



When recorded, return to:

Perry City
c/o Duncan Murray
3005 South 1200 West
Perry, Utah 84302

ROADWAY AGREEMENT

THIS ROADWAY AGREEMENT ("**Agreement**") is made as of the 22 day of July, 2013 by and between Wendy Jensen and TWJ Management, LLC (collectively referred to as "**Jensen**") and Perry City (the "**City**"). There are no other parties to this Agreement.

RECITALS

A. TWJ Management, LLC, is the owner of certain real property (hereinafter, the "**Property**") located in Perry City, Box Elder County, Utah, that is more particularly described on the Warranty Deed that is attached hereto as **Exhibit A** and incorporated herein by this reference. The Property is designated by Box Elder County as Parcel Number 03-159-0095

B. The area located adjacent to and otherwise within the vicinity of the Property is slated for future subdivision development within the City, as currently depicted and described on the Box Elder County Plat Book, Book 3, Page 159, the relevant portion of which is attached as **Exhibit B** hereto. When such development occurs, it will become necessary for a public street to provide access and service to these future subdivisions for, among other things, vehicular and pedestrian ingress, egress, police, fire, and emergency services, as well as underground utilities, storm drains, sewers, and water transmission lines to service these future subdivisions.

C. The Property is currently burdened with a 60 feet wide right-of-way for "subdivision purposes only," and for all other uses, a one rod wide right-of way as set forth and described in the Warranty Deed attached hereto as **Exhibit A**.

D. Litigation was filed in the First District Court for Box Elder County, captioned *Dewain Jenkins v. Wendy Jensen & Perry City*, Case No. 120100104 (the "**Litigation**"). Among other issues in the litigation, the City asserted a cross-claim against Jenkins seeking to protect the City's rights and interest to the 60 feet wide right-of-way for future subdivision development.

E. Dewain Jenkins and Wendy Jensen have resolved and settled their respective claims in the Litigation which resulted in the recording of a Release of Easement (recorded in the Box Elder County Recorder's office on May 7, 2013 as Entry No. 325228) and a second Corrected Quit Claim Deed (recorded in the Box Elder County Recorder's office on May 30, 2013 as Entry No. 326144).

F. Jensen and the City now desire to resolve the Litigation between them and to release the easements referred to in the Warranty Deed attached hereto as **Exhibit A**, and define a new location of a 60 feet wide right-of-way for subdivision purposes only.

NOW THEREFORE, in consideration of the mutual agreements herein contained, the parties covenant and agree for themselves and their heirs, successors, and assigns as follows:

1. Release of Easements; Grant of Easement; Future Dedication; Phased Development of the Property.

1.1. The City hereby releases and abandons any and all rights it has to the easements described in the Warranty Deed which is attached hereto as **Exhibit A**.

1.2. In consideration of the City's release and abandonment of the easements as referenced above, Jensen, as grantor, hereby grants and reserves to the City, as grantee, a 60 foot wide easement for subdivision purposes only and specifically for an improved public roadway (the "**Roadway**") over and through the Property as more particularly described in Section 2 below. The Roadway will provide access and service to future subdivisions for, among other things, vehicular and pedestrian ingress, egress, police, fire, and emergency services, as well as underground utilities, storm drains, sewers, and water transmission lines to service the future subdivisions. Furthermore, Jensen agrees to formally dedicate the Roadway to the City as a public street upon the platting and subdivision of the land serviced by the Roadway. The platting and subdivision of said land is not required to be completed by any specific date.

1.3. The City agrees to allow Jensen to subdivide and develop the Property in phases. The City will permit the first phase to consist of a single-lot, which lot will be located at the northwest corner of the Property, approximately at the area labeled as "Lot 1" on **Exhibit D**. Jensen shall include with this first, single-lot phase a formal dedication of the 60 foot wide roadway which is identified in Section 2.1 below which runs along the frontage of "Lot 1" with the remainder of the roadway identified in Section 2.1 below to be dedicated later in accordance with the terms of this Agreement and City Code. The improvements for this portion of the roadway to be dedicated with the single-lot phase (such as asphalt, curb, gutter, and sidewalk) shall be deferred until at least one more lot is subdivided, at which time all subdivision improvements shall be completed for all of the subdivided lots in accordance with the City Code and a deferral agreement that shall be signed by Jensen and the City. Except for these exceptions, and those that may be expressed in the deferral agreement between the City and Jensen, Jensen shall comply with all applicable City subdivision and zoning ordinances in the development of the Property, including the single-lot phase.

