

TOQUERVILLE CITY
PLANNING COMMISSION MEETING AGENDA
Wednesday - July 18, 2018
Work Meeting 6:30 p.m. and Regular Meeting 7:00 p.m.
Held at 212 N. Toquerville Blvd, Toquerville Utah



6:30 PM WORK MEETING:

1. Discussion of Short Term Rentals-Bed and Breakfast and Nightly/Short Term Rentals.
2. Discussion of Accessory Buildings.

7:00 PM REGULAR MEETING:

1. Call to Order by Chairman Alex Chamberlain; Pledge of Allegiance by Jake Peart.
2. Disclosures and Declaration of Conflicts from Commission members (if any)

A. REVIEW OF MINUTES:

1. Review and Possible Approval of Planning Commission Work and Regular Business Meeting from June 20, 2018.

B. PUBLIC FORUM:

Comments from public and public requests for future agenda items.

Limit three (3) minutes per person; please address the microphone and state full name and address.

C. PUBLIC HEARING:

1. Public input is sought on an ordinance revisiting and restating in its entirety Section 2, Chapter 3, Title 10 of the Toquerville City Code to reorganize and re-name the Toquerville Board of Adjustment to a single member panel known as the Toquerville Appeal Authority.

D. BUSINESS/ACTION ITEM(S):

1. Discussion and Possible Recommendation on ORD 2018.XX Appeal Authority Replacing The Board of Adjustment.
2. Discussion and Possible Recommendation of Proposed Changes to Land Management Code Title 10. Bed and Breakfast Services Chapter 17-3, Nightly or Short Term Rentals Chapter 17-4, General Definitions Chapter 2-1, Conditional Uses in Agricultural Districts Chapter 9A-3, Conditional Uses in R-1- Single-Family Residential District Chapter 10A-3, Permitted Uses in Planned Commercial Zone Chapter 12C-2, Sign Regulations Chapter 22-7.
3. Discussion and Possible Recommendation of Proposed Changes to Land Management Code Title 10-2-1 General Definitions.
4. Discussion of a Proposed Resort Zone.
5. Discussion on Definition of a Minimum Setback.

E. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:

1. Livestock Conditional Use Permit-Kris & Jessie Hansen for the keeping of two horses at 1500 Cholla Drive.
2. Home Occupation Conditional Use Permit-My Nephew's Photos for Kate Kirkham at 1661 S Chaparell Drive.
3. Home Occupation Conditional Use Permit-Naomi Fern Wright Certified Rolfer, LMT for Naomi Fern Wright at 959 S Peachtree Drive.
4. Home Occupation Conditional Use Permit-Majestic Massage Therapy for Kathryn Paredes at 1219 South Grand Canyon Parkway.
5. Home Occupation Conditional Use Permit-Zion Locksmith for Carl Westegaard at 932 South Peachtree Drive.

6. Conditional Use Permit-The Young Home Bed & Breakfast for Gary & Karlene Young at 460 N Toquerville Boulevard.
7. Conditional Use Permit-TQ-2-Zion Bed and Breakfast for Kalleen & Roger Campbell at 350 S Ash Creek Drive.
8. Conditional Use Permit-Rockin' G Bed and Breakfast for Bill and Lucy Gillingham at 654 S Westfield Road.
9. Conditional Use Permit-Windsong (Wind Energy Facility) for Jerry Eves at the property bordering Grand Circle Ranch, on the west side of I-15.
10. Conditional Use Permit-Bowse Energy (Solar Energy Facility) for Jerry Eves at the property bordering Grand Circle Ranch on the west side of I-15.
11. Conditional Use Permit-Extraction Permit for the Washington County Water Conservancy District, Tax ID# T-3-0-27-132, the area of the Anderson Junction/Toquerville Exchange near I-15.

F. ADJOURN:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Dana McKim at the City Office 435.635.1094, at least 48 hours in advance. This Agenda will be sent to the Spectrum Newspaper, posted on the State website at <http://gmn.utah.gov>, on the Toquerville City website at www.toquerville.org, and in four places at least 24 hours in advance of this meeting. The four places are: (1) City Office Board; (2) Toquerville Post Office Kiosk; (3) Cholla Park Kiosk; (4) Westfield Road Kiosk. Posted July 16, 2018 by Toquerville City Recorder, Dana M. McKim.

TOQUERVILLE CITY
ORDINANCE 2018.XX



AN ORDINANCE REVISING AND RESTATING IN ITS ENTIRETY SECTION 2, CHAPTER 3, TITLE 10 OF THE TOQUERVILLE CITY CODE TO REORGANIZE AND RE-NAME THE TOQUERVILLE BOARD OF ADJUSTMENT TO A SINGLE MEMBER PANEL KNOWN AS THE TOQUERVILLE APPEAL AUTHORITY

RECITALS

WHEREAS, pursuant to the Utah Constitution and the partial delegation of the State's police powers to municipalities and counties to regulate land use and development of land within its boundaries, the Utah State Legislature adopted Chapter 9a of Title 10 (Municipal Code), known as the Utah Land Use Development & Management Act – "LUDMA" in 2005.

WHEREAS, pursuant to LUDMA, a municipality has been required to have at least one separate body (other than its governing body) to act as an "appeal authority" to hear appeals on various types of land use decisions or staff interpretations/applications of a City's land use ordinances as well as property owners' applications for variances.

WHEREAS, in compliance with the requirements of LUDMA, Toquerville City ("City") has maintained a body of appointed officials known as the Toquerville Board of Adjustments ("B of A") and the Toquerville City Council ("City Council") has designated the B of A as its "appeal authority" on all types of land use related appeals from decisions made by the City Council and Toquerville Planning Commission as well as the appeal authority for purposes of hearing and determining whether or not to grant variances for structures and parcels not in conformance with Title 10 of the Toquerville City Code (Land Use Regulations).

WHEREAS, in recent years the Utah State Legislatures have made changes to LUDMA to clarify that a municipality's "appeal authority" need not consist of any certain number of members but that the size and the internal operation of an appeal authority is left to the discretion of each municipality, except in certain instances.

WHEREAS, the City Council has determined that because of the size of the City, the low number of variance applications and appeals, and the fact that Section 2, Chapter 3 of Title 10 of the Toquerville City Code requires the City Council to appoint regular members and two alternates to the B of A, it is not in the City and its residents' best interest to maintain such a large appeal authority and to keep them trained on the proper procedures, protocol and criteria prescribed LUDMA and Title 10 of the Toquerville City Code.

