

PRIVATE LANDS PROPOSAL

September 2011



SSCONSULTING



September 26, 2011

Re: Big and Little Cottonwood Canyon Lands Proposal

To Whom It May Concern:

The following proposal includes realistic scenarios and options to transfer private lands into public ownership. The proposal also includes avenues to eliminate conflict relating to water issues and sustainable development. These items can be accomplished while permanently designating lands for open-space preservation, enhancing public recreation and honoring private property rights.

Introduction

Few people will disagree that the mountain range surrounding the Salt Lake Valley to the east is one of the finest and most valuable assets in the State of Utah. The majestic mountains boast amazing scenery, world renowned recreation and the “Greatest Snow on Earth.” Because of these mountains, people from around the world and locals alike spend millions of dollars annually on food, lodging, gear, travel, lift tickets, etc. in pursuit of unmatched recreation experiences. These millions of dollars spent every year play a vital role in Utah’s economy.

So how is it that these amazing mountains, that offer peace of mind, relaxation and recreation to so many, are also a source of conflict, litigation and dispute for others? Why is it that some people are able to spend quality time cherishing relationships with family and friends in their mountain cabin, while others are sued, disregarded and denied similar experiences as private landowners?

These negative issues and others have gone on for decades. However, they have not gone unnoticed. In September 2010, the *Wasatch Canyons Tomorrow* report (facilitated by Envision Utah) was published. The study represents a collaborative effort and much attention was paid to addressing and resolving conflict in the canyons. Thousands of people responded and commented. A broad swath of officials and representatives from the private and public sector participated; including voices from interested mayors’ offices and the Governors office. A tremendous amount of time was dedicated to the study and some sound suggestions and solutions were proposed. Several of the scenarios included in this proposal are based upon suggestions within *Wasatch Canyons Tomorrow*.

The private landowners in the canyons participating in this proposal are not meek and timid by-standers. They are vested landowners, who protect their rights as such. Many have endured years of conflict, disputes and in some cases litigation. Some of the recent litigation has resulted in the Utah Supreme Court ruling in favor of the private landowners. Although the landowners are pleased with the favorable rulings, they cannot help but shake their heads at the hundreds of thousands of tax payer’s dollars spent by public entities and municipalities to fight private landowners.



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These landowners are great advocates for environmental protection and open space preservation. They believe protection and preservation can occur while also benefiting local and state government, honoring and respecting private property rights, allowing sustainable development and provide safe and enjoyable recreation. This is a unique opportunity; landowners representing thousands of acres in the canyons coming together with the public and environmental entities to support realistic and viable scenarios to end conflict. This opportunity should not be squandered.

Although the numerous landowners own many different types of property in the canyons, from rough terrain, to ski-able areas, to ideal cabin sites, etc., the following scenarios should fit most of the desired transactions. However, it is anticipated that additional scenarios will be added as further needs and unique situations are identified.

Scenarios:

1- Public purchase of private lands for open space

78% of respondents to *Wasatch Canyons Tomorrow* support the public purchase of private lands for open space. The following items need to occur prior to land purchases:

- Appraisals- The purchase of lands using public funds requires strict adherence to the appraisal process.
- Data and comps- There are existing comps available for specific types of property in the canyons. Existing comps will be acceptable for certain properties. However, few comps exist for other types of property. Supporting data relating to values will be provided by the landowners.
- Access to property- Access to property is a critical issue when determining land values. Access in the canyons often involves the Forest Service and their procedures and policies. The landowners are working closely with the Forest Service on this issue. The burden of proof for access is on the landowners and they will provide supporting data and documentation.
- Highest and best use- Highest and best use will be identified in the appraisal. Highest and best use will vary tremendously throughout the canyon properties due to the varied terrain, zoning, access, available water, etc. The burden of proof for highest and best use falls upon the landowners and they will provide supporting data.
- Water- The availability of water in the canyons used for development will have to be addressed in proposals and appraisals. The burden of proof for available water is upon the landowners.
- Zoning- Current zoning for subject properties will be provided by the landowners and verified by Salt Lake County
- Funding sources- The landowners will cooperate with funding sources and opportunities. The landowners understand that purchase agreements, funding sources, resources and time frames must be reasonably coordinated.



Specific lands available for purchase are shown in Exhibit #1.

2- Clustering on subject property

82% of respondents to the *Wasatch Canyons Tomorrow* survey support clustering. Clustering is an excellent tool used to protect and preserve open space, while providing a way to respect private landowner rights, contribute to the local economy, increase the tax base and minimize the development footprint. Clustering involves taking the development rights from a large land area and concentrating them into one, much smaller area.

