



## BOARD OF ADJUSTMENT

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### MEETING AGENDA Thursday, August 25, 2016 4:30 p.m.

*\*Pledge of Allegiance*

#### Regular Agenda Items

1. BOA 2016-03 Consideration and action on an appeal of an administrative decision, made by the Weber County Planning Division, to grant an approval of an Access Exception (AE#2013-03) for two building lots in a proposed subdivision, (6050 South and 2900 East in the Uintah Highlands area) owned by Matthew and Laura Rasmussen. The allegation is that the Planning Division erred in its decision to approve the access exception. (Carol C. Browning, represented by Richard Reeve)
2. BOA 2016-05 Consideration and action on an appeal of The Sanctuary Recreational Lodge Conditional Use Permit to operate a recreation lodge on Lot 6 of The Sanctuary Subdivision, which is a 44.6 acre lot in the F-40 Zone, at approximately 9803 E. Maple Ridge Road. (Green Hill HOA, Applicant)
3. BOA 2016-06 Consideration and action on a request for ordinance interpretation fro Scott Martini regarding Section 104-5-6 (18) to determine whether his desired land use complies with the ordinance (Scott Martini, Applicant)
4. Adjournment:

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*The meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor, 2380 Washington Blvd., Ogden, Utah*



*In compliance with the Americas with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791.*

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# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on an appeal of an administrative decision, made by the Weber County Planning Division, to grant an approval of an Access Exception (AE#2013-03) for two building lots in a proposed subdivision, (6050 South and 2900 East in the Uintah Highlands area) owned by Matthew and Laura Rasmussen. The allegation is that the Planning Division erred in its decision to approve the access exception.

**Agenda Date:** Thursday, August 25, 2016

**Applicant:** Carol C. Browning, represented by Richard Reeve.

**File Number:** BOA #2016-03

### Property Information

**Approximate Address:** 6050 South and 2900 East in the Uintah Highlands area.

**Project Area:** 2.59 Acres

**Zoning:** Residential Estates-20 Zone (RE-20)

**Existing Land Use:** Residential Lot (Existing Lot 1R, Calais Subdivision)

**Proposed Land Use:** Further divide residential use.

**Parcel ID:** 07-574-0001

**Township, Range, Section:** T5N, R1W, SW1/4 of Section 24

### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Residential	<b>West:</b>	Residential

### Staff Information

**Report Presenter:** Scott Mendoza  
smendoza@co.weber.ut.us  
801-399-8769

**Report Reviewer:** RG

## Applicable Ordinances

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 3 (Residential Estates Zones RE-15 and RE-20)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)
- Weber County Land Use Code Title 106 (Subdivisions)

## Background

### Request and General Project Information

The applicant (Ms. Browning) is requesting an appeal of a land use decision made by the Weber County Planning Division on April 22, 2016. The decision in question is an approval of an Access Exception application (AE# 2013-03 submitted by Matthew Rasmussen) where, in lieu of constructing a full public-standard street, a 20 foot private access easement would serve as the primary access for two future residential lots. See Exhibit A for the Planning Division staff report packet that provides Mr. Rasmussen's Access Exception information and findings that form the basis for the approval granted on April 22, 2016. See Exhibit B for the Notice of Decision that summarizes the Planning Division's findings for the approval. See Exhibit C for Ms. Browning's appeal to the Weber County Board of Adjustment.

The outcome, if Mr. Rasmussen's Access Exception is approved, would be the division of an existing lot (Lot 1R, Calais Subdivision) into three lots. The existing lot is located at approximately 6050 South and 2900 East in the Uintah Highlands area. It consists of 4.2 acres and sits within the Residential Estates-20 (RE-20) Zone. The RE-20 Zone requires a minimum lot size of 20,000 square feet and a lot width of 100 feet (fronting on a publically dedication street) when not approved for an Access Exception. An Access Exception is required when a landowner (developer) feels that it is more feasible or

practical to access building lots from something that resembles a private driveway rather than a two-lane (public) county street. To be considered for an approval of an Access Exception, a landowner must demonstrate that it is **unfeasible or impractical** to extend a street to serve proposed lots. Property characteristics that **may** support an approval of an Access Exception may include, but not be limited to, things like unusual soils, excessive topography, or odd boundary conditions. Applicable language within Section 108-7-31 (Access to a lot/parcel using a private right-of-way or access easement) is marked in bold text and reads as follows:

**Sec. 108-7-31. - Access to a lot/parcel using a private right-of-way or access easement.**

***Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:***

***(1) Criteria.***

- a. The lot/parcel is a bona fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or***
- b. The lot/parcel is a bona fide agricultural parcel that is actively devoted to an agricultural use that is the main use and is the subject parcel of an approved agritourism operation; or***
- c. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.***

***(2) Conditions.***

- a. It shall be demonstrated that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and***
- b. The landowner of record or authorized representative shall agree to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the county deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.***

**Role of Board of Adjustment**

The Board of Adjustment's role, in this appeal, is described in §102-3-3 (Duties and powers of the board) and §102-3-4 (Decision criteria and standards) of the Weber County Land Use Code and is provided below with bold text marking applicable language:

**Sec. 102-3-3. - Duties and powers of the board.**

***The board of adjustment shall have the following duties and powers:***

- (1) To act as the appeal authority from decisions applying and interpreting this Land Use Code and Zoning Maps.***
- (2) To hear and decide variances from the requirements of the Land Use Code.***

**Sec. 102-3-4. - Decision criteria and standards.**

***(a) Appeals from decisions applying and interpreting the Land Use Code and Zoning Maps.***

- (1) The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.***



*(2) The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.*

*(3) The appellant has the burden of proof that the land use authority erred.*

*(4) All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.*

*(5) Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de nova.*

(b) Variances from the requirements of the Land Use Code.

**Procedural History**

Due to the extended history, associated with Mr. Rasmussen’s Access Exception application, the following project history is provided:

5-23-2013	Matthew Rasmussen submits an Access Exception application (AE#2013-03) to the Weber County Planning Division.
6-14-2013	Matthew Rasmussen submits a subdivision application to the Weber County Planning Division.
8-9-2013	1 <sup>st</sup> administrative public meeting held for Access Exception application (AE#2013-03). Planning Director approval granted.
12-27-2013	1 <sup>st</sup> administrative (Planning Director approval) public meeting held for proposed Pas de Calais Subdivision. Planning Director defers (what is typically a planning director approval) subdivision application to Western Weber Planning Commission for consideration due to concerns voiced during administrative public meeting.
1-14-2014	Western Weber Planning Commission public meeting held for Pas de Calais Subdivision. Planning Commission final approval granted conditioned upon: 1) meeting the requirements of all applicable review agencies; 2) gain approval of an ordinance vacating the original Lot 1R of the Calais Subdivision; and 3) gaining Weber County Commission approval for an access easement related to Access Exception AE#2013-03.
4-1-2014	Weber County Commission hears request and approves the conveyance of an access easement to Mr. Rasmussen.
4-16-2014	Ms. Browning (appellant and neighboring property owner) submits 1 <sup>st</sup> appeal of Mr. Rasmussen’s Access Exception (AE#2013-03) approval, Planning Commission (final) approval of the Pas de Calais Subdivision, and the County Commission’s decision to convey an access easement. This appeal was made to the Weber County Board of Adjustment (BOA).
5-22-2014	BOA meeting to hear Ms. Browning’s appeal. The BOA denied the appeal based on the following findings: (1) The BOA no longer possessed jurisdiction over land use decisions involving access exceptions. The BOA did have jurisdiction over access exceptions up until 2012; and (2) Ms. Browning’s appeal was not filed within the 15-day window set forth in the Weber County Land Use Code; and (3) The BOA does not have the ability to review the County Commission’s decision to convey Mr. Rasmussen’s access easement, because the conveyance itself was not a land use decision that could be reviewed by the BOA.
6-24-2014	Ms. Browning files an appeal of the BOA decision to the Second Judicial District Court.
7-27-2015	District Court concludes that the County Commission’s decision to convey an access easement is not a land use decision that is appealable to the Court; therefore, the conveyance stands. Also, the Court determines that a material issue exists in regard to Ms. Browning receiving appropriate notice. The Court does not offer its opinion on the (noticing) issue because the issue was “not yet appropriately before the Court.”
1-27-2016	District Court concludes that Ms. Browning did not receive appropriate notice of the land use decision



	made on 8-9-2013 (Planning Director approval of Access Exception application AE#2013-03) and orders that the decision is vacated and remands the matter back to the Weber County Planning Division to be reconsidered with public input being limited to Ms. Browning only. The Court does not comment on the substance of the original decision/approval and did not state that the decision/approval was arbitrary or capricious.
3-31-2016	Consistent with the District Court Order (dated 1-27-2016) the Planning Division holds 2 <sup>nd</sup> administrative public meeting for Access Exception application (AE#2013-03), allowing Ms. Browning the opportunity to comment. Minutes from this meeting are not available due to audio recording failure.
4-22-2016	Planning Director approval granted a 2 <sup>nd</sup> time.
5-6-2016	Ms. Browning files appeal of land use decision (2 <sup>nd</sup> approval of Mr. Rasmussen's Access Exception AE2013-03) made on 4-22-2016.
8-25-2016	BOA meeting scheduled to hear Ms. Browning's appeal as described above.

### Summary of Board of Adjustment Considerations

- Do the items described in Ms. Browning's appeal warrant overturning the Weber County Planning Division (4-22-2016) decision to approve Mr. Rasmussen's Access Exception (AE#2013-03).
- Based on §108-7-31 (provided above), can the BOA find (in the record) that the Planning Division erred in appropriately identifying circumstances (including but not be limited to unusual soil, topographic, or property boundary conditions) that exist which support the Planning Division's (4-22-2016) decision to approve Mr. Rasmussen's request for an Access Exception?
- Based on §108-7-31 (provided above), can the BOA find (in the record) that the Planning Division erred by determining that financial adversity is not the motive behind Mr. Rasmussen's request for an Access Exception?
- Based on the information provided (the substantial evidence), can the BOA find that the Planning Division erred by determining that it is unfeasible or impractical to extend a public street to serve Mr. Rasmussen's proposed lots?

### Staff Recommendation

Based on information presented in this staff report (including exhibits), compliance with the District Court Order (dated 1-27-2016), and compliance with the Weber County Land Use Code, the Planning Division Staff recommends that the administrative decision, to approve Mr. Rasmussen's request for an Access Exception, be upheld.

### Exhibits

- A. Ms. Browning's appeal to the Weber County Board of Adjustment. This Exhibit includes Ms. Browning's BOA application form, Ms. Browning's appeal to the BOA, a copy of Mr. Rasmussen's Notice of Decision for the Access Exception approval, a copy of Mr. Rasmussen's Access Exception application, and Ms Browning's comments and objections provided during the Planning Division administrative meeting held on 3-31-2016.
- B. Planning Division staff report packet that provides Mr. Rasmussen's Access Exception information and findings that form the basis for the approval granted on April 22, 2016.
- C. Notice of Decision that summarizes the Planning Division's findings for the approval.

Vicinity Map



# Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed <b>06 May 2016</b>	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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**Property Owner Contact Information**

Name of Property Owner(s) <b>Carol Browning</b>	Mailing Address of Property Owner(s) <b>6182 South 2855 East</b>
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Phone <b>Legal counsel: 801-389-9733</b>	Fax <b>Ogden, Utah 84403</b>
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Email Address <b>Legal counsel: reeve@reevelawgroup.com</b>	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail
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**Authorized Representative Contact Information**

Name of Person Authorized to Represent the Property Owner(s) <b>Richard Reeve (Legal Counsel)</b>	Mailing Address of Authorized Person <b>1957 Maple Grove Way</b>
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Phone <b>801-389-9733</b>	Fax <b>Ogden, Utah 84401</b>
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Email Address <b>reeve@reevelawgroup.com</b>	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail
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**Appeal Request**

- A variance request:  
     \_\_ Lot area    \_\_ Yard setback    \_\_ Frontage width    \_\_ Other: \_\_\_\_\_
  
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- Other: **An appeal from a decision of the Land Use Authority in regards to an Application for Access Exception (see the attached for substance of appeal)**

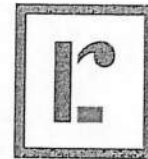
**Property Information**

Approximate Address	Land Serial Number(s)

Current Zoning	
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Existing Measurements		Required Measurements (Office Use)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)





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**APPEAL TO THE WEBER COUNTY BOARD OF ADJUSTMENT  
OF  
PLANNING DIVISION NOTICE OF DECISION  
OF  
THE REQUEST FOR AN ACCESS EXCEPTION (#2013-03)**

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**I. DECISION BEING APPEALED**

This is an appeal to the Weber County Board of Adjustment of the Planning Director's Notice of Decision, dated April 18, 2016, granting an Application for an Access Exception (the "Application") in connection with the proposed development of the Pas De Calais Subdivision. The Application was submitted by Matthew Rasmussen (the "Applicant"). Mr. Rick Grover, acting director of the Planning Department, is the designated land use authority under Weber County Code (the author of the decision at issue in this appeal shall be referred to herein as the "Planning Department" or the "Department"). Although the decision is dated April 18, 2016, the decision was not mailed until April 22, 2016.

For the Board's reference, copies of the following documents have been provided:

- (1) A copy of the Notice of Decision;
- (2) A copy of the Application; and
- (3) A copy of Appellant's written submittal to the Planning Department.

**II. IDENTITY OF APPELLANT**

The appellants herein are owners of real property immediately adjacent to the Pas De Calais Subdivision and the public land on which the private access will run. The appellant is:

Carol C. Browning  
6182 South 2855 East  
Ogden, Utah 84403

This matter was previously before the Weber County Board of Adjustments. The matter was brought before the Board of Adjustments in or about April of 2014. At the time, the Board of Adjustments declined to hear the appeal by ruling that they did not have jurisdiction to hear the appeal. That decision was appealed to the District Court, which found that the Board of Adjustments was in error and remanded the case back to the Planning Department so that Ms. Browning could be heard and have a procedural right to have her comments and arguments considered. Ms. Browning now appeals the substance of the Notice of Decision.

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### III. RELEVANT CODE SECTION

The Application must be construed under Weber County Code § 108-7-31. Utah Courts have consistently held that County government must interpret code sections to give meaning to all the words and provisions of the Code. See *Carrier v. Salt Lake County*, 104 P.3d 1208 (Utah 2004). The Code, in relevant part, reads as follows:

*Lots/parcels which do not have frontage on a street*, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is *subject to the applicant demonstrating compliance* with the following criteria and conditions:

....

c. Based on *substantial evidence*, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. *Financial adversity shall not be considered*; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to *unusual soil, topographic, or property boundary conditions...*

a. It shall be demonstrated that the agricultural parcel or other lot/parcel has *appropriate and legal access* due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and...

Weber County Code, §108-7-31 (emphasis added)

### IV. BASIS OF APPEAL

As more specifically set forth below, the Planning Department erred in its decision approving the Application. The Department erred as a matter of law by failing to identify the “substantial evidence” that its decision was based upon, consider other practical and feasible alternatives for access, and consider “unusual soil, topographic, or property boundary conditions.” See § 108-7-31.

### V. THE DEPARTMENT FAILED TO CORRECTLY APPLY THE CODE.

Appellant asserts that the Planning Department erred in its interpretation and application of Weber County Code § 108-7-31(1)(b) when it failed to find substantial evidence to support its decisions.

This Board has jurisdiction and authority over this appeal pursuant to Utah Code § 17-27a-701(1) and Weber County Code § 102-3-3. This Board must overturn the Department’s decision if the decision is not supported by substantial evidence in the record and is arbitrary, capricious, or illegal. See *Harmon City, Inc. v. Draper City*, 997 P.2d 321 (Ut. Ct. App. 2000). The Utah Supreme Court has held that government municipalities must comply with mandatory provisions of its own ordinance, substantial



compliance is not sufficient. *See Springville Citizens for a Better Community v. City of Springville*, 979 P.2d 332 (Utah 1999).

The Planning Department's decision is substantively deficient and arbitrary and capricious for the following reasons:

- (1) Section 108-7-31 is for "lots which do not have frontage on a street." As the decision makes clear in paragraph 5, the applicants do have frontage on Melanie lane through other property that the applicants own. The County should not be in the business of bailing property owners out of a bad investment where they have purchased property that is either land-locked or in which access will be difficult or expensive. Obtaining access across public land is almost always going to be the most cost-effective approach for an owner/developer and allowing such access in one case will set a precedent for access in other cases.
- (2) The Planning Department's focus on public roads is misleading because it does not compare apples to apples. The Department focuses several of its paragraphs on the potential impacts of a public, county-dedicated road. The Department's argument is that utilizing a public road for access through existing frontage or across a nearby empty lot would create unacceptable impacts. The focus on a public road is misleading, however, because the applicant has always focused on a private drive to access the proposed two-lot residential subdivision. Since the focus is, and always has been on a private drive, it is misleading to insert a discussion of a public road and its impacts into the analysis of the Application. Removing a public road from the discussion, as has always been the case, erases or substantially mitigates the potential for unsafe access on Melanie Lane through existing frontage. It also minimizes concerns about a public road creating disallowed double frontage or corner lots with modified setbacks.
- (3) The County Code requires the Planning Department to consider other alternatives to access and demonstrate that those alternatives are impracticable and unfeasible. In its decision, the Planning Department quickly, and without citation to any evidence, discounted Ms. Browning's argument for "alternative access" that could be obtained by acquiring frontage from an adjoining vacant lot that is on the market. The Department incorrectly assumes that using that lot for access would render it unbuildable and remove its taxable value. This is again misleading. The lot at issue has substantial frontage. The placement of a private access drive across that property, perhaps via a private easement, would not impact the residential use of the property. It could still be built upon. If not built upon the lot would actually generate a higher taxable value for the County than that of a primary residential residence.
- (4) The Code requires the County to consider a non-exclusive list of factors when evaluating the Application. These factors are listed as "soil conditions, topographic, or property boundary conditions." In addition, to these factors, Ms. Browning raised issues about water issues, the proximity of the proposed access to the supporting berm of a water catchment basin, the existence of



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many runoff corridors and natural streams, the instability of the former pond bed, and the history of large scale landslides in the area. The County fails to address almost all of these issues even though they were raised by Ms. Browning. Not only are these issues not discussed, as required by code, there is no substantial evidence about any of these factors other than a link to a geology website. These are serious issues. The Code requires substantial evidence. The Planning Department has failed to follow the Code and provide the required evidence.

- (5) The applicant claims that there is data in place that addresses these issues; however, the section of the application in which the applicant is to list “substantial evidence” was left totally blank by the applicant. It is not the County’s job to come up with the evidence needed to support its decision. That burden rests on the Applicant and it has not been met.

## VI. CONCLUSION

The decision of the Planning Department approving the Application for access across public land should be overturned. At a minimum, the matter should be remanded to County staff with instructions that they consider other feasible and practical ways to access the property. In the event that there is no other practical or feasible way to access the property, a record outlining the substantial evidence in support of such a determination should be provided. For all the foregoing reasons, the Board of Adjustment must reverse the decision of the Planning Department and deny the Application.

Respectfully submitted this 6th day of May, 2016.

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Richard Reeve  
*Attorney for Appellant*

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## Weber County Planning Division

April 22, 2016

Mr. Richard H. Reeve  
1957 Maple Grove Way  
Ogden, Utah 84401

Subject: Matt Rasmussen Access Exception (AE#2013-03) Notice of Decision

Mr. Reeve,

As a courtesy, the Weber County Planning Division would like to provide you with a copy of the Notice of Decision that was sent to Mr. Rasmussen on April 22, 2016. Please see the enclosed Notice.

A copy of the Notice was also sent to Ms. Carol C. Browning on April 22, 2016.

Sincerely,

Scott Mendoza, Assistant Planning Director  
Weber County Planning Division

Enc.

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Weber County

Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473

Planning Division Administrative Review  
NOTICE OF DECISION

April 18, 2016

Matt & Laura Rasmussen  
2927 Melanie Lane  
Ogden, Utah 84403

Case Number: Access Exception (AE #2013-03)

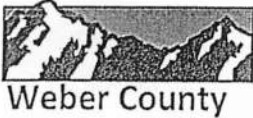
You are hereby notified that your request for approval of an Access Exception related to a proposed subdivision project located at approximately 6050 South and 2900 East is approved. The decision considered relevant Weber County codes, information provided by you (the applicants), information provided by the public, including those involved in a Second Judicial District Court Order (Civil No. 140904054) dated January 27<sup>th</sup>, 2016, and an analysis prepared by the Weber County Planning Division. This approval is based on the findings listed below and is subject to the following conditions:

FINDINGS:

1. An application was submitted and determined to be complete after supplementary verbal discussion which addressed the applicants' need to demonstrate that it is unfeasible or impractical to extend a street to two future lots within a proposed subdivision. The results of the discussion, where feasibility and practicality were explained, are provided under the Planning Staff's analysis and findings section of the Planning Division Staff Report (pg. 2 of 4).
2. Pursuant to § 102-1-2(a) of the Weber County Land Use Code, the Weber County Planning Director is authorized to act as the land use authority and approve or deny applications for "access to a lot/parcel using a private right-of-way or access easement."
3. The Planning Division, on August 9, 2013 and March 31, 2016, held administrative meetings that satisfied public notice and comment requirements.
4. The subject property is shown on a Utah Geologic Survey Map (representing strong or "substantial evidence" as required by § 108-7-31(1)(c)) as being (potentially) situated in between the Wasatch Fault and another fault. Due to the property's proximity to potential faults, the Planning Division finds that it is impractical to require the construction of a public road (and other infrastructure) that would intentionally cross a fault line. The alignment of the proposed access easement (and private driveway improvements) does not cross fault lines as shown on the Utah Geologic Survey Map. See Exhibit F, attached to the related Planning Division Staff Report, or <http://geology.utah.gov/apps/intgeomap/> for the UGS Map.
5. Property boundary conditions are such that the lots to be subdivided do not have access from a street. Although the applicants do own adjacent property with frontage on Melanie Lane, access to the proposed lots at this location would not be practical due to steep slopes (the existing lot [Lot 1 of Calais Subdivision] is a restricted lot which indicates that the land exceeds 25% slopes), the location of an existing dwelling, and a stream with a dedicated drainage easement. Further, a road intersecting Melanie Lane, in this area, would intersect Melanie Lane at an unsafe location (limited sight distance due to horizontal curve), be disruptive to the existing dwelling, and dangerous due to steep slopes and other geological considerations i.e., surface rupture faults and landslides. It is unsafe and impractical for a road, serving only two lots, to be constructed in this area. See Exhibit G, attached to the related Planning Division Staff Report, for the original Calais Subdivision Plat.
6. The applicants have received an approval for an access easement from Weber County. The easement location is shown on the proposed preliminary (Pas De Calais) subdivision plat that has been submitted to the Planning Division. See Exhibit B, attached to the related Planning Division Staff Report, for



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Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473

representation of the easement. See Exhibits D and E, attached to the related Planning Division Staff Report, for County Commission meeting minutes where easement approval was discussed and granted.

- 7. A dedicated road that meets County standards, if constructed in the same location of the proposed shared access, would create a situation where neighboring lots (Lots 81 through 85 of the Eastwood Subdivision No. 6) would become "double frontage lots." Double frontage lots are prohibited by the Weber County Land Use Code, § 106-2-4(c).
- 8. An alternative access idea, offered through public comment, which involves the purchase and use of a vacant lot (Lot 84 of the Eastwood Subdivision No. 6) for a roadway, would remove the taxable value of a residential building lot and would replace it with a County road that would have no taxable value. To remove the existing taxable value that Lot 84 provides is not ideal or practical. Further, Lot 84, if converted to a roadway, would force Lots 83 and 85 to become "corner lots," which would increase their sideyard setbacks. To burden Lots 83 and 85 with greater sideyard setbacks, now that these lots have been developed, is also not ideal or practical.
- 9. Financial adversity and/or financial gains have not been considered in this decision.
- 10. Prior to approval of a subdivision application, the applicants will sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a dedicated street that would serve as the access to the proposed lots or any other additional lots. See Weber County Land Use Code § 108-7-31(b).

CONDITIONS:

- 1. The access easement granted by Weber County shall be recorded at the same time the proposed Pas De Calais Subdivision is recorded.
- 2. An access easement, across (the proposed) Lot 3, providing access to (the proposed) Lot 2 shall be reserved/recorded in an appropriate manner and shown on the final subdivision plat.
- 3. Prior to final subdivision approval, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a street that would serve as a required access to the lots.
- 4. Any other conditions imposed by applicable review agencies.

Meetings minutes are made available approximately four weeks from the date of the meeting. To obtain minutes, please contact Kary Serano at 801-399-8791 in the Weber County Planning Division Office.

Sincerely,

Rick V. Grover  
Planning Director  
Weber County Planning Division

\*\*\*\*\*

Appeals from administrative decisions shall be submitted to the Planning Division in accordance with § 102-1-7 of the Weber County Land Use Code.

# Weber County Access Exception Permit Application

Application submittals will be accepted by appointment only. (801) 399-8791, 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted /Completed 04/17/2013	Fees (Office Use) 225.00	Receipt Number (Office Use)	File Number (Office Use) AE2013-03
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## Application Type

Access by Private Right of Way       Access at a Location Other Than Across the Front Lot Line

## Property Owner Contact Information

Name of Property Owner(s) Matthew & Laura Rasmussen		Mailing Address of Property Owner(s) 2927 Melanie Lane Ogden, UT 84403	
Phone 801-668-4197	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required) mrasma@msn.com			

## Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Matthew		Mailing Address of Authorized Person	
Phone	Fax	Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required)			

## Property Information

Project Name Calais Lower Lot(s)	Total Acreage Approx. 3 acres	Current Zoning
Approximate Address Intersection 2900 East & Melanie Lane	Land Serial Number(s) 07-574-0001	

Proposed Use  
Single Family Residence(s)

Project Narrative  
Proposed that owner deed land to Weber County for further control of retention pond. Weber County would grant right-of-way easement for 20'-25' access road as per schematic. (see also enclosed letter). Purposed easement is to provide access for intended two lots. Property + easement exchange with Weber County will take place at recording of subdivision.

A 2/5

A 10/25

**Basis for Issuance of Access at a location other than across the front lot line**

Access to lots/parcels at a location other than across the front lot line may be approved as the primary access, subject to the following criteria:

The applicant demonstrates that special or unique boundary, topographic, or other physical conditions exist which would cause an undesirable or dangerous condition to be created for property access across the front lot line as follows:

Access via exchange of land with Weber County proposed. Existing road creates some traffic hazard. Weber County would receive land which would allow it to more fully control retention pond and spring run-off.

Attach proof that appropriate and legal access exists due to historic use, court decree, or the execution of an easement,

A 3/5  
A 11/25

**Basis for Issuance of Access by Private Right of Way**

Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:

- a. The lot/parcel is a bona-fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or
- b. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.

Please explain the substantial evidence:

Attach proof to this application that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right.

The landowner of record or authorized representative agrees to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.



A 4/5  
A 12/25

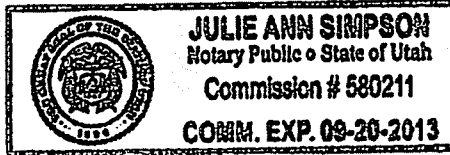
**Property Owner Affidavit**

I (We), Matthew Shane & Laura M. Rasmussen, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Matthew Rasmussen Property Owner \_\_\_\_\_ Property Owner

Subscribed and sworn to me this 20<sup>th</sup> day of May, 2013.

Julie Simpson Notary



**Authorized Representative Affidavit**

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_ Property Owner \_\_\_\_\_ Property Owner

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_ Notary

A 5/5  
A 13/25

PROPOSAL TO WEBER COUNTY PLANNING & ENGINEERING

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I, Matt Rasmussen, legal owner of parcel # 07-574-0001 propose to grant a section of land on my North-NorthWest property line to Weber County in order that Weber County might more fully control the perimeter and contours of the adjoining retention pond. This pond serves as an overflow basin which often fills to near capacity in the spring due to rain, storm drainage, and any leakage from the spring in Spring Canyon. It protects several properties on the lower portion of Meianle Lane from damage that could arise from uncontrolled water flows.

The berm which encircles the pond falls partially within the survey of this private parcel #07-574-0001. A significant amount of ground (including both interior and exterior berm slopes and crest on SSE border) would be granted to Weber county which would preserve it in perpetuity from any compromising excavation or disturbance and would allow comprehensive maintenance of the earthwork without fear of private interest objections. Weber County has a compelling interest in securing full rights to their retaining structure and would benefit by the provision of access to the pond by having ready ingress/egress for maintenance, cleaning, and inspection. This section of land will be reviewed and accepted by the County Engineer and County Surveyor.

In consideration for the applicant's concession, applicant requests that Weber County designate an easement to the southwesterly property line as shown in engineering drawings whereby applicant and assignees might access the parcel's land.

Applicant would bring unpaved road into conformance with planning and engineering's guidance on final development.

This would entitle Weber county to ownership of land which allows it full control of its retention pond while providing only easement for access less than or equal land square footage. Applicant wishes Weber County to have an equivalent or superior outcome in this exchange.

*Matt & Laura Rasmussen*      *May 23, 2013*



HERBERT D CHRISTIAN &  
WF B CAROL  
07-254-0009

GERHARD  
ARNDT & WF  
REBECCA  
07-114-0005

ROBERT J MCHAIR  
& WF CLAUDIA J  
07-253-0007

LANCE JAMES  
(JAMES R.  
LARDOGUE  
ETAL CLAIMS)  
07-531-0001

WEBER COUNTY  
(RETENTION POND)  
07-254-0010

GEORGE S GOUMIOS  
WF EFFIE G  
07-253-0008

PAUL E  
WARMOTH &  
WF TERESA L  
07-133-0006

FAYTHE M RICH & ORRIAN  
K RICH TRUSTEES  
07-133-0001

UIN AN HIGHLANDS  
WATER & SEWER  
IMPROVEMENT DISTRICT  
07-199-0011

ROBERT G GOUMIOS  
FAMILY TRUST  
07-253-0009

KURT A MOORE & WF  
LORRAINE M  
07-133-0002

**CONVEY TO WEBER COUNTY**

JUSTIN RAY  
LOWERY  
07-133-0005

CHAMON W STEWART  
07-574-0007

RICHARD S  
EGBERT & WF  
CAMILLE P  
07-133-0004

MARGARET F PAPPAS  
07-133-0003

MATTHEW SHANE  
PASKAUSSEN & WF LAURA  
MARNER  
07-574-0001

KEITH & KATHY  
HANCHETT  
FAMILY TRUST  
07-134-0006

STEVEN V HERRICK LIVING  
TRUST ETAL  
07-134-0001

PERRY A MAAS  
07-134-0007

GARY BURSSELL &  
WF CHERI M  
07-134-0002

CAROL CONROY  
BROWNING LIFE ESTATE  
07-099-0028

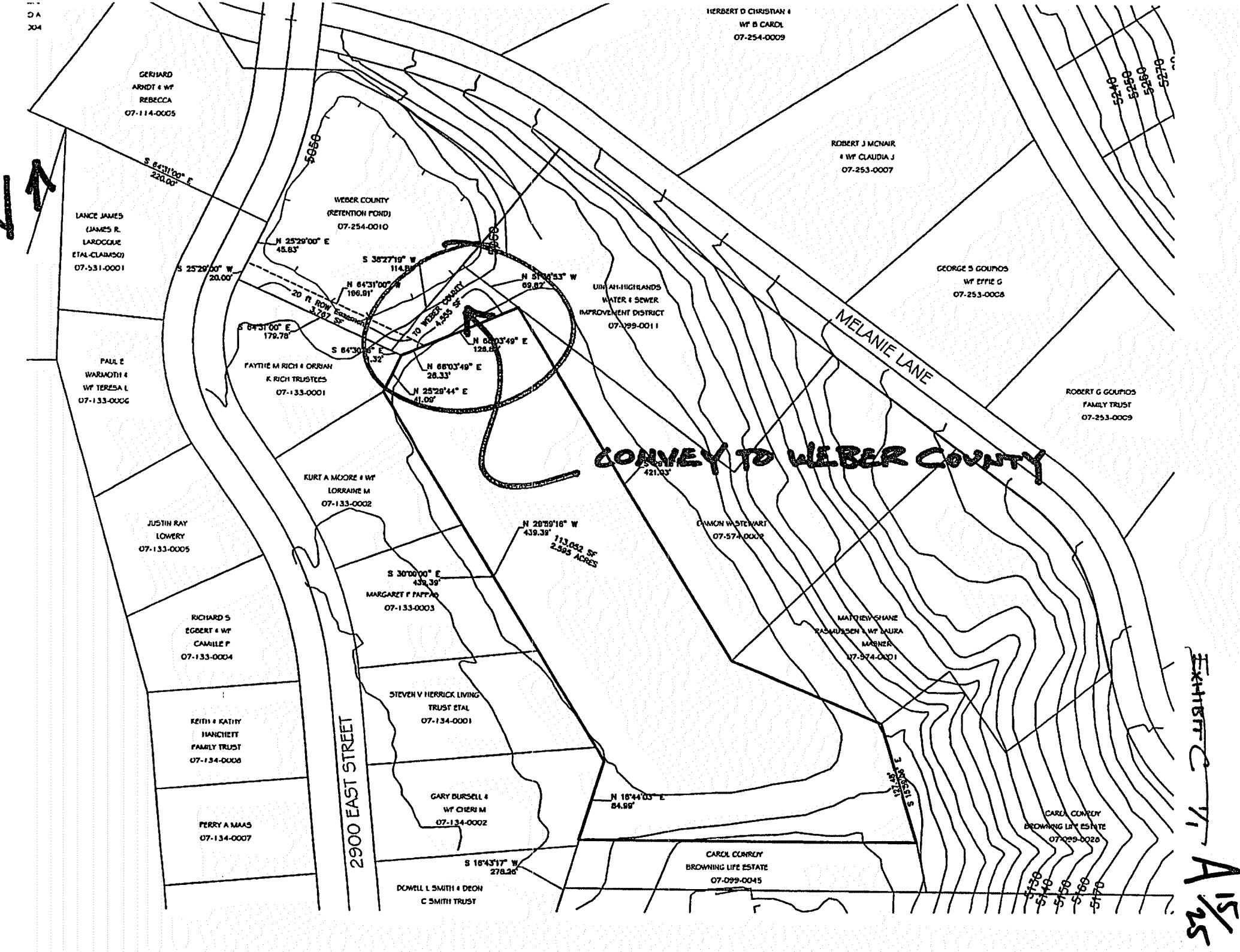
2900 EAST STREET

MELANIE LANE

DOWELL L SMITH & DEON  
C SMITH TRUST

CAROL CONROY  
BROWNING LIFE ESTATE  
07-099-0045

EXHIBIT C 71 A 15/25





A 16/25

**COMMENTS AND OBJECTIONS TO  
MATTHEW RASMUSSEN'S  
REQUEST FOR AN ACCESS RIGHT OF WAY ACROSS PUBLIC  
LAND PURSUANT TO WEBER COUNTY CODE SECTION 108-7-31**

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**I. ISSUE FOR DECISION**

This matter is on remand from the Second District Court to allow Ms. Carol Browning to comment on the request from Matthew Rasmussen to Weber County for an access right of way across public property for the Pas De Calais Subdivision. Mr. Rasmussen submitted a "Weber County Access Exception Permit Application" on or about 04/17/2013 (referred to herein as the "Application"). This Application is now before the Weber County Planning Director, Mr. Rick V. Grover. These comments and objections are to assist the Planning Director in his analysis of the situation and decision.

Attached to this commentary are (1) statements of neighbors about issues that they are aware of with the property where the requested access will be located, (2) a breakdown of property values showing the windfall to the applicant from the grant of access, (3) and seismic maps obtained from the internet.

**II. IDENTITY OF COMMENTER**

Ms. Browning is the owner of real property immediately adjacent to the Pas De Calais Subdivision and the public land on which the requested right of way will run. Ms. Browning shall be referred to herein as "Browning." Ms. Browning's address is as follows:

Carol C. Browning  
6182 South 2855 East  
Ogden, Utah 84403

**III. RELEVANT CODE SECTION**

The Application must be strictly construed under Weber County Code § 108-7-31. Utah Courts have consistently held that County government must interpret code sections to give meaning to all the words and provisions of the Code. See *Carrier v. Salt Lake County*, 104 P.3d 1208 (Utah 2004). A copy of §108-7-31 is attached for reference. The Code, in relevant part, reads as follows:

Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is ***subject to the applicant demonstrating compliance*** with the following criteria and conditions:

A 17/25

....

c. Based on **substantial evidence**, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. **Financial adversity shall not be considered**; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to **unusual soil, topographic, or property boundary conditions**...

a. It shall be demonstrated that the agricultural parcel or other lot/parcel has **appropriate and legal access** due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and.....

Weber County Code, §108-7-31 (emphasis added)

**IV. THE DIRECTOR SHOULD APPLY THE CODE, REQUIRE ADDITIONAL INQUIRY INTO THE APPLICATION, AND/OR DENY THE ACCESS APPLICATION.**

**A. Introduction and Guiding Legal Authority.**

The Planning Director is legally obligated to make a decision on the Application that is supported by substantial evidence in the record, otherwise the decision will be deemed arbitrary, capricious, or illegal. *See Harmon City, Inc. v. Draper City*, 997 P.2d 321 (Ut. Ct. App. 2000). The Utah Supreme Court has held that government municipalities must strictly comply with mandatory provisions of its own ordinance, substantial compliance is not sufficient. *See Springville Citizens for a Better Community v. City of Springville*, 979 P.2d 332 (Utah 1999).

As indicated above, the Code requires the Planning Director to determine whether there is substantial evidence to show that there is no other practical or feasible way to extend a street to serve the property at issue. *See* § 108-7-31(1)(b). To emphasize, the Planning Director’s decision must be “based on substantial evidence.” *Id.* While this standard is less than the clear and convincing standard of proof, it is higher than the proof required by most of the County’s land use provisions.

The Code specifically provides what the Director CANNOT consider when determining whether or not there is another practical or feasible way to service the property. *See* § 108-7-31(1)(b). The Commission cannot consider financial adversity. *Id.* In other words, the fact that another alternative may be expensive and potentially cost-prohibitive to the owner/developer is not relevant and may not be considered. The public policy behind this requirement makes perfect sense. The County should not be in the business of bailing property owners out of a bad investment in land-locked property and access across public land is almost always going to be the most cost-effective approach for an owner/developer.

A 18/25

The Code goes on to provide a number of non-exclusive factors that the Director may consider in making its determination. These factors are listed as “soil conditions, topographic, or property boundary conditions.” *Id.*

**B. The Application is Deficient and Should be Denied.**

The Application is substantively deficient and fails to meet the requirements of Weber County Code § 108-7-31. The applicant has the burden to demonstrate that there is substantial evidence showing compliance with the conditions and requirements of the County Code. In fact, large parts of the Application form are incomplete. The applicant is asking for the County to convey a property right held collectively by the citizens of Weber County to allow him to access landlocked property. In essence, he shifts the burden of his poor decision making to the County, the County staff, and the citizens of the County. In exchange for this extra-ordinary request, the applicant does nothing to substantiate or support his request. He has spent no time or money analyzing the impact of his request on the property, the County, or surrounding property owners. Instead the applicant once again shifts the responsibility to the County and Browning to determine whether the requested access is needed, justified, or appropriate.

The Application is deficient and fails for the following reasons:

First, the Application is silent as to the existence of other alternatives and fails to provide any evidence as to why those alternatives are not viable or practical, separate from financial adversity. The County, in its staff report, addresses one such alternative in a cursory fashion, but the Application is virtually silent as to alternatives. While it is not Browning’s job to propose or analyze possible viable alternatives, there are readily apparent alternatives that should be reviewed. There is an empty lot right next to the proposed subdivision (further south and west from the location of the requested access). This lot is for sale and has long been on the market and could be purchased for the purpose of providing access to the property. Browning has confirmed that this lot is still listed for sale on the Wasatch Front Multiple Listing Service. Aside from the available lot, the applicant could purchase an easement from one of the surrounding property owners. Moreover, the applicant could move the requested access to a more stable place on the property or build an engineered road that comes down from a point higher up on Melanie Lane. The Planning Director should remember that the financial costs of any alternative cannot be considered as part of the decision making process. The language of the County Code requires the applicant to address the possible alternatives and show that each alternative it is “unfeasible” or “impractical” with substantial evidence as support. The applicant fails to do this and the staff report’s cursory review that a road from the very top of Melanie Lane is impractical due to the steep slopes does not even remotely suffice to provide substantial evidence addressing the alternatives.

Second, the Application fails to address seismic concerns, topographical issues, the presence of hydrological issues, or the likely instability of the soil in the former pond bed. The Application also does not address the fact that the property that the applicant

A 19 / 25

seeks access to has never had appropriate or legal access and that he purchased the property knowing that it was landlocked.

As surrounding property owners describe on the attached signed statements, there are a number of issues in the area that the applicant and the County need to analyze and review in connection with the Application. The area surrounding the requested access and proposed subdivision has steep slopes and is honey-combed with natural springs and run-off corridors. The area houses an almost 50 year-old water retention basin that sits at the bottom of a steep slope. The proposed access runs across the berm of said water retention basin. Part of the requested access runs across the sedimentary bed of the former Bybee's Pond, a man made pond that existed in the area for decades. The pond was decommissioned because it was determined that tree roots had compromised the stability of the berms of the pond. The area of the proposed subdivision and requested access is crossed by two fault lines, raising possible seismic issues. Most concerning is that this area has experienced land slides in recent history, with evidence of a large slide readily apparent above the Browning's home.

These natural features of the topography beg a number of questions: how will the proposed access affect the water retention basin? Can the basin handle vehicular traffic along one of its supporting berms? If tree roots could destabilize a supporting berm of the old pond, how is a road going to affect the water retention basin? Is the sedimentary soil of the former pond bed stable enough to support the vehicular traffic that will come to and from the proposed subdivision? What are the soils like in the area of the requested access? Will the requested access affect ground water, run off, or any natural springs? How will the two fault lines in the area affect the requested access and/or the water retention basin? Will the disruption of the water drainage and retention system and natural run off, in combination with the soil, increase soil instability in an area with a recent history of landslides? What is the water district's (the owner of the water retention basin) position on the requested access so close to the water retention basin?

These issues have not been addressed. There are no soil samples taken by the applicant or the County in the area of the requested access (the only two soil samples taken by the applicant are on top of the hill, not down in the pond bed where the requested access will run). No engineering analysis of the water retention basin or the impact of the requested access on the basin has been conducted. The applicant has failed to address the concerns that a cursory inspection of the property would reveal.

Instead the applicant focuses on the benefit of a land swap to the County. Such a benefit is not mentioned anywhere in the Weber County Code and should not be factored into the Planning Director's decision, especially in the absence of substantial evidence addressing the conditions that are mentioned in County Code. Upon a close examination, it is clear there is little benefit to the County from the "swap." The berm that is partially on Rasmussen's property has been there for more than 50 years. There is little doubt that the County had acquired rights to that property by adverse possession. The Uintah Highlands Water District has already obtained an easement to the property by making an argument for prescriptive rights. If Rasmussen were to make a claim to have the berm

removed, his claim could be easily and summarily defeated. It is the applicant who benefits from this proposed sway—he gives up a small sliver of property that he has a tenuous legal claim to and in exchange he receives a huge boost in property value as his landlocked property gains access across public land.

