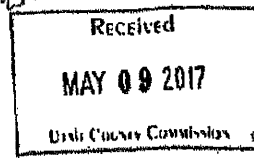


#251



Commission  
Public Safety  
Public Works

**Notice of Annexation Petition**

A Petition for annexation has been filed in the office of the City Recorder of the City of Saratoga Springs, Utah for the purpose of requesting annexation of a parcel(s) of land belonging to M. Louise Johansen, which is more specifically described as follows:

A description of land, being comprised of the previous three (3) record descriptions that comprise parcel 13:029:0114, situate in the Northeast Quarter of the Northeast Quarter of Section 24, Township 5 South, Range 1 West and in, Northwest Quarter of the Northwest Quarter of Section 19, Township 5 South, Range 1 East, Salt Lake Base and Meridian, and more particularly described as follows:

Commencing at the Northwest Corner of said Section 19, thence 314.46 feet South 00°08'28" East along the section line, and 230.55 feet East to the Point of Beginning; thence South 00°04'04" East 210.58 feet; thence South 89°42'34" East 11.85 feet; thence South 00°28'14" West 21.97 feet; thence North 89°30'13" West 370.85 feet; thence North 00°27'17" East 20.70 feet; thence North 89°59'26" East 2.16 feet; thence North 00°22'34" West 213.13 feet; thence South 89°17'28" East 358.02 feet to the Point of Beginning.

Containing 1.92 acres, more or less.

The City of Saratoga Springs City Council received a Notice of Certification from the City Recorder of the City of Saratoga Springs on April 24, 2017. This notice as well as the complete annexation petition is available for inspection and copying at the office of the City Recorder.

The City of Saratoga Springs may grant the petition and annex the area described in the petition unless a written protest to the annexation is filed with the Boundary Commission at 100 East Center, Provo, Utah 84604 and a copy of the protest is delivered to the City Recorder of the City of Saratoga Springs by May 24, 2017.

EXHIBIT F

Development and Annexation Agreement

## DEVELOPMENT AND ANNEXATION AGREEMENT

THIS DEVELOPMENT AND ANNEXATION AGREEMENT (hereinafter "Agreement") is made and entered into on Dec. 5, 2017, by and between the City of Saratoga Springs, Utah, a Utah municipal corporation, hereinafter referred to as "City," and property owners Louise Johansen and Michael Johansen; hereinafter referred to as "Owner."

### RECITALS:

**WHEREAS**, Owner owns 1.94 acres of property located in unincorporated Utah County, which property is more fully described in the property ownership map, vicinity map, and/or legal descriptions attached as Exhibit A (hereinafter "Property"); and

**WHEREAS**, Owner wishes to annex the Property into the City (hereinafter "Annexation Request") and use the Property for Recreational Vehicle Storage (hereinafter "Project"), which use is a conditional use in the City's Land Development Code in the Industrial (hereinafter "I") zone as "Vehicle Storage"; and

**WHEREAS**, Vehicle Storage is currently defined as "a location where Recreational Vehicles, cars, trucks, and other vehicles are stored in an enclosed structure, or in an outdoor area fully enclosed by a minimum six foot opaque wall or fence" and "does not include sales"; and

**WHEREAS**, Owner and City agree that the Property will initially be assigned the I Zone with the only permitted uses being Vehicle Storage and the existing nonconforming uses located on the Property on the effective date of this Agreement, and, at the time specified in this Agreement, the Property will be rezoned automatically to the Regional Commercial (hereinafter "RC") zone and the Vehicle Storage use will no longer be permitted and must cease (hereinafter "Zoning Request"); and

**WHEREAS**, except as specifically stated otherwise in this Agreement, the Property will be subject to the I Zone and RC Zone, respectively, as provided in Title 19 of the City Code at the date a complete land use application is filed and will be subject to all City ordinances, regulations, standards, and policies (collectively "City regulations"); and

**WHEREAS**, the City desires to enter into this Agreement to promote the health, welfare, safety, convenience, and economic prosperity of the inhabitants of the City through the establishment and administration of conditions and regulations concerning the use and development of the Property; and

**WHEREAS**, the City desires to enter into this Agreement because the Agreement establishes planning principles, standards, and procedures to eliminate uncertainty in planning

and guide the orderly development of the Property consistent with the City General Plan, the City Code, and the conditions imposed by the Planning Commission and City Council; and

**WHEREAS**, to assist the City in its review of the Annexation and Zoning Request and to ensure development of the Property in accordance with Owner's representations to City, Owner and City desire to enter voluntarily into this Agreement, which sets forth the process and standards whereby Owner may develop the Property; and