Specific lands available for clustering are shown in Exhibit #2.

3- Transfer of Development and Water Rights (TDR) in the canyons

71% of respondents support TDR's in the canyons. The TDR program in the canyons might be described as more of a customized land and water trade than an actual transfer of development rights. The concept involves trading development and water rights from desired open space to receiving lands that are more appropriate for development. Ideally, the receiving property has existing utilities, infrastructure, cabins, etc. on-site or nearby. Properties close to the resorts are ideal.

Specific lands available for TDR's in the canyons are shown in Exhibit #3.

4- Land trades and or TDR's outside of the canyons

71% of survey respondents support TDR's. In the instance of TDR's outside the canyons, the term "land trades" might be more appropriate. Land trades or TDR's outside of the canyons offer great opportunities for the public entities. In essence, the landowner trades private land in the canyons for land in the valley or outside of the watershed. The public entities are able to permanently retire the desired open space and watershed land from the threat of development and conflict, while in most cases, trading for land in the valley that is currently not in production. Properties currently owned by Salt Lake City, Salt Lake County, Salt Lake Public Utilities, Redevelopment Agencies, private parties, etc. are eligible for consideration. This of course has additional tangible value to the community and related public entities; the vacant valley land is moved into production, creating jobs and increasing tax revenues. There may be instances where additional densities are added to valley properties. The land trades/TDR option requires additional risk, time and resources from the private landowners in the canyons. However, those liabilities are off-set through incentives, as suggested in the *Wasatch Canyons Tomorrow* report.



Since much of the Salt Lake Valley receives some portion of its water from the subject canyons, it is reasonable to include much of the valley in the land trade program. Land trades would not be limited to Salt Lake City and Salt Lake County. A multiple party agreement might be necessary for several of the land trade transactions. The agreements will identify subject parcels, participating parties and municipalities, the funding source(s), etc.

Specific land trade proposals are shown in Exhibit #4.

5- Land contribution/donation

Landowners in the canyons have varied intentions and desires for their property. The contribution/donation option is sensitive to those landowners who view themselves as long-term stewards and preservationists of the land. A clear and precise land contribution and donation program will be in place for those wishing to participate in contributing their land to Salt Lake County, Salt Lake City, and Trust for Public Lands, Save Our Canyons or other preservation entities. Scenarios will also be crafted so landowners can contribute to non-profit entities in the valley while capturing the desired tax benefits.

The outline for the Land Contribution and Donation program is shown in Exhibit #5.

6- Sustainable development and construction on private land in the canyons

There are parcels of private land in the canyons where sustainable development and construction are appropriate.

Specific development and construction areas are shown in Exhibit #6.

7- Water Trade for Water and/or Land

Lands for lands are not the only appropriate trades; lands for water or water for water are also suggested.

Specific water trades are proposed in Exhibit #7.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Robinson', with a stylized flourish at the end.

Dave Robinson

Community participants:

As members of the *Wasatch Canyons Tomorrow* Executive Committee, we would like to thank all of you for participating in the *Wasatch Canyons Tomorrow* process. As government agencies dedicated to the management and care of the seven major canyons in Salt Lake County, we deeply appreciate the work and countless hours members of the community have dedicated to the process. The number of involved citizens proves the important role the canyons play in this community and it further drives us to keep these lands protected and accessible for future generations.

Each of us has a different role in the management of the canyons. Our collective obligations highlight the need to continue a high level of ongoing collaboration in our management. Because of our responsibilities and the essential need for collaboration, we were each very engaged in the *Wasatch Canyons Tomorrow* visioning process.

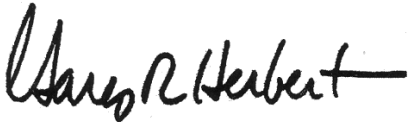
Our intention with the *Wasatch Canyons Tomorrow* process was to create a public dialogue where your voice would be heard regarding the future of these canyons. The values you have voiced, and the input you have provided during this process are vital to us as we engage in future policy choices, planning, and decision-making.

The *Wasatch Canyons Tomorrow* report gives us a thoughtful menu of recommendations for projects, best management practices, and policies to be considered as we confront current and anticipated challenges in the management of the Wasatch Canyons. Some of these recommendations can be considered for implementation relatively quickly. We also recognize that consideration of many of these recommendations will need future study and evaluation to determine their feasibility, environmental impact, compliance with federal, state and local laws, and compliance with existing management plans.

