_____
Approved water source farther than 20 min, and 45 min or less round trip	15_____
Approved water source farther than 45 min round trip	20_____

F. Siding and Decking

Noncombustible siding/deck	1_____
Combustible side/no deck	5_____
Noncombustible siding/combustible deck	10_____
Combustible siding and deck	15_____

G. Utilities (gas and/or electrical)

All underground utilities	1_____
One underground, one aboveground	3_____
All aboveground	5_____

Total for Subdivision or Site 61

Moderate Hazard	50-75
High Hazard	66 76-100
Extreme Hazard	101+

WASATCH COUNTY
BUILDING DEPT.

Your plan set has been reviewed and your payment received. Your permit is now issued. Please review the information and documents in your packet carefully for information concerning accessing your stamped plans, the inspection process and the documents needed during the course of construction.

COUNTY STAMPED PLANS—You may access your stamped plan set on both the permitting portal and the inspection portal. To access on the permitting portal please follow these instructions:

- Log into the permitting portal where you applied for the account. Open the project and click on the "APPROVED DOCUMENTS" tab. Once you have opened the tab, change the drop-down menu above the document to say, "Plan Documents" If it says "Plan set and reference documents" please change it to say "Plan Documents" in order to view your stamped plans and other approval documents.

INSPECTIONS:

- All inspection requests must be made online.
- A Builder Account is required to request inspections and permits are linked to the General Contractor email that was entered on the permit application at permit submission. See our webpage or the end of this packet for instructions on creating a builder account and adding additional users.
- Concrete inspections MUST be requested by 2:00 p.m. the business day prior to the pour. Please be sure you enter an accurate pour time when requesting your inspection. Precedence to be re-scheduled will not be given if the inspector arrives and the project is not ready for inspection. All other requests are scheduled in the order they are received.
- Inspections are scheduled for an a.m./p.m. time frame and the inspectors will do their best to arrive within that frame, however your job needs to be ready to be inspected at any time between the hours of 8 a.m. and 5 p.m. on the scheduled day. You are not required to be onsite for inspections if the job is accessible, and the stamped plans are onsite.
- Wasatch County STAMPED PLANS are required onsite for all inspections.

WASATCH COUNTY
BUILDING DEPT.

- A re-inspection fee of $75 will be accessed in the following instances.
    a) Job isn't ready for requested inspection.
    b) Wasatch County stamped plans are not onsite.
    c) Same day cancelations (inspection cancelations need to be made by 5:00 p.m. the business day prior to the scheduled inspection to avoid the fee)

  Please Note: when the fee is accessed the project will be flagged and no inspections will be able to be requested until the fee is paid. It takes at least a business day for the payment to be received and the flag to be removed. Please be ready to plan accordingly.
- Residential structures with 8,000 or more livable square footage will need to plan accordingly to request all framing, 4-way, and final inspections by floor. Multiple floors cannot be requested on the same day for homes this size.
- If you have a propane tank and/or the structure you are building is within the Wildland Urban Interface areas, you will need to have both your propane tank inspection and Wildland Fire Inspection from the Wasatch County Fire District 435-940-9636 and provide their report to our office before you are able to request your Final Building Inspection.

DOCUMENTS REQUIRED ONSITE:

- Wasatch County stamped plans.
- Permit Card. This needs to be posted and visible from the road.
- As-Built Gas Schematic and completed Wasatch County Fuel Gas Installation Form
- Stamped Complete Truss Package
- Energy Efficiency Sticker. You can pick up a pre-made sticker in our office or use the template included in this packet.

ADDITIONAL INFORMATION: Changes made during the course of construction may require that an amendment be obtained which could cause delays in construction. Please plan accordingly. If the change can be addressed in a stamped letter from the Engineer of Record, an amendment is NOT required. Any changes to the actual plan sheets (ex. location change of structure on lot, additional square footage, height of building, change from stick frame to manufactured trusses, etc.) REQUIRE an amendment be obtained through the permitting portal. Amendments generally take 7-10 business days to be reviewed. The project will be flagged, and no inspections will be able to be requested until the amendment is obtained.