2. Location and Description. The parties agree that the location of the Roadway will be as set forth below for the purpose of servicing future subdivision development and connecting to existing and planned public streets and roadways. The Roadway surface shall be 60 feet wide at all points.

2.1. The portion of the Roadway running north to south on the west end of the Property will run along the western edge of the Property as shown and depicted on **Exhibit E** hereto and labeled 2.1 as well as on the "Hill Haven Subdivision Phase No. 3"

plat which is attached hereto as **Exhibit C** and described therein as the “60.0’ Future Road” (also labeled 2.1). This portion of the Roadway will be part of 125 West aka Canyon View Drive.

2.2. The portion of the Roadway which runs east to west through the Property, which will be a continuation of what is now described as “Hill Haven Drive,” will be determined by Jensen, provided that such portion of the Roadway must connect to Hill Haven Drive at the intersection with Canyon View Drive on the west end of the Property, and must connect with the continuation of Valley View Drive at the east end, all as depicted on **Exhibit D** and **Exhibit E**. This portion of the Roadway is labeled 2.2 on **Exhibit D** and **Exhibit E**.

2.3. The portion of the Roadway running north to south on the eastern portion of the Property will be in a location selected by Jensen provided that it is located near, but not along, the eastern Property boundary line in order to allow for subdivision and development of a row of residential lots between the Roadway. The approximate location is depicted on **Exhibit E** and labeled as 2.3, and on **Exhibit D** where it is also labeled as 2.3. This portion of the Roadway will become part of Valley View Drive, as set forth on **Exhibit E**.

3. **Limitations; Use; Improvement.** The City shall not undertake any activities to construct or improve the Roadway, or otherwise approve such activities to be undertaken by third parties, until such time as the location of the Roadway is determined and fixed according to this Agreement. Jensen agrees to work with the City to fix the location of the Roadway within a reasonable time and as a condition of final subdivision and development approval by the City.

4. **Cost and Expenses of Roadway and Subdivision Improvements.** Except as set forth in Section 1.3 or otherwise expressly provided herein (regarding deferral of improvements for a single-lot phase which primarily benefits Jensen), the responsibility for all costs and expenses of surveying, improving, developing, constructing, and dedicating the Roadway and other subdivision improvements to the City shall be borne by the developer (or other appropriate party) as part of the standard development approval process detailed in the City Code and in the Utah Code.

5. **Responsibility.** The City shall have no responsibility or liability with regard to the Roadway until such time as the same is formally dedicated to the City.

6. **Covenants Run With Land.** Each right and obligation in this Agreement (whether affirmative or negative in nature) shall: (a) constitute a covenant running with the land; (b) benefit and bind every person having any fee, leasehold or other interest in any portion of the Property; and (c) be binding upon any person whose title is acquired by judicial foreclosure, trustee’s sale, deed in lieu of foreclosure or otherwise. If Jensen transfers or otherwise conveys the Property, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants and agreements of such party contained in this Agreement.

7. **Grant of Approvals; Dedication; Reasonable Cooperation.** Each party hereto agrees to execute and deliver such additional documents and instruments and to perform such

additional acts as any party may reasonably request or as may be reasonably necessary or appropriate to effectuate, consummate, or perform any of the terms, provisions, or conditions of this Agreement, including providing such subdivision approvals as are necessary for formal dedication of the Roadway to the City when the same becomes necessary.