It is the applicant’s job to address the conditions and factors listed in the County Code. He has failed to do so. For this reason, the Application should be denied.

**C. The Evidence Justifying the Access Application is Insufficient.**

The staff report recommending approval of the Application contains insufficient evidence and lacks any critical or technical analysis. There is little evidence, let alone the mandated substantial evidence, from the applicant or the County about the impracticability or infeasibility of extending a street to serve the Pas De Calais Subdivision. Nor is there any evidence about any topographic issues, soil issues, or hydrological issues that speak in favor of or against the requested right of way. Many of the issues addressed above, which can be discovered through an inspection of the property, the input of neighbors, or a simple internet search have simply been glossed over, at best, and ignored, at worst.

The County does mention, without the use of any objective data, that due to the location of a fault line in the area, that it is impracticable to require the applicant to extend an existing street to access the property. This analysis itself is flawed, since there are actually two fault lines in the area and the requested access appears to be in very close proximity to the fault lines. In fact, it appears that the requested access may cross a fault line.

The Planning Director needs to have evidence, in the form of data or an objective review, in order to make an informed decision. Browning respectfully requests that the Director require the applicant and the staff to address the concerns listed above and the availability of viable alternatives and address those issues in a comprehensive manner with the support of actual evidence.

Without this substantial evidence that is required by the Code, any decision granting the Application would be arbitrary, capricious and subject to reversal by the District Court. The County has already had its decision remanded once and Browning implores the Director to avoid an additional challenge to its decision.

**D. There is No Evidence that the Subdivision Ever Had Appropriate or Legal Access.**

The proposed subdivision has never had access. It was previously a pond and was landlocked. The property was landlocked when the applicant purchased the property. As such, the applicant cannot feign surprise at not having access to his property sufficient to support a residential subdivision. If the County does grant the requested access, the applicant will be the recipient of a large windfall at the expense of tax payers. Attached to



A 21/25

this document is a spreadsheet detailing the likely increase in values that the applicant will reap from the access.

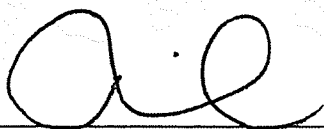
**E. There are Viable and Practical Alternatives for Access.**

A key feature of the Weber County Code is whether there are any viable alternatives to the requested access. Pursuant to the Code, there needs to be substantial evidence showing that there are no viable or practical alternatives. Financial viability is not a factor that cannot be considered. None of the alternatives have been addressed in the Application or the staff report. As mentioned above, there are a number of viable alternatives that need to be considered. The primary alternative the empty lot adjoining the proposed subdivision (further south and west from the location of the requested access). This lot is listed for sale on the Wasatch Multiple Listing Service and has long been on the market. The applicant could buy this lot and place a private or public road across the lot to serve as access to the proposed subdivision. Not only is this a viable alternative, it does not raise the same issues or concerns raised by the requested access. Under the language of the Weber County Code, failure to consider these alternatives with substantial evidence constitutes an arbitrary and capricious decision that will be subject to review by the District Court upon appeal.

**V. CONCLUSION**

The Application should be denied. It is clearly deficient and attempts to shift the burden of complying with the Code to the staff or to Browning just like the applicant attempts to shift the burden of his poor land investment to the taxpayers of Weber County. The staff report is nothing more than a cursory rubber stamp of an incomplete and deficient application. The required substantial evidence is not present in either the Application or the staff report. At a minimum, the Application should be remanded to the applicant or County staff with instructions that they consider other feasible and practical ways to access the property.

Respectfully submitted this 30th day of March, 2016.



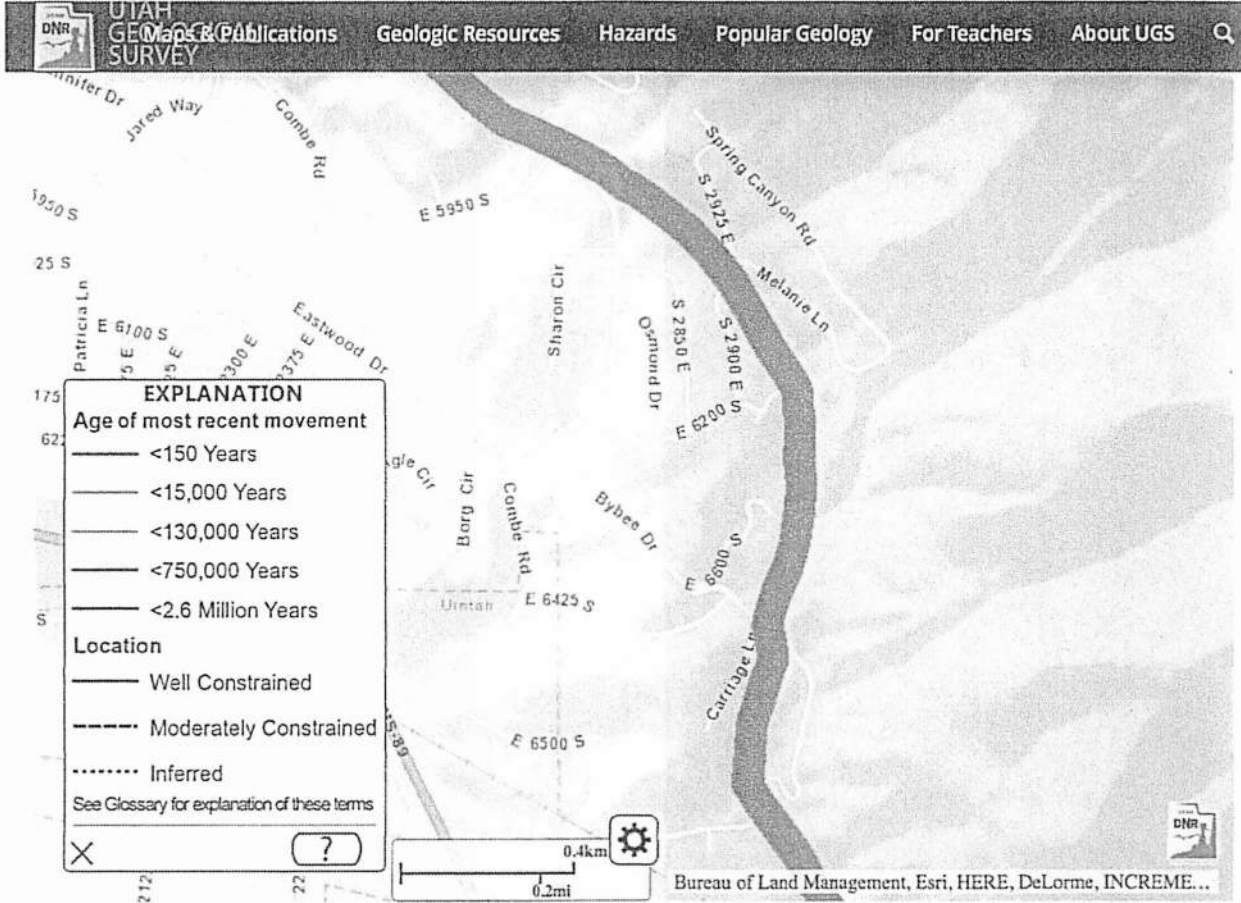
Richard Reeve  
*Attorney for Carol Browning*

4834-3772-7770, v. 1

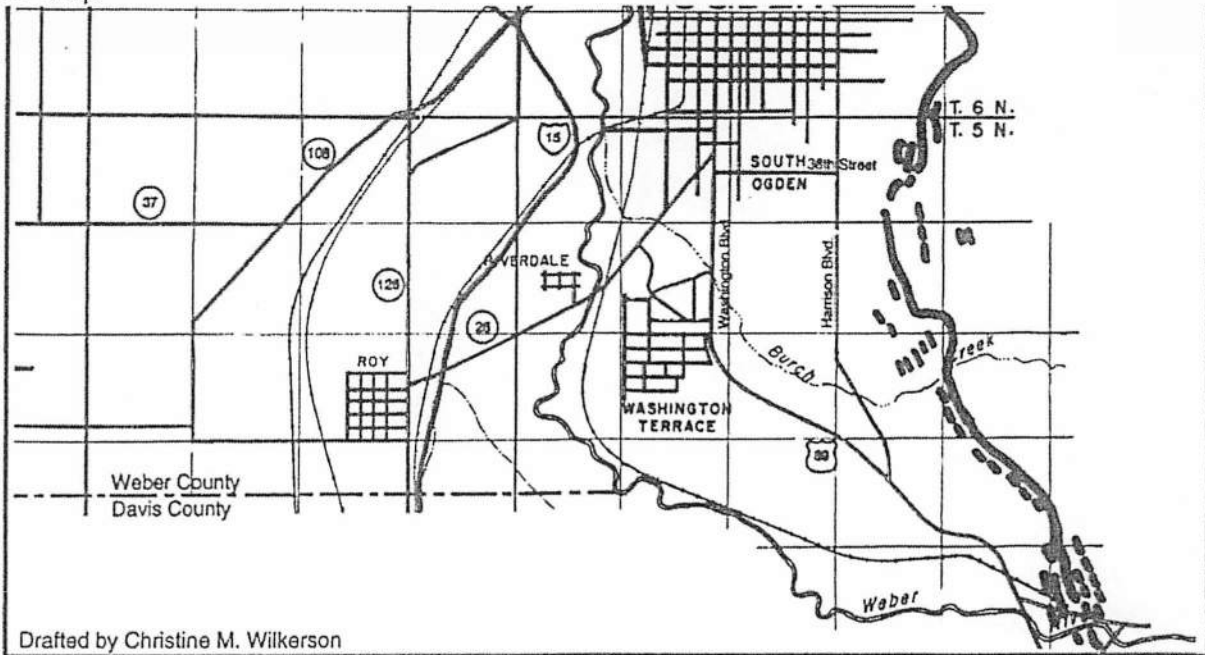


A<sup>23</sup>/<sub>25</sub>

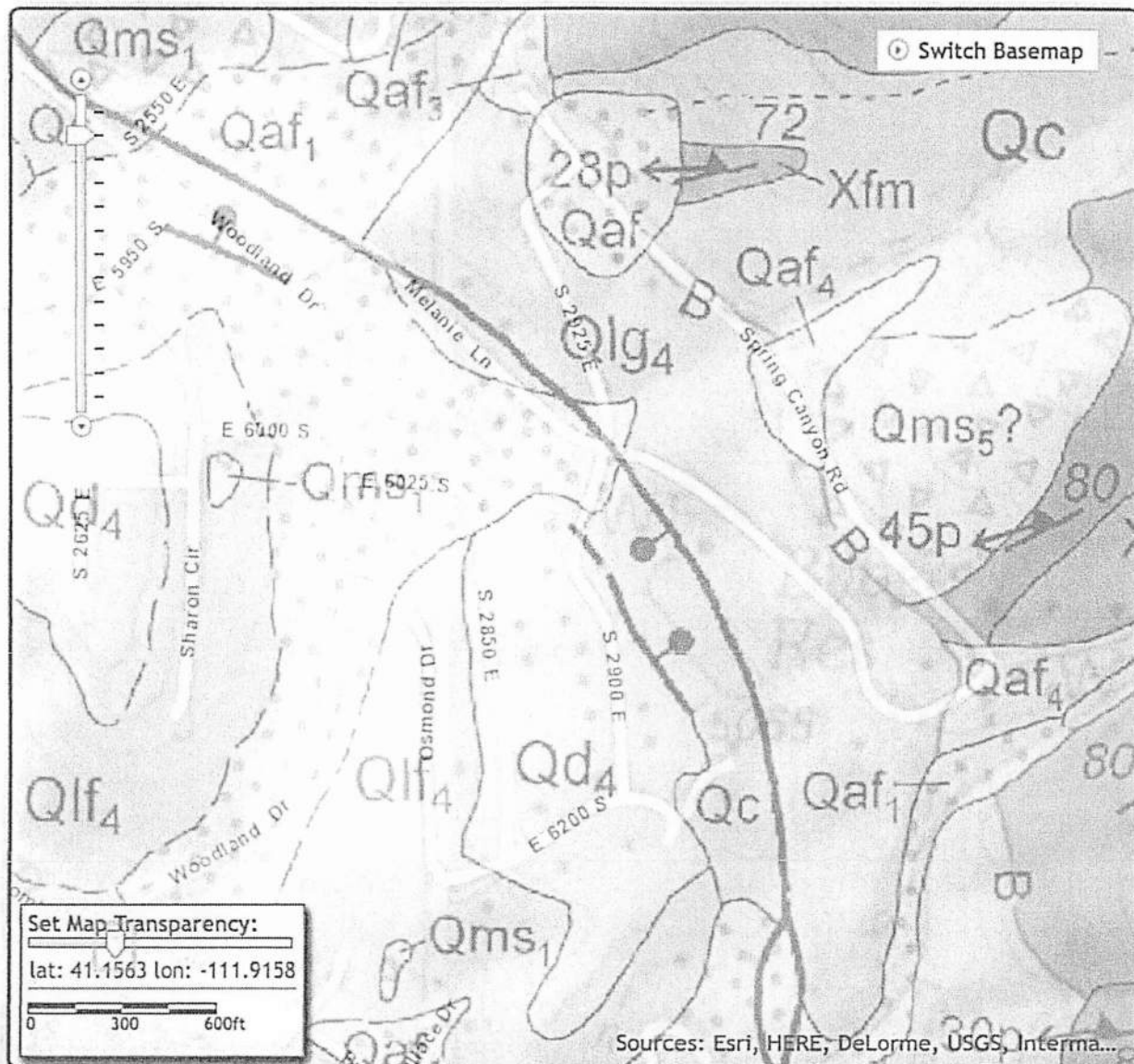
### Fault Activity Level



### Old Map



Fault Map from Exhibit F w/ Street Overlap



<http://www.geology.utah.gov/apps/intgeomap/>

The following are the explanations of the soil types in that area.

**Qaf** Alluvial-fan deposits (Holocene to Upper Pleistocene) – Unconsolidated, poorly sorted boulders, gravel, sand, and silt; less than 100 feet thick.

Qaf<sub>1</sub> Alluvial-fan deposits. Moderately to poorly sorted, clast- and matrix-supported gravel and cobbles (but locally boulders), sand, and silt deposited by streams and debris flows in active alluvial fans.

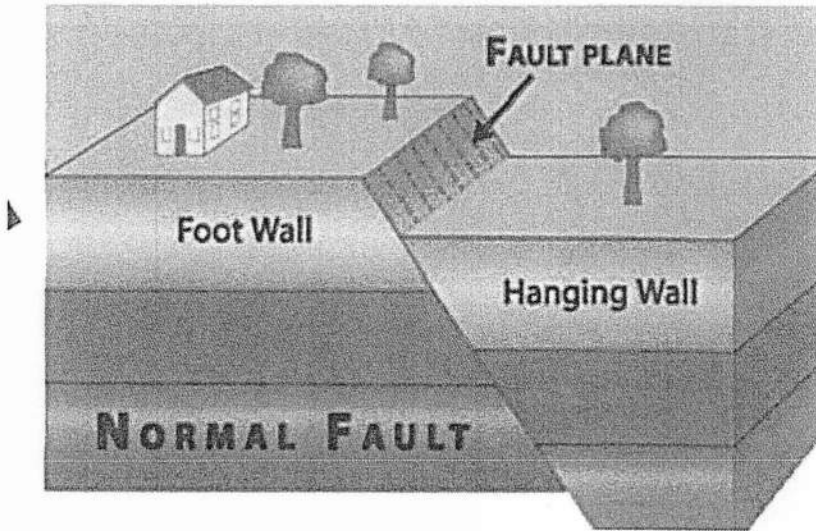
**Qc** Colluvium (Holocene) – Heterogeneous mixture of boulders, gravel, cobbles, sand, and silt deposited on slopes; may grade into talus, landslide, and alluvial deposits; less than 10 feet thick.

Qd<sub>4</sub> Deltaic deposits. Mainly interbedded sand, silty sand, and gravelly sand deposited by streams into Lake Bonneville at the Bonneville shoreline. Includes sand, silt, and clay bottomset beds.

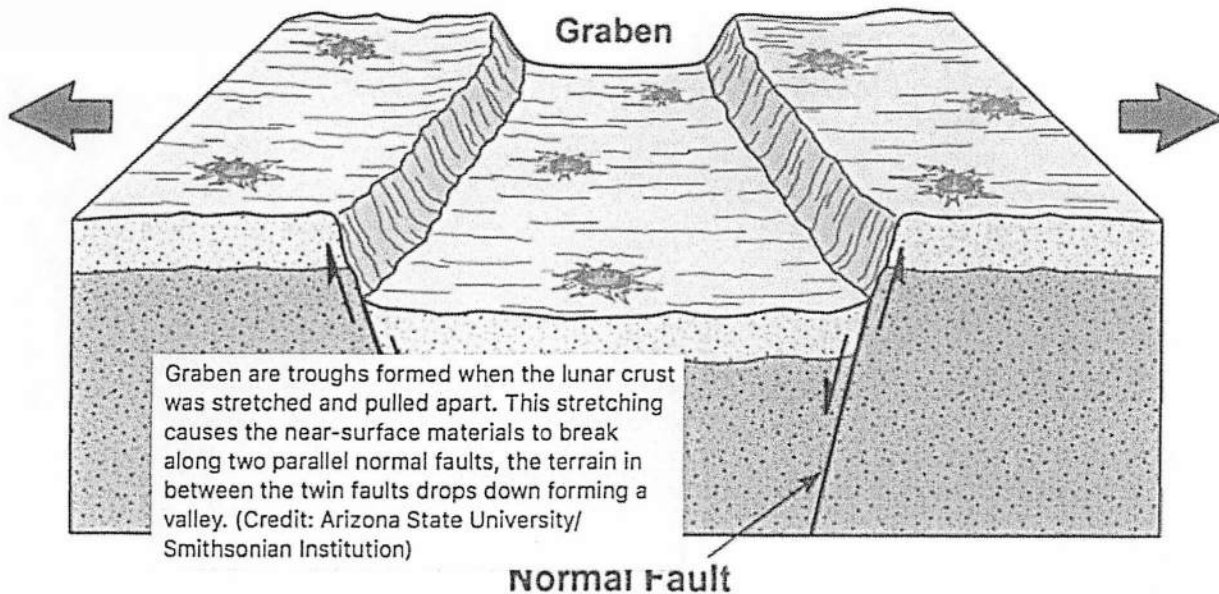
(Book--Geologic Evaluation and Hazard Potential of Liquefaction-induced Landslides)

SO, the little circles on a stick on the Black Lines are indications of "Normal Faults." Normal Faults are explained as follows.

### Vertical offset = Normal fault



For the reservoir area, this is what is going on. In Geological terms, it is called Graben, but essentially, when two normal faults face each other, the land in-between has a tendency to subside when there is movement. If you look at the figure below, it explains it further. Similarly,







**Staff Report for Administrative Approval**  
*Weber County Planning Division*

**Synopsis**

**Application Information**

**Application Request:** Consideration and action on a request to use a private access easement as the primary access for two lots that do not have frontage on a street.  
**Agenda Date:** Thursday, March 24, 2016  
**Applicant:** Matthew and Laura Rasmussen  
**File Number:** Access Exception (AE 2013-03)

**Property Information**

**Approximate Address:** 6050 South 2900 East (Approximate)  
**Project Area:** 2.59 Acres  
**Zoning:** Residential Estates Zone (RE-20)  
**Existing Land Use:** Residential  
**Proposed Land Use:** Residential  
**Parcel ID:** 07-574-0001 (Subdivision Lots) 07-254-0010 (Access Easement Location)  
**Township, Range, Section:** T5N, R1W, Section 24

**Adjacent Land Use**

<b>North:</b> Residential	<b>South:</b> Residential
<b>East:</b> Residential	<b>West:</b> Residential

**Staff Information**

**Report Presenter:** Scott Mendoza  
smendoza@co.weber.ut.us  
801-399-8769  
**Report Reviewer:** RG

**Applicable Land Use Codes**

- Weber County Land Use Code Title 104 (Zones) Chapter 3 (Residential Estates Zones RE-15 and RE-20)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)

**Background**

Due to a Second Judicial District Court decision to vacate an approval that was originally granted to this access exception application on August 9, 2013, this application is being reconsidered. See Exhibit H for Order Granting Plaintiff's Motion For Summary Judgment (Civil No. 140904054).

The applicants are requesting an approval to use a private access easement as the primary access for two proposed lots that will not have frontage on a dedicated street. The proposed lots are located at approximately 6050 South 2900 East (in the Uintah Highlands area), total 2.59 acres combined, and sit within what is currently described as Lot 1R of the Calais Subdivision which consists of 4.206 acres. See Site Map on page 4 for project location. See Exhibit A for the application and project narrative. See Exhibit G for the original Calais Subdivision Plat.

The easement will include a legal description that locates the private access along the southwesterly boundary of property owned by Weber County (Lot 36, Eastwood Subdivision No. 10, Tax ID# 07-254-0010) and presently used as a stormwater detention basin. It connects two proposed lots to 2900 East Street (approximately 180 feet) where the private access entrance will be constructed. Once the easement leaves County property (heading south), a private drive (and corresponding reserved access easement) will continue along the southwesterly boundary of (the proposed) Lot 3 approximately 440 feet to where it will then terminate in a turn-around area on (the proposed) Lot 2. These lots, if the access exception is approved, will be dedicated as part of the proposed Pas De Calais Subdivision. See Exhibit B for the proposed Pas De Calais Subdivision plat that shows the proposed private access.

The applicants have submitted detailed plans for Weber County to review and have approached the Weber County Commission requesting that the Commission grant the above described access easement. This request was presented and



discussed during public meetings held on March 25, 2014 and April 1, 2014. During the meeting held on April 1<sup>st</sup>, the County Commission approved the request and accepted the applicant's offer to convey (to the County) certain property that is currently occupied by an embankment that forms a portion of the County's existing detention basin. See page 5 of Exhibit A for the applicant's proposal to convey certain property to Weber County. See Exhibit C for a site plan that shows the property that would be conveyed to the County. See Exhibits D and E for Weber County Commission meeting minutes dated March 25, 2014 and April 1, 2014.

The access easement and private improvements are required to meet the design, safety, and lot/parcel standards listed in §108-7-29 of the Weber County Land Use Code. In addition to these standards, the requested access exception is required to comply with the criteria and conditions listed in §108-7-31 which is specific to access by a private right-of-way or access easement. These standards are listed immediately below under "Summary of Planning Division Considerations." Approval of the access exception does not act as an approval of the subsequent subdivision plat.

### Summary of Planning Division Considerations and Analysis

Section 108-7-31 of the Weber County Land Use Code states the following:

Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:

1. Criteria:

- a. The lot/parcel is a bona-fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or
- b. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.

2. Conditions:

- a. It shall be demonstrated that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and
- b. The landowner of record or authorized representative shall agree to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.

The Weber County Planning Division Staff (designated as the land use authority according to §102-1-1) after giving consideration to the criteria found in §108-7-31 of the Weber County Land Use Code, has reviewed the request for an access exception and has provided the following Staff analysis and findings:

- The subject property is shown, on a Utah Geologic Survey Map (<http://geology.utah.gov/apps/intgeomap/>), as being (potentially) situated in between the Wasatch Fault and another fault. Due to the property's proximity to potential faults, the Planning Division feels that it is impractical to require the construction of a public road (and other infrastructure) that would intentionally cross a fault line. The alignment of the proposed access easement (and private driveway improvements) does not cross fault lines as shown on the Utah Geologic Survey Map. See Exhibit F for UGS Map.
- Property boundary conditions are such that the lots to be subdivided do not have access from a street. Although the applicants do own adjacent property with frontage on Melanie Lane, access to the proposed lots at this location would not be practical due to steep slopes (the existing lot is a restricted lot which indicates that the land exceeds 25% slopes), an existing dwelling, and a stream with dedicated drainage easement. A road located in this area would intersect Melanie Lane at an unsafe location (limited sight distance due to curve), be disruptive to the existing dwelling and dangerous due to steep slopes and other geo-technical considerations i.e., surface rupture faults and landslides. It

is unsafe and impractical for a road, serving only two lots, to be constructed in this area. See Exhibit G for the original Calais Subdivision Plat.

- The applicants have received an approval for an access easement from Weber County. The easement location is shown on the proposed preliminary (Pas De Calais) subdivision plat that has been submitted to the Planning Division.
- Prior to approval of a subdivision application, the applicants will sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a dedicated street that would serve as the access to the proposed lots or any other additional lots.

### Conditions of Approval

- The access easement granted by Weber County shall be recorded at the same time the proposed Pas De Calais Subdivision is recorded.
- An access easement, across (the proposed) Lot 3, providing access to (the proposed) Lot shall be reserved/recorded in an appropriate manner and shown on the final subdivision plat.
- Prior to final subdivision approval, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a street that would serve as a required access to the lots.
- Any other conditions imposed by applicable review agencies.

### Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private access easement as the primary access for two lots without street frontage is hereby approved this \_\_\_\_\_ day of March, 2016.

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Rick V. Grover  
Weber County Planning Director

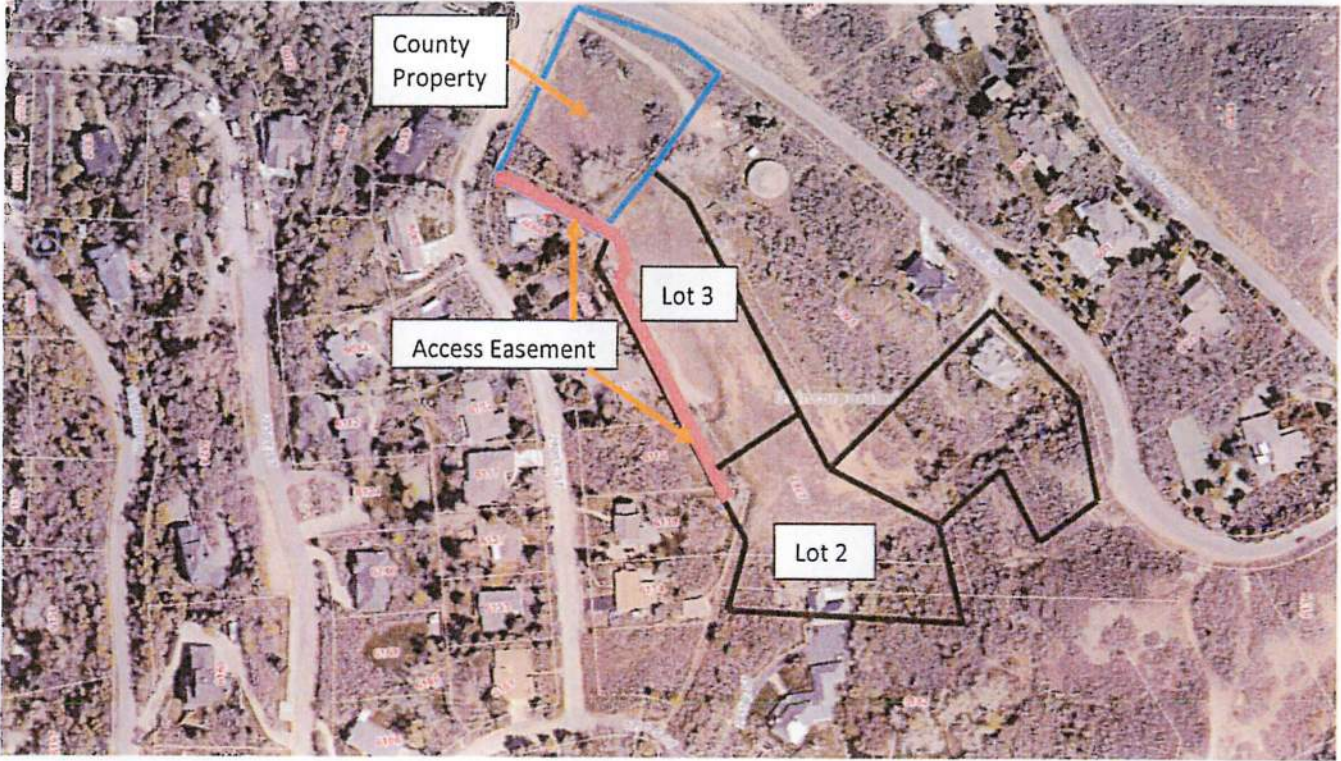
### Exhibits

- A. Application with project narrative.
- B. Proposed Pas De Calais Subdivision plat.
- C. Site plan showing the property that would be conveyed to the County.
- D. Weber County Commission meeting minutes dated March 25, 2014.
- E. Weber County Commission meeting minutes dated April 1, 2014.
- F. Utah Geological Survey Map.
- G. Original Calais Subdivision Plat.
- H. Second Judicial District Court Order (Civil No. 140904054).



B 4/31

Site Map



## Weber County Access Exception Permit Application

Application submittals will be accepted by appointment only. (801) 399-8791, 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted /Completed 04/17/2013	Fees (Office Use) 225.00	Receipt Number (Office Use)	File Number (Office Use) AE2013-03
<b>Application Type</b>			

<input checked="" type="checkbox"/> Access by Private Right of Way	<input type="checkbox"/> Access at a Location Other Than Across the Front Lot Line
--	--

**Property Owner Contact Information**

Name of Property Owner(s) Matthew & Laura Rasmussen		Mailing Address of Property Owner(s) 2927 Melanie Lane Ogden, UT 84403	
Phone 801-668-4197	Fax		
Email Address (required) msrasmu@msn.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

**Authorized Representative Contact Information**

Name of Person Authorized to Represent the Property Owner(s) Matthew		Mailing Address of Authorized Person	
Phone	Fax		
Email Address (required)		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

**Property Information**

Project Name Calais Lower Lot(s)	Total Acreage Approx. 3 acres	Current Zoning
Approximate Address Intersection 2900 East & Melanie Lane	Land Serial Number(s) 07-574-0001	

Proposed Use Single Family Residence(s)
--

Project Narrative Proposed that owner deed land to Weber County for further control of retention pond. Weber County would grant right-of-way easement for 20'-25' access road as per schematic. (see also enclosed letter). Purposed easement is to provide access for intended two lots. Property + easement exchange with Weber County will take place at recording of subdivision.
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H 4/5  
B 6/31

**Basis for Issuance of Access at a location other than across the front lot line**

Access to lots/parcels at a location other than across the front lot line may be approved as the primary access, subject to the following criteria:

The applicant demonstrates that special or unique boundary, topographic, or other physical conditions exist which would cause an undesirable or dangerous condition to be created for property access across the front lot line as follows:

Access via exchange of land with Weber County proposed. Existing road creates some traffic hazard. Weber County would receive land which would allow it to more fully control retention pond and spring run-off.

Attach proof that appropriate and legal access exists due to historic use, court decree, or the execution of an easement,

**Basis for Issuance of Access by Private Right of Way**

Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:

- a. The lot/parcel is a bona-fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or
- b. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.

Please explain the substantial evidence:

*(This area is intentionally left blank for the applicant to provide a detailed explanation of the substantial evidence supporting their application.)*

Attach proof to this application that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right.

The landowner of record or authorized representative agrees to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.

A 4/5

B 8/31

Property Owner Affidavit

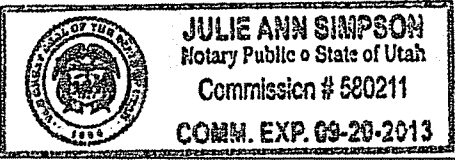
I (We), Matthew Shane & Laura M. Remussen, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Matthew Remussen Property Owner

[Signature] Property Owner

Subscribed and sworn to me this 20<sup>th</sup> day of May, 2013.

Julie Simpson Notary



Authorized Representative Affidavit

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_ to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_ Property Owner \_\_\_\_\_ Property Owner

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_ Notary

A 5/5

B 9/31

PROPOSAL TO WEBER COUNTY PLANNING & ENGINEERING

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I, Matt Rasmussen, legal owner of parcel # 07-574-0001 propose to grant a section of land on my North-NorthWest property line to Weber County in order that Weber County might more fully control the perimeter and contours of the adjoining retention pond. This pond serves as an overflow basin which often fills to near capacity in the spring due to rain, storm drainage, and any leakage from the spring in Spring Canyon. It protects several properties on the lower portion of Melanie Lane from damage that could arise from uncontrolled water flows.

The berm which encircles the pond falls partially within the survey of this private parcel #07-574-0001. A significant amount of ground (including both interior and exterior berm slopes and crest on SSE border) would be granted to Weber county which would preserve it in perpetuity from any compromising excavation or disturbance and would allow comprehensive maintenance of the earthwork without fear of private Interest objections. Weber County has a compelling interest in securing full rights to their retaining structure and would benefit by the provision of access to the pond by having ready ingress/egress for maintenance, cleaning, and inspection. This section of land will be reviewed and accepted by the County Engineer and County Surveyor.

In consideration for the applicant's concession, applicant requests that Weber County designate an easement to the southwesterly property line as shown in engineering drawings whereby applicant and assignees might access the parcel's land.

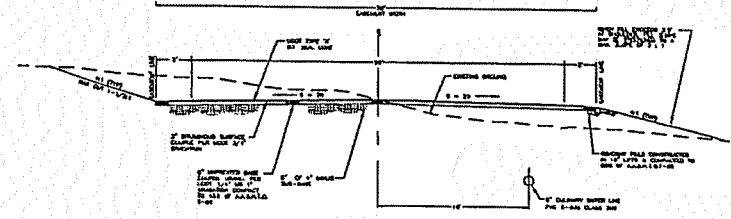
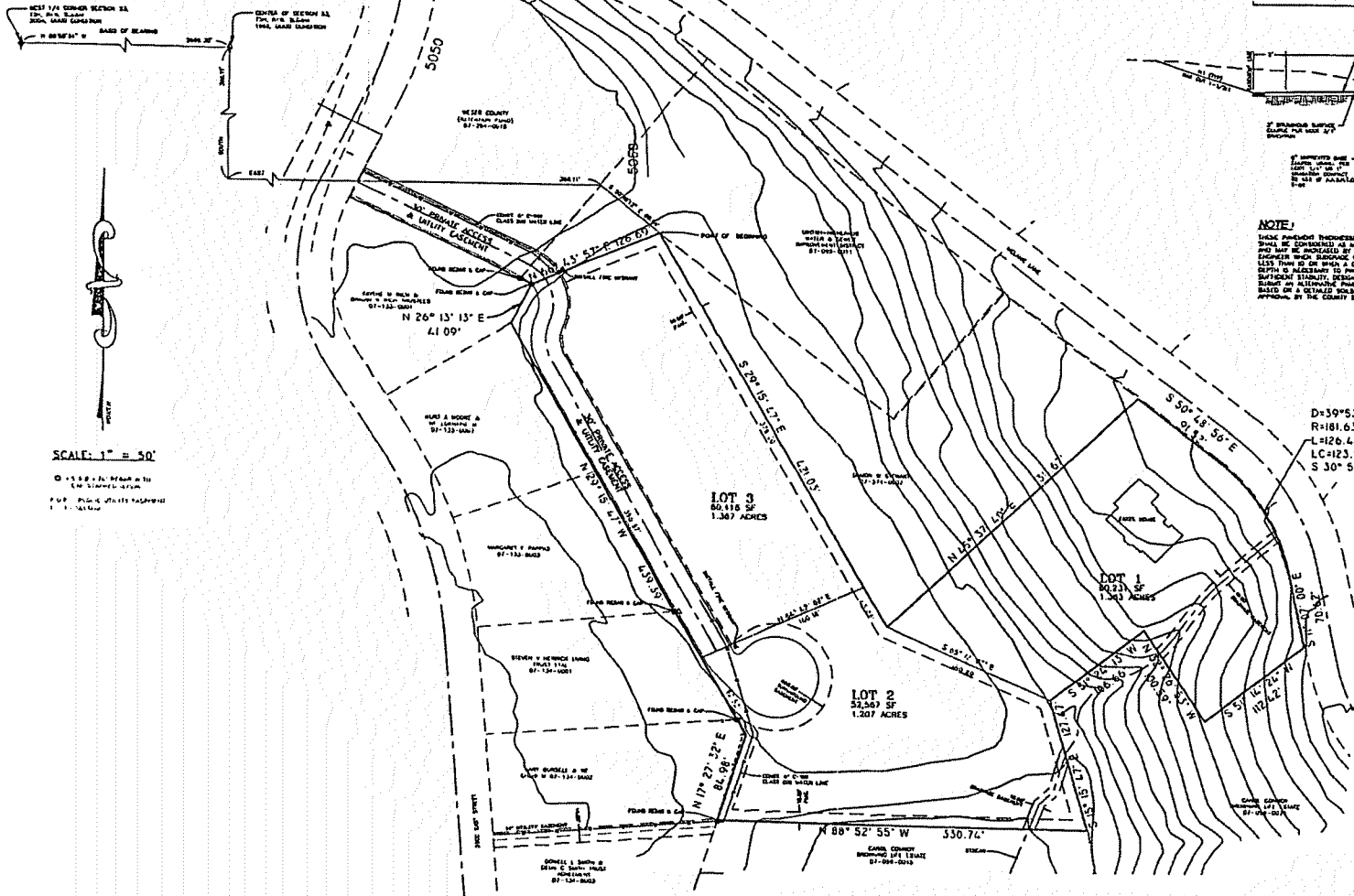
Applicant would bring unpaved road into conformance with planning and engineering's guidance on final development.

This would entitle Weber county to ownership of land which allows it full control of its retention pond while providing only easement for access less than or equal land square footage. Applicant wishes Weber County to have an equivalent or superior outcome in this exchange.

*Matt & Laura Rasmussen*      *May 23, 2013*

# PAS DE CALAIS SUBDIVISION

A PART OF THE S. W. 1/4 OF SEC. 24, T. 5 N., R. 1 W., S.L.B. & M.  
WEBER COUNTY, UTAH  
IMPROVEMENT PLANS



**NOTE:**  
THESE PROPOSED IMPROVEMENTS SHALL BE CONSIDERED AS PERMANENT AND NOT REVERSIBLE. THE COUNTY ENGINEER MUST SIGN OFF ON ALL LESS THAN 10' OR MORE. A QUALITY SURVEY IS NECESSARY TO PRODUCE SUFFICIENT STABILITY. SETBACKS MUST BE SUBJECT AN ALTERNATE PROPOSED SECTION MAPS OF A DETAILER'S ANALYSIS FOR APPROVAL BY THE COUNTY ENGINEER.

**ACCESS DRIVE SECTION**  
NOT TO SCALE

SCALE: 1" = 50'  
© 2013 L.S. SURVEYING, INC.  
P.O. BOX 1000, WASHCROFT, UT 84080

EXHIBIT B  
1/1

LANDMARK SURVEYING, INC. A COMPLETE LAND SURVEYING SERVICE 4646 E. 2000 W. 6400 S. WEST HATCH, UTAH 84148 PHONE: 801-734-1070 FAX: 801-734-1000		WEBER COUNTY RECORDER ENTRY # _____ FEE _____ FILED FOR RECORD & RECORDED THIS _____ DAY OF _____ 20____ AT _____ IN BOOK _____ OF _____ PAGE _____ _____ WEBER COUNTY RECORDER BY _____ DEPUTY
CLIENT: MATT RASMUSSEN LOCATION: PART OF THE S.W. 1/4 OF SEC. 24, T.5N., R.1W., S.L.B. & M. SURVEYED: JUNE 2013		
REVISIONS: _____ _____ _____	DRAWN BY: JL CHECKED BY: DA DATE: 6-16-13 FILE: 334-PAS DE CALAIS	

B 10/31



GERHARD  
ARNDT & WIFE  
REBECCA  
07-114-0005

ROBERT J MCNAIR  
& WIFE CLAUDIA J  
07-253-0007

LANCE JAMES  
(JAMES R.)  
LARCOCQUE  
ETAL-CLAIMS(U)  
07-531-0001

WEBER COUNTY  
(RETENTION POND)  
07-254-0010

GEORGE S GOUFFIOS  
& WIFE EPPIE G  
07-253-0008

UNION HIGHLANDS  
WATER & SEWER  
IMPROVEMENT DISTRICT  
07-129-0011

MELANIE LANE

ROBERT G GOUFFIOS  
FAMILY TRUST  
07-253-0009

PAUL E  
WAPKOTII &  
WIFE TERESA L  
07-133-0006

FAYTHE M RICH & ORRIAN  
K RICH TRUSTEES  
07-133-0001

**CONVEY TO WEBER COUNTY**

FURT A MOORE & WIFE  
LORRAINE M  
07-133-0002

DAMON W STEWART  
07-574-0007

JUSTIN RAY  
LOWERY  
07-133-0005

N 29°59'16" W  
438.39'  
113,052 SF  
2.595 ACRES

S 30°00'00" E  
438.39'  
MARGARET F PAPPAS  
07-133-0003

MARY HELEN SHANE  
RAMMENSEN & WIFE LAURA  
MAGNER  
07-274-0001

RICHARD S  
EGBERT & WIFE  
CAMILLE P  
07-133-0004

STEVEN V HERRICK LIVING  
TRUST ETAL  
07-134-0001

KEITH & KATHY  
HANCHETT  
FAMILY TRUST  
07-134-0006

GARY BURSSELL &  
WIFE CHERI M  
07-134-0002

PERRY A MAAS  
07-134-0007

N 16°44'03" E  
84.88'

CAROL CONROY  
BROWNING LIFE ESTATE  
07-099-0045

CAROL CONROY  
BROWNING LIFE ESTATE  
07-099-0028

DOWELL L SMITH & DEON  
C SMITH TRUST

2900 EAST STREET

121.18' E  
121.18' S

5240  
5250  
5260  
5270  
5280

5240  
5250  
5260  
5270

EXHIBIT C 1/1  
B 11/31

EXHIBIT D  
1/8 B<sup>12</sup>/<sub>31</sub>

MINUTES  
OF THE BOARD OF COMMISSIONERS OF WEBER COUNTY  
Tuesday, March 25, 2014 - 10:00 a.m.  
Commission Chambers, 2380 Washington Blvd., Ogden, Utah

*In accordance with the requirements of Utah Code Annotated Section 52-4-7(1)(d), the County Clerk records in the minutes the names of all citizens who appear and speak at a County Commission meeting and the substance "in brief" of their comments. Such statements may include opinion or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.*

COMMISSIONERS: Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

OTHERS PRESENT: Ricky D. Hatch, County Clerk/Auditor; David C. Wilson, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME – Chair Gibson
- B. PLEDGE OF ALLEGIANCE – Sylvia Salsbury
- C. THOUGHT OF THE DAY – Commissioner Bell

D. PRESENTATION: INTRODUCTION-NEW FOREST SERVICE DISTRICT RANGER & FOREST SERVICE UPDATE

Robert Sanchez, Forest Service District Ranger, introduced himself and asked for the commissioners' continued input about how the county and the Forest Service can continue to work together and stay engaged. Mr. Sanchez noted that currently there is proposal for a cabin rental program in the Uinta-Wasatch-Cache National Forest and they are seeking comments. The commissioners expressed appreciation for the county's relationship with the Forest Service.

