

FILED

MAR 12 2004

ENT 29527:2004 PG 1 of 15
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2004 Mar 16 3:50 pm FEE 0.00 BY SS
RECORDED FOR UTAH COUNTY ATTORNEY

KAY BRYSON (#473)
Utah County Attorney
DAVID H. SHAWCROFT (#4248)
Deputy Utah County Attorney
100 East Center Street, Suite 2400
Provo, Utah 84606
Telephone: (801) 370-8001
Facsimile: (801) 370-8009

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY

STATE OF UTAH

UTAH COUNTY,)	
)	ORDER
Plaintiff,)	
vs.)	
SCOTT G. SMITH, and ELLEN V. SMITH,)	Civil No. <u>040400817</u>
)	Division No. <u>7</u>
Defendants.)	
)	

THIS MATTER having come before the Court pursuant to the Stipulation of the Plaintiff, Utah County, and the Defendants herein, and the Court having considered said Stipulation,

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The subject matter of this action is real property partially owned by Defendants, hereinafter referred to as the "Subject Property," located in Utah County, more particularly described as follows:

Commencing 2003.10 feet south of center Section 7, Township 6 South, Range 3 East, Salt Lake Meridian; West 1280 feet more or less, South 3 deg. 29' 23" West 304.39 feet more or less; South 82 deg. 22' West 330 feet North 3 deg. 29' 23" East 150 feet; North 81 deg. 27' 23" East 35 feet more or less; North 50 feet; West 15.71 feet; North 145.93 feet; West 250 feet; South 51 deg. 30' East 83.82 feet more or less; South 463.98 feet more or less; North 82 deg. 22' East 105.6 feet; North 148.5 feet; North 82 deg. 22' East 330 feet; South 148.50 feet; North 82 deg. 22' East 297 feet; South 84 deg. 30' East 763.62 feet; East 302.79 feet; North 492 feet more or less to point of beginning;

2. Utah County brought this action to enforce provisions of the Utah County Zoning Ordinance which state as follows:
 - (a) Section 3-53 of the Utah County Zoning Ordinance provides that property may not be subdivided without complying with the standards for subdivision and receiving approval from Utah County for the subdivision.
3. Defendants, or Defendants' predecessors in interest, have divided the Subject Property, or have allowed the properties to be divided, in violation of Section 3-53 of the Utah County Zoning Ordinance.
4. Defendants, and the other owners of the Subject Property, have executed and have authorized to be recorded with the Utah County Recorder's Office a document entitled "Declaration of Zoning Lot." Said document reunites the Subject Property for zoning

purposes. A copy of said document is marked as Exhibit "A" attached hereto and incorporated herein by reference.

5. Plaintiff and Defendants have executed and have authorized to be recorded with the Utah County Recorder's Office a document entitled "Stipulation." Said document satisfies the allegations asserted by the Plaintiff, Utah County, against the Defendants herein, in the Complaint filed by Utah County in this matter. All of the terms and provisions of the Stipulation are hereby approved by the Court. A copy of said Stipulation is marked as Exhibit "B" attached hereto and incorporated herein by reference.

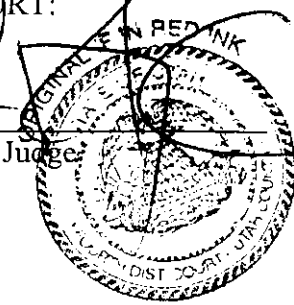
6. The Subject Property may henceforth be used pursuant to the terms of the "Declaration of Zoning Lot," mentioned in paragraph 4 hereof, and pursuant to the terms of this Order, without objection from the Plaintiff, Utah County, arising out of the allegations of the Plaintiff Utah County asserted in this action.

7. This Court Order shall be binding on Plaintiff, Utah County, and on the Defendants, and the heirs, successors and assigns of the Defendants, and shall be recorded with the Office of the Utah County Recorder.

DATED this 12 day of March, 2004.

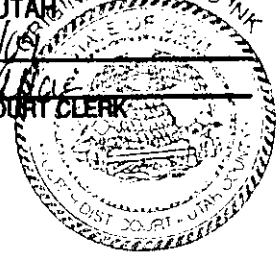
BY THE COURT:

District Court Judge:

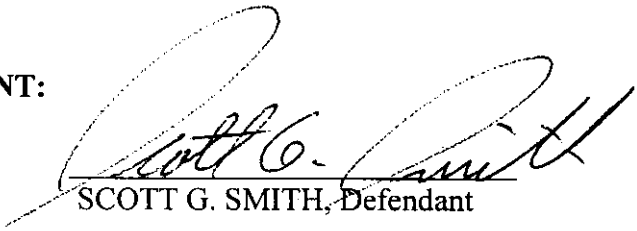


I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE FOURTH JUDICIAL DISTRICT COURT, UTAH COUNTY, STATE OF UTAH.

