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The Salt Lake Tribune

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CUSTOMER NAME AND ADDRESS

UTAH COUNTY AUDITOR,  
MICKLENA FRAMPTON  
100 E CENTER ST STE 3600

PROVO UT 84606

ACCOUNT NUMBER

9001334912

DATE

5/7/2018

ACCOUNT NAME

UTAH COUNTY AUDITOR,

TELEPHONE

8018518238

ORDER # / INVOICE NUMBER

0001207262 /

PUBLICATION SCHEDULE

START 05/05/2018 END 05/05/2018

CUSTOMER REFERENCE NUMBER

2018-649

CAPTION

SUMMARY OF ORDINANCE ORDINANCE NO. 2018-8 WAS ADOPTED BY THE BOAR

SIZE

26 LINES 1 COLUMN(S)

TIMES

2

TOTAL COST

32.30

SUMMARY OF ORDINANCE

ORDINANCE NO. 2018-8 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON APRIL 10, 2018, AMENDING SECTION 6-3 OF THE UTAH COUNTY LAND USE ORDINANCE, RELATED TO THE WATER SUPPLY REQUIREMENTS FOR PLANNED SUBDIVISIONS.

A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE UTAH COUNTY CLERK/AUDITOR'S OFFICE, COMMISSIONER NATHAN IVIE, COMMISSIONER WILLIAM C. LEE, AND COMMISSIONER GREG GRAVES VOTED IN FAVOR OF THE ORDINANCE. 1207262 UPAXLP

AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY COMPANY, LLC dba UTAH MEDIA GROUP LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF SUMMARY OF ORDINANCE ORDINANCE NO. 2018-8 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON APRIL 10, 2018, AMENDING SECTION 6-3 OF THE FOR UTAH COUNTY AUDITOR, WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba UTAH MEDIA GROUP, AGENT FOR DESERET NEWS AND THE SALT LAKE TRIBUNE, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINITELY. COMPLIES WITH UTAH DIGITAL SIGNATURE ACT UTAH CODE 46-2-101; 46-3-104.

PUBLISHED ON Start 05/05/2018 End 05/05/2018

DATE 5/7/2018

SIGNATURE *Jae Levi*

STATE OF UTAH )

COUNTY OF SALT LAKE )

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS 5TH DAY OF MAY IN THE YEAR 2018

BY JAE LEVI



*Stu Madsen*  
NOTARY PUBLIC SIGNATURE



ENT 38935:2018 PG 1 of 4  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2018 Apr 26 4:30 pm FEE 0.00 BY BA  
RECORDED FOR UTAH COUNTY COMMISSIONERS

ORDINANCE NO. 2018- 8

**AN ORDINANCE AMENDING SECTION 6-3 OF THE UTAH COUNTY LAND USE  
ORDINANCE, RELATED TO THE WATER SUPPLY REQUIREMENTS FOR  
PLANNED SUBDIVISIONS**

**WHEREAS**, Philip R. Snelgrove initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with amending Section 6-3, related to the water supply requirements for planned subdivisions; and

**WHEREAS**, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission, on March 27, 2018, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

**WHEREAS**, a public hearing regarding the proposed amendment was scheduled and held during the regularly scheduled meeting of the Planning Commission, on March 27, 2018; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, the minutes of the March 27, 2018 Utah County Planning Commission meeting, and the public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners finds the proposed amendment to the Utah County Land Use Ordinance conforms to the Utah County General Plan, 2014, and is consistent with the other provisions of the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners finds that the proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

**Part I:**

Subsection 6-3-D-8-a of the Utah County Land Use Ordinance is hereby amended to read as follows:

6-3: PLANNED SUBDIVISIONS  
 D. STANDARDS AND CONDITIONS

8. Water Supply

a. Water Rights

The property within all plats shall be provided by the developer with perpetual water rights meeting the following standards:

- i. Culinary-quality water for use inside the dwelling shall be provided to each lot and dwelling unit at a flow rate of at least .015 cubic feet per second per dwelling unit and a quantity of at least .45 acre-feet per year per lot and dwelling unit. Where the development is not limited to dwelling use alone, culinary-quality water shall be provided for occupied structures other than dwellings in the amount determined by the County Commission after receiving an engineering study of water use from the developer and the advice of the planning commission.
- ii. Water for maintaining landscaping and fuel-breaks around dwellings and occupied structures shall be provided at the rate of at least 1 acre-foot per year per lot and occupied structure (including dwellings) and building site, which water shall be available from April 30 to October 1 annually.
- iii. Water for irrigation shall be provided at a rate of at least 1.5 acre-feet per acre per year for the entire area of each lot and parcel of the development beyond the first 10,000 square feet of area of each lot and parcel, which quantity of water must be available from April 30 to October 1 annually. The irrigation water quantity requirement is met even if the water rights from some sources are restricted as to coverage, such that the water cannot be applied to the entire area of the lot, if the irrigation water quantity requirement of at least 1.5 acre-feet of irrigation water per each acre of area of each lot (less the 10,000 square feet) is satisfied.

