

1997

# Mesa Development Company, Inc. v. Sandy City Corporation : Brief of Appellant

Utah Court of Appeals

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Keith W. Meade; Cohn, Rapport & Segal; Attorney for Appellant.

Walter R. Miller; Sandy City Attorney; Attorney for Appellee.

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## Recommended Citation

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UTAH COURT OF APPEALS  
BRIEF

UTAH  
DOCUMENT

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DOCKET NO. 970029CA

IN THE UTAH COURT OF APPEALS

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MESA DEVELOPMENT COMPANY, )  
INC., )

Plaintiff/Appellant, )

vs. )

Case No. 970029CA

SANDY CITY CORPORATION, )

Priority 15

Defendant/Appellee. )

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APPELLANT'S BRIEF

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Appeal from a final judgment of the Third District Court,  
Homer F. Wilkinson, District Judge, Presiding

---

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**FILED**

JAN 24 1997

COURT OF APPEALS

**IN THE UTAH COURT OF APPEALS**

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MESA DEVELOPMENT COMPANY, )  
INC., )

Plaintiff/Appellant, )

vs. )

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## **STATEMENT OF JURISDICTION**

This appeal is taken from a final summary judgment on all issues and all claims entered by the Third District Court, Homer F. Wilkinson, District Court Judge. The case was poured into this Court by the Utah Supreme Court. Jurisdiction lies in this court pursuant to U.C.A. § 78-2a-3(j).

## **STATEMENT OF ISSUES**

The following issues are presented for review by this appeal:

1. Can a municipality “substantially” comply with U.C.A. § 10-2-414 when it does not provide notice of nor conduct a hearing on the draft policy declaration for an annexation proceeding where the property to be annexed is in excess of five acres?

This issue was raised in the plaintiff’s Memorandum in Support of its Motion for Summary Judgment dated January 8, 1996. (R. 18). The issue represented was determined by summary judgment and is one of law. The standard of review is for correctness. Mountain States Tel. v. Garfield County, 811 P.2d 184 (Utah 1991).

2. More specifically, the issue presented for review is whether or not, in this case, the annexation ordinance adopted by Sandy City affecting property owned by the plaintiff is a valid ordinance in light of the fact that no notice was given of a

hearing on the draft policy declaration or its availability prior to the adoption of the annexation ordinance.

This issue was raised in the plaintiff's Memorandum in Support of its Motion for Summary Judgment filed January 8, 1996. (R. 18). The issue was determined by summary judgment and is one of law. The standard of review is for correctness. Mountain States Tel. v. Garfield County, 811 P.2d 184 (Utah 1991).

**STATUTES WHOSE INTERPRETATIONS ARE  
DETERMINATIVE OF THE APPEAL.**

Two Utah statutes, U.C.A. § 10-2-414 and U.C.A. § 10-2-416 are determinative of the issues presented in this appeal. These statutes are quite lengthy and are attached as Exhibit "A".

**STATEMENT OF THE CASE**

a. Nature of the case. Plaintiff initiated this action seeking a determination that an annexation ordinance, the Coulter/LDS Church Annexation Ordinance, Sandy City Ordinance 93-60, was void as a matter of law. The plaintiff, Mesa Development, owned property that was included in the annexed territory. Mesa Development contended that the annexation was void because Sandy City did not comply with the notice requirements of U.C.A. § 10-2-414; specifically, Sandy City did not hold a

statutorily required hearing to adopt a policy declaration and did not give notice at least 30 days prior to the adoption of the declaration that a draft of the policy declaration was available for review by the public.

b. Course of the proceedings. Competing motions for summary judgment were filed in the District court. Sandy City contended that the annexation ordinance was valid in spite of these deficiencies.

c. Disposition below. The Third District court, the Honorable Homer F. Wilkinson, presiding, granted Sandy City's Motion for Summary Judgment determining that while the annexation process did not fully comply with the notice requirements of U.C.A. § 10-2-414, that the annexation process "substantially complied" and therefore was valid. The District Court's order was entered on September 16, 1996. (R. 226). (The Order is Exhibit "B" in the Addendum.) Mesa Development filed its Notice of Appeal on October 7, 1996. (R. 230). The Utah Supreme Court poured this matter over to the Court of Appeals on January 2, 1997.

### **STATEMENT OF FACTS**

Mesa Development submits that the following facts were not disputed in the trial court:



1. By ordinance passed and approved on December 14, 1993 and recorded on December 22, 1993 Sandy City adopted ordinance number 93-60, the Coulter/LDS Church Annexation (hereinafter referred to as the “Coulter Annexation”) annexing 10.55 acres of property into Sandy City. (R. 79.) (The Ordinance is attached as Exhibit “C”).)

2. Of this 10.55 acres, Mesa Development owned 3.89 acres. (See R. 119, an excerpted portion is attached as Exhibit “D”).)

3. On November 4, 1993, Sandy City published a notice of a public hearing on the annexation petition that was submitted in connection with the annexation. (R. 62). That notice makes no reference to any policy declaration, nor does it state that a draft of the policy declaration is available for public review or where it is available. (The notice is Exhibit “E” attached.)

4. There was no evidence before the Court that any public notice was ever given regarding a policy declaration or the availability of a draft of the policy declaration prepared by Sandy City in connection with the Coulter Annexation prior to the adoption of the Counter Annexation ordinance.

5. In the Affidavit of Diane H. Aubrey filed by Sandy City (R. 59), reference is made to notice of the annexation proceeding having been given on November 4, 1993. However, neither the proof of publication nor the notice (R.62, 64) (Exhibit "E" attached) make any reference to the draft policy declaration. The same affidavit makes reference (R. 64) to a list of persons to whom notice was mailed in November, 1993. No information was provided regarding the date of this mailing, nor is there any evidence that the notice contained any reference to the availability of the draft policy declaration being available for public review. (This notice is Exhibit "F" attached.)

6. A public hearing was conducted on the annexation ordinance on December 7 and December 14, 1993, at which hearing ordinance number 93-60 was adopted approving the annexation. Page 3 of the minutes (R. 72) refers to the proposed annexation, but again no reference is made to the policy declaration. (The minutes of the December 7 and 14 meetings are attached as Exhibits "G" and "H".)

7. In May, 1995, without notice or publication, Sandy City adopted resolution number 95-46C, apparently in response to the district court action in this

case. (R. 85, attached as Exhibit "I".) The resolution included the following recitations:

... WHEREAS, on September 2, 1993 and October 21, 1993, the Sandy City Planning Commission held hearings to consider a proposed annexation of 20.62 acres of unincorporated territory at approximately 11000 South 1700 East in Sandy; and ...

WHEREAS, a public hearing on the annexation and zoning was held before the City Council on December 7, 1993, which meeting was precede [sic] by notice by publication... on November 4, 1993... posting and mailing of notices to numerous interested persons, ...

NOW, THEREFORE, BE IT RESOLVED by the City Council of Sandy City, Utah, as follows:

1. That the General Annexation Policy Declaration adopted by Sandy City in 1979, and unanimously approved by the Salt Lake County Boundary Commission on February 15, 1980, is hereby ratified and confirmed. Subsequent amendments to the Annexation Declaration Policy in October 1980, May 1983, and thereafter are also ratified and confirmed ...
2. The specific Policy Declaration recommended by planning staff and attached hereto as Appendix "A" is hereby adopted and approved as a supplement to the Amended Policy Declaration specified above...

Apparently even Sandy City did not believe it had properly approved the policy declaration required by U.C.A. § 10-2-414 for the Coulter annexation.

8. The District court found in its September 16, 1996 Order (Exhibit “B”), that:

1. Sandy’s notice of annexation proceedings did not specify a place where the policy declaration would be available for public inspection.

2. Despite any defect in Sandy’s formal notice, plaintiff was a petitioner in the original annexation proceedings with Sandy City, had actual knowledge of proceedings, and participated in those proceedings.

The District court concluded that:

1. Sandy City’s annexation did not fully comply with the notice requirements of Utah Code Annotated § 10-2-414.

### **SUMMARY OF ARGUMENTS**

Because the annexation at issue involved more than five acres, Sandy City was required to adopt a specific policy declaration for the parcel prior to annexation. U.C.A. § 10-2-414. Because Sandy City did not a) give notice of the availability and location of a draft policy declaration prior to the time that it annexed the property at issue, and b) because Sandy City never gave notice of any hearing on the policy

declaration, the annexation is void as a matter of law. U.C.A. § 10-2-414 mandates that notice be given both of the availability of the draft policy declaration and of a hearing on the policy declaration. The Utah Supreme Court has already determined that failure to comply with the notice requirements regarding the policy declaration invalidates the annexation process. Matter of Davis County Boundary Commission, 737 P.2d 163 (Utah 1987).

