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MORGAN COUNTY
For: JOHNSON DUANE D

MASTER DEVELOPMENT AGREEMENT
FOR THE
MOUNTAIN GREEN VILLAGE PROJECT

MORGAN COUNTY, UTAH

DATED: Jan 28, 2014

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WHEN RECORDED, RETURN TO:

SODERBY, LLC
P.O. BOX 643
LAYTON, UT 84041

MASTER DEVELOPMENT AGREEMENT
FOR THE
MOUNTAIN GREEN VILLAGE PROJECT

MORGAN COUNTY, UTAH

DATED: JANUARY 28, 2014

THIS MASTER DEVELOPMENT AGREEMENT ("MDA") is made and entered as of the 28th day of JANUARY, 2014, by and between Morgan County, a political subdivision of the State of Utah ("County"), and Soderby, LLC, a Utah limited liability company ("Master Developer"), as the owner and developer of a long term, mixed use, master planned project known as Mountain Green Village (the "Project"). The County and Master Developer are sometimes collectively referred to in this MDA as the "Parties".

RECITALS

A. The capitalized terms used in these Recitals are defined in Section 1.2, below.

B. Master Developer is the owner of approximately 106 acres of real property located within the unincorporated boundaries of the County as more fully described in Exhibit A (the "Property") on which it proposes to develop the Project.

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C. The County has zoned the Property "Central Development District" ("CD Zone") which requires any development within that zone to be implemented through a development agreement.

D. Master Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the County's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this MDA as more fully set forth below.

E. Master Developer and the County desire that the Property be developed in a unified and consistent fashion pursuant to memorialize the relationship between them viz. a viz. certain transactions, entitlements, dedications and other requirements which are necessary for the Project.

F. Development of the Property will include the Intended Uses specified in the Master Plan, all of which are allowed in the CD Zone.

G. Development of the Project as a master planned community pursuant to this MDA is acknowledged by the parties to be consistent with the Act, and the Code and to operate to the benefit of the County, Master Developer, and the general public.

H. The County Council has reviewed this MDA and determined that it is consistent with the Act, the Code and the CD Zone as applied to the Property.

I. Development of the Property pursuant to this MDA will also result in significant benefits to Master Developer by providing assurances to Master Developer that it will have the ability to develop the Property in accordance with this MDA.

J. Master Developer and the County have cooperated in the preparation of this MDA.

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K. The parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as part of the Project as expressed in this MDA and the rights and responsibilities of the County to allow and regulate such development pursuant to the requirements of this MDA.

L. The parties understand and intend that this MDA is a "development agreement" within the meaning of, and entered into pursuant to the terms of Utah Code Ann., §17-27a-102.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Developer hereby agree to the following:

TERMS

1. **Incorporation of Recitals and Exhibits/ Definitions.**

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" – "L" are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the County Land Use, Development, and Management Act, Utah Code Ann., §§17-27a-101, *et seq.*

1.2.2. **Administrative Action** means and includes any changes or modifications to the Exhibits to this MDA or other action that may be approved by the Administrator as provided in Section 17.

1.2.3. **Administrator** means the Zoning Administrator as defined by the Code or County Engineer, as applicable.

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1.2.4. **Applicant** means a person or entity submitting a Development Application, a Modification Application or a request for an Administrative Action.

1.2.5. **Backbone Improvements** means those improvements shown as such in the Master Plan and which are, generally, infrastructure improvements of a comprehensive scale that are a part of the overall development of the Property and not merely a part of the development of any particular Subdivision or Site Plan.

1.2.6. **Building Permit** means a permit issued by the County to allow construction, erection or structural alteration of any building, structure, private or public infrastructure, Project Infrastructure on any portion of the Project, or to construct any Off-Site Infrastructure.

1.2.7. **Buildout** means the completion of all of the development on all of the Property for all of the Project.

1.2.8. **CC&R's** means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the Property to be recorded in the chain of title on the Property.

1.2.9. **CD Zone** means the Central Development District zoning for the Property.

1.2.10. **Code** means the County's Code containing its land use regulations adopted pursuant to the Act.

1.2.11. **County** means Morgan County, a political subdivision of the State of Utah.

1.2.12. **County Consultants** means those outside consultants employed by the County in various specialized disciplines such as traffic, hydrology, legal or drainage for reviewing certain aspects of the development of the Project.

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1.2.13. **County Laws** means the ordinances, policies, standards and procedures of the County related to zoning, subdivisions, development, public improvements and other similar or related matters that have been and may be adopted in the future.

1.2.14. **Commercial Site Plan** means the plan submitted to the County for the approval of the development of a portion of the Project which may include multiple buildings that are not intended to be on individual subdivision lots and includes multi-family or apartments, shopping centers or similar multi-building commercial or institutional developments or plans for other developments on the Project which are allowed by the Master Plan as a permitted or conditional use.

1.2.15. **Council** means the elected County Council of the County.

1.2.16. **Default** means a material breach of this MDA.

1.2.17. **Denied** means a formal denial issued by the final decision-making body of the County for a particular type of Development Application but does not include review comments or "redlines" by County staff.

1.2.18. **Development Standards** means a set of standards approved by the County as a part of the approval of the Master Plan and this MDA controlling certain aspects of the design and construction of the development of Property including setbacks, building sizes, height limitations, parking and signage; and, the design and construction standards for buildings, roadways and infrastructure.

1.2.19. **Development Application** means an application to the County for development of a portion of the Project including a Subdivision, a Commercial Site Plan, a Building Permit or any other permit, certificate or other authorization from the County required for development of the Project.

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1.2.20. **Development Report** means a report containing the information specified in Sections 4.3 and 4.4 submitted to the County by Master Developer for the development by Master Developer of any Parcel or Subarea or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.21. **Dwelling, Short Term Rental or Lease** means the use, occupancy, rent or lease, for direct or indirect remuneration, of a Residential Dwelling Unit for an effective term of less than thirty (30) days.

1.2.22. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann., § 17-27a-603, and the County's subdivision ordinance which has been approved by the County, effectuating a Subdivision of any portion of the Property.

1.2.23. **Homeowner Association(s) (or "HOA(s)")** means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

1.2.24. **Hotel** means a building designed with more than five (5) rooms each of which is intended to be occupied by guests who are lodged for compensation generally for a period of less than thirty (30) consecutive days. A hotel may include other facilities that are ancillary to the hotel use such as a dining room/restaurant/club for guests or members of the public, convention facilities/meeting rooms, a facility for exercise or spa treatments, a pool and other similar facilities traditionally associated with hotels.

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1.2.25. **Impact Fees** means those fees, assessments or payments of money imposed by the County as a condition on development activity as specified in Utah Code Ann., §§ 11-36-101, *et seq.*

1.2.26. **Intended Uses** means those permitted and conditional uses identified in the Master Plan, all of which are allowed under the CD Zone.

1.2.27. **Master Developer** means Soderby, LLC, a Utah limited liability company and its assignees or transferees as permitted by this MDA.

1.2.28. **Master Plan** means Exhibit "B", a comprehensive conceptual master plan for the Project which is hereby approved by the County as part of this MDA that sets forth general guidelines for the proposed future development of the Property.

1.2.29. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.30. **Modification Application** means an application to amend this MDA (not including those changes which may be made by Administrative Action).

1.2.31. **Non-County Agency** means a governmental or quasi-governmental entity, other than those of the County, which has jurisdiction over the approval of any aspect of the Project.

1.2.32. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.33. **Open Space** means meaningful areas of the Property or Project that are preserved in an undeveloped, natural state (except for Pocket Parks, trails and similar improvements that shall also be included as part of calculation of the amount of Open Space for the Project), that promote the goals and objectives of the County and Master

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Developer but shall not include roads, parking lots, setbacks or any portion of a platted lot or parcel on which any structure may be located.

1.2.34. **Outsourc[e][ing] means** the process of the County contracting with County Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.35. **Parcel** means a Subarea identified on the Master Plan or proposed in a Development Application for development of a particular type of Intended Use that is not an individually developable lot.

1.2.36. **Phase** means the development of a portion of the Project at a point in a logical sequence as determined by Master Developer.

1.2.37. **Planning Commission** means the County's Planning and Zoning Commission established by the Zoning Ordinance.

1.2.38. **Pocket Parks** means a small park or landscaped open space, generally between 3,000 and 6,000 square feet, which may have playground equipment and which is intended to serve the residential neighborhood that it is located in. A Pocket Park may be co-located with a storm water detention facility.

1.2.39. **Potential Future Connector Road** means the road as described in Section 8.2 and Exhibit "C".

1.2.40. **Project** means the development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, Intended Uses, Densities, Phases and all of the other aspects approved as part of this MDA including its Exhibits.

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1.2.41. **Project Infrastructure** means those items of public or private infrastructure which are a condition of the approval of a Development Application because they are necessary for development of the Property such as local roads or utilities and that are located on that portion of the Property which is subject to a Development Application.

1.2.42. **Property** means the real property subject to this MDA as more fully described in Exhibit "A".

1.2.43. **Residential Dwelling Unit** means a unit intended to be occupied for long term residential living purposes; one single-family residential dwelling and each separate unit in a multi-family dwelling, apartment building or condominium equals one Residential Dwelling Unit.

1.2.44. **Subarea** means an area designated on the Master Plan for future residential development

1.2.45. **Subdeveloper** means an entity not "related" (as defined by Internal Revenue Service regulations) to Master Developer which purchases a Parcel for development.

1.2.46. **Subdivision** means the division of any portion of the Project into a subdivision pursuant to State Law and/or the Code.

1.2.47. **Subdivision Application** means the application to create a Subdivision.

1.2.48. **Total Approved Residential Units** means the development on the Property of not more than a total of Five Hundred Thirty Three (533) Residential Dwelling Units.

2. **Effect of this MDA**. This MDA shall be the sole agreement between the parties for the development of the Property.

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3. **Development of the Project.** Development of the Project shall be in accordance with the County Laws, this MDA and its Exhibits. In the event of a conflict between the County's Laws and this MDA, the more specific provisions of the MDA and its Exhibits shall control. The County acknowledges that the Master Plan satisfies the requirement under the Code for approval of a concept plan for the development of the Property as referenced in the CD Zone, but not the separate concept plan required for a subdivision under the Code.

4. **Development of the Property in Compliance with the Master Plan.**

4.1. **Total Approved Residential Units.** At Buildout of the Project, Master Developer shall be entitled to have developed the Total Approved Residential Units and to have developed the other Intended Uses as specified in the Master Plan.

4.2. **Allocation of Residential Units.** Master Developer may use any of the Total Approved Residential Units in the development of any Subdivision (or any approved Commercial Site Plan allowing for residential uses) so long as the number of Residential Dwelling Units requested in the proposed Development Application does not exceed the number of Residential Units specified by the Master Plan for the proposed Subarea or Parcel in which the Subdivision or Commercial Site Plan is located. The use of Residential Dwelling Units as a "Dwelling, Short Term Rental or Lease" within any of the residential areas of the Project as shown on the Master Plan is prohibited.

4.3. **Accounting for Residential Units on Parcels Developed by Master Developer.** At the recordation of a Final Plat or Commercial Site Plan allowing for residential uses or other approved and recorded instrument for any Parcel(s) developed by Master Developer, Master Developer shall provide the County a Development Report showing the number of Residential Dwelling Units used with the Parcel(s) or Subarea and the number of Residential Units remaining with Master Developer and for the remaining undeveloped areas of the Project.

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4.4. **Accounting for Residential Units for Parcels Sold to Subdevelopers.** Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Total Approved Residential Units and, for any non-residential use, shall specify the amount and type of any such other use sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the County a SubDevelopment Report showing the ownership of the Parcel(s) sold, the portion of the Total Approved Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Total Approved Residential Units remaining with Master Developer for the remainder of the Project and any material effects of the sale on the Master Plan.

4.4.1. Return of Unused Residential Units. If any portion of the Total Approved Residential Units transferred to a Subdeveloper are unused by the Subdeveloper at the time the Parcels transferred with such Residential Units receives approval for a Development Application for the final portion of such transferred Parcels, the unused portion of the transferred Residential Units shall automatically revert back to Master Developer and the Master Developer shall file with the County a Development Report.

4.5. **Parcel Sales.** The County acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the sale of a Parcel. The County acknowledges that Master Developer may seek and obtain approval for the subdivision of a portion of the Project into a Parcel without providing such detailed development information subject to the specific "Parcel Sales" provisions of the Section 6.12.

4.6. **Development of Hotel and Commercial Parcels.** The Parties understand and agree that the location and specific boundaries of the parcels designated in Figure 2 of the Master Plan as being for commercial and Hotel uses are conceptual in nature and may be modified to respond

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to the more detailed design and engineering information that will be provided as part of a specific Development Application for those areas. However, Master Developer shall be obligated to develop such parcels for commercial and Hotel purposes consistent with the CD Zone, the Master Plan and this MDA. The Hotel parcel may be switched with the adjoining commercial parcel at the discretion of Master Developer. The Hotel parcel may also be developed for other commercial uses in the event that Master Developer is not able to market the parcel for the development of a Hotel by January 1, 2017. In no event shall the development of any of the commercial or Hotel parcels affect the number of Total Approved Residential Units.

4.7. **Supplemental Development Standards**. In accordance with the Master Plan and CD Zone, supplemental development standards shall be required as a condition precedent for approval of each individual phase or plat as part of the Development Application process providing additional details with respect to issues such as landscaping, buffering, screening, lighting, etc. Any such supplemental development standards shall be consistent with the guiding principles in the Master Plan, CD Zone and this MDA.

5. **Zoning and Vested Rights.**

5.1. **Vested Rights Granted by Approval of this MDA.** Master Developer shall have the vested right to develop and construct the Project on the Property in accordance with the CD Zone and the Intended Uses, Total Approved Residential Units including density and intensity, Development Standards and other matters specifically addressed in the Master Plan subject to compliance with the terms and conditions of this MDA and other applicable County Laws as more fully set forth in this MDA. The Parties intend that the rights granted to Master Developer under this MDA are contractual and also those rights that exist under statute, common law and at equity. The parties specifically intend that this MDA grants to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §17-27a-508.

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5.1.1. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to County Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the County that would be applicable to the Project:

5.1.1.1. *Master Developer Agreement.* Future laws that Master Developer agrees in writing to the application thereof to the Project;

5.1.1.2. *Compliance with State and Federal Laws.* Future laws which are generally applicable to all properties in the County and which are required to comply with State and Federal laws and regulations affecting the Project;

5.1.1.3. *Safety Code Updates.* Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

5.1.1.4. *Taxes.* Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the County to all properties, applications, persons and entities similarly situated.

5.1.1.5. *Fees.* Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within

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the County (or a portion of the County as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

5.1.1.6. *Impact Fees.* Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

5.2. **Reserved Legislative Powers.** Master Developer acknowledges that the County is restricted in its authority to limit its police powers by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the County all of its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation under its police powers, any such legislation shall only be applied to modify the vested rights of Master Developer as referenced in section 5.1 above under the terms of this MDA based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah as codified in Utah Code Ann.§17-27a-508. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the County; and unless in good faith the County declares an emergency, Master Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

5.3. **Term of Agreement.** The term of this MDA shall be until December 31, 2023 unless earlier terminated or modified by written amendment as set forth below. If, on December 31, 2023, the Master Developer has not been notified of any Default, or if any Default is in the process of being cured as provided herein, then the term shall be automatically extended until December 31, 2033. This MDA shall also terminate automatically at Buildout.

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6. **Approval Processes for Development Applications.**

6.1. **Phasing.** The County acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit multiple applications from time-to-time to develop and/or construct portions of the Master Plan for the Project in phases as long as each phase provides for the logical extension of the road system, infrastructure and utilities though the Project as approved by the County in compliance with the terms of this MDA and other applicable provisions of the County Laws.

6.2. **Processing Under County Laws.** Approval processes for Development Applications shall be as provided in the County Laws except as otherwise provided in this MDA. Development Applications shall be approved by the County if they comply with the County Laws and conform to this MDA.

6.3. **County's Cooperation in Processing Development Applications.** The County shall cooperate reasonably in promptly and fairly processing Development Applications.

6.4. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application upon the request of Master Developer or a Subdeveloper the parties will confer and determine whether the Master Developer or a Subdeveloper wishes the County to Outsource the review of any aspect of the Development Application to insure that it is processed on a timely basis. If Master Developer or a Subdeveloper determines that Outsourcing is appropriate then the County shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner or for the consultant selected by the County in good faith consultation with the Master Developer. If the Master Developer or a Subdeveloper notifies the County that it desires to proceed with the Outsourcing based on the County's estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the County the estimated differential cost and the County shall then

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promptly precede with the Outsourced work. Upon completion of the Outsourcing services and the provision by the County of an invoice (with such reasonable supporting documentation as may be requested by Master Developer) for the actual differential cost of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

6.5. **Non-County Agency Reviews.** If any aspect or a portion of a Development Application is governed exclusively by a Non-County Agency an approval for these aspects shall only be reviewed by the County to confirm compliance with this MDA and the County Laws. The Applicant shall timely notify the County of any such submittals and promptly provide the County with a copy of the requested submissions. The County may only grant final approval for any Development Application subject to compliance by Applicant with any conditions required for such Non-County Agency's approval.

6.6. **Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the County. The Development Application shall thus generally only be reviewed by the County to confirm compliance with this MDA and the County Laws. It is not the intent of this Section to preclude the normal process of review by the County, such as the Planning Department, County Engineer, County Attorney, County Surveyor, etc. "redlining", commenting on or suggesting alternatives to the proposed designs or specifications in the Development Application. Generally, the County should endeavor to make all of its redlines, comments or suggestions at

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the time of the first review of the Development Application unless and changes to the Development Application raise new issues that need to be addressed.

6.7. **Expert Review of Certifications Required for Development Applications.** If the County, notwithstanding such a certification by Applicant's experts, subjects the Development Application to a review by County Consultants, the County shall bear the costs of such review if the County Consultants determine that the Applicant's expert certification was materially correct and that the County's requiring a review of the certification in the Development Application was unreasonable and not made in good faith. If the County Consultants determine that the County's requirement of a review was reasonable and made in good faith then payment of the reasonable and actual costs of the County Consultants' review shall be the responsibility of Applicant.

6.7.1. Selection of County Consultants for Review of Certifications Required for Development Applications. The County Consultant undertaking any review by the County required or permitted by this MDA or the Code shall be selected from a list generated by the County for each such County review in the same manner as provided in section 6.4 for Outsourcing or as otherwise allowed by County ordinances or regulations. The anticipated cost and timeliness of such review may be a factor in choosing the expert.

6.8. **Independent Technical Analyses for Development Applications.** If the County needs technical expertise beyond the County's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, "threatened and endangered species" and other similar matters which are not required by the County's Vested Laws to be certified by such experts as part of a Development Application, the County may engage such experts as County Consultants under the processes specified in Section 6.7.1 with the actual and reasonable costs being the responsibility of Applicant. If the County needs any other technical expertise other than as specified above, under extraordinary circumstances

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specified in writing by the County, the County may engage such experts as County Consultants under the processes in Section 6.7.1 with the actual and reasonable costs being the responsibility of Applicant.

6.9. **County Denial of a Development Application.** If the County staff intends to deny or recommend denial of a Development Application, the County staff shall provide a written explanation advising the Applicant of the reasons for recommending denial including specifying the reasons the County staff believes that the Development Application is not consistent with this MDA, the Master Plan and/or the County Laws.

6.10. **Meet and Confer regarding Development Application Denials.** The County and Applicant shall meet within fifteen (15) business days of any recommendation for denial by the County staff to resolve the issues specified in the recommendation for denial of a Development Application.

6.11. **County Denials of Development Applications Based on Denials from Non-County Agencies.** If the County's denial of a Development Application is based on the denial of the Development Application by a Non-County Agency, any such denial may be appealed by Master Developer through the appropriate procedures for such a decision as provided in the Code.

6.12. **Parcel Sales.** Master Developer may obtain approval of a Subdivision that does not create any individually developable lots in the Parcel without being subject to any requirement in the County Laws to complete or provide security for the Project Infrastructure at the time of such subdivision except that the County may require as a part of the Subdivision of the Parcel the construction of perimeter infrastructure such as curb and gutter, sidewalks and fire hydrants if reasonably necessary given the location of the Parcel Sale in relation to other development and the respective timing of the completion of such developments. The responsibility for completing

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and providing security for completion of any Project Infrastructure in the Parcel shall be that of the Developer or a Subdeveloper upon a further Subdivision of the Parcel that creates individually developable lots.

7. **Public Improvements.**

7.1. **Utilities and Project Infrastructure.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all portions of the Project Infrastructure which are required as a condition of approval of the Development Application.

7.2. **Approval of Infrastructure as a Part of a Development Approval.** Any Development Application for a Subdivision or a Commercial Site Plan shall include a plan for constructing the Project Infrastructure and shall demonstrate that the proposed Project Infrastructure is compatible with the overall development of the Project at Buildout.

7.2.1. Review by County. The County shall promptly review the proposed Project Infrastructure to determine its compatibility with the overall development of the Project at Buildout in accordance applicable with County Laws, the Master Plan and this MDA.

7.2.2. Resolution of Disputes Regarding Project Infrastructure. If the County determines that the proposed Project Infrastructure is not compatible with the overall development of the Project at Buildout in accordance with applicable County Laws, the Master Plan and this MDA, then any such dispute shall be subject to the meet and confer provisions of Section 6.10.

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7.3. **Construction Prior to Completion of Infrastructure.** Anything in the Code notwithstanding, Master Developer may obtain building permits prior to the installation of all Project Infrastructure required to be eventually completed so long as such installation is secured pursuant to the County Laws.

7.3.1. Restrictions on Certificates of Occupancy. No permanent Certificate of Occupancy shall be issued by the County and no residential occupancy shall be permitted unless all Project Infrastructure required pursuant to an approved Development Application are installed in accordance with County Laws and approved by the County Engineer.

8. **Special Provisions Regarding Roads.**

8.1. Right of Way along Old Highway 30. As part of this Agreement, Master Developer agrees to dedicate, at no cost to the County, such additional right of way as may be necessary to preserve a full forty feet (40') half width along the entire frontage of the Property adjacent to Old Highway 30 for the future widening of that road.

