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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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10-063-0035

FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN CW THE
PARK, LLC AND LAYTON CITY

RETURNED
DEC 04 2019

**FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT
BETWEEN CW THE PARK, LLC AND LAYTON CITY**

This First Amendment to the Development Agreement Between CW The Park, LLC And Layton City (Amendment) is entered into by and between CW The Park, LLC or assigns ("Developer") and Layton City ("City") regarding The Park Subdivision in Layton, Utah ("Subdivision").

WHEREAS, the City and the Developer have entered into a Development Agreement (the "Agreement") entitled Agreement for Development of Land Between Layton City and Gordon Street II, LLC, dated the 26th day of March, 2019 (the Agreement); and

WHEREAS, CW THE PARK, LLC, has purchased the property that is the subject of the Agreement and is the successor in interest under the Agreement and;

WHEREAS, the City and the Developer have determined that it is in the best interest of both parties to clarify and expressly specify the timing of the phasing and of the installation of certain amenities and improvements in the Subdivision; and

WHEREAS, pursuant to Section 19.08.180 Final PRUD Plan Approval of the Layton City Code, once receiving final approval of a PRUD subdivision, the Developer is entitled to request the phasing of the subdivision for the purpose of development and sale of the various phases within the Subdivision; and

WHEREAS, the City is willing to approve phasing for the Subdivision under the conditions outlined in the City Code such that each phase is approved on the basis that the phase will stand on its own, relative to the installation of streets, utilities, and amenities; and

WHEREAS, the City, according to its ordinances and state law, is willing to record a phase once the required improvements have been installed or bonded for; and

WHEREAS, there are improvements that will be open space and amenities to all owners in all phases in the Subdivision that will be required to be installed by the Developer before the Amenity (as defined below) in the Subdivision are transferred to a home owner's association; and

WHEREAS, it is the intent of the parties to set forth and agree to the timing and responsibility for the installation of those amenities in relationship to the phasing, sale and development of the phases of the Subdivision, to provide assurance and security to those builders and owners in the Subdivision that develop prior to the construction of the common area open space and amenities, that must be installed by the Developer in a timely manner.

NOW THEREFORE, the Agreement is amended by this First Amendment to the Development Agreement as follows:

1. The parties mutually agree that this Amendment is supported by fair and adequate consideration.
2. Developer understands that this Amendment is signed by the Mayor and will be ratified by the City Council; however, the Developer agrees, upon Developer's signing the Amendment, that until that ratification takes place, the Developer is bound by all of the terms of this Amendment for each phase of the Subdivision approved from the date this Amendment is signed by the Developer and agrees to waive any contest or objection to the ratification by the City Council. The benefit to the Developer is that the phases of the Subdivision can be processed upon the Developer's signing of this Amendment. It is anticipated that the City Council will ratify this Amendment on October 17,

2019. If this amendment is not ratified by that date, the Developer may, in its sole discretion, elect to no longer be bound by the terms of this Amendment.

3. The Developer agrees that each phase of the Subdivision approved by the City must comply with all of the requirements of the City code, particularly those out lined in Section 19.08.180 Final PRUD Plan Approval, Layton Municipal Code, prior to the approval of any phase in the Subdivision.
4. As used herein the term "the Amenity" shall include the common area pool, hot tub, detention pond, the path around the detention pond, and the Subdivision entrance features off of Gordon Avenue, all as depicted in Exhibit A.
5. The Developer agrees to retain ownership of the Amenity until the Amenity is completed. The Amenity shall be substantially similar in design, quality and materials as depicted in the attachments.
6. The CC&R's, Section 1.17, titled "Declarant Control Period", shall be amended to state "Declarant will not issue a written waiver of its rights to control until the construction of the "Amenity", as defined in the Development Agreement, is completed."
7. Provided the Developer and the builders are in compliance with the City's Code, the terms of Subdivision approval and the City's Engineering requirements, the City will continue to issue building permits and/or occupancy permits in approved phases of the Subdivision up to a total of 150 units of the total 272 that could be approved under the Subdivision approval.
8. Prior to the issuance of the 150th residential building permits and/or certificates of occupancy, construction on the Amenity shall commence. In the event the Amenity is not completed prior to the issuance of the 150th building permit and/or certificate of occupancy, City may withhold issuance of further building permits and/or certificates of occupancy until the Amenity is completed, or at the discretion of the City, until a cash (or equivalent) bond is posted by Developer in an amount determined by the City after receipt from the Developer of an accurate cost estimate, to cover the cost of the Amenity. The Amenity must be completed within one year from the date of the issuance of the 150th permit and/or certificate of occupancy or within 12 months of the posting of the bond if a bond is permitted, whichever occurs sooner.
9. The Developer agrees to defend and hold the City harmless for any cause of action arising out of the City's restriction on the issuance of building permits and/or certificates of occupancy that cannot be issued because the Developer fails to install the Amenity according to the terms of this Amendment.
10. Upon the execution of this Amendment, the Developer shall post a surety bond in an amount determined by the City Engineer, for the total cost of the Amenity. The Developer shall submit documentation to the City establishing the costs. This surety bond will be replaced with an escrow or cash bond at any time on or before the issuance of the 150th building permit and/or certificate of occupancy.
11. All other provisions of the Agreement shall remain the same.