### **ARGUMENT**

1. **The Coulter/LDS Church Annexation Ordinance is invalid.** The Utah Supreme Court has left no doubt as to the interplay and requirements of U.C.A. §10-2-416 and §10-2-414 when it comes to the annexation process. In Paulsen v. Hooper Water Improv. Distr., 656 P.2d 459 (Utah 1982) (revd. on other grds. Pike v. Vernal City, 711 P.2d 240 (Utah 1985)) the court discussed the statutes as follows:

Section 10-2-416, . . . provides for annexation by petition and states that a "governing body may . . . accept [a] petition for annexation *for the purpose of preparing a policy declaration relative to the proposed annexation.*" Id. [Court's emphasis.] This language contemplates the adoption by a municipality of a specific policy declaration for each new area in excess of five acres that is annexed. In addition, §10-2-414 also requires the adoption of a specific policy declaration because the factors listed in §10-2-414(2) will necessarily vary for each new area

sought to be annexed. Moreover, the last paragraph of §10-2-414 sets forth an elaborate notice provision with regard to the adoption of a proposed policy declaration. To permit a municipality to adopt a single Master Policy Declaration for all future annexations of areas in excess of five acres would render §10-2-414(2) and the notice provisions in the last paragraph of §10-2-414 a nullity. Thus, the defendant is correct in its contention that the trial court erred in its findings that Roy City's Master Policy Declaration was sufficient for the annexation of the plaintiff's property and that no specific policy declaration was necessary. Although the statute does not prohibit the adoption of a Master Policy Declaration, Utah's annexation statute does require a municipality to adopt a specific policy declaration with respect to each unincorporated territory in excess of five acres sought to be annexed. (emphasis added).

656 P.2d at 462, 63.

The annexation ordinance at issue here ultimately covered 10.55 acres. Pursuant to U.C.A. §10-2-414, before completing the annexation, Sandy City was required to:

- a. create a draft policy declaration specific to the property being annexed;
- b. prior to adopting the policy declaration, Sandy City was required to hold a public hearing on the policy declaration;

- c. at least 30 days prior to the hearing on the policy declaration,  
Sandy City was required to give notice of
  - i) the time and place of the hearing on the policy declaration;
  - ii) give notice of the location where "the draft policy declaration is available for review".

The district court observed both in its findings and conclusions that Sandy City did not comply with these notice requirements. (Order, R. 226, Exhibit "B" attached.)

In Doty v. Town of Cedar Hills, 656 P.2d 993 (Utah 1982), the Supreme Court stated that U.C.A. §10-2-414

. . . does not contemplate the *adoption* of the policy declaration until a draft proposal of it has been carefully considered, publicly discussed, and modified as necessary. . . . [The statute] contemplates discussion and criticism at public hearings from affected entities, residents and landowners prior to the adoption of the proposed policy declaration.

(656 P.2d at 996).

Before this public discussion can occur, the statute requires that there must be notice and a draft of the proposed policy declaration available. There is no evidence

in this case either i) that a draft was available for discussion or ii) that notice of the availability of the draft policy declaration was given. None of the notices identified by Sandy City even mention a draft policy declaration.

The Sandy City Council Minutes of December 7, 1993 (R. 72, Exhibit “G” attached) reflect, at page 3, discussion of the annexation petition, but not of the Policy Declaration. The December 14, 1993 Minutes of the City Council (Exhibit “I” in Addendum) also reflect discussion of the annexation petition, but not of the Policy Declaration. At least one copy of the Policy Declaration bears a date of November 15, 1993. (Exhibit “J” attached.) U.C.A. §10-2-414 requires notice of the hearing and notice of where the proposed Policy Declaration can be reviewed at least 30 days before the hearing on the policy declaration. Notice of a hearing on the annexation was published on November 4, 1993. That notice did not refer to the draft policy declaration and did not comply with U.C.A. § 10-2-414. Even if it had complied, the alleged adoption of the Policy Declaration on November 15, 1993 occurred only 11 days after the notice and would still violate U.C.A. §10-2-414 and frustrate its purpose.



In Matter of Davis County Boundary Commission, 737 P.2d 163 (Utah 1987), West Bountiful City and Woods Cross City each sought to annex the same tract of land. A central issue in the dispute was whether or not West Bountiful City had properly adopted a specific policy declaration for the annexation as required by U.C.A. §10-2-414. The Court, after discussing the requirements of the section, observed that West Bountiful acknowledged that only 19 days notice was given of a hearing on the policy declaration and that the notice of the hearing that was sent to Woods Cross was not accompanied by a copy of the proposed policy declaration. West Bountiful argued that it had substantially complied with the statute. The Court rejected West Bountiful's contention of substantial compliance out of hand. The Court concluded that West Bountiful's failure to give notice for the statutorily required time was fatal. The Court held that the annexation by West Bountiful was void.

Sandy City's failure to comply with U.C.A. §10-2-414 in this case is even more extreme than West Bountiful's failure to comply in Matter of Davis County, *supra*. Sandy City never gave notice of either the availability of the draft policy declaration or of a hearing on that declaration.

If 19 days actual notice in the Matter of Davis County case was not adequate to meet substantial compliance requirements, it is difficult to imagine how no notice of the availability of the draft policy declaration and no notice of a hearing on that declaration could substantially comply. The decision of the district court in this case disregarded the clear mandate of the Matter of Davis County case.

**2. Mesa Development has standing to contest the annexation.** In its conclusions, the district court questioned whether Mesa had standing to challenge the proceedings because Mesa was a petitioner for the annexation and did not reside in the annexed area.

Mesa Development is a Utah corporation, and “lives” no where. Mesa owned 3.89 acres in the annexed parcel when the annexation ordinance was passed and still owns land in the annexed parcel.

The Utah Local Boundary Commission Act (the annexation statute, U.C.A. §10-2-401 et seq.) does not define the term “resident.” In the trial court, Sandy City relied upon the case of South Jordan City v. Sandy City, 870 P.2d 273 (Utah 1994) in support of its argument that Mesa Development was not a “resident” of the annexed territory. The South Jordan City case did not interpret the annexation

statute. Instead, the South Jordan City case interpreted the disconnection statute, U.C.A. §10-2-501, et seq. At the time the petition was filed in the South Jordan City case, the disconnection statute, U.C.A. §10-2-502 (subsequently amended) required that the disconnection petition be "signed by a majority of the registered voters of the territory concerned. . .". In the South Jordan City case, South Jordan owned property that it wanted disconnected from Sandy City, and the mayor of South Jordan had filed the petition on behalf of the City. No one lived on the property. The court held, under the now repealed U.C.A. §10-2-502, that the Mayor of South Jordan could not pursue the petition for disconnection because the City was not a registered voter.

In 1993, the disconnection statute was amended and, among other things, its reference to "registered voters" was changed to "real property owners."

The annexation statute (which includes U.C.A. § 10-2-414 and 416) uses neither the term "registered voters" nor "real property owners." Instead, the annexation statute refers to "residents." Mesa is aware of no Utah case authority that has defined the term "resident" as it is used in the annexation statute.

In an earlier Utah case, Doenges v. Salt Lake City, 614 P.2d 1237 at 1241 (Utah 1980), the court addressed the capacity of various individuals to attack a

proposed annexation. While the Doenges case was decided under now repealed annexation statutes, the Supreme Court observed that:

The group seeking an injunction include: A resident renter in the territory purportedly annexed, a landowner purchasing after the assessment roles were made up, landowners who could have joined in the petition had they deemed such action to be wise, but take the contrary view, owners of an adjoining property, shareholders and corporations holding land in the area in question, and Salt Lake County as a amicus curiae. The capacity of this group to contest the annexation is clear. (at 1241)

Many of the challenges that have arisen under the annexation statute since its amendment in 1979 have been brought by corporate property owners. See for example, Chevron v. City of North Salt Lake, 711 P.2d 228 (Utah 1985); Sweetwater Properties v. Town of Alta, 622 P.2d 1178, mod. on reh. 638 P.2d 1189 (Utah 1981). In Paulsen v. Hooper Water Improvement District, 656 P.2d 459 (Utah 1982) overruled on other grounds 711 P.2d at 243, the Supreme Court, *in dicta*, suggests that an affected resident or property owner could contest the annexation, stating at 463 that:

The defendant [Water District] could not directly contest the annexation because it is not an affected resident or property owner, nor is it an "affected entity" as defined in [10-1-1040]".

The annexation scheme allows landowners to petition for annexation. U.C.A. §10-2-416. It would make little sense, within the context of the same statute, to preclude those same landowners from contesting the annexation process. They are the real parties in interest. They are the parties affected by the annexation. A contrary interpretation of the term resident would lead to some very anomalous results. For example, a tenant in an apartment or commercial building might have standing to challenge annexation, while the owner of the building would not. This Court should determine that because Mesa Development, Inc. was a tax paying property owner within the affected territory, that it is a "resident" of the annexed property within the meaning of the annexation statute.

### **CONCLUSION**

For the foregoing reasons, this Court should reverse the decision of the district court and determine, as a matter of law, that the annexation ordinance is void.

DATED this 24th day of January, 1997.