Exception 1 to part 'iii' above: Where all of the following conditions are met, the quantity of 1.5 acre feet per acre per year for irrigation water shall not be required:

- (A) the area to be excepted is part of a lot or site for a one-family dwelling or mobile home;
- (B) no lot or dwelling site in the subject plat has an area of less than 50 acres;
- (C) each building on the lot is surrounded by an irrigated band of landscaping that is no narrower than 30 feet at any point and no smaller than 10,000 square feet in area;
- (D) the irrigated band of landscaping is surrounded by a platted, maintained fuel break easement which is 100 feet in width (or less than 100 feet when, based on the findings of the county fire marshal, the county commission determines that specific peculiarities of the site permit a lesser fuel break); and
- (E) the flammable native species have been thinned and/or replaced in accordance with terms recommended by the fire marshal and stated or referred to on the plat.

Exception 2 to part 'iii' above: The County Commission may increase or decrease the required quantity of irrigation water from 1.5 acre-feet per acre per year based upon the findings of an engineered study, prepared, and signed by an engineer licensed in the State of Utah, conducted in the preparation of the irrigation plan if the County Commission finds that less water is needed to establish and to meet the green plant needs of alfalfa due to a water table that is sufficiently near the surface on an annual growing season basis to allow such reduction. The engineered study shall determine the quantity of water needed to establish and to maintain alfalfa, in the green condition, having a low flammability, and shall identify the high water table by area and depth below natural grade.

Exception 3 to part 'iii' above: Where a proposed lot(s) of five (5) acres or more has an average slope of eight (8)-percent or greater and where environmental conditions are not suitable for cultivation and irrigation of crops on at least 45-percent of the lot(s), but conditions are suitable for an occupied dwelling, water for irrigation shall be provided at a rate of at least 0.85 acre-feet per acre per year. Utilization of this exception shall be supported by a statement provided by the applicant that has been prepared, dated, signed, and stamped by an engineer licensed in the State of Utah, which statement does the following:

- (A) Confirms the existence of the conditions on the lot(s) necessary to utilize the exception for the reduction of required irrigation water; and
- (B) Certifies the reduction of required irrigation water will not negatively impact the aquifers under or immediately near the lot(s) due to the land included in the lot(s) having an average historic irrigation rate of no more than 0.85 acre-feet per acre per year (the engineering statement shall include documentation to support any average historic irrigation rate of the lot[s]).

The engineering statement shall be reviewed and approved by the County Engineer. This exception only relates to the rate of irrigation water required to be provided. All other requirements of part "iii" shall be met.

## **Part II:**

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

## **Part III:**

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

**Part IV:**

This ordinance shall become effective fifteen (15) days after it is passed and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 10th day of April 2018.

**UTAH COUNTY COMMISSION**

**VOTE**

  
\_\_\_\_\_  
NATHAN IVIE, CHAIR

aye

  
\_\_\_\_\_  
WILLIAM C. LEE, VICE-CHAIR

aye

  
\_\_\_\_\_  
GREG GRAVES, COMMISSIONER

aye

**ATTEST:**  
**BRYAN E. THOMPSON**  
County Clerk/Auditor

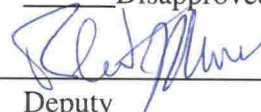
**APPROVED AS TO FORM:**  
**JEFFREY R. BUHMAN**  
County Attorney

By:   
\_\_\_\_\_  
Deputy

Approved

Disapproved



By:   
\_\_\_\_\_  
Deputy

Date of Publication: Once only, as soon as possible

March 20, 2018

UTAH COUNTY PLANNING COMMISSION STAFF REPORT

- I. APPLICATION: (Public Hearing)
- A. APPLICANT - Philip R. Snelgrove
  - B. REQUEST - Proposed amendment of Section 6-3, of the Utah County Land Use Ordinance, relative to the water supply requirements for planned subdivisions
  - C. LOCATION - Unincorporated Utah County

II. STAFF ANALYSIS:

Subsection 6-3-D-8-a of the Utah County Land Use Ordinance or UCLUO requires that irrigation water for a planned subdivision be provided at the rate of at least 1.5 acre-feet per acre per year for the entire area of each lot (less the first 10,000 square feet of area of each lot and parcel).

The applicant recently proposed an exception to the above irrigation water requirement by way of an application to amend the UCLUO. The proposal—after being revised based on staff and County Commission feedback—was approved and the UCLUO was amended.