8. **Duration.** The City's release of its claim to the presently existing easements on the Property, as more particularly described in the Warranty Deed attached hereto as **Exhibit A**, is effective upon the recoding of this Agreement. The Roadway created as a result of this Agreement shall be perpetual and will only be extinguished upon formal dedication of the Roadway to the City pursuant to the formal subdivision process.

9. **Default.** In the event of breach or threatened breach of this Agreement, the non-breaching party shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party its reasonable attorney fees incurred in such action.

10. **Notices.** Any notice required to be given under this Agreement shall be served personally or shall be mailed by registered or certified mail to the addresses specified below unless either party, by written notice, provides a different address for delivery of notices, in which case such notice shall be addressed to such different address:

If to Perry City:

c/o Duncan Murray
3005 South 1200 West
Perry, Utah 84302

If to Jensen:

Wendy Jensen
74 West 1600 South
Perry, Utah 84302

11. **Non-Merger.** This Agreement shall not be subject to the doctrine of merger.

12. **Incorporation of Recitals.** The Recitals set forth above are incorporated as part of the terms of this Agreement.

13. **Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

14. **Recording of Agreement.** The City may, at its expense, record this Agreement against the Property.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

GRANTEE
Perry City

GRANTOR
TWJ Management, LLC

By: [Signature]
Jerry Nelson, Mayor

By: [Signature]
Wendy Jensen

Its: Member

By: [Signature]
City Recorder

By: [Signature]
Wendy Jensen, individually

State of Utah)
) ss.
County of Box Elder)

On this 07 day of July, 2013, before me personally appeared **Wendy Jensen**, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), and acknowledged before me that she executed the foregoing document for its stated purpose.

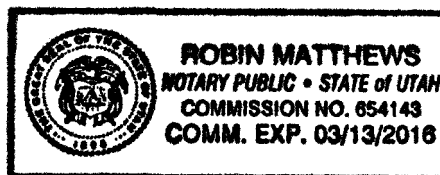
[Signature]
NOTARY PUBLIC



State of Utah)
)
 ss.
County of Box Elder)

On this 22 day of July, 2013, before me personally appeared **Wendy Jensen**, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that she is the Member of TWJ Management LLC, a Utah limited liability company, and that the foregoing document was signed by her on behalf of that Company by proper authority and she acknowledged before me that the company executed the document and the document was the act of the Company for its stated purpose.

Robin Matthews
NOTARY PUBLIC



* * *

State of Utah)
)
 ss.
County of Box Elder)

On this 23 day of July, 2013, before me personally appeared JERRY NELSON and Aislinn O'Connell whose identities are personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that they are respectively the Mayor and Recorder of PERRY CITY, and that the foregoing document was signed by them by authority, and they acknowledged before me that PERRY CITY executed the document and that the document was the act of PERRY CITY for its stated purpose.

Robin Matthews
NOTARY PUBLIC



EXHIBIT A

CTB-11235
Mail documents & tax notices to:
WENDY JENSEN
74 WEST 1600 SOUTH
PERRY, UT 84302
03-159-0095

Est 287827 Sh. 1117 Pg 1113
Date 29-Jan-2010 11:04AM For \$12.00
LAnn Adams - Filed By Au
Box Elder Co., UT
For MENTEMPTAL TITLE INS AGENCY INC

WARRANTY DEED

03-159-0095

EARLENE J HILL

grantor(s) hereby Convey(s) and Warrant(s) to

WENDY JENSEN

grantee(s) for the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION,
the following described tract of land in BOX ELDER County, State of Utah:

See Attached Exhibit "A"

SUBJECT TO SPECIAL EXCEPTIONS WHICH HAVE BEEN ACKNOWLEDGED BY THE GRANTEE(S) HEREIN.

WITNESS, the hand(s) of said grantor(s), this 29TH day of JANUARY, 2010.

Earlene J Hill
EARLENE J HILL

State of UTAH }
County of BOX ELDER } ss:

On the 29TH day of JANUARY, 2010, personally appeared before me

EARLENE J HILL

who duly acknowledged to me that SHE executed the same.

