1981

Sweetwater Properties et al v. Town of Alta, Utah : Brief of Respondent on Rehearing

Utah Supreme Court

Giauque, Holbrook, Bendinger & Gurmankin; Attorneys for Plaintiffs-Respondents;
Robert S. Campbell, Jr.; James P. Cowley; Attorneys for Defendant-Appellant;

IN THE SUPREME COURT

OF THE STATE OF UTAH

SWEETWATER PROPERTIES, SBC INVESTMENT COMPANY and BLACKJACK TRUST,	:	
Plaintiffs-Respondents,	:	
vs.	:	
TOWN OF ALTA, UTAH, a municipal corporation,	:	Case No. 17064
Defendant-Appellant.	:	

Respondent's

BRIEF ON REHEARING

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STATUTES

NATURE OF THE CASE

The Court has preferred for review, on the Petition for Rehearing, the question under what circumstances the Town, sua sponte, may initiate policy declarations. It would appear that the question has two aspects, depending upon how it is answered in the first instance:

1. Was the Alta Policy Declaration, in the facts of the present case, authorized, insofar as affected landowners have never petitioned for annexation?

2. If there are circumstances in which a municipality may adopt a policy declaration in advance of receiving a petition to annex from landowners, what standard of compliance with the requirements of the Act must the policy declaration meet to be a valid enactment of the development restrictions of §10-2-418, U.C.A. (1953) (Supp. 19/9)?

It is plaintiffs-respondents' position that the Town may not, as it has attempted to do here, adopt a policy declaration for the annexation of a specific small parcel, without (1) a prior petition to annex from affected landowners, and (2) strict compliance with the standards and requirements of §10-2-414, U.C.A. (1953) (Supp. 1979).

DISPOSITION IN THE LOWER COURT

The Third District Court, Honorable James S. Sawaya, found after trial that the Alta Policy Declaration did not comply with the Utah Municipal Code, that respondents' existing permits for development of this property were valid and enforceable, that respondents' project in its current state of completion constituted an existing use, and that completion of the project constituted a

taking of property without the due process or just compensation The District Court declared the Alta Declaration void to the extent it attempted to restrict development of respondents' property, enjoined further interference by the Town with respondents' development, and ordered Salt Lake Couty to re-commence the review and permit process for respondents' project.

STATEMENT OF FACTS

Respondents' property (hereinafter the "Sweetwater Property") aggregates approximately 25 acres, lying outside the Town of Alta, adjoining its western boundary. It is zoned by Salt Lake County for limited development in a canyon overlay zone. Respondent Sweetwater Properties, Inc. (herinafter "Sweetwater"), is the purchaser of the property from the remaining respondents, and has created a development plan for the property, on the basis of which Salt Lake County, after an extensive planning process has issued a conditional use permit and initial building permits. (Tr. pp. 58, 5.)

Following several months of planning and design in response to Salt Lake County zoning requirements, Sweetwater presented its development plan to the County in June, 1979, seeking a conditional use permit for the construction of 226 condominium units and related facilities. Salt Lake County required, in addition to review by its own departments, review by the Utah State Department of Transportation, the City and County Water Quality Division, the Canyon Advisory Commission, Cottonwood Sanitation District, and others. The review encompassed not merely design and engineering features of the project, but also impacts upon traffic

water quality, service delivery, avalanche and fire dangers, and related considerations. (Tr. pp. 4,5,33,58; Exhibit P-8.) It was determined that all necessary services are available to the project through Salt Lake County, Cottonwood Sanitation District, and Salt Lake County Service Area No. 3 - Snowbird. (Tr. p. 63.) After reducing the maximum number of permissible units to 200, Salt Lake County, on September 13, 1979, granted the conditional use permit, requiring that the project be constructed in stages and that each stage be separately finally approved. At the time, Salt Lake County finally approved the first stage of 15 units, and issued excavation and foundation permits for the first stage. (Stipulations No. 6,12.) In all, the planning and approval stage for respondents' development to September 13, 1979, together with the down payment on the land, has cost respondent Sweetwater in excess of $250,000.00. (Tr. p. 58 et seq.)