8.2. Potential Future Connector Road. The parties acknowledge that the construction of a road providing a possible future connection to an interchange on I-84 may be important to the County. However, the Parties also acknowledge that the construction of such a potential future connector road depends upon approvals and financing that are beyond the control of the Parties.

8.2.1. Preservation of a potential alignment. Any Development Application for a Subdivision or a Commercial Site Plan shall note how or if such Development Application may impact the Potential Future Connector Road as depicted on Exhibit "C" which is attached hereto and incorporated herein by this reference.

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8.2.2. Review by County. The County shall promptly review the Development Application to determine any impacts on the Potential Future Connector Road.

8.2.3. Certification of Approval. If the County determines that the Potential Future Connector Road is appropriately preserved or not affected by the Development Application then the County shall certify that approval as part of the approval of the Development Application.

8.2.4. Impact of Potential Future Connector Road. If the County determines that the Development Application does impact the location or design of the Potential Future Connector Road then the County may either ask Master Developer to redesign the Development Application or, alternatively, the County may purchase, within ninety (90) days, the entire Potential Future Connector Road from Master Developer at a price to be determined by a mutually acceptable appraiser assuming that the highest and best use of the property for the purposes of the valuation is as specified in the Master Plan.

8.2.5. Resolution of Issues Regarding Potential Future Connector Road. If the County determines that the Potential Future Connector Road is not appropriately preserved or altered by the Development Application then any such dispute shall be subject to the meet and confer provision of Section 6.10.

8.2.6. Expiration of these special provisions. The Parties acknowledge that it would be unfair to require the Master Developer to withhold certain areas of the Project from future development for an extended period of time while waiting on the Potential Future Connector Road. Thus the provisions of this Section 8.2 shall expire as follows:

8.2.6.1. January 1, 2017. If, by January 1, 2017, the Utah Department of Transportation is not under contract to construct the interchange with I-84 necessary to allow the Potential Future Connector Road to be constructed then

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any requirement to preserve any land for the Potential Future Connector Road or any approved alternatives, shall expire except as specified in Section 8.2.6.2.

8.2.6.2. January 1, 2020. If, on January 1, 2017, the Utah Department of Transportation is not under contract to construct the interchange with I-84 but UDOT has listed the project as being on plans to be constructed before January 1, 2020, then these preservation provisions shall be extended until the earlier of: (i) January 1, 2020 for the interchange to be placed under contract; or (ii) the project being taken off of UDOT's list for being under contract before January 1, 2020.

9. **Open Space, Pocket Parks and Trails.** Master Developer shall preserve, at no cost to the County, Open Space, Pocket Parks and right of way for future trails within the Project as generally depicted and described in the Master Plan, required by the CD Zone and approved by the County.

9.1. Pocket Parks. Neighborhood pocket parks shall be provided as generally described in the Master Plan within the Single Family Detached/Attached Residential Areas.

9.2. Dedication and Ownership of Open Space, Pocket Parks and Trails. Master Developer shall offer such Open Space, Pocket Parks and trails to the County but if the County declines to accept any such Open Space, Pocket Parks or trails, Master Developer may, at its option, transfer ownership of some or all of such Open Space and Pocket Parks to an HOA. In the event that the County accepts any such Open Space, Pocket Parks or trails, they shall be dedicated by Master Developer to the County by plat recordation or deed which shall be at no cost to the County and without any financial encumbrance or other encumbrance (including easements) which unreasonably interferes with the use of the property for Open Space, Pocket Parks or trails. Any neighborhood Pocket Park or trail for which Master Developer retains

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ownership, or for which ownership is transferred to an HOA, shall nonetheless be open to use by the public.

9.3. Trails. The Master Developer shall provide the right of way for future logical trails with connections to adjacent properties with at least one connection that extends east/west across the entire Property and connects to the Aspen Meadows PUD; and at least one such north/south connection.

9.4. Reporting and Tracking of Open Space, Pocket Parks and Trails. As part of the review and approval of any Development Application, any Open Space, Pocket Park or trail either inside or adjacent to the Parcel which is the subject of the Development Application shall be depicted and addressed consistent with the provisions of this Section 9. As part of the consideration of any Development Application, the County may request the dedication or preservation of Open Space, Pocket Parks and trails designated in the Master Plan that are not directly associated with the Development Application. Master Developer shall grant the request if the requested Open Space, Pocket Park or trail requested beyond the boundaries of the Parcel that is the subject of the Development Application do not create significant additional costs or undue expense to the Master Developer or Subdeveloper that would not normally be incurred with the Development Application.

10. **Affordable Housing.** Based on the anticipated pricing of the Residential Dwelling Units to be constructed as part of the Project, it appears that many of the units will be realistically available to households making 80% of the average median income in Morgan County.

11. **CC&R's.** The Homeowners Association(s) shall be responsible for the implementation and enforcement of the CC&R's and the design guidelines. The CC&R's may be amended by the processes specified in the CC&R's without any requirement of approval of such amendments by the County. Prior to the issuance of any building permits for residential, business, commercial or

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recreational uses but excluding infrastructure the architectural control subcommittee established by the CC&R's shall certify to the County that the proposed permit complies with the design guidelines and the CC&R's.

12. **Payment of Fees.**

12.1. **General Requirement of Payment of Fees.** Master Developer and/or a Subdeveloper shall pay to the County all fees (including, but not limited to, plan review fees, Impact Fees, hookup fees and inspection fees) in amounts specified in the County Laws.

13. **Construction Standards and Requirements.**

13.1. **Building and Grading Permits.** No buildings or other structures shall be constructed within the Project without Master Developer and/or a Subdeveloper first obtaining building permits. Master Developer and/or a Subdeveloper may apply for and obtain a grading permit following preliminary approval by the Planning Commission of a Commercial Site Plan or a Subdivision Plat if Master Developer and/or a Subdeveloper has submitted and received approval of a site grading plan from the County Engineer. Any grading performed by Master Developer and/or a Subdeveloper pursuant to only a grading permit prior to the establishment of finished grades by a final approval shall be at the risk of Master Developer or the Subdeveloper meaning that if there are any changes between the grade elevations created by the grading permit activities and the final, approved elevations then such changes must be made at the sole cost and expense of Master Developer or the Subdeveloper that created the discrepancy.

13.2. **County and Other Governmental Agency Permits.** Before beginning construction or development of any buildings, structures or other work or improvements upon any portion of the Project, Master Developer or a Subdeveloper shall, at its expense, secure, or cause to be secured, any and all permits which may be required by the County or any other governmental entity having jurisdiction over the work. The County shall reasonably cooperate

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with the Master Developer or a Subdeveloper in seeking to secure such permits from other governmental entities.

14. **Provision of Services.** The County shall provide all County services to the Project that it provides from time-to-time to other residents and properties within the County including, but not limited to, police and other emergency services. Such services shall be provided to the Project at the same levels of services, on the same terms and at the same rates as provided to other residents and properties in the County.

15. **Default.**

15.1. **Notice.** If Master Developer or a Subdeveloper or the County fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the County believes that the Default has been committed by a Subdeveloper then the County shall also provide a courtesy copy of the Notice to Master Developer.

15.2. **Contents of the Notice of Default**. The Notice of Default shall:

15.2.1. Claim of Default. Specify the claimed event of Default;

15.2.2. Identification of Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

15.2.3. Specify Materiality. Identify why the Default is claimed to be material; and

15.2.4. Optional Proposed Cure. If the County chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

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15.3. **Meet and Confer.** Upon the issuance of a Notice of Default the parties shall engage in the "Meet and Confer" process specified in Section 6.10.

15.4. **Remedies.** If the parties are not able to resolve the Default by "Meet and Confer" then the parties may have the following remedies:

15.4.1. Legal Remedies. The rights and remedies available at law and in equity, including injunctive relief and specific performance, but not damages.

15.4.2. Enforcement of Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

15.4.3. Withholding Further Development Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

15.5. **Public Meeting.** Before any remedy in Section 15.4 may be imposed by the County the party allegedly in Default shall be afforded the right to attend a public meeting before the Council and address the Council regarding the claimed Default.

15.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Council finds on the record that a default materially impairs a compelling, countervailing interest of the County and that any delays in imposing such a default would also impair a compelling, countervailing interest of the County then the County may impose the remedies of Section 15.4 without the requirements of Section 15.5. The County shall give Notice to the Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be

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considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the Council at that meeting regarding the claimed emergency Default.

15.7. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty (60) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

15.8. **Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

16. **Notices.** All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

Soderby, LLC
Attn: Duane Johnson
2951 North Fairfield Road
Layton, UT 84041-8664

Bruce R. Baird, Esq.
Bruce R. Baird, P.C.
2150 South 1300 East, 5th Floor
Salt Lake County, UT 84106

To the County:

Morgan County
Attn: County Council Chair
48 West Young Street
PO Box 886
Morgan, Utah 84050

With a copy to:
Jann L. Farris
County Attorney
48 West Young Street
P.O. Box 886
Morgan, UT 84050

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16.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

16.1.1. Physical Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice).

16.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice

16.1.3. Mail Delivery. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

17. **Administrative Actions.**

17.1. **Allowable Administrative Actions:** The following modifications to this MDA may be considered and approved by the Administrator.

17.1.1. Infrastructure. Modification of the location and/or sizing of the infrastructure for the Project that does not materially change the functionality of the infrastructure.

17.1.2. Design Guidelines. Modifications of the Design Guidelines as permitted by the Design Guidelines.

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17.2. **Application to Administrator.** Applications for Administrative Action shall be filed with the Administrator

17.2.1. Referral by Administrator. If the Administrator determines for any reason that it would be inappropriate for the Administrator to determine any the Administrative Action the Administrator may require the Administrative Action to be processed as a Modification Application.

17.2.2. Administrator's Review of Administrative Action. The Administrator shall consider and decide upon the Administrative Action within a reasonable time.

17.2.3. Notification Regarding Administrator's Approval. If the Administrator intends to approve any Administrative Action the Administrator shall notify the Council in writing of the proposed approval. Unless the Administrator receives a notice pursuant to Section 17.2.4 requiring that the proposed Administrative Action be considered by the County Council as a Modification Application then approval of the Administrative Action by the Administrator shall be conclusively deemed binding on the County.

17.2.4. County Council Requirement of Modification Application Processing. Any member of the Council may, within ten (10) business days after notification by the Administrator, notify the Administrator that the Administrative Action must be processed as a Modification Application.

17.2.5. Appeal of Administrator's Denial of Administrative Action. If the Administrator denies any proposed Administrative Action the Applicant may process the proposed Administrative Action as a Modification Application.

18. **Amendment.** Except for Administrative Actions, any future amendments to this MDA shall be considered as Modification Applications subject to the following processes.

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18.1. **Who may Submit Modification Applications.** Only the County and Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this MDA (and not including a Subdeveloper) may submit a Modification Application.

18.2. **Modification Application Contents.** Modification Applications shall:

18.2.1. Identification of Property. Identify the property or properties affected by the Modification Application.

18.2.2. Description of Effect. Describe the effect of the Modification Application on the affected portions of the Project.

18.2.3. Identification of Non-County Agencies. Identify any Non-County agencies potentially having jurisdiction over the Modification Application.

18.2.4. Map. Provide a map of any affected property and all property within one thousand feet (1000') showing the present or intended uses and density of all such properties.

18.2.5. Fee. Modification Applications shall be accompanied by a fee in an amount reasonably estimated by the County to cover the costs of processing the Modification Application.

18.3. **County Cooperation in Processing Modification Applications.** The County shall cooperate reasonably in promptly and fairly processing Modification Applications.

18.4. **Planning Commission Review of Modification Applications.**

18.4.1. Review. All aspects of a Modification Application required by law to be reviewed by the Planning Commission shall be considered by the Planning Commission as soon as reasonably possible in light of the nature and/or complexity of the Modification Application.

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18.4.2. Recommendation. The Planning Commission's vote on the Modification Application shall be only a recommendation and shall not have any binding effect on the consideration of the Modification Application by the Council.

18.5. **Council Review of Modification Application.** After the Planning Commission, if required by law, has made or been deemed to have made its recommendation of the Modification Application the Council shall consider the Modification Application.

18.6. **Council's Denial of Modification Applications.** If the Council does not approve the Modification Application, the Council shall provide a written explanation advising the Applicant of the reasons for denial including specifying the reasons the County believes that the Modification Application is not consistent with the intent of this MDA, the Master Plan and/or the County Laws.

18.7. **Meet and Confer regarding Modification Applications.** The Council and Master Developer shall meet within fifteen (15) business days of any denial to resolve the issues presented by the Modification Application and any of the Council's concerns.

19. **Estoppel Certificate.** Upon fifteen (15) business days prior written request by Master Developer or a Subdeveloper, the County will execute an estoppel certificate to any third party seeking to purchase all or a portion of the Property or lend funds against the same generally in the form attached as Exhibit "D" certifying that Master Developer or a Subdeveloper, as the case may be, at that time is not in default of the terms of this Agreement.

20. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

21. **Headings.** The captions used in this MDA are for convenience only and a not intended to be substantive provisions or evidences of intent.

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22. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the County and Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The parties acknowledge that this MDA refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.

23. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the County as provided herein.

23.1. **Certain Sales not an Assignment.** Master Developer's selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer.

23.2. **Related Party Transfer.** Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the County Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the County with all necessary contact information for the newly responsible party.

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23.3. **Notice.** Master Developer shall give Notice to the County of any proposed assignment and provide such information regarding the proposed assignee that the County may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the County with all necessary contact information for the proposed assignee.

23.4. **Deemed Approved.** Unless the County objects in writing within twenty (20) business days the County shall be deemed to have approved of and consented to the assignment.

23.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

23.6. **Grounds for Denying Assignment.** The County may only withhold its consent if the County is not reasonably satisfied of the assignees ability to perform the obligations of Master Developer proposed to be assigned. Any refusal of the County to accept an assignment shall be subject to the "Meet and Confer" process specified in Section 6.10.

23.7. **Assignee Bound by this MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

24. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, Intended Uses, configurations, and Density as applicable to such Parcel and be subject to the same limitations and rights of the County when owned by Master Developer and as set forth in this

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MDA without any required approval, review, or consent by the County except as otherwise provided herein.

25. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

26. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

27. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

28. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

29. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this MDA, the County and Master Developer each shall designate and appoint a representative to act as a liaison between the County and its various departments and the Master Developer. The initial representative for the County shall be the Zoning Administrator and the initial representative for Master Developer shall be Duane Johnson. The parties may change their designated representatives by Notice.

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30. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

31. **Applicable Law.** This MDA is entered into in Morgan County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

32. **Venue.** Any action to enforce this MDA shall be brought only in the Second Judicial District Court for the State of Utah, Morgan County.

33. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land.

34. **Authority.** The parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the County, the signature of the Chair of the County Council for the County is affixed to this MDA lawfully binding the County pursuant to Resolution No. CR-13-04 adopted by the County on JUNE 18, 2013. This MDA is approved as to form and is further certified as having been lawfully adopted by the County by the signature of the County Attorney.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
XXX, LLC

SOPERBY LLC

By: Duane D. Johnson
Its: Gen Manager

Approved as to form and legality:

James L. Farris
County Attorney

COUNTY
Morgan County

R Logan Wilde

By: R Logan Wilde
Its: Morgan County Council Chair.

Attest:

Stacy LaPoint
County ~~Recorder~~
CLERK

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COUNTY ACKNOWLEDGMENT

STATE OF UTAH)
:ss.
COUNTY OF MORGAN)

On the 28th day of January, 2013, personally appeared before me R Logan Wilde, who being by me duly sworn, did say that he is the Chair of county council of Morgan County, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the County by authority of its governing body and said Chair acknowledged to me that the County executed the same.

MONIKA BALLANTYNE
Notary Public State of Utah
My Comm. Exp.: Mar. 5, 2015
Comm. Number: 606269

Monika Ballantyne
NOTARY PUBLIC

DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
:ss.
COUNTY OF MORGAN)

On the 28 day of January, 2014, personally appeared before me Duane D. Johnson, who being by me duly sworn, did say that he is the General manager ~~Master Developer~~ of XXX, LLC , a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

SODERBY

Gwen D. Rich
NOTARY PUBLIC

GWEN D. RICH
Notary Public State of Utah
My Comm. Exp. on: Nov. 11, 2014
Comm. Number: 602939

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TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	Master Plan
Exhibit "C"	Potential Future Connector Road
Exhibit "D"	Form of Estoppel Certificate

265700.1

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Exhibit "A"

Legal Description of Property

EXHIBIT "A"

PARCEL 1: Serial Nnumber 03-005-051-01, Parcel Number 00-0004-8031
A PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, BEGINNING AT A POINT WHICH IS 380.19 FEET WEST AND NORTH 645.96 FEET AND NORTH 87 DEG 26 MIN 09 SEC EAST 330 FEET FROM THE CENTER OF SECTION 26, SAID POINT BEING ON THE SOUTH LINE OF OLD HIGHWAY AND RUNNING THENCE NORTH 87 DEG 26 DEG 09 SEC EAST 941.55 FEET ALONG THE SOUTH LINE OF SAID HIGHWAY TO A FENCE LINE; THENCE ALONG SAID FENCE LINE SOUTH 7 DEG 11 MIN 15 SEC EAST 1314.77 FEET; THENCE SOUTH 32 DEG 31 MIN 43 SEC WEST 253.57 FEET MORE OR LESS TO THE NORTH LINE OF INTERSTATE; THENCE NORTH 83 DEG 24 MIN 45 SEC WEST ALONG SAID NORTH LINE 987.05 FEET MORE OR LESS TO A POINT SOUTH OF BEGINNING THENCE NORTH 1355 FEET MORE OR LESS TO THE POINT OF BEGINNING.
EXCEPT THEREFROM THAT PORTION LYING WITHIN ASPEN MEADOWS PUD AND AMENDMENT THERETO.

PARCEL 2: Serial Number 03-005-045-03, Parcel Number 00-0004-8023
PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT WHICH IS 380.19 FEET WEST AND 645.96 FEET NORTH 87 DEG 26 MIN 09 SEC EAST 330 FEET FROM THE CENTER OF SECTION 26, SAID POINT BEING ON THE SOUTH LINE OF OLD HIGHWAY AND RUNNING THENCE SOUTH 87 DEG 26 MIN 09 SEC WEST 330 FEET; THENCE SOUTH 1311.41 FEET TO THE NORTH LINE OF THE INTERSTATE HIGHWAY THENCE SOUTH 83 DEG 24 MIN 45 SEC EAST 320 FEET MORE OR LESS TO A POINT WHICH IS SOUTH OF THE POINT OF BEGINNING; THENCE NORTH 1355 FEET MORE OR LESS TO THE POINT OF BEGINNING.
EXCEPT THEREFROM ASPEN MEADOWS PUD AND AMENDMENTS THERETO. ALSO EXCEPTING PARCEL 03-005-045-03-2 BOOK 258 PAGE 996.
ALSO EXCEPTING PARCEL 03-005-045-03-1 BOOK 251, PAGE 741.

PARCEL 3A: Serial Number 03-005-048-10, Parcel Number 00-0005-4930
BEGINNING AT THE EAST QUARTER CORNER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID CORNER IS LOCATED AT A POINT NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146+38.0 AT THE CENTER LINE OF UPRR MAIN LINE (SOUTH TRACK), ANGLE RIGHT 83 DEG 24 MIN, (CENTILEVER SIGNAL TOWER NO. 9777.15 IS LOCATED AT STATION 52143+45.8) AND IS MONUMENTED WITH STONE (IRON PIN 1.0 FOOT WEST), AND RUNNING THENCE SOUTH 75 DEG 56 MIN 51 SEC WEST 1662.99 FEET TO AN EXISTING FENCE; THENCE TWO COURSES ALONG SAID FENCE AS FOLLOWS: NORTH 7 DEG 05 MIN 03 SEC WEST 374.92 FEET AND NORTH 7 DEG 13 MIN 18 SEC WEST 756.35 FEET TO THE SOUTH LINE OF THE STATE HIGHWAY; THENCE NORTH 87 DEG 55 MIN 14 SEC EAST 849.98 FEET; THENCE SOUTH 2 DEG 04 MIN 45 SEC EAST 217.0 FEET; THENCE NORTH 87 DEG 55 MIN 15 SEC EAST 200.0 FEET; THENCE SOUTH 2 DEG 04 MIN 45 SEC EAST 122.47 FEET; THENCE SOUTH 27 DEG 52 MIN 42 SEC WEST 464.48 FEET TO THE QUARTER SECTION LINE; THENCE SOUTH 89 DEG 36 MIN 59 SEC EAST 910.11 FEET TO THE POINT OF BEGINNING.

PARCEL 3B: Serial Number 03-005-048 Parcel Number 00-0003-4163
BEGINNING AT THE EAST QUARTER CORNER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, SAID CORNER IS LOCATED AT A POINT NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146+38.0 AT THE CENTER LINE OF UPRR MAIN LINE (SOUTH TRACK) ANGLE RIGHT 83 DEG 24 MIN (CENTILEVER SIGNAL TOWER NO. 9777.15 IS LOCATED AT STATION 52143+45.8), AND IS MONUMENT WITH STONE (IRON PIN 1.0 FOOT WEST), AND RUNNING THENCE SOUTH 629.93 FEET ALONG THE SECTION LINE TO THE NORTH LINE OF I-84; THENCE THREE COURSES ALONG SAID NORTH LINE AS FOLLOWS: SOUTH 55 DEG 50 MIN 38 SEC WEST 520.88 FEET TO THE RIGHT OF WAY MARKER, NORTH

86 DEG 01 MIN 58 SEC WEST 551.07 FEET TO THE RIGHT OF WAY MARKER AND NORTH 83 DEG 28 MIN 54 SEC WEST 593.92 FEET TO AN EXISTING FENCE; THENCE TWO COURSES ALONG SAID FENCE AS FOLLOWS: NORTH 4 DEG 53 MIN 15 SEC WEST 232.36 FEET AND NORTH 7 DEG 05 MIN 03 SEC WEST 182.92 FEET; THENCE NORTH 75 DEG 56 MIN 15 SEC EAST 1662.99 FEET TO THE POINT OF BEGINNING.

