



# Planning Commission Staff Report

PLANNING DEPARTMENT

**Subject:** RICHARDS/ PCMC  
ANNEXATION AND ZONING

**Date:** December 12, 2012

**Planner:** Kirsten Whetstone, MS, AICP

**Project Number:** PL-12-01482

**Type of Item:** Annexation and Amendment to the Zoning Map

### Summary Recommendations

Staff requests the Planning Commission conduct a public hearing and discuss the annexation and amendment to the Park City zoning map, review the revised preliminary plat and draft ordinance, and continue the public hearing to January 9, 2013 to give staff additional time to finalize the annexation agreement.

Staff requests discussion on the following topics (described in this report):

- **Conservation Easement and Use/Restoration of PCMC parcel.**
- **Incentivize Equestrian component of Subdivision.**
- **Fencing.**
- **Affordable Housing.**
- **Historical and cultural resources.**
- **Zoning.**
- **Preliminary plat lot layout, building pad size, and visual analysis.**
- **Identification of Historic and Cultural resources.**
- **Public benefits.**

### Description

**Project Name:** Frank Richards/ PCMC Annexation and Zoning

**Applicant:** Frank Richards and Park City Municipal Corp (PCMC), owners

**Representative:** Steve Schueler, Alliance Engineering

**Location:** North of Payday Drive and West of SR 224

**Proposed Zoning:** Single Family (SF) and Recreation Open Space (ROS)

**Neighboring Land Uses:** Single family detached residential subdivisions (Thayne’s Canyon, Thayne’s Creek Ranch, Iron Canyon, and Aspen Springs), dedicated open space, SR 224, Rotary Park, and Peaks Hotel.

## **Proposal**

The applicants are requesting annexation and zoning approval for two separately owned parcels. The Frank Richards parcel is approximately 13.75 acres and the requested zoning is Single Family (SF). The PCMC parcel is 19.74 acres and the requested zoning is Recreation Open Space (ROS).

The property is located north of Payday Drive (north of the Thayne's Creek Ranch Subdivision), southeast of Aspen Springs Subdivision, east of Iron Canyon Subdivision, and west of Highway 224 (Exhibit A). The property is surrounded on all boundaries by Park City municipal boundaries and is considered an island of unincorporated land.

The City is not seeking any changes to the 19.74 acre PCMC parcel, except to annex it to the City and designate it as Recreation Open Space on the City's Official Zoning Map. Staff is recommending a condition of approval that prior to final subdivision plat recordation that a Conservation Management Plan agreement, approved by the Summit Land Conservancy who holds a Conservation Easement on the PCMC parcel, between the City and Richards parcel owner/s be recoded at Summit County. The purpose of the agreement is to clearly identify restrictions and allowed use of the City parcel by the Richard's parcel owner/s.

The current owner of the Richards parcel, Mr. Frank Richards, is seeking a single family subdivision of seven lots on 13.75 acres. The existing house and guest house would be located on one lot with the potential for six additional single family lots, four of which would be equestrian lots (Exhibit C), on the parcel. An eighth lot is proposed for the existing indoor riding arena to be owned in common by the HOA as an amenity of the subdivision, with no density allowed.

## **Background**

On February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two parcels currently within the jurisdiction of Summit County and completely surrounded by properties within the Park City municipal boundaries.

The petition was accepted by the City Council on February 16, 2012 and certified by the City Recorder on March 1, 2012. Notice of certification was mailed to affected entities as required by the State Code. The protest period for acceptance of the petition ended on April 1<sup>st</sup>. No protests to the petition were filed.

The PCMC property is an open space parcel, utilized for grazing and pasture, with a groomed ski trail along Hwy 224. In 1999 the City purchased this 19.74 acre parcel through a purchase agreement with the Trust for Public Land. The land was originally part of the Frank Richard's property. Upon purchase, a Deed of Conservation Easement in favor of the Summit Land Conservancy, (Exhibit F) was placed on the parcel in perpetuity.

The Planning Commission conducted public hearings at the May 9<sup>th</sup> and September 26<sup>th</sup> meetings (See Exhibit G) for the September 26<sup>th</sup> meeting minutes.

### **Analysis**

Staff has done a preliminary review of the annexation proposal pursuant to Utah Code and the criteria of the Park City Annexation Policy Plan and will finalize this analysis for meeting on January 9<sup>th</sup> once the annexation agreement is in final draft form.

The property is located within the Park City Municipal Corporation Annexation Expansion Area boundary, as described in the adopted Annexation Policy Plan (Land Management Code (LMC) Chapter 8) and is contiguous with the current Park City Municipal Boundary along all property lines. The property is the entirety of properties owned in this location by these applicants that have not already been annexed to the City.

Access to the Richards property is from Payday Drive at the existing driveway to the Richards farm. Access to the PCMC property is also from Payday Drive, just west of Hwy 224 at a stubbed in roadway. This access is used by ski grooming equipment and other municipal vehicles to maintain the property. No access and no curb-cuts are proposed directly off of Highway 224 with this annexation or with the proposed subdivision plat.

Significant wetlands on the property have been mapped and will be protected from development with ROS zoning designation and/or limits of disturbance areas to be identified on the final subdivision plat (Exhibit D). Fifty-foot setbacks from wetlands areas are identified on the preliminary plat. Twenty foot setbacks from irrigation ditches are required from all houses and barns.

There are no natural steep or very steep slopes as the property is relatively flat with an overall slope of less than 15%. Proposed development is outside of the Entry Corridor Protection Overlay area. The property does not include a sensitive ridgeline area.

Affordable housing will be provided as required. Staff recommends a condition of approval that all houses be constructed to meet LEED Silver or equivalent construction. The sidewalk along Payday Drive will be completed from where it currently ends to the Iron Canyon Drive intersection.

### **Annexation Agreement**

The Annexation Policy Plan establishes a requirement for an Annexation Agreement to be approved by the City Council to address standard conditions that must be met prior to completion of the annexation. Staff will finalize the agreement language and present the agreement to the Commission on January 9<sup>th</sup>. The Annexation Agreement will include conditions related to zoning designation, maximum allowed density, conditions to address prior to final subdivision plat recordation, sidewalk construction along Payday Drive, Fire Protection plan requirements, road and utilities, water rights and development fees, affordable housing (0.9 AUE required), Conservation Management Plan

agreement for restrictions and use of the City parcels, LEED Silver or equivalent construction, restrictions on reflective roof material, and other items as required by the Annexation Policy plan or as conditions of approval of the Annexation.

### **Public Input**

Staff has received public input from neighboring residents and property owners requesting additional information regarding the preliminary subdivision layout, whether the City parcel would remain as open space, whether any additional access roads are proposed off of Payday Drive or SR 224, and whether horses would remain on the property. There was support for horses to be allowed to continue to use portions of the City's parcel, as well as concerns that there is a formal written agreement between the City and the lot owners regarding use of the City's parcel for agricultural uses, including grazing of horses. Staff received public input on the location of future irrigation ditches and the maintenance of existing irrigation ditches that serve the property.

### **Discussion requested**

At the September 28<sup>th</sup> meeting the Planning Commission discussed the annexation and preliminary subdivision. The applicant has revised the preliminary subdivision plat and provided additional information regarding the location and size of building pads, visual analysis, and barn construction. Staff requests discussion of the following items:

- **Conservation Easement.** Use of the City open space parcel for grazing of horses and cutting of hay will be addressed in the Annexation Agreement and will require the owner of the Frank Richards parcel, including any future lot owners, to enter into a formal Conservation Management Plan agreement for the use, maintenance, and restoration of the PCMC parcel prior. This plan shall be recorded prior to recordation of any final subdivision plat for this annexation. The Conservation Management Plan should be approved by the City and the Trust for Public Lands, the entity holding a Conservation Easement on the PCMC parcel.

The agreement shall describe restrictions and allowable use of the City parcel by owners, including the Homeowner's Association, of Lots within the Richards parcel. The City has reviewed the Conservation Easement and believes that historical agricultural uses are contemplated; however a formal agreement needs to be drafted and recorded stipulating restrictions of the use and requiring any restoration work as documented by an Easement Monitoring Report to be conducted by the City.

The Sustainability Department is working with the Summit Land Conservancy to survey the property and make recommendations as to the use, including number of horses allowed and duration of use, cutting of hay, protection and restoration of sensitive wetland areas and streams, requirements for yearly or every two year report of conditions, and other issues related to irrigation, maintenance, access, etc. to support the intent of the Conservation Easement.

- **Incentivize Equestrian component of Subdivision.** The Commission

discussed ways to incentivize the equestrian component of the development. Staff has included a finding and a condition of approval that would allow the Planning Director to grant an administrative Conditional Use permit (as opposed to standard Conditional Use Permit with public hearing at the Planning Commission) for the raising and grazing of horses on these lots. Regardless of process (and both require notification of property owners within 300' and posting of the property), all Conditional Use Permits for raising and grazing of horses are required to include an Animal Management Plan, barns shall be located a minimum of 75' from nearest neighboring dwelling unit, a maximum of 2 horses per acre, terrain and slope suitable for horses. The applicant has provided information regarding barn design, construction, and materials to provide a uniform look. Applicant is proposing a separate lot for the indoor riding arena to be held in common by the HOA as an amenity for the subdivision.