E. CONSENT ITEMS:

- 1. Purchase Orders for \$711,586.42
- 2. Ratify Warrants #307320 -#307508 for \$773,305.12 dated March 18, 2014
- 3. Warrants #307509 - #307714 for \$726,924.25
- 4. Minutes for the meeting held on March 11, 2014
- 5. New business licenses
- 6. Ratify a new beer license
- 7. ACH payment to US Bank for \$75,305.13 for purchasing card transactions made through 3/17/2014
- 8. Set public hearing for 4/15/2014, 10 a.m., to consider rezoning property at approximately 156 N. & State Road 158 (extending from Ogden City water treatment plant, easterly to Pineview caretaker's house) from Forest 40 (F-40) Zone to Forest Residential-1 (FR-1) Zone to create 1 building lot & put into place development standards that are more compatible with relatively smaller lots  
Commissioner Bell moved to approve the consent items; Commissioner Zogmaister seconded, all voting aye.

F. ACTION ITEMS:

1. DISCUSSION TO APPROVE AN ACCESS EASEMENT FOR THE PAS DE CALAIS SUBDIVISION

Jared Andersen, County Engineer, showed area maps. The petitioner, Matthew Rasmussen, plans to subdivide his landlocked property into two lots and is requesting access across the county's property. There is one access easement on the road that Uintah Highlands Water & Sewer Improvement District (the District) has obtained. Currently the county has a berm on the backside of the detention pond. Mr. Rasmussen's proposal included moving the property line and giving the county a small triangular piece of property that would help the county's interests. He would maintain a berm on his property. Chair Gibson asked if there is a benefit to the county in getting the triangular piece of property and Mr. Anderson said that currently the backside of the berm is on Mr. Rasmussen's property. It would be an extensive process to move the berm.

D 2/8.  
B 13/31

Mr. Rasmussen stated today that the east of his property is extremely steep, in most cases above 25% grade. The lower portion of the land is inaccessible by standard vehicles. He would like to give the county additional land to maintain its development at the retention pond that handles overflow water from some springs and heavy storms. Mr. Rasmussen had a document from 9/2008 that he said was obtained by the chair of the District, which was subsequent to the District's decommissioning of the reservoir that was on that property. He said that that Uintah Highlands' easement is a non-exclusive prescriptive easement and he requested the same consideration.

Commissioner Bell asked when he purchased the property and Mr. Rasmussen responded that his family purchased it around 1983. Commissioner Bell stated that they could have built a road on the side of Melanie Lane, although it would have been expensive. He asked why the Rasmussens knowingly purchased landlocked property and how they planned to access it. Mr. Rasmussen said that they just loved the property and a dying neighbor needed to sell it. Commissioner Bell noted that the District was using the access to provide services for many years before they obtained legal access. He also noted that for some reason past commissions have not wished to move forward and he wants to do a lot more research to feel comfortable.

Mr. Rasmussen clarified that this is the first time he has formally approached the Commission for access, but that in the past he had spoken with the former County Engineer and a former staff with County Property Management. He said that the District obtained the prescriptive easement after the decommissioning of the reservoir with the intent to convert the property to residential use. He feels that it is a legal precedent. He said that recently Commissioner Bell had urged him to redesign the easement, in which case he seemed to indicate being amenable to giving Mr. Rasmussen approval. Commissioner Bell stated that during that conversation they had discussed putting the road on the other side, however, that the road is not there and the only change made by Mr. Rasmussen was that he moved the road where it comes in to the Uintah Highlands road (on the corner of 2900 East and Melanie Lane) where they have an easement from the county. Mr. Rasmussen agreed but stated that it increased the length of the road 40-80 feet. Commissioner Bell noted that if he had moved the road to the other side it would have been shorter. Mr. Rasmussen said that the county needs the berm to protect its interests and that it would be costly and problematic for the engineers to move it. He said that county staff had unanimously recommended approval and that he has followed the best practices. He understands that people are upset because the open space is going away, which in the aforementioned meeting a few people showed interest in purchasing some of that property for that purpose but have subsequently recanted.

Richard Reeve, Attorney retained by Carol Browning (an adjoining property owner), to speak to this matter, said that his client respects the petitioner's private property rights if the project is designed correctly and takes into account the unique characteristics of the land. There are issues/characteristics of the land, which need to be addressed. Mr. Reeve stated that it is unusual for the county to give county property to a private developer and this should be looked at very carefully. While Weber Code §108-7-31 addresses related issues such as soil, topography, and boundary issues, it states that, "financial adversity is not an issue that can be considered in determining whether or not it is appropriate to grant an access easement." There are practical and feasible alternatives to access the property such as off of the hillside (although expensive), and there is also a vacant lot off of 2900 East that currently is for sale and is flat and would be an easy and quick access point to the property. This is a former pond bed with unusual soil characteristics. There are many natural springs and a lot of water run-off through this area. This area has a history of land and mud slides, thus, any road or disruption of property needs to be done very carefully with the right data in hand. His client's concern is that the right data has not been acquired such as geotechnical

D 3/8

B 14/31

Mr. Reeve's client urges the commissioners to carefully look at this issue, request the necessary data and studies and make sure the other property owners' rights are protected. Mr. Reeve addressed Commissioner Bell's question stating that it is a downward slope to the Browning property and any removal of the berm or shoreline area created by the pond will allow water to go downhill easier.

Blaine Brough, with Uintah Highlands Improvement District, stated that the District would like to be assured that any changes/improvements made to the property will not diminish its access.

Commissioner Zogmaister noted that a lot of the concerns being raised are regarding the petitioner's future plans for the development, which she believes is not normally done at this stage. She said that after obtaining access he can move forward with the development process, including the research, analysis, etc. Mr. Andersen concurred and that is the reason why only the access easement is being presented at this time; it would not be prudent for the petitioner to get a long list of studies done without first obtaining access. He agrees that they have to evaluate what happens on that property very carefully.

Sean Wilkinson, County Planning Division Director, stated that the Western Weber Planning Commission made a recommendation for approval of this subdivision to the County Commission with some conditions, the major one is obtaining access first, and also that all of the other agency requirements will need to be addressed. All of the studies and information will have to be in place and be approved before it comes before the County Commission for final subdivision approval.

Commissioner Zogmaister hesitates to not grant access if it is feasible and if there is a need on the side of the citizens because of where the road comes in and because of the berm and retention pond. The county has clearly stated that it prefers to have that piece of property to have proper access. She said that it is not unusual to work with landowners regarding finding access and noted that the county is not looking at removing any requirements from the development process. She said the process needs to be strictly followed so that the results are good for the property owners and the potential new development. Mr. Reeve said that the relevant code requires review of certain issues such as unusual soil, topography, and property boundary issues, in connection with this request. He said that additional issues will be brought under a different code section that requires different sets of analysis.

Mr. Reeve said that whenever a new road is constructed and disrupts the property, an analysis needs to be done. He requests an analysis specifically of the road and its impact on the property owners. Mr. Reeve said that it is a dirt road and he does not believe it is an acceptable road for a subdivision. He noted that the petitioner is considering both a slight change of location and a great change in the improvement of the road, which will disrupt the current use of that road, surrounding property, and that impact needs to be analyzed. This is not taking away the petitioner's property rights; it is protecting the property rights of the other property owners. He said that the county should not be in the business of bailing people out of bad investments, if there are feasible and practical options available. Chair Gibson concurred with the last statement recognizing that the county has a need regarding the retention pond. Mr. Wilkinson addressed Chair Gibson's question stating that this is a special access exception and can be granted for flag lots, property that does not have frontage or for property that has frontage but will access it at a location other than across the front lot line, which is the case for the Uintah Highlands piece of property. It has frontage on Melanie Lane but it is not used due to the steep grade.

D 4/8  
B 15/31

Commissioner Zogmaister asked if all of the studies on the road have to be completed in order to grant this easement. Mr. Andersen's opinion is that the access is needed first in order to know if they can move forward (start the process of where the road will be located, its design, grading, geotechnical report, the water impacts, etc.). Mr. Andersen addressed Commissioner Bell's question stating that the easement width would be the same as was granted the District. The location may have to change somewhat depending on the results of the studies in order to build the road correctly and to standard. Mr. Andersen said he would look into the road width but believes it would not vary much.

Rick Browning, Carol Browning's son, stated that he had a stack of letters regarding the needed hydrological information, which does exist at this time. As an engineer, he said that there would need to be retention walls, hydrological surveys, etc., and that it does not make sense to take the retaining wall down now because it would affect the properties that would be constructed on the property. The community wants this done properly and they would like to have the pertinent information before moving forward because it is all needed information to make informed decisions. He feels there is not enough information on the impacts that this right of way contributes.

Mr. Rasmussen wished to correct Mr. Reeve's comment stating that the Commission would not be giving any county property to a private builder but would gain about 4500 square feet of property, which defends the county's interest. He said that there have not been any hydrological issues on this property. There is a manmade stream that passes remotely through one of the corners of the property and carries through the Browning property. The development that was done in the property above his was done with very extensive studies and guidelines and will also be done on his property. His development is being done as sensitively as possibly with strong scrutiny of the county and following all RE-20 zoning laws. Mr. Rasmussen said that he will place any home that he develops as far cast as possible and the road design was done so that some open space is preserved.

Mr. Wilson read the following from County Code stating that these are the conditions that may be considered: "Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions." Mr. Wilson said that if the road cannot be extended, the county can look at granting another easement and look at the stated criteria to see if that is a better location for it. Chair Gibson understood that the county has the legal authority to grant this petition and Mr. Wilson concurred. Mr. Wilson noted that further development issues always follow, that not all issues can be solved today and the developers takes some risks.

Commissioner Bell moved to deny the petition. It died for lack of a second. Commissioner Bell moved to put this item on hold for a couple of weeks to do further study; Commissioner Zogmaister seconded on condition that this item is brought back in a timely manner, preferably in the next meeting. Chair Gibson concurred with not postponing this item too long. He expressed confidence that staff has looked at this very thoroughly. All voted aye.

2. CONTRACT WITH PICTOMETRY TO ACQUIRE AERIAL PHOTOGRAPHY TO SUPPORT THE REVIEW OF PHYSICAL CHARACTERISTICS AS REQUIRED BY UTAH STATUTE – CONTRACT C2014-44

John Ulibarri, County Assessor, stated that because the county entered into a multi-year contract, it received a 10% discount on flights. This contract is for three flights over 6 years. Commissioner Zogmaister moved to approve Contract C2014-44 with Pictometry to acquire aerial photography; Commissioner Bell seconded, all voting aye.

D 5/8

B 16/31

3. CONTRACT WITH STEPHANIE LINDSEY TO HOLD THE SPIKERS HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER ON APRIL 4, 2014 – CONTRACT C2014-45

4. CONTRACT WITH JANN KING TO HOLD THE DOUBLE HIGH SCHOOL RODEO AT THE GOLDEN SPIKE EVENT CENTER ON APRIL 5, 2014 – CONTRACT C2014-46

Jennifer Graham, County Recreation Facilities Director, presented these two contracts together. Commissioner Bell moved to approve Contract C2014-45 with Stephanie Lindsey to hold the Spikers High School Rodeo on 4/4/2014 and Contract C2014-46 with Jann King to hold the Double High School Rodeo on 4/5/2014 at the GSEC; Commissioner Zogmaister seconded, all voting aye.

5. RESOLUTION APPOINTING A MEMBER TO THE ARENA BOARD – RESOLUTION 12-2014

Jennifer Graham, County Recreation Facilities Director, noted that there are two vacancies and presented one name at this time. Ms. Galvez was interviewed by Executive Committee members. Commissioner Zogmaister moved to adopt Resolution 12-2014, appointing Lisa Galvez to the Arena Board to fill the remaining of an open term, which expires 12/31/2014; Commissioner Bell seconded. Roll Call Vote:

Commissioner Bell .....aye  
Commissioner Zogmaister.....aye  
Chair Gibson.....aye

6. CONTRACT WITH WINTERSET CONCERT EVENTS – KAHUNA BEACH PARTY PERFORMANCE AT THE 2014 WEBER COUNTY FAIR – CONTRACT C2014-47

Jan Wilson, with the County Fair, presented this contract. Commissioner Bell moved to approve Contract C2014-47 with Winterset Concert Events – Kahuna Beach Party performance at the 2014 Weber County Fair; Commissioner Zogmaister seconded, all voting aye.

7. CONTRACT WITH HARRIS COMPANY TO REPLACE THE COOLING TOWER ON THE WEBER CENTER AND ALL WORK ASSOCIATED WITH THE REPLACEMENT – CONTRACT C2014-48

Nate Pierce, County Operations Department Director, stated that this year’s bid came in lower than anticipated over a year ago of about \$100,000, which amount had been put in the budget. This contract is for \$44,579.00. Commissioner Zogmaister moved to approve Contract C2014-48 with Harris Company to replace the cooling tower on the Weber Center and all work associated with the replacement; Commissioner Bell seconded, all voting aye.

8. APPROVAL FOR THE DEPARTMENT OF OPERATIONS TO USE CIP FUNDS FOR A NEW PROJECT (WEBER CENTER RESTROOM IMPROVEMENTS)

Nate Pierce, County Operations Department Director, referred to the above contract stating that the county will use the remaining amount of about \$55,000 to replace fixtures at the Weber Center, which are in need of repair. Funds for both of these types of improvements are recovered at 30% with the partners in the Condominium Association agreement for common area charges. Commissioner Bell moved to approve the use of CIP Funds by the Department of Operations for the Weber Center restroom improvements project; Commissioner Zogmaister seconded, all voting aye.



D  
4/8

B<sup>17</sup>/<sub>31</sub>

9. CONTRACT WITH KLEINFELDER FOR ENGINEERING SERVICES FOR THE WEBER COUNTY LANDFILL CLOSURE – CONTRACT C2014-49

Nate Pierce, County Operations Department Director, noted that the county has agreements with the Environmental Protection Agency relating to the landfill closure and conducts studies to ensure that the closure is being properly managed. Kleinfelder will conduct engineering services relating to methane emissions.

Commissioner Bell moved to approve Contract C2014-49 with Kleinfelder for engineering services for the Weber County Landfill closure; Commissioner Zogmaister seconded, all voting aye.

10. CONTRACT AMENDMENT WITH CALDWELL RICHARDS SORENSON (CRS) CONSULTING ENGINEERS FOR THE WEBER COUNTY EMERGENCY STORM WATER PROJECT CONSTRUCTION MANAGEMENT CONTRACT – CONTRACT C2014-50

Jared Andersen, County Engineer, presented this contract amendment for additional EWP work, mainly for bank protection projects at three sites.

Commissioner Zogmaister moved to approve Contract C2014-50, contract amendment with Caldwell Richards Sorenson Consulting Engineers for the Weber County Emergency Storm Water Project Construction Management Contract; Commissioner Bell seconded, all voting aye.

11. INTERLOCAL AGREEMENT WITH NORTH OGDEN CITY DESIGNATING THE CITY AS THE APPROVAL AUTHORITY FOR PROPERTY IN UNINCORPORATED WEBER COUNTY LOCATED AT APPROXIMATELY 1850 NORTH WASHINGTON BOULEVARD – CONTRACT C2014-51

Sean Wilkinson, County Planning Division Director, showed an area map. The city approached the county requesting this agreement for the property where the old Country Boy Dairy commercial building is located (1850 N. Washington Blvd.-the front property) and which lost its non-conforming commercial status. This item is for the front piece of property, which will now be in the city; the agriculture piece in the rear will remain in unincorporated Weber County. The lot lines are not changing. The property owner has been working with the city. The property is currently being annexed into the city, which has requested to be the approval authority for site plans, building permits, etc.

Commissioner Bell moved to approve Contract C2014-51, Interlocal Agreement with North Ogden City designating the city as the approval authority for property in unincorporated Weber County at approximately 1850 North Washington Blvd.; Commissioner Zogmaister seconded, all voting aye.

12. CONTRACT WITH THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) TO ESTABLISH FUNDING TERMS AND CONDITIONS FOR PROJECT NO S-0108(29)10 SR-108; CLOSE 3500 W. ACCESS, SAFETY SPOT IMPROVEMENT PROJECT – CONTRACT C2014-52

Douglas Larsen, Weber Economic Development Partnership Director, showed an area map and stated that this is for the partial closure of 3500 West due to safety concerns. A primary concern as Wasatch Area Council of Governments (WACOG) and the county worked through this was to ensure that the business on the west side of 3500 West had sufficient access and access will remain off of Midland Drive. There will also be a secondary access off of 3500 W. to that business. The county will provide a total of \$900,000 to this \$1 million project. These funds will come from \$330,000 from the corridor preservation funds and \$570,000 from the third quarter percent sales tax. UDOT will provide the remainder.

Commissioner Bell moved to approve Contract C2014-52 with UDOT to establish funding terms and conditions for Project No S-0108(29)10 SR-108; Close 3500 W. Access, Safety Spot Improvement Project; Commissioner Zogmaister seconded, all voting aye.

D 7/8  
B 18/31

13. RESOLUTION APPOINTING A MEMBER TO THE WEBER COUNTY LIBRARY BOARD OF TRUSTEES – RESOLUTION 13-2014

Commissioner Zogmaister outlined the process that has been followed for the past 15+ years to fill Library Board vacancies, which includes posting, followed by review by the Library Board and interviewing of the top six applicants. She noted that there had been very good discussion about the applicants and there was criteria for selecting them because it is important that they bring certain skill sets to the Library Board. She noted that this is a critical time due to the extensive current library construction projects. Three applications were submitted to the County Commission with a recommendation from the Library Board to consider in the order of choice: Charles Trentleman, Kathleen B. Jensen and Joe H Richie. The Commission had requested all the applications, which had been provided. She expressed thanks to all who applied and had been very impressed with the quality of applicants.

Chair Gibson noted that it is within the commissioners' purview to select any applicant they deem appropriate. He invited any of the applicants to address the commission and no comments were offered. Commissioner Bell recommended appointing Brent Innes. Commissioner Zogmaister could not support that because he was not even in the top six applicants and stated that she respects the work and process of the Library Board. The other two commissioners said that they also respect it. Commissioner Zogmaister asked if out of respect for their recommendations they would nominate someone out of the top 3. Chair Gibson said that they could nominate anyone they wished, that there are many quality applicants. Commissioner Bell felt that the opportunity to serve should be passed around so that others can have that opportunity.

Commissioner Bell moved to adopt Resolution 13-2014 appointing Brent Innes to the Weber County Library Board of Trustees with a term expiring 6/30/2018; Chair Gibson seconded; Commissioner Zogmaister said that as the Library Board discussed each name they pointed out what skill sets that individual could bring to this Board and the knowledge each could bring during this construction period. She asked the commissioners to elaborate on the person they were nominating. Commissioner Bell said that Mr. Innes lives in the unincorporated area Weber County and most current members are from Ogden, one is from Ogden Valley and one from Roy City, and that Mr. Innes would be a good voice on the Board.

Roll Call Vote:

Commissioner Bell .....aye  
Commissioner Zogmaister..... nay  
Chair Gibson.....aye

G. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 1, 2014, 10 A.M.

H. PUBLIC COMMENTS:

Kathy Gambles, of South Ogden, appreciates the seriousness with which the commissioners take their jobs. She read the mottos on the wall behind them. She celebrates the beautiful, stellar example of all of all of those statements that the Weber County Library is and the incredible job they have done over the years and continue to do. She honors the wisdom to allow that good strong leadership. She said that it is unfortunate to dilute the Library Board, to not allow that quality thinking to go forward that honors and respects all of the county, to not see what the Library Board is doing and how fortunate it would be to keep all of that in place. There was applause by those in attendance.

D 8/8  
B 19/31

Chair Gibson said that people could not be disparaging or say that it is diluting a library board just because someone does not think the same way, that there was an appropriate vote taken based upon the majority of the Commission deciding how to move forward and how they wish to be represented on this Board. Ms. Gambles apologized stating that it was unfortunate that this what the chair got out of what she said.

Scott Spencer, of the Weber County Library, said that today the Commission had chosen an applicant not recommended in the top three by the Library Board of Directors. He asked if there is going to be a change in the selection process and if the county commissioners are going to receive the applications and appoint the directors themselves. Chair Gibson said that the selection process has not changed—the Library Board reviews the applications and sends the Commission their top three choices and the Commission makes the appointments, even if the person did not apply.

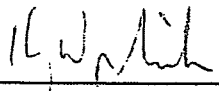
Evelyn Bertilson, with Friends of the Library, said that there has been a change of precedent and it upsets the Friends of the Library that the Commission chose someone other than the well established precedent.

Chair Gibson said that it is a heavy responsibility as commissioners to stand before the people for election and to have to defend their actions, which is what the process is about. It makes good sense that all of the commissioner take that responsibility seriously and are doing their best to represent each member of our community.

**I. ADJOURN**

Commissioner Bell moved to adjourn at 11:58 a.m.: Commissioner Zogmaister seconded, all voting aye

Attest:

  
\_\_\_\_\_  
Kerry W. Gibson, Chair  
Weber County Commission

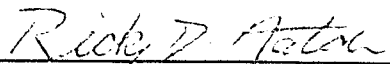
  
\_\_\_\_\_  
Ricky D. Hatch, CPA  
Weber County Clerk/Auditor

EXHIBIT E  
1/6

B 20/31

MINUTES  
OF THE BOARD OF COMMISSIONERS OF WEBER COUNTY  
Tuesday, April 1, 2014 - 10:00 a.m.  
Commission Chambers, 2380 Washington Blvd., Ogden, Utah

*In accordance with the requirements of Utah Code Annotated Section 52-4-7(1)(d), the County Clerk records in the minutes the names of all citizens who appear and speak at a County Commission meeting and the substance "in brief" of their comments. Such statements may include opinion or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.*

**COMMISSIONERS:** Kerry W. Gibson, Chair, Jan M. Zogmaister and Matthew G Bell.

**OTHERS PRESENT:** Ricky D. Hatch, County Clerk/Auditor; David C. Wilson, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME – Chair Gibson
- B. PLEDGE OF ALLEGIANCE – Fátima Fernelius
- C. THOUGHT OF THE DAY – Commissioner Zogmaister

**D. CONSENT ITEMS:**

- 1. Purchase Orders for \$2,223,043.81
- 2. Warrants #307715 - #308047 for \$2,332,073.95
- 3. Minutes for the meeting held on March 25, 2014
- 4. New business licenses
- 5. Request for Assurances relating to real property acquisition for the debris removal and bank protection sites for the Weber County Emergency Watershed Protection project
- 6. Set public hearing for April 22, 2014, 10 a.m., to consider amending Weber County Land Use Code, Title 104 (Zones); Chapter 5 Agricultural-1); Section 7 (Site Development Standards) by reducing the minimum separation (setback) standard in between a main building & an accessory structure  
Commissioner Bell moved to approve the consent items; Commissioner Zogmaister seconded, all voting aye.

**E. ACTION ITEMS:**

**1. APPROVAL OF THE WEBER COUNTY 2014 POLLING LOCATIONS**

Jennifer Morrell, County Elections Director, noted that Elections had provided the commissioners with a list of 40 polling locations. Elections is proposing to have a Saturday early voting at the Weber Center and the Ogden Valley Library Branch, and this will depend on building security, etc. Commissioner Zogmaister asked about noticing the citizens and Ms. Morrell responded that they are working to improve the website, are sending information to the cities to mail to residents, working with the State to have Weber County-specific information on their web page, etc. Commissioner Zogmaister moved to approve Weber County 2014 polling locations; Commissioner Bell seconded, all voting aye.

**2. ADDENDUM TO THE LEXIPOL CONTRACT FOR CUSTODY POLICY MANUAL AND DAILY TRAINING BULLETINS FOR THE CORRECTIONS DIVISION – CONTRACT C2014-53**

County Sheriff Terry Thompson stated that his office works with Lexipol to achieve standards/goals of operations in the Sheriff's Office. This has been very valuable in helping them achieve the best statutory required practices. He addressed Commissioner Zogmaister's question stating that the contract amount of \$18,000 is for the addendum and includes daily training briefs.

Commissioner Bell moved to approve Contract C2014-53, addendum to the Lexipol contract for the Custody Policy Manual and daily training bulletins for the Corrections Division; Commissioner Zogmaister seconded, all voting aye.

E 2/16

B 21/31

3. WEBER COUNTY P-CARD POLICY REVISION – POLICY 10.1

Brianna Spencer, of County Purchasing, noted the only change to the policy for allocating funds spent on purchasing cards through US Bank; the procedure has been converted from being done manually and will now be done online. Commissioner Bell noted that this item was discussed in Audit Committee, which suggested a couple of minor revisions.

Commissioner Zogmaister moved to approve the revision to Policy 10.1, Weber County P-Card Policy; Commissioner Bell seconded, all voting aye.

4. CONTRACT BY/AMONG WEBER COUNTY, WEBER FIRE DISTRICT (DISTRICT) & THE UTAH DIVISION OF FORESTRY FOR AMENDMENTS TO THE FUNDING OF THE WEBER COUNTY FIRE WARDEN – CONTRACT C2014-54

David Austin, Weber Fire District Chief, stated that since 2003 there had been a four-way agreement between the county, the Division of Forestry, Fire and State Lands, the U.S. Forest Service and the District, which was very beneficial. The costs for the Wildland and Fire Warden and for the Assistant Fire Warden were shared. Due to funding reductions, the Forest Service cannot participate in this agreement and it results in a funding loss of \$14,996 to this program. The Forest Service was not party to the original two-way agreement between the State and the county. Generally, the participation agreement is between the county and the State but to have a full time Fire Warden the District joins to help facilitate some of the costs. Weber County is the very last agreement from which the Forest Service has removed itself. The Forest Service is still in the District but will not receive the same services.

This addendum removes the Forest Service and amends the agreement for one year rather than eight months. Previously, the District funded four months and the remaining three participants funded eight months. The Fire Warden is a full time position (since 2003). Exhibit 4, the financial plan, was added to this amendment and can be amended annually to adjust the funding of the Fire Warden. The county's portion will be approximately 1/3 of the total cost. The Fire Warden position also used to be seasonal but it has substantial responsibilities in the county (i.e., mitigation, planning) for prevention and suppression of wildland fires and has greatly benefited areas such as the Nordic Valley, Uintah Highlands, Powder Mountain, Snowbasin and Causey Estates.

Chief Austin addressed Commissioner Zogmaister's questions stating that the Forest Service has a unit that it staffs during wildland fire season and that the District has not considered going back to a part-time Fire Warden position because of the significant benefit to the county. He believed the cost of a part-time warden was between \$20,000-\$30,000.

Chief Austin introduced Rick Cooper, stating that for the past three years the District has had a very elite wildland firefighting team through a contract with the State and Mr. Cooper has been its program manager. Mr. Cooper stated that the Wildland MOU program is a cooperative agreement between the District, the Division of Forestry, Fire and State Lands, the U.S. Forest Service, the Bureau of Land Management and the Bureau of Indian Affairs. This team responds nationally. He said that the program has been very beneficial and participation enhances their wildland firefighting skills and knowledge, which they can pass on to those in our area and reduce the probability of major catastrophes.

Commissioner Bell moved to approve Contract C2014-54, Participating Agreement between Weber County, Weber Fire District and the Utah Division of Forestry for amendments to the funding of the Weber County Fire Warden; Commissioner Zogmaister seconded, all voting aye.



E 3/6  
B 22/31

5. **CONTRACT WITH CK CONSTRUCTION CORPORATION TO REPLACE COUNTERTOPS IN THE WEBER CENTER PUBLIC RESTROOMS, ALONG WITH NEW SINKS/BASINS AND THE RELATED HARDWARE – CONTRACT C2014-55**

Nate Pierce, County Operations Department Director, stated that because the restrooms are part of the common area in the building, the county will receive from the Condominium Association partners about \$8,500 at the end of the year.

Commissioner Zogmaister moved to approve Contract C2014-55 with CK Construction Corporation to replace countertops in the Weber Center public restrooms, along with new sinks/basins and the related hardware; Commissioner Bell seconded, all voting aye.

6. **CONTRACT WITH THM REMODELING SERVICES FOR THE REMODELING OF THE WEBER CENTER CONFERENCE ROOM – CONTRACT C2014-56**

Nate Pierce, County Operations Department Director, stated that this is to use Capital Improvement Plan funds from 2013. At the end of last year, Operations was asked to look at costs to renovate the Commission conference room and the criterion was developed with some of the commissioners. This contract is to install those improvements. The cost is \$21,597.

Commissioner Zogmaister said that when they had discussed the needs in the conference room it was for improved lighting and some electronics/technology that is needed. She stated that this contract is extravagant and goes over and above those improvements. She noted that this contract includes new cabinetry for \$11,000, paneling for \$8,200, and the ceiling and lighting for \$1,700 because staff would do some of the work, but the electronics was not even included. She did not feel the county should be spending that kind of money and could offer other county uses for that money or just not spend it right now when the only improvements needed are the lighting and electronics capability. By way of information, Mr. Pierce said that it would still leave about \$18,000 in the CIP account that could be used for the electronics. He outlined the lighting improvements to be done and said that an electrician on staff would do a lot of the electronics. He said that the \$1,700 is basically for the demolition and installation of ceiling panels. Commissioner Zogmaister said that this is a good opportunity to do what is needed but not spend the additional \$19,000 for cabinetry and panel. Chair Gibson said that the room has always seemed very odd in its layout with the pressed wood cabinetry along the one side of the room, that it gets a lot of use and is not functional. Commissioner Zogmaister said that people claim the Commission is building Taj Mahals for libraries and now they are building a Taj Mahal-type conference room for the Commission.

Commissioner Bell moved to approve Contract C2014-56 with THM Remodeling Services for the remodeling of the Weber Center conference room. Commissioner Zogmaister said that the room itself is functional; the lighting is poor and some technology is needed, but to add the aesthetics is over/above what is needed. She supports the lighting and electronics for about \$20,000 but not the cabinetry and paneling for another \$19,000; Chair Gibson seconded. Commissioners Bell and Gibson voted aye. Commissioner Zogmaister voted nay.

7. **APPROVAL OF AN ACCESS EASEMENT FOR THE PAS DE CALAIS SUBDIVISION**

This item was discussed last week and was tabled. Richard Reeve had asked that it be held based upon an engineering study that was being done. Jared Andersen, County Engineer, stated that he had not received any calls from an engineer doing any type of study. He stated that a geotechnical firm will first need to do a boring where the existing roadway comes into the pond area, but not on the existing roadway. He is concerned that a study may be in progress without any communication with the county. He reiterated that County Engineering will make sure the design and all necessary studies are done make to ensure this is done correctly.



E 4/6

B 23/31

Mr. Anderson said that certain items have to receive approval prior to the roadway cross-section being approved. Without approval from the studies, the road cannot be constructed. The easement section is across county property but the same approvals will be needed for the roadway up to the two homes. He has discussed with Matthew Rasmussen, petitioner, the two borings that will be needed for the location where the two homes will be constructed.

Mr. Rasmussen had indicated to Commissioner Bell that he does not plan to build on the property for some time, and particularly because this is a controversial issue, he does not feel there is a rush to get it done, and he wants it done right.

Commissioner Bell said that the road will probably be shared for three houses (including the Uintah Highlands Improvement District (District) property that they may sell as a lot). Commissioner Zogmaister wants the rights of property owners respected and that the county gets the 4,600 square foot piece of property to protect its pond and interests there. Chair Gibson said that this is an opportunity to clear up an issue that has existed for the county for a long time to ensure there is access and for continued maintenance of the pond. He feels that the easement and property exchange are separate issues from approval of the subdivision, that the latter is what requires the studies, in conjunction with County Planning and Engineering, which will direct what studies and information is needed. He feels the studies are part of a different process, thus he is comfortable proceeding at this point and allowing the studies to come forward with the subdivision.

Richard Reeve, representing Carol Browning, referred to the request by voice mail and email sent to the commissioners last night. He said that the Browning family has retained Shane Taggart, an engineer, who is in the process of reviewing the plat maps and process but has not yet conducted a site inspection. If Mr. Taggart rushes the report he could have a report two weeks from today with actual data to consider whether this is a good move for the county. He agreed that there are two separate processes: granting public property to a private land owner, giving him an easement, and there is the subdivision process.

Mr. Reeve urged the commissioners to follow the code about granting public property to a private land owner and said that they have to find substantial evidence that there is no other way Mr. Rasmussen can build a practical and feasible way to access the road. Code states that they have to find substantial evidence that shows it is impractical or infeasible for Mr. Rasmussen to build any other road to access his property. He would like the findings entered into the record but does not believe substantial evidence can be found. He said it is not the normal language found in county land codes, which indicates that a higher burden is put upon the Commission to find substantial evidence. He refuted the comment that the county would receive a benefit because the berm has been there for a long time, adverse and prescriptive use has been established for the county, and he said that no one will remove it because the county has rights to it.

Regarding the easement granted to the District, he had spoken with John Reeve, District Chair, and said that it had not been given willingly. The District had shown that they had prescriptive use to that easement for more than 40 years and the county granted the easement based on historic use. However, Mr. Rasmussen has no historic claim across county property to get a prescriptive easement. The code requires the County Commission, before giving up public land, to see if there is any other way that is practical and feasible for a road to be brought to that property, but cannot consider financial adversity to the developer. He brought a copy of the plat map and stated that there is a lot for sale that has frontage on the road that adjoins Mr. Rasmussen's property that is flat, thus Mr. Rasmussen has a feasible and practical way to access his property. It involves purchasing a lot, but the Commission can consider whether it is economical according to county code.



E 5/6  
B 24/31

Chair Gibson feels comfortable with county legal counsel's advice that approving this easement would be admissible under code. The county may have a prescriptive right granted by courts to the berm, but the county has an opportunity to solve an issue that has been a challenge for some time, that the county has a pond but does not own part of it. This would eliminate the risk of having to make extraordinary arrangements for that basin.

Commissioner Zogmaister moved to approve an access easement for the Pas de Calais Subdivision, with the county receiving the portion of land needed for ownership where the berm is located; Chair Gibson seconded. Commissioners Zogmaister and Gibson voted aye. Commissioner Bell voted nay.

**F. PUBLIC HEARINGS**

1. Commissioner Bell moved to adjourn the public meeting and convene the public hearings; Commissioner Zogmaister seconded, all voting aye.
2. **PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE WEBER COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 1 (DESIGN REVIEW), TITLE 101 (GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS), AND TITLE 106 (SUBDIVISIONS) CHAPTER 1 (GENERAL PROVISIONS) SECTION 106-1-8 FINAL PLAT REQUIREMENTS AND APPROVAL PROCEDURE**

Jim Gentry, of the County Planning Division, said that these amendments are to help clarify language and streamline the process. A provision is being added that the County Engineer can approve financial guarantees up to \$25,000 (from \$10,000). The definition for financial guarantees is also being amended. Both Planning Commissions recommended approval. Commissioner Zogmaister asked how many subdivision approvals would be affected by the increase to \$25,000 and how they came up with that amount. Mr. Gentry said that they feel comfortable with that amount, that many escrows are received for landscaping for commercial buildings, for a few fire hydrants or minor ditches that need to be filled, piping, etc., and that it is usually for minor items and for smaller subdivisions. He also stated that the release of the escrow funds would be done through County Engineering after the request is received and the inspection is conducted.

Sean Wilkinson, County Planning Division Director, stated that Planning is in favor of these changes. In some subdivisions two fire hydrants can exceed the \$10,000 amount and the \$25,000 may cover all the needed minor improvements. Instead of waiting 1-2 weeks to bring it to the County Commission to approve those escrow agreements, it will give County Engineering the flexibility to handle this and potentially save developers a few weeks. The escrow agreements will be recorded and all actions documented. Chair Gibson invited public comments and none were offered.

3. **PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE WEBER COUNTY LAND USE CODE TITLE 104 (ZONES) CHAPTER 23 (OGDEN VALLEY MANUFACTURING ZONES MV-1) SECTION 2 (PERMITTED USES) BY ADDING SMALL BREWERY AND DISTILLERY AND TITLE 101(GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS)**

Jim Gentry, of the County Planning Division, stated that the applicant wishes to amend the MV-1 Zone to allow a small liquor distillery. The Ogden Valley Planning Commission recommended adding the definitions of distillery and small brewery, which definitions come from State Code. A small brewery will manufacture less than 60,000 barrels of beer per year. Chair Gibson invited public comments and none were offered.

4. Commissioner Zogmaister moved to adjourn the public hearings and reconvene the public meeting; Commissioner Bell seconded, all voting aye.

E 6/6  
B 25/31

**G. ACTION ON PUBLIC HEARINGS:**

- 1. (F.2) - AMENDMENTS TO THE WEBER COUNTY LAND USE CODE TITLE 108 (STANDARDS) CHAPTER 1 (DESIGN REVIEW), TITLE 101 (GENERAL PROVISIONS) SECTION 101-7-7 (DEFINITIONS), AND TITLE 106 (SUBDIVISIONS) CHAPTER 1 (GENERAL PROVISIONS) SECTION 106-1-8 FINAL PLAT REQUIREMENTS AND APPROVAL PROCEDURE – ORDINANCE 2014-6

Commissioner Zogmaister moved to adopt Ordinance 2014-6 amending the Weber County Land Use Code Title 108 (Standards) Chapter 1 (Design Review), Title 101 (General Provisions) Section 101-7-7 (Definitions), and Title 106 (Subdivisions) Chapter 1 (General Provisions) Section 106-1-8 Final Plat Requirements and Approval Procedure; Commissioner Bell seconded.

Roll Call:

Commissioner Bell .....aye  
 Commissioner Zogmaister.....aye  
 Commissioner Gibson .....aye

- 2. (F.3) - AMENDMENTS TO THE WEBER COUNT LAND USE CODE TITLE 104 (ZONES) CHAPTER 23 (OGDEN VALLEY MANUFACTURING ZONES MV-1) SECTION 2 (PERMITTED USES) BY ADDING SMALL BREWERY AND DISTILLERY AND TITLE 101(GENERAL PROVISIONS) SECTION 101-7-7(DEFINITIONS) – ORDINANCE 2014-7

Commissioner Bell moved to adopt Ordinance 2014-7 amending the Weber County Land Use Code Title 104 (Zones) Chapter 23 (Ogden Valley Manufacturing Zones MV-1) Section 2 (Permitted Uses) by adding Small Brewery and Distillery and Title 101(General Provisions) Section 101-7-7(Definitions); Commissioner Zogmaister seconded.

Roll Call:

Commissioner Bell .....aye  
 Commissioner Zogmaister.....aye  
 Commissioner Gibson .....aye

**H. ASSIGN PLEDGE OF ALLEGIANCE & THOUGHT OF THE DAY FOR TUESDAY, APRIL 8, 2014, 10 A.M.**

**I. PUBLIC COMMENTS:** None

**J. ADJOURN**

Commissioner Bell moved to adjourn at 11:13 a.m.; Commissioner Zogmaister seconded, all voting aye.

