

DEVELOPMENT AGREEMENT FOR DEER COVE AT HIDDEN SPRINGS PRUD

07-257-0001 draw 0044

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as "Agreement") is made and entered into as of the 10th day of AUGUST, 2006, by and between Fruit Heights City, a Utah municipal corporation, (hereinafter referred to as "City"), and Patriot Capital Hidden Springs, LLC, an Idaho Limited Liability Company and/or assigns referred to as (hereinafter referred to as "Patriot").

RECITALS

A. Patriot owns approximately 18.66 acres of land located within the City, which property is more particularly described in Exhibit A and attached hereto and by this reference made a part hereof (hereinafter referred to as "Property").

B. Patriot has filed applications with the City for and has received final plat approval of Deer Cove at Hidden Springs PRUD, which plats are attached as Exhibit B and hereinafter referred to as ("Deer Cove")

C. Deer Cove is currently zoned under the City as an R-1-12 with a PRUD overlay. Deer Cove is subject to all City ordinances and regulations pertaining to this zoning designation including the provisions of the City's General Plan, the City's zoning ordinances, the City's engineering standards and specifications and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively, the "City's Laws").

E. The City has included in this Agreement various conditions that must be satisfied in order to allow development of Deer Cove.

F. Persons and entities hereafter developing Deer Cove shall accomplish such development in accordance with the City's Laws, ordinances and regulations, engineering standards and specifications, the City's General Plan and issued permits, the approved final plat for Deer Cove, and the provisions set forth in this Agreement. This Agreement contains certain requirements for design and development of the Property in addition to those contained in the City's Laws.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Patriot hereby agree as follows:

- 1. Incorporation of Recitals. The above Recitals are hereby incorporated into this Agreement
2. Project Plan. Patriot shall develop Deer Cove as residential lots in accordance with the approved Final Plat and approved construction drawings stamped by the City Engineer, dated July 18, 2006, and by this reference made a part hereof (the "Final Plat").
3. Development of Deer Cove. Deer Cove shall be developed by Patriot and/or Patriot's successors and assigns in accordance with all of the requirements contained herein. This agreement shall be binding upon and inure to the benefit of, Fruit Heights City and Patriot and their respective permitted successors and assigns. This agreement shall not be assignable by Patriot without the approval of the City, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, Patriot may, without the City's approval, assign or convey its interest under this Agreement to any entity which directly controls or is controlled by Patriot. After such assignment, the assigning party shall then be released from any obligations hereunder.
a. Compliance with Laws and Development Standards. Deer Cove and all portions thereof shall be developed in accordance with the City's Laws, any other applicable ordinances and

regulations, engineering standards and specifications, the City's General Plan and issued permits, the approved Final Plat for Deer Cove, and this Agreement.

b. Streets and Related Improvements.

i. Patriot will construct and/or improve, as a private right-of-way, Mirabella Way which shall include all utility trunklines, curb and gutter, paving, utility sleeves, handicap ramps, light poles, dry utilities (including gas, power, and phone) sidewalks, and park strips as shown on the Deer Cove Final Plat. All construction and improvement shall be in accordance with City-approved design and construction standards and requirements of the City, or as approved by staff in pre-construction and development progress meetings.

ii. Patriot shall install and improve these streets in accordance with the approved Final Plat for Deer Cove and shall post security, in a manner acceptable to the City under Title 11 of the City Code of Fruit Heights, specifically Sections 11-6-16 A. and 11-6-18, to guarantee said streets and improvements.

c. Building Permits. In accordance with current city ordinances, and in accordance with the motion by the City Council for final plat approval of Deer Cove on June 6, 2006, the City shall not issue any building permit on any lot or for any unit within Deer Cove until the following is met:

i. For Construction Phase 1 (as outlined on the final plat): Building permits shall be issueable as of the date of Final Plat approval since all required improvements for same were previously completed, with the exception of the sewer tie in at Mahogany Drive and Mirabella Way. The City will require that the sewer tie in be made prior to the issuance of any certificate of occupancy.