- **Fencing.** Staff recommends discussion of fencing, including perimeter fencing, and fencing of individual lots. Staff recommends a fencing plan to be submitted with the final subdivision plat that identifies the location and type of fencing that will be allowed around the perimeter and within the subdivision. Discuss whether a non-visible fencing should be required on the individual lots as well as along the common boundary with the City property, so as to not visually break up the open space areas.
- **Affordable Housing.** Based on the City's affordable housing resolution, the six new units would require 0.9 AUE or 810 square feet of net living area (0.9 x 900 sf). Staff recommends the housing be provided on site unless the Housing Authority allows construction off site or allows fees in-lieu based on the formula in effect at the time the affordable housing obligation is required to be met.
- **Historical Survey.** The annexation agreement will address the requirement and timing of the provision of an historical and cultural resources study, to be conducted prior to recordation of the final subdivision plat. At this time there are no known historical resources documented on the property, according to the County and City sources.
- **Zoning.** Staff is recommending SF, Single Family zoning for the Richard's parcel to be consistent with the zoning of surrounding subdivisions. The SF zone does not allow Nightly Rental, which has been an issue in this neighborhood. The Iron Canyon Subdivision recently requested and rezoned to SF because of this issue. While the SF zone would allow greater density than proposed, the maximum density can be restricted by the Annexation Agreement and each final plat can include restrictions that the lots cannot be further subdivided and the density cannot be increased.
- **Preliminary plat lot layout and visual analysis.** The revised the preliminary plat and located the building pad for Lot 7 further to the south. Additional information regarding the proposed barn construction and a preliminary visual analysis of the proposed subdivision (Exhibit F) was

provided. Staff recommends restrictions on reflective roof materials to be included in the annexation agreement and on each final plat.

- **Public benefits-** Including reduction in density; affordable housing; historic site survey; sidewalks along Payday Drive; LEED Silver or equivalent construction and Silver Performance Level for water conservation; Conservation Management Plan for use, maintenance, protection, and restoration of the City open space parcel as well as sensitive lands on the Richard's parcel; and repair and maintenance of irrigation ditches serving the property.

### **Department Review**

The application was reviewed by the Interdepartmental Development Review Committee on February 14<sup>th</sup> and September 8<sup>th</sup>. All issues raised have been addressed by the applicant and/or by conditions of approval as outlined in the draft Ordinance. The City's Legal, Sustainability, and Engineering Departments are reviewing the draft annexation agreement.

### **Notice and Public Input**

The property was posted, courtesy notices were mailed to surrounding property owners, and legal notice was published in the Park Record according to requirements for annexations in the Land Management Code. The property was re-posted for this meeting and a new legal was published in the Park Record.

### **Future Process**

Annexations require Planning Commission recommendation and City Council adoption and become pending upon publication of an ordinance and compliance with state code filing procedures. City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

A final subdivision plat, to create legal lots of record; dedicate utility, drainage, and irrigation easements; and identify building pads, limits of disturbance areas, number of allowed horses, and open space parcels, etc. is a requirement prior to commencing of site work and issuance of building permits. Subdivision plats are reviewed by the Planning Commission with final approval by the City Council. No development can commence until the final plats are recorded at Summit County and building/construction permits have been issued by the City and all financial guarantees and other conditions of approval have been addressed.

### **Summary Recommendations**

Staff requests the Planning Commission conduct a public hearing and discuss the annexation and amendment to the Park City zoning map, review the revised preliminary plat and draft ordinance, and continue the public hearing to January 9, 2013 to give staff additional time to finalize the annexation agreement.

**Exhibits**

Draft Ordinance

Exhibit A- Annexation Plat

Exhibit B- Vicinity Map

Exhibit C- Revised Preliminary Subdivision plat

Exhibit D- Applicant's letter

Exhibit E- Conservation Easement

Exhibit F- Visual Analysis and Barn design brochure

Exhibit G- Minutes of the September 28<sup>th</sup> Planning Commission meeting

## **DRAFT ORDINANCE- For Planning Commission review and comment**

### **Ordinance 12-**

#### **AN ORDINANCE ANNEXING APPROXIMATELY 33.74 ACRES KNOWN AS THE RICHARDS/PCMC ANNEXATION LOCATED IN THE SOUTH HALF OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, UTAH AND AMENDING THE OFFICIAL ZONING MAP OF PARK CITY TO ZONE THE PROPERTY ROS (RECREATION OPEN SPACE) AND SF (SINGLE FAMILY DEVELOPMENT).**

WHEREAS, on February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two metes and bounds parcels currently within the jurisdiction of Summit County and surrounded by properties that are within the Park City municipal boundaries as shown on the attached Annexation Plat (Exhibit A, the "Property"); and

WHEREAS, the entire annexation Property is approximately 33.74 acres in area and is located west of SR 224 and north of Payday Drive, as described in the attached Legal Description and Vicinity map (Exhibit B); and

WHEREAS, the Property is included within the Park City Annexation Expansion Area, and is not included within any other municipal jurisdiction; and

WHEREAS, the annexation petition was accepted by the City Council on February 16, 2012; and

WHEREAS, the City reviewed the petition against the criteria stated in Sections 10-2-403 (2), (3), and (4) of the Utah Code, annotated 1953 as amended, and found the petition complied with all applicable criteria of the Utah Code; and

WHEREAS, On March 1, 2012, the City Recorder certified the annexation petition and delivered notice letters to the "affected entities" required by Utah Code, Section 10-2-405, giving notice that the petition had been certified and the required 30-day protest period had begun; and

WHEREAS, no protests were filed by any "affected entities" or other jurisdictions within the 30-day protest period and the petition was considered accepted on April 1, 2012; and

WHEREAS, the Planning Commission, after proper notice, conducted public hearings on the Annexation petition application on May 9<sup>th</sup>, September 26<sup>th</sup>, and December 12<sup>th</sup>, 2012, and on January 9<sup>th</sup>, 2013; and

WHEREAS, on January 9<sup>th</sup>, 2013, the Planning Commission forwarded a

recommendation to City Council on the proposed annexation and zoning of the Richards/PCMC Annexation; and

WHEREAS, on \_\_\_\_\_, 2013, the City Council conducted public hearings and discussed the annexation and zoning map amendment and took public testimony on the matter, as required by law; and

WHEREAS, the Council finds that the requested zoning map amendment is consistent with the Park City General Plan; and

WHEREAS, the preliminary subdivision plat identifies seven single family residential lots and one commonly owned lot for an existing indoor riding arena. The preliminary plat identifies lot sizes, building pad areas, house sizes, limits of disturbance areas, phasing, and other site planning requirements that have a goal of enhancing rather than detracting from the aesthetic quality of the entry corridor and ensuring that the final plat will result in a development that is compatible with the surrounding neighborhood; and

WHEREAS, an Annexation Agreement, between the City and Petitioners pursuant to the Land Management Code, Section 15-8-5 (C), setting forth further terms and conditions of the Annexation and final subdivision plat, is herein included as Exhibit ?.

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

SECTION 1. ANNEXATION APPROVAL. The Property is hereby annexed into the corporate limits of Park City, Utah according to the Annexation Plat executed in substantially the same form as is attached hereto as Exhibit A and according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated below.

The Property so annexed shall enjoy the privileges of Park City as described in the Annexation Agreement attached as Exhibit x and shall be subject to all City levies and assessments as described in the terms of said Annexation Agreement.

The Property shall be subject to all City laws, rules and regulations upon the effective date of this Ordinance.

SECTION 2. ANNEXATION AGREEMENT. Council hereby authorizes the Mayor to execute the Annexation Agreement in substantially the same form as is attached hereto as Exhibit I and as approved by the City Attorney.

SECTION 3. COMPLIANCE WITH STATE LAW, GENERAL PLAN, AND ANNEXATION POLICY PLAN. This annexation and the proposed zoning meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code, the Park City General Plan, and The Annexation Policy Plan - Land Management Code Chapter 8, Annexation.

SECTION 4. OFFICIAL PARK CITY ZONING MAP AMENDMENT. The Official Park City Zoning Map is hereby amended to include said PCMC parcel in the ROS zoning district and the Richards parcel in the SF zoning district with ROS zoning for the wetlands/open space areas, as shown in Exhibit J.

SECTION 5. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL.

