ORDINANCE NO. 2016-21

AN ORDINANCE OF IVINS CITY, UTAH, VACATING A PORTION OF TUACAHN DRIVE

WHEREAS, a portion of Tuacahn Drive located directly below Tuacahn and abutting property owned by Parkway Partners, LC (Sentierre) is no longer needed by the city for a public road; and

WHEREAS, the required map and surveyed legal description of the portion of Tuacahn Drive proposed to be vacated is attached hereto as Exhibit "A" and by this reference is incorporated herein; and

WHEREAS, a public hearing was held on November 3, 2016 and the City Council unanimously voted to approve the proposed vacation; and

WHEREAS, city staff has estimated that a public road that is to remain a public access road in perpetuity with a perpetual public utility easement and transfers to the acquiring party the duty to make all immediate improvements necessary for the Sentierre Resort, as well as the duty for all future maintenance improvements to the road, really has no market value for transfer purposes because the burden costs outweigh any estimated benefits being transferred; and

WHEREAS, a further burden on the property is the reservation that the transferred property would revert back to the city if Sentierre, or it's successors, fails to reasonably maintain the transferred road; and

WHEREAS, the estimated revenue to be generated from just the 44 Villas at Sentierre to the city are approximately $340,000.00 in impact fees and a minimum of $12,000 per year from property taxes; even if the city just estimates the fair market value of each Villa to only be $500,000.00, which is a fraction of what the city believes the true fair market values will actually be; and

WHEREAS, though difficult to estimate due to the lack of formal plans for hotel, spa, and hotel/condos at this point in time, city staff believes that the revenue to be derived from hotel related impact fees, property tax, sales tax, and transient room tax will greatly exceed the total estimated value set forth above for the Villas alone; and

WHEREAS, a representative of Tuacahn spoke at the public hearing and made the express representation to the Ivins City Council that Tuacahn consents to the proposed transfer and has reviewed the proposed plans for the portion of Tuacahn to be transferred and has had the opportunity for input into the development of those plans; and

WHEREAS, the Ivins City Council, therefore, finds that vacating said portion of Tuacahn Drive will not impact the rights of any public utility or property owners and will not be detrimental to the public interest;

NOW, THEREFORE, BE IT ORDAINED by the Ivins City Council that the portion of Tuacahn Drive located directly below Tuacahn and abutting property owned by Parkway Partners, LC (Sentierre) be, and the same hereby is upon the below stated effective date of this ordinance, vacated with the property comprising the abandoned right-of-way to be conveyed by Quitclaim Deed to the adjoining property owners, provided all of the reservations of rights and protections set forth in paragraph 8 of the recorded Sentierre Development Agreement (attached hereto as Exhibit "B" and by this reference

included herein) are hereby protected in this vacating ordinance by this reference and shall further be properly identified and protected in the Quitclaim Deed to be drafted as referenced above.

Effective Date: This Ordinance shall become effective approximately six (6) months prior to the opening of the Sentierre Padre Canyon Resort & Sanctuary (Sentierre). At that time, Sentierre shall give the city written notice of same and shall make a formal request that the portion of Tuacahn Drive authorized to be vacated by this Ordinance occur and a Quitclaim Deed be delivered.

PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THIS _____ DAY OF NOVEMBER, 2016 BY THE FOLLOWING VOTE:

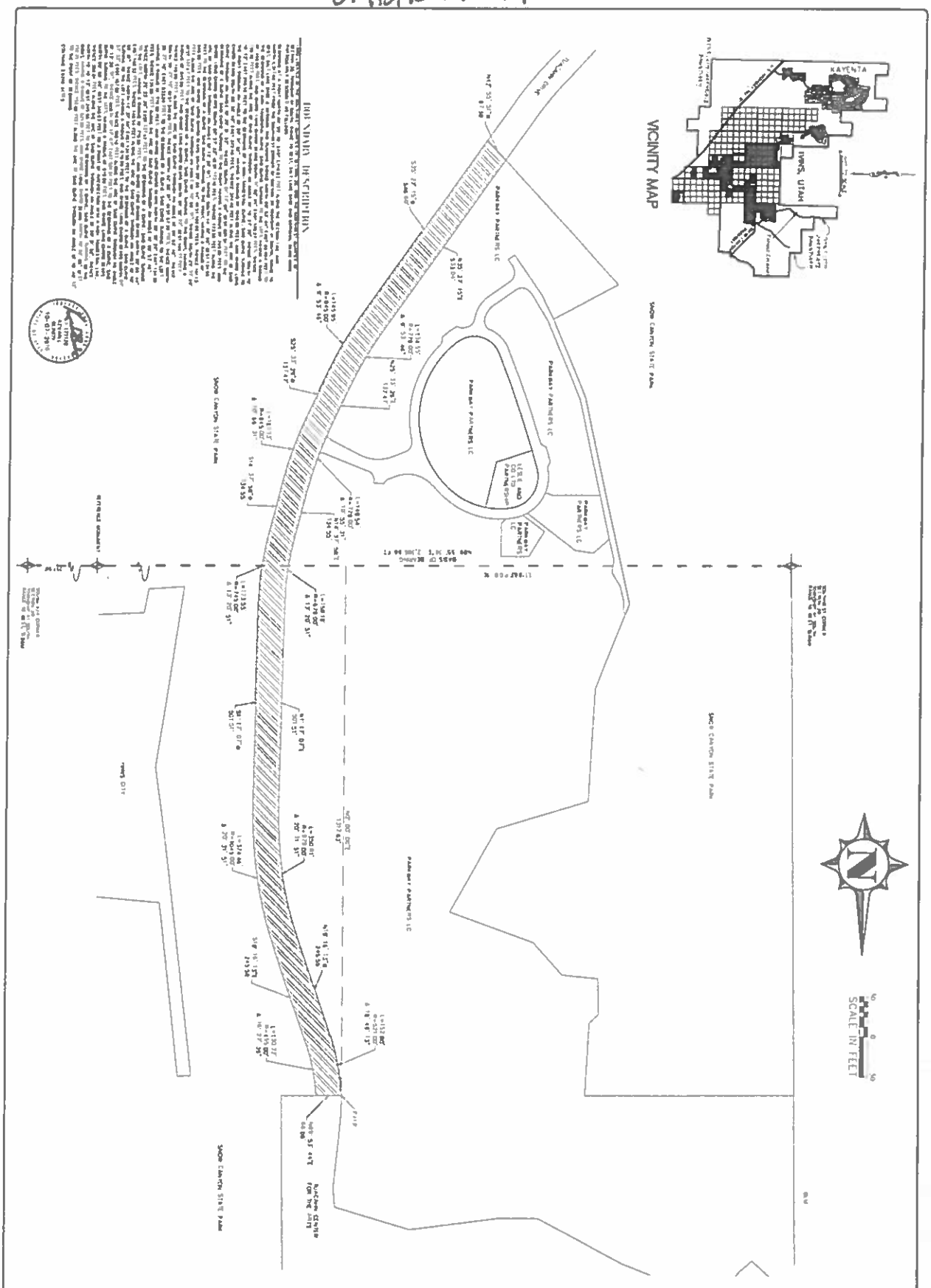
	AYE	NAY	ABSTAIN	ABSENT
Dennis Mehr	_____	_____	_____	_____
Cheyne McDonald	_____	_____	_____	_____
Jenny Johnson	_____	_____	_____	_____
Steven Roberts	_____	_____	_____	_____
Ron Densley	_____	_____	_____	_____

_____
Chris Hart, Mayor

ATTEST:

_____
Kari Jimenez, City Recorder

EXHIBIT "A"



Sheet No. 1 OF 1	Scale 1 = 50		ROAD ABANDONMENT EXHIBIT TUACAHN DRIVE PREPARED FOR PADRE CANYON RESORT PROJECT LOCATED IN SECTION 28 AND 33, T41S, R16W SLB&M IVINS, UTAH

KUMA
ENGINEERING COMPANY
466 WEST TONAQUINT PKWY
IVINS, UT 84738
(435) 229-0244

EXHIBIT "B"

(ii) into the City's storm drain culverts located within the Tuacahn Drive right-of-way (the remaining upstream flows on the southern 1/3 of the Project) but not more than the pre-development flows from the Property. The City will grant to Owner all necessary and appropriate easements and other rights and interest necessary for Owner's use of the City's storm drain system. Owner may not discharge more than historical flows to or across Tuacahn Drive into the washes on the discharge side of the existing culverts on the Snow Canyon State Park property to the east of the Project. The Owner may discharge any excess stormwater generated by the project without a requirement for a detention basin through the property owned by Tuacahn to the main wash if a drainage easement is obtained on that property from Tuacahn. Appropriately sized drainage facilities shall be installed to prevent increased erosion on the Tuacahn property for this scenario. The SMP must take into consideration the impact of sediment laden storm water and its potential to restrict and reduce capacity of the drainage facility, and provide for a method to clear blockages when they occur and regular maintenance to remove buildup of sediment in the system components situated on the Property. Owner, or a homeowners' association formed to operate and maintain the common areas of the Project, will be responsible for all maintenance necessary to maintain the integrity of the system components situated on the Property. It is currently anticipated that the SMP will call for a concrete channel to be constructed along the western boundary of the Project that will effectively capture such upstream flows, provide storage for expected sediment deposition, and convey storm water as described above. All pipes used in the SMP must be large enough to allow sediment to be cleaned out of the pipe system and all detention basins on the Property must be large enough to accommodate the expected sediment deposition of at least a 100 year event. Any final construction plans must demonstrate that all such requirements have been met before receiving City approval. Prior to the issuance of any permits for the construction of vertical or hard surface construction on the Property, Owner shall submit to the City, for its review and approval, engineering drawings for the storm drainage system to be constructed on the Property, consistent with the requirements of this paragraph.