The Town of Alta, meanwhile, had adopted a "Proposed Policy Declaration" regarding annexation to the Town of the Sweetwater Property. (Exhibit P-7) This document recites that it is enacted in consideration of the fact that certain development had been proposed for respondents' 25-acre parcel, that the parcel is contiguous to and within one-half mile of the Town, and that the Town believed "that the proposed development of the Sweetwater Property would severely impact the Town of Alta". The Declaration is drawn to include only respondents' land, a previously developed property lying between respondents' land and the Town, and "other (undeveloped) land" adjacent to respondents' land included to provide straight outer [redacted] parcel to be annexed. A copy of the Alta

Policy Declaration as proposed is attached to this brief as Appendix A.

The land proposed to be annexed under the Alta Policy Declaration is not claimed to be an island or a peninsula. The Alta Declaration does not purport to be a general planning document for future annexations; it has specific reference to a single small parcel belonging to respondents. Alta is in fact engaged in other separate annexations under a separate policy delcaration. No landowner has petitioned to annex any of the land covered by the policy declaration in issue.

As soon as statutorily permissible, the Town enacted the Proposed Policy Declaration without substantive amendment. The final Policy Declaration provides, inter alia, that Alta will annex respondents' property "only" if vital services are provided to it by an existing County Service Area, and that the Town will not accept previous zoning of the property or previously issued permits for its development, but will subject it to the Alta Master Plan. (Exhibit P-6.) The Alta Master Plan contains a single zone for properties, like respondents', not developed at the time of formation of the Town or annexation of the properties to the Town: FR-100, which forbids development of more than one residential unit on less than 100 acres. (Tr. p. 15, 65.)

Having enacted the Declaration, the Town announced its position that the enactment created a restriction against issuance of any further permits for respondents' project and against construction under permits then issued. At that time, Salt Lake County discontinued the review and permit process for respondents' property.

Respondents do not wish to be annexed to the Town because the result would be to void the substantial investment they have made in County Planning and permits, because the Town's Declaration admits that it is incapable of providing vital services to a residential development substantially larger than the Town, and because the Town steadfastly refuses to give respondents an indication that it will permit any development of respondents' property once annexed. (Tr. pp. 75-76.)

ARGUMENT

Point I. The Alta Policy Declaration is void because it was not adopted in response to a petition of affected landowners to annex.

If the statute be taken at face value, the answer to the question posed for review is: The Town, or any municipality, may, sua sponte, initiate a policy declaration only where it does so for the purpose of annexing islands or peninsulas of unincorporated, urbanized territory contiguous to its boundaries. While §10-2-414 indicates that a municipality must, prior to annexing territory, "on its own initiative, on recommendation of its planning commission, or in response to an initiated petition by real property owners adopt a policy declaration, §10-2-416, setting out requirements for a landowners' petition to annex, plainly provides: "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." Section 10-2-420 provides, with regard to islands or peninsuals of contiguous unincorporated territory:

> Any municipality servicing such an area under the provisions of this section for more than one year, may, upon the initiative of its governing body and without petition therefor, extend its corporate

> limits to include such territory; however, any such annexation must be preceded by a municipal policy declaration as provided in this chapter and shall be defeated if 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 latest assessment rolls, of the area file a written protest of such annexation not later than the day preceding the public hearing.

The purpose of the first paragraph of §10-2-414, containing the language quoted above, is to establish the requirement for a policy declaration. It does not appear to be intended, by itself, to authorize various ways of initiating annexation. The reference appears to be merely a reflection of what is authorized elsewhere in the statute.