WHEREAS, the City Council has determined that it would be more cost effective and that a higher level of expertise, experience and professionalism could be obtained by the City in all land use appeals and variance requests that may come before it, if the Mayor, with the consent of the City Council were to appoint a single individual, who preferably has considerable experience and training in Utah municipal law and particularly municipal land use law as well as

Utah administrative law, Utah's Rules of Civil Procedure, Evidence, and Appellate Procedure who could hear appeals and various request and render decisions thereon in a very well-reasoned and articulated manner.

WHEREAS accordingly, the City Council has determine that in order to implement and authorize a one person, law-trained "Appeal Authority", that Section 2, Chapter 3 of Title 10 of the Toquerville City Code must be amended significantly.

ORDINANCE

NOW THEREFORE BE IT ORDAINED BY THE TOQUERVILLE CITY COUNCIL, based upon the recitals set forth above, that:

1. Amended & Restated Section 2, Chapter 3, Title 10 of the Toquerville City Code: Section 2, Chapter 3, Title 10 of the Toquerville City Code is hereby amended and restated in its entirety as follows:

10-3-2: APPEAL AUTHORITY

A. DEFINITIONS.

"Appeal Authority" means the person appointed by the Mayor with the advice and consent of council to hear appeals from person(s) who have been affected by the implementation of the Land Use Ordinances.

"Land Use Authority" means anyone who has the authority to interpret or implement the City's Land Use Ordinance and for purposes of this Section shall be the Toquerville City Council except for in those instances with the Land Use Ordinance the City Council has delegated a specific power to the Toquerville Planning Commission or an appointed official of the City, in which cases that body or person shall be the Land Use Authority.

"Land Use Ordinance" is defined in Title 10, Chapter 9a of the Utah Code and for purposes of this Section shall be Title 10 of the Toquerville City Code.

B. APPOINTMENT.

There is hereby created an Appeal Authority to be appointed by the Mayor with the advice and consent of the City Council. It is the intent of the City that the appointed individual will not personally benefit from decisions associated with the interpretation of the ordinances of the City.

C. TERM.

The Appeal Authority shall serve for a term of two (2) years. Notwithstanding the preceding, the term of office of the initial Appeal Authority shall run from the date of appointment until December 31, 2020. Thereafter all subsequent terms shall

commence on January 1st of every other year or until the Appeal Authority position is vacant on account of death, resignation, removal or disqualification. In the event of early vacancy, the position of Appeal Authority shall be filled in the same manner as an original appointment for the expired term.

D. REMOVAL.

The appointed Appeal Authority may be removed for cause by the City Council upon written charges, which shall be filed with the Mayor, and after public hearing, if such public hearing is requested by the appointed Appeal Authority.

E. DUTIES AND POWERS.

- 1. The Appeal Authority shall have the following powers and duties:*
 - a. To act in a quasi-judicial manner;*
 - b. Hear and decide requests for "variances" as that term is defined in Utah Code Ann. §10-9a-702,*
 - c. Hear and decide appeals of the Land Use Authority's administrative decisions applying the Land Use Ordinance.*
 - d. Serve as the final arbiter of issues involving the interpretation or the application of Land Use Ordinances.*
 - e. Hear and decide appeals from a fee charged in accordance with section 10-9a-510 of the Utah Code.*
- 2. The Appeal Authority may not entertain an appeal of a matter in which the Appeal Authority, or any participating member, had first acted as the Land Use Authority.*

F. APPEALS TO THE APPEAL AUTHORITY.

- 1. As a condition precedent to judicial review, each adversely affected person may specifically challenge a Land Use Authority's decision, within fifteen (15) days of the land use decision and pay the related fee as may be set by the City Council, amended from time to time, and designated in the City's Uniform Fee Schedule.*
- 2. The Appeal Authority shall determine the correctness of a decision of the Land Use Authority in its interpretation and application of a Land Use Ordinance.*

3. *Only those decisions in which a Land Use Authority has applied a Land Use Ordinance to a particular application, person or parcel may be appealed to the Appeal Authority.*
4. *All documents and exhibits constituting the record upon which the action appealed was made shall be presented to the City Clerk with the application for hearing.*
5. *For every appeal, the applicant shall present to the Appeal Authority every theory of relief that it can raise in District Court.*
6. *The Appeal Authority shall conduct each appeal and variance hearing as described by this Section.*
7. *The person or entity who filed the appeal has the burden of proving that the Land Use Authority erred.*
8. *The Appeal Authority shall respect the due process rights of each of the participants in providing them with proper notice, right to be heard at a hearing and right to have legal counsel present and participate at said hearing if he/she/it so desires.*
9. *After the hearing, the Appeal Authority may give a preliminary decision, but shall issue a written decision within sixty (60) days after the hearing or after an applicant has submitted their appeal or variance request for decision and waiving their right to hearing in writing.*
10. *If an appeal of a land use decision is lodged with the City, the City Council may waive the requirements of Subsection F.1., above and allow the applicant to make their appeal directly to the 5th District Court, in and for Washington County, State of Utah.*

G. VARIANCES.

Any person or entity desiring a waiver or modification of the requirements of a Land Use Ordinance as applied to a parcel or property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.

1. *The Appeal Authority may grant a variance only if:*
 - a. *The literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinances;*
 - b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*

- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;*
 - d. *The variance will not substantially affect the general plan and will not be contrary to the public interest; and*
 - e. *The spirit of the Land Use Ordinance is observed and substantial justice done.*
2. *In determining whether or not enforcement of the Land Use Ordinance would cause unreasonable hardship under Subsection G.1.a., the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:*
 - a. *Is located on or associated with the property for which the variance is sought; and*
 - b. *Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; or*
 - c. *The hardship is self-imposed or economic.*
 3. *In determining whether or not there are special circumstances attached to the property under Subsection G.1.b., the Appeal Authority may find that special circumstances exist only if the special circumstances:*
 - a. *Relate to the hardship complained of; and*
 - b. *Deprive the property of privileges granted to other properties in the same zoning district.*
 4. *The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.*
 5. *Variances run with the land.*
 6. *The Appeal Authority may not grant a use variance.*
 7. *In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:*
 - a. *Mitigate any harmful effects of the variance; or*
 - b. *Serve the purpose of the standard or requirement that is waived or modified.*

F. INTERPRETATION OF LAND USE ORDINANCE.

Any person alleging there was an error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of the Land Use Ordinance may request an interpretation and decision from the Appeal Authority in accordance with this Subsection F.

