

# PLANNING COMMISSION STAFF REPORT

## CAPITOL PARK SUBDIVISION STREET DEDICATION

Petition # PLNSUB2008-00902

### Subdivision Amendment and Planned Development Amendment



Planning and Zoning Division  
Department of Community and  
Economic Development

**Applicant:**

Capitol Park Subdivision Owners Association.

**Staff:**

Ray Milliner  
[ray.milliner@slcgov.com](mailto:ray.milliner@slcgov.com)  
(801)535-7645

**Current Zone:**

Foothill Residential (FR-3 / 12,000)

**Master Plan Designation:**

Avenues Residential

**Council District**

3 Stan Penfold

**Community Council**

Avenues

**Review Standards**

Chapter 14.54 Dedication of Private Streets to Public Ownership

**Affected Text Sections**

N/A

**Notification**

- Project Posted September 14, 2011
- Project Notice Mailed to Adjacent Property Owners September 14, 2011
- Posted on City web page September 15, 2011

**Attachments**

- A. Letter from Applicant
- B. Proposed Plats
- C. Comments from City Staff
- D. Public Comment

### *Request*

The Capitol Park Homeowner's Association, represented by Hirschi Christensen PLLC, is requesting a street and utility dedication along with a Planned Development amendment. The purpose of the applications is to transfer ownership and maintenance responsibility of the following streets from the owner's association to the City: Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove.

### *Recommendation*

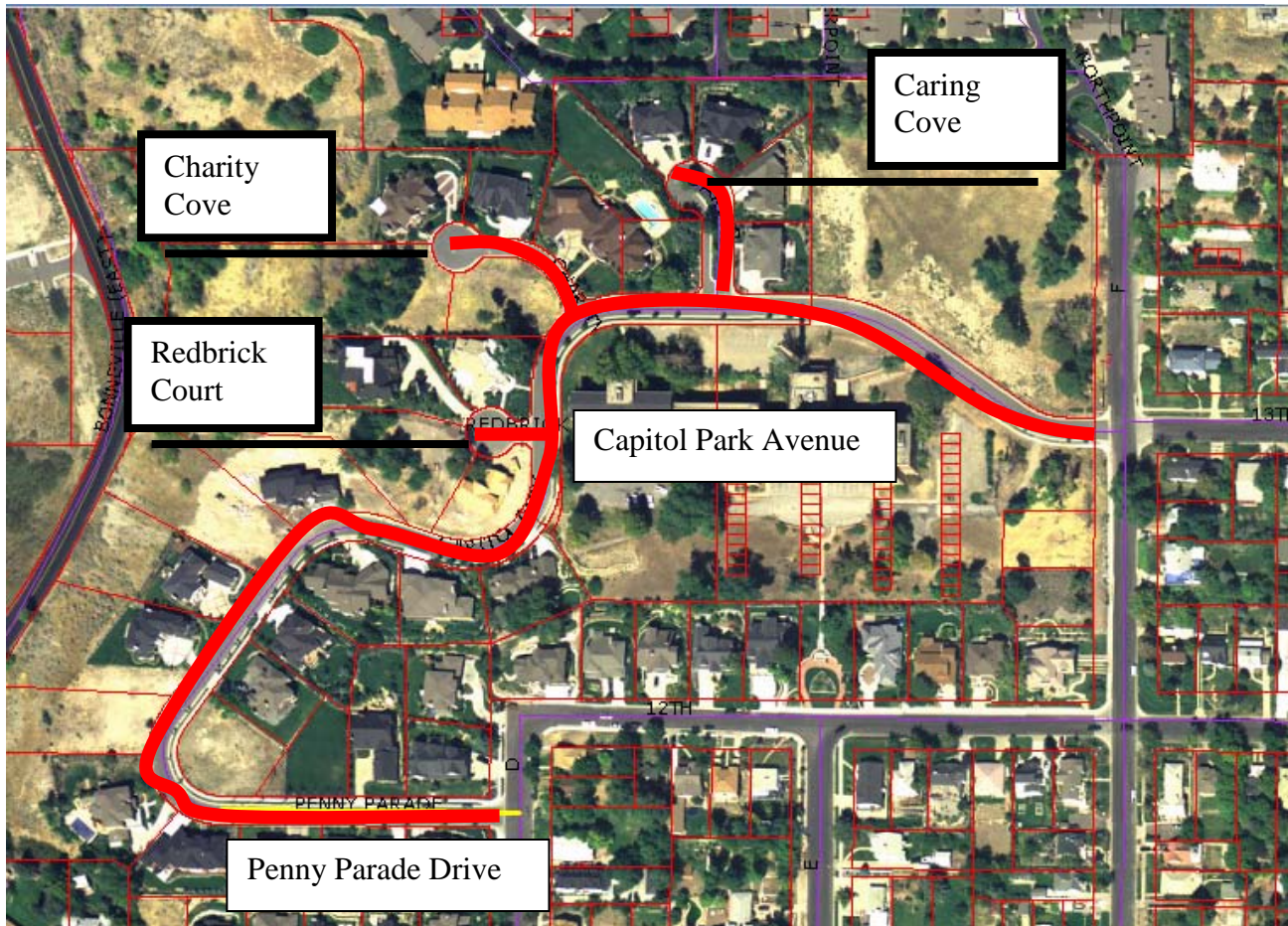
Staff recommends that the Planning Commission review the subdivision and planned development amendments to dedicate Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove and its associated utilities to City ownership and forward a negative recommendation to the City Council per the findings listed in this staff report.

### *Options*

A history of the project and its related issues are featured in the background section below. The following are possible Planning Commission options:

- Forward a negative recommendation to the City Council for the street and utility dedication and to deny the planned development amendment.
- Direct staff to return with findings to forward a positive recommendation to the City Council for both the planned development and the subdivision amendment.
- Direct the applicant to modify the street dedication and planned development amendment and return for further discussion or action.

## Vicinity Map



## Background Information

Capitol Park Subdivision is located in the Avenues approximately between C and F Streets, above 12<sup>th</sup> Avenue on the site of the old Veteran's and Primary Children's hospitals. On August 10, 1995, the Planning Commission approved a Subdivision and Planned Development for a 55 lot development on the site, the purpose of which was to reduce the required minimum lot area, lot width and setbacks. The plan centered on utilizing city streets along Twelfth Avenue, D and F Streets and creating internal private streets that were not built to City standards in order to support the density desired and limit the amount of grading and fill necessary to build the roads. The Commission approved the project with the following findings:

***“Finding:*** *Private streets allow a design which will help limit cut and fills required to place streets on steep slopes. Flexibility in altering zoning standards will help preserve the mature trees on this site.”*

***“Finding:*** *The topography of most of this site has been altered in the past. Grading will be limited, for the most part for street construction. However, more widespread grading is proposed in areas where parking lots now exists for the old Primary Children's Hospital. The greatest impact will be created by grading to connect the private streets between the upper and lower elevations of the site. Cuts and fills will be required to meet site development ordinance*

*standards (15 foot vertical maximum cut and fills). As mentioned, efforts have been made to preserve the existing trees on the site.”*

Following the approval, the developer built the infrastructure and sold the lots. Today a majority of the lots are developed with single family homes. The home owners maintain and operate the privately owned internal streets.

The applicant is requesting that the City Council, with a recommendation from the Planning Commission, agree to take ownership of Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove along with all City related utilities (water and sewer). This action would also transfer responsibility for maintenance, snow plowing, garbage pickup and utility maintenance from the home owner’s association to the City.

Various City divisions and departments have reviewed this application and provided comments. Comments state that there are issues that will need to be resolved between the homeowner’s association and the City prior to receiving final sign off of the street dedication. These issues include, but are not limited to:

1. Upgrades to the street improvements (includes sidewalks, curb, gutter etc.)
2. Creation of a special assessment district for street lights.
3. Removal of the landscaping island in Caring Cove to create a 20’ right-of-way.
4. Mitigation of the steep section of Capitol Park Avenue to provide access for emergency vehicles (this may include regrading the road or the creation of easements for turnaround areas for vehicles).
5. Further review of utilities to determine whether or not they will require significant upgrades to meet City standards.

