

AGREEMENT TO ALLOW AN ACCESSORY LIVING AREA AS A MOTHER-IN-LAW APARTMENT OR CASITA

THE FOLLOWING AGREEMENT ENTERED INTO THIS 20th DAY OF SEPTEMBER, 2006, BETWEEN RANDALL EAVES AS THE OWNER OF A RESIDENTIAL STRUCTURE LOCATED IN PAYSON CITY HEREINAFTER REFERRED TO AS "APPLICANT", AND THE PAYSON CITY CORPORATION, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF UTAH, HEREINAFTER REFERRED TO AS "CITY".

RECITALS

- A. This Agreement has been prepared in response to a motion of the Payson City Council wherein approval was granted to allow Applicant to construct a residential dwelling that contains an accessory living area provided the accessory living area would be used as a mother-in-law apartment or casita as defined herein and not as a duplex or rental unit. This Agreement addresses issues including but not necessarily limited to:
1. Definitions of this Agreement.
 2. Acceptance clause.
 3. Description of residential structure and design considerations.
 4. Penalties and remedies.
 5. Legal considerations.
- B. The Payson City Council, in the exercise of its legislative discretion, has elected to approve this Agreement in behalf of the residents in the general vicinity of the residential structure owned by Randall Eaves, more fully described as the residential structure located at 195 East 400 South.
- C. This Agreement includes two (2) attachments:

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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2007 May 16 8:42 am FEE 0.00 BY STL
RECORDED FOR PAYSON CITY CORPORATION

Attachment A, Floor Plan and Elevation of the Residential Structure
Attachment B, Legal description of the Parcel

Now, therefore, Applicant and City hereby agree as follows:

Section 1 Definitions

Applicant Acceptance by Initial 

1. Applicant shall mean Randall Eaves, the owner of the residential structure located at 195 East 400 South in Payson, Utah, or any successor or assign of this Agreement. This Agreement is intended to run with the land and be applicable to all future owners of the property.
2. City shall mean Payson City Municipal Corporation.
3. Residential structure or structure shall mean the dwelling located at 195 East 400 South as indicated in Attachment A, Floor Plan and Elevation of Structure.
4. Mother-in-law apartment or casita shall include an accessory residential living area that is separate from the living area of the primary dwelling, but directly attached to the primary dwelling. In order to satisfy the intention of this definition, the owner of the structure shall not assess rental payments or any other form of payment for occupancy of the accessory living area.
5. Duplex or rental unit shall mean occupancy of the accessory residential living area for the purposes of profit or financial gain for the owner of the residential structure.

Section 2 Acceptance Clause

Applicant Acceptance by Initial 

This Agreement is binding to Applicant and City and shall be automatically assigned to any future owner of the residential structure located at 195 East 400 South. Applicant understands and agrees to limit occupancy of the accessory residential living area in a manner that satisfies the definition of a mother-in-law apartment or casita as defined herein. Applicant agrees that the recordation of this Agreement represents a deed restriction against the structure located at 195 East 400 South that binds all future owners of the structure to the provisions of this Agreement. Applicant understands and agrees that Applicant is not allowed to assess rent or any other form of payment in exchange for occupancy of the accessory living area.

Section 3 Description of Residential Structure and Design Considerations

Applicant Acceptance by Initial 

The residential structure shall be constructed consistent with the construction plans attached hereto in Attachment A, Floor Plan and Elevation. In an effort to ensure the accessory living area will always be used as anticipated by the City Council, the following design considerations will be implemented by Applicant: ENT 72153:2007 PG 2 of 9

- 1. Applicant agrees that the structure shall maintain the appearance of a single family dwelling to the extent possible given the design of the structure.
- 2. There shall be only one address assigned to the residential structure and only one mail delivery box for the residential structure.
- 3. There shall be only one set of public and/or private utility services connected to the residential structure.

Section 4 Penalties and Remedies

Applicant Acceptance by Initial 


Applicant and any successor or assign hereby recognize that City in taking action to enforce the provisions of this Agreement may terminate utility services (power and water) to the residential structure until any violation of this Agreement has been corrected or pursue any other legal means available to City to remedy a breach of contract.

Section 5 Reserved Legislative Powers

Applicant Acceptance by Initial 

City recognizes the validity of this Agreement that has been approved by the City Council and recorded in the office of the Utah County Recorder. However, nothing in this Development Agreement shall limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement, except with respect to the use of the accessory living area as a mother-in-law apartment or casita as described herein.

Section 6 Agreement to Run With the Land

Applicant Acceptance by Initial 


This Agreement shall be recorded against the property that contains the residential structure located at 195 East 400 South in Payson, Utah and shall be deemed to run with the land. This Agreement shall be binding on all successors and assigns of the property, or any portion thereof. This Agreement and all provisions, terms and conditions hereof are automatically assigned to the owner of record of the subject parcel.

Section 7 No Joint Venture, Partnership or Third Party Rights

Applicant Acceptance by Initial 

This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor shall it confer any rights or benefits to third parties.

Section 8 Integration

Applicant Acceptance by Initial 

This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind of nature and may only be modified by a subsequent writing duly executed by the parties hereto.