PARCEL 4: Serial Number 03-005-051 Parcel Number 00-0003-4270
A PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING THE POINT OF INTERSECTION OF AN EXISTING FENCE AND THE CENTER LINE OF SAID SECTION 26, WHICH POINT IS 8.7 RODS, MORE OR LESS, NORTH OF THE CENTER OF SAID SECTION 26, AND RUNNING THENCE NORTH 9 DEG 40 MIN 10 SEC WEST ALONG EXISTING FENCE LINE 510 FEET, MORE OR LESS TO THE SOUTH LINE OF OLD STATE HIGHWAY: THENCE NORTH 87 DEG EAST ALONG SOUTH LINE OF OLD HIGHWAY 935 FEET, MORE OR LESS, TO EAST BOUNDARY LINE AT INTERSECTION OF EXISTING FENCE LINE AND RUNNING THENCE SOUTH 7 DEG 11 MIN 15 SEC EAST 755.2 FEET ALONG EXISTING FENCE LINE; THENCE SOUTH 7 DEG 46 MIN 16 SEC EAST 1297.64 FEET, MORE OR LESS, ALONG EXISTING FENCE LINE TO SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE WEST 910 FEET, MORE OR LESS, TO INTERSECTION WITH EXISTING FENCE AND WEST LINE OF PROPERTY; THENCE NORTH 9 DEG 40 MIN 10 SEC WEST ALONG EXISTING FENCE LINE 1490 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING. EXCEPTING THEREFROM THOSE PORTIONS WITHIN INTERSTATE HIGHWAY AND UNION PACIFIC RAILROAD RIGHT OF WAY.
LESS AMOUNT SOLD LEAVING ACRES .40.

PARCEL 5: Serial Number 03-005-040-01, Parcel number 00-0003-3876
IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, AND IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN BEGINNING AT A POINT ON THE WEST BOUNDARY OF THE SAID SECTION 25, WHICH BEARS NORTH 0 DEG 16 MIN EAST 299.0 FEET FROM THE WEST QUARTER SECTION CORNER OF SAID SECTION 25, (SAID WEST QUARTER SECTION CORNER IS LOCATED AT A POINT WHICH BEARS NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146-38.0 AT THE CENTER LINE OF U.P.R.R. MAIN LINE (SOUTH TRACK); ANGLE 83 DEG 24 MIN RIGHT; CENTILEVER SIGNAL TOWER NO. 9777 IS LOCATED AT STATION 52143+45.8), AND RUNNING THENCE SOUTH 72 DEG WEST 114.5 FEET; THENCE SOUTH 37 DEG WEST 135.0 FEET; THENCE SOUTH 77 DEG 30 MIN WEST 418.0 FEET; THENCE NORTH 19 DEG EAST 316.0 FEET; THENCE NORTH 53 DEG 15 MIN EAST 240.0 FEET; THENCE NORTH 26 DEG EAST 300.0 FEET TO THE STATE HIGHWAY; THENCE ALONG SAID HIGHWAY NORTH 85 DEG 40 MIN EAST 173.5 FEET TO THE SECTION LINE; THENCE NORTH 82 DEG 52 MIN EAST 942.0 FEET; THENCE SOUTH 242.0 FEET; THENCE SOUTH 49 DEG 35 MIN WEST 393.5 FEET; THENCE SOUTH 69 DEG 30 MIN WEST 424.0 FEET; THENCE NORTH 81 DEG 10 MIN WEST 242.0 FEET TO BEGINNING.
EXCEPT THEREFROM GLACIER BANK PARCEL 03-005-040-01-1 BOOK 302 PAGE 1367. AISO EXCEPTING THE NYE'S GLASS BUSINESS P.U.D.

PARCEL 6: Serial Number 03-005-048-04, Parcel Number 00-0003-4197
PART OF THE NORTHWEST QUARTER OF SECTION 25 AND PART OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT NORTH 0 DEG 08 MIN EAST 155.1 FEET ALONG THE SECTION LINE FROM THE EAST QUARTER CORNER OF SECTION 26; RUNNING THENCE NORTH 89 DEG 52 MIN 30 SEC WEST 188.6 FEET ALONG THE SOUTH LINE OF THE MACK ALLEN KINGSTON AND DOROTHY KINGSTON PROPERTY; THENCE SOUTH 77 DEG 30 MIN WEST 457.06 FEET TO A POINT DUE NORTH OF A POINT 635 FEET WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 26; THENCE SOUTH 56.87 FEET TO A POINT WEST OF THE EAST QUARTER CORNER OF SAID SECTION 26; THENCE EAST 1117.5 FEET; THENCE NORTH 155.1 FEET TO A POINT WHICH IS EAST 482.5 FEET ALONG THE SOUTH

LINE OF THE AFORESAID KINGSTON PROPERTY FROM THE POINT OF BEGINNING; THENCE WEST 482.5 FEET TO THE POINT OF BEGINNING.

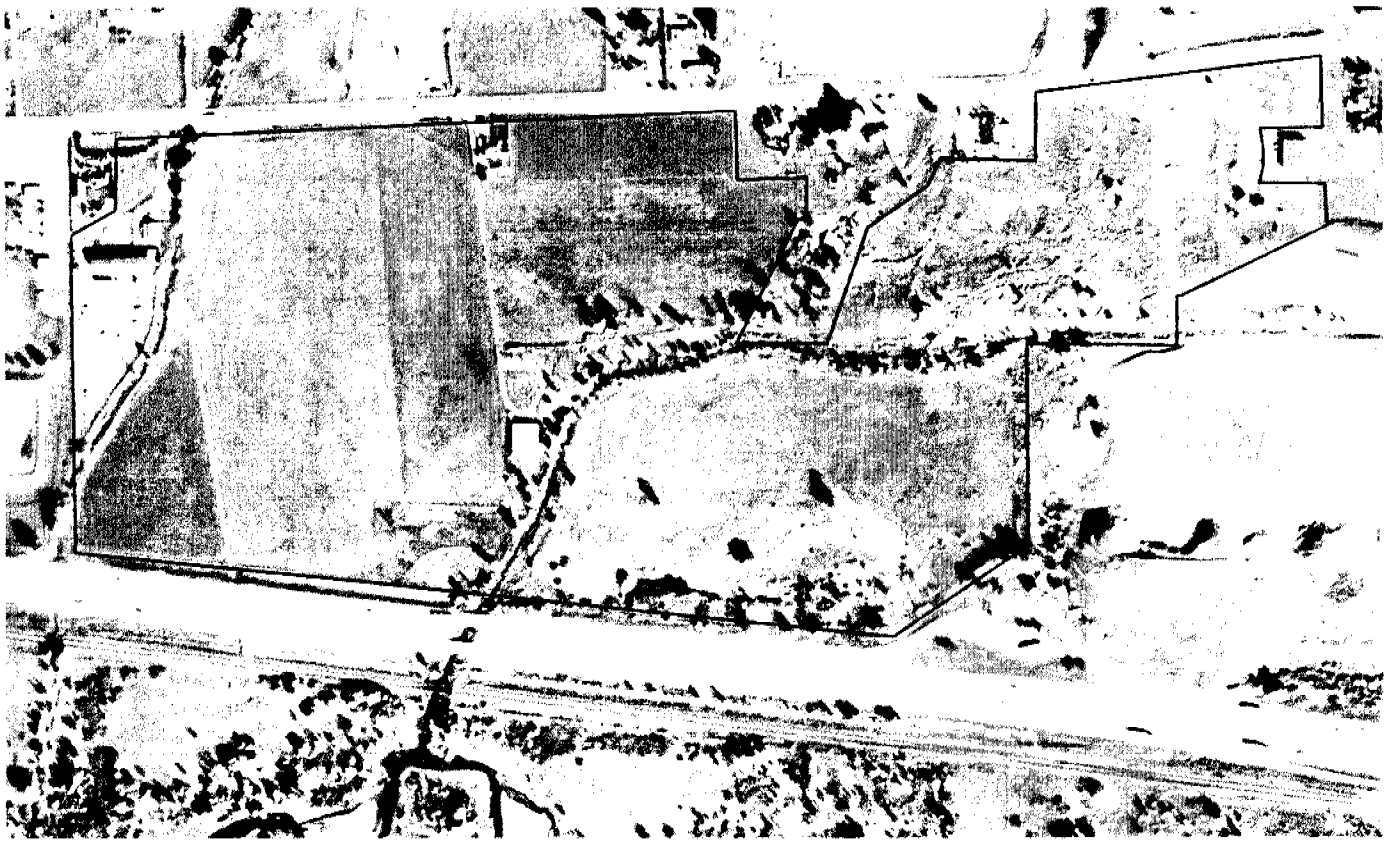
PARCEL 7: Serial Number 03-+005-040-02, Parcel Number 00-0003-3884
PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25 AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT WHICH BEARS NORTH 00 DEG 16 MIN EAST 155.8 FEET FROM THE WEST QUARTER CORNER OF SECTION 25, AND RUNNING THENCE WEST 189.5 FEET; THENCE NORTH 37 DEG EAST 135.0 FEET; THENCE NORTH 72 DEG EAST 114.5 FEET TO THE SECTION LINE; THENCE SOUTH 81 DEG 10 MIN EAST 242.0 FEET; THENCE NORTH 69 DEG 30 MIN EAST 424.0 FEET; THENCE NORTH 49 DEG 35 MIN EAST 393.5 FEET; THENCE SOUTH 293.0 FEET TO THE NORTH BANK OF AN OLD CHANNEL OF COTTONWOOD CREEK; THENCE ALONG NORTH BANK OF SAID OLD CHANNEL SOUTH 63 DEG 45 MIN WEST 490.0 FEET; THENCE WEST 497.0 FEET TO THE POINT OF BEGINNING.
EXCEPT THEREFROM NYE'S GLASS BUSINESS P.U.D.

SUBJECT TO THE RIGHT OF WAY IN BOOK M33 AT PAGE 261, AS FOLLOWS: A PART OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT NORTH 0 DEG 16 MIN EAST 155.8 FEET AND SOUTH 89 DEG 44 MIN EAST 452.50 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 25, AND RUNNING THENCE NORTH 0 DEG 13 MIN 28 SEC EAST 570.37 FEET; THENCE NORTH 21 DEG 09 MIN 05 SEC EAST 73.28 FEET; THENCE NORTH 2 DEG 50 MIN WEST 57.67 FEET TO THE STATE HIGHWAY, THENCE NORTH 82 DEG 52 MIN EAST 30.00 FEET ALONG SAID HIGHWAY; THENCE SOUTH 2 DEG 50 MIN EAST 66.50 FEET; THENCE SOUTH 21 DEG 09 MIN 05 SEC WEST 73.90 FEET; THENCE SOUTH 0 DEG 13 MIN 28 SEC WEST 564.86 FEET; THENCE NORTH 89 DEG 44 MIN WEST 30.00 FEET TO THE POINT OF BEGINNING.
SITUATE IN MORGAN COUNTY, STATE OF UTAH.

Exhibit "B"

Master Plan

Mountain Green Village PUD
Master Plan



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FINAL
~~Draft~~: June 11, 2013

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I. INTRODUCTION

Mountain Green Village PUD proposes a unique opportunity for the Mountain Green community and, on a broader scale, Morgan County, to master plan land uses that will create a basis for future economic development, a community center and community diversity through a wide range of housing opportunities. The master plan will begin the process of developing a place in Mountain Green where the community can live, shop and connect.

A. Scope

The Mountain Green Village PUD Master Plan is prepared based upon the standards and requirements of Title 8 (Land Use Regulations) of the Morgan County Code, specifically Chapter 5 (Zoning Districts Established), Section 8-5-5 (Additional Requirements in Each District) and Article D (Central Development District).

II. PROPERTY OVERVIEW

Mountain Green is a beautiful community located in northwestern Morgan County, north of Interstate 84. The Weber River runs along the community's southern boundary. Mountain Green is surrounded by hills and mountains creating a close-knit sense of community and place. The 2010 Census reported that the Mountain Green population was approximately 2,300 people.

A. Boundary and Acreage

The boundary of Mountain Green Village PUD is shown on Figure 1, an aerial photograph of the property. The property is located on the south side of the Old Highway Road across from the intersection of the Old Highway Road and Trappers Loop Road, or State Highway 167. The property is estimated to be approximately 105.6 Acres.

B. Existing Property Conditions

Most of the property is vacant and undeveloped. It has historically been used for agriculture and there are a few agricultural buildings constructed on the property. The location of the boundary on the aerial photograph shown in Figure 1 is approximated.

Most of the property has historically been farmed. Farm fields cover the majority of the property. There are overhead powerlines that cross the south half of the property from east to west.

There are two drainages that cross the property. Dry Creek is located along the western boundary of the property. Dry Creek as it crosses the property has been recently improved to accommodate additional storm water flows. Cottonwood Creek also crosses the property. Cottonwood Creek enters the property in the middle of the eastern boundary and travels west for approximately half the property and then turns in a southwesterly direction and exits the property along the southern border with Interstate 84.

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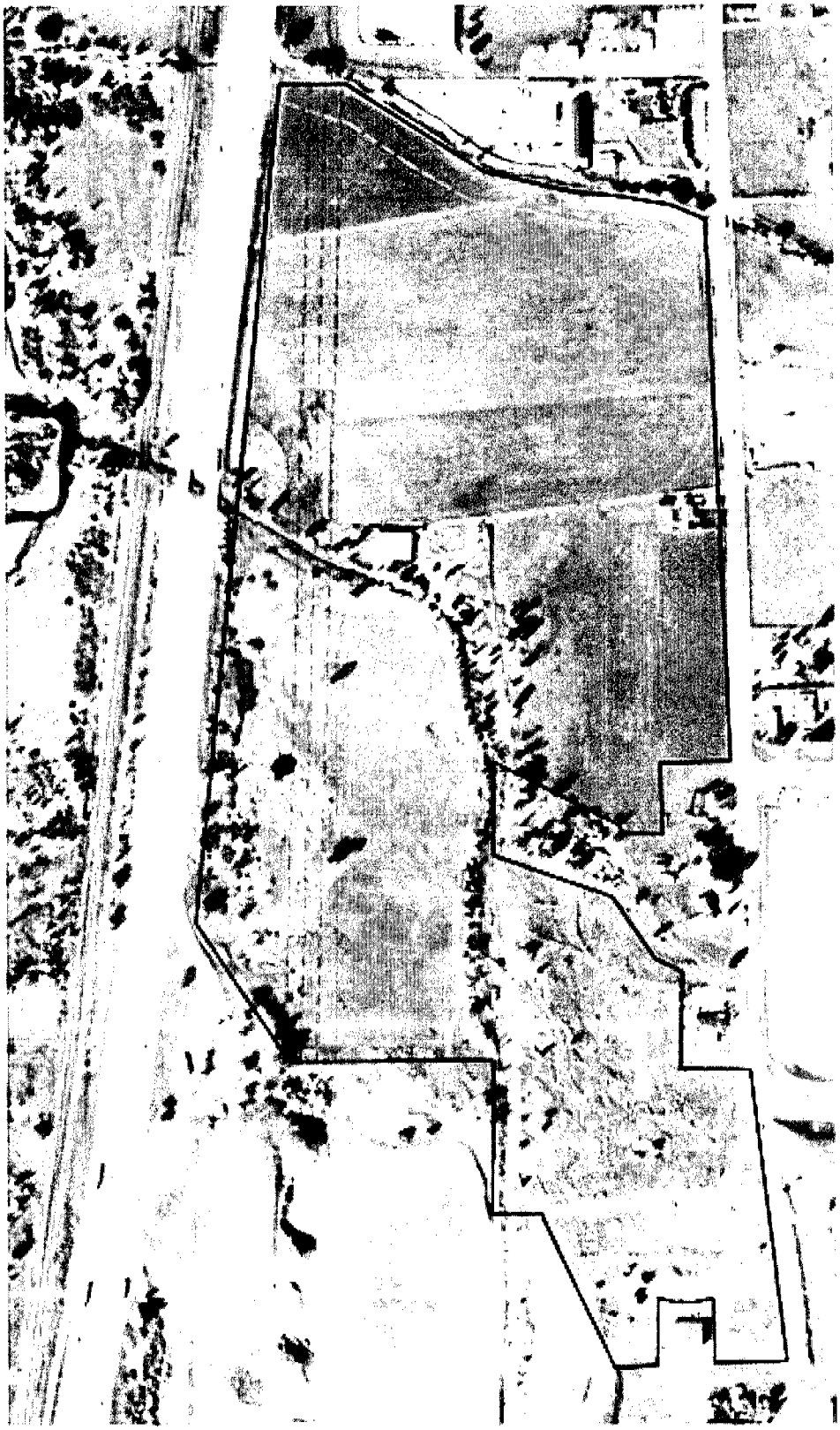

Figure 1

Mountain Green Village PUD
Aerial Photograph and Boundary

III. CONCEPTUAL MASTER PLAN

The Mountain Green Village PUD Conceptual Master Plan is the establishment of land uses and a "bank" of dwelling units that will ultimately be developed on the property. With the establishment of the "bank" of dwelling units, residential land use applications to develop the property will draw on the "bank" of residential units. As each application draws upon the numbers of dwelling units, the number of units will be drawn down until, at some future point, the property is fully developed and the "bank" is completely used.

A. Master Plan and Statistical Summary

Figure 2 is an illustration of the Master Plan showing the general distribution of streets and land uses.

Table 1 is a statistical summary of the land uses, acreages, densities and number of dwelling units. Table 1 is the basis for the land uses and the establishment of the "bank" of dwellings units.

Regarding commercial land uses, there is flexibility in the location of the two commercial areas labeled on Figure 2 as a 3.5 acre Commercial area and a 3.1 acre Hotel. These two areas can be exchanged as to their current location or both of them can be located on the west side of the north-south interior collector street.

Table 1 includes both an "Anticipated Density" and a "Maximum Density" for each of the four (4) Single Family Detached / Attached residential subareas. The Anticipated Density is the average density at which a subarea is expected to be developed. The Anticipated Density may include only single family detached homes or could include a mix of single family detached and single family attached homes. The subareas would also include parks, trails and open space areas that are calculated as part of the "Anticipated Density." The Anticipated Density makes the assumption that in either situation – detached or detached / attached --- the average density of the subarea would be approximately the Anticipated Density

Table 1 also includes a "Maximum Density." The Maximum Density is the maximum number of homes that could be developed within that specific subarea. In some of the subareas, there is still an assumption that a mix of single family detached and single family attached would be built. These are the subareas designated for a maximum density of eight (8) dwelling units per acre. Two of the subareas have been designated for a Maximum Density of ten (10) dwelling units per acre. It is anticipated that to develop these subareas to the Maximum Density, they would be exclusively single family attached homes with parks, trails and open spaces also calculated as part of the density. It is not the intent of this document to allow for the Maximum Density to be permitted in all

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subareas. Rather, it is a method of allowing flexibility in the dwelling unit allocation between the subareas.

Additionally, because this master plan is conceptual, allowances are provided to vary the densities and number of dwelling units between residential subareas. In the course of preparing both preliminary and final plats, some flexibility is needed as more accurate surveys of the property are performed. This master plan permits changes in the number of dwelling units between the residential land uses anticipated by the Anticipated and Maximum Densities and Units. However, the Multi-Family Area cannot exceed sixteen (16) dwelling units per acre and the total number of dwelling units in Mountain Green Village PUD cannot exceed 533.

The methodology used to calculate the maximum number of units, 533, is based upon Section 8-5D-18.A.1 which states the following:

> *Base unit density shall be one dwelling unit per eight thousand (8,000) square feet. Total dwelling unit density will be determined by the planning commission but shall not exceed sixteen (16) dwelling units per acre. This maximum density may only be achieved through the provision of amenities and conformance with true mixed use residential and commercial development.*

Base unit density is defined in County Code Section 8-2-1 where under the definition category of "Density" its states the following:

> *DENSITY: A measure of the number of dwelling units per acre of area. It shall be expressed dwelling units per acre (DU/acre). Unbuildable land (as defined by the planning commission) is land with a slope greater than twenty five percent (25%), subject to inundation or other geological hazards. Land classified unbuildable for any reason (slope, wetland, seismic easement, landslide area, etc.) does not qualify for density in density calculations for MPDR developments. Except as otherwise provided in this title, the maximum density permitted for a site is the net developable area (in acres) times the density factor derived from the required lot area for each dwelling unit in the zone.*

Using the definition in the above, 7.7 acres of the total 105.6 acres of the total site should be deducted for the purposes of calculating density. Therefore, there are 97.9 acres of Mountain Green Village PUD that can be used in the calculation of the base unit density.

Without a statement in the County Code regarding how to calculate base unit density, it is typical in the calculation of base unit density based upon a lot size (in this case 8,000 square feet) to divide the square feet within an acre (43,560 sf) by the minimum square footage of the lot size used.

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Therefore, 43,560 divided by 8,000 is equivalent to base density of 5.445 dwelling units per acre. Multiplying the base unit density calculation of 5.445 by the buildable acreage in Mountain Green Village PUD – 97.9 -- calculates to a maximum number of dwelling units of 533.0655, or 533 dwelling units.

Section 8-5D-18.A.1 also states the following:

> *This maximum density may only be achieved through the provision of amenities and conformance with true mixed use residential and commercial development.*

Mountain Green Village PUD qualifies for the maximum number of dwelling units because it both proposes (1) more than the minimum open space, parks and landscape areas required by the County Code and (2) proposes residential design features that will create a unique, village environment with a mix of residential types and lot sizes that contribute to a safer, pedestrian-friendly environment as briefly described in the following:

- Mountain Green Village PUD proposes amenities in the form of not only traditional recreational amenities, but also provides neighborhood design amenities to create a village-like, pedestrian-friendly, walkable neighborhood environment through the following:
    - a variety of residential unit types, lot sizes and home placement creating a village-like neighborhood environment that encourages a diversity of families,
    - typical yard setbacks that create a more friendly, compact design neighborhood typical of a village environment that brings homes closer to the street,
    - walks and paths throughout Mountain Green Village PUD connecting residential neighborhoods to open space areas, parks and commercial areas,
    - the possible use of alleys and rear loaded garages to improve the appearance of the neighborhoods and make them safer and more pedestrian friendly, and
    - as part of the conceptual site planning, provisions should be made for snow removal and the storage and parking of recreational vehicles.
- The recreational amenities proposed as part of the Mountain Green Master Plan include the following:
    - County Code Section 8-5D-3.B states that only 80% of the property area can include buildings and paved areas and that the remaining 20% be landscaped. Table 2 in Section III.D of this document illustrates that 26.6% or 28.1 acres of Mountain Green Village PUD is intended to be left as open space and / or landscaped. This is 6.6%, or 8.1 acres, more

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than the minimum required. The open space and landscape amenity areas are divided as illustrated in the following (the percentages shown are percentages of the total Mountain Green Village PUD property (105.6 acres):

- Creek Areas with native landscaping and walks and paths – 7.3% or 7.7 acres,
- A Detention Basin in the southwest corner of the property to temporarily accommodate on-site storm drainage,
- Powerline areas with native landscaping and walks and paths – 6.3% or 6.7 acres,
- Pocket parks developed within the Single Family Detached / Attached Residential neighborhoods – 6.3% or 6.7 acres,
- Multi-Family residential landscaping and amenities including community center, playgrounds and walks and paths – 2.4% or 2.5 acres, and
- Commercial area landscaping (15% of area) – 2.5% or 2.6 acres.