Moreover, there is the question of the slope of Capitol Park Drive. The 1995 planned development approval found that the steep grade of the street was acceptable because it would be held privately. Had the street been proposed as a public right-of-way in excess of 10%, significant changes to the development plan would have been required, including grading, sidewalks, utility construction and road width. Today, these modifications are unreasonable, as they would require significant changes to the site that would more than likely require the removal of existing homes on the property. As a result, the only avenue for allowing the existing streets under the current slope standards is to modify the 1995 planned development allowing the street at a greater slope and width than is allowed by City Ordinance.

This request was reviewed by the Planning Commission as a work session item on May 27, 2009. At the hearing, it was determined that the application should be put on hold until a policy document (under review at the time) was adopted by the City Council. This would provide criteria and direction as to whether or not it was appropriate for the City to approve the application.

## **Request**

The Capitol Park Homeowner’s Association is the owner of Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove as well as the sewer utility lines within the subdivision. The association is requesting that these streets and utilities be dedicated to the City as publicly owned streets. This action would transfer ownership and maintenance responsibility from the Capitol Park Homeowner Association to the City. To succeed, the applicant must complete the following:

- Amend the Capitol Park Planned Development Phases 3 and 4 subdivision plats
- Amend the Meridian at Capitol Park Condominiums plat.
- Amend the August 10, 1995 planned development

An application to amend the Subdivision plats was submitted on December 11, 2008 and an application to amend the planned development was submitted on April 14, 2009.

## ***Master Plan Information***

The Capitol Park Subdivision is generally located north of Eleventh Avenue between C and F Streets in an area covered by the Avenues Master Plan. Most of the discussion regarding streets revolves around traffic circulation and calming. There is a specific section discussing future development of the area, but no discussion of a preference of road ownership.

## ***Public Participation***

This application was reviewed by the Greater Avenues Community Council who responded that they have no preference one way or the other with regard to this application.

## ***City Department Comments***

The proposal was reviewed by all applicable City departments and divisions. The review comments have been attached to this report as Exhibit C. There have been significant issues raised by the City that could prevent the proposal from proceeding. The applicant must comply with all City requirements.

## ***Analysis and Findings***

### **Policies and procedures for the dedication of a private street**

In October of 2010, the City Council adopted Chapter 14.54 in the City Ordinance establishing policy and procedures for the dedication of streets to public ownership. Staff has reviewed the proposed dedication as it relates to the policy and procedures, and provided the following analysis.

**Criteria A:** The City will not make a pro-active effort to bring private streets into public ownership unless there is a compelling public interest;

**Analysis:** To date, staff has not found a compelling reason to recommend the dedication of the street to the City. One of the criteria for granting a planned development is that the approval be in the best interest of the City. The findings of the 1995 planned development stated that although the applicant was receiving a reduction in the minimum lot size, and setbacks, the impacts of these reductions would be mitigated through reduced grading for the streets. The developer proposed to build internal streets that do not comply with City standards, and take ownership of them in order to achieve the desired lot size and setbacks. Were the streets dedicated to the City, it would essentially reverse the original finding that private ownership of the streets is in the best interest of the City.

Since the time of the 1995 approval, the ownership of the subdivision has transferred from the developer to the owner's association. Nevertheless, the original situation remains, the streets were built in a manner that does not meet the minimum requirements of the subdivision ordinance.

**Finding:** Staff finds that due to the fact that the original planned development was based on the finding that private ownership of the streets was in the best interest of the City, there is no compelling public interest to accept the street.

**Criteria B:** Private streets created as part of a platted subdivision will not be considered for public ownership unless there is a compelling public interest;

**Analysis:** Staff has been unable to establish a compelling reason for public ownership of the streets. They were recorded as private with the rationale that the developer would receive a desired lot size, and a setback reduction, and in turn, the City would receive a reduction in the visual impact of the streets on neighboring residents due to less grading and street width. The downside of the agreement, the cost of the maintenance of the streets, has now been passed from the developer to the residents of the subdivision. Nonetheless, the crux of the original agreement has not changed.

**Finding:** Staff finds no compelling public interest in the dedication of the streets and utilities to public.

**Criteria C:** Existing private streets may be considered for public ownership when requested by property owners abutting the private street. That request will come in the form of a Private Street Dedication Petition. The petition must be signed by property owners representing 100% of the total lineal front footage of the street. By signing the petition, the petitioners agree it is their intent to dedicate the street to public ownership;

**Analysis:** Although the applicant has not submitted the signatures of 100% of the residents along the street frontage, the owner's association is the petitioner, the owner of the street and the entity authorized to act for and in behalf of all property owners along the area in question. Therefore, by virtue of the owners association being the sole owner of the street, the representative of 100% of the owners on the street and the applicant, this requirement is met.

**Finding:** Staff finds that 100% of the owners along the street have indicated their intent to proceed with the proposed street and utility dedications to the City.

**Criteria D:** Private streets will not be considered for public ownership unless:

1. The underground utilities meet City standards or until the utilities are brought up to City standards;
2. The street surface features meet current City standards or are brought into an acceptable degree of compliance. Numerous factors will be considered through the petition process and the fact that the underground and surface standards are met does not guarantee that the street will be brought into public ownership. There are certain City standards that the City will not consider waiving or reducing (grade, surface, width), as they relate to health and safety and ability to provide services. Streets will not be considered for public ownership if they have less than 16 feet of clear paved way, not including parking. If the clear paved width, not including parking, is between 16 and 20 feet, the City will consider public ownership if there is a compelling public interest. Grade of the street must meet current City street grade standards; and

3. Deteriorated retaining walls and other private property features abutting the proposed public ownership are removed, repaired, or replaced by the property owners to ensure public safety;

**Analysis:** The City Engineering Division has conducted a detailed survey of what improvements would need to be made prior to any acceptance of the street to the City. The applicant has agreed to meet all requirements assuming approval. The detailed survey is attached as exhibit C.

**Finding:** Staff finds that prior to any final acceptance of the streets the applicant would need to make all required improvements (as conditioned by applicable City divisions) to the streets and utilities.

**Criteria E:** Salt Lake City will not pay the cost of underground (utilities, etc.) or surface (curb, gutter, sidewalks, concrete, etc.) improvements to bring the street up to City standards. The burden is on the private street property owners to fund necessary improvements. Private street property owners may pursue funding options to upgrade the street to City standards through the City's Community Development Block Grant (CDBG), Capital Improvement Program (CIP), or Special Assessment Area (SAA) programs) if the private street was not expressly created in a platted subdivision. City funds will not be expended on streets created as a part of a platted subdivision, on the policy basis that taxpayer funds should not be expended to address deficiencies in standards consciously chosen by the property developer. If directed by the Mayor, the City may make repairs to water or sewer lines in an emergency situation involving a substantial risk to health or safety and on the basis that the owner will reimburse the City;

**Analysis:** The applicant has not requested any financial assistance or that the City share in any cost to bring the streets and utilities into compliance. Any recommendation to approve the request would be conditioned with no cost to the City.

**Finding:** Staff finds that no request has been made to share costs.

**Criteria F:** If matching funding is requested from the City through the CDBG or CIP programs, or through creation of a SSA, the request will be considered through the routine processes for allocation of those funds and will not be given priority;

**Analysis:** No application for funding has been requested by the applicant to date. If one is received, it will be processed without the benefit of preferential treatment.

**Finding:** The proposed street and utility dedication meets this criterion.

**Criteria G:** The City will not agree to split the ownership of utilities and streets unless there is compelling public benefit;

**Analysis:** The applicant is proposing that all of the applicable utilities and streets be dedicated to the City. No joint ownership is proposed.

