

**SUMMIT COUNTY
ORDINANCE NO. 441**

**AN ORDINANCE TO OFFICIALLY VACATE A PORTION OF A
PUBLIC ROAD LOCATED IN SECTIONS 14, 15 and 23, T1S, R4E, SALT
LAKE BASE AND MERIDIAN, COMMONLY KNOWN AS THE
PROMONTORY ROAD WITHIN SUMMIT COUNTY, UTAH.**

WHEREAS, a petition to vacate a portion of a public road located in Sections 14, 15 and 23, Township 1 South, Range 4 East, Salt Lake Base and Meridian, said road being commonly known as the Atkinson Road or Pace / Promontory Road (hereinafter "Promontory Road") was made by the property owner, Pivotal Promontory Group d/b/a Promontory (hereinafter "Promontory"); and

WHEREAS, Utah Code Ann. § 72-3-108 provides the mechanism and process by which public roads can be vacated; and

WHEREAS, notice of a public hearing was published in a newspaper of general circulation in the county and posted in three (3) public places at least once each week for four (4) consecutive weeks prior to the hearing, and mailed to all owners of property abutting the road; and

WHEREAS, a public hearing was held on October 10, 2002 at which the Petitioners and other members of the public were present and gave comment including the owner of abutting property, Standley B. Pace who was present with legal counsel; and

WHEREAS, the Board of County Commissioners for Summit County felt that it would be in the best interest of the community to continue the public hearing to allow for further clarification on those portions of the road to be abandoned and additional easements granted; and

WHEREAS, additional notices of the continued public hearing were published in a newspaper of general circulation in the county and posted in three (3) public places at least once each week for four (4) consecutive weeks prior to the hearing, and mailed to all owners of property abutting the road; and

WHEREAS, the continued public hearing was held on December 26, 2002 at which the Petitioners and other members of the public were present and gave comment including again the owner of abutting property, Standley B. Pace who was present with legal counsel; and,

WHEREAS, there appears from the record and the comments heard, to be good cause to vacate portions of the Promontory Road and replace the historic easements with new easements and Rights-of-Way as described below, since there is no public destination on those portions of road to be vacated, no need for public access and the historical public use of those portions of road to be vacated have been abandoned; and

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ALAN SPRIGGS, SUMMIT CO RECORDER
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REQUEST: SUMMIT COUNTY CLERK

WHEREAS, the vacation of those portions of the Promontory Road as described below and the acceptance of other Rights-of-Way and easements as set forth will not be detrimental to the general interests of the community nor materially affect the access enjoyed by abutting property owners;

NOW THEREFORE be it ordained by the Summit County Board of County Commissioners acting as the County Legislative Body of the County of Summit, State of Utah, as follows:

Section 1. The Board hereby finds that neither the public nor any person will be materially injured by the vacation of portions of the Promontory Road described below, and that there is good cause shown on the record to vacate the road because there is no public destination on the road, no need for public access and the historical public use of the road has been abandoned:

All of that 100.00 foot wide County Right of Way Easement in accordance with that Stipulated Judgment recorded in Book RR at Page 046 on file in Third District Court, Summit County, Utah, located within Section 14 and the North Half of Section 23, Township 1 South, Range 4 East. Salt Lake Base and Meridian. Less and excepting that portion lying within the Southeast Quarter of the Southwest Quarter of said Section 14.

Section 2. The Board further finds that there is a public need for continued Rights-of-Way in those same sections and that the easements and rights-of-way described below and as set forth in the attached maps are acceptable to Summit County for the use and benefit of the community and to fill the public's need and use and to maintain public and private access to all abutting properties:

2.1 **Easement A** as described herein shall be and is hereby accepted:

A 100.00 foot wide Public Right of Way lying 50.00 feet each side of the centerline more particularly described as follows:

Beginning at a point which is South 89°36'59" East 1391.92 feet and North 1333.62 feet from the Northwest Corner of Section 23, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 89°36'59" East 2672.06 feet between said Northwest Corner and the North Quarter Corner of said Section 23, both being found stones) and running thence North 00°15'11" East 1333.52 feet; thence North 00°14'50" East 196.87 feet to the point of terminus.

Subject to and together with any and all easements, restrictions, conditions and/or instruments of record.

