

5-23-12
HIGH STAR RANCH
SECOND AMENDMENT TO
ANNEXATION AND DEVELOPMENT AGREEMENT
Clean

ENTRY NO. 00949207

07/13/2012 01:23:10 PM B: 2136 P: 1945

Agreement PAGE 1/16

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE 40.00 BY KAMAS CITY



When recorded, please return to:

KAMAS CITY MUNICIPAL CORPORATION
City Recorder
170 North Main
Kamas, UT 84036

**SECOND AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT
High Star Ranch**

This SECOND AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT (this "Amendment") is made by and between Kamas City Municipal Corporation (hereinafter, the "City") and Tri Star 2005, LLC, a Utah limited liability company (hereafter, the "Developer").

WHEREAS, Developer and the City entered into that certain Annexation and Development Agreement dated August 22, 2008, which Development Agreement was recorded on September 5, 2008 as Entry No. 854222 at Book 1947, Page 1853 in the Official Records of the Recorder of Summit County, Utah, as amended by the First Amendment to Annexation and Development Agreement recorded on October 28, 2010 as Entry No. 00909747 in the Official Records of the Recorder of Summit County, Utah (collectively, the "Development Agreement"). Reference is made to the Development Agreement for all defined terms used in this Amendment and not otherwise defined herein;

WHEREAS, the Developer and the City are desirous of amending certain provisions of the Development Agreement;

NOW, THEREFORE, in furtherance of the Development Agreement, and the mutual promises contained therein, as well as the mutual benefits to be derived herefrom, the parties agree that the terms and conditions of the Development Agreement shall be amended as follows:

1. Section 1.2 of the Development Agreement is hereby deleted in its entirety and the following new Section 1.2 is substituted in its place:

“1.2 General Description of Project. The Property consists of 1047 acres of land located generally north and contiguous of the north boundary of the City. The Project to be developed on the Property is proposed to include 73 single family lots, a mixed-use residential and commercial condominium project containing a main lodge building with 30 residential condominium units and several commercial units containing retail, restaurant, spa, meeting or convention facilities and support commercial functions along with detached buildings containing up to 20 residential condominium units, equestrian campus facilities including a condominium indoor arena/barn projects with horse stall condominium units, outdoor equestrian arenas, existing ranch buildings and related structures, employee housing, commercial buildings containing retail or service businesses permitted by the Ordinance as modified by the Development Agreement, a network of trails and designated open space, trailer storage and greenhouse areas. Private roads will be constructed to serve the entire Project.”

2. The Project Master Plan attached as Exhibit “C” to the Development Agreement is hereby deleted in its entirety and the revised Project Master Plan attached to this Amendment and marked as Exhibit “C” to the Development Agreement is substituted in its place.

3. The PUD Lot Plan attached as Exhibit “F” to the Development Agreement is hereby deleted in its entirety and the revised PUD Lot Plan attached to this Amendment and marked as Exhibit “F” to the Development Agreement is substituted in its place.

4. The Trails Master Plan attached as Exhibit “I” to the Development Agreement is hereby deleted in its entirety and the revised Trails Master Plan attached to this Amendment and marked as Exhibit “I” to the Development Agreement is substituted in its place.

5. Section 2.1 of the Development Agreement is hereby deleted and the following new Section 2.1 is substituted in its place:

“2.1 Project Master Plan. The development configuration of the Project is shown generally on the Preliminary plan (“Project Master Plan”) of the Project, a copy of which is attached hereto as Exhibit C. The Development Areas are divided into ten (10)

development lots, two(2) Agricultural Lots and three (3) Cabin Lots that are shown and legally described on Exhibit F attached hereto (the “PUD Lot Plan”).

6. Section 2.2 of the Development Agreement shall be amended to include the following sentence:

“Agricultural Lots 3 and 4 and Cabin Lots 1, 2 and 3 as shown on the Project Master Plan are considered Development Areas and may be developed in accordance with Section 3.1.4 of the Development Agreement as modified by this Amendment.”

7. Consistent with the prior resolution of the City Council, Section 2.8(iii) is hereby deleted and replaced by the following new 2.8(iii):

“2.8 (iii) the construction, connection and dedication of a 750,000-gallon water tank located in the North Bench Subdivision as set forth in Section 10.4.3; subject, however, to Developer’s right to use the City’s existing water system to provide water for up to 15 ERUs to lots developed in the Project. Any further building permits beyond the aforementioned 15 ERUS will not be permitted by the City until said water lines and water tank are completed, hooked up and dedicated to the City.”

8. Section 3.1.3, subsection (iv) of the Development Agreement is hereby amended to include the following provision to be added:

“Detached residential units’ garages shall be attached and limited to a size of six hundred (600) square feet.”

9. Section 3.1.4 of the Development Agreement is hereby amended to include the following provision to be added at the end of such section:

“Agricultural Lot 3 shall be permitted a maximum of 16,000 (sixteen thousand) square feet of foot print for trailer storage and an HOA maintenance facility. All trailer storage and maintenance facilities shall have architecture

similar to the Project's existing hay barn near the General Store. The Developer will install landscaping and berming if it is determined to assist in view shed protection from SR 32. The earlier referenced ten utility-sewer hook-ups may be located in Agricultural Lot 3 or The Commercial Equestrian Campus. The main dump station for RV vehicle waste disposal may be located in Agricultural Lot 3. Subject to the 16,000 square foot limitation set forth above, the HOA maintenance facility may contain storage bays, office space, restrooms and other components necessary to provide adequate maintenance services to the Project. One (1) of the total allowed thirty (30) Employee Housing units limited to 1,200 (twelve hundred) square feet may be located in Agricultural Lot 3. Agricultural Lot 4 shall be permitted a maximum of 30,000 (thirty thousand) square feet of foot print for green houses and 'hoop' houses. The Developer will determine the mix of structures based upon market conditions or other business requirements. Certain structures may contain offices and product processing/packaging and barn facilities. Subject to the 30,000 square foot limitation set forth above,, two (2) of the total allowed thirty (30) Employee Housing units limited to 1,200 (twelve hundred) square feet may be located in Agricultural Lot 4."

10. Section 3.8 of the Development Agreement is hereby deleted and the following new Section 3.8 is substituted in its place:

"3.8 Agricultural Area. Prior to the recording of the Final Development Plat for Phase 1 of the Project, Developer shall cause to be recorded an agricultural easement deed in favor of the City, which shall impose perpetual covenants and use restrictions for that portion of the Project depicted as Agricultural Easement Area on the Project Master Plan, which covenants shall limit the use of such area to the uses set forth below. Subject to the exclusion of the Excluded Agricultural Uses (as hereinafter defined), the Agricultural area shall be allowed all permitted uses set forth

in Agricultural Zone ("A-40") under Chapter 7 of the Ordinance. The term Excluded Agricultural Uses shall include: Dwelling, Single Family; Manufactured Home; Schools, Public; and all Conditional Uses listed the Ordinance. The following uses shall be permitted uses and not administrative conditional uses in the Agricultural Area: (i) overflow event parking for horse shows and other entertainment functions held in the Commercial Equestrian Campus area; (ii) temporary trailer parking areas in the fields for invitees or guests attending events in the Commercial Equestrian Campus for less than sixteen (16) consecutive days; (iii) the fencing off of a portion of the Agricultural Area that has been designated as wetlands mitigation areas pursuant to permits obtained by the Developer from the US Army Corps of Engineers; and (iv) the use of portions of the Agricultural Area as temporary event areas such as polo fields and event trails for equestrian events that are originated in the Commercial Equestrian Campus."

11. Section 3.9 of the Development Agreement is hereby deleted and replaced as follows:

"3.9. Recreational Activities in Open Space Area. Developer shall be entitled to construct 3 recreational cabins ("Cabins") surrounded by but excluded from the Open Space Area as shown on the Project Master Plan. The Cabin designated as 1 shall have a building height of no more than 25 feet above existing grade and shall contain no more than 2,500 square feet and may be used to house functions and events such as weddings, banquets and meetings, including bedrooms for nightly rentals. The site area for Cabin Lot 1 shall not exceed three (3) acres in the location shown on the Project Master Plan and may also include support facilities (e.g. corrals, parking, storage sheds and picnic areas) that complement the permitted recreational use of the recreational cabin and trails located in the Open Space. The site area for Cabin Lot 1 may be accessed for use or

service purposes by private roads and motorized trails through the Open Space Area from the Village Area as shown on the Project Master Plan. The site area for Cabin Lot 2 shall not exceed one and a half (1.5) acres in the location shown on the Project Master Plan and may also include support facilities (e.g. corrals and picnic areas) that complement the permitted recreational use of the recreational cabin and trails located in the Open Space (Conservation Easement Area). The Cabin designated as 2 shall have a building height of no more than 25 feet above existing grade and shall contain no more than 500 square feet and may be used for recreational activity staging or weather shelter purposes, including indoor bathroom facilities. The site area for Cabin Lot 2 may be accessed for use or service purposes by Private Trails through the Open Space (Conservation Easement) Area as shown on the Project Master Plan. The City's approval of the construction of any site plan for Cabin Lot 2 may take into consideration any impact on the wildlife in the site area for Cabin Lot 2 cited in a study by the State Department of Wildlife Resources that was submitted to the Developer and the City January 3rd, 2011. The site area for Cabin Lot 3 shall not exceed 18 acres in the area shown on the Project Master Plan and may also be used as a permitted use for organized recreational activities involving an archery range or a tubing hill without a j-bar lift or outdoor lighting. The 18 acre area may also be used for other sporting or recreational activities that are consistent and complementary with the nature of the Project; provided, however, the Developer shall obtain site plan approval of the City Council prior to the construction of any amenities or facilities for any such other uses, which approval may be withheld if the City Council deems such activity to be obtrusive from a sound or view-shed perspective. Cabin 3 shall have a building height of no more than 25 feet above existing grade and shall contain no more than 1,500 square feet and may be used to house functions and events that are related to the recreational facilities constructed and maintained in Cabin

Lot 3, including bedrooms for nightly rental. The site area for Cabin Lot 3 may be accessed for use or service purposes either by private roads or motorized trails through the Open Space Area as shown on the Project Master Plan. Each of the cabins shall be constructed in accordance with the Vested Development Standards; provided, however, all utilities other than electricity, including water and septic systems, serving such cabins shall be self-contained on the cabin sites. Electricity to the cabin sites may be by on-site generators or by underground electrical lines. The use of the recreational cabins shall be governed by rules and regulations adopted by the Master Owners Association. Motorized vehicles shall be allowed on access roads or trails to service the utility systems located on the recreational cabin sites. The site areas set forth on the Project Master Plan for the 3 cabins may be excluded from the conservation agreement required by Section 12 of the Development Agreement, and the use and facilities set forth above for said areas shall be deemed permitted uses under the Ordinance for such areas."

12. The second sentence in Section 5.1 of the Development Agreement and is hereby deleted and the following new sentence is substituted in its place:

"The PUD shall contain the fifteen (15) Lots designated as Lot #s 1 through 10, Agricultural Lot #s 3 and 4, and Cabin Lot #s 1 through 3 that are Development Areas as shown on Exhibit "F" attached hereto as well as the Open Space area and Agricultural Areas as shown on the Project Master Plan.

13. Section 12 of the Development Agreement is hereby deleted in its entirety and the following Section 12 is substituted in its place: **“Open Space.”** Prior to the recording of the Final Development Plat for Phase 1 of the Project, Developer shall cause to be recorded a conservation easement deed in favor of Kamas City, which shall impose perpetual covenants and use restrictions for that portion of the Project depicted as open space on the Project Master Plan, which covenants shall prevent the construction thereon of residential, commercial and/or retail structures or other permanent improvements other than trails, recreational amenities and other uses expressly permitted in this Agreement.”

14. Section 14.2 of the Development Agreement is hereby deleted in its entirety and the following new Section 14.2 is substituted in its place:

“14.2 Main Access Highway. Developer will develop with the concurrence of the City Engineer, a plan for primary vehicular access (the “Main Access Roadways” through two entrances on Highway 32, as generally depicted on the Project Master Plan attached as Exhibit C, but the final location, grade, dimensions and constructions standards will be determined in the development process as an Administrative Amendment and reflected on the final Project Master Plat as recorded, including any amendments thereto which reflect staged approval and construction of such Main Access Roadways.”

15. The Development Agreement shall be amended to replace the references to “Chapter 21” of the Ordinance contained in the recitals and in Section 1.4 to be “Chapter 24” of the Ordinance, which Chapter 24 regulates planned unit developments under the Ordinance. The City acknowledges and agrees that development of the Project in accordance with the Master Plan and the terms of this Agreement will satisfy all open space requirements for planned unit developments under the Ordinance.

16. Except as set forth in paragraphs 1 through 15 above, the Development Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the 24 day of May, 2012.

[signature pages follow]

KAMAS CITY MUNICIPAL CORPORATION

By: Lewis P. Marchant
Lewis Marchant, Mayor

DATED this 5th day of ^{June}~~May~~, 2012.

ATTEST:

By: Kim Peacock
Kim Peacock, City Recorder

DATED this 17th day of ^{June}~~May~~, 2012.

APPROVED AS TO FORM:

David Church
David Church, City Attorney

DATED this 5th day of ^{June}~~May~~, 2012.

DEVELOPER:

Tri Star 2005, L.L.C., a Utah limited liability company

By: Mark J. Fischer

Mark J. Fischer, Manager

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 24 day of May, 2012, personally appeared before me Mark J. Fischer, signer of the above Agreement, who being duly sworn, did say that he is the Manager of Tri Star 2005, LLC, a limited liability company of the State of the State of Utah, and that the Declaration was signed in behalf of said company under authority granted by its operating agreement, and said Mark J. Fischer duly acknowledged to me that said company executed the same.

Elizabeth M. Thompson
NOTARY PUBLIC
Residing at Summit County, Utah

My Commission Expires:

7-10-2012



CONSENT TO RECORD

The undersigned, U.S. Bank National Association, a national banking association, holder of a deed of trust on the property subject hereto, does hereby consent to the recordation of this Condominium Declaration and to the recordation of the Record of Survey Map recorded concurrently herewith and consents to the submission of the property to the Utah Condominium Ownership Act.

U.S. Bank National Association

By: Stefanie Wilson

Its Vice President

STATE OF UTAH }
COUNTY OF Summit } ss.

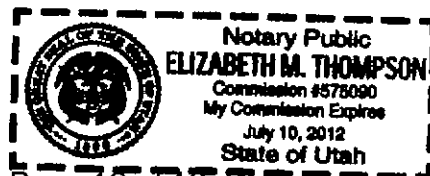
On the 24 day of May, 2012, personally appeared before me Stefanie Wilson, signer of the above Consent to Record, who being duly sworn, did say that she is the Vice President of U.S. Bank National Association, a National Banking Association, and that the Consent to Record was signed in behalf of said Bank under authority granted by its Board of Trustees, and said Stefanie Wilson duly acknowledged to me that said Bank executed the same.