Attest:

---

Kerry W. Gibson, Chair  
 Weber County Commission

---

Ricky D. Hatch, CPA  
 Weber County Clerk/Auditor



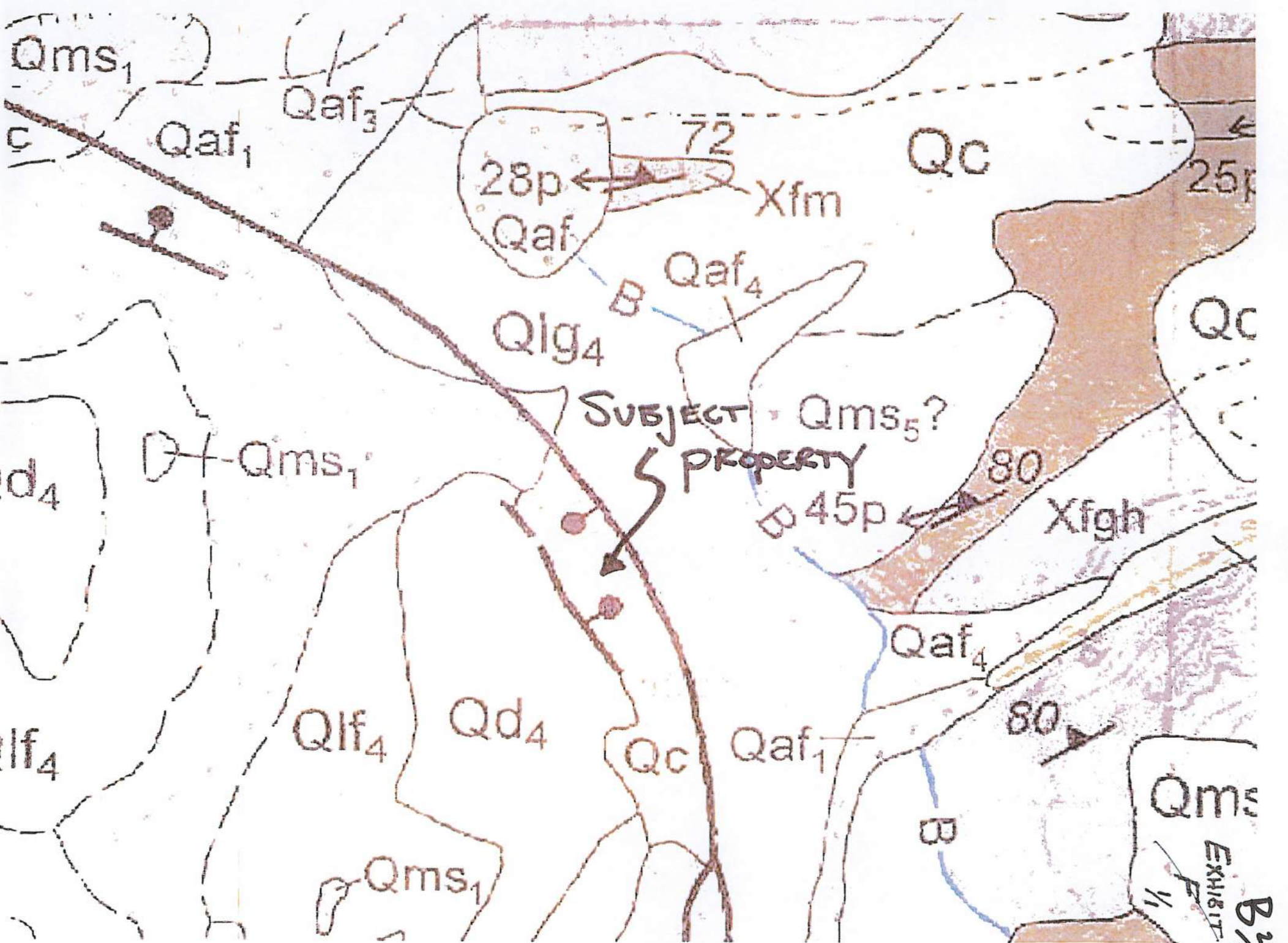


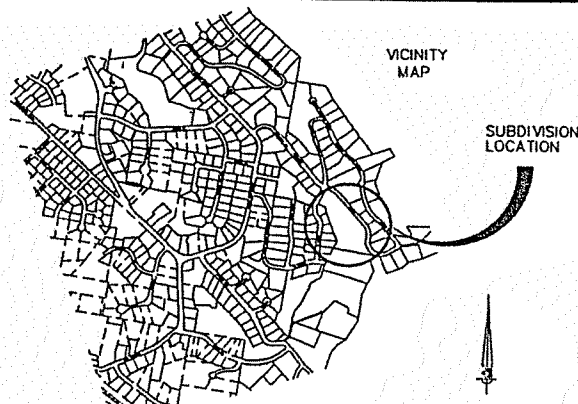
EXHIBIT  
 B 24/31



# CALAIS SUBDIVISION

PART OF THE SOUTHWEST 1/4 OF SECTION 24  
T5N, R1W, SLB&M, U.S. SURVEY

WEBER COUNTY, UTAH  
APRIL 2001



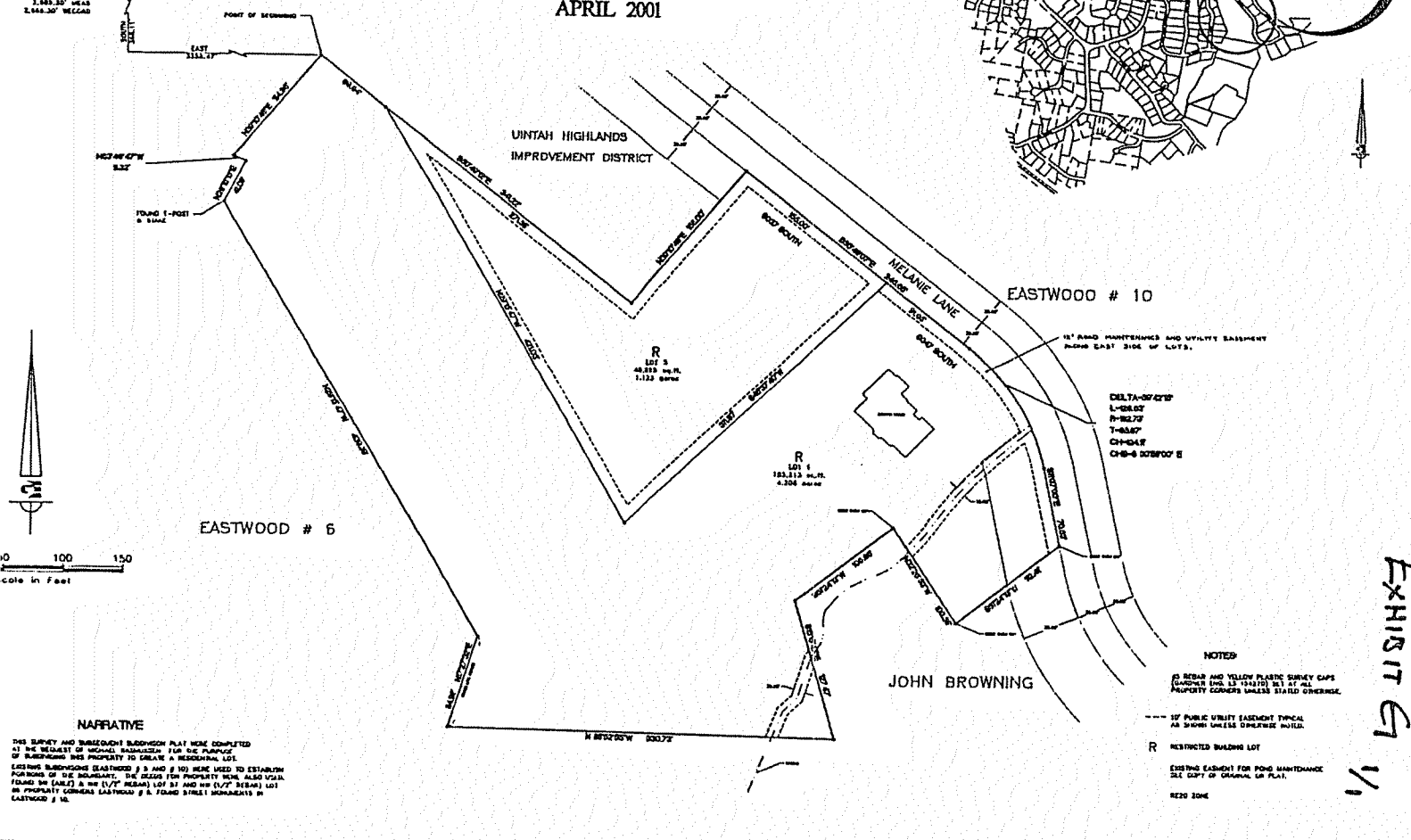
VICINITY  
MAP

SUBDIVISION  
LOCATION

1/4 SECTION 24  
T5N, R1W, SLB&M

CENTER OF SECTION 24  
T5N, R1W, SLB&M

4 887'54" W  
1/4 CORNER  
3,883.30' WEA  
2,643.30' WEA



0 100 150  
Scale in Feet

**SURVEYOR'S CERTIFICATE**  
I, RON E. GARDNER, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I CERTIFICATE HOLD THESE AS PROVIDED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE COMMISSION I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW AND THAT THE REFERENCE MARKS SHOWN ON THIS PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO REFERENCE ON RE-ESTABLISHMENT OF THE INFORMATION SHOWN HEREON IS SUFFICIENT TO RE-ESTABLISH THE LATERAL BOUNDS OF THE BELONG DESCRIBED TRACT OF REAL PROPERTY AND OF EACH OF THE LOTS LOCATED ON THIS TRACT AND THIS SUBDIVISION PLAT COMPLETES WITH THE PROVISIONS OF THE ELEMENT SUBJECT TO ZONING ORDINANCE REGULATIONS OF WEBER COUNTY.

**BOUNDARY DESCRIPTION**

Beginning at a point 358.19 feet South and 2256.47 feet East of the Center of Section 24, T5N, R1W, SLB&M (Point of Beginning 146750'34" from said Center to West Quarter Corner of Section 24), thence:

COMPLEX		
S 20°41'12" E	241.22 FT	THENCE
N 30°17'46" E	150.00 FT	TO THE WEST LINE OF MELANIE LANE, THENCE
S 20°49'07" E	248.32 FT	ALONG SAID WEST LINE TO A TANGENT CURVE TO THE RIGHT, THENCE
SOUNDCASTER	128.83 FT	ALONG SAID CURVE (R=181.73, Delta=34°42'10", T=63.91, Ch=184.11, Ch=230°26'10") TO A NON-TANGENT LINE, THENCE
S 11°07'00" E	70.83 FT	ALONG SAID LINE, THENCE
S 21°17'24" W	112.41 FT	THENCE
N 37°28'31" W	100.88 FT	THENCE
S 01°21'13" W	108.80 FT	THENCE
S 13°13'47" E	127.47 FT	THENCE
N 84°27'50" W	330.75 FT	TO A POINT ON EASTWOOD MOBILE THENCE
N 17°27'31" E	84.86 FT	ALONG EASTWOOD MOBILE THENCE
N 20°15'47" E	428.26 FT	ALONG EASTWOOD MOBILE THENCE
N 28°32'12" E	41.08 FT	ALONG EASTWOOD MOBILE THENCE
N 82°48'47" E	71.32 FT	ALONG EASTWOOD MOBILE THENCE
N 20°15'46" E	118.86 FT	TO THE POINT OF BEGINNING.

CONTAINS 3.278 ACRES

*Signature*  
DATE

*Signature*  
DATE

REGISTERED LAND SURVEYOR  
No. 164270  
RON E. GARDNER  
STATE OF UTAH

**OWNER'S DEDICATION**  
WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, HEREBY SET AS FORTH THE SAME 1810 LOTS AND STRIPS AS SHOWN ON THIS PLAT AND HAVE SAID TRACT CALAIS SUBDIVISION AND HEREBY DEDICATE, GRANT AND CONVEY TO WEBER COUNTY, UTAH ALL THOSE PARTS OF PORT AND TRACT OF LAND DESCRIBED AS SET FORTH THE SAME TO BE USED AS PUBLIC INFRASTRUCTURE AND ALSO GRANT AND DEDICATE A PROPRIETARY RIGHT AND EASEMENT OVER, UPON AND UNDER SAID DESCRIBED ON THE PLAT AS PUBLIC UTILITY, SIGN BANNER DETENTION POINT, DRAINAGE AND C&M MAINTENANCE EASEMENT, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE, AND OF PUBLIC UTILITY SERVICE LINES, SIGN DRAINAGE FACILITIES, BARGAINING CHANNELS OR FOR THE PROMOTION OF WATER DRAINAGE CHANNELS IN SUCH NATURAL STATE WHEREVER IS APPLICABLE. PRESERVATION OF WATER DRAINAGE CHANNELS IN SUCH NATURAL STATE WHEREVER IS APPLICABLE AUTHORIZED BY WEBER COUNTY, UTAH, WITH NO BUILDINGS OR STRUCTURES BEING SITED WITHIN SAID EASEMENTS.

SIGNED THIS 10th DAY OF May, 2001

*George Michael Peterson* COUNTY COMMISSIONER  
*Matthew Shore Peterson* COUNTY COMMISSIONER  
*Kevin Johnson* COUNTY COMMISSIONER  
*Kevin Mason* COUNTY COMMISSIONER  
*Laura Hamer Ross* COUNTY COMMISSIONER

Prepared By: *Signature*  
Gardner Engineering LLC  
5150 SOUTH WASHINGTON BLVD.  
OGDEN, UT 84405  
(801) 478-0202

**EXHIBIT G**

EXHIBIT G 1/1

**NARRATIVE**  
THIS SURVEY AND SUBSEQUENT SUBDIVISION PLAT WERE COMPLETED BY THE SURVEYOR AT THE REQUEST OF MELANIE HANSEN FOR THE PURPOSE OF SUBDIVIDING THE PROPERTY TO CREATE A RESIDENTIAL LOT. THE SUBDIVISION (EASTWOOD # 6 AND # 10) WERE USED TO ESTABLISH PORTIONS OF THE BOUNDARIES. THE BEARS FOR PROPERTY WERE ALSO USED TO FIND THE (EAST) & (W) (1/4 CORNER) LOT 31 AND (W) (1/4 CORNER) LOT 32 ON PROPERTY CORNERS EASTWOOD # 6 & FOUND STREET MONUMENTS IN EASTWOOD # 10.

**NOTES**  
1. REPAIR AND YELLOW PLASTIC SURVEY CAPS (GARDNER 100 13 124120) SET AT ALL PROPERTY CORNERS UNLESS STATED OTHERWISE.  
2. 17' PUBLIC UTILITY EASEMENT TYPICAL AS SHOWN UNLESS OTHERWISE NOTED.  
3. RESTRICTED BUILDING LOT  
4. EXISTING EASEMENT FOR POND MAINTENANCE SEE COPY OF ORIGINAL SUB PLAT.  
5. REZO ZONE

**WEBER COUNTY COMMISSION APPROVAL**  
I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT WAS APPROVED BY THE WEBER COUNTY PLANNING COMMISSION ON THE 10th DAY OF May, 2001.

*Signature*  
WEBER COUNTY PLANNING COMMISSION

**WEBER COUNTY SURVEYOR**  
I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYOR'S OFFICE HAS REVIEWED THIS FOR MATHEMATICAL CORRECTNESS, SECTION NUMBER DATA, AND FOR HARMONY WITH LINES AND MONUMENTS ON RECORD IN COUNTY OFFICES. THE APPROVAL OF THIS PLAT BY THE REGISTERED SURVEYOR DOES NOT RELIEVE THE LICENSED LAND SURVEYOR WHO EXECUTED THIS PLAT FROM THE OBLIGATION TO THE OWNER AND/OR LANDLORDS ASSOCIATED THEREWITH.

SIGNED THIS 10th DAY OF May, 2001

*Signature*  
WEBER COUNTY SURVEYOR

**WEBER COUNTY COMMISSION ACCEPTANCE**  
THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE COMMISSIONERS OF WEBER COUNTY, UTAH.

THIS 24th DAY OF April, 2001

*Signature*  
CHAIRMAN, WEBER COUNTY COMMISSION

THIS: *Adina Assistant*  
ATTEND: *Felicia Blackfort*

**ACKNOWLEDGEMENT**  
STATE OF UTAH }  
COUNTY OF WEBER } SS  
ON THIS 10th DAY OF May, 2001,  
PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, THE SIGNER(S) OF THE ABOVE OWNER'S DECLARATION, WHO (I) IN PRESENCE, WHO DULY ACKNOWLEDGED TO ME THAT THEY SIGNED IT FREELY AND VOLUNTARILY FOR THE PURPOSES THEREIN SET FORTH.

*Signature*  
NOTARY PUBLIC

**WEBER COUNTY ATTORNEY**  
I AM THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS WITH THIS SUBDIVISION PLAT AND I CONFIRM WITH THE COUNTY COMMISSIONER AND HOW IN FORCE AND EFFECT.

DATE OF 2001

*Signature*  
WEBER COUNTY ATTORNEY

**WEBER COUNTY ENGINEER**  
I HEREBY CERTIFY THAT THE REQUIRED PUBLIC IMPROVEMENT STANDARDS AND CHANGES FOR THIS SUBDIVISION CONFORM WITH COUNTY STANDARDS AND THE AMOUNT OF THE FINANCIAL GUARANTEE IS SUFFICIENT FOR THE INSTALLATION OF THESE IMPROVEMENTS.

SIGNED THIS 10th DAY OF May, 2001

*Signature*  
WEBER COUNTY ENGINEER

54-8  
B27  
91

The Order of the Court is stated below:

Dated: January 27, 2016

01:33:42 PM

/s/

W BRENT WEST

District Court Judge



B<sup>28</sup>/<sub>31</sub>

EXHIBIT H

1/4

REEVE LAW GROUP, P.C.  
Richard H. Reeve (11291)  
1957 Maple Grove Way  
Ogden, Utah 84401  
801.389-9733 Telephone  
rreeve@reevelawgroup.com

*Attorney for Plaintiff*

IN THE SECOND JUDICIAL DISTRICT COURT, STATE OF UTAH  
WEBER COUNTY

CAROL C. BROWNING,

Plaintiff,

vs.

WEBER COUNTY, a body politic, WEBER  
COUNTY COMMISSION AND WEBER  
COUNTY BOARD OF ADJUSTMENTS;

Defendants.

ORDER GRANTING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT

Civil No. 140904054

Judge W. Brent West

On or about December 11, 2015, Plaintiff filed a Motion for Summary Judgment, seeking a summary ruling as to Plaintiff's procedural challenge of the decision of the Weber County Board of Adjustments. After the submission of memoranda by the parties, Plaintiff's Motion for Summary Judgment came on regularly for decision on the 8th day of January, 2016 before the Honorable Judge West. Plaintiff and Defendants appeared through their respective counsel of record and provided oral arguments on the motion. The Court, having considered the parties' written memoranda, the arguments of counsel, and being otherwise fully advised in the premises,

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, as follows:

1. Weber County avers that the access application, challenged by Plaintiff at the Board

H 2/4 B 29/31

authority on August 9, 2013.

2. The Weber County Board of Adjustments declined to hear Plaintiff's appeal because they determined that an appeal had not been timely appealed under the deadlines established by County Code.
3. The record does not contain any indication that Plaintiff received notice about the access application prior to August 9, 2013, or within 15 days of that date.
4. The Court is not convinced that Weber County did not need to provide Plaintiff with separate notice of the approval of the access application and would consider that to be an unconstitutional violation of her due process rights.
5. As a result of the lack of notice, the Court determines that Weber County deprived Plaintiff of her constitutional right to receive notice and to be heard on a decision that impacted her real property. The Court determines that the lack of notice makes the decision "illegal." The Court does not comment on the substance of the opinion and is not stating that the decision was "arbitrary or capricious."
6. The Court hereby grants Plaintiff's Motion for Summary Judgment, vacates the decision made on August 9, 2013, by then Planning Director Robb Scott, and remands the matter back to the Weber County Planning Department for the application to be reconsidered with input from Plaintiff according to the process outlined in the current version of the Weber County code.
7. The access application is to be reconsidered by whomever is currently designated by the County as the land use authority who would consider a new application of this type.
8. Notice of the access application shall be given to Plaintiff within thirty (30) days of

H 3/4 B 30/31

the entry of this Order. Plaintiff shall have a 20 day period in which to submit written comments to the designated land use authority and to meet, in person or through her designated agent or counsel, with said land use authority to deliver her comments on the access application. Only Plaintiff is entitled to submit comment on the remanded application.

9. This remand is on procedural grounds only. The land use authority is under no direction from the Court to decide the application in any way.

**NOTICE TO PARTIES AND THEIR COUNSEL**

Pursuant to Utah R. Civ. P. 5(j)(5) and 6(c), the undersigned shall submit the above and foregoing ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT to the Court for entry upon the lapse of ten (10) days from the date of service hereof.

DATED this 13th day of January, 2016.

REEVE LAW GROUP

/s/ Richard Reeve

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

Richard H. Reeve  
*Attorney for Carol Browning*

H 4/4 B 31/31

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2016, in accordance with Rule 5(b)(1) (B) and 5 (d), I caused to be delivered via electronic mail only, this ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT to the following:

Christopher K. Crockett  
Weber County Attorney's Office  
[ccrockett@co.weber.ut.us](mailto:ccrockett@co.weber.ut.us)  
Attorney for Weber County

/s/ Richard Reeve

---





Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473

Planning Division Administrative Review  
NOTICE OF DECISION

April 18, 2016

Matt & Laura Rasmussen  
2927 Melanie Lane  
Ogden, Utah 84403

Case Number: Access Exception (AE #2013-03)

You are hereby notified that your request for approval of an Access Exception related to a proposed subdivision project located at approximately 6050 South and 2900 East is approved. The decision considered relevant Weber County codes, information provided by you (the applicants), information provided by the public, including those involved in a Second Judicial District Court Order (Civil No. 140904054) dated January 27<sup>th</sup>, 2016, and an analysis prepared by the Weber County Planning Division. This approval is based on the findings listed below and is subject to the following conditions:

FINDINGS:

1. An application was submitted and determined to be complete after supplementary verbal discussion which addressed the applicants' need to demonstrate that it is unfeasible or impractical to extend a street to two future lots within a proposed subdivision. The results of the discussion, where feasibility and practicality were explained, are provided under the Planning Staff's analysis and findings section of the Planning Division Staff Report (pg. 2 of 4).
2. Pursuant to § 102-1-2(a) of the Weber County Land Use Code, the Weber County Planning Director is authorized to act as the land use authority and approve or deny applications for "access to a lot/parcel using a private right-of-way or access easement."
3. The Planning Division, on August 9, 2013 and March 31, 2016, held administrative meetings that satisfied public notice and comment requirements.
4. The subject property is shown on a Utah Geologic Survey Map (representing strong or "substantial evidence" as required by § 108-7-31(1)(c)) as being (potentially) situated in between the Wasatch Fault and another fault. Due to the property's proximity to potential faults, the Planning Division finds that it is impractical to require the construction of a public road (and other infrastructure) that would intentionally cross a fault line. The alignment of the proposed access easement (and private driveway improvements) does not cross fault lines as shown on the Utah Geologic Survey Map. See Exhibit F, attached to the related Planning Division Staff Report, or <http://geology.utah.gov/apps/intgeomap/> for the UGS Map.
5. Property boundary conditions are such that the lots to be subdivided do not have access from a street. Although the applicants do own adjacent property with frontage on Melanie Lane, access to the proposed lots at this location would not be practical due to steep slopes (the existing lot [Lot 1 of Calais Subdivision] is a restricted lot which indicates that the land exceeds 25% slopes), the location of an existing dwelling, and a stream with a dedicated drainage easement. Further, a road intersecting Melanie Lane, in this area, would intersect Melanie Lane at an unsafe location (limited sight distance due to horizontal curve), be disruptive to the existing dwelling, and dangerous due to steep slopes and other geological considerations i.e., surface rupture faults and landslides. It is unsafe and impractical for a road, serving only two lots, to be constructed in this area. See Exhibit G, attached to the related Planning Division Staff Report, for the original Calais Subdivision Plat.
6. The applicants have received an approval for an access easement from Weber County. The easement location is shown on the proposed preliminary (Pas De Calais) subdivision plat that has been submitted to the Planning Division. See Exhibit B, attached to the related Planning Division Staff Report, for

C 2/2



Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473

representation of the easement. See Exhibits D and E, attached to the related Planning Division Staff Report, for County Commission meeting minutes where easement approval was discussed and granted.

7. A dedicated road that meets County standards, if constructed in the same location of the proposed shared access, would create a situation where neighboring lots (Lots 81 through 85 of the Eastwood Subdivision No. 6) would become "double frontage lots." Double frontage lots are prohibited by the Weber County Land Use Code, § 106-2-4(c).
8. An alternative access idea, offered through public comment, which involves the purchase and use of a vacant lot (Lot 84 of the Eastwood Subdivision No. 6) for a roadway, would remove the taxable value of a residential building lot and would replace it with a County road that would have no taxable value. To remove the existing taxable value that Lot 84 provides is not ideal or practical. Further, Lot 84, if converted to a roadway, would force Lots 83 and 85 to become "corner lots," which would increase their sideyard setbacks. To burden Lots 83 and 85 with greater sideyard setbacks, now that these lots have been developed, is also not ideal or practical.
9. Financial adversity and/or financial gains have not been considered in this decision.
10. Prior to approval of a subdivision application, the applicants will sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a dedicated street that would serve as the access to the proposed lots or any other additional lots. See Weber County Land Use Code § 108-7-31(b).

CONDITIONS:

1. The access easement granted by Weber County shall be recorded at the same time the proposed Pas De Calais Subdivision is recorded.
2. An access easement, across (the proposed) Lot 3, providing access to (the proposed) Lot 2 shall be reserved/recorded in an appropriate manner and shown on the final subdivision plat.
3. Prior to final subdivision approval, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private access easement with a street that would serve as a required access to the lots.
4. Any other conditions imposed by applicable review agencies.

Meetings minutes are made available approximately four weeks from the date of the meeting. To obtain minutes, please contact Kary Serano at 801-399-8791 in the Weber County Planning Division Office.

Sincerely,

Rick V. Grover  
Planning Director  
Weber County Planning Division

\*\*\*\*\*

Appeals from administrative decisions shall be submitted to the Planning Division in accordance with § 102-1-7 of the Weber County Land Use Code.





## Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** An appeal of The Sanctuary Recreational Lodge Conditional Use Permit, a permit to operate a recreation lodge on Lot 6 of The Sanctuary Subdivision, which is a 44.6 acre lot in the F-40 zone, at approximately 9803 E. Maple Ridge Road.

**Agenda Date:** Thursday, August 25, 2016  
**Staff Report Date:** Wednesday, August 17, 2016  
**Applicant:** Green Hills HOA  
**File Number:** BOA2016-05

#### Staff Information

**Report Presenter:** Charlie Ewert  
 cewert@co.weber.ut.us  
 (801) 399-8763  
**Report Reviewer:** RG

### Applicable Ordinances

- §101-1-7 (Definitions)
- §102-3 (Board of Adjustment)
- §104-9 (Forest Zones)
- §104-28 (Ogden Valley Sensitive Lands Overlay District)
- §108-1 (Design Review)
- §108-2 (Ogden Valley Architectural, Landscape and Screening Standards)
- §108-4 (Conditional Uses)
- §108-18 (Drinking Water Source Protection)

### Summary and Background

On July 5, 2016, the Ogden Valley Planning Commission granted a conditional use permit for a recreational lodge on lot 6 of the Sanctuary subdivision. The approval was granted with four findings and 16 conditions.<sup>1</sup>

The Sanctuary subdivision lots gain access through the Green Hill Country Estates subdivision's private streets. Both The Sanctuary subdivision and the Green Hills Country Estates are approved and recorded subdivisions with private streets and private rights-of-way.

On July 22, 2016, the Appellant filed an appeal regarding the decision.<sup>2</sup> The appeal, among other things, alleges that the Planning Commission erred in its decision to approve the permit on the basis that it did not consider provisions and restrictions of private access agreement between the Mr. Tim Charlwood (herein referred to as "Permittee") and the Green Hills HOA (herein referred to as "Appellant") regarding access and usage rights along the private road known as Maple Drive. The Appellant is requesting that the Board of Adjustment reverse the decision.

County staff has reviewed the appeal and recommend that the County uphold the Planning Commission's decision. A complete analysis as to why is provided below.

### Board of Adjustment Review and Consideration Requirements

The Board of Adjustment's review of this appeal is governed by Weber County Land Use Code (LUC) Section 102-3, and by Utah Code Annotated (UCA) Section 17-27a-7.

<sup>1</sup> See Exhibit B for the Notice of Decision.

<sup>2</sup> See Exhibit A for a complete review of the appeal application.

LUC Section 102-3-4 specifies the following (*staff commentary is offered in italics*):

- (a) Appeals from decisions applying and interpreting the Land Use Code and Zoning Maps.
- (1) The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.  
*The Land Use Authority in this case was the Planning Commission. The Board of Adjustment needs to determine the "correctness" of their decision.*
- (2) The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.  
*A final decision was rendered regarding a particular application and parcel. This provision is satisfied.*
- (3) The Appellant has the burden of proof that the land use authority erred.  
*While this staff report will offer a cursory defense for the Planning Commission's decision, it is not the County's obligation to prove to the Board of Adjustment that the decision was correct, but rather, it is the Appellant's responsibility to prove that Planning Commission erred.*
- (4) All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.  
*The appeal was filed in a timely manner.*
- (5) Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.  
*The Board of Adjustment is limited in the information that it can entertain to determine the "correctness" of the decision. It may not entertain any information that was not presented to the Planning Commission for their deliberation.*

### Staff Review of the Appeal

In reviewing the record and determining the correctness of the Planning Commission's decision, the Board of Adjustments should consider that the County's land use decisions are limited to relevant provisions of the County's Land Use Code. We offer no opinion herein whether the conditional use of a recreational lodge on the site – or access to it by means of a private road – is a good idea. We do, however, offer an opinion on whether the Planning Commission's decision approving such a use complies with the Land Use Code. On this point, it is important for the Board of Adjustments to understand that in the event the Land Use Code provisions or permissions are in conflict with any private agreements, restrictions, etc., the County's approval of such permission does not invalidate the requirements and obligations of those private agreements.

The following is staff's review of the claims of the appeal and a comparison with the record:

1. The Appellants' primary claim is that the Planning Commission had a responsibility to consider the obligations stipulated in a declaratory judgment and private access agreement (herein called "Private Agreement").<sup>3</sup> This Private Agreement governs the rights of access through the Appellant's subdivision to the Permittee's subdivision lot by use of the private road known as Maple Drive. The County is not a party to this Private Agreement in any manner. Without being a party to the Private Agreement, the County

<sup>3</sup> To review an excerpt of the declaratory judgment and access agreement as provided by oral statement by David Cram in the July 5, 2016 Planning Commission meeting, see Exhibit C. The entire agreement was not provided for the Planning Commission's review, and as such only the excerpts offered in the meeting should be considered by the Board of Adjustment. The oral statements can be found in the first paragraph of page five.

rejects the claim that the Land Use Authority, who is the Planning Commission in this case, has any authority granted to it by the County's Land Use Code or the state's County Land Use Development and Management Act (CLUDMA)<sup>4</sup> for the interference in, interpretation of, administration of, or enforcement of this Private Agreement. There is no evidence in the record that would indicate that the County has any authority or obligation to enforce the Private Agreement.

2. There is need for a technical clarification. The Appellant states that the property is in a FR-40 zone. The Private Agreement also refers to a FR-40 zone. We presume the Appellant and the Private Agreement is referring to the F-40 zone, which the subject property is indeed in. We have no indication that the zone has changed since the creation of the declaratory judgment and access agreement. We assume that references in the appeal and in the Private Agreement to an FR-40 zone were in error, and were actually intended to reference to the F-40 zone<sup>5</sup>.
3. The Appellant states that the Private Easement that governs access through the Green Hill Country Estates subdivision to the lots in The Sanctuary subdivision limits all development to no more than 13 single family dwelling units within The Sanctuary Subdivision. The Appellant further claims that access to the site for the use of a recreation lodge is not permitted by the Private Agreement. The Permittee, however, argues that this interpretation of the private agreement is illogical, and that an on-its-face reading of the private agreement will render a different interpretation. Regardless of the different ways to interpret the agreement, the County is not a party to the agreement. Therefore, interpretation, application, and enforcement of it are not within the Planning Commission's authority. This authority rests only with the private parties and/or the courts. Legal counsel and staff discouraged the Planning Commission from considering, debating, or attempting to enforce the provisions of the Private Agreement. A review of the Planning Commission minutes indicates the Commission's understanding of their authority.<sup>6</sup> In the same manner, we are now discouraging the Board of Adjustments from considering the Private Agreement, except to note that the Planning Commission was correct to not consider it.
4. The Appellant is using this appeal process in an attempt to use the County to enforce the terms of the Private Agreement. This is an improper use of the appeal process. LUC §102-3-4 indicates that appeals are only relevant when the Land Use Authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel. Enforcement of the Private Agreement is not stipulated by the Land Use Code, and therefore it correctly has no part in the Planning Commission's decision. The Appellant has a legal avenue to remedy their claim – and that is to seek relief from the courts. The Appellants can always ask the Court for an injunction to stay any building in the future while that issue is addressed, but that would not be an issue under the County's purview. No part of the record or the Land Use Code would indicate that the Planning Commission has the authority to get involved in these private matters.
5. As such, the Planning Commission's decision was not contingent on the terms of the Private Agreement. Prior to the Planning Commission's decision, staff verified that ordinance-required access to the site exists from the public right-of-way. It exists by means of formally platted subdivisions (Green Hills Country Estates and The Sanctuary) with the associated ordinance-required private rights-of way (Maple Drive). Whether these private access rights through the subdivisions were abridged by private agreement(s) is solely for the consideration of the private parties and the courts – the County has no stake in the agreement(s).
6. Further, to the extent that it could be construed that the County is required to ensure that legal access exists to the site, rather than offering interpretation, administration, or enforcement of the private agreement, the Planning Commission instead addressed this concern in condition #14 of their approval,<sup>7</sup> which states that

*"[conditional use permit] approval is based on legal access existing via Maple Drive. In*

<sup>4</sup> The provisions of CLUDMA can be found in §17-27a of Utah Code Annotated.

<sup>5</sup> See LUC §104-9-1 for regulations governing development in the F-40 zone. See also Exhibit H, Zone Map.

<sup>6</sup> The Planning Commission's understanding of their authority is well summed by oral statements by Commissioner Waldrip found in the last paragraph of page five of the Planning Commission Meeting Minutes, Exhibit C.

<sup>7</sup> See Exhibit B for a review of the conditions they applied to the permit.



*the event it is proven that this access is not legal or valid for this use, then this CUP is invalid."*

For the Appellant to now argue that the decision was incorrect is to argue that this condition does not go far enough to protect their interests. However, the County asserts that they have their recourse through private legal claim in the Courts. With this condition, if the courts or the private entities are ever to determine that the legal access does not exist, then the County can determine that the permit also does not exist.<sup>8</sup>

7. When the Planning Commission applied condition #14 to the permit they specifically asked the Appellant's legal counsel whether the condition would remediate their concerns. At that time the Appellant's legal counsel agreed that it does. Without this discourse, condition #14 would not have existed for the permit. It appears that this appeal is now contesting the very condition that was created to resolve the Appellants concerns.<sup>9</sup> Thus, this appeal would suggest that they've changed their minds, and are now asserting that condition #14 does not go far enough. This appeal is based solely on the grounds that the Appellants feel the only satisfactory resolution would be for the Planning Commission to take on the responsibility of, and assume the authority for, enforcing the Private Agreement vis-à-vis a denial or postponement of the conditional use permit. This would be the equivalent of any private entity asserting that the County has an obligation to enforce the terms of their private land rights agreements when the County makes any land use decisions. In practical effect, this argument would present an extreme and unnecessary burden on the County, and would likely be an egregious overreach of government authority into private property rights.
8. Supposing the Planning Commission chose to deny the permit based on the Appellants claim that it violates the Private Agreement, if it was determined through resolution of the parties or by the courts that the Permittee does indeed have legal rights of access, then the County could be found at fault for unlawfully denying a land use permit. In the event the decision to grant the conditional use permit was postponed in order for the parties to resolve the issue the County could still be found at fault for unnecessarily and unreasonably withholding a permit without a justifiable basis of law. Thus, the Appellant not only desires to use the County to enforce their interpretation of Private Agreement, but they also desire it be done without any liability of an erroneous withholding of a land use right.
9. Regarding any basis of law that the Appellant claims should have been applied to deny this permit, the Appellant has failed to provide substantial evidence from the record to substantiate this claim. Specifically, the Appellant asserts that the declaratory judgment and access agreement is referenced on The Sanctuary subdivision plat, and as such should be enforced by the County as a condition of approval of that plat. No evidence has been submitted substantiating this claim. The plat references a 50' wide right-of-way<sup>10</sup> for the extension of Maple Drive through the Green Hills subdivision; however, the Sanctuary plat offers no language in the dedication or plat notes to refer to any governing agreements between the County, the Appellant, and/or the Permittee regarding the use of that portion of the 50' wide right of way. The dedication language that does specify assignment of rights to the private rights-of-way is limited to the rights-of-way within the legal description of the plat – which no part of the Green Hill Country Estates subdivision is included.
10. The Appellant claims that the Planning Commission erred in determining that the Permittee demonstrated compliance with the County's access requirements by determining that the recordation of the private rights-of-way within the Green Hill Country Estates subdivision and The Sanctuary subdivision was sufficient evidence to prove access exists to the subject lot.<sup>11</sup> The Appellant's argument on this point relies on a misleading interpretation of the vesting doctrine as it relates to the current laws of the State of Utah. UCA §17-27a-508 specifies that an applicant is entitled to review of an application, and UCA §17-

<sup>8</sup> This concept was explained to the Planning Commission in their meeting, as provided in the first paragraph of page 4 of the Planning Commission Meeting Minutes, Exhibit C.

<sup>9</sup> The commission held much debate over the legality of the access and, after getting consent regarding condition #14 from the Appellant's legal counsel, ultimately applied it to resolve their concerns. See paragraphs 3-4 on page 13 of the Planning Commission Meeting Minutes, Exhibit C.

<sup>10</sup> See Exhibit E to review The Sanctuary subdivision plat.

<sup>11</sup> To review this discussion, see page 11-13 of the Planning Commission Meeting Minutes, Exhibit C.

27a-506 specifies that a conditional use permit application is entitled to approval provided "reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards." Thus, if a land use is listed in the zone as a conditionally permitted use, the applicant is entitled to approval as long as the reasonably anticipated detrimental effects are mitigated.

This land right for a recreational lodge was assigned to the land at the time the F-40 zone was created, which predated The Sanctuary subdivision plat by several decades. The vesting doctrine in this case does not apply to whether a right to use the land exists under the law, it applies to the initiation of the use, and the government's review of the unique circumstances peculiar to it and the authority to limit or restrict the reasonably anticipated detrimental effects. In other words, the applicant is vested in the use – and the government is severely limited in its ability to strip the property of the use – after an application is submitted. However, the land owner has the right to initiate the use anytime, and the County's approval of the use – subject to the mitigation of the reasonably anticipated detrimental effects – is mandatory.

This is relevant because anytime the County considers development of any land, it also anticipates that any use, whether permitted or conditional, will occur on the site or in the area of the same zone unless the right is eliminated or restricted by means of rezone, zone text amendment, or agreement between the Land Owner and the County.

The Planning Commission decision relied on a correct interpretation of the vesting doctrine, and no evidence can be found in the record otherwise.

11. Further, the Appellant makes several claims that the Planning Commission violated County ordinance in their approval of this permit by not adequately considering items such as vehicle and pedestrian circulation, traffic safety, traffic congestion, other traffic issues and "other" matters. There is no evidence in the record that substantiates this claim. In fact, the evidence in the record is contrary to this claim. Pages 2-3 of the Planning Commission staff report<sup>12</sup> shows an analysis of traffic demand. It was noted that the reasonably anticipated detrimental effects of the use would not significantly increase the traditional traffic demand of single family dwellings in the area -- and as such merited no further evaluation. Additionally, conditions of approval #5, #11, #12, and #14 were all imposed to offer mitigation of the reasonably anticipated detrimental effects of these issues.

The Planning Commission, not the Appellant, had the discretionary authority to determine what the detrimental effects are and the conditions needed to mitigate them. However, in making this determination they are required by the Land Use Code to rely on credible evidence.<sup>13</sup> They cannot rely on public clamor or unsubstantiated claims. Pursuant to Weber County Land Use Code §108-4-5, the Planning Commission's review is limited to "credible evidence, relevant standards, and reasonable conditions." If the Appellant desired the planning commission to review traffic demands, circulation, and pedestrian considerations above and beyond the analysis of staff, the onus was on them to provide expert opinion on the matter at the time of the review. Because there was no expert or credible opinion offered to the contrary, the Appellant has failed to point to any credible evidence in the record that specifies what reasonably anticipated detrimental effects should or could have been better mitigated; except to argue that a Private Agreement, of which the County has no tie and for which the County has no authority, should have been enforced by the County.

<sup>12</sup> See Exhibit D.

<sup>13</sup> LUC §108-4-5 puts allows the Planning Commission some discretion in determining conditions of approval, however, offers tight parameters to the discretion. It states that:

*(a) The land use authority may apply conditions of approval related to any of the standards of this section, provided that credible evidence exists that:*

*(1) The application of the standard is relevant to the use; and*

*(2) The conditions are reasonable and necessary to substantially mitigate detrimental effects of the use as specified in the standard.*

*(b) The land use authority shall consider the expertise and experience of applicable reviewers and qualified professionals to help determine credible evidence, relevant standards, and reasonable conditions.*

12. Finally, the Appellant asserts that the Permittee's application was incomplete because it did not, among other things, provide the Private Agreement, the subdivision plat, the location of roads, etc. However, as specified herein, the Private Agreement is irrelevant. The application did include a copy of the plat, with a site plan. In totality the application was complete enough to merit substantive land use review as provided by UCA §17-27a-509.5. All of the application information was uploaded to Miradi, the County's project tracking website, at <https://miradi.co.weber.ut.us/projects/view/2381> prior to the Planning Commission's consideration of the item. There is no evidence in the record to substantiate that the application was incomplete.

Thus, for these reasons there is not any evidence in the record that would support an overturn of the Planning Commission's decision.

### Staff Recommendation

Staff recommends that the Board of Adjustment upholds the Planning Commission's decision with the findings and conditions provided by the Notice of Decision, Exhibit B, of this report. This is recommended with the following findings:

1. There is no evidence in the record to indicate that the Planning Commission erred in its decision.
2. This appeal appears to be an attempt to use the County to enforce a private agreement for which the County has no authority enforcing.
3. That the Appellant has sufficient recourse for their claim in the courts.
4. That in the event it is determined that no legal access exists for the conditional use permit, then the permit is invalid. This is sufficient protection for the Appellant.

### Exhibits

- A. Appeal Application
- B. Notice of Decision regarding The Sanctuary Recreational Lodge Conditional Use Permit Approval
- C. DRAFT Ogden Valley Planning Commission Minutes for July 5, 2016
- D. Ogden Valley Planning Commission Staff Report
- E. The Sanctuary Subdivision Plat



# Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791, 2380 Washington Blvd. Suite 200, Ogden, UT 84405

Date Submitted / Completed 07/22/2016	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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### Property Owner Contact Information

Name of Property Owner(s) Green Hills Estates Home Owner's Association		Mailing Address of Property Owner(s) Zane S. Froerer 2510 Washington Blvd. #200 Ogden Utah 84407	
Phone (801) 389-1533	Fax		
Email Address zane.froerer@froererlaw.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Zane S. Froerer		Mailing Address of Authorized Person Zane S. Froerer 2510 Washington Blvd. #200 Ogden Utah 84407	
Phone (801) 389-1533	Fax		
Email Address zane.froerer@froererlaw.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Appeal Request

- A variance request:  
 \_\_\_ Lot area    \_\_\_ Yard setback    \_\_\_ Frontage width    \_\_\_ Other: \_\_\_\_\_
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- Other: \_\_\_\_\_

### Property Information

Approximate Address 9686 E Maple Rd. Lot 6, Huntsville, Utah 84317		Land Serial Number(s) 211300003	
Current Zoning FR-40			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 40.29 Acres	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)



**Applicant Narrative**

Please explain your request.

Applicant Tim Charlwood as owner of the above identified parcel applied for a Conditional Use Permit (CUP) on May 25, 2016 seeking to have granted a CUP for a recreational lodge to be permitted on Lot 6 of the Sanctuary Subdivision on . Such a use is a "conditional" use under the FR-40 zone and was such at the time the Sanctuary Plat application was made and when said Plat was recorded on July 16, 2013. All of Sanctuary, including Lot 6, is accessed through a private road owned and maintained by Green Hills. That access, the scope, the rights, and all use is determined between Green Hills and Sanctuary through a Declaratory Judgment and Easement Agreement And Declaration of Covenants. That Agreement limits development on any Sanctuary lot to a single family dwelling and there would be no applications for higher density. This limitation was to define the scope of use of the shared private road commonly known as Maple Drive. In the approved Sanctuary Plat, Maple Drive is identified as a private right-of-way that provides the exclusive access to the Sanctuary Lots. Further, the Plat specifically refers to the agreements that define reciprocal access rights to trails within Sanctuary. Further, the Agreement imposes upon Sanctuary lot owners a duty to contribute to the maintenance and repair costs of the road with the rates being calculated on a rate equal to that of a single family dwelling. The CUP permits the construction of a 16 bedroom recreational lodges with rental and repair shop as accessory uses. It is anticipated, by the representations in the Application, that dining services and hotel guest services will also be operated out of this lodge. The Application for the CUP failed to provide the Easement Agreement and Declaration of Covenants, a copy of the 2013 Plat. Instead, the Application relied upon the Declaratory Judgment, which referred to the Agreement for all terms of use and rights, and Mr. Charlwood's own personal proffer that he had access approved to mitigate any change in use occurring with the CUP. In making its decision, the Ogden Valley Planning Commission failed to actually review the Agreement or the Plat yet determined that Sanctuary had access to Lot 6 sufficient to meet the mitigation requirements of the CUP Ordinance. Because the Commission did not have the Plat and did not consider the language of the Agreement, it lacked sufficient evidence to support a finding that access to Lot 6 was sufficient and of a nature to permit any mitigation under the Ordinance. Further, the Commission relied upon an erroneous legal position in reaching its conclusion. Both the Commission and the Staff determined that when the 2013 Plat was approved and recorded that access was granted for all prospective uses either "permitted" or "conditional" within the FV-40 zone. The Vesting Doctrine clearly states that land use rights do not vest until application is made. Mr. Charlwood did not file his application for the CUP until 2016, three years after the 2013 Plat was recorded. According to Sec. 108-4-2, a CUP is required for conditional uses and application is required as per Sec. 108-4-3. Therefore, the decision that the 2013 Plat approved access for the proposed CUP use is in error. Further, the Commission failed to adequately consider design review requirements under Sec. 108-1-3 of the Ordinance when it granted the CUP. Specifically, the Commission failed to adequately consider "vehicle and pedestrian circulation" and roads when it determined that the terms of the Agreement did not affect its determination. Further, the Commission failed to address the specific mitigation considerations in Sec. 108-1-4 of the Ordinance. This includes traffic safety, traffic congestion, the effect on traffic conditions on Maple Drive, whether a separate ingress/egress may be required. The Commission's determinations are not supported by substantial evidence and are in error. Particularly, the Commission's determination that the terms of the Agreement do not affect their decision is in error because the terms of access in the Agreement was the basis for the approval of the 2013 Plat. In effect, the Agreement is integral to the . . . Both by implication and by express reference. Further, the Commission's review of the CUP was erroneously narrowed to whether the access allowed for emergency access. The Ordinance is not so limited and the Commission failed to follow the proper review procedures. Under Sections 108-1-4 and 108-4-4, the Commission is specifically directed to consider certain deficiencies that include traffic issues, but is also mandated to consider "other" matters when applicable, and must also consider mitigation to "reasonably anticipated detrimental effects" with "any" portion of the Land Use Code. Further, the Commission failed to even consider the Conditional Use Standards including right-of-way conflicts, standards related to infrastructure, The Agreement and the limits on the development is one such "other" matter. The Commission therefore made an error in not taking into consideration the "deficiencies" in access to Lot 6 for a Recreational Lodge. Further, the Application was incomplete because it failed to identify the location and width of existing roads, Maple Dr., that applied. Therefore, the CUP should be reversed.