Richard Vaughn
Notary Public

Expires:
Residing: BRIGHAM CITY, UTAH



2

S: 287827 N: 1117 S: 1114

EXHIBIT A

BEING A PART OF SECTION 36, TOWNSHIP 9 NORTH, RANGE 2 WEST, OF THE SALT LAKE BASE AND MERIDIAN AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN AN OLD ESTABLISHED OCCUPATION LINE ON THE WEST LINE OF THE OGDEN-BRIGHAM CANAL, SAID POINT BEING SOUTH 06°48'43" WEST 293.05 FEET, AND SOUTH 89°04'49" WEST 1815.82 FEET FROM THE NORTHEAST CORNER OF SECTION 36, AS MONUMENTED, AND RUNNING THENCE SOUTHWESTERLY ALONG THE WEST LINE OF THE SAID OGDEN-BRIGHAM CANAL THE FOLLOWING THREE CALLS: ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 225.00 FEET, A DISTANCE OF 6.12 FEET (LONG CHORD BEARS SOUTH 22°41'46" WEST 6.12 FEET); SOUTH 21°55'03" WEST 315.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 975.00 FEET, A DISTANCE OF 16.91 FEET (LONG CHORD BEARS SOUTH 22°24'51" WEST 16.91 FEET); THENCE SOUTH 89°04'49" WEST ALONG AN OLD OCCUPATION LINE EXTENDED 689.20 FEET TO THE APPARENT QUARTER SECTION LINE; THENCE NORTH 00°28'43" EAST 5.81 FEET; THENCE SOUTH 89°04'49" WEST ALONG AN OLD ESTABLISHED OCCUPATION LINE 1201.25 FEET TO THE SOUTHEAST CORNER OF THE DONALD E. PICKLES PARCEL; THENCE NORTH 00°28'43" EAST ALONG THE EAST LINE OF THE SAID PICKLES PARCEL 305.91 FEET TO THE NORTHEAST CORNER OF SAID PICKLES PARCEL; THENCE NORTH 89°04'49" EAST ALONG AN OLD OCCUPATION LINE 2014.32 FEET TO THE POINT OF BEGINNING.

LESS: PERRY CANAL

SUBJECT TO A RIGHT-OF-WAY ALONG THE NORTH SIDE OF THE ABOVE DESCRIBED PARCEL 60 FEET WIDE FOR SUBDIVISION PURPOSES ONLY--FOR ALL OTHER USES A ONE ROD WIDE RIGHT-OF-WAY.

TOGETHER WITH AND SUBJECT TO A RIGHT-OF-WAY ALONG THE NORTH SIDE OF THE FOLLOWING DESCRIBED PROPERTY 60 FEET WIDE FOR SUBDIVISION PURPOSES ONLY -- FOR ALL OTHER USES A ONE ROD WIDE RIGHT-OF-WAY.

BEGINNING 4.39 CHAINS (289.74 FEET) SOUTH AND 80 RODS (1320 FEET) WEST FROM THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 9 NORTH, RANGE 2 WEST, OF THE SALT LAKE BASE AND MERIDIAN; THENCE EAST 146 FEET; THENCE SOUTH 4.39 CHAINS (289.74 FEET); THENCE WEST 146 FEET; THENCE NORTH 216.48 FEET; THENCE NORTH 84°36' WEST 112.5 FEET TO EAST RIGHT-OF-WAY OF STATE HIGHWAY; THENCE NORTH 31° EAST 94 FEET ALONG SAID RIGHT-OF-WAY; THENCE SOUTH 74°15' EAST 66 FEET TO BEGINNING.

SUBJECT TO EASEMENT AND RIGHT-OF-WAY OVER THE SOUTH 4 FEET FOR IRRIGATION MAINTENANCE.