Section 9 Severability

Applicant Acceptance by Initial 

If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement, except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(Signature Page to Follow)

DATED this 27 day of Nov. 2006.

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By:

Randall Eaves
Randall Eaves,
Owner of Residential Structure located at
195 East 400 South in Payson, Utah

Burtis Bills
Burtis Bills
Mayor, Payson City

Attest:

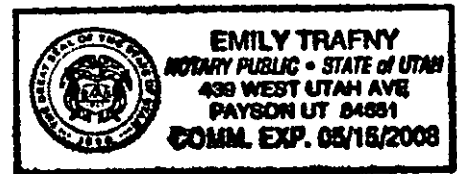
Jeanette Curtis
Jeanette Curtis
Payson City Recorder



STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

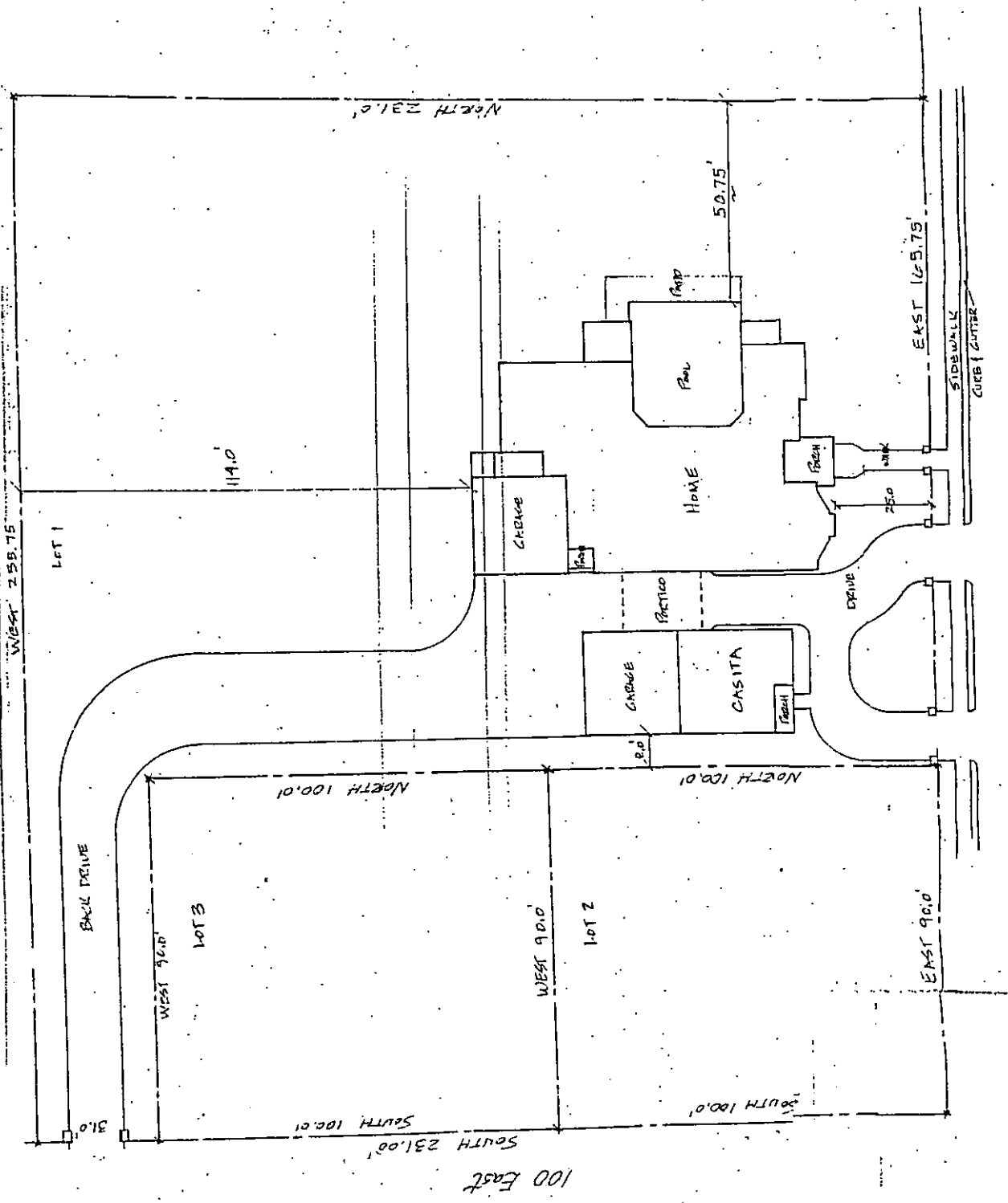
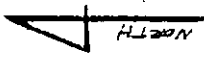
On this 27 day of November, 2006, personally appeared before me, a Notary Public in and for the State of Utah, Randall Eaves, the signer of the above instrument, who duly acknowledged to me that they executed the same.

Emily Trafny
NOTARY PUBLIC



Attachment A

(Floor Plan and Elevation of the Residential Structure)



400 South

100 East

Attachment B
(Legal Description of Parcel)

Legal Description

Lot 1, Plat A, Peteetneet Creek Subdivision

Area = 0.943 Acres