The adopted exception reads as follows:

*Exception 3 to part 'iii' above: Where a proposed lot(s) of five (5) acres or more has an average slope of eight (8)-percent or greater and where environmental conditions are not suitable for cultivation and irrigation of crops on at least 35-percent of the lot(s), but conditions are suitable for an occupied dwelling, water for irrigation shall be provided at a rate of at least 1.0 acre-foot per acre per year. Utilization of this exception shall be supported by a statement provided by the applicant that has been prepared, dated, signed, and stamped by an engineer licensed in the State of Utah, which statement does the following:*

- (A) *Confirms the existence of the conditions on the lot(s) necessary to utilize the exception for the reduction of required irrigation water; and*
- (B) *Certifies the reduction of required irrigation water will not negatively impact the aquifers under or immediately near the lot(s) due to the land included in the lot(s) having an average historic irrigation rate of no more than 1.0 acre-foot per acre per year (the engineering statement shall include documentation to support any average historic irrigation rate of the lot[s]).*

*The engineering statement shall be reviewed and approved by the County Engineer. This exception only relates to the rate of irrigation water required to be provided. All other requirements of part "iii" shall be met.*

Notice that the adopted exception allows—according to certain conditions—a reduction in the required rate of irrigation water from at least 1.5 acre-feet per acre per year to at least 1.0 acre-foot per acre per year.

The applicant now proposes that the subject exception allow for an even greater reduction in the required rate of irrigation water—from at least 1.5 acre-feet per acre per year to at least 0.85 acre-feet per acre per year (an approximately 43-percent reduction in the required amount of irrigation water). All other elements of the recently adopted exception would remain the same.

Staff notes that current language of the exception has a relatively congruent relationship between the maximum reduction in the rate of irrigation water with the minimum proportion of a lot that is not suitable for cultivation and irrigation of crops; in other words, the maximum reduction of the rate of irrigation water would still leave an applicable lot with a quantity of irrigation water that is at least two-thirds of the regularly required amount, and at a minimum, roughly a third of the applicable lot would be not suitable for the cultivation and irrigation of crops. If at least a third of a lot is not productive agricultural land, yet it has at least two-thirds of the water regularly required by the Ordinance, then you have a situation where there is a rate of water—available for the area of the lot that could potentially be productive—similar to (if not better, if a higher proportion of the lot is not suitable for crops) the rate of water required prior to the exception. This proposal tips the scales away from the relative congruence of the current language.

The applicant states in his application that this proposal is “narrowly written to apply only to unusual hillside properties not well suited for agricultural use.” Staff agrees that this proposal—combined with his first proposal for a reduction in the rate of irrigation water for a subdivision lot—is narrowly written and applies to only those lots that (1) have at least 5 acres in area, (2) have an average slope of eight (8)-percent or greater, and (3) are at least partially (35-percent minimum) not suitable for the cultivation and irrigation of crops. However, there may be a number of properties in unincorporated Utah County, such as in the bench areas, which could potentially qualify for the exception. This amendment could be opening the door for many lots to provide irrigation water at a rate that is not comparable to the regular rate.

Further, the applicant was asked to explain—in the application for this proposal—the following: “In what ways does the proposed Land Use Ordinance amendment promote the health, safety, morals, convenience, or general welfare of the public?” The applicant stated the following: “When applied to the Lincoln Point subdivision (adjacent to the Utah County Lincoln Beach boat harbor) it has allowed a larger . . . water right to be retained by Utah County.” Staff believes the applicant should show more generally how the proposal is a benefit to the citizens of unincorporated Utah County.

## **PROPOSED AMENDMENT -**

Subsection 6-3-D-8-a of the Utah County Land Use Ordinance is proposed to be amended as follows (deletions are in ~~strikethrough and red font~~, additions are in red, underlined font):

- 6-3: PLANNED SUBDIVISIONS
- C. STANDARDS AND CONDITIONS
- 8. Water Supply

a. Water Rights

The property within all plats shall be provided by the developer with perpetual water rights meeting the following standards:

- i. Culinary-quality water for use inside the dwelling shall be provided to each lot and dwelling unit at a flow rate of at least .015 cubic feet per second per dwelling unit and a quantity of at least .45 acre-feet per year per lot and dwelling unit. Where the development is not limited to dwelling use alone, culinary-quality water shall be provided for occupied structures other than dwellings in the amount determined by the County Commission after receiving an engineering study of water use from the developer and the advice of the planning commission.
- ii. Water for maintaining landscaping and fuel-breaks around dwellings and occupied structures shall be provided at the rate of at least 1 acre-foot per year per lot and occupied structure (including dwellings) and building site, which water shall be available from April 30 to October 1 annually.
- iii. Water for irrigation shall be provided at a rate of at least 1.5 acre-feet per acre per year for the entire area of each lot and parcel of the development beyond the first 10,000 square feet of area of each lot and parcel, which quantity of water must be available from April 30 to October 1 annually. The irrigation water quantity requirement is met even if the water rights from some sources are restricted as to coverage, such that the water cannot be applied to the entire area of the lot, if the irrigation water quantity requirement of at least 1.5 acre-feet of irrigation water per each acre of area of each lot (less the 10,000 square feet) is satisfied.

