

When recorded mail to:
Tax Notices Mailed to:
Sawmill 4 & 5, LLC
947 South 500 East Suite100
American Fork, Utah 84003
00-0021-1526
00-0020-8292
00-0020-8286
00-0012-1967

Ent 495669 Bk 1342 Pg 1829-1837
Date: 11-MAR-2021 11:14:53AM
Fee: \$40.00 Check Filed By: HP
MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: SAWMILL 16 LLC

SUBDIVISION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND

(Sawmill Subdivision Phases 1B, 4, and 5)

THIS AGREEMENT entered into this 12th day of September, 2019 by and between Heber City, hereinafter referred to as "City" and the undersigned as "Developer".

WHEREAS, the Developer/petitioner has proposed the Sawmill Subdivision Phases 1B, 4, and 5;

WHEREAS, the Sawmill Development is developing under the repealed Planned Community Mixed Use (PCMU) zone.

WHEREAS, the Developer has requested to transfer 8 twin home units from phase 4 to phase 6 and 8 single family units from Phase 6 to Phase 4.

WHEREAS, the City finds that the transfer of the units do not violate the PCMU zone and further the Council directive to transition the density from lower density along Mill Road to the higher density along 500 East.

WHEREAS, the City finds that the PCMU zone contains a loophole that requires either a porch of 75% of the façade width, or no porch at all.

WHEREAS, the City finds that requiring a porch smaller than required in the PCMU zone, where no porch is an option, is in the interest of the City in preserving the intent of the architectural design requirements of the PCMU zone and the architectural theme of the development.

NOW, THEREFORE, the parties hereby agree as follows:

1. With respect to Exhibit A (the final subdivision plats), the Developer shall, prior recording a subdivision plat, transfer to the City all required water rights necessary for development in the form of diversion water rights acceptable to the City. Developer shall escrow and maintain sufficient funds with City to cover the additional cost incurred by the City for any vacant lots which have had water rights transferred to the City using "Supplemental" water rights such as Timpanogos Class D.

2. Issuance of building permits and acceptance of these phases shall not occur until all underground utilities curb, and asphalt are installed and operational per State code and regulations, and Heber City code. In addition, building permits shall not occur until the completion and acceptance of certain road and utility improvements by the Brookside Phase 1 and Phase 5 developments in 1200 South and Sawmill Blvd. Building permits for Sawmill Phase 5 shall not occur until the completion and acceptance of secondary access to Mill Road through Sawmill Phase 4 or Sawmill Phase 1B.
3. Developer will establish a Home Owner's Association (HOA) and record appropriate documents with the final plat to establish an HOA for the maintenance of common areas, and enforcement of HOA regulations.
4. Developer shall transfer 8 twin home units from Phase 4 to Phase 6 in exchange for 8 single family units from Phase 6 to Phase 4.
5. Developer shall align Tingey Lane, and its intersection with Sawmill Blvd, in a manner satisfactory to the City Engineer, to permit Tingey Lane to connect in the future to Hidden Creek Lane, east of Mill Road.
6. Developer shall provide a porch of no less than 50% of the front façade width when the lack of a porch would otherwise preclude the building from meeting the 75% façade width requirements. Porches shall be at least 5 feet in depth unless a greater depth is required under the PCMU code.
7. Developer shall landscape the planter strips along Sawmill Blvd, including the required street trees.
8. Repair and maintenance, including snow removal, of parking "bump outs" approved by the City and constructed along public roads shall be the responsibility of the HOA.
9. Developer shall construct the west side of Mill Road along the USA Forest Service property frontage to the City's 72-foot Major Collector street standard, including utilities, curb, gutter, sidewalk, and a 2 inch overlay on the existing street asphalt as part the improvements in Sawmill Phase 4. Developer shall also construct a 4-foot minimum sidewalk along the Earnshaw property frontage to provide a connection between sections of the Mill Road trail.
10. Developer agrees to abide by nationally accepted best management practices for Storm water Pollution Prevention and obtain and necessary state or federal permits for such.
11. Water to this project will be provided by a water line installed by a prior developer in Mill Road. Developer shall deposit with City prior to plat recordation \$19,691 (Ph1B 353ft + Ph4 387ft @ \$26.61 per ft) to reimburse prior developer for this project's share of said water line.
12. All streets, utilities, and improvements will be constructed to property lines.