12. This Amendment shall be recorded upon the property where the Subdivision will be located, which is more particularly described in Exhibit B which is attached hereto and incorporated herein by this reference.

The undersigned, by their signatures below, hereby agree to the terms of this Amendment.

CW THE PARK, LLC

By: Colin Wright
Its: Manager

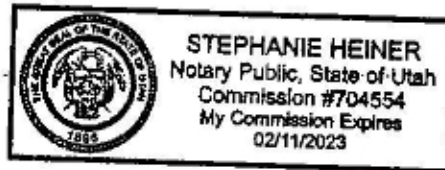
State of Utah)

:SS.

County of Davis)

On this 17 day of October, in the year 2019, before me Stephanie Heiner, a notary public, personally appeared Colin Wright an individual, the manager of CW THE PARK, LLC, a Utah limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same on behalf of said LLC.

(Notary Seal)



Stephanie Heiner
Notary Signature

LAYTON CITY

SCOTT FREITAG

MAYOR

ATTEST:

APPROVED AS TO FORM:

KIMBERLY READ
CITY RECORDER

GARY R CRANE
CITY ATTORNEY

12. This Amendment shall be recorded upon the property where the Park Subdivision will be located, which is more particularly described in Attachment B which is attached hereto and incorporated herein by this reference.

The undersigned, by their signatures below, hereby agree to the terms of this Amendment.

CW THE PARK, LLC

By: _____

Its: _____

State of Utah)

County of _____)

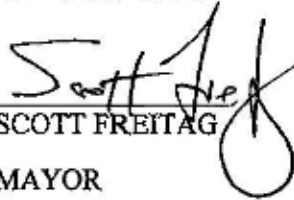
:SS.

On this ___ day of _____, in the year 2019, before me _____, a notary public, personally appeared _____, an individual, the manager of CW THE PARK, LLC, a Utah limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same on behalf of said LLC.

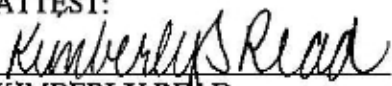
(Notary Seal)

Notary Signature

LAYTON CITY


SCOTT FREITAG
MAYOR

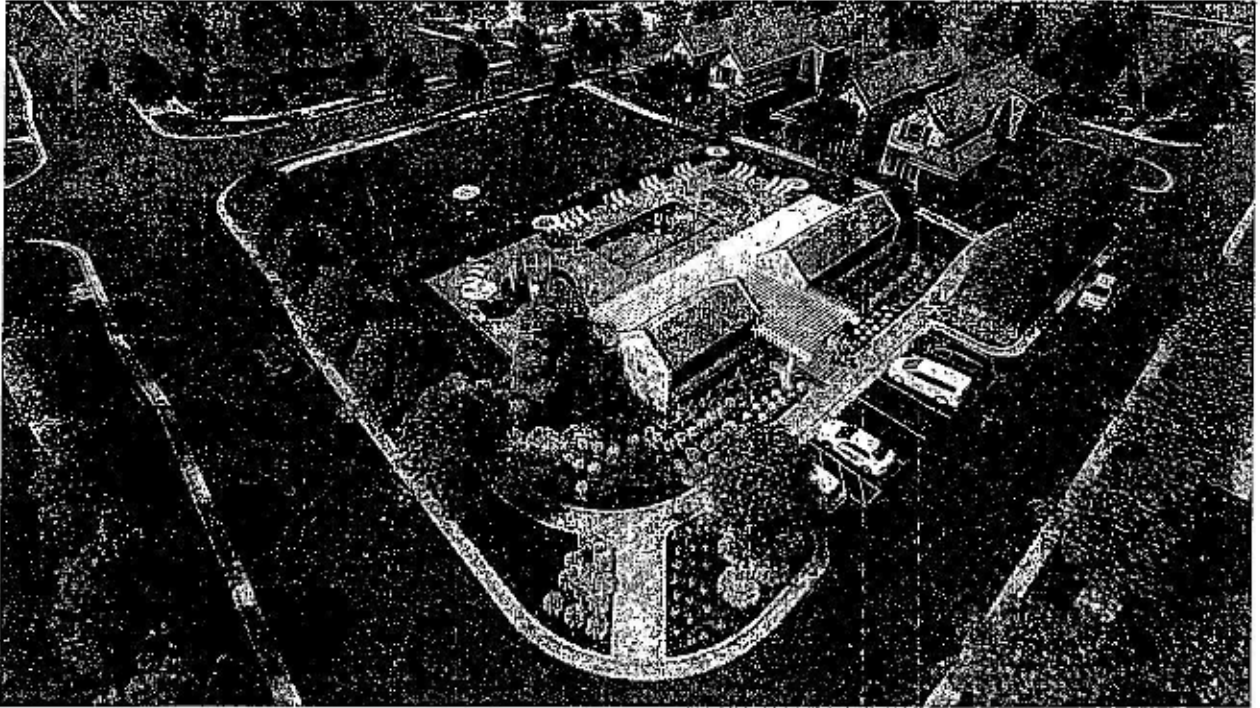


ATTEST:

KIMBERLY READ
CITY RECORDER

APPROVED AS TO FORM:

GARY R. CRANE
CITY ATTORNEY

EXHIBIT A



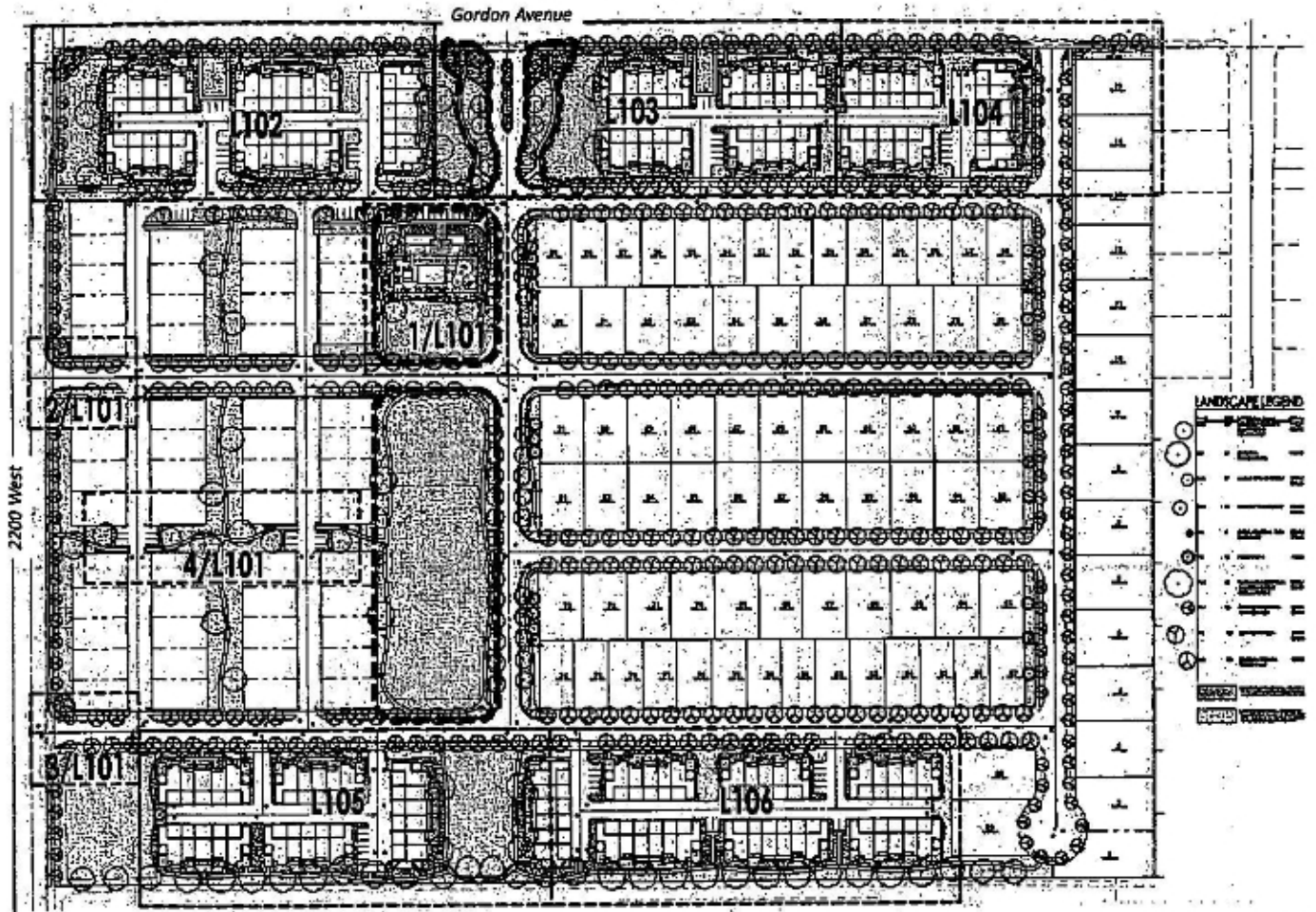
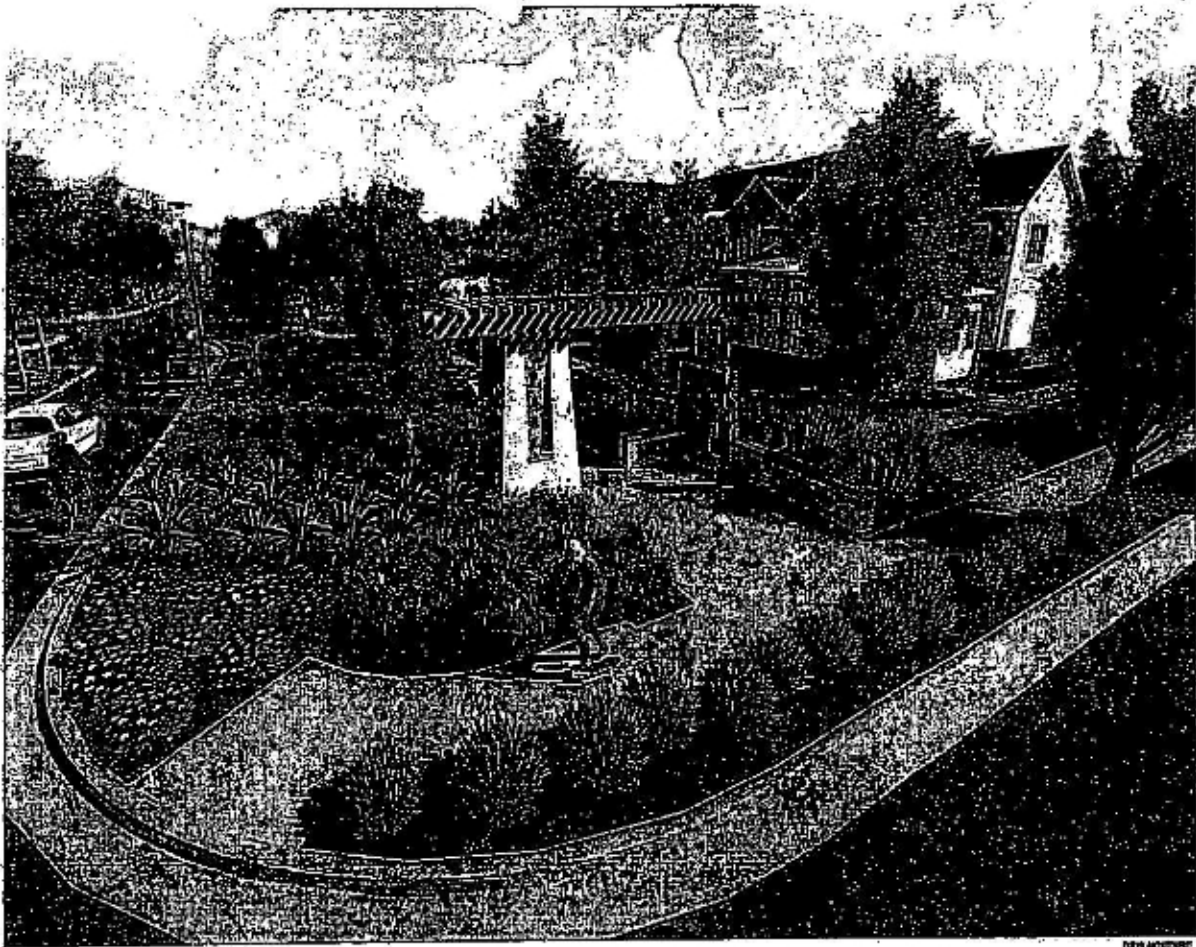


Exhibit "E" - Recreational Landscape Amenity Areas





Think
Architects

THE PARK

200 WEST 1000 SOUTH, SALT LAKE CITY

DESIGNER

ARCHITECT

D401

SCALE

EXHIBIT B

LEGAL DESCRIPTION

Parcel 10-063-0035

BEG AT THE INTERSECTION OF THE S R/W LINE OF GORDON AVENUE & THE E R/W LINE OF 2200 WEST STR, SD PT BEING 33.00 FT N 89°50'40" E ALG THE SEC LINE & 42.0 FT S 0°11'10" W FR THE NW COR OF SEC 19-T4N-R1W, SLM; & RUN TH N 89°50'40" E 1597.23 FT ALG SD S R/W LINE; TH S 0°11'10" W 1200.00 FT; TH S 89°50'40" W 1597.23 FT TO THE E R/W LINE OF SD 2200 WEST STR; TH N 0°11'10" E 1200.00 FT ALG SD R/W LINE TO THE POB. CONT. 44.00 ACRES