***TOQUERVILLE CITY***

**ORDINANCE 2020-**

AN ORDINANCE VACATING A PORTION OF THE CHOLLA CREEK PUD, PHASE 1B AMENDED & EXTENDED SUBDIVISION TO EFFECTUAL THE PURPOSES OF A 2002 BOUNDARY LINE ADJUSTMENT APPROVED BY THE CITY AND COMPLY WITH UTAH LAW REGARDING THE PARTIAL VACATURE OF A PLATTED SUBDIVISION.

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 my enact all ordinances, resolutions, and rules and may enter into other forms of land use controls ..."

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 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 subdivisions within the City.

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 609(1) the City Council, acting as the land use authority, may approve the vacation or amendment of a plat if it finds that: a) there is good cause for the vacation or amendment; and b) no public street or municipal utility easement has been vacated or amended.

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 609(3) the City Council can vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

 WHEREAS, in 2002 two adjacent property owners submitted an application for a boundary line adjustment which was ultimately approved by the City (“2002 Boundary Line Adjustment”). As part of the approval process, the applicants submitted information regarding the proposed adjustment which included all information required by Utah Code Annotated 10-9a-608 and the City conducted all public hearings as required by said Section of the Utah Code.

 WHEREAS, although the 2002 Boundary Line Adjustment effectively took a small portion (the Westernmost 13 feet of Lot 34) out of the Cholla Creek PUD, Phase 1B Amended and Extended Subdivision, an ordinance vacating the same in compliance with Utah Code Annotated 10-9a-608 and 609 was never adopted by the City and recorded in the Official Records on file in the Office of the Recorder of Washington County, State of Utah.

WHEREAS, to fully effectuate the purposes of the 2002 Boundary Line Adjustment and comply with the requirements of Utah law regarding the vacation of a part of a subdivision, 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 a partial subdivision vacature as required by Utah Code Annotated 10-9a-608 was complied with previously by the City and the effected property owners at the time the 2002 Boundary Line Adjustment was approved. The City Council further finds that neither the public interest nor any person will be materially injured by the vacation and there is good cause for the vacation. The City Council further finds that no public street or municipal utility easement was vacated or abandoned as part of the 2002 Boundary Line Adjustment.
2. PARTIAL VACATION OF CHOLLA CREEK PUD, PHASE 1B AMENDED & EXTENDED. The following portion of the Cholla Creek PUD, Phase 1B Amended & Extended Subdivision is hereby vacated and removed from said subdivision:

***See Exhibit “A”***

1. 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 amend by reducing in size the Cholla Creek PUD, Phase 1B Amended & Extended Subdivision.
2. REPEALER. This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.
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 take effect immediately upon approved by the City Council.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF FEBRUARY, 2020.

John 'Chuck' Williams Aye \_\_\_ Nay \_\_\_\_

Keen Ellsworth Aye \_\_\_ Nay \_\_\_\_

Justin Sip Aye \_\_\_ Nay \_\_\_\_

Gary Chaves Aye \_\_\_ Nay \_\_\_\_

Ty Bringhurst Aye \_\_\_ Nay \_\_\_\_

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| CITY OF TOQUERVILLE a Utah Municipal Corporation Lynn Chamberlain, Mayor Date | Attest: Ruth Evans, City Recorder |

***EXHIBIT “A”***

Toquerville City Ordinance 2020- \_\_

(Legal Description of Parcel Vacated From Subdivision)

*THE SOUTHWEST 13.0 FEET OF LOT 34, CHOLLA CREEK PUD, PHASE 1B AMENDED & EXTENDED SUBDIVISION, according to the Official Plat thereof in the Office of the Recorder of Washington County, State of Utah.*