Findings of Fact

1. On February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two parcels currently within the jurisdiction of Summit County and completely surrounded by properties within the Park City municipal boundaries.
2. The applicants are requesting annexation and zoning approval for two separately owned parcels. The Frank Richards parcel is 13.75 acres and the requested zoning is Single Family (SF). The PCMC parcel is 19.74 acres and the requested zoning is Recreation Open Space (ROS).
3. The property is located north of Payday Drive (north of the Thayne's Creek Ranch Subdivision), south of Aspen Springs Subdivision, east of Iron Canyon Subdivision, and west of Highway 224 (Exhibit A). The property is surrounded on all boundaries by Park City municipal boundaries and is considered an island of unincorporated land.
4. The applicants submitted an annexation plat for the two parcels, prepared by a licensed surveyor and additional annexation petition materials according to provisions of the City's Annexation Policy Plan and Utah State Code. A preliminary subdivision plat and an existing conditions survey map were also submitted.
5. The preliminary plat indicates four lots in Phase I and three possible future lots in Phase II. The existing home and horse training facility are in Phase II and would remain un-platted until a final subdivision plat is submitted and approved by the City for that property.
6. The petition was accepted by the City Council on February 16, 2012 and certified by the City Recorder on March 1, 2012. Notice of certification was mailed to affected entities as required by the State Code. The protest period for acceptance of the petition ended on April 1<sup>st</sup>. No protests to the petition were filed.
7. The PCMC property is a dedicated open space parcel, subject to a 2005 Deed of Conservation Easement in favor of the Summit Land Conservancy, in perpetuity. In 1999, the City purchased this 19.74 acre parcel through a purchase agreement with the Trust for Public Land from Frank Richards. The Annexation Agreement specifies that a Conservation Management Plan, approved by the City and the Summit Land Conservancy, shall be signed, executed, and recorded at Summit County prior to recordation of any Final Subdivision plats for any property subject to the Annexation Agreement.
8. The PCMC parcel is currently utilized for grazing and growing of hay, as well as for undisturbed open space along streams, irrigation ditches, and

- wetlands. The City provides winter time grooming of a ski trail within the parcel, along Hwy 224. The land was originally part of the Frank Richard's property. The property will remain as open space subject to the perpetual Conservation Easement.
9. The property is located within the Park City Municipal Corporation Annexation Expansion Area boundary, as described in the adopted Annexation Policy Plan (Land Management Code (LMC) Chapter 8) and is contiguous with the current Park City Municipal Boundary along the south property lines with the Thayne's Creek Subdivision Annexation (June 2, 1989) and the Treasure Mountain Annexation (Thayne's Canyon Subdivision) (July 28, 1971). The property is contiguous with the City along the north property lines with the Peterson Property Annexation (February 22, 1993) and the Chamber Bureau Kiosk Annexation . Along the west property line there is contiguity with the Smith Ranch Annexation (July 14, 1988) (aka Aspen Springs Subdivision) and the Iron Canyon Annexation (October 28, 1983). Along the east property lines there is contiguity with the McLeod Creek Annexation (May 7, 1979).
  10. The property is the entirety of properties owned in this location by these applicants that have not already been annexed to the City.
  11. Access to the Richards property is from Payday Drive at the existing driveway to the Richards farm. Access to the PCMC property is also from Payday Drive, just west of Hwy 224 at a stubbed in roadway. This access is used by ski grooming equipment and other municipal vehicles to maintain the property. No access is proposed directly off of Highway 224 with this annexation or for the subdivision plat.
  12. The property is subject to the Employee/Affordable Housing requirements of the Affordable Housing Guidelines and Standards Resolution in effect at the time of annexation application submittal. The requirement for 6 new residential units is 0.9 AUE.
  13. Land uses proposed in the subdivision include a total of 8 lots, 7 single family lots and one lot for an existing indoor riding arena with no residential density permitted. The subdivision plat identifies 2 for new single family units on Payday Drive and 4 new single family horse properties each allowing up to 2 horses per acre, subject to an administrative conditional use permit and an animal management plan. The PCMC parcel allows only uses that are permitted by the Conservation Easement.
  14. The proposed land uses are consistent with the purpose statements of the SF and ROS zones respectively. The SF zone does not allow nightly rental uses and restricting this use is desired by the neighborhood. The Annexation Agreement and preliminary plat limit the total number of single family lots to seven (7) and the final plat will include a note indicating that no further subdivision of lots is allowed and that no density is permitted on Lot 8.
  15. Annexation of this parcel will not create an island, peninsula, or irregular city boundary. The annexation is a logical extension of the City Boundary.
  16. Provision of municipal services for this property is more efficiently provided by Park City than by Summit County.

17. Areas of wetlands and irrigation ditches have been identified on the property.
18. The annexation is outside the City's Soils Ordinance District and there are no areas of steep slope that would indicate the property should be placed in the Sensitive Lands Overlay Zone. Wetlands and streams are protected by language in the LMC requiring minimum setbacks and protection during construction. The platting and zoning of ROS will further protect these open space parcel and other sensitive wetland areas from impacts of development.
19. The proposed annexation is consistent with the purpose statements of the Annexation Policy Plan and as conditioned will protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space, ensure environmental quality; protect entry corridors, view sheds and environmentally Sensitive Lands; enhance pedestrian connectivity, create buffer areas; and protect public health, safety, and welfare.
20. City Staff has reviewed the proposed annexation and preliminary plat against the general requirements established for annexation to Park City as presented in LMC Section 15-8-2 and as further described in the Analysis section of this report (will be provided in the January 9<sup>th</sup> report).
21. The property was posted, courtesy notices were mailed to surrounding property owners, and legal notice was published in the Park Record according to requirements for annexations in the Land Management Code.

#### Conclusions of Law

1. The Annexation and Zoning Map amendment are consistent with Annexation Policy Plan and the Park City General Plan.
2. Approval of the Annexation and Zoning Map amendment does not adversely affect the health, safety, and welfare of the citizens of Park City.

#### Conditions of Approval

1. The Official Zoning Map shall be amended to designate the PCMC property as Recreation Open Space (ROS) and the Richard's parcel as Single Family (SF).
2. The Annexation Agreement shall be fully executed and recorded with the Annexation Plat.
3. A final subdivision plat, to create legal lots of record; dedicate utility, drainage, and irrigation easements; and identify building pads, limits of disturbance areas, and open space parcels, etc. is a requirement prior to commencing of site work and issuance of building permits. Subdivision plats are reviewed by the Planning Commission with final approval by the City Council. The final subdivision plat shall be in substantial compliance with the preliminary plat submitted with the Annexation petition. The plat shall include a note that no further subdivision of lots is allowed and that Lot 8 is deed restricted as a commonly owned lot for the benefit of all lot owners with no density assigned or allowed.
4. All exterior lighting shall be reviewed with each building permit application for

- compliance with best lighting practices as recommended by the Dark Skies organization. No reflective roofing materials shall be allowed and a note shall be included on the final plats indicating these restrictions.
5. Fencing shall be consistent through-out the subdivision and described on the final subdivision plat and in the CCRs. A fencing plan shall be submitted with the final subdivision and with each building permit application to allow Staff to review all fencing for consistency through-out the subdivision and to review impacts of fencing on wildlife movement through the site and visual impacts of fencing on the open space as viewed from the SR 224 corridor.
  6. Construction of the sidewalks along Payday Drive connecting the existing sidewalk on the north side of the street with a pedestrian crossing at Iron Canyon Drive is required and shall be identified on the final subdivision plat. The sidewalks and all required public improvements, including landscaping of the public right-of-way along Payday Drive shall be completed prior to issuance of a certificate of occupancy for any house on the property.
  7. A grading plan and landscape plan shall be submitted with each building permit application and this requirement shall be noted on the final subdivision plat. A landscaping plan for public right-of-way and any common areas shall be submitted with the final subdivision plat.
  8. A note shall be included on the final plats requiring each home in the development to reach LEED for Homes Silver (or higher) Rating certification with required water conservation requirements as further described in the annexation agreement.
  9. Excavated materials shall remain on site to the greatest extent possible.
  10. The use of the PCMC parcel for cutting of hay and grazing by horses owned by the future lot owners shall be addressed in the Annexation Agreement and shall be subject to a Conservation Management Plan agreement to be recorded prior to final subdivision plat recordation. All uses of the PCMC parcel are subject to the restrictions of the 2005 Conservation Easement. The Conservation Management Plan shall address maintenance of all irrigation systems and ditches that serve the property.
  11. The application is subject to the City's Affordable Housing Resolution in effect at the time of the annexation application. Affordable housing obligation shall be provided on the property, unless otherwise approved by the Park City Housing Authority.
  12. A note shall be added to the final subdivision plats stating that the Planning Director may grant an administrative Conditional Use permit for the raising and grazing of horses on lots containing at least one acre, including a barn structure consistent with the MD Barn Master brochure or equivalent, provided that the CUP application complies with the LMC requirements for raising and grazing of horses, including submittal of an acceptable Animal Management Plan specific to each lot.
  13. Access easements shall be provided on the final plat, along lot lines to facilitate access to the PCMC parcel, for equestrian use and for wildlife movement and for maintenance of the parcel as allowed by the Conservation Easement.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect upon publication of this Ordinance, recordation of the Annexation Plat and Annexation Agreement, and compliance with state annexation filing requirements, pursuant to the Utah Code Annotated Section 10-2-425.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2013.