---

Keith W. Meade  
COHNE, RAPPAPORT & SEGAL  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
was mailed, postage fully prepaid, on the 24th day of January, 1997, to the following:

Walter R. Miller  
Sandy City Attorney  
10000 Centennial Parkway  
Sandy, UT 84070

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F:\LAWWAYNE\COULTER.BRF

# **EXHIBIT "A"**

**10-2-414. Policy declaration — Contents — Hearing —  
Notice — Amendment — Costs of preparation.**

Before annexing unincorporated territory having more than five acres, a municipality shall, on its own initiative, on recommendation of its planning commission, or in response to an initiated petition by real property owners as provided by law, and after requesting comments from county government, other affected entities within the area and the local boundary commission, adopt a policy declaration with regard to annexation. Such policy declaration shall include:

(1) a map or legal description of the unincorporated territory into which the municipality anticipates or favors expansion of its boundaries. Where feasible and practicable areas projected for municipal expansion shall be drawn along the boundary lines of existing sewer, water, improvement, or special service districts or of other existing taxing jurisdictions to: (a) eliminate islands and peninsulas of unincorporated territory; (b) facilitate the consolidation of overlapping functions of local government; (c) promote service delivery efficiencies; and (d) encourage the equitable distribution of community resources and obligations; and

(2) a statement of the specific criteria pursuant to which a municipality will favor or not favor a petition for annexation. Such statement shall include and address the annexation standards set forth in this chapter, the character of the community, the need for municipal services in developed and developing unincorporated areas, the plans and timeframe of the municipality for extension of municipal services, how the services will be financed, an estimate of the tax consequences to residents in both new and old territory of the municipality, and the interests of all affected entities.

Before adopting the policy declaration the governing body shall hold a public hearing thereon. At least 30 days prior to any hearing, notice of the time and place of such hearing and the location where the draft policy declaration is available for review shall be published in a newspaper of general circulation in the area proposed for expansion except that when there are 25 or fewer residents or property owners within the affected territory, mailed notice may be given to each affected resident or owner. In addition, at least 20 days prior to the hearing, mailed notice and a full copy of the proposal shall be given to the governing body of each affected entity and to the local boundary commission. The policy declaration, including maps, may be amended from time to time by the governing body after at least 20 days' notice and public hearing. When a policy declaration is prepared in response to a petition, the municipality may require the petitioners to pay all or part of the costs of its preparation.

1979

Exhibit A



**10-2-416. Petition by landowners for annexation —  
Plat or map to be filed — Resolution or ordinance passed by two-thirds vote.**

Whenever a majority of the owners of real property and the owners of at least one-third in value of the real property, as shown by the last assessment rolls, in territory lying contiguous to the corporate boundaries of any municipality, shall desire to annex such territory to such municipality, they shall cause an accurate plat or map of such territory to be made under the supervision of the municipal engineer or a competent surveyor, and a copy of such plat or map, certified by the engineer or surveyor as the case may be, shall be filed in the office of the recorder of the municipality, together with a written petition signed by the petitioners. The members of the governing body may, by resolution or ordinance passed by a two-thirds vote, accept the petition for annexation for the purpose of preparing a policy declaration relative to the proposed annexation. Except as provided for in Section 10-2-420, no annexation may be initiated except by a petition filed pursuant to the requirements set forth herein.

# **EXHIBIT "B"**

Walter R. Miller (Bar No. 2268)  
Sandy City Attorney  
10000 Centennial Parkway  
Sandy, Utah 84070  
Telephone: (801) 568-7170

SEP 17 1996

FILED DISTRICT COURT  
Third Judicial District

SEP 16 1996

SALT LAKE COUNTY

By \_\_\_\_\_  
Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

MESA DEVELOPMENT COMPANY,  
INC.,

Plaintiff,

vs.

SANDY CITY CORPORATION,

Defendant.

:

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O R D E R

Civil No. 940907834CV

Judge Homer F. Wilkinson

On Friday, June 21, 1996, Keith W. Meade, counsel for Mesa Development Company, Inc., and Walter R. Miller, Sandy City Attorney, appeared before the court to present oral argument on cross-motions for summary judgment. The court, having taken the matter under advisement thereafter found in favor of Sandy City based on the analysis and reasoning set forth in the pleadings, memoranda, and affidavits on file, and upon the oral arguments of counsel for each of the parties.

FINDINGS

1. Sandy's notice of annexation proceedings did not specify a place where policy declaration would be available for public inspection.
2. Despite any defect in Sandy's formal notice, plaintiff was a petitioner in the original annexation proceedings with Sandy City, had actual knowledge of proceedings, and participated in those proceedings.

Exhibit B

### CONCLUSIONS

1. Sandy City's annexation did not fully comply with the notice requirements of Utah Code Annotated § 10-2-414.
2. Sandy's annexation substantially complied the requirements of Utah Code Annotated § 10-2-414, in that plaintiff was a petitioner in the annexation proceedings before the City, had actual knowledge of those proceedings, and participated in them.
3. The court also questions the standing of plaintiff to bring this action since it was a petitioner in the annexation proceedings and does not actually reside within the annexed area.

### ORDER

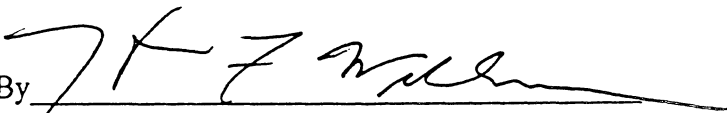
Based on the foregoing findings and conclusions and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED

1. Sandy City's Motion for Summary Judgment is granted.
2. Mesa Development's Motion for Summary Judgment is denied.

DATED this 16 day of September, 1996.

THIRD DISTRICT COURT

By   
Judge Homer F. Wilkinson

# **EXHIBIT "C"**

PLEASE RETURN TO:  
DIANNE-H AUBREY  
CITY RECORDER  
10000 CENTENNIAL PARKWAY  
SANDY UT, 84070

EXHIBIT "G"

COULTER/LDS CHURCH ANNEXATION

ORDINANCE #93-60

5698923-2  
30 DECEMBER 93 11:49 AM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UT  
SANDY CITY  
REC BY: REBECCA GRAY, DEPL

AN ORDINANCE ACCEPTING THE ANNEXATION PETITION OF TERRITORY TO THE MUNICIPALITY OF SANDY CITY AND ESTABLISHING ZONING FOR SAID TERRITORY; SAID TERRITORY KNOWN AS THE COULTER/LDS CHURCH ANNEXATION, IS LOCATED AT APPROXIMATELY 11000 SOUTH 1700 EAST, SANDY, UTAH, CONTAINING APPROXIMATELY 10.55 ACRES AND SHALL BE ZONED R-1-20A; ALSO PROVIDING AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a petition in writing has been filed in the office of the City Recorder of Sandy City, accompanied by an accurate plat or map of the territory to be annexed, prepared under the supervision of the City Engineer or a competent surveyor and certified by the engineer or surveyor; and showing an area contingent to the present Sandy City limits; and

WHEREAS, the signers of said petition represent a majority of the owners of real property in the below described area as shown by the last assessment rolls in Salt Lake County, and said signers desire to be annexed to Sandy City; and

WHEREAS, the annexation so proposed meets the standards established by Sections 10-2-401 et seq., U.C.A., and conforms to the provisions of the annexation policy declaration previously adopted by Sandy City; and

WHEREAS, the Planning Commission held a public meeting to review the request for zoning and annexation and has made recommendations thereon to the City Council; and

WHEREAS, the City Council of Sandy City, Utah has held a public hearing before its own body on December 7, 1993, which meeting was preceded by notice by publication in the Green Sheet on November 4, 1993, and posting in Sandy City Hall on November 2, 1993 and has taken into consideration citizen testimony, planning and demographic data, the desires of the owners of the property and the Planning Commission recommendation as part of the Council's deliberations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City, State of Utah, as follows:

SECTION I: TERRITORY ANNEXED. That the area shown upon the plat filed in the office of the City Recorder of Sandy City, Utah, being the property described on Exhibit A, which is attached hereto and by this reference made a part hereof, and whose approximate location is shown on the map attached hereto as Exhibit B which by this

MICROFILMED

Exhibit C

BK6840PG05

reference is incorporated herein, be, and it is hereby annexed to Sandy City, and that the Corporation limits of Sandy City be, and they are hereby amended so as to include such area.

SECTION II: ZONE. Upon the consideration and determination of the Council, the said annexed territory shall be and is hereby zoned R-1-20A.

SECTION III: LOCATION. This property is located at approximately 11000 South 1700 East, Sandy, Utah.

SECTION IV: EFFECTIVE DATE. It is to the best interest of the citizens of Sandy City, that this ordinance becomes effective upon publication of a summary thereof at which time said afore-described territory shall be deemed to be part of said Sandy City, and the inhabitants of said described property shall thereafter enjoy the full privileges of such annexation and be subject to the Ordinances and Regulations of said City.


PASSED AND APPROVED by a vote of at least two-thirds (2/3) of the members of the Sandy City Council, this 14th day of December 1993.

  
Stanley L. Price, Chairman  
Sandy City Council


PRESENTED to the Mayor of Sandy City this 20th day of December 1993.

APPROVED by the Mayor of Sandy City this 21st day of December 1993.



  
Lawrence P. Smith, Mayor

ATTEST:

  
Diane M. Anthony  
City Recorder

RECORDED this 22nd day of December 1993.

