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## SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** February 1, 2002

**SUBJECT:** Petition 400-00-29 – Turville/Heugly/Sorenson

- Annexation of 60.56 acres located at approximately 1977 South 2800 East
- Zoning the property Foothill Residential FR-2 and Open Space
- Amending the East Bench Master Plan Arcadia Heights/Benchmark/H-Rock Small Area Master Plan

**STAFF REPORT BY:** Janice Jardine, Land Use and Policy Analyst

<b>Document Type</b>	<b>Budget-Related Facts</b>	<b>Policy-Related Facts</b>	<b>Miscellaneous Facts</b>
Ordinance	<p>The Administration’s transmittal notes the project would result in a positive fiscal impact. Please see the Administration’s Annexation Impact Analysis for details.</p> <ul style="list-style-type: none"><li>• Total Service Cost is \$914.00 per unit</li><li>• Total Revenue is \$1,492.78 per unit</li><li>• Impact fees are \$890.00 per unit</li></ul>	<p>The proposal is presented in compliance with State Code. Property is contiguous to the current City boundary. The property owners representing 100% of the assessed valuation listed on current County Tax Assessment rolls have agreed to the annexation.</p>	<p>The Administration has clearly stated the positive aspects of the proposal.</p>

### ADDITIONAL INFORMATION:

The County Planning staff provided the following information in response to a request from Council Member Love:

- a. 7/13/9 - County Planning Commission meeting. Request - Rezone 29.87 acres from FR-20 to FR-5/ZC (FCOZ)
  - FR-20 = Forestry and Recreation zone - 20 acres
    - Density allowed 1 dwelling unit per 20 gross acres
  - FR-5/ZC = Forestry and Recreation zone - 5 acres
    - Density allowed 1 dwelling unit per 5 gross acres
  - FCOZ = Foothills and Canyons Overlay Zone

- b. Recommendation to the County Commission - rezone the property FR-5 (Forestry and Recreation – 5 acres) and FCOZ (Foothills and Canyons Overlay Zone) with a maximum of four residential lots.
- c. 10/99 County Commission meeting. Request to rezone - Continued action to next meeting
- d. 11/99 County Commission meeting. Continued action to next meeting
- e. 1/5/00 County Commission meeting. Continued action indefinitely
- f. 10/5/99 - letter from Mr. Turville to County Commission requesting that his rezoning request be removed from the schedule and postponed and that he will notify the Commission office to reschedule. Please see the attached documents for details.
- g. The Planning Commission and County Commission **did not** take action on a subdivision proposal. The petitioner’s subdivision application would have been processed as a conditional use with the Planning Commission after a final decision by the County Commission regarding rezoning.

**OPTIONS AND MOTIONS:**

1. *Planning Commission Recommendation:* [“I move that the Council”] Adopt an ordinance as recommended by the Planning Commission:

- Extending the corporate limits of Salt Lake City to include the Scott Turville, Trent Heugly, James Sorenson and Salt Lake City Corporation properties, consisting of approximately 60.56 acres located at approximately 1977 South 2800 East
- Zoning the properties Foothill Residential FR-2 and Open Space OS, and
- Amending the East Bench Master Plan Arcadia Heights/Benchmark/H-Rock Small Area Master Plan to allow limited, very low density, residential development in the area west of the current terminus of Lakeline Drive, consisting of not more than six new lots, located on a private street with a privacy gate extending west from Lakeline Drive.

*(Please note that the Planning staff report includes a finding that the master plan "be amended to reflect the total lots recommended as seven (six for Turville and one for Kontgis)."*

I further move that the 55 acres to be zoned as Open Space be designated as perpetual open space by the City through the use of a conservation easement or deeded to an approved non-profit open space organization.

2. *Support of the current master plan:* [“I move that the Council”] Adopt an ordinance:

- Extending the corporate limits of Salt Lake City to include the Scott Turville, Trent Heugly, James Sorenson and Salt Lake City Corporation properties, consisting of approximately 60.56 acres located at approximately 1977 South 2800 East, and
- Zoning the properties Foothill Residential FR-2 and Open Space OS.