2.2 **Easement C** as described herein shall be and is hereby accepted:

A 100.00 foot wide Public Right of Way lying 50.00 feet each side of the centerline more particularly described as follows:

Beginning at a point on the Section line which is South 89°36'59" East 1388.25 feet from the Northwest Corner of Section 23, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 89°36'59" East 2672.06 feet between said Northwest Corner and the North Quarter Corner of said Section 23, both being found stones), said point being on the arc of a 500.00 foot radius curve to the left, the center of which bears North 84°51'34" East; and running thence southerly along the arc of said curve 46.42 feet through a central angle of 05°19'08"; thence South 10°27'34" East 110.64 feet to a point of curvature of a 500.00 foot radius curve to the right, the center of which bears South 79°32'26" West; thence southerly along the arc of said curve 268.77 feet through a central angle of 30°47'55"; thence South 20°20'21" West 342.59 feet to a point of curvature of a 100.00 foot radius curve to the left; the center of which bears South 69°39'39" East; thence southerly along the arc of said curve 58.28 feet through a central angle of 33°23'39"; thence South 13°03'17" East 267.17 feet to a point of curvature of a 100.00 foot radius curve to the right, the center of which bears South 76°56'43" West; thence southerly along the arc of said curve 62.42 feet through a central angle of 35°45'48"; thence South 22°42'31" West 343.72 feet to a point of curvature of a 100.00 foot radius curve to the left, the center of which bears South 67°17'29" East; thence southerly along the arc of said curve 39.58 feet through a central angle of 22°40'37"; thence South 00°01'54" West 785.67 feet to a point of curvature of a 150.00 foot radius curve to the left, the center of which bears South 89°58'06" East; thence southeasterly along the arc of said curve 107.17 feet through a central angle of 40°56'06"; thence South 40°54'12" East 263.74 feet to a point of curvature of a 150.00 foot radius curve to the left, the center of which bears North 49°05'48" East; thence southeasterly along the arc of said curve 128.42 feet through a central angle of 49°03'16"; thence South 89°57'28" East 817.98 feet to the point of terminus.

Subject to and together with any and all easements, restrictions, conditions and/or instruments of record.

2.3 **Easement D** as described herein shall be and is hereby accepted:

A 50.00 foot wide Public Right-of-Way lying 25.00 feet each side of the centerline more particularly described as follows:

Beginning at a point on a 1000 foot radius curve to the left, center of which bears South 09°09'59" East, said point being South 89°36'59" East 1328.29 feet and South 832.47 feet from the Northwest Corner of Section 23, Township 1 South Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South

89°36'59" East 2672.06 feet between said Northwest Corner and the North Quarter Corner of said Section 23); and running thence Southwesterly along the arc of said curve 32.53 feet through a central angle of 01°51'49"; thence South 78°58'11" West 943.91 feet to a point of curvature of a 1000.00 foot radius curve to the right, the center of which bears North 11°01'49" West; thence Southwesterly along the arc of said curve 51.57 feet through a central angle of 2°57'18" to the point of terminus.

Subject to and together with any and all easements, restrictions, conditions and/or instruments of record.

- 2.4 The Board finds that the proposal to grant to Standley B. and Beverly R. Pace pursuant to a Temporary Grant of Easement for Agricultural Access (a copy of which is attached hereto), **Easements B and E** which are 40.00 foot wide Temporary Easement for access lying 40.00 feet North (**Easement B**) and again 40.00 feet South (**Easement E**) of the property boundary common to Pivotal Promontory LLC and Standley B. & Beverly R. Pace, meets the needs of the abutting property owner mitigates any damage which would occur in vacated the road as described above.

Section 3. The Board hereby finds that the road vacations as described above will not be detrimental to the general interests of the community nor will the access enjoyed by the property owners and the public be materially changed by the vacation.

Section 4. The Board hereby finds that there is a continued public use and need for the continuation of all other portions of the road not specifically described or abandoned above, and that it is in the best interests of the community to continue the current use of those portions of road.

Section 5. The Board hereby officially vacates all of that 100.00 foot wide County Right of Way Easement in accordance with that Stipulated Judgment recorded in Book RR at Page 046 on file in Third District Court, Summit County, Utah, located within Section 14 and the North Half of Section 23, Township 1 South, Range 4 East. Salt Lake Base and Meridian. Less and excepting that portion lying within the Southeast Quarter of the Southwest Quarter of said Section 14.

Section 6. The Board hereby officially accepts Easements A, C, and D as described above and as shown on the maps attached hereto.