LESS: HILL HAVEN PHASE 1 CLUSTER HOUSING DEVELOPMENT

LESS: HILL HAVEN PHASE 2 CLUSTER HOUSING DEVELOPMENT

LESS: HILL HAVEN PHASE 3 CLUSTER HOUSING DEVELOPMENT

Handwritten signatures: EJW

EXHIBIT B

SECTION 36 TOWNSHIP 9N RANGE 2W

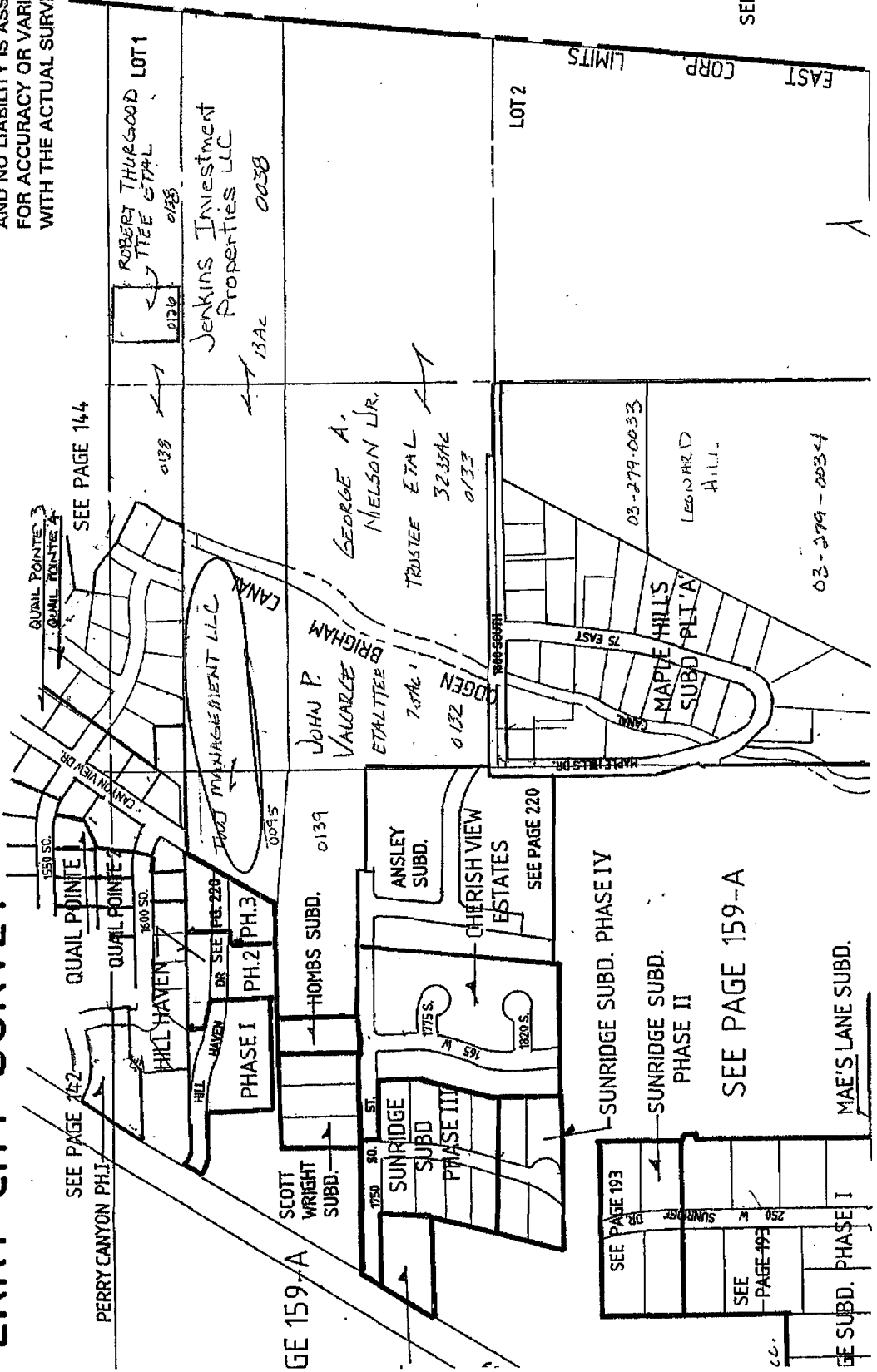
Book 3 Page 159

S.L.B.&M.
SCALE 1" = 400'

1

PREFIX 03-159 TAX UNIT 22, 57
THIS PLAT IS A REFERENCE ONLY
AND NO LIABILITY IS ASSUMED
FOR ACCURACY OR VARIATIONS
WITH THE ACTUAL SURVEY.

PERRY CITY SURVEY



SEE PAGE 3

SEE PAGE 159-A

SUNRIDGE SUBD. PHASE IV

SUNRIDGE SUBD. PHASE II

MAE'S LANE SUBD.

SEE PAGE 193

SEE PAGE 193

LOT 2

EAST CORP. LIMITS

SEE PAGE 144

QUAIL POINTE 3
QUAIL POINTE 4

QUAIL POINTE 1
QUAIL POINTE 2

PERRY CANYON PH. I

ROBERT THURGOOD LOT 1
TEE ETAL
0130
0135

Jenkins Investment Properties LLC
0038
0132

JOHN P. VALCARLOS ETALITEE
7.57AC
0132

GEORGE A. NELSON JR.
TRUSTEE ETAL
32.33AC
0133

03-279-0033
LESLIE HILL

03-279-0034

SEE PAGE 220

SCOTT WRIGHT SUBD. 0139

ANSLEY SUBD.

CHERRISH VIEW ESTATES

SUNRIDGE SUBD. PHASE IV

SUNRIDGE SUBD. PHASE II

MAE'S LANE SUBD.

SEE PAGE 193

SEE PAGE 193

LOT 2

EAST CORP. LIMITS

SEE PAGE 144

QUAIL POINTE 3
QUAIL POINTE 4

QUAIL POINTE 1
QUAIL POINTE 2

PERRY CANYON PH. I

ROBERT THURGOOD LOT 1
TEE ETAL
0130
0135

Jenkins Investment Properties LLC
0038
0132

JOHN P. VALCARLOS ETALITEE
7.57AC
0132

GEORGE A. NELSON JR.
TRUSTEE ETAL
32.33AC
0133

03-279-0033
LESLIE HILL

03-279-0034

SEE PAGE 220

SCOTT WRIGHT SUBD. 0139

ANSLEY SUBD.

CHERRISH VIEW ESTATES

SUNRIDGE SUBD. PHASE IV

SUNRIDGE SUBD. PHASE II

MAE'S LANE SUBD.

SEE PAGE 193

SEE PAGE 193

EXHIBIT C

EXHIBIT D

Plan A
 Wendy Jensen - owner
 Land parcel #03159-0095
 T W J Management LLC.
 801-458-7557
 24 lots