SUMMARY PUBLISHED this 30th day of December, 1993. ED

**COULTER/LDS CHURCH ANNEXATION**

(11000 South 1700 East)

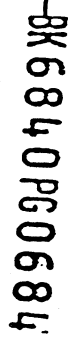
**EXHIBIT "A"**

(Description excluding all parcels north of Smith)

Beginning at the South 1/4 Corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence along the quarter section line and the current Sandy City boundary as recorded in book GG at page 80 in the office of the Salt Lake County Recorder, North, 50.00 feet; thence West, 660.00 feet; thence North, 534.00 feet; thence East, 660.00 feet to the quarter section line; thence South along said quarter section line, 374.00 feet; thence South 89°53'00" East, 510.00 feet along the South line of a previous annexation to Sandy City recorded in book KK at page 96; thence South, 210.00 feet; thence North 89°53'00" West, 510.00 feet to the point of beginning. Contains 10.55 acres.

BK6840PG06E





Annexed Area  
Zoned R-1-20A

Coulter/LDS Church  
Annexation

Admitted on



# **EXHIBIT "D"**

1993 PARCEL NUMBER 28-16-376-033-0000

T A X L E D G E R

RIGLB941 PAGE 126,128

1993 28-16-376-033-0000

MESA DEVELOPMENT INC

9894 S 2300 E

SANDY UT

84092-4142

BEG E 1760 FT & S 47°06' E 271.4 FT & S 1866 FT & S 89°57' E 660 FT & S 0°27'40" W 264 FT FR W 1/4 COR OF SEC 16, T 3S, R 1E, S L M; SD PT OF BEG IS ALSO DESCRIBED AS BEING N 0°27'40" E 330.62 FT FR S 1/4 COR OF SEC 16, T 3S, R 1E, S L M; S 0°27'40" W 270 FT M OR L; N 89°57' W 660 FT M OR L; N 0°27'40" E 270 FT M OR L; S 89°57' E 660 FT M OR L TO BEG.  
LESS ST. 3.89 AC 4939-929, 4650-542, 3873-47 5958-2240  
6182-0810 6187-2927

1993 28-16-376-033-0000	TAX CLASS 1: NE	TAX SALE: N	BANKRUPT YR:	RELIEF
ID NUMBER: 00000000	TAX CLASS 2: MTG HLDR: 0000	APPENDIX YR:	VETERAN:	0.00 ***** NOT EXEMPT *****
DISTRICT: 43	TAX CLASS 3: PY	PERCENTGE: 000	BLIND:	0.00
E OF E: 08/27/90	AMEND NOTICE:	GRENBELT YR:	INDIGENT:	0.00
I A X C A L C U L A T I O N S				CIRC BR: 0.00
REAL ESTATE:	65,090	+ GARBAGE FEE:	81.00	GARBAGE: 0.00
+ BUILDINGS:	15,400	+ PERS PROP PRIN:	0.00	BOARD: 0.00
= FULL MARKET VAL:	80,490	+ PERS PROP INT:	0.00	GAR BRD: 0.00
- EXEMPT REDUCTION:	0	+ PERS PROP PEN:	0.00	TOTAL: 0.00
- STATUTE REDUC:	0	+ MID VEH PRIN:	0.00	COLLECTIONS
= STATUTE VAL:	80,490	+ MID VEH INT:	0.00	PREPAY: 0.00
- RESIDENT VAL:	14,175	= TOTAL CHARGES:	1,238.78	PAYMNT: 1,238.78
= TAXABLE VAL:	62,290	- TAX RELIEF:	0.00	REC NO: 8061
- VETERAN EXEMPT:	0	- PREPAYMENTS:	0.00	TRAN NO: 5881
= RESIDUAL VALUE:	62,290	= TOTAL TAXES DUE:	1,238.78	REC DATE: 11/26/93
* TAX RATE:	.0185870	- COLLECTIONS:	1,238.78	MACH/RUN 02 / 01
= COMPUTED TAXES:	1,157.78	= BALANCE DUE:	0.00	PAID PROTEST: N
		PENALTY AMOUNT:	0.00	MEMO:

---&gt; END OF PARCEL: 28-16-376-033-0000 &lt;----- END OF PARCEL

STATE OF UTAH  
COUNTY OF CANYON

I, LINDA M. BROWN, Treasurer in and for the County of Canyon, State of Utah, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the records of the County of Canyon, State of Utah.

In testimony whereof, I have hereunto set my hand and seal of said Treasurer, this

19th day of January, 1994.  
By *Linda M. Brown*  
Treasurer

Exhibit D

# **EXHIBIT "E"**

# Proof of Publication

COUNTY OF SALT LAKE

STATE OF UTAH

I, Andrew M. Bernhard, first being duly sworn, depose and say that I am publisher of **THE GREEN SHEET**, A weekly newspaper of general circulation published every Thursday, at Salt Lake City, Utah, that the notice attached hereto Sandy City - Coulter/LDS Church

was published in said newspaper for one consecutive time

The first publication having been made on the 4th day of Nov., 19 93, and the last publication on the --- day of ---, 19 ---, that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and the same was published in a newspaper proper and not in a supplement.

## SANDY CITY PUBLIC HEARING COULTER/LDS CHURCH ANNEXATION

Notice is hereby given of a public hearing to be held in the Sandy City Hall, 10000 Centennial Parkway, Sandy, Utah, before the Sandy City Council on December 7, 1993, at 7:15 p.m. to consider the annexation petition submitted by Nathan Coulter and the LDS Church, and others for properties located at approximately 11000 South 1700 East. Additional properties may be considered for annexation, based upon the desires of a majority of the property owners. The area to be considered for annexation is generally described as the unincorporated properties west of 1700 East between Cobblestone Village Subdivision and 11000 South (Ascot Parkway), and properties east of 1700 East (south of the existing LDS Church) which front 1700 East and 10980 South to one lot east of said church. The total area under consideration for annexation at this time is 20.62 acres.

The following zoning designations may be considered for the various properties: R-1-20A (single family residential on minimum 20,000 square foot lots with animal rights, including horses), R-1-15A (single family residential on minimum 15,000 square foot lots with small animal rights), R-1-12 (minimum 12,000 square foot lots), and R-1-10 (minimum 10,000 square foot lots).

### Legal Description

Beginning at the South 1/4 Corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence along the quarter section line and the current Sandy City boundary as recorded in book CG at page 80 in the office of the Salt Lake County Recorder, North, 50.00 feet; thence West, 860.00 feet; thence North, 1198.70 feet to the South line of a previous annexation to Sandy City recorded in book 77:1 at page 7; thence along said South line East, 860.00 feet to the quarter section line; thence South along said quarter section line, 1038.70 feet; thence South 89 Degrees 53'00" East, 510.00 feet along the South line of previous annexation to Sandy City recorded in book KK at page 96; thence South, 210.00 feet; thence North 89 Degrees 53'00" West, 510.00 feet to the point of beginning. Contains 20.62 acres.

Any questions you may have regarding this hearing may be directed to George Shaw, Planning Director, in the City Hall; phone 568-7261.

Published Nov. 4, 1993

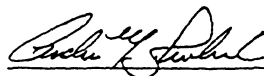
NOTARY PUBLIC

ETHEL BRADFORD  
544 East 4800 South  
Murray, UT 84107

My Commission Expires  
Feb. 18, 1994

STATE OF UTAH

Subscribed and sworn



day of Nov., 19 93 A.D.

My Commission expires 2/18/94

Exhibit E

**500 LEGAL NOTICE**

**SANDY CITY  
PUBLIC HEARING  
COULTER/LDS  
CHURCH ANNEXATION**

Notice is hereby given of a public hearing to be held in the Sandy City Hall, 10000 Centennial Parkway, Sandy, Utah, before the Sandy City Council on December 7, 1993, at 7:15 p.m. to consider the annexation petition submitted by Nathan Coulter and the LDS Church, and others for properties located at approximately 11000 South 1700 East. Additional properties may be considered for annexation, based upon the desires of a majority of the property owners. The area to be considered for annexation is generally described as the unincorporated properties west of 1700 East between Cobblestone Village Subdivision and 11000 South (Ascot Parkway), and properties east of 1700 East (south of the existing LDS Church) which front 1700 East and 10980 South to one lot east of said church. The total area under consideration for annexation at this time is 20.62 acres.

The following zoning designations may be considered for the various properties: R-1-20A (single family residential on minimum 20,000 square foot lots with animal rights, including horses), R-1-15A (single family residential on minimum 15,000 square foot lots with small animal rights), R-1-12 (minimum 12,000 square foot lots), and R-1-10 (minimum 10,000 square foot lots).

**Legal Description**

Beginning at the South 1/4 Corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence along the quarter section line and the current Sandy City boundary as recorded in book CG at page 80 in the office of the Salt Lake County Recorder, North, 50.00 feet; thence West, 660.00 feet; thence North, 1198.70 feet to the South line of a previous annexation to Sandy City recorded in book 77-1 at page 7; thence along said South line East, 660.00 feet to the quarter section line; thence South along said quarter section line, 1038.70 feet, thence South 89 Degrees 53'00" East, 510.00 feet along the South line of previous annexation to Sandy City recorded in book KK at page 96; thence South, 210.00 feet; thence North 89 Degrees 53'00" West, 510.00 feet to the point of beginning. Contains 20.62 acres.