ii. For Construction Phase 2 (as outlined on the Final Plat): Culinary water, operational fire hydrants, sewer, including necessary grading, storm drains and/or subsurface drainage facilities must be installed pursuant to the approved construction drawings. It will also be necessary to install concrete curb and gutter and have road base brought to grade and compacted prior to building permits being issued. The City will not require that asphalt be placed prior to issuance of any building permit; however, asphalt must be placed prior to any certificate of occupancy being issued by the City, unless, in the case that when a home is completed, but due to conditions beyond Patriot and/or its contractors control, asphalt is not available for reasons such as industry material shortages, labor shortages, inclement weather prohibiting the proper installation of the asphalt, and/or force majeure, the City will grant occupancy and hold the relative bond until said asphalt improvements are completed.

d. Utilities and Infrastructure.

i. All improvements will be constructed and installed in a timely manner in order to meet the requirements of the City's ordinances.

ii. Patriot will construct and install all on-site storm drain facilities required for Deer Cove in accordance with the approved Construction Drawings for the same.

iii. Patriot shall make arrangements with and shall comply with all of the requirements of the Benchland Water District (BWD) to provide secondary water service to Deer Cove. Where appropriate, Patriot shall construct secondary water lines and facilities for Deer Cove in a manner acceptable to BWD in order to ensure delivery of secondary water to properties located within Deer Cove

iv. All public improvements for Deer Cove shall be constructed and installed, at Patriot's sole expense, in accordance with the City's construction standards and Laws.

e. Easements. All appropriate easements for infrastructure improvements and/or for the

construction of any public improvements required by the City, including temporary construction easements, will be granted by Patriot and/or its successors and assigns, free of cost to the City and its contractors

f. Dedication or Donation. Patriot will install, in the required manner as provided in this Agreement, all improvements within Deer Cove. As an inducement to the City's performance of its obligations under the terms of this Agreement, Patriot shall make, or cause to be made, dedications and donations of land and improvements in the public roadway area as defined on the Final Plat as such. All such dedications and donations are made on a voluntary basis and Patriot hereby expressly waives and releases the City from any claims Patriot may have for compensation therefore. In that Mirabella Way is a private right-of-way, all necessary easements for maintenance of City owned utilities (culinary water, sewer, and storm drain), will be granted with the dedication of the Final Plat.

g. Required Changes. If any revisions or corrections of the Final Plat or plans already approved by the City shall be requested by Patriot or required by any other governmental entity having jurisdiction over the project, or lending institutions involved in financing the project, then Patriot and the City shall cooperate where appropriate to obtain or develop reasonable, mutually acceptable alternative plans or plats. Patriot shall have the sole duty and responsibility to obtain any needed approval from any other governmental entities having jurisdiction with respect to Deer Cove.

h. Covenants, Conditions and Restrictions. Prior to the recording of the Final Plat for Deer Cove or any portion thereof, Patriot shall prepare and submit to the City for review Covenants Conditions and restrictions (the "CC&R's") to provide for the following:

i. Architectural Review Committee. The CC&R's shall establish an architectural review committee for the purpose of preserving the quality of all development and the maintenance of private and common properties. The CC&R's shall establish the structure, procedures, authorities and remedies of the architectural review committee. No home or unit will be constructed without the approval of design themes, plans, elevations and materials by the architectural review committee.

ii. Miscellaneous Items. The CC&R's will address, as a minimum, open space maintenance not covered by the City.

iii. Architectural Design Guidelines, Development Guidelines and Approval. The CC&R's shall establish architectural design guidelines, development guidelines and procedures to be administered by the architectural review committee. The CC&R's shall comply with the requirements of the City's Laws pertaining thereto.

4. Payment of Fees. Patriot shall pay to the City all required fees in a timely manner. All fees paid shall be in those amounts which are applicable at the time of payment, pursuant to and consistent with standard City procedures, requirements, and ordinances.