7. Property Access and Grading. All roadways into and through the Project shall either be concrete, asphalt or other material demonstrated to be sufficiently strong to hold the weight of a fire truck loaded with water in all weather conditions. The main road accessing the Property (Tuacahn Drive) will be thirty (30) feet in width. Interior roads providing vehicular access to the Villas may be reduced to twenty-four (24) feet but must be twenty-six (26) feet wide wherever a fire hydrant is located. Subject to the foregoing, all roads must comply with all of the requirements of the Fire Code as adopted by the City. Owner shall install a left turn lane into the Project on Tuacahn Drive. No parking shall be allowed on the sides of the roads within the Project. No roads within the Project shall have grades in excess of a ten percent (10%) slope. Final grading plans for each development parcel in the Project will provide for finished grades that convey water away from all buildings within the Project.

8. Tuacahn Drive. The parties acknowledge that Tuacahn Drive is in need of modifications, and that the Project and the City may benefit from the addition of traffic-calming features, additional landscaping and other upgrades to that portion of Tuacahn Drive immediately adjacent to, and running along the eastern boundary of the Property to the

entrance of Tuacahn. Upon the request of Owner, and with the consent of the governing board of Tuacahn, the City shall vacate by ordinance and transfer to Owner by quit-claim deed all or a portion of Tuacahn Drive abutting the Property as requested by Owner, provided however, that all state and local legal requirements for the vacation and sale of such road, including without limitation any public hearings and City Council approval required by law, are fully complied with. In the event that a portion of Tuacahn Drive is vacated and conveyed to Owner, the City shall reserve a public utility easement for the maintenance of existing and future power, communication, water and sewer facilities, and a public access easement to enable the public to access Tuacahn. The City's maintenance responsibilities will be limited to only the above-mentioned utilities. Nevertheless, the City will continue to provide police monitoring of the entirety of Tuacahn Drive (including any portion owned by Owner) to enforce applicable traffic laws, except that the City shall not be required to enforce a speed limit of less than 25 miles per hour unless approved by state law. Following vacation of a portion of Tuacahn Drive, Owner will be responsible for ongoing maintenance of street improvements, including storm drain culverts on that portion of Tuacahn Drive conveyed to Owner. Both the ordinance providing for vacation of a portion of Tuacahn Drive and the deed conveying such property to Owner shall include a right of reversion, whereby title to any portion of Tuacahn Drive conveyed to Owner shall revert to the City if Owner, or any successor in interest with respect to the ownership and operation of the Project, fails to adequately maintain the portion of Tuacahn Drive that it owns to a standard compatible with that portion of Tuacahn Drive retained by the City. The City shall only be authorized to exercise this right of reversion if the City first provides written notice to Owner, or its successor, of its failure to adequately maintain the road and Owner or its successor fails to take the necessary corrective action within a reasonable time thereafter (not less than 90 days). Upon the City successfully taking the reversion of ownership option, the City may seek damages from the Owner or its successor based on the cost of returning the road to full service standards and a lump sum cost of perpetual ongoing maintenance into the future.

9. Utilities. Project improvements will tie into existing water, sewer, telephone, power and cable existing within the Tuacahn Drive right-of-way. Owner will be allowed to connect to, and be obligated to pay to Tuacahn an appropriate share of the initial cost of, the natural gas line that services Tuacahn, in accordance with an agreement to be negotiated between Owner and Tuacahn.

10. Fire Protection. Owner will comply with all applicable provisions of the Fire Code as adopted by the City ("Fire Code") and will substantially comply with the Fire Plan contained in the Presentation Materials, which identifies the proposed locations and number of Wet Standpipes with Fire Hose/Cabinet, Fire Department Connections, Fire Hydrants, Fire Command Center and Fire Lanes. Hotel Central, the Sanctuary, and all Casitas, Suites and Villas will have interior fire sprinkler systems.

11. Landscaping. The landscaping plan for the Project shall be in substantial compliance with the Landscape Plan and Plant List contained in the Presentation Materials. As provided in Paragraph 5, appropriate landscaping shall be used to provide reasonable