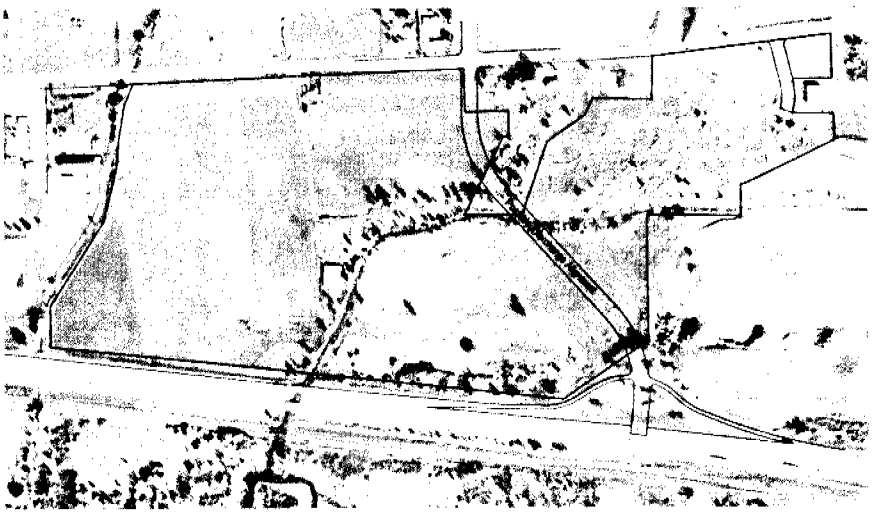
The Mountain Green Village PUD Master Plan is a "true mixed use residential and commercial development" as stated in the County Code because there is a mix of residential and commercial land uses and a mix of both residential and commercial types and densities.

B. Provisions for Possible Future Interstate 84 Interchange

Morgan County and the residents of Mountain Green have expressed a desire to plan for a future Interstate 84 interchange in the vicinity of the subject property.

The property owner is willing to show a possible future alignment of an interchange as part of this master plan. An exhibit is shown below that illustrates a possible alignment.

Where development applications are submitted to Morgan County for review and approval prior to construction, the property owner will give Morgan County the opportunity to purchase areas within the possible right-of-way for a period of time as determined in the Master Development Agreement.



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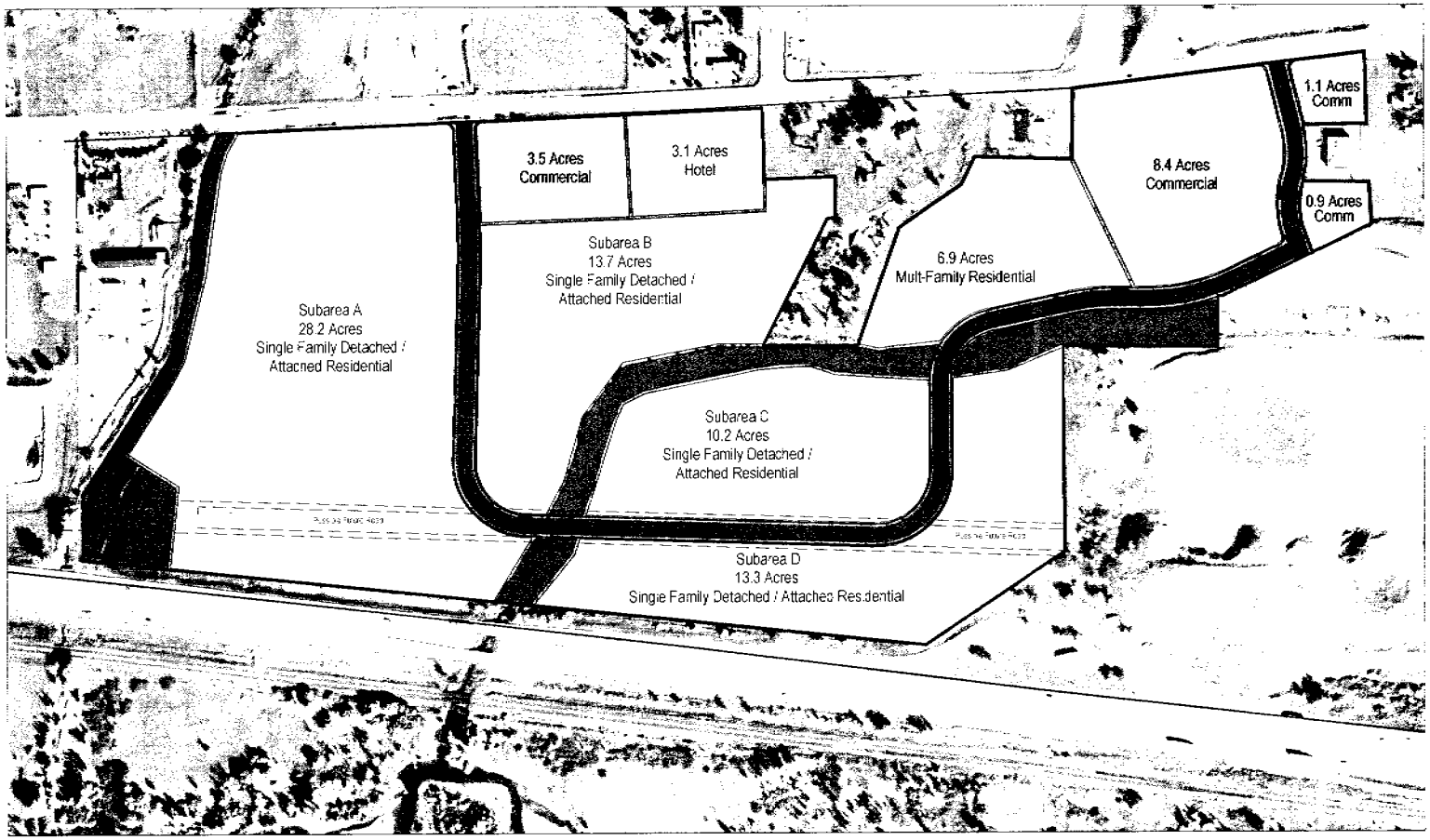
Mountain Green Village PUD
Conceptual Master Plan



Notes:
Average density is shown in dwelling units per acre (DU/Acre)
Infrastructure, including roads, shown are conceptual and are subject to revision as part of continuing planning and engineering approvals.

Land Use	Subareas	Acres	% of Total	Anticipated Density	Maximum Density	Anticipated Units	Maximum Units
Single Family Detached/Attached Residential		65.4	61.9%	6.5	6.5	423	423
	A 28.2		26.7%	6.5	8.0	182	226
	B 13.7		13.0%	6.5	10.0	89	137
	C 10.2		9.6%	6.5	10.0	66	102
	D 13.3		12.6%	6.5	8.0	86	106
Mult-Family Residential		6.9	6.5%	16.0	16.0	110	110
Hotel		3.1	2.9%				
Commercial		13.9	13.3%				
Open Space		8.9	8.4%				
Streets		7.4	7.0%				
Total		105.6	100.0		5.0		533

Project Information

North

Figure 2

Table 1
Mountain Green Village PUD
Conceptual Master Plan Statistical Summary

Land Use	Acres	Subareas	% of Total	Anticipated Density[1]	Maximum Density[2]	Anticipated Units[1]	Maximum Units[2]
Single Family Detached / Attached Residential	65.4		61.9%	6.5	6.5	423	423
Subarea A		28.2	26.7%	6.5	8.0	182	226
Subarea B		13.7	13.0%	6.5	10.0	89	137
Subarea C		10.2	9.6%	6.5	10.0	66	102
Subarea D		13.3	12.6%	6.5	8.0	86	106
Multi-Family Residential	6.9		6.5%	16.0	16.0	110	110
Hotel	3.1		2.9%				
Commercial	13.9		13.3%				
Open Space	8.9		8.4%				
Collector Streets	7.4		7.0%				
Total	**105.6**		**100.0%**		**5.0**		**533**

[1] Anticipated density and units reflect average density and units.
[2] Maximum density and units are the maximum density and number of units permitted in the area. Notwithstanding, the Multi-Family Residential area cannot exceed 16.0 dwelling units per acre and the total number of allowable units of 533 cannot be exceeded

C. Uses Permitted

Mountain Green Village PUD is a unique area. The uses permitted need to reflect the unique, village design contemplated herein. Not all of the uses permitted in the CD Zone are appropriate in Mountain Green Village PUD. Therefore, Section 8-5D-4: USES ALLOWED does not apply to the area within the Mountain Green Village PUD. The uses permitted outright or by conditional use permit as provided in the following sections shall govern the uses allowed in Mountain Green Village.

1. Permitted Uses:

a. Single Family Detached / Attached Residential Areas

Single Family Dwelling, detached and attached up to six (6) units in a single building, and uses accessory or incidental.

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b. Commercial Areas

Banks or financial services.
Childcare centers
Dwelling unit, accessory to a commercial structure.
Flower shop.
Laundromat.
Medical and healthcare offices.
Personal improvement services.
Professional offices.
Public service.
Public utility station.
Recreation, public.
Religious or cultural activity.
Restaurant, no drive-up.
Retail sales, general, less than sixty thousand (60,000) square feet in a single use.

2. Conditional Uses:

a. Single Family Detached / Attached Residential Areas

Bed and breakfast facility.
Dwelling, residential facility for elderly.
Dwelling, residential facility for handicapped.
School, public.

b. Multi-Family Residential Area

Multi-family residential.

c. Commercial Areas

Alcoholic beverage class B (on premises with meal).
Gasoline fuel service station with convenience store.
Mixed use, commercial, office and / or residential development.
Motel, hotel.
Recreation center.
Recreation, indoor (bowling, skating, movie theaters, athletic centers, etc.).
Recreation, outdoor (skating, etc.).
Repair services, consumer.
Restaurant, drive-up.
Retail sales, general, forty thousand (40,000) to sixty thousand (60,000) square feet.

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School, commercial.
School, private or quasi-public.
Social or reception center.
Wireless telecommunications facility, roof mount.
Wireless telecommunications facility, wall mount.

3. Temporary Uses:

Permitted subject to regulations in County Code Section 8-6-16.

D. Residential Areas

It is anticipated that residential areas will occupy the majority of the Mountain Green Village PUD property. Two residential areas proposed – Single Family Detached / Attached Residential and Multi-Family Residential.

1. Single Family Detached / Attached Residential

The Single Family Detached / Attached Residential neighborhoods are planned to be a mix of residential types and densities including single family detached homes and single family attached homes. The purpose of the mixed use concept is to create the "village" look.

The Single Family Detached / Attached Residential neighborhoods include 65.4 acres of the overall area – or 61.9 percent of the overall area -- with an average density of 6.3 dwelling units per acre for a maximum of 423 homes.

To create the "village" concept, compact development standards will need to be used. Section 8-5D-5.C. of the CD District includes zoning requirements for setbacks. The section's setbacks for both side and rear yards do not promote the concept of compact development. The setbacks included in Section 8-5D-5.C. are amended herein to the following.

a. Front Yards

As part of the concept of creating a walkable neighborhood, the design of front yard areas can contribute to making a neighborhood more walkable. Neighborhoods are both more walkable and friendly when people walking on the sidewalk can easily converse with homeowners using their front porch or patio as an outdoor private recreation area increasing the social interaction between neighbors.

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Front yard setbacks for homes with garage alley access shall be reduced to a minimum fifteen (15) feet with a maximum setback of twenty (20) feet to create variety.

Front yard setbacks for homes that have the garage in the front shall be a minimum of twenty (20) feet to the garage face and fifteen (15) to other living areas of the house including an enclosed or partially enclosed porch.

b. Side Yards

Interior side yard setbacks shall be a minimum of five (5) feet.

Street side yard setbacks including adjacent to alleys shall be a minimum of ten (10) feet.

Where a garage will take access from a side street, the street side yard setback shall be twenty (20) feet.

c. Rear Yards

Rear yard setbacks shall be a minimum of ten (10) feet for primary buildings and five (5) feet for accessory buildings.

Setbacks for garages on alleys shall be five (5) feet from the alley right-of-way, however, a two (2) foot overhang into the alley setback may be allowed.

2. Multi-Family Residential

The Multi-Family Residential neighborhood is planned to be designed as a single neighborhood comprised of two to three story multi-family buildings surrounded by open space areas, parks, walkways, parking areas and access drives.

The Multi-Family Residential is proposed to be 6.9 acres in area with a maximum density of 16.0 dwelling units per acre for a maximum 110 homes.

a. Setbacks

Setbacks shall comply with the commercial building standards as listed in MCC 8-5D.

Ent 131325 Bk 0310 Pg 1873

E. Commercial Areas

As a central part of Mountain Green's proposed Town Center, commercial areas of Mountain Green Village PUD will provide a substantial contribution to life in Mountain Green. It is anticipated that Mountain Green Village PUD will have a neighborhood market and other retail stores and service businesses. These establishments will provide the residents of Mountain Green with the opportunity to purchase items and obtain services that are needed on a daily basis. Located at the current center of Mountain Green, the commercial areas of Mountain Green Village PUD will make life easier for all of Mountain Green's current and future residents.

Mountain Green Village PUD's commercial areas also have the opportunity to contribute to the economy of both Mountain Green and Morgan County. Currently, many Mountain Green residents shop for daily needs outside of the community and likely the county limits. Sales tax dollars that would contribute to Morgan County's revenues and be partially spent in Mountain Green are being lost to neighboring cities and counties.

In addition, additional sales tax dollars and also hotel tax dollars would be available to Morgan County and Mountain Green with the development of a hotel in Mountain Green Village PUD. Tourists using Snowbasin today contribute to the economy of Morgan County and Mountain Green in a small way using the services that are available in Mountain Green. The development of a hotel would both contribute hotel tax dollars and pave the way for visitors who would both contribute hotel tax dollars and patronize the commercial businesses planned in Mountain Green Village PUD and other Mountain Green community businesses.

There are 13.9 acres of commercial land use proposed for Mountain Green Village PUD. It is intended to include retail, office and hotel land uses.

1. Setbacks

Setbacks shall comply with the commercial building standards as listed in MCC 8-5D.

F. General Development Standards

1. Buffering

In circumstances where new multi-family residential or commercial development is adjacent to existing residential development, buffering shall be included. Buffering may be in the form or either a solid eight (8) foot masonry wall or a combination of landscaping and berming.

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2. Night Sky Protection

Downward directional lighting of critical intersections and along certain roadways shall be installed as required at the discretion of the County Engineer.
Downward directional lighting on private properties shall be installed that does not project direct lighting sources onto adjacent residential properties.

3. Commercial Parking Lot Landscaped Setbacks

Parking lots within Commercial land use areas shall be setback a minimum of twenty (20) feet. The setback shall be landscaped.

G. Open Space Areas

Section 8-5D-3.B (Land Coverage) states that only 80% of the property area can include buildings and paved areas and that the remaining 20% be landscaped. While the open space included at this time on Table 1, the Master Plan Statistical Summary, is only 8.9 acres or 8.4% of the total area, there are areas of the property that will be landscaped as part of the development of the property.

The acreages and percentages shown in the following table are estimates based upon anticipated open spaces and landscaped areas based upon typical design practices. For example, the amount of pocket parks within the Single Family Detached / Attached Residential areas have been estimated based upon the requirement in Section 8-5D-18.A.2 that planned unit developments in the CD Zone have a minimum of 10% of the area in open space and parks. The commercial areas have been estimated using 15% of the total commercial area which is a standard design practice. Table 2 illustrates that it is estimated that 26.6% of the subject property will be landscaped, 6.6% more than the 20% minimum, or an additional eight (8) acres of landscaping.

Table 2
OPEN SPACE AREAS AND CALCULATIONS

Areas	Estimated Acreage	% of Total Area
Creek Areas	7.7	7.3%
Detention Basin	1.9	1.8%
Powerline Areas	6.7	6.3%
Pocket Parks	6.7	6.3%
Multi-Family Residential Landscaping	2.5	2.4%
Commercial Areas Landscaping	2.6	2.5%
Estimated Totals	**28.1**	**26.6%**

Ent 131325 Bk 0310 Pg 1875

IV. ARCHITECTURAL THEME

Section 8-5D-11 (Architectural Design and Materials) of the Morgan County Code states the following:

> *The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site that is in character with the proportions of other surrounding developments. Proposed developments shall be designed with a common theme that reflects the heritage and community in which it is located. Theme shall be reviewed and approved by the planning commission and may include, but are not limited to, agricultural or mountain tourism.*

It is the intent of the section to encourage architecture and site planning in the Central Development District and the Town Center that is first, based upon a theme and second, in character with the proportions of surrounding developments. Two themes are recommended, agricultural or mountain tourism.

The purpose of a theme is to have continuity in the various design elements – architectural design and materials, site planning, landscape design, etc. –, that make up a neighborhood development, particularly in the Town Center where a mixed land use concept is proposed. Continuity, including the design of the commercial areas, will result in the "aesthetically pleasing building and site" that the code section is designed to achieve.

A. Theme Description: Mountain Home

The theme chosen for the Mountain Green Village PUD is Mountain Home. The Mountain Home is characterized as sensitivity to nature and the building's surroundings, the look of hand-crafted workmanship and designed at a human scale. Some of the characteristic materials used in Mountain Home are structurally-supported large beams that often extend beyond the façade, the use of wood or wood-like materials that emulate the texture of cedar shakes and the use of masonry such as ledger stone, river rock and field stone. Other materials that can be used include stucco and wood composite materials such as hardie board.

It is important in the use of the Mountain Home theme that its application does not drive up the cost of construction and the ultimate price to future home buyers. Mountain Green Village PUD is a more affordable Mountain Green neighborhood that uses the density allowed in the CD Zone to provide market rate housing available to a wider range of families than can be provided in typical subdivision neighborhoods. In the process of design and approval of the architecture of homes and other buildings in Mountain Green Village PUD, affordability needs to take precedence of appearance.

B. Graphic Examples of Theme

Figures 3 and 4 provide graphic examples of the implementation of the theme in different building types and examples of thematic materials.

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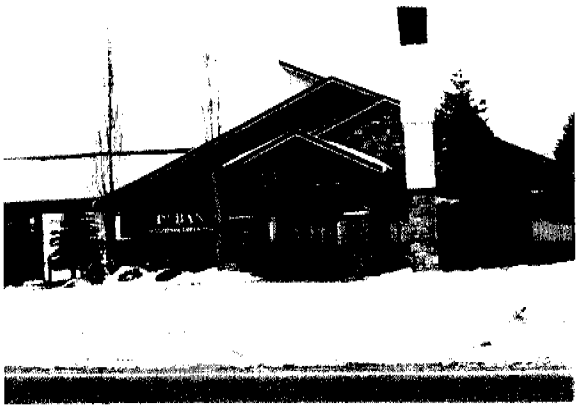
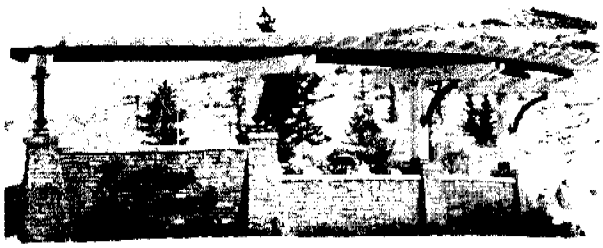
Figure 3
Mountain Home Theme Examples

These photographs are provided as examples of the theme using different designs and materials. They are illustrative only and are not to be used as benchmarks or comparisons for future architecture in Mountain Green Village PUD.





Ent 131325 Bk 0310 Pg 1877

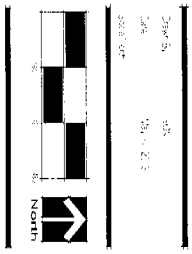


Exhibit "C"
Potential Future Connector Road

Exhibit "D"

Form of Estoppel Certificate

EXHIBIT "D"

FORM OF ESTOPPEL CERTIFICATE

_____, 20___

TO: _____

FROM: _____

RE: Master Development Agreement (the "Agreement")

Gentlemen:

[INSERT INTRODUCTORY PARAGRAPHS RELATING TO FACTS AND CIRCUMSTANCES FOR WHICH ESTOPPEL CERTIFICATE IS REQUESTED.]

Accordingly, the undersigned hereby represents and warrants, to the best of its knowledge, to the individuals, entities, and parties described above as follow:

1. The Agreement (i) has not been modified or amended in any way, (ii) is in full force and effect, and (iii) is the only agreement, contract, or understanding between the parties thereto, except as follows (unless otherwise indicated, Party represents none exists): _____
_____
_____

2. (i) There are no defaults under the Agreement by any parties or their successor or assigns, (ii) all of the terms and conditions of the Agreement due as of this date have been met, completed and approved, and (iii) no event has occurred which, after the giving of notice, the passage of time, the expiration of any grace period or right to cure, or all of the above, would constitute a default under the Agreement, except as follows (unless otherwise indicated, undersigned represent none exists): _____
_____
_____.

3. Under the terms of the Agreement, the Developer described therein was required to perform certain obligations. All of the existing obligations or other actions to be performed by the Developer or its success-in-interest under the Agreement have

been performed and or satisfied, except as follows (unless otherwise indicated, Party represents none exists): _____
_____
_____.