Any questions you may have regarding this hearing may be directed to George Shaw, Planning Director, in the City Hall - phone 568-7261.

Publish Nov. 4, 1993

SC11-1B

**500 LEGAL NOTICE**

Council of West Valley City will hold a public hearing regarding a proposed ordinance amendment to the West Valley City Sign Ordinance to limit the number of billboards in general commercial and manufacturing zones at the regular meeting of the City Council on November 18, 1993, at 6:00 p.m., or as soon thereafter as business permits, in the City Council Chambers, 3600 Constitution Boulevard, West Valley City, Utah.

All interested parties are invited to attend and offer opinion.

DATED this 4th day of November, 1993

Karen S. Leftwich  
City Recorder

Publish Nov. 4, 1993

WV11-1B

**SANDY CITY  
PUBLIC HEARING  
KARREN ANNEXATION**

Notice is hereby given of a public hearing to be held in the Sandy City Hall, 10000 Centennial Parkway, Sandy, Utah, before the Sandy City Council on November 23, 1993, at 7:15 p.m. to consider the annexation petition submitted by Mr. Karl Karren, representing Master Homes, to annex 2.00 acres of property located at the southeast corner of 9800 South 3100 East. The request is to accommodate a proposed five lot single family residential subdivision (the existing home will be on one of the lots with access from 9800 South. The R-1-15 Zone (single family dwellings on minimum 15,000 square foot lots) is being considered for the subject property, which is comparable to the existing R-1-15 Zone in the County.

Legal Description of area to be annexed and zoned R-1-15: Beginning at a point South 0 Degrees 30'49" East 33.00 feet along the quarter section line and South 89 Degrees 35'24" East 16.50 feet from the Center of Section 11, Township 3 South, Range 1 East, Salt Lake Base & Meridian, and running; thence South 89 Degrees 35'24" East 363.00 feet; thence South 0 Degrees 30'49" East 240.55 feet; thence North 89 Degrees 35'24" West 363.00 feet; thence North 0 degrees 30'49" West 240.55 feet to the point of beginning. Contains 2.00 acres

Any questions you may have regarding this hearing may be directed to George Shaw, Planning Director, in the City Hall - phone 568-7261.

Publish Nov. 4, 1993

SC11-1B

**THE CITY OF WEST  
JORDAN, UTAH  
NOTICE OF  
PUBLIC HEARING**

A public hearing will be held before the West Jordan City Council on Tuesday, November 23,

**500 LEGAL NOTICE**

Karen S. Leftwich  
City Recorder

Publish Nov. 4, 1993

WV11-1B

**WEST VALLEY CITY  
NOTICE OF MEETING**

West Valley City has completed a draft of its Comprehensive Housing Affordability Strategy (CHAS) which is a required Federal document that identifies housing related problems, develops strategies and suggests goals for the community to resolve its housing problems. West Valley City's strategy is to:

1. Address the condition of the housing stock through rehabilitation programs and targeting neighborhoods.

2. Address rising rents and low vacancy rates through the provision of additional Section 8 Certificate and Voucher rent assistance programs.

3. Address the homeless problem by continuing to assist with existing shelters in the Salt Lake Valley.

4. Help provide additional housing to ease the transition from homelessness to mainstream society.

A meeting will be held on November 17, 1993, at 5:30 p.m., in the Salt Lake County Commission Chambers, 2001 South State Street, Salt Lake City, Utah. All interested parties are invited to attend the public meeting or make comments in writing to John Janson, Community Development Department, 3600 Constitution Blvd., West Valley City, Utah 84119.

DATED this 4th day of November, 1993.

Karen S. Leftwich  
City Recorder

Publish Nov. 4, 1993

WV11-1B

**WEST VALLEY CITY  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that the City Council of West Valley City will hold a public hearing regarding a proposed ordinance amendment to Section 7-14-105 of the West Valley City Zoning Ordinance, to require that the face of newly constructed single family or two family dwellings oriented toward the street be composed of at least fifty percent brick, stone, or stucco at the regular meeting of the City Council on November 18, 1993, at 6:00 p.m., or as soon thereafter as business permits, in the City Council Chambers, 3600 Constitution Boulevard, West Valley City, Utah.

All interested parties are invited to attend and offer opinion.

DATED this 4th day of November, 1993.

WV11-1B

**500 LEGAL NOTICE**

**MUNICIPAL COUNCIL,  
MURRAY CITY, AS FOL-  
LOWS:**

**SECTION I**

That Section 20-12 of the Murray City Code is amended to read as follows:

Sec. 20-12. Criminal mischief. (a) A person commits criminal mischief if:

(1) He intentionally damages, defaces or destroys the property of another, including the use of graffiti as defined in Subparagraph (c); or

(2) He recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.

(b) Any violation of this section is a:

(1) Class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250 but not more than \$500; and

(2) Class C misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.

(c) As used in this Section, graffiti means any form of unauthorized painting, writing, spraying, scratching, affixing, or inscribing on the property of another regardless of the content or nature of the material used in the commission of the act.

8. For similar state law, see U.C.A., 1953, § 76-6-106.

**SECTION II**

Section 20-16 of the Murray City Code is amended to read:

Sec. 20-16. Trespass--Criminal. (a) For purposes of this section "enter" means intrusion of the entire body.

(b) A person is guilty of criminal trespass if:

(1) He enters or remains unlawfully on property and:

(A) Intends to cause annoyance or injury to any person or damage to any property including the use of graffiti as defined in Subsection 20-12(c); or

(B) Intends to commit any crime, other than theft or a felony; or

(C) Is reckless as to whether his presence will cause fear for the safety of another; or

(2) Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering or remaining is given by:

(A) Personal communication to the actor by the owner or someone with apparent authority to act for the owner, or

(B) Fencing or other enclosure obviously designed to exclude intruders, or

(C) Posting of signs reasonably likely to come to the attention of intruders.

(c) A violation of subsection (b) (1) of this subsection is a class C misdemeanor unless it was com-

which event it is misdemeanor. A violation of subsection (b) (1) is an infraction.

(d) It is a misdemeanor under this section, unless otherwise specifically provided:

(1) That the actor was on the property when the actor entered; and

(2) The actor's conduct did not substantially interfere with the use of the property. No. 801, §1.)

3. For similar law, see U.C.A., § 76-6-206.

**SECTION I**

Section 20-14 Murray City Code is amended to read:

Sec. 20-14. General

(a) Penalty for a misdemeanor may be imprisonment for not exceeding six months or a fine not exceeding \$1,000, or both if imprisonment.

(b) Penalty for a misdemeanor may be imprisonment for not exceeding nine months or a fine not exceeding \$750, or both if imprisonment.

(c) Penalty for a misdemeanor may be imprisonment, but if a person is convicted of an infraction and is a person at a time when the person may be fined more than \$750.

(d) If an offense is committed under Section 20-16 for the court may, as a condition of probation, require the offender to clean up his own and a person at a time when the person may be fined more than \$750.

(1) For a first offense, the court may require the offender to clean up his own and a person at a time when the person may be fined more than \$750.

(2) For a second offense, the court may require the offender to clean up his own and a person at a time when the person may be fined more than \$750.

(3) For a third offense, the court may require the offender to clean up his own and a person at a time when the person may be fined more than \$750.

(4) The offender is responsible for the cost of paint or clean up materials or furnish the materials, unless the court for good cause requires the offender to repair or replace the property.

(5) The court may require the offender to repair or replace the property.

8. For similar law, see U.C.A., § 76-3-205, 76-3

**SECTION**

In the opinion of the Municipal Council of Murray City, it is to the peace, health and safety of the inhabitants of Murray City that the ordinance be published and a copy thereof in the

# **EXHIBIT "F"**



**Sandy City Public Hearing  
Coulter/LDS Church Annexation**

Notice is hereby given of a public hearing to be held in the Sandy City Hall, 10000 Centennial Parkway, Sandy, Utah, before the Sandy City Council on December 7, 1993, at 7:15 p.m. to consider the annexation petition submitted by Nathan Coulter and the LDS Church, and others for properties located at approximately 11000 South 1700 East. Additional properties may be considered for annexation, based upon the desires of a majority of the property owners. The area to be considered for annexation is generally described as the unincorporated properties west of 1700 East between Cobblestone Village Subdivision and 11000 South (Ascot Parkway), and properties east of 1700 East (south of the existing LDS Church) which front 1700 East and 10980 South to one lot east of said church. The total area under consideration for annexation at this time is 20.62 acres.

The following zoning designations may be considered for the various properties: R-1-20A (single family residential on minimum 20,000 square foot lots with animal rights, including horses), R-1-15A (single family residential on minimum 15,000 square foot lots with small animal rights), R-1-12 (minimum 12,000 square foot lots), and R-1-10 (minimum 10,000 square foot lots).

You are invited to appear, either in person, by agent, or through your attorney and present any objections or support you may have to the annexation of this aforescribed property. Anyone speaking must indicate the address of the property he/she owns.