**WHEREAS**, on April 13, 2017, after a duly noticed public hearing, City's Planning Commission recommended approval of Owner's Zoning and Annexation Request, and reviewed the conceptual project plans attached hereto as Exhibit B (hereinafter "Concept Plan"), and forwarded the application to the City Council for its consideration, subject to the findings and conditions contained in the Staff Report, and written minutes attached hereto as Exhibit C; and

**WHEREAS**, on December 5, 2017, the Saratoga Springs City Council (hereinafter "City Council") approved the Annexation and Zoning Request subject to the findings and conditions contained in the Staff Report and Written Minutes attached hereto as Exhibit C; and

**WHEREAS**, pursuant to its legislative authority under Utah Code Annotated § 10-9a-101, et seq. and § 10-2-401, et seq., and after all required public notice and hearings and execution of this Agreement by Owner, the City Council, in exercising its legislative discretion, has determined that entering into this Agreement furthers the purposes of the Utah Municipal Land Use, Development, and Management Act, Section 10-2-401 et seq. of the Utah Code, City's General Plan, and Title 19 of the City code (collectively, the "Public Purposes"). As a result of such determination, City has elected to approve the Annexation and Zoning Requests and authorize the subsequent development thereunder in accordance with the provisions of this Agreement, and the City has concluded that the terms and conditions set forth in this Agreement accomplish the Public Purposes referenced above and promote the health, safety, prosperity, security, and general welfare of the residents and taxpayers of the City.

#### **AGREEMENT:**

Now, therefore, in consideration of the recitals above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner hereby agree as follows:

1. Effective Date. This Agreement shall become effective on the date it is executed by Owner and the City (hereinafter "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.
2. Affected Property. The property ownership map, vicinity map, and/or legal descriptions for the property are attached as Exhibit A. In the event of a conflict between the legal description and the property ownership map, the legal description shall take precedence.

No other property may be added to or removed from this Agreement except by written amendment to this Agreement executed and approved by Owner and City.

3. Zone Change and Permitted Uses. Subject to the terms of this Agreement, the current zoning designation of the Property shall be the Industrial Zone with the only allowed uses of Vehicle Storage (subject to issuance of a conditional use permit per City regulations) as well as existing nonconforming uses (hereinafter "Current Permitted Uses"). The Industrial Zone designation shall continue for 10 years from the Effective Date. Except as specifically provided in this Agreement, the Current Permitted Uses shall be subject to all City regulations of the Industrial Zone that are effective on: (a) the Effective Date, with respect to the existing nonconforming uses; or (b) the date a complete conditional use permit application is filed for the Vehicle Storage Use. At the end of the 10 years, the Vehicle Storage Use shall automatically expire and no longer be permitted and the zoning designation for the Property shall automatically change to RC or equivalent. Any future use and development of the Property (hereinafter "Future Uses"), except for the nonconforming uses existing on the Property as of the Effective Date, shall be subject to all provisions of the RC zone and City regulations existing at the date a complete Site Plan or Preliminary Application is filed.

Owner may elect to terminate the Vehicle Storage Use prior to the end of the 10-year period from the Effective Date. Should Owner elect to do so, the zoning of the Property will automatically change to RC once a plat or site plan is approved and/or recorded.

4. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police powers of City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation, and other land use plans, policies, ordinances, and regulations after the date of this Agreement. Notwithstanding the retained power of City to enact such legislation under its police power, such legislation shall not modify Owner's rights as set forth herein unless facts and circumstances are present that meet the compelling, countervailing public interest exception to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1988), or successor case law or statute. Any such proposed change affecting Owner's rights shall be of general applicability to all development activity in City. Unless City declares an emergency, Owner shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Property.
5. Required Improvements. Except as specifically provided herein, this Agreement does not in any way convey to Owner any capacity in any City system or infrastructure or the ability to develop the Property without the need for Owner to install and dedicate to City all required improvements necessary to service the Property. Future development of the Property shall comply in all respects to all City regulations with respect to the required infrastructure to service the Property. In addition, in consideration of granting the

Annexation and Zoning Request, Owner may be required to upsize certain infrastructure, as specified below. Not by way limitation, the Owner shall be required to install and dedicate the following:

- a. **Water Rights and Sources.** Owner may use the existing well, water rights, and water infrastructure for the Current Permitted Uses (subject to a Conditional Use Permit for the Vehicle Storage Use). If and when Owner wishes to engage in the Future Uses on the Property, Owner shall convey to the City water rights and sources sufficient for the development of the Property according to City regulations in effect at the time a complete application for the Future Uses is filed. The City may, but is not required to, sell to Owner water rights if the City has sufficient water rights and sources.
- b. **Water Facilities for Development.** When Owner files a complete application for the Future Uses, Owner shall be responsible for the installation and dedication to City of all onsite and offsite culinary and secondary water improvements, including but not limited to source, storage, distribution, treatment, and fire flow facilities sufficient for the development of the Property in accordance with the City regulations current at that time. The required improvements for each plat shall be determined by the City Engineer at the time a complete application is filed for the Future Uses and may be adjusted in accordance with the then-current City regulations and any applicable law.
- c. **Sewer, Storm Drainage, and Roads.**
  - i. **Current Permitted Uses.** For the Current Permitted Uses, the Owner shall be allowed to use a drivable surface, other than asphalt, such as road base to meet the City's road improvement requirements. Also, the Owner shall be allowed to use the existing septic system and utilize onsite storm water retention subject to all City regulations.
  - ii. **Future Uses.** For the Future Uses, Owner shall be responsible for the installation and dedication to City of all onsite and offsite sewer, storm drainage, and road improvements sufficient for the development of the Future Uses of Owner's Property in accordance with the then-current City regulations. The required improvements for each plat or site plan shall be determined by the City Engineer at the time of plat or site plan submittal and may be adjusted in accordance with the then-current City regulations and any applicable law.
- d. **Landscaping, Fencing and Trail Improvements.**

- i. Current Uses. For the Current Permitted Uses, the Owner shall not be required to install landscaping or trail improvements. Owner shall be required to install an opaque screening fence, 6-8 feet in height, within 2 years of the date of this agreement.
  - ii. Future Uses. At the time of recordation of a plat or site plan for the Future Uses, Owner will be required to install, or guarantee the installation, of all landscaping, trail, and fencing improvements required by the then-current City regulations.
- e. **Power Lines.** For the Future Uses, Owner shall be required to bury all power lines at Owner's expense that are located on the Property, along the property line, and along abutting roadways, including obtaining all necessary permits from Rocky Mountain Power and government entities at Owner's expense. This shall be in addition and not in lieu of all required improvements in accordance with City regulations in effect at the time of application for the Future Uses.

Final Project/Plat or Development Plan Approval. In the event the City Council approves the Annexation and Zoning Requests, Owner shall apply for a Conditional Use Permit for the Vehicle Storage use and cause final project plans and specifications (including site and building design plans) (hereinafter "Plans") to be prepared for the Project meeting current City regulations and this Agreement, with the exceptions outlined in this Agreement for the Current Permitted Uses. The Conditional Use Permit shall automatically expire 10 years from the Effective Date, or, in the event Owner elects to discontinue the Vehicle Storage Use earlier, on the date a site plan and/or plat is approved and/or recorded for the Future Uses.

- 6. Commencement of Site Preparation. Owner shall not commence site preparation or construction of any Property improvement on the Property until such time as the Plans have been approved by City in accordance with the terms and conditions of this Agreement. Upon approval of the Plans, subject to the provisions of this Agreement and conditions of approval, Owner may proceed by constructing the Project all at one time or in phases as specified in City regulations.
- 7. Time of Approval. Any approval required by this Agreement shall not be unreasonably withheld or delayed and shall be made in accordance with procedures applicable to the I and RC zone, as applicable.
- 8. Term. The term of this Agreement shall be for a period of fifteen years from the Effective Date. However, this Agreement may terminate earlier: (i) when certificates of occupancy have been issued for all buildings and/or dwelling units on the Property; provided, however, that any covenant included in this Agreement which is intended to run with the land, as set forth in any Special Condition, shall survive this Agreement as

provided by such Special Condition; or (ii) if Owner fails to proceed with the Project within a period of two years. If this Agreement is terminated due to Owner's failure to proceed with the Project, then this Agreement and the zoning on the Property shall revert to Agricultural Zone. Unless otherwise agreed to by the City and Owner, Owner's vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement approved by City and Owner in writing. However, this Agreement shall continue in perpetuity for any portions of the Property contained in a final plat approved by the City Council and recorded on the property in the county recorder's office by Owner, unless City and Owner mutually agree otherwise in writing.

9. Successors and Assigns.

- a. Change in Owner. This Agreement shall be binding on the successors and assigns of Owner. If the Property is transferred (hereinafter "Transfer") to a third party (hereinafter "Transferee"), Owner and the Transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such Transfer Owner provides to City a letter from Transferee acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by the Transferee, notarized, and delivered to City prior to the Transfer. Upon execution of the letter described above, the Transferee shall be substituted as Owner under this Agreement and the persons and/or entities executing this Agreement as Owner shall be released from any further obligations under this Agreement as to the transferred Property.
- b. Individual Lot or Unit Sales. Notwithstanding the provisions of Subparagraph 10.a., a transfer by Owner of a lot or unit located on the Property within a City approved and recorded plat shall not be deemed a Transfer as set forth above so long as Owner's obligations with respect to such lot or dwelling unit have been completed. In such event, Owner shall be released from any further obligations under this Agreement pertaining to such lot or dwelling unit.