13. Developer will provide a copy of their noxious weed control plan approved by the Wasatch County Weed Control Board prior to recording the plat and implement approved measures prior to project acceptance by the City.
14. All aforementioned improvements shall consist of frontage improvements of curbs, sidewalks, pavements, inlets, planting of trees and placing of monuments, as required and consistent with Heber City Standards, including but not limited to required subdivision improvement requirements. Said standards will also include changes from the spring 2019 update to be adopted by the City.
15. Said improvement costs will be paid by the Developer, their assigns, transferees or successors as owners or Developers. The Developer shall be obligated to disclose and notify in writing its immediate successors in ownership or Developers of the requirements of this Agreement.
16. Developer shall execute a performance agreement and provide a cash bond or letter of credit in a form acceptable to City guaranteeing the improvements related to subdivision.
17. The parties agree that the improvements will be required at the time of development, and that no building permits shall be issued thereto without the completion of all underground utilities, curb, and asphalt per State code and regulations, and Heber City Standards and ordinances.
18. Upon the full and complete performance of all of the terms and conditions of this Agreement by the Developer, their assigns, transferees or successors, and upon approval of the improvements, the City agrees to take over roads as shown on the field map and those areas shown on the recorded subdivision plats as dedicated to the public, and maintain them as public works and public highways of the City without assessment for the construction of improvements as set out in the plans and specifications. Nothing contained here shall be construed in any way to render the City liable for any charges, costs, or debts for material, labor, or other expenses incurred in the making of these improvements.
19. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.
20. This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified or altered except in writing approved by the parties.
21. Time is of the essence of this Agreement. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.

22. This Agreement shall be a covenant running with the land, and shall be binding upon the parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

HEBER CITY:

By: Kelleen Potter

Kelleen Potter, Mayor



ATTEST:

Irina N. Carter
Heber City Recorder

OWNER, Sawmill 4 & 5, LLC,
a Utah Limited Liability Company

By: Brad A. Jensen

Its: Manager

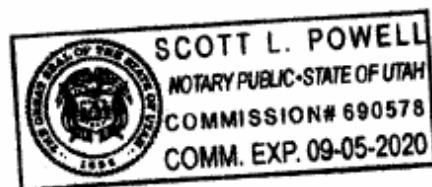
STATE OF UTAH)

: ss.

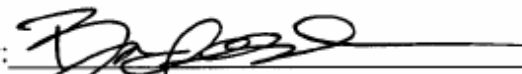
COUNTY OF Utah)

On this 12 day of September, 2019, personally appeared before me, Brad A. Jensen, who being duly sworn, did say that he is the Manager of Sawmill 4 & 5 LLC, A Utah limited liability company, and that said instrument was signed on behalf of said company by authority of statute, its article or organization or its operating agreement and that Brad A. Jensen, acknowledged to me that said limited liability company executed the same.

Scott L. Powell
NOTARY PUBLIC

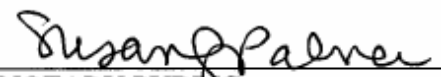


OWNER, Sawmill 16, LLC
A Utah limited liability company

By: 
Brad A. Jensen
Its: Manager

STATE OF UTAH)
 :SS
COUNTY OF Utah)

On this 16 day of September, 2019, personally appeared before me, Brad A. Jensen, who being duly sworn, did say that he is the Trustee of Prime Directive Irrevocable Trust dated 7/18/2016 which is the Manager of Sawmill 16, LLC, A Utah limited liability company, and that said instrument was signed on behalf of said company by authority of statute, its article or organization or its operating agreement and that Brad A. Jensen, acknowledged to me that said limited liability company executed the same.


NOTARY PUBLIC

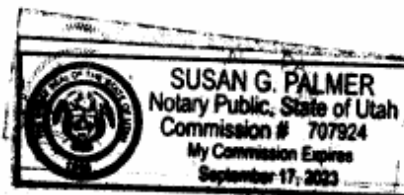
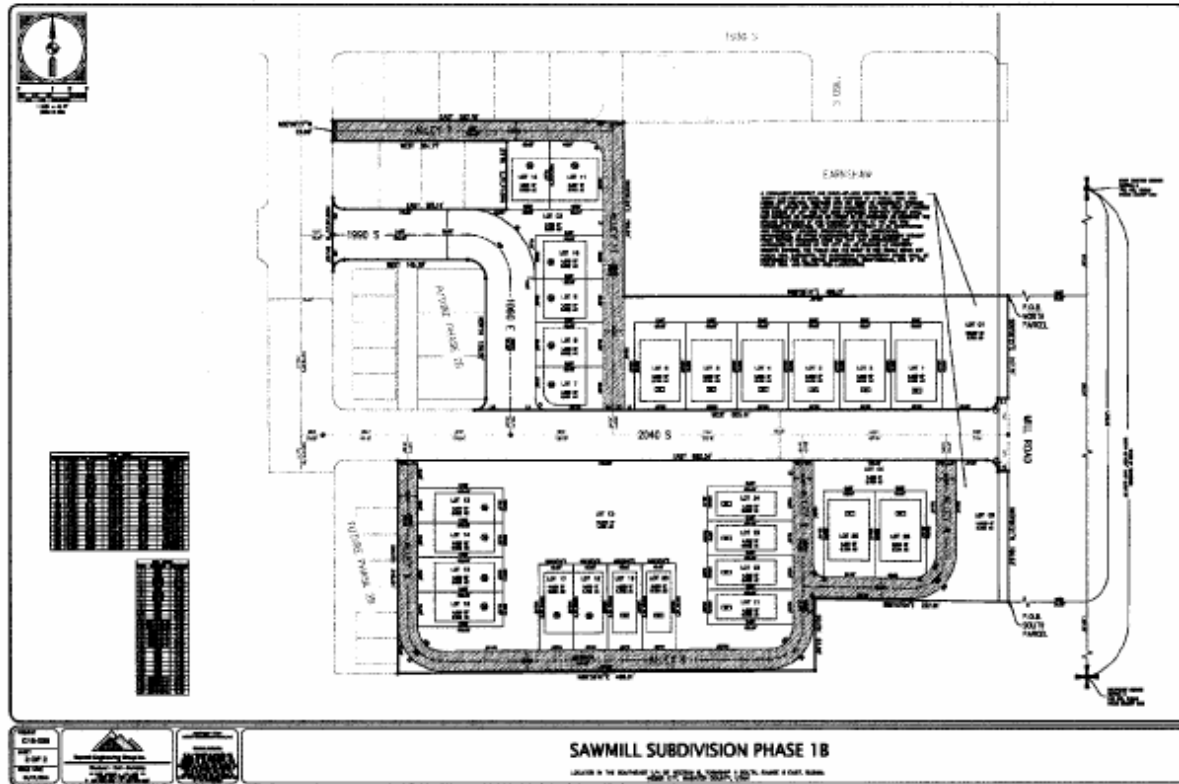