*(Please note that this approach could be subject to some interpretation. The Master Plan states "Development around the cul-de-sac at the north end of Lakeline Drive should be completed with not more than three to four additional homes; and...No more than four additional lots should be permitted at the north end of Lakeline Drive." Specifically interpreted, this motion would result in three lots for Turville and one for Kontgis.)*

I further move that the 55 acres to be zoned as Open Space be designated as perpetual open space by the City through the use of a conservation easement or deeded to an approved non-profit open space organization.

3. *Opposition to all aspects of the proposal:* ["I move that the Council"] Not adopt an ordinance as recommended by the Planning Commission:
  - Extending the corporate limits of Salt Lake City to include the Scott Turville, Trent Heugly, James Sorenson and Salt Lake City Corporation properties, consisting of approximately 60.56 acres located at approximately 1977 South 2800 East
  - Zoning the properties Foothill Residential FR-2 and Open Space OS, and
  - Amending the East Bench Master Plan Arcadia Heights/Benchmark/H-Rock Small Area Master Plan to allow limited, very low density, residential development in the area west of the current terminus of Lakeline Drive, consisting of not more than six new lots, located on a private street with a privacy gate extending west from Lakeline Drive.
  - Two ordinances have been provided:
    - An ordinance that would annex and zone the property and amend the master plan based on the Planning Commission recommendation.
    - An ordinance that would annex and zone the property and reaffirm the adopted master plan.
  - Additional options for Council consideration:
    - a. Adjust the amount of property to be zoned Foothill Residential FR-2 (1/2 acre lots) for residential development to reduce the number of homes that could be built. *(Note: This approach would be the most specific – the actual legal descriptions of the property to be zoned would be changed so that there can be no question of the Council’s intent.)*
    - b. Zone the property identified for residential development a lower density zoning classification:
      1. Foothill Residential FR-1 - requires 1 acre lots
      2. Foothill Preservation FP - requires 16 acre lots
      3. Any combination of the foothill residential zoning classifications:
        - Foothill Preservation
        - Foothill Residential FR-1
        - Foothill Residential FR-2
    - c. If option two or additional options a. or b. are adopted, specifically address the gate – confirming the language in the master plan would indicate that a gate would not be supported.
    - d. Other options that may be identified by Council Members.

**The following information was provided for the Council Work Session on January 8, 2002.**

## **KEY ELEMENTS**

- A. Action required by the Council includes:
  1. Annexation of 60.56 acres located at approximately 1977 South 2800 East.
  2. Zoning the property Foothill Residential FR-2 and Open Space.
  3. Amending the East Bench Master Plan Arcadia Heights/Benchmark/H-Rock Small Area Master Plan to allow limited, very low density, residential development in the area west of the current terminus of Lakeline Drive, consisting of not more than six new lots, located on a private street with a privacy gate extending west from Lakeline Drive.
- B. This action would facilitate development of approximately 6.31 acres of property for a proposed 6-lot residential subdivision planned development with a gated, private street. One lot will be located on the

existing cul-de-sac on Lakeline Drive. The other five lots would be located inside a privacy gate on a private street. Approximately 30 additional acres will be donated to the City or an approved non-profit organization for preservation as open space.