**Finding:** The proposed street and utility dedication meets this criterion.

**Criteria H:** If a private street was created as part of a Planned Development, the City will not pay, or share the cost of repairing or improving the street. If the street was created through a Planned Development, an amendment to the Planned Development is required. There must be a compelling public interest proven for public ownership to be considered. The amendment

process will be reviewed by the Planning Commission with a recommendation forwarded to the City Council;

**Analysis:** This private street was created as part of a Planned Development; as a result, the petition to dedicate the street includes a request for a modification to the aforementioned Planned Development.

As stated above, staff has not found a compelling reason to amend neither the Planned Development nor the subdivision plat. The streets were purposely built outside of the parameters of the Ordinance in order to gain a more favorable lot configuration on the site. In 1995, the Planning Commission found that the public benefit for the approval was less grading, and less visual impact of the street on adjacent properties. The developer built the subdivision, per this agreement, with the desired lot configuration and substandard streets. Since the time of construction, no substantive change has occurred on site that would warrant a modification to the approval.

**Finding:** Staff finds that neither the findings of the original planned development petition nor the physical configuration of the subdivision have substantively changed since 1995. Therefore, the request to modify the Planned Development does not represent a compelling reason for action.

**Criteria I:** The City has no affirmative duty to inform residents if their street or utility is private. However, as a courtesy, when a customer signs up for water service, the City will make a reasonable effort to inform the customer if their street or the water utility line is private;

**Analysis:** Affected departments are aware of this policy and will make every effort to comply with it when the need arises.

**Finding:** Staff finds that the above criterion is met.

**Criteria J:** The City will not take ownership of a street that does not allow public access;

**Analysis:** No gates or barriers to public access exist or are proposed on site.

**Finding:** The application meets this criterion.

**Criteria K:** The City will not take ownership of a street that is targeted for redevelopment as identified in a City master plan;

**Analysis:** The site is not proposed to be redeveloped in the City Master Plan.

**Finding:** The application meets this criterion.

**Criteria L:** The City must be able to safely and efficiently provide services (fire protection, garbage collection, snow removal, etc.) along the street in order to dedicate a private street to public ownership;

**Analysis:** The rationale for the minimum street width and slope requirements in the Subdivision Ordinance is to ensure that the streets, and therefore the neighboring residents have safe and efficient services provided by the City. The streets in question are not built to City standards with regard to width and slope, therefore, the ability of the City to provide services is diminished. Were this application to be

approved, a number of physical changes would need to be made on site to make it acceptable to the various City divisions, including

- Removal of the planter island on Caring Cove Drive.
- Creation of hammerhead turn around for fire trucks and ambulances on Penny Parade.
- Creation of new sidewalks along streets, with accessibility ramps.

**Finding:** Staff finds that as currently configured, the streets of Capitol Park Subdivision do not meet the minimum standards for dedication to the City. Were the Planning Commission and City Council to approve this petition, the applicant would need to meet all City Division requirements prior to final recordation of the plat.

**Criteria M:** No specific rights or guarantees for use of the street, such as on-street parking, are conveyed to private street owners when a private street becomes publicly owned; and

**Analysis:** No special guarantees are requested by the applicant.

**Finding:** The petition meets this criterion.

**Criteria N:** The City will not consider the acceptance of an existing private street to public ownership unless it is demonstrated that the street dedication achieves at least one of the following objectives:

1. The street currently provides, or can provide with improvements:
  - i. access to open space, public facilities/uses or other public amenities mid-block pedestrian access
  - ii. an improvement to the surrounding pedestrian or vehicular circulation pattern
  - iii. an identified planning goal as noted in the adopted master plan for the neighborhood
2. Dedicating the private street to public ownership will encourage reinvestment in the community
3. Dedication of the street will improve public health, safety, and general welfare.

**Analysis:** Were the Planning Commission and City Council to adopt the proposed street dedication, it would be a benefit in that the applicant would improve the streets (per the requirements of the City), thereby improving the surrounding pedestrian or vehicular circulation. As constituted, the streets are below the minimum City standard and therefore are not acceptable in our stable of streets.

**Finding:** Staff finds that were the streets improved per the requirements of the various City divisions, it would constitute an improvement to the pedestrian and vehicular circulation of the area.

### **Planned Development Amendment Criteria**

Section 21A.55.160 of the Zoning Ordinance states that modifications to an existing planned development are reviewed by the Planning Commission as a new application pursuant to the criteria in Chapter 21A.55 of the Ordinance. Staff has applied the petition and made the following findings:



It is the responsibility of the applicant to provide written and graphic evidence demonstrating compliance with the following standards:

- A. Planned Development Objectives:** The proposed planned development shall meet the purpose statement for a planned development (21A.55.010) and will achieve at least one of the objectives stated in said section.

**Analysis:** The purpose statement of planned developments (21A.55.010) states in part “a planned development will result in a more enhanced product than would be achievable through strict application of land use regulations, while enabling the development to be compatible and congruous with adjacent and nearby land developments.” In addition to meeting the purpose statement of planned developments, the proposed planned development must meet one of the objectives listed in Section 21A.55.010. In particular, staff finds that the existing planned development meets the following objective:

- Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion;

The applicant is requesting that the Planning Commission and City Council amend the 1995 Planned Development to allow dedication of a private street to public ownership. When it was approved, the Planning Commission made the following two findings:

*“**Finding:** Private streets allow a design which will help limit cut and fills required to place streets on steep slopes. Flexibility in altering zoning standards will help preserve the mature trees on this site.”*

*“**Finding:** The topography of most of this site has been altered in the past. Grading will be limited, for the most part for street construction. However, more widespread grading is proposed in areas where parking lots now exists for the old Primary Children’s Hospital. The greatest impact will be created by grading to connect the private streets between the upper and lower elevations of the site. Cuts and fills will be required to meet site development ordinance standards (15 foot vertical maximum cut and fills). As mentioned, efforts have been made to preserve the existing trees on the site.”*

These findings allowed the developer to build smaller lots with reduced setbacks. The trade off was that the street would remain private and the City would see a reduction in grading and preservation of natural resources. This quid pro quo warranted a finding that the application was consistent with the objectives of the Planned Development process. If the City reverses that decision, and decides to accept the streets and utilities as public, then a major component of the 1995 findings would be negated and the objective of the Planned Development would not be met.

**Finding:** Staff finds that the proposed planned development amendment does not meet the purpose statement of the Planned Developments chapter (21A.55.010) as it will negate the original findings of the 1995 approval.

- B. Master Plan and Zoning Ordinance Compliance:** The proposed planned development shall be:

- a. Consistent with any adopted policy set forth in the citywide, community, and/or small area master plan and future land use map applicable to the site where the planned development will be located, and
- b. Allowed by the zone where the planned development will be located or by another applicable provision of this title.

**Analysis:** The proposed amendment is not consistent with Chapter 14.54 Dedication of private streets to City ownership. The petition does not meet the minimum requirements for dedication as stated in that document (see staff analysis above).

**Finding:** The proposal does not meet this standard.

**C. Compatibility:** The proposed planned development shall be compatible with the character of the site, adjacent properties, and existing development within the vicinity of the site where the use will be located. In determining compatibility, the Planning Commission shall consider:

- a. Where the street or other means of access to the site provide the necessary ingress/egress without materially degrading the service level on such street/access or any adjacent street/access;
- b. Whether the planned development and its location will create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected, based on:
  - i. Orientation of driveways and whether they direct traffic to major or local streets, and, if directed to local streets, the impact on the safety, purpose and character of these streets;
  - ii. Parking area locations and size, and whether parking plans are likely to encourage street side parking for the planned development which will adversely impact the reasonable use of adjacent property;
  - iii. Hours of peak traffic to the proposed planned development and whether such traffic will unreasonably impair the use and enjoyment of adjacent property.
- c. Whether the internal circulation system of the proposed planned development will be designed to mitigate adverse impacts on adjacent property from motorized, non-motorized and pedestrian traffic;
- d. Whether existing or proposed utility and public services will be adequate to support the proposed planned development at normal service levels and will be designed in a manner to avoid adverse impacts on adjacent land uses, public services and utility resources;
- e. Whether appropriate buffering or other mitigation measures, such as, but not limited to, landscaping, setbacks, building location, sound attenuation, odor control, will be provided to protect adjacent land uses from excessive light, noise, odor and visual impacts and other unusual disturbances from trash collection, deliveries and mechanical equipment resulting from the proposed planned development; and,
- f. Whether the intensity, size and scale of the proposed planned development is compatible with adjacent properties.