**Variance Request**

The Board of Adjustment may grant a variance only if the following five criteria are met. Please explain how this variance request meets the following five criteria:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.
  - a. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
  - b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.



**Variance Request (continued...)**

2. There are special circumstances attached to the property that do not generally apply to the other properties in the same zone.

a. In determining whether there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.

Please describe the special circumstances attached to the property that do not generally apply to the other properties in the same zone:

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

Variance Request (continued...)

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

5. The spirit of the land use ordinance is observed and substantial justice done.

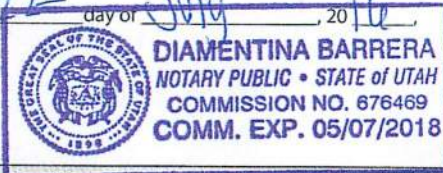
Property Owner Affidavit

I (We) BRIAN SEE (GREEN HILLS) depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Brian See  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

\* For the Board  
Subscribed and sworn to me this 22nd day of July, 2016



Diamantina Barrera  
(Notary)

Authorized Representative Affidavit

I (We) BRIAN SEE (GREEN HILLS) the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Case 5, Procket to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

Brian See  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

\* For the Board

Dated this 22nd day of July, 2016, personally appeared before me Brian See, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



Diamantina Barrera  
(Notary)



**Weber County**

Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
Voice: (801) 399-8791  
Fax: (801) 399-8862

Ogden Valley Planning Commission  
**NOTICE OF DECISION**

July 8, 2015

Timothy Charlwood  
PO Box 980400  
Park City, UT 84098

*RE: File Number: CUP 2016-11*

You are hereby notified that your conditional use permit for a recreational lodge on Lot 6 of the Sanctuary subdivision, which is in the F-40 zone, was approved by the Ogden Valley Planning Commission on July 5, 2016. Approval was based on the following conditions and findings:

Conditions:

1. The limits of disturbance shall not exceed the building pad areas, as shown in the application. In the event building activities must exceed the building pad area, a de minimis planning division review of the changes shall be conducted.
2. That quiet hours shall be observed from 10 p.m. to 7 a.m. Daytime noises related to existence or the use of the lodge that are unreasonable, obnoxious, or out of character for a quiet residential neighborhood are prohibited.
3. All exterior lighting shall be downward directional and fully shielded in a manner that obstructs the visible light source from view from adjacent properties. The intensity of outdoor lighting, including any landscape lighting, shall be minimized so as not to create unnecessary reflection on the mountain side. Exterior lighting shall be configured in a manner that has minimal visual impact when viewed from other properties. The building permit application shall include, for staff approval, the specifics of the light fixtures to be used.
4. All lighting shall be inward directed so as not to create a light trespass on adjacent properties.
5. Delivery or pickup in a 14,001 pound or greater truck (Class 4 GVWR or greater, pursuant to 49 CFR 565.15), except for package delivery service at times and in intervals typical for a normal residential use, shall be limited to one delivery or pickup per day between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. A loading and unloading area, adequately sized to accommodate the type of truck and the size of the delivery or pickup, shall be provided on the site. No loading or unloading shall be permitted offsite.
6. The applicant shall either submit an updated letter from a qualified geologist indicating that the findings of the general geologic hazards report(s) previously conducted are still valid for the specific building location, or an updated building-specific report shall be submitted with the building permit application that provides any necessary mitigation measures.
7. Storm water drainage shall comply with typical engineering standards, as approved by the County Engineering Division during building permit review.
8. CUP approval shall be subject to final review and approval by the Weber County Engineering Division during building permit review.
9. CUP approval shall be subject to final review and approval of the culinary water and waste water systems, commercial kitchen, and pool or spa (if applicable), in accordance with Health Department requirements.



Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
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10. The colors of the facility shall be limited to general muted earth tones that are found in abundance on the site such that all man-made facilities have minimal visual impact and blend with the natural state of the property.
11. There shall be sufficient parking spaces, pursuant to the Weber County parking standards of LUC §108-8, to provide for 10 onsite parking spaces. Parking provisions shall comply with ADA standards. The building permit application shall include a specific parking plan for staff verification.
12. All affected streets shall be repaired to their current state upon completion of construction, as may be necessary.
13. CUP approval shall be subject to final review and approval by the Weber County Fire Marshal during typical building permit review.
14. CUP approval is based on legal access existing via Maple Drive. In the event it is proven that this access is not legal or valid for this use, then this CUP is invalid.
15. Windows or window treatments shall be provided on all windows to significantly reduce reflectivity and glare and reduce the light intensity of internal illumination.
16. The proposal shall maintain compliance with all other local, state, and federal laws.

Findings:

1. The proposed use is a recreational use and supports other recreational uses in the Ogden Valley, which is in compliance with the Ogden Valley Recreation Element of the General Plan.
2. The proposed use complies with the Land Use Code's definition of "Recreation Lodge."
3. Given the applicant's proposal and the conditions provided herein, the proposal reasonably mitigates the anticipated detrimental effects of the use.
4. That the applicant asserts that private legal access exists from the public right-of-way to the site. CUP approval is contingent on legal access to the site.

Strict adherence to these conditions is required. Please refer to them when designing building and site plans pursuant to building permit application preparation. Please contact the Planning Division Office if – and before – compliance with the conditions becomes too challenging so we can discuss permit amendment options.

This notice is a courtesy intended to inform you of the Planning Commission's decision. Please contact our office for a copy of the official Planning Commission meeting minutes.

\*\*\*\*\*

The decision of the Planning Commission may be appealed to the Board of Adjustments by filing such appeal within 15 days after the date of this notice.

Respectfully,

Charles Ewert, AICP  
Principal Planner





Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
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3. All exterior lighting shall be downward directional and fully shielded in a manner that obstructs the visible light source from view from adjacent properties. The intensity of outdoor lighting, including any landscape lighting, shall be minimized so as not to create unnecessary reflection on the mountain side. Exterior lighting shall be configured in a manner that has minimal visual impact when viewed from other properties. The building permit application shall include, for staff approval, the specifics of the light fixtures to be used.
4. All lighting shall be inward directed so as not to create a light trespass on adjacent properties.
5. Delivery or pickup in a 14,001 pound or greater truck (Class 4 GVWR or greater, pursuant to 49 CFR 565.15), except for package delivery service at times and in intervals typical for a normal residential use, shall be limited to one delivery or pickup per day between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. A loading and unloading area, adequately sized to accommodate the type of truck and the size of the delivery or pickup, shall be provided on the site. No loading or unloading shall be permitted offsite.
6. The applicant shall either submit an updated letter from a qualified geologist indicating that the findings of the general geologic hazards report(s) previously conducted are still valid for the specific building location, or an updated building-specific report shall be submitted with the building permit application that provides any necessary mitigation measures.
7. Storm water drainage shall comply with typical engineering standards, as approved by the County Engineering Division during building permit review.
8. CUP approval shall be subject to final review and approval by the Weber County Engineering Division during building permit review.
9. CUP approval shall be subject to final review and approval of the culinary water and waste water systems, commercial kitchen, and pool or spa (if applicable), in accordance with Health Department requirements.



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11. There shall be sufficient parking spaces, pursuant to the Weber County parking standards of LUC §108-8, to provide for 10 onsite parking spaces. Parking provisions shall comply with ADA standards. The building permit application shall include a specific parking plan for staff verification.
12. All affected streets shall be repaired to their current state upon completion of construction, as may be necessary.
13. CUP approval shall be subject to final review and approval by the Weber County Fire Marshal during typical building permit review.
14. CUP approval is based on legal access existing via Maple Drive. In the event it is proven that this access is not legal or valid for this use, then this CUP is invalid.
15. Windows or window treatments shall be provided on all windows to significantly reduce reflectivity and glare and reduce the light intensity of internal illumination.
16. The proposal shall maintain compliance with all other local, state, and federal laws.

Findings:

1. The proposed use is a recreational use and supports other recreational uses in the Ogden Valley, which is in compliance with the Ogden Valley Recreation Element of the General Plan.
2. The proposed use complies with the Land Use Code's definition of "Recreation Lodge."
3. Given the applicant's proposal and the conditions provided herein, the proposal reasonably mitigates the anticipated detrimental effects of the use.
4. That the applicant asserts that private legal access exists from the public right-of-way to the site. CUP approval is contingent on legal access to the site.

Strict adherence to these conditions is required. Please refer to them when designing building and site plans pursuant to building permit application preparation. Please contact the Planning Division Office if – and before – compliance with the conditions becomes too challenging so we can discuss permit amendment options.

This notice is a courtesy intended to inform you of the Planning Commission's decision. Please contact our office for a copy of the official Planning Commission meeting minutes.

\*\*\*\*\*

The decision of the Planning Commission may be appealed to the Board of Adjustments by filing such appeal within 15 days after the date of this notice.

Respectfully,

Charles Ewert, AICP  
Principal Planner



Minutes of the Ogden Valley Planning Commission Regular meeting July 05, 2016, in the Weber County Commission Chambers, commencing at 5:00 p.m.

**Present:** Laura Warburton, Chair; Jami Taylor, John Howell, Kevin Parson, Will Haymond, Stephen Waldrip

**Absent/Excused:** Greg Graves

**Staff Present:** Rick Grover, Planning Director; Scott Mendoza, Assist Planning Director; Ronda Kippen, Principal Planner; Ben Hatfield, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary,

**\*Pledge of Allegiance**

**\*Roll Call:**

**1. Administrative Items:**

**a. New Business:**

- 1. CUP 2016-11:** Consideration and action on a request for a conditional use permit to operate a recreational lodge on Lot 6 of the Sanctuary Subdivision, located at 9686 East Maple Ridge Road, within the Forest 40 (F-40) Zones. (Tim Charwood, Applicant)

Charles Ewert said this is an application for a recreational lodge submitted Tim Charwood. The application is for a piece of property which is Lot 6 of the Sanctuary Subdivision. It is located at the top of the Sanctuary and the general location where the lodge will be placed. Lot 6 is accessed by a Private Right of Way through Greenhills that is the last Public Right of Way access that is located by the turn-around where the Private Right of Way ends. The applicant asserts that there is a judicative right of way that gives him the right to access. It is a private agreement between the Greenhill HOA and the applicant; and is nothing that the county can weigh in on for the access. Staff did consider the access and the assertion from the applicant that he does have a right of way to the property. What the applicant wants to build is a ten room lodge, with natural setting and keeps the natural vegetation in the area.

Charles Ewert said that staff did a number of different analyses and he would like to point out the highlights. In regards to the zoning analysis, they were able to find that a recreational lodge is permitted in the F-40 Zone, by conditional use permit. A conditional use permit is an administrative action by the Planning Commission; and if it's allowed as a conditional use, and the harmful impacts and detrimental effects can be mitigated, the applicant is entitled for approval. As they went through the list of code criteria listed in the staff report; such as fire control, access and circulation, parking, architectural design, lighting, deliveries, landscaping and irrigation, solid waste disposal, water source, waste water, source protection, flood plain, signage, geology, and noise. As they did their evaluation, they added a number of conditions of approval to this application in order to help mitigate the concerns that staff had in regards to potential detrimental effects and those conditions of approval are listed in the staff report.

Commissioner Parson asked when was that photo taken that is on the ridge. In that site acclamation do they have that right (Storm Water Pollution Prevention Plan) SWPPP; and is some of material from that area used to build anything, or had they thought about where this was going? Mr. Ewert replied that he didn't know the history regarding what is currently been flattened out in this area; to his understanding that was done during the subdivision improvement, which they would have required to have a swift done at that time. When they get a building permit, they are required to pull a SWPPP Permit to define the limit of disturbance and identify where the storm water pollution is going to be located. Currently there is not one there and has been in the same condition for awhile; and he has been trying to work at getting something approved.

Commissioner Parson asked what the estimated square footage of the facility was. Mr. Ewert replied that they didn't have the specific schematic for the building at this time. It can be up to 16 room but they are only asking for 10 rooms.

Commissioner Waldrip said that 7,500 sq. ft. was what was proposed. Mr. Ewert replied if they will notice on this subdivision plat there is a 7,500 sq. ft. building pad, and he is proposing to put the facility completely inside of the building pad. There is a height requirement of 35 feet and he has not asked for any modification to that height requirement. This is a proposal of this facility and it is not anticipated that it will be more than a single story.

Commissioner Waldrip asked when you say single story about a main level residence below grade that would be that it includes parking. Mr. Ewert replied below grade so single story would be from ground level up and there may be additional spacing.

Commissioner Howell asked if this would be the area where the helicopter will land. Mr. Ewert replied that there is a helicopter pad that is on the same lot be just a little bit below. This area is the 7,500 sq. ft. black rectangle and the blue area would be where the helipad is located.

In response to Commissioner Howell's question; Mr. Ewert said they have not received any complaints from the zoning office and neither has Mr. Charlwood. They saw the aerial three dimensional imagery of the mountainside; and what he is doing is flying high on the mountainside, and coming down and landing. So he is staying away from those roof tops of that subdivision.

Commissioner Taylor asked on Page 3, it states, *"The Planning Commission may desire to limit the size and frequency of the delivery of vehicles."* A couple of pages later on #4, he gave a specific recommendation, *"Delivery or pickup in a 14,001 pound or greater truck, except for packaged deliveries to visit times and intervals typical for a normal residentially used, shall be limited to one delivery, or pickup per day between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday."* Just wondered where he got that information. Mr. Ewert replied that 14,001 is a class for gross vehicle weight under Federal Highway Administration. So they set the rating on trucks and they actually use this standard in the home office occupation code which is a very simple standard to come back to because in essence Mr. Charlwood is trying not to create something that acts or behaves anything different than residence. They are being more restrictive in this than what they did in the home occupation code.

Commissioner Taylor asked in regards to the water source on Page 4, it states, *"The culinary water will be provided via a well, and Health Department has provided feasibility for it, but the Planning Commission should consider conditioning their approval on the demonstration of adequate water rights, water yield, and water quality as administered by the Health Department."* She could not find more information and if he could elaborate. Mr. Ewert replied that this is one of the typical parts of the process in getting a building permit. He has to prove that they have water, the water has to be of a particular quality and the Health Department governs that. What they are doing is putting in a condition, in the conditional use in order to say that they have to be good with the Health Department, to be a legitimate conditional use permit as listed in the conditions of approval in item number 8.

Commissioner Howell asked who their water company was. Mr. Ewert replied that it was a private well.

Commissioner Taylor asked if the Health Department determined the water right. Mr. Ewert replied that is correct and they wouldn't give well approval without adequate demonstration of water rights, water quantity, and water quality before they give well signoff.

Commissioner Waldrip asked if he could talk about the source protection issue. Mr. Ewert replied in Weber County they have adopted source protection zones. These are not technically zones in the traditional zoning standards; it's an application of more strict standards similar to natural hazards zone. In these zones this particular project is in the Zone 2; and in Zone 2 the traditional leech build is allowed to exist because it's uphill with a catch basin for well that is downstream. What the Health Department said that a packed-bed medium system which has pretreatment and produces significant cleaner water discharge than a typical septic system does and is adequate for a Zone 2.

Commissioner Parson said that it wasn't listed but they will require approval from the Fire Department. Mr. Ewert replied said he failed to mention in the analysis he mentioned that there is a very specific fire review and in the exhibits he improved the fire review but he failed to include a condition related to final fire review and approval being that building permit in the conditions of approval. He would recommend adding that in per their provision.

Commissioner Waldrip said from staff's prospective, what concerns does staff have regarding the conditions of approval that would create a more palatable use of this type in this area. He understood having gone through the staff report; what issues does staff have that they should consider here to make sure they fully examine those specific issues. Mr. Ewert replied as far as this particular use, he hit all of the points in the staff report. It may be a benefit for the Planning Commission to think about and not a part of the decision for this; but think about whether or not this

particular use of recreational lodge is appropriate in that particular area or an areas like this. They have the F-40 Zone; with 40 acres up there and is that the right place for recreational lodges.

Chair Warburton said clarification in the simplest terms possible; can he explain what is a conditional use permit, and what control does this planning commission have. Mr. Ewert replied a conditional use permit is the same thing as a permitted use permit; it's just one that they can add conditions to it. It's a type of use that is allowed in a zone; it's a land use right to all users of that zone, provided that they can mitigate certain detrimental effects. Those detrimental effects have to be specified by standards in the ordinance. These are identified in the staff report, and as long as these items are identified as standards, can be addressed well, and the detrimental effects can be mitigated, there is not a lot of discretion to deny the conditional use permit.

Chair Warburton asked what happens if this Planning Commission says no. Mr. Ewert replied the applicant has the right to appeal. Quite frankly if they say no without legitimate findings, as to why detrimental effects cannot be mitigated, that has to be backed up by science, then the applicant has a very good case, and legal counsel could address that.

Commissioner Taylor said she needed clarification beginning on Page 2, regarding access and circulation. This states, "The site is accessed through the Green Hills Subdivision." and "The applicant asserts that an adjudicated right-of-way exists with an access agreement, between the Green Hills HOA and himself." Can he explain how this agreement is a private agreement and if they could take that into account? Mr. Ewert replied that the applicant is going to try and get the county to make an assertion on that, and they don't have a stake in that agreement. So they shouldn't make a comment on the legality of the access and the same goes for the HOA. That is for the HOA, for the applicant, and ultimately the attorney's to figure that out.

Commissioner Haymond asked how does this equate in density, is it one point? Mr. Ewert replied that the ordinance is not as clear, and he would say yes this is one point. The ordinance doesn't define a recreational lodge any differently than it defines an equivalent residential unit so they would say it is the same thing. Through the general planning process, they talked about the possibility of treating uses a little bit differently, and maybe recreational lodge could count as two points in the future. Currently one recreational lodge on a property that has 10 rooms and is essentially a very large residential facility is how they would count as density points.

Chair Warburton said that what is not so often understood; the ordinances that they are looking at in order to approve, disapprove, or regulate any land use, those are law and they are under strict rule to observe the law. However, they just finished with the General Plan and that is creating law. The Planning Commission is not the only ones that have a say in the law; and she would encourage for everyone to get involved in the process.

Commissioner Waldrip said on the geology that was one of the issues that was mentioned specifically. There were two geological studies and an additional report is forthcoming. What would be the standard for that report, or what would need to be shown in the report for staff to require further review of the geologic report? Mr. Ewert replied the Geologist has a very specific profession; and what they would be looking for is the project geologist, to write a letter of report that states that this site is safe to build on. That's the standard of review that they defer to the private market. If that report does give them reason for alarm, they would read the report to check the findings, and then the engineers has the discretions to check and address any concerns. In this particular case there was a 2007 Geologic Hazard Report, and in 2010 there was an update to that. He was comfortable knowing that it was in a known study area for geologists to review where the footings and foundations and find the same findings.

Courtlan Erickson, Legal Counsel asked it may be worth discussing with the previous question about the access. Particularly where there may be legal questions surround that; if at some point where the county would have to take a look and decide whether the county is comfortable with the owner's access and legal right. Did it already happen and could it happen in the future. Mr. Ewert replied in platting the Sanctuary Subdivision, they had already looked at the access. It is an approved access and if they look at the comments from the Fire Chief in regards to the access; any new accesses being cut in can't be any greater than 10%, but he is comfortable grandfathering in whatever the old access standard was. The standard review for the existing access to the site; they already applied it when the subdivision was installed for both Greenhill and Sanctuary.

Courtlan Erickson said in other words from here on; they would not take a look whether the county thinks the owner has a legal right to get up to the property, through an easement or right of way. Mr. Ewert replied that is correct they are relying on the owner's assertion that they have a legal right to get to the property. That is actually one of the findings that the owner has asserted that there is a legal right. If they find out that there is not one; this permit would be held as invalid.

Timothy Charlwood, who resides in Park City, and owns the Sanctuary, said that the vision of all this was that the home they seen is the original home that was put out there. He has had a lot of experience particularly in Europe where they have had home and they have a shed in the middle and it's a shared home. It is the same rules that he has applied here where they have sort of expanded it, and they are trying to create something that would support the Sanctuary. To understand the Sanctuary; he has put 89% of the land into a land trust. He has created trails; he has created equestrian areas, and spent fortune in trying to create what is the most beautiful recreational ranch out there. To help to sustain cabins that they needed to put down there; where it is a pretty big elemental risk in building, and doing things out there. He believes that the lodge will help to sustain the whole ambiance, feeding, and the service that they need to keep in it in there. To also encourage people to come in and stay and share what they have done.

Timothy Charlwood said that this is very high quality and probably not the same standards in the area and they are trying to raise the bar in quality and spoil people for what they have up there with the stunning views, fantastic trails, and just enjoy the environment. His objective is to keep simple and keep it low key; and trying to keep the balance so they don't overdo the environment and just make it a happy place to stay. There are a couple of issues; one being the geology that has been updated and no changes. The other issue being water rights; and he over a year and a half getting with the Division of Water Right, over this tax base mound system. It has been signed off as totally none contaminant. It was a very big issue, very expensive, and making sure everything is green. They are making sure to apply geo thermal to the building and making something that is sustainable and self contained. By putting the trust into the control of the land it can never be messed up and the integrity of what he has up there will be sustained forever under that agreement.

Commissioner Parson asked how many acres is in that trust. Mr. Charlwood replied that he has 527 in total, and 466 acres in the Ogden Valley Land Trust. The agreements that enforced in the Sanctuary in that everybody shares it; it is open space to be shared, there are no fences, and the habitant remains as it should be.

Commissioner Parson said he has built a lot of things; but his point is just in concrete, that is 416 cubic yards of concrete, so that is 46 trucks that each hauls 9 cubic yards of concrete. They just repaved the 3-way Stop Sign in Liberty; and the reason they worked on that road was because of the trucks from Pine Ridge, that haul rock in the heat of the summer, and they push that asphalt. So his question is what does he plan to do to remediate the damage that he is building up there, what is he going to do with the roads. Mr. Charlwood replied there is an agreement that is very clear and specified. There is insurance for any building that goes up in the subdivision. There have been six new buildings in the last couple of years that have gone off the subdivision envelope, so the roads are that each owner that causes any damage has to put it right. The roads are in disrepair but they are looking at renewing them and there is a bond in there. When they did this subdivision; they went back repaired any damages that was done, it has been monitored, recorded, and that is part of taking responsibility as it should be.

Commissioner Waldrip said they need to talk about the flight path that he had indicated over 100 helicopter flights in and out of that helipad. Mr. Charlwood replied when he talks about the pilots coming in through the back; they come at high speeds from behind at 9,000 feet. It's root from behind and they go over the bluff in the back and then out. There are two ways to come in but they absolutely avoid Greenhills per his instruction.

Commissioner Waldrip asked if that was something that could be written into a contractual form with the County or with the HOA and if he felt comfortable entering into an agreement that this is the flight path. Mr. Charlwood replied that if there were complaints then it would be justified but he had not received any. He would be happy to.

Chalr Warburton said that is not before us; however, a conditional use can be revoked if they break the standards, to in and make more noise. This commission can revoke a conditional use permit.

Open for Public Comment.



David Cram, 8916 Pineview Drive, Member of Greenhills HOA, said he would like to present the commission with a current petition with 84 signatures with members and homeowners that are opposing the conditional use permit. He also has some questions and concerns; that the permit request does meet requirements and does not benefit the majority of the citizens and taxpayers of Weber County. Nor take into consideration of the following; all requirements 2016 Ogden Valley General Plan, the Greenhills Water and Sewer District drinking water, and the well head protection plan for the Maple Canyon Well approved by the State of Utah. The county approved Sanctuary Subdivision requirements for constructing only 13 residential sites on F-40 Lots within the subdivision. The 2003 Second Judicial District Court for Weber County Judgment, known as the NAS Agreement between Greenhills HOA and former Sanctuary landowners. That judgment states, "The development of NAS property, including future owners of the property, shall be consistent with the uses and density permitted by the Weber County Ordinances, for the zoning presently applies to the property on the date this document was executed," which was in 2003 in the Forest Residential (FR-40) Zone. NAS agrees that no more than 13 single family dwellings shall be built on the NAS property; and agrees not to apply for any zoning change that would allow for a higher density than one unit per 40 acres, that is allowed by the current FR-40 Zone. The adequate water and sewer facilities may not exist or are limited to provide the necessary water for fire protection and dwelling operation within the Sanctuary Subdivision. A 10-16 room recreational lodge is not a single family dwelling. It is a commercial business operation not permitted by the county approved requirements with the Sanctuary Subdivision; nor the NAS Agreement Judgment between Greenhill's HOA and Mr. Charwood, who is the current owner of the property. The existing Helipad and operation facility are also no real threat to the surrounding sensitive water sheds that drains directly into Maple Creek and aquifers below; the Sensitive Land including DWR Protective Wildlife Land Preserves. With the petition presented with overwhelming opposition from the majority of Greenhills HOA residents and taxpayers; he proposed that this conditional use permit be tabled.

Commissioner Waldrip said the issue that he sees it that Mr. Cram has a NAS Agreement that he read through and he understands the issues that surround that. The challenge that they have as a Planning Commission is that they cannot consider that and they are legally barred. Mr. Cram asked how a Second District Court could make a judgment that can't be recognized. Mr. Erickson, County Attorney replied it was a private agreement with the parties of the Greenhills HOA officers and the property owners at that time; was recognized by the court a resolution to a lawsuit that was going on at that time. It was not anything that bound the county; the county was not a party to that lawsuit. The remedy there would be that if anybody was a party to that agreement, felt that there was a violation of that agreement that would be potentially cause for a private lawsuit now. He agreed with Commissioner Waldrip, and that would not be something the county would rely on for not taking action.

Commissioner Parson said that was approved in the F-40 single family dwellings. What else was approved in the F-40 if he would have applied for back then is the same thing that he is applying for right now. That is why is it so frustrating that they to put conditions on it, but it is a conditional use up to 16. They have something that could be a hotel in the F-40, it can be but it has to be conditionally in there. It wasn't in the original zone because it wasn't an idea back then and he was just trying to explain the reality of the F-40 Zone.

David Cram said that he knew that that applicant worked hard to try and sell lots, and it doesn't seem he has sold any lots. He doesn't think that they should be giving him anymore things that are outside of fairness. Chair Warburton replied he has property, the county has already said outside of his property they are not going to do spot zoning. They are not rezoning and this petition saying that it is a rezone is not a rezone. Mr. Charwood has walked the line and does exactly what he is supposed to do, apply like he is required to do, have met all the requirements of what is required to do, and he is within the law. If the commission did what he is asking, they would be outside the law. The 2016 General Plan has not been adopted yet so it's not law.

Commissioner Waldrip said the recourse in this action is to enforce the HOA which was a party to this settlement that is outside of this process completely. This commission is legally barred from considering that settlement in this application and they are not allowed to. That is the struggle that this commission has because they can read it, understand it, and see it; but by law they are prohibited from considering it as they make a finding on this particular issue. Mr. Erickson said that he would recommend making it clear that this Planning Commission are not stating or implying that they believe that there is any violation of the private agreement. Commissioner Waldrip replied they have no idea; there may be an issue there that the HOA wants to pursue, but that's beyond their scope of their ability to review or advocate for or against.

Commissioner Taylor asked Mr. Cram to elaborate more on Zone 2 Protection for the Maple Canyon Well. Mr. Cram replied that was a protection plan that Greenhills Water and Sewer District applied for.

Ron Gleason, 252 N 8750 E in Huntsville, said that in previous times he has addressed this commission regarding the Sanctuary. He was a resident of Greenhills and also member of the Greenhills Water and Sewer Improvement District. As of May 2014 he no longer resides in Greenhills nor is he a member of Greenhills Water and Sewer Improvement District and just representing himself. For complete disclosure when he was a member of the water district; he did oversee a project for Mr. Charlwood that involved moving some waterlines. That was a project that was done correctly, on time, and was done professionally; and both parties worked well and still working fine. There was mention of the 200 foot buffer between the helipad and the structure is going to be valid; and the 90,000 gallon water tank which would be needed for fire and other activities there. There is no indication on the site plan where that particular structure will be. Personally he would like to know where it will be located, how is it going to be put there, and how is it going to be shielded. Is that tank going to be used for other lots for firefighting purposes or is it just for this specific lodge. As for the waste water system that he is not familiar with; he is glad that Mr. Charlwood would go that route, but it's not shown on site map where it is located and may be used for other lots. As a resident he is very interested where this is physically going to be and how different entities and buildings are going to connect. That particular well that is mentioned has through put of 20 foot of 20 gallons per minute. This was done after pump was put in of 1-1/2 horsepower pump that of approximately 140 feet below the surface. There some checks and balances that they should put in place; he would encourage this Planning Commissioner to go to the state. See if this one acre foot enough for a facility of this size, through put the number of people, and is a well which is currently producing 20 feet per minute to fill a 90,000 gallon tank, and that's about 75 hours pure pumping without any withdrawn adequate to fill the tank and deal with the activities that are being proposed for this facility. Ask the applicant to submit a lighting plan with the number of lumens, the amount of light being used, and reduce the glare with the number and type of windows that he will use.

Commissioner Waldrip said mentioned about the ridgeline sensitivity that was in his report. Mr. Gleason replied that Mr. Ewert called out the fact that what appeared to be on the ridgeline is not, and the closest view corridors are within two miles. But this is beyond the Sensitive Land Ordinance, this is the structure at the highest land elevation, and he would ask that this commission ask the applicant to do any and everything to reduce the light footprint and the glare that will potentially occur based on the materials he will be using.

Zane Froerer, Representing Greenhills HOA, said his clients concern has to do with one thing and that's access. He is going to take some issues with the conclusion that have been drawn. He believed that this board's job is to look at whether or not the agreement provides access. He is going through the staff report to demonstrate this:

- **Summary and Background:**

- Standards relating to infrastructure, amenities, and services, including public infrastructure and utility capacity: One of the considerations is there adequate infrastructure to support and conditional use permit for a Lodge. Inevitably that staff recognized one of those issues that had to be addressed was access and circulation. Under the county code in addressing circulation, specifically when reviewing a conditional use permit is often required that the commission consider that additional points of egress and ingress are required. That directs them to how is access being made and staff concludes the site is access to the Greenhills Subdivision along Maple Drive. That is a conclusion that is drawn from one of two sources which ultimately becomes one source. The first is that is what the agreement states; the agreement states that there is access through the Greenhill Subdivision. The second one is that the applicant has asserted this. The applicant's assertion is based one thing, his interpretation of the agreement.
- What staff has done in making the recommendation, rather than avoid drawing an opinion, they have done the exact same thing that the County Attorney, the Planning Commission, and staff have drawn an opinion about what the agreement means. If they want to stay true to not drawing an opinion on what the agreement says; they cannot draw the conclusion that the site is through Greenhills Subdivision. They have to rely upon the agreement and an interpretation of the agreement. If staff and the commission are going to get into what does the agreement mean; by concluding that the agreement gives them access, the staff and the commission better review the agreement. They better take the position on whether the agreement allows access.

- After concluding that the agreement grants access because that's what this says that there is access through Greenhills. Staff says not to consider the agreement. If they are not going to take a position on the agreement, they cannot conclude that they have access. So the commission cannot draw any conclusion with respect to whether there is adequate ingress or egress for this building.
- What the commission is reviewing right now is very narrow. There will be applications for building permits and land use permits; and all of that is going to happen. What he is trying to focus on right now are the mitigation issues. If they are going to the job of looking at how to mitigate things as per county code; they have to look at the scope of the agreement, and say does this agreement allow for the access that is necessary for a Recreational Lodge.
- In their report, the staff does ask this commission to consider what one private agreement would say. That is respect to water rights. They make the approval of the conditional use permit on determining whether or not Sanctuary has water rights. Water Rights are done through private agreement; what happens they get water rights, they buy it, they share it, and apply for an agreement. It is also done through the State Engineer Office. If they are applying through the State Engineer Office, then they can get water rights there. If they are buying water shares, and they are going to do an exchange, those are private agreements that define the scope of water shares and water rights.

• **Staff Recommendation:**

- Findings: Rather than put this in recommendations, they put this in findings, and he thinks that this belongs in recommendations. 4. That the applicant asserts the private legal access exists from the public right-of-way to the site. Approval is contingent on legal access to the site.
- He believes that if the commission is going to give approval; it should be conditioned or revocable that at some point, the applicant has to show that he has legal access to this lodge. The scope of that legal access is adequate and fits the lodge.
- An example as to why this is important. Asserting that there is access, an agreement that there is access, without reviewing the scope of that agreement. Consider if it was horse access, the only access is by horse, it's a horse trail. If that's the access they are talking about, they are only going to know what that scope is if they review the agreement. Or if they ask the applicant to come back; demonstrate to them that this is an actual legal driving access.
- They don't have a horse access here; they have whatever the agreement says. It's a court document, a settlement between the parties.
- The commission at this point may not have to entertain defining what it says. What they should do, is ask the applicant to do more than assert that he has access. He needs to demonstrate as staff has recommended; demonstrate as he does with water rights, that he does have legal access that can be used for a 10 to 16 room Recreational Lodge.

That is the narrow point that his client would like to have addressed today, if it's going to be approved, approve it subject to there being a demonstration that access is legitimate, beyond the assertion that was done. It has been indicated by several parties on both sides of the issue; that the parties will ultimately work out what that access means between each other. If the commission is going to take the position that there is access, they are implying they read the agreement, and they are interpreting the agreement. He cautions this commission on taking any position at this time if they are going to hold to the principal that they can't consider it at all.

Commissioner Howell said that the applicant has verified that he does have legal access and can prove it. Zane Froerer replied he is wrong; he has access for a single family dwelling. In their own ordinance, a single family dwelling is a single unit for a residential purpose. What he is asking for is a 10 to 16 room lodge. In the agreement says that his development is limited to 13 single family residents. If he goes ahead and builds this and the Home Owners Association is forced to file a lawsuit seeking injunction; they are going to put gates up and they are not going to have access. There will be no fire trucks, no emergency access, it's cut off and done. Now that may never happen, but just because he comes here and says that he has access, this commission is not going to take him at his word. All that they want is for the applicant to verify that he has the access that he testified here. He doesn't represent everybody from Greenhills, he represents the association. The position that his client is taking may be different; his client understand that the applicant has rights. What they are asking is in considering how to change as they exist now. As they exist now, the applicant has a plat for 13 single residences, and he is asking this commission to change that.

Commissioner Parson said no, he is not, it is a condition. It is what is legally within his right to do on an F-40 piece of property. Mr. Froerer replied if he already has that right, why are they here. It is a right if he can obtain if he meets the condition. He is not going to disagree with that as long as he can meet the condition. What he is asking for is within his right, as long as he meets the conditions. The conditions that they are asking is to verify that if he is going to put this large lodge up there; that he will be able to get the access that he says he has. They are not saying to stop it, that maybe for another day, and he understand this commission's job is what it is. They are just asking to work with them.

Commissioner Waldrip said one of the recommendations and findings and this instance how they and lack of leeway making a recommendation versus a finding and putting the burden back on county staff that these conditions are met. Legal the conditions need to be tied and ordinance and there are different stages the stage the CUP need to take the ordinance, the standards, what conditions you want to put there. That it would be appropriate conditions of approval that states access affects those standards, and opposed conditional approval.

Commissioner Waldrip asked legal counsel that one of the assertions that Mr. Froerer has raised is the difference between recommendations and findings in the staff report; which in this instance becomes a critical distinction. Can he talk about what their lack of leeway is, in making a recommendation versus a finding on whether or not the applicant has access in that burden back on county staff to verify that these conditions are met. Mr. Erickson replied that the distinction that he is asking about is between a condition and a finding. So the conditions in this type of situation need to be tied to the standards in the ordinances. As has been discussed, there are different stages of the whole property development process, and the stage that they are right now, is the conditional use permit. They need to look at the ordinances, take a look at what the standards are, take a look at what conditions need to be mitigated, and what conditions they want to put in there. Anything in there that relates to access, and he agrees with Mr. Froerer that it would be appropriate to put a condition on the approval of this application. That states to the extent that access affects any of those standards that are in the ordinance that needs to be established. As opposed to a finding, it would be appropriate to make it a condition of approval.

Zane Froerer said really all that they are asking. When he saw that there was a finding and not a recommendation; he thought people in the neighborhood that he represents may not like a lot of things about this. His focus was what things they could ask this commission to verify, prove, and digest to make sure that the process is moving forward in an orderly form. Commissioner Waldrip said that one of those conditions will allow them to do is revoke a conditional use permit should those conditions fail to be met in the future.

Toni Ure, 838 N Maple Drive, said when they asked the question about the construction truck going up and fixing the road, she wasn't clear on the answer that was provided. She didn't understand whether he was talking about the road damage to his property or all the way through Greenhill. Chair Warburton replied all the way through Greenhill. He made a verbal commitment; stated that in past experiences where he has spoken with the chair of the HOA, and has already demonstrated that he has done this, and has every intention to do this. Toni Ure asked if they could put that as a condition. Chair Warburton replied no, the HOA has a document on file, and it's an HOA issue, and if he doesn't do that it becomes a civil matter and then she could contact Mr. Froerer.

Toni Ure said that Mr. Charwood had mentioned that he was creating this space and that would be access. They haven't been granted access to go through a public grounds or anything like that, over to Middle Fork, or anything through the Sanctuary. She asked if they could clarify that and if that was a condition that they are allowed access to the public. She understands the no hunting, but the hiking, riding a horse up there, no motorized vehicles, and that kind of thing. Chair Warburton replied that is still private property and any access that he grants them he does it out of the kindness of his heart.

Commissioner Waldrip said that he didn't believe that was something that they could impose as a condition. Chair Warburton said that if this was a PRUD or some other type of application, they would have more control of that, but they don't and they can't make it as a condition.

Courtlan Erickson said that under the conditional use standards; there are standards relating to infrastructure amenities and services, including mitigate material degradation of the level of service of any street, and to potentially mitigate any damage to a road. Commissioner Waldrip asked is the road that is defined a public road or a private



right-of-way. Mr. Erickson replied it states any street. Chair Warburton said that they have established that they can add that in there and make sure that it is done.

Toni Ure said that the reason she brought that up was because his access is private deal with them. Commissioner Parson replied that he would assume because it is in the Ogden Valley Land Trust that is how it was recorded in that.

Teri Allen, 1211 North Maple, said that until recently that was the last house on the left before just below the Sanctuary. When they talked about the water, and the leech fields, and the placement of the wells; he was wondering the exact location of his well. Is his well going to be in a higher elevation than his leech field? He would be interested to know the elevations and the plot plan of where this is going to go. As they all know water is going to flow downhill and even sub-terrain annually. He is concern about the Maple Well that has been referenced that is between his house and the Sanctuary. Commissioner Parson made reference to the number of trucks, number of cubic feet with cement, and things like that. He didn't know if that was possible, and he understood when he talked about private land and the subdivisions egress and ingress. Any entrance to the Sanctuary has to go down 9000 East which is a county road part way to the entrance of Greenhills. When they talk about access to the Sanctuary; it's about a 1/3 of the mile off of 39 before the Home Owners Association takes over the Greenhills. He would like to see in the conditional use permit that monitors and measures because the county will require that road to be fixed if there has been any damaged. It would be a nice reference point that the subdivision take in this also. In reference to a comment about access to the Sanctuary; he rode his horse up there two weeks ago, the entrances are blocked off. He thinks everything needs to be above board with what they are looking at, and he claims that they have access and they don't, so what else is he telling this commission and not be true. Chair Warburton replied that whether he gives access or not, does not have any bearing on whether they approve this conditional use.

Commlssioner Howell said that he asked about the well and where it is located, the state makes that recommendation and the health department determines where the well is being placed.

Miranda Menzies, 3807 N Elkridge Trail, Eden said that she supports Ron Gleason's comments about light. The two things that will affect the whole valley are light and noise. Request that the commission consider putting restrictions in terms of the conditional use process; on night lighting and even though they have that downward facing light, that doesn't necessarily work if the rest of the valley is below. She would request that the lights be directed downwards towards the property, that the conditions be established with the number of lumens crossing the property line at the boundaries of the lot so that the light stays contained inwards on the property towards the facility. There is a lot of wildlife out there and the adverse lighting affects the wildlife; that there is a condition in place that when the facility is not in use that the lights be turned off be placed on security motion sensor. In general the lights are off from 11:30 p.m. to dawn so they don't have the situation of a beacon shining out throughout the whole valley. On the noise, she would request that there be some of barrier to noise, and glass is not always a barrier to sound, so be very considerate of neighbors and the valley as a whole. If there is a loud part out there, the noise will travel out across the valley and the whole thing rings like a bell. If they could request quiet times and the windows be closed in the event of night time party.

#### Closed for Public Comments

Tim Charlwood said the one consideration under the recreational use, they have been through the whole process with the helicopter permit, it was granted for access for ten flights a day, ten operations a day, access of vehicles have all been approved, and there have been never been any complaints. In its own way it creates a precedence of proof of access that have been in place for years; aside of the mass agreement they have supplemented it with actual recreational use. Under this agreement it's very clear that they will not oppose any development under the F-40 Zone for use or density and it says no more than 13 dwellings. They are just complying with what was written in that agreement which they willingly signed back in 2004. Ron Gleason mentioned about water tank and they be putting this tank underground, and it will be into the underground carport, and will not be visible at all, and that is part of the Fire Chief's requirement and they will comply with him. There was mention about the 20 gallons per minute but a single family home is actually committed to 1-1/2 gallons per minute and well sources have way more than that, so they do have plenty of water there from the well permits. They don't have any issues over the lighting; he didn't believe they could be seen from Greenhills at all. Because of the ridgeline they have an 800 foot rock face behind them; he is only doing one floor above ground, so it's not a high rise and it's meant to be tasteful. The nearest line of

site would be from the Pineview Reservoir and not from anybody within the residential areas. As for the noise, they are 9-1/2 miles from the nearest people. There has talk about access and he has created a trail between Greenhills and Sanctuary which is a 5-1/2 mile non-motorized trail that he built for everyone to use. That is the common access and he has allowed some people, and he has an understanding that if they ask, and are polite that he would give them permission. He has had major issues with people causing damage that he has had to call the police and that is what he has had to deal with that. Greenhills are illegally having nightly rentals that this has become a big issue; this has caused a lot of conflict, has been very hostile, and he has been quiet about and has put up with it. There was question about the septic systems; the Wisconsin Pack Bed Medium Mound System is actually a circus bound that's how it all works. It actually ends up through UV and comes out virtually purified water. That is why the Division of Water Rights says that it resists contamination; and they even allow that to be 50 feet from a well, and the septic mound is on the surface and that's part of the health department.