4. There are no current or future unpaid amounts under the Agreement, except as follows (unless otherwise indicated, undersigned represents none exists): _____
_____
_____.

5. The individual, executing on behalf of the undersigned, acknowledges and represents that it has read the terms thereof, and is authorized to execute the estoppel on behalf of the undersigned.

Very truly yours,

_____

By: _____
Name: _____
As its: _____

Ent 131328 Bk 310 Pg 1890
Date: 29-JAN-2014 4:50:31PM
Fee: None
Filed By: CB
BRENDA NELSON, Recorder
MORGAN COUNTY
For: MORGAN COUNTY

MASTER DEVELOPMENT AGREEMENT
FOR THE
MOUNTAIN GREEN VILLAGE PROJECT

MORGAN COUNTY, UTAH

DATED: Jan 28, 2014

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WHEN RECORDED, RETURN TO:

SODERBY, LLC
P.O. BOX 1643
LAYTON UT 84041

MASTER DEVELOPMENT AGREEMENT
FOR THE
MOUNTAIN GREEN VILLAGE PROJECT

MORGAN COUNTY, UTAH

DATED: JANUARY 28, 2014

THIS MASTER DEVELOPMENT AGREEMENT ("MDA") is made and entered as of the 28th day of JANUARY, 2014, by and between Morgan County, a political subdivision of the State of Utah ("County"), and Soderby, LLC, a Utah limited liability company ("Master Developer"), as the owner and developer of a long term, mixed use, master planned project known as Mountain Green Village (the "Project"). The County and Master Developer are sometimes collectively referred to in this MDA as the "Parties".

RECITALS

A. The capitalized terms used in these Recitals are defined in Section 1.2, below.

B. Master Developer is the owner of approximately 106 acres of real property located within the unincorporated boundaries of the County as more fully described in Exhibit A (the "Property") on which it proposes to develop the Project.

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C. The County has zoned the Property "Central Development District" ("CD Zone") which requires any development within that zone to be implemented through a development agreement.

D. Master Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the County's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this MDA as more fully set forth below.

E. Master Developer and the County desire that the Property be developed in a unified and consistent fashion pursuant to memorialize the relationship between them viz. a viz. certain transactions, entitlements, dedications and other requirements which are necessary for the Project.

F. Development of the Property will include the Intended Uses specified in the Master Plan, all of which are allowed in the CD Zone.

G. Development of the Project as a master planned community pursuant to this MDA is acknowledged by the parties to be consistent with the Act, and the Code and to operate to the benefit of the County, Master Developer, and the general public.

H. The County Council has reviewed this MDA and determined that it is consistent with the Act, the Code and the CD Zone as applied to the Property.

I. Development of the Property pursuant to this MDA will also result in significant benefits to Master Developer by providing assurances to Master Developer that it will have the ability to develop the Property in accordance with this MDA.

J. Master Developer and the County have cooperated in the preparation of this MDA.

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K. The parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as part of the Project as expressed in this MDA and the rights and responsibilities of the County to allow and regulate such development pursuant to the requirements of this MDA.

L. The parties understand and intend that this MDA is a "development agreement" within the meaning of, and entered into pursuant to the terms of Utah Code Ann., §17-27a-102.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Developer hereby agree to the following:

TERMS

1. **Incorporation of Recitals and Exhibits/ Definitions.**

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" – "L" are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the County Land Use, Development, and Management Act, Utah Code Ann., §§17-27a-101, *et seq.*

1.2.2. **Administrative Action** means and includes any changes or modifications to the Exhibits to this MDA or other action that may be approved by the Administrator as provided in Section 17.

1.2.3. **Administrator** means the Zoning Administrator as defined by the Code or County Engineer, as applicable.

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1.2.4. **Applicant** means a person or entity submitting a Development Application, a Modification Application or a request for an Administrative Action.

1.2.5. **Backbone Improvements** means those improvements shown as such in the Master Plan and which are, generally, infrastructure improvements of a comprehensive scale that are a part of the overall development of the Property and not merely a part of the development of any particular Subdivision or Site Plan.

1.2.6. **Building Permit** means a permit issued by the County to allow construction, erection or structural alteration of any building, structure, private or public infrastructure, Project Infrastructure on any portion of the Project, or to construct any Off-Site Infrastructure.

1.2.7. **Buildout** means the completion of all of the development on all of the Property for all of the Project.

1.2.8. **CC&R's** means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the Property to be recorded in the chain of title on the Property.

1.2.9. **CD Zone** means the Central Development District zoning for the Property.

1.2.10. **Code** means the County's Code containing its land use regulations adopted pursuant to the Act.

1.2.11. **County** means Morgan County, a political subdivision of the State of Utah.

1.2.12. **County Consultants** means those outside consultants employed by the County in various specialized disciplines such as traffic, hydrology, legal or drainage for reviewing certain aspects of the development of the Project.

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1.2.13. **County Laws** means the ordinances, policies, standards and procedures of the County related to zoning, subdivisions, development, public improvements and other similar or related matters that have been and may be adopted in the future.

1.2.14. **Commercial Site Plan** means the plan submitted to the County for the approval of the development of a portion of the Project which may include multiple buildings that are not intended to be on individual subdivision lots and includes multi-family or apartments, shopping centers or similar multi-building commercial or institutional developments or plans for other developments on the Project which are allowed by the Master Plan as a permitted or conditional use.

1.2.15. **Council** means the elected County Council of the County.

1.2.16. **Default** means a material breach of this MDA.

1.2.17. **Denied** means a formal denial issued by the final decision-making body of the County for a particular type of Development Application but does not include review comments or "redlines" by County staff.

1.2.18. **Development Standards** means a set of standards approved by the County as a part of the approval of the Master Plan and this MDA controlling certain aspects of the design and construction of the development of Property including setbacks, building sizes, height limitations, parking and signage; and, the design and construction standards for buildings, roadways and infrastructure.

1.2.19. **Development Application** means an application to the County for development of a portion of the Project including a Subdivision, a Commercial Site Plan, a Building Permit or any other permit, certificate or other authorization from the County required for development of the Project.

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1.2.20. **Development Report** means a report containing the information specified in Sections 4.3 and 4.4 submitted to the County by Master Developer for the development by Master Developer of any Parcel or Subarea or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.21. **Dwelling, Short Term Rental or Lease** means the use, occupancy, rent or lease, for direct or indirect remuneration, of a Residential Dwelling Unit for an effective term of less than thirty (30) days.

1.2.22. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann., § 17-27a-603, and the County's subdivision ordinance which has been approved by the County, effectuating a Subdivision of any portion of the Property.

1.2.23. **Homeowner Association(s) (or "HOA(s)")** means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

1.2.24. **Hotel** means a building designed with more than five (5) rooms each of which is intended to be occupied by guests who are lodged for compensation generally for a period of less than thirty (30) consecutive days. A hotel may include other facilities that are ancillary to the hotel use such as a dining room/restaurant/club for guests or members of the public, convention facilities/meeting rooms, a facility for exercise or spa treatments, a pool and other similar facilities traditionally associated with hotels.

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1.2.25. **Impact Fees** means those fees, assessments or payments of money imposed by the County as a condition on development activity as specified in Utah Code Ann., §§ 11-36-101, *et seq.*

1.2.26. **Intended Uses** means those permitted and conditional uses identified in the Master Plan, all of which are allowed under the CD Zone.

1.2.27. **Master Developer** means Soderby, LLC, a Utah limited liability company and its assignees or transferees as permitted by this MDA.

1.2.28. **Master Plan** means Exhibit "B", a comprehensive conceptual master plan for the Project which is hereby approved by the County as part of this MDA that sets forth general guidelines for the proposed future development of the Property.

1.2.29. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.30. **Modification Application** means an application to amend this MDA (not including those changes which may be made by Administrative Action).

1.2.31. **Non-County Agency** means a governmental or quasi-governmental entity, other than those of the County, which has jurisdiction over the approval of any aspect of the Project.

1.2.32. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.33. **Open Space** means meaningful areas of the Property or Project that are preserved in an undeveloped, natural state (except for Pocket Parks, trails and similar improvements that shall also be included as part of calculation of the amount of Open Space for the Project), that promote the goals and objectives of the County and Master

Ent 131328 Bk 0310 Pg 1902

Developer but shall not include roads, parking lots, setbacks or any portion of a platted lot or parcel on which any structure may be located.

1.2.34. **Outsourc[e][ing] means** the process of the County contracting with County Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.35. **Parcel** means a Subarea identified on the Master Plan or proposed in a Development Application for development of a particular type of Intended Use that is not an individually developable lot.

1.2.36. **Phase** means the development of a portion of the Project at a point in a logical sequence as determined by Master Developer.

1.2.37. **Planning Commission** means the County's Planning and Zoning Commission established by the Zoning Ordinance.

1.2.38. **Pocket Parks** means a small park or landscaped open space, generally between 3,000 and 6,000 square feet, which may have playground equipment and which is intended to serve the residential neighborhood that it is located in. A Pocket Park may be co-located with a storm water detention facility.

1.2.39. **Potential Future Connector Road** means the road as described in Section 8.2 and Exhibit "C".

1.2.40. **Project** means the development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, Intended Uses, Densities, Phases and all of the other aspects approved as part of this MDA including its Exhibits.

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1.2.41. **Project Infrastructure** means those items of public or private infrastructure which are a condition of the approval of a Development Application because they are necessary for development of the Property such as local roads or utilities and that are located on that portion of the Property which is subject to a Development Application.

1.2.42. **Property** means the real property subject to this MDA as more fully described in Exhibit "A".

1.2.43. **Residential Dwelling Unit** means a unit intended to be occupied for long term residential living purposes; one single-family residential dwelling and each separate unit in a multi-family dwelling, apartment building or condominium equals one Residential Dwelling Unit.

1.2.44. **Subarea** means an area designated on the Master Plan for future residential development

1.2.45. **Subdeveloper** means an entity not "related" (as defined by Internal Revenue Service regulations) to Master Developer which purchases a Parcel for development.

1.2.46. **Subdivision** means the division of any portion of the Project into a subdivision pursuant to State Law and/or the Code.

1.2.47. **Subdivision Application** means the application to create a Subdivision.

1.2.48. **Total Approved Residential Units** means the development on the Property of not more than a total of Five Hundred Thirty Three (533) Residential Dwelling Units.

2. **Effect of this MDA**. This MDA shall be the sole agreement between the parties for the development of the Property.

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3. **Development of the Project.** Development of the Project shall be in accordance with the County Laws, this MDA and its Exhibits. In the event of a conflict between the County's Laws and this MDA, the more specific provisions of the MDA and its Exhibits shall control. The County acknowledges that the Master Plan satisfies the requirement under the Code for approval of a concept plan for the development of the Property as referenced in the CD Zone, but not the separate concept plan required for a subdivision under the Code.

4. **Development of the Property in Compliance with the Master Plan.**

4.1. **Total Approved Residential Units.** At Buildout of the Project, Master Developer shall be entitled to have developed the Total Approved Residential Units and to have developed the other Intended Uses as specified in the Master Plan.

4.2. **Allocation of Residential Units.** Master Developer may use any of the Total Approved Residential Units in the development of any Subdivision (or any approved Commercial Site Plan allowing for residential uses) so long as the number of Residential Dwelling Units requested in the proposed Development Application does not exceed the number of Residential Units specified by the Master Plan for the proposed Subarea or Parcel in which the Subdivision or Commercial Site Plan is located. The use of Residential Dwelling Units as a "Dwelling, Short Term Rental or Lease" within any of the residential areas of the Project as shown on the Master Plan is prohibited.

4.3. **Accounting for Residential Units on Parcels Developed by Master Developer.** At the recordation of a Final Plat or Commercial Site Plan allowing for residential uses or other approved and recorded instrument for any Parcel(s) developed by Master Developer, Master Developer shall provide the County a Development Report showing the number of Residential Dwelling Units used with the Parcel(s) or Subarea and the number of Residential Units remaining with Master Developer and for the remaining undeveloped areas of the Project.

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4.4. **Accounting for Residential Units for Parcels Sold to Subdevelopers.** Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Total Approved Residential Units and, for any non-residential use, shall specify the amount and type of any such other use sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the County a SubDevelopment Report showing the ownership of the Parcel(s) sold, the portion of the Total Approved Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Total Approved Residential Units remaining with Master Developer for the remainder of the Project and any material effects of the sale on the Master Plan.

4.4.1. Return of Unused Residential Units. If any portion of the Total Approved Residential Units transferred to a Subdeveloper are unused by the Subdeveloper at the time the Parcels transferred with such Residential Units receives approval for a Development Application for the final portion of such transferred Parcels, the unused portion of the transferred Residential Units shall automatically revert back to Master Developer and the Master Developer shall file with the County a Development Report.

4.5. **Parcel Sales.** The County acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the sale of a Parcel. The County acknowledges that Master Developer may seek and obtain approval for the subdivision of a portion of the Project into a Parcel without providing such detailed development information subject to the specific "Parcel Sales" provisions of the Section 6.12.

4.6. **Development of Hotel and Commercial Parcels.** The Parties understand and agree that the location and specific boundaries of the parcels designated in Figure 2 of the Master Plan as being for commercial and Hotel uses are conceptual in nature and may be modified to respond

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to the more detailed design and engineering information that will be provided as part of a specific Development Application for those areas. However, Master Developer shall be obligated to develop such parcels for commercial and Hotel purposes consistent with the CD Zone, the Master Plan and this MDA. The Hotel parcel may be switched with the adjoining commercial parcel at the discretion of Master Developer. The Hotel parcel may also be developed for other commercial uses in the event that Master Developer is not able to market the parcel for the development of a Hotel by January 1, 2017. In no event shall the development of any of the commercial or Hotel parcels affect the number of Total Approved Residential Units.

4.7. **Supplemental Development Standards**. In accordance with the Master Plan and CD Zone, supplemental development standards shall be required as a condition precedent for approval of each individual phase or plat as part of the Development Application process providing additional details with respect to issues such as landscaping, buffering, screening, lighting, etc. Any such supplemental development standards shall be consistent with the guiding principles in the Master Plan, CD Zone and this MDA.

5. **Zoning and Vested Rights.**

5.1. **Vested Rights Granted by Approval of this MDA.** Master Developer shall have the vested right to develop and construct the Project on the Property in accordance with the CD Zone and the Intended Uses, Total Approved Residential Units including density and intensity, Development Standards and other matters specifically addressed in the Master Plan subject to compliance with the terms and conditions of this MDA and other applicable County Laws as more fully set forth in this MDA. The Parties intend that the rights granted to Master Developer under this MDA are contractual and also those rights that exist under statute, common law and at equity. The parties specifically intend that this MDA grants to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §17-27a-508.

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5.1.1. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to County Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the County that would be applicable to the Project:

5.1.1.1. *Master Developer Agreement.* Future laws that Master Developer agrees in writing to the application thereof to the Project;

5.1.1.2. *Compliance with State and Federal Laws.* Future laws which are generally applicable to all properties in the County and which are required to comply with State and Federal laws and regulations affecting the Project;

5.1.1.3. *Safety Code Updates.* Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

5.1.1.4. *Taxes.* Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the County to all properties, applications, persons and entities similarly situated.

5.1.1.5. *Fees.* Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within

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the County (or a portion of the County as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

5.1.1.6. *Impact Fees.* Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

5.2. **Reserved Legislative Powers.** Master Developer acknowledges that the County is restricted in its authority to limit its police powers by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the County all of its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation under its police powers, any such legislation shall only be applied to modify the vested rights of Master Developer as referenced in section 5.1 above under the terms of this MDA based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah as codified in Utah Code Ann.§17-27a-508. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the County; and unless in good faith the County declares an emergency, Master Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

5.3. **Term of Agreement.** The term of this MDA shall be until December 31, 2023 unless earlier terminated or modified by written amendment as set forth below. If, on December 31, 2023, the Master Developer has not been notified of any Default, or if any Default is in the process of being cured as provided herein, then the term shall be automatically extended until December 31, 2033. This MDA shall also terminate automatically at Buildout.

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6. **Approval Processes for Development Applications.**

6.1. **Phasing.** The County acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit multiple applications from time-to-time to develop and/or construct portions of the Master Plan for the Project in phases as long as each phase provides for the logical extension of the road system, infrastructure and utilities though the Project as approved by the County in compliance with the terms of this MDA and other applicable provisions of the County Laws.

6.2. **Processing Under County Laws.** Approval processes for Development Applications shall be as provided in the County Laws except as otherwise provided in this MDA. Development Applications shall be approved by the County if they comply with the County Laws and conform to this MDA.

6.3. **County's Cooperation in Processing Development Applications.** The County shall cooperate reasonably in promptly and fairly processing Development Applications.

6.4. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application upon the request of Master Developer or a Subdeveloper the parties will confer and determine whether the Master Developer or a Subdeveloper wishes the County to Outsource the review of any aspect of the Development Application to insure that it is processed on a timely basis. If Master Developer or a Subdeveloper determines that Outsourcing is appropriate then the County shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner or for the consultant selected by the County in good faith consultation with the Master Developer. If the Master Developer or a Subdeveloper notifies the County that it desires to proceed with the Outsourcing based on the County's estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the County the estimated differential cost and the County shall then

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promptly precede with the Outsourced work. Upon completion of the Outsourcing services and the provision by the County of an invoice (with such reasonable supporting documentation as may be requested by Master Developer) for the actual differential cost of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

6.5. **Non-County Agency Reviews.** If any aspect or a portion of a Development Application is governed exclusively by a Non-County Agency an approval for these aspects shall only be reviewed by the County to confirm compliance with this MDA and the County Laws. The Applicant shall timely notify the County of any such submittals and promptly provide the County with a copy of the requested submissions. The County may only grant final approval for any Development Application subject to compliance by Applicant with any conditions required for such Non-County Agency's approval.

6.6. **Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the County. The Development Application shall thus generally only be reviewed by the County to confirm compliance with this MDA and the County Laws. It is not the intent of this Section to preclude the normal process of review by the County, such as the Planning Department, County Engineer, County Attorney, County Surveyor, etc. "redlining", commenting on or suggesting alternatives to the proposed designs or specifications in the Development Application. Generally, the County should endeavor to make all of its redlines, comments or suggestions at

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the time of the first review of the Development Application unless and changes to the Development Application raise new issues that need to be addressed.

6.7. **Expert Review of Certifications Required for Development Applications.** If the County, notwithstanding such a certification by Applicant's experts, subjects the Development Application to a review by County Consultants, the County shall bear the costs of such review if the County Consultants determine that the Applicant's expert certification was materially correct and that the County's requiring a review of the certification in the Development Application was unreasonable and not made in good faith. If the County Consultants determine that the County's requirement of a review was reasonable and made in good faith then payment of the reasonable and actual costs of the County Consultants' review shall be the responsibility of Applicant.

6.7.1. Selection of County Consultants for Review of Certifications Required for Development Applications. The County Consultant undertaking any review by the County required or permitted by this MDA or the Code shall be selected from a list generated by the County for each such County review in the same manner as provided in section 6.4 for Outsourcing or as otherwise allowed by County ordinances or regulations. The anticipated cost and timeliness of such review may be a factor in choosing the expert.

6.8. **Independent Technical Analyses for Development Applications.** If the County needs technical expertise beyond the County's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, "threatened and endangered species" and other similar matters which are not required by the County's Vested Laws to be certified by such experts as part of a Development Application, the County may engage such experts as County Consultants under the processes specified in Section 6.7.1 with the actual and reasonable costs being the responsibility of Applicant. If the County needs any other technical expertise other than as specified above, under extraordinary circumstances

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specified in writing by the County, the County may engage such experts as County Consultants under the processes in Section 6.7.1 with the actual and reasonable costs being the responsibility of Applicant.

6.9. **County Denial of a Development Application.** If the County staff intends to deny or recommend denial of a Development Application, the County staff shall provide a written explanation advising the Applicant of the reasons for recommending denial including specifying the reasons the County staff believes that the Development Application is not consistent with this MDA, the Master Plan and/or the County Laws.

6.10. **Meet and Confer regarding Development Application Denials.** The County and Applicant shall meet within fifteen (15) business days of any recommendation for denial by the County staff to resolve the issues specified in the recommendation for denial of a Development Application.

6.11. **County Denials of Development Applications Based on Denials from Non-County Agencies.** If the County's denial of a Development Application is based on the denial of the Development Application by a Non-County Agency, any such denial may be appealed by Master Developer through the appropriate procedures for such a decision as provided in the Code.

6.12. **Parcel Sales.** Master Developer may obtain approval of a Subdivision that does not create any individually developable lots in the Parcel without being subject to any requirement in the County Laws to complete or provide security for the Project Infrastructure at the time of such subdivision except that the County may require as a part of the Subdivision of the Parcel the construction of perimeter infrastructure such as curb and gutter, sidewalks and fire hydrants if reasonably necessary given the location of the Parcel Sale in relation to other development and the respective timing of the completion of such developments. The responsibility for completing

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and providing security for completion of any Project Infrastructure in the Parcel shall be that of the Developer or a Subdeveloper upon a further Subdivision of the Parcel that creates individually developable lots.

7. **Public Improvements.**

7.1. **Utilities and Project Infrastructure.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all portions of the Project Infrastructure which are required as a condition of approval of the Development Application.

7.2. **Approval of Infrastructure as a Part of a Development Approval.** Any Development Application for a Subdivision or a Commercial Site Plan shall include a plan for constructing the Project Infrastructure and shall demonstrate that the proposed Project Infrastructure is compatible with the overall development of the Project at Buildout.

7.2.1. Review by County. The County shall promptly review the proposed Project Infrastructure to determine its compatibility with the overall development of the Project at Buildout in accordance applicable with County Laws, the Master Plan and this MDA.

7.2.2. Resolution of Disputes Regarding Project Infrastructure. If the County determines that the proposed Project Infrastructure is not compatible with the overall development of the Project at Buildout in accordance with applicable County Laws, the Master Plan and this MDA, then any such dispute shall be subject to the meet and confer provisions of Section 6.10.

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7.3. **Construction Prior to Completion of Infrastructure.** Anything in the Code notwithstanding, Master Developer may obtain building permits prior to the installation of all Project Infrastructure required to be eventually completed so long as such installation is secured pursuant to the County Laws.