- C. The property is within the boundaries of the area identified in the City's Future Annexation Policy Declaration area and reaffirmed by formal Council action in 2000 and 2001.
- D. The Administration's transmittal, Planning Commission minutes and Planning staff report provide a detailed discussion of the annexation request. Major points are summarized below:
  - 1. Total annexation acreage is 60.56 acres:
    - a. 27.15 acres donated as open space to Salt lake City
    - b. 32.02 acres owned by Scott Turville
    - c. 1.0 acres owned by Trent Heugly
    - d. .39 acres owned by James L. Sorenson
  - 2. Aspects of the development proposal would require modification of the Arcadia Height/Benchmark/H-Rock Small Area Master Plan. Proposed modifications include:
    - a. Allowing development around the cul-de-sac at the north end of Lakeline Drive to include six new residential lots instead of three to four new residential lots.
    - b. Allowing the proposed residential planned development to include a reduced-width private street rather than a reduced-width public street constructed to meet City standards.
    - c. Allowing a privacy gate across the proposed private street to prevent unauthorized vehicle entry rather than strongly discouraging gated developments.
  - 3. Surrounding land uses include a mix of single-family residential uses and foothill open space.
  - 4. The petitioner did apply to Salt Lake County for a 4-lot (5 acres each) residential planned development. The petitioner has withdrawn his application pending outcome of his annexation request to the City.
  - 5. Final site development, transportation and utility service requirements, and development plans including landscaping will be evaluated through the development review and building permit processes.
- E. The Planning Commission voted to recommend to the City Council that the properties be zoned Foothill Residential FR-2 and Open Space OS. In addition, the Planning Commission granted conditional use approval for the proposed planned development subject to the following conditions:
  - 1. Annexation and zoning approval by the Salt Lake City Council.
  - 2. Donation of the approximately 30 acres of open space, as shown on the site plan, be finalized and deeded to the City or an approved non-profit organization for perpetual preservation as open space.
  - 3. Pedestrian easement for the Bonneville Shoreline Trail users is noted on the subdivision plat.
  - 4. Hand graded improvement of the secondary use trails throughout the open space, providing connections where trails are interrupted.
  - 5. Attractive native landscaped entry feature be developed on the Lakeline Drive cul-de-sac, noting the trailhead.
  - 6. Privacy gate be no more than three feet high, with no signage indicating no trespassing etc. allowed.
  - 7. Encouragement for green building methods and materials, and fire retardant materials is incorporated into the design guidelines of the CC&Rs.
  - 8. Landscaping restrictions requiring 90% drought tolerant vegetation, with the exception of a maximum of 5000 square feet of lawn be incorporated into the CC&Rs.
  - 9. Final plat approval by the Planning Commission after annexation by the City Council.

- F. The purpose of the Foothill Residential FR-2 Zone is to promote environmentally sensitive and visually compatible development of lots not less than 21,780 sq. ft. in size, suitable for foothill locations. The district is intended to minimize flooding, erosion and other environmental hazards; to protect the natural scenic character of foothill areas not suitable for development; to promote the safety and well being of present and future residents of foothill areas; and to ensure the efficient expenditure of public funds. The purpose of the Open Space OS zone is to preserve and protect areas of public and private open space and exert a greater level of control over any potential redevelopment of existing open space areas. Please refer to the attached Council staff report for additional details relating to specific zoning requirements.
- G. Discussion at the Planning Commission issues only meeting and public hearing focused on:
1. Trails and trail head access including the Bonneville Shoreline Trail.
  2. The proposed privacy gate, private street and street name.
  3. The number, location of lots and the use of the flag lot concept.
  4. Sewer improvements including coordination and shared connection with the abutting Kontgis development.
  5. The proposed 30 acres of property for open space preservation and the City-owned 26 acre parcel being donated to a non-profit land trust.
  6. Protection of the foothills, wildlife, and significant steep slopes, erosion and water run-off control.
  7. Access and development potential for the abutting property owned by Ms. Victoria Hanson.
  8. How the Commission would justify not following the small area plan.
- H. The Administration has noted that Community Council review of annexation petitions is not required. In this case, the Community Council review was required as part of the planned development conditional use process. The Administration's transmittal notes, "This annexation and development proposal was discussed at a number of Arcadia Heights/East Bench Community Council meetings. The Planning staff report notes:
1. The Arcadia/Benchmark Community Council has met to review this project in November 1999 and November 2000.
  2. At both meetings, there were concerns expressed about the number of lots proposed compared to the number endorsed in the small area master plan. The group could not reach consensus about this topic.
  3. The group also voiced concerns about the optional gate shown on the site plan, the large buildable areas identified on each lot and the issue of a public versus private street.