- 1. The Appeal Authority will grant a waiver to the decisions of the Land Use Authority only as follows:*
 - a. If the decision or requirement by the Land Use Authority conflicts with the intent or literal interpretation of the Land Use Ordinances; or*
 - b. If the decision or requirement by the Land Use Authority conflicts with state or local laws.*
- 2. In some instances, the Appeal Authority may not fully understand the intent of an ordinance or requirement placed upon any person(s) by the Land Use Authority. Under these circumstances the Appeal Authority may obtain a decision from the City Council prior to making a final decision (if applicable).*
- 3. If the Appeal Authority requires an interpretation from the City Council, the Appeal Authority shall make a final decision within ten (10) days after that interpretation is given.*

G. DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISIONS.

Any person or entity adversely affected by any decision of the Appeal Authority may petition the District Court for a review of the decision.

- 1. In the petition for review, the petitioner may only allege that there was an error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of the Land Use Ordinance.*
- 2. The petition is barred unless it is filed within thirty (30) days after the Appeal Authority's decision becomes effective, which three (3) days after the written decision is issued by the Appeal Authority and mailed via first class mail to the applicant at the address designated in the application.*
- 3. The Appeal Authority shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this subsection.*

4. *Review of the Appeal Authority's decision shall be done by the court in the manner and upon the standards provided by law.*
5. *The appellant has the burden of proving that the Appeal Authority erred.*
6. *No person or entity may challenge in District Court a land use decision of the City until that person or entity has exhausted their administrative remedies as provided in this Section or elsewhere in Title 10 of the Toquerville City Code.*

2. **Repealer.** This Ordinance supersedes or repeals the provisions of any ordinance, resolution that are inconsistent with the provisions of this Ordinance.

3. **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 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.

4. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the Toquerville City Council.

PASSED AND APPROVED THIS ____ DAY OF _____, 2018.

Paul Heideman	Aye ____	Nay ____
Keen Ellsworth	Aye ____	Nay ____
Justin Sip	Aye ____	Nay ____
Mike Ruesch	Aye ____	Nay ____
Ty Bringhurst	Aye ____	Nay ____

TOQUERVILLE CITY
a Utah Municipal Corporation

Lynn Chamberlain, Mayor

Date _____

Attest: Dana McKim, City Clerk

10-17-3: BED AND BREAKFAST SERVICES:

10-17-4: NIGHTLY OR SHORT TERM RENTALS:

10-17-3: NIGHTLY RENTAL:

The "Nightly Rental" is the act of leasing a residence, or any part thereof, by a person or entity to another for a consecutive period of ninety (90) calendar days or less in exchange for direct or indirect remuneration.

Nightly Rentals shall meet the following requirements:

A. Nightly Rental Permit Application:

The applicant must apply for and obtain a Nightly Rental Permit, which is a special permit and is approved and otherwise regulated by this chapter. The Nightly Rental Permit is non-transferable to another owner or another residence.

The Nightly Rental Permit application must include a site plan for the premises and a floor plan of the building. The site plan must identify the required off-street parking to be used in connection with the Permit.

B. Review: A complete application will be reviewed by staff at the next regularly scheduled staff meeting. Staff shall review the application and forward their recommendation to the Planning Commission. The Planning Commission will hear the application at their next meeting and conduct a public hearing on the matter. After said public hearing the Planning Commission will forward their recommendation to the Toquerville City Council for final determination on the application. The City Council may deny, approve or approve with special conditions the application for a Nightly Rental Permit.

C One Structure: The Nightly Rental must be under one roof.

D Parking: There shall be no on-street parking overnight by guests. The minimum parking requirements shall be one (1) parking stall per guestroom and two (2) parking stalls per on-premises owner.

E Maximum Guests: The maximum number of occupants per residence shall be ten (10) (including the owner and his/her family. This limitation may only be exceeded if the property owner installs or has installed an approved fire suppression/sprinkler system compliant with the applicable international fire code and said fire suppression/sprinkler system has received and passed inspection by the fire district authority having jurisdiction.

F Owner Primary Residence Within City: The owner of the residence where the Nightly Rental occurs must have his or her primary residence within the Municipal boundaries of the City. For purposes of this chapter, the term "owner" shall mean:

a. A natural person who is the permit holder and who owns the controlling interest of the residence.

G. **Ownership Limitation:** An applicant for a Nightly Rental Permit shall have an ownership interest in no more than two Nightly Rentals in the City of Toquerville.

H. **Modifications:** Modifications to the appearance and size of the structure should be in keeping with the residential character of the neighborhood within which the establishment is located.

I. **Penalties:** Upon finding a violation under this section, the following penalties shall apply:

a. **First violation:** Five hundred dollars (\$500.00).

b. **Second violation:** Fifteen hundred dollars (\$1,500.00).

c. **Third violation:** Three thousand dollars (\$4,000.00).

d. **Fourth violation:** License automatically revoked.

e. **Review:** Upon the second or subsequent violation of this section, there shall be a mandatory review conducted before the City's Planning Commission, who shall have the ability and right to revoke the Nightly Rental Permit in its sole and absolute discretion. Revocation of a Nightly Rental Permit, for any reason, shall result in a minimum twelve (12) month waiting period prior to any new application, which revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a Nightly Rental Permit and all applications will be processed under the then current ordinances. Failure to pay a fine as required by the previous subsection shall constitute grounds for automatic revocation of the owner's Nightly Rental Permit.

f. **Enforcement:** In addition to the fines set forth in subsection C of this section, all violations of this chapter shall constitute a Class C misdemeanor and shall be enforced in compliance with chapter 5 of this title. (Ord. 2017.07, 6-8-2017).

J. **Revocation Of Permit:** The Nightly Rental Permit may be revoked at any time should the use become a public nuisance.

K. **Site Approval, Public Hearing; Annual Review:** A site approval and public hearing are required. An annual review **period** shall be required.

L. **Log:** The Owner shall provide upon request the Name, Address and Phone Number of renters.

M. **Business License Required; Room Tax:** Applicant must apply for and obtain a business license pursuant to title 3, chapter 1 of this Code and pay the current Room Tax applicable to motels and hotels within the City.

N. **Fees:** Applicant must pay all applicable fees including an annual fee to maintain the Permit. The amount of said fee shall be determined by the City in accordance with administrative costs.

O Health Requirements: All local and State health requirements must be met.

P. Notification: Applicant must pay for and provide notification to neighboring property owners within three hundred (300) feet from all exterior boundaries of the property on which the Nightly Rental is to be located. This notice shall indicate, and the City's Planning Commission shall conduct, a public hearing on the application. To comply with this requirement the applicant must submit self-addressed, stamped envelopes for the required notification along with a printed list of the property owners in the designated notification area.