10. Default.

- a. Events of Default. Upon the happening of one or more of the following events or conditions Owner or City, as applicable, shall be in default (hereinafter "Default") under this Agreement:
  - i. a warranty, representation, or statement made or furnished by Owner under this Agreement is intentionally false or misleading in any material respect when it was made;
  - ii. a determination by City made upon the basis of substantial evidence that Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement;



- iii. any other event, condition, act, or omission, either by City or Owner that violates the terms of, or materially interferes with the intent and objectives of this Agreement.

b. Procedure Upon Default.

- i. Upon the occurrence of Default, the non-defaulting party shall give the other party thirty days written notice specifying the nature of the alleged Default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event the Default cannot reasonably be cured within thirty days, the defaulting party shall have such additional time as may be necessary to cure such Default so long as the defaulting party takes significant action to begin curing such Default with such thirty day period and thereafter proceeds diligently to cure the Default. After proper notice and expiration of said thirty day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in Paragraph 11.c. herein. Failure or delay in giving notice of Default shall not constitute a waiver of any Default.
  - ii. Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed, or stopped any required performance or effort to cure a Default.
- c. Breach of Agreement. Upon Default as set forth in Subparagraphs 11.a. and 11.b. above, City may declare Owner to be in breach of this Agreement and City: (i) may withhold approval of any or all building permits or certificates of occupancy applied for on the Property, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of occupancy for any building on the Property until the breach has been corrected by Owner. In addition to such remedies, City or Owner may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.

11. Entire Agreement. This Agreement shall supersede all prior agreements with respect to the subject matter hereof, not incorporated herein, and all prior agreements and understandings are merged, integrated, and superseded by this Agreement. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

**Exhibit A:** Property Description.

**Exhibit B:** Concept Plan.

**Exhibit C:** Staff Report with Adopted City Council Findings and Conditions of Approval, Report of Action (if applicable), and City Council Written Minutes.

12. General Terms and Conditions.

- a. Incorporation of Recitals. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.
- b. Recording of Agreement. This Agreement shall be recorded at Owner's expense to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.
- c. Severability. Each and every provision of this Agreement shall be separate, several, and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provision shall not affect the enforceability of any other provision hereof.
- d. Time of Performance. Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties, each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.
- e. Construction of Agreement. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of City.
- f. State and Federal Law; Invalidity. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's approval of the Project is held invalid by a court of competent jurisdiction this Agreement shall be null and void.

- g. Enforcement. The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Owner violates the rules, policies, regulations, or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Owner has used its reasonable best efforts to cure such violation within such thirty days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been rectified by Owner. City shall be free from any liability arising out of the exercise of its rights under this paragraph.
- h. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official, or agent of City has the power to amend, modify, or alter this Agreement or waive any of its conditions as to bind City by making any promise or representation not contained herein.
- i. Amendment of Agreement. This Agreement shall not be modified or amended except in written form mutually agreed to and signed by each of the parties. No change shall be made to any provision of this Agreement unless this Agreement is amended pursuant to a vote of the City Council taken with the same formality as the vote approving this Agreement.
- j. Attorney Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein.
- k. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be deemed to have been sufficiently given or served for all purposes when presented personally, or four days after being sent by registered or certified mail, properly addressed to the parties as follows (or to such other address as the receiving party shall have notified the sending party in accordance with the provisions hereof):

To the Owner: Michael or Louise Johansen  
7927 N 9550 W  
LEHI, UT 84043-3139

To the City: City Manager  
City of Saratoga Springs  
1307 N. Commerce Drive, Suite 200  
Saratoga Springs, UT 84045

- l. Applicable Law. This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder are to be construed and enforced in accordance with the laws of the State of Utah.
- m. Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven days of receipt of said facsimile copy.
- n. Hold Harmless and Indemnification. Owner agrees to defend, indemnify, and hold harmless City and its elected officials, officers, agents, employees, consultants, special counsel, and representatives from liability for claims, damages, just compensation restitution, inverse condemnation, or any judicial or equitable relief which may arise from or are related to any activity connected with the Property, including approval of the Project, the direct or indirect operations of Owner or its contractors, subcontractors, agents, employees, or other persons acting on its behalf which relates to the Project, or which arises out of claims for personal injury, including health, and claims for property damage. This includes any claims or suits related to the existence of hazardous, toxic, and/or contaminating materials on the Project and geological hazards.
  - i. Nothing in this Agreement shall be construed to mean that Owner shall defend, indemnify, or hold the City or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from: (i) the willful misconduct or negligent acts or omissions of the City, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the City of improvements that have been offered for dedication and accepted by the City for maintenance
  - ii. City shall give written notice of any claim, demand, action or proceeding which is the subject of Owner's hold harmless agreement as soon as practicable but not later than thirty (30) days after the assertion or

commencement of the claim, demand, action or proceeding. If any such notice is given, Owner shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