## **MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR ADMINISTRATION:**

- Council Members may wish to discuss in further detail with the Administration the rational and public purpose for amending the Arcadia Heights/Benchmark/H Rock Small Area Master Plan to:
  - Allow six new residential lots located on a private street with a privacy gate.
  - Not require shared public utility construction between Mr. Turville's proposed development and the abutting Kontgis development.
- Council Members may wish to discuss with the Administration options to provide improved coordination between Mr. Turville's proposed development and the abutting Kontgis development currently under construction. For example, Council Member Saxton has suggested that the Administration consider that, as a condition for amending the small area master plan to increase in the number of lots permitted at the end of Lakeline Drive, Mr. Turville's development and the Kontgis development share street and sewer access. This option would eliminate the need for a lengthy driveway to be constructed as part of abutting

Kontgis development, reduce the amount, costs and maintenance of utility and street improvements and to preserve to the greatest extent possible the aesthetic qualities of the foothills and the City's natural, undeveloped areas.

- Council Members may wish to discuss the Council's intent relating to future annexation requests to ensure a consistent policy direction.
  - A. During the 2001 State Legislative General Session, the Legislature approved HB 155S1 - Annexation Amendments. The bill modified provisions of the Utah Municipal Code relating to municipal annexations. In part, the bill restricts annexations from taking place in first class counties from April 30, to November 15, 2001 with certain exceptions. The bill also requires that first class counties and cities within first class counties prepare a plan for annexations within the county and to submit the plan to the Legislative Management Committee at its first meeting after November 15, 2001.
    - 1. The Council formally adopted a resolution on December 5, 2000 that reaffirmed the City's 1979 declaration of intent to annex the remaining portion of unincorporated Salt Lake County served by Salt Lake City's water system, excluding the newly incorporated City of Holladay.
    - 2. The Salt Lake City Council has fulfilled the 2001 Legislature's mandate that cities in Salt Lake County prepare a master plan by November 15, 2001, to show "how the remainder of unincorporated areas within Salt Lake County are to be included within municipalities through annexation or incorporation." The Salt Lake Council of Governments submitted a series of maps to the Legislative Management Committee on behalf of Salt Lake County and the cities within the County.
    - 3. The City Council supports the concept of annexing areas outside the City's boundaries. Its reasons are listed in the attached document titled *Salt Lake City Council and Annexation*.
  - B. In the past, the Administration has provided the following information relating to the City's annexation policies:
    - 1. The City does not have a citywide annexation policy.
    - 2. Annexation policies have been developed based primarily on geographic locations and existing land uses.
    - 3. Annexation policies are identified in the applicable master plans prepared for affected planning communities (i.e. East Bench, Sugar House, Northwest Community, Jordan River/Airport area, City Creek, etc.).
    - 4. Annexation policies in the Sugar House Master Plan are significantly different from policies identified in the East Bench Master Plan. The Sugar House area is part of the older, fully developed portion of the City. The East Bench area contains underdeveloped areas of the foothills that are limited in development potential due to slope restriction and the cost of providing municipal services.
  - C. In related matter, information provided by the Administration regarding a recent annexation request from Mr. Peter Carroon with Red Gate properties noted that in May of 1998 the City Council denied a similar annexation request in the same general area. The Council's motion to deny the resolution noted:
    - 1. The Council is interested in annexing the area south of Sugar House,
    - 2. The petition represents a piecemeal approach to annexation that contradicts existing policy in the Sugar House Master Plan, and
    - 3. Providing City services to an isolated parcel is an unsound policy decision.
  - D. In response to questions raised by Council Members during discussions relating to accepting Mr. Carroon's annexation petition, the City Attorney provided a legal perspective relating to individual

annexation requests versus annexation of designated areas as a whole. Information from the City Attorney is summarized below.