5. Guarantee of Installation of Improvements. Patriot shall at their expense:

a) Install the aforementioned improvements prior to the recording of the final plat or guarantee the installation of such improvements. Patriot shall provide said guarantee of improvements in the form of a Letter of Credit ("Letter of Credit") issued by a Bank or Financial Institution acceptable to the City, and in a form also acceptable to the City. Such acceptance by the City as to Institution and form shall not be unreasonably withheld.

b) If the period required for the guarantee extends beyond the expiration date of the Letter of Credit, then Patriot shall provide to City not more than ninety (90) days but not less than thirty (30) days prior to the expiration date of the Letter of Credit an acceptable replacement in the form of either an Escrow Agreement, or Letter of Credit as allowed and in accordance with City ordinance at the time of this Agreement, at Patriot's sole discretion, for any and all balances required to be bonded. Such acceptance by the City as to Institution and form shall not be unreasonably withheld.

6. **City Obligations.** The City agrees to maintain the public improvements dedicated to the City following satisfactory completion and acceptance of the same thereof by Patriot or their assigns and to provide those standard municipal services to Deer Cove which are now being provided by the City throughout all areas of the City including police and fire protection.

7. **Right of Access.** Representatives of the City shall have the reasonable right of access to Deer Cove during the period of construction to inspect or observe Deer Cove and any work thereon

8. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To Patriot: Patriot Capital Hidden Springs LLC
 Attn: Bart Longson
 39 East Eagleridge Drive, Suite 200
 North Salt Lake, UT 84054

To the City: Fruit Heights City
 Attn: City Manager
 910 Mountain Road
 Fruit Heights, Utah 84037

9. **Default.** In the event any party fails to perform its obligations hereunder or to comply with the terms hereof, the non-defaulting party, after giving thirty (30) days written notice, may, at its election, exercise the following remedies

- a. All rights and remedies available at law and in equity, including injunctive relief, and/or damages.
- b. The right to draw upon any security posted or provided in connection with the Project.
- c. The rights and remedies set forth herein shall be cumulative.

10. **Attorneys Fees.** In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and a reasonable attorney's fee.

11 **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, documents referenced herein, and all regulatory approvals given by the City for Deer Cove or any phase thereof, contain the entire agreement of the parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties or understandings between the parties with respect to the subject matter hereof which are not contained in this Agreement, regulatory approvals and related conditions.

12 **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.


13 **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (if any assignments are allowed as provided herein).

14 **Amendment.** This Agreement may be amended only in writing signed by the parties hereto.
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 hereinabove written.

"CITY"

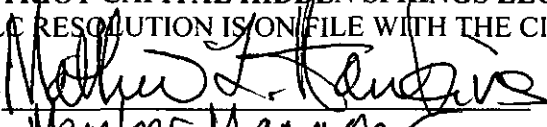
FRUIT HEIGHTS CITY
ATTEST


City Recorder

By: 
Todd Stevenson, Mayor

"PATRIOT"

PATRIOT CAPITAL HIDDEN SPRINGS LLC
(LLC RESOLUTION IS ON FILE WITH THE CITY)

By: 
Its: Member Manager

CITY ACKNOWLEDGMENT

STATE OF UTAH)

:ss.

COUNTY OF DAVIS)

On the 9th day of August, 2006, personally appeared before me Todd Stevenson, who being duly sworn, did say that he is the Mayor of **FRUIT HEIGHTS CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Todd Stevenson acknowledged to me that the City executed the same.

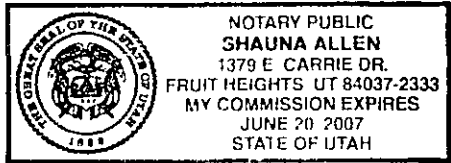
Shauna Allen

Notary Public
Residing at:

1379 E. Carrie Dr., Fruit Heights,
UT 84037

My Commission Expires:

June 20, 2007



PATRIOT ACKNOWLEDGMENT

STATE OF UTAH)

:ss

COUNTY OF DAVIS)

KB 8/2/06 On the 2 day of ~~July~~ August KB 8/2/06, 2006, personally appeared before me ~~Matthew~~ Matthew L Hawkins, who being duly sworn, did say that he is the Managing Member of PATRIOT CAPITAL HIDDEN SPRINGS LLC, a limited liability company of the State of Idaho, and that the foregoing instrument was signed in behalf of said limited liability company by authority of its members and said Matthew L. Hawkins acknowledged to me that the entity executed the same.