PARK CITY MUNICIPAL CORPORATION

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Dana Williams, MAYOR

ATTEST:

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Janet M. Scott, CITY RECORDER

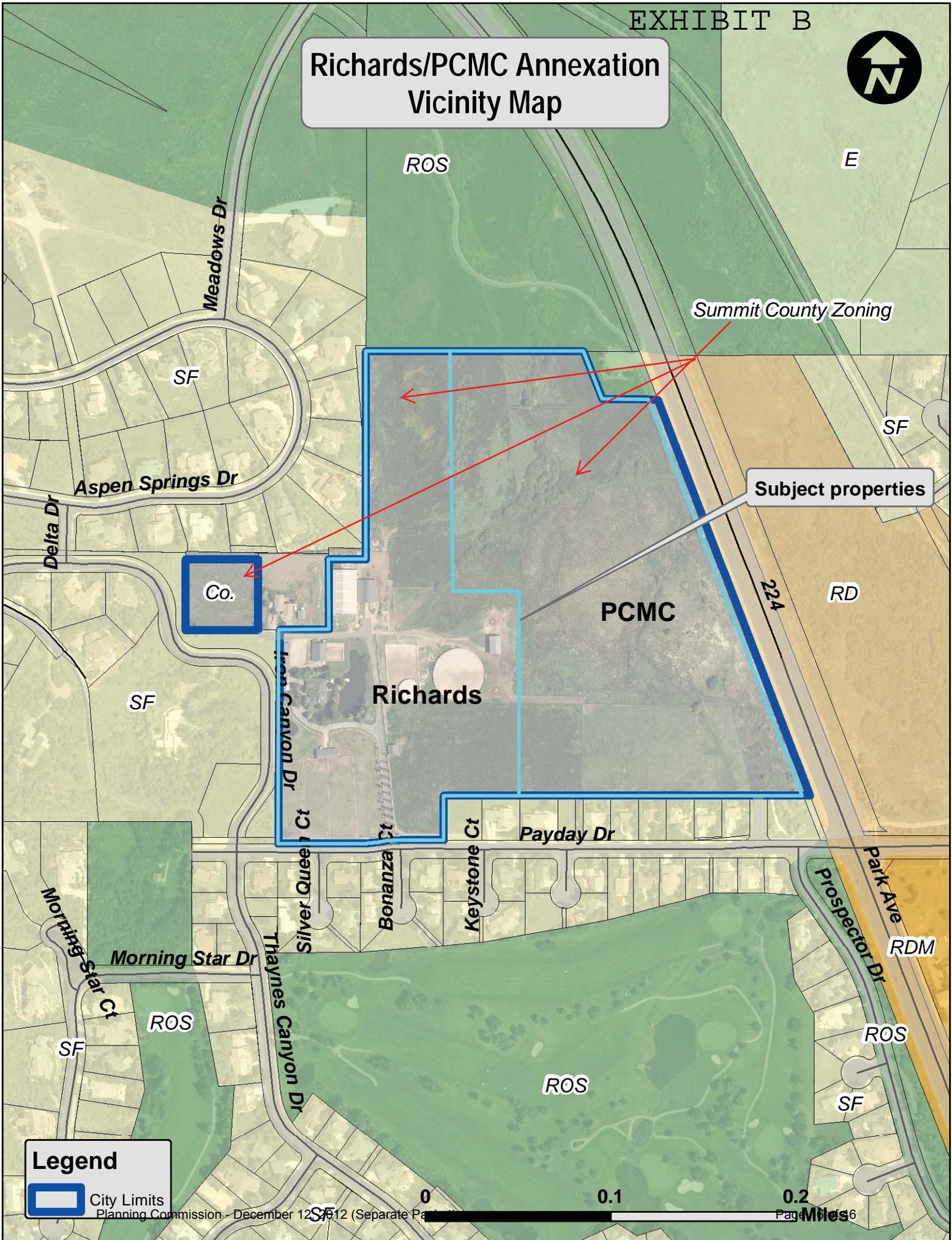
APPROVED AS TO FORM:

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Mark D. Harrington, CITY ATTORNEY



# Richards/PCMC Annexation Vicinity Map

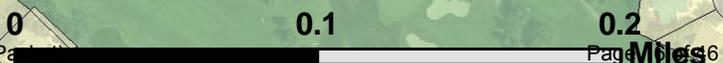


Subject properties

Summit County Zoning

**Legend**

 City Limits





September 24, 2012

To: Park City Planning Commission  
From: Frank Richards  
Re: Annexation of Thaynes Creek Ranch Estates (Richards Property)

As I get older, I realize the importance of getting my affairs in order.

I purchased the subject property in 1975. There were no improvements, not even perimeter fences. I have owned, constructed all of the improvements and farmed it for over 37 years. That was long before Aspen Springs was conceived, when Enoch Smith had a lovely home on the lake and a fine Standard Bred horse operation. We have always tried to maintain the property in a clean orderly manner, so that it would be an attractive addition to the community.

Hundreds of families, with their children, have come to pet the mares and new colts as they came to the fence on Payday Drive.

Dozens of fundraisers for community charities, and other events, have been held in our indoor arena through the years, always free of charge, and all the community was welcome.

I was persuaded by city officials in the year 2000 to sell 20 acres of the property that fronts Highway 224 to maintain open space and a view corridor into the city and at a bargain price.

During our years in Park City, I have held several positions: The Summit County Board of Commissioners, the Park City Board of the Chamber of Commerce and Visitor Bureau and the Park City Rotary Club. I served the National Ability Center for eight or ten years as President, Board Member and member of the Finance Committee.

I hope it is clear that my heart and soul are in Park City.

We intend to continue to live on this farm as long as we can, but the time has come for us to arrange our affairs and reduce the work and responsibilities and to divide the property so that others can enjoy it as we have.

The proposed subdivision plat should meet the City's criteria and approval of the various agencies' concerned.

We propose seven residential lots on approximately 14 acres. Two lots on Payday Drive are a little over ½ acre each. The remaining lots on the lane range from 1-¼ acres to a little over 3 acres each. All of the lots are significantly larger than lots across the street or properties adjoining the subdivision. We would like to retain the equine character of the farm, since down where I live, I'm still a cowboy. Under

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PARK CITY  
PLANNING DEPT.

this subdivision plan, I would propose to make some changes. I would remove some of the treasures I have accumulated over the years in the form of fence posts, pine rails, timbers, surplus rolls of fencing, steel pipes, culverts, metal gates and equipment that adjoin Mr. McDonald's rear yard. I would remove the pipe pens that adjoin his rear yard on the north end of the indoor arena. I would also remove the 150 x 50 foot hay and feed barn that interferes with Mr. McDonald's clear view of the ski slopes to the south and landscape the area. I will remove the corrals, pens and cattle-loading chute east of the hay barn and generally clean up the area.

I would extend the asphalt lane to the south boundary of Lot 7, and line it with trees and white fence like the present entry lane to the property.

It is our plan to re-do and make significant improvements to the entry feature on Payday Drive. It will be a premier residential neighborhood.

There have been some suggestions that part of the property should be left as open space. We have been a part of contributing over half of the farm to open space, and in addition, lots 6 & 7 would be over 90% open space. However, if there are those who would like to maintain complete open space or specific views, I would certainly be happy to consider an offer, based on current Aspen Springs lot values.

DEED OF CONSERVATION EASEMENT  
Richards Ranch (SR 224)

EXHIBIT E

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 24<sup>th</sup> day of MARCH, 2005, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation having an address of 445 Marsac Avenue, Post Office Box 1480, Park City, UT 84060-1480 ("Grantor"), in favor of the SUMMIT LAND CONSERVANCY, a Utah non-profit corporation having an address of Post Office Box 1775, Park City, UT 84060 ("Grantee").

00730831 BK01688 PG00720-00730  
w  
ALAN SPRIGGS, SUMMIT CO RECORDER  
2005 MAR 30 10:50 AM FEE \$1.00 BY GGB  
REQUEST: PARK CITY MUNICIPAL CORP

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of approximately 20.000 acres (871,200 square feet) of real property located west of SR 224 in Park City, Summit County, Utah, described more particularly at Exhibit A, attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Property possesses natural, scenic, recreational, and visual open space values (collectively, "Conservation Values") of great importance to Grantee; the people of Park City, and the people of the State of Utah which are worthy of protection; and

WHEREAS, the Property is prominently visible from one of Park City's two entry corridors, namely SR 224; and

WHEREAS, the Property's proximity to Aspen Springs, the McPolin Farm, Willow Ranch, and the Huntsman Gateway open spaces is significant as it is part of a continuous corridor of open space on the sensitive SR 224 entry corridor; and

WHEREAS, at a November 3, 1998 special bond election, Park City voters authorized the issuance of general obligation bonds in an amount of ten million dollars for the express purpose of acquiring and forever preserving undeveloped park and recreational land; and

WHEREAS, the Property was purchased by Grantor using proceeds of the November 3, 1998 special bond election; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those relating to visual open space existing at the time of this grant, that do not significantly impair or interfere with those values; and

WHEREAS, Grantor further intends as owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

BK1688 PG0720

WHEREAS, Grantee is a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition; and

WHEREAS, Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, which the Parties agree constitute adequate consideration for this agreement, and pursuant to the laws of the State of Utah and in particular Utah Code Annotated, Title 57, Chapter 18, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose.** It is the purpose of this Easement to assure that the Property will be maintained forever (predominately) in open and recreational use, protecting in perpetuity its scenic, open and undisturbed character and recreational value, and preventing any use of the Property that may significantly impair or interfere with the conservation values of the Property. Grantor intends that this Easement will confine the use of the Property to those activities that are consistent with the purpose of this Easement.
- 1.1 **Baseline Documentation.** To establish the present condition of the Property's agricultural, natural, scenic, recreational and/or other conservation resources and the Property's manmade features, so as to make possible the proper monitoring of future uses of the Property and to ensure compliance with the terms of this Easement, the Parties may prepare an inventory of the Property's relevant resources, features and conditions.
2. **Rights of Grantee.** To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:
  - a. To reserve and protect the conservation values of the Property;
  - b. To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
  - c. To enter upon the Property in the case of an emergency as determined by Grantee, in which event Grantee shall notify Grantor prior to entering onto the Property, if possible, or as soon thereafter as is reasonably practical;
  - d. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of