DATE: 3/15/04
[Signature]
DEPUTY COURT CLERK



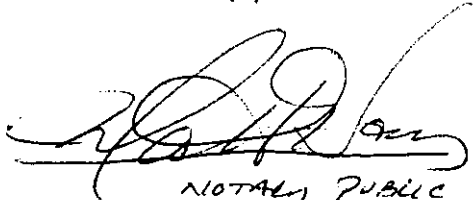
APPROVED AS TO FORM AND CONTENT:


SCOTT G. SMITH, Defendant


ELLEN V. SMITH, Defendant

L:\DAVID\ZONING\SmithScott\Smith,Scott Order.wpd

ON THE 4TH DAY OF MARCH 2004, PERSONALLY APPEARED
BEFORE ME SCOTT G. SMITH + ELLEN V. SMITH WHO EXECUTED THIS
DOCUMENT.


NOTARY PUBLIC
UTAH CO, UTAH

Notary Public
MATTHEW B. HANEY
3191 North Canyon Rd.
Provo, Utah 84604
My Commission Expires
October 8, 2005
State of Utah

DECLARATION OF ZONING LOT

TO THE PUBLIC:

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We the undersigned owners of real property located in the unincorporated area of Utah County, State of Utah, which property is described as follows:

Commencing 2003.10 feet south of center Section 7, Township 6 South, Range 3 East, Salt Lake Meridian; West 1280 feet more or less, South 3 deg. 29' 23" West 304.39 feet more or less; South 82 deg. 22' West 330 feet North 3 deg. 29' 23" East 150 feet; North 81 deg. 27' 23" East 35 feet more or less; North 50 feet; West 15.71 feet; North 145.93 feet; West 250 feet; South 51 deg. 30' East 83.82 feet more or less; South 463.98 feet more or less; North 82 deg. 22' East 105.6 feet; North 148.5 feet; North 82 deg. 22' East 330 feet; South 148.50 feet; North 82 deg. 22' East 297 feet; South 84 deg. 30' East 763.62 feet; East 302.79 feet; North 492 feet more or less to point of beginning;

which property currently consists of eight parcels identified by the following tax serial numbers: 20:014:0006, 20:014:0036, 20:014:0038, 20:014:0039, 20:014:0040, 20:014:0042, 20:014:0053, 20:014:0054; (collectively referred to as the "property")

have the intent to maintain the property described above as a single zoning lot which meets the requirements of the Utah County Zoning Ordinance, for a Provo City water tank and for agricultural uses only, (including agricultural buildings, but not including any residential use), hereinafter termed the "Subject Building and Use."

We hereby covenant and agree as follows:

1. That the above-described property shall be maintained as one unit and considered as one zoning lot for the "Subject Building and Use;"
2. That only the "Subject Building and Use" and no other buildings or uses, except those deemed by Utah County to meet its zoning and building ordinances as evidenced by a county permit granted therefor shall be located upon the above-described property;
3. This covenant shall hereinafter be included in any deed dealing with the above-described property, or portions thereof, in whole or by reference thereto. If included by reference only, the reference shall specifically state the full title of this restrictive covenant and shall state the entry number and year in which it was recorded with the Utah County Recorder.
4. That this covenant shall run with the land and be binding upon all persons owning or leasing the above-described property until twenty (20) years from the date of execution hereof and shall be automatically renewed for successive ten (10) year periods, or until such time as:
(a) a Certificate of Release from the Utah County Zoning Administrator is recorded stating the Zoning Lot Declaration is no longer required because the land, as configured and used

without the Zoning Lot Declaration, conforms to the current zoning ordinance provisions;
(b) the entire property as described above becomes part of an incorporated city or town; or
(c) the "Subject Building and Use" is abated or removed from the above-described property.

- 5. That if the owners, or their heirs, executors, administrators, agents, or assigns shall violate or attempt to violate any of the provisions of this instrument, Utah County may enforce said agreement through the withholding of building permits; appropriate civil proceeding including injunctive relief which may include enjoining construction, abatement, mandamus, or other appropriate civil remedies; or may institute criminal proceedings for misdemeanor violations as provided for violation of a zoning ordinance. Further, any aggrieved party having a legal interest may seek similar civil relief, and, where successful, the county or such other party may be awarded any court costs and attorney's fees required for enforcement.