In short, the suggestion of §10-2-414 that a municipality may proceed to annex on its own initiative must be circumscribed by the plain language of §10-2-416 and §10-2-420. The circumstance in which such initiative may be exercised is in the case of islands or peninsulas, where the municipality has serviced the area for at least a year, and following the procedures set out in §10-2-420. Otherwise, §10-2-416 forbids institution of annexation proceedings without a landowner's petition. In this regard, the State's new annexation law is identical to the old annexation law.

To argue otherwise erects the mere suggestions of the quoted language of §10-2-414 over the plain command of §10-2-416. Moreover, it makes an anomaly of intervening §10-2-415. That section provides:

> If: (1) an annexation proposed in the policy declaration, in the judgment of the municipality, meets the standards set forth in this chapter; and (2) no protest has been filed by written application by an affected entity within five days following the public hearing the members of the governing body may by two-thirds vote adopt a resolution or ordinance of annexation in accordance with the [illegible] declaration adopted by the governing body

territory shall then and there by annexed.

If §10-2-414 means that in all circumstances a municipality may adopt a policy declaration on its own initiative, §10-2-415 means that, unless a protest is received from an affected entity, the municipality may immediately annex on its own initiative. Such a result would be a direct contravention of §10-2-416.

The only consistent reading of the reference in §10-2-414 to adoption of a policy declaration by a municipality on its own initiative is to read it as a reflection of the narrow exception set out in §10-2-420.

That reading also avoids the prospect that the development restrictions of §10-2-418 can be used by a municipality to coerce landowners to consent to annexation. Read properly, the development restrictions cannot come into effect until majority consent of affected landowners has been obtained. Where the willingness of the municipality to annex, and the consent of affected landowners to be annexed, have been established in advance, the development restrictions take on a very difference aspect. In such case, the ordinary basis for annexation is provided, and, excepting unforeseen "legal and factual barriers to annexation," and delay for protest proceedings, annexation may occur promptly. The one-year period of development restrictions becomes an adminstrative period in which, in the area within a half mile of the municipality, the jurisdiction the municipality otherwise would have assumed promptly by annexing is protected while the municipality attempts to work out logistical problems. It is not a period testing the will of landowners to resist an annexation

The reading also avoids the constitutional dilemma of the present case. It substantially lessens the prospect that enactment of a policy declaration will be resorted to supress particular proposed development as the Alta Policy Declaration announces its intent to do with plaintiffs' development. Otherwise, it is a simple matter to enact a policy declaration, and its prohibitions of development, as a means of forcing a landowner to consent to an annexation with the additional condition that the landowner relinquish vested rights in existing approvals and permits. In the case of a policy declaration like Alta's the affected landowner has no choice - it must relinquish existing rights to get annexed, in the hope of salvaging some developability for its property. If it does not, the development restrictions will continue, upon the ground the landowner has not made a good faith effort to become annexed, and is thus not entitled to the one year limitation on development restrictions.

The map of the area proposed to be annexed by the Town is in evidence. It in no way constitutes an island or peninsula within the meaning of §10-2-420. See the definitions in §10-1-104. It is admitted, and expressly found (Finding No. 49 in response to paragraph 13.B. of the Second Amendedd Complaint) that no owner of property within the area to be annexed has petitioned for annexation. Alta's Policy. Declaration is therefore void.

Point II. The Alta Policy Declaration does not sufficient comply with the standards and requirements of the Act to effectuate the development restrictions of §10-2-418.

If municipalities must await landowner petitions in order to adopt policy declarations, will the effect not be to defeat a purpose of the Act that policy declarations be created as planning tools formulating and disclosing in a careful manner the plans and intentions of the municipality for future expansion? In fact, nothing prevents a municipality formulating and disclosing a long - range plan for development without receiving a landowers' petition to annex. Should such a plan be recognized as a policy declaration giving the municipality the right to control development within one-half of its boundaries under §10-2-418? The question is really whether, in view of such an enactment by the municipality, the county must refuse to permit urban development on the land covered by the "declaration" and within 1/2 mile of the municipality, if the municipality shows that it is presently "willing to annex the territory proposed for such development under the standards and requirements set forth in this chapter". §10-2-418. The "standards and requirements of the chapter", it must be recalled, include present willingness to annex and ability to provide urban services, under §§ 10-2-104(4) and 10-2-414, and availability of a landowners' petition under §10-2-416. Given the "willingness" requirement of §10-2-418, it would apparently be entirely appropriate, where a municipality has adopted a general, long - range policy declaration, for the county to permit urban development on land within the declaration and one-half mile of the municipality, if the municipality were unable to state a present willingness and ability to promptly annex and provide urban services, or if it could not meet the further requirement of having a landowners' petition to