**Analysis:** Were the Planning Commission and City Council to adopt the proposed street dedication, it would be a benefit in that the applicant would improve the streets (per the requirements of the City), thereby improving the surrounding pedestrian or vehicular circulation.

**Finding:** Staff finds that were the streets improved per the requirements of the various City divisions, it would constitute an improvement to the pedestrian and vehicular circulation of the area.

**D. Landscaping:** Existing mature vegetation on a given parcel of development shall be maintained. Additional or new landscaping shall be appropriate for the scale of the development, and shall primarily consist of drought tolerant species.

**Analysis:** No existing mature vegetation would be impacted as part of this application.

**Finding:** The proposal meets this standard.

**E. Preservation:** The proposed planned development shall preserve any historical, architectural and environmental features of the property.

**Analysis:** No historic or architecturally significant features are impacted as part of this application.

**Finding:** The proposed planned development meets this standard.

**F. Compliance with Other Applicable Regulations:** The proposed planned development shall comply with any other applicable code or ordinance requirement.

**Analysis:** In addition to the Planned Development criteria, this petition has been reviewed under Chapter 14.54 of Title 14 Streets Sidewalks and Public Ways, and Title 20, Subdivisions of the City Ordinance. Analysis for each of these sections is provided in this document.

**Finding:** The proposed planned development meets this standard.

### **Subdivision Amendment**

Section 20.31.180 of the City Ordinance requires that the Planning Commission review all subdivision amendments involving streets and shall approve or deny a subdivision amendment petition with specific findings of fact, according to the standards for approval set forth in section [20.31.090](#) of the Ordinance. Said standards are featured below, with staff analysis.

**Standard A:** The amendment will be in the best interests of the city;

**Analysis:** To date, staff has not found a compelling reason to recommend the dedication of the street to the City. One of the criteria for granting a planned development is that the approval be in the best interest of the City. The findings of the 1995 planned development stated that although the applicant was receiving a reduction in the minimum lot size, and setbacks, the impacts of these reductions would be mitigated through reduced grading for the streets. The developer agreed to build internal streets that do not comply with City standards, and take ownership of them in order to achieve the desired lot size and setbacks. Therefore, were the streets dedicated to the City, it would essentially reverse the original finding that private ownership of the streets is in the best interest of the City.

Since the time of the original approval, the ownership of the subdivision has transferred from the developer to the owner's association. Nevertheless, the original situation remains, that they were built in a manner that does not meet the minimum requirements of the subdivision ordinance.

**Finding:** Staff finds that due to the fact that the original planned development was based on the finding that private ownership of the streets was in the best interest of the City, there is no compelling public interest to accept the street.

**Standard B:** All lots comply with all applicable zoning standards;

**Analysis:** This standard is not applicable, as no lots will be affected by the petition.

**Finding:** This standard is not applicable

**Standard C:** All necessary and required dedications are made;

**Analysis:** The purpose of this petition is to dedicate the internal streets and utilities in the Capitol Park subdivision to the City. If it is approved, all necessary dedications will be made as part of the final plat process, prior to recordation of the plat.

**Finding:** Staff finds that prior to the final recordation of the plat all necessary dedications will be made and featured on said plat.

**Standard D:** Provisions for the construction of any required public improvements are included;

**Analysis:** Various City divisions and departments have reviewed this application and provided comments. Comments state that there are issues that will need to be resolved between the homeowner's association and the City prior to receiving final sign off of the street dedication. These issues include, but are not limited to:

1. Upgrades to the street improvements (includes sidewalks, curb, gutter etc.)
2. Creation of a special assessment district for street lights.
3. Removal of the landscaping island in Caring Cove to create a 20' right-of-way.
4. Mitigation of the steep section of Capitol Park Avenue to provide access for emergency vehicles (this may include regrading the road or the creation of easements for turnaround areas for vehicles).
5. Further review of utilities to determine whether or not they will require significant upgrades to meet City standards.

**Finding:** Staff finds that the applicant will work with staff to determine what work is necessary prior to final recordation of the plat.

**Standard E:** The amendment complies with all applicable laws and regulations; and

**Analysis:** In addition to the Planned Development criteria, this petition has been reviewed under Chapter 14.54 of Title 14 Streets Sidewalks and Public Ways, and Title 21A.55 of the Zoning Ordinance. Analysis for each of these sections is provided in this document. Staff's finding is that the application falls short in the application of the required standards and criteria of these sections.

**Finding:** The proposed planned development does not meet this standard.

**Standard F:** The amendment does not materially injure the public or any person and there is good cause for the amendment.

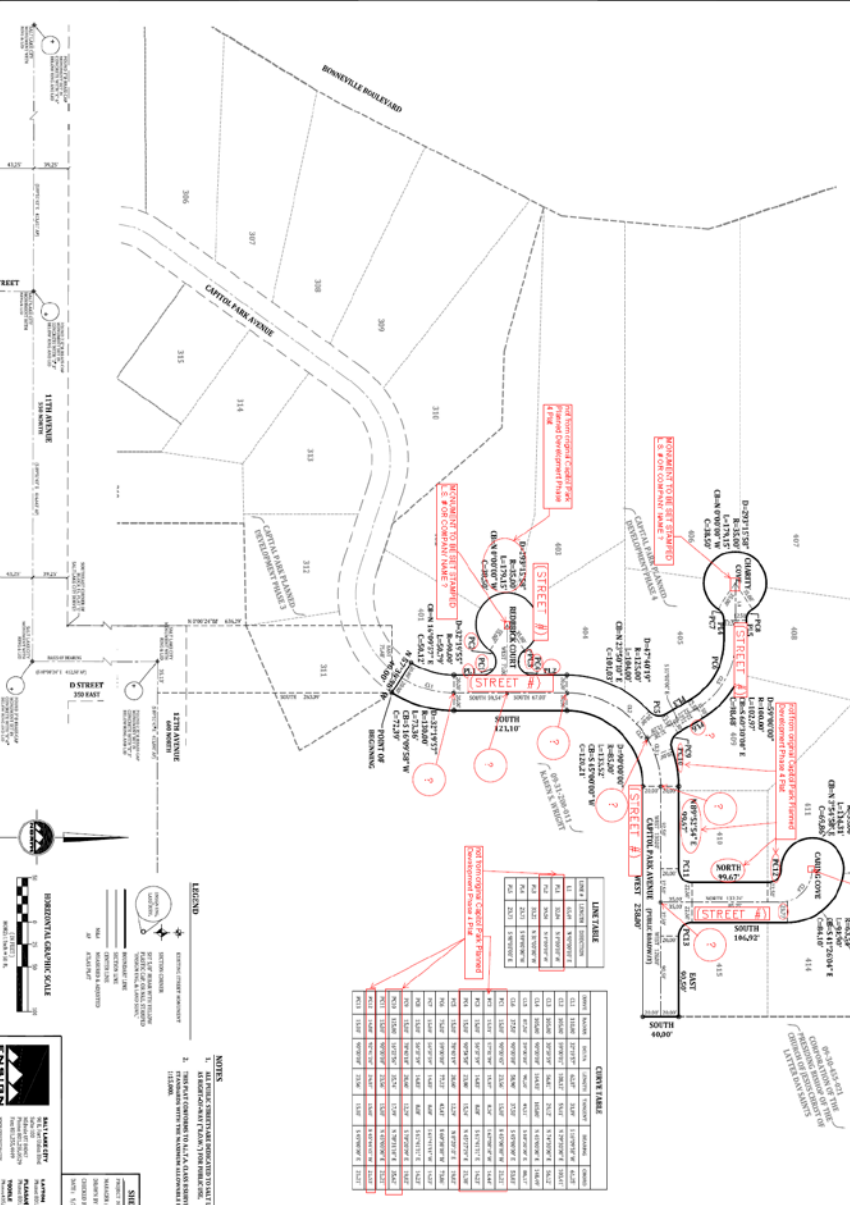
**Analysis:** As stated above, staff has not found a compelling reason to amend neither the Planned Development nor the subdivision plat. The streets were purposely built outside of the parameters of the Ordinance in order to gain a more favorable lot configuration on the site. In 1995, the Planning Commission found that the public benefit for the approval was less grading, and less visual impact of the street on adjacent properties. The developer built the subdivision, per this agreement, with the desired lot configuration and substandard streets. Since the time of construction, no substantive change has occurred on site that would warrant a modification to the approval.

