

EXHIBIT "A"
To Toquerville Ordinance 2021.23

When Recorded, Mail To:

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Bingham Snow & Caldwell, LLP
253 West St. George Blvd., Suite 100
St. George, Utah 84770

Affects Parcel Nos.:



TOQUERVILLE CITY
ORDINANCE 2021.23

AN ORDINANCE VACATING A PORTION OF RIM VIEW DRIVE AND
AUTHORIZING DISPOSITION OF THE SAME TO ADJACENT PROPERTY
OWNER.

RECITALS

WHEREAS, Toquerville City ("**City**") is an incorporated municipality duly organized under the laws of the State of Utah;

WHEREAS, Utah Code Annotated, Title 10, Chapter 9a, Subsection 102(2) states "...municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls ...";

WHEREAS, pursuant to Utah Code Annotated § 10-3b-301, the Toquerville City Council ("**City Council**") is designated as the governing body of the City and the "land use authority" with regards to the approval and regulation of roads, utilities, subdivisions and land uses within the City;

WHEREAS, pursuant to Utah Code Annotated § 10-9a-609.5 the City Council, may pass an ordinance to vacate, narrow, or modify public streets and utility easements within the City or otherwise manage or dispose of city property;

WHEREAS, at the confluence of Rim View Drive, Chaparell Drive and Ash Creek Drive within the Toquerville Estates Subdivision there is a section of Rim View Drive that has been dedicated to the City as part of the Amended Final Plat for said subdivision recorded on June 30, 1972 as Instrument 00149598 in the Official Records on file in the Office of the Recorder of Washington County, State of Utah, yet said section of Rim View Drive was never improved as it would dead end into private land that was yet to be developed ("Rim View Drive Extension");

WHEREAS, to this date, the Rim View Drive Extension has yet to be improved and the City has acquired land, and made plans to construction a limited access by-pass road to be known as Toquerville Parkway and eventually transition into a re-aligned Utah SR-17 directly to the North of Toquerville Estates Subdivision and the Rim View Drive Extension;

WHEREAS, except for a northernmost section of the unimproved Rim View Drive Extension comprising of approximately 0.04 acres that will become part of Toquerville Parkway, the remaining portion of the Rim View Drive Extension described and depicted in *Exhibit "A"* which is attached hereto and incorporated herein by this reference ("Vacation Parcel") is no longer needed as a roadway for traffic circulation purposes and does not contain an existing utilities or utility easements;

WHEREAS, the City Council finds, and has determined, in conformance with Utah Code Annotated § 10-9a-609.5(7)(b), that: a) there is good cause for vacating the Vacation Parcel as described and depicted, b) the vacating of the Vacation Parcel will not be detrimental to the public interest nor will

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any person be materially injured by the vacation, and c) the Vacation Parcel does not include a protected utility easement as defined in Utah Code Annotated § 54-3-27;

WHEREAS, the City Council finds that in conformance with Utah Code Annotated § 10-9a-609.5(7)(b), that notice of the intention of the City Council to vacate the portion of the Rim View Drive Extension known as the Vacation Parcel was issued to the public and a public hearing on the matter occurred on this 20th day of October, 2021 and thus all other applicable noticing requirements as set forth in Utah Code Annotated § 10-9a-208 and elsewhere in the Utah Municipal Code (Utah Code Annotated Title 10, Chapter 9a) as well as Section 10-1-8-5 of the Toquerville City Code have been satisfied;

WHEREAS, the City Council finds that, in conformance with Utah Code Annotated § 10-9a-609.5, the published notice required for this action has been properly given by publishing the same in a newspaper of general circulation in the City, i.e. the *Spectrum* by and thru its posting on the www.utahlegals.com;

WHEREAS, the adjacent property who owns Lot 17 of the Toquerville Estates Subdivision has expressed his interest and willingness to purchase the Vacation Parcel from the City in exchange for certain cash consideration and the conveyance of a small portion of his Lot 17 that needs to be included in the roadway dedicatory plat for the Toquerville Parkway which is acceptable and desirable to the City;

WHEREAS, in order to fully effectuate the purposes and intent set forth above, the City Council now desires to adopt the following Ordinance.