annex under §10-2-416.

Certainly §10-2-414 contains indications that it comprehends a long - range planning document, comprising all of the area into which a municipality anticipates expansion. Subsection 10-2-414(1) certainly appears to be to that effect. The same indication is plain in §10-2-401, stating the legislative policy of the Act, and particularly in §10-2-401(5) Such documents, however, are not likely to be adopted if municipalities must await landowner petitions. Does it follow that, if a general, long - range policy declaration is passed without a prior landowner petition, urban development is automatically forbidden inside the area covered by the declaration and within one-half mile of the municipality? The answer is plainly "NO".

What, then is the operation of the development restrictions of §10-2-418? Supposing that general, long - range policy declarations are permissible prior to receipt of landowners' petitions, the municipality could control at least the timing of urban development within the declaration and within one-half mile of the municipality by showing, as to each parcel as it is proposed for urban development, a willingness and ability to annex the parcel and promptly provide the urban services. This would not allow the municipality to proceed to annex without a petition, and it would appear that once a petition is received as to a particular parcel, the municipality would then have to adopt specific policy declaration regarding that parcel. Section 10-2-416 provides:

> The members of the governing body may, by resolution or ordinance passed by a two-thirds vote, accept the petition for annexation for the [illegible] a policy declaration relative to the proposed [illegible]n.

The control gained by the municipality in such case is not the right to zone or plan extraterritorially prior to the acquisition of actual jurisdiction over the property. It is the limited right to require that property the subject of urban development be brought within the established urban center, the municipality, so that urban development occurs within the sphere intended by the Legislature, as stated in its declaration of legislative policy:

> 10-2-401. Legislative policy. The legislature hereby declares that it is legislative policy that:
> (1) Sound urban development is essential to the continued economic development of this state;
> (2) Municipalities are created to provide urban governmental services essential for sound urban development and for the protection of public health, safety and welfare in residential, commercial and industrial areas, and in areas undergoing development;
> (3) Municipal boundaries should be extended, in accordance with specific standards, to include areas where a high quality of urban governmental services is needed and can be provided for the protection of public health, safety and welfare and to avoid the inequities of double taxation and the proliferation of special service districts;
> (4) Areas annexed to municipalities in accordance with appropriate standards should receive the services provided by the annexing municipality as soon as possible following the annexation;
> (5) Areas annexed to municipalities should include all of the urbanized unincorporated areas contiguous to municipalities, securing to residents within the areas a voice in the selection of their government; ...

There is certainly nothing in any of this to suggest a legislative intent that the annexation law be applied, as Alta attempts in this case, to suppress a particular urban development.

It is to be noted that the imposition of urban development restrictions does not arise until territory within the half-mile zone is "proposed for such development", and the municipality demonstrates its willingness to annex that territory

"under the standards and requirements set forth in this chapter". The municipality is certainly not required to declare in advance that it is presently willing to annex and provide urban services to the whole half-mile zone which it might include in its policy declaration as a proper subject of future expansion. The municipality is required, when a parcel is proposed for urban development, to decide whether it will annex such parcel for urban development - that is the nature of the requirement that the annexation be "under the standards and requirements set forth in this chapter". Section 10-2-418 provides, in effect, a fail-safe that its development restrictions, while providing the municipalities some control over development in territory of interest to the municipality, will not be used to abuse the development rights of landowners.