- o. Relationship of Parties. The contractual relationship between City and Owner arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Owner; (ii) the Project is a private development; (iii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) Owner shall have the full power and exclusive control of the Property subject to the obligations of Owner set forth in this Agreement.
- p. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Owner has complied with the terms of this Agreement. If City finds, on the basis of substantial evidence, that Owner has failed to comply with the terms hereof, City may declare Owner to be in Default as provided in Paragraph 1.1 herein. City's failure to review at least annually Owner's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a Default under this Agreement by Owner or City.
- q. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any Default or breach, to specifically enforce any covenants or agreements set forth in this Agreement or to enjoin any threatened or attempted violation of this Agreement; or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth District Court, State of Utah, or in the Federal District Court for the District of Utah.
- r. Title and Authority. Owner expressly warrants and represents to City that Owner (i) owns all right, title and interest in and to the Property, or (ii) has the exclusive right to acquire such interest, and (iii) that prior to the execution of this Agreement no right, title or interest in the Property has been sold, assigned or otherwise transferred to any entity or individual other than to Owner. Owner further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind. Owner warrants that the undersigned individuals have full power and authority to enter into this Agreement on behalf of Owner. Owner understands that City is relying on these representations and warranties in executing this Agreement.

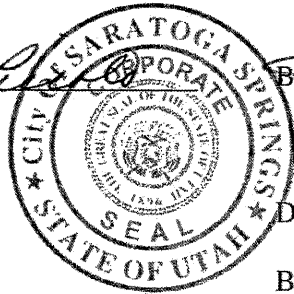
- s. Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by City and by a duly authorized representative of Owner as of the date first written above.

Attest:

City of  
Saratoga Springs, a political subdivision of the State  
of Utah

Cindy Galbraith  
City Recorder



By: [Signature]  
Mayor

DEVELOPER, Louise Johnson

By: Louise Johnson

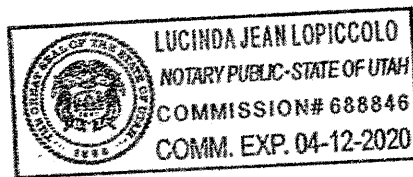
Its: Owner

State of Utah

County of Utah

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of DECEMBER 2017 by LOUISE JOHNSON, a Utah corporation/limited liability company/partnership.

Lucinda Jean Lopiccolo  
Notary Public



**Exhibit "A"**

**Legal Description of Property**

Legal Description: COM S 388.8 FT & E 231.09 FT FR NW COR. SEC. 19, T5S, R1E, SLB&M.; S 0 DEG 3' 30" E 135.92 FT; N 89 DEG 42' 0" W 359.72 FT; N 0 DEG 22' 0" W 113.34 FT; S 89 DEG 31' 50" E 249.88 FT; N 19.16 FT; N 88 DEG 8' 30" E 110.48 FT TO BEG. AREA 0.986 AC. ALSO COM S 0 DEG 7' 46" E 524.79 FT & E 242.24 FT FR NW COR. SEC. 19, T5S, R1E, SLB&M.; S 0 DEG 28' 14" W 22.29 FT; N 89 DEG 30' 13" W 372.48 FT; N 0 DEG 28' 17" E 22.55 FT; S 89 DEG 27' 46" E 372.48 FT TO BEG. AREA 0.192 AC. ALSO COM S 308.69 FT & W 128.89 FT FR NW COR. SEC. 19, T5S, R1E, SLB&M.; S 89 DEG 16' 46" E 359.32 FT; S 49 DEG 8' 21" E 1.55 FT; N 89 DEG 36' 59" W .54 FT; S 0 DEG 3' 32" E 73.03 FT; S 88 DEG 8' 30" W 110.58 FT; S 19.16 FT; N 89 DEG 31' 50" W 249.89 FT; N 0 DEG 14' 0" E 99.26 FT TO BEG. AREA 0.760 AC. TOTAL AREA 1.938 AC.



**Exhibit "B"**

**Concept Plan**

This is a rough draft.

I plan to divide about 1.33 acres into 110 stalls, each to measure 10 foot by 40 foot, for the purpose of storing RVs, trailers, etc. This will be dry storage, there will be no camping, no loitering and no mechanic work done.

Over the period of 2 years, I intend to make improvements including a vinyl fence surrounding the property, an automated gate, security cameras and minimal landscaping improvements.

