

DEVELOPMENT AGREEMENT FOR SITE IMPROVEMENTS

THIS DEVELOPMENT AGREEMENT is made this 1ST day of JUNE, 2020, by and between the Town of Parker, a Colorado home-rule municipality (the "Town"), and 470 Compark LLC (the "Developer").

RECITALS:

A. The Developer is the owner of certain real property located in the Town of Parker, which is more particularly described in **Exhibit A**, which is attached hereto and incorporated by this reference (the "Property").

B. The administrative approval of the Use by Special Review – Public Utilities Water and Sanitation for the Property requires a tree conservation plan pursuant to the Town's Land Development Ordinance, which necessitates such a plan if trees are removed during the proposed use (the "Tree Conservation Plan"). The Tree Conservation Plan is described in **Exhibit B**, which is attached hereto and incorporated by this reference. Approval of the Use by Special Review is subject to the Developer's faithful performance of all of the duties contained within this Development Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the parties hereto agree as follows:

1. Financial Contribution. Prior to approval of the Use by Special Review – Public Utilities Water and Sanitation Application for the Property, the Developer shall pay to the Town Sixteen Thousand Four Hundred Sixty-Two Dollars (\$16,462), which is for the cost of the trees proposed to be removed within the Tree Conservation Plan.

3. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

4. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of its officer or agents or their designees, except in accordance with the Parker Municipal Code and the laws of the State of Colorado.

5. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, as the case may be.

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6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, as the case may be.

7. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

8. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Douglas County, Colorado.

9. Attorneys' Fees. Should this Agreement become the subject of litigation to resolve a claim of default of performance by the Developer and a court of competent jurisdiction determines that the Developer was in default in the performance of the Agreement, the Developer shall pay the attorneys' fees, expenses and court costs of the Town.

10. Notice. All notices required under this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address, as set forth below. Either party, by notice so given, may change the address to which future notices shall be sent.

Notice to the Town: Director of Community Development
Town of Parker
20120 E. Mainstreet
Parker, Colorado 80138

With a copy to: Town Attorney
Town of Parker
20120 E. Mainstreet
Parker, Colorado 80138

Notice to Developer: 470 Compark LLC
Attn: Michael Vickers, Manager
1001 Bannock Street, Suite 463
Denver, Colorado 80204

11. Force Majeure. Whenever the Developer is required to complete the construction, repair or replacement of Public Improvements by an agreed deadline, the Developer shall be entitled to an extension of time equal to a delay in completing the foregoing due to unforeseeable causes beyond the control and without the fault or negligence of the Developer, including, but not limited to, acts of God, weather, fires and strikes.

12. Approvals. Whenever approval or acceptance of the Town is necessary, pursuant to any provision of this Agreement, the Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.

13. Assignment or Assignments. There shall be no transfer or assignment of any of the rights or obligations of the Developer under this Agreement, without the prior written approval of the Town. The Developer agrees to provide the Town with at least fourteen (14) days' advance written notice of the transfer or assignment of any of the rights and obligations of the Developer under this Agreement.

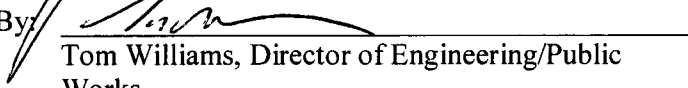
14. Recording of Agreement. This Agreement shall be recorded in the real estate records of Douglas County and shall be a covenant running with the Property in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

15. Title and Authority. The Developer expressly warrants and represents to the Town that it is the record owner of the property constituting the Property and further represents and warrants, together with the undersigned individuals, that the undersigned individuals have full power and authority to enter into this Agreement. The Developer and the undersigned individuals understand that the Town is relying on such representations and warranties in entering into this Agreement.

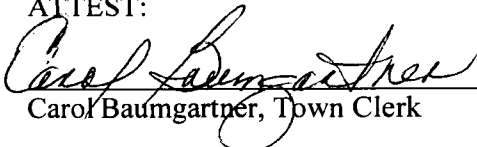
WHEREFORE, the parties hereto have executed this Agreement on the day and year first above written.