WASATCH COUNTY

BUILDING PERMIT

25-803

WASATCH COUNTY BUILDING DEPARTMENT
FUEL GAS INSTALLATION FORM

Address: _____ Lot/Unit#: _____

PERMIT #: _____ Subdivision: _____

# of Units	List of Equipment/Appliances:	
_____	Furnace(s)	_____BTU's
_____	Water Heater(s)	_____BTU's
_____	Dryer(s)	_____BTU's
_____	Barbeque(s)	_____BTU's
_____	Range/Cook Tops	_____BTU's
_____	Boiler(s)	_____BTU's
_____	Fireplace(s)	_____BTU's

Other Equipment, Specify:

_____	_____	_____BTU's
_____	_____	_____BTU's
_____	_____	_____BTU's

TOTAL: _____

NATURAL GAS _____ LPG _____

FUEL INLET (PIPE) SIZE: _____

PIPE TYPE: _____

SYSTEM OPERATING PRESSURE:

2 LBS _____ 4 OZ _____

OTHER: _____

Longest Line Length: _____

Elevation/Deration Factor: _____

CONTRACTOR INFORMATION

Builder's Name: _____ Gen. Contractor ( ) Owner/Builder ( )

Business Phone: _____ License # _____

Mechanical Contractor: _____

Business Phone: _____ License # _____

I hereby certify that the entire mechanical fuel-line system for the structure located at the address listed above has been sized and pressure tested in accordance with the applicable codes currently adopted by the State of Utah.

_____	_____	_____
Print Name of Installer	**Signature of Installer**	**Date**

MUST HAVE ATTACHED SCHEMATIC DRAWING

WASATCH COUNTY BUILDING DEPT.

Energy Efficiency

Address: _____

Builder: _____

Code Year Built Under: _____

Insulation Rating	R-Value	
Ceiling/Roof	_____	Air Duct Leakage
Wall	_____	Test Result: _____
Floor/Foundation	_____	
Ductwork (Unconditioned Spaces)	_____	

Glass & Door Rating	U-Factor	SHGC
Window	_____	_____
Door	_____	_____

Heating & Cooling Equipment	Efficiency
Heating System Model #: _____	_____
Cooling System Model #: _____	_____
Water Heater Model #: _____	_____

WASATCH COUNTY BUILDING DEPT.

Energy Efficiency

Address: _____

Builder: _____

Code Year Built Under: _____

Insulation Rating	R-Value	
Ceiling/Roof	_____	Air Duct Leakage
Wall	_____	Test Result: _____
Floor/Foundation	_____	
Ductwork (Unconditioned Spaces)	_____	

Glass & Door Rating	U-Factor	SHGC
Window	_____	_____
Door	_____	_____

Heating & Cooling Equipment	Efficiency
Heating System Model #: _____	_____
Cooling System Model #: _____	_____
Water Heater Model #: _____	_____

WASATCH COUNTY
BUILDING DEPT.

Date: January 30th, 2024

Dear Account Holder,

We are writing to inform you about significant changes in the inspection procedures and requirements at the Wasatch County Department of Building Safety. These changes are essential to align with the Utah State Statute and optimize our inspection processes to meet the growing demand while ensuring compliance.

1. Elimination of Certain Inspections:

To comply with the Utah State Statutes, Wasatch County will no longer require the following inspections on Single Family Residential Construction:

No Shower Pan Inspection

Roof Nailing. Sheathing nailing will no longer be inspected.

No Exterior Hydronic Tubing Inspections

No Interior Drywall Inspections (except for garages with living space above. Garage only to be inspected)

2. Changes in Inspection Procedures:

Effective February 1st, 2024, the following modifications will be made to the required inspections:

Roof Framing Inspection limited to top plate up (including trusses, roof rafters, beams, and compliance with engineer of record roof details)

Framing and Shear Walls combined into one inspection, requiring a passed inspection before a 4-way inspection can be requested.

Hydronic Tubing Inspection for tubing located inside the building footprint of exterior walls.

Sizing of gas piping systems will no longer be conducted; instead, a completed and signed Fuel Gas Installation form by the gas piping installer and an as-built gas line schematic will be required to be onsite at the time of gas line test inspection.

These changes are necessary to facilitate the increasing number of inspections requested daily and to align with the Utah State Statutes, which mandates inspections within three days of the requested date. While we understand that adapting to new procedures may be challenging initially, we appreciate your cooperation as we implement these changes to enhance efficiency and compliance.