Section 10-2-416 plainly intends that the right of landowners to consent to, or dissent from, an annexation proposed by a municipality be respected. Nothing in the Act suggests that the right may be abused by the cavalier imposition of development restrictions to coerce consent. If there is an exception to the §10-2-416 prohibition against proceeding in annexation without a landowner petition, it is a narrow one for declarations which serve the purpose of over-all, long - range planning, which might exist to avoid the necessity that a municipality delay planning to await receipt of a petition to annex from a majority of landowners within the entire area the municipality anticipates annexing in future. The recognition of such an exception does not invite discriminatory use of the §10-2-418 d-v-l-

to coerce individual owners to relinquish the urban development potential of their property - in fact, it is clear that if the legislature intended any exception, it is one containing safeguards against such abuses.

Where the designs of a municipality are focused upon a single small parcel, as in the present case, no over-all, long-range planning necessity or advantage exists which would excuse proceeding to a policy declaration regarding the property without a landowners' petition to annex. The municipality can determine promptly whether a majority of landowners favor annexation. If they do not, and the municipality feels a need to include the area within its long-range plans for expansion and development on its borders, it could attempt, by providing the thoughtful long - range planning document intended by the Legislature, to obtain a limited right to require that urban development of the property be conducted under the jurisdiction of the municipality. To do so, it would have to commit to annex the property and provide it the full range of urban services for development. It would thereafter have to obtain a petition to annex, and provide a specific policy declaration regarding the specific characteristics and needs of the particular parcel, in order to permit informed protest by affected entities. Nothing in the Act would excuse the discriminatory adoption sua sponte, of a mere pro forma "policy declaration" affecting a single parcel, for the purpose of coercing, by the imposition of development restrictions, consent to annexation upon the municipality's condition that all existing zoning, approvals and permits be relinquished, and the municipality obtain

immediatley the right to limit development of the parcel.

Does the Alta Policy Declaration in this case fit into the sort of exception for enactments without a petition to annex with could exist under the Act? It obviously does not. Certainly it does not purport to be the sort of thoughtful, long - range planning tool envisioned by the Legislature. It is not even the kind of specific, detailed policy declaration relating to a particular parcel which would be called for after receipt of a petition to annex. It is a mere thoughtless instrument of coercion, passed in haste to provide Alta an immediate right of interference in ongoing development of a particular project on its borders. Such a right cannot be obtained under this Act unless it is invited by prior petition of landowners to annex, and it is always subject to detailed disclosure and informed protest by effected entities having an interest in the project. Alta here subverts the interests of affected landowners by proceeding without a petition to annex, and the interests of affected entities by providing an inadequate disclosure. It does so for the stated purpose of imposing development restrictions upon respondents' property, wholly without serving the Legislature's purpose of providing overall, long - range planning for expansion, for which purpose the development restrictions of §10-2-418 were created.

It is not difficult to define the statutorily required atttributes of an adequate general policy declaration and an adequate specific policy declaration, and to point out why the Alta Policy Declaration in this case is neither. The requirements are set out in §10-2-414, as read in the light of the remainder of the Act, and particularly the statement

of legislative intent contained in §10-2-401. The requirements are discussed at length and in detail in respondents' earlier Brief at pages 17 to 31 . The Court is respectfully referred to that discussion for detail. For present purposes, the following more general discussion seems adequate.

If a general declaration is permissible prior to a petition to annex, it would have to meet at least the following criteria:

1. It must contain a map or legal discription of the whole area into which the municipality presently anticipates future expansion. §10-2-414(1), §10-2-401(3),(5).

2. Such map should include "all of the urbanized unincorporated areas contiguous" to the municipality. §10-2-401(5).

3. Such map must include "where feasible and practicable" the boundaries of:

> "existing sewer, water, improvements, 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-----"

4. Some kind of plan and time table for expansion into the territory covered by the document, based upon apparent need for urban services in various areas, and the ability of the municipality, financial and otherwise, to extend urban services in future.