7.3.1. Restrictions on Certificates of Occupancy. No permanent Certificate of Occupancy shall be issued by the County and no residential occupancy shall be permitted unless all Project Infrastructure required pursuant to an approved Development Application are installed in accordance with County Laws and approved by the County Engineer.

8. **Special Provisions Regarding Roads.**

8.1. Right of Way along Old Highway 30. As part of this Agreement, Master Developer agrees to dedicate, at no cost to the County, such additional right of way as may be necessary to preserve a full forty feet (40') half width along the entire frontage of the Property adjacent to Old Highway 30 for the future widening of that road.

8.2. Potential Future Connector Road. The parties acknowledge that the construction of a road providing a possible future connection to an interchange on I-84 may be important to the County. However, the Parties also acknowledge that the construction of such a potential future connector road depends upon approvals and financing that are beyond the control of the Parties.

8.2.1. Preservation of a potential alignment. Any Development Application for a Subdivision or a Commercial Site Plan shall note how or if such Development Application may impact the Potential Future Connector Road as depicted on Exhibit "C" which is attached hereto and incorporated herein by this reference.

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8.2.2. Review by County. The County shall promptly review the Development Application to determine any impacts on the Potential Future Connector Road.

8.2.3. Certification of Approval. If the County determines that the Potential Future Connector Road is appropriately preserved or not affected by the Development Application then the County shall certify that approval as part of the approval of the Development Application.

8.2.4. Impact of Potential Future Connector Road. If the County determines that the Development Application does impact the location or design of the Potential Future Connector Road then the County may either ask Master Developer to redesign the Development Application or, alternatively, the County may purchase, within ninety (90) days, the entire Potential Future Connector Road from Master Developer at a price to be determined by a mutually acceptable appraiser assuming that the highest and best use of the property for the purposes of the valuation is as specified in the Master Plan.

8.2.5. Resolution of Issues Regarding Potential Future Connector Road. If the County determines that the Potential Future Connector Road is not appropriately preserved or altered by the Development Application then any such dispute shall be subject to the meet and confer provision of Section 6.10.

8.2.6. Expiration of these special provisions. The Parties acknowledge that it would be unfair to require the Master Developer to withhold certain areas of the Project from future development for an extended period of time while waiting on the Potential Future Connector Road. Thus the provisions of this Section 8.2 shall expire as follows:

8.2.6.1. January 1, 2017. If, by January 1, 2017, the Utah Department of Transportation is not under contract to construct the interchange with I-84 necessary to allow the Potential Future Connector Road to be constructed then

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any requirement to preserve any land for the Potential Future Connector Road or any approved alternatives, shall expire except as specified in Section 8.2.6.2.

8.2.6.2. January 1, 2020. If, on January 1, 2017, the Utah Department of Transportation is not under contract to construct the interchange with I-84 but UDOT has listed the project as being on plans to be constructed before January 1, 2020, then these preservation provisions shall be extended until the earlier of: (i) January 1, 2020 for the interchange to be placed under contract; or (ii) the project being taken off of UDOT's list for being under contract before January 1, 2020.

9. **Open Space, Pocket Parks and Trails.** Master Developer shall preserve, at no cost to the County, Open Space, Pocket Parks and right of way for future trails within the Project as generally depicted and described in the Master Plan, required by the CD Zone and approved by the County.

9.1. Pocket Parks. Neighborhood pocket parks shall be provided as generally described in the Master Plan within the Single Family Detached/Attached Residential Areas.

9.2. Dedication and Ownership of Open Space, Pocket Parks and Trails. Master Developer shall offer such Open Space, Pocket Parks and trails to the County but if the County declines to accept any such Open Space, Pocket Parks or trails, Master Developer may, at its option, transfer ownership of some or all of such Open Space and Pocket Parks to an HOA. In the event that the County accepts any such Open Space, Pocket Parks or trails, they shall be dedicated by Master Developer to the County by plat recordation or deed which shall be at no cost to the County and without any financial encumbrance or other encumbrance (including easements) which unreasonably interferes with the use of the property for Open Space, Pocket Parks or trails. Any neighborhood Pocket Park or trail for which Master Developer retains

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ownership, or for which ownership is transferred to an HOA, shall nonetheless be open to use by the public.

9.3. Trails. The Master Developer shall provide the right of way for future logical trails with connections to adjacent properties with at least one connection that extends east/west across the entire Property and connects to the Aspen Meadows PUD; and at least one such north/south connection.

9.4. Reporting and Tracking of Open Space, Pocket Parks and Trails. As part of the review and approval of any Development Application, any Open Space, Pocket Park or trail either inside or adjacent to the Parcel which is the subject of the Development Application shall be depicted and addressed consistent with the provisions of this Section 9. As part of the consideration of any Development Application, the County may request the dedication or preservation of Open Space, Pocket Parks and trails designated in the Master Plan that are not directly associated with the Development Application. Master Developer shall grant the request if the requested Open Space, Pocket Park or trail requested beyond the boundaries of the Parcel that is the subject of the Development Application do not create significant additional costs or undue expense to the Master Developer or Subdeveloper that would not normally be incurred with the Development Application.

10. **Affordable Housing.** Based on the anticipated pricing of the Residential Dwelling Units to be constructed as part of the Project, it appears that many of the units will be realistically available to households making 80% of the average median income in Morgan County.

11. **CC&R's.** The Homeowners Association(s) shall be responsible for the implementation and enforcement of the CC&R's and the design guidelines. The CC&R's may be amended by the processes specified in the CC&R's without any requirement of approval of such amendments by the County. Prior to the issuance of any building permits for residential, business, commercial or

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recreational uses but excluding infrastructure the architectural control subcommittee established by the CC&R's shall certify to the County that the proposed permit complies with the design guidelines and the CC&R's.

12. **Payment of Fees.**

12.1. **General Requirement of Payment of Fees.** Master Developer and/or a Subdeveloper shall pay to the County all fees (including, but not limited to, plan review fees, Impact Fees, hookup fees and inspection fees) in amounts specified in the County Laws.

13. **Construction Standards and Requirements.**

13.1. **Building and Grading Permits.** No buildings or other structures shall be constructed within the Project without Master Developer and/or a Subdeveloper first obtaining building permits. Master Developer and/or a Subdeveloper may apply for and obtain a grading permit following preliminary approval by the Planning Commission of a Commercial Site Plan or a Subdivision Plat if Master Developer and/or a Subdeveloper has submitted and received approval of a site grading plan from the County Engineer. Any grading performed by Master Developer and/or a Subdeveloper pursuant to only a grading permit prior to the establishment of finished grades by a final approval shall be at the risk of Master Developer or the Subdeveloper meaning that if there are any changes between the grade elevations created by the grading permit activities and the final, approved elevations then such changes must be made at the sole cost and expense of Master Developer or the Subdeveloper that created the discrepancy.

13.2. **County and Other Governmental Agency Permits.** Before beginning construction or development of any buildings, structures or other work or improvements upon any portion of the Project, Master Developer or a Subdeveloper shall, at its expense, secure, or cause to be secured, any and all permits which may be required by the County or any other governmental entity having jurisdiction over the work. The County shall reasonably cooperate

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with the Master Developer or a Subdeveloper in seeking to secure such permits from other governmental entities.

14. **Provision of Services.** The County shall provide all County services to the Project that it provides from time-to-time to other residents and properties within the County including, but not limited to, police and other emergency services. Such services shall be provided to the Project at the same levels of services, on the same terms and at the same rates as provided to other residents and properties in the County.

15. **Default.**

15.1. **Notice.** If Master Developer or a Subdeveloper or the County fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the County believes that the Default has been committed by a Subdeveloper then the County shall also provide a courtesy copy of the Notice to Master Developer.

15.2. **Contents of the Notice of Default**. The Notice of Default shall:

15.2.1. Claim of Default. Specify the claimed event of Default;

15.2.2. Identification of Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

15.2.3. Specify Materiality. Identify why the Default is claimed to be material; and

15.2.4. Optional Proposed Cure. If the County chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

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15.3. **Meet and Confer.** Upon the issuance of a Notice of Default the parties shall engage in the "Meet and Confer" process specified in Section 6.10.

15.4. **Remedies.** If the parties are not able to resolve the Default by "Meet and Confer" then the parties may have the following remedies:

15.4.1. Legal Remedies. The rights and remedies available at law and in equity, including injunctive relief and specific performance, but not damages.

15.4.2. Enforcement of Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

15.4.3. Withholding Further Development Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

15.5. **Public Meeting.** Before any remedy in Section 15.4 may be imposed by the County the party allegedly in Default shall be afforded the right to attend a public meeting before the Council and address the Council regarding the claimed Default.

15.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Council finds on the record that a default materially impairs a compelling, countervailing interest of the County and that any delays in imposing such a default would also impair a compelling, countervailing interest of the County then the County may impose the remedies of Section 15.4 without the requirements of Section 15.5. The County shall give Notice to the Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be

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considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the Council at that meeting regarding the claimed emergency Default.

15.7. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty (60) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

15.8. **Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

16. **Notices.** All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

Soderby, LLC
Attn: Duane Johnson
2951 North Fairfield Road
Layton, UT 84041-8664

Bruce R. Baird, Esq.
Bruce R. Baird, P.C.
2150 South 1300 East, 5th Floor
Salt Lake County, UT 84106

To the County:

Morgan County
Attn: County Council Chair
48 West Young Street
PO Box 886
Morgan, Utah 84050

With a copy to:
Jann L. Farris
County Attorney
48 West Young Street
P.O. Box 886
Morgan, UT 84050

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16.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

16.1.1. Physical Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice).

16.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice

16.1.3. Mail Delivery. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

17. **Administrative Actions.**

17.1. **Allowable Administrative Actions:** The following modifications to this MDA may be considered and approved by the Administrator.

17.1.1. Infrastructure. Modification of the location and/or sizing of the infrastructure for the Project that does not materially change the functionality of the infrastructure.

17.1.2. Design Guidelines. Modifications of the Design Guidelines as permitted by the Design Guidelines.

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17.2. **Application to Administrator.** Applications for Administrative Action shall be filed with the Administrator

17.2.1. Referral by Administrator. If the Administrator determines for any reason that it would be inappropriate for the Administrator to determine any the Administrative Action the Administrator may require the Administrative Action to be processed as a Modification Application.

17.2.2. Administrator's Review of Administrative Action. The Administrator shall consider and decide upon the Administrative Action within a reasonable time.

17.2.3. Notification Regarding Administrator's Approval. If the Administrator intends to approve any Administrative Action the Administrator shall notify the Council in writing of the proposed approval. Unless the Administrator receives a notice pursuant to Section 17.2.4 requiring that the proposed Administrative Action be considered by the County Council as a Modification Application then approval of the Administrative Action by the Administrator shall be conclusively deemed binding on the County.

17.2.4. County Council Requirement of Modification Application Processing. Any member of the Council may, within ten (10) business days after notification by the Administrator, notify the Administrator that the Administrative Action must be processed as a Modification Application.

17.2.5. Appeal of Administrator's Denial of Administrative Action. If the Administrator denies any proposed Administrative Action the Applicant may process the proposed Administrative Action as a Modification Application.

18. **Amendment.** Except for Administrative Actions, any future amendments to this MDA shall be considered as Modification Applications subject to the following processes.

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18.1. **Who may Submit Modification Applications.** Only the County and Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this MDA (and not including a Subdeveloper) may submit a Modification Application.

18.2. **Modification Application Contents.** Modification Applications shall:

18.2.1. Identification of Property. Identify the property or properties affected by the Modification Application.

18.2.2. Description of Effect. Describe the effect of the Modification Application on the affected portions of the Project.

18.2.3. Identification of Non-County Agencies. Identify any Non-County agencies potentially having jurisdiction over the Modification Application.

18.2.4. Map. Provide a map of any affected property and all property within one thousand feet (1000') showing the present or intended uses and density of all such properties.

18.2.5. Fee. Modification Applications shall be accompanied by a fee in an amount reasonably estimated by the County to cover the costs of processing the Modification Application.

18.3. **County Cooperation in Processing Modification Applications.** The County shall cooperate reasonably in promptly and fairly processing Modification Applications.

18.4. **Planning Commission Review of Modification Applications.**

18.4.1. Review. All aspects of a Modification Application required by law to be reviewed by the Planning Commission shall be considered by the Planning Commission as soon as reasonably possible in light of the nature and/or complexity of the Modification Application.

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18.4.2. Recommendation. The Planning Commission's vote on the Modification Application shall be only a recommendation and shall not have any binding effect on the consideration of the Modification Application by the Council.

18.5. **Council Review of Modification Application.** After the Planning Commission, if required by law, has made or been deemed to have made its recommendation of the Modification Application the Council shall consider the Modification Application.

18.6. **Council's Denial of Modification Applications.** If the Council does not approve the Modification Application, the Council shall provide a written explanation advising the Applicant of the reasons for denial including specifying the reasons the County believes that the Modification Application is not consistent with the intent of this MDA, the Master Plan and/or the County Laws.

18.7. **Meet and Confer regarding Modification Applications.** The Council and Master Developer shall meet within fifteen (15) business days of any denial to resolve the issues presented by the Modification Application and any of the Council's concerns.

19. **Estoppel Certificate.** Upon fifteen (15) business days prior written request by Master Developer or a Subdeveloper, the County will execute an estoppel certificate to any third party seeking to purchase all or a portion of the Property or lend funds against the same generally in the form attached as Exhibit "D" certifying that Master Developer or a Subdeveloper, as the case may be, at that time is not in default of the terms of this Agreement.

20. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

21. **Headings.** The captions used in this MDA are for convenience only and a not intended to be substantive provisions or evidences of intent.

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22. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the County and Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The parties acknowledge that this MDA refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.

23. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the County as provided herein.

23.1. **Certain Sales not an Assignment.** Master Developer's selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer.

23.2. **Related Party Transfer.** Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the County Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the County with all necessary contact information for the newly responsible party.

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23.3. **Notice.** Master Developer shall give Notice to the County of any proposed assignment and provide such information regarding the proposed assignee that the County may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the County with all necessary contact information for the proposed assignee.

23.4. **Deemed Approved.** Unless the County objects in writing within twenty (20) business days the County shall be deemed to have approved of and consented to the assignment.

23.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

23.6. **Grounds for Denying Assignment.** The County may only withhold its consent if the County is not reasonably satisfied of the assignees ability to perform the obligations of Master Developer proposed to be assigned. Any refusal of the County to accept an assignment shall be subject to the "Meet and Confer" process specified in Section 6.10.

23.7. **Assignee Bound by this MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

24. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, Intended Uses, configurations, and Density as applicable to such Parcel and be subject to the same limitations and rights of the County when owned by Master Developer and as set forth in this

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MDA without any required approval, review, or consent by the County except as otherwise provided herein.

25. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

26. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

27. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

28. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

29. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this MDA, the County and Master Developer each shall designate and appoint a representative to act as a liaison between the County and its various departments and the Master Developer. The initial representative for the County shall be the Zoning Administrator and the initial representative for Master Developer shall be Duane Johnson. The parties may change their designated representatives by Notice.

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30. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

31. **Applicable Law.** This MDA is entered into in Morgan County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

32. **Venue.** Any action to enforce this MDA shall be brought only in the Second Judicial District Court for the State of Utah, Morgan County.

33. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land.

34. **Authority.** The parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the County, the signature of the Chair of the County Council for the County is affixed to this MDA lawfully binding the County pursuant to Resolution No. CR-13-04 adopted by the County on JUNE 18, 2013. This MDA is approved as to form and is further certified as having been lawfully adopted by the County by the signature of the County Attorney.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
XXX, LLC
SODERBY LLC

By: _____
Its: _____

Approved as to form and legality:

_____
County Attorney

COUNTY
Morgan County

By: R Logan Wilde
Its: Morgan County Council Chair.

Attest:

_____
County ~~Recorder~~
CLERK

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COUNTY ACKNOWLEDGMENT

STATE OF UTAH)
:ss.
COUNTY OF MORGAN)

On the 28th day of January, 2013, personally appeared before me R. Logan Wilde, who being by me duly sworn, did say that he is the Chair County Council of Morgan County, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the County by authority of its governing body and said Chair acknowledged to me that the County executed the same.

MONIKA BALLANTYNE
Notary Public State of Utah
My Comm. Exp.: Mar. 5, 2015
Comm. Number: 606269

Monika Ballantyne
NOTARY PUBLIC

DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
:ss.
COUNTY OF MORGAN)

On the 28 day of January, 2014, personally appeared before me Duane D. Johnson, who being by me duly sworn, did say that he is the General Manager ~~Master Developer~~ of XXX, LLC , a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

SODERBY

NOTARY PUBLIC

GWEN D. RICH
Notary Public State of Utah
My Comm. Exp. on: Nov. 11, 2014
Comm. Number: 602939

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TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	Master Plan
Exhibit "C"	Potential Future Connector Road
Exhibit "D"	Form of Estoppel Certificate

265700.1

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Exhibit "A"

Legal Description of Property

EXHIBIT "A"

PARCEL 1: Serial Nnumber 03-005-051-01, Parcel Number 00-0004-8031
A PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, BEGINNING AT A POINT WHICH IS 380.19 FEET WEST AND NORTH 645.96 FEET AND NORTH 87 DEG 26 MIN 09 SEC EAST 330 FEET FROM THE CENTER OF SECTION 26, SAID POINT BEING ON THE SOUTH LINE OF OLD HIGHWAY AND RUNNING THENCE NORTH 87 DEG 26 DEG 09 SEC EAST 941.55 FEET ALONG THE SOUTH LINE OF SAID HIGHWAY TO A FENCE LINE; THENCE ALONG SAID FENCE LINE SOUTH 7 DEG 11 MIN 15 SEC EAST 1314.77 FEET; THENCE SOUTH 32 DEG 31 MIN 43 SEC WEST 253.57 FEET MORE OR LESS TO THE NORTH LINE OF INTERSTATE; THENCE NORTH 83 DEG 24 MIN 45 SEC WEST ALONG SAID NORTH LINE 987.05 FEET MORE OR LESS TO A POINT SOUTH OF BEGINNING THENCE NORTH 1355 FEET MORE OR LESS TO THE POINT OF BEGINNING.
EXCEPT THEREFROM THAT PORTION LYING WITHIN ASPEN MEADOWS PUD AND AMENDMENT THERETO.

PARCEL 2: Serial Number 03-005-045-03, Parcel Number 00-0004-8023
PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT WHICH IS 380.19 FEET WEST AND 645.96 FEET NORTH 87 DEG 26 MIN 09 SEC EAST 330 FEET FROM THE CENTER OF SECTION 26, SAID POINT BEING ON THE SOUTH LINE OF OLD HIGHWAY AND RUNNING THENCE SOUTH 87 DEG 26 MIN 09 SEC WEST 330 FEET; THENCE SOUTH 1311.41 FEET TO THE NORTH LINE OF THE INTERSTATE HIGHWAY THENCE SOUTH 83 DEG 24 MIN 45 SEC EAST 320 FEET MORE OR LESS TO A POINT WHICH IS SOUTH OF THE POINT OF BEGINNING; THENCE NORTH 1355 FEET MORE OR LESS TO THE POINT OF BEGINNING.
EXCEPT THEREFROM ASPEN MEADOWS PUD AND AMENDMENTS THERETO. ALSO EXCEPTING PARCEL 03-005-045-03-2 BOOK 258 PAGE 996.
ALSO EXCEPTING PARCEL 03-005-045-03-1 BOOK 251, PAGE 741.

PARCEL 3A: Serial Number 03-005-048-10, Parcel Number 00-0005-4930
BEGINNING AT THE EAST QUARTER CORNER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID CORNER IS LOCATED AT A POINT NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146+38.0 AT THE CENTER LINE OF UPRR MAIN LINE (SOUTH TRACK), ANGLE RIGHT 83 DEG 24 MIN, (CENTILEVER SIGNAL TOWER NO. 9777.15 IS LOCATED AT STATION 52143+45.8) AND IS MONUMENTED WITH STONE (IRON PIN 1.0 FOOT WEST), AND RUNNING THENCE SOUTH 75 DEG 56 MIN 51 SEC WEST 1662.99 FEET TO AN EXISTING FENCE; THENCE TWO COURSES ALONG SAID FENCE AS FOLLOWS: NORTH 7 DEG 05 MIN 03 SEC WEST 374.92 FEET AND NORTH 7 DEG 13 MIN 18 SEC WEST 756.35 FEET TO THE SOUTH LINE OF THE STATE HIGHWAY; THENCE NORTH 87 DEG 55 MIN 14 SEC EAST 849.98 FEET; THENCE SOUTH 2 DEG 04 MIN 45 SEC EAST 217.0 FEET; THENCE NORTH 87 DEG 55 MIN 15 SEC EAST 200.0 FEET; THENCE SOUTH 2 DEG 04 MIN 45 SEC EAST 122.47 FEET; THENCE SOUTH 27 DEG 52 MIN 42 SEC WEST 464.48 FEET TO THE QUARTER SECTION LINE; THENCE SOUTH 89 DEG 36 MIN 59 SEC EAST 910.11 FEET TO THE POINT OF BEGINNING.

PARCEL 3B: Serial Number 03-005-048 Parcel Number 00-0003-4163
BEGINNING AT THE EAST QUARTER CORNER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, SAID CORNER IS LOCATED AT A POINT NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146+38.0 AT THE CENTER LINE OF UPRR MAIN LINE (SOUTH TRACK) ANGLE RIGHT 83 DEG 24 MIN (CENTILEVER SIGNAL TOWER NO. 9777.15 IS LOCATED AT STATION 52143+45.8), AND IS MONUMENT WITH STONE (IRON PIN 1.0 FOOT WEST), AND RUNNING THENCE SOUTH 629.93 FEET ALONG THE SECTION LINE TO THE NORTH LINE OF I-84; THENCE THREE COURSES ALONG SAID NORTH LINE AS FOLLOWS: SOUTH 55 DEG 50 MIN 38 SEC WEST 520.88 FEET TO THE RIGHT OF WAY MARKER, NORTH

86 DEG 01 MIN 58 SEC WEST 551.07 FEET TO THE RIGHT OF WAY MARKER AND NORTH 83 DEG 28 MIN 54 SEC WEST 593.92 FEET TO AN EXISTING FENCE; THENCE TWO COURSES ALONG SAID FENCE AS FOLLOWS: NORTH 4 DEG 53 MIN 15 SEC WEST 232.36 FEET AND NORTH 7 DEG 05 MIN 03 SEC WEST 182.92 FEET; THENCE NORTH 75 DEG 56 MIN 15 SEC EAST 1662.99 FEET TO THE POINT OF BEGINNING.