Should you have any questions or concerns regarding these changes, please do not hesitate to reach out to Wasatch County Department of Building Safety 435-657-3200.

We value your continued collaboration and commitment to building safety standards in Wasatch County. Thank you for your understanding and cooperation in implementing these necessary adjustments.

Sincerely,

Quinn Davis
Building Official
Wasatch County Department of Building Safety
435-657-3200
qdavis@wasatch.utah.gov

WASATCH COUNTY ATTORNEY

805 WEST 100 SOUTH
HEBER CITY, UTAH 84032
TELEPHONE (435) 654-2909
FACSIMILE (435) 654-2947

SCOTT H. SWEAT
COUNTY ATTORNEY
MCKAY G. KING
S. CASE WADE
JON WOODARD
MICHAEL A. SNELL
SHELBY M. THURGOOD
ALEX STOEDTER

November 19, 2025

Kit Kosakowski
krkphd@gmail.com

Dear Ms. Kit Kosakowski:

I am in receipt of your records request appeal dated October 24, 2025 requesting documents related to Lot B in Star Harbor.

Your appeal is granted. There are some documents that we cannot release

The building permit has been issued. Please find responsive documents sent via email. We have redacted documents that have personal information pursuant to Utah Code Ann. 63G-2-305(51).

Furthermore, the building permit application cannot be released in full, due to copyright laws and protections. Copyrighted materials, such as but not limited to building plans and engineering reports may be viewed at the Building Department offices. Pictures may not be taken. Copyrighted materials are not records subject to GRAMA. UCA 63G-2-103(25)(b). The County has previously provided the requestor access to visually inspect records requested.

Material legally owned by an individual is not a record. UCA 63G-2-103(25)(b).

The County is not required to compile, format, manipulate, package, summarize, or tailor a record, or provide the record in a format not maintained by the governmental entity. UCA 63G-2-201(7).

The County is not required to fulfill a request if it unreasonably duplicates prior requests. UCA 63G-2-201(7).

The County is not required to fulfill a request if it is accessible online. Online materials may be found at https://www.wasatchcounty.gov/.

You may have the right to appeal this response to the State Hearing officer. If you wish to appeal, please direct your appeal in writing to the State Hearing Officer at 346 S Rio Grande St Salt Lake City, UT 84101-1106. Your notice of appeal must be submitted within 30 days of the date of this response.

Sincerely,

Dustin Grabau
Wasatch County Manager

Wasatch County Building Permit Application

Please Type N/A for any required fields (indicated by a red asterisk) that do not apply to your building project. If we feel that these items are required for your project, we will deny the permit until we receive the necessary information.

For Information on the Building Permit application process click here for a pdf.

Building Information

Plan Review Type – Please click red box for drop down options *
Residential

Proposed Building Type – Please click red box for drop down options *
Single Family Dwelling

Parcel Number (xx-xxxx-xxxx) *
00-0020-0814

Visit https://www.wasatchcounty.gov/Maps and select Recorder Online Map to look up parcel number.

Serial Number (xxx-xxxx-x-xxx-xxx)
0HB-000B-A-024-024

Name of Person Entering Permit *
Steven Stange / Olympus Valley Homes

Detailed Project Description
Building a new single family residence roughly 5666 sq ft in size.

Subdivision Name
Star Harbor

Subdivision Lot #
B

Alternate Project ID

Is this request a revision of an active building permit?
- (●) No
- ( ) Yes

Is this request identical to another permit that has been issued?
- (●) No
- ( ) Yes

Property Owner Information

This area is for the property owner's information only. Please do not enter any contractor information here. Once a property owner's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

Property Owner E-Mail Address *
[redacted]

Property Owner Name *
Julie Bruce LLC

Phone Number *
[redacted]

Street Address *
[redacted]

City *
[redacted]

State *
[redacted]

Zip *
[redacted]