Commissioner Parson said there was one question that he didn't address, and that was the helicopter landing below the structure and the sound echo effect. Mr Charlwood replied it's a mile and a half down to the nearest properties that is outside of their property. The topography is that they have hills and covers that they can't hear a helicopter. They might be able to hear in a gap when it's going up and it's not a big deal, they only do it one or two times a day, and they plan on three days a week and that's in the winter.

Commissioner Waldrip asked where they have an existing conditional use approved for a helicopters where this could potentially cause a change in condition; and it seems that Mr. Charlwood would consider that if there is a change in the condition to review that and make modification if necessary; and if the construction of a building affects that sound activity where it does become an issue. Is that something they can consider with this application on an impact on a previous approved use? Mr. Erickson replied that would depend upon the language of the previous conditional use permit that was granted, but certainly if there is something that is a change to the circumstance, and impacts the previous conditional use permit they could take a look at it. Or they could in #2, where it talks about daytime uses related to the lodge, they could potentially change that or clarify make a condition that could lead to the review of the helicopter noise reflecting off the lodge, and he would recommend that be more specific because related to the lodge may be interrupted not related to the helicopter.

Chair Warburton said that Ms. Menzies had talked about the glooming lanterns and can they turn off the lights at night. If they have the sound down at 10:00 p.m. could they turn off the lights? Mr. Charlwood replied that he thinks that in the architects designing of a building like this, have been dealing with homes in Park City, and they are very sensitive to issues like that. He agrees that they don't want to be a lighthouse.

Commissioner Warburton asked If they have special windows and special window coverings that would mitigate that. Even if he doesn't have coverings on the windows, there are films that go on the windows that would mitigate light. Mr. Charlwood replied that these windows have triple glaze now with UV filters inside really to stop the light getting in and making it hot and keeping the ambience just right.

Commissioner Waldrip said the issue that Ms. Menzies was talking about In the night time conditions when people are driving in when the lodge is visible from other areas of the valley; that is when the lighthouse effects comes into play, and it's really nice to be able to look out at night, but that doesn't happen when they have lights on. Is there some condition where he could put in interior window coverings when they do have their lights at night because they are going to have to be on at night? Mr. Charlwood replied they are going to be automatic; there will be internal blinds that are in the plan as part of the design. As for the traffic being able to see, he is surrounded by large trees, and to have underground parking which they are planning on that and he is sensitive to what they are talking about.

Commissioner Waldrip asked for clarification on the ridgeline sensitive lands overlay zone and how this impacts that particular zone; because staff have looked at it and noted in his staff report. Could staff explain specifically how that ordinance is currently written and how that is to be interpreted in this circumstance? Mr. Ewert replied that the ordinance goes with the map; what was done in the past when the ordinance was created, it was determined that there needed to be a buffer along scenic view corridors near the roadways. There are civic roadways that surround the lake and run through the valley. If they could view the ridge from that view corridor, that is protected the ridge and they could not build on it. They have to build a certain distance from it and do something different with the pitch

of their facility so it's not visible. This particular property the closest scenic corridor that could be seen from the property where the house is going to be built is about three miles away so it is outside of that corridor.

Commissioner Taylor said in reference to what Mr. Froerer addressed that they approve this CUP subject to a demonstration that the agreement is verified upon the findings. Mr. Ewert replied that he didn't have any confirmation to what Mr. Froerer had mentioned; in the staff report it was intended to say the proposed access. On making a determination of whether or not that access exists and is legal. It's clear from the applicant's position and from the HOA's position; that there may be conflicts there. He still thinks that they don't want to make a final determination unless they are the source, and they don't want to be involved in a lawsuit. To convert that to a condition of approval; what they would say that provided that legal access does exist, he has a conditional use permit and they could go figure out whether or not legal access exists. If it turns out that he doesn't have access through judication or some other issue where it have been determined that it doesn't exist, then the CUP is invalid.

Chair Warburton asked if that was their responsibility that it does exist. Mr. Ewert replied they do have a responsibility that verified that there is a safe legal access to a property and they have done their part of the responsibility.

In response to Commissioner Howell's question, Mr. Ewert said yes, and he thought putting into a finding would be sufficient because of changes in the existing conditions that exists in the future it could make the approval invalid and is definitely stronger as a conditional use. That's the confusion and contention here; he has provided the judication document that says that he has access. The counter position is that it doesn't actually say that he has access; and what staff is saying is that we are not going to make an opinion. They can figure that out and provided that he has access, he can have the CUP.

Commissioner Waldrip said that aren't they taking the position that access does exist at this point or the opinion of staff is that access does exist at this point. Mr. Ewert replied that idea is rooted in the sub-division that they are by approving a permit, overruling or overriding other agreements, and they are not. Access is being provided by the applicant to the site, and staff is just taking it at his word without taking a position on whether or not.

Chair Warburton said if they approve it with the current language in the report, would that give him any legal standing. Mr. Erickson replied in the event there was a lawsuit or some other dispute between the parties. He did not believe that the decision here based on a determination for their purposes was sufficient here would have a bearing there. He would defer to the parties; if they have a concern with the Planning Commission taking any action in that regard.

In response to Commissioner Howell's question; Mr Erickson replied that his understanding is that the subdivision, approval that already there was some kind of finding at that point there was access. Mr. Ewert replied that was his understanding as well.

Chair Warburton asked if he doesn't have access, how does he drive up to his property. Mr. Ewert replied that he has legal access for a residential building. Chair Warburton said or whatever is approved on that; and that is the whole issue what that finding says.

Courtland Erickson said so at this point they are looking at a conditional use permit and if there are any conditions there; for instance the safety issue, the fire access issue, they take a look and see if there is any concern there. They have some evidence that there is access, and staff has made the determination that there is access sufficient for the conditional use permit. If it turns out in the future that it is not true; because of litigation or some other evidence that is brought to staff or the Planning Commission, then they can take a look and determine whether or not the conditional use permit is still valid. He has to agree that there was a determination that there was some type of access.

Commissioner Howell said when they approved the conditional use permit, access was not the problem, it was the operation of the helicopter and the level of the noise.

Commissioner Waldrip said it seemed to him that in accepting this application; that they are making a presumption that access for this type of use currently exists. Is that presumption reasonable; what is the county standard for that determination. Have they met that standard, does that need to be a condition that they impose that staff meets that level or that standard of review so that they don't get held responsible down the road for one way or the other? They have accepted in their staff report, that presumption has been met for this particular use which is the point of contention here. They are not talking about the use that was granted in the previous petition or the previous subdivision approval. They are making an assumption that this particular use is acceptable for this particular access. What is that standard that staff and/or commission needs meet and have they met that standard or is it more appropriate to state that standard; or state that there is a standard that needs to be met prior to final approval. Put that as a condition rather than the presumption with see if it changes in the future then they go backwards.

Charlie Ewert replied said going back to the private nature of the agreement; and attempting not to take a position on whether access exists, let's take this to a conceptual level and think about this differently. If access is determined to not exist through the Greenhills Subdivision along the subject road; but the applicant is able to provide alternative access, that meets all county standards and fire standards, the permit would still be valid. With that in mind he didn't know that it had to be specific to the particular agreement being valid or determined valid held at this time by our determination. Staff would not review that private access agreement and through other people's property at that time.

Commissioner Waldrip said the question is what is the standard of their review; and acceptance of somebody's assertion. Do they have no standard and if somebody comes in and states they have access and clearly they are not in the right faculties, do they simply accept that or do they have a duty to investigate that, and to what level do they investigate. He understands completely the thin line that this walks; however, that is incumbent on us to understand what it is by default approving, and what it is by default accepting, but is that our standard. Mr. Ewert replied that as far as the review went, and as far as the threshold that the standard of verification, there is a platted subdivision with existing roads going to the site.

Chair Warburton said that she was concerned; because the more they talk about this the more clear it becomes that he has access; and if wanted to have 16 of his friends to have a picnic up there, that wouldn't be an issue. The issue here is that they don't want that built up there; so they are hanging this on access, and they found a loophole. She does not want to be involved in an HOA dispute and that is not their place. She wants this commission to be very careful to be pulled in to an HOA debate. It's clear that he does have access, and if they decide as a commission to put a condition that he has to prove it, then what they are doing is forcing him into an arbitration of some sort, then he cannot move on his property until that settles. Lawsuits can be continually stalled until the money runs out. So if they want to be lawyers, they need to think about what they are doing. Mr. Erickson said for this commission on whatever decision they reach; including on this question, make sure there is substantial evidence in the record to support your decision. Staff has presented with its facts, its findings that it recommends, the conditions for the recommends imposing.

Chair Warburton said that they have to make a decision based on the information before us. They do not have access to that information that was the previous findings. Mr. Erickson replied if they base their decision on substantial evidence in the record, it's more likely to be upheld if it's challenged. They do have two different viewpoints that have been presented; they take a look at all the facts as they know them with respect to this question, to the extent that it relates to the conditional use permit. You apply those to the conditional use permit application, and whatever conditions they impose, and whatever finding they make.

Director Grover said when they look at subdividing land, they clearly look at the access whether that access or not, and they also look at what the uses are allowed in the zone. In this situation they have a private agreement and that's typically between those two to resolve those things. The access is always looked at when they deal with subdivision, and they do have standards in place at subdivision level for requirements for access. Whether it is a standard access, a flag lot, access exception, and they have those standards in place that they look at and that is typically done at subdivision level.

Commissioner Waldrip said for clarification so their finding in this circumstance would be specific to the fact that the subdivision was created, access was determined to have existed at that time relative to all uses that were available at



the time of creation of that subdivision and that would be the standard that staff relied on to come up with this recommendation. Director Grover replied that when they look at Condition 11 it states, "The proposal shall maintain compliance with all other local state and federal laws." When they look at local laws they would be looking at; are there any violations of anything that happened at the subdivision level. With that and the findings of four, he would think they are within their purview to meet the requirements for access and those kinds of issues. Typically where it's a private agreement, it's going to be a small matter.

**MOTION:** Commissioner Howell said in reviewing the staff report; this application meets the criteria of this conditional use permit, he moves to approval CUP 2016-11 located at 9686 East Maple Ridge Road, Lot Area 40.29 Acres, in the Forest (F-40) Zone which is permitted. This is subject to all the conditions and recommendations listed in the staff report, to include all county and state agency requirements. Commissioner Parson seconded.

**FRIENDLY AMENDMENT:** Commissioner Waldrip added a friendly amendment to add all street repairs for private and public roads, following any construction the Planning Commission requires as a condition of approval. That approval of access from the Fire Department and all fire regulation requirements is required as a condition. That access through the Private Right of Way is a condition to access to the applicant to his property for this specific use through Maple Drive as a condition of approval. That lighting profusion from any onsite lighting not cross outside of the property lines, whether it's internal or external lighting not cross property line.

**DISCUSSION:** Chair Warburton restated the friendly amendment and asked if Commissioner Waldrip wanted the applicant to prove right of access. Commissioner Waldrip replied no, that access to his property for that use is a condition of approval. So if it's ever proven that he doesn't have access, then they could revoke that approval. That is what Mr. Froerer recommended and that is what everyone was comfortable with. Chair Warburton asked legal counsel if he was comfortable with that. Commissioner Waldrip said in other words if he doesn't have access, could they revoke the conditional use, if it's shown that there is a lawsuit and they lose their access, would they not be able to revoke their conditional use at that point. Chair Warburton said that is already innate and they don't have to say that; and she didn't want to set them up for a lawsuit. Commissioner Waldrip said but they are already policing everything else; they are policing light, street repair, and all of these requirements that simply align.

Director Grover said that typically they look at that, at the subdivision level as part of the access codes. That has been addressed in a private agreement; and if they have some concerns back and forth on the different parties, that's more on a civil matter, and staff already looked at the access with the subdivision. Commissioner Howell said that they had approved the helicopter a few years ago, and access was not a problem, and he thinks it's reasonable to believe that the applicant does have access to his property. Courtlan Erickson, Legal Counsel said essentially what he is saying is that access is already assumed because of the subdivision level, when the subdivision was approved. If it's determined in the future that he doesn't have access, then the conditional permit gets revoked. Commissioner Waldrip said at some future date and something happens, whatever it is and they approve right now; because the presumption is there is access based on the subdivision approval, and this is simply referring to some future unknown event.

Commissioner Taylor said that litigation has not been declared at this point. Chair Warburton said that lighting should not cross the boundaries, and if it's okay provide down and inward lighting. Mr. Erickson, Legal Counsel said that he was concerned about the lighting, if it's clear depending upon how it's phrased. He thought he heard if the light crosses the property line; that could be a problem because if he is standing somewhere across the valley, and he sees white all coming from the lodge, does that mean that the light is coming from the lodge. He may be too technical here, but what is meant by the light crossing the property line. Chair Warburton said they took that statement out; what they are going to say provide lights that are shielded, downward, and inward facing. Commissioner Waldrip added whether it's internal or external. They don't want to have a lighthouse. He could use some help on that one, and asked if anyone had some language on that fits that no lighthouse. Commissioner Taylor said that they can't ask him to draw their blinds from the inside of their house. Possibly some sort of a glare or anti-glare on the windows that prevents outside lights. Chair Warburton said that she believed the applicant has already done that. She asked Commissioner Howell if he agreed with the friendly amendments. Commissioner Howell replied yes.

**DISCUSSION:** Commissioner Taylor asked legal counsel that she would need some guidance to give a friendly amendment, that if this increased the helicopter noise, if that noise could be mitigated. If creating that lodge

increased the helicopter noise, could that noise be mitigated? Commissioner Howell replied that could be a separate issue that could be brought up when the helicopter was there. Commissioner Waldrip suggested to Commissioner Taylor what if they struck after daytime noises related to the use of the lodge, and counsel had that concern that they have that limitation, so if they say daytime noises was unreasonable. Commissioner Taylor replied that she liked that it was related to the use of the lodge. Commissioner Waldrip said because that limits it and is not related to the use of the lodge and is totally separate. Chair Warburton asked that Ms. Serrano to read back the proposed friendly amendment, "That daytime noises was unreasonable, that the noise could be mitigated." Chair Warburton said that they would have to define unreasonable. Commissioner Waldrip replied that it's in the staff report, and struck that language and put in related to the use of the lodge, would that be what Commissioner Taylor was thinking.

Commissioner Taylor said that she was hoping for help from legal counsel, if there is any possible way to add some language in there. Mr. Erickson, Legal Counsel replied that it's a very broad definition here, when they use the term like unreasonable, obnoxious, or out of character; that could lead to questions of what is and it could be subjective. It depends on how comfortable she is in the future with something happening and she has to revoke the conditional use permit. What are the facts going to be to support that and that's pretty broad and squishy language. That is also difficult to avoid in a situation like this when it deals with noise, unless they get a decibel reader to measure it. Commissioner Parson said that this was discussed when they had the helicopter; however, because this is a hotel, a commercial endeavor, this is a residential thing. Granted it's been approved in the F-40 Zone, which goes back to the whole basis of when they looked at a subdivision, that is in the F-40 and what is allowable. So that road is permitted for weight travel and it's an engineering question. But it's reasonable because there is no other unnecessary sound that is being generated, for instance traffic noise that is highly measurable. It is difficult to measure noise like when the helicopter was taking off from ground zero in Eden. The helicopter was 20 feet off the deck and a diesel truck came by with a purring engine and it drowned out the helicopter. His point is that it is difficult and they couldn't come up with a decibel reading; there was Pen Hollist and so many people talking about the sound metering and what is noticeable obnoxious decibel reading. The gentleman, Lee Shushman provided unbelievable documentation of what that was and they could go back on all the information that is on record. However; it is pretty reasonable to ask for that because of the fact that there is no other noise pollution up there. It's a question of the bounce back effect off of the building and it could be an unintended consequence of putting the building where it is. If they just say if it happens, and put in the condition that it has to be mitigated. They are complaint driven, and the only way that this would change is through a complaint driven process.

Director Grover said that it's well within their purview to include that with the building and the proposed use, to create that impact and make that a condition. Commissioner Parson said and it could easily be moved; and what their consideration might be is there's the valley below, there's the home, and this is where it's landing. But if it lands back here with the topography, the great pilots that land these things, then it's not an issue. Commissioner Taylor said maybe, instead of taking out the parenthesis, they say due to the construction of the lodge or the use of the lodge. It seems like that, for instance the like at the lake, for anyone who wants to complain that this lodge has been created; and due to its creation now they have an unreasonable noise and that seems sufficient to her. Chair Warburton said due to the helicopter noise, due to any noise, because they have already addressed the noise. Commissioner Taylor said she isn't just saying any, she is leaving that open. Just the fact that they're saying; because of the construction now they have an unwanted noise. It would be a helicopter and she didn't know what else it would be. Chair Warburton said that it could be loud parties or all kinds of things. There are stuff happening after night and if there is some that go beyond all of the conditions that were placed on this, and if there are several complaints, then this would get revoked, so that is already there and it doesn't need to be there. Commissioner Taylor said is there construction. Chair Warburton asked if that was already in. Director Grover replied that would require putting that in. Commissioner Taylor said that needs to be put in, due to the construction of the lodge in the wording. Chair Warburton said okay there is a motion, and there are several friendly amendments, is there discussion to the motion. Mr. Erickson, Legal Counsel asked the chair if the friendly amendments been officially approved by the commission. Chair Warburton replied that they could discuss about the friendly amendments and it's not quite the same thing as Robert Rules with the friendly amendments, so they don't have to approve those but they could discuss it. All that's really required is that the maker of the motion actually accepts them.

Courtlan Erickson, Legal Counsel said doesn't the current rules say with unanimous consent of the members present that may be made without a formal motion to amend. Chair Warburton replied that's why it is a friendly amendment; if they were to make a formal motion to amend, that would be different. It's not a formal motion, it's not Roberts

Rule, but it is in there. Mr. Erickson, Legal Counsel said so it's in our rules of procedure, but the commission needs to agree unanimously if there is not going to be a formal motion. Chair Warburton asked the Planning Commission if they all agree with the friendly amendments. The response was yes. Chair Warburton clarified that everyone said yes. In response to Commissioner Haymond questions, Mr. Ewert said the intention of that condition was to address all things Health Departments related including what is required, because they won't allow a system up there. Commissioner Taylor said in regards to the location of the well and all of that, the Health Department will deal with that. Mr. Ewert replied yes and the Health Department will make sure that it done.

**VOTE:** A vote was taken with Commissioner Parson, Haymond, Waldrip, Taylor, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

7. **Adjournment:** The meeting was adjourned at 8:45 p.m.

**Respectfully Submitted,**

  
**Kary Serrano, Secretary;  
Weber County Planning Commission**



# Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

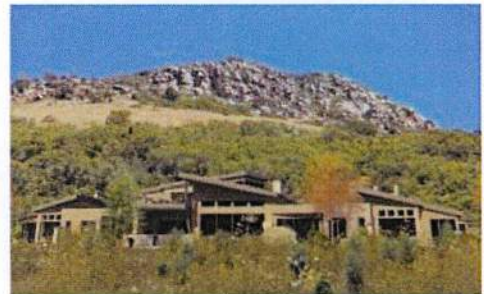
## Synopsis

### Application Information

**Application Request:** Consideration of, and action on, a Conditional Use Permit to operate a recreational lodge on lot 6 of the Sanctuary subdivision, at 9686 East Maple Ridge Road.  
**Agenda Date:** Tuesday, July 05, 2016  
**Applicant:** Tim Charlwood  
**File Number:** CUP 2016-11

### Property Information

**Approximate Address:** 9686 East Maple Ridge Road  
**Project Area:** Lot area: 1,755,032.4 sqft. (40.29 Acres).  
Building area: 7,440.25 sqft.  
**Zoning:** F-40 (Forest 40)  
**Existing Land Use:** Vacant subdivided land.  
**Proposed Land Use:** Recreation Lodge  
**Parcel ID:** 21-130-0003  
**Township, Range, Section:** Township: 6 North, Range: 2 East, Section: 03 (Southwest Quarter Section)



### Adjacent Land Use

<b>North:</b> Vacant/Forest and Wildland/Rural Recreation	<b>South:</b> Large (40 acre) Subdivision Lot
<b>East:</b> Open Space/Common Area (Green Hills HOA)	<b>West:</b> Large (40 acre) Subdivision Lot

### Staff Information

**Report Presenter:** Charlie Ewert  
cewert@co.weber.ut.us  
801-399-8763  
**Report Reviewer:** RG

## Applicable Ordinances

- §101-1-7 (Definitions)
- §104-9 (Forest Zones)
- §104-28 (Ogden Valley Sensitive Lands Overlay District)
- §108-1 (Design Review)
- §108-2 (Ogden Valley Architectural, Landscape and Screening Standards)
- §108-4 (Conditional Uses)
- §108-18 (Drinking Water Source Protection)

## Summary and Background

This is a proposal for a 10 room recreation lodge, located on Lot 6 of the Sanctuary subdivision. Recreation lodge is listed as a conditional use in the F-40 zone. Standards that the Planning Commission should consider to apply to this conditional use include:

- Standards relating to safety for persons and property, including fire fighting considerations and traffic mitigation.
- Standards relating to infrastructure, amenities, and services, including public infrastructure and utility capacity.
- Standards relating to the environment, including site disturbance and retention of native vegetation.
- Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan, including screening of incompatible uses from view from other properties, quality architectural design, landscaping, and potential noise and light issues.

The Sanctuary was recorded in 2013 as an eight lot subdivision. At that time part of the subject parcel was designated for building purposes. This propose does not affect that. Subdivision approval also vetted access to the site, culinary and waste water feasibility for the site, and preliminary geologic information in the area.



With the findings and conditions listed herein, the proposal appears to comply with County ordinances. Staff is recommending approval with conditions.

## Planning Commission Considerations

**Request.** The Planning Commission is being requested to review and approve a 10 room recreation lodge in the F-40 zone. The lodge will provide general vacation services, including overnight accommodations and meal preparation, and is intended to provide recreational opportunities both on and off the property.

Please review the applicant's summary in Exhibit A for a complete description of the proposal.

**Zoning Analysis.** The requested use is for a "Recreation Lodge." Recreation lodge is a term defined by Weber County's Land Use Code as follows:

*The term "recreation lodge" means a lodge constructed in a mountainous or forested location, which may include up to 16 guest sleeping rooms, and facilities for guest's meals, providing on-site winter sports amenities such as cross country ski trails, snowmobile trails, ice skating and/or similar activities, and, if open yearround, offers summer recreation amenities such as equestrian trails, mountain biking trails, hiking trails, rock climbing training stations, golf course, putting green, and/or tennis courts. Accessory uses, such as sports equipment rental and repair may be included. The number of horses allowed, in the case of a riding stable, shall be calculated and may be permitted based upon acreage and site plan review, and recommended by the planning commission. Limited day use may be allowed based upon site plan review and approval of the overall project as a conditional use by the planning commission.<sup>1</sup>*

Recreation lodge is permitted as a conditional use in the F-40 zone.<sup>2</sup> Pursuant to State Law and the County Land Use Code,<sup>3</sup> if a use is listed in the zone as a conditional use it shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

**Conditional Use Analysis.** In determining "applicable standards" that can be applied to this use, the Planning Commission should consider the following guidance offered by the Land Use Code:

*Sec. 108-4-5. - Conditional use standards.*

*(a) The land use authority may apply conditions of approval related to any of the standards of this section, provided that credible evidence exists that:*

*(1) The application of the standard is relevant to the use; and*

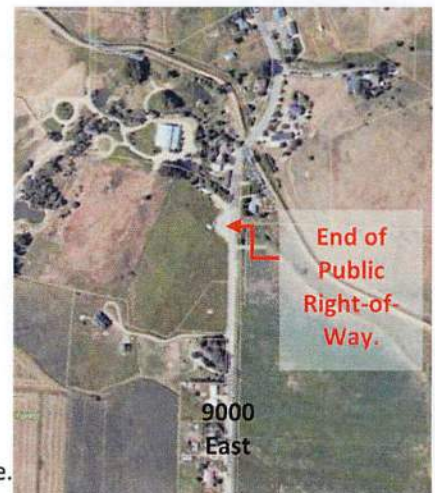
*(2) The conditions are reasonable and necessary to substantially mitigate detrimental effects of the use as specified in the standard.*

*(b) The land use authority shall consider the expertise and experience of applicable reviewers and qualified professionals to help determine credible evidence, relevant standards, and reasonable conditions.<sup>4</sup>*

Based on applicable standards of the CUP code, staff recommends that the Planning Commission consider the following information when determining the reasonably anticipated detrimental effects of the use. Staff recommends reasonable conditions in this staff report that are intended to mitigate known potential detrimental effects.

**Fire control.** A specific analysis of fire control for the proposal has been conducted by the local Fire Marshal, and is attached as Exhibit B.

**Access and circulation.** The site is accessed through the Green Hills Subdivision along Maple Drive. The applicant asserts that an adjudicated right-of-way exists, with an access agreement,<sup>5</sup> between the Green Hills HOA and himself, which



<sup>1</sup> See LUC §101-1-7, "Recreation Lodge."

<sup>2</sup> See LUC §104-9-3 to review this and other conditional uses allowed in the F-40 zone.

<sup>3</sup> See UCA §17-27a-506. Conditional Uses; and LUC §108-4-4.- Decision Requirements.

<sup>4</sup> See LUC §108-4-5. – Conditional Use Standards.

<sup>5</sup> Civil case number 010905924, Judge Michael D. Lyon.



provides the opportunity to access the site across private property, as proposed. This agreement is a private agreement between the applicant and the HOA. Enforcement of it is the responsibility of the HOA and the applicant, and as such the County should offer no opinion as to its provisions. The County's public right-of-way ends at the end of 9000 East Street.

In determining how the use will affect traffic demand, the Planning Commission should focus on whether the use will cause any material degradation in the level of service of public road infrastructure. It is anticipated that this lodge will average above 50% vacancy rate, with occasional peak times at full occupancy. In Utah, the typical year-round single family dwelling that contains a household of 6 people generates about 32.7 vehicle trips per day (coming and going equals two trips)<sup>6</sup> and possesses about two vehicles.<sup>7</sup> In comparing the suggested average annual occupancy rate of the proposed use and the anticipation for the ordinance-based standard for the maximum peak parking demand of the proposed use (as specified below) it can be anticipated that the effect of the use on average traffic patterns in the area will be similar to a (very) large-family single-family dwelling, with occasions of variance depending on peak/off-peak lodging demands. This demand does not appear to be significant enough to materially degrade any public infrastructure and as such it does not merit special traffic accommodations like off-site road or right of way improvements.

*Parking.* Parking for the facility is proposed to be underground. County code does not specify the number of stalls for a recreational lodge, but offers guidance for a motel, a hotel, and a lodginghouse.<sup>8</sup> A motel is required to have one space per sleeping or living unit (10 spaces for this proposal). A hotel is required to have one space per two sleeping units (five spaces for this proposal). A lodginghouse is required to have three spaces for every four persons to whom rooms will be rented (eight spaces for this proposal). Given the smaller scale of this use and the likelihood that maximum occupancy could occasionally occur, it seems most appropriate for the Planning Commission to apply the motel standard for this proposal. The parking facilities should provide ADA accessibility to the lodge.

*Architectural design.*<sup>9</sup> The building is being designed by licensed architect James Carroll. Building materials include rock, stone, steel, aluminum, steel, glass, and quality synthetic stucco. Based on the images presented in the application it appears that the color will be muted earth tones. This complies with ordinance requirements. No specific color palette has been provided. The Planning Commission may want to condition approval on an appropriate color scheme.

The building height will be limited to 35 feet, as required by the F-40 zone.<sup>10</sup> The structure appears to be located along a ridge, but is not visible from any two mile scenic corridors as provided for in the sensitive lands ordinance.<sup>11</sup> The nearest scenic corridor (7100 East) from which the building pad might be visible is approximately three miles away.

*Lighting.* No specific lighting plans have been proposed; however, the applicant has proposed that all lighting will be downward directional in a manner that does not disturb other properties. The Planning Commission may desire a condition of approval to ensure that all constructed exterior lighting is indeed downward direction and fully shielded so as not to produce unnecessary light pollution.

*Deliveries.* The applicant asserts that deliveries can be restricted to the underground parking facilities or to the side entrance of the lodge. Considering that deliveries will pass through residential areas to get to the site, the Planning Commission may desire to limit the size and frequency of the delivery vehicles. Staff recommendation provides for this.

*Landscaping and irrigation.* The applicant is proposing to generally leave the site in its current native state of vegetation. There is currently an area that has been cleared for the building, but the applicant asserts that the clearing was conservative. In the event construction activities lend the need for reseeding or replanting, the applicant has proposed to replant or seed with the same native vegetation in the immediate vicinity. The applicant indicates that he owns 1/5 acre-foot of water for irrigation purposes if needed, but no irrigation is anticipated due to retention of native vegetation. The remote location, size, and natural state of the property may render additional landscape considerations unnecessary.

*Solid waste disposal.* Solid waste disposal will be by means of private waste removal contract or owner removal. The waste receptacles will be located in the underground parking facilities away from public view. No outdoor dumpsters are proposed; therefore no dumpster screening should be required.

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<sup>6</sup> This is a generalized average based on national statistics. In Utah, according to <http://governor.utah.gov/>, a one person household in one Utah county generated 4.7 trips per day, while a six person household generated 32.7 trips per day.

<sup>7</sup> Pulled from <http://www.smartgrowthamerica.org/documents/saltlakecitysprawl.pdf>

<sup>8</sup> See LUC §108-8-4 for parking requirements.

<sup>9</sup> See LUC §108-2-4 for general architectural standards.

<sup>10</sup> See LUC §104-9-4 for height limitations.

<sup>11</sup> See LUC §104-28-4 for Scenic corridors ridgeline protection provisions.



*Water source.* Culinary water will be provide via well. The Health Department has provided feasibility for it. The Planning Commission should consider conditioning CUP approval on the demonstration of adequate water rights, water yield, and water quality, as administered by the Health Department.

*Waste water.* The applicant has proposed a packed bed media waste water system for waste water disposal. The Health Department will review the final design and functionality during building permit review, but they have offered general feasibility for the system during subdivision review and approval. They have updated that feasibility based on this proposal for 10 room lodging facility. For the purposes of waste water the Health Department is considering the use residential in nature, which they say is more restrictive than considering if for commercial lodging purposes.

*Source Protection.* The waste water system will be located in zone two of a source protection area of another well in the [relative] vicinity. Zone two prohibits typical septic and drain fields. The Health Department and the State Division of Drinking Water does not consider a packed-bed media system<sup>12</sup> the same as a typical drain field. The Health Department finds this waste water system suitable for this location. Approval should be conditioned on a packed-bed media system, and compliance with all state and Health Department regulations.

*Flood plain.* According to the FEMA flood data, the property is located in the "X" flood zone. The X flood zone denotes areas determined to be outside the 500-year floodplain, or determined to be outside the 1% and 0.2% annual chance floodplains.

*Signage.* No specific signage is being proposed for the property. There is an existing non-illuminated neighborhood identification sign made of timber and iron at the entrance of the lower approach road of the Sanctuary subdivision.

*Geology.* This site is in a geologic hazards study area.<sup>13</sup> A hazard study was provided for the Sanctuary subdivision<sup>14</sup> that offered general guidance and recommendations to building in the area. It found minimal concern. Considering that the report was not specific to the footing/foundation of this proposed lodge, the Planning Commission should consider the need for an update letter from the project geologist to verify that the general scope, conditions, and findings listed in the report are sufficient to provide for a reasonable degree of safety when developing the site. An update letter from Western Geologic is in the process at this time, and will be provided prior to building permit review.

*Noise.* Because the use involves short term lodging for persons not permanently vested in a quiet residential neighborhood experience, it could potentially produce intrusive noises during uninviting hours of the day. The Planning Commission should consider imposing quiet hours for the use in order to mitigate this concern.

### Conformance to the General Plan

The Ogden Valley general plan recreation element supports recreation opportunities and uses. The allowance of recreation in the F-40 zone appropriately executes this desire.

### Staff Recommendation

Staff recommends approval of the Sanctuary Recreation Lodge conditional use permit, file #CUP 2016-11, based on the following findings and conditions:

Conditions:

1. The limits of disturbance shall not exceed the building pad areas, as shown in the application. In the event building activities must exceed the building pad area, a de minimis planning division review of the changes shall be conducted.
2. That quiet hours shall be observed from 10 p.m. to 7 a.m. Daytime noises (related to the use of the lodge) that are unreasonable, obnoxious, or out of character for a quiet residential neighborhood are prohibited.
3. All exterior lighting shall be downward directional and fully shielded in a manner that obstructs the visible light source from view from adjacent properties. The intensity of outdoor lighting, including any landscape lighting, shall be minimized so as not to create unnecessary reflection on the mountain side. Exterior lighting shall be configured in a manner that has minimal visual impact when viewed from other properties. The building permit application shall include for staff approval the specifics of the light fixtures to be used.

<sup>12</sup> Pursuant to a letter dated October 28, 2013, sent to the Weber County Planning Director from The Director of the Department of Environmental Quality, Division of Drinking Water.

<sup>13</sup> The Utah Geological Survey's Ogden 30x60 Geologic Quadrangle, updated in 2016, indicates that the building site is in the Zkc geologic unit. This unit requires a geologic hazards study and report.

<sup>14</sup> See report from Western Geologic, LLC dated September 23, 2010, located in project file.

4. Delivery or pickup in a 14,001 pound or greater truck (Class 4 GVWR or greater, pursuant to 49 CFR 565.15), except for package delivery service at times and in intervals typical for a normal residential use, shall be limited to one delivery or pickup per day between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. A loading and unloading area, adequately sized to accommodate the type of truck and the size of the delivery or pickup, shall be provided on the site. No loading or unloading shall be permitted offsite.
5. The applicant shall either submit an updated letter from a qualified geologist indicating that the findings of the general geologic hazards report(s) previously conducted are still valid for the specific building location, or an updated building-specific report shall be submitted with the building permit application that provides any necessary mitigation measures.
6. Storm water drainage shall comply with typical engineering standards, as approved by the County Engineering Division during building permit review.
7. CUP approval shall be subject to final review and approval by the Weber County Engineering Division during building permit review.
8. CUP approval shall be subject to final review and approval of the culinary water and waste water systems, commercial kitchen, and pool or spa (if applicable), in accordance with Health Department requirements.
9. The colors of the facility shall be limited to general muted earth tones that are found in abundance on the site such that all man-made facilities have minimal visual impact and blend with the natural state of the property.
10. There shall be sufficient parking spaces, pursuant to the Weber County parking standards of LUC §108-8, to provide for 10 onsite parking spaces. Parking provisions shall comply with ADA standards. The building permit application shall include a specific parking plan for staff verification.
11. The proposal shall maintain compliance with all other local, state, and federal laws.

Findings:

1. The proposed use is a recreational use and supports other recreational uses in the Ogden Valley, which is in compliance with the Ogden Valley Recreation Element of the General Plan.
2. The proposed use complies with the Land Use Code's definition of "Recreation Lodge."
3. Given the applicant's proposal and the conditions provided herein, the proposal reasonably mitigates the anticipated detrimental effects of the use.
4. That the applicant asserts that private legal access exists from the public right-of-way to the site. CUP approval is contingent on legal access to the site.

## Exhibits

- A. Application
- B. Fire Marshal Review
- C. Engineering Review





## Weber County Conditional Use Permit Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed 5/25/2016	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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### Property Owner Contact Information

Name of Property Owner(s) TIMOTHY CHARLWOOD		Mailing Address of Property Owner(s) PO Box 980400 PARK CITY UTAH 84098-0400	
Phone 435 901 2337	Fax N/A		
Email Address (required) TIMCHARLWOOD@GMAIL.COM		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) TIMOTHY CHARLWOOD		Mailing Address of Authorized Person PO box 980400 PARK CITY UTAH 84098-0400	
Phone 435 901 2337	Fax N/A		
Email Address TIMCHARLWOOD@GMAIL.COM		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Property Information

Project Name THE SANCTUARY RECREATIONAL LODGE	Total Acreage 40	Current Zoning FR-40
Approximate Address THE SANCTUARY MAPLE DRIVE HUNTSVILLE UTAH 84317 LOT 6.	Land Serial Number(s) 21 126 0006	

Proposed Use: RECREATIONAL RETREAT

### Project Narrative

SEE ATTACHED



**Basis for Issuance of Conditional Use Permit**

Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise.

THE RECREATIONAL LODGE IS INTENDED AS HIGH QUALITY RETREAT WITH IMMEDIATE ACCESS TO ENDLESS RECREATION IN A PROTECTED ENVIRONMENT. BOUND RESTRICTIVE EASEMENT STAFF WILL ENSURE THE RETREAT MAINTAINS STANDARDS SET HIGH IN THE INTERESTS OF OUR ENVIRONMENT AND GUESTS. THIS IS TO BE STRICTLY OBSERVED.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

THE LODGE WILL COMPLY WITH ALL ZONING ORDINANCE UNDER FR-40

**Property Owner Affidavit**

I (We), [Signature], depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

[Signature]  
(Property Owner)



Subscribed and sworn to me this 25<sup>th</sup> day of May, 20    

[Signature]  
(Notary)

**Authorized Representative Affidavit**

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)





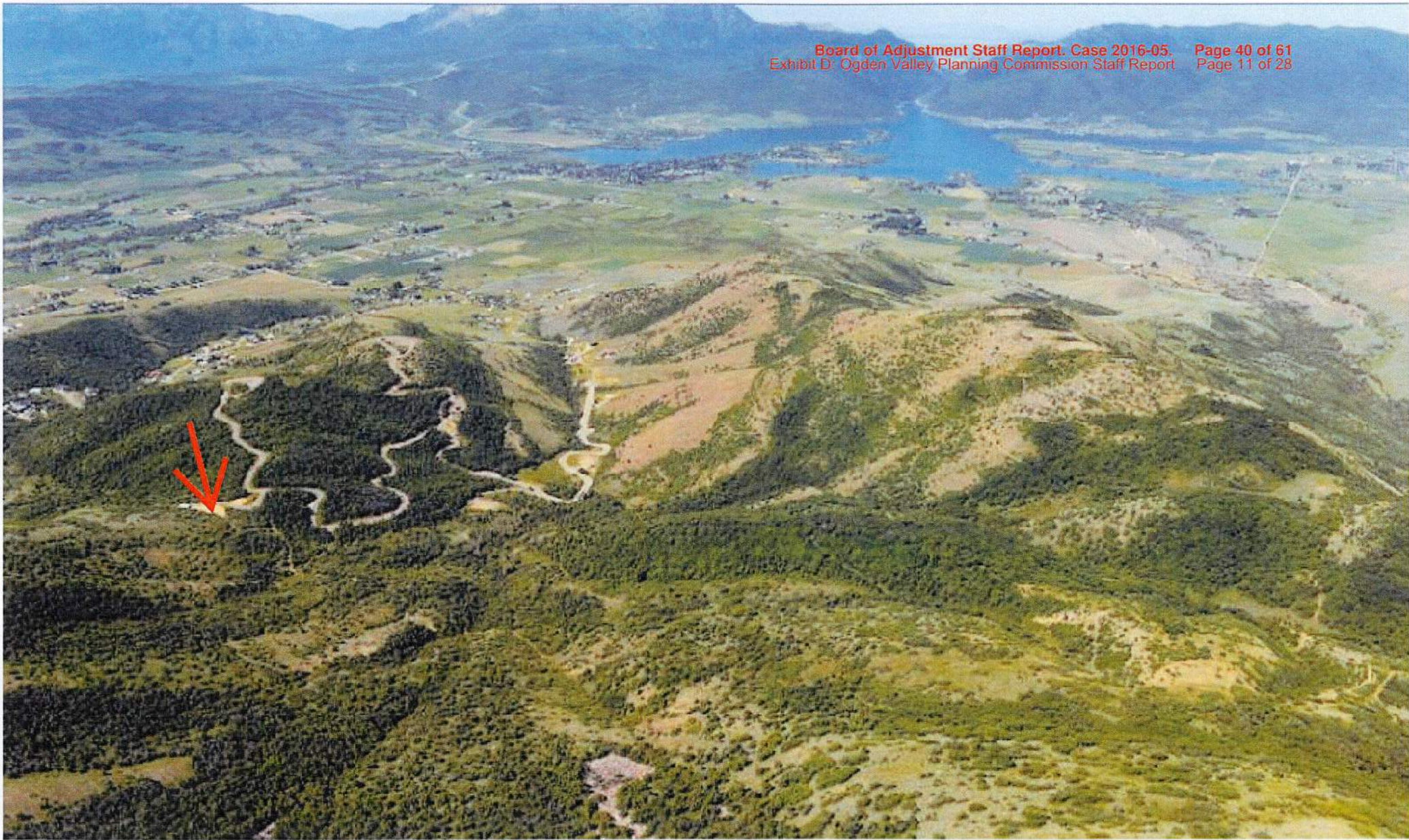
Tim Charlwood • (435) 901-2337 • timcharlwood@gmail.com • PO Box 980400, Park City, Utah, 84098

## Sanctuary Recreational Lodge, Curtain Bluff, Lot 6 The Sanctuary

Owner; Tim Charlwood, PO Box 980400, Park City, Utah, 84098-0400.

