02-217-0101 thru 0164
02-095-0083

2330368
BK 4437 PG 1204

RETURNED
DEC 27 2007

When recorded, return to:

Centerville City
Attn: City Recorder
250 North Main Street
Centerville, Utah 84014

Parcel Number(s):

E 2330368 B 4437 P 1204-1213
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
12/27/2007 02:08 PM
FEE $87.00 Pgs: 10
DEP RT REC'D FOR CENTERVILLE CITY

THIRD AMENDMENT TO
DEVELOPMENT AGREEMENT BETWEEN CENTERVILLE CITY AND UINTA DEVELOPMENT, LC (AS ASSIGNED TO CITYVIEW PINEAE VILLAGE 227, L.P.) FOR THE PINEAE VILLAGE (PDO)

THIS THIRD AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN CENTERVILLE CITY AND UINTA DEVELOPMENT, LC (AS ASSIGNED TO CITYVIEW PINEAE VILLAGE 227, L.P.) FOR THE PINEAE VILLAGE (PDO) (the "Amendment") is made and entered into as of the 30th day of November, 2007, by and between **CENTERVILLE CITY,** a Utah municipal corporation, hereinafter referred to as the "City," and **CITYVIEW PINEAE VILLAGE 227, L.P.,** a Delaware limited partnership, hereinafter referred to as "Developer."

RECITALS:

WHEREAS, the City and Uinta Development, LC, a Utah limited liability company ("Uinta"), entered into that certain Development Agreement dated March 6, 2006 and recorded at the Davis County Recorder's Office on March 8, 2006, Entry No. 2150503, Book No. 3986, Pages 1124-1198 ("Original Agreement"), regarding the development of approximately thirty (30) acres of real property located at approximately 675 North Main Street in Centerville City, Davis County, State of Utah, as more particularly described in **Exhibit 1,** attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Original Agreement has been amended by that certain First Amendment to the Development Agreement Between Centerville City and Uinta Development, LC for the Pineae Village (PDO), dated February 22, 2007, and recorded at the Davis County Recorder's Office on March 6, 2007, Entry No. 2250032, Book No. 4233, Pages 808-813, and by that certain Second Amendment to the Development

Agreement Between Centerville City and CityView Pineae Village 227, L.P., for the Pineae Village (PDO), dated April 16, 2007, and recorded at the Davis County Recorder's Office on May 1, 2007, Entry No. 2266410, Book No. 4273, Pages 129-172 (hereinafter collectively referred to as the "Agreement"); and

WHEREAS, the Agreement was assigned from Uinta, as the amended and restated entity of UD Ventures, LLC, a Utah limited liability company, to Developer by that certain Assignment and Assumption Agreement dated March 21, 2007, and recorded at the Davis County Recorder's Office on March 21, 2007, Entry No. 2254440, Book No. 4244, Pages 1395-1400; and

WHEREAS, Developer has requested and desires to amend the Agreement to revise the phasing plan of the project by dividing Phase 5 into two phases, to be known as Phase 5 and Phase 6, as more particularly set forth herein; and

WHEREAS, the City is willing to amend the Agreement regarding the phasing plan of the project subject to and in accordance with the terms and conditions of this Second Amendment to the 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 Developer agree as follows:

1. **Amendment.** Exhibit "O" of the Agreement regarding the Phasing Plan is hereby amended to read in its entirety as set forth in **Exhibit 2,** attached hereto and incorporated herein by this reference.

2. **Amendment.** Section 20 of the Agreement regarding phasing of the project is hereby amended to read in its entirety as follows:

> 20. **Phasing.** Development of the Property and the Planned Development may be developed in phases as more particularly provided herein ("Phasing Plan"). Phasing of the development of the Property and the Planned Development shall take into account the orderly development of the Property, coordination in connection with the installation of infrastructure improvements, traffic circulation patterns, future utility capacity needs, availability of access, adequacy of utilities and related considerations, and the provision of open space at various intervals of development. Developer is required to develop all proposed phases of the Planned Development. Notwithstanding the foregoing, each phase must be developed in such a way as to provide all street, utility, and public improvements necessary for the particular phase to stand on its own, with or without future phase development. A visual map of the phases of the

Property is more particularly set forth in **Exhibit O,** attached hereto and incorporated herein by this reference.