Architect/Engineer Contact Information

E-Mail Address *
info@alexanderdesignbuildpc.com/wayne@cpeutah.com

Note: Once a contractor's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

Architect/Engineer Name *
Jared Rakisits/Wayne Staker

Phone Number *
(435)640-6749

General Contractor Contact Information

E-Mail Address *
admin@olympusvalley.com

Note: Once a contractor's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

General Contractor Business Name *
Olympus Valley Homes LLC

Phone Number *
(385)775-1043

State Contractor Business License Number *
12362036-5501

Street Address *
10955 S KELSO DUNE DR

City *
LEHI

State *
Utah

Zip *
84043

☑ By checking this box, the Contractor acknowledges and agrees to hire only subcontractors who are currently licensed by the State of Utah for all trades that require licensure under applicable state law. The Contractor further affirms that all such subcontractors shall maintain valid and active licenses throughout the duration of their work on the project, in compliance with all relevant regulations and standards set forth by the Utah Division of Occupational and Professional Licensing. *

Electrical Contractor Contact Information

E-Mail Address
earnshawelectric@yahoo.com

Note: Once a contractor's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

Electrical Contractor Business Name
Earnshaw Electric Inc

Phone
(435)671-0388

State Electrical Business License Number
314358-5501

Street Address
4367 East 2400 South

City
Heber

State
UT

Zip
84032

Plumbing Contractor Contact Information

E-Mail Address
paramountplumbing72@gmail.com

Note: Once a contractor's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

Plumbing Contractor Business Name
Paramount Plumbing

Phone
(801)420-0754

State Plumbing Business License Number
5247136-5501

Address
1296 Wheatland Dr

City
Eagle Mountain

State
UT

Zip
84005

Mechanical Contractor Contact Information

E-Mail Address
brad.wcs@gmail.com

Note: Once a contractor's contact information has been submitted in an application, on future applications it will automatically populate into the fields below, based on the e-mail address entered. If this information is incorrect, please contact the Wasatch County Plan Review Coordinator.

Mechanical Contractor Business Name
Brad Wilson Construction Inc

Address
308 w main

Phone
(385)775-1043

City
Lehi

State Mechanical Business License Number
5070880-5501

State
Ut

Zip
84043

Owner consents to a Notice of Open Building Permit being recorded on the subject property. Structure use is unlawful without a Certificate of Occupancy. This permit becomes null and void if work or construction is not commenced within 180 days or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not, including building setbacks and the height of the structure from natural grade. Actual construction will comply with applicable local ordinances and building codes. The granting of a permit does not presume to give authority to violate or cancel the provisions of any state or local law regulating construction or the performance of construction. If I, as the applicant, am not the property owner, I hereby declare that I have written permission from the owner to make this application. I declare under criminal penalty under the law of Utah that I am the responsible person for ensuring the requirements of the permit and site plan are met and that the foregoing is true and correct. Signed electronically on the date of this application in Wasatch County, Utah.

Signature

Full Name*

Steven Stange

ENCLOSURE 3

Kit Kosakowski October 13, 2025 E-mail

From: **Kit Kosakowski** krkphd@gmail.com
Subject: Building Permit -- Star Harbour Lot B (1687 W Alpine Ave)
Date: October 13, 2025 at 11:57 AM
To: Quinn Davis QDavis@wasatch.utah.gov, Bldinfo@wasatch.utah.gov, Dustin A. Grabau DGrabau@wasatch.utah.gov, Manager@wasatch.utah.gov
Cc: Mike Kosakowski utahkos@gmail.com
Bcc: Kit Kosakowski krkphd@gmail.com

KK

Quinn —

In previous e-mails and correspondence, we have stated that we will be appealing a building permit issued for Lot B in Star Harbour. Since you don't provide any public notice of issued building permits, Mke has been regularly phoning the Building Department. Often, no one answers and he has to leave a message. And often, the Building Department doesn't get back to him right away. Since the window for appealing is very brief — 10 days — we don't want to miss the opportunity to appeal.

So I am writing to ask if the Building Department has issued a building permit for Lot B in Star Harbour.

And not to be a pest, but I'll be e-mailing every day with the same question.

Dustin —

Does the County have a mechanism for paying for the $600 fee for the appeal other than a paper check? While it's easy enough to submit the appeal letter electronically from anywhere, delivering a paper check is problematic because we won't be home in Utah until late October. I'm happy to pay the County via Zelle, give you a credit card or overnight a paper check now as a placeholder for the appeal. Please let me know what the alternatives are.