An application for Recreational Lodge at Lot 6 with 40 acres within Sanctuary will comply with all FR-40 zoning standards. It is proposed to build a High quality Recreational Lodge that will blend into the environment designed by award winning architect James Carroll of Salt Lake City with a maximum of 7,500 square feet live-able area with maximum 10 Bedrooms with shared central open area with full kitchen and anticipated Chef services. It is proposed to have 10 under ground car spaces. Road access has been approved and built right to the Homesite at both upper and lower car park level with snow clearance all winter by Sanctuary HOA. Well approval has been granted and recorded. Septic to comply with Health Department standards with "Green" Packed Bed Mound System designed with no contamination. Geo Thermal heat/cool systems will be installed. Landscaping will be minimal as natural landscape is desired. Homesite with immediate landscape is in place retaining all natural vegetation. Outside of build-able is protected by an Easement and covering all our 469 acres of Open Space within Sanctuary for Home owners to share, no fencing is allowed to maintain natural Habitat. Recreation begins at this Homesite with two treed trails North and South established 10 years ago for equestrian, hiking, biking and Nordic skiing connecting to miles of environmental friendly trails built for Sanctuary use. A Heli-Ski pad is opposite the lower level car park that will accommodate other Sanctuary home owners vehicles if they choose to Heli-Ski. With over 100 Heli-Ski operations there have been no complaints, strict management control has been applied. Future use will be for Sanctuary home owners and guests only. The intention is to maintain a high quality retreat for guests to enjoy. Access through Green Hills Estate has been granted under an agreement that includes a contribution for roads, as a gesture of goodwill it has been proposed to Green Hills HOA to contribute with a double charge for any Homesite with Recreational Lodge permitted use within Sanctuary at time of building permit. This is to comply year round whether occupied or not. This conditional use has the approval of all Lots within Sanctuary being under same ownership. This property is far removed from any residence outside of Sanctuary with no disturbance potential. The building will comply with code including Disability Access and Fire Protection. The Recreational Lodge will be bound by restrictions of use applied under the Land Trust agreement with Ogden Valley Land Trust designed to protect the environment with minimal disturbance, these include No Hunting or Snowmobiles within Sanctuary. This is seen as a good support for all future Sanctuary Homeowners and their guests. A shared use Equestrian area for Sanctuary Homeowners has been designed to allow Horses to stay over night for guests working with local ranchers and is located within the lower Lot 3.

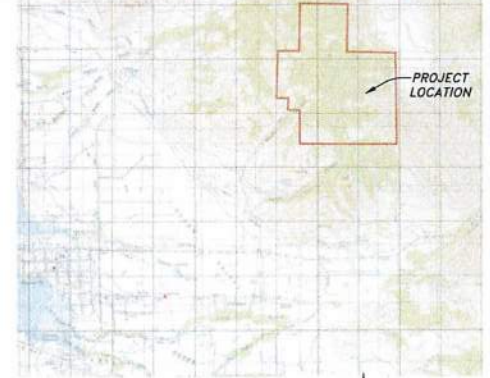






# Preliminary Plat For THE SANCTUARY NORTH

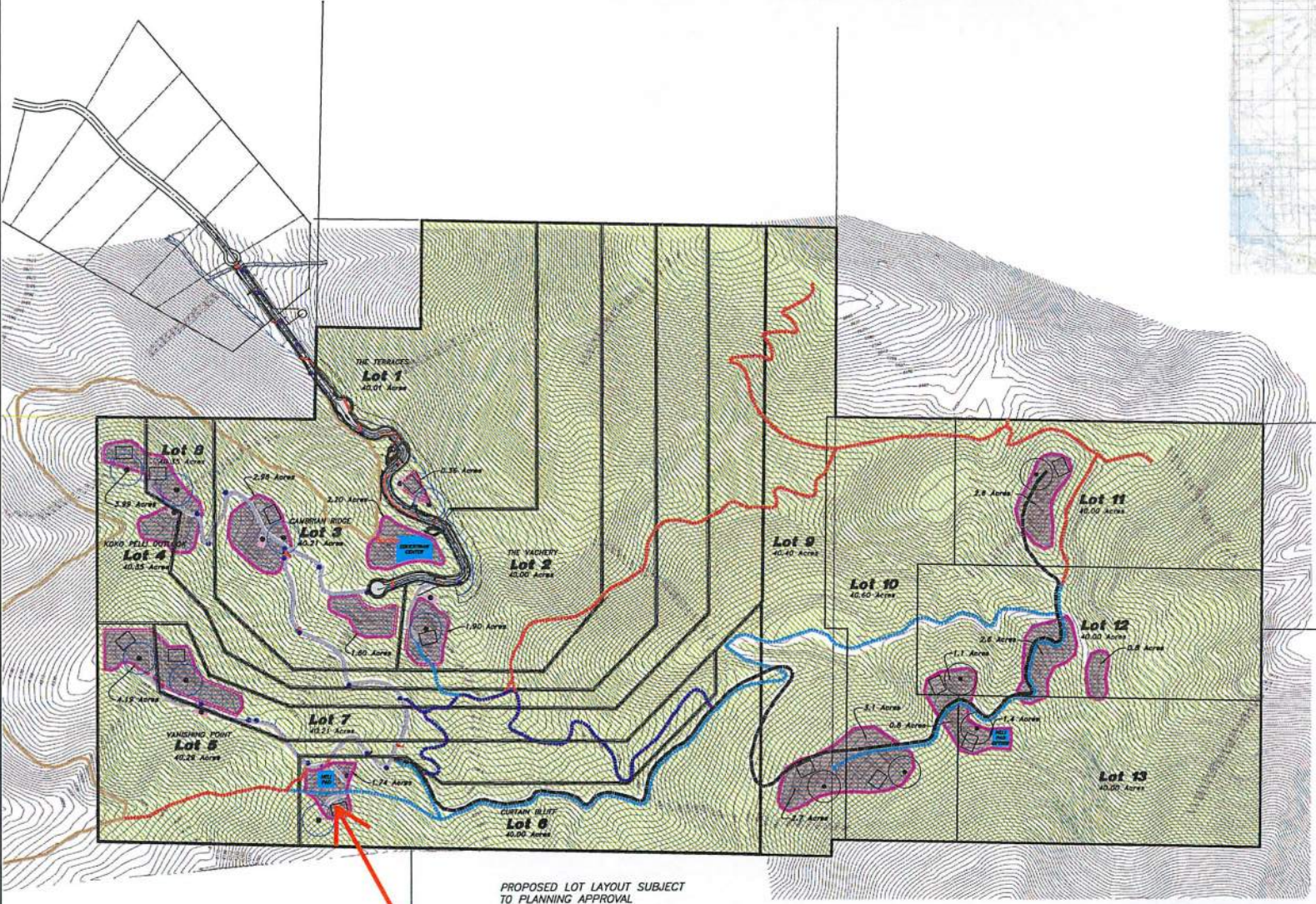
HUNTSVILLE, WEBER COUNTY, UTAH



VICINITY MAP  
 NOT TO SCALE

LEGEND:

- 50' Private Roadway
- 50' Private Driveway Easement
- Exist. 12' wide Green Hills Loop Trail
- Exist. Trail or Road
- Winter Habitat Protected Trail (Motorized Vehicles Prohibited from Jan. 1st to Apr. 7th)
- Proposed 12' wide Equestrian/Nordic Trail
- Future 50' Private Road
- 100' Minimum Building Envelope (75'x100')
- Limited Building Area (Less than 25% slope)
- Future Building Area (Less than 25% slope)
- Building Setbacks:  
 Front = 75' min.  
 Side = 40' min.  
 Rear = 30' min.
- Well Site & 100' Radius Protection Zone
- Septic Site
- Check Dam
- Conservation Easement Area

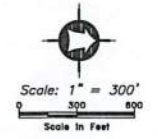


PROPOSED LOT LAYOUT SUBJECT TO PLANNING APPROVAL

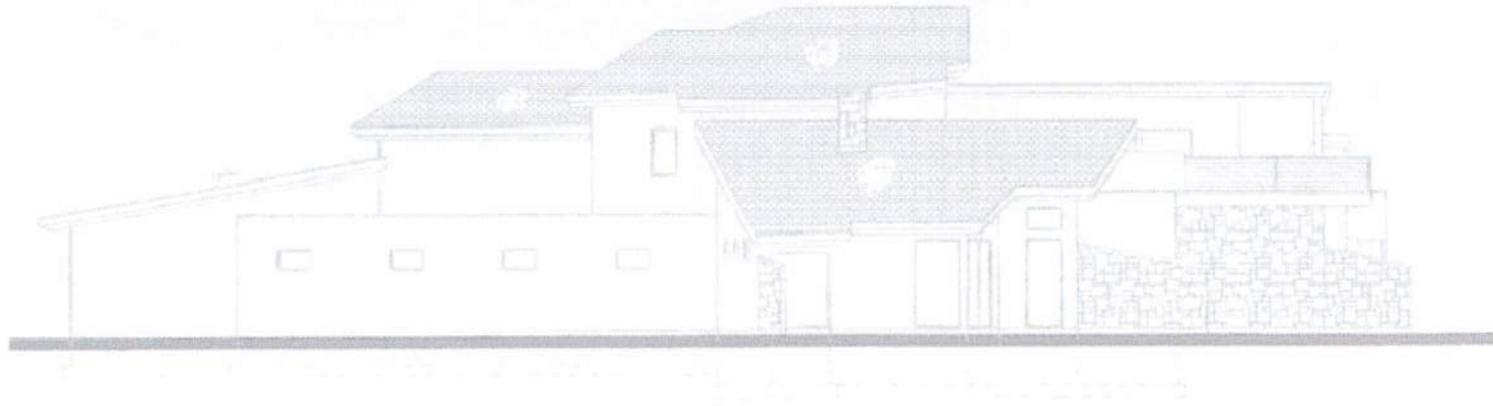
NOTE:  
 NO SNOWMOBILE OR SINGLE SEAT  
 ATV ALLOWED ON ANY TRAILS

**HANSEN & ASSOCIATES, INC.**  
 Consulting Engineers and Land Surveyors

538 North Main	Brigham City, Utah	84302
87 East 100 North	Lagoon, Utah	84321
Brigham City	Lagoon	
(435) 723-5481	Ogden	(435) 732-0187
(435) 723-7883	(801) 399-4905	(435) 732-6272

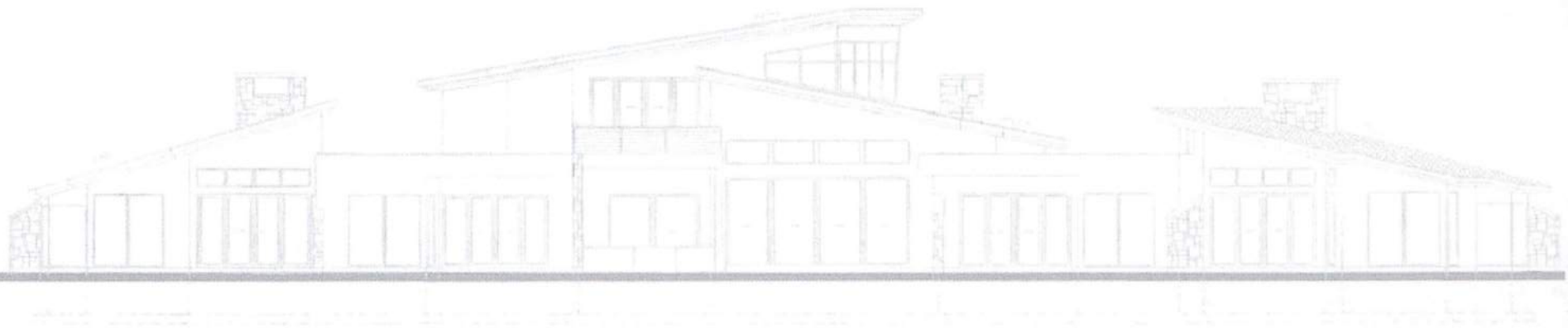






1  
A-1.1

ELEVATIONS  
SCALE: 1/4" = 1'-0"



2  
A-1.1

ELEVATIONS  
SCALE: 1/4" = 1'-0"

James L. Carroll & Associates

"INNOVATORS OF ALWAYS-ADVANCING DESIGN"  
 455 EAST 400 SOUTH SUITE 4003  
 SALT LAKE CITY, UTAH 84111 (801) 515-8517  
 WWW.JAMESL.CARROLLANDASSOCIATES.COM

PRIVATE RESIDENCE

LOT #  
 STREET NAME  
 CITY, STATE, ZIP CODE

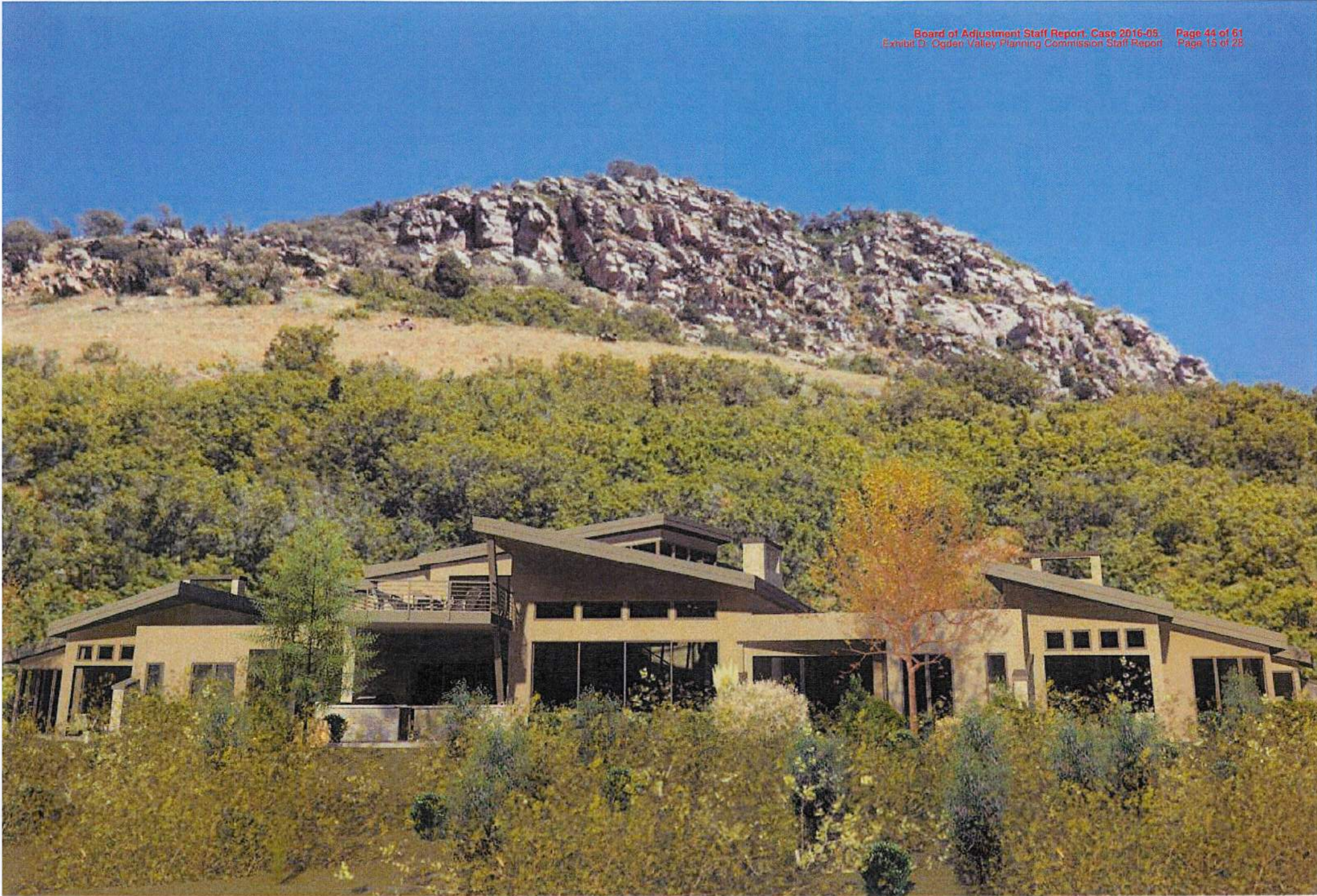
DATE: 01/28/2016	PROJECT: 2016-05
DRAWN BY: JLC	CHECKED BY: JLC
DATE: 01/28/2016	PROJECT: 2016-05
DRAWN BY: JLC	CHECKED BY: JLC
DATE: 01/28/2016	PROJECT: 2016-05
DRAWN BY: JLC	CHECKED BY: JLC
DATE: 01/28/2016	PROJECT: 2016-05
DRAWN BY: JLC	CHECKED BY: JLC

A-1.1











## Ewert, Charles

---

**From:** Tim Charlwood [timcharlwood@gmail.com]  
**Sent:** Wednesday, June 22, 2016 10:04 PM  
**To:** Ewert, Charles  
**Subject:** Sanctuary CUP

Charlie,

Building materials used to finish include rock, stone, steel, Aluminum, Quality synthetic stucco, steel, glass.

Designs by leading award winning architects.

Is that enough?

Thanks for all your help.

Tim

















**Ewert, Charles**

---

**From:** Tim Charlwood [timcharlwood@gmail.com]  
**Sent:** Sunday, June 19, 2016 1:11 PM  
**To:** Ewert, Charles  
**Subject:** [CAUTION link-attachment]CUP Sanctuary Lodge

Charlie,

No.1. I hope the images below provide enough for the CUP. this shows the footprint for the Lodge, Topo contours, underground parking is off the drive under Homesite footprint, no new landscaping as homesite prepared, no irrigation is planned any immediate disturbance will be replanted as natural native that exists with Maple, Elderberry and Sage, ground disturbance will be limited to building pad already cleared with minimum vegetation removal. Solid Waste units will be out of sight within underground area. Septic as indicated and approved will be packed bed mound system, Well as indicated already located in cleared area. Additional rocks from Sanctuary will be placed on area across the approach road to form a decorative feature with natural local seeding between rocks. Similar to those placed at Lot 1 photos below.

#####

Be the Human Firewall!

To prevent malicious software and viruses, NEVER open files  
or click on links from unexpected or unknown sources.

Think Before You Click!

#####







No2. Solid Waste in covered area inside entrance to underground car park with screened door. No dumpster required.

No 3. Deliveries can be to underground car park on approach road or to side entrance of lodge.

No.4 Natural drainage to South, South West and North with Homesite on elevated plateau. Small French drain as recommended in Geological Study by Western Geologic outside foundation on East side.

#### Architectural and Design

No.1 Building materials will comply with LUC 108-2-4 parts (2), (4), (6), and (7). Highest quality used by architect James Carroll in award winning homes will be the standard used.

No.2 and 3. Well below ridge line with maximum height less than 35 feet from finished grade.

#### Lighting.

Will be downward facing not disturbing other properties.

#### Landscaping

No.1 The natural vegetation will be retained mainly Sage and Maple. Any damage vegetation will be replaced. The Homesite sits on an elevated rock plateau prepared years ago with natural vegetation remaining on all sides. Compliance with all the code listed will be applied.

No.2. No irrigation is intended, retaining a natural environment is planned. I acre foot water approved Well Rights Approval E 4906 through Sept 30th 2021.

#### Signage.

A sign in natural timber and old iron sign established 8 years ago with letters carved out within exists on lower approach road indicating Curtain Bluff, no further signs required and no lighting.

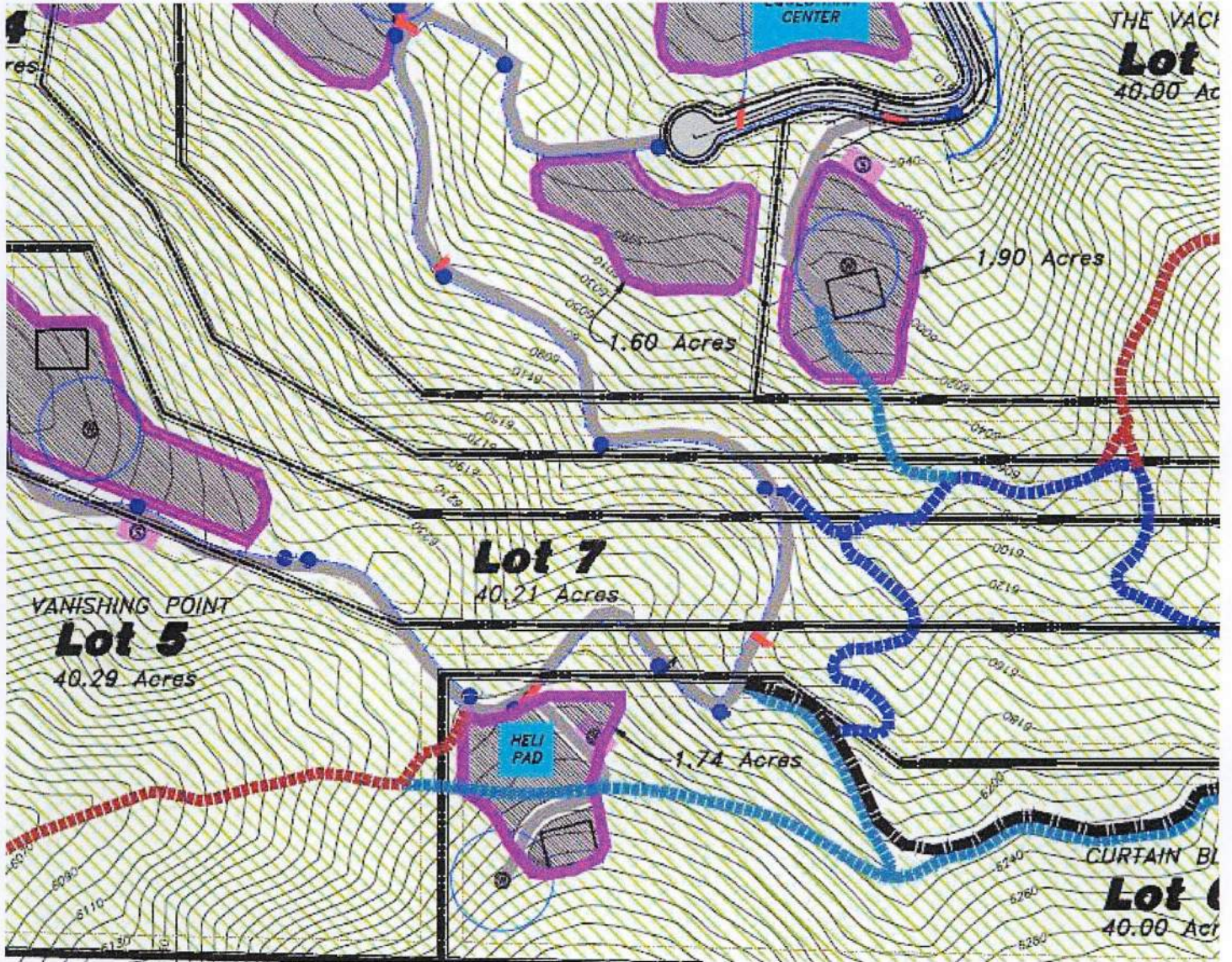






Geological hazards.

A pit was dug and formed part of the tests at Lot 6, the report has been written in 2007 and updated 2010 with no change, a further review letter is on the way from Bill Black at Western Geologic





Edit Delete Add a File Email

## Weber Fire District Comments- Conditional Use Permit

Project: The Sanctuary Recreational Lodge  
 User: Brandon Thueson  
 Department: Weber County Special Events, Weber Fire District  
 Created: 2016-06-06 10:09:59  
 Modified: 2016-06-09 08:48:12  
 Approved: Yes

### Notes

Date: June 6, 2016

Project Name: The Sanctuary Recreational Lodge

Project Address: 9803 E Maple Rd Lot 6, Huntsville Utah 84317

Contractor/Contact: Timothy Charwood 435-901-2337 timcharwood@gmail.com

Fee(s): see attached pdf.

Fee Notice:

Weber Fire District has various fees associated with plan reviews, and inspections. Please be prepared to make payments at the time of inspections or when you pick up your approved plans. Impact Fees are due prior to taking out a building permit. Make checks payable to: Weber Fire District.

**\*A Written Response Is Required For This Review\***

**Status: USE APPROVED WITH CONDITIONS**

### Specific Comments:

1. Fire Flow: Fire flow for this project will be 1,500 GPM for 1 Hour duration (90,000 gallons total). This is contingent upon the building being equipped throughout with an NFPA 13 or 13R fire suppression system and a building no larger than 8,000 square feet in area.
2. Fire Hydrant(s): At least one new fire hydrant must be provided within 100 feet of the fire department connection for the suppression system. This hydrant shall be tied to the 90,000 gallon water supply and shall be capable of producing a minimum of 1,500 GPM at 20 PSI.
3. Fire Suppression System: The building will be an R1 occupancy type which requires a fire suppression system compliant with NFPA 13 or 13R (these are not the same system types as a home would have). These systems are more demanding for flow and pressure and they are hydraulically calculated. Consult with a fire protection contractor concerning system design criteria (see IFC section 903.2.8).
4. Fire Alarm System: A full fire alarm system will be required throughout the building (see IFC 907.2.8)

### General Requirements:

1. Fire Access roads to any property shall have a minimum clear width of 20 feet (face of curb to face of curb) and a vertical clearance of 13 foot 6 inches and shall be capable of supporting a 75,000 pound load.
2. Roads shall have a maximum grade of 10% unless specifically approved as outlined by the International Fire Code. (Roads previously approved and recorded are not subject to change.)
3. Radius on all corners shall be a minimum of 28'-0".
4. Dead end fire apparatus access roads in excess of 150 feet in length shall be provide with an approved area for turning around fire apparatus constructed with the same requirements as the roads.
5. Roads and bridges shall be designed, constructed and maintained to support an imposed load of 75,000 lbs.
6. All roads shall be designed, constructed, surfaced and maintained so as to provide an all-weather driving surface.
7. Fire access roads for this project shall be completed and approved prior to any combustible construction. Temporary roads shall meet the same requirements for height, width and imposed loads as permanent roads.
8. All required fire hydrants and water systems shall be installed, approved and fully functional prior to any combustible construction.
9. SEPERATE SUBMITAL NOTICE: Fire suppression systems and fire alarm systems require a separate submittal. A permit shall be applied for before any installation of either fire suppression system or fire alarm system. The permit shall be on the job site and be available for review by any inspector. The APPROVED STAMPED set of plans shall also be on the job site and available for review by any inspector. If there is no permit and/or approved stamped plans on the job site, there will be a Stop Work Order issued until both are on the job site. Submit plans at Weber Fire District, 2023 W. 1300 N. Farr West.
10. If the building is equipped with an fire suppression system, there shall be a weather proof horn/strobe device located on the street side of the building as approved by the Fire Prevention Division (coordinate with fire inspector regarding location).
11. If the building is equipped with a fire department connection (FDC) there shall be a cement pad measuring 3 ft x 3 ft under the FDC (coordinate with fire inspector regarding this).
12. Fire suppression systems for kitchen hoods shall have the plans approved by the fire department before installation and a test of the system shall be preformed for the fire department for approval.
13. A Knox Box is required for this building. These may be ordered at www.knoxbox.com. Please select WEBER FIRE DISTRICT as your jurisdiction. Only 3200 Series boxes are to be used.
14. Gates into the area shall be provided with either a Knox Box containing a key to the gate or if the gate is an electric gate, the gate shall have a Knox Key Switch installed. See #18 for how to order.



Every effort has been made to provide a complete and thorough review of these plans. This review DOES NOT relieve the owner, contractor and/or developer from compliance with any and all applicable codes, and standards.

Any change or revision of this plan will render this review void and will require submittal of the new, or revised, layout for fire department review. If you have any questions, please contact me at 801-782-3580.

Brandon Thueson  
Fire Marshal

cc: File

Files

Name	Size	Date Uploaded	Actions
CUP- Sanctuary Rec Lodge 9803 E Maple Rd Lot 6 Huntsville.pdf	226 KB	2016-06-09 08:48:33	Rename Delete

2016-06-09 08:48:33  
CUP- Sanctuary Rec Lodge 9803 E Maple Rd Lot 6 Huntsville.pdf  
226 KB  
2016-06-09 08:48:33  
Rename Delete

## Engineering

Project: The Sanctuary Recreational Lodge  
User: Chad Meyerhoffer  
Department: Weber County Engineering Division  
Created: 2016-06-15 12:37:26  
Modified: 2016-06-15 12:37:26

### Notes

This letter concerns the above referenced Development. I have had a chance to review the plan(s) and have the following comment(s): Written responses to the following comments are required.

1. This lot appears to be in the Geological hazard study area. A site reconnaissance from a Geologist will need to be done on the property. This will need to be done prior to getting the engineering on the building and submitting for building permit.
2. A site plan showing the contours and where the structure will sit will need to be submitted for review. This will be needed for the building permit application and assume as well for the Geologist.
3. A Building Permit will need to be obtained through the Weber County Building Inspection Dept.
4. The necessary permits will need to be obtained through the Health Dept.
5. A Storm Water Pollution Prevention Plan (SWPPP) is now required to be submitted for all new development where construction is required. The State now requires that a National Discharge Pollution Elimination Systems (NPDES) permit be acquired for all new development. A copy of the permit needs to be submitted to the county before final approval. Permits can now be obtained online thru the Utah State Dept. of Environmental Quality at the following web site: [https://secure.utah.gov/account/login.html?returnToUrl=https%3A%2F%2Fsecure.utah.gov/stormwater/ui\\_authentication](https://secure.utah.gov/account/login.html?returnToUrl=https%3A%2F%2Fsecure.utah.gov/stormwater/ui_authentication) This is part of a Common Plan of Development and will need to be submitted with the building permit.
6. A Storm Water Activity Permit will need to be obtained through our office before construction begins.  
[http://www1.co.weber.ut.us/mediawiki/images/5/56/Stormwater\\_Construction\\_Activity\\_Permit.pdf](http://www1.co.weber.ut.us/mediawiki/images/5/56/Stormwater_Construction_Activity_Permit.pdf) This will need to be submitted with the building permit.

I have tried to address all items of concern from the engineering department. However, this review does not forego other items of concern that may come to this department's attention during additional reviews or during construction of improvements. If you have any comments or questions concerning this letter, feel free to contact me.

Sincerely,

Chad Meyerhoffer

Weber County Engineering Dept.

Phone: (801) 399-8004

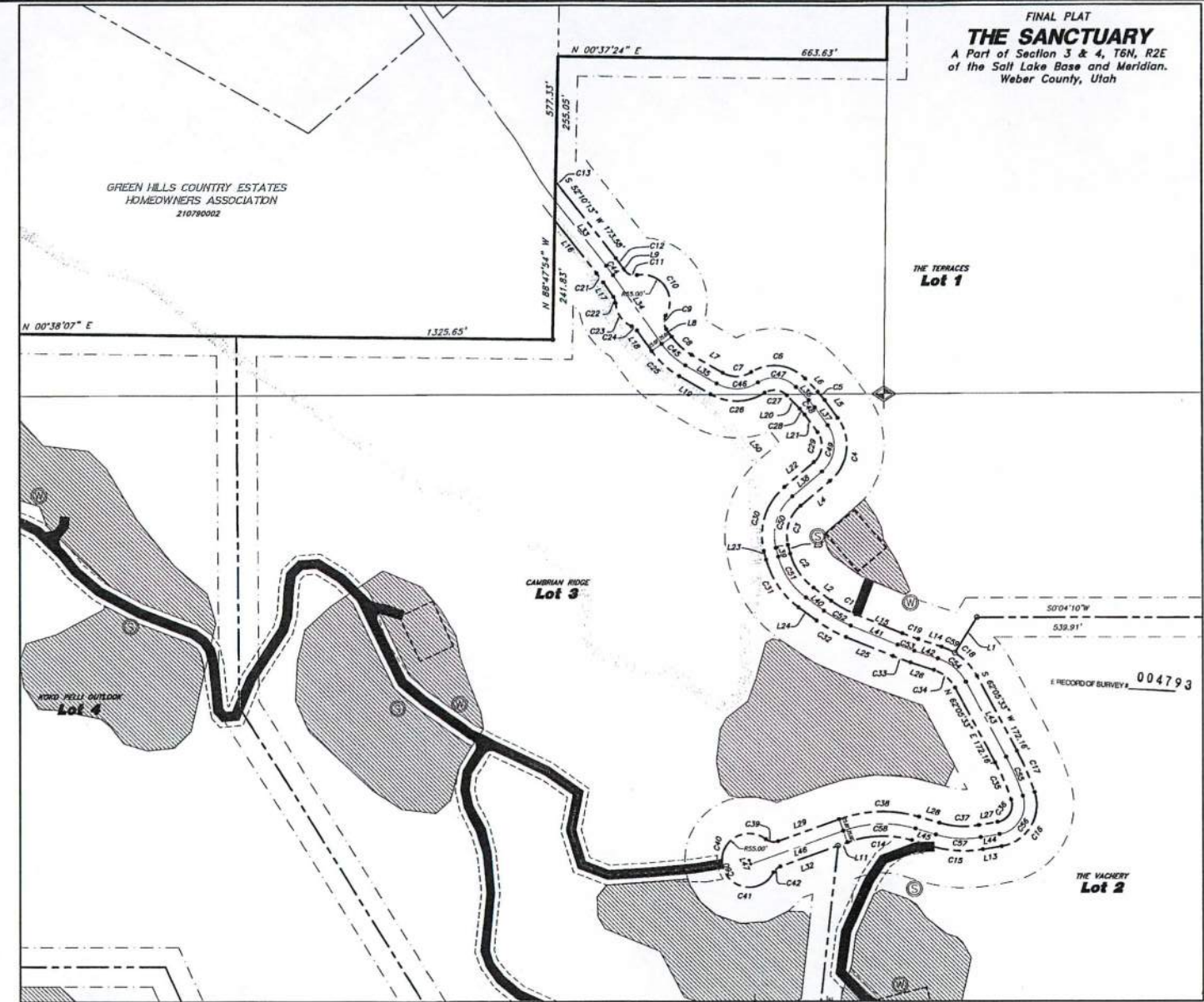
e-mail: [cmeyerho@co.weber.ut.us](mailto:cmeyerho@co.weber.ut.us)

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FINAL PLAT  
**THE SANCTUARY**  
 A Part of Section 3 & 4, T6N, R2E  
 of the Salt Lake Base and Meridian,  
 Weber County, Utah

Line Table for PRIVATE ROADWAY

LINE	BEARING	DISTANCE
L1	N 00°37'24" E	663.63'
L2	S 52°01'5" W	122.80'
L3	S 27°01'5" W	122.80'
L4	N 88°47'24" W	241.83'
L5	N 00°37'24" E	663.63'
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L19	S 27°01'5" W	122.80'
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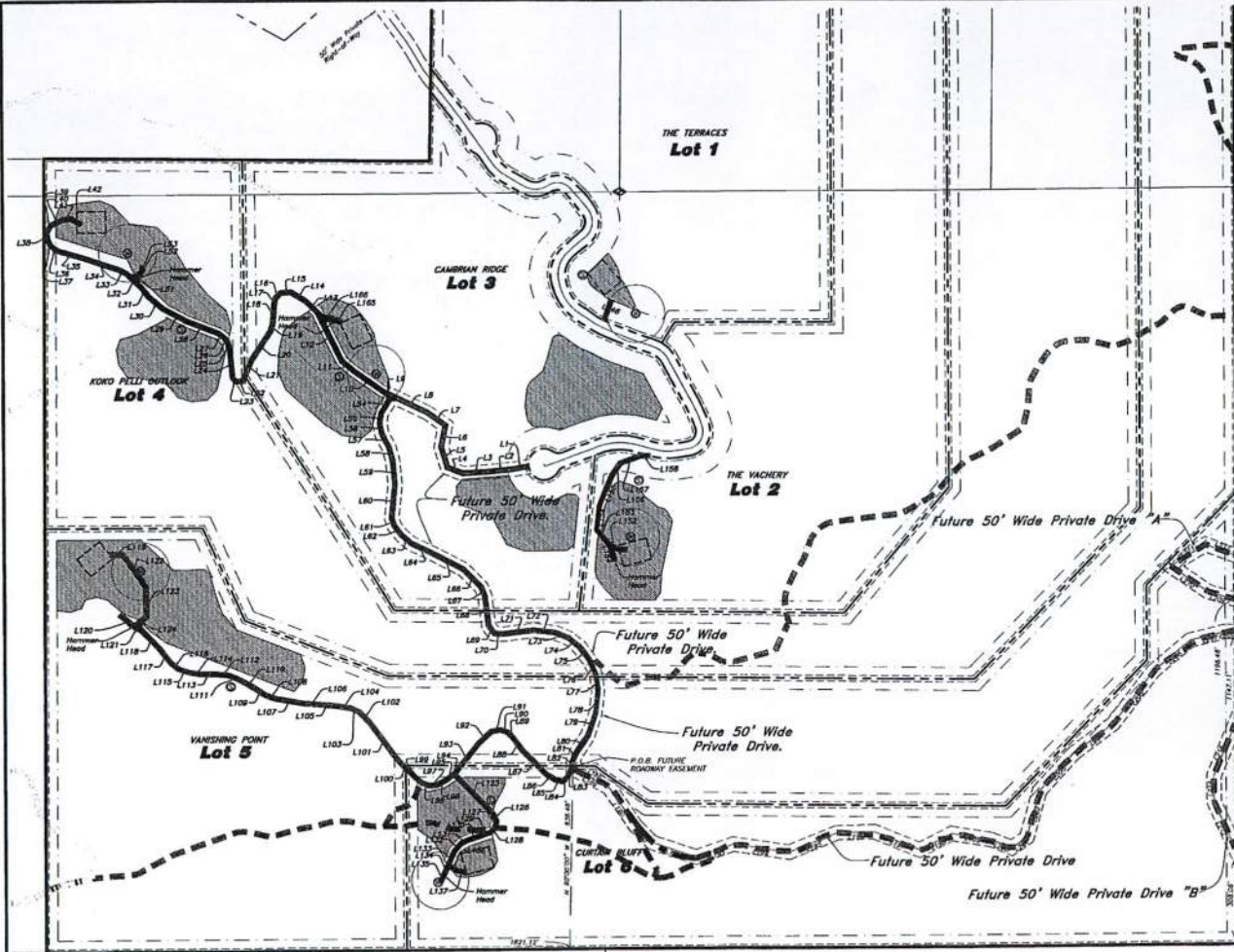
Curve Table for PRIVATE ROADWAY

CHORD	BEARING	RADIUS	LENGTH	ANGLE	CHORD
C1	N 00°37'24" E	663.63'	663.63'	0°00'00"	663.63'
C2	S 52°01'5" W	122.80'	122.80'	52°01'5"	122.80'
C3	S 27°01'5" W	122.80'	122.80'	27°01'5"	122.80'
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C5	N 00°37'24" E	663.63'	663.63'	0°00'00"	663.63'
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C82	S 52°01'5" W	122.80'	122.80'	52°01'5"	122.80'
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C85	N 00°37'24" E	663.63'	663.63'	0°00'00"	663.63'
C86	S 52°01'5" W	122.80'	122.80'	52°01'5"	122.80'
C87	S 27°01'5" W	122.80'	122.80'	27°01'5"	122.80'
C88	N 88°47'24" W	241.83'	241.83'	88°47'24"	241.83'
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C90	S 52°01'5" W	122.80'	122.80'	52°01'5"	122.80'
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C100	N 88°47'24" W	241.83'	241.83'	88°47'24"	241.83'

**REMAINDER PARCEL DESCRIPTION**  
 A PART OF THE NORTHWEST QUARTER OF SECTION 3 AND A PART OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 2 EAST OF THE SALT LAKE BASE AND MERIDIAN, BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 34 BEING A G.L.O BRASS CAP MONUMENT AND RUNNING THENCE NORTH 00°56'00" EAST 244.52 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 34 BEING A G.L.O BRASS CAP MONUMENT; THENCE SOUTH 89°21'5" EAST 264.60 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 01°01'43" WEST 264.60 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER BEING A G.L.O BRASS CAP MONUMENT; THENCE SOUTH 89°21'5" EAST 102.48 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 3; THENCE SOUTH 00°07'17" WEST 415.11 FEET ALONG THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 89°24'23" EAST 1185.04 FEET ALONG THE NORTH LINE OF SAID LOT 4 TO THE POINT OF BEGINNING; CONTAINING 200.00 ACRES TOGETHER WITH A PRIVATE ACCESS ROAD AND P.U.E. DESCRIBED AS FOLLOWS: A PART OF THE WEST HALF OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 2 EAST OF THE SALT LAKE BASE AND MERIDIAN, BEGINNING AT THE CENTERLINE OF AN EXISTING DIRT ROAD LOCATED NORTH 00°07'17" WEST 122.12 FEET ALONG THE MONUMENTED CENTER OF SAID SECTION 3 AND NORTH 89°00'00" WEST 636.48 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 3 AND RUNNING ALONG THE CENTERLINE OF SAID EXISTING DIRT ROAD LOCATED NORTH 00°07'17" WEST 122.12 FEET; THENCE NORTH 27°22'33" EAST 144.78 FEET; THENCE NORTH 44°15'48" EAST 53.81 FEET; THENCE NORTH 56°20'9" EAST 155.5