Seventy five percent (75%) of the property owners within the required notification area must not object to the application. Failure of property owner within three hundred feet (300') to submit an objection (either vocally at the public hearing or in writing prior to the start of the public hearing) to the application will be deemed consent thereto. ~~Applicant shall be required to obtain signatures from each property owner indicating "for" or "against" the application.~~ Holders of Nightly Rental Permits within the designated notification area will be precluded from the requirement.

Q. Signage: Signs for Nightly Rentals shall conform to the requirements of Chapter 22 of this code.

10-17-4: NIGHTLY OR SHORT TERM RENTALS:

This section of the Code has been superseded and replaced in its entirety by 10-17-3 NIGHTLY RENTALS

Here are other changes to the code:

4-3-2: PROHIBITIONS:

A. Specified: Smoking is hereby prohibited in:

1. All indoor places of public access, subject to all limitation set forth in Utah Code Annotated section [26-38-1](#) et seq.;
2. All city parks;
3. Within one hundred feet (100') of bus stops; and within one hundred feet (100') of mass gatherings;
4. Within one hundred feet (100') of any school, daycare, care facility or place of worship.

B. Exceptions: Subsection A of this section does not apply to:

1. Areas not commonly open to the public of owner operated businesses having no employees other than the owner-operator;

2. Guestrooms in hotels, motels, ~~bed and breakfast~~ nightly rental lodging facilities, and other similar lodging facilities, but smoking is prohibited under subsection A of this section in the common areas of these facilities, including dining areas and lobby areas. (Ord. 2010.06, 9-9-2010; amd. 2014 Code)

10-2-1: GENERAL DEFINITIONS:

~~BED AND BREAKFAST: A transient lodging facility with the provision of the breakfast meal included in the rental fee. A bed and breakfast shall comply with all appropriate construction codes, zoning requirements or any other ordinances or codes adopted by the city. A bed and breakfast does not qualify as a "home occupation".~~

TRANSIENT LODGING FACILITY: Any establishment that receives payment in any form of exchange for the use of any dwelling for sixty (60) days or less, including any hotel, motel, ~~bed and breakfast~~ nightly rental, boarding house, hostel or the like.

ARTICLE A. A AGRICULTURAL DISTRICT

10-9A-3: CONDITIONAL USES:

~~Bed and breakfast rentals.~~

ARTICLE A. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

10-10A-3: CONDITIONAL USES:

~~Bed and breakfast rentals.~~

ARTICLE C. PC PLANNED COMMERCIAL ZONE

10-12C-2: PERMITTED USES:

Agricultural sales and service.

Animal hospital.

Bank.

~~Bed and breakfast.~~ Nightly Rentals

SIGN REGULATIONS

10-22-7: SPECIFIC REGULATIONS FOR EACH ZONE:

7. ~~Bed And Breakfast Inn: A bed and breakfast inn established by conditional use permit may have a sign of not more than four (4) square feet: a) attached to the building and not extending above the roofline; or b) incorporated into the landscaping design or planter box, so long as such sign is a minimum of six feet (6') from the public right of way and not more than four feet (4') in height.~~ Nightly Rentals: A Nightly Rental established under section 10-17 of this code may have

a sign not to exceed more than four (4) square feet: a) attached to the building and not extending above the roofline: or b) incorporated into the landscaping design or planter box, so long as such sign is a minimum of six feet (6') from the public right of way and not more than four feet (4') in height.

B. Agricultural, Multiple Use, Planned Commercial, Commercial And Manufacturing Zones: In the agricultural (A), multiple use (MU-20), planned commercial (PC), commercial and manufacturing (N-C, H-C, BMP and M-1) zones:

7. Off Premises Signs: For businesses without frontage on SR 17, including bed and breakfasts nightly rentals without frontage on SR 17, one freestanding directional sign may be permitted at the closest intersection with SR 17, providing such sign shall:
 - a. Not exceed eight (8) square feet in area nor four feet (4') in height;
 - b. Be located entirely on private property with the permission of the property owner;
 - c. Not be located nearer than three feet (3') of any public rights of way;
 - d. In no way interfere with traffic visibility triangles.

There was a general consensus from the Planning Commission to not require a short-term rental applicant to obtain signatures from neighbors in the 300-foot notification radius. There were a few questions on how signature gathering would logistically occur. Some examples were how an applicant would obtain a signature from a nearby property owner that lives out of state, and how those votes would be counted if contact could not be made. They discussed the intent of why it was suggested the applicants would be required to submit a signature collection, and whether or not it would be a truthful representation of the neighborhood vote. There was a point made that people may feel intimidated by the solicitation process. The commission was aware the recommendation goes against the earlier public meeting discussions with City Councilmembers held on May 3rd and May 10th but suggested the revision would be the best practice to adopt.

Recreation Resort Zone

Draft

Purpose and Objectives:

- A. **Purposes:** The recreation resort zone is established to designate certain areas within the City of Toquerville where it is desirable and beneficial to the area economy to allow for a mix of limited commercial, public, and residential uses. Specifically, to authorize recreation and resort developments in which residential dwelling units may be occupied by the owners thereof on a full or part time basis, to authorize rental of residential units on an overnight or short term (30 days or less) basis by owners who reside elsewhere; and to authorize limited commercial and public uses that are incidental to and compatible with resort developments.
- B. **Objectives:** The objective of the recreation resort zone is to allow full service resort developments with short and long term residential use combined with those commercial and public facilities necessary to create a desirable resort atmosphere.

Scope:

The requirements of this chapter shall apply to any recreation resort zone within the city. Such requirements shall not be construed to prohibit or limit other applicable provisions of the title, or other laws except to the extent such provisions are provided by this chapter.

Minimum Acreage:

The recreation resort zone shall be applied only to projects consisting of at least five (5) acres.

Site Location:

The recreation resort zone shall only be allowed on collector or higher street classifications. However, a lower street classification may be considered if the applicant can demonstrate that the development would have no negative affect to adjoining properties.

Uses Allowed:

All uses must be shown on a preliminary site plant presented with the application to change an are on the zoning map to recreation resort.

A. Permitted Uses: Permitted uses allowed within the recreation zone are as follows:

1. Single and multiple dwelling unit residential, including condominium and townhouse complexes. Units and/or complex owners may reside in the dwelling units or offer them for rent or lease either long term or short term.
2. Any commercial use related to the support or servicing of those uses referred to in subsection A1 of this section and the facilities related thereto including, but not limited to:

Childcare facilities

Indoor and outdoor recreation facilities

On site property management

Draft

Personal care services

Professional office space related to property management

Restaurant and outdoor dining

Retails stores

Motel, hotel, bed and breakfast Inn or boarding house.

B. Prohibited Uses: Any use not listed shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use.

C. Accessory Uses: Permitted and conditional uses set forth above shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.