Such factors, while not all the statute requires, would have to be present as principal earmarks of a genuine long - range planning document. The Alta Policy Declaration obviously does not contain any of these things.

See the discussion at pages 23 to 25 of respondents' earlier Brief. It does not purport to be a long - range planning document.

A policy declaration relating to a specific parcel would appear to need at least the following:

1. A prior petition of landowners to annex under §10-2-416.

2. Certainly if the specific parcel is the subject of a substantial project previously approved by the county, under existing agreements for services from another service entity, a full discussion of the effects upon the county and the service entities of removal of the project from their jurisdicti §10-2-414(2); §10-2-401(6).

3. A full discussion of the anticipated tax affects for residents of the area to be annexed and of the annexing municipality. §10-2-414(2), §10-2-401(3).

4. A specific discussion of plans to provide and finance services, based upon the anticipated development of the parcel. §10-2-414(2), §10-2-401(4).

5. A specific discussion of the anticipated affects upon the "character of the community" of the proposed annexation §10-2-414(2).

(With regard to the interests of "affected entities", respondents respectfully again insist that the Court's restriction of the definition of "affected entities" in its Slip Opinion of January 14, 1981, is manifestly wrong.

If it is a ground to exclude service areas, improvement districts, and the like because they prefer their levies to the counties which collect the taxes, then virtually every entity that might be affected by a boundary change is eliminated. Modernly, the counties are made the collection agencies for all such entities. The counties collect the taxes for the cites, which are not excluded as "affected entities" upon that general ground. Nothing in the statute suggests an intent to apply such a tax collecting distinction, while the statute indicates throughout an intent to include service districts, improvement districts and the like in "affected entities". In the present case, Alta admittedly failed to notify or consider the interests of Salt Lake County Service Area No. 3 - Snowbird, whose territory and revenues are admittedly affected by the proposed annexation. See §10-2-414. It is plainly not an excuse for this failure that a member of the Service Area Board may have been present as a local resident at an Alta Town meeting regarding the proposed annexation - which is all the District Court found below. On this ground alone, the Alta Policy Declaration is void.)

Again the list is not all inclusive of what the statute requires. These are the factors that should be emphasized in a specific declaration. Noticably, the factors that should be expected to be emphasized in a specific declaration are those listed in subsection 10-2-414(2), while those which should be expected to be emphasized in a general declaration are those listed in subsection 10-2-414(1). It is proper to expect

that a declaration regarding a particular parcel will be more specific and detailed.

Again, obviously, the Alta Policy Declaration does not begin to comply. There is no petition to annex, of course. Beyond that, there is simply not fully reasoned consideration of anything. See the discussion at pages 25 to 31 of respondents' initial Brief. Specifically, there is no discussion of the affect of the loss of the Sweetwater Project upon the interests of the County and the Service Area involved; there is no discussion of a plan or time frame for extending services; there is no discussion of tax consequences to residents.

CONCLUSIONS

In response to the question under what circumstances a Town may, sua sponte, initiate a policy declaration, it appears that the basic rule of the new annexation law is that of §10-2-416: only where the municipality is attempting to annex a contiguous unincorporated island or peninsula under §10-2-420. In all other cases, a prior landowners' petition to annex is required.

The single exception to the rule which it seems possible to imply is one for declarations which formulate and disclose over-all, long - range planning of the municipality for expansion. That exception might be indulged in response to difficulties and delays that could be encountered if a municipality were required to await a majority petition from landowners throughout the entire area in which the municipality anticipates further expansion. Nothing in the Act, however, implies that such an exception could be extended to permit discriminatory enforcement of development restrictions against [illegible] and a

single ownership, to force consent to annexation of the parcel upon the municipality's terms, and particularly where those terms include specifically relinquishment of an ongoing urban development. The Alta Declaration in this case is obviously - admittedly - of the latter type, and not within any exception that could be applied. It is not supported by a landowner petition to annex. It is void.