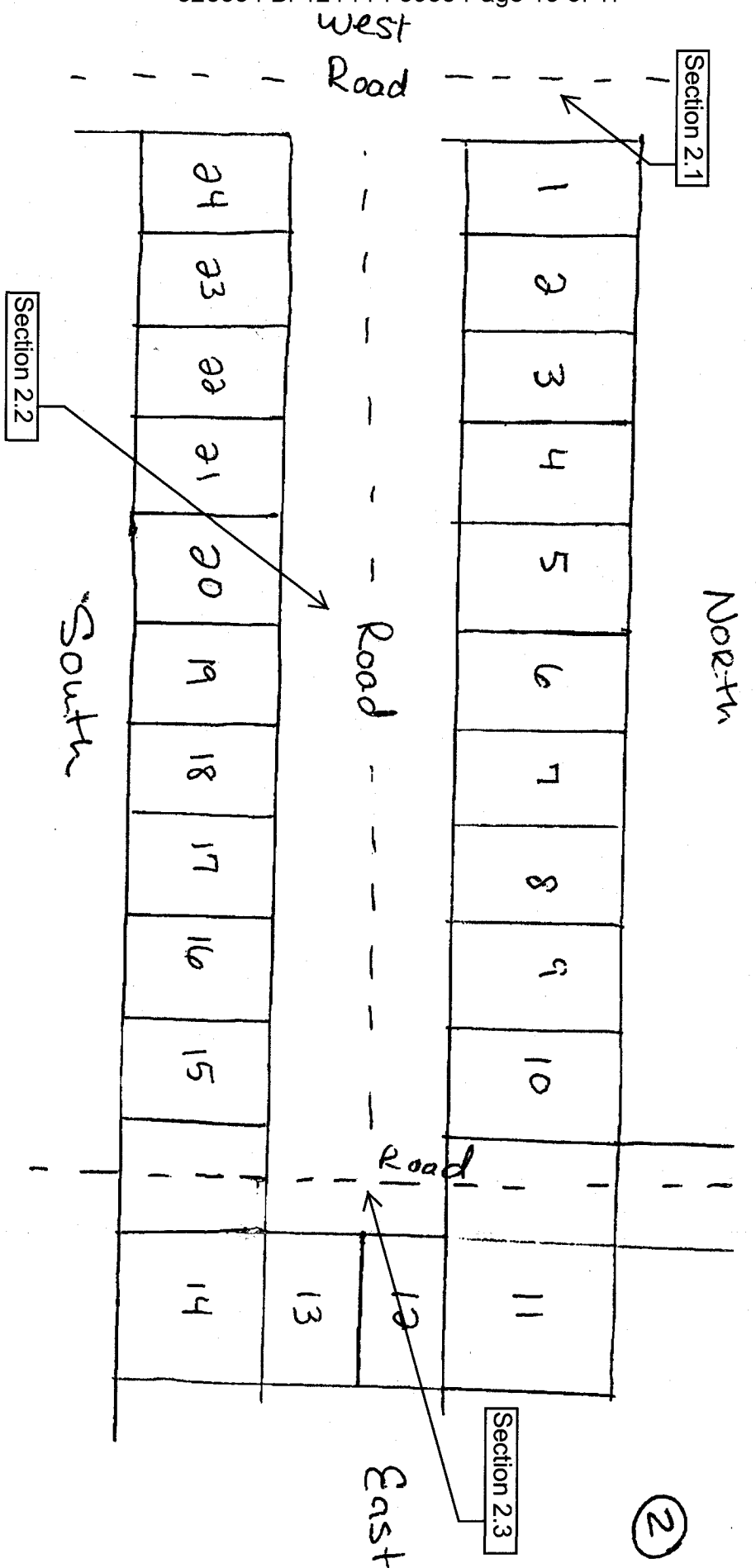
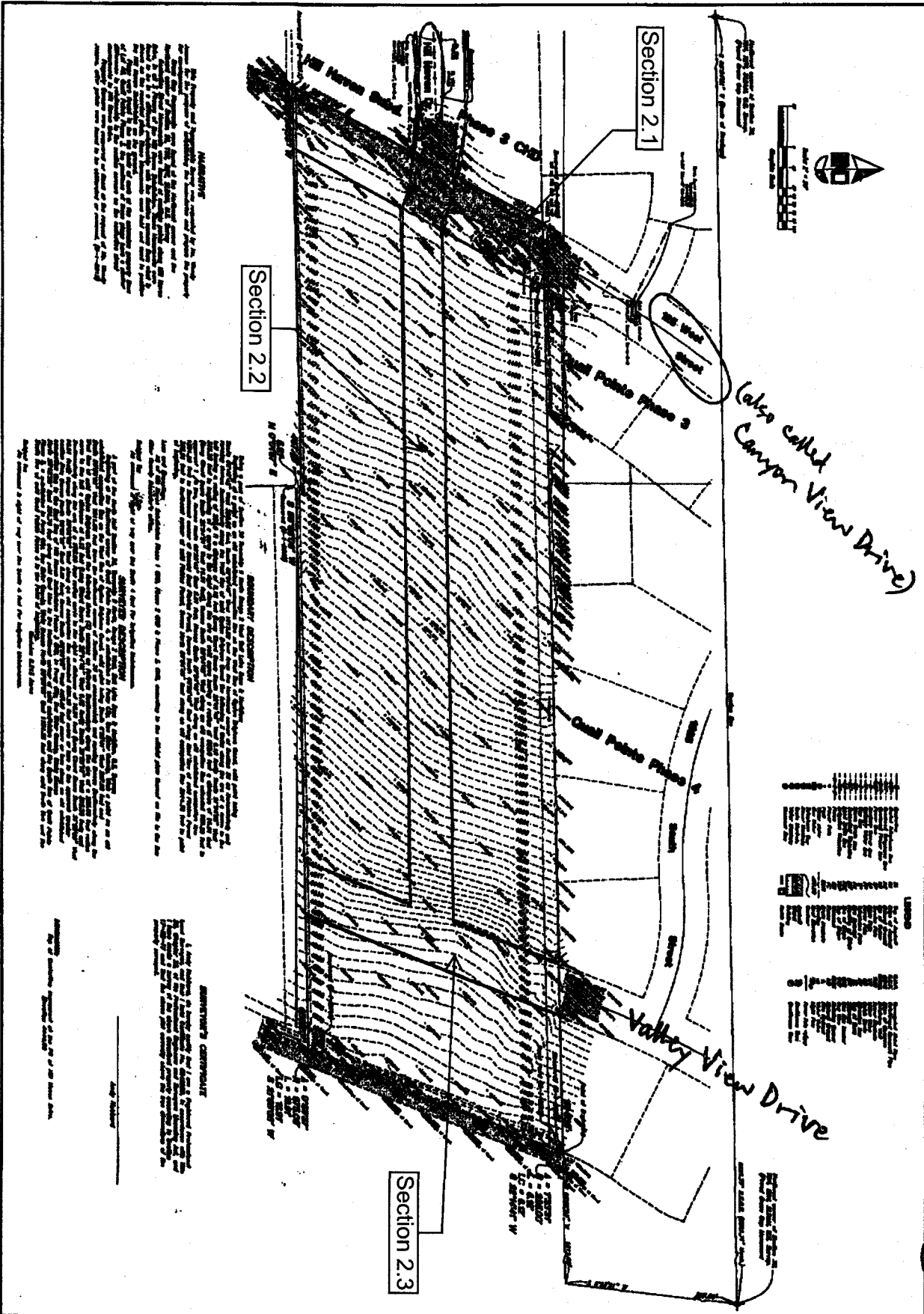