1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
2. No accessory use, building or structure shall be allowed on a lot unless a permitted or conditional use has been established.
3. Accessory uses in residential zones shall include, but not be limited to, the following:

Hobby activities when conducted by an occupant of the premises solely for personal enjoyment, amusement or recreation and which does not conflict with any other city ordinance.

Household pets

Nurseries and greenhouses, when used for resort landscape or food production.

Playgrounds, patios, porches, gazebos, and incidental storage buildings in accordance with the approved site plan for the zone.

Short term storage and parking areas and facilities for recreational vehicles, boats, and trailers which are incidental and otherwise related to other approved uses.

Swimming pools and hot tubs; tennis and other sport courts; clubhouses; and other common recreation or sport facilities for use by residents and their guests.

Development Standards:

- A. Recreation resort zones shall be established on the city zoning maps and may be amended from time to time by ordinance. The recreation resort zone is intended only for resort development directly providing the following minimum facilities and services: 1) a swimming pool and clubhouse and 2) an on-site rental or property manager. Those resort developments in which full time/permanent residential use is authorized or contemplated shall be subject to covenants, conditions, and restrictions and governed by a property owners' association or other similar governing body.
- B. Development standards within the recreational resort shall be set forth in the table of this section.

Draft

Development Standards for Recreation Resort Zone.

Lot Standards:	
Average Total Area	N/A
Minimum lot area or acreage	5 acres
Minimum lot width and/or project frontage	300 feet per project/30 feet per unit
Maximum density per acres	15 units/lots
Building Standards:	
Maximum height, main building	35 feet (see note 1)
Maximum height, accessory building	20 feet (see note 1)
Building coverage	50 percent per site plan
Distance between buildings	20 feet
Setback standards- front	
Any building- pedestrian entrance	15 feet from back of sidewalk
Garage or parking building	25 feet from back of sidewalk (see note 3)
Setback- rear:	
Main building	10 feet
Accessory building, including private garage	10 feet (see note 2)
Setback standards- interior side yard	
Main building	10 feet
Accessory building, including private garage	10 feet (see note 2)
Setback- street side yard	
Main building	20 feet
Accessory building	Not permitted
Parking:	See note 3

Notes:

1. Except a greater height may be approved subject to a conditional use permit.
 2. If located at least 10 feet from main building, 2 feet.
 3. If alternate parking, such as underground parking facilities or parking structure is provided, garage setbacks may be altered by the Planning Commission.
- C. An application for a zone map amendment to recreation resort zone shall be accompanied by a completed preliminary site plan application as set forth. An approved final site plan shall be required before construction or site work in a recreation resort zone may begin.

Regulations of General Applicability:

The use and development of real property in the recreation resort zone shall conform at a minimum to regulations of general applicability in the following chapters of this title:

- A. Design Standards for Construction and Development (Chapter 10-21)
- B. Signs (Chapter 10-22)
- C. Design, Construction and Supplementary Regulations (10-19)



**TOQUERVILLE CITY
CONDITIONAL USE PERMIT**
(Keeping of Livestock in residential zone)

Date of issuance: August 17, 2011

This permit is issued to Stephen & Becky Doughty for the keeping of two horses on property located at 1500 Cholla, Toquerville, Utah.

The conditions under which this Permit has been approved are as follows:

- 1. The permit shall not be enlarged, expanded or modified without express written permission by the Toquerville Planning Commission.**
- 2. The area designated for use shall be periodically cleaned of refuse as needed to keep down the flies and the smell.**
- 3. This permit shall receive an annual review by the Toquerville Planning Commission.**

By: *Renee S. Green*

City Seal

DATE: 8-31-11



July 16, 2018

Planning Commissioners,

The Conditional Use Livestock Permit issued to the property belonging to the Doughtys at 1500 Cholla Drive was extended to the new property owners, Kris and Jessie Hansen. The Hansen family does not currently have horses, but would like the permit to be continued with the land. I told them when/if they decide to get horses to give me a call and we will go over the permit for the dedicated square footage for the sole use of the animal.

I will re-issue the permit in their name once the Planning Commission approves the permit.

Dana McKim
City Recorder



TOQUERVILLE CITY HOME OCCUPATION CONDITIONAL USE PERMIT

Date of issuance: August 17, 2011

This permit is issued to Kate Kirkham for the property located at 1661 S Chaparell Drive, Toquerville, Utah. Business Name: "My Nephew's Photos."

Purpose of Permit: Operation On-line research and promotional strategies for photography business; Promoting customer awareness of KM photography products at retail Kiosks or craft booths.

The conditions under which this Permit has been approved are as follows:

- 1. The permit shall not be enlarged, expanded or modified without express written permission by the Toquerville Planning Commission.**
- 2. This permit shall receive an annual review by the Toquerville Planning Commission.**
- 3. Permit holder shall maintain a current Toquerville Business License.**

By: 
Renee Garner, Recorder

Date: Aug 31 2011





Toquerville City Home Occupation / Conditional Use Permit

This Home Occupation Conditional Use Permit was granted to Kathryn Paredes for a Massage Therapy and Essential Oil business located at 1219 S Grand Canyon Parkway by the Toquerville City Planning Commission on August 16, 2017.

The conditions under which this Permit has been approved are as follows:

1. Applicant must obtain all State and local licenses required for the operation of business including a State Sales tax license and a Toquerville business license.
2. Applicant agrees to abide by the regulations set forth for a Home Occupation Permit in section 10-23-8 of the Toquerville Land Use Code.
3. Applicant agrees that all signage placed by the Applicant will conform to the sign regulations of the City of Toquerville.
4. Applicant agrees to provide off-street parking for patrons of the business.
5. This permit cannot be enlarged, expanded or changed otherwise without express written consent from the City of Toquerville.
6. This permit shall receive an annual review by the Toquerville Planning Commission.

By: 
Dana M. McKim
Toquerville City Recorder

Date: 9 6 2017



City Seal



TOQUERVILLE CITY HOME OCCUPATION CONDITIONAL USE PERMIT

Date of issuance: August 17, 2011

This permit is issued to Naomi Fern Wright for the property located at 959 S Peach Tree Drive, Toquerville, Utah. Business Name: "Massage Therapy/ Roling Structural Integration".

Purpose of Permit: Operation of Massage Therapy/ Roling Structural Integration business.