a. Phase 1. Phase 1 shall include the platting and development of the forty-nine (49) single-family dwelling units and lots as more particularly shown on the Phasing Plan, Preliminary Plat and Master Site Plan, the entire east-west road connection through the Property from 400 West Street to Main Street designated as 700 North on the Preliminary Plat and Master Site Plan, including stub connections for future public streets, and the park, tot lot and linear parkway in the southeast corner of the Property as shown on the Preliminary Plat and Master Site Plan. The storm drainage detention facilities located on the northern property boundary immediately west of the single-family dwelling units as designated on the Preliminary Plat and Master Site Plan shall be installed and constructed with Phase 1. Phase 1 shall also include the platting of the proposed Lot 1 (3.57 acres) located adjacent to 700 North and 400 West as more particularly shown on the Preliminary Plat.

b. Phase 2. Phase 2 shall include the platting and development of forty (40) town home units located immediately north of 700 North as more particularly designated on the Phasing Plan, Preliminary Plat and Master Site Plan. Final site plan approval shall be required for development of the town homes in Phase 2 in accordance with the provisions of Subsection (f) below.

c. Phase 3. Phase 3 shall include the platting and development of twenty-four (24) condominium units consisting of the two buildings located immediately adjacent to 400 West Street as more particularly shown on the Phasing Plan, Preliminary Plat and Master Site Plan. Final site plan approval shall be required for development of the condominiums and town homes in Phase 3 in accordance with the provisions of Subsection (f) below.

d. Phase 4. Phase 4 shall include the platting and development of forty-eight (48) town home units located immediately north of the Phase 2 town home units as more particularly shown on the Phasing Plan, Preliminary Plat and Master Site Plan. Final site plan approval shall be required for development of the town homes in Phase 4 in accordance with the provisions of Subsection (f) below.

e. Phase 5 and Phase 6. Phase 5 shall include the platting and development of thirty-six (36) condominium units consisting of three (3) buildings located south of 700 North and immediately east of the

Phase 3 condominium units, and all of the approved and required parking, roadways, common areas and amenities, as more particularly shown on the Phasing Plan, Preliminary Plat and Master Site Plan. Phase 6 shall include the platting and development of twenty-four (24) condominium units consisting of two (2) buildings located south of 700 North and immediately east of the Phase 5 condominium buildings, and six (6) town home units located east of the condominium units as more particularly shown on the Phasing Plan, Preliminary Plat and Master Site Plan. Final site plan approval shall be required for development of the condominiums and town homes in Phase 5 and Phase 6 in accordance with the provisions of Subsection (f) below.

f. Final Subdivision and Site Plan Approval. Developer shall submit a proposed final subdivision plat for each phase of development for review and approval by the City. The final subdivision plat for each phase shall comply with the terms and conditions of the Phasing Plan, Master Site Plan, Preliminary Plat, and applicable City Ordinances. Developer shall also submit for review and approval by the City a final site plan for each phase of development containing Town Homes or Condominiums. The final site plan for each phase shall comply with the Phasing Plan, Master Site Plan, Preliminary Plat, and applicable City Ordinances, including, but not limited to, the Site Plan Review Ordinance as set forth in Section 12-21-110 of the City Zoning Ordinance.

g. Time Restrictions. By City Ordinance, the rezoning of the Property to PDO zoning is subject to submission, approval and recording of a final subdivision plat within one (1) year from the effective date of approval of the Preliminary Plat. For purposes of this approved Phasing Plan for the Planned Development, a final subdivision plat for Phase 1 shall be submitted, approved and recorded within one (1) year from the effective date of approval of the Preliminary Plat. For successive phases, Developer shall file a completed application for final subdivision plat within one (1) year from the date of approval of the previous phase. Phase 1 must be platted and developed prior to or concurrent with successive phases. Subsequent phases may be developed in any order, provided Phase 2 is platted and developed prior to or concurrent with Phase 4, Phase 3 is platted and developed prior to or concurrent with Phase 5, and Phase 5 is platted and developed prior to or concurrent with Phase 6, and subject to compliance with all the terms and conditions of this Agreement and approved plans for previous phases. By City Ordinance, substantial construction shall be commenced within one (1) year from the date of final plat recording. For purposes of this approved Phasing Plan for the

Planned Development, substantial construction shall be commenced for each phase within one (1) year from the date of final plat recording for the subject phase. All construction and development shall proceed in a timely manner. Extensions to time frames set forth herein may be granted in accordance with applicable City Ordinances.