I do not intend to connect to any additional utilities, or to make improvements to the street, although I acknowledge that upon a future sale of the property, any new developer will be required to do so.

Because of the expense of the improvements I'll be making, I request that I be given a 10 year permit, instead of the 5 year permit. Also, because of the temporary nature of this project (the ground will eventually be too valuable for this purpose), I do not intend to put permanent paving down (ie, cement or asphalt), I would prefer gravel, but I am open to discussing something between gravel and asphalt.

**Exhibit "C"**

**Staff Report with Adopted City Council Findings and Conditions of Approval, Report of Action (if applicable), City Council Written Minutes.**



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**ANNEXATION –JOHANSEN PROPERTY**  
**December 5, 2017**

Report Date: November 28, 2017  
Applicant: Michael Johansen  
Owner: Louise Johansen  
Location: SE Corner Pioneer Crossing and 2300 West  
7927 North 9550 West, Lehi  
Major Street Access: Saratoga Road  
Parcel Number(s) & Size: 13:029:0114, 1.94 acres  
Parcel Zoning: Residential Agriculture 5 (RA-5 County Zoning)  
Proposed Zoning: Industrial, then Regional Commercial  
General Plan: Regional Commercial  
Adjacent Zoning: Agriculture (Utah County)  
Current Use of Parcels: Agriculture  
Adjacent Uses: Agriculture  
Type of Action: LEGISLATIVE  
Land Use Authority: CITY COUNCIL  
Author: Nora Shepard, AICP, Senior Planner

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**A. Executive Summary:**

The applicant is requesting annexation of approximately 1.94 acres into the City of Saratoga Springs, and requests to zone the newly annexed property as Industrial (I) to accommodate existing and a short term use. Zoning will change to Regional Commercial (RC) to allow for commercial development in the future. The request also includes approval to allow the development of a Vehicle Storage use until such time as the property owner determines that Regional Commercial Uses are viable. The annexation is a legislative decision solely by the City Council,

**Recommendation:**

**Staff recommends the City Council and choose from the options in Section H of this report.** Options include approval, denial, or continuation of the proposed Annexation.

- B. Specific Request:** The application is for the annexation and zone designation of Industrial for the short term, converting to Regional Commercial when the applicant desires to redevelop the property to Regional Commercial Uses. The proposed annexation falls within the City's Annexation Declaration Area, and the Future Land Use Map identifies it as Regional Commercial. The request includes entering into an Annexation Agreement (Exhibit A) to address the Industrial

Zoning and interim use of the property for Vehicle Storage.

Subject to the terms of the Annexation Agreement, the current zoning designation of the Property shall be Industrial with the only allowed uses of Vehicle Storage (subject to issuance of a conditional use permit per City regulations) as well as existing nonconforming uses (hereinafter "Current Permitted Uses"). The Industrial Zone designation shall continue for 10 years from the Effective Date. Except as specifically provided in this Agreement, the Current Permitted Uses shall be subject to all City regulations of the Industrial Zone that are effective on: (a) the Effective Date, with respect to the existing nonconforming uses; or (b) the date a complete conditional use permit application is filed for the Vehicle Storage Use. At the end of the 10 years, the Vehicle Storage Use shall automatically expire and no longer be permitted and the zoning designation for the Property shall automatically change to RC or equivalent. Any future use and development of the Property (hereinafter "Future Uses"), except for the nonconforming uses existing on the Property as of the Effective Date, shall be subject to all provisions of the RC zone and City regulations existing at the date a complete Site Plan or Preliminary Application is filed.

Owner may elect to terminate the Vehicle Storage Use prior to the end of the 10-year period from the Effective Date. Should Owner elect to do so, the zoning of the Property will automatically change to RC once a plat or site plan is approved and/or recorded.

The terms of the interim use are as follows:

1. Developer will be required to receive a Conditional Use Permit for the RV Storage Use. That Conditional Use Permit will expire after a period of 10-years. Planning Commission recommended a review period of 5 years be required, consistent with the Code.
2. The initial development of the site as Vehicle Storage will be allowed without complete compliance with development standards. Developer will be allowed to use a drivable surface, other than asphalt, such as road base.
3. The existing septic system and well will be allowed to be used at this time.
4. Road improvements, sewer improvements, sewer and water connection, and all other code requirements will be required to comply with City standards at the time of application for any future change in use and redevelopment of the site.
5. Initial site development to allow the property to be used as Vehicle Storage Yard is not required to install landscaping or trail improvements. As an express condition of the Annexation Agreement and Zoning Request, Developer shall be required to install an opaque screening fence, 6-8 feet in height, within 2 years of the date of this agreement.
6. At the time of application for any future use and redevelopment of the site, Developer will be required to install landscape, trail and fencing improvements consistent with the standards in place at the time.