The conditions under which this Permit has been approved are as follows:

- 1. The permit shall not be enlarged, expanded or modified without express written permission by the Toquerville Planning Commission.**
- 2. This permit shall receive an annual review by the Toquerville Planning Commission.**
- 3. Permit holder shall maintain a current Toquerville Business License.**

By: 
Renee Garner, Recorder

Date: 8-31-11



City Seal

City of Toquerville
212 N Toquerville Boulevard
PO Box 27
Toquerville, UT 84774
Phone: (435) 635-1094,
Fax: (435) 635-5761
www.toquerville.org



July 16, 2018

Naomi Fern Wright
Certified Rolfer R, LMT
959 S Peachtree Drive
PO Box 548
Toquerville, UT 84774

RE: Home Occupation Conditional Use Permit-Yearly Renewal

Dear Mrs. Wright,

On August 17, 2011, the city of Toquerville Planning Commission granted a Home Occupation Conditional Use Permit at 959 S Peachtree Drive for a massage therapy studio. Per our conversation today, you requested to withdraw the yearly renewal application, causing the permit to be invalid. Thank you for contacting the city office to update our records.

Best Regards,

A handwritten signature in black ink, appearing to read "Dana M. McKim". The signature is fluid and cursive.

Dana M. McKim
City Recorder
recorder@toquerville.org
435-635-1094



Toquerville City Home Occupation Conditional Use Permit

This Home Occupation Conditional Use Permit was granted to Carl Westegaard for a home office/locksmith business located at 932 South Peachtree Drive by the Toquerville City Council on August 16, 2017.

The conditions under which this Permit has been approved are as follows:

1. Applicant obtain all required licenses including a State Sales Tax license and a Toquerville Business license.
2. Applicant agrees to abide by all the requirements for a Home Occupation Permit as detailed in section 10-23-8 of the Toquerville Land Use code.
3. Applicant agrees that any signage installed will be in compliance with the Toquerville sign ordinance.
4. This permit cannot be enlarged, expanded or changed otherwise without express written consent from City of Toquerville.
5. This permit shall receive an annual review from Toquerville Planning Commission.

By: 
Dana M. McKim
Toquerville City Recorder

Date: Aug 17, 2017





TOQUERVILLE CITY CONDITIONAL USE PERMIT

Date of issuance: September 3, 2015

This Conditional Use Permit is issued to Gary & Karlene Young by the Toquerville City Council for the property at 460 N Toquerville Blvd, Tax ID #T-96-B-N, Toquerville, Utah.

Purpose of Permit: Operation of a Bed and Breakfast under the name "The Young Home Bed and Breakfast", to rent for overnight use and provide breakfast to guests.

The conditions under which this Permit has been approved are as follows:

1. The owner shall limit total occupancy on the dwelling to no more than 10 persons.
2. The applicant shall obtain all Local, State and Federal licenses and permits required and agrees to abide by all rules and regulations of each such jurisdiction.
3. The applicant must obtain and maintain a current business license with City of Toquerville and pay the required Bed Tax to State of Utah.
4. This permit cannot be altered, enlarged, expanded or changed otherwise without express written consent of the Toquerville City Council.
5. This permit shall receive an annual review for compliance by the Toquerville Planning Commission.

By:


Renee Garner, Recorder

Date:

9-16-15





Toquerville City Conditional Use Permit

This Conditional Use permit was granted to Bill and Lucy Gillingham for a Bed and Breakfast establishment located at 654 S Westfield Road by the Toquerville City Council on August 10, 2017

1. Applicant agrees to provide off-street parking as follows: One parking stall per guestroom and two (2) parking stalls per on premises owner.
2. Maximum number of guests shall be 10 with no more than 2 guests per room.
3. No cooking facilities are allowed in the guest rooms.
4. All local, state and federal health requirements are met.
5. An inspection by the Hurricane Valley Fire District and the Toquerville Building Official be completed and any deficiencies are corrected.
6. Applicant must obtain all local, state and federal licenses required including a business license from the City of Toquerville and a sales tax license from the State of Utah.
7. The premises will receive an annual inspection by a designee of the City.
8. The permit will receive an annual review by the Toquerville Planning Commission.
9. This permit cannot be expanded, enlarged or changed otherwise without express written permission from the City of Toquerville.

By: 
Dana M. McKim
Toquerville City Recorder

Date: 
Aug 11, 2017





COPY

Toquerville City Conditional Use Permit

This Conditional Use Permit was granted to Kallen and Roger Campbell for a Bed and Breakfast located at 350 S AshCreek by the Toquerville City Council August 11, 2016.

The conditions under which this Permit has been approved are as follows:

1. The owner shall limit total occupancy on the dwelling to no more than 10 persons.
2. The Applicant must obtain required signatures from the Hurricane Fire District, Ash Creek Special Service District, the Toquerville Building Official, and the Toquerville Zoning Administrator. The applicant must address and correct any items required by these entities.
3. The applicant shall obtain all Local, State and Federal licenses required and agrees to abide by all rules and regulations of each such jurisdiction.
4. Applicant must provide off-street parking as required by Ordinance ie; one stall for each guest room and 2 stalls for owner.
5. Applicant shall not allow any cooking in guest rooms.
6. Applicant must obtain approval and licenses from local and state health departments.
7. This permit shall receive an annual review by the Toquerville Planning Commission.
8. This permit cannot be enlarged, expanded or changed otherwise without express written consent from the City of Toquerville.

By: 
Dana M. McKim, Recorder

Date: 8-11-2016



Dear Dana,

We have not used our home for a Bed & Breakfast since October 2017.

Will you please reset our fees, CUP, water, sewer, garbage, and other city fees to a single family dwelling.

Thank you!

Kindest regards,

Roger Campbell, M.S., CCA, MCP
Financial Project Manager



Toquerville City Conditional Use Permit

This Conditional Use Permit was granted to Jerry Eves for the Windsong Project (Wind Turbine Project) located on property bordering Grand Circle Ranch on the West Side of I-15 by the Toquerville City Council on August 11, 2016.

