

99 W Main #100
Lehi

ENT 89463 BK 3848 PG 323
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1995 DEC 26 10:10 AM FEE .00 BY CR
RECORDED FOR LEHI CITY

ANNEXATION AND DEVELOPMENT AGREEMENT

← M

This Agreement is made and entered into this 13 day of December, 1995, by and between Lehi City, a municipality and political subdivision of the State of Utah, and Thanksgiving Point, L.C., a Utah Limited Liability Company ("Thanksgiving Point").

WHEREAS, Thanksgiving Point desires to annex certain real property to Lehi City as more particularly described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the Lehi City Council, having considered the petition for annexation after appropriate notice and all necessary public hearings in compliance with the requirements of state law, is willing to annex the Property but only upon certain conditions to be met and fulfilled by Thanksgiving Point; and

WHEREAS, Lehi City is authorized to enter into annexation and development agreements in appropriate circumstances in order to promote orderly development of property within its boundaries and to provide other benefits in connection with such development; and

WHEREAS, it is further understood and agreed that the performance of the obligations set forth herein are independent of and in addition to compliance by Thanksgiving Point with all applicable laws, ordinances, resolutions, requirements, and regulations of Lehi City.

NOW, THEREFORE, in consideration of the foregoing goals and objectives and the covenants and promises set forth below, the parties hereby agree as follows:

1. Recognition and Acceptance of Previous Development Permits and Approvals from Utah County. The parties understand and agree that Thanksgiving Point has previously received various building permits and development approvals from Utah County for facilities which are currently under construction. As a part of this Agreement, Lehi City recognizes and accepts the continuing validity of those building permits and development approvals, a summary of which is attached hereto as Exhibit B.

2. Zoning Compatibility Approval. The legal description of the property covered by this Agreement is attached hereto as Exhibit A. No property may be added to this description for purposes of this Agreement except by written amendment. The parties understand and agree that Thanksgiving Point is proposing a long-term, multi-phased, master planned development on the Property which will eventually include a number of different but compatible land uses as reflected in the Impact Statement attached to the Specific Annexation Policy Declaration for the Thanksgiving Point Annexation (the "Project"). As provided in Section 1 above, Lehi

City has recognized and accepted the continuing validity of various building permits and development approvals previously received from Utah County. The parties understand and agree that the Project continues to evolve and specific plans for future activities will be developed and presented to Lehi City for approval as that process continues. Exhibit C attached hereto and incorporated herein by this reference consists of a general plan layout and narrative description of the Project as it is presently envisioned by Thanksgiving Point. Ordinance No. _____ approving the annexation of the Thanksgiving Point Property to Lehi City assigned the A-1 zoning designation to that part of the territory located south and west of the railroad line as depicted on the Annexation Plat and the GC-2 zoning designation to the territory located to the north and east of the railroad line which is being annexed to Lehi City by that ordinance. Pursuant to Section 18.24.025.F of the Lehi City Municipal Code and Section 18.48.020.20 of the Lehi City Municipal Code, the Lehi City Council hereby expressly finds that the uses depicted on Exhibit C are compatible and in harmony with the objectives and characteristics of the A-1 and GC-2 zones, respectively, and that such uses are not inconsistent with the objectives and characteristics of either one. The term of this Agreement shall be for a period of five (5) years following the date of its adoption by the Lehi City Council, unless the Agreement is earlier terminated or modified by written amendment to this Agreement.

3. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by Lehi City in enacting zoning, subdivision, development, transportation, environmental, open space and related land use plans, policies, ordinances and regulations after the date of this Agreement. The parties understand and agree that Lehi City is restricted in its ability to limit the future exercise of the police power by contract and this Agreement is intended to reserve to Lehi City all of its police power. The parties understand and agree that the current zoning ordinances of Lehi City may not fully contemplate the type of mixed use development proposed by Thanksgiving Point, and the parties agree to work together cooperatively in a good faith effort to accommodate the proposed development as reflected in Exhibit C.

4. Site Plan Approval, Subdivision Plat Approval and Compliance With Lehi City Development Standards and Public Improvement Specifications. Thanksgiving Point expressly acknowledges and agrees that nothing in this Annexation and Development Agreement shall be deemed to relieve Thanksgiving Point from the obligation to comply with all applicable requirements of Lehi City necessary for approval of future phases of the Project, including the payment of fees and compliance with all their applicable ordinances, resolutions, regulations, policies and procedures of Lehi City including, but not limited to, the Lehi City Municipal Code and Development Standards and Public Improvement Specifications.

5. Water Rights Conveyance Requirements and Provision of Water Service by Lehi City. The parties understand and agree that Thanksgiving Point has adequate water rights to supply its own needs for agricultural, outside watering, and external fire protection purposes and that Lehi City will not be providing pressurized or secondary irrigation water except as a backup for fire protection purposes. Lehi City will monitor and meter any water provided for such purposes and charge for the usage of such water according to its normal rate schedule. The parties further understand and agree that Lehi City will provide water for culinary uses, including inside fire protection sprinkling systems, associated with the Project and that Thanksgiving Point will convey adequate water for such uses in compliance with the water rights conveyance requirements of Section 1.20.020 of the Lehi City Municipal Code. For the immediate projected culinary needs, Thanksgiving Point shall convey 21 acre feet of water rights to Lehi City at the time of annexation. Thanksgiving Point agrees that in the event of any subsequent change in use of the Property initiated by the owner or any increase in the need for water service to the Property from Lehi City, it will be required to convey water rights to the extent necessary to provide adequate water to such development in compliance with the water rights conveyance requirements of Section 1.20.020 of the Lehi City Municipal Code. Thanksgiving Point agrees that its water rights shall be appurtenant to and shall pass with title to the Property and that Thanksgiving Point will not leave the Property without adequate water to satisfy the Lehi City water conveyance requirements. In the event that it is determined that any additional excess water is available and Thanksgiving Point decides to sell such water, Lehi City shall be given a right of first refusal for the purchase of such water rights.

6. Additional Right-of-Way. The parties understand and agree that the arterial roadway which was anticipated to traverse the property as depicted on the transportation and circulation element of the Lehi City General Plan will now follow the I-15 west frontage road with the same right-of-way width as previously required for that arterial. Thanksgiving Point agrees to provide the additional right-of-way and complete the improvements required on the west side of said road at no cost to Lehi City.

7. Sewer Service. Since the new Timpanogos Special Service District Wastewater Treatment Plant, which is to be constructed southwest of Lehi City, will not be functional until 1997, and whereas, Thanksgiving Point proposes to open their facility June 1, 1996, the parties agree as follows relative to sewer service for Thanksgiving Point:

Lehi City will, as part of the Micron west sewer line construction, provide a sewer line in Sycamore Lane starting at the west frontage road of I-15 and extending west to the railroad; thence south along the railroad; thence southwest to 2200 West (9550 West county address) ending at approximately 900 North or as agreed between the parties.

This segment of sewer line will be installed and functional prior to June 1, 1996. Thanksgiving Point hereby agrees to deed a 20-foot permanent easement through their properties for said sewer line along with a 40-foot temporary construction easement. Thanksgiving Point also agrees to provide a 20-foot sewer easement on properties owned by Thanksgiving Point with the associated 40-foot temporary construction easement north along the east side of the tracks from Sycamore Lane to the north boundary of the Thanksgiving Point to facilitate future growth north of Thanksgiving Point. Thanksgiving Point also agrees to install, operate and maintain their own sewer lift station and pressure sewer line to be used on an interim basis for their sewer needs until the sewer treatment plant is complete from the terminus of the sewer line constructed by lehi City to the existing sewer system located at approximately 1100 West. Thanksgiving Point will not unduly restrict use of said facility, providing the other connecting parties contribute an equitable share relative to their usage, and capacity is available.

8. Agreement to Run with Land. This Agreement shall be recorded against the Property and shall be deemed to run with the Property. This Agreement shall be binding upon and inure to the benefit of all successors in interest to the Property.

9. Assignment. Neither this Annexation and Development Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of Lehi City, which shall not be unreasonably withheld.

10. No Joint Venture, Partnership or Third Party Rights. This Annexation and Development Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

11. Integration. This Annexation and Development Agreement contains the entire agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by subsequent writing duly executed by the parties hereto.

12. Severability. If any part or provision of this Agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall

be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

13. Attorney's Fees. In the event that this Development Agreement or any of its provisions is breached by either party, the party at fault agrees to pay the attorney's fees and all costs of enforcement of the non-breaching party.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives effective as of the date first written above.



Evelyn W. Yates
Evelyn W. Yates, City Recorder
Lehi City, Utah

LEHI CITY

By William L. Gibbs
William L. Gibbs, Mayor

THANKSGIVING POINT, L.C.,
a Utah Limited Liability Company

By Alan C. Ashton
Alan C. Ashton, Member

By Karen Ashton
Karen Ashton, Member

38083.1

Exhibit "A"

BEGINNING AT A POINT THAT IS	
N 89°58'11" W	140.32
OF THE EAST 1/4 COR. SEC. 36 ENT 89463 BK 3848 PG 328	
T4S, R1W, SL8&M	
THENCE; S 41°45'15" E	1799.54
THENCE; S 49°35'37" W	1388.07
THENCE; S 34°11'31" W	481.54
THENCE; S 00°44'30" E	667.32
THENCE; SOUTH	298.75
THENCE; WEST	350.95
THENCE; S 81°40'54" W	511.95
THENCE; S 72°37'26" W	359.79
THENCE; S 68°14'41" W	254.41
THENCE; S 07°22'28" E	67.38
THENCE; S 79°54'29" W	362.83
THENCE; S 57°47'29" E	130.97
THENCE; S 08°11'28" W	98.21
THENCE; S 89°10'40" W	41.39
THENCE; N 40°56'50" W	271.68
THENCE; N 89°36'12" E	606.33
THENCE; S 81°02'05" W	347.45
THENCE; S 72°37'26" W	359.79
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THENCE; N 38°09'22" W	300.45
THENCE; N 43°15'04" W	405.68
THENCE; N 46°25'32" W	558.22
THENCE; N 53°18'35" W	160.09
THENCE; N 89°43'39" E	1408.52
THENCE; S 39°21'17" E	1093.35
THENCE; S 89°27'52" W	1220.47
THENCE; S 08°43'48" W	205.94
THENCE; SOUTH	396.92
THENCE; N 31°17'41" W	323.31
THENCE; N 25°50'11" W	123.79
THENCE; N 33°14'15" W	159.77
THENCE; N 42°15'36" W	448.34
THENCE; N 34°17'12" W	220.85
THENCE; N 40°56'28" W	480.42
THENCE; N 31°24'12" W	87.65
THENCE; N 24°18'35" W	109.56
THENCE; N 32°16'53" W	330.10
THENCE; N 52°18'35" W	67.19
THENCE; N 76°56'34" W	100.08
THENCE; S 79°53'35" W	75.56
THENCE; S 69°20'12" W	108.20
THENCE; S 63°44'54" W	193.64
THENCE; N 58°27'34" W	92.58
THENCE; N 08°48'44" E	523.19
THENCE; N 10°12'01" E	210.22
THENCE; N 03°14'27" E	258.23
THENCE; N 07°08'57" W	68.57
THENCE; N 00°39'48" W	327.34
THENCE; N 13°17'42" W	72.07
THENCE; N 11°24'28" W	272.12
THENCE; N 06°02'21" W	194.35
THENCE; N 14°43'12" E	103.39
THENCE; N 30°05'22" E	63.95
THENCE; N 59°09'38" E	288.78
THENCE; N 26°21'05" W	250.57
THENCE; EAST	455.51
THENCE; S 86°52'33" E	282.73
THENCE; S 20°28'37" E	182.81
THENCE; S 40°22'26" E	3977.26
THENCE; N 39°23'59" E	1254.61
THENCE; S 44°46'03" E	472.28
THENCE; S 38°19'13" W	1133.86
THENCE; S 39°18'14" E	749.39
THENCE; N 39°29'47" E	1181.19
THENCE; S 45°25'01" E	260.41
THENCE; S 89°52'53" E	338.40
THENCE; SOUTH	660.67
THENCE; S 89°58'12" E	1506.30

TO THE POB

12-11-95

THANKSGIVING POINT, L.C.
LEHI ANNEXATION
12/11/95

ENT 89463 BK 3848 PG 329

RESTAURANT BUILDING: PERMIT #95-238

The building is 29,175 sq. Ft. It will have three floors; the basement will contain the kitchen, the main floor will be the restaurant/farmers market to seat approximately 250, and the upper floor will contain a security center, offices, and meeting rooms.

GARDEN CENTER BUILDING: PERMIT 95-237

The building is 37,410 sq. Ft. It will have three floors; the basement will serve as future expansion, storage, and maintenance rooms. The main floor will contain a boutique, garden center and flower shop. The upper floor will be offices and meeting rooms. This building will also include a Tropical Greenhouse. Attached to the west of the restaurant and garden center will be 3 acres of showcase garden and a full line of garden supplies. We also intend to conduct wedding receptions at this location. An 80 foot water tower will also be included with the building.

RETAIL GREENHOUSE: PERMIT 95-276

This building is 6,720 sq. ft. And will be open to the public to provide plants, vegetables, and plant materials. It is located with the garden center building.

GREENHOUSE WAREHOUSE: PERMIT 95-161

The warehouse building is 12,715 sq. ft. It will service the greenhouses as the production center for the greenhouses and wholesale nursery. It will also be the shipping and receiving locations for plant and plant supplies.

PRODUCTION GREENHOUSES: PERMIT 95-161

These 10 buildings are 42,000 sq. ft. The greenhouse will support operations in the 60 acres of botanical gardens, vegetable garden, showcase gardens, nursery, and other commercial landscaping needs.

MAINTENANCE BUILDING: PERMIT 95-294

This building is 20,241 sq. ft. It will be used to service farm and landscaping equipment, vehicles, and golf carts as well as park recreational equipment.

MAINTENANCE BUILDING WALL: PERMIT 95-228

This wall is complete and approximately 1300 ft. long and 21 ft high.

ANIMAL BARN: PERMIT 95-305

The structure housing the animals will be a one story 32, 412 sq. ft. building. The animal park is a five acre area offering a variety of farm animals for the education and entertainment of all. The park will give elementary-age students an opportunity to visit and learn about farm animals.

PUMPHOUSE: PERMIT 95-090

The pumphouse building houses the pumping equipment for the irrigation system for the project.

PUMPHOUSE ADDITION: PERMIT 95-131

This addition was added to protect the filters from freezing.

GARDEN DISPLAY WALL: PERMIT 95-278

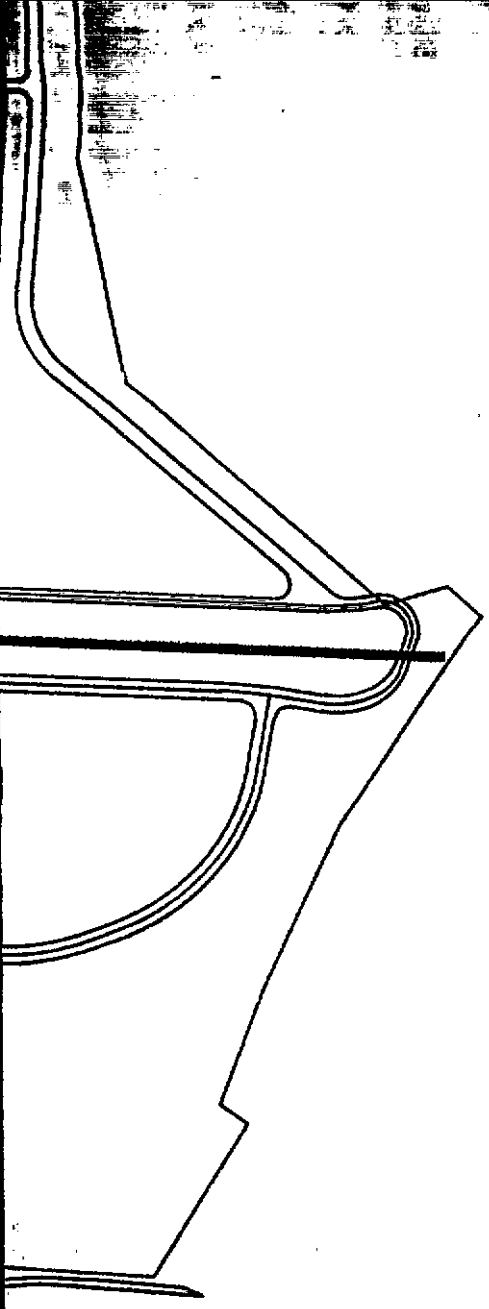
The display wall is completed and no further construction anticipated.

KAL FARR HOME: PERMIT 95-306

This will be the residence of the farm general manager. It will have be a two-story building, mainly brick and siding. The building is 2800 ft. main level, 2800 sq. ft. basement level, and 1100 sq. ft. upper level.