TOWN OF PARKER, COLORADO

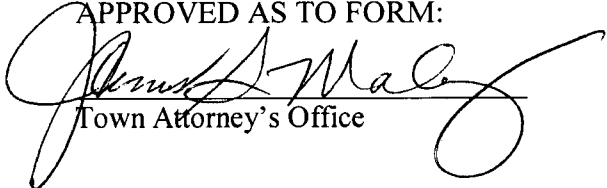
By: 
John Fussa, Community Development Director

By: 
Tom Williams, Director of Engineering/Public Works

ATTEST:


Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:


Town Attorney's Office

DEVELOPER: 470 COMPARK LLC

Thomas C. Triplett
Thomas C. Triplett
[Print name/title]

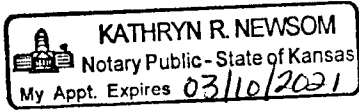
KANSAS
STATE OF ~~COLORADO~~)
)ss.
COUNTY OF Sedgwick

The foregoing instrument was acknowledged before me this 5th day of May,
2020 by Thomas C. Triplett as Manager of 470 Compark LLC.

My commission expires: March 10, 2021.

SEAL

Kathryn R. Newsom
Notary Public



EXHIBITS

Exhibit A Legal Description of the Property

Exhibit B Tree Mitigation Plan

Exhibit A to Town of Parker Land Use Application

Legal Description of Affected Properties

- Part of lots 19, and 20, all of lots 21, 22, and 23, and that 40-foot right of way, Green Acres Subdivision recorded in book 1152 at page 883, at Reception No. 105760 of the records of the Douglas County clerk and recorder together with part of the south half of Section 6, Township 6 South, Range 66 West of the Sixth principal meridian, County of Douglas, state of Colorado.
- Lot 2-C, Compark Filing 3, 1st Amendment

EXHIBIT B



550 Bedford Road, Bedford Hills NY
phone: (914) 241-4999 • fax: (914) 244-9375
email: consultinggroup@savatree.com

savatree.com/consulting

TREE CONSERVATION REPORT

For

GREG MCILVAIN

PROJECT MANAGER

GM CONSULTING

For Service At

COMPARK SOUTH

PARKER, COLORADO



January 31, 2020

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WHY DID SAVATREE PERFORM A TREE PRESERVATION SURVEY AT COMPARK SOUTH?

Greg McIlvain (GM Consulting) commissioned SavATree to perform a tree survey and preservation plan. GM Consulting is working on developing this parcel that is situated easterly of Peoria Street and southerly of E-470 highway. A water line is to be bored underneath E-470 necessitating a grade change where the trees in question now exist. A tree survey is required to satisfy the requirements of Parker Municipal Code 13.10.110.

EXECUTIVE SUMMARY

The appraised value of the qualifying trees is \$16,462. The live link to the cloud-based ArcGIS survey is as follows. <http://arcg.is/1aHKCi>

I recommend that Trees 1, 2, 4, 6, 9, 11 and 13 be removed and not relocated. The cumulative depreciated replacement cost for these trees is \$7,475

Trees 3, 5, 7, 8, 10 and 12 could be relocated. The cumulated depreciated replacement cost for these trees is \$8,987.

Tree number	Species	Category	Depreciated Cost
1	ponderosa pine	Remove	\$ 1,234
2	ponderosa pine	Remove	\$ 933
3	ponderosa pine	Relocate	\$ 1,315
4	ponderosa pine	Remove	\$ 1,026
5	ponderosa pine	Relocate	\$ 1,274
6	ponderosa pine	Remove	\$ 1,379
7	ponderosa pine	Relocate	\$ 1,332
8	ponderosa pine	Relocate	\$ 2,073
9	ponderosa pine	Remove	\$ 1,033
10	ponderosa pine	Relocate	\$ 1,841
11	ponderosa pine	Remove	\$ 984
12	ponderosa pine	Relocate	\$ 1,152
13	ponderosa pine	Remove	\$ 886



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HOW DID SAVATREE CONDUCT THIS SURVEY?

GM Consulting provided a drawing titled Compark Village South Filing No. 1 Bore. In that drawing, 13 trees are identified as being in the zone of disturbance.

Greg McIlvain and I met on-site on January 22, 2020. Field Reconnaissance was completed on January 23, 2020.

I collected tree data on an iPad tablet using ESRI ArcGIS software. Plant name, size, condition, and depreciation factors were entered.

To complete this appraisal, I used as references the Guide for Plant Appraisal 10th Edition 2nd Printing¹ and the Rocky Mountain Chapter Species Ratings and Appraisal Factors Guide².

WHAT DID SAVATREE FIND?

The 13 trees located in the zone of disturbance are all planted on a berm south of Highway E470. At the time of planting, landscape fabric and mulch was installed along with a drip irrigation system. The landscape fabric and mulch are degraded, and the irrigation system is no longer operative. Trees on top (upper row) of the berm are more subject to the climate and wind. As a rule, these trees are weaker than those in the lower row of trees.