The conditions under which this Permit has been approved are as follows:

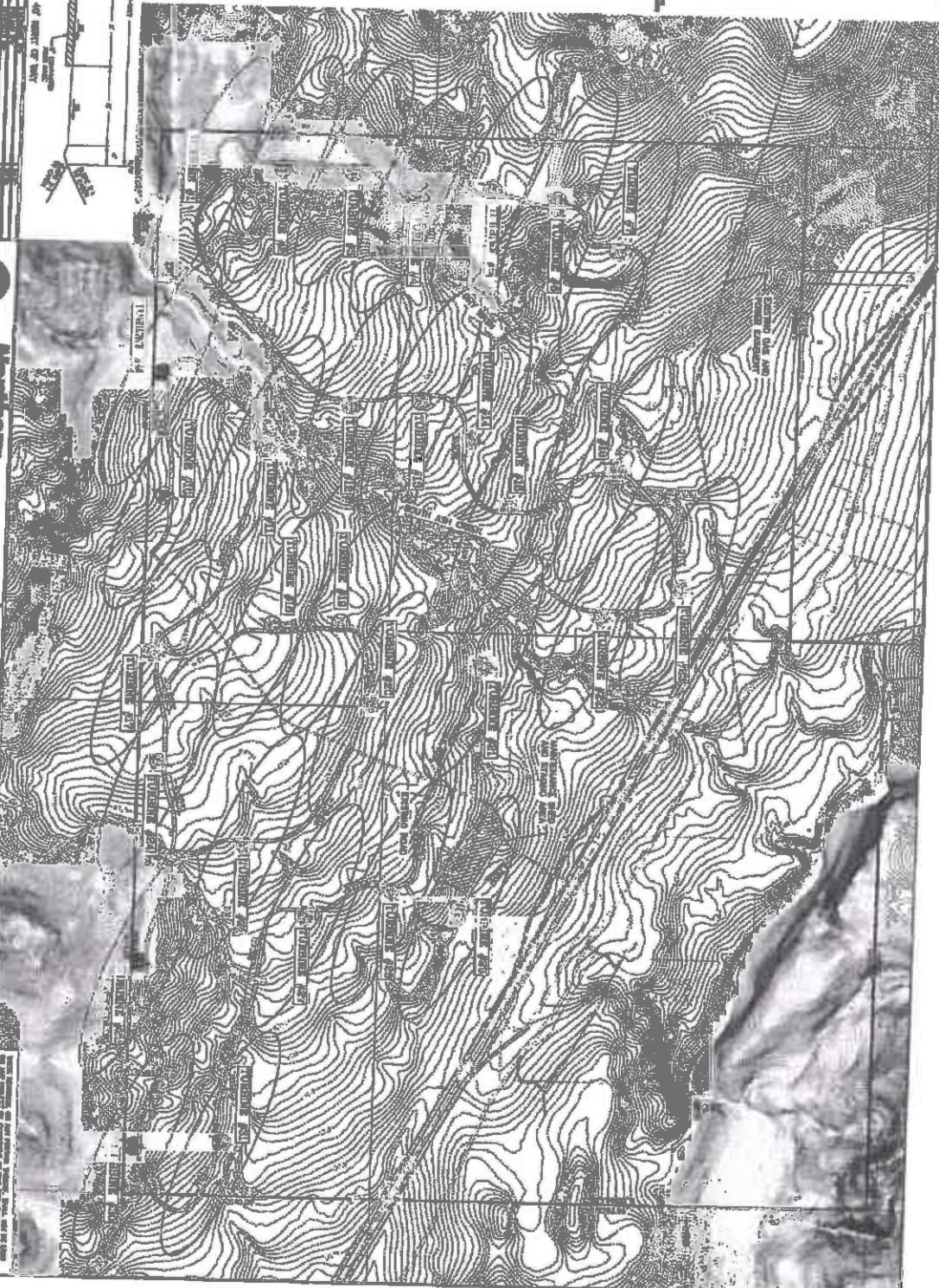
1. Provide a detailed site plan and approved construction drawings for all improvements.
2. Provide a soils investigation and report for the site.
3. Provide proof that an environmental assessment has been completed and the results of such assessment.
4. Obtain signed consent and intent to deliver forms from the following:
 - a. Hurricane Valley Fire District
 - b. Ash Creek Special Service District
 - c. Toquerville Building Official
 - d. Washington County Water Conservancy District
 - e. Toquerville Zoning Official
 - f. Utah Department of Transportation (UDOT)
5. Obtain and maintain all required local, state, and federal permits and licenses.
6. Obtain the required building and grading permits from the City of Toquerville and others, as may be required for the preparation and development of the site.
7. Permit cannot be enlarged, expanded, or changed otherwise without express written consent of Toquerville City.
8. Permit will receive an annual review from the Toquerville Planning Commission.


Dana M. McKim
Toquerville City Recorder





SCALE 1" = 500'
SCALE 1" = 1000'



Mott's
Engineering Inc.
1000 E. 10th St.
Spokane, WA 99201
(509) 325-1000

SOUTHWEST ENERGY
STATE TRUST LANDS

30 WIND SONG ACCESS PLAN
WASHINGTON COUNTY

3-10-09
RBY/TB



Toquerville City Conditional Use Permit

This Conditional Use Permit was granted to Jerry Eves for the Browse Solar Project located on property bordering Grand Circle Ranch on the West Side of I-15 by the Toquerville City Council on August 11, 2016.

The conditions under which this Permit has been approved are as follows:

1. Provide a detailed site plan and approved construction drawings for all improvements.
2. Provide a soils investigation and report for the site.
3. Provide proof that an environmental assessment has been completed and the results of such assessment.
4. Obtain signed consent and intent to deliver forms from the following:
 - a. Hurricane Valley Fire District
 - b. Ash Creek Special Service District
 - c. Toquerville Building Official
 - d. Washington County Water Conservancy District
 - e. Toquerville Zoning Official
 - f. Utah Department of Transportation (UDOT)
5. Obtain and maintain all required local, state, and federal permits and licenses.
6. Obtain the required building and grading permits from the City of Toquerville and others, as may be required for the preparation and development of the site.
7. Provide evidence that this project (solar energy generation) has been and is currently covered under the Development Agreement with the City of Toquerville.
8. Permit cannot be enlarged, expanded, or changed otherwise without express written consent of Toquerville City.
9. Permit will receive an annual review from the Toquerville Planning Commission.
10. Other conditions deemed essential and necessary for approval and continuation of this request.