ORDINANCE

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, State of Utah, as follows:

1. FINDINGS. The City Council finds that the process for approval of the vacature and disposal of the Vacation Parcel as prescribed by Utah law and the Toquerville City Code has been complied with and that good cause exists – as set forth in the Recitals above.

2. VACATURE OF THE VACATION PARCEL. The portion of the Rim View Drive Extension described herein as the Vacation Parcel and described/depicted more fully in *Exhibit "A"* attached hereby vacated as a public street pursuant Utah Code Ann. § 10-9a-609.5.

3. AUTHORIZATION TO DISPOSE OF THE VACATION PARCEL. The City Council hereby authorizes the City, by and through the Mayor to enter into a land exchange agreement whereby the City agrees to convey the Vacation Parcel to the adjacent property owner in exchange for said property owner conveying a portion of his lot to the City for dedication as part of the Toquerville Parkway and his payment of certain cash consideration in an amount to be set forth in the land exchange agreement and previously agreed to by the City Council.

4. RECORDING OF ORDINANCE. Upon approval, execution and official attestation of this Ordinance, the original shall be recorded in the Official Records on file in the Office of the Recorder of Washington County, State of Utah, the effect of which being to vacate the portion of the Rim View Drive Extension described herein and as the Vacation Parcel and described/depicted more fully in *Exhibit "A"* in conformance with Utah Code Annotated § 10-9a-609.5.

5. REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

6. SAVINGS CLAUSE. If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of

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competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

7. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS 20th DAY OF OCTOBER, 2021.

Justin Sip	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
Ty Bringhurst	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
Keen Ellsworth	AYE <input type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input checked="" type="checkbox"/>
John 'Chuck' Williams	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>
Gary Chaves	AYE <input checked="" type="checkbox"/> NAE <input type="checkbox"/> ABSTAIN <input type="checkbox"/> ABSENT <input type="checkbox"/>

CITY OF TOQUERVILLE
a Utah Municipal Corporation

Attest:


Lynn Chamberlain, Mayor

10/21/21
Date


Ruth Evans, City Recorder



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43 South 100 East, Suite 100 T 435.628.6500
St George, Utah 84770 F 435.628.6553

alphaengineering.com

TOQUERVILLE CITY TO JACK R. KOHLER LLC
(July 13, 2021)

Commencing at the North ¼ corner of Section 14, Township 41 South, Range 13 West, Salt Lake Base and Meridian, thence South 1699.34 feet and East 62.36 feet to the point of beginning, said point being on the easterly line of Lot 17, Toquerville Estates Amended Subdivision as recorded in the Office of the Washington County Recorder as Document #149598, and running thence South 82°50'44" East 51.32 feet to a point on a non-tangent curve concave to the Northeast, having a radius of 311.54 feet of which the radius point lies North 83°07'47" East; thence Southeasterly 201.81 feet along said curve through a central angle of 37°06'56" and a chord bearing of South 25°25'41" East 198.30 feet; thence West 85.50 feet to a point on the easterly line of Lot 17, Toquerville Estates Amended Subdivision as recorded in the Office of the Washington County Recorder as Document #149598 and the beginning of a non-tangent curve concave to the East, having a radius of 361.54 feet of which the radius point lies North 53°14'31" East; thence Northerly 201.03 feet along said curve and the easterly line of said Lot 17 through a central angle of 31°51'32" and a chord bearing of North 20°49'43" West 198.45 feet to the point of beginning.

Contains 10,053 square feet or 0.23 acres, more or less.

A circular notary seal for Scott W. Stacey, Notary Public, State of Utah. The seal is stamped in blue ink and contains the text "SCOTT W. STACEY", "NOTARY PUBLIC", and "STATE OF UTAH". A blue ink signature is written over the seal, and the date "7/14/2021" is handwritten below it.

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