Rebecca Ann Beesley
Notary Public

My Commission Expires
4/14/2010

Residing at:
Davis County

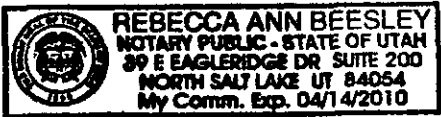


EXHIBIT A

(Legal Description)

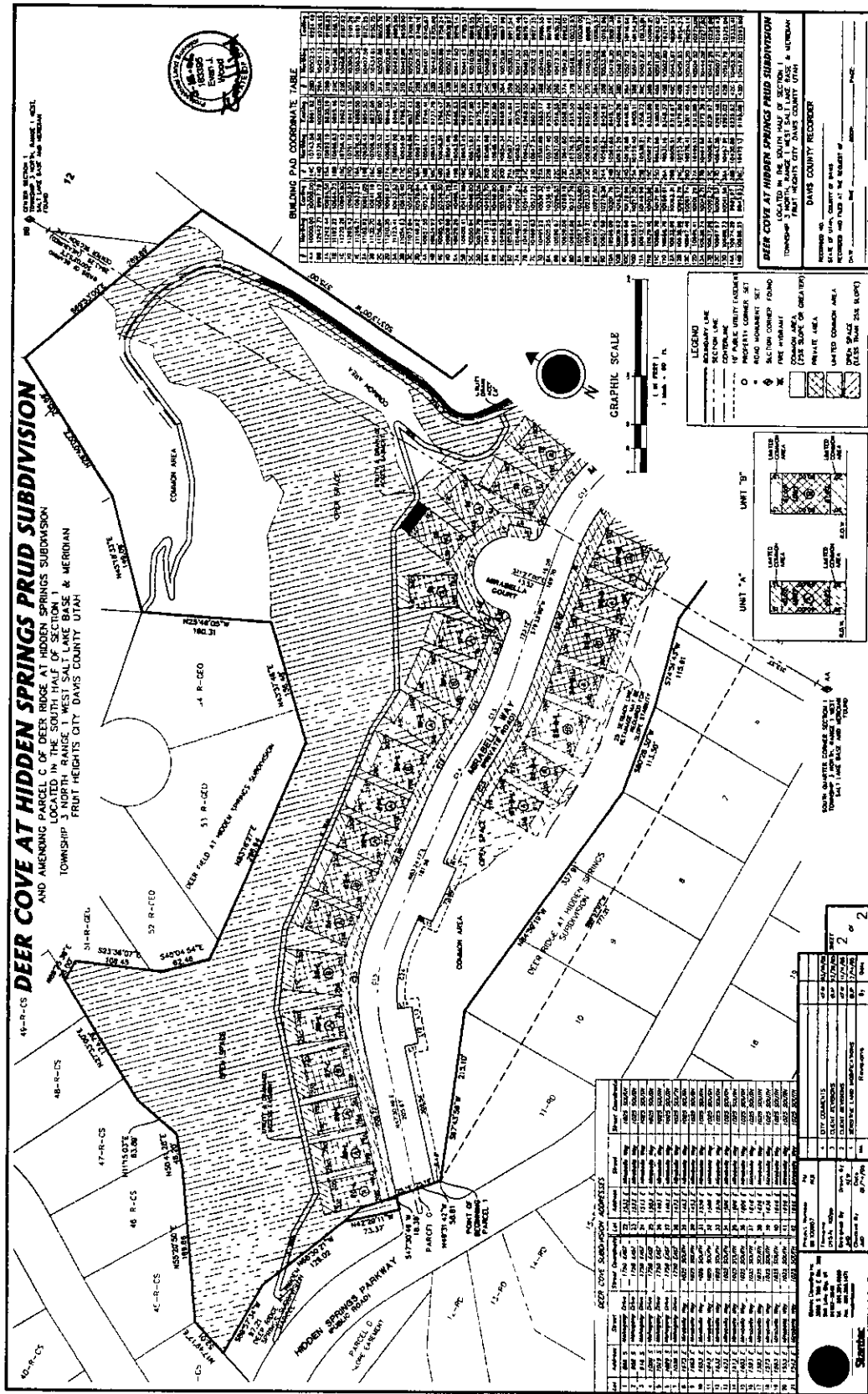
Parcel 1

Beginning at a point which is N00°02'53"W 313.37 feet and S89°57'07"W 777.21 feet from the South Quarter Corner of Section 1, Township 3 North, Range 1 West, Salt Lake Base and Meridian; and running thence N49°31'42"W 58.81 feet; thence S47°30'49"W 18.39 feet; thence N42°29'11"W 73.37 feet; thence N68°30'21"W 129.02 feet; thence S89°57'34"W 97.21 feet; thence N17°49'17"E 52.01 feet; thence N55°20'50"E 189.66 feet; thence N50°41'28"E 48.20 feet; thence N11°15'03"E 63.89 feet; thence N27°33'00"E 174.79 feet; thence N89°25'39"E 28.00 feet; thence S23°36'07"E 108.45 feet; thence S45°04'54"E 62.46 feet; thence N83°18'27"E 296.94 feet; thence N43°37'46"E 156.48 feet; thence N25°49'05"W 160.31 feet; thence N45°18'33"E 149.09 feet; thence N26°40'00"E 205.69 feet; thence S69°53'00"E 289.89 feet; thence S03°13'00"W 375.00 feet; thence S71°03'00"E 370.74 feet; thence N12°08'00"E 600.60 feet; thence N86°17'45"E 132.38 feet; thence S09°53'13"E 0.81 feet; thence