PARCEL 4: Serial Number 03-005-051 Parcel Number 00-0003-4270
A PART OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING THE POINT OF INTERSECTION OF AN EXISTING FENCE AND THE CENTER LINE OF SAID SECTION 26, WHICH POINT IS 8.7 RODS, MORE OR LESS, NORTH OF THE CENTER OF SAID SECTION 26, AND RUNNING THENCE NORTH 9 DEG 40 MIN 10 SEC WEST ALONG EXISTING FENCE LINE 510 FEET, MORE OR LESS TO THE SOUTH LINE OF OLD STATE HIGHWAY: THENCE NORTH 87 DEG EAST ALONG SOUTH LINE OF OLD HIGHWAY 935 FEET, MORE OR LESS, TO EAST BOUNDARY LINE AT INTERSECTION OF EXISTING FENCE LINE AND RUNNING THENCE SOUTH 7 DEG 11 MIN 15 SEC EAST 755.2 FEET ALONG EXISTING FENCE LINE; THENCE SOUTH 7 DEG 46 MIN 16 SEC EAST 1297.64 FEET, MORE OR LESS, ALONG EXISTING FENCE LINE TO SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE WEST 910 FEET, MORE OR LESS, TO INTERSECTION WITH EXISTING FENCE AND WEST LINE OF PROPERTY; THENCE NORTH 9 DEG 40 MIN 10 SEC WEST ALONG EXISTING FENCE LINE 1490 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING. EXCEPTING THEREFROM THOSE PORTIONS WITHIN INTERSTATE HIGHWAY AND UNION PACIFIC RAILROAD RIGHT OF WAY.
LESS AMOUNT SOLD LEAVING ACRES .40.

PARCEL 5: Serial Number 03-005-040-01, Parcel number 00-0003-3876
IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, AND IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN BEGINNING AT A POINT ON THE WEST BOUNDARY OF THE SAID SECTION 25, WHICH BEARS NORTH 0 DEG 16 MIN EAST 299.0 FEET FROM THE WEST QUARTER SECTION CORNER OF SAID SECTION 25, (SAID WEST QUARTER SECTION CORNER IS LOCATED AT A POINT WHICH BEARS NORTH 1319.0 FEET FROM THE ENGINEERS STATION 52146-38.0 AT THE CENTER LINE OF U.P.R.R. MAIN LINE (SOUTH TRACK); ANGLE 83 DEG 24 MIN RIGHT; CENTILEVER SIGNAL TOWER NO. 9777 IS LOCATED AT STATION 52143+45.8), AND RUNNING THENCE SOUTH 72 DEG WEST 114.5 FEET; THENCE SOUTH 37 DEG WEST 135.0 FEET; THENCE SOUTH 77 DEG 30 MIN WEST 418.0 FEET; THENCE NORTH 19 DEG EAST 316.0 FEET; THENCE NORTH 53 DEG 15 MIN EAST 240.0 FEET; THENCE NORTH 26 DEG EAST 300.0 FEET TO THE STATE HIGHWAY; THENCE ALONG SAID HIGHWAY NORTH 85 DEG 40 MIN EAST 173.5 FEET TO THE SECTION LINE; THENCE NORTH 82 DEG 52 MIN EAST 942.0 FEET; THENCE SOUTH 242.0 FEET; THENCE SOUTH 49 DEG 35 MIN WEST 393.5 FEET; THENCE SOUTH 69 DEG 30 MIN WEST 424.0 FEET; THENCE NORTH 81 DEG 10 MIN WEST 242.0 FEET TO BEGINNING.
EXCEPT THEREFROM GLACIER BANK PARCEL 03-005-040-01-1 BOOK 302 PAGE 1367. AISO EXCEPTING THE NYE'S GLASS BUSINESS P.U.D.

PARCEL 6: Serial Number 03-005-048-04, Parcel Number 00-0003-4197
PART OF THE NORTHWEST QUARTER OF SECTION 25 AND PART OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT NORTH 0 DEG 08 MIN EAST 155.1 FEET ALONG THE SECTION LINE FROM THE EAST QUARTER CORNER OF SECTION 26; RUNNING THENCE NORTH 89 DEG 52 MIN 30 SEC WEST 188.6 FEET ALONG THE SOUTH LINE OF THE MACK ALLEN KINGSTON AND DOROTHY KINGSTON PROPERTY; THENCE SOUTH 77 DEG 30 MIN WEST 457.06 FEET TO A POINT DUE NORTH OF A POINT 635 FEET WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 26; THENCE SOUTH 56.87 FEET TO A POINT WEST OF THE EAST QUARTER CORNER OF SAID SECTION 26; THENCE EAST 1117.5 FEET; THENCE NORTH 155.1 FEET TO A POINT WHICH IS EAST 482.5 FEET ALONG THE SOUTH

LINE OF THE AFORESAID KINGSTON PROPERTY FROM THE POINT OF BEGINNING; THENCE WEST 482.5 FEET TO THE POINT OF BEGINNING.

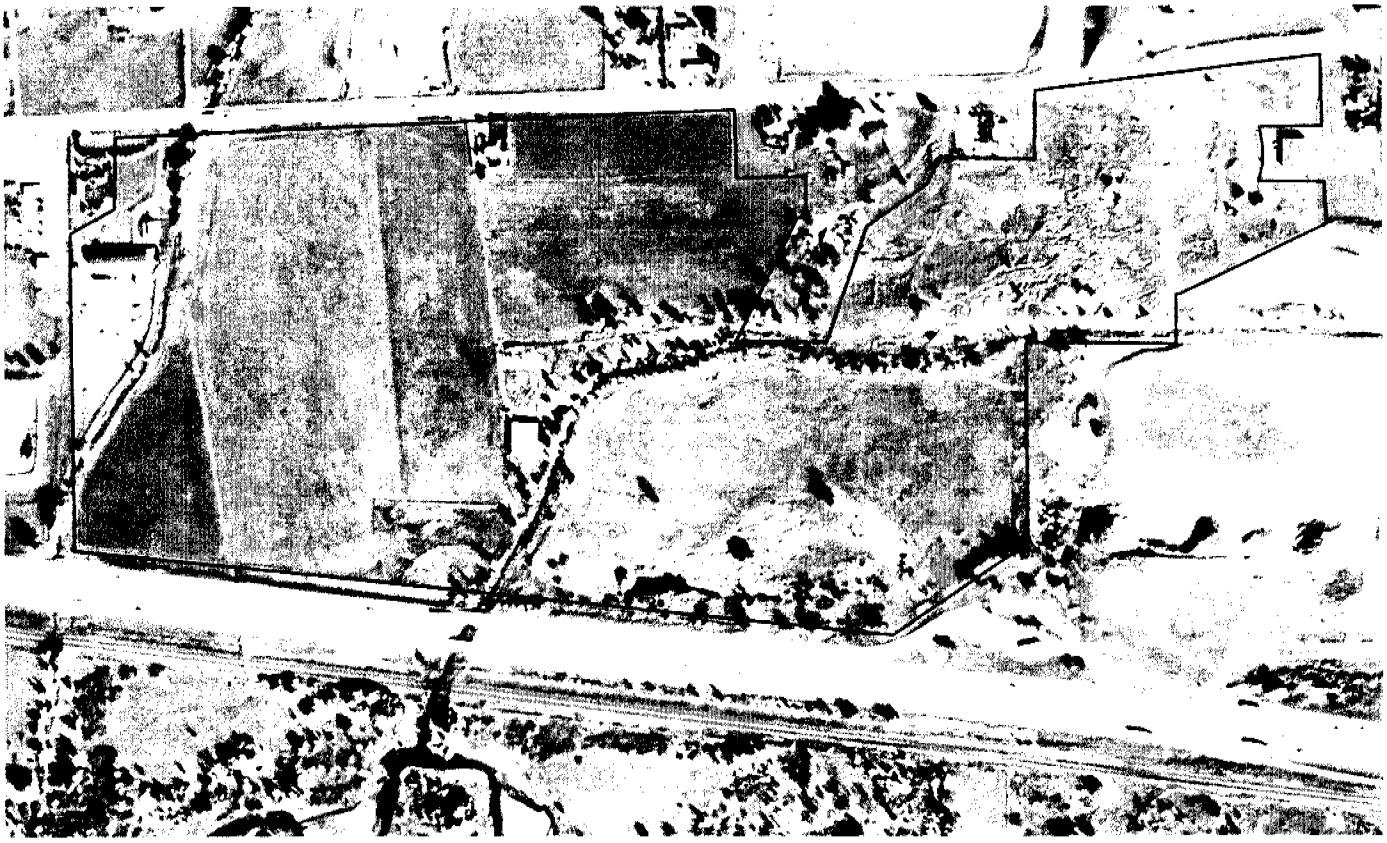
PARCEL 7: Serial Number 03-+005-040-02, Parcel Number 00-0003-3884
PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25 AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT WHICH BEARS NORTH 00 DEG 16 MIN EAST 155.8 FEET FROM THE WEST QUARTER CORNER OF SECTION 25, AND RUNNING THENCE WEST 189.5 FEET; THENCE NORTH 37 DEG EAST 135.0 FEET; THENCE NORTH 72 DEG EAST 114.5 FEET TO THE SECTION LINE; THENCE SOUTH 81 DEG 10 MIN EAST 242.0 FEET; THENCE NORTH 69 DEG 30 MIN EAST 424.0 FEET; THENCE NORTH 49 DEG 35 MIN EAST 393.5 FEET; THENCE SOUTH 293.0 FEET TO THE NORTH BANK OF AN OLD CHANNEL OF COTTONWOOD CREEK; THENCE ALONG NORTH BANK OF SAID OLD CHANNEL SOUTH 63 DEG 45 MIN WEST 490.0 FEET; THENCE WEST 497.0 FEET TO THE POINT OF BEGINNING.
EXCEPT THEREFROM NYE'S GLASS BUSINESS P.U.D.

SUBJECT TO THE RIGHT OF WAY IN BOOK M33 AT PAGE 261, AS FOLLOWS: A PART OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT NORTH 0 DEG 16 MIN EAST 155.8 FEET AND SOUTH 89 DEG 44 MIN EAST 452.50 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 25, AND RUNNING THENCE NORTH 0 DEG 13 MIN 28 SEC EAST 570.37 FEET; THENCE NORTH 21 DEG 09 MIN 05 SEC EAST 73.28 FEET; THENCE NORTH 2 DEG 50 MIN WEST 57.67 FEET TO THE STATE HIGHWAY, THENCE NORTH 82 DEG 52 MIN EAST 30.00 FEET ALONG SAID HIGHWAY; THENCE SOUTH 2 DEG 50 MIN EAST 66.50 FEET; THENCE SOUTH 21 DEG 09 MIN 05 SEC WEST 73.90 FEET; THENCE SOUTH 0 DEG 13 MIN 28 SEC WEST 564.86 FEET; THENCE NORTH 89 DEG 44 MIN WEST 30.00 FEET TO THE POINT OF BEGINNING.
SITUATE IN MORGAN COUNTY, STATE OF UTAH.

Exhibit "B"

Master Plan

Mountain Green Village PUD
Master Plan



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FINAL
~~Draft~~: June 11, 2013

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I. INTRODUCTION

Mountain Green Village PUD proposes a unique opportunity for the Mountain Green community and, on a broader scale, Morgan County, to master plan land uses that will create a basis for future economic development, a community center and community diversity through a wide range of housing opportunities. The master plan will begin the process of developing a place in Mountain Green where the community can live, shop and connect.

A. Scope

The Mountain Green Village PUD Master Plan is prepared based upon the standards and requirements of Title 8 (Land Use Regulations) of the Morgan County Code, specifically Chapter 5 (Zoning Districts Established), Section 8-5-5 (Additional Requirements in Each District) and Article D (Central Development District).

II. PROPERTY OVERVIEW

Mountain Green is a beautiful community located in northwestern Morgan County, north of Interstate 84. The Weber River runs along the community's southern boundary. Mountain Green is surrounded by hills and mountains creating a close-knit sense of community and place. The 2010 Census reported that the Mountain Green population was approximately 2,300 people.

A. Boundary and Acreage

The boundary of Mountain Green Village PUD is shown on Figure 1, an aerial photograph of the property. The property is located on the south side of the Old Highway Road across from the intersection of the Old Highway Road and Trappers Loop Road, or State Highway 167. The property is estimated to be approximately 105.6 Acres.

B. Existing Property Conditions

Most of the property is vacant and undeveloped. It has historically been used for agriculture and there are a few agricultural buildings constructed on the property. The location of the boundary on the aerial photograph shown in Figure 1 is approximated.

Most of the property has historically been farmed. Farm fields cover the majority of the property. There are overhead powerlines that cross the south half of the property from east to west.

There are two drainages that cross the property. Dry Creek is located along the western boundary of the property. Dry Creek as it crosses the property has been recently improved to accommodate additional storm water flows. Cottonwood Creek also crosses the property. Cottonwood Creek enters the property in the middle of the eastern boundary and travels west for approximately half the property and then turns in a southwesterly direction and exits the property along the southern border with Interstate 84.

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Figure 1

Mountain Green Village PUD
Aerial Photograph and Boundary

III. CONCEPTUAL MASTER PLAN

The Mountain Green Village PUD Conceptual Master Plan is the establishment of land uses and a "bank" of dwelling units that will ultimately be developed on the property. With the establishment of the "bank" of dwelling units, residential land use applications to develop the property will draw on the "bank" of residential units. As each application draws upon the numbers of dwelling units, the number of units will be drawn down until, at some future point, the property is fully developed and the "bank" is completely used.

A. Master Plan and Statistical Summary

Figure 2 is an illustration of the Master Plan showing the general distribution of streets and land uses.

Table 1 is a statistical summary of the land uses, acreages, densities and number of dwelling units. Table 1 is the basis for the land uses and the establishment of the "bank" of dwellings units.

Regarding commercial land uses, there is flexibility in the location of the two commercial areas labeled on Figure 2 as a 3.5 acre Commercial area and a 3.1 acre Hotel. These two areas can be exchanged as to their current location or both of them can be located on the west side of the north-south interior collector street.

Table 1 includes both an "Anticipated Density" and a "Maximum Density" for each of the four (4) Single Family Detached / Attached residential subareas. The Anticipated Density is the average density at which a subarea is expected to be developed. The Anticipated Density may include only single family detached homes or could include a mix of single family detached and single family attached homes. The subareas would also include parks, trails and open space areas that are calculated as part of the "Anticipated Density." The Anticipated Density makes the assumption that in either situation – detached or detached / attached --- the average density of the subarea would be approximately the Anticipated Density

Table 1 also includes a "Maximum Density." The Maximum Density is the maximum number of homes that could be developed within that specific subarea. In some of the subareas, there is still an assumption that a mix of single family detached and single family attached would be built. These are the subareas designated for a maximum density of eight (8) dwelling units per acre. Two of the subareas have been designated for a Maximum Density of ten (10) dwelling units per acre. It is anticipated that to develop these subareas to the Maximum Density, they would be exclusively single family attached homes with parks, trails and open spaces also calculated as part of the density. It is not the intent of this document to allow for the Maximum Density to be permitted in all

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subareas. Rather, it is a method of allowing flexibility in the dwelling unit allocation between the subareas.

Additionally, because this master plan is conceptual, allowances are provided to vary the densities and number of dwelling units between residential subareas. In the course of preparing both preliminary and final plats, some flexibility is needed as more accurate surveys of the property are performed. This master plan permits changes in the number of dwelling units between the residential land uses anticipated by the Anticipated and Maximum Densities and Units. However, the Multi-Family Area cannot exceed sixteen (16) dwelling units per acre and the total number of dwelling units in Mountain Green Village PUD cannot exceed 533.

The methodology used to calculate the maximum number of units, 533, is based upon Section 8-5D-18.A.1 which states the following:

> *Base unit density shall be one dwelling unit per eight thousand (8,000) square feet. Total dwelling unit density will be determined by the planning commission but shall not exceed sixteen (16) dwelling units per acre. This maximum density may only be achieved through the provision of amenities and conformance with true mixed use residential and commercial development.*

Base unit density is defined in County Code Section 8-2-1 where under the definition category of "Density" its states the following:

> *DENSITY: A measure of the number of dwelling units per acre of area. It shall be expressed dwelling units per acre (DU/acre). Unbuildable land (as defined by the planning commission) is land with a slope greater than twenty five percent (25%), subject to inundation or other geological hazards. Land classified unbuildable for any reason (slope, wetland, seismic easement, landslide area, etc.) does not qualify for density in density calculations for MPDR developments. Except as otherwise provided in this title, the maximum density permitted for a site is the net developable area (in acres) times the density factor derived from the required lot area for each dwelling unit in the zone.*

Using the definition in the above, 7.7 acres of the total 105.6 acres of the total site should be deducted for the purposes of calculating density. Therefore, there are 97.9 acres of Mountain Green Village PUD that can be used in the calculation of the base unit density.

Without a statement in the County Code regarding how to calculate base unit density, it is typical in the calculation of base unit density based upon a lot size (in this case 8,000 square feet) to divide the square feet within an acre (43,560 sf) by the minimum square footage of the lot size used.

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Therefore, 43,560 divided by 8,000 is equivalent to base density of 5.445 dwelling units per acre. Multiplying the base unit density calculation of 5.445 by the buildable acreage in Mountain Green Village PUD – 97.9 – calculates to a maximum number of dwelling units of 533.0655, or 533 dwelling units.

Section 8-5D-18.A.1 also states the following:

> *This maximum density may only be achieved through the provision of amenities and conformance with true mixed use residential and commercial development.*

Mountain Green Village PUD qualifies for the maximum number of dwelling units because it both proposes (1) more than the minimum open space, parks and landscape areas required by the County Code and (2) proposes residential design features that will create a unique, village environment with a mix of residential types and lot sizes that contribute to a safer, pedestrian-friendly environment as briefly described in the following:

- Mountain Green Village PUD proposes amenities in the form of not only traditional recreational amenities, but also provides neighborhood design amenities to create a village-like, pedestrian-friendly, walkable neighborhood environment through the following:
    - a variety of residential unit types, lot sizes and home placement creating a village-like neighborhood environment that encourages a diversity of families,
    - typical yard setbacks that create a more friendly, compact design neighborhood typical of a village environment that brings homes closer to the street,
    - walks and paths throughout Mountain Green Village PUD connecting residential neighborhoods to open space areas, parks and commercial areas,
    - the possible use of alleys and rear loaded garages to improve the appearance of the neighborhoods and make them safer and more pedestrian friendly, and
    - as part of the conceptual site planning, provisions should be made for snow removal and the storage and parking of recreational vehicles.
- The recreational amenities proposed as part of the Mountain Green Master Plan include the following:
    - County Code Section 8-5D-3.B states that only 80% of the property area can include buildings and paved areas and that the remaining 20% be landscaped. Table 2 in Section III.D of this document illustrates that 26.6% or 28.1 acres of Mountain Green Village PUD is intended to be left as open space and / or landscaped. This is 6.6%, or 8.1 acres, more

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than the minimum required. The open space and landscape amenity areas are divided as illustrated in the following (the percentages shown are percentages of the total Mountain Green Village PUD property (105.6 acres):

- Creek Areas with native landscaping and walks and paths – 7.3% or 7.7 acres,
- A Detention Basin in the southwest corner of the property to temporarily accommodate on-site storm drainage,
- Powerline areas with native landscaping and walks and paths – 6.3% or 6.7 acres,
- Pocket parks developed within the Single Family Detached / Attached Residential neighborhoods – 6.3% or 6.7 acres,
- Multi-Family residential landscaping and amenities including community center, playgrounds and walks and paths – 2.4% or 2.5 acres, and
- Commercial area landscaping (15% of area) – 2.5% or 2.6 acres.

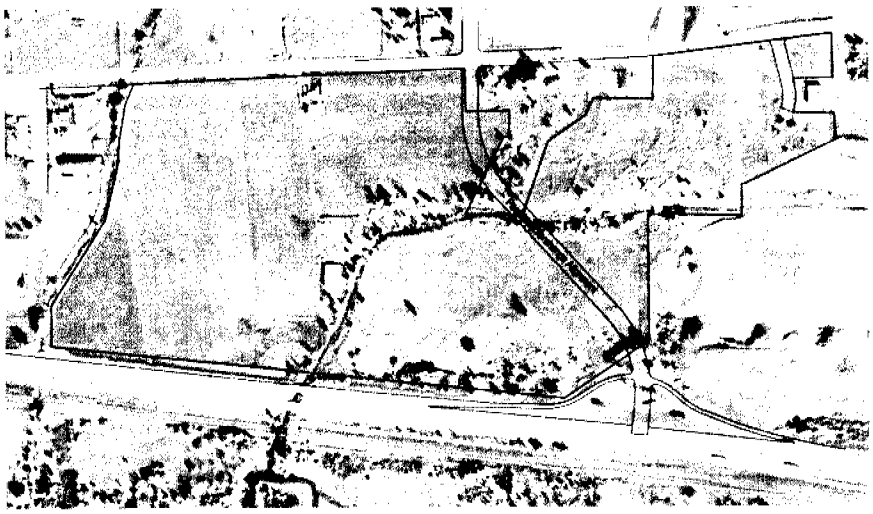
The Mountain Green Village PUD Master Plan is a "true mixed use residential and commercial development" as stated in the County Code because there is a mix of residential and commercial land uses and a mix of both residential and commercial types and densities.

B. Provisions for Possible Future Interstate 84 Interchange

Morgan County and the residents of Mountain Green have expressed a desire to plan for a future Interstate 84 interchange in the vicinity of the subject property.

The property owner is willing to show a possible future alignment of an interchange as part of this master plan. An exhibit is shown below that illustrates a possible alignment.

Where development applications are submitted to Morgan County for review and approval prior to construction, the property owner will give Morgan County the opportunity to purchase areas within the possible right-of-way for a period of time as determined in the Master Development Agreement.



