

## **NOTICE OF APPEAL**

### **Zions Edge – Lot 10 (V-ZED-10)**

This appeal is timely filed by Loren Campbell, Utah Public Lands Alliance, and BlueRibbon Coalition, each of whom is directly and adversely affected by the Building Permit issued November 4, 2025, for Lot 10, Zions Edge (V-ZED-10). The filing of the appeal is within the 15-day appeal period from the date we received constructive notice of the Building Permit Issuance (December 16, 2025).

#### **Jurisdiction and Authority**

This appeal is brought pursuant to the Virgin Municipal Code and Utah land use law, which authorize appeals by persons adversely affected by a land use decision. The Building Permit issuance constitutes a final administrative action affecting public rights-of-way and access and is therefore subject to appeal and review. The Town retains jurisdiction to correct ultra vires actions, void approvals, and material errors in plats and permits issued in violation of state law.

#### **Each Appellant has independent standing under Utah law and the Virgin Municipal Code.**

Loren Campbell has standing as an adjacent residential landowner located approximately 330 feet west of the subject roadway, as a regular and frequent user of the road, and as a person directly and adversely affected by interference with a public highway, loss of access, and diminished emergency ingress and egress. I personally use this road 2-3 times in an average week.

Utah Public Lands Alliance (UPLA) has standing because protection of public access to roads and trails is central to its organizational mission, its members use and rely upon the subject roadway for lawful motorized access, and the challenged decision frustrates UPLA's mission and requires diversion of organizational resources. UPLA has at least 10 members that are directly impacted and irreparably harmed if this closure to motorized vehicles, or other uses, is permitted. Individual members use the road for access to the BLM property in a number of different ways including UTV/ATV access, motorcycles, Mountain Biking, 4x4, Camping, horseback and similar activities, all resulting in particularized injuries that would make them adversely affected and irreparably harmed if this closure to motorized vehicles and other uses is permitted.

BlueRibbon Coalition, Inc. (BRC) has standing because it is a national nonprofit organization dedicated to protection of public motorized access, its members include residents and visitors who use the subject roadway and surrounding public lands, and the Building Permit adversely affects BRC members and undermines established public access rights. BRC has at least 12 individual members that use the road for access to the BLM property in a number of different ways including UTV/ATV access, motorcycles, Mountain Biking, 4x4, Camping, horseback and similar activities, all resulting in particularized injuries that would make

them adversely affected and irreparably harmed if this closure to motorized vehicles and other uses is permitted.

### **Governing Legal Principles**

Municipalities are creatures of statute and possess only those powers expressly granted or necessarily implied by law. Any municipal action taken beyond that authority is ultra vires and therefore unlawful. A town has an affirmative duty to act prudently, within its delegated authority, and in compliance with state law when approving plats, permits, and conditions affecting public rights-of-way. Actions taken in disregard of statutory limitations, or that attempt to relinquish or impair public highways without lawful vacation, constitute arbitrary and capricious conduct and are invalid as a matter of law.

The Town had actual notice that the roadway constituted a protected public highway. Appellant Loren Campbell expressly advised the Town Council, County Commissioners and the developer, both orally at public meetings and in written communications during the plat review process, that motorized access could not lawfully be restricted on the roadway. Despite this notice, the Town proceeded to approve the Final Plat and issue the Lot 10 Building Permit without resolving the legal status of the road or its lack of authority to impose use restrictions. Evidence of these written communications is contained in the Exhibits.

### **Facts**

The subject road has been abandoned to the use of the public and dedicated as a public highway under Utah Code § 72-5-104 because it has been used continuously since 2006, a period longer than the statutory requirement of 10 years, as evidenced by Washington County GIS aerial mapping, Google Earth historical imagery (Exhibits B, C, D, and E), and by the personal knowledge of several of our members and nearby residents. Although §72-5-104 only requires use as frequently as the public finds convenient or necessary, this road is used nearly every day of the year by multiple users. It has also been used as one of two required access roads for Red Bull Rampage, an internationally recognized and televised event that has been hosted in Virgin in the past. The subject road is also a portion of County D inventoried road and an R.S. 2477 claimed route that has been well documented by depositions taken by the state.