Southwesterly 52.16 feet along the arc of a 95.00 foot radius curve to the right, chord bears S05°50'36"W 51.51 feet; thence S21°34'26"W 520.07 feet; thence Southwesterly 101.57 feet along the arc of a 124.65 foot radius curve to the right, chord bears S44°55'00"W 98.78 feet; thence S81°18'54"W 15.49 feet; thence Southwesterly 116.77 feet along the arc of a 120.00 foot radius curve to the left, chord bears S40°23'00"W 112.21 feet; thence Southwesterly 8.89 feet along the arc of a 11.50 foot radius curve to the right, chord bears S59°49'36"W 8.67 feet; thence S81°58'45"W 15.04 feet; thence S08°01'15"E 50.00 feet; thence Southeasterly 14.70 feet along the arc of a 11.50 foot radius curve to the right, chord bears S61°24'21"E 13.72 feet; thence Southeasterly 151.06 feet along the arc of a 150.00 foot radius curve to the left, chord bears S28°41'22"E 144.76 feet; thence S89°03'45"W 142.09 feet; thence S85°56'39"W 105.23 feet; thence N83°17'05"W 191.40 feet; thence S74°51'43"W 115.91 feet; thence S80°26'30"W 113.50 feet; thence N84°59'19"W 337.91 feet; thence S67°43'56"W 215.10 feet to the point of beginning. Contains 16.89 Acres and 38 Lots

Parcel 2

(July 27, 2006)

