

08-060-0039, 0036
08-053-0068, 0065
08-075-0067, 0047

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BK 4962 PG 680

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
02/16/2010 01:43 PM
FEE \$37.00 Pgs: 12
DEP RT REC'D FOR FARMINGTON CITY

**DEVELOPMENT AGREEMENT FOR
PARK LANE COMMONS**

THIS AGREEMENT (the "Agreement") is made and entered into as of the 12 day of February, 2010, by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the "City," and **THE HAWS COMPANIES**, a Utah Corporation, hereinafter referred to as the "Developer."

RECITALS:

A. Developer controls approximately 33 acres of land located within the City known as "Park Lane Commons", which property is more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof (the "Property"). Developer desires to develop the Property under the TMU zone, to be known as Park Lane Commons. Park Lane Commons (or the Property) may be constructed in phases consisting of one or more buildings per phase.

B. The City rezoned the Property from A to TMU on February 2nd, 2010, and the Property is now subject to all City ordinances and regulations including the provisions of the TMU zone and the associated Regulating Plan.

C. Thereafter, on February 2nd, 2010, the City approved a project master plan (the "PMP") for the Property in accordance with Chapter 18 of the City's Zoning Ordinance. The approved PMP is attached hereto as **Exhibit "B"**, and incorporated herein by reference. The PMP contains modifications to the Farmington TOD Regulating Plan (the "Modified Regulating Plan") pursuant to Sections 11-18-104(3) and 11-18-108(b)(1) of the City's Zoning Ordinance. The PMP shows the general layout of future streets, but is not intended to enable future development of the property without further land use approvals, as it is contemplated that future development on the majority of the site will require the presentation and consideration of additional Project Master Plans.

D. The Property is subject to all City ordinances, rules and regulations including the provisions of the City's General Plan, the City's zoning ordinances, the City's engineering development standards and specifications and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively, the "City's Laws").

E. Persons and entities hereafter developing the Property or any portions of the Property thereon shall accomplish such development in accordance with the City's Laws, and the provisions set forth in this Agreement.

F. The City also recognizes that the development of Park Lane Commons, and any future phase thereof may result in tangible benefits to the City through the stimulation of development in the area of the Modified Regulating Plan, including a possible increase of the City's tax base and the development of amenities that may enhance further economic development efforts in the vicinity of the Property, and is therefore willing to enter into this Agreement, subject to the terms and conditions set forth herein.

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 hereby agree as follows:

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Agreement.

2. **Subdivision of the Property.** The PMP does not constitute a subdivision of the Property or any portion thereof. However, a "Schematic Plat Map", attached as **Exhibit "C"**, has been approved and forms the basis for the anticipated subdivision of the Property. Any subdivisions of the Property hereafter shall comply with the City's Laws. Where required by the City's Ordinances, specific final subdivision plats for each portion of the Property which are developed by the Developer or any subsequent developer shall be submitted for approval by the City in accordance with the City's development standards, the PMP, the Modified Regulating Plan, and the City's Laws. All portions of the Property receiving final subdivision approval must be developed in strict accordance with the approved final plat for that portion of the Property. No amendments or modifications to the approved final subdivision plats for any portion of the Property shall be made by the Developer or any subsequent developers without the reasonable written consent of the City. Notwithstanding the provisions contained in this Agreement, nothing contained herein shall be construed as granting final plat approval to the Developer or any subsequent developers for any portion of the Property.

3. **Development of the Property.** The Property shall be developed by Developer and/or Developer's successors and assigns in accordance with the following provisions:

- a. **Compliance with City Laws and Development Standards.** The Property and all portions thereof shall be developed in accordance with the City's Laws, the PMP, (which includes modifications to the Regulating Plan), and this Agreement. This Agreement and the approved PMP together constitute all that is required for PMP approval.
- b. **Expanding PMP Property.** Developer, with the reasonable approval of the City, may add any land which it controls and is located contiguously to the Property to this Agreement. Any land so added shall be subject to the terms and conditions of this Agreement and Exhibit A shall be amended to include the added property.
- c. **Streets and Related Improvements.**
 - i. Developer will construct and/or improve and dedicate to the City the streets shown on the final subdivision plats and/or site plans for the Property. Construction and/or improvement of the streets shall include all curb, gutter, paving, sidewalks, park strips and related utilities as shown on the approved improvement drawings. All construction and improvement shall be in accordance with City-approved design and construction standards and requirements. In the event Developer constructs System Improvements within the meaning of the Utah

Impact Fees Act, Developer shall have the right to receive impact fee credits at the time such impact fees are due or to the extent said impact fees are insufficient to fully reimburse Developer, such amounts shall be reimbursed through a reimbursement agreement for the land and improvements as specifically set forth in a development or reimbursement agreement for each phase of the Property.

ii. In accordance with the City's Ordinances, Developer shall post a bond reasonably acceptable to the City prior to commencement of construction on the Property or any phase thereof.

4. **Alternative Approval Process.** Developer and/or Developer's successors and assigns may apply to develop any phase of Park Lane Commons greater than 3 acres in size in accordance with an alternative approval process as set forth in section of 11-18-114 of the City's zoning ordinance, and the City may approve any such application pursuant to said section.

5. **Payment of Fees.** The Developer shall cause to be paid to the City all required fees in a timely manner. Fees shall be paid in those amounts which are applicable at the time the fees are paid. Payment of all such fees shall be pursuant to and consistent with standard City procedures and requirements.

6. **City Obligations.** Subject to Developer complying with all of the City's Laws and the provisions of this Agreement, the City agrees to maintain the public improvements dedicated to the City following satisfactory completion thereof and acceptance of the same by the City, and passage of warranty periods, and to provide standard municipal services to the Project including, but not limited to, police and fire protection subject to the payment of all fees and charges charged or levied therefor by the City.

7. **Vesting of Rights.** Developer shall have the right to have development and construction applications processed on a segmented permit basis, allowing for footings and foundation and grading permits prior to full completion of all public improvements in accordance with this Agreement and future development agreements for each phase of development.

8. **Indemnification and Insurance.** Developer hereby agrees to indemnify and hold the City and its officers, employees, representatives, agents and assigns harmless from any and all liability, loss, damage, costs or expenses, including attorneys fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to property of any person which shall occur within the Property or any portion of the Project or occur in connection with any off-site work done for or in connection with the Project or any phase thereof which shall be caused by any acts or omissions of the Developer or its assigns or of any of their agents, contractors, servants, or employees at any time. Developer shall furnish, or cause to be furnished, to the City a reasonably satisfactory certificate of insurance from a reputable insurance company evidencing general public liability coverage for the Property and the Project in a single limit of not less than Two Million Dollars (\$2,000,000) and naming the City as an additional insured.

9. **Right of Access.** Representatives of the City shall have the reasonable right of access to the Project and any portions thereof during the period of construction to inspect or observe the Project and any work thereon.



15. **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.

16. **Non-Liability of City Officials, Employees and Others.** No officer, representative, agent, or employee of the City shall be personally liable to the Developer, or any successor-in-interest or assignee of the Developer in the event of any default or breach by the City or for any amount which may become due Developer, or its successors or assigns, for any obligation arising under the terms of this Agreement unless it is established that the officer, representative, agent or employee acted or failed to act due to fraud or malice.

17. **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.

18. **No Third-Party Rights.** The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The parties hereto alone shall be entitled to enforce or waive any provisions of this Agreement.

19. **Recordation.** This Agreement shall be recorded by the City against the Property in the office of the Davis County Recorder, State of Utah.

20. **Relationship.** Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties hereto.

21. **Termination.** Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the Project is not completed within five (5) years from the date of this Agreement or in the event the Developer does not comply with the City's Laws and the provisions of this Agreement, the City shall have the right, but not the obligation at the sole discretion of the City, which discretion shall not be unreasonably applied, to terminate this Agreement and/or to not approve any additional phases for the Project. Such termination may be effected by the City by giving written notice of intent to terminate to the Developer set forth herein. Whereupon, the Developer shall have sixty (60) days during which the Developer shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to complete the Project. In the event Developer fails to satisfy the concerns of the City with regard to such matters, the City shall be released from any further obligations under this Agreement and the same shall be terminated.

22. **Severability.** If any portion of this Agreement is held to be unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

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

24. **Exhibits.** This Agreement contains the following exhibits, which by this reference are incorporated herein and made a part thereof:

Exhibit A Legal Description of Property – 33 acres
Exhibit B PMP
Exhibit C Schematic Plat Map

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”

FARMINGTON CITY

ATTEST:

Margy L Romax
City Recorder

By: [Signature]
Mayor



“DEVELOPER”

THE HAWS COMPANIES

By: [Signature]

Its: PRESIDENT

CITY ACKNOWLEDGMENT

STATE OF UTAH)
)
:SS.
COUNTY OF DAVIS)

On the 12th day of February, 2010, personally appeared before me Scott C. Harbertson, who being duly sworn, did say that he is the Mayor of **FARMINGTON 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 Scott C. Harbertson acknowledged to me that the City executed the same.

Margy L. Lomax
Notary Public

My Commission Expires:

11/29/2011

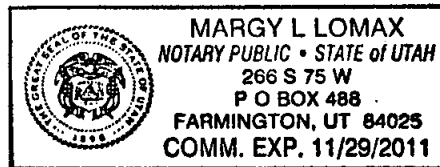
Residing at:

Davis Co. Utah

DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
)
:SS.
COUNTY OF DAVIS)

On the 11th day of FEBRUARY, 2010, personally appeared before me RICHARD A. HAWS who being by me duly sworn did say that (s)he is the PRESIDENT of **THE HAWS COMPANIES**, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; and they acknowledged to me that said corporation executed the same.



Scott Harwood
Notary Public

My Commission Expires:

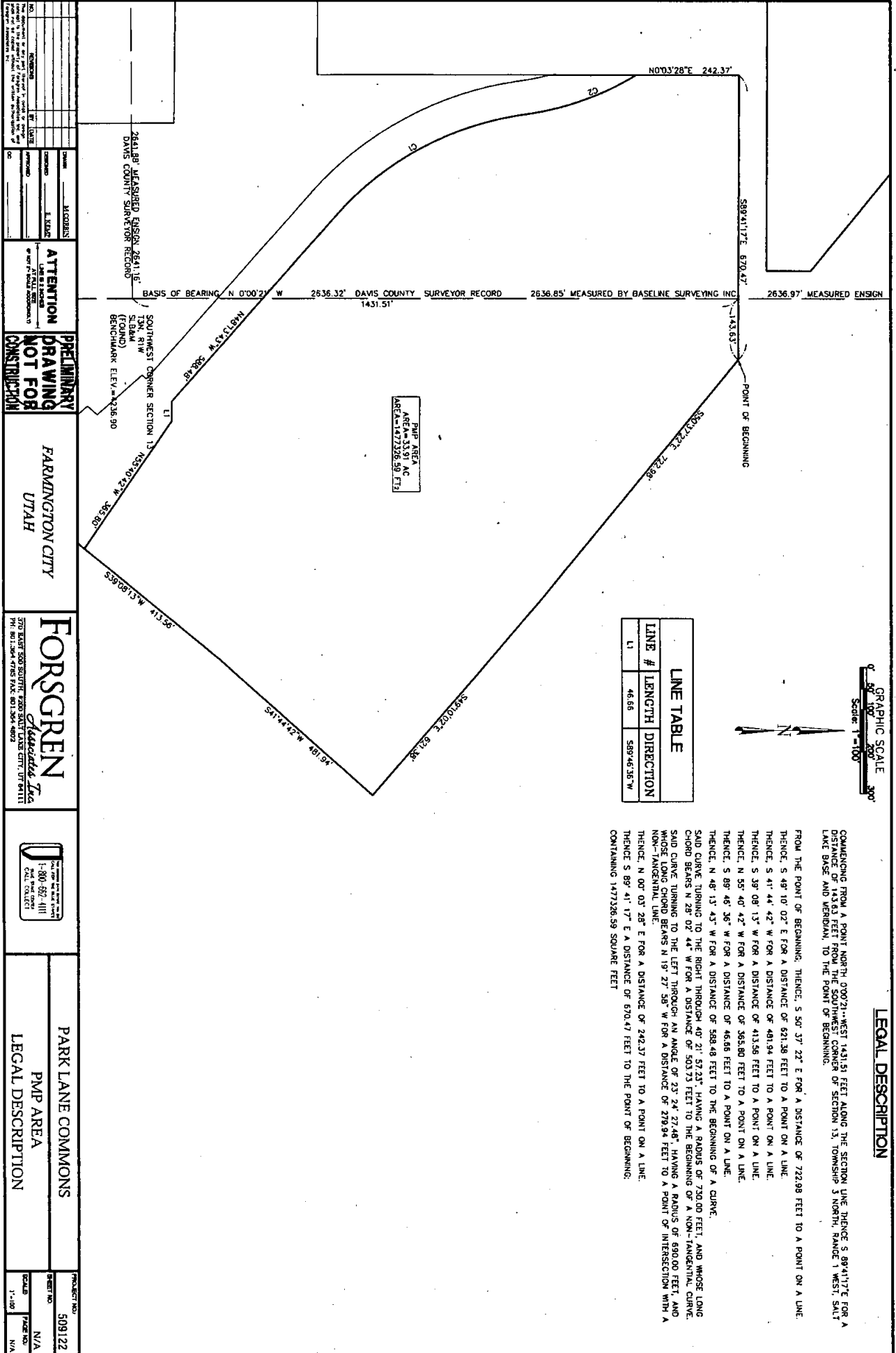
10/12/11

Residing at:



Exhibit A
[Legal Description of the Property]

P:\2009\509122 - Station Park Drafting\CAD - Sheets\Exhibits\Proposed Park Lane Village PMP Parcel.dwg - MCOBEN - 2/2/2010 9:11 AM



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	46.66	589°46'36\" W

LEGAL DESCRIPTION

COMMENCING FROM A POINT NORTH 0°00'21\" WEST 1431.51 FEET ALONG THE SECTION LINE THENCE S 89°41'17\" E FOR A DISTANCE OF 143.63 FEET FROM THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING, THENCE, S 50° 37' 27\" E FOR A DISTANCE OF 722.98 FEET TO A POINT ON A LINE THENCE, S 48° 10' 02\" E FOR A DISTANCE OF 621.38 FEET TO A POINT ON A LINE THENCE, S 41° 44' 42\" W FOR A DISTANCE OF 481.94 FEET TO A POINT ON A LINE THENCE, S 39° 08' 13\" W FOR A DISTANCE OF 413.56 FEET TO A POINT ON A LINE THENCE, N 55° 40' 42\" W FOR A DISTANCE OF 365.80 FEET TO A POINT ON A LINE THENCE, S 89° 46' 36\" W FOR A DISTANCE OF 46.66 FEET TO A POINT ON A LINE THENCE, N 48° 13' 43\" W FOR A DISTANCE OF 588.48 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH 40° 21' 57.23\" HAVING A RADIUS OF 750.00 FEET, AND WHOSE LONG CHORD BEARS N 28° 02' 44\" W FOR A DISTANCE OF 503.73 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 23° 24' 27.48\" HAVING A RADIUS OF 690.00 FEET, AND WHOSE LONG CHORD BEARS N 19° 27' 58\" W FOR A DISTANCE OF 279.94 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE THENCE, N 00° 03' 28\" E FOR A DISTANCE OF 242.37 FEET TO A POINT ON A LINE THENCE, S 89° 41' 17\" E A DISTANCE OF 670.47 FEET TO THE POINT OF BEGINNING, CONTAINING 1477326.99 SQUARE FEET

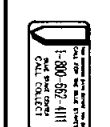
ATTENTION
DRAWING NOT FOR CONSTRUCTION

PRELIMINARY
DRAWING NOT FOR CONSTRUCTION

FARMINGTON CITY
UTAH

FORSGREEN
Consultants, Inc.

370 EAST 500 SOUTH, 2200 SOUTH LANE CITY, UT 84111
PH: 801.364.4785 FAX: 801.364.4802



PARK LANE COMMONS
PMP AREA
LEGAL DESCRIPTION

PROJECT NO. 509122
SHEET NO. N/A
SCALE 1\"/>

Exhibit B
"PMP"

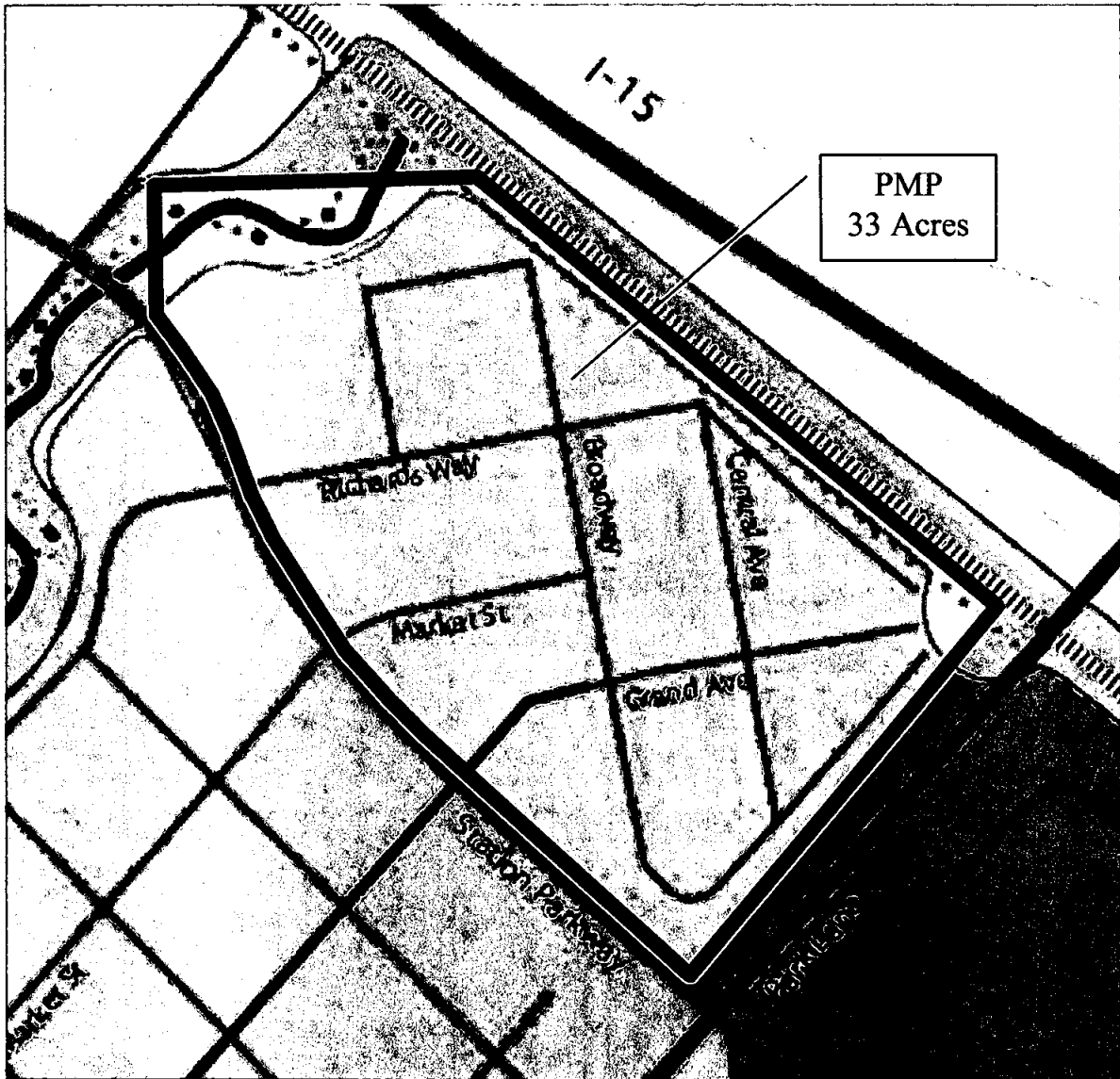


Exhibit C
[Schematic Plat Map]

FORSYTH

FORSEYTH ASSOCIATES, INC.
 2000 S. WASHINGTON BLVD., SUITE 100
 PHOENIX, ARIZONA 85004

IRRIGATION COMPANY APPROVAL
 APPROVED THIS _____ DAY OF _____ A.D. 20__

SEWER DISTRICT APPROVAL
 APPROVED THIS _____ DAY OF _____ A.D. 20__

PLANNING COMMISSION
 APPROVED THIS _____ DAY OF _____ A.D. 20__

FARMINGTON CITY ENGINEERS
 APPROVED THIS _____ DAY OF _____ A.D. 20__

APPROVAL AS TO FORM
 APPROVED AS TO FORM THIS _____ DAY OF _____ A.D. 20__

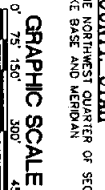
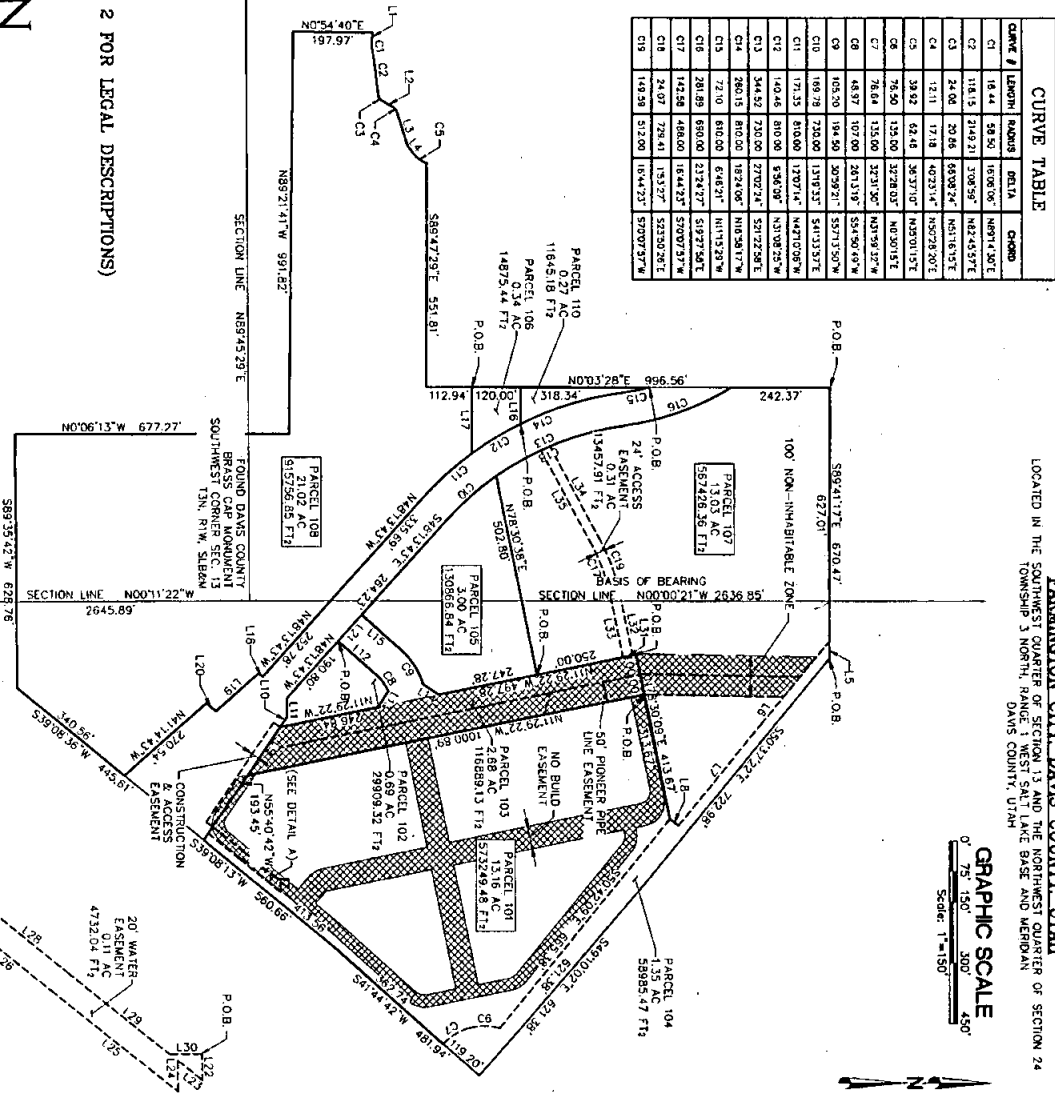
CITY COUNCIL APPROVAL
 PRESENTED TO FARMINGTON CITY COUNCIL THIS _____ DAY OF _____ A.D. 20__

DAVIS COUNTY RECORDER
 ENTRY NO. _____ FEE PAID _____
 FILED FOR RECORD AND RECORDED THIS _____ DAY OF _____ IN BOOK _____

(SEE SHEET 2 FOR LEGAL DESCRIPTIONS)

LINE #	LENGTH	BEARING	CHORD
L1	19.10	S82°42'27"E	18.914307E
L2	27.03	N50°18'43"E	26.845977E
L3	88.87	N72°11'01"E	86.518157E
L4	28.14	N53°19'50"E	27.828207E
L5	43.46	N68°41'17"E	42.011571E
L6	28.03	S60°27'27"E	27.828207E
L7	37.00	S50°51'43"E	36.518157E
L8	28.87	S39°27'28"E	27.828207E
L9	143.47	S55°46'42"E	139.513070E
L10	28.88	S55°46'42"E	27.828207E
L11	48.68	N68°41'17"E	47.011571E
L12	138.06	S44°14'00"E	133.130104E
L13	45.98	N07°19'50"E	44.518157E
L14	47.04	S13°10'44"E	45.518157E
L15	138.01	S44°14'00"E	133.130104E
L16	90.00	N68°41'17"E	87.011571E
L17	162.87	N68°41'17"E	157.713071E
L18	13.38	N41°46'17"E	13.130104E
L19	140.39	N41°46'17"E	135.713071E
L20	30.00	N41°46'17"E	29.518157E
L21	87.50	S01°13'41"E	86.518157E
L22	21.96	N82°27'28"E	21.828207E
L23	25.92	N82°27'28"E	25.713071E
L24	25.92	S82°27'28"E	25.713071E
L25	107.88	N82°27'28"E	106.518157E
L26	93.14	N82°27'28"E	91.828207E
L27	20.08	S55°46'42"E	19.518157E
L28	90.21	S55°46'42"E	87.011571E
L29	106.18	S55°46'42"E	102.518157E
L30	28.84	S07°27'27"E	28.713071E
L31	24.00	S17°27'27"E	23.828207E
L32	151.58	N83°00'00"E	147.518157E
L33	151.58	N83°00'00"E	147.518157E
L34	258.42	S83°42'46"E	252.518157E
L35	203.28	S83°42'46"E	197.518157E

CURVE #	LENGTH	RAIUS	DELTA	CHORD
C1	18.44	89.50	108.000°	18.914307E
C2	114.13	2142.21	208.59°	114.130104E
C3	24.00	20.66	60.000°	23.828207E
C4	12.11	17.18	40.314°	12.110104E
C5	38.82	62.48	38.370°	38.820104E
C6	78.50	125.00	32.200°	78.500104E
C7	78.84	135.00	32.300°	78.840104E
C8	48.97	107.00	24.139°	48.970104E
C9	105.50	184.50	30.921°	105.500104E
C10	189.78	320.00	33.933°	189.780104E
C11	171.33	310.00	33.933°	171.330104E
C12	140.48	310.00	33.933°	140.480104E
C13	344.52	720.00	27.072°	344.520104E
C14	280.15	810.00	18.240°	280.150104E
C15	72.10	810.00	6.042°	72.100104E
C16	20.88	890.00	2.372°	20.880104E
C17	142.58	488.00	18.423°	142.580104E
C18	24.07	278.41	15.327°	24.070104E
C19	149.38	512.00	18.423°	149.380104E



PARK LANE COMMONS

FARMINGTON CITY, DAVIS COUNTY, UTAH
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 13 AND THE NORTHEAST QUARTER OF SECTION 24
 TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN
 DAVIS COUNTY, UTAH

SUBVEYORS CERTIFICATE
 I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. _____ AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH AND I HAVE MADE A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY, THE PURPOSE OF THIS SURVEY IS TO MARK THE BOUNDARY OF THE BELOW DESCRIBED PROPERTY IN THE FIELD WITH A REBARS AND/OR AN INSTRUMENT SHOWING THE SURVEY, THE INSTRUMENT SHOWING THE SURVEY, THE INSTRUMENT ON THE BASIS OF BEARING IS AS NOTED FROM -

STATE OF UTAH } S.S.
 COUNTY OF SALT LAKE }
 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE COUNTY OF SALT LAKE IN SAID STATE OF UTAH THE SIGNERS OF THE ABOVE CERTIFICATE TWO IN NUMBER, WHO DULY ACKNOWLEDGED TO ME THAT HE, _____ IS A _____ OF _____ AND THAT THEY SIGNED IT FREELY AND VOLUNTARILY AND FOR THE USE AND PURPOSE THEREIN MENTIONED.
 MY COMMISSION EXPIRES _____

NOTARY PUBLIC
 RESIDING IN _____
 AND DO HEREBY DEDICATE THE STREETS AS INDICATED HEREON (PARCEL 103) AND TRAIL (PARCEL 104) FOR PERPETUAL USE OF THE PUBLIC. THE UNDERSIGNED FURTHER CONSENTS TO THE RECORDATION OF THIS PLAT IN ACCORDANCE WITH UTAH STATE LAW.
 IN WITNESS WHEREOF, WE HAVE HERETO UNTO SET OUR HAND(S) THIS _____ DAY OF _____ A.D. 20__

BY: DAUFUSQUE INVESTMENTS II, LLC
 BY: FARMINGTON SQUARE, LLC
 BY: PARK LANE VILLAGE PARTNERS LLC

BY: _____ DAY OF _____ A.D. 20__

BY: _____ DAY OF _____ A.D. 20__

BY: _____ DAY OF _____ A.D. 20__

BY: _____ DAY OF _____ A.D. 20__