Section 7. This ordinance shall take effect fifteen (15) days after passage by Summit County Board of Commissioners and upon publication in a newspaper published and having general circulation within Summit County.

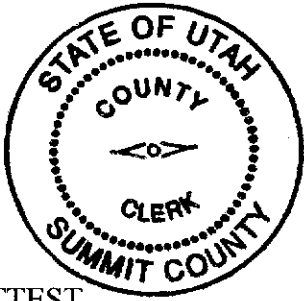
[signatures on following page]

PASSED AND ADOPTED this 26th day of December, 2002

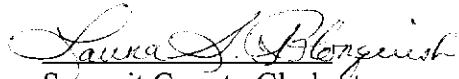
BOARD OF COUNTY COMMISSIONERS
SUMMIT COUNTY, STATE OF UTAH

By 
Shauna Kerr, Chair

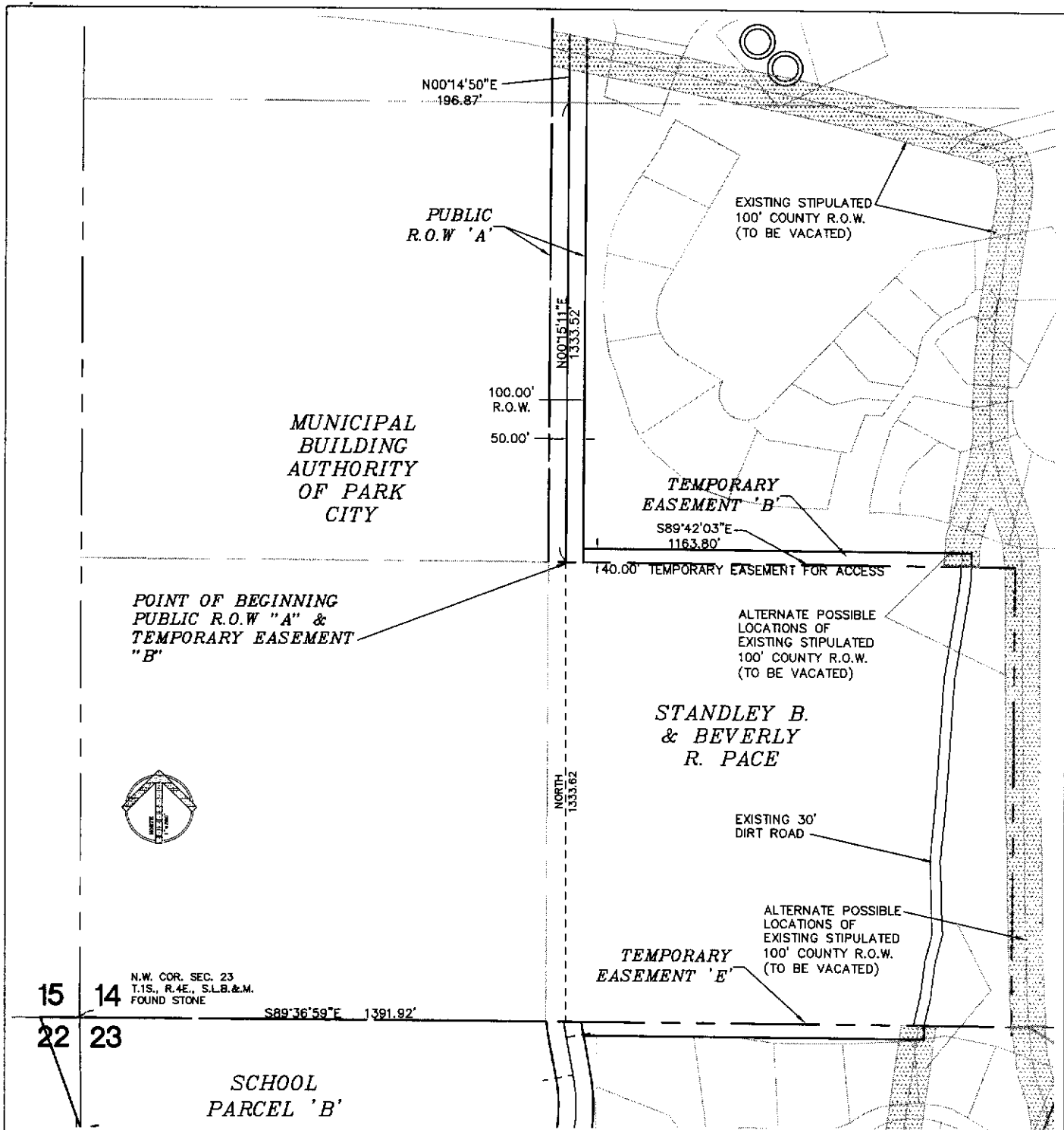
Commissioner Kerr voted: Yes
Commissioner Schifferli voted: absent
Commissioner Cone voted: Yes