This notice is sent to you as an owner of property located within 300 feet of the exterior limits of the property indicated by order of the Sandy City Council. Please feel free to let your neighbors know of this hearing if they have not as yet been notified.

Your input is encouraged as to your views on this matter. Any questions you may have regarding this hearing may be directed to George Shaw, Planning Director, in the City hall - phone 568-7261.

Exhibit F



# **EXHIBIT "G"**

SPECIAL PRESENTATION (S):

a. Request for Sub for Santa Funds

Bertha Rand, representing the Sandy Chapter of the American Legion Auxiliary, requested that the City once again make a financial donation to the Legion for their annual Sub for Santa Program. She reported that last year's donation helped provide food and clothing for over 46 children.

MOTION: Scott Cowdell made the motion that the City donate \$500 to the American Legion Auxiliary.

SECOND: Dennis Tenney

VOTE: Scott-Yes, Dennis-Yes, Judy-Absent, Stan-Absent, John-Yes, Ken-Yes, Bryant-Yes

MOTION PASSED

- b. Special Recognition of Almon Nelson: Bryant Anderson, Byron Jorgenson, and Darrel Scow, presented Almon Nelson a Stetson Cowboy Hat in recognition of his 42 years of dedicated service to the City. Mr. Nelson's achievements are too numerous to enumerate, but two of his latest credits involved the successful negotiation of additional property for the Trans Jordan Landfill, and procuring additional water shares for the City.

\*\*PUBLIC HEARING(S):

Cove at Hidden Valley Plat F Lot 25 Amendment

1. Public Hearing to consider an amendment to the Cove at Hidden Valley Plat F, Lot 25, in order to create an additional building lot. The lot to be created has frontage on Hidden Brook Boulevard, and it meets all requirements of the R-1-20 Zone.

Coulter/LDS Church Annexation

DISCUSSION: George Shaw reported that the applicant, Gary Deaton, has petitioned for a plat amendment to the Hidden Valley Plat F for Lot #25. Lot #25 contains 61,002 square feet, and could successfully be divided into two building lots which would meet or exceed the requirements of the R-1-20 Zone. Both Staff and the Planning Commission recommend approval with the following 7 conditions:

- 1) That any street improvements that are currently damaged or that become damaged during construction of the home on Lot 25A, be repaired to the satisfaction of the Sandy City Engineering Department, prior to occupancy of the home.
2. That compliance be made with the Sandy City Water Policy; i.e., water line extensions, connections, water rights and fire protection.
3. That Lots 25 and 25A comply with all requirements of the R-1-20 Zone.
4. That grading, home placement and a vegetation plan be submitted and approved by Sandy City prior to issuance of a building permit. The vegetation plan must illustrate

Exhibit G

- vegetation to be removed, and vegetation types for replacement.
5. That a notation be made on the final plat stating that identified fault lines are located approximately 200 feet to the east of this Phase F.
  6. That compliance be made with all requirements of the Sensitive Area Overlay Zone.
  7. That this plat not be required to return to the Planning Commission for final approval.

Mr. Deaton was present during the hearing. He indicated that he will be building his own home on one of the two new lots.

Ken Prince, the Council's liaison for the Planning Commission, reported that this item was non-controversial, and he recommended adoption.

As there were no additional comments, the Chairman closed the hearing.

VOTE: See #7

2. Public Hearing to consider the request of Nathan Coulter and the LDS Church, and others for properties located at approximately 11000 South 1700 East (unincorporated properties west of 1700 East between Cobblestone Village Subdivision and 11000 South (Ascot Parkway), and properties east of 1700 East (south of the existing LDS Church) which front 1700 East and 10980 South to one lot east of said church. Additional properties may be considered for annexation, based upon the desires of a majority of the property owners. The total area under consideration is 20.62 acres. The following zoning designations may be considered R-1-20A (Residential 20,000 sq. ft lot/w/Animals), R-1-15A (Residential 15,000 sq. ft lot/w/Animals),, R-1-12 (Residential 12,000 sq. ft. lots), and R-1-10 (Residential 10,000 sq. ft. lots).

DISCUSSION: George Shaw outlined the annexation proposal. He indicated that during the Planning Commission's review of this proposal, they voted to extend the hearing to provide additional time for adjacent property owners to sign annexation petitions that could be included with this annexation. This would square up City boundaries. The City currently has 5 annexation petitions.

Staff and the Planning Commission recommend the R-1-20A Zone for this property. However, if large animal rights are not required, they could support the R-1-15A Zone. Mr. Shaw emphasized the need to maintain large lots in this area, to protect existing animal rights and conform with the City's General Plan.

As the proposed L.D.S. Church would be a Conditional Use in any R Zone, the Planning Commission has reviewed this use. They would

approve the Conditional Use Permit, if the Council approves the annexation of the property.

The hearing was opened to public comment.

- a. Roger Russell, 10894 Cobblestone, stated that he has been a resident of Sandy for the past 17 years, and he owns 3 1/2 acres of property. He noted that the R-1-10 Zone is preferred by himself and other property owners residing on Cobblestone. A petition signed by these residents referenced their recommendation for the R-1-10 Zone as a "buffer zone" between properties with horses and those properties that do not desire horses.
- b. Don Kemp, owner of 1.9 acres in the proposed annexation area, indicated that he too was opposed to the R-1-20A Zone. He believes the R-1-10 Zone would be the most appropriate zone; but, indicated that he could support the R-1-15A Zone. He recommended that the Council delay taking action on this proposal, to allow time for other property owners to sign annexation petitions which could be included with this annexation proposal.
- c. Kent Holland, 10979 Whirlaway, stated that the R-1-20A Zone is the only zone that should be considered for this area. He believes this zone preserves the rural atmosphere and protects property owners who already have animal rights and large lots.
- d. Dianna Van Uitert, a member of the Sandy Trails Committee, recommended the R-1-20A Zone. This zone would preserve and retain the value of this rural area. She also recommended that any development proposal for this area include the extension of the trails system. Ms. Van Uitert suggested that a wall not be constructed separating the trail system from residential property.
- e. Robin Cederlof read a letter written by members of the Bell Canyon Acres Homeowners Association. The letter stated that no less than the R-1-20A Zone should be considered for this annexation proposal. The letter indicated that the homeowners would be willing to negotiate with the developer to connect their private equestrian trail to the City's trail system, which should be incorporated into any development plan.
- f. Nathan Coulter indicated that as a developer, he does not believe large lots can be economically developed. People seem to prefer smaller lots, as they are easier to maintain. Mr. Coulter suggested that a nice residential development, that incorporated a trail system enclosed by a uniformly constructed fence, would be a nice buffer between existing development.

- g. Darrel Scow indicated that while he is the City's Public Works Director, he is also a resident of Bell Canyon Acres. He noted his concern that additional development will increase traffic and pose safety problems; but, agreed with points made by the developer, that development will improve the property and provide assets such as additional storm drainage to this area.
- h. Ken Lamborn, representing Gordon Gygi (architects for the proposed church) asked the Council to approve the annexation, so the church project could go forward.
- i. Eric Sorenson, Crescent Quadrant Community Council Chairman, recommended that the Council not consider zoning the property for small lot sizes. He cited ongoing problems with other developed areas that have existing horse properties that abut small residential lots. Mr. Sorenson encouraged the Council to maintain the expectations of those already residing in this area, by maintaining the rural atmosphere.
- j. Paul Wilding indicated that property boundaries shown during this presentation seem to encroach onto existing property lines. He encouraged that more time be given to further study the zones proposed and other potential annexation proposals.

George Shaw noted that it is impossible to "spot zone" individual parcels to meet the request of each property owner. He believes that either the R-1-15A or the R-1-20A Zones are economically viable. Mr. Shaw indicated that while economics are important, they should not be the deciding factor in determining the zone.

Dennis Tenney suggested that the Council take action on only the church, Hatch, and Smith properties, and that they be approved for annexation.

Scott Cowdell noted that while several comments have been made regarding the zone desired by adjacent property owners, he felt those owners should be present to express their own opinion.

Ken Prince felt the Council should protect and maintain the rural atmosphere of this area. He suggested that the Council delay any action on this issue, so that a response can be obtained from all affected property owners.

Bryant Anderson noted that while property owners have a right to utilize their property, all zoning should fit within the City's Master Plan. He believes that all sides should be able to come to an agreement, by utilizing the spirit of compromise, in determining the best zone for this property. He noted the potential to expand the trails system.

John Winder felt this issue should be tabled. He indicated that he was not inclined to consider reducing the zone, at this time.

#1MOTION: John Winder made the motion that this Public Hearing be continued to December 14, 1993. In addition, Staff was directed to prepare documents accepting the Annexation Petitions submitted by the LDS Church, the Hatch property, and the Smith property. Zoning for these parcels shall be determined during the 12-14-93 meeting.

SECOND: Dennis Tenney  
VOTE: John-Yes, Dennis-Yes, Judy-Absent, Stan-Absent, Ken-Yes, Scott-Yes, Bryant-Yes

MOTION PASSED

#2MOTION: Dennis Tenney made the motion that Staff obtain more input and possible additional Annexation Petitions from affected property owners noticed by this hearing. Additionally, the Council should provide a non binding sense of their direction for the future zone designation for this area.