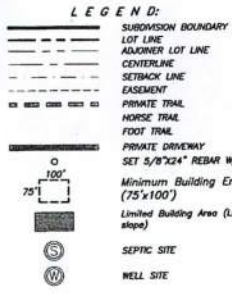


**THE SANCTUARY**  
 A Part of Section 3 & 4, T6N, R2E  
 of the Salt Lake Base and Meridian.  
 Weber County, Utah



**LINE TABLE FOR PRIVATE DRIVEWAYS**

LINE	LENGTH	BEARING	LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1	41.17	S88°27'21"E	L81	54.42	S84°58'17"E	L161	75.00	S47°31'25"W
L2	85.74	S03°23'21"E	L82	35.75	S77°14'34"E	L162	100.00	N22°08'25"W
L3	88.00	S07°44'39"E	L83	28.28	S87°14'08"E	L163	75.00	N07°51'25"E
L4	52.73	S07°14'17"E	L84	24.83	S41°54'16"E	L164	60.00	N17°58'24"E
L5	75.78	S22°14'57"W	L85	27.50	S12°22'58"W	L165	48.21	S20°09'21"W
L6	77.04	N78°06'30"W	L86	35.21	S32°48'42"W	L166	27.73	S20°29'21"E
L7	78.48	S92°40'56"W	L87	116.27	S45°00'48"W	L167	625.17	S73°29'21"E
L8	130.59	S95°44'41"W	L88	54.07	S52°25'18"W	L168	75.00	S20°38'19"E
L9	35.89	S22°44'41"W	L89	28.12	S48°44'07"W	L169	100.00	S89°23'01"E
L10	112.57	S05°28'28"W	L90	86.71	S20°06'14"W	L170	75.00	N05°38'19"E
L11	56.78	S39°28'28"W	L91	32.78	S10°24'45"E	L171	100.00	N05°23'41"E
L12	189.92	S8°00'18"W	L92	61.48	S42°24'58"E	L172	422.94	N01°23'13"E
L13	52.57	S44°24'18"E	L93	150.57	S51°21'12"E	L173	100.00	N00°17'17"E
L14	57.18	S01°41'28"W	L94	5.83	S12°32'22"E	L174	75.00	N08°42'43"E
L15	35.03	S03°41'41"E	L95	34.47	S27°32'24"E	L175	100.00	N00°17'22"E
L16	27.68	S45°29'27"E	L96	37.08	S27°28'07"E	L176	75.00	S09°42'41"E
L17	27.68	S00°24'50"E	L97	26.99	S00°42'58"E	L177	153.35	S43°44'02"W
L18	55.30	S08°38'07"E	L98	27.87	S18°17'34"W	L178	75.00	N01°34'20"E
L19	50.63	S24°28'38"W	L99	68.77	S41°53'57"E	L179	100.00	N48°25'34"E
L20	118.48	S27°20'24"E	L100	78.87	S45°01'30"W	L180	75.00	S51°34'28"W
L21	79.68	S87°30'41"E	L101	166.83	S57°11'17"W	L181	100.00	N08°23'24"E
L22	50.37	S82°14'87"E	L102	64.00	S45°40'24"E	L182	286.48	S33°34'06"E
L23	179.19	S48°55'21"W	L103	55.32	S24°11'21"W	L183	75.00	N08°19'21"E
L24	83.74	S84°28'48"W	L104	48.00	S09°28'00"W	L184	100.00	S13°40'58"E
L25	52.38	S27°34'18"E	L105	50.15	S04°15'18"W	L185	75.00	N28°19'21"E
L26	21.25	S55°11'17"W	L106	50.68	S04°15'28"W	L186	100.00	N15°40'09"W
L27	28.48	S38°32'30"W	L107	95.48	S18°28'37"W	L187	10.00	S88°41'02"E
L28	115.05	S21°00'34"W	L108	36.79	S19°06'16"E	L188	144.78	N 27°22'23" E
L29	92.28	S04°08'17"W	L109	41.06	S33°13'08"W	L189	155.88	N 50°20'05" E
L30	62.42	S41°58'03"W	L110	56.29	S39°10'18"W	L190	100.00	N 27°18'18" E
L31	41.52	S44°24'18"E	L111	42.84	S42°24'58"E	L191	75.00	N 27°18'18" E
L32	69.54	S44°05'14"W	L112	48.98	S06°25'24"W	L192	158.44	N 18°44'54" E
L33	31.54	S27°11'31"W	L113	48.88	S00°00'00"W	L193	136.13	N 18°00'00" E
L34	228.45	S18°01'06"W	L114	37.11	S02°20'42"W	L194	100.00	N 27°18'18" E
L35	30.71	S18°01'06"W	L115	42.84	S12°58'11"W	L195	178.89	N 21°58'11" E
L36	29.27	S38°32'30"W	L116	35.54	S39°00'15"W	L196	129.17	N 1°25'26" E
L37	21.74	S82°14'87"E	L117	56.48	S52°42'22"E	L197	158.44	N 27°18'18" E
L38	25.12	S01°18'18"W	L118	86.55	S48°31'08"W	L198	124.33	N 27°18'18" E
L39	29.87	S27°32'27"W	L119	47.33	S07°22'51"W	L199	158.38	N 07°07'14" E
L40	42.81	N00°12'00"W	L120	57.76	N35°34'08"E	L200	78.60	N 27°18'18" E
L41	29.10	N00°12'00"W	L121	41.83	N07°33'06"E	L201	62.37	N 24°21'21" E
L42	43.18	N09°24'42"E	L122	138.05	N52°44'20"E	L202	188.13	N 24°11'01" E
L43	24.18	N10°00'00"E	L123	100.68	N08°23'24"E	L203	122.48	N 27°18'18" E
L44	21.67	N08°12'00"E	L124	52.99	S40°48'29"W	L204	171.04	N 38°14'41" E
L45	19.80	N04°43'10"E	L125	194.36	N42°24'46"E	L205	228.89	N 52°25'25" E
L46	115.05	S27°24'17"E	L126	36.79	N08°25'24"E	L206	162.22	N 39°18'18" E
L47	25.62	S02°12'11"W	L127	25.10	S20°28'19"E	L207	127.33	N 13°48'53" E
L48	35.81	N08°18'58"E	L128	21.32	S42°27'23"E	L208	38.54	N 27°20'21" E
L49	48.53	N04°18'00"E	L129	41.20	S18°24'58"E	L209	103.10	S18°23'58" W
L50	48.53	N04°18'00"E	L130	41.97	S18°28'05"E	L210	158.84	S34°43'58" W
L51	82.62	N04°21'08"E	L131	27.28	S28°00'24"E	L211	142.50	N 17°24'33" E
L52	116.16	S82°50'24"E	L132	36.33	S47°44'21"E	L212	115.55	N 30°43'08" E
L53	26.80	N07°00'00"E	L133	54.14	S68°00'05"E	L213	202.05	S 66°12'21" E
L54	40.79	N02°13'08"E	L134	30.61	S84°48'43"E	L214	91.88	N00°00'00"E
L55	45.73	N02°00'00"E	L135	34.43	N02°24'24"E	L215	216.12	N 67°23'59" E
L56	78.20	N02°00'00"E	L136	34.45	N00°42'21"E			
L57	126.59	N22°20'42"E	L137	32.61	N10°18'14"E			
L58	86.30	N45°00'00"E	L138	114.6	N08°07'24"W			
L59	35.72	N08°27'18"E	L139	286.90	S30°11'02"W			
L60	102.08	N08°28'11"E	L140	75.00	S2°32'53"E			
L61	33.67	N54°00'21"E	L141	100.00	S32°00'00"E			
L62	25.66	N45°00'00"E	L142	75.00	N51°52'52"E			
L63	106.51	N08°27'38"W	L143	100.00	N37°27'08"E			
L64	53.89	N02°11'50"E	L144	100.00	S28°40'00"E			
L65	53.89	N02°11'50"E	L145	71.47	S47°45'01"W			
L66	46.23	N39°48'08"E	L146	83.52	N07°24'54"W			
L67	55.82	N37°41'00"E	L147	115.27	N07°00'00"W			
L68	61.58	N05°21'40"E	L148	50.68	N50°00'00"W			
L69	53.87	N01°24'27"E	L149	70.34	N07°14'45"W			
L70	81.89	S82°08'04"E	L150	57.48	N07°25'49"W			
L71	81.89	S89°04'14"E	L151	229.40	S46°04'16"E			
L72	61.43	S58'03'32"E	L152	100.00	S27°08'35"E			



**NOTICE TO PURCHASERS OF LOTS WITH DESIGNATED BUILDING AREAS:**

- LOTS DESIGNATED WITH "BUILDING AREAS" HAVE BEEN APPROVED BY WEBER COUNTY SUBJECT TO THE CONDITION THAT THE BUILDING DEVELOPMENT SHALL BE CONSTRUCTED ONLY WITHIN SUCH DESIGNATED AREAS. EACH APPROVED "BUILDING AREA" SHOWN ON THE PLAT EXCEEDS THE MINIMUM AREA (100'x75') REQUIRED BY WEBER COUNTY ORDINANCE, AND HAS A SLOPE OF LESS THAN TEN PERCENT. THE (100'x75') MINIMUM AREAS ARE SHOWN ONLY AS A REFERENCE AND AS SUCH, THEY SHOW THE LOCATION DOES NOT PHYSICALLY FIX THE LOCATION OF THE RESIDENTIAL STRUCTURES. RESIDENTIAL STRUCTURES MAY BE LOCATED ANYWHERE WITHIN THE "BUILDING AREAS" AS SHOWN HEREON.
- ALL CONSTRUCTED HOMES (INCLUDING GARAGES, DECKS, ETC.) ARE REQUIRED TO HAVE FIRE SPRINKLER SYSTEMS THAT COMPLY WITH IFCO 300.
- 10 FT PUBLIC UTILITY AND DRAINAGE EASEMENTS EACH SIDE OF PROPERTY LINES, PRIVATE ROADWAYS AND PRIVATE DRIVEWAYS AS INDICATED BY DASHED LINES, UNLESS OTHERWISE SHOWN.
- WATER SYSTEM TO BE INDIVIDUAL PRIVATE WELLS. A 100' WELL PROTECTIVE ZONE IS ENFORCED AROUND THE WELL LOCATION.
- THE HOME OWNER OF EACH LOT SHALL PROVIDE AN ON-SITE SEPTIC SYSTEM AND DRAINAGE FEEDS AS REQUIRED BY HOME SIZE AND PER WASTEWATER DISCHARGE AS PER WEBER COUNTY STANDARDS AND REQUIREMENTS.
- THE HOME OWNER OF EACH LOT SHALL PROVIDE AN ON-SITE STORM WATER DETENTION BASIN AS REQUIRED BY HOME SIZE, PAVEMENTS, HARD SURFACES, LANDSCAPING, ETC. AS PER WEBER COUNTY STANDARDS AND REQUIREMENTS.
- EACH STRUCTURE IS REQUIRED TO HAVE A MINIMUM 30 FEET DEFENSIBLE SPACE.
- ALL STRUCTURES SHALL COMPLY WITH THE 2006 UTM WILDLAND-URBAN INTERFACE CODE.

**Centerline Future 50' Wide Private Road and P.U.E Description**

(Existing Private Trail and Future Private Drive for Access and Utility Service for the Remainder Parcels)  
 A Part of the West Half of Section 3, Township 6 North, Range 2 East of the Salt Lake Base and Meridian.

Beginning at the centerline of an Existing Dirt Road Located North 00°07'17" West 1821.12 Feet Along the monumented Center of said Section 3 and North 90°00'00" West 635.48 Feet from the South Quarter Corner of said Section 3 and Running Along the Centerline of said Existing Dirt Road the Following Courses: South 89°41'02" East 101.00 Feet; Thence North 27°22'51" East 144.78 Feet; Thence North 44°11'49" East 33.81 Feet; Thence North 50°20'05" East 155.59 Feet; Thence North 45°39'39" East 82.83 Feet; Thence North 18°44'34" East 159.46 Feet; Thence North 18°36'50" West 136.15 Feet; Thence North 8°23'42" East 195.09 Feet; Thence North 21°59'16" West 178.99 Feet; Thence North 1°23'51" West 128.17 Feet; Thence North 27°42'31" East 188.85 Feet; Thence North 27°19'43" West 124.33 Feet; Thence North 87°17'27" East 138.38 Feet; Thence North 22°18'23" East 76.6 Feet; Thence North 34°17'28" West 62.37 Feet; Thence North 34°21'11" West 168.13 Feet; Thence North 42°32'51" West 177.46 Feet; Thence North 36°14'41" West 171.04 Feet; Thence North 52°25'55" West 228.99 Feet; Thence North 39°58'18" West 167.22 Feet; Thence North 15°36'53" West 127.37 Feet; Thence North 2°32'50" East 38.54 Feet to a point on the North Boundary of the Sanctuary Subdivision and the Point of Termination being located 1147.11 feet North 90°00'00" West from the northeast corner of said subdivision.

**Centerline Future 50' Wide Private Drive "A" Easement Description**

A Part of the Northwest Quarter of Section 3, Township 6 North, Range 2 East of the Salt Lake Base and Meridian.

Beginning at the centerline of an Existing Dirt Road Located South 00°07'17" East 426.17 Feet Along the east line of said Northwest Quarter and North 90°00'00" West 1196.46 Feet from the North Quarter Corner of said Section 3 and Running Along the Centerline of said Existing Dirt Road the Following Courses: South 16°22'58" West 103.10 Feet; Thence South 54°17'38" West 166.84 Feet; Thence North 31°24'33" West 142.50 Feet; Thence North 20°45'28" East 113.55 Feet to a point on the North Boundary of the Sanctuary Subdivision and the Point of Termination.

**Centerline Future 50' Wide Private Drive "B" Easement Description**

A Part of the Northwest Quarter of Section 3, Township 6 North, Range 2 East of the Salt Lake Base and Meridian.

Beginning at the centerline of an Existing Dirt Road Located South 00°07'17" East 426.17 Feet Along the East line of said Northwest Quarter and North 90°00'00" West 308.06 Feet from the North Quarter Corner of said Section 3 and Running Along the Centerline of said Existing Dirt Road the Following Courses: South 16°12'21" West 202.05 Feet; Thence North 90°00'00" West 91.68 Feet; Thence North 67°23'59" West 212.12 Feet to a point on the North Boundary of the Sanctuary Subdivision and the Point of Termination.

**HANSEN & ASSOCIATES, INC.**  
 Consulting Engineers and Land Surveyors  
 538 North Main Street, Brigham City, Utah 84302  
 Visit us at [www.haies.net](http://www.haies.net)  
 Brigham City Ogden Logan  
 (435) 733-3661 (801) 589-4800 (435) 733-8272



**SHEET 3 of 4**  
**PRIVATE DRIVEWAY**

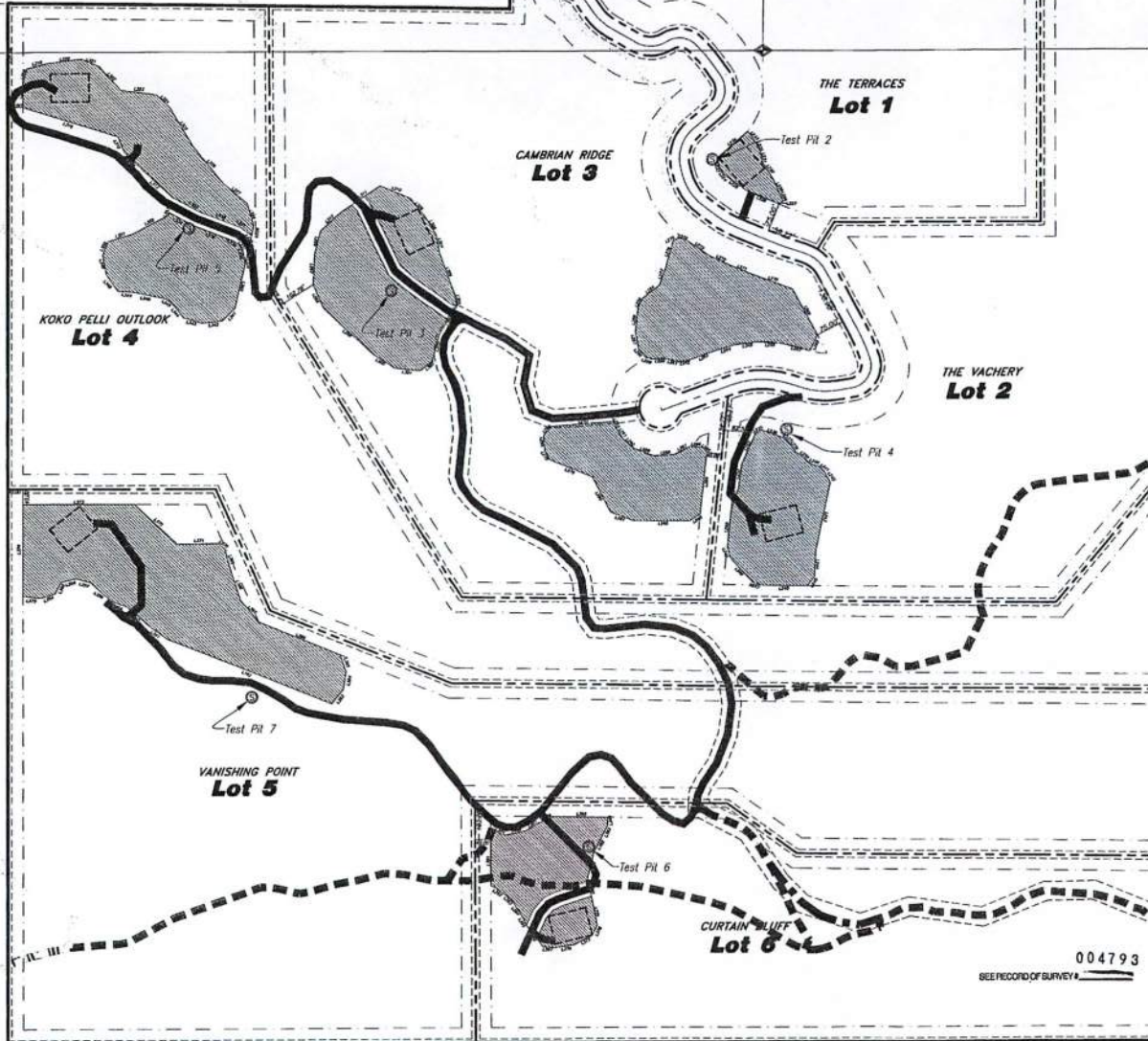
WEBER COUNTY RECORDER  
 I HAVE HEREBY FILED FOR RECORD  
 RECORDED: 11-01-2013  
 IN BOOK 78 OF OPT  
 RECORDS, PAGE 20, 21, 22  
 REC'D  
 COUNTY RECORDER  
 DEPUTY



# FINAL PLAT

## THE SANCTUARY

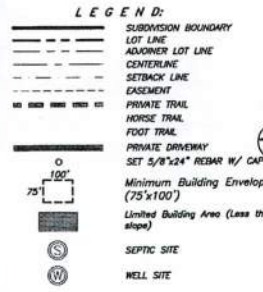
A Part of Section 3 & 4, T6N, R2E of the Salt Lake Base and Meridian.



Line Table for LIMITED BUILDING AREAS

Line No.	Distance	Bearing	Line No.	Distance	Bearing
1223	29.80	N02°11'30"E	1310	66.81	S02°44'32"W
1224	19.58	N04°03'42"E	1311	7.98	S15°08'24"W
1225	70.00	N08°04'31"E	1312	70.43	S41°38'50"W
1226	85.82	N07°14'22"E	1313	70.73	S42°21'54"W
1227	12.16	N07°13'21"W	1314	85.24	S44°40'41"W
1228	7.84	S71°13'31"W	1315	44.71	S89°01'46"W
1229	58.23	N08°00'00"E	1316	598.36	S12°24'00"W
1230	31.84	S08°44'02"W	1317	63.24	N09°31'32"E
1231	24.10	S80°07'44"W	1318	40.76	N25°46'02"E
1232	27.44	S00°51'52"W	1319	54.77	N16°59'44"E
1233	46.36	S55°14'32"E	1320	69.54	N02°33'15"E
1234	168.08	S41°21'21"E	1321	55.34	S02°00'15"E
1235	17.99	N00°00'00"W	1322	85.12	N42°54'54"E
1236	54.90	N19°24'08"E	1323	91.80	N07°15'21"E
1237	21.58	N02°17'42"E	1324	57.21	N44°20'37"E
1238	32.52	N04°36'23"E	1325	118.61	N08°53'21"E
1239	51.14	N08°04'02"E	1326	123.21	N01°35'37"E
1240	21.25	N18°37'02"E	1327	84.61	N05°51'02"E
1241	17.79	N45°39'52"E	1328	61.68	N25°49'37"E
1242	34.18	N61°18'02"E	1329	27.48	S27°10'20"E
1243	187.20	S27°14'12"E	1330	4.71	S07°11'17"E
1244	65.23	S88°34'08"E	1331	31.43	S46°32'30"W
1245	31.08	S53°01'24"E	1332	118.87	S07°10'37"E
1246	171.48	S00°00'00"W	1333	78.50	S08°01'17"W
1247	23.99	S18°08'14"W	1334	69.74	N08°28'12"E
1248	65.49	S48°09'44"W	1335	113.63	N01°20'34"E
1249	29.41	S77°35'24"W	1336	18.23	N30°32'30"E
1250	86.17	N04°10'36"W	1337	14.71	N05°11'12"E
1251	21.89	N71°32'20"W	1338	25.71	N77°00'12"E
1252	62.57	N01°36'54"W	1339	13.59	N04°25'57"E
1253	86.71	N08°09'42"W	1340	171.29	S27°15'25"E
1254	146.81	S48°12'24"E	1341	47.72	S45°08'17"E
1255	27.40	S00°29'24"E	1342	54.48	S09°48'13"E
1256	85.20	N01°18'02"E	1343	46.25	N12°54'23"E
1257	48.94	N79°40'01"E	1344	42.54	S20°00'31"E
1258	28.25	N01°38'02"E	1345	24.56	S49°44'38"W
1259	17.81	N07°11'02"E	1346	84.68	S11°28'00"E
1260	36.80	N01°49'23"W	1347	45.16	S03°44'54"W
1261	32.25	N17°32'20"E	1348	53.30	S58°12'30"E
1262	16.16	N00°40'00"W	1349	21.80	S79°49'00"E
1263	70.23	N00°26'44"W	1350	38.42	N08°12'28"E
1264	56.34	N17°25'31"E	1351	61.77	N18°51'48"E
1265	61.68	N02°30'00"W	1352	107.67	N02°55'37"W
1266	68.35	N03°48'12"E	1353	2.41	N77°15'01"W
1267	21.22	N14°53'02"E	1354	38.62	N12°11'36"E
1268	45.85	N04°19'12"E	1355	35.29	N02°55'47"E
1269	148.22	S42°03'43"E	1356	30.21	N12°48'42"W
1270	112.43	S07°17'08"E	1357	38.29	N10°59'12"E
1271	60.79	S28°43'19"E	1358	75.85	N41°25'57"E
1272	62.31	S24°44'12"E	1359	41.18	N07°24'47"E
1273	74.60	S45°24'52"E	1360	72.77	N42°14'13"E
1274	21.37	S18°29'21"E	1361	59.59	N39°19'27"E
1275	15.68	S00°27'42"E	1362	466.84	S01°28'00"E
1276	72.80	S74°39'41"E	1363	49.12	N01°02'43"W
1277	61.37	S70°09'02"E	1364	47.28	N01°02'31"W
1278	208.72	N02°15'12"E	1365	45.53	S00°11'30"W
1279	131.63	N22°27'37"E	1366	232.25	S21°54'00"W
1280	165.20	N02°44'24"E	1367	25.21	S00°01'36"W
1281	65.14	N19°24'08"E	1368	61.23	S71°08'08"E
1282	142.22	N00°24'08"W	1369	60.54	S75°05'00"E
1283	131.71	N45°24'54"E	1370	29.80	S45°24'28"E
1284	163.88	N03°43'21"E	1371	106.24	S00°56'48"E
1285	118.61	S48°45'32"E	1372	153.01	S43°14'38"W
1286	87.24	S00°00'00"W	1373	208.22	S00°00'00"E
1287	42.32	S26°12'45"E	1374	243.74	N09°31'32"E
1288	53.07	S04°02'47"E	1375	46.60	N06°30'12"E
1289	54.29	S19°46'17"E	1376	54.23	N05°28'49"E
1290	39.48	S40°43'26"E	1377	54.54	N02°33'38"E
1291	36.03	S02°52'43"E	1378	28.61	N05°01'31"E
1292	14.45	S00°44'40"E	1379	67.56	N05°10'36"E
1293	184.54	S04°27'02"E	1380	57.69	S78°14'35"W
1294	31.87	S50°48'12"E	1381	76.76	N02°38'54"W
1295	39.85	N06°59'18"E	1382	55.27	N01°52'38"W
1296	63.75	S20°44'25"E	1383	24.70	N05°48'51"W
1297	61.29	S00°15'52"E	1384	21.44	S08°41'36"W
1298	68.56	N06°31'27"E	1385	148.83	S07°16'41"W
1299	140.70	N42°40'18"E	1386	43.62	S02°12'08"E
1300	68.26	N16°08'42"E	1387	39.40	S50°03'04"E
1301	69.20	N06°26'39"E	1388	55.64	S12°02'45"E
1302	38.80	N40°26'28"E	1389	38.77	S12°12'54"W
1303	70.63	N75°19'10"W	1390	24.13	S00°07'10"E
1304	66.70	N67°28'36"W	1391	121.18	N08°59'24"E
1305	55.62	S02°03'10"E	1392	31.10	N05°10'11"E
1306	112.40	S09°11'21"W	1393	28.45	N44°09'12"E
1307	46.83	S29°42'01"E	1394	45.03	N07°34'39"E
1308	54.34	S52°12'29"W	1395	22.05	N06°10'11"E
1309	63.00	S50°41'18"W	1396	71.99	N52°14'21"E
			1397	66.24	N00°22'41"E
			1398	70.20	S27°44'30"E

- NOTICE TO PURCHASERS OF LOTS WITH DESIGNATED BUILDING AREAS**
- LOTS DESIGNATED WITH "BUILDING AREAS" HAVE BEEN APPROVED BY WEBER COUNTY SUBJECT TO THE CONDITION THAT THE BUILDING DEVELOPMENT SHALL BE CONSTRUCTED ONLY WITHIN SUCH DESIGNATED AREAS. EACH APPROVED "BUILDING AREA" SHOWN ON THE PLAT EXCEEDS THE MINIMUM AREA (100'x75') REQUIRED BY WEBER COUNTY ORDINANCE, AND HAS A "SLOPE OF LESS THAN 10 PERCENT." THE (100'x75') MINIMUM AREAS ARE SHOWN ONLY AS A REFERENCE AND AS SUCH, THE SHOWN LOCATION DOES NOT PHYSICALLY TIE THE LOCATION OF THE RESIDENTIAL STRUCTURES. RESIDENTIAL STRUCTURES MAY BE LOCATED ANYWHERE WITHIN THE "BUILDING AREAS" AS SHOWN HEREON.
  - ALL CONSTRUCTED HOMES (INCLUDED GARAGES, EAVES ETC.) ARE REQUIRED TO HAVE FIRE SPRINKLER SYSTEMS THAT COMPLY WITH NFPA 13D.
  - 10 FT PUBLIC UTILITY AND DRAINAGE EASEMENTS EACH SIDE OF PROPERTY LINES, PRIVATE ROADSWAYS AND PRIVATE DRIVEWAYS AS INDICATED BY DASHED LINES, UNLESS OTHERWISE SHOWN.
  - WATER SYSTEM TO BE INDIVIDUAL FORCE MAINS. A 100' WELL PROTECTIVE ZONE IS ENFORCED AROUND THE WELL LOCATION.
  - THE HOME OWNER OF EACH LOT SHALL PROVIDE AN ON-SITE SEPTIC SYSTEM AND DRAINAGE FIELDS AS REQUIRED BY HOME SIZE AND /OR WASTEWATER DISCHARGE AS PER WEBER COUNTY STANDARDS AND REQUIREMENTS.
  - THE HOME OWNER OF EACH LOT SHALL PROVIDE AN ON-SITE STORM WATER DETENTION BASIN AS REQUIRED HOME SIZE, PAVEMENTS, HARD SURFACES, LANDSCAPING, ETC. AS PER WEBER COUNTY STANDARDS AND REQUIREMENTS.
  - EACH STRUCTURE IS REQUIRED TO HAVE A MINIMUM 30 FEET DEFENSIBLE SPACE.
  - ALL STRUCTURES SHALL COMPLY WITH THE 2006 U/I WILDLAND-URBAN INTERFACE CODE.



Scale: 1" = 150'

10 FT Public Utility and Drainage Easements each side of Property Lines as indicated by Dashed Lines, unless otherwise shown.

prepared by: **CHANDLER**  
P.L. No. 805400  
P.L. No. 8096  
435-801-3332

**WEBER-MORGAN HEALTH DEPARTMENT SOIL EVALUATION**

Lot No.	Health Dept Label	HW Label	Latitude	Longitude	Park Rate
Lot 1	PIT 1	Test PIT 2	N. 41°12'11"	W. 111°43'18"	11 mps @ 30'
Lot 2	PIT 2	Test PIT 3	N. 41°12'11"	W. 111°43'21"	2 mps @ 30'
Lot 3	PIT 3	Test PIT 4	N. 41°17'12"	W. 111°43'08"	8 mps @ 27'
Lot 4	PIT 4	Test PIT 5	N. 41°16'59"	W. 111°43'01"	6 mps @ 30'
Lot 5	PIT 5	Test PIT 6	N. 41°16'93"	W. 111°42'85"	6 mps @ 32'
Lot 6	PIT 6	Test PIT 6	N. 41°17'09"	W. 111°42'28"	3 mps @ 32'

NOTE: SETBACKS ARE 75' FROM FRONT, 40' FROM SIDE, & 30' FROM REAR.  
ALL DIMENSIONS TO THE LIMITED BUILDING AREAS ARE AT RIGHT ANGLES AND PERPENDICULAR TO THE SUBDIVISION BOUNDARY AND LOT LINES.

**HANSEN & ASSOCIATES, INC.**  
Consulting Engineers and Land Surveyors  
538 North Main Street, Brigham, Utah 84302  
Visit us at [www.haies.net](http://www.haies.net)  
Brigham City, Utah  
(435) 723-3481 (801) 389-4808 (435) 752-8272

**SHEET 4 of 4**  
**Limited Building Area**

WEBER COUNTY RECORD  
ENTRY NO. 2045402  
FILED FOR RECORD  
RECORDED 11/03/2023  
BY REC-14  
OF RECORD PAGE 3124 REC FOR

COUNTY RECORDER  
BY: \_\_\_\_\_





NELSON CHRISTENSEN  
HOLLINGWORTH & WILLIAMS, P.C.

August 18, 2016

**VIA EMAIL AND U.S. MAIL**

Ben Hatfield, Planner  
Weber County Planning Division  
2380 Washington Blvd., Ste. 240  
Ogden, Utah 84401-1473

**Re: Request for Extension of Powder Ridge Village Owners Association, Inc.'s  
Plat Vacation Application**

Dear Mr. Hatfield:

As you know, I represent the Powder Ridge Village Owners Association, Inc. (the "Association") which owns and operates the condominium project located in Weber County at the top of Powder Mountain known as the Powder Ridge Condominiums, Phase I Amended (the "Project"). On or about February 11, 2013, the Association submitted an application to vacate a certain plat pertaining to the Project. The Application has received several comments from various departments within Weber County which the Association intends to address so that its application may be presented for approval. Given the number and complexity of those comments, the Association needs additional time to address them. The Association therefore requests that the time period of its application be extended.

I understand there is an applicable \$300.00 fee in connection with this extension request. I also understand from speaking with the Association's president, Dave Edwards, that he has already paid that fee by credit card.

Please let me know if there is anything further the Planning Division needs to extend the Association's application at this time. On behalf of the Association, we appreciate your consideration in this matter.

Sincerely,

NELSON CHRISTENSEN  
HOLLINGWORTH & WILLIAMS

A handwritten signature in black ink, appearing to read "Jeffrie L. Hollingworth", is written over a horizontal line.

Jeffrie L. Hollingworth

cc: Dave Edwards via email



## Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** A request for ordinance interpretation from Scott Martini regarding Section 104-5-6(18) to determine whether his desired land use complies with the ordinance.

**Agenda Date:** Thursday, August 25, 2016  
**Staff Report Date:** Wednesday, August 17, 2016  
**Applicant:** Scott Martini  
**File Number:** BOA2016-06

#### Staff Information

**Report Presenter:** Charlie Ewert  
cewert@co.weber.ut.us  
(801) 399-8763  
**Report Reviewer:** RG

### Applicable Ordinances

- §104-5-6 (18) – A-1 Zone, Conditional Uses

### Summary and Background

The applicant is seeking an interpretation of the Weber County Land Use Code Section 104-5-6(18) to determine whether his desired land use complies with this provision.

Early this last spring Scott Martini discussed with the Western Weber Planning Commission his desire to conduct a dump truck storage-yard on the Northwest corner of the family farm at the intersection of 4700 West and 1800 South. The property is zoned A-1. At that time planning staff were struggling to find that the code allows for this request.

In attempt to help Mr. Martini explore the alternatives, and after further evaluation of the A-1 zone, staff has identified a section of the A-1 zone that may allow for this kind of use as a conditional use. It is not a very clear provision, and Mr. Martini would like to save the expense of applying for a conditional use permit and designing a site plan until he knows whether this proposed use would be in compliance with this provision of the ordinance.

A more complete analysis is provided below.

### Board of Adjustment Review and Consideration Requirements

The Board of Adjustment's review of this interpretation is governed by Weber County Land Use Code (LUC) Section 102-3-3, which states:

**Sec. 102-3-3. - Duties and powers of the board.**

*The board of adjustment shall have the following duties and powers:*

- (1) To act as the appeal authority from decisions applying and interpreting this Land Use Code and Zoning Maps.*
- (2) To hear and decide variances from the requirements of the Land Use Code.*

Given that there is no other direction in the Land Use Code on the matter it appears that the Board of Adjustment has broad discretion in their deliberation process.

### Staff Review of the Interpretation

*Request.* Mr. Martini would like a permit to operate a commercial truck storage yard. The proposal includes a building that can be used as a shop for repairs of the trucks (this should be limited to the trucks allowed on the site), and outdoor storage area for the trucks. The concept site plan shows a shop building, clean-off area, 10 paved parking stalls, 10 crushed rotomill parking stalls, and 9 truck parking stalls, drainage facilities, landscaping, and a paved drive approach.

*Analysis.* Land Use Code (LUC) Section §104-5-6 (18) provides for the following:

*The use and storage of farm equipment and other related equipment such as a backhoe, front-end loader or up to a ten-wheel truck, to be used by a farm owner, farm employee and/or a contracted farm operator of a bona-fide farm operation consisting of five acres or more, for off-farm, non-agricultural related, construction work to supplement farm income.*

Because this provision does not offer a clear on-its-face interpretation for the unique specificity of Mr. Martini's case – specifically as it relates to housing a commercial truck storage yard at the site – he is leery of investing significant funds into the complete designs for the site and building before having a sense of security that the ordinance can be interpreted in his favor. However, he has invested in a “conceptual” drawing that is intended to communicate the overall intent of the site layout (attached). He knows that there is more work that is needed before this plan is final, but wants to hear from the Board of Adjustment whether their scrutiny of the ordinance will fall in his favor before submitting more formalized plans.

To scrutinize whether this code provision is applicable to the proposed use, the Board of Adjustment should get a strong sense from the applicant that the following are true:

1. Is the applicant limiting the use to 10-wheel trucks (photos of trucks attached)?
2. Will the 10 wheel trucks be limited to use of a farm owner, farm employees, or contracted farm operators?
3. Is the farm owner, farm employees, or contracted farm operators involved in a bona-fide farm operation consisting of five acres or more?
4. Are the 10-wheel trucks being used for non-agriculture construction work in a manner that supplements farm income?

If the Board of Adjustment can find that each of these are facts in this proposal, then the proposal is allowed by Conditional Use Permit, and the applicant should proceed to completing site plan design in anticipation of formal Planning Commission review. During conditional use permit review the applicant will be required to demonstrate that the detrimental effects of the use in this location can be effectively mitigated.

When it comes to the interpretation and application of the Land Use Code, when conflicts or ambiguity are present the County should err in favor of the land owner.<sup>1</sup>

## Staff Recommendation

Considering the ambiguities of the ordinance, and unless that Board of Adjustment can find that the proposal clearly violates the ordinance, staff recommends interpreting the ordinance in favor of the land owner.

The recommendation is offered with the following findings:

<sup>1</sup> Note from the courts regarding interpretation of Land Use Laws:

“In interpreting the meaning of ... [o]rdinance[s], we are guided by the standard rules of statutory construction.” *Brown v. Sandy City Bd. of Adjustment*, 957 P.2d 207, 210 (Utah Ct.App.1998) (omission and alterations in original) (quotations and citation omitted).

“ '[B]ecause zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.' ” *Id.* (quoting *Patterson*, 893 P.2d at 606).<sup>6</sup> To guide our interpretation \*557 on this issue, we first turn to the ordinance's plain language and need not consult legislative history to determine legislative intent unless the ordinance is ambiguous. See *Brown*, 957 P.2d at 210–11.

*Rogers v. W. Valley City*, 2006 UT App 302, ¶ 15, 142 P.3d 554, 556–57



1. Provided that the support wheels are not in use coming to and from the site, the trucks can be considered 10 wheel trucks.
2. The use of the 10 wheel trucks are being limited to the use of a farm owner and employees for off-site non-agriculture construction work.
3. The vehicles are currently being used for farm work, in conjunction with the off-site non-agriculture construction work.
4. If or when the applicant begins receiving farm income he will be involved in a bona-fide farm operation consisting of five acres or more.
5. The applicant claims that he will receive farm income prior to applying for a conditional use permit from the County.

## Exhibits

- A. Application for Interpretation.
- B. Concept site plan and related materials.

# Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed <b>X 8-17-16</b>	Fees (Office Use) \$225.00	Receipt Number (Office Use) <b>70967</b>	File Number (Office Use)
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## Property Owner Contact Information

Name of Property Owner(s) <b>X Scott Martini</b>		Mailing Address of Property Owner(s)	
Phone <b>X 801-430-5031</b>	Fax	Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail <b>X PHONE</b>	
Email Address <b>X Scottmartini@hotmail.com</b>			

## Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax	Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address			

## Appeal Request

- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- A variance request:  
 \_\_\_ Lot area \_\_\_ Yard setback \_\_\_ Frontage width \_\_\_ Other: \_\_\_\_\_
- A Special Exception to the Zoning Ordinance:  
 \_\_\_ Flog Lot \_\_\_ Access by Private Right-of-Way \_\_\_ Access at a location other than across the front lot line
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- Other: \_\_\_\_\_

## Property Information

Approximate Address <b>X 4700 W. 1800 S.</b>		Land Serial Number(s)	
Current Zoning <b>A-1</b>			
<b>Existing Measurements</b>		<b>Required Measurements (Office Use)</b>	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

**Applicant Narrative**

Please explain your request.

**Variance Request**

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.



**Variance Request (continued...)**

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.

**Variance Request (continued...)**

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

**Property Owner Affidavit**

I (We), \_\_\_\_\_, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Notary)

**Authorized Representative Affidavit**

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)

**August 16, 2016**

**To Whom It May Concern:**

**I, Scott Martini, am requesting permission to build a maintenance shop on a portion of farm acreage belonging to Martini Farms.**

**This shop will be used for the maintaining and storage of dump trucks and a backhoe, in addition to tractors and farm implements used by Martini Farms.**

**These dump trucks are used by Martini Farms for hauling fertilizer, hay, straw, grain, corn silage, dirt and road base for around the corrals, rotomill tailings for dust control on the unpaved roads, and to transport farm equipment.**

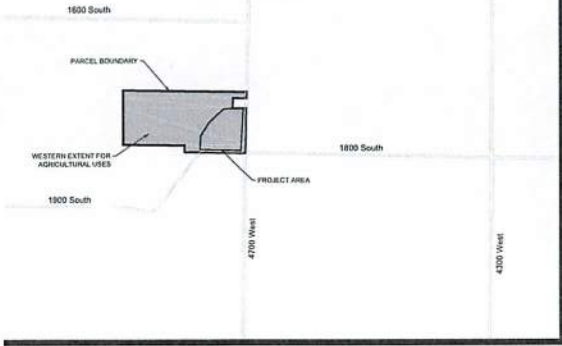
**The backhoe is used for the digging and cleaning of our irrigation ditches.**

**In addition to the above listed uses of the trucks and backhoe, the trucks will be used to supplement the farm income in non-agricultural construction work.**

**Scott Martini**



VICINITY MAP



GENERAL NOTES

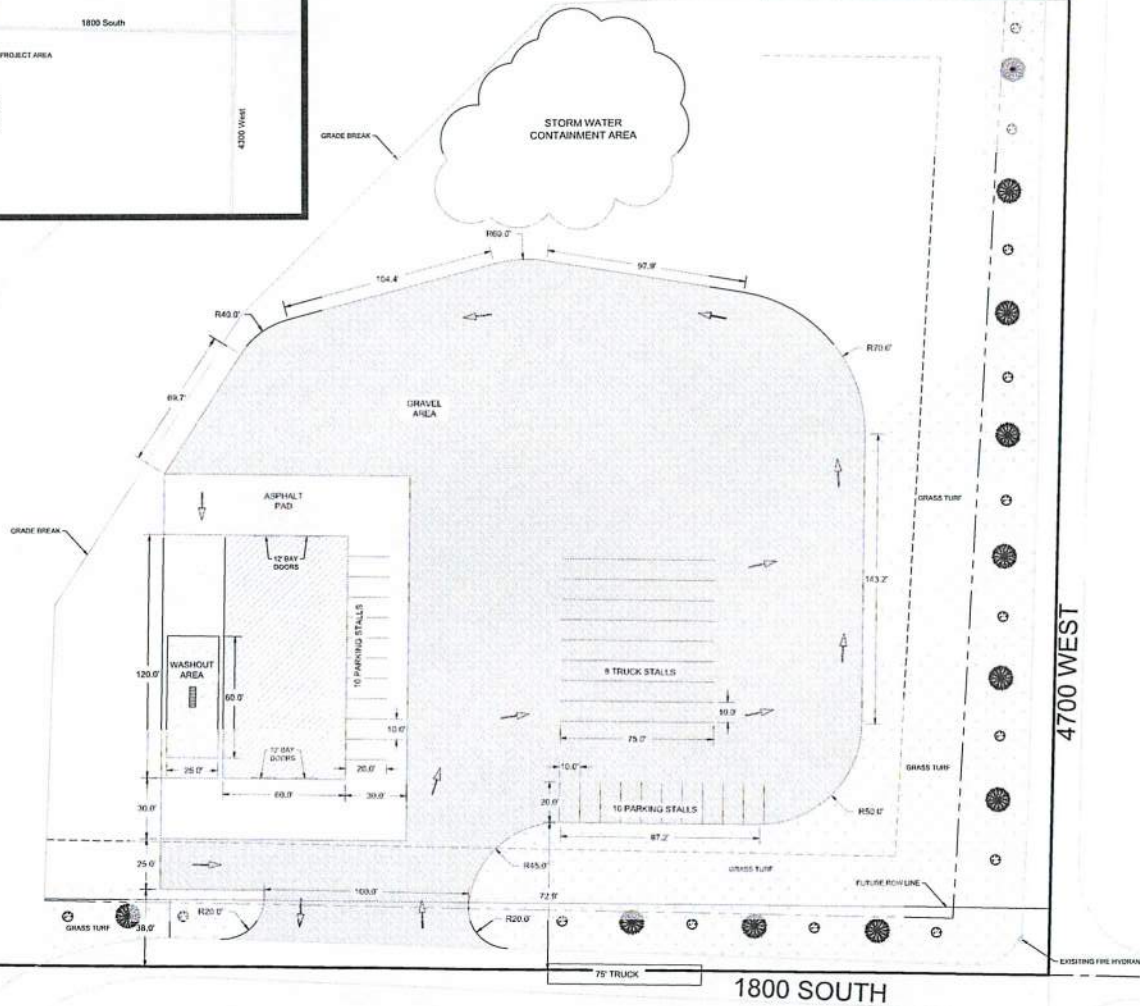
- EXISTING PARCEL IS USED FOR AGRICULTURAL PURPOSES.
- ADJACENT PARCELS ARE A1 ZONING.
- WESTERN EXTENT OF PROPERTY FOR AGRICULTURAL USES.

EXISTING IMPROVEMENTS

- ASPHALT
- BUILDING
- TOP OF BANK
- CENTERLINE OF ROAD
- FIRE HYDRANT

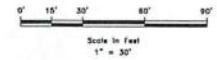
PROPOSED IMPROVEMENTS

- ASPHALT
- BUILDING
- PARKING STALLS
- GRAVEL
- CONCRETE
- SECTION BOUNDARY
- PROPERTY LINE
- SETBACK
- PROPOSED RIGHT OF WAY
- PROPOSED TREE
- PROPOSED SHRUB



SITE PLAN REQUIREMENT		
DESCRIPTION	SQ. FT	PERCENTAGE
TOTAL PARCEL AREA	813553	100%
PROJECT AREA	192,505	23.66%
BUILDING AREA	7,200	0.89%
ASPHALT AREA	12,900	1.59%
LANDSCAPING	41,540	5.11%
EXISTING ZONING	A1	

DEVELOPER  
MARTINI TRUCKING  
SCOTT MARTIN  
OWNER & WEST OWNER



REVISIONS	DATE	DESCRIPTION

CONCEPT SITE PLAN  
MARTINI TRUCKING  
1-4700 WEST 1800 SOUTH  
CORNEL WEBER COUNTY ILLINOIS















USDOT 742250 \$80,000

2018  
Special  
Fuel  
User