- C. **Process:** Utah Code Chapter 10-4, subsections 401 through 428, govern the process for considering annexations. The petition was accepted by the City Council on March 21, 2017, and was certified by the City Recorder on April 20, 2017. After certification, there is a 30-day protest period. A protest was filed by Lehi City on May 22, 2017. The Utah County Boundary Commission heard the protest on September 13, 2017. The protest was denied. Saratoga Springs received the official written decision on October 10, 2017. The City Council can now

move forward and take action on the annexation request consistent with Utah State Code Section 10-2-408. No public hearing is necessary.

Chapter 19.22 of the City Code contains additional requirements that properties must meet before annexing into the City. An analysis of those provisions is provided in Section G, below.

- D. **Community Review:** A public hearing was held before the Boundary Commission. No public hearing is necessary for to approve the Annexation at this time.

The Planning Commission held a public hearing and forwarded a positive recommendation on the rezone to Regional Commercial associated with the proposed annexation on April 13, 2017. No public hearing on the zoning has been held with the City Council. Since that time, Title 19 of the Saratoga City Code has been amended so that zoning is simply applied at the time of annexation by the City Council.

- E. **Review:** This annexation was provided to the County for comment. The County requested changes be made to the Annexation Plat and those changes have been made.

The concept plan for an interim use was submitted in association with the Annexation (Exhibit B). It has been reviewed by Planning and Engineering and comments have been provided to the applicant.

- F. **General Plan:** While the property is currently outside of the City, the General Plan Land Use Map extends over property in the Annexation Declaration Area. This property is currently designated as Regional Commercial. The description in the General Plan of the Regional Commercial District is:

*"These areas generally should include variety of retail users including big box retail configured in developments that provide excellent vehicular access to and from major transportation facilities. They should include special urban improvements to make rich and enjoyable public spaces. To promote foot traffic, these areas should be compact and include a safe pedestrian environment and access to a multi-modal transportation network."*

**Potential finding: Consistent.** The proposed Regional Commercial Zoning is consistent with the Land Use Designation in the General Plan. The Industrial Zoning is a temporary designation to allow existing uses to remain and allow for Vehicle Storage, subject to approval of a Conditional Use Permit.

- G. **Substantive Code Criteria:  
Annexation Requirements**

Section 19.22.01 contains standards and guidelines for annexations:

1. Developers shall provide public improvements in accordance with City ordinances. **Will Comply.** *The concept plan has been reviewed and comments provided regarding the need for appropriate infrastructure and improvements to be provided at the time of plat approval and development. All future improvements and redevelopment of the site*

- will be reviewed for compliance with City ordinances at time of site plan approvals.*
2. Developers shall pay all applicable impact fees, service fees, and assessments in addition to the annexation fee.  
*Complies. Fees will be charged at time of plat, building permit, or site plan approval in accordance with City Code.*
  3. Developers will be subject to all other appropriate and adopted fees to offset the costs to the City.  
*Complies. All appropriate impact and development fees will be required to offset the costs of development to the City.*
  4. The applicant will be charged for all attorneys' fees associated with review of the annexation and drafting of applicable documents.  
*Complies. The required City Attorney's review costs are included with the fees for future development review.*
  5. Piecemeal annexation of individual small parcels of property is discouraged if contiguous parcels, soon to be developed, are available in order to avoid repetitious annexations. *Complies. This annexation is not of a small piece, and other adjacent properties are in the process of annexation and development.*
  6. Except as permitted in Utah Code § 10-2-401 et seq., no unincorporated islands or peninsulas will be left or created by the annexation.  
*Complies. The existing area is currently an island in the County. This annexation will decrease the size of that island. The County has reviewed the annexation and would prefer that the entire area be annexed, however State Code prohibits annexation of agriculturally zoned property (without owners consent. The property in the annexations is Ag).*  
*Complies. Boundaries follow existing property lines.*
  7. Irregular boundaries should be minimized.  
*Complies.*
  8. The Annexation should generally follow existing roads, property lines, easements, utilities and power lines in order to minimize the public expense for extension of main or service lines and streets.  
*Complies. The annexation follows existing property lines and roadways.*
  9. In order to provide for the orderly growth and development in the City and avoid confusion and undue cost to the taxpayers, all utility and service hook-ups shall be limited to incorporated areas of the City and shall not be made available outside the City limits. The only exception shall be those extensions which are made pursuant to agreement with other units of government under the Interlocal Cooperation Act or by specific approval of the City Council.  
*Complies. No hookups are proposed outside City boundaries. The annexation will fall within existing school districts. City special district boundaries will be amended along with future plat(s) or site plans.*
  10. Utilities shall be extended by the developer to annexed areas as soon as practicable after annexation. By approving an annexation, the City is not committing or obligating itself to provide utility services to newly annexed or undeveloped property.  
*Complies. The applicants are aware of utility requirements and potential issues and are not intending to hook up to City Water or Sewer until the site is redeveloped.*