MOTION DIES FOR LACK OF A SECOND

Raintree #3 Subdivision, Lot #317 Amended

3. Public Hearing to consider an amendment to the Raintree #3 Subdivision Lot #317, in order to create an additional building lot. The lot to be created has frontage on Eastdell Drive and meets all requirements of the R-1-8 Zone.

DISCUSSION: George Shaw explained that the applicant desires to split Lot #317 and #317A, consisting of a total of 31,276 square feet, into two lots. One lot would have frontage facing Candlewood Circle, and the other lot would face Eastdell Drive.

The Applicant, Mr. Tracy Wright, indicated that he is currently living in the existing home on one of the lots, and that he would like to build a new home on the second lot.

As there were no public comments, the Chairman closed the hearing.

VOTE: See #8

Hummingbird Subdivision Amended, Amended

4. Public Hearing to consider an amendment to the previous amended Hummingbird Subdivision (recently rezoned from R-1-20A to R-1-10). This proposal enlarges the platted Lot #3, and adds a 16,179 square foot lot to the amended plat. The additional lot does not have the required frontage, and must receive Conditional Use approval from the Planning Commission for a flag lot.

Blaney II Rezoning

# **EXHIBIT "H"**

AMENDED  
M I N U T E S

SANDY CITY COUNCIL MEETING  
Sandy City Hall - Council Chamber Room #211  
10000 Centennial Parkway  
Sandy, Utah 84070

DECEMBER 14, 1993

Meeting was commenced at 7:15 p.m.

PRESENT: Council Members: Stan Price-Chairman, Bryant Anderson-Vice Chairman, Scott Cowdell, Judy Bell, Ken Prince, Dennis Tenney, John Winder; Mayor Larry Smith; CAO Byron Jorgenson; City Attorney Walter Miller; Community Development Director Mike Coulam; Council Office Director Phil Glenn

ABSENT/EXCUSED:  
Council Secretary Naleen Wright

PRAYER & PLEDGE:

The Prayer was offered by Councilman John Winder, and the Pledge was led by Council Office Executive Director Phillip Glenn.

CITIZEN'S COMMENTS:

- a. Ralph Tolman, 9090 South 300 East, criticized unnecessary growth in the City. He believes Sandy City should not be pre-occupied with unwarranted and unnecessary growth.
- b. Peggy Bird, 265 East Main Street, suggested that the Council's recent generous donation (\$300) to the West Jordan School for Handicapped Children be used as the subject matter for an article in the upcoming Sandy Newsletter.

\*\*PUBLIC HEARING(S):

Coulter/LDS Church Annexation

Continued from 12-7-93

1. Public Hearing to consider the request of Nathan Coulter and the LDS Church, and others for properties located at approximately 11000 South 1700 East (unincorporated properties west of 1700 East between Cobblestone Village Subdivision and 11000 South (Ascot Parkway), and properties east of 1700 East (south of the existing LDS Church) which front 1700 East and 10980 South to one lot east of said church. Additional properties may be considered for annexation, based upon the desires of a majority of the property owners. The total area under consideration is 20.62 acres. The following zoning designations may be considered R-1-20A (Residential 20,000 sq. ft lot/w/Animals), R-1-15A (Residential 15,000 sq. ft lot/w/Animals), R-1-12 (Residential 12,000 sq. ft. lots);

Exhibit H



and R-1-10 (Residential 10,000 sq. ft. lots).  
DISCUSSION: Mike Coulam explained that the Planning Commission has reviewed this proposal on two occasions. Their recommendation to the Council is that this area be annexed and zoned entirely R-1-20A (ref: Zoning Alternative "A" - (all properties zoned R-1-20A)).

Planning Staff, however, have re-analyzed the subject properties based upon potential subdivision developments under the R-1-20A, R-1-15A, and R-1-10 Zones. They feel most comfortable with recommending Zoning Alternative "B" which utilizes both the R-1-20A Zone and the R-1-15A Zone - (western property abutting Bell Canyon- R-1-20A, along 1700 East- R-1-15A (except for parcel fronting Ascot Parkway) parcels along Ascot Parkway- R-1-20A.)

The City has received Annexation Petitions from the Hatch, Coulter, and Smith parcels, even though a larger area was noticed that could have been included with this annexation proposal. These three parcel owners have indicated that their annexation petitions are contingent upon an R-1-15, or smaller, zoning designation.

Property owner Nathan Coulter reported that he had met with the Bell Canyon Estates Board. During this meeting, he proposed the R-1-10 Zone for this property; but, indicated that he would consider the R-1-12. Mr. Coulter indicated that there is adequate buffering from the adjacent zones to accommodate an R-1-10 Zone.

The Chairman opened the hearing to public comments.

Diana Van Uitert and Susan Day, submitted a petition containing 99 signatures from residents residing in the vicinity of Eileen Way and 10895 South, requesting that only the R-1-20A Zone or larger be considered for this property.

Lori Fitzgerald, 1600 East Ascot Parkway, indicated that she also desires the R-1-20A Zone. She noted that not all petitioners for the R-1-20A Zone are horse owners.

Robin Cederlof, 1469 East Churchill Downs Drive, asked the Council to make note of previous petitions submitted by residents seeking R-1-20A or larger zoning.

Pauline Pope, 2117 Mary Drive, stated that she personally has received complaints from her neighbors because of her horse coral. She explained that allowing smaller lot sizes will only continue to generate more complaints against existing homes having horses.

Kent Holland, resident of Bell Canyon Acres, noted that many developers have achieved a great return on their investment by developing and selling homes on R-1-20A and larger lots sizes

Joyce Holling, indicated that she moved from American Fork to Sandy to be able to have a large lot. She likes large lots and believes smaller lots would be an intrusion into this area, would increase population density, affect views, and would impact traffic. Mrs. Holling opposes any zone smaller than R-1-20A.

Mark Holly, 1688 East Cobbleton Village Circle, noted that smaller lots will impact traffic. He indicated that he does not care for horses; but, he likes large lots.

Peggy Bird, 265 East Main Street, spoke regarding the need to provide a good recreation trail system for Sandy residents.

Roger Russel, 10894 Whirlaway Lane, noted that a petition from his area was in support of R-1-10 zoning.

The Public Hearing was closed by the Chairman.

Ken Prince stated that he prefers zoning Alternative B.

Judy Bell noted the need to be consistent by maintaining the previous policy of large lots in this area. She supports Alternative A with the R-1-20A Zone.

Scott Cowdell advised the Council to deny annexation to Sandy, and refer the developer to Salt Lake County.

Bryant Anderson suggested that County islands need to be closed wherever possible.

VOTE: See #2

COUNCIL ITEMS:

Coulter/LDS Church Annexation, Hatch, Smith

2. Ordinance #93-60 - annexing property known as the Coulter Annexation, located at 11000 South 1700 East Sandy, Utah, containing 10.55 acres, with a zone of R-1-20A (Residential, Single Family, 20,000 sq. ft. Lots w/Animals).

DISCUSSION: See #1

MOTION: Ken Prince made the motion to accept the Annexation Petition for the Smith property, and to zone the property R-1-20A.

SECOND: Dennis Tenney

VOTE: Ken-Yes, Dennis-Yes, Scott-No, Stan-Yes,  
John-Yes, Judy-Yes, Bryant-Yes

MOTION PASSED

Funds Transfer - General Contingency/Fleet \$30,000

3. Resolution #93-82 C transferring funds from the General Contingency Account. (\$30,000) (3 Schmidt Plows)

MOTION: Judy Bell made the motion to adopt the resolution as

# **EXHIBIT "I"**

COMM/CDs CAUTION Annexation

"B"

COPY

RESOLUTION #95-46 C

A RESOLUTION ADOPTING, RATIFYING, AND CONFIRMING POLICY DECLARATIONS AND ORDINANCE #93-60, PERTAINING TO THE ANNEXATION AND ZONING OF PROPERTY AT APPROXIMATELY 11000 SOUTH, 1700 EAST, SANDY, UTAH.

WHEREAS, on September 2, 1993 and October 21, 1993, the Sandy City Planning Commission held hearings to consider a proposed annexation of 20.62 acres of unincorporated territory at approximately 11000 South, 1700 East in Sandy; and

WHEREAS, the Planning Commission approved such zoning and annexation based on staff reports (including a proposed annexation policy declaration) and on other information provided through the hearing process; and

WHEREAS, a public hearing on the annexation and zoning was held before the City Council on December 7, 1993, which meeting was preceded by notice by publication in *The Green Sheet*, a newspaper of general circulation in the area, on November 4, 1993, posting in Sandy City Hall on November 2, 1993, and mailing of notices to numerous interested persons; and

WHEREAS, on December 14, 1993, the City Council of Sandy City, Utah, adopted Ordinance #93-60, annexing and zoning property, consistent with the Planning Commission recommendation; and

WHEREAS, the annexation neither has nor will directly and significantly affect the territory, service delivery or revenue of any county, municipality or other entity possessing taxation powers within Salt Lake County;

WHEREAS, Mesa Development Company has filed an action in Third District Court seeking to void the annexation by alleging, incorrectly, that no public hearing was held and no notice of hearing was published; and

WHEREAS, the City Council wishes to expedite dispute resolution by correcting these misstatements and by reiterating and emphasizing its policy and intentions with respect to annexation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Sandy City, Utah as follows:

1. That the general Annexation Policy Declaration adopted by Sandy City in 1979, and unanimously approved by the Salt Lake County Boundary Commission on February 15, 1980, is hereby ratified and confirmed. Subsequent amendments to the Annexation Policy Declaration in October 1980, May 1983, and thereafter, are also ratified and confirmed.