The driving force behind the commencement of *Wasatch Canyons Tomorrow* was the recognized need to update the 1989 Salt Lake County Wasatch Canyons Master Plan. Therefore it is fitting that the publication of this report precedes and informs Salt Lake County's Wasatch Canyons Master Plan Update, anticipated to begin this coming winter. Of particular note, and consistent with your input in the *Wasatch Canyons Tomorrow* process, Salt Lake County will engage the community in its administration of its Foothills and Canyon's Overlay Zone ordinance. The US Forest Service, Salt Lake City Department of Public Utilities, Town of Alta, State of Utah, and Utah Transit Authority will also look to this report to inform our work and to guide our collaboration.

Again, thank you for your time and efforts. We look forward to working with all of you in the coming months and years. Together, we can chart the future of the Wasatch Canyons for today and for tomorrow.

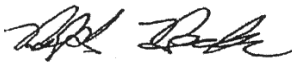
Regards,



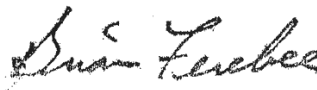
Gary Herbert, Governor
State of Utah



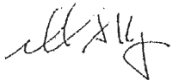
Peter Corroon, Mayor
Salt Lake County



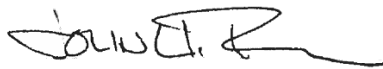
Ralph Becker, Mayor
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Brian Ferebee, Supervisor
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Mike Allegra, General Manager
Utah Transit Authority



John Thomas, Planning Director
Utah Department of Transportation



Tom Pollard, Mayor
Town of Alta

September 2010

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State of Utah



SALT LAKE COUNTY

Salt Lake County



Salt Lake City Corporation



U.S. Forest Service

Funding Sponsors



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Sandy City



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Merit Medical



Talisker Corporation
Deer Valley

The Church of Jesus Christ of Latter-day Saints Foundation

Lawrence T. and Janet T. Dee Foundation

Paul S. Sarbanes Transit in Parks

Salt Lake Tribune: In-kind

Anonymous (2)

Project Facilitator



Envision Utah

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Mayor, Town of Alta

Laura Briefer
Salt Lake City Public Utilities

Cathy Kahlow
U.S. Forest Service

John Thomas
Utah Department of Transportation

Ann Ober
Salt Lake County Mayor's Office

Mike Allegra
Utah Transit Authority

Mike Mower
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Silver Fork Lodge

Rusty Dassing
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Mayor, Park City

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Wasatch Front Regional Council

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Theo Dunham
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Teri Sommers
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Utah Avalanche Center

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Beat vonAllmen
Alpentech

Kate Bradshaw
Parsons Behle & Latimer

Liam Fitzgerald
UDOT Avalanche

Dave Wham
Utah Division of Water Quality

Darlene Batatian
Mountainland Development Services

David Gellner
Salt Lake County Planning

Jared Gerber
Sandy City Planning Dept.