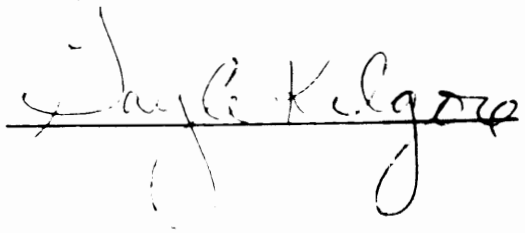
It has been the law of this State that annexation is a municipal legislative function with which courts ordinarily will not interfere. It would certainly be proper to argue that the recent substantial alteration of this State's annexation law, and the inclusion in it of substantial procedural and disclosure requirements for municipalities with Boundary Commission review, is a reaction to the old rule, which alters it. It should not be necessary to do so. Despite a salutory reluctance to interfere in the management of municipalities, this Court has always held that the minimal requirements of the law must be met, or the annexation proceeding is void. Certainly should that be so where there is imported into the law a coercive power to forbid development. In the present case, the plain minimal requirement is a petition to annex. It has not been met. The Town cannot bring itself within the single, narrow exception to the requirement which might be implied. It has never claimed that it could. Its Policy Declaration is void, and the Court should affirm the ruling of the District Court so holding.

Respectfully submitted this 6th day of May, 1981

E. CRAIG SMAY

CERTIFICATE OF MAILING

This is to certify that the undersigned mailed a true and correct copy of the foregoing Robert S. Campbell, Jr. and James P. Cowley at 310 South Main, 12th Floor, Salt Lake City, Utah 84101 on the 6th day of May, 1981.



PROPOSED DRAFT OF POLICY DECLARATION FOR

THE TOWN OF ALTA

WHEREAS, the Town of Alta (hereinafter the "Town") is a duly constituted municipality under the laws of the State of Utah, having its situs in Little Cottonwood Canyon, Salt Lake County, State of Utah; and

WHEREAS, it has come to the attention of the Town that certain development has been proposed to be located on a twenty-five acre parcel of land immediately adjacent to the south and west of Blackjack Condominium development (hereinafter the "Sweetwater Property"); and

WHEREAS, the Sweetwater Property is contiguous to and lies within one-half mile of the boundary of the Town, as provided by the terms of Section 10-2-414, Utah Code Annotated (enacted as House Bill No. 61); NOW THEREFORE,

BE IT RESOLVED by the Town Council of the Town of Alta that the following "Policy Declaration", as provided by the terms of House Bill No. 61, be and the same is hereby adopted and approved with respect to the area herein referred to as "Sweetwater Property", which includes the adjacent area known as the Blackjack Condominiums and other (undeveloped) land as delineated on the attached map.

POLICY DECLARATION
SWEETWATER PROJECT

1. Declaration of Policy. The Town of Alta hereby declares that the proposed development of the Sweetwater Property would severely impact the town of Alta, and that it would be in the best interests

the residents of the Town and the owners, developers and ultimate
ers of the Sweetwater Property and adjacent property if such area
w outside the Town, but within one-half mile of the Town boundary,
; shown on the attached map incorporated herein as Attachment "A",
ere annexed to the Town. The Town hereby adopts a policy favoring
ie extension of its boundaries so as to include the area designated
n Attachment "A", according to the procedures set forth in House
ill No. 61 as enacted.

2. Criteria for Annexation. The Town further declares that such
nnexation must be according to the procedures for annexation es-
ablished by the ordinances of the Town, to wit: that all annexations
ust be reviewed by a public hearing before official Town Council
ction is taken. It is expressly acknowledged that no prior approval
of any zoning, development, construction or improvement on the Sweetwat
Property by any other government or public body or agency shall be
inding upon the Town of Alta, nor shall acceptance of such approval
e made a condition precedent to submittal of an annexation petition.