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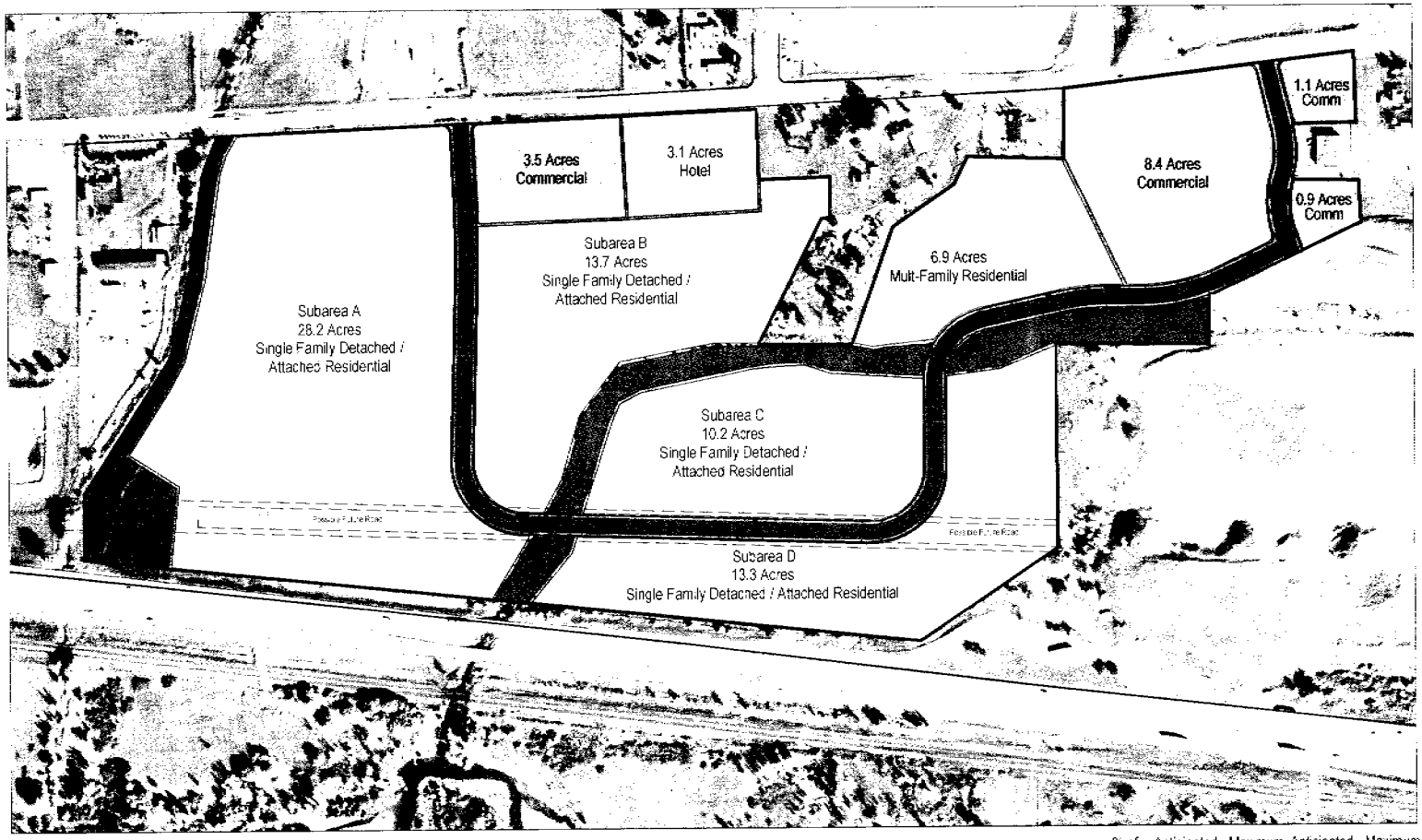
Mountain Green Village PUD
Conceptual Master Plan



Notes:
Average density is shown in dwelling units per acre (DU/Acre).
Infrastructure, including roads, shown are conceptual and are subject to revision as part of continuing planning and engineering approvals

Land Use	Subareas	Acres	% of Total	Anticipated Density	Maximum Density	Anticipated Units	Maximum Units
Single Family Detached/Attached Residential		65.4	61.9%	6.5	6.5	423	423
	A 28.2		26.7%	6.5	8.0	182	226
	B 13.7		13.0%	6.5	10.0	89	137
	C 10.2		9.6%	6.5	10.0	66	102
	D 13.3		12.6%	6.5	8.0	86	106
Multi-Family Residential		6.9	6.5%	16.0	16.0	110	110
Hotel		3.1	2.9%				
Commercial		13.9	13.3%				
Open Space		8.9	8.4%				
Streets		7.4	7.0%				
Total		105.6	100.0		5.0		533

Project Information

North

Figure 2

Table 1
Mountain Green Village PUD
Conceptual Master Plan Statistical Summary

Land Use	Acres	Subareas	% of Total	Anticipated Density[1]	Maximum Density[2]	Anticipated Units[1]	Maximum Units[2]
Single Family Detached / Attached Residential	65.4		61.9%	6.5	6.5	423	423
Subarea A		28.2	26.7%	6.5	8.0	182	226
Subarea B		13.7	13.0%	6.5	10.0	89	137
Subarea C		10.2	9.6%	6.5	10.0	66	102
Subarea D		13.3	12.6%	6.5	8.0	86	106
Multi-Family Residential	6.9		6.5%	16.0	16.0	110	110
Hotel	3.1		2.9%				
Commercial	13.9		13.3%				
Open Space	8.9		8.4%				
Collector Streets	7.4		7.0%				
Total	**105.6**		**100.0%**		**5.0**		**533**

[1] Anticipated density and units reflect average density and units.
[2] Maximum density and units are the maximum density and number of units permitted in the area. Notwithstanding, the Multi-Family Residential area cannot exceed 16.0 dwelling units per acre and the total number of allowable units of 533 cannot be exceeded

C. Uses Permitted

Mountain Green Village PUD is a unique area. The uses permitted need to reflect the unique, village design contemplated herein. Not all of the uses permitted in the CD Zone are appropriate in Mountain Green Village PUD. Therefore, Section 8-5D-4: USES ALLOWED does not apply to the area within the Mountain Green Village PUD. The uses permitted outright or by conditional use permit as provided in the following sections shall govern the uses allowed in Mountain Green Village.

1. Permitted Uses:

a. Single Family Detached / Attached Residential Areas

Single Family Dwelling, detached and attached up to six (6) units in a single building, and uses accessory or incidental.

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b. Commercial Areas

Banks or financial services.
Childcare centers
Dwelling unit, accessory to a commercial structure.
Flower shop.
Laundromat.
Medical and healthcare offices.
Personal improvement services.
Professional offices.
Public service.
Public utility station.
Recreation, public.
Religious or cultural activity.
Restaurant, no drive-up.
Retail sales, general, less than sixty thousand (60,000) square feet in a single use.

2. Conditional Uses:

a. Single Family Detached / Attached Residential Areas

Bed and breakfast facility.
Dwelling, residential facility for elderly.
Dwelling, residential facility for handicapped.
School, public.

b. Multi-Family Residential Area

Multi-family residential.

c. Commercial Areas

Alcoholic beverage class B (on premises with meal).
Gasoline fuel service station with convenience store.
Mixed use, commercial, office and / or residential development.
Motel, hotel.
Recreation center.
Recreation, indoor (bowling, skating, movie theaters, athletic centers, etc.).
Recreation, outdoor (skating, etc.).
Repair services, consumer.
Restaurant, drive-up.
Retail sales, general, forty thousand (40,000) to sixty thousand (60,000) square feet.

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School, commercial.
School, private or quasi-public.
Social or reception center.
Wireless telecommunications facility, roof mount.
Wireless telecommunications facility, wall mount.

3. Temporary Uses:

Permitted subject to regulations in County Code Section 8-6-16.

D. Residential Areas

It is anticipated that residential areas will occupy the majority of the Mountain Green Village PUD property. Two residential areas proposed – Single Family Detached / Attached Residential and Multi-Family Residential.

1. Single Family Detached / Attached Residential

The Single Family Detached / Attached Residential neighborhoods are planned to be a mix of residential types and densities including single family detached homes and single family attached homes. The purpose of the mixed use concept is to create the "village" look.

The Single Family Detached / Attached Residential neighborhoods include 65.4 acres of the overall area – or 61.9 percent of the overall area -- with an average density of 6.3 dwelling units per acre for a maximum of 423 homes.

To create the "village" concept, compact development standards will need to be used. Section 8-5D-5.C. of the CD District includes zoning requirements for setbacks. The section's setbacks for both side and rear yards do not promote the concept of compact development. The setbacks included in Section 8-5D-5.C. are amended herein to the following.

a. Front Yards

As part of the concept of creating a walkable neighborhood, the design of front yard areas can contribute to making a neighborhood more walkable. Neighborhoods are both more walkable and friendly when people walking on the sidewalk can easily converse with homeowners using their front porch or patio as an outdoor private recreation area increasing the social interaction between neighbors.

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Front yard setbacks for homes with garage alley access shall be reduced to a minimum fifteen (15) feet with a maximum setback of twenty (20) feet to create variety.

Front yard setbacks for homes that have the garage in the front shall be a minimum of twenty (20) feet to the garage face and fifteen (15) to other living areas of the house including an enclosed or partially enclosed porch.

b. Side Yards

Interior side yard setbacks shall be a minimum of five (5) feet.

Street side yard setbacks including adjacent to alleys shall be a minimum of ten (10) feet.

Where a garage will take access from a side street, the street side yard setback shall be twenty (20) feet.

c. Rear Yards

Rear yard setbacks shall be a minimum of ten (10) feet for primary buildings and five (5) feet for accessory buildings.

Setbacks for garages on alleys shall be five (5) feet from the alley right-of-way, however, a two (2) foot overhang into the alley setback may be allowed.

2. Multi-Family Residential

The Multi-Family Residential neighborhood is planned to be designed as a single neighborhood comprised of two to three story multi-family buildings surrounded by open space areas, parks, walkways, parking areas and access drives.

The Multi-Family Residential is proposed to be 6.9 acres in area with a maximum density of 16.0 dwelling units per acre for a maximum 110 homes.

a. Setbacks

Setbacks shall comply with the commercial building standards as listed in MCC 8-5D.

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E. Commercial Areas

As a central part of Mountain Green's proposed Town Center, commercial areas of Mountain Green Village PUD will provide a substantial contribution to life in Mountain Green. It is anticipated that Mountain Green Village PUD will have a neighborhood market and other retail stores and service businesses. These establishments will provide the residents of Mountain Green with the opportunity to purchase items and obtain services that are needed on a daily basis. Located at the current center of Mountain Green, the commercial areas of Mountain Green Village PUD will make life easier for all of Mountain Green's current and future residents.

Mountain Green Village PUD's commercial areas also have the opportunity to contribute to the economy of both Mountain Green and Morgan County. Currently, many Mountain Green residents shop for daily needs outside of the community and likely the county limits. Sales tax dollars that would contribute to Morgan County's revenues and be partially spent in Mountain Green are being lost to neighboring cities and counties.

In addition, additional sales tax dollars and also hotel tax dollars would be available to Morgan County and Mountain Green with the development of a hotel in Mountain Green Village PUD. Tourists using Snowbasin today contribute to the economy of Morgan County and Mountain Green in a small way using the services that are available in Mountain Green. The development of a hotel would both contribute hotel tax dollars and pave the way for visitors who would both contribute hotel tax dollars and patronize the commercial businesses planned in Mountain Green Village PUD and other Mountain Green community businesses.

There are 13.9 acres of commercial land use proposed for Mountain Green Village PUD. It is intended to include retail, office and hotel land uses.

1. Setbacks

Setbacks shall comply with the commercial building standards as listed in MCC 8-5D.

F. General Development Standards

1. Buffering

In circumstances where new multi-family residential or commercial development is adjacent to existing residential development, buffering shall be included. Buffering may be in the form or either a solid eight (8) foot masonry wall or a combination of landscaping and berming.

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2. Night Sky Protection

Downward directional lighting of critical intersections and along certain roadways shall be installed as required at the discretion of the County Engineer.
Downward directional lighting on private properties shall be installed that does not project direct lighting sources onto adjacent residential properties.

3. Commercial Parking Lot Landscaped Setbacks

Parking lots within Commercial land use areas shall be setback a minimum of twenty (20) feet. The setback shall be landscaped.

G. Open Space Areas

Section 8-5D-3.B (Land Coverage) states that only 80% of the property area can include buildings and paved areas and that the remaining 20% be landscaped. While the open space included at this time on Table 1, the Master Plan Statistical Summary, is only 8.9 acres or 8.4% of the total area, there are areas of the property that will be landscaped as part of the development of the property.

The acreages and percentages shown in the following table are estimates based upon anticipated open spaces and landscaped areas based upon typical design practices. For example, the amount of pocket parks within the Single Family Detached / Attached Residential areas have been estimated based upon the requirement in Section 8-5D-18.A.2 that planned unit developments in the CD Zone have a minimum of 10% of the area in open space and parks. The commercial areas have been estimated using 15% of the total commercial area which is a standard design practice. Table 2 illustrates that it is estimated that 26.6% of the subject property will be landscaped, 6.6% more than the 20% minimum, or an additional eight (8) acres of landscaping.

Table 2
OPEN SPACE AREAS AND CALCULATIONS

Areas	Estimated Acreage	% of Total Area
Creek Areas	7.7	7.3%
Detention Basin	1.9	1.8%
Powerline Areas	6.7	6.3%
Pocket Parks	6.7	6.3%
Multi-Family Residential Landscaping	2.5	2.4%
Commercial Areas Landscaping	2.6	2.5%
Estimated Totals	**28.1**	**26.6%**

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IV. ARCHITECTURAL THEME

Section 8-5D-11 (Architectural Design and Materials) of the Morgan County Code states the following:

> *The treatment of building mass, materials and exterior appurtenances shall create an aesthetically pleasing building and site that is in character with the proportions of other surrounding developments. Proposed developments shall be designed with a common theme that reflects the heritage and community in which it is located. Theme shall be reviewed and approved by the planning commission and may include, but are not limited to, agricultural or mountain tourism.*

It is the intent of the section to encourage architecture and site planning in the Central Development District and the Town Center that is first, based upon a theme and second, in character with the proportions of surrounding developments. Two themes are recommended, agricultural or mountain tourism.

The purpose of a theme is to have continuity in the various design elements – architectural design and materials, site planning, landscape design, etc. –, that make up a neighborhood development, particularly in the Town Center where a mixed land use concept is proposed. Continuity, including the design of the commercial areas, will result in the "aesthetically pleasing building and site" that the code section is designed to achieve.

A. Theme Description: Mountain Home

The theme chosen for the Mountain Green Village PUD is Mountain Home. The Mountain Home is characterized as sensitivity to nature and the building's surroundings, the look of hand-crafted workmanship and designed at a human scale. Some of the characteristic materials used in Mountain Home are structurally-supported large beams that often extend beyond the façade, the use of wood or wood-like materials that emulate the texture of cedar shakes and the use of masonry such as ledger stone, river rock and field stone. Other materials that can be used include stucco and wood composite materials such as hardie board.

It is important in the use of the Mountain Home theme that its application does not drive up the cost of construction and the ultimate price to future home buyers. Mountain Green Village PUD is a more affordable Mountain Green neighborhood that uses the density allowed in the CD Zone to provide market rate housing available to a wider range of families than can be provided in typical subdivision neighborhoods. In the process of design and approval of the architecture of homes and other buildings in Mountain Green Village PUD, affordability needs to take precedence of appearance.

B. Graphic Examples of Theme

Figures 3 and 4 provide graphic examples of the implementation of the theme in different building types and examples of thematic materials.

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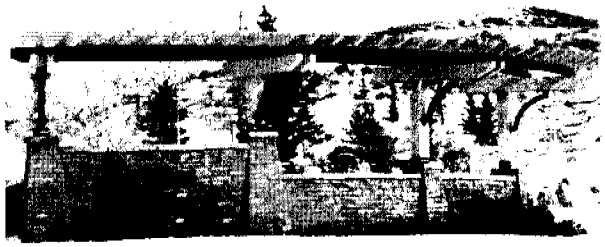
Figure 3
Mountain Home Theme Examples

These photographs are provided as examples of the theme using different designs and materials. They are illustrative only and are not to be used as benchmarks or comparisons for future architecture in Mountain Green Village PUD.



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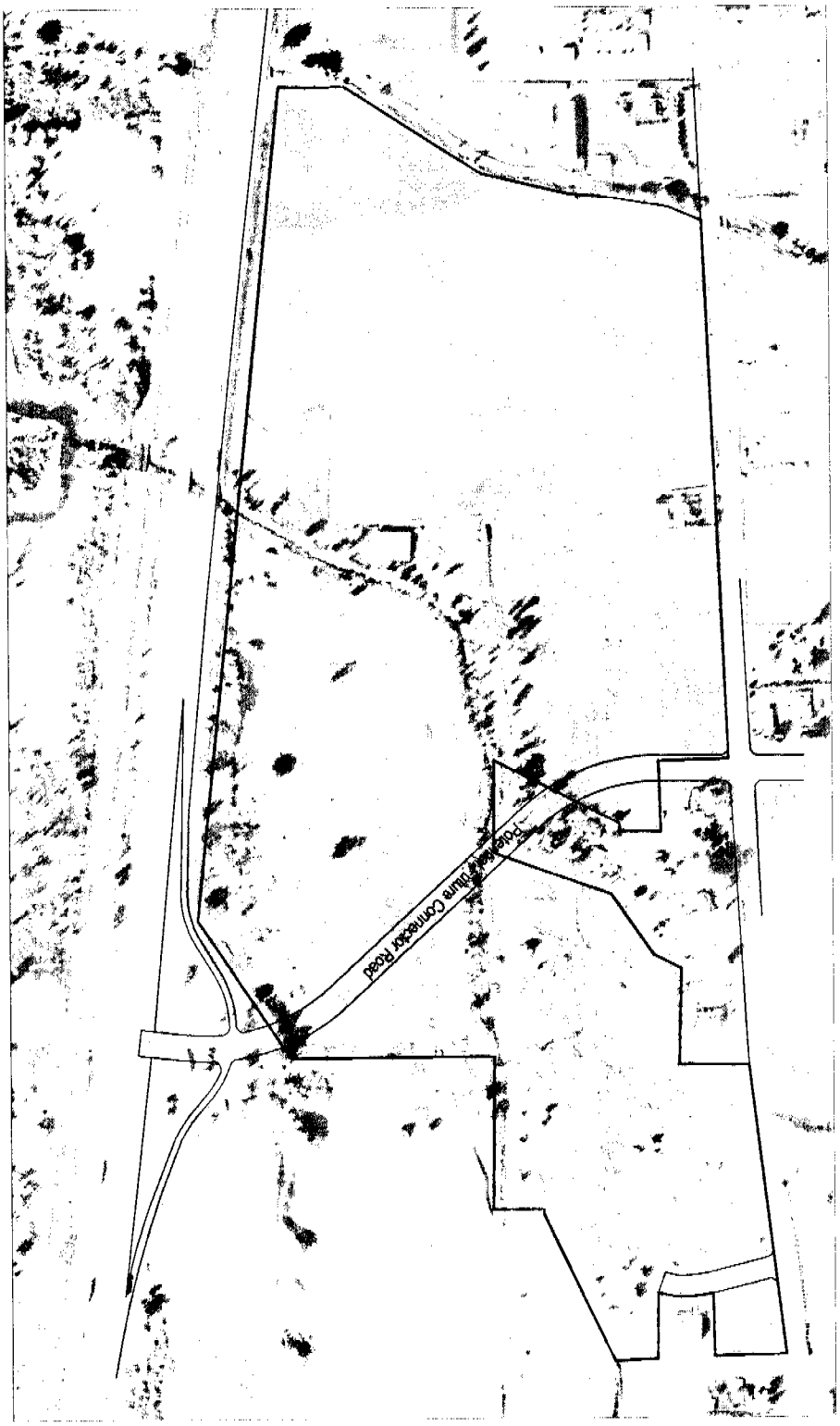

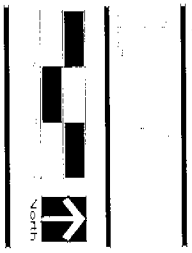

Exhibit "C"
Potential Future Connector Road

Exhibit "D"

Form of Estoppel Certificate

EXHIBIT "D"

FORM OF ESTOPPEL CERTIFICATE

_____, 20___

TO: _____

FROM: _____

RE: Master Development Agreement (the "Agreement")

Gentlemen:

[INSERT INTRODUCTORY PARAGRAPHS RELATING TO FACTS AND CIRCUMSTANCES FOR WHICH ESTOPPEL CERTIFICATE IS REQUESTED.]

Accordingly, the undersigned hereby represents and warrants, to the best of its knowledge, to the individuals, entities, and parties described above as follow:

1. The Agreement (i) has not been modified or amended in any way, (ii) is in full force and effect, and (iii) is the only agreement, contract, or understanding between the parties thereto, except as follows (unless otherwise indicated, Party represents none exists): _____
_____
_____

2. (i) There are no defaults under the Agreement by any parties or their successor or assigns, (ii) all of the terms and conditions of the Agreement due as of this date have been met, completed and approved, and (iii) no event has occurred which, after the giving of notice, the passage of time, the expiration of any grace period or right to cure, or all of the above, would constitute a default under the Agreement, except as follows (unless otherwise indicated, undersigned represent none exists): _____
_____
_____.

3. Under the terms of the Agreement, the Developer described therein was required to perform certain obligations. All of the existing obligations or other actions to be performed by the Developer or its success-in-interest under the Agreement have

been performed and or satisfied, except as follows (unless otherwise indicated, Party represents none exists): _____

_____

_____.

4. There are no current or future unpaid amounts under the Agreement, except as follows (unless otherwise indicated, undersigned represents none exists): _____

_____

_____.

5. The individual, executing on behalf of the undersigned, acknowledges and represents that it has read the terms thereof, and is authorized to execute the estoppel on behalf of the undersigned.

Very truly yours,

_____

By: _____
Name: _____
As its: _____