Exception 1 to part 'iii' above: Where all of the following conditions are met, the quantity of 1.5 acre feet per acre per year for irrigation water shall not be required:

- (A) the area to be excepted is part of a lot or site for a one-family dwelling or mobile home;
- (B) no lot or dwelling site in the subject plat has an area of less than 50 acres;
- (C) each building on the lot is surrounded by an irrigated band of landscaping that is no narrower than 30 feet at any point and no smaller than 10,000 square feet in area;
- (D) the irrigated band of landscaping is surrounded by a platted, maintained fuel break easement which is 100 feet in width (or less than 100 feet when, based on the findings of the county fire marshal, the county commission determines that specific peculiarities of the site permit a lesser fuel break); and
- (E) the flammable native species have been thinned and/or replaced in accordance with terms recommended by the fire marshal and stated or referred to on the plat.

Exception 2 to part 'iii' above: The County Commission may increase or decrease the required quantity of irrigation water from 1.5 acre-feet per acre per year based upon the findings of an engineered study, prepared, and signed by an engineer licensed in the State of Utah, conducted in the

preparation of the irrigation plan if the County Commission finds that less water is needed to establish and to meet the green plant needs of alfalfa due to a water table that is sufficiently near the surface on an annual growing season basis to allow such reduction. The engineered study shall determine the quantity of water needed to establish and to maintain alfalfa, in the green condition, having a low flammability, and shall identify the high water table by area and depth below natural grade. Exception 3 to part 'iii' above: Where a proposed lot(s) of five (5) acres or more has an average slope of eight (8)-percent or greater and where environmental conditions are not suitable for cultivation and irrigation of crops on at least 35-percent of the lot(s), but conditions are suitable for an occupied dwelling, water for irrigation shall be provided at a rate of at least ~~1.0~~ 0.85 acre-foot per acre per year. Utilization of this exception shall be supported by a statement provided by the applicant that has been prepared, dated, signed, and stamped by an engineer licensed in the State of Utah, which statement does the following:

- (A) Confirms the existence of the conditions on the lot(s) necessary to utilize the exception for the reduction of required irrigation water; and
- (B) Certifies the reduction of required irrigation water will not negatively impact the aquifers under or immediately near the lot(s) due to the land included in the lot(s) having an average historic irrigation rate of no more than 1.0 acre-foot per acre per year (the engineering statement shall include documentation to support any average historic irrigation rate of the lot[s]).

The engineering statement shall be reviewed and approved by the County Engineer. This exception only relates to the rate of irrigation water required to be provided. All other requirements of part "iii" shall be met.

#### Applicable Ordinances and Statutes

1. **Subsection 1-2** of the Utah County Land Use Ordinance identifies the intent and purposes of the Ordinance.
2. **Section 6-3** of the Utah County Land Use Ordinance establishes requirements for planned subdivisions.
3. **Subsection 7-23-C and Section 7-25** of the Utah County Land Use Ordinance establish the criteria for Planning Commission recommendation of approval to the County Commission for any land use ordinance or zone map amendment.

#### **III. STAFF FINDINGS:**

1. The application for a zone map amendment must meet the requirements of Section 7-23-C-1 of the Utah County Land Use Ordinance, which requires the

amendment to conform to the land use element and other provisions of the general plan, including:

- It seems fairly obvious that preservation of water resources is important in Utah County's high desert climate. The introduction of the Environmental Element of the Utah County General Plan states that preservation of water is important for County residents. It could be argued that this proposed text amendment helps to preserve water by not applying it to land not suitable for cultivation of crops, which also has higher than normal grades (as opposed to most valley areas). Staff spoke to Dean Miner of the Utah State University (agricultural) Extension (Utah County office) about the applicant's first proposal relative to the rate of irrigation water for a subdivision lot. Staff noted the following in the Staff Report for this first proposal: "Mr. Miner noted the difficulty of establishing vegetation on land with slopes considered in the proposal (eight [8]-percent or greater), especially when there is no base vegetation to use to support new growth. He specifically noted that it is difficult to establish a suitable ground cover in providing a vegetative firebreak."

Staff recommends that if the County is desirous of adopting this proposal, it should first be revised to require a higher and commensurate proportion of a lot to be shown to not be suitable for cultivation of crops.

2. The application must meet the requirements of Section 7-23-C-2, which requires the amendment to be in the best interest of the health, safety, and welfare of the public.
  - The application for the subject proposal asks the following question: "In what ways does the proposed Land Use Ordinance amendment promote the health, safety, morals, convenience, or general welfare of the public?" The applicant answered as follows: "When applied to the Lincoln Point subdivision (adjacent to the Utah County Lincoln Beach boat harbor) it has allowed a larger . . . water right to be retained by Utah County." Staff believes the applicant should go further in showing that the proposal has a general benefit to the County.
  - Staff believes the current exception language ensures that lots utilizing it provide irrigation water at a rate that is comparable to lots that do not use the exception. If this proposed amendment is adopted, then a lot utilizing this exception could provide irrigation water at a rate that is not comparable to lots not utilizing the exception. Staff appreciates the congruence and evenhandedness of the current exception language.