**Finding:** Staff finds that neither the findings of the original planned development petition nor the physical configuration of the subdivision have substantively changed since 1995. Therefore, the request to modify the subdivision does not represent a compelling reason for action.

***Attachment A***  
Subdivision Amendments

**CAPITAL PARK PLANNED DEVELOPMENT PHASE 4 AMENDED**  
**DEDICATION OF CAPITAL PARK AVENUE, REDBRICK COURT, CHARITY COVE & CARING COVE**

TOWNSHIP 1 NORTH, RANGE 1 EAST, SECTION 10, T49N, R100E, S45E  
 SULLY LAKE CITY, SULLY LAKE COUNTY, IOWA



LIVING TABLE		CARRY TABLE	
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126	154.21	126	154.21
127	154.21	127	154.21
128	154.21	128	154.21
129	154.21	129	154.21
130	154.21	130	154.21

**OWNER'S DECLARATION**  
 I, the undersigned, being the owner of the above described land, do hereby declare that the above described land is my own and is not subject to any other claims or interests.

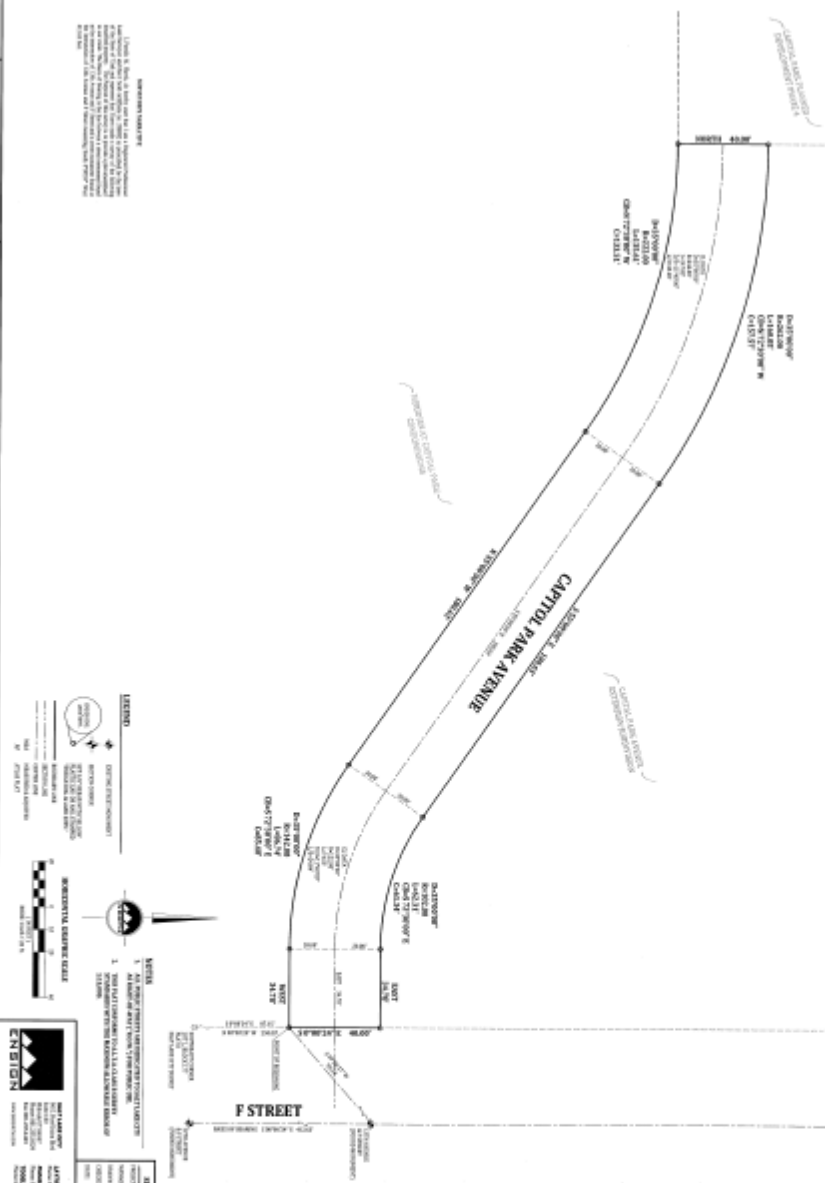
**DEMONSTRATION**  
 The undersigned hereby demonstrates that the above described land is my own and is not subject to any other claims or interests.

**NOTARIES PUBLIC**  
 My commission expires on the 1st day of January, 2024.

**ACKNOWLEDGEMENT**  
 Subscribed and sworn to before me on this 10th day of January, 2024.

NO.	DESCRIPTION	DATE
1	APPROVED BY THE CITY ENGINEER	1/10/24
2	APPROVED BY THE CITY ATTORNEY	1/10/24
3	APPROVED BY THE CITY COMMISSIONERS	1/10/24

**THE MERIDIAN AT CAPITAL PARK CONDOMINIUMS AMENDED  
DEDICATION OF CAPITAL PARK AVENUE**  
 LOCATED IN THE NORTHERN QUARTER OF SECTION 11,  
 TOWNSHIP 1 NORTH, RANGE 102 EAST, T102R01N01E,  
 SALT LAKE CITY, SALT LAKE COUNTY, UTAH



**LEGEND**

EXISTING DEDICATION  
 PROPOSED DEDICATION  
 EXISTING EASEMENT  
 PROPOSED EASEMENT  
 EXISTING CURB  
 PROPOSED CURB

**NOTES**

1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. THE DEDICATION IS SUBJECT TO THE EXISTING EASEMENTS AND RIGHTS OF WAY SHOWN ON THIS PLAN.  
 3. THE DEDICATION IS SUBJECT TO THE EXISTING UTILITIES SHOWN ON THIS PLAN.

**SCALE**

1" = 40'

<b>PROJECT</b> THE MERIDIAN AT CAPITAL PARK CONDOMINIUMS AMENDED DEDICATION OF CAPITAL PARK AVENUE	<b>OWNER</b> MILLIKEN CONDOMINIUMS ASSOCIATION	<b>DESIGNER</b> ZACHRY GROUP	<b>DATE</b> 10/15/2018
<b>PROJECT NO.</b> 18001	<b>OWNER NO.</b> 18001	<b>DESIGNER NO.</b> 18001	<b>DATE</b> 10/15/2018
<b>PROJECT NO.</b> 18001	<b>OWNER NO.</b> 18001	<b>DESIGNER NO.</b> 18001	<b>DATE</b> 10/15/2018
<b>PROJECT NO.</b> 18001	<b>OWNER NO.</b> 18001	<b>DESIGNER NO.</b> 18001	<b>DATE</b> 10/15/2018

**CONDOMINIUM DECLARATION**

The undersigned, being the duly authorized representatives of the Milliken Condominiums Association, do hereby certify that the above described property is part of the Milliken Condominiums Association, a condominium project in Salt Lake County, Utah, and that the same is being dedicated to the public use and enjoyment of the community as a public street.