Beginning at a point on the Easterly Right-of-Way of Mahogany Road, said point being N00°02'53"W 353.86 feet and N89°57'07"E 551.56 feet from the South Quarter Corner of Section 1, Township 3 North, Range 1 West, Salt Lake Base and Meridian; and running the following ten courses along said Easterly Right-of-Way Line: (1) thence Northwesterly 94.26 feet along the arc of a 150.00 foot radius curve to the left, chord bears N39°32'16"W 92.71 feet; (2) thence N57°32'22"W 48.46 feet; (3) thence Northwesterly 91.65 feet along the arc of a 90.00 foot radius curve to the right, chord bears N28°22'01"W 87.74 feet; (4) thence N00°48'20"E 36.55 feet; (5) thence Northeasterly 70.64 feet along the arc of a 60.00 foot radius curve to the right, chord bears N34°31'57"E 66.63 feet; (6) thence N36°04'20"E 17.83 feet; (7) thence Northeasterly 121.69 feet along the arc of a 149.35 foot radius curve to the left, chord bears N44°55'00"E 118.35 feet; (8) thence N21°34'26"E 536.29 feet; (9) thence Northeasterly 74.13 feet along the arc of a 135.00 feet radius curve to the left, chord bears N05°50'36"E 73.20 feet; (10) thence N09°53'13"W 250.78 feet to the Southerly Boundary Line of Spring Hollow Estates Phase 2 Subdivision; thence N73°28'00"E 25.29 feet along said Southerly Boundary Line to the extension of the Westerly Boundary Line of the U.S. Forest Service as recorded in Book 3030 at Page 768 in the Office of the Davis County Recorder, said point being N10°02'47"W 4.93 feet from a found standard USFS monument marked "AP A"; thence S10°02'47"E 260.17 feet to "AP B" of said Westerly Boundary Line, said point being S10°04'47"E 88.00 feet from a found standard USFS monument marked Witness Corner to "AP B"; thence S19°36'56"W 347.51 feet to a found standard USFS monument marked "AP C"; thence S21°36'32"W 141.96 feet to a found standard USFS monument marked "AP D"; thence S04°12'01"E 330.88 feet to a found standard USFS monument marked "AP E"; thence S01°51'15"W 268.94 feet to a found standard USFS monument marked "AP F"; thence S22°29'39"E 238.04 feet to a found standard USFS monument marked "AP G", said point also being on the Section Line; thence S89°10'22"W 20.06 feet along the Section Line to the Easterly Boundary Line of Deer Ridge at Hidden Springs Subdivision; thence the following three courses along said Easterly Boundary Line: (1) thence N22°21'43"W 238.21 feet; (2) thence N01°56'01"E 122.33 feet; (3) thence N88°03'59"W 53.11 feet to the point of beginning. Contains 1.885 acres and 4 Lots



DEER COVE AT HIDDEN SPRINGS PRUD SUBDIVISION
AND AMENDING PARCEL C OF DEER RIDGE AT HIDDEN SPRINGS SUBDIVISION
LOCATED IN THE SOUTH HALF OF SECTION 1
TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN
FRUIT HEIGHTS CITY DAVIS COUNTY UTAH

BUILDING PAD COORDINATE TABLE

Lot	Area	Perimeter	Area	Perimeter	Area	Perimeter	Area	Perimeter	Area	Perimeter
1	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
2	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
3	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
4	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
5	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
6	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
7	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
8	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
9	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
10	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
11	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
12	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
13	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
14	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
15	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000
16	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000	10,000	1,000

DEER COVE AT HIDDEN SPRINGS PRUD SUBDIVISION
TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN
FRUIT HEIGHTS CITY DAVIS COUNTY UTAH

DAVIS COUNTY RECORDER
DATE: _____ TIME: _____

DEER COVE SUBDIVISION ADDRESSES

Lot	Address	Area	Perimeter
1	10000	10000	10000
2	10000	10000	10000
3	10000	10000	10000
4	10000	10000	10000
5	10000	10000	10000
6	10000	10000	10000
7	10000	10000	10000
8	10000	10000	10000
9	10000	10000	10000
10	10000	10000	10000
11	10000	10000	10000
12	10000	10000	10000
13	10000	10000	10000
14	10000	10000	10000
15	10000	10000	10000
16	10000	10000	10000

APPROVED BY:	DATE:
DESIGNED BY:	DATE:
CHECKED BY:	DATE:
PROJECT NO.:	DATE:
SCALE:	DATE: