

Midway City Council
5 March 2019
Regular Meeting

Sunburst Ranch PUD / Master
Plan Amendment



345 West 600 South, Suite 108 • Heber City, Utah 84032
P 435-657-0984 • F 888-822-8796
WWW.GORDONLAWGROUPUTAH.COM

TO: Midway City

FROM: Corbin Gordon, attorney for Midway City

DATE: February 19, 2019

RE: Sunburst Ranch P.U.D. Master Plan Amendment Request

INTRODUCTION

Crystal Springs is requesting the City Council to reconsider its request to amend the Master Plan for Phase 3 of Sunburst Ranch. The layout of the existing agreement, passed in 2010, is attached as Exhibit A.

Crystal Springs seeks to amend the existing agreement. There are two proposals: 1) the first would create a long cul-de-sac, cutting off half of Phase 3 from Phase 1 and 2 (*see* Exhibit B); and 2) moves the placement of the connector road from Phase 1 further South and rearranges the location of the lots and the location of the amenities (*see* Exhibit C). It is my understanding that the proposal is being made because installing the road as set forth in the current agreement will require significant expense and deep cuts, requiring retainer walls.

Crystal Springs recently appeared before the City Council asking for an amendment to Phase 3, but the proposal at that time was to remove the amenities included in the existing agreement (a park, tennis court, and pavilion). The City Council rejected the proposal and informed Crystal Springs that no amendment would be granted unless approval from the HOA was obtained agreeing to the removal of the amenities.

The current proposals include the amenities, so it is unclear why the HOA has not agreed to the proposals. I am told by Michael Henke that Crystal Springs will propose to put in the amenities, but only if it can create its own HOA and restrict Phase 1 and Phase 2 from accessing the open space.

Crystal Springs has sued the HOA for refusing to give approval. In recent weeks both the Mayor and Michael Henke had their depositions taken in the lawsuit.

Crystal Springs is asking to be put back on the City Council agenda to ask the Council to reconsider its refusal to consider its amendment proposal without HOA approval.

As set forth below, the rejection of the initial plan was based primarily on the removal of the amenities and was not so much concerned with the location of the connector road. I do not feel it was the intent of the Council to require HOA approval of alterations to the placement of the road, so long as their rights to promised amenities were protected.

As such, I recommend that the proposed amendment attached as Exhibit C be granted, with the following conditions: 1) the amenities are installed as shown on the plan; 2) no separate HOA be allowed; 3) no restriction be allowed to prohibit Phase 1 and Phase 2 from using the amenities; and 4) the plan be amended to include trails that will increase connectivity between Phases 1 and 2 and the open space and amenities included in Phase 3.

CONTROLLING DOCUMENTS

In considering whether to approve the proposed amendment to the Master Plan, there are two controlling documents.

The first is a formal Annexation Agreement passed in 1998, which was executed and recorded. See Exhibit D. The agreement states in paragraph VI that the development “shall conform to the conceptual plan submitted and approved by the City as a part of this agreement.” There is no formal record of what the conceptual plan actually was. We have the plans from the annexation application, but whether the plans in the application were actually what got approved is unknown.

Section VI of the Annexation Agreement gives the Developer the right to amend the conceptual plan “in accordance with the provisions of the Midway City Zoning Ordinance to make minor adjustments to the lot configuration or location of buildings and other improvement.” If the alterations can be classified as major, then amendment of the agreement is required “in writing signed by the parties hereto or their successors and assigns”. See paragraph X.

It is implied in the agreement that Sunburst Ranch PUD would have one HOA: “. . . all private roads will be maintained and repaired by the Owner’s Association”. See paragraph F. However, there is no express language prohibiting the creation of two HOA’s.

The Annexation Agreement is silent as to amenities, but it should be noted that Phase 1 and 2 could not have been approved without being able to count the open space included in Phase 3. Until the recent dispute arose between Crystal Springs and the HOA, it was never suggested that the development would have two HOA’s, or that Phase 1 and Phase 2 would not have access to the open space and amenities in Phase 3.

On February 10, 2010, the City Council approved Resolution 2010-07, which approved an “Amended Master Plan for Sunburst Ranch PUD”. *See* Exhibit E. As explained in the footnote, several other plat and Master Plan amendments had been previously approved, but were never formally executed and recorded by the Developer.¹

Resolution 2010-07, however, was signed by both the City and Crystal Springs and recorded against the development.

There is some confusion as to what Resolution 2010-07 actually amends. No formal Master Plan Agreement was ever entered into, thus raising questions as to what was being amended. As the only formal document binding between the City and the Developer prior to 2010-07 was the Annexation Agreement, I am going to assume for purposes of my analysis that the Amendment was actually referring to the Annexation Agreement. The alternative is to assume it amends nothing and stands on its own.

The Amended Master Plan Section 2 states: “The Amended Master Plan of Sunburst Ranch PUD shall be as set forth on the drawing attached hereto as Exhibit B and as set forth in the terms of this Resolution.” *See* Exhibit A. The attachment shows Plat C with the open space in the middle and with the following amenities: 1) a park; 2) a pavilion; and 3) a tennis court.

In one of the presentations made to the City Council regarding the amendment, Paul Berg represented that the changes would move the open space from a useless side hill to a more

¹ There have been several resolutions that were adopted by the City Council, but not accepted by the Developer. These include:

1. Resolution 2009-03, which amended Plat A for the second time and was supposed to add language onto the plat requiring the unit owners of Phase 1 to put in their own landscaping (this Resolution was passed and executed by the City but it does not appear that the Second Amended Plat A was ever finalized and recorded); and
2. Resolution 2009-06 (passed April 6, 2009), which is called a Master Plan Amendment (even though no Master Plan was ever actually entered into) proposes to amend Plat C, altering the locations of the units, and altering the location of the open space from a hill side to a more central location where a park like feel would be created and amenities would be installed. The Resolution was accompanied by a draft of a “Development Agreement for Amendment of Master Plan Sunburst Ranch P.U.D.” which clarifies responsibilities of the developer and establishes that Phase C will have “some or all” of a set list of amenities, to be ultimately decided by the City. The Resolution was passed and executed by the Mayor, but the Development Agreement was never executed and never recorded.

central location, to create a park atmosphere, and that the trails from Phase 1 and 2 had been redesigned to improve accessibility to the open space. There was no suggestion that the amendment would result in prohibiting access for Phase 1 and Phase 2, and I highly doubt it would have been approved if such intent was disclosed by the Developer.

With that said, the Amendment is silent as to one or multiple HOA's, and makes no reference to the amenities being discretionary or that "some or all" of them may be required (which was present in the version attached to Resolution 2009-06). Simply put, Crystal Springs promised to build Phase 3 in a certain configuration, and included a park, a tennis court, and a pavilion as part of the plan. It is my legal opinion that Crystal Springs is legally bound to build Phase 3 as approved, unless the City Council agrees to allow the amendment.

Curiously, the Amended Master Plan contains no provision allowing for amendment. If it stands alone clearly no amendment can be allowed unless both parties agree. Assuming the Amended Master Plan actually intended on amending the Annexation Agreement, the two provisions in the Annexation Agreement regarding amendment would still apply: 1) if the changes are minor, the Developer has discretion to make them; and 2) if they are major, agreement in writing from both parties is required.

LEGAL ANALYSIS

Crystal Springs is bound by its agreement to build Phase 3 in accordance with the 2010 amendment (which clearly includes the amenities). The proposal to remove the amenities and alter the location of the connector road are, in my opinion, major alterations to the agreement, and require City approval. The City has no obligation to approve the amendments as proposed, and can simply tell Crystal Springs to build Plat C as agreed to in 2010.

It is within the discretion of the City Council to consider the amendment, and has legal authority to impose conditions on the approval. As such, I recommend that the proposed amendment attached as Exhibit C be granted, with the following conditions: 1) the amenities are installed as shown on the plan; 2) no separate HOA be allowed; 3) no restriction be allowed to prohibit Phase 1 and Phase 2 from using the amenities; and 4) the plan be amended to include trails that will increase connectivity between Phases 1 and 2 and the open space and amenities included in Phase 3.

With regard to whether the City should require HOA approval of the amendment, I remind the City that the HOA has its own enforceable documents (i.e. CC&Rs) that may create additional legal barriers to the amendment. I have not undertaken a review of these documents as the City is not a party to them and any action to enforce them would need to be brought by the HOA.

Strictly speaking, there is no legal requirement that the HOA give assent for the City Council to approve the amendment. The initial concern was removing promised amenities in Phase 3. I do not feel it was ever the City Council's intent to create veto power in the HOA over where the

roads will ultimately be installed. As such, so long as the amenities are installed, and Phase 1 and 2 are not restricted from their use, the reasons to obtain HOA approval are removed. Regarding having a separate HOA, there does not appear to be anything in any of the documents that would prohibit the same. With that said, there are numerous policy reasons why splitting the HOA will likely result in future problems for the City.

From a practical standpoint, if a condition to amendment approval prohibits exclusion of Phase 1 and Phase 2 from using the amenities, it seems foolish for Phase 3 to set up a separate HOA because the result would be the homes in Phase 3 paying for all of the on-going maintenance and upkeep of both the open space and the amenities, while Phase 1 and Phase 2 get to use them. I can almost guarantee this will result in future discord in the neighborhood.

Next, based on my understanding, the larger an HOA is, the more likely it is to function appropriately. Splitting the development into two HOAs creates a scenario where neither will have the critical mass to operate functionally, particularly where there is a high likelihood of conflict between the two.

For context, there is a long-standing dispute in Lake Creek Farms in the County, where the first 3 phases are under one HOA, and the final two are not. There have been arguments over liability insurance, costs to maintain the entrances and open spaces within the development, and more recently a bitter argument over putting in a park, which resulted in the first three phases paying for it and restricting the final two from using it. The disputes have set neighbors against one another, and significantly altered the quality of life in the development. Splitting a community in two, by creating dual HOA's, has long reaching implications that will remain long after the Developer is gone. I encourage careful examination before approving this proposal.

Finally, I have gone back and listened to the audio from all of the public meetings on this Development. It has a long and tortured history, which has cost the city thousands of dollars in time and headache. It has never been suggested in any public meeting that there would be two HOAs in the development. To the contrary, the currently amendment, adopted in 2010 was premised on trails being altered to increase connectivity between the phases.

While the City may not be able to require one HOA legally, it also has no obligation to agree to the amendment of the 2010 agreement. Because of this, the City has the capacity to condition its approval on requiring one HOA. If Crystal Springs does not like the conditions, it can always simply build Phase C as previously agreed to.

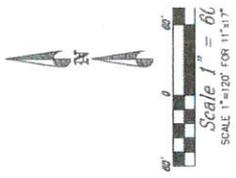
MY RECOMMENDATION:

As such, I recommend that the proposed amendment attached as Exhibit C be granted, with the following conditions:

- 1) the amenities are installed as shown on the plan;

- 2) no separate HOA be allowed;
- 3) no restriction be allowed to prohibit Phase 1 and Phase 2 from using the amenities and no provisions allowed that would create disparate treatment between owners in Phases 1 and 2 and Phase 3; and
- 4) the plan be amended to include trails that will increase connectivity between Phases 1 and 2 and the open space and amenities included in Phase 3.

EXHIBIT A



LEGEND

	NATURAL L
	GRASS
	EXISTING T
	PROPOSED T
	ASPHALT T
	RETAINING

SUNBURST RANCH
AMENDED MASTER PLAN

BERG ENGINEERING
 Resource
 10000 Wilshire Blvd., Suite 1000
 Beverly Hills, CA 90210
 Tel: (310) 487-1000
 Fax: (310) 487-1001

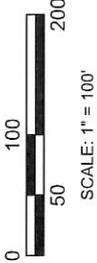
DESIGN BY: CDB DATE: 7 JAN
 DRAWN BY: CDB REV:

- NOTES:
1. OLYMPIC WAY IS A PUBLIC STREET WITH PUBLIC SIDEWALKS.
 2. ALL OTHER STREETS, TRAILS AND SIDEWALKS WITHIN SUNBURST RANCH ARE PRIVATE.

THIS DOCUMENT IS INCOMPLETE AND IS RELEASED TEMPORARILY FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR ANY PURPOSES WITHOUT THE WRITTEN CONSENT OF BERG ENGINEERING.

CAS: M. BERG
 SERIAL NO. 7152326
 DATE: 7 JAN 2010

EXHIBIT B



OPEN SPACE CALCULATIONS
 TOTAL ACRES 16.53 ACRES
 OPEN SPACE 8.29 ACRES
 50.15% (100% CONTIG)

CURRENTLY ENTITLED: 36 UNIT / OPEN SPACE 6.9 AC 41.7%



24.5' SETBACK ON CURVED ROADWAY SECTIONS

EXISTING IMPROVEMENTS, SUNBURST RANCH PLAT B

EXISTING IMPROVEMENTS, SUNBURST RANCH PLAT A

AMENITIES PICKLE BALL BASKET BALL BOWSER/VOTOT

SETBACK STAGGERED ON STRAIGHT ROADWAY SECTIONS (TYP.)

15' SEPARATION (TYP.)

BUILDING PAD (TYP.) NO AUXILIARY STRUCTURES ALLOWED

SWISS MOUNTAIN ESTATES

30' MIN.

100' MIN.

24.5' MIN. VARIES

24" CURB

5' SIDEWALK

HOME PAD

3:1

-2.0%

-2.0%

TYPICAL SECTION

SUNBURST RANCH PHASE 3 - TWO CIRCLE CONCEPT
 CRYSTAL SPRINGS - 376 EAST 400 SOUTH #120SLC, UTAH 84111
 MIDWAY CITY, UTAH

SHEET TITLE
 ENTITLEMENT
 SHEET 1 OF 3

DATE: 3/20/24
 DRAWN BY: A.W. DAVIS
 SCALE: 1/8" = 1'-0"



Casper City Engineering, Inc.
 450 SOUTH 200 WEST, SUITE 100
 MIDWAY CITY, UTAH 84111

ENTITLEMENT

3/20/24

3/20/24

3/20/24

3/20/24

3/20/24

3/20/24

EXHIBIT C

EXHIBIT D

ORDINANCE 97-6
(THE SUNBURST ANNEXATION)

00201690 BK 00376 Pg 00461-00472
WASATCH CO RECORDER-ELIZABETH K PARCE
1998 MAR 19 12:24 PM FEE \$32.00 BY
REQUEST: PRIDE STABLES

WHEREAS, the owner of certain real property, described below, desire to annex such real property to the corporate limits of Midway City, Utah; and

WHEREAS, said real property is located within the area proposed for annexation and covers a majority of the private land area within the proposed for annexation; and

WHEREAS, said real property is equal in value to at least one-third (1/3) of the value of all private real property within the area proposed for annexation; and

WHEREAS, said real property is a contiguous, unincorporated area contiguous to the boundaries of Midway City and the annexation thereof will not leave or create an unincorporated island or peninsula; and

WHEREAS, said property is undeveloped and covers an area that is equivalent to less than five percent (5%) of the total land mass of all private property within Midway City; and

WHEREAS, said owners have caused a Petition for Annexation to be filed with the city, together with an accurate plat of the real property which was made under the supervision of a competent, licensed surveyor; and

WHEREAS, on, September 18, 1997, the Midway City Council received the required Notice of Certification from the City Recorder certifying that the annexation petition meets the requirements of State Law; and

WHEREAS, the City Council published and mailed notice of the Certification, as required by law and no timely protests have been filed in accordance with the provisions of Section 10-2-407, Utah Code Annotated, 1953, as amended; and

WHEREAS, the City Council held the required public hearing after giving notice as required by law, and has determined the referenced annexation is desirable;

NOW THEREFORE, pursuant of Section 10-2-407, Utah Code Annotated 1953, as amended the City Council of Midway City, Utah, hereby adopts, passes and publishes the following:

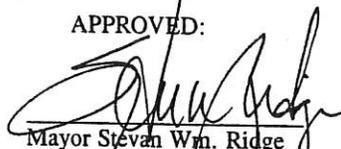
BE IT ORDAINED, by the City Council of Midway City, Wasatch County, State of Utah, as follows:

1. The real property, more particularly described in Paragraph 2, below, is hereby annexed to Midway City, Utah, and the corporate limits of the City are hereby extended accordingly.

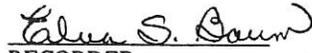
ADOPTED AND PASSED by the City Council of Midway City, Utah this 16th day of October, 1997, by the following:

	AYE	NAY
Councilman Micheal L. Bronson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Don A. Huggard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Arlin K. Kohler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Eugene H. Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Harold S. Remund	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPROVED:


Mayor Steven Wm. Ridge

ATTEST:


RECORDER
(SEAL)



DATE OF FIRST PUBLISHING OR POSTING: 17th of October

00201630 BK 00376 P3 00463

463

B. Within Declaration Area. The area to be annexed is within the area identified by City in its annexation policy declaration statement for possible annexation into the City.

C. Not Within Another City. The area to be annexed is not included within the boundaries of any other incorporated municipality.

D. No Pending Incorporation. There are no pending petitions to incorporate the area to be annexed.

E. No Unincorporated Islands. The annexation of this area will not leave or create any islands of unincorporated territory requiring municipal type services.

F. Not Solely for Revenue. The annexation is not being pursued by City solely for the purpose of gaining revenues or to gain a jurisdictional advantage over another municipality or to restrict annexation by some other municipality.

G. City Can Serve. City intends to provide the same level of municipal services to the annexed territory as it provides all other areas within its boundaries that is developed as a Planned Unit Development, except that Developer shall provide water and construct a water system for both domestic and irrigation use within the Development and will maintain and accomplish snow removal on private roads only within the annexed area as set forth herein.

H. Petition Was Proper. A petition for annexation of this property was properly signed by the majority of land owners and owners of a majority of the land area within the area proposed for annexation.

I. No Fiscal Burden Created. City has determined that annexation of this area will not create fiscal burdens on City that will not be off-set by the revenues expected to be generated by virtue of this annexation.

J. Compatibility. The annexation is a compatible land use within this community.

provided by a secondary water system under the operation and control of Midway Irrigation Company.

B. Water System Improvements and Extensions. At its sole expense, Developer shall install a 12 inch water line from the Development entrance to the existing 12 inch water line on Swiss Alpine Road. This line shall be constructed according to plans and designs submitted to, and approved by, the City Engineer. Developer shall install all culinary water system improvements within the Development as shown on a final Design Plan and in accordance with the requirements, specifications, and ordinances of the City. The City shall provide all required water storage for the development, with the Development being located in the Homestead Pressure Zone and subject to the charges and fees of that zone. Developer shall construct a secondary irrigation system to provide for the outside irrigation requirements of the Development. Developer also agrees to provide and convey to Midway Irrigation Company an easement through the development for the location, construction and operation of a pressurized irrigation line. No building permits shall be issued until all water distribution facilities necessary to deliver water to the property requiring a permit are fully operational and approved by City, unless City specifically agrees otherwise.

C. Special Service District. Developer agrees to the creation by the City of a special service district, the boundaries of which shall be the same as the boundaries of the Development. The creation of the special service district is a condition precedent to any obligation of the City to deliver water to the Development. The Special Service District, among other things, will assess each individual residential unit in the Development the prorated annual costs of water and water delivery and the proportional share of the Midway Irrigation Company culinary share assessment. Developer understands that it remains fully obligated to make all payments as required by the Water Supply Agreement until each individual residential unit is sold to a third party at which time the Developer's responsibility to pay the prorated cost of water and water delivery to that unit shall be transferred to the new owner.

00201690 BK 00376 P3 00467

467

V. ZONING CLASSIFICATION

It is agreed that upon annexation of the Development within the City, the property shall be zoned RA-1-43 Residential Zone, and be subject to the current requirements prescribed in that section of the Zoning Ordinance.

VI. DEVELOPMENT TO CONFORM TO APPROVED PLAN

The Development shall be developed in accordance with the Preliminary Roadways and Utility plan and the final plans for the Development that shall be submitted to the City Council. The Development shall conform to the conceptual plan submitted and approved by the City as a part of this agreement. Nothing herein shall relieve Developer of the responsibility to complete the plans in accordance with City standards. The conceptual plan may be amended in accordance with the provisions of the Midway City Zoning Ordinance to make minor adjustments to the lot configuration or location of buildings and other improvements. Developer agrees that it will not seek to amend the plan for the purpose of increasing the development density of this parcel. All required bonds shall be in place in the approved amounts prior to the commencement of any development work on the property.

VII. ATTORNEY AND ENGINEERING FEES

Developer agrees to pay City's reasonable attorney, planners, and engineering fees attributable to the annexation. City shall present an itemized billing to Developer for payment.

VIII. RECORDING OF ANNEXATION PLAT

The annexation plat shall be delivered by the City Recorder to the Wasatch County Recorder for recordation once the conveyance of water shares is made to City and all fees paid.

00201690 BK 00376 P3 00469

469

IX. INTEGRATION

The foregoing constitutes the full and complete agreement by and between these parties and shall supersede all prior oral or written agreements, representations or discussion. This agreement shall be binding on the successors and assigns of the parties hereto.

X. AMENDMENT OF AGREEMENT

This agreement may be amended only in writing signed by the parties hereto or their successors and assigns.

XI. SEVERABILITY

If any portion, part or paragraph of this agreement shall be held or deemed to be illegal, unconstitutional, inoperative or otherwise unenforceable, the same shall not affect any other section, paragraph, provision or provisions contained herein, nor shall it render the same invalid, inoperative or unenforceable to any extent whatsoever.

This annexation agreement has been authorized by a resolution, duly adopted by the Mayor and City Council of Midway, Utah, at a regularly scheduled meeting of that body, pursuant to public notice thereof, held on the 16th day of October, 1997. A true and correct copy of the resolution is attached hereto and incorporated herein by this reference.

CITY OF MIDWAY



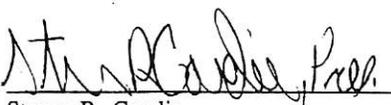
Mayor

ATTESTED BY:



City Recorder

CRYSTAL SPRINGS LAND AND CATTLE COMPANY, INC.

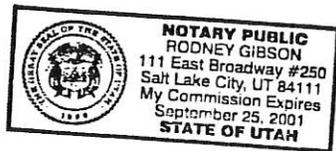


Steven R. Condie
President

00201690 Bk 00376 Pg 00470

STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the 27th day of October, 1997, personally appeared before me Steven R. Condie, the signer of the foregoing instrument, who, being by me duly sworn, did say that he is the President of Crystal Springs Land and Cattle Company, Inc., a Utah Corporation and acknowledged to me that said corporation executed the same.





NOTARY PUBLIC
My Commission Expires: 9/25/01

00201690 BK 00376 Pg 00471

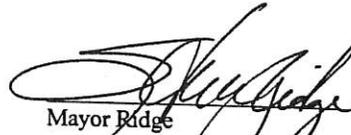
RESOLUTION 97-12

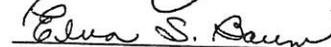
RESOLUTION ACCEPTING THE SUNBURST RANCH PLANNED UNIT DEVELOPMENT
ANNEXATION AGREEMENT

WHEREAS on the 16th day of October Midway City Mayor and City Council accepted the
annexation agreement for Sunburst Ranch Planned Unit Development.

A copy of said annexation agreement is attached.

Passed by majority vote this 16th day of October, 1997.


Mayor Ridge


City Recorder



00201691 Bk 00376 Pg 00473-00474
WASATCH CO RECORDER-ELIZABETH M PARCEL
1998 MAR 19 12:27 PM FEE \$12.00 BY
REQUEST: PRIDE STABLES

FILE () INDEX () SERIALIZED () FILED ()

EXHIBIT E



RESOLUTION 2010-07

A RESOLUTION BY THE MIDWAY CITY COUNCIL APPROVING AN AMENDED MASTER PLAN FOR SUNBURST RANCH P.U.D.

WHEREAS, the City Council of Midway City has received an application from Crystal Springs Land and Cattle Company to grant an amendment to the master plan for the real property development known as Sunburst Ranch P.U.D., the full legal description of which P.U.D. is attached hereto as Exhibit A; and

WHEREAS, the City Council has held numerous meetings and public hearings to discuss said request; and

WHEREAS, the Midway City Planning Commission has also discussed the requested master plan amendment and has recommended that the City adopt the proposed amendment; and

WHEREAS, a concept drawing for the Amended Master Plan is attached hereto as Exhibit B; and

WHEREAS, the City Council finds that adoption of the requested master plan is appropriate, lawful and in the public interest.

NOW THEREFORE, be it hereby RESOLVED by the City Council of Midway City, Utah, as follows:

Section 1: The master plan for the planned unit development known as Sunburst Ranch P.U.D. is hereby amended.

Section 2: The Amended Master Plan of Sunburst Ranch P.U.D. shall be as set forth on the drawing attached hereto as Exhibit B and as set forth in the terms of this Resolution.

Section 3: Lot 15 will remain in Phase 1 of the development.

Section 4: Phase 3 of the development will contain 36 units.

Section 5: The total number of units in all three phases of the development is 86.

Section 6: The total combined size of all phases of the development is 29.87 acres, with 17.10 acres of open space.

Section 7: All roads in the development will be private, except for the road known as Olympic Road, which will be public.

Section 8: All water shares and or water rights required for all units and all phases of the development have already been tendered to and accepted by the City.

Section 9: This master plan amendment does not affect any proceedings that have previously occurred regarding Phase 2 of the development except as explicitly stated herein.

Section 10: The developer of Phase 3 will be required to submit applications for preliminary and final approval of Phase 3 for processing according to standard City procedures, and pursuant to the terms of this amended master plan approval, at the time development of Phase 3 occurs. Development and construction in Phase 3 will be subject to all building and construction standards of the City in effect at the time final approval of Phase 3 is granted.

Section 11: Crystal Springs Land and Cattle Company ("Crystal Springs") will pay to the Sunburst Ranch Owners Association the amount of \$55,000.00 to reimburse said Association for certain costs of grading and drainage improvements installed by the Association in the development during 2009. Crystal Springs shall cause this reimbursement to be made by paying to the Sunburst Ranch Owners Association the amount of \$1,000.00 at the time each building permit for a unit in Phase 2 and/or Phase 3 is issued by the City; provided, however, that upon the expiration of ten (10) years from the approval and execution of this resolution approving the amended master plan, Crystal Springs shall be required to pay, in one lump sum, any remaining portion of the \$55,000.00 to the Association that has not to that point already been paid. The requirements of this paragraph are explicitly made binding upon any future owner and/or developer of any property included in the proposed Phase 3 of Sunburst Ranch P.U.D. Upon passage of this Resolution by the Midway City Council, Crystal Springs shall cause to be dismissed the Complaint and Petition for Review, Case Number 090500525, filed October 22, 2009 in Fourth District Court, Wasatch County, Utah. Crystal Springs voluntarily agrees to the requirements of this paragraph, and all other terms of this resolution, as evidenced by the signature of said Company at the end of this Resolution.

Section 12: The terms of this Resolution and master plan amendment will be binding upon all future owners and/or developers of any land contained within all phases of Sunburst Ranch P.U.D. The covenants and obligations contained herein shall be appurtenant to said land, and this Resolution shall be recorded in the office of the Wasatch County Recorder.

Section 13: Pursuant to Midway City ordinances and policies, the developer of any phase and/or units of Sunburst Ranch P.U.D. shall pay all applicable City fees and charges, including but not limited to the costs the City incurs in processing and reviewing all development plans and applications, including engineering, legal and other professional and consultant fees. As a condition precedent to this resolution, all such fees and charges shall be paid current.

Section 14: All property in all phases of Sunburst Ranch, whether developed or undeveloped, shall be kept clear of weeds on a year-round basis by spraying, revegetating or mechanical clearing so that the height of any weed vegetation does not exceed six inches. For any particular parcel of real property, the responsibility of complying with this paragraph shall rest with the owner of said real property.

PASSED AND ADOPTED by the Midway City Council the 10th day of February, 2010

Midway City

Connie Tatton

Connie Tatton, Mayor

ATTEST:

Brad Wilson

Brad Wilson, Recorder



AGREED to by CRYSTAL SPRINGS LAND AND CATTLE COMPANY.

Steve Condie (signature)

On the 7th day of June, 20 11, the foregoing document was signed and acknowledged before me, a notary public, by STEVEN R. CONDIE whose identity is known to me or was proven by satisfactory evidence, in his/her capacity as _____ of Crystal Springs Land and Cattle Company.

Joan Swain
NOTARY PUBLIC



EXHIBIT A

All of the real property described as follows:

All of Units 1 through 30 and Unit 35, Sunburst Ranch P.U.D. Plat A Amended, as recorded January 5, 2005, as Entry Number 278595, in Book 730, Pages 346-355, Official Records, Wasatch County Recorder

and

Beginning at a point which is N 89°48'58" W 792.46 feet along the Section li and S 25°03'31" E 391.36 feet from the Wasatch County Survey Monument marking the Northeast corner of Section 33, Township 3 South, Range 4 Eas Salt Lake Base and Meridian and running thence:

S 25°03'31" E 316.24 feet to a point on the North line of Swiss Alpine Road; thence along said North line the following 5 courses:
 S 89°56'36" W 513.15 feet to a point of curvature with a 175.00 foot radius curve to the left (long chord bears S 69°23'26" W 122.87 feet); thence Southwesterly along the arc of said curve 125.55 feet through a central angl of 41°06'19"; thence S 48°50'16" W 106.70 feet to a point of curvature with 125.00 foot radius curve to the right (long chord bears S 69°31'17" W 88.30 thence Southwesterly along the arc of said curve 90.25 feet through a centr angle of 41°22'02"; thence N 89°47'42" W 350.01 feet; thence N 00°12'18" E 162.36 feet; thence N 10°30'46" E 308.87 feet; thence S 78°36'03" E 135.86 feet; thence N 11°23'57" E 60.16 feet; thence S 78°36'03" E 50.00 feet; thence S 11°23'57" W 9.32 feet; thence S 78°36'03" E 202.28 feet; thence N 89°56'36" E 340.43 feet; thence N 00°03'24" W 27.80 feet; thence N 64°56'29" E 50.00 feet; thence S 25°03'31" E 126.64 feet; thence N 64°56'29" E 133.00 feet to the point of beginning.

and

BEGINNING AT A POINT WHICH IS NORTH 89°49'52" WEST 792.47 FEET FROM THE NORTHEAST CORNER SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
 THENCE SOUTH 25°02'02" EAST 391.36 FEET;
 THENCE SOUTH 64°57'58" WEST 133.00 FEET;
 THENCE NORTH 25°02'02" WEST 128.84 FEET;
 THENCE SOUTH 64°57'58" WEST 50.00 FEET;
 THENCE SOUTH 00°01'55" EAST 27.80 FEET;
 THENCE SOUTH 89°58'05" WEST 340.43 FEET;
 THENCE NORTH 78°34'34" WEST 49.17 FEET;
 THENCE NORTH 11°25'26" EAST 57.36 FEET;
 THENCE NORTH 24°04'59" WEST 127.63 FEET;
 THENCE NORTH 01°16'17" WEST 70.88 FEET;
 THENCE NORTH 00°12'31" EAST 93.70 FEET;
 THENCE SOUTH 89°47'28" EAST 484.38 FEET TO THE POINT OF BEGINNING.

and

BEGINNING AT A POINT WHICH IS NORTH 89°48'58" WEST 1276.82 FEET ALONG THE SECTION LINE FROM THE WASATCH COUNTY SURVEY MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;
 AND RUNNING THENCE SOUTH 00°11'02" WEST 93.70 FEET; THENCE SOUTH 01°17'48" EAST 70.88 FEET; THENCE SOUTH 24°06'28" EAST 127.63 FEET; THENCE SOUTH 11°23'57" WEST 57.36 FEET; THENCE NORTH 78°36'03" WEST 153.11 FEET; THENCE NORTH 11°23'57" EAST 9.32 FEET; THENCE NORTH 78°36'03" WEST 50.00 FEET; THENCE SOUTH 11°23'57" WEST 60.16 FEET; THENCE NORTH 78°36'03" WEST 135.86 FEET; THENCE SOUTH 10°30'46" WEST 308.87 FEET; THENCE SOUTH 00°12'18" WEST 162.36 FEET TO THE NORTH LINE OF SWISS ALPINE ROAD; THENCE NORTH 89°47'42" WEST 741.83 FEET ALONG SAID LINE TO THE EASTERLY BOUNDARY OF SWISS MOUNTAIN ESTATES NO. 1; THENCE NORTH 00°33'20" WEST 787.12 FEET ALONG SWISS MOUNTAIN ESTATES SUBDIVISION TO THE SECTION LINE; THENCE SOUTH 89°48'58" EAST 1106.63 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

PARCEL NUMBERS

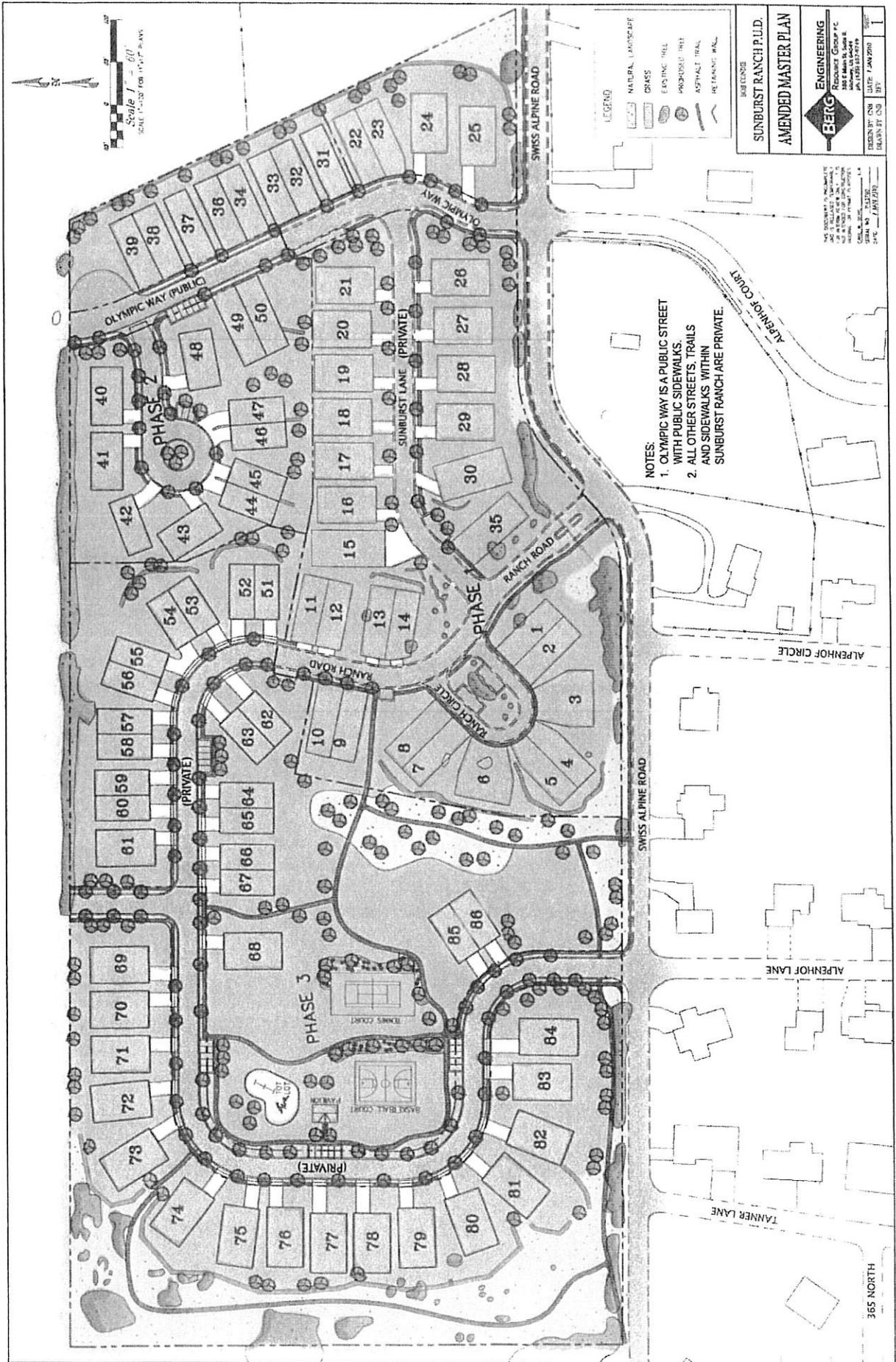
Sunburst Ranch PUD, Plat A Amended, Units 1-30 and 35

1. 00-0016-8406	9. 00-0016-7473	17. 00-0016-7556	25. 00-0016-7630
2. 00-0016-7408	10. 00-0016-7481	18. 00-0016-7564	26. 00-0016-7648
3. 00-0016-7416	11. 00-0016-7499	19. 00-0016-7572	27. 00-0016-7655
4. 00-0016-7424	12. 00-0016-7507	20. 00-0016-7580	28. 00-0016-7663
5. 00-0016-7432	13. 00-0016-7515	21. 00-0016-7598	29. 00-0016-7671
6. 00-0016-7440	14. 00-0016-7523	22. 00-0016-7606	30. 00-0016-7689
7. 00-0016-7457	15. 00-0016-7531	23. 00-0016-7614	35. 00-0016-7739
8. 00-0016-7465	16. 00-0016-7549	24. 00-0016-7622	

Parcels

00-0007-5767
00-0016-7366
00-0016-4256
00-0012-1306

EXHIBIT B



NOTES:
 1. OLYMPIC WAY IS A PUBLIC STREET WITH PUBLIC SIDEWALKS.
 2. ALL OTHER STREETS, TRAILS AND SIDEWALKS WITHIN SUNBURST RANCH ARE PRIVATE.