EXHIBIT E



REMARKS:
 The contours and elevations shown on this map were derived from a survey conducted on or about 10/15/08. The contours were derived from a contour interval of 5 feet. The elevations were derived from a datum of Mean Sea Level. The contours and elevations shown on this map are for informational purposes only and should not be used for any other purpose without the consent of the engineer.

ASSUMPTIONS:
 It is assumed that the ground surface shown on this map is the existing ground surface. It is assumed that the contours and elevations shown on this map are accurate. It is assumed that the contours and elevations shown on this map are for informational purposes only and should not be used for any other purpose without the consent of the engineer.

GENERAL NOTES:
 1. The contours and elevations shown on this map were derived from a survey conducted on or about 10/15/08. The contours were derived from a contour interval of 5 feet. The elevations were derived from a datum of Mean Sea Level. The contours and elevations shown on this map are for informational purposes only and should not be used for any other purpose without the consent of the engineer.

2

<p>20 APR 2009 1</p>	<p>Property & Topographic Survey Wendy Jensen 200 West 100 Street, Suite 100 Provo, Utah 84601 A part of the North 1/2 of Section 20, T10N, R10E, S10E, Utah, U.S. Survey</p>	<p>GREAT BASIN ENGINEERING INC 2740 SOUTH 1470 EAST BLDG. 200, SALT LAKE CITY, UT 84119 WWW.GREATBASINENGINEERING.COM</p>	<p>Scale: 1" = 40' (Horizontal) 1" = 20' (Vertical) Contour Interval: 5 Feet Datum: Mean Sea Level</p>
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