11. Extensions of service lines and utilities shall be performed by the property owner for the annexed land and shall be planned and constructed in full compliance with City ordinances. *Complies. Will be installed at the time of redevelopment or future development of more intense uses.*
12. Each annexation shall require a disclosure by the developer of anticipated needs of utilities and street improvements and a timetable of completion of those improvements as well as developing the project.  
*Complies. Sufficient general information has been provided to City Engineer with Concept Plan application, and more detailed information will be required with concept plan resubmittals, and preliminary plat applications.*

**19.22.6. Classification of Annexed Territory.**

1. In accordance with Utah Code § 10-9a-506, all property annexed to the City shall be assigned by the City Council at the time the property is annexed a land use zone that is defined in this Code and a designation listed in the Land Use Element of the General Plan.  
*The property will initially be zoned as Industrial (maximum of 10 years) to accommodate existing uses and vehicle storage as a temporary use, but will ultimately convert to Regional Commercial at such time as a Site Plan or Plat approval occurs and the property is further developed. The Land Use Designation in the General Plan is Regional Commercial, and the applicants request that Regional Commercial zoning be the eventual zoning designation.*
2. If the City Council does not assign a zone or General Plan designation, the property shall be assigned the zone or General Plan designation of Agricultural, which is considered the least impactful to surrounding uses.
3. When determining what land use designations may be appropriate, the City Council may consider the land use of adjacent properties.  
*Adjacent properties are zoned Agricultural, but shown as Regional Commercial in the Saratoga Springs Land Use Plan.*

**H. Recommendation and Alternatives:**

Staff recommends the City Council conduct a public hearing, take public input, discuss the annexation, and choose from the following options.

**Option 1 – Staff Recommendation: Approve the Johansen Property into the City of Saratoga Springs with the specific provisions regarding an interim use and Zoning**

"I move to approve the Annexation of the Johansen Property, as outlined in Exhibits A and B with the following Findings and Conditions:

**Findings**

1. The application complies with the criteria in Chapter 19.22 of the Development Code, as articulated in Section G of the staff report, which section is incorporated by reference herein.



2. The application is consistent with the General Plan, as articulated in Section F of the staff report, which section is incorporated by reference herein.
3. The petition complies with the standards and requirements of Utah State Code, including acceptance, certification and all required notices to affected entities.
4. The property will be initially zoned as Industrial to allow for existing use to continue and to allow for Vehicle Storage (subject to a Conditional Use Permit).

**Conditions:**

1. The Property Owner and City will execute an Annexation Development Agreement consistent with Exhibit A.
2. Prior to the use of the parcel for commercial Vehicle Storage, the Owner shall be required to apply and receive approval for a conditional use permit.
3. The terms of the interim use are as follows:
  - a. Developer will be required to receive a Conditional Use Permit for the RV Storage Use. That Conditional Use Permit will expire after a period of 10-years. Planning Commission recommended a review period of 5 years be required, consistent with the Code.
  - b. The initial development of the site as Vehicle Storage will be allowed without complete compliance with development standards. Developer will be allowed to use a drivable surface, other than asphalt, such as road base.
  - c. The existing septic system and well will be allowed to be used at this time.
  - d. Road improvements, sewer improvements, sewer and water connection, and all other code requirements will be required to comply with City standards at the time of application for any future change in use and redevelopment of the site.
  - e. Initial site development to allow the property to be used as Vehicle Storage Yard is not required to install landscaping or trail improvements. As an express condition of the Annexation Agreement and Zoning Request, Developer shall be required to install an opaque screening fence, 6-8 feet in height, within 2 years of the date of this agreement.
  - f. At the time of approval for any future use and redevelopment of the site, Developer will be required to install landscape, trail and fencing improvements consistent with the standards in place at the time.
4. Any other conditions or changes as articulated by the City Council: \_\_\_\_\_

**Option 2 – Rejection of the Annexation Petition:**

The City Council may choose to reject the Consolidated Perelle Meadows Annexation if it finds that it is inconsistent with Chapter 19.22 of the Saratoga Springs City Code.

"I move to reject the Consolidated Perelle Annexation due to the following inconsistencies with Chapter 19.22 of the Saratoga Springs City Code:

- 1.
- 2.

**Option 3 – Continue Action:**

If there is additional information needed to make a decision, the City Council can request that staff