**DECLARATION OF INTEREST**

I, the undersigned, being the duly authorized representative of the Milliken Condominiums Association, do hereby certify that I am not a party to this declaration and that I have no interest in the property described herein.

**OWNER'S CERTIFICATION**

I, the undersigned, being the duly authorized representative of the Milliken Condominiums Association, do hereby certify that the above described property is part of the Milliken Condominiums Association, a condominium project in Salt Lake County, Utah, and that the same is being dedicated to the public use and enjoyment of the community as a public street.

**DECLARATION OF INTEREST**

I, the undersigned, being the duly authorized representative of the Milliken Condominiums Association, do hereby certify that I am not a party to this declaration and that I have no interest in the property described herein.

**THE MERIDIAN AT CAPITAL PARK AMENDED DEDICATION OF CAPITAL PARK AVENUE**

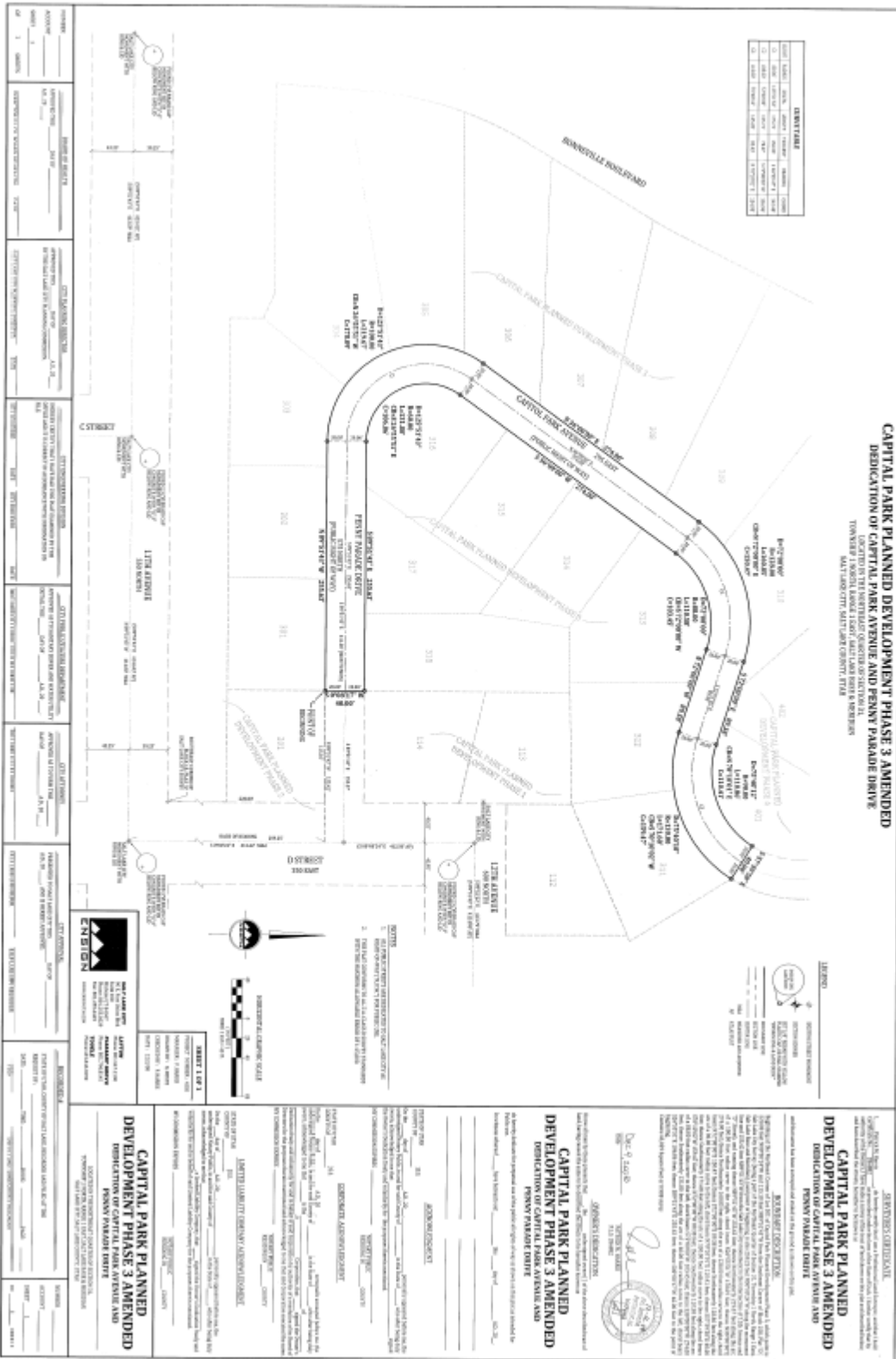
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**DECLARATION OF INTEREST**

I, the undersigned, being the duly authorized representative of the Milliken Condominiums Association, do hereby certify that I am not a party to this declaration and that I have no interest in the property described herein.





Petition #PLNPCM2008-00902 Capitol Park Subdivision Street Dedication

***Attachment B***  
Letter from Applicant

**HIRSCHI | CHRISTENSEN**  
ATTORNEYS AT LAW, PLLC

DAVID P. HIRSCHI  
dhirschi@hclawfirm.net

JUSTIN R. BAER  
jbaer@hclawfirm.net

May 30, 2008

*Via First Class U.S. Mail and Email to eric.jergensen@slcgov.com*

K. Eric Jergensen  
Salt Lake City Council District Three  
PO Box 145476  
Salt Lake City, UT 84114-5476

Re: Dedication of Private Streets in the Capitol Park Subdivision

Dear Councilman Jergensen:

Thank you for meeting with me to discuss the public dedication of the private streets and utilities located within the Capitol Park Subdivision. As you requested in our meeting, I have drafted some proposed public policy considerations regarding the dedication of private streets and utilities. My initial thoughts are as follows:

**STREETS**

The following policies shall be considered by the Planning Commission and City Council in determining whether to accept a public dedication of private streets. Approval of a dedication does not require that each of the following policies be met, and the order of the policies is not intended to determine the weight or importance to afford each policy.

I. Benefit of the General Public – The streets are in use by members of the general public, rather than just the residents of the private subdivision. The streets connect to public streets, create traffic flow, aid to decrease traffic congestion of the surrounding public streets, and are otherwise beneficial to the overall plan for urban development.

II. Condition of Streets – The streets are in good condition, or are upgraded to City standards by the private owners, and the City will not need to make repairs or improvements within a reasonable time after the dedication.

III. Emergency Services – The Salt Lake City Police Department and the Salt Lake City Fire Department must certify that the streets, including the

136 EAST SOUTH TEMPLE, SUITE 1400, SALT LAKE CITY, UTAH 84111  
PHONE: 801.303.5800 FAX: 801.322.0594

access to the roads, are sufficient to provide emergency services such as police patrols, fire safety, ambulance services, and other emergency services.

IV. Public Works – The Salt Lake City Public Works Department must certify that the streets, including the access to the streets, are sufficient to provide public works services such as snow removal, garbage removal, and other related services.

V. Speed Limits – The design of the streets and the makeup of the neighborhood, whether residential or commercial, allow the speed limit of the streets to match the speed limit of the neighboring or connecting streets, thereby enabling a continuity of speed limits.

VI. Significant Change in Usage or Neighborhood Makeup – The public dedication of private streets will only be appropriate when there is a significant change in the nature of the neighborhood, such as the rezoning of a contiguous property from residential to commercial, or the construction of a building for the use of the public, or an increase in the population of the neighborhood. A change in the neighborhood will only be considered “significant” if it has the effect of increasing the traffic flow on the private streets, thereby creating an undue burden on the owners of the private streets.

