

November 4, 2015

MEMORANDUM

TO: State Board of Regents  
FROM: David L. Buhler  
SUBJECT: University of Utah Acquisition of Heritage Preserve Property

Issue

The University of Utah wishes to inform the Board about the acquisition of property that is contiguous to the University Heritage Preserve.

Background

This acquisition is being acquired as a settlement between the University and an adjacent homeowner, the terms of which will result in the University receiving 5 acres and \$225,000 for the benefit of the Heritage Preserve. The information detailing the reason for this transaction and the details of the settlement are explained in the attached letter from the University.

Because the University is paying nothing for the property and its acquisition meets the other provisions of Regents Policy 710 pertaining to acquisition of property that is contiguous to the existing campus, it is eligible for approval by the Board of Trustees. That approval was granted at the October 13, 2015 Board of Trustee meeting. University representatives will be present at the meeting to provide additional information and respond to Regents' questions as needed.

Commissioner's Recommendation

This is an information item and no action is needed.

---

David L. Buhler  
Commissioner of Higher Education

DLB/GLS/WRH  
Attachments

October 22, 2015

Commissioner David Buhler  
Utah System of Higher Education  
Board of Regents Building, The Gateway  
60 South 400 West  
Salt Lake City, Utah 84101-1284

Dear Commissioner Buhler:

I am writing to inform the Board of Regents of the property transaction described below. This property transaction is part of a settlement between the University of Utah and adjacent property owners whose residential improvements encroached on the Heritage Preserve.

As explained below, this settlement will result in the homeowners' payment to the University of \$225,000, the conveyance to the homeowners by the University of a small (.17 acre) parcel of land within the Heritage Preserve that is critical to the structural integrity of the home, and the homeowner's conveyance to the University of five acres of land for the Heritage Preserve.

#### BACKGROUND

The land within the University's Heritage Preserve is owned in fee by the University and is subject to a conservation easement held by Utah Open Lands ("UOL"). Property owners whose residence abuts the Heritage Preserve (the "Homeowners"), without notice to or approval from the University or UOL, landscaped and placed a retaining wall, patio, steel fencing, irrigation and lighting on approximately one acre of the Heritage Preserve (the "Impacted Area"). These actions constituted a trespass onto University property and were also a violation of the provisions of the conservation easement.

The University, UOL, and the Homeowners have tentatively agreed on the following settlement. The University and UOL believe that proposed settlement, which includes payment to the University of \$225,000 to be used to benefit the Heritage Preserve, is an appropriate and reasonable resolution of this issue.

Summary of Proposed Settlement:

1. The Homeowners will restore the majority of the Impacted Area to its natural condition. This has been completed.
2. The Homeowners will pay \$225,000 to the University to be used for the benefit of the Heritage Preserve.
3. The Homeowners will reimburse UOL for \$15,000 of expenses that UOL incurred as a result of the Homeowner's actions.
4. The University will convey to the Homeowners a small parcel of land (approximately .17 acre) on which the retaining wall is located ("Parcel 1"). That retaining wall is providing

- structural support for the home. The conveyance of Parcel 1 will be “as-is” and subject to the existing Heritage Preserve conservation easement.
5. The Homeowners will then grant a new conservation easement to UOL for the benefit of the Heritage Preserve on approximately 5 acres of vacant land owned by the Homeowners that abuts the Heritage Preserve (“Parcel 2”).
  6. The Homeowners will then convey Parcel 2 to the University, subject to this new conservation easement.
  7. Finally, Parcel 2 will be incorporated into and managed as part of the Heritage Preserve and Parcel 1 will be released from the Conservation Easement.

The university performed appropriate due diligence taking into account that the property the University will receive is open space and will not be developed. This item was approved by the University of Utah’s Board of Trustees at their October 13, 2015 meeting. In accordance with Regents policy R 7.10, section 4.5.4, we respectfully submit this item for your information.

Sincerely,

A handwritten signature in black ink, appearing to read "John Nixon", with a stylized, cursive script.

John Nixon  
Senior Chief Administrative Officer and CFO

Cc: Fred Esplin, Vice President, Institutional Advancement  
Alice Whitacre, Associate General Counsel