MICROFILMED

Exhibit I

2. The specific Policy Declaration recommended by planning staff and attached hereto as Appendix "A," is hereby adopted and approved as a supplement to the amended Annexation Policy Declaration specified above.
3. The annexation approved by Ordinance #93-60, is hereby ratified and confirmed.

ADOPTED this 16<sup>th</sup> day of May, 1995.



Judith M. Bell  
Judith M. Bell, Chairman  
Sandy City Council

ATTEST:

Diane M. Murray  
City Recorder

RECORDED this 22<sup>nd</sup> day of May, 1995.

# **EXHIBIT "J"**

Coulter/LDS Church Annexation Impact Statement

A. Legal Description

Beginning at the South 1/4 Corner of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence along the quarter section line and the current Sandy City boundary as recorded in book GG at page 80 in the office of the Salt Lake County Recorder, North, 50.00 feet; thence West, 660.00 feet; thence North, 1198.70 feet to the South line of a previous annexation to Sandy City recorded in book 77-1 at page 7; thence along said South line East, 660.00 feet to the quarter section line; thence South along said quarter section line, 1038.70 feet; thence South 89 Degrees 53'00" East, 510.00 feet along the South line of previous annexation to Sandy City recorded in book KK at page 96; thence South, 210.00 feet; thence North 89 Degrees 53'00" West, 510.00 feet to the point of beginning. Contains 20.62 acres

B. Existing and Potential Land Uses and Population

The proposed annexation includes 14 existing single family dwellings. The zoning under consideration for the area is R-1-20A (minimum 20,000 square foot lots with animal rights) and R-1-15A (minimum 15,000 square foot lots with small animal rights).dwelling under construction. The current population of the area is estimated at 53. An LDS Church is proposed to be built on 2.84 acres of property. Based upon the existing homes, vacant lots, and a conceptual plat of the area showing minimum 20,000 square foot lots, it is estimated that there is a potential of 33 total lots within the annexation area. Using a figure of 3.8 persons per household, the total future population is estimated at 125.

C. Relation to Sandy City Goals and Community Character

The proposed annexation is located within the projected boundary of the City as shown in Sandy City's General Annexation Policy Declaration. The proposed annexation is located within the planning community known as "Bell Canyon." This planning community has a citizen's plan and recommendations for development within this area, in addition to the goals and policies of Sandy City's General Plan. It is intended that the development of this property will be in harmony with the rural residential character of this portion of the Bell Canyon Community.



# Community Development Department

LAWRENCE P. SMITH  
MAYOR

BYRON JORGENSEN  
CHIEF ADMINISTRATIVE OFFICER

MICHAEL G. COULAM  
DIRECTOR

## COULTER/LDS CHURCH ANNEXATION POLICY DECLARATION

SANDY CITY  
November 1993

Property owners in the area of 1700 East and 11000 South have petitioned the City for annexation. Depending upon the number of properties included by City Council action, the annexation size may range from 3.89 to 20.62 acres. The existing land use of the subject properties is as follows: Fourteen single family dwellings, 9 west of 1700 East and 5 on the east side of 1700 East. Several homes are on large acreages that are suitable for residential development.

A. Conformance to Natural Topographic Features

The area under consideration for annexation is similar to the topography of adjacent property within Sandy City limits. The annexation area slopes gently to the west.

B. Unincorporated Islands

The proposed annexation will close a portion of a large county "peninsula" that includes Dimple Dell Regional Park. The annexation will not close any unincorporated "island" nor will it leave behind any new "islands," as now proposed.

C. Contiguity

The proposed annexation is adjacent to the City limits on the north (Cobblestone Village Subdivision), on the west (Bell Canyon Acres Subdivision), on the south (Prescott Estates Subdivision), and on the east by an existing LDS Church. Total length of contiguity is approximately 4,400 feet. The area proposed for annexation does not lie within the incorporated boundary of another municipality.

Exhibit J



D. Assessed Valuation of Subject Property

Property Owner	Sidwell #	Assessed Value	Acres
Alta Title Company	28-16-376-016	\$91,600	3.67
Albert P. Gause	28-16-376-017	71,300	0.28
(Neil & Shanna Gause)	28-16-376-018	38,900	0.37
Clarence J. Perry	28-16-376-019	57,600	0.42
Don L. Kemp Ent.	28-16-376-020	109,390	1.90
Kathleen Setterberg	28-16-376-028	24,800	1.00
	28-16-376-029	64,300	0.43
	28-16-376-030	2,000	0.06
Paul & Michele Wilding	28-16-376-031	75,490	0.68
Marilyn F. Leonis	28-16-376-022	87,600	0.68
Jerry & Karen Smith	28-16-376-024	135,900	0.90
	28-16-376-032	94,700	2.90
Nathan Coulter	28-16-376-033	99,190	3.89
(Mesa Development)			
Max & Virginia Hatch	28-16-452-004	2,100	0.14
	28-16-452-014	54,200	0.52
	28-16-452-015	49,400	0.33
Stephen & Joan Martin	28-16-452-006	127,800	0.50
Vola C. Belnap	28-16-452-012	62,300	0.49
Sally & Kent Bigelow	28-16-452-013	64,100	0.51

	=====	
TOTALS	\$1,312,670	*19.67

*This acreage is less than that shown on the legal description because of the inclusion of the rights-of-way for 1700 East and 10980 South.*

F. Distance from Activity Centers

The subject property is located:

- 3 1/2 miles from the Sandy City Police Station*
- 1 mile from the Fire Station #33*
- 1/2 mile from Bell Canyon Shopping Center*
- 1/2 mile from Bell Canyon Park*
- 1 1/4 miles from Eastmont Middle School*
- 1 mile from Alta High School*

G. Expected Traffic Generation

Traffic counts will increase on 1700 East as additional homes area built are built in this area. Access into the interior of the block for subdivision purposes will need to be on the north end (across from the cemetery) because a slight hill on 1700 East to the south obscures proper sight distance. This interior access street off of 1700 East will also serve as access to the proposed LDS Church by connecting to Ascot Parkway.

It is estimated that 330 vehicles trips per day will be generated within the annexation area based upon the existing homes and the number of lots most likely to be platted in the future.

H. Extension of Services

1. Water: Sandy City is currently providing culinary water service to the general area, and has the capacity to add additional water connections without a drop in level of service. Proper water line extensions and connections will be required of the developer as part any subdivision approval for the area. The proposed LDS Church will also be required to do the same under a Conditional Use Permit and site plan approval.
2. Streets: Appropriate street dedication and improvements will also be required of any development, including the widening of portions of 1700 East, where applicable.
3. Other Municipal Services: Police, Fire, Garbage Pick-Up, etc. will be provided to the property at such time as the City Council approves the annexation.

I. Tax Consequences

Although Sandy City's property tax rate is higher than that of unincorporated Salt Lake County (municipal-type services), the two rates are very close. There is no significant tax consequence to the County with this annexation because the parcels involved are either residential or vacant. The property tax consequence to property owners will be slight because most of the acreage is vacant. As the properties are developed, however, the residences will be subject to the City's 6% franchise tax on utilities.

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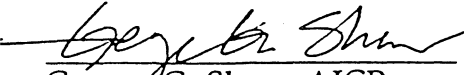
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J. Attitudes of Other Local Government Jurisdictions

Salt Lake County: The City and the County are in a cooperative mode regarding the resolution of boundary lines and service delivery systems. The subject property is located in an area that both the City and the County have verbally agreed should be part of the Sandy City.

 11-15-93  
George G. Shaw, AICP  
Planning Director

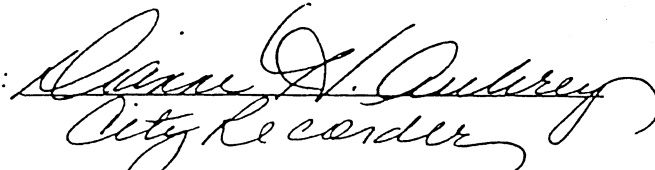
coul-lds.apd

CC: Marvin L. Hendrickson, Chairman-Salt Lake County Boundary  
Commission  
Honorable Jim Bradley, Chairman-Salt Lake County  
Commission  
Jerry Barnes, Salt Lake County Planning Director  
Salt Lake County Surveyor's Office  
Sandy Suburban Improvement District

MAILING CERTIFICATE

I hereby certify that I mailed a copy of the foregoing Annexation Policy Declaration to the individuals/agencies listed under the carbon copy notation above on this 16th day of November, 1993, with postage pre-paid.

Signed:

  
City Recorder