In addition, the Town of Alta favors annexation of the Sweetwater
Property only upon the following criteria:

a. That a petition signed by a majority of the property owners and the owners of at least one-third of the real property value be submitted as provided by law.

b. The Area presently undeveloped would be master planned in keeping with the rules and regulations of the Town of Alta, with all rights and privileges enjoyed by the residents of the Town of Alta.

c. An "interlocal" agreement with the existing service district will be allowed.

3. Annexation Standards. With respect to the annexation ndards set forth in House Bill No. 61, Section 18, the Town lares as follows:

a. The property here favored for annexation is contiguous to the Town.

b. The property lies within the area projected for municipal expansion under this policy declaration.

c. The property is not presently within the boundaries of another incorporated municipality.

d. Such annexation will not create an unincorporated "island" as that term is defined.

e. Such property presently contains urban development, as that term is defined, which presently receives municipal-type services from Salt Lake County. However, the favored annexation would probably not result in a loss of revenues to Salt Lake County greater than the costs of services now being provided by Salt Lake County, which costs would be assumed by the Town of Alta.

f. That such favored annexation is not and would not be for the sole purpose of increasing revenues.

4. Character of Community. The Town states that its boundaries e within an area of the county which supports a unique and sensitive vironmental balance. It is the policy of the Town to foster and hance the beneficial existence of development and nature. Such quires careful growth and improvement. Because of the nature of the cation of the Town, it is subjected to unusual problems with respect avalanche control and the protection of the people from avalanche

ıger, as well as traffic control problems and uninhibited passage the road that would service this area. These problems include ow removal and the control of parking.

5. Need for Municipal Services. The Town of Alta presently ns, operates and maintains a culinary water system and a sanitary sposal system. In addition, the Town provides police and fire otection to its residents, as well as an avalanche warning and ntrol system and guardianship of the watershed. All such services 'e necessary in view of the location of the area involved and the ıct that the same lies within the watershed of Salt Lake City. In ldition, all services would be available to the Sweetwater Property. ıe Town recognizes that the Sweetwater Property anticipates obtaining ıch services from Salt Lake County. However, such would result in ı unnecessary duplication of services and an inefficient use of esources, which would severely impair the programs now in operation.

6. Timetable and Financing of Services. The Town of Alta present as no timetable for the extension of municipal services into the weetwater Property. The Town follows an established policy of re- uiring that the extension of services into an undeveloped area be aid wholly from the funds of the affected developer or owner. The own is presently able to provide the administrative services necessary o allow and oversee such an extension by the developer, assuming prope nnexation were approved.

7. Estimate of Tax Consequences.

a. Sales Tax: It is estimated that the maximum revenue would be $2,000.00.

b. Property Tax: Under the present structure, there would be no loss in revenue to the county.

8. Interests of Affected Entities. The onl, other "entity" ected by the proposed development and the annexation policy ein declared is Salt Lake County. The service district could tinue to service this area under an interlocal agreement if so ired. As is discussed hereinabove, the single effect upon said nty by annexation of the Sweetwater Property would be a minor rease if any in present tax revenues. However, that decrease ld be offset by a similar and possibly larger reduction in the rall cost of services provided by the County.

9. Other Considerations. The Town of Alta hereby declares ter analyzing the results of a public hearing on this matter on 12/79, that the annexation favored herein will allow the continuation the high quality of urban governmental services to the area in estion and will provide for the protection of the public health, fety and welfare. Such policy is further necessary in order to sure the environmental balance of the location of the property and enhance the quality of life of the residents of Little Cottonwood nyon without inhibiting the enjoyment of the public land by the tizens of the Salt Lake Valley and of the nation.

IN WITNESS WHEREOF, the Town Council of the Town of Alta, Utah, s duly approved, adopted and passed this Resolution at a special eting on the_____day of_____, 1979, subject to a blic hearing to be set no later than 30 days from the above date d subject to final approval thereafter in compliance with 10-2-414, ah Code Annotated (House Bill No. 61).

By_____
William H. Levitt
Mayor