Once established, a public highway may not be downgraded, restricted, or converted absent lawful abandonment or vacation by the state and highway authority. The Town nevertheless imposed conditions purporting to convert this highway into a non-motorized easement, in direct conflict with Utah Code § 72-5-104 and § 72-5-118 (Exhibits F and G). These conditions are ultra vires, illegal, and void.

RS 2477 rights, once perfected, may not be abandoned, restricted, or transferred by a municipality absent lawful vacation by the proper highway authority. A town has no authority to convert a public highway into a limited-use easement, nor to delegate closure authority to a private landowner or HOA.

In addition, the Final Plat recorded in October 2023 (Exhibit H) is internally inconsistent and materially deviates from the Town Council's approved conditions as reflected in the Final Minutes of the October 14, 2022, Special Meeting (Exhibit I). Note 18 identifies an incorrect parcel number, grants only a non-motorized easement, and unlawfully delegates closure authority to a private HOA. Further, Note 12 of the Plat acknowledges correctly that there is to be a 30-foot-wide access easement with none of the improper conditions in Note 18.

As a direct and foreseeable consequence of the Town's ambiguous and unlawful approvals, 'No Trespassing' signs on December 16, 2025 (Exhibit J), constituting an overt act intended to interrupt the regular pattern and frequency of public highway use. The Town's actions have failed to preserve the status quo pending resolution of the road's legal status. The posting of "No Trespassing" signs and implied enforcement actions represent an immediate and irreparable interference with an existing public highway. Allowing construction or reliance on an unlawfully issued permit during the resolution of this dispute risks permanent impairment of public rights and exposes both the Town and the property owner to avoidable harm.

A survey diagram found discarded on Rio de Sion HOA property (Exhibit K) further demonstrates confusion and lack of lawful authorization regarding the roadway's status by picturing 3 vehicles parked across the road in a way that would have closed it.

Further evidence and facts are contained in the attached Position Statement as part of this Application.

**The Town acted arbitrarily and capriciously by:**

- Acting carelessly in issuing the Final Plat Decision, including numerous errors and actions exceeding their legal authority.
- Failed to reconcile known conflicts between the Final Plat, prior Council approvals, and state highway law before issuing the Building Permit.
- Allowing or acquiescing in private enforcement actions against the public, without a lawful determination that the road had been vacated or abandoned.
- Issuing the Lot 10 Building Permit while disregarding readily available and controlling evidence of the roadway's legal status, including its designation as a County Class D Road (Road 652), an R.S. 2477 highway (Road 0650), and a public highway in use for over 10 years under Utah §72-5-104. This conduct reflects a reckless indifference to public access rights and improperly induced reliance by the Developer on representations the Town had no legal authority to make.
- Records produced under GRAMA reference a Settlement Agreement between the Town and the owners of Lot 10, but that agreement was not produced. Issuance of a Building Permit to a Property Owner without formally advising them of the legal status of the public highway on their property may cause consequential damage to both the property owner and the Town for failure to disclose true conditions.

**Requested Relief:** The Town possesses continuing authority to rescind or correct unlawful permits, amend recorded plats to cure material defects, and take affirmative steps to prevent interference with public highways. Because ultra vires actions are void, no vested rights can arise from reliance on an unlawfully issued permit.

- 1) The Town must formally recognize and declare that the subject roadways are an R.S. 2477 highway and a highway dedicated to the public as prescribed by Utah §72-5-104, and that any prior approvals or conditions inconsistent with that status are void and without legal effect.
- 2) The Town must correct the Final Plat Map by removing Note 18 completely.
- 3) If Town desires to record specific easement for Alan Lee's property, they should correct Plat Notes to show the correct parcel number V-2148-A-1 instead of V-2-1-26-4421.
- 4) The Town must notify all interested parties that the Town corrected errors on the Plat Map including removal of the non-motorized exclusion on the existing access road.
- 5) The Town must order the Sheriff to remove the No Trespassing Signs posted at both end of the road.

DATED: 12/28, 2025



Loren Campbell  
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Utah Public Lands Alliance  
by Loren Campbell  
President



BlueRibbon Coalition  
by Ben Burr  
Executive Director

**Attachments:** Supplemental Grama Request, Revised Request for Stay of Building Permit, Fee Waiver Request in Transmittal Letter, Exhibits