VII. Authority to Convey Title – The owner of the streets conveying title to the City shall warrant that the owner has authority to convey title free of encumbrances, and shall provide a policy of title insurance identifying the City as the named insured.

VIII. Future Development – The streets are located in an area where future development is contemplated, making it foreseeable that members of the general public will have use of the streets once the future development is completed. Future development can mean construction of commercial buildings, residences, public buildings, or construction of additional connecting streets.

#### UTILITIES

The following policies shall be considered by the Planning Commission and City Council in determining whether to accept a public dedication of private utility lines. Approval of a dedication does not require that each of the following policies be met, and the order of the policies is not intended to determine the weight or importance to afford each policy.

I. Benefit of the General Public – The utility lines are in use by members of the general public, rather than just the residents of the private

subdivision. The private utility lines connect to public lines, are part of the overall City grid system, and are otherwise beneficial to the overall plan for urban development.

II. Condition of Utilities – The utility lines are in good condition, or are upgraded to City standards by the private owners, and the City will not need to make repairs or improvements within a reasonable time after the dedication.

III. Future Development – The utility lines are located in an area where future development is contemplated, making it foreseeable that the private utility lines will be used to service the new development. Future development can mean construction of commercial buildings, residences, or other public buildings.

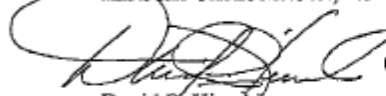
These policies are obviously a first draft, and I would like to meet with you to discuss these policies and obtain your input. I think it would also be beneficial for Rick Graham, Max Peterson, and Jeff Niermeyer to be in attendance. I will be out of the office from June 9 through June 20, and if at all possible I would like to meet with you before I leave. Please let me know if you would be available sometime next week, June 2 through 6. Otherwise, please let me know when you would be available after I return to the office on June 23.

In regards to our Dedication Proposal, we have spoken with Quinn Card regarding the appropriate form. Mr. Card put us in contact with the Planning Department, and we have been told there is no specific form to use. A city planner suggested that we use the form for amendment to a subdivision plat. We believe that is a good suggestion. However, the application to amend a subdivision plat requires the submission of the proposed plat at the same time as submitting the application. We have asked a surveyor at ESI, the same engineering firm that drafted the original Capitol Park Subdivision plats, to draft a dedication plat. The surveyor suggested that we first submit the dedication proposal to the City, then obtain guidance from the City regarding what will be required to be included on a dedication plat. In addition to discussing the proposed public policy considerations, I would also like to discuss your thoughts on this issue.

I appreciate your assistance in this matter, and I look forward to hearing from you.

Sincerely,

HIRSCHI CHRISTENSEN, PLLC



David P. Hirschi  
Justin R. Baer

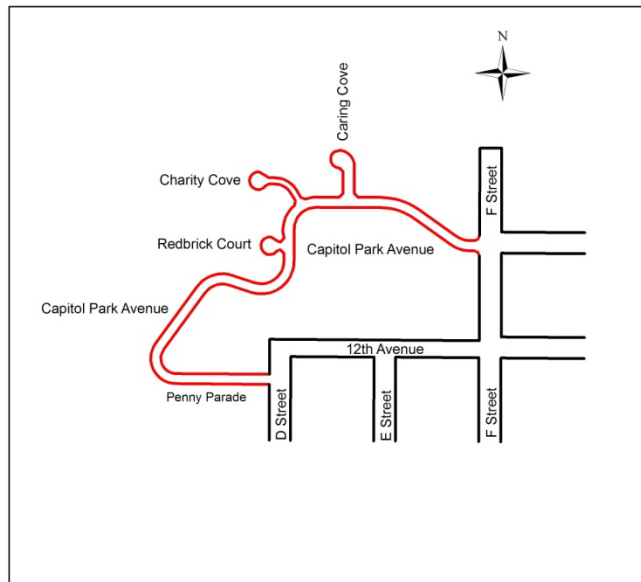
cc: Board of Trustees, Capitol Park Homeowners Association

***Attachment C***  
City Department Comments

# Capitol Park PUD Improvements Report

June 20, 2011

The Capitol Park PUD private streets proposed for public right-of-way dedication were constructed in phases during 1996 and 1997. The street names are: Penny Parade Drive, Capitol Park Avenue, Redbrick Court, Charity Cove, and Caring Cove. The layout of these streets is shown in the image below.



A field review of the existing improvements that lie within these streets was conducted in 2008. Another inspection/evaluation took place this month. Requirements for SLC Engineering to approve the proposed dedication are shown below in red type.

## **Street Geometry Evaluation**

### **Capitol Park Avenue & Penny Parade Drive (combined)**

2312' long and 26.5' asphalt width

*The SLC Fire Department will determine what is acceptable/required regarding the steep slope of Capitol Park Avenue.*

### **Caring Cove**

220' long and asphalt width varies 10' to 27'

*The limited width raises concerns that need to be reviewed and approved by the SLC Fire Department.*

### **Charity Cove**

232' long and 19.5' asphalt width (64' diameter in the cul-de-sac bulb)

### **Redbrick Court**

90' long and 21.5' asphalt width (64' diameter in the cul-de-sac bulb lip to lip of gutter)

## **Asphalt Pavement Evaluation**

The streets were constructed with three inches of asphalt over eight inches of road base. There have been no surface treatments since the roads were built but they have been crack sealed within the last five years. The majority of the street surfaces are in generally good condition. Some pavement patching due to utility work has occurred a few years after the original streets were constructed. Several isolated repairs are now needed in Penny Parade Drive and Capitol Park Avenue, and the long longitudinal utility trench north of the Meridian Park Condominiums has gotten worse since 2008.

### *Pavement requirements for dedication:*

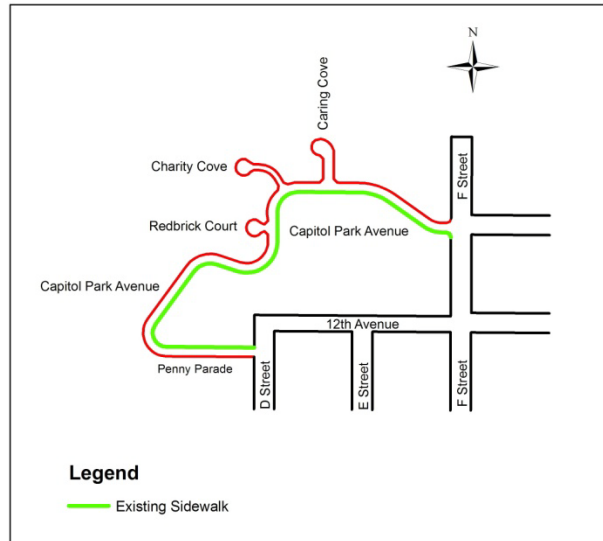
- *Repair the failing patch at 310 Penny Parade Drive.*
- *Repair the pothole at 290 Capitol Park Avenue.*
- *Mill and replace the area of raveled asphalt at 623 Capitol Park Avenue.*
- *Remove and replace the asphalt (3" thick) for the full width of the street and the full length of the failed utility trench patch on Capitol Park Avenue.*
- *Replace the crumbling concrete water valve collars at the entrance to Redbrick Court with new concrete.*
- *After the above repairs are completed, install a microsurface seal on all the asphalt of the streets proposed to be dedicated.*





### **Concrete Improvements Evaluation**

Sidewalk exists along one side of Penny Parade Drive and Capitol Park Avenue (see image below). Although this does not comply with the SLC Standard for public residential streets, the SLC Transportation Division has indicated that this is not inconsistent with many other hillside streets that have sidewalk on just one side of the street. The sidewalk is in good condition with the exception of 4 broken panels (in a drive approach) just east of Redbrick Court. No sidewalk exists along Redbrick Court, Charity Cove, or Caring Cove. Sidewalk is not required to be installed on these short streets for dedication.