h. Phases of Remediation. No final subdivision plat for any phase of the Planned Development shall be recorded until and unless all conditions and requirements of pre-development remediation of the Property have been completed and certified in accordance with the approved Remediation Plan. At a minimum, pre-development remediation shall include the installation of dewatering and sump pump systems; excavation, cleaning, and refilling of the compost trenches to within two feet (2') of final grade for all property within the phase and any property within one hundred feet (100') of such phase boundary; removal of excavation material off-site or stockpiled; and verification and certification of the same in accordance with the Remediation Plan. No building permits shall be issued for construction within any phase or plat for the Planned Development until and unless all conditions and requirements of pre-building permit remediation for that portion of the Property within the boundaries of the subject phase and plat have been completed and certified in accordance with the approved Remediation Plan. At a minimum, pre-building permit remediation shall include the box culvert reconstruction; storage tank removal; excavation of contaminated soils (BH-24); septic tank and leach field clean-up; Gold house survey and removal (if load bearing); and verification and certification of the same in accordance with the Remediation Plan. No certification of occupancy shall be issued for any dwelling unit within any phase or plat until and unless all conditions and requirements of final remediation for that portion of the Property within the boundaries of the phase and plat have been completed and certified in accordance with the approved Remediation Plan. At a minimum, final remediation shall include final certification and acceptance of all remediation measures required within the phase.

3. **Full Force and Effect.** The terms of this Amendment are hereby incorporated as part of the Agreement. All other terms and conditions of the Agreement not modified by this Amendment shall remain the same and are hereby ratified and affirmed. To the extent the terms of this Amendment modify or conflict with any provisions of the Agreement, the terms of this Amendment shall control.

4. **Binding Effect.** This Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective officers, employees, representatives, successors and assigns.

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

"CITY"

CENTERVILLE CITY

ATTEST:

Marilyn Holje, City Recorder

By: _____
Mayor Ronald G. Russell

"DEVELOPER"

CITYVIEW PINEAE VILLAGE 227, L.P.

By: CityView Pineae Village, LLC, a Delaware limited liability company, its General Manager

By: _____
Sean Burton, Managing Director

CITY ACKNOWLEDGMENT

STATE OF UTAH)
:ss.
COUNTY OF DAVIS)

On the 26th day of November, 2007, personally appeared before me Ronald G. Russell, who being duly sworn, did say that he is the Mayor of **CENTERVILLE 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 Ronald G. Russell acknowledged to me that the City executed the same.

NOTARY PUBLIC
MARSHA L. MORROW
250 North Main
Centerville Utah 84014-1824
My Commission Expires
April 11, 2008
STATE OF UTAH

Marsha L. Morrow
Notary Public

My Commission Expires:
4-11-08

Residing at:
Centerville

DEVELOPER ACKNOWLEDGMENT

STATE OF California)
:ss.
COUNTY OF Los Angeles

On the 19 day of December, 2007, personally appeared before me Sean Burton who being by me duly sworn did say that (s)he is the Managing Director of **CITYVIEW PINEAE VILLAGE, LLC,** a Delaware limited liability company, the General Partner of **CITYVIEW PINEAE VILLAGE 227, L.P.,** a Delaware limited partnership, and that the foregoing instrument was signed in behalf of said company by authority of its Members, and (s)he acknowledged to me that said company executed the same.

ANGELA ADRIATICO
Commission # 1481525
Notary Public - California
Los Angeles County
My Comm. Expires May 6, 2008

Angela Adriatico
Notary Public

My Commission Expires:
May 6, 2008

Residing at:
301 S. Reeves Dr.
Beverly Hills, CA
90212

Exhibit 1

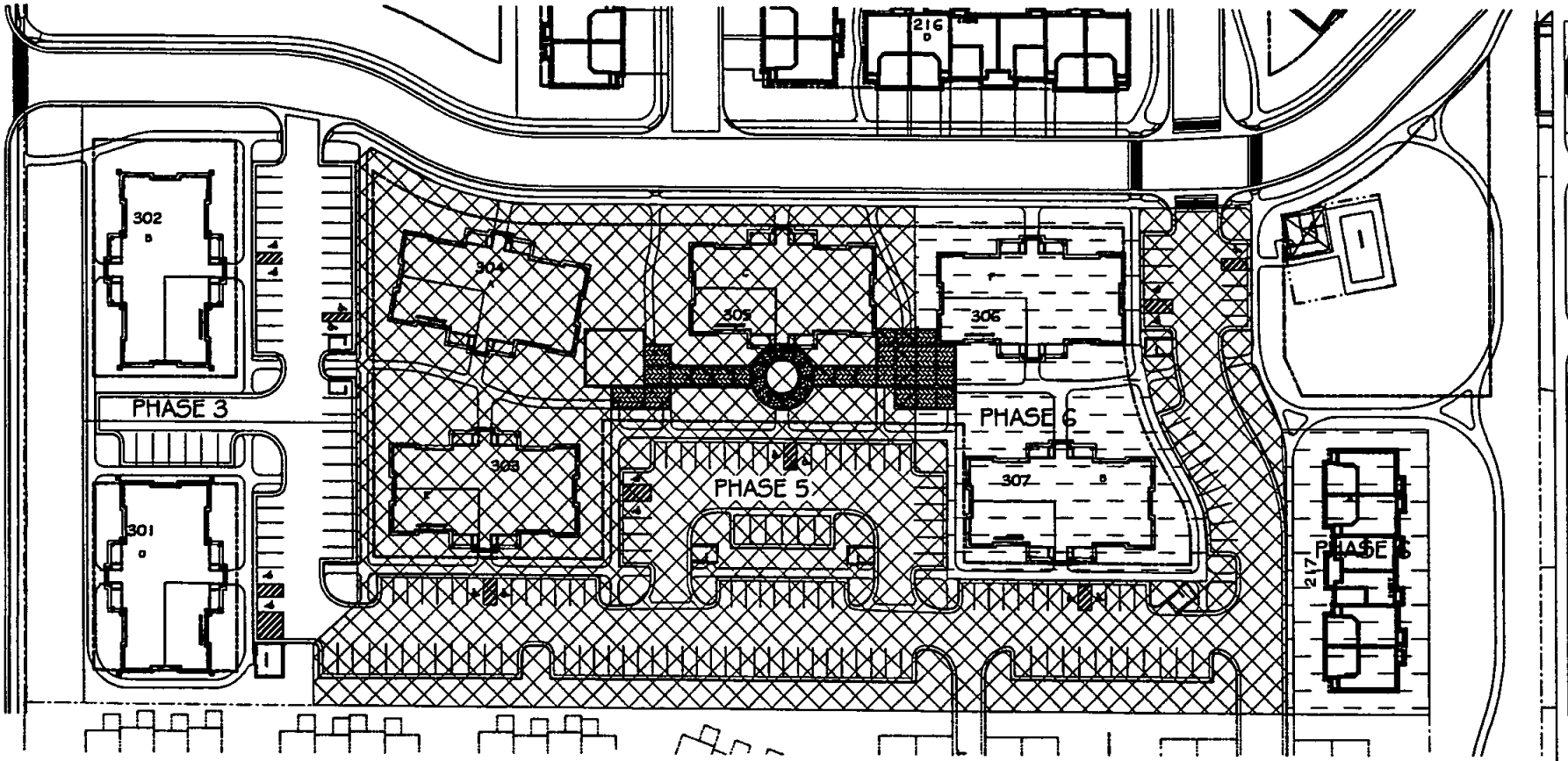
Property Description

BEGINNING AT A POINT WHICH IS N 0°24'15" E, 1033.69 FEET AND N 89°35'45" W, 33.00 FEET SAID POINT BEING THE SOUTHEAST CORNER OF LOT 3, BLOCK "B" BIG CREEK PLAT CENTERVILLE TOWNSITE SURVEY AND N 0°24'15" E, 75.25 FEET FROM A COUNTY MONUMENT LOCATED AT THE INTERSECTION OF PARRISH LANE AND MAIN STREET AND RUNNING THENCE N 89°50'00" W 832.44 FEET; THENCE SOUTH 567.17 FEET; THENCE WEST 69.30 FEET; THENCE N 00°04'57" E 242.94 FEET; THENCE N 89°39'51" W 861.63 FEET; THENCE N 00°07'35" FEET E 907.83 FEET; THENCE N 89°49'43" E 276.16 FEET; THENCE N 00°05'01" E 0.52 FEET; THENCE EAST 587.28 FEET; THENCE N 00°02'40" E 10.00 FEET; THENCE E 66.50 FEET; THENCE S 00°02'40" W 10.00 FEET; THENCE N 89°30'06" E 700.55 FEET; THENCE S 101.54 FEET; THENCE WEST 20.00 FEET; THENCE SOUTH 273.72 FEET; THENCE EAST 150.63 FEET; THENCE SOUTH 50.00 FEET; THENCE S 00°00'49" W 165.00 FEET; THENCE S 00°24'15" W 8.25 FEET TO THE POINT OF BEGINNING.

CONTAINS 1,305,486 SQUARE FEET OR 29.970 ACRES, MORE OR LESS.

Exhibit 2

Exhibit "O" to the Development Agreement
Phasing Plan



PHASE 5

PHASE 6

N

MODEL HOME:
VILLAS

LOCATION:
PINEAE
PHASE
CENTERVILLE, UT

PINEAE PHASES

CONTRACTOR TO VERIFY ALL CONDITIONS AND DIMENSIONS

DRAWN BY: L.GROVER
FILE NAME: PINEAESITE
SCALE: 1/64"=1'-0"
DATE: 8/28/07
SHEET #
01