ATTEST


Summit County Clerk *by*
Laura Blongquist, Deputy

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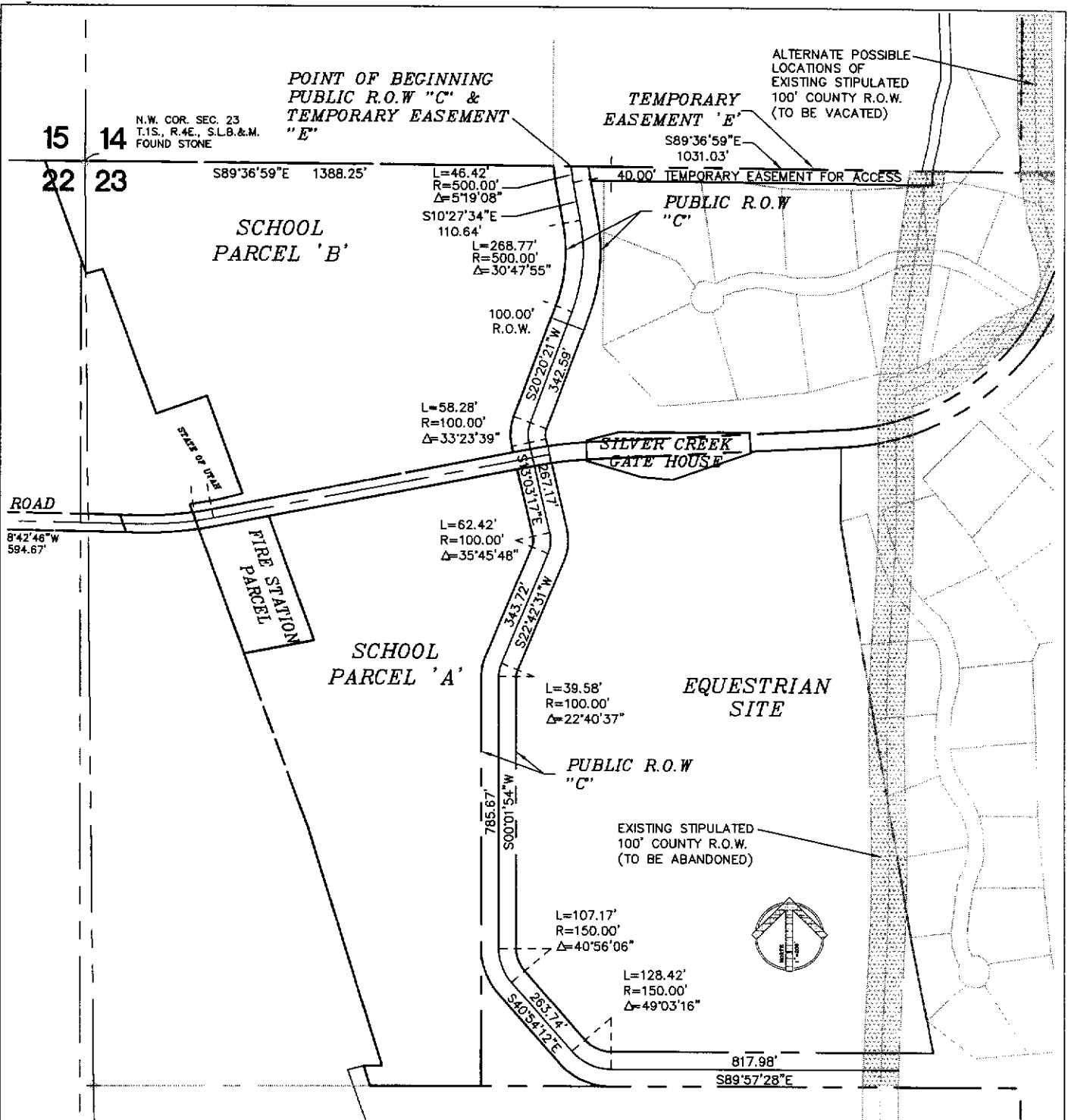