Steve Scheid
U.S. Forest Service



#1- Public Purchase of Private Lands

Subject Parcel: Kester Family Trust

Approximately 24 acres in
Little Cottonwood Canyon

Direct frontage/access

Abuts Hell's Gate Condos

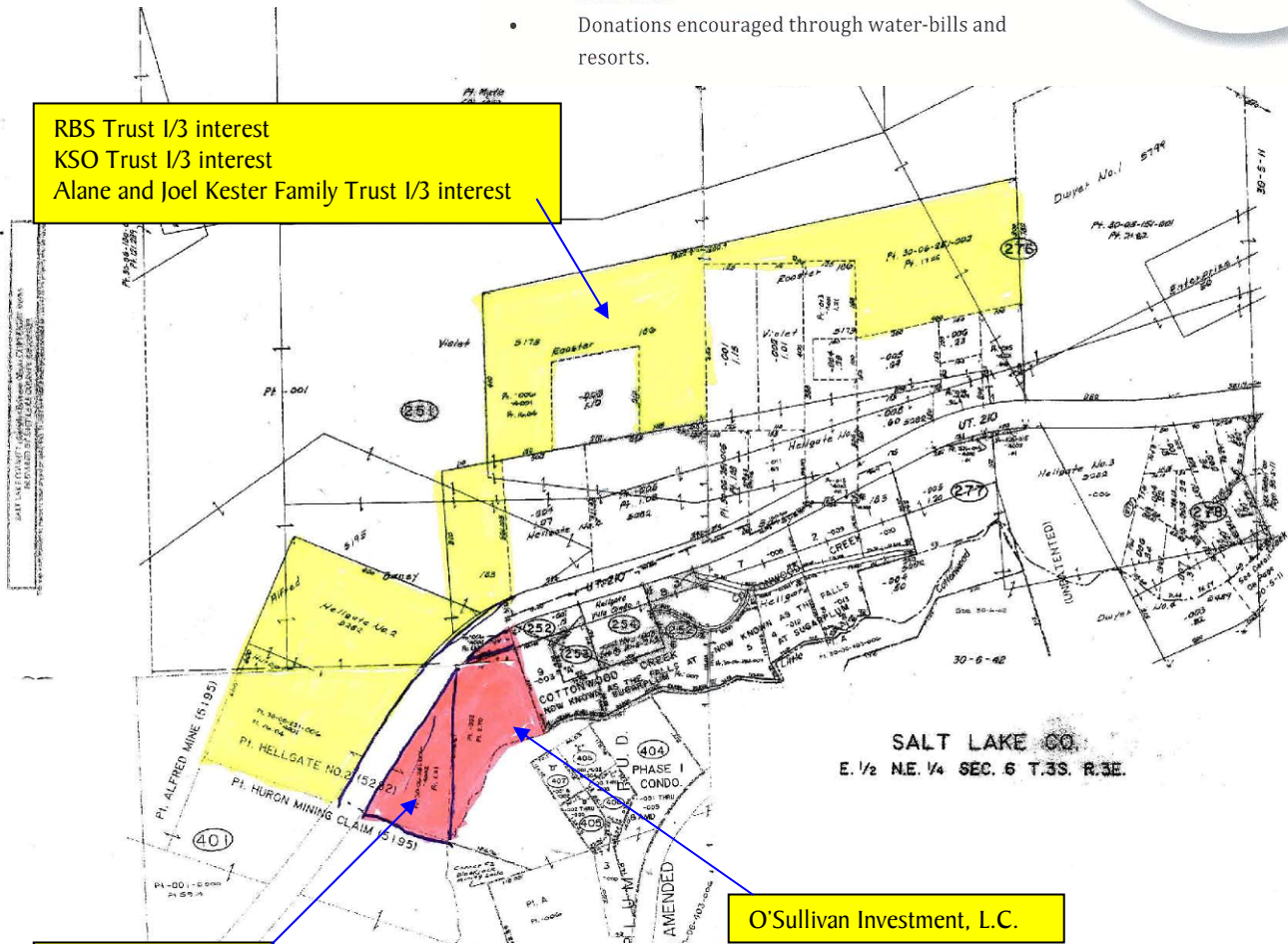
Utilities near site

Increase funding for the purchase of high-priority lands.

The public strongly desires that the bulk of the remaining undeveloped private lands be acquired for public use, access and preservation. This will require increased funding for purchasing private lands and greater cooperation with land owners.

The public supported the following funding mechanisms during the process:

- County-wide conservation bond.
- Allocation of some of the Restaurant and Hotel Tax Funds.
- Donations encouraged through water-bills and resorts.



RBS Trust
KSO Trust
Chrysalis Company

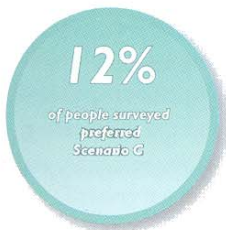
#2 Clustering

Subject Parcels: Cardiff Canyon Owners Association
Zoned 1 cabin site per 20 acres

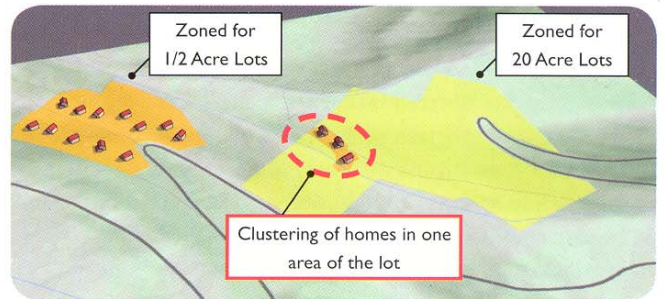
This application clusters zoned cabin sites in Cardiff to the existing foundations of the Cardiff Lodge, bunkhouse and cabins. These intact foundations historically supported the structures where miners lodged while working in the Cardiff area.

Although there is no longer a demand to house hard working miners, this historical location is being designed as a world-class, environmentally sustainable backcountry ski base. Its location is ideal for premier backcountry skiing and recreation.

Scenario C



Build 225% of baseline development. Change canyon land use to **allow clustering of development (82% of survey respondents support clustering)** at higher densities within individual parcels of ownership. Open space is preserved through conservation easements.



Historic bunkhouse in Cardiff





#3 Transfer of Development and Water Rights (TDR's) in the canyons

Subject Parcel: Janice Dunyon

12.5 acres

80k per acre

Zoned for approximately 25 one-half acre lots

Vehicular and sewer access available

Improved lots valued at 300k per lot

Under contract for approximately
\$1,000,000.00

Proposal:

Trade 1, 20 acre cabin site with water for 1 Dunyon lot. The Dunyon lots must be approved for development; fully entitled, recorded, with sewer and water connections paid. All items must be complete before final land transaction.

Superior 20 acre site gets superior Dunyon lot

$300k / 20 \text{ acres} = 15k \text{ per acre}$

Constructed cabin valued at 1.5 to 2 million dollars

$\$1.5 \text{ million} \times .55 = \$825,000.00 \times .014877 = \$12,273.00 \text{ annual property tax}$

$\$1.5 \text{ million} \times 25 \text{ lots} = \$306,825.00 \text{ annual property tax}$

Due to estimated property taxes, public re-coups monies in approximately 3.25 years and the property taxes continue indefinitely.

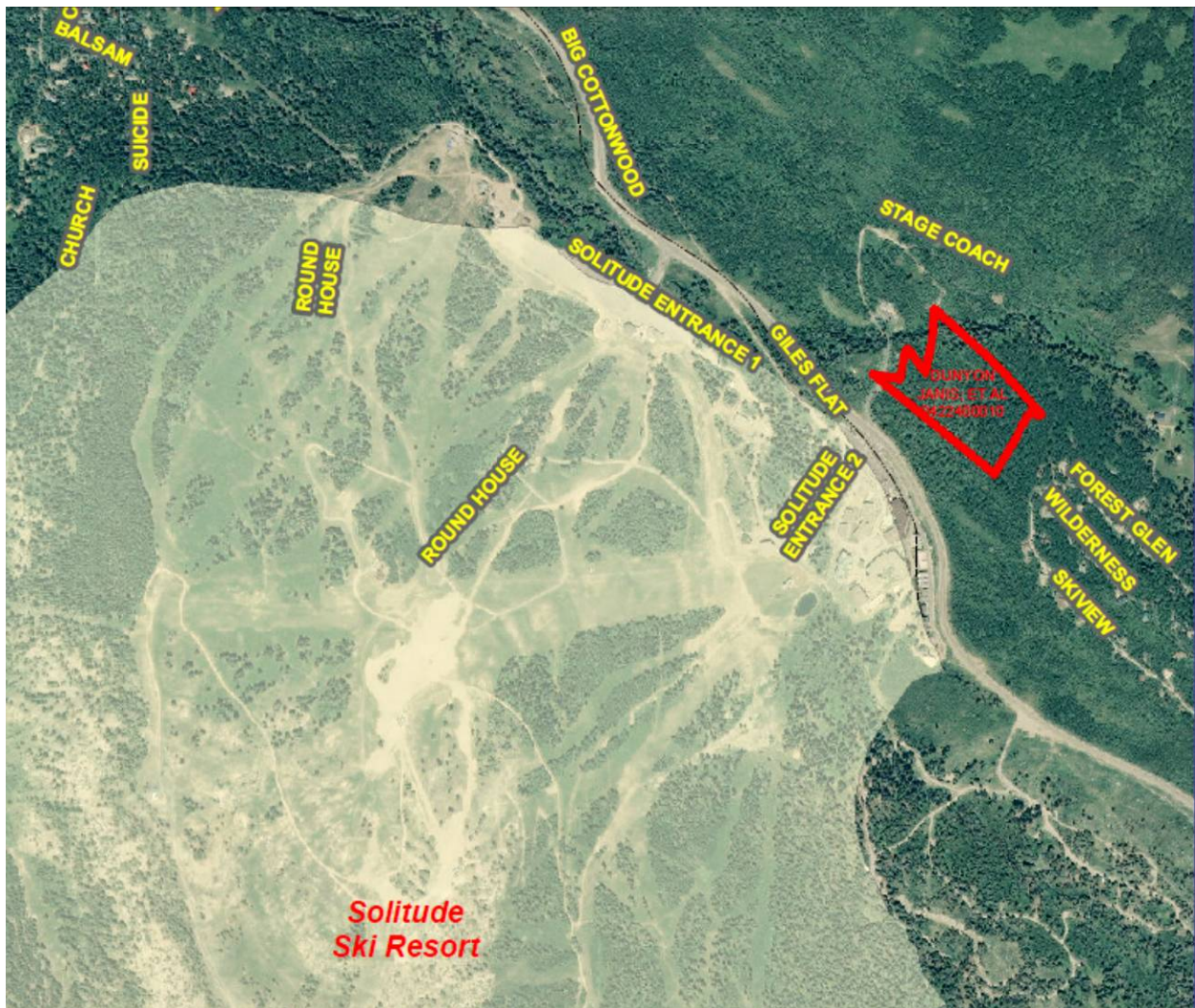
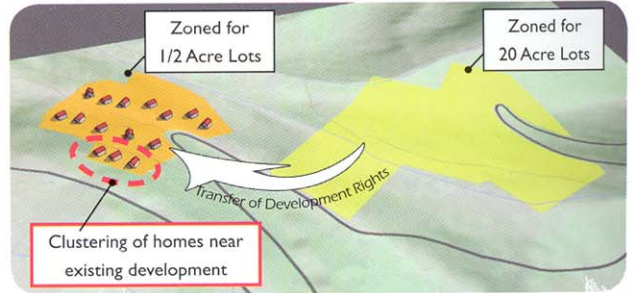
Public receives approximately 500 acres of high priority back country for 12.5 acres clustered. If the public funds the Dunyon parcel for \$1,000,000.00, they receive high priority Cardiff or similar property for approximately \$2,000.00 per acre.



Scenario B



Change canyon land use regulations to encourage development to occur at higher densities through clustering and **Transferring Development Rights (TDR)** where possible. (71% of survey respondents support TDR.) Open space is preserved through conservation easements. (TDRs sent outside of the canyon areas will be incentivized.)





#4 Land trades and or TDR's outside of the canyons

Subject Parcel: Marmalade West

Approximate raw land values based on current comparables-

Town homes- 12 units @ 8k per unit = 96k Cottages- 4 units @ 12k per unit = 48k

Live-work- 7 units @ 10k per unit = 70k Avenues- 6 units @ 21k per unit = 126k

TOTAL RAW LAND VALUE/RESIDENTIAL \$313,000.00

Taxes per year:

Town homes $160k \times .55 \times .015519 = \$1,365.00$ x 12 units = \$16,380

Cottage $180k \times .55 \times .015519 = \$1,536.00$ x 4 units = \$6,144.00

Live-work $200k \times .55 \times .015519 = \$1,707.00$ x 7 units = \$11,949.00

Avenues $220k \times .55 \times .015519 = \$1,877.00$ x 6 units = \$11,262.00

TOTAL ANNUAL PROPERTY TAX \$45,735.00

According to multiple sources, the construction of one new home creates 3 new jobs (1.5 full time jobs X 2 in the supply chain) and \$90,000.00 in new taxes.