EXHIBIT A**PROPOSED PHASE 1B PLAT & DESCRIPTION****NORTH PARCEL BOUNDARY DESCRIPTION**

BEGINNING AT A POINT LYING SOUTH 00°15'51" EAST ALONG THE SECTION LINE 917.81 FEET AND WEST 33.22 FEET FROM THE WASATCH COUNTY SURVEY MONUMENT FOR THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING COINCIDENT WITH THE WESTERLY RIGHT OF WAY LINE FOR 1200 EAST, AND RUNNING THENCE;

S00°05'21"E 117.71 FEET ALONG SAID RIGHT OF WAY; THENCE WEST 12.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 13.00 FEET, AND TO WHICH POINT A RADIAL LINE BEARS N89°49'43"E; THENCE 20.48 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°10'17", WITH A CHORD BEARING AND DISTANCE OF S44°54'51"W 18.41 FEET; THENCE WEST 600.41 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 13.00 FEET, AND TO WHICH POINT A RADIAL LINE BEARS NORTH; THENCE 20.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", WITH A CHORD BEARING AND DISTANCE OF N45°00'00"E 18.38 FEET; THENCE NORTH 138.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 21.00 FEET; THENCE 32.99 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", WITH A CHORD BEARING AND DISTANCE OF N45°00'00"W 29.70 FEET; THENCE WEST 145.30 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 13.00 FEET; THENCE 20.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°09'27", WITH A CHORD BEARING AND DISTANCE OF S44°55'16"W 18.41 FEET; THENCE N00°09'27"W 84.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 13.00 FEET; AND TO WHICH POINT A RADIAL LINE BEARS S89°50'33"W; THENCE 20.38 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°50'33", WITH A CHORD BEARING AND DISTANCE OF S45°04'44"E 18.38 FEET; THENCE EAST 191.19 FEET; THENCE N00°14'32"E 78.63 FEET; THENCE WEST 204.71 FEET; THENCE N00°09'27"W 23.00 FEET; THENCE EAST 297.78 FEET; THENCE S87°53'55"E 43.67 FEET; THENCE S00°06'24"E 199.84 FEET; THENCE N89°55'41"E 450.21 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 2.870 ACRES, OR 125,005 SQUARE FEET

SOUTH PARCEL BOUNDARY DESCRIPTION

BEGINNING AT A POINT LYING SOUTH 00°15'51" EAST ALONG THE SECTION LINE 1,270.15 FEET AND WEST 34.30 FEET FROM THE WASATCH COUNTY SURVEY MONUMENT FOR THE EAST QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING COINCIDENT WITH THE WESTERLY RIGHT OF WAY LINE FOR 1200 EAST, AND RUNNING THENCE;

THENCE N89°00'04"W 227.81 FEET; THENCE SOUTH 83.00 FEET; THENCE S89°38'41"W 488.01 FEET; THENCE NORTH 245.64 FEET; THENCE EAST 690.54 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 13.00 FEET, AND TO WHICH POINT A RADIAL LINE BEARS NORTH; THENCE 20.38 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°49'43", WITH A CHORD BEARING AND DISTANCE OF S45°05'09"E 18.38 FEET; THENCE EAST 12.00 FEET; THENCE S00°05'21"E 150.63 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 3.575 ACRES, OR 155,734 SQUARE FEET