APPRAISAL

Trunk formula technique, depreciated reproduction method was used for the appraisal.

The appraisals for each tree may be found beginning on page 7.

¹ Council of Tree and Landscape Appraisers. 2019. Guide for Plant Appraisal 10th Edition Second Printing. Champaign, IL. International Society of Arboriculture.

² _____ 2011 Rocky Mountain Chapter Species Ratings and Appraisal Factors Guide. Denver, CO. Rocky Mountain Chapter International Society of Arboriculture.



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The following is a narrative describing the appraisal methodology using ponderosa pine, Tree 1, as an example.

Ponderosa pine Appraisal Trunk Formula Technique, Depreciated Reproduction Cost

Subject Tree

- 1. Appraised Tree Size**
- 2. Multiplier**

This is the cross-sectional trunk area of the subject tree measures 7.5 inches in diameter. The cross-sectional area is 44.156 inches.

$$(7.5 \text{ inch} \div 2)^2 \times 3.14 = 44.156 \text{ square inches}$$

Depreciation

- 3. Condition (Physical Deterioration)**

This is a weighted compilation of plant health, structural integrity and form. A perfect specimen may have a condition rating near 100 percent. A tree or shrub with a poor health or with severe structural deficiencies will have a low rating or perhaps zero.

The condition rating for this tree is 70 percent and is described as good. However, it should be noted that the tree has a health percentage of 50 and is weak from a vitality standpoint.

- 4. Functional Limitations**

This factor describes the plant material's interaction or appropriateness in its fixed planting site. What, if anything, will impede the plant's development in this space including site conditions, placement and plant genetic limitations?

Ponderosa pine is native to the Colorado forest. Ponderosa may be subject to wood boring insects, especially if in weakened condition. Some of the pines show indications of wood boring insects in the tree branches. The depreciated functional limitation is 80 percent.

- 5. External Limitations**

These are limitations outside of the property and control of the owner or manager that will impact the subject plant material. These limitations include, but are not limited to, laws,



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ordinances, easements, water restrictions, and the presence of biotic pests that endanger or impede plant health and development.

The irrigation system is now inoperative. This contributes to the slow growth on some of the trees and an accumulation of dead branches. The functional limitation is 80 percent.

Replacement Tree

6. Size

This is the trunk caliper size of the nursery stock tree, 3.5 inches.

7. Cross-sectional area

The trunk area of the nursery sized tree. $(3.5 \div 2)^2 \times 3.14 = 9.622$ square inches.

8. Replacement tree cost.

For 2019 nursery tree prices, I consulted the printed wholesale nursery catalogues from Alameda Wholesale, Arbor Valley Wholesale, and Little Valley. The average cost for a 3.5-inch (8-foot-tall) ponderosa pine is \$347.

Computations

9. Unit Tree Cost

This is the trunk caliper size of the nursery stock tree.

$\$347 \text{ wholesale tree cost} \div 9.622 \text{ square inches} = \$36.06 \text{ per square inch.}$

10. Basic Reproduction Cost

Line 2 times line 9. $44.156 \text{ sq.in.} \times \$36.06 / \text{sq.in.} = \$1,592.$

11. Depreciated Reproduction Cost

The basic reproduction cost times the depreciations.

$\$1,592 \times 70\% \times 80\% \times 80\% = \713



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Additional Costs

Replacement Tree Cost

The installation cost is 1.5 times the wholesale cost - \$520.50.

12. Total Additional Costs

The total additional costs are \$520.50.

13. Total Reproduction Costs

Depreciated reproduction cost + total additional costs. $\$713 + \$520.50 = \$1234$

14. Total Reproduction Costs to the nearest \$1

The total reproduction cost is \$1,234 rounded to the nearest \$1.

Sincerely,

Steven D. Geist, SavATree
Registered Consulting Arborist #340
Board Certified Master Arborist #0116B