3. The application must meet the requirements of Section 7-23-C-3, which requires the amendment to more fully carry out the general purposes and intent of the Ordinance, including:
  - Subsection 1-2-C of the Utah County Land Use Ordinance establishes the following as an intent of said Ordinance: "To promote efficient and economical utilization, conservation, and production of land, water, and other resources and facilities."
    - As noted above, it could be argued that this proposal may help to conserve water by not requiring water to be applied to land that is not suitable for cultivation of crops.
  - Subsection 1-2-L of the Utah County Land Use Ordinance establishes the following as an intent of said Ordinance: "To enforce the provisions of this ordinance and to minimize the exceptions or variances hereto."
    - This proposal doesn't add a new exception to the rate of required irrigation water for subdivision lots, but it would appear to increase an existing one. In other words, the proposal would take the excepted rate of irrigation water farther away from the regularly required rate.

#### **IV. STAFF RECOMMENDATION**

That the Utah County Planning Commission recommend to the Utah County Commission approval of the proposed amendment to Section 6-3, relative to the water supply requirements for planned subdivisions, only if they can make the following findings:

1. That the proposed amendment to the Utah County Land Use Ordinance conforms to the land use element and other provisions of the general plan.
2. The proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the public.
3. The proposed amendment to the Utah County Land Use Ordinance would more fully carry out the general purposes and intent of the Utah County Land Use Ordinance.

**UTAH COUNTY LAND USE ORDINANCE**  
**(Applicable Sections)**

1-2: INTENT AND PURPOSE

It is the intent and purpose of the Board of County Commissioners of the County of Utah, State of Utah, to avail itself of the powers granted under Title 17, Chapter 27a, of the Utah Code Annotated 1953, as amended, in a manner that will promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Utah County, and to this end:

- A. To encourage and facilitate orderly growth and development in the county.
- B. To secure economy in governmental expenditures in the process of development.
- C. To promote efficient and economical utilization, conservation, and production of land, water, and other resources and facilities.
- D. To foster the county's agricultural and other industries.
- E. To facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- F. To reduce the waste of physical, financial, and human resources resulting from excessive scattering of population.
- G. To lessen congestion in the streets, prevent the overcrowding of land, and provide adequate light and air.
- H. To lessen the hazards to persons and property from fires, floods, traffic hazards, and other dangers.
- I. To promote a more attractive and wholesome environment.
- J. To create conditions favorable to prosperity, civic activities, and recreational, educational, and cultural opportunities.
- K. To protect both urban and non-urban development.
- L. To enforce the provisions of this ordinance and to minimize the exceptions or variances hereto.

7-23: POWERS AND DUTIES OF THE PLANNING COMMISSION

- C. The Planning Commission may propose a land use ordinance and zone map for Utah County or may propose amendments of an existing land use ordinance or zone map to the County Commission, and may adopt procedures for the proposals to be initiated by its members, its staff, or members of the public at large. The Planning Commission shall also consider and give its recommendations on any amendment to the land use ordinance which is proposed by the County Commission and submitted to the Planning Commission for recommendation. Before the Planning Commission proposes any land use ordinance or zone map amendment, or makes a favorable recommendation of an amendment, it shall find that:
  1. The amendment will conform to the land use element and other provisions of the general plan (or conform to a proposed amendment to the general plan which is considered concurrently with the zoning amendment).
  2. The amendment is in the best interest of the health, safety, and welfare of the public.

3. The amendment will more fully carry out the general purposes and intent of this ordinance.
4. In considering a proposed amendment to the land use ordinance or zone map, the Planning Commission may submit a recommendation to the County Commission for or against the proposal, or it may recommend an alternate amendment.

7-25: AMENDMENTS TO ORDINANCE AND MAP

- A. Either the Planning Commission or the County Commission may propose amendments to this Land Use Ordinance or the zone map.
- B. Any other person or organization seeking an amendment of the Land Use Ordinance or zone map shall petition the Planning Commission, in writing, to initiate such amendment using the petition forms and procedures adopted by the Planning Commission. The petitioner shall designate fully and clearly on the forms the change desired and the reasons therefor.
- C. Upon receipt of the petition, the Planning Commission shall consider the amendment request and may: recommend approval, approval with change, disapproval, or hold the matter for future consideration.
- D. All recommended amendments shall conform to the general plan (or to proposed amendments to the general plan which are adopted concurrently with the land use amendment) and be consistent with the other provisions of this land use ordinance.
- E. Amendments to this ordinance may be adopted by the County Commission only after a public hearing by the Planning Commission at which parties of interest and other persons have an opportunity to be heard. Notice of the date, time and place of the first public hearing to consider the adoption or modification of the Land Use Ordinance shall be made as specified herein.