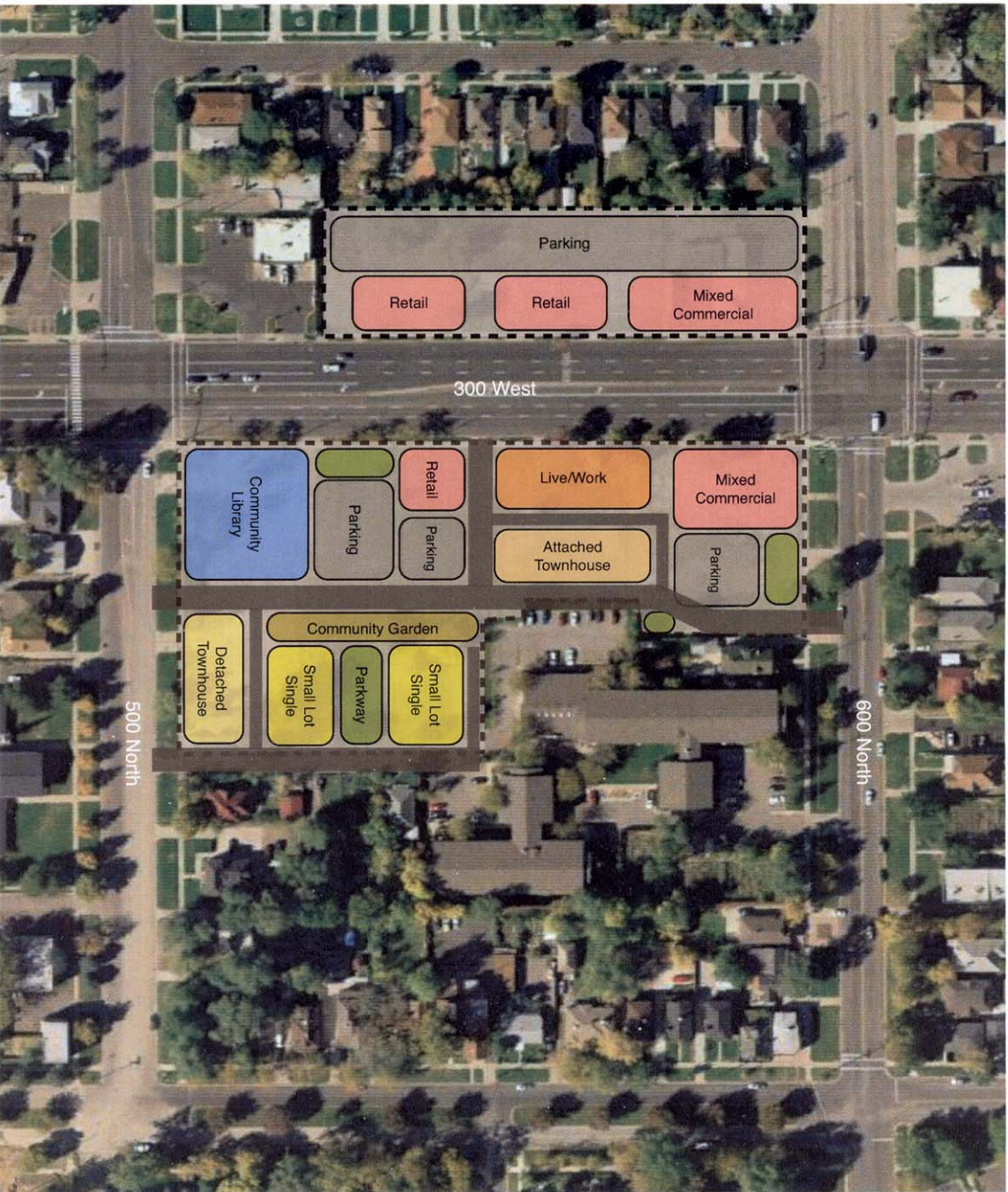
Based on this data, this parcel creates 87 new jobs and \$2,610,000.00 in taxes for the residential component alone.

Land trade: 300 acres of water-shed land

Valued at approx. 10k per acre (this is not prime land values)

Public trades approximately 1.5 acres in the city for 300 acres in the canyon. Due to estimated annual property taxes on new residential units, public will re-coup investment within 7.6 years. Property taxes will continue indefinitely.

RDA policies might eliminate the need for incentives for some of the properties to be traded outside the canyons.



OVERVIEW

This development option envisions a community library of about 15,000 square feet at 500 North as a hub of community activity, with a moderate sized two-story commercial node at 600 North with a footprint of approximately 10,000 square feet, and a smaller one or two story retail building with a footprint of approximately 3,000 square feet. The development features small pocket parks and green spaces, similar to small parks found throughout the West Capitol neighborhood, as well as a small linear community garden.

The site is carved into three mini blocks, evocative of the small and irregular block patterns evident throughout the upper West Capitol neighborhood. Homes include a variety of small lot attached and detached urban homes, consistent with the variety and types of residences in the neighborhood.

SUMMARY

Community Library	15,000 sf
Commercial Building	20,000 sf
Small Retail Building	3,000 sf
Live-Work Residences	
Attached Townhouse Residences	
Detached Townhouse Residences	
Detached Small Lot Single Family Residences	



#5 Land Contribution/Donation

SALT LAKE COUNTY
COUNTY-WIDE POLICY
ON
GIFTS

Purpose -

To provide a method for the County to receive gifts of property, cash, or equivalent from various sources. To insure that donated gifts of property, cash or equivalent are properly recorded and accounted. To define the procedures by which gifts can be received.

1.0 Definitions

- 1.1. Property - any tangible item having a value of \$500 or more and a useful life expectancy of one year or more and which is not real property. *Includes both real and personal property.*
- 1.2. Gift - any item of property, *cash or equivalent having a value of \$500 or more*, which is not considered art and which is not intended to be an acquired or deaccessioned part of the Salt Lake County art collection (see P & P 1003 and 1004). Gift does not include grants received through normal business processes.