### ***Sidewalk requirements for dedication:***

- ***Replace 4 broken panels of sidewalk on Capitol Park Avenue east of Redbrick Court (photo below).***



Several accessibility ramps were installed as part of the PUD. Two are located on the northwest and southwest corners of the intersection of Penny Parade and “D” Street, which is already a dedicated public street intersection. The only ramp within the area proposed for dedication is at the southwest corner of the intersection of “F” Street and Capitol Park Avenue. It does not meet ADA slope guidelines or detectable warning surface guidelines (it has no truncated domes).

*Accessibility ramp requirements for dedication:*

- *Remove and replace the ramp at “F” Street/Capitol Park Avenue to meet ADA slope and detectable warning surface guidelines.*

Curb and gutter was installed with the PUD streets. Although the type of gutter in Redbrick Court, Charity Cove, and Caring Cove is rolled gutter (not the typical curb & gutter used commonly in the City), replacement is not deemed necessary to approve the proposed dedication. The majority of the curb and gutter is in good condition. However, two sections on Capitol Park Avenue that were reconstructed during the condominium project do not drain and a water valve is in the curb.

*Curb & gutter requirements for dedication:*

- *Relocate the water valve out of the curb and replace two sections of curb & gutter on Capitol Park Avenue so that the gutter drains without ponding (photos below).*



Several of the drive approaches drain onto private property towards homes and garages. Although revising this condition is not deemed necessary to approve the proposed dedication, the City will not be responsible for any damage to private property caused by drainage from these drive approaches.

Two drive approach locations require work to comply with City standards.

*Drive approach requirements for dedication:*

- *Construct a drive approach at approximately 360 Capitol Park Avenue in accordance with APWA Standard Plan 225 (left photo below). This is the same location where sidewalk needs to be replaced.*

- *Remove and replace the western portion of the drive approach on Capitol Park Avenue, south of Caring Cove, so it aligns with the existing driveway it serves. Relocate the water valve that is currently in this approach (right photo below).*



### **Retaining Wall Evaluation**

*An item of serious concern is the block retaining wall on the north side of Capitol Park Avenue. Additional deterioration has occurred during the past three years. Blocks are cracking and crumbling, and the wall appears to be bulging at the base in one location.*

### ***Retaining wall requirements for dedication:***

- *Remove and replace the existing wall with a wall designed by a licensed engineer and approved by SLC Building & Housing Services (photos below).*





### **Miscellaneous Evaluation**

#### ***Additional requirements for dedication:***

- ***New survey monuments are required at the locations shown on the plats that have been redlined by the SLC Surveyor. Existing street improvements must be within the proposed dedicated public right-of-way. The surveyor installing the new survey monuments will need to survey the locations of improvements to confirm that they are in the proposed public right-of-way.***
- ***Obtain SLC Department of Public Utilities approval of the air relief valve on Capitol Park Avenue north of the Meridian Park Condominiums (photo below).***
- ***SLC Engineering reserves the right to inspect the installation of items listed in this report, as well as items listed as conditions of approval from other City departments, and any damage to existing improvements that may occur as a result of their installation, prior to final approval of the proposed right-of-way dedications.***



***Maintenance responsibilities, if the proposed public right-of-way dedications occur, will be as follows:***

- ***The Streets Division of the SLC Department of Public Services will plow snow and maintain the asphalt pavement on these streets and pick up garbage along them once a week.***

- *See comments from SLC Transportation pertaining to street lighting.*
- *The City will not become responsible for the maintenance and repair of decorative monuments.*
- *The City will not become responsible for maintenance of landscaping or sprinkling systems, such as the existing landscaped island in Caring Cove.*
- *Residential property owners within the Capitol Park Subdivision will not be absolved of all maintenance of public way sidewalk, drive approach and curb & gutter improvements along their street frontage. See City Ordinance 14.32.305 for further clarification of these responsibilities.*

Photos of each street taken in 2008:

**Penny Parade Drive**



**Penny Parade Drive**



**Capitol Park Avenue**



**Capitol Park Avenue**



**Capitol Park Avenue**



**Capitol Park Avenue**





**Capitol Park Avenue**



**Capitol Park Avenue**





**Red Brick Court**



**Charity Cove**



**Caring Cove**

**Address:** Penny Parade Drive  
**Project Name:** Capitol Park Subdivision-Street dedication of Penny Parade Drive.  
**Contact:** Ray Milliner 535-7645  
**Date Reviewed:** January 21, 2009  
**Zone:** ?

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

**Ted Itchon/Fire:**

Grade not greater than 10%, outside radius 45 ft, inside 20 ft. 20' wide, and 13' 6" height clearance.

**Brad Stewart/Public Utilities:**

SLC Public Utilities has been in negotiations with Capitol Park HOA. There are several water, sewer, and storm drain matters to resolve before these private utilities become public. If the street goes public, then the wet utilities in the street should also become public. Public Utilities will need to review the files to determine how far along the HOA is in preparing for the water, sanitary sewer, and storm drain to be public.

Recommend allowing Public Services to also review the proposal to determine if there are any maintenance, snow plowing, or garbage collection, signage, etc. issues. I know one reason that this street is private now is because of a slope greater than our standard.

**Scott Weiler/Engineering:**

Utility and roadway improvements required to dedicate the R.O.W. will be listed. Jeff Niermeyer has the Public Utility list. I'll combine it with Engineering's and send it to Dave Hirschi.



FOR OFFICE USE ONLY

# Preliminary Development Review Team

Flag Number:  
Date Reviewed: March 2, 2009  
Zone:

The Development Review Team (DRT) is designed to provide **PRELIMINARY** review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

SALT LAKE CITY CORPORATION

Project Address: **Penny Parade Drive** Certified Address: Yes  No   
Project Name: **Capitol Park Sub Street Dedication**  
Contact Person: **Ray Milliner** Telephone: **801 535-7645**  
Attendees:

Reviewed by: S. WEICER Dept.: ENGINEERING Date: 3/1/09  
Project Description: **Penny Parade street dedication.**

Comments: The City Council staff is exploring/developing a process that will enable a private street to be dedicated for public use. After this process has been decided, a full size plot must be submitted for the City surveyor to review.  
Some upgrades to the street improvements will be needed before dedication.

2/06



FOR OFFICE USE ONLY

# Preliminary Development Review Team

Flag Number:  
Date Reviewed: March 2, 2009  
Zone:

The Development Review Team (DRT) is designed to provide **PRELIMINARY** review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

SALT LAKE CITY CORPORATION

Project Address: **Penny Parade Drive** Certified Address: Yes  No

Project Name: **Capitol Park Sub Street Dedication**

Contact Person **Ray Milliner** Telephone: **801 535-7645**

Attendees: *Ken B Ed L SW.*

Reviewed by: *Sorey Walsh* Dept.: *TRANS* Date: *3/2/09*

Project Description: **Penny Parade street dedication.**

Comments: *Trans will Post the "N/P" Signage on  
a complaint Basis Per Residues and at  
the Fire Marshal.  
The Association will need to Create a  
Special Assesment District for the street Light  
prior to Dedication*

2/06



# Preliminary Development Review Team

FOR OFFICE USE ONLY

Flag Number:

Date Reviewed: March 2, 2009

Zone:

The Development Review Team (DRT) is designed to provide **PRELIMINARY** review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

SALT LAKE CITY CORPORATION

Project Address: **Penny Parade Drive**

Certified Address: Yes  No

Project Name: **Capitol Park Sub Street Dedication**

Contact Person: **Ray Milliner**

Telephone: **801 535-7645**

Attendees:

Reviewed by: Ted Dept.: Fire Date: \_\_\_\_\_

Project Description: **Penny Parade street dedication.**

Comments: Caring Cove shall be 20' width. Provide Turn around @ 308 lot.

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