1. Many years ago the City decided not to sell water to areas for development that was capable of being annexed into the City in order to alleviate inconsistent land development and to provide efficient and equitable delivery of services. (Resolution 20 of 1982 – Water Service provided outside the City limits)
2. State annexation laws were also amended to ban development within a half-mile perimeter of cities unless property owners tried and failed to be annexed. The law has subsequently been amended removing this requirement.
3. These actions served to prevent urban sprawl, substandard development and double-taxation issues.
4. The Utah Supreme Court has affirmed the City’s power to use City water resources in this way.
5. Previous City Councils and Mayors have thought the policy appropriate.
6. It seems inconsistent with the City’s long-range goals not to have the development occur inside the City boundaries when the property abuts the City boundary and would further the City’s annexation policy.
7. The City needs to be consistent and uniform in the application of City water policy or the City will lose the ability to use this asset under Equal Protection principles.

## **MASTER PLAN AND POLICY CONSIDERATIONS:**

- A. There are several City master plans that apply to the area proposed for annexation. Applicable master plans are: Arcadia Heights, Benchmark, & H Rock Small Area Plan; East Bench Master Plan; Open Space Master Plan; and Salt Lake City’s Master Annexation Policy Declaration. Please refer to the attached Council staff report, dated August 4, 2000, prepared for accepting the petition requesting annexation and the Administration’s transmittal documents for details. Key references in the master plans are noted below.
- B. Arcadia Heights/Benchmark/H Rock Small Area Plan
  1. The boundaries of the Arcadia Heights, Benchmark & H Rock Small Area Plan (the “Arcadia Plan”) are I-80 on the south, Foothill Drive on the west, 1700 South on the north, and the Wasatch National Forest on the east.
  2. Pages 3-4 New Foothill Development
    - Development restrictions on slopes equal to or greater than 30% - Recommendations include strict application of the City’s Site Development Ordinance relating to interpretation of 30% slopes as well as all other foothill development standards.
    - Undevelopable land – Recommendations include acquisition, donation to a land trust, establishment of conservation or access easements, and not permitting undevelopable land to be included in calculating density or incorporated into individual building lots.
  3. Pages 5-6 Residential Density/Zoning Classification for Annexed Land
    - If additional development is considered, it should be very low density that does not impair the natural qualities of the area and preserves the maximum amount of open space.
    - Restrictions on development affecting slopes equal to or greater than 30% should be strictly enforced and interpreted according to written administrative policies established by the City.
    - Gated developments should be strongly discouraged.
    - The following policies should be taken into consideration when determining the zoning classification for properties which may be annexed in the future: a. Lots should be a minimum of one half acre in size, b. Not more than four additional lots should be permitted ... at the north end of Lakeline Drive, c. New lots should be oriented to ... the existing cul-de-sac at the north

end of Lakeline Drive, d. All new lots should conform to the dimensional and height standards of the FR-2 Zone and to all established Foothill Development Standards.