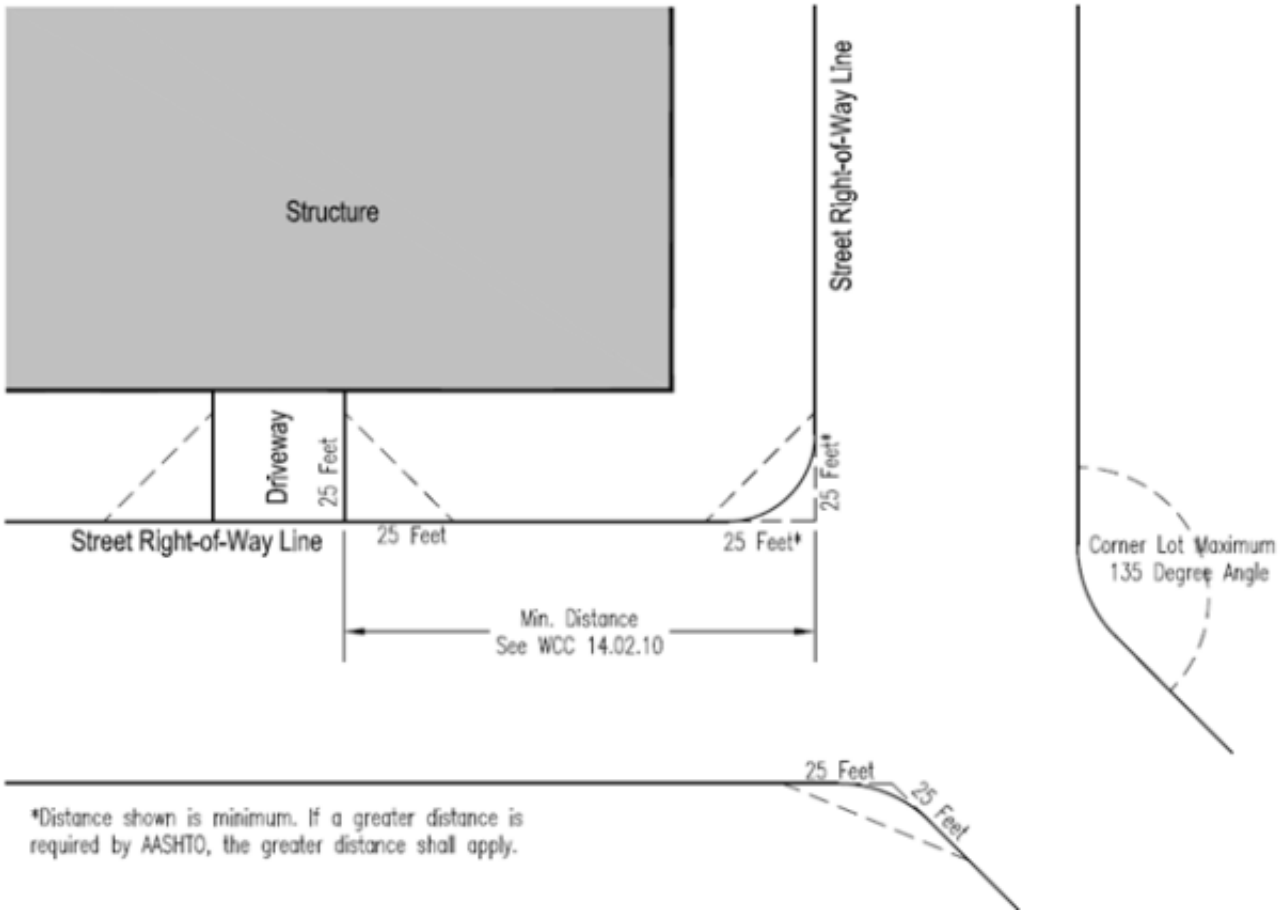
Thank you.