UTAH COUNTY COMMUNITY DEVELOPMENT

APPLICATION TO AMEND THE LAND USE ORDINANCE

(All application fees are non-refundable)

Check the approval(s) needed:	Application taken by: <u>Josh</u>
<input checked="" type="checkbox"/> Planning Commission	Date <u>1/31/18</u>
<input checked="" type="checkbox"/> County Commission	Fee Paid <u>\$300</u> Receipt # <u>15194</u>

All Land Use Ordinance amendments are subject to a recommendation by the Planning Commission and final approval by the County Commission.

In preparation of any Land Use Ordinance amendment, consideration will be given to the Utah County General Plan, the intent stated within the Land Use Ordinance, and encouragement of the most appropriate use of land throughout the county. No application should be approved when it is determined that the proposed amendment does not promote the health, safety, morals, convenience, or general welfare of the public.

Applicant's Name: <u>Phil Snelgrove</u>	Date: <u>1/31/18</u>
Mailing Address: <u>397 W 1060 SO</u>	City <u>Arem</u> State <u>UT</u> Zip <u>84058</u>
Phone: <u>(801) 360-3506</u>	Cell: <u>psnelgrove@gmail.com</u> Fax: _____

**Refund Information:** If this application fee, or any portion of the application fee is to be refunded, please indicate Name and Mailing Address where refund may be sent.

Name: <u>Phil Snelgrove</u>
Mailing Address: <u>397 W 1060 South</u> City <u>Arem</u> State <u>UT</u> Zip <u>84058</u>

(Attach additional sheets or documents to the application)

1. Section(s) of the Land Use Ordinance to be amended: \_\_\_\_\_

S.a. Exception 3 to part "iii" above:  
\_\_\_\_\_  
\_\_\_\_\_

2. Describe in detail the proposed Land Use Ordinance amendment: \_\_\_\_\_

In Exception 3 to part "iii" above:  
replace "1.0 acre-foot per acre per year --"  
With "0.8 acre-foot per acre per year --"  
\_\_\_\_\_  
\_\_\_\_\_

3. How will the proposed Land Use Ordinance amendment avoid causing additional adverse conditions?

It is narrowly written to apply only to unusual  
hillside properties not well suited for  
agricultural use.  
\_\_\_\_\_  
\_\_\_\_\_

4. In what ways does the proposed Land Use Ordinance amendment promote the health, safety, morals, convenience, or general welfare of the public? \_\_\_\_\_

When applied to the Lincoln Point subdivision  
(adjacent to the Utah County Lincoln Beach  
boat harbor) it has allowed a larger (18.5 acft)  
water right to be retained by Utah County.  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge the above information is accurate and complete.

PRAnelgrove

Signature of Applicant



UTAH COUNTY  
Community Development Dept.

Brandon Larsen  
Planner

51 S. University Ave.  
Suite 117  
Provo, Utah 84601  
Phone 801-851-8343  
Fax 801-851-8340

**MEMO**

**TO: Utah County Commission**  
**FROM: Brandon Larsen, Community Development**  
**DATE: April 4, 2018**  
**RE: Proposed Amendment to the Utah County Land Use Ordinance – Amendment of Section 6-3, related to water supply requirements for Planned Subdivision**

Philip R. Snelgrove proposed an amendment to Section 6-3 of the Utah County Land Use Ordinance, namely an exception to the irrigation water requirements for planned subdivisions, which was approved by the County Commission on January 2, 2018. This approved and adopted exception allows the irrigation water requirement to be reduced—provided certain conditions are met—from *“at least 1.5 acre-feet per acre per year for the entire area of each lot and parcel of the development beyond the first 10,000 square feet of area of each lot and parcel”* to at least 1.0 acre-foot per acre per year.

The applicant is now requesting that the Ordinance—and more specifically the subject exception—be amended to allow the irrigation water quantity to be reduced to at least 0.85 acre-feet per acre per year. He also proposes (he updated his proposal at the March 27<sup>th</sup> Planning Commission meeting) an amendment to one of the conditions for the exception, namely that at least 45-percent of the lot(s) using the exception must be unsuitable for cultivation and irrigation of crops (the presence of this condition must be supported by an engineered statement).

The Planning Commission recommended approval of Mr. Snelgrove’s proposal and added one additional amendment to their recommendation for it. This additional amendment is related to one of the current conditions for approval of the subject exception, namely that the applicant must submit a statement from an engineer that certifies that the average historic irrigation rate of the lot(s) in the proposed subdivision, for which the reduction is requested, is no more than 1.0 acre-foot per acre per year. The Planning Commission recommended that the average historic irrigation rate be reduced to no more than 0.85 acre-feet per acre per year.

The Planning Commission’s recommendation for Mr. Snelgrove’s proposal is as follows (this is the current proposal and replaces the proposal in the Staff Report):

- 6-3: PLANNED SUBDIVISIONS
- C. STANDARDS AND CONDITIONS
- 8. Water Supply
- a. Water Rights
- The property within all plats shall be provided by the developer with perpetual water rights meeting the following standards:*

- i. Culinary-quality water for use inside the dwelling shall be provided to each lot and dwelling unit at a flow rate of at least .015 cubic feet per second per dwelling unit and a quantity of at least .45 acre-feet per year per lot and dwelling unit. Where the development is not limited to dwelling use alone, culinary-quality water shall be provided for occupied structures other than dwellings in the amount determined by the County Commission after receiving an engineering study of water use from the developer and the advice of the planning commission.
- ii. Water for maintaining landscaping and fuel-breaks around dwellings and occupied structures shall be provided at the rate of at least 1 acre-foot per year per lot and occupied structure (including dwellings) and building site, which water shall be available from April 30 to October 1 annually.
- iii. Water for irrigation shall be provided at a rate of at least 1.5 acre-feet per acre per year for the entire area of each lot and parcel of the development beyond the first 10,000 square feet of area of each lot and parcel, which quantity of water must be available from April 30 to October 1 annually. The irrigation water quantity requirement is met even if the water rights from some sources are restricted as to coverage, such that the water cannot be applied to the entire area of the lot, if the irrigation water quantity requirement of at least 1.5 acre-feet of irrigation water per each acre of area of each lot (less the 10,000 square feet) is satisfied.

Exception 1 to part 'iii' above: Where all of the following conditions are met, the quantity of 1.5 acre feet per acre per year for irrigation water shall not be required:

- (A) the area to be excepted is part of a lot or site for a one-family dwelling or mobile home;
- (B) no lot or dwelling site in the subject plat has an area of less than 50 acres;
- (C) each building on the lot is surrounded by an irrigated band of landscaping that is no narrower than 30 feet at any point and no smaller than 10,000 square feet in area;
- (D) the irrigated band of landscaping is surrounded by a platted, maintained fuel break easement which is 100 feet in width (or less than 100 feet when, based on the findings of the county fire marshal, the county commission determines that specific peculiarities of the site permit a lesser fuel break); and
- (E) the flammable native species have been thinned and/or replaced in accordance with terms recommended by the fire marshal and stated or referred to on the plat.

Exception 2 to part 'iii' above: The County Commission may increase or decrease the required quantity of irrigation water from 1.5 acre-feet per acre per year based upon the findings of an engineered study, prepared, and signed by an engineer licensed in the State of Utah, conducted in the preparation of the irrigation plan if the County Commission finds that less water is needed to establish and to meet the green plant needs of alfalfa due to a water table that is sufficiently near the surface on an annual

growing season basis to allow such reduction. The engineered study shall determine the quantity of water needed to establish and to maintain alfalfa, in the green condition, having a low flammability, and shall identify the high water table by area and depth below natural grade.

Exception 3 to part 'iii' above: Where a proposed lot(s) of five (5) acres or more has an average slope of eight (8)-percent or greater and where environmental conditions are not suitable for cultivation and irrigation of crops on at least ~~35~~ 45-percent of the lot(s), but conditions are suitable for an occupied dwelling, water for irrigation shall be provided at a rate of at least ~~1.0~~ 0.85 acre-foot per acre per year. Utilization of this exception shall be supported by a statement provided by the applicant that has been prepared, dated, signed, and stamped by an engineer licensed in the State of Utah, which statement does the following:

- (A) Confirms the existence of the conditions on the lot(s) necessary to utilize the exception for the reduction of required irrigation water; and
- (B) Certifies the reduction of required irrigation water will not negatively impact the aquifers under or immediately near the lot(s) due to the land included in the lot(s) having an average historic irrigation rate of no more than ~~1.0~~ 0.85 acre-foot per acre per year (the engineering statement shall include documentation to support any average historic irrigation rate of the lot[s]).

The engineering statement shall be reviewed and approved by the County Engineer. This exception only relates to the rate of irrigation water required to be provided. All other requirements of part "iii" shall be met.

Staff has one additional recommendation, namely, that immediately after each proposed amendment from 1.0 to 0.85, the wording be revised to acre-feet, instead of acre-foot. There are two such instances.

**UTAH COUNTY PLANNING COMMISSION**

**Minutes**

**March 27, 2018 – Special Meeting**

Present: Thomas Liddle, Chair  
Karen McCandless  
Blaine Thatcher  
Jennifer Baptista

Excused: Vern Keeslar  
Robert McMullin  
Judi Pickell

Bryce Armstrong, Associate Director, Community Development  
Robert Moore, Deputy County Attorney  
Joshua Ivie, Secretary

OTHERS PRESENT: Peggy Kelsey, Brandon Larsen, Utah County Community Development; Rod Schramm, Ryan Schramm, Phil Snelgrove, Dane Hunt.

The meeting was called to order at 5:30 PM by Thomas Liddle, Chair of the Utah County Planning Commission at 100 E Center St, Room 1400, of the Utah County Administration Building, located in Provo, Utah. Blaine Thatcher led the assembled body in the Pledge of Allegiance.