4. Pages 6-7 Utility Service – water, sewer and storm drainage
    - The developer should pay costs relating to increased impacts created by new development.
  5. Pages 7-8 Annexation
    - It should continue to be the City’s policy that municipal water and sewer service will not be provided to new developments unless they are located with the City.
  6. Pages 11-12 Open Space & Recreation
    - Bonneville Shoreline Trail – The Bonneville Shoreline Trail section connecting Devonshire Drive and Lakeline Drive should be established and signed as a pathway separate from the existing and or future travel way of any public or private street.
    - Other trails – Recommendations include additional trail developments in this area and a trailhead park at the north end of Lakeline Drive.
    - Open Space Preservation Strategies emphasize designating undevelopable land as open space, acquisition and preservation of critical areas, establishing conservation easements, donations or sales to a land trust or other public or non-profit organizations.
  7. Page 16 Public versus Private Streets
    - Require dedicated public streets in order to better integrate new developments into existing neighborhoods and preserve public access to public lands.
    - Streets should be designed recognizing specific soil and geologic conditions and constructed to mitigate any potential adverse conditions.
- C. Open Space Master Plan – The Open Space Master Plan established four goals: conserve the natural environment; enhance open space amenities for all citizens; connect the various parts of the City to natural environments, and educate the citizens on proper use of open space. A section of the master plan relates to the Foothill Transitional Area, which it identifies as “the steeper slopes generally below the 5200 ft. elevation at the eastern and northern edges of the urbanized area.” The master plan states that, “A major issue is the conservation of the natural environment for animal habitat, watershed and views.” An implementation action identified by the master plan is that Salt Lake City, “establish the Open Space trust to receive and manage real property within the foothill transitional area.”
- D. East Bench Master Plan – The approximate boundaries of the East Bench Master Plan are the northern City limits on the north, 1700 South and Parleys Way on the south, the eastern City limits on the east and 1300 East on the west. The East Bench Master Plan section on annexation and Foothill development states the planning goal to preserve the present unique beauty, environmental habitat, recreational use, and accessibility of the Wasatch foothills, and ensure city control over foothill development in the East Bench Community. Additional statements note:
1. Salt Lake City is the only government jurisdiction with the ability to provide urban services, and annexation is a vital first step in the development process.
  2. Slope is one of the most important factors in determining development potential.
  3. The City should plan to either eventually accommodate development, expand regulations to encompass aesthetic considerations as the means of precluding development, or acquire these properties for public open space.
  4. If property owners can document compliance with the site development and other applicable city ordinances, the community and City should expect to accommodate development proposals.
- E. The City’s recently adopted Community Housing Plan contains policies and implementation strategies that address:
1. Creating a wide variety of housing types across the City.
  2. Encouraging innovation in housing design compatible with neighborhoods that are creative, aesthetically pleasing and provide attractive public spaces.



3. Creating affordable and transitional housing.
  4. Supporting home ownership for a variety of income levels.
  5. Including public and neighborhood participation and interaction in the design process.
- F. The Council’s adopted growth policy states: It is the policy of the Salt Lake City Council that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
1. Is aesthetically pleasing;
  2. Contributes to a livable community environment;
  3. Yields no negative net fiscal impact unless an overriding public purpose is served; and
  4. Forestalls negative impacts associated with inactivity.
- G. State Code 10-2-403 regarding annexation requires that boundaries for annexation be drawn in the following manner:
1. To eliminate islands and peninsulas of territory that is not receiving municipal-type services;
  2. To facilitate the consolidation of overlapping functions of local government;
  3. To promote the efficient delivery of services; and
  4. To encourage the equitable distribution of community resources and obligations.
- H. Council staff has attached a synopsis of City annexation policies prepared for the Council’s Annexation subcommittee. The synopsis summarizes the following documents:
1. The City’s 1979 Annexation Policy Declaration
  2. City Resolution No. 34 of 2000 - Reaffirmation of 1979 Master Annexation Policy Declaration, and Declaration of Intent to annex areas served by the City’s water system in the unincorporated Salt Lake County
  3. Resolution 20 of 1982 - Water Service provided outside the City limits
  4. Existing Community Master Plans Annexation Policies
  5. The 1999 Salt Lake County Feasibility Scenarios Report
  6. 1999 Salt Lake City Wall to Wall Cities Study
  7. 2000 Salt Lake City Wall to Wall Cities Annexation Study

## **CHRONOLOGY:**

The Administration’s transmittal provides a chronology of events relating to the proposed annexation. Key meeting dates are listed below. Please refer to the Administration’s chronology for details.

- August 8, 2000                      City Council action formally accepting the annexation petition and referred to the Administration and Planning Commission for further analysis and recommendation.
- November 1999 &                      Community Council meetings  
November 2000
- November 16, 2000                      Planning Commission Issues Only meeting
- June 7, 2001                              Planning Commission hearing

cc: Jay Magure, Rocky Fluhart, D.J. Baxter, Roger Cutler, LeRoy Hooton, David Dobbins, Lynn Pace, Max Peterson, Tim Harpst, Stephen Goldsmith, Brent Wilde, Doug Wheelwright, Ray McCandless, Michael Sears, Janne Nielsen, Barry Esham

File Location: Community and Economic Development Dept., Planning Division, Annexation, Turville/Heugly/Sorenson