BK1688 PG0721

the Property that may be damaged by inconsistent activity or use, pursuant to Paragraph 6 herein; and

- e. To enforce this Easement by appropriate legal proceedings, after providing Grantor with reasonable notice and reasonable opportunity to cure.
3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are prohibited in perpetuity on the Property:
- a. Construction of buildings, residences, mobile homes, or other structures, or any other permanent improvements for use for human habitation, constructed or placed in, on, under, or upon the Property; and
  - b. Any unanticipated use or activity on or at the Property which would significantly impair the conservation values of the Property, unless such use or activity is necessary for the protection of the conservation values that are the subject of this Easement, in which case such use or activity shall be subject to the prior approval of Grantee, which approval shall not be unreasonably withheld.
4. **Reserved Rights.** Grantor reserves to itself, and to its successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, Grantor expressly reserves the right to:
- a. Use the Property as undeveloped park and recreational land; and
  - b. Construct related amenities.
5. **Continuous Conservation Reserve Program (CCRP).** Part of the property is presently encumbered by a CCRP contract; dated June 1, 2003. The CCRP is a 15- year USDA - Farm Service Agency contractual agreement for the stream corridor that is enrolled is 180' from the stream embankment and the designated land classification is riparian buffer zone. The parties expressly agree that requirements of the CCRP contract are permitted during the CCRP's effective period. Both parties recognize the contract and will honor its terms for its effective period.
6. **Notice of Intent to Undertake Certain Permitted Actions.** The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in Paragraph 4, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement.

BK1688 PG0722

Whenever notice is required, Grantor shall notify Grantee not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question:

- a. in writing; and/or
- b. by electronic notification. Electronic notification is sufficient with proof of receipt.

The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

6.1 **Grantee's Approval.** Where Grantee's approval is required, as set forth in Paragraph 5, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

7. **Grantee's Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. Grantee and Grantor agree to mediate any dispute in a timely manner if the issue of a violation is disputed. If mediation is unsuccessful and Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the thirty (30) day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under this Paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in

BK1688 PG0723

addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies not or hereafter existing at law or in equity. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee. If Grantee prevails in any action to enforce the terms of this Easement, Grantee's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantor.

- 7.1 **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any right or remedy upon an breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 7.2 **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.
8. **Access.** No right of access by the general public to any portion of the Property is conveyed by this Easement.
9. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
- 9.1 **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon ten (10) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the lesser of two (2) percentage points over the prime rate of interest from time to time charged by Zion's Bank or the maximum rate allowed by law.

- 9.2 Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in Paragraphs 9 and 9.1; and (3) the existence or administration of this Easement.
- 10. Extinguishment.** Grantee shall not voluntarily or willingly allow the extinguishment of any of the restrictions of this Easement, and if any or all of the restrictions of this Easement are nevertheless extinguished by a judicial or other governmental proceeding, any and all compensation received by Grantee as a result of the extinguishment shall be used by Grantee in a manner consistent with the conservation purposes of this Easement.
- 10.1 Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.
- 10.2 Amendment.** This Easement, including the prohibited uses and reserved rights, may be modified only by mutual written agreement of Grantor and Grantee. No amendment shall be made that will adversely affect the status of this Easement as a qualified conservation easement pursuant to Title 57, Chapter 18 of the Utah Code, nor Grantee's status as a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code and applicable laws of the state of Utah. Any such amendment shall be consistent with the stated purposes of this Easement, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation values of the Property. Any such amendment shall be filed in the office of the Summit County Recorder.
- 11. Transfer of Easement.** If Grantee determines that it no longer is able to perform its obligations or enforce its rights under this Easement, or that it no longer desires to enforce said rights, or if Grantee ceases to exist, or is otherwise prevented from enforcing its rights under this Easement, or if Grantee no longer qualifies as a qualified organization under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), Grantee may convey its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under State statute. Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out. Grantee is hereby expressly prohibited from subsequently transferring the Easement, under any circumstances and whether or not for consideration, unless:

BK1688 PG0725

- a. Grantee, as a condition precedent of the transfer, requires that the conservation purposes which this Easement is intended to advance continue to be carried out;
  - b. The transferee is an organization qualifying at the time of transfer as eligible under Paragraph 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable) and regulations promulgated thereunder; and
  - c. Grantor and/or its successor in interest, at its sole discretion, either selected the transferee or consents in writing to the transfer.
12. **Grantor Transfer of Interest.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which he divests himself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
13. **Estoppel Certificates.** Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.
14. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows (or to such other address as either party from time to time shall designate by written notice to the other):
- To Grantee: SUMMIT LAND CONSERVANCY**  
 Attn: Executive Director  
 Post Office Box 1775  
 Park City, UT 84060
- To Grantor: PARK CITY MUNICIPAL CORPORATION**  
 Attn: City Recorder  
 445 Marsac Avenue  
 Post Office Box 1480  
 Park City UT 84060-1480
15. **Recordation.** Grantee shall record this instrument in timely fashion in the official records of Summit County, Utah, and may re-record it at any time as may be required to preserve its rights in this Easement.

BK1688 PG0726

16. General Provisions.

- a. Controlling Law. The laws of the state of Utah shall govern the interpretation and performance of this Easement.
- b. Liberal Construction. Any general rule of construction to the contrary notwithstanding this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purposes of Utah statute. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- e. No Forfeiture. Nothing contained herein will result in the forfeiture or reversion of Grantor's title in any respect.
- f. Joint Obligation. If more than one person or entity is the successor or assign of Grantor, the obligations imposed by this Easement upon Grantor shall be jointly and severally binding on each such person or entity.
- g. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.
- h. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that ability for acts or omissions occurring prior to transfer shall survive transfer.
- i. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

BK1688 PG0727

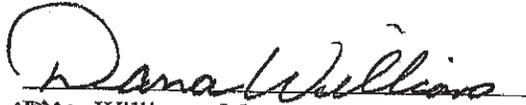
- j. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

**GRANTOR:**

**PARK CITY MUNICIPAL CORPORATION**



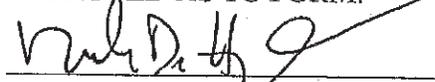
Dana Williams, Mayor

ATTEST:

  
Janet M. Scott, City Recorder



APPROVED AS TO FORM:

  
Mark D. Harrington, City Attorney

**GRANTEE:**

**SUMMIT LAND CONSERVANCY**

  
Jennifer Guetschow, Executive Director

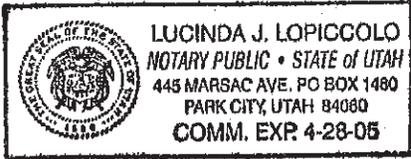
BK1688 PC0723

Corporate Acknowledgment

STATE OF UTAH )  
 ) ss.  
COUNTY OF SUMMIT )

On this 24th day of MARCH, 2005, personally appeared before me Jennifer Guetschow, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn (or affirmed), did say that she is the Executive Director of the SUMMIT LAND CONSERVANCY by Authority of its Bylaws/Resolution of its Board of Directors, and acknowledged to me that said corporation executed the same.

*Lucinda J. Lopigcolo*  
Notary Public



BK1688 PG0729

**EXHIBIT A**

Beginning at a point West 2403.70 feet, and North 655.95 feet from the Southeast Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running Thence East 187.26 feet; thence South 577.14 feet to the North line of Thaynes Creek Ranch Subdivisions as recorded; thence East along said North line 831.89 feet to the West line of State Highway U-244; thence North 21°12' West along said West line 1351.47 feet; thence West 539.30 feet; thence South 0°44'37" East 682.93 feet to the point of beginning;

TOGETHER WITH all of the right, title and interest of Grantor in the right of use in and to 8.34% of the irrigation portion of the water and water rights included in the Weber River Decree Award No. 458 being sufficient water for the irrigation of 3.33 acres, or 10 acre feet, heretofore used for the irrigation of the above described lands, reserving unto the Grantor all remaining rights of the Grantor in and to the use of the water evidenced by the said Award No. 458.

SC 1041-8  
PCA 1041-87

Excepting all area within 180 feet of the stream embankment covered in the CCRP Agreement.

Subject to all matters of record.