**ZONE TEXT AMENDMENT**

**Philip R. Snelgrove - Proposed Utah County Land Use Ordinance text amendment to Section 6-3, relative to the water supply requirements for planned subdivisions [Public Hearing]**

Brandon Larsen explained that the applicant had previously applied for and was successfully granted a text amendment to the same section of the ordinance, and that the applicant was proposing an additional amendment that modified what was previously granted. Larsen explained that the ordinance currently allows for an exception to irrigation requirements (1.5 acre feet of water per acre) on a five acre lot when the lot has A) at least an 8% slope and B) when at least 33% is not suitable for cultivation (provided that an engineer can demonstrate that the property meets these criteria). Larsen then explained that the applicant has proposed a change that would require only .85 acre feet of water per acre as well as a modification of the percentage of cultivatable property. Larsen further explained that the applicant had only proposed a reduction in required irrigation water initially, and that the initial proposal took away from the congruency between the reduction in water and its relationship to the percentage of cultivatable land. Larsen then commented that Staff felt that the applicant's initial application didn't appear to show a benefit to the public, but that Staff did feel supportive of the conservation of water. Larsen then explained some of the additional concerns that Staff had. Larsen then clarified that the applicant's additional proposal was to modify the uncultivable percentage of the property.

Karen McCandless asked where the acre feet requirement originated from. Larsen then explained how that part of the ordinance was crafted.

Bryce Armstrong suggested that when the county adopted the irrigation requirement, there was a type of water study that was addressed, and the county adopted the 1.5 acre feet of water based on the water required to maintain alfalfa. Armstrong suggested that the county acknowledged that the water duty assigned by the state (4 acre feet) was excessive.

Thomas Liddle noted that the 1.5 acre feet requirement was acceptable.

Jennifer Baptista asked for clarification on the history of the application and the difference on the acre feet requirement.

Blaine Thatcher commented that this only applied to irrigation water.

Robert Moore clarified that there is a relationship between the proposed reduction and the percentage of cultivatable property.

Motion: Blaine Thatcher

Second: Karen McCandless

Motion to **open** the Public Hearing portion of the meeting. The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Blaine Thatcher, Jennifer Baptista; "Nay", none.

Phil Snelgrove, applicant, addressed the Planning Commission. Snelgrove commented that when he made his application he overlooked the idea that when the water requirement was reduced the land needed to be reduced as well. Snelgrove suggested that a requirement be in place that required 45% of the land not be cultivatable. Snelgrove then spoke briefly about property that he owns on Lincoln Point, and explained how the reduction would allow for the potential for four buildable lots. Snelgrove suggested that 55% of his property was not irrigatable. Snelgrove commented that properties that are similar to his wouldn't be used for agriculture and thus less water would be needed, and then explained what amounts of water are required by the Utah County Land Use Ordinance (UCLUO). Snelgrove then suggested that the proposed exception would be a benefit to the public as it would allow property owners with similar properties to use their land when it would be prevented otherwise.

Thomas Liddle commented that he agreed with what Snelgrove was proposing and commented that he didn't like the idea of attaching water rights that would never be used to a property.

Phil Snelgrove echoed Liddle's comment. Snelgrove then briefly addressed some of the objections he'd received when trying to tie water to his properties.

Blaine Thatcher asked if there was a way to quantify how much land this would affect in the county and how much water this exception could save. Larsen explained it would take a study to figure this out, and briefly described some of the areas of the county that could be benefited from this.

Blaine Thatcher asked if there was a potential drawback to reducing the amount of water allocated to these types of properties. Larsen explained that with the addition of the reduction of land Staff felt

more comfortable with the proposal. Larsen added that one drawback is that it does increase an exception in the UCLUO, but noted that it does help to conserve water.

Thomas Liddle asked if there were any additional members of the public wanting to speak on the matter. There were none.

*[During the motion it was clarified that the motion included the reduction of the water requirement to .85 acre feet as well as to increase the percentage of uncultivable land to 45%. It was also clarified that the section of the ordinance that references "a historic average irrigation rate of no more than 1 acre feet..." would have to be modified as well to reflect the .85 acre feet modification.]*

Motion: Blaine Thatcher

Second: Karen McCandless

Motion that the Utah County Planning Commission recommend to the Utah County Commission **approval** of the proposed amendment to Section 6-3, relative to the water supply requirements for planned subdivisions, including the reduction of both water and increase percentage of uncultivable property, including the Staff Findings as well as the following findings:

1. That the proposed amendment to the Utah County Land Use Ordinance conforms to the land use element and other provisions of the general plan.
2. The proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the public.
3. The proposed amendment to the Utah County Land Use Ordinance would more fully carry out the general purposes and intent of the Utah County Land Use Ordinance.

The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Blaine Thatcher, Jennifer Baptista; "Nay", none.