2.0 Authority And Process

- 2.1 Acquisition must comply with all applicable County and State laws.
- 2.2 The final authority to accept individual gifts valued over \$1000 shall rest with the County Council.
- 2.3 The estimated value of the gift(s) shall be established by the donor and included on the "DECLARATION OF GIFT" form (see attached copy). The County Council shall make no judgment as to the value of the gift.
- 2.4 The process of acquiring gifts is to be initiated by the appropriate Elected Office, Department or Division to which the gift has been offered.
 - 2.4.1 A full justification in writing shall be prepared and forwarded to the County Council.
 - 2.4.2 The justification shall include a description of the gift(s), its value, life expectancy, and purpose for which it will be used.
 - 2.4.3 A signed statement from the donor ("DECLARATION OF GIFT", see attached copy) indicating their willingness to donate the gift(s) and any restrictions for its

use shall accompany the justification. *Any financial restrictions identified by the donor shall be reviewed by the Auditor for establishment of appropriate accounting procedures to comply with the donor's restrictions.*

- 2.4.4 The donor shall be provided with a signed copy of the "DECLARATION OF GIFT" form.
- 2.5 In the event the gift(s) is of a general nature, and not specifically identified to any individual Elected Official, Department or Division, the necessary paperwork outlined in 1.4, above, shall be completed by the Auditor's Office.
- 2.6 The County Council shall make a decision in an official meeting as to the acceptance or non-acceptance of the gift.
- 2.7 If accepted by the County Council the agency initiating the request to accept the gift(s) shall prepare the necessary property inventory forms, where applicable. Upon completion, such forms shall be forwarded to the County Auditor's Office for inclusion in the fixed asset account.
- 2.8 Where applicable, the elected official, department head or division director receiving the gift(s) shall be responsible for following the procedures outlined in the Salt Lake County Fixed Asset Policy and Procedures Manual relative to accounting for the property.
- 2.9 This policy applies only to gifts to Salt Lake County, not to officers or employees of Salt Lake County.

APPROVED and PASSED this 27 day of December, 2000.

SALT LAKE COUNTY COUNCIL

Mike Jensen, Chair

ATTEST:

Sherrie Swensen, County Clerk

APPROVED AS TO FORM:

District Attorney's Office Date

**DECLARATION OF GIFT
(OVER \$1,000)**

I, _____, irrevocably give, and where appropriate transfer, title to the property described below to Salt Lake County to become permanent property of Salt Lake County and to be administered in accordance with its established policies. I assign and transfer all rights, including any copyrights that I possess on these properties to Salt Lake County, without restrictions or conditions except those noted below under "Other provisions or restrictions".

Description of gift: _____

Value (estimated by the donor): _____

Date of transfer of title and delivery: _____

Other provisions or restrictions: _____

Department/Division Director or Elected Official

Donor

Date: _____

Address: _____

Salt Lake County hereby accepts the above gift under the conditions specified within this Declaration of Gift form, but makes no judgment as to the value of the gift.

SALT LAKE COUNTY COUNCIL:

ATTEST:

Michael Jensen, Chair

Date

Sherrie Swensen, County Clerk



#7- Water Trade for Water and/or Land

Subject Water: Big Ditch Irrigation Company

Approximately 1000 shares owned by specific share holders, representing approximately 60% of Big Ditch Irrigation Company.

Big Ditch Irrigation Company has a service area of approximately 5,000 acres in the Salt Lake Valley and delivers water in the summer months to customers for \$0.03 per 1,000 gallons.

Big Ditch Irrigation Company was the Defendant in the Salt Lake City vs. Big Ditch Irrigation Company litigation. The case number is 070903735. On June 28, 2011, after 4 years of conflict and the two parties spending a combined total of more than \$700,000.00 for attorney fees, (Salt Lake City's portion of the legal fee's is estimated at approximately \$400,000) the Utah Supreme Court ruled 5-0 in favor of Big Ditch Irrigation Company.

Big Ditch share holders exhibit a strong willingness to participate with Salt Lake County and Salt Lake City in determining the best utilization of this water source and ending expensive and long-standing conflict. Some successful scenarios may include, but not be limited to:

- Majority share holders (approximately 60%) of Big Ditch Irrigation Company trade their water shares for water that is located outside of Salt Lake City's service area.
- Majority share holders trade water for land or a combination of water and land.
- Share holders retire the entire Big Ditch contract in a mutually beneficial way. This process will preserve and protect the current users, Salt Lake City and accommodate the majority interests.
- A stock split. A 10 to 1 split was used by Draper Irrigation Company for a secondary water system. This option, applied to Big Ditch, creates 25,000 shares for ease to develop the water in its historic service area.
- Big Ditch share holders purchase Salt Lake City's 17% ownership in Big Ditch Irrigation Company.

It is critical for the share holders to come together and agree to a solution. Delaying resolution may result in splintering the contract right into over 100 pieces. This of course has negative, long-term ramifications.