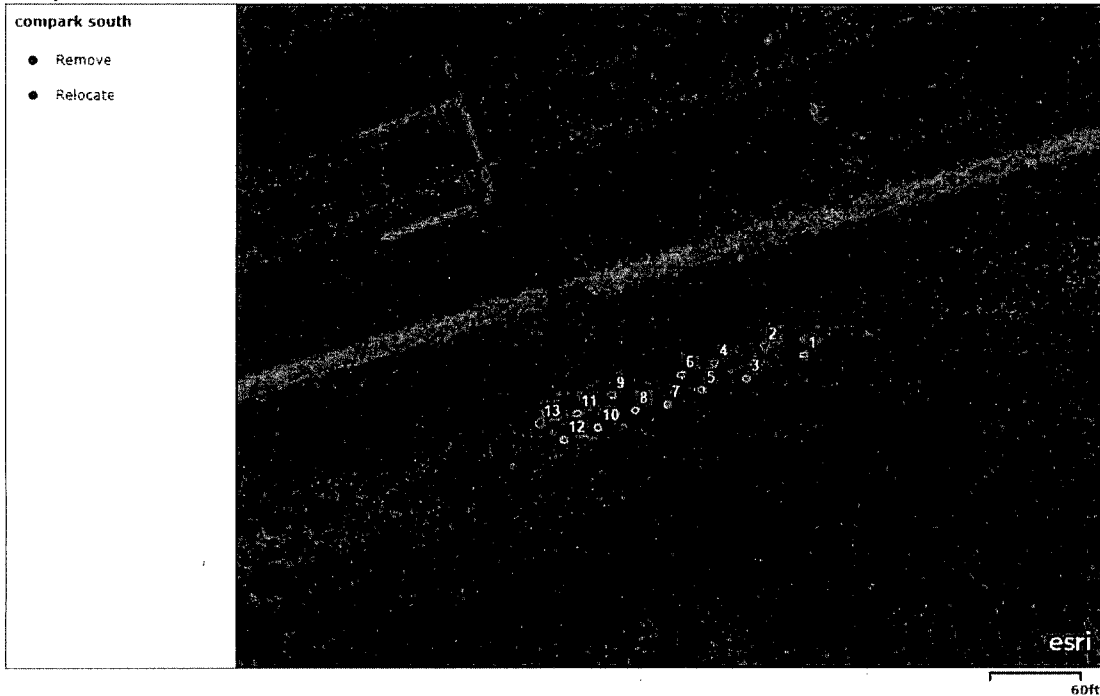


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PROPERTY MAP

Compark South



60ft
Microsoft | Esri, HERE, Garmin, IPC

Subject Tree				
Tree #	Common name	Latin name	(1) Trunk Diameter	(2) Cross Sectional Area
1	Ponderosa pine	Pinus ponderosa	7.5	44.156
2	Ponderosa pine	Pinus ponderosa	5.7	25.505
3	Ponderosa pine	Pinus ponderosa	7.5	44.156
4	Ponderosa pine	Pinus ponderosa	6.5	33.166
5	Ponderosa pine	Pinus ponderosa	7.6	45.342
6	Ponderosa pine	Pinus ponderosa	8	50.240
7	Ponderosa pine	Pinus ponderosa	7.3	41.833
8	Ponderosa pine	Pinus ponderosa	10.1	80.078
9	Ponderosa pine	Pinus ponderosa	6.1	29.210
10	Ponderosa pine	Pinus ponderosa	9.1	65.006
11	Ponderosa pine	Pinus ponderosa	5.8	26.407
12	Ponderosa pine	Pinus ponderosa	6.6	34.195
13	Ponderosa pine	Pinus ponderosa	5.8	26.407

Subject Tree		Condition Rating				Depreciation			
Tree #	Common name	Health Percent	Structure Percent	Form Percent	(3) Condition Rating	(4) Functional Limitation Percent	(4) Functional Limitation Impact	(5) External Limitation Percent	(5) External Limitation Impact
		(3) Condition Rating	(3) Condition Rating	(3) Condition Rating	(3) Condition Rating	(4) Functional Limitation Percent	(4) Functional Limitation Impact	(5) External Limitation Percent	(5) External Limitation Impact
1	Ponderosa pine	50	90	70	70 Good	80	Minor Impact	80	Minor Impact
2	Ponderosa pine	50	90	70	70 Good	80	Minor Impact	80	Minor Impact
3	Ponderosa pine	70	90	70	78 Good	80	Minor Impact	80	Minor Impact
4	Ponderosa pine	50	80	70	66 Good	80	Minor Impact	80	Minor Impact
5	Ponderosa pine	70	70	80	72 Good	80	Minor Impact	80	Minor Impact
6	Ponderosa pine	60	90	70	74 Good	80	Minor Impact	80	Minor Impact
7	Ponderosa pine	80	90	80	84 Excellent	80	Minor Impact	80	Minor Impact
8	Ponderosa pine	80	90	80	84 Excellent	80	Minor Impact	80	Minor Impact
9	Ponderosa pine	65	90	70	76 Good	80	Minor Impact	80	Minor Impact
10	Ponderosa pine	85	90	90	88 Excellent	80	Minor Impact	80	Minor Impact
11	Ponderosa pine	60	90	80	76 Good	80	Minor Impact	80	Minor Impact
12	Ponderosa pine	70	90	80	80 Good	80	Minor Impact	80	Minor Impact
13	Ponderosa pine	50	70	60	60 Fair	80	Minor Impact	80	Minor Impact