BARN: PERMIT 95-275

This building has not begun construction and is currently anticipated to be included in phase II of the project.



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THENCE: N 38°09'22" W	300.45
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THENCE: N 39°29'47" E	1181.19
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THENCE: SOUTH	660.67
THENCE: S 89°58'12" E	1506.30

TO THE POB

ENT 89463 BK 3848 PG 130

22117070 sq.ft
7381 Acres

Exhibit "C"

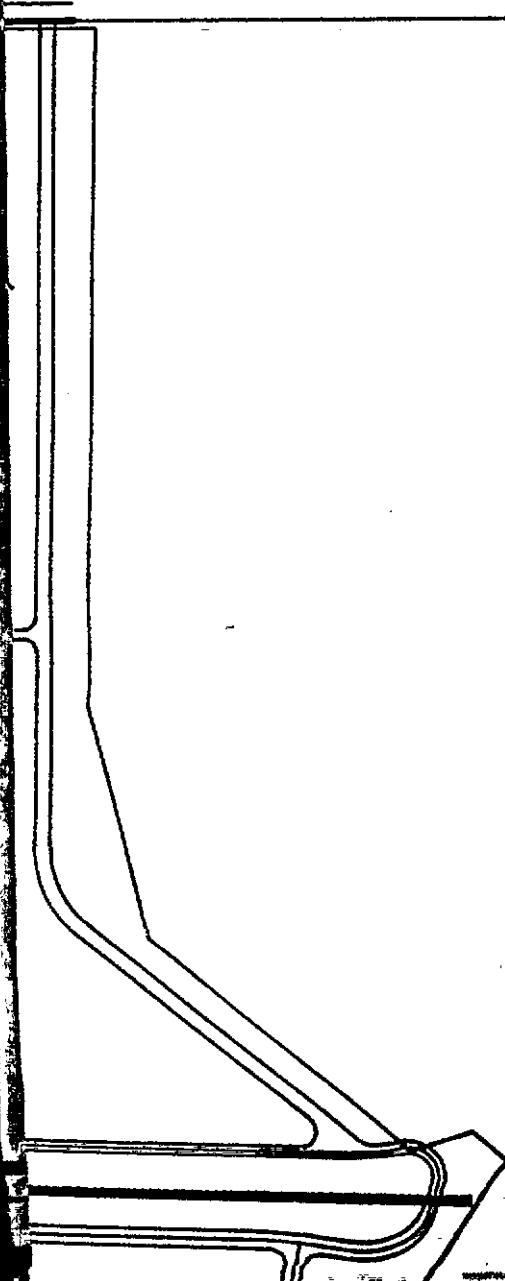
LEHI MAP

RECEIVED BY
LEHI CITY
12-11-95

BEGINING AT A POINT THAT IS
 N 89°58'11" W 140.32
 OF THE EAST 1/4 COR SEC. 36
 T4S, R1W, SLB&M

THENCE; S 41°45'15" E 1799.54
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FRONTAGE ROAD

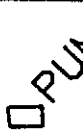


ENT 89463 BK 3848 PG 332

INTERSTATE #15
ADDITION
WATER

192211 v 1422
EAST 1/4, SEC. 36,
T4S, R1W, S1B&M

POB



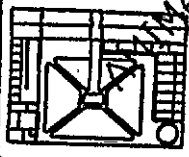
PUMP HOUSE



GARDEN CENTER
FARMERS MARKET

RETAIL GREEN HOUSE
GREEN HOUSE WAREHOUSE

FUTURE BARN



DISPLAY

ICE PL DG

RETAIL
GREEN HOUSE WARE
FUTURE BARN

KALS HOUSE
MAINTENANCE BLDG.

ENT 89463 BK 3848 PG 333

Area =
507.

NEXATION TO

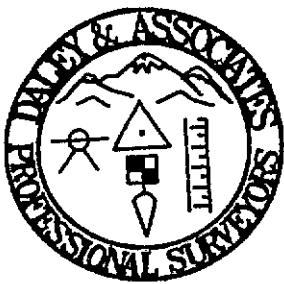
ENT 89463 BK 3848 PG 334



ENT 89463 BK 3848 PG 335

ING POINT A

ENT 89463 BK 3848 PG 336



THANKSGIV