BK1688 PG0730

**SPECIAL WARRANTY DEED**  
**(Richards Property)**

THE TRUST FOR PUBLIC LAND, a nonprofit California public benefit corporation, authorized to do business in Utah as TPL-Utah, whose principal business address is 116 New Montgomery, San Francisco, CA 94105 ("Grantor"), hereby CONVEYS AND WARRANTS against the Acts of the Grantor only to PARK CITY MUNICIPAL CORPORATION, a municipal corporation and political subdivision of the State of Utah ("Grantee") for the sum of TEN DOLLARS and other good and valuable consideration the following described tract of land in Summit County, State of Utah, to wit:

Beginning at a point West 2403.70 feet and North 655.95 feet from the Southeast Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and running thence East 187.26 feet; thence South 577.14 feet to the North line of Thaynes Creek Ranch Subdivisions as recorded; then East along said North line 831.89 feet to the West line of State Highway U-224; thence North 21° 12' West along said West line 1351.47 feet; thence West 539.30 feet; thence South 0° 44' 37" East 682.93 feet to the point of beginning ("Property");

Together with all of the right, title and interest of Grantor in the right to use in and to 8.34% of the irrigation portion of the water and water rights included in the Weber River Decree Award No. 458 being sufficient water for the irrigation of 3.33 acres, or 10 acre feet, heretofore used for the irrigation of the above described lands, being all of Grantor's water rights received from its predecessor in interest.

SUBJECT TO the covenant that the Property shall be restricted in perpetuity to use as undeveloped park and recreational land and amenities.

SUBJECT TO all easements, covenants, restrictions, rights of way and reservations appearing of record as set forth in Exhibit "A" attached hereto, and taxes for the year 1999 and thereafter.

IN WITNESS WHEREOF, the Grantor has caused its corporate name to be hereunto affixed by its duly authorized officers this 27 day of August, 1999.

THE TRUST FOR PUBLIC LAND

By: *[Signature]*

Name: *Ted O. Harris*

Title: *Vice President*

WARRANTY DEED - Page 1

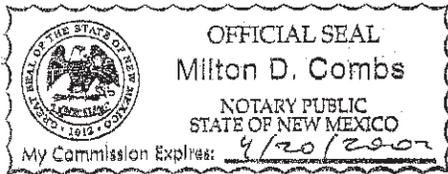
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ALAN SPRIGGS, SUMMIT CO RECORDER  
1999 AUG 31 09:20 AM FEE \$14.00 BY DMG  
REQUEST: FIRST AMERICAN TITLE CO UTAH

*aug → 99-08275*

ACKNOWLEDGMENT

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

This instrument was acknowledged before me on August 27, 1999, by TEA. O. HARRISON, the VICE PRESIDENT of The Trust for Public Land, a nonprofit California public benefit corporation, on behalf of said corporation.



[Signature]  
Notary Public

My Commission Expires:

4/20/2002  
(SEAL)

00547638 Bk01285 Pg01141



**View (A)**  
Existing Conditions



**View (A)**  
With Proposed Houses



**Key**

EXHIBIT F

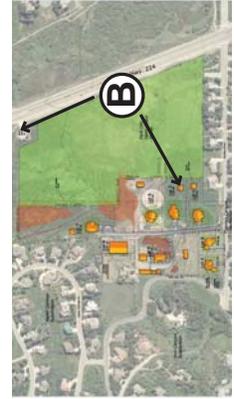
**Frank Richards  
Thaynes Creek Ranch Estates  
Subdivision Visual Simulations  
11-26-12**



**View (B)**  
Existing Conditions



**View (B)**  
With Proposed Houses



**Key**

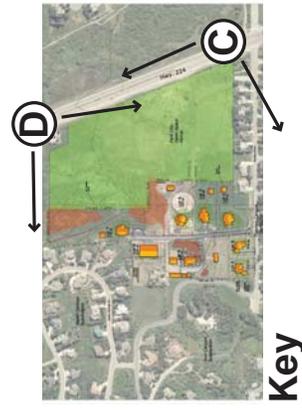
**Frank Richards**  
**Thaynes Creek Ranch Estates**  
**Subdivision Visual Simulations**  
11-26-12



**View (C)**



**View (D)**



**Key**

**Frank Richards  
 Thaynes Creek Ranch Estates  
 Subdivision Visual Simulations  
 11-26-12**

[Contact Us](#)

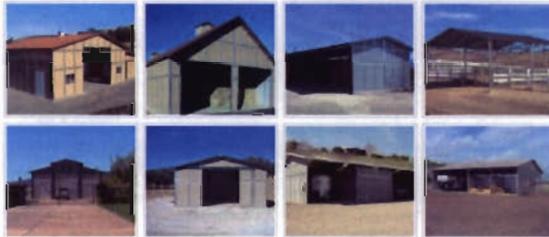
[HOME](#)   [ESTATE SERIES](#)   [RANCH SERIES](#)   [PROFESSIONAL EQUINE](#)   [HORSE STALLS](#)   [BUILDINGS](#)   [COMPONENTS](#)

# Modular Buildings

Freespan buildings for whatever you need to store.



There's always a need for storage to protect from the elements. Whether it's hay, heavy equipment, a smaller commercial business, warehouse or even a hanger for your airplane, our modular construction gives you the protection you need. Design the building you need and customize it to your heart's content. Create an interior office that provides a welcome working environment right next to whatever it is you need to store, such as a product warehouse or aircraft hanger.



[Details](#)   [How To Order](#)   [Financing](#)

## About MDBarnmaster Buildings

**A horseperson's needs don't end with stalls for the horses.**

Other needs include garages, hay storage, workshops and round pens. For these, MDBarnmaster offers the same maintenance-free durability, flexible design, and zero flame-spread rating as our barns.

**Attractive Exterior - Easy to Maintain Interior:**

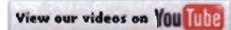
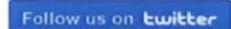
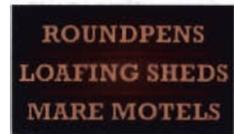
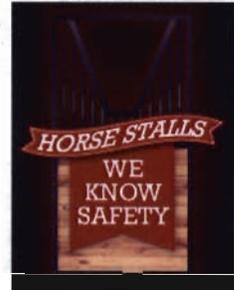
- All-Steel Walls for Easy Maintenance.

**MDBarnmaster Integrity:**

- 14 Gauge Galvanized Steel Frame built to last a lifetime.
- Interlocking patented Armor-Grip roof panels that are leak-free and stand up to high winds and heavy snow loads.

**Virtually Unlimited Configurations:**

- From small equipment storage to expansive hay storage, our modular design provides the storage solution of your dreams.
- Choose from four distinct architectural styles:



### MDBarnmaster Newsletter

New products, specials and valuable horse barn information.

Name

E-mail



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[Warranty](#) | [Brochure](#) | [Barn Blog](#)

# EXHIBIT G

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
SEPTEMBER 26, 2012

## COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Charlie Wintzer

## EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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## REGULAR MEETING

### ROLL CALL

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Thomas, who was excused.

### ADOPTION OF MINUTES – September 12, 2012

Chair Wintzer referred to the first page under Roll Call and replaced Chair Wintzer with Chair **Worel**, to read “Chair Worel called the meeting to order”.

Commissioner Strachan referred to page 18 of the minutes, the Conditions of Approval for 429 Woodside. Condition #4 was corrected to replace footprint with **floor area** to read, “...the maximum **floor area of 660 square feet.**” A typo in Condition #5, first sentence, was corrected from exiting to correctly read **existing**.

Commissioner Hontz referred to page 22 of the minutes, first paragraph and replaced City Council with **our Counsel**, to reflect her stated intent for review by legal counsel

MOTION: Commissioner Strachan moved to APPROVE the minutes of September 12, 2012 as corrected. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously by those in attendance on September 12, 2012. Commissioners Wintzer and Savage abstained since they were absent from that meeting.

### PUBLIC INPUT

Alan Agle, a credited professional with LEED and a green building consultant, stated that a year ago he received a call from Habitat for Humanity indicating that they were doing a new build on land donated by the City. Habitat for Humanity was enthusiastic about green measures and started

meeting space consistent with the Deer Valley MPD. The enclosed meeting space will provide for more all season use of the area.

Conclusions of Law – Stein Eriksen Lodge

1. There is good cause for this amended record of survey.
2. The amended record of survey is consistent with the Park City Land Management Code, the 11<sup>th</sup> Amended Deer Valley MPD, and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed amended record of survey.
4. Approval of the amended record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Stein Eriksen Lodge

1. The City attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall be recorded prior to issuance of a certificate of occupancy for the proposed meeting space.
4. All conditions of approval of the Deer Valley Master Planned Development (11<sup>th</sup> Amendment) shall continue to apply.
5. As common area, the meeting space is not a separate commercial unit or units, and as such may not be separately sold or deeded.
6. All required disturbance and impact fees will be calculated based on the building permit application and are required to be paid prior to issuance of a building permit.

**2. Richards/PCMC Parcel – Annexation Petition  
(Application #PL-12-01482)**

Planner Kirsten Whetstone reviewed the request for an annexation of two parcels. One is the 9.74 open space parcel owned by Park City Municipal Corporation along Highway 224. The property is owned by the City but it is located in the County and under County jurisdiction. The second parcel is 13.5 acres commonly known as the Richards Farm. Planner Whetstone noted that the

application is the Richards/PCMC Annexation and the co-applicants are Frank Richards and Park City Municipal.

Planner Whetstone noted that the Planning Commission previously reviewed this application and the associated materials and exhibits. Since Commissioner Gross was not on the Planning Commission at the time, Planner Whetstone had provided him the same information to review for this meeting.