Subject Tree		Replacement Plant			
Tree #	Common name	Species	(6) Trunk Diameter	(7) Cross Sectional Area	(8) Plant Cost
1	Ponderosa pine	Ponderosa pine	3.5	9.622	347
2	Ponderosa pine	Ponderosa pine	3.5	9.622	347
3	Ponderosa pine	Ponderosa pine	3.5	9.622	347
4	Ponderosa pine	Ponderosa pine	3.5	9.622	347
5	Ponderosa pine	Ponderosa pine	3.5	9.622	347
6	Ponderosa pine	Ponderosa pine	3.5	9.622	347
7	Ponderosa pine	Ponderosa pine	3.5	9.622	347
8	Ponderosa pine	Ponderosa pine	3.5	9.622	347
9	Ponderosa pine	Ponderosa pine	3.5	9.622	347
10	Ponderosa pine	Ponderosa pine	3.5	9.622	347
11	Ponderosa pine	Ponderosa pine	3.5	9.622	347
12	Ponderosa pine	Ponderosa pine	3.5	9.622	347
13	Ponderosa pine	Ponderosa pine	3.5	9.622	347



Subject Tree		Computation					Additional Costs			(14) Rounded (to the nearest \$1)
Tree #	Common name	(9) Unit Tree Cost	(10) Basic Reproduction Cost	(11) Depreciated reproduction cost	(12) Replacement Tree Installation	(12) Total Additional Costs	(13) Total Reproduction Costs	(14) Rounded (to the nearest \$1)		
1	Ponderosa pine	36.06 \$	1,592 \$	713 \$	520.50	520.50 \$	1,234 \$	1,234 \$	1,234	
2	Ponderosa pine	36.06 \$	920 \$	412 \$	520.50	520.50 \$	933 \$	933 \$	933	
3	Ponderosa pine	36.06 \$	1,592 \$	795 \$	520.50	520.50 \$	1,315 \$	1,315 \$	1,315	
4	Ponderosa pine	36.06 \$	1,196 \$	505 \$	520.50	520.50 \$	1,026 \$	1,026 \$	1,026	
5	Ponderosa pine	36.06 \$	1,635 \$	753 \$	520.50	520.50 \$	1,274 \$	1,274 \$	1,274	
6	Ponderosa pine	36.06 \$	1,812 \$	858 \$	520.50	520.50 \$	1,379 \$	1,379 \$	1,379	
7	Ponderosa pine	36.06 \$	1,509 \$	811 \$	520.50	520.50 \$	1,332 \$	1,332 \$	1,332	
8	Ponderosa pine	36.06 \$	2,888 \$	1,552 \$	520.50	520.50 \$	2,073 \$	2,073 \$	2,073	
9	Ponderosa pine	36.06 \$	1,053 \$	512 \$	520.50	520.50 \$	1,033 \$	1,033 \$	1,033	
10	Ponderosa pine	36.06 \$	2,344 \$	1,320 \$	520.50	520.50 \$	1,841 \$	1,841 \$	1,841	
11	Ponderosa pine	36.06 \$	952 \$	463 \$	520.50	520.50 \$	984 \$	984 \$	984	
12	Ponderosa pine	36.06 \$	1,233 \$	631 \$	520.50	520.50 \$	1,152 \$	1,152 \$	1,152	
13	Ponderosa pine	36.06 \$	952 \$	366 \$	520.50	520.50 \$	886 \$	886 \$	886	

Subject Tree		Comments
Tree #	Common name	
1	Ponderosa pine	Dead branches
2	Ponderosa pine	Dead branches. Old engraver beetles. Weak growth.
3	Ponderosa pine	Dead lower branches
4	Ponderosa pine	Dead branches. Weak growth.
5	Ponderosa pine	Dead branches. Codominant
6	Ponderosa pine	Some dead. Slow growth
7	Ponderosa pine	Couple lower branches. Good growth.
8	Ponderosa pine	Bare surface roots couple of dead branches. Good growth.
9	Ponderosa pine	Some exposed roots. Lower dead. Fair growth.
10	Ponderosa pine	Bare surface roots. Some lower dead branches.
11	Ponderosa pine	Weak. Dead branches.
12	Ponderosa pine	Dead lower branches. Fair growth.
13	Ponderosa pine	Larger dead branches with engraver beetle. Old damage