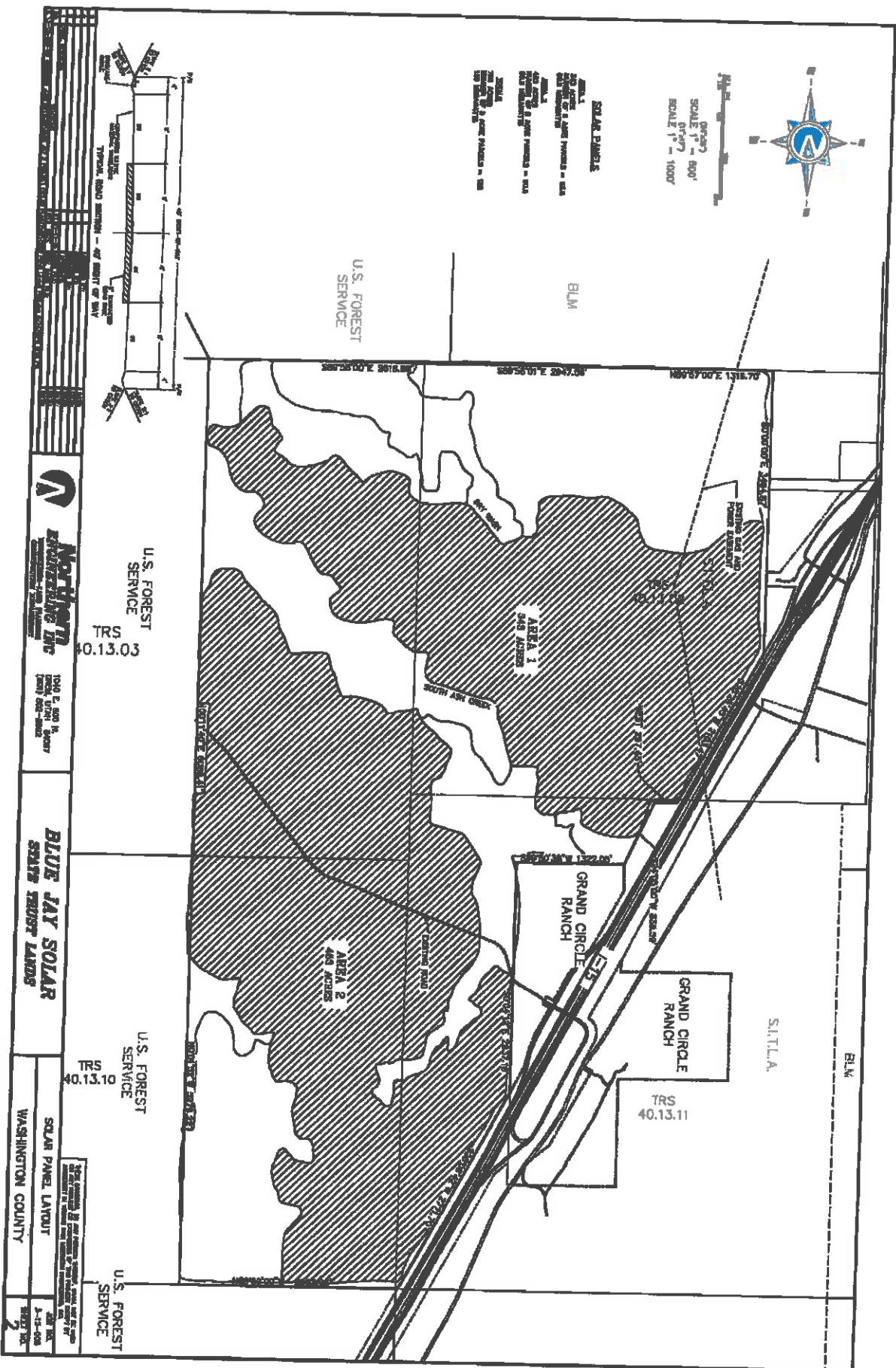
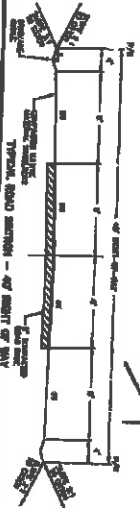

Dana M. McKim
Toquerville City Recorder





SCALE 1" = 500'
SCALE 1" = 1000'

SOLAR PANELS
AREA 1
20 ACRES & 4000 PANELS = 800
AREA 2
40 ACRES & 8000 PANELS = 1600
TOTAL
60 ACRES & 12000 PANELS = 2400



Northern Trust
SOLAR FINANCING INC.
A Division of Northern Trust

BLUE JAY SOLAR
STATE TRUST LANDS

SOLAR PANEL LAYOUT
WASHINGTON COUNTY

DATE: 1-15-08
DRAWN BY: [Name]
CHECKED BY: [Name]

Thank you Dana. Please extend the last three conditional use permits. Bluejay- electrical for gas, Wind energy& solar energy. Thank you very much... Jerry

Sent from my iPhone

On Feb 5, 2018, at 3:37 PM, Dana McKim <recorder@toquerville.org> wrote:

Jerry,

Could you let me know which Conditional Use Permit Projects are still being worked on so I can clean up the files?

SW Wind Energy	T-3-0-22-322, T-3-0-22-3211, and Sitla# 70824	Approved 4/12/12
Strata Blue Energy LLC- Greenhouses	T-3-0-22-3211	Approved 01/14/2016
Wind Energy	Property bordering Grand Circle Ranch on west side of I-15	Approved 8/11/2016
Solar Energy	Property bordering Grand Circle Ranch on west side of I-15	Approved 8/11/2016
Blue Jay-Electrical/Natural Gas Combined Cycle Generator	Area of Browse Exit on West side of I-15.	Item tabled on 9-8-2016 per city council. Attorney Snow gave a report on 10-13-2016 stating he sent up a marked up revised copy of the agreement and if the property was on SITLA leased property, the city would need an agreement with SITLA.

Dana M. McKim
City of Toquerville Recorder
recorder@toquerville.org
435-635-1094



Toquerville City Conditional Use Permit

This Conditional Use Permit was granted to the Washington County Water Conservancy District for an extraction permit of Tax ID # T-3-0-27-132, in the area of the Anderson Junction/Toquerville Exchange near Interstate 15 by the Toquerville City Council on August 8, 2016.

The conditions under which this Permit has been approved are as follows:

- 1. The Applicant and their Contractors will abide by the "Standard for Operation", found in Chapter 10-15D-10 of the Land Management Code.*
- 2. This permit cannot be modified, structurally enlarged or expanded unless the plan is reviewed, amended and approved by the City Council in accordance with the procedures and standards of Chapter 10-20 of the Land Management Code.*
- 3. The Applicant will obtain and adhere to all local, state and federal requirements and permits associated with this application to include but not limited to: air quality permits, storm water permits, traffic and encroachment permits, grading permits, blasting permits and other permits required.*
- 4. The Applicant will furnish bonding and security for the performance, completion and restoration of the project in accordance with the terms and conditions of Chapter 10-15D-8 and such security shall be in a form prescribed by Chapter 10-5-3D of the Land Management Code.*
- 5. This application and permit shall receive an annual review by the Toquerville Planning Commission.*

By: 
Dana M. McKim
Toquerville City Recorder

Date: 8.12.2016



July 16, 2018

Planning Commissioners,

I spoke with Dave Jessop from the Washington County Water Conservancy District regarding their conditional use permit for an extraction permit. The district would like to extend their conditional use permit, as they are still working on obtaining the proper paperwork to move ahead with the project.

Dana M. McKim
City Recorder