Planner Whetstone stated that the request was for ROS zoning on the City Parcel and SF, single family zoning, for the Richards parcel. The applicant was requesting a seven lot subdivision plat. Per City requirement, any large parcel annexation application must also include a master planned development. If the annexation area is less than the MPD requirement, the City requests a preliminary subdivision plat, which was submitted with this application.

Planner Whetstone presented the proposed preliminary subdivision plat. She noted that during the meeting on May 9<sup>th</sup>, the Planning Commission requested additional information on house sizes in the area, information regarding the conservation easement, wetlands delineated on the subdivision plat, and location of the building pads; taking into consideration the new required setbacks from the wetlands. Planner Whetstone clarified that a perpetual conservation easement has been provided on the City parcel with no density. The delineated wetlands were identified in orange on the preliminary subdivision plat and a dotted line 50 feet away from the red color were the required wetlands setback areas.

Planner Whetstone identified the changes made to the preliminary plat since the last meeting. One change was that Lot 1 had been reduced in size to 1.29 acres. Lots 3 and 4 were previously one single lot. The Staff would have been comfortable with the larger lot as an equestrian lot; however, the neighbors were concerned that it was not in character with existing development. The applicant was interested in having property in the area that was not horse property. Planner Whetstone remarked that another major change was the addition of Lot 7. Planner Whetstone noted that she had not received the revised preliminary site until after the packets were sent, which was why Lot 8 was not shown in the Staff report. Lot 8 was an approximately 3,000 square foot lot for an indoor riding arena. The applicant had originally talked about removing the arena; however, because it is equestrian property, he realized the arena would be an amenity. The indoor riding arena would be privately owned by the HOA as common area for the subdivision. The Staff recommended that there should be no density associated with Lot 8.

Planner Whetstone remarked that Mr. Richards had wanted the ability to further subdivide the property at a later time, not understanding that when an annexation is presented the City Council would require the density to be known at that time. If changes are made after the annexation, the annexation agreement would need to be amended. Planner Whetstone noted that Mr. Richards worked with Alliance Engineering to divide the first phase of this development. She identified the four lots that would be the first plats of the development.

Planner Whetstone requested Planning Commission input on discussion items outlined in the Staff report. No action was being requested this evening. The Staff recommended that the Planning Commission conduct a public hearing and continue the item to October 24, 2012.

Frank Richards, the applicant, introduced Steve Schuler with Alliance Engineering and Grant McFarlane, a friend and advisor. Mr. Richards commented on a letter he had sent to the Planning Commission outlining past history and his current proposal.

Mr. Richards stated that if Lot 7 is approved, he would clean up the area and remove the rolls of wire, culverts and fence gates and other items he has accumulated over the years that sit behind Mr. McDonald's lot. He also proposed to enclose Lot 7 and all the other proposed lots with white vinyl fencing similar to a farm/ranch atmosphere. Mr. Richards stated that he would also remove the pens behind the indoor arena that was used to house cattle. He would take out the old hay barn which adjoins the indoor arena to the right. It is a 35 year-old structure and still in good condition, but the road to lot 7 would go through where the hay barn is currently located. He would also remove the corrals and pens east of the hay barn and clean up that area. Mr. Richards presented photos he had taken and identified the pens and barns he would remove and the areas where they were located. He pointed out that the area would be cleaned up and the rear most lot would adjoin Lot 6. Each lot would be 3 acres.

Mr. Richards stated that he was persuaded to sell 20 acres of property to the City in 1999 because the City was anxious to maintain a view corridor coming into the Park City. He was not interested in selling at that time, but the City wanted to have control to avoid potential problems in the future. As a trade-off, the City allowed Mr. Richards to continue using the property. Mr. Richards noted that the two lots along Pay Day Drive were half acre lots, and larger than anything else in the neighborhood. The two lots on the east side of the lane were 1.25 acres. They would be horse lots and allowed two horses on each lot. Mr. Richards stated that it was the lot he lives on and the other two 3- acre lots. He was not opposed to maintaining open space and noted that a good portion of his farm has already gone into open space. The footprint on the 3-acre lots would be 5% of the total lot area, and the remainder would be open space. He was also interested in maintaining the equestrian character. Five of the lots would be eligible for horses. Mr. Richard thought the indoor arena should be retained as a place where people can ride in the winter time.

Mr. Richards thought his proposal was reasonable and met all the criteria. In addition to cleaning up the area, Mr. Richards proposes to keep the tree-lined lane and continue it back to Lot 7. He believed this proposal would be a great addition to the City.

Chair Worel noted that in the last sentence of his letter, Mr. Richards indicated that he would be happy to consider offers if someone wanted to purchase this parcel of land and maintain open space. She asked if Mr. Richards wanted to pursue a potential purchase before moving forward with the annexation.

Mr. Richards clarified that he has not had a purchase offer and he questioned whether anyone would make an offer. He noted that Aspen Springs would be the most impacted by Lot 7, and those neighbors support the proposal because it would benefit their property.

Commissioner Gross asked if the cul-de-sac road coming in off of Pay Day would be a public or private road. Mr. Richards replied that it would be a private road, but it would still be required to meet certain standards. Regarding Lot 7, Commissioner Gross assumed Mr. McDonald had been living with the existing condition for a number of years. However, the proposed building envelope

for the house appears to be right in Mr. McDonald's face. Mr. Richards pointed out that Mr. McDonald's house sits farther up. Commissioner Gross noted that currently Lots 3 and 4 were showing 9,000 square foot as the maximum building, and he asked if that was still the correct size. Planner Whetstone replied that Lots 3 and 4 would be 3,525 sf footprints and 6,150 square feet as the approximate house size. She noted that the applicant had agreed to a maximum height of 28 feet on all of the lots. Mr. Richards stated that in looking at the height of the surrounding structures each one is 28 feet plus 5 feet. He suggested that a 30-foot maximum height was reasonable, considering that it was 3-feet lower than all other structures.

Commissioner Gross commented on a for-sale sign on Pay Day next to Lot 10. Once they superimpose what a house would look like on that lot, he questioned whether the proximity of the side yards would be tight with Lot 1 and the adjacent house. Planner Whetstone explained that the lot is already in the City and it was part of another subdivision. Mr. Richards stated that Kevin McCarthy had purchased Lot 10, which was in the previous annexation and a recorded plat. Commissioner Gross clarified that his issue was with the open lot next to Lot 10. He no longer had an issue knowing that the City owns the property. Planner Whetstone pointed out that Lot 10 is part of the Thaynes Creek Phase 2 Subdivision. Mr. Gross was concerned that once a house is built on the lot, it would look tight compared to the Estate size lots that were being created for the adjacent subdivision.

Commissioner Gross appreciated the open space and believes it is a wonderful view corridor.

Steve Schuler, with Alliance Engineering, stated that the house sizes and landscaped areas in the exhibit were only to convey the approximate sizes being proposed in terms of building square footages. It was not necessarily the location of the building envelope that would be part of the plat per se.

Commissioner Gross asked about the locations of the barns. Mr. Richard stated that he spoke with Mr. Jorgensen, the owner of Lot 9 who would be affected, and he had no problems with it. His house sits up high and he likes the livestock.

Commissioner Wintzer pointed out that the Planning Commission was looking at an annexation. Questions regarding density, house size, roads, utilities, etc. should be addressed in the subdivision process rather than the annexation process. Planner Whetstone replied that this was correct. A final subdivision plat would come to the Planning Commission for a recommendation to the City Council once the property is in the City. The Planning Commission would review the final subdivision plat for conformance with the preliminary plat.

Mr. Richards noted that the CC&Rs would require that the barns remain a specific type. The barns would be uniform in style and color. He believed it would improve the appearance and the value of the properties.

Commissioner Hontz noted that the existing buildings and pasture to the west of Lot 8 were not included in the annexation. Mr. Richard replied that it belongs to his neighbors, who were present to speak at the public hearing. When Mr. Richards purchased his property in 1975, the previous owner had sold that one acre parcel to another buyer with a right-of-way coming from Pay Day

Drive over his property. Mr. Richards clarified that he had no control over the right-of-way. Planner Whetstone noted that the one acre parcel is in the City. The vacant parcel to the west of the one acre parcel is not, and it is not contiguous to this annexation.

Chair Worel opened the public hearing.

Haley McDonald spoke on behalf of her family who owns the lot adjacent to Lot 7. She thanked the Planning Commission for considering the impacts to the neighbors and for asking the right questions. She referred to the comment that Lot 7 would be in their face, and she noted that Mr. Richards had visited her family to explain the proposal. Ms. McDonald stated that her only concern is that currently the lot is vacant, but eventually there would be a house in their back yard. She was comfortable with the proposal as explained, however she wanted to make sure that it stayed the same with minimal changes because had already gone from four lots to five lots to now 7 lots. Ms. McDonald believed the current proposal was reasonable. She wanted to make sure the house would not have a reflective roof because it would reflect up into their house.

Mr. Richards stated that the HOA would have an architectural review committee to address those issues.

Ms. McDonald reiterated her concern that major changes would be made without the neighbors being aware. She asked how they would be notified if significant changes were made to this particular plat.