JACK JOHNSON COMPANY
Designing World Destinations

100 PUBLIC R.O.W
**PROMONTORY
PUBLIC R.O.W. 'A' &
EASEMENT 'B' EXHIBIT**

ISSUE DATE: DECEMBER 27, 2002

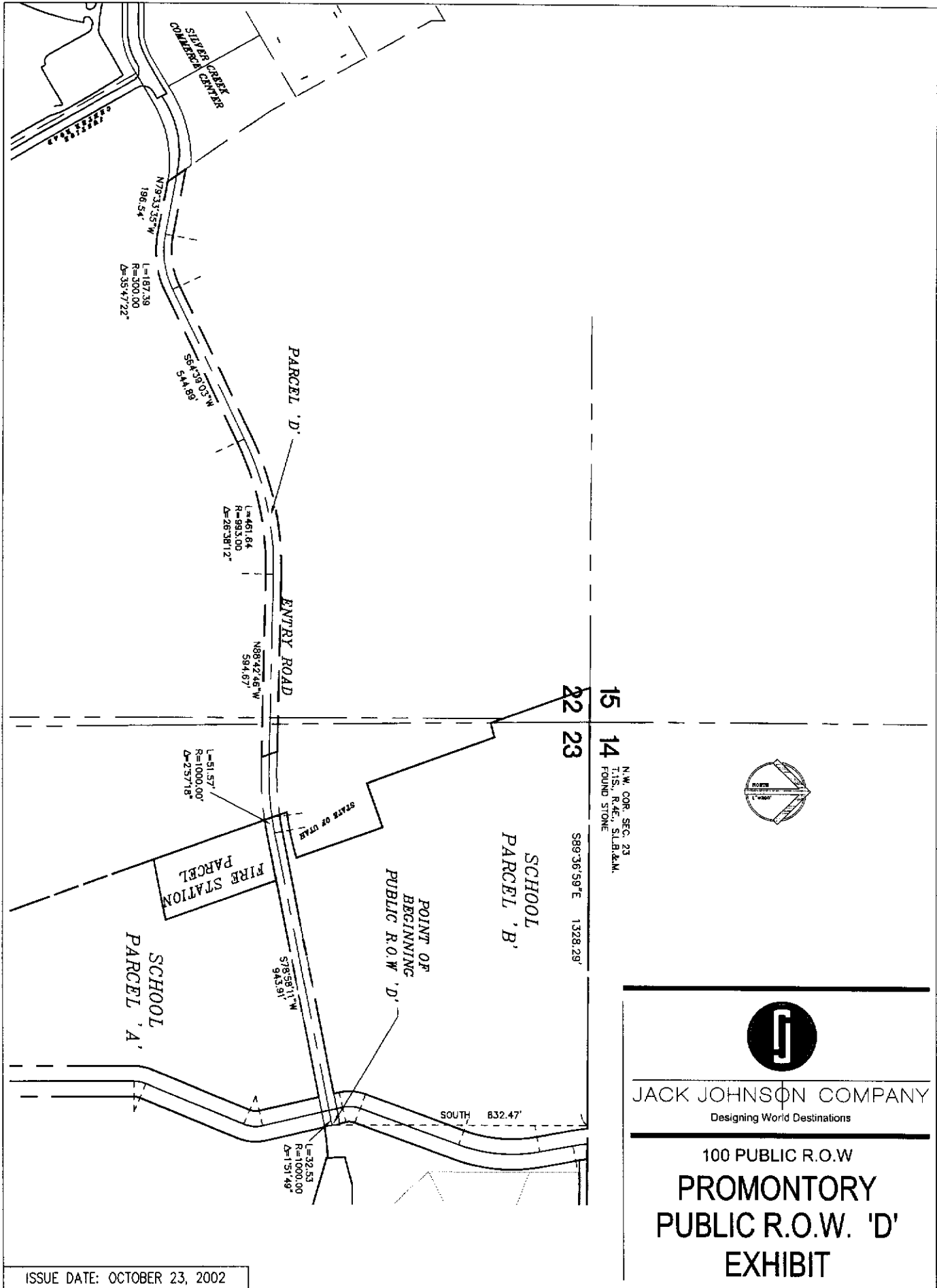
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JACK JOHNSON COMPANY
Designing World Destinations