Kit Kosakowski

ENCLOSURE 4

WCC §16.37.06

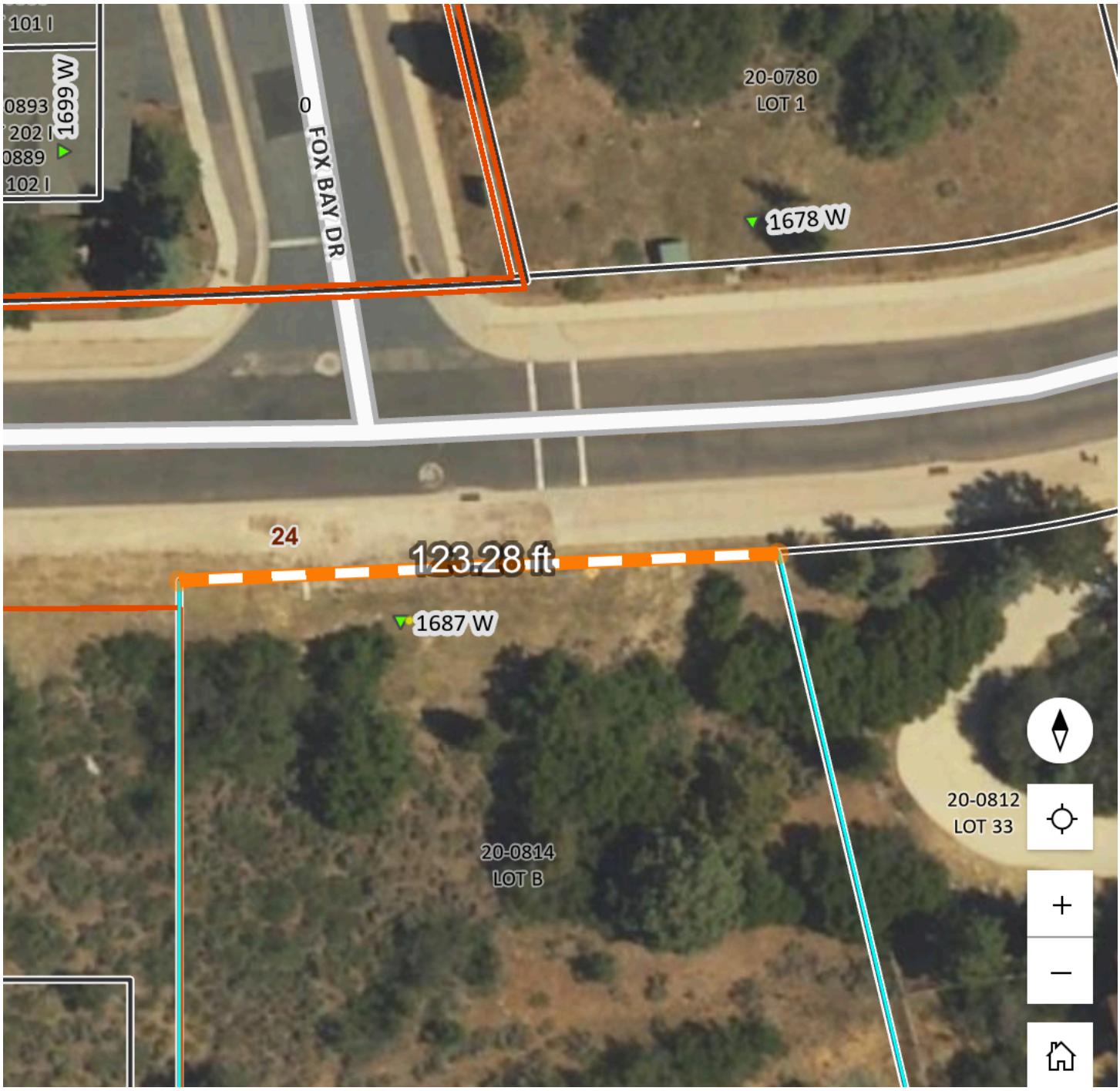
16.37.06: CLEAR VIEW AND DRIVEWAY REQUIREMENTS