Commissioner Wintzer stated that this was an ongoing process. He urged Ms. McDonald to stay involved with every meeting until the project is approved. The neighbors have the responsibility to communicate with Staff to keep abreast of the process. Commissioner Wintzer remarked that it was also important for Ms. McDonald and others to continue to provide input.

Ms. McDonald appreciated the process and the fact that everyone was doing the right thing to insure minimal impacts. Mr. Richards owns the property and he should be able to develop it.

Kevin McCarthy stated that he spoke at the last public hearing. He has been a neighbor to Frank and Kathy Richards for 25 years and went was involved in a contentious process when Mr. Richards subdivided the lots on Pay Day Drive. Mr. McCarthy stated that Mr. Richards is the personification of the term 'Steward of the Land'. As Mr. Richards had mentioned, Mr. McCarthy had purchased the lot and was moving from up the canyon down to level ground. As soon as they know where the other house will be platted, his architect would work his house around it. Mr. McCarthy would be comfortable with whatever plan the City and Mr. Richards come up with.

Vicky Gabey stated that she has been a neighbor to the Richards for 37 years. She annexed into the City in the 1990's. Ms. favored the proposal. She asked the Planning Commission and Mr. Richards to remember the neighbors when planning the specifics of this project.

Chair Worel closed the public hearing.

Commissioner Hontz stated that she went through the materials the Staff supplied to Commissioner Gross, and she could not find a letter from the State verifying that there were no historic or cultural resources. She understood from the Code and in previous annexations that the City contacts the State for verification from their database, and the State provides a certified letter. That has been provided for every annexation and she would like to see it for this annexation.

Commissioner Hontz referred to the fiscal analysis and affordable housing analysis on pages 20 and 21 of the May 9<sup>th</sup> Staff report. She did not agree with the actual numbers that were used for that analysis and she believed the analysis was incorrect. However, after running numbers that she thought were more logical, her recommended change would not necessarily affect the outcome. As an example, Commissioner Hontz rejected the 50/50 split on primary versus secondary homes based on Summit County numbers. She would use the actual numbers from Aspen Springs or the adjacent neighborhoods because it would provide a better reflection of who would purchase in the area. Commissioner Hontz believed there would be less of a benefit with more primary owners than there would be with more secondary owners. Commissioner Hontz remarked that the numbers used in the data creation were not logical towards the reality of the development.

Commissioner Hontz stated that this was definitely the appropriate location for this type of development in terms of lot size and home size. It was also the exact appropriate location per the General Plan and what they were trying to accomplish with the update of the General Plan in terms of maintaining agricultural use in town. On the other hand, when the City does an annexation, particularly in this case where it would be up-zoning, the question is how this benefits the City and whether open space is enough. Commissioner Hontz believed this was an opportunity to think about additional benefits such as TDRs, better conserved open space, and/or affordable housing. It is a benefit for the land owner to go from zero to seven units, and the Planning Commission needs to find the benefits for the City.

Commissioner Wintzer was concerned about putting a fence around Lot 7. He preferred that Lot 7 appear to be more open. He thought it could be done by either reducing the size or shifting it into part of Lot 6. Commissioner Wintzer hated to see a white picket fence around some of the houses because the current appearance of the property is so nice.

Mr. Richards explained that he was only trying to get a farm feeling. He did not feel strongly about white fencing if the Planning Commission preferred a different type of fence. Commissioner Wintzer clarified that his comment was not about the type of fencing. He personally wanted a portion of Lot 7 to appear to be open space. Mr. Richards pointed out that all but 5% of the lot would be open space. Commissioner Wintzer replied that once the property is fenced it loses the appearance of being open. He thought Lot 7 was counterintuitive to the rest of the subdivision. If Lot 7 was moved further to the south, less trees would have to be removed for the road, and there would be less land disturbance and a feeling of more open space. Commissioner Wintzer thought Mr. Richards could do that and still achieve the same density and value. Commissioner Wintzer believed that Lot 7 was too big and pushes too far to the north. It needs to be more consistent with the rest of the subdivision.

Commissioner Strachan concurred with Commissioner Wintzer. He believed the development worked in this location and the annexation was worthwhile. Commissioner Strachan stated that as

part of the annexation process the Planning Commission makes a recommendation to the City Council regarding the zoning. He felt the zoning should be Estate rather than Single Family. It would not upset the proposed development and it would not reduce the number of homes. He read the purposes of the Estate zone and thought they fit perfectly with this proposal; as opposed to the purpose statements of the Single Family zone. The Estate zone is a better fit and it also protects the corridor in the future when Mr. Richards passes and another person owns the property.

Mr. Richard understood that the density was approved with the plat. Commissioner Strachan replied that owners can request a plat amendment that could be approved by a future Planning Commission if it is allowed in the zone. He explained how that might be avoided if the property was zoned Estate.

Commissioner Wintzer questioned whether the Estate zone would work because Mr. Richards would only be allowed four units under the zoning requirements. He suggested that the Planning Commission address the issue through the annexation agreement.

Mr. Richards stated that zoning was not an issue as long as he could achieve seven units.

Commissioner Savage pointed out that this was a co-application with the City related to annexation of the open space, and Mr. Richards has rights to utilize the open space for grazing. He wanted to know what would happen to those rights as a consequence of development. He asked if the right would go into the HOA or remain with the single lot Mr. Richards would continue to own.

Mr. Richards and the Commissioners discussed different scenarios that could occur. Planner Whetstone stated that in her research she found an agreement between Summit Land Conservancy, who holds the deed restriction, and the City. There appears to be a separate agreement that allows Mr. Richards to utilize that property and it had to do with the special warranty deed. Planner Whetstone pointed out that because the agreement regarding what occurs on the property is between the City and Summit Lands Conservancy, they need to find the agreement that allows Mr. Richards to use and maintain the property to see if it can be assigned to an HOA, and whether the restriction agreement between the City and Summit Lands Conservancy needs to be amended. Planner Whetstone would research the matter. Commissioner Wintzer understood from the comments that the main goal is to maintain the same use on the public land.

Commissioner Gross understood that when the City purchased the land, they also purchased water rights from Mr. Richard. Mr. Richards stated that he gave the City seven acre feet and they purchased three additional for a total of 10 acre feet of water. Mr. Richards uses the water to irrigate the property. He has approximately 20 acre feet associated with his 13-1/2 acres. He proposes to sell 2 acre feet to each lot.

Planner Whetstone summarized that the Planning Commission would like to relocate the building pad on Lot 7. Mr. Richards was comfortable with that request. Planner Whetstone asked if the Planning Commission had issues with dividing Lot 3, which was a horse lot, into two lots along Pay Day Drive. The Commissioners had no issue with dividing Lot 3.

Mr. Richards referred to the Staff recommendation to continue this item to October 24<sup>th</sup> and noted that he would not be able to attend that meeting.

MOTION: Commissioner Savage moved to CONTINUE the Richards/PCMC Annexation and Zoning until November 14, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

3. **Land Management Code Amendments – Chapter 1-General Provision and Procedures; Chapter 2-Zoning; Chapter 3-Off Street parking; Chapter 4-Supplemental Regulations; Chapter 5-Architecture Review; Chapter 6-Master Planned Development; Chapter 7-Subdivisions, Chapter 8-Annexation; Chapter 10-Board of Adjustment; Chapter 11-Historic Preservation; Chapter 12-Planning Commission; Chapter 15-Definitions. (Application #PL-12-01631)**

Chair Worel requested that Planner Whetstone review the LMC items that were recommended be continued this evening.

Planner Whetstone stated that the Staff noticed a number of additional changes beyond the analysis and redlined changes in the Staff report, and recommended that those items be continued for further analysis. The 22 items to be continued were outlined on page 79 of the Staff report. Planner Whetstone noted that the items were publicly noticed and they would be continued to the meeting on October 24<sup>th</sup>.

Planner Whetstone stated that the amendment to Chapter 6 regarding MPDs in the Historic District was redlined in the Staff report per the discussion from the last meeting. However, the Planning Commission had requested a history on MPDs, and since the Staff was still compiling that information they recommended continuing that discussion to October 24<sup>th</sup>. Planner Whetstone also recommended that the Planning Commission continue items 3, 5 and 7 in the Analysis Section to October 24<sup>th</sup>.

Commissioner Wintzer suggested that the motion to continue identify the amendments by Chapter as listed on page 80 of the Staff report. Chair Worel clarified that Chapters 2, 6, 7 and 15 would be continued. Commissioner Hontz noted that some items under those chapters were not recommended to be continued. However, she was not prepared to move forward with them this evening and would be comfortable if they were continued as well.

Chair Worel opened the public hearing on the items to be continued.

Chris Schaefer, a property owner in condominiums on Main Street, commented on MPDs in the Historic District, particularly as it pertains to the Kimball Arts Center application. Mr. Schaefer stated that the concept of a master planned development assumes a large area that is going to be developed, possibly multi-use and possibly crossing boundary lines. He noted that the proposed Kimball building does not meet criteria because it is a single building on a single lot within a single zone. He only became aware of the changes that day and had not had time to read and understand the proposed changes. Mr. Schaefer stated that as a property owner and a citizen he was concerned that the Kimball, by applying for master planned development status for their project, was trying to make a run around the Planning Commission. He hoped the proposed