Invalidation of any of these covenant provisions by judgment or court order shall not affect any other of the provisions, which shall remain in full force and effect. This document shall be recorded in the office of the Utah County Recorder.

Signed:

Donna Hall
1.16.03

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

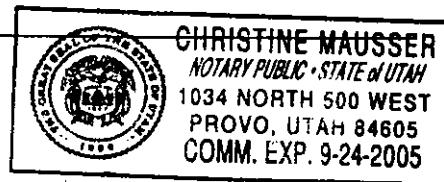
On the 16 day of January, 2003, personally appeared before me _____, signer of the above instrument, who duly acknowledged to me that he/she executed the same.

Chris Mausser
NOTARY PUBLIC

My Commission Expires:

9-24-05

Residing at:



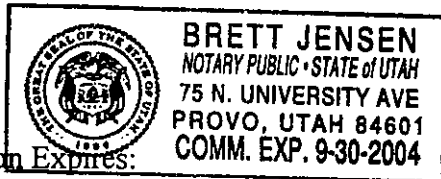
Signed:

Dean Hall
1-17-03

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 17th day of JANUARY, 2003, personally appeared before me DEAN B HALL, signer(s) of the above instrument, who duly acknowledged to me that he/she executed the same.



Brett Jensen
NOTARY PUBLIC

My Commission Expires:
09/30/04

Residing at:
75 N UNIVERSITY AVE

Signed: Wesley C. Smith

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Wesley C. Smith

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 20th day of February, 2004, personally appeared before me Wesley C. Smith, signer(s) of the above instrument, who duly acknowledged to me that he/she executed the same.



Karen Fairbanks
NOTARY PUBLIC

My Commission Expires:

4-10-2006

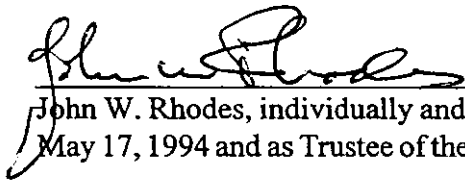
Residing at:

Provo, Utah County, Utah

Signed: Rebecca S. Rhodes and John W. Rhodes, individually and as Trustees of the John W. Rhodes Family Revocable Trust dated May 17, 1994 and as Trustees of the Rebecca S. Rhodes Family Revocable Trust dated May 17, 1994



Rebecca S. Rhodes, individually and as Trustee of the John W. Rhodes Family Revocable Trust dated May 17, 1994 and as Trustee of the Rebecca S. Rhodes Family Revocable Trust dated May 17, 1994.




John W. Rhodes, individually and as Trustee of the John W. Rhodes Family Revocable Trust dated May 17, 1994 and as Trustee of the Rebecca S. Rhodes Family Revocable Trust dated May 17, 1994.

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

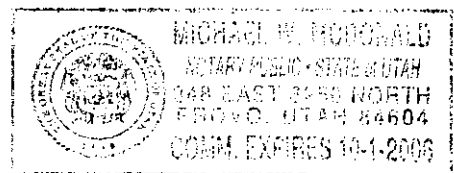
On the 20th day of February, 2004 personally appeared before me Rebecca S. Rhodes, individually and as Trustee of the John W. Rhodes Family Revocable Trust dated May 17, 1994 and as Trustee of the Rebecca S. Rhodes Family Revocable Trust dated May 17, 1994, and John W. Rhodes, individually and as Trustee of the John W. Rhodes Family Revocable Trust dated May 17, 1994 and as Trustee of the Rebecca S. Rhodes Family Revocable Trust dated May 17, 1994., signer(s) of the above instrument, who duly acknowledged to me that they executed the same.



NOTARY PUBLIC

My Commission Expires:
10/21/06

Residing at:
348 E 3250 N



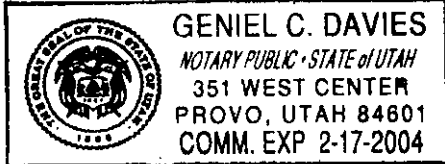
Signed: Provo City Corporation

By: [Signature]
Its: Community Development Director

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 18 day of December, 20003 personally appeared before me Gary McGinn, the Community Development Director of Provo City Corporation, the signer(s) of the above instrument, who duly acknowledged to me that he/she executed the same of behalf of Provo City Corporation.