Elizabeth M. Thompson
Notary Public

Residing at:
255 Paradise Rd.
Park City UT 84398

My Commission Expires:

7-10-2012



[illegible]

For more information:

Call 800-967-2222

or visit us online at

www.fishbase.org

EXHIBIT I TRAILS MASTER PLAN

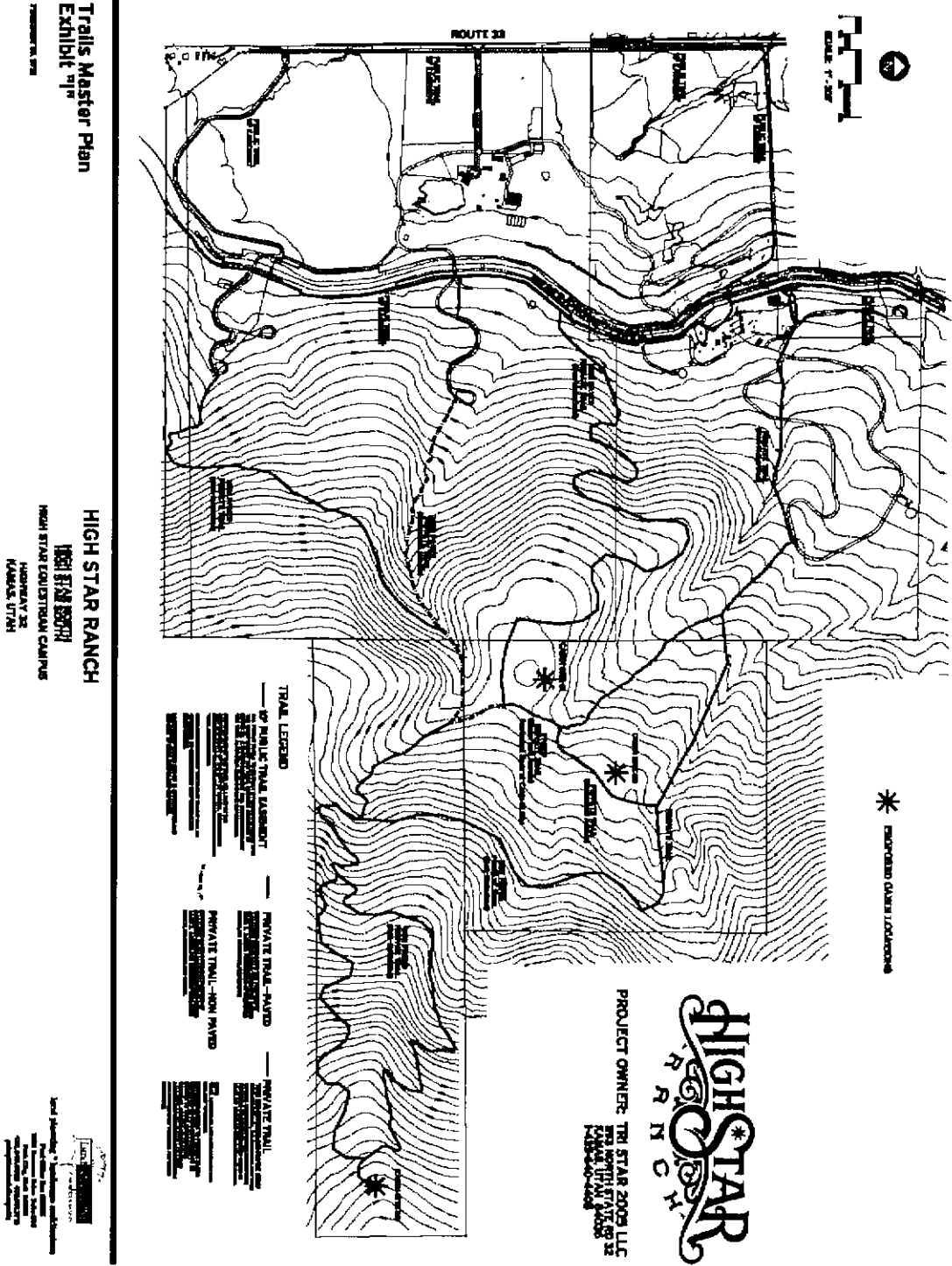


EXHIBIT F
PUD LOT PLAN