100 PUBLIC R.O.W
**PROMONTORY
PUBLIC R.O.W. 'C' &
EASEMENT 'E' EXHIBIT**

ISSUE DATE: DECEMBER 27, 2002



ISSUE DATE: OCTOBER 23, 2002

15
 22
 14
 23
 N.W. COR. SEC. 23
 T1S. R4E. S14. R. 4E.M.
 FOUND STONE



JACK JOHNSON COMPANY
 Designing World Destinations

100 PUBLIC R.O.W
PROMONTORY
PUBLIC R.O.W. 'D'
EXHIBIT

When recorded, mail to:

Wynne L. Creekmore, Esq.
P.O. Box 217
Midway, Utah 84049

**TEMPORARY GRANT OF EASEMENT
FOR AGRICULTURAL ACCESS**

PIVOTAL PROMONTORY, L.L.C., an Arizona limited liability company, (GRANTOR), in consideration of the payment of TEN DOLLARS (\$10.00) and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, hereby conveys to **STANDLEY B. PACE and BEVERLY R. PACE** (GRANTEE) a temporary, non-exclusive agricultural access easement for the purpose of ingress and egress as necessary from time to time, along and through portions of the Grantor's property, located in the County of Summit, State of Utah, which are more specifically described as the "TEMPORARY AGRICULTURAL ACCESS EASEMENTS B and E" in EXHIBIT "A"

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE PART HEREOF

for the benefit of the Grantees appurtenant land, the following real estate, located in County of Summit, State of Utah, which is more specifically described in EXHIBIT "B" as the "BENEFITTED PARCEL"

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE PART HEREOF

The easement granted herein shall run with the land, provided, however, the easement granted herein shall terminate completely and immediately upon the signing of a development agreement for all or any portion of the BENEFITTED PARCEL between the Grantee (or any successor in interest of Grantee as owner of the BENEFITTED PARCEL) and any governmental entity having jurisdiction over the BENEFITTED PARCEL, or the conversion of the BENEFITTED PARCEL, or any portion thereof, to other than agricultural use, whichever shall first occur.

The easement granted herein is subject to the condition, and by entering onto the easement Grantee shall be deemed to agree, that the Grantee shall indemnify and hold harmless, the Grantor, its successors and assigns, against any and all liability or property damage caused by the acts of the Grantee, its contractors or agents during use of easement granted herein.

All rights not inconsistent with this easement are expressly reserved to the Grantor.

[Signatures on following page]

IN WITNESS HEREOF, Grantor has caused this Special Warranty Deed to be executed as of _____ day of _____, 2002.

GRANTOR:

PIVOTAL PROMONTORY, L.L.C.,
An Arizona limited liability company

By: F. Francis Najafi; as trustee of the F. Francis
Najafi Family Trust

Its: Administrative Member

By: _____
Name: F. Francis Najafi
Its: Trustee

**PROMONTORY
TEMPORARY EASEMENT "B"
December 26, 2002**

A 40.00 foot wide Temporary Easement for access lying 40.00 feet North of the property boundary common to Pivotal LLC and Standley B. & Beverly R. Pace and being more particularly described as follows:

Beginning at a point which is South 89°36'59" East 1391.92 feet and North 1333.62 feet from the Northwest Corner of Section 23, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 89°36'59" East 2672.06 feet between said Northwest Corner and the North Quarter Corner of said Section 23, both being found stones) and running thence South 89°42'03" East 1163.80 feet to the point of terminus.

Subject to and together with any and all easements, restrictions, conditions and/or instruments of record.

JJCo#453.0000.00
Dec. 26, 2002/KJM

**PROMONTORY
TEMPORARY EASEMENT "E"
December 26, 2002**

A 40.00 foot wide Temporary Easement for access lying 40.00 feet South of the property boundary common to Pivotal LLC and Standley B. & Beverly R. Pace and being more particularly described as follows:

Beginning at a point on the Section line which is South 89°36'59" East 1388.25 feet from the Northwest Corner of Section 23, Township 1 South, Range 4 East, Salt Lake Base and Meridian (Basis of Bearing being South 89°36'59" East 2672.06 feet between said Northwest Corner and the North Quarter Corner of said Section 23, both being found stones), and running thence along said Section line South 89°36'59" East 1031.03 feet to the point of terminus.

Subject to and together with any and all easements, restrictions, conditions and/or instruments of record

JJCo#453.0000.00
Dec. 26, 2002/KJM

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