[Signature]
NOTARY PUBLIC

My Commission Expires:

2-17-04

Residing at:

Utah County

KAY BRYSON (#473)
 Utah County Attorney
DAVID H. SHAWCROFT (#4248)
 Deputy Utah County Attorney
 100 East Center Street, Suite 2400
 Provo, Utah 84606
 Telephone: (801) 370-8001
 Facsimile: (801) 370-8009

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY

STATE OF UTAH

UTAH COUNTY,)	
)	
Plaintiff,)	STIPULATION
)	
vs.)	
)	
SCOTT G. SMITH, and ELLEN V. SMITH,)	Civil No. _____
)	
Defendants.)	Division No. ____
)	

For the purpose of resolving their dispute, the Plaintiff and the Defendants herein stipulate and agree as follows:

1. The Defendants, SCOTT G. SMITH, and ELLEN V. SMITH, by their signatures hereunder, hereby waive formal service of the Summons and Complaint in the above entitled action, hereby waive any defect in service of the Summons and Complaint in the above entitled matter, hereby make a general appearance in the above entitled matter, and hereby consent to the jurisdiction of the Court over said Defendants, and over the property owned by the Defendants, as described herein.

2. The Defendants, SCOTT G. SMITH, and ELLEN V. SMITH, are the owners of record of a portion of the following described property, (hereinafter referred to as the "Subject Property"), located in Utah County, Utah, and which is more particularly described as follows:

Commencing 2003.10 feet south of center Section 7, Township 6 South, Range 3 East, Salt Lake Meridian; West 1280 feet more or less, South 3 deg. 29' 23" West 304.39 feet more or less; South 82 deg. 22' West 330 feet North 3 deg. 29' 23" East 150 feet; North 81 deg. 27' 23" East 35 feet more or less; North 50 feet; West 15.71 feet; North 145.93 feet; West 250 feet; South 51 deg. 30' East 83.82 feet more or less; South 463.98 feet more or less; North 82 deg. 22' East 105.6 feet; North 148.5 feet; North 82 deg. 22' East 330 feet; South 148.50 feet; North 82 deg. 22' East 297 feet; South 84 deg. 30' East 763.62 feet; East 302.79 feet; North 492 feet more or less to point of beginning;

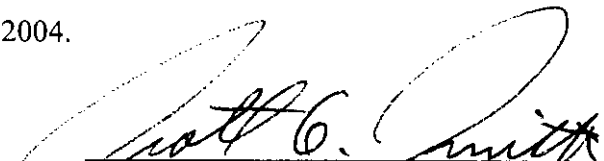
3. That pursuant to Section 3-53 of the Utah County Zoning Ordinance property may not be subdivided without complying with the standards for subdivision and receiving approval from Utah County for the subdivision.
4. That the Subject Property previously was a single parcel of property but has been divided into eight separate parcels without complying with the subdivision requirements.
5. That Defendants, and other owners of the Subject Property, have executed a document entitled "Declaration of Zoning Lot." Said document reunites the Subject Property for zoning purposes. The Plaintiff and the Defendants agree that said document will be recorded with the Utah County Recorder's Office.

6. That Plaintiff and Defendants agree that the recording with the Utah County Recorder's Office of the Declaration of Zoning Lot mentioned above will satisfy the allegations asserted by Utah County in this action.
7. That Plaintiff and Defendants agree that this Stipulation and any related Court Order shall be binding on all parties hereto and shall be recorded with the Office of the Utah County Recorder. Plaintiff and Defendants further agree that any party found to be in breach of this Stipulation, or in contempt, shall pay the Court costs and legal fees incurred by the non-breaching party, related to or arising out of this Stipulation. This Stipulation shall be binding on the heirs, successors and assigns of the parties, and shall constitute covenants which shall run with the land, as described herein.

DATED this 9th day of March, 2004.


DAVID H. SHAWCROFT
Deputy Utah County Attorney

DATED this 4 day of MAR, 2004.



SCOTT G. SMITH, Defendant

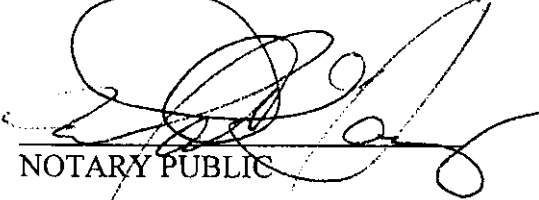

ELLEN V. SMITH, Defendant

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 4 day of MARCH, 2004, personally appeared before me SCOTT G. SMITH, and ELLEN V. SMITH, who duly acknowledged to me that they executed the foregoing Stipulation.

 Notary Public
MATTHEW B. HANEY
3191 North Canyon Rd.
Provo, Utah 84604
My Commission Expires
October 8, 2005
State of Utah


NOTARY PUBLIC