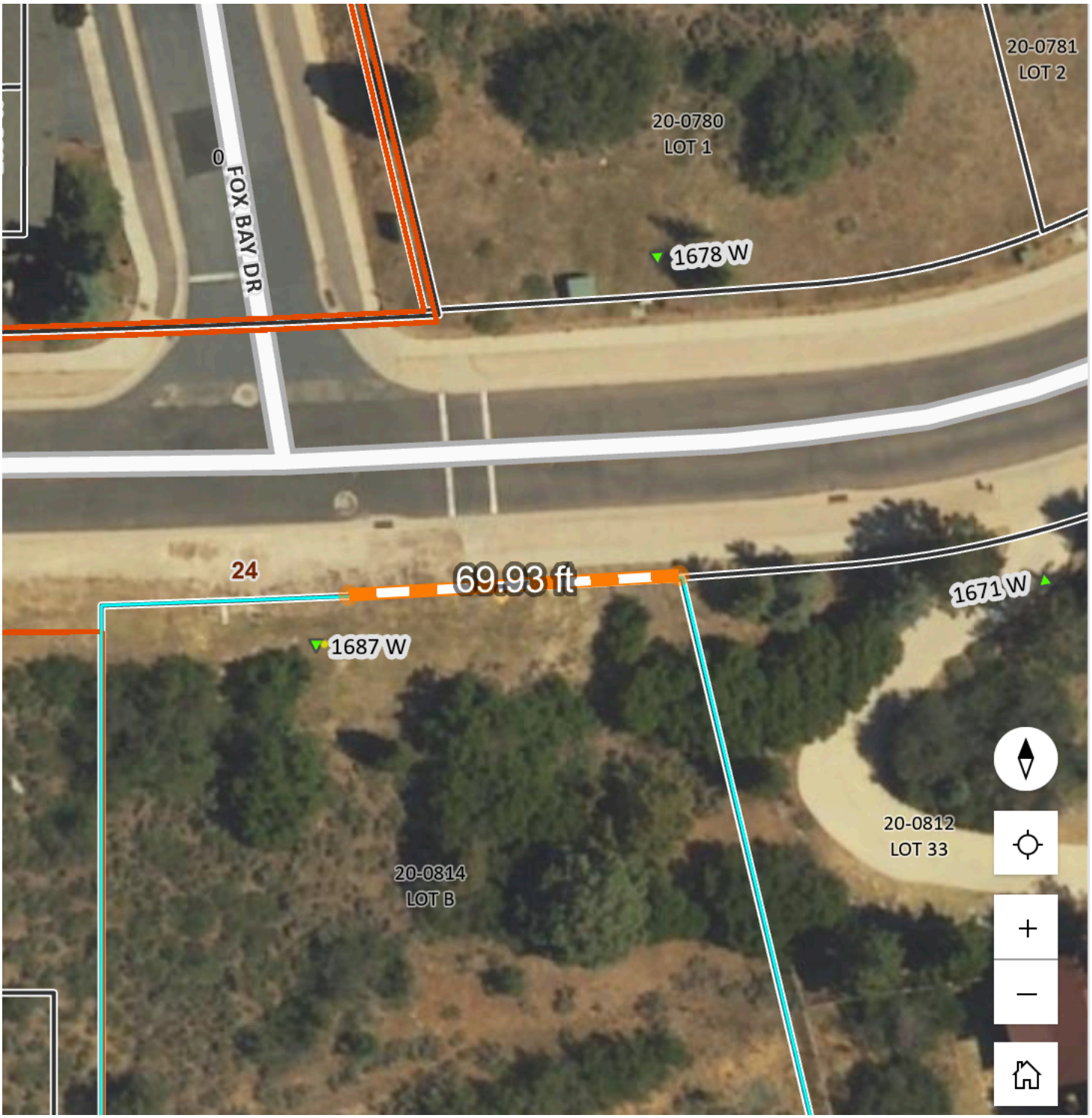
HISTORY
Adopted by Ord. 2002 Code § 16.37.06 on 1/1/2002
Amended by Ord. 24-13 on 9/18/2024

ENCLOSURE 5

Lot B Measurements from Wasatch County GIS Website


101 I
1699 W
0893
202 I
0889
102 I
0 FOX BAY DR
20-0780
LOT 1
1678 W
24
123.28 ft
1687 W
20-0814
LOT B
20-0812
LOT 33

20-0780
LOT 1
0 FOX BAY DR
1678 W
24
72.00 ft
1687 W
1671 W
20-0814
LOT B
20-0812
LOT 33


20-0781
LOT 2
20-0780
LOT 1
0 FOX BAY DR
1678 W
24
69.93 ft
1671 W
1687 W
20-0812
LOT 33
20-0814
LOT B